



**Medway Police
Department**

Policy & Procedure No. 44F

DEPARTMENTAL MANUAL

Chapter: 44F

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44F Handling Youthful Offenders

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Chief Allen Tingley

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New Policy
 Amended Policy

GENERAL CONSIDERATIONS AND GUIDELINES

It is generally recognized that juveniles who engage in anti-social conduct present problems to society that are different from those of adults who engage in similar activity. As a result policy and procedures related to youthful offenders differ from those related to adult conduct and is based on the concept that the juvenile offender is often not yet hardened and may be influenced to voluntarily comply with community standards with appropriate attention. There is no question that the attitude and actions of police can have considerable impact on the first offender who is often a frightened youngster during their first encounter with police. How that child is treated during that time can leave a lasting impression. At the same time, it must be remembered that the hardened juvenile criminal can be just as dangerous as any adult.

Although police officers are not expected to be social workers, they must have an understanding of the social and psychological factors that contribute to juvenile misbehavior and crime. By the nature of their duties, the police should be familiar with undesirable conditions in the community that breed delinquency. The prevention of juvenile crime has a high priority and successfully addressing it can pay large dividends to the community.

As a preventive measure, officers should frequently check those areas, places and buildings that have been particularly prone to delinquent behavior and question 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 waiver of rights.

It is the policy of the Medway Police Department that:

- Juveniles shall be afforded their constitutional and statutory rights when being questioned, searched, detained or arrested;

- Juvenile offenders shall not be detained at the police station for any longer than may be necessary but always in conformance with statutory and constitutional law;
- Status offenders, juveniles who commit offenses that would not be a crime if they were an adult, will be held in non-secure custody;
- 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;
- The Department is committed to the development and perpetuation of programs to prevent and control juvenile delinquency. [44.1.1(a)]

PROCEDURE

A. Definitions

1. JUVENILEⁱ

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.ⁱⁱ
- b. Age 12 to Age 18ⁱⁱⁱ: 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^{iv}: 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 summonsed and did not appear, or if the juvenile violated the terms and conditions of probation

2. **Delinquent Child^v**: is defined as a child between 12 and 18 years of age (ages 12, 13, 14, 15, 16, & 17) who commits any offense against a law of the commonwealth; provided, however, that such offense shall not include a first offense for:

- a. a civil infraction,
- b. a violation of any municipal ordinance or town by-law, or
- c. 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.

NOTE: as of July 13, 2018, police officers in Massachusetts hold no arrest powers under these following listed circumstances.

Officers should not arrest for a first offense for any of these listed 6-month misdemeanors:

- Removal of flowers, flags or memorial tokens from a burial lot – c. 272 § 75
- Huffing law – inhaling vapors for effect – c. 270 § 18

- B&E with intent to commit a misdemeanor – c. 266 § 16A
- Unlawful Possession of marijuana or Class E substances – c. 94C § 34
- Operating without a license – c. 90 § 10
- Operating after Suspension – c. 90 § 23 (unless suspension for habitual traffic offender or OUI)
- Minor transporting or possession alcohol – c. 138 § 34C
- Shoplifting (first and second offenses) – c. 266 § 30A
- Trespassing – c. 266 § 120
- Annoying phone calls – c. 269 § 14A
- Indecent Exposure – c. 272 § 53
- Annoying or accosting – c. 272 § 53
- Disorderly conduct – c. 272 § 53
- Disturbing the peace - c. 272 § 53
- Threats to commit a crime – c. 275 § 4

This list is not comprehensive. If dealing with a juvenile and a criminal charge does not appear on this list, ensure the penalty consists of six months in the house of correction or more prior to affecting an arrest.

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

4. **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:

- Is held in the squad room or dispatch office (unlocked). This room is not designed for residential use;
- Is not handcuffed to any stationary object;
- 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
- Is under continuous supervision of the arresting officer or desk officer.

