

BLOOMINGTON POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

JUVENILE CONTACTS AND CUSTODIES

Reviewed by:	Lt. Brian Brown	Effective Date:	September 5, 2002
Authorized by:	Chief Dan Donath	Revision Date:	October 7, 2019

PURPOSE

The purpose of this SOP is to establish police and procedure for dealing with juvenile contacts and custodies by members of the Bloomington Police Department.

DEFINITIONS

Station adjustment: To resolve a juvenile case on an informal/informational basis

Custody: Legal or physical control of a person; legal, supervisory, or physical responsibility for a person.

Intake: The point at which a juvenile offender enters the juvenile justice system. An intake may be initiated by the law enforcement agency, but the intake process is generally supervised by a probation agency, juvenile court or special intake unit.

Status offense: An act or conduct declared by statute to be an offense, but only when committed or engaged in by a juvenile. These offenses can only be adjudicated by a juvenile court.

PROCEDURES

NON-DELINQUENT JUVENILES:

There is statutory authority for peace officers to take custody of certain minors under specific circumstances. Such custody is not an arrest. Only reasonable and necessary force may be used to protect the officer and/or effectuate custody. If the person to be taken into custody or another physically resists or obstructs the officer's attempt to take custody (an authorized act), that person may be arrested for resisting and/or obstructing a peace officer.

TEMPORARY PROTECTIVE CUSTODY:

A. Neglected, Abused, Dependent or Addicted Minors:

1. Youths that meet the statutory requirements defined in 705 ILCS 405/2-3, 405/2-4 and 405/4-3 of the Illinois Compiled Statutes are known as neglected, abused, dependent or addicted minors and can be taken into temporary custody by law enforcement officers. Procedures for handling neglected abused, dependent or addicted minors are delineated in 705 ILCS 405/2-5 and 405/4-4 of the Illinois

Compiled Statutes. When an officer is confronted by a situation, where temporary custody can be taken of a neglected, abused, addicted or dependent minor, they will immediately contact the Illinois Department of Children and Family Services (DCFS) by calling the Abuse Hotline at 1-800-25-ABUSE (1-800-252-2873) DCFS will refer the case to a local office for follow up investigations.

2. Immediate arrangements should be made for the care and safety of the juvenile taken into temporary custody in these situations until a DCFS caseworker arrives. This may include medical attention, transport to a medical facility and/or transport to BPD.
3. The circumstances requiring the temporary custody of the juvenile should be documented in an EJS report for further follow up by CID and/or DCFS.

B. Minors Requiring Authoritative Intervention (M.R.A.I.)

1. Youths that meet the statutory requirements defined in ILCS 405/3-3 of the Illinois Compiled Statutes are known as Minors Requiring Authoritative Intervention (M.R.A.I.) and can be taken into limited custody by law enforcement officers. Procedures for handling M.R.A.I.s and limited custody situations are delineated in 705 ILCS 405/3-4 of the Illinois Compiled Statutes. All M.R.A.I.s requiring crisis intervention will be referred to the Crisis Team McLean County Center for Human Services or the PATH Crisis Center.
2. Those requiring authoritative intervention include any minor under 18 years of age who is:
 - a. Absent from home without the consent of a parent, guardian or custodian or
 - b. Beyond the control of his or her parent, guardian or custodian in circumstances which constitute a substantial or immediate danger to the minor's physical safety. Also see SOP 1.15 - Runaways

C. A police officer may, without a warrant, take into limited custody a minor whom the law enforcement officer reasonably determines is:

1. Absent from home with the consent of the minor's parent, guardian or custodian or
2. Beyond the control of his or her parent, guardian or custodian, in circumstances which constitute a substantial or immediate danger to the minor's physical safety.

D. The police officer shall:

1. Immediately inform the minor of the reasons for such limited custody and
2. Make a prompt, reasonable effort to inform the minor's parents, guardian or custodian that the minor has been taken into limited custody and where the minor is being kept.
3. If the minor chooses to go home, the officer shall make a reasonable effort to transport, arranged for transportation of or otherwise release the minor to the parent, guardian or custodian.
4. If the officer is unable to make contact, once again this child becomes a dependent minor. The officer shall make contact with the Department of Children and Family Services.

