



BRAINTREE POLICE DEPARTMENT

Policy and Procedure

JUVENILES

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DEFINITIONS

Child Requiring Assistanceⁱ: A child between the ages of 6 and 18 whom repeatedly:

- 1) Runs away from the home of the child's parent, legal guardian or custodian;
- 2) 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;
- 3) Fails to obey the lawful and reasonable regulations of the child's school; or
- 4) Is habitually truant; or
- 5) Is a sexually exploited child.

Habitually Truantⁱⁱ: A school-aged child, not excused from attendance under the lawful and reasonable regulations of such child's school, who willfully fails to attend school for more than 8 school days in a quarter.

Sexually Exploited Childⁱⁱⁱ: Any person under the age of 18 who has been subjected to sexual exploitation because such person is:

- 1) The victim of the crime of sexual servitude pursuant to M.G.L c. 265 § 50 or is the victim of the crime of sex trafficking as defined in 22 United States Code 7105;
- 2) Engages, agrees to engage or offers to engage in sexual conduct with another person in return for a fee, in violation of M.G.L. c. 272 § 53A(a), or in exchange for food, shelter, clothing, education or care;
- 3) A victim of the crime, whether or not prosecuted, of inducing a minor into prostitution under by M.G.L. c. 272 § 4A; or

- 4) Engages in common night walking or common streetwalking under M.G.L c. 272 § 53.

Delinquent Child: A child between the ages of 12 and 18 who violates or commits any offense against the Commonwealth;^{iv} **provided, however, that such offense shall not include:**

- i. a civil infraction (can *never* be arrested or the subject of a complaint application, but can be fined), or
- ii. a violation of any municipal ordinance or town-by law (can *never* be arrested or the subject of a complaint application, but can be fined), or
- iii. a first offense of a misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction for not more than 6 months or both such fine and imprisonment (may still be arrested, but will not be prosecuted for the first offense), or
- iv. a school rule: officers may *never* arrest or apply for a complaint for Disorderly or Disturbing the Peace M.G.L. c. 272§ 53 or Disrupting an Assembly M.G.L. c. 272 § 40 if: (1)the offender is an elementary or secondary (high school) student and (2) the incident occurred in a school building, on school grounds, or during a school-related event. **Note:** Non-students or students age 18 or over are not covered.

Juvenile: A juvenile, for purposes of Massachusetts criminal law, is anyone between the ages of 12 and 18.^v

- A. **Under age 12:** A juvenile under the age of twelve (12) cannot be charged with a crime.
- B. **Age 12 to Age 18:** A summons is the *preferred* method for bringing all juveniles to court, unless there is a reason to believe the child will not appear upon a summons or there is another reasonable justification.
- C. **Arrest Warrant:** An arrest warrant will issue if the court has reason to believe the child will not appear upon a summons, or if the child has been summoned and did not appear, or if the juvenile violated the terms and conditions or probation.

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

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.

Secure Custody: A condition under which a juvenile's freedom of movement is controlled by being placed in a cell or locked room (or set of rooms) or being handcuffed to a stationary object.^{vi}

Status Offender: A juvenile who has committed an offense that would not be a crime if committed by an adult. This includes: runaways, truants, youth curfew violations, and minors in possession of or transporting alcohol. **[44.2.2 a]**

POLICY

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; **[44.2.2 c]**
- 2) Juvenile offenders should not be detained at the police station for any longer than necessary;
- 3) Officers should, 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;
- 4) The department is committed to the development and perpetuation of programs to prevent and control juvenile delinquency.

PROCEDURES

1) Child Requiring Assistance Matters

The divisions of the juvenile court department may receive and hear requests for assistance stating that there is a child requiring assistance or a family requiring assistance. The law allows applications for assistance to 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 D.C.F. (Department of Children and Families) care requiring permanency hearings.

