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Where's The State?

Creating And Implementing State Standards For Law Enforcement
Interactions With Youth



Acknowledgements

Strategies for Youth, Inc. (SFY) is a non-profit organization that promotes positive police/youth interactions through training and advocacy. We train patrol and school resource officers across the nation in age-appropriate, best practices for working with youth. Using a game based approach, we teach youth how to appropriately interact with law enforcement. Since its founding in 2010, Strategies for Youth has become a national thought leader in this area.

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Introduction

“The quality of our expectations determines the quality of our actions.”

— A. GODIN

Today’s youth, particularly youth of color and those living in urban areas, encounter law enforcement officers wherever they go. Officers patrol their streets, roam their school hallways, supervise their dances and athletic events, and guard many of the buildings they regularly enter. A police station often abuts their schools, parks, and recreation facilities.

Law enforcement officers are the gatekeepers for the justice system. They determine who is arrested, who is not, and who enters into the juvenile justice system. These decisions dramatically and permanently alter a youth’s educational and professional opportunities and can have a profound effect on the child’s overall wellbeing and health.

Given the magnitude and long-term impact of encounters between youth and law enforcement, we would expect state agencies to take an active and leading role in creating, issuing and enforcing developmentally-appropriate, trauma-informed, and equitable standards governing police/youth interactions. In particular, these standards would emphasize specific and clear guidance, grounded in rigorous data collection, aimed at reducing Disproportionate Minority Contact (DMC) at the point of police contact and arrest, as required by the Juvenile Justice and Delinquency Prevention Act (2002).

As part of this effort, we would also expect state agencies to assemble diverse groups of experts and stakeholders to draft model standards and policies that integrate best practices for working with youth. The standards would clearly convey expectations for outcomes to law enforcement leadership, and develop oversight mechanisms to ensure compliance.

Furthermore, we would expect these standards, policies and expectations to be backed up with rigorous, mandatory training for law enforcement officers who interact

with youth. Such training would ensure that officers are well-versed in adolescent psychology and in the differences between the adolescent and adult brain, understand the ways in which implicit racial bias contributes to DMC, and recognize behaviors associated with exposure to poverty, trauma and violence.

Clear standards, in combination with rigorous training, would promote a culture in which evaluation and promotion decisions are based upon officers’ ability to successfully keep encounters with youth peaceful and positive, rather than on their arrest rates. State implementation of these standards also would improve overall public safety by providing officers with vital tools to de-escalate encounters with young people.

Finally, we would expect that rigorous oversight would reduce lawsuits and federal investigations because local law enforcement agencies would recognize what steps they need to take to avoid legal challenges. Strong oversight of a uniform set of standards would also prevent the

WHY DO WE NEED DIFFERENT STANDARDS FOR YOUTH?

“Youths differ from adults and children in three important ways that lead to differences in behavior. First, youths have less capacity for self-regulation in emotionally charged contexts, relative to adults. Second, youths have a heightened sensitivity to proximal external influences, such as peer pressure and immediate incentives, relative to children and adults and this heightened sensitivity negatively impacts a youth’s ability to make safe decisions. Third, youths show less ability than adults to make judgments and decisions that require future orientation.

The combination of these three cognitive patterns accounts for the tendency of youths to prefer and engage in risky behaviors that have a high probability of immediate reward but can have harmful consequences, the majority of which the youth is either unaware of or fails to integrate into their decision making process...”

— National Research Council¹

1. “Summary.” National Research Council. Reforming Juvenile Justice: A Developmental Approach. Washington, DC: The National Academies Press, 2013. doi:10.17226/14685.

kind of inconsistent enforcement that happens when a youth in one town is arrested for a minor offense, while, in the next town, he or she would receive a mild reprimand for the same action.

The absence of common standards or of best practices permits uneven treatment between jurisdictions. In one town a youth might be arrested for shoplifting, while in the next town, he or she receives a mild reprimand for the same action.

But state agencies have never exercised this level of engagement and leadership in establishing standards for police/youth interactions. Rather, a survey conducted by Strategies for Youth found that law enforcement standards for interacting with youth are almost always developed solely by local law enforcement agencies, with minimal input from the state, and even less from community groups, parents, educators, youth, attorneys or experts in adolescent development, mental health, or trauma.

The absence of state agencies' engagement in the development of standards for police interactions with youth represents a striking anomaly. All fifty states issue standards as well as certification requirements for other professionals who regularly interact with minors, including childcare providers, child welfare workers, health care providers and teachers. For example, the Oklahoma Department of

Human Services convenes an Advisory Committee to develop standards for the licensing of childcare facilities. This committee includes professional stakeholders, educators, private citizens, and attorneys.² In the context of healthcare, the American Academy of Pediatrics has created a committee that advises the Academy's directors on policy development and standards related to patient care in hospitals. This committee includes physicians, hospital administrators, attorneys, and representatives for families and children.³

In light of the serious consequences that can result from hostile encounters between youth and law enforcement officers, there is no reason why states are not similarly engaged in ensuring that both youth and officers are protected by clear and consistent standards for officers' encounters with youth.

The combination of inadequate training along with a dearth of common standards leads to tragic outcomes. Only 12%

STATES REGULATE OTHER PROFESSIONALS WORKING WITH YOUTH

In other professions where adults are in regular contact with children—such as health care, education, and day care—the state is heavily involved in setting and enforcing clear standards. There is no reason why law enforcement agencies and officers are not subject to the same levels of accountability, training and guidance.



2. <http://www.okdhs.org/services/cc/Pages/ChildCareAdvisoryCommittee.aspx>

3. <https://www.aap.org/en-us/about-the-aap/Committees-Councils-Sections/Pages/Committee-on-Hospital-Care.aspx>

of the 2.1 million youth arrested annually in the United States commit serious, violent felonies. It is much more common for youth to be arrested for minor, public order offenses, which run the gamut from swearing at an officer to making too much noise on public property. These types of arrests rose 108% between 1985 and 2009. In many states arrests for even minor juvenile offenses can carry long-term collateral consequences that adversely impact future education and employment opportunities.

Officers are also more likely to use force on youth than adults. Youth are involved in 3.5% of police interactions, but account for 30.1% of those involving force. The majority of contacts involving police use of force—81%—are initiated by police.⁴

It does not have to be this way. By first developing and implementing clear and consistent standards for law enforcement/youth interactions, and mandating training on how to implement these standards, states could significantly reduce the numbers of unnecessary arrests and incidences of escalation and violence. This is particularly true in regards to reducing DMC. By enforcing standards ensuring that youth of color receive equitable treatment by police, state agencies can take a leadership role in reducing racial and ethnic disparities within the juvenile justice system.

The 2013 National Center for Juvenile Justice's report, *Juvenile Court Statistics* notes black youth that year were arrested at more than twice the rate of their white peers and that 82% of these juvenile referrals were initiated by police.⁵ These figures, consistent with other years, underscores the importance of requiring law enforcement leaders to consider the racial equity implications of their policy decisions through data analysis, training and oversight.

We call upon all states to commit to developing and enforcing policies and standards for police/youth interactions that are developmentally appropriate, trauma-informed, and specifically aimed at reducing DMC. States' lack of engagement in this area represents a critical missed opportunity.

By ceding all responsibility to local law enforcement agencies, states fail to provide those law enforcement agencies with the support, technical knowledge, and oversight they need and deserve. The lack of state oversight also means law enforcement leaders seeking to reform their agencies have no support at the state level.

By taking a more active role, state agencies can protect law enforcement agencies from federal oversight, improve outcomes for youth and make our communities safer while preventing disparate treatment between communities.

DOES LAW ENFORCEMENT TRAINING COMPENSATE FOR THE LACK OF STATE STANDARDS?

States do mandate police training. But SFY's previous report, *If Not Now, When? A Nationwide Survey of Juvenile Justice Training in Police Academies* found that police academies typically spend only 1% or less of their total training time on juvenile justice issues. Even that tiny proportion focuses primarily on juvenile codes and case-law, not subjects designed to improve officers' interactions with youth.

This means that police recruits are rarely equipped to recognize or respond effectively to youth who have been traumatized, who suffer from mental illness, or who have special needs, even though these are the populations at highest risk of police contact and arrest.

Juvenile Justice Training Hours at the Academy in Select States With High Juvenile Populations

STATE	JUVENILE JUSTICE TRAINING	TOTAL HOURS OF TRAINING	PERCENTAGE OF JUVENILE JUSTICE TRAINING
CA	3 hours	664 hours	0.5%
CO	0	540 hours	0.0%
GA	6 hours	408 hours	1.0%
IL	10 hours	494 hours	2.0%
NY	5 hours	600 hours	0.8%
PA	4 hours	754 hours	0.5%
TX	10 hours	618 hours	2.0%

Source: SFY's report, *If Not Now, When? A Nationwide survey of Juvenile Justice Training in Police Academies*.

