



JUVENILE CONTACT & ARREST PROCEDURES			
new:		cross-reference:	
rescinds:		accreditation standards: NYSLEAP Standard(s): 50.1, 50.4 & 50.8	
✓ amends: All previous			
effective date: October 1 st , 2019	amend date: December 29, 2022		

I. PURPOSE

Members of the Tompkins County Sheriff’s Office shall dispose of juvenile matters in the least constraining manner based on the officer’s discretion, and the training given to them by the Sheriff’s Office. The responsibility of fully investigating juvenile incidents is a shared responsibility by all personnel, along with the Tompkins County Family Court System, the Tompkins County Court, Youth Part, the County Attorney’s Office, and the Tompkins County Probation Department.

II. POLICY

Members of the Tompkins County Sheriff’s Office shall conduct thorough investigations of all offenses observed or brought to their attention involving a juvenile. Officers should also keep in mind that youth interactions present a unique set of challenges and opportunities for law enforcement. For many youth, their first encounter with anything justice-related—whether in school, their neighborhoods, or social service settings—is through law enforcement. The nature and circumstances of this contact can have a significant and lasting impression on a young person.

III. DEFINITIONS

- A. Crime- A misdemeanor or felony level offense
- B. Juvenile Delinquent - A person at least twelve (12) years of age and less than eighteen (18) years of age, who has committed an act which would constitute as a crime, or a violation, where such violation is alleged to have occurred in the same transaction or occurrence of the alleged criminal act, if committed by an adult. *Updated 12/2022*

Provided, however, if a person over the age of seven (7) and less than twelve (12) years of age committed one of the following acts that would constitute a crime if committed by an adult, such person shall still be considered a juvenile delinquent: *Updated 12/2022*

- Aggravated Criminally Negligent Homicide – PL 125.22
- Vehicular Manslaughter 2nd – PL 125.12
- Vehicular Manslaughter 1st - PL 125.12

- Aggravated Vehicular Homicide – PL 125.14
- Manslaughter 1st – PL 125.20
- Aggravated Manslaughter 2nd - PL 125.21
- Aggravated Manslaughter 1st - PL 125.22
- Murder 2nd - PL 125.25
- Aggravated Murder – PL 125.26 and
- Murder 1st – PL 125.27

C. Juvenile Offender

1. A person thirteen (13) years of age who is criminally responsible for acts constituting Murder 2nd - PL 125.25 sub 1 & 2.
2. A person fourteen (14) or fifteen (15) years of age who is criminally responsible for acts constituting (as outlined in CPL 1.20 sub-42):

- Murder 2nd - PL 125.25 sub-1, 2, 3
- Kidnapping 1st - PL 135.25
- Arson 1st - PL 150.20
- Assault 1st - PL 120.10 sub 1 & 2
- Manslaughter 1st - PL 125.20
- Rape 1st - PL 130.35 sub 1 & 2
- Criminal Sex Act 1st - PL 130.50
- Aggravated Sexual Abuse - PL 130.70
- Burglary 1st - PL 140.30
- Burglary 2nd - PL 140.25 sub-1
- Arson 2nd - PL 150.15
- Robbery 1st - PL 160.15
- Robbery 2nd - PL 160.10 sub-2
- Attempted Murder 2nd
- Attempted Kidnapping 1st
- Criminal Possession Weapon 2nd PL 265.03 on school grounds.

D. Adolescent Offender – This is a new category created by the Raise the Age legislation. AOs are 16 years old or 17 years old that commit a felony-level crime. These individuals have their cases heard in the Youth Part of Criminal Court. If the judge determines there is a need for a pre-trial detention, AOs will be held in the newly created “specialized secure juvenile detention facilities for older youth.”

E. Person In Need of Supervision - A person under the age of eighteen (18) who does not attend school, is incorrigible, ungovernable or habitually disobedient and beyond the control of the parent or other person legally responsible for such child’s care, or other lawful authority, or who violates section 230.00 of the penal law. (Reference Family Court Act section 712(a)).

F. Cause for Arrest - A juvenile may be arrested by a police officer/peace officer under the same rules and procedures which govern the arrest of an adult. That is, when the arresting officer has reasonable cause to believe that the juvenile has committed a crime whether in the officer’s presence or otherwise.

IV. APPLICABLE COURT FOR APPEARANCE

- A. Juvenile Offenders are subject to the initial jurisdiction of the Youth Part of the Local Criminal Court. When the Youth Part is not in session they must be brought before an Accessible Magistrate (one of the two Ithaca City Court Judges) for arraignment.
- B. Juvenile Delinquents are subject to the initial jurisdiction of the Probation Department of the Family Court System upon issuance of a juvenile appearance ticket. In situations where a JD is taken into custody and cannot safely be released, and the Family Court is not in session, the statute requires law enforcement to take the child before the most accessible magistrate.
- C. Adolescent Offenders are subject to have their cases heard in the Youth Part of County Court for felony arrests. When the Court is not in session they must be brought before the Accessible Magistrate for arraignment.
- D. A 16-year-old or 17-year-old arrested for a misdemeanor (except Vehicle & Traffic Law misdemeanors) will be considered a juvenile delinquent and subject to the initial jurisdiction of the Probation Department of the Family Court System. Law enforcement should utilize the same arrest procedures for juvenile delinquents when processing 16-year-olds and 17 year olds charged with a qualifying misdemeanor and should use the juvenile delinquent custody determinations set forth in Family Court Act 305.2.
- E. A 16-year-old or 17-year-old arrested for a violation will be subject to the Local (adult) Criminal Court.

