

No. \_\_\_\_\_

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**IN THE  
SUPREME COURT OF THE UNITED  
STATES**

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DAGHRIB SHAHEED, WAHEEDAH SHAHEED - PETITIONER

vs.

STEPHAN KROSKI, NEW YORK CITY POLICE OFFICER; IN AN INDIVIDUAL  
AND OFFICIAL CAPACITY, PAUL BLISS, NEW YORK CITY POLICE OFFICER;  
IN AN INDIVIDUAL AND OFFICIAL CAPACITY, LYDIA FIGUEROA, NEW  
YORK CITY POLICE OFFICER; IN AN INDIVIDUAL AND OFFICIAL  
CAPACITY, CITY OF NEW YORK – RESPONDENTS

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Appendices: Volume 2 of 2

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
WAHEEDAH SHAHEED

Plaintiff

v.

**AMENDED COMPLAINT**

Civil Case No. 15 cv 3480

THE CITY OF NEW YORK

NEW YORK CITY POLICE OFFICER  
STEPHAN KROSKI (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE OFFICER  
PAUL BLISS (In an Individual Capacity and  
In an Official Capacity)

NEW YORK CITY POLICE OFFICER  
JONATHAN RODRIGUEZ (In an  
Individual Capacity and In an Official  
Capacity)

NEW YORK CITY POLICE OFFICER  
LYDIA FIGUEROA (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE  
LIEUTENANT KISHON HICKMAN (In an  
Individual Capacity and In an Official  
Capacity)

NEW YORK CITY POLICE OFFICER  
CHRISTOPHER MITCHELL (In an  
Individual Capacity and In an Official  
Capacity)

NEW YORK CITY POLICE OFFICER  
ALEX PEREZ (In an Individual Capacity  
and In an Official Capacity)

Defendants

(Additional Defendants continued)

NEW YORK CITY POLICE CHIEF  
WILLIAM MORRIS (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE  
COMMISSIONER JAMES P. O'NEIL (In  
an Individual Capacity and In an Official  
Capacity)

NEW YORK CITY DEPUTY POLICE  
CHIEF JOHN ESSIG (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY ASSISTANT CHIEF  
RODNEY HARRISON (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY DEPUTY CHIEF  
ANDREW CAPUL (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE INSPECTOR  
ROBERT LUKACH (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE DEPUTY  
INSPECTOR WILSON ARAMBOLES (In  
an Individual Capacity and In an Official  
Capacity)

NEW YORK CITY POLICE INSPECTOR  
FAUSTO PICHARDO (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE CAPTAIN  
TIMOTHY WILSON (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY DEPUTY INSPECTOR  
MARLON LARIN (In an Individual  
Capacity and In an Official Capacity)

Defendants (cont.)

NEW YORK CITY POLICE CAPTAIN  
BRIAN FRANKLIN (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE INSPECTOR  
ERIC PAGAN (In an Individual Capacity  
and In an Official Capacity)

NEW YORK CITY POLICE  
LIEUTENANT HUGH MACKENZIE (In  
an Individual Capacity and In an Official  
Capacity)

NEW YORK CITY POLICE SERGEANT  
CHARLES EWINGS (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE SERGEANT  
MEDINA (In an Individual Capacity and In  
an Official Capacity)

NEW YORK CITY POLICE OFFICER  
EDWARD SALTMAN (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE OFFICER  
DANIEL TROYER (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE AWILDA  
MELHADO (In an Individual Capacity and  
In an Official Capacity)

NEW YORK CITY POLICE DETECTIVE  
DARREN MCNAMARA (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE DETECTIVE  
ANTHONY SELVAGGI (In an Individual  
Capacity and In an Official Capacity)

Defendants (cont.)



NEW YORK CITY POLICE DETECTIVE  
ETHAN ERLICH (In an Individual Capacity  
and In an Official Capacity)

NEW YORK CITY POLICE DETECTIVE  
HENRY MEDINA (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE DETECTIVE  
EDWARD BIRMINGHAM (In an  
Individual Capacity and In an Official  
Capacity)

NEW YORK CITY POLICE DETECTIVE  
CLIFFORD PARKS (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE DETECTIVE  
ANTONIO RIVERA (In an Individual  
Capacity and In an Official Capacity)

NEW YORK CITY POLICE OFFICER  
JOHN DOE (fictitious (name) (In an  
Individual Capacity and In an Official  
Capacity)

Defendants

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1. Now comes the Plaintiff Waheedah Shaheed, by and through her attorney, Lawrence P.

LaBrew, of the Law Office of Lawrence LaBrew, complaining against the following Defendants  
and alleging the following:

#### JURISDICTION AND VENUE

2. This action arises under the Constitution of the United States, particularly the First, Fourth,  
Eighth, and Fourteenth Amendments to the Constitution of the United States, the Due Process  
Clause of the United States Constitution, and under the laws of the United States, particularly the

Civil Rights Act, Title 42 U.S.C. §§ 1983 and 1988.

3. This action also arises under the New York State Constitution, and New York State Law for the intentional torts of Assault, Battery, Excessive Force, False Arrest, False Imprisonment, Malicious Prosecution, and Intentional Infliction of Emotional Distress, and Trespass.

4. This Court has jurisdiction of this cause of action under Title 28 of the United States Code §§ 1331 and 1343 (28 U.S.C.A. §§ 1331 and 1343).

5. This Court also has supplemental jurisdiction over the New York State causes of action under Title 28 of the United States Code § 1367 (28 U.S.C.A. § 1367).

6. The City of New York conducted an examination of the Plaintiff pursuant to N.Y. GEN. MUN. LAW § 50-h.

7. Venue is placed in this District because the City of New York is located in this District and the Defendants are located in New York County.

#### DEMAND FOR A TRIAL BY JURY

8. The Plaintiff demands trial by Jury on all counts in this complaint pursuant to Seventh Amendment to the United States Constitution, and pursuant to Rule 38 of the Federal Rules of Civil Procedure.

#### PARTIES

9. Plaintiff Waheedah Shaheed is a 57 year old citizen of the United States who resides in New York City.

10. Defendant New York City Police Officer Stephen Kroski is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 6 June 2012.

11. Defendant New York City Police Officer Paul Bliss is being sued individually, and in an

official capacity, in relation to the events alleged in this complaint on 6 June 2012

12. Defendant New York City Police Officer Jonathan Rodriguez is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 6 June 2012.

13. Defendant New York City Police Lieutenant Kishon Hickman is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 6 June 2012, 29 June 2012, and 30 June 2012..

14. Defendant New York City Police Officer Christopher Mitchell is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 6 June 2012.

15. Defendant New York City Police Officer Alex Perez is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 6 June 2012, 29 June 2012, and 30 June 2012.

16. Defendant New York City Police Chief William Morris is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

17. Defendant New York City Police Commissioner James P. O'Neil is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

18. Defendant New York City Police John Essig is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

19. Defendant New York City Police Assistant Chief Rodney Harrison is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

20. Defendant New York City Police Deputy Chief Andrew Capul is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

21. Defendant New York City Police Inspector Robert Lukach is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

22. Defendant New York City Police Deputy Inspector Wilson Aramboles is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

23. Defendant New York City Police Inspector Fausto Pichardo is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

24. Defendant New York City Police Captain Timothy Wilson is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

25. Defendant New York City Police Deputy Inspector Marlon Larin is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

26. Defendant New York City Police Captain Brian Franklin is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

27. Defendant New York City Police Inspector Eric Pagan is being sued individually, and in an

official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

28. Defendant New York City Police Lieutenant Hugh MacKenzie is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

29. Defendant New York City Police Officer Charles Ewing is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

30. Defendant New York City Police Sergeant Medina is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

31. Defendant New York City Police Officer Alex Perez is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 6 June 2012, 29 June 2012, and 30 June 2012.

