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HARFORD COUNTY SHERIFF'S OFFICE OPERATIONS POLICY

Juvenile Contacts

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1. Purpose

This policy will establish guidelines for the contact, detention, arrest, and release of juveniles.

2. Policy

The Harford County Sheriff's Office (HCSO) is committed to releasing juveniles from temporary custody as soon as reasonably practicable in accordance with the provisions of the Juvenile Justice and Delinquency Prevention Act of 2002, as reauthorized by Congress in December 2018, and revised by the Office of Juvenile Justice Delinquency Prevention (OJJDP) in 2019, keeping juveniles safe while they are in temporary custody. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

3. References

18 U.S. Code § 922
28 CFR § 31.304
34 U.S. Code § 11103
Maryland Code Annotated, Courts and Judicial Proceedings § 3-8A-01

4. Definitions

CHILD IN NEED OF SUPERVISION (CINS) : a child who requires guidance, treatment, or rehabilitation and:

- Is required by law to attend school and is habitually truant;
- Is habitually disobedient, ungovernable, and beyond the control of the person having custody of him;
- Departs himself so as to injure or endanger himself or others; or
- Has committed an offense applicable only to children.

DELINQUENT ACT: an act which would be a crime if committed by an adult.

DELINQUENT CHILD: a child who has committed a delinquent act and requires guidance, treatment, or rehabilitation.

DELINQUENT OFFENDER: a juvenile offender who has been charged with an offense for which an adult can also be charged, but who is subject to the jurisdiction of the Juvenile Court.

DETENTION: formally held pending release to the Department of Juvenile Services (DJS), Department of Social Services (DSS), parent, relative or another person; may be secure or non-secure.

INCARCERATION: placement in a correctional institution, detention center or juvenile training school as authorized by the DJS.

JUVENILE: any person under the age of 18, whether under Juvenile or Criminal Court jurisdiction, or a person between the ages of 18 to 21 who is still under Juvenile Court jurisdiction.

JUVENILE COURT: the Juvenile Courts of Maryland are part of each County's Circuit Court and handles cases involving youths who are under age 18, even if the youth turns 18 before the case is adjudicated, and jurisdiction continues until the age of 21 as well as cases involving adults charged with contributing to conditions that cause a child to be delinquent or CINA.

METROPOLITAN STATISTICAL AREA (MSA): a geographical region with a relatively high population density at its core and close economic ties throughout the area. Such regions are neither legally incorporated as a city or town would be, nor are they legal administrative divisions like counties and states.

NON-OFFENDERS: (Child in need of assistance (CINA) & child in need of protection) a juvenile who is not charged with any offense, but who needs help for some reason (e.g. abuse, neglect).

NON-SECURE DETENTION: detention in an unlocked multipurpose area not normally used as a secure area and the juvenile is not physically secured to a stationary object.

PARENT: in this directive, the term includes the child's parent, guardian or custodian.

RUNAWAY: a juvenile who has, or who has been adjudicated to have, committed the status offense of leaving the custody and home of his/her parents, guardians, or custodians without permission and failing to return within a reasonable amount of time.

SECURE DETENTION: detention in a locked cell or room or handcuffed to stationary object.

SEPARATION: accused or adjudicated delinquent offenders, status offenders, and non-offenders will not have physical contact or sight, or sound contact with adult inmates, including inmate trustees.

SIGHT CONTACT: clear visual contact between adult inmates and juvenile offenders within proximity to each other.

SHELTER CARE: means the temporary care of a juvenile in a physically unrestricting facility. It does not mean care in a State mental health facility.

SOUND CONTACT: direct oral communication between adult inmates and juvenile offenders.

STATUS OFFENDER: cases are classified as CINS and include truancy, habitual disobedience, ungovernability, behaving in a way as to injure or endanger self or others, and offenses applicable only to children.

STUDENT: an individual enrolled in the public-school system in Maryland who is older than five years of age and younger than 22 years of age.