5. SECURE DETENTION

Is defined as physically detained or confined in a room, set of rooms, or a cell that have the ability to lock an individual within. Secure detention can result from either being placed in such a room and/or from being physically secured to a stationary object such as a cuffing rail/bench.^{vi}

- 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^{vii}.
- Juveniles that are securely detained in police custody must be separated by sight and sound from adults in custody^{viii}.
- A juvenile may not be held in police custody for longer than six (6) hours.[44.2.2(d)]

- d. A juvenile should only be held long enough for police to complete the identification and booking process. Once completed, the juvenile should be:
 - i. transported to the juvenile court (during court hours),
 - ii. released to his/her parent/guardian/custodian, or
 - iii. transported to the Overnight Arrest Program (Nights/Weekends/Holidays).
- e. A juvenile placed in Protective Custody, for **ALCOHOL, CANNOT BE SECURELY DETAINED** for any amount of time.
- f. A juvenile placed in Protective Custody, for Controlled Substances/Toxic Vapors, **MUST** be transported to an appropriate emergency medical treatment facility.
- g. A juvenile placed in custody in accordance with Child Requiring Assistance (CRA) **CANNOT** be brought back to the police station.

6. **Status Offender:** A juvenile who has committed an offense that would not be a crime if committed by an adult. Non-Secure custody procedures should be followed when handling a status offender. I.e. youth curfew violations, and minors in possession of or transporting alcohol. [44.2.2(a)]

7. **Youthful Offender:** A person who is subject to an adult or juvenile sentence for having committed, while between the ages of 14 -18 years old, an offense against a law of the commonwealth which, if he were an adult, would be punishable by imprisonment in the state prison, and

- a. has previously been committed to the Department of Youth Services, or
- b. has committed an offense which involves the infliction or threat of serious bodily harm in violation of law, or
- c. has committed a violation of paragraph (a), (c) or (d) of section ten or section ten E of chapter two hundred and sixty-nine; provided that, nothing in this clause shall allow for less than the imposition of the mandatory commitment periods provided in section fifty-eight of chapter one hundred and nineteen.

JUVENILE ARREST – DELINQUENT OFFENSE

Referral to Juvenile Court [44.2.1(c)]

- 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 and status offenses. [44.2.2(a)]
- 3. When an arrest is made, the juvenile shall be brought in for processing without delay. The Shift Supervisor should be informed of the arrest as soon as possible. [44.2.2(d)]

4. 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. See Departmental ***policy 71A-Transporting Detainees***. [44.2.2(d)]
5. 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. [82.1.2(a)]
6. The arresting officer and the prosecutor should cooperate in the preparation and presentation of the case if court action is necessary.
7. Any police proceeding involving juveniles shall be treated in a confidential manner.
8. 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.
9. When a juvenile is placed under arrest, police shall immediately notify at least one (1) of the child's parents, or, if there is no parent, the guardian or custodian with whom the child resides or the Department of Children and Families (DCF) if the child is in their custody. [44.2.2(e)]
10. During Court Hours, police must complete the booking process and then transport the juvenile to the Juvenile Court.
11. 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 Shift Supervisor will decide whether to release the juvenile or to detain the juvenile.
 - a. Release: If a juvenile has been arrested without a warrant and the Shift Supervisor 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.
 - b. The Shift Supervisor will release the juvenile to appear in the Juvenile Court on the next predetermined recognizance date for that court. Dedham Juvenile Court arraigns new cases on Thursdays.
 - c. Detain: If a juvenile, between fourteen (14) and eighteen (18) years of age, has been arrested on a warrant or if the Shift Supervisor requests in writing for the juvenile to be detained, the Shift Supervisor shall contact the Bail Magistrate/Bail Commissioner.
 - d. In accordance with Mass. Gen. Laws ch. 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.

12. 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.
13. 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^{ix}. [44.2.2(d)]

NOTE: Juveniles, fourteen years and older, charged with first or second degree murder are not subject to the six hour detention limit as they are automatically tried in adult court.^x

14. 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.
15. Juveniles held in police custody must be held sight and sound separate from adult detainees.^{xi}
16. 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 weekends/holidays).
 - d. 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:
 - i. transferred to the juvenile court,
 - ii. the juvenile is released to his/her parent/guardian/custodian; or
 - iii. custody is transferred to the **Overnight Arrest Program**.
 - e. Juveniles detained in lock-up will be entered into the Juvenile Lock-up Docket through CJIS at the time of detention.

