

City of Johns Creek Police Department

<i>Subject:</i> Juvenile Offenders		<i>Number:</i> 02-32	
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PURPOSE:

Establish procedures for the handling of juvenile offenders. (Re: OCGA 15-11)

POLICY: (02-32)

The Johns Creek Police Department, through this policy, is committed to the development and perpetuation of Youth and Juvenile programs designed to prevent and control juvenile delinquency.

All agency divisions and personnel share in the Youth and Juvenile responsibilities, and all members are responsible for support of and/or participation in the Youth functions of this City.

The Department will conduct all phases of an investigation concerning a crime committed by a juvenile including bringing the case to the Juvenile Court for adjudication and disposition. Juvenile Courts of Georgia have exclusive original jurisdiction over juvenile matters and shall be the sole court for initiating action.

DEFINITIONS:

Child: Any individual under the age of 17 years who is alleged to have committed a delinquent or unruly act; or under the age of 18 years.

CHINS – On January 1, 2014, the law for Status Offenses (unruly) for juveniles changed. Status Offenses are now called CHINS (child in need of services) offenses. These offenses are only applicable to a child under the age of 18.

In accordance with Chapter 11 of Title 15 a “Child in Need of Services” is defined as a child adjudicated to be in need of care, guidance, counseling, structure, supervision, treatment, or rehabilitation and who is adjudicated to be:

1. Subject to compulsory school attendance and who is habitually and without good and sufficient cause truant, as such term is defined in Code Section 15-11-381, from school;
2. Habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable or places himself or herself or others in unsafe circumstances;
3. A runaway, as such term is defined in Code Section 15-11-381;
4. A child who has committed an offense applicable only to a child;
5. A child who wanders or loiters about the streets of any city or in or about any highway or any public place between the hours of 0000-0500 hours; and
6. A child who patronizes any bar where alcoholic beverages are being sold, unaccompanied by his or her parent or legal custodian or who possesses alcoholic beverages.

A CHINS complaint may be filed by a parent, a guardian or legal custodian, Department of Children Services, a school official, a law enforcement officer, a guardian ad litem, or attorney.

Abuse: Any non-accidental physical injury physical injury which is inconsistent with the explanation give for it suffered by a child as the result of the acts or omissions of a person responsible for the care of a child; emotional abuse; sexual abuse or sexual exploitation and prenatal abuse. The commission of an act of family violence as defined in Code Section 19-3-1 in the presence of a child. An act includes a single act, multiple acts, or a continuing course of conduct. As used in this subparagraph, the term 'presence' means physically present or able to see or hear.

Delinquent Act: An act designated a crime by the laws of this state or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance, and the crime is not a juvenile traffic offense as defined in OCGA 15-11-630.

Dependent Child: A child (under 18) who has been abused or neglected and is in need of the protection of the court; or has been placed for care or adoption in violation of law; or is without his or her parent, guardian, or legal custodian.

Neglect: The failure to provide proper parental care or control, subsistence, education as required by law or other care or control necessary for a child's physical, mental, or emotional health or morals. The failure to provide a child with adequate supervision necessary for such child's well-being or the abandonment of a child by his or her parent, guardian, or legal custodian.

PROCEDURES

Handling Juvenile Offenders (02-32-01)

- A. When confronted with an incident involving a juvenile offender(s), all officers shall use the least coercive alternatives that would be reasonable and consistent with the preservation of public safety and order. These alternatives include:
1. **Outright Release** – When dealing with a juvenile, officers will investigate the incident to determine if custody is unnecessary and the juvenile can be released outright with no further action taken or with a written or verbal warning.
 2. **Parental/Guardian Release** – Officers may turn juveniles over to parents at the scene or transport the juvenile to a parent, guardian, grandparent, adult sibling or an adult legally eligible to take responsibility of the child. The officer may choose to transport the juvenile to the police department and contact a guardian or parent to pick up the child. If no charges are to be filed officers shall inform the parent, guardian or other above relative of the incident and alleged action(s) and not take any further action. This action may be taken when the offense is not serious but it is necessary to have someone take care for the juvenile. The reporting officer will complete an incident report documenting the encounter and placement of the child.
 3. **Citations/Summons** – Officers may issue written citations to juveniles under the age of 17 years, who commit traffic offenses, in lieu of taking them into custody. The citation shall be given to the juvenile offender and a copy forwarded to the Records Unit to be forwarded to juvenile court. Juvenile Court will contact the offender in reference to the court appearance date.
 4. **Referral to Juvenile Court** – If the charge is a misdemeanor or CHINS offense, the juvenile may be released to a parent, guardian or other legal custodian. If the charge is a felony, the officer will contact the YDC/Juvenile Intake Officer who will make the decision whether the juvenile is to be released or detained. Officers shall complete an incident report and a Juvenile Complaint form on all delinquent acts. An officer and/or Juvenile Intake Officer may make referrals to Juvenile Court for CHINS offenses.

