

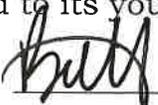
HANDLING JUVENILES

<p>POLICY & PROCEDURE NO. 1.15</p> 	<p>ISSUE DATE: April 17, 2018</p>
<p>MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 44.1.1; 44.2.1; 44.2.2; 44.2.3; 44.2.4; 44.2.5; 82.1.1(a); 82.1.1(b); 82.2.1(a); 82.2.1(b)</p>	<p>EFFECTIVE DATE: August 1, 2025</p>
	<p>REVISION DATE: August 1, 2024; 5/24/2021; 5/25/2020</p>

I. GENERAL CONSIDERATIONS AND GUIDELINES

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

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

Chief of Police:  Select Board: 

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

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

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

The legislature has rescinded the law formerly referred to as CHINS (Children in Need of Services) and replaced it with numerous provisions concerning Children Requiring Assistance. Rather than arresting certain young persons, the police may place them in "custodial protection" but they may not confine them in shackles or similar restraints or court lock-up, or even bring them to the police station. NOTE: *This does NOT prevent a police officer from using handcuffs when transporting the child.* Until the legislature or a court clarifies certain provisions of the new law, the Department will do its best to interpret and comply with the spirit of the legislation, which is clearly aimed at further separating certain "status offenders" from the stigmatizing effects of certain aspects of the criminal justice system.

II. POLICY

A. It is the policy of this department that:

1. Juveniles shall be afforded their constitutional and statutory rights when being questioned, searched, detained or arrested;
2. Juvenile offenders shall not be detained at the police station for any longer than necessary;
3. Children Requiring Assistance shall be provided custodial protection and other required services where this can be done safely;
4. Officers shall, whenever reasonable and justified under this policy, take those measures necessary to effect positive

change in juvenile offenders that are consistent with Massachusetts law and the safety and security interests of the community;

5. The department is committed to the development and perpetuation of programs to prevent and control juvenile delinquency. [44.1.1.a]

III. DEFINITIONS

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

- a. Runaways: Repeatedly runs away from the home of the child's parent, legal guardian or custodian.
- b. Stubborn Child: 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.
- c. Habitual School Offender: Repeatedly fails to obey lawful and reasonable regulations of the child's school. 4. Habitually Truant: 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 eight (8) days in a quarter. [42.2.2(a)]
- d. Sexually Exploited Child: Any person under the age of 18 who has been subjected to sexual exploitation because such person:
 - i. is the victim of the crime of sexual servitude pursuant to section 50 of chapter 265 or is the victim of the crime of sex trafficking as defined in 22 United States Code 7105;
 - ii. engages, agrees to engage or offers to engage in sexual conduct with another person in return for a fee, in violation of subsection (a) of section 53A of chapter 272,

or in exchange for food, shelter, clothing, education or care;

- iii. is a victim of the crime, whether or not prosecuted, of inducing a minor into prostitution under section 4A of chapter 272; or
- iv. engages in common night walking or common streetwalking under section 53 of chapter 272.

B. Delinquent Child: A child between the age of seven (7) and eighteen (18) who violates any city ordinance or town by-law or who commits any offense against a law of the commonwealth. Mass. Gen. Laws Ch. 119, § 52

C. Juvenile: A child under the age of eighteen.

- A. Under Age 7: Presumed incapable of committing a crime. Mass. Gen. Laws Ch. 119, § 62.
- B. Age 7 to Age 12: A summons is the required response for juveniles under the age of 12 to appear in court; 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. Mass. Gen. Laws Ch. 119, § 54.
- C. Arrest Warrant: A warrant will issue if the court has reason to believe the child will not appear upon a summons or if the child has been summoned and did not appear. Mass. Gen. Laws Ch. 119, § 54.
- D. Applications for assistance can be filed on a child between the ages of six (6) and eighteen (18). Cases must be dismissed on the child's eighteenth (18th) birthday with the exception of young adults in the Department of Children and Families (DCF) care requiring permanency hearings.