JUVENILE – UNABLE TO MAKE BAIL / UNABLE TO BE RELEASED

1. 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** or **800-221-0053**. (After 6:00pm weeknights and anytime on weekends/holidays).
2. DYS will speak with the officer regarding the juvenile's arrest and complete the Statewide Awaiting Arraignment/Overnight Arrest Referral Form. 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.
3. 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 Shift Supervisor 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.

4. DYS will provide the officer with the location of the Overnight Arrest Program.

a. 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.

b. Police are responsible for obtaining any current medications for the juvenile.

c. Police must provide a copy of the Booking Sheet prior to placement.

d. It is the police department's responsibility to transport the juvenile to the Overnight Arrest Program. Before 9:00am, the police must transport the juvenile from the Overnight Arrest Program to the Juvenile Court.

5. **Jenkins Hearing:** If a juvenile is arrested without a warrant and held in custody (to include while being held at the Overnight Arrest Program), for more than twenty-four (24) hours, s/he is entitled to a Jenkins Hearing 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).

a. The bail magistrate/bail commissioner that set bail on the juvenile cannot be the same magistrate/commissioner who conducts the Jenkins Hearing.

b. 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.

B. Enforcement Alternatives [44.2.1] [1.2.7]

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 for a juvenile rather than taking him/her into custody.

3. Alternatives available include the following:

a. Outright release with no further action, or release following informal counseling when no arrest has been made. Officers may turn the juvenile over to his/her parent or guardian when appropriate; [44.2.1(a)]

b. Informal referral to an appropriate community social service agency; [1.1.3]

c. Limited custody and station house warning. The juvenile shall be held in non-secure custody until released to his/her parent(s) or guardian;

d. Issue a citation or apply for a summons or complaint; and [44.2.1(b) (c)]

e. 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. [44.2.1(b)] [1.1.3]

b. Whenever the School Resource Officer is available he should be contacted in order to determine if he has prior knowledge with the juvenile.

2. Status Offenders and Protective Custody

a. Status offenders and juveniles held for protective custody shall not be held in secure custody.

b. Status offenders may only be held long enough to complete identification, investigation and processing and then must be released to parents, guardians or other responsible adults or transferred to an alternative juvenile facility or court. As outlined in the Mass Executive Office of Public Safety and Security Office of Grants and Research guidelines for secure alternative and non-secure alternative lockup for juvenile offenders. Department ***policy 71A-Transporting Detainees*** [44.2.2(c)]

c. M.G.L. Chapter 94c section 36 states, a child under the age of 18 may be taken into protective custody, for a period not exceeding four hours, if an officer:

- i. Finds the child at a place where the officer reasonably believes there is a controlled substance of Class A, B or C;
- ii. Reasonably believes the child to be under age 18; and
- iii. Reasonably believes the child knew of the presence of the controlled substance.^{xii}

NOTE: The Shift Supervisor shall make every reasonable effort to notify the juvenile's parent or guardian or other person having lawful custody.

d. For procedures to follow when a person is taken into protective custody due to consumption of alcohol see Department ***policy 73A - Protective Custody***.

3. Record Keeping

a. Officers who select non-custodial 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.

4. Child requiring Assistance (CRA)

a. M.G.L. Chapter 119 § 21, defines a child requiring assistance between the ages of 6 and 18 whom repeatedly:

- i. Runs away from the home of the child's parent, legal guardian or custodian;
- ii. 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;
- iii. Repeatedly fails to obey the lawful and reasonable regulations of the child's school;
or
- iv. Is habitually truant
- v. Is a sexually exploited child

b. A child requiring assistance cannot be "arrested" but a child between the ages of 6 and 18 may be taken into custodial protection for engaging in the following behavior:

- i. Repeatedly runs away from the home of the child's parent, legal guardian or custodian;
- ii. 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;
- iii. Repeatedly fails to obey the lawful and reasonable regulations of the child's school;
or
- iv. Is habitually truant (defined as "a school aged child, not excused from attendance under the lawful and reasonable regulations of such child's school, who willfully fails to attend school for more than 8 days in a quarter").

