



# WICHITA POLICE DEPARTMENT

## POLICY MANUAL



### POLICY 305

### JUVENILE ARRESTS

#### I. PURPOSE

The Wichita Police Department is committed to the development and perpetuation of programs designed to prevent and control 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 its young people. The department should also cooperate actively with agencies, public or private, that can be of assistance in deterring and controlling juvenile delinquency. Officers are encouraged to guide, mentor and coach youth.

It is generally recognized juveniles who engage in anti-social conduct present different problems to society than do adults who engage in similar activity, and there is, therefore, a modification of police procedures in handling *juvenile offenders*. This special procedure is based on the concept the *juvenile offender* is often not yet hardened and may be more easily influenced to lawful conduct. There is no question the attitude and actions of the police can have a considerable impact on the first time offender. How the offender is treated by the police can make a lasting impression. Officers are encouraged to use their discretion when handling minor offenses involving a juvenile where there is no victim(s) to pursue charges. At the same time, it must be remembered the hardened juvenile criminal can be just as dangerous as an adult.

#### II. PROCEDURES

##### A. Interrogating Juveniles

Should an officer suspect a juvenile has committed a crime to the extent an interrogation becomes necessary, the juvenile shall be advised of Miranda Rights.

1. Officers shall not interrogate any juvenile under fourteen (14) years of age without first obtaining consent from the juvenile's parent(s)/custodian(s). If one parent/custodian consents to the interview but one parent/custodian objects, interrogation should not start, or if started it should cease immediately.
  - a. The parent(s)/custodian(s) shall be informed by the officer of the nature of the investigation before the interrogation takes place.
  - b. If the parent(s)/custodian(s) consents to the interview, they have the right to be present before any questioning unless that right is waived.
  - c. If the parents(s)/custodian(s) consent to the interview and are present at the time the juvenile's rights are read, the officer shall read and explain the rights to both the juvenile and the parent(s)/custodian(s).

2. Miranda for juveniles ages fourteen (14) through seventeen (17) is handled the same as for adults.

**B. Questioning Juveniles at School**

When arriving at a school facility to question or take a student into custody or when already on the campus of a school investigating an act of a criminal nature involving a pupil of the school:

1. Unless immediate action upon arrival is deemed necessary, officers will first contact the building principal or designee prior to contacting a pupil regardless of whether the pupil is in the building or any other part of the school campus. In any event, the building principal or designee shall be contacted as soon as possible.
2. For a Wichita Public school facility, in a non-emergent situation, the officer shall sign into the visitor management system with officer's name and name of the student being contacted. If not in uniform, the officer shall provide police identification.
3. When the pupil is a suspect in a criminal investigation, only the officer or detective will be involved in the interview. At no time will a school administrator be involved in questioning a student during a criminal investigation.
4. Department members will not be involved in the administrative investigation conducted by the school administration.

**C. Questioning Juveniles at Juvenile Detention Facility (JDF)**

When interviewing a juvenile at JDF, Wichita Police Department personnel will:

1. Give 30 minutes advance notice to the facility by calling 660-9760 and notifying a duty supervisor.
2. Advise supervision what information should be relayed to the juvenile.
3. Conduct the interview in a room specifically designated as an interview room.
4. Notify the facility if you are not going to be able to arrive for the interview if advance notice was given.

**D. Required Information For Arrest/Incident Report:**

The following information is required to be included in the Incident Report/Arrest Report whenever a juvenile is questioned as a suspect, *NTA*'d, *ATA*'d or transported to the Juvenile Intake and Assessment Center (JIAC):

1. Identifying information on parent(s)/custodian(s);
2. Location(s) where juvenile(s) was/were taken into custody;

3. If the parent(s)/custodian(s) was/were notified, and if applicable, the time and date;
4. To whom juvenile(s) was/were released;
5. Complete physical description of each juvenile.
6. Whenever a *juvenile offender* is involved in a case, a statement of the facts of the case shall be written in the narrative section of the Incident Report. This statement shall include sufficient information, if available, to draw a juvenile petition without additional follow-up investigation.

