
	<h1>South Hadley Police Department</h1>	<b>POLICY NO. 22</b>
<h2 style="color: red;">JUVENILE OPERATIONS</h2>		<b>DATE OF ISSUE:</b> 01/03/2020  <b>EFFECTIVE DATE:</b> 01/24/2020  <b>REVISED DATE:</b> 12/17/2024  <b>REVIEW DATE:</b> 12/17/2027
<b>6<sup>th</sup> Ed. MPAC Standards: 44.1.1, 44.2.1, 44.2.2, 44.2.3, 44.2.4, 44.2.5, 82.1.1, 82.1.2</b>		
<p>ISSUING AUTHORITY:</p>  <hr style="width: 30%; margin: auto;"/> <p>Jennifer Gundersen, Chief of Police</p>		

### I. POLICY PURPOSE

The purpose of this policy is to establish guidelines and responsibilities regarding the South Hadley Police Departments interaction with juveniles.

### II. POLICY STATEMENT

Juvenile Delinquency must receive considerable attention from the police, since it often generates the adult criminal and leads to the growth and development of more serious crime. In the past, delinquent juveniles usually committed minor offenses such as vandalism, petty theft or running away from home. However, juvenile delinquency today is more than just simple youthful misbehavior. It is often adult crime committed by juveniles.

The prevention of juvenile crime is a priority for the South Hadley Police Department. The department will cooperate with all other agencies, public or private, that can be of any assistance in deterring or controlling juvenile delinquency. Interacting with juveniles and juvenile offenders requires a modification in many departmental procedures. Not only do juveniles have the same rights as adults, but they also require special handling by virtue of their age. Therefore, as a result of the special needs of the juvenile offender, this policy sets forth procedures relative to the handling of juveniles and youthful offenders and further establishes this department's commitment to the perpetuation of programs designed to prevent and control juvenile delinquency.

It shall be the policy of the South Hadley Police Department to use the least coercive methods, consistent with preserving public safety, order and individual constitutional rights, whenever an officer interacts with a juvenile offender. Whenever possible, an officer will request a summons for a juvenile rather than taking him/her into custody. When criminal charges are warranted, the preferred response is a summons vs. a physical arrest, ensuring that any decision is consistent with preserving public safety.

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.

### III. DEFINITIONS:

- A. **Juvenile:** Anyone under the age of eighteen (18) years of age. The age of Criminal Responsibility is twelve (12) years of age. A juvenile under age 12 cannot be charged with a crime.
- B. **Status Offender:** A juvenile whom has committed an offense that would not be a crime except for his/her age (i.e. runaway, possession of alcoholic beverage, etc.).
- C. **Non-Offenses:** Children held in protective custody because they were found present where controlled substances are kept pursuant to *Mass. Gen. Laws Ch. 94C, § 36*, or are incapacitated due to intoxication pursuant to *Mass. Gen. Laws Ch. 111B, § 8* or incapacitated pursuant to *Mass. Gen. Laws Ch. 111E, § 9A*.
- D. **Secure Custody:** Being detained physically or confined in a room, set of rooms or a cell that have the ability to lock an individual within. Secure detention can result either being placed in such a room and/or from being physically secured to a stationary object such as a handcuffing to a railing/bench. No child under the age of fourteen (14) shall be placed in a cell or otherwise securely detained for any reason.
- 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 of an officer assigned by the shift supervisor, until released.
5. Authorized locations for non-secure custody are: Report Writing Room, Training Room, Detective Bureau Offices.

F. **Delinquent Child (Non-Status Offender):** A child between 12 and 18 years of age who commits any offense against a law of 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
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 a fine and imprisonment.

*\*Note: (Effective 8/13/2019) **With one exception, police officers may arrest a juvenile for any crime that they could arrest an adult for.** In Wallace A., a Juvenile v. Comm., Mass. 514 (2019), our SJC established that changes to juvenile jurisdiction did not affect officers' arrest authority for minor misdemeanors. Consistent with the public safety and their good judgement, officer's **may** arrest juveniles in their presence who:*

- Engage in Disorderly Conduct
- Disturb the Peace
- Interrupt a lawful assembly

**School Exception for these 3 Offenses:** Under Chapter 272 Sec. 53 and 40, disorderly, disturbing or interrupting may not be the basis for arrest or even a complaint application, when the juvenile is a student on school property or at a school related event.

