
	GAITHERSBURG POLICE DEPARTMENT		
	Juvenile Matters & Delinquency Prevention		
	GENERAL ORDER	900.1	
Effective Date	02/24/2016		
Authorized by:	Mark P. Sroka CHIEF OF POLICE	SIGNATURE	DATE

I. PURPOSE

The purpose of this directive is to advise sworn personnel of their duty to ensure proper notification is made when a juvenile is taken into custody, required reporting data is captured and recorded, maintain compliance with the Juvenile Justice and Delinquency Prevention Act and set forth guidelines and procedure for doing so. The Department’s delinquency prevention initiatives are also outlined.

II. POLICY

The Department is committed to the development and perpetuation of programs intended to prevent and control juvenile delinquency. All members of the Department share responsibility for participation and support of juvenile programs. Situations also arise where juveniles must be charged with offenses, are in danger because of current environment or circumstances, or are found to be runaways. When appropriate, juveniles will be taken into custody pursuant to the laws of arrest, issuance of a court order, in cooperation with the Department of Juvenile Justice or Child Protective Services or when found to be a runaway.

III. DEFINITIONS

A. Abused Child

is a child who has sustained physical injury as a result of cruel or inhumane treatment or as a result of a malicious act by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child under circumstances indicating that the child’s health or welfare is harmed or threatened. Sexual abuse is also included, whether physical injuries are sustained or not, and includes incest, rape, sexual offense in any degree, and sodomy.

B. Adjudicatory Hearing

Within the context of this directive, the term “adjudicatory hearing” refers to a juvenile justice proceeding that is similar to an adult trial. The burden of proof is the same as with an adult criminal case.

- C. Adult Inmate**
For the purposes of this directive the term “adult inmate” refers to, as defined under 42 USC 5603 § 103 (26), an individual who has reached the age of full criminal responsibility under applicable state law and has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense.
- D. Adult Jail**
For the purposes of this directive the term “adult jail” refers to, as defined under 28 CFR 31.304(m), a locked facility, administered by state, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.
- E. Adult Lockup**
For the purposes of this directive the term “adult lockup” is, as defined under 28 CFR 31.304(n), similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature that does not hold persons after they have been formally charged.
- F. Arrest**
Within the context of this directive, the term “arrest” refers to the taking of a juvenile into custody for committing a delinquent act.
- G. Delinquent Act**
Within the context of this directive, the term “delinquent act” refers to any violation committed by a juvenile that would be classified as a crime if committed by an adult.
- H. Juvenile**
Within the context of this directive, the term “juvenile” refers to persons under the age of 18.
- I. Status Offense**
Within the context of this directive, the term “status offense” refers to an act or conduct declared by statute to be an offense, but only when committed or engaged in by a juvenile and that can only be adjudicated by a juvenile court. However, an exception to this would be possession of a handgun, which is a crime not considered to be a status offense.

IV. PROCEDURE

A. Taking Custody of a Juvenile who has been Harmed or is in Danger

1. Under § 3-814 and § 3-8A-14 of Courts and Judicial Proceedings Article, a juvenile may be taken into custody when an officer has reasonable grounds to believe that the child is in immediate danger from his or her surroundings and that the child's removal is necessary for protection.
2. If a child is taken into custody and is in need of emergency medical treatment, the officer is authorized to transport the child to the nearest hospital, by police vehicle or ambulance, before the child is brought to a police or other facility.
3. If the child's parent or guardian is unaware that the officer has taken the child into custody, the officer shall immediately notify, or cause to be notified, the child's parents, guardian or custodian.
4. Unless there is a reason why the parents or guardians are prohibited from taking custody, or the child will be placed in shelter care by the Department of Juvenile Justice, the officer will release the child to his or her parents, guardian, custodian or to any other person designated by the Court upon written promise to bring the child before the court when requested.
5. The MCP Family Crimes Division shall be notified of any juvenile taken into custody as the result of suspected child abuse, in accordance with General Order 607.2.
6. When a juvenile is taken into custody under these circumstances, the officer taking custody will complete and submit for supervisory approval an event report describing the circumstances in detail.