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

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

1. Is held in an unlocked, multi-purpose room that is in no way designed for residential use;
 2. Is not handcuffed to any stationary object;
 3. Is held only long enough to complete identification, investigation and processing and then released to a parent or guardian or transferred to a juvenile facility or the court; and
 4. Is under continuous supervision until released.
- F. *Secure Custody*: 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.
- G. *Custodial Protection*: a term used but not defined in several parts of MGL c. 119, referring to actions resembling Non-Secure Custody, above, but without confining a child in shackles or similar restraints or court lock-up, or even transporting the young person to a police facility.

IV. PROCEDURE

A. Administration

1. The chief of police shall designate a juvenile specialist or juvenile unit to have primary responsibility for juvenile operations.
2. The responsibility for participating in and supporting the department's juvenile operations is shared by all department components and personnel. [44.1.1(b)]

B. Enforcement Alternatives [44.2.1]

1. Officers dealing with juveniles in enforcement capacities shall 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. 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. Alternatives available include the following: [44.2.1(b)]
 - a. Release with no further action or following informal counseling when no arrest has been made. Officers may turn the juvenile over to his/her parent or guardian when appropriate; [44.2.1(a)]
 - b. Informal referral to an appropriate community social service agency;
 - 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 applying for a summons or complaint; and [44.2.1(b)]
 - 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.
 - b. No arrest may be made in cases involving Children Requiring Assistance.

C. 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 but not for traditional “status offenses.” [44.2.2(a)]
 3. Arrested juveniles are subject to the same security and other transportation requirements as adults and may be handcuffed or otherwise restrained as necessary during transport and processing. See departmental policy on **Transporting Prisoners**. [44.2.2(d)] Children Requiring Assistance may not be confined in shackles or similar restraints or court lock-up, or even transported to the police station. NOTE: *This does NOT prevent a police officer from using handcuffs when transporting the child.*
 4. When an arrest is made, the juvenile shall be brought to the processing facility without delay. The court administrator shall be informed of the arrest as soon as possible. [44.2.2.(d)]
 5. When a juvenile is arrested, with or without a warrant, the officer in charge of the police station shall:¹
 - a. Notify the Juvenile Probation officer for the Juvenile Court for the judicial district in which the juvenile was arrested;
 - b. Notify at least one of the parents, or, if there is no parent, the guardian of the child, or the person with whom the child resides; and [44.2.2.(e)]
 - c. Inquire into the situation to ensure that proper cause for the arrest existed and that the juvenile was and is treated in accordance with the law. The juvenile may be detained pending such notice and inquiry.
 - d. During court hours, police must complete the booking process and then transport the juvenile to the Juvenile Court
 - e. If court is closed, police must contact Juvenile Probation who will make a recommendation whether to “release” the juvenile or “contact the Bail Magistrate or Bail Commissioner to set terms of release and/or bail”

¹ M.G.L. c. 119, s. 67

based on the juvenile's criminal history, the current charge(s), and the circumstances of the arrest.

- "Contact the Bail Magistrate or Bail Commissioner to set terms of release and/or bail." Police must contact the Bail Magistrate/Bail Commissioner to set terms of release and/or bail. Juveniles are constitutionally afforded the right to bail even though Juvenile Probation may recommend that the juvenile remain in police custody.
5. Release: If Juvenile Probation recommends that the juvenile be released, the OIC of the police station will release the juvenile upon the acceptance of a written promise by a parent, guardian, relative, or other responsible adult who will ensure the juvenile's appearance in court on the designated date and time. Mass. Gen. Laws Ch. 119, § 67
- Officers should complete a Juvenile Release Form that is signed by a parent, guardian, relative or other responsible adult who will ensure the juvenile's appearance in court.
6. A child between the ages of 14 and 18 arrested for a juvenile offense shall not be released if:²
- a. The arresting officer requests in writing that [s]he be detained and the court issuing a warrant for the arrest of such child directs in the warrant that [s]he be held in safekeeping pending his/her appearance in court, or
 - b. A probation officer directs that such child be detained.
- NOTE: Notice of detention shall be given to the parent(s) or guardian or person with whom the child resides and to the probation officer. Nothing contained in this section should be construed to deny the juvenile the right to bail.
8. Juveniles arrested for criminal type offenses are subject to the same booking procedures as adults. See department policy on ***Booking Procedure and the Holding Facility***. Juveniles taken into custody for non-criminal offenses, as well as

