

PROCEDURES FOR DEALING WITH JUVENILES

Directive: 6.16

A. Introduction

Officers of the Department of Police, when dealing with juveniles, must see their role in law enforcement as encompassing all of the approaches which can be used to bring about legal behavior, and not assume that an arrest is the beginning and end of police responsibility. This does not imply that a juvenile who should be arrested will not be arrested. It means that an arrest is one of a wide range of tools that can be employed by the officer. It is the purpose of this order to provide procedures for our personnel to use in dealing with juveniles in a variety of situations.

If it is likely the child and/or parent can be successfully referred to a support agency or directed to an acceptable alternative to an arrest, one must consider:

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

B. Procedures For Dealing With Delinquent Juveniles

This section pertains to juveniles who are liable to arrest because they have committed a "delinquent" act. The act must be defined as criminal by the Delaware Criminal Code in order for it to be considered delinquent. Again, it is important to note that truancy, curfew violations and uncontrolled are no longer considered delinquent acts, and that a juvenile cannot be arrested for acts of this nature. In dealing with juveniles who have committed criminal violations, the officer has a number of options:

1. If the juvenile has committed a very minor infraction, but the officer believes that the infraction should be brought to the attention of the parents, the officer may transport the juvenile involved to his home and advise the parents of the nature of the offense. If the juvenile is turned over to anyone other than his parent (brother, sister, etc.), a report must be submitted. If the youth involved live outside the City, they should be brought to Central and the parents

notified so that they can respond to take custody of their children. If the juveniles are brought to Central, a report must be submitted.

If the offense that was committed involves a third party as a victim, the officer will advise the victim of his right to initiate Family Court action against the youth. In any case, where such legal action may be taken against a juvenile, the officer will make contact with the youth's parent or guardian to explain what has occurred. A report will be submitted detailing the incident.

2. When a juvenile is involved in a minor infraction and is brought to Central, the investigating officer(s) will confer with the House Sergeant on duty. If it is decided that the best procedure in handling the juvenile would be a court procedure, the parent(s) and/or guardian(s) of the juvenile will be contacted and appraised of the situation.

In accordance with the provisions of the new Municipal and/or Family Court Warrant Worksheets, etc., the investigating officer(s) will prepare the appropriate court documents for the charges specified. An official Crime Report or Incident Report will be prepared, and an accurate listing of parent(s)/guardian(s) contacted and to whom the juvenile was released and at what time was the subject released, will be incorporated in the report. A copy of this report will be attached to the court documents.

3. In serious cases, excluding #4 below, the juvenile will be arrested, and an arrest report will be completed. This arrest report will take the place of the incident report as specified in section #2 above, and will provide all the necessary accurate information relative to the investigation. The investigating officer(s) will also insure that the report contains all pertinent information about the juvenile (e.g., name, address, and phone number of parent and/or guardian, school child attends, etc.). The procedure as to notification of parent/guardian also applies.

Note: Howard v. Colonial School District, Delaware Supreme Court, 1992, now allows schools to suspend or expel students as a result of crimes committed on or off school property even during summer months. Officers are required to include the school the arrested juvenile attends in the arrest report and in the body of the Incident Report. This

information will be conveyed during an intake, should one be required (felonies, drugs, sexual related incidents). If a crime (felony or misdemeanor) occurs on school property an intake will now be required.

If the arrested juvenile is not to be released to his or her parents/guardians, the juvenile will then be committed to the Bridge House Detention Facility. The arresting officer(s) will be responsible for the completion of the Referral Form for Detention, which will also have a copy of the arrest report accompanying the juvenile to the Bridge House. The Referral Form for Detention will be signed and sealed in the presence of the Court Commissioner on duty.

Referral Form for Detention - original and three (3) copies.

- a. Original with juvenile to the Bridge House;
- b. Two (2) copies to Family Court;
- c. One (1) copy to Support Services Division.

If a juvenile is to be committed to the Bridge House Detention Facility, the arresting officer(s) will contact the parent/guardian to inform them of the whereabouts of their child. If the arresting officer(s) cannot contact the parent/guardian prior to the juvenile being detained at the Bridge House, then it will be the responsibility of the personnel at the Bridge House to make such notification. During hours when the Family Court is open, the officers may transport the juvenile directly to the Family Court, along with the completed paperwork, to and including affidavit of probable cause, charge sheet and arrest reports, rather than committing the juvenile to the Bridge House.