**E. Arrest Approval/Parental Notification Required**

All juvenile arrests require approval from a commissioned supervisor prior to a juvenile being transported. The name of the supervisor approving the arrest shall be noted in the officer's Incident / Arrest Report. The arresting officer is also responsible for notifying the parent(s)/custodian(s) that their child is in police custody, and all such notifications will be made promptly. The parent/custodian contact (or attempt to contact) information shall also be documented in the officer's Incident / Arrest Report. The arresting officer will notify a supervisor if contact cannot be made with the parent(s)/custodian(s).

**F. Searching/Handcuffing/Transporting Arrested Juveniles**

All officers shall follow the Departmental guidelines set forth in Policy 302 - Booking of Prisoners & UCC/NTA Procedures in regard to searching, handcuffing, and transporting arrested juveniles.

1. Juveniles, 14 years of age or older, should be handcuffed on any misdemeanor or felony arrest or when their actions amount to a reasonable suspicion the suspect may have a desire to escape, injure themselves, injure the officer or destroy property.
2. Juveniles under 14 years of age generally will not be handcuffed unless their acts have amounted to a dangerous felony or when they are of a state of mind which suggests a reasonable probability of their desire to escape, injure themselves, the officer, or to destroy property. If a Juvenile under the age of 14 is placed in handcuffs and it is determined the juvenile will be released, the officer should notify supervision and document their actions with the appropriate police report.
3. If officers are summoned to schools or residences to deal with children who are experiencing emotional issues or misbehaving, officers should use the least coercive among reasonable alternatives, consistent with preserving public safety, public order and individual liberty, when dealing with these kids. If an officer is summoned to a school and force of any kind is used, which would include handcuffing, a supervisor will be summoned to the scene, a police report will be taken, and the officer involved will complete a use of force report.

**G. Required Records Check of Juveniles**

Officers shall determine whether an arrested juvenile has active warrant(s) or has been remanded to adult status by running a records check through SPIDER, and by calling the JDF Intake at 660-9750.

**H. Juvenile Cases Misdemeanor and Felony: JIAC/JDF OR NTA**

1. An officer may take a juvenile into custody if:
  - a. The offense is committed in view (felony or misdemeanor).
  - b. There is a warrant for the juvenile.
  - c. There is probable cause to believe there is a warrant in this or another jurisdiction.
  - d. There is probable cause to believe the juvenile committed a felony.
  - e. There is probable cause to believe the juvenile committed a misdemeanor AND one of the following can be articulated:
    1. The juvenile will not be apprehended (won't be able to find them).
    2. Evidence will be irretrievably lost.
    3. The juvenile may hurt themselves.
    4. The juvenile may hurt someone else.
    5. The juvenile may be injured.
    6. The juvenile may damage property.
  - f. There is probable cause to believe the juvenile has violated an order for electronic monitoring as a term of probation.
  - g. There is a written statement from a court service officer to take the juvenile into custody because there is a warrant or probable cause of a warrant in another state.
2. The presumption in any case involving a juvenile (felony or misdemeanor) is the juvenile should be released to parents/custodians. A juvenile may be taken to JIAC on any felony or misdemeanor case if the officer can articulate one of the following:
  - a. Release would not be in best interest of child.
  - b. Release would pose a risk to public safety.
  - c. Release would pose a risk to property.
3. In the following situations, the juvenile must be taken to JIAC:

- a. The juvenile is alleged to have committed a Part I crime (because the presumption is there is a risk to public safety).
- b. There is an oral or written verification the juvenile is a fugitive sought for an offense in another jurisdiction, or the juvenile is currently an escapee from a juvenile detention facility.
- c. The juvenile is discovered to have a criminal warrant
- d. A Juvenile *NTA/ATA* would have been issued but a parent/custodian could not be located, or the juvenile or a parent/custodian refused to sign.

