

Georgia State Patrol Policy Manual

SUBJECT JUVENILE OPERATIONS	POLICY NUMBER 17.01
DISTRIBUTION ALL EMPLOYEES	DATE 6/10/2002

17.01.1 Purpose

To establish procedures to be followed when Troopers encounter juveniles in the course of the performance of their duties. To insure that the operations of the Georgia State Patrol (GSP) with regard to juvenile offenders are in accordance with applicable law.

17.01.2 Policy

The GSP is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. In this regard, each employee, in every division, shares in the responsibility for participating in or supporting the Department's juvenile operations function.

It shall be the policy of the GSP to enforce the laws of the State of Georgia violated by juveniles by taking the least coercive among reasonable alternatives, consistent with preserving public safety, order and individual liberty. In taking such actions, Troopers shall be governed by Chapter 11 of Title 15 of the Official Code of Georgia (O.C.G.A.).

17.01.3 Definitions

- A. Adult - any individual who is not a child under the definition in paragraph B of this section.
- B. Child - any individual who is:
 - 1. Under the age of 17 years;
 - 2. Under the age of 21 years, who committed an act of delinquency before reaching the age of 17 years, and who has been placed under the supervision of the court or on probation to the court, or
 - 3. Under the age of 18 years, if alleged to be a "deprived child".
- C. *In loco parentis* - Latin for "instead of a parent" or "in place of a parent," this phrase identifies a foster parent, a county custodial agency or a boarding school which is taking care of a minor, including protecting their rights.
- D. Custodian - a person, other than a parent or legal guardian, who stands *in loco parentis* to the child or a person to whom legal custody of the child has been given by order of a court, and who has the rights and duties provided in O.C.G.A. § 15-11-13.

E. Delinquent act -

1. An act designated a crime by the laws of this state, or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance, and the crime does not fall under paragraph (J) of this section and is not a juvenile traffic offense as defined in O.C.G.A. § 15-11-73;
2. The act of disobeying the terms of supervision contained in a court order which has been directed to a child who has been adjudged to have committed a delinquent act, or
3. Failing to appear as required by a citation issued with regard to a violation of O.C.G.A. § 3-3-23.

F. Deprived child - a child who:

1. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health or morals;
2. Has been placed for care or adoption in violation of law;
3. Has been abandoned by their parents or other legal custodian, or
4. Is without a parent, guardian or custodian.

[No child who in good faith is being treated solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be a "deprived child."]

G. Identification data - the fingerprints, name, race, sex, date of birth, and any other unique identifiers of the juvenile.

H. Juvenile traffic offense - means, except as provided in paragraph 4 (below), a violation by a child under the age of 17 of:

1. A law or local ordinance governing the operation of a moving motor vehicle upon the streets or highways of this state or upon the waterways within or adjoining this state;
2. Any other motor vehicle traffic law or local ordinance if the child is taken into custody and detained for its violation or is transferred to the juvenile court by the court hearing the charge, or
3. Jurisdiction. Notwithstanding the provisions of Title 40, which grant jurisdiction over traffic court offenses to certain courts, the juvenile court shall have exclusive original jurisdiction over juvenile traffic offenses.
4. Exceptions

The following offenses shall be delinquent offenses and shall not be handled as juvenile traffic offenses:

- a. Homicide by vehicle;