4. In very serious cases, which will include all juveniles charged with major felonies, i.e., murder, rape, kidnapping, or numerous counts of burglary or robbery, etc., the juvenile will be brought before a Judge of the Family Court for a hearing the same day of the arrest. In order to accomplish this task, it will be necessary for the arresting officer(s) to contact the Clerk of the Family Court. During the times when the Family Court is closed, the juvenile will be taken before a Municipal Court Commissioner. In that case, the following procedures will be strictly adhered to:
 - a. If the juvenile is held in detention, the Municipal Court Commissioner and the police

officer(s) will cause notification to be made on the person(s) having custody of the said juvenile during such detention, as well as the parents/guardian of the said juvenile to bring the juvenile to Family Court at 0830 hours the next morning the court is in session. If the police cannot contact any parent, guardian, or relative, and the juvenile is being detained in the Bridge House, it will be the responsibility of the personnel of the Bridge House to notify the parent or guardian for Family Court notification, once the juvenile is handed over to the Bridge House authorities.

- b. If the juvenile is not detained, the parents or other person(s) having legal custody of the said juvenile, shall be instructed to appear in the Family Court along with the said juvenile at 0830 hours the next morning when the Family Court will be in session. When handling cases involving bail hearings for a juvenile in Family Court, the parent(s) or legal guardian of the juvenile will need to attend the hearing. They shall be instructed to appear in Family Court by 0900 Hrs. the next day that the court is in session. The court will not conduct the hearing without the parent(s) or guardian present. If the parent(s) are unwilling to attend the hearing, they shall be advised that even though they do not want the juvenile back in their custody, they will need to attend this hearing so the proper placement of the child can be made. If the parent(s) or guardian still refuse to attend the hearing, officers are to make proper note of it in their report.

- c. All complaints and papers relating to the matter must be hand delivered at the beginning of the next day to the Court's Docket Supervisor for a hearing which will be held at that time. In the event an adult is arrested for Family Court, the defendant will be taken to Family Court for a hearing immediately. In the event Family Court is closed, the Municipal Court Commissioner will handle the bail proceedings. All warrants being taken to the Family Court will be completed in accordance with established procedures, and will include a copy of the police report. During the hours that the Family Court is closed, the established procedures between the Department of Police and the Municipal Court Commissioner will be followed on all warrants, either juveniles or adults.

5. Custodial Guidelines for Arrested Juveniles

Whenever a juvenile is taken into custody and brought to Central, his name and other required information will be entered in the detainee log book in the House Sergeant's Office. No juvenile will be detained in the Turnkey's lock-up or with any adult offenders. Juveniles will be secured in the juvenile detention cell in the House Sergeant's Office. If the juvenile is to be removed from the House Sergeant's Office, the proper information will be logged in the prisoner's removal sheet. The following information must be entered in the log: officer's name; parent notification; and disposition. When completing the log, personnel should give special attention to column #6 regarding disposition of the juvenile. It is important that the juvenile's disposition, such as "released to parents" or "detained at Bridge House" be entered. A juvenile must be dispositioned as soon as possible and no later than six (6) hours after being brought to central. In the event a juvenile is not released prior to the six-hour limit, a department information report must be submitted by the arresting officers and House Sergeant and forwarded to the Court Liaison Officer in the Office of Professional Standards.

All juveniles arrested for the following will be fingerprinted and/or photographed:

- All felonies, regardless of age; and
- All class "A" misdemeanors, if the juvenile is 12 years of age or older.

Additionally, the following procedures shall be followed regarding juveniles to be processed in accordance with the above criteria.

- a. An arrested juvenile, not previously processed, will be fingerprinted and photographed. The fingerprint cards will be processed to cover the needs of this department and the State Bureau of Identification. A Wilmington Police Department identification number will be issued for that juvenile. An impression of the juvenile's right thumb print will be entered on the appropriate location on the arrest report.
- b. An arrested juvenile who has been processed previously, will be re-mugged if existing

photographs are more than one year old, **or if the juvenile is charged with a class A misdemeanor or more serious offense.** A recidivist card will be prepared for every arrest action. Again the juvenile's right thumb print and his Wilmington Police Department identification number will appear in the appropriate location on the arrest report.