#### IV. PROCEDURES

##### A. RESPONSIBILITY FOR JUVENILE OPERATIONS FUNCTION:

Responsibility for many specific juvenile functions lies with the designated School Liaison/School Resource Officer. However, the responsibility for participating in and supporting the South Hadley Police Department's juvenile operations function is shared by all agency components and personnel.

1. **Juveniles Require Special Handling:** 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 and 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 not yet hardened and may be more easily influenced to conduct him/herself within the law. There is no question that the attitude and actions of the police can have considerable impact upon the first-time offender, who is often a badly frightened youngster at the time of his/her arrest. How he/she is treated at the 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 can.

2. **Juveniles Require Special Understanding:** Knowledge of their physical and psychological background will aid the police in their contact with these children. Juveniles face unique pressure from peer groups and family. Young people often feel a need to rebel and resist or test authority. There is a tendency to gather and act in groups, making it more difficult for them to exercise individual judgement. Frustrations at home and school may lead to aggressive behavior as an outlet. Their ideals and outlook on life differ from the adults who surround them.

## **B. DISPOSITION OF YOUTHFUL OFFENDERS:**

Any officer of this department who has contact with a juvenile offender for any reason shall use the least restrictive alternative available when considering the disposition of said minor. The following is a list of dispositions available to the officer:

1. **Counsel and Release:** An officer of this department, who encounters a minor child for any nonserious offense, may counsel and release the minor without further action, provided that the minor has not previously been counseled and released.
2. **Restorative Justice:** Minor offenses that occur within the South Hadley Schools may be referred by the School Resource Officer to School Administration for restorative justice per existing memorandum of understands.
3. **Community Based Juvenile Justice Program:** Offenses may be referred by the School Resource Officer to the Northwestern District Attorney's Office as per the existing MOU between the South Hadley Schools, South Hadley Police Department and the Northwestern District Attorney's Office.
4. **Use of Summons:** In most situations, where there is no violence involved or potential danger to others and barring any statutory mandate, a juvenile can be summonsed to answer a criminal charge in court in lieu of being arrested. This includes felonies of a minor nature that did not involve violence and where the juvenile does not present a danger or will flee to avoid prosecution.
5. **Arrest and Referral to Juvenile Court:** This department may refer a juvenile offender to the Juvenile Court depending upon the seriousness of the crime committed. If there is a question as to whether an arrest of a juvenile should be made, personnel should consult with their supervisor.. When an arrest is made, the arresting officer shall document why the juvenile was arrested vs requesting a summons.
6. **Arrest at School:** It is preferred that students only be arrested on school property or at a school-related event as a last resort or when a warrant requires such an arrest. The principal or his or her designee should be consulted prior to an arrest whenever practicable, and the student's parent or guardian shall be notified as soon as practicable after an arrest. In the event of an investigation by the SRO that leads to custodial questioning of a juvenile student, the SRO shall notify the student's parent or guardian in advance and offer them the opportunity to be present during the interview."

7. **Exceptions to the Juvenile Court Requirement:** Two exceptions to the general rule that all proceedings involving juvenile must first be commenced in the juvenile court or session are contained in M.G.L. Chapter 119 Sec. 74. This section provides exceptions as follows:
  - a. Motor Vehicle Violations: A criminal complaint alleging any violation of any provision of Chapter 89 or 90, which is not punishable by imprisonment or by fine of more than \$100, or of any city ordinances regulating the operations of motor vehicles, may issue against a child between 16 and 18 years of age without first proceeding against him/her as a delinquent child.
  - b. 1<sup>st</sup> & 2<sup>nd</sup> Degree Murder: Juveniles, age 14 and older accused of murder are automatically tried in adult court as a result of the Youthful Offender Law. Complaints and indictments brought against persons for such offenses shall be brought in accordance with the usual course and manner of criminal proceedings.

