

Stowe Police Department

General Order: 2.15	Related General Orders:
Juvenile Operations	
This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.	
Applicable Vermont Statutes: 33 VSA Chapter 55 Juvenile Proceedings	
Date Implemented: 03/15/2013	Date Revised: 8/12/13

I. **PURPOSE:**

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

II. **POLICY:**

1. While a small percentage of juveniles may require secure custody, the vast majority of juvenile offenders are likely candidates for non-secure custody and positive diversion and intervention strategies. With this in mind, officers shall, when reasonable and justified under this General Order, 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. In many instances, actions of our youth are not always associated with wanton disregard for our laws. The actions of our youth are often connected with outside influences such as peer pressure, family related problems, or a lack of personal connection to the community. With this in mind, officers should deal with juvenile offenders with respect for them as a person and in the least coercive manner possible while still preserving public safety and order.

III. **DEFINITIONS: (As listed in 33 VSA 5502)**

- (1) "**Care provider**" means a person other than a parent, guardian, or custodian who is providing the child with routine daily care but to whom custody rights have not been transferred by a court.

(2) "**Child**" means any of the following:

(A) An individual who is under the age of 18 and is a child in need of care or supervision as defined in subdivision (3)(A), (B), or (D) of this section (abandoned, abused, without proper parental care, or truant).

(B)(i) An individual who is under the age of 18, is a child in need of care or supervision as defined in subdivision (3)(C) of this section (beyond parental control), and was under the age of 16 at the time the petition was filed; or

(ii) an individual who is between the ages of 16 to 17.5, is a child in need of care or supervision as defined in subdivision (3)(C) of this section (beyond parental control), and who is at high risk of serious harm to himself or herself or others due to problems such as substance abuse, prostitution, or homelessness.

(C) An individual who has been alleged to have committed or has committed an act of delinquency after becoming 10 years of age and prior to becoming 18 years of age; provided, however:

(i) that an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 10 but not the age of 14 may be treated as an adult as provided therein;

(ii) that an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 14 but not the age of 16 shall be subject to criminal proceedings as in cases commenced against adults, unless transferred to the court in accordance with the juvenile judicial proceedings chapters;

(iii) that an individual who is alleged to have committed an act before attaining the age of 10 which would be murder as defined in 13 V.S.A. § 2301 if committed by an adult may be subject to delinquency proceedings; and

(iv) that an individual may be considered a child for the period of time the court retains jurisdiction under section 5104 of this title.

(3) "**Child in need of care or supervision (CHINS)**" means a child who:

(A) has been abandoned or abused by the child's parent, guardian, or custodian. A person is considered to have abandoned a child if the person is: unwilling to have physical custody of the child; unable, unwilling, or has failed to make appropriate arrangements for the child's care; unable to have physical custody of the child and has not arranged or cannot arrange for the safe and appropriate care of the child; or has left the child with a care provider and the care provider is unwilling or unable to provide care or support for the child, the whereabouts of the person are unknown, and reasonable efforts to locate the person have been unsuccessful.

(B) is without proper parental care or subsistence, education, medical, or other care necessary for his or her well-being;

(C) is without or beyond the control of his or her parent, guardian, or custodian; or

(D) is habitually and without justification truant from compulsory school attendance.

