

WINTER HAVEN POLICE DEPARTMENT

GENERAL ORDER 44.1

JUVENILE OPERATIONS

**ACCREDITATION STANDARDS: CALEA – 44.1.1, 44.1.3, 44.2.1, 44.2.2, 44.2.3, 44.2.5;
CFA – 16.01, 16.02, 16.03, 16.04**

EFFECTIVE DATE: February 01, 1996

RESCINDS: G.O. 44.1, October 14, 2015 and all applicable Amended/Temporary Orders prior to May 9, 2018

LAST REVISED DATE: May 9, 2018

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This General Order contains the following numbered sections:

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POLICY

It shall be the policy of the Winter Haven Police Department to establish procedures relating to juvenile offenders, to cooperate with other agencies involved in the processing of juvenile criminal cases, and to develop juvenile delinquency prevention programs. (CALEA 44.1.1)

PURPOSE

The purpose of this General Order is to establish procedures for engaging in activities and programs designed to control juvenile delinquency.

SCOPE

This General Order shall apply to all Department members.

PROCEDURE

I. Juvenile Crime Prevention

- A. The Winter Haven Police Department recognizes that education and intervention are the most valuable tools in preventing juvenile crime. The Winter Haven Police Department offers and participates in the following:

1. Drug Abuse Resistance Education (D.A.R.E.) (CALEA 44.2.5)
 - a. The D.A.R.E. Officer presents a prepared education program to fifth grade students in public and private schools to enlighten children about the causes and effects of drug usage. The goal of this program is to prevent drug abuse through education on how to react to peer pressure, gangs, and offers of drugs.
 - b. The D.A.R.E. Officer also presents an educational program to students in kindergarten through fourth grade. Although similar to the fifth grade program, this program is specifically designed for younger children. The goal of this program is the same as the fifth grade program.
 - c. The D.A.R.E. Officer also works towards building positive relationships with all students to provide a positive law enforcement role model and mentor students. This is accomplished through such activities as:
 - 1) Student interaction in classes
 - 2) Attending school activities
 - 3) Chaperoning on field trips
 - 4) Attending community activities
- B. Juvenile crime prevention is covered under General Order 45.1.
- C. Annual Review (CALEA 44.1.3)
 1. The Uniform Services Bureau Commander shall conduct an annual review of all juvenile programs to determine if the program remains effective, programs such as SRO, Crime Prevention, Explorers etc.
 2. This review shall be documented and forwarded to the Chief of Police. If any program is found no longer effective, the Uniform Services Bureau Commander shall document the reasons for the loss of effectiveness.

II. Alternatives to Arrest

- A. Department members dealing with juveniles shall use the least coercive methods and reasonable alternatives consistent with preserving the public safety, order, and individual liberties. (CALEA 44.2.1)
- B. Members may dispose of certain cases involving juveniles without the use of diversion, referral to DJJ, referral to the State Attorney, or by arrest. Examples of dispositions available are:
 1. Release from the scene without further action. (CALEA 44.2.1a)
 - a. The member will release the juvenile to the parents/guardian and complete an information Report.
 2. Traffic Citations (CALEA 44.2.1b) (CFA 16.01b)

- a. Juveniles may be issued traffic citations for civil infractions or for criminal traffic violations in lieu of physical arrest.
- 3. Information reports submitted by member for filing with the Department of Children and Families.
- 4. A victim may sign a waiver of prosecution at the time of the investigation or contact the SAO to drop the charges.
- 5. Teen Court is a diversion program members may use for first time juvenile offenders ages 11 to 17 for misdemeanor and non-violent felonies. The below procedures shall be followed: (CALEA 44.2.1c) (CFA 16.01b)
 - a. The member shall prepare an arrest/complaint affidavit and a case report.
 - 1) On the person's page of a report under the Extra tab, members shall put (Y) for yes for teen court or (N) for no for teen court.
 - b. The member shall select "TEEN COURT" in the drop down menu of the arrest/complaint affidavits. Members shall also include as the last line in the arrest/complaint affidavit narrative "recommend referral to Teen Court".
 - c. The arrest/complaint affidavit and case report shall be processed as normal and forwarded to the Juvenile Division, Clerk of the Court, located at the Polk County Court House in Bartow, Florida.