A police officer may not file an application for a Child Requiring Assistance unless the child is "sexually exploited" and is also considered to be a "runaway" or "stubborn child" as defined by M.G.L. c. 119.

a) Parent, Guardian, or Custodian of Child^{vii}

- i) A parent, legal guardian, or custodian of a child having custody of such child, may initiate an application for assistance if said child is a "Runaway," meaning the child repeatedly runs away from home, or is a "Stubborn Child," meaning the child refuses to obey the lawful and reasonable commands of said parent or guardian resulting in the parent or guardian's inability to adequately care for and protect said child.

b) Sexually Exploited Child

- i) A parent, legal guardian, or custodian of a child having custody of such child, and a police officer, may file an application for assistance for a sexually exploited child, as defined by M.G.L. c. 119 § 21. The application must also state whether the child is a "runaway" or "stubborn child." The filing of an application for assistance may result in the prostitution charge being placed on file. Any person, before or after an arraignment, in a delinquency or criminal proceeding for a violation of M.G.L. c. 272, § 53 or M.G.L. c. 272 § 53A(a) may file a care and protection petition on behalf of a sexually exploited child, including an emergency commitment under M.G.L. c. 119 § 24.

c) School District

- i) A representative from a school district may initiate an application for assistance if said child is "Habitually Truant," meaning the student has failed to attend school for more than eight (8) school days in a quarter, or the said student is a "Habitual School Offender," meaning the student fails to obey the lawful and reasonable regulations of the child's school. All school-based offenses must be dismissed on the child's sixteenth (16th) birthday.

d) Protective Custody Warrant

- i) A judge may order a Warrant of Protective Custody after the child fails to respond to a summons issued for the preliminary hearing. The warrant is similar to a Warrant of Apprehension and is to be served in the same manner. Therefore the child must be delivered to the court before 4:30 pm.
- ii) When an officer takes a child into custody upon the execution of a Warrant of Protective Custody, the officer shall immediately bring the child to the Clerk's Office and shall file the return of service. **[44.2.2 d]**

e) Child Taken into "Custodial Protection" by Police [44.2.2 d]

- i) In accordance with M.G.L. c. 119, § 39H, a child may be taken into custodial protection for engaging in the behavior described in the definition of "child requiring assistance" only if:
 - (1) The child has failed to obey a summons, or
 - (2) 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.
- ii) After a law enforcement officer has taken a child into custodial protection, the officer should immediately notify the child's parent, guardian, or other person legally responsible for the child's care. Notification must be made to DCF if the child is in their custody. [44.2.2 e] **A juvenile placed in custody in accordance with Child Requiring Assistance (CRA) CANNOT be brought back to the police station.**
- iii) The law enforcement officer, *in consultation with the probation officer*, should 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:
 - (1) 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; or [44.2.2 d]
 - (2) 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 [44.2.2 d]
 - (3) 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. [44.2.2 d]

f) A Child in Police Custody **[44.2.2 d]**

i) When a child is taken into custody by police, whether by a Warrant of Protective Custody or Custodial Protection, the child:

(1) 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.

(2) Shall not be placed in a locked facility or a facility designated or operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent.

(3) May be placed in a facility, which operates as a group home to provide therapeutic care for juveniles, regardless of whether juveniles adjudicated delinquent are also provided care in such facility.

(4) If necessary, be taken to a medical facility for treatment or observation.
[44.2.2 d]

g) Processing of Juvenile Arrests

i) Once arrested, a juvenile may be searched, transported and booked in the same manner as an adult. Juveniles shall be fingerprinted and photographed in the same manner as adults. All fingerprints, photographs and other forms of identification related to the juvenile will be clearly marked as "Juvenile."
[82.1.2 a, b]

2) Non-Child Requiring Assistance Matters

a) Administration

i) The Chief of Police shall designate a Juvenile Officer or Family Service Unit for consultation on handling juvenile offenders and young persons with problems. **[44.1.1]**

ii) The responsibility for participating in and supporting the department's juvenile operations is shared by all department components and personnel.
[44.1.1]

b) Enforcement Alternatives **[44.2.1] [1.2.7] [1.2.6]**

i) Officers dealing with juveniles in enforcement capacities may exercise reasonable discretion in deciding appropriate action. Officers shall use the least coercive and most reasonable alternative, consistent with preserving public safety, order and individual liberty.

