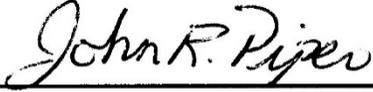




WINCHESTER POLICE DEPARTMENT OPERATION ORDER

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Number 2-9		Effective Date November 15, 2018	Review Date December 5, 2018	Reviewing Division Administration
Subject JUVENILE PROCEDURES	<input type="checkbox"/> New Directive <input checked="" type="checkbox"/> Amends II.,A.F.-K., IV.B.2.- 4.C.D.2.6.E.2.b.d.F.1.6.G.1.2.5.H.1.I J.2.-5.L.1.2.M.1.-3.N.4.- 6.V.B.5.6.C.1.b.d.4.2.c.3.D. December 5, 2018 II. III. A. F.- K., IV. B. 2.- 4. C.-J., M.- O.,V. B.-C., <input type="checkbox"/> Replaces		This directive shall apply to personnel assigned to the following divisions: <input type="checkbox"/> All Personnel <input checked="" type="checkbox"/> Patrol Division <input checked="" type="checkbox"/> Administration Division <input checked="" type="checkbox"/> Investigation Division	
References VLEPSC CALEA				
 _____ Chief of Police or Designee		_____ January 30, 2019 Date		

I. PURPOSE

The purpose of this directive is to establish guidelines and procedures for handling juveniles who are in need of protection, in violation of status offenses, and those charged with criminal offenses.

II. POLICY

The Winchester Police Department's interests concerning juvenile offenders reflect those of the community; to prevent and control juvenile delinquency. The department expects officers to handle juveniles in accordance with Virginia Code. This includes the identification, apprehension, and conviction of juveniles charged with crimes. The best interests of juveniles and the community; however, dictate a limited application of arrest powers against juveniles who are charged with status offenses. Accordingly, officers may handle delinquent juveniles informally, particularly status offenders, those in need of protection, and those suspected of committing minor criminal offenses. In cases of minor or status offenses, officers should divert juveniles from the formal criminal justice process and instead choose community referral. The authority to carry out the provisions of this order derive from VA. Code Ann. §§ 16.1-246, 16.1-247, 16.1-299 and 16.1-301.

III. DEFINITIONS

A. Child, Juvenile, Minor

A person who is less than eighteen (18) years of age. Physical appearance, maturity, marriage, or the seriousness of an offense does not affect a juvenile's legal status.

B. Delinquent Acts

Acts designated as a violation of Virginia Code or an ordinance of any city, county, town, or federal law, but not to include status offenses.

C. Delinquent Juvenile

A juvenile who has committed a delinquent act or an adult who committed a delinquent act prior to his or her eighteenth birthday.

D. Intake Officer

A juvenile probation officer who is designated by law as having the quasi-judicial authority to decide probable cause, divert the juvenile from the criminal process, or petition the court. An intake officer is normally a juvenile probation officer.

E. Juvenile Court

The name by which the juvenile and domestic relations court is often called. This court is responsible for the judicial processing of juvenile offenders and the determination of abuse and neglect cases. As a result, the judge of this court decides the propriety and legality of police handling of juveniles.

F. Reasonable Adult Acting for a Parent

A school administrator, relative over the age of eighteen, or any adult with the permission of a parent or guardian willing to accept responsibility for the juvenile until parents, guardians or next of kin can assume responsibility.

G. Status Offender

In accordance with Va. Code Ann §§ 16.1-228, a juvenile who commits an act (status offense) which is unlawful only if committed by a juvenile. Some federal offenses are status offenses as well. For example, it is a federal crime for a juvenile to possess a handgun.

H. Child In Need of Services

A juvenile whose behavior, conduct or condition presents or results in a serious threat to the wellbeing or physical safety of the juvenile or other person.

I. Child In Need of Supervision

A juvenile who meets one or more of these criteria:

- A juvenile subject to mandatory school attendance, is habitually absent without a valid excuse.
- A juvenile who habitually remains away from his/her family or guardian.
- A juvenile who escapes or remains away from a residential care facility ordered by a court.

