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## Temporary Custody of Juveniles

### 1105.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody deputies of the Montgomery County Sheriff's Office.

This policy applies to the period a juvenile is held in temporary custody before a court order is obtained for continued custody in a non-secure or secure location or facility and any other time a juvenile is otherwise lawfully in the temporary custody or protection of the Office. This policy does not expand the authority or ability of members to otherwise assume custody of a juvenile.

In this policy the terms non-secured hold and secure hold refers to the manner in which the juvenile is held and not the type ordered by the court.

#### 1105.1.1 DEFINITIONS

Definitions related to this policy include:

**Juvenile** - A person under the age of 18 who is neither married, emancipated nor in the military.

**Juvenile non-offender** - An abused, neglected, dependent or alien juvenile who may be legally held for his/her own safety or welfare.

**Juvenile offender** - A juvenile age 6 to 15 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes an offense for a juvenile possessing a handgun.

**Non-secure hold** - When a juvenile is held in the presence of a deputy at all times and is not placed in a locked room, cell or behind any locked doors. Juveniles in non-secure hold 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.

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

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

Examples include when a juvenile is:

- (a) Left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) Handcuffed to a rail.

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- (c) Placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) Being processed in a secure booking area when a non-secure booking area is available.
- (e) Left alone in a secure booking area after being photographed and fingerprinted.
- (f) Placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

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

**Status offender** - A juvenile under the age of 18 suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender or an undisciplined juvenile. Examples may include running away, underage possession of tobacco, curfew violation, some motor vehicle offenses and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

**Temporary custody** - The period prior to a petition and court order for continued custody in which the Montgomery County Sheriff's Office has physical custody of and is providing personal care and supervision to a juvenile. This temporary custody may be in the form of a secure or non-secured hold as defined in this policy.

#### **1105.2 POLICY**

The Montgomery County Sheriff's Office is committed to releasing juveniles from temporary custody as soon as reasonably practicable and to keeping juveniles safe while in temporary custody at the Office. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

#### **1105.3 JUVENILES WHO SHOULD NOT BE HELD**

Juveniles who exhibit certain behaviors or conditions should not be held at the Montgomery County Sheriff's Office. These include but not limited to:

- (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 (see the Involuntary Commitments Policy).
  - 1. If the deputy taking custody of a juvenile believes that he/she may be a suicide risk, the deputy 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.

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

#### **1105.4 CUSTODY OF JUVENILES**

Deputies should take custody of a juvenile and temporarily hold the juvenile at the Montgomery County Sheriff's Office 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 of abuse.

Deputies who have cause to hold a juvenile in temporary custody at the Office should notify the shift supervisor. Juveniles taken into temporary custody shall be held in a non-secure hold 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. Absent extraordinary circumstances a juvenile should not be held beyond six hours from the time of his/her entry into the Office. Deputies should consider referring the juvenile to appropriate community resources.

If a juvenile is not released to a parent, guardian or custodian because the investigating deputy reasonably believes continued custody is appropriate, the deputy shall seek a petition and communicate with the juvenile court counselor as soon as practicable so that a determination of continued custody may be made.

##### **1105.4.1 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 Montgomery County Sheriff's Office. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be in a secure hold.

##### **1105.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS**

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, deputies 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 in a secure hold.

A deputy may take a juvenile status offender into temporary custody without a court order if there are reasonable grounds to believe that the juvenile is an undisciplined juvenile.

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#### **1105.4.3 CUSTODY OF JUVENILE OFFENDERS**

Juvenile offenders should be in a non-secure hold while at the Montgomery County Sheriff's Office unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

A juvenile offender may be taken into temporary hold with or without a court order if grounds exist for the arrest of an adult in identical circumstances.

#### **1105.5 ADVISEMENTS**

A juvenile's parent, guardian or custodian shall be advised of the following when a juvenile is taken into temporary custody:

- (a) That the juvenile has been taken into temporary custody.
  - 1. If the parent, guardian or custodian is present within 24 hours, written notice should be delivered to the parent, guardian or custodian. Otherwise, notice shall be mailed within 24 hours.
- (b) The parent, guardian or custodian has the right to be present with the juvenile until a determination is made as to whether he/she will be released to the parent, guardian or custodian.

