

### 313 **JUVENILE PROCEDURES-GENERAL**

- I. **DISCUSSION:** The circuit court has jurisdiction over cases in which a juvenile is alleged to have committed a violation of law, felony traffic offense, or is dependent. A criminal report affidavit will be utilized as the charging instrument in these circuit court cases.

The county court has jurisdiction over all traffic cases except those punishable as felonies. The traffic citation will be utilized as the charging instrument in these county court cases.

Florida State Statutes chapters 39, 984 and 985 govern the handling and treatment of juveniles. See SOP 313.6 for Child Custody. Among the many provisions of chapter 39 is the option which allows police officers to deliver a juvenile alleged to be dependent to Department of Children and Families (DCF). Juveniles alleged to be delinquent, who meet the criteria for detention may be released to the Juvenile Assessment Center (JAC). Juveniles alleged to be dependent will not be released to the JAC, except in the case of out-of-state missing persons and out-of-state runaways. Any transportation required after delivery of the juvenile to the JAC is a responsibility of the screening officer (e.g., return trip to home, placement in a shelter). Any juvenile requiring medical treatment will be treated prior to delivery to the JAC. If, while being detained at the JAC, the juvenile suffers a medical emergency that requires transportation to a local hospital, the Tampa Police Department (TPD) will aid, as outlined in SOP 313.5.

DCF is responsible for virtually all state sponsored health and social service programs for juveniles in Florida. Included among those responsibilities are the protection of dependent juveniles, including the provision of emergency and long-term living arrangements; and providing services for status offenders and their families.

The Florida Department of Juvenile Justice (DJJ) is responsible for the planning, development, and coordination of a statewide comprehensive youth services program for the prevention, control, and treatment of juvenile delinquency.

In view of the statutory responsibilities of the DCF and the DJJ, it is the intent of this department to cooperate with both agencies to accomplish the purposes of the Juvenile Justice Act. All personnel share the responsibility of furthering department goals with respect to juveniles, both criminal and non-criminal. A Memorandum of Understanding (MOU) has been entered between local agencies and DCF Child Protection Investigations Division (CPID) for the purpose of promoting cooperation between the jurisdictional law enforcement agencies within Hillsborough County and CPID when conducting respective criminal and child protective investigations. In addition, a MOU has been entered multiple agencies in Hillsborough County to coordinate services and support for children through a Multi-Disciplinary Team with the Children's Justice Center – Children's Advocacy Center (CAC).

The DJJ maintains a record system which includes the names of all juveniles that have been referred to their agency from any source. Information is available to all officers by calling detention screening at the JAC.

## II. DEFINITIONS:

- A. Abandoned: a situation in which a parent or legal custodian, or in the absence of a parent or legal custodian, the person responsible for the child's welfare, who while being able, makes no provisions for the juvenile's support and makes no effort to communicate with the juvenile for a period of time sufficient to indicate a willful rejection of parental obligations. §984.03
- B. Abuse/Child Abuse: For purposes of identifying whether a child is in need of services, abuse is any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the juvenile's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a juvenile by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the juvenile. §984.03.

The criminal definition of "child abuse" means the intentional infliction of physical or mental injury upon a juvenile; n intentional act that reasonably could be expected to result in physical or mental injury to a juvenile; or active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or mental injury to juvenile. §827.03(1)(b)

- C. Child or Juvenile: any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family needing services; or any married or unmarried person who is charged with violation of the law occurring prior to the time that person reached the age of eighteen. §984.03
- D. Child in Need of Services (CINS)/Family in Need of Services (FINS): a juvenile for whom there is no pending departmental investigation in an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the juvenile is delinquent; or no current supervision by DJJ or DCF for adjudication of delinquency or dependency. The court must also find that the juvenile:
1. Persistently runs away from his or her parents or legal custodians despite reasonable efforts of the juvenile, parents or legal custodians, and appropriate agencies to remedy the condition contributing to the behavior. Reasonable efforts includes voluntary participation by the juvenile's parents or legal custodians and the child in family mediation, services, and treatment offered by DJJ or DCF;
  2. Is habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to FS §1003.26 and 1003.27, through volunteer participation of the juvenile's parents or legal custodians and by the child and family mediation, services, and treatment offered by DJJ or DCF; or

