

Temporary Custody of Juveniles

901.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Easton Police Department (42 USC § 5633.)

901.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender (child in need of assistance or services)- An abused, neglected, dependent or alien juvenile who may be legally held by law enforcement for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian or other responsible person.

Juvenile offender (delinquent act) - A juvenile under the age of 18 who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Md. Code CJ § 3-8A-14(a)(2).)

Non-secure custody - When a juvenile is held in the presence of an officer or other department member at all times and is not placed in a locked room, cell or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication, is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

Safety checks - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of juveniles in temporary custody.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms or a cell. Secure custody also includes being physically secured to a stationary object.

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail or other object.
- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

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- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

Sight and sound separation - Located or arranged to prevent physical, visual or auditory contact.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

901.2 POLICY

The Easton Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and to keeping juveniles safe while in temporary custody at the Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release (Md. Code CJ § 3-8A-14(b).)

901.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit certain behaviors or conditions should not be held at the Easton Police Department. These include:

- (a) Unconsciousness or having been unconscious while being taken into custody or transported.
- (b) Serious injuries or a medical condition requiring immediate medical attention.
- (c) A suspected suicide risk or showing obvious signs of severe emotional or mental disturbance (see the Mental Health Evaluations Policy.)
 1. If the officer taking custody of a juvenile believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or transfer to an appropriate facility is completed.
- (d) Significant intoxication or showing signs of having ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (e) Extremely violent or continuously violent behavior.
- (f) Afflicted with, or displaying symptoms of, a communicable disease that poses an unreasonable exposure risk.

Officers taking custody of a juvenile exhibiting any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and should notify a supervisor of the situation. These juveniles should not be held at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

901.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Easton Police Department when there is no other lawful and practicable alternative to temporary custody. Refer

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to the Child Abuse Policy for additional information regarding detaining a juvenile who is suspected of being a victim.

No juvenile should be held in temporary custody at the Department without authorization of the arresting officer's supervisor or the Shift Supervisor. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent, legal guardian or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable. In no event shall a juvenile be held beyond six hours from the time of his/her entry into the Department (42 USC § 5633.)

901.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Easton Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be held in secure custody (34 USC § 11133).

901.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders may not be held in secure custody (34 USC § 11133).

The following offenses require a citation in lieu of custody absent a separate justification for custody (Md. Code CJ § 3-8A-33):

- (a) Alcoholic beverage violations (Md. Code CR § 10-113; Md. Code CR § 10-114; Md. Code CR § 10-115; Md. Code CR § 10-116)
- (b) Possession of *Salvia divinorum* (Md. Code CR § 10-132)
- (c) Table game and video lottery terminal violations (Md. Code CR § 10-136)
- (d) Alcohol possession or consumption on school premises (Md. Code ED § 26-103)
- (e) Use or possession of less than 10 grams of marijuana (Md. Code CR § 5-601)

901.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Easton Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Juvenile offenders shall be detained in a designated juvenile area. A juvenile under 14 years of age may not be detained beyond emergency detention unless the juvenile is alleged to have committed an act that, if committed by an adult, would be punishable by death or life imprisonment (Md. Code CJ § 3-8A-15(g); Md. Code CJ § 3-8A-15(e)).

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Juvenile offenders shall be taken into custody when:

- (a) An officer has probable cause to believe the juvenile is in violation of a peace order in effect at the time of the violation (Md. Code CJ § 3-8A-19.5(b)).
- (b) There is a valid warrant for the juvenile's arrest or writ of attachment (Md. Code § CJ 3-8A-14.1(c)).

901.5 NOTIFICATIONS

When a juvenile is taken into custody, officers shall immediately notify the juvenile's parent, guardian, or custodian (Md. Code CJ § 3-8A-14; Md. Code CJ § 3-814). If the juvenile has been taken into protective custody, the officers shall also immediately notify the county department of social services (Md. Code CJ § 3-814). If there is reason to believe that the juvenile is a victim of sex trafficking, officers shall notify the appropriate regional navigator (Md. Code CJ § 3-8A-14).

901.5.1 REQUIRED SCHOOL NOTIFICATION

If a juvenile between the ages of 5 and 21 (inclusive) is taken into custody for one of the reportable offenses listed in Md. Code ED § 7-303(a)(6) or for an offense related to the juvenile's membership in a criminal organization, the officer must notify the following officials of any school the juvenile attends within 24 or as soon as practicable:

- Local superintendent
- School principal
- School security officer (if applicable)

The officer may also notify the State's Attorney (Md. Code ED § 7-303).

