



# **POLICY AND PROCEDURE**      **NO. 710**

## **Juvenile Arrests & Detentions**

Date Issued: August 17, 2004

Date Effective: April 25, 2025

8 Pages

### **PURPOSE**

The Worcester Police Department, while mandated for the protection of the public, also recognizes the impact of its involvement with juveniles in the community. In addition to providing the same protections required in the case of adult arrests certain additional protective procedures must be employed in handling juvenile arrests. The purpose of this policy is to correctly guide members of the Worcester Police Department through the juvenile arrest process, thereby always ensuring that the safety, rights, and privacy of the child are protected.

### **POLICY**

It is the policy of this department when dealing with juveniles to employ the least coercive among reasonable alternatives consistent with public safety, order, and the rights of the child. When encountering a juvenile offender, unless required by statute, officers are encouraged to explore all reasonable alternatives to arrest whenever feasible. When the arrest of a juvenile must be made, it is the policy of this department to process and place juvenile offenders as soon as is reasonably practicable, with the goal of limiting the child's exposure to the criminal justice process as much as possible.

### **JUVENILE GUIDELINES**

#### **A. Juvenile - A child under the age of eighteen (18).**

**Under the Age of 12:** A juvenile under the age of twelve (12) cannot be charged with a crime.

**Ages 12 thru 17:** 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.

**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 of probation. The courts are likely to consider if the parents refuse to bring the juvenile to court, have a history of not bringing the juvenile to court, or there is a default history with the juvenile.

#### **B. Delinquent Child**

A child who is at least twelve years of age but less than eighteen years of age, who commits any offense against a 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, or

- 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.

### **C. Child Requiring Assistance**

A child between the ages of 6 and 18 who: (i) repeatedly runs away from the home of the child's parent, legal guardian or custodian; (ii) 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; (iii) repeatedly fails to obey the lawful and reasonable regulations of the child's school; (iv) is habitually truant; or (v) is a sexually exploited child.

## **PROCEDURE**

### **Arrest**

While officers should recognize the different dynamics of juvenile crime and misbehavior, the decision to arrest a Juvenile incorporates the same legal considerations as the arrest of an adult. Therefore, the following still apply when placing a juvenile under arrest, and apply to Juveniles subject to an arrest warrant:

- Reasonable force may be used to take a Juvenile into custody.
- Juveniles under arrest may be handcuffed during transport and processing.
- The same legal obligations apply to juveniles subject to an arrest warrant.

When faced with the decision to arrest a juvenile, officers are encouraged to follow the MPTC recommendations below:

- Inform the juvenile of your authority by identifying yourself as a police officer and notify the juvenile of the reason and charge for which the arrest is being made.
- Ascertain the name and age of juvenile.
- Search the juvenile for weapons if you believe the juvenile has a weapon, especially if the offense is one in which a weapon is usually involved.
- Follow the department's policy for handcuffing and other restraints. The best practice is to treat the juveniles in the same manner as adults regarding handcuffing.
- If the juvenile is sick or injured, inform a supervisor and request an ambulance. Monitor the subject and administer first aid where necessary. If transport to a medical facility is required, one officer should accompany the juvenile in the ambulance. The need for medical attention will be accomplished prior to processing and placement.
- The juvenile should be searched incident to arrest according to department policy and procedure (WPD Policy for Handling Prisoners is to search a prisoner at every stage where transfer of custody is taking place).
- The time when the juvenile is taken into custody should be noted and recorded.

### **B. Transportation**

Any juvenile in police custody shall be transported by police cruiser, not by prisoner transport van. Only in cases where there exists an urgent officer or public safety concern,

may the prisoner transport van be used. That is provided such transport is approved by a supervisor. The reason for transport in the prisoner transport van shall be documented in the incident report.

Juveniles shall not be transported to any court or institution in the prisoner transport van as specified in M.G.L., C.119, s.34.

Juveniles shall not be transported in the same vehicle or compartment with adult prisoners except in emergency situations, or when the juvenile is arrested in the company of adults for complicity in the same offense.

