

1.2.2 Limits of Authority-In Custody Requirements

SUBJECT: FIELD INTERVIEWS AND PAT-DOWN SEARCHES

I. POLICY

The field interview is an important point of contact for officers in preventing and investigating criminal activity. But even when conducted with respect for involved citizens and in strict conformance with the law, it can be perceived by some as a means of police harassment or intimidation conducted in a discriminatory manner against groups or individuals. In order to maintain the effectiveness and legitimacy of this practice and to protect the safety of officers in approaching suspicious individuals, law enforcement officers shall conduct field interviews and perform pat-down searches in conformance with the procedures set forth in this policy.

II. PURPOSE

The purpose of this policy is to assist officers in determining when field interviews and pat-down searches are warranted and the manner in which they must be conducted.

III. DEFINITIONS

Field Interview: The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

Pat-Down Search: A "frisk" or external feeling of the outer garments of an individual for weapons only.

Reasonable Suspicion: The aim of reasonable suspicion is to resolve an ambiguous situation. Articulate facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been, is being or is about to be committed.

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IV. PROCEDURES-FIELD INTERVIEWS

A. Justification for Conducting a Field Interview

Law enforcement officers may stop individuals for the purpose of conducting a field interview only where reasonable suspicion is present. Reasonable suspicion must be more than a hunch or feeling, but need not meet the test for probable cause sufficient to make an arrest. In justifying the stop, the officer must be able to point to specific facts that, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

1. The appearance or demeanor of an individual suggests that he is part of a criminal enterprise or engaged in a criminal act.
2. The actions of the suspect suggest that he is engaged in a criminal activity.
3. The hour of day or night is inappropriate for the suspect's presence in the area.
4. The suspect's presence in a neighborhood or location is inappropriate.
5. The suspect is carrying a suspicious object.
6. The suspect's clothing bulges in a manner that suggests he is carrying a weapon.
7. The suspect is located in proximate time and place to the alleged crime.
8. The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

B. Procedures for Initiating a Field Interview

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a suspect if he has an articulate reasonable suspicion to do so. The following guidelines shall be followed when making an authorized stop to conduct a field interview.

1. When approaching the suspect, the officer shall clearly identify himself/herself as a law enforcement officer, if not in uniform, by announcing his identity and displaying departmental identification.
2. Officers shall be courteous at all times during the contact but maintain caution and vigilance for furtive movements to retrieve weapons, conceal or discard contraband, or other suspicious actions.

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3. Before approaching more than one suspect, individual officers should determine whether the circumstances warrant a request for backup assistance and whether the contact can and should be delayed until such assistance arrives.
4. Officers shall confine their questions to those concerning the suspect's identity, place of residence and other inquiries necessary to resolve the officer's suspicions. However, in no instance shall an officer detain a suspect longer than is reasonably necessary to make these limited inquiries.
5. Officers are not required to give suspects Miranda warning in order to conduct field interviews unless the person is in custody and about to be interrogated.
6. Suspects are not required, nor can they be compelled, to answer any questions posed during field interviews. Failure to respond to an officer's inquiries is not, in and of itself, sufficient grounds to make an arrest although it may provide sufficient justification for additional observation and investigation.

C. Justification for Conducting Pat-Down Searches

A law enforcement officer has the right to perform a pat-down search of the outer garments of a suspect for weapons if he has been legitimately stopped with reasonable suspicion and only when the officer has reasonable fear for his own or another person's safety. Clearly, not every field interview poses sufficient justification for conducting a pat-down search. The following are some criteria that may form the basis for establishing justification for performing a pat-down search. Officers should note that these factors are not all-inclusive; there are other factors that could or should be considered. The existence of more than one of these factors may be required in order to support reasonable suspicion for the search.

1. The type of crime suspected – particularly in crimes of violence where the use or threat of deadly weapons is involved.
2. Where a single officer must handle more than one suspect.
3. The hour of the day and the location or neighborhood where the stop takes place.
4. Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
5. The appearance and demeanor of the suspect.

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6. Visual indications that suggest that the suspect is carrying a firearm or other deadly weapon.
7. The age and gender of the suspect. Whenever possible officers of the same sex should perform possible, pat-down searches.

