

	ELGIN POLICE DEPARTMENT 151 Douglas Avenue Elgin, Illinois 60120	
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Chief of Police: 	Juvenile Operations, 44.2	
Cross Reference: SOP 82.1 Records Administration 705 ILCS 405/2-3 705 ILCS 405/3-3 705 ILCS 405/4-3 705 ILCS 405/5-105		Policy Sections: 44.2.1 Notifications 44.2.2 Procedures for Limited Custody 44.2.3 Procedures for Temporary Protective Custody 44.2.4 Interrogation of Delinquent Minors 44.2.5 Processing of Delinquent Minors 44.2.6 Delinquent Minor Temporary Detention Facility 44.2.7 Confidentiality of Law Enforcement Records & Municipal Ordinance Violations 44.2.8 Confidentiality of Juvenile Court Records 44.2.9 Expungement of Juvenile Law Enforcement and Court Records Appendix A: Statement of Constitutional Rights for Minors

PURPOSE

The purpose of this policy is to establish guidelines for handling juvenile incidents.

POLICY STATEMENT

It is the policy of the Elgin Police Department to provide specialized training to assigned officers for the important task of providing services to juveniles coming into contact with the department. While responding to incidents involving juveniles, members of the department shall use the least coercive of available alternatives, consistent with preserving public safety, order, and individual liberty. Furthermore, juvenile investigations shall be conducted in recognition of the constitutional rights of juveniles and the applicable statutes.

All juvenile law enforcement arrest records and identification records shall be maintained in a secure location, separate from adult records. The expungement requirements provided in the Juvenile Court Act shall be followed. All juvenile law enforcement records that are not expunged are considered to be confidential and may only be disseminated pursuant to the guidelines within the Juvenile Court Act, when their use is needed for good cause and with an order from the juvenile court, as required by those not authorized to retain them.

DEFINITIONS

Addicted Minor: Any minor who is under 18 years of age and is an addict or alcoholic as described in 705 ILCS 405/4-3.

Dependent Minor: Any minor who is under 18 years of age who is without a parent, guardian, legal custodian, or who is without proper care as described in 705 ILCS 405/2-4.

Delinquent Minor: Any minor who prior to their 18th birthday has violated or attempted to violate, regardless of where the act occurred, any federal, state, county or municipal law or ordinance.

Dissemination: To publish, produce, print, manufacture, distribute, sell, lease, exhibit, broadcast, display, transmit, or otherwise share information in any format so as to make the information accessible to others.

Evidence of Interaction with Law Enforcement: For purposes of this policy, limited to those records which relate to a juvenile being suspected of criminal activity or those who have been arrested; this does not include records where the juvenile was a victim or witness to criminal activity.

Expunge: To physically destroy the records and to obliterate the minor's name and juvenile court records from any official index, public record, or electronic database.

Juvenile Court Record: Court records maintained by the juvenile court, probation officers, and by any municipal, county, or state agency or department, where there is involvement with the juvenile court relating to a specific incident, proceeding or individual. Refer to 705 ILCS 405/5-915 to view the complete definition.

Juvenile Investigator: Sworn personnel, appointed to Juvenile Investigations by the chief of police, with completion of the State of Illinois Basic Juvenile Training Course.

Juvenile Officer: Sworn personnel, appointed by the chief of police, with completion of the State of Illinois Basic Juvenile Training Course.

Law Enforcement Records: Includes, but is not limited to records of arrest, station adjustments, fingerprints, probation adjustments, the issuance of a notice to appear or any other record or documents maintained by any law enforcement agency relating to a minor suspected of committing an offense and records that identify a juvenile as a suspect in committing an offense, but does not include records identifying a juvenile as a victim, witness, or missing juvenile and any record created, maintained, or used for purposes of referral to programs relating to diversion.

Minor: As defined in the Illinois Compiled Statutes 705 ILCS 405/5-105, a person under 21 years of age and subject to the Juvenile Court Act.

Minors Requiring Authoritative Intervention: Any minor who is under 18 years of age and is absent from home or out of the control of the parents or guardian as described in 705 ILCS 405/3-3.

Neglected or Abused Minor: Any minor who is under 18 years of age as described in 705 ILCS 405/2-3.

