

# City of Virginia Beach Police Department

## Interactions with Juveniles Field Guide



### **A Guide for Department Personnel**

Guidelines for investigating and arresting juvenile offenders

*This Field Guide is prepared and updated by the Virginia Beach  
Police Department Detective Bureau under the approval  
of the Chief of Police*

A handwritten signature in black ink, appearing to read "A. Bruno".

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## **Section I: Introduction to Juvenile Specific Issues**

### **Background and Purpose (CALEA 44.1.1)**

Whenever the police interact with juveniles, they must exercise special care. Juvenile crime is frequently symptomatic of complex issues that often involve the juvenile's entire family unit. Early interventions with juveniles who commit minor offenses, status offenses, or other types of risky behaviors provide an opportunity to teach juveniles that there are consequences for inappropriate behavior. With appropriate intervention, juveniles can learn a valuable life-long lesson. Occasionally, the most effective way to teach this lesson is not through the official sanctions available in the juvenile justice system, but through alternative interventions designed to meet the unique needs of the juvenile and his or her family. In some circumstances, referral to the juvenile justice system will remain the most appropriate way to address a juvenile's criminal behavior. Regardless of the form it takes, the juvenile's experience with the police will have a great impact on his or her future conduct. The Virginia Beach Police Department is committed to approaching juvenile crime with a focus toward preventing and controlling juvenile delinquency, and deterring future criminality. Officers should always keep in mind what is in the best interest of the juvenile with whom the officer has encountered (referred to in the juvenile justice system as the *parens patriae doctrine*). With this commitment in mind, officers are afforded a great degree of latitude and discretion when encountering youthful offenders.

### **General Considerations and Guidelines**

Police officers are expected to have a fundamental understanding of the social and psychological factors that contribute to juvenile misbehavior and crime. By the nature of their duties, the police should be familiar with any undesirable conditions in the community that may breed or contribute to juvenile delinquency. The prevention of juvenile crime has a high priority and any success in this regard can pay large dividends to the community and to its young people. As a preventative measure, officers should frequently check those areas, places, and buildings that have been particularly prone to juvenile delinquent behavior and question all juveniles found in suspicious situations. Energetic patrol, creating a visible and consistent police presence, can be a most effective deterrent. The department should also cooperate actively with all other agencies, public or private, that can be of assistance in deterring and controlling juvenile delinquency.

It is generally recognized that juveniles who engage in anti-social conduct present different problems to society than do adults who engage in similar activity. Therefore, some modification of police procedures in handling juvenile offenders is warranted. This special procedure is based on two fundamental concepts:

First, the juvenile offender that police most frequently encounter, is often not yet hardened to a life of criminality and may be more easily influenced to conduct him/herself within the law than an adult. There is no question that the attitude and actions of the police can have considerable impact upon the first offender who is often frightened at the time of his/her arrest. How the juvenile is treated at the time of contact with the police can make a lasting impression. At the same time, it must be remembered that the less frequently encountered, hardened juvenile criminal can be just as dangerous as any adult.

Secondly, most juvenile offenders are still in their developmental and learning stages. The fundamental principle underlying this policy is that juveniles should be given an opportunity to learn from their mistakes. Often this form of learning creates a deeper and more lasting impression. In the adult system, we tend to punish those who violate the law, relying on the assumption that adults should be held responsible for their actions. Under appropriate circumstances, it is generally more productive and beneficial to allow juveniles to understand that they will be held responsible through some constructive corrective action, rather than strictly relying on a punitive approach.

Police officers play a very important part in the Juvenile Justice System. The importance of the police officer's role in the juvenile justice response, and the potential for an officer to be a positive influence cannot be overstated. Patience, understanding, and firmness, together with close cooperation with prosecutors and court officials in the processing and resolution of juvenile cases, are necessary for the system to operate most effectively.

For most people, the ultimate and most visible symbol of authority in a community is the police officer. This is probably true for juveniles as well. But while the majority of people accept the presence of such authority, juveniles may tend to react differently in a similar situation than adults towards authority. It cannot be overemphasized that police contact can be very important in the social development of the young people in our community. Sensitive development of the relationship between the police and juveniles can solidify favorable attitudes already in existence, and more importantly, help to guide the behavior of the borderline case. Every interaction between the juvenile and the officer has the potential to be the difference between a juvenile who develops out of criminal and/or delinquent behavior as they mature versus one who follows a lifelong history of criminal behavior as an adult.

As detailed in this guide, a juvenile, for purposes of the criminal law, is anyone under the age of 18 (§16.1-228). Police officers should be aware that a juvenile possesses the same constitutional rights as an adult. However, juveniles merit greater legal protection, especially in the area of questioning, custodial interview, and waiver of any fourth, fifth, or sixth amendment rights.

### **The Adolescent Brain**

In accordance with the "Juvenile Interactions" training offered in the police academy, and via in-service training, it is important for officers to understand that it is believed that the adolescent brain develops until the age of 25. From the perspective of children exposed to social conditions, trauma, or to include being victims or witnesses of crime it is important to understand that these events impact the psychological development of children. Police responses, when these conditions or crimes occur, are also impactful. This directive offers guidance to officers when responding to these impactful situations where children are present or implicated.

Part of the developmental process involves stages of development where children assert independence that may result in contact with police that does not rise to the level of being a status or criminal offense. These are often matters that are best resolved by parents, guardians or loved ones who can best administer the advice or consequences to re-direct problematic

behaviors. This directive, coupled with training will also provide guidance to officer in assisting families with these situations.

With regard to these and more serious criminal actions, it is important to understand that current research suggests that the frontal lobe of the brain, which is responsible for impulse control, does not fully mature until the age of 25. Adolescents, in some cases often do not, or may be unable to assess the future consequences of their behavior like adults, so their actions are sometimes less “willful” and “knowing.” For these reasons, the structure of the Juvenile Justice System allows for more opportunities to focus on redirecting negative behavior, rather than making punishment the only consequence. (NCPA).

## **Section II/Police as a Social Resource to Juveniles (CALEA 1.1.3)**

### **Children as Victims or Witnesses**

Police Officers are important and influential members of the community. For many, a police officer is not only the most visible representative of governmental authority but is a very positive example of the many virtues represented by our nation's laws and the standards of good conduct valued by our citizens. Police Officers, along with our professional standards of conduct, and our professional values serve as role models for others to emulate. This is especially true for the children in our community.

### **Responsibility to Provide Care**

Officers who come into contact with an unattended child shall inquire and consider whether or not the juvenile is alleged to have been harmed or is in danger of harm, or is the victim of a crime. The legal doctrine of *parens patriae* grants the inherent power and authority of the state to protect persons who are legally unable to act on their own behalf. This legal concept authorizes officers to act, if necessary, for the protection, care, custody and maintenance of children for safety and welfare. In circumstance where the child is unattended and away from the care of their family, the officer shall see to the safe return of the child to their home or school, and shall contact the parent or guardian of the child to advise of the circumstances of the encounter.

### **Affording Medical Care**

If a child under the age of 14 years of age is injured and/or requires emergency medical treatment, a police officer standing *in loco parentis* can authorize treatment of that child. Do not delay emergency medical treatment in order to locate a parent. A child under the age of 14 cannot legally refuse medical treatment. (See [Virginia §16.1-338](#))

A child 14 years of age or older has the legal right to refuse medical treatment, even in life-threatening situations. However, a parent, guardian or person standing *in loco parentis* has the right to authorize treatment for the juvenile, unless the juvenile is emancipated.

### **Responding to Abuse, Neglect or Criminal Victimization**

When responding to a report of a crime and in accordance with the provisions of General Order 11.03 (Patrol Operations) officers shall ensure the earliest notification possible of the parent or guardian of any children involved.

If it is suspected that a juvenile is a victim of neglect or abuse, the officer, as a mandated reporter under the Code of Virginia shall notify Child Protective Services as soon as practical, but within 24 hours. When appropriate, the officer shall properly report the crime and cause an investigation into the matter as appropriate.

## **Juveniles and Mental Health (CALEA 41.2.7 A, B, C)**

Officers shall refer to the Virginia Beach Police Department's Field Guide on Response to Persons with Mental Illness for guidance on these matters. A few reminders regarding mental health treatment for juveniles:

- The age of consent for mental health treatment is 14 years old.
- If a child is under the age of 14, an ECO/TDO is not required if the parent or guardian wants the child to receive treatment.
- If the child is 14 or older, an ECO/TDO will be required, just as it is with an adult.
- An ECO and TDO for a juvenile are obtained from the magistrate, just as they are for adults.
- An officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a juvenile meets the criteria for emergency custody may take that juvenile into custody and transport that juvenile to an appropriate location to assess the need for hospitalization or treatment without prior authorization.
- The period of custody pursuant to an ECO is valid for a period of 8 hours from the time of execution.

## **Ensuring Juvenile Safety during Parental Arrests**

### **The Impact of Parental Arrest on Children**

Children who are exposed to the stressful experience of parental arrest require immediate and effective intervention. Without this support, they may suffer negative consequences at school, in their friendships, and in their home life. In addition, the way in which they are treated at the time of parental arrest, or upon being told about it, can significantly affect the long-term impact the trauma has on their lives. The impact varies depending on a child's age and stage of development.