6. Transporting of A.W.O.L.s or Escapees from the Ferris and Woodshaven-Kruse Schools

When a juvenile is apprehended and identified as an AWOL/Escapee, the respective school shall be notified and respond to take custody of the AWOL/Escapee. If a warrant has been filed, then the juvenile must be booked on that warrant. If no warrant has been filed, the arresting officer will confer with his supervisor, and with the institution from which the juvenile has escaped, before initiating an escape charge.

In the event that an escape occurs at the Ferris School or the New Castle County Detention Facility, facility staff may request the assistance of this Department. This assistance will be in the form of informing the victim of the incident for which the escapee was incarcerated of the escape. This request will be made only after staff attempts to make contact have met with negative results. The incident will be recorded on either an original crime report (assist other authority) or a supplement report if the incident occurred in this jurisdiction.

C. Procedures For Dealing With Dependent Juveniles

The category of "dependent" children includes those juveniles who previously would have been classified as uncontrolled, truant, etc., or any child who is being inadequately cared for by his parents or guardian.

Officers should be aware that Delaware Law views such juveniles as persons in need of counseling or guidance, to be provided by Child Protective Services, and not as violators to be dealt with through the Family Court.

1. Dealing with Dependent Juveniles not in Custody.

Officers on many occasions will be called to intervene in family disturbances involving juveniles, where the

parents want the police to take some action against the youth. The policy of the Department of Police has been to refer to parents to the Family Court for action, unless the situation demanded immediate intervention.

Department policy will continue to be that officers will refer the complainant to the agency responsible for handling a particular problem. In the event that a juvenile involved has committed a criminal offense, such as an assault, criminal mischief, etc., the complainant should be advised to respond to Family Court during the court's normal working hours to sign a warrant. Officers will submit a report, detailing the facts of the incident.

2. Dealing with Dependent Children taken into Custody.

Section 933, 10 Del. Code, specifically authorizes a police officer to take into custody a child he believes to be dependent, neglected or delinquent, and there will arise circumstances in which the officers of the Department of Police must do so. The most common occurrence of this will be when officer take juvenile runaways into custody.

Whenever a juvenile is taken into custody on a non-criminal matter, the officer will immediately notify the parents or guardian of the juvenile involved, explaining the circumstances of the incident. He will then release the child to his or her guardian and will submit a report explaining his actions. If the parents cannot be contacted the officer may release the child to any adult family member, such as a brother or sister, uncle or aunt, or grandparent. Normally, for families living in the city, the officer will be able to do this without bringing the youth to Central.

In the event that the juvenile's parents cannot be contacted, or are unable to respond, the officer will then transfer custody of the youth to the Child Protective Service who will then place the youth in a shelter or foster home. The following procedures will be followed:

- a. The officer will contact the Child Protective Services by phone and will advise them of the necessity for placing the juvenile in a shelter. During the hours of 0830-1630, Monday thru Friday, officers should call [REDACTED]. At other times, they should call [REDACTED]. This latter number will reach an answering service, which will

in turn contact a social worker on duty. Child Protective Services is located at 62 Rockford Road.

- b. Child Protective Services will advise the officer of the location where the child will be placed. This will be either at the Bellefonte Children's Shelter at 700 River Road, the Franklin Street Shelter at 1300 West Seventh Street, or a foster home.

3. Procedure for the Handling of Truancy Complaints

When an officer observes a juvenile who he believes is a truant, the officer will stop the juvenile and ascertain the reason for his absence from school. If the absence is not a legitimate one, the officer will notify Central and will then transport the youth to the school which he attends. At the school, the youth will be turned over to school personnel with an explanation of what has occurred. The officer will then submit a miscellaneous report detailing the incident.