**C. CRITERIA FOR REFERRAL TO FORMAL LEGAL PROCEEDINGS:**

In general, delinquent acts requiring referral to the juvenile justice system would include, but is not limited to the following:

1. Any crime that would be considered a felony if committed by an adult. However, felonies of a minor nature, that did not involve violence and where it's clear that the juvenile does not represent a danger can be resolved with a summons in lieu of being arrested.
2. All delinquent acts involving weapons.
3. All serious gang-related delinquent acts.
4. All delinquent acts involving aggravated assault and battery.
5. All delinquent acts committed by juveniles on probation or parole or by those with a case pending.
6. All repeated delinquent acts.

**D. PROTECTIVE CUSTODY:**

As set forth in M.G.L. Chapter 94C Sec. 36, a police officer may take into protective custody, for not more than 4 hours, any person whom the officer reasonably believes is under 18 years of age if that person is found present where controlled substances in Class A, Class B or Class C are kept or possessed and the child knows of the presence or possession of the controlled substances. If a person under the age of 18 is taken into Protective Custody under these circumstances, every reasonable effort shall be made to notify the child's parent, guardian or other person having lawful custody.

**FILE A MANDATORY REPORT OF ABUSE OR NEGLECT - 51A REPORT.**

**V. PROCEDURES-ARREST/DETENTION OF A JUVENILE OFFENDER**

**A. RESPONSIBILITIES OF THE ARRESTING OFFICER-PROCEDURES AT THE SCENE:**

After a Juvenile has been arrested for delinquent conduct, the arresting officer should take the following steps at the scene of the arrest:

1. 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 on *Transportation of Detainees and Booking*.
2. Provide Medical Aid if Necessary: If the juvenile is sick or injured, inform the dispatcher, request an ambulance and administer appropriate first aid. The arresting officer must wait for the ambulance to arrive and have 1 officer accompany (if transport to the hospital) the juvenile in the ambulance.
3. Give Miranda Warnings.

**B. RESPONSIBILITIES OF THE ARRESTING OFFICER-POST ARREST DUTIES:**

Transport to the police station without delay. Conduct the booking process where the juvenile will be given and afforded their constitutional rights and will be processed in accordance with departmental procedures.

1. Juveniles are not to be processed or detained in the presence of adult detainees.
2. Juveniles shall be interrogated by department policy (if necessary).
3. Juveniles charged with delinquent offenses, constituting felonies are to be processed according to department policy regarding fingerprinting and photographing.
4. Notification of Guardian: When a juvenile is placed under arrest, the police shall immediately notify at least 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 Child and Families (DCF) if the child is in their custody.

**C. RESPONSIBILITIES OF ARRESTING OFFICER- POST ARREST AND DETENTION OF THE JUVENILE:**

1. Detention of Status Offenders: M.G.L. Chapter 119 Sec. 39(H) prohibits the secure detention of status offenders in a police or lock-up facility. There are 5 requirements for Status Offenders:
  - i. The space shall be in no way designed for residential use.
  - ii. The area where the juvenile is held shall be an unlocked, multipurpose section. Authorized South Hadley Police Department locations include: Report Writing Room, Training Room, Detective Bureau Offices.
  - iii. At no time shall the juvenile be handcuffed to a stationary object. The handcuffing of status offenders, if appropriate, is not considered secure custody.
  - iv. The juvenile shall be held only long enough to complete identification, investigation and processing. The juvenile shall be released to a parent, guardian, other responsible adult or transferred to the alternative facility or court.
  - v. The juvenile shall be under continuous, visual supervision by a police officer or cell monitor in an unlocked room as designated by the agency until released (The important distinction, in order to comply with the law, is that while it is permissible for the police to arrest and keep the status offender in custody, it **must not be secure custody**).
2. Complete Necessary Paperwork: The arresting officer and booking officer shall complete an arrest/custody report and the detainee property and rights sheet.

