

## APPENDIX C

### RULES IN MILWAUKEE, MARATHON AND EAU CLAIRE COUNTIES

#### EAU CLAIRE COUNTY

##### SECTION 6.7 A Use of Mechanical Restraints in the Courtroom Policy

- 1) Mechanical restraints, such as handcuffs, waist belts and leg chains will not be used on an Eau Claire County juvenile during escort to court.
- 2) The use of mechanical restraints may only be used for justified and documented reasons, such as uncontrollability, threats of serious and evident danger to self or others, evidence of potential escape and there is no less restrictive alternative means to maintain order and safety.
- 3) If mechanical restraints are justified, the restraints **may not** be removed during court proceedings, unless ordered by the court.
- 4) The least restrictive means available to assure courtroom safety will be used.

##### **Definitions:**

- 1) Escape Risk: A juvenile will be classified as an escape risk if he or she has made present threats or present attempts to escape, or previously escaped from custody while under a valid detention order, or is being held as a delinquent fugitive from another state.
- 2) Juvenile: A juvenile is anyone under the age of 18 years old, and subject to juvenile court jurisdiction.
- 3) Mechanical Restraint: Fleece-lined leather, canvas, rubber, or plastic restraints, handcuffs, chains or anklets, or any other device used to safely and securely limit the movement of a youth's body.
- 4) Full Restraint: The application of a belly chain, handcuffs and leg irons.
- 5) Case Manager/Social Worker: These terms may be used interchangeably to refer to an employee of the Department of Human Services, responsible for the supervision of juveniles.
- 6) Juvenile Intake Worker: A Juvenile Intake Worker is an employee of the Children's Court Services Department and has the responsibilities as defined in §938.067.
- 7) Juvenile Detention Worker: A juvenile detention worker is an employee of the Northwest Regional Juvenile Detention Center, assigned the care and custody of residents of the secure detention facility.
- 8) Transport Staff: Juvenile Detention Officers or others assigned to or engaged in transporting juveniles or clients from secure detention.
- 9) Chemical Agent: An active substance, such as tear gas, used to deter activities that might cause personal

injury to property damage.

### Procedures:

#### Justification for Use of Restraints Assessment:

- 1) Eau Claire County residents of the secure detention center will be assessed for the risk of safety and security before being escorted to court proceedings.  
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- 4) Juveniles with a scheduled court appearance will be assessed for a risk of safety and security prior to their escort using the Justification for Use of Restraints assessment form;
  - a) A juvenile will not be escorted to court without an assessment form being completed;
  - b) The **placing worker** is responsible for completion of the Justification for Use of Restraints form.
    - i. If a juvenile has resided in the detention center for some time, i.e., 180 Program residents, detention staff will complete the Justification for Use of Restraints form;
    - ii. Detention staff may have the most current behavioral information;
    - iii. The supervising worker should be contacted for any new information that may be relevant;
  - c) All workers should conduct a review of all available files, databases, and documents from previous placements for potential safety and security risks;
  - d) The placing worker will electronically send the completed Justification for Use of Restraints form to the detention center;
    - i. If the placing worker fails to provide the completed form on the morning of the scheduled court hearing, a staff member will contact the placing worker and request a copy of the completed assessment form be sent via email;
    - ii. The assessment form must be available to the detention staff prior to the escort;
  - e) Any disagreement regarding the need for restraints, must be referred to the detention supervisor or the Children's Court Services Director;
    - i. The supervisor or director will make the decision whether the juvenile should be restrained;
  - f) If there is continued disagreement, the matter can be referred to the presiding juvenile court judge, for final determination, before the juvenile is escorted to the proceeding;
  - g) During the review of past files, records and documents, if any of the following exist, it should be noted on the risk assessment;
    - i. A **previous** serious charge;
    - ii. A **history** of disruptive behaviors prior, during or upon return to court;
    - iii. A **history** of escape, absconding or fleeing from court;
  - h) During a review of the current files, records and documents, any statements made by the juvenile or the juvenile made to any other person, if any of the following exist for this **present** incident, it should be noted on the risk assessment:
    - i. A **present** serious charge;
    - ii. The juvenile presents an **immediate and present** physical danger to self or others;

- iii. A real, **present** concern, exists to believe the juvenile will flee while being escorted to, during or from the court escort:
  - i. The pending court action is so serious or significant as to cause the juvenile to consider fleeing;
  - ii. The juvenile has made creditable statements or threats regarding a plan to escape or flee from court;
- i) After completing the record review, and using all available information, complete the Justification for Use of Restraints form;

