

4.1.11 Juvenile Custody

I. POLICY

It is the policy of the Johnstown Police Department to abide by the provisions of this general order and the laws of the Commonwealth of Pennsylvania.

II. PURPOSE

Juveniles require unique considerations pursuant to State Law. The purpose of this general order is to provide procedures regarding the custody of delinquent or dependent juveniles.

III. DEFINITIONS

1. Child/Juvenile – An individual who is under 18 years of age, or is under 21 years of age who committed an act of delinquency before reaching the age of 18, or was adjudicated dependent before reaching the age of 18 and requests to the court to retain jurisdiction up to 21 years of age for instruction or treatment.
2. Dependent Child – A child without proper parental care or control, subsistence, education or other care necessary for his/her physical, mental or emotional health or morals. A child who has been placed for care or adoption in violation of law. A child who has been abandoned by or is without a parent, guardian or custodian. A child who is habitually truant from school. A child who has committed acts of habitual disobedience to his/her parent, guardian or custodian and who is found ungovernable. A child under the age of 10 years who has committed a delinquent act. A child who is born to a parent whose parental rights with regard to another child have been involuntarily terminated and the conduct of the parent poses a risk to the health, safety or welfare of the child.
3. Delinquent Child – A child 10 years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.
4. Status Offender – A juvenile who is taken into custody for an incident or behavior which would not be a crime if committed by an adult and would not result in an adult being taken into custody. i.e. underage drinking, runaway, truancy, curfew, etc.
5. Responsible Adult – In the absence of the juvenile's parent or legal guardian, a responsible adult is one who is responsible for the physical custody of a juvenile or who is an adult acquaintance of the juvenile's parent or legal

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guardian who agrees and reasonable demonstrates the ability to provide supervision for the juvenile until a parent, guardian or next of kin can assume responsibility.

6. Non-secure Custody – A condition under which a juvenile’s freedom of movement is controlled by personnel of the Police Department and during such time the juvenile may be held only under the following conditions:
 - a. The area where the child is held is an unlocked, multi-purpose area which is not designated or used as a secure detention area, or is not part of a secure detention area; i.e. a non-locking interview room or area.
 - b. The child is not physically secured to a cuffing rail or other stationary objects during the period of custody in the facility.
 - c. The area is limited to providing non-secure custody only long enough for the purposes of identification, investigation, processing or release to parents or for arranging transfer to another agency or appropriate facility.
 - d. The child must be under continuous visual supervision by a police officer or other facility staff during the period of non-secure custody.
7. 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 of securely detaining persons who are in police custody or when the juvenile is physically secured to a cuffing rail or stationary object. If a juvenile is held securely in a police lockup he/she should be released within six [6] hours.

IV. TITLE 42 OF THE PA. CONSOLIDATED STATUTES; CHAPTER 6 JUVENILE MATTERS SUBSECTION B – JURISDICTION & CUSTODY

A. 42 Pa. C.S. 6324 Taking in Custody

1. A child may be taken into custody:
 - a. Pursuant to an order of the court under this chapter.
 - b. Pursuant to the laws of arrest.
 - c. By a law enforcement officer if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from his surroundings and that his/her removal is necessary.
 - d. By a law enforcement officer if there are reasonable grounds to believe that the child has run away from his/her parents, guardian or custodian.
 - e. By a law enforcement officer if there are reasonable grounds to believe that the child has violated conditions of his/her probation.

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B. 42 Pa. C.S. 6326 Release or Deliver to Court

