

## **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

### **SECTION: Child Abuse**

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When a Uniform Officer receives a complaint or learns of a child who has been physically or emotionally abused or neglected, other than by accidental means, he or she is required by State Law to report this complaint immediately to the Department of Children's Services. A child is defined as any person under eighteen (18) years of age. This should be done by a supervisor or Commanding Officer through a Communications dispatcher. **The Tennessee Child Abuse and Neglect 24 hour hotline number (1-877-237-0004).**

The Uniform Officer responding to a complaint of child abuse has the responsibility for the preliminary investigation on the scene to determine the type of abuse, facts surrounding the abuse complaint, witness' information, and perpetrator, if known. The Uniform Officer will determine if there is any physical evidence on the scene which would include any signs of physical injuries (bruises, marks, cuts, etc.) If there is physical evidence and/or instrumentalities on the scene, then the Crime Scene should be called to photograph and collect such evidence.

If the Uniform Officer has reason to believe the child is subject to an immediate threat to his health or safety to the extent that delay for a hearing would be likely to result in severe or irreparable harm, or the child may abscond to be removed from the jurisdiction of the court, the Uniform Officer may take the child into protective custody to protect the child's health, safety, or to prevent the child's removal from this jurisdiction. If the child should require immediate medical treatment, the Uniform Officer shall follow-up at a hospital to determine the seriousness of the injury.

All felony and misdemeanor investigations of child sexual, physical or emotional abuse or neglect will be investigated by the Child Abuse Squad. This will include severe child abuse, which is defined by State Law as abuse or neglect likely to cause great bodily harm or death, mental disorder, hospitalization, or wherein a deadly weapon is used to accomplish the act of abuse.

On Child Abuse calls where the officer's preliminary investigation determines that the offense is a misdemeanor, the officer will submit a detailed Child Abuse Simple Report. If the investigation determines that the offense is a felony, a Child Abuse Aggravated offense report will be taken.

If a Child Abuse complaint is received on the "A", "C", or "D" shift, the preliminary investigation will be handled by Felony Response, and the case will be forwarded to the Child Abuse Squad for completion.

Officers will not, in cases of non-severe abuse, make an arrest or issue a misdemeanor citation to anyone who has abused, neglected, or injured a child other than by accidental means, because Juvenile Court is the only court that has jurisdiction in non-severe child abuse cases. In these cases, the Child Abuse Squad will obtain a warrant after its investigation at Juvenile Court for cases of non-severe child abuse.

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**SECTION: Contributing to the Delinquency of a Minor**

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CONTRIBUTING TO THE DELINQUENCY OF A MINOR

An individual may be arrested for Contributing to the Delinquency of a Minor on either a warrant or as a result of conduct personally observed by the arresting officer. In either circumstance, the arrested individual will be placed in the Jail at the Shelby County Justice Center. The arresting officer will, in both circumstances, fill out an arrest ticket and show the appropriate charge followed by "set in Juvenile Court". An extra copy of the arrest ticket will be marked across its face "For Informational Purposes" and forwarded to the Child Abuse Squad.

The General Sessions Criminal Court Clerk's Office will place a copy of the warrant or, if the suspect was arrested as a result of conduct observed by the arresting officer, the Affidavit of Complaint, in a designated location to be picked up by a runner from Juvenile Court. The runner will pick up said instruments at approximately 6:00 am and 1:00 pm each day, seven days a week.

Bonds for Contributing to the Delinquency of a Minor, will be set at Juvenile Court. Between the hours of 8:00 am and 4:30 pm during regular business days, the bond will be made at the office of the Juvenile Court Clerk. At night, on holidays, and weekends, the bond will be made at the Juvenile Court Detention Intake Unit. In either circumstance, the party at Juvenile Court will furnish a "release" to the party posting the bond. That person will then present the bond to the jail for release of the prisoner.

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**SECTION: Interview/Interrogation of Juvenile Prisoners**

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**Interview/Interrogation of Juvenile Prisoners**

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**I. Juvenile Felony Investigations**

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**A. Transporting**

When a juvenile suspect is arrested for a felony offense, they will be transported to the appropriate bureau or Felony Response (after regular bureau hours) for interviews/interrogations BEFORE transporting the juvenile to Juvenile Court Intake. The Homicide Bureau and Sex Crimes Bureau will also be consulted on ALL juvenile suspects in regards to any homicide or sex crime investigations. Prior to transporting a juvenile prisoner to any bureau, the officer's field supervisor will contact the appropriate bureau with pertinent information for approval to transport. The contacted bureau will determine the necessity of the interrogation.

After transporting the juvenile to the approved bureau, an evaluation will be conducted to determine if a statement can be obtained from the juvenile during this initial phase of the investigation.