V. QUESTIONING

- A. At such time the juvenile becomes a suspect or an arrest is pursued, all questioning should be conducted in the presence of the parent or guardian; however, questioning can take place without the parent present, as long as the parent/guardian has been advised that the child is in custody/detained, where the child is, and is given the opportunity to be present.
- B. Both the juvenile and the parent will be advised of their Miranda Warnings and rights. There is no need to have the juvenile and the parent/guardian sign the advisement of rights as long as the rights have been administered and are shown on the video.
- C. The on-duty patrol supervisor will notify the Lieutenant and/or call in the on-call Investigator in the following cases:
 - 1. All juvenile cases involving felonies;
 - 2. All juvenile cases in which the juvenile will be placed in detention regardless of the charge;
 - 3. Any other juvenile case which, in the judgment of the patrol supervisor, the Lieutenant and/or Investigator should be notified immediately.

- D. Questioning of a juvenile at the Tompkins County Sheriff's Office will take place only in the Training/CAP Arraignment Room and/or the Criminal Investigations Division Interview Room, the [Family Court designated locations](#).
- E. All juvenile suspect interviews must be video recorded in their entirety when being questioned in a detention facility, such as a police department. If a juvenile suspect is being interviewed at a location other than a detention facility, the officer should utilize their OBRD to record the interview.

VI. CUSTODY AND DETENTION

- A. A police officer may take a juvenile, less than 18 years of age into custody without a warrant in the same instance as he/she could arrest a person for a crime pursuant to CPL section 140.
- B. Once a juvenile is taken into custody, the arresting officer must immediately notify:
 - 1. The child's parent; or
 - 2. The person legally responsible for the child's care; or
 - 3. If such legally responsible person is unavailable, an adult family member with whom the juvenile resides.
- C. After the member has made contact or made every reasonable effort to make the notification, he/she shall do one of the following:
 - 1. Release the juvenile to the custody of the parent or a legal guardian and issue a *Juvenile Appearance Ticket* to the child **AND** parent / guardian; or
 - 2. With all reasonable speed, take the child directly to the designated Court, if in session.

If, pursuant to Family Court Act 305.2(4) (b), law enforcement takes the child into custody and court is not in session, the statute requires the youth be taken to the most accessible magistrate, if any, designated by the Appellate Division of the Supreme Court. A 16-year-old or 17-year-old may not be housed with adults in these circumstances.

- 3. Take the juvenile to a certified juvenile detention facility as ordered by the Court. Officers must complete the *Juvenile Transport Form*.
 - a. There is a designated person for each county that is responsible for making arrangements for a juvenile to get into a certified juvenile detention facility.

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- b. If there is a securing order issued from the court, committing a juvenile to the custody of the Sheriff to be lodged in certified juvenile detention facility, and no lodging is available, the juvenile shall be temporarily held in the designated juvenile questioning room(s) within the Sheriff's Office. See Article V Section C of this Order.

VII. GUIDANCE FOR THE ARREST PROCEDURES FOR 16- & 17-YEAR OLDS

A. Vehicle and Traffic Misdemeanors

1. If a custodial arrest is made and the 16 year old or 17 year old is charged with a VTL misdemeanor they should be processed as an adult since the case will be heard in adult criminal/local court. The following conditions apply:
 - Fingerprint & photograph (*if applicable*).
 - Parental notification is required from the scene or if a custodial arrest is made, from the station.
 - Must be held and questioned in the juvenile designated room.

B. Vehicle and Traffic Violations

1. If a 16-year-old or 17-year-old is issued a UTT for a VTL violation they should be processed as an adult since the case will be heard in adult criminal/local court. The following conditions apply:
 - Parental notification is required from the scene.

C. Penal Law Misdemeanors

1. If a custodial arrest is made and the 16-year-old or 17-year-old is charged with a misdemeanor they will be processed as a **juvenile delinquent**. The following conditions apply:
 - Must be placed in the juvenile designated room and kept separate and away from adult prisoners.
 - Parents must be notified prior to questioning and given the opportunity to be present.
 - Miranda rights must be given.
 - If safe to do so, released to a parent or guardian.
 - No fingerprints or photographs will be taken.
 - Proper juvenile paperwork filed.
 - Case referred to the Probation Department of the Family Court System within 48 hours.
 - Juvenile appearance tickets are returnable to Probation on Friday mornings at 9:30am.

