

PALM BEACH GARDENS POLICE DEPARTMENT

JUVENILE PROCEDURES

POLICY AND PROCEDURE 4.2.2.5

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PURPOSE: To establish a uniform method of handling dependent juveniles, and the arrests, processing, referrals and interviews of juvenile offenders.

SCOPE: All members

REVIEW RESPONSIBILITY: Police CIU Sergeant

POLICY: This Department is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. All Bureaus and members are encouraged to participate in supporting the Department's efforts in juvenile operations and functions. The intent of this policy is to specify the responsibility of officers when taking juvenile offenders into custody. This Department shall attempt to provide all juveniles with due protection afforded them under Florida Statutes Chapter 985 without compromising peace, dignity and safety of the public at large. Juvenile operations and delinquency prevention efforts will not be limited to the Community Involvement Unit (CIU) but to all Department members.

1. JUVENILE OPERATIONS FUNCTION/ADMINISTRATION

- a. This Department will participate where necessary to encourage the review and commitment by juvenile justice agencies and services in the development of Department policies and procedures relating to juveniles. This may be accomplished when members serve as liaison to criminal justice and social service agencies that provide specific services to juveniles.
- b. An annual review and written evaluation of all enforcement and prevention programs relating to juveniles will be conducted by the CIU supervisor or a Chief of Police designee. The evaluation may consider both the quantitative and qualitative elements of each program, lending itself to decisions regarding whether a specific program should continue to function as is, be modified, or be discontinued.
- c. The Department through the officers assigned to CIU seeks the opportunity to organize community recreational youth programs to include serving as youth resource officers in recreational activities within the city and through summer programs organized by City's Parks and Recreation Department.
- d. The Department through the DARE, GREAT, TIPS and Aggressors, Victims and Bystanders programs (via CIU) provides school liaison services to include:
 - i. Acting as a resource with respect to delinquency prevention.

- ii. Providing guidance on ethical issues in a classroom setting.
- iii. Providing individual counseling to students.
- iv. Explaining the law enforcement role in society.

2. JUVENILE ARREST PROCEDURE

- a. The Department's procedures for taking a juvenile offender into custody will include:
 - i. Those procedures addressed in FSS Chapter 985 regarding custody and intake of juvenile offenders.
 - ii. Determining whether the juvenile is alleged to have engaged in noncriminal misbehavior.
 - iii. Determining whether the juvenile is alleged to have been harmed or to be in danger of harm.
 - iv. Ensuring that the constitutional rights of juveniles are protected.
 - v. Transporting juveniles to the intake facility or the juvenile component without delay (unless a juvenile is in need of emergency medical treatment).
 - vi. Notifying parents or guardians of juveniles taken into custody.
 - 1. All reasonable attempts to notify parents or guardians should be documented in reports, to include method of attempt and the time attempt was made.
- b. Florida law authorizes officers to take a child into custody for a delinquent act or violation of the law (misdemeanor, felony, local ordinance). The laws of arrest that apply to an adult also apply to a juvenile.
- c. Any juvenile taken into custody upon probable cause of a law violation and transported to the police department will be photographed and fingerprinted.
- d. Juveniles suspected of or known to have gang affiliation or who are documented gang members shall be photographed at the Department, prior to transport to any detention facility. Photographs should be taken utilizing a plain background and sufficient lighting. Photographs should include: full length clothed body (front and back), all tattoos (close ups if necessary for detail), teeth and any dental appliance. A minor, during any interview should be asked what each tattoo represents. Reasons for, what was photographed and responses to any questions asked and answers given should be documented in written report and on juvenile referrals and other reports.
- e. A minor who is charged with or found to have committed a felony or a specified misdemeanor shall be fingerprinted and the fingerprints shall be submitted to FDLE.
- f. Custodial interrogation of juveniles will only occur if the following provisions are adhered to regarding:
 - i. Confering with parents or guardians.
 - ii. If reasonable efforts to contact the parent(s) or guardian(s) of a minor (juvenile) have been unsuccessful and an interview or interrogation is necessary, the age and developmental stage of the minor/juvenile should be considered before proceeding.
 - iii. Limiting the duration of interview/interrogation and the number of officers engaging in the interrogation.
 - iv. Explaining agency and juvenile justice system procedures to juveniles being interrogated as well as advising them of their constitutional rights (Miranda Warning, i.e., access to counsel).
 - v. Providing access to counsel.
- g. When an officer arrests a juvenile the following procedures shall be followed by the arresting officer:
 - i. The juvenile shall be handcuffed and transported to headquarters; the fact that a prisoner is a juvenile does not preclude the use of handcuffs.
 - ii. Notify a dispatcher of the destination when transporting a juvenile as well as the beginning and ending mileage.
 - iii. Afford juveniles the same constitutional rights as adults regarding Miranda Rights (i.e., access to counsel) also explain each right, ensuring that the juvenile demonstrates that the rights are understood and provide an explanation of Department and juvenile justice system procedures prior to the interview or interrogation.