No juvenile prisoner will be removed from the detention area of Juvenile Court unless it is deemed necessary to further the investigation and then only when the proper prisoner check out procedure is followed.

**B. Interrogation/ Interview Procedures**

Because of Appellate Court decisions pertaining to the rights of juveniles, the following procedures are necessary so that statements elicited from juveniles will be admissible in court:

1. Investigators must make a reasonable effort to contact with a parent or guardian of a juvenile, prior to interrogation, in order to explain departmental interrogation procedures. When possible, a parent or guardian should be present during interrogation. Approval by a parent or guardian of the juvenile's waiver of rights is not permitted. A parent or guardian cannot waive the juvenile's rights. However, having a parent or guardian present shows a good faith effort on the part of the investigator to allow the parents to participate in the investigation.
2. Investigators must be especially cautious when interrogating children less than 16 years of age. When a child less than 16 years of age is charged with a serious offense, there is a strong presumption that the child is not capable of making an intelligent waiver in the absence of a parent, guardian, or attorney.
3. When unable to contact or have a parent or guardian of a child less than 16 years of age present during interrogation, investigators should consult their immediate supervisor for advice and a decision as to whether the interrogation should take place without the parent or guardian.
4. When interrogating a juvenile, there will only be two investigators present and the interrogation will not exceed (6) six hours.

**II. Waivers and Confessions**

A. When interrogating a juvenile, juvenile waivers are analyzed under a totality of the circumstances test that requires consideration of the following factors:

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- The juvenile's age.
- Experience of the juvenile.
- Does the juvenile function without parental oversight on a daily basis?
- Level of education, intelligence.
- History with the criminal justice system. (Number of previous arrest, adjudications, street sense, etc.)
- Understanding/familiarity of the Miranda warnings and the consequences of the waiver.
- The ability to read and write in the language used to give the warning.
- Is the juvenile under the influence of intoxicants or drugs?
- Any mental disease, disorder or disability.
- Presence of a parent, guardian, or interested adult.

While courts shall exercise special care in scrutinizing purported Miranda waivers by juvenile suspects, no single factor such as mental condition or education should by itself render a confession unconstitutional absent coercive police activity.

**B.** In *State v. Gordon*, 642 S.W.2d 742, 745 (Tenn. Crim. App. 1982), this court ruled that when full *Miranda* warnings have been provided and understood, **the voluntariness and admissibility of a juvenile's confession is not dependent upon the presence of his parents at the interrogation.** See also *State v. Turnmire*, 762 S.W.2d 893 (Tenn. Crim. App. 1988). The appropriate standard for determining admissibility is "whether, under the totality of the circumstances, the . . . confession was the result of a knowing and intelligent waiver of . . . constitutional rights."

**III. Making Arrests and Interviewing possible Suspects/Witnesses in Schools:**

The following procedures must be followed when making arrests and interviewing possible suspects/witnesses in schools:

- Officers will first go to the Principle's Office and request the possible suspect/witness be escorted to the office.
- After the student reports to the office, the proper action may be taken.

There may be exceptions, such as making an arrest during a disturbance at the school or when the juvenile is committing an offense in an officer's presence.

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**Juvenile Arrest Status/Protective Custody**

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When dealing with a juvenile offender, officers should use the least coercive reasonable

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alternatives. Officers shall ensure that the constitutional rights of all juveniles are protected as to an arrest (44.2.2c). Officers should consider the following guidelines in making a decision on an alternative to charging a juvenile with an offense.

1. Nature of offense- The character of an incident or condition surrounding the juvenile's involvement. Is the situation one where the officer has discretion or is it a mandatory charging situation? (44.2.2.a)  
**NOTE:** There may be a mandatory charging situation which still does not meet Juvenile Court's detention/arrest-transport guidelines (determined by Juvenile Court's Detention Assessment Tool). In such situations, a juvenile summons will be issued.
2. Is the juvenile alleged to have been harmed or to be in danger of harm?(44.2.2b)
3. Age of the juvenile- Involvement may have been precipitated by an older juvenile's influence or other factors.
4. Attitude (or mental position) of the juvenile with regard to the situation.
5. Officer's access to parent/guardian.
6. Knowledge of previous records may be indicative of the juvenile's attitude causing the officer to be less lenient in his discretion.
7. Known gang affiliation may alter and accelerate the normal handling of a juvenile.

