

**COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK**

GENERAL ORDER POLICE BUREAU	DATE OF ISSUE DECEMBER 17TH, 2019	EFFECTIVE DATE DECEMBER 17, 2019	NO. 008-19
SUBJECT: GENERAL ORDER Juvenile Procedures		DISTRIBUTION Police Bureau Personnel	AMENDS 008-19
REFERENCE: NYSLEAP 8.7, 8.11, 47.1, 50.4, 50.8; NYS FAMILY COURT ACT ARTICLE 3 & 7.			RESCINDS

Purpose: To familiarize employees regarding the procedures of the Monroe County Sheriff's Office (MCSO) with respect to both criminal and non-criminal contracts with juveniles.

Policy: MCSO personnel shall take a proactive approach to juvenile crime and shall be actively involved in juvenile delinquency prevention programs. When dealing with youth involved in juvenile crimes, all efforts shall be made to use diversionary programs, unless the interests of justice require an alternate disposition.

Definitions: Person in need of supervision (PINS): A person less than eighteen (18) years of age who does not attend school in accordance with the provisions of part one of Article 65 of the Education Law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority or who violates the provisions of Section 221.05 of the Penal Law.

Juvenile Delinquent (JD): A person seven (7) years old and less than seventeen (17) years of age (effective October 1st, 2018) and less than eighteen (18) years of age (effective October 1st, 2019), who committed an act that would constitute a crime if committed by an adult and is the defendant in an action ordered removed from an Adult Criminal Court to the Family Court pursuant to CPL Article 725. Excludes Juvenile Offenders.

Adolescent Offender (AO): A person over fifteen (15) and less than seventeen (17) years of age effective October 1st, 2018, and a person over fifteen (15) and less than eighteen (18) years of age effective October 1st, 2019, who commits a felony level crime and whose case stays in the Youth Part of the Adult Criminal Court.

Juvenile Offender (JO): Any individual under the age of sixteen (16) and older than twelve (12) years of age committed to the custody of the Sheriff with charges outlined in NYS Penal Law Article 10 (18).

I. Duties and Responsibilities:

A. Zone Criminal Investigation Section (CIS) Sergeants shall:

1. Be charged with the direct supervision of the Investigators dealing with juvenile cases and are responsible for coordinating and tracking all case assignments.
2. Screen all juvenile matters and forward petition packages to the appropriate court via proper channels.
3. Maintain responsibility for ensuring the thorough completion of petition packages submitted by Patrol Deputies and CIS Investigators.

4. Act as a liaison to school personnel, youth services agencies, community boards and committees, local police departments, and courts.
 5. Maintain communication with CIS and Zone Captains and Lieutenants on pertinent juvenile matters and provide timely reports on juvenile delinquency trends.
- B. Zone Investigators dealing with juvenile cases shall:
1. Be under the direct supervision of the Zone CIS Sergeant and are charged with the responsibility of carrying out all juvenile law enforcement duties, prescribed orders, and tasks within their Zone of assignment.
 2. Work closely with assigned Zone Deputies and on juvenile-related situations and serve as a resource for Zone personnel concerning juvenile problems, laws, and procedures.
- C. HQ CIS Clerk shall:
1. Maintain the unit record keeping system, ensuring proper controls to maintain separation and limited access to all juvenile identification and arrest records.
 2. Purge juvenile files, on a regular basis, consistent with relevant state law and the State Archives and Records Administration Records Retention and Disposition Schedule CO-2, promulgated by the New York State Education Department.
 3. Compile statistical data and prepare necessary statistical reports.
 4. Seal and maintain, in a secure environment, all records and evidence of identification such as photographs and palm prints, adhering to the guidelines of Section 306.1, 375.2 and 381.3 of the Family Court Act (FCA) relating to such safeguards.
 5. Assist unit staff in other duties as required.
 6. Be under the direct supervision of the designated HQ CIS Sergeant.
 7. Maintain liaison with Family/Youth Part Court Intake Probation.
- D. The Training Unit will have the responsibility to arrange and provide for comprehensive training to all Zone staff members in regard to current and updated techniques and procedures involving juveniles and their families.