4. <https://www.bjs.gov/content/pub/pdf/cpp05.pdf>

5. <http://www.ncjj.org/pdf/jcsreports/jcs2013.pdf>

Defining Standards

The term “standard” is used in this report to define the combination of policy and practice that guides responses of law enforcement officers to situations they may encounter. Types of standards that qualify under this definition include guidance about de-escalation, diversion and use of force that articulate expectations for officers’ responses to youth.

We do not include in this definition statutes, regulations and policies that solely require training. Training is necessary but not sufficient by itself. Therefore, we do not consider a statute requiring officers to receive training in de-escalation techniques a professional standard. In contrast, we would consider a statute requiring law enforcement agencies to develop and enforce policies requiring the use of de-escalation techniques with juveniles to be a standard.

While law enforcement agency training is vital to ensure that officers are aware of and implement standards, training without a requirement that the instruction reflect and integrate law enforcement agency policies is insufficient. Standards must be the “go to” source of guidance for offi-

cer and agency conduct, integrated in training, and serve as the framework for measuring performance.

In order to be effective, state standards must be enforceable and must be connected with oversight mechanisms. Unlike statutes and regulations, standards do not necessarily carry civil or criminal penalties for failure to practice them. Standards may, however, inform courts’ determinations about how members of a profession should be expected to perform.

Professional Standard is defined as the “ethical or legal duty of a professional to exercise the level of care, diligence and skill prescribed in the code of practice of his or her profession, or as other professionals in the same discipline would in the same or similar circumstances.”

— www.businessdictionary.com



Why Standards Matter

“Chiefs are responsible for developing a culture for their department by stating its values. Chiefs expect officers to follow the value system as it is laid out in training, policies and procedures, with the understanding that if officers violate these values and procedures, there will be consequences.”

— DR. LEE P. BROWN, FORMER CHIEF OF POLICE IN ATLANTA, HOUSTON AND NYC.

Dr. Brown was the Chair of the Commission on Accreditation of Law Enforcement Agencies (CALEA) when it adopted its first set of standards. Houston was the first major city to receive a CALEA certification while Dr. Brown was chief of the Department.

Almost all professions are guided by standards, guidelines or rules that reflect best practices and the minimum acceptable levels of performance. In some professions, including teaching, law and medicine, these standards are required by state law and woven into licensing requirements.

Standards are often developed by diverse stakeholders. For example, best practices in medicine incorporate input from patients groups. Lawyers’ codes of ethics, such as the National Juvenile Defender Center’s National Juvenile Defense Standards,⁶ were developed in collaboration with non-lawyers, including, among others, parents and adolescent psychologists. Standards for educators are often informed by researchers, experts and student groups. Standards that are developed in collaboration with the population most directly affected typically increase their legitimacy.

Statewide or national standards governing youth/police interactions serve four essential purposes:

- 1 they set clear expectations for performance,
- 2 they increase consistency within and across jurisdictions,
- 3 they promote accountability, and
- 4 they increase legitimacy within and across communities.

STANDARDS MATTER BECAUSE:

1. They set clear expectations for performance.

Law enforcement agencies across the United States are local and decentralized. Their practices and policies diverge widely. While most states set minimum requirements for those seeking to become police officers—such as age, criminal history and education level—they give wide discretion to the approximately 18,000 local departments in establishing hiring, promotion and evaluation procedures.

Ideally, standards and training go hand in hand. Even the best training is not a substitute for professional standards. For example, school resource officers in Texas are required to receive training in adolescent development, positive behavioral interventions, restorative justice de-escalation techniques and mental health crisis intervention (Texas Occupation Code § 1701-2.2(c)). Yet, there is no corresponding statutory or regulatory requirement that officers use the techniques they are taught. In the absence of such standards, SROs and their supervisors have the discretion to determine how, when, or if they practice any of the strategies and tools they are taught in the trainings. In short, what is meant to be a standard becomes merely a suggestion unless oversight and accountability measures are included.

STANDARDS MATTER BECAUSE:

2. They increase consistency within and across jurisdictions.

Statewide or national standards, particularly those that are enforceable, increase consistency within and between departments and jurisdictions. This, in turn, provides communities with a clear set of expectations about how agencies and officers will interact with youth.

When policies about how officers interact with children and youth are left to the discretion of each individual law enforcement agency and officer, youth must navigate a confusing patchwork of inconsistent treatment. This can mean that sheriffs treat youth one way, transit police another, and police officers still another. Without standards of practice, this inconsistency also occurs between officers in the same school or agency. Uniform standards and expectations allow parents and educators to better prepare adolescents to interact peacefully with officers and to understand what behaviors are expected of them.

6. <http://njdc.info/wp-content/uploads/2013/09/NationalJuvenileDefenseStandards2013.pdf>

Uniform standards should also ensure that expectations for law enforcement agencies and officers are consistent with recent U.S. Supreme Court and state court decisions on the unique nature of childhood and adolescence and should clarify expectations for officer conduct. The recognition that adolescents are different from adults, must be approached differently, and occupy a unique position in the law, is not new to the U.S. Supreme Court. The U.S. Supreme Court has embraced science about adolescent development in decisions holding that the death penalty (*Roper v. Simmons*) and mandatory life without parole (*Graham v. Florida*, *Miller v. Alabama*, *Montgomery v. Louisiana*) cannot be applied to juvenile defendants.

“Clear, comprehensive, and legally accurate policies and training are essential to the proper functioning of a police department. They provide crucial guidance for officers regarding what practical steps to take to remain in compliance with departmental rules and legal requirements, allow supervisors to properly monitor and instruct officers, and provide consistent guidelines for officer discipline.”

— DEPARTMENT OF JUSTICE INVESTIGATION OF THE BALTIMORE CITY POLICE DEPARTMENT, 2016.

<https://www.justice.gov/opa/file/883366/download>

The Court’s recognition that children are different pre-dates the use of neuroimaging. In *Haley v. Ohio* (1948) the Court found that police procedure used in interrogating a 15 year old boy violated the Fourteenth Amendment: “Mature men possibly might stand the ordeal [of interrogation] from midnight to 5 a.m. But we cannot believe that a lad of tender years is a match for the police in such a context.” In *JDB v. North Carolina* (2011), which requires police to consider age and maturity in the context of custodial interrogation, the Court wrote, “[t]he law has historically reflected the same assumption that children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them.” In all of the modern U.S. Supreme Court decisions since 2005, the Court relied on extensive psychiatric, neuro-developmental and neuroscience

research informed by tremendous technological advances in neuroimaging, to conclude that youth are more likely than adults to make impulsive decisions and are also capable of rehabilitation as they mature. Law enforcement standards must incorporate this understanding of adolescent development.

STANDARDS MATTER BECAUSE:

3. They promote accountability within departments and within the community.

Compliance with standards should be factored into hiring, promotion and disciplinary decisions made at the departmental level. The presence of standards that include commonly accepted best practices can also help investigators or courts determine levels of compliance by officers. The emphasis on compliance with standards for hiring and promotion will promote an agency culture that is consistent with best practices. When negative or problematic interactions do occur between officers and youth, departments can point to their use of accepted standards as evidence that they have taken steps to prevent tragic or violent outcomes.

Law enforcement agencies that adopt and implement state standards can point to their compliance with standards if they are investigated by police accountability boards, civilian review boards or other accountability proceedings. Compliance with standards also increases police legitimacy in the eyes of the public, even when there is no court case pending.



State standards can provide an important tool for courts to evaluate officers' and departments' conduct. Without guidance from states or professional organizations, courts rely on individualized perceptions to determine what constitutes objectively reasonable or excessive use of force.

Consider, for instance, two cases from the neighboring Sixth and Seventh Circuits.⁷ The Sixth Circuit case involved two youth, aged 15 and 17, who allegedly looked into a police officer's home security camera located on his lawn in Euclid, Ohio. The officer pushed one of the boys, smacked the phone out of his hand, and threw him to the ground where the officer put his knee on the boy's face and handcuffed him.⁸ The Court dismissed the boy's complaint against the officer finding that the harm to the boy was insufficient to create a question of material fact about whether the officer used excessive force. In a Seventh Circuit case, a police officer took three boys into custody after one took gum out of a car owned by a police officer. At the North Chicago police station, the officer who owned the car shouted and cursed at the boys, then conducted a pat down that led to bruising

and broke the eyeglasses of one of the boys. There, the Court found that there were sufficient facts to permit the case to go forward against the officer.⁹

Because court cases, by their nature, turn on the specific facts of each incident, they are not ideal tools or substitutes for creating easy-to-apply standards that effectively communicate the expectations of law enforcement officers and agencies. Without state or national standards for conduct, the courts are more likely to make inconsistent decisions which can lead to confusion about what conduct is permitted and prohibited for officers. When such standards do exist, courts can inform law enforcement of their expectations and agencies can train their officers regarding those expectations in a consistent manner.