- iv. It is the officer's responsibility to ensure that juveniles understand their rights. Officers will explain the rights so they are easily understood. Officers must be able to clearly articulate how the officer knew the juvenile understood their rights and explain in court, if necessary.
 - 1. Proof of understanding can be developed by asking the juvenile to explain each warning in their own words. See Appendix A.
 - 2. The parent or guardian cannot make the decision for the juvenile to invoke or waive his/her rights; however, juveniles shall be allowed to confer with parents/guardians if requested, pending custodial interrogation.
 - 3. If parents cannot be contacted, the juvenile may still be questioned, after his/her rights have been read, if applicable.
- v. Interview the juvenile with or without the parent(s) or legal guardians present during the actual interview/interrogation. The assigned officer shall use his/her own discretion after evaluating case facts to determine what is in the best interest of the case solvability without ignoring the juvenile's constitutional rights. All officers dealing with juvenile offenders shall use the least coercive among reasonable alternatives to include provisions for:
 - 1. Out right release with no further action.
 - 2. The use of a written citation, juvenile referral, or notice to appear at intake in lieu of taking them into custody. Be careful with using NTA's because that only applies to adults unless used in traffic cases.
 - 3. Referral to juvenile justice system.
- vi. Interview juveniles with no more than two persons interviewing the juvenile during any one interview/interrogation session to prevent allegations of coercion. Others (investigators, DCF case workers, sexual assault assistance program counselors, etc.) may be present, but not involved in the interview.
- vii. The interview/interrogation of a juvenile suspect will be for a reasonable length of time and will include documented periodic breaks.
- viii. A juvenile affidavit shall be completed for all juvenile arrests along with all required reports prior to the end of the shift on which the offense occurred.
- ix. The officer shall check NCIC, FCIC, PALMS, and call Juvenile Assessment Center (JAC) to determine if the juvenile has any active warrants, a Pick-Up Order, is a runaway, or has been adjudicated as an adult.
- x. If the arrest is for a misdemeanor or local ordinance violation the officer shall contact the JAC to advise the intake officer of the following:
 - 1. The name of the juvenile and the charges for which he/she was taken into custody to determine if there is any reason that the juvenile should be transported to JAC.
 - 2. The officer's decision on whether to release the juvenile to a parent, guardian, or other responsible adult relative or transport the juvenile to JAC and the reason for doing so.
- xi. If the arrest is for a felony and/or other detention criteria exist (refer to the Florida Juvenile Handbook for specific detention criteria) the officer shall transport the juvenile to JAC. The intake officer is required to screen the juvenile.
 - 1. DJJ has a screening instrument and the points scored on that determine release or secure detention. If the youth scores secure but the intake screener thinks the youth should be released on home detention they must get SAO approval.
- xii. All juveniles taken into custody for delinquency shall be taken without unreasonable delay, unless medical treatment is necessary, to JAC.
- h. Interviews and/or arrests within a school may be made or conducted:
 - 1. If there is a proper setting for the interview.
 - 2. Within guidelines policies of the school.
 - 3. When investigating an incident on school property.