- ii) Whenever reasonable and possible, an officer should request a summons for a juvenile rather than taking him/her into custody. 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. **[44.2.1 b]**
- iii) Alternatives available include the following:
 - (1) 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]**
 - (2) Informal referral to an appropriate community social service agency;
 - (3) Limited custody and station house warning. The juvenile shall be held in non-secure custody until released to his/her parent(s) or guardian;
 - (4) Issue a citation or applying for a summons or complaint; **[44.2.1 b]**
 - (5) Referral to Juvenile Court; or **[44.2.1 c]**
 - (6) Arrest.
- c) Criteria When Choosing an Alternative **[1.2.6]**
 - i) In considering a course of action, the officer should consider the nature of the offense, the age of the juvenile, the juvenile's prior contacts with the police, the availability of a juvenile diversion program(s), and, in some cases, the recommendation of the complainant or victim.
- d) Referral to Juvenile Court
 - i) 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.
 - ii) Officers may arrest juveniles for acts of delinquency and status offenses. **[44.2.2 a]**
 - iii) Arrested juveniles are subject to the same security requirements as adults and may be handcuffed or otherwise restrained as necessary during transport and processing. A juvenile cannot be transported in the wagon or with adults. See department policy *Prisoner Transport*.
 - iv) When an arrest is made, the juvenile should be brought to the police station without delay for processing. The booking officer should determine whether

the juvenile is alleged to have been harmed or to be in danger of harm.
[44.2.2 b][44.2.2 d]

- v) When a juvenile is arrested, with or without a warrant, the Shift Commander or his/her designee should:^{viii}
 - (1) 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. **[44.2.2 a, c]**
 - (2) 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]**
 - (3) Ensure the **Confidential Parental Information Sheet** is completed for arrests and all court action.
 - (4) The Shift Commander of the station will make the determination whether to release the juvenile or to detain the juvenile. There is no longer a statutory requirement for police to contact a Juvenile Probation Officer, and as such, probation has ceased its on-call program.

- vi) Notify the Bail Commissioner. Juveniles are constitutionally afforded the right to bail even though the Shift Commander determines to “*hold*” the juvenile. If the juvenile, between fourteen (14) and eighteen (18) years of age, has been arrested on a warrant or if the Shift Commander requests in writing that the juvenile be detained, the Clerk Magistrate/Bail Commissioner must be contacted to make a determination on bail.
 - (1) 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.

- vii) A child shall be released:
 - (1) If a juvenile has been arrested without a warrant and the Shift Commander 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 at the required date and time. **[44.2.2 e]**
 - (2) To a representative from either a secure or Non-Secure Juvenile Lockup Program upon written receipt that the child was to be released to him/her. **[44.2.2 d]**

- (3) The Shift Commander will release the juvenile to appear in the Quincy District Juvenile Court on the next predetermined recognizance. The current date for Quincy District Juvenile Court is the following Tuesday at 8:30 A.M. This list is subject to change by the local Clerk's Office.
- viii) Juveniles arrested for criminal type offenses are subject to the same booking procedures as adults. Juveniles taken into custody for status offenses or for non-criminal offenses shall not be fingerprinted or photographed. ^{ix} **[44.2.2 c]**
- ix) The arresting officer, the juvenile officer and the prosecutor should cooperate in the preparation and presentation of the case if court action is necessary.
- x) Any police proceeding involving juveniles shall be treated in a confidential manner.
- e) Holding Juveniles
- i) All juveniles detained by the department should be informed by the booking officer of the procedures regarding custody, release, and transportation to another facility or court, as applicable. **[44.2.2 d]** Before a juvenile is released by the department, the appropriated **Juvenile Release Form** is to be completed.
- f) Youthful Offenders
- i) Juveniles between ages fourteen (14) and eighteen (18) accused of delinquent or youthful offender offenses may be held in secure custody for no longer than six (6) hours for the purpose of identifying and processing the juvenile.
- ii) The requirement not to release a defendant for six (6) hours when arrested for a violation of M.G.L. c. 209a or M.G.L. c. 265 §§ 13M (Domestic Assault or Domestic Assault and Battery) or 15D (Strangulation) **does not apply to juveniles.**
- iii) The six (6) hour clock is 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 his or her parent/guardian/custodian or (c) custody is transferred to the Overnight Arrest Program.
- iv) When a juvenile has been charged with a delinquency or youthful offender offense and (going to be held longer than six (6) hours) 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.** DYS will then

provide the location of the Overnight Arrest program in which the juvenile will be held at. Officers must specify bail amount and fill out the ***Statewide Awaiting Arraignment/Overnight Arrest Referral Form***.

