

	Administrative General Order	40 Juvenile Operations	PAGE 1 OF 7
	City of Charleston Police Department Policy and Procedure Manual		EFFECTIVE DATE: 09/27/07
			SOURCE: Procedural Justice & Community Oriented Policing
	DISTRIBUTION: ALL		CALEA: 44.1.1; 44.1.2; 44.1.3; 44.2.1; 44.2.2; 44.2.3; 44.2.5
BY THE AUTHORITY OF THE CHIEF OF POLICE: <i>Litter Reynolds</i>			

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40.1 PURPOSE

To establish the operational aspects of juvenile operations.

40.2 POLICY

The Charleston Police Department is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. The juvenile operations function of the Department is shared by all employees.

40.3 DEFINITIONS

Juvenile: a person less than 18 years of age. "Juvenile" does *not* mean a person seventeen years of age or older who is charged with a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more.

Custodial Interrogation: Questioning initiated by officers after a person is taken into custody or otherwise deprived of his or

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her freedom in any significant way, thus requiring that the person be advised of his or her applicable constitutional rights.

Non-Custodial Interview: A purposeful and non-accusatory conversations with a victim, complainant, witness or criminal suspect. The atmosphere is non-custodial and the interviewee should feel that he or she is free to end or terminate the interview and leave at any time.

Juvenile Detention Center: a correctional facility for juvenile offenders or delinquents.

40.4 YOUTH PROGRAMS (CALEA 44.1.3; 44.2.5)

The Police Department is committed to the positive development of the community's youth. In furtherance of this goal, the Police Department officially sponsors several youth programs and encourages officers to join and participate. Some of these programs include; Camp Hope, Chess Club, Drive-In Movie Night, Halloween Howl and Rock the Block.

The Office of Community Oriented Policing shall maintain a registry of social service agencies that provide youth-related programs, which will be kept and updated annually.

40.5 JUVENILE INVESTIGATIONS (CALEA 44.2.1; 44.2.2; 44.2.3)

Officers are required to utilize the least coercive methods available to accomplish the police mission during interactions with juveniles.

Police officers are provided discretion regarding their decisions to arrest. Factors to be weighed in determining whether to arrest, divert a juvenile from the criminal justice system through outright release, or other options as offered by the courts, department, or related agencies are: seriousness of the crime, age, and circumstance of the juvenile offender, offender's prior record (if any) and availability of local rehabilitation resources. In general criminal acts requiring referral to the juvenile justice system should include:

1. All felonies;
2. All crimes involving weapons;
3. All serious gang-related crimes;
4. All aggravated assaults; and
5. All crimes committed by juveniles under probation or parole or by those with a case pending; or
6. Any repeated crimes (within the preceding twelve [12] month period).

Other cases that may require referral to the juvenile justice system include, but are not limited to:

1. When the juvenile has been selected for a diversion program but has refused to participate; and/or
2. When it has been determined that parental supervision is not effective.

Officers are required to possess a sound working knowledge of the various alternatives to formal arrest and juvenile court action. The decision to formally charge a juvenile offender is reserved to the case officer. The case officer is uniquely qualified to make the decision, as the officer will possess the highest degree of information concerning the facts and circumstances of a specific incident/offender. Additionally, assigning responsibility to the case officer for submitting a juvenile offender to the court system is consistent with the recognized management principle that operational decisions should be made at the lowest practical level.

Juveniles will be issued courtesy summons when found to be in violation of laws for which adults would normally be issued a citation/summons in lieu of arrest. (Example: most traffic violations, littering, open container, and administrative code violations.)

Officers will be familiar with Juvenile Status Offenses, which when committed as an adult would not constitute a misdemeanor

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or felony. Examples include, but are not limited to: incorrigibility, truancy, runaways, and/or violation of curfews.

Officers are required to strictly adhere to the constitutional safeguards guaranteed juvenile offenders by the United States Constitution, South Carolina Constitution, and applicable case laws during custodial interrogations.

Custodial Interrogation:

Officers will confer with the parents or guardians of a juvenile suspect as soon as practical after an arrest. Contact should be made by telephone to parents, neighbors, next-of-kin, or by any other means including dispatching a unit to locate and inform parents or guardians as soon as practically possible.

The interrogation of juvenile offenders will be limited to a reasonable time period and will be conducted by no more than two (2) police officers.

Juvenile offenders will be informed of their constitutional rights as required by law. Officers who issue the Miranda warning will attempt to assess the juvenile's level of comprehension to ensure that they understand their rights. During custodial interrogation of juvenile offenders, a juvenile's request to speak with a parent will be treated as a request for legal counsel. The officers conducting the interrogation of a juvenile will explain to the offender the procedures of the Police Department and juvenile justice system. A parent may be permitted to speak with a juvenile offender at the discretion of the officer; however, the parent may not invoke the juvenile's constitutional rights for them. Officers will attempt to determine if the juvenile has been harmed or is in danger of being harmed.

