



DIRECTIVES

Oak Creek Police Department

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JUVENILE PROCEDURES

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Critical Policy

Yes No

Open Record

Yes No

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Applicability:

All Employees

*State Statute §48.981(3)(b)(3) – Reporting Abuse

I. PURPOSE

It is the purpose of this directive to formally establish a written procedure establishing guidelines for handling juveniles who are in need of protection or who have committed acts contrary to State Statute, Federal Statute, or Municipal Ordinance. Reflecting the needs and interests of the community, it is the policy of the Oak Creek Police Department to prevent and control juvenile delinquency, develop, perpetrate, and support programs designed to accomplish this goal; and ensure the safety of children in need of protection. While department policy deals with the identification, apprehension, and conviction of juvenile offenders, officers should always explore the least coercive solution among reasonable alternatives, consistent with the best interest of the juvenile and the community.

II. DEFINITIONS

- A. *Capias* – A judicial order signed by a court of record directing law enforcement authorities to take a juvenile into physical custody and bring that person before the court.
- B. *Child* – A person who is less than 18 years of age, except that for the purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, “child” does not include a person who has attained 17 years of age [Wis. Statute §48.02(2)].
- C. *Juvenile* – has the same meaning as “child”.
- D. *Adult* – A person 18 years of age or older, except that for the purpose of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, “adult” means a person who has attained 17 years of age. [Wis. Statute §48.02(1)(d)].
- E. *Juvenile Operations* – A functional subdivision under the direction of the Operations Division Captain. A patrol sergeant is assigned to oversee the duties associated with the investigation, arrest, processing, referral, and review of criminal offenses involving juveniles.

III. JUVENILE OPERATIONS

A. General Issues

- 1. The responsibility for participating in or supporting the agency's juvenile operations function is shared by all agency components and personnel. This department recognizes the unique procedural aspects of the juvenile justice system and the special needs and problems of youth, and, as such, has established a specialized component responsible for assisting field officers in juvenile-related cases, and maintaining liaison with other agencies and organizations interested in juvenile matters.

III. JUVENILE OPERATIONS – *Continued*

A. General Issues – *Continued*

2. The juvenile operations component exists within the department, with a patrol sergeant designated as the juvenile liaison, operating under the direction of the Operations Division Captain.
3. The primary responsibility for conducting investigations involving juvenile offenders rests with the original investigating officer or detective. The charging officer will email the juvenile liaison with any referrals to the juvenile court who will review charges and case referral paperwork.

B. Juvenile Liaison Duties

1. To act as the unit of the department that is responsible for the coordination of the juvenile operations.
 - a. To ensure that all juveniles are dealt with appropriately
 - 1) To update departmental procedures as changes occur in the juvenile justice system.
 - 2) To assist officers in the understanding of Chapter 48 (Children’s Code) and Chapter 938 (Juvenile Justice Code) and their continual changes.
 - b. To ensure that juveniles are not taken advantage of because of
 - 1) their age;
 - a) Anyone committing an ordinance violation prior to attaining their twelfth (12th) birthday CANNOT be issued a municipal or traffic citation. They may be:
 - (1) counseled and released (Note: Officer should attempt to contact parents/guardians and advise why you had contact with the juvenile—except for very minor offenses.);
 - (2) turned over to a parent;
 - (a) If a parent cannot be located, the juvenile may be turned over to another adult relative.
 - (b) If an adult relative cannot be located, they may be turned over to a non-relative, responsible adult.
 - (3) referred to the Children’s Court System directly by the investigating officer if he/she deems it necessary.
 - b) Anyone who has attained their twelfth (12th) birthday, but has not yet attained their seventeenth (17th) birthday and has committed an ordinance violation can, and should, be issued a municipal citation. If there are special circumstances where the officer believes that a citation should not be issued, the officer will discuss them with the shift supervisor and then document these circumstances clearly in an incident report.

