



# CITY OF MADISON POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



## Arrest, Incarceration, and Bail – Youth

Eff. Date 1/23/2024

### Purpose

The purpose of this standard operating procedure (SOP) is to provide guidelines for response to and resolution of calls involving youth, and the proper transportation, processing, and referrals of youth by Madison Police Department (MPD) staff at MPD facilities.

### Procedure

In interactions with youth, more than anywhere else in police work, officers have many options available as alternatives to arrest or citation and are given wide latitude to make judgments about what will create the best possible resolution. The following are general principles set forth to establish the philosophical parameters for decision-making and to satisfy the need for consistency and uniformity.

1. Officers shall be mindful of the constitutional rights guaranteed to all youth.
2. MPD personnel recognize that the primary responsibility for the upbringing of youth is vested in the family structure, although there may be instances where police intervention will occur.
3. Alternatives to arrest and citation will be utilized in all situations in which officers are dealing with youth.
4. When youth are taken into custody or are the subject of a significant investigation, the youth's parents or guardian shall be notified as soon as possible.
5. All investigative, enforcement, and security procedures, including interviewing, gathering evidence, and apprehension, shall be carried out in a way that acknowledges that youth are psychologically, emotionally, and physically different than adults.
6. Every effort should be made to work cooperatively with other community agencies, schools, the juvenile court system, and interested community members, in a community-centered approach.

### DEFINITIONS

#### Youth/Child/Juvenile

Generally, a ~~A~~ person who is under 18 years old. ~~For purposes of investigating or prosecuting a person alleged to have violated state or federal criminal law, or a civil or municipal ordinance, 'juvenile' does not include a person who has attained 17 years of age. (Wisconsin State Statute 48.02(2)).~~

#### Juvenile

For purposes of investigating or prosecuting a person alleged to have violated state or federal criminal law, or a civil or municipal ordinance, 'juvenile' does not include a person who has attained 17 years of age. (Wis. Stat. 48.02(2)). Additionally, for purposes of juvenile court, a juvenile is 10 years of age or older. (Wis. Stat. 938.02(3m)).

#### Adult

A person who is 18 years or older. For purposes of investigating or prosecuting a person alleged to have violated any state or federal criminal law, or civil or municipal ordinance, 'adult' includes a person who has attained 17 years of age. (Wis. Stat. 48.02(1)(d)).

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**Parent/Guardian/Legal Custodian**

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The biological parent, parent by adoption, or individual person acknowledged under Wis. Stat. 767.805 or a substantially similar law of another state as the parent. This is not to include individuals persons whose parental rights have been terminated. (Wis. Stat. 48.02(13)) (Wis. Stat. 938.02(13)).

“Guardian” means the individual named by the court having the duty and authority of guardianship. (Wis. Stat. 938.02(8)).

“Legal custodian” means a person, other than a parent or guardian, or an agency to whom legal custody of a juvenile has been transferred by a court, but does not include a person who has only physical custody of the juvenile. (Wis. Stat. 938.02(11)).

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**Serious Offenses**

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An act which, if committed by an adult, would be a felony, or which involves serious physical harm or danger to others.

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**Taking Into Custody**

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The exercise of control over a youth’s movement for the purpose of determining whether the youth has committed an act that requires the lawful obtainment of evidence from them, or whether they may be lawfully taken into physical custody of the officer. (Wis. Stat. 48.19(3)) (Wis. Stat. 938.18(3)).

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**Release**

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The returning of a child to the parent, guardian, or legal custodian without further action or pending action in juvenile court.

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**Legal Custody**

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A legal status created by an order of a court that confers the right and duty to protect, train, discipline a juvenile, and to provide food, shelter, legal services, education, and ordinary medical and dental care, subject to the rights, duties, and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and provisions of any court order (Wis. Stat. 938.02(12)).

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**Physical Custody**

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The actual custody of the youth absent a court order that they be returned to their guardian or parent. (Wis. Stat. 938.02(14)).

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**Lockup Facility**

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“Lockup” means a temporary place of detention within a police station which is used exclusively for confinement of persons under arrest before those persons are brought before a court or post bond. (Department of Corrections (DOC) Wis. Stat. 349.03(12)).

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**Legal Custody**

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A legal status created by an order of a court that confers the right and duty to protect, train, discipline a juvenile, and to provide food, shelter, legal services, education, and ordinary medical and dental care, subject to the rights, duties, and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and provisions of any court order (Wis. Stat. 938.02(12)).

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**Secure Custody Status - Confinement**

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When a youth is placed in a cell or handcuffed to a cuffing rail or other stationary object within a lockup facility, until the youth is released from custody or is removed from the secure portion of a police station. (Department of Corrections (DOC) Wis. Stat. 439.03(14m)).

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**Secure Detention Facility**

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A locked facility approved of by the Department of Corrections under Wis. Stat. 301.36 for the secure, temporary holding of youth. (Wis. Stat. 48.02(16)) (Wis. Stat. 938.02(16)).