The officer has the following procedures in which to handle and resolve incidents involving juveniles:

1. Warn and inform the juvenile of their wrongful action and take no further steps. (44.2.1.a)
2. Consult with the juvenile's parents.
3. Complete a juvenile summons (44.2.1.b)
4. Arrest and transport the juvenile without delay to Juvenile Court for processing and detention, notification of parents (if necessary), and/or referral for diversion alternatives. (44.2.1 c, 42.2.2.d,e)

## **I. Juvenile Detention**

Juvenile detention ensures public safety and protection of the community while providing a safe and secure environment for juveniles prior to release or adjudication. Pretrial detention is reserved for the most serious offenders while less serious offenders are immediately released to their parents or guardians or diverted to community programs to avoid contact with the more serious elements of juvenile delinquency. **The least restrictive placement of a juvenile which insures the safety of the community is always preferred.**

Juveniles who commit offenses must meet certain criteria before they can be transported to Juvenile Court. In many cases, juveniles may be issued a Juvenile Summons in lieu of transport. **Officers will contact Juvenile Court's Central Detention Control by phone twenty-four (24) hours a day, seven days a week at 901-222-5267 to determine if a juvenile meets criteria for transport.** This will result with more juveniles being released with a summons or non-custodial diversion and fewer transports to Juvenile Court.

The list below provides examples of mandatory and discretionary transports.

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**Mandatory Transports**

1. Possession/use of a firearm
2. Open Attachment Pro Corpus (APC)/ warrant from JC
3. Court-Ordered
4. Escape from a juvenile facility, institution, or other court ordered placement

**Discretionary Transports (Juvenile Summons)**

1. Whether a youth is eligible for secure detention based on risk assessment
2. The youth's prior history of delinquent offenses
3. Whether the youth qualifies for the detention alternative Electronic Monitoring Program

A child **shall be detained** for the mandatory transport reasons and for committing a crime against a person resulting in serious injury or death; or involving the likelihood of serious injury or death to the victim.

A child **shall not be detained** for:

1. Punishment; or
2. Treatment; or
3. To arrange for services; or
4. To meet the demands of the community, police, victim or school administrators; or
5. To provide convenient access to the child; or
6. To satisfy the demands of the child's parent(s) or guardian(s); or
7. To facilitate the interrogation of the child or investigation of the offense; or
8. To "teach the youth a lesson".

The two (2) page Detention Assessment Tool (see Attachment A on pages 4-5) is utilized by Juvenile Court to determine if a juvenile meets the criteria to be transported to Juvenile Court. MPD officers should review the form and have the necessary information available to answer questions from the Detention Control Officer. If the juvenile does not meet detention criteria, the officer has the option to issue a juvenile summons and release the juvenile. Juvenile Court will provide assistance as needed.

**This policy section is not meant to inhibit or prevent an investigator from completing any necessary steps needed in order to conduct an investigation. This policy section only determines whether a juvenile will be transported to Juvenile Court for an offense.**

## **II. Juvenile Arrest Procedures**

- A. For transport situations (mandatory and discretionary transports that meet Juvenile Court criteria for detention), the arresting officer will transport the prisoner directly to Juvenile Court, except in cases where medical attention is necessary or when directed by investigators to transport to the appropriate investigative bureau. Upon arrival at Juvenile Court, the transporting officer will give the original arrest ticket to the Juvenile Court Intake Officer, who will then make a copy and return the original arrest ticket to the transporting officer.
- B. Routing: The Officer proceeds to the Arrest Data Entry/ADE Office at 201 Poplar Criminal Justice Complex (CJC), Room 156A, phone number 636-3565, and gives the original copy to



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the ADE officer. It is the responsibility of the ADE office to make a copy for their records.

**NOTE:** The transporting officer will call Juvenile Court Intake back with any necessary property receipt numbers etc. The original is forwarded to the CompStat Office and disseminated to the appropriate Bureau's box and retrieved by the designated office personnel.

- C. If the juvenile is an active gang member who has committed a crime involving gang activity, the supervisor should contact communications, which will contact the on-duty Multi-Agency Gang Unit Supervisor.

**III. Juvenile Arrest Tickets**

When a juvenile is arrested, the Arrest Ticket will contain a narrative completely describing the crime, witnesses, and all pertinent data.

Only two (2) officer's names will be listed on the arrest ticket as arresting officers. All other officers who participate in an arrest will be named in the arrest ticket narrative. The two officers who are listed are to be the ones who handled the primary arrest situation and are capable of testifying against the defendants at trial. If other officers are involved in the arrest, scene investigation, or recovery of property, this information is to be accurately noted in the narrative so that the prosecutor can determine these officers need to be subpoenaed for trial.

**NOTE:** When an officer is required to testify in a Juvenile Court hearing, the officer will check out the necessary evidence and take it to Juvenile Court. If the evidence is bulky, large, etc., a picture of the evidence will be taken to court.

**IV. PROTECTIVE CUSTODY**

When a child is in immediate danger from his surroundings (i.e. a six-year-old left home alone all day) officers **with supervisory approval** will contact Station B and request that the Department of Children's Services (DCS) be contacted. The officer will stand by until DCS makes the scene and takes custody of the child. Officers will ask the DCS worker for identification and a contact number, both of which will be documented on the Officer's log sheet. Officers will not transport children who are in Protective Custody for neglect, abuse or abandonment to Juvenile Court.

