

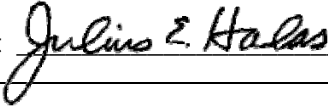


**Department of Financial Services  
Bureau of Fire and Arson Investigations  
STANDARD OPERATING PROCEDURE**

	Title:		Policy #
	<b>Juvenile Procedures</b>		2.6.6
	Amends:	Rescinds:	Effective Date:
N/A	Juvenile Firesetters 2.1014	09/22/2009	
Review Date:	Review Date:	Review Date:	

Approved:  Chief John Corbett  Director Julius Halas

**I. Purpose**

The purpose of this directive is to establish guidelines for proper handling of juvenile-related matters that have been brought to the attention of the Bureau.

**II. Policy**

It is the policy of the Bureau that all juveniles will be provided the protections afforded them under the law while safeguarding the peace, dignity and safety of the public at large. All members are required to handle juvenile matters, both criminal and non-criminal in nature, consistent with this directive.

**III. Authority**

Chapter 985, Florida Statutes

**IV. Definitions**

- A. Abandoned or Abandonment – A situation in which the parent or legal custodian or caregiver of a child, while being able, makes no provision for the child’s support and has failed to establish or maintain a substantial and positive relationship with the child.
- B. Abuse – Any willful act or threatened act that results in any physical, mental or sexual injury or harm that causes or is likely to cause the child’s physical, mental or emotional health to be significantly impaired. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.
- C. Child in Need of Services – A child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice (DJJ) or the Department of Children and Family Services (DCF) for an adjudication of dependency or delinquency. The child must also be found:

1. To have persistently run away from his or her parents or legal custodians despite reasonable efforts to remedy the conditions contributing to the behavior;
  2. To be habitually truant from school despite reasonable efforts to remedy the situation; or
  3. To have persistently disobeyed the reasonable and lawful demands of his or her parents or legal custodians, and to be beyond their control.
- D. Community Arbitration – A system by which children who commit delinquent acts may be dealt with in a speedy and informal manner at the community or neighborhood level.
- E. Custody Order – An order of the circuit court, issued pursuant to chapter 985, Florida Statutes, instructing that a child be taken into custody.
- F. Delinquent Act or Violation of Law – A violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.
- G. Delinquent Child – A child who is found by a court to have committed a violation of law or to be in direct or indirect contempt of court.
- H. Dependent Child – A child who:
1. Is abandoned, abused or neglected by his or her parent(s) or other custodian(s);
  2. Has been surrendered to the DCF or a licensed child-placing agency for the purpose of adoption;
  3. Has no parent or legal custodians capable of providing supervision and care;
  4. Is at substantial risk of imminent abuse, abandonment or neglect by his or her parent(s) or custodian.
- I. Detention Care – The temporary care of a child in secure, non-secure, or home detention, pending a court order.
- J. Involuntary Admission Criteria – The criteria used to determine if there is a good faith reason to believe that a child is substance abuse impaired and, because of such impairment, has lost the power of self-control with respect to substance use; and either
1. Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or herself or another; or

2. Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that the person is incapable of appreciating his or her need for such services and of making a rational decision in regard thereto; however, mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services.
- K. Juvenile or Child – An unmarried person under the age of eighteen (18) who has not been emancipated by the court, and who has been found or alleged to be dependent, or in need of services, or from a family in need of services, or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.
- L. Juvenile Assessment Center (JAC) – A facility designated by the DJJ to provide central intake and screening services for children referred to DJJ and includes delinquency intake, positive identification of children, detention admission screening, needs assessment, physical and mental health screening.
- M. Legal Custody or Guardian – A legal status created by court order or letter of guardianship which vests in an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.
- N. Neglect of a Child – A caregiver's failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child or a caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person. Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.
- O. Secure Detention – Temporary custody of a child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.
- P. Taken into Custody – The status of a child when temporary physical control over the child is attained by a person authorized by law, pending the child's release, detention, placement, or other disposition.
- Q. Truant – A child six to sixteen years old which did not attend or left school without the knowledge of a school official, parent, or legal guardian.

