

 <p>Cambridge Police Department</p>	POLICY & PROCEDURES		No. 460
	Subject/Title: Juvenile Justice Guidelines		
	Issuing Authority: Robert C. Haas Police Commissioner	Issue Date: July 1, 2008	Effective Date: July 1, 2008
		Review Date:	Rescinds: XII. Handling of Juveniles (old Policy)
References/ Attachments:	Accreditation Standards: 44.1.1; 44.1.2; 44.1.3; 44.2.1; 44.2.2; 44.2.3; 44.2.5		

I. PURPOSE:

Whenever the police interact with juveniles, they must exercise special care. Juvenile crime is frequently symptomatic of complex issues that involve the juvenile's entire family unit. Early interventions with juveniles who commit minor offenses, status offenses, or other types of risky behaviors provide an opportunity to teach juveniles that there are consequences for inappropriate behavior. With appropriate intervention, juveniles can learn a valuable life-long lesson. Occasionally, the most effective way to teach this lesson is not through the official sanctions available in the juvenile justice system, but through alternative interventions designed to meet the unique needs of the juvenile and his or her family. In some circumstances, referral to the juvenile justice system will remain the most appropriate way to address a juvenile's criminal behavior. Regardless of the form it takes, the juvenile's experience with law enforcement will have a great impact on his or her future conduct. The Cambridge Police Department is committed to approaching juvenile crime with an eye toward preventing and controlling juvenile delinquency, and deterring future criminality. With this commitment in mind, officers are afforded a great degree of latitude and discretion when encountering youthful offenders.

II. POLICY:

It is the policy of this 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 necessary;
- 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 General Laws, 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.

III. GENERAL CONSIDERATIONS AND GUIDELINES:

Police officers are expected to have a fundamental 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 any undesirable conditions in the community that may breed or contribute to 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 preventative 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, creating a visible and 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.

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. Therefore, some modification of police procedures in handling juvenile offenders is warranted. This special procedure is based on two fundamental concepts.

First, the juvenile offender is often not yet hardened to a life of criminality and may be more easily influenced to conduct him/herself within the law than an adult. 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 the juvenile is treated at the time of contact with 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.

Secondly, most juvenile offenders are still in their developmental and learning stages. The fundamental principle underlying this policy is that juveniles should be given an opportunity to learn from their mistakes. Often this form of learning creates a deeper and more lasting impression. In the adult system, we tend to punish those who violate the law, relying on the assumption that adults should be held responsible for their actions. Under appropriate circumstances, it is generally more productive and beneficial to allow juveniles to understand that they will be held responsible through some constructive corrective action, rather than strictly relying on a punitive approach.

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

For most people, the ultimate symbol of authority in a community is the police officer. This is probably true for juveniles as well. But while the majority of people accept the presence of such authority, juveniles may tend to react in strange ways. It cannot be overemphasized that police contact can be very important in the social development of the young people in our community. Sensitive development of the relationship between the police and juveniles can solidify favorable attitudes already in existence, and more importantly, help to guide the behavior of the borderline case.

A juvenile, for purposes of the criminal law, is anyone between the ages of seven and seventeen (M.G.L. c. 119, s. 52). Police officers should be aware that a juvenile possesses the same constitutional rights as an adult. Indeed, juveniles merit greater legal protection, especially in the area of questioning, custodial interrogation, and waiver of any fourth, fifth, or sixth amendment rights.

IV. DEFINITIONS:

A. Child in Need of Services (CHINS): Any child below the age of seventeen (17) who falls under one of the following criteria:

1. Persistently runs away from the home of his/her parents or legal guardian, or
2. Persistently refuses to obey the lawful and reasonable commands of his/her parents or legal guardian, thereby resulting in the parent's or guardian's inability to care for and protect the child.

Under an alternative definition, a "child in need of services" also covers any child between the ages of six and sixteen whom:

1. Persistently and willfully fails to attend school, or
2. Persistently violates the lawful and reasonable regulations of his/her school.¹

B. Delinquent Child: A child between seven and seventeen who violates any city ordinance or town by-law or who commits any offense against the Commonwealth.²

- C. Juvenile:** A juvenile, for purposes of the Massachusetts criminal law, is anyone between the ages of seven and under the age of seventeen.³
- D. Non-Offenses:** Children held in protective custody because they were found present where controlled substances are kept pursuant to M.G.L. Chapter 94C, § 36, or who are incapacitated due to intoxication pursuant to M.G.L. Chapter 111B, § 8.
- E. Non-Secure Custody:** For purposes of this policy, a non-secure custody occurs when a juvenile's freedom of movement is controlled by a police officer 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.⁴
- G. Status Offender:** A juvenile who has committed an offense that would not be a crime if committed by an adult. These offenses include running away, truancy, youth curfew violations, possession of or transporting alcohol.