**I. Procedure for a City of Wichita Municipal Warrant**

1. If contact is made during regular business hours, the officer will contact a parent/custodian and transport the juvenile to the City Warrant Office. The juvenile will be released to a parent/custodian after processing.
2. If contact is made after regular business hours, the officer will inform the juvenile of the warrant and tell them to contact the City Warrant Office the following business day to get a court date unless the warrant is a City of Wichita DUI or Evade/Elude warrant and has a bond amount, then the juvenile will be transported to JIAC.

**J. Procedure for Release to Parent/Custodian and Issue Juvenile *NTA/ATA***

1. Officer may transport the juvenile to parent/custodian or may wait for parent/custodian at location
2. Officer must complete a KSOR and enter the case immediately with case desk
3. If *NTA*, the juvenile will be listed as Arrestee "A" on KSOR.
4. If *ATA*, the juvenile will be listed as a Suspect "S" on KSOR.
5. Officer must complete entire Juvenile *NTA/ATA* form including affidavit:
  - a. Copies of the Juvenile *NTA/ATA* form will be served upon the juvenile and a parent/custodian at release and both must sign, or the juvenile will be taken to JIAC.
  - b. The officer must inform the juvenile and a parent/custodian that they are required to contact JIAC within 48 hours.
  - c. WPD will retain original Juvenile *NTA/ATA* form.
  - d. Records will distribute copies of the Juvenile *NTA/ATA* to JIAC and the District Attorney's Office (DA).

**K. Criteria for Issuing An Agreement to Appear (Incidents on School Property)**

Juveniles who are taken into custody at a Wichita Public School campus for an offense at a Wichita Public school campus and who meet the following criteria can be issued an Agreement to Appear (*ATA*) in lieu of being transported to JIAC.

1. The juvenile has committed a misdemeanor violation.
2. The juvenile has identification.
3. The juvenile is being cooperative.
4. A juvenile's parent/custodian can be reached and agrees to pick up the juvenile in a reasonable amount of time.

**L. Agreement to Appear Procedure (Incidents on School Property)**

When arrests meet the criteria listed in section K above and it is determined an agreement to appear may be issued, officers shall adhere to the following:

1. Explain to the juvenile and the parent(s)/custodian(s) law enforcement can take the juvenile to JIAC immediately for intake and assessment. Let them know if they agree to make an appointment with JIAC staff as stated on the Agreement to Appear (*ATA*) form and follow-through with the intake and assessment process, the juvenile will be released to the parent(s)/custodian(s) rather than taken to JIAC at that time.
2. Fill out the Agreement to Appear (*ATA*) form and have both the juvenile and a parent/custodian sign the form. The *ATA* form will be available on the police secure portal. WPD maintains the original and copies must be given to the juvenile and a parent/guardian. Records will forward a copy to JIAC and DA.
3. Advise juvenile and parent/custodian to contact JIAC within 48 hours to schedule an assessment and provide the parent/custodian with the *ATA* brochure which can be located at the school.
4. Let the juvenile and the parent(s)/custodian(s) know the District Attorney's Office will be informed of their cooperation in the process. Let them know in any future legal proceedings the juvenile's performance and/or cooperation in regards to this process may be taken into consideration by the DA's office.
5. Complete an Incident Report and cut the case.
6. Records will forward *ATA* to JIAC.

**M. Juvenile Booking Procedure [Not remanded as an adult]:**

If a juvenile between age ten (10) and seventeen (17) is booked for an offense pursuant to section H and has not been previously remanded to adult status, officers shall adhere to the following:

1. When entering JDF or JIAC, an officer shall secure all firearms in either the JDF or JIAC weapon locker or in the locked trunk of the police vehicle before entering the interior portion of the facility.
2. If the juvenile is injured or is to be interviewed, follow the guidelines found in Policy 302-Booking of Prisoners & UCC/NTA Procedures.
3. The officer shall not obtain a mug number from case desk.
4. The juvenile shall be photographed and the officer shall ensure the Incident Number is written on the arrest report.
5. The juvenile shall be fingerprinted in accordance with JIAC procedure.
6. JIAC staff shall put the completed fingerprint cards in the WPD mail. JIAC staff saves all other prints from AFIS to an OnBase system.
7. When a juvenile is taken to JIAC a copy of the Arrest Report shall be left with the staff. When more than one (1) juvenile is detained in the same case, only one (1) copy of the Arrest Report is necessary, provided it contains all the pertinent information.

