

# Arizona Peace Officer Standards and Training

## Basic Curriculum Model Lesson Plan

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**LESSON TITLE: JUVENILE LAW AND PROCEDURES 2.8**

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SUBJECT:	Juvenile Law and Procedures
AZ POST DESIGNATION:	2.8
HOURS:	4
COURSE CONTENT:	A review of the agencies and laws relating to juveniles. Proper procedures and techniques necessary to detain and refer juveniles are identified, as are requirements for handling various types of juvenile-related incidents. Distinctions between juvenile and adult law and procedures are highlighted.
PERFORMANCE OBJECTIVES:	Upon completion of this course of instruction, students using notes, handouts and other support materials as references, within the allotted time, will:
2.8.1	Identify the following with regard to the juvenile justice system:
A.	The fundamental objective of the system (i.e., protection and/or rehabilitation).
B.	The jurisdiction of the juvenile court, to include automatic transfers (A.R.S. §§8-202 and 13-501).
C.	The adjudication alternatives available to the juvenile court.
D.	The requirements for completing and processing referrals.
E.	The role and responsibilities of Child Protective Services/DES.
F.	The purpose and nature of the following hearings:
1.	Advisory hearing.
2.	Adjudication hearing.
3.	Detention hearing.
4.	Disposition hearing.

5. Transfer hearing.
- 2.8.2 Identify juvenile adjudication options per A.R.S. §§8-321 and 8-326.
  - 2.8.3 Identify examples of situations in which juveniles must be segregated from other prisoners per A.R.S. §8-305.
  - 2.8.4 Identify that juveniles may not be transported with adults unless segregated by a sight and sound barrier within the transportation vehicle.
  - 2.8.5 Identify examples of situations in which there is a legal duty to secure medical aid for a sick or injured juvenile who is in custody per A.R.S. §8-821.
  - 2.8.6 Identify examples of situations in which a minor, who has been the victim of a sexual assault, may give consent to a medical examination per A.R.S. §13-1413.
  - 2.8.7 Identify the responding officer's responsibility with regard to taking a minor's statement concerning an alleged sexual offense or physical abuse involving, or witnessed by, the minor.
  - 2.8.8 Identify the following as rights that are guaranteed a juvenile based upon the Gault Decision:
    - A. Right to early notice of charges.
    - B. Right to remain silent.
    - C. Right to adequate warning of the privilege against self-incrimination.
    - D. Right to confront and cross-examine witnesses.
    - E. Right to legal counsel, whether private or court appointed, in cases which might result in incarceration.
    - F. Right to have a parent/guardian present while being questioned.
  - 2.8.9 Identify the requirements for parent/guardian notification when a juvenile is taken into custody per A.R.S. §8-823.

- 2.8.10 Identify examples of violations related to the sale, possession or use of alcohol by juveniles per A.R.S. §§4-241 and 4-244.
- 2.8.11 Identify the following as factors that should be considered when determining the proper course of action with respect to a juvenile offender:
- A. Nature of offense.
  - B. Age of offender.
  - C. Establishing culpability of the offender.
  - D. Nature of circumstances which led to the offense.
  - E. Prior contacts with law enforcement.
  - F. Legal guardian of the offender.
- 2.8.12 Identify the following alternatives to custody for juvenile offenders:
- A. Release to a parent/guardian.
  - B. Referral to a public/private agency.
- 2.8.13 Given a written description of an offense committed by a juvenile, the circumstances which led to the offense, the age of the juvenile, the juvenile's history of violence and/or contact with law enforcement (if any), and the legal guardian of the offender, identify the most appropriate course of action from among the following alternatives:
- A. Release to parent/guardian.
  - B. Referral to another agency.
  - C. Place into custody.
- 2.8.14 Identify definitions of the following terms:
- A. Incurable person (A.R.S. §13-3612).
  - B. Delinquent person (A.R.S. §13-3612).
  - C. Dependent person (A.R.S. §13-3612).

- D. Neglect (A.R.S. §8-201).
- E. Runaway (A.R.S. §8-303).
- F. Adjudicated.
- G. Adjudication hearing.
- H. Adjusted.
- I. Advisory hearing.
- J. Commitment.
- K. Delinquent act.
- L. Detention.
- M. Detention hearing.
- N. Disposition.
- O. Disposition hearing.
- P. Juvenile.
- Q. Juvenile court.
- R. Transfer (remand) hearing.

2.8.15 Identify the circumstances under which an officer must lawfully take a juvenile into temporary custody per A.R.S. §§8-303 and 8-821.

2.8.16 Identify the circumstances under which an officer may lawfully take a juvenile into temporary custody per A.R.S. §§8-303 and 8-821.

DATE FIRST PREPARED: March 2001

PREPARED BY: SME Committee

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REVIEWED – <b>REVISED</b> :	Richard Watling	DATE: December 2003
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**INSTRUCTOR REFERENCES:**

CLASS LEVEL: Student

TRAINING AIDS: Scenario options.  
<http://www.azleg.gov/ArizonaRevisedStatutes.asp>

INSTRUCTIONAL STRATEGY: Interactive lecture and class discussion.

SUCCESS CRITERIA: 70% or higher on a written, multiple-choice examination.

COMPUTER FILE NAME: 2.8 Juvenile Law and Procedures

DATE RELEASED TO THE SHARE FILE: May 27, 2022

**I. INTRODUCTION**

- A. Instructor – (self) introduction.
- B. Preview of performance objectives.