## V. Procedures

- A. To establish a uniform method of documentation of the origin and cause when a determination has been made that a fire was started by a juvenile the following procedures shall be followed:
1. When a sworn member has determined that a juvenile started a fire and the juvenile is under the age of seven (7) years, the sworn member may rule the cause of the fire as incendiary, if applicable, for reporting purposes only. The sworn member shall refrain from criminally charging any juvenile under the age of seven (7) years old. Upon case completion the fire shall be closed as Exceptionally Cleared Juvenile.
  2. When the sworn member has determined that a fire was started by a juvenile, and the juvenile is between the ages of seven (7) and thirteen (13), the sworn member may rule the fire to be incendiary. The sworn member must take into consideration the ability of the juvenile to understand the moral significance of the behavior, as well as the maturity of the juvenile, in order to rule the cause of the fire as incendiary.
    - a. This guideline is based on the presumption that children between the ages of seven (7) and thirteen (13) are presumed to be incapable of criminal responsibility.
    - b. The prosecutor may choose to file an arson charge if there is evidence of extraordinary maturity and understanding of the significance of the behavior.
    - c. Upon case completion the fire shall be closed as Exceptionally Cleared Juvenile, unless the juvenile is arrested. If the juvenile is arrested the case shall be Closed By Arrest.
  3. When the sworn member has determined that a fire was intentionally set by a juvenile and the juvenile is thirteen (13) years or older, the sworn member shall rule the fire to be incendiary. This is based on the presumption that any person thirteen (13) or older is criminally responsible. Upon case completion the fire shall be closed Cleared By Arrest.
  4. The officer, regardless of the ruling on the cause of the fire, shall refer the juvenile to a local firesetters intervention program, if available.
- B. A child who has committed a delinquent act or violation of law may be taken into custody under the following circumstances:
1. Pursuant to an order of the circuit court. If the juvenile is under a custody order, he or she cannot be released;
  2. A lawful arrest pertaining to a delinquent act or violation of law;

- a. Sworn members shall follow the arrest guidelines provided in SOP 2.6.3 Arrests and Arrest Alternatives.
  - b. If the delinquent act or violation of law would be a felony if committed by an adult or involves a crime of violence, the sworn member shall complete the Notification of Juvenile Taken Into Custody form and immediately notify the district school superintendent, or the superintendent's designee, of the school district with educational jurisdiction of the child;
3. For failing to appear at a court hearing after being properly noticed;
4. For violation of the conditions of the child's:
  - a. Probation;
  - b. Home detention;
  - c. Post-commitment probation; or
  - d. Conditional release supervision.
- C. The sworn member taking any child who has committed a delinquent act or violation of law into custody: (CFA 19.01 "A")
  1. Shall attempt to notify the parent, guardian, or legal custodian of the child. Attempts to notify shall continue until successful or until the child is delivered to a juvenile probation officer pursuant to Sections 985.14 or 985.145, Florida Statutes. (CFA 19.03 "B")
  2. Shall arrange the transport of the child to the nearest JAC unless emergency medical treatment is required; (CFA 19.03 "D")
  3. Shall immediately contact EMS or notify a physician if there are indications of physical injury or illness or the child shall be taken to the nearest available hospital for emergency care;
  4. Shall search the child for weapons and contraband prior to being transported; (CFA 29.02)
  5. Shall handcuff the child;
  6. Shall not, except in an emergency situation, transport a child with adult prisoners unless the adult is believed to be involved in the same offense as the child; (CFA 29.01 M "C")

7. Shall, upon arrival at the receiving facility, brief the facility staff about any pertinent information, precautions, and recommendations for the child. The sworn member shall not leave the child unattended at any time while at the processing area until the child is accepted into the receiving facility; and
  8. Within twenty-four (24) hours, excluding Saturdays, Sundays and legal holidays, after issuing a Notice to Appear, the sworn member shall file a copy of the probable cause affidavit or written report with the clerk of the circuit court for the county in which the child is taken into custody.
- D. Release or delivery of a child who has committed a delinquent act or violation of law from custody:
1. Unless otherwise ordered by the court and unless there is a need to hold the child, a sworn member taking a child into custody shall attempt to release the child as follows:
    - a. To the child's parent, guardian, or legal custodian or, if they are unavailable, unwilling or unable to accept custody of the child, then the child may be released to any responsible adult;
      - 1) The sworn member may conduct a criminal history background check of the person to whom the child is to be released prior to releasing the child to anyone other than a parent, guardian or legal custodian; and
      - 2) The child may not be released to a person who has a prior felony conviction, or a conviction for child abuse, drug trafficking, or prostitution.
    - b. To a DJJ-approved shelter or to an authorized agent of the DCF if there is probable cause to believe that the child is a dependent child;
    - c. To a hospital if the child is believed to be suffering from a serious physical condition which requires prompt diagnosis or treatment;
    - d. To a designated public receiving facility if the child is believed to be mentally ill;
    - e. To a designated public receiving facility if the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse;
    - f. To a JAC equipped and staffed to assume custody of the child for the purpose of assessing the needs of the child;

