

<b>NORTHAMPTON POLICE DEPARTMENT</b> <b>Administration &amp; Operations Manual</b>		
<b>Policy: Juvenile Operations</b>		<b>AOM: O-220</b>
Massachusetts Police Accreditation Standards Referenced: [44.1.1], [44.2.1], [44.2.2,a], [1.2.6], [44.2.1,a], [44.2.1,b], [44.2.1,c], [44.2.2], [44.2.2, c & d], [44.2.2,e], [44.2.2,b]		Issuing Authority <hr/> Jody Kasper Chief of Police
<b>Dissemination Date:</b> 7/13/2000  <b>Effective Date:</b> 7/27/2000	<b>Amended:</b> 8/08, 9/08, 12/08, 8/09, 9/11, 4/12, 8/13, 6/14, 4/15, 6/16, 7/18, 12/19*, 5/21, 8/21  <b>Reviewed:</b> 4/02, 12/04, 4/06, 9/08, 12/08, 6/14, 4/15, 7/18, 5/20, 5/21, 5/22, 5/23	

**Table of Contents**

<b>I. Introductory Discussion .....</b>	<b>1</b>
<b>II. Policy .....</b>	<b>2</b>
<b>III. Definitions.....</b>	<b>2</b>
<b>IV. General Guidelines.....</b>	<b>4</b>
<b>V. Post Recommendations Regarding Interacting With Youth .....</b>	<b>6</b>
<b>VI. Procedures-Arrest/Detention Of A Juvenile Offender [44.2.2] .....</b>	<b>8</b>
<b>VII. Detention Of Cras, Non-Offenders And Juveniles Under 14.....</b>	<b>13</b>
<b>VIII. Special Procedures For Handling Runaways .....</b>	<b>14</b>
<b>IX. Detention Of Juvenile Offenders Over 14.....</b>	<b>15</b>
<b>X. Handle With Care Program.....</b>	<b>15</b>

**I. Introductory Discussion**

The prevention of juvenile crime is a high priority for the Northampton 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. Dealing with 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 Chapter sets forth policies and procedures relative to the handling of youthful offenders, and further establishes this Department’s commitment

to the perpetuation of programs designed to prevent and control juvenile delinquency.  
[44.1.1]

## II. Policy

- A. Handling Juveniles: It shall be the policy of the Northampton Police Department to use the least coercive methods, consistent with preserving public safety, order, and individual constitutional rights whenever an officer handles a juvenile offender. [44.2.1]
- B. Arresting Juveniles: It is the policy of this Department, relative to the arrest of juveniles, that if the totality of the circumstances do not require that an arrest be made, then the arrest should not be made, and an alternative disposition shall be taken as set forth in this directive (see Section IV, Part C). If there is a question as to whether or not an arrest of a juvenile should be made, personnel should consult their supervisor.
- C. 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 that the OIC on the shift notify the Detective Bureau Commander. Fire Investigators from the Northampton Police Department will be notified by the Detective Bureau Commander for investigation if necessary.

**AOM 0220.b Juvenile Involved Fire Incident Information Form** shall be completed on scene if the juvenile suspect has been identified. A report of child(ren) alleged to be suffering from Serious Physical or Emotional Injury by Abuse or Neglect (51A form) shall be completed for the child, and the Department of Children and Families notified immediately by oral communication. A written report will be completed and submitted to the Department of Children and Families office within 48 hours of making the oral report.

A copy of the Offense Report, **AOM 0220.b Juvenile Involved Fire Incident Information Form** and the 51A form shall be submitted to the Northampton Police Department's Detective Bureau for follow up with the Juvenile Firesetter Intervention Specialist (JFIS) Detectives. JFIS Detectives will be responsible for communicating the information from the incident to the Northwestern Juvenile Fire Intervention Response, Education and Safety Partnership (NoFIRES), and the Northwestern District Attorney's Office within 72 hours.

## III. Definitions

- A. Juvenile: Anyone under the age of 18.
  - 1. Under age 12: A juvenile under age 12 cannot be charged with a crime.

