

## COLCHESTER POLICE DEPARTMENT

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**POLICY:** It is the policy of the Colchester Police Department (CPD) that when dealing with juveniles, officers shall consider reasonable alternatives, consistent with preserving public safety, order, individual liberty, and state and federal law. CPD is committed to maintaining programs and initiatives that prevent and control delinquency, enhance safety of juveniles and promote positive relationships with youth, schools and the broader community.

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### I. Organization & Administrative Requirements:

- A. Any officer may be called upon to investigate incidents involving children. Officers may be assigned to investigate the following:
1. Wide variety of incidents involving juveniles as victims, witnesses, offenders or status offenders.
  2. Investigate child abuse and neglect incidents.
  3. Liaison with all agencies that work with youth in the community.
  4. Investigate and/or follow-up on all runaway and missing children incidents.
- B. Officer responsibilities include, but are not limited to:
1. Completing paperwork related to juvenile arrests/petitions on an established schedule, generally, no later than 3-5 days after the citation. Upon completion, the officer shall submit all juvenile paperwork to his/her supervisor for review. The officer will be responsible for making referrals of this paperwork to either the

Chittenden County State's Attorney's Office for disposition in Court or refer to the Community Justice Center (or other approved program), which has specific protocol for handling cases of this nature.

2. When juvenile(s) are detained/arrested or ordered into Family Court for the next business day, officers are required to complete the paperwork for the court hearing by the next business morning.
3. All officers may make themselves available to counsel youth when requested by an outside agency or other member of the community.

## II. Operations:

### A. YOUTHFUL OFFENDERS

When dealing with juvenile offenders, any action taken must conform to all state and federal laws governing the rights of young people. When officers investigate juvenile related incidents, they must determine if the child has engaged in non-criminal behavior, a status offense, or a delinquent act.

1. STATUS OFFENSE – Any offense specific to children for which an adult cannot be prosecuted; such as possession of alcohol or tobacco. When an officer confronts a child that has committed a status offense, the officer may do one of the following:
  - a. Counsel and release the child to a parent/guardian, considering the criteria for a Child in Need of Supervision (CHINS) (see section B next page) and then document all actions taken in a report.
  - b. Do the above and prepare a delinquency case (recommended for alcohol and civil marijuana violations for under 16 years old) or issue a VCVC for tobacco, alcohol or marijuana possession for 16 & 17 year olds.
2. DELINQUENT ACTS – An act committed by a child, which is a crime under state and/or federal law.
  - a. Children not yet sixteen (16) years of age, but who have attained the age of ten (10), will be charged by completing a court case and issuing a "Citation to Juvenile". The investigating officer has the responsibility to obtain as much information about the juvenile as possible prior to making a referral to either the Chittenden County State's Attorney's Office, or the Community Justice Center. This information includes name of school and grade, parents' information, criminal history, previous police involvements, any known history of substance abuse or mental health issues, truancy history, etc. After review by the officers' supervisor, the case will be sent to Records Division for proper handling.

- b. Investigating officers shall consult current State's Attorney guidelines or communicate with the State's Attorney's Office about certain types of acts which should be reviewed/discussed with them prior to disposing the case in any other fashion. These should include, but are not limited to:
    - Felonies
    - Crimes involving weapons
    - Gang-related incidents
    - Domestic violence
    - Children who are under probation or court imposed conditions when the incident took place
    - Incidents where the youthful offender is also a CHINS
    - Whenever the suspect has refused or failed to comply with pre-court restorative justice programs
  - c. Officers should attempt to find alternatives to continued custody of juvenile offenders. In the event continued custody is necessary, officers should consider the following non-limiting list:
    - Prior Police record/contacts
    - Type of offense
    - Influence of alcohol or drugs
    - CHINS history
    - Risk to public safety
  - d. If the decision is made not to continue custody of the juvenile offender, the parent/guardian will be notified and the youth released to them. In the event that neither a parent or guardian is located and the youth is released to another responsible adult, or the offense is minor and the youth is released outright, the officer will contact the parent/guardian as soon as practical. The officer should document this information in their report.
3. SIXTEEN/SEVENTEEN YEAR-OLD OFFENDERS – Sixteen (16) and seventeen (17) year-old offenders will be issued a citation to appear in Superior Court – Family Division for all misdemeanors except for DLS, ATE, DUI, C&N, LSA and those listed in 13 VSA 5301 (7). Generally, 16/17 year olds will be cited to appear in Superior Court -Criminal Division for felonies. Additionally, minors aged 15 or 14 may be cited into Criminal Court for any of the 12 major felonies found in 33VSA5204.
- If the parent is not present at the time a citation is issued, the officer shall make contact with the juvenile's parent(s) or guardian(s), make reasonable efforts to provide a copy of the***

