

	<b>DELMAR POLICE DEPARTMENT</b>	
	<b>Policy 7.12 Juvenile Procedures</b>	
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	<b>Approved: <u>Ivan Barkley</u> Chief of Police</b>	
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## I. POLICY

The department's interests concerning juvenile offenders reflect those of the community: to prevent and control juvenile delinquency. The department expects officers to handle juveniles consistent with common sense and the dictates of state laws. The department's policy includes the identification, apprehension, and conviction of juveniles charged with crimes. The best interests of juveniles and the community, however, dictate a limited application of our arrest powers against juveniles who are charged with status offenses. Accordingly, officers may handle errant juveniles informally, particularly status offenders, those in need of protection, and those suspected of committing minor criminal offenses.

## II. PURPOSE

To establish guidelines and procedures for handling juveniles who are in need of protection, in violation of status offenses and those charged with criminal offenses.

## III. DEFINITIONS

- A. Adjudicatory Hearing: A hearing to determine whether the allegations in the petition/warrant, other than allegations that the child requires the court's assistance, treatment, guidance or rehabilitation, are true.
- B. Adult: A person who is 18 years of age or older.
- C. Child or Juvenile: A person under the age of 18.
- D. Child in Need of Assistance (CINA): A child who requires the assistance of the court because:
  - 1. He/she is mentally handicapped or is not receiving ordinary and proper care and attention, and
  - 2. His/her parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and his/her problems.

- E. Child in Need of Supervision (CINS): A child who requires guidance, treatment or rehabilitation and:
1. Is required by law to attend school and is habitually truant; or
  2. Is habitually disobedient, ungovernable, and beyond the control of the person having custody of him/her; or
  3. Deports himself/herself so as to injure or endanger himself/herself or others; or
  4. Has committed an offense applicable only to children, such as running away from home.
- F. Delinquent Offender: A juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
- G. Detention: The temporary care of children who, pending court disposition, require secure custody for the protection of themselves or the community, in physically restricting facilities.
- H. Non-Offender: A juvenile who is subject to the jurisdiction of a juvenile court, usually under abuse, dependency, CINA, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile.
- I. Status Offender: A juvenile offender who has been charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

#### **IV. ENFORCEMENT PRINCIPALS**

##### **A. Primary Guideline**

Officers dealing with juvenile offenders will use the least coercive among reasonable alternatives, consistent with preserving public safety, order, and individual liberty.

##### **B. Enforcement Options**

Youthful offenders may be dealt with by officers of this department in one of the following ways:

1. Outright release with no further action;
2. Counseling by the department alone;

3. Referral to the Department of Juvenile Services (DJS) by issuance of a juvenile citation;

4. Formal arrest

#### C. Factors to be Considered

Officers will consider the following factors when making diversion decisions relating to juvenile offenders:

1. The nature of the alleged offense;

2. The age and circumstances of the alleged offender;

3. The alleged offender's record, if any;

4. The availability of community-based rehabilitation programs;

5. Whether a recommendation for diversion is or was made by a complainant or victim; and

6. The requirements of the law

### **V. ENFORCEMENT GUIDELINES CRITERIA**

Department policies on juvenile enforcement operations are governed in large part by Maryland and Delaware state laws. This section explains guidelines and criteria for officers in dealing with juvenile matters.

#### A. Field Contact/Informal release of Juveniles

Based on the age of the juvenile and circumstances of a case, officers may seek alternatives to citation or arrest in minor juvenile cases. Where victims are involved, they must be informed and agree with an officer's intention to seek an alternative. Alternatives available to officers include:

1. Verbal warnings

2. Consulting with and arranging for corrective action by parents

The purpose of releasing the child to the parent is to verify the child's identification and to give the officer the opportunity to discuss the matter with the parents. Through this involvement, it is hoped that parents will initiate corrective measures. This action involves the parents immediately and tends to reinforce the seriousness of the situation.

