

Chevy Chase Village Police Department

General Order

Subject: CITATION ISSUANCE AND REFERRALS OF JUVENILES

**CALEA: 1.1.3, 1.2.7, 44.2.1-a-b-c, 44.2.2-c-d-e, 55.2.3-c-d,
61.1.3-b, 82.1.1-c, 82.2.1-a-b-c-d-e**

- New
- Amended
- **Rescinds 5-36.1**

Approved:	Effective:	No. Pages:	Number:
Roy A. Gordon Chief of Police	10-16-2008	6	5 – 36.1

I. POLICY

Officers dealing with juvenile offenders will use the least coercive among reasonable alternatives, consistent with preserving public safety, peace and order, and individual liberty. This may include, depending on the offense, release with no further action, citations, referrals to outside agencies, referrals to the criminal justice system, and arrest. (CALEA 44.2.1)

II. ISSUANCE OF CITATIONS TO JUVENILES

A. When Citations Are Issued

1. Whenever a citation is issued to a juvenile, the issuing officer will notify the juvenile's parent or guardian of the circumstances that led to the issuance.
2. Officers are not required to notify a parent or guardian of the issuance of a traffic citation to a juvenile as long as:
 - The juvenile is a licensed driver,
 - The juvenile signs the citation,
 - The offense is not a "Must Appear," and
 - The juvenile is not operating in violation of a license restriction, Provisional License, or Lerner's Permit.
3. Even though officers are not required to notify a parent or guardian of a citation's issuance if the above criteria are met, officers still may exercise their discretion to make the notification. (CALEA 1.2.7, 61.1.3-b)
4. If a juvenile traffic violator is taken into custody pursuant to TA 26-202, the juvenile may not be taken to a Court Commissioner (like an adult would be) because Commissioners do not have jurisdiction over juveniles not charged as adults.

- If taken into custody for traffic, the juvenile will be transported without unnecessary delay to a processing facility (or home) and his/her parent or guardian will be promptly notified by the arresting officer, unless the juvenile is in need of emergency medical treatment, at which time, they will be immediately transported to the nearest hospital and the parent/guardian will be notified by the officer from there. (CALEA 44.2.2-d-e)

5. Under Maryland law, since citations are formal charging documents, whenever a citation is issued by an officer, the matter will automatically be referred to Juvenile Court for adjudication or an informal adjustment. (CALEA 44.2.2-c)
6. Issuing officers will be very clear and concise when they complete citations, and to ensure uniformity, they will also follow the procedures for issuance outlined in this and other directives, and as described in the Citation Manual. (CALEA 44.2.1-b)

B. When Issuance is Mandatory

1. A juvenile *shall* be issued a citation, pursuant to the provisions of the § 3-8A-33 of the Courts and Judicial Proceedings Article, if an officer has probable cause to believe that the juvenile is committing or has committed a violation of: (CALEA 44.2.1-b)
 - § 10-113, §10-114, §10-115, § 10-116 of the Criminal Law Article, or § 26-103 of the Education Article, relating to alcoholic beverages.
 - § 10-108 of the Criminal Law Article, relating to tobacco products.
2. The citation will be completed in accordance with the procedures described in the Citation Manual.

C. When Issuance is Not Permitted

A juvenile will not be issued a citation for any felony that he/she is alleged to have committed.

D. Permissible Issuance

1. A juvenile may be issued a citation if he/she has been taken into custody by an S.P.O. and, upon the officer's arrival: (CALEA 44.2.1-b)
 - The juvenile can establish his/her identity to the officer's satisfaction; and,

- Is not wanted as the result of the officer's wanted check; and,
 - Is a Maryland resident; and,
 - The offense for which they have been taken into custody is a misdemeanor.
2. When a juvenile is charged by way of a citation, an incident report will be completed and submitted for supervisory approval by the issuing officer to document the incident. (CALEA 82.2.1-a-b-c-e)
 3. The report will be submitted prior to the end of the officer's tour of duty and will indicate the name, address, and phone number(s) of the parent or guardian notified by the officer, along with the date and time of the notification. (CALEA 82.2.1-a-b-c-d)
 4. The citation and the report will be processed by the Sergeant and sent to the Juvenile Court for disposition. (CALEA 44.2.1-c)
 5. After the officer has issued the citation and there is no further need to detain the juvenile, the juvenile will be released.