3. Persistently disobeys the reasonable and lawful demands of the juvenile's parents and legal custodians and is beyond their control despite efforts by the juvenile's parents or legal custodians and the appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good-faith participation in family or individual counseling. §984.03
- E. Delinquent Act: See Violation of the Law.
- F. Dependent Child/Child Who is Found to be Dependent: a juvenile who has been abandoned, abused, or neglected by his or her parents or other custodians; is suffering from illness or injury, or is in immediate danger from his or her surroundings and that his or her removal is necessary to protect the juvenile. A "child who is found to be dependent" means the court has made the determination that the juvenile is dependent. §39.01(15)
- G. Detention Screening: a service provided by JAC for the processing of juveniles taken into custody for delinquent act that meets the detention criteria established in FS §985.255. The facility is open on a 24-hour basis.
- H. Diversion Program: under §943.0582, means one of the following:
1. Pre-arrest delinquency citation program (JAAP), §985.12;
  2. Post-arrest diversion programs, §985.125;
  3. Neighborhood Restorative Justice Center, §985.125;
  4. Community Arbitration, §985.16; or
  5. SAO referral to a diversionary, pretrial intervention, arbitration, mediation program, or some other treatment or care program, §943.0582.
- I. Forcible Felony: for the purposes of this policy, it will be defined as: murder; manslaughter; sexual battery; carjacking; home invasion robbery; robbery; any burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against an individual. §776.08
- J. Neglect/Neglect of a Child: for purposes of determining a child who is in need of services means when a parent or other legal custodian, or in the absence of a parent or legal custodian, the person responsible for the juvenile's welfare, deprives a juvenile of, or allows a juvenile to be deprived of, necessary food, clothing, shelter, or medical treatment, or allows a juvenile to live in an environment when such deprivation or environment causes the juvenile's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. §984.03

The criminal definition of “neglect of a child” means a caregiver’s failure or omission to provide a juvenile with the care, supervision, and services necessary to maintain the juvenile’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the juvenile; or caregiver’s failure to make reasonable efforts to protect the juvenile from abuse, neglect, or exploitation by another person. §827.03(1)(e)

- K. Responsible Adult: a person deemed capable of providing supervision and care for a juvenile when the juvenile’s parents or legal custodian are unavailable, unwilling, or unable to do so.
- L. Taken into Custody: the status of a juvenile immediately when temporary physical control over the juvenile is attained by person authorized by law, pending the juvenile’s release, detention, placement, or disposition as authorized by law. §984.03
- M. Violation of Law or Delinquent Act: a violation of law of the United States or any other state, which is a misdemeanor (to include criminal traffic violations) or a felony, or a violation of a county or municipal ordinance punishable by incarceration if the violation were committed by an adult. §984.03

### III. PROCEDURE:

#### A. Alternatives to Incarceration

- 1. Officers are encouraged to use discretion and diversionary program alternatives to avoid placing juveniles into the traditional juvenile justice system if it is possible to modify delinquent behavior through parental control or other participation in community-based alternatives.
- 2. The following factors should always be considered when evaluating whether to exercise discretionary or diversionary options:
  - a. Age of juvenile;
  - b. Whether the juvenile has had previous contact with the juvenile justice system;
  - c. Nature and severity of the charges;
  - d. Degree of parental control and ability to supervise;
  - e. The probability the juvenile will make an appearance in court to answer charges; and

- f. Whether the juvenile meets the criteria for the Pre-Arrest Juvenile Delinquency Program under FS §985.12 operated in the 13th Judicial Circuit as the Juvenile Arrest Avoidance Program (See SOP 313.4).

B. Discretionary Alternatives

1. Officers are afforded the use of discretion with respect to charging suspects, whether juvenile or adult, whenever they are conducting criminal investigations and may make an elective decision, many times in concert with the complainant and/or victim, concerning the need to physically arrest suspects and file formal charges.
2. There are numerous criteria which must be taken into consideration whenever conducting an investigation which may culminate in the physical arrest of a juvenile and/or referral of charges to the State Attorney's Office (SAO). An officer may exercise one, or a combination of, the many discretionary options, which are typically available in such situations. Among the more commonly available options are:
  - a. In minor cases, electing not to file charges and effecting the immediate release accompanied by a verbal warning to the juvenile as to the possible consequences of the present violation and continuing delinquent behavior.
  - b. Exercising temporary custody for the purpose of returning juveniles directly to a parent, guardian, or legal custodian, making responsible persons aware of potential problems and arranging for corrective action, whether charges will be filed or not, is usually the purpose of taking either such action.

C. Other Alternatives

1. When a juvenile commits a misdemeanor as outlined in SOP 313.4, issue the juvenile a Pre-Arrest Delinquency Citation under the Juvenile Arrest Avoidance Program.
  - a. Upon issuing a prearrest delinquency citation program notice, the officer shall send a copy of the prearrest delinquency citation program notice to the parent or guardian of the child and to the victim.
2. When a juvenile commits a non-forcible felony, the officer will have the discretion to reduce the charge to a lesser-included misdemeanor offense and utilize the Juvenile Arrest Avoidance Program.

