



# ACTON POLICE DEPARTMENT

DEPARTMENT MANUAL; P&P: Operations		
POLICY & PROCEDURE # 1.15	DATE OF ISSUE: 1/26/2024	EFFECTIVE DATE: 2/9/2024
SUBJECT: HANDLING JUVENILES	ISSUING AUTHORITY: Chief James Cogan	
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## I. PURPOSE

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 has not attained a level of developmental competence and may be more easily influenced. There is no question that the attitude and actions of the police can have a considerable impact on a juvenile 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.

Police Officers 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 could contribute to juvenile delinquency. The prevention of juvenile crime is a high priority and any success in this regard can pay large dividends to the community and to its young people.

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.

## II. POLICY

**A.** It is the policy of the Acton Police Department that:

1. Juveniles shall be afforded their constitutional and statutory rights when being questioned, searched, detained, or arrested; **[44.2.2(2C)]**
2. Juvenile offenders shall not be detained at the public safety facility for any amount of time longer than necessary; **[44.2.2(2D)]**
3. Children Requiring Assistance shall be provided custodial protection and other required services where this can be done safely;
4. Acton Police 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 Acton Police Department is committed to the development and perpetuation of programs to prevent and control juvenile delinquency.

### **III. DEFINITIONS**

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

1. Repeatedly runs away from the home of the child's parent, legal guardian or custodian;
2. 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;
3. Repeatedly fails to obey the lawful and reasonable regulations of the child's school; or
4. Is habitually truant. **[44.2.2(2A)]**

**B. *Delinquent Child*:** A juvenile who violates any city ordinance or town by-law or who commits any offense against the Commonwealth

**C. *Juvenile*:** A juvenile, for purposes of Massachusetts criminal law, is anyone between the ages of 7 and 18.

**D. *Status Offender:*** A juvenile who has committed an offense that would not be a crime if committed by an adult. This includes runaways, truants, and youth curfew violations. **[44.2.2(2A)]**

**E. *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.

**F. *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.

**G. *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.

**H. *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 has designated juvenile officers (school resource officers) to have primary responsibility for juvenile operations. **[44.1.1(2A)(2B)]**
2. The responsibility for participating in and supporting the department's juvenile operations is primarily a function of the Department's Student Resource Officers (SROs). However, these responsibilities may also be shared by all department components and personnel in the course of their assigned duties. **[44.1.1(2A)(2B)]**

**B. Enforcement Alternatives [44.2.1(1)]**

1. Acton Police personnel dealing with juveniles in enforcement capacities may exercise reasonable discretion in deciding appropriate action. Personnel shall use the least coercive among reasonable alternatives, 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. Alternatives available include the following:
  - 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 (2A)]**
  - b. Informal referral to an appropriate community-based referral program such as; Restorative Justice (C4RJ) or a similar Diversion Program **[44.2.1(2D)]**;
  - 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 juvenile court complaint application; and **[44.2.1(2B)(2C)]**.
  - e. Arrest
4. Criteria When Choosing an Alternative in lieu of Custody **[44.2.1(b)]**
  - a. In considering a course of action, personnel 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.

**C. Referral to Juvenile Court [44.2.1(c)]**

1. While an Acton Police Officer should recognize the unique and often sensitive nature of juvenile contact, he/she 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. Acton Police Officers may arrest juveniles for acts of delinquency and status offenses. **[44.2.2(2A)]**
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 department policy on Transportation of Detainees (3.01). However, Children Requiring Assistance

shall not be confined in shackles, handcuffs, or similar restraints, and should not be transported to the police station. Transportation to the police station is an absolute last resort in order to make further arrangements for the child.