III. JUVENILE OPERATIONS – *Continued*

B. Juvenile Liaison Duties – *Continued*

- (1) If a juvenile is between the age of 12 and 15 years and commits a traffic offense, the juvenile is to be issued a uniform traffic citation and ordered into municipal court on the next available traffic court date. Their appearance is mandatory. In all traffic matters—municipal and state—any person who has attained the age of 16 is to be treated as an adult. When citations or arrests of juvenile drivers are made, state law requires officers to notify parents/guardians with regard to the offense and court date.
 - c) If a child between the age of 12 and 16 years has committed a state or federal crime, he/she is to be referred to the Children’s Center with all appropriate paperwork for charging through the Children’s Court System.
 - d) If a child between the ages of 12 and 16 years has committed multiple non-status offenses in a relatively short period of time, this child can be immediately transported to the Milwaukee County Juvenile Intake Center as a Chronic Juvenile Offender. The goal of the Chronic Juvenile Offender Program is to get local chronic juvenile offenders into a more effective supervision program which will allow for court-ordered services (family counseling, anger management, substance abuse counseling, etc.). The Chronic Juvenile Offender Program also will start the process of the juvenile being present in front of a Juvenile Justice Court Official within 24 hours of being transported with the strong possibility of the juvenile being assigned to a case worker and being placed on a formal supervision program. Arresting officers should consult with their immediate supervisor and/or the OCPD Juvenile Liaison Officer prior to making an immediate transport of a chronic juvenile offender.
 - e) All individuals who have attained the age of 17 and violate a state or federal law are to be treated as adults. If they commit a civil or municipal traffic offense or a state traffic offense, they are to be treated as adults.
 - (1) On July 1, 1996, Act 77 became effective. This states that all individuals that have attained their 17th birthday can be treated as adults, regardless of the offense.
- 2) their trust in officials;
 - a) The juvenile liaison will evaluate the quality of each contact referred to the Children’s Court System and will notify the appropriate shift supervisor of any perceived problems.
 - 3) their experience;
 - (a) The juvenile liaison will evaluate the quality of each contact referred to the Children’s Court System and will notify the appropriate shift supervisor of any perceived problems.

IV. JUVENILE VICTIM

- A. Any person who has reason to suspect that the health or safety of a child or of an unborn child is in immediate danger may report such incident to the Oak Creek Police Department. Upon receiving this report, the Oak Creek Police Department will immediately investigate to determine if there is reason to believe that the health and safety of the child or unborn child is in immediate danger and take any necessary action to protect the child or unborn child.
- B. If the Oak Creek Police Department investigation determines that criminal action is necessary, the case shall be referred to the Milwaukee District Attorney's Office for criminal prosecution.
- C. Oak Creek Police Officers will conduct investigations of suspected or threatened abuse as defined in Wis. Statute §48.02 (1) (b) to (f).

V. JUVENILE OFFENDER

- A. Officers dealing with juvenile offenders shall use the least coercive among reasonable alternatives consistent with preserving the public safety, order and individual liberty. Officers will utilize one of the wide ranges of alternative remedies available to them for dispositions of juvenile incidents. The following are alternatives that may be used:
 - 1. Outright release with no further action – This is the least restrictive of all alternatives. If you choose to use this alternative, it is still the officer's responsibility to contact a parent or legal guardian, and advise them why you detained or had contact with the juvenile. This will also avoid any misunderstanding or misconception a concerned parent may have as to why the police are detaining or contacting their child.
 - 2. Issue a written warning citation to the juvenile – The investigating officer must contact the parent or legal guardian as soon as reasonably possible, and inform them of the circumstances involved and the reason the warning citation was issued.
 - 3. Issue a written municipal citation to the juvenile offender – If the juvenile offender committed an offense that requires a mandatory booking, the child should be transported to our station for our standard booking process. In lieu of taking them into secure custody, if you are dealing with a cooperative parent that is willing to bring their own child in immediately for booking, that can be left to the officer's discretion.
 - a. If issuing a municipal citation, the officer is to:
 - 1) Ensure that the juvenile goes through the standard booking process as set forth by the existing guidelines of the Oak Creek Police Department.
 - 2) Release the juvenile to a parent or other responsible adult if the juvenile is less than 15 years of age. If the child is released to an adult other than the parent or legal guardian, the investigating officer will make all reasonable attempts to notify the parent or legal guardian as soon as possible of the circumstances surrounding the incident involving the child.
 - a) If a responsible adult cannot be located, the officer shall contact the State of Wisconsin Milwaukee Bureau of Child Protective Services for instructions.