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**Release**

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~~The returning of a child to the parent, guardian, or legal custodian without further action or pending action in juvenile court.~~

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**Juvenile Reception Center (JRC)**

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The primary secure detention facility for a point of referral for youth alleged to have committed a crime, whom an officer is unable to release to a parent, guardian, or other responsible adult. Formally known as the Dane County Juvenile Reception Center.

**CUSTODY**

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**Authority for Taking a Youth into Custody**

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A youth may be taken into custody if, under the circumstances, an officer has an objectively reasonable belief that one or more of the following conditions exists (Wis. Stat. 938.19(1)), keeping in mind that alternatives to arrest or citation should be used whenever possible, consistent with public safety:

1. A capias or warrant for the youth's apprehension has been issued in the state of Wisconsin or another state, or the youth is a fugitive from justice.
2. Probable cause exists that the youth is committing or has committed an act that is a violation of a state or federal criminal law.
3. The youth has run away from the youth's parent, guardian, or legal or physical custodian, and officers have been informed of the youth's status as having run away. The taking into custody is solely for the purpose of returning the youth to the youth's parent, guardian, or legal or physical custodian.
4. The youth is suffering from illness or injury or is in immediate danger from the youth's surroundings making removal from those surroundings necessary, or the threat of harm or danger by the youth makes being taken into custody necessary. The officer should identify an appropriate place to which to transport the youth, utilizing community resources identified by the alternatives to arrest or citation training officers have received.
5. The youth has violated the terms of court-ordered supervision or aftercare supervision administered by the Department of Corrections or a county department, and those terms specify that the youth is to be taken into custody if a violation occurs.
6. The youth has violated the conditions of an order under Wis. Stat. 938.21(4) or the conditions of an order by an intake worker for temporary physical custody, and the order specifies that the youth is to be taken into custody if a violation occurs.
7. Probable cause exists that the youth violated a civil law or a local ordinance punishable by forfeiture. In that case, the youth 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).

8. An order of the judge demanding that the youth be immediately removed from the youth's present custody for the welfare of the youth. The order shall specify that the youth be held in custody under Wis. Stat. 938.207.

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**Notification of a Youth's Parent or Guardian**

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The parent, guardian, or legal custodian of any youth, including a 17-year-old, taken into custody or who is the subject of a significant investigation must be notified as soon as possible. The responsibility for notification rests with the officer taking the youth into custody. The person notified, as well as the date and time of the notification, is to be recorded in the Arrest Report.

Whenever a youth, including a 17-year-old, is taken into custody or who is the subject of a significant investigation, officers should make every reasonable effort to notify the parents, guardian, or legal custodian and inform them of the circumstances surrounding the investigation. This notification shall be made as soon as possible and shall be documented in an officer's report, including date and time of notification and the name of the individual notified.

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**Taking Into Custody on School Property during School Hours**

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An officer may take a student into custody during school hours if the officer has probable cause to arrest the student for a misdemeanor or felony crime, or pursuant to an arrest warrant or juvenile apprehension order and an alternative to arrest or citation cannot be utilized. The school principal or designee shall be informed of all arrests made on school grounds during school hours.

In cases when a student is to be taken into custody at school, an officer should first contact the school principal, when practical and applicable, and advise the school principal of the circumstances. When safe and reasonable, the student may be first summoned to the office by the principal.

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**Responding to Truancy**

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The MPD has an obligation to assist school authorities in Wisconsin's compulsory school attendance law. The primary and legal responsibility, however, for meeting the social and individual problems presented by a chronic truant is with the child's family and with the educational system.

Youth who are believed to be truant should be contacted and an attempt to identify them shall be made. If identified as truant, they are to be directed to return to school or conveyed if they are willing. School officials shall be notified of any identified truants.

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**Capias or Apprehension Request**

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A capias or an apprehension request will be handled in the same fashion and receive the same attention as an arrest warrant.

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**Serious Offenses**

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Youth who are observed committing, or are reasonably believed to have committed, an act which, if committed by an adult, would be a felony, or which involves serious physical harm or danger to others, are to be taken into immediate physical custody.

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**Aftercare Violators (Previously Probation & Parole Violators)**

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MPD will accept information concerning court-directed rules and conditions for youth on aftercare and/or court ordered supervision. When possible, MPD will assist county and state social workers with enforcement of stipulations and conditions of these agreements.

### **Capias or Apprehension Request**

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A capias or an apprehension request will be handled in the same fashion and receive the same attention as an arrest warrant.

### **DISPOSITIONS**

When considering the proper disposition of a youth in custody, there are instances where the public interest would be better served by an officer not making an arrest or issuing a citation, even if it is legally justifiable, when other alternatives exist to respond to the situation. MPD personnel are committed to exercising alternatives to arrest and citation for young people whenever possible, consistent with public safety to a degree even greater than that of adults. When deciding on a disposition for a youth, officers shall be mindful of the constitutional rights guaranteed to that youth.

