



GENERAL ORDER

Loudoun County Sheriff's Office

Chapter: Operations

Section: 411.3

Subject: Investigations

Topic: Juvenile Operations

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I. PURPOSE

The purpose of this General Order is to set forth guidelines for deputies when dealing with juveniles in specific situations.

II. POLICY

When dealing with a juvenile offender, a deputy must use the least coercive methods among reasonable alternatives that are consistent with preserving public safety, order, and individual liberty. This policy ensures the proper procedures are followed when handling juveniles and serves as a guideline for the deputy in determining how to address a particular situation involving juveniles.

The United States Supreme Court has recognized the emotional and developmental differences between adults and juveniles and the implications this has on the conduct of juvenile interviews in general, and interrogations in particular. These differences must be considered when a deputy conducts an interview or interrogation of a juvenile. Deputies shall follow this policy to observe the legal rights of juveniles and to protect against coercion or intimidation during interviews and interrogations of juveniles.

III. RESPONSIBILITIES

A. A portion of the workload of the Sheriff's Office involves dealing with juveniles. Beyond enforcing the law with respect to juvenile offenders, the Sheriff's Office is firmly committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. The Criminal Investigations Division ("CID") Commander has overall responsibility for juvenile operations functions. Included within the functional area of juvenile operations are the following responsibilities:

1. Conducting follow-up investigations of cases involving juvenile offenders
2. Follow-up processing of juvenile arrests
3. Coordinating or preparing court cases involving juveniles
4. Diverting juvenile offenders out of the criminal justice system
5. Designing and implementing programs intended to prevent delinquent and criminal behavior by juveniles

- B. All agency personnel have responsibility for, and will be familiar with, juvenile operations, procedures, and their support.
- C. The School Resource Officer Unit ("SROU") shall be responsible for conducting as many investigations involving juvenile offenders as possible, assisting field deputies in juvenile cases when necessary, and maintaining liaison with other agencies and organizations interested in juvenile matters. The SROU shall also be responsible for the areas of the juvenile functions listed above in paragraph A of this section. The Crime Prevention and D.A.R.E. units, within the Operational Support Division ("OSD"), shall work in conjunction with the SROU to plan and implement programs to prevent delinquent and criminal behavior of juveniles.

These three units shall meet at least once quarterly to ensure coordination between the delinquency, prevention, education programs, and juvenile investigation functions.

IV. PROCEDURES

A. General

- 1. Members of the Loudoun County Sheriff's Office will cooperate with the juvenile justice system and support its policies. Agency policies regarding juvenile operations will be provided to local juvenile court personnel for their review. Their comments and suggestions as to ways LCSO procedures may be improved will be considered.
- 2. All personnel have a responsibility to participate in and support juvenile operations. The Field Operations Division, CID, and OSD shall be aware of the continuing need to closely monitor juvenile situational developments and be aware of services available.
- 3. The CID Division Commander will annually review and evaluate all enforcement and prevention programs relating to juveniles and make appropriate recommendations to the Sheriff who will decide whether specific programs will continue to function in their current form, be modified, or discontinued.
- 4. All personnel shall forward a copy of any pertinent information or report involving a juvenile victim or suspect, along with the arrest report if appropriate, to the SROU.

B. Guidelines for Informal and Formal Handling of Juvenile Cases

- 1. A deputy may handle certain juvenile cases either formally or informally.

2. In making the decision to handle either formally or informally, the deputy must consider the following factors:
 - a. The seriousness of the offense.
 - i. This includes status offenses, which are activities that are deemed offenses when committed by juveniles because of their age at the time of the activity.
 - b. Prior record of the juvenile.
 - c. The age of the juvenile; for suspects under 12 years of age, with supervisor approval, the Commonwealth's Attorney's Office should be contacted prior to obtaining petitions to ascertain their intentions regarding prosecution.
 - d. The cooperation and attitude of all parties (juvenile, parent, victim), and the possibility of the offense being repeated.
 - e. The degree of wrongful intent, violence, premeditation, and knowledge of violation.
 - f. The likelihood that the juvenile and/or parent can be successfully referred to a social service agency.
3. The investigating deputy will complete an agency Incident Based Report ("IBR") regardless of whether the case is handled formally or informally.
4. When dealing with juvenile offenders deputies shall, when applicable, use reasonable alternatives to arrest, and include at a minimum, provisions for the following:
 - a. Outright release to parent or guardian, with no further action taken.
 - b. Issuing a summons to the juvenile offender in lieu of taking the juvenile into physical custody.
 - c. Referral to the Juvenile Court Services Unit ("JCSU").