2. **Age 12 to Age 18:** A summons is the preferred method of bringing all juveniles to court, unless there is reason to believe the child will not respond to a summons.
  3. **Arrest Warrant:** An arrest warrant will be issued if the court has reason to believe the child will not appear upon a summons, if the child has been summoned and did not appear, or if the juvenile violated the terms and conditions of probation.
- B. **Status Offender:** A juvenile who has committed an offense that would not be a crime except for their age (i.e. runaway, possession of alcoholic beverages, etc.). [44.2.2,a]
- C. **Non-Violent Juvenile Offender:** A juvenile who does not have a history of violence against themselves or others. Typically such children would be charged with offenses such as shoplifting, simple larceny, trespassing after notice, carrying or transporting alcoholic beverages, and use without authority of a vehicle. Furthermore, such juveniles would not actively be making statements regarding suicide.
- D. **Secure Custody:** Being detained physically or confined in a room, set of rooms, or a cell that has 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 railing/bench.
1. No juvenile between fourteen (14) and eighteen (18) years of age, shall be placed in a cell, unless the cell has been certified by the Department of Youth Services.
  2. Juveniles that are securely detained in police custody must be separated by sight and sound from adults in custody.
  3. A juvenile may not be held in police custody for longer than six (6) hours.
  4. A juvenile should only be held long enough for police to complete the identification and booking process. Once completed, the juvenile should be:
    - a) Transported to the juvenile court during court hours.
    - b) Released to their parent/guardian/custodian, or
    - c) Transported to the Overnight Arrest Program (Nights/Weekends/Holidays).
  5. A juvenile placed in Protective Custody for alcohol cannot be securely detained for any amount of time.
  6. A juvenile placed in Protective Custody for Controlled Substances/Toxic Vapors must be transported to an appropriate emergency medical treatment facility.
  7. A juvenile placed in custody in accordance with Child Requiring Assistance (CRA) cannot be brought back to the police station.
- E. **Delinquent Child (Non-Status Offender):** A child between 12 and 18 years.

**\*\*Clarification and arrest guidelines after the 2019 Massachusetts Supreme Judicial Court for the county of Suffolk decision in *Wallace W., a juvenile vs. Commonwealth.***

1. The minimum age for a crime in Massachusetts is 12 years old.
2. Juveniles may be arrested and charged exactly like adults, **except:**
  - a. No arrest or complaint for disorderly, disturbing or interrupting an assembly on school grounds or at a school-related event (a charge of trespassing could be considered if action is necessary and the elements are met).
  - b. No arrest for ordinance or bylaw violations.
3. Juveniles may be issued traffic citations and marijuana tickets.

[Further: Juvenile court procedure allows prosecutors to pursue 2<sup>nd</sup> minor misdemeanor offenses]

## IV. General Guidelines

- A. Responsibility for Juvenile Operations Function: Responsibility for a majority of specific juvenile functions lie with the designated Department Juvenile Specialist. However, the responsibility for participating in and supporting this Department’s juvenile operations function is shared by all agency components and personnel. [44.1.1]
- B. All officers who encounter juveniles that are involved in or witness to a criminal matter or a traumatic event (mental health crisis, vehicle collision, witness to a crime, etc.), must document the event and submit the paperwork regarding the dispatch call or incident report to the Juvenile Specialist. This paperwork must be submitted prior to the officer ending their shift.
- C. Understanding Juvenile Delinquency: 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 minor vandalism, petty theft, or running away from home. However, juvenile delinquency today is more than just simple youthful misbehavior. It is too often an adult crime that is committed by juveniles.
  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 themselves 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 their arrest. How they are treated by police at that time 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.

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 judgment. Frustrations at home and in school may lead to aggressive behavior as an outlet. Their ideals and outlook on life differ from the adults who surround them.
- D. Disposition of Youthful Offenders: Any officer of this Department who comes into 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: [1.2.6]
1. **Counsel and Release:** An officer of this Department who comes in contact with a minor child for any non-serious offense may counsel and release the minor without further action, provided that the minor has not previously been counseled and released. [44.2.1,a]
  2. **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 it is clear that the juvenile does not represent a danger or will flee to avoid prosecution. [44.2.1,b]
  3. **Arrest/Referral to Juvenile Court:** This Department may refer a juvenile offender to the Juvenile Court depending upon the seriousness of the crime committed. However, the Court may, if it is of the opinion that the interests of the public require, dismiss the juvenile complaint and order an adult complaint to issue. [44.2.1,c]
    - a. **Exceptions to the Juvenile Court Requirement:** Two exceptions to the general rule that all proceedings involving juveniles must first be commenced in the juvenile court or session are contained in M.G.L. Chapter 119 §74. This section provides exceptions as follows:
      - 1) 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 a fine of more than one hundred dollars, 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 them as a delinquent child; and

