

Effective Date:
04/07/09

CHAPTER 7

CUSTODY/DETENTION

TABLE OF CONTENTS

	<u>Chapter/Subject/Item</u>
Detention Procedures	07.01
Authority aa	07.01.01
General Statement ab	07.01.02
Agent Activities ac	07.01.03
Computing "Days" ad	07.01.04
Mandatory Detention ae	07.01.05
Assaultive/Dangerous Conduct af	07.01.06
Disciplinary Detention ag	07.01.07
Detention Extension ah	07.01.08
Release From Custody ai	07.01.09
Mechanical Restraints	07.02
Authority aj	07.02.01
General Statement ak	07.02.02
Type of Restraints al	07.02.03
Use am	07.02.04
Improper Use an	07.02.05
Requirements ao	07.02.06
Use of Force	07.03
Authority ap	07.03.01
General Statement aq	07.03.02
Definitions ar	07.03.03
Corporal Punishment as	07.03.04
Non-Deadly Force at	07.03.05
Procedure au	07.03.06
Reporting Requirements av	07.03.07
Deadly Force aw	07.03.08
Excessive Force ax	07.03.09
Injury Report ay	07.03.10
Oleoresin Capsicum (OC) Spray az	07.03.11

Effective Date:
09/01/09

Chapter 7
Chapter/Subject/Item

Transporting Offenders In Custody	07.04
Authority ba	07.04.01
General Statement bb	07.04.02
Division of Community Corrections Policy bc	07.04.03
Vehicle Transports bd	07.04.04
Transport Arrangements - Out of State be	07.04.05
Documentation Required bf	07.04.06
Felony Hold Reimbursement	07.05
Authority bg	07.05.01
General Statement bh	07.05.02
Procedure bi	07.05.03
Department of Health and Family Services Offenders bj	07.05.04
Reimbursable Behaviors bk	07.05.05
Non-reimbursable Behaviors bl	07.05.06
Special Determinations bm	07.05.07
County Code List bn	07.05.08

Division of
Community Corrections

Chapter: Custody/Detention	
Subject: Detention Procedures	
Date: 04/10/00	Page 1 of 3

.01 AUTHORITY

Wisconsin Administrative Code DOC 328.22 and DOC 331.04

.02 GENERAL STATEMENT

Offenders suspected of violating rules of supervision, federal, state, county, and municipal laws and ordinances, or who are likely to abscond, may be detained in jail or correctional facilities. Whenever feasible, staff will rely on law enforcement authorities to take an offender into custody. Offenders must be detained if they are alleged to have been involved in assaultive or dangerous conduct. The Order to Detain ([DOC-212](#)) will be completed and provided to the detaining authority.

During non-standard hours (from 4:30PM-7:45AM and on weekends and holidays), the DOC Monitoring Center is available for all law enforcement agencies to contact regarding the potential detention of offenders. The telephone number dedicated to this purpose is 1-888-222-4362. The monitoring center is able to place holds on offenders and consult with an on-call Supervisor.

The agency may authorize detention for up to three working days for:

- a) Investigating an alleged violation by the offender;
- b) Determining whether to commence revocation proceedings after an alleged violation;
- c) Preventing a possible violation by an offender.

.03 AGENT ACTIVITIES

Within three working days after detention, the agent should complete the following activities:

- view police report
- interview offender, victim, and witnesses
- present a summary of facts and recommendations to the supervisor

.04 COMPUTING "DAYS"

In counting detention days, Administrative Code defines working days as Monday through Friday, with the exception of legal holidays. There is no authority to exclude time that is outside of work hours (i.e., if an offender is placed in custody any time before midnight on a Tuesday, providing it is not a legal holiday, Tuesday is considered the first day of detention).

