



TIVERTON POLICE DEPARTMENT

GENERAL ORDERS

Subject: Juvenile Procedures		General Order Number: 370.10
Section: 300- Law enforcement Operations		Subsection: 70- Juvenile
Amends/Supersedes: 6-1 (03/01/2001), 370.10 (09/05/2019)		
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Per Order Of: Patrick W. Jones, Chief of Police		
RIPAC: 9.1, 9.2, 9.3, 9.4, 15.3		
Distribution: Sworn Department Members, Communications Center Operators, Records Clerks		

NOTE: This written directive is for the internal governance of the Tiverton Police Department, and is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

I. PURPOSE

To establish and define the role of the Department's Juvenile Officer, as well as to establish guidelines and procedures for Department members in handling juveniles, to include their protection, apprehension and detention.

II. POLICY

The Tiverton Police Department is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. Although the Department's Juvenile Officer will play a major role in delinquency prevention and control, the responsibility for participating in or supporting the Department's juvenile operations function is shared by all Department personnel.

It is the policy of the Tiverton Police Department, in furtherance of its commitment to prevent and control juvenile delinquency, to ensure that the least coercive among reasonable alternatives is used when dealing with juveniles, consistent with the safety and security interests of the juvenile and the community.

III. DEFINITIONS

Department of Children, Youth, and Families (DCYF) – The State of Rhode Island's principal agency to mobilize the human, physical, and financial resources available to plan, develop, and evaluate a comprehensive and integrated statewide program of services designed to ensure the opportunity for children to reach their full potential. DCYF can be contacted twenty-four (24) hours a day at 1-800-RI CHILD.

Rhode Island Training School for Youth – The state's secure juvenile detention facility.

Intake – The point at which a juvenile enters the juvenile justice system. It is the Family Court function of preliminary screening to determine if any action should be taken regarding the juvenile and, if so, what form that action should be in.

Juvenile – A person under eighteen (18) years of age. However, a person is considered eighteen (18) years of age twenty-four (24) hours prior to his/her 18th birthday.

Delinquent – The term applied to a juvenile who has committed any offense which, if committed by an adult, would constitute a felony or who has on more than one occasion violated any of the other laws of the State of Rhode Island or of the United States or any of the ordinances of cities and towns, other than ordinances relating to the operation of motor vehicles.

Wayward- (1) Misdemeanant Offender – The term applied to a juvenile who has committed any act, which, if committed by an adult, would constitute a misdemeanor offense. (2) Status Offender – The term applied to a juvenile who has committed any offense, which, if committed by an adult, would not be a misdemeanor or felony.

Non-Offender - (1) An unmarried child that is found to be abused or neglected or in imminent danger of abuse or neglect; is found to be abandoned; is in need of medical, mental health, or chemical dependency treatment which the parent, guardian, or primary caretaker cannot provide; has been sexually abused by a parent, guardian or other member of the household; or whose parent, guardian, or primary caretaker desires to be relieved of the care and custody of the child for good cause. (2) A juvenile taken into custody for questioning purposes.

Non-Secure Detention – An unlocked, multi-purpose area, (i.e.: lobby, office, or interview room), or in a specified, non-secure temporary holding resource which is not set aside or used as a secure detention area and providing that the juvenile is not physically secured to any stationary part of the non-secure holding area.

Secure Detention – Confinement of a juvenile in a physically restrictive area. This includes placement in the holding facility, temporary detention room, Rhode Island State Training School for Youth (RITSY), or any other facility used to hold a juvenile securely prior to, or after final disposition.

IV. JUVENILE OFFICER ROLES AND RESPONSIBILITIES

- A. The Juvenile Officer shall make recommendations as to whether a case involving a juvenile should be referred to the Tiverton Juvenile Hearing Board or Family Court.
- B. The Juvenile Officer shall make recommendations to available counseling services or other human resource agencies.
- C. The Juvenile Officer shall act as a liaison between the Department and other agencies working to investigate, deter, and prevent child abuse or neglect.
- D. The Juvenile Officer will be the liaison between the department and the Tiverton Juvenile Hearing Board.
- E. The Juvenile Officer shall coordinate efforts with other elements of the Juvenile Justice System and encourage review and comment regarding Department policies and procedures relating to juveniles.

