



JOHN J. THOMAS
CHIEF OF POLICE

“A STATE ACCREDITED POLICE AGENCY”

Policy and Procedure

JUVENILE OPERATIONS

General Order Number: OPS-6.15

Effective Date: June 1, 2000

REFERENCE:

Revised Date: July 20, 2007

Accreditation Standards: *44.1.1. - 44.2.5.*

Mass. Gen. Law *Mass. Gen. Law. Chap. 94C, Sec. 36; Chap. 111-B; Chap. 119, Sec. 24, 39E-39J, 51A, 74*

Other: *Comm. v. A Juvenile, 389 Mass. 128, 449 N.E. 2d 654, 1983.*

*OPS-6.19 Underage Drinking Enforcement, CHINS Attachment A
Children's Cove Checklist Attachment B (added July 20, 2007)*

POLICY:

It shall be the policy of the Truro Police Department to assign a high priority to the prevention of juvenile crime. To further that end, it shall be the policy of the Truro Police Department to engage in activities and design programs geared toward preventing and controlling juvenile delinquency.

Further, it shall be the policy of the Truro Police Department to assist in the strengthening and encouragement of family life for the protection and care of children; to assist and encourage the use by any family of all available resources to this end; and to assist those agencies committed to the provision of substitute care of our children to ensure their protection against the harmful effects resulting from the absence, inability, inadequacy or destructive behavior of parents or parental substitutes.

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

It shall be the policy of the Truro Police Department to actively seek review and comment by other elements of the juvenile justice system in the development of the department's policies and procedures pertaining to juveniles.

It shall be the policy of the Truro Police Department that, when dealing with juvenile offenders, the least coercive methods shall be used, consistent with preserving public safety, the good of the community, and individual constitutional and statutory rights afforded to a juvenile offender.

CONSIDERATIONS:

Deinstitutionalization of Status Offenders – A status offender or non-offender cannot be held, with certain statutory exceptions, in secure juvenile detention or correctional facilities. Status Offenders and non-offenders cannot be detained or confined in adult facilities for any length of time.
(Added May 18, 2007)

Separation of Juveniles from Adults Offenders – Alleged and adjudicated delinquents cannot be detained or confined in a secure institution (such as jail, lockup, or secure correctional facility) in which they have sight or sound contact with adult offenders. *(Added May 18, 2007)*

Adult Jail and Lockup Removal – As a general rule, juveniles cannot be securely detained or confined in adult jails and police lockups for more than six hours. *(Added May 18, 2007)*

DEFINITION:

Child in Need of Services (CHINS) – See section on CHINS *(added May 18, 2007)*

Delinquent Child – A juvenile who violates and town by-law or commits any offence against the commonwealth. *(Added May 18, 2007)*

Juvenile - For the purpose of criminal law, a juvenile is a person who has reached the age of 7, but has not yet attained his 17th birthday. *(Added May 18, 2007)*

PROCEDURES:

1. ORGANIZATION AND ADMINISTRATION:

- A. **JUVENILE OFFICER:** The Juvenile Officer shall be assigned by the Chief of Police.
- B. **JUVENILE OPERATIONS - SHARED RESPONSIBILITY:** Although the Truro Police Department has a Juvenile Officer, all personnel shall be familiar with dealing with juvenile problems. All department personnel must share the responsibility for participating in and supporting programs relating to juveniles.
- C. **COOPERATION WITH OTHER SERVICE AGENCIES:** Many service agencies both in the public and private sector offer services to juveniles. The Juvenile Officer shall be knowledgeable of the different services these agencies provide, and shall cooperate with and assist personnel from these agencies, in order to prevent and control juvenile delinquency and to assist juveniles in need of assistance.

2. OPERATIONS:

- A. TECHNIQUES FOR DEALING WITH JUVENILES:** All members of the Truro Police Department should be aware that constitutional rights are not lost by virtue of one's age. Rather, juveniles merit greater protection, particularly in the area of questioning and waiver of rights. The combination of legal safeguards and practical response is aimed at beneficial results for the child, the department and the community.