D. Procedures For Dealing With Neglected Children

This category includes those children who are being abused or otherwise seriously mistreated by their guardian. This is a very sensitive area and great care must be taken in dealing with such situations. When an officer responds on such a complaint and determines that an abuse is occurring or has occurred, he will immediately notify a supervisor to respond. The supervisor will determine whether the child will be immediately removed from the home, and whether any arrest should be made. The supervisor will notify the Patrol Watch Commander and advise him of the situation. If any action is to be taken at that time, Child Protective Services will be immediately contacted to have a worker respond to take custody of the youth. If he deems it necessary, the Watch Commander will contact the Commander of Criminal Investigations, or his designee, to have an investigator respond.

If the officers cannot substantiate an abuse case requiring immediate action, but there does appear to be some substance to the complaint, they will submit a report of the incident to the attention of Child Abuse Unit. The Child Abuse Unit will be responsible for contacting Child Protective Services to inform them of the situation.

E. Miscellaneous Youth-Related Procedures

1. Contributing to the Delinquency of a Minor

The following policy will govern the filling of the charge of contributing to the delinquency of a minor against adults arrested with a juvenile on charges to be tried in Superior Court. Should an adult be tried in Family Court for the contributing charge, any further proceedings in Superior Court on the felony charge will constitute double jeopardy and cause the dismissal of that felony.

Under *State v. Pytko*, Del. Superior Court, 1978, and *Waller v. Florida*, 397, U.S. 387 (1970), adjudication of the adult in Family Court will preclude any trial of the adult in Superior Court because of double jeopardy. Therefore, when an adult is charged with an offense to be tried in Superior Court, do not file a contributing charge in Family Court when such charge arises out of the same incident.

2. Service of Child Custody Orders

Whenever an officer is requested to serve any type of child custody order, either from Family Court of Delaware or from any out of state court, the officer will contact the Deputy Attorney General assigned to Family Court of Delaware before taking any action.

The officer will then adhere to the directive given by the Deputy Attorney General. Under no circumstances will any officer serve a child custody order without first complying with this procedure.

3. Interviews of Youths in Institutions

Any officer wishing to interview a youth at one of the institutions should first contact the facility and advise their personnel of his intentions.

In the event that it becomes necessary to interview a juvenile outside the confines of the institution, we will be required to obtain a Family Court order. The Family Court order will be prepared by the Attorney General's Office, stating the reasons for their request, the date and time the detainee is to be picked up and the time he is to be returned to the custody of the Division of Juvenile Corrections.

F. Police/School Relations Guidelines

As a result of work on the part of the Delaware Board of Education and the various law enforcement agencies in State, the following guidelines have been established and all personnel of this department will adhere to them as established policy of this department.

1. Arrest

- a. When possible and appropriate, arrest by police should be made during non-school hours away from school premises.
- b. Arrests on school premises during school hours should be undertaken in such a manner as to avoid embarrassment to the pupil being arrested or to jeopardize the safety and welfare of other pupils.
- c. In the event of an apprehension during school hours, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- d. If the student is to be surrendered to the custody of the police officer, the principal or designee should record the name and organization of the officer, the time the officer leaves the school, the destination (police station, detention facility, or Family Court) and the offense for which the arrest was made. A substantial effort should be made by the principal or designee to immediately inform the parent(s) or guardian(s) of the student upon any contact by the police. If the student is arrested and removed from the premises before such contact is made, the police and the principal or designee share joint responsibility for that contact.

2. Questioning or Interrogation by Police on School Premises

- a. Police investigations involving the questioning or interrogation of pupils should not be permitted on school premises unless in connection with a crime committed on school premises or in conjunction with an investigation which, if not immediately permitted, would compromise the success of that investigation or endanger the lives or safety of students or other persons.

The principal or designee should be present throughout the questioning or interrogation, except in cases where the investigation concerns a student who is the victim of physical or sexual abuse where a member of the student's immediate family or household is suspected of being the perpetrator of, or a conspirator in, such abuse and where the police investigator is a representative of a special unit trained to do such interviews.

- b. In any case where a student is in custody and being questioned regarding involvement in a criminal matter where the student's Fifth Amendment protection against self-incrimination may apply, the law enforcement officer should consider the environment in which questioning takes place and the ability of the student to discontinue the questioning. Unless reasonable to do so, the law enforcement officer should notify the principal or his designee when such questioning becomes custodial in nature. Questioning becomes "custodial in nature" when a law enforcement officer is conducting an interview and the party being interviewed is not free to leave the presence of the officer.

