

		Policy & Procedures			No. 1.12	
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		Handling Juveniles				
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CALEA STANDARDS

41.4.4 44.2.1 82.1.1

41.4.5 44.2.2 82.1.2

42.2.0 44.2.3 82.3.5

44.1.1 44.2.4

44.1.2 44.2.5

GENERAL CONSIDERATIONS & GUIDELINES

Although the police are not expected to be social workers, they must have an understanding of the social and psychological factors which contribute to juvenile misbehavior and crime. By the nature of their duties, the police should be familiar with any undesirable conditions in the community which breed juvenile delinquency. The prevention of juvenile crime has a high priority and any success in this regard can pay large dividends to the community and to its young people. The Canton Police Department is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. **44.1.1**

As a preventative 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.

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. All agency personnel shall be cognizant of this and shall work together in juvenile operations. **44.1.1**

This special procedure is based on the concept that juvenile offenders are often 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-time offender who is often a badly frightened youngster at the time of his/her arrest. How the juvenile is treated by the police can make a lasting impression. However, it must be remembered that the hardened juvenile criminal can be just as dangerous as any adult.

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

For most people, the ultimate symbol of authority in a community is a police officer. This is probably true for juveniles as well. But while the majority of people accept the presence of such authority with no problem, juveniles may often react in strange ways. It cannot be overemphasized that police contact can be very important in the social development of young people within the community. Police reaction to this sensitive relationship can solidify favorable attitudes already in existence and more importantly, help to guide the behavior of the borderline case.

JUVENILE ARREST OVERVIEW

I. JUVENILE

A child under the age of eighteen (18)

- 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 reason to believe the child will not appear upon a summons.
- C. **Arrest Warrant:** A warrant will issue if the court has reason to believe the child will not appear upon a summons or if the child has been summoned and did not appear, or if the juvenile violated the terms and conditions of probation.

II. DELINQUENT CHILD

A child between 12 and 18 years of age who commits any offense against the law of the commonwealth; provided, however, that such offense shall not include:

- A civil infraction,
- A violation of any municipal ordinance or town by-law,
- 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.

III. NON-SECURE DETENTION/CUSTODY:

A condition under which a juvenile's freedom of movement is controlled by members of the department and, during such time, the juvenile:

- A. Is held in an unlocked, multi-purpose room that is in no way designed for residential use;
- B. Is not handcuffed to ANY stationary object;
- C. 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
- D. Is under continuous supervision until released.

IV. SECURE DETENTION/CUSTODY

Is defined as physically detained or confined in a room, set of rooms, or a cell that have the ability to lock an individual within. Secure detention can result from either being placed in such a room and/or from being physically secured to a stationary object such as a cuffing rail/bench.

- A. No juvenile between fourteen (14) and eighteen (18) years of age (one day before 18th birthday), shall be placed in a cell, unless the cell has been certified by the Department of Youth Services.
- B. Juveniles that are securely detained in police custody must be separated by sight and sound from adults in custody.
- C. A juvenile may not be held in police custody for longer than six (6) hours.
- D. 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 his/her parent/guardian/custodian, or c) transported to the Overnight Arrest Program (Nights/Weekends/Holidays).
- E. A juvenile placed in Protective Custody, for ALCOHOL, **CANNOT BE SECURELY DETAINED** for any amount of time.
- F. A juvenile placed in Protective Custody, for Controlled Substance/Toxic Vapors, **MUST** be transported to an appropriate emergency medical treatment facility.
- G. A juvenile placed in custody in accordance with Child Requiring Assistance (CRA) **CANNOT be brought back to the police station. See Overview of CRA**

V. JUVENILE ARREST- DELINQUENT OFFENSE

- A. 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/custodian with whom the child resides or the Department of Children and Families (DCF) if the child is in their custody. **44.2.2 (2E)**
- B. During court hours, police must complete the booking process and then transport the juvenile to the Juvenile Court.
- C. After court hours: 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. Therefore, the OIC of the station will make a determination whether to release the juvenile or to detain the juvenile.
- i. Release: If the 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 so upon the acceptance of the written promise from the parent, guardian, relative, 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.
- ii. 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 request in writing for the juvenile to be detained, the OIC shall contact the Bail Magistrate/Bail Commissioner.
- In accordance with MGL C119.S67, 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. See Sec. V (C)(i)
- D. 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. 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.

