

**CITY OF OCONOMOWOC POLICE DEPARTMENT
POLICIES & PROCEDURES**

DATE: May 14, 2020

HISTORY: November 6, 1999

SUBJECT: Juvenile Enforcement and Custody

POLICY NUMBER: 99-066

I. PURPOSE

The purpose of this policy is to provide guidelines for officers when dealing with juveniles in enforcement and custody situations.

II. POLICY

It is the responsibility of all members of this department to familiarize themselves with juvenile problems and established procedures for handling both criminal and noncriminal juvenile incidents as defined in this policy. While a small percentage of juveniles may require secure custody, the vast majority of juvenile offenders are likely candidates for non-secure custody and positive diversion and intervention strategies. With this in mind, officers shall, whenever reasonable and justified under this policy, take those measures necessary to effect positive changes in juvenile offenders that are consistent with state law and the safety and security interests of the community.

III. DEFINITIONS

- A. Status Offender: A juvenile who is charged with an offense that would not be a crime if committed by an adult.
- B. Child/Juvenile: A person who is less than 18 years of age. "Juvenile" does not include a person who has obtained 17 years of age for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law, any civil law or a municipal ordinance [Wis.Stat. 48.02(2)], [Wis.Stat. 938.02(10m)]. Juveniles in the military are processed the same as all other juveniles.
- C. Adult: A person who is 18 years of age or older. "Adult" means a person who has attained 17 years of age for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law, any civil law or a municipal ordinance [Wis.Stat. 48.02(7d)].
- D. Responsible Adult: In the absence of a juvenile's parents or legal guardian, a responsible adult is one who is responsible for the physical custody of a juvenile or who is another adult acquaintance of the juvenile's parents or legal guardian who agrees and reasonably demonstrates the ability to provide supervision for the juvenile until parents, legal guardian or next of kin can assume that responsibility.
- E. Non-secure Custody: A condition under which a juvenile's freedom of movement is controlled by members of this agency and, during such time, the juvenile:
 - 1. Is held in an unlocked, multi-purpose area that is in no way designed for residential use, such as a report-writing room or an office.
 - 2. Is at no time handcuffed to any stationary object.
 - 3. Is held only long enough to complete identification, investigation and processing and then released to a responsible adult or transferred to a juvenile facility or court.

4. Is under continuous visual supervision until released.
- F. Secure Custody: A condition in which a juvenile is physically detained or confined in a locked room, set of rooms or a cell that is designated, set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody or when the juvenile is physically secured to a cuffing rail or other stationary object.

IV. PROCEDURES

- A. Law Enforcement officers dealing with juveniles may exercise reasonable discretion as outlined in this policy in deciding on appropriate actions. Alternatives that may be considered include:
1. Release without further action.
 2. Informal counseling to inform the youth of the consequences of his/her actions.
 3. Informal referrals to community services.
 4. Referral to parents or responsible adults.
 5. Informal counseling of parents or responsible adults.
 6. Limited custody and warning.
 7. Issuance of a citation or complaint.
 8. Arrest under non-secure custody.
 9. Arrest under secure custody.
- B. Officers should file charges against juveniles when they commit:
1. Acts, that if committed by an adult, would be felonies.
 2. Delinquent acts involving deadly weapons.
 3. Serious gang-related offenses.
 4. Delinquent acts involving assault.
 5. Delinquent acts while on probation or parole or when they have charges pending against them.
 6. Delinquent acts as repeat offenders.
 7. When it has been determined that parental or other adult supervision is ineffective.
- C. An officer may also take a juvenile into custody if the youth is lost, seriously endangered or is a runaway. In all such cases, these juveniles shall be held in non-secure custody and officers shall contact the child's parents or guardian as soon as possible. Where parents or guardians cannot be contacted or refuse to accept custody, the officer shall contact the county intake worker.
- D. In cases of alleged child abuse, officers shall conduct an investigation of the complaint unless probable cause justifies immediate action in order to protect the safety and well-being of the child.
- E. Status Offenses
1. Based on the seriousness of and circumstances surrounding the offense, the background and demeanor of the juvenile and other relevant factors, an officer may release a juvenile to his/her parents, guardian or other responsible adult.
 2. Juveniles taken into custody for status offenses should be frisked for weapons prior to being transported and will be handcuffed or otherwise restrained.
 3. Officers shall pay particular attention to juveniles under the influence of alcohol or drugs to determine whether emergency medical services are needed.
 4. Juveniles taken into custody for status offenses shall be held in non-secure custody as provided by state law and for the briefest time necessary to conduct identification, investigation and related processing requirements to facilitate their release to a parent or responsible adult or transfer to a juvenile facility.
 5. Transportation of a juvenile in a caged vehicle is not considered secure custody.

6. Status offenders and other juveniles taken into temporary non-secure custody for noncriminal type offenses should be fingerprinted and photographed for purposes of record.
7. Status offenders in temporary custody shall not be placed in a holding area with adult suspects and shall also be:
 - a. Under constant visual supervision.
 - b. Afforded reasonable access to restrooms.
 - c. Provided with reasonable access to water.
 - d. Allowed reasonable access to a telephone.