² M.G.L. c. 119, s. 67

Children Requiring Assistance that are placed in custodial protection, shall not be fingerprinted or photographed.³ In fact, a child requiring assistance shall not even be brought to the police station.

9. The arresting officer, the juvenile officer and the prosecutor should cooperate in the preparation and presentation of the case if court action is necessary.
10. Any police proceeding involving juveniles or Children Requiring Assistance shall be treated in a confidential manner.

D. Holding Juveniles

1. Delinquent Offenders [44.2.2]
 - a. Juveniles between ages fourteen and eighteen accused of delinquent offenses may be held in secure custody for no longer than six hours for the purpose of identifying and processing the juvenile and, if appropriate, transportation to a juvenile facility or court.⁴
 - i. Records shall be kept that specify:
 - [a] The time the juvenile entered secure detention and the duration of each period of secure detention;
 - [b] The name of the police officer or custodial officer responsible for visual supervision and the schedule of visual supervision; and
 - [c] A statement of the need for secure detention.

NOTE: Juveniles accused of first or second degree murder or who will be tried in adult court as a youthful

³ M.G.L. c. 263, s. 1A; *Com. v. Shippis*, 399 Mass. 820, 507 N.E.2d 671 (1987)

⁴ Executive Order Number 339, Commonwealth of Massachusetts, Aug. 14, 1992; 28 CFR Part 31.303(f)(5)(iv)(H)

offender are not subject to the six hour detention limit as they are automatically tried in adult court.⁵

- b. No child between the ages of fourteen and eighteen shall be detained in a police station or town lockup unless the detention facilities for children have received the written approval of the Commissioner of Youth Services.⁶
- c. Lockup and other detention facilities shall be such as prevent juveniles who are detained from coming in sight and sound contact with adult prisoners.⁷
- d. No child under age fourteen, or status offenders, shall be placed in a cell or otherwise securely detained for any reason. Such child may be held in the report stations, with constant supervision of the arresting officer or Officer in charge of the station, pending suitable disposition. [44.2.2]

3. Protective Custody

- a. Juveniles in protective custody shall not be held in secure custody.
- b. A child under the age of eighteen 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 eighteen; and

⁵ M.G.L. c. 119, s. 68

⁶ M.G.L. c. 119, s. 67

⁷ M.G.L. c. 119, s. 67

- iii. Reasonably believes the child knew of the presence of the controlled substance.⁸

Note: The officer in charge of the police station 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 under age eighteen is taken into protective custody due to consumption of alcohol, see the department policy on **Protective Custody**.

3. Children Requiring Assistance

- a. Children Requiring Assistance shall not be held in secure custody.
- b. A child may be taken into custodial protection for engaging in the behavior described in the definition of "Child Requiring Assistance" in section 21, only if such child has failed to obey a summons issued pursuant to MGL c. 119, section thirty-nine E, or if the law enforcement officer initiating such custodial protection has probable cause to believe that such child has run away from the home of his parents or guardian and will not respond to a summons.
- c. A parent legal guardian, or custodian of a child having custody of such child, BUT NOT A POLICE OFFICER may initiate an application for assistance in one of said courts stating that said child repeatedly runs away from the home of said parent or guardian or repeatedly refuses to obey the lawful and reasonable commands of said parent or guardian resulting in said parent's or guardian's inability to adequately care for and protect said child.
- d. A school district BUT NOT A POLICE OFFICER may initiate an application for assistance in said court stating that said child is not excused from attendance in accordance with the lawful and

