

Germantown Police Department

Policies and Procedures

Number: 7-1
Effective Date: January 1, 2003
Subject: Juvenile Enforcement and Custody
Previous Revisions:

I. PURPOSE

The purpose of this policy is to provide guidelines for officers when dealing with juveniles in enforcement and custody situations.

II. POLICY

It is the responsibility of all members of this department to familiarize themselves with juvenile problems and established procedures for handling both criminal and non-criminal juvenile incidents as defined in this policy. Officers should bear in mind that only a small percentage of juveniles commit the majority of juvenile crimes. While this small percentage may require secure custody, the vast majority of juvenile offenders are likely candidates for non-secure custody and positive diversion and intervention strategies. Therefore, it is the policy of the Germantown Police Department that, whenever reasonable and justified under this policy, officers should take those measures necessary to effect positive changes in juvenile offenders that are consistent with state law and the safety and security interests of the community.

III. GENERAL

A juvenile may be taken into custody:

- A. Pursuant to an order of the court;
- B. Pursuant to the laws of arrest;
- C. By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his/her surroundings and that his/her removal is necessary; or
- D. By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has run away from his/her parents, guardian or other custodian.

The taking of a child into custody is not an arrest, except for the purpose of determining its validity under the Constitution of this state or the United States.

IV. DEFINITIONS

Status Offense: An act or conduct declared by statute to be an offense but only when committed or engaged in by a juvenile, and that can only be adjudicated by Juvenile Court. (Example: unruly, runaway, curfew violation, truancy).

Responsible Adult: In the absence of a juvenile's parents 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, legal guardian or next of kin can assume that responsibility.

Non-Secure Custody: A condition under which a juvenile's freedom of movement is controlled by members of this agency and, during such time, the juvenile:

- A. Is held in an unlocked, multi-purpose area that is in no way designed for residential use, such as a report writing room or an office;
- B. Is at no time handcuffed to any stationary object;
- C. Is held only long enough to complete identification, investigation and processing and then released to a responsible adult or transferred to Juvenile Court; and
- D. Is under continuous visual supervision until released.

Secure Custody: A condition in which a juvenile is physically detained or confined in a locked room, set of rooms or a cell that is designated, set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody.

Delinquent Act: An act designated as a crime under law.

Delinquent Child: A child who has committed a delinquent act and is in need of treatment or rehabilitation.

Custody: Legal or physical control of a person or having supervisory or physical responsibility for a person.

V. PROCEDURE

- A. Enforcement Alternatives

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 his actions;
3. Informal referrals to community services;
4. Referral to parents or responsible adult;
5. Informal counseling of parents or responsible adult;
6. Limited custody and warning;
7. Issuance of a Juvenile Summons;
8. Arrest under non-secure custody; and
9. Arrest under secure custody.

B. Enforcement Criteria

The following general guidelines may be used in determining appropriate enforcement and related actions that may be taken when dealing with juvenile incidents:

1. Release without further action or following informal counseling referral to community resources or parents may be appropriate in incidents where property damage or personal injury is not involved, but intervention is necessary to avoid potential delinquent actions and when the youth has had no prior enforcement contacts with the police. Examples of these incidents include, but are not limited to:
 - a. curfew violations;
 - b. loitering;
 - c. minor alcohol law violations; and
 - d. disorderly conduct.
2. Officers may elect to transport the youth home or direct him to return home; make personal, telephone contact with the youth's parents or guardians to provide them with information and counseling on their child's actions; refer the youth to appropriate community service agencies with or without follow-up; or detain the youth at the police station until he is released to a parent or guardian when:

- a. the nature of the incident is of a more serious or potentially serious nature than exemplified in item B-1 of this policy;
 - b. the youth involved is fully aware of the seriousness or potential seriousness of his actions and/or is acting in alliance or collusion with others to commit such acts;
 - c. the youth fails to cooperate or to positively respond to police intervention and direction;
 - d. the youth has received prior informal warnings or referrals or has engaged in delinquent acts, and/or
 - e. the youth's parents or responsible adult have apparently failed to provide appropriate control and supervision.
3. Officers may file delinquency charges against a juvenile when the circumstances surrounding the incident meet or exceed the seriousness of those cited as examples in item B-2 of this policy. Officers should file delinquency charges against juveniles when they commit:
- a. acts that if committed by an adult would be felonies;
 - b. delinquent acts involving deadly weapons;
 - c. serious gang-related offenses;
 - d. delinquent acts involving assault;
 - e. delinquent acts while on probation or parole or when they have charges pending against them;
 - f. delinquent acts as repeat offenders or when they have refused to participate in diversion or intervention programs; or
 - g. when it has been determined that parental or other adult supervision is ineffective.
4. An officer may also take a juvenile 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 officers shall contact the child's parents or guardian as soon as possible. Where parents or guardians cannot be contacted or refuse to accept custody, the officer shall contact the departmentally approved youth services agency for placement.

5. 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 safety and wellbeing of the child.