**II. DEFINITION OF TERMS COMMON TO JUVENILE JUSTICE**

- A. The juvenile justice system is different from the adult system and, therefore, a different set of terminology is required to explain and understand the system. Most of these definitions may be found in ARS 8-201.

- 1. Adjudicated: A determination by the court that the juvenile is either delinquent or incorrigible. **P. O. 2.8.14F**
- 2. Diversion: The disposition of a juvenile case which makes unnecessary the completion of the formal court process. The diversion may be accomplished before, or after, the filing of a formal petition or complaint. (Rule 9, Rules of Proc. for Juvenile Court) **P. O. 2.8.14F**
- 3. Adjudication hearing: A trial to a judge to determine whether a juvenile is delinquent or incorrigible. The standard of proof is beyond a reasonable doubt. ( Rule 29, Rules of Proc. for Juvenile Court) **P. O. 2.8.1F2**  
**P. O. 2.8.14G**
- 4. Adjusted: To dispose of a case without the juvenile being required to go to court. **P. O. 2.8.14H**
- 5. Advisory hearing: A judicial hearing that informs the juvenile of the formal charges against him/her, advises the juvenile of his/her right to counsel, provides the opportunity for court-appointed counsel and provides an opportunity for entry of a plea. (Rule 28, Rules of Proc, for Juvenile Court) **P. O. 2.8.1F1**  
**P. O. 2.8.14I**
- 6. Commitment: The judicial determination that an adjudicated delinquent be confined in the Arizona Department of Juvenile Corrections (ADJC). **P. O. 2.8.14J**
- 7. Delinquent: A juvenile who has been found by the court to have committed a delinquent act. **P. O. 2.8.14B**
- 8. Delinquent act: Any act by a child, at least eight (8) years of age, which if committed by an adult would be a criminal or a petty offense, or that has been designated as a delinquent offense. See A.R.S. §8-201(10). **P. O. 2.8.14K**
- 9 Dependent: A child who is one of the following: **P. O. 2.8.14C**
  - a. In need of proper and effective parental care and control and has no parent/guardian, or one who has no parent/guardian willing to exercise, or capable of exercising, such care and control.

- b. Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care.
  - c. A child whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, guardian or other person having custody or care of the child.
  - d. Under the age of eight (8) years old and who is found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older child. **P. O. 2.8.14L**
  - e. Incompetent or not restorable to competency and who is alleged to have committed a serious offense as defined in A.R.S. § 13-706.
10. Detention: The temporary confinement of a juvenile for the protection of the child or the community pending court resolution of the juvenile's case or subsequent to adjudication. **P. O. 2.8.14L**
11. Detention hearing: A judicial determination on whether to hold or detain a juvenile pending further court proceedings. (Rule 23, Rules of Proc for Juvenile Court) **P. O. 2.8.1F3**  
**P. O. 2.8.14M**
12. Disposition: The judicial determination that a juvenile be committed to ADOJC, confined in a detention center, placed in a care or treatment program, placed on probation, terminated, released, and other outcomes deemed appropriate by the court. (8-845) **P. O. 2.8.14N**
13. Disposition hearing: A hearing to determine the most appropriate disposition of a juvenile. (Rule 30, Rules of Proc for Juvenile Court) **P. O. 2.8.1F4**  
**P. O. 2.8.14O**
14. Incorrigible: A child adjudicated as one who refuses to obey the reasonable and proper order or direction of a parent, guardian or custodian and who is beyond the control of such person(s), or any child who is habitually truant from school or who is a runaway from his/her home, parent, guardian or custodian; or who habitually behaves in such a manner as to injure or endanger the morals or health of self or others; or commits an act constituting an offense that can only be committed by a minor and is not designated a delinquent act; or fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action. **P. O. 2.8.14A**
15. Intake: The booking area of the Juvenile Court Detention Center where all juveniles are physically brought to the court to be processed and screened.
16. Juvenile: A person subjected to the jurisdiction of the juvenile court because he/she is under the age of 18 years. (Rule 1, Rules of Proc for Juvenile Court) **P. O. 2.8.14P**
17. Juvenile court: The division of the Superior Court having original jurisdiction over

children, under the age of 18 years, in all proceedings relating to delinquency, dependency or incorrigibility. **P. O. 2.8.14Q**

18. **Neglect:** The inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care which causes unreasonable risk of harm to the child's health or welfare. **P. O. 2.8.14D**
19. **Referral:** A report submitted to the juvenile court and alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act.
20. **Runaway:** A child who has run away from the child's parent or guardian and may be taken into temporary custody without a warrant. **P. O. 2.8.14E**
21. **Status offense:** Behavior that is unlawful only because it is committed by a juvenile (i.e., violation of curfew, truancy, running away from home, incorrigibility, etc.). **INSTRUCTOR NOTE:** *Instructors should emphasize that officers must understand that this means that a child accused of a status offense may not be locked in a holding cell or interview room.*
  - a. A juvenile charged with a status offense cannot be held in a secure facility. A juvenile who commits a status offense may not be committed to the Department of Juvenile Corrections.
22. **Transfer hearing:** **P. O. 2.8.1F5**  
**P. O. 2.8.14R**
  - a. The Juvenile Court has jurisdiction over juvenile offenders who are charged under Title 8 unless either the state charges the juvenile as an adult under ARS 13-501 or the juvenile court transfers jurisdiction to the criminal division of the juvenile court under ARS 8-327. The transfer hearing is the hearing held when the juvenile court considers transferring the case to criminal court for prosecution.