### **Disposition Alternatives**

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The general procedure of the MPD is to utilize alternatives to arrest, citation, and formal disposition, absent exigent circumstances.

1. **Warn and Release:** a youth may be released with no further action, if the offense is minor in nature. This route shall be utilized as often as possible in alignment with MPD's goal of utilizing alternatives to arrest and citation when coming into contact with youth. When going the route of warn and release, the options that should be utilized except in exigent circumstances are:
  - a. **Verbal warning** with no further action.
  - b. **Informal counseling** by the officer, focused on helping the youth recognize the consequences of the youth's actions.
  - c. **Release** to a parent, guardian, or other responsible adult.
  - d. **Referral** to an appropriate community social service or mental health agency.
  - e. **Referral** to an existing diversion program. Any commissioned personnel who would issue a non-traffic municipal citation to a 12-16 year old shall instead issue a Restorative Justice Referral to the youth. After explaining the youth restorative justice process and providing a copy of the completed form to the youth, officers should complete a report detailing their investigation and the fact that a referral was issued, for the underlying municipal offense. If the referred youth does not engage in restorative justice, the investigating officer will be notified of this via an email from Court Services.
2. **Cite and Release:** a youth that is at least 12 years old may be issued a traffic municipal citation. Youth who are at least 15 years old may be released to themselves. If the youth is under 15 years of age, officers should make every effort to release the youth immediately to the youth's parent, guardian, legal custodian or other responsible adult. If it is determined that a citation will be issued, officers shall not email a copy of the citation to the youth, parent, guardian, legal custodian, or other responsible adult.
3. **Juvenile Court Referral and Release:** a youth who is a juvenile may be released after being taken into custody for the commission of a crime, without a referral to JRC being made. Before release, officers shall ensure that all necessary steps are taken, as listed in the "Photographing, Fingerprinting, and DNA Collection for Youth" section of this SOP. The youth shall then be released to a parent, guardian, legal custodian, or other responsible adult.
4. **Referral to Dane County Juvenile Reception Center (JRC):** the decision to refer a youth to JRC for the purpose of detention or intake will be reviewed by the Officer in Charge (OIC), and may be appropriate under any of the following conditions:
  - a. Commission of a serious offense;
  - b. A case involving the possession, use, or threatened use of a weapon.

- c. The youth is unwilling to appear in court and the parents or guardian will be unable to produce the youth upon proper notice;
- d. The youth is likely to repeat behavior harmful to the youth's self or to others; or
- e. In incidents where a youth continues to resist, is uncooperative, and it appears that the youth will not submit to the control of parents or another responsible adult.

### Administrative Release

When a youth has been properly taken into custody and investigation reveals that MPD is unable to pursue charges because the youth was not involved in the offense or there is insufficient evidence to adequately support the charge, the youth must be released. Every effort will be made to reveal this information as soon as possible after contact with the youth. The disposition shall be listed as "administrative release" and the officer's reason for detaining/taking into custody, and release will be documented in a report. A wanted check shall be conducted before release. The youth's parents shall be notified and noted in the report.

### Taking Into Custody on School Property during School Hours

An officer may take a student into custody during school hours if the officer has probable cause to arrest the student for a misdemeanor or felony crime, or pursuant to an arrest warrant or juvenile apprehension order and an alternative to arrest or citation cannot be utilized. The school principal or designee shall be informed of all arrests made on school grounds during school hours.

In cases when a student is to be taken into custody at school, an officer should first contact the school principal, when practical and applicable, and advise the school principal of the circumstances. When safe and reasonable, the student may be first summoned to the office by the principal.

### Responding to Truancy

The MPD has an obligation to assist school authorities in Wisconsin's compulsory school attendance law. The primary and legal responsibility, however, for meeting the social and individual problems presented by a chronic truant is with the child's family and with the educational system.

Youth who are believed to be truant should be contacted and an attempt to identify them shall be made. If identified as truant, they are to be directed to return to school or conveyed if they are willing. School officials shall be notified of any identified truants.

## TRANSPORTATION OF YOUTH

### Transport to District Station or JRC

1. During an investigation, In general, youth taken into temporary custody may shall be conveyed to an the MPD district station of the district in which the youth was taken into custody. JRC, not MPD district stations, is the primary secure detention facility for youth taken into secure custody. See the "Processing and Booking of Youth" section within this SOP. shall be the lockup facility for youth taken into secure custody. Youth will generally be transported in a squad car equipped with a safety shield. Youth shall be properly restrained in seat belts or child restraint systems during transportation, being mindful that this restraint is for safety, not restriction of movement. When a youth is transported, the transport shall be done in an expeditious manner.
2. Youth shall not be transported with adult prisoners unless the youth and adult have been arrested in connection with the same offense, or unless the adult is the parent or guardian of the youth.
3. In general, when arriving at a district station, officers will proceed to the processing area for any further searches or administrative tasks. Under no circumstances will an adult prisoner be allowed entry into the processing area when youth are present.