- c. Before the police commence the questioning or interrogation of a minor on school premises, the principal should contact the student's parent(s) or guardian(s) to provide them an opportunity to be present or consult an attorney. Such contact is particularly important in the case of students below the high school level. Questioning or interrogation without such parental contact should only proceed where:
 - (1) the contact may endanger the safety of the student or other persons;
 - (2) the contact would compromise the success of the investigation because a member of the student's immediate family or household is suspected of being a perpetrator of or conspirator or potential conspirator to a crime; or
 - (3) the delay caused by lack of contact would compromise the success of the investigation and a substantial effort has been made to contact the student's parent(s) or

guardian(s) without success.

The police should ensure that the student is afforded all constitutional rights due in such a situation.

- d. School officials should request the arresting officer to remove the student from the premises as soon as possible after the arrest is made. In the absence of an arrest, school officials should not authorized the removal of a student from the school without the consent of the parent or guardian unless such contact would endanger the student or unreasonably compromise an investigation, or every reasonable effort to notify the parent or guardian has failed. In which case, if appropriate, the Division of Child Protective Services should be notified.

3. Search and Seizures

- a. Law enforcement officer in reliance upon probable cause that a crime is, has, or is about to be committed, may search for evidence of that crime. Whenever reasonable, a search warrant, issued by a court of competent jurisdiction, will be sought before a search is conducted. As a general policy, a school official will accompany the law enforcement officer. However, they will not participate in the actual search unless specifically request to do so by the police.
- b. Efforts should be made by the police and school administrators to conduct searches in a manner which will minimize disruption of the normal school routine and will minimize embarrassment to pupils affected.
- c. A frisk (pat-down) will be conducted by the police where the officer has a reason to believe that the person being encountered is armed and presents a risk of injury to the officer or an innocent third party.
- d. The principal or designee may at any time conduct such searches as are essential to the security, discipline and sound administration of the particular school, but are limited as stated above whenever the search is in connection with a police investigation. The appropriate police agency will respond to a request from a school official conducting an administrative search when the

official feels that the search might reveal a violation of the law.

4. Reporting Crimes

- a. School officials are charged with the authority to provide for the safety of the student and for the security of the property. Consequently, school officials should promptly report criminal offenses that occur on school property, as well as those crimes that may have occurred off school property, but come to the attention of school officials.

To assist in those goals, when a school official request police presence on any school property, a community policing officer will be dispatched by Communications. If a community policing officer is not available or the request is an emergency, the Communications will dispatch an available unit to handle the complaint, until such time that a community policing officer can respond. School officials should notify the Department of Police when they encounter any of the following activities:

- (1) Evidence that suggests the commission of a felony, e.g., arson and suspicion of arson, rape, robbery;
- (2) Evidence that suggests violation of the laws concerning controlled substances and alcohol;
- (3) Evidence that suggests incest, sexual abuse or the neglect or other abuse of children;
- (4) Evidence that suggests the use, possession or sale of dangerous instruments or deadly weapons (e.g., knives firearms, ammunition, explosives or blasting caps);
- (5) Evidence which suggest morals offenses (e.g., pornography, exhibitionism, peeping, etc.);
- (6) Evidence of organized gambling;
- (7) Evidence of assault or offensive touching of a school employee, in accordance with 14 Del. C. Section 4112 (6);
- (8) Evidence of offenses involving school property (e.g., false fire alarms, telephone threats, vandalism, criminal mischief,

trespass, burglary and theft, reckless driving and safety hazards);

(9) Reports of suspicious or unauthorized persons on or near school property; or

(10) Rumors of observations of gang rivalry activities.

- b. Reportable offenses should not include conduct which has been traditionally treated as a matter of discipline to be handled administratively by the particular school. However, all such conduct of a serious nature should be promptly reported to the parent or guardian concerned.
- c. Procedures should be established for exchange and use of official information.

