POLICY & PROCEDURE

STURGEON BAY POLICE DEPARTMENT

SUBJECT: **JUVENILE PROCEDURES**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statutes: §48.02, §51.15, §118.15, Chapter §938, §940.205, §940.225, Chapter §948, §944.05, §944.30, §944.225

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PURPOSE: The purpose of this Policy & Procedure is to establish policies and guidelines for personnel of the Sturgeon Bay Police Department when dealing with juveniles.

This Policy & Procedure consists of the following numbered sections:

I. POLICY

II. DEFINITIONS

III. DEPARTMENT ROLE AND RESPONSIBILITY

IV. JUVENILE PROCEDURES

I. POLICY

A. It is the policy of the Sturgeon Bay Police Department to uphold the intent of the State of Wisconsin legislature to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency. The system shall balance the interests of protecting the community while considering the concerns of the juvenile.

II. DEFINITIONS

A. ABUSE: Abuse as defined within WI Stats. §48.02 means any of the following:

1. Physical injury inflicted on a child by other than accidental means.

2. Injury to an unborn child.

3. Sexual intercourse or sexual contact found under WI Statutes. §940.225, Sexual assault; §948.02, Sexual assault of a child; §948.025, Engaging in repeated acts of sexual assault of the same child; or §948.095, Sexual assault of a student by a school instructional staff person.

4. A violation of WI Stat. §948.05, Sexual exploitation of a child,

5. Permitting, allowing, or encouraging a child to violate WI Stat. §944.30, Prostitution.

6. A violation of WI Stat. §948.055, Causing a child to view or listen to sexual activity.

7. A violation of WI Stat. §948.10, Exposing genitals or pubic area.

8. Emotional damage.

B. CHILD: A child, when considered a victim of abuse, means a person who is age 17 or below.

C. JUVENILE: A person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, juvenile does not include a person who has attained 17 years of age.

III. DEPARTMENT ROLE AND RESPONSIBILITY

A. This Policy provides all personnel with the proper procedures for the handling of juvenile offenders and victims. All personnel share the responsibility for delinquency prevention.

1. The police officer is often the first community representative, and possibly the most significant, to come in contact with juveniles in trouble with the law or in need of protective assistance. The handling of juvenile incidents calls for sincere concern on the part of the officer and the application of interpersonal skills to determine the facts, to mediate and defuse conflict, and to offer constructive suggestions for temporary or long-term solutions.

2. All investigative and enforcement procedures, including interviewing, gathering evidence, and taking into custody, shall be carried out with scrupulous care to avoid practices which might demean, be coercive, or violate the due process rights of juveniles.

3. All Department personnel work cooperatively when handling juvenile matters.

4. Police intervention cannot solve all juvenile problems; therefore, every effort should be made to work cooperatively with other community agencies, schools, and the juvenile court in a community-centered approach to solving problems.

5. The principle of using the least restrictive alternative shall be adhered to in all police dispositions whether in the field or at the police department.

6. This Department shall direct its juvenile crime prevention efforts toward schools, parents, civic organizations, juvenile probation, and other formal and informal juvenile justice agencies.

IV. JUVENILE PROCEDURES

A. Prevention and Control of Delinquent and Criminal Behavior of Juveniles

1. In order to ensure more effective law enforcement dispositions, it is the duty of all officers not only to investigate offenses and conditions, but also to ensure that fundamental police methods and techniques are followed and other sources of information utilized.

2. Generally, the officers assigned to the patrol division will respond to most initial complaints, and/or encounter in the normal course of their duties a variety of situations involving law and/or ordinance violations committed by juveniles, and/or other circumstances which threaten the safety and welfare of juveniles.

3. It is the duty of all police officers to consider a law enforcement problem with juveniles from the standpoint of prevention, giving due regard to public safety. Officers are in a good position to point out hazardous conditions and areas of high delinquency to their supervisors and the general public.

4. A listing of juvenile social service agencies is available to all personnel through the Door County Communications Center.

5. All department members will help prevent and control delinquency and promote the image of law enforcement, specifically the Sturgeon Bay Police Department.

6. Officers will make attempts to contact the parents of juveniles involved in automobile accidents, serious traffic stops, or any other serious law enforcement contact as soon as practicable.

B. Taking a Juvenile into Custody

1. A juvenile may be taken into custody under any of the following:

   a) A warrant.

   b) A capias issued by a judge under WI Stat. §938.28.

c) An order of the judge if made upon a showing satisfactory to the judge that the welfare of the juvenile demands that the juvenile be immediately removed from his or her present custody. The order shall specify that the juvenile be held in custody under WI Stat. §938.207.

d) Circumstances in which a law enforcement officer believes on reasonable grounds that any of the following conditions exists:

(i) A capias or a warrant for the juvenile's apprehension has been issued in this state, or the juvenile is a fugitive from justice.