***citation to the parent/guardian and document said notification in their report.***

**B. CHILD IN NEED OF CARE AND SUPERVISION (CHINS)**

1. Under T33 VSA chapter 53, a child is deemed in need of care and supervision if;
  - a. Pursuant to a court order; or
  - b. When an officer has reasonable grounds to believe that the child is in immediate danger from his/her surroundings and that removal from the child's current home is necessary for the child's protection; or
  - c. When an officer has reasonable grounds to believe the child has run away from a custodial parent, foster parent, a guardian or custodian or a noncustodial parent lawfully exercising parent-child contact, or care provider.
2. Sixteen and seventeen year old UNMANAGEABLES – A 16 or 17 year-old cannot be a CHINS based solely on unmanageability. In these cases social service agency assistance, such as First Call, should be sought. The child's background should be investigated to see if the criteria in a or b above exists.
3. If an officer takes a child into custody as a CHINS, the steps in the following non-limited list should be taken:
  - a. Remove the child from the surroundings. If appropriate, contact the parent/guardian.
  - b. Contact First Call (for unmanageable youth)
  - c. Contact on-call State's Attorney
  - d. Contact DCF
  - e. Complete appropriate paperwork, juvenile contact form, incident report, and affidavit. Paperwork should include the reason child was taken into custody, information about any potential placements with family or friends, and information about the parents/guardians.
  - f. Paperwork must be completed by next business morning for court hearing.

**III. Procedures**

**A. Non-Custody**

1. Any officer who has contact with a juvenile offender may counsel and release the child for non-serious offenses. These contacts shall be documented and the parent/guardian contacted.

**B. Custody**

1. Under T33 VSA 5251, a child may be taken into custody as a delinquent for the following reasons:
  - a. Pursuant to laws of arrest in Vermont.
  - b. Pursuant to a Family Court order under T33 VSA chapters 51, 52 or 53.
  - c. By law enforcement officer who has reasonable grounds to believe that the child has committed a delinquent act; and that the child's immediate welfare or the protection of the community, or both, require the child's removal from the child's current home.
2. When a child is taken into custody, she/he should be transported to the Police Department or the child's residence. If the child is taken to the Department, his/her parent/guardian will be contacted immediately, advising them of the situation and requesting that they come to the Department. If the child has been arrested, the parents shall be notified of this and the nature of the charges and location of the child shall be conveyed to them. If the child is cited, the parent/guardian shall be provided/mailed a copy of the citation.
3. When an officer has taken a child into custody, the officer shall make reasonable attempts to determine the physical/emotional welfare of the child to discern whether the child is in danger of being harmed or harming themselves.
4. If it is determined that a child is to be taken to Woodside, they should be taken without delay.
5. Any time a juvenile is taken into custody, a "Juvenile Contact Form" shall be completed, and the signature of the person to whom the juvenile is being released should be affixed to the form. See Appendix B for "Juvenile Data Sheet".
6. According to the Federal Juvenile Justice and Delinquency Prevention Act of 1974, juveniles (except those charged or convicted of a criminal felony offense) should not be held in adult jails or lock ups in a secure detention or confinement status. **They may be held in non-secure custody.**
  - a. The areas where the child may be held would be an **unlocked, multi-purpose area**, such as a lobby, office, interview/interrogation room that is not designated, set aside or used as a secure detention area or is not part of such an area, or, if a secure area, is used only for processing purposes.
  - b. The child shall not be physically secured to a cuffing rail or other stationary object during the period of in the facility, except as otherwise provided hereunder.