901.5.2 OFFENSES REQUIRING SCHOOL NOTIFICATION

- (a) Abduction
- (b) Arson, 1st degree
- (c) Kidnapping
- (d) Manslaughter, except involuntary
- (e) Mayhem
- (f) Maiming
- (g) Murder
- (h) Rape
- (i) Robbery
- (j) Carjacking
- (k) Armed carjacking
- (l) Sexual offense in the 1st degree
- (m) Sexual offense in the 2nd degree

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- (n) Use of a handgun in commission of a felony or other crimes of violence
- (o) Child abuse in the 1st degree, 3-66;
- (p) Child abuse, 3-602, rest of 14-101 (16);
- (q) Attempt to commit any of the above crimes;
- (r) Assault in 1st degree;
- (s) Assault with the intent to murder;
- (t) Assault with the intent to rape;
- (u) Assault with intent to rob;
- (v) Assault with intent to commit a sexual offense in the 1st degree;
- (w) Assault with intent to commit a sexual offense in the 2nd degree.
- (x) 2nd degree rape;
- (y) 3rd degree sexual offense;
- (z) Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime;
- (aa) Attempted murder in the 2nd degree;
- (ab) Attempted rape or attempted sexual offense in the 2nd degree.
- (ac) Carrying or wearing a dangerous weapon;
- (ad) Carrying or possessing a firearm, knife or deadly weapon of any kind on public school property;
- (ae) Wearing, carrying or transporting a handgun;
- (af) Use of an antique firearm capable of being concealed on the person or any handgun in the commission of a crime of violence whether the antique firearm or handgun is operable or inoperable at the time of crime.
- (ag) Manufacturing, distributing, possession with intent to distribute or dispensing controlled dangerous substance;
- (ah) Manufacture, distribute or possess equipment to produce controlled dangerous substance;
- (ai) Create or distribute a counterfeit substance or possess a counterfeit substance with intent to distribute it;
- (aj) Keeping a common nuisance;
- (ak) Pass, issue, make or possess a false, counterfeit, or altered prescription for a controlled dangerous substance with intent to distribute the controlled dangerous substance;
- (al) Repeat offender;
- (am) Penalties – Narcotic drug;

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- (an) Penalties – Selected Schedule I and II hallucinogenic substances;
- (ao) Volume dealer;
- (ap) Drug Kingpin;
- (aq) Importer of certain controlled dangerous substances;
- (ar) Distributing fake controlled dangerous substances;
- (as) Manufacture, distribute, dispense, or possess with intent to distribute a controlled dangerous substance in a school vehicle or in, on, or within 1,000 feet of real property owned by or leased to an elementary or secondary school or county board and used for elementary or secondary education.
- (at) Manufacture, transport, possess, control, store, sell, distribute or use a destructive device or possess explosive material, incendiary material, or toxic material with intent to create destructive device;
- (au) False statement – Concerning destructive device or toxic material;
- (av) Manufacture, possess, transport or place a device that is constructed to represent a destructive device with intent to terrorize, frighten, intimidate, threaten or harass.
- (aw) Arson 1st degree;
- (ax) Arson 2nd degree;
- (ay) Malicious burning, 1st degree;
- (az) Malicious burning, 2nd degree.
- (ba) Criminal gang activity;
- (bb) Criminal gang activity – schools;
- (bc) Assault 2nd degree.
- (bd) Malicious Destruction of Property.
- (be) Inducing false testimony or avoidance of subpoena;
- (bf) Retaliation for testimony;
- (bg) Intimidating or corrupting juror.
- (bh) Motor Vehicle Theft.

901.6 JUVENILE FIELD ARREST SUPPLEMENT

Any time a juvenile is in temporary custody at the Easton Police Department, the custody shall be promptly and properly documented in the juvenile Field Arrest Supplement, including:

- (a) Identifying information about the juvenile.
- (b) Date and time of arrival and release from the Department.
- (c) Shift Supervisor notification and approval to temporarily hold the juvenile.
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender.

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- (e) Any changes in status (e.g., emergency situations, unusual incidents).
- (f) Time of all safety checks.
- (g) Any medical and other screening requested and completed.
- (h) Circumstances that justify any secure custody.
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Shift Supervisor shall review the Juvenile Field Arrest Supplement prior to submission.

901.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Easton Police Department (34 USC § 11133). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Department shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

901.7.1 TRANSPORTATION

A juvenile may not be transported from the field or to another detention facility with any adult who has been charged with or convicted of a crime unless the court has waived its jurisdiction and the juvenile is being prosecuted as an adult (Md. Code CJ § 3-8A-16(c)).

901.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Easton Police Department shall ensure:

- (a) The Shift Supervisor is notified if it is anticipated that a juvenile may need to remain at the Department more than four hours. This will enable the Shift Supervisor to ensure no juvenile is held at the Department more than six hours.
- (b) Safety checks and significant incidents/activities are noted on the log.
- (c) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
 - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
 - 2. This prohibition does not apply to surreptitious and legally obtained recorded interrogations.
- (d) A member of the same sex will supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (e) There is reasonable access to toilets and wash basins.
- (f) There is reasonable access to a drinking fountain or water.