V. ESTABLISHMENT OF YOUTH/FAMILY SERVICES UNIT:

- A. Purpose of the Youth/Family Services Unit:** To provide services unique to the needs of juvenile offenders, juveniles who are in need of special intervention, or juveniles (and their families) who simply have general inquiries or concerns, the department has created the Youth/Family Services Unit. Given the complexity and myriad responsibilities assigned to these personnel, there are two distinct designations given to officers assigned to this unit: (1) School Resource Officer; and (2) Juvenile Detective (refer to corresponding job descriptions). Personnel

assigned to this unit will be given specific training to enhance their work with youthful offenders and their families.

1. The Youth/Family Services Unit will be comprised of personnel who are specifically assigned to provide resources and services to juveniles and their families. Given the principles and guidelines under which this unit will operate, it will be bifurcated so as to be responsive and deliberate in achieving its stated goals.
 - a. Personnel assigned to this unit will be specifically trained in all aspects of the Juvenile Justice System and will be responsible for keeping abreast of all laws and directives regarding the handling and treatment of juveniles.
 - b. Personnel assigned to this unit will be familiar with the various diversionary programs used in dealing with juvenile offenders.
2. To ensure that police officers address juvenile crime in a manner consistent with the objectives of the department, all incidents or follow-up investigations involving juveniles, including those where formal charges may be filed, are to be referred to the Family/Youth Services Unit.
3. It is the responsibility of the Youth/Family Services Unit to coordinate and prepare the necessary documentation for any hearings relative to juvenile cases.
4. When appropriate, the Youth/Family Services Unit will offer to divert juvenile offenders out of the Juvenile Justice System to other resources, providing there are no extenuating circumstances involved.
5. During the course of the school year, members of the Youth/Family Services Unit will meet with personnel from each of the elementary and secondary schools within this jurisdiction, including the principal or his/her representatives, and members of the School Security unit to discuss the following:
 - a. The reporting of criminal or delinquent activity occurring on school property;
 - b. The reporting of any fire-setting activity occurring on school property;
 - c. The duties and responsibilities of law enforcement officers assigned to patrol in and around school property;
 - d. The entry by law enforcement officers onto school property for the purpose of effecting an arrest, taking a juvenile into custody or seizing contraband;

- e. Coordinating referrals to and from law enforcement agencies and providing appropriate services to juveniles and their families; and
- f. Law enforcement participation in student instructional or awareness programs concerning crime, juvenile justice, health or other related issues.

B. Youth/Family Services Unit Supervisor: It is the responsibility of the Division Commander of the Support Services Division to see that the officers assigned to the Youth/Family Services Unit receive appropriate training in juvenile matters, including referral procedures, the Juvenile Justice System, as well as relevant laws and established mandates and directives issued by the Commonwealth as they relate to juveniles.

C. Changes in Laws & Procedures: It is the responsibility of the Division Commander of the Support Services Division to ensure that the officer(s) who have been assigned to the Family/Youth Services Unit keep abreast of all juvenile laws and directives involving the handling procedures of juvenile cases. Any changes or important information regarding juvenile matters are to be provided to all officers within the department so that enforcement of the juvenile laws can be carried out efficiently.

1. Officers assigned to the Youth/Family Services Unit shall ensure that all cases involving juvenile offenders are investigated fully and that the investigations are conducted consistent with all regulations and procedures established by State statute, federal and state constitutional law, and other relevant authorities.
2. A listing of resources utilized by this agency in dealing with juvenile cases is to be maintained by officers assigned in this capacity.

D. Administrative Reporting Procedure: It shall be the responsibility of the Division Commander of the Support Services Division to include as part of his monthly report to the Police Commissioner, all relevant matters concerning investigations into juvenile crime, and dispositions of those cases. In addition, it shall be that commanding officer's responsibility to see that the following reporting requirements are observed:

1. Juvenile records must be maintained separately from adult offender records. In addition to any departmental records, a Juvenile Docket Sheet must be completed and submitted monthly to the Massachusetts Committee on Criminal Justice. The purpose of these forms is to help monitor compliance with the Federal Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974.

- a. Only arrested juveniles placed in secure detention (cell, handcuffed to rail or non-moveable objects, etc.) should be reported on this monthly report.
- b. These Docket Sheets are reviewed monthly by the Juvenile Justice Specialist and the Monitoring Coordinator for violations and incomplete reporting. Site visits and follow-up letters will be sent to police departments to review violations and to offer technical assistance, as needed.

E. Review of Department Procedures: It shall be the responsibility of the Division Commander of the Support Services Division to see that all departmental procedures regarding juveniles are reviewed at least annually to ensure that they conform to all laws and directives.

F. Responsibility of Juvenile Matters: It is the responsibility of all operational divisions and units, as well as all sworn officers within this department to strictly adhere to and carry out all policy objectives of this department as it pertains to the treatment and handling of juveniles.