**ATTACHMENT A**

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
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**Juvenile Court of Memphis and Shelby County**  
**Detention Assessment Tool**

Child's Name: \_\_\_\_\_ Assessor: \_\_\_\_\_  
 Birth Date: \_\_\_\_\_ Age: \_\_\_\_\_ Assessment Date: \_\_\_\_\_  
 Gender: \_\_\_\_\_ Race: \_\_\_\_\_ Transporting Agency: \_\_\_\_\_  
 Court File #: \_\_\_\_\_  
 Presenting Offense: \_\_\_\_\_

	Points	Score
<b>1. Most Serious Alleged Offense (choose only most serious charge)</b>		
Class A: Felony	19	
Class B: Felony	15	
Class C: Felony	13	
Class D: Felony	11	
Class E: Felony	9	
Misdemeanor	5	
Traffic Offense	3	
Unruly/Status Offense	0	
<b>Add if applies:</b>		
Possession of a firearm	19	
Escape from a hardware secure facility	19	
Attachment (sometimes referred to as a warrant or capias or arrest order)	19	
Crime Against a Person involving violence, bodily harm or imminent threat of bodily harm	5	
<b>2. Additional Charges in this Referral</b>		
Two or more additional current felony offenses	5	
One additional current felony offense	2	
One or more additional misdemeanor or traffic offense	1	
<b>3. Prior Adjudications</b>		
Two or more prior adjudications of delinquency for felony offenses	5	
One prior adjudication of delinquency for a felony offense	2	
Two or more prior adjudications of delinquency for misdemeanor offenses	2	
One prior adjudication of delinquency for any misdemeanor offense	2	
One prior adjudication for any unruly/status offense or traffic offense	1	
<b>4. Complaints/Petitions Pending Adjudication (exclude deferred adjudications)</b>		
One or more pending petitions for a felony offense	10	
Two or more pending petitions for misdemeanor offenses	3	
One pending petition for other misdemeanor offense	2	
One or more pending petitions for unruly/status offense or traffic offense	1	
<b>5. Current Status (Choose only one)</b>		
Probation based on a Felony	3	
Probation based on a Misdemeanor	2	
Deferred disposition with conditions i.e. Advisement	1	
Court Pre-Trial Diversion	1	
<b>6. History of Failure to Appear (FTA) (within past 12 months) (Choose only one)</b>		
Two or more petitions/attachment/warrants for arrest/detention orders for FTA in past 12 months	8	
One petition/attachment/warrant for arrest/detention order for FTA in past 12 month	4	
<b>7. History of Escape/Runaways (within past 12 months) (Choose only one)</b>		
One or more instances of absconding from non-secure, court-ordered placements	4	
One or more runaways from home	2	
<b>8. Violation of Probation (Choose only one)</b>		
Violation by commission of a felony	5	
Violation with a misdemeanor	2	
Technical violation (Terms of Probation)	1	

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<b>9. Mitigating Factors</b>	
Currently enrolled and attending school	-2
Currently Employed	-3
Successfully completed Court Ordered Program previously	-2
No Court contact in the last 24 months/First Delinquent Offense	-3
<b>10. TOTAL SCORE</b>	

**Indicated Decision:**     \_\_\_ 0 – 9 Eligible for Release                             **Detention Alternative Used (if applicable)**  
                                   \_\_\_ 10 – 18 Eligible for Detention Alternative  
                                   \_\_\_ 19 or above Eligible for Secure Detention                     \_\_\_\_\_

**Complete if Discretionary Override:**

- Aggravating factors (override to more restrictive placement than indicated by guidelines)  
 (specify) \_\_\_\_\_
- Mitigating factors (override to less restrictive placement than indicated by guidelines)  
 (specify) \_\_\_\_\_
- Special Circumstances per TCA 37-1-114(c)(4) (specify) \_\_\_\_\_

**If override, check any applicable factors used in the decision.**

1	Age (specify)	5	Mental Health Status	9	Medical Status
2	1 <sup>st</sup> Offense at age 16 or older	6	No offenses/violations within past year	10	Threats of Bodily Harm
3	Developmental Disability/Mental Retardation	7	Responsible adult to assure supervision and return to court	11	Successful completion of prior court supervision/order
4	Parent/custodian unavailable: explain	8	Parent/custodian unwilling to care for child: explain	12	Parent/custodian unable to care for child: explain

Supervisor Override (Optional): \_\_\_\_\_

<b>Actual: ___ Release ___ Alternative ___ Secure Detention</b>
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**Post Detention Release: Date:** \_\_\_\_\_ **Check reason for post-detention release; if "Other" please specify.**

Charge(s) dropped	After detention hearing	After posting bond
By later staff decision	After adjudication	Other:

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**Juveniles in Custody of Tennessee Department of Human Services**

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**I. DCS Custody**

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Children may be placed in one of two groups for whom the Tennessee Department of Human Services acts as the parent. The first group involves children who are in the guardianship of the Department of Human Services. Here, parental rights have been terminated with natural parents no longer having any claim on the children or having any contact with them or any part in the care or welfare of the child. The Department of Human Services acts in a total and final parental role.