IV. **PROCEDURE:**

1. **Delinquency**

- A. At the conclusion of a juvenile investigation, officers may take the following action:
 - a. Releasing the juvenile with no action.
 - b. Citing the juvenile to court, either as a juvenile or an adult.
 - c. Taking the juvenile into custody.
- B. In any juvenile related case, whether the juvenile is detained or released from custody, the parent(s) or guardian will be notified by the officer. In the event neither a parent nor guardian is located and the juvenile is released to a responsible adult or the juvenile is released at the scene, the investigating officer will contact the parent or guardian as soon as practical. Successful and unsuccessful contacts will be included in the officer's report.
- C. Juvenile cases may be referred to juvenile court. In these instances, the reports prepared should indicate that a juvenile citation has been issued or that the juvenile was taken into custody. Juveniles will then be required to appear in juvenile court .
- D. In cases where minors are 16 years old, but younger than 18, they can be arrested or cited into adult court for one of the twelve (12) major felonies as specified in subdivisions (1)-(12) of Title 33 Section 5204. Minors age 10 and 15 can also be arrested or cited into adult court for one of the twelve (12) major felonies as specified in subdivisions (1)-(12) of Title 33 Section 5204. In either case, when someone under the age of 18 is cited in to adult court a copy of the adult citation must be mailed to the last known address of the parent or legal guardian.
- E. For offenses committed by juveniles who are sixteen(16) to seventeen and a half (17 ½), they should be cited to juvenile court, EXCEPT for major motor vehicle offenses (DUI, DLS, Negligent Operation, ATE and LSA, "**Listed Crimes**" per 13 VSA 5301 (7), and Fish and Game offenses.
 - a. "**Listed Crimes**" includes all levels of stalking, domestic assault, sexual assault, L&L, murder, manslaughter, aggravated assault, assault and robbery per 13 VSA 608, arson, maiming, unlawful restraint, kidnapping, reckless endangerment, VAPO, burglary into occupied dwelling, various forms of abuse per 13 VSA 1376-1381, and attempts to commit any of the above.

- F. A child may be taken into custody:
 - a. Pursuant to laws of arrest in Vermont.
 - b. Pursuant to a Juvenile Court Order under T33 Chapters 51, 52 and 53.
 - c. When the officer has reasonable grounds to believe that the child has committed a delinquent act; and that the child's immediate welfare or the protection of the community, or both, require the child's removal from the child's current home.

- G. When an officer makes a physical juvenile arrest, the juvenile will be brought to the Police Department or the juvenile's residence. If the juvenile is brought to the police department, the juvenile's parents or guardian will be contacted immediately advising them of the situation and asking them to come to the station.

- H. Anytime that a juvenile is taken into custody, the appropriate report shall be completed including but not limited to, a Juvenile Data Sheet-Form 101, Juvenile Miranda Rights form as applicable, and report will be completed. An affidavit will be prepared, if applicable. A Juvenile Data Sheet-Form 101 must be completed for all Juvenile delinquency cases, both custody and release and forwarded to the States Attorney Office.

- I. When an officer has taken a child into custody, the officer shall make reasonable attempts to determine the physical/emotional welfare of the child to discern whether the child is in danger of being harmed or harming him/herself.

- J. Officers should attempt to cite juveniles into court rather than recommend that they be placed in the juvenile detention center. In making such a decision, officers should consider the offender's past record, type of offense, whether they have an appropriate residence, whether the offender or the victim sustained injuries and if the offender was under the influence of alcohol and/or drugs.

- K. If circumstances warrant **continued custody** of the juvenile:
 - a. Prepare an affidavit in support of a request for an emergency care order.
 - b. Submitting affidavit:
 - (i) Regular Court Hours: Call the State's Attorney's office to find out availability of a judge.
 - (ii) After Regular Court Hours or on Weekend or Holiday: Contact the on-call judge.
 - (iii) Provide completed Juvenile Data Sheet to the States Attorney.

- L. The officer should contact DCF, and, if DCF has knowledge of the reasons for the removal of the child, DCF may prepare an affidavit as a supplement to the

affidavit of the law enforcement officer.

M. In many instances, **continued custody is not warranted**. In these instances:

- a. The juvenile may be counseled by the officer and released for any non-serious offense, providing that the minor has not been previously counseled and released.
- b. The juvenile may be cited to the juvenile court, via a juvenile citation.

N. All decisions regarding the disposition of juvenile cases shall be made with the best interest of the juvenile in mind. It is a responsibility of all officers of this department to follow the criteria established to decide which juvenile offenders will be referred to the juvenile court.

O. Notice of Report for Risk Assessment

- a. A ***NOTICE TO REPORT FOR RISK ASSESSMENT*** shall be given to the juvenile and custodial parent/guardian at the same time the citation is issued or the juvenile was taken into custody. The ***NOTICE TO REPORT FOR RISK ASSESSMENT*** will be issued in **ALL** delinquency cases, including those under age sixteen (16).