4. 3. Officers conveying youth to the JRC shall park in the basement of the CCB.
4. At the CCB, Officers will proceed to the processing area for Central District and perform all searching, citations, and pre-booking paperwork. Photographs/fingerprints will be performed in the GR-55 (Central District Intake Area) processing area. Under no circumstances will an adult prisoner be allowed entry into the processing area when youth are present.

### Youth with Medical Issues or in Need of Medication

1. If a youth in police custody is in need of non-emergency medical care or medication, the youth shall be conveyed by a police patrol unit to a medical facility. For emergency medical care, a youth shall be conveyed by ambulance or fire department paramedic unit to a medical facility without delay.
2. When a youth is transported to the JRC, the transport shall be done in an expeditious manner. If JRC intake staff determines the youth is in need of medical clearance, then the youth shall be transported to a hospital. Hospital discharge papers shall be submitted to JRC intake staff workers when returned to JRC.
3. Any medication in possession of the youth when taken into custody shall be brought to the JRC with the youth.

### HOLDING, PROCESSING AND CRIMINAL REFERRAL BOOKING OF YOUTH

#### MPD District Stations as a Temporary Holding Facility (THF)

All MPD police districts stations may be used as a Temporary Holding Facility (THF) for youth.

A youth alleged to have committed a delinquent act as defined by Wis. Stat. 938.02(3m) may be held in any of the THFs within the city under any of the following conditions:

1. An alternative to arrest or detention was sought, but exigent circumstances existed making an alternative implausible. A report made by officers shall specify what those circumstances were. If youth meet the criteria established for citation or referral and release, every effort will be made to utilize this process without taking the youth into secure custody.
2. The circumstances of the investigation involving the youth requires investigative steps that can most effectively be carried out at a district station. Examples include: recorded interviews, evidence collection, inclement weather, and multiple individuals needing to be interviewed by officers from a single location.

Youth who are taken to a THF or district facility shall be kept separate from adults in all areas of the THF and district facilities. There shall be no sight or sound contact with adult prisoners in any area of the lockup including entrances, booking areas, intake, elevators, staircases, cells, holding rooms, or any other area. Under no circumstances should district station interrogation rooms be used to hold youth who are in secure custody unless the youth is being interrogated and is accompanied by a detective/officer.

No youth shall be placed into any cell or any form of secure custody status until the youth has been completely processed (fingerprints and photographs). This means that the arresting officers/detectives shall physically stay with all youth in their custody. If youth meet the criteria established for "cite and release," every effort will be made to utilize this process without taking the youth into custody.

Youth shall be processed in an expeditious manner and shall have priority in any processing area the booking process.

If a youth is placed in a cell, physical checks must be conducted at least four times per hour on an irregular schedule. These safety checks shall be staggered so as to not establish a noticeable routine that might allow the youth to hurt themselves, hurt the officer, or escape.



### Secure Custody Status at an MPD District Station

1. Youth shall not be placed into secure custody status if they are in custody only for status offenses or non-criminal circumstances (e.g., missing, runaway, child in need of protective services). Youth who are stopped for status offenses shall be provided every opportunity for an alternative to arrest or citation.
2. Under no circumstances should district station interrogation rooms be used to hold youth who are in secure custody unless the youth is being interrogated and is accompanied by an officer.
3. Investigating officers shall physically stay with all youth in their secure custody to the extent possible. If a youth is placed in a cell, sight-and-sound safety monitoring must be conducted at least four times per hour on an irregular schedule. This safety monitoring shall be staggered to not establish a noticeable routine that might allow the youth to hurt themselves, hurt the officer, or escape.
4. Youth shall not be held in secure custody status in THF for more than six hours. **This six-hour secure custody status time limit starts when the detained youth is first placed in a secure custody status cell or handcuffed to a cuffing rail or other stationary object.** The six-hour requirement is mandated by the Federal Juvenile Justice Delinquency Prevention Act and is also required under Wis. Stat. 938.209 and DOC Administrative Code Chapter 349. Youth who have not yet been placed in secure custody status (e.g., those who remain with the arresting officer, are going through the booking, searching, fingerprinting, or photographing process, or those who are being interviewed by detectives) do not cause the clock to start as it pertains to the six-hour limit. These activities do not constitute secure custody status.
  - a. **Once a youth has been placed in secure custody status, the six-hour time limit cannot be stopped or extended.** If, for example, a youth has been placed in a cell for a short time and then removed for an interview, the six-hour time limit would include the time in the interview. When a youth has been in secure custody status for five hours, notification shall be made to the shift commander at the location where the youth is in custody.
  - b. Prior to the expiration of the six-hour maximum, the youth shall be transferred from secure custody status and removed from the cell or processing area.
5. All paperwork pertaining to youth held in secure custody status shall be maintained confidentially and shall remain separate from adult records.