D. Performing a Pat-Down Search

When reasonable suspicion exists to perform a pat-down search, it should be performed with due caution, restraint and sensitivity. These searches are only justifiable and may only be performed to protect the safety of officers and others and may never be used to shakedown individuals or groups of individuals or as pretext for obtaining evidence. Under these circumstances, pat-down searches should be conducted in the following manner.

1. Whenever possible, pat-down searches should be conducted by at least two officers, one of who performs the search while the other provides protective cover.
2. Because pat-down searches are cursory in nature, they should be performed with the suspect in a standing position or with hands placed against a stationary object and feet spread apart. Should a weapon be visually observed, however, a more secure search position may be used, such as the prone position.
3. In a pat-down search, officers are permitted only to externally feel the outer clothing of the suspect. Officers may not place their hands in pockets unless they feel an object that could reasonably be a weapon, such as a firearm, knife, club or other item.
4. If the suspect is carrying an object such as a handbag, suitcase, briefcase, sack or other item that may conceal a weapon, the officer should not open the item but instead place it out of the suspect's reach.
5. If the external feeling of the suspect's clothing fails to disclose evidence of a weapon no further search may be made. If evidence of a weapon is present, an officer may retrieve that item only. If the item is a weapon the possession of which is a crime, the officer may make an arrest of the suspect and complete a full-custody search of the suspect.

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E. Reporting

If after conducting a field interview there is no basis for making an arrest, the officer should record the facts of the interview in an incident report.

SUBJECT: SEARCH AND SEIZURE – WARRANTLESS SEARCHES

I. POLICY

The fourth Amendment guarantees the right for people to be free from unreasonable searches and seizures of their homes, persons and things. The Supreme Court is continuously interpreting the Fourth Amendment as it applies to police conduct. Illegally seized items of evidence will not be admitted in court and may cause for a lost criminal case. Additionally, an illegally conducted search invites civil suits and criminal prosecution. In order to ensure that Fourth Amendment rights are protected, officers will obtain search warrants upon probable cause in all appropriate criminal cases except for the following circumstances.

1. Consent searches
2. Emergency searches
3. Plainview and “plain feel”
4. Abandoned property and open fields
5. Inventory searches of vehicles
6. When executing arrest warrants
7. Incident to arrest
8. Pat-downs of suspicious persons

II. PURPOSE

A search occurs where there is a “prying into hidden places by the police officer”. The person whose premises or person is being searched has a reasonable expectation of privacy.

III. DEFINITIONS

Probable Cause: Searches (with the few important exceptions outlined in this order) and all arrests are based on the police officer’s perception of probable cause. According to the U.S. Supreme Court, “Probable cause exists where the facts and circumstances within their [the arresting officers’]

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knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed.”

1. An officer must have probable cause to undertake a search or make an arrest.
2. When an officer has appropriate probable cause, he or she may undertake a complete body search (not including a body-cavity search), record the suspect’s fingerprints, take the suspect’s photograph.
3. After processing and filing charges an arraignment before a district magistrate is done. The aim of probable cause is to make a formal charge.

Elements of probable cause: Probable cause may be established through an investigation and observation, witnesses, confidential informant, or through anonymous sources provided that the information is corroborated by investigation.

1. Unnamed informants may be used in an affidavit for a search warrant if the informant has first-hand knowledge of the investigation and information is included about why the informant is credible and reliable.

CONSENT SEARCHES

A. Consent searches must observe the following rules:

A search warrant is not necessary where a person who has authority or control over the thing or place searched consents to the search. Note that the officer does not need reasonable suspicion or probable cause to conduct a consent search. He or she may merely ask for permission from someone with control over the premises. If that person grants permission, the search may take place. The sole justification for consent to search is the existence of knowing, intelligent and voluntary consent. Consent searches must observe the following rules.

1. Generally, the person granting consent must use, access, or control the property. A person having exclusive possession of some part of jointly owned property could only give consent for a search of that part.
2. If two people have joint ownership of property, either may give consent. If possible, have the consenting party sign a written permission to search form.