P. Time Frames for Citation and Case Submission:

- a. The time frame for citing and submitting cases should generally be as follows:
 - (i) Cite the juvenile for the next available juvenile court date that is thirty (30) or more days out.
 - (ii) Submit paperwork to the State's Attorney within ten (10) days of the cited date.
 - (iii) EXCEPTIONS: If the officer has a case which you feel needs to be handled differently than what is outlined, contact the State's Attorney.

2. **Child In Need of Care or Services (CHINS) and Runaway Children**

A. A child may be taken into custody for a Child In Need of Care or Services (CHINS):

- a. Pursuant to an order of the family court under the provisions of Title 33 chapter 53.
- b. By an officer when the officer has reasonable grounds to believe that the child is in immediate danger from his or her surroundings and that removal from the child's current home is necessary for the child's protection.

- c. By an officer when the officer has reasonable grounds to believe that the child has run away from a custodial parent, a foster parent, a guardian, a custodian, a noncustodial parent lawfully exercising parent-child contact, or care provider
- B. If an officer takes a child into custody as a runaway, the officer shall deliver the child to:
 - a. The child's custodial parent, foster parent, guardian, custodian, or noncustodial parent lawfully exercising parent-child contact; or,
 - b. A shelter designated by DCF as qualified to assist children who have run away for the purpose of reuniting them with their parents, guardian, or legal custodian.
- C. Remove the child from the child's surroundings, contact DCF, and deliver the child to a location designated by DCF. DCF shall have the authority to make reasonable decisions concerning the child's immediate placement, safety and welfare pending the issuance of an emergency care order. DCF may prepare an affidavit as a supplement to the affidavit of the law enforcement officer.
- D. Officer will prepare an affidavit in support of a request for an emergency care order.
- E. Submitting affidavit:
 - a. Regular Court Hours: Call the State's Attorney's office to find out availability of a judge.
 - b. After Regular Court Hours or on Weekend or Holiday: Contact the on-call judge.
- F. A Juvenile Data Sheet-Form 101 must be completed for all CHINS cases forwarded to the States Attorney Office.

4. **Guidance Regarding Secure and Non-Secure Custody**

- A. Delinquent and status offending youth in accordance with Federal Juvenile Justice and Delinquency Prevention Act Regulations:
 - a. Non-offenders and status offenders may not be held securely.
 - b. Juveniles charged as an adult with a misdemeanor must be treated as if delinquent. They may not be held securely for more than six (6) hours prior to and six (6) hours after court appearance.
 - c. The act does not apply to juveniles charged with a felony and charged as an adult.

- B. **Secure Custody** refers to the ability to restrict movement of persons in custody through such mechanisms as cells, locker rooms, cuffing rails, benches and furniture bolted to a floor or wall to which hand cuffs, leg irons or waist restraints (belly Chains) can be affixed.
- C. **Status Offenders** are juveniles who have been accused of or charged with conduct that would not be criminal if committed by an adult, such as running away and truancy. Federal regulations stipulate that *status offenders should not be placed in secure custody, and should not have sight or sound contact with adult offenders*. Status offenders may be processed within a secure area, provided that there are no adult prisoners present, an officer is in constant attendance, and the status offender is removed once the booking is complete (not to exceed one (1) hour). Status offenders shall be placed in a *non-secure area*, visible to and within hearing of an officer, until release arrangements can be made. If necessary, status offenders may be handcuffed, placed in leg irons or restrained through the use of waist restraints (belly chain) provided they are *not attached to a stationary object*.
- D. **Delinquents** are juvenile offenders who have been charged with or adjudicated for conduct which would be a crime if committed by an adult. Delinquents may be held securely for a maximum of six (6) hours immediately before and six (6) hours after an initial court appearance provided the juvenile has no sight or sound contact with incarcerated adults. They may also be held for up to six (6) hours for the purpose of identification, processing and to arrange for release to parents or transfer to a juvenile facility. The six (6) hour time limit begins when the juvenile is placed in a locked or lockable room, or handcuffed to a cuffing rail or other stationary object anywhere within the facility. The six (6) hour time period does not begin with apprehension on the street or with placement in the locked back seat of a police vehicle, or with entry into the public area of a municipal or police facility. When a juvenile is in a secure booking area for the purposes of processing, he/she should be under continuous in-person supervision and not permitted to have sign or sound contact with adult offenders in the area.
- E. **Minors Charged as Adults** are to be treated as delinquents with regard to secure custody procedures and restrictions on contact with adults when accused of misdemeanor offenses. Juveniles accused of or convicted of felonies are not subject to federal regulations.
- F. **Anytime a juvenile is held at the Department in secure or non-secure custody, the Officer must document checks every fifteen (15) minutes.**
Stowe Police Department – Prisoner / Juvenile Holding Log (Form 040)
- G. **All officers will record on the *JUVENILE HOLDING LOG (VT State Form)* any time a juvenile is held securely or in a non-secure setting while at the Police Department.**