J. Detention Order

A commitment order issued by a judge, intake officer or magistrate requiring the juvenile be taken into immediate custody.

K. Petition

A legal document containing the written statement that brings the case involving a juvenile into court. The petition contains facts concerning the case and request a hearing to determine the truth of these facts and to take whatever action is appropriate and permitted by law.

IV. PROCEDURES - GENERAL

A. Overview

1. All department personnel shall cooperate with juvenile justice and support activities. Department procedures regarding juvenile operations shall be provided to local juvenile court personnel for their review and comments and suggestions on the improvement of procedures.
2. All department personnel shall thoroughly understand and practice the provisions of this directive.

B. Handling of Juvenile Offenders - General

1. A juvenile offender shall be handled with firmness and respect. This sets the tone for the entire processing of the juvenile's case.
2. When appropriate, officers will reasonably try to keep juveniles out of the criminal justice system. The officer may handle a juvenile either formally or informally, as detailed in this directive. Formal handling occurs when the juvenile is brought before the juvenile court or an intake officer for further processing.
3. In making the decision to handle the juvenile either informally or formally, the officer shall consider the following:
 - a. Seriousness of offenses;
 - b. Prior record of the juvenile;

- c. The juvenile's age;
- d. Cooperation and attitude of all parties (juvenile, parent, victim) and the possibility of the offense being repeated;
- e. Degree of wrongful intent, violence, premeditation, and knowledge of the violation; and
- f. Likelihood that the juvenile or parent can be successfully referred to a helping agency.

C. Informal Handling of Juveniles

1. Informal handling of juveniles includes the officer's use of the following measures:
 - a. Warning and releasing to a parent or guardian;
 - b. Requiring the parents to take custody of the juvenile; or
 - c. Referring the family to a community social service agency.
2. When informally handling juveniles, a juvenile's right of privacy must be respected. Information gained should be provided to others only on a need to know basis.
3. When the officer encounters a victim or complainant who demands to bring a juvenile before the juvenile court, and the officer wishes the matter handled informally, the officer shall contact the intake officer for assistance.
4. Even when juveniles are being handled informally, the juvenile has all the constitutional rights that an adult would have in the same situation. Officers shall decide without delay whether formal or informal handling is in order, then apply the appropriate guidelines of this directive.
5. If officers handle a juvenile case informally, they may still follow up the case at a later time, or at any time refer the juvenile and his or her parents to an appropriate social service agency.

E. Formal Handling of Juveniles

1. Formal handling of juvenile cases occurs when the juvenile is taken before the juvenile court or intake officer for their decision on the proper disposition.
2. Generally, the following situations require formal handling of juveniles:

- a. Delinquent acts that if committed by an adult would be felonies;
- b. Delinquent acts involving weapons or felony drug possession or distribution.
- c. Delinquent acts involving aggravated assaults and batteries or sex offenses; and
- d. When the officers arrive at the scene of domestic violence situations and discover a juvenile is the suspect.

F. Taking Juveniles into Custody

In accordance with the Virginia Code §16.1-246, no juvenile may be taken into immediate custody except under the following circumstances:

1. With a legal detention order issued by a judge or intake officer.
2. With a warrant issued by a magistrate
3. When the juvenile is alleged to be in need of services or supervision and one of the following conditions exist:
 - a. There is clear and substantial danger to juvenile's life or health; or
 - b. Custody is necessary to ensure the juvenile's appearance before a court.
4. When, in the arresting officer's presence, a juvenile commits a crime and the officer believes custody is necessary for protection of the public;
5. The officer has probable cause to believe a juvenile has committed an offense, which if committed by an adult would be a felony;
6. The officer has probable cause to believe a juvenile has committed a misdemeanor offense involving shoplifting, assault and battery, or carrying a weapon on school property and, although the offense was not committed in the presence of the arresting officer, the arrest is based on probable cause on reasonable complaint of a person who observed the alleged offense.
7. The officer has probable cause to believe that a juvenile has either run away from home or is without adult supervision at such hours of the night and under such circumstances, that the officer reasonably concludes there is a clear and substantial danger to the juvenile's welfare;
8. The officer has probable cause to believe that a person committed to the Department of Juvenile Justice as a juvenile, has run away or has escaped from a detention center or detention home;

9. The officer has probable cause to believe that a juvenile has run away from a residential facility or home, where he or she had been placed by the court or an appropriate social services agency; or
10. The juvenile is believed to be in need of inpatient treatment for mental illness.