C. Informal Handling

1. Informal handling includes the deputies' utilization of:
 - a. Warning and release to a parent or guardian.
 - b. Requiring the parents to pick up the juvenile.

- c. Taking the juvenile to his/her home and informing the parents of the reasons for the encounter.
- 2. When handling a case informally, deputies should keep in mind the objective of the juvenile justice system is to rehabilitate rather than punish. The decision to handle on a formal or informal basis should be made within a reasonable amount of time.
- 3. When handling juveniles informally, the deputy should respect the juvenile's right to privacy. Any information gained should be provided to others only on a "need to know" basis.
- 4. When a deputy encounters a victim/complainant who demands to bring a juvenile before the juvenile court system despite the deputy's belief the matter should be handled informally, a juvenile intake officer at the JCSU may be contacted. Additionally, an official copy of the deputy's approved IBR report shall be dropped off at the JCSU in a timely manner for review.
- 5. Even when handled informally, a juvenile has all the constitutional rights that an adult would have in the same situation.

D. Formal Handling

- 1. Formal handling occurs when the juvenile is taken before the Juvenile and Domestic Relations District Court or an intake officer for disposition.
- 2. Generally, the following situations will require formal handling of juveniles:
 - a. Delinquent acts that, if committed by an adult, would constitute a felony crime against a person. felony property offenses (e.g., burglary, grand larceny, destruction) may be handled informally by the JCSU.
 - b. Delinquent acts involving weapons.
 - c. Delinquent acts involving aggravated assaults and batteries.
 - d. Delinquent acts committed by youth on probation or with a case pending.
 - e. Delinquent acts that are repeated.

- f. When parental supervision or diversion programs have proved ineffective.
- g. Narcotics violations
- h. Alcohol violations
- i. Tobacco violations

E. Taking Juveniles into Custody

- 1. In accordance with Virginia Code Section 16.1-246, no juvenile may be taken into immediate custody except:
 - a. With a detention order issued by a judge, intake officer or clerk when authorized by a judge, or with a warrant issued by a magistrate.
 - b. When a juvenile is alleged to need services and:
 - i. There is clear and substantial danger to the juvenile's life or health or;
 - ii. Custody is necessary to ensure a juvenile's appearance before the court.
 - c. When, in the presence of the arresting deputy, a juvenile commits a crime, and the deputy believes custody is necessary for protection of the public interest.
 - d. When a deputy has probable cause to believe a juvenile has committed an offense that, if committed by an adult, would be a felony.
 - e. When a child has committed a misdemeanor offense involving (i) shoplifting in violation of § 18.2-103, (ii) assault and battery or (iii) carrying a weapon on school property in violation of § 18.2-308.1 and, although the offense was not committed in the presence of the officer who makes the arrest, the arrest is based on probable cause on reasonable complaint of a person who observed the alleged offense.
 - f. When a deputy has probable cause to believe a juvenile has either run away from home or is without adult supervision at night and in circumstances when a deputy reasonably concludes there is clear

and substantial danger to the juvenile's welfare.

