

# *Everett Police Department*

## **Policies and Procedures: No. 340 Handling Juveniles**

### **CALEA Standards Referenced: 1.2.5; 44.2.2; 44.2.3**

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## **GENERAL CONSIDERATIONS AND GUIDELINES**

**For purposes of this Policy and Procedure a juvenile (as defined by MGL) is a person who has reached the age of 7 but HAS NOT yet attained their 17<sup>th</sup> birthday.**

The Everett Police Department recognizes that juveniles are psychologically, emotionally, and physically different than adults and occupy a unique legal status in the court system. These differences require officers to be aware of juveniles' special circumstances and needs, and to give special consideration to involving social service agencies as appropriate to address the issues that lead juveniles to become involved with the police.

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

For most people, the ultimate symbol of authority in a community is the police force. 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 tend to react in inappropriate ways. It cannot be overemphasized that police contact can be very important in the social development of the young people in a 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.

### **Definitions**

According to M.G.L. ch. 119, sec. 52, a juvenile is a person who has reached the age of 7 but has not yet attained their 17<sup>th</sup> birthday. Juveniles charged with delinquencies or indicted as youthful offenders go before the Juvenile Court only.

Under Massachusetts law, juveniles are adjudicated, not convicted, of offenses. Juveniles who are charged with status offenses in Massachusetts pursuant to M.G.L. are called Children in Need of Services and may not be securely held for status offenses.

Officers who perceive children are suffering serious physical or emotional injury from abuse or neglect shall make reports and take actions as directed pursuant to M.G.L. ch. 119 section 51A.

## PURPOSE

Provide officers of the Everett Police Department with guidelines and expectations for how to interact with juveniles, for preventing delinquency and when taking juveniles into custody

## POLICY

The five central principles of the Everett Police Department Handling Juvenile's Policy are:

1. All officers, consistent with preserving public safety and order, will endeavor to use the least coercive and forceful approach when interacting with youth, and may use their discretion in such decision-making according to the factors set forth below.
2. Consistent with the Department's community policing views, officers will explain the reason they are interacting with a youth, be willing to listen and negotiate, and to problem solve.
3. Officers in each unit should be aware that each interaction with youth is an opportunity to develop a relationship with the youth and to promote positive long term relations with the police in Everett.
4. Youth should be taken into custody as a last resort; where possible issuance of written citations and summonses should be used first; officers must notify youth of their constitutional rights and strictly observe these legal requirements.
5. When youth are taken into custody, they will be transported, detained, and housed separately from adults in lock-ups approved by the Department of Youth Services

Factors to consider when dealing with juveniles: When dealing with juveniles officers have more options and alternatives than they would when dealing with adults. This difference permits the use of discretion by officers within the following parameters:

- Nature of the alleged offense;
- Age of the juvenile;

- When officers are not taking enforcement actions, consider personal notification of parent/guardian of child/youth in person by phone call or letter;
- Past police involvement with the juvenile;
- Possibility of gang affiliation;
- Juvenile's home environment including juvenile's and parents' attitude towards offense, police intervention, and rehabilitation;
- Availability of community based programs for juvenile;
- Likelihood alternative referral (where one exists) will prevent further delinquent behavior;
- Impact on victim(s) regarding harm, loss, and concern for future ramifications;
- Public safety.

Factors Never to Be Considered in Discretionary Decisions: Officers should be careful to avoid consideration of any of the following factors in discretionary decision-making.

- Race and ethnicity of the juvenile and his/her family;
- Consider national origin only insofar as it may affect the child's ability to understand the law and the police officer's enforcement of it;
- Gender;
- Economic status of the juvenile and his/her family.

## **ARRESTING JUVENILE OFFENDERS**

1. Whenever possible, when dealing with juvenile offenders, officers should apply for a summons or a hearing rather than take the juvenile into custody.
2. While an officer should recognize the unique and often sensitive nature of juvenile contact, he/she should not be deterred from properly enforcing the law when required to do so. A decision to arrest should be based on the same legal considerations as the arrest of an adult.
3. When a juvenile between the ages of seven (7) and seventeen (17) is arrested, with or without a warrant, the officer in charge of the police station shall:
  - a. Notify the Juvenile Probation Officer, and at least one of the parents, or, if there is no parent, the guardian of the child, or the person with whom the child resides; and
  - b. inquire into the situation to ensure that probable cause for the arrest existed and that the juvenile was and is treated in accordance with the law.

4. A juvenile shall be released from custody when:
  - a. The Juvenile Probation Officer authorizes the release of the juvenile.
  - b. The juvenile may be released to a parent, guardian or other reputable person upon acceptance, by the officer in charge, of the written promise of such person to be responsible for the appearance of the child in court at the required time and place; or
  - c. to a probation officer upon receipt of a request by such officer that the child be released to him.
5. A juvenile between the ages of 14 and 17 shall not be released if:
  - a. The court issuing the warrant for the arrest of such child directs in the warrant that he be held in safekeeping pending his appearance in court; or
  - b. The Juvenile Probation Officer directs that such child be detained.
  - c. If Juvenile Probation Office directs that the child be detained the OIC shall contact the bail commissioner to determine if the child will be bailable and the amount (if any).
6. Notice of detention shall be given to the parent(s) or guardian or person with whom the child resides.
7. **No juvenile may be detained or confined in any adult jail or lockup for any period of time. Juveniles age fourteen and older accused of a crime may be held for up to six hours for processing, only in the juvenile cells.** Under no circumstances may a child under fourteen years of age be held in a police lockup for any amount of time. Whenever a juvenile is placed in the juvenile lockup the OIC is required to document the action in the “**Juvenile Lockup Log**”.
8. Juveniles alleged to have committed acts that would not be against the law if committed by an adult, so-called “status offenders” (juveniles alleged to be Children in Need of Services “**CHINS**”—that is, **runaways, truants, and “stubborn” or “incorrigible” children may be held in a “non-secure area”** environment, separated visually and audibly from adult detainees. **A minor under the age of 17 in the possession of alcohol is considered a status offender per Federal regulations. In addition a child who is held in protective custody, without having committed a**