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- (g) Food is provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile.
- (h) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (i) There is privacy during family, guardian and/or attorney visits.
- (j) Juveniles are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (k) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
 - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (l) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (m) Adequate furnishings are available, including suitable chairs or benches.
- (n) Juvenile have the right to the same number of telephone calls as an adult in temporary custody see the Temporary Custody of Adults Policy.
- (o) Discipline is not administered to any juvenile, nor will juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.

901.9 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as an adult in temporary custody (see the Temporary Custody of Adults Policy).

901.10 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Easton Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Shift Supervisor. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Juveniles in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

901.10.1 PREGNANT JUVENILES

Juveniles who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

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901.11 PERSONAL PROPERTY

The personal property of a juvenile shall be processed in the same manner as an adult in temporary custody (see the Temporary Custody of Adults Policy).

901.12 SECURE CUSTODY

Only juvenile offenders 14 years of age or older may be placed in secure custody. Shift Supervisor approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others.

Members of this department should not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option.

When practicable, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. A member must be present at all times to ensure the juvenile's safety while secured to a stationary object.

Generally, juveniles should not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter. Supervisor approval should be documented.

901.12.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the locked enclosure to ensure there are no weapons or contraband and that the area is clean and sanitary. An inspection should be conducted when he/she is released. Any damage noted to the area should be photographed and documented.

The following requirements shall apply:

- (a) Anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed.
- (b) The juvenile shall constantly be monitored by an audio/video system during the entire temporary custody.
- (c) The juvenile shall have constant auditory access to department members.
- (d) The juvenile's initial placement into and removal from a locked enclosure shall be logged.
- (e) Unscheduled safety checks by department member shall occur no less than every 15 minutes.
 - 1. All safety checks shall be logged.
 - 2. The safety check should involve questioning the juvenile as to his/her well-being.
 - 3. Juveniles who are sleeping or apparently sleeping should be awakened.
 - 4. Requests or concerns of the juvenile should be logged.

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- (f) Males and females shall not be placed in the same locked room.
- (g) Juvenile offenders should be separated according to severity of the crime (e.g., felony, misdemeanor).
- (h) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

901.13 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY

The Patrol Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any juvenile held at the Easton Police Department. The procedures should include the following:

- (a) Immediate notification of the Shift Supervisor, Chief of Police and Criminal Investigations Unit Commander
- (b) Notification of the parent, guardian or person standing in loco parentis, of the juvenile
- (c) Notification of the appropriate prosecutor
- (d) Notification of the Town Attorney
- (e) Notification of the Medical Examiner
- (f) Notification of the juvenile court
- (g) Evidence preservation

901.14 INTERVIEWING OR INTERROGATING

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent, to an interview or interrogation.

Juveniles have the same rights regarding statements and confessions as do adults. Every effort will be made to notify and permit a parent or guardian to be present during an interrogation, if requested by the juvenile. Similarly, a parent or guardian will not be permitted to be present at the request of the juvenile. Otherwise, the decision to allow a parent or guardian to be present should be based on the age, mental capacity and seriousness of the allegations.

Miranda warnings shall be read to juveniles prior to a custodial interview. A special effort will be made to ensure the juvenile understands these rights.

Only the juvenile can waive or invoke their Miranda Rights. The parents of a juvenile subject to interrogation cannot waive or invoke these rights for the juvenile.

In determining the voluntariness of the statement/confession, the officer must give serious consideration to the following possible mitigating factors:

- (a) Age. The fact of marriage may balance off a juvenile's age.
- (b) Mental age. A low mental age may mitigate against voluntariness.
- (c) Previous police or juvenile court experience.
- (d) Advice or presence of parents/guardian and/or counsel.

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- (e) Physical condition (e.g., if the juvenile has been drinking, taking drugs, or is physically ill, etc.).

If the juvenile expresses the desire for counsel but cannot afford one, the Public Defender's Office will be contacted, but only if the officer wishes to continue the interview.

When a juvenile is being interviewed by an officer of the opposite sex in the absence of the juvenile's parents/guardian, a second officer shall be present.

Document within the statement if the parents/guardian attended the interview, and why or why not.

If an officer wishes to interview a juvenile presently committed to a detention facility, the permission of the DJJ regional supervisor must be secured first.

901.15 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING

Any department record, including fingerprints and photographs, concerning a child is confidential and shall be maintained separate from those of adults. These may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided by law (Md. Code CJ § 3-8A-27(a)).

901.16 TRAINING

Department members should be trained on and familiar with this policy and any supplemental procedures.