If a juvenile is charged with a criminal offense but not taken into custody, the deputy shall notify the juvenile's parent or guardian of the charge as soon as practical either in person or by telephone. This notification is not required if the juvenile is charged with a motor vehicle moving violation for which three or fewer points are assessed, except for impaired driving.

When a juvenile is charged with or taken into custody for a felony offense, the Investigator shall notify the principal of the school and the school resource officer that the juvenile attends as soon as practicable but no later than five days after the charges are filed or that the juvenile was taken into custody. The notification may be in person or by telephone.

#### **1105.6 JUVENILE CUSTODY DOCUMENTATION**

Any time a juvenile is in temporary custody at the Montgomery County Sheriff's Office due to a criminal charge, the custody shall be promptly and properly documented in an incident report, which should include:

- (a) Identifying information about the juvenile.
- (b) Date and time of custody and release.
- (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) Circumstances that justify any secure hold.

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When a juvenile is taken into custody pursuant to a court order for secure or non-secure custody, the occurrence shall be documented in the CAD unless the aforementioned applies. When a deputy takes a juvenile into custody for a secure custody order, it is the responsibility of the custodial deputy to contact the on-call juvenile justice coordinator for immediate placement.

#### **1105.7 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Montgomery County Sheriff's Office. 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 Deputy or Detention officer 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.

#### **1105.8 TEMPORARY CUSTODY REQUIREMENTS**

Deputies and supervisors assigned to monitor or process any juvenile at the Montgomery County Sheriff's Office shall ensure: The shift supervisor is notified if it is anticipated that a juvenile may need to remain at the Office more than two hours. This will ensure no juvenile is held at the Office more than six hours.

- (a) Juveniles in custody are informed that they will be monitored at all times, with the exception of being visually monitored 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.
- (b) 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.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to drinking water.
- (e) 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.
- (f) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (g) There is privacy during family, guardian and/or attorney visits.
- (h) 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.
- (i) Juveniles have the right to the same number of telephone calls as an adult in temporary custody (see the Temporary Custody of Adults Policy).

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- (j) Discipline is not administered to any juvenile, nor will juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.

#### **1105.9 RELIGIOUS ACCOMMODATION**

Juveniles have the right to the same religious accommodation as an adult.

#### **1105.10 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 Montgomery County Sheriff's Office 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. 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.

##### **1105.10.1 PREGNANT JUVENILES**

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

#### **1105.11 SECURE HOLD**

Only juvenile offenders 14 or 15 years of age should be placed in secure hold.

A secure hold 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.

Deputies of this office should not use a secure hold for convenience when a non-secure hold 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 hold should be considered as the method of secure hold. A deputy 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.

Absent extraordinary circumstances a juvenile should not be held, including a secure hold, beyond six hours from the time of his/her entry into the Office.

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#### **1105.12 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY**

The shift supervisor will ensure procedures are in place to address any suicide attempt, death or serious injury of any juvenile held at the Montgomery County Sheriff's Office. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Field Services Director
- (c) Notification of the parent, guardian or person standing in loco parentis of the juvenile
- (d) Notification of the Medical Examiner, if applicable
- (e) Notification of the juvenile court counselor
- (f) On-Call Investigator, if needed

#### **1105.13 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.

Prior to questioning, a juvenile in custody must be advised of all of the following:

- (a) He/she has a right to remain silent
- (b) Any statement he/she does make can be and may be used against the him/her
- (c) He/she has a right to have a parent, guardian, or custodian present during questioning
- (d) He/she has a right to consult with an attorney and that one will be appointed if he/she is not represented and wants representation

No juvenile 13 years or younger should be interrogated while in custody unless the juvenile's parent, guardian, custodian or attorney are present.

If an attorney is not present, the parent, guardian or custodian as well as the juvenile must be advised of the juvenile's rights. A parent, guardian or custodian may not waive any right on behalf of the juvenile.

#### **1105.14 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING**

Fingerprints and photographs will only be taken of a juvenile in custody who was 10 years of age or older at the time he/she was alleged to have committed a non-divertible offense and only after a complaint has been prepared for filing as a petition.

The Records Section Supervisor shall ensure these fingerprints and photographs are destroyed upon notice from the chief court counselor that a decision was made not to file a petition, the court did not find probable cause or the court did not adjudicate the juvenile delinquent.