



# MIDDLETON POLICE DEPARTMENT

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POLICY  
**6.6.01**

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## Contents

<b>Juvenile Operations Function</b> .....	<b>2</b>
Commitment .....	2
Shared Responsibility .....	2
Placement in Organization Structure .....	2
<b>Juvenile Offenders</b> .....	<b>2</b>
Alternatives When Dealing with Juvenile Offenders .....	2
Criteria and Procedures for Issuing Citations and SACs .....	3
Juvenile Statute Arrest Complaint (jSAC).....	4
Referral of Juveniles to Dane County Juvenile Court .....	4
<b>Taking Juveniles into Custody</b> .....	<b>5</b>
Criteria for Taking Juvenile into Custody .....	5
Procedures for Juveniles Who have been taken into Custody .....	5
<b>DNA Collection</b> .....	<b>6</b>
<b>Custodial Interrogation of Juveniles</b> .....	<b>7</b>
<b>Police-School Procedures and Liaison Program</b> .....	<b>8</b>
General Procedures .....	8
School Initiated Investigations.....	8
Police Initiated Investigations.....	9
Interrogation of Students in School .....	9
Custodial Arrests at School.....	10
Search on School Grounds.....	10
School Liaison Officers (School Resource Officer) .....	11

## **Juvenile Operations Function**

### ***Commitment***

The Middleton Police Department will develop and implement policies and procedures relating to department functions and operations involving juveniles, and support programs which are directed towards the prevention and control of juvenile delinquency. Through these policies and programs, the department is able to impact the juvenile offenders in a timely manner with a specialized approach which clarifies for the offender the level of accountability which society expects. In holding the offender accountable for their actions, both society and the offender benefit. Procedures will conform to the State of Wisconsin Juvenile Code.

### ***Shared Responsibility***

The responsibility for participating in or supporting the department's juvenile operations function is shared by all department components and personnel.

### ***Placement in Organization Structure***

The Investigative Services Bureau is responsible for the Juvenile Operations function. The functions to be performed include but are not necessarily limited to:

- A. Designing and implementing programs intended to prevent and control delinquent and criminal behavior by juveniles;
- B. Follow up processing of juvenile offenders.

## **Juvenile Offenders**

### ***Alternatives When Dealing with Juvenile Offenders***

#### **A. General Alternatives**

Officers dealing with juvenile offenders should use the least restricted reasonable alternative, while preserving public safety, order and individual liberty. Beyond outright release with no further action, juvenile offenders may be dealt with in one of the following ways:

1. Warnings may be used when a delinquent act committed by a juvenile is remedied by the responding officer in the field without formal processing. In such cases, an incident report should be completed with the offending juvenile's involvement code listed as warned or a warning notice issued. Warnings serve to notify the juvenile and his/her parents of the violation and will result in an entry on the juvenile's contact record.
2. Citations – Wisconsin Non-Traffic Citation (NTC) and Uniform Traffic Citations (UTC) may be issued to juvenile and underage offenders.
3. Juvenile State Arrest Complaint (jSAC) may be issued for any state or federal statute violation.

4. See also Policy 1.7.04 Arrest Procedures & Alternatives.

B. Factors to consider when determining enforcement action:

1. The age, maturity, and family situation of offender.
2. The nature and seriousness of the offense.
3. The offender's criminal history.
4. The availability of community-based programs.
5. Recommendations from complainants or victims.

***Criteria and Procedures for Issuing Citations and SACs***

A. All Offenses Under 12 YOA

1. Warning
2. jSAC

B. Section I Traffic Offense 12-15 YOA

1. Warning
2. UTC into Municipal Juvenile Court (same deposit schedule as adults)

C. Section II Traffic Offense Under 16 YOA

1. Warning
2. UTC - write the juvenile into County Juvenile Court. The citation should read Dane County Juvenile Court.

D. Traffic Violators 16 YOA and Older

1. Section I and II traffic violators 16 and older are issued UTCs in the same manner, into the same courts, with the same deposit amounts as adults.

