



Clayton County Police Department

PROCEDURES

Subject JUVENILE PROCEDURES		Procedure # A10	
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I. PURPOSE

The purpose of this policy is to provide guidelines for officers when dealing with juveniles in enforcement and custody situations.

II. POLICY

The Clayton County Police Department (CCPD) is committed to the development and perpetuation of youth and juvenile programs designed to prevent and control juvenile delinquency. It is the responsibility of all members of the Department to familiarize themselves with juvenile problems and established procedures for handling both criminal and non-criminal juvenile incidents as defined in this policy. Officers will conduct all phases of an investigation concerning a crime committed by a juvenile including bringing the case to Juvenile Court for adjudication and disposition. Officers shall, whenever reasonable and justified under this policy, take those measures necessary to effect positive changes in juvenile offenders that are consistent with state law and the safety and security interests of the community.

III. DEFINITIONS

As used in this procedure, the following words and terms shall have the meaning ascribed:

Abuse: Any non-accidental physical injury or physical injury which is inconsistent with the explanation given for it suffered by a child as the result of the acts or omissions of a person responsible for the care of a child; emotional abuse; sexual abuse/sexual exploitation; prenatal abuse; or the commission of an act of family violence as defined in OCGA § 19-13-1 in the presence of a child.

Child in Need of Services (CHINS): In accordance with the OCGA Chapter 11 of Title 15 a “Child in Need of Services” is defined as a child adjudicated to be in need of care, guidance, counseling, structure, supervision, treatment, or rehabilitation and who is adjudicated to be:

1. Subject to compulsory school attendance and who is habitually and without good and sufficient cause truant, as such term is defined in Code Section 15-11-381, from school;

2. Habitually disobedient of the reasonable and lawful commands of their parent, guardian, or legal custodian and is ungovernable or places themselves or others in unsafe circumstances;
3. A runaway, as such term is defined in Code Section 15-11-381;
4. A child who has committed an offense applicable only to a child;
5. A child who wanders or loiters about the streets of any city or in or about any highway or any public place between the hours of 12:00 Midnight and 5:00 AM;
6. A child who patronizes any bar where alcoholic beverages are being sold, unaccompanied by their parents, guardian or responsible adult or who possesses alcoholic beverages; or
7. A child who has committed a delinquent act and is adjudicated to be in need of supervision but not in need of treatment or rehabilitation.

Delinquent Act: An act committed by a child designated a crime by the laws of this state, or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance, and the act is not an offense applicable only to a child or a juvenile traffic offense; the act of disobeying the terms of supervision contained in a court order which has been directed to a child who has been adjudicated to have committed a delinquent act; or failing to appear as required by a citation issued for an act that would be a crime if committed by an adult.

Dependent Child: Means a child who: has been abused or neglected and is in need of the protection of the court; has been placed for care or adoption in violation of law; or is without their parent, guardian, or legal custodian.

Intake: The division of the Juvenile Court responsible for receiving all referrals (i.e., *Juvenile Complaints*), from law enforcement, parents, school officials, DFCS, and private citizens. Intake Officers make detention decisions for children taken into custody by police on delinquency matters, decide on shelter care placement in dependency matters, and pre-screen complaints for their processing (formal or informal).

Juvenile Complaint: Completed when a juvenile is arrested and/or charged for the commission of a delinquent act, regardless of detainment at a juvenile detention facility.

Minor: Any individual who is under the age of seventeen (17) years who is alleged to have committed a delinquent act or any individual under the age of eighteen (18) years.

Neglect: The failure to provide proper parental care/control, subsistence, education as required by law, or other care or control necessary for a child's physical, mental, or emotional health or morals; the failure to provide a child with adequate supervision necessary for such child's well-being; or the abandonment of a child by the child's parent, guardian, or legal custodian.

Non-Secure Custody: The juvenile may be in custody but is 'free' to leave the building. The juvenile may not be handcuffed to a stationary object, and may be placed in a room with no lock on the door. The juvenile must be under constant supervision.

