

Temporary Custody of Juveniles

312.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Beloit Police Department (34 USC § 11133).

This policy does not apply to secure detention facilities, the juvenile portion of a county jail, or municipal lockups certified to hold juveniles, but rather applies to the temporary custody of a juvenile before a juvenile is released, delivered to an intake worker, or delivered to any of these other facilities.

312.1.1 DEFINITIONS

Definitions related to this policy include:

Guardian - A person named by the court having the duty and authority of guardianship (Wis. Stat. § 938.02).

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare or any child 9 years of age or younger.

Juvenile offender - A juvenile 10 years of age to 16 years of age who is alleged to have committed a non-status offense that would subject an adult to arrest or an offense related to alcohol possession. It also includes an offense under Wis. Stat. § 948.60 where the juvenile possessed a dangerous weapon.

Non-secure custody - When a juvenile is held in the presence of an officer at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.
- (c) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (d) A juvenile is kept within the secure perimeter of a jail or lockup after booking/processing is completed even if a department member is present and visually supervising.

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- (e) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, uncontrollable behavior, curfew violation, or truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

312.2 POLICY

The Beloit Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Beloit Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

312.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Beloit Police Department:

- (a) Unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Under the influence of alcohol, a controlled substance or any substance to the degree that may require medical attention, or has ingested any substance that poses a significant risk to their health.
- (e) Extremely violent or continuously violent
- (f) Has a medical condition, including pregnancy, or who may require medical attention, supervision or medication while in temporary custody.
- (g) Proclaims to be or is afflicted with or displays symptoms of any communicable disease that poses an unreasonable exposure risk.
- (h) Has a prosthetic or orthopedic device.

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation.

These juveniles should not be held at the Beloit Police Department unless they have been evaluated by a qualified medical and/or mental health professional.

If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release or a transfer is completed.

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312.3.1 EMERGENCY MEDICAL TREATMENT

If a juvenile is believed to be suffering from a serious physical condition that requires prompt diagnosis or prompt treatment, the officer taking the juvenile into physical custody shall take the juvenile to a hospital or physician's office (Wis. Stat. § 938.20).

312.3.2 SUICIDE PREVENTION

The arresting officer should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself or any unusual behavior that may indicate the juvenile may harm him/herself while in temporary custody.

312.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Beloit Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Beloit Police Department without authorization of the arresting officer's supervisor or the Shift Commander.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable, and should not be held more than two hours following the conclusion of processing, testing, and/or interrogation. In no event shall a juvenile be held beyond six hours from the time of his/her entry into the Beloit Police Department (34 USC § 11133; Wis. Stat. § 938.20).

312.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Beloit Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be held in secure custody (34 USC § 11133).

312.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent) or otherwise authorized under Wis. Stat. § 48.19 et seq. or Wis. Stat. § 938.19. Juvenile status offenders may not be held in secure custody (34 USC § 11133).

312.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Beloit Police Department.

Generally, a juvenile offender may be taken into custody when (Wis. Stat. § 938.19):

- (a) There is a court order, *capias* or warrant authorizing custody of the juvenile.

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- (b) There are reasonable grounds (probable cause) to believe that:
1. A *capias* or a warrant for the juvenile's apprehension has been issued in this state, or the juvenile is a fugitive from justice.
 2. A *capias* or a warrant for the juvenile's apprehension has been issued in another state.
 3. The juvenile is committing or has committed an act which is a violation of a state or federal criminal law.
 4. The juvenile has run away from his or her parents, guardian or legal or physical custodian.
 5. The juvenile is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary.
 6. The juvenile has violated a condition of court-ordered supervision, etc.
 7. The juvenile has violated a civil law or a local ordinance punishable by a forfeiture, except that in that case the juvenile shall be released immediately or as soon as reasonably possible.

When a juvenile offender is taken into custody, the officer taking the juvenile into custody shall immediately attempt to notify the parent, guardian, legal custodian or Indian custodian of the juvenile by the most practical means. The officer taking the juvenile into custody shall continue such attempts until the parent, guardian, legal custodian or Indian custodian of the juvenile is notified, or the juvenile is delivered to an intake worker under Wis. Stat. § 938.20(3), whichever occurs first (Wis. Stat. § 938.19).

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 (Wis. Stat. § 938.20).

A juvenile offender who is not released after counseling or warning should be released to a parent, guardian or other responsible adult, unless the officer reasonably believes that he/she should be referred to an intake worker because he/she will injure others, injure the property of others, run away or be taken away, that the juvenile's safety and well-being will be at risk due to lack of care, or the juvenile otherwise qualifies for secure detention (Wis. Stat. § 938.20; Wis. Stat. § 938.205; Wis. Stat. § 938.208).

If the juvenile offender is not released, the officer who takes a juvenile offender into custody shall complete the Temporary Physical Custody Request report providing a statement, in writing, with supporting facts, of the reasons why the juvenile was taken into custody and shall give a copy of the statement to the intake worker. If the intake interview is not done in person, the report may be read to the intake worker (Wis. Stat. § 938.20).