B. Juvenile Justice and Delinquency Prevention (JJDP) Act

1. The JJDP Act sets forth criteria that outline two specific statuses of custody. An understanding of the factors that determine custody status under the JJDP Act is essential for ensuring that the protections of the act are afforded to juveniles and compliance with the act can be documented. The two types of custody that are outlined by the JJDP Act are secure custody and non-secure custody. The last page of this directive depicts a flowchart that will assist in determining the custody status of a juvenile.

a) **Secure Custody Status:** A secure detention or confinement status occurs within a jail or lockup facility when 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 law enforcement custody. Secure detention or confinement can result either from being placed in such a room or enclosure and/or from being physically secured to a cuffing rail or other stationary object. The GPD interview room qualifies as a “lockup facility” within the context of the JJDP Act. The following situations are examples of what would be considered secure custody status:

- 1) A juvenile handcuffed to a rail in an otherwise non-secure area.
- 2) A juvenile being processed in a secure booking area when an unsecure booking area is available within a facility.
- 3) A juvenile left in a secure booking area after being photographed and fingerprinted.
- 4) Because of the configuration of the Germantown MCPD Station, taking a juvenile into the juvenile processing area will almost always constitute secure custody. An MCP Form 810 will be completed any time a juvenile is taken into the Germantown station processing area.

b) **Non-secure Custody Status:** A juvenile may be in law enforcement custody and not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility but not be in a secure custody or confinement status. If all of the following criteria are satisfied, the juvenile will be considered in a non-secure custody status:

- 1) The area where the juvenile is being held is an unlocked multipurpose area, such as a lobby, office, or interrogation room that is not designated, set aside, or used primarily as a secure detention area or is not part of such an area or is not part of such an

area;

- 2) The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
- 3) The use of the area is limited to providing non-secure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or court;
- 4) In no event can the area be designated or intended to be used for residential purposes; and
- 5) The juvenile must be under continuous visual supervision, which may include electronic supervision, by a law enforcement officer or facility staff during the period of time that he or she is in non-secure custody.

2. The JJDP Act establishes four core protections that are essential to creating a fair, consistent and effective juvenile justice system. Within the State, compliance with these core protections is monitored by the Governor's Office of Crime Control and Prevention (GOCCP). These four core protections are:

- a) **Deinstitutionalization of Status Offenders (DSO):** Status offenders or civil-type juvenile offenders may not be held in a secure custody status at any time. These juveniles may be detained in a non-secure custody status for processing, while awaiting transportation to a shelter care facility or juvenile detention center, or while awaiting release to a parent or guardian.
- b) **Separation of Juveniles from Adult Inmates (Separation):** Separation must be achieved in all secure areas. Juveniles, unless being charged as adults, cannot have contact with adults who are in custody. Contact includes any physical or sustained sight or sound contact. Sight contact is clear visual contact between adult prisoners and juveniles within close proximity to each other. Sound contact is direct oral communication between adult prisoners and juvenile offenders.
- c) **Removal of Juveniles from Adult Jails and Lockups (Jail Removal):** No juvenile may be held in secure custody for a

status offense or a civil-type charge. An alleged delinquent offender may be held up to six hours in secure custody. The six hour time period begins once the juvenile has been placed in secure custody. A temporary break in secure custody does not allow the six hour period to start upon return to secure custody. This six hour rule does not pertain to a juvenile being charged as an adult.

d) **Reduction of Disproportionate Minority Contact (DMC):** Race codes will be recorded in any detention log so that the data can be analyzed to determine if minority juveniles are disproportionately confined in secure custody status. The data is reported to the GOCCP, who monitors for compliance.

3. The JJDP Act requires an adequate system of monitoring for compliance with the core protections. Data must be collected on juvenile holding and annually reported to the State. A representative for the GOCCP will also conduct regular on-site visits to verify compliance and reported data. The interview room log will have required data fields that must be recorded when a juvenile is held by this agency.

C. Delinquency Prevention Initiatives

1. Through mentoring programs such as Brothers Reaching out to Help Each Reach Success (BROTHERS), along with recreational programs like Camp Innov8 and educational programs like the Youth Police Academy, the Department facilitates interaction between officers and community youth that is intended to foster an atmosphere of mutual respect and understanding.
2. In conjunction with formal programs, officers also participate in career day programs at various schools, as well as conduct presentations, lectures and classes on a variety of subjects to various age groups.
3. The Department assigns an Educational Facilities Officer to act as a liaison and coordinate programs in area schools.
4. The Department makes literature, pamphlets, books and other items of interest available to youths and their parents.

D. Management, Review and Evaluation of Programs

1. Bureau Commanders take an active role in coordinating the Department's juvenile programs and give officers assignments

relating to juvenile functions.

2. A designee assigned by the Chief of Police will solicit input on an ongoing basis from representatives of the Maryland Department of Juvenile Services and the Governor's Juvenile Justice Advisory Council regarding policies that relate to juveniles.
3. Review and evaluation of the Department's juvenile enforcement and prevention programs will be conducted by a designee assigned by the Chief of Police. The evaluation is forwarded to the Chief of Police, who determines whether a program should remain unchanged, be modified or discontinued.

SECURE CUSTODY or NONSECURE CUSTODY?