STANDARDS MATTER BECAUSE:

4. They increase law enforcement agencies' legitimacy within the community.

Standards are necessary but not sufficient without oversight and accountability. State standards that are not accompanied by state systems of accountability for local agencies would provide illusory protection. State oversight for compliance with state standards governing interactions with youth are the cornerstones of meaningful and effective system reform. States ought to be the first line of oversight to assist local departments to make course corrections.

Transparent standards and oversight systems that promote law enforcement agencies' adherence build confidence in communities. Law enforcement agency leadership is then responsible for ensuring compliance at both the agency and officer level. Law enforcement leaders seeking to reform practices would also benefit from state standards.

Instead of standing in isolation from each other and the state, a system of state standards would raise the bar and promote systemic oversight and improvement within and across departments. Key to implementing law enforcement agencies' compliance with state standards would be law enforcement leaders taking the initiative to provide training and oversight to ensure that officers are complying with standards.



7. *The Sixth Circuit Court of Appeals includes the states of Kentucky, Michigan, Ohio, and Tennessee. The Seventh Circuit Court of Appeals includes the states of Illinois, Indiana and Wisconsin.*

8. *Patricia Bolden v. City of Euclid*, No. 13-4397 (6th Cir. 2014)

9. *Irvin v. Kaczmaryn*, 913 F. Supp. 1190 (7th Circuit, 1996).

10. Rutgers University Institute on Education Policy, *50 State Report on Accountability, State Intervention and Takeover*.

Many states use state takeovers as a standards enforcement mechanism for school districts: 24 states have policies that allow the state to takeover school districts when there are significant problems with student achievement or fiscal responsibility.⁹ This mechanism is not similarly used in state oversight of police.

Currently, the only real mechanisms for holding law enforcement agencies accountable for complying with standards are lawsuits. These typically address the actions of individual officers, and investigations or lawsuits from the Department of Justice for “pattern and practice” issues.

Many states take a firmer approach with respect to school districts: 24 states have policies that allow the state to take over school districts when there are significant problems with student achievement or fiscal responsibility.¹⁰ States do not have similar mechanisms for enhanced oversight in the context of policing.

In light of the federal requirement that states assess and address sources of disproportionate minority contact in the juvenile justice system, it is surprising that state governments have not created clear guidance for law enforcement agencies to reduce racial and ethnic disparities at the point of arrest. Such standards would increase a com-

munity’s confidence in the fairness and transparency of police decision making. State standard would assure communities that departments are affirmatively working to eliminate bias.

Researchers, juvenile justice stakeholders, youth and families can all inform professional standards relating to police/youth interactions. When these stakeholders are at the table and contributing to the language, scope, and topics covered, the resulting standards hold greater legitimacy among constituencies most affected than ones developed in isolation. This process also helps to build good will between law enforcement agencies and the community, and to strengthen police ties to youth advocates, experts, families, educators and other stakeholders.

“If the goals, design, and operation of the juvenile justice system are not informed by this growing body of knowledge, the outcome is likely to be negative interactions between youth and justice system officials, increased disrespect for the law and legal authority, and the reinforcement of a deviant identity and social disaffection.”

— REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH.
NATIONAL ACADEMY OF SCIENCES (2013).



Summary of Findings of Strategies for Youth Survey: State Standards for Policing Youth are the Exception Not the Rule

SFY conducted a state by state survey between 2014 and 2016—a period of intense national soul searching about police and the communities they serve—in order to:

- 1 determine the existence of state standards (in the form of statutes, regulations, model policies) to guide police/youth interactions;
- 2 determine the extent of involvement by state agencies and/or state officials in developing standards for use by police when interacting with youth, and;
- 3 identify potential alternative sources that could form the basis for statewide standards.

Background: What We Know About Adolescence

There is a vast gulf between our growing scientific understanding of developing adolescent brains and the expectations and training received by law enforcement officers who regularly interact with youth. As previously noted, most law enforcement officers are not trained to adopt policing methods for youth that are distinct from those employed with adults.

Adolescence is a time of tremendous change for young people—physically, emotionally and socially. During the adolescent years (which researchers define as age 14-25), the human brain undergoes a series of structural changes. The frontal lobe of the brain, which is responsible for executive functions and decision-making (weighing consequences and rewards and making logical decisions), continues to develop until the mid-twenties.¹¹

As a result, youth are less able than adults to make reasoned decisions, particularly when they are under pressure and do not have time to fully consider their options. The emotional centers of the adolescent brain are twice as active as those of adults, creating an intensity of feelings that can override the developing thinking part of the brain. Adolescents are also acutely sensitive to the pleasure-inducing effects of dopamine, making them more likely to seek out the excitement and sensation of risky behaviors.

“Exposure to violence is a national crisis that affects approximately two out of every three of our children. Of the 76 million children currently residing in the United States, an estimated 46 million can expect to have their lives touched by violence, crime, abuse, and psychological trauma this year. Whether the violence occurs in children’s homes, neighborhoods, schools, playgrounds or playing fields, locker rooms, places of worship, shelters, streets, or in juvenile detention centers, the exposure of children to violence is a uniquely traumatic experience that has the potential to profoundly derail the child’s security, health, happiness, and ability to grow and learn—with effects lasting well into adulthood.”

— ERIC HOLDER, *ON DEFENDING CHILDHOOD*, 2016

Defending Childhood: Protect, Heal, Thrive Report of the Attorney General’s National Task Force on Children Exposed to Violence USDOJ 2012

This is also a developmental period marked by tremendous growth and change as new neural connections that can last a lifetime are formed.

Many behaviors that are developmentally normal for an adolescent are perceived as disrespectful or even criminal by teachers, parents and officers. Layered atop normal adolescent development, many justice-involved youth have been exposed to traumatic events, which skew their response to threats.¹² Traumatized youth may become hyper-vigilant, overreact to minor slights, or may shut

11. National Research Council. (2013). *Reforming Juvenile Justice: A Developmental Approach*. Committee on Assessing Juvenile Justice Reform, Richard J. Bonnie, Robert L. Johnson, Betty M. Chemers, and Julie A. Schuck, Eds. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press at 1-2.

12. *Defending Childhood: Protect, Heal, Thrive*, Report of the Attorney General’s National Task Force on Children Exposed to Violence. <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf> at 171-191.

down entirely, appearing disengaged and disrespectful to authority figures.

Finally, the National Institute of Mental Health estimates that one out of every five youth between the ages of 13-18 have and/or previously had a serious debilitating mental disorder.¹³ Others have noted that the most prevalent method of addressing these mental illnesses is through self-medication, including alcohol and drugs.

These features of adolescents, in combination with the unique legal position they occupy, make policing youth especially complex and require a specialized set of policies, practices and oversight.

Summary of Survey Findings

Below is a summary¹⁴ of our findings of state involvement in developing and implementing standards for law enforcement agencies with youth.

- The state offers no vision for the methods and outcomes it seeks for treatment of its youth.
- State agencies have virtually no role in setting standards for police interactions with youth.
- Standards of practice for police officers and other law enforcement officials are almost always developed solely by local law enforcement agencies.
- Adolescent development and youth trauma are not incorporated into the limited guidance that does exist.
- There are few mechanisms to involve knowledgeable individuals to share their expertise with police, or provide guidance on matters about which they are highly experienced.

STATUTES

0 STATES

No state has statutes that set forth comprehensive standards for police/youth interactions. A few state statutes provide guidance for limited situations, such as taking youth in custody (Colorado, Mississippi, New Jersey) or interrogation (New Jersey, New Mexico). Several others contain general language about incorporating youth into community policing (Colorado, New Mexico) or developing

youth-specific policies or training for officers (Connecticut, Texas). Interestingly, while juvenile justice codes in most states offer guidance to professionals who interact with youth at later points in the justice system, e.g. detention and trial, professional standards of conduct for law enforcement interactions with youth are not addressed there or elsewhere in state statutes and regulations.

STATE INVOLVEMENT IN STANDARDS FOR LAW ENFORCEMENT & YOUTH

0 STATES have statutory mandates requiring police to follow certain standards during interactions with youth.

2 STATES have regulations governing some police/youth interactions. (New Jersey and Virginia)

4 STATES have State Advisory Committees or law enforcement commissions that created model policies. (Connecticut, Florida, Maryland and Virginia)

1 STATE incorporates standards for interactions with youth in the statewide Police/Peace Officer Standards and Training (POST) (California)

13. <http://www.nimh.nih.gov/health/statistics/prevalence/any-disorder-among-children.shtml>

14. A description of the research methods SFY used to research and write this report are found in Appendix 1.

Regulations Governing Police/Youth Interactions

2 STATES



Only two states, New Jersey and Virginia, have issued regulations governing some aspects of police interactions with youth. These regulations are limited in scope and do not incorporate adolescent development, trauma or recent U.S. Supreme Court decisions.