5. Procedures

A. Special Designations

1. The Office of Juvenile Justice and Delinquency Prevention Act of 2002 (“OJJDP Act of 2002”) provides that juveniles who are charged with or have committed an offense that would not be criminal if committed by an adult will not be placed in secure detention facilities or secure correctional facilities, excluding:
 - a. Juveniles who are charged with or who have committed a violation of 18 U.S. Code § 922(x)(2), Unlawful Acts, or of a similar state law;
 - b. Juveniles who are charged with or who have committed a violation of a valid court order; and
 - c. Juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by the State.
2. In addition, the OJJDP Act of 2002 states that “juveniles who are not charged with any offense and who are aliens or alleged to be dependent, neglected, or abused will not be placed in secure detention facilities or secure correctional facilities.”
 - a. Similarly, juveniles alleged to be or found to be delinquent or juveniles within the purview of the above special designation will not be detained or confined in any institution in which they have contact with adult inmates; and state policy requires that individuals who work with both such juveniles and such adult inmates, including collocated facilities, have been trained and certified to work with juveniles.
3. Prohibition on Secure Holding
 - a. Adult jails and lockups will not hold status offenders, non-offenders, alien juveniles, or civil-type offenders in a secure manner at any time.
 - b. These juveniles may be detained in a non-secure area of an adult jail or lockup for processing while awaiting transportation to a non-secure shelter care facility or a juvenile detention center or while waiting processing or release; or awaiting release to parent, guardian or custodian (Department of Services, Office of Juvenile Services and Delinquency Prevention Guidance Manual).
4. Six-Hour Hold Exception
 - a. The OJJDP Act allows for a six-hour grace period that permits the secure detention in an adult jail or lockup of those juveniles accused of committing criminal-type offenses (i.e., offenses that would be a criminal offense if committed by an adult).
 - b. Under this exception, the juvenile will not have sight or sound contact with adult inmates during the time the juvenile is in a secure custody status in the adult jail or lockup.

5. Jail Removal

- a. No juvenile will be detained or confined in any jail or lockup for adults. Exceptions to this requirement are:
 - i. A six hour hold exception for accused delinquent non-status offenders who are detained in such jail or lock-up for a period not to exceed six hours;
 - ii. For processing or release;
 - iii. While awaiting transfer to a juvenile facility; or
 - iv. In which period such juveniles make a court appearance; and
 - v. Only if such juveniles do not have contact with adult inmates and only if there is in effect in the State, a policy that requires that individuals who work with both such juveniles and such adult inmates, including collocated facilities, have been trained and certified to work with juveniles.

6. Juveniles Waived to or Transferred to Criminal Court

- a. Juveniles who are accused of non-status offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained in a jail or lockup in which:
 - i. Such juveniles do not have contact with adult inmates and there is in effect, in the State, a policy that requires that individuals who work with both such juveniles and such adult inmates, including collocated facilities, have been trained and certified to work with juveniles; or
 - ii. Is located outside a metropolitan statistical area (as defined by the Office of Management and Budget) and has no existing acceptable alternative placement available; or
 - iii. Is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays), so that a brief (not to exceed 48 hours) delay is excusable; or
 - iv. Is located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel.

B. Jurisdiction

- 1. Juvenile Court has exclusive original jurisdiction over:
 - a. A child:
 - i. Who is at least 13 years old alleged to be delinquent; or

- ii. Who is at least 10 years old alleged to have committed an act that if committed by an adult, would constitute a crime of violence, as defined in § 14-101 of the Criminal Law Article; or
 - iii. Other crimes arising out of the same incident as an act listed in ii above.
- b. A child who is in need of supervision;
 - c. A child who has received a citation for a violation;
 - d. A peace order proceeding in which the respondent is a child; and
 - e. Proceedings arising under the Interstate Compact on Juveniles.