⁸ M.G.L. c. 94C, s. 36

reasonable regulations of such child's school, has willfully failed to attend school for more than 8 school days in a quarter or repeatedly fails to obey the lawful and reasonable regulations of the child's school. The application for assistance shall also state whether or not the child and the child's family have participated in the truancy prevention program, if one is available, and a statement of the specific steps taken under the truancy prevention program to prevent the child's truancy; and if the application for assistance states that a child has repeatedly failed to obey the lawful and reasonable regulations of the school, a statement of the specific steps taken by the school to improve the child's conduct.

- e. Upon the filing of an application for assistance, the court may issue a summons, to which a copy of the application for assistance shall be attached, requiring the child named in such application to appear before said court at the time set forth in the summons. If such child fails to obey the summons, said court may issue a warrant reciting the substance of the petition and requiring the officer to whom it is directed forthwith to take and bring such child before said court. *NOTE: This does NOT prevent a police officer from using handcuffs when transporting the child.* Notice of the hearing shall be given to the department of children and families and the department of youth services.
- f. Where the court summons such child, the court shall in addition issue a summons to both parents of the child, if both parents are known to reside in the commonwealth, or to one parent if only one is known to reside within the commonwealth, or, if there is no parent residing in the commonwealth, then to the parent having custody or to the lawful guardian of such child. Said summons shall require the person served to appear at a time and place stated therein at a hearing to determine whether or not such child is in need of assistance.
- g. Unless service of the summons required by this section is waived in writing, such summons shall be served by the constable or police officer, either by

delivering it personally to the person to whom addressed, or by leaving it with a person of proper age to receive the same, at the place of residence or business of such person, and said constable or police officer shall immediately make return to the court of the time and manner of service.

- h. A child who is the subject of an application for assistance may not be confined in shackles or similar restraints or in a court lockup facility in connection with any proceedings under sections 39E to 39I, inclusive. NOTE: *This does NOT prevent a police officer from using handcuffs when transporting the child.* A child who is the subject of an application for assistance shall not be placed in a locked facility or any facility designated or operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent. Such child may, however, be placed in a facility which operates as a group home to provide therapeutic care for juveniles, regardless of whether juveniles adjudicated delinquent are also provided care in such facility.
- i. A child may not be arrested for engaging in behavior which constitutes being a child requiring assistance.
- j. A child may be taken into custodial protection for engaging in the behavior described in the definition of "Child Requiring Assistance" only if such child has failed to obey a summons issued pursuant to section thirty-nine E, or if the law enforcement officer initiating such custodial protection has probable cause to believe that such child has run away from the home of his parents or guardian and will not respond to a summons.
- k. After a law enforcement officer has taken a child into custodial protection, the officer shall immediately notify the parent, other person legally responsible for the child's care or the person with whom the child is domiciled, that such child is under the custodial protection of the officer and a representative of the department of children and families, if the law enforcement officer has reason to believe that the child is or has been in the care or custody of such department, and shall inquire into the case.

1. The law enforcement officer, in consultation with the probation officer, shall then immediately make all reasonable diversion efforts so that such child is delivered to the following types of placements, and in the following order of preference (MGL 119 section 39H):
 - (i) to one of the child's parents, or to the child's guardian or other responsible person known to the child, or to the child's legal custodian including the department of children and families or the child's foster home upon the written promise, without surety, of the person to whose custody the child is released that such parent, guardian, person or custodian will bring the child to the court on the next court date;
 - (ii) forthwith and with all reasonable speed take the child directly and without first being taken to the police station house, to a temporary shelter facility licensed or approved by the department of early education and care, a shelter home approved by a temporary shelter facility licensed or approved by said department of early education and care or a family foster care home approved by a placement agency licensed or approved by said department of early education and care; or
 - (iii) take the child directly to the juvenile court in which the act providing the reason to take the child into custodial protection occurred if the officer affirms on the record that the officer attempted to exercise the options identified in clauses (i) and (ii), was unable to exercise these options and the reasons for such inability.