When handling juveniles the following procedures should be followed:

- 1.** Be flexible. Do not flaunt authority, as this will only lead to resentment.
- 2.** A juvenile's reaction to police presence may be distasteful to the individual officer. However, officers should not take personal offense and should ignore abuse.
- 3.** Remember that a juvenile is entitled to the same respect and restraint as an adult, and any other treatment would be counter-productive. Avoid situations which humiliate or embarrass.
- 4.** While an officer should recognize the unique and often sensitive nature of juvenile contact, he 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.

- B. DIVERSION DECISIONS RELATING TO JUVENILES:** When dealing with juveniles, members of the department shall use the least coercive and most reasonable alternative, consistent with preserving public safety, order and individual liberty.

Juvenile offenders may be dealt with in one of four ways:

- 1.** Outright release with no further action; provided, however, that no arrest has been made. It should be the practice to turn the juvenile over to a parent if possible.
- 2.** Simple treatment by the department with a notification to the parent or guardian; in most cases turning the juvenile over to the parent or guardian.
- 3.** Prolonged treatment, on a voluntary basis, by social service agencies, with the permission of the parent or guardian.
- 4.** Referral to the Juvenile Court.

In considering a course of action, officers should consider the nature of the alleged offense, the age and circumstances of the alleged offender, the offender's past record, the advice of the department juvenile officers, the availability of community-based rehabilitation programs, and, in some cases, the recommendation of complainant or victim.

Apart from diverting juveniles to social service agencies or to court, officers may, for minor offenses employ remedies such as station-house adjustments, warnings, informal referrals, follow-up by juvenile officers, and consulting with and arranging for corrective actions by parents.

C. SERVICE OF ARREST WARRANTS: Prior to service of any arrest warrant for a student attending a Truro or Provincetown School, the Juvenile Officer(s) in that jurisdiction shall be contacted to determine how service is to be made.

E. CUSTODY OF JUVENILES: Whenever a juvenile is arrested by members of the department, the Shift Commander shall:

1. Inquire into the situation to ensure that proper cause for the arrest existed, and that the juvenile was and is being treated in accordance with law;
2. Advise the juvenile of all applicable constitutional and legally mandated rights;
3. Notify the probation officer of the district court;
4. Notify the parent, guardian or the person with whom the juvenile resides;
5. Detain the juvenile pending such notice and inquiry, or have the juvenile brought to the intake facility or the juvenile component without delay.

F. NON-CRIMINAL CUSTODY OF JUVENILES:

1. Juveniles may be taken into custody for non-criminal behavior (status offense, such as runaway) under the authority of Mass. Gen. Law, Chap. 119, Sec. 39E-39J (Children in need of services - CHINS). 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.
2. Juveniles may be taken into custody in situations where the officer believes that the life or the health of such child is in immediate danger. In such cases, the officer should have someone at the station contact the Department of Social Services (DSS) immediately, and relay the circumstances of the situation. If a representative of DSS does not respond to the scene within a reasonable period of time, the officer may transport the juvenile to the police station.

- G. CUSTODIAL INTERROGATION OF JUVENILES:** The following procedures shall be adhered to when conducting a custodial interrogation of a juvenile.

Before initiating an interrogation, both the juvenile and the "interested adult," if present, shall be advised of the general procedures that are followed by the department and the courts in matters regarding juvenile offenders.

The interrogating officer should be particularly careful to read each "Miranda" right distinctly, clearly, and in a manner designed to insure that the juvenile, and any adult present on his behalf, follows the words being spoken and comprehends their meaning. It is preferable to use the written card containing the Miranda warnings. The card should be handed over to the juvenile, and to any adult acting on his behalf, so that it can be read slowly, and re-read if necessary. Some inquiries should be made as to the minor's age, his most recent level of education and schooling, whether he has any reading or understanding disabilities, and whether he understands the words contained in the warnings.