D. Penal Law Felonies

1. If a custodial arrest is made and the 16-year-old or 17-year-old is charged with a felony they will be processed as an **adolescent offender**. The following conditions apply:
 - Must be placed in the juvenile designated room and kept separate and away from adult prisoners.
 - Parents must be notified prior to questioning and given the opportunity to be present.
 - Miranda rights must be given.
 - Proper juvenile paperwork filed.
 - Sworn statements obtained from all relevant parties (i.e. witnesses, victims, etc.)
 - Fingerprint and Photos are to be taken.
 - Taken to Youth Part of Superior Court. When the Court is not in session they must be brought before the Accessible Magistrate for arraignment.
 - Appearance Tickets returnable to Youth Part should be made returnable the next business day at 2:30 p.m. Cases will be assigned to a judge at the time of the first appearance.

Note: In cases involving youth under (18) eighteen years of age, who have committed a crime, it is imperative to obtain sworn statements from the involved parties at the time of the offense when feasible.

E. Arrest Warrants

1. CPL § 120.30 has been amended to add that an AO or JO arrested on a warrant issued from the Youth Part must be brought before the Youth Part of the Superior Court in which the warrant is returnable, provided that the court is in session. If the Youth Part is not in session, the officer must bring the individual before an Accessible Magistrate for arraignment purposes.

VIII. GUIDANCE FOR CONTACTS WITH CHILDREN UNDER THE AGE OF TWELVE

Updated 12/2022

- A. New York State passed legislation that raised the lower age of juvenile delinquency from 7 to 12 years of age, except for homicide related offenses. The new law requires that each Local Department of Social Services (LDSS) create a differential response program for children 7 to less than 12 years old, who no longer fall under the definition of juvenile delinquent under section 301.2 of the Family Court Act (FCA), but whose behavior would otherwise bring them under the jurisdiction of Article 3 of the FCA.
 1. A differential response is a voluntary program that is offered to eligible children and their families. The purpose of the program is to remove the youngest children from the juvenile justice system. This is done by responding to their needs and the needs of their families through community-based services and providing supports that promote and restore well-being.

- B. When officers comes in contact with a child under the age of 12, who is eligible for a differential response, it is important to collaborate with DSS. This will ensure DSS is aware of the reason for the child’s contact with law enforcement so they can then contact the family and offer any needed services and support. To facilitate this process, the Office of Children and Family Services has developed a *Differential Response Referral Form* for law enforcement to notify DSS of their contact with the child. Within the document, there is a link to the contact information of each local DSS to help you quickly find where the form should be forwarded. The parent or caretaker for the child should also receive a copy of the referral form and the contact information for the local DSS where the form was sent. *Updated 12/2022*

VIX. PAPERWORK PROCESSING

- A. An Incident Report will be generated on all incidents.
- B. In all cases of an arrest for a crime the *Juvenile Date Sheet – Addendum to Arrest Report* form should be completed and emailed to the County Attorney’s Office.
- C. When necessary to fingerprint and photograph juveniles the Live Scan system will be utilized. Fingerprints will be taken in the following circumstances (palm prints should also be taken):
 - 1. The child is twelve (12) years of age and is charged with a class “A” or “B” Felony. *Updated 12/2022*
 - 2. The child is thirteen (13) years of age or older and is charged with a class “C”, “D” or “E” Felony. *Updated 12/2022*
 - 3. The child is a Juvenile Offender as outlined in III C of this general order.
 - 4. The child is an Adolescent Offender and is charged with a VTL misdemeanor.
- D. Any and all paperwork generated involving a juvenile will be marked JUVENILE.
- E. The Civil Division will maintain all juvenile reports in a secured location separate from adult documentation.
- F. Reports, statements, affidavits, notices and dispositions are then forwarded to the Probation Department for processing.

X. CASE DISPOSITION

- A. Upon receipt of the “Notice of Disposition” or “Termination of Proceeding” form:
 - 1. If the case is terminated in favor of the respondent (dismissed, withdrawn or ACD), each recipient shall seal or cause to be sealed all official records and papers, including judgments and orders of the court, but not including public court decisions or opinions or records and briefs on appeal, relating to the arrest, the prosecution and the probation service proceedings, including all duplicates or copies thereof, on file with the Court, police agency, probation services and presentment agency and shall not

make such papers available to any person or public or private agency.

2. If the case is terminated in any manner other than an adjudication for an act which would constitute a felony, each recipient shall destroy all such fingerprints, palm prints, photographs and copies thereof and information relating to the arrest of the respondent.

Attachments:

- A. *Appearance Ticket (Juvenile) – FCA 307.1*
- B. *Juvenile Transport Form*
- C. *Designated Juvenile Questioning Room(s)*
- D. *Differential Response Referral Form*
- E. *Juvenile Date Sheet – Addendum to Arrest Report*

By Order Of



Derek Osborne
Sheriff