

Temporary Custody of Juveniles

312.1 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 Louisville Police Department (34 USC § 11133).

312.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for the juvenile's own safety or welfare. Juvenile non-offenders include a juvenile taken into protective custody for being under the influence or incapacitated by substances and clearly dangerous to the health and safety of the juvenile under CRS § 27-81-111, and any runaway taken into temporary custody under CRS § 19-3-401. 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 the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

Juvenile offender - A juvenile under 18 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (CRS § 19-1-103(21); CRS § 19-1-103(88)). Juvenile offenders include juveniles taken into custody for possession of a handgun under CRS § 18-12-108.5 (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.

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.

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.

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

312.2 POLICY

The Louisville 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 Louisville Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

312.3 JUVENILES WHO SHOULD NOT BE HELD

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

- 1. Unconsciousness or having been unconscious while being taken into custody or transported.
- 2. Serious injuries or a medical condition requiring immediate medical attention.
- 3. A suspected suicide risk or showing obvious signs of severe emotional or mental disturbance (see the Civil Commitments Policy).
 - 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.
- 4. Significant intoxication or showing signs of having ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- 5. Extremely violent or continuously violent behavior.
- 6. Afflicted with, or displaying symptoms of, a communicable disease that poses an unreasonable exposure risk.

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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 Louisville Police Department unless they have been evaluated by a qualified medical and/or mental health professional.

312.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Louisville 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 Louisville Police Department without authorization of the arresting officer's supervisor or the Shift Supervisor. 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. In no event shall a juvenile be held beyond six hours from the time of his/her entry into the Louisville Police Department (34 USC § 11133).

312.4.1 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 Louisville 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).

312.4.2 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).

312.4.3 CUSTODY OF JUVENILE OFFENDERS

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

312.4.4 PETTY OFFENSE TICKETS

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Offenders 10 years of age or older who have committed an offense that would be a petty offense or municipal ordinance violation if committed by an adult may be issued a petty offense ticket. The Louisville Police Department shall maintain annual data on the petty offense tickets issued, including the age, ethnicity, and gender of each juvenile ticketed and the disposition of each ticket (CRS § 19-2.5-208).

312.4.5 REQUIREMENTS FOR CUSTODY OF JUVENILE OFFENDERS

A juvenile offender may be taken into temporary custody (CRS § 19-2.5-209):

- a. When there are reasonable grounds to believe that the juvenile has committed a violation of a statute, ordinance, or court order that would subject an adult to an arrest.
- b. Pursuant to a lawful warrant issued by a court pursuant to CRS § 19-2.5-204.

A juvenile offender shall not be held longer than is reasonably necessary to obtain basic identification information and to contact the juvenile's parents, guardian, or legal custodian (CRS § 19-2.5-303).

The juvenile shall be released to the care of the juvenile's parents or other responsible adult unless a determination is made in accordance with CRS § 19-2.5-303 that the juvenile poses a substantial risk of flight from prosecution or of serious harm to others.

If the juvenile is not released to the care of the juvenile's parents or other responsible adult, the juvenile shall be taken directly to the court, a detention facility, or shelter designated by the court, or a preadjudication service program without unnecessary delay (CRS § 19-2.5-303).

As an alternative to taking a juvenile offender to a detention facility or shelter, an officer may, if authorized by policy of the court, serve a written promise to appear for juvenile proceedings upon the juvenile and the juvenile's parent, guardian, or legal custodian (CRS § 19-2.5-303).

When a juvenile is not released pending charges, the officer shall:

- Notify the screening team for the judicial district in which the juvenile was taken into custody (CRS § 19-2.5-303).
- Promptly provide to the court and to defense counsel the affidavit supporting probable cause for the arrest and a copy of the arrest report if available (CRS § 19-2.5-305).

312.5 ADVISEMENTS

The screening team for the judicial district generally notifies the juvenile's parent, guardian, or legal custodian that, if the juvenile is placed in detention or a temporary holding facility, all parties have a right to a prompt hearing to determine whether the juvenile is to be further detained. The notification may be made to a person with whom the juvenile is residing if a parent, guardian, or legal custodian cannot be located. If the screening team is unable to make the notification, officers may make it (CRS § 19-2.5-303).

312.5.1 REPORTING

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The Administrative Services Manager shall ensure incidents that result in a citation, summons, arrest or custody of a juvenile that occurs on public school grounds or vehicles, or at school activities or events are reported to the Division of Criminal Justice (DCJ) as required by CRS § 22-32-146. The reports shall be in the format provided by DCJ and include:

- a. The juvenile's full name, date of birth, race, ethnicity and gender.
- b. The name of the school where the incident occurred or the name of the school that either operated the vehicle or held the activity or event.
- c. The date the juvenile was arrested, taken into custody or issued a summons or ticket.
- d. The arrest or incident report number assigned by the Louisville Police Department.
- e. The most serious offense for which the juvenile was arrested, issued a summons or ticket, based on the National Crime Information Center (NCIC) crime code.
- f. The type of weapon involved, if any, for offenses classified under the NCIC incident-based reporting system as group A offenses.
- g. The originating reporting identifier of the Louisville Police Department.

