

Title: 2.25 Juveniles

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PROCEDURE:

To provide guidelines for interviewing and arresting juveniles.

DEFINITIONS

1. A juvenile delinquent is a person:

- Over seven and less than sixteen years of age, who, having committed an act that would constitute a crime (misdemeanor or felony) if committed by an adult, (A) is not criminally responsible for such conduct by reason of infancy, or (B) is the defendant in an action ordered removed from a criminal court to the family court.
- A sixteen or seventeen-year-old arrested for a misdemeanor. **All statutory amendments pertaining to 16-year-olds take effect October 1, 2018 and for 17-year-olds are effective October 1, 2019.**

2. A juvenile offender is a person:

Thirteen years of age who commits an act constituting;

- Murder in the second degree as defined in subdivision one and two of section 125.25 of the Penal Law
- A sexually motivated felony where authorized pursuant to section 130.91 of the Penal Law

Fourteen or fifteen years of age who commits an act constituting;

- Murder in the second degree as defined in subdivisions one, two, and three of section 125.25 of the Penal Law
- Kidnapping in the first degree
- Arson in the first degree
- Assault in the first degree as defined in subdivisions one and two of section 120.10 of the Penal Law
- Manslaughter in the first degree
- Rape in the first degree as defined in subdivisions one and two of section 130.35 of the Penal Law
- Criminal Sexual Act in the first degree
- Aggravated sexual abuse in the first degree
- Burglary in the first degree
- Burglary in the second degree as defined in subdivision one of section 140.25 of the

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Penal Law

- Arson in the second degree
- Robbery in the first degree
- Robbery in the second degree as defined in subdivision two of section 160.10 of the Penal Law
- Criminal possession of a weapon in the third degree as defined in subdivision four of section 265.03 and where such machine gun or such firearm is possessed on school grounds as that phrase is defined in subdivision fourteen of section 220.00 of the Penal Law
- Criminal possession of a weapon in the second degree where such machine gun or firearm is possessed on school grounds, where an attempt is made to commit murder in the second degree or kidnapping in the first degree

4. Adolescent Offender means a person charged with a felony committed on or after October 1, 2018 when he or she was sixteen years of age or on or after October 2, 2019 when he or she was seventeen years of age.

3. A Person in Need of Supervision (PINS) is a person less than eighteen years of age who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority, or who violates the provisions of section 221.05 of the Penal Law.

I. GENERAL INFORMATION

1. An adolescent offender, juvenile offender, and juvenile delinquent may be arrested by members under the same rules and procedures which govern the arrest of adults. That is, when the arresting officer has reasonable cause to believe that the juvenile has committed a crime (misdemeanor or felony only) whether in the officer's presence or otherwise.

2. Adolescent offenders and juvenile offenders shall be processed in the Youth Part of the Warren County Superior Court by the use of existing accusatory instruments which facilitate an adult arrest.

3. The prosecution of juvenile delinquents begins in the Family Court and shall be accused by executing a Juvenile Delinquency Complaint at the Probation Department, which in turn starts the process in the Family Court. A copy of the Juvenile Delinquency Complaint is attached to this policy.

4. Juveniles may be questioned by members only at a location designated as a suitable place by the Office of Court Administration. Questioning shall be conducted in the presence of the parent or guardian and both shall be advised of their "Miranda" warning. The Detectives Office and the Court Attorney Conference Rooms are designated juvenile interview locations.

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5. Every effort should be made to minimize public exposure of the juvenile and avoid contact with adult defendants. The officer should insure the privacy and safety of juveniles using the toilet facilities. In accordance with section 304.1 of the Family Court Act, juveniles will be detained separately from adult offenders at all times.
6. An officer shall be in attendance with the juvenile whenever the room is in use as a questioning facility. If the juvenile is female, such Officer shall be a female Officer if available.

II. PROCEDURE AFTER ARREST

1. Immediately notify the parent, parents, guardian or other person legally responsible for the child's care that their child has been taken into custody.
2. Determine if the child is to be considered a juvenile delinquent, juvenile offender, or an adolescent offender, due to the designated offense committed. If the child has committed an offense which would designate him or her as a juvenile offender or adolescent offender the child will be taken before the Youth Part of the Superior Court, a designated magistrate or to a detention facility if the magistrate is not available. However, every effort should be made to contact a justice for arraignment.
3. If the child is determined to have juvenile delinquent status, he or she may be released to the parent or guardian pending the filing of a Juvenile Arrest Report with the probation department.
4. All Juvenile Arrests shall be recorded in the Arrest module of the department's Records Management System. The Security Class of the arrest will be designated as "Juvenile", and the Juvenile Release Status will be completed. Access to Juvenile records is restricted to law enforcement. Juvenile records are not to be available or disseminated to the public.
5. There is no provision in the law to deal with traffic infractions committed by juveniles up to the age of 15; however, officers should be aware of possible action through family court if the crime involved a violation of Section 165.05 of the Penal Law (unauthorized use of a vehicle). Officers may also consider the possibility of issuing a summons to the owner of the vehicle for permitting unlicensed operation. (See policy 47.1 Vehicle and Traffic Enforcement for regulations regarding the processing of traffic infractions involving offenders aged 16 and 17.)

III. JUVENILE FINGERPRINTING

1. Section 306.1 of The Family Court Act provides law enforcement agencies, when charging an alleged juvenile delinquent, must fingerprint children eleven years of age or older charged with a class "A" or "B" felony, or children thirteen years of age or older charged with a class "A", "B", "C", "D", or "E" felony.

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2. Fingerprints shall be taken pursuant to the arrest of all juvenile offenders. Adolescent offenders may be fingerprinted when they are charged with a felony or a VTL printable misdemeanor. As part of the fingerprinting process, the offenders photograph and palm prints may also be taken.

3. In compliance with paragraphs one and two above, fingerprint the juvenile using LiveScan and electronically submit them as you would for an adult arrest. While the law requires a set of fingerprints for the state, it also specifically prohibits the retention of any copies for local purposes.

IV. PINS

1. Runaway youths shall whenever possible be returned to the parent or other person legally responsible for such child. If it is unsafe or the youth is unable to be returned to the parent or other person legally responsible, another appropriate family member or relative should be contacted for placement of the child. If no other family residence is available the member involved shall contact either Berkshire’s Burnham Youth Safe Center 518 781-0909 or Middletown Non-Secure Detention Facility at 845-343-4211.

2. Youths age 15 or younger who have committed a crime are juvenile delinquents, and should not be reported as a PINS.


3. No child who is considered or may be considered a Person in Need of Supervision may be held or detained in any lockup or other place used for adults convicted of any crime or under arrest and charged with a crime. This includes the arrest processing room at Headquarters.

V. JUVENILE ACTIVITY REPORTS

1. Any police contact with a person that is less than 18 years of age will be recorded in the Blotter module and the security class of the blotter will be designated as “Juvenile.” Once the record is designated as “Juvenile” the record within Impact RMS is non-public information. Information that is collected by officers and entered into the RMS will be monitored and maintained by the administrative staff.

The sealing of records will be conducted in accordance with policy 8.11 Seal Orders by a Sergeant designated by the Chief of Police.

Authority:



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Chief of Police