- 2) 1<sup>st</sup> & 2<sup>nd</sup> Degree Murder: Juveniles (14 and older) accused of murder are automatically tried in an 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.

b. **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 is 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; and
- 6) All repeated delinquent acts.

c. **The Decision to Arrest:** If there is a question as to whether or not an arrest of a juvenile should be made, personnel should consult with their supervisor.

E. Protective Custody: As set forth in M.G.L. Chapter 94C §36, a police officer may take into protective custody, for not more than four hours, any person whom the officer reasonably believes is under seventeen 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 eighteen is taken into protective custody under these circumstances, every reasonable effort shall be made to notify the child’s parent or guardian or other person having lawful custody.

## V. POST Recommendations Regarding Interacting with Youth

In Section 119 of the Chapter 253 of the Acts of 2020, the Legislature instructed the Massachusetts Peace Officer Standards and Training Commission (“Commission”) to: “issue guidance as to developmentally appropriate de-escalation and disengagement tactics, techniques, and procedures and other alternatives to the use of force for minor children that may take into account contextual factors including, but not limited to, the person’s age, disability status, developmental status, mental health, linguistic limitations or other mental or physical condition.”

A. In response, in 2021, the “Peace Officer Standards and Training Commission Guidance on Developmentally Appropriate De-escalation and Disengagement Tactics, Techniques and Procedures and Other Alternatives to Use of Force for

Minor Children” was released. The document included the following guidelines for de-escalation and disengagement:

1. When appropriate, safe, and feasible in determining how to respond to minor children, Law Enforcement Officers should use de-escalation strategies in an attempt to problem solve and provide alternatives to arrest.
  2. Law Enforcement Officers should consider all approved diversion options and select the alternative which least restricts the minor child’s freedom and provides an alternative compatible with the best interests of the minor child and the community. When interacting with minor children, Law Enforcement Officers should make every reasonable effort to prevent an incident from escalating.
  3. Any Law Enforcement Officer involved in a situation with a minor child should remain calm, engage the minor child in dialogue, and attempt to gain cooperation and trust from the minor child whenever safe and feasible.
  4. When appropriate and feasible, Law Enforcement Officers should approach a minor child in a manner that is slower and more deliberate than a Law Enforcement Officer would approach an adult, in order to begin a process of de-escalation and to encourage and promote mutual cooperation and trust.
  5. Law Enforcement Officers should attempt to engage the minor child in conversation, explain their role as peace-keeper, and encourage the minor child to partner with the officer in keeping the peace and managing the situation by using the timing, language, and physical bearing that is least likely to escalate the minor child’s response.
  6. Law Enforcement Officers’ attempts to keep the peace should provide the minor child with the opportunity to understand and comply with their instructions, encourage questions and provide answers, and minimize the likelihood for confrontation by engaging in and facilitating non-threatening dialogue.
  7. When it is safe and feasible, Law Enforcement Officers should adopt a calm, collaborative, respectful, and firm demeanor with minors to prevent a fight, flight or freeze response, slow down the interaction, and de-escalation the situation.
  8. When interacting with a minor child, Law Enforcement Officers should explain the interaction in an age or developmentally appropriate manner, use developmentally appropriate language, maintain a non-threatening demeanor, and treat the minor child with courtesy, professionalism, dignity, respect, and equality.
  9. When interacting with a minor child, officers should avoid tactics that are demeaning or likely to humiliate the minor child.
- B. The POST guidance cited above also made recommendations specific to education and training for police officers to improve interactions between youth and police officers. The POST training recommendations include:

1. Implicit and explicit bias training to address racial, age based, gender, cultural, linguistic, and economic bias and the disproportionate impact of such biases on minor children of color;
  2. Trauma training that includes strategies for effective, trauma informed responses to minor child behavior. Training should provide a basic understanding of emotional and/or traumatic stress presentation in minor children;
  3. Scenario based training involving interactions with minor children;
  4. Training should include special considerations that officers should take when encountering special populations including minor children suffering from cognitive/and or mental health issues, minor children under the influence of substances, minor children with disabilities, and minor children for whom English is not a first language; and
  5. Training in communication, stabilization, and crisis intervention strategies and techniques. Strategies/techniques should encompass: active, reflective, and empathic listening; rapport building; affect management; and crisis negotiation and response.
- C. The POST guidance cited above also made recommendations specific to enhancing police-youth relationships through community engagement. Recommendations include:
1. Law Enforcement Agencies should encourage and provide resources for Law Enforcement Officers of all ranks to establish community relationships through non enforcement interactions among Law Enforcement Officers, minor children, and other community members.
  2. Law Enforcement Agencies should make identified community resources for minor children available and accessible to Law Enforcement Officers.
  3. Law Enforcement Agencies should periodically review and update procedures for effective Law Enforcement Officer minor child interactions that include effective communication strategies for children.
  4. Law Enforcement Agencies should support initiatives that increase positive Law Enforcement Officer minor child interactions and engagement in communities that increase community trust in Law Enforcement Officers.

## **VI. Procedures-Arrest/Detention of a Juvenile Offender [44.2.2]**

- 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. Ascertain Identification Information and Communicate Charge: Ascertain the name and age of the juvenile, and inform them of your authority as a police officer and of the charge for which they have been arrested.
  2. Search & Handcuff: Handcuff and search the juvenile as appropriate and as prescribed in [\*AOM O101tb1 Handcuffing and Search Techniques\*](#). A search of the juvenile for weapons should be conducted if the officer believes that the

juvenile has a weapon, is known to carry a weapon, or if the offense is one in which a weapon is usually involved.

3. **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 one officer accompany the juvenile in the ambulance.
4. Give Miranda Warnings.

**B. Responsibilities of the Arresting Officer – Post Arrest Duties:**

1. **Transport to Station and Conduct Booking Process:** After arrest, juveniles are to be brought to the police station without delay, where they will be given and afforded all of their constitutional rights and will be processed in accordance with departmental procedures. [44.2.2, c & d]
  - a. Juveniles are not to be processed or detained in the presence of adult arrestees.
  - b. Juveniles shall be interrogated in accordance with [AOM O400 Criminal Investigations, Juvenile Interrogations.](#)
  - c. Juveniles charged with delinquent offenses constituting felonies, are to be processed in accordance with [AOM O407 Investigative Photographing & Fingerprinting.](#)
2. **Notification of Guardian:** When a juvenile is placed under arrest, police shall immediately notify at least one (1) of the child's parents, or if there is no parent, the guardian or custodian with whom the child resides or the Department of Children and Families (DCF) if the child is in their custody. [44.2.2,e]
3. **Follow Proper Procedures for the Detention of the Juvenile:** This Department has adopted policy criteria in compliance with the Massachusetts Committee on Criminal Justice and the Juvenile Justice Advisory Committee. The following are general regulations regarding the detention of juveniles: [1.2.6]
  - a. **Detention of Status Offenders:** M.G.L. Chapter 119 §39(H) prohibits the secure detention of status offenders in a police or lock-up facility. There are **five** requirements: [44.2.2,a]
    - 1) The area where the juvenile is held shall be an unlocked, multipurpose section, such as a report writing room or office.
    - 2) The location where the juvenile is held must be protected from public visibility. [44.2.2 (3a)]
    - 3) The space shall be in no way designed for residential use.
    - 4) At no time shall the juvenile be handcuffed to a stationary object. The handcuffing of status offenders, if appropriate, is not considered secure custody.

