

44.0 JUVENILE OPERATIONS

PURPOSE: To establish reporting procedures and arrest guidelines during contact with juveniles either through arrest, detention, or field contact. To commit the Sheriff's Office to the planning and operations of anti-delinquency programs.

POLICY: The policy of the Sheriff's Office is to record those significant encounters with juveniles through proper recording systems. Personnel dealing with juvenile offenders should use reasonable diversion alternatives consistent with preserving public safety, order, and individual liberty. It is the responsibility of all members of the department to support and, whenever possible, participate in the efforts of the departmental Crime Prevention Unit in deterring juvenile crime. Personnel arresting juvenile offenders or coming into contact in an official capacity will do so in accordance with this order and applicable State/Federal law.

Definitions:

Juvenile: A person who is under the age of 18 years of age.

CINA (Child in Need of Assistance): A legal status determined by a court, which finds that a child requires the assistance of the court because:

- A. The child is mentally handicapped or is not receiving proper care and attention; and,
- B. The child's parents, guardians, or custodian(s) are unable or unwilling to give proper care and attention to the child and his problems.

CINS (Child In Need of Supervision): Legal status determined by a court finding that a child requires guidance, treatment or rehabilitation, and that the child:

- A. Is required by law to attend school and is habitually truant.
- B. Is habitually disobedient, ungovernable, and beyond the control of the person having custody without substantial fault on the part of the person having custody.
- C. They conduct themselves as to injure or endanger themselves or others.
- D. They have committed an offense applicable only to children; i.e., runaway.

Delinquent act: An act that would be a crime if committed by an adult.

Delinquent child: Legal status determined by a court that a child has committed a delinquent act and requires guidance, treatment, or rehabilitation.

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.

Significant Contact: Contact involving a violation of law in which a juvenile is a suspect.

Status Offender: A juvenile offender who has been charged with or adjudicated for conduct that would not be a crime if committed by an adult.

44.1 Administration

44.1.1 Juvenile Operations Function

- A. It is a continuing goal of the Sheriff's Office to develop and participate in programs designed to prevent and reduce juvenile delinquency. It is also a responsibility of the department to investigate criminal activity involving juveniles and take appropriate action in accordance with law and departmental policy. Juvenile operations within the department shall include, but not be limited to:
 - 1. Designing and implementing programs intended to prevent and reduce delinquent behavior by juveniles.
 - 2. The follow-up processing of juvenile arrests.
 - 3. Coordinating/preparing court cases in which a juvenile offender is involved.
 - 4. Diverting juvenile offenders from the criminal justice system.
 - B. The enforcement of laws involving juveniles as well as the delinquency efforts of the department will not be limited to any one position or individual. All personnel share the responsibility for participating in and supporting the department's juvenile operations function.
 - C. While all personnel share responsibility in participating in and supporting Juvenile operations, the Crime Prevention Unit of the department will be designated as the Juvenile Function. It will be the responsibility of the Crime Prevention Unit to coordinate programs specifically designed at reducing juvenile delinquency. Examples of such ongoing programs include:
 - 1. Children's Village: A cooperative effort between law enforcement and fire/rescue agencies in Washington County. Deputies and personnel from other law enforcement agencies in the county teach safety habits, crime prevention, and good citizenship.
 - 2. Any other crime prevention program offered by the Washington County Sheriff's Office that would benefit the juvenile in question.
- 44.1.2 The Agency encourages review and comment by other elements of the juvenile justice system in the development of the agency's policies and procedures relating to juveniles, there will be an annual meeting with DSS to review agency policy.

44.1.3 Annual Review and Written Evaluation of all Enforcement and Prevention Programs Relating to Juveniles

The Crime Prevention Unit will conduct an annual evaluation of departmental enforcement and prevention programs relating to juveniles. The objective of the evaluation will be to determine if a program should continue to function as is, be modified, or be discontinued.

44.2. Juvenile Operations

Custody of Juveniles by Law Enforcement: A child may be taken into custody due to the following reasons: pursuant to an order of the court, pursuant to the law of arrest, if reasonable grounds exist that the child is in immediate danger from their surroundings and their removal is necessary for their protection; or, if reasonable grounds exist that the child has run away from their parents, guardian, or legal custodian.

