



GENERAL ORDERS: Chapter 11

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Juvenile Diversion, Custody and Welfare

I. Purpose

The purpose of this policy is to provide guidelines for officers when interacting with persons who are confirmed to be juveniles in enforcement and custody situations with the understanding that the majority of those offenders are likely candidates for diversion.

II. Policy

Officers, with discretion and whenever reasonable and justified, may take measures necessary to effect positive change in juvenile offenders that are consistent with policy and applicable laws, while promoting the safety and security interests of the community, the juvenile and the juvenile's family.

Taking a person known to be a juvenile into custody should be avoided whenever possible. If custody is necessary, it should involve the use of non-secure custody when appropriate under the circumstances. Taking a juvenile into secure custody should be used only when no other alternatives exist or as required by law.

III. Definitions

Juvenile: Any person under the age of 18 years. May also be referred to as a child or youth.

Diversion: Intervention strategies that redirect juveniles away from formal processing in the juvenile court system, while still holding them accountable for their actions.

Second Chance Program: The department's juvenile diversion program administered by the Youth Services Coordinator (YSC) within the Neighborhood Based Services Delivery Section. The YSC is the case manager that verifies eligibility and assigns juveniles to an appropriate pre-arrest diversion tier.

Non-secure custody: A condition under which a juvenile's freedom of movement is controlled by officers, such as but not limited to, when the juvenile is held in a patrol or other vehicle, or an unlocked multipurpose room, such as the report-writing room or an office, only long enough to complete identification, investigation and processing and then released to a parent, guardian or custodian or transferred to a juvenile facility or court and remains under continual visual observation until released. This is not considered custody for purposes of fingerprinting under [Iowa Code Section 232.148](#).

Secure custody: A condition in which a juvenile is physically detained or confined in a locked room or cell that is designated or used for the specific purpose of securely detaining persons who are in custody, or when the juvenile is physically secured to a stationary restraint system.

IV. Procedures

A. General

1. The investigation of offenses by juveniles are generally the same as adult related offenses. The investigation must be as thoroughly and carefully prepared as an adult criminal case. The degree of proof required is no less for juveniles than for adults.
 2. Officers shall be aware that the rights of a juvenile are identical to those of an adult.
 3. The parent, guardian, or custodian of the juvenile shall be notified of all the facts pertaining to any unlawful behavior of the juvenile and their cooperative involvement in the investigation shall be solicited.
 4. A juvenile arrested and formally charged for any public offense greater than a simple misdemeanor must be fingerprinted and may be photographed in accordance with [Iowa Code Section 232.148](#).
 - a. The juvenile may be fingerprinted at the Criminal Courts Building, 110 6th Ave, Room 0101, 0730 – 1530 hours M-F (call ahead number: 515-286-3813) or the Polk County Jail anytime.
- B. Enforcement options
1. Officers engaging with juveniles in enforcement roles shall use reasonable discretion in deciding on appropriate actions. Options that may be considered include:
 - a. Release without further action
 - b. Counseling to caution the juvenile regarding the consequences of their actions
 - c. Notification and release to a parent, guardian, or custodian
 - d. Use of an authorized diversion program, such as the Second Chance Program
 - e. Issuance of a traffic citation
 - f. Arrest under non-secure custody by way of a delayed referral to juvenile court
 - g. Arrest under secure custody by way of a direct referral
- C. Enforcement criteria
1. The following general guidelines may be used when determining what appropriate enforcement and related actions may be taken when addressing incidents involving juveniles.
 - a. In situations where no property damage or personal injury is involved, but intervention is necessary to avoid potential future delinquent actions and when the juvenile has had limited or no known prior enforcement contacts with law enforcement, the following may be appropriate:
 - (1) Release without further action or following informal counseling
 - (2) Referral to the Second Chance Program
 - (3) Notification and release to a parent, guardian, or custodian
 - b. In all other situations, officers should use the below criteria in determining appropriate enforcement, based on their judgment and experience:
 - (1) The age of the juvenile
 - (2) The nature and severity of the offense
 - (3) Prior known enforcement contact with officers
 - (4) The juvenile's cooperation or lack thereof
 - (5) A demonstrated need of professional assistance as determined by the juvenile's physical and emotional characteristics
 - (6) The rights of the victim and the possibility of recidivism on the part of the juvenile offender.
 - c. When a juvenile commits a delinquent act that would be classified as a felony if the act had been committed by an adult, they should be referred to juvenile court unless an automatic waiver to adult court applies as in Section V.
 2. Officers may elect to:
 - a. Transport the juvenile home or direct them to return home, when appropriate
 - b. Make contact with the juvenile's parent, guardian or custodian to provide them with information and counseling on the juvenile's actions
 - c. Detain the juvenile until they are released to a parent, guardian or custodian

