	Boylston Police Department Policy Manual Standard Operating Procedure	
	Chapter: 200 - General Rules and Regulations	
	Directive: 200-9 Handling of Juveniles	
Authorized by: Chief Anthony G. Sahagian	Effective Date: 01/25/2017	
MPAC Standards:	Revision Number/Date: 08/29/2018 (1); 04/14/2020 (2)	

Purpose: To establish guidelines to be followed by department personnel in regard to juveniles

GENERAL CONSIDERATIONS AND GUIDELINES:

It is generally recognized that juveniles who engage in anti-social conduct present different problems to society than do adults who engage in similar activity. There is, therefore, a modification of police procedures in handling juvenile offenders. This special procedure is based on the concept that the juvenile offender is often not yet hardened and may be more easily influenced to conduct himself/herself within the law. There is no question that the attitude and actions of the police can have considerable impact upon the first offender who is often a badly frightened youngster at the time of his/her arrest. How [s]he is treated at that time by the police can make a lasting impression. At the same time, it must be remembered that the hardened juvenile criminal can be just as dangerous as any adult.

Juveniles present a challenge to police officers; they are physically and emotionally vulnerable, often requiring care and protection. At the same time, juveniles may be highly confrontational, and they may be involved in significant crimes and acts of public disorder.

Although the police are not expected to be social workers, they must have an understanding of the social and psychological factors which contribute to juvenile misbehavior and crime. By the nature of their duties, the police should be familiar with any undesirable conditions in the community which breed juvenile delinquency. The prevention of juvenile crime has a high

priority and any success in this regard can pay large dividends to the community and to its young people.

As a preventive measure, officers should frequently check those areas, places and buildings that have been particularly prone to juvenile delinquent behavior and question all juveniles found in suspicious situations. Energetic patrol, impressing the fact of a consistent police presence, can be a most effective deterrent. The department should also cooperate actively with all other agencies, public or private, that can be of assistance in deterring and controlling juvenile delinquency.

Police officers play a very important part in the Juvenile Justice System. Patience, understanding and firmness, together with close cooperation with court officials in the processing of juvenile cases, are necessary for the system to operate most effectively.

Police officers should be aware that constitutional rights are not lost by virtue of one's age. Indeed, juveniles merit greater protection, especially in the areas of questioning and waiving of rights.

The legislature has rescinded the law formerly referred to as CHINS (Children in Need of Services) and replaced it with numerous provisions concerning Children Requiring Assistance. Rather than arresting certain young persons, the police may place them in "custodial protection" but they may not confine them in shackles, similar restraints, court lock-up, or even bring them to the police station for other than coordination purposes. **NOTE: This does NOT prevent a police officer from using handcuffs when transporting the child.**

Until the legislature or a court clarifies certain provisions of the new law, the Department will do its best to interpret and comply with the spirit of the legislation, which is clearly aimed at further separating certain "status offenders" from the stigmatizing effects of certain aspects of the criminal justice system.

Officers must always do their best to communicate in an age-appropriate manner, which gives them the best chance of intervening calmly, safely and professionally. This is referred to as “developmental competence.

Law and written guidelines never provide all the answers – especially when it comes to the many situations involving juveniles. Officers are expected to make the best decision possible given the information they have. The department will support officers whose decisions attempt to balance the need for public safety and the best interests of juveniles and their families. Beyond following basic protocol, officers will be assessed on their intent as much as on the results of their intervention.

These guidelines concern protective services and criminal enforcement.

Protective Services:

- Children who are missing.
- Children who may be suffering from abuse or neglect.
- Children who may require assistance to change their behavior.
- Children who are incapacitated from drinking alcohol.
- Children who are incapacitated from drugs, inhalants, or other substances.
- Children who are present with illegal drugs.

Criminal Enforcement:

- Patrol and enforcement considerations.
- Post-arrest procedures.
- Interview guidelines.

I. POLICY

It is the policy of this department that:

1. Juveniles shall be afforded their constitutional and statutory rights when being questioned, searched, detained or arrested;
2. Juvenile offenders shall not be detained at the police station for any longer than necessary;

3. Children Requiring Assistance shall be provided custodial protection and other required services where this can be done safely;
4. Officers shall, whenever reasonable and justified under this policy, take those measures necessary to effect positive change in juvenile offenders that are consistent with Massachusetts law and the safety and security interests of the community;
5. The Department is committed to the development and perpetuation of programs to prevent and control juvenile delinquency. *[44.1.1.a]*

II. DEFINITIONS

A. Status Offense: Is classified as Child Requiring Assistance and includes running away from home, repeatedly disobeys lawful command of a parent or guardian, habitual truancy, failing to obey school regulations, and sexually exploited youth.

