

**NEW SMYRNA BEACH POLICE DEPARTMENT
NEW SMYRNA BEACH, FLORIDA**

POLICY AND PROCEDURE DIRECTIVE

TITLE: JUVENILE OPERATIONS

NUMBER: 16-1

EFFECTIVE: 8/14

REFERENCE:

RESCINDS/ AMENDS: 19-1/ SOP 19-01-1

REVISED: 1/22

ATTACHMENTS: <http://www.djj.state.fl.us/partners/policies-resources/rule>
<https://ojdp.ojp.gov/states/florida>
[FSS 776.08.pdf](#), [FSS 985.101.pdf](#), [FSS 394.463.pdf](#), [FSS 394.455.pdf](#)
[FSS 985.12.pdf](#), [FSS 562.111.pdf](#), [FSS 985.11.pdf](#), [FSS 943.051.pdf](#)

A. PURPOSE

The purpose of this Directive is to provide guidance for the detention/arrest of juveniles and to provide alternatives to arrest. The first contact a juvenile makes with the police may set lifelong attitudes. The way you, as a police officer, treat a juvenile may influence how they will respond to other officers in the future.

B. DISCUSSION

The New Smyrna Beach Police Department is committed to the development of programs designed to prevent juvenile delinquency, and officers of this agency are encouraged to participate in such programs. This Directive will provide procedures for taking juveniles into custody or detention.

This Directive will, also, provide procedures for the Interstate Compact Issue, which supersedes Florida State Statutes regarding the detention of runaways and other juvenile status offenders.

C. POLICY

It shall be the policy of this agency to use the greatest possible discretion in dealing with juveniles. It is the Department's preference that arrest will be the last option in those cases involving juveniles involved in minor offenses, and with insignificant prior criminal history.

When dealing with juveniles, officers may exercise reasonable discretion deciding which alternative is appropriate to the situation. Alternatives include but are not limited to:

- Civil citation;
- Informal counseling to inform the youth of the consequences of his or her actions;
- Informal referrals to community services;
- Referral to parents or responsible adults;
- Informal counseling of parents or responsible adults;
- Complaint affidavit;
- Arrest under secure custody.

In all cases, the Constitutional Rights of juveniles taken into custody will be protected regardless of whether or not the juvenile will be processed or field released.

A child younger than 7 years of age may not be arrested, charged, or adjudicated delinquent for a delinquent act or violation of law based on an act occurring before he or she reaches 7 years of age, unless the violation of law is a forcible felony as defined in [FSS 776.08](#).

D. DEFINITIONS

JUVENILE – Any married or unmarried person under eighteen (18) years of age, who has not been emancipated or adjudicated as an adult.

DELINQUENT CHILD – A child found by a court to have committed a felony, misdemeanor, contempt of court or violated a local ordinance and whose case has not been prosecuted as an adult case.

STATUS OFFENDER – A juvenile who is charged with a violation that would not be arrestable if they were an adult, i.e. truancy, runaway, etc.

DEPENDENT CHILD – A child who:

- Has been abandoned by his or her parents or custodian;
- For any reason is homeless or destitute;
- Has no proper parental support, maintenance, care or guardianship;
- Because of neglect by parents or guardian is deprived of education as required by law or of medical psychiatric, psychological or other care necessary for well-being.

NON-SECURE CUSTODY – A condition under which a juvenile’s freedom of movement is controlled by officers of this agency and, during such time, the juvenile:

- Is held in an unlocked multi-purpose area, that is in no way designed for residential use, such as an interview room or an office;
- Is held long enough to complete identification, investigation and processing and then released to a responsible adult or transferred to the Department of Juvenile Justice (DJJ);
- Is held under continuous visual supervision until released.

SECURE CUSTODY – When a juvenile is physically detained or confined in a locked room designed to securely detain persons who are in law enforcement custody.

SIGHT CONTACT - Clear visual contact between incarcerated adults and juveniles within close proximity to each other.

SOUND CONTACT - Direct oral communication between incarcerated adults and juvenile offenders.