c. The custodial protection can only be made if:

- i. The child has failed to obey a summons (issued pursuant to §93E), or
- ii. 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/her parents or guardian and will not respond to a summons.

d. Notifications: After a child is taken into custodial protection, the officer shall:

- i. Immediately notify the parent, other person legally responsible for the child's care or the person the child lives with that the child is under custodial protection of the officer.
- ii. A representative of DCF shall also be notified if the officer has reason to believe that the child is or has been in the care or custody of DCF.

e. Transfer of Custody: the law enforcement officer, in consultation with the probation officer shall then 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. First Priority-Parent/Guardian: Deliver the child 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. Second Priority-Shelter Facility: Forthwith and with all reasonable speed take the child directly and without first being taken to the police station, to a temporary shelter facility, shelter home or family foster care home licensed or approved by the department of early education and care; or
- iii. Last Resort: Directly to Juvenile court but only after the priorities above could not be met.

Note: the child should not be booked. In fact, the child should generally not be brought to the police station, unless a parent/guardian cannot be raised, a shelter (as described above) is not immediately available, or the juvenile court is closed. If the child is brought to the station he/she should not be held in a secure area (absent criminal charges otherwise authorizing detention) and immediate steps should be taken to turn the child over to a parent/guardian or DCF.

f. Prohibition on Physical Detention of Child Requiring Assistance

- i. A child requiring custodial protection may not be confined in:
 - (a) Shackles or similar restraints; or
 - (b) In a court lockup facility in connection with any proceedings related to a Child Requiring Assistance (under §39E to §39I, Inclusive).
- ii. A child who is the subject of an application for assistance shall not be placed in:
 - (a) A locked facility; or
 - (b) A facility designated or operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent.

Exception: the child may 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 provide care at such facility.

g. Applying for an application for a child requiring assistance M.G.L. Chapter 119 §39E

- i. A Misbehaved Child: A parent, legal guardian or custodian of a child having custody of such child, may initiate an application for assistance stating that:
 - (a) The child repeatedly runs away from the home of the parent/legal guardian; or
 - (b) The child repeatedly refuses to obey the lawful and reasonable commands of the parent or guardian resulting in the parent's or guardian's inability to adequately care for and protect the child.

ii. Truancy and School Misbehavior: Only a school district may initiate an application for assistance in stating that the child:

(a) 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 days in a quarter, or

(b) Repeatedly fails to obey the lawful and reasonable regulations of the child's school.

4. All juveniles detained by the Department shall be informed by the booking officer or Shift Supervisor of the procedures regarding custody, release, and transportation to another facility or court, as applicable. [42.2.3]

C. Custodial Interrogation of Minors

1. For a general review of the standards and procedures to be followed when conducting custodial interrogation see Departmental **policy 42G - Interrogating Suspects and Arrestees**. It should be remembered that 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.^{xiii} [42.2.3]

- i. **UNDER AGE FOURTEEN:** A waiver of rights by a juvenile under age fourteen is only valid if an interested adult is present, understands the warnings and has a meaningful opportunity to consult with the juvenile.^{xiv}
- ii. **FOURTEEN YEARS OR OLDER:** For juveniles who are at least fourteen but under age 18, 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".^{xv}
- iii. **18 YEARS OF AGE:** If the suspect is 18 years of age at the time of the offense, s/he is considered an adult in the Massachusetts criminal justice system. Thus for Miranda purposes, the special protections afforded to juveniles do not apply.^{xvi}

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, a legal guardian, an adult brother or sister, grandparent or other adult relative or attorney.

i. A person would not qualify as an interested adult if he or she;

- (a) Lacks the capacity to appreciate the juvenile's situation (e.g., is intoxicated);
- (b) Appears to be 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).^{xvii}

ii. A person under the age of eighteen will not satisfy the interested adult rule.^{xviii}

a. **OPPORTUNITY TO CONSULT:** The interrogating officer should explain to the adult that the two of them would 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) comprehends their meaning.

b. Preferably, a written card or form 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 the warnings.

e. **UNDER FOURTEEN:** If a juvenile being interrogated is under the age of fourteen, he/she must be given an opportunity to have a meaningful consultation with an interested adult to discuss the Miranda warnings.^{xix}

f. **AGE 14 -17:** If the juvenile between the age 14 -17 years of age and an interested adult is already present, the adult shall be given an opportunity to have a meaningful consultation with the juvenile, regardless of the degree of intelligence, experience, knowledge or sophistication on the part of the juvenile.