## B. Juvenile Petition (Maryland)

The juvenile petition is a mechanism for referring the juvenile to the Department of Juvenile Services for case screening and resolution. Police officers whose investigations confirm delinquent acts may refer the juvenile to the Department of Juvenile Services by issuing a juvenile petition. The juvenile petition is used for referrals for both custodial arrests (arrests that meet warrantless arrest criteria) and non-arrest situations where the delinquent act does not meet warrantless arrest criteria (i.e., misdemeanor not committed in the officer's presence), provided that probable cause has been established. Juvenile petitions are also used to charge violations of the Motor Vehicle Law under certain circumstances, instead of the Maryland traffic citation.

## C. Juvenile Civil Citations (Maryland)

Maryland Juvenile Civil Citations may be issued to juveniles for violation of certain alcohol abuse laws and tobacco violations. The purpose of the juvenile civil citation is to enable officials presiding over juvenile hearings to order the suspension of the driver's license of a juvenile who violated one of the alcohol offenses. If the juvenile is not licensed, the hearing officer may order the Motor Vehicle Administration not to issue the defendant a driver's license, for a specified period of time from the time the defendant makes an application for a license.

The DJS has requested that the juvenile's home telephone number be written on the juvenile civil citation. Juvenile Services workers can contact the parents quicker to reschedule a hearing and advise them of the charges if the phone number is available. Mail a copy of the citation to the parents.

## D. Juvenile Complaint and Warrant (Delaware)

A Juvenile Complaint and Warrant is a mechanism for referring the juvenile to the Family Court for case screening and resolution. Police officers whose investigations confirm delinquent acts may refer the juvenile to the Family Court by completing and submitting a Juvenile Complaint and Warrant. The Juvenile Complaint and Warrant is used for referrals for both custodial arrests (arrests that meet warrantless arrest criteria) and non-arrest situations where the delinquent act does not meet warrantless arrest criteria (i.e., misdemeanor not committed in the officer's presence), provided that probable cause has been established. Juvenile Complaint and Warrants are also used to charge violations of the Motor Vehicle Law under certain circumstances.

## E. Field release without further action, release with verbal warning, or release to parents or responsible adult.

- a. Appropriate in incidents where no violation was determined or where the violation was very minor and officers explained the law and consequences.
  - i. No property damage or personal injury was involved
  - ii. No prior record
  - iii. May include contact with parent if appropriate. Examples of these incidents include, but are not limited to curfew violations and disorderly conduct.

## VI. JUVENILE TRAFFICE ENFORCEMENT

A. **In Maryland**, Juveniles who commit violations of Motor Vehicle Law are processed in the following manner:

1. Juveniles less than 16 Years of Age - All traffic offenses committed by juveniles less than 16 years of age are charged on the Juvenile Citation, not the Maryland Uniform Complaint and Citation. A hearing date should be set by the officer, and the citation and incident report will be forwarded to the Department of Juvenile Services for a hearing.
2. Juveniles 16 Years and Older – Incarcerable Offenses - If a juvenile 16 years or older commits a traffic violation carrying a penalty of incarceration, all traffic charges arising from the same event are charged on a juvenile citation and referred to the State's Attorney's Office for prosecution.
  - i. Do not set hearing date
  - ii. Write "State's Attorney's Office" on the top of the juvenile citation and the incident report, and forward to the Department of Juvenile Services.
  - iii. A complete list of incarcerable offenses appears at Title 27 of the Transportation Article (Section 27-101), a copy of which is available to all officers.
3. Juveniles 16 Years and Older – Violations Carrying No Penalty of Incarceration - Violations of the motor vehicle laws committed by juveniles age 16 and over, which carry no penalty of incarceration, will be charged on the Maryland Uniform Complaint and Citation in the same manner as for an adult. The charges will be tried in the District Court.

