**XXXX Police Department Policy & Procedures: 003
JUVENILE ARREST, BOOKING & CUSTODY PROCEDURES**

**General Guidelines:**

This Policy provides procedures for handling juveniles who come into contact with members of the Department. XXXX Police Department (X.P.D.) officers are vested with a broad range of discretion when deciding whether or not to charge a juvenile with a crime. The manner in which a juvenile arrest is made or charges are brought are determined by departmental policy and the laws of the relevant jurisdiction.

**Policy:**

The X.P.D. is committed to the development and implementation of programs designed to prevent and control juvenile delinquency, particularly offenses which may impact Metro operations, customers and/or facilities. All X.P.D. units and personnel share the responsibility for participating in or supporting the X.P.D.’s juvenile operations function. Department members should utilize:

* the least coercive methods, consistent with
* preserving public safety, order and individual constitutional rights, and
* use discretion when dealing with a juvenile offender.

Principal factors officers need to consider when interacting with juveniles are age, the nature of the offense, the seriousness of the incident and prior involvement the juvenile(s) may have had with law enforcement.

**Discretion/Alternatives to Arrest**

X.P.D. Officers will use reasonable alternatives to custody when contacting, stopping, citing or charging a juvenile. Although Officers must always be guided by the intent and purpose of the law, there are circumstances within the discretion of the Officers involved, when the public interest would be better served by not making an arrest, even though there is justification for such action. In those cases, alternatives to arrest utilizing informal resolutions, such as consulting with and arranging for corrective action by parents, warnings, referrals to other agencies or release with no further action may be sufficient. Whenever possible, these solutions should be considered. Additionally, other more formal alternatives to arrest to be considered include:

* Summonses. When dealing with juvenile offenders, Officers will apply for a court summonses or,
* Informal police interventions, including Diversion programs.

**Informal Police Intervention Procedures:**

Officers contacting juveniles for offenses in which formal police action is not planned, but informal police intervention is warranted will complete a Stop/Contact Report. The report will include the name, address and telephone number of the parent/guardian contacted and the date and time notification was attempted and/or made.

* Officers will advise the juvenile that a parent or guardian will be contacted and informed of the circumstances surrounding the contact.
* The notification will be made as soon as practicable during the same tour of duty.
* If the officer is unable to contact the parent or guardian, a supervisor will be responsible for ensuring proper notification is made.
* The supervisor will notify the Watch Commander if he/she is unable to reach the parent or guardian.

**Arrest:**

Juveniles placed under arrest for a Delinquent Offense will be handled and processed in accordance with the specific laws and procedures relating to juveniles for the jurisdiction in which the offense/arrest occurs. In addition to these special procedures, juveniles will be afforded all the constitutional rights applicable to an adult.

**Transport of Arrested Youth:**Transporting arrested youth and youth in custody must be conducted pursuant to the Juvenile Justice Delinquency Prevention Act, 42 U.S.C. Sec. 5633. Pursuant to the JJDPA officers will:

* not transport juvenile and adult offenders in the same vehicle unless the arrest is directly based on alleged involvement in the same offense.
* complete a Use of Force report whenever force, including handcuffs, is used to control a juvenile during the arrest or transport.

Parents/legal guardians of arrested youth must be notified as follows:

* The arresting officer must notify the parent or guardian of the juvenile justice system procedures for the jurisdiction in which the arrest occurred as well as the specific act(s) that resulted in the juvenile being placed in custody.
* If the officer is unable to contact the parent or guardian during the same tour of duty, the officer’s supervisor will be responsible for making the notification.
* If the supervisor is unable to complete the notification, he/she will notify the Watch Commander.
* The name, address and telephone number of the parent/guardian contacted and the date and time notification was attempted and/or made will be recorded on the appropriate form for the jurisdiction involved.

**Sexually Trafficked Children & Youth**It is the policy of X.P.D. Department that any person under the age of 18 engaged in commercial sexual activity is to be treated as a victim in need of protection. Officers shall adopt a victim-centered approach. Officers should also assess the functioning of the youth, e.g. ascertain whether the youth may have any cognitive disabilities.