New Jersey's "Attorney General Directive Concerning the Handling of Juvenile Matters by Police and Prosecutors" (1990-1) provides "goals and objectives" for law enforcement officers and includes discussion of informal handling of offenses by police through curbside warnings and station house adjustments. Portions of the directive include mandatory language.

Virginia General Order 2-29 states plainly that the "order is for internal use only and does not enlarge an officer's civil or criminal liability in any way." The order covers juvenile procedures including confinement and custody, confidentiality, interrogations, and status offenders.

State Advisory Committees and Law Enforcement Commission Model Policies

4 STATES



Only two states, Connecticut and Maryland, have issued model policies articulating standards for police/youth interactions.

The Juvenile Justice Advisory Committee for Connecticut created a comprehensive set of model policies Children, Youth and the Police Recommended Policies and Procedures (2015) which provides nearly 20 pages of guidance relating to "juvenile delinquent offenders." The policies include descriptions of police options for addressing juvenile misconduct ranging from a verbal warning to arrest, guidelines for use of discretion, custody and release of juveniles, interrogation and confidentiality of juvenile records.

The Florida Department of Law Enforcement issued a handbook in 2000 that provides departments with recommended procedures, guidelines and statutes; the handbook indicates legal "minimums" that agencies must follow but does not provide detailed standards for law enforcement officers' interactions with youth.

The Model Policies for Law Enforcement in Maryland offers 3 pages of guidance on interrogation, and custody (consistent with federal law) and directs officers to "make use of the least forceful and intrusive alternative available consistent with maintaining public safety, order and individual liberty." The Model Policies are available as a resource for local departments but do not require compliance or adoption. Maryland's policies were most recently revised in 2007 and do not include any discussion of adolescent development or reflect the U.S. Supreme Court decisions including *Roper v. Simmons* or its progeny.¹⁵

The Virginia Department of Criminal Justice Services provides guidelines for juvenile procedures in its Model Policies Manual for Virginia Law Enforcement. This is reviewed and revised annually. However, these guidelines are not enforced by any state agency.

State Police/Peace Officer Standards and Trainings

1 STATE



To date, 45 states have functioning Police/Peace Officer Standards and Training (POSTs) but do not have written requirements that officers abide by those guidelines after the training. State POSTs do not oversee law enforcement agencies; they oversee the training of police officers. Indeed, SFY's review indicates that over 90% of the POSTs set forth training standards for police/youth interactions, but not standards for policies and practices of the law enforcement agencies they oversee. Thus, in these states, it is within the discretion of individual law enforcement agencies to implement any procedures or mandates covered during the juvenile justice component of Academy training. It is worth noting:

- California's POST would not make its standards available to SFY. However, SFY was able to access a listing of the state's POST standards through several of its agency partners in the state. According to our analysis, California POST offers the most comprehensive set of POST-issued policies for law enforcement agencies generally, and the largest number of standards for interactions between law enforcement and youth, of any state in the union. That said, only two of these policies are explicitly youth-focused.

15. The 2016 Department Of Justice report on the Baltimore City Police Department found that the department routinely has inadequate training and policies to ensure that officers did not violate federal law or the constitution and that their policies did not reflect the law's recognition that juveniles are developmentally different from adults. www.justice.gov/opa/file/883366/download

National Standard Setting Organizations

2 STANDARDS ORGANIZATIONS

The International Association of Chiefs of Police (IACP) and the Commission on Accreditation for Law Enforcement Agencies (CALEA) offer excellent language on certain aspects of police/youth interactions. This language should be used as the foundation for developing statewide regulations and statutes. (See Appendix for more detail.) But both organizations' recommended standards are entirely voluntary. For CALEA accreditation, agencies volunteer to become accredited. In early 2017, leadership at CALEA estimated that it had

over 1000 program enrollments, serving 5% of America's law enforcement agencies representing 25% of the national's law enforcement officers. Each accredited law enforcement agency is responsible for maintaining compliance with CALEA standards.

Neither organizations' standards are binding or enforceable. Accreditation does not automatically translate to implementation of adopted policies. For example, despite the fact that both the Jacksonville Florida Sheriff's Department and the Miami-Dade Sheriff's Department are CALEA-accredited, the DOJ found a pattern of civil rights violations against youth investigated in both departments.

A FIRST STEP: STATES WITH DISCRETIONARY GUIDANCE

We identified only six states with published guidelines or requirements of any kind relating to police/youth interactions. While none are binding, they do represent a foundation which can be further developed, and used as potential models for other states.

CALIFORNIA

The California Peace Officers Standards and Training (POST) issues a comprehensive set of model policies to law enforcement agencies. The 2015 version of the model policies is comprised of 10 chapters. Only two of these policies explicitly focus on issues that arise in the context of policing youth: Temporary Custody of Juveniles in Chapter 3, Section 324, and Juvenile Delinquency Prevention/Intervention Programs in Section 351. Some of the other policies direct officers to respond to children and youth in a manner distinct from responses to adults. In SFY's experience with five California departments, not all departments have adopted both policies. The existence of these—and more—policies is especially important given California POST's lack of training offered to police on how to interact effectively with the state's 9 million youth.¹⁶ Only 3 hours are allocated to this topic in the 600 hour POST-required curriculum.¹⁷

CONNECTICUT

Connecticut has clear statutory training requirements for police on processing arrests and prosecution of youth. But it does not include statutory, procedures or standards guiding police interactions with youth. Conn. Gen. Stat. Ann § 7-294y requires police departments to establish

written policies or update current policies with respect to handling juvenile matters, but offers no substantive guidance about what to include in those policies. In response to the mandate of 7-294y, the Connecticut Juvenile Justice Advisory Committee created a set of recommended standards and policies for law enforcement interactions with juveniles, "Children, Youth and the Police: Recommended Policies and Procedures" (2015).¹⁸ The recommendations are not grounded in a developmental framework, nor are they not mandatory or enforceable. They do provide procedural guidance to departments.

FLORIDA

The 2000 Florida Juvenile Handbook¹⁹ provides departments with "suggested procedures, guidelines and statutes related to selected juvenile justice topics." The handbook contains an overview of the state's law, including *Miranda* rights, detention, procedures for taking a child into custody, civil citations and interview techniques. The recommendations in the handbook are not binding, although some of the statutory authority (including the federally mandated²⁰ rule prohibiting detention in a police station for more than six hours, and the obligation to keep youth sight and sound separated from adult defendants in transit and during booking) and case-law is binding on officers. The handbook does not provide detailed standards for interactions between officers and youth, and is primarily an overview of constitutional and legal requirements and options. For example, the use of civil citations to divert minor offenders is described but no direction is offered about whether law enforcement agencies should utilize this option.

16. <https://www.census.gov/quickfacts/table/PST045215/06>

17. See, page 30 of *If Not Now, When?*

18. <http://www.ct.gov/opm/cwp/view.asp?a=2974&Q=383636>

19. <http://www.fdle.state.fl.us/mcicsearch/documents/juvenile%20handbook2000.pdf>

States With Published Discretionary Guidelines Relating To Police/Youth Interactions

STATE	SOURCE	DATE ISSUED	DEVELOPMENTALLY APPROPRIATE TRAUMA-INFORMED APPROACH	BINDING	REFLECTS U.S. SUPREME COURT DECISIONS
California	Peace Officers Standards and Training Commission	2015	No	No	No
Connecticut	Connecticut Juvenile Justice Advisory Committee	2015	No	No	No
Florida	Florida Juvenile Handbook	2000	No	No	No
Maryland	Maryland Police and Correctional Training Commissions	2007	No	No	No
New Jersey	New Jersey Juvenile Officer's Guide	1978	No	No	No
Virginia	Virginia Law Enforcement Professional Standards Commission, Gen. Order 2-29	2008	No	No	No

MARYLAND

The Maryland Police and Correctional Training Commissions formed a grant funded advisory committee in 1999 to develop non-binding model policies for Maryland police departments.²¹ These policies (which were reissued in 2007) explicitly indicate that they in no way impose any obligations or enforceable requirements on police. The Model Policies as they relate to juveniles are procedural in nature and do not include standards or best practices to guide police/youth interactions.

