



Police Commissioner's Special Order

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SUBJECT: RULE 318B, PROCEDURES FOR HANDLING ARRESTED JUVENILES - REVISED

Rule 318B, Procedures for Handling Arrested Juveniles, is hereby amended and reissued superseding all previous rules, special orders, memos and directives on this subject and is effective immediately. Significant Updates have been made to this rule, including the following:

Introduction (age change)

Section 2 SERVICES AND REFERRALS: (new section)

- A. Child Requiring Assistance
- B. Runaway Out-of-State Juveniles
- C. Additional Services

Previous Section 2 ARREST OF JUVENILES replaced by

- new Sec. 3 JUVENILE ARREST PROCEDURES
- new Sec. 4 JUVENILE ARREST – DELINQUENT OFFENSE
- new Sec. 5 JUVENILE – UNABLE TO MAKE BAIL/ UNABLE TO BE RELEASED

Sec. 6 DOCUMENTATION: (new section)

- A. Juvenile Detention Checklist (new)
- B. Juvenile Detention Entry Form (previously Lockup Docket Form (BPD Form 2727)
- C. Juvenile Detention Release Form (previously Sec. 6 RELEASE AFTER BOOKING)
- D. Annual Compliance (new)

APPENDIX A: Massachusetts Executive Office of Safety and Security's Juvenile Holding Guidelines (new)

APPENDIX B: Juvenile Detention Checklist (new)

See attached ***Revised Rule 318B Training Bulletin*** and ***Juvenile Detention Entry Form and Release Form Instructions***.

Commanding Officers shall ensure that this order and the attached Rule are posted on Department bulletin boards.

Michael A. Cox
Police Commissioner

PROCEDURES FOR HANDLING ARRESTED JUVENILES

This rule establishes the policy for the care and treatment of juveniles who come into custody of the Boston Police Department and supersedes all previously issued rules, orders, directives and memorandums. As used in this Rule, the term “juvenile” shall mean any child that has not yet reached their eighteenth birthday.

Sec. 1 GENERAL CONSIDERATIONS: Police officers are authorized and encouraged to use the least restrictive appropriate placement available, given the facts of the offense, in dealing with juveniles. This rule contains references to the applicable statutes or regulations governing the treatment of juveniles taken into custody by the Boston Police Department and the options available to Police Officers under those rules and regulations. Generally, beyond what is minimally required by a particular statute, officers should choose among the available options and use the least restrictive appropriate placement available.

Except as noted in this rule, the provisions of Rule 318, Prisoners, apply in their entirety to the custody of juveniles.

Sec. 2 SERVICES AND REFERRALS:

A. Child Requiring Assistance (Previously known as CHINS). Officers may refer parents, legal guardians or custodians to a Juvenile Court Clerk for information and advice on filing an application to initiate a Child Requiring Assistance (CRA) court case (previously known as CHINS).

A parent, legal guardian, or custodian with custody of the child between the ages of 6 and 18 can file an application for a CRA if the child is:

- A runaway who repeatedly runs away from the home of the parent, legal guardian, or custodian
- A stubborn child who does not follow the parent, legal guardian, or custodian’s rules and reasonable commands, which interferes with their ability to take care of the child

B. Runaway Out-of-State Juveniles: This event is governed by guidelines established by the Interstate Compact on Juveniles (ICJ), which mandates that a non- delinquent runaway cannot be returned to a parent/legal guardian without court approval when they remain in custody beyond 24 hours. See Training Bulletin 01-22 issued December 12, 2022 for procedures and contact information directory.

- D. Additional Services:** Officers are encouraged to refer juveniles to YouthConnect for services per Special Order 23-56 YouthConnect and Referral Procedures. Officers can also refer to Training Bulletin 02-23 for “Guidance on Developmentally Appropriate De-escalation and Disengagement Tactics, Techniques and Procedures and Other Alternatives to the Use of Force for Minor Children.”

Sec. 3 JUVENILE ARREST PROCEDURES

A. Juvenile: A child under the age of eighteen.

1. Under Age 12¹ : A juvenile under the age of twelve (12) cannot be charged with a crime.
2. 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.
3. 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.

B. 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.

C. 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.

Juveniles held for their own safety in non-secure areas of jails or lockups, pending reunification with a parent, guardian, or transfer to a child welfare or social service agency are **NOT** detained or confined within the parameters of the Juvenile Justice and Delinquency Prevention Act.