312.6 JUVENILE CUSTODY LOGS

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

- a. Identifying information about the juvenile.
- b. Date and time of arrival and release from the Louisville Police Department.
- c. Shift Supervisor 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 (e.g., emergency situations, unusual incidents).
- 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 Supervisor shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

312.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the 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 Louisville Police Department shall

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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.

312.8 TEMPORARY CUSTODY REQUIREMENTS

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

- a. The Shift Supervisor is notified if it is anticipated that a juvenile may need to remain at the Louisville Police Department more than four hours. This will enable the Shift Supervisor to ensure no juvenile is held at the Louisville Police Department more than six hours.
- b. 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.
- c. 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.
- d. Personal visual checks and significant incidents/activities are noted on the log.
- e. There is reasonable access to toilets and wash basins.
- f. 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.
- g. There is reasonable access to a drinking fountain or water.
- 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.
- 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 are provided without compromising security or enabling escape.
- m. Adequate furnishings are available, including suitable chairs or benches.
- n. Juveniles 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.

312.9 RELIGIOUS ACCOMMODATION

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

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312.10 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 Louisville 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 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 in such a way as to protect the juvenile from abuse.

312.10.1 PREGNANT JUVENILES

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

312.11 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).

312.12 SECURE CUSTODY

Only juvenile offenders 14 years of age or older may be placed in secure custody. Shift Supervisor approval is required before placing a juvenile offender in secure custody (CRS § 19-2.5-305).

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 the juvenile 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. A member 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.

312.12.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure to ensure there are no weapons or contraband and that the area is clean and sanitary. An inspection

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should be conducted when he/she is released. Any damage noted to the area should be photographed and documented.

The following requirements shall apply:

- a. Anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed.
- b. The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- c. Juveniles shall have constant auditory access to department members.
- d. The juvenile's initial placement into and removal from a locked enclosure shall be logged.
- e. Unscheduled safety checks by department members shall occur no less than every 15 minutes.
 1. All safety checks shall be logged.
 2. The safety check should involve questioning the juvenile as to his/her well-being.
 3. Juveniles who are sleeping or apparently sleeping should be awakened.
 4. Requests or concerns of the juvenile should be logged.
- f. Males and females shall not be placed in the same locked room.
- g. Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- h. Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

312.13 VISITATION

Juveniles who are in temporary custody in the facility will be allowed initial visits at any time by the parents, guardians and/or attorneys. Subsequent visits shall be as unrestrictive as reasonably practicable.

312.14 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 Louisville Police Department. The procedures should include the following:

- a. Immediate request for emergency medical assistance if appropriate.
- b. Immediate notification of the on-duty supervisor, Shift Supervisor, and Command Staff .
- 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 Coroner.
- g. Notification of the juvenile court.
- h. Evidence preservation.

312.15 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.

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In any case where a juvenile is taken into temporary custody, officers should not attempt to interview or interrogate an unemancipated juvenile offender or status offender unless one of the following occurs (CRS § 19-2.5-203):

- a. A public defender or other counsel representing the juvenile is present.
- b. A parent, guardian, or legal or physical custodian of the juvenile is present and the juvenile and the juvenile's parent, guardian, or legal or physical custodian are advised of the following:
 1. The juvenile's right to remain silent
 2. That any statements made may be used against the juvenile in a court of law
 3. The juvenile's right to the presence of an attorney during the interrogation
 4. The juvenile's right to have counsel appointed if the juvenile so requests at the time of the interrogation
- c. The juvenile and the juvenile's parent, guardian, or legal or physical custodian have been fully advised of the juvenile's right and have expressly waived in writing the requirement that they be present during the juvenile's interrogation.

312.15.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of a juvenile who is in custody shall be audio and video recorded in accordance with CRS § 16-3-601 when the interview takes place at any Louisville Police Department facility, jail, or other permanent detention facility (CRS § 19-2.5-203).

312.15.2 UNTRUTHFUL COMMUNICATIONS TO JUVENILES

Officers should not knowingly communicate untruthful information or beliefs to a juvenile during a custodial interrogation in order to obtain a statement or admission (CRS § 19-2.5-203).

312.16 RESTRICTION ON FINGERPRINTING

The following juvenile offenders may be fingerprinted:

- a. A juvenile offender held for committing any of the following (CRS § 19-2.5-207):
 1. A felony
 2. A Class 1 misdemeanor
 3. A misdemeanor under CRS § 42-4-1301 (driving under the influence or while impaired)
 4. A crime that includes an act of domestic violence as defined in CRS § 18-6-800.3(1)
- b. A juvenile who has not been fingerprinted prior to the juvenile's first appearance before the court and has been ordered by the court to report for fingerprinting (CRS § 19-2.5-608)

312.17 TRAINING

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

