
	GAITHERSBURG POLICE DEPARTMENT		
	Investigations Involving Juveniles		
	GENERAL ORDER	900.2	
Effective Date	05/12/2023		
Authorized by:	Mark P. Sroka CHIEF OF POLICE	SIGNATURE	DATE 05/12/2023

1. PURPOSE

The purpose of this directive is to set forth Department guidelines and procedures that ensure protection of the Constitutional rights of juveniles and any other protections afforded to juveniles by statute.

2. POLICY

Juveniles have the same Constitutional rights as adults. Additionally, they have additional protections when it comes to interviews and interrogations as enumerated by State law. Officers will take reasonable steps to ensure that a juvenile's Constitutional rights and the State's legal protections are ensured while in custody and during interrogation. Preliminary and follow up investigations involving juvenile offenders will be conducted in accordance with Department procedures, court rulings, and the [Child Interrogation Protection Act \(2022\)](#). Arrests of students made on school property during school hours will be made in such a manner as to avoid embarrassment to the student being taken into custody and without jeopardizing the safety and welfare of officers and other students.

3. DEFINITIONS

3.1. Interrogation – Within the context of this directive, the term “interrogation” refers to the questioning of an individual who is suspected of committing a crime and is in police custody.

3.2. Interview – Within the context of this directive, the term “interview” refers to the questioning of an individual about a crime or other matter who is not in police custody.

3.3. Juvenile – Within the context of this directive, the term “juvenile” refers to any person under the age of 18 years old. For the purpose of this policy relating to the Child Interrogation Protection Act, the terms “child” and “juvenile” are interchangeable.

3.4. Parent - Within the context of this directive, the term “parent” will refer to a biological, adoptive, or foster parent, or an individual acting in the place of a parent, such as a legal guardian or custodian.

- 3.5. Student** - Within the context of this directive, the term “student” is defined in HB 227 – Education – Arrest for Reportable Offenses – Notification, and refers to an individual enrolled in a public school system in the State who is 5 years old or older and under 22 years of age.

4. PROCEDURE

4.1. Child Protection Interrogation Act

4.1.1. If a sworn officer takes a juvenile into custody, the officer shall immediately notify, or cause to be notified, the juvenile’s parents, guardian, or custodian in a manner reasonably calculated to give actual notice of the action.

4.1.2. The notice required shall:

4.1.2.1. Include the juvenile’s location;

4.1.2.2. Provide the reason for the juvenile being taken into custody; and

4.1.2.3. Instruct the parent, guardian, or custodian on how to make immediate in-person contact with the juvenile.

4.1.3. A sworn officer may not conduct a custodial interrogation of a juvenile until:

4.1.3.1. The juvenile has consulted with an attorney who is:

4.1.3.1.1. Retained by the parent, guardian, or custodian of the juvenile; or

4.1.3.1.2. Provided by the Office of the Public Defender; and

4.1.3.2. The sworn officer has made an effort reasonably calculated to give actual notice to the parent, guardian, or custodian of the juvenile that the juvenile will be interrogated.

4.1.4. A consultation with an attorney under this section shall be:

4.1.4.1. Conducted in a manner consistent with the [Maryland Rules of Professional Conduct and Confidential](#); and

- 4.1.4.2. May be in person or by telephone or video conference.
- 4.1.4.3. This notification shall be documented on GPD form 50J – Advice of Rights – Juvenile.
- 4.1.5. The requirement of consultation with an attorney under this section:
 - 4.1.5.1. May not be waived; and
 - 4.1.5.2. Applies regardless of whether the juvenile is proceeded against as a juvenile or is charged as an adult.
- 4.1.6. The law enforcement agency conducting an interrogation under this section shall maintain a record of the notification or attempted notification of a parent, guardian, or custodian including:
 - 4.1.6.1. A signed statement by a sworn officer employed by the agency that an attempt to notify a parent, guardian, or custodian was made;
 - 4.1.6.2. The name of the person sought to be notified; and
 - 4.1.6.3. The method of attempted notification.
 - 4.1.6.4. The notification shall be recorded on the officer's body-worn camera and all of the above notification requirements shall be listed in the police report and documented on GPD Form 185 – Parent/Guardian Notification Log.
- 4.1.7. The law enforcement agency conducting an interrogation under this section shall maintain a record of the name of the attorney contacted and the county in which the attorney provided the consultation, and provide that information in the police report.
 - 4.1.7.1. An attorney contacted to provide legal consultation to a juvenile under this subtitle shall provide to a sworn officer the information required for the record required to be maintained under the Child Interrogation Protection Act.