- d. Refer the juvenile to the Second Chance Program or other authorized diversion program
- e. File or refer charges against the juvenile when they have committed a serious offense

V. Court jurisdiction

A. Waiver to adult court

1. Juveniles who are 16 or 17 years of age and are charged with the following crimes, are excluded from the jurisdiction of Juvenile Court pursuant to Iowa Code 232.8(1)(c) and waived automatically to adult court. A consultation with the county attorney should generally occur in these cases.
 - a. Murder
 - (1) 1st degree – 707.2
 - (2) 2nd degree – 707.3
 - (3) Voluntary Manslaughter – 707.4
 - (4) Attempted Murder – 707.11
 - b. Assault
 - (1) Assault while participating in a felony – 708.3
 - (2) Willful injury, with serious injury – 708.4
 - (3) Intimidation with a dangerous weapon – 708.6
 - c. Sexual abuse
 - (1) 1st degree – 709.2
 - (2) 2nd degree – 709.3
 - (3) 3rd degree – 709.4
 - (4) Assault with intent to commit sex abuse, with injury – 709.11
 - d. Kidnapping
 - (1) 1st degree – 710.2
 - (2) 2nd degree – 710.3
 - (3) 3rd degree – 710.4
 - e. Human trafficking – 710A.2
 - f. Robbery
 - (1) 1st degree – 711.2
 - (2) 2nd degree – 711.3
 - g. Arson
 - (1) 1st degree – 712.2
 - h. Burglary
 - (1) 1st degree – 713.3
 - i. Possession of weapons
 - (1) Possession of an offensive weapon – 724.3
 - (2) Possession of a firearm on school property – 724.4B
 - (3) Trafficking in stolen weapons – 724.16A
 - (4) Giving false information when acquiring a firearm – 724.21
 - (5) Making firearm available to a minor (2nd Offense) – 724.22
 - (6) Felon possessing a firearm – 724.26
 - (7) Reckless use of a firearm – 724.30
 - j. Felony child endangerment – 726.6
 - k. Criminal gang participation with a weapon – 723A.2
 - l. Possession with intent to deliver while armed with
 - (1) Firearm – 124.401(1)(e)
 - (2) Offensive weapon – 124.401(1)(f)

B. Arrest procedures

1. If a 16 or 17-year old is arrested and charged with a crime that has an automatic waiver to adult court, they should be taken:
 - a. During normal business hours, to the Polk County courthouse for fingerprinting and an initial appearance before a judge.
 - b. Outside of normal business hours, to the Polk County jail for fingerprinting.
 - (1) Following fingerprinting, the juvenile shall be transported to Juvenile Central Intake (JCI) for detention until the next regularly scheduled initial appearance at the courthouse.
- C. Exclusion from jurisdiction of juvenile court
 1. Minor traffic violations of provisions of Iowa Code Chapter 321 which would be simple misdemeanors if committed by an adult.
 2. Other simple misdemeanor violations involving tobacco and vaping use, snowmobiles and ATV's, water navigation, and hunting and fishing.

VI. Custody considerations

- A. General
 1. When taking a person confirmed to be a juvenile into custody, bodily restraints, such as handcuffs, shall not be used unless the juvenile:
 - a. Physically resists arrest
 - b. Threatens physical violence or has a known history of physical violence
 - c. Is being taken into custody for an act of physical violence
 - d. Presents a risk of injury to themselves, another person or an articulable officer safety risk
 2. Officers shall notify the juvenile's parent, guardian, or custodian when a juvenile is in custody.
 - a. Officers may enlist the services of the Communications Section, JCI, or other responsible parties to fulfill the notification requirement.
 3. Without unnecessary delay, a juvenile who is taken into custody should be released to a parent, guardian or custodian, transported to the police department, or taken to a detention or shelter care facility, unless the juvenile is in need of emergency medical treatment.
 4. A juvenile shall not be placed in detention as a result of an Illegal Possession of Alcohol violation.
 - a. Officers should closely monitor juveniles who are under the influence of alcohol or drugs to determine whether medical treatment is needed.
 5. Juveniles in custody will be held under constant visual supervision and:
 - a. In non-secure custody should not be placed in a holding area with adult suspects.
 - b. In secure custody, shall be sight and sound separated from in-custody adults, unless arrested together as part of a criminal act.

