

POLICE ENFORCEMENT OF JUVENILE LAW VIOLATIONS — AT-A-GLANCE!

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Disclaimer: Rely on this chart as essential guidance! At the same time, the application of juvenile law is nuanced and depends on the facts. When in doubt, consult your law enforcement commander, agency counsel, district attorney, or local juvenile court.

MV & Bike Violations

CMVIs: Juvenile drivers may be issued citations for CMVIs just like adults. A juvenile passenger who is 16 or 17 may be issued a seatbelt citation (90, § 13A). Any juvenile may be issued a citation for opening their door and striking a pedestrian, bicyclist, or other vehicle (90, §14). Normal CMVI district court hearing process applies. 90C, § 3. Citations may be issued to juvenile bicyclists too. 85, § 11E.

MV crimes: Right of arrest is the same for juvenile and adult motorists — e.g., OUI, OTE, leaving scene after injury, unlicensed, suspended, fail to stop. *See crimes authority & response below.*

Ordinance Bylaw Violations

Civil tickets: Juveniles of any age may be detained and issued ordinance/bylaw tickets with civil fines for violations of local law (e.g., knives, littering, leash, curfew, junk cars, etc.). However, they may *never* be arrested (e.g., public drinking) or the subject of a complaint application for ordinance/bylaw violations. *Administrative Office of the Juvenile Court (AOJC) Memo 7/10/18, pg. 3.*

Marijuana tickets: Juveniles of any age may be issued ordinance/bylaw tickets with civil fines and, in some cases, drug awareness education and community service requirements. 94G, § 13(g) (ticket process). 94C, § 32L (minor in MJ possession). However, they may *never* be arrested or the subject of a complaint application [although minors in possession who fail to take the class and perform community service may have the fine increased after clerk's hearing to \$1,000 with their parent/guardian also legally responsible to pay (94G, § 32N)].

Crimes Authority & Response

Age: Only children age 12, 13, 14, 15, 16 or 17 may be charged with a crime. Children 11 or younger may *not* be charged. 119, § 54.

Enforcement mindset: Least coercive alternative consistent with public safety and the welfare of the community and juvenile. Consider seriousness of offense (including harm to victim); juvenile's age, prior police contacts and record; availability of community services.

Enforcement methods:

- **Preferred if consistent with public safety and community welfare:** Informal counseling and release; detention and Legal Custodian (LC)¹ pick up at scene or station; or a criminal complaint application.
- **Arrest guidelines:**
 - Mandatory: (1) arrest warrant in WMS; or (2) probable cause (PC) of 209A DVO or 258E HPO violation.
 - Discretion: (1) any felony on PC; (2) misdemeanor if statute authorizes arrest on PC or in presence; or (3) misdemeanor in presence and constituting a breach of peace.
 - *Note:* PC to arrest authorizes a search incident to arrest for weapons and/or evidence related to the crime(s), whether or not the officer has decided to engage in a formal arrest. *Comm. v. Moscat*, 49 Mass. App. Ct. 622 (2000).
- **School rule:** Officers may *never* arrest or apply for a complaint for Disorderly or Disturbing the Peace (272, § 53) or Disrupting an Assembly (272, § 40) if: (1) the offender is an elementary or secondary school student; and (2) the incident occurred in a school building, on school grounds, or during a school-related event. *Note:* Non-students or students age 18 and over are not covered. *AOJC Memo 6/12/18, pg. 1-2.*

¹ Legal Custodian = Parent, guardian, caregiver responsible for the child, or DCF or other agency responsible for the child.

Crimes
Authority
& Response
(continued)

- **Minor misdemeanor rule:** While a juvenile may be arrested or charged for a misdemeanor punishable by HC NMT 6 months and/or a fine, he may not be prosecuted if it is his 1st offense. Post-arrest or complaint application, a juvenile court clerk will hold a hearing to determine if it is a subsequent offense and if PC supports the case going forward. 119, § 52 and *AOJC Memo 7/10/18*, pg. 3.
Key crimes covered: Trespass; minor in possession of alcohol; indecent exposure; disorderly; disturbing the peace; annoying and accosting; shoplifting under \$250; operating without a license; operating after suspension; attaching plates; B&E with intent misdemeanor; annoying phone calls/electronic communication; disturbing public or private assembly; threat to commit crime.
- **Strategy to overcome school or minor misdemeanor rules:** Consider if PC also exists for more serious crimes — e.g., assault; A&B; possession DW; failure to disperse from unlawful assembly (269, § 2); threat of bomb/weapon at location (269, § 14); malicious or wanton damage or defacement to property (266, § 126A; felony regardless of the value of the damage or defacement).

Post-arrest
Procedures

Police log for public access shall *not* mention names or facts concerning any juvenile arrest. 41, § 98F (effective 12/31/18).

Booking juvenile (inventory search, photo, prints permitted).

Stationhouse custody: All juveniles must be sight and sound separate from adult prisoners. Provide medical attention if possibly needed.

- **If juvenile age 12 or 13:** Non-secure in unlocked room under continuous visual supervision.
 - Transfer from station as soon as reasonably possible.
 - *Note:* If juvenile non-compliant or dangerous, EOPSS guidelines permit placement in locked area (not cell); must document.
- **If juvenile age 14, 15, 16, or 17:**
 - Secure in DYS-approved cell or on cuffing rail for a maximum of 6 hours.
 - *Best practice:* Check cell at least every 30 minutes (40, § 36B mandates “reasonable care”).

Placement: Transport in marked or unmarked cruiser, *not* police wagon (119, § 34). Do not transport with adult offender in vehicle.

- **If court in session:** Bring juvenile to courthouse.
- **If arrest after hours:**
 - Do *not* call Juvenile Probation.
 - *1st priority:* Release to Legal Custodian (LC), who must sign “release form” promising to bring juvenile to next court date.
 - *2nd option:* Only if OIC approves arresting officer’s written request² to hold juvenile age 14, 15, 16, or 17 for bail hearing.³ These juveniles *must* be given a bail hearing.⁴
 - If no bail or other conditions, then release to LC, who signs “release form.”⁵
 - If juvenile held, contact *Overnight Arrest Program (OAP)* at (617) 474-8150 or (617) 474-8179. Before OAP placement, police must: (1) ensure juvenile is medically cleared for any medical condition; (2) transport juvenile to designated facility; (3) provide booking sheet and OAP referral form to intake staff; (4) provide staff with any necessary medication; (5) if juvenile arrested without a warrant and will be held by OAP for over 24 hours, arrange *Jenkins* PC hearing; and (6) transport juvenile from OAP to court for arraignment or to any other designated DYS or DOC facility mandated by court.

² A notation in the CAD, on the booking sheet, in the arrest report is sufficient.

³ Also, a magistrate may direct, in an arrest warrant, that a 14, 15, 16, or 17 year old juvenile be held for a bail hearing.

⁴ Law requiring a 6-hour hold for certain domestic violence offenders does *not* apply to juveniles.

⁵ Bail commissioner cannot hold a juvenile because he lacks the funds to pay the \$40 fee.