### III. JURISDICTION AND NATURE OF PROCEEDINGS IN JUVENILE COURT

- A. Original jurisdiction. (Generally ARS 8-202)
  1. The juvenile court has original jurisdiction in all proceedings and matters affecting dependent, neglected, incorrigible or delinquent children, or children, under the age of 18 years, accused of a crime. Original Jurisdiction means that the case may only be initiated in that court.
  2. Jurisdiction over both civil traffic violations and offenses listed in A.R.S. 8-823 may be transferred to municipal court.
  3. A juvenile must be adjudicated delinquent or incorrigible before his/her 18th birthday or the juvenile court loses jurisdiction over that child.



- B. Retention of jurisdiction.
  - 1. The jurisdiction of the juvenile court and the power of the Department of Juvenile Corrections, under a juvenile commitment, usually terminate when a person reaches 18 years of age; however under special circumstances the court can retain jurisdiction up to age 19.
- C. Venue. (See ARS 8-206)
  - 1. The juvenile court shall be determined by the county of the residence of the juvenile or the county where the dependency or incorrigibility occurs.
  - 2. The venue of proceedings in the juvenile court, in which a petition alleging a delinquent act is filed, is the county where the delinquent act occurs.
- D. Philosophical nature of juvenile proceedings. **P. O. 2.8.1A**
  - 1. In both historical evolvement and theory, the juvenile justice system is neither criminal nor penal in character; rather, its objective is the protection and/or rehabilitation of the child.
- E. Arizona Rules of Procedure for the Juvenile Court.
  - 1. These rules govern the procedure for all matters in the juvenile court, including delinquency, incorrigibility, diversion and dependency, Title 8 guardianship, termination of parental rights and adoption. In general, the Rules of Criminal Procedure generally are NOT applicable to juvenile proceedings; however, they may be looked to for guidance. The Rules of Evidence apply. (Maricopa County Juvenile Action No. JV-110720, 156 Ariz. 430 (1988))
- F. Victim Rights.
  - 1. Victim Rights apply to all felonies, misdemeanors, petty offenses and violations of local criminal ordinances.

#### **IV. COMMENCEMENT OF DELINQUENCY OR INCORRIGIBILITY PROCEEDINGS (THE PROSECUTORIAL PROCESS) (See ARS 8-304)**

- A. Speedy Juvenile Justice Requirements. (Rule 25(B)(2), Rules of Juvenile Procedure)
  - 1. If a juvenile is NOT detained, then a petition must be filed within 45 days of submission of a referral to the prosecutor. Therefore, if there are lab tests, drug tests, etc. that will not be returned within the 45 days, it is better to wait to submit the referral if possible.
- B. Responsibilities for investigation.
  - 1. The law enforcement officer where the act occurred, shall have the responsibility for the

complete investigation surrounding the alleged commission of the act. (ARS 8-304A)

2. Child Protective Service (CPS) specialists shall have the responsibility for the complete investigation of all complaints of alleged dependency and a criminal conduct allegation in cooperation with appropriate law enforcement agencies. (ARS 8-304B)

**P. O. 2.8.1E**

C. Pre-petition referral.

**P. O. 2.8.1D**

1. A juvenile proceeding for delinquency or incorrigibility is initiated by filing a juvenile referral with the juvenile court in the county where the alleged act is committed. (Rule 22 of the Rules of Procedure for Juvenile Court)
2. The referral shall be in writing, signed by the peace officer and shall set forth facts with sufficient clarity and specificity to reasonably notify the court of the alleged acts of the juvenile.
3. A peace officer should attach a legible copy of the departmental report(s) to the referral.
4. A.R.S. §8-307(B) requires that the law enforcement agency making a referral or complaint, immediately notify the juvenile's parents, guardian or custodian that a complaint is being sent to juvenile court.
5. The statute adds, however, that failure to make such notification shall not bar any proceedings in any court.
6. Upon receipt of the referral, the case is assigned to a juvenile probation officer for the pre-petition evaluation.
7. Upon receipt of the referral of a felony, the case will be forwarded to the county attorney for review.
8. A misdemeanor complaint may also be submitted for review.
9. If the county attorney does not file a petition, it may have the referral diverted. Diversion consequences may include:

**P. O. 2.8.2**

- a. Participation in unpaid community service.
- b. Participation in a counseling program approved by the court which is designed to strengthen family relationships and to prevent repetitive juvenile delinquency.
- c. Participation in an education program approved by the court which has as its goal the prevention of further delinquent behavior.
- d. Participation in an educational program approved by the court which is designed to deal with other problems experienced by the juvenile, such as alcohol or drug abuse.

- e. Participation in a non-residential program of rehabilitation or supervision offered by the court or offered by the community youth serving agency and approved by the court.
- f. Payment of restitution to the victim of the delinquent act.
- g. Payment of a monetary assessment.
- h. **NOTE:** It is important that you submit a complete legible copy of your departmental report with the referral since the county attorney, probation officer and the court will make numerous decisions from its contents.

D. The petition.

1. Contents:

- a. Initiation of a court action shall be by a petition in writing, under oath and captioned: "In the matter of . . . a person under the age of 18 years," and may be upon information and belief. It shall set forth plainly:
- b. The facts, including time, place (address) and manner of the acts of the child and the law or standard of conduct violated by such acts.
- c. The name, age, sex and addresses, if any, of the child involved in the petition.
- d. The names and residences, if known, of the parents, guardian or custodian of the child or of the child's spouse, if any.
- e. Due to the factual requirements of the petition language, it is particularly important that a law enforcement report be legible and accurate.

