

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

DATE: May 14, 2020

HISTORY: February 26, 1997

SUBJECT: Juvenile Records

POLICY NUMBER: 96-001

**I. PURPOSE**

This policy establishes guidelines dealing with the separation of records involving juveniles and adults and guidelines for releasing juvenile records.

**II. POLICY**

- A. Juvenile records are those subject to Chapter 938 of the Wisconsin State Statutes. This policy applies to juvenile records created on or after July 1, 1996. Request for records awaiting court action will be referred to the appropriate court officer handling the case for their approval before disclosing said records.
  
- B. Juvenile records are to be kept separate and confidential. Pursuant to sec. 938.396(1), Wis. Stats., records of juveniles shall be kept separate from records of adults, and shall not be open to inspection or their contents disclosed except under the exceptions set forth in this policy.

**III. DEFINITION**

Juvenile Records: any records relating to or containing the name of a juvenile under the age of seventeen involved in a criminal offense or civil forfeiture actions. The juvenile may be listed as a suspect or arrested subject. Included are juveniles listed as victims of crimes, especially victims of sensitive crimes.

**IV. PROCEDURES**

- A. A record of this department will never be released to anyone without supervisory approval. The supervisor in charge of this function is the Administrative Lieutenant. In the absence of this person, the Captain of Police can perform the task.
  
- B. A person, agency, business, insurance company or anyone else requesting a record must do so in writing to this department.
  
- C. The record requested will be pulled and forwarded to the Administrative Lieutenant, with a note attached indicating whether the file is a closed investigation, pending court or other relevant information.

**V. EXCEPTIONS TO POLICY OF CONFIDENTIALITY OF JUVENILE RECORDS**

- A. Section 938 allows certain persons access to juvenile records without obtaining a court order they are as followings:
  - 1. Media representative who wish to obtain information for reporting news without revealing the identity of the juvenile involved.

The information that may be released under this provision shall not include the name or address of any victim of the acts of the juvenile, nor shall it include any information which is

otherwise privileged, such as medical or mental health information or alcohol dependency/treatment information.

Any request under this provision must specify the date and subject matter of the alleged delinquent act that the request relates to. A general request for information concerning a juvenile will not be accepted.

2. Victim-witness coordinators in a District Attorney's Office in this state or from the Wisconsin Department of Justice or the United State Justice Department shall have access to any information relating to the enforcement of victim rights under the constitution and the Wisconsin statutes. This information shall include information relating to the identity of any victim of the acts of the subject juvenile.
3. Victims of a juvenile's act who wish to obtain information for recovering for any loss, damage or injury suffered because of the juvenile's act.
4. Insurance companies that wish to obtain information to investigate a claim involving the juvenile.
5. Upon request by another law enforcement agency, information relating to a juvenile and his/her acts may be released and/or exchanged with representatives of the requesting law enforcement agency.
6. Upon request of a social welfare agency, information relating to a juvenile may be released by this agency to a representative of the Social Welfare agency. Any such information released must remain confidential and may only be utilized for official purposes.
7. Upon written request by school officials of a school that a subject juvenile is to attend, information relating to that juvenile may be released to the school representatives. Prior to release of this information, all due care is to be taken to ensure that the information being released is not otherwise confidential or privileged. Due care is to be exercised to ensure that the requested information pertains to the subject juvenile.
8. This policy does not apply to juveniles **10** years of age or older who are subject to adult court jurisdiction for criminal proceedings pursuant to sec. 928.183, Wis. Stats., (waiver proceedings or original jurisdiction provisions). The determination as to when original adult court jurisdiction applies will be made by the Office of the District Attorney.

Any questions relating to whether or not a juvenile has been or will be referred to adult court in a specific case should be addressed by the Office of the District Attorney **PRIOR** to the release of any information pursuant to this policy.