- a. This will only be utilized for first-time offenders. Repeat offenders, regardless of previous charge, will not be eligible for charge reduction. Offenses involving firearms are not eligible and will not be reduced.
3. Arranging for informal referral to a social service agency or other suitable program, in lieu of filing charges, is aimed at modifying delinquent behaviors. Initiating this procedure should also involve parents or legal guardians.
4. Other diversion programs as approved in 13th Judicial Circuit may be utilized by the SAO post-arrest.

D. Minimum Age for the Arrest of the Juvenile

1. While Florida law does not specifically set a minimum age at which juveniles may be presumed to have formed a criminal intent, certain guidelines have been established with this department. Florida law states, a child younger than seven years of age may not be arrested, charged, or adjudicated delinquent for a delinquent act or violation of law based on an act occurring before he or she reaches seven years of age, unless the violation of law is a forcible felony as defined in FS §776.08. Generally, juveniles under eight years of age will not be arrested and processed for any criminal act. Should a situation arise wherein the investigating officer feels an exception should be made and the child is over the age of seven and/or the offense is a forcible felony, he or she shall, through the proper chain of command, consult with the shift or bureau commander. The shift or bureau commander shall consider the totality of the circumstances and make the decision as to whether an arrest will be made.
2. When a juvenile under the age of eight is a suspect in a criminal offense, the juvenile shall be listed as a suspect in the report and the report shall be referred to the Criminal Investigations Division, Special Victims Unit, for consultation with DJJ and the SAO.
3. When a juvenile under the age of thirteen is a suspect in a misdemeanor and is not eligible for the Juvenile Arrest Avoidance Program, absent exigent circumstances, a misdemeanor complaint will be referred to the SAO. Supervisory approval is required to make a custodial arrest.
4. In the event a non-forcible felony is committed, absent exigent circumstances, a juvenile will be referred to SAO via direct file. Supervisory approval is required to make a custodial arrest for a juvenile between the ages of eight and twelve.

E. Confidentiality of Certain Juvenile Records

1. Generally, juvenile records shall not be open for public disclosure and/or inspection. Records will be made available to other law enforcement agencies, the DCF, the DJJ, SAO, the courts, the juvenile, the parents or legal guardian of the juvenile, the juvenile's attorney, or other persons authorized by court order. Additionally, under FSS 985.04, as to juvenile records created after 1994, there are several other exceptions to the general rule that juvenile records are confidential. Because of the complexity involved, all requests for juvenile records must be handled by the department's Records Section or by Police Records Supervisor.
2. All juvenile traffic records shall be open to inspection and publication in the same manner as adult traffic records.
3. Refer to the media relations policy for additional information on release of information relative to juveniles.

F. Required Reports

1. A report will be originated if:
  - a. A juvenile is alleged to have committed a violation of law, regardless of the disposition of the case;
  - b. The juvenile is alleged to be a victim of child abuse or neglect;
  - c. A juvenile was taken into custody for another jurisdiction;
  - d. A juvenile is alleged to be dependent, except for those cases which the only complaint is truancy or lack of control.
    - 1) Incidents of truancy will be referred directly to the school principal or assistant principal. Complaints received from parents that their juvenile is a persistent truant will be referred directly to the DCF.
    - 2) Complaints received from parents or legal guardians that their juvenile is ungovernable and persistently disobeys reasonable and lawful demands will be referred directly to the DCF
  - e. A juvenile is alleged to be a runaway.
    - 1) This department will accept reports on missing or runaway juveniles from DCF emergency shelters and foster homes. Even though the placement may be court ordered, juveniles

placed in this type of facility are dependent and are not on any level of detention status.

- 2) This department will accept runaway reports from parents, legal guardians, or DCF caseworkers of juveniles who run away while being confined to a hospital. Reports will not be accepted from hospital personnel.
- 3) Nothing contained herein should be construed to mean that this department will not make every reasonable effort to locate missing juveniles. Rather, it is merely intended to outline proper method of entering the missing status of a juvenile into the law enforcement system. Officers will assist a person reporting a missing juvenile in any way practical to see that the person is successful in getting the report properly filed.

f. The juvenile is alleged to have escaped.