- 5) When a juvenile is in custody, members of NPD must be sure that the juvenile does not have access to CJIS or other confidential information. [44.2.2 (3b)]
- 6) The juvenile shall be held only long enough to complete identification, investigation, and processing. They shall be released to parents, guardians, or other responsible adults, or transferred to the alternative facility or court.
- 7) 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. [42.2.2 (3c)]

*Note: 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** (as defined in this directive).*

4. **Complete Necessary Paperwork:** The arresting officer and booking officer shall complete an arrest/custody report and the detainee property and rights sheet.
5. **Contact 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 (refer to [AOM O220.a Notifying DCF or DYS](#) for information regarding contacting the appropriate State Agency).
6. **Arrange for a Psychiatric Evaluation, if Necessary:** If the juvenile is in need of psychiatric treatment or needs to undergo psychiatric evaluation to determine risk to themselves or others or for assessment of mental illness, ensure that Emergency Services is contacted for the purpose of conducting such an evaluation.
7. **Arrange for Medical Attention, if Necessary:** If the juvenile is in need of medical attention, the officer shall notify the OIC, and the Officer-In-Charge shall ensure that the juvenile is provided with such attention in accordance with departmental procedures. The Officer-in-Charge shall also make every attempt to see that the parent/guardian of said child is notified as soon as possible to the said medical problem. They shall also see that documentation is made of the medical problem, the action taken relative to the problem, and notification to the parent/guardian.
8. **Notify DCF of Child Abuse/Neglect/Sexual Abuse Cases:** In the event that there are allegations or there is reason to suspect that the juvenile is or has been the subject of child abuse, neglect, or sexual abuse, make immediate notification to the Department of Children and Families by means of the Child at Risk Hotline. Before the end of your shift, prepare and submit to the Officer-In-Charge a Chapter 119 §51A report form regarding such child abuse, neglect, or sexual abuse. The Officer-In-Charge shall see that said report form is forwarded to the Records Bureau. The Records Bureau shall make a copy of

the form and forward the original to the Department of Children and Families.  
[44.2.2,b]

9. **If 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, make arrangements 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 they will be treated like any other juvenile arrest.
10. **Submit Reports to Shift Commander:** The on duty Officer-in-Charge shall submit copies of all juvenile arrest reports to the Juvenile Specialist, and/or School Liaison Officer. If circumstances of the arrest warrant immediate notification of the Juvenile Specialist and/or the School Liaison Officer, the on duty Officer-in-Charge shall ensure that such notification is made.

C. Responsibilities of the Desk Officer The Desk Officer will be responsible for the following:

1. Record all juvenile arrests in the *Juvenile Arrest Book*.
2. Complete an NPIC entry if juvenile is not placed in a cell; and
3. Cause the Dispatch Center to make a record of juvenile's disposition on the daily log.
4. Record the juvenile entry in the juvenile log which is attached to the juvenile arrest book.

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 OIC of the station will make a determination whether to release the juvenile or to detain the juvenile.
3. **Release:** If a juvenile has been arrested without a warrant and the OIC of the police station determines that the juvenile should be released, such release shall be done upon the acceptance of the written promise from the parent, guardian, custodian, or a representative of DCF who will ensure the juvenile's appearance in court. The OIC of the police station will release the juvenile to appear in the Juvenile Court on the next predetermined recognizance date for that court. OIC's should refer to the Juvenile Court serving their community for a current list of recognizance dates.
4. **Detain:** If a juvenile between fourteen (14) and eighteen (18) years of age has been arrested on a warrant, or if the OIC of the police station requests in writing for the juvenile to be detained, the OIC shall contact the Bail Magistrate/Bail Commissioner. In accordance with Mass. Gen. Laws Ch. 119, § 67, a juvenile age twelve (12) or thirteen (13) who has been arrested without a warrant, is prevented from being admitted to bail and therefore must be released to a parent, guardian, or custodian.