- c. The use of the area(s) is limited to providing non-secure investigation, processing, and release to parents or guardian, or arranging transfer/transport to an appropriate youth facility or court.
  - d. The child **must be under continuous visual supervision by a law enforcement officer** or other responsible adult during the period of time that he/she is in non-secure custody.
  - e. In the event of a juvenile **misdemeanant** who is violent or poses an escape risk, he/she may be secured by the least restrictive reasonable alternative. Officers may use the interview rooms in the holding area for this purpose, or if the child is handcuffed or confined to a holding cell (for a maximum of six (6) hours), the detaining officer must document the reason in his/her report and complete the juvenile holding log. Juveniles held in secure custody must always be out of sight and sound of any other persons in custody.
  - f. Unless unusual circumstances exist, a child who is a status offender (runaway) should be held in secure custody for no more than one (1) hour. Officers must document checks every thirty (30) minutes and explain why secure custody lasted more than one hour.
7. Interview & Interrogation
- a. When a child is taken into custody or deprived of her/his freedom in any significant way and subject to interview/interrogation, the officer must advise the child of his/her Miranda warnings in the presence of an adult who is genuinely interested in the welfare of the child and has no connection to the prosecution (See Juvenile contact Form). The adult must be allowed to confer with the child in private prior to waiving Miranda.
  - b. The child and the adult will be advised of the Department's and the State's juvenile justice procedures.
  - c. The following procedures shall be observed during interview/interrogation of children:
    - 1. Limit the number of interviewers to one.
    - 2. Limit the number of Police employees in the room to no more than two.
    - 3. Limit the length of the interview to two hours unless there are extenuating circumstances.
8. Fingerprinting and Photographing
- a. Youths charged as adults may be fingerprinted and photographed as adults.

- b. Youths not charged as adults may be fingerprinted for immediate comparison to latent prints found at the scene of a crime if there is reason to believe that particular child was involved. The fingerprints must be immediately destroyed if the comparison is negative.
- c. Youths not charged as adults cannot be photographed without the consent of a judge.

**C. Runaway / Missing Youth Complaints**

- 1. Officers are responsible for initiating runaway incidents. Reports will be used to document all pertinent information to include any information concerning why the child ran away, possible destinations and known associates, and extenuating circumstances such as medical concerns, abuse and neglect, and suicidal or homicidal ideation. If the complainant is not the legal parent or guardian, that information will be collected.
- 2. Officers are responsible for completing a report outlining the facts and circumstances around the Runaway/Missing Youth as well as entering the Runaway/Missing Youth into NCIC/VCIC. Both of these tasks must be completed as soon as possible and no later than prior to the officer's completion of shift.
- 3. It shall generally be the responsibility of the officer who takes the initial report of a runaway/missing child to attempt to locate the child for ten days after taking the complaint. After ten days, the complaint should be forwarded to a detective for follow-up investigation when the child has not returned during this time period. If the complaint is of an urgent and/or serious nature, the Officer In Charge must be immediately notified.
- 4. When a runaway/missing child complaint is initiated by our agency and apprehended or canceled by our agency, **both the officer who locates/cancels the runaway/missing status and the dispatcher who enters and/or cancels the runaway/missing child into NCIC/VCIC at the request of an officer, have a responsibility to document the following:**
  - a. The officer shall document pertinent information in the original incident. This information should include, but is not limited to, the location of apprehension or return of the child, circumstances surrounding their return, circumstances during their time on the run including where they lived and ate meals, any criminal behavior perpetrated on or perpetrated by the youth while on the run. These questions need to be asked to protect vulnerable juvenile populations. Officers should be mindful that apprehended juveniles are in custody and Miranda requirements may apply if incriminating statements are solicited.

- b. In the event the officer learns of any criminal activity, the officer will make reasonable attempts to investigate that activity.
- c. The dispatcher shall indicate in the supplemental field of the law incident form: his/her name, the date that they entered the child as a runaway/missing into NCIC/VCIC, and the name of the officer who made the report/request. The dispatcher shall also document in the supplemental field of the law incident: his/her name, the date they canceled the child's runaway/missing status in NCIC/VCIC, and the name of the officer who requested the cancellation.
- d. The procedures for apprehension of runaways in other towns within Chittenden County are included in a memo from the Chittenden County Law Enforcement Executives [see Appendix C].