44.2.1 Deputies will use the least coercive actions when dealing with juveniles. When investigating criminal activity involving a juvenile as a suspect, deputies have a wide range of options as to course of action. The decision will depend upon the nature of the offense, record of the juvenile, and the totality of the circumstances. Actions possible include:

A. Outright Release with no further action

- 1 After investigation, close the matter with no further action by this department.
- 2 Divert the juvenile away from the justice system while taking positive action that will benefit the juvenile. Such diversion activities are applicable in specified instances and when agreed upon by the juvenile, parents, or guardians, and the victim. Diversion will follow the guidelines established by programs that are in partnership with the agency. Diversionary actions will be documented in reports and will require follow-up by agency personnel to ensure the juvenile is keeping the commitment. If the juvenile does not keep the commitment, the report will be forwarded to the Department of Juvenile Services for review and further action. Possible diversion resources are:
 - a Substance abuse programs and mental counseling through the Washington County Health Department.
 - b Service organizations such as the Scouts, Boys/Girls Club, YMCA, which can involve the juvenile in programs with a positive influence. Other such service organizations may be found in the Community Services Directory, which gives telephone numbers, addresses, and a short synopsis of

the organization's function. A copy of the Directory is maintained at the Duty Officers station.

- c. Departmental mediation, where in minor property crimes, all parties agree to compensation to the victim by the juvenile in lieu of formal entrance into the justice system.
- d. The following factors will be considered in making the decision to use diversionary actions.
 - 1) The nature of the alleged offense.
 - 2) Age and circumstances of alleged offender.
 - 3) The alleged offender's record, if any.
- e. Availability of community-based rehabilitation programs that would fit the juvenile's needs.
 - 1) Referral to a social service agency for counseling or other appropriate treatment/activities.
 - 2) Mediation between juvenile and victim, with supervision agreed to by the parents. Such supervision may include reoccurring checks by the investigating deputy on the juvenile.

B. Referral to the Department of Juvenile Services for Intake Proceedings

- 1. While deputies have diversionary options in dealing with a juvenile suspected of committing a minor offense, the deputy will refer the juvenile to the Department of Juvenile Services in the following circumstances.
 - a. The statutory conditions are met for law enforcement to charge a juvenile with a crime under Maryland Code, Courts, and Judicial Proceedings Article, § 3-8A-03.
- 2. Deputies can take alternative action when offenses do not meet the requirements under § 3-8A-03:
 - a. Deputies will complete an incident report and code it in the reporting system as a CINS offense. The incident report will be forwarded by Patrol Records to the Department of Juvenile Services for intervention.

C. Referrals to Juvenile Court

1. When a juvenile is identified as a suspect in a crime and probable cause indicates charges are appropriate, the deputy will request contact with Department of Juvenile Services personnel to ascertain that the juvenile is to be released or placed in secure custody at the Juvenile Holding Facility. Depending upon the circumstances, the deputy may contact the Department of Juvenile Services before the juvenile is placed into secure custody; i.e., handcuffed or transported to the Patrol Facility, and if that agency does not wish the juvenile held, no secure custodial action will be taken. The deputy will cause a copy of the Criminal Investigation Report to be sent to the Department of Juvenile Services to act as the charging document.

44.2.2 Procedures for taking a juvenile into custody

- A. Determine if the juvenile is alleged to have engaged in non-criminal behavior (status). If so see below:
 1. Status and non-offenders, (runaways, CINS, CINA), will never be held in secure custody, (detention in a locked cell/room or handcuffed to a stationary object).
 2. The deputy shall, as soon as possible, notify or cause to be notified the child's parents, or guardian that the child is in custody, along with pertinent information.
 3. Immediately release the juvenile to a parent or guardian if the child is being held as a status offender and no other reason exists to detain the child.
- B. Determine if the juvenile is alleged to have been harmed or to be in danger of being harmed.
 1. Provide medical care, if needed and transport the juvenile to the nearest hospital for care.
- C. If a juvenile is to be taken into custody, all their constitutional rights will be protected in accordance with law and this order.
- D. In addition to the requirements for reporting child abuse and neglect under § 5-704 of the Family Law Article, if a deputy has reason to believe that a juvenile who has been detained is a victim of sex trafficking, as defined in § 5-701 of the Family Law Article, the deputy shall notify any appropriate regional navigator, as defined in § 5-704.4 of the Family Law Article, for the jurisdiction where the child was taken into custody or where the child is a resident that the child is suspected victim of sex trafficking.
 1. The arresting deputy who takes a juvenile into custody, will immediately notify, or cause to be notified, the juvenile's

parents, guardian, or custodian in a manner reasonably calculated to give actual notice of the action. § 3-8A-14