The second group involves children who are in the custody of the Department of Human Services and have been made wards of the court and wards of the state through court action. It is important to remember that in both groups the Department of Human Services acts as the parent.

While a child is in the custody of the Department of Human Services, the natural parents have no rights whatsoever regarding the welfare of the child. They have no right to remove the child from the foster home or from the premises of the Department of Human Services without specific authority and approval of the caseworker.

The Department of Human Services may have occasion to contact our department in cases involving missing children, delinquent children, juveniles involved in criminal offenses, and juveniles who have been removed illegally by the natural parents either from the Department of Public Welfare or from a foster home.

## **II. Procedures for Children in DCS Custody**

Following is the proper procedure for dealing with the Department of Human Services in these areas:

### **A. Missing Children:**

When investigating missing children complaints, the primary source of the information should be the caseworker. While they are the primary source of information, additional information may be obtained from the foster parent who may have more current information concerning the child's location. Investigating officers should remember that the caseworker is the one primarily responsible for the welfare of the child, and he or she should be treated accordingly.

### **B. Delinquent Children:**

The caseworker as well as the foster parents should be notified whenever a child is picked up on a delinquency matter.

A child may be released to the caseworker as well as the foster parent, and it is not necessary that the foster parent sign the appearance bond for the child.

### **C. Interrogation of Juveniles:**

Where possible, the caseworker should be given an opportunity to be present during the

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interrogation of any child in their custody who is being questioned as a suspect in a criminal matter or in any matter involving delinquency.

**D. Removal of Children from Custody by the Natural Parents:**

Where a child is placed in the custody of the Department of Human Services, the natural parents have no further rights in the child. As a result, their taking of the child either from the foster parents or from the Department of Human Services is unlawful. It is not necessary that an attachment pro corpus be issued in order to return the child to the custody of the Department of Human Services or to the foster parents. Custody has already been given the Department of Human Services.

**III. Child Protective Services:**

The Tennessee Department of Human Services, Shelby County Office, provides 24-hour service for Child Protective Services. During regular work hours, 8:00 am to 4:30 pm, Monday through Friday, Tennessee Department of Human Services social workers follow the procedure of obtaining a protective custody order from Juvenile Court whenever it is necessary to remove a child from his/her home. If police assistance is needed during regular work hours, the Tennessee Department of Human Services social worker contacts Sex Crimes/Child Abuse. After regular work hours and on weekends, if police assistance is needed, the Tennessee Department of Human Services social worker makes this request through the police dispatcher.

Police assistance is requested primarily for two (2) reasons:

- (1) As a safety precaution when the complaint indicates the parent or custodian of the child is dangerous or threatening, e.g., the parent is in possession of a dangerous weapon or the neighborhood is potentially dangerous.
- (2) Assistance in removal when the Tennessee Department of Human Services social worker has determined that the child is in immediate danger of death or serious harm and an emergency order cannot be obtained due to the unavailability of the Judge. The social worker must follow Tennessee Department of Human Services' procedures for emergency removal prior to requesting assistance.

When after regular work hours and on weekends a social worker determines that a child needs to be removed, the social worker will call the police dispatcher who will dispatch the appropriate officer to respond to the call. On the scene, the officer is to remove the child and transport the child as directed by the social worker. The child is not to be transported to juvenile court. The officer will need to determine that the conditions of the statute have been met, based on his or her observations and judgment.

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**SECTION: Juvenile Line-Up Procedures**

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In order to facilitate the establishment of a line-up, to minimize the amount of time an officer is required to be at Juvenile Court, and to minimize the interruptions, the following procedures shall be followed:

1. Whenever a police officer desires to establish a line-up, he/she shall contact the Juvenile Court Central Detention Intake (C.D.I.), phone 528-8536.
  - a. The police officer is to give the C.D.I. personnel the defendant's name, sex, race and age of who is to be placed in the line-up.
  - b. The C.D.I. personnel shall give the police officer the name and phone number of the attorney representing the defendant. (Note: If a juvenile defender is appointed and the police cannot contact that person, C.D.I. will have a list of alternate juvenile defender names and phone numbers.)
  - c. The police will be responsible for contacting the witnesses, victims and attorneys that will be necessary to conduct their line-up and set up a date and time for the line-up to be held at Juvenile Court.
  - d. The police will make every effort to set the line-up at a time to fit the time frames as follows:
    - (1) 1000 hrs. to 1100 hrs.
    - (2) 1400 hrs. to 1600 hrs.
    - (3) 1800 hrs. to 2000 hrs.