4. Officers shall ensure that the interrogation is not unduly coercive, particularly when an interested adult is not present. [44.2.3]

a. The duration of each interrogation session should be limited and frequent breaks taken.

b. Absent extraordinary circumstances, only two officers should be present at the interrogation.

NOTE: Massachusetts courts have not ruled on how long the interrogation session of a juvenile may continue before it becomes unduly coercive. Whether an interrogation is unduly coercive such that a valid waiver of rights cannot be made, is a facts and circumstances inquiry and will be dependent on the age, intelligence and sophistication of the juvenile, as well as the circumstances of the interrogation.^{xx}

5. 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.

D. Abused or Neglected Children [42.2.2(b)]

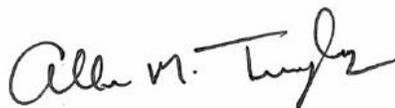
1. M.G.L. Chapter 119 § 51A states, a police officer who, in his/her professional capacity, has reasonable cause to believe a child under age 18 is suffering serious physical or emotional injury or death from abuse or neglect, including sexual abuse or malnutrition, shall immediately report such condition to the Department of Children and Families (DCF) by oral communication, followed by a written report within 48 hours of the oral communication.^{xxi} 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;
- c. 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.^{xxii} 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 eighteen 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.^{xxiii} (Commonly known as a Care and Protection hearing)

Approved _____



Chief of Police Allen M. Tingley

Review Date: Annual

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- ⁱ M.G.L. c. 119, §. 52
- ⁱⁱ M.G.L. c. 119, §. 54
- ⁱⁱⁱ M.G.L. c. 119, §. 54
- ^{iv} M.G.L. c. 119, §. 54
- ^v M.G.L. c. 119, §. 52
- ^{vi} 28 CFR Part 31.303 (i)
- ^{vii} M.G.L. c. 119, §. 52
- ^{viii} M.G.L. c. 119, §. 67
- ^{ix} Executive Order Number 339, Commonwealth of Massachusetts, Aug. 14, 1992; 28 CFR Part 31.303(f)(5)(iv)(H)
- ^x M.G.L. c. 119, §. 68
- ^{xi} M.G.L. c. 119, §. 67
- ^{xii} M.G.L. c. 94C, §. 36
- ^{xiii} Com. v. A Juvenile, 389 Mass. 128, 449 N.E.2d 654 (1983)
- ^{xiv} Com. v. King, 17 Mass. App. Ct. 602, 460 N.E.2d 1299, rev. den. 391 Mass. 1105, 464 N.E.2d 73 (1984)
- ^{xv} Com. v. Berry, 410 Mass. 31, 570 N.E.2d 1004 (1991)
- ^{xvi} Com. v. Carey, 407 Mass. 528, 554 N.E.2d 1199 (1990)
- ^{xvii} Com. v. A Juvenile, 389 Mass. 128, 449 N.E.2d 654 (1983); Com. v. Berry, 410 Mass. 31, 570 N.E.2d 1004 (1991)
- ^{xviii} Com. v. Guyton, 405 Mass. 497, 541 N.E.2d 1006 (1989)
- ^{xix} Com. v. Berry, 410 Mass. 31, 570 N.E.2d 1004 (1991)
- ^{xx} See Com. v. Harris, 364 Mass. 236, 303 N.E.2d 115 (1973)
- ^{xxi} M.G.L. c. 119, §. 51A
- ^{xxii} M.G.L. c. 119, §. 51B
- ^{xxiii} M.G.L. c. 119, §. 24