



Office Of The Sheriff
Allegany County
Maryland

GENERAL ORDER NO: **4-100.00**

TO: All Patrol and Judicial Personnel

RE: **JUVENILE ARRESTS AND CONTACTS**

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.

EFFECTIVE DATE: 2004

REVISION DATE: 3/1/2016

4-101.00 Policy

.01 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 Program 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.

4-102.00 Definitions

.01 Juvenile: A person who is 17 years of age or younger.

.02 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.

.03 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.

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

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

.06 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.

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

.08 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.

4-103.00 Juvenile Operations Function

.01 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:

- A. Designing and implementing programs intended to prevent and reduce delinquent behavior by juveniles.
- B. The follow-up processing of juvenile arrests.
- C. Coordinating/preparing court cases in which a juvenile offender is involved.
- D. Diverting juvenile offenders from the criminal justice system.

.02 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.

.03 Charging Alternatives to Custodial Arrest

- A. 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 Justice 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 Justice 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 Justice to act as the charging document.
- B. Juveniles being charged with traffic law violations may be released without custodial action except in cases such as Driving While Intoxicated or Homicide by Motor Vehicle.
- C. Juveniles may be charged without custodial action, by citation, for violations involving alcoholic beverages under CR 10-113, CR10 10-114, CR 10-116, CR 10-119, CR 10-124, or for violation of the Education Article 26-103.

4-104.00 Juvenile Function

.01 While all personnel share responsibility in participating in and supporting Juvenile operations, the DARE Officer and Juvenile liaison Officer of the department will be designated as the point(s) of contact.

Juvenile Function. It will be their responsibility to coordinate programs specifically designed at reducing juvenile delinquency. Examples of such ongoing programs include:

- A. D.A.R.E.: Instruction by specially trained deputies in a classroom environment stressing self worth and teaching the dangers of drug and alcohol use, as well as methods of resisting pressure to participate in drug usage.
- B. Hug-a-tree.
- C. Any other crime prevention program offered by the Allegany County Sheriff's Office that would benefit the juvenile in question.

.02 The Juvenile Liaison Officer will coordinate a School Liaison Program which will:

- A. Act as a resource with respect to delinquency prevention.
- B. Provide guidance on ethical issues connected with law enforcement in a classroom setting.
- C. Provide individual counseling to students regarding law enforcement issues.
- D. Explain the role of law enforcement in society.

The School Liaison Program may draw expertise from the entire Division. The program will make deputies available to enter into classrooms and teach/discuss issues related to law enforcement. Such instruction would be short term, limited to one hour per class.

4-105.00 Custody of Juveniles by Law Enforcement

.01 A child may be taken into custody due to the following reasons:

- A. Pursuant to an order of the court;

- B. Pursuant to the law of arrest;
- C. By a law enforcement officer or other person authorized by the court if reasonable grounds exist that the child is in immediate danger from his surroundings and that his removal is necessary for his protection; or,
- D. By a law enforcement officer or other court authorized person if reasonable grounds exists that the child has run away from his parents, guardian, or legal custodian.

.02 Guidelines when taking custody

- 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:
 1. Number of deputies present
 2. Physical stature of juvenile
 3. Any reputation or history of violence
 4. Conduct at time of arrest
 5. Arrest record
 6. Nature of offense
 7. 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 finger printed when taken into custody and detained at the Allegany County Sheriff's Office.

.03 If a child is taken into custody, 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. All constitutional rights of the juvenile will be protected in accordance with law and this order. After making a reasonable effort to give notice to a parent or guardian of the custody, the deputy will:

- A. 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. Immediately notify the Department of Juvenile Services personnel if the juvenile is being held on a criminal charge to determine release or transfer to the Juvenile Holding Facility. If release is authorized, the juvenile will immediately be released to a parent or guardian.
- C. Parents or guardian who refuses to respond to take custody for no apparent reason shall be advised that they could be charged under Criminal Law of the State of Maryland, with Child Abandonment. If a parent or guardian refuses custody, notify the Department of Juvenile Services of that fact.

4-106.00 Law Enforcement Detention of Juveniles

.01 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. 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).
- B. 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.
- C. 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.
- D. Safeguards in this order are by federal mandate in the Juvenile Services and Delinquency Prevention Act (JSDP). Juveniles charged with criminal offenses who have been waived as an adult by juvenile court are not included in JJDP requirements.

4-107.00 Juvenile Holding Facility/Shelter Care

.01 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 may be placed in detention or shelter care prior to a hearing if:

- A. Such action is required to protect the child or person and property of other;
- B. The child is likely to leave the jurisdiction of the court; and,
- C. 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.

.02 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 .01, A-C 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.

4-108.00 Juvenile Interrogations

.01 When a juvenile is to be interrogated, it may be conducted in the presence of a parent, guardian and/or their attorney. Prior to interrogation, a juvenile shall have the opportunity to read, or have read/recited to them, their Miranda warning advising them of their Constitutional Rights. Whenever possible, a signed waiver should be obtained waiving those rights if the juvenile agrees to be interrogated. If a parent, guardian, or counsel is present, it is preferable for at least one person to witness the signature of the juvenile.

.02 Careful considerations should be given to the age and the ability of the juvenile to understand the Miranda warning. (Only the juvenile can waive his/her Constitutional Rights. The parents cannot force the juvenile to consent to interrogation.) During questioning, the juvenile will be afforded the opportunity to confer with counsel or a parent at any time. Likewise, the juvenile has the option to stop answering questions, at any time, and conclude the interrogation.