As police officers we must be mindful that our interactions with children at all times can be negative or positive largely dependent on our response. When this interaction occurs during the arrest of a parent or caregiver the need to understand the impact on that child amplifies. Depending on the age and the development level of a child the impact of an arrest can be more severe.

### **Children's Responses to Parental Arrest**

The responses below summarize the variety of emotions children may experience when they witness the arrest of their parent, or are told of that arrest after the fact.

- **Fear** – Children are afraid of being abandoned, of never seeing their parent again, and of being taken away from their caregiver.
- **Worry** – Children feel concern about the well-being of their parent, and worry that their caregiver may not be able to take care of them.

- **Confusion** – Often, children are not told the truth about what is happening or about their parent’s whereabouts. This leads to questions they are afraid to ask, and confusion around what is true and what is not.
- **Sadness** – Children feel sad and experience a profound sense of loss. This may trigger feelings of past losses and increase the sadness.
- **Guilt** - Children often feel responsible for their parent’s behavior. They suffer the guilt of not being “enough” of a motivation for changing parental behavior.
- **Embarrassment** – Some children may even appear boastful as they defend against the pain and embarrassment.
- **Isolation** – Children may feel very much alone even as caregivers and others attempt to distract and protect them from distress, and avoid conversations about the parent and their situation.
- **Anger** – Children may experience feelings of anger along with other feelings such as disappointment, resentment frustration, fear or loss.

### What Children Need When Their Parents Are Arrested

Officers may be able to provide the following information and support to children in such cases:

- To know the parent’s arrest is not their fault
- To know what is happening to their parent
- To know if they can have contact with their parent, and if so, when and how
- To know where and with whom they will be staying and where they will go to school
- To know what will stay the same and what will be different while their parent is under arrest
- To know it is OK to still love their parent, and it is OK to be angry sometimes too
- To be encouraged to express, in safe and healthy ways, their feelings about their parents and their parent’s arrest
- To visit and maintain contact with the arrested parent as much as possible, when permitted and appropriate
- To have stability and consistency in their living situations and daily routines
- To feel safe
- To realize that people make choices in life that lead to different consequences

As stated earlier the arrest of a caregiver or parent has been shown to be traumatic to a child, it is during that time that an officer can have an immediate impact on that child’s life. That impact can be positive or negative, dependent upon the officer’s response. The goal is for the officer to be seen as someone the child can trust and not fear. A positive interaction at an early age pay dividends as it may foster a cooperate relationship between a child and the police that can extend into adulthood and possibly help a child avoid bad choices as he or she progresses through life.

Below summarizes how police might best respond to children, taking into account a child's age and developmental stage. It is especially important to remember that children who are traumatized do not process information as rapidly as when they are calm.

## **Childhood Stages and Recommended Police Responses**

### ***Babies and Toddlers***

#### *What Child Development Experts Say*

Babies and toddlers are entirely dependent on their caregivers for their sense of safety and security.

- Separation from a parent can be terrifying.
- A child's sense of safety and security can be affected by witnessing violence.

#### *What Police Officers Can Do*

- ✓ Acknowledge the importance of the parent to the child.
- ✓ Treat the parent with respect.
- ✓ Show concern for children's safety with words and actions.

### ***Preschool Children***

#### *What Child Development Experts Say*

Preschool children often believe in the magical power of their thoughts and feelings.

- When there is an arrest, children may believe that they have caused the bad event to happen.
- Children may believe that their bad behavior or wishes are the cause of a parent's arrest or removal.
- In their imagination, preschoolers may view a police officer as an action figure who can help, hurt, or take them away.

#### *What Police Officers Can Do*

- ✓ Listen to children's ideas and concerns about what is happening.
- ✓ Clarify in simple language basic facts about police presence and response.
- ✓ Verbally recognize that young children may have strong feelings about the events that are occurring.
- ✓ Reassure the child it is not their fault.

### ***School-age Children***

#### *What Child Development Experts Say*

School-age children are susceptible to the influence of older children and adults as role models.

- This is a time when children listen to peers and teachers as well as parental figures at home.
- School-age children are especially concerned with issues of right and wrong, fairness and justice.

#### *What Police Officers Can Do*

- ✓ Deal with children honestly, fairly, and calmly.
- ✓ Engage them by recognizing their presence and responding to questions and concerns.
- ✓ Emphasize that the child did nothing wrong.
- ✓ Take advantage of opportunities to offer a positive role model for children.

### **Teenagers**

#### *What Child Development Experts Say*

Teenagers are developing a sense of themselves as individuals who are distinct and independent.

- Teenagers use relationships with authority figures to test limits and independence.
- Teenagers are probably police officers' most challenging age group.
- Teenagers are especially vulnerable to humiliation and can go to extremes to save face.
- Teenagers can be very good at drawing police into their struggles about authority.

#### *What Police Officers Can Do*

- ✓ Set firm and clear limits and expectations for your interactions.
- ✓ Make one request or give one command at a time.
- ✓ Use consequences (including graduated force) judiciously and in accord with the level of infraction.
- ✓ Isolate troublemakers; provocative posturing can increase in front of peer groups.
- ✓ Don't take teens' rude or obnoxious behavior personally.
- ✓ Don't stereotype teenagers; treat them as individuals and be mindful of their normal struggles to become independent.
- ✓ Understand that teens need rules and limits in order to feel safe.

### **Steps to Follow when Arresting a Parent/Guardian in front of Children**

- When officers make an arrest, they shall inquire about the presence of children for whom the arrested adult has responsibility. If the arrest is made in a home environment, the officer should be aware of items which suggest the presence of children such as toys, clothing, formula, bunk bed, diapers, etc. The officer shall make reasonable efforts to ensure the safety of minor or dependent children at risk,

via a responsible parent, family member, or, if appropriate, by notifying the Virginia Beach Department of Social Services, Child Protective Services (see information that follows.)

- Whenever it is safe and appropriate to do so, make the arrest away from the children or at a time when the children are not present.
- Whenever it is safe and appropriate to do so, allow the parent to assure his or her children that they will be provided care. If this is not safe or if the demeanor of the in-custody parent suggests this conversation would be non-productive, an officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurances to the children that both parent and children will be taken care of.
- When an arrest or search warrant is planned, the ages and likely location of the children should be considered when determining the time, place and logistics of the arrest.
- Officers shall list the names and contact information for any family members or adults they have identified and verified and provide this information to CPS. The officer shall include this information in CADS prior to clearing the case. If the person refuses to provide personal information or does not want this information included in any resulting case report, the officer shall assume custody of the child. Child Protective Services shall be contacted when the arrested parent cannot identify an individual to look after the children. Placement for the child shall be done only after consulting with CPS.
- If the other parent is not available, officers shall ask the parent or guardian in custody if they have someone they wish to watch their children. In the event that the parent has no one to look after the children, the officer shall attempt to locate an adult relative or another adult with whom the child or children have a significant emotional relationship with and who is willing to take responsibility for the children. If children are present and there is a reasonable belief that there is a threat of imminent danger to the child, officers shall take custody of the child in accordance with state law.
- When a child is not present, but the arrested subject is responsible for the care of a child, the officer shall ensure that appropriate arrangements are made, either through this department or CPS, to place the child with a caregiver.
- Reporting officers shall include the names and contact information for the adults with whom a child is left in CADS and in the IBR (if one is completed). Officers shall also include the name of the CPS worker or school personnel contacted in their reports.

### **Determining Appropriate Placement of a Child**

- The child should be placed with another parent if this individual is capable of assuming responsibility for and care of the child. If questions should arise concerning the capability or competency of the second parent, the officer should request assistance from a supervisor.
- If another parent is not available, the arrested parent should be given a reasonable opportunity to select and contact a caregiver unless there is a compelling reason not to do so or the arrest is for child abuse or neglect.
- A preliminary NCIC check and, when possible, check of CPS case files shall be conducted on the caregiver chosen by the parent as soon as reasonably possible. Any arrest for child abuse, sexual crimes, domestic violence, recent arrests for drug offenses, or other violent felonies shall disqualify the individual from taking custody of the child.
- If possible, a secondary caregiver should also be identified.
- If the parent is unable or unwilling to identify a caregiver, and other suitable arrangements cannot be secured within a reasonable period of time, the child shall be turned over to the custody of CPS.

### **Interacting with a Child**

- Where appropriate and safe, the parent should be given an opportunity to reassure the child and explain what is happening.
- If the parent is unable to provide reassurance to the child, the officer shall provide an explanation to the child, in an age- and developmentally-appropriate manner. It should be emphasized that the child has done nothing wrong and will be safe.
- When reasonably possible, the officer shall ask the parent about items or objects that provide particular comfort to the child, such as toys, clothing, blankets, photographs or food that can be taken with the child.

In cases where the care of a child will be transferred to another responsible adult or Child Protective Services, the officer may assist in the transfer by asking and then transferring information regarding any medical, behavioral, or psychological conditions and/or required treatments of the child, known to the officer that would become the responsibility of a caregiver. In cases where the person arrested may be the caregiver to a child that is not present at the time of arrest, the arresting officer should ask if the arrestee is responsible for the care of a child.

- If the arrest creates an interruption in a child's supervision and care, the arrestee shall be given reasonable opportunities to make alternative arrangements for such care if

appropriate arrangements have not already been ensured by the arresting officer, other components of this department or through partner organizations.