B. Child Requiring Assistance: Any child between the ages of six (6) and eighteen (18) who:

1. Repeatedly runs away from the home of the child's parent, legal guardian or custodian;
2. Repeatedly fails to obey the lawful and reasonable commands of the child's parent, legal guardian or custodian, thereby interfering with their ability to adequately care for and protect the child;

3. Repeatedly fails to obey the lawful and reasonable regulations of the child's school; or
4. Is habitually truant. [44.2.2(a)]
5. Sexually exploited youth

C. Delinquent Child: A child between 12 and 18 years of age who violates any town by-law or who commits any offense against the Commonwealth; ***provided, however, that such offense shall not include:***

1. A civil infraction,
2. A violation of any municipal ordinance or town by-law, or
3. A first offense of a misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction for not more than 6 months or both such fine and imprisonment.

Based on the definition, and until such time as the law can be changed, ALL FIRST OFFENSE MISDEMEANORS WHERE PUNISHMENT IS A FINE OR LESS THAN SIX (6) MONTHS IMPRISONMENT HAVE BEEN DECRIMINALIZED FOR JUVENILES. (Effective as of July 13, 2018)

Therefore, police have no authority to arrest or charge a juvenile for such offenses as:

- Unlicensed Operation of a Motor Vehicle,
- Operating After Suspension/Revocation,
- Minor Transporting Alcohol,
- Breaking and Entering to Commit a Misdemeanor,
- Trespassing,
- Making Annoying Phone Calls,
- Threats to Commit Crime,
- Disorderly Persons,

- Disturbance of the Peace, and
- Indecent Exposure.

Effective July 13, 2018

Juvenile: A child under the age of eighteen.

- a. Under Age 12: A juvenile under the age of twelve (12) cannot be charged with a crime.
- b. Age 12 to Age 18: A summons is the *preferred* method for bringing all juveniles to court, unless there is reason to believe the child will not appear upon a summons.
- c. Arrest Warrant: An arrest warrant will issue if the court has reason to believe the child will not appear upon a summons, or if the child has been summoned and did not appear, or if the juvenile violated the terms and conditions of probation.

D. Non-Offenses: Children held in protective custody because they were found present where controlled substances are kept pursuant to G.L. c. 94C, s. 36, or are incapacitated due to intoxication pursuant to G.L. c. 111B, s. 8 detention.

E. Non-Secure Custody: A condition under which a juvenile's freedom of movement is controlled by members of the department and, during such time, the juvenile:

1. Is held in an unlocked, multi-purpose room that is in no way designed for residential use;
2. Is not handcuffed to any stationary object;
3. Is held only long enough to complete identification, investigation and processing and then released to a parent or guardian or transferred to a juvenile facility or the court; and
4. Is under continuous supervision until released.

F. Secure Custody: A condition under which a juvenile's freedom of movement is controlled by being placed in a cell or locked room (or set of rooms) or being handcuffed to a stationary object.

1. No juvenile between fourteen (14) and eighteen (18) years of age, shall be placed in a cell, unless the cell has been certified by the Department of Youth Services.
2. Juveniles that are securely detained in police custody must be separated by sight and sound from adults in custody.
3. A juvenile may not be held in police custody for longer than six (6) hours.
4. A juvenile should only be held long enough for police to complete the identification and booking process. Once completed, the juvenile should be: a) transported to the juvenile court (during court hours), b) released to his/her parent/guardian/custodian, or c) transported to the Overnight Arrest Program (Nights/Weekends/Holidays). Please refer to sections IV and V of this document.
5. A juvenile placed in Protective Custody, *for ALCOHOL*, ***CANNOT BE SECURELY DETAINED*** for any amount of time.
6. A juvenile placed in Protective Custody, *for Controlled Substances/Toxic Vapors*, ***MUST be transported to an appropriate emergency medical treatment facility.***
7. A juvenile placed in custody in accordance with Child Requiring Assistance (CRA) ***CANNOT be brought back to the police station.***

G. Custodial Protection: A term used but not defined in several parts of MGL c. 119, referring to actions resembling Non-Secure Custody, above, but without confining a child in shackles or similar restraints or court lock-up, or even transporting the young person to a police facility unless coordination is required.

IV. PROCEDURE

A. Administration:

1. The Chief of Police shall designate a Juvenile Officer to have primary responsibility for juvenile operations.
2. The responsibility for participating in and supporting the department's juvenile operation is shared by all department components and personnel. [44.1.1(b)]

B. Enforcement Alternatives: [44.2.1]

1. Officers dealing with juveniles in enforcement capacities may exercise reasonable discretion in deciding appropriate action. Officers shall use the least coercive and most reasonable alternative, consistent with preserving public safety, order and individual liberty.
2. Whenever reasonable and possible, an officer will request a summons rather than taking a juvenile into custody.
3. Alternatives available include the following:
 - d. Release with no further action or following informal counseling when no arrest has been made. Officers may turn the juvenile over to his/her parent or guardian when appropriate;

- e. Informal referral to an appropriate community social service agency;
- f. Limited custody and station house warning. The juvenile shall be held in non-secure custody until released to his/her parent(s) or guardian;
- g. Issue a citation or applying for a summons or complaint; and [44.2.1(b)(c)]
- h. Arrest.

