

Temporary Custody of Juveniles

900.1 RESPONSIBILITIES OF YOUTH ENFORCEMENT UNIT PERSONNEL

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Responsibilities of Youth Enforcement Unit personnel shall include the following tasks:

- (a) Conduct follow-up investigations.
- (b) Follow-up processing of juvenile arrests.
- (c) Coordinating or preparing court cases in which a juvenile offender is involved.
- (d) Diverting juvenile offenders out of the juvenile justice system, and adjusting cases.
- (e) Establish criteria on which referrals to criminal justice and public and private social services are based.
- (f) Assist field officers in juvenile cases.
- (g) Identify and maintain a listing of services and resources available through other public and social service agencies, and ensure that field officers are aware of and provided the resources at their disposal.
- (h) Provide in-service training in juvenile procedures and information on available community service resources to Department members as assigned.
- (i) Maintain a liaison with juvenile justice agencies (e.g., Family Court, County Attorney, County Probation, Division for Youth, etc.) and other agencies and organizations concerned with youth related problems and needs and seek their review and comments regarding juvenile policies and procedures. (E.g., Child Protective Services, crisis counseling, City Task Force on Youth Violence, City County Youth Bureau, City Department of Recreation, civic organizations, etc.).
- (j) Collect, disseminate, and maintain the confidentiality of juvenile records pursuant to law.
 - 1. Juvenile records shall, at all times, remain separate from those of adults.

900.2 INVESTIGATIVE GUIDELINES / DIVERSION ALTERNATIVES

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Officers shall have a great deal of discretion in resolving minor offenses involving juveniles. Officers have a wide range of alternative remedies they may employ. These options include any one or more appropriate combinations of the following:

- (a) Verbal reprimands or warnings.
- (b) Consulting with and arranging for appropriate corrective action by parents.
- (c) Restitution.
- (d) Diverting a juvenile to a public or private social service agency.
- (e) Diverting a juvenile to criminal justice diversion programs.
- (f) Arrest.

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When choosing alternative remedies, officers shall use the least coercive among reasonable alternatives, consistent with preserving public safety and order. The factors to be considered in diversion decisions relating to juvenile offenders shall include:

- (a) Nature and seriousness of the alleged offense (e.g., minor offenses may be resolved as specified in a-e above).
- (b) Age and family circumstances of the alleged offender.
- (c) Offender's record of previous involvement with the police, if any.
- (d) Availability of applicable community based public and private social service agencies and/or rehabilitation programs.
- (e) Recommendation of the complainant or victim.

In general, the referral of juveniles to Family Court should be restricted to those cases involving serious or repeated criminal conduct such as: felony crimes, delinquent acts involving the use of a weapon, crimes committed by juveniles on probation or those with a case pending, and repeated delinquent acts within the past twelve months.

- (a) If the Juvenile qualifies as a juvenile offender there shall be no discretion and the person shall be petitioned into Family Court.

The decision to refer a juvenile to intake ultimately rests with a Youth Enforcement Unit detective who, by virtue of a thorough investigation, and contact with other agencies and service providers, is in a unique position to determine what course of action will best serve justice and the needs of the particular youth. Youth Enforcement Unit personnel will review all cases involving arrests of juveniles in order to determine whether or not the case may be deferred from formal intake. In addition to considering the factors specified in a-e above, the Youth Enforcement Unit shall take into consideration the following factors in making a diversion decision:

- (a) Attitude of the accused and the likelihood of his acceptance to rehabilitative efforts.
- (b) Input from the appropriate social agency, if applicable.
- (c) Input from County Probation and/or County Attorney's Office.

When a juvenile is a victim, missing person or suspect, an Incident Report will be completed by the officer investigating the incident.

When a juvenile suspect or witness must be taken to the Youth Enforcement Unit Office. At no time shall an Officer guard a juvenile alone, and when practical a female officer will assist in guarding a juvenile female.