- To the extent possible the name, address, and phone number of the caregiver shall be entered into IBR report that accompanies the arrest, if a report is generated, or the comment section of the CADS call for service..

### **Follow-Up**

- Follow-up should be performed wherever possible to ensure the continued safety and well-being of the child. The department liaison and/or the arresting officer should work with partner organizations to determine the responsibility for and scope of follow-up.

### **Documentation**

Whenever an arrest is made, the existence of a child, present or not, shall be noted in the offense and investigative report and documentation shall include, at a minimum:

- the identity and biographical information of the child involved, whether or not he or she was present at the arrest;
- any of the child's special needs such as medical or mental health conditions, physical impairments or limitations, allergies, or developmental disorders;
- the identities, addresses, and contact information for any actual or potential caregivers;
- names and contact information of any representatives from partner organizations involved;
- names and contact information of any adult contacted for notification purposes, such as school officials;
- the final placement determination for the child; and
- information or observations that suggest the need for further investigation into the child's living conditions and general well-being, such as any indications of a household in crisis.

**Behaviors that do not Constitute Status or Criminal Offenses (CALEA 44.2.1 A)**

Commonly, police officers encounter juveniles who have assembled outside of their homes and are unattended or seemingly unsupervised by a parent or guardian. Often these situations are reported by others as “suspicious” or “nuisance” behaviors by children. Officers should be cognizant that these situations may be an indicator of an ongoing or recent criminal matter and should approach these situations with the appropriate amount of caution, and take police actions as necessary. When established that a criminal act or status offense is not present officers should view these situations as an opportunity to build a respectful and positive rapport with the juveniles, gather information regarding their activities, interests, supervision by adults at the time of the encounter, and assess the need for any additional police involvement.

In situations where criminal activity is detected that cannot be attributed to the suspected juveniles, or activities are identified that could be a pre-cursor to a criminal act, officers should report the circumstances of the encounter to the parent(s) or guardian(s) so that they can exercise appropriate supervision. Factors in making this decision should include:

- Prior criminal acts by the child
- The presence of criminal actions by the child or the group at the time of the encounter
- The lack of supervision or oversight by a parent or guardian at the time of the encounter
- The circumstance surrounding the cause of the contact with the child.

Often, just the impact of a police officer whose attention has been directed or drawn to circumstances such as these and who takes the time and effort to consult and work with the parents or guardians of the child is sufficient in redirecting the child away from inappropriate or criminal acts.

**Non Juvenile Justice System Community Services**

In situations where officers encounter unsupervised or unattended children who may be engaging in “nuisance” or “suspicious” activities, parents, guardians, or the family may appreciate knowing about more productive activities that exist in the community. In accordance with the provisions of General Order 1.01 (Agency Role and Authority) and in the interest of serving our responsibility to be a social resource to our community, officers should explore these activities in or around the communities to which they are assigned, and should consider directing the family to:

- School, or School sanctioned activities;
- After School Programs offered by the Department of Parks and Recreation;
- Programs at the local Recreation Center; and/or
- Community Sports Programs.

The Community Parent Resource Guide (attached to this document) published biennially by the Virginia Beach Department of Human Services – Pendleton Child Center is an excellent resource for parents in locating and establishing relationships with programs focusing on positive activities for children. Officers are encouraged to become familiar with these programs in their

assigned communities, to help establish positive relationships with these child focused organizations, and make referrals when appropriate.

### **Documentation**

The impact of a professional police officer, whose attention has been directed towards the actions of a juvenile, should not be underestimated. These interactions are significant in the eyes of a child, impactful on a family, and will become the topic of conversation within the family for many years to come. Officers should make respectful use of these opportunities to have a positive and lasting impact on the life and future conduct of a child.

Personal actions, contact with parents, referrals to programs, or the sharing of the Parent Resource materials should be documented within the comments of the call for service that prompts these actions.

**Section III/Juvenile Legal Issues (CALEA 44.2.1 A-C, 44.2.2 A-E,  
44.2.3)**

## **Responding to Children involved in Status or Criminal Offenses (Invoking the Juvenile Justice System)**

### **Investigating Offenses Committed by Juveniles (CALEA 44.2.2)**

The constitutional rights and protections of juveniles will be adhered to. Juveniles are afforded the same Fifth and Sixth Amendment rights as adults. The legal requirements do not change.

As with any criminal investigation, an investigator may be called at the discretion of a supervisor when it is determined that additional investigation may be required due to the nature or complexity of the case.

### **Searches of Premises Occupied by Juveniles**

For guidance on issues of consent, and consent by a parent to conduct a search, please refer to the Virginia Beach Police Department Constitutional Issues Field Guide.

A parent generally may consent to the search of the bedroom of a child. See *United States v. Rith*, 164 F. 3d 1323 (10th Cir. 1999). However, there are situations where such consent may not be valid. Factors such as age, no regular access by the parent to the room, and/or rent being paid by the child may change things. The “child” could be an adult living in the parent’s home. A “child” may reach an age and a status such that he may actually be able to give a valid consent to search the common area of a home (like spouses or roommates). Young children generally cannot validly consent to a search of their parents’ home although there is a federal appeals court decision saying a 9 year old could consent to entry. *Lenz v. Winburn*, 51 F. 3d 1540 (11th Cir. 1995).

In cases where a search is necessary it is preferred that the search occur pursuant to a search warrant.

### **Notifying Parents (CALEA 44.2.2 E)**

In all cases when a juvenile is arrested, regardless of the disposition, the parents or guardians of the juvenile will be informed of the juvenile’s status. Additionally, the officer shall explain the summons or petition process and the required court appearance to the juvenile and, if possible, the parent or guardian. This should be done as soon as possible by the arresting officer. Keeping the parents informed fosters a better relationship between the community and the police department and gives the parents and juvenile defendant a chance to ask questions and clarify any misunderstandings.

### **Interviewing Juveniles (CALEA 44.2.2 C, 44.2.3)**

In many situations officers will encounter juveniles in the community that have not been a victim, witness, or a suspect in a crime. As part of our Community Oriented Policing (COP) philosophy, officers are strongly encouraged to engage members of the general public in a friendly yet professional manner to forge strong relations with the communities we serve.

Engagement with juveniles in a positive and friendly manner will further the mutual trust between the police and the community that is so important to our safety and effectiveness.

Officers must exercise care when questioning juveniles. Most juveniles will have had little to no prior contact with the police. Speaking with an authority figure such as a police officer can be very intimidating to a child. Therefore, officers should be professional, respectful, compassionate, caring, and empathetic when speaking to victims of or witnesses to criminal acts. This section will use the term child and juvenile interchangeably as officers should remember that when addressing a juvenile, no matter how old or experienced they may seem to be, the subject is still considered a child by the courts and criminal justice system.

**The following general tips are offered for successful interviews of children:**

1. Introduce yourself - explain why you are there. Answer questions to the best of your ability.
2. Create a comfortable environment for the juvenile so they feel comfortable to disclose private and potentially embarrassing information. This is accomplished physically and by verbal and non-verbal means.
3. The first few minutes are crucial to building trust. The investigator should focus on putting the juvenile at ease.
4. Start the conversation with non-threatening, less serious topics.
5. Follow the juvenile's lead and allow them to tell their story without interruption.
6. Be an active listener by nodding in agreement and making encouraging comments. Be sure to use calm body language that conveys openness.
7. Recognize the juvenile's strengths and talk about things they have done well.
8. Ask for the juvenile's opinion and express interest in an area the juvenile has expertise in.
9. Find common interests and let the juvenile talk about them.
10. Do not take the juvenile's behavior personally. They may be responding with fear to an unfamiliar or threatening situation. Past experiences may also play a role in their attitude.
11. Use the "pacing" technique by matching the body posture and movements of the juvenile. This is not effective if the juvenile is tense or rigid. If the juvenile is tense, the investigator should maintain a calm body posture, respiratory rhythm, speed of conversation and tone of voice and volume.
12. Match the verbs and words used to explain actions or conditions with those being used by the juvenile.
13. Invite the juvenile to ask questions at any time during the interview.
14. Work on building and maintaining a rapport throughout the interview.
15. Do not say things just to be liked. If the juvenile perceives the investigator as being disingenuous, they will be less likely to answer questions.
16. Avoid long questions with a lot of information loaded in them.
17. Avoid giving more than one option in a question.
18. Use visual props to facilitate conversation.
19. Avoid asking for abstract thinking.
20. Avoid analogies.
21. Ask open-ended questions and avoid questions that can be answered with a "yes/no," "okay" or shrug.

22. Ask questions for clarification or when you do not understand.
23. Do not start questions with “why” or “how could you,” as they are accusatory and provoke defensiveness.
24. Do not move too quickly into inquiring about offense-related matters.
25. When possible, avoid having two adults interviewing a juvenile, as this can be overwhelming for the juvenile.

When interviewing juveniles who are victims of a crime, **other than child abuse, neglect or sexual assault:**

- a. Determine if the child is injured and summon medical assistance if necessary.
- b. After obtaining basic information to determine if an offense has taken place and other exigent details of any possible crime committed, parents shall be notified, if possible, and if time and circumstances permit, prior to more detailed questioning of the juvenile victim(s).
- c. Remember that victims and witnesses have experienced something upsetting and/or traumatic.
- d. With assistance from another officer if possible, remove the juvenile(s) from the situation and area in order to afford some privacy and to help to calm the victim(s). Some juveniles may not want to be seen by their peers as talking to or cooperating with police, so speaking with them in private may allow victims to be more forthcoming about events.
- e. Patience must be practiced as juveniles are often hesitant to talk with adults, especially about sensitive or weighty matters. Make sure the child understands the purpose of the interview and make them as comfortable as possible. Adjust tone, volume, language and inflection to help the child understand. Communicate in a compassionate and non-judgmental tone and do not impose your value system or blame the victim.