2. Authority to file: (ARS 8-326)

- a. The authority to file petitions alleging delinquent behavior rests solely with the county attorney as he/she deems necessary in the public interest.

3. Detention hearing.

**P. O. 2.8.1F3**

- a. No child shall be held in detention for more than 24 hours unless a petition alleging incorrigible, delinquent or criminal conduct has been filed; and no juvenile shall be held longer than 24 hours after the filing of said petition unless ordered by the court after a hearing.
- b. If the detention hearing is not held within the time specified, the juvenile shall be released from detention to the custody of his/her parent or other suitable person. (Rule 23, Rules of Juvenile Court)

- c. The probable cause determination in the detention hearing may be based upon the allegations in a petition, complaint or referral, along with a properly executed affidavit or sworn testimony. Juvenile referrals must be accompanied by a sworn statement so the court has the facts available for consideration at the detention hearing.
- d. In order to comply with time limits, weekend and holiday detention hearings are held. A peace officer will be required, on weekends and holidays, to complete an affidavit in support of probable cause and/or leave a copy of his/her departmental report of the offense with the Juvenile Intake Officer.
- e. Rule 23(D) states the five (5) reasons a juvenile may be detained.
- f. **NOTE:** For detention cases, it is extremely important that a peace officer provide a legible and complete departmental report of the alleged offense with his/her referral since the county attorney has only 24 hours from detention to determine if there is probable cause to believe the juvenile committed the alleged offense and reasonable grounds to believe the juvenile should continue to be detained.

E. Advisory hearing – general procedure:

**P. O. 2.8.1F1**

1. After a formal petition has been filed by the county attorney charging the juvenile with a delinquent or incorrigible act, the child and the parents, guardian or custodian shall be notified to appear before the court.
2. Copies of the petition shall be furnished at, or before, the hearing to the child and parents, guardian or custodian.
3. At the appearance before the court, the child and his/her parents, guardian or custodian shall be advised of the right to be represented by counsel; including the right to be furnished counsel if the juvenile is indigent and the court shall determine whether the juvenile desires to be represented by counsel.
4. At the hearing, the court also sets the release conditions. If the juvenile is detained, the state must provide an affidavit and departmental report for the court to find probable cause to hold the juvenile.
5. A child may waive counsel if the court finds that his/her waiver is knowingly, intelligently, and voluntarily given in view of his/her age, education, apparent maturity and within the presence of his/ her parents, guardian or custodian, at the time of the waiver.
6. A waiver of counsel shall be set forth in writing or in the minutes of the court hearing.
7. The court must also advise the parties of the right of the child to remain silent throughout the proceedings, the right to a hearing, the right to call witnesses on the child's behalf, and the right to confront witnesses presented by the state.

8. Determine whether the juvenile understands the constitutional rights and whether the juvenile knowingly, intelligently, and voluntarily wishes to waive those rights.
9. Determine whether the victim of the offense has requested to be present and be heard if a plea agreement is presented to the court. Victims must be notified (or reasonable efforts made to notify) before a plea bargain can be accepted.

**V. HEARING OFFICERS**

A. Juvenile judge or commissioner.

1. May hear all matters in juvenile court.

B. Traffic hearing officer.

1. May hear cases involving:
  2. Any provision of title 28.
  3. The purchase, possession or consumption of spirituous liquor by a juvenile.
  4. Boating or game and fish.
  5. Curfew.
  6. Truancy.
  7. The damage or disfigurement of property by graffiti or the purchase or possession of materials with the intent to use the materials for graffiti.
  8. The purchase or possession of tobacco.
  9. City/town ordinances, and
  10. Interference with judicial proceedings involving disobeying or resisting the lawful order, process or other mandate of a juvenile hearing officer or failure to appear related to any offense in this section.

**VI. SPECIFIC PROCEDURAL CHARACTERISTICS OF THE ADJUDICATORY HEARING**

A. Due process.

1. A delinquency or incorrigibility hearing may be flexible and informal, but it must meet the requirements of due process and fairness.

B. Burden of proof.

1. The burden of proof in juvenile proceedings, other than transfer hearings, shall be:
  - a. Beyond a reasonable doubt, as to a delinquency or incorrigibility matter; and
  - b. By a preponderance of the evidence, as to all other types of actions, including revocations of probation.
  
- C. Counsel. (ARS 8-221)
  1. By statute in all proceedings for delinquency or incorrigibility, the juvenile court shall, upon request of a child found to be indigent, appoint an attorney to represent indigent minors.
  2. The court shall also appoint an attorney to represent a minor when there appears to be a conflict of interest between the minor and his/her parents.
  
- D. Jury trial. (McKeiver v. Pennsylvania, 403 U.S. 528 (1971))
  1. The United States Constitution does not require the state to provide jury trials for juveniles in adjudicatory hearings.
  2. This is a matter left to the individual states.
  3. There is no provision for juvenile jury trials in Arizona.
  
- E. Rules of evidence.
  1. The Arizona Rules of Evidence apply to delinquency and incorrigibility proceedings in juvenile court.
  
- F. Parties permitted at a delinquency hearing. (Review ARS 13-4252)
  1. All delinquency hearings in juvenile court are open to the public unless the court makes specific findings that it is in the public interest to close the hearing or exclude any individual.
  