Regional Youth Detention Center (RYDC): A secure detention facility for the housing of juveniles detained by authorization of an Intake Officer and awaiting adjudication or disposition of their case.

Responsible Adult: In the absence of a juvenile's parents or legal guardian, a responsible adult is one who is responsible for the physical custody of a juvenile, or who is another adult acquaintance of the juvenile's parents or legal guardian who agrees and reasonably demonstrates the ability to provide supervision for the juvenile until parents, legal guardian, or next of kin can assume that responsibility.

Secure Custody: When a juvenile is physically detained or confined in a locked room or cell, or is handcuffed to a stationary object. The juvenile is not free to leave the building.

IV. PROCEDURES

A. Jurisdiction

1. Generally, the Juvenile Court has jurisdiction over children in the County who are alleged to be delinquent, in need of services, or dependent. The age limits and subject matter of the Juvenile Court's jurisdiction on these matters varies. For detailed information on juvenile court jurisdiction, refer to the Official Code of Georgia Annotated (OCGA) § 15-11-10.
2. Juvenile Court Intake Operations is responsible for receiving all referrals, known as "Juvenile Complaints," from law enforcement, parents, school officials, the Division of Family and Children Services (DFCS), and private citizens. Intake officers make detention decisions for juveniles taken into custody by police on delinquency matters, decide on shelter care placement in dependency matters, and pre-screen complaints for their processing pathway (formal or informal).
3. Officers shall work with DFCS and Juvenile Court as the need arises to ensure that the rights and best interests of juveniles are protected. Officers will cooperate with the Juvenile Court, under the direction of the Juvenile Court Judge to the extent necessary or directed, to properly process all juveniles taken into custody for offenses and for cases of abuse/neglect.
4. Juvenile Court and Superior Court have concurrent jurisdiction of delinquent acts which constitute capital felonies, but the Juvenile Court may consider questions of custody only if such issues are transferred to Juvenile Court from Superior Court. *Quire v. Clayton County DFCS*, 242 Ga. 85, 249 S.E.2d 538 (1978), decided under former Code 1933, § 24-2402.
5. Pursuant to OCGA § 15-11-560, the Superior Court shall have exclusive original jurisdiction over the trial of any juvenile thirteen (13) to seventeen (17) years of age who is alleged to have committed any of the following offenses:
 - a. Murder or Murder in the Second Degree;
 - b. Voluntary Manslaughter;
 - c. Rape;
 - d. Aggravated Sodomy;
 - e. Aggravated Child Molestation;
 - f. Aggravated Sexual Battery;
 - g. Armed Robbery if Committed with a Firearm;
 - h. Aggravated Assault if Committed with a Firearm upon a Public Safety Officer; or
 - i. Aggravated Battery upon a Public Safety Officer.
6. A Regional Youth Detention Center (RYDC) shall be the place of confinement; pending adjudication for a juvenile charged with a capital felony.

B. Types of Juvenile Enforcement

1. When involved with juveniles, officers must remember that the same degree of probable cause is necessary to arrest a juvenile, and the same degree of proof is required to convict a juvenile as is necessary to arrest and convict an adult. What is reasonable in terms of appropriate enforcement action or constitutes probable cause varies with each situation.

2. Officers dealing with juveniles in enforcement capacities may exercise reasonable discretion as outlined in this policy in deciding on appropriate actions. Alternatives that may be considered include:
 - a. Release without further action;
 - b. Informal counseling to inform the juvenile of the consequences of their actions;
 - c. Referral to parents, guardian or responsible adult;
 - d. Informal counseling of parents, guardian or responsible adult;
 - e. Limited temporary custody and verbal warning;
 - f. Issuance of a summons/complaint to appear in court in lieu of being taken into custody;
 - g. Arrest under non-secure custody;
 - h. Arrest under secure custody; or
 - i. Referral to Juvenile Court.
3. There are a number of factors to consider prior to taking enforcement action. Among these factors are:
 - a. The nature and seriousness of the alleged offense;
 - b. The age and circumstances of the juvenile;
 - c. The juvenile's past record, if known;
 - d. The availability of community-based rehabilitation programs;
 - e. The victim's desire to prosecute and/or resolve the matter by other means;
 - f. Recommendations from an intake officer and/or parent/guardian; and
 - g. Other circumstances should all be considered when choosing enforcement alternatives.