Non-Custodial Interviews:

If an officer does not have a reason to detain the juvenile, any field interview is deemed a consensual non-custodial contact and should be documented on a Field Contact Card. When interacting with a juvenile in a consensual field interview, if at any time the juvenile wishes to leave, members shall not restrict their freedom of movement, prevent the juvenile from leaving, or compel the juvenile to answer any questions. If during a consensual interaction/field interview, the juvenile asks if they are free to leave, the member must advise that the juvenile is not in custody and is free to leave. Upon concluding a consensual field interview, a Field Contact Card must be completed.

40.6 JUVENILES ON SCHOOL GROUNDS

Before any effort is made to question a student on school grounds, the officer will contact the school principal, or designee, and the assigned School Resource Officer.

The officer will ask the principal to contact the student's parent or guardian, indicating that a police officer has requested to interview the student, and gain the consent of the parent/guardian prior to the questioning.

1. If the parent/guardian requests that the questioning take place in his/her presence, the questioning will be delayed until the parent/guardian arrives.
2. If the parent/guardian denies permission for an interview at school, the student will not be called from class.

If permission has been received for the interview, a school staff member, rather than the police officer, will call the student from class to the school office.

If the parent/guardian has given consent for the student's questioning but is not present during the interview, the officer will request that a member of the school staff be present during the interview.

In the event the officer believes he/she has not received proper cooperation from a school official, the officer will report the situation to the officer's superior and to the proper school official.

An officer will not remove a student from a school building or a school grounds without: a court order, permission of the

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parent or guardian, or first arresting the student.

40.7 HANDLING OF JUVENILE SUSPECTS (CALEA 44.2.2 e)

The purpose of this policy is to establish guidelines for handling juvenile suspects under arrest for misdemeanors and felonies as follows:

Misdemeanor Arrest

When a juvenile is arrested for a misdemeanor, the parents/guardian should be notified and the juvenile released to their custody pending notification from family court officials.

Only under extenuating circumstances would a juvenile charged with committing a misdemeanor offense be transported to the juvenile detention center.

1. When a misdemeanor juvenile suspect is transported, the transporting officer needs a copy of the booking form and a copy of the incident report for the Detention Center;
2. If there are extenuating circumstances or a reason for not wanting the subject released, the officer is not to sign the consent for release form but is to advise the detention staff of the reasons so they are aware and able to inform caseworkers;
3. All necessary notifications and detention center forms will be completed by the juvenile detention center staff.

Felony Arrest

Individuals who are seventeen (17) years old charged with class A, B, C, and/or D felonies as defined by South Carolina Code 16-1-20 or a felony which provides for a maximum term of imprisonment of 15 years or more may be remanded to the family court for disposition of the charge at the discretion of the solicitor. These individuals should be housed at the Al Cannon Detention Center. Coordinate the arrival with CCSO because there are special considerations.

40.8 JUVENILE DETENTION (CALEA 44.2.2)

1. Juvenile ten (10) years of age and under can never be confined to a juvenile detention facility regardless of arrest. The parent/guardian is to be notified and subject released to him/her.
2. Juveniles age eleven (11) or twelve (12) may be transported for detention only with a court order, written or verbal, from a family court judge. The only exception to this procedure would be if the parent/guardian could not be notified. Then the juvenile can be taken to the center for protection until center staff can make notification.
3. Juveniles age thirteen (13) to seventeen (17) may be transported for detention without a court order. Additionally, when a juvenile age thirteen (13) to seventeen (17) is arrested for a violent crime as defined in South Carolina Code 16-1-60 or charged with committing grand larceny of a motor vehicle, they may be fingerprinted and photographed without a court order. Juveniles charged with committing a violent crime or grand larceny of a motor vehicle may also be detained at the juvenile detention center without a court order. For the detention of a juvenile in the event of a violent crime, the transporting officer will need copies of the booking form and incident report for intake. When a juvenile is charged with committing a violent offense or grand larceny of a motor vehicle and is transported to the detention center, the officer is not to sign consent for release forms. Each time a juvenile is formally charged with an offense the parent/guardian will be notified. The juvenile will also be photographed for each charge.

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40.9 JUVENILE INTAKE PROCESSING

All juveniles will be photographed for identification purposes. Pursuant to South Carolina Code 63-19-2030, a juvenile who is age thirteen (13) to seventeen (17) and charged with an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult must be fingerprinted by the law enforcement agency that takes the juvenile into custody. If the juvenile is taken into secure custody and detained, the detention facility must fingerprint the juvenile upon admission. Fingerprints of juveniles may be obtained by parental consent. In the absence of parental consent, an officer may petition the Court to obtain fingerprints of juveniles charged with other offenses as outlined in South Carolina Code 63-19-2030, as it will require an order from a family court judge.

40.10 MAINTENANCE OF JUVENILE INVESTIGATIVE RECORDS AND FILES (CALEA 82.1.2)

Active juvenile case files will be maintained separate and apart from adult criminal records. Access to juvenile files will be solely for law enforcement purposes.

Physical specimens obtained from a juvenile suspect (hair, blood, urine, nails, stomach contents, etc.) and handwriting samples, will be obtained pursuant to a court order or with parental consent. Fingerprints and photographs of juvenile offenders will be placed in the Records Division confidential record file.