4. Criteria When Choosing an Alternative

- a. In considering a course of action, the officer shall consider the nature of the offense, the age of the juvenile, the juvenile's prior contacts with the police, the availability of community-based rehabilitation programs, and, in some cases, the recommendation of the complainant or victim.
- b. No arrest may be made in cases involving Children Requiring Assistance.

C. Deferral to Juvenile Court:

- 1. While an officer should recognize the unique and often sensitive nature of juvenile contact, [s]he should not be deterred from properly enforcing the law when required to do so. A decision to arrest should be based on the same legal considerations as the arrest of an adult.
- 2. Officers may arrest juveniles for acts of delinquency but not for traditional "status offenses." [44.2.2(a)]

3. Arrested juveniles are subject to the same security and other transportation requirements as adults and may be handcuffed or otherwise restrained as necessary during transport and processing. Children Requiring Assistance may not be confined in shackles or similar restraints or court lock-up, or even transported to the police station unless coordination is required. **NOTE: *This does NOT prevent a police officer from using handcuffs when transporting the child.***

4. When an arrest is made, the juvenile shall be brought to the processing facility without delay. The Juvenile Officer shall be informed of the arrest as soon as possible. The next duty day is ok in regards to informing the Juvenile Officer. Also an email should be sent to the Juvenile Officer to advise them of the arrest. *[44.2.2.(d)]*

5. When a juvenile is arrested, with or without a warrant, the officer shall:
 - a. Notify at least one of the parents, or, if there is no parent, the guardian of the child, or the person with whom the child resides, or the Department of Children and Families (DCF) if the child is in their custody; and *[44.2.2.(e)]*

 - b. During Court Hours, police must complete the booking process and then transport the juvenile to the Juvenile Court.

 - c. After Court Hours, There is no longer a statutory requirement for police to contact a Juvenile Probation Officer, and as such, Probation has ceased its on-call program. Therefore, the OIC of the station will make a determination whether to release the juvenile or to detain the juvenile.

- i. Release: If a juvenile has been arrested without a warrant and the OIC of the police station determines that the juvenile should be released, such release shall be done so upon the acceptance of the written promise from the parent, guardian, custodian or a representative of DCF who will ensure the juvenile's appearance in court.
 - The OIC of the police station will release the Juvenile to appear in the Juvenile Court on the next predetermined recognizance date for that court. Please see attached APPENDIX A, which is a list of dates for each Juvenile Court, current as of the date of this document. This list is subject to change by the local Clerk's Office. OICs should refer to the Juvenile Court serving their community for a current list of recognizance dates.

- ii. Detain: If a juvenile, between fourteen (14) and eighteen (18) years of age, has been arrested on a warrant or if the OIC of the police station requests in writing for the juvenile to be detained, the OIC shall contact the Bail Magistrate/Bail commissioner.

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 - In accordance with *Mass. Gen. Laws C. 119, § 67*, a juvenile age twelve (12) or thirteen (13) who has been arrested without a warrant is prevented from being admitted to bail and therefore must be released to a parent, guardian or custodian. Please refer to section C(C.)(i) of this document.

- d. Bail: The Bail Magistrate/Bail Commissioner will set bail and/or terms and conditions of release based on the juvenile's current charge(s), circumstances of the arrest, criminal history and/or as directed by the arrest warrant.

- e. A juvenile charged with delinquency offenses *shall not be held* in a police lockup or otherwise securely detained for any *longer than six (6) hours*. If the

juvenile is placed in a cell, the cell must be a certified cell by the Department of Youth Services.

- f. The requirement not to release a defendant for six (6) hours when arrested for a violation of *Mass. Gen. Laws* ch. 209A or *Mass. Gen. Laws* ch. 265, §§ 13M (Domestic Assault or Domestic Assault and Battery) or 15D (Strangulation or Suffocation), **DOES NOT apply to juveniles.**
- g. Juveniles held in police custody must be held sight and sound separate from adult detainees.
- h. Within six (6) hours of the arrest, the juvenile must be either: a) transported to the juvenile court, b) released to his/her parent/guardian/custodian or c) transferred to the custody of the Overnight Arrest Program (After 6pm weeknights and anytime on the weekend/holidays).
 - The best practice is for the six (6) hour clock to start when the juvenile is placed in police custody and ends when custody is: a) transferred to juvenile custody, b) the juvenile is released to his/her parent/guardian/custodian or c) custody is transferred to the Overnight Arrest Program.
- i. Inquire into the situation to ensure that proper cause for the arrest existed and that the juvenile was and is treated in accordance with the law. The juvenile may be detained pending such notice and inquiry.

6. A juvenile offender shall be released:

- a. To a parent, guardian or other reputable person upon acceptance, by the arresting officer, of the written promise of such person to be responsible for the appearance of the child in court at the required time and place; or

10. Any police proceeding involving juveniles or Children Requiring Assistance shall be treated in a confidential manner.

D. Holding Juveniles:

1. Delinquent Offenders:

Juveniles between ages 12 and 18 accused of delinquent offenses may be held in secure custody for no longer than **six** hours for the purpose of identifying and processing the juvenile and, if appropriate, transportation to a juvenile facility or court.