C. Officer's Discretion/Enforcement Alternatives

An officer's discretion is an essential function of effective law enforcement. Officers, when dealing with juveniles, should utilize discretion and use the least coercive actions among reasonable alternatives to effectively handle the juvenile and the particular set of circumstances in which the juvenile was encountered. In each case, an officer must act reasonably within the limits of their authority, as defined by statute and judicial interpretation. Discretion shall be applied fairly and consistently. The following alternatives and general guidelines shall be considered when dealing with juveniles.

1. **Release to a Parent/Guardian with No Further Action**

- a. Release to a parent, guardian or other responsible adult, with no further action may be appropriate in minor incidents where property damage or personal injury is not involved, but intervention is necessary to avoid potential delinquent actions and when the juvenile has had no prior enforcement contacts with the police. Examples of these incidents shall include, but are not limited to the following:
 - 1) Loitering
 - 2) Minor alcohol law violations (non-motor vehicle) and tobacco violations; or
 - 3) Disorderly conduct.

- b. Officers may elect to transport the juvenile home so they can meet with the juvenile's parent, guardian or responsible adult, to provide them with information and counseling on the juvenile's actions; issue the juvenile a verbal warning; refer the juvenile to appropriate community service agencies with or without follow up; or detain the juvenile at a precinct until they are released to a parent, guardian or responsible adult.

2. Release on a Copy of Charges

Issuance of a *Juvenile Complaint Form* and/or *Uniform Traffic Citation (UTC)*, in lieu of taking the juvenile into custody, may be appropriate for more serious infractions where a CHINS offense, traffic offense, or minor criminal offense was committed. Examples include, but are not limited to:

- a. The nature of the incident is of a more serious or potentially serious nature than exemplified in Section IV. C.1." of this policy;
- b. The juvenile involved is fully aware of the seriousness or potential seriousness of their actions, and/or is acting in alliance or collusion with others to commit such acts;
- c. The juvenile fails to cooperate or to positively respond to police intervention and direction;
- d. The juvenile has received prior informal warnings/referrals, or has engaged in delinquent acts; or
- e. The juvenile's parent/guardian has apparently failed to provide appropriate control and supervision.

3. Referral to Another Agency or Service for Potential Diversion Alternatives

After an officer completes a *Juvenile Complaint Form* on a juvenile, such form is received by the Intake Operations Division at Clayton County Juvenile Court. It is the responsibility of the Juvenile Court to recommend course of action. The Juvenile Court has several diversion programs and alternatives that can be recommend such as mediation, counseling, and informal processes for juveniles who commit minor offenses.

4. Referral to Juvenile Court (e.g., Serious Offenses, Arrest and/or Transport to RYDC)

- a. Officers may file delinquency charges against a juvenile when the circumstances surrounding the incident meet or exceed the seriousness of those cited as examples in Section IV. C.2. of this policy. Officers should file delinquency charges against juveniles when they commit:
 - 1) Delinquent acts if committed by an adult would be a felony;
 - 2) Delinquent acts involving deadly weapons;
 - 3) Delinquent acts that are gang-related;
 - 4) Delinquent acts involving aggravated assault and battery;
 - 5) Delinquent acts committed while on probation or parole, or with a case pending;
 - 6) Delinquent acts committed by repeat offenders, or when they have refused to participate in diversion or intervention programs; or
 - 7) When it has been determined that parental or other adult supervision is ineffective.
- b. An officer may also take a juvenile into custody if the juvenile is lost, seriously endangered, or a runaway. In all such cases these juveniles shall be held in non-secure

custody and officers shall contact the child's parents or guardian as soon as possible. Where parents or guardians cannot be contacted, or refuse to accept custody, the officer shall contact their supervisor for assistance.

For further information on runaways, refer to CCPD SOP: *D23: Missing Persons & Runaways (Adults & Children)*.