**delinquency offense, should be accorded the same treatment as a status offender.**

9. The patrol wagon will not be used when transporting a juvenile from his/her home or from any other place to a court or other institution. (MGL c119 s34)
10. Any police proceeding involving juveniles shall be treated in a confidential manner. Names and addresses of juvenile offenders are not public record, and shall NOT be given to the news media.

## **NON-SECURE CUSTODY OF “STATUS OFFENDERS”**

The five specific federal legal requirements for non-secure custody of a juvenile status offenders:

1. The area where the juvenile is held must be an unlocked, multi-purpose area such as a report writing room or an office.
2. The area must not be designed or intended for residential use) for | example, it must not contain a bed).
3. The juvenile must not be handcuffed to a stationary object.
4. The juvenile may be held only long enough to complete identification, investigation and processing, and then must be released to a parent, guardian, or other responsible adult, or transferred to an appropriate juvenile facility or court; and
5. The juvenile must be under continuous visual supervision until released.

## **ALTERNATIVE REMEDIES**

In some circumstances, warnings, informal referrals, consulting and arranging for corrective action by parents, and dropping charges may be employed

Release of juveniles, diversion of juvenile cases, or adjusting cases, will be determined on a case- by-case basis following the procedures established by the court having jurisdiction.

Factors to be considered include:

- the nature and seriousness of the alleged offense;
- whether the act is violent;
- whether the youth is under the influence of drugs or alcohol
- the age and circumstances of the alleged offender;
- the alleged offender’s record, if any;
- the availability of community-based rehabilitation programs

## CUSTODIAL INTERROGATION OF JUVENILES

For a general review of the standards and procedures to be followed when conducting custodial interrogation see the departmental policy and procedure on *Interrogating Suspects and Arrestees*.

The following procedures will be adhered to whenever a juvenile suspect in custody is to be interviewed or interrogated.

1. A juvenile under the age of fourteen (14) can only be interviewed /interrogated in the presence of an interested adult who understands the Miranda warning and has had an opportunity to explain it to the juvenile. The interested adult must also be informed that the interview/interrogation is being tape-recorded and must have an opportunity to explain that fact to the juvenile.
2. A juvenile, 14 years of age or over must be given a *meaningful opportunity* to consult with an interested adult. A juvenile, 14 years of age or over, who has had a meaningful opportunity to consult with an interested adult, can give consent to be interviewed/interrogated
3. The interested adult whom is present during the interview/interrogation of the juvenile must fully understand the questions asked during the interview/interrogation. If the adult does not understand English, an adult interpreter must be made available to translate. Interpreters may include relatives or friends or Department personnel. Officers may also utilize the AT&T Language Line Service.
4. Interviews or interrogations of juvenile offenders will be conducted separately from adult offenders.
5. Custodial interrogation in places of detention includes police stations, in a police car, and suspect's home if the suspect is under arrest
6. Interrogation of juveniles generally will be limited to no more than one-hour sessions
7. Department and juvenile justice system procedures, defined above, shall be explained to juveniles being interrogated and juveniles shall be asked to repeat back their understanding of the rules
8. All interviews and interrogations will be electronically (Audio and/or Visual) recorded, and notification of such recording will be done on the Everett Police Miranda Warning and Electronic Recording Form.

## REPORTS OF ABUSED OR NEGLECTED CHILDREN

- A. A police officer who, in his professional capacity, has reasonable cause to believe a child under 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 Department of Public Welfare by oral communication, followed by a written report within 48 hours of the oral communication. Said report shall contain the following information:
1. the names and addresses of the child and parents or other person responsible for his care, if known;
  2. the child's age;
  3. the child's sex;
  4. the nature and extent of the child's injuries, abuse, maltreatment or neglect;
  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.

## CHILDREN IN NEED OF SERVICES (CHINS)

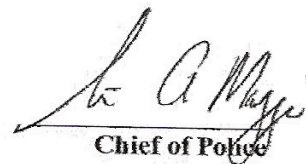
A "child in need of services" is any child below the age of seventeen whom:

- (a) persistently runs away from the home of his parents or legal guardian,  
or
- (b) persistently refuses to obey the lawful and reasonable commands of his parents or legal guardian.

Under an alternative definition, a "child in need of services" also covers any child between the ages of six and sixteen whom:

- (a) persistently and willfully fails to attend school, or
- (b) persistently violates the lawful and reasonable regulations of his school.

A parent, legal guardian or a police officer may file a petition in the district or juvenile court to have a child declared a "child in need of services." If the court so finds, the court may make orders pertaining to custody, counseling and educational, occupational or other services. However, a child may not be arrested for engaging in behavior which constitutes being a child in need of services unless the child has failed to obey a summons or if the arresting officer has probable cause to believe the child has run away from home and will not respond to a summons.



Chief of Police