E. PROCEDURE

16.1.1 Juveniles committing felony offenses shall be referred to the appropriate court for disposition of the charged offense(s). Officers arresting juveniles for felony offenses shall:

1. Make every reasonable effort to contact the juvenile's parent(s) or legal guardian
2. Contact the D.J.J. Intake Officer, advising the Intake Officer of the charges and fax a completed SA-707 to the detention facility for screening.
3. Upon taking a child into custody, a law enforcement officer may deliver the child, for temporary custody not to exceed 6 hours, to a secure booking area of a jail or other facility intended or used for the detention of adults, for the purpose of fingerprinting or photographing the child or awaiting appropriate transport to the department or as provided in [FSS 985.13\(2\)](#), provided no regular sight and sound contact between the child and adult inmates or trustees is permitted and the receiving facility has adequate staff to supervise and monitor the

child's activities at all times. The juvenile intake officer will take custody of the juvenile and paperwork upon arrival.

4. If the temporary custody exceeds 6 hours, the officer shall review the event with the shift supervisor and document the reason for the extension of time allotted.
5. If the juvenile is not accepted for detention the DJJ intake officer will provide court appearance information and the officer will annotate the information onto the completed SA-707 and incident report. The juvenile will then be released to the parent(s) or legal guardian.
6. If a parent(s) or legal guardian is not located the Department of Children and Families will be contacted.
7. Officers shall complete a Juvenile Summary Report Form NSBPD0920-37 when an arrest is made.

16.1.2 Taking a child into custody ([FSS 985.101](#))

A child may be taken into custody under the following circumstances:

1. Pursuant to an order of the Circuit Court issued pursuant to the provisions of [FSS 985.101](#), based upon sworn testimony, either before or after a petition is filed.
2. For a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest.
3. For failing to appear at a court hearing after being properly noticed. (Warrant Issued)
4. By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, supervised release detention, post-commitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.

16.1.3 An officer may take a juvenile into custody if the youth is lost, seriously endangered, truant, or is a runaway. In all such cases, the juvenile will be held in non-secure custody and officers will contact the child's parent or guardian as soon as possible.

1. If the juvenile is lost or a runaway, the officer will contact the reporting agency to advise of the recovery. If the parent or guardian is nearby, the officer will make arrangements for the juvenile to be picked up at the police department. When traveling from a distance, the officer will contact the appropriate shelter and make arrangements for the child to be delivered there.
2. If the officer is unable to contact a parent or legal guardian, then the nearest available adult relative or family friend should be notified and a message left for the parent to contact the Department regarding the incident.
3. In cases of alleged child abuse, officers shall contact their immediate supervisor in order to conduct an investigation of the complaint unless probable cause justifies immediate action in order to protect the child's safety and well-being. The officer will also call the Department of Children and Families hotline.

16.1.4 Juvenile is alleged to have been harmed or to be in danger of harm:

1. If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, then the child shall be delivered to a hospital for necessary evaluation and treatment.
2. If the child is believed to be mentally ill as defined in [FSS 394.463\(1\)](#), then that child shall be taken to a designated public receiving facility, as defined in [FSS 394.455](#), for examination.
3. If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on themselves or another, or is incapacitated by substance abuse, then the child shall be delivered to a hospital, addictions receiving facility, or treatment resource.
4. When the juvenile is seriously endangered or is alleging harm, the officer will contact a supervisor and proceed as directed.

F. CIVIL CITATION

16.1.5 It is the policy of the New Smyrna Beach Police Department to issue a civil citation to all eligible juvenile offenders in accordance with [FSS 985.12](#).

1. Officers will issue a civil citation for misdemeanor offenses even if eligibility is unable to be determined at the time of issuance. (Civil Citations may be amended to a complaint affidavit if a determination is made that the juvenile is ineligible).

16.1.6 Use of the civil citation or similar diversion program is not limited to first-time misdemeanors and may be used in up to two subsequent misdemeanors. If an arrest is made, in lieu of a civil citation, the officer must provide written documentation in the arrest affidavit as to why an arrest was warranted.