V. OPERATIONS AND PROCEDURES

- A. Enforcement and Detention Alternatives:
 - 1. Officers dealing with juvenile offenders will use the least coercive among reasonable alternatives to detention in accordance with the following provisions Officers shall determine if the juvenile is alleged to have engaged in non-criminal misbehavior (a status offense) or criminal behavior. The following guidelines shall be followed:

- a. Outright release with no further action – A juvenile offender may be released to the custody of a parent or guardian with no further action when all of the following elements are present:
- 1) The offense is a Status Offense (not alcohol-related), Non-offense or Petty Misdemeanor;
 - 2) The complainant does not wish to pursue formal charges;
 - 3) The juvenile's parents or guardian has been made aware of the detention and agrees to the juvenile's release, and;
 - 4) The detaining officer has the approval of a supervisor.
- b. Release pending further action – A juvenile offender may be released at the scene to a parent or guardian, or transported home to a parent or guardian, pending further action and later petitioned to appear in Family Court or referred to the Tiverton Juvenile Hearing Board when all of the following elements are present:
- 1) The offense is a Status Offense or Petty Misdemeanor;
 - 2) The juvenile is a first-time offender, and;
 - 3) The juvenile's parents or guardian has been made aware of the detention, agrees to the release, and is made aware of pending further action.
- It shall be the responsibility of the Juvenile Officer to review cases involving juveniles released pending further action and determine if the juvenile should be petitioned into Family Court or referred to the Tiverton Juvenile Hearing Board.
- c. Custodial arrest- Referral to Family Court/Juvenile Hearing Board – A juvenile offender shall be taken into custody and transported to the station for processing when any one of the following elements is present:
- 1) On order of the Family Court;
 - 2) When there is probable cause to believe that the juvenile has committed a delinquent act, or;
 - 3) When there is probable cause to believe that the juvenile has committed a wayward act and it is determined that release pending further action would impede the investigation; would not adequately protect the community or process of the Family Court; would not adequately reduce the risk of the juvenile inflicting serious bodily harm to others or committing serious property damage; the juvenile fails to cooperate or to positively respond to police intervention and direction, or; the juvenile's parent or guardian have failed to provide appropriate control or supervision. In making this determination, the officer must consider:
 - (a) The nature and seriousness of the offense;
 - (b) The juvenile's record of delinquent or wayward acts, prior contacts, and/or previous warnings, if known;
 - (c) The age and circumstances of the juvenile;
 - (d) The availability of non-custodial alternatives, including the presence of a parent, guardian, or other

suitable person able and willing to provide supervision and care for the juvenile, as well as assure future appearances in Family Court, and;

- (e) The juvenile's record of willful failures to appear in Family Court after having been petitioned, if known.

B. Custody Procedures:

1. Delinquent or wayward (non-status offense) act – Any juvenile taken into custody for an act which would be a crime if committed by an adult shall be advised of his/her Miranda Rights, if questioned by the arresting officer. The juvenile may be held in secure detention pending processing, and while awaiting transportation to Family Court, another agency, or release to a parent, guardian or DCYF.
 - a. Juveniles held for Family Court will be transported for a hearing as soon as possible. If the Family Court is not in session, and the seriousness of the act committed warrants the juvenile being held at the RITSY as an "Emergency Detention," authorization shall be obtained from the "After Hours Duty Family Court Judge" to have the juvenile held. Juveniles shall be brought to the RITSY without delay unless the juvenile is in need of emergency medical treatment.
 - b. If the act committed does not warrant "Emergency Detention," the juvenile shall be released to a parent, guardian, or DCYF pending further action; provided the safety of the community is not threatened, the juvenile's appearance in court is assured, and the juvenile is not in need of medical treatment or requesting protective custody.
 - c. No juvenile shall remain in custody for more than six (6) hours for the purposes of processing, investigation, and awaiting transport or parent/guardian. The six (6) hour time limit begins when the juvenile is placed in secure detention, even if the juvenile is temporarily removed from the secure detention setting.
 - d. Juveniles shall always be sight/sound separated from adult offender/detentions (Juvenile Justice & Delinquency Prevention Act of 2002, as amended – Core requirement - Separation).
2. Status offenders – Any juvenile taken into custody for committing a status offense shall be held in non-secure detention until released.
 - a. All status offenders shall remain under *constant visual contact* while being detained.
 - b. Status-offenders, non-offenders and civil type offenders shall not be held in a secure area, as defined by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), for any length of time (Juvenile Justice & Delinquency Prevention Act of 2002, as amended – Core requirement – Deinstitutionalization of Status Offenders).
 - c. Juveniles detained for committing a status offense shall be released to a parent, guardian, or DCYF; provided the safety of the community is not threatened, the juvenile's appearance in court is

assured, and the juvenile is not in need of medical treatment or requesting protective custody.