- g. Temporarily (not to exceed 6 hours) to a secure booking area of a jail or other facility used for the detention of adults, for the purpose of fingerprinting or photographing or awaiting appropriate transport to DJJ or to a designated shelter; or
        - h. To a diversion program.
  - 2. If a child is released, the sworn member taking the child into custody shall make a written report or probable cause affidavit to the appropriate juvenile probation officer within twenty-four (24) hours after such release. The written report or probable cause affidavit shall:
    - a. State the facts and the reason for taking the child into custody;
    - b. Identify the child;
    - c. Identify the parents, guardian, or legal custodian;
    - d. Identify the person to whom the child was released; and
    - e. Contain sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law or a delinquent act.
- E. Child to be placed in detention care:
  - 1. Under no circumstances shall a sworn member authorize the detention of any child in a jail or other facility used for the detention of adults, without an order of the court.
  - 2. The sworn member shall complete and present his or her investigation of the offense to the appropriate state attorney's office within eight (8) calendar days after placement of the child in secure detention. The investigation shall include, but is not limited to:
    - a. Police reports and supplemental police reports;
    - b. Witness statements; and
    - c. Evidence collection documents.
- F. Alternatives to physical custody can be used when dealing with a child that has committed a delinquent act or violation of law and may include the following:
  - 1. Release the child with:
    - a. No further action taken. In these cases, a parent or other custodian should be notified by the sworn member;

- b. Issuance of a Juvenile Civil Citation pursuant to Section 985.12, Florida Statutes, in jurisdictions that have established that program;
- c. Issuance of a Complaint for Community Arbitration pursuant to section 985.12, Florida Statutes, in jurisdictions that have established that program;
  - 1) Cases which may be referred to community arbitration are limited to those which involve violations of local ordinances, misdemeanors and third degree felonies not involving personal violence, grand theft auto, or the use of a weapon; and
  - 2) A child who has been the subject of at least one prior adjudication or withhold of adjudication for any first or second degree felony, any third degree felony involving personal violence, grand theft auto, or the use of a weapon shall not be eligible for community arbitration.
- d. In misdemeanor cases wherein a notice to appear is justified, the child may be released as described above. (CFA 19.01 "B")

G. Taking an alleged dependent child into custody:

- 1. A dependent child may only be taken into custody by a sworn member if he or she has probable cause to support that:
  - a. The child has been abused, neglected, abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;
  - b. The parent or legal custodian of the child has materially violated a condition of placement imposed by the court; or
  - c. The child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.
- 2. If a sworn member takes the child into custody he or she shall:
  - a. Release the child to one of the following:
    - 1) The parent or legal custodian of the child;
    - 2) A responsible adult approved by the court when limited to temporary emergency situations;
    - 3) A responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over

a non-relative placement when this is in the best interest of the child; or

- 4) A responsible adult approved by the DCF.
- b. The alternative to releasing the child is to deliver him or her to an authorized agent of the DCF, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent; and
- c. The sworn member shall make a full written report to the DCF within three (3) days after such release or within three (3) days after delivering the child to the DCF.

H. Taking a child in need of services into custody: [CFA 19.02A]

1. A child in need of services may be taken into custody by a sworn member when:
  - a. The sworn member has reasonable grounds to believe that the child has run away from his or her parents, guardian, or other legal custodian; or
  - b. The sworn member has reasonable grounds to believe that the child is not in the presence of his or her parent or legal guardian and is absent from school without authorization or is suspended or expelled;
    - 1) A sworn member may take the child into custody for the purpose of delivering the child without unreasonable delay to the appropriate school system site.
    - 2) If the student is suspended or expelled from school without assignment to an alternative school placement, the sworn member shall deliver the child to the parent or legal guardian, to a location determined by the parent or guardian; or
    - 3) When a parent or guardian cannot be immediately located, the child may be taken to a designated truancy interdiction site.
  - c. The child voluntarily agrees to or requests services pursuant to chapter 984, Florida Statutes, or placement in a shelter.
2. A sworn member taking the child into custody shall:
  - a. Release the child to a parent, guardian, legal custodian, or responsible adult relative;