II. General Procedures upon Contact with a Juvenile

- A. Members shall be aware of the various alternatives available for processing juveniles within the Juvenile Justice System. They shall evaluate each incident and if the juvenile appears to be nearing a PINS situation, a family member or guardian should be directed to contact Family Access and Connection Team (F.A.C.T.) at (585) 753-2639 for intervention assistance.
- B. Member deciding how to deal with juveniles shall take into consideration, but not be limited to the following factors:
1. The gravity of the offence.
 2. Prior contacts with the offender.
 3. Age and family situation of the offender.
 4. Types of diversion programs available to effectively deal with the situation.

- C. After evaluation a situation, a member may decide that a less formal means of diversion will be more effective in dealing with a juvenile. These methods may include:
1. Meeting with the youth and parents, in order to solicit the cooperation of the family in identifying and dealing with the problem within the family unit.
 2. Referring the youth and/or family to a Zone Investigator as a means of diversion.
 3. If a member feels that after taking all factors of the offense into consideration the youth has been effectively dealt with by the informal contact, formal diversion may be unnecessary provided that all rights of the victim and offender have been preserved.
- D. When a situation warrants that a youth be interviewed, the following guidelines must be adhered to:
1. Every attempt will be made to contact the youth's parents or guardian and they shall be advised to respond to the facility where the youth will be questioned and shall be permitted to be present during the questioning. The youth must be advised of and waive their constitutional rights prior to any questioning.
 2. In cases where parents or guardians are present, such advisement and waiver opportunity must also be afforded to them. The parent or legal guardian's signature will be placed on the waiver form in addition to the youth's.
 3. Only court approved and designated areas will be used to question a youth and members will be familiar with those areas within their jurisdiction. The appropriate areas for questioning are at the home of the juvenile, or in an approved room of a Zone or Headquarters. The HQ CIS Clerk and the Zone CIS Sergeant maintains a list of such approved facilities.

Note: At no time under any circumstances will a juvenile be placed into a Temporary Detention Cell.
 4. When questioning a juvenile, members will interview the subject for a reasonable length of time and the number of Police personnel present at the time of interview will be minimized, as circumstances warrant.

Note: Videotaping of juveniles should be consistent with PBGO-005.
 5. It is the responsibility of the member to ensure that the youth understands that basic procedures that will be followed during the contact with the Juvenile Justice System, explaining diversion and Family Court procedures.

III. Juvenile Arrest packages

- A. Refer to Appendix "A" for arrest documentation.

Note: When a juvenile is arraigned and placed in detention, the completed arrest package(s) are sent directly to the appropriate court by 11:00 am on the following court day. Therefore, the HQ CIS Clerk must receive the juvenile arrest package by 9:00 am for delivery to the appropriate Court.

- B. Juvenile Appearance Ticket(s) may be issued if the juvenile is not arraigned. However, the above referenced Arrest Package procedure must still be followed.

1. JD's – Probation Intake will assign the date and time of appearance at Probation for a Diversion Assessment. Probation is located at 33 North Fitzhugh Street, Rochester.
 2. JO's and AO's – Families are to report to the Youth Part at 1pm the following Monday or Wednesday (whichever is sooner).
 3. If an Expedited Appearance Ticket is used, paperwork should be faxed to probation at 585-753-2908 and;
 - a. JO and AO should report to the Youth Part Court at 1pm the next business day.
 - b. JD should report to Probation at 2pm the next business day.
- C. PINS – Members will be familiar with FCA Sections 732 and 733 as they pertain to procedures for handling PINS and follow any order directed by the court regarding the custody of such juvenile.
- D. Child abuse and maltreatment – Members will be familiar with and have a working knowledge of PBGO-043 Child Abuse Investigations as it pertains to the appropriate disposition of abuse and maltreatment cases and DSS Form 221, attached thereto.

Note: Juvenile arrest packages must establish prima facie cases in depositions. In order to accomplish this, it is imperative that the supporting depositions filed establish probable cause that a crime was committed and the juvenile's commission of that crime. For example, it is necessary that the victims of a burglary file a supporting deposition stating that their house was broken into without permission on a particular date and time and include a summary of what was taken. It would also be necessary to file a separate deposition to establish who committed the burglary and how the deponent knew who did it, such as from a witness who saw the juvenile break into the home or from the deputy or investigator taking a confession by the juvenile.