3. Traffic offenders (non-criminal violations):

- a. Under age sixteen (16) – Any juvenile under the age of sixteen (16) who commits a motor vehicle violation that would normally fall within the jurisdiction of the Rhode Island Traffic Tribunal (RITT) may be released with no further action or released pending further action, consistent with Section V (A) (1) (a & b) of this General Order.
- b. Over age sixteen (16) – Any juvenile over the age of sixteen (16) who commits a motor vehicle violation may be released with a RITT summons to appear for a RITT Hearing or, consistent with the Department's *Traffic Enforcement Procedures* policy, released with a written or verbal warning. However, any juvenile in violation of Section 3-8-9 of the Rhode Island General Laws entitled, "Transportation of Alcoholic Beverages by Underage Persons," may be released with an RITT summons to appear for a RITT Hearing under the following conditions only:
 - 1) The juvenile is not believed to have been driving while intoxicated or impaired by alcoholic beverages, and;
 - 2) The juvenile's parents or guardian have been notified and agree to the release.

If either of these conditions cannot be satisfied, the juvenile shall be taken into custody and held in accordance with Section V (B) (2) (a & b) of this General Order.

4. Non-offenders or protective custody – Any juvenile taken into custody for a non-offense or for his/her own protection shall be held in non-secure detention until released.

- a. All non-offenders and those being detained for their own protection shall remain under *constant visual contact* while being detained.
- b. Consistent with Rhode Island General Law 40-11-5 entitled, "Protective Custody by Physician or Law Enforcement Officer," an officer may take a juvenile into protective custody without the consent of the parents, or others exercising control over the juvenile, and detain the juvenile for up to forty-eight (48) hours when certain conditions exist. Department members shall take protective custody of juveniles under the following circumstances:
 - 1) There is reasonable cause to believe that there exists an imminent danger to the juvenile's life or health;
 - 2) The juvenile's parents or guardian have been arrested, leaving no suitable person(s) to take temporary care of the juvenile, or;
 - 3) The juvenile is lost and his/her welfare is threatened due to the loss of adult protection and supervision.
- c. DCYF shall be immediately notified when a juvenile is taken into custody for a non-offense or for his/her own protection. The

juvenile shall be released to DCYF, who shall be responsible for the juvenile's care.

- d. Every reasonable effort shall be made to notify the parents, guardian, or other person exercising control of the juvenile of the juvenile's placement with DCYF.
5. The investigating officer shall be responsible for completing the *Juvenile Release* section of the Records Management System (RMS) arrest report (AR) whenever a juvenile is taken into custody.
6. Although not required by law, it shall be the Department's policy that an investigating officer who brings a juvenile into the police station on any *official police business* shall promptly notify at least one of the juvenile's parents or guardian to advise that the juvenile is at the station. It shall be the responsibility of the investigating officer's supervisor to ensure that this procedure is followed and properly documented.
7. Officers taking juveniles into custody shall ensure that the juvenile's constitutional rights are fully protected.
8. Juveniles taken into custody shall be visually and physically isolated from adult offenders at all times.
9. If a juvenile taken into custody is in need of immediate medical attention, an officer shall accompany the juvenile to an appropriate medical facility. The officer shall remain with the juvenile until he/she is taken to Family Court or released to a parent, guardian, DCYF, or RITSY.
10. Accused delinquent juveniles shall not be held longer than six (6) hours for the purposes of processing, investigation, and awaiting transport or release to parent/guardian. (Juvenile Justice & Delinquency Prevention Act of 2002, as amended – Core requirement – Jail Removal);

C. Custodial Interrogation:

1. Prior to any custodial interrogation of a juvenile, officers will await the arrival of the juvenile's parent or guardian. Upon their arrival, the juvenile shall be allowed to confer with the parent or guardian prior to interrogation.
2. The juvenile and the parents/guardian shall be advised of the juvenile's Miranda Rights prior to interrogation.
3. Interrogation of a juvenile shall be limited in duration to generally less than two (2) hours. Exceptions may occur, as the scope of the investigation may require.
4. The juvenile shall be provided water and the use of restroom facilities upon request.
5. No more than two (2) officers shall conduct the interrogation.
6. Officers shall explain department and juvenile justice system procedures to juveniles who are being interrogated.

D. Fingerprinting, photographing, and retaining evidence from juveniles:

1. All juveniles taken into custody and transported to the station for acts which, if committed by an adult, would constitute a felony or misdemeanor, shall be fingerprinted and photographed.

