



Subject:
JUVENILE ARREST & INTERVIEW/INTERROGATIONS

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| Chapter 5 | Policy # 5.50 | Distribution: |
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References:
Missoula Police SOP, MCA Title 41 Chapter 5, 41-1-501 (Limited emancipation), MCA 41-5-341, MCA 41-5-206, MCA 40-7-103, MCA 41-5-343

I. Purpose

The purpose of this policy is to provide officers of the Missoula Police Department with assistance in the laws of arrest and procedures for interview/interrogations for juvenile offenders.

II. Policy

It is the policy of this department to arrest juveniles only under required and/or specific conditions. In general, a citation in lieu of arrest is sufficient if contact is made with the juvenile's parent or guardian. Officers shall also follow specific laws and court rulings when interviewing or interrogating a juvenile.

III. Definitions

Delinquent Youth: A youth who has committed an offense that, if committed by an adult, would constitute a criminal offense.

Physical Custody: The physical care and supervision of a child.

Secure Detention Facility: A facility that is used for the temporary placement of a youth that is designed to physically restrict the movement and activities of a youth held in lawful custody of the facility.

IV. Procedures

The following are general principles set forth to establish the parameters for decision-making and to satisfy the need for consistency and uniformity when dealing with juveniles.

A. When juveniles are taken into custody or are the subject of a formal investigation, their parents, guardians or legal custodian shall be notified as soon as possible. If the parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or friend chosen by the juvenile must be notified.

1. Juveniles may not be placed in the holding cell or locked room for status offenses. Juveniles may not be handcuffed or

shackled to a physical object as a means of keeping them detained while waiting for a parent, pending an interview or any other similar reason.

2. When a juvenile is detained an officer must be present with the juvenile at all times.

B. Youths with **Limited Emancipation** are still subject to parental, guardian or legal custodian notification (MCA 41-5-103).

C. All investigative and enforcement procedures, including interviewing, gathering evidence and apprehension shall be carried out as provided in this policy and state law.

D. Every effort should be made to work cooperatively with other law enforcement agencies, schools, and Youth Court.

Arrests of Juveniles

Juveniles who are observed committing an act, or where probable cause to arrest has been established, in which serious physical harm or danger to others exists, shall be taken into immediate physical custody.

Juveniles, who are observed committing an act, or where probable cause to arrest has been established, which constitute a felony or misdemeanor, may be taken into physical custody.

Juveniles, who have allegedly committed a Status Offense (offense that if committed by an adult would **not** constitute a criminal act), shall be returned to their parents or guardians after receiving a warning or citation. Examples of Status Offenses are Curfew, Runaway, Truancy, etc.

If a juvenile is arrested and placed in a secure detention facility, a Juvenile Probation Officer and the juvenile's parent(s) or guardian(s) must be notified.

Juveniles may be placed in a secure detention facility if they have been arrested for an offense listed in MCA 41-5-206. Juveniles may also be placed in a secure detention facility under MCA 41-5-343 if they are alleged to be a delinquent youth and the youth's detention is required to protect persons or property.

If a juvenile is detained in the building or holding cell for any length of time a Detained Juvenile Report shall be completed and turned in with the report.

Interviews and Interrogations

All interviews and interrogations of juveniles will be conducted to insure maximum protection of the juvenile's constitutional rights. The child's physical condition, age, intelligence, educational level, level of intoxication and their ability to comprehend the meaning and effect of statements should be carefully evaluated in each case.

1. All juveniles who are taken into custody or detained in conjunction with an investigation will be advised of the nature of the crime of which they are

suspected. All juveniles will be advised of their Miranda Rights prior to any questioning based on the following criteria.

- a. Juveniles who are 16 years of age or older must be advised of their right to have a parent/guardian notified before questioning.
- b. Juveniles who are 16 years of age or older may waive their rights including the above parental notification prior to questioning.
- c. Juveniles who are 15 years of age or younger must have parents / guardian notified and both must sign a waiver of rights for it to be effective.
- d. In all cases a Juvenile Rights form shall be properly completed prior to questioning.
- e. All interviews will be recorded when the ability to do so is present, preferably both visually and audibly.

Juveniles in School

Taking into custody on School Property during School Hours

An officer may take any student into custody during school hours if the officer has probable cause to arrest the student, pursuant to an arrest warrant or request by JPO. The School Resource Officer (SRO) as well as the school principal shall be informed of all arrests made on school grounds during school hours. Notification of parents and/or guardians also applies. When safe and reasonable, the student should be first summoned to the office by the principal if not a safety or flight risk.

Interview of Suspects in School

All interviews on school grounds and in school buildings will be conducted as discreetly as possible and with the consent and assistance of the school administration. If the student is in custody, he/she will be advised of their Miranda Rights. School officials cannot waive or invoke these rights on behalf of the student. Notification of parents and/or guardians also applies.

Questioning by Police, at the request of School Authorities

If a school official has requested assistance from the police department in investigating a crime involving school buildings or students, the police may interview a student suspect in school during school hours.

Questioning by Police, without request of School Authorities

If the police deem it necessary to interview students at school, the police shall first contact the school principal or his/her designee regarding the planned interview and inform him/her of the necessity to interview the student within the school. This would not apply when emergency circumstances require an immediate interview of a student.

Other Law Violations and Status Offenses

Under most routine circumstances involving juveniles committing violations the preferred course of action is to issue a citation if probable cause exists and release the juvenile. Consideration must be given to the age of the juvenile and other

factors such as presence of drugs/alcohol and the seriousness of the crime. Responding officer must contact the juvenile's parent or guardian.

1. Juveniles may only be placed in the holding cell, for up to six hours, for crimes that would be an offense if the act were committed by an adult. When a juvenile is detained, an officer must be present with the juvenile at all times. This includes when a juvenile is placed in the Missoula Police Department holding cell. The juvenile will be under continuous visual supervision at all times.
2. Juveniles and Adults are not permitted to be placed in the holding cell together.
3. If the offense is alcohol related, the juvenile must be released to a parent or guardian.
 - a. If no guardian is available, a responsible, sober adult can be contacted to respond and take custody of the child. This includes relatives, neighbors or other adult willing to accept responsibility for the juvenile.
 - b. The officer will try and make contact with the parent/guardian and advise them of the incident at a later date if not contacted at the time of arrest
 - c. If no responsible adult is located, the on-call juvenile probation officer may be contacted and arrangements made to place the subject in an Attention Home setting if available.
 - d. If no other arrangements can be made contact the shift commander to assist in determining a course of action.
4. If the offense is not alcohol related, the juvenile may be cited and a parent or guardian may be contacted by telephone, advised of the situation and asked for verbal permission to release the juvenile on his/her own recognizance.
5. All above actions shall be documented in a written report.

Probation Violations

Youth Court probation officers have the authority to request that a Missoula Police officer respond to take a juvenile offender into custody and place the youth in the detention center. The arresting officer will need to ensure that the parents of the juvenile are notified of the arrest either by the JPO or him/herself. A juvenile citation will be filled out and written report completed.

Orders of Apprehension

An order issued by a court authorizing law enforcement officers to take physical custody of a juvenile will be affected upon confirming the existence of the order.