32. Defendant New York City Police Officer Daniel Troyer is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

33. Defendant New York City Police Officer Awila Melhado is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

34. Defendant New York City Police Detective Darren McNamara is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012,

and 30 June 2012.

35. Defendant New York City Police Detective Anthony Selvaggi is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

36. Defendant New York City Police Detective Ethan Erlich is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

37. Defendant New York City Police Detective Henry Medina is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

38. Defendant New York City Police Detective Edward Birmingham is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

39. Defendant New York City Police Detective Clifford Parks is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

40. Defendant New York City Police Detective Antonio Rivera is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 29 June 2012, and 30 June 2012.

41. Defendant New York City Police Officer John Doe (fictitious name) is being sued individually, and in an official capacity, in relation to the events alleged in this complaint on 6 June 2012, 29 June 2012, and 30 June 2012.

42. The true names and identities of the “DOE” defendants are presently unknown to Plaintiff. Plaintiff uses the fictitious name “DOE” to designate these Defendants. Plaintiffs allege that the “DOE” Defendants, along with the other Defendants, are legally responsible for the incidents, injuries, and damages set forth herein, and that each of the Defendants proximately caused the incident, injuries, and damages by reason of their negligence, breach of duty, negligent supervision, management or control, violation of constitutional rights, or by reason of other personal, vicarious, or imputed negligence, fault, or breach of duty, whether based on agency, employment, control, whether severally or jointly, or whether based on any other act or omission. Plaintiff will seek to amend this Complaint as soon as the true names and identities of each of the “DOE” defendants has been ascertained.

43. Each of the Defendants, including the “DOE” defendants, caused, and is legally responsible for, the incidents, unlawful conduct, injuries, and damages alleged by personally participating in the unlawful conduct, or acting jointly or conspiring with others to act, by authorizing or allowing, explicitly or implicitly, policies, plans, customs, practices, actions, or omissions that led to the unlawful conduct, by failing to take action to prevent the unlawful conduct, by failing or refusing to initiate and maintain adequate training or supervision, and thus constituting deliberate indifference to Plaintiff’s rights, and by ratifying the unlawful conduct that occurred by agents and officers under their direction and control, including failing to take remedial or disciplinary action.

44. Plaintiffs is informed and believes and therefore alleges that at all times mentioned in this Complaint, Defendant, and each of them, were the agents, employees, servants, joint ventures, partners, and/or coconspirators of the other Defendants named in the Complaint and that at all

times, each of the Defendants was acting within the course and scope of that relationship with the other Defendants.

45. In doing the acts and/omissions alleged, Defendant, and each of them, acted under color of authority and/or color of state law at all relevant times.

46. Plaintiff is informed and believes, and therefore alleges, that the violations of the Plaintiff's constitutional rights complained of were caused by customs, policies, and/or practices of authorized policymakers of Defendant City of New York, and other supervisory officials of Defendant City of New York's Police Department, which encouraged, authorized, directed, condoned, and/or ratified the unconstitutional and unlawful conduct complained of in this Complaint. These customs, policies, and/or practices were the moving force behind the violations alleged, and include, but are not limited to failing to maintain adequate policies, failing to adequately train, supervise, and control police officers concerning entries into the homes of individuals, failing to investigate and impose discipline on police officers who employ improper investigation methods, and failing to adopt other remedial measures and policies to ensure that such violations do not recur.

47. Each of the Defendants, including the "DOE" defendants caused, and are legally responsible for, the incidents, unlawful conduct, injuries, and damages alleged by personally participating in the unlawful conduct, or acting jointly or conspiring with others to act, by authorizing or allowing, explicitly or implicitly, policies, plans, customs, practices, actions, or omissions that led to the unlawful conduct, by failing to take action to prevent the unlawful conduct, by failing or refusing to initiate and maintain adequate training or supervision, and exercising deliberate indifference to Plaintiff's rights, and by ratifying the unlawful conduct that occurred by the City



of New York or by agents and officers under the direction and control of the City of New York, and by failing to take remedial or disciplinary action against said agents or officers.

48. The City of New York is a municipal corporation and governmental subdivision of the State of New York.

#### FACTS

49. Plaintiff Waheedah Shaheed has a current medical history which includes end stage multiple myeloma which is a terminal illness. Plaintiff also has a heart condition in the form of severe mitral regurgitation. Plaintiff suffers from congenital scoliosis, osteoarthritis of the spine, hips and knees. At the time of the incidents that are the subject of this complaint, Plaintiff ambulated with the assistance of a rollator.

50. Plaintiff is a legal tenant on the lease at the location where the incidents alleged in this complaint happened. On 6 June 2012, at about 6:30 in the evening, Defendant Police Officer Stephan Kroski began banging on the door of the Plaintiff demanding entry into the Plaintiff's apartment with other Defendant Police Officers.

51. Upon information and belief, that being the Plaintiff, the Plaintiff's son – Mr. Noah Shaheed – – opened the door; and, while standing inside of the apartment, asked Defendant Police Officer Kroski if he had a warrant. Upon information and belief, that being the Plaintiff's son, Defendant Stephan Kroski stated that he did not need a warrant.

52. Upon information and belief, that being the Plaintiff, the Defendant Police Officers forced their way into the Plaintiff's apartment without permission or authority. Including the named Defendants, there were numerous other New York City Police Officers who entered Plaintiff's apartment.

53. Upon information and belief, that being the Plaintiff, Plaintiff's daughter asked the Defendant Police Officers to leave her apartment if they did not have a warrant. The Defendant Police Officers refused to leave the apartment. Defendant Police Officer Kroski told Plaintiff's daughter that "he did not need a warrant."

54. Upon information and belief, that being the Plaintiff, the following events occurred when the Defendants entered the Plaintiff's home without permission and authority: Defendant Police Officer Stephan Kroski came to Plaintiff's bedroom door and told the Plaintiff twice "Get up you're coming with me." The Plaintiff asked Defendant Stephan Kroski if he had a warrant. Defendant Stephan Kroski said "Well no." The Plaintiff told Defendant Stephan Kroski "Well then, I am not going anywhere with you." The Plaintiff heard a loud noise, and at that point Defendant Stephan Kroski turned and went down the hall.

55. The Plaintiff got out of bed; and, with the assistance of her rollator, when to the doorway of her bedroom and looked down the hall. The Plaintiff saw approximately five or six police officers inside of her apartment.

56. The Plaintiff asked Defendant Stephan Kroski if he had any warrant of any kind, from any court – or from anywhere – that would permit the Defendants to come into the Plaintiff's home without permission. Defendant Stephan Kroski said no. The Plaintiff told Defendant Kroski that he must "leave her home now."

57. At this point Defendant Stephan Kroski grabbed the Plaintiff by both of her arms and threw Plaintiff to the floor. Plaintiff struggled to get up, and Defendant Stephan Kroski punched the Plaintiff in the eye with a closed fist. Plaintiff fell to the floor as a result of being struck in the eye – with a closed fist – by Defendant Stephan Kroski. At this point, Defendant Stephan Kroski

got on top of the Plaintiff, attempted to pin Plaintiff's arms down with his legs, while placing both of his hands around Plaintiff's neck and choking Plaintiff. Plaintiff states that she reasonably believed that Defendant Stephan Kroski was trying to kill her. As Plaintiff struggled to breath, Plaintiff managed to free her hand, and Plaintiff squeezed Defendant Stephan Kroski's testicles in an attempt to stop Defendant Stephan Kroski from choking Plaintiff.

58. Another New York City Police Officer pulled Defendant Stephan Kroski off of the Plaintiff. Defendant Stephan Kroski attempted to attack the Plaintiff again, and was restrained again by a New York City Police Officer. Upon information and belief, that being the Plaintiff, at this point Defendant Stephan Kroski smashed Plaintiff's rollator.