2. Records shall be kept that specify:

- a. The time the juvenile entered secure detention and the duration of each period of secure detention;
- b. The name of the police officer or custodial officer responsible for visual supervision and the schedule of visual supervision; and
- c. A statement of the need for secure detention.

NOTE: Juveniles accused of first or second degree murder or who will be tried in adult court as a youthful offender are not subject to the six hour detention limit as they are automatically tried in adult court

- d. No child between the ages of 14 and 18 shall be detained in a police station or town lockup unless the detention facilities for children have received certification by the Department of Youth Services.

- e. Lockup and other detention facilities shall be such as to prevent juveniles who are detained from coming in sight and sound contact with adult prisoners.
- f. No child under age 14 shall be placed in a cell or otherwise securely detained for any reason. Such child may be held in a safe environment pending suitable disposition.

3. Juvenile Unable To Make Bail/Unable To Be Released:

- a. When a juvenile has been charged with a delinquency or youthful offender offense and is unable to make bail or is unable to be released (non-bailable arrest warrant) and court is closed, police must contact the Department of Youth Services (DYS) Central Referral Line at 617-474-8150 or 617-474-8179. (After 6:00pm weeknights and anytime on weekends/holidays).
- b. DYS will speak with the officer regarding the juvenile's arrest and complete the Statewide Awaiting Arraignment/Overnight Arrest Referral Form (See APPENDIX B) Officers will need to specify the bail amount as it relates to the Bail Fee and Bail. See attached Statewide Awaiting Arraignment/Overnight Arrest Referral Form.
 - Bail Fee Only: If a juvenile is being held on a Bail Fee only (\$40.00 – Personal Recognizance), DYS has no authority to hold the juvenile in their custody. The OIC of the police station shall inform the Bail Magistrate/Bail Commissioner of this and arrangements will be made to release the juvenile without imposing a Bail Fee.
 - If the juvenile is in the custody of DCF, DCF shall be notified via the DCF Hotline to take custody of the juvenile.

- If a parent, guardian or custodian refuses to take custody of a juvenile who is otherwise eligible to be released, the officer shall file a 51A and notify DCF via the DCF Hotline for placement.
- c. DYS will provide the officer with the location of the Overnight Arrest Program.
- If the juvenile is *suffering from any medical condition(s)*, (such as; under the influence drugs/alcohol, suicidal thoughts, pepper sprayed or tasered) he/she *must be medically cleared prior to placement*.
 - Police are responsible for obtaining any current medications for the juvenile.
 - Police must provide a copy of the Booking Sheet prior to placement.
 - It is the police department's responsibility to transport the juvenile to the Overnight Arrest Program. Before 9:00a.m., the police must transport the juvenile from the Overnight Arrest Program to the Juvenile Court.
- d. ***Jenkins Hearings***: If a juvenile is arrested without a warrant and held in custody (to include while being held at Overnight Arrest Program), for more than twenty-four (24) hours, he/she is entitled to a *Jenkins Hearings* to determine whether or not there was probable cause to make the arrest and to continue to hold the juvenile. *Jenkins v. Chief Justice of the District Court*, 416 Mass. 221, 223 (1993).
- The bail magistrate/commissioner that set bail on the juvenile cannot be the same magistrate/commissioner who conducts the *Jenkins Hearing*.
 - Officers must call a magistrate/commissioner, if the juvenile will

be held over twenty-four (24) hours, to facilitate a *Jenkin's* determination of probable cause to continue to hold the juvenile.

4. Protective Custody:

- a. Juveniles in protective custody shall not be held in secure custody.
- b. A child under the age of 18 may be taken into protective custody, for a period not exceeding four hours, if an officer:
 - 1. Finds the child at a place where the officer reasonably believes there is a controlled substance of Class A, B or C;
 - 2. Reasonably believes the child has not reached their 18th birthday; and
 - 3. Reasonably believes the child knew of the presence of the controlled substance.

Note: The Officer on duty shall make every reasonable effort to notify the juvenile's parent or guardian or other person having lawful custody

4. Children Requiring Assistance (CRA)

Guidelines:

Definitions

Behavior: A child at least 6 years old, but not yet 18 who:

- Runs away repeatedly from the home of a legal guardian; or
- Fails repeatedly to obey the lawful and reasonable commands of a legal custodian, which results in a failure to adequately care for the child; or
- Is sexually exploited by anyone (meaning the child has engaged in prostitution, pornography, or sexual performance).

School: A child at least age 6, but not yet 16 who:

- Fails repeatedly to obey lawful and reasonable school regulations; or
- Is habitually truant.

Informal Assistance

- When legal custodians or school officials inform officers about the problem behavior of a juvenile, officers should provide advice and counsel, or an immediate referral to:
 - A juvenile officer within the department; or
 - The juvenile court clerk's office.
- Community based services are the preferred intervention for juveniles and their families.
- The juvenile court clerk is in the best position to advise legal custodians and school officials about filing an application to initiate a CRA proceeding.