III. JUVENILE ARREST PROCEDURES

- A. Members may arrest/charge juveniles when the member has probable cause to believe the juvenile has committed a crime in violation of Florida State Statutes, whether the violation is a misdemeanor or felony. Members shall arrest juveniles and refer the case to the SAO under the following circumstances: (CFA 16.01a)
 - 1. The offense committed is a felony.
 - 2. The offense involves the possession or use of a weapon.
 - 3. The offense is domestic violence.
 - 4. The offense involves gang related activity.
 - 5. The juvenile was on probation or parole at the time of offense.
 - 6. The juvenile has an extensive criminal history.
- B. Arrested juveniles shall be handcuffed and/or restrained and transported as outlined in General Order 71.1 Prisoner Restraint and Transportation.
- C. Juveniles arrested for felonies, domestic violence, or criminal pickup orders/warrants shall be transported without delay to the Winter Haven Police Department Temporary Detention Facility or Juvenile Assessment Center (JAC), unless the juvenile is in need of

medical attention. The following shall be completed by the arresting member:
(CALEA 44.2.2d) (CFA 16.03d)

1. Complete an arrest affidavit.
2. Contact the parent/legal guardian of the arrested juvenile to inform them of the arrest, the location of JAC and that JAC will contact the parent. If the member is unable to make contact with a parent/legal guardian, the member shall indicate the reason in the case report and notify JAC.
(CALEA 44.2.2e) (CFA 16.03b)
3. Complete an arrest affidavit and case report and submit them through normal procedures to the Records Division.

(Note: Dissemination and retention of juvenile photographs and fingerprints are regulated by Florida State Statutes 39, 119, 257, 985 and court orders.)
(CALEA 44.2.2c) (CFA 16.03c)

D. JAC will not accept juveniles under the following conditions:

1. The juvenile is in need of medical attention, is intoxicated or under the influence of drugs. If one of the above is present, the member shall take the juvenile to a medical facility for clearance prior to transport to JAC.
2. Juveniles that have been reported as runaways in the State of Florida.
3. Non-criminal pickup orders.

E. It is preferred that all juveniles arrested be transported to JAC. Under exigent circumstances, the juvenile may be released to a parent/legal guardian with the approval of a supervisor. When releasing a juvenile to a parent/legal guardian the below procedure shall be followed:

1. The member shall complete a "notice to appear".
2. The member shall obtain a court date from www.SAO10.com by selecting "court status" then "Juvenile Delinquency Arraignment dates". Obtain the correct arraignment date and time based on the date of the affidavit.
3. Inform the parent/legal guardian that they will need to bring the juvenile to the "Bartow Courthouse Juvenile Division-West entrance" on the date and time indicated on N.T.A. or a juvenile pick-up order will be issued.
4. For juveniles who are unable to be located, a "complaint affidavit" will be completed.
5. Within 24 hours, the member or their supervisor shall fax a copy of the complaint affidavit or notice to appear to the Juvenile Assessment Center.
6. The member shall complete all necessary reports and submit them through normal procedures to the Records Division.

F. When a juvenile has been arrested or is in custodial interview and asked questions that

could be self-incriminating, the member shall advise the juvenile of their Miranda Warning. The following shall be adhered to during juvenile interviews: (CALEA 44.2.2c, 44.2.3) (CFA 16.03a)

1. While it is acceptable to have a parent/legal guardian or attorney present during the juvenile's interview, the courts have held that this is not mandatory as long as the following has been met: (CALEA 44.2.3)
 - a. Miranda Warning was properly given; the juvenile understood the warning and waived their rights and made the statement freely, voluntarily, knowingly, and intelligently. When considering a juveniles understanding of Miranda, the following shall be taken into account: (CALEA 44.2.3)
 - 1) Age,
 - 2) Intelligence,
 - 3) Educational background,
 - 4) Mental capacity, including whether the juvenile was nervous and the state of their physical condition, and
 - 5) Familiarity with the English language.
 - b. A juvenile shall be advised that they have the right to have a parent/legal guardian present during interview. (CFA 16.04a)
2. Interviews shall be conducted in a controlled environment free from distraction and interruptions.
3. There should be no more than two members engaged in the interview at one time. (CFA 16.04b)
4. Interviews shall not be held for an unreasonable amount of time. The duration of the interview should be based on the severity of the crime. Members shall ensure that appropriate time for breaks or rest is given. If it is necessary for a lengthy interview, the member(s) shall notify their supervisor of the nature of the interview/case and the reason for the extended time period. (CFA 16.04b)
5. Parents/legal guardians shall be made aware of the interview process. (CFA 16.03b)