- F. The requirement not to release a defendant for six (6) hours when arrested for a violation of MGL C209A or MGL C265, S13M (Domestic Assault or Domestic Assault and Battery) or 15D (Strangulation or Suffocation), **DOES NOT apply to juveniles.**
- G. Juveniles held in police custody must be held sight and sound separate from adult detainees.
- H. Within six (6) hours of the arrest, the juvenile must be either: a) transported to the juvenile court, b) released to his/her parent/guardian/custodian or c) transferred to the custody of the Overnight Arrest Program (After 6pm weeknights and anytime on the weekends/holidays).
- 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 his/her parent/guardian/custodian or c) custody is transferred to the Overnight Arrest Program.

VI. JUVENILE- UNABLE TO MAKE BAIL / UNABLE TO BE RELEASED

- A. 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).
- B. 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. See attached Statewide Arraignment/Overnight Arrest Referral Form.
- 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 this and arrangements will be made to release the juvenile without imposing a Bail Fee.
 - If the juvenile is in the custody of DCF, DCF shall be notified via the DCF Hotline to take custody of the juvenile.
 - If a parent, guardian or custodian refused 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.

C. DYS will provide the officer with the location of the Overnight Arrest Program.

- If the juvenile is suffering from any medical condition(s), (such as; under the influence drugs/alcohol, suicidal thoughts, pepper sprayed or tasered) he/she must be medically cleared prior to placement.
- Police are responsible for obtaining any current medications for the juvenile.
- Police must provide a copy of the Booking Sheet prior to placement.
- 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.

D. **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, 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 (1993).

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

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 DYS.
- 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/holiday) at (617) 474-8150 or (617) 474-8179.
 - 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.

Police Department: _____ Date: _____
Statewide Awaiting Arraignment/Overnight Arrest Referral Form

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 youths. 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.

HANDLING JUVENILES - PROCEDURE

I. Administration

1. An officer, designated by the Chief of police, will have primary responsibilities for juvenile operations. At the time of this policy, the appointed officer is the School Resource Officer (SRO).
2. The SRO is to be specifically trained on all aspects of the Juvenile Justice System and is responsible for keeping abreast of all laws and directives regarding the handling and treatment of juveniles.
3. The SRO will be familiar with the various diversionary programs used in dealing with juvenile offenders.
4. So as to ensure that all juvenile offenders are dealt with in a way designed to achieve the overall objectives of this department, follow-up investigations or incidents involving juveniles where formal charges may be filed are to be referred to the SRO.
5. The responsibility for participating in and supporting the department's juvenile operations is shared by all department components and personnel. **44.1.1 B**

II. General Guidelines for Enforcement Alternatives 41.4.4; 41.4.5

- A. While officers should recognize the unique and often sensitive nature of juvenile contact, they should not be deterred from properly enforcing the law when required to do so. Enforcement can be via a warning to the offender, a summons to appear in juvenile court, or by arrest. When possible, **the least coercive method should be used**. If a decision to arrest is made, it should be based on the same legal considerations as the arrest or detention of an adult. **44.2.1 (1)**
- B. Whenever reasonable and possible, an officer will request a summons for a juvenile rather than taking him/her into custody. **44.2.1 (2B)**
- C. The individual officer has discretion in handling these cases. Alternative interventions available to officers include the following: **41.4.4; 41.4.5**
 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 (2A)**
 2. Informal referral to an appropriate community social service agency for potential diversion alternatives; **44.2.1 (2D)**

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 apply for a summons or complaint; and **44.2.1 (2B,C)**
5. Refer to juvenile court **44.2.1 (2C)**

D. Criteria When Choosing an Alternative

In considering a course of action, the officer shall consider the nature of the offense, the age of the juvenile, the juvenile's prior contacts with the police, the availability of community-based rehabilitation programs, and, in some cases, the recommendation of the complainant or victim. **44.2.1 (2C); 41.4.4; 41.4.5**

III. Arresting and detaining Juvenile Offenders

A. General Guidelines

Any time an officer takes a juvenile into custody or detains a juvenile for investigative purposes, the officer shall adhere to the following guidelines:

1. Notify patrol supervisor of such actions.
2. Advise the juvenile offender of his/her constitutional rights when applicable. **42.2.0**
3. Whenever an officer advises a juvenile of his/her Miranda Warning, the officer is required to use the "Miranda Form- Juvenile" forms.
4. Attend to any injury or illness being suffered by the juvenile or neglect and abuse and document treatment and any follow-up (ex. 51A's-Neglect or Abuse, 111B-Protective Custody, 94C's-Drug Violations) **44.2.2 (2B)**
5. Transport the juvenile without any unnecessary delay to either the police station, intake facility or the juvenile's home depending upon what action is going to be taken. **44.2.2 (2D)**
6. 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 processing.
7. Notify the juvenile's parent(s) or guardian(s) of the detention without unnecessary delay, especially prior to any formal interview or interrogation procedures. **44.2.2 (2E)**
8. Complete a detailed investigative report which includes all information relative to the juvenile and the persons who were contacted to act on behalf of the juvenile (usually parent or

guardian).

9. Juveniles have the right to counsel at **every** stage of the juvenile process. **42.2.0 (2D)**

10. 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 area of questioning and waiver of rights. **44.2.2 (2C); 42.2.0**

B. Referrals to the School Resource Officer

When an arrest is made of a juvenile, all such cases shall be referred to the attention of the School Resource Officer.

C. Procedures for Juvenile Arrests - Supervisors

When a juvenile (between the ages of 14 and 18) is arrested, with or without a warrant, the officer in charge shall:

1. Ensure notification of at least one parent, or, if there is no parent, the legal guardian of the child, or the person with whom the child resides, and,
2. Inquire into the situation to ensure that proper cause for the arrest existed, and that the juvenile was treated in accordance with the law.
3. If a juvenile has been arrested without a warrant, the Supervisor will determine if the juvenile is to be released.
4. If there is a warrant or if the Supervisor determined the juvenile is going to be detained, he/she must notify the Bail Magistrate/Bail Commissioner.
5. The Overnight Arrest Program must be notified when a juvenile is being held and it is after 6pm on a weekday or anytime on a weekend/holiday.
6. Per Chapter 119 Sec 39H, notify any agency such as the Department of Children and Families (DCF – formerly known as DSS) or DYS if the juvenile is in their custody.

Note: The juvenile may be detained pending such notice and inquiry.

D. Booking Juveniles

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. **44.2.2 (2C); 82.1.2 (2)**

E. Holding Juveniles Who Committed Delinquent Offenses – Additional Notes

Juveniles who are at least fourteen (14) years of age, and are arrested for acts of delinquency (acts that would be considered crimes if they were adults), may be held in a DYS approved juvenile detention area for up to six (6) hours. This time period is to allow for processing, investigation, release to parents or transfer to court or a juvenile facility.

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. (M.G.L. C.119 s68)

Juveniles held in secure custody, i.e., the juvenile cell, will be under constant supervision in the cell area by an officer or matron in a manner consistent with department suicide prevention monitoring procedures (so called "Q5 watch").

Juveniles who are held in the cell area must be kept visibly and audibly separated from adult detainees. At no time will an adult detainee be placed in a cell with a juvenile nor will they be transported together in a police vehicle. Remember that "secure custody" usually means placing a juvenile in the juvenile holding cell, but it can also mean placing them in a locked room or handcuffing them to a stationary object.

No child under fourteen (14) years of age may be held in "secure custody."

NOTE: In those rare instances when a person is arrested on a warrant alleging delinquency (juvenile arrest warrant), and the arrested person is now an adult (nineteen years of age or older), it is the policy of the department that such arrested person will be treated as a juvenile being held in secure custody regardless of his/her age. This means that he/she will be placed in an unoccupied juvenile cell and monitored as if he/she were still a juvenile. However, a parent or guardian does not have to be notified of the arrest, and, after consulting with a probation officer, the arrestee may be released outright.

F. Record Keeping for Secure Detention 82.1.2 (6)

Records should be kept that specify:

1. The time the juvenile entered secure detention and the duration of each period of secure detention.
2. The name of the police officer or custodial officer responsible for visual supervision; and

3. A statement of the need for secure detention.

G. Special Considerations

1. 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. (M.G.L. C.119 s.67)
2. No child under the age of 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.