(ii) A capias or a warrant for the juvenile's apprehension has been issued in another state.

(iii) The juvenile is committing or has committed an act which is a violation of a state or federal law.

(iv) The juvenile has run away from his/her parents, guardian, or legal or physical custodian.

(v) The juvenile is suffering from illness or injury or is in immediate danger from his/her surroundings and removal from those surroundings is necessary i.e. abused and neglected juveniles.

(vi) The juvenile has violated the terms of court-ordered supervision or aftercare supervision administered by a state or county department, a condition of the juvenile's placement in a Type 2 secured correctional facility or a Type 2 child caring institution, or a condition of the juvenile's participation in the intensive supervision program under WI Statute §938.534.

(vii) The juvenile has violated the condition of an order under WI Statute §938.21(4) or the conditions of an order for temporary physical custody by an intake worker;

(viii) The juvenile has violated a civil law or a local ordinance punishable by a forfeiture, provided that in any such case, the juvenile shall be released as soon as reasonably possible under WI Statute §938.20 (2) (ag) or as soon as reasonably possible under WI Statute §938.20 (2) (b) to (g).

(ix) A juvenile is absent from school without an acceptable excuse, under WI Statute §118.15.

The officer taking the juvenile into custody shall immediately attempt to notify the parent, guardian and legal custodian of the juvenile by the most practical means. The officer taking the juvenile into custody shall continue such attempt until the parent, guardian and legal custodian of the juvenile are notified, or the juvenile is delivered to an intake worker under WI Stat. §938.20(3), whichever occurs first.

If the officer is unable to contact a parent/guardian, the officer shall document the time, date, and telephone number or address where contact was attempted.

C. Transportation of Juveniles

1. The transportation of juveniles requires additional considerations.

   a) Juveniles should not be transported in any vehicle in the company of adults charged with a crime.

   b) Maximum security is warranted only in serious situations where the behavior of the juvenile demands restraint for his/her protection or the protection of others. This decision will be up to the detaining or arresting officer.

   c) The transporting officer is responsible for the safety as well as the security of the juvenile.

   d) Beginning and ending mileage should be documented with the Door County Communications Center when transporting any juvenile.

   e) Also refer to Policy & Procedure 7.01: Search/Transport of Detainee(s).

D. Interrogation, Interviews, and Questioning (Also refer to Policy & Procedure 6.13: Custodial Interrogation).

1. All interrogations, interviews, and questioning of juveniles shall be conducted in a manner to ensure the protection of the juvenile's constitutional rights. Officers shall exercise good judgment in accepting a waiver of rights from a juvenile.

   The juvenile's physical condition, age, intelligence, educational level, prior experience with the juvenile justice system, and his/her ability to comprehend the meaning and effect of his/her statements shall be carefully evaluated in each case.

2. In cases where a juvenile is a suspect in a criminal matter and requests to speak with a parent or guardian, he/she may be afforded the opportunity to confer with them.

   This is not a requirement by law, however; the decision whether or not to allow contact with a parent may carry considerable weight in determining whether an admission/confession is admissible. In all instances in which there is a difference of opinion between a juvenile and his/her parents or guardian regarding whether or not the juvenile will agree to speak with police regarding a suspected criminal offense and the juvenile has a rational capacity to pursue his/her best interest, the juvenile's wishes will prevail.

3. All custodial interrogations of juveniles must be electronically recorded when feasible, and without exception when questioning occurs at a place of detention. This will include city ordinance violations along with any criminal matters.

    a) Audio taping is sufficient to satisfy this requirement, videotaping is preferred. Videotaping may provide a better picture of what transpired during the interrogation. All interview/interrogations conducted at the Sturgeon Bay Police Department will be done in the soft interview room, if possible.

    b) If the interview cannot be conducted in the soft interview room because the room is in use or the subject is violent, it may be conducted in a hard interview room, and a recording will be made.

    c) It is recognized that interviews may be conducted at other locations such as schools or the juvenile's home. These interviews should be electronically recorded.

    d) All tapes or recordings of interviews will be held as evidence, and placed on a property inventory sheet and secured in an evidence locker or stored as such on our Police Department server.

4. Juveniles taken into protective custody do not have to be advised pursuant to Miranda, but must receive a full explanation of why such action is being taken. Protective custody actions will be undertaken with the cooperation of Door County Child Protective Services, who will be responsible for disposition.