CRA Protective Custody (PC)

- Impermissible reasons. Officers may never arrest or place in Protective Custody (PC) for:
 - Failing to obey a legal custodian
 - Failing to obey school regulations
 - Failing to attend school
 - Violating a local curfew

CRA Warrant of Protective Custody

- Officers must PC a child named in a CRA Warrant of Protective Custody (WPC) if they:
 - Confirm with the juvenile court that a WPC is still active; and
 - Are able to present the child to a juvenile court judge no later than 4:30 p.m.
 - If unable to transport the child to a judge by 4:30 p.m. because the WPC originated in a court outside the officers' jurisdiction, officers must release the child to a legal guardian, who is willing to sign a release form accepting responsibility to bring the child to court on the next business day. If a parent or guardian is unavailable or unwilling, officers should bring the child to the local juvenile court.
 - If unable to present the child to a judge by 4:30 p.m. that day, officers may only PC the child if they have probable cause that he or she is a runaway. If that is not the case, officers must notify a parent or guardian about the WPC and advise them to sign a release form and bring the child to court on the next available date. Officers may also attempt to serve the WPC the next day during court hours.
- **Officers should:**
 - Arrange for immediate medical care if necessary;
 - Explain that this is not a criminal arrest; the court issued the warrant because it is concerned about the child's welfare. Be empathetic, but avoid debating the merits of the case;
 - Not use handcuffs,
 - Not transport the child in a police wagon. Instead,

transport the child in the secure area of a marked or unmarked cruiser;

- Search the child and any items he or she is carrying for dangerous objects or contraband;
 - Radio dispatch with exact departure and arrival times, and mileage traveled;
 - Bring the child through the front door of the court to the clerk's office;
 - File the warrant return of service form in the clerk's office.
 - File a 51A report of child neglect with DCF in appropriate cases of parent/guardian unavailability or unwillingness to help.
- **CRA Runaway.** Officers may PC a child under 18 if they have probable cause that a child has run away from his or her legal custodian.
 - Under these guidelines, running away applies to any child who is absent from his or her home or other designated location without the knowledge and permission of the child's legal custodian. A prior episode of running away is not required.
- a. Children Requiring Assistance shall not be held in secure custody.
 - b. A child may be taken into custodial protection for engaging in the behavior described in the definition of "Child Requiring Assistance" in section 21, only if such child has failed to obey a summons issued pursuant to MGL c. 119, section thirty-nine E, or if the law enforcement officer initiating such custodial protection has probable cause to believe that such child has run away from the home of his parents or guardian and will not respond to a summons.

- c. A parent, legal guardian, or custodian of a child having custody of such child, **BUT NOT A POLICE OFFICER**, may initiate an application for assistance in one of said courts stating that said child repeatedly runs away from the home of said parent or guardian or repeatedly refuses to obey the lawful and reasonable commands of said parent or guardian resulting in said parent's or guardian's inability to adequately care for and protect said child.

- d. A school district, **BUT NOT A POLICE OFFICER**, may initiate an application for assistance in said court stating that said child is not excused from attendance in accordance with the lawful and reasonable regulations of such child's school, has willfully failed to attend school for more than 8 school days in a quarter or repeatedly fails to obey the lawful and reasonable regulations of the child's school. The application for assistance shall also state whether or not the child and the child's family have participated in the truancy prevention program (if one is available) and a statement of the specific steps taken under the truancy prevention program to prevent the child's truancy; and if the application for assistance states that a child has repeatedly failed to obey the lawful and reasonable regulations of the school, a statement of the specific steps taken by the school to improve the child's conduct.

- e. Upon the filing of an application for assistance, the court may issue a summons, to which a copy of the application for assistance shall be attached, requiring the child named in such application to appear before said court at the time set forth in the summons. If such child fails to obey the summons, said court may issue a warrant reciting the substance of the petition and requiring the officer to whom it is directed forthwith to take and bring such child before said court. **NOTE: This does NOT prevent a police officer from using handcuffs when transporting the child.** Notice of the hearing shall be given to the Department of Children and Families and the Department of Youth Services.

- f. Where the court summons' such child, the court shall in addition issue a summons to both parents of the child, if both parents are known to reside in the Commonwealth, or to one parent if only one is known to reside within the Commonwealth, or, if there is no parent residing in the Commonwealth, then to the parent

having custody or to the lawful guardian of such child. Said summons shall require the person served to appear at a time and place stated therein at a hearing to determine whether or not such child is in need of assistance.