H. Detaining Status Offenders at the Police Station – Not Securely Detained

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 (2A)**

A juvenile may be taken in to custody of the Canton Police for being a so called "status offender." Status offenses are certain acts that if committed by an adult would **not** be considered a criminal offense.

Some examples of status offenders are: 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 M.G.L. c. 111B, s.8. Or pursuant to M.G.L. c. 111E, s9A consumed a controlled substance, toxic vapor, or substance other than alcohol and is either: (1) unconscious; (2) in need of medical attention; or (3) likely to suffer or cause physical harm or damage property; or (4) disorderly

It shall also be the policy of the Canton Police Department to treat juveniles who are in custody pursuant to C.123 s.12 (application for committal to the Department of Mental Health) as status offenders. **44.2.2 (2A)**

M.G.L. C.119 s.39H prohibits **the** SECURE DETENTION of status offenders in a police station or lockup.

There are five requirements for the non-secure custody of status offenders: **44.2.2 (3)**

1. The area where the juvenile is held must be an unlocked area that is protected from public visibility, such as the conference area in the FSU office or BCI office; **44.2.2 (A)**
2. The area will be such that the juvenile will not have access to CJIS or confidential information; **44.2.2 (B)**

3. At no time is the juvenile to be handcuffed to any stationary object; (NOTE: status offenders may be handcuffed if it is appropriate, but not to a stationary object. The handcuffing of status offenders is not considered "secure custody")
4. The juvenile is held only for the length of time required to complete identification, investigation, and processing, and then must be released to parents, guardians, or other responsible adults, transferred to an alternative juvenile lockup facility (ALP) or taken to court;
5. The OIC will designate an officer to keep the juvenile under constant visual supervision until released. **44.2.2 (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. Also note that if the juvenile is under fourteen (14) years of age, he/she cannot be placed in a cell or be otherwise securely detained. Such child may be held in a safe environment pending suitable disposition.

I. Protective Custody 44.2.2

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 juvenile at a place where the officer reasonably believes there is a controlled substance of Class A, B or C; or
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.

A child under the age of eighteen (18) may be taken into protective custody due to the consumption of alcohol. (S)he is **NOT** to be securely detained.

A child under the age of eighteen (18) **MUST** be transported to an appropriate emergency medical facility if placed into protective custody due to the consumption of controlled substance/Toxic vapors.

Note: The officer in charge of the police station shall make every reasonable effort to notify the juvenile's parent or guardian or other person having lawful custody. **44.2.2 (2E)**

J. Child Requiring Assistance (CRA) – Non-Criminal

Behavior: Any child between the ages of six (6) to eighteen (18) whom:

- A. Repeatedly runs away from the home of his/her parents or legal guardian;
- B. Repeatedly refuses to obey the lawful and reasonable commands of his/her parents, legal guardian or custodian;
- C. Who is sexually exploited –under the age of 18 and has been the victim of Sexual Trafficking.

School: Any child age 6 to under 16 whom:

- A. Repeatedly fails to obey lawful and reasonable school regulations; or
- B. Is “habitually truant” – when not otherwise excused, child willfully fails to attend school for more than 8 school days in a quarter.

Officers no longer have the right of arrest. Police officers are permitted to place the child in “custodial protection.” The child cannot be handcuffed or shackled.

Officers cannot place the child in a locked facility or a facility designated for juveniles. Such child may be placed in a facility which operates as a group home.

Officers must immediately notify the parent or other person legally responsible for the child’s care. If returned to their care, the officer shall receive a written promise that the parent or responsible adult will bring the child to court on the next court date.

K. Contact with Adult Detainees

Juveniles brought to the police station shall be kept separate from adult detainees and shall not have any contact with adult detainees (M.G.L. C. 119, s.67). This means that they shall be sight and sound separated from adult detainees.

For the secure detention of juveniles between the ages of fourteen (14) and eighteen (18), said juveniles shall be detained in the designated Juvenile Holding Area located in the police station lockup. Officers will ensure that juveniles so detained will be kept visibly and audibly separated from adult detainees.

L. Transporting Juveniles to Court

When possible, patrol cruisers or other marked police vehicles are NOT to be used when transporting a juvenile to a court or other institution (M.G.L. C.119 s. 34).

