



## **2-22 JUVENILE DELINQUENCY**

### **2-22-1 Purpose**

This policy describes the procedures to be followed by Department personnel investigating juvenile delinquency.

### **2-22-2 Policy**

Department policy is to endorse and support programs designed to prevent and control juvenile delinquency and to use compassion while properly handling juvenile offenders as required by the New Mexico Children's Code. It is recognized that all components and personnel of the department have a responsibility to participate and support the department's juvenile operations.

### **2-22-3 Definitions**

#### **A. Delinquent Acts**

A delinquent act is any act committed by a child which would be designated as a crime under the law if committed by an adult.

#### **B. Children In Need of Supervision**

Children that are subject to compulsory school attendance and are absent from school without an authorized excuse for more than ten days during a school semester. Children who have been suspended from school for non-attendance. Children who are ungovernable, beyond control, and habitually disobey the reasonable and lawful demands of their parents, guardians, or custodian. Children who have committed an offense not classified as a delinquent act (e.g., violation of curfew, runaway, and truancy).

### **2-22-4 Procedures**

#### **A. Handling of Juvenile Offenders**

1. This department actively works with all other juvenile justice system components in the development of policies and procedures relating to juveniles.
2. The juvenile justice components consist of such agencies as the:
  - a. New Mexico Youth Authority, the courts, corrections, probation, and parole, and other components of the criminal justice system, which meet on a daily basis.
  - b. Bernalillo County Juvenile District Attorney's Office.
  - c. Department of Human Services.



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d. Other social agencies who deal with juveniles.

3. The commander of the Juvenile Section is the Department's representative for the Juvenile Justice Advisory Committee, which reports directly to the Governor of New Mexico.

B. Juvenile Statements and Interviews (Per NMSA 1978 Children's Code 32A-2-14)

1. The guidelines of the Children's Code do not prohibit the officer from interviewing and taking statements from victims or witnesses of any age.

2. Basic Interrogation Responsibilities

a. Officers will record all interrogations of juveniles.

b. The length of questioning will be conducted over a reasonable period of time with periodic breaks, i.e., meals, drinks, contacting parents or legal guardian if prior contact has not been made, etc.

c. To avoid the appearance of intimidation, a minimum number of officers, to consistent with officer safety, will conduct all interrogations.

d. Officers interrogating juveniles will provide the juvenile(s) with an explanation of agency and juvenile justice system procedures prior to beginning the interrogation.

3. Juvenile Suspects 12 Years of Age and Under

a. Cannot waive their Constitutional Rights.

b. Their statements may not be introduced as evidence against them, therefore, circumstantial evidence or eyewitness statements must be obtained to prove the case.

4. Juvenile Suspects 13 Through 17 Years of Age

a. Can waive their Constitutional Rights.

b. In these cases, officers will obtain a signed waiver of rights form prior to taking a statement.

c. It is desirable to have a parent, legal guardian, or legal counsel present prior to taking a formal written statement.

C. Juvenile Arrests

1. The following methods of arrest shall be used involving juveniles of the ages of 11 through 17. All attempts will be made to notify a parent or legal guardian when an arrest is made or a citation has been issued. The ultimate responsibility of contacting a parent lies with the Juvenile Detention Center staff and this is directed in their standard operating procedures manual.

a. When an officer makes a physical arrest of a juvenile, the subject will be transported to the Juvenile Detention Center and booked on the charges.