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- ~~c. **Once a youth has been placed in secure custody status, the six-hour time limit cannot be stopped or extended.** If, for example, a youth has been placed in a cell for a short time and then removed for an interview, the six-hour time limit would include the time in the interview. When a youth has been in secure custody status for five hours, notification shall be made to the shift commander at the location where the youth is in custody.~~
- ~~d. Prior to the expiration of the six-hour maximum, the youth shall be transferred from secure custody status and removed from the cell or booking area.~~

~~Youth shall not be placed into secure custody status if they are in custody for status offenses (e.g., missing, runaway, child in need of protective services). Youth who are stopped for status offenses shall be provided every opportunity for an alternative to arrest or citation.~~



All THF records pertaining to youth held in secure custody status shall be maintained confidentially and shall remain separate from adult records.

All youth arrests shall be documented using the SharePoint Arrest log. In the event SharePoint is unavailable, the arresting officer will obtain a paper form from the Officer in Charge (OIC) and will complete this paper form. The OIC will then forward the paper form to Records.

### Photographing, Fingerprinting, and DNA Collection for Youth

When a youth is brought into an MPD station for processing related to Juvenile court referral and it then released to a parent, guardian or legal custodian; or prior to referral to JRC, collection of the following is required. Runaways are an exception, but an officer may collect if an investigative benefit can be articulated:

1. Fingerprints.
  - a. Fingerprints of arrested youth are required by the Wisconsin Department of Justice (DOJ) Division of Law Enforcement Services (DLES) Crime Information Bureau (CIB) in order for the arrest to become a part of the youth's record.
  - b. The primary fingerprinting system is the LiveScan electronic console. As a backup, ink and fingerprint cards are accessible and can be used. Two (2) green fingerprint cards with palm and rolled impressions, which are signed by the person printed and the person doing the printing. Officers should forward any ink fingerprint cards to the juvenile court detective in CIU.
  - c. **Discretion may be exercised where a youth refuses to be fingerprinted or is combative. In such cases, the officer shall consult with the officer's immediate supervisor.**
2. A front and profile photograph.
  - a. If glasses are worn, one set with and one set without glasses. If district camera is not functional, photographs may be taken on an officer's departmental cell phone, and should be sent to MPD's case processing distribution list with the appropriate case number and youth's name.
  - b. An officer may bypass the photograph if the MPD records show a photograph of the youth already, if the youth's appearance has not changed.
3. Physical descriptors.
  - a. Investigating officers should collect and document in their report basic biometric information, to include a youth's height, weight, hair color and eye color.
4. DNA collection (if applicable).
  - a. WI Act 20 requires the collection of a DNA sample for all youth arrests for listed violent felonies. See list within "Youth Arrest Processing & DNA Collection Procedures" on MPD EmployeeNet.
  - b. The process of DNA collection for youth arrested can be conducted in the Central District Intake Area (GR-55), or other district facilities where DNA collection kits are available.
  - c. Discretion may be exercised where a youth refuses to have DNA collected or is combative. In such cases, the officer shall consult with the officer's immediate supervisor.

All youth arrests shall be documented using the SharePoint Arrest log. In the event SharePoint is unavailable, the arresting officer will obtain a paper form from the Officer in Charge (OIC) and will complete this paper form. The OIC will then forward the paper form to Records.

1. Fingerprints of arrested youth are required by the Wisconsin Department of Justice (DOJ) Division of Law Enforcement Services (DLES) Crime Information Bureau (CIB) in order for the arrest to become a part of the youth's record.

WI Act 20 requires the collection of a DNA sample for all youth arrests for listed violent felonies. The process of DNA collection for youth arrested for violent felonies is conducted in the Central District Intake Area (GR-55). DNA collection kits are available in this area.

Wisconsin Statute 165.83 requires that fingerprints and an updated photo, if the arrested youth's appearance has changed, be taken each time a youth is arrested under any of the following circumstances:

- a. For an offense which is a felony.
- b. For an offense which is a misdemeanor or a violation of an ordinance involving burglarious 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 Chapter 161; 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 which relates to an act connected with one or more of the above offenses.
- d. As a fugitive from justice.

For all other youth arrests, an officer may transport the youth to the police station to obtain fingerprints and/or a photograph prior to releasing the youth if an investigative benefit can be articulated.

2. When an arrested youth is brought into the station for photographs and fingerprinting, the following is required (runaways are excepted):

- d. The primary fingerprinting system is the LiveScan electronic console. As a backup, ink and fingerprint cards are accessible and can be used. Two (2) green fingerprint cards with palm and rolled impressions, which are signed by the person printed and the person doing the printing.
- e. A fingerprint is not mandatory in those instances where the violator has valid picture identification. This must be a Wisconsin operator's license or identification card, a passport or passport card, or state or federal government issued picture identification.
- f. A front and profile photograph. If glasses are worn, one set with and one set without glasses.
- g. The forwarding of all reports and fingerprint cards to the juvenile court detective in CIU.

**Note: Discretion shall be exercised where a person refuses to be fingerprinted. In such cases, the officer shall consult with the officer's immediate supervisor.**

### **Detention Facilities**

1. JRC is the detention facility for all detained juveniles.
2. A complete booking entry, along with fingerprints and prisoner photographs, shall be completed prior to an arrested youth being conveyed to any detention facility.