PROCEDURES

44.2.1 NOTIFICATIONS

- A. Juvenile Investigations shall be contacted in any of the following instances:
 - 1. Any felony involving a delinquent minor currently in custody as an offender where detention at a county youth home or further investigation is necessary.
 - 2. When a minor is placed into temporary protective custody.
 - 3. Any incident where allegations have been made concerning the following:
 - a. Physical abuse of a minor.
 - b. Sexual abuse of a minor.
 - c. Neglected minors.
- B. Misdemeanor and other felony reports shall be forwarded to Juvenile Investigations for possible follow-up.
- C. In situations of limited custody and temporary protective custody for delinquent and status offenses, officers shall immediately make a reasonable attempt to notify parents, guardians or custodians of the circumstances and to determine who will take custody of the minor. All attempts and notifications shall be documented in the incident report and/or booking record; this shall include the times and names of the individuals the officer attempted to contact.
- D. Officers shall make a reasonable attempt to notify a minor's parents, guardian or custodian when a minor was a potential witness to a crime or a victim of a crime. This may apply anytime an officer believes the minor's parent, guardian or custodian should be aware of the circumstances surrounding an officer's contact with the minor. These attempts and notifications shall be documented in an incident report.

- E. Refer to Section 44.2.3 for notifications out outside agencies.

42.2.2 PROCEDURES FOR LIMITED CUSTODY

- A. Minors may be taken into limited custody when the officer reasonably believes the minor is absent from home without consent of the minor's parent, guardian or custodian which constitutes a substantial or immediate danger to the minor's physical safety.
- B. The officer shall inform the minor of the reasons for limited custody and immediately follow the notification protocols.
 - 1. If appropriate, the minor shall be turned over to the parent, guardian, or custodian. In the event these attempts are unsuccessful, or the minor refuses to return to the parent, guardian, or custodian, a juvenile officer may be notified if resolution is beyond the capability of the investigating officer.
 - 2. The juvenile officer or investigator may then take the necessary steps to resolve the issue or find appropriate placement for the minor.
- C. In the event any medical treatment is requested or required, officers shall assist in making arrangements for medical attention. Officers shall not give consent in their official capacity as a police officer to provide medical treatment to a minor. Medical providers shall be instructed to follow their procedures for handling matters of this nature, which may include contacting:
 - 1. The minor's parent, legal guardian or custodian.
 - 2. The Department of Children and Family Services (DCFS).
- D. No minor may be involuntarily subjected to limited custody for more than the time allotted under the Illinois Juvenile Court Act.
- E. No minor taken into custody shall be placed in the Holding Facility which is designated for the incarceration of adult detainees.
- F. Officers who take a minor into limited custody shall complete an incident report.

44.2.3 PROCEDURES FOR TEMPORARY PROTECTIVE CUSTODY

- A. Any minor whom the officer reasonably believes to be abused, addicted, dependent or neglected shall be taken into temporary protective custody.
 - 1. The officer shall inform the minor of the reason for temporary custody and follow the notification protocol.
 - 2. If the case involves physical abuse, sexual abuse, or neglect, the Department of Children and Family Services (DCFS) Child Abuse Hotline must be contacted (1-800-25ABUSE). The child advocacy center of the respective county shall also be contacted in cases of sexual abuse. There are no exceptions to this requirement.
 - 3. A juvenile officer shall be contacted. The juvenile officer will determine the appropriate plan of action and act as a liaison to outside agencies involved.
 - 4. In the event any medical attention is requested or required, the procedures outlined in section 44.2.2.C shall be followed.
 - 5. The officers shall prepare an incident report and DCFS mandated reporter form, as applicable.