59. Defendant New York City Police Officer Aguilar handcuffed the Plaintiff. The Plaintiff asked Defendant Police Officer Aguilar if she was under arrest, and Defendant Police Officer Aguilar told the Plaintiff that she was not under arrest. Defendant Police officer Aguilar told the Plaintiff that they were told to go and get Plaintiff and bring Plaintiff to the Precinct." Plaintiff asked who "they" were, and Defendant Police Officer Aguilar said that he did not know who "they" were, but he repeated that the officers were told to come and get the Plaintiff.

60. Plaintiff requested to be taken to the hospital while Plaintiff was still inside of her home. Plaintiff told a police officer that Plaintiff was cancer and heart patient. Plaintiff was having a hard time breathing, and Plaintiff was bleeding from the mouth.

61. Plaintiff was taken from her residence in her bare feet without being allowed to put on any shoes. Plaintiff noticed that several police officers lined the hallway outside of her apartment, and there were at least ten (10) police cars parked in the vicinity of Plaintiff's apartment. Plaintiff requested to be taken to a hospital while still inside of her residence. Plaintiff told a police officer

that she was a cancer and heart patient and that she was having a hard time breathing. Plaintiff again requested medical attention while being taken from her residence. Plaintiff – who was bleeding from the mouth – was handcuffed and placed in a police vehicle. Plaintiff requested medical attention while in said police vehicle. Plaintiff was taken to the 25<sup>th</sup> Precinct. Upon reaching the Precinct, Plaintiff told a Police Lieutenant that she needed an ambulance immediately. Plaintiff specifically told the Police Lieutenant that she was a cancer patient and a heart patient. Plaintiff told the Police Lieutenant that she was afflicted with End Stage Multiple Myeloma. Plaintiff informed said Police Lieutenant that End Stage Multiple Myeloma is a terminal illness. Plaintiff told said Police Lieutenant that she did not know why she was here, and that she did not know why her children were here. The Police Lieutenant said that he was going to find out what was going on. Plaintiff was placed in a jail cell for hours without any medical attention. Plaintiff informed numerous New York City Police Officers that she was having a hard time breathing, and that she wanted to go to the hospital immediately. Plaintiff asked said Police Officers why it was taking so long to get an ambulance to transport her to a hospital. Said New York City Police Officers said that they did not know why it was taking so long for Plaintiff to receive medical attention, and that “these things take time.”

62. On the morning of 7 June 2012, Plaintiff was taken from a cell at the 25<sup>th</sup> Precinct. Plaintiff was handcuffed and Plaintiff’s ankles were shackled. After midnight Plaintiff was put on a stretcher and transported to the hospital. At the hospital, Plaintiff was handcuffed to a bed, and the Plaintiff’s ankles were shackled. A Police Officer was stationed inside of the room – at the hospital – where the Plaintiff was being treated.

63. The Plaintiff was seized, and held in custody at a hospital, handcuffed at said hospital, with a

police officer stationed inside of Plaintiff's hospital room, and with Plaintiff's ankles shackled, from 6 June 2012 to 16 June 2012. The New York City Police Officers stationed in and about the Plaintiff's hospital room would not allow the Plaintiff to take a shower. The Plaintiff was never taken before a Judge between 6 June 2012 and 16 June 2012.

64. On 16 June 2012 the Plaintiff was given a Desk Appearance Ticket in violation of N.Y. CRIM. PROC. LAW § 150.20. The Desk Appearance Ticket had Police Officer Stephan Kroski's name on it. The serial Number of the Desk Appearance Ticket was 25-127, and the Arrest Number was M12650516-K. The Desk Appearance Ticket accused the Plaintiff of allegedly committing the Class D Violent Felony of Assault in the Second Degree (N.Y. PENAL LAW § 120.05-3). The Desk Appearance Ticket directed the Plaintiff to appear in Court on 26 July 2012. The Plaintiff was released from custody on 16 June 2012 and directed to appear in Court on 26 July 2012.

65. Plaintiff denies the allegations in all accusatory instruments filed in the Criminal Court of the City of New York in connection with Arrest Number M12650516 (Docket Number 2012NY044692). The Plaintiff states that the Defendant New York City Police Officers used unnecessary and disproportionate force to effect an unauthorized arrest. Plaintiff states that the Defendants used unlawful physical force against the Plaintiff as stated above. The afore-referenced case was dismissed on the merits, and sealed, on the merits on 18 September 2013.

66. On 29 June 2012, at approximately 6:30 in the evening, New York City Police Detective McNamara knocked on the Plaintiff's door, and asked the occupants to open the door. Plaintiff's son, Mr. Noah Shaheed, asked the Defendant Detective if the Detective had a warrant or some other authorization. Defendant Detective McNamara said that he had a warrant. Plaintiff's

mother, Ms. Waheedah Shaheed, asked Detective McNamara to produce the warrant. Plaintiff states that Defendant McNamara failed to produce any warrant, or other documentation, authorizing entry to the subject location.

67. Defendant McNamara asked the Plaintiff to open the door to talk. When the Plaintiff did not assent to Defendant McNamara demands the Plaintiff was told (in sum and substance) by Defendant McNamara that Plaintiff “open the door and we can do this the easy way, or we can do this the hard way, and it’ll be worst than June 6th.”

68. Defendants continued banging on the door demanding entry. About two hours after the Defendants initially arrived, the lights went out, the air conditioning went out, and all electrical power to the apartment was terminated.

69. On 30 June 2012, a specialized police unit (the emergency services unit or ESU), the Defendants forced their way into the apartment. The police officers were armed with assault rifles, and they were dressed and equipped like military soldiers. They pointed their rifles at every one inside the residence, and every one was told to get down on the floor.

70. Plaintiff states that her property was damaged, the family pet hamster was killed, and Plaintiff was searched and handcuffed inside of her apartment. While being physically removed from her apartment building, Plaintiff noticed that the building was surrounded by police officers.

71. Plaintiff was taken from her apartment in handcuffs, without any shoes on her feet – with neighbors and a large number of people on the street – placed in an ambulance, and taken to Harlem Hospital.

72. On 30 June 2012, at about 2:00 in the afternoon, Plaintiff was taken from Harlem Hospital to the 25<sup>th</sup> Precinct by New York City Police Officers. Plaintiff was placed in a jail cell. Plaintiff

was in pain and having trouble breathing; and, Plaintiff spent the entire time in a jail cell without Plaintiff's pain and heart medication.

73. On 1 July 2012 Plaintiff was taken to 100 Centre Street, in New York County, to be arraigned on an accusatory instrument. Plaintiff was in such pain that Plaintiff had to be transferred to the Bellevue Hospital emergency room. Plaintiff was handcuffed and shackled during her entire stay at Bellevue Hospital, except when an x-ray of the Plaintiff was taken. Plaintiff was treated and released from Bellevue Hospital to the custody of the New York City Police Department.

Defendant Police Officer Stephan Kroski arrived at Bellevue Hospital to transport the Plaintiff to the 25<sup>th</sup> Precinct. When the Plaintiff looked Defendant Stephan Kroski in the face, Defendant Kroski made the following statement to the Plaintiff: "Don't look at me cause it might set me off, and I don't know what I'll do to you."

74. After arriving at Bellevue Hospital Police Officer Troyer took the medical assessment of the Plaintiff – that he received from Bellevue Hospital – and read it out loud to other New York City Police Officers in the Precinct. In a loud voice – with other police officers present – Police Officer Troyer stated the following: that the Plaintiff was suffering from stage four cancer and congestive heart failure. Plaintiff spend the night in another New York City Police Precinct. Plaintiff was brought before a Judge and arraigned on 2 July 2012.

75. Plaintiff was charged with Obstruction of Governmental Administration in the Second Degree (N.Y. PENAL LAW § 195.05) – under Docket Number 2012NY050853 – for allegedly refusing to open Plaintiff's door to the Police.