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- 1) After completing the assessment, if it is determined that the juvenile does not pose a risk to the safety or security of the juvenile, court or the public, and does not need restraints during escort:
  - a) Scan the completed assessment form and send an electronic copy to the supervising case worker;
  - b) Place the completed form in the juvenile's detention file;
- 2) If the completed form indicates that there is a present risk of safety or security to the juvenile, court or the public:
  - a) Copy the completed form and place one copy in the juvenile's detention file;
  - b) Scan the assessment and send an electronic copy to the relevant case worker;
  - c) The original form must be presented to the judge, as soon as possible, before the hearing;
  - d) After review and approval, the judge will give the completed assessment form to the juvenile court clerk for placement in the juvenile court file;

## MARATHON COUNTY

Effective January 1, 2019

### 6.80 USE OF PHYSICAL RESTRAINTS PROHIBITED

- 1) Instruments of physical restraint, such as handcuffs, chains, irons, cloth and leather restraints, or straitjackets, may not be used on a juvenile during a court proceeding and must be removed prior to the commencement of any court hearing absent the Marathon County Deputy Jail Administrator (or his/her designee) or the Director of Social Services (or his or her designee) having a founded belief that the use of physical restraint is necessary for any of the reasons set forth below in subsection (3).
- 2) In the event that the Deputy Jail Administrator (or his/her designee) or the Director of Social Services (or his or her designee) has a founded believe that the use of any manner of physical restraint on a juvenile is necessary during a court proceeding, the Deputy Jail Administrator (or his/her designee) or the Director of Social Services (or his or her designee) shall provide written documentation of the level of restraint recommended and the reasons underlying the recommendation no less than immediately prior to the court proceeding to the juvenile or his/her attorney, the prosecutor, social worker, juvenile transport team, and the court clerk.

- 3) The Court may authorize the use of physical restraint if it makes the required findings under both subsection a and subsection b below:
  - a. The use of restraint is necessary due to any one of the following:
    - i. To prevent physical harm to the juvenile or another person;
    - ii. The juvenile has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a specific and articulable risk of inflicting physical harm on himself/herself or others as evidenced by recent behavior; or
    - iii. There is a founded belief that the juvenile presents a specific and articulable risk of flight from the courtroom as evidenced by recent behavior; and
  - b. There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the juvenile or another person, including, but not limited to, the presence of court personnel, law enforcement personnel, or bailiffs.
- 4) The juvenile shall have the right to be heard regarding the use of physical restraints.

## **MILWAUKEE COUNTY**

### **Policy**

- 1) The Milwaukee County Sheriff's Office (MCSO) is responsible for all escorts of youth from the detention center to the courts at the VRP Youth and Family Justice Center. It is the policy of the Milwaukee County Circuit Court, Children's Division that all juveniles in secure detention appear in court free from all restraints except when there are specific documented reasons to justify restraints.
- 2) The use of restraints may only be used when ordered by the court to maintain order, decorum, and safety in the courtroom.
- 3) The least restrictive means available will be utilized to ensure court room safety.

### **Definitions:**

- 1) Escape Risk: A youth will be classified as an escape risk if he or she has made present threats or present attempts to escape, previously escaped from secure custody while under a valid detention order, or is being held as a delinquent fugitive from another state.
- 2) Youth: A youth is a term used interchangeably, in the context of the proceedings of the Milwaukee County Circuit Court, Children's Division, for anyone under the age of 18 years old that is housed in the detention center.
- 3) Restraint(s): Leather, canvas, rubber, Velcro, or plastic restraints, handcuffs, waist belts or leg chains, wheel chair, stun band-it or any other device used to securely limit the movement of a youth's body.
- 4) Disturbance: Any unauthorized high level verbal or physical interaction between a youth in secure custody and another person.
- 5) Division of Youth and Family Services (DYFS): Milwaukee County staff including, Human Services Workers (HSW) responsible for the supervision of juveniles, Youth Assessment Workers (YAT) responsible for duties under §938.067, Youth Corrections Officers (YCO) responsible for the care and

custody of youth in the Milwaukee County Juvenile Detention Center, and Youth Corrections Officer Supervisors (YCOS) responsible for making custody decisions for youth as defined in §938.067.

- 6) Case Manager (CM): A Case Manager refers to a contracted employee under the Division of Milwaukee Child Protective Services (DMCPS) that is responsible for the supervision of children under CHIPS jurisdiction.
- 7) Milwaukee County Sheriff's Office (MCSO): The agency and its deputies who are providing statutory security and policing to the Milwaukee County Circuit Court, Children's Division.

