

Policy 324 Temporary Custody of Juveniles

324.1 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 Mountlake Terrace Police Department (34 USC § 11133).

324.1.1 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) or a juvenile who has violated RCW 9.41.040(2)(a) by possessing a handgun (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other custody employee 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.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

Examples of secure custody include:

- a. A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- b. A juvenile handcuffed to a rail.
- c. A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- d. A juvenile being processed in a secure booking area when an unsecure booking area is available.
- e. A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- f. A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- g. A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

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, or truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

324.2 POLICY

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

324.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Mountlake Terrace Police Department:

- a. Unconscious
- b. Seriously injured
- c. A known suicide risk or obviously severely emotionally disturbed
- d. Significantly intoxicated
- e. Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation.

These juveniles should not be held at the Mountlake Terrace Police Department unless they have been evaluated by a qualified medical and/or mental health professional.

If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release or a transfer is completed.

324.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Mountlake Terrace Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile who is suspected of being a victim.

No juvenile should be held in temporary custody at the Mountlake Terrace Police Department without authorization of the arresting officer's supervisor or the Shift Sergeant. Juveniles taken into custody shall be held in non-secure custody 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 and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Mountlake Terrace Police Department (34 USC § 11133; RCW 13.04.116(b)).

324.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Mountlake Terrace 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).

324.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if 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; RCW 43.185C.260).

324.4.3 CUSTODY OF JUVENILE OFFENDERS

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

Generally, juvenile offenders may be taken into custody under the following circumstances (RCW 13.40.040(1)):

- a. Pursuant to a court order.
- b. Without a court order, by an officer if grounds exist for the arrest of an adult in identical circumstances.
- c. When his/her parole has been suspended.

324.4.4 LIMITATIONS ON RELEASE OF JUVENILE OFFENDERS

Juveniles should be referred to the appropriate juvenile authority and not released to a parent or guardian when there is probable cause to believe the juvenile (RCW 13.40.040(2)):

- a. Will likely fail to appear for further proceedings.
- b. Needs protection from him/herself.
- c. Is a threat to community safety.
- d. Will intimidate witnesses or otherwise unlawfully interfere with the administration of justice.
- e. Has committed a crime while another case was pending.
- f. Is a fugitive from justice.
- g. Has had his/her parole suspended or modified.
- h. Is a material witness.

324.4.5 VICTIMS OF SEXUAL EXPLOITATION

An officer may take a juvenile into custody to investigate possible sexual exploitation when the officer reasonably believes the juvenile is attempting to engage in sexual conduct for money or anything of value (RCW 43.185C.260).

In these cases, the officer should transport the juvenile to an authorized evaluation and treatment facility in coordination with a community service provider (RCW 43.185C.260) (see the Child Abuse Policy for any mandatory notification requirements).

324.5 ADVISEMENTS

When a juvenile offender is taken into custody, the officer should, as soon as practicable, notify the juvenile's parent, guardian, or a responsible relative that the juvenile is in custody.

Juveniles taken into custody should be advised the reason for the custody (RCW 43.185C.265).

324.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Mountlake Terrace Police Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

- a. Identifying information about the juvenile being held.
- b. Date and time of arrival and release from the Mountlake Terrace Police Department.
- c. Shift Sergeant notification and approval to temporarily hold the juvenile.
- d. Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender.
- e. Any changes in status.
- f. Time of all welfare checks.
- g. Any medical and other screening requested and completed.
- h. Circumstances that justify any secure custody.
- i. Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Shift Sergeant shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

324.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Mountlake Terrace 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 (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Mountlake Terrace Police Department shall maintain a constant, immediate 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.

324.8 TEMPORARY CUSTODY REQUIREMENTS

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

- a. The Shift Sergeant should be notified if it is anticipated that a juvenile may need to remain at the Mountlake Terrace Police Department more than four hours. This will enable the Shift Sergeant to ensure no juvenile is held at the Mountlake Terrace Police Department more than six hours.
- b. Welfare checks and significant incidents/activities are noted on the log.
- c. Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
 1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- d. A member of the same sex shall 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 should be 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 restrained in any way.
- i. There is privacy during family, guardian, and/or attorney visits.
- j. Juveniles are generally permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.