- c. In cases of alleged child abuse, officers shall contact their supervisor for assistance. Depending on the circumstances, the supervisor may request assistance from DFCS and/or a detective assigned to the Criminal Investigations Division (CID) Special Victims Unit (SVU) to conduct further investigation of the complaint, unless probable cause justifies immediate action in order to protect the safety and well-being of the child.
- d. Officers shall work with DFCS and Juvenile Court as the need arises to ensure that the rights and best interests of juveniles are protected. Officers will cooperate with the Juvenile Court, under the direction of the Juvenile Court Judge to the extent necessary or directed, to properly process all juveniles taken into custody for offenses and for cases of abuse or neglect.

D. Taking a Juvenile into Custody

- 1. Based on the seriousness of and circumstances surrounding the offense, the background and demeanor of the juvenile, and other relevant factors, the officer must determine whether the juvenile is alleged to have engaged in a delinquent act as defined in OCGA § 15-11-2 or a CHINS offense (e.g., conduct that would not be a crime if it were committed by an adult).

Law enforcement officers may take a juvenile into custody:

- a. Pursuant to the laws of arrest (OCGA § 15-11-501);
 - b. If there are reasonable grounds to believe that the juvenile has committed a delinquent act (OCGA §15-11-501);
 - c. When there are reasonable grounds to believe that a juvenile has run away from their parent, guardian, or legal custodian (OCGA § 15-11-410); or
 - d. Pursuant to an order of the court to apprehend when the juvenile has escaped from an institution or facility operated by the Department of Juvenile Justice (DJJ), or has been placed under supervision and has violated its conditions.
- 2. Officers must determine whether the juvenile is alleged to have been harmed or in danger of being harmed.
 - a. A law enforcement officer may remove a child from their home, without the consent of the child's parent, guardian, or legal custodian, if a child is in imminent danger of abuse or neglect if such child remains in the home (OCGA §15-11-133).
 - b. A law enforcement officer may take a child into temporary custody when there are reasonable grounds to believe the circumstances are such as to endanger a child's health or welfare unless immediate action is taken (OCGA § 15-11-410).
 - c. If the officer believes a child should be taken into temporary/protective custody, the officer shall contact their supervisor for assistance.

If the supervisor agrees with the officer's assessment, DFCS should be notified for placement of such juvenile. Depending on the circumstances, the supervisor may seek assistance from the CID Special Victims Unit (SVU).

3. Juveniles taken into custody for a delinquent (criminal type) offense or a CHINS offense should be frisked for weapons prior to being transported and may be handcuffed or otherwise restrained at any time if, in the judgment of the officer, the juvenile poses a physical risk to the officer or others.
 - a. Juveniles arrested for delinquent offenses are subject to the same security requirements as adults and may be handcuffed, or otherwise restrained as necessary, during transport and processing.
 - b. **If a juvenile is charged with a CHINS offense, the officer will have the option of handcuffing. Juveniles taken into custody for a CHINS offense should not be detained, unless in the judgment of the officer such juvenile poses a physical risk to themselves, others or Department property, or is an escape risk (actively attempting to elude the officer's control).**

For further information refer to CCPD SOP: *D26: Handcuffing and Restraints*.

4. It is the responsibility of the arresting officer to promptly notify the juvenile's parent/guardian should the juvenile be placed in custody and/or detained at RYDC.
5. Officers may issue a copy of charges in lieu of taking a juvenile into custody especially if the juvenile has violated a CHINS offense. In most situations involving juveniles when a parent, guardian or responsible adult is available to take charge of the juvenile, the interest of the juvenile is best served by releasing them to their parents, guardian or responsible adult. Major felonies and situations involving violence will require taking the juvenile into custody.
6. **When charging a juvenile with any type of Delinquent Offense or CHINS offense, the officer will contact the Intake Officer who will ultimately decide whether the juvenile is to be released or detained at RYDC.** Intake officers are available twenty-four (24) hours a day, and their telephone numbers are available through the E911/Communications Center. Every effort should be made to contact the Intake Officer from the incident scene.
 - a. CHINS Offenses
 - 1) Generally, CHINS offenders should be released to a parent, guardian or responsible adult.
 - 2) Juveniles taken into custody for a CHINS offense shall be held in non-secure custody as provided by state law, and for the briefest time necessary to conduct investigation, and related processing requirements to facilitate their release to a parent or responsible adult or transfer to a juvenile facility.
 - 3) Transportation of a juvenile in a caged vehicle is not considered secure custody and such transportation may be utilized.
 - 4) CHINS offenders and other juveniles taken into temporary non-secure custody for non-criminal type offenses should not be fingerprinted or photographed for purposes of record.
 - 5) CHINS offenders in temporary custody shall not be placed in a temporary detention facility with adult suspects, and shall also be under constant supervision.
 - b. Delinquent (Criminal Type) Offenses