3. Contact the Appropriate State Agency, if Necessary: The arresting officer shall make inquiry to determine if the juvenile is already in the care or custody of the Department of Youth Services, the Department of Children and Families, the Department of Mental Health, the Department of Developmental Services or any other state agency. If so, the arresting officer shall make immediate notification to the appropriate agency.
4. Arrange for a Psychiatric Evaluation, if Necessary: If the juvenile needs psychiatric treatment or needs to undergo psychiatric evaluation to determine risk to him/herself or others or for the assessment of mental illness, ensure that emergency services is contacted for the purpose of conducting an evaluation.
5. Arrange for Medical Attention, if Necessary: If the juvenile needs medical attention, the officer shall notify the Supervisor and the Supervisor shall ensure that the juvenile is provided with such attention in accordance with departmental procedures. The Supervisor shall also make every attempt to see that the parent/ guardian of said child is notified as soon as possible of said medical problem. He/she shall also see that documentation is made of the medical problem, the action taken relative to the problem and notification to the parent/guardian.
6. Notify DCF of Child Abuse/Neglect/Sexual Abuse Cases: In the event there are allegations or there is reason to suspect that the juvenile is or has been the subject of child abuse/neglect/sexual abuse, make immediate notification to the Department of Child and Families by means of the Child at Risk Hotline. Before the end of the arresting officers shift, prepare and submit to the Supervisor a Chapter 119 Sec. 51A (51A Report) regarding such child abuse/neglect/sexual abuse. The Supervisor shall see that the report form is forwarded to the Department of Child and Families Records Bureau and Detective Bureau.
7. If the Juvenile is AWOL from DYS, Arrange for Removal: In the event a juvenile is arrested for being AWOL from the Department of Youth Services (DYS), after confirmation having been made with the Regional DYS on-call representative, plan with said DYS representative for the expeditious removal of the DYS client from police custody. If the DYS client was arrested on a new charge then he/she will be treated like any other juvenile arrest.
8. Submit Reports to the Supervisor and the School Liaison/School Resource Officer. If circumstances of the arrest require immediate notification of the School Liaison/School Resource Officer, the on-duty Supervisor shall ensure that such notification is made.
9. If the juvenile is placed in a cell, ensure that the IMC arrest record reflects this so appropriate State mandated reports can be made to DYS regarding juvenile detention. **No child under the age of fourteen (14) shall be placed in a cell or otherwise securely detained for any reason.** Such child under the age of fourteen may be held in a safe environment pending suitable disposition which include the Report Writing Room, Training Room, Detective Bureau offices.

**D. POST ARREST PROCEDURES REGARDING TRANSPORT, RELEASE, DETENTION AND BAIL:**

1. During Court Hours: After booking, the juvenile shall be transported to the Juvenile Court if the court is open.

2. After Court Hours: There is no statutory requirement for police to contact a Juvenile Probation Officer, and as such, Probation has ceased its on-call program. Therefore, the SUPERVISOR of the police station will decide whether to release the juvenile or to detain the juvenile.
3. **Release:** If a juvenile has been arrested without a warrant and the SUPERVISOR 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 SUPERVISOR of the police station will release the juvenile to appear in the Juvenile Court on the next predetermined recognizance date for that court. SUPERVISOR's should refer to the Juvenile Court serving their community for a current list of recognizance dates.
4. **Detain:** If a juvenile, age 14 and under 18 years of age, has been arrested on a warrant or if the supervisor of the police station request in writing for the juvenile to be detained, the supervisor shall contact the Bail Magistrate/Bail Commissioner. In accordance with M.G.L. Chapter 119 Sec. 67, a juvenile age 12 or 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.
5. **Bail:** The Bail Magistrate/Bail Commissioner will set bail and/or terms and conditions of released based on the juvenile's current charge(s), circumstances of the arrest, criminal history and/or as directed by the arrest warrant.