F. Criminal-Type Offenses

1. Juveniles arrested for criminal-type offenses are subject to the same security requirements as adults and may be handcuffed or otherwise restrained as necessary during transport and processing.
2. Juveniles accused of criminal-type offenses may be securely detained only for the period of time and in the manner prescribed by state law to allow for identification, investigation, processing and release to parents or a responsible adult, or transfer to the juvenile facility or court.
3. Fingerprints and photographs shall be taken of all juveniles taken into custody for criminal-type offenses. These shall be marked "Juvenile" and shall be subject to controlled dissemination as provided by law.
4. Officers shall record (both audio and visual) any custodial interrogation involving a juvenile. Follow proper property inventory procedures with the recording.
5. The juvenile shall be advised of their constitutional rights prior to interrogation. If prior to or during questioning, the juvenile expresses the desire to speak with an attorney, all questioning shall cease and shall not be renewed until permission is granted.
6. In the absence of a parent or guardian, a juvenile may be questioned and may provide statements, if reasonable assurances can be made that the juvenile fully understands his/her constitutional rights. Parents have no legal rights to observe a juvenile being interviewed.
7. Interrogation of juveniles should not extend over periods of time that could be considered unreasonable or harassing.
8. The juvenile should be informed of the procedures that will be followed with regard to custody, release or transport to another facility.

G. Record Keeping

1. Officers who select non-custodial alternatives or engage in informal enforcement contacts with juveniles shall complete appropriate CAD entries and/or incident reports as required by this agency. These reports shall clearly identify the juvenile(s) involved, the nature of the incident and the officer's disposition.
2. Juveniles taken into custody for criminal-type offenses shall be subject to the same reporting requirements as adults. Such reports shall be clearly marked "Juvenile" and be maintained in a separate location from adult arrest records and be subject to state law regarding dissemination and access.

V. CUSTODY OF A JUVENILE

- A. A juvenile may be taken into custody under any of the following per state statute 938.19(1).
 1. A warrant.
 2. A capias issued by a judge under Wis.Stat. 938.28.
 3. A court order if there is a showing that the welfare of the juvenile demands that the juvenile be immediately removed from his/her present custody. The order shall specify that the juvenile be held in custody under Wis.Stat. 938.207.

4. A juvenile may be taken into custody under circumstances in which a law enforcement officer believes on reasonable grounds that any of the following conditions exist [Wis.stat. 938.19(:(
 - a. A capias or a warrant for the juvenile's apprehension has been issued in this state, or that the juvenile is a fugitive from justice.
 - b. A capias or a warrant for the juvenile's apprehension has been issued in another state.
 - c. The juvenile is committing or has committed an act which is a violation of a state or federal criminal law.
 - d. The juvenile has run away from his/her parents, guardian or legal or physical custodian.
 - e. The juvenile is suffering from illness or injury or is in immediate danger from his/her surroundings and removal from those surrounding is necessary.
 - f. The juvenile has violated the terms of court ordered supervision, community supervision, or aftercare supervision; a condition of the juvenile's placement in a Type 2 juvenile correctional facility or a Type 2 residential care center for children and youth; or a condition of the juvenile's participation in the intensive supervision program under Wis.Stat. 935.534.
 - g. The juvenile has violated the conditions of an order under Wis.Stat. 938.21(4) or of an order for temporary physical custody by an intake worker.
 - h. The juvenile has violated a civil law or local ordinance punishable by a forfeiture, expect that in that case the juvenile shall be released immediately under Wis.Stat. 938.20(2)(ag) or as soon as reasonably possible under Wis.Stat. 938.20(2)(b)to (g).
 - i. The juvenile is absent from school without an acceptable excuse under Wis.Stat. 118.15.
- B. When a juvenile is taken into physical custody as provided in this policy, the officer taking the juvenile into custody shall attempt to notify the parent, guardian and legal custodian of the juvenile by the most practical means. The officer shall continue such attempt until parent, guardian and legal custodian of the juvenile is notified or the juvenile is delivered to an intake worker, whichever occurs first. If the juvenile is delivered to the intake worker before notification is made, it than becomes the intake worker's responsibility to make such notification.

VI. RELEASE FROM CUSTODY

- A. The officer shall make every effort to release the juvenile immediately to the juvenile's parent, guardian or legal custodian.
- B. If the juvenile's parent, guardian or legal custodian is unavailable, unwilling or unable to provide supervision for the juvenile, the officer may release the juvenile to a responsible adult after counseling or warning the juvenile as may be appropriate.
- C. If the juvenile is 15 years of age or older, the officer may release the juvenile without immediate adult supervision after counseling or warning the juvenile as may be appropriate.

VII. EXCEPTIONS TO THIS POLICY MAY BE AUTHORIZED ONLY BY THE CHIEF OF POLICE

This policy is effective immediately
and will supersede any directives or understandings in conflict