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NOTE: This material was updated on November 15, 2016 and may have been amended by recent legislative enactments, court decisions or agency policy. Any questions should be referred to Fran Carino or your local State's Attorney.

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**Emergency Services &
Public Protection**
Dora B. Schriro, Commissioner



**Division of Criminal
Justice**
Kevin T. Kane, Chief State's Attorney

Update on Juvenile Laws & Procedures

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Juvenile Detention Procedures

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Currently Required to Place a Juvenile in Detention

- (A) there is probable cause to believe that the child has committed the acts alleged,
- (B) there is no less restrictive alternative available and
- (C) one of the following:
 1. a strong probability that the child will run away,
 2. a strong probability that the child will commit other offenses injurious to the child or to the community,
 3. probable cause to believe that the child's continued residence in the child's home poses a risk to the child or the community because of the serious and dangerous nature of the acts the child is alleged to have committed,
 4. a need to hold the child for another jurisdiction,
 5. the child has failed to respond to the court process, or
 6. the child has violated the conditions of release;

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Impact of PA 16-147 (effective 1/1/2017)

- (A) there is probable cause to believe that the child has committed the acts alleged,
(B) there is no less restrictive alternative available and
(C) one of the following:

Child has a history of running away or tells the police they are running away upon release.

1. ~~a strong probability that the child will run away,~~
2. a strong probability that the child will commit other offenses injurious ~~to the child or~~ to the community,
3. probable cause to believe that the child's continued residence in the child's home poses a risk ~~to the child or~~ the community because of the serious and dangerous nature of the acts the child is alleged to have committed,
4. a need to hold the child for another jurisdiction,
5. the child has failed to respond to the court process, or
6. ~~the child has violated the conditions of release;~~

Child has a substance abuse problem, is associated with a gang or involved in prostitution or trafficking.

Child is out on a suspended detention order for another crime and they fail to abide by a court ordered curfew, order to attend school, remain alcohol or drug free or not associate with known gang members.

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Required to Place a Juvenile in Detention After 1/1/2017

- (A) there is probable cause to believe that the child has committed the acts alleged,
(B) there is no less restrictive alternative available and
(C) one of the following:

1. **probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition,**
2. **a need to hold the child in order to ensure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court process, or**

How will the police know?

3. **a need to hold the child for another jurisdiction.**

Risk of harm to the child & violation of conditions of release no longer considered.

Some creativity may be required when making requests for detention. Examples:

- ***a child on the run may commit larceny, burglary or robbery to survive;***
- ***a child on the run may engage in drug dealing, prostitution or gang activity to survive;***
- ***a child engaged in any of those activities poses a risk to public safety;***
- ***gang members, pimps and traffickers pose a risk to public safety because they are commonly associated with weapons and violence.***

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Impact of PA 16-147 (§1(f) effective 1/1/17)

The police officer who brings a child into detention:

1. shall have first notified, or made a reasonable effort to notify, the parents or guardian of the child in question of the intended action and
2. shall file at the detention center a signed statement setting forth the alleged delinquent conduct of the child **and**
3. **the order to detain such child.**

Upon admission, the child shall be administered the detention risk assessment instrument.

Impact of PA 16-147 (§1(f) effective 1/1/17)

Unless the child was arrested for a serious juvenile offense or unless an order not to release is noted on the take into custody order, arrest warrant or order to detain, the child may be released to the custody of the child's parent or parents, guardian or some other suitable person or agency.

A new form is being created.

Order

Effective immediately, the child shall be transported by the police and detained in the juvenile detention center at **920 Broad Street, Hartford** and held until:

further review and order of the court.
 the detention superintendent or designee can release the child to the custody of the child's parent, guardian or some other suitable person or agency. (Only applicable if the alleged charge is not a serious juvenile offense)

The child is to be released from custody.

