

GENERAL ORDER

PORT WASHINGTON POLICE DEPARTMENT

SUBJECT: JUVENILE PROCEDURES		NUMBER:	6.6.1
		ISSUED:	12/22/2009
SCOPE:	All Sworn Personnel	EFFECTIVE:	12/22/2009
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INDEX AS: Citations for Juveniles
Custody of Juveniles
Juvenile Procedures
Truancy
Searches of Juveniles

PURPOSE: The purpose of this Order is to establish polices and guidelines for personnel of the Port Washington Police Department when dealing with juveniles.

This Order consists of the following numbered sections:

- I. POLICY
 - II. DEFINITIONS
 - III. DEPARTMENT ROLE AND RESPONSIBILITY
 - IV. JUVENILE PROCEDURES
- I. POLICY
- A. It is the policy of the Port Washington Police Department to uphold the intent of the State of Wisconsin legislature to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency. The system shall balance the interests of protecting the community while considering the concerns of the juvenile.

II. DEFINITIONS

- A. JUVENILE: A person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a State or federal criminal law or any civil law or municipal ordinance, juvenile does not include those persons who have attained 17 years of age.

III. DEPARTMENT ROLE AND RESPONSIBILITY

- A. This Order provides all personnel with the proper procedures for the handling of juvenile offenders and victims. All personnel share the responsibility for delinquency prevention.
1. The police officer is often the first community representative and possibly the most significant, to come in contact with juveniles in trouble with the law or in need of protective assistance. Therefore, handling of calls-for-service involving juveniles demands a sincere concern on the part of the officer and the application of interpersonal skills to determine the facts, to mediate and defuse conflict, and to offer constructive suggestions for temporary or long-term solutions.
 2. All investigative and enforcement procedures including interviewing, gathering evidence, and taking juveniles into custody, shall be carried out with scrupulous care to avoid practices which might demean, be coercive, or violate the due process rights of juveniles.
 3. Designated personnel specialize in the handling of juvenile matters and work cooperatively with all department personnel.
 4. Police intervention cannot solve all juvenile problems; therefore every effort should be made to work cooperatively with other community agencies, schools, and the juvenile court in a community-centered approach to solving juvenile problems.
 5. The principle of using the least restrictive alternative when dealing with juveniles shall be adhered to in all police dispositions regarding juveniles, whether in the field or at the police department.
 6. This department shall direct its juvenile crime prevention efforts toward schools, parents, civic organizations, juvenile probation, and other formal and informal juvenile justice agencies.

IV. JUVENILE PROCEDURES

A. Prevention and Control of Delinquent and Criminal Behavior of Juveniles

1. In order to ensure more effective law enforcement dispositions, it is the duty of all officers not only to investigate offenses and conditions but also to ensure that fundamental police methods and techniques are followed and other sources of information utilized.
2. Generally, the officers assigned to the patrol division will respond to most initial complaints, and/or encounter in the normal course of their duties a variety of situations involving law and/or ordinance violations committed by juveniles, and/or other circumstances which may threaten the safety and welfare of juveniles.
3. It is the duty of all police officers to consider a police problem with juveniles from the standpoint of prevention, giving due regard to public safety. Officers are in a good position to point out hazardous conditions and areas of high delinquency to their supervisors and the general public.
4. A listing of juvenile social service agencies is available to all personnel.
5. All members of the department will endeavor to help prevent and control delinquency and promote a positive image of law enforcement officers and the Port Washington Police Department.

B. Taking a Juvenile into Custody

1. A juvenile may be taken into custody under any of the following circumstances: (Wisconsin Statute 938.19)
 - a) A *capias* or a warrant for the juvenile's apprehension has been issued in this State, or the juvenile is a fugitive from justice;
 - b) A *capias* or a warrant for the juvenile's apprehension has been issued in another state;
 - c) The juvenile is committing or has committed an act which is a violation of a state or federal law;
 - d) The juvenile has run away from his/her parents, guardian, or legal or physical custodian;
 - e) The juvenile is suffering from illness or injury or is in immediate danger from his/her surroundings; i.e. abused and neglected juveniles;
 - f) The juvenile has violated the terms of court-ordered supervision or aftercare supervision administered by a State or county department;

- g) The juvenile has violated the condition of an order under Statute 938.21(4) or the conditions of an order for temporary physical custody by an intake worker;
 - h) The juvenile has violated a civil law or a local ordinance punishable by a forfeiture, provided that in any such case the juvenile shall be released as soon as reasonably possible under Statute 938.20(2);
 - i) A *capias* issued by a judge of the court assigned to exercise jurisdiction under Chapter 938, Wisconsin Statutes;
 - j) An order of the judge if made upon a showing satisfactory to the judge that the welfare of the juvenile demand the juvenile be immediately removed from his/her present custody. The order shall specify that the juvenile be held in custody under Statute 938.207; or
 - k) A juvenile truant from school without an acceptable excuse, under Statute 938.19(1)(D)(10).
2. The officer taking the juvenile into custody shall make all reasonable attempts to notify the juvenile's parents, guardian, or legal custodian. If the officer is unable to contact a parent/guardian, the officer should document the time and date and telephone number or address where contact was attempted.