**D. Suspected or known abuse or neglect of children**

Pursuant to Title 33 VSA 4913, officers are required to report any case of suspected child abuse or neglect to the Department of Children and Families (DCF) within twenty-four (24) hours. Officers working after hours can report to DCF using the Emergency Services Unit of DCF. Officers must make contact with a DCF employee confirming receipt of the report and document those contacts in their incident.

**IV. Juvenile Alcohol Policy:**

- A. *Intoxicated Youth* – a person under the age of eighteen (18) who is intoxicated is assumed to be unable to safely care for her/himself. In order to ensure the continued care of such individuals, any intoxicated youth shall be taken into custody.
- B. Intoxicated youths in custody will be released only to a legal parent or guardian. A temporary adult guardian may be designated by parents if they are unavailable. Also, 17 year old subjects with no local family may be transferred to the custody of Act 1. If a parent or guardian cannot be located, the officer will contact the On-Call State's Attorney to request that the youth be placed into the custody of the state as a CHINS.
- C. *Incapacitated Youth* – a person under the age of eighteen (18) must be screened at an approved alcohol screening program or the Emergency Room of a licensed general hospital. While the screening is taking place, officers should coordinate contacting the legal parent or guardian to notify them of the youth's status. After screening, the youth must be released as described in section (B).



**V. Diversion, Restorative Practices and Community Justice Center:**

- A. The purpose of the court diversion program is to provide a community based alternative to the formal court process for first offenders. It provides for a quick response to the offense and holds the offender responsible for the unlawful act. Diversion attempts to compensate victims of crime for their losses while protecting the rights of the offender. Officers may recommend for diversion any juvenile for whom legal proceedings would be inappropriate or the use of other resources would be more effective. The officer having contact with the juvenile offender should take into consideration the nature of the offense, the age and circumstances of the offender, the offender's record, and the availability of community based rehabilitation programs. Recommendations to the diversion program should be documented in the report to family court. [See appendix A for Diversion guidelines]
- B. Restorative Justice is a way of thinking about crime and conflict. It challenges us to look at how we respond to low level crime and how we restore the balance after a crime has been committed. Restorative Justice can come in many forms, depending upon the circumstances of the case, and the resources available through the Community Justice Center.
- C. In general, all restorative models focus on holding the offender accountable in a more meaningful way, repairing the harm caused by the offense, reintegrating the offender into the community, and achieving a sense of healing for both the victim and community.
- D. Restorative practices will not take the place of the traditional criminal system and will not be invoked when inconsistent with the protection of the community and existing state and federal law. Referral to any restorative program needs to be made in consultation with a supervisor.

**VI. Youth Services Officers & Programs:**

- A. The Youth Services unit is contained within the Support Services Division. It consists of officers who are assigned for a period of one school year or more, consistent with department orders on transfers. The unit is supervised by the Support Services LT.
- B. The Youth Services unit is designed to provide enhanced safety in our schools to facilitate learning. Members of the unit are charged with developing and maintaining relationships and increased communication between the Department, Colchester Schools, and the Community.
- C. Youth Services Officers will be responsible for a variety of tasks, which are summarized in the position description of Youth Service Officer. Some examples include providing traditional police services in schools, providing instruction to students, faculty and parents, and serving as a

resource to both the school community and the Department on issues of mutual concern. Additionally Youth Service officers are responsible for:

- Community Outreach & Crime Prevention
- Business Outreach
- Special programs
- Follow up on certain incidents involving youth
- Oversight of the Community Service Officers

##

Appendix A

**Chittenden County Court Diversion  
Guidelines for Referrals**

- A. Chittenden County Court Diversion guidelines for referral are:
1. The offender must be ten (10) years of age or older.
  2. The person must have no prior juvenile or criminal adjudication.
  3. The offender must be willing to admit guilt and take full responsibility for the offense.
  4. There must be probable cause for the offense and it must rise to the level of cases which would normally be prosecuted by the State's Attorney's Office.
- B. Criminal cases that will not be considered for Diversion are as follows:
1. DWI's are not eligible under any circumstances.
  2. Those cases which involve a serious injury or high monetary loss.
  3. Offenses involving cruelty to children.
  4. Leaving the scene of an accident where the struck vehicle was occupied at the time of the collision. LSAs where the offender struck an unoccupied vehicle or an object which did not involve the potential for physical injury are considered for Diversion depending on the circumstances.
  5. Fish and Game violations.
  6. Some felonies may be considered on a case by case basis. Felonies involving personal injury are not eligible. Those felonies manifesting detailed planning and preparation are ineligible.