- b. Release the child to a DJJ-approved provider if the sworn member has reasonable grounds to believe the child has run away from a parent, guardian, or legal custodian or is beyond the control of the parent, guardian, or legal custodian; or is truant;
  - c. Following such release, the person taking the child into custody shall make a full written report to the intake office of the DJJ within three (3) days; or
  - d. Deliver the child to the DJJ, stating the facts about why the child was taken into custody and providing sufficient information to establish probable cause that the child is from a family in need of services.
- I. Child in need of substance abuse services:
  - 1. A sworn member may take a child into protective custody when the child appears to meet the involuntary admission criteria and is brought to the attention of the sworn member or in a public place.
  - 2. A child in circumstances that justify protective custody may consent to be assisted by a sworn member to the child's home, to a hospital, or to a licensed detoxification or addictions receiving facility, whichever the sworn member determines is most appropriate.
  - 3. If a child is in circumstances that justifies protective custody fails or refuses to consent to assistance and a sworn member has determined that a hospital or a licensed detoxification or addictions receiving facility is the most appropriate place for the child, the sworn member may, after giving due consideration to the expressed wishes of the child, take the child to a hospital or to a licensed detoxification or addictions receiving facility against the child's will but without using unreasonable force. The sworn member shall notify the nearest relative of the child.
- J. Child taken into custody for violation of a curfew:
  - 1. Any child taken into custody for a curfew violation shall be transported immediately to a police station, an approved curfew program facility, or the location specified by local authorities.
  - 2. The sworn member shall attempt to contact the parent of the child and, if successful, shall request that the parent take custody of the child and shall release the child to the parent.
- K. Interviews and interrogations of a child:
  - 1. Custodial interrogation of a child may be conducted under the following conditions:

- a. A reasonable attempt shall be made to contact the parent or legal guardian to request their presence for interview purposes. The member shall apprise them of the condition of their child in custody. (CFA 19.04A) Parents or guardians may request that questioning be delayed until they arrive (within a reasonable amount of time);
  - b. Parents or guardians may be present during questioning, if the child consents;
  - c. The atmosphere should be non-intimidating to the child;
  - d. Miranda warnings should be given prior to any custodial interrogation. (CFA 19.03 A) The "rights" are individual rights. The parents or guardian cannot make the decision for the child to invoke or waive his or her Miranda Rights;
  - e. The interrogation of a juvenile suspect will be for a reasonable length of time to include breaks and rest periods, allowing time for drinks, food and restroom breaks;
  - f. To prevent allegations of coercion, there shall be no more than two interviewers during any session; (CFA 19.04 B) and
  - g. The interrogating sworn member will explain agency and Juvenile Justice System procedures to the child.
2. If the parents or guardians of the child are interviewed, they should be interviewed separately.
- L. Pursuant to Section 39.306, Florida Statutes, the jurisdictionally responsible county sheriffs' offices and local police departments have the lead in conducting any potential criminal investigations arising from allegations of child abuse, abandonment or neglect.
1. Sworn members who become aware of or are in any way involved in a case wherein there are allegations of child abuse, abandonment or neglect shall:
    - a. Notify chain-of-command; and
    - b. Notify the Florida Abuse Hotline Information System at 1-800-962-2873 regarding incidents of "child abuse or neglect". Reports can also be forwarded to DCF via the voice mail system at 1-800-770-0953 or by fax at 1-800-914-0004.
  2. Sworn members will complete an ACISS report on all cases involving allegations of child abuse, abandonment or neglect.

- M. Any sworn member who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to DCF via the Florida Abuse Hotline Information System. (CFA 19.02 B")
1. The sworn member shall provide their name to the hotline; and
  2. Pursuant to Section 39.203, Florida Statutes, any sworn member reporting in good faith any instance of child abuse, abandonment, or neglect to the DCF, is immune from any civil or criminal liability, which might otherwise result by reason of such action.
- N. Records Management – Photographs and fingerprints of juveniles must be filed separately from other records and marked "Juvenile Confidential". Photographs may be shown to victims or witnesses for the purpose of conducting criminal investigations. Photographs and fingerprints are retained and purged in the same manner as any other juvenile record.

VI. **Index**

Abuse  
Child  
Juvenile  
Neglect  
Records

VII. **Forms**

Notification of Juvenile Taken Into Custody  
Miranda Waiver