

PITTSFIELD POLICE DEPARTMENT
PROCEDURE

POLICY & PROCEDURE: 45	SUBJECT: Juvenile Contacts
EFFECTIVE DATE: 01/01/2008	EXPIRATION DATE: Indefinite
THIS POLICY RESCINDS ANY PREVIOUSLY ISSUED MEMORANDUM, DIRECTIVES, NOTICES, SPECIAL OR GENERAL ORDERS IN CONFLICT WITH THIS POLICY.	
AUTHORIZED BY:	Matthew E. Harshberger Director of Public Safety
REVISIONS: 02-22-12, 01-01-13, 11-20-18	

POLICY:

This policy shall be followed by all Department Personnel. Adherence to any and all procedures related to this policy are required and hereby incorporated by reference for the purpose of determining compliance. It is the policy of the Pittsfield Police Department to apply balanced enforcement and to fully investigate all matters involving juveniles, with primary emphasis toward protecting the community and serving the best interests of children and families consistent with Departmental guidelines and applicable laws.

PURPOSE:

To establish guidelines for incidents involving juvenile arrest, detention, lodging, petitioning, and prosecution, and for the investigation of specified incidents involving juvenile offenders/victims.

APPLICATION:

This policy is for internal use only and is not intended to enlarge or negate the employee's civil and criminal liability in any way. Non-compliance with this policy and procedure constitutes a violation of Department Rules and Regulations, except in such cases where compliance would cause a violation of state or federal laws.

NON-COMPLIANCE:

Failure to comply with any provision of this policy may result in disciplinary action up to and including discharge.

I. TYPES OF JUVENILES/DEFINITIONS

- A. **Abused Minor:** Any minor under 18 years of age whose environment is injurious to his/her welfare and/or whose parents or immediate family member, or any person responsible for the minor's welfare, or any person who is in the

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same family or household as a minor, or any individual residing in the same home as the minor, or a paramour of the minor's parent commits the following;

1. Inflicts, causes to be inflicted, or allows to be inflicted upon such minor, physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily functions;
 2. Creates a substantial risk of physical injury to such minor by other than accidental means which would likely cause death, disfigurement, impairment of emotional health, or loss or impairment of any bodily function;
 3. Commits, or allows to be committed, any sex offense, as defined by State Law, against such minor and extending those definitions of sex offenses to include minors under 17 years of age;
 4. Commits or allows to be committed an act or acts of torture upon such minor; and/or
 5. Inflicts excessive corporal punishment.
- B. **Delinquent Minor:** Any minor, who prior to his 17th birthday, has violated or attempted to violate regardless of where the act occurred, any federal or state law or municipal ordinance.
- C. **Dependent Minor:** Any minor, who is under the age of 18, and is without a parent, guardian, or legal custodian, and is without proper care because of the arrest or physical/mental disability of his parent, guardian, or custodian. And is without proper medical care, or other remedial care, recognized under State law, or other care necessary for his well-being through no fault, neglect or lack of concern by his parents, guardian or custodian, or has a parent, guardian, or legal custodian who with good cause, wishes to be relieved of all residual parental rights and responsibilities, guardianship, or custody, and who desires the appointment of a guardian of the person with power to consent to the adoption of the minor. The taking of a minor into temporary custody under this section is not an arrest nor does it constitute a police record.
- D. **Runaway Minor:** Any minor, under 18 years of age, who is absent from home without the consent of a parent, guardian, or custodian, or beyond the control of his or her parent, guardian, or custodian in circumstances which constitutes a substantial or immediate danger to the minor's physical safety; and who, after being taken into limited custody for the period provided for and offered interim crisis intervention services, refuses to return home and cannot agree to an arrangement for an alternative voluntary residential placement.