* The questioning of potential victims of human trafficking who are under the age of 18, should be conducted by officers trained to recognize signs of trafficking as well as how to relate to and question youth.
* Officers must document examples of compulsion including the youth submitting to demands by force, fear, duress, or intimidation, or fraud from a person in authority (parents or persons acting *in loco* *parentis*, relatives teachers, coaches, and others) to whom the youth is powerless. Officers must anticipate that developing trust with a victim is time consuming and is achieved only when the victim feels safe.
* Arrest & Questioning Protocol for sexually trafficked children:
* Arrest of a child or youth under the age of 18 involved in commercial sexual activity or offenses related to trafficking (i.e. drug trafficking, running away and other status offenses that may be related to trafficking) should immediately trigger officer’s effort to address safety concerns of the youth and summon emergency medical assistance to conduct a check for injuries and substance abuse.
* Officers shall collect all data as well as the following physical evidence from the victim by photographing, sketching, or diagramming the scene or the victim:
1. burns, cars, tattoos, injuries
2. condoms, lubricants, sex industry devices, drugs, motel keys, air/bus/train tickets
3. false or stolen identification cards, passports,
4. websites, web bulletin boards, personal ads, cell phone/PDA messages
* Officers shall notify the first-level supervisor.
* Where possible, video recording victims’ statements is advised unless recording causes victim to refuse to speak.
* Officers shall determine whether child protective agencies should take the youth into care and/or remove other children related to the exploiter.
* Officers shall not disclose the names of youth involved in trafficking, even if they have criminal records.

**Protective Custody and Status Offenders:**

Officers may take a youth into custody immediately for their own protection or for a status offense under the following conditions:

* The officer has probable cause to believe that the juvenile is a runaway.
* The officer has probable cause to believe that the juvenile is a truant.
* The juvenile is in violation of jurisdictional curfew laws.
* The officer has probable cause to believe that the juvenile is in immediate danger from his/her surroundings and removal is necessary for their own protection.
* The officer has probable cause to believe the juvenile has violated a court order.
* There is a court order in effect allowing for the immediate custody of the juvenile.
* The officer will run a wanted check through NCIC/VCIN/EAGENT/WALES and complete an Event Report when taking a juvenile into custody for a protection or status offense.
* The officer will release the juvenile in accordance with the procedures of the jurisdiction in which the juvenile was taken into custody.
* The officer will record the name of the individual receiving the juvenile and the date and time the release was made.
* Officers will complete a Use of Force report whenever force, including handcuffs, is used to control a juvenile during the incident or transport.

**Booking and Processing of Youth:**The standards and procedures to be followed for booking and processing youth taken into custody for violations of law, including provisions for contacting and conveying youth to the relevant jurisdiction’s Detention Center. In addition to the provisions detailed therein, a youth taken into custody shall: [[1]](#endnote-1)

* be provided with constant auditory access to officers responsible for his or her supervision;
* be personally observed by supervisory personnel on both a routine and unscheduled basis no less than every 30 minutes;
* be detained not to exceed 3 hours for processing for a misdemeanor offense; not to exceed 6 hours for processing a felony, and
* be released to a parent, legal guardian, or responsible adult or transported to the Detention Center no later than six (6) hours after being taken into custody.[[2]](#endnote-2)

Regardless of the jurisdiction, officers shall take immediate steps to notify the youth’s parent, guardian or a responsible relative that a youth is in custody, the location where the youth is being held and the intended disposition

**Juvenile Legal Advisements:**Any time a youth is placed in secure custody, the youth shall be informed of the purpose of and reason for the secure custody. Officers must ensure proper *Miranda* warnings are made prior to taking a youth into custody for an offense, or at least within one hour after being taken into custody.

X.P.D. officers must use age-appropriate *Miranda* advisements. See Appendix A of this Policy.

Officers must:

* Advise youth that they may make 3 telephone calls: one call completed to his/her parent or guardian; one to a responsible relative or the youth’s employer; and another call completed to a public defender/defense attorney; the calls should be at no expense to the youth when completed to telephone numbers within the local calling area.
* Ask youth whether he or she is a caregiver and, if so, shall be provided two more phone calls, to assist in ensuring care for siblings, children and/or others.

**Juvenile Custodial Procedures and Responsibilities:**

Juveniles may be taken into custody as the result of arrest for a violation of a criminal statute, as a result of a Status Offense, for their own protection.

Once a decision has been made to take a youth into custody, the X.P.D. Department must keep the youth safe and separated by sight and sound from adult arrestees/prisoners. Every attempt should be made to return the youth to the custody to a parent, guardian, or other responsible adult as soon as practicable when allowed by law.[[3]](#endnote-3)

Sight and Sound Separation: Pursuant to the Juvenile Justice Delinquency Prevention Act, 42 U.S.C. Sec. 5633, “sight and sound separation” shall be maintained between all youth and adults while in custody. Officers shall not transport youth in custody with adult suspects and persons of the opposite gender.

Officers trained in the supervision of persons in custody shall maintain a constant, immediate, side-by-side presence with the youth or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.[[4]](#endnote-4)

Arrested Youth who Shall Not be Held in Secure Custody:
Officers taking custody of a youth who exhibits any of the following conditions must take reasonable steps to provide medical attention or mental health assistance, contact EMS and notify the Officer-in-Charge (OIC) of the situation. These juveniles must be transported pursuant to the General Order for appropriate emergency medical care.