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- b. Prior to leaving the Detention Center the officer will fill out a "Statement of Probable Cause", and sign it. The officer will also completely fill out a pre-booking sheet.
- c. This affidavit will be turned over to the booking officer. The officer will receive a copy of the affidavit that will be forwarded with the officer's police report.
- d. Officers making a physical arrest of a juvenile will:
  - i. Provide a copy of his/her incident report to the Juvenile Detention Center prior to leaving the detention center. All involved individuals must be listed on the report and the narrative must contain enough detail so that officials can proceed at arraignments. This also pertains to any incident where a juvenile is arrested with an adult.
  - ii. An officer who issues a misdemeanor citation for delinquent offenses will complete an offense report before the end of their shift.
  - iii. In a case referred to a specialty unit, the officer taking case responsibility will assume the report responsibility as well. However, the initial reporting officer must complete his/her original report prior to the end of their shift.
- e. If a juvenile is listed as a suspect in a delinquent offense, that report must also be completed before the end of the shift.
- f. The officer's immediate supervisor or another supervisor will ensure that the case report and any other pertinent document(s) (i.e., statements, photo arrays, etc.) are faxed or delivered to the Juvenile Detention facility within 24 hours of the incident.
- g. The Commander of the Juvenile Section will continue the liaison function with the Juvenile Probation Office and the Juvenile District Attorney to ensure that the FAX numbers mentioned in this order are made available to all Department offices or substations.

D. Fingerprints, Photographs, and Physical Evidence

1. Juveniles age 12 and under shall not be photographed and/or fingerprinted without first obtaining a court order.
2. Juveniles 13 and over will be photographed and fingerprinted when charged with a felony crime, unless the Identification Records Unit has the juvenile's prints and photograph on file. The arresting officer will verify this with the Identification Records Unit before leaving the Juvenile Detention Center or releasing the juvenile.
- 3.
4. If the Identification Records Unit does not have fingerprints or photographs on file of juveniles 13 and over who have been previously arrested on felony charges, these juveniles will be transported to the Juvenile Detention Home for processing.
5. If there is a current photograph and fingerprint file, the officer can use the telephone to process these juveniles. The officer shall follow-up on the



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information received from the Identification Records Unit to verify that the information is correct.

6. Other forms of identification e.g., hair, blood, urine, etc. will not be obtained without a court order.

E. Juvenile Reports

1. Reports containing information on juveniles listed as offenders, suspects, or witnesses will be stamped "JUVENILE" on the face of the report.
2. On felony cases where the only offenders are juveniles, a close out supplementary report shall be prepared and submitted when:
  - a. A violent felony is involved such as armed robbery, homicide, criminal sexual penetration aggravated battery, or any crime where a deadly weapon is used.
  - b. Three or more felonious property crimes are related through a common offender.
  - c. The investigating officer's supervisor determines that the case is unusually complicated.

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F. Juvenile Arrest Warrants

1. The affidavit and warrant forms for juveniles differ from those of adult affidavit and warrants. Forms are available on Copperfire.
2. Once an arrest warrant is signed by a district judge, it shall be filed and returned to the court clerk at the Juvenile Justice Center.
3. Only a Children's Court judge or a District Court judge can issue a juvenile warrant.

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G. Juvenile Misdemeanor Offenses and Misdemeanor Citations

1. Misdemeanor Offenses (Non-traffic)
  - a. Responding officers shall take an original report, conduct a preliminary investigation, and determine if the juvenile offense would be classified as a misdemeanor if the offender were an adult.
  - b. The officers shall then determine if the victim wishes to prosecute by making a private complaint in Children's Court.
  - c. If a complaint is considered, the officer shall obtain a legible hand written statement from the victim. It must include all necessary elements of the offense, and an adequate summary of relevant facts to establish a basis for the complaint.
2. Misdemeanor Citations (Delinquent Acts)

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- a. Before issuing a misdemeanor citation, officers shall determine if there is an outstanding warrant or if the juvenile is on probation, by calling the Juvenile Detention Home.
- b. When juveniles are cited, every attempt should be made to notify the parents. In any case, the offender must sign the citation.
  - i. The officer who issues the citation may take the juvenile home and issue the citation there or have the parents travel to the place of occurrence.
  - ii. Juvenile offenders refusing to sign the citation may be booked.
- c. The issuing officer shall write a report whenever a misdemeanor citation is issued.
- d. The misdemeanor citation will be stapled to the original report and turned into Records. Records personnel will make the necessary copies and forward them to Juvenile Probation.
- e. The juvenile and the parents shall be sent a notice by Juvenile Probation regarding appearance in court.