NEW JERSEY

New Jersey executive directive 1990-1²² sets out general guidance for law enforcement regarding juveniles. This directive indicates that officers must have “adequate” training in juvenile justice issues and that law enforcement policies and procedures for handling juvenile matters should be uniform. But it does not define adequate training or establish areas in which uniform standards should be created. New Jersey also created guidelines and a 2005 training guide for “station house adjustments” which outline the criteria for informal diversion of minor juvenile offenses (such as local ordinance violations) through informal police warnings.

VIRGINIA

The Virginia Law Enforcement Professional Standards Commission (VLEPSC) has promulgated standards on juvenile procedures that can be found in General Order 2-29.²³ The introductory note indicates that “[t]his order is for internal use only, and does not enlarge an officer’s civil or criminal liability in any way. It should not be construed as the creation of

a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.” Although the standards are explicitly non-binding, they do provide guidance for officers that, in some instances, acknowledge developmental differences in adolescents. For example, the section on interrogations indicates that juveniles might perceive a non-custodial interview as custodial and that the officer should consider factors including age and mental capacity when conducting an interview.



20. Juvenile Justice Delinquency Prevention Act (JJDP).

21. <http://mdle.net/pdf/mopoman07.pdf>

22. <http://dspace.njstatelib.org:8080/xmlui/bitstream/handle/10929/25912/3juvenil.pdf?sequence=1&isAllowed=y>

23. <https://www.dcs.virginia.gov/law-enforcement/model-policies-virginia-law-enforcement-agencies>

State Standards for Law Enforcement in Schools: A Little More Guidance (But Not Much)

As law enforcement presence increases in schools, many communities recognize that School Resource Officers²⁴ (SROs) require specialized training. In the 15 states that mandate SROs to receive training, the content of the SRO training is typically determined locally, not by state statute or regulations.

Our survey found that only one state—Kentucky—issued comprehensive standards guiding law enforcement agencies and law enforcement officers' interactions with youth in schools.

29 states do have some statutory language related to law enforcement officers deployed in schools. Most of this language refers to training requirements (15 states) or to the development of MOUs between school and law enforcement agencies.

But these statutes do not qualify as professional standards. The language does not include specific guidance about expectations for officers' conduct with youth (e.g. "If possible, officers should attempt to use de-escalation techniques prior to engaging in use of force."). Most of the 15 states with training requirements do not specify what this training must include, although nine identify agencies responsible for training development (such as the state POST). Neither do most statutes identify the content of the MOUs they require school districts and law enforcement agencies to adopt.

Two notable exceptions are Kentucky and Texas.

Kentucky

Kentucky has issued both comprehensive professional standards relating to SRO's use of restraint and seclusion in schools and training for officers to ensure that they comply with those standards. The standards provide a basis for judicial review and can be used to hold police accountable in the court system—but only after the youth has gone through the judicial system. Ostensibly, the goal is to avoid children entering the judicial system in the first place.

The Kentucky standards are an unfunded mandate that relies on individual school law enforcement leadership to train

officers on the requirements for restraint and seclusion.

As a result, training and implementation are uneven at best, and SROs are not systematically trained or held accountable for violating the standards. The consequences of a department's failure to properly train and supervise officers is highlighted by a lawsuit involving SROs in the Covington Schools in Kentucky.²⁵

A deputy of the Kenton County Sheriff's office, who was assigned to the Covington Independent Public School district as an SRO, handcuffed two elementary school students, S.R. (an eight year old third grader) and L.G. (a nine year old fourth grader) for conduct arising from their disabilities.

Because the deputy sheriff's cuffs were adult-sized and too big for the children's wrists, he handcuffed the children above their elbows for 20 minute intervals in violation of state regulations which forbid contracted law enforcement from handcuffing students (704 K.A.R. 7:160 §1(13), 3(2)(a)) and which only permit handcuffs to be used when the child poses a danger of imminent physical harm (704 K.A.R. 7:160 §3(1)(b), 3(a),(d)).

The United States Department of Justice filed a statement of interest in the case, noting that the Kenton County Sheriff's office failed to provide training or oversight to the deputies who were contracted to serve as school resource officers. The school district ultimately entered into a settlement agreement with the Department of Justice. If the SRO had been properly trained and followed the existing state regulations regarding use of restraints in schools, the lawsuit and settlement could have been avoided.

Texas

Texas will now require significant training for SROs that incorporates both adolescent development concepts and practices designed to improve school climate and limit the use of force against children. While the training requirements don't meet the definition for professional standards and policies that guide practice and measure performance, requirements for training could easily translate into formal performance standards.

24. For the purposes of this report, SRO refers to sworn law enforcement officers (as opposed to school employed security officers) deployed in schools.

25. *S.R and L.G. v. Kenton County Sheriff's Office* <https://www.justice.gov/crt/file/780706/download>

National SRO Training Organization

The stated mission of the National Association of School Resource Officers (NASRO), is to provide “the highest quality of training to school-based law enforcement officers to promote safer schools and safer children.”²⁶ NASRO offers training for school resource officers in adolescent development and de-escalation techniques. NASRO structures its basic training around three core concepts:

- 1 law enforcement functions (including training on adolescent development and de-escalation),
- 2 mentoring students, and
- 3 guest speaking and classroom management.

NASRO has not promulgated model standards for school resource officers but is in an excellent position to offer leadership in this area.



26. To Protect and Educate: <https://nasro.org/cms/wp-content/uploads/2013/11/NASRO-To-Protect-and-Educate-nosecurity.pdf>

Comprehensive Standards for Law Enforcement Officers' Interactions with Youth

SFY recommends that states create and adopt comprehensive standards to guide law enforcement interactions with youth. SFY routinely drafts policies for individual law enforcement agencies that reflect state law and local ordinances. The policies proposed below offer a thumbnail summary of key components of a comprehensive Youth Interactions policy. Agencies interested in developing comprehensive policies are invited to contact us at info@strategiesforyouth.org.

Purpose

This Youth Interactions Policy provides law enforcement officers (LEOs) with guidance for interactions with youth that promote compliance with the law, socialize youth to their legal rights and obligations, and build positive relationships. These policies are intended to equip officers with developmentally appropriate strategies for responding to youth's behavior that enhance public safety and hold youth accountable to laws.

This guidance is based upon the premise that LEOs who routinely interact with youth require special skills, knowledge, and approaches. In order to be effective, they must understand that the unique nature of adolescence is characterized by:

- risk-taking behaviors,
- limited capacity for self-regulation,
- limited capacity to anticipate consequences accurately, and
- heightened sensitivity to peer pressure and immediate rewards.

Decisions made by police about whether to arrest, issue a court summons, and/or detain at the initial point of contact have long-lasting, and potentially detrimental, impact on the lives of youth. Minority and other vulnerable youth, such as those with substance abuse problems, developmental disabilities, and trauma histories, experience disproportionately high arrest and detention rates.

The responsible exercise of law enforcement's gatekeeper role requires police to be mindful of the collateral consequences of an arrest or formal introduction to the juvenile justice system on a young person's educational, employment, and housing options. Arrest of youth should be considered a response of last resort.

Definitions

Define terms, including terms regarding the names of institutions responsible for youth (e.g. Juvenile Detention Center) and legal terms unique to youth (e.g. status offender).

Training

Clarify that the policies are to be aligned with training on:

- 1 youth development,
- 2 developmentally-appropriate, trauma-informed communication strategies,
- 3 de-escalation practices and asserting authority effectively with youth,
- 4 bias awareness and equitable treatment of youth who experience disproportionately high rates of police contact, and
- 5 unique legal aspects of policing youth.

INITIAL CONTACT WITH YOUTH

Investigative Stops Of Juveniles

For a general review of the standards and procedures to be followed when conducting field interrogations, or *Terry* stops, see General Order on Investigative Stops. Officers should be aware of youths' potential response that may impact the tenor and evolution of a *Terry* stop in unintended ways. Where appropriate, officers shall employ developmentally-appropriate tactics to de-escalate the encounter.

Diversion Of Juvenile Matters Without Arrest

Where probable cause exists that a youth has engaged in unlawful behavior, officers may exercise reasonable discretion to hold youth accountable for their actions without formally arresting him or her. **Alternatives** to arrest may include:

- **Warn and release** without further action.
- **Informal counseling** by the officer guided by principles of restorative justice.
- **Referral to an appropriate community** social service or mental health agency.
- **Station house** warning and adjustment.
- **Issuance of Citation.**

Bias-Free Policing And Disproportionate Minority Contact With Youth

Officers are directed to review General Orders for guidance on this topic, including an understanding of how implicit biases, of which one may be unaware, can nonetheless significantly influence one's behavior, actions and decisions, particularly under stress.

Because of the enormous discretionary power bestowed upon LEOs, they have a special responsibility to reduce the impact of implicit bias in their actions.