- g. The juvenile is believed to need inpatient treatment for a mental illness episode (Va. Code Ann. § 16.1-340).
- 2. When the Juvenile and Domestic Relations District Court is open, a juvenile taken into custody shall be transported to the JCSU without unnecessary delay.
- 3. The deputy should contact the juvenile intake officer on call for assistance in the disposition of a juvenile taken into custody. When the Juvenile and Domestic Relations District Court is closed, the deputy may release the juvenile to a parent or guardian depending on the circumstances of the case.
- 4. Timely notification of parents or guardians is required in every case where a juvenile is taken into custody to inform them of the circumstances and/or to pick up the juvenile.
- 5. If it is necessary to take a juvenile into custody, it should be accomplished with the least possible embarrassment to the juvenile and his or her family. The juvenile should be transported to the processing facility with the least possible delay unless the juvenile needs emergency medical treatment. When stopping juveniles, the detention should be for the shortest time that will permit the purpose of the stop to be accomplished. The decision to handle informally or formally must be made in a reasonable amount of time.
- 6. In no case shall a juvenile known or believed to be under the age of 15 years be transported in a prisoner transport van. No juvenile shall be transported with adults suspected of, or charged with, any criminal act(s).
- 7. Deputies who take juveniles into custody must ensure their constitutional rights are protected.
- 8. Just prior to transporting a juvenile, the deputy must notify the Emergency Communications Center ("ECC") of the transport, the beginning mileage, and destination. Once the deputy has arrived at the destination, he/she will advise ECC of the ending mileage.

F. Interviewing Juveniles

- 1. In accordance with the Code of Virginia §16.1-247.1:
 - a. Prior to any custodial interview of juvenile by a deputy who has arrested such juvenile pursuant to subsection C, C1, or D of § 16.1-246, the juvenile's parent, guardian, or legal custodian shall be notified of his/her arrest and the juvenile shall have contact with his/her parent, guardian,

or legal custodian. The notification and contact required by this subsection may be in person, electronically, by telephone, or by video conference.

- b. Notwithstanding the provisions set forth in subsection A of § 16.1-247.1a custodial interview may be conducted if (i) the juvenile's parent, guardian, or legal custodian is a codefendant in the alleged offense; (ii) the juvenile's parent, guardian, or legal custodian has been arrested for, has been charged with, or is being investigated for a crime against the juvenile; (iii) if, after every reasonable effort has been made to comply with subsection A of § 16.1-247.1, the juvenile's parent, guardian, or legal custodian cannot be located or refuses contact with the juvenile; or (iv) if the deputy conducting the custodial interview reasonably believes the information sought is necessary to protect life, limb, or property from an imminent danger and the deputy's questions are limited to those that are reasonably necessary to obtain such information.
2. When questioning juvenile in custody, the same rules and procedures used for an adult shall be followed.
3. No juvenile can be compelled to answer any questions that may tend to incriminate him or her. Miranda warnings are required and shall be administered prior to custodial questioning of any juvenile. Case law suggests there is an increased expectation when providing a Miranda warning that juveniles being questioned fully understand their rights. Simply reading a Miranda warning and asking if the warning is understood may not meet this increased standard.
4. Age-appropriate Miranda warnings should be used where information suggests the juvenile may not understand. The following are suggested:
 - a. You have the right to remain silent. That means you do not have to say anything.
 - b. Anything you say can be used against you in court.
 - c. You have the right to get help from a lawyer right now.
 - d. If you cannot pay a lawyer, the court will get you one for free.
 - e. Do you want to have a lawyer with you while you talk to me?
 - f. You have the right to have one or both of your parents or a legal guardian here.

- g. Do you want your mother, father, or the person who takes care of you to be here while you talk to me?
 - h. You have the right to stop this interview at any time.
 - i. Do you want to talk to me?
- 5. Deputies should keep in mind that when questioning juveniles, they should not prolong the interview period any longer than is needed to complete their investigation. If possible, only one deputy should handle the questioning to lessen the chance of the juvenile feeling intimidated or pressured.
- 6. In many cases, juveniles may not understand what is happening to them during the questioning process. The deputy should explain to the juvenile what to expect as far as procedures are concerned and how the court system operates.
- 7. Deputies should tailor questions to the juvenile's age, maturity, level of education, and mental ability. The following guidelines should be followed as appropriate considering these factors.
 - a. Avoid police or legal jargon.
 - b. Use names and places instead of pronouns.
 - c. Use short, simple words and sentences.
 - d. Avoid questions with multiple parts.
 - e. Connect time events to concrete events in the juvenile's life.
 - f. Avoid "yes/no" questions, instead use questions that elicit a narrative response.
 - g. Avoid leading questions and subtle coercion.
 - h. Do not make promises or threats.
 - i. Avoid creating a story to prompt the juvenile to tell his or her story.
 - j. Avoid completing the juvenile's sentences.
 - k. Avoid jumping ahead in the conversation.
 - l. Double-check responses by asking questions that elicit the information in a different way.