G. Annual Reporting Procedures: The department's Youth/Family Services Unit shall be responsible for compiling and submitting an annual report summarizing its juvenile operations (enforcement actions, total number of apprehensions, referrals, etc.). This report shall be submitted to the Police Commissioner, through the appropriate chain of command.

1. This report shall not only include the enforcement action taken, but also outline the types of referrals made to other diversionary programs.
2. The annual report will also include a section where the Youth/Family Services Unit will be required to make any appropriate suggestions or recommendations that may serve to modify or improve juvenile operations within the department.
3. The annual report will include an evaluation report on prevention programs relating to juveniles. This evaluation should consider whether specific programs are effective, should be modified, or discontinued.

VI. GENERAL GUIDELINES FOR DISPOSITION OF JUVENILE MATTERS:

- A. General Guidelines:** Officers may exercise reasonable discretion in deciding appropriate enforcement action for juvenile offenders. Officers shall use the least coercive and most reasonable alternative, consistent with preserving public safety, order, and individual liberty.
- B. Resorting to the Use of a Summons:** Whenever reasonable and possible, an officer will request a summons for a juvenile rather than taking him/her into custody.
- C. Types of Interventions for Juvenile Offenders:** Officers may consider the following interventions for juvenile offenders:
1. Release with no further action or following informal counseling when no arrest has been made. Officers may release the juvenile to his/her parent or guardian when appropriate;
 2. Informal referral to an appropriate community social service agency, which may involve one of the following alternatives:
 - a. Simple treatment by the agency alone, consisting principally of supervision on a voluntary basis agreed to by the parents and juvenile involved.
 - b. A relatively prolonged program of treatment, on a voluntary basis, necessitating the services of one or more social agencies.
 3. Limited custody and station house warning. The juvenile shall be held in non-secure custody until released to his/her parent(s) or guardian;
 4. Issue a citation or apply for a summons or complaint; and
 5. Arrest of the juvenile offender.
- D. Diversion of Juvenile Cases from the Juvenile Justice System:** Apart from diverting juveniles to other social service agencies or referring them to the juvenile courts, law enforcement officers have a wide range of alternative remedies that they may employ. In circumstances where the offense or infraction committed by the juvenile is relatively minor, where the juvenile does not possess a lengthy record of previous offenses, and where the juvenile does not appear to be a threat to him/herself or the community, the officer may utilize the following remedies:

1. Station-House Adjustments/Curbside Warnings for non-serious juvenile activity that does not warrant either taking a juvenile into custody or filing of a complaint alleging delinquency. "Station house adjustment" will entail warning the juvenile about future consequences of his or her continued delinquent activity, and notifying the juvenile's parent(s) or guardian(s) about the matter. Although this course of action may be used to resolve a minor juvenile matter, the officer conducting such action shall complete the necessary police reports that would be required for any other juvenile matter;
2. Informal referrals for individual or family counseling;
3. Consultation with parents or guardians and arranging for corrective action to be taken by them;
4. Referral to the Youth/Family Services Unit; or
5. Dropping charges and taking no further action.

E. Referral to the Juvenile Justice System: In those cases where an alleged juvenile offender has been involved in serious criminal conduct or repeated violations, officers should as a matter of course seek a delinquency complaint unless there are specific mitigating circumstances to recommend otherwise. In general, an officer is required to file an application for a delinquency complaint for the following infractions:

1. All delinquent acts that if committed by an adult would be an indictable offense;
2. All delinquent acts involving the use of a weapon;
3. All serious gang-related delinquent acts;
4. All delinquent acts involving aggravated person-to-person offenses, including any allegation of sexual assault;
5. All delinquent acts committed by juveniles on probation or parole, or by those with a delinquency case pending;
6. All repeated delinquent acts that reoccur;
7. Absent specific mitigating circumstances, referral to the juvenile justice system is also required in the following circumstances:
8. Where it has been determined that parental supervision is not effective in stemming the juvenile's delinquent activity;

9. Where it has been determined that the juvenile offender represents a threat to him/herself or the community if released; or
10. Where there is sufficient probable cause to believe that the juvenile has committed an act of delinquency that would constitute a violation of any of the drug laws.

F. Issuance of Written Traffic Citations: There are only a few exceptions where an officer is permitted to issue a citation or summons in lieu of taking a juvenile into custody. Most of these exceptions pertain to the motor vehicle laws where the juvenile has been cited as the offender.

VII. ARRESTING JUVENILE OFFENDERS:

A. Officers' Duties with Regard to Juveniles: While an officer should recognize the unique and often sensitive nature of juvenile delinquency, he/she should not be deterred from properly enforcing the law when required to do so. A decision to arrest, whether it is for a delinquent act or a status offense, or to detain, for protective or investigative purposes must be based on the same legal considerations as would be the case for the arrest or detention of an adult (or protective custody).