USE OF FORCE ON YOUTH & DE-ESCALATION

General Guidelines

It is the policy of this Agency to engage in developmentally-appropriate and trauma-informed de-escalation strategies when interacting with youth. Officers must use the least amount of force appropriate to the age, body-size, disability status, relative strength, and risk posed by the youth to stabilize the situation and protect the safety of the involved youth, LEOs, and the public.

De-Escalation Tactics With Youth

When necessary, officers interacting with youth shall employ developmentally-appropriate crisis intervention tactics designed to de-escalate the encounter, reduce triggering traumatic responses, and eliminate the need to use force. When determining whether, and to what degree, to use force, officers must be mindful of both the circumstances giving rise to the encounter and to the environment in which the interaction is taking place. This is especially true when it occurs in child-centric locations such as schools, playgrounds, and recreation centers. A developmentally-sensitive de-escalation approach includes the following components, adapted from recommendations of the National Institute for Justice:²⁷

1 Officer Presence

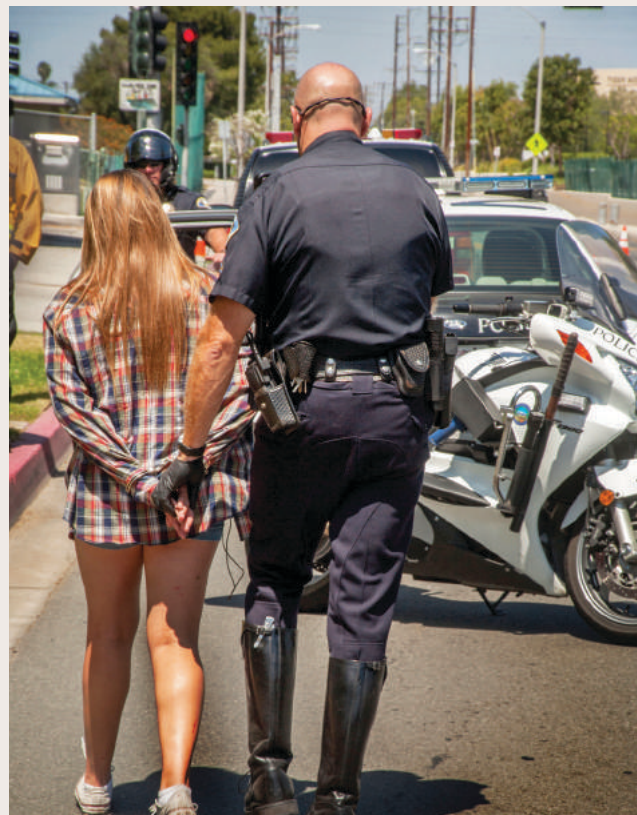
The mere physical presence of an officer can be intimidating and threatening to youth. Approach youth in a non-confrontational manner to diffuse tension and anxiety while maintaining safety.

2 Communication Strategies

- Use a calm and measured tone, simple, concrete language and short, direct phrases to gain compliance.
- Use repetition in a clear voice to reinforce instructions.
- Do not use threats and intimidation to gain compliance.
- Allow youth to make choices when appropriate, even if it is only the appearance of a choice to gain compliance.
- Allow ample time for youth to comply.

3 Empty Hand Control

- Physical force of any kind must be objectively reasonable, necessary, proportional to the circumstances and consistent with the age, body-size, disability status, relative strength, and risk posed by the youth.



27. National Institute of Justice (NIJ) <http://www.nij.gov/topics/law-enforcement/officer-safety/use-of-force/Pages/continuum.aspx>

- Physical attributes of the officer relative to the youth must also inform the degree of force necessary and objectively reasonable to stabilize a situation.
- Use of force is never permitted on youth in restraints.
- Conducted Electrical Weapons, pain compliance or pressure point control techniques on youth are prohibited unless the encounter arises to a deadly force situation.

ARREST AND TEMPORARY CUSTODY OF YOUTH

Once a youth is in custody, every effort will be made to reduce the trauma associated with confinement by keeping him or her safe and separate from adults and by relinquishing custody to a parent, guardian, or other responsible adult as soon as reasonably practicable. In adherence to the federal Juvenile Justice Delinquency Prevention Act (JJDP), youth shall be held in temporary custody of the Police only as long as reasonably necessary; custody may not exceed six hours.

Youth Who Shall Not Be Held

Youth who exhibit any of the following conditions shall not be taken into the custody of the Agency: seriously injured, unconscious, significantly intoxicated, a known suicide risk or obviously severely emotionally disturbed or otherwise in crisis.

Non-Secure Custody

Under no circumstances shall a victim, status offender or

youth alleged to be dependent, neglected, or abused, be held in secure custody. Youth taken into protective custody shall not be held by the Agency.

Secure Custody

Secure custody and referral to the juvenile justice system should be restricted to those cases involving serious criminal conduct or repeated criminal violations.

Booking And Processing Of Youth

Officers shall take immediate steps to notify a youth's parent, guardian or a responsible relative that a youth is in custody, the location where the youth is being held and the intended disposition. Pursuant to the JJDP, 42 U.S.C. Sec. 5633, booking and processing youth in custody requires that youth have auditory access to the supervising officer(s), be personally observed by supervisory personnel no less than every 30 minutes; be detained for a period not to exceed 6 hours at which point they may be released to a parent, legal guardian, or responsible adult or transported to detention.

Sight And Sound Separation

Pursuant to the JJDP, 42 U.S.C. Sec. 5633, "sight and sound separation" shall be maintained between all youth and adults while in the Agency's custody including during transport.

Release Of Information Concerning Youth

LEOs shall not divulge any information regarding youth unless they are certain of the legal authority to do so.



INTERVIEWS AND INTERROGATIONS OF YOUTH

Developmental differences between adults and youth require that officers take special care to ensure that youth interviews and interrogations are conducted so as to ensure voluntary, reliable and non-traumatic results. A developmental approach requires officers to remember that youth are more likely to overestimate immediate rewards (e.g. completing the interview, going home, sleeping, etc.) and less able than adults to consider the long-term consequences of their actions and decisions. This makes them less capable of either understanding or appreciating the constitutional protections afforded to them and the consequences associated with waiving those protections.

Determining Custody

To determine whether a youth is in custody for purposes of *Miranda*, courts will examine the circumstances surrounding the interrogation and ask whether, given those circumstances, a “reasonable juvenile” would have felt free to leave.

The U.S. Supreme Court has cautioned that “a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go.”²⁸ Age is a factor to be considered under the totality of circumstances in determining custody, regarding the timing and circumstances in officers’ questioning of youth.

Administering Juvenile *Miranda* Warning

Youth must be advised of his or her *Miranda* rights in a clear and understandable way prior to custodial interrogation.²⁹

- 1 **Timing** of Administration of *Miranda* Warnings: U.S. Supreme Court decisions require law enforcement officers to administer *Miranda* warnings when a youth is likely to perceive him/herself in custody, e.g. not free to leave.
- 2 **Age Appropriate Method of Providing *Miranda* Warnings to Youth:** Each warning should be read slowly, one at a time. Officers should not make assumptions about a youth’s literacy. To ensure solid understanding, youth should be asked to explain each warning in his/her own words after it is read. Because age is not a reliable indicator of reading comprehension level, SFY recommends adoption of the International Association of Chiefs of Police age-appropriate language for *Miranda* warnings:

- You have the right to remain silent. That means you do not have to say anything.
- Anything you say can be used against you in court.
- You have the right to get help from a lawyer right now.
- You also have a right to have your mother, father, or another adult here.
- If you or your family cannot pay a lawyer, the court will get you one for free.
- You have the right to stop this interview at any time.
- Do you want to talk to me?
- Do you want to have a lawyer with you while you talk to me?
- Do you want your mother, father, or another adult concerned about you here while you talk to me?

Officers must stop questioning youth when the youth has requested an attorney. If a youth asks for a parent or other adult to be present, officers should stop questioning until that adult is present.

Obtaining *Miranda* Waivers

Miranda waivers are typically accepted as valid when the totality-of-the-circumstances demonstrate the waiver was knowing, intelligent and voluntary. Factors considered include:

- 1 the youth’s age, mentality, and prior juvenile justice system experience;
- 2 the length and intensity of the interrogation; and
- 3 the existence of physical deprivation, inducement, coercion or deception.

Questioning Youth

To obtain statements that are voluntary and reliable from youth, officers must be aware that youth are more suggestible and vulnerable to the inherent pressures of interrogation and more likely to placate their questioners by guessing until they discover the desired answer. Officers should:

- Clarify purpose.
- Make sure that questioning takes place in a private room for periods of less than 2 hours.
- Provide opportunities for a youth to clear his/her mind and to eat, drink and use the restroom, as well as stop answering questions.

