

I. PURPOSE

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

II. POLICY

The Fairfax County Sheriff's Office concern for juvenile offenders reflects those of the community. All agency personnel are committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. The Sheriff's Office expects deputies to handle juveniles consistent with common sense and the dictates of law. The Sheriff's Office policy includes the identification and conviction of juveniles charged with crimes. The best interest of juveniles and the community, however, dictates a limited application of our arrest powers against juveniles that are charged with status offenses. Accordingly, deputies may handle errant juveniles informally, particularly status offenders, those in need of protection, and those suspected of committing minor criminal offenses. The authority to carry out the provisions of this order derives from **Virginia Code 16.1-246, 16.1-247, and 16.1-299**. In case of minor or status offenses, deputies should divert juveniles from the formal criminal justice process and instead choose community referral.

III. DEFINITIONS

Child, Juvenile, Minor: A person who is under eighteen years of age.

Status Offender: A juvenile who commits an act which is unlawful only if committed by a juvenile, i.e.; (1) a juvenile who is subject to compulsory school attendance but is habitually absent without justification (truant); (2) A juvenile who is habitually disobedient to the lawful commands of parents or other responsible persons (incorrigible); (3) A juvenile who remains away from or who habitually deserts or abandons the family (runaway).

Delinquent Acts: Acts designated as a violation of the law of the Commonwealth of Virginia or an ordinance of any city, town, county, or federal law, but not limited to include status offenses.

Intake Officer: A juvenile probation officer who is designated by law as having the quasi-judicial authority to decide probable cause, divert from or petition the court and leave a detention or shelter care order.

Juvenile Court: The name by which the Juvenile and Domestic Relations District Court is often called. This court is responsible for the judicial processing of juvenile offenders, and the determination of abuse and neglect cases. As a result, the judge of this court decides the propriety and legality of law enforcement handling of juveniles.

Person Acting for a Parent: A teacher, relative over the age of eighteen, or any adult willing to accept the responsibility for the juvenile.

IV. PROCEDURES-GENERAL

A. Overview

1. All employees of the Sheriff's Office will cooperate with juvenile justice and support activities. Sheriff's Office policies regarding juvenile operations will be provided to local juvenile court personnel for their review, comments, and suggestions as to ways our procedure can be improved.

2. All Sheriff's Office personnel must thoroughly understand and practice the provisions of this standard operating procedure.

B. Handling of Juvenile offenders- General

A juvenile offender should be handled with firmness and respect. This sets the tone for the entire processing of the juvenile case. The contact a juvenile has with law enforcement officers is his or her first impression of society's enforcement system. The deputy's proper handling may prevent the recurrence of antisocial behavior. A deputy's warning is often all that is required to keep the juvenile from having to appear in court. Improper handling often creates the mistaken but lasting impression that all deputies and other government officials are unfair, untrustworthy, inflexible and may result in the juvenile's complete rejection of lawful authority.

The juvenile justice system and laws are designed to give the child a chance to mature without bearing the stigma of a criminal record. The juvenile justice system emphasizes confidentiality of records and the privacy of the adjudicatory hearing. Terms such as "take into custody" and "not innocent" substitute for "arrest" and "guilty" to avoid giving the juvenile's behavior a criminal label. Where appropriate, deputies should reasonably try to keep juveniles out of the criminal justice system.

C. Guidelines for informal and formal handling

The deputy may handle a juvenile either informally or formally. Informal handling is managing a situation by releasing the juvenile under warning to a parent or guardian. This requires either the parent picking up the child or the deputy taking the child home and informing the parents of the alleged offense. Formal handling occurs when the juvenile is brought before the juvenile court or an intake officer for further processing and deciding the proper disposition.

In making the decision to handle either informally or formally, the deputy should consider the following;

1. Seriousness of the offense;
2. Prior record of the child;
3. Age of the child;
4. Cooperation and attitude of all parties (child, parent, victim) and the possibility of the offense being repeated.
5. Degree of wrongful intent, violence, premeditation, knowledge of the violation.
6. Likelihood that the child or parent can be successfully referred to a helping agency.