### **Interviewing children who are victims of child abuse, neglect or sexual assault**

The initial and forensic interviewing of a child is critical to the integrity of the investigation and resulting prosecution. Therefore officers should follow these procedures:

- 1) Upon arrival**, check and verify that the child(ren) is not physically injured. If he/she is, provide medical attention and call for appropriate medical response. To the extent possible, **do not interview the child about any allegation.**
- 2)** If you have identified that serious physical abuse has occurred (severe laceration, broken bone(s) etc.), or the child has been a victim of a sexual assault, **notify the Special Victims/Domestic Violence Detective** and Child Protective Services as soon as feasible.
- 3)** While at the scene, obtain as much information as you can about what happened to the child. Speak to any witnesses and to the child’s parent(s), guardian(s), or caregiver(s), (separately if there is more than one caregiver). **Do not conduct any interviews in front of the child.**
- 4)** If the child disclosed to an adult, determine *exactly* what the child said from the complainant (parent, guardian, teacher, etc.). Ask them to tell you what happened (who, what where, when,

why, how). If a child was physically injured, note the injuries.

**5) In a child sexual assault case, identify and talk to the first person to whom the child disclosed** (teacher, day care worker, parent, etc.). **Do not talk** with those who did not hear the information directly from the child (i.e. talking to a school nurse when the child disclosed to a teacher). Document what you were told. Obtain the minimal facts.

**6) Do not allow contact between the child and the alleged offender**, even if the offender is a parent/guardian. This may mean not allowing a parent to pick up their child from school. CPS will make arrangements for the placement of the child.

**7) To the extent possible, do not talk to the child about the alleged incident. Do** reassure them that they are not in trouble and that they did not do anything wrong. Let them know that you are there to help them. If they do begin talking to you, listen, but do not make promises of confidentiality. **Do not react** surprised, angry or shocked. The child will pick up on your reaction, and may not want to talk again. Document **exactly** what the child said. Use **their words** and **do not paraphrase**.

**8) Do not make negative comments about the alleged offender.** You do not know the emotional attachment of the victim to the offender. Often in abuse cases, the victim will want to protect the offender, return home with the offender or continue to visit the offender because of this attachment. Victims often continue to care about the offender even after all that has happened. Children usually do not want the offender taken away from them; they just want the abuse to stop.

**9) Do not interview the alleged offender;** this will be done by the Detective(s)/CPS at a later time. Do not give any information to the identified offender, and direct the family and reporting person to do the same. Document any spontaneous statements made by the alleged offender and report them to the assigned investigator. Refer questions from the alleged offender to the Detective.

When interviewing juveniles **who are witnesses of a crime:**

- a. Parents shall be notified as soon as practicable prior to questioning a juvenile witness to a crime. It should be noted that some parents may not want their child involved as a witness to a crime and may require further consultation with the parent and Office of the Commonwealth's Attorney if necessary.
- b. As with victims of a crime, the witness may have experienced a very traumatic or otherwise upsetting event, making it difficult for the witness to relate what was seen or experienced.
- c. Some potential witnesses may not want to be seen cooperating with police. Officers or investigators may suggest moving the witness to a more private area which may encourage a better flow of information.

When attempting to interview a witness or a victim, identify the emotional capability of the child:

- a. Medications may interfere with the child's ability to understand.
- b. Does the child connect with the real world?
- c. Learning abilities/challenges may be present.

### **Custodial and Non-custodial Interview of a Juvenile Suspect:**

Prior to the custodial interrogation of a juvenile, and in accordance with General Order 6.07 (Juvenile Legal Issues), and General Order 6.03 (Interview and Interrogation) the officer shall make every effort to contact the parent, guardian, or legal custodian of the juvenile in custody and advise of the status and location of the juvenile. The parent, guardian, or legal custodian shall be notified of the juvenile's arrest and provided contact with the juvenile prior to interrogation. This notification and contact may be in person, electronically, by telephone, or by video conference.

The following are the only exceptions to the requirement for contact prior to custodial interrogation:

- The parent, guardian, or legal custodian is a codefendant.
- The parent, guardian, or legal custodian is suspected of a committing crime against the child.
- Cannot reasonably be located or refuses contact.
- If the law-enforcement officer believes the information sought is necessary to protect life, limb, or property from an imminent danger and the questions are limited to those that are reasonably necessary to obtain that information.

As stated earlier, the vast majority of juveniles that officers will encounter will have little to no prior contact with police and the criminal justice system. Therefore, a juvenile suspected of a crime that is contacted by an authority figure such as a police officer may be intimidated and frightened. Except for those children who have had more frequent contact with the criminal justice system, juveniles may not be able to distinguish between the legal differences of a custodial versus a non-custodial interview. Whether or not a juvenile suspect believed at the time of the interview that he or she was in custody will receive a high level of consideration and scrutiny from the Court. Therefore, when conducting an interview with a juvenile suspect the issue of custody, from the perspective of the child considering age, maturity, emotional state, timing and location of the interview, experience with the juvenile justice system, should be carefully considered prior to initiating questions. Generally, to withstand the considerations and scrutiny of the judicial processes that follow an arrest, it is suggested that investigating officers should approach an interview with a juvenile suspect as though it is a custodial interview with the accompanying requirements of the reading of *Miranda* Rights. Such an approach may not be appropriate for more mature juvenile suspects, who are experienced with the juvenile justice system.

## Advisement of *Miranda* Rights

The goal of a custodial interview of a juvenile suspect is to obtain an accurate and truthful statement regarding the criminal offense under investigation. Success in this endeavor requires the investigator to not only garner the information needed to proceed further with the investigation, but to respect the rights and protections afforded to the arrested juvenile. The minimum requirements to ensure these protections are clear in Virginia apply equally to all arrested suspects, adult and juvenile. Research, advances in understanding the adolescent brain, and the resulting publications indicating the differences between an adult and a juvenile's ability to understand the legal consequences of a custodial interview are well known to defense attorneys and the court. This increased scrutiny has resulted in the suppression of evidence, dismissal of charges, findings of not guilty, and civil suits against police departments alleging civil rights violations.

Changes in the legal landscape mean that police officers must adapt. In particular, officers who conduct custodial interviews of juveniles must not only observe the same precautions they take with adults – providing food and water, allowing the suspect to take bathroom breaks and rest when tired, and so on – but they must use different and more appropriate interview tactics that reflect the differences between adults and children. This is true even when the juvenile is an older teenager.

Prior to advising a juvenile of his or her constitutional rights against self-incrimination and his or her right to an attorney (*Miranda* Rights), officers or investigators should get a sense of the juvenile's mental and physical state and education level and document the reasons of this inquiry. If a juvenile is determined to be in need of medical assistance, this will be sought prior to any questioning.

As with adults *Miranda* Rights will be advised as follows (Note: this can be facilitated by the use of a department issued rights card or a PD Form 13 – Advisement of Rights Form):

According to the VBPD Constitutional Issues Field Guide, there is no magical written or verbal recipe for *Miranda* warnings. Rather, the *Miranda* rule simply requires that the following “message” be conveyed to anyone who is about to be subjected to custodial police interview:

1. *You have the right to remain silent;*
2. *Anything you say can and will be used against you in court;*
3. *You have the right to talk with a lawyer and to have a lawyer with you during any questioning;*
4. *If you want a lawyer and cannot afford one, one will be appointed to represent you at no cost to you.*

As each of the rights are advised, the officer or investigator shall ask the juvenile if he or she understands each right and if he or she has any specific questions about each right advised.

Additionally, it is the policy of the Virginia Beach Police Department that officers/detectives will advise a suspect of the following right after advising of the above listed four rights and before securing a waiver:

5. *You can decide at any time to exercise these rights and not answer any questions or make any statements.*

It is the policy of the Virginia Beach Police Department that in order to secure a knowing, intelligent, and voluntary waiver of rights, the following questions should be asked and an affirmative response secured for each question:

1. *Do you understand each of these rights I have explained to you?*
2. *Having these rights in mind, do you wish to talk to us?*

Again, after each right is explained, the officer or detective shall ask the juvenile being questioned if he or she understands each right and if he or she has any questions about each right that is read. Officers and detectives shall then document the responses received prior to the beginning of questioning.

### **Presence of a Friendly Adult**

It is recommended, but at the discretion of the investigator to involve a “friendly adult” in the juvenile interview process and to allow him or her meaningful opportunities to privately consult with the juvenile throughout the custodial interview. Traditionally, the friendly adult is a parent or guardian, although each presents different challenges.

- **Parent or Guardian** – The presence of a parent or guardian during a custodial interview of a child is not required in Virginia and is a discretionary decision by the investigator. The presence or absence of a parent or guardian may impact a judicial review of the admissibility of a statement. Investigators are still required, however to notify parents as soon as possible after taking a child into custody, providing information regarding the condition, whereabouts, and legal status of the child. The presence of a parent or guardian during the interview can have a positive effect on the course of the interview, or alternatively, a negative effect. Parents who pressure a child to confess can increase the risk that the child will give a false or involuntary statement. If this happens, the officer should call for a break in the interview so the parent can calm down.