Division of
Community Corrections

Chapter: Custody/Detention

Subject: Detention Procedures

Date: 02/22/07 Page 2 of 3

.05 MANDATORY DETENTION

Wisconsin Administrative Code 328.22(1) requires that an offender be taken into custody and detained if the offender is alleged to have been involved in assaultive or dangerous conduct. This may include verbal threats (see 07.01.06). Detention by the agent is mandatory under such circumstances.

While it is thought best to rely on law enforcement authorities' expertise in taking persons into custody, this is not always practical, and staff may exercise their authority at these times. There are times when an agent may be incapable of obtaining custody of an offender without risk of harm to the agent, another person, or property. In these difficult cases, an agent must exercise good judgment in attempting to take custody of the offender where no assistance from law enforcement is feasible. The agent must strike a balance between the need for immediate custody, the danger posed, and the chances of success of obtaining custody without harm to anyone. If possible, supervisory staff should be consulted.

Any exception to this mandatory detention requirement shall be made only by the Regional Chief or the Chief's designee. Supervisory approval is needed to release a mandatory detention offender from custody.

.06 ASSAULTIVE/DANGEROUS CONDUCT

Offenders shall be detained if:

- a) The offender is alleged to have participated in physical or sexual assault on another person, or;
- b) The offender is alleged to have been involved in dangerous conduct, i.e., threat or use of weapon or act that has the potential of physical harm to person or persons. This includes verbal threats to do physical harm, if there is a history of carrying out such threats, or a credible reason to believe the offender may carry out the threat.

.07 DISCIPLINARY DETENTION

Supervisory approval must be obtained prior to placing an offender in detention for disciplinary purposes. Disciplinary detention cannot exceed five (5) working days.

.08 DETENTION EXTENSION

Completing a Detention Extension Request (DOC-212) as follows can extend the original detention order:

Extension of:

Granted by:

1st 3 working days
Next 5 working days
Any additional time

Supervisor
Regional Chief
Division Administrator or Designee

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Detention Procedures
Date: 08/16/07 Page 3 of 3

.08 DETENTION EXTENSION (continued)

Extension is no longer necessary once the Notice of Violation, Recommended Action, and Statement of Hearing Rights ([DOC-414](#)) is served.

.09 RELEASE FROM CUSTODY

Upon completion of the investigation, the agent must secure advance approval from the supervisor to release a mandatory detention offender from custody. The agent may release all other detainees. The agent prepares the Cancellation of Order to Detain ([DOC-213](#)) and delivers it to the detaining authority with copies to the Supervisor and file.

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Mechanical Restraints
Date: 04/10/00 Page 1 of 2

.01 AUTHORITY

Wisconsin Administrative Code DOC 328.19

.02 GENERAL STATEMENT

It is a requirement to restrain offenders who are being taken into custody or transported while in custody. In other cases, where there is doubt regarding the use of restraints, they should be utilized for the safety of all concerned. When an offender is in custody, agents are responsible for the safety of the offender, as well as themselves. Agents must be made aware that merely handcuffing does not render a prisoner harmless. Arms, although cuffed together, are still effective weapons. The agent must be especially alert in applying or removing securing devices, since this is a likely time for an offender to attempt escape.

.03 TYPE OF RESTRAINTS

MECHANICAL RESTRAINTS

Mechanical restraints are limited to handcuffs, handcuffs with restraining chain, and/or leg restraints.

.04 USE

Mechanical restraints may only be used in the following circumstances:

- a. To protect staff or others from an offender who poses an immediate risk of flight or physical injury to himself or herself, unless restrained;
- b. To protect an offender who poses an immediate threat of physical injury to himself or herself, unless restrained;
- c. When taking an offender into custody; or
- d. To transport an offender.

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Mechanical Restraints
Date: 04/10/00 Page 2 of 2

.05 IMPROPER USE

Mechanical restraints shall never be used:

- a. As a method of punishment;
- b. About the head or neck of the offender;
- c. In a way that causes undue physical discomfort, inflicts physical pain, or restricts the blood circulation or breathing of the offender; or
- d. To restrain an offender to a moving vehicle.