312.4.4 RELEASE AFTER PROCESSING

Absent exceptional circumstances, juveniles should be released within two hours following the conclusion of processing, testing and/or interrogation.

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312.5 ADVISEMENTS

The officer who takes a juvenile offender into custody and makes a statement for the intake worker that is in writing, with supporting facts, of the reasons why the juvenile was taken into custody shall give a copy of the statement to a juvenile offender who is 10 years of age or older (Wis. Stat. § 938.20).

312.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the Department's Juvenile Booking Register, including, but not limited to:

- (a) Identifying information about the juvenile being held.
- (b) Date and time of arrival and release from the Beloit Police Department.
- (c) Shift Commander notification and approval to temporarily hold the juvenile.
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender.
- (e) Any changes in status.
- (f) Time of all welfare checks.
- (g) Any medical and other screening requested and completed.
- (h) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Shift Commander shall initial the log to approve the custody.

312.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Beloit Police Department shall maintain a constant, immediate presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

312.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Beloit Police Department shall ensure the following:

- (a) A Department Medical Intake Form (P006) is completed and submitted to the Shift Commander.
- (b) The Shift Commander should be notified if it is anticipated that a juvenile may need to remain at the Beloit Police Department more than four hours. This will enable the

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Shift Commander to ensure no juvenile is held at the Beloit Police Department more than six hours.

- (c) No juvenile offender is placed in a cell.
- (d) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (e) Personal visual checks and significant incidents/activities shall be noted on the log.
- (f) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore, an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times, unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (g) Juveniles shall have reasonable access to toilets and wash basins.
- (h) Food should be provided if a juvenile is in need of nourishment.
- (i) Juveniles shall have reasonable access to a drinking fountain or water.
- (j) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (k) Juveniles should be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (l) Blankets should be provided as reasonably necessary.
- (m) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.
- (o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.

312.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Beloit Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Shift Commander. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse.

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312.10 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the Beloit Police Department shall ensure a thorough search of the juvenile's property is made and all property is removed, inventoried and processed as provided in the Custodial Searches Policy (901) and the Property and Evidence Policy (801), utilizing the Department's Prisoner Property Form (P005)

The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Beloit Police Department.

312.11 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

The Shift Commander will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Beloit Police Department. The procedures will address:

Procedures to facilitate this section are outlined in the Officer-Involved Deaths and Critical Incident Policy (305) and Major Incident Notification Policy (328).

312.12 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

Interviews of juveniles at schools should follow any protocols jointly developed with the local school officials and this department.

312.12.1 RECORDING CUSTODIAL INTERROGATIONS

Officers shall make an audio/visual recording of the custodial interrogation of a juvenile, in its entirety, when it is conducted at a place of detention unless good cause is shown for not making a recording or an exception applies.

If feasible, officers shall make an audio/visual recording of the custodial interrogation of a juvenile, in its entirety, when it is conducted at a place other than a place of detention unless good cause is shown for not making a recording or an exception applies.

Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment (Wis. Stat. § 938.195(2)).

Exceptions to an audio or audio-and-visual recording of a juvenile interrogation include (Wis. Stat. § 938.31(3)(c)):

- (a) The juvenile refuses to respond or cooperate in the interrogation if a recording is being made.
 1. The juvenile's refusal shall be documented by contemporaneous audio or audio-and-visual recording or in a written report.
- (b) The juvenile's statement is made in response to a question asked as part of the routine processing.
- (c) The juvenile's statement is made spontaneously and not in response to a question.

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- (d) The officer, in good faith, fails to make a recording because the equipment does not function, or it malfunctions, stops operating or the officer inadvertently fails to operate the equipment properly.
- (e) Exigent public safety circumstances exist that prevent the officer from making a recording or that render the making of such a recording infeasible.

An officer conducting a custodial interrogation is not required to inform the juvenile that the officer is making an audio/visual recording of the interrogation (Wis. Stat. § 938.195(3)).

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Chief of Police.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

312.13 RESTRICTIONS ON FINGERPRINTING AND PHOTOGRAPHING

Juveniles should be booked, fingerprinted, and photographed and formal criminal charges filed under any of the following circumstances (Wis. Stat. § 165.83):

- (a) For an offense that is a felony
- (b) For an offense that is a misdemeanor or a violation of an ordinance involving burglary tools, commercial gambling, dealing in gambling devices; for contributing to the delinquency of a child, dealing in stolen property, possessing and selling controlled substances under Wis. Stat. Chapter 961; for violations involving firearms, dangerous weapons, explosives; for pandering, prostitution, or committing violations involving sex offenses where children are victims; or for issuing worthless checks
- (c) For an offense charged as disorderly conduct but that relates to an act connected with one or more of the above offenses
- (d) If the juvenile is a fugitive from justice