- b. Manslaughter resulting from the operation of a vehicle;
 - c. Any felony in the commission of which a motor vehicle is used;
 - d. Racing on highways and streets;
 - e. Using a motor vehicle in fleeing or attempting to elude an officer;
 - f. Fraudulent or fictitious use of a license;
 - g. Hit and run or leaving the scene of an accident;
 - h. Driving under the influence of alcohol or drugs;
 - i. Possession of a controlled substance or marijuana;
 - j. Any other offense for which driving privileges may be suspended or revoked for an adult, and
 - k. Any offense in which 4 or more points are assessed.
- I. Parent - either the legal father or the legal mother of the child.
- J. Status offender - a juvenile who is charged with or adjudicated of an offense which would not be a crime if it were committed by an adult, in other words, an act which is only an offense because of the perpetrator's status as a juvenile. Such offenses shall include, but are not limited to, truancy, running away from home, incorrigibility, and unruly behavior.
- K. Unruly child - a child who:
1. While subject to compulsory school attendance is habitually and without justification truant from school;
 2. Is habitually disobedient of the reasonable and lawful commands of their parent, guardian, or other custodian and is ungovernable;
 3. Has committed an offense applicable only to a child;
 4. Without just cause and without the consent of their parent or legal custodian deserts their home or place of abode;
 5. Wanders or loiters about the streets of any city, or in or about any highway or any public place, between the hours of 12:00 Midnight and 5:00 A.M.;
 6. Disobeys the terms of supervision contained in a court order which has been directed to such child, who has been adjudicated unruly, or
 7. Patronizes any bar where alcoholic beverages are being sold, unaccompanied by such child's parents, guardian, or custodian, and
 8. In any of the foregoing, is in need of supervision, treatment, or rehabilitation, or
 9. Has committed a delinquent act and is in need of supervision, but not of treatment or rehabilitation.

17.01.4 Procedures

A. Jurisdiction

1. Georgia law gives the juvenile court *exclusive* jurisdiction over juvenile offenses, except as otherwise provided.
2. The superior court shall have concurrent jurisdiction with the juvenile court over delinquent acts committed by juveniles which would be considered a crime if tried in a superior court and for which the child may be punished by loss of life, imprisonment for life without possibility of parole, or confinement for life in a penal institution.
3. The superior court shall have exclusive jurisdiction over the trial of any child 13 to 17 years of age who is alleged to have committed any of the following offenses:
 - a. Murder;
 - b. Voluntary manslaughter;
 - c. Rape;
 - d. Aggravated sodomy;
 - e. Aggravated child molestation;
 - f. Aggravated sexual battery, or
 - g. Armed robbery if committed with a firearm.

B. Taking a juvenile into custody

1. The taking of a child into custody is not an arrest, except for the purpose of determining its validity under the Constitution of this State or of the United States.
2. Immediately upon taking the child into custody, the Trooper shall determine if the child has been harmed, or is in danger of being harmed, and take appropriate actions to protect the child.
3. Immediately thereafter, the Trooper should endeavor to determine whether the child's conduct constitutes a juvenile traffic offense, a delinquent act, or a status offense. The Trooper's actions shall be appropriate to the type of offense committed.
4. Troopers shall insure that the Constitutional rights of juvenile offenders are protected the same as all other violators, bearing in mind the maturity level and ability of the child to understand the legal process.

C. Issuance of traffic citations

Traffic citations may be issued to juveniles for the same reasons and in the same manner as any other violator.

D. Issuance of citations to the child's parent(s)

Frequently, juvenile traffic offenses occur with the knowledge and/or consent of the parent(s). In such cases, it is appropriate to issue the parent a citation for permitting the act. O.C.G.A. § § 40-1-3 and 40-5-123 are applicable in these cases.

E. Detention of juveniles

1. A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless:
 - a. The detention or care is required to protect the person or property of others or of the child;
 - b. The child may abscond or be removed from the jurisdiction of the court;
 - c. The child has no parent, guardian, or custodian or other person able to provide supervision and care for them and return them to the court when required, or
 - d. An order for the child's detention or shelter care has been made by the court.
2. Detention of a child at a detention facility should be a last resort. Many detention facilities (jails) will not accept custody of a juvenile, although they are permitted to do so for brief period as long as the following conditions are met:
 - a. Counties and municipalities are authorized to establish facilities where a child who is suspected of being unruly or who is in violation of a curfew may be informally detained until the parent or guardian assumes custody of the child. Immediately after a child is brought into such a facility, every effort shall be made to contact the parent or guardian of the child. A child shall not be restrained in a cell or other such place apart from other children unless such child engages in disruptive or unruly behavior while at the holding facility.
 - b. Such child shall not be held in the jail but may be held in a temporary holding area outside of the jail constructed as such for not longer than six hours pending transfer to the detention facility. For purposes of this policy, the term "jail" shall include not only the cells, but any other secured area of the jail adjacent to the cells in which adult offenders are held or through which they are transported.