4. When a juvenile is taken into custody, the juvenile shall be brought to the public safety facility or a DCF-authorized detention facility without delay, unless the juvenile is in need of emergency medical treatment. The Juvenile Officer shall be informed of the arrest as soon as possible. **[44.2.2(2D)]**
5. When a juvenile is taken into custody, the Patrol Shift Supervisor shall:
  - a. Notify the probation officer for the Juvenile Court (Framingham) for the judicial district in which the juvenile was arrested;
  - b. Notify at least one parent/guardian or the person with whom the child resides if possible; **[44.2.2(2E)]** and
  - 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.
6. A juvenile offender shall be released:
  - a. To a parent, guardian or other reputable person upon acceptance, by the officer in charge, of the written promise of such person to be responsible for the appearance of the child in court at the required time and place; or
  - b. To a probation officer upon receipt of a request by such officer that the child be released to him/her.
7. A child between the ages of 14 and 18 arrested for a juvenile offense shall not be released if:
  - a. The arresting Acton Police Officer requests in writing that he/she be detained and the court issuing a warrant for the arrest of such child directs in the warrant that he/she be held in safekeeping pending his/her appearance in court, or
  - b. A probation officer directs that such a 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 Detainee Processing (3.03) and the Holding Facility (3.02). Juveniles taken into custody for non-criminal offenses, as well as Children Requiring Assistance who are placed in custodial protection, shall not be fingerprinted or photographed.
9. The arresting Acton Police Officer, the juvenile officer, and the prosecutor should cooperate in the preparation and presentation of the case if court action is necessary.
  - a. Any police proceeding involving juveniles or Children Requiring Assistance shall be treated in a confidential manner.

#### **D. Holding Juveniles**

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. The parents or guardians of the juvenile shall also be informed of our agency and the juvenile justice system's procedures. **[44.2.3]**

##### **1. Delinquent Offenders**

- a. Juveniles between ages fourteen (14) and eighteen (18) 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.

1) Records shall be kept that specify:

- a) The time the juvenile entered secure detention and the duration of each period of secure detention;
- b) The name of the police officer or custodial officer responsible for visual supervision and 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 offender are not subject to the six-hour detention limit as they are automatically tried in adult court.

- b. 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.
- c. Lockup and other detention facilities shall be such to prevent juveniles who are detained from coming in sight and sound contact with adult prisoners.

## 2. STATUS OFFENDERS

- a. Where and by whom: The patrol shift supervisor or his/her designee shall be responsible for the continuous visual and/or face-to-face monitoring of a status offender. Status Offenders shall be held in the reports room, interview room, Detective's Office, or Sergeant's Office. These rooms are protected from public visibility. [44.2.2(3A)(3C)]
  - 1) 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; and
  - 2) Shall not be handcuffed.
  - 3) The juvenile does not have access to CJIS or confidential information. [44.2.2(3B)]

## 3. Protective Custody

- a. Juveniles in protective custody shall not be held in secure custody.
- b. A child under the age of eighteen (18) may be taken into protective custody, for a period not exceeding four hours, if an officer:
  - 1) Finds the child at a place where the officer reasonably believes there is a drug violation involving a controlled substance of Class A, B, or C;
  - 2) Reasonably believes the child to be under age eighteen (18); and
  - 3) Reasonably believes the child knew of the presence of the controlled substance.

Note: The Patrol Sergeant or Patrol Commander shall make every reasonable effort to notify the juvenile's parent or guardian or other person having lawful custody.

- c. For procedures to follow when a person under age eighteen is taken into protective custody due to consumption of alcohol or drugs or a substance other than alcohol (M.G.L. c.111B & MGL c.111E), see the department policy on Protective Custody.
- d. When taking a juvenile into protective custody for a drug violation involving a controlled substance of Class A, B or C, officers shall file a 51A with the Department of Children and Families as a result of the incident.

#### **4. Children Requiring Assistance**

Note: Children Requiring Assistance shall not be held in secure custody.

- a. 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 39E, 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.
- b. 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.
- c. 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 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.

- d. 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. Notice of the hearing shall be given to the Department of Children and Families.
- e. 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.
- f. 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.
- g. 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. 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 a child may, however, be placed in a facility that operates as a group home to provide therapeutic care for juveniles, regardless of whether juveniles adjudicated delinquent are also provided care in such facility.
- h. A child may not be arrested for engaging in behavior that constitutes being a child requiring assistance.
- i. 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 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.