1. 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.
2. Juveniles that are securely detained in police custody must be separated by sight and sound from adults in custody.
3. 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

4. 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 their parent/guardian/custodian, or c) transported to the Overnight Arrest Program (Nights/Weekends/Holidays). Please refer to Sections 4 and 5 in this rule below.
5. A juvenile placed in Protective Custody, for ALCOHOL, CANNOT BE SECURELY DETAINED for any amount of time.
6. A juvenile placed in Protective Custody, for Controlled Substances/Toxic Vapors, **MUST be transported to an appropriate emergency medical treatment facility.**
7. A juvenile placed in custody in accordance with Child Requiring Assistance (CRA) **CANNOT be brought back to the police station.**
 - In CRA cases a Warrant of Protective Custody orders a law enforcement officer / police officer to pick up a child and bring them to the court for a hearing.

Sec. 4 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 Duty Supervisor 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 Duty Supervisor of the police district 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 Duty Supervisor of the police district will release the juvenile to appear in the Juvenile Court on the next predetermined recognizance date for that court. Duty Supervisors 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 Duty Supervisor of the police district requests in writing for the juvenile to be detained, the Duty Supervisor 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 4(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 their 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 their parent/guardian/custodian or c) custody is transferred to the Overnight Arrest Program.

See **Appendix A** for the Massachusetts Executive Office of Safety and Security's **Juvenile Holding Guidelines** for additional clarification.

Sec. 5 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.

⁶ Mass. Gen. Laws ch. 119, § 67

- 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 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) they 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, they are 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.

Sec. 6 DOCUMENTATION:

A. Juvenile Detention Checklist: The Duty Supervisor shall ensure that the Booking Officer completes the Juvenile Detention Checklist (See *Appendix B*).

B. Juvenile Detention Entry Form: The Booking Officer shall complete all requested information on the Juvenile Detention Entry Form for all juveniles under the age of 18 who are placed in secure detention at the station house.

1. Only juveniles who meet the definition of Secure Detention in "Section 3 Juvenile Arrest Procedures, C. Secure Detention" above should be recorded on these forms;
2. Only the amount of time that is actually spent in Secure Detention should be recorded;
3. All times shall be recorded in military time (i.e., 5 p.m. is 1700 hours).

C. Juvenile Detention Release Form: The Duty Supervisor may make the decision to release a juvenile to the juvenile's parent, guardian or other reputable person if they promise, in writing (by electronically signing the Juvenile Release Form), to supervise the juvenile and ensure their appearance in court. The juvenile may also be released to a probation officer upon that probation officer's request. Booking Officers must complete the electronic Juvenile Detention Release Form whenever a juvenile is released from custody. A copy of the pdf created by the electronic form submission will be provided to the person to whom the juvenile was released. In instances where a juvenile is released to a parent or guardian a signature is required on the Juvenile Detention Release Form.

D. Annual Compliance: The Office of the Police Commissioner is responsible for submission of the Annual Formula Compliance Monitoring Certification Form to the Massachusetts Executive Office of Public Safety and Security, along with associated Juvenile Detention data.

Michael A. Cox
Police Commissioner

Notes: Amended by Special Order 95-54, issued September 13, 1995. Amended by Special Order 95-68, issued November 14, 1995, due to an address change for the approved shelter care facility for status offenders in the Metro Boston Region. Amended by Special Order 97-36, issued October 10, 1997, which added Section 9, Juvenile Detention Facility Hours of Operation.

Appendix B

Boston Police Department Juvenile Detention Checklist: *Did you do all of the following?*

Notify the Duty Supervisor of Juvenile Arrestee

Complete the Juvenile Disposition panel in RIC1 while Booking

Notify a Guardian

Complete a new electronic Juvenile Detention Entry Form for the juvenile

- Include in “Remarks” section any information related to separation of site and sound requirements or other relevant information.

Enter Juvenile into CJIS

Complete a Juvenile Detention Release Form upon release

- Include in “Remarks” section any information related to detainment over 6 hours, separation of site and sound, or other relevant information.
- A pdf copy of the signed form should be provided to the person (parent, guardian, DYS Caseworker, etc.) to whom the juvenile was released.