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

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

Child Brought to Court Under Custodial Protection to the Court Where the Case is Pending

a) The Clerk:

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

Child Requiring Assistance Case Pending in Another Division

- a) If the Child Requiring Assistance case is pending in another division of the Juvenile Court, the clerk shall:
 - (i) ask the law enforcement officer to complete the Law Enforcement Officer Certification form which records the officer's statement for the record that he/she attempted to exercise the options contained in G.L. c. 119, §39H and the reasons why he/she was unable to exercise such options. The form shall be forwarded to the clerk of the court where the case is pending for filing in the court case filed.

Child Brought to Court Under Custodial Protection Without a Pending Child Requiring Assistance Case

The clerk shall:

- a) ask the law enforcement officer to complete the Law Enforcement Officer Certification form which records the officer's statement for the record that he/she attempted to exercise the options contained in G.L. c. 119, §39H and the reasons why he/she was unable to exercise such options.
4. All juveniles detained by the department shall be informed by the booking officer of the procedures regarding custody, release, and transportation to another facility or court, as applicable. [42.2.3(c)]

E. Juvenile Runaways

1. Take the juvenile into "Custodial Protection" only if, the officer has probable cause to believe that:
 - a. the child has failed to obey a summons, or
 - b. that such child has run away from the home of his/her parents or guardian and will not respond to a summons.

Note: This may apply to a juvenile runaway who has an active Warrant of Protective Custody – Runaway but has been located after court hours, or a juvenile runaway who has been entered into NCIC as a runaway/missing person and no CRA petition has been filed with the juvenile court.

2. Notify parent/guardian or DCF if the juvenile is their custody.
3. File a 51A if the circumstances warrant such action.
4. Consult with Juvenile Probation and make all reasonable diversion efforts so that such child is delivered to the following types of placements, without first being taken to the police station, and in the following order of preference:
 - i. To the juvenile's parent(s)/guardian/custodian or responsible person known to the juvenile, upon the written promise, that the person whose custody the juvenile is released will bring the juvenile to the juvenile court on the next court date.

- ii. If parent(s)/guardian/custodian or responsible person is unavailable, then; after court hours (Nights/Weekends/Holidays), contact the Massachusetts Runaway Assistance Program via Mass 2-1-1. Mass 2-1-1 will provide police with the name and address of the closest Emergency Service Program.

Note: CRA law states that juveniles may not be handcuffed, shackled or placed in similar restraints and cannot be transported to the police station. Mass. Gen. Laws Ch. 119, § 34 prohibits police from transporting a juvenile in a police wagon.

F. Custodial Interrogation of Minors

1. 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.
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.⁹ [42.2.3(a)]
 - i. **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 a meaningful opportunity to consult with the juvenile.¹⁰

⁹ *Com. v. A Juvenile*, 389 Mass. 128, 449 N.E.2d 654 (1983)

¹⁰ *Com. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

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- ii. **FOURTEEN YEARS 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".¹¹

 - b. **INTERESTED ADULT EXPLAINED:** An interested adult is, most often, a parent of the juvenile. When the parent is unavailable, another interested adult may be called upon, such as, depending on the circumstances, a legal guardian, an adult brother or sister, grandparent, or other adult relative or an attorney.
 - i. A person would not qualify as an interested adult if the adult:
 - [a] Lacks the capacity to appreciate the juvenile's situation (e.g., is intoxicated);
 - [b] Appears to be actually antagonistic to the juvenile; or
 - [c] Is required to report the juvenile's offenses to authorities (e.g., an employee of the Department of Youth Services, or a school official in the case of a weapons violation on school grounds).¹²

¹¹ *Com. v. King*, 17 Mass. App. Ct. 602, 460 N.E.2d 1299, *rev. den.* 391 Mass. 1105, 464 N.E.2d 73 (1984)