### **Length of Questioning**

The length and conditions of a juvenile interview will receive considerable scrutiny in subsequent court hearings. Typically, juveniles can tolerate only about an hour of questioning before a substantial break should occur. Investigators should be mindful of the duration of interviews between breaks, as well as the overall duration of the interview. Careful documentation of the interview progress and the timing of breaks is essential to the integrity of the case.

The Virginia Beach Police Department sets no definitive time restrictions in matters involving the interview of juvenile offenders. However, interviews of juvenile offenders suspected in serious criminal offenses (likely to result in incarceration or detention) or interviews that exceed

one hour of questioning shall be closely monitored by a supervisor. As is delineated in other Department directives, investigators should be mindful of the needs of the juvenile, allowing for breaks as needed, access to the restroom, and should offer drinks or snacks if it is determined that the child has not eaten in the previous four hours.

### **Time of Questioning**

Officers should be wary of questioning juvenile suspects, especially younger teens and children, in the middle of the night. Even a few hours of sleep deprivation, combined with the stress of interview, may increase the risk of problematic statements. And courts tend to disapprove of late night interviews, particularly when children are involved.

### **Avoid Use of Deception**

Currently, the use of deception during a custodial interview – such as a false claim that police possess evidence incriminating the suspect – is permissible. However, the changing nature of the legal landscape should make officers think twice before using this technique during juvenile custodial interview. The presentation of false evidence may cause a young person to think that the interviewer is so firmly convinced of his guilt that he will never be able to persuade him otherwise. In that event, the young person may think that he has no choice but to confess – whether guilty or innocent – in an effort to cut his losses. For this reason, the use of false evidence during juvenile interviews, may be problematic to the integrity of the case. The use of deception also may cause an innocent juvenile – even one who initially had a clear recollection of not committing a crime – to mistrust his memory, accept that the “evidence” proves his guilt, and eventually confess to a crime that he did not commit. These types of false confessions are known as “coerced internalized” confessions. In such situations, the pressures of deception-driven custodial interview can actually cause a juvenile to believe that he must have committed the crime but suppressed all memories of it.

### **Avoid Promises of Leniency and Threats of Harm**

Many officers are trained to indirectly suggest during custodial interviews that the suspect will avoid trouble or get help if he confesses. Even these indirect promises of leniency and threats of harm can be inappropriate when the suspect is a juvenile. They can trigger involuntary or false confessions by presenting the juvenile with an offer he can't refuse: Say what the police want to hear or face negative consequences. Investigators should avoid interviews in which a suspect is offered help: In expressing sympathy and understanding toward a suspect during an interview, it is tempting for an investigator to state that it is his desire to “help” the suspect in some way. This may be in the form of an ambiguous statement, such as, “I want to help you out of this thing,” or “I can't help you unless you help me first.” In other instances the reference to help may be quite specific, such as, “If you tell me what happened, I can get you psychological help,” or “I can get you help for your addiction, if you work with me on this.” Some courts have ruled that such statements represent an implied promise of leniency, and therefore, investigators should refrain from any references to “helping a suspect out.” In particular, some juveniles who have falsely confessed have explained that they confessed under the mistaken belief that they would be able to end the custodial interview and immediately go home. To that end, interviewers must take

special care to ensure that nothing they say could be interpreted as suggesting that the juvenile could go home if he confesses. An innocent youth might jump at such a chance and falsely confess out of a desire to return home, believing that his innocence will be straightened out later.

Investigators should also never use the suspect's juvenile status to persuade him to confess under the pretense that he or she won't be punished as severely as an adult.

**When conducting a custodial interview of a juvenile, officers should follow these guidelines:**

- **Avoid communicating that the suspect will avert or face reduced charges if he confesses.**
- **Stay away from unclear or technical language that could be interpreted by a young person as a promise of leniency.**
- **Ensure that the suspect understands the consequences of confessing.**
- **Refrain from suggesting that you can help the suspect if he confesses.**

**Questioning Style**

How do juveniles who falsely confess know what to say? Many glean information about the crime from their investigators' leading questions. An interviewer who asks a juvenile "The clerk was standing by the cash register when the hold-up happened, right?" has inadvertently educated him about how the police think the crime took place. An interviewer who takes a young suspect to a crime scene or shows him photographs of it has done the same thing. In this way, the disclosure of crime scene facts during custodial interview can ultimately render a subsequent confession worthless. When a juvenile who has been interviewed with leading questions later describes the crime scene accurately, it is impossible to know whether he or she is speaking from firsthand experience or repeating his investigators' words. When questioning juveniles, officers should observe the following:

**DO:**

- Start by using open-ended, free-recall questions that ask the child to produce a narrative: "What did you do last night?"
- Use targeted but open-ended questions to get more information: "You said you were at home last night. Tell me about that."
- Probe while avoiding outright accusations and deception, if you suspect the juvenile is lying: "Can you help me understand why your mom says that you were out with your friends last night?"
- Use questions beginning with "who," "what," "where," "when," and "how" to get more information about specific parts of the juvenile's story: "Where was the clerk standing?"

**DON'T:**

- Offer the juvenile options: “Where was the clerk standing, in the back of the store or by the cash register?”
- Use leading questions: “The clerk was standing by the cash register, wasn’t he?”
- Show the suspect crime scene photographs or other pieces of evidence, prior to exhausting all other interview strategies.

### **Electronic Recording**

When an interview is electronically recorded from start to finish, police have a complete record that can be used to convict the guilty and to ensure that every statement is reliable and voluntary. A recording can also provide officers with invaluable protections against frivolous allegations of abuse. Most electronic recording systems pay for themselves by greatly reducing the need for and duration of costly pretrial hearings about what happened inside the interview room. For these reasons, and whenever possible, investigators conducting custodial interviews of children will videotape or, alternatively, audiotape these interviews from the reading of *Miranda* rights until the end.

Recording is particularly essential when the person undergoing a custodial interview is a juvenile. The Wisconsin Supreme Court, for instance, has required all juvenile interviews to be recorded in their entirety, when feasible, because of the particular vulnerabilities of juveniles during custodial interviews (*In the Interest of Jerrell C.J.*, 283 Wis. 2d 145, 699 N.W.2<sup>nd</sup> 110 (2005.)) The same reasoning holds true in every jurisdiction. While the requirement to videotape is not a matter of law in Virginia, rules mandating the electronic recording of custodial interviews exist in 16 states and the District of Columbia and nearly every other state is currently considering legislation. In addition, with the proliferation of reality crime television, the public and juries expect to see electronic recording at every trial.

### **Investigative Follow Up**

A confession alone does not close the case. Police investigators should take a few important steps after every confession to ensure the confession is reliable.

#### **Confirm the confession indicates firsthand knowledge of guilt.**

Officers who obtain statements from juveniles must review the electronic recording of the custodial interview to determine whether the juvenile provided verifiable details about the crime that were not inadvertently revealed to him or her by police and that he or she would not otherwise be expected to know. Ideally, an officer unconnected to the investigation should perform this review. If the juvenile did not provide these kinds of details, his or her confession may not be accurate.

#### **Make sure the confession is corroborated by objective, physical evidence – not just by statements from other juveniles.**

If physical evidence contradicts the confession, it may be false.

**Don't be fooled by a detailed confession.**

The vast majority of proven false confessions contained a surprising number of accurate details, but the suspect's knowledge of that information was later shown to be the result of investigators' disclosure of those details during questioning. If a juvenile provides information about a crime that police did not already know and that is later proven true, then his or her confession can be considered reliable.

**The Decision to Arrest**

Officers dealing with juveniles shall use the least coercive and most reasonable alternative to reach an arrest decision. Officers are encouraged to consider the past behaviors of the juvenile, and screen cases with Juvenile Intake to determine the best course of action. Criteria for determining the means to achieve a resolution include, but are not limited to:

- The nature of the offense
- The age and circumstances of the offender
- The record of the offender
- The availability of community-based programs for juveniles (Parent Resource Directory)
- Recommendations for diversion from complainants and/or victims
- Accountability systems at home
- Consequences in the school system

The least amount of action required to accomplish the goal of behavior redirection should be used.

**Physical Custody §16.1-246 (CALEA 44.2.2)**

Officers are authorized to take juveniles into immediate physical custody in the following situations:

- With a detention order issued by the judge, the intake officer or the clerk, when authorized by the judge, of the juvenile and domestic relations district court in accordance with the provisions of this law or with a warrant issued by a magistrate; or
- When a child is alleged to be in need of services or supervision and (i) there is a clear and substantial danger to the child's life or health or (ii) the assumption of custody is necessary to ensure the child's appearance before the court; or
- When, in the presence of the officer who makes the arrest, a child has committed an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law and the officer believes that such is necessary for the protection of the public interest; or
- When a child has committed a misdemeanor offense involving (i) shoplifting in violation of § 18.2-103, (ii) assault and battery or (iii) carrying a weapon on school property in

violation of § 18.2-308.1 and, although the offense was not committed in the presence of the officer who makes the arrest, the arrest is based on probable cause on reasonable complaint of a person who observed the alleged offense; or

- When there is probable cause to believe that a child has committed an offense which if committed by an adult would be a felony; or
- When a law-enforcement officer has probable cause to believe that a person committed to the Department of Juvenile Justice as a child has run away or that a child has escaped from a jail or detention home; or
- When a law-enforcement officer has probable cause to believe a child has run away from a residential, child-caring facility or home in which he had been placed by the court, the local department of social services or a licensed child welfare agency; or
- When a law-enforcement officer has probable cause to believe that a child (i) has run away from home or (ii) is without adult supervision at such hours of the night and under such circumstances that the law-enforcement officer reasonably concludes that there is a clear and substantial danger to the child's welfare; or
- When a child is believed to be in need of inpatient treatment for mental illness as provided in § 16.1-340.

