

	Policy and Procedures		Chapter (44-1)
	Subject: <div style="text-align: center;">Juvenile Policy</div>		
	Issuing Authority: Robert Bongiorno <div style="text-align: center;">Chief of Police</div>		Effective Date: <div style="text-align: center;">April 29, 2015</div>
	Signature: <div style="text-align: center;">On File</div>		

Policy

It shall be the policy of this department to use the least coercive among reasonable alternatives, consistent with preserving the public safety, order, and individual constitutional rights whenever an officer handles a juvenile offender.

It shall be a high priority of this department to engage in activities and design programs geared toward preventing juvenile delinquency.

It shall be the policy of the Bedford Police Department to actively cooperate with all agencies, public or private, which can be of assistance in deterring and controlling juvenile delinquency.

Juvenile Operations

It is the function of the Juvenile Officer reporting to the Patrol Division Lieutenant to coordinate the juvenile functions of the police department. Every police officer is responsible to participate in and support the juvenile functions of the department during the course of their duties.¹

¹ 44.1.1

Definitions

Juvenile A juvenile for the purpose of Massachusetts criminal law, is anyone between the ages of 7 and 18. (Includes the ages: 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17.)

Age Chart	IF AGE IS...	THEN CRIMINAL CHARGES	ARRESTABLE
	1; 2; 3; 4; 5; 6; and 7.	Cannot be filed in any court. (Child is deemed incapable of committing a crime)	NO
	8; 9; 10; 11; 12; 13.	Can be filed in Juvenile Court. (No indictments are allowed)	YES
	14; 15; 16; 17	Are generally filed in Juvenile Court. (except murder - Consultation with the District Attorney's Office is recommended.)	YES

Delinquent Offender A juvenile who violates any city ordinance or town by-law or who commits any offense against the Commonwealth.

Children Requiring Services "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; or
- (iv) is habitually truant.

Please see *Juvenile Children Requiring Services Policy (Chapter 44-2)* for additional information.

Youthful Offender

A person who is subject to an adult or juvenile sentence for having committed, while between the ages of fourteen and eighteen, an offense against a law of the commonwealth which, if he were an adult, would be punishable by imprisonment in the state prison, **and**

- a. Has previously been committed to the department of youth services, **or**
- b. Has committed an offense which involves the infliction or threat of serious bodily harm in violation of law, **or**
- c. Has committed a violation of G.L. c.269, s. 10 (a), (c), (d) or G.L. c.269 s. 10E.

Status Offender²

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;
- Minors under eighteen (18) in possession of / transporting alcohol (considered status offenders under the federal regulations.)

NOTE: Juveniles can be in custody without being in secure custody.

NOTE: Status Offenders can only be held in non-secure custody as listed in this policy³

Interested Adult

An interested adult is most often a parent. Depending on circumstances, it could also be a legal guardian, an adult sibling, close relative, an attorney, or a friend. **A minor cannot act as an interested adult.**

Someone with a relationship with the juvenile who is “sufficiently interested in the juvenile’s welfare to afford the juvenile appropriate protection.” *Commonwealth v. MacNeill*, 399 Mass. 71, 77-78 (1987)

² 44.2.2(a)

³ 44.2.2 – Assessment Checklist (where and by whom)

Non-Secure Custody

A condition under which a status offender or juvenile’s freedom of movement is controlled by sworn 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 by a sworn officer until released;
 5. **Can only be for a maximum of 6 hours.**
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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.

- **Can only be for a maximum of 6 hours.**
 - If more than 6 hours contact:
 - The Key Program, Inc. (*See Key Program Information on DHQ or in Booking*).
 - OR,**
 - The Northeast Regional Alternative Lockup. (*See Executive Office of Public Safety memo on DHQ or in Booking*).
 - **Only a juvenile of the ages 14, 15, 16 and 17 may be placed in secure custody.**
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Custodial Interrogation

Any time a Juvenile is interrogated under the Massachusetts two prong standard requiring Miranda Warnings, the officers shall follow the department’s *Criminal Investigation Policy (Chapter 42-1) and Juvenile Interrogation Policy (Chapter 44-4)*.