1. The records section will forward the report/arrest affidavit to the Chief of Police for review.

16.1.7 Juvenile misdemeanor offenders are afforded the opportunity to participate in the civil citation process, and participation is voluntary. The following misdemeanor cases may not be appropriate for civil citation; however, based on the circumstances of the offense on a case by case basis, the youth may be served by civil citation if it is in the best interest of the youth and the public.

1. Any misdemeanor involving the possession or use of a firearm.
2. Any misdemeanor involving exposure of sexual organs or other sexual related behavior, i.e., lewd and lascivious behavior.
3. A misdemeanor that is directly related to, or a part of, gang activity

16.1.8 The following misdemeanor offenses may be accepted for civil citation with the approval of the victim, family, and state attorney.

1. Battery
2. Assault
3. Non-firearm Weapon Possession
4. Animal Cruelty

16.1.9 Officers will issue a civil citation to a juvenile in lieu of arrest if the juvenile meets all of the following criteria:

1. The youth has committed their first, second, or third misdemeanor offense and has no prior criminal history.
2. Acknowledge involvement in the offense and agree to participate fully in the Civil Citation Program.
3. There are no open or pending charges.
4. The offender and parent/guardian agree to participate in the civil citation program.

16.1.10 At the time that the citation is issued, the officer shall advise the juvenile that they have the option to refuse the citation and be referred to the State Attorney for criminal prosecution. That option may be exercised at any time before completion of the civil citation program. The juvenile and parents may also be advised that the citation is subject to review by the Office of the State Attorney and may be rejected by them in favor of criminal prosecution at that stage.

16.1.11 The 707 form will be used as the Civil Citation form. The investigating officer will write "Civil Citation" at the left side of the 707. The original affidavit will be forwarded to Records through the normal distribution channels. Records will forward the 707 to the Civil Citation Coordinator.

16.1.12 Records will

1. Retain the original for the files;
2. Enter the civil citation into the automated records system as a full report;
3. Enter the incident as a juvenile arrest for UCR purposes (if applicable)

G. SCHOOL RESPONSE/ CLASSROOM ENTRY

16.1.13 Officers will respond to schools as requested, however officers will not enter classrooms for code of conduct violations committed by students.

1. Officers will take appropriate action in response to criminal violations and when school officials have indicated they will pursue criminal charges.

H. STATUS & NON-OFFENDER

16.1.14 These are juveniles (as defined by state law) who are charged with, or who have committed offenses that would not be criminal if committed by an adult (as defined by state law). Curfew violations, truancy and running away from home, for example, are status offenses. Non-offenders include dependent, neglected, and abused children.

16.1.15 Juvenile status and non-offenders will be directly returned to a parent or guardian, school facility, or other agency that provides services for the care of status or non-offenders rather than being returned to the police department to await transfer of custody. In the unlikely event that a status offender must be brought to the police department to facilitate his or her return to an appropriate authority, the juvenile will be held in accordance with [FJJDP and Florida Department of Juvenile Justice Standards](#).

16.1.16 If direct return or custody transfer cannot occur, status and non-offenders in police custody shall not be held in the holding facility. The briefing or interview room-areas may be used provided that the juvenile remains under continuous police observation.

1. Status offenders shall not be handcuffed to a rail or other stationary device while in custody.
2. Custody time should be limited to identification, investigation, processing, release to parent, or arranging for transport to juvenile facility or court.

I. MINOR IN POSSESSION EXCEPTION

16.1.17 Minor in Possession Exception

In [FSS 562.111](#), F.S., makes it unlawful (second-degree misdemeanor) for any person under the age of 21 to possess alcoholic beverages or to misrepresent or misstate his or her age to obtain alcoholic beverages. For the purposes of compliance reporting and monitoring, however, this offense would be considered a “status offense”. The secure holding of a juvenile in the secure holding area for any period of time for a violation of this law would be considered a JJDP violation.