E. Municipal Ordinance Violations 12-16 YOA

1. Warning
2. NTC to cite into Municipal Juvenile Court. Use the same deposit schedule as for adults for any ordinance, except those status offenses which do not have a statutory counterpart.

F. Municipal Ordinance Violations 17 and older

1. Warning
2. NTC to Municipal Adult court. Use the adult court date/time.

G. Underage Alcohol Violation

1. Under 11 YOA and younger – jSAC
2. In City, 12 YOA through 16 YOA use NTC to cite into Municipal Juvenile Court. The deposit amount is contingent upon the number of convictions within 12 months.
3. In City, 17 YOA through 20 YOA use NTC to cite into Middleton Municipal Court (Adult). The deposit amount is contingent upon the number of convictions within 12 months.
4. Out of City, 12 YOA through 16 YOA use NTC, select “Not a Middleton Ordinance Violation” and then choose appropriate State Statute violation for Alcohol Violations to cite into Dane County Juvenile Court. The deposit amount is contingent upon the number of convictions within 12 months.
5. Out of City, 17 YOA through 20 YOA use NTC, select “Not a Middleton Ordinance Violation” and then choose appropriate State Statute violation for Alcohol Violations to cite into Dane County Adult Circuit Court. The deposit amount is contingent upon the number of offenses within 12 months.

#### H. Criminal Offense - All Juveniles

1. 16 and under Juvenile Statute Arrest Complaint – jSAC
2. 17 and older adult Statute Arrest Complaint – SAC

#### ***Juvenile Statute Arrest Complaint (jSAC)***

A Juvenile Statute Arrest Complaint form is required for all juvenile criminal misdemeanors and felonies. The form need not be used for ordinance violations.

#### ***Referral of Juveniles to Dane County Juvenile Court***

The referral of alleged juvenile offenders for formal legal proceedings in the Dane County Juvenile Court are restricted to those cases involving serious criminal conduct or repeated criminal violations. In general, delinquent acts requiring referral to the Dane County Juvenile Court would include but are not limited to:

- A. Felonies;
- B. All delinquent acts involving weapons;
- C. All serious gang-related delinquent acts;
- D. Aggravated assault or battery;
- E. All delinquent acts committed by juveniles on probation or parole, in non-secure custody, under court supervision or by those with a case pending in Dane County Court; and
- F. Repeated delinquent acts (within the preceding 12 months).

## **Taking Juveniles into Custody**

### ***Criteria for Taking Juvenile into Custody***

The Wisconsin Children's Code (Chapter 48) provides that a child shall not be taken into immediate custody unless one or more of the situations listed in [48.19\(1\)](#) exists (Capias, Warrant, Court Order, Law or Ordinance Violation, Run Away, Immediate Danger, or violated terms of supervision or custody). In addition, if an officer reasonably believes that a child is under the influence of alcohol or controlled substances, at a minimum, the juvenile should be taken into custody and delivered to his/her parent, other responsible adult, or seek medical attention if appropriate. When dealing with juvenile offenders, officers will make the entire process as expeditious as safely possible.

### ***Procedures for Juveniles Who have been taken into Custody***

#### **A. Constitutional Rights**

Officers taking a juvenile into custody shall ensure that the juvenile's constitutional rights are protected.

#### **B. Notification of Parent/Guardian**

It shall be the responsibility of the officer taking a child or 17 year-old adult into custody to notify the child's or 17 year-old adult's parents or legal guardian as soon as possible. Such notification or unsuccessful attempts at notification shall be properly documented in an incident report. Include notations of the time and manner of notification. The arresting officer shall be diligent to ensure that parental notification is ultimately made, even if the child is released to another adult. When a child is transferred to the Juvenile Reception Center and notification has not yet been made, the apprehending officer should advise Reception Center employees of this fact, so they may continue efforts to notify parents.

#### **C. Release from Custody**

It shall be the policy of this department to release any juvenile taken into custody to a parent, foster parent, legal guardian or other responsible adult whenever possible. Under this policy, a juvenile may be released, upon execution of a juvenile release form, to an adult which the apprehending officer believes is capable of accepting responsibility for the care and control of that juvenile. After making every reasonable effort to secure release to a responsible adult, a child 15 years of age or older may be released without immediate adult supervision provided the child is not under the influence of alcohol or drugs or is not injured. The circumstances of such a release should be documented in the report.