- G. Discovery.
  1. Discovery rules are similar to adult court, but are more simplified with shorter time limits. ( Rule 16, Rules of Juvenile Procedure)
  
- H. Suppression hearings.
  1. Motions to suppress illegally-obtained evidence and violations of search and seizure laws are litigated in juvenile court.

- a. However, in juvenile court, suppression motions are usually heard in the middle of trial or may be heard at a separate hearing. This is true with respect to violations of Miranda. **INSTRUCTOR NOTE:** *Be prepared to testify on these issues when you go to trial.*

I. Time limits. ( Rule 29, Rules of Juvenile Procedure)

- 1. The court shall conduct an adjudication hearing to determine whether the juvenile committed the acts alleged in the delinquency or incorrigibility petition.
- 2. If a juvenile is detained – adjudication hearing must begin within 45 days of the advisory hearing.
- 3. If a juvenile is not detained – adjudication hearing must begin within 60 days of the advisory hearing.

**VI. DISPOSITION AND COMMITMENT**

**P. O. 2.8.1F4**

A. Disposition and commitment.

**P. O. 2.8.1C**

- 1. The court may award (sentence) a delinquent child as follows:
  - a. To the care of his/her parents, subject to the supervision of a probation department.
  - b. To a probation department, subject to such conditions as the court may impose.
  - c. To a reputable citizen of good moral character, subject to the supervision of a probation department.
  - d. To a public or private, agency or institution, subject to the supervision of a probation officer.
  - e. To The Department of Juvenile Corrections without further directions on the placement by the department.
  - f. To the maternal or paternal relatives, subject to the supervision of a probation department.
  - g. To an appropriate official of a foreign country of which the juvenile is a national.
  - h. The court shall, after considering the nature of the offense and the age, physical and mental condition, and earning capacity of the child, order the following dispositions for a delinquent, either as exclusive or in addition to the previous dispositions.
    - i. To make full or partial restitution to the victim of the offense,

- ii. To pay a reasonable monetary penalty if it will aid in rehabilitation.
    - i. The court shall require the restitution or monetary penalty imposed, to be satisfied by:
      - i. Monetary reimbursement; or
      - ii. A program of work to repair damage to the victim's property, to provide community service or to provide the youth with a job for wages.
    - j. If a youth is committed to the Department of Juvenile Corrections or an institution, the court shall specify the amount of monetary restitution imposed.
    - k. Court can order custodial parents to pay restitution up to \$10,000. (ARS 8-344(C) and 12-661)
  - 2. The court may award (sentence) an incorrigible child as follows:
    - a. To the care of his/her parents, subject to supervision of a probation department.
    - b. To the protective supervision of a probation department, subject to such conditions as the court may impose.
    - c. To a reputable citizen of good moral character, subject to the supervision of a probation department.
    - d. To a public or private agency, but subject to the supervision of a probation department.
    - e. To maternal or paternal relatives subject to the supervision of a probation department.
- B. Length of confinement to the Department of Juvenile Corrections.
- 1. The commitment of a delinquent to the Department of Juvenile Corrections shall not exceed beyond the 18th birthday of the juvenile and once committed to the department, the juvenile court does not have any further jurisdiction over the minor. The exclusive control over the minor is with the department.
- C. Delinquency adjudication/non-criminal. (ARS 8-207)
- 1. An order adjudicating a minor delinquent shall not be deemed a conviction of a crime or impose any civil disabilities ordinarily resulting from a conviction.
  - 2. The disposition of a child in the juvenile court may not be used against the child in any case or proceeding in any court other than a juvenile court.



- D. Alcohol offenses. (ARS 28-3309)
1. Juveniles may be cited into juvenile court by the use of the Arizona traffic ticket and complaint for alcohol and curfew violations.
  2. If the juvenile is arrested for only an alcohol offense, the juvenile can be released on his/her own promise to appear with a date, time and place to appear in the juvenile court.
  3. In addition to a fine, the juvenile court shall require the surrender of a juvenile's operator's license and shall order the MVD to suspend the license of a juvenile if:
    - a. He/she has violated A.R.S. §28-1381, DUI.
    - b. Was operating a motor vehicle in the course of violating A.R.S. §4-244(33).  
***INSTRUCTOR NOTE: Requires a 2 year suspension.***
  4. If the minor has twice been convicted of a violation of A.R.S. §4-244(9), the license shall be suspended until the 18th birthday or for 2 years, if ordered by the court.

**VII. JUVENILE ALCOHOL OFFENSES****P. O. 2.8.10**

- A. A.R.S. §4-241(L) – a minor misrepresents his/her age by means of a written instrument (misdemeanor).
- B. A.R.S. §4-241(M) – a minor trying to get another person to purchase alcohol for him/her (misdemeanor).
- C. A.R.S. §4-241(N) – fraudulent or false identification or using identification of another to gain access to a licensed establishment (misdemeanor).
- D. For violations of A.R.S. §4-241(L) and (N) – the minor's driver's license is suspended for six (6) months (1st offense) and 12 months (2nd offense). ARS 28-3309(c)
- E. A.R.S. §4-244(9) – person under the legal drinking age to buy, receive, have in the person's possession or consume spirituous liquor.