2. Juvenile Court does not have jurisdiction over the following:

- a. A child at least 14 years old alleged to have committed an act that, if committed by an adult, would be a crime punishable by life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article;
- b. A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;
- c. A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration; or
- d. A child at least 16 years of age and alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article:
 - i. Abduction;
 - ii. Kidnapping;
 - iii. Second degree murder;
 - iv. Manslaughter, except involuntary manslaughter;
 - v. Second degree rape;
 - vi. Robbery under § 3-403 of the Criminal Law Article;
 - vii. Third degree sexual offense under § 3-307(a)(1) of the Criminal Law Article;

- viii. A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of the Public Safety Article;
 - ix. Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;
 - x. Use of a firearm under § 5-622 of the Criminal Law Article;
 - xi. Carjacking or armed carjacking under § 3-405 of the Criminal Law Article;
 - xii. Assault in the first degree under § 3-202 of the Criminal Law Article;
 - xiii. Attempted murder in the second degree under § 2-206 of the Criminal Law Article;
 - xiv. Attempted rape in the second degree under § 3-310 of the Criminal Law Article;
 - xv. Attempted robbery under § 3-403 of the Criminal Law Article; or
 - xvi. A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the Criminal Law Article.
- e. A child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article;
 - f. A peace order proceeding in which the victim is a person eligible for relief as defined in § 4-501 of the Family Law Article; or
 - g. A delinquency proceeding against a child who is under the age of 13 years.
3. The Juvenile Court has exclusive jurisdiction over all of the charges if the child is charged with two or more violations of the Maryland Vehicle Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of the same incident and which would result in the child being brought before both the court and a court exercising criminal jurisdiction.
 4. When charging a juvenile with a crime, the deputy will include in the narrative portion of incident report the "CR" code from the Court Commissioner's manual as well as the charge (example, 1-0521, Theft Less Than \$100.00). A copy of the Court Commissioners manual can be located in PowerDMS.

C. Arrest/Custody

1. A deputy may arrest or take a child into custody (reference Courts and Judicial Proceedings Article § 3-814) under the following conditions:
 - a. Pursuant to an order of the court;
 - b. In accordance with §5-709 of the Family Law Article;

- c. By a law enforcement officer if the officer has reasonable grounds to believe that the child is in immediate danger from the child's surroundings and that the child's removal is necessary for the child's protection;
 - d. If he has reasonable grounds to believe that the child has run away from his parents, guardian, or legal custodian; or
 - e. Pursuant to the laws of arrest referenced under Criminal Procedure § 2-202, Warrantless arrests - In general.
2. A deputy may not arrest a juvenile under the age of 10. Juveniles between the ages of 10 and 13 may only be arrested if they have committed a crime of violence as defined in § 14-101 of the Criminal Law Article.

D. Custody Procedure

1. When transporting juveniles, deputies will ensure that there is sight and sound separation from adults during the entire transport procedure.
2. Six-hour rule for juveniles
 - a. The time does not begin at transport or even arrival at the respective holding facility.
 - b. The time begins when the juvenile enters a secured area.
3. A deputy will immediately notify, or cause to be notified, the child's parent(s), guardian, or custodian of the action.
4. After making every reasonable effort to give notice, the deputy will, with all reasonable speed:
 - a. Release the child to his parent(s), guardian or custodian, or to any other person (release to any other person requires notification and approval of the local DJS representative) upon their written promise to bring the child before the Court when requested by the Court.
5. A deputy will complete an Incident Report in the Records Management System (RMS) on any delinquent activity by a juvenile.
6. A deputy may arrest or take a juvenile into custody under criteria described in the arrest section of this policy.
7. A deputy will complete an entry into the Juvenile Contact module when the activity of a juvenile causes the juvenile to come into HCSO care or custody. This would include a referral back to parents even if the juvenile was never physically detained by HCSO.
8. A deputy will fingerprint and photograph a juvenile if taken into physical custody as a result of an arrest.
9. Whenever a juvenile is in custody and brought into any Agency facility regarding a delinquent act the deputy will ensure the Juvenile Contact Module is completed.