Juveniles accused of delinquent offenses may be securely detained only for the period of time, and in the manner prescribed by state law, to allow for identification,

investigation, processing and release to parent, guardian, or a responsible adult, or transfer to a juvenile intake facility or Juvenile Court.

E. Transportation of Juvenile Offenders

Juvenile offenders will be handled in accordance with the standard transport procedures, with the following exceptions:

1. On some delinquent offenses, a juvenile detainee may be transported to a juvenile intake facility.
2. Under certain circumstances, the transporting officer may transport a juvenile detainee to Headquarters/CSI to be fingerprinted or photographed pursuant to O.C.G.A. § 15-11-702.
3. Adult and juvenile detainees should not be transported in the same vehicle at the same time.
4. If a juvenile is charged with a CHINS offense, the transporting officer will have the option of handcuffing. The juvenile may be handcuffed or otherwise restrained at any time if, in the judgment of the officer, such juvenile poses a physical risk to themselves, others or Department property, or is an escape risk (actively attempting to elude the officer's control).
5. Officers should ensure juveniles are transported without delay, to the appropriate juvenile intake facility, unless the juvenile is in need of emergency medical treatment. If the juvenile is believed to be suffering from a serious physical condition or illness which requires prompt treatment, the transporting officer will deliver such juvenile, with all reasonable speed and without first taking such juvenile elsewhere, to a medical facility (OCGA § 15-11-410).

For further information on transporting juvenile detainees refer to CCPD SOP: *D24: Transportation of Detainees*.

F. Documentation for Juvenile Charges/CHINS Complaints

1. All officers having an authoritative encounter with a juvenile or a complaint regarding a juvenile, whether or not the juvenile is taken into custody, shall complete an *Incident Report*. These reports shall clearly identify the juvenile(s) involved, the nature of the incident, and the rationale for the officer's disposition.
2. Juveniles taken into custody for delinquent offenses shall be subject to the same reporting requirements as adults. Such reports shall be clearly marked "juvenile", maintained in a separate location from adult arrest records, and the subject to state law regarding dissemination and access.
3. Officers must complete a *Juvenile Complaint Form* any time they charge a juvenile with a delinquent offense/CHINS offense or anytime a juvenile is taken into protective custody.
4. When releasing a juvenile offender on a copy of charges, the reporting officer shall provide the juvenile's parent/guardian or responsible adult with a copy of charges and explain the charges involved, and that they will be notified by Juvenile Court as to the court date and other related actions. When releasing a juvenile offender to a responsible adult, the reporting officer shall document their conversation(s) with the parent/guardian to justify such release.
5. Juvenile offenders who commit crimes over which the Superior Court has exclusive jurisdiction (i.e., OCGA § 15-11-560), will be charged on a warrant.
 - a. The reporting officer shall notify their supervisor of the incident before applying for an arrest warrant.