B. General Guidelines for Detaining or Arresting Juveniles: Any time an officer takes a juvenile into custody or detains a juvenile for investigative purposes, the officer shall adhere to the following guidelines:

1. Notify the patrol supervisor as soon as possible.
2. Advise the juvenile offender of his/her constitutional rights when applicable.
3. Whenever an officer advises a juvenile of his/her Miranda Warning, the officer is required to use the "Miranda Form - Juvenile" forms (see attached form).
4. Attend to any injury or illness being suffered by the juvenile.
5. Transport the juvenile to either the police station or the juvenile's home, depending upon what action is going to be taken, without any unnecessary delay.

6. Observe the same security and other transportation requirements for arrested juveniles as adults, including handcuffing or otherwise restraining as necessary during transport and processing.
7. Attempt to notify the juvenile's parents or guardians of the detention as soon as possible, but always prior to any formal interview or interrogation procedures.
8. Complete a detailed investigative report which includes all information relative to the juvenile and the persons who were contacted to act on behalf of the juvenile (usually parent or guardian).
9. Juveniles have the right to counsel at **every** stage of the juvenile process.

C. Referrals to the Youth/Family Services Unit: When a juvenile is arrested, the officer shall refer the case to the attention of the Youth/Family Services Unit for review and follow up.

D. Procedures for Juvenile Arrests: When a child between the ages of seven and seventeen is arrested, with or without a warrant, the officer in charge of the station shall, in accordance with M.G.L. Chapter 119, § 67:

1. Notify the probation officer of the District Court or Juvenile Court for the judicial district in which the juvenile was arrested.
2. Notify at least one of the parents, or if there is no parent, the guardian of the child, or the adult with whom the juvenile resides, of the arrest:
3. Evaluate the facts to ensure that probable cause for the arrest exists and that the juvenile was and is treated in accordance with the law.

Note: The juvenile may be detained pending such notice and inquiry.

E. Booking Procedures: Juveniles arrested for criminal type offenses are subject to the same booking procedures as adults.

F. Releasing Juveniles Following an Arrest: A juvenile shall be released:

1. To a parent, guardian, or other reputable person upon their agreement, to the officer in charge, either orally or in writing, to produce the juvenile in court at the required time and place; or

2. To a probation officer upon receipt of a request by such officer that the child be released to him/her.

G. Detaining Juveniles at the Station: A child between the ages of fourteen and seventeen shall not be released, if: ⁵

1. While a juvenile is detained at the police station, the juvenile will be kept under constant in-person surveillance.
2. The arresting officer requests in writing that he/she be detained; and
3. The court issuing a warrant for the arrest of such juvenile directs in the warrant that he/she be held in safekeeping pending his/her appearance in court; or
4. A probation officer directs that such juvenile be detained.

Note: Notice of detention shall be given to the parent(s) or guardian or person with whom the juvenile resides and to the probation officer. Nothing contained in this section should be construed to deny the juvenile the right to bail.

H. Holding Juveniles Accused Of Delinquent Offenses: Juveniles between the ages of fourteen and seventeen accused of delinquent offenses may be held in secure custody for no longer than six (6) hours for the purpose of identifying and processing the juvenile and, if appropriate, transportation to a juvenile facility or court.⁶

1. 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
 - 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 (6) hour rule detention limit as they are automatically tried in adult court.⁷

2. No child between the ages of fourteen and seventeen shall be detained in a police station unless the detention facilities for children have received written approval of the Commissioner of Youth Services.⁸
3. No child under the age of fourteen 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.

I. Detaining Status Offenders or CHINS at the Police Station: Chapter 119, § 39H of the General Laws prohibits the secure detention of status offenders in a police station or lockup facility. As a matter of practice, juveniles who have committed a status offense are brought to the station under arrest or under protective custody may not be placed into a detention cell or held in secure custody under any circumstances. Officers shall comply with the following guidelines:

1. Juveniles shall be held in an unlocked, multipurpose section of the police station, such as a report writing room, an interview room, or an office.
2. Juveniles shall not be held in a space designed for residential use.
3. At no time is the juvenile to be handcuffed to any stationary object.

Note: Status offenders may be handcuffed when it is appropriate and necessary for the security of the juvenile or others. Under no circumstances may a juvenile status offender be handcuffed to a stationary object. The handcuffing of status offenders will not be considered "secure custody".

4. The juvenile is held only 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.
5. The juvenile is to be placed under continuous visual supervision.
6. A child under the age of seventeen may be taken into protective custody, for a period not exceeding four hours, if an officer makes the following observations:
 - a. Finds the child at a place where the officer reasonably believes controlled substances are present (Class A, B or C); or
 - b. Reasonably believes the child to be under age seventeen; and
 - c. Reasonably believes the child knew of the presence of the controlled substance.⁹

- d. See Department Policy No. 434 for procedures to follow when a person under age eighteen is taken into protective custody due to consumption of alcohol.