D. Informal handling

1. Informal handling includes the deputy's use of:
 - a. Warning and releasing to a parent or guardian.

- b. Requiring the parents to pick up the juvenile.
- c. Taking the youth home and informing the parents of the reason for his or her being picked up.
- d. Referring the family to a community social service agency.
- e. When handling the juvenile informally, the deputy must ensure that the parents are notified.

2. Notes on informal handling

- a. When handling informally, the deputy will complete a report (marked JUVENILE). This provides the Sheriff's Office and juvenile court with a means of charting the juvenile's behavior patterns.
- b. A juvenile's right of privacy must be respected. Guidelines for discussions of this type of case should be strictly observed, and information gained should be provided to others only on a "need to know" basis.
- c. When the deputy encounters a victim/complainant who demands to bring the child before the juvenile court, and the deputy believes the matter should be handled informally, the deputy will contact an intake officer for assistance.
- d. Even when he or she is handled informally, the juvenile has all the constitutional rights that an adult would have in the same instance.
- e. Even if the deputy handles a case informally, the deputy may still follow up the case at a later time or, at any time, refer the juvenile and his parents to an appropriate social service agency.

3. Sample offenses for informal handling:

Generally, first offenses involving the following types of offenses should be handled informally, however, the list is not complete and the deputy's good judgment is important:

- a. Runaways;
- b. Annoying phone calls;
- c. Curse and abuse;
- d. Drunkenness;
- e. Creating a nuisance;
- f. Disorderly conduct.
- g. Curfew violation and other status offenses.

4. Philosophy of informal handling:

When handling a case informally, the deputy should keep in mind that the objective of the juvenile justice system is to rehabilitate rather than punish. Keeping the child in the Sheriff's vehicle discussing the case for an inordinate length of time may appear to the juvenile to be punishment, and might be unconstitutional or illegal. The deputy should decide without delay whether formal or informal handling is in order, then apply the appropriate guidelines of this

standard operating procedure.

E. Formal handling:

1. Formal handling occurs when the juvenile is taken before the juvenile court or intake officer for their decision on the proper disposition.
2. Generally, the following situations will require formal handling of the juvenile:
 - a. Delinquent acts that if committed by an adult would be felonies;
 - b. Delinquent acts involving a weapon;
 - c. Delinquent acts involving aggravated assaults and batteries;
 - d. Delinquent acts committed by juveniles under probation or parole, or with a case pending;
 - e. Delinquent acts that are repeated;
 - f. When a deputy finds a child at risk in a domestic violence situation.

F. Taking juveniles into custody:

No juvenile may be taken into immediate custody except in accordance with **Virginia Code 16.1-246**.

1. With a legal detention order, or
2. When the child is alleged to be in need of services, and there is clear and substantial danger to the child's life, health, safety or welfare, or
3. Custody is necessary to insure the child's appearance before the court, or
4. When a child commits a crime in the deputy's presence, and the deputy believes custody is necessary for the protection of the public interest, or
5. The deputy has probable cause to believe the child has committed an offense which if committed by an adult would be a felony, or
6. The deputy has probable cause to believe the child is an escapee from the Department of Corrections, jail, detention home, court placed residential family, or a residential treatment facility, or
7. The deputy has probable cause to believe the child has either run away from home or is without adult supervision at night and in circumstances that the deputy reasonably concludes there is clear and substantial danger to the child's welfare.

G. Guidelines for taking juveniles into custody:

1. Do not take custody of a child or assume an overly authoritative position when the purposes can be accomplished by asking appropriate, permissible questions at the location of contact.

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2. If it is necessary to take a juvenile into custody, do so with the least possible embarrassment to the juvenile and his or her family.
3. When the juvenile court is open for intake (7am-12am), the juvenile must be taken there for processing. Between the hours of 12am to 7am the juvenile must be taken to the juvenile detention center where an intake officer will be on duty.
4. The juvenile may, depending on circumstances, be turned over to his or her parents or guardian, and they are advised that charges may be pending after the deputy consults with an intake officer.
5. Notification of the parents or guardian of a juvenile is required in every case that a juvenile is taken into custody. Juveniles taken into custody while under the influence of alcohol or drugs will be taken, after initial processing by the intake officer, to Access Emergency Care of Fairfax for medical attention and observation. The juvenile detention facility will not accept them while under the influence. Juveniles will be transported without delay to an intake center unless they are requiring immediate medical attention.