- b. The reporting officer shall notify the Intake Officer and the District Attorney's office prior to transporting the juvenile to a juvenile intake facility.
6. When charges are made against a juvenile, the reporting officer shall properly detail the incident and such charges on the *Incident Report* and *Juvenile Complaint Form*. Officers shall obtain written statements from persons involved (e.g., complainant, victim, witnesses), and collect evidence, when applicable. When completed, the reporting officer will submit the *Incident Report*, *Juvenile Complaint Form*, and any other required form/report or attachment for such incident, for supervisory review via the Records Management System (RMS).
- a. When approved, the reviewing supervisor will ensure all appropriate reports/forms and attachments are forwarded to the Records Unit.
 - b. It shall be the responsibility of personnel assigned to the Records Unit to ensure the appropriate documentation is forwarded to Juvenile Court.

7. Juvenile Traffic Citations/Arrest

- a. If a *Uniform Traffic Citation (UTC)* for violating a traffic law or ordinance is written on a driver who is sixteen (16) years of age or younger, with or without a valid driver's license, a *Juvenile Complaint Form* and *Incident Report* will be completed in addition to the *UTCs*. The juvenile must be released to a parent, guardian or responsible adult. Court dates for juvenile offenders will be "To Be Notified."

The officer will forward the *Incident Report*, *Juvenile Complaint Form*, *UTCs*, and any other required form/report or attachment for such incident, for supervisory review via the Records Management System (RMS). When approved, the reviewing supervisor will ensure all appropriate reports/forms and attachments are forwarded to the Records Unit.

- b. Juveniles taken into custody for DUI of alcohol or drugs, who are sixteen (16) years of age and possess a Georgia driver's license, should be given their rights under the Georgia Implied Consent Law, for the purpose of the chemical test(s) for alcohol/drugs.
 - 1) The chemical breath test should be administered at the nearest Department facility.
 - 2) If a breath test is administered inside a CCPD Breathalyzer Room, it will be as expeditious as possible. All adults (other than the arresting officer and Intoxilyzer Operator) should be removed from the room while the juvenile is being tested.
 - 3) If the juvenile takes the test(s), results should be noted in the officer's *DUI Report*.
 - 4) If the juvenile refuses to take the chemical test(s), it should also be noted in the officer's *DUI Report* and the proper forms for a refusal shall be completed and forwarded to the Georgia Department of Public Safety.
 - 5) Drawing of blood and/or obtaining urine samples shall be done by qualified medical personnel and at a medical facility. The juvenile will not be taken to the Clayton County Jail under any circumstances.
 - 6) If the juvenile is found to be under the influence, the parent/guardian will be contacted and the juvenile should be released as soon as possible after the appropriate charges have been made.
- c. The reporting officer will forward the *DUI Report*, *Juvenile Complaint Form*, *UTCs*, and any other required form/report or attachment for such incident, for supervisory review via

the Records Management System (RMS). When approved, the reviewing supervisor will ensure all appropriate reports/forms and attachments are forwarded to the Records Unit.

For further information on juvenile traffic offenses, refer to CCPD SOP: *D42: Traffic Enforcement*.

8. All complaints, reports and records of juvenile offenders shall be identified with sufficient notification that the record is that of a juvenile and the contents therein are confidential and not for public or press disclosure, except where annotated in the Georgia Code or by law.

G. Fingerprinting and Photographing Juvenile Offenders (Not CHINS Offenders)

1. Pursuant to O.C.G.A § 15-11-702, every juvenile charged with an act, which would be a felony if committed by an adult shall be fingerprinted and photographed upon being taken into custody. The statute further requires that the photographs and fingerprints shall be taken and filed separately from those of adults.
2. The following procedures are in compliance with O.C.G.A. § 15-11-702, and shall be strictly adhered to:
 - a. If the officer makes the decision to detain a juvenile, who committed a felony, the officer must obtain photographs and fingerprints by contacting CSI or dispatch so CSI may be notified. The juvenile will be fingerprinted on agency specific fingerprint cards and photographed. This information, along with relevant demographic and charge data will be kept in a secure area within the crime scene unit.
 - b. If the officer decides to release the juvenile offender to a parent or guardian, the procedures outlined below will be followed:
 - 1) The parent or guardian will be contacted to meet with the officer. The juvenile will be fingerprinted and photographed by CSI and may be released to a parent or guardian, if the Intake Officer does not authorize detainment.
 - 2) **Prior to releasing the juvenile offender to the custody of the parent or guardian, the three (3) part *Juvenile Complaint Form* must be fully completed.** The officer will provide a copy of the *Juvenile Complaint Form* to the parent or guardian. The parent or guardian will be notified of when to appear in Juvenile Court.
 - c. Fingerprint cards for juvenile arrestees who shall be “treated as adults” should be processed according to GCIC procedures. Fingerprint cards for all other juvenile arrestees should be completed according to standard procedures for criminal fingerprint cards as published by GCIC. The juvenile intake facility shall fingerprint and photograph all juveniles. The C.S.I. Unit will submit all fingerprints the Georgia Crime Information Center.

