

Temporary Custody of Juveniles

901.1 PURPOSE AND SCOPE

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

901.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

Juvenile offender - A juvenile 17 years of age or younger who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (§ 41-5-103, MCA). It also includes an offense relating to handgun possession by a minor (18 USC § 922; 28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other department member at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication, is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (§ 41-5-350, MCA).

Safety checks - Direct visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of juveniles in temporary custody.

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

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

901.2 POLICY

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

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901.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit certain behaviors or conditions should not be held at the Bozeman Police Department. These include:

- (a) Unconsciousness or having been unconscious while being taken into custody or transported.
- (b) Serious injuries or a medical condition requiring immediate medical attention.
- (c) A suspected suicide risk or showing obvious signs of severe emotional or mental disturbance.
 - 1. If the officer taking custody of a juvenile believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or transfer to an appropriate facility is completed.
- (d) Significant intoxication or showing signs of having ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (e) Extremely violent or continuously violent behavior.
- (f) Afflicted with, or displaying symptoms of, a communicable disease that poses an unreasonable exposure risk.

Officers taking custody of a juvenile exhibiting any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and should notify a supervisor of the situation. These juveniles should not be held at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

901.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Bozeman Police Department when there is no other lawful and practicable alternative to temporary custody.

Juveniles taken into custody shall be held in non-secure custody locations such as the Juvenile Lounge or Interview Suite, unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent, legal guardian, or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable. In no event shall a juvenile be held beyond six hours from the time of his/her entry into the Department (34 USC § 11133; § 41-5-349, MCA).

901.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Non-offenders taken into protective custody should generally not be held at the Bozeman Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be held in secure custody (34 USC § 11133; § 41-5-350, MCA).

901.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by a promise to appear or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if

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requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders may not be held in secure custody (34 USC § 11133; § 41-5-350, MCA).

901.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Bozeman Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

A juvenile offender may be taken into custody based upon a court order, probable cause that the juvenile offender committed an act that would justify the arrest of an adult and there is concern for the safety of the offender or the public if the juvenile were not taken into custody, or the juvenile violating a condition of a home placement program (§ 41-5-321, MCA).

Juvenile offenders taken into custody should generally be released to a responsible person after being issued a written promise to appear in court (§ 41-5-322, MCA).

Officers should notify a juvenile probation officer as soon as practicable when further detention of a juvenile offender may be warranted. This includes the following circumstances (§ 41-5-341, MCA; § 41-5-322, MCA):

- (a) A responsible person cannot be located to take custody of the juvenile offender and the juvenile may be in need of shelter care.
- (b) The juvenile is in custody for an alleged offense enumerated in § 41-5-206, MCA that could result in the prosecution of the offender as an adult.
- (c) The juvenile has escaped from a correctional facility or secure detention facility.
- (d) The juvenile has violated a valid court order or the terms and conditions of a conditional release agreement.
- (e) Further detention appears necessary to protect persons or property.
- (f) The juvenile has a pending court or administrative action or is awaiting a transfer to another jurisdiction and may abscond or be removed from the jurisdiction of the court.
- (g) There are reasons to suspect the juvenile offender will not appear for court when required.
- (h) The juvenile meets other criteria established by the juvenile court for detention.

901.5 ADVISEMENTS

Juveniles must be advised of their right against self-incrimination and their right to counsel when taken into custody for questioning regarding an offense or a suspected need for intervention (§ 41-5-331, MCA).

Parents, guardians, or legal custodians of a juvenile taken into custody shall be advised as soon as practicable of the reason for the custody and where the juvenile is being held. If the parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or friend chosen by the juvenile shall be notified (§ 41-5-331, MCA).

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901.6 JUVENILE CUSTODY DOCUMENTATION

Any time a juvenile is in temporary custody at the Bozeman Police Department, the custody shall be promptly and properly documented, including:

- (a) Identifying information about the juvenile.
- (b) Date and time of arrival and release from the Department.
- (c) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.
- (d) Any changes in status (e.g., emergency situations, unusual incidents).
- (e) Any medical and other screening requested and completed.
- (f) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

901.7 NO-CONTACT REQUIREMENTS

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

In situations where brief or accidental contact may occur, a member of the Department shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

901.8 TEMPORARY CUSTODY REQUIREMENTS

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

- (a) No juvenile is held at the Department more than six hours.
- (b) Significant activities are properly documented.
- (c) Juveniles are consistently and directly monitored at all times.
- (d) A member of the same sex will supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (e) There is reasonable access to toilets and wash basins.
- (f) There is reasonable access to a drinking fountain or water.
- (g) Food is provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile.
- (h) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (i) There is privacy during family, guardian, and/or attorney visits.

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- (j) Juveniles are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (k) Adequate shelter, heat, light, and ventilation are provided without compromising security or enabling escape.
- (l) Adequate furnishings are available, including suitable chairs or benches.
- (m) Discipline is not administered to any juvenile, nor will juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse.

901.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

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

Juveniles in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

901.9.1 PREGNANT JUVENILES

Juveniles who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

901.10 PERSONAL PROPERTY

The personal property of a juvenile shall be processed in the same manner as an adult in temporary custody (see the Temporary Custody of Adults Policy).

901.11 SECURE CUSTODY

Juvenile offenders may not be placed in secure custody (§ 41-5-350, MCA).

901.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Patrol Division Commander will ensure procedures are in place to address any suicide attempt, death, or serious injury of any juvenile held at the Bozeman Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Shift Supervisor, Chief of Police, and Detective Division Commander
- (c) Notification of the parent, guardian, or person standing in loco parentis of the juvenile
- (d) Notification of the appropriate prosecutor

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- (e) Notification of the City Attorney
- (f) Notification of the Coroner
- (g) Notification of the juvenile court
- (h) Evidence preservation

901.13 INTERVIEWING OR INTERROGATING

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

901.14 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING

A juvenile offender may be fingerprinted or photographed for criminal identification purposes if the custody is based on an act that would be a felony if committed by an adult or pursuant to a court order (§ 41-5-1206, MCA).

901.15 TRAINING

Department members should be trained on and familiar with this policy and any supplemental procedures.