The juvenile should be allowed to discuss the meaning of the Miranda warnings, the consequences of waiving them, and the advisability of waiving them with the adult who is present on his behalf.

Both the juvenile and adult shall be given every reasonable opportunity to discuss the rights and the waiver.

In all instances of custodial interrogation of juveniles, officers shall follow the "interested adult" rule mandated by Comm. v. A Juvenile, 389 Mass. 128, 449 N.E. 2d 654, 1983.

1. An "interested adult" is, most often, a parent of the juvenile. When a parent is unavailable, another interested adult may be called upon, such as a legal guardian, an adult brother or sister, another adult relative, an attorney or a probation officer.
2. If the juvenile being interrogated is under the age of fourteen, an interested adult MUST be present, MUST be advised of the Miranda warnings, and MUST be given an opportunity to discuss them with the juvenile.
3. If the juvenile is over the age of fourteen, an interested adult should be present if at all possible. If an interested adult is present, that person shall be

advised of the Miranda warnings and shall be given an opportunity to discuss them with the minor. If there are valid substantial reasons why an interested adult is not present, officers should ensure, **BEFORE INTERROGATING THE JUVENILE**, that he understands the warnings and the consequences of waiving them, and further, that any waiver of his rights is made intelligently, knowingly and voluntarily.

If an interested adult cannot be obtained, officers must be aware that the admissibility of statements obtained may be suppressed.

4. No more than two officers shall interrogate a juvenile at the same time.
5. Interrogations should be limited, when possible, to sessions no longer than twenty minutes.

H. COURT ACTION: Formal complaint applications for referral to the Juvenile Court should be restricted to those cases involving serious criminal conduct or repeated criminal violations. Delinquent acts which should require referral to the Juvenile Justice System include:

1. All acts which, if committed by an adult, would be felonies;
2. Acts involving dangerous weapons;
3. Serious gang-related acts;
4. Aggravated assaults and batteries;
5. Acts committed by juveniles on probation, on parole or by those with cases pending;
6. Repeated acts within a twelve (12) month period;
7. Offenders who have been selected for a diversion program but have refused to participate;
8. Cases where it is apparent that parental supervision necessary for diversion is lacking.

In all cases wherein an arrest has not been made in the above instances, the juvenile officers should be notified of the intended actions of the investigating officer.

3. **SELECTED LAWS REGARDING JUVENILES:** All officers are responsible for knowing and complying with the law. The following Massachusetts General Laws regarding juveniles are by no means all inclusive but are put forth as an aid.

- A. MASS. GEN. LAW, CHAP 94C, SEC 36:** A police officer may take into protective custody, for not more than four hours, any persons whom the officer reasonably believes is under seventeen years of age, if that person is found present where controlled substances in Class A, B or C are kept or possessed, and the child knows of the presence or possession 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.

- B. MASS. GEN. LAW, CHAP 111-B:** Whenever a juvenile is taken into protective custody as an "Incapacitated Person" under the provisions of Mass. Gen. Law, Chap 111-B, the policy and procedures outlined under this subject matter shall be strictly adhered to.

- C. MASS. GEN. LAW, CHAP 119, SEC 24:** Deals with child neglect or abuse. In cases of serious child neglect or abuse, "any person" may apply to an appropriate juvenile court to have custody of a child under eighteen taken away from the parents or other neglectful or abusing custodian, and have custody transferred, on an emergency basis, to the Department of Public Welfare, or a licensed child care agency or individual, under the provisions of Mass. Gen. Law, Chap 119, SEC 24 (Care and Protection Order).

Officers requested to assist Department of Social Services personnel in serving a "Care and Protection Order" shall, after inspecting the document to ensure that it is in order render all appropriate assistance.

- D. MASS. GEN. LAW, CHAP 119, SEC 39E-39J:** Deals with Children in Need of Services (CHINS).
 - 1.** "A child in need of services" is any child below the age of seventeen who (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 who persistently violates the lawful and reasonable regulations of his school.