- J. Children in Need of Services:** A parent, legal guardian, or police officer may file a petition in the Juvenile Court to have a child declared a “child in need of services” (CHINS). If the court so finds, the court may make orders pertaining to custody, counseling and educational, occupational or other services. There are only two circumstances where an officer may arrest a juvenile who has been designated as a “child in need of services.” Those circumstances are restricted to the following situations:
1. Where a CHINS warrant has been issued by the court for a child failing to obey a CHINS summons.
 2. Where the arresting officer has probable cause to believe the child has run away from home and will not respond to a summons.
- K. Contact with Adult Prisoners:** Juveniles brought to the police station shall be kept separate from adult prisoners and shall not be allowed to have any contact with adult prisoners (M.G.L. Chapter 119, § 67). This means that juveniles must be sight and sound separated from adult prisoners. The intent of this provision is to provide full removal of juveniles from adult jails and lockups. This separation applies to all activities at the station or lockup, including: reception, housing, eating, visiting and booking. These restrictions do not apply to juveniles 14 years of age or older whom the court has decided to try as adults.
- L. Transportation of Juveniles to Court:** Patrol cruisers or other marked police vehicles are not to be used when transporting a juvenile from his/her home or other place to a court or other institution. If it is necessary to transport the juvenile, another suitable vehicle shall be used (M.G.L. Chapter 119, § 34).
- M. Preparation of the Case for Court:** The arresting officer, the Juvenile Officer, and the Assistant District Attorney should cooperate and coordinate their efforts in the preparation and presentation of the case, and to determine what, if any, court action is necessary.
- N. Confidentiality of Juvenile Cases:** Any police proceedings involving juveniles shall be treated in a confidential manner.

VIII. CUSTODIAL INTERROGATION OF MINORS:

A. Custodial Interrogation of Juveniles: Prior to interrogating a juvenile who has been taken into police custody, or who is being interviewed in connection with a police investigation, officers conducting the interview/interrogation will adhere to the following procedures:

1. Normally, the interrogation of a juvenile will not go beyond a two (2) hour period of time, and shall not be conducted by any more than two (2) officers.
 - a. The interrogating officer shall ensure that the interrogation is not unduly coercive, particularly when an interested adult is not present.
 - b. The duration of each interrogation session should be limited and frequent breaks should be taken.

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 juvenile cannot legitimately waive his or rights is determined by the specific facts and circumstances of each case, and will depend upon the age, intelligence and sophistication of the juvenile, as well as the circumstances of the interrogation.¹⁰

2. The officers who plan to conduct the interview must first confer with the juvenile's parents or guardians in order to obtain their consent.
3. Fully advise the juvenile and the juvenile's parents or guardians of the juvenile's constitutional rights. (See attached form).
4. Provide an overview of the procedures that will be employed and what course(s) of action are available to the agency in connection with the matter under investigation to both the juvenile and the juvenile's parents/guardians.
5. Permit the juvenile's parents/guardians to be present during any questioning (see subsection "C" for exception).
6. Officers are not to take any statements from a juvenile without first obtaining permission from the juvenile's parent or guardians. If the juvenile's parents/guardians cannot be reached after a reasonable amount of time, another responsible adult family member will suffice.
7. A spontaneous confession by the juvenile is acceptable. However, the officer is not to conduct any further questioning of the juvenile until the juvenile is formally informed of his/her constitutional rights and the juvenile's parents are present.

8. A juvenile may only be detained for a period of six (6) hours or less for custodial purposes. Normally, six (6) hours is considered an excessive period of time, unless the juvenile poses a security or safety risk, or the parents/guardians cannot be reached. Long-term custodial detentions by this agency as it pertains to juvenile detainees are to be the exception, rather than the rule.

B. Recommended Safeguards When Administering Miranda: In addition, however, police must be particularly aware of the need for conscientious and careful methods when interrogating any juvenile in custody. Police must also follow the special rules that apply to the interrogation of minors.

1. 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 spoken and comprehends their meaning.
2. While reading the Miranda warnings to the juvenile (from the Miranda Warnings form), the officer should provide a copy of the warning to the juvenile (and any adult present on his/her behalf) so that they can read and reread the warnings.
3. When an adult acting on behalf of the juvenile is present, the officer shall read the Miranda warnings to the adult.
4. The officer conducting the interrogation must ask the juvenile or the adult acting on his/her behalf the juvenile's age, his/her most recent level of schooling and education, whether he/she has any reading disabilities or mental or emotional conditions, and whether he/she understands the words contained in each Miranda warning.
5. The juvenile and the adult present on his or her behalf should be allowed to discuss privately (?) the meaning of the Miranda warnings, the consequences of waiving them, and the advisability of waiving them.
 - a. Juvenile Under the age of Fourteen: If the 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.¹¹
 - b. Juvenile Age Fourteen to Seventeen: If the juvenile is over the age of fourteen and an interested adult is present, the adult shall be given an opportunity to have a meaningful consultation with the juvenile.¹²

6. If there is no adult present on behalf of the juvenile, the interrogating officer should answer the juvenile's questions the juvenile has as to the meaning of each Miranda warning. The officer should inform the juvenile that it is the officer's duty to inform the juvenile of his/her Miranda rights, but it is solely up to the juvenile to decide whether to waive or exercise those rights, when, and to what extent.
7. When an adult acting on behalf of the juvenile is present, the officer shall read the Miranda warnings to the adult and allow that adult every reasonable opportunity to discuss those rights with the juvenile to make sure the juvenile understands those rights, and to assist the juvenile in deciding whether to waive or exercise any or all of those rights.