#### **D. Transferring Custody to Juvenile Reception Center or Dane County Human Services (DCHS)**

Typically, juvenile offenders will be released to their parents after processing. However, JRC or DCHS placement may be considered under the following circumstances:

1. Endangered - immediate health or welfare concerns;
2. Presents substantial risk of harm to himself or herself, another or property;
3. Committed a serious violent crime or used a weapon in the commission of a crime;
4. Committed a crime while under non-secure custody or Court-Ordered Supervision;
5. Warrant, Capias, Fugitive or Judicial Order;
6. Committed a crime and will run away or be taken away so as to be unavailable for proceedings of the Dane County Juvenile Court;
7. Committed a felony and there is significant doubt as to the true identity of the child;
8. The child was lawfully taken into custody, but no responsible adult can be located to take custody and outright release is inappropriate. (A child under the influence of alcohol or drugs may need to be taken to receive medical attention prior to JRC or DCHA placement).

In these situations, or when in doubt, please consult with the Juvenile Reception Center or Dane County Human Services. If it is determined that the juvenile is to be transported to the detention center, the transportation shall be done as expeditiously as possible.

### **DNA Collection**

Pursuant to [2013 Wisconsin Act 20](#), law enforcement officers are required to collect DNA samples of juveniles who are taken into custody for a violent crime as defined in [Wisconsin State Statue 165.84 \(7\)\(ab\)](#) or for juvenile offenders found guilty of any misdemeanor on or after April 1, 2015. The collection of a DNA sample for juveniles taken into custody under the provisions of Act 20 will be collected in the following manner:

- A. Middleton Police Officers will collect DNA samples of juvenile offenders who are taken into custody and who fall under the provisions of Act 20. Officers shall follow the instructions, recommendations, and requirements which have been established by the Wisconsin Department of Justice.
  1. If a juvenile in custody refuses to cooperate in the DNA collection process, the police can charge them in violation of [Wisconsin State Statue 946.52 – Failure to Submit a Biological Specimen](#).
  2. The police can also use “reasonable force” to collect a DNA sample at the time of custody and an immunity provision exists for when reasonable force is used. For situations where the juvenile who is in custody fails to cooperate, and where the collection of a DNA sample will be difficult to obtain, a court order should be acquired to force a blood draw.

- B. DNA samples of juvenile offenders shall be placed in the processing lockers located in the evidence processing room for submission to the Wisconsin DNA Database.
- C. The Juvenile Reception Center (JRC) will not be collecting DNA samples for juveniles being booked into their facility. Officers should make every effort to collect DNA samples from juveniles who are in custody prior to them being transferred to JRC. If prior DNA collection is not possible, JRC will provide DNA collection kits to officers as needed.
- D. Occasionally members of the Middleton Police Department may come into contact with a juvenile who is required to provide a DNA sample; however, are not under arrest for any violent crime. In these situations, the juvenile should be provided with instructions on how to contact the Dane County Sheriff's Department to have their DNA sample taken and should not be taken into custody.

### **Custodial Interrogation of Juveniles**

The Miranda rule applies to juveniles in a fashion similar to adults. Miranda warnings are required in any custodial interrogation for a crime. The Miranda warnings are not required for non-criminal investigations and are not required when the interrogation is not "custodial". Any time a juvenile in custody is questioned as a suspect in a matter which involves a violation of state or federal criminal law, the juvenile shall be advised of his/her Miranda Rights. A juvenile does not have an absolute right to have a parent present during questioning. Nonetheless, the presence of a parent may assist the prosecution in demonstrating that a confession was knowingly and voluntarily given. Unless there is a compelling reason not to, the child should be notified that the child may have a parent present during questioning and a requesting parent should be allowed to consult with their child.

The procedures used by Officers when processing a juvenile will be explained to the juvenile as the process progresses by the arresting or interrogating officer.

The parent or legal guardian of any juvenile taken into custody will be contacted as soon as practical by the officer making the arrest, regardless of whether the juvenile is going to be interrogated or not.