C. Transportation of Juveniles

1. The transportation of juveniles requires additional considerations.
- a) Juveniles shall not be transported in any vehicle in company with adults charged with a crime.
 - b) Maximum security is warranted only in serious situations where the behavior of the juvenile demands restraint for his/her protection or the protection of others. This decision will be up to the detaining or arresting officer.
 - c) Any juvenile requiring transport to an intake or medical facility shall be transported expeditiously unless there is a need for emergency medical treatment.
 - d) The transporting officer is responsible for the safety as well as the security of the juvenile.

D. Interrogation, Interviews, and Questioning

1. All interrogations, interviews, and questioning of juveniles shall be conducted in a manner to ensure the protection of the juvenile's constitutional rights. Officers shall exercise good judgment in accepting a waiver of rights from a juvenile. The juvenile's physical condition, age, intelligence, educational level, prior experience with the juvenile justice system, and his/her ability to comprehend the meaning and effect of his/her statements shall be carefully evaluated in each case.

2. In cases where a juvenile is a suspect in a criminal matter and requests to speak with a parent or guardian, he/she will be afforded the opportunity to confer with them. In all instances in which there is a difference of opinion between a juvenile and his/her parents or guardian regarding whether or not the juvenile will agree to speak with police regarding a suspected criminal offense and the juvenile has a rational capacity to pursue his/her best interest, the juvenile's wishes will prevail.
 3. Juveniles taken into protective custody do not have to be advised pursuant to Miranda, but must receive a full explanation of why such action is being taken. Protective custody actions will be undertaken with the cooperation of the Ozaukee County Human Services Department, who will be responsible for disposition.
 4. Interrogations shall not be unreasonable in length, with no more than two officers present. When appropriate, parents will be advised of the results of the interrogations.
 5. During the course of the interview/interrogation, the officer shall attempt to answer questions, as well as explain department and juvenile justice system procedures to the juvenile offender and his/her parent/guardian.
 6. All juveniles requiring medical attention shall be transported, by appropriate means, to Columbia St. Mary's Hospital Ozaukee for medical attention. Any juvenile who is in need of medical attention prior to being detained at the Juvenile Detention Center shall be taken to Columbia St. Mary's Hospital Ozaukee where a Medical Records Release form should be obtained.
 7. Also refer to General Order 6.6.3: Custodial Interrogation.
- E. Dispositions following contact with juvenile offenders
1. An officer may take one of the following actions:
 - a) Warn and release the juvenile (particularly where the juvenile has engaged in non-criminal misbehavior);
 - b) Release the juvenile to a parent, guardian, or legal custodian or, if the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision of the juvenile, release the juvenile to a responsible adult. In the case of a juvenile 15 years of age or older, the officer may release the juvenile without immediate adult supervision.
 - c) Release the juvenile to his/her parent and refer the case to the Ozaukee County Juvenile Probation Department. Parents will be notified by mail as to further proceedings in the matter.

- d) If the officer reasonably believes that there is an urgent and immediate necessity to keep the juvenile in custody, the on-duty Juvenile Intake worker will be contacted to seek authorization for holding in custody. If the intake worker approves, the juvenile will be transported to the designated Juvenile Detention Center.
 - e) Any other appropriate action with consent of the juvenile and/or a parent.
- F. Factors to be considered in determining whether to release or keep a juvenile in custody shall include:
- 1. The nature of the allegations against the juvenile;
 - 2. The juvenile's history and present situation and condition;
 - 3. The history of the juvenile's family and the family's present situation;
 - 4. The educational and employment status of the juvenile;
 - 5. The availability of special resources or community services to aid or counsel the juvenile;
 - 6. The present attitude of the juvenile and family;
 - 7. The age and circumstances of the offender.
- G. Referral to the Ozaukee County Juvenile Intake Worker
- 1. The decision to refer a juvenile to the Ozaukee County Juvenile Intake worker will be made by the investigating officer or shift supervisor.
 - 2. Referrals to the intake worker shall occur under the following conditions:
 - a) Commission of a crime;
 - b) The juvenile is unwilling, and the parent, guardian, or legal custodian will be unable to produce him/her upon proper notice of a court appearance.
 - c) The juvenile is likely to repeat behavior harmful to him/herself or others;
 - d) The juvenile's parents, guardian, or legal custodian or other relative or responsible adult cannot be reached.
 - e) The juvenile is in need of immediate care away from his/her home
- H. Municipal Ordinance and Traffic Citations
- 1. Juveniles 12 years of age and older can be issued municipal ordinance citations or referred to juvenile court. Juveniles under the age of 12 must be referred to juvenile court.