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

E. Juvenile- Unable to Make Bail/Unable to Be Released

1. When a juvenile has been charged with a delinquency or youthful offender offense and is unable to make bail, or is unable to be released (non-bailable arrest warrant) and court is closed, police must contact the Department of Youth Services (DYS) Central Referral Line at 617-474-8150 or 617-474-8179. (After 6:00pm weeknights and anytime on weekends/holidays).
2. DYS will speak with the officer regarding the juvenile's arrest and complete the Statewide Awaiting Arraignment/Overnight Arrest Referral Form. Officers will need to specify the bail amount as it relates to the Bail Fee and Bail.
3. **Bail Fee Only:** If a juvenile is being held on a Bail Fee only (\$40.00 - Personal Recognizance), DYS has no authority to hold the juvenile in their custody. The OIC of the police station shall inform the Bail Magistrate/Bail Commissioner of Mass. Gen. Laws ch. 119, § 67 (Revised June 5, 2018). Arrangements will be made to release the juvenile without imposing a Bail Fee if;
  - a. If the juvenile is in the custody of DCF, DCF shall be notified via the DCF Hotline to take custody of the juvenile.
  - b. If a parent, guardian, or custodian refuses to take custody of a juvenile who is otherwise eligible to be released, the officer shall file a 51A and notify DCF via the DCF Hotline for placement.
4. DYS will provide the officer with the location of the Overnight Arrest Program.
  - a. If the juvenile is suffering from any medical condition(s), (such as; under the influence drugs/alcohol, suicidal thoughts, pepper sprayed or tasered) they must be medically cleared prior to placement.
  - b. Police are responsible for obtaining any current medications for the juvenile.
  - c. Police must provide a copy of the Booking Sheet prior to placement.
  - d. It is the police department's responsibility to transport the juvenile to the Overnight Arrest Program. Before 9:00am, the police must transport the juvenile from the Overnight Arrest Program to the Juvenile Court.
5. **Jenkins Hearing:** If a juvenile is arrested without a warrant and held in custody (to include while being held at the Overnight Arrest Program) for more than twenty-four (24) hours, they are entitled to a Jenkins Hearing to determine whether or not there was probable cause to make the arrest and to continue to hold the juvenile. *Jenkins v. Chief Justice of the District Court*, 416 Mass. 221, 223 (1993).

- a. The bail magistrate/bail commissioner that set bail on the juvenile cannot be the same magistrate/commissioner who conducts the Jenkins Hearing.
- b. Officers must call a magistrate/commissioner, if the juvenile will be held over twenty-four (24) hours, to facilitate a Jenkins determination of probable cause to continue to hold the juvenile.

#### F. Juvenile Holding/Detention

1. A juvenile charged with delinquency offenses shall not be held in a police lockup or otherwise securely detained for any longer than six (6) hours. If the juvenile is placed in a cell, the cell must be a certified cell by the Department of Youth Services.
2. The requirement not to release a defendant for six (6) hours when arrested for a violation of Mass. Gen. Laws Ch. 209A or Mass. Gen. Laws Ch. 265, §§ 13M (Domestic Assault or Domestic Assault and Battery) or 15D (Strangulation or Suffocation), DOES NOT apply to juveniles.
3. Juveniles held in police custody must be held sight and sound separate from adult detainees.
4. Within six (6) hours of the arrest, the juvenile must be:
  - a. Transported to the juvenile court.
  - b. Released to their parent/guardian/custodian or,
  - c. Transferred to the custody of the Overnight Arrest Program (After 6pm weeknights and anytime on the weekends/holidays).
5. The best practice is for the six (6) hour clock to start when the juvenile is placed in police custody and ends when custody is:
  - a. Transferred to the juvenile court.
  - b. The juvenile is released to their parent/guardian/custodian or,
  - c. Custody is transferred to the Overnight Arrest Program.

*Note: Juveniles (14 and older) charged with murder are not subject to the six (6) hour detention limit because they are tried as adults. However, like other juvenile offenders, they must be kept sight and sound separate from adult detainees.*

## VII. Detention of CRAs, Non-Offenders and Juveniles under 14

CRA (Children Requiring Assistance), 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*.

1. The Five Types of CRA Cases:

- a. **Runaway**: A child between the ages of 6 and 18 who “repeatedly” runs away from the home of a parent, legal guardian, or custodian having custody of the child.
- b. **Stubborn Child**: A child between the ages 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/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 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 or not 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.

