

Temporary Custody of Juveniles

901.1 PURPOSE AND SCOPE

Federal NYSLEAP- 8.7 - 50.4

This policy provides guidelines for juveniles taken into temporary custody by members of the Syracuse Police Department.

901.1.1 DEFINITIONS

State MODIFIED NY_CALEA6.13 - 71.3.2 NYSLEAP- 8.7 - 50.4

Definitions related to this policy include (Family Court Act § 301.2; CPL § 1.20):

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

Designated Felony – An act which, if done by an adult, would be a crime as defined in the Family Court Act, Section 301.2(8) and variously affecting persons 13,14, or 15 years of age. Since these persons are also juvenile delinquents, actions involving a designated felony are handled by the County Attorney. To distinguish between the status of a juvenile offender and a juvenile accused of committing a designated felony.

Intake – A process of commencing an action against a juvenile delinquent. This function is performed by the Probation Department acting on a petition prepared by the County Attorney's office at the request of the police Department, or, in some cases, at the request of a parent or guardian as the complainant. Intake may involve adjustment of the case by the probation Department or referral to the Family Court.

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for their own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for their protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

Juvenile delinquent - A juvenile 7 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes an offense under Penal Law § 265.05 for unlawful possession of a handgun by persons under 16 (28 CFR 31.303).

Juvenile offender - A juvenile delinquent 13 to 15 years of age who is in custody for a serious violent offense listed in Penal Law § 10.00.

Non-secure custody - When a juvenile is held in the presence of an officer or other department member at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication, is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

Person Legally Responsible for Care – Includes a person given responsibility for the child's care by the parent or legal guardian. Any person that continually or at intervals is found in the

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same household as the child, and whose conduct causes or contributes to the abuse or neglect of the child.

PINS (Person In Need of Supervision) - A person less than 16 years of age who is truant from school or incorrigible, or who is ungovernable or habitually disobedient and beyond the lawful control of a parent or other authority, or who is in possession of marijuana (as defined in section 221.05 of the Penal Law) and is deemed to be in need of supervision or treatment as prescribed by Family Court.

Safety checks - Direct visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of juveniles in temporary custody.

Secure custody - When a juvenile or adolescent offender is held in a locked room, a set of rooms, or a cell.

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (c) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (d) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (e) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (f) A juvenile placed in a room that is locked.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact (34 USC § 11103).

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

901.2 POLICY

Best Practice MODIFIED NYSLEAP- 8.7 - 50.4

The Syracuse Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and to keeping juveniles safe while in temporary custody at the Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

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[See procedure for INVESTIGATIVE GUIDELINES / DIVERSION ALTERNATIVES](#)

[See procedure for THE MINOR CLASSIFIED AS A JUVENILE OFFENDER OR ADOLESCENT OFFENDER](#)

901.3 RESPONSIBILITY FOR JUVENILE RELATED MATTERS

Agency Content

Owing to the unique procedural aspects of the juvenile justice system and the special needs and problems of youth, the Department has established and maintains various organizational components to assist members of the Department in executing their responsibilities in this regard. (e.g. Family Services Section; Youth Enforcement Unit, Missing Person Unit, Abused Persons Unit, Community Relations Section, School Information & Resources Section).

These components will be staffed by as many detectives and other personnel as the Chief of Police shall deem necessary based on the needs of the Department. Detectives shall receive specialized training to better equip them to effectively handle youth related problems.

All Department members shall participate in and support juvenile operations and are required to be familiar with procedures for handling juvenile problems and incidents.

The Youth Enforcement Unit shall have primary responsibility over youth related matters that come to the attention of the Department and shall be responsible for the coordination of such activity.

- (a) The Youth Enforcement Unit will be staffed during hours so designated by the Chief of Police. When the Unit is not staffed, inquiries and/or access to the Youth Enforcement Unit office may be made through the Front Desk Officer in Patrol, or in the Criminal Investigation Division.
- (b) When the Criminal Investigation Division and the Youth Enforcement Unit are both closed, keys to both offices may be obtained from the Information Desk in the lobby. The keys must be signed "out" in the logbook, and signed "in" when the keys are returned.

[See procedure for RESPONSIBILITIES OF YOUTH ENFORCEMENT UNIT PERSONNEL](#)

901.4 JUVENILES WHO SHOULD NOT BE HELD

Best Practice **MODIFIED** **NY_CALEA6.13 - 44.2.2 (b)**

Juveniles who exhibit certain behaviors or conditions should not be held at the Syracuse Police Department. These include:

- (a) Unconsciousness or having been unconscious while being taken into custody or transported.
- (b) Serious injuries or a medical condition requiring immediate medical attention.
- (c) A suspected suicide risk or showing obvious signs of severe emotional or mental disturbance (see the Emergency Admissions Policy).