C. Interested Adult Rule: In all instances of custodial interrogation of juveniles, police shall follow the "interested adult" rule.¹³

1. Under Age Fourteen: If the juvenile being interrogated is under the age of fourteen, an interested adult must be present, must be advised of the Miranda warnings, and must be given an opportunity to discuss them with the juvenile. No waiver of rights by a juvenile will be valid if an interested adult is not present who understands the warnings, and has a meaningful opportunity to consult with the juvenile.¹⁴
2. Fourteen Years or Older: If the juvenile is at least fourteen but under age seventeen, officers must provide the juvenile 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 minor, that he/she 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 circumstances "demonstrate a high degree of intelligence, experience, knowledge, or sophistication on the part of the juvenile."¹⁵
3. Seventeen Years of Age: If the suspect is seventeen years of age at the time of the offense, he/she is considered an adult in the criminal justice system. Thus, for Miranda purposes, the special protections afforded to juveniles do not apply.¹⁶

D. Interested Adult Rule Explained: An interested adult is, most often, a parent of the juvenile. When the parent is unavailable, another interested adult may be called upon. Depending on the circumstances, the interested adult could be a legal guardian, a foster parent, an adult brother or sister, grandparent, or other adult relative, or an attorney.

1. One is not an interested adult and cannot serve to provide legal consent to question the juvenile if the individual:
 - a. Lacks the capacity to appreciate the juvenile's situation (e.g., is intoxicated);
 - b. Appears to be actually antagonistic to the juvenile, or if there is a lack of relationship between the child and the adult, or if a substantial conflict exists;
 - 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).¹⁷
2. A person under the age of eighteen will not satisfy the interested adult rule.¹⁸

E. Providing an 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.

F. Information Contained Within Reports: Included in the interrogating officer's report will be the time in which each period of interrogation was commenced and completed, the names of the officers present, and the names of the parents or responsible adults who were also present.

IX. REFERRAL TO THE FAMILY/JUVENILE SERVICES UNIT:

A. Enumerated Offenses Involving Juvenile Offenders: Whenever a report of any of the following crimes is received, the report is to be verified by the officer initially assigned to the investigation, and handled accordingly. If the offense involves a juvenile perpetrator who has been apprehended, the Youth/Family Services Unit is to be notified immediately:

1. Criminal Homicide;
2. Arson (as defined by statute);
3. Aggravated or Serious Assault & Battery;

4. Break and Entry (where the juvenile is apprehended at the scene of the crime, or immediately thereafter);
5. Serious Narcotic Offenses;
6. Illegal Use of Explosives (not fireworks);
7. Kidnapping;
8. Sexual Offenses;
9. Robbery; or
10. Any other offenses that are deemed appropriate by the officer in charge of the shift.

B. Investigating Officer's Responsibilities: It is the investigating officer's responsibility to handle all juvenile cases from the initial receipt of a complaint up to and including the time that a member of the Youth/Family/ Services Unit (or detective) is assigned to the case, or the matter has been turned over to the parent or guardian of the juvenile, or the matter has been referred to the Youth/Family Services Unit for follow-up investigation.

1. In the majority of the cases where the infraction is relatively minor and where there are no extenuating circumstances involved, parental referral should suffice.
2. If, on the other hand, the nature of the incident is more serious or involves extenuating circumstances, or involves one of the enumerated crimes or conditions listed in this procedure, then the officer will notify his/her supervisor immediately.
3. The investigating officer will complete a detailed report concerning his investigative findings and actions taken concerning the investigation.

C. Supervisor's Responsibilities: It shall be the supervisor's responsibility to assist officers who have been assigned to investigate a matter involving a juvenile offender. Further, the supervisor will determine if a detective is to be assigned to the case or if the matter should be forwarded to the Youth/Family Services Unit for a follow-up investigation.

1. In those cases in which a detective is to be assigned to the case, the supervisor shall immediately notify the shift commander, who shall make the final determination, and if so determined, initiate the call out procedure.

2. The supervisor will see that the investigating officer completes an investigative report.
3. The supervisor will insure that all investigative procedures are carried out in accordance with all mandates and directives.

D. Assignment of the Youth/Family Services Unit: If one of the enumerated offenses or conditions exist as defined by this procedure, and it is determined that a juvenile is the perpetrator or is criminally involved in the offense, then a detective will be assigned to the case. If a member of the Youth/Family Services Unit is not on duty at the time of the incident, then the officer in charge of the shift will be responsible for initiating the call out procedure.