Note: Juvenile offenders who commit crimes over which the Superior Court has exclusive jurisdiction, OCGA § 15-11-560, will be charged on a warrant, and C.S.I. will fingerprint as outlined above. The juvenile will be transported to RYDC, when authorized by an Intake Officer.

H. Interrogation/Interview of Juveniles

1. If a juvenile is to be questioned about a crime in which they are suspected of being involved, the juvenile shall be advised of their constitutional rights and their right to legal counsel prior to questioning.

2. The admissibility of statements by a juvenile depends upon whether or not, under the totality of the circumstances, there was a knowing and intelligent waiver of such juvenile's constitutional rights, *Riley v. State*, 237 Ga. 124, 128 (1976).

The burden is demonstrating that the juvenile understood and waived those rights. The analysis involves the application of a nine (9) part test.

The factors considered by the court include:

- a. The age of the accused;
- b. The education of the accused;
- c. The knowledge of the accused as to the substance of the charge and nature of the accused's rights to consult with an attorney;
- d. Whether the accused was held incommunicado or allowed to consult with relatives or an attorney;
- e. Whether the accused was interrogated before or after formal charges had been filed;
- f. Methods used in interrogation;
- g. Length of interrogation;
- h. Whether the accused refused to voluntarily give statements on prior occasions; and
- i. Whether the accused repudiated an extrajudicial statement at a later date.

Henry v. State, 264 Ga. 861, 862 (1995), applying *Riley v. State*.

3. The purpose of this section is to provide guidelines on custodial interrogations and non-custodial interviews of juvenile suspects. It is not intended to limit the scope of questioning where Miranda Rights are not required, or in the interview of a juvenile which is the alleged victim of a crime.

For further information refer to CCPD SOP: *D36: Interviews & Interrogations*.

a. Custodial Interrogation

- 1) Officers should attempt to notify the parent/guardian of a juvenile who is the intended subject of an interrogation. Officers must make every effort to locate the parent/guardian and be able to articulate in court their attempts to locate the parent/guardian.
 - (a) If the parent/guardian wishes to be present during the interrogation, the juvenile will not be interrogated until the parent/guardian is present.
 - (b) If the parent/guardian does not want the juvenile to be interrogated, the juvenile should not be interrogated.
 - (c) If the parent/guardian authorizes the officer to interrogate the juvenile outside their presence (e.g., parent/guardian refuses to be present during the interrogation), the officer may proceed with the interrogation.
 - (d) If the parent/guardian, cannot be located and notified of the intended interrogation, the officer may continue with the interrogation.
 - (e) In the absence of a parent or guardian, a juvenile may be questioned and may provide statements if reasonable assurances can be made that the juvenile fully understands his constitutional rights.

- (f) Notification of the parent/guardian that the juvenile is in custody and the need to interrogate the juvenile will be documented in the *Incident/Supplemental Report* by the officer. Unsuccessful attempts to locate a parent/guardian should also be documented in the *Incident/Supplemental Report* by the officer. Information should contain who made or attempted to make notification, how notification or attempts were made, and when, etc.
- 2) Prior to the interrogation, the officer shall consider the juvenile's age, educational level, ability to read, write, and understand the English language (or the child's native language), the location of the interrogation, the number of persons present, requests by the juvenile, and parental/guardian notification.
- 3) Prior to the interrogation, the juvenile and parent or guardian, if present, shall be advised of the juveniles constitutional rights, right to legal counsel, right to be represented by an attorney and the means to access counsel. No statements shall be taken until all Miranda Rights have been administered.