- E. NYSPL violations and NYS V&TL misdemeanor arrests of sixteen (16) year olds (effective October 1st, 2018) and seventeen (17) year olds (effective October 1st, 2019) will be completed as adult arrest packages (PDR, Information and adult Appearance Ticket). A deposition from the arresting deputy is not required. The case will be heard in Local/Town Criminal Court. This only applies when the violation or V&TL misdemeanor is the only charge. If a juvenile is arrested for a violation or V&TL misdemeanor and a criminal misdemeanor or higher, the arrest package should be completed for the court designated to handle the higher charge (Family Court of Youth Part of Criminal Court). This section shall not apply to juveniles less than sixteen (16).

IV. Arraignments

- A. An AO or JO will only be placed into a detention facility at the direction of Family Court / Youth Part judge at arraignment.
- B. When an arraignment is necessary, the arresting deputy shall contact the Assistant District Attorney assigned to the Youth Part Court, followed by Probation (585-478-0371) who will complete a Risk Assessment Instrument (RAI).
- C. The juvenile shall be transported to the Youth Part Court when in session. If not in session after-hour arraignments will occur and should be coordinated through the on call Assistant District Attorney assigned to the Youth Part Court.

- D. If at arraignment the juvenile is ordered to be placed into detention, the deputy will transport the juvenile to the Rush facility if a bed is available. If no beds are available in Rush, probation will assist in locating an available bed at a facility outside of Monroe County. It shall be the responsibility of the deputy to transport the juvenile to the detention facility. The arresting agency will be responsible for the transport from the detention facility to the appropriate court the following business day.

V. Paperwork Flow

- A. Members will complete a PB-098 Juvenile Contact Report (JCR) and other agency appropriate report(s) whenever responding to an incident or crime involving a juvenile contact, other than when a juvenile is a victim. Contacts that must be reported on a JCR include, but are not limited to, the following: Incidents where a juvenile is suspected of a crime, missing persons reports, domestic incident reports involving a juvenile who creates, causes or contributes to the reported domestic dispute, or violence, mental hygiene arrests, juvenile criminal arrests, PINS contacts, fire play, underage drinking and drug use, and any other situation which requires the completion of a JCR as requested by a Supervisor.

- B. Following initial review, the completed JCR, copy #2 of the PB-066 Standardized Incident Report (SIR), and all other reports involving juvenile suspects will be forwarded to the Zone CIS Sergeant for further review. Copies of the JCR and SIR will be provided to any member assigned for follow-up investigation.

Note: In cases involving juvenile arrests, see Section III for timely submission of all paperwork to HQ CIS Clerk.

- C. It will be the responsibility of the Zone CIS Sergeant to ensure the appropriate follow-up of assigned cases and to further ensure that all necessary paperwork is forwarded to the HQ CIS Clerk.

VI. Warrant Service

- A. PINS Warrants – If Family Court is not in session, contact probation (585)-478-0371.
- B. Contact Probation (585) 478-0371. Probation will complete a RAI and provide guidelines for moving forward.

VII. Fingerprints and Photographs

- A. The Family Court Act section 306.1 specified that, following the arrest of a juvenile alleged to be a Juvenile Delinquent, the arresting Deputies must fingerprint:
 - 1. Juveniles 13 to 15 years of age and charged with any felony offense (Class A, B, C, D, or E), and
 - 2. Juveniles 11 to 12 years of age charged with a Class A or B felony offense.
 - 3. JD's arrested for these offenses will be processed in MoRIS as a juvenile with a photograph and a paper juvenile fingerprint card.
- B. When a juvenile is charged as a JO or AO they will be processed as an adult in MoRIS with fingerprints and a photograph.
- C. Fingerprinting will be conducted prior to the release of a juvenile on an appearance ticket or prior to detention at a detention facility.

- D. Arresting deputies or Investigators will process a juvenile for fingerprints and photographs only in agency approved and designated booking areas (MoRIS).
- E. The arresting staff member will ensure that during fingerprinting and photographing, the juvenile does not come into contact with arrested adults or adult suspects.
- F. Upon completion of processing, the arresting staff member will forward the photograph, fingerprints, and juvenile package to his/her immediate supervisor for review. Upon review, the package will be forwarded to the Zone CIS Sergeant while will provide a secondary review and forward it to the HQ CIS Clerk for security, retention, and distribution as per agency regulations and the NYS Family Court Act.