If the child is in need of medical treatment or it is suspected that the child has ingested alcohol or drugs, the child will be transported to a medical facility for evaluation prior to transportation to Juvenile Intake. The detention center requires the paperwork for medical clearance to clearly state that the juvenile is “medically cleared.” This relieves the police department of liability should the juvenile suffer a medical emergency in the detention center.

### **Arrest Options and Documenting the Arrest (CALEA 44.2.1 A, B, D)**

When investigating a crime involving a juvenile suspect, officers can resolve the case in the following ways:

1. Warn and Release
  - a. This option should be reserved for minor criminal matters.
  - b. This action constitutes an arrest based on the definitions of Uniform Crime Reporting.
2. Summons
3. Diversion
  - a. This diverts juveniles, who can be cared for or treated through alternative programs, from the Juvenile Justice system. This action diverts from formal court involvement, but not the juvenile justice system. If the juvenile was to come back to court, the previous diversion would be counted when calculating his risk score.
  - b. This constitutes an arrest based on the definitions of Uniform Crime Reporting.
4. Petition

**Warn and Release (CALEA 44.2.1 A)**

If an officer elects to warn and release a juvenile offender, the following procedure should be followed:

- Advise the offender that you are reporting the crime, and are agreeable to warning and releasing in this circumstance
- Retrieve the necessary information for the arrest report from the juvenile
- Notify the juveniles parents of the warn and release action
- Complete the necessary paperwork:
  - PD-180 (Arrest/Detention Sheet)
  - PD-18 (IBR), if required for the offense
    - The IBR will be cleared by arrest (CBA).
- Forward the PD-180 to the PDO for entry into Pistol.
- The PD-180 will be returned to the officer once it is entered into Pistol.

**Summonses (CALEA 44.2.1 A, B)**

Virginia State Code 16.1-260 permits the issuance of a summons, in lieu of a petition, for the following offenses:

- Traffic offenses and traffic accidents;
- DUI and Boating Under the Influence;
  - The juvenile **must** be released to a parent or legal guardian, who **must** sign acknowledging the commitment to appear with the juvenile. A copy of the summons **must** be provided to the parent or guardian. In order to assure the appearance of the parent or legal guardian a subpoena should be requested.
- Bicycle;
- Hitch hiking;
- Pedestrian;
- Game and fish;
- Surfing;
- Curfew;
  - The officer **shall** release the juvenile to a parent or legal guardian since releasing the juvenile on their signature would permit the offense to continue.
- Animal control misdemeanor violations;
- Littering;
- Offenses that would be Class 3 or 4 misdemeanors if committed by an adult; and
- Alcohol-related offenses
  - The juvenile **must** be released to a parent or legal guardian, who **must** sign acknowledging the commitment to appear with the juvenile. A copy of the summons **must** be provided to the parent or guardian.

While state code permits the issuance of a summons for possession of marijuana (18.2-250.1), Virginia Beach police officers **are not** to release a juvenile on a summons for possession of marijuana. A petition is required.

When issuing summonses and releasing juveniles on their signatures, officers are encouraged to contact a parent or guardian to advise them of the charge(s).

Additionally, if an officer has multiple charges on a juvenile and one of the charges requires a petition, while others can be charged on a summons, all of the charges must go to Juvenile Intake for petitions.

Summonses shall be written for Juvenile and Domestic Relations Court courtroom #7 at 0830.

### **Diversion**

If an officer elects to refer a juvenile offender for diversion, or diversion is required after screening the case with Juvenile Intake, the following procedure should be followed:

- Advise the juvenile that they are under arrest
  - If permitted by §16.1-246, take the juvenile into custody
  - If the offense requires that the juvenile be processed, take the juvenile to a precinct for processing prior to proceeding to intake.
    - Note – Virginia State Code permits processing on juveniles who are arrested for crimes. A diversion still constitutes an arrest, and the processing is valid for a period of time (60 days). After 60 days the photos and prints must be destroyed. In this sense, processing is completed to further investigative efforts by comparing collected fingerprints to unknown collected latent prints stored from other crime scenes.
  - Confirm prior to release that the juvenile offender is eligible for diversion as detailed below.
- Return the juvenile offender home, or cause the parents or guardians to respond to the precinct to take custody.
- Complete the necessary paperwork:
  - PD-180 (Arrest/Detention Sheet)
  - PD-9 (Affidavit of Probable Cause)
  - PD-18 (IBR)
    - The IBR will be cleared by arrest (CBA)
- Forward the PD-180 to the PDO for review and entry into Pistol.
- The PDO will forward the completed paperwork to Juvenile Intake.
- In the event a case does not qualify for diversion, the officer will receive an email from the Intake Officer.

Virginia Code §16.1-260 outlines which cases are not eligible for diversion:

- The juvenile has had prior contact with the Court Services Unit (within a year)
- The current charge is a violent felony, or
- The juvenile has been previously informally treated or adjudicated delinquent that would be a felony if committed by an adult

**Petitions (CALEA 44.2.1 D)**

If an officer elects to secure petitions for a juvenile offender, the following procedure should be followed:

- Advise the juvenile that they are under arrest
  - If permitted by §16.1-246 take the juvenile into custody
  - If the offense requires that the juvenile be processed, take the juvenile to a precinct for processing
  - If the nature of the crime, and the background of the juvenile offender suggests that detention is appropriate, contact juvenile intake to screen the circumstance of the arrest and the background of the juvenile.
  - If detention or shelter care is not deemed necessary by the Intake Officer, return the juvenile offender home, or cause the parents to respond to the precinct to take custody.
- Complete the arrest packet:
  - PD-180 (Arrest/Detention Sheet)
  - PD-9 (Affidavit of Probable Cause)
  - DC-509 (Affidavit/Certification of Parental Identity or Location)
  - PD-18 (IBR)
    - The IBR will be cleared by arrest (CBA)
- Forward the arrest packet to the PDO for review and entry into Pistol.
- Follow-up with Juvenile Intake within 7 days to determine:
  - Which Intake Officer is assigned to the case
  - If the case is eligible for petitions or if the case will be handled as a diversion
  - When the officer is available to sign the petition
- When Juvenile Intake receives the paperwork, they will conduct a third review for accuracy and verify the information contained on the various forms. Any errors will be returned to the officer's command for correction.
- Once processed, Juvenile Intake will attempt to notify the officer via city email that the petition is available for signature (*Note: This service is not mandatory and is a courtesy. Officers are still responsible for contacting Juvenile Intake for inquiry about their case.*)
- Officers are required to arrange to sign petitions within 7 days of the arrest (the submission of the arrest packet).

**Serious Crimes, Tactical Responses and Assistance from Other Agencies (CALEA 44.2.2 D)**

Generally, the conditions under which a juvenile offender is arrested permits the officer to arrest, detain, process, and then bring the offender before an Intake Officer for the issuing of petitions and the order for detention or shelter care. The processes for these arrests are described above. In some situations, it is preferred or required that a petition and detention order are issued by an Intake Officer before an attempt is made to take a juvenile into custody. This judicial review of the facts of the investigation and the issuance of a petition and detention order before the arrest is made is usually required in the following situations:

1. When tactical resources are required to safely arrest the offender
2. When other police agencies (usually in neighboring jurisdictions) are called upon to assist in making the arrest.
3. When the arrest of the offender must take place at school.

### **Affidavit of Probable Cause**

On all arrests that result in a diversion or the issuance of a petition, an Affidavit of Probable Cause (PD-9) is required. It explains the details of the offense from an objective, professional perspective and establishes the facts of the case, including what crime has been committed, how the suspect was involved in the commission of the crime, when the crime took place, where the crime took place and who committed the crime. It is maintained as part of the court's record as the sworn affidavit of the investigating officer, supporting the charge against the defendant.

Officers are required to provide an original copy of the Affidavit of Probable Cause (PD-9) that will be attached to the Arrest Sheet (PD-180).

Be sure to include the written offense in addition to the code section in case there is a mistake with the code section.

A copy of the Affidavit of Probable Cause (PD-9) is provided to the juvenile defendant when the petition is served.

- Do not include witness information as part of the probable cause on the PD-9.
- Only provide the information that supports the issuance of the petition, but be sure to provide enough information to support probable cause.
- Do not divulge facts that you do not want revealed before the defendant's attorney gets involved.

**Do not** sign the Affidavit of Probable Cause until you are before the Intake Officer. The Intake Officer must witness the signature.

### **Affidavit/Certification of Parental Identity or Location (CALEA 44.2.2 E)**

When a juvenile is to be charged with a crime, the names and addresses of both parents are required. The Affidavit/Certification of Parental Identity or Location form is required on cases that are referred to Intake for either a diversion program or a petition, when the information (name, location, contact information) for **both** biological parents is not known.