**VIII. ADULT PROSECUTION OF JUVENILE OFFENDERS****P. O. 2.8.1B**

- A. Transfer.
  1. Initiation of proceedings.
    - a. After the filing of a petition for delinquency and prior to adjudication, upon motion of the county attorney, a hearing will be held to determine whether the juvenile should be transferred to adult court for criminal prosecution of the

offenses. This applies only to felony offenses. **INSTRUCTOR NOTE:** *Probable cause for transfer must be provided by the preponderance of the evidence standard (doesn't have to meet the beyond a reasonable doubt standard).*

2. Transfer and standards of transfer.
  - a. Before a juvenile may be transferred to adult court for criminal prosecution, the judge must first determine that there is probable cause to believe that the offenses were committed and that the juvenile committed them.
  - b. The court can then order the juvenile transferred if it is in the best interests of public safety.
  - c. If the juvenile is not transferred, the matter proceeds to adjudication and disposition on the original delinquency petition.

3. Transfer hearing.

**P. O. 2.8.1F5**

- a. The court shall consider the following factors in determining if the public safety would be served by the transfer of a juvenile for criminal prosecution:
  - i. The seriousness of the offense involved.
  - ii. The record and previous history of the juvenile, including previous contacts with the courts and law enforcement, previous periods of any court-ordered probation and the results of that probation.
  - iii. Any previous commitments of the juvenile to juvenile residential placements and secure institutions.
  - iv. If the juvenile was previously committed to the ADJC for a felony offense.
  - v. If the juvenile committed another felony offense while the juvenile was a ward of ADJC.
  - vi. If the juvenile committed the alleged offense while participating in, assisting, promoting or furthering the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise.
  - vii. The views of the victim of the offense.
  - viii. If the degree of the juvenile's participation in the offense was relatively minor, but not so minor as to constitute a defense to prosecution.
  - ix. The juvenile's physical, mental and emotional condition.
  - x. The likelihood of the juvenile's reasonable rehabilitation through the use

of services and facilities currently available to the juvenile court.

- B. Mandatory direct filing of adult prosecutions. (ARS 13-501A)
1. The county attorney shall bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is at least 15 years of age at the time the alleged offense was committed and is accused of any of the following offenses:
    - a. First degree murder.
    - b. Second degree murder.
    - c. Forcible sexual assault.
    - d. Armed robbery.
  2. Any other violent felony offense including aggravated assault with a deadly weapon or dangerous instrument, aggravated assault involving serious physical injuries, drive-by shootings and discharging a firearm at an occupied structure.
  3. Any felony offense committed by a chronic felony offender.
  4. A chronic felony offender is defined as: A juvenile who has been adjudicated for at least two (2) prior, separate felony-level offenses.
- C. Discretionary direct filing of adult prosecutions. (ARS 13-501B)
1. The county attorney may bring a criminal prosecution against a juvenile who is at least 14 years of age at the time the alleged offense was committed and is charged with any of the following offenses:
    - a. A Class 1 felony.
    - b. A Class 2 felony.
    - c. A Class 3 felony in violation of any offense in Chapters 10 through 17 or Chapter 19 or 23.
    - d. A Class 3, 4, 5 or 6 felony involving a dangerous offense.
  2. Any felony offense committed by a chronic felony offender.
  3. Any offense that is properly joined to one of the above offenses.
- D. Prior felony convictions. (ARS 13-501 C)
1. Any juvenile who is charged and who has a prior felony conviction, shall be treated as an

adult for charging purposes.

- E. Confinement of juveniles facing adult prosecution. (ARS 8-305)
  - 1. It is unlawful to confine a juvenile, who has been transferred or has had a direct filing of charges in an adult court, in a juvenile detention center.
  - 2. It is also unlawful to confine any juvenile facing adult charges in the same section of any jail or prison in which adult prisoners are confined.
  - 3. Suitable quarters shall be made for confinement of juveniles having sight and sound separation.

**IX. ARREST AND DETENTION - PURSUANT TO A.R.S. § 8-303**

- A. A child shall be taken into temporary custody: **P. O. 2.8.15**
  - 1. Pursuant to an order of the juvenile court.
  - 2. Pursuant to a warrant issued according to the laws of arrest.
- B. A juvenile may be taken into temporary custody: **P. O. 2.8.16**
  - 1. By a peace officer pursuant to the laws of arrest, without a warrant, if there are reasonable grounds to believe that the juvenile has committed a delinquent act or the child is incorrigible.
  - 2. By a peace officer if there are reasonable grounds to believe that the child has run away from the child's parents, guardian or other custodian.
- C. A peace officer shall take a juvenile into temporary custody pursuant to the laws of arrest, with or without a warrant, when there are reasonable grounds to believe that either: **P. O. 2.8.15**
  - 1. The juvenile has committed a criminal act or a delinquent act which if committed by an adult could be a felony or breach of the peace.
  - 2. The juvenile has been apprehended in commission of a criminal act or a delinquent act, which if committed by an adult would be a felony, or in fresh pursuit.
- D. A juvenile who is taken into temporary custody pursuant to subsection D of this section may be released from temporary custody only to the parents, guardian or custodian of the juvenile or to the juvenile court.
- E. A person who knowingly interferes with the taking of a juvenile into temporary custody under the provisions of this section is guilty of a class 2 misdemeanor.

