



POLICY & PROCEDURE

HOLMEN POLICE DEPARTMENT

SUBJECT:	JUVENILE OPERATIONS	NUMBER:	2.8
		ISSUED:	08/31/2016
SCOPE:	All Department Personnel	REVIEWED:	01/29/2017
DISTRIBUTION:	Policy & Procedure Manual		
REFERENCE:		WILEAG 4 th EDITION STANDARDS: 6.6.1, 6.6.2, 6.6.3, 6.6.4	

- **Juvenile Offenders**
- **Juveniles in Custody**
- **Interrogation of Juveniles**

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. Officers should bear in mind that only a small percentage 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 interest of the community.

III.DEFINITIONS

Status Offender; A juvenile who is charged with an offense that would not be a crime if committed by an adult.

Responsible Adult: In the absence of a juvenile's parents or legal guardian, a responsible adult is one who is responsible for the physical custodian 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.

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 is held in an unlocked, multi-purpose area that is in no way designed for incarceration:

- a) A report-writing room or an office:
- b) Is at no time handcuffed to any stationary object:
- c) Is held only long enough to complete identification, investigation and processing
- d) And then released to a responsible adult or transferred to a juvenile facility or court:
- e) And is under continuous visual supervision until released.

Secure Custody: A condition in which a juvenile is physically detained or confined in a locked room, set or rooms or a cell that is designate, set aside or used for 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. Enforcement Alternatives (6.6.2)

1. **(6.6.2.1)** Officers dealing with juveniles in enforcement capacities may exercise reasonable discretion as outlined in this policy in deciding on appropriate actions. Alternatives that may be considered include.
 - a) Release without further actions:
 - b) Informal counseling to inform the youth of the consequences of his/her actions:
 - c) Informal referrals to community services:
 - d) Referral to parents or responsible adult:
 - e) Informal counseling of parents or responsible adult:
 - f) Limited custody and station house warning:
 - g) Issuance of a summons or complaint:
 - h) Arrest under non-secure custody:
 - i) Arrest under secure custody.

B. Enforcement Criteria

1. The following general guidelines may be used in determining appropriate enforcement and related actions that may be taken when dealing with juvenile incidents.
2. **(6.6.2.2)** The issuing of municipal citation(s) for violations of village ordinances. The release without further action or following informal counseling. Referral to community resources or parents may be appropriate in incidents where property damage or personal injury is not involved but

intervention is necessary to avoid potential delinquent actions and when the youth has had no prior enforcement contacts with the police. Examples of these incidents include, but are not limited to:

- a) Curfew violations:
 - b) Loitering:
 - c) Minor liquor law violations;
 - d) Disorderly conduct
3. Officers may elect to transport the youth home or direct him/her to return home: make personal, telephone or mail contact with the youth's parents or guardians to provide them with information and counseling on their child's actions: refer the youth to appropriated community service agencies with or without follow-up: or detain the youth at the police department until he/she is released to a parent or guardian when:
- a) The nature of the incident is of a more serious or potentially serious:
 - b) The youth involved is fully aware of the seriousness or potential seriousness of his/her actions and/or is acting in alliance or collusion with others to commit such acts:
 - c) The youth fails to cooperate or to positively respond to police intervention and direction:
 - d) The youth has received prior informal warnings or referrals or has engaged in delinquent acts, and/or
 - e) The youth's parents or responsible adult have apparently failed to provide appropriate control and supervision.
4. **(6.6.3.1)** The police officer is often the first community representative and possibly the most significant to come in contact with juveniles in trouble with the law or in need of protective assistance. The handling of juvenile problems calls for sincere concern on the part of the officer and the application of the interpersonal skills to determine the facts, to mediate and defuse conflict and to offer constructive suggestions for temporary or long-term solution.

Officers may file delinquency charges against a juvenile when the circumstances surrounding the incident meet or exceed the seriousness of those cited previously. Officers should file delinquency charges against juveniles when they commit:

- a) Acts that if committed by and adult would be felonies:
- b) Delinquent acts involving deadly weapons:
- c) Serious gang-related offenses:
- d) Delinquent acts involving assault:
- e) Delinquent acts while on probation or parole or when they have charges pending against them:
- f) Delinquent acts as repeat offenders or when they have refused to

- participate in diversion or intervention program: or
- g) When it has been determined that parental or other adult supervision is ineffective.

