

# UPPER MERION TOWNSHIP POICE DEPARTMENT

## POLICY AND PROCEDURE

No. 560

Supersedes: NA

Effective: July 1, 2010

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Dated: October 29, 2003

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### JUVENILE CUSTODY

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- I. **PURPOSE:** The purpose of this policy is to provide officers with guidelines on procedures for juvenile custody.
- II. **POLICY:** There are situations when police officers will have to take juveniles into custody. It shall be the policy of the Upper Merion Township Police Department to comply with Section 6326 of the Pennsylvania Juvenile Act (42 Pa. C.S.A.) with regard to temporary detention of juveniles.
- III. **CROSS-REF:** Policy #640, JUVENILE OPERATIONS
- IV. **DEFINITIONS:**

CHILD/JUVENILE: An individual who:

1. Is under the age of eighteen (18) years;
2. Is under the age of twenty-one (21) years who committed an act of delinquency before reaching the age of eighteen (18) years; or,
3. Was adjudicated delinquent before reaching the age of eighteen (18) years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall a child remain in a course of instruction or treatment past the age of twenty-one (21) years.

RESPONSIBLE ADULT: In the absence of a juvenile's parent 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 of the juvenile until a parent, legal guardian or next of kin can assume that responsibility.

STATUS OFFENDER: A juvenile who is taken into custody for an incident or behavior which would not be a crime if committed by an adult and would not result in the adult being taken into custody (i.e., underage alcohol offenses, truancy, runaway, ungovernable, etc.)

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 police custody, or when the juvenile is physically secured to a cuffing rail or stationary object. If a juvenile is held securely in a police lockup, he/she MUST be released within six (6) hours.

NON-SECURE CUSTODY: A condition under which a juvenile's freedom of movement is controlled by members of the Police Department and, during such time, the juvenile may be held only under the following conditions:

1. The area where the juvenile is held is an unlocked, multi-purpose area which is NOT designated or used as a secure detention area, or is not part of a secure detention area (i.e., a non-locking interview room or area);
2. The juvenile is NOT physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
3. The area is limited to providing non-secure custody only long enough for the purposes of identification, investigation, processing or release to parents or for arranging transfer to another agency or appropriate facility; and,
4. The juvenile MUST be under continuous supervision by a police officer or other staff during the period of non-secure custody.

## V. **PROCEDURE:**

### A. JUVENILE CUSTODY:

1. Some situations when a juvenile would be taken into custody include when the juvenile is thought to be, or determined to be a status offender, or for the safety of the juvenile whom the investigating officer has reason to believe should be taken from their immediate environment. The officer must be sure to protect the rights of the juvenile. If a juvenile is taken into custody, he/she must be transported without delay to the police department, unless he/she requires immediate medical treatment or is released to a parent, legal guardian or other responsible adult at the scene of the detention/incident. Immediate parental notification must be made in either case (see Section V-B-1 of this policy).
2. The following fingerprinting and photographing procedures for juvenile offenders shall be followed:
  - a. Juveniles under the age of 10 are not to be fingerprinted or photographed.

- b. Misdemeanors and felonies: juveniles ages 10-17 arrested for misdemeanor and felony offenses require fingerprinting and photographing. Juveniles arrested for summary crimes, other than retail theft (see Section V-A-2-c below) do not require fingerprinting or photographing. A suspect ID is allowed in cases where officers are having difficulty determining accurate identification of an offender.
- c. Summary Retail Theft:
  - (1) Juveniles ages 10-15 arrested for summary retail theft require no fingerprinting or photographing. They are to receive a non-traffic citation for retail theft.
  - (2) Juveniles ages 16 and 17 arrested for summary retail theft require fingerprinting only and no photograph. They are to receive a non-traffic citation for retail theft.
  - (3) Juveniles arrested for summary retail theft who qualify and are recommended for the Youth Aid Panel are not to be fingerprinted or photographed.
  - (4) A suspect ID is allowed in cases where officers are having difficulty determining accurate identification of an offender.
- 3. Pursuant to the Juvenile Act guidelines, a juvenile may be taken into custody by an Upper Merion Township police officer:
  - a. Pursuant to a court order. If the order is signed by the Montgomery County Juvenile Court Judge, it is considered a warrant.
  - b. When a juvenile is detained and it is determined there is a warrant issued by a Juvenile Court Judge, the arresting officer still must contact Juvenile Probation for permission to detain.
  - c. Pursuant to the laws of arrest.
  - d. When there are reasonable grounds to believe that the juvenile is suffering from illness or injury or is in imminent danger from his/her surroundings, and that his/her removal is necessary.
  - e. When there are reasonable grounds to believe that the juvenile has run away from his/her parents or legal guardian.