## VIII. Special Procedures for Handling Runaways

The MA Executive Office of Health and Human Services began offering a program (effective April 2, 2015) to assist Police Officers who are dealing with runaways during the hours that 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 2-1-1:

1. During the hours that juvenile court is closed, a Police Officer (or dispatcher) dials 211; and when prompted, dials “1-1” to speak to a Runaway Assistance Program (RAP) Specialist.
2. The Mass211RAP Specialist will provide the Police Officer with name and address of the closest available **Emergency Service Program (ESP)**.
3. The Mass211RAP Specialist will then arrange a four way **conference call** among the **Police**, the **ESP** and the appropriate **non-secure Alternative Lock-Up Program (ALP)**. (Translation services may be immediately accessed in over 140 languages, if needed). The Mass211RAP Specialist will be the call moderator.
4. This call will determine the condition of the runaway child, and 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. (The Police Officer may leave at this point).

## IX. Detention of Juvenile Offenders Over 14

This Department shall retain the right to continue secure custody of any juvenile charged with a delinquency which constitutes a felony in this Commonwealth 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 (refer to [AOM O220tb1 JLU Entry of Juveniles Held in Secure Custody](#)). However, every effort is to be made to release non-violent juveniles charged with delinquency to a parent, guardian, probation officer, or to the ALP.

## X. Handle with Care Program

- A. At times juveniles may experience traumatic events in their personal lives, which may affect their school day. In order to best support students who may be struggling due to this type of exposure, the Department participates in the Handle with Care program.
- B. The following definitions are specific to the Handle with Care program:
  1. **“Child” or “children”** refers to any student, regardless of age, enrolled in pre-school through twelfth grade at either a public or private school.
  2. **“Handle with Care Notice” or “HWC Notice”** is an electronic form completed by a Law Enforcement officer after responding to, or encountering, an incident involving a traumatic event where a child is present. To protect the privacy of affected children, the HWC Notice shall only include the following information: the child’s name, age, and grade, school of enrollment, and date and time of the incident. The HWC Notice shall be sent immediately to the appropriate point of contact at the child’s school of enrollment. To protect the parties involved, the notice shall never include details of the incident.
  3. **“Point of Contact”** refers to a school employee identified by the head of the school. This individual will be responsible for receiving all HWC Notices for children enrolled in that school and for disseminating the HWC Notices to the child’s teacher(s).
  4. **“Traumatic event”** shall be broadly construed and may refer to, but is not limited to, the following incidents when a child is a victim or witness:
    - a. The arrest of an individual who resides in the home where the child is present;
    - b. A search warrant executed at the residence;
    - c. Drug/alcohol overdose of an individual who resides in the home where the child is present;
    - d. Suicide, or attempted suicide, of an individual who resides in the home where the child is present;
    - e. An incident of domestic violence;
    - f. Physical/sexual abuse;

- g. Community violence
  - h. A bullied child or a child who is bullying others;
  - i. forced displacement from the residence;
  - j. Involvement with the Department of Child Protection & Permanency (DCP&P);
  - k. House fires;
  - l. Any incident where a child is identified at the scene as being exposed to trauma (i.e. crime/drug activity at the scene); or
  - m. The sudden death of an immediate family member or guardian of the child of which the police are made aware.
- C. When a law enforcement officer responds to, or encounters, an incident involving a traumatic event where a child is present, the officer must complete a HWC Notice promptly following the encounter. When more than one child is present, the law enforcement officer shall complete the HWC Notice for each child, and the HWC Notice shall be submitted electronically and then the point of contact will be responsible for the notification being sent to each child's school.
- D. Once the HWC Notice is complete, the law enforcement officer must immediately send the HWC Notice to the appropriate Point of Contact at the child's school. Some children may attend schools in areas outside the responding law enforcement agency. In such cases, the responding law enforcement officer shall still complete the HWC Notice.
- E. Once the officer sends the HWC Notice to the school, they shall document that the notice was completed in any investigative report or on the call log.
- F. For purposes of completing the HWC Notice, should a parent, guardian, child, or other individual who is present at the scene decline to provide information regarding the child's school of enrollment, the officer must respect that decision. In those situations, the officer must still complete the HWC Notice to the extent possible. Although law enforcement may not press for this information for the HWC Notice, law enforcement shall not be restricted from determining any information regarding a child or a child's school that may be relevant to a criminal investigation, to ensure the child's health or safety, or to address a concern of imminent danger.