28. *J.D.B. v. North Carolina*, 131 S.Ct. 2394, 2403 (2011).

29. IACP Model Policy Juvenile Enforcement and Custody

- Make sure that the entire interview is video recorded, beginning when the officer first speaks to the youth and ending after the final question is answered.
- Explain next steps.
- Record the provision of *Miranda* warnings and the youth's *Miranda* waiver (for serious felonies).

SPECIAL CIRCUMSTANCES INVOLVING YOUTH & SPECIAL YOUTH POPULATIONS

General Guidelines

Police encounter many youth who are challenged—by exposure to violence, mental health issues, and environmental factors beyond their control. The policies in this section guide officers' interactions with youth in a variety of challenging circumstances. Components of a comprehensive policy should include policies and practices that address:

Arrests Of Parents In The Presence Of Their Children

It is recognized that exposure to arrests have a long-term harmful impact on youth and can permanently affect future interactions between police and youth. As part of its commitment to protecting children and youth, the Agency commits to reducing youth's exposure to trauma and violence, including observing the arrest of their parents/caretakers/relatives by adhering to following practices and policies that demonstrate a developmentally-appropriate, trauma-informed responses to children.

Youth In Crisis Due To Mental Illness And/Or Drug/Alcohol Consumption

Officers must respond to youth in crisis in a developmentally-appropriate trauma-informed manner to ensure the safety of both youth and officers and to effectively and humanely resolve incidents without risking unnecessary escalation. When interacting with youth with disabilities, officers are required to make reasonable modifications of their practices.

Sexually Trafficked Children & Youth

Any person under the age of 18 engaged in commercial sexual activity is to be treated as a victim in need of protection. In view of the challenging nature of protecting trafficked youth from their exploiters, special trauma-informed, trafficking-specific approaches are required. Officers working with trafficked youth must be alert for signs that youth are being coerced by fear, duress, threats, intimidation and fraud.

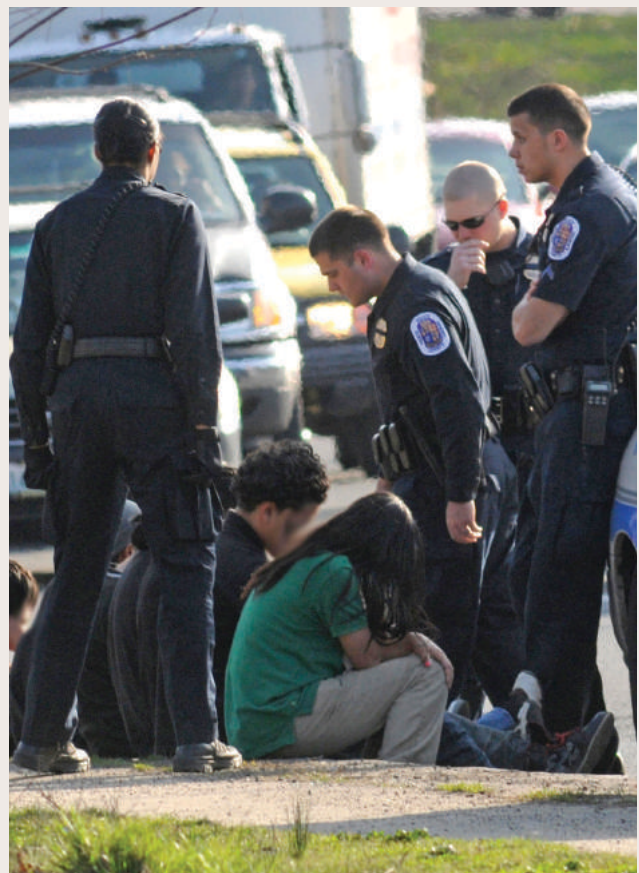
Officers should also assess the functioning of the youth, e.g. ascertain whether the youth may have any cognitive disabilities.

LGBTQ Youth

It is the policy of this agency to apply and administer all programs, initiatives, and activities without discriminating on the basis of gender, sexual orientation, gender identity, or gender expression. Factors such as a youth's sex, sexual orientation, gender, gender identity, gender expression, age, dress, unusual or disheveled or impoverished appearance do not alone justify even a brief detention, a request for identification, or an order to move on, nor do general complaints from residents, merchants or others.

DATA COLLECTION

To guide its practices, including deployment and allocation of resources, and inform its responses, the agency will collect and appropriately manage data on calls for service involving youth, officer dispatch referrals to youth-serving organizations and facilities (e.g. schools, detention, other), field investigation observations, arrests, and charges, as well as use of force reports and complaints made by or on behalf of youth against officers. Data to be collected will include race, gender, age, location of arrest, home address of youth. Data collected should be routinely shared with the public and juvenile justice system stakeholders.



Conclusion



Police who regularly interact with youth need to understand how adolescents think, process information and respond to stress. Officers need to master a set of strategies for peacefully engaging with youth, and for ensuring that youth of color are treated equitably. Officers also need to recognize and respond appropriately to signs of trauma and mental illness. Law enforcement agencies and their leaders need strong guidance, support, and expectations from the state on how to ensure that agencies and officers develop and execute these responsibilities.

Unfortunately, states are not demonstrating leadership regarding the development of model policies and practices for police/youth interactions. The abdication by the state in this domain has a number of negative impacts:

- It causes unnecessary confusion on the part of both youth and law enforcement about the consequences and seriousness of violations,
- It represents a missed opportunity to improve consistency in law enforcement agency management and law enforcement officer responses,
- It prevents states from providing urgently needed guidance and oversight to local law enforcement departments that would almost certainly reduce their risk of expensive law suits and federal oversight;
- It prevents local law enforcement agencies from benefiting from the collective expertise and perspectives of community stakeholders, who can help them to improve outcomes for vulnerable youth.

In other professions where adults are in regular contact with children—such as health care, teaching and day care—the state is heavily involved in setting and enforcing clear standards. It is past time for law enforcement agencies and officers to benefit from the same levels of accountability, training and guidance. SFY's extensive

experience working with law enforcement agencies and officers makes us confident that most would welcome state standards, if they are carefully and thoughtfully developed, and accompanied by high quality training and financial support for their implementation.

With so much public focus on police reform, and amid deep uncertainty regarding federal oversight, there is an opportunity for state agencies and legislatures to step into leadership roles. By convening a diverse and knowledgeable pool of stakeholders, they can model a process for creating developmentally-appropriate, trauma-informed standards governing police/youth interactions that can be widely replicated across the country. These standards will help reduce unnecessary arrests, avoid the escalation of minor incidents, and keep officers, youth, and communities safer.

For these reasons, SFY recommends:

- All states should develop clear professional standards to guide police interactions with youth. These standards should reflect current knowledge about adolescent development, best practices for peacefully settling conflicts without incident or arrest, and an understanding of the challenges that police face when interacting with youth who have experienced trauma, been exposed to violence, or suffer from mental illness.
- State standards should be enforceable and binding. These standards should become the criteria by which law enforcement agencies and officers who interact with youth are evaluated and promoted.
- State standards should be incorporated into the curriculum taught to police cadets and provided to officers in professional development programs. Such a curriculum should be updated and retaught on a frequent basis.
- When developing these standards, states should seek the input of a diverse set of stakeholders, including psychologists, educators, youth advocates, and child development experts.
- State standards should require law enforcement agencies to track racial and ethnic disparities in youth encounters with police and should require agencies to take steps to reduce disparities if they exist.
- States should take responsibility for data collection and monitoring of compliance with these standards, particularly around the use of force. This accountability will promote uniform treatment of youth and encourage better training for officers; thus ultimately increasing the safety of both groups.



Appendix 1: Standards Survey Form

Survey Methodology

SFY searched the Lexis database for state statutes and administrative codes that prescribe minimum standards for law enforcement officers in each state. In addition, we searched for alternative sources of standards, including POSTs (Police Officers Standards and Training Council), State Commissions, and police training bodies. Upon locating a source, we requested copies of the standards and/or an interview with the person in charge to ascertain which stakeholders were involved in its development, whether it reflected the current status of case law, and how it embodied the developmental approach required by the U.S. Supreme Court and the federal government. To guide the process, SFY created a framework for categorizing the source and rating the level of enforceability from most binding on agencies (state statute) to least binding (local law enforcement directives).