¹² *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)

- ii. A person under the age of eighteen will not satisfy the interested adult rule.¹³
- c. **OPPORTUNITY TO CONSULT:** The interrogating officer should explain to the adult that the two of them will be left alone to provide them an opportunity to discuss the juvenile's rights. Then the adult and juvenile must be provided an actual opportunity to discuss the juvenile's rights and the consequences of the waiver. [44.2.3]

3. *Interrogation*

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

¹³ *Com. v. Guyton*, 405 Mass. 497, 541 N.E.2d 1006 (1989)

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

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- f. AGE 14 TO 18: 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.¹⁵
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 shall be present at the interrogation.
- c. 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.¹⁶
- d. The voluntariness of the juvenile's confession will generally be an issue in court proceedings. In determining whether a confession is voluntary, the courts look to the totality of the circumstances which includes a review of the following factors related to the juvenile defendant: [44.2.3]
- a) age, intelligence, educational background
 - b) mental capacity, including whether the defendant was nervous and physical condition
 - c) prior experience in the criminal system
 - d) whether the defendant is suffering from any injury or pain at the time the statement is given
 - e) the duration of the questioning
 - f) time of day
 - g) whether the defendant is tired and is desirous of sleep
 - h) length of confinement

¹⁵ *Id.*

¹⁶ *See Com. v. Harris*, 364 Mass. 236, 303 N.E.2d 115 (1973)

- i) whether Miranda or police caution warnings were given, when, and whether s/he understood them
- j) whether the room size was of sufficient size and supplied with appropriate furniture
- k) whether defendant was cuffed or threatened
- l) whether defendant was refused the use of bathroom, food, or drink
- m) whether there was a promise of leniency
- n) whether the juvenile understood the interrogation process
- o) whether a youth officer is present during the interview
- p) whether the parents were notified
- q) whether the juvenile asked for a parent to be present
- r) whether the police prevented a concerned adult from speaking with the juvenile, which is a significant factor, and
- s) familiarity with English or the official language.

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.

G. Abused or Neglected Children

1. A police officer who, in his/her professional capacity, has reasonable cause to believe a child under age 18 is suffering serious physical or emotional injury or death from abuse or neglect, including sexual abuse or malnutrition, shall immediately report such condition to the Department of Children and Families by oral communication, followed by a written report within 48 hours of the oral communication.¹⁷ 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;

¹⁷ M.G.L. c. 119, s. 51A

- 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. [44.2.2(b)] 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.¹⁸ 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.¹⁹

H. School Liaison and Youth Programs

1. The chief of police may establish and/or maintain a school liaison program and appoint one or more officers to do the following: [42.2.4]
 - a. Act as a resource with respect to delinquency prevention;

¹⁸ M.G.L. c. 119, s. 51B

¹⁹ M.G.L. c. 119, s. 24

- 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 by does not exist, officers should encourage citizens and community leaders to organize one. [42.2.5]

I. Record Keeping

1. Non-custodial Alternatives:
 - a. Officers who select non-custodial alternatives or engage in informal enforcement contacts with juveniles shall complete appropriate IMC Call Narratives and/or incident reports. These reports shall clearly identify the juveniles involved, the nature of the incident and the rationale for the officer's disposition.
2. Criminal Offenses: [82.1.1(a); 82.1.2(a,b)]
 - a. Juveniles taken into custody for criminal offenses shall be subject to the same reporting requirements as adults. Records, including, booking, photographs and fingerprints, shall be clearly marked "Juvenile," and will be separated from adult records.
 - b. Custody Record:
 - i. A custody record will be maintained with each juvenile arrest report that specifies:
 1. The time the juvenile entered secure detention and the duration of each period of secure detention;
 2. If the juvenile is placed in a locked room or cell, the name of the police officer or custodial officer responsible for visual supervision and the schedule of visual supervision;

3. Statement of the need for secure detention;
and
4. 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.