### **Referrals to Juvenile Reception Center (JRC)**

1. Prior to transporting a youth to JRC, the arresting officer shall consult with the OIC to approve charges.
  - a. The decision to refer a youth to JRC shall be made in consultation with the OIC. The OIC may consult with the JRC intake worker when considering referring a youth to JRC. Only the JRC intake worker is authorized by state statute to make the decision to admit or release the youth. Conveyance should be made directly to the City County Building unless release in the field is approved by a supervisor.
  - b. Under no circumstances shall a youth be detained as a means of punishment, because it enhances pending investigations, or because the youth is a material witness, unless so ordered by a judge of the children's court.

2. The Temporary Physical Custody Request Form should be completed during intake of the youth at JRC. A copy of this form should be forwarded to the Criminal Intake Unit (CIU).
3. If the youth is hospitalized, all paperwork shall be filed and secured in the OIC's office until the youth is medically cleared and ready to be discharged.
4. In the following circumstances, officers shall refer the youth to JRC:
  - a) A youth is arrested or taken into custody for a serious offense, ~~an offense as defined within this SOP, which is a felony, or which would be a felony if committed by an adult,~~ and an alternative to arrest could not be utilized.
  - b) A youth is arrested or taken into custody for an offense ~~which is a misdemeanor, which would be a misdemeanor if committed by an adult, or which is a violation of an ordinance and the offense~~ that involves burglarious tools, dealing in stolen property, controlled substances or controlled substance analogs under Wis. Stat. 961, firearms, dangerous weapons, explosives, and an alternative to arrest could not be utilized.
  - c) A youth is arrested or taken into custody for an offense charged or alleged as disorderly conduct, but which relates to an act connected with one or more of the offenses under subparagraph b. 2, and an alternative to arrest could not be utilized.
  - d) The offense is one of a series of offenses that were previously handled without being referred to the JRC, and those Disposition Alternatives can be articulated as ineffective. ~~not identified as an instance where an alternative to arrest or citation attempt should be utilized.~~
  - e) A youth is arrested or taken into custody as a fugitive from justice.
  - f) When a youth is the respondent of a harassment or child abuse restraining order or injunction pursuant to Wis. Stat. 813.122 and 813.125 and a police officer has knowledge of the temporary restraining order or injunction, together with probable cause to believe that the youth has violated the court order.
  - g) For any other offense designated by the attorney general, for which an alternative to arrest or citation could not be utilized.

**"Offense" means any of the following:**

- a) ~~An act that is considered a felony or a misdemeanor, committed by a person who has attained the age of 17.~~
- b) ~~An act that would be a felony or misdemeanor if committed by an adult, committed by a youth who has attained the age of 10, but who has not attained the age of 17.~~
- c) ~~An act committed by any person that is a violation of a city, county, village, or town ordinance.~~

When deciding on a disposition for a youth, officers shall be mindful of the constitutional rights guaranteed to that youth.

### **Mandatory Detention of Youth**

1. ~~A youth is arrested or taken into custody for an offense which is a felony, or which would be a felony if committed by an adult, and an alternative to arrest could not be utilized.~~
2. ~~A youth is arrested or taken into custody for an offense which is a misdemeanor, which would be a misdemeanor if committed by an adult, or which is a violation of an ordinance and the offense involves burglarious tools, dealing in stolen property, controlled substances or controlled substance analogs under Wis. Stat. 961, firearms, dangerous weapons, explosives, and an alternative to arrest could not be utilized.~~
3. ~~A youth is arrested or taken into custody for an offense charged or alleged as disorderly conduct, but which relates to an act connected with one or more of the offenses under subparagraph 2, and an alternative to arrest could not be utilized.~~
4. ~~The offense is one of a series of offenses that were previously handled without being referred to the JRC, not identified as an instance where an alternative to arrest or citation attempt should be utilized.~~
5. ~~A youth is arrested or taken into custody as a fugitive from justice.~~
6. ~~When a youth is the respondent of a harassment or child abuse restraining order or injunction~~

pursuant to Wis. Stat. 813.122 and 813.125 and a police officer has knowledge of the temporary restraining order or injunction, together with probable cause to believe that the youth has violated the court order.

7. For any other offense designated by the attorney general, for which an alternative to arrest or citation could not be utilized.

“Offense” means any of the following:

- d) An act that is considered a felony or a misdemeanor, committed by a person who has attained the age of 17.
- e) An act that would be a felony or misdemeanor if committed by an adult, committed by a youth who has attained the age of 10, but who has not attained the age of 17.
- f) An act committed by any person that is a violation of a city, county, village, or town ordinance.

When deciding on a disposition for a youth, officers shall be mindful of the constitutional rights guaranteed to that youth.