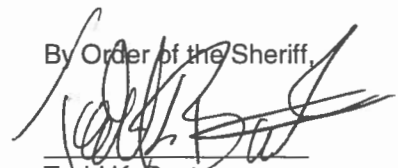
VIII. Court Processing

- A. Misdemeanors – All misdemeanor cases (other than V&TL misdemeanors) will be heard in Family Court pursuant to the Family Court Act.
- B. Felonies – All felony cases for AO's and JO's will start in the Youth Part of the Criminal Court. Family Court judges will preside over cases in the Youth Part of Criminal Court.
- C. All AO Non Violent Felonies – Will be transferred from the Youth Part to the Family Court unless the District Attorney files a motion within 30 days showing "extraordinary circumstances" as to why the case should remain in the Youth Part. If the District Attorney files motion, there can be a hearing and the judge must decide within five (5) days of the hearing or motions whether to prevent the transfer of the case to Family Court.
- D. AO Violent Felonies – Can also be transferred from the Youth Part to the Family Court. If the charges do not include the accused displaying a deadly weapon in furtherance of the offense, causing significant physical injury, or engaging in unlawful sexual conduct, the case will transfer to Family Court unless the DA files a motion within 30 days showing "extraordinary circumstances" as to why the case should remain in the Youth Part. If the charge does include an element listed above, removal to Family Court is only possible with consent of the District Attorney. Vehicle and Traffic Law cases and Class A felonies other than Class A drug offenses cannot be transferred.

Note: The case majority of cases of sixteen (16) to seventeen (17) year olds will ultimately be heard in the Family Court, either originating there, or being transferred there from the Youth Part of the audit criminal court.

- E. Violations – All violation arrests of sixteen (16) year olds (effective October 1st, 2018) and seventeen (17) year olds (effective October 1st, 2019) will be heard in an adult criminal/local town court. A PDR, Information, and an Adult Appearance Ticket will be completed.
- F. Vehicle and Traffic Law Misdemeanors and Infractions – Traffic infractions and traffic misdemeanor arrest of sixteen (16) year olds (effective October 1st, 2018) and seventeen (17) year olds (effective October 1st, 2019) will be heard in an Adult Criminal/Local Town Court.

By Order of the Sheriff,



Todd K. Baxter

Appendix A

JD, AO, and JO Arrest Paperwork:

Juvenile Delinquent Package (JD) – Family Court:

- No Accusatory Instrument required
- Probation Intake Form
- Original Juvenile APT, if applicable
- Juvenile Contact Form
- Incident Report and Investigation Action Reports
- All Original Depositions (Officer, Victim, Witness)
- Photo Array
- Technician and Property Reports
- Rights Waiver
- Tow Slip
- CD / DVD if applicable
- Original Voluntary Statement if applicable
- Copies of photos/text evidence
- Juvenile MoRIS Booking (if required). MoRIS photo and paper juvenile fingerprint card

Adolescent Offender package (AO) – Youth Part of Criminal Court (16 years old, includes 17 year olds effective 10/01/19):

- A 16 year old charged with any felony; Accusatory instrument is required
- Paperwork is same as a JD package. Complete depositions (including Deputy) and JCR as arrest may be transferred to Family Court
- Adult MoRIS Booking with PDR
- If Juvenile Appearance Ticket is issued, families are to report to Youth Part at 1pm the following Monday or Wednesday whichever is sooner)
- File 15 required at arraignment is applicable

Juvenile Offender Package (JO) – Youth Part of Criminal Court:

- Paperwork is same as AO package
- Adult MoRIS Booking with PDR
- File 15 required at arraignment

NYSPL Violations, V&T Misdemeanors and Infractions – 16 year old only (includes 17 year old effective 10/01/19):

- Same paperwork as adult arrest. PDR and adult Appearance Ticket. A deposition from the arresting deputy is not required.

The highest charge will dictate what paperwork is needed and how the juvenile will be processed.

Example 1: A 16 year old charged with a misdemeanor and a felony will be considered an AP and processed as an adult. The case will be heard in Youth Part.

Example 2: A 16 year old is charged with a misdemeanor and a violation will be considered a JD and processed as a juvenile. The case will be heard in Family Court.

The original accusatory instrument, copies of all depositions, and the fil 15 is required for all arraignments, including after-hours arraignments. When a juvenile is arraigned and placed in detention, all arrest packages must be completed by the end of shift so they can be delivered to the HQ CIS clerk by 0900 hours the following business day.

All juvenile arrest packages should be forwarded to the CIS/Zone Admin Sergeant who will review and forward to the HQ CIS Clerk. Juvenile packages do not go to records.