Date, Time and Signature	Date (Month, day, year)	At (Time, A.M. or P.M.)	Signed (A Judge of the Superior Court)	Print name of Judge

Ask the judge to check off the box to hold the child until there is a court hearing.

Requirements to place a juvenile in detention after a hearing

- (A) there is probable cause to believe that the child has committed the acts alleged,
- (B) there is no less restrictive alternative available and
- (C) **through the use of the detention risk assessment instrument** one of the following:

- 1. probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition,**
- 2. a need to hold the child in order to ensure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court process, or**
- 3. a need to hold the child for another jurisdiction.**

Risk of harm to the child & violation of conditions of release no longer considered.

Some creativity may be required when making requests for detention.

How will a risk assessment instrument inform the court on these issues?

The court may consider a suspended detention order with graduated sanctions based on the detention risk assessment.

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DCF Protocol - Hotline Process for Children Arrested by Police

Protocol to use if the police need DCF to assume custody of an arrested child because no responsible adult is available and a judge declines to issue an Order to Detain:

1. The police will call the DCF Hotline at 1-800-842-2288 or 860-550-6550.
2. The Hotline will obtain information from the police department regarding the child's current charges, the situation that led to his or her arrest and the efforts the police made to release the child and obtain resource information for the child including parent information and any other pertinent information in order to begin planning for the child.
3. The Hotline will dispatch a primary investigator or on-call social worker to respond to the police department or other location where the child is being held to assist the police officer with locating a responsible adult to assume care for the child. Every effort will be made to assist the police within the six hour time limit for holding a child in secure custody at the police station.
4. If no responsible adult is available to care for the child, the Hotline manager will invoke a 96-hour hold and place the child.
5. If a 96-hour hold is invoked, the DCF Area Office investigations staff will preparing the OTC and neglect petition.

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Emergency Mobile Psychiatric Services

EMPS Crisis Intervention Service Español

▶ about EMPS presentation resources contact reports and materials

when a child needs you,
but you need help...
call us.

DIAL **2-1-1**

Dial 2-1-1 when a child in your care is:

- Having a behavioral crisis that's too much to handle on your own.
- Uncommunicative to you.
- Out of control or destroying property.
- At risk of acting violently or dangerously.
- At risk of threatening to hurt him/herself or others.

What will happen:

- You will be connected to a trained EMPS counselor.
- EMPS will help resolve the crisis immediately over the phone or will come immediately to your location.
- EMPS responds 24 hours a day, 7 days a week.
- Services are confidential, and there is no cost to the family.

EMPS is a program funded by the Connecticut Department of Children and Families in partnership with the United Way of Connecticut 2-1-1

1 WORD VOICE LIFE

2-1-1 United Way

<http://www.empsct.org>

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16 & 17 Year Olds Juvenile v. Adult

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Delinquency Cases

A 16 or 17 year old will be handled as:

Juvenile

Violate:

any federal criminal law,
a state law other than:

- * a violation,
- * an infraction, Except the marijuana law!
- * a Title 14 MV offense,
- * failure to pay or plead or
- * FTA in an adult court case;

delinquency court order;

juvenile probation;

FTA for a juvenile court hearing;

Adult

Violate:

a local or municipal ordinance;
a state law that is:

- * a violation,
- * an infraction, Except the marijuana law!
- * a Title 14 MV offense,
- * failure to pay or plead or
- * FTA in an adult court case;

adult probation;

adult court order;

Interviewing Juveniles

Taking a Statement From a Juvenile

There are now different rules applicable to statements of juveniles under age 16 and those that are 16 or 17.