- 1) This department will investigate reports of escape from the Hillsborough Juvenile Detention Center - West or any detention facility located within the city limits that's operated by the DJJ. Escape from any secure detention or residential commitment facility defined by FS §985.03(44) by a juvenile held for delinquent acts or violations of law is a third-degree felony under FS §985.721. Any juvenile who escapes while temporarily away from such a facility (e.g., court psychological evaluation, or medical treatment) will be considered to have escaped from the facility
- 2) Dependent juveniles who leave the JAC will not be charged with a crime but will be treated as runaways.

#### G. Custodial Interrogation of Juveniles

1. As required by FS §985.101(3), when a member the Tampa Police Department takes a juvenile into custody for a violation of law and an interrogation occurs, the investigating officer will make reasonable effort to notify the juvenile's parent or legal guardian as soon as practical. These attempts should be documented, in detail (e.g., names, relationships, phone numbers), in the narrative portion of the police report.
2. The parent or guardian cannot make the decision for the juvenile to invoke or waive his/her rights. However, the juvenile will be allowed to confer with them, if requested, pending custodial interrogation. If a parent or guardian cannot be contacted, officers may proceed with the interview.



3. Miranda warnings will be given to any juvenile suspected of committing a violation of law. It is important to remember that juveniles have all the basic rights of adults. While it would be ideal to have a parent present during interrogation of a juvenile, appellate courts have held that admissibility of statements made by juveniles during interrogation depends upon whether:
  - a. The Miranda warning was properly given;
  - b. The juvenile understood the warnings; and
  - c. He or she waived his or her rights and made the statement freely, voluntarily, knowingly, and intelligently.
4. In addition to Miranda, the Pre-Interview Questionnaire for Juveniles Form (TPD 150) should be completed before an interrogation of a juvenile takes place. To simplify this requirement, there is a Pre-Interview Questionnaire for Juveniles template in Versadex. Officers may opt to use the template or form (TPD 150). If an officer elects to use the form, it must be scanned into Versadex as an attachment.
5. Generally, there will be no more than two police officers present during the interrogation of the juvenile who is accused of a violation of the law. If circumstances warrant, a supervisor may authorize additional officers to sit in on the interrogation of a juvenile, but the number of interrogators will be limited to two investigators and the juvenile will not be subject to excessively long interrogations. See Legal Bulletin 16-25.
6. Like adults, juveniles must be given the full Miranda warnings and request to sign a waiver statement if rights are waived. Because the State will have the burden of proving the waiver was knowingly and voluntarily made, special efforts should be made, preferably on tape, to explain the rights of the juvenile in custody.
7. Any arrest of a juvenile must be in compliance with chapter 901 Florida Statutes, (laws of arrest), which applies equally to juvenile and adults.
8. Custodial interrogations of juveniles will not be conducted by detectives at the suspect's school without first obtaining the approval of the principal, assistant principal, or their designee.

#### H. Misdemeanor Complaint Procedure

1. A juvenile will be referred to SAO by means of a misdemeanor complaint when there is sufficient probable cause to support a misdemeanor law

violation, the juvenile does not meet the Juvenile Arrest Avoidance Program's eligibility requirements, and the officer cannot affect an arrest.

2. If a misdemeanor complaint is being referred to the SAO, a reasonable effort should be made to notify the juvenile's parent or legal guardian. These attempts should be documented, in detail (e.g., names, relationships, phone numbers), in the narrative portion of the police report.
3. Misdemeanor complaints should be referred to the appropriate division for follow-up.

I. Determining the Status of a Juvenile

1. A juvenile shall be subject to criminal prosecution as an adult under the provisions of FS §985.556 – 985.56. Once convicted and sentenced as an adult, the juvenile is thereafter treated as an adult for any subsequent violations of law (with limited exceptions).
2. Officers taking juveniles into custody for committing a violation of law will call the JAC, (813) 936-9099, to determine the juvenile's present status as either a juvenile or an adult.
3. If the Detention Screening Office is in possession of a copy of the record that reflects that the juvenile has been previously convicted and sentenced as an adult, the officer will obtain a copy of the record and book the juvenile into Central Booking. The officer will provide the copy of the record to the intake clerk.
4. In those cases where the SAO direct files on a juvenile to adult court as an adult and capias has been issued, the juvenile will be booked at Central Booking, Orient Road Jail (1201 Orient Rd; Tampa, FL 33619).

J. Disposition of Juveniles Charged with Committing a Violation of Law

1. Law enforcement plays no role in determining detention of a juvenile committing a violation of law. If a juvenile does not meet the detention criteria set forth in FS §985.255, the juvenile cannot be detained
2. If a juvenile is detained, the officer will make a reasonable effort to notify the parents or legal custodians of the juvenile's location and his or her charges.