M. Right to Bail

Nothing in this section should be construed so as to deny a juvenile the right to bail. The juvenile's Constitutional Rights are not diminished because of his/her age. In the event that the police department is directed to hold a juvenile in the station juvenile cells, a location in the Alternative Lockup Program (ALP) or at any other institution in lieu of being released to a parent, guardian, or DCF representative, the arresting officer should follow the same procedures as in the bailing of adults.

The officer should contact the Bail Clerk, Assistant Clerk Magistrate, the Clerk Magistrate, or a Judge if necessary. The officer should relay all pertinent information about the juvenile, including the reason he/she was ordered detained, and should request a reasonable bail, if bail is imposed. All persons involved in the detention of said juvenile should be advised as to the type or amount of bail, and the name of the person setting it. **44.2.2 (2C); 42.2.0**

N. Confidentiality of Juvenile Cases 82.1.2 (5, 6A)

Any police proceeding involving juveniles shall be treated in a confidential manner. All police records, including hard copies, pertaining to juveniles will be kept in a secured, locked room, in a locked cabinet separate from all other files/records, with limited access. Computer records will have IMC password protection limited to sworn officers only.

IV. CUSTODIAL INTERROGATION OF JUVENILES 44.2.3 (1A)

- A. The police must be particularly aware of the need for conscientious and careful methods when interrogating any juvenile in custody. The number of officers involved in the interview and the duration of the interview should be limited so that it does not appear or become coercive to the juvenile. The Canton Police Department and juvenile court procedures should also be explained to the child and the parent or guardian. Police should also follow the special rules that apply to interrogating juveniles listed below. **44.2.3; 42.2.0 (2C)**
- B. In all instances of custodial interrogation of juveniles, officers shall follow the "interested adult" rule. **44.2.3 (1A); 42.2.0 (2C)**
 - 1. 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, and depending upon the circumstances, a legal guardian, an adult brother or sister, grandparent, another adult relative, or an attorney;
 - 2. **Under Age Fourteen (14):** if the juvenile being interrogated is under the age of fourteen (14), an interested adult **MUST** be present, **MUST** be advised of the Miranda warnings, and

MUST be given an opportunity to discuss them with the juvenile. No waiver of rights by a juvenile under the age of fourteen (14) will be valid if an interested adult is not present, understands the warnings, and has a meaningful opportunity to consult with the juvenile.

3. **Fourteen (14) Years or Older:** if the juvenile is fourteen (14) or older, an interested adult SHOULD be present if possible. If an interested adult is present, that person shall be advised of the Miranda warnings, and shall be given an opportunity to discuss them with the juvenile. If there are valid substantial reasons why an adult person is not present, officers should ensure, before interrogating the juvenile, that he/she understands the Miranda warnings, the consequences of waiving them, and that any waiver of rights is made intelligently, knowingly, and voluntarily. A valid waiver will not occur unless the circumstances "demonstrate a high degree of intelligence, experience, knowledge, or sophistication on the part of the juvenile." The interrogating officer shall answer any questions regarding the juvenile justice system to the best of his/her ability to both the adult and the juvenile.
4. 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 Social Services, or a school official in the case of a weapons violation on school grounds).¹⁷
 - [d] is under the age of eighteen (18)
5. Eighteen (18) 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.

44.2.3; 42.2.0 cont.

- C. When 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 any interested person present on behalf of the juvenile, follow the words being spoken and comprehend their meaning.

- D. Preferably, a written card containing the Miranda warnings should be used. This card should be handed to the juvenile and any interested person present on behalf of the juvenile, so that the juvenile can read it slowly and re-read it if necessary.
- E. The juvenile should be allowed to discuss with the interested person, who is present on his/her behalf, the meaning of the Miranda warnings, the consequences of waiving them, and the advisability of waiving them.
- F. When an adult acting on behalf of the juvenile is present, the officer shall read the Miranda warnings to the adult. The adult should be allowed every reasonable opportunity to discuss those rights with the juvenile to ensure that the juvenile understands those rights. In addition, the adult will be allowed to assist the juvenile in deciding whether to waive or exercise any or all of those rights.
- G. Some inquiries should be made of the juvenile, and any interested person present on behalf of the juvenile, as to the juvenile's age, his/her most recent level of schooling and education, whether he/she has any reading disabilities, mental or emotional conditions, and whether he/she understands the words contained in each Miranda warning.
- H. If an interested person is not present on behalf of the juvenile, the interrogating officer should answer any questions the juvenile has with regard to the meaning of each Miranda warning.