G. Written Citations/Summonses

A deputy shall use the same Virginia Uniform Summons form for juveniles as is used for an adult in the following situations only:

1. A violation of traffic laws, including bicycles, hitchhiking, and other pedestrian offenses
2. A violation of county ordinances
3. A violation of curfew laws
4. A violation of animal control or littering laws
5. A violation of game and fish laws
 - a. In accordance with the Code of Virginia § 16.1-260(H), the filing of a juvenile petition shall not be necessary in the case of violations of traffic laws, including offenses involving bicycles, hitchhiking, and other pedestrian offenses, game and fish laws, or a violation of an ordinance establishing curfew violations, animal control violations, or littering violations. Additionally, a deputy investigating a motor vehicle crash may, at the scene of the crash or at any other location where a juvenile who is involved in such a crash may be located, proceed on a summons in lieu of filing a petition.

H. Social Agencies

1. The Loudoun County Sheriff's Office encourages the utilization and support of social services agencies to divert juveniles from the juvenile justice system. Policies and procedures relating to juveniles are developed using any positive feedback/input from these supportive agencies. These agencies include, but are not limited to:
 - a. Loudoun County Health Department
 - b. Loudoun County Department of Mental Health Substance Abuse and Developmental Services ("MHSADS")
 - c. Department of Family Services, Child Protective Services
 - d. Alcoholics Anonymous
 - e. Medical and psychological facilities

- f. Juvenile Intake and Court Services Unit
 - g. Church groups
 - h. Community Criminal Justice Board ("CCJB")
 - 2. When investigating cases involving juveniles, and if appropriate, the deputy may recommend the parents or guardians attempt diversion for the juvenile to one of the social service agencies after it has been determined that one of these agency's services may be of more benefit in correcting the situation than utilizing formal handling through the juvenile court system. Similarly, in the formal handling of a juvenile, the deputy may recommend appropriate service agency programs.
- I. Juvenile Crime Prevention
- 1. School Liaison
 - a. The Loudoun County Sheriff's Office, through the SROU, D.A.R.E Unit, and Crime Prevention Unit, will actively encourage and participate in crime prevention and awareness programs in the school system.
 - b. The School Resource Officer Unit, D.A.R.E Unit, and Crime Prevention Unit will maintain liaison with the schools in responding to requests for programs related to crime prevention and control of delinquent and criminal behavior by juveniles. Agency personnel act as resources concerning delinquency prevention, provide guidance on ethical issues in a classroom setting, provide individual student counseling, and explain the law enforcement role in the student's society.

All deputies are encouraged to interact with and develop a cooperative relationship with students, and to make suggestions on how the Sheriff's Office and deputies as individuals can maintain and control criminal behavior in juveniles.
 - c. While in school or at school activities, necessary communication with juveniles may be initiated by contacting school administrative personnel at the school office prior to dealing with youth, if appropriate.
 - 2. Recreational Juvenile Programs
 - a. The Sheriff's Office strongly supports and encourages participation in juvenile activity programs of the Loudoun County Department of

Parks, Recreation and Community Services and all other community groups sponsoring such programs.

- b. Deputies should encourage juveniles to participate in the various programs offered to develop an attitude of cooperation, and to occupy idle time with constructive activities.
- c. Deputies are encouraged to become involved with organized juvenile activities being implemented in the county and to individually organize recreation programs that may benefit our juveniles.