.06 REQUIREMENTS

When an offender is placed in restraints, it may be necessary for a staff member to transport the offender to a detention facility, a mental health or medical facility, or to appropriate law enforcement authorities.

A staff member will observe an offender in restraints at least once every 15 minutes until the restraints are removed, or the offender is admitted to a detention facility, mental health facility, or medical facility.

If feasible, offenders should be released from restraints to perform bodily functions and for meals.

Except when restraints are used to take an offender into custody or transport an offender, a report will be maintained in the offender's record of each time the offender is placed in restraints. It will include:

- a. The offender's full name, DOC number, and date the offender was placed in restraints;
- b. The name of the staff member who placed the offender in restraints;
- c. The reason for placing the offender in restraints;
- d. A statement that the offender was observed at least once every 15 minutes by staff until the restraints were removed, or the offender was admitted to a detention or other facility;
- e. A statement indicating when, and under what circumstances, the restraints were removed.

Field staff will have access to mechanical restraining devices, which will be periodically examined. Any excessively worn or defective restraining devices will be discarded. Only commercially manufactured restraining devices may be used.

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Use of Force
Date: 04/10/00 Page 1 of 4

.01 AUTHORITY

Wisconsin Administrative Code DOC 328.18

.02 GENERAL STATEMENT

Whenever feasible, field staff will rely on law enforcement authorities to exercise force against offenders. If law enforcement is not available, techniques learned in Arrest, Custody & Transport (ACT) training should be exercised. If the agent believes use of force could be dangerous to themselves or others, no attempt to detain should be made.

.03 DEFINITIONS

In this subchapter, the following definitions apply:

- a. "Bodily injury" means physical pain or injury, illness, or any impairment of physical condition.
- b. "Deadly force" means force which the user reasonably believes will create a substantial risk of causing death or great bodily injury to another.
- c. "Force" means the exercise of strength or power to overcome resistance or to compel another to act or refrain from acting in a particular way. It includes the use of mechanical and physical power or strength. Only so much force may be used as is reasonably necessary to achieve the objective for which it is used.
- d. "Great bodily injury" means bodily injury which creates a high probability of death, which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- e. "Non-deadly force" means force which the user reasonably believes will not create a substantial risk of causing death or great bodily injury to another.
- f. "Reasonably believes" means that the actor believes that a certain fact situation exists and such belief under the circumstances is reasonable even though it may be erroneous.

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Use of Force
Date: 04/10/00 Page 2 of 4

.04 CORPORAL PUNISHMENT

Corporal punishment of offenders is forbidden. This prohibition allows no exceptions and applies to public and private programs.

.05 NON-DEADLY FORCE

Non-deadly force may be used by field staff against offenders only if the user of force reasonably believes it is immediately necessary to realize one of the following purposes:

- a. To prevent death or bodily injury to oneself or another;
- b. To prevent unlawful damage to property that may result in death or bodily injury to oneself or to another;
- c. To prevent an offender from fleeing the control of a field staff member;
- d. To change the location of an offender; or
- e. To prevent unlawful damage to property.

.06 PROCEDURE

Non-deadly force may be used to apprehend an offender or take an offender into custody only in the following manner:

- a. Staff has exhausted all efforts to persuade the offender to voluntarily be taken into the custody of field staff prior to using force;
- b. If the offender refuses, staff may exercise minimal physical force necessary to apprehend the offender. Minimal force should be exercised in the following way:
 - 1) If possible, staff should not attempt to physically handle the offender until sufficient staff are present to evidence a show of force;
 - 2) The offender should again be asked to voluntarily be taken into custody;
 - 3) If the offender refuses, the offender may be firmly grasped by one or more staff; and
 - 4) The offender will then be handcuffed behind his or her back, or restrained by other appropriate methods.