G. General Guidelines for Taking a Juvenile into Custody

1. Juveniles should only be detained for the time that will permit the purpose of the stop to be accomplished. The decision of either formal or informal handling shall be made in a reasonable time.
2. If it is necessary to take the juvenile into custody, it should be accomplished with the least possible embarrassment to the juvenile and his or her family. Unless there is special justification for doing otherwise, a juvenile should not be removed from his or her home.
3. Virginia Code 16.1-247 outlines the duties of the arresting officer when the juvenile court offices are open or closed.
4. Regardless of the disposition of the juvenile in custody, officers shall make every reasonable attempt to notify the juvenile's parents or guardians and inform them of the circumstances that caused the juvenile to be in custody. The law enforcement officer taking the juvenile into custody will notify the parents of the juvenile's current location and if transporting the juvenile to a police station or juvenile detention center.

H. Transportation of Juveniles in Custody

1. No person under eighteen (18) years of age shall be transported in the same vehicle with an adult(s) suspected of or charged with criminal acts, unless authorized by a supervisor.
2. See GO 2-10, Prisoner Restraints and GO 2-11, Prisoner Transportation for procedures regarding handcuffing and transportation of persons in custody.

I. Questioning Juveniles

1. When questioning a juvenile in custody, the same rules and procedures used for an adult must be followed. Under no circumstances shall the juvenile, any more than an adult, be compelled to answer questions either by physical force or psychological pressure or deceptions.
2. While the officer may be conducting a non-custodial interview, the juvenile may construe it to be a custodial interrogation. When conducting an interview or an interrogation with a juvenile, the officer consider the duration

of the questioning and the juvenile's age, mental capacity, education, and experience.

3. No juvenile can be compelled to answer any questions which may tend to incriminate him or her. Juveniles are entitled to full Miranda warnings. When determining whether a parent, legal guardian or other legal counsel needs to be present for advising Miranda Warning, officers will consider the juvenile's age, maturity, cognitive ability, experience with the criminal justice system and any other relevant factor that would affect or impair a juvenile's ability to understand and waive their rights.
4. When questioning a juvenile, officers shall not prolong the interview beyond what is needed in order to complete the investigation. One officer should handle the interrogation, if at all possible, in order to lessen the chance of the juvenile feeling intimidated or pressured. For officer safety, this would depend on the juvenile, past record, and offense being investigated.
5. The rules governing searches, frisks or pat-downs, reasonable suspicion, and probable cause all apply to juveniles. In addition, courts are often stricter with regard to juvenile custody determinations.

K. Written Citations or Summonses

An officer may use the Virginia Uniform Summons when summoning a juvenile in the following situations:

1. Violation of traffic laws, including offenses involving bicycles or hitchhiking;
2. Violation of City ordinances establishing curfew violations;
3. Violation of City ordinances establishing animal control violations;
4. Violation of game and fish laws;
5. An arrest for any alcohol related offense where a parent or legal guardian is available to sign the summons; and
6. Violation of tobacco laws.

M. Dissemination and Retention of Juvenile Fingerprints and Photographs

1. The Chief of Police or his/her designee is responsible for the department's compliance with Virginia Code requirements on dissemination and retention of juvenile records including fingerprints and photographs. Law enforcement agencies must take precautions to avoid the disclosure of juvenile criminal records to unauthorized persons. Juvenile criminal records are not available for public dissemination unless a juvenile fourteen (14) years old or older has been charged with a violent felony.