10. Juveniles in HCSO custody will be released to one of the following individuals based on specific circumstances of the case:
 - a. Parent/Guardian;
 - b. Individual with permission from the parent/guardian (note this in narrative); or
 - c. Juvenile Services approved detention facility with appropriate paperwork.
11. If a juvenile is brought into the facility for questioning regarding a crime and is not free to leave that custody, deputies will complete an entry in the Juvenile Contact Module for the incident and ensure that it covers the time the juvenile was in the facility.
 - a. When completing the Juvenile Contact Module deputies will use the report number from the incident which caused the investigation.
 - b. If a juvenile is brought into the facility, placed in a non-secured room, and is not being charged, no log entry and no entry is required in the Juvenile Contact Module. However, this should be noted in the Incident Report in the RMS.
 - c. If during the course of interviewing, a juvenile brought into the facility is now to be charged, and is no longer free to leave, the six-hour rule begins and an entry is required in the Juvenile Contact Module, along with an Incident Report.
12. Status offenders will not be held securely under any circumstances.
 - a. Deputies will attempt to find a location to place status offenders in a non-secure area of the building such as an office, lobby, or room free of locks, cells, and restraint structures such as bull rings and restraint benches.
13. A juvenile brought into any facility as a witness only is free to leave at any time.
 - a. At Southern Precinct, Interview Room 4 will not be used for juvenile witness interviews as it is a secure facility.

E. Parent Refusal

1. Should the parent, guardian, or legal custodian refuse to retrieve the juvenile from the deputy's custody when requested to do so, they should be informed that they could be charged with a crime under the Family Law § 10-219 "Desertion of a Minor Child" and Courts and Judicial Proceedings Article § 3-831 "Contributing to Certain Conditions of a Minor Child."

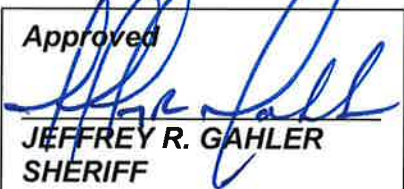
F. Juvenile Services Notification

1. A deputy will notify the local DJS of the arrest of a juvenile prior to release to the parents, guardian, or custodian for:
 - a. All Part 1 crimes to include domestic assault;

- b. When the deputy is unable to make notification to a parent, guardian, or legal custodian; and
 - c. When the parent, guardian, or legal custodian refuses to retrieve the juvenile from the deputy's custody.
2. A deputy will notify the local DJS representative and will affirmatively request detention for the following. In that request, the deputy must explain the reason for the detention.
- a. Delinquent acts that if committed by an adult would be felonies except for felony theft;
 - b. The use of a firearm in the commission of a delinquent act;
 - c. Delinquent acts committed while on probation, community or home detention; and
 - d. When the juvenile has committed repeated delinquent acts during the previous 12 months.

G. Mandatory Notification

- 1. When a child enrolled in the public-school system is arrested for a reportable offense, the deputy will utilize the "Reportable Offenses" email group to provide information concerning the arrest and charges placed against the juvenile.
- 2. In arrests involving out of state students, it is not necessary to contact the school system.
- 3. The arresting deputy will document the notification of the juvenile's school system in the narrative portion of the Incident Report.
- 4. It is the ultimate responsibility of the shift supervisor to ensure that the email notification was made and noted in the Incident Report.

Approved

JEFFREY R. GAHLER
SHERIFF
DATE 6.13.2022

Appendix A: Reportable Juvenile Offenses

The following is a list of offenses, if committed by juveniles, must be reported to the school system:

- A crime of violence, as defined in § 14–101 of the Criminal Law Article
 - Abduction;
 - Arson in the first degree;
 - Kidnapping;
 - Manslaughter (except involuntary manslaughter);
 - Mayhem;
 - Maiming;
 - Murder;
 - Rape;
 - Robbery under §3-402 or §3-403 of the CL Article;
 - Carjacking;
 - Armed Carjacking;
 - Sexual Offense in the first degree;
 - Sexual offense in the second degree;
 - Use of a handgun in the commission of a felony or other crime of violence;
 - Child abuse in the first degree under §3-601 of the CL Article;
 - Sexual abuse of a minor under §3-602 of the CL Article if:
 - the victim is under the age of thirteen (13) years and the offender is an adult at the time of the offense; and
 - the offense involved:
- Vaginal intercourse, as defined in §3-301 of the CL Article;
- A sexual act, as defined in §3-301 of the CL Article;
- An act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or
- The intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
 - An attempt to commit any of the crimes described in this subsection;
 - Continuing course of conduct with a child under §3-315 of the CL Article;
 - Assault in the first degree;
 - Assault with intent to murder;
 - Assault with intent to rape;
 - Assault with intent to rob;
 - Assault with intent to commit a sexual offense in the first degree; and
 - Assault with intent to commit a sexual offense in the second degree.
- Any of the offenses enumerated in § 3(8)A – 03(d)(4) of the Courts Article;
- A child at least sixteen (16) years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article:
 - Abduction;
 - Kidnapping;
 - Second degree murder;
 - Manslaughter, except involuntary manslaughter;
 - Second degree rape;
 - Robbery under § 3-403 of the Criminal Law Article;