B. **In Delaware**, Juveniles who commit violations of Motor Vehicle law are processed in the following manner:

1. Generally, juveniles who have committed a traffic violation will not be taken into custody. In the event a juvenile is taken into custody, the parents, custodian or legal guardian will be notified and the juvenile released to their custody.
2. The officer will obtain the juvenile's name, date of birth, the parents' names, and the address and telephone of both parents.
3. If a juvenile under the age of sixteen years of age is arrested for a traffic offense the paperwork for that offense will be forwarded to Family Court. If the juvenile is over sixteen years of age but less than eighteen years of age a Mandatory Appearance for the Justice of the Peace Court will be issued and a parent or legal guardian will accompany the juvenile to court.
4. In all cases where a juvenile is taken into custody, the officer is responsible for notifying the juvenile's parents of the circumstances as soon as possible. If the officer deems that further custody is required pending a hearing, he must contact Family Court.

## **VII. JUVENILE PROCESSING**

A. Searching and Transportation of juveniles

1. No juvenile under 17 shall be transported in the same vehicle with adults suspected of or charged with criminal acts.
2. Juveniles are searched and transported in the same manner as adults in compliance with Policy 7.11 Prisoner Transportation.
3. Juveniles are typically not handcuffed unless they have been taken into custody for a violent offense, pose an escape risk, or where the officer reasonably believes handcuffing is necessary for the safety of the juvenile or officer

B. Actions when taking a juvenile into Custody

1. A person taking a child into custody shall advise the juvenile of his/her constitutional rights when appropriate.
2. Without unnecessary delay and without first taking the child elsewhere, the officer does one of the following:

- a. Release the child to his parent, guardian, custodian, or other responsible adult upon that person's promise to bring the child before the Juvenile Court when requested by the court.
- b. Bring the child to a Juvenile Processing Office designated by the Juvenile Court.
- c. Bring the child to the Lower Eastern Shore Children's Center.
- d. Bring the child to a medical facility if the child is believed to suffer from a serious physical condition, illness, injury or mental condition that requires prompt treatment.
- e. Referral of the child and/or parent, guardian or custodian to the appropriate social agency.
- f. In cases of truancy, the child is immediately returned to the proper school official within the appropriate public or private school.
- g. Take the juvenile into protective custody if the officer believes the juvenile is in danger of harm.
- h. Release the child with no further action pending.

C. Notifications:

1. The arresting officer shall promptly notify the juvenile's parents or guardians of the fact that the child has been taken into custody. In the case of protective custody, the notice must be written.
2. Notification of the parents or attempts at notification shall be documented in the case report.

D. Designated Juvenile Processing Area:

1. A juvenile may be detained in a holding area that has been deemed to be in compliance with the core protections of the Juvenile Justice and Delinquency Prevention Act. The Delmar Police Department designated Juvenile processing areas are:
  - a. The departments Squad Room and or "Soft" interview room.
  - b. Cell #1 in the prisoner processing area.
2. Juveniles are detained under the following conditions:

- a. At no time is a juvenile placed in a jail cell designated for the holding or incarceration of an adult **when adult prisoners are present**.
- b. At no time will a juvenile who is in custody be left unsupervised in the juvenile holding area.
- c. All juveniles held in juvenile processing areas are out of sight and sound of adult prisoners.
- d. No juvenile is held in custody longer than is reasonable to conduct an investigation, prepare a case, or to await the arrival of a parent or guardian.
- e. At no time will a juvenile be held in the juvenile processing area longer than six hours. If the juvenile must be detained beyond six hours for circumstances beyond our control (parent/guardian/ or relative is delayed or if any issues arise with juvenile services), the juvenile must be removed from secure custody at the six hour mark. In this case, the juvenile will be placed in a non-secure area (i.e., squad room, interview room), will be guarded by an officer, and if necessary, will be handcuffed during this time (note: The juvenile may not be handcuffed to a stationary object in a non-secure custody setting.) Once detention in a secure area is achieved, a juvenile cannot be removed to a non-secure area and then returned to a secure area unless new criminal charges are levied. This may hamper the ability of officers to interview juvenile suspects outside of secured holding.