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1. If the officer taking custody of a juvenile believes that they may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or transfer to an appropriate facility is completed.
 - (d) Significant intoxication or showing signs of having ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
 - (e) Afflicted with, or displaying symptoms of, a communicable disease that poses an unreasonable exposure risk.
 - (f) Juveniles alleged to have been harmed or in danger of harm (CALEA 44.2.2 (b)).

Officers taking custody of a juvenile exhibiting any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and should notify a supervisor of the situation. These juveniles should not be held at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

901.5 CUSTODY OF JUVENILES

Federal MODIFIED NY_CALEA6.13 - 44.2.2 (d), 71.3.1 (b)

Officers should take custody of a juvenile and temporarily hold the juvenile at the Syracuse Police Department when there is no other lawful and practicable alternative to temporary custody, while ensuring the rights of juvenile are protected (CALEA 44.2.2 (c)). Refer to the Child Abuse Policy for additional information regarding detaining a juvenile who is suspected of being a victim.

No juvenile should be held in temporary custody at the Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent, legal guardian, or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable. A juvenile should not be held beyond six hours from the time of their entry into the Department (34 USC § 11133) (CALEA 44.2.2 (d)).

The transporting officer is responsible for the processing, searching, and supervision of the individual while in temporary detention within the facility unless or until custody is transferred to another officer or detective (CALEA 71.3.1 (b)).

901.5.1 CUSTODY OF JUVENILE NON-OFFENDERS

Federal MODIFIED

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Syracuse Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be held in secure custody (34 USC § 11133).

A child taken into custody due to an emergency removal without a court order under Family Court Act § 1024 or Social Services Law § 417 shall be taken as soon as practicable to an approved

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facility. Every reasonable effort to inform the parent or other person legally responsible for the child's care shall be made (CALEA 44.2.2 (e)).

901.5.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Federal NY_CALEA6.13 - 44.2.1 (a), 44.2.1 (b), 44.2.2 (a)

Status offenders should generally be released by a court appearance ticket or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders may not be held in secure custody (34 USC § 11133).

901.5.3 CUSTODY OF JUVENILE DELINQUENTS

State MODIFIED

Juvenile delinquents should be held in non-secure custody while at the Syracuse Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

A member serving as a peace officer or a police officer may take a juvenile delinquent into custody without a warrant under the same circumstances for which an adult may be arrested for a crime. Every reasonable effort should then be made to give notice of the custody to a parent or other person legally responsible for the child as soon as practicable (Family Court Act § 305.2; CPL § 120.90; CPL § 140.20; CPL § 140.27).

Juvenile delinquents and juvenile offenders should generally be released to the custody of a parent or other legally responsible person upon the issuance of an appearance ticket to the child and the person to whose custody the child is released (Family Court Act § 305.2).

Upon being taken into custody, adolescent offenders, juvenile offenders, and other juvenile delinquents with special circumstances should be taken to the youth part of the superior court or family court, as appropriate. If the court is not in session, members should take the juvenile before an appropriate magistrate as designated by the court (Family Court Act § 305.2; CPL § 140.20; CPL § 140.27; CPL § 722.21).

In cases where the member determines that it is necessary to question the juvenile delinquent, the child may be transported to a location specifically designated for the purpose of questioning juveniles, even in cases where the member intends to later transport the juvenile to court. If the member intends to release the juvenile after questioning, and upon the consent of a parent or other person legally responsible for the care of the child, the juvenile may be taken to their residence for questioning for a reasonable period of time (Family Court Act § 305.2; CPL § 140.20).

Special circumstances may make a release inappropriate due to a substantial probability that a juvenile will not appear in court or a significant risk the juvenile may commit further serious criminal acts. In these cases, taking a juvenile to family court is appropriate. When family court is not in session, the member should take the juvenile before an appropriate magistrate as designated by the court. The supervisor or designee will then contact a juvenile detention facility

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upon authorization for further detention by the court (Family Court Act § 305.2; Family Court Act § 320.5).

[See procedure for JUVENILE ARREST AND PROCESSING](#)

[See procedure for RELEASE FROM CUSTODY OR REMANDING JUVENILES](#)

901.6 ADVISEMENTS

State **MODIFIED** NY_CALEA6.13 - 1.2.3 (b), 44.2.2 (c), 44.2.2 (e)

Any member taking a juvenile delinquent or juvenile offender or adolescent offender into custody shall immediately notify the parent or other person legally responsible for the juvenile's care, or if such legally responsible person is unavailable, the person with whom the child resides, that the juvenile has been taken into custody and provide the juvenile's location (Family Court Act § 305.2; CPL § 140.20; CPL § 140.27).