VII. Non-Criminal Custody

A. Runaways

1. When a member has made contact with a juvenile and believes that the juvenile has runaway, the member shall confirm that the juvenile is a runaway before taking them into non-criminal custody. The juvenile shall not be handcuffed unless the member deems it necessary for member safety reasons. The below procedures will be followed: (CALEA 44.2.2a) (CFA 16.02a)

- a. The member shall contact the parent/legal guardian. The parent/legal guardian shall be requested to meet the member. (CALEA 44.2.2e)
- b. Unless there is felony or domestic violence charges, the member shall release the juvenile to the parent/legal guardian.
- c. If the runaway is from another state the juvenile shall be transported to JAC.
- d. If a parent/legal guardian cannot be located, the juvenile shall be transported to the George Harris Youth Crisis Center. Before transporting to the center the officer member must contact the center at (863) 595-0220. (CALEA 44.2.2e)
- e. The member shall have the runaway removed from NCIC/FCIC.
- f. The member shall complete either a Winter Haven Police Department supplemental report or Offense/Information Report for a runaway from another jurisdiction.

B. Truancy

- 1. If a member has reason to believe a juvenile is absent from school, without permission, the member shall contact the juvenile's school to determine if the juvenile has permission to be absent. If the juvenile is absent without permission, the member shall transport the juvenile to the school and release them to a school official or the School Resource Officer. The officer shall contact the parent/legal guardian and complete an Incident Report or Field Intelligence Report. (CALEA 44.2.2a) (CFA 16.02a)

C. If a juvenile meets the requirement for a Baker Act or Marchman Act, the juvenile shall be taken into protective custody. The member shall follow the below procedures: (CALEA 44.2.2a)

- 1. The parent/legal guardian shall be notified.
- 2. The juvenile shall be taken to the nearest designated receiving facility.
- 3. The member shall complete a Baker Act Report and other related paperwork.

D. Child Abuse

- 1. If a child is believed to be in danger by being abandoned, abused, neglected, suffering from illness, injury, or is in immediate danger from surroundings and it is necessary to remove the child for their protection, the member shall take the child into protective custody. The member shall notify the Department of Children and Families and request their personnel to respond to take custody of the child. Members shall document all actions in an Offense Report and follow through with criminal charges when appropriate. (CALEA 44.2.2b) (CFA 16.02b)

E. Juvenile Curfew

- 1. The City of Winter Haven enacted a Juvenile Curfew Ordinance, which is

Municipal Ordinance (M.O.) 11-5 that incorporates Florida State Statutes 877.20 through 877.25. (CALEA 44.2.2a) (CFA 16.02a)

- a.** The following, outlines the violation(s) of M.O. 11-5:
 - 1)** A minor may not be or remain in a public place or establishment between the hours of 11:00p.m. and 5:00a.m. of the following day, Sunday through Thursday, except in the case of a legal holiday.
 - 2)** A minor may not be or remain in a public place or establishment between the hours of 12:01a.m. and 6:00a.m. on Saturdays, Sundays, and legal holidays.
 - 3)** A minor who has been suspended or expelled from school may not be or remain in a public place, in an establishment, or within 1,000 feet of a school during the hours of 9:00a.m. and 2:00p.m. during any school day.
- 2.** Minors shall be issued a warning for the first violation of M.O. 11-5. A record of warnings will kept on file through the Department's electronic data base. The Department's electronic data base shall be updated and managed by the Records Supervisor or their designee. Members shall have access to the curfew warning file but will not be allowed to modify or add to the file. This file shall contain the following: (CALEA 44.2.1b) (CFA 16.01b)
 - a.** Name of the minor
 - b.** Address of minor
 - c.** Date of Birth of minor
 - d.** Parent/legal guardian name and contact number
 - e.** Original case number of warning
 - f.** Date warning expires (minor's 16th birthday)
- 3.** The Uniform Services Bureau Commander or their designee shall be responsible for compiling a list of juvenile curfew warnings each month. The Uniform Services Bureau Commander or their designee shall ensure the electronic data base is updated with juvenile warnings.
- 4.** When a member reasonably believes that a minor is in violation of M.O. 11-5, the member shall perform the following:
 - a.** Access the juvenile curfew warning list in the electronic data base to determine if the minor has received a warning for a prior violation.
 - b.** If the minor has not received a warning the member shall:
 - 1)** Transport the minor to the police department
 - 2)** Contact the parent/legal guardian to respond to the police