Not more than two officers will be directly involved in an interrogation at any time. The mere presence of three or more officers in a field situation is not prohibited, but when practical, the number of officers should not exceed the number necessary to control the situation.

Any custodial questioning of juveniles (persons under 17 years of age) for an offense that could be a crime if prosecuted under State Statute must be recorded. See Policy 6.3.06 Recorded Interviews.

Interrogations should not last longer than is necessary to gain adequate information on the matter of concern. In no case should an interrogation last longer than three hours without supervisory approval. In such a case, the supervisor should assess the matter with the following factors considered before permitting continuance:

1. Juvenile's age, maturity, intelligence, education, and prior experience with the law;
2. Location of interview;
3. Gravity of the offense.

## **Police-School Procedures and Liaison Program**

### ***General Procedures***

School officials will cooperate with appropriate law enforcement agencies regarding the investigation, interrogation, arrest and search of students on school property or in the school building according to established procedure. The Police Officer is responsible for areas where violations of the law have occurred and should not be used as an arm of the school discipline. The following guidelines provide the parameters as to when officers can assist the school:

- A. School officials are to make attempts to resolve problems before involving the police officer.
- B. Police officers can act as a counselor for students who have questions or concerns about the law and how it affects them.
- C. Police officers can assist school personnel in providing classroom presentations and discussions with students on legal issues, the police profession, and other pertinent information.
- D. Police officers can assist school officials in referring students to other social agencies when the need warrants.
- E. Police officers may assist teachers, administrators, and other personnel in understanding the law, referral procedures, and other pertinent information.
- F. The police officer is not to deal with issues that are the responsibilities of school officials, such as school discipline.
- G. The police officer is to deal with issues considered criminal activities such as serious assaults, drugs, guns or weapons, loitering, extortion, theft, alcohol, burglaries, etc.
- H. Police officers can be invited to faculty meetings and/or other meetings or committees upon the request of school officials.
- I. Police officers shall make every effort to conduct their non-school business with students at times other than class times except with the permission of the parents or guardians, unless a warrant for the student's arrest or an official order by a judge of a children's court is presented, or the police officer has probable cause to arrest for a felony or misdemeanor as provided under Wisconsin Statutes 48.19, and/or emergency detention requirements under 51.15.

### ***School Initiated Investigations***

A principal or designee may exercise his/her discretion in determining whether to request assistance of police if there is reasonable cause to believe a crime may occur or has occurred at his/her school during school hours or school activities.

If the principal or designee requests assistance, the officer may conduct an investigation within the school building and interview students as possible witnesses in school during school days.

The principal or his/her designee shall be present during the interview unless the student requests that they not be there.

If the investigation focuses on a particular student as a prime suspect of a crime, the principal or designee and the officer will follow the general guidelines herein set forth with respect to interrogation, search and arrest.

### ***Police Initiated Investigations***

Regarding incidents that occurred outside of school premises, officers will make every effort to interview students outside of school hours and outside of a school setting. This procedure will not apply to circumstances where serious crimes are involved or where imminent threats to persons or property are involved.

If the police deem it necessary to interview students at school, the Police Department shall first contact the principal or his/her representative regarding the planned visit and inform the principal and/or his designee of the probable cause to investigate within the school and obtain his/her approval. The officer shall not commence his/her investigation until such approval is obtained, unless exigent circumstances exist.

If the principal or his/her designee is unavailable in the elementary school, such permission may be secured from the superintendent's office. The Police Department may appeal to the superintendent if it is deemed that approval was unreasonably withheld. The principal or his/her designee shall be present during the interview unless the student requests they not be there. Before investigation, if criminal prosecution is contemplated, the officer shall advise the student of the nature of the crime of which he or she is suspected, and advise the student of their rights based on current federal and state law and department policy. The school officials or parents cannot waive these rights on behalf of the student.

### ***Interrogation of Students in School***

If a principal has requested assistance by the Police Department to investigate a crime involving his/her school building or students, the police shall have permission to interview student suspects or witnesses in school during school hours. The principal or his/her designee or the police shall first notify a parent. The principal or designee shall be present unless the student requests otherwise.