1. General Rule: A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:
 - a. Notify the parent, guardian or custodian of the apprehension of the child and his/her whereabouts.
 - b. Release the child to his/her parent, guardian or custodian upon their promise to bring the child before the court when requested by the court, unless the child's detention is warranted.
 - c. Bring the child before the court or deliver him/her to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment.
2. Detention in police lockup generally prohibited.
3. Detention in police lockup under certain circumstances.
 - a. A child alleged to have committed a crime or summary offense or to be in violation of conditions of probation or other supervision following an adjudication of delinquency may be held securely in a municipal police lockup under the following conditions:
 - i. The secure holding shall only be for the purpose of identification, investigation, processing, releasing or transferring the child to a parent, guardian, custodian, juvenile court, county children & youth official, to a shelter care or juvenile detention center.
 - ii. The secure holding shall be limited to the minimum time necessary to complete the processing, but in no case may such holding exceed six [6] hours.
 - iii. A child must be separated by sight and sound from incarcerated adult offenders and must be under the continuous visual supervision of law enforcement officials or facility staff.
4. Non-secure custody of child in facility with adults is appropriate when:
 - i. The area where the child is held is an unlocked multipurpose area or area used only for processing purposes.
 - ii. The child is not physically secured in any way.
 - iii. The area is limited to providing non-secure custody only long enough for the purpose of identification, investigation, processing, release to parents or for arranging transfer to another agency or appropriate facility.
 - iv. The child must be under continuous visual supervision by law enforcement personnel.

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5. Law enforcement agencies shall provide information and reports regarding children held in secure and non-secure custody under Subsections “c” & “d” as requested by the Pennsylvania Commission on Crime and Delinquency.

V. PROCEDURES

A. Custody Records

The Johnstown Juvenile Officer along with the Records Department will keep the monthly records regarding children held in secure and non-secure custody. In months when no juveniles are held in custody a record will be kept to indicate that fact. In months when a juvenile[s] is held in custody a record will be kept to include the state mandated time in the secure area and the time out.

B. Six [6] Hour Rule

1. A juvenile held in custody should not be detained no longer than six [6] hours.
2. In the event that a juvenile must remain at the Johnstown Police Department for more than six hours a call will be made to the Department of Public Welfare Childline at 1-800-932-0313, which is staffed 24/7.
 - a. If for any reason the call cannot be completed call the PCCD at 1-800-692-7292, ext. 3033.

C. Direct Filing

Direct file means a criminal complaint, not a juvenile petition will be prepared in certain cases that are deemed criminal and not delinquent.

1. The term delinquent act shall not include the crime of murder or any of the following prohibited conduct where the child was 15 years of age or older at the time of the offense and a deadly weapon was used during the commission of the offense.
 - a. Rape
 - b. Involuntary Deviate Sexual Intercourse
 - c. Aggravated Assault
 - d. Robbery

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- e. Robbery of a Motor Vehicle
 - f. Aggravated Indecent Assault
 - g. Kidnapping
 - h. Voluntary Manslaughter
 - i. An attempt, conspiracy or solicitation to commit murder or any of the above listed offenses.
2. The term delinquent act shall not include any of the following prohibited conduct where the child was 15 years of age or older at the time of the offense and has been previously adjudicated delinquent of any of the following prohibited conduct:
 - a. Rape
 - b. Involuntary Deviate Sexual Intercourse
 - c. Robbery
 - d. Robbery of a Motor Vehicle
 - e. Aggravated Indecent Assault
 - f. Kidnapping
 - g. Voluntary Manslaughter
 - h. An attempt, conspiracy or solicitation to commit murder or any of the above listed crimes.
 3. When a juvenile arrest occurs that requires direct filing, the juvenile will be arraigned as an adult and a preliminary hearing set.
 4. In all direct file cases, the District Attorney's Office will be notified before filing as soon as possible.

D. Disposition Alternatives

1. Release to a parent with a verbal warning and no further action in the case of a minor offense with no habitual delinquency pattern and a good relationship between the parent or guardian and child.
2. Request follow-up contact be made by the Detective Bureau's Juvenile Officer.
3. Issuing a non-traffic citation with notification of a parent or legal guardian as directed in Title 42, section 1522, PA Judicial Procedure.
4. Issuing a traffic citation. A parent is not required to be notified of minor violations. They will be notified of serious violations, specifically Title 75, section 1543, as it relates to driving while operating privileges are suspended, as directed by a PA Judicial Procedure.
5. Referral to Juvenile court by completing a juvenile petition.
 - a. Release to a parent or legal guardian when appropriate.

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- b. Attempt to secure detention when appropriate.

Effective Date:

Date: October 1, 2010

By Order Of:

Craig Foust
Chief Of Police