The key difference between the rules is that:

- For juveniles under age 16 – having a parent or guardian present is a ***requirement*** for the admissibility of the juvenile’s admission, confession or statement. ***CGS §46b-137(a)***
- For 16 year olds or 17 year olds, the presence of a parent or guardian is a ***right*** that may be waived subject to review by the court using the “totality of the circumstances” test. ***CGS §46b-137(b)***

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Any admission, confession or statement, written or oral, made by a **16 or 17 year old** child to a police officer or Juvenile Court official ***shall be inadmissible*** in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement, unless

- (1) the police officer has made reasonable efforts to contact a parent or guardian of the child, and
- (2) such child has been advised that:
 - (A) they have the right to contact a parent or guardian and to have them present during any interview,
 - (B) they have the right to retain counsel or, if unable to afford counsel, to have counsel appointed for them,
 - (C) they have the right to refuse to make any statement, and
 - (D) any statement they make may be introduced into evidence against them.

CGS § 46b-137(b)

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Domestic Violence When the Offender is a Juvenile

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Handling Family Violence Cases Involving Juveniles

“Family violence crimes” trigger certain mandates and options for police including:

- ✓ mandatory arrest;
- ✓ next day court appearance;
- ✓ certain reporting requirements;
- ✓ conditions of release;

Because the new definition of “family violence crime” specifically excludes “delinquent acts,” juvenile offenders responsible for such acts are handled like any other delinquent and not subject to the mandates.

The arrest and detention of a juvenile offender should still be considered however if that is the appropriate law enforcement response based on the facts, circumstances, the law and your department policy.

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Police mandates associated with family violence cases:

✓ Mandatory arrest

CGS § 46b-38b(a) says that “Whenever a peace officer determines upon speedy information that a ***family violence crime*** has been committed within such officer’s jurisdiction, such officer shall arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime.

✓ Next day court appearance

CGS §54-1g(a) says that “Any arrested person who is not released sooner or who is charged with a ***family violence crime*** as defined in section 46b-38a or ... shall be promptly presented before the superior court sitting next regularly for the geographical area where the offense is alleged to have been committed.”

CGS §46b-38a(3) “Family violence crime” means a crime as defined in §53a-24, ***other than a delinquent act*** as defined in §46b-120, which, in addition to its other elements, contains as an element thereof an act of family violence to a family or household member.

Since a “delinquent act” is not a “family violence crime,” the mandates do not apply when the offender is under 18 years of age.

Emancipated minors (court order or valid marriage certificate) do not commit “delinquent acts.”

Police mandates associated with family violence cases:

✓ Ability to impose conditions of release

CGS § 46b-133(c) says that “Upon the arrest of any child, an officer, may:

- (1) release the child to the child’s parent, guardian or other suitable person,
- (2) at the officer’s discretion, release the child to the child’s own custody, or
- (3) seek a court order to detain the child in a juvenile detention center.

There is no statutory authority for the police to impose any conditions of release on a juvenile.

The Conditions of Release – Family Violence form (JD-CR-146) was revised so it now says, in the “Instructions to Police Officer” at the top of the form, ***“Do not use this form if the defendant is a juvenile.”*** There is still a box for the signature of a “Parent/Guardian if minor” but that was meant to apply when there is an order issued in an adult court case such as a civil or family relations case.incident.”

Police mandates associated with family violence cases:

✓ Mandate to file Family Violence Report form (DPS-230-C)

CGS §46b-38d(a) says that “A peace officer who responds to a ***family violence incident*** shall complete a family violence offense report, whether or not an arrest occurs.”

CGS §46b-38a(1) says that “Family violence” means an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of threatening, between family or household members.

Whether an arrest is made or not, a Family Violence Report must be filed when a person under the age of 18 is responsible for a “family violence incident.”