5. Interrogations shall not be unreasonable in length, with no more than two officers present. When interrogating juveniles, it is important to understand that juveniles are entitled the same constitutional rights as adults. When appropriate, parents will be advised of the results of the interrogations.

6. During the course of the interview/interrogation, the officer shall attempt to answer questions, as well as explain department and juvenile justice system procedures to the juvenile offender and his/her parent/guardian.

7. All juveniles requiring medical attention shall be transported, by appropriate means, to a local hospital for medical attention. Any juvenile who is in need of medical attention prior to being detained shall be taken to a local hospital where a medical release form shall be obtained.

E. Dispositions following contact with juvenile offenders

1. An officer may take one of the following actions:

    a) Warn and release the juvenile (particularly when the juvenile has engaged in non-criminal misbehavior);

b) Release the juvenile to a parent, guardian, or legal custodian or, if the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision of the juvenile, release the juvenile to a responsible adult. In the case of a juvenile 15 years of age or older, the officer may release the juvenile without immediate adult supervision (it is preferred this release not be made unless all other alternatives have been exhausted).

c) Release the juvenile to his/her parent and refer the case to the Juvenile Intake or Municipal Court. Parents will be notified by mail or phone as to further proceedings in the matter.

d) If the officer reasonably believes that there is an urgent and immediate necessity to keep the juvenile in custody, the on-duty juvenile intake worker will be contacted to seek authorization for holding in custody. If the intake worker approves, the juvenile will be transported to an approved detention facility.

(1) When holding a juvenile in custody a Temporary Physical Request form must be completed and turned over to staff at Door County Human Services.

e) Any other appropriate action with consent of the juvenile and/or a parent.

F. Factors to be considered in determining whether to release or hold a juvenile in custody shall include:

1. The nature of the allegations against the juvenile;

2. The juvenile's history and present situation;

3. The history of the juvenile's family and the family's present situation;

4. The educational and employment status of the juvenile;

5. The availability of special resources or community services to aid or counsel the juvenile;

6. The present attitude of the juvenile and family;

7. The age and circumstances of the offender.

G. Referral to the Door County Juvenile Intake Worker

1. The decision to refer a juvenile to the Door County Juvenile Intake worker will be made by the investigating officer and/or under the direction of a supervisor.

2. Referrals to the intake worker shall occur under the following conditions:

a) Commission of a crime.

b) The juvenile is unwilling, and the parent, guardian, or legal custodian will be unable to produce him/her upon proper notice of a court appearance.

c) The juvenile is likely to repeat behavior harmful to him/her or others.

d) The juvenile's parents, guardian, legal custodian, or other relative or responsible adult cannot be reached.

e) The juvenile is in need of immediate care away from his/her home.

H. Municipal Ordinance and Traffic Citations

1. Juveniles 12 years of age and older can be issued municipal ordinance citations or referred to juvenile intake. Juveniles under the age of 12 must be referred to juvenile intake.

2. Juveniles receiving citations for municipal ordinance violations shall be assessed forfeitures in accordance with the current bond schedule.

3. Juveniles 16 or 17 years of age shall be treated as adults when receiving Uniform Traffic Citations. The bond and court schedules for adults shall apply to these juveniles. These juveniles may be taken into custody for traffic crimes under Section II of the Uniform Traffic Bond Schedule and the case referred to the District Attorney's Office.

   a) Anytime a juvenile age 16 and under is taken into custody with intent to hold in custody, juvenile intake must be contacted for approval to hold the juvenile in custody. If after hours and juvenile intake is unavailable, the decision to hold will be made by a supervisor at Door County Human Services.

4. Juveniles 14 or 15 years of age who commit a traffic offense listed in Section I of the Uniform Traffic Bond Schedule may be issued a Uniform Traffic Citation. No bond shall be listed on the traffic citation, and a municipal juvenile court date shall be assigned, rather than the standard traffic court date. No juvenile court referral is necessary.

5. Juveniles under the age of 14 who commit a Section I traffic offense, or juveniles under the age of 15 who commit a Section II traffic crime, must be referred to the appropriate juvenile intake office.

6. The parents of juveniles age 15 and under, receiving either a Municipal Ordinance Citation or a Uniform Traffic Citation will be notified by mail either with a copy of the ordinance citation and/or the department's notification letter.

   The parents of juveniles age 16 and under receiving a Municipal Ordinance Citation will be notified by mail either with a copy of the ordinance citation and/or department's notification letter. Parents of Juveniles age 16 receiving a Uniform Traffic Citation are not required to be contacted unless the juvenile is charged for any traffic offense and he/she does not have a valid driver's license.