* Seriously injured,
* Unconscious,
* Significantly intoxicated
* A known suicide risk or obviously severely emotionally disturbed or otherwise in crisis

**Non-Secure Custody of Non-Offenders:**Under no circumstances shall a non-offender be held in secure custody. Custodial arrangements should be made for non-offenders as soon as reasonably possible. If appropriate, the child welfare agency should be contacted for referral and assistance.

Status offenders should not be held in secure custody. Status offenders must be released by citation or with a warning rather than taken into non-secure custody. The following procedures apply to youth taken into custody for status offenses:

* Officers may transport a youth home or to the station to wait for a parent, legal guardian or responsible adult to assume responsibility for the youth’s supervision.
* An alleged status offender must be held in non-secure custody, unrestrained by cuffs, shackles or leg irons, until he/she can be released to a parent, legal guardian or responsible adult.
* When an alleged status offender cannot be released to a parent, legal guardian, or responsible adult within a reasonable amount of time, he/she must be conveyed to the child welfare agency.

**Secure Custody:**Secure custody and referral to the juvenile justice system is the appropriate response to a youth accused of delinquent behavior in cases involving serious criminal conduct or repeated criminal violations.[[5]](#endnote-5) In cases where a prosecutor is involved in the review of the charges, officers may not leave the relevant jurisdiction’s Detention facility until the prosecutor and or intake officers finalized the detention assessment and issued a detention decision.

X.P.D. officers bringing youth to detention facilities should be alert to behaviors that may indicate the youth is a suicide risk. These may include refusal to communicate, verbally threatening to kill him/herself or any unusual behavior that may indicate the youth may harm him/herself while in either secure or non-secure custody.

**Release of Arrest Information Concerning Youth:**

Members of the X.P.D. Department shall not divulge any information regarding youth unless they are certain of the legal authority to do so. The laws of X)X)X)X[[6]](#endnote-6) concerning authorized law release of information and appropriate acknowledgement forms shall be kept with copies of this procedure.

**Retention of Records Relating to Juveniles:**

Reports, fingerprint cards, and mug shots taken pursuant to arrest and booking of youth shall be marked “Juvenile” and shall be maintained and disseminated in a manner consistent with the provisions of state law.

For each youth taken into secure custody, X.P.D. will also maintain a report that specifies:

* the time the youth was delivered to the appropriate juvenile detention facility and the name of the person to whom custody was transferred
* statement of the need for secure custody; and
* the time in which each period of interrogation, if any, was commenced and completed, the officers present and the names of parents and responsible adults on hand.

**Appendix A: Recommended *Miranda* Advisements for Youth**

**Source: IACP Training Key #652**

1. You have the right to remain silent. That means you do not have to say anything.

2. Anything you say can be used against you in court.

3. You have the right to get help from a lawyer right now.

4. You also have the right to have one or both of your parents here.

5. If you cannot pay a lawyer, the court will get you one for free.

6. You have the right to stop this interview at any time.

7. Do you want to talk to me?

8. Do you want to have a lawyer with you while you talk to me?

9. Do you want your mother, father, or the person who takes care of you here while you talk to me?

1. International Association of Chiefs of Police, *Model Policy: Juvenile Enforcement and Custody* (1992). [↑](#endnote-ref-1)
2. Juvenile Justice and Delinquency Prevention Act, 42 U.S.C. § 5633. [↑](#endnote-ref-2)
3. The obligations of law enforcement officers holding youth in secure custody until they are transferred to a juvenile facility are set forth in the Juvenile Justice Delinquency Prevention Act (JJDPA) Section 5563. [↑](#endnote-ref-3)
4. The obligations of law enforcement officers holding youth in secure custody until they are transferred to a juvenile facility are set forth in the Juvenile Justice Delinquency Prevention Act (JJDPA) Section 5563. [↑](#endnote-ref-4)
5. Title 15 Part 6 Chapter 505, §3203(4); and see CALEA 44.2.1. [↑](#endnote-ref-5)
6. Juvenile Law Center, Riyah Shah and Lauren Fine, *Juvenile Records: A National Review of States Laws on Confidentiality, Sealing and Expungement.* (2014) In X)X)X)X, law enforcement can only notify school officials of arrests if it is a reportable offense or an offense related to membership in a gang; “the information can only be used to provide appropriate educational programming and related services to the student and to maintain a safe and secure school environment.” Citing Md. Educ. Code § 7-303. 73 Md. Educ. Code § 7-303.)) [↑](#endnote-ref-6)