4.1.7.2. The sworn officer shall use the GPD Form 50J Advice of Rights – Juvenile to document the advice of rights process for juvenile custodial interrogations.

4.1.8. Notwithstanding the requirements of this section, a sworn officer may conduct an otherwise lawful custodial interrogation of a juvenile if:

4.1.8.1. The sworn officer reasonably believes that the information sought is necessary to protect against a threat to public safety; and

4.1.8.2. The questions posed to the juvenile by the sworn officer are limited to those questions reasonably necessary to obtain the information necessary to protect against the threat to public safety.

Unless it is impossible, impracticable, or unsafe to do so, an interrogation conducted under paragraph 4.1.8 of this subsection shall be recorded at a minimum via the officer's issued body-worn camera.

4.1.8.3. A juvenile being interrogated under subsection 4.1.8 shall be informed that the interrogation is being recorded.

4.1.9. There is a rebuttable presumption that a statement made by a juvenile during a custodial interrogation is inadmissible in a delinquency proceeding or a criminal prosecution against that juvenile if a sworn officer willfully failed to comply with the requirements of this section.

4.1.9.1. The State may overcome the presumption by showing, by clear and convincing evidence that the statement was made knowingly, intelligently, and voluntarily.

4.1.9.2. This subsection may not be construed to render a statement by that juvenile inadmissible in a proceeding against another individual.

4.2. **Juvenile Custodial Interrogation Procedures**

- 4.2.1. The removal of a student from school for the purpose of an investigative questioning, an interrogation, or an interview without parental consent is not authorized, absent:
 - 4.2.1.1. An arrest for a crime committed on school property; or
 - 4.2.1.2. An arrest that if not immediately made would compromise the success of the investigation or endanger the lives of other students.
- 4.2.2. The duration of a custodial interrogation shall be limited to one (1) hour and be conducted by no more than two (2) officers.
 - 4.2.2.1. After a suitable break (i.e., 15 minutes) a second one hour session may be attempted, depending upon the severity of the offense or the significance of the investigation.
 - 4.2.2.2. The time period may be extended if the juvenile wishes to continue communication with interrogators.
 - 4.2.2.3. Additional time limits are imposed for juveniles being held in a secure custody status, and are outlined in General Order 900.1 – Juvenile Matters & Delinquency Prevention.
- 4.2.3. When officer completes the forms GPD Form 50J Advice of Rights – Juvenile and/or GPD Form 185 – Parent/Guardian Notification Log, they shall attach a copy of the form to the EJustice report and forward the original form to the Accreditation Manager for record keeping.

4.3. Non-Custodial Questioning of Juveniles

- 4.3.1. A school official should be present if a student is questioned on school property in connection with a criminal investigation.
- 4.3.2. If a juvenile begins to incriminate himself or herself during the course of a statement and the officer intends to use such statement as evidence against the juvenile, the officer will stop the interview and advise the juvenile of his or her rights using the GPD form 50J.

- 4.3.3. Officers may not use incriminating statements a juvenile makes during school administrative proceedings as evidence against the juvenile in a criminal proceeding.

4.4. Incidents on School Property

- 4.4.1. School policy violations and issues shall be handled by the appropriate school staff, and sworn officers shall not enforce school rules. .

- 4.4.2. Officers responding to incidents occurring on school property will:

- 4.4.2.1. Proceed to the school's main office unless directed to respond to another part of the school;

- 4.4.2.2. Assume custody of any evidence, including evidence suspected to be a controlled dangerous substance and/or paraphernalia;

- 4.4.2.3. Package, prepare and submit the evidence according to Department procedures;

- 4.4.2.4. Conduct a preliminary investigation and gather enough information to complete the required police reports; and

- 4.4.2.5. Notify the parents of any juvenile suspects, whether or not anyone was actually taken into custody.