### **Referral to Juvenile Reception Center (JRC)**

1. Referral to the JRC shall take place in those misdemeanor cases where detention is not appropriate and an alternative to arrest or citation could not, due to exigent circumstances, be utilized.
2. When a youth is referred to the JRC for disposition, a minimum of 15 calendar days should be allowed between the date the youth was taken into custody and the date set for appearance.
3. The decision to detain a youth at JRC shall be made by the OIC. The OIC may consult with the JRC intake worker when considering detaining a youth at the JRC. Only the JRC intake worker is authorized by state statute to make the decision to admit or release the youth. Under no circumstances shall a youth be detained as a means of punishment, because it enhances pending investigations, or because the youth is a material witness, unless so ordered by a judge of the children's court. If there is a need for secure custody of a youth, the officer taking the youth into custody shall complete a report documenting the need.
4. If the youth is hospitalized, all paperwork shall be filed and secured in the OIC's office until the youth is medically cleared and ready to be discharged.

### **When Processing an Arrested Youth for JRC**

1. Conveyance should be made directly to the City County Building unless release in the field is approved by a supervisor.
2. The arresting officer shall consult with the OIC to approve charges and shall make an entry into the SharePoint Arrest log. In the event that SharePoint is unavailable, the arresting officer will obtain a paper form from the OIC and will complete this paper form. The OIC will then forward that paper form to Records.
3. The Temporary Physical Custody Request Form should be completed prior to transporting the youth to JRC. A copy of this form should be forwarded to the Criminal Intake Unit (CIU).
4. Youth who are to be taken to JRC shall be photographed, fingerprinted, and a required deoxyribonucleic acid (DNA) sample taken for the arrest of listed violent felonies. Exception: If there is a recent photo on file and there are no changes in appearance, a new photograph is not required.

### **DISPOSITIONS**

When considering the proper disposition of a youth in custody, there are instances where the public interest would be better served by an officer not making an arrest or issuing a citation, even if it is legally justifiable, when other alternatives exist to respond to the situation. MPD personnel are committed to exercising alternatives to arrest and citation for young people whenever possible, consistent with public safety to a degree even greater than that of adults. If it is determined that a citation will be issued, officers shall not email a copy of the citation to the youth, parent, guardian, legal custodian, or other responsible adult.

## Disposition Alternatives

The general procedure of the MPD is to utilize alternatives to arrest, citation, and formal disposition, absent exigent circumstances.

Whenever a youth is involved in a significant investigation, officers should make every reasonable effort to notify the parents, guardian, or legal custodian and inform them of the circumstances surrounding the investigation. This notification shall be well documented in the report of the incident.

5. **Warn and Release:** a youth may be released with no further action, if the offense is minor in nature. This route shall be utilized as often as possible in alignment with MPD's goal of utilizing alternatives to arrest and citation when coming into contact with youth. When going the route of warn and release, the options that should be utilized except in exigent circumstances are:

a. **Verbal warning** with no further action.

b. **Informal counseling** by the officer, focused on helping the youth recognize the consequences of the youth's actions.

c. **Release** to a parent, guardian, or other responsible adult.

d. **Referral** to an appropriate community social service or mental health agency.

e. **Referral** to an existing diversion program. Any commissioned personnel who would issue a non-traffic municipal citation to a 12-16 year old shall instead issue a Restorative Justice Referral to the youth. After explaining the youth restorative justice process and providing a copy of the completed form to the youth, officers should complete a report detailing their investigation and the fact that a referral was issued, for the underlying municipal offense. If the referred youth does not engage in restorative justice, the investigating officer will be notified of this via an email from Court Services.

6. **Cite and Release:** a youth that is at least 12 years old may be issued a traffic municipal citation. Youth who are at least 15 years old may be released to themselves. If the youth is under 15 years of age, officers should make every effort to release the youth immediately to the youth's parent, guardian, legal custodian or other responsible adult.

7. **Criminal Charge:** a youth may be released after being taken into custody for the commission of a crime. Fingerprints shall be taken. A photograph should be taken unless the youth already has a photograph, and their appearance has not significantly changed since the last photograph. An Arrest Notification Form will be properly completed and disseminated. The youth shall be released to a parent, guardian, legal custodian, or other responsible adult.

8. **Referral to Dane County Juvenile Reception Center (JRC):** the decision to refer a youth to JRC for the purpose of detention or intake will be reviewed by the Officer in Charge under any of the following conditions:

a. Commission of a serious criminal offense;

b. A case involving the possession, use, or threatened use of a weapon.

c. The youth is unwilling to appear in court and the parents or guardian will be unable to produce the youth upon proper notice;

d. The youth is likely to repeat behavior harmful to the youth's self or to others;

e. In incidents where a youth continues to resist, is uncooperative, and it appears that the youth will not submit to the control of parents or another responsible adult.

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### Administrative Release

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When a youth has been properly taken into custody and investigation reveals that MPD is unable to pursue charges because the youth was not involved in the offense or there is insufficient evidence to adequately support the charge, the youth must be released. Every effort will be made to reveal this information as soon as possible after contact with the youth. The disposition shall be listed as “administrative release” and the reason for custodial detention and release will be documented in a report. A wanted check shall be conducted before release. The youth’s parents shall be notified and noted in the report.