V. JUVENILE OFFENDER - *Continued*

- 3) If the juvenile is 15 years of age or older, capable of caring for themselves and barring any special circumstances, the juvenile may be released to their own care and custody without immediate adult supervision, after counseling or warning the child as may be appropriate. Under no circumstances is a juvenile to be released to their own care if they had been consuming alcohol or controlled substances. [Wis. Statute §48.20(2)(c)]
 - a) If the child is released under Section V. Subsection A(3)(a)[2] above, the person who took the child into custody shall immediately notify the child's parent or legal guardian of the time and circumstances of the release and the person, if any, to whom the child was released.
4. Referral to Children's Court System – A juvenile referral is handled in the same manner as an adult referral, with the following exceptions:
 - a. Juvenile referral worksheet is to be used. Complete the law enforcement referral form and the Custody Form.
 - b. The officer is to then make two copies of the following forms and forward them to the juvenile liaison for review. Case files are to be completed within three (3) days following the arrest and shall contain:
 - 1) Juvenile DA Referral Worksheet found in Police Department Drive in “forms/court forms/juvenile case file forms/Juvenile DA ref worksheet”;
 - 2) WI Law Enforcement Referral Form found in Police Department Drive in “forms/court forms/juvenile case file forms/WI Law Enforcement Ref Form”;
 - 3) The Oak Creek Police Department Incident Report, including officer's recommendations regarding case disposition;
 - 4) Individual's complete historical contact sheet (found under the Master Name file in the Oak Creek Police Department in-house computer system);
 - 5) Individual's Criminal History Record (found in the TIME system via FQ/IQ inquiries);
 - 6) Individual's traffic history;
 - 7) Juvenile Witness Subpoena Sheet found in Police Department Drive in “forms/court forms/juvenile case file forms/juvenile witness form”

These forms are to be forwarded to the juvenile liaison at least three (3) weeks prior to the order-in date selected by the arresting officer. (Referrals for the City of Oak Creek are any Thursday at 8:30 a.m.). If the offender is approaching their 17th birthday, the case should be ordered into Children's Court prior to the youth's 17th birthday. The case file may have to be hand-delivered if the offender's 17th birthday is within one (1) week from the date of arrest/offense.

V. JUVENILE OFFENDER – *Continued*

5. Immediately transport to Milwaukee County Juvenile Intake Center (Chronic Juvenile Offender).
 - a. The arresting officer should consider this option if the juvenile offender is known to have frequent contacts with the Oak Creek Police Department which include the issuance of municipal citations. A juvenile offender shall not be immediately transported as a chronic juvenile offender if the current violation is a status offense which includes:
 - 1) Curfew violation
 - 2) Runaway
 - 3) Warrant for non-delinquent offense
 - 4) Underage consumption/possession of alcohol
 - 5) Possession of tobacco
 - 6) Truancy
 - 7) Chapter 51 commitment
 - 8) Probationary driver's license violation
 - b. Chronic Juvenile Offender Case File Checklist: When preparing a case file for a juvenile offender that will be immediately transported to Milwaukee County Juvenile Intake Center, each case file must contain the following:
 - 1) Uniform Juvenile Report (blue form)(needed for Juvenile Intake only). Located in report room or on the Police Department Drive in *"forms/court forms/juvenile case file forms/Uniform Juvenile Report"*
 - 2) Wisconsin Law Enforcement Referral Form. Located on OCPD Police Department Drive in *"forms/court forms/juvenile case file forms/WI Law Enforcement Ref Form"*
 - 3) Juvenile DA Referral Worksheet. Located on the OCPD Police Department Drive in *"forms/court forms/juvenile case file forms/juvenile DA ref worksheet"*
 - 4) Temporary Physical Custody Request/Authorization – Delinquency Court Referral (only used for juveniles taken into custody and brought down to juvenile intake detention center). Located on OCPD Police Department Drive in *"forms/court forms/juvenile case file forms/juvenile custody form"*
 - a. Complete "Requesting Agency Complete" section
 - 5) Juvenile Witness Form (different than adult witness sheet). Located on OCPD "Police Department Drive" in *"forms/court forms/juvenile case file forms/juvenile witness form"*

V. JUVENILE OFFENDER - *Continued*

- 6) Criminal History (2 copies)
 - a) Obtain from Dispatch
 - 7) List of Police Contacts with OCPD
 - a) Obtain from Dispatch
 - 8) List of medications the juvenile offender is currently prescribed
 - a) Obtain from parent or guardian of juvenile offender.
 - b) Make every effort to retrieve medications prior to transport, otherwise medical clearance at Children's Hospital may become necessary.
 - 9) Official Police Reports
 - a) Can be added the following day by 0900 hrs.
 - b) Reports should be delivered or faxed to Juvenile Intake (fax #414-454-4010)
 - c) Should be dictated as a priority #1 report.
 - d) Sign the report up on the dictation log as a priority #1 (report writing room)
 - e) Notify supervisor that you made the report a priority #1.
6. If the juvenile was taken into custody because of a valid *capias*, the juvenile shall be transported to the Juvenile Detention Center. The arresting officer shall fill out the Juvenile Referral Form,
- a. The officer shall also fill out a Temporary Physical Custody Request form and clearly state the reason the juvenile was not released (i.e., will run, is a danger to self or others).
 - 1) The juvenile, if 14 years of age or older, is given a copy of the Temporary Physical Custody Request and is then transported to the Juvenile Detention Center for holding.
 - 2) The officer must then make arrangements to have a complete copy of all reports faxed to Juvenile Intake no later than 8:30 a.m. the following day.