2. The notice required will include the juvenile's location, reason for the juvenile being taken into custody and to instruct the parent, guardian, or custodian on how to make immediate in-person contact with the juvenile. § 3-8A-14
 3. The arresting deputy will contact the Department of Juvenile Justice and explain the circumstances necessitating detention and obtain the authorization to detain. The decision to detain and the location of that detention is the responsibility of the Department of Juvenile Service §3-8A-15 . If release is authorized, the juvenile will immediately be release to a parent or guardian, or custodian or to any person designated by the court. The statute lists a written promise from the caretaker to bring the juvenile before the court when requested by the court, and such security for the juvenile's appearance as the court may reasonably require.
 4. It will be the responsibility of the arresting agency to transport the juvenile to the detention facility. It will be the responsibility of the Department of Juvenile Services to transport the juvenile from the detention facility to any hearings.
 5. State law requires a detention hearing for the juvenile by the next available court day after the initial detention. Deputies must furnish a copy of their completed report to the Department of Juvenile Services as soon as possible prior to the scheduled hearing. Deputies must be available for the detention hearing and must bring a copy of their completed report to the detention hearing.
- E. The arresting deputy shall transport the juvenile to patrol and the detention facility without delay, unless the juvenile needs emergency medical treatment. If emergency medical treatment is needed, see above.

44.2.3 Custodial Interrogation of Juveniles

- A. Maryland Code, Court and Judicial Proceedings Article, § 3-8A-14.2 states a Law Enforcement Officer may not conduct a custodial interrogation of a juvenile until:
1. The juvenile has consulted with an attorney who is:
 - i. Retained by the parent, guardian, or custodian of the child; or provided by the Public Defender's office.
 - ii. The consultation with an attorney within this section shall be conducted in a manner consistent with the Maryland rules of professional conduct; and

- iii. Be confidential; and may be in person, telephone, or video conferencing.
 - 2. Deputies will make an effort that is reasonably calculated to give actual notice to the parent, guardian, or custodian of the juvenile, that the juvenile will be interrogated.
 - 3. The requirements of consultation with an attorney for custodial interrogations of juveniles may not be waived. This requirement applies regardless of whether the juvenile is being charged as a juvenile or an adult.
- B. Deputies conducting or attempting to conduct an interrogation under this section shall record the notifications or attempted notifications of a parent, guardian, or custodian that include:
- 1. A deputy signed statement that attempts, or notification occurred and records the name of the person sought to be notified and the method of attempted notifications.
- C. Deputies conducting or attempting to conduct an interrogation shall maintain a record of the name of the attorney contacted and the county or counties in which the attorney provided the consultation.
- 1. The attorney contacted to provide legal consultation to a juvenile under this section shall provide to the deputy the information required for the record required to be maintained. The record, a signed statement by the deputy will include the name of the attorneys contacted, the date and time of contact or attempted contact and the attorney who provided the consultation.
- D. Notwithstanding the requirements of this section, a deputy may conduct an otherwise lawful custodial interrogation of a juvenile if :
- 1. The questions posed to the juvenile by the deputy are limited to those questions reasonably necessary to obtain information necessary to protect against the threat to public safety.
 - 2. Unless it is impossible, impracticable, or unsafe to do so, an interrogation conducted under section D will be recorded using agency approved audio and video recording technology. The interrogation can also be recorded with an agency approved body worn camera within the scope of General Order 41.3.8 Body-Worn Audio/Video.

3. The juvenile being interrogated under this section shall be informed if the interrogation is being recorded.

44.2.4 Agency School Liaison Program

- A. The Crime Prevention Unit will coordinate a School Liaison Program, which will:
 1. Act as a resource with respect to delinquency prevention.
 2. Provide guidance on ethical issues connected with law enforcement in a classroom setting.
 3. Provide individual counseling to students regarding law enforcement issues.
 4. Explain the role of law enforcement in society.