76. Plaintiff states that under the knock and announce clause of the Fourth Amendment to the United States Constitution – and under clearly established New York State Law – that the



Plaintiff was under no obligation – and had no duty – to open the door of her residence for New York City Police Officers.

77. Plaintiff states that Docket Number 2012NY050853 was dismissed on the merits and sealed on 2 April 2014.

78. Plaintiff states that she was arrested for exercising her First Amendment rights on 29 June 2012/30 June 2012.

### FEDERAL CLAIMS

#### COUNT ONE: FALSE ARREST

79. Plaintiff re-alleges paragraphs 1 through 78 as though set forth in full herein.

80. The Plaintiff states that she was illegally seized, searched, and arrested in violation of the Fourth, and Fourteenth, Amendments to the United States Constitution when she was arrested by Defendant Police Officers on or about 6 June 2012.

81. The Plaintiff states that the Defendants did not have probable cause, or arguable probable cause, to seize/arrest the Plaintiff on 6 June 2012.

82. The Plaintiff denies resisting a lawful arrest on or about 6 June 2012, and the Plaintiff denies engaging in any conduct to obstruct governmental administration that would be construed as resisting a lawful arrest on or about 6 June 2012, and the Plaintiff denies assaulting any Defendant.

83. Defendant Police Officers (or any other police officer or peace officer) did not have an arrest warrant for the Plaintiff on 6 June 2012.

84. Defendant Police Officers (or any other police officer or peace officer) did not have a search warrant to enter the Plaintiff's residence on 6 June 2012.



85. Plaintiff states that she was intentionally confined without her consent, and that the arrest and imprisonment of the Plaintiff was not privileged or justified.

86. Plaintiff states that Plaintiff was seized, falsely arrested, and falsely imprisoned in violation of the Fourth Amendment to the United States Constitution.

87. Upon information and belief, that being the Plaintiff in this case, the Plaintiff was had not committing any crime or offense when she was arrested on 6 June 2012, and Plaintiff was not in possession of - or in close proximity to - any contraband, instrumentalities of a crime, fruits of a crime, or any other evidence of criminal wrongdoing.

88. Plaintiff states that the Defendant intentionally seized the Plaintiff and that the conduct of the Defendant shocks the conscience.

89. As a direct and proximate result of the wrongful conduct of Defendants as alleged above, Plaintiff suffered mental anguish, loss of earnings, loss of capacity for the enjoyment of life, loss of liberty, physical injury, pain and suffering, and injury to the Plaintiff's reputation and good name.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as that amount will sufficiently punish Defendant Police Officers, and Defendant Police Detectives, for willful and malicious conduct. Said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

COUNT TWO: FALSE IMPRISONMENT

Plaintiff re-alleges paragraphs 1 through 89 as though set forth in full herein.

90. The Plaintiff states that she was falsely imprisoned in violation of the Fourth, and Fourteenth, Amendments to the United States Constitution when she was arrested by Defendant Police Officers on or about 6 June 2012.

91. Plaintiff states the Defendants did not have permission or authority to enter her residence, and that no member of her residence consented to the police entry into her apartment.

92. The Plaintiff states that the Defendants did not have probable cause, or arguable probable cause, to seize/arrest the Plaintiff because on 6 June 2012.

93. The Plaintiff denies resisting a lawful arrest on or about 6 June 2012, and the Plaintiff states that Plaintiff never obstructed governmental administration when the Police entered Plaintiff's residence on 6 June 2012. The Plaintiff denies engaging in any conduct that could be construed as resisting a lawful arrest on or about 6 June 2012. Plaintiff also denies assaulting any Defendant in this case.

94. Defendant Police Officers (or any other police officer or peace officer) did not have an arrest warrant for the Plaintiff on 6 June 2012.

95. Defendant Police Officers (or any other police officer or peace officer) did not have an search warrant for the Plaintiff's residence on 6 June 2012.

96. Plaintiff states that she was intentionally confined without her consent, and that the arrest and imprisonment of the Plaintiff was not privileged or justified.

97. Plaintiff states that Plaintiff was seized, falsely arrested, and falsely imprisoned in violation of the Fourth Amendment to the United States Constitution.

98. Upon information and belief, that being the Plaintiff in this case, the Plaintiff was had not committing any crime or offense when she was arrested on 6 June 2012, and Plaintiff was not in possession of - or in close proximity to - any contraband, instrumentalities of a crime, fruits of a crime, or any other evidence of criminal wrongdoing.

99. Plaintiff states that the Defendant intentionally seized the Plaintiff and that the conduct of the Defendant shocks the conscience.

100. As a direct and proximate result of the wrongful conduct of Defendant Police Officers as alleged above, Plaintiff suffered mental anguish, loss of earnings, loss of capacity for the enjoyment of life, loss of liberty, physical injury, pain and suffering, and injury to the Plaintiff's reputation and good name.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendant Police Officers and Defendant Kroski as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as that amount will sufficiently punish Defendant Police Officers' willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the

prosecution of this action to be paid by the Defendants.

COUNT THREE: FALSE ARREST

101. Plaintiff re-alleges paragraphs 1 through 100 as though set forth in full herein.

102. The Plaintiff states that she was illegally seized, searched, and arrested in violation of the First, Fourth, and Fourteenth Amendments to the United States Constitution when she was arrested by Defendant Police Officers on or about 29 June 2012 or 30 June 2012.

103. The Plaintiff states that the Defendants did not have probable cause, or arguable probable cause, to seize/arrest the Plaintiff on 29 June 2012 or 30 June 2012.

104. The Plaintiff states that she committed no crime – and violated no law – on about 29 June 2012 or 30 June 2012. The Plaintiff states that she has a First Amendment right to speak in her own home.

105. Plaintiff states that pursuant to the knock and announce clause of the Fourth Amendment to the United States Constitution – and clearly established New York Law – the Plaintiff did not have to open her door for the Defendants.

106. As a direct and proximate result of the wrongful conduct of Defendants as alleged above, Plaintiff suffered mental anguish, loss of earnings, loss of capacity for the enjoyment of life, loss of liberty, physical injury, pain and suffering, and injury to the Plaintiff's reputation and good name.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

- A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;
- B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million

dollars as that amount will sufficiently punish Defendant Police Officers, and Defendant Police Detectives, for willful and malicious conduct. Said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

#### COUNT FOUR: FALSE IMPRISONMENT

Plaintiff re-alleges paragraphs 1 through 106 as though set forth in full herein.

107. The Plaintiff states that she was falsely imprisoned in violation of the First, Fourth, and Fourteenth, Amendments to the United States Constitution when she was seized and arrested by Defendant Police Officer Lydia Figueroa, and other Defendants, on or about 29 June 2012 and 30 June 2012.

108. The Plaintiff states that the Defendants did not have probable cause, or arguable probable cause, to seize/arrest the Plaintiff on 29 June 2012 or 30 June 2012.

109. The Defendants (or any other police officer or peace officer) did not have an arrest warrant for the Plaintiff on 29 June 2012 or 30 June 2012.

110. The Defendants (or any other police officer or peace officer) did not have a search warrant to enter the Plaintiff's residence on 29 June 2012 or 30 June 2012.

111. Plaintiff states that she was intentionally confined without her consent, and that the arrest and imprisonment of the Plaintiff was not privileged or justified.

112. Plaintiff states that Plaintiff was seized, falsely arrested, and falsely imprisoned in violation of the Fourth Amendment and Fourteenth Amendment to the United States Constitution.

113. Plaintiff states that she was arrested for exercising her First Amendment rights.

114. Upon information and belief, that being the Plaintiff in this case, the Plaintiff had not, and was not, committing any crime or offense when she was seized/arrested on 30 June 2012, and Plaintiff was not in possession of - or in close proximity to - any contraband, instrumentalities of a crime, fruits of a crime, or any other evidence of criminal wrongdoing.