- a. For the first violation the parent/legal guardian shall receive a warning, which will be issued on a City of Winter Haven Ordinance Citation and the dispatch call (sierra) number with "Parent or Guardian Warning" printed in bold on top of the citation.
 - b. If a parent/legal guardian has received a previous warning, the parent/legal guardian is guilty of a civil infraction and a fine of \$50.00 for each violation. The parent/legal guardian will be issued a City of Winter Haven City Ordinance Citation citing a violation of M.O. 11-5 payable for \$50.00 to the Records Division at the police department.
 - c. A parent/legal guardian juvenile curfew violation warning list shall be maintained through the electronic data base under the same guidelines as the Juvenile Curfew Warning List.
- 6.** Conditions that do not violate M.O. 11-5 are as follows:
- a. Minor accompanied by a parent/legal guardian or by another adult authorized by parent/legal guardian to have custody of minor.
 - b. Involved in an emergency or engaged, with parental/guardian permission, in an emergency errand.
 - c. Attending or traveling directly to or from an activity that involves the exercise of rights protected under the First Amendment of the United States Constitution.
 - d. Going directly to or from lawful employment, or who is in a public place or establishment in connection with or as required by a business, trade, profession, or occupation in which the minor is lawfully engaged.
 - e. Returning directly home from a school sponsored function, religious function, or a function sponsored by a civic organization.
 - f. On the property of, or on the sidewalk of the place where he/she resides, or who is on the property or sidewalk of an adult next door neighbor with that neighbor's permission.
 - g. Engaged in interstate travel or bona fide intrastate travel with the consent of parent/legal guardian.
 - h. Attending an organized event held at and sponsored by a theme park or entertainment complex.
- F.** Release of Juvenile to Person Other than a Parent/Legal Guardian
- 1. If a juvenile is in non-criminal custody and the parent/legal guardian cannot be contacted, the member may release the juvenile to a responsible adult. The following provisions shall apply:
 - a. Proper supervision available.
 - b. There is not a belief that the juvenile will runaway.

- c. The juvenile is not a danger to themselves or others.
- d. A criminal history shall be completed on the adult.
- e. The member shall complete a Department of Children and Families Guardianship Form.
- f. All of the above shall be documented in the member's report.

VIII. DEFINITIONS

- A. *Dependant Juvenile* – A juvenile who has been abandoned, abused, neglected by parents or guardian.
- B. *Establishment* – A privately owned place of business to which the public is invited, including but not limited to, a place of amusement or a place of entertainment.
- C. *George Harris Youth Crisis Shelter* – A receiving facility associated with the Department of Juvenile Justice located in Bartow, Florida that receives runaway juveniles when a parent/guardian cannot be located.
- D. *Juvenile Assessment Center* – A Department of Juvenile Justice receiving facility located in Bartow, Florida that receives juveniles that have been arrested/charged with any criminal act or out-of-state runaways.
- E. *Juvenile* – For purposes of this order, a juvenile is any person under the age of 18 that has not be recognized by any court or state law as an adult.
- F. *Minor* – For purposes of this order, minor shall refer to any person under the age of 16 that is in violation of the City of Winter Haven Curfew Ordinance.
- G. *Public Place* – A place which the public has access, including but not limited to streets, highways, public parks, and common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, and shops.
- H. *Remains* – To stay unnecessarily in a particular place.
- I. *Teen Court* – Teen Court is a juvenile prevention program for first time offenders ages 11 to 17 who have committed misdemeanors and non-violent felonies.

APPROVED



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CHIEF OF POLICE