H. Transportation of juveniles:

Virginia Code 16.1-254 states that no youth under the age of eighteen is to be transported in the same vehicle with adult(s) suspected of or charged with criminal acts.

I. Legal aspects of confinement of juveniles:

Virginia Code 16.1-249 puts certain restrictions on the place of confinement. No person known or alleged to be under the age of eighteen is to be housed in any jail or other facility with adults. However, a person fifteen years or older may be detained in a jail or other facility for the detention of adults if:

1. The jail or lockup is certified to hold juveniles, and;
2. A judge or intake officer decides that a juvenile detention center is not secure enough given the nature of the crime; or
3. Space in the juvenile detention center is unavailable; or
4. In the case of a juvenile fifteen years or younger, when custody is an absolute necessity and a petition is unavailable, a court intake officer must be called, regardless of the hour, in order to place the juvenile in confinement.

NOTE: This provision does not apply to juveniles previously tried and convicted as adults.

J. Questioning juveniles:

1. When questioning a juvenile in custody, the same rules and procedures used for an adult apply. The interview should be limited in duration, and conducted by a minimal number of deputies.
 - a. Under no circumstances will the child be compelled to answer questions by psychological pressure or physical force.
 - b. No juvenile can be compelled to answer any question which may tend to

incriminate him. Juveniles are entitled to the full Miranda warnings and have these rights explained in the presence of parents, guardian or counsel, circumstances permitting.

- c. Every effort should be made to contact the parents or guardian before any questioning occurs.
- d. Deputies are reminded that rules governing searches, reasonable suspicion and probable cause apply to juveniles.
- e. In all cases, the parent or legal guardian will be notified that an interview has occurred and what, if any, charges will be placed. The parent or legal guardian will be informed of the procedures the judicial process will take.

K. Written citations/summons:

A deputy may use the Virginia Uniform Summons (VUS), just as for an adult, in the following situations:

- 1. Violation of the traffic laws.
- 2. Violations of town/county ordinances establishing curfew or animal control violations.
- 3. Violations of game and fishing laws.

L. Fingerprints and photographs of children:

Virginia Code 16.1-299 provides that fingerprints and photographs may be taken and filed under the following circumstances:

- 1. May be taken of a child fifteen years of age or older who is charged with a delinquent act which would be a felony if committed by an adult.
- 2. May be taken of a child thirteen years of age or older who is charged with the following offenses:
 - a. Malicious wounding
 - b. Use of a firearm in the commission of an offense(Which would be a felony if committed by an adult)
 - c. Attempted poisoning
 - d. Extortion
 - e. Robbery
 - f. Rape
 - g. Arson
 - h. Murder
- 3. May be taken of a child regardless of age or offense if he is taken into custody for and charged with a violation of the law, and the deputy has determined that there is reasonable cause that latent fingerprints found are those of the child.
- 4. Other physical samples may be taken from a juvenile for identification purposes only after consultation with the juvenile court or the Commonwealth Attorney.