E. Taking a Runaway into custody

When probable cause exists that a juvenile has run away from home, the officer shall perform the following:

- 1. Verify status as runaway.
- 2. Take the child into custody.
- 3. Release the juvenile to a parent, guardian, legal custodian, or other person acting for a parent. If a parent cannot be located, take the juvenile to the Delmar Police Department and make contact with the Maryland Department of Juvenile Services and or the Delaware Division of Family Services.
- 4. An officer will remain with the juvenile until disposition is made.
- 5. Notify Communications to remove the runaway report from the computer system.



6. Officers shall complete an incident report for any runaway taken into custody.
7. For out-of-town runaways, take the child into custody and verify runaway status with the entering jurisdiction. If a detention order is on file, follow the instructions for serving a detention order.
  - a. Notify parents that the child is in custody.
  - b. If the child is to be released and the parents cannot respond within a reasonable period of time, then notify the Maryland Department of Juvenile Services and or the Delaware Division of Family Services for a determination of disposition.

F. Taking a Truant into Custody

1. When custody occurs because a juvenile is a reported truant by school officials, the juvenile shall be taken into custody and delivered to the appropriate school personnel and released.
2. The officer shall complete an incident report which includes the name of the person notifying the parent of the truancy and the name of the person to whom the juvenile was released.

**VIII. PROTECTIVE CUSTODY**

- A. A law enforcement officer may take protective custody of a child without a court order for the following reasons and no others:
1. Upon discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child.
  2. Upon the voluntary delivery of the child, by the parent, managing conservator, guardian, caretaker, or custodian who is entitled to possession of the child.
  3. Upon personal knowledge of facts which would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining or protective order or writ.
  4. Upon information furnished by another which has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining or protective order or writ.

5. Upon personal knowledge of facts that would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse and that there is no time to obtain a temporary restraining or protective order or writ.
6. Upon information furnished by another that has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse and that there is no time to obtain a temporary restraining or protective order or writ.

#### B. Emergency Treatment For Juveniles

1. In the absence of the responsible parent or guardian, police officers are expected to immediately take custody of any juvenile found to be in need of emergency medical care and to see that the juvenile is taken to an emergency hospital for treatment.

#### C. Procedures To Take Custody Of The Juvenile

1. When it is found that a juvenile has been injured or is ill to the extent that immediate emergency care is necessary to protect the physical well-being of the juvenile and no responsible parent or guardian can be found, the below listed procedures are followed to obtain the necessary medical care in an expedient manner:
  - a. The officer takes custody of the juvenile either in person or requests emergency medical services and orders the juvenile taken to the nearest competent emergency hospital.
  - b. The officer utilizes all available resources to immediately contact a parent or guardian (school officials, etc).
  - c. The officer then causes the immediate notification of the Maryland Department of Social Services and or the Delaware Division of Family Services of the circumstances at hand and furnishes them with the following information:
    - i. Name, race, and date of birth of the juvenile.
    - ii. Parent's name and address if available.
    - iii. What hospital the juvenile has been taken.

iv. What efforts have been made to contact the child's parents or guardian.

2. Follow-Up Investigation:

- a. The officer conducts a follow-up investigation at the receiving hospital, being sure to explain the circumstances at hand to the proper hospital representative.
- b. The Criminal Investigation Division is available to take over hospital follow-up investigations when it becomes apparent that such investigations will be lengthy or complex.
- c. The Criminal Investigations Division will follow-up if it becomes apparent that the child's injury is due to criminal conduct on the part of any person.

## **IX. INVESTIGATIVE PROCEDURES**

### **A. Custodial Interrogation Of Juveniles**

1. Juveniles have the same rights as adults regarding statements and confessions. Special efforts will be made to ensure that the juvenile understands these rights, as well as department and juvenile justice system procedures.
2. Officers will have a parent present when a juvenile under fifteen (15) years of age is to be questioned and advised of his/her rights. For juveniles age 15 and over, investigators will confer with the parent or guardian to explain the interrogation process.
3. Juvenile interrogations/interviews will be conducted in the same general manner as adult interrogations/interviews. The duration of the interrogation will be limited as appropriate to the juvenile's age and the nature of the alleged offense, but will not exceed two hours without a break being offered. The number of officers engaged in the interrogation will not exceed two at any given time.