- B Upon probable cause, minors under the age of 18 may be taken into temporary protective custody for delinquent offenses encompassing a misdemeanor, felony violation or attempted violation of a federal, state, country or municipal law or ordinance.
1. Officers shall inform the minor of the reason for temporary protective custody and follow the notification protocols.
 2. Officers who have not been certified as juvenile officers may handle misdemeanor delinquent investigations involving minors who will not be detained in a county youth facility.
 3. A juvenile officer shall be involved on all felony delinquent investigations or when a minor will be detained in a county youth facility.
 4. Officers who take a minor into custody for delinquent offenses shall transport the minor to the department and will complete:
 - a. An incident report.
 - b. Electronic booking system.
 - c. A photograph and fingerprints, when applicable, shall be taken.
 5. Officers have discretion determining how to handle minors who commit delinquent acts and shall consider the following factors in making a determination:
 - a. The age of the minor.
 - b. Seriousness of the alleged offense.
 - c. Whether the offense was committed in an aggressive or premeditated manner.
 - d. Prior history of delinquency of minor.
 6. Based on the above factors, appropriate dispositions used by officers include, but are not limited to:
 - a. Release the minor without further action.
 - b. For city ordinance violations, the arresting officer may issue a notice to appear.
 - c. Referral to a voluntary station adjustment program such as peer jury or the parents, guardian or custodian.
 - d. A voluntary, prolonged program of treatment which necessitates the services of a youth social service agency.
 - e. Referral to the juvenile court system and release to a parent, guardian or custodian.
 - f. Referral to the juvenile court system and detention in the appropriate youth home or other court authorized juvenile detention facility.
 7. If a minor is to be considered for detention at a county youth home or other court approved detention facility, the most current county directives governing the specific intake facility shall be followed. The investigations lieutenant shall be responsible for ensuring that the most current directives are available to officers.

8. The delinquent minor, along with their parent, guardian or custodian, if present, shall be advised on the juvenile justice system, the department's policies and procedures on referring matters to the juvenile court system, and the expungement process.
- C. Upon probable cause, minors under the age of 18 may be taken into temporary protective custody for status offenses. Status offenses are violations of state statutes and city ordinances controlled by any age restriction which would not otherwise be an offense (curfew, truancy, possession of alcohol, etc.).
1. Upon violation of city ordinance for truancy or curfew, the officer will transport the minor to the department and follow the notification protocol.
 2. Officers who take a minor into custody for truancy or curfew will complete:
 - a. An incident report.
 - b. Electronic booking system.
 - c. For first offenses, the minor is to be released to their legal parent, guardian or custodian, along with the appropriate curfew or truancy packet.
 - d. Per city ordinance, a notice to appear may be issued, but only on a second or subsequent curfew or truancy violation.
 3. Pursuant to ILCS 404/5-401(3), juveniles in custody for a status offense shall not be placed in a jail cell, locked room or handcuffed to a stationary object.
 4. For minor status offenses, officers have discretion to issue an adjudication citation as opposed to taking the juvenile into temporary protective custody; the notification protocols shall be implemented in these situations.
- D. Traffic Offenses.
1. Officers may issue minors traffic citations on the scene and release said minor for simple traffic offenses.
 2. If the minor is under 18 years of age and is taken into custody for a traffic offense, the officer shall follow the same guidelines as for delinquent offenses.

44.2.4 INTERROGATION OF DELINQUENT MINORS

- A. During interrogations, the constitutional rights of juveniles shall be adhered to.
- B. The following guidelines apply:
1. Prior to the interrogation:
 - a. The delinquent minor shall be afforded the opportunity to confer privately with their parent, guardian or custodian. If not available, a juvenile officer shall be used.
 - b. The Statement of Constitutional Rights for Minors shall be continuously (ie., without interruption) read in its entirety. Refer to Appendix A to view the statement form.
 2. During the interrogation, a juvenile officer or the delinquent minor's parent, guardian, or custodian shall be present to ensure the rights of the minor are protected.

3. Officers shall ensure that the custodial interrogation of a juvenile is electronically recorded using the officer's body worn camera or other recording device for a minor who is in custody for any felony or misdemeanor sex offense.
 4. Officers shall, under normal circumstances, limit the duration of the interview/interrogation involving a minor to a reasonable amount of time. When possible, a minimum of two (2) officers and a maximum of three (3) officers should be present during the interviews and interrogations.
- C. Minors who were under the age of 15 during the commission of the following offenses must be represented by counsel through the entire custodial interrogation; they cannot waive their right to have a lawyer. If the minor does not have access to a private lawyer, the officer must contact the public defender's office of the applicable county.
1. First degree murder.
 2. Intentional homicide of an unborn child.
 3. Second degree murder.
 4. Voluntary manslaughter and reckless homicide.
 5. Involuntary manslaughter and reckless homicide.
 6. Involuntary manslaughter and reckless homicide of an unborn child.
 7. Drug-induced homicide.
 8. Criminal sexual assault.
 9. Aggravated criminal sexual assault.
 10. Predatory criminal sexual assault of a child.
 11. Criminal sexual abuse.
 12. Aggravated criminal sexual abuse.