The officer should advise the juvenile that it is his/her duty to inform the juvenile of his/her Miranda rights, but it is solely up to said juvenile to decide whether to waive or exercise those rights, when, and to what extent.

Remember that when the juvenile is under the age of fourteen (14), a parent or interested adult **MUST** be present on his/her behalf when the Miranda warnings are given and during questioning. When interrogating a juvenile who is between the ages of fourteen (14) and eighteen (18), without an adult present, it is recommended that the Miranda warnings, the waiver, and the subsequent interrogation be audio or audio/visually recorded to lessen the chance that a valuable confession would be barred from evidence in court.

- I. **Conducting the Interrogation – Including Non-Custodial Interviews**
Officers shall ensure that the interrogation is not unduly coercive, particularly when an interested adult is not present. **44.2.3 (1B);42.2.0 (2C)**

- 1. The duration of each interrogation session should be limited and frequent breaks shall be taken.
- 2. Absent extraordinary circumstances, a maximum of only two officers shall be present at the interrogation. **It is preferable that a member of the Family Services Unit be present when possible.**

3. 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.
- See page 22 for addendum 44.2.3

J. Overnight Arrest Program

When a juvenile is placed under arrest and is either unable to make bail or is unable to be release, Department of Youth Services (DYS) Central Referral Line will be contacted (617) 474-8150 or (617) 474-8179 – after 6:00pm weeknights and anytime on weekends/holidays.

DYS will provide officers with the location of the Overnight Arrest Program for juvenile to be transported to. Prior to 9:00am, officers from the department will pick-up said juvenile for transportation to court at the appropriate time. All information related to the transport shall be noted on the Daily Log.

V. REPORTS OF ABUSED OR NEGLECTED CHILDREN -- C.119 s.51A

- A. Any police officer, who, in their professional capacity, has reasonable cause to believe a child under the age of eighteen (18) is suffering from serious physical or emotional injury or death from abuse or neglect, including sexual abuse or malnutrition, SHALL **immediately** report such conditions to the Department of Children and Families (DCF) by oral communication, followed by a written report within forty-eight (48) hours of the oral communication. Said report shall contain the following information: **44.2.2 (2B)**
1. The names and addresses of the child and parent or other person(s) responsible for his/her care.
 2. The child's age;
 3. The nature and extent of the child's injuries, abuse, maltreatment or neglect;
 4. The child's sex;
 5. The circumstances under which the officer first became aware of the child's condition;
 6. The action taken, if any, to treat, shelter or otherwise assist the child;
 7. The name of the officer making the report;
 8. Any other information which the officer believes may be helpful in establishing the cause of the injuries;

9. The identity, if known, of the person or persons responsible for such injuries. **44.2.2 (2B)**

VI. CUSTODY OF MINORS -- SPECIAL PROVISIONS

- A. 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 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. **44.2.2 (2B)**
- B. Officers should be aware that in serious cases of child neglect or abuse, "any person" may apply to an appropriate juvenile court to have custody of a child under eighteen (18) years of age be taken away from the parent(s) or other neglectful or abusive custodian and have custody transferred, on an emergency basis, to the Department of Children and Families or a licensed child care agency or individual. (M.G.L. C.199 s.24) **44.2.2 (2B)**

VII. MINOR MOTOR VEHICLE OFFENSES

- A. For the handling of some motor vehicle offenses, an exception has been made to the general rule that all proceedings involving juveniles must first commence in the juvenile court. For example, civil motor vehicle infractions can be handled in the same manner as adult offenders and some criminal motor vehicle matters may be heard in the District Court rather than the Juvenile Court. For more information, see M.G.L. C.119 s.74. **44.2.1. (2B)**

VIII. Record Keeping

- A. Officers who select non-custodial alternatives or engage in informal enforcement contacts with juveniles shall complete appropriate field interview and/or incident reports as required by this agency. These reports shall clearly identify the juvenile(s) involved, the nature of the incident and the rationale for the officer's disposition.
- B. 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. **82.1.2 (2,3)**