901.7 JUVENILE CUSTODY LOGS

Best Practice **MODIFIED** NY_CALEA6.13 - 71.3.1 (a), 72.5.2 (a), 72.5.2 (b), 72.5.2 (d)

Any time a juvenile is in temporary custody at the Syracuse Police Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile.
- (b) Date and time of arrival and release from the Department.
- (c) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, adolescent offender, status offender, or non-offender.
- (d) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

901.8 NO-CONTACT REQUIREMENTS

Federal **MODIFIED** NY_CALEA6.13 - 71.3.1 (e) NYSLEAP-8.7 - 50.4 (A)

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Syracuse Police Department (34 USC § 11133; 28 CFR § 115.114). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Department shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

901.9 TEMPORARY CUSTODY REQUIREMENTS

Best Practice **MODIFIED** NY_CALEA6.13 - 1.2.3 (c), 71.3.3 (e), 71.4.1, 72.7.1 (c), 72.7.1 (d), 72.8.2, 72.8.3

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Members and supervisors assigned to monitor or process any juvenile at the Syracuse Police Department shall ensure:

- (a) A supervisor is notified if it is anticipated that a juvenile may need to remain at the Department more than four hours. This will enable the supervisor to facilitate the juvenile's release or transfer from the Department within six hours.
- (b) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
 - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
 - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) A member of the same sex will supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (d) There is reasonable access to toilets and wash basins.
- (e) There is reasonable access to a drinking fountain or water.
- (f) Food is provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile.
- (g) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (h) There is privacy during family, guardian and/or attorney visits.
- (i) Juveniles are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (j) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (k) Adequate furnishings are available, including suitable chairs or benches.
- (l) Juveniles have the right to the same number of telephone calls as adults in temporary custody (see the Temporary Custody of Adults Policy).
- (m) Discipline is not administered to any juvenile, nor will juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.
- (n) Panic or duress alarms or cell phone or portable radio is available for officers for emergency communications for escapes, fire, evacuations or other related emergencies (CALEA 71.3.3 (b)).

901.9.1 COURT APPROVAL

State **MODIFIED** NYSLEAP- 8.7 - 50.4 (B)

The Criminal Investigations Division Captain will ensure that only areas that have been approved by the chief administrator of courts are used for the custody or questioning of juveniles. Members

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should not allow a juvenile in custody to be in an unapproved area (Family Court Act § 305.2) (CALEA 71.1.1).

901.10 RELIGIOUS ACCOMMODATION

Best Practice

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

901.11 USE OF RESTRAINT DEVICES

Best Practice

MODIFIED NY_CALEA6.13 - 70.1.6 (b)

Juvenile delinquents, juvenile offenders, and adolescent offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile delinquent or juvenile offender or adolescent offender may be handcuffed at the Syracuse Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Other restraints shall only be used after less restrictive measures have failed and with the approval of a supervisor. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Juveniles in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

901.11.1 PREGNANT JUVENILES

Best Practice

Juveniles who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

901.12 PERSONAL PROPERTY

Best Practice

NY_CALEA6.13 - 72.5.1 (a)

The personal property of a juvenile shall be processed in the same manner as an adult in temporary custody (see the Temporary Custody of Adults Policy).

901.13 SECURE CUSTODY

Best Practice

MODIFIED NY_CALEA6.13 - 71.3.1 (d)

Juvenile or adolescent offenders 13 years of age or older may be placed in secure custody. Supervisory approval is required before placing a juvenile or adolescent offender in secure custody.

Secure custody should only be used for juvenile delinquents when there is a reasonable belief that the juvenile delinquent is a serious risk of harm to him/herself or others, poses an escape risk, is combative or otherwise non-compliant.

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Members of this department should not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option.

901.13.1 LOCKED ENCLOSURES

Best Practice **MODIFIED** NY_CALEA6.13 - 72.8.1 (c), 72.8.1 (d), 71.3.1 (c), 71.3.3 (f), 71.3.3 (g), 72.4.5, 72.5.3, 72.8.1 (b)

A thorough inspection of the area shall be conducted before placing a juvenile into the locked enclosure to ensure there are no weapons or contraband and that the area is clean and sanitary. An inspection should be conducted when they are released. Any damage noted to the area should be photographed and documented.