44.3 Notification to Local School Superintendent / Chief of Security for School Board of Juvenile Arrest

- A. Upon receipt of a Juvenile Arrest Report, which indicates an arrest for one or more of the crimes, Records Personnel will ensure that the “Notice of Juvenile Arrest to Superintendent” form is forwarded to the Superintendent of Schools or Chief of Security, for the Washington County Board of Education.

List of Crimes:

Abduction
Arson in the first degree
Kidnapping
Manslaughter, except involuntary manslaughter
Mayhem
Maiming, as previously proscribed under Article 27, 385 and 386 of this code
Murder in the first degree
Murder in the second degree
Rape in the first degree
Rape in the second degree
Robbery under 3-402 or 3-403 of this article
Carjacking
Armed carjacking
Sexual offense in the first degree
Sexual offense in the second degree
Use of a handgun in the commission of a felony or other crime of violence
An attempt to commit any of the crimes described above (check the attempted crime)
Assault in the first degree
Assault with intent to murder
Assault with intent to rape
Assault with intent to rob
Assault with intent to commit a sexual offense in the first degree
Assault with intent to commit a sexual offense in the second degree
Third degree sexual offense under 3-307 (a)(1) of the Criminal Law Article
A crime in violation of 5-133, 5-134, 5-138 or 5-203 of the Public Safety Article

Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under 5-621 of the Criminal Law Article
 Use of a firearm under 5-622 of the Criminal Law Article
 A violation of 4-203, 4-204, 4-404, 4-405 of the Criminal Law Article
 A violation of 4-101 dangerous weapons
 A violation of 4-203 wearing, carrying, or transporting handgun
 A violation of 4-204 use of handgun in commission of crime
 A violation of drug offense 5-602, 5-609, 5-612, 5-614, 5-617, 5-618, 5-627 and 5-628
 A violation of 4-503 destructive devices
 A violation of 6-102, 6-103, 6-104 and 6-105 arson section
 A violation of 9-802 and 9-803 criminal gang activity

B. Daily, the Patrol Records personnel will be responsible for preparing and forwarding any notices received during the working day for Arrest Reports under the Education Article. State Law requires notification be made within 24 hours after the arrest, or “as soon as is applicable”. Notices may be sent by email or facsimile to the superintendent and the Chief of Security of the public school. The Chief of Security’s email address is ganleste@wcboe.k12.md.us . A list of public service numbers for superintendents will be maintained in the Communications Center.

1. Records personnel will document on the “Notification” form when and how the notification was sent. The original of the “Notice” will be made a part of the Juvenile’s case file.

C. Juvenile information remains confidential and will not be released to anyone except as specified by law. Juvenile information, specified in this Order, will only be released to the School Superintendent in the school district in which the juvenile attends. Notifications will be sent to the attention of the School Superintendent.

44.4 Agency Records

- A. Juvenile records will not be filed with adult records, and will be kept in a location clearly identifiable from the adult records section. Information in juvenile records will be accessible only to members of criminal justice agencies for investigatory purposes. Information in juvenile records will be unavailable to any parties except with a court order, if ordered sealed by the court in accordance with C.J. 3-827.
- B. Expungement of Juvenile Records: Expungement of criminal records are governed by Criminal Procedure Article. Any expungements of juvenile criminal records will be in accordance with Criminal Procedure Article, Subtitle 10.
- C. Access to Records: The departmental records clerk will be responsible for the collection, dissemination, and retention of juvenile records. Departmental members, found to be in violation of releasing this information, will be subject to departmental disciplinary action and are at risk for charges in violation of Maryland law.

44.5 Court Jurisdiction

- A. Juvenile Court has exclusive original jurisdiction over children alleged to be delinquent, in need of supervision, or in need of assistance.

Specific instances, in which jurisdiction of Juvenile Court may be waived, are listed in Courts and Judicial Proceedings 3-8A-03:

B. Traffic Cases

1. Juvenile Court has jurisdiction over juveniles less than 16 years of age charged with any traffic violation.
2. Juvenile Court does not have jurisdiction over juveniles 16 years or older charged with a traffic offense not carrying a possible penalty of incarceration.
3. Juvenile Court has jurisdiction over juveniles 16 years and older charged with a traffic offense carrying possible incarceration, along with other charges stemming from the same incident.
4. If the child is charged with two or more violations of the Maryland Transportation Article, along with a criminal charge arising from the same incident, Juvenile Court has exclusive jurisdiction over all charges.
5. If charges are brought against a juvenile, with part of the charges under Juvenile Court jurisdiction, all charges will come under Juvenile Court.
6. Traffic citations involving charges falling under the jurisdiction of Juvenile Court will be forwarded to Juvenile Court, or as in “5”.

