



POLICY AND PROCEDURE

NO.710

Juvenile Arrests

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GENERAL CONSIDERATIONS AND GUIDELINES:

The Worcester Police Department while mandated for the protection of the public also recognizes the impact of its involvement with juvenile offenders. In addition to providing the protection required in the case of adult arrests certain additional protective procedures must be employed in handling juvenile arrests. It is the general policy of this department when dealing with juvenile offenders to employ the least coercive among reasonable alternatives consistent with public safety, order, and the rights of the child. Cooperative efforts with other Juvenile Justice Agencies will be maintained to foster the care and protection, as well as the detention of juveniles. In determining the detention of juveniles the following factors need be considered: the nature of the alleged offense, the age and circumstances of the alleged offender and the availability of alternative placement facilities.

While Massachusetts's statutes provide for the arrest of juveniles, they also impose different requirements as to the handling and detention of the offender.

1. A juvenile may not be confined in a jail, lockup or any other place where adults are or may be confined. Juveniles are to be separated from adults by sight and sound.
2. No child under fourteen (14) is to be put in a cell or otherwise securely detained for any reason. Such child may be held in a safe environment pending suitable disposition.
3. A juvenile between fourteen (14) and sixteen (16) and charged with a status (CHINS) offense only, by arrest or WARRANT, may not be placed in a cell or otherwise securely detained.
4. A juvenile between the ages of fourteen (14) and sixteen (16) and is charged with delinquency by reason of a crime may be placed in a cell and securely detained BUT not to exceed six (6) hours. These juveniles charged with delinquency are the only category of juvenile offenders that may be physically placed in a cell and legally detained. Six (6) hours has been determined legislatively to be the maximum time required for processing and arranging in the appropriate course of action and transportation to an alternative placement agency. Such juveniles shall be released according to the instructions of a juvenile probation officer. Where the juvenile is not released to parents or legal guardians, alternative placement facilities will be utilized.
5. A child involved in any proceeding shall not be transported in a patrol wagon from his home or from any other place to any court or institution, but if a conveyance is necessary shall convey him/her in such other suitable vehicle as shall be provided or designated the department.

PROCEDURE TO FOLLOW AFTER ARREST:

After a juvenile has been arrested on a non-status delinquency charge the following steps should take place at the scene of the arrest:

1. 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.
2. Ascertain the name and age of juvenile.
3. 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.
4. 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.
5. If the juvenile is sick or injured, inform the dispatcher, request an ambulance, monitor the subject and administer first aid where necessary. You must wait for the ambulance to arrive and if transported, one officer should accompany the juvenile in the ambulance. The need for medical attention will be accomplished prior to processing and placement.
6. While you are not required to give Miranda warnings unless you are going to question a juvenile or take a statement from a juvenile in custody and intend to use such statement in court, it is good practice to administer Miranda warnings at this point. (See considerations on interrogations, which follow.)
7. The juvenile should be searched incident to arrest according to department directives.
8. The time when the juvenile is taken into custody should be noted and recorded. If it appears that physical evidence at the scene will be important in determining facts, precautions should be made to secure and protect the scene of the incident.

INTERROGATION CONSIDERATIONS:

The juvenile 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 insure 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 (14) 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 interrogating of juveniles, officers are advised to seek the counsel of their immediate supervisor or commanding officer prior to conducting any interrogations involving juvenile offenders.

SCHOOL ISSUES:

All calls from school officials are to be responded to in the same manner as any citizen complaint. Officer initiated investigations should proceed through the cooperation of the department's School Liaison Officers assigned to the Family/Youth Services Division and not conducted on school property, especially the school building if at all possible.

There may be justifiable exceptions, however, due to emergencies or time elements or other exigent circumstances.

In all situations school officials are to be informed of the nature of the investigation and any required or subsequent police business be conducted in the least coercive manner possible with a minimal effect on school routine.

You should not arrest a student at school as part of an ongoing investigation. If it is appropriate to arrest a juvenile at the school, the arrest should be made in the least obtrusive manner as possible.

BOOKING PROCEDURES:

A juvenile who is arrested and charged with delinquency by reason of a crime or motor vehicle violation is to be brought to the cell room to be booked according to current departmental directives and policies regarding handling of prisoners.

If the juvenile is arrested and charged with a crime designated as a felony such offender shall submit to the taking of his photograph, physical description and fingerprints. Taking of physical samples such as hair, blood, urine, breath and handwriting samples from juveniles shall follow accepted guidelines for adults.