It is the officer's responsibility to ensure that the juvenile fully understands their Miranda Rights. The officer shall explain the rights so that they are easily understood. The officer must be able to clearly articulate how the juvenile understood their Miranda Rights and explain this in court, if necessary.

- 4) The time of interrogation should be limited to as brief a period of time as possible. Normally, custodial interrogations of a juvenile should not exceed two (2) hours.
 - 5) The number of officers and other concerned parties will be limited to the fewest number present as possible. Interrogation of a juvenile should not extend over periods of time that could be considered unreasonable or harassing and, whenever possible, should be conducted by no more than two (2) officers at a time.
 - 6) Should a parent/guardian advise that they do not want the juvenile to be interrogated any further, the interrogation shall cease immediately.
 - 7) If a juvenile refuses to give a statement, the parent/guardian shall not demand or force the juvenile to give a statement.
 - 8) Proper waiver forms should be completed and signed by the officer, juvenile, parent/guardian, if present, and other witnesses.
 - 9) The interrogation should be recorded by the use of authorized recording devices available to the officer at the time.
- b. Non-Custodial Interviews
- 1) Officers commonly interview juveniles that are suspected of being involved in a crime or offense, have been a witness to a crime or offense, or are believed to have information regarding a crime or offense. When conducting these types of interviews, refer to CCPD SOP *D9: Field Reporting*.
 - 2) For situations in which a child has allegedly been a victim of physical and/or sexual abuse, or is a witness to physical and/or sexual abuse, the CID's Special Victims Unit should be contacted and the child interviewed in accordance with departmental policies and the Clayton County Child Abuse Protocol.

V. CHILD ABUSE PROTOCOL

Pursuant to OCGA § 19-15-2, each county in the state is mandated to have in place a Child Abuse Protocol (CAP) filed with the Division of Family and Children Services of the Department of Human Services and the Office of the Child Advocate for the Protection of Children, a copy of which shall be furnished to each agency in the county handling the cases of abused children.

- A. Mandated reporters, including education personnel and medical personnel among others, are primarily responsible for identifying and reporting suspected child abuse.
- B. Law enforcement is primarily responsible for investigating a situation to determine whether a crime has been committed; identifying and apprehending the offender(s); and filing appropriate criminal charges.
- C. DFCS is primarily responsible for responding to reports of abuse to determine if maltreatment occurred; assessing safety and risk; ensuring the safety of the alleged victim and any other children in the home; and ensuring the family has access to appropriate services.
- D. Child advocacy centers (CACs) are primarily responsible for conducting forensic interviews to inform the investigations conducted by law enforcement and DFCS.
- E. Medical personnel, mental health organizations and counselors, child advocacy centers, and sexual assault centers provide exams, diagnoses, and treatment.
- F. Coroners and medical examiners evaluate and determine a person's manner and cause of death. Their findings may inform the criminal or civil response to cases involving child abuse.
- G. Superior Courts maintain jurisdiction for felony criminal matters related to child abuse. State Courts handle misdemeanor trials (domestic violence cases). Magistrate Courts are primarily involved in child abuse cases through the issuance of criminal warrants against perpetrators, the holding of probable cause hearings, and setting bond and/or conditions of bail. District attorneys and the Solicitor's office are responsible for prosecuting criminal actions of child abuse.
- H. Juvenile Courts maintain jurisdiction for dependency matters related to child abuse.

To view a copy of the *Clayton County Child Abuse Protocol* refer to CCPD SOP A4: *Appendix B*.

VI. REVIEW

The CCPD will encourage review and comment by other elements of the juvenile justice system in the development of the agency's policies and procedures relating to juveniles. This will be accomplished by participation and coordination with local juvenile councils and juvenile boards such as RYDC, Child Abuse Protocol Council, and the Clayton County Board of Education.

VII. CANCELLATION

This procedure amends and supersedes the following standard operating procedure: *A10: Juvenile Procedures*, dated July 16, 2009.