The form is mandated by §16.1-263 (E), which states:

No such summons or notification shall be required if the judge shall certify on the record that (i) the identity of a parent or guardian is not reasonably ascertainable or (ii) in cases in which it is alleged that a juvenile has committed a delinquent act, crime, status offense or traffic infraction or is in need of services or supervision, the location, or in the case of a parent or guardian located outside of the Commonwealth, the location or mailing

address of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. In cases referred to in clause (ii), an affidavit of a law-enforcement officer or juvenile probation officer that the location of a parent or guardian is not reasonably ascertainable shall be sufficient evidence of this fact, provided that there is no other evidence before the court which would refute the affidavit.

It does not matter if the juvenile has been arrested before and Juvenile Intake has the information. It must be provided by the officer on every arrest if the information is not known.

**Do not** sign the Affidavit/Certification of Parental Identity or Location until you are before the Intake Officer. The Intake Officer must witness the signature.

### **Service of Pick-Up Orders for Juveniles**

When a juvenile defendant fails to appear in court or otherwise violates the terms and conditions of sanctions imposed by the Court, Juvenile Court Services, or Juvenile Probation, a pick-up order may be issued. The source of such an order may come from either the Juvenile and Domestic Relations Court, or Juvenile Court Services. Once issued, the Pick-up Order is filed with Police Services Division and assigned for service. Such orders may require that the named juvenile be incarcerated in the Virginia Beach Juvenile Detention Facility or taken to “shelter care.” Regardless of the nature of the order (detention or shelter care) or the age of the named defendant at the time of arrest (juvenile or adult) when serving a Pick-Up Order, officers or detectives shall:

1. Verify that the order is on file in Services, or in transit from the Court to Services;
2. Retrieve the order from Police Services
3. Contact Juvenile Intake to determine where the juvenile is to be transported. This may require a telephone referral or a face to face meeting with an Intake Officer.
4. Transport the named juvenile to the destination determined by Juvenile Intake.

### **Service of Juvenile Pick-Up Orders on Persons over the age of 18**

While it is permitted to take an adult arrested on a juvenile pick-up order directly before a magistrate, it is important to verify before the arrest process is completed that the pick-up order has not been purged based on the named defendants reaching the age of majority. Therefore, officers shall follow that same procedures listed above in order to make every effort to verify that the order, and the arrest, is valid and lawful.

As always – personnel shall arrest, transport, and transfer juvenile defendants in accordance with the policies of the Virginia Beach Police Department. Once the named juvenile is turned over to the detention center or shelter care facility, officers shall note the name of the facility and receiving representative in the case comments as well as the PD-180 that documents the arrest.

### **Juvenile Detention Worksheet Checklist**

The Juvenile Detention Worksheet Checklist (PD-180cl) is an optional form that can be useful when completing the paperwork. It ensures that a complete packet is being sent and facilitates communication with Juvenile Intake.

**Criminal Processing §16.1-299 (fingerprints and photographs of juveniles) and §19.2-390 (reports to be made by police)**

Processing involves taking fingerprints and a photograph and is required when a juvenile is taken into custody and charged with a delinquent act for which, if committed by an adult, is required to be reported to the Central Criminal Records Exchange (CCRE). These charges include:

- Treason
- Any felony
- Any offense punishable as a misdemeanor under 54.1, or
- Any misdemeanor punishable by confinement in jail
  - Except an arrest for §18.2-119 (Trespassing), §18.2-415 (Disorderly Conduct), §20-61 (Nonsupport of Spouse or Child) or §16.1-253.2 (Violation of Protective Order)

Processing can be completed at any precinct 24 hours a day. Juveniles cannot be processed at Central Processing.

If a juvenile is physically arrested for an offense that requires processing and will result in detention, process the juvenile before taking them to Juvenile Intake.

If a juvenile is in custody for an offense that requires processing, but not a detention, process the juvenile while they are in custody. This applies to offenses that will result in diversion.

If a juvenile commits an offense that requires processing and will result in a petition or diversion, but does not involve physical custody, ask the parent or guardian if the child can be made available for processing prior to court.

- If that is a possibility, process them at one of the precincts.
- If not, the process will be executed following the adjudication of the case, only if ordered by the court.

Processes resulting from a matter that will be diverted are maintained for 60 days and then destroyed. During that time, the fingerprints can be used for comparisons to potentially solve other cases. If no petition is filed within 60 days, if the juvenile is not adjudicated delinquent or found guilty, if the juvenile is found not guilty, or if the juvenile is adjudicated delinquent or found guilty of an offense that would not require fingerprints to be forwarded to the Central Criminal Records Exchange, the fingerprints will be ordered destroyed.

**Juvenile Intake (CALEA 44.2.2 D)**

Juvenile Intake reviews all complaints and determines whether there is probable cause, if the facts are sufficient to send the matter to court or if the juvenile is best served through a diversion. They are open Monday - Friday from 0800-1700, but an Intake Officer is in the building from 1700-2000 for emergencies. Officers wishing to sign petitions after 1700 are asked to call in advance and make an appointment. The best time to sign petitions is 1300-1600, Monday through Friday. The public number for Juvenile Intake is 385-4361. Police officers can call 385-4426 during the day and 385-4084 during the evening. The on-duty Intake Officer can be reached by contacting the dispatcher.

During weekend and non-business hours, the on-duty Intake Officer must respond from home to order a juvenile into detention. It is requested that officers call the on-duty Intake Officer **40 minutes** prior to the transport of the juvenile to intake and coordinate an arrival time at intake.

Juvenile Intake Officers utilize the Virginia Department of Juvenile Justice Detention Assessment Instrument (DAI) in making detention decisions. This assessment tool utilizes a point scale and a juvenile must score 15 points or higher to be placed in secure detention. It is extremely important for officers to provide all details of a case to Intake Officers so an accurate assessment can be completed.

- These cases result in AUTOMATIC DETENTION:
  - Abduction
  - Aggravated sexual assault
  - Aggravated sexual battery
  - Arson of an OCCUPIED dwelling
  - Assault on LEO
  - Brandishing a firearm on school property
  - Burglary of an OCCUPIED dwelling
  - Carjacking
  - Discharging a firearm from a motor vehicle
  - Discharging a firearm in or at an occupied building
  - Escape from a secure detention home by force
  - Extortion
  - Forcible sodomy
  - Inanimate object sexual penetration
  - Larceny from a person
  - Larceny of a firearm
  - Malicious wounding
  - Manslaughter
  - Murder
  - Possession of a sawed-off shotgun
  - Rape
  - Receiving a stolen firearm

- Reckless driving/disregarding police *with* bodily injury
- Robbery
- Taking indecent liberties with a child
- These cases could result in shelter care placement, but placement is not automatic. The intake officer should be contacted when the juvenile is in the custody and the officer is requesting placement.
  - Distribution of Schedule I or II controlled substance
  - Distribution of Schedule I, II or IV controlled substance or marijuana on school property
  - Possess Schedule I or II controlled substance with intent to sell
- These matters will not score for automatic placement on their own and an assessment will need to be completed. The juvenile may score higher with additional information on past history or with certain additional charges. The intake officer should be contacted when the juvenile is in custody and the officer is requesting placement.
  - Arson of an unoccupied dwelling
  - Auto theft
  - Breaking and entering
  - Burglary of an unoccupied dwelling
  - Domestic assault
  - Grand larceny
  - Possession of burglary tools
  - Possession of Schedule I or II controlled substance, w/o intent

### **Juveniles and Schools**

It is the policy of the Virginia Beach Public Schools that police officers are not to utilize school time to interview students, unless:

- The offense occurred on school property.
- Failure to take immediate action would compromise the safety of the school.
- Swift police action would be impeded.
- The student is a victim (or sibling of a victim) of child abuse or neglect.
  - Virginia State Code §63.2-1518 permits any person required to investigate allegations of child abuse or neglect to talk to any child suspected of being abused or neglected, or to any of his or her siblings without the consent of and outside the presence of his or her parents, guardian, legal custodian, or other person standing in loco parentis, or school personnel.

A School Resource Officer should be utilized for guidance with these issues when available.

**Truants (CALEA 44.2.2 A)**

A truant is a student who is absent from school without permission. Since many daytime burglaries and larcenies are committed by truants, it is necessary for the department to document contact with truants and keep accurate records of such contacts. For that reason, when an officer encounters a juvenile who is truant, the following procedure shall be followed:

- Complete a PD-180 (Arrest/Detention Sheet)
  - Truant: 16.1-241(A)(1)
  - Habitual Truant: 16.1-241 (A)(1)
- Disposition should be (3) Referred to Intake for Diversion
- Forward the PD-180 to the PDO for entry into Pistol
- Contact the parent or guardian and document who was contacted (this can be done on a CADS comment update). If unable to reach a parent or guardian, document this as well.
- Return the truant to his or her school and turn the truant over to an SRO if available or to the school principal or his/her designee.

**Emancipated Juveniles**

According to 16.1-333, a minor 16 years of age or older can be emancipated if he or she meets one of the following criteria and successfully completes the petition process under 16.1-331:

- The minor has entered into a valid marriage, whether or not that marriage has been terminated by dissolution;
- The minor is on active duty with any of the armed forces of the United States of America;
- The minor willingly lives separate and apart from his or her parents or guardians, with the consent or acquiescence of the parents or guardians, and that the minor is or is capable of supporting himself or herself and competently managing his or her own financial affairs.