5. **Fingerprints**

- A. Fingerprints may be taken from a juvenile offender if that have been arrested as an adult and being sent to adult court. Fingerprints may **NOT** be taken from a juvenile offender if that juvenile is being cited to juvenile court.
- B. Fingerprint files of persons under the jurisdiction of the juvenile court shall be kept separate from those of other persons under special security measures limited to inspection by law enforcement officers only on a need-to-know basis unless otherwise authorized by the court in individual cases.
- C. Copies of fingerprints shall be maintained on a local basis only and not sent to central state or federal depositories except in national security cases.
- D. Fingerprints of persons under the jurisdiction of the juvenile court shall be removed and destroyed when:
 - a. The petition alleging delinquency with respect to which such fingerprints were taken does not result in an adjudication of delinquency;
 - b. Jurisdiction of the juvenile court is terminated, provided that there has been no record of a criminal offense by the child after reaching his sixteenth birthday.
- E. If latent prints are found at the scene of an offense and there is reason to believe that a particular child was involved, he may be fingerprinted for purposes of immediate comparison, and if the result is negative, the fingerprint card shall be immediately destroyed.

6. **Photographs**

- 1. No photograph shall be taken of any child taken into custody without the consent of the judge unless the case is transferred for criminal proceeding. Mugshots may be taken of individuals who are under the jurisdiction of the adult court.

7. **Custodial Interviews of Juveniles**

- A. When a juvenile is taken into custody or otherwise deprived of his/her freedom in any significant way a police officer shall advise the juvenile in custody of the Miranda Warning prior to asking any incriminating questions. These warnings should be given in the presence of an adult that is genuinely interested in the welfare of the child, and has no association with the prosecution (i.e. not a DCF worker). Both the juvenile and interested adult must agree to waive Miranda before proceeding with custodial questioning.

B. When practical, the following procedures should guide the officer during juvenile interviews:

- a. Limit the number of interviewers to one.
- b. Limit the number of police employees in the same room to no more than two.
- c. Limit the length of interview.
- d. Allow the juvenile to confer with parents or guardian.
- e. Explain Stowe Police Department and Juvenile Justice System procedures to juvenile being interviewed.

8. Juvenile Alcohol Procedure

- A. Intoxicated Youth – a person under the age of eighteen (18) who is intoxicated is assumed to be unable to safely care for him/herself. In order to ensure the continued care of such individuals, any intoxicated youth shall be taken into protective custody.
- B. Intoxicated youths in custody will be released only to a legal parent or guardian. If a parent or guardian cannot be located, the officer will contact DCF and/or follow the CHINS guidelines above.
- C. Incapacitated Youth – a person under the age of eighteen (18) must be screened at an approved alcohol screening program or the emergency room of a licensed general hospital. While the screening is taking place, officers should coordinate contacting the legal parent or guardian to notify them of the youth's status.

IV. DISCIPLINE:

Any violation of this policy may be grounds for disciplinary action consistent with any applicable collective bargaining agreement, statute, Department policy or Town policy.

Issued by: _____

Donald Hull
Chief of Police