900.3 QUESTIONING JUVENILE DELINQUENTS, ADOLESCENT OFFENDERS, AND JUVENILE OFFENDERS

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Custodial questioning (interrogations) of juveniles (e.g., persons less than 18 years of age) is governed by FCA § 305.2 and CPL § 140.20 (6), which notes that the presence or absence of the child's parents, his age, and the period of time for questioning will all be considered relevant in

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determining whether such interrogations was suitable. The following procedures shall govern the questioning of juveniles by officers of the Department.

- (a) Questioning may occur only in an approved, designated facility in an unlocked area of the police Department other than one designed for detention of prisoners apart from any adult charged with or convicted of a crime. Department locations for questioning are:
 - 1. Approved rooms per 22 NYCRR 205.20.
 - 2. Youth Enforcement Unit Office.

The questioning may take place in the child's home with the permission of a parent or guardian.

Generally, a parent or guardian must be present during questioning, however:

- (a) If the parent or guardian is not available or the police are unable to locate the parent or guardian and all reasonable efforts by the police to locate the parent or guardian have failed the child may be questioned.
 - 1. The arresting officer shall document in the Incident Report each and every attempt to contact the parent or guardian to include date, time and action taken. A reasonable effort must be shown or any statements or confessions obtained are inadmissible.
- (b) A parent or guardian may give an officer permission for a juvenile to be questioned without said parent or guardian actually being present.
 - 1. The arresting officer shall document the date and time when permission was received, in the Incident Report.

Prior to questioning, both the juvenile and the parent/guardian must be advised Miranda rights and must understand and waive the rights for questioning to continue.

- (a) The juvenile must acknowledge that the rights were given, and are understood, and sign the rights waiver appropriately.
- (b) The parent or guardian should be requested to sign as a witness to this as well.

900.4 JUVENILE ARREST AND PROCESSING

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Juvenile Arrests - Without a Warrant - The Family Court Act sets out the authority for a police officer's arrest which is derived from article 140 of the CPL as it applies to the arrest of any person for a crime. The same rules affecting the seizing of evidence and the securing of admissions following the arrest of an adult are applicable to the arrest of a juvenile, including the additional requirement that the juvenile and his parent or legal guardian be notified of his constitutional rights. The following procedures shall apply to the arrest of a juvenile:

- (a) A juvenile less than 16 years old can only be arrested for a misdemeanor or a felony. A juvenile 16 and 17 years of age can also be ticketed/arrested for an infraction or a violation.

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- (b) Unless otherwise specified in juvenile operations, procedures for the arrest and transportation of juveniles shall be the same as the arrest and transportation of an adult.
- (c) If a juvenile delinquent is arrested and the arresting officer determines the juvenile may be a danger to himself or others, the arresting officer will issue an appearance ticket and transport to CPEP.
- (d) When a juvenile is placed under arrest the following procedures will be conducted:
 - 1. Any juvenile arrested, or taken into protective custody, will be thoroughly searched for weapons, evidence, and means of escape and/or contraband prior to being transported.
 - 2. If the juvenile is to be questioned, bring him to an approved, designated facility (e.g., Youth Enforcement Unit office) or alternatively, and with the parent's consent, his own residence.
 - 3. If the juvenile has allegedly committed a designated felony [as defined in FCA 301.2(8)] and Family Court is in session, take the juvenile to such court without delay unless it is necessary to question him.
 - 4. When juveniles are transported to the Youth Enforcement Unit for questioning they will be placed in a temporary holding room provided for such purposes. The investigating officer must sign the juvenile in, and sign the juvenile out upon release, of the holding room in the hard cover logbook provided in the Youth Enforcement Unit office (See Juvenile Custody Logs).
 - 5. The juvenile holding room will be searched for contraband and damage, prior to and immediately after being occupied by a juvenile. If contraband or damage is found, the appropriate charge will be lodged against the juvenile.
 - 6. All personal property in the possession of a juvenile will be secured and held by the arresting officer in safekeeping until the juvenile is either remanded or released.
 - 7. The arresting officer will immediately notify the juvenile's parent or guardian that the child has been taken into custody/arrested, and the location of the facility where he or she is being detained, if applicable (FCA §305.2 and CPL § 140.20 (6)).
 - 8. The arresting officer will complete all required reports.
 - (a) Any admissions made by the defendant will be detailed in the Incident Report.
 - (b) A NYS Arrest Report will be completed. Up to four separate charges may be put on one Arrest Report. If there are more than four charges, then another Arrest Report must be completed.
 - (c) Each arrest will be entered in the Youth Enforcement Unit "arrest book". Where a juvenile arrest number will be obtained and recorded.
 - (d) A Juvenile Case Sheet (Form 19.3) will also be completed.