**N. Fingerprinting/Photographing Juveniles:**

1. According to K.S.A. 38-2313, a juvenile may be fingerprinted and may be photographed only under the following circumstances:
  - a. When booked for a felony;
  - b. When booked for an offense which, if committed by a person 18 or more years of age, would make the person liable to be booked and prosecuted for the commission of a class A or B misdemeanor or assault;
  - c. When booked for any traffic offense found in Section O [not a traffic infraction];
  - d. When previously adjudicated as an adult, pursuant to K.S.A. 38-2347(2), and commits a new misdemeanor or felony offense [see Section P];
  - e. When previously prosecuted as an adult, by reason of K.S.A. 38-2347(2) or by K.S.A. 38-1636, and such prosecution results in a conviction;
  - f. Upon authorization by a Judge of the District Court having jurisdiction over the matter.
2. All fingerprinting and/or photographs may be furnished to another law

enforcement agency if the agency has a legitimate need for them. Dissemination of juvenile fingerprints and photographs to another law enforcement agency must be approved by the Commander of the Records Bureau.

**O. Juvenile Traffic Offense Arrest Procedure:**

Officers may cite juveniles for traffic infractions and traffic misdemeanors and shall adhere to Policy 407-Traffic Arrests & Citations/Parking Citations. The offenses listed below for juveniles age fourteen (14) and above shall be handled in following manner:

1. DUI:
  - a. If the offense is a Misdemeanor DUI the juvenile is arrested and transported to JIAC for processing. This is a modified NTA where the processing occurs at JIAC. Do not complete an NTA form.
  - b. The juvenile shall be issued a mug number. The officer shall obtain the mug number from Records when cutting the case and shall place it on the Arrest Report.
  - c. The juvenile shall be fingerprinted, using the AFIS system with the electronic submittal to the state.
  - d. The officer shall issue a ticket with a daily NTA court date on both the offender copy and original ticket.
  - e. Officer will prepare a KSOR, KSAR, and Assessment & Intake Report (AIR).
  - f. The juvenile will be released to a parent/custodian by LEO after processing unless aggravating factors exist.
  - g. If the DUI is a felony, the officer will treat it as any other state charge and *NTA* or book based on the existence of the aggravating factors.
2. Hit and Run: Juveniles can be issued a traffic citation for non-injury Hit and Run and released. A court date is not to be assigned. Juvenile suspects of injury hit and runs will either be NTA'd or be booked into JIAC depending on whether the factors exist to justify detention.
3. Evade/Elude: Based on the notion a juvenile involved in an Evade/Elude is a danger to the community, the juvenile should be arrested and taken to JIAC for processing. If the officer or supervisor does not believe the juvenile to be a danger, they may follow the *NTA* procedure.
4. Drive on Suspended:

- a. The juvenile will be issued a citation for Drive on Suspended. A court date not be assigned.
  - b. The juvenile shall not be allowed to drive away in the vehicle. The car may be left legally parked or driven by a licensed driver.
  - c. The juvenile must be released to a parent/custodian and not allowed to walk away from the vehicle alone.
  - d. If no one is available to take legal custody of the juvenile, transport the juvenile to JIAC.
5. No proof of insurance: The juvenile will be issued a ticket and allowed to drive away.

**P. Procedure for Juvenile Who Has Been Remanded as An Adult**

When a juvenile is arrested, and a subsequent check through SPIDER reveals the juvenile has been previously remanded as an adult, the officer shall adhere to the following guidelines:

1. The juvenile shall be handled in the same manner as an adult; if the offense requires booking, transport to the Adult Detention Facility. Do not transport him/her to JIAC.
2. The officer must obtain the following information to be given to Records when cutting the case, and also document it in the Arrest Report:
  - a. The journal entry and/or referral number; and
  - b. The date of the referral to adult status.
3. The officer shall complete the booking process in the same manner as for an adult

**Q. Investigations Divisions Responsibilities in Juvenile Cases:**

1. The appropriate Investigations Division supervisor shall assign a juvenile arrest case or *ATA* to a Detective to determine whether sufficient evidence exists [or can be developed] to draw a petition.
2. When it appears there is enough evidence to draw a petition, the detective shall present the case to the Juvenile Division of the District Attorney's Office.
3. The detective who is assigned to a juvenile arrest case in which the juvenile is held at JDF will immediately notify the Juvenile Court Liaison Detective when it becomes known charges will not be filed before the deadline for the detention hearing.