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3. A landlord, including a hotel or motel manager, cannot consent to a search of a tenant's premises, unless the tenant has been evicted or has abandoned the property.
4. A husband or wife, or one member of a cohabitating unmarried couple, may consent to a search of areas in common ownership or use.
5. A parent may consent to a search of premises occupied by a dependent child if the parent also has access to the premises.
6. An employee cannot give valid consent to a search of his employer's premises unless he has been left in custody of the premises.
7. An employer may generally consent to a search of premises used by employees, except premises used solely by an employee (e.g., a locker).

B. Consent must be given voluntarily

1. If an officer request consents from a citizen under circumstances that a reasonable person would consider coercive, then officers must seek a warrant. The officer may have the burden of demonstrating voluntaries.
2. A person who initially gives consent may withdraw it at any time. Officers shall then secure the premises and seek a warrant if probable cause exists.
3. Refusal to give consent, in itself, cannot justify further law enforcement action.
4. The scope of a consent search is limited to the area for which consent has been given, and within this area officers may search only into areas where the object sought could reasonably be hidden.

EMERGENCY SEARCHES

A. Eleven considerations determine whether an Emergency Exists

A search warrant is not necessary in an emergency. An emergency is termed "exigent circumstances."

1. The degree of urgency involved and the time required getting a warrant.
2. Officer's reasonable belief that contraband is about to be removed or destroyed.
3. The possibility of danger to others is including officer's left to guard the site.
4. Information that the possessors of contraband are aware that police are on their trail.
5. Whether the offense is serious, or involves violence.
6. Whether officers reasonably believe the suspects are armed.

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7. Whether the officers have probable cause at the time of entry.
8. Whether the officers have strong reason to believe the suspects are present on the premises.
9. The likelihood that the suspects will escape.
10. The suspects' entry onto premises after hot pursuit. To justify warrantless entry following hot pursuit, the arrest process must have begun away from the premises, and the offender knows that he or she is under arrest, and the offender tries to avoid arrest.
11. A reasonable belief that someone on the premises is in distress and in need of emergency assistance.

B. When to cease Emergency Search

If officers enter premises with probable cause to believe that critical evidence may be destroyed or removed unless immediate action is taken, they may enter without a warrant, secure premises, and obtain a search warrant before proceeding further unless they have obtained consent to search, or some new circumstances arise necessitating another warrantless search.

PLAIN VIEW SEARCHES

A. Two Requirements for a Plain View Search

A plain-view seizure is, technically, not a search. To make a Plainview seizure of property (contraband, fruits, or instruments of the crime), must be met;

1. From a lawful vantage point, the officer must observe contraband left in open view; and
2. It must be immediately apparent to the officer that the items he or she observes may be evidence of a crime, contraband, or otherwise subject to seizure.

B. During a lawful frisk

During a lawful frisk (stemming from a lawful stop), if an officer detects an object that is or might reasonably be an item that is contraband or other criminal evidence, then the object may be seized. Threatening items such as a weapon may always be removed during frisks. Non-threatening items may be removed

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only if their contraband or evidentiary nature is immediately apparent (the so called “plain-feel” rule)

ABANDONED PROPERTY AND OPEN FIELDS SEARCHES

A. To constitute abandoned property, two conditions must apply

A search warrant is not required for property that has been abandoned.

1. A search warrant is not required for property that has been abandoned.
2. To constitute abandoned property, two conditions must apply:
 - a. Property was voluntarily abandoned.
 - b. Property was discarded outside the area in which someone has a reasonable expectation of privacy.

B. Open Fields

The Fourth Amendment does not protect open fields, but officers must distinguish them from curtilage, searches of which require a warrant. Curtilage is the area of a dwelling necessary, convenient, and habitually used by the family for domestic purposes. The extent of curtilage of a private residence is determined by whether the area is enclosed; the nature and use of the area; the proximity of the area to the home; and any measures taken by the owner to protect the area from observation. Note that under some circumstances surveillance (e.g., aerial surveillance) of activities within curtilage may take place without a warrant.

INVENTORY OF VEHICLE SEARCHES

Definitions

Motor Vehicle: for the purpose of this section a motor vehicle is a vehicle that is self-propelled except one which is propelled solely by human power or by electric power obtained from overhead trolley wires, but not operated upon rails.