After formal processing is finished Service Division personnel must notify a Juvenile Probation Officer and at least one parent or legal guardian. If court is in session, a probation officer can be reached at Juvenile Court. If court is not in session, an on-call list of probation officers' names and telephone numbers should be consulted and utilized. The Juvenile Court Probations Officer should be notified of the juvenile's eligibility for diversion placement to an alternate care provider.

The juvenile arrested on criminal, i.e. delinquent, or motor vehicle charges may be detained in the juvenile holding area cells approved by the Department of Youth Services BUT not to exceed six (6) hours. Juveniles held will be further separated to designated male and female areas.

All records for juveniles shall be maintained separate from adult offender records. All juveniles arrested will be recorded in the mandated Juvenile Docket Sheets. Only juveniles placed in a juvenile cell need be recorded in this docket, by bringing a copy of the booking sheet to the CJIS operator when the juvenile is booked and again when the juvenile is released.

These docket sheets are automatically submitted monthly to the Massachusetts Committee on Criminal Justice. Service Division shall be responsible for maintaining such records. Records Division shall be responsible for final maintenance and any court ordered expungement of such records.

RELEASE/DETENTION AFTER ARREST:

Decisions to release a juvenile to parents, legal guardian or an agency for placement is made in conjunction with the probation officer, information relevant to the arrest and the availability of alternate placement facilities. The juvenile probation officer should be informed of all pertinent information. Unless the juvenile has a long arrest record and is charged with a serious or violent crime (e.g. delinquent acts involving weapons and aggravated assaults especially against law enforcement officers and persons older than sixty), it is likely the juvenile will be released to parents or other

responsible persons. If the juvenile is under custody of a state agency (DSS, DYS, DMH) that agency should be contacted by hotlines and emergency numbers listed for these agencies. If the juvenile is not in the custody of a state agency a juvenile probation officer is to be contacted.

In all cases, regardless if the juvenile is released to parents or held for court, a written notation of all notifications regarding juveniles and their dispositions will be made on the Service Division journal.

Release to parent(s):

Once the decision to release the juvenile is made Service Division will contact at least one parent or legal guardian or other person with whom the juvenile resides. The responsible person contacted should be told when the arrest took place, the reason for the arrest, time and place of the hearing, and the fact that the juvenile will be released to them upon their arrival and upon their written promise for the juvenile's appearance in court when so notified. When the person appears and signs the printed release form, the juvenile should be released. If the person who is expected to pick up the juvenile does not arrive at the station in a reasonable period of time or refuses to take the juvenile or refuses to sign the release form, the juvenile will be taken to an alternate care facility. If the juvenile is arrested and booked while court is in session, the juvenile may be transported directly to court.

In the event that parents refuse to take the juvenile, they should be advised that their refusal could render their child homeless and their failure to take custody could result in a neglect of child report being filed against them. All attempts should be made insisting that the parents take their children when so allowed.

Hold for Court/Alternative Placement:

If the Probation Officer decides not to release the juvenile to the parents and requests that the juvenile be held for court at least one parent or legal guardian or person with whom the juvenile resides should still be contacted and informed of above information. They should also be notified where the juvenile will be detained until the juvenile appears in court.

When the juvenile is ordered held for court, alternative care facilities under memorandum of agreement with the Worcester Police Department will be contacted and notified. The delinquent youth will be transported to the alternate care facility with a release form and a copy of the arrest sheet. The counselor shall sign the release form, which will be attached to the juvenile booking sheet. The care facility, by agreement, has three (3) hours to resolve placement. If the primary agency contacted cannot accept a juvenile, secondary agencies will be contacted.

Juveniles held for court are entitled to bail in the same manner as adults except juveniles cannot execute a bond. All reasons for suspicions that a particular juvenile will not show up for court should be explained to the probation officer and bail commissioner at the time of a bail request. Reasons should be reduced to writing in the police report or attached thereto. When court is not in session the juvenile Bail Commissioner will be notified for a bail review and release on personal recognizance.

In the event the alternate care provider does not have available space the juvenile offender will be detained in the juvenile lockup until an alternative setting is available or is taken to the next juvenile court session. This may be a justifiable exception due to contradictory circumstances, but all efforts must be expended to lessen this situation to the shortest time possible.

PROTECTIVE CUSTODY:

Protective custody (PC) is a method of detaining persons without arresting them. The authorizations to detain juveniles in protective custody are under two state statutes. They are the Alcohol Treatment and Rehabilitation Law (Ch.111B) and the Controlled Substance Act (Ch. 94C, sec. 36).

When a juvenile is placed in protective custody under either of these statutes the juvenile should be informed of the authority under which they are being placed in custody.