Once a juvenile is placed in an alternative setting (a juvenile detention facility identified and regulated by the State) the juvenile must not be transferred to another setting until brought before the court. The department is expected to transport alleged delinquent youth to the alternative setting and to court unless the youth is involved with DCF or DYS. Then it will be the responsibility of the respective agency.

### **C. Booking Process**

The juvenile booking process is the same as that for adults. This includes the inventory procedure, finger printing and booking photographs. All records for juveniles shall be maintained separate from adult offender records. All juveniles arrested will be recorded in the mandated Juvenile Lock-Up section of CJIS. Only juveniles placed in a juvenile cell need be recorded in this section. It is accomplished by bringing a copy of the booking sheet to the CJIS operator when the juvenile is booked and again when the juvenile is released. This is all performed electronically via CJIS Single Sign-On.

In addition, all juvenile's names are separate internally on the Electronic Whiteboard.

### **D. Notification and Placement**

When a juvenile is placed under arrest and transported to police headquarters, the Service Division shall immediately notify at least one of the child's parents, or, if there is no parent, the guardian or custodian with whom the child resides or the Department of Children and Families (DCF) if the child is in their custody. Any information concerning the juvenile being sick or injured will be part of this notification.

If the Juvenile Court IS OPEN

Transport to Juvenile Court:

If court is in session the Service Division shall complete the booking process and arrange to transport the juvenile directly to the juvenile court.

If the Juvenile Court IS CLOSED

If court is not in session the Service Division is no longer required to contact Juvenile Probation. Therefore, the Service Division official will decide whether to or not detain the juvenile. The official in charge will base this decision on the juvenile's prior criminal record, the actual crime committed, and the juvenile's behavior and demeanor.

Release to Legal Custodian:

If a juvenile has been arrested without a warrant and the Service Division official determines that the juvenile should be released, such release shall be done so upon the

acceptance of a written promise from the parent, guardian, custodian or a DCF representative who will ensure the juvenile's appearance on the next predetermined recognizance date for that court.

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 51 A and notify DCF via the DCF Hotline for placement.

In accordance with Massachusetts General Laws C.119, s.67, a juvenile age twelve or age thirteen who has been arrested without a warrant is prevented from being eligible for bail, and therefore must be released to a parent, guardian, custodian or a DCF representative.

A juvenile arrested without a warrant may no longer be released to a "reputable adult" which is defined as a non-family member.

**Bail Hearing:**

A juvenile may be held pending a bail hearing under the following three conditions:

- The juvenile must be 14, 15, 16, or 17 years of age.
- The Service Division Official requests in writing, or verbally notifies the bail clerk, that the child be held. This request must be included in the incident report or CAD system.
- The Juvenile has been arrested on a warrant and the issuing court has directed that the Juvenile be held in safekeeping pending their court appearance.

In any case the bail clerk will make the final decision whether to release or hold the Juvenile pending their court appearance.

**Transport to an Overnight Arrest Program (OAP):**

Juveniles aged 12 and 13 are not eligible for placement in an OAP and must be released in accordance with the sections above. Juveniles aged 14, 15, 16, and 17 who could not be transported to the juvenile court and were not released on bail will be transported to a Department of Youth Services (DYS) designated OAP facility typically by officers assigned to Operations and picked up the next court day and transported to Worcester Juvenile Court.

If placement in an OAP is necessary, the Service Division must complete the following:

- Contact DYS to arrange for placement.
- Ensure the juvenile, when sick or injured, is medically cleared prior to placement.
- Ensure any mental health concerns are addressed and cleared by a mental health technician.
- Ensure any current medications are transported with the juvenile to the OAP
- Provide transport to the OAP facility
- Provide the intake staff with a copy of the booking sheet, DYS referral form and any medications
- Arrange for a Jenkin's hearing if the juvenile was arrested without a warrant and is expected to be held at the OAP for more than 24 hours

## **E. Custody Restrictions**

At no time shall a delinquent juvenile be placed in an adult cell or holding area. The age of the delinquent juvenile will determine what custody restrictions must be followed.