LAW ENFORCEMENT JUVENILE DATA SHEET

Incident No.

Information about the juvenile

Name	DOB / /	Gender	
		M	F
Street Address	Ethnicity / Race (check one)		
Telephone Number	<input type="checkbox"/> Hispanic / Latino	<input type="checkbox"/> Asian	
	<input type="checkbox"/> African American	<input type="checkbox"/> Other / Mixed	
	<input type="checkbox"/> Caucasian	<input type="checkbox"/> Not Known	
	<input type="checkbox"/> Native Hawaiian/ Pacific Islander	<input type="checkbox"/> American Indian / Alaska Native	

Information about the parents/guardians/custodians

Name of Parent/Guardian/Custodian		Name of Parent/Guardian/Custodian	
Street Address		Street Address	
Town, State, Zip		Town, State, Zip	
Phone Number	DOB / /	Phone Number	DOB / /
Email Address		Email Address	

Information from Officer

I took the following actions regarding this juvenile on / /

I submitted an affidavit for a CHINS petition to the State's Attorney.

I issued a delinquency citation to the juvenile to appear in court on / /

I did not take the child into custody.

I took the child into custody for the following reason(s):

CHINS (33 V.S.A. §5301):

- pursuant to a court order under Title 33, Chapters 51, 52, 53
- the child was in immediate danger and removal from home was necessary for the child's protection
- I believe the child has run away

DELINQUENCY (33 V.S.A. §5251):

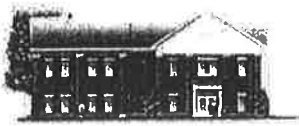
- pursuant to the laws of arrest.
- pursuant to a court order under Title 33, Chapters 51, 52, 53
- I believe the child committed a delinquent act, and the child's immediate welfare and/or the protection of the community require taking the child into custody.

Release of child (if applicable)

I released the juvenile on / / to the following person(s):

- Parents, guardian, or custodian of the juvenile
- The Department for Children and Families (DCF) per court order
- A designated runaway shelter

Date / /	Signature of Officer
	Printed Name of Officer
	Department



Williston  
Police

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19 November 2013

To: Chittenden County Chiefs & Agencies  
From: Chief Todd Shepard  
Subject: Runaway Juvenile Protocols

Discussed at the Chief's meeting on 11/14/2013 was the protocol for handling found runaway juveniles. Although there were two thought patterns discussed, mutual agreement centered on the following:

1. If any agency locates a missing/runaway juvenile or person, they are responsible for handling the situation, which may include releasing to custodians, parents, court, or following through with a CHINS.
  - a. It is recommended that the originating agency be contacted when the juvenile is found to ensure the safe release or to obtain more information surrounding the reasons for a CHINS.
2. The investigating agency may come into a jurisdiction that may not be their own to follow up on leads. The investigating agency should make notice to the agency where they are working.

There was consensus amongst Chiefs that the original agency making the runaway report is not responsible to come and get the juvenile from the locating agency unless there were some extenuating circumstances that dictated the involvement of another agency, i.e. locating agency handling a fatal crash or homicide and resources already stretched to limit.

This protocol differs from the detox protocol agreed to by Chief's years ago when those who are brought to the FAHC ER in Burlington by police and/or rescue. The agency where the detox was brought from is still responsible to go to the ER to get the detox. Due to the number of instances of this, the Chittenden Chief's agreed to own the responsibility to detox these folks rather than having BPD overwhelmed.

*"Dedicated to Protecting Lives And Property"*  
Todd C. Shepard, Chief of Police