#### H. Juvenile Traffic Offenses

1. The following listed traffic offenses by juveniles have been deemed delinquent acts, therefore, the juvenile comes solely under the jurisdiction of the Children's Court and may be booked into the Juvenile Detention Home, at the discretion of the primary officer.
  - a. Driving while under the influence of an intoxicating liquor or drug (DWI), or any other alcohol related offense(s).
  - b. Leaving the scene of an accident involving damage to property, injury to persons, or death.
  - c. Fictitious, forged, or altered driver's license, permit, or vehicle license plate.
  - d. Any traffic offense punishable as a felony e.g., vehicular homicide or great bodily injury by vehicle.
  - e. Reckless driving.
  - f. Driving with a suspended or revoked license.
2. When an officer issues a moving citation to a juvenile for the above listed offenses, the following procedures will be adhered to:
  - a. The court appearance box will be checked.
  - b. On the address line of the citation, the issuing officer will write, "Juvenile/5100 2nd Street NW."
  - c. On the dateline of the citation, the officer will write, "To be notified."
  - d. It shall be the responsibility of the issuing officer to advise the juvenile that he/she will be notified by mail of his/her hearing date by the Juvenile Probation office.
  - e. Citations of the aforementioned nature issued to juveniles will be dropped in the appropriate box near Metro Liaison.



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3. Juveniles cited for traffic offenses other than those listed above e.g., no driver's license, red light violation, stop sign violation, etc., shall be cited into Metropolitan Court.
  - a. If the juvenile refuses to sign the citation, the officer shall make attempts to notify the parents. If all attempts fail, the officer shall note on the citation "Signature Refused", and release the juvenile. A report will be written and forwarded through normal channels.
  - b. Juveniles with an open container of alcohol or those who are found to be in possession of alcohol, fall under the jurisdiction of the Children's Court. They may be issued a misdemeanor citation or be arrested for possession of alcohol by a minor.
  
4. Whenever an officer is handling a traffic stop/incident and there are multiple violations for which juveniles are to be cited, and one or more of these violations is a delinquent act listed in 2-34-10A, and one or more is a violation that comes under the Metropolitan Court jurisdiction, then all violations shall be referred to Children's Court.

Example: A traffic accident involving a juvenile driver who is arrested for D.W.I. and is also cited for no driver's license and careless driving. D.W.I. is a delinquent act and no driver's license and careless driving are violations cited from the same incident/accident. All charges are to be referred to the Children's Court.

I. Custodial Interference

Officers and/or detectives shall write a report prior to taking any enforcement action of any custodial interference case. A copy of the report shall be forwarded to the Bernalillo County District Attorney's Office.

J. Children In Need of Supervision

1. Officers shall take a report and refer parents or guardians complaining of an alleged child in need of supervision to the Juvenile Probation office for appropriate counseling and services.
  - a. Officers may issue citations for violations of curfew and truancy, but the child shall not be arrested or taken to the Detention Home.
  - b. When a child is in need of supervision is given a citation, the issuing officer shall follow procedures as outlined in 2-34-9B but shall not book a child for a FINS act.



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2. The New Mexico Children's Code does not permit Families in Need of Supervision (FINS) to be placed in a facility that also houses persons charged with delinquent acts, unless they are out of state runaways.
  - a. Officers can detain local and in-state runaways, but they cannot place them into the Juvenile Detention Center. Officers encountering such runaways should attempt to notify parents or legal guardians.
  - b. If contact cannot be made with the parents or legal guardians, officers may transport the juvenile runaway, between 0800 to 1700 hours, Monday through Friday, except holidays, to the Juvenile Probation office, at the Juvenile Justice Center (5100 2nd Street NW). If the Juvenile Probation office is closed, group homes such as Amistad, New Day, or Passages should be contacted for possible placement.