### **Procedures:**

#### Justification for Use of Restraints for Youth in Secure Custody:

- 1) All youth placed in the detention center needing a court hearing will be assessed for their risk of safety and security before being escorted to their court proceeding.
- 2) If a concern arises related to a youth held in detention and a request for restraints is warranted, the DYFS staff and/or MCSO staff will conduct the safety and security assessment and complete the Justification for Use of Restraints Assessment Form.
  - j) The assessment should be completed at least two hours prior to the scheduled hearing. (For a Child in Need of Protection and Services (CHIPS) held in detention pursuant to a valid court order exception, the following steps will be completed by the detention staff.)
    - i. Before completing the assessment, the DYFS shall discuss the youth's current risk with detention staff.
    - ii. Additional information may be obtained from any available files, databases, and documents;
    - iii. Based upon the results of the screening, the DYFS staff will make a recommendation as to whether the youth should be restrained during the court proceeding;
  - k) The completed assessment form must be provided to detention control staff before the court proceeding;
  - l) Detention staff and MCSO staff should review the form and add any new information that may be available;
- 3) When warranted, DYFS staff will electronically send the completed Justification for Use of Restraints form to the detention control center;
  - m) The Justification for Use of Restraints form must be available to the detention control staff prior to release to the MCSO Staff for escort to court.
  - n) If the form indicates that the youth should be restrained during the court proceeding;
    - i. Detention control staff shall contact the Sheriff's Office Control Center at 257-5901 to alert the Sheriff's Office of the recommendation to use restraints in the courtroom;
    - ii. The original Justification for Use of Restraints form must be provided to the MCSO upon detention's transfer of the youth to the MCSO. In addition, this form shall be provided to the judge prior to the youth being taken into court;
- 4) After the form is reviewed with opportunity for interested parties to provide input and ultimate decision made by the court on the record and in writing, the court will give the completed assessment form to the deputy court clerk for scanning into the youth's court file.

- 5) If the court does not approve the use of restraints during the court proceeding, the youth shall not be in the court room in restraints.

**Form completion (when warranted):**

- 1) Prior to completing the assessment form, DYFS staff will conduct a file review.
- 2) During a review of past records (previous 12 months), the following should be noted on the risk assessment;
  - a) A **history** of disruptive behaviors prior to, during, or upon return from court;
  - b) A **history** of behavior that threatens the safety of the youth or other people;
  - c) A **history** of escape, absconding, or fleeing from court or secure placement;
- 3) If any of the following exist for this current incident, it should be noted on the risk assessment:
  - a) The youth presents an **immediate and present** threat to the safety of self or others;
  - b) A **real present** concern, exists to believe the youth will flee during court proceeding;
  - c) A **real and present** threat of harm to others or to cause a disturbance;
- 4) After completing the review and using all available information, if warranted, the Justification for Use of Restraints form shall be completed.
- 5) DYFS staff should review each justification for the use of restraints and include supporting information for any categories marked in the affirmative;
  - a) Review the assessment form and check for accuracy;
  - b) Identify the source of the information;
  - c) If pertinent, identify when the relevant incident occurred;
  - d) Sign the form in the appropriate space and provide the date the form was completed.

**DYFS Staff Obligations:**

- 1) DYFS staff should constantly monitor youth behavior and note any changes in demeanor, attitude, or behavior.
- 2) Prior to court proceedings, maintain a heightened awareness for indications of potential problems. Indications may include:
  - a) Youth who have received bad news;
  - b) A youth closely scrutinizing staff movements;
  - c) A youth becoming overly polite or unusually irritable;
  - d) A youth withdrawing from the main group;
  - e) A youth becoming overly inquisitive or observant of staff routines, procedures or any suspicious irregular questions;
  - f) Youth not participating in usually popular activities;
  - g) A very high level of tension;
  - h) Change in eating, exercise or sleep habits; and/or
  - i) Unusually quiet behavior;
- 3) DYFS staff should take precautions to prevent disturbances before leaving the detention center;
  - a) Address any indications of potential problems before leaving the detention center including answering any questions the youth may have to assist in reducing any anxiety the youth may have due to a “fear of the unknown”;
  - b) Allow family visitations before a court hearing, if circumstances allow;

- c) Pay very close attention to signs of agitation, anxiety or fear that may indicate a potential problem;
- 4) DYFS staff should complete the Justification for Use of Restraints Form if the youth's behavior rises to the level of needing to be restrained in court as they present an immediate and present physical danger to self or others; a real present concern exists to believe the youth will escape, abscond or flee; or a belief that the youth will cause a disturbance.