The procedure for each of these alternatives is further explained throughout this policy.

Documentation for Juvenile Charges/CHINS Complaints (02-32-02)

- A. All officers having an authoritative encounter with a juvenile or a complaint regarding a juvenile, whether or not the youth is taken into custody, shall document the event in an incident report.
- B. A CHINS complaint may be filed by a parent, a guardian or legal custodian, DFCS, a school official, a law enforcement officer, a guardian ad litem, or attorney.
- C. If during a call for service, the parent or guardian wants to begin the CHINS process, the officer must advise the parent to contact the Juvenile Court at 404-613-4698 the following business day to begin the process and complete the necessary paperwork. If the parent fails to contact juvenile court the case will not move forward.
- D. All juvenile complaint forms/CHINS complaints and witness statements shall be forwarded to the Records Unit. It shall be the responsibility of the records personnel to forward all documentation, witness statements and evidence to the Juvenile Court.
- E. Officers may issue a copy of charges in lieu of taking the child into custody especially if the child has violated a CHINS offense. In most situations involving juveniles when a parent or responsible adult is available to take charge of the child, the interest of the juvenile is best served by releasing the juvenile to the parent or guardian. Major felonies and situations involving violence will require taking the child into custody. In all incidents the officer must complete an incident report, juvenile complaint form and a witness list and forward to the Records Unit.
- F. The defendant's copy of charges shall be given to the parent or legal guardian. The officer will explain in detail the charges involved, and inform the child and parent/leguadian guardian they will be notified by the juvenile court as to the court date and other related actions.

Procedures Involving Capital Felonies (02-32-03)

- A. An officer taking into custody a juvenile thirteen years of age or older who is suspected of a capital felony, i.e.; murder, voluntary manslaughter, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery and armed robbery with a firearm, shall immediately take the child into custody and transport the child to the juvenile/superior court or designated juvenile detention facility. A juvenile intake officer should be contacted for approval of detention on a capital felony.

- B. The officer shall complete a juvenile complaint form and contact a juvenile intake officer and the district attorney.
- C. If a child, who is thirteen years of age or older, is charged with a capital felony, the superior court and juvenile court have concurrent jurisdiction. The district attorney and the juvenile court jointly make the determination of whether or not to try the child as an adult. If a child is to be tried as an adult, the district attorney will seek an indictment. Pending adjudication, a juvenile detention facility will be the place of confinement for a child charged with a capital felony.

Juvenile Traffic Offenders (02-32-04)

- A. Police officers may issue a copy of charges in lieu of taking the child into custody. In most situations involving juveniles when a parent or legal guardian is available to take charge of the child, the interest of the juvenile is best served by releasing the juvenile to the parent or guardian.
- B. All sixteen year old traffic offenders shall be referred to juvenile court for violations under the Uniform Rules of the Road Act, 46-1. The sixteen year old is issued a traffic citation and the original court copies are forwarded onto the Records Unit. The officer will explain in detail the charges involved, and explain to the child, and/or parent/legal guardian they will be notified by juvenile authorities as to the court date or other related actions.
- C. When an officer charges a juvenile with an offense for which charges are brought without taking custody of the juvenile, it shall be the responsibility of the Records Unit to furnish the juvenile authorities with a copy of the citation.

Juvenile Traffic Procedures (DUI) (02-32-05)

- A. A juvenile arrested for DUI who is sixteen years of age and possesses a Georgia Driver's License is subject to the Georgia Implied Consent Law, and will be given the same rights as an adult. After the test is completed, the arresting officer will follow standard procedures as outlined in the Georgia Code for the processing of juveniles. DUI is a delinquent charge; therefore a juvenile complaint form must be completed along with the traffic citation.
- B. A juvenile without a valid driver's license, who is arrested for DUI, regardless of age, is not subject to the Georgia Implied Consent Law and cannot be given a blood or breath test without obtaining permission from the parent(s) or legal guardian.
- C. Juvenile traffic offenses listed in OCGA 15-11-630 apply to individuals under the age of sixteen and the arresting officer will follow standard procedures for the processing of juveniles.

- D. Exceptions: Those violations which include any offense under OCGA 40-5-54 or 40-5-70. Any offense under these codes is an act of delinquency. Both a citation and a juvenile complaint form shall be completed.