1. When an officer takes out a formal complaint against a juvenile offender, it shall be assigned to the Youth/Family Services Unit for signature.

X. FINGERPRINTING AND PHOTOGRAPHING JUVENILES:

A. Fingerprinting and Photographing Juvenile Offenders: Fingerprint and photograph exemplars of juveniles may be obtained under the following circumstances:

1. Where latent fingerprints are found during the investigation of a criminal offense, and a law enforcement officer has "reason to believe" that they belong to a juvenile suspect, exemplars may be taken either by order of the **court**, or with the consent of juvenile and his parent or guardian for the purpose of comparison with the latent fingerprints.
 - a. Fingerprint records taken pursuant to this section may be retained by the department for investigative purposes; once this purpose has been satisfied, these records shall be destroyed.
 - b. If the parent and juvenile do not consent to the taking of fingerprint exemplars, a court order must be obtained. The detective assigned to the case will prepare an affidavit stating the reasons for believing that the juvenile is involved.
2. If a juvenile is fourteen (14) years or older and is charged with a serious delinquency offense, which if committed by an adult and would constitute a serious crime, **fingerprint and photograph exemplars of that juvenile shall be taken** for criminal identification purposes.

- a. It shall be the responsibility of the Juvenile Officer to determine the duration of how long fingerprint records and/or photographs of juveniles shall be retained by this agency, in accordance with State law and prosecutorial directives.
 3. All fingerprint records and photographs of juvenile offenders must be kept segregated from the adult fingerprint and photograph files.
 4. All fingerprint records and photographs taken of juvenile offenders that are to be retained by this agency shall be forwarded to the Records Bureau for filing.
 - a. It shall be the responsibility of the Records Bureau Supervisor to collect, disseminate, and retain all fingerprint, photographs, and other forms of identification pertaining to juveniles that have been forwarded to the Records Bureau for record keeping purposes.
 - b. Fingerprint, photographs, and other forms of identification pertaining to juveniles shall remain on file until such time as the Records Bureau Supervisor is notified that the records may be purged.
 5. It shall be the responsibility of the Juvenile Officer to personally destroy all such records that are being purged from the Records Bureau files.
 6. If a notice of expungement is received from the court on a juvenile case, the Records Bureau Supervisor shall purge fingerprints, photographs, and other forms of identification pertaining to the juvenile from the files.
- B. Status or Non-Criminal Offenses:** Juveniles taken into custody for status or non-criminal offenses shall **not** be fingerprinted or photographed.¹⁹

XI. JUVENILE OVERNIGHT ARREST PROGRAMS:

- A. Serious & Violent Delinquent Offenders:** Where a juvenile is accused of committing a serious or violent offense, he or she may be securely detained up to six (6) hours at a police station. If during the course of the booking process, the on-call Juvenile Probation Officer indicates that the juvenile is not to be released into the custody of a parent or guardian; authorization should be obtained from the Juvenile Probation Officer to arrange for admittance into the Regional Juvenile Secure Alternative Lockup Program. If so authorized, the Shift Commander should make the necessary arrangements to have the juvenile offender transferred to the Regional Juvenile Secure Alternative Lockup Program.

1. The Essex County Sheriff's Department manages the ALP. Arrangements should be made by the Shift Commander with the Regional Juvenile Secure Alternative Lockup Program – what transportation arrangements need to be made.
2. If the Secure Alternative Lockup facility is not able to accept the juvenile offender, then the on-call Juvenile Probation Officer is to be reconnected and advised of the situation. Provided that the Juvenile Probation Officer authorizes the juvenile being held at the police station, the juvenile offender is to be securely detained and under constant direct supervision until being transferred to court.

B. Serious & Violent Delinquent Offender in DSS/DYS Custody: If it is determined that a juvenile offender has committed a serious or violent offense, and that juvenile is already in DSS or DYS custody, then the officer-in-charge is responsible for notifying the appropriate agency that the juvenile is in custody. Transfer to a Secure Alternative Lockup facility may be authorized by the appropriate overseeing agency. If authorization is given to have the juvenile offender transferred to a Secure Alternative Lockup facility, then the procedural steps enumerated in the preceding section are to be followed.

C. Detention of CHINS, Status Offenders, or Non-Violent Delinquents: If as part of the booking process, the on-call Juvenile Probation Officer authorizes the detention of a CHINS, Status Offender, or Non-Violent Delinquent, then the officer-in-charge of the shift is responsible for making arrangements for transfer of the juvenile into the Regional Juvenile Non-Secure Alternative Lockup Program (ALP).