VII. Interviews and Questioning

- A. Custodial
 1. Any child taken into custody for any alleged delinquent act that constitutes a serious or aggravated misdemeanor or a felony, shall have the right to be represented by counsel.
 2. A juvenile Miranda waiver and parental consent form shall be read to the child and signed by both the child and the parent, guardian, or custodian prior to any questioning.
 - a. A child at least 16 years of age may waive their right to counsel only if a good faith effort has been made to notify the child's parent, guardian, or custodian that the child has been taken into custody, the location of the child and the right of the parent, guardian, or custodian to visit and confer with the child.
 - b. A child's right to counsel shall not be waived by any child less than 16 years of age without written consent of the child's parent, guardian, or custodian.

B. Non-custodial

1. Prior to interviewing a juvenile who is not detained or in custody, the juvenile's parent, guardian or custodian should be contacted, if reasonably possible.

VIII. Diversion - Second Chance Program

A. General

1. Officers are strongly encouraged to refer all eligible juveniles to the [Second Chance Program](#) or other authorized diversion program.
2. Juveniles referred on eligible misdemeanor charges do not need to be fingerprinted.

B. Referral eligibility

1. Juveniles between the ages of 10-17 that come into enforcement contact with officers on eligible misdemeanor charges where there is generally no victim injury.
2. Eligible city and state charges:
 - a. Disorderly conduct – 723.4
 - b. Criminal trespass – 716.8(1)
 - c. Interference with official acts (no injury) – 719.1(1)(b)
 - d. Simple assault (no injury) – 708.2(6)
 - e. Theft 5th (no restitution) – 714.2(5)
 - f. Public Intoxication – 123.46
 - g. Minor in possession of alcohol – 123.47(4)(c)
 - h. Possession of drug paraphernalia – 124.414
 - i. Criminal mischief 5th (no restitution) – 716.6 – graffiti or minor damage to school property
 - j. Knife on school grounds (no threats) – 70-78
 - k. Possession of marijuana (no intent) – 124.401(5)
3. A referral to the Second Chance Program does not ensure acceptance into the program.

C. Referral procedures

1. When an officer has detained the juvenile on an eligible charge and no additional follow up is necessary:
 - a. Conspicuously notate the case investigation report "Referred to Second Chance"
 - b. The officer shall make contact with and inform the parent, guardian or custodian that the case will be forwarded to the Youth Services Coordinator (YSC) to determine final eligibility for the Second Chance Program. The juvenile may then be released to a parent, guardian, or custodian when appropriate.
 - (1) Depending on the circumstances and time of day, the guardian or custodian may be a school or Ellipsis if the juvenile is formally placed there.
 - c. If contact cannot be made with a parent, guardian or custodian, the juvenile may be taken to JCI where they will assume responsibility for the contact.
 - (1) JCI shall be informed the juvenile is being referred to the Second Chance Program and that the officer was unable to contact a parent, guardian, or custodian.
2. If the case needs follow up by detectives and a juvenile is identified to the point charges are appropriate, the detective will be responsible for forwarding an eligible case to the YSC to determine eligibility for the Second Chance Program.

IX. Juvenile welfare considerations

A. General

1. In cases where the juvenile's parent, guardian or custodian have failed to provide appropriate care and supervision, officers may contact the Iowa Department of Human Services (DHS) or other protective service for placement options.

- a. In the case of a juvenile who falls under [Iowa Code Chapter 232B](#) - Iowa Indian Child Welfare Act, DHS shall be contacted due to specific tribe notification requirements.
2. Officers may take a juvenile into protective custody if they are a runaway, lost, or endangered. In all such cases, provided it is safe to do so, these juveniles should be held in non-secure custody. Where parents, guardians or custodians cannot be contacted or refuse to accept custody, the officer shall contact DHS for placement.
3. In cases of alleged child abuse, officers shall make appropriate and required notifications, such as notifying DHS, and take immediate action when appropriate to protect the safety and well-being of the juvenile.