Officers will confer with parents or guardians to discuss the interrogation process, the circumstances of the case, and the legal status of the juvenile. The conference may be held before, during or after the interrogation as considered appropriate by the officer.

### **B. Fingerprinting And Photographing Juveniles:**

1. Photographs and fingerprints are not taken from juvenile status offenders unless needed for comparison/investigative purposes.

2. If latent fingerprints are found during the investigation of a case and the law enforcement officer has probable cause to believe that they are those of a particular child, unless otherwise prohibited by law, the officer may fingerprint the child regardless of the age or case for purpose of immediate comparison with the latent fingerprints.
3. Disposition of Fingerprints Taken: If the comparison is negative the fingerprint card and other copies of the fingerprints taken are destroyed immediately. If the comparison is positive and the child is referred to the Juvenile Court or Family court, the fingerprint card and other copies of the fingerprints are filed locally and with the State. If the child is not referred to the Court the fingerprints taken are destroyed immediately.

### C. Required Notification of Schools

Effective July 1, 2010, the Maryland Safe School Act 2010 amended Maryland Annotated Code Education Article § 7-303 and mandates the local public school superintendent and the school principal, both public and non-public, be notified of the arrest and charges placed against a student 5 years of age or older and under 22 years of age for certain offenses. This notification of arrest and charges shall occur within 24 hours of the arrest or as soon as practical. Reportable offenses are listed in subsection 1 of this directive.

Maryland Annotated Code Education Article § 7-303 also requires the State's Attorney's Office to promptly notify the local superintendent or nonpublic school principal of the disposition of a reportable offense.

The Student Safety and Support Act, effective June 1, 1995, additionally requires law enforcement agencies to contact the public school superintendent or designee within 24 hours, or as soon as practical, whenever a student under the age of 18 is arrested and charged with certain reportable offenses.

This notification will inform both public and non-public school systems about their students who commit particular crimes, specifically when the crimes might potentially impact the student's status in the school environment.

The reporting responsibilities will require police officers to include particular information in their reports to initiate the notification process.

#### 1. Reportable Crimes

Whenever a Maryland public or non-public school student under the age of 22 years of age is arrested and charged with any of the following crimes, the appropriate school district superintendent or designee and principal of a public and non-public school shall be notified of the charges within 24 hours or as

soon as practicable after the arrest. Reportable offenses listed below include crimes of violence as defined in § 14-101 of the Criminal Law Article and the Student Safety and Support Act (1995). These offenses include:

- First degree murder – CR 2-201
- Second degree murder – CR 2-204
- Manslaughter, except involuntary manslaughter – CR 2-207(a)
- Mayhem
- Maiming, as previously proscribed under former Article 27 §§ 385 and 386 of the Code
- First degree assault – CR 3-202
- Second degree assault – CR 3-203
- First degree rape – CR 3-303
- Second degree rape – CR 3-304
- First degree sexual offense – CR 3-305
- Second degree sexual offense – CR 3-306
- Third degree sexual offense – CR 3-307
- Robbery – CR 3-402
- Robbery with a dangerous or deadly weapon – CR 3-403
- Carjacking – CR 3-405(b)(1)
- Armed carjacking – CR 3-405(c)(1)
- Kidnapping – CR 3-502
- Abduction – CR 3-503
- Carrying or wearing a concealed weapon – CR 4-101
- Carrying or wearing a concealed weapon on school property – CR 4-102
- Wearing, carrying, or transporting a handgun; unlawful use in the commission of a crime – CR 4-203
- Use of an antique firearm capable of being concealed on the person or any handgun in the commission of an act of violence – CR 4-204
- A crime using assault weapons – CR 4-303
- Sale, transfer, etc. of stolen pistol – CR 4-305/CR 4-306
- Restrictions on sale, transfer, and possession of pistols and revolvers – CR 4-306(b)(1)
- Use of a machine gun for crime – CR 4-404
- Use of a machine gun for aggressive purpose – CR 4-405(a)
- Sale of firearms – PS 5-106
- Possession of a regulated firearm by a prohibited person – PS 5-133
- Selling/transferring regulated firearm to a prohibited person– PS 5-134
- Possession, sale, transfer, or disposal of a stolen regulated firearm– PS 5-138
- Knowingly manufacture, transport, possess, control, store, sell, distribute, or use a destructive device; or possess explosive material, incendiary material, or toxic material with intent to create a destructive device– CR 4-503