5. If the minor DOES NOT choose to go home, the officer shall contact the crisis intervention agency contracted by the Department of Children and Family Services to take care of runaways and lockouts (Project Oz)/

E. Minors may be kept in limited custody:

1. If the minor is 12 years of age or older, the minor may be kept up to 12 hours.
2. If the minor is less than 12 years of age, the minor may be kept up to 6 hours.
3. The time the minor may be kept in custody begins from the minor's initial contact with a law enforcement officer.
4. If steps 3 and 4 will take more than the allowed time, that minor will have to be turned over to the Department of Children and Family Services.
5. No minor may be placed into a jail, municipal lockup, detention center or secure correctional facility.

DELINQUENT JUVENILES

"Delinquent minor" means any minor who prior to his or her 18th birthday has violated or attempted to violate, regardless of where the act occurred any federal, state, county or municipal law or ordinance.

CUSTODY OF DELINQUENT JUVENILES

A. Whenever a juvenile is taken into custody, the following procedure shall be followed:

1. Notify the juvenile as to the purpose of the custody, their legal rights and that the custody should not last longer than six hours.
2. Without unnecessary delay, transport the juvenile to the police department and advise a command officer of the custody.
3. If the arresting officers is not a juvenile officer, a juvenile officer should be contacted.
4. Make an immediate reasonable attempt to notify the juvenile's parent, person legally responsible for the minor or with whom the minor resides that the juvenile has been taken into custody and where the juvenile is being held.
5. Check with CID personnel to determine if the juvenile needs to be interviewed and/or statements taken in regard to the present situation or other outstanding cases.
6. Book and process the juvenile. Each officer shall complete the following
The BPD Report of Arrest (docket)
 - a. Photograph the juvenile using a digital camera in a designated area with a gray colored background. These areas are in CID and Patrol. The photo will be placed in the Juvenile Photo Database under F:\BPD Approach Systems\Juvenile Arrest Database\Juvenile Arrest Photos
 - b. Complete fingerprints for the juvenile using the AFIX machine.
 - c. Complete the arrest information sheet.
 - d. Indicate a parent or legal guardian in the EJS report.
 - e. Forward all arrest paperwork to the CID Office Manager.
 - f. Take major case prints, when required.
7. Release the juvenile to his or her parent or legal guardian only. Releasing a juvenile to someone else without the permission of the parents or legal guardian is a liability to the officer and the police department.

8. If it is not possible to release the juvenile to a parent or guardian, DCFS will be contacted.
9. Complete and handout the Juvenile Expungement Information Packet to the juvenile's parent or guardian. (see below)

MCLEAN COUNTY JUVENILE DETENTION FACILITY

If the juvenile being processed is a habitual offender or has been arrested for a felony, domestic violence or sexual assault the McLean County Detention Facility must be contacted to see if the custody points out to be detained. Officers may still contact the McLean County Detention Center for other offenses when they feel it necessary, but it is not required for other offenses when officers are reasonably sure a custody would not point out for detention. A juvenile must qualify, based up total points for admission, calculated from a list of predetermined categories. At present, 12 points are needed. (See addendum)

If it is determined that a juvenile will be detained at the McLean County Detention Facility the Juvenile Expungement Information Packet should still be completed and either placed in the juvenile property or given to the juvenile's parent or guardian when they are notified of the detention. An initial probable cause report will accompany the juvenile.

When a 10, 11 or 12 year old is arrested and scores sufficient points to be detained at the McLean County Detention Facility or the officer is seeking an override request, the officer should contact Project Oz via their 24 hour hotline number. The officer should explain the circumstances of the case and ask if they have placement services available for the juvenile. Project Oz may respond to conduct an assessment, and if they are able to provide placement services, will take custody of the juvenile. If Project Oz is unable to provide placement they will notify the officer and provide some written documentation that placement services were unavailable. The officer should then contact the McLean County Detention Facility and inform them of the juvenile in custody is between the ages of 10 and 13 which Project Oz was unable to place and request they be detained by the McLean County Detention Center.