While a decision regarding the filing of charges in the adult criminal court versus the juvenile court is pending, the rules and procedures relating to confidentiality of juvenile records and this policy apply. If it is determined that charges will be filed in adult court pursuant to sec. 938.183, then the rules and procedures relating to release of information in adult criminal investigations apply and this policy becomes inapplicable.

## **VI. DISCLOSURE OF RECORDS**

- A. The law is permissive and gives the law enforcement agency the discretion to disclose information.
- B. Identity of requesting parties must be verified prior to any release of information. All due care should be exercised to properly verify the identity of the individual making the request to ensure that they are entitled to receive the requested information.
- C. In more limited instances, the law is mandatory and requires disclosure as follows:
  1. A law enforcement agency **must** disclose to a victim-witness coordinator, upon request, any information in its records relating to the enforcement of the rights of the victim, under CH.938, 950.04/950.05 and the constitution, of the juvenile's act and the provision of services to victims', names and addresses of witnesses, juveniles, parents etc. This **does not** require copies of the records, but information from those records.

2. By written request a **PUBLIC SCHOOL ADMINISTRATOR** of a public school, **MAY** request information relating to the use, possession or distribution of alcohol or a controlled substance, possession of a dangerous weapon, or possession of a controlled substance analog by a juvenile/pupil enrolled in the public school district. Copies of reports will not be provided only information. (938.396(1m)and (am).

Any information released to school officials shall be used by the school district as provided under sec. 118.127, Wis. Stats., and for no other purpose. Any written request for the above information must contain an indication by the requester that he/she is aware of this restriction and agrees to follow it.

3. By written request a **VICTIM** of some juvenile acts, **MAY** request disclosure of information to the victim relating to the loss, damage or injury suffered by the victim, including the name and address of the juvenile and his or her parents. The victim can only use this information to recover the loss they suffered and for no other purpose. Copies of reports will not be provided only information. (938.396(1r).
  4. Upon written request by the **PARENT, GUARDIAN OR LEGAL CUSTODIAN OF A JUVENILE** who is the subject of a law enforcement office's report, or if requested by a **JUVENILE AGE 14** or over, the agency **MAY** provide any of those individuals with a **COPY** of the report. (938.396(1b).

This information **WILL NOT** be released if the case in question is an active, pending investigation or prosecution and the release of that report, in the judgement of the person releasing the report, would jeopardize the investigation/prosecution or subject an individual to threats of harm or intimidation. If the person is denied a copy of the report under this section, the person should be referred to the Waukesha County Juvenile Court of Waukesha County, the Waukesha County District Attorney, or the City Attorney for more information.

No information shall be released if the requested information relates to a matter which is under review by the Office of the District Attorney, City Attorney or is pending in Juvenile Court on a Delinquency Petition. Any request for such information shall be referred to the Office of the District Attorney or City Attorney.

5. Pursuant to sec. 938.396(1t), Wis. Stats., if a juvenile has been court ordered to make restitution for any injury, damage or loss caused by the juvenile's act, and if the juvenile has failed to make that restitution within one year of the entry of the order, upon written request

by an **insurance company** representing a victim of a juvenile's acts, the victim's insurer may be provided with any information relating to the injury, loss or damage suffered by the victim, including the name and address of the juvenile and the juvenile's parents.

Prior to release of the information under this section the insurance company representative must be informed that the insurer may use and further disclose the information only for the purpose of investigating a claim arising out of the juvenile's act.

A written request pursuant to this section must be accompanied by a copy of the Juvenile Court Order requiring the juvenile to pay restitution issued at least one year prior to the date of the request for information a sworn affidavit from the victim(s) indicating that the ordered restitution has not been received.

6. This agency **WILL NOT** provide information to persons requesting under section (938.396(1d) which states persons listed above may give written permission to another to obtain information.
  
- D. Records and/or information will not be disclosed without administrative review. The following criteria would apply whether or not records or information will be disclosed: statutory requirements, circumstances involved in the incident, necessity of confidentiality for the good of the public and the need or right to know of the requesting party.

**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