- M. Dissemination/retention of fingerprints and photographs
1. The Sheriff is responsible for the Sheriff's Office compliance with Virginia Code requirements on dissemination and retention of juvenile records including fingerprints and photographs.
 2. Fingerprint cards and photographs will be destroyed when:
 - a. No petition is filed against a juvenile whose fingerprints or photograph have been taken in connection with an alleged violation of law.
 - b. A juvenile is found not guilty by a juvenile court or circuit court of a charge of delinquency.
 - c. A juvenile is less than thirteen years of age who is found guilty of a delinquent act.
 3. Fingerprint cards and photographs may be retained when the court finds that a juvenile thirteen years of age and older has committed an act of delinquency.
 4. Fingerprints and photographs may be retained and copies sent to CCRE when:
 - a. A juvenile fifteen years of age or older is certified to the circuit court and is found guilty as an adult of the offense charged.
 - b. A juvenile thirteen years of age or older is found guilty of malicious wounding, use of a firearm in committing a felony, attempted poisoning, extortion, murder or related crimes (18.2-77 through 18.2-88) in a juvenile court, and is adjudicated delinquent.
 5. Juvenile fingerprint cards and photographs, authorized for retention, will be separately and securely maintained. Access to these records will be restricted to official use, and may be viewed by the public only if authorized by a court order.
- N. Confidentiality of records/release of information
1. **Virginia Code 16.1-301** requires that all law enforcement agencies take special precautions to ensure that law enforcement records concerning a child are protected against disclosure to any unauthorized person.
 2. Deputies may release upon request to one another and to other local, state, or federal law enforcement officers, current information on juveniles taken into custody limited to name, address, physical description, date taken into custody, and charge. Such information may only be used for current investigations.
 3. The Sheriff will ensure that all non-criminal records of juveniles, particularly field interview notes, are destroyed annually.

V. PROCEDURES- SPECIFIC

- A. Specific responsibilities of Sheriff's Office personnel
1. The deputy will:

- a. Notify the juvenile's parents or person acting for a parent of the specific acts which brings the juvenile to the attention of the deputy; and
 - b. Contact the intake officer at the court or detention center when appropriate; and
 - c. Contact the immediate supervisor when it is determined that a detailed juvenile is definitely innocent, or that no crime has actually been committed; and
 - d. Finish all paperwork with complete information on the child, parents, complainant and witnesses.
2. The supervisor will:
- a. Review and approve all paperwork by the arresting deputy.
 - b. If the supervisor or arresting officer determines that the juvenile in custody is in fact innocent, the supervisor will immediately contact the intake officer, relate the facts of the case, and request a decision whether to release or detain if charges are pending.

B. Child Protection:

When probable cause exists that a juvenile is without adult supervision at such hours of the night and under circumstances that it is reasonably concluded that there is a clear and substantial danger to the juvenile's welfare, the deputy will:

1. Take the child into immediate custody; and
2. Notify the intake officer of the juvenile court, who will decide if a petition should be filed. If the intake office decides a petition should not be filed, the deputy will:
 - a. Return the child to his or her home; and
 - b. Release the child to the parent, guardian, legal custodian or other person acting for a parent; or
 - c. Release the child.
3. The deputy will complete an incident report on the matter.

VI. CRIMINAL OFFENSES/DELINQUENT ACTS

A. Interrogations:

Follow the provisions of section III. paragraph J of this SOP.

B. Warnings/ Petitions

1. Deputies have the statutory authority (**Virginia code 16.1-246**) arrest a juvenile on probable cause without a warrant or petition in felony cases.
2. A warning may be issued in all cases where a juvenile has committed an act,

which if committed by an adult, would be a Class 2,3, or 4 misdemeanor.

3. Use of a warning is prohibited when:
 - a. The complainant or victim is committed to proceeding with prosecution, or
 - b. The juvenile is known to have been warned or arrested in the preceding year for an act which, if committed by an adult, would be a crime.
4. A complaint will be made in all cases in which a juvenile is taken into custody for an act if committed by an adult, would be a Class 1 misdemeanor or a felony; except a warrant shall be sought under the following conditions:
 - a. The intake officer of the juvenile court refuses to issue a petition sought for a Class 1 misdemeanor or a felony. In such cases, the arresting deputy or complainant may appeal the refusal to a magistrate, provided the arresting deputy continues to believe the charge initially sought should be made. The deputy will include, with the material presented to the magistrate, written notice of refusal from the intake officer. There is no appeal from an intake officer's refusal for Class 2, 3, or 4 misdemeanors.

A magistrate's finding is final. If a warrant is issued, it will be returnable to the juvenile court as a petition.