4. During a routine investigation.
5. In schools where school board police officers are assigned, the investigating officers should make every effort to coordinate the investigation.
- i. If an officer believes the juvenile needs psychological testing, but does not fit the involuntary examination criteria, the officer can suggest to the JAC case worker at the screening that psychological testing be conducted. The recommendation can be verbal or documented on a juvenile affidavit separate from the affidavit for the delinquent act.
 - i. If the arrested juvenile appears to suffer from mental disorders and meets the criteria for involuntary examination, the juvenile shall be transported to the community mental health center. The officer shall complete a written report detailing the circumstances, prior to the end of the officer's shift.
 - ii. All officers should familiarize themselves with the involuntary examination criteria, Baker Act, FSS 394.463.

3. JUVENILE RECORDS

- a. Juveniles taken into custody for felony offenses shall be photographed and fingerprinted in the area designated for processing by the Department. Those juveniles taken into custody for offenses other than felonies will also be fingerprinted (and photographed, if appropriate).
- b. Other forms of identification (i.e., hair, saliva, blood, etc.) may also be collected from the juvenile with their consent. In the absence of consent, a court order shall be obtained.
- c. The following procedures shall be followed:
 - i. The juvenile shall be taken to the designated area within the Department for fingerprinting and photographing, if appropriate.
 1. Two photographs, consistent in style (head to mid-chest), will be taken of each juvenile.
 2. Each photograph will have a consistent plain white background with no obstructions visible within the photograph.
 - ii. The officer shall remain with or ensure there is a sworn officer with the juvenile during this process.
 - iii. All juvenile records shall be marked "JUVENILE ".
 - iv. A copy of the fingerprints obtained from juveniles shall be forwarded as follows:
 1. To the appropriate juvenile court, if the offense was a felony.
 2. To FDLE.
 3. A copy maintained in the Department's juvenile records in a locked and secure file system.
 - v. All juvenile fingerprint cards will be maintained and secured by, and are the responsibility of the designated authority. Juvenile fingerprint cards shall be kept separate from adult fingerprint cards.
 - vi. The juvenile files may be viewed by other law enforcement agencies, state attorneys, the courts, the child, the child's parents or legal custodians, the child's attorney(s), or any other person authorized by the court to have access to such records.
 - vii. Juvenile files are not public records and may only be opened to inspection by authorized law enforcement officers and agents of this Department and to those for investigative purposes from outside agencies.
 - viii. Juvenile files will be produced in court whenever directed by the court.
 - ix. Photographs of a juvenile maybe shown, by a law enforcement officer, to a victim or witness of a crime for the purpose of identifying the person who committed such crime.
 - x. Juvenile files/records will be purged in accordance with and in the same manner as other information under Florida Statutes Chapter 119, GS2 Retention Schedule, until 19 years of age or five years after the last arrest or three years after death, whichever is reached first, unless expunged by the court.

- xi. An officer of this Department shall obtain permission/consent from a juvenile if the officer desires to have the juvenile photographed, fingerprinted, or have other forms of identification collected for purposes of "RECORDS ONLY" processing.
- xii. If a juvenile is processed for "RECORDS ONLY" the same procedure will be followed as if the juvenile had been taken into custody for a non-felony violation of the law.
 - 1. Fingerprints will not be forwarded to the juvenile court or FDLE.
 - 2. Reasonable attempts should be made by the officer to notify the parent(s) or guardian(s) of the juvenile of any "RECORDS ONLY" and include the appropriate case referencing which resulted in the need for the processing.
- xiii. Juvenile traffic violator records shall be in the full name of the violator and shall be maintained and open to inspection in the same manner as an adult traffic violator's record.