**X. A.R.S. § 8-821. TAKING INTO TEMPORARY CUSTODY; MEDICAL EXAMINATION; PLACEMENT;**

**INTERFERENCE; CLASSIFICATION**

- A. A child shall be taken into temporary custody in proceedings to declare a child a temporary ward of the court to protect the child, pursuant to an order of the juvenile court on a petition by an interested person, a peace officer or a child protective services worker under oath that reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse or neglect. If a child is taken into temporary custody pursuant to this section, the child's sibling shall also be taken into temporary custody only if Independent probable cause exists to believe that temporary custody is clearly necessary to protect the child from suffering abuse or neglect. **P. O. 2.8.15**
- B. A child may be taken into temporary custody by a peace officer or a child protective services worker if temporary custody is clearly necessary to protect the child because exigent circumstances exist. **P. O. 2.8.16**
- C. In determining if a child should be taken into temporary custody, the interested person, peace officer or child protective services worker shall take into consideration, as a paramount concern, the child's health and safety.
- D. A person who takes a child into custody because an exigent circumstance described in subsection K, paragraph 2 of this section exists shall immediately have the child examined by a physician who is licensed pursuant to title 32, chapter 13 or 171 or a health care provider who is licensed pursuant to title 322 and who has specific training in evaluations of child abuse. After the examination the person shall release the child to the custody of the parent or guardian of the child unless the examination reveals abuse. Temporary custody of a child taken into custody because an exigent circumstance described in subsection K, paragraph 2 of this section exists shall not exceed twelve hours.
- E. "Exigent circumstances" means there is probable cause to believe that the child is likely to suffer serious harm in the time it would take to obtain a court order for removal and either of the following is true:
1. There is no less intrusive alternative to taking temporary custody of the child that would reasonably and sufficiently protect the child's health or safety.
  2. Probable cause exists to believe that the child is a victim of sexual abuse or abuse involving serious physical injury that can be diagnosed only by a physician who is licensed pursuant to title 32, chapter 13 or 17 or a health care provider who is licensed pursuant to title 32 and who has specific training in evaluations of child abuse.
- F. A child who is taken into temporary custody pursuant to this article shall not be held in a police station, jail or lockup where adults or juveniles who are charged with or convicted of a crime are detained.
- G. A child shall not remain in temporary custody for more than seventy-two hours excluding Saturdays, Sundays and holidays unless a dependency petition is filed.

- H. To execute an order authorizing temporary custody, a peace officer may use reasonable force to enter any building in which the person named in the removal authorization is or is reasonably believed to be.
- I. A person who knowingly interferes with the taking of a child into temporary custody under this section is guilty of a class 2 misdemeanor. (ARS 8-303C)
- J. Parent/guardian notification per A.R.S. §8-823. **P. O. 2.8.9**
1. Written notice within six (6) hours unless:
    - a. The parent/guardian is present when the child is taken into custody, then written and verbal notice shall be provided immediately.
    - b. The residence of the parent/guardian is outside that state and notice cannot be provided within six hours, then written notice provided within 24 hours. Officers should use their department's written notice, which contains the statutory requirements.
    - c. The residence of the parent/guardian is not ascertainable, then reasonable efforts shall be made to locate and notify the parent or guardian of the child as soon as possible.
- K. Violations: A person who knowingly interferes with the taking of a child into temporary custody under A.R.S. §8-303 is guilty of a Class 2 misdemeanor. ( Discuss ARS 13-1310 as well)
- L. Release of non-delinquents.
1. With juvenile court authorization, any peace officer or juvenile probation officer, having a child in temporary custody for reasons other than commission of a delinquent act, may place the child in shelter care.
  2. A shelter care facility is any public or private facility or home licensed by the state, offering a physically non-secure environment. A non-secure environment is characterized by the absence of physically restricting construction or hardware and provides the child access to the surrounding community.

**XI. MIRANDA**

- A. If a juvenile is in custody, Miranda warnings must be given prior to questioning. Officers may not question a juvenile unless the juvenile has waived the right to remain silent and to an attorney.
1. The determination whether statements obtained during custodial interrogation are admissible against a juvenile is to be made upon analysis of the totality of the circumstances that surround the interrogation to ascertain whether the juvenile, in fact, knowingly and voluntarily decided to abandon his/her right to remain silent and to have

the assistance of counsel.

2. The relevant factors include the juvenile's age, the presence or absence of a parent figure, physical abuse, threats or promises and whether he/she has the capacity to understand the warning and consequences of waiving those rights.

B. Juvenile rights; Miranda.

1. The United States Supreme Court ruled in the Gault decision that juveniles are guaranteed the following rights: **P. O. 2.8.8A-E**

- a. Early notice of charges.
- b. Right to remain silent.
- c. Right to adequate warning of the privilege against self-incrimination.
- d. Right to confront and cross-examine witnesses.
- e. Right to legal counsel, whether private or court appointed, in cases which might result in incarceration.

- C. Presence of a parent or guardian. Absent factors that make it reasonable to exclude a parent, a child's request to have a parent present during questioning should be honored. A parent's request to be present should be honored unless the child declines or there are factors present that make it reasonable to exclude the parent. It may be reasonable to exclude the parent if, for example, the child insists that the parent not be present, or the parent is also a suspect, or the parent is disruptive during the interview, or if the parent threatens the officers or the other parent. **INSTRUCTOR NOTE:** *If the juvenile requests a parent or guardian (not an attorney), the officer can question the juvenile if reasonable attempts to locate the parent/guardian are unsuccessful. Document the attempts. (in re Andre M., 207 Ariz. 482 (2004))*

**P. O. 2.8.8F**

## XII. MISCELLANEOUS

A. Juvenile information.

1. Information regarding a juvenile's whereabouts, probation officer or record, may be obtained from the intake section of the Juvenile Court Center. **P. O. 2.8.12**

B. Referral options.

1. When a juvenile has committed a delinquent act there are three (3) options at the arresting officer's discretion:

- a. Parental referral. **P. O. 2.8.12A**

- i. Generally for misdemeanor incidents.