An inspection report will be provided to the Chief of Police or their designee annually that includes any deteriorating or unsafe conditions and a review of the fire prevention, fire evacuation and fire suppression plans for the temporary juvenile detention rooms (CALEA 71.4.3 & 71.4.2).

The following requirements shall apply:

- (a) If the juvenile presents a security or suicide risk, items such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed.
- (b) The juvenile shall have constant auditory access to department members.
- (c) The juvenile's initial placement into and removal from a locked enclosure shall be logged.
- (d) Unscheduled safety checks by department members shall occur no less than every 30 minutes.
 1. The safety check should involve questioning the juvenile as to their well-being.
 2. Juveniles who are sleeping or apparently sleeping should be awakened.
- (e) Males and females shall not be placed in the same locked room.
- (f) Juvenile and adolescent offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be placed in a cell or room with unrestrained juveniles.

901.14 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY

Best Practice **MODIFIED**

The Criminal Investigations Division Captain will ensure procedures are in place to address any suicide attempt, death or serious injury of any juvenile held at the Syracuse Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Chief of Police
- (c) Notification of the parent, guardian or person standing in loco parentis of the juvenile
- (d) Notification of the appropriate prosecutor
- (e) Notification of the City Attorney

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- (f) Notification of the Medical Examiner in cases of death
- (g) Notification of the Attorney General in cases of death
- (h) Evidence preservation
- (i) Reporting to the New York State Division of Criminal Justice Services for the Death in Custody Reporting Act.

901.15 INTERVIEWING OR INTERROGATING

State **MODIFIED** NY_CALEA6.13 - 44.2.2 (c), 44.2.3 (a)

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent, to an interview or interrogation.

When juveniles who are not a suspect in a crime are interviewed (e.g. – victims and witnesses), permission to speak with them should be obtained from parents/guardians prior to the interview; they need not be present, however. Parents should not be contacted in advance of the interview if the parent/guardian is suspect in a crime perpetrated against the child (e.g., abuse or neglect). Parental participation in an interview may be discouraged if said presence could interfere with sensitive disclosure (e.g., sexual abuse). If a parent is present when a statement is taken, the parent should sign the statement as a witness.

Interviews shall be non-coercive in nature and limited to a reasonable period of time based upon circumstances.

Children under 9 years of age and older may provide sworn testimony/statements. Children less than 9 years of age may or may not be capable of providing sworn testimony depending upon their ability to understand the nature of an oath (to be determined in court). Great care must be taken in obtaining written statements from children under 9, and additional corroborating testimony (or evidence) may be required to obtain a conviction. Statement secured from children less than 9 years of age must contain an affirmation indicating the child knows the difference between the truth and a lie, and understands the consequences for not telling the truth. Examples should be specifically enumerated in the child's statement. The Youth Enforcement Unit shall be consulted prior to taken a written statement from a child less than 9 years of age.

Juvenile delinquents and adolescent and juvenile offenders in custody shall not be questioned unless the juvenile and either the juvenile's parent or other person legally responsible for the child's care, if present, are advised of the juvenile's department-approved *Miranda* rights for juveniles (Family Court Act § 305.2) (CPL § 140.20(6)).

Any custodial interrogation of a juvenile should be recorded consistent with the requirements of the Investigations and Prosecution Policy.

[See procedure for QUESTIONING JUVENILE DELINQUENTS, ADOLESCENT OFFENDERS, AND JUVENILE OFFENDERS](#)

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901.16 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING

State **NYSLEAP- 8.7 - 50.8**

Fingerprints and palm prints may not be taken of juvenile delinquents unless (Family Court Act § 306.1):

- (a) The juvenile is in custody for a class A or B felony and the child is 11 years of age or older.
- (b) The juvenile is in custody for a class C, D or E felony and is 13 years of age or older.
- (c) The juvenile is 16 years old and is in custody for a misdemeanor defined in the Vehicle and Traffic Law (Penal Law 30.00; CPL 160.10).

The taking of fingerprints, palm prints, photographs, and related information concerning a juvenile delinquent or juvenile or adolescent offender in custody shall conform with standards established by the Commissioner of the New York State Division of Criminal Justice Services, the Family Court Act, and the Criminal Procedure Law (Family Court Act § 306.1; CPL § 120.90; CPL § 140.20; CPL § 140.27).

901.17 TRAINING

Agency Content

All sworn Department members shall receive initial training in the operation and use of the Temporary Juvenile Detainee Area and Interview Rooms as part of their Academy training and refresher training will occur at least every four years (CALEA 71.2.1). This training will be documented in the officer's training files maintained by the Training Department.