The Survey

Person Interviewed: _____

Position: _____

Agency Name: _____

Date: _____

1 Does your State's P.O.S.T. provide written standards or guidelines on juvenile justice (excluding issues relating to child abuse)?
___ Yes ___ No

2 Are these provided to: ___ Police? ___ Sheriffs?

3 If so, would it be possible to obtain a copy of these standards? ___ Yes ___ No

4 If no, would you be able to tell us what standards are available to local law enforcement agencies (L.L.E.A.)?
Please check all that apply:

General Policies and Practices

- ☐ Arrest and Custody of Juveniles
- ☐ Impartial Policing of Youth of Color/Disproportionate Minority Contact
- ☐ Conducting Searches of Juveniles
- ☐ Use of Detention for Juveniles
- ☐ Transportation of Juveniles
- ☐ Status Offenses
- ☐ Diversion Through Referral to Youth Serving Community-Based Organizations
- ☐ Use of Force on Juveniles
- ☐ Family/Domestic Violence

Legal Aspects of Police Role in Providing Miranda & Questioning Youth

- ☐ Procedures for Determining Custody of Juvenile (per *JDB v. North Carolina*)
- ☐ Provision of Age-Appropriate *Miranda* Warnings (rewrite existing warnings)
- ☐ Procedure of Age-Appropriate *Miranda* Waiver
- ☐ Procedure for Interviewing a Juvenile
- ☐ Procedure for Interrogating a Juvenile

Officers Deployed to Schools

- ☐ School Resource Officer Procedures (should include reference to existing MOUs between departments and schools) and distinguish discipline from offending
- ☐ School-Based Policing (for officers responding to calls for service from schools)

Use of Alternatives to Arrest

- ☐ Partnerships with Youth Serving Community-Based Organizations
- ☐ Restorative Justice Practices
- ☐ Diversion Programs in Lieu of Arrest

Special Responsibilities for Vulnerable Youth

- ☐ Procedures for Arresting Parents in the Presence of Their Children
- ☐ Procedures for Drug-Exposed Children
- ☐ Procedures for Identifying & Responding to Commercially Sexually Exploited Children
- ☐ Procedure for Runaway Youth
- ☐ Procedure for Youth Presenting Mental Health Issues and Drug/Alcohol Intoxication

5 How are these standards made available to L.L.E.A.?

6 Are these standards updated annually? ____ Yes ____ No

7 Is there a State or P.O.S.T. requirement that L.L.E.A. adopt them? ____ Yes ____ No

8 Who is in charge of overseeing their implementation?

P.O.S.T. Questions

1 Does your State's P.O.S.T. have policies or practices for dealing with youth when their parents are arrested? ____ Yes ____ No

2 If so, would it be possible to obtain a copy of these standards? ____ Yes ____ No

3 How are these standards made available to L.L.E.A.?

4 Is there a State or P.O.S.T. requirement that L.L.E.A. adopt them? ____ Yes ____ No

5 Who is in charge of overseeing their implementation?

Appendix 2: CALEA and IACP Model Standards

CALEA Model Standards

The Commission on the Accreditation for Law Enforcement (CALEA) and local accreditation agencies operate on a voluntary basis. Therefore, local law enforcement agencies can determine whether to seek accreditation from CALEA and whether to create and follow juvenile justice standards.

CALEA model standards state that “law enforcement officers should always take the least coercive action when dealing with juveniles, among reasonable alternatives, consistent with preserving public safety, order and individual liberty.”³⁰ The guidelines note that law enforcement generally have four sets of alternatives from which to choose when dealing with juveniles:

- 1 they may release and take no further action,
- 2 they may divert the offender to a social service agency,
- 3 they may dispose of the case themselves, or
- 4 they may (in the case of serious offenders) refer the youth to juvenile court (intake).

CALEA states that agencies should establish guidelines and criteria for the use of these alternatives. Additionally, procedures should be established for the interrogation and temporary detention of juveniles who are taken into custody.

CALEA directs law enforcement agencies to describe in writing the agency’s juvenile operations, and requires annual review and evaluation of all enforcement and prevention programs relating to juveniles. CALEA standards indicate that law enforcement agencies should participate in and/or organize community recreational youth programs.

IACP Model Standards

International Association of Chiefs of Police (IACP) provides model policies on Juvenile Enforcement and Custody (2014). These model policies include discussions about alternatives to formal processing and arrest, use of restraints, status offenders, and interview procedures (which are discussed in more detail in Training Key #652 “Interview and Interrogation of Juveniles”). In addition, the 2014 IACP report “Law Enforcement’s Leadership Role in Juvenile Justice Reform: Actionable

Recommendations for Practice and Policy,”³¹ provides excellent language for departments that integrates developmental science in many of its recommendations. IACP does not accredit or certify agencies and its standards, trainings and publications are resources that are available to members but are not binding.

CALEA STANDARD 44: JUVENILE OPERATIONS (2012)

“The agency should make a firm commitment to develop and perpetuate programs that are designed to prevent and control juvenile delinquency” 44.1.1

“Agency referral of alleged juvenile offenders for formal legal proceedings should be restricted to cases involving serious criminal conduct or repeated criminal violations.” 44.2.1 commentary

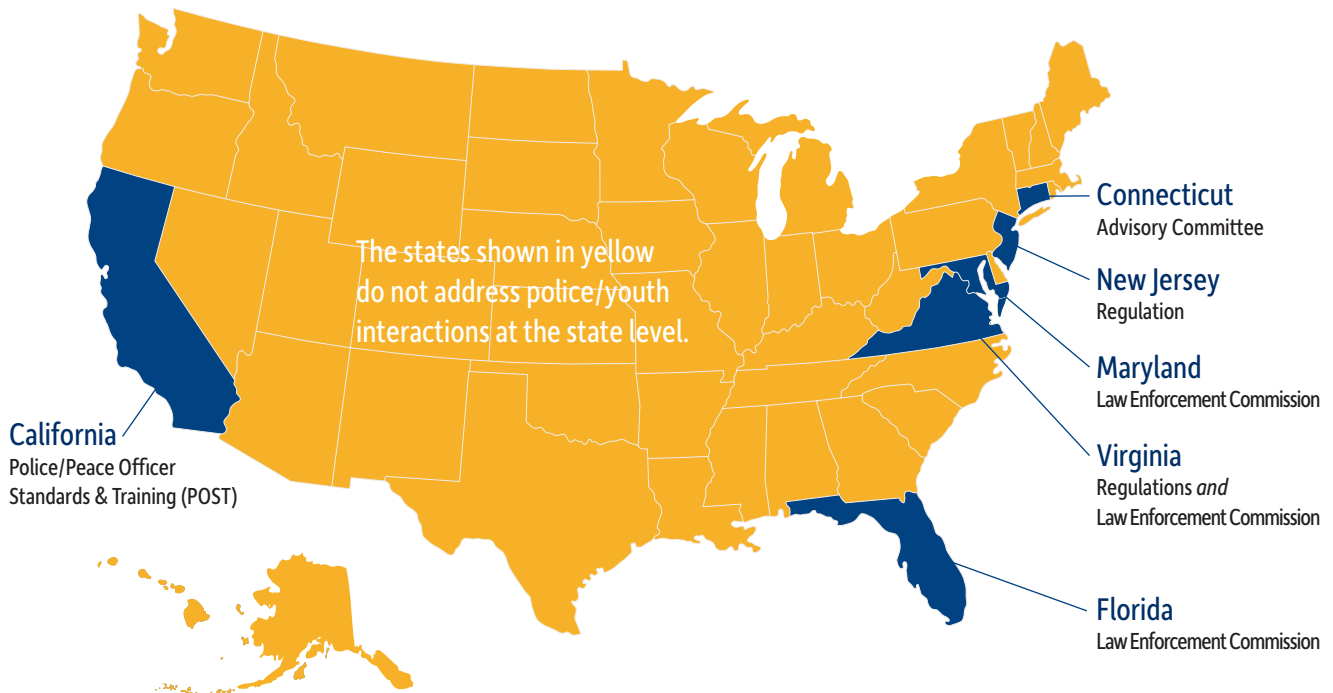
IACP MODEL POLICY ON JUVENILE ENFORCEMENT AND CUSTODY

“Officers should bear in mind that only a small percentage of juvenile commit the majority of juvenile crimes. While this small percentage may require secure custody, the vast majority of juvenile offenders are likely candidates for nonsecure custody and positive diversion and intervention strategies.”

30. CALEA Std. 22, 2012

31. <http://www.theiacp.org/portals/0/documents/pdfs/juvenilejusticesummitreport.pdf>

Appendix 3: State Guidance About Policies Governing Police/Youth Interactions



Law enforcement agencies could potentially draw guidance for policies about police/youth interactions from a variety of state sources:

- Statutes
- Regulations
- State Public Safety Agency Models
- Police/Peace Officer Standards & Training (POST)
- Law Enforcement Commissions
- Advisory Committees

Unfortunately, very few states regulate or recommend best practices for how law enforcement agencies and officers interact with youth. The map indicates the five states that provide some form of guidance. All of the other 45 states do not address police/youth interactions at the state level.