Once a petition for emancipation is approved, the minor will receive a copy of the petition. The minor can then receive an identification card from the Department of Motor Vehicles that contains their photograph, a statement that the minor is emancipated, and a listing of all effects of the emancipation order (16.1-334.1).

Under 16.1-334, an order that a minor is emancipated shall have the following effects:

- The minor may consent to medical, dental, or psychiatric care, without parental consent, knowledge, or liability;
- The minor may enter into a binding contract or execute a will;
- The minor may sue and be sued in his own name;

- The minor shall be entitled to his own earnings and shall be free of control by his parents or guardian;
- The minor may establish his own residence;
- The minor may buy and sell real property;
- The minor may not thereafter be the subject of a petition under this chapter as abused, neglected, abandoned, in need of services, in need of supervision, or in violation of a juvenile curfew ordinance enacted by a local governing body;
- The minor may enroll in any school or college, without parental consent;
- The minor may secure a driver's license under without parental consent;
- The parents of the minor shall no longer be the guardians of the minor;
- The parents of a minor shall be relieved of any obligations respecting his school attendance;
- The parents shall be relieved of all obligation to support the minor;
- The minor shall be emancipated for the purposes of parental liability for his acts;
- The minor may execute releases in his own name;
- The minor may not have a guardian ad litem appointed for him pursuant to any statute solely because he is under age eighteen; and
- The minor may marry without parental, judicial, or other consent.
- The acts done when such order is or is purported to be in effect shall be valid notwithstanding any subsequent action terminating such order or a judicial determination that the order was found to be null and void (*void ab initio*).

If an officer is dealing with an emancipated minor, there is no requirement to notify the parents. A misdemeanor or traffic charge for an emancipated minor will still be heard in Juvenile and Domestic Relations Court.

### **Magistrate**

While Juvenile Intake Officers are the primary judicial officers when dealing with juvenile offenders, the magistrate may be used in the following situations:

- On an appeal from the decision of a Juvenile Intake Officer.

- When a juvenile is in need of service or delinquent and the court is not open and the Juvenile Intake Officer is not reasonably available.
- Once a juvenile has been tried as an adult in Circuit Court, all future charges must be on a warrant. Future charges will not be tried in JDRC.

The magistrate is still responsible for issuing court orders (ECO/TDO) regarding the mental health of juveniles.

## **Section IV: Additional Information/Resources and Juvenile Intake Forms Examples**

### **Additional Information/Sources:**

*Source:* Ann Adalist-Estrin, Director, National Resource Center for Children and Families of the Incarcerated, Children of Prisoners Library, Copyright FCN 2004.

*Source:* National Center for Children Exposed to Violence

Source: Adapted from Oregon Department of Corrections, *How to Explain...Jails and Prisons...to Children, A Caregiver's Guide*, 2003.

Drizin, S., et al. (2012). *Reducing Risks: An Executive's Guide to Effective Juvenile Interview and Interrogation*, The Office of Juvenile Justice and Delinquency Prevention, 1-2.

“Interview and Interrogation of Juveniles” Training Key® #652, International Association of Chiefs of Police, Alexandria, VA.

Tepfer, J.A., Nirider, L.H., and Tricarico, L. (2010). “Arresting Development: Convictions of Innocent Youth,” *Rutgers Law Review* 62, No. 4, 887–941.

Samuel Gross et al. (2005). “Exonerations in the United States 1989 through 2003,” *Journal of Criminal Law and Criminology* 95, No. 2, 523-560.

Rogers, R., Hazelwood, L., Sewell, K., Shuman, D., Blackwell, H. (2008). The Comprehensibility And Content Of Juvenile Miranda Warnings. *Psychology, Public Policy, and Law*, Vol. 14, No. 1, 63-87.

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National Center for Policy Analysis (NCPA). [www.ncpa.org/sub/dpd/index.php?Article\\_ID=797](http://www.ncpa.org/sub/dpd/index.php?Article_ID=797)

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Streib, V. 1987. *Death Penalty for Juveniles*. Bloomington, IN: Indiana University Press.

VBPD Constitutional Issues Field Guide

VBPD General Order 6.07, Juvenile Legal Issues

VBPD General Order 6.03, Interview and Interrogation

PD-9  
Rev: 05/08

**Affidavit of Probable Cause**  
*City of Virginia Beach*  
Juvenile & Domestic Relations Court

Reference (name): \_\_\_\_\_  
\_\_\_\_\_

I, the undersigned complainant, this day make oath that I have reason to believe that the accused, on or about the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in the City of Virginia Beach, did commit the following offense(s) of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

My belief is based on the facts of which I have personal knowledge, or on facts which have been conveyed to me by a reliable person, as stated forthwith:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above statements are true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Complainant's Signature

Sworn/affirmed and signed before me the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Intake Officer

**SAMPLE**

PD-9  
Rev: 05/08

**Affidavit of Probable Cause**  
*City of Virginia Beach*  
Juvenile & Domestic Relations Court

Reference (name): Juvenile John Doe

I, the undersigned complainant, this day make oath that I have reason to believe that the accused, on or about the 15th day of June, 2009, in the City of Virginia Beach, did commit the following offense(s) of: Attempt Robbery (18.2-58).

My belief is based on the facts of which I have personal knowledge, or on facts which have been conveyed to me by a reliable person, as stated forthwith:

On 06/15/09 at approximately 2255 hours, the victim, Christopher A. Simpson (25-years of age) was walking home from work when he observed several black males behind a 7-Eleven. Simpson passed the group and they began following him towards the 600 block of Redkirk Lane. The group attacked Simpson, punching and kicking him, and demanded his property, which he dropped. Simpson was able to break free and ran off, calling the police on his cell phone. The suspects heard the victim calling the police and began to flee on foot when they approached him. Doe was detained; however, the victim could not positively identify any of the suspects who attacked him. Officer A. B. Cee charged Doe for Obstruction of Justice because he was so uncooperative. Officer Cee Mirandized Doe, who eventually admitted being with the suspects, following the victim and being preent during the attempt robbery, but would not admit taking part in it. After he was dropped off to his family, Doe, who is a habitual runaway, ran away and as of this time his location is unknown.

The above statements are true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Complainant's Signature

Sworn/affirmed and signed before me the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Intake Officer

**SAMPLE**

**AFFIDAVIT/CERTIFICATION OF PARENTAL IDENTITY OR LOCATION**  
Commonwealth of Virginia VA. CODE § 16.1-263

Case No. \_\_\_\_\_

Juvenile & Domestic Relations District Court

*V. / In re* \_\_\_\_\_

**AFFIDAVIT OF LOCATION**

I swear or affirm that \_\_\_\_\_, a juvenile, is charged with a delinquent act, crime, status offense or traffic infraction or is alleged to be in need of services or supervision, and that –

- the location of the juvenile’s  mother  father  guardian is not reasonably ascertainable; OR
- the location or mailing address of the juvenile’s  mother  father  guardian, believed to be outside the Commonwealth is not reasonably ascertainable.

Juvenile Probation Officer  Law Enforcement Officer

Badge Number, Agency & Jurisdiction

Commonwealth of Virginia, City/County of \_\_\_\_\_

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Intake Officer  Notary Public  Clerk/Deputy Clerk

**CERTIFICATION OF PARENTAL IDENTITY OR LOCATION**

Pursuant to Va. Code § 16.1-263(E)(i), I certify that the identity of the  mother  father  guardian of \_\_\_\_\_, a juvenile, is not reasonably ascertainable.

Pursuant to Va. Code § 16.1-263(E)(ii), I certify that this case involves an allegation that \_\_\_\_\_ a juvenile, has committed a delinquent act, crime, status offense or traffic infraction or is alleged to be in need of services or of supervision, and

- the location of the juvenile’s  mother  father  guardian is not reasonably ascertainable; OR
- the location or mailing address of the juvenile’s  mother  father  guardian, believed to be outside the Commonwealth is not reasonably ascertainable.

\_\_\_\_\_ Date

\_\_\_\_\_ JUDGE

PD-180CL  
Rev: 09/09

**Juvenile Detention Worksheet**  
***Drop-Off Checklist***

The below information should be completed by the arresting officer to insure all required information is available for Juvenile Intake. An incomplete form may result in petitions not being filed. Check the appropriate categories below and provide your *email*, and *cellular number*.

***Intake must have a means of immediate contact with you, and you must be able to return the same day to use this service.***

- \_\_\_\_\_ Police Form PD-180 (Juvenile Detention Worksheet) is attached.
- \_\_\_\_\_ Juvenile’s name, DOB, SSN and address are listed on Police Form PD-9.
- \_\_\_\_\_ Both parents are listed on Police Form PD-9.
- \_\_\_\_\_ If both parents are NOT listed on Police Form PD-9, complete the Affidavit/Certification of Parental Identity or Location (Court Form DC-509).
- \_\_\_\_\_ Affidavit is Attached
- \_\_\_\_\_ Charges are listed on the Affidavit
- \_\_\_\_\_ Body of Affidavit is complete.
- \_\_\_\_\_ Email: \_\_\_\_\_ Cellular Number: \_\_\_\_\_
- \_\_\_\_\_ Will be returning today to sign Petition(s)