**Sheriff Department Obligations:**

- 1) The MCSO will provide all escorts from the detention center to the court hearings:
  - a) MCSO is guided by its own policies and procedures when escorting youth to and from court;
  - b) If MCSO is aware of relevant information which would affect order, decorum, and safety in the courtroom, a sworn deputy sheriff or deputy sheriff supervisor (deputy) may complete the Justification for Use of Restraints Assessment Form prior to transporting the youth to court.
  - c) If during the escort the youth creates a disturbance, the deputy can return the youth to the detention center until the youth is calm enough to be escorted to court. If the incident rises to a level that justifies a request for shackling, the deputy should inform the court of the incident and complete the Justification for Use of Restraints Assessment Form.
  - d) The court will make a decision on the record based on the new information provided as to whether the youth should be brought into the courtroom in restraints.
  - e) Once the court makes that decision, the youth will be either brought into the courtroom with restraints or without.
- 2) Once in the courtroom the deputy will ensure that the youth is safely escorted into the courtroom to the designated table and then seated;
  - a) The youth should not be allowed contact with any non-court room personnel; contact should be for professional business only. The deputy shall maintain visual supervision of the youth at all times, maintain constant awareness for any indications of potential problems, and monitor the youth to see if he/she shows any signs of anxiety, anger or becomes agitated, consistent with the customary duties and responsibilities of deputies serving as bailiffs to the Milwaukee County Circuit Court, Children's Division.
  - b) If during the court proceeding, the youth engages in behavior that disturbs the order, decorum, and/or safety in the courtroom, the deputy shall take action consistent with the customary duties and responsibilities of deputies serving as bailiffs to the Milwaukee County Circuit Court, Children's Division to ensure the safety in the courtroom.

**Release:**

- 1) If the youth is to remain in the detention center, s/he should be re-admitted to the facility per standard policy and procedures.
- 2) If the youth is being released, standard release procedures will be followed.

**BY THE COURT:**

**DATE SIGNED:** \_\_\_\_\_

\_\_\_\_\_  
Circuit Court Judge/Commissioner

**STATE OF WISCONSIN**

**CIRCUIT COURT**

**MILWAUKEE COUNTY**

IN THE INTEREST OF

Case Number(s):

Court Date and Time: \_\_\_\_\_

\_\_\_\_\_  
Name

Branch: \_\_\_\_\_

\_\_\_\_\_  
Date of Birth

It is the policy of the Milwaukee County Circuit Court, Children’s Division that all juveniles in secure detention appear in court free from all restraints except when there are specific documented reasons to justify restraints to maintain order, decorum, and safety in the courtroom.

**Justification for Use of Restraints Form:**

Each juvenile must have an individual determination of their need for restraint.

<b>A history of:</b>	<b>Current incident:</b>	<b>Current Behavior in Detention:</b>	<b>Current Behavior during Escort (Sheriff’s Department only):</b>
<input type="checkbox"/> Disruptive behaviors before, during, or upon return from court.	<input type="checkbox"/> Presents an immediate and present physical danger to self or others.	<input type="checkbox"/> Presents an immediate and present physical danger to self or others.	<input type="checkbox"/> The juvenile is displaying unsafe, erratic, disruptive or combative behavior.
<input type="checkbox"/> Behaviors that threaten the safety of the youth or others.	<input type="checkbox"/> A real, present concern exists to believe the youth will escape, abscond or flee.	<input type="checkbox"/> A real, present concern exists to believe the youth will escape, abscond or flee.	<input type="checkbox"/> A real, present concern exists to believe the youth will escape, abscond or flee.
<input type="checkbox"/> Escape, absconding or fleeing from court or a secure placement.	<input type="checkbox"/> A real, present threat of harm of others or to cause a disturbance.	<input type="checkbox"/> A real, present threat of harm of others or to cause a disturbance.	<input type="checkbox"/> A real present threat of harm to others or themselves or to cause a disturbance.
For MSCO Only, <u>Recommendation for Restraint:</u> <input type="checkbox"/> Ankle Restraint <input type="checkbox"/> Waist Belt <input type="checkbox"/> Handcuffs <input type="checkbox"/> Leg Chains <input type="checkbox"/> Wheel Chair <input type="checkbox"/> Stun Band-It			



Explanation: \_\_\_\_\_

\_\_\_\_\_  
**Person providing the information:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Title: DYFS Staff, Deputy Sheriff, or \_\_\_\_\_

**Source of the information and if pertinent the date of the incident:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**THE COURT ORDERS:**

Request for use of Restraints is DENIED

Request for use of Restraints is APPROVED

Type of Restrain:  Ankle Restraint  Waist Belt  Handcuffs  Leg Chains  Wheel Chair  Stun  
Band-It