A Search: for the purpose of this section, a search is an examination of a motor vehicle with an investigative motive, that is, to discover evidence or to examine the vehicle identification number (VIN) to ascertain ownership.

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A. Vehicle requirements

The department requires officers to inventory any lawfully impounded vehicle, or vehicles removed from the street and place it in police custody. Any evidence or contraband found during the inventory may be used to formulate probable cause for a subsequent search warrant or arrest. Vehicles shall; be inventoried per departmental procedure that requires an inventory of the entire contents, including closed containers (provided they can be opened without breakage). The purpose of an inventory is to ensure safekeeping of private property and to protect the department from liability. To repeat, in order to justify an inventory of a vehicle, the following conditions must be met.

1. Officers must have lawful custody of it. The scope of the inventory shall be limited to those parts of a vehicle likely to conceal important, hazardous, or valuable items including, but not limited to, the passenger compartment, the trunk, console and glove compartment.
2. Inventory shall be made of every vehicle seized, towed, stored, recovered, confiscated or otherwise taken into custody through official action of the Department.
3. Inventory shall be made of those vehicles which cannot reasonably be left where discovered and:
 - a. For which an owner/agent cannot immediately be determined
 - b. For which an owner/agent is not currently or willing to reasonably dispose of the vehicle.
4. Inventory shall be conducted regardless of whether the vehicle is stored at a City Police facility or at some other location at the direction of a member of the Department.
5. Any items of value shall be removed from the vehicle, inventoried and placed in the appropriate storage area.
6. Seats shall not be removed and the inventory shall be conducted in a manner to avoid any damage to the vehicle or its contents.
7. Any time a custodial/inventory search is performed, a statement to that effect shall be included in the narrative of the officer's report.
 - a. The statement shall specify all of the compartments, if any, that were locked, could not be opened without force and, therefore, were not searched.
 - b. In those instances when a search is performed and nothing of value is discovered, a statement to that effect should be noted in the incident.

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B. Closed containers in vehicles

Closed containers may be examined if they are likely to contain valuable property. If closed containers are locked or sealed; they shall not be forced open but simply logged on the inventory form.

1. The vehicle and its closed containers shall not be damaged.
2. If contraband is found the search should stop and obtain a search warrant to continue.
3. Any unlocked or unsealed container, i.e., suitcase, backpack, box, etc. shall be opened and searched if keys are available. However, no locks or seals shall be broken.

C. Custodial Inventory Search

Inventory shall not be conducted for the purpose of gathering incriminating evidence and/or contraband. However, any evidence and/or contraband discovered during a custodial/inventory search shall be seized and may be used as probable cause to obtain a warrant to search the vehicle fully.

WHEN EXECUTING ARREST WARRANTS

A. General guidance

An officer with an arrest warrant may search for the defendant in his or her own home provided that the warrant was valid; the officer searches the defendant's home (and not someone else's); and probable cause exists that the defendant is home at the time of the search. The search for the defendant must be limited to places where he or she might be found.

B. Protective sweeps

Following the execution of an arrest warrant, officers may undertake a "protective sweep" of the premises where the arrest takes place without a warrant. Certain limitations must be observed, however:

1. The purpose of the protective sweep is to discover persons on the premises who might present a danger to officers.

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2. Incident to arrest, officers may, without probable cause or reasonable suspicion; look into closets or other spaces immediately adjoining the place of arrest where threatening persons might be located.
3. In order to extend the protective sweep beyond closets and adjoining spaces, officers must have reasonable suspicion for fearing that persons may be on the premises that pose a threat. In such cases, the sweep is limited to examining places where a person might hide.
 - a. Officers shall carefully document their reasonable suspicion.
 - b. Officers shall document the results of the sweep.
 - c. During a protective sweep, evidence discovered in plain view may be seized.
4. The sweep must cease when officers have dispelled a reasonable suspicion of danger.

SUBJECT: EXECUTING SEARCH WARRANTS

I. POLICY

It is the policy of the Johnstown Police Department to provide techniques to accomplish a thorough and legal search. To observe the constitutional rights of the person(s) the warrant is being served upon. Minimize the level of intrusion experienced by those who are having their premises searched. Provide for the highest degree of safety for all persons concerned and establish a record of the entire execution process.