**R. Juvenile Curfew Arrest Procedures:**

1. It is unlawful for any minor under the age of eighteen years to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public palaces or public buildings, places of amusement or entertainment, eating places, vacant lots, or other place unsupervised by an adult having the lawful authority to be at such place during the following periods of time:
  - a. For minors age fifteen and under, between the hours of eleven p.m. on any day and six a.m. of the following day, except on Friday and Saturdays when the hours shall be twelve midnight to six a.m. of the following day;
  - b. For minors age sixteen and seventeen, between the hours of midnight on any day and six a.m. of the following day, except on weekends when the hours shall be one a.m. to six a.m. of any Saturday and Sunday.
2. Juveniles cannot be *NTA*'d or charged criminally with a curfew violation. If they must be taken to JIAC, it is a status offense
3. Before taking any enforcement action, an officer shall ask the offender's age and the reason for being in the public place. The officer shall not take a minor into custody unless the officer reasonably believes an offense has occurred and based on any response and other circumstances no defense as outlined in Chapter 5.52 of the Code of the City of Wichita is present.
4. Once an officer determines a minor is in violation of the City's Curfew Laws, the officer may take the minor into custody, and if so shall complete an Incident report and a Notice of Curfew Violation (WPD form 322-314), contact a parent/custodian, and treat juvenile as a status offender, not a criminal offender.
5. The officer will confirm the minor's personal information and a parent/custodian information and check for prior curfew violations and the date of last violation notating them in the Incident Report. Prior violations will be tracked by WPD and information will be provided by SPIDER.
  - a. If the minor has no previous curfew violations, the officer may:
    1. Complete and sign the Notice of Curfew Violation.
    2. Serve the Written Warning to the parent(s)/custodian(s) when they arrive to pick up the minor.
    3. Cut a case number, complete KSOR and route written warning to records with case number at the top.
6. If the minor has previous curfew violation, the officer shall adhere to the following:

- a. Officers will obtain all prior Notice of Curfew Violations from SPIDER and complete and sign a UCC/NTA at the officer's discretion for each parent/custodian previously served a Notice of Curfew Violation Written Warning. The incident number is to be placed on the UCC.
- b. Officers shall complete a new Notice of Curfew Violation, and after being signed by the parent(s)/custodian(s), the notice shall be attached to the KSOR.
- c. Officers shall document the number of prior violations and the date of last violation in the Incident Report and forward Notice of Curfew Violation to Records with a case number attached.

#### **S. Juvenile Tobacco Violation Procedures**

1. It is an infraction for any **juvenile over 10 years of age and under 18 years of age, to purchase or attempt to purchase, to possess or attempt to possess tobacco products (see definition)** [City Ordinance: 7.60.040(b) / State Statute: purchase: 79-3321(m) / State Statute: possess: 79-3321(n)].
2. Once an officer determines there is an infraction and upon officers discretion enforces the infraction, the officer shall confirm the juveniles' personal information and parent/custodian information.
  - a. If the juvenile is between 10 and 13 years of age, the officer shall:
    1. Draw a case number from dispatch;
    2. Seize and submit any evidence;
    3. Complete a Kansas Standard Offense Report (KSOR);
    4. No citation will be issued, but a report will be completed with the juvenile listed as a suspect;
    5. Route a copy of the KSOR to the Juvenile Court Liaison Officer.
  - b. If the juvenile is between 14 and 17 years of age the officer shall:
    1. Draw a case number from Dispatch;
    2. Seize and submit any evidence;
    3. Complete a Kansas Standard Offense Report (KSOR);
    4. Complete a Wichita Police Department Citation;
      - a. Check the "Other Violations" box;
      - b. Complete the "Other Violations" verbiage: SPECIFY (Purchase or Possess) SPECIFY (*tobacco product* – see definitions) while under 18 y.o.a.;
      - c. Complete the Contrary to Section(s): 7.60.040(b);