Physical Detention (02-32-06)

- A. The taking of a child into custody is not defined as an arrest, except for determining its validity under the law. A child will be taken into custody in the following situations:
1. Pursuant to an order of the court;
 2. Pursuant to the laws of arrest;
 3. If there are reasonable grounds to believe the child is suffering from illness or injury or is in immediate danger from his/her surroundings and removal is necessary (dependent child).
 4. If there is reasonable grounds to believe the child has committed a delinquent act or if there are reasonable grounds to believe he/she is a CHINS.
 5. If there are reasonable grounds to believe that the child has run away from his/her parent(s), guardian or other legal custodian.
- B. A child taken into custody shall not be detained or placed in shelter care prior to the hearing unless:
1. The child's detention or care is required to protect the person or property of others or the child.
 2. The child may abscond or be removed from the jurisdiction of the court.
 3. The child has no parent(s), guardian or custodian or other person able to provide supervision and care for him/her and return him/her to court when required.
 4. An order for his/her detention or shelter care has been made by the court.

Taking Child into Custody (02-32-07)

According to OCGA 15-11-410 and YDC intake procedures, an officer taking a child into custody, with all reasonable speed and without first taking the child elsewhere shall:

- A. Release without bond the child to his/her parent(s), guardian, or other custodian upon their promise to bring the child before the court when required.
- B. Deliver the child to a medical facility, if the child is believed to suffer from a serious physical condition or illness which requires

- prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.
- C. Bring the child immediately before the juvenile court or promptly contact a juvenile court intake officer who will determine if the juvenile will be detained or released.
 - D. Bring the child to any suitable place or facility designated or operated by the court for juvenile detention.
 - E. Officers must ask the child/juvenile whether or not he/she has consumed any alcohol or illegal drugs within the past seventy-two (72) hours. If the child/juvenile states “yes” the officer must take him/her to the designated medical facility for a medical clearance; YDC **will not** accept the child into custody without a medical clearance. The answer to the question shall be annotated on the officers’ report.

Questioning the Juvenile Offender (02-32-08)

- A. Juvenile arrestees must be given the same constitutional protection as adults. If the juvenile is in custody or being questioned as a suspect a reasonable effort shall be made to inform a parent, guardian, or attorney regarding the interview or arrest, however; parental or guardian presence is not mandatory to proceed with questioning or interview.
- B. Questioning or interviewing in the booking area is not allowed. Interviews should be conducted in the designated interview rooms, with no more than two officers present and/or participating in the interview. The interview will be as brief as possible.
- C. The officers involved in the interview and processing of the juvenile offender should explain, in general, the procedures of this department, the Juvenile Court and the Juvenile Justice System/process to the juvenile and the parent or guardian, if contacted.
- D. At all times, every member of this Department having contact with any juvenile shall be responsible for ensuring all applicable laws and departmental rules for the handling of juveniles are abided by and the juvenile's constitutional rights are not violated nor infringed upon and those rights are protected.

Transportation of Juveniles (02-32-09)

When transporting juveniles, the same radio procedure should be used as when transporting individuals of the opposite sex. At the beginning of the transport, the officer should provide Communications with the location, mileage, and race/sex of juvenile. At the end of the transport, the officer should provide the ending

location and mileage. Juveniles will not be transported in the same vehicles as adults.

Fingerprints and Photographs of Juveniles (02-32-10)

- A. According to OCGA 15-11-702, every juvenile charged with an act, which would be a felony if committed by an adult shall be fingerprinted and photographed upon being taken into custody. The fingerprints and photographs shall be taken and filed separately from those of adults. Fingerprint cards for juvenile arrestees who shall be “treated as adults” should be processed according to GCIC procedures. Fingerprint cards for all other juvenile arrestees should be completed according to standard procedures for criminal fingerprint cards as published by GCIC. The intake facility/jail shall fingerprint and photograph all juveniles.
- B. Photographs of juveniles not in custody, and for purposes of identification only, may be taken; except as provided in subsection (a) of OCGA 15-11-702, without consent of the judge, a child shall not be photographed after he or she is taken into custody unless the case is transferred to another court for prosecution.

Child Abuse Protocol (02-32-11)

Each county in the state is mandated to have in place a child abuse protocol filed with the Division of Family and Children Services of the Department of Human Resources (DHR), a copy of which shall be furnished to each agency in the county processing the cases of abused children (OCGA 19-1-1.) This protocol should detail the procedures to follow regarding the handling of abused, dependent, and physically neglected children under the age of 18 years.

Required Reports and Juvenile Records (02-32-12)

- A. Charges made against a juvenile must be properly detailed on a juvenile complaint form. A copy of the complaint form and the corresponding original incident report shall be forwarded to the Department's Records Section and shall be maintained in a central records file maintained and separated from all other department records.
- B. All complaints, reports and records of juvenile offenders shall be identified with sufficient notification that the record is that of a juvenile and the contents therein are confidential and not for public or press disclosure, except where annotated in the Georgia Code or by Law.