

Waltham Police Department

BULLYING

CHAPTER 100

General Order Number: Reference Harassment Prevention Order Policy
Effective Date: 09/2015

POLICY:

The Waltham Police Department recognizes the potential harm caused by the actions of school-aged bullies and Department personnel will take appropriate measures to protect the welfare of children.

The Department shall work with the school district, charter schools, and other applicable educational facilities to enforce the provisions of law when investigating bullying activities occurring both on and off of school grounds.

There is no criminal charge of “Bullying”, however this policy aims to direct and govern an officer’s response to these types of incidents.

DEFINITIONS:

1. **ABUSE:** Attempting to cause or causing physical harm to another or placing another in fear of imminent serious physical harm.
2. **BULLYING:** The repeated use by one or more students of a written, verbal or electronic expression, or a physical act or gesture, or any combination thereof, directed at another student that has the effect of:
 - a. Causing physical or emotional harm to the other student or damage to the other student’s property.
 - b. Placing the other student in reasonable fear of harm to him/herself or of damage to his/her property.
 - c. Creating a hostile environment at school for the other student.
 - d. Infringing on the rights of the other student at school.
 - e. Materially and substantially disrupting the education process or the orderly operation of a school.
3. **CYBER-BULLYING:** Bullying through the use of technology or any electronic

means.

4. HARASSMENT: IS EITHER

- a.** Three or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse or damage to property and that does in fact cause fear, intimidation, abuse or damage to property.
- b.** An act that by force, threat or duress causes another to involuntarily engage in sexual relations.

5. SCHOOL GROUNDS: Property on which a school building or facility is located or property that is owned, leased or used by a school district, commonwealth charter school or non-public school for any school-sponsored activities, functions, programs, instruction or training.

6. VICTIM: The student against whom bullying or retaliation has been perpetrated and/or the person being harassed.

NOTIFICATION BY SCHOOLS: Under Massachusetts law the principals of public schools, charter schools, and certain other schools are mandated to report the incident to the local police once they determine that bullying constitutes a criminal act.

PROCEDURES:

- 1.** A call will be generated in CAD.
- 2.** An officer will be assigned to conduct a preliminary investigation. The officer may be from the Patrol Division, Detective Division, a School Resource Officer, or School Safety Officer.

NOTE: Start with an SRO or SSO if school is in session.

- 3.** For any bullying incident where the complaint includes allegations of a physical assault or of physical harm to the victim, the investigating officer's supervisor shall be notified.
- 4.** If the complaint is received from a non-school source, the principal of the school(s) attended by the victim and suspect shall be notified of the investigation as soon as practical.
- 5.** Subsequent to the completion of the preliminary investigation, an incident report shall be completed.

6. The investigating officer will also submit a copy of the report to the Juvenile Detective and School Resource Officer.
7. The Juvenile Detective and/or a Supervisor from the Detective Division will review all bullying-related reports and perform or assign any follow-up duties that he/she determines are necessary.

RELATED LAWS: Bullying activities may violate the provisions of the following state laws:

1. MGL c.12 s.11H “Violation of Constitutional Rights”
2. MGL c.265 s.43 “Stalking”
3. MGL c.265 s. 43A “Criminal Harassment”
4. MGL c.266 s.37E “Identity Fraud”
5. MGL c.268 s.13B “Intimidation of Witnesses”
6. MGL c.269 ss.17-19 “Hazing”
7. MGL c.272 s.40 “Disturbance of Schools or Assemblies”
8. MGL c.275 s.2 “Threat to Commit Crime”
9. MGL c 258E “Harassment”

Officers will deal with criminal violations of these and other applicable laws as appropriate.

JUVENILE OFFENDERS: [44.2.1A, B, C]

Juveniles charged with criminal violations as the result of a bullying investigation shall be subject to the provisions of *Ch 44 “Juvenile Operations.”*

When dealing with juvenile offenders, officers are required to use the least coercive action among reasonable alternatives appropriate for resolving the situation.

The following alternatives are available for consideration by officers:

1. Release to parent/guardian with no further court action.
2. Requesting a clerk magistrate’s hearing for a misdemeanor.
3. Issuing a summons.

4. Taking the juvenile into custody.
5. School based action after conferring with school officials.

Officers shall consider several factors when determining the proper means of handling a juvenile offender, including but not limited to:

1. The nature of the offense.
2. The juvenile's prior record.

PREVENTATIVE ACTIVITIES: [44.1.2] The Juvenile Detective(s), School Resource Officers and School Safety Officers shall work in conjunction with the school district to create measures that seek to reduce the incidence of bullying within the City. Such activities may include policy development, training and public education.

HARASSMENT PREVENTION ORDERS: Officers may consider a Harassment Prevention Order (HPO) in cases of chronic bullying.

Under MGL c.258E, a person suffering from harassment may file a complaint in the appropriate court requesting protection from such harassment. An HPO is a potentially useful tool in cases of chronic bullying.

HPOs may include provisions that the defendant:

1. Refrain from abusing or harassing the plaintiff, whether the defendant is an adult or minor.
2. Refrain from contacting the plaintiff, unless authorized by the court, whether the defendant is an adult or minor.
3. Remain away from the plaintiff's household or workplace, whether the defendant is an adult or minor.
4. Pay compensation for any losses suffered as a direct result of the harassment.

Victims may apply for a HPO through the court during business hours, or may seek an emergency order through the Department when the court is closed.

OFFICER'S RIGHT OF ARREST: MGL Chapter 258E section 29 provides officers a right of arrest, both in presence and on probable cause, for any violations of an HPO.

See WPD Policy Chapter 101 Harassment Prevention for further information.