REQUEST FOR APPREHENSION

A request for apprehension is an immediate written request by Juvenile Court Services to apprehend a juvenile. These are valid only within McLean County. These are used until Juvenile Court Services can appear before a judge and obtain an arrest warrant. In this instance the McLean County Detention Facility should be notified that the juvenile with a request for apprehension prior to the officer transporting the juvenile to their facility. The officer should still immediately make a reasonable attempt to notify the juvenile's parent or guardian that the juvenile has been taken into custody and where he or she will be held.

JUVENILE WARRANT

A juvenile warrant is much like an adult arrest warrant. It is signed by a judge who commands the officer to make the arrest. In this instance the juvenile must be transported to the McLean County Sheriff's Office for processing. It is the responsibility of the McLean County Sheriff's Office to transport the juvenile to the McLean County Detention Center after processing, however in many instances Bloomington PD may assist by doing the transport if MCSO staffing will not allow. Again, it is the responsibility of the arresting officer to notify a parent or guardian of the juvenile's custody and where he or she will be held.

INTERROGATION OF JUVENILES (SPECIAL RULES)

The following guidelines are designed to assist officers when conducting a custodial interrogation of a juvenile accused of a delinquent act. This directive is intended to guide officers without limiting their use of good judgment as it relates to the exercise of discretion.

A. When a juvenile is in custody for a delinquent act and he is a subject of an interrogation, the following procedures will be followed:

1. Immediately contact a Police Juvenile Officer. The Police Juvenile Officer must be present before any interrogation can commence.
2. Immediately make a reasonable attempt to notify the parent or legal guardian of the juvenile. It will be the interrogating officer's decision whether or not to allow the parent or legal guardian to witness the interrogation.
3. Advise the juvenile of their constitutional rights under the Miranda Decision (705 ILCS 405/5-401.5) For purposes of a response from the minor or verifying comprehension, the officer will read in its entirety and without stopping the following statement:

"You have the right to remain silent. That means you do not have to say anything. Anything you do say can be used against you in court. You have the right to get help from a lawyer. If you cannot pay for a lawyer, the court will get you one for free. You can ask for a lawyer at any time. You have the right to stop this interview at any time."

4. After reading the statement above, the officer will ask the minor the following questions and wait for the minor's response to each question. The officer will ask the minor the following questions exactly as worded:

*Do you have a lawyer?
Do you want to talk to me?*

5. The officer will document, in the EJS report, the Miranda reading and the minor's response to both questions above.
6. Additional care must be taken to assure that all post-Miranda statements were truly voluntary.
7. Limit the duration of the questioning to a reasonable period not to exceed 6 hours to avoid causing undue stress on the minor.

As of January 1, 2017 there is a requirement that juveniles have an attorney present for custodial interrogations as outlined in 705 ILCS 405/5-170. In response to that, the Public Defender's Office has implemented an on-call phone rotation in the event that you have a juvenile custodial interrogation and need a Public Defender present. The number for their on call staff member is (309)310-4375. All calls should be made to this phone number first. The phone will be passed around to the on call attorney on their on-call week.

If in the event you cannot get anyone to answer, call the Public Defender's Office at (309) 888-5235 extension 4 from the hours of 8:30am -5:00pm Monday-Friday or after hours and holidays, call Mary at (815) 592-7825

705 ILCS 405/5-170 representation by counsel.

In a proceeding under this Article, a minor who was under 15 years of age at the time of the commission on a act that if committed by an adult would be a violation of Section 9-1,9-1.2, 9-2, 9-2.1, 9-3, 9-3-2, 9-3.3, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 must be represented by counsel during the entire custodial interrogation of the minor.

In a judicial proceeding under this article, a minor may not waive the right to the assistance of counsel in his or her defense.