II. PURPOSE

The purpose of this policy is to provide Johnstown Police Officers with guidelines for the execution of a search warrant.

III. DEFINITIONS

Search Site: The premises or person to be searched, as explicitly stated in the search warrant.

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Search Personnel: Johnstown Police Officers and supporting personnel taking part in the execution of the search warrant.

Evidence Collector: Officer(s) of the search team responsible for the possession, packaging, sealing and marking of all items seized.

Supervising Officer: The officer responsible for the investigation and has the most knowledge of the case.

IV. PROCEDURES

A. Uniform and Equipment Requirements

1. The search team shall at all times include at least one uniform officer. All non-uniform officers shall be clearly identified as an officer by a jacket or some other indicator of the office.
2. All members of the search team should be equipped with body armor and department approved holster.

B. Time Limitations on Search Warrant Execution

1. A search warrant shall be executed as soon as practicable within the conditions stated in Pennsylvania's Rules of Criminal Procedure.
2. Circumstances that may necessitate a delay in executing a search warrant include, but are not limited to:
 - a. The need to have many searches occurs at the same time, which requires coordination and mobilization of law enforcement resources.
 - b. The sizable items have not arrived at the search site.
 - c. The probability that substantial resistance will be encountered.

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- d. A particular person(s) is absent from the search site, and the supervisory officer feels that the search would best be conducted if that person were present.
- e. The need to protect an informant's identity.

C. Preparation for Execution of Warrant

1. Prior to entering the premises, the supervisory officer shall conduct a pre-entry briefing of the execution process with all search team personnel. The briefing shall include a review of the actual order of operations and procedures the search personnel will follow, a simulation of the conditions of the search site (using maps, charts and diagrams, when appropriate) and tactics and equipment to be used in the event of forced entry.
2. The supervisory officer shall attempt to determine if any circumstances have changed that make executing the search warrant at the time undesirable.
3. The supervisory officer shall ensure that the entire search warrant execution process is documented, from beginning to end, and continued until the search team leaves the premises. A written incident shall be written from start to finish.

D. Entry Procedures

1. The approach to the scene shall be executed without sirens. If a pre-execution surveillance team is on scene, radio contact shall be made to ensure that it is an appropriate time to serve the search warrant.
2. The supervisory officer shall be responsible for ensuring that the search warrant is valid and that the property about to be searched is the property listed on the search warrant.
3. The search personnel shall position themselves in the following manner:
 - a. Exits from the premises shall be covered

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- b. Uniformed officers shall be the most visible members of the search team, and shall conduct the entry.
- c. Non-uniformed officers shall be the last members to enter the search site.

E. Notification

1. The supervisory officer, or uniformed officer, shall notify persons inside the search site, in a voice loud enough to be heard inside the premises, that he/she is a police officer and has a warrant to search the premises, and that he/she demands entry to the premises at once.
2. No-knock entries shall be made in accordance with state law.

F. On Premises Activities

1. The supervisory officer shall ensure that a member of the search team conducts a security sweep of the search site.
3. After the search site has been secured, search personnel shall develop a prioritized strategy that details the likely whereabouts of the items to be seized and an order of operation for conducting the search.
3. One person shall be designated as responsible for collecting, preserving, and documenting all items seized until possession is transferred to the evidence locker.
4. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to security problems, arrangements shall be made to secure the residence.
5. If damage occurs the description of the damage will be noted in the incident report.

SUBJECT: INTERVIEWS AND INTERROGATIONS

I. POLICY

You interview persons you believe willing to give information about a case. In an interview you help people give you, in their

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own manner of words, their account of the matter you are looking into. After they give their account, you review it with them to so he/she is clear on key points. Or you ask questions to have them clearly explain matters not covered before, depending on the elements of the offense under investigation.

You only interrogate persons you suspect of having committed or helped commit an offense, or persons you believe to be withholding information about an offense. In an interrogation you rigorously question persons unwilling to give you the information you are seeking. You avoid interrogating anyone who can be successfully interviewed.

II. PURPOSE

Interviews and interrogations are an officer's means of obtaining information from or about persons connected with an incident.