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Use of Force
Date: 04/10/00 Page 3 of 4

.07 REPORTING REQUIREMENTS

If force is used, a written Violation Report (DOC-5) describing the apprehension, including the names of all people who observed the exercise of force, shall be prepared.

The supervisor shall prepare a Use of Force Critique Form (DOC-1960) and forward it to a certified agency ACT Trainer.

After apprehension, the offender and staff should be checked for injury and treated by a physician if necessary. If injury resulted, an Incident Report (DOC-375) will be completed detailing the cause and extent of the injury and the treatment provided.

A copy of the Violation Report, Incident Report, and Use of Force Critique form shall be submitted to the Regional Chief.

.08 DEADLY FORCE

Deadly force may not be used by field staff against offenders except to prevent death or great bodily injury to oneself or another.

Deadly force may not be used by field staff if its use creates a substantial danger or harm to innocent third parties, unless the danger created by not using such force is greater than the danger created by using it.

.09 EXCESSIVE FORCE

The use of excessive force is forbidden.

.10 INJURY REPORT

If a staff injury occurs, the employee, if able, must complete the Employee's Work Injury and Illness Report (DOA-6058) and an Incident Report (DOC-375) within 24 hours of injury, and submit the form to his/her immediate supervisor. Refer to the DOC Health and Safety Handbook for further details.

Supervisor's Responsibility: After appropriate investigation, the immediate supervisor of the employee must ensure that a Employer's First Report of Injury or Disease (WKC-12) is completed and submitted. In cases where the injured employee is unable to complete the form or when a fatality has occurred, the supervisor will complete the employee report section.

Division of
Community Corrections

Chapter: Custody/Detention

Subject: Use of Force

Date: 04/10/00 Page 4 of 4

.11 OLEORESIN CAPSICUM (OC) SPRAY

Policy: In all instances, de-escalation should be attempted prior to use of OC. OC is not to be used as punishment or to facilitate offender movement. Users of OC must have completed a Department approved training program, which includes personal exposure to OC and decontamination procedures. Only DOC approved products and delivery systems will be approved for employment related use. OC products must be used and stored according to the DOC policy and the manufacturer's instructions. After the workday, OC products must be stored in a locked and secured area. Medical attention must be provided immediately after exposure, once the area is secured. Documentation will be required following any use of OC spray.

Procedures:

- A. Training: Authorized training for field staff in DCC will be according to the Wisconsin Department of Justice Minimum Instructional Standards-OC Aerosol Basic Training Program. Prerequisites include completion of ACT. All field staff in DCC authorized to use OC must be recertified for continued use annually.
- B. Approved Products: Approved products for field staff in DCC included foam or stream delivery only. No larger than 2-ounce aerosol delivery systems with belt cases will be approved. DCC employees will not carry OC products on key rings or key chains. The propellant used must be nonflammable, and percentage of OC will be within the 5% to 10% range.
- C. Forced Option Continuum: Field staff in DCC may direct the use of OC spray toward an offender, a third person, or animal only when acting in self-defense or defense of a third person. OC use is not authorized because an offender refuses to follow orders or for the purpose of causing bodily harm or discomfort. In all instances, de-escalation should be attempted prior to use of OC.
- D. Documentation: A written report must be submitted to the supervisor within 24 hours of any OC exposure occurring while on duty. The report must include a description of the incident, steps taken prior to the exposure, and measures taken following exposure. The employee must be placed on office duty pending assessment of the incident.

The supervisor will meet with the employee, assess the incident, and complete a report to the Division Administrator within three days of the exposure. The report will include a copy of the employee's report, an assessment of the justification for the exposure, an assessment of the impact on the employee and the unit, and any follow-up action needed.

Division of
Community Corrections

Chapter:	Custody/Detention	
Subject:	Transporting Offenders In Custody	
Date:	09/01/09	Page 1 of 2

.01 AUTHORITY

Wisconsin Administrative Code DOC 328.23

.02 GENERAL STATEMENT

A field staff member may transport an offender to jail, institution, or other detention facility. Staff should utilize the most expeditious but economical mode of transportation available. This may include automobile and commercial or private aircraft. These policies and procedures are required for interstate and intrastate transportation of offenders in custody.