- j. After a law enforcement officer has taken a child into custodial protection, the Patrol Sergeant or Patrol Commander shall immediately, if possible, notify the parent, another 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.
- k. 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:
  - 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;
  - 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
  - 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.

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.

**E. Custodial Interrogation of Minors [44.2.3(1A)]**

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.
  - a. **INTERESTED ADULT RULE:** In order to obtain a knowing and intelligent waiver by a juvenile, in most cases a parent or interested adult over the age of eighteen (18) must be present in the conversation by some means (phone, Skype, Facetime, or any other social media platform), 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 in the conversation.
    - 1) **FOURTEEN YEARS OR OLDER:** For juveniles who are at least fourteen (14) but under age eighteen (18), 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".
    - 2) **EIGHTEEN YEARS OF AGE:** If the suspect is eighteen (18) years of age at the time of the offense, [s]he is considered an adult in the criminal justice system. Thus for Miranda purposes, the special protections afforded to juveniles do not apply.
  - b. **INTERESTED ADULT EXPLAINED:** An interested adult is, most often, a parent of the juvenile. When the parent is unavailable, another interested adult, who is eighteen (18) years of age or older, may be called upon, such as depending on the circumstances, a legal guardian, an adult brother or sister, a grandparent, family friend, or another adult relative or an attorney.

- 1) 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).
- 2) A person under the age of eighteen (18) will not satisfy the interested adult rule.
- 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.

### **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, the 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. A parent, guardian or interested adult must be present. Both parties indicate that they understand their Miranda Warnings and expressly waive them.

- 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.

4. Acton Police Officers shall ensure that the interrogation is not unduly coercive, particularly when an interested adult is not present.

- a. The duration of each interrogation session should be limited and frequent breaks taken.
- b. Absent extraordinary circumstances, only two officers shall be present at the interrogation.

NOTE: Massachusetts courts have not ruled on how long the interrogation session of a juvenile may continue before it becomes unduly coercive.

Whether an interrogation is unduly coercive such that a valid waiver of rights cannot be made, is a facts and circumstances inquiry and will be dependent on the age, intelligence, and sophistication of the juvenile, as well as the circumstances of the interrogation.

5. **REPORTS:** Included in the arrest record will be the time in which each period of interrogation was commenced and completed, the Acton Police Officers present and the names of parents or responsible adults on hand.

#### **F. Abused or Neglected Children [44.2.2(2B)] [82.2.1]**

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, or has been harmed or is in danger of harm, shall immediately report such condition to the Department of Children and Families (51A) by oral communication, followed by a written report within 48 hours of the oral communication. 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;
  - 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 that 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. 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. 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.

#### **G. School Resource Officer and Youth Programs [44.1.1(2A)(2B)]**

1. The Chief of Police may establish and/or maintain a school resource officer program and appoint one or more officers to do the following: **[44.2.4]**
  - a. Act as a resource with respect to delinquency prevention;
  - b. Provide guidance on ethical issues in a classroom setting, as requested;
  - c. Provide individual counseling and/or mentoring to students; and
  - d. Explain to students the role of law enforcement in society.
2. The department encourages all departmental personnel, as good citizens, to participate on their off-duty time, in any community recreational programs for youths. Where a recreational program is needed but does not exist, officers should encourage citizens and community leaders to organize one. **[44.2.5]**

#### **H. Record Keeping**

1. Officers who select noncustodial alternatives or engage in informal enforcement contacts with juveniles shall complete appropriate incident reports as required by this agency. These reports shall clearly identify the juveniles involved, the nature of the incident, and the rationale for the officer's disposition. **[44.2.3(1B)]**
2. Juveniles taken into custody for criminal-type offenses shall be subject to the same reporting requirements as adults. Such records, including photographs and

fingerprints, shall be clearly marked “Juvenile” and will be separated from adult arrest records. **[82.1.1(a)(b)]**

## **HANDLING JUVENILES INFORMATION**

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**History: Manual I, Section II & III.**

**Policy 1.15 Handling Juveniles**