115. Plaintiff states that the Defendants intentionally seized the Plaintiff and that the conduct of the Defendants shocks the conscience.

116. As a direct and proximate result of the wrongful conduct of the Defendants as alleged above, Plaintiff suffered mental anguish, loss of earnings, loss of capacity for the enjoyment of life, loss of liberty, physical injury, pain and suffering, and injury to the Plaintiff's reputation and good name.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as that amount will sufficiently punish Defendant Police Officers for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

COUNT FIVE: SUBSTANTIVE DUE PROCESS VIOLATION FOR RECKLESS  
INVESTIGATION

117. Plaintiff re-alleges paragraphs 1 through 116 as though set forth in full herein.

118. Plaintiff states that Defendant Police Officer denied the Plaintiff substantive due process, and that the intentional conduct of the New York City Police Officer Stephen Kroski "shocks the conscience".

119. The Plaintiff states the Defendant Police Officers conducted a reckless investigation in that the Defendants arrested the Plaintiff – on or about 6 June 2012 – without probable cause, or arguable probable cause, to believe that the Plaintiff had committed a crime.

120. Plaintiff states that she was at her apartment when Defendant Stephen Kroski, and other Defendant Police Officers, entered the Plaintiff's apartment without permission or authority.

121. Plaintiff states that she was beaten, seized/arrested., and Plaintiff never gave the Defendant Police Officers permission to enter here apartment.

**WHEREFORE**, Plaintiff respectfully requests judgment against the Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officers for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the



prosecution of this action to be paid by the Defendants.

**COUNT SIX: SUBSTANTIVE DUE PROCESS VIOLATION FOR RECKLESS  
INVESTIGATION**

122. Plaintiff re-alleges paragraphs 1 through 121 though set forth in full herein.

123. Plaintiff states that the Defendant New York City Police Officers denied the Plaintiff substantive due process, and that the intentional conduct of Defendant New York City Police Officers "shocks the conscience" in relation to the Plaintiff's arrest on or about 29 June 2012, or 30 June 2012.

124. The Plaintiff states that Defendant New York City Police Officers conducted a reckless investigation in that the Defendants seized/arrested the Plaintiff without probable cause, or arguable probable cause, to believe that the Plaintiff had committed a crime.

125. Plaintiff states that she was at her apartment when Defendants entered the Plaintiff's apartment without permission or authority.

126. Plaintiff states that she was beaten seized/arrested for not consenting to open her door when the Defendants demanded entry to Plaintiff's residence.

**WHEREFORE**, Plaintiff respectfully requests judgment against the Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officers for Defendants' willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;



C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

**COUNT SEVEN: THE CITY OF NEW YORK PROVIDED INADEQUATE TRAINING AND  
INADEQUATE SUPERVISION TO DEFENDANT POLICE OFFICER STEPHEN KROSKI  
AND OTHER DEFENDANT POLICE OFFICERS**

127. Plaintiff re-alleges paragraphs 1 through 126 as though set forth in full herein.

128. Plaintiff states that the City of New York was deliberately indifferent, and failed to properly train or supervise the Defendant New York City Police Officers.

129. On 6 June 2012 the Defendants came to the Plaintiff's residence and demanded entry without an arrest warrant and without a search warrant.

130. The Plaintiff had not committed any crime or violated any law.

131. The Defendants forced their way into the Plaintiff's apartment without consent. Plaintiff was seized/arrested and physically beaten by Defendant Police Officers.

132. Plaintiff states that proper training or supervision would have enabled Defendant New York City Police Officers to understand that a police officer cannot enter an individual's home if they do not have an arrest warrant, a search warrant, or some compelling reason.

133. Plaintiff states that proper training or supervision would have enabled Defendant New York City Police Officers to understand that a police officer cannot use excessive physical force against an individual when they enter an individual's home without an arrest warrant, a search warrant, or some compelling reason, and that individual has not committed any criminal offense.

134. Plaintiff states that the conduct of the Defendants' – as outlined in this complaint – will frequently result in the deprivation of the constitutional rights of individuals.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendant as follows:

- A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;
- B. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and
- C. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

COUNT EIGHT: THE CITY OF NEW YORK PROVIDED INADEQUATE TRAINING AND  
INADEQUATE SUPERVISION TO DEFENDANT POLICE OFFICER LYDIA FIGUEROA  
AND OTHER DEFENDANT POLICE OFFICERS

135. Plaintiff re-alleges paragraphs 1 through 134 as though set forth in full herein.

136. Plaintiff states that the City of New York was deliberately indifferent, and failed to properly train or supervise the Defendant New York City Police Officers.

137. On 29 June 2012 and 30 June 2012 the Defendants came to the Plaintiff's residence and demanded entry without an arrest warrant and without a search warrant.

138. The Plaintiff had not committed any crime or violated any law.

139. The Defendants forced their way into the Plaintiff's apartment without consent. Plaintiff was seized/arrested and physically beaten by Defendant Police Officers.

140. Plaintiff states that proper training or supervision would have enabled Defendant New York City Police Officers to understand that a police officer cannot enter an individual's home if they do not have an arrest warrant, a search warrant, or some compelling reason.

141. Plaintiff states that proper training or supervision would have enabled Defendant New York City Police Officers to understand that a police officer cannot use excessive physical force against an individual when they enter an individual's home without an arrest warrant, a search

warrant, or some compelling reason, and that individual has not committed any criminal offense.

142. Plaintiff states that the conduct of the Defendants' – as outlined in this complaint – will frequently result in the deprivation of the constitutional rights of individuals.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendant as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

C. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

**COUNT NINE: FOURTH AMENDMENT MALICIOUS PROSECUTION CLAIM**

143. Plaintiff re-alleges paragraphs 1 through 142 as though set forth in full herein.

144. The Plaintiff states that she was malicious prosecuted within the purview of the Fourth Amendment and Fourteenth Amendment of the United States Constitution.

145. The Plaintiff states that she was deprived of her liberty on 6 June 2012 when she was arrested and seized without probable cause, and that said arrest and seizure was unreasonable because the Plaintiff had not committed any crime or violated any law.

146. The Plaintiff states that she was arraigned and forced to come to Court on every court date regarding the afore-mentioned arrest prior to the case being dismissed on the merits and sealed.

147. The Plaintiff states that the Plaintiff had committed any crime when she was arrested by Defendant Police Officers on 6 June 2012.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million

dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

**COUNT TEN: FOURTH AMENDMENT MALICIOUS PROSECUTION CLAIM**

148. Plaintiff re-alleges paragraphs 1 through 147 as though set forth in full herein.

149. The Plaintiff states that she was malicious prosecuted within the purview of the Fourth Amendment and Fourteenth Amendment of the United States Constitution.

150. The Plaintiff states that she was deprived of her liberty on or about 29 June 2012, and/or 30 June 2012 when she was arrested and seized without probable cause, and that said arrest and seizure was unreasonable because the Plaintiff had not committed any crime or violated any law.

151. The Plaintiff states that she was arraigned and forced to come to Court on every court date regarding the afore-mentioned arrest prior to the case being dismissed on the merits and sealed.

152. The Plaintiff states that the Plaintiff had committed any crime when she was arrested by Defendant Police Officers on or about 29 June 2012, and 30 June 2012.

**WHEREFORE,** Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

COUNT ELEVEN: EXCESSIVE FORCE

153. Plaintiff re-alleges paragraphs 1 through 152 as though set forth in full herein.

154. Plaintiff states that on or about 6 June 2012 the misconduct of Defendant Police Officers – as alleged above – violated Plaintiff's right to be free from the unreasonable and excessive use of force.