F. Release of the child to their parent(s)

1. This is the recommended course of action when a child is taken into custody. Georgia law states:
 - a. A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:
 - 1) Forthwith release without requiring bond the child to their parents, guardian, or other custodian upon their promise to bring the child before the court when requested by the court, or
 - 2) Forthwith deliver the child to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires prompt treatment and, upon delivery, shall promptly contact a juvenile court

intake officer.

- b. Juveniles who are taken into custody for routine, minor traffic violations may be released to the parents without consultation with a juvenile court intake officer, unless the Trooper has reason to believe such consultation is necessary.
- c. Juveniles, who are taken into custody for any felony, or a delinquent offense as defined in Paragraph (G) (4) of Section 17.01.3 of this policy, shall not be released to the parents prior to consultation with a juvenile court intake officer. The juvenile court intake officer shall determine the appropriate course of action with respect to releasing or detaining the juvenile.
- d. When required by this policy, or when deemed necessary by the Trooper taking a juvenile into custody, a juvenile court intake officer shall be consulted prior to releasing the juvenile to their parent(s) or to appear. Attempts to contact the intake officer shall be documented on the Radio Log.

G. Inability to contact the child's parent(s)

1. Georgia law addresses the Trooper's inability to contact the child's parent(s) by providing that in such a case the Trooper shall:
 - a. Bring the child immediately before the juvenile court or promptly contact a juvenile court intake officer. The intake officer shall determine if the child should be released or detained. Prior to an informal detention hearing, the child shall be placed in detention, if necessary, only in such places as are authorized by O.C.G.A. § 15-11-48, or
 - b. Bring the child who is suspected of committing a delinquent act before the superior court of the county where the delinquent act occurred if the act is an act over which the superior court has exclusive or concurrent jurisdiction as provided in subsection (b) of O.C.G.A. § 15-11-28; however, pending a commitment hearing authorized under O.C.G.A. § § 17-6-15 and 17-6-16 and Articles 1, 2, and 8 of Chapter 7 of Title 17 or an indictment, the child shall be returned and placed in detention, if necessary, only in such places as are authorized by O.C.G.A. § 15-11-48.

H. Questioning of juveniles

1. Initial investigative interviews; i.e., citation information gathering, driver's license status information gathering, and accident reporting information may be gathered utilizing standard techniques.
2. Juveniles in custody may be interviewed/interrogated after their parent(s) has been notified. When at all possible, the interview/interrogation should be conducted in the presence of the parent(s). The interview/interrogation may be conducted without the presence of the parent(s) in exigent circumstances, but the Trooper should document the reasons for so proceeding. It is recommended that, whenever circumstances permit, the Trooper confer with the child's parent(s) and the juvenile court intake officer prior to beginning the interview/interrogation.
3. Interviews should last no longer than is absolutely necessary to elicit the information necessary to complete the investigation. If the interview takes a

protracted length of time, breaks should be taken.

4. Troopers should fully explain the Department's juvenile procedures and the requirements of the juvenile justice system to the child and their parent(s).
- I. Under Georgia law, names and photographs of juveniles shall not be released.
 1. Georgia law prohibits the photographing, without the consent of the judge, of a child who has been taken into custody; except that every child charged with an act that would be a felony if committed by an adult shall be fingerprinted and photographed upon being taken into custody. Assistance should be sought from a juvenile court intake officer in this process.
 2. Georgia law provides:

The name or picture of any child under the jurisdiction of the juvenile court for the first time shall not be made public. Department employees shall not release this information except as authorized by an order of the court.
 3. Accident Reports
 - a. Accident reports disclosed to private citizens or the news media, pursuant to the Georgia Open Records Act shall have all personal information for juvenile drivers redacted if citations or charges were issued to the juvenile.
 - 1) The license number and date of birth of all drivers, including juveniles, involved in the accident shall be redacted from accident reports released to the news media.
 - 2) This information does not have to be redacted from accident reports released to prosecutors or law enforcement agencies.
- J. The Legal Services Division of the GSP shall be responsible for providing advice with respect to juvenile operations. Circumstances that are not covered by this policy statement should be referred to Legal Services, through the chain of command.