.03 DIVISION OF COMMUNITY CORRECTIONS POLICY

Division of Community Corrections policy regarding transporting offenders in custody requires that:

- a) Two staff persons shall transport offenders when being placed in custody. When possible, at least one person should be of the same sex as the offender.
- b) Staff persons transporting an offender from out of state shall have in their possession a Department ID card and a copy of the violation warrant.
- c) Clerical staff may assist in transports under all the following conditions:
 - 1) When workload permits
 - 2) In emergency situations
 - 3) Must have had ACT training
 - 4) Must volunteer
 - 5) Must have approval of direct supervisor

.04 VEHICLE TRANSPORTS

During a secure vehicle transport of an offender by non-security staff, the following procedures apply:

- a) Two staff persons shall be utilized, with the offender positioned on the passenger side of the rear seat, with the staff persons in the front seat. The staff not driving will be responsible to monitor the offender during the trip.
- b) In no case is an offender to be shackled to any object in or on a vehicle.
- c) Rest stops should be made where there is little traffic congestion.
- d) If possible, offenders should not be taken into public dining rooms; fast food drive-through restaurants are preferable.
- e) If overnight arrangements are necessary, arrangements should be made to detain the offender in a local jail.

Division of
Community Corrections

Chapter:	Custody/Detention	
Subject:	Transporting Offenders In Custody	
Date:	04/07/09	Page 2 of 2

.05 TRANSPORT ARRANGEMENTS - OUT OF STATE

Prior to establishing transport plans, the following will be considered:

- a) Unit Supervisors and/or Regional Chiefs will make the decision as to whether or not an offender should be returned to Wisconsin. Alternatives should be considered before returning an offender to Wisconsin.
- b) Transportation from another state should be accomplished by contracted transport services whenever feasible.
- c) If offender is available for transportation.
- d) Whether on-site hearing is required.
- e) Whether extradition matters have been resolved. (Refer to 09.02.05).

.06 DOCUMENTATION REQUIRED

Relevant information relating to transport of an offender should be maintained in the offender's case record.

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Felony Hold Reimbursement
Date: 04/10/00 Page 1 of 3

.01 AUTHORITY

Wisconsin Statutes 302.33(2)(a) and (b)

.02 GENERAL STATEMENT

Under this statute, the Department may only reimburse a county for custody which meets both the following criteria:

- felons;
- for behavior which violates the terms and conditions of supervision, but the behavior does not otherwise constitute a criminal offense.

.03 PROCEDURE

When an offender is on supervision for both a felony and a misdemeanor, the Unit Supervisor will code the Order to Detain (DOC-212) as a Felon (F).

The behavior of the probation and parole violator must be described on the DOC-212 so that the Unit Supervisor may make a decision on reimbursement and proper coding. Supervisors may not make decisions on whether a hold is payable unless the specific behavior which violates the terms and conditions of supervision is described by the agent.

The time period for calculating how much a county may be reimbursed is the state fiscal year (July 1 to June 30).

Care must be exercised when an offender is moved between jails in different counties, particularly if regional lines are crossed. All counties which are entitled to reimbursement under the statute must be recorded in the Automated Holds Database. There are occasions when an offender on a hold is detained in one county jail and moved to another county jail. Two separate data entries must be made for these types of cases. The agent of record is responsible for submitting the Cancellation of Order to Detain (DOC-213) to cancel the hold in the first facility and forwarding a DOC-212 to the Supervisor for the detention in the second county jail. The data entry person in the agent of record's unit is responsible for making data entry on each of the holds.