### **Non-Secure Detention (Juveniles 12 or 13 years of age)**

Non-Secure detention is mandated for all delinquent juveniles who are twelve or thirteen years of age. The requirements for non-secure detention of delinquent juveniles of this age are:

- **Unlocked Multi-Purpose Area** – Juveniles whose age is twelve or thirteen must be held in an unlocked multi-purpose area such as a report writing room or office. The space must not be designed in any way for residential use, such as having a bunk or toilet.
- **No Handcuffing to a Stationary Object** - Juveniles aged twelve or thirteen charged with a crime may be handcuffed but they shall not be handcuffed to any stationary object such as a bench or cuffing rail.
- **Continuous Visual Observation** - The Service Division official shall designate an officer or other suitable person to maintain continuous visual supervision of the juvenile.
- **Process and Transfer** - The juvenile should be held long enough to complete post-arrest processing, then released to an adult, agency or the court. The goal is to remove juveniles from the station setting as quickly as possible.

### *Note: EOPPS Non-Secure Detention Exception*

The Executive Office of Public Safety and Security (EOPPS) guidelines allow for the secure detention of a delinquent juvenile under the age of fourteen if the Juvenile has ignored clear instructions to remain in a non-secure area. Additionally, it may be necessary to secure a delinquent Juvenile who presents violent or dangerous behavior in a locked area or approved cell. In all such cases, the Service Division official shall document the need for secure detention.

### **Secure Detention (Juveniles 14 and older)**

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

No juvenile between fourteen and seventeen years of age, shall be placed in a cell, unless the cell has been certified by the Department of Youth Services.

A juvenile may not be held in secure detention for more than six (6) hours. Within six (6) hours the Juvenile must be either transported to the juvenile court, released to a parent/guardian/custodian, or transferred to the custody of the OAP. 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 transferred to the Juvenile court, the juvenile is released to a parent/guardian/custodian or custody is transferred to the OAP.

The requirement not to release a defendant for six (6) hours when arrested for a violation of Massachusetts General Laws C. 209A or C. 265, sec. 13M (Domestic Assault or

Domestic Assault and Battery) or sec. 15D (Strangulation or Suffocation), DOES NOT APPLY TO JUVENILES.

Juveniles that are securely detained in police custody must be separated by sight and sound from adults in custody.

A juvenile should only be held long enough for officers to complete the identification and booking process. Once completed, the juvenile should be transported to the juvenile court, released to his/her parent /guardian/custodian, or transported to the OAP.

## **F. Jenkins Hearing**

If a juvenile is arrested without a warrant and held in custody for more than twenty-four (24) hours, they are entitled to a Jenkin's Hearing to determine whether there was probable cause to make the arrest, and to continue to hold the juvenile.

The bail magistrate that set bail on the juvenile CANNOT be the same magistrate who conducts the Jenkin's Hearing.

Service Division personnel must call a magistrate, if the juvenile will be held over twenty-four (24) hours, to facilitate a Jenkin's hearing determination of probable cause to continue to hold the juvenile.

Juvenile unable to make bail / unable to be released

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 and court is closed, police must contact DYS.

DYS will speak with the officer regarding the juvenile's arrest and complete the Statewide Awaiting Arrangement/Overnight Arrest Referral Form. Officers will need to specify the bail amount as it relates to the Bail Fee and Bail. DYS will determine the location of placement.

### *Note: Bail Fee Only*

If a juvenile is being held on a Bail Fee only, DYS has no authority to hold the juvenile in their custody. The Service Division official shall inform the Bail Magistrate of this, and arrangements will be made to release the juvenile without imposing a bail fee.

### *Note: DCF Custody*

If the juvenile is in the custody of DCF, DCF shall be notified via the DCF hotline to take custody of the juvenile.