B. Criteria for determining the disposition of the juvenile offender is dependent upon:

1. Nature of the offense;
2. Age and circumstance of the offender;
3. Offender's record;
 - a. If the officer has prior knowledge or is informed by another officer that this department has had previous contact with this juvenile for the same or similar offense, the officer may choose to escalate to the next higher choice of handling the juvenile. If a counsel and release was used previously, perhaps a citation would be more appropriate now.

V. JUVENILE OFFENDER - *Continued*

4. If time allows, a supervisor may authorize checking with the juvenile liaison to see if there are any alternatives available such as counseling agencies or community service projects.
5. If the officer has any recommendations or suggestions from their investigation, complainants or victims, make these recommendations known to the City Attorney or the Children's Court System. Good report writing can best do this.

C. Requests for Juvenile Case and Disposition Information, State Case Referral/Custodial Arrest

1. All requests for Juvenile case and/or Disposition information must be faxed or emailed. All requests for information will be answered within 48 hours of the request (M-F 0800-1630) Requests must include:
 - a. The juvenile's name
 - b. Date of birth
 - c. The date of the referral
 - d. The offense(s)
 - e. The victim's name and date of birth (if applicable)
 - f. The information you are requesting
 - g. Requester's name, title, and agency
2. Fax requests to: Wendy Moraza, IS Application Specialist, DHS-Delinquency and Court Services Division. (414) 257-8199.
 - a. Include your name on the fax and fax number, as the requested information will be faxed to the requester.
3. E-Mail requests to: juvenileinfo@milwaukeecountywi.gov
 - a. Requested information will be e-mailed back to the requester.

VI. JUVENILE IN CUSTODY

- A. Prior to taking a juvenile into custody, the officer shall:
 1. Determine whether the juvenile is alleged to have committed or engaged in a criminal or non-criminal activity.
 - a. If the offense which is alleged is in direct violation with state or federal law, the following must be determined before taking subject into custody.
 - 1) If an adult committed the offense, would the adult be detained in custody?

VI. JUVENILE IN CUSTODY – Continued

b. There are only limited circumstances when a juvenile shall be held in secure detention at the Milwaukee County Children's Center. Examples of these are as follows:

- 1) murder;
- 2) first degree sexual assault;
- 3) second degree sexual assault;
- 4) armed robbery;
- 5) carjacking;
- 6) gang-related crimes where a weapon was involved;
- 7) arrests involving drugs and weapons;
- 8) any other offense where a weapon was involved;
- 9) chronic juvenile offender.

B. Other criteria to look for (special circumstances):

1. If there is reason to believe that the juvenile is a danger to himself/herself or others if released, the officer shall place the juvenile on an Involuntary Commitment under State Statute §51.42.
2. If there is a likelihood from statements made or past records that, if released, the juvenile will attempt to flee the jurisdiction of the court and intake either cannot or will not take custody of the juvenile, the officer shall then contact a 24-hour Protective Services worker and have them take custody and placement.
3. If the parents are unwilling to except the juvenile back into their home pending court appearances or the juvenile is unwilling to go home, and intake either cannot or will not take custody of the juvenile, the officer shall then contact a 24-hour Protective Services worker and have them take custody and placement.

C. Always ensure that the constitutional rights of the juvenile have not been violated. If you would read an adult their rights in the situation, then do the same with the juvenile.

1. A juvenile has the right to an attorney, but does not have the right to have a parent present while being questioned.
 - a. In most cases, it is a detriment to the investigation to have a parent in the room if you are looking for cooperation from a juvenile.
 - b. Always remember that the juvenile has the right to privacy and it is your duty to protect those rights.
 - c. If you should decide to allow a parent to be present while questioning, ALWAYS advise the parent and the juvenile that it is the officer's discretion to ask the parent to leave at any time.

VI. JUVENILE IN CUSTODY - Continued

D. Bringing a juvenile to the detention facility:

1. As in any custodial arrest where the suspect is to be immediately detained, if they require medical attention, it is the arresting officer's responsibility to have the juvenile medically cleared prior to transport to detention.
2. If the juvenile makes statements to the effect that they will do harm to themselves (suicide attempt) or others, they are to be handled under Wisc. Chapter 51 and should be taken to a medical facility for observation.
 - a. It is the officer's responsibility to ensure that all paperwork accompanies the juvenile to this facility.