- g.** Unless service of the summons required by this section is waived in writing, such summons shall be served by the constable or police officer, either by delivering it personally to the person to whom addressed, or by leaving it with a person of proper age to receive the same, at the place of residence or business of such person, and said constable or police officer shall immediately make return to the court of the time and manner of service.
- h.** A child who is the subject of an application for assistance may not be confined in shackles or similar restraints or in a court lockup facility in connection with any proceedings under sections 39E to 39I, inclusive. **NOTE: This does NOT prevent a police officer from using handcuffs when transporting the child.** A child who is the subject of an application for assistance shall not be placed in a locked facility or any facility designated or operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent. Such child may, however, be placed in a facility which operates as a group home to provide therapeutic care for juveniles, regardless of whether juveniles adjudicated delinquent are also provided care in such facility.
- i.** A child may not be arrested for engaging in behavior which constitutes being a Child Requiring Assistance.
- j.** A child may be taken into custodial protection for engaging in the behavior described in the definition of “Child Requiring Assistance” in section 21, only if such child has failed to obey a summons issued pursuant to section thirty-nine E, or if the law enforcement officer initiating such custodial protection has probable cause to believe that such child has run away from the home of his parents or guardian and will not respond to a summons.
- k.** After a law enforcement officer has taken a child into custodial protection, the officer shall immediately notify the parent, other person legally responsible for the child’s care or the person with

whom the child is domiciled, that such child is under the custodial protection of the officer and a representative of the Department of Children and Families, if the law enforcement officer has reason to believe that the child is or has been in the care or custody of such department, and shall inquire into the case.

- I. The law enforcement officer, in consultation with the Probation Officer, shall then immediately make all reasonable diversion efforts so that such child is delivered to the following types of placements, and in the following order of preference:
 - (i) To one of the child's parents, or to the child's guardian or other responsible person known to the child, or to the child's legal custodian including the department of children and families or the child's foster home upon the written promise, without surety, of the person to whose custody the child is released that such parent, guardian, person or custodian will bring the child to the court on the next court date;
 - (ii) Forthwith and with all reasonable speed take the child directly and without first being taken to the police station unless coordination is required, to a temporary shelter facility licensed or approved by the department of early education and care, a shelter home approved by a temporary shelter facility licensed or approved by said department of early education and care or a family foster care home approved by a placement agency licensed or approved by said department of early education and care; or
 - (iii) Take the child directly to the juvenile court in which the act providing the reason to take the child into custodial protection occurred if the officer affirms on the record that the officer attempted to exercise the options identified in clauses (i) and (ii), was unable to exercise these options and the reasons for such inability.

Notwithstanding the foregoing requirements for placement, any such child who is taken into custodial protection shall, if necessary, be taken to a medical facility for treatment or observation.

NOTE: This does NOT prevent a police officer from using handcuffs when transporting the child.

Child Brought to Court under Custodial Protection to the Court Where the Case is pending:

The Clerk:

1. Shall ask the law enforcement officer to complete the Law Enforcement Officer Certification form which records the officer's statement for the record that he/she attempted to exercise the options contained in G.L. c. 119, §39H and the reasons why he/she was unable to exercise such options. The form shall be filed in the child's Child Requiring Assistance court file if the child has a pending case.
2. Shall accept the application for Child Requiring Assistance if not already accepted.
3. Inform the Probation Office that the child is in the Clerk's Office and has a pending Child Requiring Assistance case; request the probation officer to perform an immediate inquiry.
4. Schedule the Temporary Custody Hearing to be heard that date.
5. Notify the child's parent(s), legal guardian, or custodian that the child is at the Juvenile Court and determine what time the person can come to court.
6. Notify the child's attorney that the child is present and a temporary custody hearing has been scheduled. If an attorney has not been appointed to represent the child, ask probation to make a preliminary indecency inquiry.

Child Requiring Assistance Case Pending in another Division:

If the Child Requiring Assistance case is pending in another division of the Juvenile Court, the clerk shall:

Ask the law enforcement officer to complete the Law Enforcement Officer Certification form which records the officer's statement for the record that he/she attempted to exercise the options contained in G.L. c. 119, §39H and the reasons why he/she was unable to exercise such options. The form shall be forwarded to the clerk of the court where the case is pending for filing in the court case filed.

**Child Brought To Court Under Custodial Protection Without A
Pending Child Requiring Assistance Case:**

a. The clerk shall:

Ask the law enforcement officer to complete the Law Enforcement Officer Certification form which records the officer's statement for the record that he/she attempted to exercise the options contained in G.L. c. 119, §39H and the reasons why he/she was unable to exercise such options. The form shall be filed in a folder maintained by the clerk's office marked "Law Enforcement Officer Certification Forms for Children without a Pending Case."

b. All juveniles detained by the department shall be informed by the booking officer of the procedures regarding custody, release, and transportation to another facility or court, as applicable. *[42.2.3(c)]*

E. Custodial Interrogation of Minors:

1. It should be remembered that the Miranda Rules apply to juveniles.

2. In addition, the police must also follow the special rules that apply to the interrogation of juveniles. *[44.2.2(c)]*
 - a. **INTERESTED ADULT RULE:** In order to obtain a knowing and intelligent waiver by a juvenile, in most cases, a parent or interested adult must be present, understand the warnings and have a meaningful opportunity to consult with the juvenile. Before initiating an interrogation, the juvenile's parent, legal guardian, or other interested adult (including an attorney) should be present. *[42.2.3(a)]*
 - i. **UNDER AGE 14:** No waiver of rights by a juvenile under age 14 will be valid if an interested adult is not present, understands the warnings and has a meaningful opportunity to consult with the juvenile.