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- E. **Neglected Minor:** Any minor, under 18 years of age, who is not receiving the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for a minor's well-being, including adequate food, clothing, and shelter, or who is abandoned by his or her parents or another person responsible for the minor's welfare. A minor shall not be considered neglected for the sole reason that the minor's parent or other person responsible for the minor's welfare has left the minor in the care of an adult relative for any period of time. A neglected minor also includes any minor, under 18 years of age, whose environment is injurious to his or her welfare, or any newborn infant whose blood or urine contains any amount of a controlled substance. Additionally, any minor, under the age of 14 years, whose parent or other person responsible for the minor's welfare, leaves the minor without supervision for an unreasonable period of time without regard for the mental or physical health, safety, or welfare of that minor.
- F. **Non-secure Custody:** A condition under which a juvenile's freedom of movement is controlled by members of this agency and, during such time they are in a non-secure location.
- G. **Responsible Adult:** In the absence of a juvenile's parent or legal guardian, a responsible adult is one who is responsible for the physical custody of a juvenile, or who is another adult acquaintance of the juvenile's parents or legal guardian who agrees and reasonably demonstrates the ability to provide supervision for the juvenile until parents, a legal guardian, or next of kin can assume that responsibility.
- H. **Status Offender:** A juvenile who is charged with an offense that would not be a crime if committed by an adult.
- I. **Secure Custody:** A condition in which a juvenile is physically detained or confined in a locked room or temporary holding area.

II. TYPES OF JUVENILE ENFORCEMENT

- A. When involved with juveniles, officers must remember that the same degree of probable cause is necessary to arrest a juvenile, and the same degree of proof is required to convict a juvenile as is necessary to arrest and convict an adult.
- B. Officers dealing with juveniles in enforcement capacities may exercise reasonable discretion as outlined in this policy in deciding on appropriate actions. Alternatives that may be considered include:
1. Release without further action;
 2. Informal counseling to inform the youth of the consequences of their action;

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3. Referral to parents or a responsible adult;
 4. Informal counseling of parents or responsible adult;
 5. Limited temporary custody and warning;
 6. Issuance of a citation;
 7. Arrest under non-secure custody; or
 8. Arrest under secure custody.
- C. Immediately make a reasonable attempt to notify the parent, or other legally responsible person, that the juvenile has been taken into custody and where he/she is being held.
- D. If the officer feels that a juvenile should be confined in a detention center, they must contact the designated court personnel for that jurisdiction. In order for the secure detention of a juvenile to be authorized, the officer must be filing charges against the minor.
- E. Juveniles requiring medical attention should be treated at a hospital prior to processing or transporting to the intake center.
- F. The officer will then fill out the necessary offense report indicating whether it appeared that the parents or guardian are responsible people who will take appropriate action to prevent new violations. All reports will then be processed and reviewed by the investigations unit to determine if a follow-up is necessary.

III. ENFORCEMENT/CUSTODY CRITERIA

- A. The following general guidelines may be used in determining appropriate enforcement and related actions when dealing with juvenile incidents:
1. Release without further action or following informal counseling, referral to parents may be appropriate in incidents other than those requiring arrest as stipulated as such in this policy.
 2. When any juvenile is taken into custody, the parents or guardian of the juvenile shall be made aware of the custody status as soon as possible. Unless otherwise stipulated in this policy, juveniles shall be taken into custody when the circumstances of the contact involve:
 - a. The juvenile has committed a felony, or reasonable cause exists to believe the juvenile has committed a felony.

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- b. The juvenile has committed a misdemeanor in the presence of the officer.
 - c. Reasonable cause exists to believe that the juvenile has committed a misdemeanor offense that arrest without a warrant is permitted, including:
 - i. Drug violations punishable by 1 year or more (MCL 333.7501);
 - ii. Domestic Violence (MCL 764.15a);
 - iii. Retail Fraud;
 - iv. Assault and Battery; and/or
 - v. Crimes punishable by 93 days or more.
 - d. Protective custody is required in situations where the juvenile poses harm to self or others, or where the juvenile is not capable of caring for their own needs.
 - e. The juvenile has committed a criminal act on school property.
 - f. The juvenile is found to be in possession/consumption of alcohol.
 - g. A juvenile pick-up order is valid in LEIN for the juvenile.
3. Petition shall be filed with the following offenses/reasons:
- a. Breaking & Entering into a residence or business;
 - b. Robbery Armed/Unarmed;
 - c. Felonious Assault;
 - d. Part I Crimes of Violence;
 - e. Sale or delivery of a controlled substance;
 - f. Lesser offense where the youth is under court supervision or is a ward of the state;
 - g. Repeat offenders with significant criminal history;
 - h. Possession of controlled substances; and/or
 - i. Involved juvenile is currently on probation through the court.