III. REFERRALS OF JUVENILES OUTSIDE THE JUVENILE JUSTICE SYSTEM

When dealing with a juvenile that has allegedly committed a delinquent act or a status offense for which they can be taken into custody, officers have very little discretion in this area, especially if a victim has been identified and has indicated a desire to prosecute. Therefore, officers must be very careful when deciding whether to release a juvenile outright with no further action. (CALEA 44.2.1-a)

- A. The metropolitan Washington area has several community-based programs to which a juvenile and his/her parent or guardian can be referred and officers have the authority to make referrals if believed to be in the juvenile's best interest. (CALEA 1.1.3)
- B. When deciding whether or not to refer a juvenile outside the juvenile justice system, the officer must consider:
 1. The nature of the alleged offense;
 2. The age and circumstances of the alleged offender (**in Maryland, a child under the age of seven is deemed incapable of harboring criminal intent**);
 3. The availability of appropriate community-based programs;
 4. The seriousness of the offense;

5. The level of cooperation and attitudes of all parties involved (victim, juvenile's parents, etc.)
 6. The possibility/probability of the offense being repeated;
 7. The degree of wrongful or malicious intent; and/or,
 8. The use of violence or premeditation.
- C. If an officer refers a juvenile outside the juvenile justice system, the officer will respect the juvenile's right to privacy and will ensure that the victim and the juvenile's parent concur.
- It is very important that the victim concurs with the officer's decision to release the juvenile outright with no further action because if the victim wishes to prosecute, the officer must assist the victim by completing an official report, etc.
- D. If a victim wishes to prosecute, but the officer believes that a referral outside the juvenile justice system would be more appropriate and beneficial to the juvenile, the officer will discuss this with the victim.
- If the victim still wishes to pursue prosecution, the officer will complete an Incident Report, and any other required report, and is still free to suggest certain applicable programs to the juvenile and his/her parent.
- E. To protect the officer from criminal and/or civil liability, a juvenile taken into custody by an officer for the commission of a delinquent act will not be released outright with no further action, unless it is determined after the juvenile is in custody that probable cause no longer exists to formally charge the juvenile. If the juvenile is released, the officer will write an Incident Report and will fully inform the parent/guardian of the incident.
- As an example, based on probable cause developed at the time, a juvenile is taken into custody at the scene of an incident, but after further investigation, it is determined that the juvenile is neither involved nor should be formally charged in connection with the incident, the juvenile will be released and the incident will be reported by the officer.

IV. REFERRALS OF JUVENILES TO THE JUVENILE JUSTICE SYSTEM

Any time an officer completes and submits a report describing a juvenile's delinquent activity, the case, by law, is automatically referred to juvenile authorities. (CALEA 44.2.1-c)

- A. Officers must be cognizant that §3-810 of the Courts and Judicial Proceedings Article grants authority and discretion only to a Juvenile Intake Officer to informally adjust a case after a complaint has been made by a citizen or a law enforcement officer.
- B. §3-810 requires the Intake Officer, when considering the complaint, to make a preliminary inquiry within 15 days as to whether the Juvenile Court has jurisdiction and whether judicial action is in the best interests of the public or the child. Based on this inquiry, the Intake Officer may authorize the filing of a Petition (to request the Juvenile Court to hear the case), or may conduct a further investigation into the allegations, or may propose an informal adjustment of the matter, or may refuse to authorize the filing of the Petition.
- C. If an officer intends to refer a case to the Juvenile Court by taking the juvenile into custody, the below procedures will be followed:
1. Any arrest made will be in accordance with the Laws of Arrest Criminal Procedure Article.
 2. An Arrest Report will be completed for those instances in which a juvenile is taken into custody for committing a delinquent act, but cannot be issued a citation. (CALEA 82.2.1-a-b)
- D. If a lawful arrest cannot be made or is not made, the officer will conduct a thorough investigation of the event and complete and submit an Incident Report (and Supplemental Reports as necessary).
1. The victim or complainant will be informed that a lawful arrest cannot be made, but that the matter will be referred to juvenile authorities for disposition.
 2. The narrative of the Incident or Supplement Report will begin with the wording: **“This event is closed by exception and referred to the MCP Family Crimes Division (F.S.D.) for disposition.”**
 3. Officers will provide the victim or complainant with the report number and a Victim Rights Pamphlet. (CALEA 55.2.3-c)
 - Officers should also provide the victim, complainant, and/or witnesses with the officer’s phone number and that of F.S.D. [REDACTED] and DJS [REDACTED] to stay informed of the case’s status and in the event they wish to report further information. (CALEA 55.2.3-d)

V. CONFIDENTIALITY

- A. All records and information pertaining to juvenile matters, especially relating to past involvement with the police or juvenile authorities, are **confidential** and will not be released to victims, complainants, witnesses, etc.

- B. An officer investigating a case will assist the victim, complainant and/or witnesses to the extent necessary to properly investigate the matter, but officers must be very sensitive to the type and amount of information they release. (CALEA 82.1.1-c)