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- (e) Affidavits will be taken from all victims, and witnesses. A police court information cannot be used in family court cases as a substitute for an affidavit.
 - (f) All statements of prosecution must include the juvenile suspect's name and date of birth..
 - (g) A checklist for Family Court Cases (Form 19.8) must be completed.
9. Pursuant to Family Court Act section 306.1, following the arrest of a juvenile, a juvenile alleged to be a juvenile delinquent will be fingerprinted and photographed when:
- (a) Juveniles 13 to 15 years of age are charged with any felony offense.
 - (b) Juveniles 11 and 12 years of age are charged with a class A or B felony.
 - (c) Juvenile Delinquents requiring fingerprints will be fingerprinted in the Youth Enforcement Unit on one Juvenile fingerprint card (DCJS-2JD). All applicable sections of the fingerprint card, and "Juvenile Arrest Information Card" (form OCA-501 J) attached to the bottom of DCJS-2 JD) will be completed.
 - (d) The completed fingerprint card will be placed in the juvenile print card file in the Youth Enforcement Unit. The Juvenile Arrest Information Card (form OCA-501 J) will be detached from the print card and included with the court case.
 - (e) All juvenile offenders and adolescent offenders shall be photographed and fingerprinted by the Onondaga County Sheriff's Office.
 - (f) In addition, a juvenile may be fingerprinted and photographed when the officer:
 - 1. Is unable to ascertain the juvenile's identity, or
 - 2. Reasonably suspects that the identification given by the juvenile is not accurate.
10. The arresting police officer will perform fingerprinting for juvenile delinquents.
11. In cases where juveniles are suspects, and not enough probable cause exists at the time of the original investigation to make an arrest, the officer shall make every effort to obtain as much information about the case as possible. Officers will notify Y.E.U. and/or C.I.D of all information on felony cases. When the investigation involves only a misdemeanor crime, a supervisor shall be notified who will then determine the appropriate course of action for follow-up investigation.
12. When probable cause exists to arrest a juvenile for a crime, and that juvenile cannot be located, the investigating officer shall:
- (a) Inform the suspect's parent or legal guardian of the crime(s) the juvenile will be charged with and that the Onondaga County Department of

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Probation will notify them of the time the juvenile must appear in Family Court.

- (b) Complete the investigation and forward the completed case to the Youth Enforcement Unit.
- (c) A complete copy of the juvenile case will be left in the Youth Enforcement Unit. The first three copies of the affidavit will be left with the case. When an adult is arrested along with a juvenile on the same case, the juvenile case will only require one original and two copies.
- (d) All original reports that cannot be electronically submitted will be sent to Central Records Division.

Family Court - Warrant of Arrest – A juvenile may also be taken into custody upon the authority of a Family Court Warrant signed by a Family Court judge commanding his appearance in court. Such warrant may be issued for a juvenile offender, a juvenile delinquent or for a PINS. It may be based on the juvenile's failure to appear for a court date or a probation meeting.

In any case where juveniles need to be transported to court, they will be secured in accordance with Department policy for the Transportation of Prisoners. When in the court, all restraints will be removed for the duration of the hearing unless otherwise directed by the Court.