2. Juvenile fingerprint cards and photographs shall be destroyed under the following circumstances:
 - a. No petition or warrant is filed within sixty (60) days against a juvenile whose fingerprints or photographs have been taken in connection with an alleged violation of law; and
 - b. Within six (6) months of a juvenile court or a circuit court finding a juvenile not guilty of a violation of the law, pursuant to a court order.
3. Juvenile fingerprint cards and photographs authorized for retention, shall be separately and securely maintained. Access to these records shall be restricted to official use and may be viewed by the public only on the authorization of a court order. Destruction of juvenile fingerprint cards and photographs will occur based on retention requirements mandated by the Virginia Law Library or if court ordered.

N. Confidentiality of Records and Release of Information

1. All law enforcement agencies are required to take special precautions to ensure that law enforcement records concerning a juvenile are protected against disclosure to any unauthorized person.
2. Officers may release, upon request to one another and to other local state or federal law enforcement officers, current information on juvenile arrests limited to name, address, physical description, date of arrest, and offense charged. This information may only be used for current law enforcement investigations.
3. For release of juvenile information to the media, see GO 2-41, Response to Information Requests and GO 2-61, Media Relations.
4. The SRO may release juvenile information, including name and a brief summary of the incident, to school officials when the SRO feels withholding the information will jeopardize school safety.

O. Juvenile Protection

When probable cause exists that a juvenile is without adult supervision at such hours of the night and under circumstances that the officer concludes that a clear and substantial danger to the juvenile's welfare exists, the officer shall:

1. Take the juvenile into immediate custody;
2. Contact the on call person for the Winchester Department of Social Services and report all details pertaining to the incident. The officer shall follow the guidance or assistance of the social services worker in resolving the situation; and

3. Complete an incident report and document all actions taken.

V. STATUS OFFENSES

A. Description

A status offense is a juvenile committing an act which is unlawful only if committed by a juvenile. Examples of status offenses are:

1. A juvenile who remains away from or who habitually deserts or abandons the family (runaway);
2. A juvenile who is habitually disobedient to the lawful commands of parents or other responsible persons (incorrigible); and
3. A juvenile who is subject to compulsory school attendance but is habitually absent without justification (truant).

B. Investigations of Runaways

Officers taking a report of a runaway juvenile shall perform the following:

1. Verbally review with the parent or guardian the original report for its accuracy, particularly for verification that the birth date and physical description of the juvenile are correct;
2. Broadcast a lookout for the runaway juvenile,
3. Send a photograph of the juvenile to the Virginia Missing Children Information Clearinghouse as required by Virginia Code,
4. Complete an incident report, and a Virginia Missing Children Information Clearinghouse Report and ensure entry of appropriate information in the Virginia Criminal Information Network (VCIN) and the National Criminal Information Center (NCIC). The officer shall determine if the juvenile is endangered and, if so, notify the appropriate authority.
5. Officers taking a runaway report should follow-up with the reporting party each day to ensure the juvenile has not returned home. If an officer is off, the supervisor should notify the oncoming supervisor so a follow –up can be assigned. This will be document in a supplemental narrative. If the juvenile is classified as runaway for a period longer than 48 hours, the criminal investigations division will be assigned the case and assume responsibility for further follow-ups; and
6. Officers should notify the SRO's by email of any reported runaway, so the SRO can verify if the juvenile is in school.

C. Taking a Runaway into Custody

1. When probable cause exists that a juvenile has run away from home and the juvenile resides locally, the officer shall perform the following if the juvenile is taken into custody:
 - a. Verify the runaway juvenile's status;
 - b. Complete an incident report or supplement report; and
 - c. Notify the juvenile court intake officer of the action taken, who will then determine whether to:
 - (1) Place the juvenile in a youth shelter;
 - (2) Refer the juvenile to the Department of Social Services;
 - (3) Release the juvenile to a parent, guardian, legal custodian, or other person acting for a parent; or
2. When probable cause exists that a juvenile has run away from home and the juvenile does not reside locally, the officer shall perform the following if the juvenile is taken into custody:
 - a. Verify the juvenile's runaway status with the jurisdiction in which the juvenile resides or ran away from;
 - b. If a detention order is on file, follow the instructions for serving a detention order as listed in this directive; and
 - c. Notify the juvenile court intake officer of the situation. The intake officer will then determine that the officer shall:
 - (1) Follow the intake officer's instructions for detention or juvenile placement;
 - (2) Notify the juvenile's parents or guardian that the juvenile is in custody; and
 - (3) If the juvenile is to be released and the parents cannot respond within a reasonable period of time, the officer may be required to retain custody of the juvenile until the parents can arrive to take custody of the juvenile. The officer may, with the approval of their supervisor, contact Winchester DSS with and request assistance in assuming custody for the extended wait period.