 - 2.** Mass. Gen. Law, Chap 119, Sec. 39E-39J, governs Chins proceedings. 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, 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.

- E. **MASS. GEN. LAW, CHAP 119, SEC 51A:** States in part "Any policeman who, in his professional capacity, shall have reasonable cause to believe that a child under the age of eighteen years is suffering serious physical or emotional injury resulting from abuse afflicted upon him, including sexual abuse, or from neglect, including malnutrition, or who is determined to be dependent upon an addictive drug at birth, shall immediately report such condition to the department of social services by oral communication and by making a written report within forty-eight hours.

Officers who have occasion to make an oral report as required above shall notify the juvenile unit and shall be assisted by the juvenile unit in making the required written report.

- F. **MASS. GEN. LAW, CHAP 119, SEC 74:** Makes requirements in juvenile cases for minor motor vehicle offenses, including those which are arrestable, i.e., operating under influence of intoxicating liquors, using motor vehicle without authority, etc.

- 4. **ENFORCEMENT AND PREVENTION PROGRAMS/EVALUATION:** All enforcement and prevention programs relating to juveniles shall be subject to a quantitative and qualitative evaluation annually, to determine whether such programs should be continued, be modified, or should be discontinued.

- 5. **SCHOOL LIAISON PROGRAMS:** The Juvenile Officers shall coordinate their efforts in providing support to local schools in the following areas:

- A. Acting as resources with respect to delinquency prevention;
- B. Providing guidance on ethical issues in a classroom setting as requested;
- C. Providing and/or arranging for individual counseling to students;
- D. Explaining the law enforcement role, particularly the role of the Truro Police Department in society.

- 6. **PARTICIPATION IN COMMUNITY RECREATIONAL YOUTH PROGRAMS:** The Truro Police Department shall lend all appropriate support to developing and maintaining community recreational programs for juveniles. The Juvenile, DARE, and Crime Prevention Officers shall act as catalysts in the forming of such programs when necessary. They shall encourage and enlist the support and participation by members of the department in such endeavors.

- 7. JUVENILE OFFICER TO ASSIST OTHER COMPONENTS OF THE DEPARTMENT:** The Juvenile Officer shall act in the capacity of consultant with other members of the department and the community in juvenile related matters.
- 8. USE OF ALCOHOL BY MINORS:** Officers should consult Truro Police Department Policy OPS-6.19 Underage Drinking Enforcement for guidance.

CHILD IN NEED OF SERVICES

ATTACHMENT A

Background The Truro Police Department recognizes that a child who meets the criteria of a “child in need of services” should not be treated as a criminal offender, and should be handled in a way that best serves the needs of the child.

Policy It is the policy of the Truro Police Department that Department members handle any juvenile who meets the criteria of a Child in Need of Services according to the procedures outlined in this policy.

Definitions

Child in Need of Services (CHINS)
 Any child below the age of seventeen who:

- Persistently runs away from the home of his/her parents or legal guardian, or
- Persistently refuses to obey the lawful and reasonable commands of his/her parents or legal guardian.

CHINS also covers any child between the ages of six and sixteen who:

- Persistently and willfully fails to attend school, or
- Persistently violates the lawful and reasonable regulations of his/her school.

Juvenile
 A juvenile, for purposes of Massachusetts’ criminal law, is anyone between the ages of 7 and 17.

Status Offender
 A youth who has committed an offense that is only considered unlawful because of his/her status as a juvenile.

Status Offenses A Child in Need of Services is a child who persistently engages in behavior that may not be criminal in nature, but due to his/her age is unlawful. These unlawful behaviors are considered **status offenses**, and include but are not limited to:

- Runaway
- Truant
- Youth curfew violations, and
- Minor in possession of or transporting alcohol.