4. PROCEDURES FOR HANDLING DEPENDENT CHILDREN

- a. Taking custody of a child without an order from a circuit court judge, except arrests for delinquent acts, is to be effected only in those instances where the circumstances are of an emergency nature and immediate action is necessary or if:
 - i. The juvenile is alleged to have engaged in non-criminal misbehavior (a status offense).
 - 1. Runaways (missing persons) are handled per Department policy.
 - 2. Truants may only be taken into custody for the purpose of transporting him/her back to his/her school or a designated location (i.e., Truancy Interdiction Program). The officer may release a child who is over sixteen (16) years of age and has a work permit or a certificate exempting him/her from school or if the officer is able to verify or determine that the juvenile has a reasonable explanation for school absence.
 - 3. Parent(s) or guardian(s) of ungovernable juveniles should be referred to the Child In Need of Services (CINS) and Family In Need of Services (FINS) unit of Department of Children and Family Services (DCF) for assistance.
 - ii. When a child is not in immediate danger, (considering the child's age, physical/mental condition and source of danger), and parent(s) or other responsible adults are present, the child need not be taken into custody.
 - 1. If a child alleges, or has been reported as being physically, mentally, or sexually abused by a person of familial or custodial authority and the accused lives within the child's residence or has ready access to the child, DCF shall be contacted through the 1-800-96-ABUSE registry.
 - 2. The local DCF office may also be contacted in addition to the abuse registry if case facts dictate the necessity for immediate response of a DCF case worker.
 - iii. Case details will be discussed with the DCF case worker, who is responsible for determining whether the child should remain at home, be allowed to stay with a relative or friend, or be placed in temporary shelter. If the officer turns a juvenile over to a DCF case worker for placement into a shelter, the officer shall complete a juvenile affidavit for dependency.
- b. When necessary, an officer may take a dependent child into custody and deliver the child, without delay, to a DCF case worker, JAC intake, Safe Harbor Shelter, or a mental health facility as case files dictate.
- c. The name and location of the placement facility or shelter shall not be released except to those persons acting in official capacities with duly recognized governmental agencies, unless authorized by DCF.
- d. If the child is a recovered runaway the parent(s), or legal guardian(s) may be informed of the child's placement at Safe Harbor Shelter, or other similar facility, unless allegations of abuse have been made and an DCF investigation is pending; the assigned DCF case worker will determine to whom and when this information shall be released.

- e. All necessary offense/incident reports and other applicable forms must be completed by the officer prior to the end of the shift when the juvenile has been handled as a dependent or a delinquent child.
- f. A copy of the sworn complaint by a law enforcement agency shall be filed by the Department with the clerk of the circuit court within twenty-four hours after the child is taken into custody and released, or after the complaint is made, excluding Saturdays, Sundays, and legal holidays.
- g. If an arrested juvenile delinquent is believed to be intoxicated, drugged, or injured to such a degree that his/her health is in danger and the officer believes medical attention is necessary, the officer shall:
 - i. Notify his/her immediate supervisor;
 - ii. Contact the juvenile's parents or legal guardian;
 - iii. Arrange for the juvenile to be examined/treated by a physician. If the juvenile is in no immediate danger and the physician medically releases the juvenile, a release may be signed by the physician if he/she is willing. (Copies of the release shall be attached to the juvenile affidavit/referral);
 - iv. If the parent(s) legal guardian(s) cannot be contacted the officer will contact JAC and explain the situation to the intake worker.
 - 1. A separate juvenile referral will be completed by the arresting officer listing the child as dependent. If the child is admitted to the hospital the referral will be sent to JAC intake immediately.
 - 2. The arresting officer must make arrangements for the child's admission to the hospital. The arresting officer must immediately contact JAC intake so that a case worker can be assigned regarding the dependency issue.