*Comm. v. Manolo M., 486 Mass. 678 (2021) regarding "When multiple charges arise from one event, the juvenile is entitled to a dismissal of any minor misdemeanors if the juvenile has not previously committed any criminal conduct."*

**E. 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 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 6pm weeknights and anytime on weekends/holidays).
2. DYS will speak with the Supervisor regarding the juvenile's arrest and complete the Statewide Awaiting Arraignment/Overnight Arrest Referral Form. The Supervisor will need to specify the bail amount as it relates to the Bail Fee and Bail.
3. **Bail Fee Only:** If a juvenile is being held on a Bail Fee Only (\$40-Personal Recognizance), DYS has no authority to hold the juvenile in their custody. The supervisor of the police station shall inform the Bail Magistrate/Bail Commissioner of M.G.L. Chapter 119 Sec. 67. Arrangements will be made to release the juvenile without imposing a Bail Fee if:
  - a. The juvenile is in custody of DCF, DCF shall be notified via the DCF Hotline to take custody of the juvenile.
  - b. 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 SUPERVISOR with the location of the Overnight Arrest Program.

- a. If the juvenile is suffering from any medical condition(s), such as under the influence of alcohol/drugs, 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 department's responsibility to transport the juvenile to the Overnight Arrest Program. Before 9am, 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 24 hours, he/she is entitled to a Jenkins Hearing to determine whether or not there is 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)). Supervisor overseeing the original bail process is responsible to communicate to oncoming supervisor the requirement to have this hearing.
- a. The Bail Magistrate/Bail Commissioner that set the bail on the juvenile cannot be the same magistrate/commissioner who conducts the Jenkins Hearing.
  - b. The SUPERVISOR must call a magistrate/commissioner, if the juvenile will be held over 24 hours, to facilitate a Jenkins Hearing for determination of probable cause to continue to hold the juvenile.

**F. JUVENILE HOLDING/DETENTION:**

- 1. No child under the age of fourteen (14) shall be placed in a cell or otherwise securely detained for any reason.
- 2. No juvenile between 14 and 18 years of age shall be placed in a cell, unless the cell has been certified by the Department of Youth Services.
- 3. This department shall retain the right to continue secure custody of any juvenile over the age of fourteen (14) charged with a delinquency which constitutes a felony in the Commonwealth of Massachusetts, who is felt to be a risk to the community, who may be a danger to themselves or who may flee prosecution if released prior to court arraignment. However, every effort is to be made to release non-violent juveniles charged with delinquency to a parent, guardian, probation officer or the ALP.
- 4. Juveniles held in police custody must be held sight and sound separate from adult detainees.
- 5. The juvenile shall be under continuous, visual supervision by a police officer or cell monitor. The narrative of the written report shall document which secure cell the juvenile was placed in, time in, time and the name of the employee who was responsible for the continuous visual supervision of the juvenile.
- 6. A juvenile charged with delinquency offenses shall not be held in a police lockup or otherwise securely detained for any longer than 6 hours. 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 transferred, or juvenile is released.

7. A juvenile should only be held long enough for police to complete the identification and booking process. Within 6 hours of the arrest, the juvenile must be transported to the juvenile court, released, to his/her parent/guardian or custodian, transferred to the custody of the Overnight Arrest Program
8. The requirement not to release a juvenile for 6 hours when arrested for violation of M.G.L. Chapter 209A or M.G.L. 265 Sec. 13M (Domestic Assault or Domestic Assault and Battery) or M.G.L. Chapter 265 Sec 15D (Strangulation or Suffocation), does not apply to juveniles.
9. A juvenile placed in Protective Custody for alcohol cannot be securely detained for any amount of time.
10. A juvenile placed in Protective Custody for controlled substances/toxic vapors, must be transported to an appropriate emergency medical facility.
11. A juvenile placed in custody in accordance with a Child Requiring Assistance (CRA) cannot be brought back to the police station.