- v) 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 Hotline for placement. DYS has no authority to hold juveniles in their custody that have no bail.
- vi) If the juvenile is suffering from any medical conditions(s), (such as under the influence of drugs and/or alcohol, suicidal thoughts, pepper sprayed) he/she must be medically cleared prior to placement.
- vii) Police are responsible for obtaining any current medications for the juvenile.
- viii) Police must provide a copy of the Booking sheet prior to placement and the police department is responsible to transport the juvenile to the Overnight Arrest Program as well as the transport to juvenile court.
- ix) If a juvenile is arrested without a warrant held in custody (to include while being held at the Overnight Arrest Program), for more than twenty-four (24) hours, he/she is entitled to a *Jenkins Hearing* to determine whether or not there was probable cause to make the arrest and to continue to hold the juvenile. *Jenkins v. Chief Justice of the District court, 416 Mass. 221, 223 (1983)*. The bail magistrate/bail commissioner that set bail on the juvenile cannot be the same magistrate/commissioner who conducts the *Jenkins Hearing*.
- x) In accordance with M.G.L. c. 119 § 67, a juvenile age twelve (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.
- xi) Records shall be kept that specify:
 - (1) The time the juvenile entered secure detention and the duration of each period of secure detention will be recorded in booking and on the *Juvenile Detention Log Sheet* by the Shift Commander's desk.
 - (2) The name of the police officer or custodial officer responsible for visual supervision and the schedule of visual supervision will be recorded by the FOB during cell checks.

- (3) A statement of the need for secure detention will be justified in the incident report.
 - (4) **NOTE:** Juveniles accused of first or second degree murder or who will be tried in adult court as a youthful offender are *not subject to the six hour detention limit* as they are automatically tried in adult court.^x
- xii) No child between the ages of fourteen (14) and eighteen (18) 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.^{xi}
 - xiii) Lockup and other detention facilities shall be such as prevent juveniles who are detained from coming in sight and sound contact with adult prisoners.^{xii}
 - xiv) No child under age fourteen (14) shall be placed in a cell or otherwise securely detained for any reason. Such child may be held in a safe environment pending suitable disposition.
- g) Status Offenders and Protective Custody
- i) Status offenders and juveniles held for protective custody shall not be held in secure custody. They will be under the direct control and supervision of department personnel until released. Monitoring of status offenders prior to release shall be in unsecured room, such as the officer report room, by an officer or matron. **[44.2.2 a]**
 - ii) Status offenders may only be held long enough to complete identification, investigation and processing and then must be released to parents, guardians or other responsible adults or transferred to an alternative juvenile facility or court.
 - iii) A child under the age of eighteen (18) may be taken into protective custody, for a period not exceeding four (4) hours, if an officer:
 - (1) Finds the child at a place where the officer reasonably believes there is a controlled substance of Class A, B or C;
 - (2) Reasonably believes the child to be under age eighteen; and
 - (3) Reasonably believes the child knew of the presence of the controlled substance.^{xiii}
 - (4) **NOTE:** The Shift Commander will make every reasonable effort to notify the juvenile's parent or guardian or other person having lawful custody.

- iv) A juvenile placed in Protective Custody, for ALCOHOL, **CANNOT BE SECURELY DETAINED** for any amount of time.
- v) A juvenile placed in Protective Custody, for Controlled Substances/Toxic Vapors, **MUST** be transported to an appropriate emergency medical treatment facility.

h) Custodial Interrogation of Minors [44.2.3]

- i) For a general review of the standards and procedures to be followed when conducting custodial interrogation see the departmental policy and procedure on ***Interrogations***.