44.2.5 PROCESSING OF DELINQUENT MINORS

- A. Delinquent minors shall have their fingerprints, when charged with the crimes listed below, and photograph taken by the arresting officer or designee. Fingerprints and photographs taken from a minor before his/her 18th birthday may not be transmitted to the Department of Corrections (DOC), Illinois State Police (ISP) or the FBI unless:
1. Ordered by the court.
 2. Arrested or taken into custody for:
 - a. UUW.
 - b. Class X or Class 1 felony.
 - c. A forcible felony as defined.
 - d. Class 2 or greater felony under the controlled substances acts as defined.
 - e. Chapter 4 of the IVC.

f. Section 5 of the Criminal Identification Act.

- B. All processing of delinquent minors should be done separately from adult offenders, when practical. If necessary, sight or sound contact between adult offenders and juvenile offenders shall be permissible during the completion of the processing.
- C. The delinquent minors must be under the direct and constant supervision of a sworn officer or community service officer. Immediately upon the completion of processing, the delinquent minor shall be removed from the sight and sound presence of adult offenders.

44.2.6 DELINQUENT MINOR TEMPORARY DETENTION FACILITY

- A. Delinquent minors in custody for status offenses, such as runaways, curfew violations, limited custody contacts shall not be placed in a locked room, temporary detention cell or handcuffed to a stationary object. Delinquent minors in custody for non-status offenses may be secured in a temporary detention cell or other form of secure detention if he/she is a flight risk, suspected of committing a felony or when necessary for the safety of the juvenile, officers or others.
- B. Temporary detention cells are contained within the Juvenile Investigations area. The following guidelines apply:
 - 1. Under 10 – no secure detention allowed.
 - 2. 10 to 11 year olds – maximum of 6 hour detention.
 - 3. 12 to 17 year olds/non violent crime – maximum of 12 hour detention.
 - 4. 12 to 17 year olds/violent crime – maximum of 24 hour detention.
- C. Delinquent minors held in custody shall have documented 15 minute checks when not in direct supervision of a department member.
- D. All appropriate forms pertaining to use of the temporary detention area must be completed.

44.2.7 CONFIDENTIALITY OF LAW ENFORCEMENT RECORDS AND MUNICIPAL ORDINANCE VIOLATIONS

- A. All juvenile law enforcement records, as defined in this policy, to include city ordinance violations, that have not been expunged are considered to be sealed and may never be disclosed to the public or otherwise made widely available.
- B. Inspection, copying and disclosure of juvenile law enforcement records or records of municipal ordinance violations that reference a minor who has been investigated, arrested, or taken into custody before his/her 18th birthday are restricted to the below people and organizations or with a court order issued for good cause shown and in compliance to the provisions set forth in 705 ILCS 405/1-1. Refer to the statute for the complete verbiage.
 - 1. The minor who is the subject of the juvenile law enforcement record, his/her parents, guardian and counsel.
 - 2. Judges of the circuit court and members of staff designated by the judge.
 - 3. An administrative adjudication hearing officer or members of staff designated to assist in the adjudication process.
 - 4. Any local, state or federal law enforcement officers or designated law enforcement staff of any jurisdiction or agency when necessary for the discharge of their official duties during the investigation, prosecution of a crime, or in connection with investigation of the conduct of a law enforcement officer.
 - 5. Prosecutors, public defenders, probation officers, social workers or other individuals assigned by the court.

6. Federal, state or local prosecutors, public defenders, probation officers and designated staff.
7. Adult and Juvenile Prisoner Review Board.
8. Authorized military personnel.
9. Employees of the federal government authorized by law.
10. Persons engaged in bona fide research with the permission of the presiding judge and chief executive of the respective law enforcement agency provided that publication of such research results in no disclosure of the minor's identity and protects the confidentiality of the minor's record.
11. Department of Children and family Services child protection investigators acting in their official capacity.
12. The appropriate school official only if the agency or officer believes that there is an imminent threat of physical harm to students, school personnel or others who are present in the school or on school grounds.
13. Mental health professionals on behalf of the Department of Corrections or the Department of Human Services or prosecutors who are evaluating, prosecuting or investigating a potential or actual petition brought under the Sexually Violent Persons Commitment Act.
14. The president of a park district.
15. Persons managing and designated to participate in a court diversion program.
16. The Public Access Counselor of the Office of the Attorney General when under its powers and duties under the Freedom of Information Act.
17. Collection agencies contracted or otherwise engaged by a governmental entity to collect any debts due and owing to the governmental entity.