J. Fingerprints and Photographs of Juveniles

- 1. Section 16.1-299 of the Code of Virginia provides that fingerprints and photographs shall be taken of any juveniles:
 - a. Taken into custody and charged with a delinquent act which, if committed by an adult, would be required to be reported to the Central Criminal Records Exchange, including:

Treason; any felony; any offense punishable as a misdemeanor under Title 54.1; any Class I or Class II misdemeanor except for trespass. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2.
 - b. Juveniles charged with a violent felony, including malicious wounding, use of a firearm in committing a felony, attempted poisoning, extortion, robbery, rape, Serious or Habitual Offender Comprehensive Action Program (SHOCAP), forcible sodomy, inanimate object sexual penetration, grand larceny, burglary, conspiracies to commit felonies, arson, or murder.
 - c. Regardless of age or offense, if a juvenile is taken into custody for and charged with a violation of law and a deputy has determined there is probable cause to believe that latent fingerprints found during the investigation of an offense are those of such juvenile.
- 2. Other physical samples may be taken from a juvenile for identification purposes only after the deputy, with supervisor approval, has conferred with the Juvenile Court and/or the Commonwealth Attorney for advice and assistance as to the legality and proper procedure for obtaining such samples. Necessary samples might include but are not limited to hair, blood, urine or other body fluids, nails, breath, stomach contents, and handwriting.

3. Dissemination/Retention of Fingerprints and Photographs
 - a. The Records Supervisor shall be responsible for agency compliance with Virginia Code requirements on dissemination and retention of juvenile records, including fingerprints and photographs.
 - b. Fingerprint cards and photographs will be destroyed when:
 1. No petition is filed against a juvenile whose fingerprints or photographs have been taken in connection with an alleged violation of law.
 2. A juvenile is found not guilty by the Juvenile and Domestic Relations District Court or Circuit Court of a charge of delinquency.
 2. A juvenile less than 14 years of age who is charged with a violent juvenile felony or a crime ancillary thereto, or
 3. Any other case resulting in a disposition for which fingerprints are not required.
 - c. Fingerprint cards and photographs may be retained when the court finds that a juvenile 14 years of age or older has committed a delinquent act.
 - d. Fingerprints and photographs may be retained, and copies sent to the Central Criminal Records Exchange (CCRE) when:
 - i. A juvenile 15 years of age or older is certified by the Circuit Court as an adult and is found guilty of the offense charged.
 - ii. A juvenile 14 years of age or older is found guilty of murder, malicious wounding, aggravated malicious wounding, felonious injury by mob, abduction, felonious poisoning, adulteration of products, robbery, carjacking; rape, forcible sodomy, or object sexual penetration in a Juvenile Court and is adjudicated delinquent.
 - iii. Juvenile fingerprint cards and photographs, authorized for retention, will be separately and securely maintained. Access to these records will be restricted to official use and may be viewed by the public only on the authorization of a court order.

K. Confidentiality of Records/Release of Information

1. All law enforcement agencies shall take special precautions to ensure that law enforcement records concerning a juvenile are protected against disclosure to any unauthorized person pursuant to §16.1-301 of the Code of Virginia.
2. Pursuant to §16.1-301 subsection B of the Code of Virginia, the Sheriff or his/her designee shall disclose, for the protection of the juvenile, his fellow students and school personnel, to the school principal that a juvenile has been charged with or may disclose when a juvenile is a suspect in a violent juvenile felony, a violation of any of the provisions of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, a violation of law involving any weapon as described in subsection A of § 18.2-308, or a violation of law as described in subsection G of § 16.1-260.
2. Law enforcement officers may release, upon request to one another and to other local, state, or federal law enforcement officers, current information on juvenile arrests. The information exchanged shall be used by the receiving agency for current investigation purposes only and shall not result in the creation of new files or records on individual juveniles on the part of the receiving agency.

L. Expungement of Juvenile Records

Juvenile records shall be expunged in accordance with specific orders of the Court in compliance with §16.1-299 of the Code of Virginia.