A juvenile who has been placed in PC shall not be deemed to have been arrested or to have incurred a delinquency or criminal record for any purpose. However, a department record of the custody shall be maintained indicating the circumstances of detention. The time which the juvenile was placed in protective custody should be noted because of the statutory limits to the length of time the juvenile can remain in protective custody. Under the Alcohol Treatment and Rehabilitation Law, the juvenile, under certain circumstances, cannot remain in protective custody for more than twelve (12) hours. Under the Controlled Substance Act, juveniles who are found where controlled substances are present cannot be held in protective custody for more than four (4) hours.

All rights granted under Chapter 111B and 94C to adults shall apply to juveniles. Any provision requiring the consent of the person requires the consent of both the juvenile and the parent or legal guardian.

Any juvenile held in protective custody, upon the request of the juvenile’s parent(s) or legal guardian may be released to the custody of the parent or legal guardian. During the time a juvenile is held in protective custody, all valuables and all articles which may pose a danger to the juvenile may be taken, inventoried and held in safe-keeping according to existing policies.

A juvenile who is placed in protective custody under the provisions of the Alcohol Treatment Law may as a last resort or option be placed in a DYS-approved cell. A juvenile in protective custody under the Controlled Substance Law will not be placed in a cell but under supervision in a secure area pending final disposition.

ARREST OF A CHINS:

A juvenile may only be arrested under the authority of the CHINS statute upon notification that the juvenile has failed to obey a summons issued by the court or when the arresting officer has probable cause to believe that the child has run away from home and will not respond to a summons. The juvenile is to be held in a supervised area pending final placement.

Guidelines defining areas for the non-secure custody for status offenders suggest:

1. The area where the juvenile is held is in an unlocked, multi-purpose section such as a report writing room or an office.
2. The space is in no way designed for residential use.
3. At no time is the juvenile to be handcuffed to a stationary object. (Handcuffing may be appropriate and not considered "secure custody" if not attached to a stationary object.)
4. The juvenile is held only long enough for processing, notifications and transportation to alternate facilities or court.
5. The juvenile is under continuous visual supervision until released.

A police officer may apply for a (CHINS) petition at juvenile court to have a juvenile below the age of seventeen (17) adjudicated a child in need of services.

A child in need of services (CHINS) is a child below the age of seventeen (17) who persistently (not just one or two isolated instances) runs away from home or persistently refuses to obey the lawful commands of a parent or guardian and as a result the parent or guardian cannot adequately care and protect the child.

A CHINS may also be a juvenile between six (6) and sixteen (16) who persistently and willfully fails to attend school or persistently violates the lawful and reasonable regulations of an attending school. Only an attendance supervisor may apply for a petition alleging this type of behavior.

An alternate care provider should be contacted and a release form signed.

TRANSPORTATION ISSUES:

The preferred method of transportation of juveniles will be by cruiser. The patrol wagon will only be used if the violent actions or conduct of the juvenile require it. Juveniles shall not be transported to court or other institution in a patrol wagon as specified in M.G.L., C.119, s.34.

A juvenile should never be transported in a vehicle, which is occupied at the same time by an adult offender except in great emergencies, or when arrested in the company of adults or for complicity in the same offense, in which case a police officer should accompany them in a vehicle.

Once a juvenile is placed in an alternative setting, the juvenile must not be transferred to another setting until brought before the court. Law enforcement officers are expected to transport alleged delinquent youth to the alternative setting and to court unless the youth is involved with DSS or DYS. Then it will be the responsibility of the respective agency.

In status offender cases (CHINS), the agency is to provide transportation in placement and to court unless the police department chooses to furnish said transportation. This issue is flexible; by long standing "agreement" this department has provided transportation to above locations.

CHINS offenders are not to be transported with non-status offenders.

CARE PROVIDER AGREEMENTS:

The following agencies have memorandums of agreement with the Worcester Police Department to provide their services in the alternate placement of juveniles under certain conditions and requirements.

The established order of utilization of these services will be primarily initiated through notification procedures in the following order:

When court is not in session all juveniles charged with delinquency by reason of a crime or motor vehicle violations or held on a CHINS status offense will be provided alternate care consideration upon notification of:

Chins Status Offenses:

1. The Key Program
104 Lincoln Street
Worcester, MA
508-798-8634

2. YOU INC.
1-800-435-9990 or through
Comprehensive Emergency Service
1-800-922-8169

Delinquent Non-Status Offenses:

The Key Program Inc.
OVERNIGHT ARREST UNIT
104 Lincoln Street
Worcester, MA
508-757-8009 or
508-798-8634 x236
FAX 508-757-0543

Per:

Gerald J. Vizzo
Chief of Police

GJV/slb