- Second degree sexual offense under § 3-306(a)(1) of the Criminal Law Article;
- Third degree sexual offense under § 3-307(a)(1) of the Criminal Law Article;
- A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of the Public Safety Article;
- Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;
- Use of a firearm under § 5-622 of the Criminal Law Article;
- Carjacking or armed carjacking under § 3-405 of the Criminal Law Article;
- Assault in the first degree under § 3-202 of the Criminal Law Article;
- Attempted murder in the second degree under § 2-206 of the Criminal Law Article;
- Attempted rape in the second degree under § 3-310 of the Criminal Law Article or attempted sexual offense in the second degree under § 3-312 of the Criminal Law Article;
- Attempted robbery under § 3-403 of the Criminal Law Article; or
- A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the Criminal Law Article;
- A violation of § 4-101, § 4-102, § 4-203, or § 4-204 of the Criminal Law Article:
 - Dangerous weapons;
 - Deadly weapons on school property;
 - Wearing, carrying, or transporting handgun;
 - Use of handgun or antique firearm in commission of a crime;
- A violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, § 5-627, or § 5-628 of the Criminal Law Article:
 - Manufacturing, distributing, possession with intent to distribute, or dispensing controlled dangerous substances;
 - § 5-602. Distributing, possessing with intent to distribute, or dispensing controlled dangerous substance;
 - § 5-603. Equipment to produce controlled dangerous substance;
 - § 5-604. Counterfeit substance;
 - § 5-605. Keeping common nuisance;
 - § 5-606. False prescription;
 - § 5-607. Penalties -- Certain crimes;
 - § 5-608. Penalties -- Narcotic drug;
 - § 5-609. Penalties -- Selected Schedule I and II hallucinogenic substances;
 - § 5-612. Volume dealer;
 - § 5-613. Drug kingpin;
 - § 5-614. Importer of certain controlled dangerous substances;
 - § 5-617. Distributing faked controlled dangerous substance;
 - § 5-627. Controlled dangerous substance near school; or
 - § 5-628. Use of minor.
- A violation of § 4-503, § 9-504, or § 9-505 of the Criminal Law Article:
 - § 4-503. Manufacture or possession of destructive device;
 - § 9-504. False statement -- Concerning destructive device or toxic material; or
 - § 9-505. Representation of destructive device.
- A violation of § 6-102, § 6-103, § 6-104, or § 6-105 of the Criminal Law Article:
 - § 6-102. Arson in the first degree;
 - § 6-103. Arson in the second degree;
 - § 6-104. Malicious burning of personal property in the first degree; or
 - § 6-105. Malicious burning of personal property in the second degree.
- A violation of § 9-802 or § 9-803 of the Criminal Law Article:
 - § 9-802. Criminal gang activity; or

- § 9-803. Criminal gang activity -- Schools.
- A violation of § 3–203 of the Criminal Law Article:
 - § 3-203. Assault in the second degree.
- A violation of § 6–301 of the Criminal Law Article:
 - § 6-301. Malicious destruction – Generally.
- A violation of § 9–302, § 9–303, or § 9–305 of the Criminal Law Article:
 - § 9-302. Inducing false testimony or avoidance of subpoena;
 - § 9-303. Retaliation for testimony; or
 - § 9-305. Intimidating or corrupting juror.
- A violation of § 7–105 of the Criminal Law Article:
 - § 7-105. Motor vehicle theft.
- A violation of § 6–202 of the Criminal Law Article:
 - § 6-202. Burglary in the first degree.