5. An officer may also take a juvenile into custody if they 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 La Crosse County Juvenile Intake. **Refer to Holmen Policy 2.4**

C. Juveniles Engaged in Non-Criminal Misbehavior/Status Offense

Taking a Juvenile into Custody for a status offense; officer believes on reasonable grounds that any of the following exists:

1. Runaway from parents/guardian/custodian.
 - a. When taking a runaway report, complete a Missing Person's Report, route a copy to dispatch (LEDC) for (TIME/CIB/NCIC) data entry, and put a copy with photos in the shift binder.
 - b. Runaways may be taken into custody.
 - c. Unless additional charges/extenuating circumstances exist, the officer will return him/her to parent or guardian.
 - d. If circumstances prevent the juvenile from going home; the officer will contact Intake.
 - e. Apprehending officers will route a report to (LEDC) dispatch for (TIME/CIB/NCIC) data clearance.
2. Absent from school without an excuse.
3. Other status offenses such as curfew and underage drinking shall be addressed with an ordinance citation when appropriate or as directed by the on-duty shift commander.

D. Juvenile Alleging to Have Been Harmed or In Danger of Harm.

1. **(6.6.3.2)** Taking a Juvenile into Custody; officer believes on reasonable grounds that the juvenile is a harm to him/herself and meet requirements under Wisconsin State Statue 51.15 from illness/injury and/or is in immediate danger from his/her surroundings and removal is necessary.
2. Any incident of alleged abuse or neglect will be brought to the immediate attention of juvenile protective services if it is valid or the juvenile has been harmed or is in danger of being harmed. The on-duty shift supervisor shall be notified of the need for protective services and will assist in assessing the situation. **Refer to Holmen Policy 2.2**
3. Reports regarding abuse/neglect of children must be stamped confidential.
4. In cases of alleged child abuse, officers shall contact their immediate supervisor in order to 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. **(6.6.3.5)** 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. The apprehending officer will attempt to notify the parent/guardian/custodian immediately. The attempt will continue until notified or the juvenile is delivered to Intake.

F. **(6.6.2.3)** Referral to Juvenile Intake Workers and the Juvenile Detention Center (JDC) *without delay*. Intake Workers:

- a. Provide services 24 hrs/day, 7 days/week, for screening juveniles taken into custody and not released. NOTE: Intake is to be notified when the arresting officer is REQUESTING detention.
1. Referrals to Juvenile Intake.
When juvenile release isn't appropriate, the officer will notify Intake and complete/provide required forms. Parent/guardian/custodian notifications will be in reports. Referral for formal proceedings is restricted to serious criminal conduct/repeated violations. Juveniles may be referred to Intake in the county where the juvenile resides through our Intake.
 - a. In-custody referrals must be done by end of duty.
 - b. Restitution requests should be noted in the report.
2. Intake determines where the juvenile is to be held.
3. Intake must authorize the secure holding of juveniles;
NO juvenile may be placed in secure detention unless:
 - a. Intake consults with the apprehending officer.
4. Reports used: Juvenile Report (JD-1701), Continuation Report for narrative and required Intake reports.

La Crosse County
Health and Human Services Building
300 4th Street North, 4th floor
La Crosse, WI 54601

2. Juveniles taken into custody for status offenses should normally be frisked for weapons prior to being transported and may be handcuffed or otherwise restrained at any time if, in the judgment of the officer, the juvenile poses a physical risk to the officer or others.
3. Officers shall pay particular attention to juveniles under the influence of alcohol or drugs to determine whether emergency medical services are warranted.
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 (6.6.3.4) to conduct identification, investigation and related processing requirements to facilitate their release to a parent (6.6.3.5) 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 non-criminal-type offenses should not be fingerprinted or 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 toilets and washing facilities:
 - c. Provided food if in need of nourishment to include any special diets necessary for health or medical purposes:
 - d. Provided with reasonable access to water or other beverages:
 - e. Allowed reasonable access to a telephone.

G. Criminal Code offenses

1. Juveniles arrested for criminal code offenses are subject to the same security requirements as adults and may be handcuffed or otherwise restrained as necessary during transport and processing.
2. **(6.6.4.2)** In cases where a juvenile is a suspect in a criminal matter and requests to speak with a parent or guardian, he/she may be afforded the opportunity to confer with their parent. This is not a requirement by law, however; the decision whether or not to allow contact with a parent may carry considerable weight in determining whether an admission/confession is admissible in court. In all instances in which there is a difference of opinion between a juvenile and his/her parents or guardian regarding whether or not the juvenile will agree to speak with police regarding a suspected criminal offense and the juvenile has a rational capacity to pursue his/her best interest, the juvenile's wishes will prevail
3. **(6.6.3.4)** If the officer reasonably believes that there is an urgent and immediate necessity to keep the juvenile in custody: e.g. Threat to others, will flee and not appear, the officer shall contact the Juvenile detention center to make arrangements for the Juvenile to be taken to secure/non-secure detention.
4. Juveniles accused of criminal-type offenses may be securely detained only for

the period of time and in the manner prescribed by Wis. Stats. 938.19 to allow for identification, investigation, processing and release to parents or a responsible adult, or transfer to the juvenile facility or court.