- (a) When Family Court is not in session, a juvenile arrested on a Person in Need of Supervision (PINS) warrant shall be brought to the Youth Enforcement Unit to be booked and immediately transported to Catholic Charities, 1828 E. Genesee Street. The warrant and a copy of the Arrest Report must be delivered to Catholic Charities at the same time.
- (b) A Person arrested on a PINS warrant will be released to a parent, guardian or other responsible adult. The incident will be documented in an incident report.
 - 1. If a juvenile is not under arrest, at any time during transport to or processing at the Youth Enforcement Unit, becomes assaultive, disruptive, or unmanageable then the juvenile will be arrested and charged accordingly for the appropriate crime committed (e.g. resisting arrest, attempted criminal mischief, etc.).

When housing is needed for neglected or abused children call Children's Protective Hot Line 422-9701 for placement. This is a 24-hour service.

900.5 RELEASE FROM CUSTODY OR REMANDING JUVENILES

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When a juvenile is released to a Parent or Guardian, and a Family Court Appearance Ticket (FCAT) is issued the following procedure shall be followed:

- (a) The arresting officer should specify, on the FCAT, one return date, on either a Monday or Wednesday, no later than fourteen (14) days after the issuance of this FCAT.
- (b) Co-respondents should not be directed to appear at the same time.

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- (c) The arresting officer shall forward a copy of this FCAT and arrest report and supporting materials to the Onondaga County Probation Department within twenty-four (24) hours after its issuance.
- (d) If the offense is a designated felony (as defined in Family Court Act § 301.2 [8]), the date shall be no later than seventy-two (72) hours excluding Saturdays, Sundays, and public holidays, after issuance of this FCAT.
- (e) A juvenile may not be released to the custody of a parent or guardian when:
 - 1. The juvenile is charged as a juvenile offender.
 - 2. There is a substantial probability that the youth will not appear in court at the specified time; or
 - 3. The arrest is made on a warrant.

When a Juvenile is to be held in detention, Hillbrook must be contacted by telephone prior to transporting the suspect, so that arrangements can be made by Hillbrook to receive the suspect.

Prior to arraignments, a Juvenile Delinquency Pre-Petition Application must be completed, notarized and submitted to the court if seeking remand. The remand paperwork is taken to Hillbrook along with a copy of the Arrest Report.

Anyone arrested on a juvenile delinquency warrant must be taken to the Hillbrook Detention Home even though at the time of the arrest the youth is over sixteen years of age.

No child under ten years of age can be placed in Hillbrook or any other detention facility.

900.6 PROCEDURES FOR THE MINOR CLASSIFIED AS A JUVENILE OFFENDER OR ADOLESCENT OFFENDER

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The juvenile offender is a category of juveniles as defined in Article 10, Section 10.18, of the Penal Law of the State of New York.

Adolescent offender - A juvenile delinquent 16 or 17 years of age who is in custody for a felony.

Juvenile offenders and adolescent offenders will be tried in Adult Criminal Court with the provision that the case may be transferred to Family Court anytime during the case's progress through the adult system.

Specific requirements and procedures for processing juvenile offenders are as follows:

- (a) All charges must be supported by sufficient evidence to substantiate the charge.
- (b) The charge may not be reduced to a lesser degree in the Adult Court. The officer must lodge the proper charge at the time of the arrest or the case must be completely resubmitted.
- (c) A court information must be prepared by the police officer on all juvenile offender and adolescent offender arrests and be included in the case.

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- (d) Any thirteen, fourteen, or fifteen year old juvenile charged as a Juvenile Offender cannot be released under any circumstances and must be held at Hillbrook Detention Home if City Court is not in session or available to arraign the defendant.
- (e) A Juvenile Offender and adolescent offender will be photographed and fingerprinted the same as an adult.
- (f) All evidence involved in a juvenile offender and adolescent offender case will be handled in the same manner as in an adult case.

Pursuant to the Criminal Procedure Law, section 200.20 (6), if an act for which a juvenile could be charged as a delinquent is based upon the same criminal action as the act for which the juvenile is being charged as a juvenile offender, then all charges should be brought by the arresting officer under the juvenile offender case. In addition, all lesser included charges (felonies and misdemeanors) require an accusatory instrument for each charge.