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4. Petitions (JC-01) are required for arrests of the listed offenses or for any violations involving a criminal act.
5. Juveniles may be released with a citation, or with a warning, when the circumstances of the contact involve:
 - a. The best interest of the juvenile, or the Department, is to not affect a full custody arrest;
 - b. The contact does not involve a crime; and/or
 - c. The juvenile has committed a misdemeanor, so minor in nature, as to not require formal police intervention.
6. Juvenile status offenders, when in police custody, shall not be detained or held in a locked room or cell, unless the juvenile has **created a risk of physical harm to themselves or other prisoners, employees, police department property**, or is an escape risk (actively attempting to elude the officer's control).
7. Any juvenile charged with a criminal offense may be securely detained.
8. Due to the fact that the vast majority of juvenile pick-up orders are the result of a prior criminal offense, and the Juvenile Court does not routinely list the prior offense on the pick-up order, it may be assumed that a juvenile pick-up order is of a criminal nature, and the juvenile may be held securely.
9. Juveniles may also be taken into custody if the youth is lost, seriously endangered, or is a runaway. In all such cases, these juveniles shall be held in non-secure custody, and parents or guardian shall be contacted as soon as possible. Where parents or guardian cannot be contacted or refuse to accept, custody arrangements shall be made through protective services.

B. Criminal Offenders

1. Juvenile criminal offenders may be held up to 6 hours to allow time for identification, investigation, processing, release to parents, or transfer to a juvenile facility or court.
2. The 6 hour holding time starts when the juvenile is placed in a locked setting at the police station.
3. Juveniles being securely detained must be "sight and sound" separated from adult detainees or prisoners.

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4. Juveniles arrested and taken into custody for serious misdemeanors (punishable by 93 days or greater) or felonies will be photographed and fingerprinted.
5. Bond will not be taken upon the juvenile's release from custody.

C. Status Offenders

1. Based on the seriousness of and the circumstances surrounding the offense, the background and demeanor of the juvenile, and other relevant factors, an officer may release a juvenile to their parents, guardian, or other responsible adult.
2. Juveniles taken into custody for status offenses should be frisked for weapons prior to being transported and may be handcuffed or otherwise restrained at any time, if in the judgment of the officer, the juvenile poses a physical risk to the officer or others.
3. Officers shall pay particular attention to juveniles under the influence of alcohol or drugs to determine whether emergency medical services are warranted.
4. Juveniles taken into custody for status offenses shall be held in non-secure custody as provided by state law and for the briefest time necessary to conduct identification, investigation, and related processing requirements to facilitate their release to a parent or responsible adult or transfer to a juvenile facility.
5. Transportation of a juvenile in a caged vehicle is not considered secure custody.
6. Status offenders and other juveniles taken into temporary non-secure custody for non-criminal offenses should not be fingerprinted or photographed for purposes of record. Status offenders in temporary custody shall be brought into the police facility through the front lobby doors or garage bay doors if adult prisoners are in the facility. Juveniles will be kept in an unlocked area including the shift command office or interview room #2, and will not be placed in the temporary holding cell. They shall also be:
 - a. Under constant visual supervision;
 - b. Sight and sound separated from adult prisoners;
 - c. Afforded reasonable access to toilets and washing facilities;
 - d. Provided food if needed;

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- e. Provided with reasonable access to water or other beverages;
- f. Allowed reasonable access to a telephone; and
- g. Not handcuffed to any stationary object.