NOTE: A one (1) hour notice of intent to conduct a line-up is required by Juvenile Court C.D.I. Whenever an absolute emergency situation develops that prohibits the witnesses or police from conforming to the established time frames, an exception may be made with the approval of the Juvenile Court C.D.I. superintendent.

  - e. The police shall contact Juvenile Court C.D.I.; phone 523-8536, after a date and time for the line-up to be held is established and give at least a one (1) hour notice to C.D.I.
2. Necessary Forms and Equipment to Conduct the Line-up:
  - a. The C.D.I. shall keep a line-up packet for police use when a line-up is conducted. The packet shall consist of the following forms:
    - (1) JS-3 -- Request for Line-up
    - (2) JS-15 -- Request for Fingerprints and/or Photographs
    - (3) F-2100.448 - M.P.D. Line-up Form
    - (4) C-2100.129 - M.P.D. Waiver of Attorney
    - (5) C-2100.130 - M.P.D. Line-up Identification card
  - b. Equipment:
    - (1) The Juvenile Court C.D.I. will keep a Polaroid Camera to photograph the line-up if an identification is made. If I.D. is not made, a photo is not necessary.
    - (2) Eight (8) large numbered cards will be kept by C.D.I. for police to use in placing a

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number on each person in the line-up.

3. Location for Line-ups to be Conducted:

- a. For MALES -- Third floor, Juvenile Court Bldg., C.D.I.
- b. For FEMALES -- Second floor, Juvenile Court Bldg., C.D.I.

4. Legal Requirements for Identification and Line-up Procedures:

Legal technicalities, transmitted via official departmental communications, including the Policy & Procedure Manual, regarding conducting identification and line-ups are applicable.



## MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

### SECTION: Juvenile Summons

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When apprehending a juvenile for committing an offense, officers may either:

1. Make an arrest and transport the juvenile to Juvenile Court; or
2. Issue a juvenile summons.

It is the practice of the Memphis Police Department and Juvenile Court to issue a juvenile summons in lieu of arrest when permitted by policy or law.

**A juvenile summons may be issued for any misdemeanor offense and for felonies involving property crimes, where no further investigation is necessary.**

The use of juvenile summons is strongly encouraged for the following misdemeanors:

- |                                 |                                  |
|---------------------------------|----------------------------------|
| * Disorderly Conduct            | * Assault                        |
| * Theft of Property under \$500 | * Gambling                       |
| * Criminal Trespass             | * Simple Possession of Marijuana |
| * Vandalism under \$500         |                                  |

The following is the **preferred response** for officers when dealing with juvenile offenders. This does not eliminate an officer's discretion; each matter should be evaluated on an individual basis.

1. Officers may issue a juvenile summons whenever their investigation reveals that the juvenile has committed a state or city misdemeanor. Officers may also issue a juvenile summons for felonies involving crimes against property when no additional investigation is necessary. In such felony cases, the decision as to a physical arrest or a Juvenile Summons will be determined by the arresting officer's immediate supervisor who will consult with the appropriate Investigative Services Bureau supervisor.
2. Officers may issue a juvenile summons in misdemeanor marijuana cases. Officers may not use a juvenile summons for other drug offenses.
3. Officers may issue juvenile summons for simple assaults, when it is determined the act will not continue. However, other criminal offenses against persons (i.e. assault to murder, criminal sexual conduct, domestic violence, assaults against officers and teachers, etc.) require a physical arrest.
4. Officers should issue a juvenile summons whenever there is a prosecuting complainant in an incident. The officer does not have to witness the violation if the violation is a misdemeanor as long as there are witnesses or complainants. The officer, when issuing a juvenile summons, is merely acting as a reporting authority; and therefore, it is not necessary that a misdemeanor offense be committed in the officer's presence for the summons to be issued. **It is important that the officer include:** the complainant's name, home address, home phone number, business address, and business phone number so that the Juvenile Court can contact these people to prosecute.
5. A juvenile summons may be issued for any state traffic misdemeanor where a physical

## MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

### SECTION: Juvenile Summons

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arrest is authorized, such as Reckless Driving, Leaving the Scene of an Accident, Drag Racing, etc. This is applicable to those juveniles who are authorized to drive and meet all state requirements.