5. School Disturbances

- a. The request for police assistance in a crisis situation requires special care because of the possibility of aggravating a situation.
 - (1) It is preferable that the principal or designee call the police. If a Youth Aid officer is on the scene, it is desirable that the decision to call for additional police support be reached in collaboration with the officer.
 - (2) No person other than the principal or designee, the superintendent of the district or his designee, or the highest ranking police officer present and qualified may request the tactical deployment of police to a school.
 - (3) Police manpower called to a school should be limited to that number which may reasonably be expected to be required to deal with the situation. This determination as to the level of force required can best be made by the ranking police officer on the scene, working jointly with the principal or designee.
- b. In general, [REDACTED] in all situations where students or faculty sensitivity may crucially influence the success of the short-term

to the functions of police officers. However, in order for personnel to understand completely the function of the school in relation to the police function, it was necessary to include the way they operate.

G. School Bus Related Incidents

Incidents occurring on school buses fall within the jurisdiction of the school districts, unless of course, a police response would be required, i.e. in the event of a crime. Should such an occasion emanate, police personnel will adhere to the following guidelines when responding to any incident involving school buses:

1. Title 14 places responsibility with the school districts for regulating the transportation of pupils, as well as, having authority over disciplinary matters involving school pupils. Police personnel, when responding to incidents involving school buses or their passengers, will not take police action unless there is a law violation as defined in the City Code or State of Delaware Criminal Code.
2. Communications personnel who receive requests for police service to school bus incidents will advise the caller of the above policy and will request confirmation that the incident does involve a violation of the City Code and/or the State of Delaware Criminal Code. They will also confirm that the School District's Transportation Supervisor, or his/her designee, has been notified and are enroute to the scene.
3. If such a situation requiring a police response does arise, then a police unit and whenever practical, a supervisor, will respond to the scene. Upon arrival, the officers will stand-by to stabilize the situation and prevent any further escalation of the incident. Officers will take no arrest action unless an offense is committed in their presence.
4. The officers will stand-by at the scene, with the bus and it's passengers, until the arrival of the School District's Transportation Supervisor or his/her representative, of the school district involved. At that time, the situation will be turned over to the school official for resolution. If requested by the school official, the officers may stand-by to prevent further breaches of the peace. Officers will not conduct any searches,

except when probable cause exists that deadly weapons are present on the bus. Should an investigation produce a weapon, appropriate arrest action should take place.

5. Officers will not detain, nor will they take custody of, any passenger unless an arrest of that passenger is made. Officers will take no arrest action, for an offense committed out of their presence, unless a warrant has already been issued, or there is probable cause of a felony as defined in the Delaware Criminal Code.
6. Responsibility for transportation of passengers, or for the release to parents or guardians, will rest with the appropriate school official.
7. Any response by any officer to a school bus related complaint will result in a written report documenting the nature of the complaint, the names of the students involved and their respective schools, the name and position of the school official who responded and all actions (no matter how minor) of the officers at the scene.

H. Questioning

Officers must contact the parents or guardians or person in loco parentis, or interested adult of a juvenile prior to questioning and the parents or person must be given an opportunity to both understand what the questioning will cover and to be present during questioning.

Under no circumstances should the child be compelled to answer questions either by physical force or psychological pressure.

Juveniles are entitled to the full Miranda Warnings and these rights must be explained in the presence of parents, guardian, or counsel, or person interested in child's welfare, not just routinely read.

Officers should keep in mind that when questioning a juvenile, they should not prolong the interview period any longer than is needed in order to complete their investigation. Also, the interview should be handled by one officer if at all possible, in order to lessen the chance of the juvenile feeling intimidated or pressured.

In many cases, juveniles may not understand what is happening to them during the interrogation process. The

officer should explain to them what to expect as far as procedures are concerned and how the court system works.

J. Annual Evaluation of Enforcement and Prevention Programs

At the end of each year, representatives from Community Services Division who are responsible for juvenile enforcement and prevention programs shall conduct a meeting for the purpose of appraising and evaluating the past year's performance with respect to their divisions role in these areas of concern. Recommendations will be made as to whether a specific program should continue as is, be modified, or be discontinued. All recommendations will be submitted, in writing, to the division commander of the Community Services Division.