Offenses include:

- 9-1 First Degree Murder
- 9-1.2 Intentional homicide of an unborn child
- 9-2 Second Degree Murder
- 9-2.1 Voluntary Manslaughter of an unborn child
- 9-3 Involuntary Manslaughter and Reckless Homicide
- 9-3.2 Involuntary Manslaughter and reckless homicide of an unborn child
- 9-3.3 Drug-induced homicide
- 11-1.20 Criminal Sexual Assault
- 11-1.30 Aggravated Criminal Sexual Assault
- 11-1.40 Predatory Crim. Sexual Assault of a Child
- 11-1.50 Criminal Sexual Abuse
- 11-1.60 Aggravated Criminal Sexual Abuse
- 12-13 Criminal sexual assault
- 12-14 Aggravated criminal sexual assault
- 12-14.1 Predatory criminal sexual assault of a child
- 12-15 Criminal sexual abuse
- 12-16 Aggravated criminal sexual abuse

Video recording of the custodial interrogation of a minor for a Misdemeanor Sex Offense or any Felony Offense (705 ILCS 405/5-170):

For an act that if committed by an adult would be a misdemeanor sex offense (under Article 11 of the Criminal Code of 2012) or any felony offense, the officer must make a video recording of the custodial interrogation of the minor.

An oral, written or sign language statement made as the result of a custodial interrogation of a minor, who at the time of the commission of the offense was under the age of 18, shall be presumed to be inadmissible as evidence against the minor in a criminal proceeding or juvenile court proceeding unless:

1. An electronic recording is made of the custodial interrogation and
2. The recording is substantially accurate and not intentionally altered

Incident report should include but is not limited to:

1. The Miranda reading and the minor's response to both questions
 - a. Do you want to have a lawyer?
 - b. Do you want to talk to me?
 - c. All efforts made to contact parents, describing responses to the notification, with all comments about their willingness to travel to the location of the interrogation, their child's background and willingness to cooperate;
 - d. Initial time of detention with start and ending times of custodial interrogation;
 - e. Contact made to counsel when required;
 - f. All aspects of the interrogation that demonstrated no coercion and supported the officer's belief that the juvenile was capable of understanding the events and mature enough to deal with police without an adult or parent present.
 - g. No more than two officers will be involved in the interrogation at one time.
 - h. Explain the department's procedures and the procedures for any forthcoming actions of the Juvenile Justice System to the juvenile and parents or guardians when appropriate.

JUVENILE RELEASE EXPUNGEMENT INFORMATION PACKET

Pursuant to 705 ILCS 405/5-915, if a delinquent minor is arrested and no petition for delinquency is filed at the time the minor is released from custody, the releasing officer shall:

Notify the minor or the minor's parents or guardians, verbally and in writing, that if the States' Attorney does not file a petition for delinquency, the minor has a right to petition to have their arrest record expunged when the minor attains the age of 18 or when all juvenile court proceedings relating to that minor have been terminated. Included in these notifications will be that unless a petition to expunge is filed, the minor shall have an arrest record.

The officer will complete the Juvenile Release Expungement Information form (APPENDIX 5)

1. Fill out the form and have the parent, guardian or other authorized person (e.g. sibling, DCFS, Project Oz or other adult authorized by parent) sign the form.
2. Scan the signature page only of the Juvenile Release Expungement Information Form and attach to the incident report.
3. Give the packet containing the form and copy of Petitions to Expunge Juvenile Records to the delinquent minor and the parent, guardian or other authorized person.
4. If the juvenile is charged with an offense, a photograph and fingerprints are to be taken;
5. No juvenile shall be placed into a locked room and left unattended for any length of time. If the juvenile is a security risk, he or she will be constantly monitored by an officer;

6. No juvenile will be held longer than 6 hours and;
7. Juveniles requiring medical attention shall be treated and/or transported by the Bloomington Fire Rescue Squad to a medical facility.
8. Juveniles taken into temporary custody for a non-criminal offense (status offense) shall be released to a parent or guardian.

The Juvenile Expungement Information Packet is located at F:\Police\Forms\Juvenile Release Expungement Information Packet