ARRESTS OF JUVENILES⁴

Policy

Officers dealing with juveniles should consider the use of alternatives to arrest, but not be deterred from properly enforcing the law by arrest. These alternatives include:

- Out right release with no further action;⁵
 - Notification of parents or guardians;
 - Informal referral to an appropriate community based referral program such as; Restorative Justice or a Diversion Program;
 - Limited custody in non-secure custody awaiting release to parent or guardian;
 - Issue a citation or apply for a criminal summons or complaint as a referral to Juvenile Court.⁶
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Summons Preferred⁷

If the child is under twelve (12) years old, the police must have the court issue a summons. However, there may be a situation where officers are compelled to arrest a child under 12, e.g., a crime of extreme violence and no possibility of adult control over the child while obtaining a summons.

- If an arrest warrant is not practical, officers may take the child into custody without a warrant.

If the child is twelve (12) or over, police should obtain a summons unless:

- There is reason to believe the youth will not come to court; or
 - The youth already defaulted on a summons.
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⁴ 1.2.6 + Arrest Policy (Chapter 1-1) + Traffic Enforcement Policy (Chapter 61-3)

⁵ 44.2.1 (a)

⁶ 44.2.1 (b) and 44.2.1 (c) – also see Criteria When Choosing an Alternative

⁷ M.G.L. c. 119, s 54

Criteria When Choosing an Alternative⁸

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 referral programs, and;
 - In some cases, the recommendation of the complainant or victim.
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Non-Secure Custody

A juvenile under the age of fourteen (14) **cannot be placed in secure custody for any reason.**

(See Definitions at the beginning of this policy).

Any juvenile under 14 years old must only be placed in non-secure custody.

Secure Custody

A juvenile of the ages 14, 15, 16 and 17 may be placed in secure custody.

(See Definitions at the beginning of this policy).

⁸ 44.2.1 (b) – also see Policy

Protective Custody of Juveniles

Protective Custody

Juveniles may be held in protective custody for the following reasons:

1. Status Offenses⁹ (*See definitions in this policy*);
 2. The life or the health of the juvenile is in immediate danger¹⁰ (*See Abused or Neglected Children in this policy*);
 3. Being present where controlled substances of class A, B or C are present (*M.G.L. c. 94C s.36*);
 - A child under the age of 18 may be taken into protective custody, **for a period not exceeding four (4) hours.**
 - Juveniles held for protective custody, under c. 94C, s. 36 **shall not** be held in secure custody.
 - See “Controlled Substance” below.
 4. Alcohol impairment (*M.G.L. c. 111B s.8 – See Protective Custody Policy – Chapter 70-2*)
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Controlled Substance

A juvenile may be taken into protective custody under M.G.L. c. 94C s. 36 when the officer:

- Finds the child at a place where the officer reasonably believes there is a controlled substance of Class A, B or C;
- Reasonably believes the child to be under age 18, and;
- Reasonably believes the child knew of the presence of the controlled substance

Under these circumstances every effort shall be made to notify the child’s parents or guardian, or other person having lawful custody.

⁹ 44.2.2 (a)

¹⁰ 44.2.2 (b)

Juveniles and Alcohol

Policy It is the policy of the Bedford Police Department to ensure the safety of any juvenile or minor that is or has been involved with the illegal use of alcohol or is found in the presence of alcohol.

Steps To Be Taken If appropriate the officer should do one of the following:

- Arrest;
- Summons, or;
- A written report shall be filed in all situations where a juvenile or minor is involved with the illegal use of alcohol or are found in the presence of alcohol.

The following steps should be taken:

- The officer responsible for reporting the incident **shall** notify the parent, bring the juvenile home or bring back to the station and notify the parents.
- In the event that the officer is unable to contact the parents or guardian, the officer **shall** request the assistance of the Officer-in-Charge.
- Ensure that all evidence is confiscated. If the alcohol is not needed for evidence then the officer shall destroy the alcohol. **Under no circumstances is the officer to leave any alcohol with the juveniles.**
- If the incident is at a private residence and there are adults present, seek criminal complaints against the adult responsible for providing or furnishing the alcohol, in addition to any other pertinent charges.
- If the incident takes place at a residence and the parent(s) or guardian(s) of the minors the officer believes to have been drinking alcohol were unable to be notified, the Juvenile Officer will make notification to the parent(s) or guardian(s) as soon as possible, informing them of the incident and the outcome.
- Reports from officers responding must be complete and accurate in order to allow follow-up by the Juvenile Officer without additional research. This includes the names, DOB of all minors present, and their parents' names, addresses and phone numbers.
- For purposes of this policy, a minor child has been determined to be someone not having been declared emancipated and who has not reached the age of 18.
- The OIC is to ensure that copies of all pertinent reports are forwarded to the Juvenile Officer.

Under no circumstances is the officer to let the juvenile go if they have been drinking, without taking some corrective action.

Juvenile Records

Records¹¹

Records involving criminal charges against juveniles **shall** be maintained separately from other records.

Juvenile records will be in color-coded green folders and will be kept separate from adult records.

The juvenile records on the computer will only have access with the appropriate password protections.

Fingerprints, photographs and any other forms of identification of juveniles will be maintained in a file cabinet that is separated from any adult records and will be collected according to the *Juvenile Booking Policy (Chapter 44-3)*.¹²

Upon a court order to expunge juvenile records, the department will remove and destroy all documentation and records as ordered by the court.¹³

- In order to expunge a record from Pamet RMS, The Chief, Patrol Lieutenant or Detective Lieutenant will contact Pamet Systems to have the record expunged from the Records Management System.
 - A copy of the court order for the expungement or the records will be maintained by the Detective Lieutenant.
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Releasing Information

- The identity (including finger prints and photographs) of an accused juvenile may never be released to the media, **only the age and gender**.
 - Any report or record released that contains any juvenile’s personal information **shall have that information redacted prior to the release of the record in accordance with the Records / Public Information Policy (Chapter 82-1)**.
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Log Item Records

Log items relating to juveniles shall contain the charges only and the word **Juvenile**. The juvenile’s name, address, DOB, and other identifying data **shall not** be included in the log.

¹¹ 82.1.2 (a)

¹² 82.1.2 (b)

¹³ 82.1.2 (e)

Abused or Neglected Children

Physical or Emotional Injury

A police officer who, in their professional capacity, has reasonable cause to believe a child under age eighteen (18) is suffering serious physical or emotional injury or death from abuse or neglect, including sexual abuse or malnutrition, **shall immediately report such condition to the Massachusetts Department of Children and Families (DCF) by oral communication, followed by a written report within 48 hours of the oral communication.**

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 **Massachusetts Department of Children and Families** shall be immediately contacted and requested to respond to the scene in a reasonable amount of time, the juvenile may be transported to the station to await DCF.

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 (18) 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.

Reporting Procedure

When an officer has reason to believe that abuse or neglect of a child has occurred they shall:

1. Write an incident report.
2. Complete DCF form
3. Call DCF:
 - Daytime telephone: 781- 579-3143;
 - Hotline telephone: 800-792-5200.
4. Mail or send via facsimile the completed DCF form and police incident report to:

Massachusetts Department of Children and Families
63 Fountain Street
Framingham, MA. 01702.

Facsimile: (508) 872-8340

Juvenile Policy Information

History

April 29, 2015 – Replaces Juvenile Policy (Chapter 44-1) issued June 27, 2013.

June 27, 2013 – Replaces Juvenile Policy (Chapter 44-1) issued May 22, 2013.

May 22, 2013 – Replaces Juvenile Policy (Chapter 44-1) issued July 10, 2010.

July 10, 2010 – Replaces Juvenile Policy (Chapter 44-1) issued May 10, 2010

May 10, 2010 – Replaces Juvenile Policy (Chapter 44-1) issued January 1, 2008.

January 15, 2008 – Replaces Juvenile Policy (JUV-004) issued February 24, 2003.

March 16, 2003 – Replaces: “Handling Juveniles” Policies and Procedures section “GENERAL CONSIDERATIONS AND GUIDELINES” and “PROCEDURES” sections: 1, 2, 3, 4, 5, 6, 13, 14, and 15.

Review Date

This policy is scheduled for review every two years and updated as necessary.
