§ 140.40 Arrest without a warrant; by person acting other than as a police officer or a peace officer; procedure after arrest.

1. A person making an arrest pursuant to section 140.30 must without unnecessary delay deliver or attempt to deliver the person arrested to the custody of an appropriate police officer, as defined in subdivision five. For such purpose, he may solicit the aid of any police officer and the latter, if he is not himself an appropriate police officer, must assist in delivering the arrested person to an appropriate officer. If the arrest is for a felony, the appropriate police officer must, upon receiving custody of the arrested person, perform all recording, fingerprinting and other preliminary police duties required in the particular case. In any case, the appropriate police officer, upon receiving custody of the arrested person, except as otherwise provided in subdivisions two and three, must bring him, on behalf of the arresting person, before an appropriate local criminal court, as defined in subdivision five, and the arresting person must without unnecessary delay file an appropriate accusatory instrument with such court.

2. If (a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law and (b) owing to unavailability of a local criminal court the appropriate police officer having custody of the arrested person is unable to bring him before such a court with reasonable promptness, the arrested person must be dealt with in the manner prescribed in subdivision three of section 140.20, as if he had been arrested by a police officer.

3. If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, the arrested person need not be brought before a local criminal court, as provided in subdivision one, and the procedure may instead be as follows:

(a) An appropriate police officer may issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in subdivision two of section 150.20; or

(b) The desk officer in charge at the appropriate police officer's

station, county jail or police headquarters, or any of his superior officers, may, in such place, fix pre-arraignment bail and, upon deposit thereof, issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in section 150.30.

4. Notwithstanding any other provision of this section, a police officer is not required to take an arrested person into custody or to take any other action prescribed in this section on behalf of the arresting person if he has reasonable cause to believe that the arrested person did not commit the alleged offense or that the arrest was otherwise unauthorized.

5. If a police officer takes an arrested juvenile offender or a person sixteen or commencing October first, two thosuand nineteen, seventeen years of age into custody, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or such person the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile offender or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile offender or such person shall not be questioned pursuant to this section unless he or she and a person required to be notified pursuant to this subdivision, if present, have been advised:

(a) of his or her right to remain silent;

(b) that the statements made by the juvenile offender or such person may be used in a court of law;

(c) of his or her right to have an attorney present at such questioning; and

(d) of his or her right to have an attorney provided for him or her without charge if he or she is unable to afford counsel.

In determining the suitability of questioning and determining the

reasonable period of time for questioning such a juvenile offender or such person, his or her age, the presence or absence of his or her parents or other persons legally responsible for his or her care and notification pursuant to this subdivision shall be included among relevant considerations.

6. As used in this section:

(a) An "appropriate police officer" means one who would himself be authorized to make the arrest in question as a police officer pursuant to section 140.10;

(b) An "appropriate local criminal court" means one with which an accusatory instrument charging the offense in question may properly be filed pursuant to the provisions of section 100.55.