

Anchorage Police Department Regulations and Procedures Manual	Operational Procedures 3.02.055	
Policy and Procedure Title Custody-Juvenile Delinquency	Effective Date January 26, 2021	Page 1 of 8
Replaces Prior Policy: August 10, 2009	Approved by: Chief Justin Doll	

This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.

3.02.055 Custody--Juvenile Delinquency

PURPOSE

To advise all personnel of the procedure for taking minors into custody for the commission of delinquent acts.

DISCUSSION

The Concept of Juvenile Delinquency

Minors are processed through the Juvenile Justice System as per Alaska Statute 47.12.020. The only exception to this occurs when a minor is arrested for a violation of a traffic law, in which case, the Minor is processed as an adult with the detention facility being McLaughlin Youth Center. (There are Fish & Game and Parks & Recreation crimes where the juvenile is also treated as an adult, however, these are rare and would need further guidance.)

The procedure "Juveniles—General 3.02.080" has a section "Understanding the Juvenile Justice System" which gives a more complete discussion of this topic.

DEFINITIONS

Delinquent Act: An act or omission by a minor that could result in institutionalization.

Adjudication: The classification of the juvenile matter. There are two adjudications the court system deals with:

Delinquency: That category of juvenile matters wherein the minor commits delinquent acts (acts that would be criminal if committed by an adult). If a minor is found responsible for such act(s) in Family Court (another name for Juvenile Court), the court can officially "adjudicate" (i.e. label) the juvenile "a delinquent minor." That adjudication permits the court to enter an order of institutionalization.

Child in Need of Aid ("CINA"): That category of juvenile matters wherein the minor is the subject of abuse or neglect or is in need of special care not

provided by the legal guardians. A child in need of aid cannot be institutionalized by the courts.

Waiver: The placing of what would normally be a juvenile matter into the adult criminal court system. There are two ways in which this can occur:

Court Determination: A process by which the Family Court is petitioned to remove a juvenile delinquency proceeding from that jurisdiction and place it into the adult criminal court system.

Automatic Waiver: A legal provision that mandates any juvenile, age 16 or over, who commits an Unclassified felony, a Class A felony, or Arson, be automatically waived to adult status. No family Court Waiver Hearing is required.

Disposition: The general equivalent of sentencing in adult court. With minors, five dispositions are possible if a minor is found responsible for a delinquent act:

Adjudication Held in Abeyance.

Restitution. In some cases, the juvenile will be required by the court to fulfill restitution by either paying a fine or completing community service. Often time's restitution is required with other forms of dispositions, however, it can also be a disposition in and of itself.

Probation. Defined identically to that of adult probation, in that a period of supervised behavior is imposed in lieu of institutionalization. The supervision is provided by Juvenile Probation.

Foster Care. The Family Court may determine that the delinquent behavior is generated by a deficient family situation, and order the minor placed in either group or individual family foster care.

Institutionalization. The Family Court may believe that the behavior of a minor is such that full treatment in a secure setting is in the juvenile's and society's best interests, and order custody of the minor remanded to the Commissioner of Health and Social Services for further placement into an institution for two years, or until the minor's nineteenth birthday. Since the placement is for treatment rather than punishment, no specific period of institutionalization is imposed. The institution, through regular reports, determines when the juvenile has been rehabilitated.

Custody: In this procedure, two possible definitions occur:

Any Restraint of Liberty. See "Custody—General" (3.02.005) for full discussion.

Specific for Juveniles "Custody" means responsibility TO and FOR the minor and does not imply restraint of any sort. An officer taking custody of a minor limits that child's freedom, while a "custodian" who takes legal custody of a minor cares for that child and discharges all responsibilities of a guardian.

Status Offense: A type of offense that can only be committed by people of a certain "status." In juvenile law, it is the term identifying the laws that pertain

exclusively to minors, and includes truancy, runaway, curfew, alcohol violations, and others.

Some status offenses, most notably the alcohol violations found in Alaska Statute 04, define a minor differently than those being under 18 years old.

REFERENCES

Harris v. State (1984). 678 P.2d 397

J.R.N. v. State (1994). 884 P.2d 175

Stephen v. State (1985). 711 P.2d 1156

PROCEDURE

I. TYPES OF “ARRESTS”

A. Warrant Arrests.

1. Detention Order. A Detention order is the juvenile equivalent to an adult arrest warrant. The most significant difference, other than appearance of the form, is that bail is not set on such an order, so that any juvenile so arrested is transported directly to McLaughlin Youth Center and booked without bail. Detention Order's are obtained from Juvenile Probations.

2. Misdemeanor or Felony Warrants. Technically Misdemeanor and Felony Warrants only apply to adults, however, in the rare cases where the Anchorage Police Department will apply for the detention of a juvenile, the request can be made using the same paperwork for an adult arrest warrant; however, the Warrant for Arrest and Detention for a Minor (Form DL-150) must be completed and used as the face sheet.