Summary of Police Responsibilities

<u>Activity</u>	<u>Offender Under 18 and not Emancipated</u>	<u>Offender 18 or Older or Emancipated</u>
Arrest	Not Mandatory	Mandatory for Family Violence Crime
Next Day Court Appearance	Not Mandatory unless required by specific court (NH & WTBY)	Mandatory for Family Violence Crime
Conditions of Release (JD-CR-146)	Not set by police	May be set by the police
Family Violence Offense Report (DPS 230-C)	Mandatory whether an arrest is made or not	Mandatory whether an arrest is made or not

FWSN Cases

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FWSN Cases

FWSN Offenses involve a child (under 18) who:

1. has without just cause **run away** from his parental home or other properly authorized and lawful place of abode;
2. is **beyond the control** of his/her parent, parents, guardian or other custodian;
3. has engaged in **indecent or immoral conduct**;
4. is a **truant** from school;
5. while in school, has been continuously and overtly **defiant of school rules** and regulations;
6. is thirteen years of age or older and has **engaged in sexual intercourse** with another person and such other person is thirteen years of age or older and not more than two years older or younger than such child;

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FWSN Cases After August 15, 2017

FWSN Offenses involve a child (under 18) who:

1. has without just cause **run away** from his parental home or other properly authorized and lawful place of abode;
2. is **beyond the control** of his/her parent, parents, guardian or other custodian;
3. has engaged in **indecent or immoral conduct**;
4. is thirteen years of age or older and has **engaged in sexual intercourse** with another person and such other person is thirteen years of age or older and not more than two years older or younger than such child;

Human Trafficking Cases

Human Trafficking Cases

- PA 10-115 amended CGS §53a-82 (prostitution) so only a person 16 or older can be charged with prostitution and imposed a presumption that a 16 or 17 year old was coerced into committing the offense by another person.
- PA 11-180 required the police to report to DCF the arrest of any 16 or 17 year old for a violation of CGS §53a-82.
- Effective 10/1/16, PA 16-71 limits arrests for prostitution to persons 18 or older but did not repeal PA11-180.
- Also effective 10/1/16, the crime of enticing a minor (CGS §53a-90a) applies to persons under 18 rather than only 16.

NOTE: since the purpose of these laws are to protect minors from the harms associated with sexual exploitation and human trafficking, a report to DCF should be made whenever a child under 18 is engaged in or being used for such activity even if the child or youth is not arrested.

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Human Trafficking Cases

- PA 16-71(7) amends CGS §53a-83 (patronizing a prostitute) by providing for a fine of \$2,000.
- The crime becomes a class C felony for the offender if the other person is under 18. The Act eliminates element of “knew or should have known” the person was under 18.
- PA 16-71(8) amends CGS §53a-83a (patronizing a prostitute from a motor vehicle) by providing for a fine of \$2,000.
- PA 16-71(9) amends CGS §53a-90a (enticing a minor) to also apply to persons that the offender reasonably believed to be under 18.

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Police Training Mandates

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Police Training Mandates

State and local police training programs already mandate training on:

- Sexual assault investigation and rape crisis intervention. CGS §7-294f.
- Domestic violence, child abuse, and suicide intervention procedures. CGS §7-294g
- **Handling of juvenile matters. CGS §7-294h**
- Gang-related violence. CGS §7-294l.
- New legal developments for municipal chief law enforcement officers. CGS §7-294m.
- Crimes motivated by bigotry or bias. CGS §7-294n.
- Missing person reports. CGS §7-294o.
- Eyewitness identification procedures. CGS §7-294q
- Handling incidents involving individuals affected with serious mental illness. CGS §7-294r.

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Police Training Mandates

Each police basic or field training program conducted or administered by the Division of State Police within the Department of Emergency Services and Public Protection shall provide a minimum of twenty-seven hours of training relative to the handling of juvenile matters which includes, but is not limited to, the following: (A) Techniques for handling incidents involving juveniles; (B) information relative to the processing and disposition of juvenile matters; (C) applicable procedures in the prosecution of cases involving juveniles; [and] (D) information regarding resources of the juvenile justice system in the state; **(E) the use of graduated sanctions; (F) techniques for handling trauma; (G) restorative justice practices; (H) adolescent development; (I) risk-assessment and screening tools; and (J) emergency mobile psychiatric services;**

Content is being developed.

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