- ii) In addition, the police must also follow the special rules that apply to the interrogation of juveniles. [44.2.2 c]

(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.^{xiv} [42.2.3 a]

(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.^{xv}

(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".^{xvi}

(a) 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) It is important to note that the "interested adult" must be eighteen (18) years of age or older.^{xvii} 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.”^{xviii}

(ii) *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.*

(iii) A person would not qualify as an interested adult if the adult:

1. Lacks the capacity to appreciate the juvenile’s situation (e.g., is intoxicated);
2. Appears to be actually antagonistic to the juvenile; or
3. 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).^{xix}
4. A person under the age of eighteen will not satisfy the interested adult rule.^{xx}

(4) 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.

iii) Interrogation **[44.2.3]**

(1) Prior to conducting a custodial interrogation of a juvenile, the interrogating officer should 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 Department’s Juvenile Miranda Form. Officers should “explicitly inform” the parent or interested adult that an opportunity is being provided to confer about the juvenile’s rights.^{xxi} The juvenile and parent or “interested adult” should sign the **Juvenile Miranda Form** (located in the forms file) indicating their understanding of each right.^{xxii}

- (3) Some inquiries should 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 actual opportunity to have a meaningful consultation with an interested adult to discuss the Miranda warnings.^{xxiii}
 - (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.^{xxiv}
- iv) Officers should ensure that the interrogation is not unduly coercive, particularly when an interested adult is not present. **[44.2.3]** The Massachusetts Supreme Judicial court has ruled all persons placed in custody who are subjected to custodial interrogations, must be afforded the opportunity to have their confession recorded by tape or audio.^{xxv}
- (1) The duration of each interrogation session should be limited and frequent breaks taken. **[44.2.3 b]**
 - (2) Absent extraordinary circumstances, only two officers should be present at the interrogation. **[44.2.3 b]**
 - (3) 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.^{xxvi}
- v) Confessions **[44.2.3]**
- (1) 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:
 - (a) Age, intelligence, educational background;
 - (b) Mental capacity, including whether the defendant was nervous and his/her 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;
- (i) Whether Miranda or police caution warnings were given, when, and whether he/she 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 fact; and
- (s) Familiarity with English or the official language.

vi) 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.

i) **Abused or Neglected Children [42.2.2 b]**

- i) A police officer who, in his/her professional capacity, has reasonable cause to believe a child under age 18 is suffering serious physical or emotional injury or death from abuse or neglect, including sexual abuse or malnutrition, shall immediately report such condition to the Department of Children and Families (DCF) by oral communication, followed by a written report within 48 hours of the oral communication.^{xxvii} Said report shall contain the following information:
 - ii) The names and addresses of the child and parents or other person responsible for the child's care, if known;
 - iii) The child's age;
 - iv) The child's sex;
 - v) The nature and extent of the child's injuries, abuse, maltreatment or neglect;
 - vi) The circumstances under which the officer first became aware of the child's condition;

- vii) The action taken, if any, to treat, shelter or otherwise assist the child;
 - viii) The name of the officer making the report;
 - ix) Any other information which the officer believes may be helpful in establishing the cause of the injuries; and
 - x) The identity, if known, of the person or persons responsible for such injuries.
- j) Juveniles may be taken into custody in situations where the officer believes that the life or health of the child is in immediate danger. In such cases, the Department of Children and Family (DCF) shall be immediately contacted and requested to respond to the scene to take custody of the juvenile.^{xxviii} 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.
- k) 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.^{xxix}
- l) School Liaison and Youth Programs
- i) The Chief of Police may establish and/or maintain a school liaison program and appoint one or more officers to do the following: **[44.2.4] [44.1.1]**
 - (1) Act as a resource with respect to delinquency prevention;
 - (2) Provide guidance on ethical issues in a classroom setting, as requested;
 - (3) Provide individual counseling and/or mentoring to students; and
 - (4) Explain to students the role of law enforcement in society.
 - ii) 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 and does not exist, officers should encourage citizens and community leaders to organize one. **[44.2.5]**
 - iii) The department provides school and youth based programs when staffing and monetary resources are available. The programs include but are not limited to the SRO, Community Outreach, Junior Police Academy, RAD, bike safety, classroom training. **[44.2.4] [44.1.1] [44.2.5]**