- ii. **14 YEARS OR OLDER:** For juveniles who are 14,15,16, and 17, there should ordinarily be a meaningful opportunity to consult with a parent or interested adult. If there are valid, substantial reasons why an interested adult is not present, officers should ensure, before interrogating the juvenile, that [s]he understands the Miranda warnings and the consequences of waiving them and that any waiver of his/her rights is made intelligently, knowingly and voluntarily. A valid waiver will not occur unless the circumstance "demonstrates a high degree of intelligence, experience, knowledge or sophistication on the part of the juvenile."

- b. **INTERESTED ADULT EXPLAINED:** An interested adult is, most often, a parent of the juvenile. When the parent is unavailable, another interested adult may be called upon, such as, depending on the circumstances, a legal guardian, an adult brother or sister, grandparent, or other adult relative or an attorney.
 - i. A person would not qualify as an interested adult if the adult:
 - [a] Lacks the capacity to appreciate the juvenile’s situation (e.g., is intoxicated);
 - [b] Appears to be actually antagonistic to the juvenile; or
 - [c] Is required to report the juvenile’s offenses to authorities (e.g., an employee of the Department of Youth Services, or a school official in the case of a weapons violation on school grounds).
 - ii. A person under the age of 18 will not satisfy the interested adult rule.

- c. **OPPORTUNITY TO CONSULT:** The interrogating officer should explain to the adult that the two of them will be left alone to provide them an opportunity to discuss the juvenile’s rights. Then the adult

and juvenile must be provided an actual opportunity to discuss the juvenile's rights and the consequences of the waiver.

3. Interrogation:

- a. Prior to conducting a custodial interrogation of a juvenile, the interrogating officer shall be particularly careful to read each Miranda right distinctly, clearly and in a manner designed to ensure that the juvenile (and any adult present on his/her behalf) follows the words being spoken and comprehends their meaning.
- b. Preferably, a written card containing the Miranda warnings should be used. This card should be handed to the juvenile (and any adult present on his/her behalf) so that the juvenile can read it slowly and re-read it if necessary.
- c. When an adult acting on behalf of the juvenile is present, the officer shall read the Miranda warnings to the adult.
- d. Some inquiries shall be made of the juvenile (and any adult present on his/her behalf) as to the juvenile's age, most recent level of schooling and education, whether [s]he has any reading disabilities or mental or emotional conditions and whether [s]he understands the words contained in each Miranda warning.
- e. **UNDER 14:** If the juvenile being interrogated is under the age of 14, he/she must be given an opportunity to have a meaningful consultation with an interested adult to discuss the Miranda warnings.
- f. **AGE 14 TO 17:** If the juvenile is over the age of 14 and an interested adult is present, the adult shall be given an opportunity to have a meaningful consultation with the juvenile.

4. Officers shall ensure that the interrogation is not unduly coercive, particularly when an interested adult is not present; [44.2.3(b)]
 - a. The duration of each interrogation session should not be more than 6 hours without supervisory approval and frequent breaks taken (food and water).
 - b. Absent extraordinary circumstances, only two officers shall be present at the interrogation.
 - c. Do not engage in overbearing tactics including, but not limited to, direct or indirect threats.
 - d. For the most part, avoid claiming to have evidence that they do not actually have.
 - e. Not expressly or implicitly promise to release a juvenile if he confesses.
 - f. Never combine a false claim of evidence with an offer of leniency to induce a confession.
 - g. Be careful when a juvenile's statements do not match other evidence actually possessed by police.
5. While juveniles, like adults, are only entitled to the protection of Miranda when custodial interrogation takes place, courts will consider a child's age in determining whether an interaction involved custody. Courts typically require police to advise juveniles of their rights at an earlier point than they would for similarly situated adults.
6. Failure to have a parent or interested adult present to assist a child who is 12 or 13 years old will invalidate any waiver of Miranda rights.
7. The same is true for a child that is 14, 15, 16 or 17 years old. The only exception is for "highly sophisticated" youths, but this standard is difficult to satisfy. Officers should not rely on it except in extreme cases.
8. Officers should try to locate a parent to advise the juvenile, then seek out an interested adult. Deliberate avoidance of a parent's participation is improper; however, there is no minimum search requirement before police may contact another adult.