- 4.3.3. Depending upon the circumstances, officers making an on view arrest on school property should request via radio the presence of a school official at the arrest scene:

- 4.3.3.1. To assist with the positive identification of the individual;

- 4.3.3.2. To verify whether the individual is a student at that school; and

- 4.3.3.3. To provide other reasonable assistance that the officer may require in order to assist both in completing their respective reports of the incident.

- 4.3.4. If a juvenile is taken into custody pursuant to the Laws of Arrest for committing a crime on school property, the juvenile will be transported without unnecessary delay to the appropriate police facility for processing, as outlined in General Order 901.1 – Juvenile Matters & Delinquency Prevention.

4.3.5. Searches on school property shall only be permitted under the following circumstances:

4.3.5.1. Upon the authority granted in a Search Warrant;

4.3.5.2. Incident to an arrest; or

4.3.5.3. When it is reasonably believed that the failure to search may place the safety or welfare of officers, students, other persons, or school property in imminent danger.

4.3.6. Every effort shall be made to conduct searches that will minimize the disruption of the normal school routine and/or embarrassment to the student(s) affected.

4.4. Notification Required under the Student Safety and Support Act

4.4.1. The State of Maryland's Student Safety and Support Act and [Maryland Education Code Ann. § 7-303 \(2021\)](#) requires the disclosure, under certain circumstances, of a police record and a juvenile court record concerning a child to the Superintendent of the school system for the county in which the child is enrolled, or the Superintendent's designee.

4.4.2. The Act requires that records submitted to the Superintendent be handled confidentially and prohibits the use of certain information as a basis for suspension, expulsion, or removal of a child from school.

4.4.3. The Act, as amended, requires law enforcement agencies that arrest juveniles for any offense to notify the local Superintendent of the arrest and charges within 24 hours of the arrest, or as soon as practicable.

4.4.4. To ensure that the above information is transmitted in accordance with the provisions of the Act:

4.4.4.1. Officers who arrest a student of a school system for qualifying offense enumerated in [Maryland Education Code Ann. § 7-303 \(2021\)](#) shall complete a Notification to Schools for Mandatory Offenses form and forward it to the Special Operations Bureau Commander prior to the end of the shift in which the arrest occurred; and

4.4.4.2. The Special Operations Bureau Commander shall forward the notification to the proper school system within 24-hour

of the arrest, or as soon as practical.

- 4.4.5. Because of confidentiality issues, GPD officers will not release arrest information or criminal history information.

4.5. Obtaining Identification Evidence from Juveniles

- 4.5.1. If a juvenile and his or her parent consent to provide fingerprints to be used as elimination prints, or photographs to an officer as an investigative aid, the officer shall advise the juvenile and parent that the fingerprints and photographs:

- 4.5.1.1. Will be maintained in a secure location;

- 4.5.1.2. Will only be used as part of the investigation; and

- 4.5.1.3. Will be destroyed, at the juvenile and parent's request upon conclusion of the investigation.

- 4.5.2. If a juvenile does not consent to be fingerprinted or photographed for these purposes, no prints or photographs will be taken.

- 4.5.3. If a juvenile's fingerprints and photographs are taken they will not be disseminated.

- 4.5.4. To assist in establishing the identity of juveniles, the Department has access to yearbooks from area schools that can be used as photo arrays. These yearbook photos may be viewed by victims, complainants, and witnesses.

- 4.5.5. If a sample, such as hair, blood, urine, or handwriting, is needed to identify a juvenile's connection to an event, the juvenile and parent must consent to providing the sample.

- 4.5.5.1. If the juvenile or parent refuses to voluntarily provide a requested sample, the State's Attorney's Office will be consulted regarding the obtaining of a court order or a search and seizure warrant.

- 4.5.5.2. If the Department has custody of samples obtained from a juvenile, they will remain in the Department's Evidence/Property Room until the State's Attorney's Office or the court orders their disposal.