K. Disposition of Juveniles Alleged to be Dependent

1. Dependent juveniles that have been taken into custody as a result of having been abandoned, abused, or neglected, or because they are suffering from

illness or injury, or because they are in immediate danger from their surroundings, may be released:

- a. To the DCF (the officer must first contact the Child Abuse Registry at 1-800-96-ABUSE and give an abuse/neglect report); or,
- b. To an emergency shelter care after contacting the DCF to determine which shelter to place the juvenile. If the juvenile is placed into an emergency shelter:
  - 1) Addresses and telephone numbers of the emergency shelters are not to be given to parents, relatives, or acquaintances of the juvenile.
  - 2) Relatives or acquaintances of the juvenile shall not accompany the juvenile to the emergency shelter; and
  - 3) Any inquiries as to the location the juvenile shall be referred to the DCF.
- c. See also SOP 313.6 Child Abuse

2. Runaways that have been taken into custody may be released:

- a. To parents, legal guardians, responsible adult relatives, or any responsible adult known to the family. If not available and/or if unable to respond in a reasonable amount of time, the officer should call the Children in Need of Services (C.I.N.S.) / Family in Need of Services (F.I.N.S.) Program at (813) 272-6606, and make arrangements to deliver the runaway to their facility at 3191 Clay Mangum Ln., Tampa, FL 33618.
- b. If the juvenile is under the custody of DCF, the juvenile will be returned to the responsible caseworker or the home that the juvenile ran away from.
  - 1) If the officer is unable to make contact with the juvenile's caseworker and/or return the juvenile to the foster home the officer will identify which agency the juvenile's caseworker works for – Children's Network of Hillsborough County contracts six service providers – and then contact that agency to determine placement:
    - i. Camelot Community Care, (813) 480-6312
    - ii. Devereux – Florida, (813) 459-0363

- iii. Gulf Coast Jewish Family & Community Services, (813) 894-0006
- iv. Lutheran Services – Florida, (813) 210-4276
- v. One Hope United – Florida: (863) 385-1009
- vi. Thompson Child & Family Focus, (813) 816-3819

- 2) If the officer is unable to contact the caseworker's service provider, they may contact the service provider's program director. The Tampa Police Department's Communications Bureau maintains a list of each service provider's program director and has their contact information.

L. Disposition of Juveniles Charged with a Traffic Offense

- 1. A juvenile charged with a noncriminal infraction will be issued a traffic citation and released on his or her own recognizance.
- 2. Juvenile charged with a criminal traffic offense or violation of chapter 322 may be released by issuing a traffic citation and:
  - a. Releasing the juvenile on his or her own recognizance; or,
  - b. Releasing the juvenile to a parent, guardian, or other responsible adult known to the family.
- 3. Juveniles arrested for felony traffic offense may be released by charging the juvenile using a criminal report affidavit and delivering to the JAC.
  - a. Juveniles charged with a felony traffic offense will also be issued a traffic citation for the offense.
- 4. Booking procedures for juvenile with an active arrest warrant for a violation of probation for traffic charges are as follows:
  - a. A criminal report affidavit will be completed.
  - b. The juvenile will be transported to the JAC.
  - c. Report number will be obtained, and the officer will originate an incident report on the MRE. The report will be titled Assist Other Jurisdiction.

M. Interview and/or Arrest within a School

1. When investigating at a school, or if it becomes necessary to interview or arrest a student at a school, the investigating officer shall always notify the school principal, assistant principal, or their designee.
2. In schools where School Resource Officers are assigned, the investigating officer will make a reasonable effort to contact the School Resource Officer to coordinate the investigation.

N. Transporting Juveniles

1. A juvenile will not be transported in a police vehicle or other vehicle, which contains an adult prisoner unless the juvenile and adult are involved as perpetrators in the same offense.
2. By federal law, juveniles must always, be totally separated (both sight and sound) from adult prisoners except when the juvenile and adult are involved as perpetrators in the same offense.
3. All juveniles will be transported to the appropriate intake facility without delay unless he or she needs medical attention.

O. Juvenile Firearm Offenses and Detention Requirements (Legal Bulletin 24-10)

1. A violation of FS §790.22, Minor in Possession of a Firearm, requires secure detention and withhold of delinquency shall count as a prior offense.
2. FS § 901.15 allows officers with probable cause to arrest a juvenile without a warrant for possession of a firearm.
3. Juveniles charged with possession of a firearm do not qualify for the Juvenile Arrest Avoidance Program.
4. A juvenile on probation for a felony offense shall be held in secure detention for up to 21 days and may be extended. Officers shall cooperate with the SAO to provide any testimony for a secure detention hearing.

Supersedes SOP 313, dated 11/24.