5. Juveniles placed in secure detention, whether in cells, locked rooms or other locations, shall be sight and sound separated from any incarcerated adults and shall
 - a. Be informed of the approximate period of time that the incarceration will last;
 - b. Be provided with constant auditory access to officers responsible for their supervision;
 - c. Be personally observed by supervisory personnel on both a routine and unscheduled basis no less than every 30 minutes.
6. Prior to custodial interviews or questioning a supervisor officer should be summoned if available.
7. **(6.6.3.3)** A juvenile may be questioned without the presence of his parent or a responsible adult. The juvenile questioned, in custody, regarding possible criminal activity will be afforded all rights by Miranda/constitutional rights prior to interrogation. The officer conducting the questioning must make certain the juvenile understands their rights. 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. Prior to accepting a waiver of rights from a juvenile, the following factors should be evaluated and taken in to consideration: **AGE - INTELLIGENCE - EDUCATIONAL LEVEL - PRIOR EXPERIENCE WITH THE JUVENILE JUSTICE SYSTEM - THE JUVENIL'S ABILITY TO COMPREHEND THE MEANING AND EFFECT OF THEIR STATEMENT - THE JUVENIL'S PHYSICAL CONDITION.**
8. **(6.6.4.3)** Interrogation of juveniles should not extend over periods of time that could be considered unreasonable or harassing and, whenever possible, should be conducted by only one officer at a time. When appropriate, parents will be advised of the results of the interrogations.
9. **(6.6.4.1)** All interrogations, interviews and questioning of juveniles must be conducted in a manner to ensure the protection of the juvenile's constitutional rights. All custodial interrogations of juveniles, 16 years and younger, will be electronically recorded where feasible, and without exception when the questioning occurs at a place of detention (State v. Jerrell CJ). **Refer to Department Policy 4.4 Custodial interrogations.**
10. The juvenile should be informed of the procedure that will be followed with regard to custody, release, and transport to another facility or to a custody hearing.

H. Release from Custody.

- a. Efforts are made to release the juvenile to his/her parent/guardian/custodian, except if the juvenile:
 - a. Has a parent/guardian/custodian who is unwilling/unable to provide supervision; s/he may be released to a responsible adult.
 - b. Is 15 or older, s/he may be released without immediate adult supervision.
 - c. Violated terms of aftercare supervision, s/he may be released to whoever had aftercare supervision.
 - d. Runaways may be released to an authorized home.
 - e. Is absent from school, s/he may be released to the school administrator.
 - f. Notification procedures above apply for juvenile release
 - g. If not released, the officer will notify Intake.
 - h. WI ss. 51/55 govern release relating to physical/mental condition or drug/alcohol impairment.
 - i. Juveniles not held in physical custody will be released. If s/he does not present a danger to him/herself/others, they are 15 or older, and it is a minor act, the officer may release them without immediate adult supervision. In incidents where the violation was significant or the juvenile is under 15, they will be released to a parent/guardian/responsible adult and be referred for charges to La Crosse County Health and Human services (Juvenile intake). When an officer cannot find a parent, etc., the officer will contact Intake. On taking a juvenile into custody, officer will without undue delay, deliver the juvenile to the individual/agency having authority for child custody under the circumstances, e.g. intake, parent, etc.

I. Record Keeping

1. Officers who select noncustodial alternatives or engage in informal enforcement contacts with juveniles shall complete appropriate field interview and/or incident reports as required by this agency. These reports shall clearly identify the juveniles involved, the nature of the incident and the rationale for 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," maintained in a separate location from adult arrest records and be subject to state law regarding dissemination and access.

J. Courts of Criminal Jurisdiction.

Criminal courts have EXCLUSIVE jurisdiction over ALL of the following:

- a. 940.20(1) Battery by Prisoners.
- b. 946.43 Assaults by Prisoners, in a secured facility,
- c. 940.20(2m) Battery to Probation/Parole Agents.
- d. 940.01 First Degree Intentional Homicide.
- e. 940.02 First Degree Reckless Homicide.
- f. 940.05 Second Degree Intentional Homicide.
- g. A juvenile charged with violating criminal law if s/he was convicted of a previous violation following waiver into adult court or if the charge is still pending.
- h. A juvenile charged with violating criminal law if s/he was convicted of a previous violation in adult court or if such previous violation is pending in adult court.

Shane Collins
Police Chief

This Policy cancels and supersedes any and all previous Policies and Directives relative to the subject matter contained herein.

Initial 08/31/2017