**Note: Juveniles 14 and older charged with murder are not subject to the 6-hour detention limit. However, they must be kept sight and sound separate from adult detainees.**

#### **G. DETENTION OF CRA'S, NON-OFFENDERS AND JUVENILES UNDER 14:**

1. Children Requiring Assistance (CRA), non-offenses (protective custody) and all juveniles under 14 years of age cannot be held in secure custody and shall be afforded the same treatment as status offenders according to the Federal Juvenile Justice & Delinquency Prevention Act of 1974.
2. Five types of CRA cases:
  - a. Runaway: A child between the ages of 6 and 18 who “repeatedly” runs away from home of a parent, guardian or custodian having custody of the child.
  - b. Stubborn Child: A child between the ages of 6 and 18 who repeatedly fails to obey reasonable home rules, thereby interfering with the parent’s ability to care for the child. A parent, guardian or custodian may apply to the court for assistance.
  - c. Habitual School Offender: A child between the ages of 6 and 18 who repeatedly fails to obey school rules. A school district may file an application but must state specific steps that the school district has taken to improve the child’s conduct.
  - d. Habitual Truant: A child between the ages of 6 and 18, who without excuse, willfully fails to attend school for more than 8 days in a quarter. The school applicant must state whether the child and the child’s family have participated in a truancy prevention program.
  - e. Sexually Exploited Child: Any person under 18 years of age who has been subjected to sexual exploitation. This includes anyone who is the victim of sexual servitude or

sex trafficking, engages in sexual conduct for a fee or in exchange for food, shelter, clothing, education or care, is the victim of the crime of inducing a minor into prostitution or engages in common night walking/street-walking.

## **H. SPECIAL PROCEDURES FOR HANDLING RUNAWAYS:**

The MA Executive Office of Health and Human Services is offering a program to assist police officers who are dealing with runaways during the hours that the juvenile court is closed (evenings, weekends and holidays). After consultation with probation and if the police officer determines a child cannot be safely delivered to a parent or other responsible adult (including DCF), the police officer may: DIAL 211

1. During the hours that juvenile court is closed, a police officer dials 211 and when prompted, speak to a Runaway Assistance Program (RAP) Specialist. The 2 local numbers for zip code area 01075 are 877-211-6277 (toll free) with an alternative number of 508-370-4991.
2. The Mass211RAP Specialist will provide the police officer with a name and address of the closest available Emergency Service Program (ESP).
3. The Mass211 Specialist will then arrange a 4-way conference call among the police, the ESP and the appropriate non-secure Alternative Lock-Up Program (ALP). The Mass211 RAP Specialist will be the call moderator.
4. This call will determine the condition of the runaway child and the next steps.
5. The police officer will drive the child to the local ESP for evaluation.
6. The ALP will be dispatched to the ESP.
7. ESP staff will greet the child and the police officer (this is when the police officer will be able to leave).

## **I. RESPONSE TO JUVENILE ARSON:**

Officers of this department responding to incidents involving Juvenile Arson, Juvenile Attempted Arson or Suspicion of Juvenile Arson, shall document all incidents with an Offense Report. Juvenile Arson involving injury and/or property damage requires the Officer in Charge on the shift notify the Detective Bureau. A 51A form shall be submitted with the Offense Report.

The Detective Bureau will be responsible for communicating the information from the Offense Report to the Northwestern Juvenile Fire Intervention Response, Education and Safety Partnership (No FIRES) and the Northwestern District Attorney's Office.

The School Liaison/School Resource Officer (SRO) will also be notified and a copy of the Offense Report forwarded to them and may assist in the investigation.

## VI. CUSTODIAL INTERROGATION OF MINORS

For a general review of the standards and procedures to be followed when conducting custodial interrogation see the departmental policy and procedure on *Interrogating Suspects and Arrestees*. It should be remembered that the *Miranda Rules* apply to juveniles.

In addition, the police must also follow the special rules and constitutional protections that apply to the interrogation of juveniles.

1. **Interested Adult:** 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.<sup>i</sup>
2. **Under Age Fourteen:** No waiver of rights by a juvenile under age fourteen will be valid if an interested adult is not present, understands the warnings and has an actual opportunity to consult with the juvenile.<sup>ii</sup>
3. **Fourteen Years of Age or Older:** For juveniles who are at least fourteen but under age eighteen, 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"<sup>iii</sup>
4. **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.