E. When a juvenile is taken into custody, whether for transport to a locked facility or for processing on a municipal citation, it is the detaining officer's responsibility to contact a parent or guardian as soon as reasonably possible.

F. Juveniles can be placed in the Oak Creek Police Department municipal lock-up facility, but this should be avoided if at all possible. If a child is placed in the Oak Creek Police Department municipal lock-up facility, they must be:

1. segregated from any adult detainee;
2. segregated by sex;
3. placed in a cell (all have cameras)

G. Children placed in the Oak Creek Police Department municipal lock-up facility can only be held in secure custody for up to 6 hours for state offenses or 1 hour for status offenses. Juvenile entries are forwarded to the Office of Justice Assistance once a month.

H. If a juvenile is of an extremely violent nature, or needs to be held longer than 6 hours, he/she should be transported as soon as possible to the Milwaukee County Children's facility. Restraining and securing a juvenile is appropriate within the training standards and guidelines of this Department.

VII. CUSTODIAL INTERROGATION

A. When a juvenile is taken into custody and it is the intent of the officer to interview or interrogate him/her, it is the arresting officer's responsibility to inform the parent as to what is taking place. Effective July 8, 2005, pursuant to a Wisconsin Supreme Court decision (WI vs. Jerrell C.J. 2005), all in-custody juvenile interrogations shall be electronically recorded when the questioning occurs within the Oak Creek Police Department or other detention facility. In-custody interrogation of a juvenile outside of the Oak Creek Police Department or other detention facility should be electronically recorded when feasible.

1. Prior to questioning, officers must advise the juvenile that the interrogation is being recorded.
2. The recording requirement governs the admissibility of a juvenile's statement or confession into evidence.

VII. CUSTODIAL INTERROGATION - Continued

3. Upon completion of the interview, an email should be sent to the Detective Lieutenant to archive the interview and save it. That supervisor will then make a copy of the interview and provide it to the officer. This copy will then be placed into evidence by the officer, and if needed, forwarded to clerical to be transcribed as part of the incident report.
4. The investigating officer should begin the recording by noting the following information on the recording, in the following fashion:

“This is Officer _____ (full name), taking the statement of _____ (full name of juvenile) for _____ (incident). This statement is given at _____ (location) on _____ (day of the week), _____ (date), at _____ (time).”

If there is a lengthy interruption during the interrogation, the recording may be stopped. However, the officer needs to provide an explanation on the recording. The entire custodial interrogation with a juvenile must be recorded.

5. The officer’s incident report must contain a summary of the recorded statement which reflects the juvenile’s admission or denial, the description of the participants of any co-actors, or any significant information relating to the offense.
 6. A copy of the recorded interrogation must be provided to the District Attorney along with the written reports.
 7. A parent does not have the right to be present during questioning (see Legal Opinion 66Wis. 2d 33).
 8. If a parent advises that you cannot talk to their child without them or their attorney present, the officer can and should still continue with questioning.
 9. It is the juvenile's right you are concerned with, and not the parent 's.
- B. Always limit the number of officers present during the interview.
1. The fewer officers doing the questioning, the easier the juvenile can concentrate.
- C. Start your questioning as soon as possible and try to limit the duration.
1. Juveniles tend to have a short attention span and tend to let their thoughts wander.
- D. Explain the system to the juvenile as thoroughly as possible.
1. Explain the difference between municipal charges and state and federal charges.
 2. Explain that the juvenile system sees all referrals as the same status.
 - a. There is no distinction between misdemeanor, state, or felony.
 - 1) All referrals are considered juvenile offenses.

VIII. DISCLAIMER:

The Juvenile Procedures Policy developed by the Oak Creek Police Department is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety and care in an evidentiary sense with respect to third party claims. Violations of the Juvenile Procedures Policy can only be the basis of a complaint by this department, and then only in non-judicial administrative setting.

REFERENCE:

- Municipal Lock-Up Facility Policy #11-100
- Arrest Procedures Policy #7-100
- General Order #99-2—Investigations Involving Employees' Direct Family Members
- General Order #99-9—School Resource Officer Procedures
- Wis. State Statute §48 – Children's Code
- Wis. State Statute §938 – Juvenile Justice Code
- City Ordinance No. 11.80 – Curfew
- City Ordinance No. 11.81 – City Jurisdiction
- City Ordinance No. 11.83 – Truancy
- City Ordinance No. 11.86 – Enforcement & Penalties



David R. Stecker
Chief of Police

GRW/tp

(Attachments)

- *Juvenile Referral Form*
- *Request for Temporary Physical Custody Form*
- *Family Intervention Support & Services (FISS) Information*