- ii. No court action is necessary.
  - iii. Field release to parent.
  - iv. Parent signs Promise to Appear.
  - v. Juveniles and parents report to the juvenile court as directed.  
***INSTRUCTOR NOTE:*** *The instructor may also choose to have students complete a Temporary Custody Notice (TCN) and any additional paperwork that is required locally to process arrested juveniles.*
2. Physical referral.
- a. Transport to juvenile detention facility.
    - i. Generally, any felony offense especially weapons related or repeat offenders.
  - b. Provide Juvenile Intake with an interim report with sufficient information for the county attorney to file a petition.
3. If the offense is an incorrigible offense, the juvenile may be released to an agency which has been designated to provide services to this type of offender. **P. O. 2.8.12B**
4. Follow your agency rules.
5. Factors to consider when determining the proper course of action relative to a juvenile offender: **P. O. 2.8.11**
- a. Nature of offense.
  - b. Age of offender.
  - c. Culpability of the offender.
  - d. Nature of the circumstances which led to the offenses.
  - e. Prior contacts with law enforcement.
  - f. Legal guardian of the offender.
- C. In considering whether a juvenile’s consent is voluntary, the courts consider the juvenile’s age, intelligence, the length of detention, whether the parents are present, and other factors. ( State v. Hon. Butler and Tyler B., 232 Ariz 84, 302 P.3d 609 (Ariz 2013)

### **XIII. JUVENILE RUNAWAY CALLS**



- A. Calm the parent/custodian.
- B. Learn the circumstances of the case/attempt to determine motive.
- C. Obtain description/photograph of child.
- D. Determine the child's physical and mental conditions.

**XIV. MEDICAL AID FOR A JUVENILE****P. O. 2.8.5**

- A. Officers have an obligation to ensure the safety and well being of persons, including juveniles, who are in their custody. An officer who has a juvenile in custody who is in need of medical treatment should transport the child to an appropriate medical facility, or arrange for the release (when and as permitted by law) of the child to an appropriate party (parent or guardian) who can arrange for the juvenile's care. (ARS 8-821)
- B. Officers should be aware that under Arizona law (A.R.S. Sec. 8-821), an officer may take a child into custody only when there is a Superior Court order, parental or guardian consent, or the juvenile would suffer imminent abuse or neglect before a court order could be. If there is no court order or consent, the juvenile must be immediately examined by a medical doctor or psychologist.

**XV. MINOR WHO IS A SEXUAL ASSAULT VICTIM**

- A. When a sexual assault medical examination is needed quickly, a minor 12 years of age or older may give consent when parents/guardian are unavailable. A.R.S. § 13-1413.

**P. O. 2.8.6**

- B. The parents are not responsible for the charges.

- C. An officer responding to a minor's sexual assault or physical abuse should:

**P. O. 2.8.7**

1. Make the minor feel safe.
2. Seek an appropriate support system (family, relative, teacher, etc.).
3. Notify CPS immediately.
4. Refrain from taking a statement unless the officer is trained in accordance with the applicable County protocol.
5. Notify your supervisor.

**XVI. SECURING JUVENILES AT FACILITIES****P. O. 2.8.3****P. O. 2.8.4**

- A. If a juvenile is brought to a law enforcement facility, either to await responsible party pick up or to prepare to transfer to a juvenile detention facility, **the following three (3) criteria must be**

**met in order** to place a juvenile in a secure area of a facility:

1. The juvenile must be accused of a criminal act (not a status offense as the most serious charge); ( See JJDP Act handout)
  2. The juvenile must be sight and sound separated from adult prisoners at all times while in custody ; and,
  3. The juvenile must be removed from the secure area within six (6) hours.
- B. Transportation.
1. Juveniles in custody may not be transported or detained in the same vehicle or facility with adults unless:
    - a. There is a sight barrier.
    - b. There is a sound barrier.
- C. Juveniles must be segregated from other prisoners per A.R.S. 8-305.
1. A juvenile confined in jail or locked up where adults are confined shall be kept in a physically separate section.
  2. No sight or sound contact between a juvenile and any charged or convicted adult is permitted.
  3. Any detained juvenile or child who endangers or may endanger the safety of other children, shall not be allowed to intermingle with any other juvenile or child in the detention center.

## XVII. IMPLEMENTATION/DISCUSSION

### P. O. 2.8.13

- A. The instructor will hand out a copy of the Juvenile Offense Scenario 1 overhead/handout and then have each cadet identify, discuss and defend what is the most appropriate course of action they would follow for the scenario. **INSTRUCTOR NOTE:** *These scenarios may also be used to complete a Juvenile Referral Form. INSTRUCTOR OPTION: Have students work in pairs and/or small groups of 3-5 students.*
- B. The instructor will hand out a copy of the Scenario 2 overhead/handout and then have each cadet identify, discuss and defend what is the most appropriate course of action they would follow for the scenario.

## XVIII. JUVENILE REFERRAL FORM

- A. Hand out a written description of a runaway child incident and have each cadet complete or receive a copy with sufficient information to complete a Juvenile Referral Form.

**XIX. CONCLUSION**

- A. Review of performance objectives.
- B. Final questions and answers.
- C. Instructor closing comment(s).