III. DEFINITIONS

Interview: as opposed to an interrogation, may be construed as any conversation with a suspect, witness, victim or the citizen.

Interrogation: includes direct question (or its functional equivalent) about a crime or suspected crime, as well as any words or conduct on be half of the police that my elicit an incriminating response from the suspect.

- a. Officers are reminded that an interrogation does not rely solely or exclusively on words; conduct can be the "functional equivalent" of asking questions.

Custody: A person is in custody when an officer tells him or her that he or she is under arrest. The functional equivalent of being in custody occurs when a reasonable person in the suspect's place would feel that his or her freedom of action has been restricted to the same degree as a formal arrest.

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RIGHTS ADMONITION – *Miranda Rights*

A. Warn or advise

Before interrogation, officers shall advise suspects of their rights by reciting:

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to talk to a lawyer and have him or her present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one.
5. You may stop talking at any time.

After the warning in order to secure a waiver, the officer shall ask and receive affirmative replies to the following questions:

1. Do you understand each of these rights I have explained to you?
2. Having these rights in mind, do you wish to talk to us now?

After the rights have been read, understood, and the person wishes to waive them, the officer will then interrogate them. Officers shall interrogate suspects only when they have knowingly and intelligently waived their rights. Officers will cease questioning whenever the suspect invokes the right to silence or requests the presence of counsel.

1. Officers shall not try to elicit incriminating evidence unless the suspect waives the right to counsel.
2. If a suspect, once in custody, requests counsel after being advised of *Miranda* rights, he or she cannot be interrogated again about the crime for which he or she was charged or by any other officers unless the counsel is present during the interrogation.

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3. If the suspect is deaf or unable to speak English, the interrogating officer shall notify the on-duty supervisor and shall immediately arrange to obtain an interpreter.
4. Officers will take care when advising juveniles of their rights to ensure that the rights are understood before obtaining a waiver.
5. Officers should not interrogate a child unless a parent or guardian is present before waiving his or her rights.
6. If a suspect has invoked his or her right to silence, officers may interrogate the suspect if, after a passage of time, the suspect initiates communication with officers. Before questioning, however, officers shall again administer *Miranda* warnings.

B. Voluntary confessions

The courts have provided officers with much latitude in interrogating suspects. If a suspect claims that he or she was coerced into confessing, the courts will examine the interrogation according to the totality of the circumstances. If interrogation methods appear to overcome the suspect's will, then the courts will find any resulting confession to be involuntary. If the officers use trickery or threats to obtain confessions, they must:

1. Carefully assess the suspect's background, age, education, mental impairment, and physical condition to determine vulnerability to coercion.
2. Coupled with the background characteristics choose an appropriate mix of interrogation tactics and environmental factors to convince the suspect to confess without overbearing the suspect's will. Note the *Miranda* warnings would have been given before the interrogation takes place, in most instances.

C. Exemptions or special cases

1. *Miranda* warnings do not apply to the following situations that are non-custodial. This list is not all-inclusive:
 - a. Brief on-scene questioning.
 - b. Identification procedures such as fingerprinting, conducting a lineup,

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sobriety tests. (Questioning during booking may require *Miranda* warnings.)

- c. Volunteered, spontaneous statements. (Once the officer has heard the suspect express spontaneous incriminating statements), the officer shall then advise the suspect of *Miranda* rights.
- d. Brief investigative detention or stop/frisk unless the officer physically restrains the suspect and prevents him from leaving the area then a custodial interrogation has begun. The suspect shall be advised of his *Miranda* warnings at this time.
- e. Roadside questioning during routine traffic stops, including DUI stops until custodial interrogation begins.
- f. Routine booking questions attendant to arrest.
- g. Questioning by private persons.

6. Public safety

When an officer urgently needs information from a suspect because lives are in imminent danger, officers may delay giving *Miranda* warnings until the officers have received information sufficient to dispel the emergency. Officers are advised that a genuine, life-threatening emergency must exist.