m) Record Keeping **[82.1.2]**

- i) Officers who select non-custodial alternatives or engage in informal enforcement contacts with juveniles shall when appropriate complete field interviews with master cards and/or incident reports as required by the department. These reports shall clearly identify the juveniles involved, the nature of the incident and the rationale for the officer's disposition.
- ii) Juveniles taken into custody for criminal-type offenses shall be subject to the same reporting requirements as adults. Such records, including photographs and fingerprints, shall be clearly marked "Juvenile" and will be separated from adult arrest records. **[82.1.1 a, b]**
- iii) Access to juvenile records shall be at the discretion of the Chief of Police and direction of applicable laws. Physical access will be limited to the Records Clerks, Keeper of the Records, Juvenile Officer/Detective, Court Prosecutor's Office and other personnel authorized by the Chief of Police. Juvenile records shall be physically stored in the prosecutor's office or central records in a separate file marked "juvenile." Both offices shall be locked when personnel are not working. **[82.1.2 c]**
- iv) Juvenile records shall be archived separately in records storage after the offender has reached adult age. **[82.1.2 d]** Expungement of a juvenile record shall be by court order. A record of the expungement order shall be retained in the juvenile case folder. **[82.1.2 e]**

ⁱ M.G.L. c. 119, s. 21

ⁱⁱ M.G.L. c. 119, s. 21

ⁱⁱⁱ M.G.L. c. 119, s. 21

^{iv} M.G.L. c. 119, s. 52

^v M.G.L. c. 119, s. 52

^{vi} 28 CFR Part 31.303 (i)

^{vii} DCF may file an application for assistance for a child who is a runaway or a stubborn child and is in their custody.

^{viii} M.G.L. c. 119, s. 67

^{ix} M.G.L. c. 263, s. 1A; *Com. v. Shipp*, 399 Mass. 820, 507 N.E.2d 671 (1987)

^x M.G.L. c. 119, s. 68

^{xi} M.G.L. c. 119, s. 67

^{xii} M.G.L. c. 119, s. 67

^{xiii} M.G.L. c. 94C, s. 36

^{xiv} *Com. v. A Juvenile*, 389 Mass. 128, 449 N.E.2d 654 (1983)

^{xv} *Comm. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

^{xvi} *Comm. v. King*, 17 Mass. App. Ct. 602, 460 N.E.2d 1299, *rev. den.* 391 Mass. 1105, 464 N.E.2d 73 (1984)

^{xvii} *Comm. v. Guyton*, 405 Mass. 497, 541 N.E.2d 1006 (1989)

^{xviii} *Comm. v. Juvenile*, 402 Mass. 275 (1988)

^{xix} *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)

^{xx} *Comm. v. Guyton*, 405 Mass. 497, 541 N.E.2d 1006 (1989)

^{xxi} *Comm. v. Mark M., a juvenile*, 65 Mass. App. Ct. 703 (2006)

^{xxii} *Comm. v. Leon L.*, 52 Mass. App. Ct. 823 (2001)

^{xxiii} *Comm. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

^{xxiv} *Id.*

^{xxv} *Comm. v. DiGiambattista*, 442 Mass. 423 (2004)

^{xxvi} *See Comm. v. Harris*, 364 Mass. 236, 303 N.E.2d 115 (1973)

^{xxvii} M.G.L. c. 119, s. 51A

^{xxviii} M.G.L. c. 119, s. 51B

^{xxix} M.G.L. c. 119, s. 24

JUVENILE ARREST DELINQUENT OFFENSES

Notification

The OIC shall notify:

- One of juvenile's parent(s), if no parent, then
- Guardian/Custodian with whom juvenile resides, or
- DCF if the juvenile is in their care & custody

Release: If arrested without a warrant and the OIC determines that the juvenile should be released, release the juvenile upon the written promise from the parent, guardian, custodian or DCF representative who will ensure the juvenile's appearance in the Juvenile Court on the next predetermined recognizance date for that court which serves the police department.

Detain: If a juvenile (between 14 & 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 who 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.

- A juvenile age twelve (12) or thirteen (13) who has been arrested without a warrant cannot be admitted to bail and therefore must be released to either a parent/guardian/custodian.