## REPORTS

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### General Information

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1. The officer taking the youth into custody shall be responsible for the proper custody, control, and care of a youth taken into custody and the submission of all reports relating to the apprehension.
2. When appropriate and as determined by MPD procedure (generally felony or controlled substances cases), the respective district must be notified so that they may provide whatever assistance is necessary.

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### Arrest/Detention Reports Required

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1. Consistent with MPD’s Reporting Procedure SOP, a A-report must be completed in the following cases:
  - a. When a youth is taken into custody for violation of a state law, municipal ordinance, or an order of the court. The reason or need for such detention must be clearly stated in the officer’s report.
  - b. When a youth is taken into secure custody status, as previously defined within this SOP, the officer taking the youth into custody shall document the need. Additionally, the officer shall take note of the date and time that the youth was taken into secure custody status, and when such status ended.
  - b. When a dependent child is taken into custody pursuant to Wis. Stat. 938.205.
  - c. When a 12 to 16 year old juvenile is taken into custody on a municipal warrant, traffic warrant, or traffic capias.
  - d. Other appropriate circumstances.
2. All reports must indicate the disposition of the youth, e.g., detained, released to appear.
3. If a youth is arrested, processed and then released by officers to a parent, guardian, legal custodian or other responsible adult, the arresting officer is responsible for communicating the arrest to MPD’s CIU, via a Juvenile Arrest Notification form or via email.
4. If probable cause is found to take a youth into custody for a state charge, the investigating officer is responsible for communicating details of the active probable cause to other officers, via an At-Large SharePoint entry, or via PD LE email.

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### Use of Youth as Paid Undercover Personnel

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Juveniles will not be used as confidential informants except in cases of compelling need, with the approval of the Chief.

This procedure does not restrict or prohibit MPD personnel from accepting and utilizing intelligence-type information voluntarily offered by youth or obtained from them during the course of investigation. MPD personnel may actively solicit information and assistance from youth in the solving of crimes. Youth will not, however, be placed in situations by MPD personnel that jeopardize their physical or mental health or personal safety.

## RECORDKEEPING

The Records Manager will maintain all juvenile records in conformance with the Wisconsin State Statute requirements for separate storage, release, and confidentiality. Reports shall only be released through Records.

### Confidentiality of Records

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MPD records of youth shall be kept separate from records of adults and shall not be open to inspection except by order of the court. This section does not apply to proceedings for violations of Chapters of State Statute 340 to 349 and 351 or any County or Municipal Ordinances enacted under State Statute Chapter 349. This section does apply to proceedings for violations of State Statute 342.06(2) and 344.48(1) and State Statutes 30.67(1) and 346.67(1) when death or injury occurs. Except for the following, all others will be directed to the Juvenile Court to seek a court order:

1. News media representatives;
2. The School District Administrator of the school attended by the child in question:
  - a. records relating to the use, possession, or distribution of alcohol, a controlled substance, or controlled substance analog;
  - b. records relating to illegal possession of a dangerous weapon;
  - c. records relating to a juvenile taken into custody under Wis. Stat. 938.19 based on a law enforcement officer's belief that the juvenile was committing or had committed an act that is a violation specified in Wis. Stat. 938.34(4h)(a);
    - i. Juvenile is 10 years of age or older for the following charges:
      - (1) 940.01 - First degree intentional homicide
      - (2) 940.02 - First-degree reckless homicide
      - (3) 940.05 - Second degree intentional homicide
    - ii. Juvenile is 14 years of age or older to the following charges:
      - (1) 939.31 - Conspiracy
      - (2) 939.32 - Attempted Felony
      - (3) 940.03 - Felony Murder
      - (4) 940.21 - Mayhem
      - (5) 940.225 - Sexual Assault
      - (6) 940.305 - Taking hostages
      - (7) 940.31 - Kidnapping
      - (8) 941.327 - Tampering with Household Products
      - (9) 943.02 - Arson of Building and damage of property by explosives
      - (10) 943.10 - Burglary
      - (11) 943.23 - Operating vehicle without owner's consent
      - (12) 943.32 - Robbery
      - (13) 948.02 - Sexual Assault of a child
      - (14) 948.025 - Engaging in repeated acts of sexual assault of the same child
      - (15) 948.30 - Abduction of another's child; constructive custody
      - (16) 948.35 - Solicitation of a child to commit a felony
      - (17) 948.36 - Use of child to commit a Class A felony
  - d. records relating to an act for which the youth was adjudicated delinquent.
3. Social welfare agencies;
4. Other law enforcement agencies;
5. Victim(s) of a youth act resulting in injury or loss or damage of property;
6. Insurer access when restitution has been court ordered and has not been paid for one (1) year;
7. Parents, guardians, and legal custodians;
8. Holder of notarized permission statement from parent, guardian, or legal custodian;
9. Victim-Witness Coordinator;
10. Fire Investigator investigating an arson;
11. The involved youth once they reach the age of 18.



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