155. Defendants' misconduct directly and proximately caused Plaintiff to suffer injury including bodily injury, pain and suffering, shock, extreme emotional distress, and humiliation.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

COUNT TWELVE: EXCESSIVE FORCE

156. Plaintiff re-alleges paragraphs 1 through 155 as though set forth in full herein.

157. Plaintiff states that on, about, or between 29 June 2014 and 30 June 2014, the misconduct of the Defendants, and several John Doe Defendants – as alleged above – violated Plaintiff's right to be free from the unreasonable and excessive use of force as guaranteed by the Fourth Amendment and the Fourteenth Amendment to the United States Constitution.

158. Defendants' misconduct directly and proximately caused Plaintiff to suffer injury including bodily injury, pain and suffering, shock, extreme emotional distress, and humiliation.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the



prosecution of this action to be paid by the Defendants.

#### NEW YORK STATE CLAIMS

159. The Plaintiff states that the City of New York is vicariously liable for the New York State intentional torts - as alleged in this complaint - committed by Defendants under the doctrine of *respondeat superior*.

160. Plaintiff states that there is a master-servant relationship between the Defendants and the City of New York.

161. The Plaintiff states that the Defendants were operating within the scope of their employment - in their official capacity - when they committed the acts as alleged in this Complaint, and that the Defendants were acting in furtherance of the City of New York's business or purpose.

#### COUNT THIRTEEN: FALSE ARREST AND IMPRISONMENT

162. Plaintiff re-alleges paragraphs 1 through 161 as though set forth in full herein.

163. Plaintiff states that she was falsely arrested, falsely imprisoned, and intentionally confined without her consent when Defendant New York City Police Officers – acting with other Defendants, intentionally seized and arrested the Plaintiff – on 6 June 2012 – without probable cause.

164. Plaintiff states that the arrest - and confinement - of the Plaintiff was not otherwise privileged or justified; and Plaintiff was conscious of the confinement.

165. Plaintiff states that the false arrest/false imprisonment - and intentional confinement without consent - was done with malice.

166. Plaintiff states that the false arrest/false imprisonment was not otherwise privileged.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

**COUNT FOURTEEN: FALSE ARREST AND FALSE IMPRISONMENT**

167. Plaintiff re-alleges paragraphs 1 through 166 as though set forth in full herein.

168. Plaintiff states that she was falsely arrested, falsely imprisoned, and intentionally confined without her consent when Defendant New York City Police Officers intentionally seized and arrested the Plaintiff – on 29 June 2012 or 30 June 2012 – without probable cause.

169. Plaintiff states that the arrest - and confinement - of the Plaintiff was not otherwise privileged or justified; and Plaintiff was conscious of the confinement.

170. Plaintiff states that the false arrest/false imprisonment - and intentional confinement without consent - was done with malice.

171. Plaintiff states that the false arrest/false imprisonment was not otherwise privileged.

**WHEREFORE,** Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;



B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

**COUNT FIFTEEN: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

172. Plaintiff re-alleges paragraphs 1 through 171 as though set forth in full here.

173. The Plaintiff states that, on 6 June 2012, the Defendants engaged, were deliberately indifferent, or condoned conduct that was extreme and outrageous.

174. That said conduct of the Defendants was performed with the intent to cause, or in disregard of a substantial probability of causing, severe emotional distress.

175. The Plaintiff states that the actions of the Defendants caused severe emotional distress.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

**COUNT SIXTEEN: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

176. Plaintiff re-alleges paragraphs 1 through 175 as though set forth in full here.

177. The Plaintiff states that on, about, or between 29 June 2012 and 30 June 2012, the Defendants engaged, were deliberately indifferent, or condoned conduct that was extreme and outrageous.

178. That said conduct of the Defendants was performed with the intent to cause, or in disregard of a substantial probability of causing, severe emotional distress.

179. The Plaintiff states that the actions of the Defendants caused severe emotional distress.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

**COUNT SEVENTEEN: MALICIOUS PROSECUTION**

180. Plaintiff re-alleges paragraphs 1 through 179 as though set forth in full herein.

181. The Plaintiff states that the criminal judicial proceedings that is the subject of this complaint was terminated in favor of the Plaintiff because all charges were dismissed on the merits.

182. The Plaintiff states that the Defendant Police Officers did not have probable cause to arrest the Plaintiff on 6 June 2012.

183. Plaintiff states that the Defendants arrested the Plaintiff for the wrong, or an improper motive and that the judicial proceeding was not commenced so that justice could be served.

184. Plaintiff states that the Defendants arrested the Plaintiff because – according to one of the Defendant’s own statements – the Defendants wanted to teach the Plaintiff a lesson.

185. Plaintiff states that the Defendants acted with malice when they seized/arrested the Plaintiff.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

#### COUNT EIGHTEEN: MALICIOUS PROSECUTION

Plaintiff re-alleges paragraphs 1 through 185 as though set forth in full herein.

186. The Plaintiff states that the criminal judicial proceedings that is the subject of this complaint

was terminated in favor of the Plaintiff because all charges were dismissed on the merits.

187. The Plaintiff states that the Defendant Police Officers, and the other Defendants, did not have probable cause to arrest the Plaintiff on or about 29 June 2012 or 30 June 2012.

188. Plaintiff states that the Defendants arrested the Plaintiff for the wrong, or an improper motive and that the judicial proceeding was not commenced so that justice could be served.

189. Plaintiff states that the Defendants arrested the Plaintiff because – according to one of the Defendant’s own statements – the Defendants wanted to teach the Plaintiff a lesson.

190. Plaintiff states that the Defendants acted with malice when they seized/arrested the Plaintiff.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

#### COUNT NINETEEN: ASSAULT

191. Plaintiff re-alleges paragraphs 1 through 190 as though set forth in full herein.

192. Plaintiff states that on 6 June 2012, Defendant Police Officers intentionally placed the Plaintiff in fear of imminent harmful or offensive conduct.

193. Plaintiff states that the Defendants made an unjustified threat of force against the Plaintiff that created a reasonable apprehension of immediate physical harm, and that the Defendants acted on the afore-mentioned threat and caused the Plaintiff physical injury.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

- A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;
- B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;
- C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and
- D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

COUNT TWENTY: ASSAULT

194. Plaintiff re-alleges paragraphs 1 through 193 as though set forth in full herein.

195. Plaintiff states that on, about, or between 29 June 2012 and 30 June 2012, the Defendants intentionally placed the Plaintiff in fear of imminent harmful or offensive conduct.

196. Plaintiff states that the Defendants made an unjustified threat of force against the Plaintiff that created a reasonable apprehension of immediate physical harm, and that the Defendants acted on the afore-mentioned threat and caused the Plaintiff physical injury.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

- A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million

dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

#### COUNT TWENTY ONE: BATTERY

197. Plaintiff re-alleges paragraphs 1 through 196 as though set forth in full herein.

198. Plaintiff states that on 6 June 2012 Defendant Police Officers intentionally make bodily contact with the Plaintiff and caused the Plaintiff to suffer physical injury.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.

COUNT TWENTY TWO: BATTERY

199. Plaintiff re-alleges paragraphs 1 through 198 as though set forth in full herein.

200. Plaintiff states that on, about, or between 29 June 2012 and 30 June 2012, the Defendant Police Officers intentionally make bodily contact with the Plaintiff and caused the Plaintiff to suffer physical injury.