I. Search and Seizure

1. The Sturgeon Bay Police Department shall afford to juveniles the same rights afforded adults. When it becomes necessary to take a juvenile into custody, there shall be a thorough search to:

   a) Protect the officer from attack.

   b) Prevent the juvenile from escaping.

   c) Discover evidence of the crime.

2. Search of premises with parental permission:

   a) Parents may validly consent to the search of the juvenile's room, closet, bureau, or other area of the family home used by the juvenile, but not property outside the control of the parents. Any locked containers under sole control of the juvenile may require the use of a search warrant, even if the parent is willing to consent to the search.

3. Waiver of 4th Amendment protection by juveniles:

   a) Since consent by a juvenile to waive his/her right to 4th Amendment protection poses the same problems relating to the juvenile's maturity, the police officer must carefully evaluate each situation.

4. Searches in a School Setting

   a) By police, without request of school authorities:

      (i) Police officers may not search students' lockers, desks, or automobiles, except under the following circumstances: consent, search warrant, incident to arrest, stop and frisk, or probable cause.

      (ii) A school official may not give permission for a warrant-less search of a student's locker, desk, or automobile. If a search warrant is executed, the student shall be present during the search, if available.

   b) By school administrators:

      (i) The school administrator maintains control over lockers and desks loaned to students. Therefore, a school administrator may search a locker or desk if he has reasonable suspicion that missing school materials may be present, or for items that would endanger the health or safety of the school population.

      (ii) School administrators may request police assistance with a search in which the administrator has reasonable suspicion that the search will reveal evidence of violations of either the law or school rules.

J. Missing/Runaway Juveniles

1. It is the policy of the Sturgeon Bay Police Department to promptly investigate all reports of missing juveniles in an effort to locate and safely return them to their homes.

2. The dispatcher or reporting officer shall ensure that a complete and accurate report is left. When available, a current photograph of the juvenile should be obtained.

3. After the completion of gathering report information and obtaining parental consent to enter the juvenile's name into the teletype system, it is the responsibility of Telecommunicators to see that all missing juveniles are immediately entered into the teletype system.

4. Runaway reports may be assigned to follow-up for investigation by a Supervisor. The assigned supervisor shall be responsible for identifying every runaway/missing juvenile report and ensuring its completion. The case shall remain open until the runaway has been located.

5. When the missing/runaway juvenile has returned or is returned home, the assigned officer shall make a supplementary report as to the whereabouts of the juvenile while away and any other pertinent information that would help locate the juvenile or any other missing juveniles in the future.

6. The juvenile's name shall be withdrawn from the teletype system by the telecommunicator on duty at the time of verified return.

7. If the parent or guardian does not or will not take a juvenile back into the home for any reason, the juvenile intake worker will be contacted for other arrangements.

8. Refer to Policy & Procedure 6.21; Missing Persons Investigations for further information. Policy 6.21 provides detailed information on entry into the TIME system, Amber Alerts, WI Crime Alert Network, Billboard notification, and the Locator system.

K. Mental Illness

1. Dealing with juveniles under WI Statute §51.15 will be handled in the same manner as an adult, except that the parent or guardian will be contacted as soon as possible. Also refer to Policy & Procedure 6.26: Dealing with the Mentally Ill.

L. Police and Schools

1. Police officers have no absolute right to enter the school premises and demand to interrogate any pupil. As a general rule, students should only be questioned in a private room or office and in the presence of a representative of the school.

2. On arrival at a school, a police officer should contact the school administrator or his/her designee, stating the purpose of his/her presence prior to personally requesting information, interviewing, or taking a juvenile into custody.

3. Officers should make all attempts to abide by school district rules pertaining to law enforcement related dealings with students.

M. Truancy

1. The Sturgeon Bay Police Department has an obligation to assist school authorities in enforcing Wisconsin's compulsory school attendance law. The primary and legal responsibility, however, for meeting the social and individual problems presented by the chronic truant is with the juvenile's family and the educational system.

2. Juveniles who are believed to be truant should be contacted and an attempt to identify them shall be made. If identified as truant, they will be returned to the school.

3. The police have the legal grounds to take truants into physical custody under WI Statute §938.19(1)(d)(10).

4. When a school administrator refers a student for truancy, if probable cause exists that the student was truant, the matter will be handled through Sturgeon Bay Municipal Court.

   In this instance an incident report is required including all supporting documentation received from the school.

Clinton Henry
Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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