9. Officers should:

- Wait for the parent/interested adult to arrive before initiating the waiver process.
- Notify the juvenile and parent/interested adult that they are being recorded.
- Read the Miranda warnings from a form or, in the field, from a card.
- Explicitly tell the parent/interested adult that this is an opportunity to talk with the juvenile about his or her rights.
- Offer the juvenile and parent/interested adult a chance to confer in private.
- The audio portion of the recording should be shut off in the interview room until the adult exits the room and indicates to officers that she and the juvenile have completed their discussion.
- Officers may engage in video monitoring (without audio) during any consultation.
- Resume audio recording when police enter to hear whether the juvenile is prepared to waive his rights.
- A valid waiver requires that the juvenile and parent/interested adult understand the warnings. Police should answer any questions simply and truthfully about the Miranda rights.
- Juveniles age 14, 15, 16 or 17 do not have to actually ask the adult for advice. Police simply must afford them the opportunity to consult.
- On the other hand, juveniles age 12 and 13 must actually consult with the adult in order to furnish a valid waiver. In other words, officers should encourage interaction between the child and adult.
- The private consultation should satisfy both standards.

- Have the child and parent/interested adult sign the waiver or, in the field, verbally acknowledge their waiver.
- An adult may not waive a juvenile's rights without the juvenile's consent.
- On the other hand, it is unclear whether a juvenile may agree to speak with the police over the objections of a parent/interested adult. Officers are advised to assess the juvenile's level of maturity and decide whether to accept his or her waiver and proceed with the interview.
- Record the entire interview. The failure to record is only permissible in the following situations:
 - The interview takes place outside the station and officers lack the equipment to record it.
 - The interview segment deals with intelligence gathering or investigative planning that is not intended for disclosure in court.
 - The juvenile or parent/interested adult requests to confer in private during the interview. Investigators should vacate the room and stop the audio recording, but they may continue video monitoring.
 - The juvenile or parent/interested adult objects to any recording. In this situation, officers should explain, with the recording device running, why it protects the juvenile. The parties will often agree to continue. If they still refuse, officers should ask if they will waive their Miranda rights on tape and speak in an unrecorded session. If they agree, officers may obtain a waiver, turn off the recording device, and continue the interview -- taking notes and documenting the juvenile's statement in a written report. Having recorded this preliminary interaction, officers will have no problem proving in court that the juvenile and adult (not police) chose to discontinue the recording.

NOTE: Massachusetts courts have not ruled on how long the interrogation session of a juvenile may continue before it becomes unduly coercive.

REPORTS: Included in the arrest record will be the time in which each period of interrogation was commenced and completed, the officers present, and the names of parents or responsible adults on hand

F. Abused or Neglected Children: [42.2.2. (b)]

1. A police officer who, in his/her professional capacity, has reasonable cause to believe a child under age 18 is suffering serious physical or emotional injury or death from abuse or neglect, including sexual abuse or malnutrition, shall immediately report such condition to the Department of Children and Families (DCF) by oral communication, followed by a written report within 48 hours of the oral communication. Said report shall contain the following information:
 - a. The names and addresses of the child and parents or other person responsible for the child's care, if known;
 - b. The child's age;
 - h. The child's sex;
 - d. The nature and extent of the child's injuries, abuse, maltreatment or neglect;
 - e. The circumstances under which the officer first became aware of the child's condition;
 - f. The action taken, if any, to treat, shelter or otherwise assist the child;
 - g. The name of the officer making the report;
 - h. Any other information which the officer believes may be helpful in establishing the cause of the injuries; and

- i. The identity, if known, of the person or persons responsible for such injuries.
2. Juveniles may be taken into custody in situations where the officer believes that the life or health of the child is in immediate danger. In such cases, the Department of Children and Families (DCF) shall be immediately contacted and requested to respond to the scene to take custody of the juvenile. If DCF does not respond to the scene in a reasonable amount of time, the juvenile may be transported to the station to await DCF.
3. In serious cases of child neglect or abuse, the officer may apply to an appropriate juvenile court to have custody of a child under 18 taken away from the parents or other neglectful or abusing custodian and have custody transferred, on an emergency basis, to DCF or a licensed child care agency or individual.

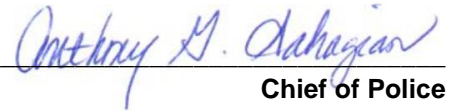
G. School Liaison and Youth Programs:

1. The Chief of Police may establish and/or maintain a school liaison program and appoint one or more officers to do the following: [42.2.4]
 - a. Act as a resource with respect to delinquency prevention;
 - b. Provide guidance on ethical issues in a classroom setting, as requested;
 - c. Provide individual counseling and/or mentoring to students; and
 - d. Explain to students the role of law enforcement in society.
2. The department encourages all departmental personnel, as good citizens, to participate on their off-duty time, in any community recreational programs for youths. Where a recreational program is needed but does not exist, officers should encourage citizens and community leaders to organize one. [42.2.5]

H. Record Keeping:

1. Officers who select noncustodial alternatives or engage in informal enforcement contacts with juveniles shall complete appropriate field interview and/or incident reports as required by this agency. These reports shall clearly identify the juveniles involved, the nature of the incident and the rationale for the officer's disposition.

2. Juveniles taken into custody for criminal-type offenses shall be subject to the same reporting requirements as adults. Such records, including photographs and fingerprints, shall be clearly marked "Juvenile" and will be separated from adult arrest records. [82.1.1(a)(b)]



Chief of Police

04/14/2020

Date