- A crime using short-barreled rifles and short-barreled shotguns – PS 5-203(a)
- Manufacturing, distributing or dispensing CDS; possession of CDS in a quantity indicative of an intent to manufacture, distribute, or dispense – CR 5-602
- Manufacturing, distributing or possessing a equipment to produce CDS– CR 5-603
- Manufacturing, distributing or possessing equipment to print, imprint, or reproduce an authentic or imitation trademark, or other identifying mark, onto a drug or the container or label of a drug, rendering the drug a counterfeit substance– CR 5-604
- Maintaining a Common Nuisance– CR 5-605
- False prescription for a CDS with intent to distribute the controlled dangerous substance – CR 5-606
- Possess with intent to distribute a non-controlled substance that the person represents as a controlled dangerous substance– CR 5-617
- Possess or purchase a non-controlled substance that the person believes is a controlled dangerous substance– CR 5-618
- Using firearms in drug-trafficking crimes – CR 5-621(b)(1)
- Manufacturing, distributing or dispensing CDS; possession of CDS in a quantity indicative of an intent to manufacture, distribute, or dispense in violation of § 5-602, or conspire to commit any of these crimes in a school vehicle, or in, on, or within 1,000 feet of real property owned by or leased to an elementary school, secondary school, or county board and used for elementary or secondary education– CR 5-627
- Engaging a minor to manufacture, distribute or dispense CDS in a sufficient quantity to indicate intent to distribute the CDS– CR 5-628
- Arson in the first degree – CR 6-102(a)
- Malicious destruction to property – CR 6-301
- Auto theft – CR 7-105
- Inducing false testimony or avoidance of a subpoena – CR 9-302
- Retaliation for testimony – CR 9-303
- Intimidating or corrupting a juror – CR 9-305
- Making a false bomb threat– CR 9-504
- Manufacturing, possessing, transporting or placing a device or container labeled as representing a toxic material with intent to terrorize or threaten– CR 9-505
- Threatening an individual, or a friend or family member of an individual, with physical violence with the intent to coerce, induce, or solicit the individual to participate in or prevent the individual from leaving a criminal gang– CR 9-802
- Threatening an individual, or a friend or family member of an individual, with physical violence with the intent to coerce, induce, or solicit the individual to participate in or prevent the individual from leaving a criminal gang in a school vehicle, or in, on, or within 1,000

feet of real property owned by or leased to an elementary school, secondary school, or county board and used for elementary or secondary education– CR 5-803.

- The arrest and charges for an offense related to a student's membership in a criminal gang. Maryland Education Article Section § 7-303 (7)(b).

## 2. Procedures

- a. If the individual meets these requirements the officer or detective assigned shall give oral notification to the Superintendent or the designee of the public or private school within 24 hours or as soon as practicable after the arrest.

## D. Juvenile Records

1. In accordance with the Maryland and Delaware law, a police record (arrest and identification records) concerning a child is confidential and will be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown. This does not prohibit access to and confidential use of the record by the Department of Juvenile Services or the Division of Family Services or in the investigation and prosecution of the child by any law enforcement agency.
2. All requests for juvenile records will be referred to the Administrative Commander. The Administrative Commander, serving as the custodian of juvenile records, is accountable for:
  - a. The collection, dissemination and retention of juvenile records;
  - b. Procedures to carry out court-ordered expungement of records;
  - c. Provisions governing disposition of records when juveniles reach adult age, pursuant to state law; and
  - d. Restricting access to records on a need-to-know basis.