2. Juveniles receiving citations for municipal ordinance violations shall be assessed forfeitures in accordance with the current juvenile bond schedule.
3. Juveniles 16 or 17 years of age shall be treated as adults when receiving Uniform Traffic Citations. The bond and court schedules for adults shall apply to these juveniles. These juveniles may be taken into custody for traffic crimes under Section II of the Uniform Traffic Bond Schedule and the case referred to the District Attorney's office.
4. Juveniles 12 to 15 years of age who commit a traffic offense listed in Section I of the Uniform Traffic Bond Schedule may be issued a Uniform Traffic Citation. No bond shall be listed on the traffic citation, and a court date shall be assigned. No juvenile court referral is necessary.
5. Juveniles under the age of 12 who commit a Section I traffic offense, or juveniles under the age of 15 who commit a Section II traffic crime, must be referred to the appropriate Juvenile Intake office.
6. The parents of juveniles receiving either a Municipal Ordinance Citation or a Uniform Traffic Citation will be notified by mail with the green copy of the municipal citation and the department's sponsor notification letter.

I. Search and Seizure

1. The Port Washington Police Department shall afford to juveniles the same rights afforded adults. When it becomes necessary to take a juvenile into custody there shall be a thorough search to:
 - a) Protect the officer from attack.
 - b) Prevent the juvenile from escaping.
 - c) Discover evidence of the crime.
2. Search of premises with parental permission:
 - a) Parents may validly consent to the search of the juvenile's room, closet, bureau, or other area of the family home used by the juvenile, but not property outside the control of the parents. Any locked containers under sole control of the juvenile may require the use of a search warrant, even if the parent is willing to consent to the search.
3. Waiver of 4th Amendment protection by juveniles:
 - a) Since juvenile maturity levels can vary greatly, consent by a juvenile to waive his/her right to 4th Amendment protection must be carefully evaluated by the police officer in each situation.

4. Searches in a School Setting

a) By police, without request of school authorities:

- (i) Police officers may not search students' lockers, desks, or automobiles except under the following circumstances: consent, search warrant, incident to arrest, or stop and frisk.
- (ii) A school official may not give permission for a warrant-less search of a student's locker, desk, or automobile. If a search warrant is executed, the student shall be present during the search if available.

b) By school administrators:

- (i) The school administrator maintains control over lockers and desks loaned to students. Therefore, a school administrator may search a locker or desk if they have reasonable suspicion that missing school materials may be present, or for items that would endanger the health or safety of the school population.
- (ii) School administrators may request police assistance with a search in which the administrator has reasonable suspicion that the search will reveal evidence of violations of either the law or school rules.

J. Child Abuse and/or Neglect Complaints and Investigations

1. The Port Washington Police Department will immediately and thoroughly investigate all reports of abused and neglected juveniles.
2. These investigations will often times be undertaken in cooperation with the Ozaukee County Human Services Department.
3. Determination of whether the juvenile has been harmed, or is in danger of being harmed, will be of paramount importance.
 - a) If the juvenile has been harmed, or there is a danger of harm, alternative placement may be sought through the Ozaukee County Human Services Department.
4. Also refer to General Order 6.6.3: Reporting of Child Abuse.

K. Mental Illness

1. Dealing with juveniles under Statute 51.15 will be handled the same as an adult, except that the parent or guardian will be contacted as soon as possible. See General Order 16.6; Mentally Ill, Drug Dependent, Developmentally Disabled Persons.

L. Police and Schools

1. Police officers have no absolute right to enter the school premises and demand to interrogate any pupil. As a general rule, students should only be questioned in a private room or office and in the presence of a representative of the school, dependant upon the circumstances of the contract, such as the type of the investigation, e.g., sexual assault, physical abuse or neglect.
2. For non-school related investigations, officers will make every effort to interview or interrogate students outside of school hours and outside of the school setting.
3. Police officers should contact a school official prior to personally requesting information, interviewing, or taking a juvenile into custody.
4. Upon arrival at a school, a police officer should contact the school administrator or his/her designee, stating the purpose of his/her presence.
5. Officers should make all attempts to abide by school district rules pertaining to police dealing with students.

M. Truancy

1. The Port Washington Police Department has an obligation to assist school authorities to enforce Wisconsin's compulsory school attendance law. The primary and legal responsibility, however, for meeting the social and individual problems presented by the chronic truant is with the juvenile's family and the educational system.
2. Juveniles who are believed to be truant should be contacted and an attempt to identify them shall be made. If identified as truant, they will be returned to the school or taken to the station, depending upon whether or not they are on probation.
3. The police have the legal grounds to take truants into physical custody under Statute 938.19(1)(D)(10).

N. Community Policing and Neighborhood Policing:

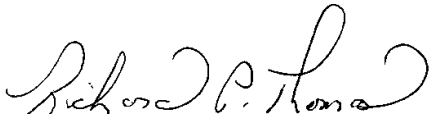
1. Included in the duties of the Patrol Officers are:
 - a) To work cooperatively with both the school district and the police department with respect to delinquency prevention.
 - b) Provide guidance on safety and other law enforcement issues in a classroom setting.
 - c) When requested, provide individual counseling to students.
 - d) Explain the law enforcement role in the community and society as a whole.

- e) Provide a forum through which students, parents, faculty, and law enforcement officers can become acquainted and earn mutual respect.

O. Missing Juveniles

- 1. Refer to General Order 6.1.3: Missing Investigations.

APPROVED:



Chief Richard Thomas

DATE:

12/22/09