44.2.8 CONFIDENTIALITY OF JUVENILE COURT RECORDS

- A. Pursuant to 705 ILCS 405/1-3, as it pertains to the police department, juvenile court records include all documents, transcripts, records, reports or other evidence prepared by, maintained by, or released by any municipal, county, or state agency or department in any format, if indicating involvement with the juvenile court relating to a specific incident, proceeding, or individual.
- B. Inspection, copying and disclosure of juvenile court records relating to a minor who is the subject of a proceeding under the Juvenile Court Act shall be restricted to the below people and organizations in compliance to the provisions set forth in 705 ILCS 405/1-8 or with a court order issued for good cause shown. Refer to the statute for the complete verbiage.
 1. The minor who is the subject of the record, his/her parents, guardian, and counsel.
 2. Law enforcement officers and law enforcement agencies when such information is essential to executing an arrest or search warrant or other compulsory process, or to conduct an ongoing investigation or relating to a minor who has been adjudicated delinquent and there was a previous finding that the act which constitutes the previous offense was committed in furtherance of criminal activities by a criminal street gang.

3. Judges, hearing officers, prosecutors, public defenders, probation officers, social workers, or other individuals assigned by the court to conduct a pre-adjudication or pre-disposition investigation, and individuals responsible for supervising or providing temporary or permanent care and custody for minors under the order of the juvenile court when essential to performing their duties.
 4. Judges, federal, state, and local prosecutors, public defenders, probation officers and designated staff in connection with the applicable portions of criminal proceedings.
 5. Adult and Juvenile Prisoner Review Boards.
 6. Authorized military personnel.
 7. Victims, their subrogees and legal representatives; however, such persons shall have access to only the name and address of the minor and information pertaining to the disposition or alternative adjustment plan of the juvenile court.
 8. Persons engaged in bona fide research, with permission of the presiding judge and chief executive officer of the agency that prepared the records; provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record.
 9. The Secretary of State to whom the Clerk of the Court shall report the disposition of all cases.
 10. The administrator of a bonafide substance abuse student assistance program with permission of the presiding judge.
 11. Mental health professionals on behalf of the Department of Corrections or the Department of Human Services or prosecutors who are evaluating, prosecuting, or investigating a potential or actual petition brought under the Sexually Violent Persons Commitment Act.
 12. Collection agencies contracted or otherwise engaged by a governmental entity to collect any debts due and owing to the governmental entity.
- C. A minor who is the victim in a juvenile court proceeding shall be provided the same confidentiality regarding disclosure of identity as the minor who is the subject of record.
- D. For purposes of inspecting documents under this section, a civil subpoena is not an order of the court. For more information on this, refer to 705 ILCS 405/1-8.

44.2.9 EXPUNGEMENT OF JUVENILE LAW ENFORCEMENT AND COURT RECORDS

- A. Juvenile law enforcement and court records are expunged by an order of the court or in accordance to the automatic expungement requirements as established in the Juvenile Court Act. Refer to Standard Operating Procedure 82.1 Records Administration for more information on expungements.
- B. The Juvenile Court Act does not prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged as long as the information is kept in a manner that does not enable identification of the individual. The information may only be used for anonymous statistical and research purposes.

APPENDIX A: STATEMENT OF CONSTITUTIONAL RIGHTS FOR MINORS



(Case Report Number)

Statement of Constitutional Rights for Minors

Pursuant to 705 ILCS 405/5-401.5(a-5)

You have the right to remain silent. That means you do not have to say anything. Anything you do say can be used against you in court. You have the right to get help from a lawyer. If you cannot pay for a lawyer, the court will get you one for free. You can ask for a lawyer at any time. You have the right to stop this interview at any time.

The following questions are to be read to the person receiving these rights. Indicate the response provided after each question.

1. Do you want to have a lawyer? ☐ Yes ☐ No _____ (Minor's Initials)
2. Do you want to talk to me? ☐ Yes ☐ No _____ (Minor's Initials)

Statement of rights given by _____
(Name, Badge Number)

to _____, on _____
(Person Receiving Rights) (Date)

at approximately _____
(Time)

I understand my rights, and I am willing to answer questions.

(Signature of Person Receiving Rights)

(Witness)

(Witness)

(Witness)