

	KENOSHA POLICE DEPARTMENT			
	POLICY AND PROCEDURE			
	44.1 Handling of Juveniles			
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I. POLICY

All interactions with a juvenile/child shall be in the best interest of that juvenile/child.

II. DEFINITION

- ◆ **Adult:** means a person who is 18 years of age or older except that for purposes 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.
- ◆ **Child:** means a person who is less than 18 years of age except that for 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.
- ◆ **Status Offender:** A status offender is a juvenile who has been charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
- ◆ **Non-offender:** A non-offender is a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile.
 - a. Truancy
 - b. Violations of curfew
 - c. Runaway
 - d. Underage possession and /or consumption of tobacco products
 - e. Underage alcohol offenses
- ◆ **Civil-type juvenile offender:** A juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include noncriminal traffic violations and noncriminal fish and game violations.

III. WISCONSIN STATE STATUTE

- A. In Wisconsin a separate system of dispensing justice is established for juveniles. This system, including the rules and procedures which govern police handling of juveniles and

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judicial proceedings for juveniles, are set select Wisconsin Statutes. These statutes include but are not limited to Chapter 48 – “The Children’s Code” and Chapter 938 – “Juvenile Justice Code”.

- B. These statutes and their legislative intent shall guide officer’s actions.
 - 1. The legislative intent of Chapter 48 as cited is the best interest of the child or unborn child shall always be of paramount consideration.
 - 2. The legislative intent of Chapter 938 is to promote a juvenile justice system capable of dealing with the problems of juvenile delinquency, a system which will protect the community, impose accountability for violations of law and equip juvenile offenders with competencies to live responsibly and productively.

IV. JURISDICTION

- A. Under Wisconsin law, for purposes of criminal or forfeiture prosecutions, a juvenile is defined as a person under the age of 17. Thus, a 17-year-old may be arrested by law enforcement and is to be treated as an adult.
- B. The juvenile code will have jurisdiction on children who have reached the age of 10 - making the age range for which a juvenile delinquency petition can be filed to be 10 – 17.
- C. A child at least 10, can be treated as an adult if he/she commits or attempts to commit the following offenses:
 - 1. First degree intentional homicide
 - 2. Second degree homicide
 - 3. Reckless homicide
 - 4. Battery to a guard in a secured detention facility
- D. However, if a child under 17 but above 10 is to commit one of the above offenses, he/she is still to be placed in a secure detention facility upon arrest and will continue to be incarcerated in a juvenile facility until, if convicted, he/she turns 17, at which time he/she is to be placed in an adult correctional facility.
- E. Juveniles may be waived into adult court at age 15. If the charge is a serious felony, they may be waived at age 14.
- F. If a juvenile has been waived into adult court previously and convicted, or if he/she has been waived and his/her case is pending, he/she is to be automatically treated as an adult for any subsequent offense he/she commits.

V. ARREST

- A. Juveniles may not be “arrested.” However, a juvenile may be “taken into custody,” under one or more of the following conditions:
 - 1. With a capias issued by the juvenile court or a warrant

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2. When the juvenile has violated a state or federal law or county, town or municipal ordinance and the officer believes such action necessary in the public interest
 3. When the juvenile's surroundings or condition require he/she be taken into custody for his/her own welfare
 4. When there is probable cause to believe he/she has committed an act which would be a felony if he/she were an adult
 5. When there is probable cause to believe he/she is a runaway or a fugitive from justice
 6. The juvenile has violated the terms of his/her probation or parole.
- B. If a juvenile is taken into custody, his/her parent or guardian must be notified as soon as possible. Then, unless it is "impracticable, undesirable or has been otherwise ordered by the court," the juvenile must be released to the custody of his/her parent or guardian. If the juvenile is not to be released, there must be a written order of the juvenile court setting forth the reasons for his/her detention. Finally, a juvenile may never be detained in a jail or other facility for adult prisoners unless it is a separate, approved room or ward completely separate from adult prisoners.
- C. The Miranda rule applies to juveniles in a similar fashion as it is applied to adults. While there is no requirement to have parents present during a custodial interrogation, their absence may be an issue as to whether or not the statement is voluntary.
- D. No juvenile shall be held in secure detention without the officer conforming to the Wisconsin State Statute in regards to the detention of a juvenile and contacting Kenosha County Juvenile Intake.
- E. Juveniles taken into custody as a status offender, non-offender, or civil-type offender should not be held in a secure room. If required for the safety of the officer and or the juvenile, a status offender may be handcuffed

VI. PROCEDURES

A. Enforcement Alternatives

Officers may use enforcement when possible and in the best interest of the juvenile and the community. The following will be considered:

1. Nature of the offense.
 2. Police record.
 3. Informal Disposition.
 4. Outright Release with No Further Action: Where parental input may best address the case, the officer may use a warning and advise the parents; reports will be routed to Juvenile for any needed follow up.
 5. Age and circumstances of the offender.
 6. Recommendations by complainants or victims.
- B. Juveniles under WI ss. Chapter 51 or 55

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Any voluntary or involuntary admissions, placements or commitments of a juvenile made in or to an inpatient facility shall be governed by chapter 51 or 55 (see emergency detention orders).

C. Traffic Law

1. Juveniles 16 or 17 years of age shall be treated as adults when receiving traffic citations.
2. Juveniles 12 to 15 years of age who commit a traffic offense in Section I of the Traffic Schedule may be issued an ordinance citation.
3. Juveniles 10 to 12 years of age who commit a traffic offense in Section I of the Traffic Schedule will be referred on a Juvenile Intake.
4. Juveniles 10 to 15 years of age who commit an offense covered in Section 2 of the Traffic Schedule will be referred to Juvenile Intake.

D. Civil Law and Ordinance Violations

Municipal courts have jurisdiction in proceedings against juveniles aged 12 or older for violations of municipal ordinances. When a juvenile is alleged to have violated an ordinance, the juvenile may be:

1. Issued a citation directing the juvenile to appear in municipal court. This should generally be the case.
2. If a citation is issued to a juvenile, the juvenile's parent, guardian or legal custodian shall be notified.

E. Juvenile Drinking Violations

1. Officers coming into contact with juveniles who have illegally consumed or are in possession of intoxicants will take enforcement action.

F. Release of Juveniles that have been drinking.

1. Juveniles determined to have consumed alcohol shall be released using the following guidelines:
 - a. Parent or legal guardian
 - b. Adult relative
 - c. Responsible adult
 - d. Child Protective Services contacted for release/detainment.