IV. DETAINMENT AT DETENTION CENTER

- A. A juvenile may be detained (Detainment as used here means not released to the parent, guardian or custodian. The juvenile may be placed in the Detention Center at the Juvenile Court, Protective Services, or some other social service agency) if one of the following situations exist:
 - 1. Home conditions make immediate removal necessary;
 - 2. The juvenile has run away from home, or the proper person or authority having legal custody;
 - 3. The offenses are so serious that release would endanger public safety; or
 - 4. The juvenile has been detained for observation, study, and treatment by qualified experts.
- B. If the arrest is for a serious criminal offense and the intent is to detain, then transport the juvenile to the police department for supervisory review, investigation, and booking purposes. Once complete, transport him/her to the juvenile detention center.
 - 1. Contact the court if it is open.
 - 2. If the court is closed, contact the Detention Center prior to transport. Detention may be authorized in the following situations:
 - a. The offense alleged to have been committed by the juvenile is so serious that the release would endanger the public safety;
 - b. The juvenile charged with a major offense will likely commit another offense pending trial if released;
 - c. Another petition is pending against the juvenile;
 - d. The juvenile is on probation;
 - e. The juvenile has a prior adjudication but is not under the court's jurisdiction at the time of apprehension; or

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- f. There is a substantial likelihood that if the juvenile is released to the parent, guardian, or custodian, with or without conditions, the juvenile will fail to appear at the next court proceeding.

V. INTERVIEWS OF JUVENILES

- A. Officers must comply with the following when interviewing juveniles in custody for a criminal offense or a known suspect in a criminal matter:
 1. Every reasonable effort must be made to inform the minor's parents or guardian of the limited custody and the reason for it;
 2. The juvenile is informed and understands his/her Miranda Rights prior to any custodial interrogation;
 3. Interrogations, with no more than two officers present, should not be unreasonable in length;
 4. The juvenile shall be allowed to talk with his/her legal attorney;
 5. Officers shall use discretion in allowing the juvenile to confer with his/her parent or guardian, and the type of crime committed, and the age and mental state of the juvenile, should be considered; and
 6. If the juvenile shows signs of duress or fatigue, terminate the interrogation.
- B. Interviews of juveniles who are victims or witnesses in a criminal matter shall conform to the following guidelines:
 1. Interviews regarding criminal matters that involve a serious offense (homicide, criminal sexual conduct, felony assaults) shall be conducted in a Child Forensic Protocol format by a detective or be referred by a detective to a Child Advocacy Center; or
 2. If the criminal matter is not serious in nature or a status offense, the interview may be conducted by any officer.
- C. A parent, guardian, or custodian is not required to be present for the advice of rights or the taking of a statement from a juvenile. The Juvenile Court, however, prefers:
 1. A parent, guardian, adult relative, adult friendly to the juvenile, or custodian be present with all juveniles;

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2. If attempts to contact a parent, guardian, or other responsible adult are unsuccessful, an interview *should* still be attempted, and efforts to contact a responsible adult should be documented;
3. Whether an adult is present or not, it is important to advise all juveniles regarding their Miranda Rights, and to ensure that the waiver was understood and knowingly made; this must be documented in the police report; and
4. In all situations, consider the totality of the circumstances, i.e., age of the youth, seriousness of the alleged crime, and first offender vs. street-wise offender.

VI. ABUSED, DEPENDENT, AND NEGLECTED MINORS

- A. Officers may, without a warrant, take into temporary custody a minor who the officer, with reasonable cause, believes to be neglected, abused, or dependent as defined, or who has been adjudged a ward of the court and has escaped from any commitment ordered by the court, or who is found in any street or public place suffering from any sickness or injury that requires care, medical treatment, or hospitalization.
 1. Officers taking temporary protective custody shall immediately make every reasonable effort to notify the person responsible for the child's welfare and inform that person that the minor has been taken into custody and where the minor is being held.
 2. Officers shall immediately notify the Family Independence Agency. They will initiate proceedings for continued temporary custody of the child.
- B. The law requires certain people, to include a law enforcement officer, to make an immediate report and then file a written report within seventy-two (72) hours to the Department of Social Services if there is reasonable cause to suspect neglect, abuse, or abandonment. The written report requirement will be met by completing form DSS-3200 and submitting it with a copy of the incident report.
 1. The immediate report will be by phone to the Protective Services Unit.
 2. The written report will be a copy of the police report and form DSS-3200.

VII. REVISION RESPONSIBILITY

- A. Responsibility for the continuous updating and revision of this Order lies with the Director of Public Safety. Continuous shall mean when necessary or when mandated by law.

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- B. In the event that this Policy conflicts with, or supersedes, any previous Departmental Order, Procedure, or Directive, to that extent, the conflicting or superseded Order is cancelled.



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