IX. REVIEW

- A. A juvenile is a child who is twelve (12) or more years of age, but less than eighteen (18). No child under the age of twelve (12) can be charged with a crime.
- B. **No child under the age of fourteen (14) years of age may be placed in a cell or "securely detained" for any reason.**

- C. Juveniles who are at least fourteen (14) years of age, and are arrested for acts of “delinquency” (acts that would be considered crimes if they were adults), may be held in DYS approved detention are for up to six (6) hours. This time period is to allow for processing, investigation, release to parents or transfer to court or a juvenile facility. **44.2.2 (2D)**
- D. "Status Offenders" are juveniles who have committed acts which, if they were adults, would not be considered crimes. **"Status Offenders" may be handcuffed or restrained, but cannot be SECURELY DETAINED. 44.2.2 (2A)**
- E. "Status offenders" include juveniles in protective custody under C. 111B, protective detention under C.94D, s.36, children in police custody pursuant to a DYS warrant, juveniles arrested for being a Minor in Possession of Alcohol, and children in custody pursuant to C.123, s.12. **44.2.2 (2A)**
- F. A juvenile may be interrogated while in custody with or without a parent/guardian present depending upon his/her age (see Section IV). In all instances, however, the "interested adult" rule shall apply. **42.2.0 (2C)**

A juvenile has a right to bail. (See Section III- M)

X. SCHOOL RESOURCE OFFICER 44.2.4 (5F)

The School Resource Officer (SRO) has a critical position and can have a very positive effect on the future behavior of young people in our community. He/she can also enhance the image of the Department by developing programs that assist juveniles in having a more positive understanding of the role of police in society. To achieve this, the SRO is responsible for the coordination and control of the following programs:

- A. A review of all arrests of juveniles who are residents of the community in order to determine whether personal monitoring of the case and individual counseling might prevent any recidivism;
- B. Designing and implementing vandalism prevention programs in classroom setting for all juvenile age levels;
- C. Designing and implementing crime prevention programs, both in and out of a classroom setting, aimed at delinquency for all juvenile age levels
44.2.4 A
- D. Designing and implementing programs for juveniles that explain the law enforcement role in society; **44.2.4 D**
- E. Provide guidance on ethical issues in both in and out of the classroom setting;
44.2.4 (2B)

- F. Establishing and maintaining a liaison with the School Department, the individual schools, and their administrators;
- G. Provide counseling and guidance to all juveniles and school children when possible; **44.2.4 C** and
- H. Have active participation in youth programs sponsored by the Canton Public Schools and other youth organizations.

XI. YOUTH PROGRAMS 44.1.1; 44.2.5

Programs designed to enhance the relationship between the youths in the community and the police department are extremely important in developing a positive rapport with the future generation. Police personnel should support existing school youth programs as well as other community recreational programs for youths. In addition, the Canton Police Department should be at the forefront for such programs as:

Youth bicycle safety program;

Canton High School and the Blue Hills Regional School Senior Week

Program; Ropes Challenge Course (Summer Youth Leadership Development

Camp

Custodial Interrogation (cont.) 44.2.3 (2A)

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:

- 1) Age, intelligence, educational background
- 2) Mental capacity, including whether the defendant was nervous and his/her physical condition
- 3) Prior experience in the criminal system
- 4) Whether the defendant is suffering from any injury or pain at the time the statement is given
- 5) The duration of the questioning
- 6) Time of day
- 7) Whether the defendant is tired and is desirous of sleep
- 8) Length of confinement
- 9) Whether Miranda or police caution warnings were given, when, and whether he/she understood them

- 10) Whether the room size was of sufficient size and supplied with appropriate furniture
- 11) Whether defendant was cuffed or threatened
- 12) Whether defendant was refused the use of bathroom, food, or drink
- 13) Whether there was a promise of leniency
- 14) Whether the juvenile understood the interrogation process
- 15) Whether a youth officer is present during the interview
- 16) Whether the parents were notified
- 17) Whether the juvenile asked for a parent to be present
- 18) Whether the police prevented a concerned adult from speaking with the juvenile, which is a significant factor, and
- 19) Familiarity with English or the official language.