2. *Status offenders, non-offenders, and those taken into custody for their own protection shall not be fingerprinted or photographed.* However, this provision shall not preclude an officer from obtaining photographs of a juvenile to aid in the investigation of neglect, abuse, or any crime in which a juvenile is believed to be a victim.
 3. Fingerprints and photographs may be obtained from juveniles, who are not in police custody, under the following circumstances:
 - a. As provided by the *Sexual Offender Registration And Community Notification Act* of the Rhode Island General Laws;
 - b. Per order of the appropriate Court, or;
 - c. The parents/guardian and juvenile consent to fingerprints and photographs being taken.
 4. Fingerprints, photographs, and other forms of identification, such as hair, blood, urine, nails, breath, or handwriting samples retained by the Department shall be maintained in accordance with the following principles and limits:
 - a. They must be protected from unauthorized access, disclosure, or dissemination;
 - b. They must be kept separate from adult records, and;
 - c. They shall be expunged only when ordered so by a court decree.
 5. Juvenile arrestee photograph(s) shall not be used as part of a “photo array” in the investigation of a known-adult suspect.
 6. Access to all such materials should be limited to law enforcement officers when essential to conducting an ongoing investigation; to a member of the clerical or administrative staff of the maintaining Court or agency for authorized internal administrative purposes; or to the parent, guardian, attorney of the juvenile involved and those in loco parentis to the juvenile, upon the written order of a justice of the Family Court.
- E. Records of juvenile arrest or detention:
1. Control Center Operators shall issue a dispatch call number through the department’s Computer Aided Dispatch (CAD) system AND an Offense (OF) of Arrest (AR) number through the department’s Records Management (RMS) system whenever a juvenile is taken into custody for any reason.
 2. Provisions for adult criminal record procedure shall apply to juvenile records when the juvenile has been waived out of Family Court to be tried as an adult.
 3. The Department’s Records Management System (RMS) distinguishes juvenile records from those of adult offenders by placing the word **JUVENILE** in bold print on the top center of the page for all juvenile offender records.
 4. It shall be the responsibility of the Records Division to ensure that reports relating to the arrest, detention, apprehension, and disposition of all juveniles shall be kept separate and apart from the arrest records of adults.
 5. Records of Active Juvenile Cases shall be secured in the Detective Lieutenant’s Office and access shall be restricted to authorized personnel only.

F. Wayward Disobedient complaints:

1. Ask the complainant if this is their first contact with the Tiverton Police regarding this matter. If so, then:
 - a. Obtain a *Filing Procedure for Wayward Disobedient Charges to Family Court* form, and fill-in the first four (4) lines with requested information.
 - b. Make one (1) copy of this form, and turn over to the Department's Juvenile Officer. The Juvenile Officer will keep this copy on file.
 - c. Issue the original form to the complainant, and advise him/her to read the form and to fill-in the requested information on his/her own.
 - d. Issue an East Bay Community Action Program (EBCAP) Clinical Services for Youth informational pamphlet to the complainant.
 - e. Refer the complainant to **East Bay Community Action Program (EBCAP), 19 Broadway, Newport, RI 02840 (Phone: 401-847-7821, Fax: 401-847-6220, www.ebcap.org)**, for further processing. EBCAP will request of the complainant a completed filing form.
 - f. Complete an offense report (OF) documenting the complaint and actions taken.
 - * At this point, the police will not take any further action, unless emergency conditions warrant such action, or the complainant returns to the Tiverton Police Department with a EBCAP form indicating "Problem remains and has not responded to Treatment Plan/Return to Police Department."
2. If the complainant returns to the Tiverton Police Department with a form containing the above notation, then:
 - a. The issue has not been resolved, and will become a Family Court matter. Therefore, the officer shall take a wayward disobedient child complaint, being sure to include the EBCAP form indicating "Problem remains and has not responded to Treatment Plan/Return to Police Department."
 - b. The completed wayward disobedient complaint (report) shall be forwarded to the Department's Juvenile Officer for processing.
 - * Any questions regarding these procedures should be directed to the Department's Juvenile Officer.

G. Assistance on School Buses:

1. In situations where the Tiverton police Department is called for assistance, on a school bus, with elementary students, Grades K-4, and the officer (s) determines, based on the health and safety of the student or the health and safety of other individuals, that there is a need to separate one or more students from the other students on the bus, the officer(s) shall:
 - a. Contact designated school department personnel who will be available by telephone for the length of school bus runs and advise such designee of the circumstances necessitating the separation of the student(s);
 - b. The officer(s) and the school official shall determine the appropriate school where the student(s) shall be transported by the officer(s);

- c. The designated school official shall immediately contact the parents of the guardians of said student(s) and fully inform said parent or guardian of the circumstances and the location where the student(s) is being transported;
- d. The school official shall proceed the designated school to meet the officer(s) and student(s);
- e. Except in extreme circumstances where there is immediate need, based on a reasonable likelihood of immediate harm, no further inquiry or action shall be taken by the officer(s) and the school official, until such a time as a parent or guardian is present or has given oral permission for such inquiry or activity to take place; and
- f. It is expected that the contact information provided by parents and/or guardians will allow for a rapid response when contacted by a school official. However, in the unusual occurrence where the school official is unable to make contact or the parent or guardian after contact is made cannot respond to the school within one (1) hour, for purposes of safety and security, the student will be transported by a member of the Tiverton Police Department to Tiverton Police Headquarters where efforts will continue to contact the parents and/or guardians.