40.11 JUVENILE DETENTION CENTER (CALEA 44.2.2 d)

In order to expedite and properly screen individuals being placed in the Juvenile Detention Center, the Charleston County Sheriff's Office has established intake procedures. All personnel will adhere to these procedures whenever it is necessary to incarcerate a juvenile in the Detention Center unless the detainee is in need of emergency medical treatment. If medical assistance is necessary, the officer will abide by Departmental policy governing such actions and responses (*General Order 31 – Injured Person in Custody*)

The following intake procedure will be in effect at the Juvenile Detention Center under normal circumstances:

1. Once it has been determined that a juvenile is to be confined in the Detention Center and prior to transporting the juvenile, the officer will notify the Detention Center that the juvenile is to be transported to them. This will allow the Duty Officer to notify representatives of the Department of Youth Services who will have a counselor dispatched to meet the officer and juvenile. The County Jail provides for sight and sound separation of juvenile and adult offenders.
2. On arrival at the Detention Center, the officer will participate in the intake interview with the representative from the Department of Youth Services so that a proper disposition may be made of the juvenile subject. The officer must be prepared to outline the incidents surrounding the arrest and charges for the Department of Youth Services representative. Under no circumstances will the officer fail to participate in and cooperate with the Department of Youth Services intake conference.
3. Estimates by the Department of Youth Services indicate that there will be approximately a one (1) hour delay from the time of notification of their agency and the arrival of the caseworker. Much of this hour will be taken up by transportation time from Charleston Police Department Headquarters to the detention facility. Officers shall inform their supervisor of any excessive delay in the Department of Youth Services response that causes excessive down time for the transporting unit.

40.12 JUVENILE EMERGENCY PROTECTIVE CUSTODY (CALEA 44.2.2 b)

Officers are mandated to report if they have reason to believe that a juvenile's physical or mental health or welfare has

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been or may be adversely affected by abuse or neglect. This report must be made and information forwarded to Department of Social Services (DSS).

Emergency Protective Custody (EPC) means the right to physical custody of a juvenile for a temporary period of no more than twenty-four (24) hours, that may be extended an additional twenty-four (24) hours for investigative purposes, to protect the juvenile from substantial and imminent danger. An EPC may only be initiated by a law enforcement officer pursuant to this policy. This does not preclude some informal consultation with DSS. Once an EPC action is taken, if it has not already been performed, the officer must immediately contact DSS to arrange custodial transfer to their agency. Ultimately, the protection of the juvenile and the juvenile's constitutional rights should be paramount.

Officers may interview the juvenile at any suitable location, to include school, and if the case indicates such, the parents do not have to consent or be notified prior to conducting the interview.

A law enforcement officer may take emergency protective custody of a juvenile without the consent of the juvenile's parents or guardians if:

1. The officer has probable cause to believe that, by reason of abuse or neglect, the juvenile's life, health, or physical safety is in substantial and imminent danger and there is not time to apply for a court order pursuant to State Code.
2. The juvenile's parent or guardians have been arrested, the juvenile requires adult protection or supervision, and the parents or guardians do not consent in writing to another person taking physical custody of the juvenile; and/or
3. The juvenile has become lost accidentally, the juvenile is in need of adult protection or supervision, and a search by law enforcement has not located the parents or guardians.

Law enforcement officers may take emergency protective custody at any time in any location

In general, an officer is immune from civil or criminal liability so long as:

1. The officer was acting within the scope of official duties
2. The officer acted in good faith; and
3. The officer was not reckless, willful, wanton, or grossly negligent.

If the juvenile needs emergency medical care, the officer will transport the juvenile to their team's assigned hospital or, if deemed necessary by the officer, supervisor and/or DSS will notify EMS to respond for treatment and/or transportation.

Emergency medical care may be provided to the juvenile without consent

A physician or hospital may hold a juvenile for up to twenty (24) hours if they believe the juvenile has been abused or neglected and have made a report to a law enforcement agency and/or DSS. The hospital or doctor may detain the juvenile until law enforcement can arrive to determine whether or not the juvenile should be taken into emergency protective custody.

At any time that the above-mentioned actions are taken, the officer or supervisor must use all available resources to notify the parents or guardian of the juvenile. Notification will include the information leading to the EPC, DSS and departmental contact information, and OCA.

Officer may not remove juvenile from a home if the only call-for-service is domestic violence, unless there are other indications of threat or harm. Without such indications the officer will only be authorized to report such actions to DSS.

When a juvenile is taken into emergency protective custody due to excessive corporal punishment and the only injury to the juvenile is external lesions or minor bruises, the officer cannot remove other juvenile in the home unless there are other indications of threat or harm.

40.13 ANNUAL PROGRAM REVIEW (CALEA 44.1.2; 44.1.3)

The Department's juvenile program will be continually reviewed and encourage commenting by other elements within the juvenile justice system and private organizations.

The Department will review and evaluate all existing juvenile prevention programs and enforcement activities considering both the quantitative and qualitative elements of the programs on an annual basis. This annual review and written evaluation will be approved by the Chief of Police. The Commander of Community Outreach will complete the review with input from the Department. The evaluation should assist decisionmakers in whether specific programs should function as is, be modified or be discontinued.