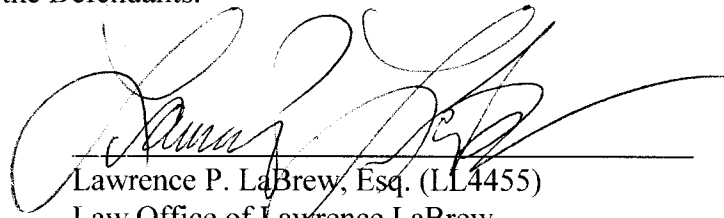
**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants as follows:

A. That Plaintiff be awarded compensatory damages in the amount of five (5,000,000.00) million dollars, together with interest at the legal rate from the date of judgment paid;

B. That Plaintiff be awarded punitive damages in the amount of ten (10,000,000.00) million dollars as will sufficiently punish Defendant Police Officer for Defendant's willful and malicious conduct and that said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiff be awarded costs of this litigation to be paid by the Defendants; and

D. That Plaintiff be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendants.



\_\_\_\_\_  
Lawrence P. LaBrew, Esq. (LL4455)  
Law Office of Lawrence LaBrew  
Attorney for Plaintiff Waheedah Shaheed  
160 Broadway Suite 600 6<sup>th</sup> Floor  
New York, New York 10038  
Tel (212) 385-7500



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
WAHEEDAH SHAHEED,

Plaintiff,

-against-

THE CITY OF NEW YORK; NEW YORK CITY  
POLICE OFFICER STEPHAN KROSKI (In an Individual  
Capacity and In an Official Capacity); NEW YORK CITY  
POLICE OFFICER PAUL BLISS (In an Individual  
Capacity and In an Official Capacity); NEW YORK CITY  
POLICE OFFICER JONATHAN RODRIGUEZ (In an  
Individual Capacity and In an Official Capacity); NEW  
YORK CITY POLICE OFFICER LYDIA FIGUEROA (In  
an Individual Capacity and In an Official Capacity); NEW  
YORK CITY POLICE DETECTIVE JOHN DOE  
(fictitious name) (In an Individual Capacity and In an  
Official Capacity); NEW YORK CITY POLICE  
DETECTIVE JAMES DOE (fictitious name) (In an  
Individual Capacity and In an Official Capacity); NEW  
YORK CITY POLICE OFFICER JANE DOE (fictitious  
name) (In an Individual Capacity and In an Official  
Capacity); NEW YORK CITY POLICE OFFICER JOHN  
DOE (fictitious name) (In an Individual Capacity and In an  
Official Capacity); NEW YORK CITY POLICE OFFICER  
JAMES DOE (fictitious name) (In an Individual Capacity  
and In an Official Capacity),

Defendants.

**ANSWER TO THE  
COMPLAINT ON BEHALF  
OF THE CITY OF NEW  
YORK, STEPHAN KROSKI,  
PAUL BLISS, JONATHAN  
RODRIGUEZ AND LYDIA  
FIGUEROA**

15 CV 3480 (PAE)

Jury Trial Demanded

----- X  
Defendants City of New York, Stephan Kroski, Paul Bliss, Jonathan Rodriguez  
and Lydia Figueroa by their attorney, Zachary W. Carter, Corporation Counsel of the City of  
New York, for their answer to the complaint, respectfully allege, upon information and belief, as  
follows:

1. Deny the allegations set forth in paragraph “1” of the complaint, except admit that  
plaintiff purports to bring this action and name the parties stated therein.



2. Deny the allegations set forth in paragraph “2” of the complaint, except admit that plaintiff purports to bring this action as stated therein.

3. Deny the allegations set forth in paragraph “3” of the complaint, except admit that plaintiff purports to bring this action as stated therein.

4. Deny the allegations set forth in paragraph “4” of the complaint, except admit that plaintiff purports to invoke the jurisdiction of the Court as stated therein.

5. Deny the allegations set forth in paragraph “5” of the complaint, except admit that plaintiff purports to invoke the supplemental jurisdiction of the Court as stated therein.

6. Admit the allegations set forth in paragraph “6” of the complaint.

7. Deny the allegations set forth in paragraph “7” of the complaint, except admit that plaintiff purports to base venue as stated therein.

8. Paragraph “8” of the complaint sets forth a demand for a jury trial and therefore, no response is required.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the complaint.

10. Deny the allegations set forth in paragraph “10” of the complaint, except admit that the City of New York employed Stephen Kroski as a police officer at the 25<sup>th</sup> Precinct on June 6, 2012, and admit that plaintiff purports to sue defendant Kroski in his individual and official capacities.

11. Deny the allegations set forth in paragraph “11” of the complaint, except admit that the City of New York employed Paul Bliss as a police officer at the 25<sup>th</sup> Precinct on June 6, 2012, and admit that plaintiff purports to sue defendant Bliss in his individual and official capacities.

12. Deny the allegations set forth in paragraph “12” of the complaint, except admit that the City of New York employed Jonathan Rodriguez as a police officer at the 25<sup>th</sup> Precinct on June 6, 2012, and admit that plaintiff purports to sue defendant Rodriguez in his individual and official capacities.

13. Deny the allegations set forth in paragraph “13” of the complaint, except admit that the City of New York employed Lydia Figueroa as a police officer at the 25<sup>th</sup> Precinct on June 29, 2012, and admit that plaintiff purports to sue defendant Figueroa in her individual and official capacities.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the complaint.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “15” of the complaint.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “16” of the complaint.

17. Deny the allegations set forth in paragraph “17” of the complaint.

18. Deny the allegations set forth in paragraph “18” of the complaint.

19. Deny the allegations set forth in paragraph “19” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what plaintiff was informed or believes.

20. Deny the allegations set forth in paragraph “20” of the complaint.

21. Deny the allegations set forth in paragraph “21” of the complaint.

22. Deny the allegations set forth in paragraph “22” of the complaint.

23. Deny the allegations set forth in paragraph “23” of the complaint, except admit that the City of New York is a municipal corporation organized under the laws of the State of New York.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “24” of the complaint,

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “25” of the complaint, except admit that on the evening of June 6, 2012, defendant officers Stephan Kroski, Jonathan Rodriguez and Paul Bliss were at or near 26 East 129<sup>th</sup> Street, Apartment 3A in Manhattan.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “26” of the complaint.

27. Deny the allegations set forth in paragraph “27” of the complaint, except admit that police officers entered the apartment.

28. Deny the allegations set forth in paragraph “28” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what plaintiff said or heard.

29. Deny the allegations set forth in paragraph “29” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what plaintiff said or heard.

30. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “30” of the complaint.

31. Deny the allegations set forth in paragraph “31” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what plaintiff said.

32. Deny the allegations set forth in paragraph “32” of the complaint, except admit that plaintiff was arrested.

33. Deny the allegations set forth in paragraph “33” of the complaint.

34. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “34” of the complaint, except admit that plaintiff was arrested.

35. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “35” of the complaint.

36. Deny the allegations set forth in paragraph “36” of the complaint, except admit that plaintiff was transported to the 25<sup>th</sup> Precinct, and deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what plaintiff purportedly said to unidentified police officers or what unidentified police officers purportedly said to her.

37. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “37” of the complaint, except admit that plaintiff was taken to the hospital.

38. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “38” of the complaint, except admit plaintiff was arrested and taken to the hospital.

39. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “39” of the complaint, except admit that plaintiff was arrested for assault, obstructing governmental administration and resisting arrest.

40. Deny the allegations set forth in paragraph “40” of the complaint, except admit that plaintiff was arrested under arrest number M12650516 relating to New York County Criminal Court Docket No. 2012NY044692, and that plaintiff’s criminal case was dismissed on September 18, 2013.

41. Deny the allegations set forth in paragraph “41” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning any purported conversations plaintiff may have had with Det. McNamara.

42. Deny the allegations set forth in paragraph “42” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning any purported conversations plaintiff may have had with Det. McNamara.

43. Deny the allegations set forth in paragraph “43” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what happened to the apartment.

44. Deny the allegations set forth in paragraph “44” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning the purported forced entry.

45. Deny the allegations set forth in paragraph “45” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning the purported forced entry and plaintiff’s removal from the apartment.

46. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “46” of the complaint.

47. Deny the allegations set forth in paragraph “47” of the complaint, except admit that plaintiff was taken from Harlem Hospital to the 25<sup>th</sup> Precinct.