- d. Check the Notice to Appear box.
  5. Complete the *NTA* Date and Time information;
  6. Serve the juvenile the Citation/*NTA*;
  7. Have the juvenile sign the Citation/*NTA*.;
  8. If the suspect juvenile refuses to sign the Citation/*NTA*, the officer will write “REFUSED” and still serve the Citation/*NTA*.
3. It is a class B misdemeanor for any person over 10 years of age to sell, give away, or provide *tobacco products* (see definition), to a person under 18 years of age [City Ordinance: 7.60.040(a) / State Statute: 79-3321(1)].
4. Once an officer determines there is a misdemeanor violation, and upon officers discretion enforces the infraction, the officer will confirm the juveniles’ personal information and the parent/custodian information. The officer will contact the parent/custodian and request the parent/custodian meet the officer at their location or make arrangements to meet the parent/custodian at an arranged location. If the parent/custodian cannot be contacted, the juvenile will be transported and booked into JIAC (follow procedures listed in Policy 305 M.).
5. The officer will then:
  - a. Draw a case number from Dispatch;
  - b. Seize and submit any evidence;
  - c. Complete a Kansas Standard Offense Report (KSOR);
  - d. Complete a Wichita Police Department Juvenile Notice to Appear/Agreement to Appear (follow procedures listed in Policy 305 J, K and/or L.).
    1. Offense Description: SPECIFY (Sell, Give away, or Provide) SPECIFY (*tobacco product*- see definition) to a person under 18 y. o. a.;
    2. Kansas Statue Number 79-3321(l);
    3. Complete the probable cause statement, using appropriate verbiage: SPECIFY (Sell, Give away, or Provide) SPECIFY (*tobacco product*- see definition) to a person under 18 y. o. a.;
    4. Sign and add Date/Time.
  - e. Serve the Juvenile Notice to Appear/Agreement to Appear (*NTA/ATA*) to the parent(s)/custodian(s) when they arrive to pick up the juvenile;
  - f. Both the parent(s)/custodian(s) and the juvenile must sign the Juvenile

*NTA/ATA*;

- g. If either the parent(s)/custodian(s) or the juvenile refuse to sign the Juvenile *NTA/ATA*, the juvenile will be booked into JIAC. If booked into JIAC, a Kansas Standard Arrest Report (KSAR) is completed instead of the Juvenile Notice to Appear/Agreement to Appear.

**T. Juvenile Detention Log Entry:**

1. Anytime a juvenile is placed into a secure area (Investigations Division interview room, Field Services Bureau holding cells, etc.) the information concerning the detention must be entered into the Juvenile Secure Custody Detention Log. When the detention is in an environment controlled by Investigations Division personnel the case detective will be responsible for the input of the data. In all other detention, the arresting officer or supervisor will be responsible for the input.
2. The information will be entered into the log prior to the juvenile being removed from the secure area.
3. The log is located on the Police Secure Portal site. To access the log on the portal, click on the New Police Secure site and then click on the Juvenile Secure Custody Detention Log, listed under Information Services section.
4. The holding cells located at each of the substations and the interview rooms located in Investigations will not be utilized when dealing with juveniles in the following situations:
  - a. Deinstitutionalization of Status Offenders—Juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in secure detention facilities or secure correctional facilities, (this includes Runaways, Truants, and Curfew violators, Minors in Possession or Consumption of alcohol).
  - b. Sight and Sound Separation—Juveniles meeting the criteria to be placed in a holding cell shall never be placed in the same cell or within sight or sound contact with an adult offender.
  - c. Juveniles accused of committing a criminal type offense (offenses that would be a criminal offense if committed by an adult) may be detained in an interview room for no more than (6) hours for identification, processing and to arrange for release or transfer.