D. Truant Juveniles

1. When custody occurs because a juvenile is a reported truant by school officials, or an officer reasonably determines because of the juvenile's age and circumstances that a juvenile is a suspected truant, the juvenile shall be taken into custody and released to the appropriate school personnel.

VI. DETENTION ORDERS AND WARRANTS

A. Release or Detention of Juveniles Charged with Delinquent Acts

1. Whenever possible, officers shall release a juvenile to a parent or person acting for a parent, who is available and willing to provide supervision and care and promises to take the juvenile before the court when requested.
2. The arresting officer shall seek a detention order or warrant from a judge, intake officer, or magistrate to detain a juvenile whenever there is probable cause to believe that the juvenile committed a felony. If the intake officer refuses to issue a petition sought for a Class 1 misdemeanor or a felony, the officer may:
 - a. Appeal the refusal to a magistrate, provided the arresting officer continues to believe the charge initially sought should be made; and
 - b. Include, with the material presented to the magistrate, written notice of the refusal from the intake officer.
3. There is no appeal of an intake officer's refusal to issue a petition for Class 2, Class 3, or Class 4 misdemeanors.
4. The magistrate's finding is final, but the magistrate is required to issue a warrant if he or she finds probable cause. If a warrant is issued, the warrant shall be returnable to the juvenile court and the intake officer shall file a petition founded upon the warrant.
5. The officer shall inform the intake officer of juvenile arrests for all felonies and Class 1 misdemeanors and whether a parent or guardian of the juvenile has been notified of the arrest.

B. Handling of Juvenile Escapees

1. Juveniles who are escapees from a detention center, a detention home, or other institution in which they were placed by order of a juvenile court or other licensed juvenile welfare agency, may be taken into immediate custody when:
 - a. A detention order or warrant is known to be on file; or

- b. An officer has probable cause to believe that a juvenile has escaped or run away from a detention center, detention home, residential juvenile care facility, or home in which they were placed by the court, the Department of Social Services, or a licensed juvenile welfare agency.
2. Whether juvenile court is open or closed, the juvenile may be returned and released to the facility from which the juvenile escaped or fled.
3. When juvenile court is open or closed and the juvenile is not released to the facility from which the juvenile escaped or fled, the officer shall contact the intake officer of the juvenile court who will determine where the juvenile will be placed.
4. When a locally placed juvenile runs away from an unsecured local group home, the officer shall:
 - a. Initiate a search and broadcast a lookout for the juvenile; and
 - b. Complete an incident report and a Virginia Missing Children Information Clearinghouse Report.
5. When a non-locally placed juvenile has either escaped from a detention home or run away from a local group home, the officer shall:
 - a. Initiate a search and broadcast a lookout for the juvenile;
 - b. Instruct the administrator reporting the juvenile missing to contact the jurisdiction that placed the juvenile in the facility; and
 - c. Complete an incident report and a Virginia Missing Children Information Clearinghouse Report.
6. When an escaped juvenile or one that has run away from a group home is apprehended, the officer shall:
 - a. If the juvenile was a locally placed juvenile, complete a supplement report to the original incident report;
 - b. If the juvenile is non-locally placed, complete an original incident report; or
 - c. If an out of the jurisdiction placed juvenile escaped or ran away from a local facility, complete a supplement report and notify the jurisdiction that placed the juvenile that the juvenile had been apprehended.