**B. NOTIFICATION:**

- 1. In accordance with Section 6336(a) of the Juvenile Act, an officer taking a juvenile into custody shall, with all reasonable speed and without first taking the child elsewhere:

- a. Notify the parent, guardian or other custodian of the apprehension of the juvenile and his/her whereabouts. If telephone contact cannot be made, the officer will go to the juvenile's address to contact the parent, guardian or legal custodian. If personal contact cannot be made, an officer shall leave a message with the nearest available neighbor or relative. If the juvenile is not a resident of Upper Merion Township, and telephone contact cannot be made, the officer shall notify the appropriate law enforcement agency for the purpose of locating and notifying the juvenile's parents or legal guardian for the purposes of supplying the above information.
- b. Release the juvenile to his/her parents, legal guardian or other responsible adult upon their promise to bring the juvenile before the court when requested by the court, unless his/her detention or shelter care is warranted or required under the Juvenile Act, Section 6325 (relating to detention of child); or,
- c. Bring the juvenile before the court or deliver him/her to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment,

#### C. SECURE CUSTODY:

1. Detention in a police lockup is generally prohibited (see Juvenile Act, Sections 6325 and 6326). Unless a juvenile taken into custody is alleged to have committed a crime or summary offense (see Section 2d below) or to be in violation of the conditions of probation or other supervision following an adjudication of delinquency, the juvenile may not be detained in a municipal police lockup or cell or otherwise held securely within a law enforcement facility or structure which houses an adult lockup.
2. A juvenile alleged to have committed a crime or summary offense or to be in violation of the conditions of probation or other supervision following an adjudication of delinquency may be held securely in a police lockup or other facility which houses an adult lockup under the following conditions:
  - a. The secure holding shall only be for the purpose of identification, investigation, processing, releasing or transferring the juvenile to a parent, guardian, other responsible adult, juvenile court, county children and youth official, shelter care or juvenile detention center. The Detention Area Processing Room may be utilized;
  - b. The secure holding shall be limited to the minimum time necessary to complete the procedures listed in Section D-2-a above, but in no case may such holding exceed six (6) hours; and.
  - c. If so held, a juvenile must be separated by sight and sound from incarcerated adult offenders and must be under the continuous visual supervision of law enforcement officials or other department staff.

- d. A juvenile charged only with a violation of Title 18, Section 6308 (purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages) **may not** be held in secure custody as this violation is defined by law as a status offense (see Section IV of this policy under STATUS OFFENDER).
3. If a juvenile is held in secure custody, Investigations Division Commander is responsible to see that the monthly report is forwarded to the Pennsylvania Commission on Crime and Delinquency as required.

#### D. NON-SECURE CUSTODY:

1. Should a status offender be transported to police headquarters, an officer may use the Detention Area Processing Room for processing purposes. Immediately upon completion of the processing, the status offender will be held in non-secure custody.
2. For the conditions under which a juvenile may be held in non-secure custody, refer to section IV (DEFINITIONS/NON-SECURE CUSTODY) of this policy.

#### E. RELEASE OF JUVENILES

1. Juveniles who have engaged in criminal behavior shall be released to a parent, legal guardian, or other responsible adult, unless their detention has been authorized by Montgomery County Juvenile Probation. Juveniles who have engaged in noncriminal behavior (status offenses) may also be released to a parent, legal guardian or other responsible adult. If a parent, guardian or other responsible adult cannot be located after reasonable efforts have been made to do so, the Montgomery County Office of Children and Youth Services will be contacted. The juvenile may be released to his/her parent(s), legal guardian(s) or other responsible adult from the scene of the detention/incident or from police headquarters depending on the circumstances of the crime.
2. The releasing officer will obtain identification from the person to whom the juvenile is being released.
3. If the parent or legal guardian refuses to come in and accept custody of their child, this information will be documented in the Incident Report.
4. While the juvenile is waiting for the arrival of the parent, guardian or other responsible adult, the shift supervisor shall ensure that the juvenile remains under police supervision and control.
5. When the parent, legal guardian or other responsible adult does arrive for the juvenile, the officer shall notify them of the date, time and location of any hearings or other proceedings involving the juvenile.

APPROVED: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_

DATE: \_\_\_\_\_

TO BE REVIEWED: ANNUALLY

DISTRIBUTION: All police officers  
Township Manager  
File