44.6 Operational guidelines when taking custody of juvenile

- A. Deputies will use only the amount of force necessary when taking a juvenile in custody.
- B. The decision to handcuff a juvenile can be made considering the following factors:
 - Number of deputies present
 - Physical stature of juvenile
 - Any reputation or history of violence
 - Conduct at time of arrest
 - Arrest record
 - Nature of offense
 - Criminal vs. status offender
- C. Juveniles are not to be transported with adults who have been charged with or convicted of a crime, unless the court has waived jurisdiction to adult status.
- D. Juveniles will be photographed and fingerprinted when taken into custody and detained at the Washington County Sheriff's Office.
- E. Forms of Identification, i.e.; Prints, Photos, etc.
 - 1. Obtaining other evidence to assist in identification; i.e., blood/hair samples, urine, etc., will be accomplished by court order, unless consent has been obtained from the juvenile and a parent/guardian.
 - 2. Dissemination: Dissemination of such information will be tightly controlled and released only for official investigations to members of criminal justice agencies in accordance with Maryland Law Courts and Judicial Proceedings 3-827.
 - 3. Retention: All such forms of identification will be maintained only in the juvenile's record file.

44.7 Law Enforcement Detention of Juveniles

The following safeguards are required when a law enforcement agency is detaining a juvenile pending release to the Department of Juvenile Justice, Social Services, parent, guardian, etc.:

- A. Juveniles charged with a criminal offense will never be held in secure custody for more than six hours. Juveniles placed in secure custody will be checked at least every 15 minutes.
- B. Juveniles charged with criminal offenses cannot be allowed to see, hear, or communicate with adult criminal offenders. This includes the period when the juvenile is being processed and while being held in a room or cell. Officers responsible for processing, or otherwise handling juveniles shall assure compliance with this paragraph. No more than haphazard or accidental contact is permitted.
- C. Whenever a juvenile is placed into secure custody, (placed in a locked cell/room or handcuffed to a stationary object), an entry will be made on the “Arrest Detention Log” and on the “Juvenile Detention Log”.
- D. Safeguards in this order are by federal mandate in the Juvenile Justice and Delinquency Prevention Act (JJDP). Juveniles charged with criminal offenses who have been waived as an adult by juvenile court are not included in JJDP requirements.

44.8 Juvenile Holding Facility/Shelter Care

- A. Only the court or an intake officer may authorize detention in State Juvenile Holding facility or shelter care. If a child is taken into custody, he/she may be placed in detention or shelter care prior to a hearing if:
 - 1. Such action is required to protect the child or person and property of other;
 - 2. The child is likely to leave the jurisdiction of the court; and,
 - 3. There are no parents, guardian, or custodian or other person able to provide supervision and care for the child and return him to the court when required.
- B. If the child is held, a detention hearing will take place no later than the next court day. Therefore, when a deputy charges a juvenile with a criminal offense, and holding facility detention is authorized by an intake officer, the deputy will, at a minimum, complete the Juvenile Arrest Report before his end of shift, and make arrangements for a copy of the arrest report to be forwarded to the Department of Juvenile Justice. If the circumstances meet the criteria of above, the arresting deputy will contact an intake officer of the Department of Juvenile Justice and request authorization to place the juvenile in the holding facility. After the Department of Juvenile Justice regular office hours, intake counselors may be called or paged through departmental communications.

44.9 Appeals of Juvenile Intake Officer Decisions

- A. If in the investigating deputy's opinion, the disposition of a case by a Juvenile Intake Officer involves a mistake, or if the deputy believes the matter is more serious than the Intake Officer deems it to be, the deputy can make an appeal to the Office of the State's Attorney and request a formal petition in the Circuit Court for Washington County.
- B. The State's Attorney's Office also wishes to be contacted if detention is denied on a juvenile, and the deputy believes that a real concern for either the child's safety or public safety exists.