C. Documentation requirements

Officers shall document the circumstances surrounding the conduct of interrogations. Required information includes but is not limited to the following:

1. Location, date, time, duration of the interrogation.
2. Identities of all persons present.

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SUBJECT: JUVENILE ENFORCEMENT AND CUSTODY

I. POLICY

It is the responsibility of all members of this department to familiarize themselves with juvenile problems and established procedures for handling both criminal and noncriminal juvenile incidents as defined in this policy. Officers shall whenever reasonable and justified under this policy take those measures necessary to effect positive changes in juvenile offenders that are consistent with state law and the safety and security interests of the community.

II. PURPOSE

The purpose of this policy is to provide guidelines for officers when dealing with juveniles in enforcement and custody situations.

III. DEFINITIONS

Status Offender: A juvenile who is charged with an offense that would not be a crime if committed by an adult. Such as runaways, truants, incorrigibles, etc. These juveniles are not to be placed in a cell or held securely while in police custody.

Responsible Adult: In the absence of a juvenile's parents or legal guardian, a responsible adult is one who is responsible for the physical custodian of a juvenile or who is another adult acquaintance of the juvenile's parents or legal guardian who agrees and reasonably demonstrates the ability to provide supervision for the juvenile until parents, legal guardian or next of kin can assume the responsibility.

Nonsecure Custody: A condition under which members of this agency and, during such time, the juvenile, control a juvenile's freedom of movement:

1. juvenile is held in an unlocked, multi-purpose area that is in no way designed for residential use, such as a report-writing room or an office;

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2. juvenile is at no time handcuffed to any stationary object;
3. juvenile is held only long enough to complete identification, investigation and process and then released to a responsible adult or transferred to a juvenile facility or court;
4. juvenile is under continuous visual supervision until released.

Secure Custody: A condition, in which a juvenile is physically detained or confined in a locked room, set of rooms or a cell that is designated, set aside or used for the specific purpose or secured to a cuffing rail or other stationary object.

Accused Delinquent Offenders: may be held securely if necessary, but only for a period of no more that six (6) hours, the offender should be removed from secure holding after six hours if at all possible and held non-security for the remaining time spent in police custody.

IV. PROCEDURES

A. Enforcement Alternatives

Officers dealing with juveniles in enforcement capacities may exercise reasonable discretion as outlined in this policy in deciding on appropriate actions. Alternatives that may be included:

1. Release without further action
2. Informal counseling to inform the youth of the consequences of his actions
3. Informal referrals to community services
4. Referral to parents or responsible adult
5. Informal counseling of parents or responsible adult
6. Limited custody and station house warning
7. Issuance of a summons or complaint
8. Arrest under nonsecure custody
9. Arrest under secure custody

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B. Enforcement Criteria

The following general guidelines may be used in determining appropriate enforcement and related actions that may be taken when dealing with juvenile incidents.

1. Release without further action or contacting the parents may be appropriate in incidents where property damage or personal injury is not involved, but intervention is necessary to avoid potential delinquent actions.
 - a. Curfew violations
 - b. Loitering
 - c. Minor liquor law violations
 - d. Disorderly conduct
2. Officers may elect to transport the youth home or direct him to return home or detain the youth at the station house until he/she is released to a parent or guardian when:
 - a. The nature of the incident is of a more serious nature than exemplified in the above policy [#1 a – d]
 - b. The youth involved is fully aware of the seriousness or potential seriousness of his actions and/or is acting in alliance or collusion with others to commit such acts
 - c. The youth fails to cooperate or to positively respond to police intervention and direction
 - d. The youth has received prior informal warnings or referrals or has engaged in delinquent acts
3. Officers may file a juvenile petition against a juvenile when the circumstances surrounding the incident meet or exceed the seriousness of those cited as examples in [#2 a – d]. Officers should file juvenile petitions against juveniles when they commit:
 - a. Acts that if committed by an adult would be felonies
 - b. Delinquent acts involving deadly weapons
 - c. Serious gang-related offenses
 - d. Delinquent acts involving assault
 - e. Delinquent acts while on probation or when they have charges pending against them
 - f. Delinquent acts as a repeat offender

1.2.2 continued

4. An officer may also take a juvenile into custody if the youth is lost, seriously endangered or is a runaway. In all such cases these juveniles shall be held in nonsecure custody and officers shall contact the child's parents or guardian as soon as possible. Where parents or guardians cannot be contacted or refuse to accept custody, the officer shall contact the Cambria County Children & Youth.
5. In cases of alleged child abuse, officers shall contact their immediate supervisor in order to conduct an investigation of the complaint when probable cause justifies an immediate action or in order to protect the safety and well being of the child. Make the appropriate arrest and/or take the child into protective custody until Cambria County Children & Youth can respond.