Juveniles who are Unable to Make Bail or Unable to be Released

- Complete the Booking process.
- The juvenile must be separated by sight and sound from adults in custody.
- 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. *Mass. Gen. Laws ch. 119, § 67.*
- **The juvenile CANNOT be held in police custody for more than six (6) hours.**
- Police must contact the DYS Referral Line for placement of the juvenile in the Overnight Arrest Program (After 6:00pm on weeknights and anytime on the weekends/holidays) at (617) 474-8150 or (617) 474-8179.
 - o DYS will not take custody of a juvenile being held on a Bail Fee only (\$40.00 - Personal Recognizance). The Bail Magistrate/Bail Commissioner shall be notified to release the juvenile without imposing a Bail Fee.
- Transport the Juvenile to the Overnight Arrest Program as directed by DYS. Police must provide a copy of the Booking Sheet prior to placement.
- If suffering from any medical condition, the juvenile must be medically cleared prior to placement. Police must bring any prescription medications prescribed to the juvenile.
- Conduct a Jenkins Hearing if the juvenile was arrested without a warrant and will be held longer than 24 hours, including while being held at the Overnight Arrest Program.
- Before 9:00am, the police must transport the juvenile from the Overnight Arrest Program to the Juvenile Court.

CONFIDENTIAL INFORMATION SHEET									
CASE TYPE: _____									
CHILD		FOR PROBATION USE ONLY/ XREF:					PCF:		
Name: Last: _____ First: _____ Middle: _____									
SSN:			DOB:		POB: City: _____ State: _____ Country: _____				
Address: Street: _____ City: _____ State: _____ Zip: _____									
Gender:		Ht:		Wt:		Hair:		Eyes:	
Phn No.:			DLN: State: _____ Number: _____			Ethnicity: <input type="checkbox"/> Hispanic <input type="checkbox"/> Non-Hispanic			
Race: <input type="checkbox"/> Asian <input type="checkbox"/> Black/African American <input type="checkbox"/> Native Hawaiiin/Pacific Islander <input type="checkbox"/> Native American/Alaskan Native <input type="checkbox"/> White <input type="checkbox"/> Unable to Determine									
PARENT 1		FOR PROBATION USE ONLY/ XREF:					PCF:		
Name: Last: _____ First: _____ Middle: _____ Former Name or Maiden Name: _____									
Gender:		SSN:		DOB:		DLN: State: _____ Number: _____			
Address: Street: _____ City: _____ State: _____ Zip: _____									
Mailing Address: (If Different) Street: _____ City: _____ State: _____ Zip: _____									
Home Phn:			Work Phn:			Cell Phn:			
PARENT 2		FOR PROBATION USE ONLY/ XREF:					PCF:		
Name: Last: _____ First: _____ Middle: _____ Former Name or Maiden Name: _____									
Gender:		SSN:		DOB:		DLN: State: _____ Number: _____			
Address: Street: _____ City: _____ State: _____ Zip: _____									
Mailing Address: (If Different) Street: _____ City: _____ State: _____ Zip: _____									
Home Phn:			Work Phn:			Cell Phn:			
GUARDIAN		FOR PROBATION USE ONLY/ XREF:					PCF:		
Name: Last: _____ First: _____ Middle: _____ Former Name or Maiden Name: _____									
Gender:		SSN:		DOB:		DLN: State: _____ Number: _____			
Address: Street: _____ City: _____ State: _____ Zip: _____									
Mailing Address: (If Different) Street: _____ City: _____ State: _____ Zip: _____									
Home Phn:			Work Phn:			Cell Phn:			
FOR PROBATION USE ONLY									
<input type="checkbox"/> Relationship Group Created									
_____ SIGNATURE OF PERSON CONDUCTING SEARCH					_____ DATE				
Do not file this form with the Clerk's case papers. This form shall be destroyed after case information is entered.									

COMMONWEALTH OF MASSACHUSETTS
DISTRICT COURT OF EAST NORFOLK (QUINCY)

DATE: _____

I _____ OF _____
(Name) (Father, Mother, Guardian) (Name)

_____ have been informed of his/her arrest and now held
in custody at the Braintree Police Department.

Under the provisions of Chapter 119, Section 67 of General Laws (Ter. Ed.)