- Violations by juveniles of City Ordinances relating to traffic charges are issued on Juvenile Traffic Citations.
  - **Driving Under the Influence of Intoxicants/Drugs (DUI) will still require a physical arrest.**
6. Officers **shall not** issue a juvenile summons for a status "non-criminal" offense such as habitual disobedience and unruliness. These types of offenses must be handled by a parent, guardian, or teacher going to Juvenile Court and speaking with a counselor.
  7. A juvenile summons cannot be issued to a child who cannot be properly identified or who resides outside of Shelby County.
  8. There is no procedure at Juvenile Court that allows a complainant to obtain an arrest warrant for a juvenile. However, Juvenile Court can issue an ATTACHMENT PRO CORPUS. This serves the same purpose as a warrant, and must be signed by a Judge. The order states "**To any lawful officer: It appearing to the Court that a summons cannot be served or that John Doe has failed to obey the summons of this Court or it appearing that summons for his appearance will be ineffectual, you are commanded to attach the body of said child and bring him forthwith before this Court.**"

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Mentally Ill or Developmentally Disabled Juveniles**

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Pursuant to laws of arrest in Tennessee, a police officer may take a child into custody if there are reasonable grounds to believe that a child is suffering from an illness or an injury or is in immediate danger from his surroundings, and that his removal is necessary.

An officer can take a mentally ill or developmentally disabled child into custody under the following circumstances:

1. Any mentally ill or developmentally disabled youth who is apprehended in the commission of a crime is to be handled as any other youth would be.
2. When officers discover a mentally ill or developmentally disabled child who appears to be lost and is unable to tell the officers where he/she lives, in such cases the child, due to his condition, is a danger to himself if not properly cared for. When officers receive a call from a citizen who has discovered a mentally ill or developmentally disabled youth, the officer should make an effort to locate the child's home. However, when such information is not available, the child is to be taken to Juvenile Court, and the arrest ticket is to reflect that the child was taken into custody because said child was lost and the proper guardian could not be located.

Under no circumstances are officers to take a mentally ill or developmentally disabled child into custody in response to a call from the child's parents that the child is "unruly". Juvenile Court will not accept children under these circumstances through the Police Department.

The only time that a mentally ill or developmentally disabled child is to be removed from the custody of his parents or guardian is when the officer has reason to believe that the child is in immediate danger, and in such cases the mentally ill or developmentally disabled child is to be treated as any other juvenile in like circumstances.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Personal Property of Arrested Juveniles**

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When an arrested juvenile is actually taken to the Juvenile Court Central Intake Office and turned over to the Juvenile Court Authorities, the arrested subject's personal property will be left with the intake officer.

When a juvenile subject is arrested but is left somewhere else other than Juvenile Court, such as Regional One Health, Tall Trees, etc., and his personal property must be taken, the personal property will be turned in to the Detention Personal Property Office at the Criminal Justice Complex.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Child Pornography**

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State Law makes it a felony to knowingly promote, employ, use or permit a minor (under 18 years of age) to engage in or assist others to engage in posing or modeling in sexually obscene acts.

If such violation occurs, the officer should place the appropriate charge against the responsible party and report such conduct to the Vice Narcotics Unit.

State Laws makes it a felony for any person to knowingly promote a performance which includes actual or simulated sexual conduct by a child. It also makes it a felony for a parent or guardian of a child to knowingly consent to child's participation in performance including sexual conduct.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Processing Juvenile Offenders**

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Juveniles should never be mixed with adult prisoners, and should never be detained in the Shelby County jail unless by special order of the Juvenile Court Judge.

**\* Officers can transport juveniles and adults in the same vehicle, but sound discretion should be used.**

Juveniles should not be finger printed or photographed without permission of Juvenile Court. Fingerprints of a child may be taken for exclusionary purposes with the permission of Juvenile Court, if there is probable cause that the fingerprints taken during an investigation are those of a particular child.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Runaways**

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According to State Law a juvenile who has run away from home may seek sanctuary at a Runaway House and be given shelter for seventy-two (72) hours. The only way the runaway may be removed during this period is by order of the Juvenile Court.

However, sanctuary for seventy-two (72) hours at a Runaway House may not be granted if the juvenile runaway is known to have committed, or is under investigation for the commission of a delinquent or criminal act.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Truancy and Curfew**

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**I. Truancy**

If an officer observes a juvenile in a public area between the hours of 0800-1415, on a regular school day, who is not under visible adult supervision and control, the officer will briefly detain the youth to obtain the youth's name. Officers should preliminarily inquire of the minor child whether he or she is enrolled in a Shelby County School or participates in a homebound or home schooling program. The rights of the minor child are different in cases wherein the minor child participates in a homebound or home school program. If it is confirmed that the minor child is enrolled in a Shelby County School and is neither being home schooled nor participating in a homebound program, the officer will then transport the juvenile to the nearest one of five Truancy Centers around the county. The locations of these Truancy Centers are as follows:

1. Northwest Prep Academy  
205 N. Claybrook  
Memphis, TN 38104
2. Treadwell Elementary School  
920 N. Highland  
Memphis, TN 38122
3. Airways Middle School  
2601 Ketchum  
Memphis, TN 38114
4. Hickory Ridge Mall (Opening October 1, 2015)  
6075 Winchester  
Memphis, TN 38115
5. Shelby County Bus Maintenance Facility  
2800 Grays Creek  
Arlington, TN 38002

Additional stipulations under City Code "Sec. 20-29. Truancy – Parental Responsibility" includes the following:

Notwithstanding any other statute, provision, ordinance or regulation to the contrary, if any minor child is found, detained, or apprehended by a school truancy officer or a city police officer, upon the public streets during school hours during any school term who is unable to give an accounting of his whereabouts, the parents, parent, guardian, or ward having legal custody of said minor, shall be guilty of a misdemeanor and upon conviction, subject to a fine up to fifty dollars (\$50.00), plus penalties as provided in section 1-8 of this Code.  
(Code 1985, #20-29, Ord. No. 4329, 1, 6-6-1995)

**II. Curfew Violations**



## **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

### **SECTION: Truancy and Curfew**

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NOTE: THIS CURFEW ORDINANCE DOES NOT APPLY TO ANYONE WHO HAS REACHED HIS OR HER 18th BIRTHDAY. IT APPLIES TO MINORS UNDER THE AGE OF 18 AND IT MAKES DIFFERENT PROVISIONS FOR MINORS WHO HAVE REACHED THEIR 17th BIRTHDAY, BUT HAVE NOT REACHED THEIR 18th BIRTHDAY.

The following is City Ordinance 20-32 (JUVENILE CURFEW REGULATIONS) which is also set out in T.C.A. 39-17-1702. The major provisions are as follows:

If a person is under the age of 17 (has not yet reached his or her 17th birthday), then it is unlawful for that person to remain in any public place during the following hours:

Monday thru Thursday between the hours of 10 p.m. - 6 a.m.

Friday thru Sunday between the hours of 11 p.m. - 6 a.m.

If a person has reached their 17th birthday, but has not reached their 18th birthday, then it is unlawful for that person to remain in any public place during the following hours:

Monday thru Thursday between the hours of 11 p.m. - 6 a.m.

Friday thru Sunday between the hours of 12 a.m. - 6 a.m.

It is unlawful for a parent to knowingly permit or by inefficient control permit a minor to violate the curfew ordinance. When a minor is in violation of this ordinance, the officer shall act in one (1) of the following ways:

- (1) In the case of the first violation, and in the officer's discretion, take the child to the child's home, warn and counsel the parents or
- (2) Issue a summons to the child and/or parents or guardians to appear in juvenile court.

#### **Exceptions to the curfew are as follows:**

- (1) When the minor is accompanied by a parent, legal guardian or adult authorized by the parent or legal guardian.
- (2) Until 12:30 a.m. if the minor is on an errand for the parent, or if the minor is directly in front of his or her residence.
- (3) Forty-five minutes after curfew if the minor is on the way home from employment. The minor must have written evidence from the employer.
- (4) When returning home by a direct route from (and within (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception does not apply beyond 1:00 a.m.
- (5) In the case of reasonable necessity, but only when the parents or legal guardians have communicated such to law enforcement in detail and in writing, along with the names and addresses of the parents or guardians.
- (6) When exercising First Amendment rights, the minor must show good faith in exercising those rights. The minor must deliver to the appropriate authority written communication, signed by the minor with the minor's home address and telephone number specifying when, where, and in what manner the minor will be on the streets and exercising First Amendment rights.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Truancy and Curfew**

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- (7) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel.

**UNDER NO CIRCUMSTANCES IS A PERSON 18 YEARS OLD OR OLDER TO BE ARRESTED UNDER THIS ORDINANCE.**

## MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

### SECTION: Unruly & Disobedient Child

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The following is a summary of the law and Juvenile Court's policy on "unruly juveniles".

As set forth by State Law, an "unruly" child means a child who:

1. While subject to compulsory school attendance is habitually and without justification truant from school;
2. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable;
3. Has committed an offense applicable only to a child; or
4. In any of the foregoing is in need of treatment or rehabilitation.

However, the Memphis Police Department will not transport a juvenile runaway to Juvenile Court without additional charges that meet the criteria for detention. *See MPD P&P Chapter VII Section 4.*

It is the policy of Juvenile Court **not to confine** a child to the Detention Center unless he is considered a menace or danger to the community. **Juvenile Court cannot be utilized as a clearinghouse for juveniles who are disobedient to the parent.**

If officers receive a call from parents concerning an unruly child - a child is disobedient and in conflict with his parents, the parent is to be advised to contact and go to Juvenile Court Counseling Services, Room 230, tel. # 901-405-8530, between the hours of 8:00 am and 4:30 pm to have a non-judicial conference and utilize their family counseling services.