C. Immediate custody

1. Juveniles may be taken into immediate custody:
 - a. According to the provisions of section IV, paragraph F of this SOP.
 - b. When a juvenile has committed a misdemeanor offense involving shoplifting in violation of **Virginia Code 18.2-103** and although the offense was not committed in the presence of the deputy who makes the arrest, the arrest is based on probable cause on a reasonable complaint of a person who observed the alleged offense.
 - c. When there is probable cause to believe that a juvenile has committed an offense which would be a felony if committed by an adult, or
 - d. When a detention order or warrant is known to be on file in this or another jurisdiction.

2. Notification of parents

Such notification will be made by telephone or in person, as soon as reasonably possible after the juvenile is taken into custody.

3. Warnings

Deputies who release juveniles after issuance of a warning for suspicious circumstances will complete an incident report. On it the deputy will give a complete clothing description and all details relating to the facts surrounding the

contact.

- D. Release of detention of juveniles charged with delinquent acts
 - 1. Deputies will, whenever possible, release a juvenile to a parent or person acting with parental authority, who, (1) is available and willing to provide supervision and care; and (2) promises to bring back the juvenile before the court when requested. However, the arresting deputy will seek from the court to detain a juvenile whenever:
 - a. The child is alleged to have committed an act which would be a felony or a class 1 misdemeanor if committed by an adult and at least one of the following conditions are met:
 - (1) The release of the child constitutes an unreasonable danger to the person or the property of others; or
 - (2) The release of the child would present a clear and substantial threat of serious harm to such child's life, health, safety or welfare; or
 - (3) The child has threatened to abscond from the court's jurisdiction during the proceedings or has a record of willfully failing to appear at court hearings within the immediately preceding twelve months; or
 - (4) The child has fled from a detention home or a facility operated by the Department of Corrections; or
 - (5) The child is a fugitive from another state where there is an outstanding detention order or warrant; or
 - (6) The child has failed to appear for a court hearing on a delinquent act.
 - b. The deputy will inform the intake officer of arrests in all cases and inform them of whether a parent or custodian of the juvenile has been notified of the arrest.
- E. Service of warrants, detention orders or temporary detention orders
 - 1. Warrants, detention orders and temporary detention orders will be served on juveniles in the same manner as adults except that:
 - a. When the juvenile court is in session;
 - (1) Deputies who arrest juveniles, at the request of the court on a detention order, will advise the intake officer by phone of the arrest of the juvenile.
 - (2) The intake officer will instruct the deputy on whether to bring the child directly to the court or the detention center in the most expedient manner possible.
 - (3) A parent or other person acting with parental authority will be

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given notice by the arresting deputy, of the action taken and the reason for taking the juvenile into custody.

- (4) The deputy will inform the intake officer whether the parent or guardian was notified of the juvenile's arrest.
- (5) Deputies will file the original copy of the executed detention order with the clerk of the Juvenile and Domestic Relations Court on the same day it is executed. Deputies will see that the detainee is served with a copy of the detention order.

b. When the juvenile court is not in session:

- (1) Follow the procedures as stated above and the intake officer will advise as to where to place the juvenile; and
- (2) Ensure that the paperwork is available to court personnel the next working day.

F. Handling of escapees:

1. Immediate custody of escapees

a. Juveniles who are escapees from jail, a detention home, or other institution in which they were placed by order of the court, Child Protective Services or other licensed child welfare agency may be taken into immediate custody when:

- (1) There is a detention order or warrant known to be on file in this or another jurisdiction; or
- (2) A deputy has probable cause to believe that a juvenile has escaped or run away from jail, detention home, residential child care facility or home in which they were placed by the court, the Department of Social Services, or a licensed child welfare agency.

2. Return or placement of escapees

- a. Whether a juvenile court is open or closed, the juvenile may be returned and released to the facility from which the juvenile escaped or fled.
- b. Whether the juvenile court is open or closed and the juvenile is not released to the facility from which he escaped or fled, the deputy will contact the intake officer of the court where the juvenile will be placed.

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DATE APPROVED

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EFFECTIVE DATE
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SHERIFF