**NOTE:** It is important to note that the "interested adult" must be eighteen (18) years of age or older.<sup>iv</sup> Furthermore, the adult must be in a position where [s]he is an advocate, meaning [s]he is likely to have the best interests of the juvenile at heart and not in an "enforcement status."<sup>v</sup>

**NOTE:** *Officers should be extremely cautious when the "Interested Adult" is also the victim of the crime committed by the juvenile. Officers should seek another person to fill the role as an "Interested Adult" whenever practical.*

- a. A person under the age of eighteen will not satisfy the interested adult rule.<sup>vi</sup>
- b. A person would not qualify as an interested adult if the adult: Lacks the capacity to appreciate the juvenile's situation (e.g., is intoxicated); appears to be actually antagonistic to the juvenile; or 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).<sup>vii</sup>

5. **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. This does not mean the juvenile actually seek the adult's advice, and the adult does not have to expressly offer advice. All that is required is that the police afford the juvenile the opportunity to consult.

#### A. INTERROGATION

1. Prior to conducting a custodial interrogation of a juvenile, the interrogating shall be particularly careful to read each *Miranda* right distinctly, clearly and in a manner designed to ensure that the juvenile and the parent or "interested adult" follows the words being spoken and comprehends their meaning.
2. All *Miranda* warnings will be read to the juvenile and parent or "interested adult" from the Departments *Miranda* Form. Officers should "explicitly inform" the parent or interested adult that an opportunity is being provided to confer about the juvenile's rights.<sup>viii</sup> The juvenile and parent or "interested adult" should sign the *Miranda* Form indicating their understanding of each right.<sup>ix</sup>
3. 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.
4. **Under Fourteen:** If the juvenile being interrogated is under the age of fourteen (14), he/she must be given an opportunity to have an actual consultation with an interested adult to discuss the *Miranda* warnings.<sup>x</sup>
5. **Age Fourteen to Eighteen:** If the juvenile is over the age of fourteen (14) and an interested adult is present, the adult shall be given an opportunity to have a meaningful consultation with the juvenile.<sup>xi</sup>
6. Officers shall ensure that the interrogation is not unduly coercive, particularly when an interested adult is not present. The Massachusetts Supreme Judicial court has ruled all persons placed in custody that are subjected to custodial interrogations, must be afforded the opportunity to have their confession recorded by tape or audio.<sup>xii</sup>
  - a. The duration of each interrogation session should be limited and frequent breaks taken.
  - b. Absent extraordinary circumstances, only two officers shall 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.<sup>xiii</sup>

7. **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.

## VII. RECORD KEEPING

1. 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.
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.

## VIII. SCHOOL LIAISON AND YOUTH PROGRAM

1. The chief of police may establish and/or maintain a school liaison program and appoint one or more officers to do the following: See attached Memorandum of Understanding regarding the School Resource Officer Program.
  - 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.

Attached: MOU schools, DA and PD

---

<sup>i</sup> *Com. v. A Juvenile*, 389 Mass. 128, 449 N.E.2d 654 (1983)

<sup>ii</sup> *Comm. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

<sup>iii</sup> *Comm. v. King*, 17 Mass. App. Ct. 602, 460 N.E.2d 1299, *rev. den.* 391 Mass. 1105, 464 N.E.2d 73 (1984)

<sup>iv</sup> *Comm. v. Guyton*, 405 Mass. 497, 541 N.E.2d 1006 (1989)

<sup>v</sup> *Comm. v. Juvenile*, 402 Mass. 275 (1988)

<sup>vi</sup> *Comm. v. Guyton*, 405 Mass. 497, 541 N.E.2d 1006 (1989)

<sup>vii</sup> *Comm. v. A Juvenile*, 389 Mass. 128, 449 N.E.2d 654 (1983); *Comm. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

<sup>viii</sup> *Comm. v. Mark M., a juvenile*, 65 Mass. App. Ct. 703 (2006)

<sup>ix</sup> *Comm. v. Leon L.*, 52 Mass. App. Ct. 823 (2001)

<sup>x</sup> *Comm. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

---

<sup>xi</sup> *Id.*

<sup>xii</sup> *Comm. v. DiGiambattista*, 442 Mass. 423 (2004)

<sup>xiii</sup> *See Comm. v. Harris*, 364 Mass. 236, 303 N.E.2d 115 (1973)