I accept custody of _____ and do
hereby promise to have him/her present at Juvenile Session at the District
Court of East Norfolk (Quincy), 50 Chestnut Street, Quincy, Massachusetts at
on _____.

(Signature of Parent or Guardian or Person with whom child resides)

Witness: _____
Officer-in-charge

Probation Officer Notified: _____
(Name)

Statewide Awaiting Arraignment/Overnight Arrest Referral Form

Police Department: _____ Date: _____
 Police Contact: _____ Time of Call: _____
 Police Department Phone Number: _____
 Youth's Name: _____
 Youth's Date of Birth: _____ Age: _____ Sex: Male / Female

Charges:

Where did charge occur? Home, School, Residential Placement, Community

If Residential Placement Name: _____ Bail Clerk: _____

Bail Amount: _____ **Bail Fee Amount:** _____

If fee only DYS does not take these youth. Police call Parent/Guardian or DCF hotline for placement.

If **No Bail**, Why? Warrant: Default, Superior Court, Violation of Probation,

If unknown explain: _____

SCOA Screening Referral From P.D.	Questions	Screening at Placement
Yes/No	Does Youth need medical attention?	Yes/No
List All Medications	What medications is the youth on? Police must bring medications with youth to placement.	Verify Medications:
Yes/No	Is youth suicidal or talking of hurting themselves? (If yes must be screened by MBHP personnel)	Yes/No

Yes/No	Does youth appear to be under the influence of any Drugs, Alcohol? (If yes must be screened by Emergency Room Personnel)	Yes/No
Yes/No	Is co-defendant or victim also being referred to program? (If yes, additional placement options will be considered)	Yes/No

SCOA Staff: _____ Placement Staff: _____

Time of Arrival: _____ Transporting Officer's Name: _____

Booking Sheet must be received by placement prior to accepting youth.



Braintree Police Department

Advertencia de Miranda—Para Menores de Edad

(Miranda Form - Juvenile)

Antes de que nosotros le hagamos preguntas, usted debe entender sus derechos:

1. Usted tiene el derecho de guardar silencio. _____ / _____
(Iniciales del Menor) (Iniciales de los padres o Adulto Interesado)
2. Si usted elige hablar, cualquier cosa que usted diga puede ser usada contra usted en una corte o otro tramite. _____ / _____
(Iniciales del Menor) (Iniciales de los padres o Adulto Interesado)
3. Usted tiene el derecho de consultar con un abogado antes de contestar cualquier pregunta y puede tenerlo presente durante la interrogacion. _____ / _____
(Iniciales del Menor) (Iniciales de los padres o Adulto Interesado)
4. Si usted no puede contratar un abogado y quiere uno, el estado le asignara uno sin gasto a usted. _____ / _____
(Iniciales del Menor) (Iniciales de los padres o Adulto Interesado)
5. Usted tambien puede renunciar el derecho de un abogado y su derecho de guardar silencio y puede contestar cualquier pregunta o hacer cualquier declaracion que desee. Si decide contestar preguntas, puede parar a cualquier tiempo. _____ / _____
(Iniciales del Menor) (Iniciales de los padres o Adulto Interesado)

- YO HE LEIDO Y ENTENDIDO LOS DERECHOS ANTERIORES COMO ME LOS HAN EXPLICADO. _____ / _____
(Iniciales del Menor) (Iniciales de los padres o Adulto Interesado)
- YO HE TENIDO LA OPORTUNIDAD DE CONSULTAR CON MIS PADRE(S) O ADULTO INTERESADO. _____ / _____
(Iniciales del Menor) (Iniciales de los padres o Adulto Interesado)
- RENUNCIO LOS DERECHOS Y ESTOY DISPUESTO DE HACER UNA DELCARACION EN ESTOS MOMENTOS SIN TENER UN ABOGADO PRESENTE. _____ / _____
(Iniciales del Menor) (Iniciales de los padres o Adulto Interesado)

Nombre del Menor: _____ Fecha de Nacimiento: _____

Firma del Menor: _____

Nombre del Padre o Adulto Interesado: _____

Firma del padre o adulto interesado: _____

Testigo: _____ ID#: _____

Fecha: ____/____/____ Hora: _____ Lugar: _____