1. In the event that the Regional Juvenile Non-Secure Alternative Lockup Program facility cannot place a juvenile due to the nature of the charges, insufficient bed space, or for some other reason, it still remains the responsibility of the ALP to assist the police in referring the juvenile to the nearest available facility.
2. If the department must transport the juvenile to an ALP, the safeguards in transporting prisoners *(refer to the appropriate companion policy)*.

D. Reporting Requirements: Any time a juvenile offender is transferred either to the Regional Juvenile Secure Alternative Lockup Program or the Regional Juvenile Non-Secure Lockup Program, the assigned officer will make sure that information is contained within his/her investigative report. The officer is to specify if the juvenile offender was transferred to the Secure or Non-Secure ALP.

1. Any time a juvenile offender is securely detained, either at the police station or transferred to the Regional Juvenile Secure Alternative Lockup Program, that information is to be recorded in the monthly "Juvenile Lockup Report," which maintained by the Records Bureau Staff.

XII. DISCLOSURE OF JUVENILE RECORDS:

- A. Policy Regarding the Disclosure of Juvenile Records:** Disclosure of juvenile records such as, social, medical, psychological, legal and other records of the court and the Probation Department and records of any law enforcement agency pertaining to juveniles charged, shall be strictly safeguarded from inspection.
- B. Agencies/Persons Entitled to Juvenile Records:** Records pertaining to juveniles shall be made available to:
1. Any court or probation department.
 2. Any District Attorney or State Attorney General's Offices.
 3. The parents/guardians and attorney representing the juvenile only with express permission for the District Attorney's Office.
 4. The Department of Social Services if providing care or custody of the juvenile.
 5. Any institution to which the juvenile is currently committed, with permission from the Probation Department.
- C. Record Keeping Procedures:** It shall be the responsibility of the Records Bureau Supervisor to collect, disseminate, and retain agency records pertaining to juveniles. Records pertaining to juvenile offenders shall be maintained in the following manner:
1. Separation of adult and juvenile arrests and identification records.
 - a. All adult and juvenile arrest and identification paper records shall always be maintained in separate files.
 - b. All computerized records of adult and juvenile arrest and identification records shall be maintained in separate files. Access to these files shall be controlled by security access codes into the computer system.

2. Provisions relating to court-ordered expungement of records.
 - a. Upon order received from the Superior Court, the Records Bureau Supervisor shall be responsible for expunging all pertinent records that are ordered expunged by the court.
 - b. All expunged records shall be sealed, and not be released.
 - c. Records that cannot be entirely removed from the file will be copied, with the name and all references to the individual who is to be expunged completely blacked-out. The original report will be sealed in an envelope and secured in the Expungement File Cabinet, maintained by the Records Bureau Supervisor.
3. Provision governing the disposition of records when juveniles reach adult age.
 - a. Juvenile records shall be retained for the duration of time that is specified within the Records Retention Schedule.
 - b. Records are purged on an annual basis in accordance with the Records Retention and Disposition Schedule.
4. Provisions for access to records on a need-to-know basis only.
 - a. Officers and employees may access juvenile records on a need-to-know basis only.

D. Release of Reports Involving Juveniles: Reports involving juvenile offenders must first be cleared through the District Attorney's Office prior to releasing them to private citizens or other private entities.

¹ M.G.L. c. 119, §21. See also M.G.L. c. 119 § 39E-39J.

² M.G.L. c. 119, §52

³ M.G.L. c. 119, §52

⁴ 28 CFR Part 31.303 (i)

⁵ M.G.L. c. 119, §67

⁶ Executive Order Number 339, Commonwealth of Massachusetts, August 14, 1992; 28 CFR Part 31.303 (f) (5) (iv) (H)

⁷ M.G.L. c. 119, § 68

⁸ M.G.L. c. 119, § 67

⁹ M.G.L. c. 94C, § 36

¹⁰ See *Commonwealth v. Harris*, 364 Mass. 236, 303 N.E.2d 115 (1973)

¹¹ *Commonwealth v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

¹² *Commonwealth v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

¹³ *Commonwealth v. A Juvenile*, 389 Mass. 128, 449 N.E.2d 654 (1983)

¹⁴ *Commonwealth v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

¹⁵ *Commonwealth v. King*, 17 Mass. App. Ct. 602, 460 N.E.2d 1299, *rev. den.* 391 Mass. 1105, 464 N.E.2d 73 (1984)

¹⁶ *Commonwealth v. Carey*, 407 Mass. 528, 554 N.E.2d 1199 (1990)

¹⁷ *Commonwealth v. A Juvenile*, 389 Mass. 128, 449 N.E.2d 654 (1983); *Comm. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991); *Commonwealth v. Escalera*, 70 Mass. App. Ct. 729, 876 N.E.2d 493 (2007).

¹⁸ *Commonwealth v. Guyton*, 405 Mass. 497, 541 N.E.2d 1006 (1989)

¹⁹ M.G.L. c. 263, §1A; *Commonwealth v. Shippis*, 399 Mass. 820, 507 N.E.2d 671 (1987)