- k. Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
 - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- l. Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
- m. Adequate furnishings are available, including suitable chairs or benches.
- n. Juveniles shall have the right to the same number of telephone calls as an adult in custody (see the Temporary Custody of Adults Policy).
- o. Discipline is not administered to any juvenile, nor will juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse.

324.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Mountlake Terrace Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Shift Sergeant. 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 juveniles or monitored in such a way as to protect the juvenile from abuse.

324.10 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).

324.11 SECURE CUSTODY

Only juvenile offenders 14 years and older may be placed in secure custody. Shift Sergeant approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others.

Members of this department should not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option.

When practicable, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody, rather than the use of a locked enclosure. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object.

Generally, juveniles should not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter. Supervisor approval should be documented.

324.11.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

- a. The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- b. Juveniles shall have constant auditory access to department members.
- c. Initial placement into and removal from a locked enclosure shall be logged.
- d. Random personal visual checks of the juvenile by a staff member, no less than every 15 minutes, shall occur.
 1. All checks shall be logged.
 2. The check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
 3. Requests or concerns of the juvenile should be logged.
- e. Males and females shall not be placed in the same locked room.
- f. Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- g. Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

324.12 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY OF A JUVENILE

The Operations Division Commander will ensure procedures are in place to address the suicide attempt, death or serious injury of any juvenile held at the Mountlake Terrace Police Department. The procedures will address:

- a. Immediate request for emergency medical assistance if appropriate.
- b. Immediate notification of the on-duty supervisor, Chief of Police and Investigations Division supervisor.
- c. Notification of the parent, guardian or person standing in loco parentis, of the juvenile.
- d. Notification of the appropriate prosecutor.
- e. Notification of the City Attorney.
- f. Notification of the [Medical Examiner].
- g. Notification of the juvenile court.
- h. Evidence preservation.

324.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

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.

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an officer shall permit a juvenile 17 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (RCW 13.40.740):

- a. There is a belief that the juvenile is a victim of trafficking as defined by RCW 9A.40.100.
- b. Information is necessary to protect an individual's life from an imminent threat.
- c. A delay to allow legal consultation would impede the protection of an individual's life from imminent threat.
- d. The questions are limited to what is reasonably expected to obtain the information necessary to protect an individual's life from an imminent threat.

After a consultation, any assertion of constitutional rights by the juvenile through legal counsel must be treated as though it came from the juvenile. The waiver of any constitutional rights of the juvenile may only be made according to the requirements of RCW 13.40.140 (judicial rights) (RCW 13.40.740).

324.13.1 RECORDING OF INTERVIEWS OR INTERROGATIONS

Interrogations or interviews of juvenile suspects shall be recorded when conducted at a place of detention (RCW 10.122.020; RCW 10.122.030). See the Investigation and Prosecution Policy for specific recording requirements.

324.14 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING

A juvenile offender may be photographed and fingerprinted as provided by RCW 43.43.735.

324.15 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Officers of this department shall not divulge any information regarding juveniles in situations where they are uncertain of the legal authority to do so.

324.15.1 RELEASE OF INFORMATION PURSUANT TO WASHINGTON LAW

Juvenile records are confidential and may be released only as provided in RCW 13.50.010 and RCW 13.50.050:

- a. Information may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile is being pursued by the other participant, or when that other participant is assigned the responsibility for supervising the juvenile.
- b. Information not in the juvenile court file that could not reasonably be expected to identify the juvenile or the juvenile's family may be released.
- c. Following the decision to arrest, information about an investigation, diversion or prosecution of a juvenile, including an incident report, may be released to the school in which the juvenile is enrolled to assist in protecting other students, staff and school property.
- d. Information about a juvenile offender, the offender's parent or guardian and the circumstances of the crime may be released to the victim or the victim's immediate family.
- e. Information identifying child victims of sexual assault committed by juvenile offenders may be released only with the permission of the child victim or legal guardian.
- f. A court may permit certain juvenile records to be released by rule or order.

It shall be the responsibility of the Special Services Sergeant and the appropriate Investigations Division supervisors to ensure that personnel of those bureaus act within legal guidelines.

324.16 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).