- .03 When it is necessary for the interviewer/interrogator to interview a juvenile of the opposite gender, at least one deputy of the same gender, or an additional deputy, will be present.
- .04 An interrogation will be limited to a reasonable amount of time at a suitable location.

4-109.00 Court Jurisdiction

- .01 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 3-804:

A. Criminal Causes

- 1. Jurisdiction will be waived to an Adult Court if:
 - a. The child is 14 years old or older, and;
 - b. Is alleged to have committed a crime, (as well as other charges arising out of the same incident), which if committed by an adult, could result in a sentence of death or life imprisonment.
 - c. Unless an order to remove the proceedings to the Juvenile Court is filed pursuant to P 2-202.
- 2. Jurisdiction will be waived to an Adult Court if:
 - a. The child is 16 years old or older, and;
 - b. Is alleged to have committed robbery/attempted robbery with a dangerous or deadly weapon, (as well as other charges arising out of the same incident);
 - c. Unless an order to remove the proceeding to the Juvenile Court is filed pursuant to CP 2-202.

3. Jurisdiction will be waived to an Adult Court if:
 - a. The child is 16 years old or older, and;
 - b. Is alleged to have committed a violation of CP 10-104, (as well as other charges arising out of the same incident).

B. Traffic Cases

1. Juvenile Court has jurisdiction over juveniles under 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. above, all citations to Juvenile Court.

4-110.00 Enforcement Actions Involving 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, on which option to exercise, will depend upon the nature of the crime, record of the juvenile, and the totality of the circumstances. Actions possible include:

- .01 After investigation, close the matter with no further action by this department.
- .02 Divert the juvenile away from the justice system while taking positive action that will benefit the juvenile. Such diversion activities are applicable in relatively minor crimes, and when agreed upon by the juvenile, parents, or guardians, and the victim. Diversionary actions will be documented in reports, and will require follow-up by the investigating deputy 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 Justice for review and further action. Possible diversion resources are:
 - A. Substance abuse programs and mental counseling through the Allegany County Health Department.
 - B. Service organizations such as the Scouts, Boys/Girls Club, YMCA, that can involve the juvenile in programs with a positive influence.
 - 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.
 - 4. Availability of community based rehabilitation programs which would fit the juvenile's needs.

- .03 In cases of misdemeanor crimes, (except as specified in CP 2-202), where the crime was not committed in the presence of the deputy, but a definite suspect is developed, the report will be forwarded to the Department of Juvenile Justice for review and disposition.
- .04 Physical arrest of the juvenile. In such cases the Department of Juvenile Justice will be notified as soon as possible, requesting authorization to place the juvenile in the holding facility.

4-111.00 Referral to the Department of Juvenile Services for Intake Proceedings

- .01 While deputies have diversionary options in dealing with a juvenile suspected of committing a minor criminal act, the deputy will refer the juvenile to the Department of Juvenile Services in the following circumstances, but not limited to:
 - A. All acts, which would be a felony, if committed by an adult.
 - B. All delinquent acts involving weapons.
 - C. Any serious gang related delinquent acts.
 - D. Any delinquent act committed by a juvenile on probation or parole, or with cases pending.
 - E. All delinquent acts involving assault.
 - F. Repeated delinquent acts within a 12 month period.
 - G. Juveniles refusing to participate in diversion actions.

4-112.00 Forms of Identification, i.e.; Prints, Photos, etc.

- .01 Collection: Finger prints and photos will be taken of juvenile suspects as previously stated in this Order. 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.
- .02 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 3-828.

.03 **Retention:** All such forms of identification will be maintained only in the juvenile ' s record file.

4-113.00 Agency Records

.01 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. 3-828.

.02 **Expungement of Juvenile Records:** Expungement of criminal records are governed by CP 10-101 through 105. Any expungements of juvenile criminal records will be in accordance with CP..

.03 **Access to 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.

4-114.00 The Crime Prevention Deputy 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.

4-115.00 Minimal Amount of Coercion Used When Dealing with Juveniles

.01 When dealing with juveniles, deputies will use the least coercive among reasonable alternatives. Options open to deputies in dealing with juveniles include:

- A. Release with no further action.
- B. Referral to a social service agency for counseling or other appropriate treatment/activities.
- C. 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.
- D. Charge the juvenile via report to the Department of Juvenile Justice, and contact with that agency to determine if the juvenile should be held.

4-116.0 Notification to Local School Superintendent of Juvenile Arrest

- .01 Upon receipt of a Juvenile Arrest Report, that falls under Education Article 7-302.1, Records Personnel will ensure that the Notice of Juvenile Arrest to Superintendent form is forwarded to the Superintendent of School, for the Allegany County Board of Education.
- .02 Daily, the Shift Lieutenant personnel will be responsible for preparing and forwarding any notices received during the working day for Arrest Reports under Education Article 7-302.1. State Law requires notification be made within 24 hours after the arrest, or as soon as is applicable. Notices may be sent by mail or facsimile to the superintendent of the public school. A list of public service numbers for superintendents will be maintained in the Communications Center.
 - A. 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.
- .03 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.

4-117.00 Appeals of Juvenile Intake Officer Decisions

- .01 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 Allegany County.
- .02 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.

By Order Of:

Craig A. Robertson, Sheriff