J. CUSTODIAL INTERVIEW

16.1.18 When a juvenile is taken into custody, the officer shall attempt to notify the parent, guardian, or legal custodian of the child. The officer taking the juvenile into custody shall continue such attempts until the parent, guardian, or legal custodian of the juvenile is notified, or the juvenile is delivered to an intake officer. All attempts to contact a parent or guardian will be recorded in the incident report to include:

1. Who was called and what phone number was used;
2. Time and number of attempted phone calls/contacts

16.1.19 The juvenile will be advised of the “Miranda Rights”. If the juvenile requests to speak to an attorney or his or her parent(s) before answering any questions the interview must be terminated.

1. If the juvenile requests the presence of a parent, custodian, or legal guardian, every reasonable effort shall be made to accommodate the request. This applies whether the custodial interview is conducted in the field, at the Department, or at DJJ.
2. If the officer becomes aware that the child’s parent wants to see the child being interviewed, the interview should be paused and the parent should be permitted to see the child before any further questioning takes place.
3. The permission of the parent/guardian should be obtained prior to interviewing the juvenile; however, questions may commence while attempts are being made to contact a parent or guardian, provided the juvenile does not request a parent’s advice before answering. NOTE: A field contact or fact-finding will not be considered an interview.
4. Inform the juvenile and the parent/guardian concerning the purpose of the interview.
5. Custodial interviews with juveniles will normally be conducted by no more than two interviewers.

6. Custodial interviews shall always be of reasonable duration, but in no instance any longer than five hours.
 - In determining the length of interview sessions, interviewers shall give due consideration to the juvenile's age, the seriousness of the offense, and the need to provide adequate breaks for physical comfort.
7. Juveniles shall always be separated by sight and sound from adult arrestees while in the facility and will be monitored by the officers at all times.
8. Juveniles may be interviewed while in custody at DJJ after being advised of and voluntarily waiving their Miranda Rights in the presence of a Department of Juvenile Justice Counselor.

16.1.20 Processed juveniles, shall be transported to the appropriate intake facility, as determined by DJJ, without undue delay unless the juvenile is in need of emergency medical treatment whereupon the juvenile shall be delivered to the appropriate receiving facility.

K. FINGERPRINTS & PHOTOGRAPHS

16.1.21 Fingerprinting will comply with [FSS 985.11](#). Fingerprint submissions shall comply with [FSS 985.11\(b\)](#). Fingerprints taken in accordance with [FSS 943.051\(3\)\(a\)](#) and/or [FSS 943.051\(3\)\(b\)](#) shall be submitted to the Department of Law Enforcement without delay. Orders from the court – Juvenile Pick-up (JPU) and Take into Custody Orders (TICO) are not recognized as specific charges and should not be recorded on criminal arrest fingerprint cards. These will not be submitted to FDLE for the CCH file.

16.1.22 Any juvenile fingerprint and/ or photographic records retained by the agency shall be marked “**Juvenile Confidential**” and forwarded to records. These records shall be filed separate from adult records.

16.1.23 Access to, dissemination of, and retention of juvenile fingerprints and/or photographs shall be in accordance with [FSS 985.11](#) or upon an order of the court.

L. JUVENILES EXPOSED TO VIOLENCE, VICTIM OR WITNESS

16.1.24 Juveniles that are exposed to violence as either a victim and/ or witness are eligible for counseling services compensable by the Crime Victim Compensation fund. To be eligible the juvenile(s) must be listed in the police report, as such the following procedure shall be followed by officers investigating incidents involving acts of violence directed to the juvenile and/ or witnessed by the juvenile.

1. Investigating officers shall ensure that the juveniles name and other pertinent information is documented in the police report.
2. Reports shall be reviewed by the office of the Victim Advocate who will contact the family and/ or guardian of the juvenile(s) and inform them of available mental health counseling.
3. Additionally, the Victim Advocate will complete or assist the family with the CVC paperwork requesting compensation for such counseling if they elect to seek it.

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**Approved: Signature on File
Chief Mike Coffin**