K. Truancy

1. Suspected Truants

- a. Officers who have reasonable suspicion to believe that a student is suspected of being truant will:
  - i. Identify the school the student attends.
  - ii. Verify the student is actually truant.
- b. If the student is verified truant the officer will:
  - i. Attempt to contact a parent or guardian.
  - ii. Issue a truancy citation.
  - iii. Inter-office the appropriate copies of the truancy citation to the local area Impact supervisor.
  - iv. Forward copies of Truancy Citations to APS Truancy Prevention Office.
- c. If the student is on probation, the probation officer should be notified of the truancy via telephone.



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2. SRO responsibilities for subsequent truancy.

If a student is found to be truant for a third time, the SRO officer will:

- a. Coordinate with APS administrators to determine if a criminal investigation is warranted according to New Mexico State Statute 22-12-1, Compulsory School Attendance Law, which requires parents/guardians to ensure their child(ren) attend school.
  - b. Should the school not have an SRO, APS police will conduct the investigation.
  - c. The completed case will be submitted to the Juvenile Probation Office, who will review the case and forward it to the Bernalillo County District Attorney's Office for possible prosecution.
  - d. Truancy citations issued by officers are a necessary component if the case is to be considered prosecutable.
3. If officers arrest a student for a delinquent act, the officer will determine if the student is truant. If the student is truant, officers will follow the procedures above to issue a truancy citation.

L. New Day Reception and Assessment Center (NDAC)

1. On all non-violent offenses, the New Day Juvenile Reception and Assessment Center is a facility where at-risk youth (including subjects in custody or who have charges pending) may be taken in lieu of booking at the Juvenile Detention Center. The center will provide intake services, risk assessment, crisis intervention, and referral services for juveniles who were arrested or cited for misdemeanor offenses.
2. Juveniles Eligible for Services
  - a. Children taken into custody for status offenses.
  - b. Children who are alleging abuse, neglect, or domestic violence where there is not a criminal investigation being conducted.
  - c. Non-violent misdemeanor offenses.
3. Non-Eligible Juveniles
  - a. Children who have been charged with domestic violence, including assault or battery.
  - b. Children who are charged with crimes against another person.
  - c. Children who are charged with possession of a firearm or a deadly weapon.
  - d. Children who have outstanding warrant(s) for their arrest.
  - e. Children who have threatened or are believed to be suicidal.
  - f. Children with a history of violent offenses or have pending juvenile petitions.
  - g. Children on probation and charged with a felony.
  - h. Out of state runaways.



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- i. Uncooperative or aggressive children.
  - j. Children presenting a medical condition that requires medical attention, i.e., highly intoxicated, acute mental illness, etc.
  - k. Documented gang members.
  - l.
4. Transporting
- a. The NDAC is open and staffed 24-hours a day, 7-days a week.
  - b. Prior to transporting a child to the facility, officers will contact the Juvenile Detention Center/Booking to determine the child's eligibility.
  - c. Officers will complete an admission form when transporting a child to this facility.
  - d. The child will be turned over to NDRC personnel, assuming responsibility for the child.
  - e. Should the juvenile be declined for any reason, the child will be transported to the Juvenile Detention Center.
5. Officer's Duties
- a. Once the child has been remanded to the custody of NDAC, officers will ensure that center personnel make the necessary contacts and forward the appropriate information to the District Attorney's Office, Juvenile Probation and Parole, and the Juvenile Detention Center.
  - b. Personnel are still required to complete all offense/incident reports prior to the end of their duty shift.
  - c. All arrest reports will be e-mailed to the appropriate location as outlined in department policies and procedures.
  - d. Paper work will not be left at the center other than the intake form and the child's copy of a citation, if applicable.