.04 DEPARTMENT OF HEALTH AND FAMILY SERVICES OFFENDERS

NGI Cases: Detention days incurred by an offender who is Not Guilty by Reason of Mental Illness or Disease (NGI) under §971.17 Wis. Stats. (conditional release) or §51.37(9) Wis. Stats. (conditional transfer), are not payable under the Felony Hold Reimbursement Program.

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Felony Hold Reimbursement
Date: 04/10/00 Page 2 of 3

.04 DEPARTMENT OF HEALTH AND FAMILY SERVICES OFFENDERS (continued)

These offenders are not probationers or parolees. However, the Division still wants to maintain data on NGI detention days. While different forms are used to initiate a detention for an NGI, a DOC-212 and DOC-213 should be used for data entry purposes. The Supervisor should indicate the county code as 98 for NGI, enter "no" for not payable, and code the behavior.

Sexual Predator Cases (Chapter 980): Sexual predator cases generally are not reimbursable under the Felony Holds Reimbursement Program. The exception is if the case involves both probation or parole and 980 status, and the intent is to revoke only the probation or parole status. In this case, the criteria that apply under .02 and .03 of this section would take precedence.

.05 REIMBURSABLE BEHAVIORS

Violations which are reimbursable under the Felony Hold Reimbursement Program are listed in codes:

1000
1500
2001-2021
3001-3004
4000
5000
6000

The codes for the above-listed reimbursable violations are highlighted for easy identification in the attached lists.

.06 NON-REIMBURSABLE BEHAVIORS

Reimbursements to counties will not be made where criminal behavior resulted in jail confinement of anyone under probation or parole supervision. Criminal charges do not have to be filed. All codes of 0001 through 0999 are criminal behaviors.

NOTE: Code 0999, Positive Urinalysis Screen, is not reimbursable

.07 SPECIAL DETERMINATIONS

Many of these situations suggest disorderly conduct, enticement for immoral purposes, other criminal conduct or contributing, which are not reimbursable. Confinements resulting from violation of halfway house rules, or other community-based program rules, must be described in behavioral terms in the final paragraph of the DOC-212. As examples, the agent must list "curfew violation," "left program without permission," or "positive urinalysis screen." Listing "halfway house violation" on the DOC-212 is not sufficient.

Division of
Community Corrections

Chapter: Custody/Detention
Subject: Felony Hold Reimbursement
Date: 04/10/00 Page 3 of 3

.07 SPECIAL DETERMINATIONS (continued)

Custody days incurred by parolees who were incarcerated in prison because of the repeater statute for misdemeanor convictions are not eligible for reimbursement under the Felony Hold Reimbursement Program.

.08 COUNTY CODE LIST

01 Adams	20 Fond du Lac	39 Marquette	58 Shawano
02 Ashland	21 Forest	40 Milwaukee	59 Sheboygan
03 Barron	22 Grant	41 Monroe	60 Taylor
04 Bayfield	23 Green	42 Oconto	61 Trempealeau
05 Brown	24 Green Lake	43 Oneida	62 Vernon
06 Buffalo	25 Iowa	44 Outagamie	63 Vilas
07 Burnett	26 Iron	45 Ozaukee	64 Walworth
08 Calumet	27 Jackson	46 Pepin	65 Washburn
09 Chippewa	28 Jefferson	47 Pierce	66 Washington
10 Clark	29 Juneau	48 Polk	67 Waukesha
11 Columbia	30 Kenosha	49 Portage	68 Waupaca
12 Crawford	31 Kewaunee	50 Price	69 Waushara
13 Dane	32 LaCrosse	51 Racine	70 Winnebago
14 Dodge	33 Lafayette	52 Richland	71 Wood
15 Door	34 Langlade	53 Rock	72 Menominee
16 Douglas	35 Lincoln	54 Rusk	
17 Dunn	36 Manitowoc	55 St. Croix	98 Not Guilty by Reason of Mental Illness or Disease (NGI)
18 Eau Claire	37 Marathon	56 Sauk	
19 Florence	38 Marinette	57 Sawyer	
			99 Out-of-state