C. Status Offenses

1. Based on the seriousness of the circumstances surrounding the offense, the background and demeanor of the juvenile and other relevant factors, an officer may release a juvenile to his parents, guardian or other responsible adult.
2. Juveniles taken into custody for status offenses should normally be frisked for weapons prior to being transported, handcuffed or otherwise restrained at any time if, in the judgment of the officer, the juvenile poses a physical risk to the officer or others.
3. Officers shall pay particular attention to juveniles under the influence of alcohol or drugs to determine whether emergency medical services are warranted.
4. Juveniles taken into custody for status offenses shall be held in nonsecure custody for the briefest time necessary to conduct identification, investigation and related processing requirements to facilitate their release to a parent or responsible adult or transfer to a detention center.
5. Transportation of a juvenile in a caged vehicle is not considered secure custody.
6. Status offenders and other juveniles taken into temporary nonsecure custody for noncriminal type offenses should not be fingerprinted or photographed for purposes of record.

1.2.2 continued

7. Status offenders in temporary custody shall not be placed in a holding area with adult suspects and shall also be:
 - a. Under constant visual supervision
 - b. Afforded reasonable access to toilets and washing facilities
 - d. Provided with reasonable access to water or other beverages
 - e. Provided with food if in need of nourishment to include any special diets necessary for health or medical purposes
 - e. Allowed reasonable access to a telephone

D. Criminal Type Offenses

1. Juveniles arrested for criminal type offenses are subject to the same security requirements as adults and will be handcuffed or otherwise restrained as necessary during transport and processing.
2. Juveniles accused of criminal type offenses may be securely detained only for the period of time and in the manner prescribed by state law to allow for identification, investigation, processing and release to parents or a responsible adult, or transfer to the Cambria County Detention Center or court.
3. Fingerprints and photographs shall be taken of all juveniles taken into custody for criminal type offenses. They shall be maintained in this department's juvenile system dealing solely with juvenile mug shots and fingerprints.
4. Juveniles placed in secure detention, whether in cells, locked rooms or other location, shall be sight and sound separated from any incarcerated adults.
 - a. Be informed of the approximate period of time that the incarceration will last
 - b. Be provided with constant auditory access for their supervision
 - b. Be personally observed on both a routine and unscheduled basis no less than every fifteen (15) minutes

1.2.2 continued

5. A juvenile in custody should not be questioned without the presence of his or her parent or responsible adult. The juvenile and the adult shall be advised of their constitutional rights (*Miranda*) prior to or during questioning the juvenile, his parents or responsible adult express the desire to speak with an attorney, all questioning shall cease and shall not be renewed until permission is granted.
6. In the absence of a parent or guardian, a juvenile may be questioned and may provide statements if reasonable assurances can be made that the juvenile fully understands his or her constitutional rights.
7. The juvenile should be informed of the procedures that will be followed with regard to custody, release and transport to another facility or to a custody hearing.

E. Record Keeping

1. Officers who select noncustodial alternatives or engage in informal enforcement contacts with juveniles shall complete incident reports as required by the Johnstown Police Department. These reports shall clearly identify the juveniles involved and the nature of the incident.
2. Juveniles taken into custody for criminal type offenses shall be subject to the same reporting requirements as adults. Such as arrest files will be maintained in a separate location from adult arrest records and be subject to state law regarding dissemination and access.
3. A custody record will be maintained with each juvenile arrest report that specifies:
 - a. The time the juvenile entered secure detention and duration of each period of secure detention; with fifteen (15) minute checks
 - b. If the juvenile is placed in a locked room or cell, the name of the police officer or custodial person responsible for visual supervision and the schedule of visual supervision
 - c. The time in which each period of interrogation was commenced and completed, the officers

1.2.2 continued

present and the names of parents or responsible
adults on hand

Effective:

Date: March 22, 2006

By Order Of:

Craig Foust
Chief Of Police