CHINS Petition

A CHINS petition is available to parents or guardians, school officials or police officers as a means of bringing a juvenile before the court in order to address problematic behavior.

A parent/guardian or an officer may seek a CHINS petition if the child:

- Persistently runs away from home, or
- Refuses to obey “lawful and reasonable” commands of a parent/guardian.

A school official may apply for a petition if the child:

- Persistently and willfully fails to attend school, or
 - Persistently violates the “lawful and reasonable” regulations of the school.
-

Right of Arrest

Officers have a right of arrest with a juvenile in a CHINS situation only if:

- There is an active CHINS warrant because the juvenile did not respond to the CHINS summons, or
 - The child is a runaway and will not respond to a summons.
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Booking

Juveniles arrested on CHINS warrants or for status offenses shall be booked according to Department policy and will be photographed.

Notification

If an arrest is made and the court with jurisdiction over the case is not in session, the Watch Commander or his/her designee shall immediately notify:

- Juvenile probation, and
- DSS if there is reason to believe that the juvenile is or has been in the care/custody of DSS.

Status Offense Detention Restrictions

CHINS children or status offenders must be detained according to the following guidelines:

- The area must be an unlocked multi-purpose area with no potential use as a prisoner holding unit (no beds or toilets).
- The juvenile may be handcuffed, but not to a stationary object
- The juvenile should be held long enough to complete processing and conduct the investigation, but must then be released to a parent or guardian
- If no parent or guardian is available, arrangements shall be made to transfer the juvenile to a proper holding facility, and
- The juvenile must be under constant visual supervision until released from the station.

The following are exceptions to the status offender detention restrictions:

- If the juvenile, despite clear instructions, leaves the non-secure area, he/she may be brought back to the station and placed in a locked area; in such cases, sight and sound separation requirements will still apply, and
- If the juvenile engages in fighting, threatening or “tumultuous behavior,” he/she may be charged with disorderly conduct and processed according to delinquency criteria.

Release

The preferred placement for a child arrested on a CHINS warrant or as a runaway is with:

- A parent, guardian, or other responsible adult known to the child
- The legal custodian of the child, including DSS or a foster home, or
- A shelter or home approved by the Massachusetts Office for Children.

Child Sexual Assault Scenes & First Responders Checklist

ATTACHMENT B

In order to minimize further trauma and ensure an effective investigation, first responders should:

- 1. Take a non-leading Minimal Facts Statement from the child or from whomever information was disclosed

- a. What happened?*
- b. When did it happen?*
- c. Where did it happen?*
- d. Who did this?*
- e. Stay away from “why” questions*

- 2. Does the child need medical attention?

- a. Keep in mind 72 hour window for acute cases*
- b. Was it a drug-facilitated sexual assault?*

- 3. Mandated Reporting Situation?

- a. You are a mandated reporter. File a 51A when appropriate.*
- b. Is this a caretaker situation? If questionable, call anyway.*
- c. DSS Hotline Phone Number 800-792-5200*

- 4. Contact the investigator. If unavailable, contact the Juvenile Affairs Officer. If unavailable, contact Children’s Cove immediately.

- 5. The investigator will contact Children’s Cove to set up a SAIN (Sexual Abuse Intervention Network)

Children’s Cove
PO Box 427
Barnstable, MA 02630

Main Phone Number: 508-375-0410
 Toll Free Number: 888-863-1900
 Nextel (24 hour on call): 508-826-7530
 Nextel Direct Connect: 180*46562*1

Sexual Assault Nurse Examiner (SANE):
 Cell Phone: 508-237-1202
 Pager: 508-327-7480

www.childrenscove.org

Facts about Children’s Cove to tell parents/caretakers:

- 1. “Child will be interviewed at Children’s Cove by a trained forensic interviewer
- 2. “Try to create a calm environment and resume normal life”
- 3. “A specialized medical exam with a Sexual Assault Nurse Examiner is available at Children’s Cove”
- 4. “Counseling and follow up services are available at Children’s Cove