## **PROTECTIVE CUSTODY**

At times officers may be required to take a juvenile into protective custody to ensure the well-being and safety of the child. These requirements include:

- A juvenile of any age placed in protective custody for alcohol intoxication, shall not be securely detained for any amount of time.
- MGL c 111b Section 10. Any person under the age of eighteen who is a patient at a facility, pursuant to section seven, or held in protective custody at a police station pursuant to section eight shall, upon request of his parent or guardian, be released to the custody of

said parent or guardian. All rights afforded any person under this chapter shall apply to juveniles. Any provisions of this chapter requiring the consent of a person shall, if the person is a juvenile, require the consent of both the juvenile and his parent or guardian.

- MGL c 111E Section 9a. A juvenile of any age placed in protective custody for controlled substances/toxic vapors, shall be immediately transported to an emergency medical treatment facility.
- MGL c 94C Section 36. Notwithstanding the provisions of section thirty-five, if a police officer finds a child present where said officer finds a substance which he reasonably believes to be a controlled substance listed in Class A, B, or C of section thirty-one kept or possessed in violation of any provision of this chapter, and if the police officer reasonably believes that the child has not reached his eighteenth birthday and that the child knew of the presence of such controlled substance, the police officer may lawfully take such child into protective custody for a period not to exceed four hours. Persons having custody of a child under this section shall make reasonable efforts to notify the child's parent or guardian or other person having lawful custody. Such persons shall be considered to be acting in the conduct of their official duties and shall not be held criminally or civilly liable for such acts. A child detained pursuant to the provisions of this section shall not be considered to have been arrested or to have a criminal record for any purpose; however, only a departmental record of custody shall be made by the officer indicating the circumstances of custody. The procedures and processes provided by this section for the care, protection, and custody of children are not exclusive but are in addition to all others provided by law.
- A juvenile placed in custody in accordance with Child Requiring Assistance (CRA) cannot be brought back to the police station.

### **CHILD REQUIRING ASSISTANCE (CRA)**

Officers must PC a child named in a CRA Protective Custody warrant (WPC) only after they confirm with the juvenile court that the WPC is still active, and they can present the child to a juvenile court judge by 4:30pm. If unable to present the child to a juvenile court Judge by 4:30pm that day, officers have the following options:

- PC the child if they have probable cause that the child is a runaway, or
- Notify a parent or guardian of the WPC, have them sign a release form, and bring the child to court on the next available date, or
- Wait until the next day to serve the WPC during court hours.

### **JUVENILE INTEROGATION CONSIDERATIONS:**

A juvenile between the ages of fourteen and seventeen years of age may waive the right to remain silent and to have counsel present during any interrogation. However, such consent will be closely scrutinized by courts to ensure that the consent was knowingly, voluntarily, and intelligently made, with an awareness of the circumstances and possible consequences. The court will examine all the circumstances surrounding such consent and waiver to determine voluntariness.

Of all the factors a court may consider the most important factor to the court is parental presence. By law it is impossible for a juvenile under the age of fourteen to give valid consent

without the advice of the juvenile's parent or legal guardian. Another close relative or an attorney may be a sufficient substitute.

Due to the nuances and legal issues involved in the interrogation of juveniles, officers are advised to seek the counsel of their immediate supervisor or commanding officer prior to conducting any interrogations involving juvenile offenders.

**A. Valid Miranda Waiver:**

- Rights must be properly communicated and
- Parent or Interested Adult must be present, and
- Only exception is "Highly sophisticated" (very familiar with the court system, high level of intelligence, and has the capability to understand the meaning of Miranda) youth at least age 14.

Proper consultation must be afforded prior to waiver:

- Age 12 or 13 "Actual Opportunity" which is defined as failure to have a parent or interested adult present to assist child aged 13 or under will invalidate any waiver of Miranda rights. Police actively encourage consultation.
- Age 14, 15, 16, or 17: "Meaningful Opportunity" Police shall provide an opportunity for the parent and juvenile to consult.

**PRIVACY PROTECTION:**

No officer or employee shall disclose the identity of an arrested juvenile to the public. Also, they shall not disclose information about the arrest, the investigation, or the disposition except in exigent circumstances and with the approval of the Chief of Police or their designee. The Service Division shall not enter juvenile's identifying information on the daily arrest log.

Per:

*Paul B. Saucier*  
Chief of Police