C. Status Offenses

1. Based on the seriousness of and circumstances surrounding the offense, the background and demeanor of the juvenile and other relevant factors, an officer may release a juvenile to his parents, guardian or other responsible adult.
2. Juveniles taken into custody for status offenses will 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 type offenses should not be fingerprinted or photographed for purposes of record.
7. Status offenders in temporary custody shall not be placed in a holding area with adult suspects and shall also be:
 - a. under constant visual supervision;
 - b. afforded reasonable access to toilets and washing facilities;
 - c. provided food if in need of nourishment to include any special diets necessary for health or medical purposes;
 - d. provided with reasonable access to water or other beverages; and
 - e. allowed reasonable access to a telephone.

D. Criminal Type Offenses

1. Juveniles arrested for criminal type offenses are subject to the same security requirements as adults and may be handcuffed or otherwise restrained as necessary during transport and processing.
2. Juveniles accused of criminal type offenses may be securely detained only for the period of time and in the manner prescribed by state law to allow for identification, investigation, processing and release to parents or a responsible adult, or transfer to Juvenile Court.
3. Juveniles that are taken into custody and need to be securely detained will be transported to Juvenile Court and processed by their staff. Juveniles will not be transported in the same vehicle with adults that are suspected of criminal activity.
4. Juveniles should never be mixed with adult prisoners nor should juveniles ever be brought into, incarcerated, or detained in the Germantown City Jail for any reason. The only exceptions are by special order of a Juvenile Court Judge or when the juvenile has been convicted as an adult under Tenn. Code Ann. 37-1-134. Such information will be documented in the Jail Booking Record.
5. Juveniles should not be fingerprinted or photographed without the permission of Juvenile Court. Fingerprints of a child may be taken for exclusionary purposes with the permission of Juvenile Court, if there is probable cause to believe that fingerprints collected during an investigation are those of a particular child.
6. The juvenile should be informed of the procedures that will be followed with regard to custody, release, and transport to another facility or to a custody hearing.

E. Interrogation of Juveniles

1. A juvenile in custody should not be questioned without the presence of his/her parent or a responsible adult. The juvenile and the adult, if available, shall be advised of their Constitutional rights prior to interrogation. If, prior to or during questioning the juvenile, his parents or responsible adult express the desire to speak with an attorney, all questioning shall cease and shall not be renewed until permission is granted.
2. In the absence of a parent or guardian, a juvenile may be questioned and may provide statements if reasonable assurances can be made that the juvenile fully understands his Constitutional rights.

3. Officers must be especially cautious when questioning children under 16 years of age, who are charged with serious offenses, as there is a strong presumption that younger children are not capable of making an intelligent waiver in the absence of a parent, guardian, or attorney. When the officer is unable to contact or to have the parents or guardians of juveniles under the age of 16 present during questioning, the officer should contact his/her supervisor for advice and a decision as to whether the questioning should take place without the parent or guardian being present.
4. Interrogation of juveniles shall not extend over periods of time that could be considered unreasonable or harassing and, whenever possible, only one officer at a time should conduct an interrogation.
5. If the investigator/officer needs to question a juvenile who is in Juvenile Court detention, he/she will contact Juvenile Court and obtain permission to do so. A Juvenile Court Officer will call and advise the detention center to have the youth ready. The officer will go to Juvenile Court where the questioning will take place, unless other provisions have been requested and approved.

F. Making Arrests and/or Interviewing Witnesses in County Schools

The following procedure is to be used when it becomes necessary to make an arrest and/or interview witnesses at a school:

The officers will first contact the School Resource Officer and/or go to the principal's office requesting that the wanted party or witness be brought to the office where he/she will be placed in custody or interviewed. The presence of the principal satisfies the requirement to have a parent or guardian present. There may be exceptions, such as making an arrest during a disturbance at school.

G. Mentally Retarded Juveniles

Pursuant to laws of arrest in Tennessee, an officer can take a mentally retarded child into custody in the following circumstances:

1. Any mentally retarded youth who is apprehended in the commission of a crime is to be processed, as any other youth would be and/or taken to Juvenile Court.
2. When officers discover a mentally retarded child who appears to be lost and is unable to tell the officers where he/she lives, in such cases the child, due to his/her condition, is a danger to himself/herself if not properly cared for. When officers receive a call from a citizen who has discovered a mentally

retarded youth, the officer should make an effort to locate the child's home. However, when such information is not available, the child is to be taken to Juvenile Court, and the arrest report is to reflect that the child was taken into custody because said child was lost and the proper guardian could not be located.

Under no circumstances are officers to take a mentally retarded child into custody in response to a call from the child's parents that the child is "unruly." Juvenile Court will not accept children from the Police Department under these circumstances.

The only time that a mentally retarded child is to be removed from the custody of his/her parents or guardian is when the officer has reason to believe that the child is in immediate danger, and in such cases the mentally retarded child is to be treated as any other juvenile in like circumstances.

H. Record Keeping

1. Officers who select non-custodial alternatives or engage in informal enforcement contacts with juveniles shall complete appropriate field interview and/or incident reports as required by this agency. These reports shall clearly identify the juveniles involved, the nature of the incident and the rationale for the officer's disposition.
2. Juveniles taken into custody for criminal type offenses shall be subject to the same reporting requirements as adults. Such reports shall be clearly marked as "Juvenile," maintained in a separate location from adult arrest records and be subject to state law regarding dissemination and access.

VI. REVIEW PROCESS

An annual review of this policy shall be conducted to determine if it should be revised, cancelled or continued in its present form.

This order shall remain in effect until revoked or superseded by competent authority.