3. Misdemeanor Crimes. Detention Order's are applied for by Juvenile Probations and not the Anchorage Police Department, unless the crime is involving Domestic Violence (see Domestic Violence Response and Investigation 3.01.025).

4. Felony Crimes. Anchorage Police Officer's are not to apply for Felony arrest warrants for juveniles unless the crime is involving Domestic Violence, or they have been directed to do so by a field supervisor or detective in the respective area of the crime.

5. When a juvenile arrest warrant is applied for from the Magistrate, the applying officer shall respectfully remind the issuing Magistrate that the warrant is for a juvenile, requiring juvenile case numbers, and should be no bail.

B. Warrantless Arrests—Misdemeanors.

1. Arrest by officers for:

a). Misdemeanor offense(s) committed in their presence; or

b). Based on probable cause, developed by themselves or by other officers through investigation, if, and only if the subject misdemeanor is:

- i. Operating Under the Influence violation occurring within the preceding 4 hours (see Operating Under the Influence 3.01.035); or
- ii. A violation of the Domestic Violence provisions, which specifically entitle officers to arrest on probable cause (see Domestic Violence Response and Investigation 3.01.025).

2. Private Person's Arrest. A private person is empowered to arrest anyone who commits an offense in their presence, whether that person is a juvenile or adult. (see Arrests—Private Persons 3.02.030).

C. Warrantless Arrests—Felony.

- 1. By officers for an offense committed in their presence.
- 2. By officers, based on probable cause, and normally established by an investigation conducted by any officer.
- 3. Private Person Arrest. Though allowed by law, it is not Department policy to accept a private person arrest of a felon. Instead, the complainant is interviewed to establish probable cause, and if sufficient, officers make the arrest.

II. EXECUTING THE “ARREST”

Note: Since many juvenile matters (e.g. traffic arrests, felony arrests, waivers) overlap with the adult process, confusion can arise as to where and how to book a juvenile. One simple rule can guide officers: Unless some legal authority specifically and clearly directs otherwise, all persons under the age of 18 years will be booked into the McLaughlin Youth Center.

A. Warrant Arrests

- 1. Detention order
 - a). In executing any “warrant” type arrest, the two most critical elements for officers are:
 - i. Establishing positive identity of the person named on the document; and
 - ii. Ensuring the validity of the document.
 - b). If both elements meet the officer's satisfaction, the subject is arrested in the conventional manner (consult “In-Custody Transports” 3.02.060 procedure, for expansion on the topics of restraint, search, and transport subsequent to arrest).
 - c). No appearance before a magistrate is required prior to booking, as the function of the magistrate has been previously satisfied by the issuing judicial officer. On booking at McLaughlin Youth Center, the

juvenile Intake system is triggered to arrange subsequent hearings and/or release.

d). The Detention Order is a judicial order compelling a peace officer to take the named subject into custody. Officers may, however, select the time and location for executing the order.

e). Since all Detention Orders issue from the State Superior Court, any Detention Order can be executed by an Anchorage Police Department officer.

B. Warrantless Arrests—Misdemeanor

1. By officers, in their presence.

a). All sworn members of the Anchorage Police Department, whether on or off duty, within the boundaries of the Municipality (including all Federal Property, and on military reservations), may effect an arrest as a police officer for any misdemeanor committed in their presence.

b). Arrest techniques are conventional (see “In-Custody Transports” 3.02.060, which describes restraint, search, and transport procedure and policy).

c). A substantial effort will be made to notify the juvenile’s legal custodian(s) of the arrest. These efforts will be explicitly documented in the Police Report.

d). Juveniles will not be transported with adults unless that adult is related to the minor.

e). Officer’s shall consult MYC prior to releasing a juvenile directly to his/her legal custodian. If MYC will accept the juvenile, the juvenile shall be transported to MYC, if not; the juvenile can be released to a guardian.

The only misdemeanor arrests that MYC cannot refuse to take are D.V. arrest and warrant/detention order arrest. In these cases, a call to MYC is still warranted.

2. By officers—based on probable cause.

a). As discussed earlier, there are two misdemeanor offenses for which officers can arrest based on probable cause, established by their own observations or by citizen’s observations. They are:

i. Operating Under the Influence if that offense occurred within the preceding 4 hours; and

ii. Violation of the Domestic Violence Provisions.

b). Should officers arrest a juvenile for Operating Under the Influence, the minor would be handled as an adult, including a possible appearance before a magistrate. The two issues unique to juvenile DUI arrests are:

- i. All reasonable attempts should be made to notify the juvenile's parents of the arrest, although their presence is not required; and
 - ii. If remanded by the magistrate, the minor would be processed into McLaughlin Youth Center.
- c). Should officers arrest a juvenile for violation of a Domestic Violence provision, the case should be processed as a juvenile misdemeanor offense, as described above.
- d). In assuming responsibility for a citizen's arrest, officers should conduct the process as described in sections "I.B.1.b" and "B.1." of this procedure. A review of the steps would be:
 - i. Take custody of the arrested minor.
 - ii. Make or cause notification of the minor's legal custodian(s).
 - iii. Transport the minor as outlined in the procedure "In-Custody Transports" 3.02.060. Destinations could include:
 - (1). To the minor's home for release; or
 - (2). To Covenant House for release if a custodian cannot be reached.
 - (3). To the station for further processing, investigation, staging point for contact with custodians or detectives, etc.; or
 - (4). To McLaughlin Youth Center for booking if a Detention Order is in existence and/or if MYC will accept the juvenile.
- e). Complete and submit the Police Report, a copy of which is forwarded by Record Division to juvenile Intake Office for consideration of possible prosecution or informal resolution.

C. Warrantless Arrests—Felony

- 1. Any felony arrest can be made if the offense is committed either in the officer's presence, or by probable cause established by any officer.
 - a). Officers should coordinate their activities with the Detective Section as well. 'Arrests—Felony" 3.02.010.
 - b). Officers must closely consider the appropriateness of the arrest. Guidelines on making that determination can be found in "Arrests—Felony" Section D.

III. INTERVIEWING JUVENILES

- A. An interview of a juvenile suspect is conducted as an adult interview would be, with the following additional considerations:
 - 1. The juvenile's legal custodian(s) must be notified of the arrest and, if applicable, the intent to interview the juvenile. Although Alaska Statute 47.12.250 requires that this be done within 12 hours of detaining the juvenile, this shall be done as soon as practical. Every reasonable effort

will be afforded that custodian to attend the interview if only after being advised of this right, the juvenile wants a parent, guardian, and/or an attorney to attend. There is no legal mandate to have a parent or attorney present while the juvenile is being interviewed so long as the juvenile has been advised of his/her Miranda Rights as well as the right to have a parent present and have waived that right. If the detained juvenile requests to speak with a parent, that request must be met the same as if the juvenile was requesting to speak to their attorney.

2. Juvenile suspects must be advised of their Constitutional Rights (Miranda) if custodial interrogation is to be conducted. Any suspect may waive those rights, but that waiver must be done:

- a). Knowingly—meaning no trickery or deceit; and
- b). Voluntarily—meaning no force or coercion, and
- c). Intelligently—meaning the full significance of what is being waived must be appreciated.

3. In addition to the “typical” *Miranda* advisement, juveniles must be asked two additional questions:

- a). “You have the right to have your parent notified of your arrest before you talk to me.”
- b). “You have the right to have your parent present while you talk to me.”

4. The government has the burden of proving the three standards listed above are met. With juveniles, the standards are identical, but the burden of proof is stricter. Courts and juries are inclined to see juveniles as easily intimidated, easily tricked, and not always aware of the significance of what they do. As such, officers must go to extra lengths to ensure statements are acceptable. Toward that end, the following is offered:

- a). Custodial interviews, including *Miranda*, will be audio recorded in their entirety.
- b). The most significant feature to consider is the minor’s maturity and experience with the law enforcement system, often referred to in legal circles as the minor’s “sophistication”. The more sophisticated the minor, the more closely he or she approaches the adult procedure. However, an unsophisticated minor demands substantial effort on the officer’s part to correctly conduct an interview and investigation. The officer is encouraged to:
 - i. Explain in detail the process(es) to which the minor may be subject.
 - ii. Make and document substantial effort to contact guardian(s).
 - iii. Fully explain the rights advised under *Miranda* when appropriate to give any such advisement.

IV. RELEASE AFTER ARREST

A. Directive to Contact Juvenile Intake. Whenever a juvenile is released to a parent/guardian after arrest for a Municipal or State criminal law violation, both the juvenile and the parent/guardian must be issued a "Directive to Contact Juvenile Intake" form. This order provides immediate notification that Juvenile intake must be contacted the next business day to schedule an interview regarding the arrest. The following procedures will be used to complete, issue, and distribute the form:

1. Place the name and date of birth of the juvenile in the "In The Matter Of" box at the top left of the form.
2. Write the date of issue and the Police Report number at the top right of the form.
3. Obtain the signatures of the juvenile and the parent/guardian in the appropriate blocks.
4. Ensure that the parent is aware of the Intake phone number, noted on the form.
5. Distribute as follows:
 - a). Original—attached to the Police Report.
 - b). Yellow—Juvenile Intake.
 - c. Pink—Juvenile
 - d. Goldenrod--Parent

NOTE: This form should not be used if the juvenile is detained at the McLaughlin Youth Center, or when cited for curfew, alcohol, tobacco, traffic, or Fish and Game violations.

*****END OF DOCUMENT*****