

Massachusetts Juvenile Arrest Procedures



Effective July 13, 2018

Municipal Police Training Committee

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JUVENILE ARREST PROCEDURES

I. JUVENILE

A child under the age of eighteen.

- A. Under Age 12¹: A juvenile under the age of twelve (12) cannot be charged with a crime.
- B. Age 12 to Age 18²: 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 Warrant³: 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.

II. DELINQUENT CHILD

"**Delinquent Child**"⁴, a child between 12 and 18 years of age who commits any offense against a law of the commonwealth; **provided, however, that such offense shall not include:**

- i. a civil infraction,
- ii. a violation of any municipal ordinance or town by-law, or
- iii. 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. SECURE DETENTION

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, shall be placed in a cell, unless the cell has been certified by the Department of Youth Services⁵.
- 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.

¹ Mass. Gen. Laws ch. 119, § 54

² *Id.*

³ *Id.*

⁴ Mass. Gen. Laws ch. 119, § 52

⁵ Mass. Gen. Laws ch. 119, § 67

- 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). Please refer to sections IV and V of this document.
- 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 Substances/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.**

IV. 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 or custodian with whom the child resides or the Department of Children and Families (DCF) if the child is in their custody.
- 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 a 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, 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. Please see attached Addendum A which is a list of dates for each Juvenile Court, current as of the date of this document. This list is subject to change by the local Clerk's Office. OICs 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 requests in writing for the juvenile to be detained, the OIC shall contact the Bail Magistrate/Bail Commissioner.

- In accordance with *Mass. Gen. Laws* ch. 119, § 67, 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. Please refer to section IV(C)(i) of this document.
- 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 Services⁶.
- F. The requirement not to release a defendant for six (6) hours when arrested for a violation of *Mass. Gen. Laws* ch. 209A or *Mass. Gen. Laws* ch. 265, §§ 13M (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.

V. 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 Awaiting 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

⁶ *Mass. Gen. Laws* ch. 119, § 67

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 refuses 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/commissioner who conducts the Jenkins Hearing.
- Officers must call a magistrate/commissioner, 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 the Department of Youth Services. *Mass. Gen. Laws ch. 119, § 67.*
- **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/holidays) 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.

Statewide Awaiting Arraignment/Overnight Arrest Referral Form

Police Department: _____ Date: _____
 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 youth. 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.

ADDENDUM A

Preferred court day for youth released from police custody and day of scheduled arraignment as of July 13, 2018. Preferred date subject to change by the local Juvenile Clerks office.

Barnstable County

Barnstable - Tuesday, Wednesday, Thursday
Edgartown - First Tuesday of the month
Falmouth - Friday
Nantucket - Last Tuesday of the month
Orleans - Monday
Plymouth – Monday

Berkshire County

North Adams – Thursday
Pittsfield - Monday

Bristol County

New Bedford – Monday through Friday
Fall River – Monday through Friday
Taunton – Monday Through Friday
Attleboro – Tuesday

Essex County

Lawrence – Monday through Friday
Lynn – Monday through Friday
Salem – Monday through Friday
Newburyport -- Tuesday's when they re open

Franklin/Hampshire Counties

Orange –Tuesday in GREENFIELD unless otherwise directed by Clerk's Office.

Hadley –2nd or 4th full week on Wednesday

Belchertown –2nd or 4th full week on Wednesday in HADLEY unless otherwise directed by Clerk's Office.

Greenfield –Tuesday

Hampden County

Springfield – Tuesday

Chicopee, E Longmeadow and West Springfield -- Wednesday in Springfield

Holyoke – Thursday

Palmer – Every other Friday see attached

Middlesex County

Cambridge – Mondays & Tuesdays

Arlington
Belmont
Cambridge
Everett
Malden
Medford
Melrose
Somerville
Wakefield

Framingham – Monday

Acton
Carlisle
Concord
Lincoln
Maynard
Natick
Sherborn
Stow

Framingham – Thursday

Hudson
Marlborough

Framingham – Friday

Ashland
Framingham
Holliston
Hopkinton
Sudbury
Wayland

Lowell -- The following business day

Waltham -- Friday

Norfolk County

Dedham --Thursday

Quincy --Tuesday

Plymouth County

Brockton – Any Day

Wareham – Clerk to provide Police with day of arraignment for released youth.

Hingham – Tuesday

Suffolk County

SCJC After Hours Arrest Release/Hold Policy

Boston site -- Judges available every day therefore Release or hold can come Monday through Friday.

Chelsea site -- Judge available on Monday and Thursday. If released to following Monday or Thursday. If held next day and clerk will be called in to do the arraignment.

Dorchester site -- Judge available Monday, Tuesday and Wednesday. If released to the following Monday, Tuesday or Wednesday. If held next day and clerk will be called in to do the arraignment.

West Roxbury -- Judge available Fridays. Release to following Friday . If held next day and clerk will be called in to do the arraignment.

Worcester County

Worcester – Monday, Tuesday, Wednesday, Thursday, Friday

Fitchburg – Tuesday, Wednesday

Leominster – Thursday only

Milford – Tuesday only

Dudley – Monday (A.M only), Friday

HAMPDEN COUNTY JUVENILE COURT - Palmer Schédule

PALMER DATES 2017	PALMER DATES 2018	PALMER DATES 2019	PALMER DATES 2020
1/13/17	1/12/18	1/11/19	1/10/20
1/27/17	1/26/18	1/25/19	1/24/20
2/10/17	2/9/18	2/8/19	2/7/20
2/24/17	2/23/18	2/22/19	2/21/20
3/10/17	3/9/18	3/8/19	3/6/20
3/24/17	3/23/18	3/22/19	3/20/20
4/14/17	4/13/18	4/5/19	4/3/20
4/28/17	4/27/18	4/19/19	4/17/20
5/12/17	5/11/18	5/3/19	5/1/20
5/26/17	5/25/18	5/17/19	5/15/20
6/9/17	6/8/18	5/31/19	5/29/20
6/23/17	6/22/18	6/14/19	6/12/20
7/14/17	7/13/18	6/28/19	6/26/20
7/28/17	7/27/18	7/12/19	7/10/20
8/11/17	8/10/18	7/26/19	7/24/20
8/25/17	8/24/18	8/9/19	8/7/20
9/15/17	9/7/18	8/23/19	8/21/20
9/29/17	9/21/18	9/6/19	9/4/20
10/13/17	10/12/18	9/20/19	9/18/20
10/27/17	10/26/18	10/4/19	10/2/20
11/10/17	11/9/18	10/18/19	10/16/20
12/1/17	11/30/18	11/1/19	10/30/20
12/15/17	12/14/18	11/22/19	11/13/20
12/29/17	12/28/18	12/6/19	12/4/20
		12/20/19	12/18/20