5. PROCEDURES FOR HANDLING JUVENILE TRAFFIC

- a. Juveniles may be issued citations for non-criminal traffic violations and released from the scene.
- b. Juveniles charged with misdemeanor criminal traffic offenses or misdemeanor violations of Chapter 322 FSS may be released after being issued a traffic citation by:
 - i. Releasing the child on his own recognizance;
 - ii. Releasing the child to a parent, guardian, or other responsible adult relative; or
 - iii. Releasing the child to JAC intake if a parent, guardian or other responsible adult relative will not accept the child or is not available, A photocopy of the traffic citation will be provided to the intake officer along with a copy of the juvenile referral The traffic citation will follow normal routing. All citations should stay with the PC if the youth is taken to JAC or with the filing packet. Separating them gives rise to the potential of the youth being handled in traffic court and thus resulting in double jeopardy for anything to happen in juvenile court.
 - 1. If the juvenile is arrested for DUI; he/she will be treated the same as an adult.
 - iv. Juveniles refusing to sign a misdemeanor criminal traffic citation will be taken into custody.
 - 1. The juvenile will be transported to the police station where the officer will attempt to contact the juvenile's parent(s), guardian(s), or a responsible adult relative.
 - 2. If one of the aforementioned persons is contacted the juvenile may be released to that person after being advised of the mandatory court appearance. If the officer cannot contact any of the aforementioned persons, he/she shall complete juvenile affidavit and transport the juvenile to JAC.
 - 3. Requests to detain a child at JAC will be made if the officer reasonably believes the child will fail to appear at a hearing or fits other detention criteria.
 - 4. The citation, minus the pink and blue copies, will be attached to the juvenile referral and delivered to JAC Intake with the child.
 - 5. The citation number will be listed on the citation transmittal sheet with the notation "juvenile referral" in the remarks column. The blue copy will follow normal routing.
 - v. When a juvenile is arrested for felony traffic offense, the arresting officer shall follow the same procedure as in any juvenile felony arrest.

6. GLOSSARY

Delinquent Child -A child found by a court to have committed a violation of law or to be in direct or indirect contempt of court.

Juvenile/Child/Youth -Any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services, or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

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APPROVED:

Stephen J. Stepp
Chief of Police

04/01/12
Date

Appendix A**“MIRANDA WARNINGS/JUVENILE EXPLANATIONS”**

Officers are urged to read the warning, then ask the juvenile what that warning means and then if the explanation is insufficient, explain the warning using this suggested language or any other “child friendly” language suitable for the juvenile’s age and developmental capacity.

THIS IS ONLY A TOOL TO USE WITH THE MIRANDA CARD.

1. You have the right to remain silent and not answer any questions. Tell me in your own words what you think this means.

(You do not have to talk to me or answer any questions about this offense. You can be quiet if you want.)

2. Any statement you make must be freely and voluntarily given. Tell me in your own words what you think this means.

(If you do talk to me it has to be because you want to and not because anyone is forcing you to.)

3. You have the right to the presence and representation of a lawyer of your choice before you make any statement and during any questioning. Tell me what this means to you.

(You can talk to a lawyer before we ask you any questions and to have him/her with you now, during our questioning.)

4. If you cannot afford a lawyer, you are entitled to the presence and representation of a court appointed lawyer before you make any statement and during any questioning. Tell me what this means to you.

(If you do not have money for a lawyer and you want one, a lawyer will be given to you for free)

5. If at any time during the interview you do not wish to answer any questions, you are privileged to remain silent. Tell me what this means to you.

(If you decide to talk to me and then change your mind, you can stop answering my questions at any time.)

6. I can make no threats or promises to induce you to make a statement. This must be of your own free will. Tell me what this means to you.

(I am not allowed to threaten you or make you any promises to get you to talk to me. If you decide to talk it must be because you want to.)

7. Any statement can be and will be used against you in a court of law. Tell me what this means to you.

(Anything you say to me can and will be told to the judge or a jury in court. A judge is a person who decides if you have done something wrong. Sometimes a group of people called a jury decide this, but the Judge is the person who decides what kind of punishment you get.)

These explanations are created from a joint effort of numerous prosecutors. There has been no appellate test of these explanations so never use the explanations without first reading the actual Miranda warning. Thanks.

Lynn Powell
Juvenile Division Chief
355-7220