Before interviewing, the police officer shall advise the student of the nature of the matter under investigation, and in the case of a custodial interrogation for a crime, advise the student of his/her Miranda Rights. The school officials or parents cannot waive these rights on behalf of the student.

If criminal prosecution is contemplated by the Police Department, officers and/or school officials will attempt contact with parents or guardians of the child prior to the interrogation. This does not apply to non-criminal investigations, where the student unexpectedly admits to a criminal offense.

If the police deem it necessary to interrogate students at school, the police shall first contact the principal or his/her designee regarding the planned interrogation, inform the principal of the necessity to interrogate the child within the school, and obtain the principal's or his/her designee's approval. The police officer shall not commence his/her investigation until such approval is obtained. Under circumstances where the principal or his/her designee is not available to provide such approval, the approval may be obtained from the superintendent's office. If the police believe approval is unreasonably withheld, an appeal may be made to the superintendent. The principal or his/her designee shall be present during the interview unless the student/parent requests they not be there.

If upon interrogation relating to school matters, the principal or his/her designee has reason to believe that a crime has been committed and/or desires police involvement, he/she shall immediately contact the police. When the investigation is turned over to the police, the constitutional safeguards shall begin.

When a child is interviewed as a victim of abuse or neglect, a parent or guardian need not be notified or involved if such might compromise or hinder the investigation.

### ***Custodial Arrests at School***

No police officer shall arrest or take custody of any student in school during school hours except with permission of the principal or his/her designee, or when the officer has "Probable Cause" to arrest for a felony or misdemeanor, or there is an arrest warrant or juvenile commitment order, or other exigent circumstances that would require an immediate arrest.

In cases where the student is to be taken into custody, the police officer shall first contact the principal and advise him/her of such fact. If safety permits, the student shall first be summoned to the office by the principal or his/her designee.

In emergency situations or when a police officer is in fresh pursuit of a student for such a crime, the police shall have the legal right to apprehend such student without first notifying the principal, if necessary. However, when removing such juvenile from the school grounds, the police officer shall inform the principal or his/her designee and the parents of such apprehension, as soon as practical.

The parents or legal guardians of the student should be notified immediately thereof by the principal or his/her designee. It is of course incumbent upon the police to notify parents immediately after an arrest of a student is made.

### ***Search on School Grounds***

A school principal or their designee may conduct a search of a student and their belongings, to include the student's desk, locker(s) or vehicle parked on school property, if they have reasonable suspicion to believe that the search will yield contraband, evidence of a school rule violation, ordinance violation, or crime. The police may be the source of information on which

the reasonable suspicion is based. A principal or designee may verbally request police assistance with the execution of reasonable suspicion searches, but officers should not otherwise become actively involved. If police assistance is sought, the request itself should be unambiguous and well-articulated in the officer's report. Any contraband discovered during a school's reasonable suspicion search is subject to prosecution.

Police officers are also authorized to search a student's person on school grounds incident to a lawful arrest, with probable cause, a warrant, consent, or through another court established exception.

### ***School Liaison Officers (School Resource Officer)***

The school has a unique opportunity to perceive and analyze the problems of children before they become a serious problem for society. With this unique opportunity, it is important that schools work closely with the police and other social agencies to prevent and resolve anti-social patterns of behavior. The Police-School Liaison Program is established on a cooperative basis to work with our youths in detecting and preventing anti-social behavior through proper education, communication, and understanding between the school, police, youth, and the family. The School Liaison Officers have the following responsibilities:

- A. Decrease the amount of future crime by a concentrated crime prevention effort aimed at students;
- B. Providing guidance on ethical issues in a classroom setting;
- C. Providing individual counseling to students;
- D. Explaining the law enforcement role in society;
- E. Facilitate the reporting of crimes committed against youths and their property;
- F. Promote a sense of safety, enforce laws, and investigate crimes committed in or near assigned schools;
- G. Proactively provide pertinent information to officers and assist officers in their investigations, consistent with school and police policies; and
- H. Help youths and adults view the Police Department as a helping agency with the responsibility to protect and serve all citizens.