48. Deny the allegations set forth in paragraph “48” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning plaintiff’s transfer to and from Bellevue Hospital.

49. Deny the allegations set forth in paragraph “49” of the complaint.

50. Deny the allegations set forth in paragraph “50” of the complaint, except admit that plaintiff was charged with obstructing governmental administration.

51. Deny the allegations set forth in paragraph ”51” of the complaint insofar as it sets forth averments of fact; insofar as it sets forth conclusions of law, no response is required.

52. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “52” of the complaint, except admit that the charges against the plaintiff were dismissed by the District Attorney’s Office on April 2, 2014.

53. In response to the allegations set forth in paragraph “53” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “52”, inclusive of this answer, as if fully set forth herein.

54. Deny the allegations set forth in paragraph “54” of the complaint, except admit that plaintiff was arrested on June 6, 2012.

55. Deny the allegations set forth in paragraph “55” of the complaint.

56. Deny the allegations set forth in paragraph “56” of the complaint.

57. Deny the allegations set forth in paragraph “57” of the complaint.

58. Deny the allegations set forth in paragraph “58” of the complaint.

59. Deny the allegations set forth in paragraph “59” of the complaint.

60. Deny the allegations set forth in paragraph “60” of the complaint.

61. Deny the allegations set forth in paragraph “61” of the complaint.

62. Deny the allegations set forth in paragraph “62” of the complaint.

63. Deny the allegations set forth in paragraph “63” of the complaint and its wherefore clause and subparts.

64. In response to the allegations set forth in the unnumbered paragraph, under the title “Count Two : False Imprisonment” on page 15 of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “63”, inclusive of this answer, as if fully set forth herein.

65. Deny the allegations set forth in paragraph “64” of the complaint.

66. Deny the allegations set forth in paragraph “65” of the complaint.

67. Deny the allegations set forth in paragraph “66” (which is an incomplete sentence) of the complaint.

68. Deny the allegations set forth in paragraph “67” of the complaint.

69. Deny the allegations set forth in paragraph “68” of the complaint.

70. Deny the allegations set forth in paragraph “69” of the complaint.

71. Deny the allegations set forth in paragraph “70” of the complaint.

72. Deny the allegations set forth in paragraph “71” of the complaint.

73. Deny the allegations set forth in paragraph “72” of the complaint.

74. Deny the allegations set forth in paragraph “73” of the complaint.

75. Deny the allegations set forth in paragraph “74” of the complaint.

76. Deny the allegations set forth in paragraph “75” of the complaint and its wherefore clause and subparts.

77. In response to the allegations set forth in paragraph “76” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “76”, inclusive of this answer, as if fully set forth herein.

78. Deny the allegations set forth in paragraph “77” of the complaint.

79. Deny the allegations set forth in paragraph “78” of the complaint.

80. Deny the allegations set forth in paragraph “79” of the complaint.

81. Deny the allegations set forth in paragraph “80” of the complaint insofar as it sets forth averments of fact; insofar as it sets forth conclusions of law, no response is required.

82. Deny the allegations set forth in paragraph “81” of the complaint and its wherefore clause and subparts.

83. In response to the allegations set forth in the unnumbered paragraph, under the title “Count Four : False Imprisonment” on page 18 of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “82”, inclusive of this answer, as if fully set forth herein.

84. Deny the allegations set forth in paragraph “82” of the complaint except admit that plaintiff was arrested.

85. Deny the allegations set forth in paragraph “83” of the complaint.

86. Deny the allegations set forth in paragraph “84” of the complaint.

87. Deny the allegations set forth in paragraph “85” of the complaint.

88. Deny the allegations set forth in paragraph “86” of the complaint.

89. Deny the allegations set forth in paragraph “87” of the complaint.

90. Deny the allegations set forth in paragraph “88” of the complaint.

91. Deny the allegations set forth in paragraph “89” of the complaint.



92. Deny the allegations set forth in paragraph “90” of the complaint and its wherefore clause and subparts.

93. In response to the allegations set forth in paragraph “91” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “92”, inclusive of this answer, as if fully set forth herein.

94. Deny the allegations set forth in paragraph “92” of the complaint.

95. Deny the allegations set forth in paragraph “93” of the complaint.

96. Deny the allegations set forth in paragraph “94” of the complaint.

97. Deny the allegations set forth in paragraph “95” of the complaint and its wherefore clause and subparts.

98. In response to the allegations set forth in paragraph “96” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “97”, inclusive of this answer, as if fully set forth herein.

99. Deny the allegations set forth in paragraph “97” of the complaint.

100. Deny the allegations set forth in paragraph “98” of the complaint.

101. Deny the allegations set forth in paragraph “99” of the complaint.

102. Deny the allegations set forth in paragraph “100” of complaint and its wherefore clause and subparts.

103. In response to the allegations set forth in paragraph “101” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “102”, inclusive of this answer, as if fully set forth herein.

104. Deny the allegations set forth in paragraph “102” of the complaint.

105. Deny the allegations set forth in paragraph “103” of the complaint.

106. Deny the allegations set forth in paragraph “104” of the complaint.

107. Deny the allegations set forth in paragraph “105” of the complaint.

108. Deny the allegations set forth in paragraph “106” of the complaint.

109. Deny the allegations set forth in paragraph “107” of the complaint.

110. Deny the allegations set forth in paragraph “108” of the complaint and its wherefore clause and subparts.

111. In response to the allegations set forth in paragraph “109” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “110”, inclusive of this answer, as if fully set forth herein.

112. Deny the allegations set forth in paragraph “110” of the complaint.

113. Deny the allegations set forth in paragraph “111” of the complaint.

114. Deny the allegations set forth in paragraph “112” of the complaint.

115. Deny the allegations set forth in paragraph “113” of the complaint.

116. Deny the allegations set forth in paragraph “114” of the complaint.

117. Deny the allegations set forth in paragraph “115” of the complaint.

118. Deny the allegations set forth in paragraph “116” of the complaint and its wherefore clause and subparts.

119. In response to the allegations set forth in paragraph “117” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “118”, inclusive of this answer, as if fully set forth herein.

120. Deny the allegations set forth in paragraph “118” of the complaint.

121. Deny the allegations set forth in paragraph “119” of the complaint.

122. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “120” of the complaint.

123. Deny the allegations set forth in paragraph “121” of the complaint and its wherefore clause and subparts.

124. In response to the allegations set forth in paragraph “122” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “123”, inclusive of this answer, as if fully set forth herein.

125. Deny the allegations set forth in paragraph “123” of the complaint.

126. Deny the allegations set forth in paragraph “124” of the complaint.

127. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “125” of the complaint.

128. Deny the allegations set forth in paragraph “126” of the complaint and its wherefore clause and subparts.

129. In response to the allegations set forth in paragraph “127” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “128”, inclusive of this answer, as if fully set forth herein.

130. Deny the allegations set forth in paragraph “128” of the complaint.

131. Deny the allegations set forth in paragraph “129” of the complaint and its wherefore clause and subparts.

132. In response to the allegations set forth in paragraph “130” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “131”, inclusive of this answer, as if fully set forth herein.

133. Deny the allegations set forth in paragraph “131” of the complaint.

134. Deny the allegations set forth in paragraph “132” of the complaint and its wherefore clause and subparts.

135. Deny the allegations set forth in paragraph “133” of the complaint.

136. Deny the allegations set forth in paragraph “134” of the complaint insofar as it purports to set forth averments of fact; insofar as it sets forth conclusions of law, no response is required.

137. Deny the allegations set forth in paragraph “135” of the complaint insofar as it purports to set forth averments of fact; insofar as it sets forth conclusions of law, no response is required.

138. In response to the allegations set forth in paragraph “136” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “137”, inclusive of this answer, as if fully set forth herein.

139. Deny the allegations set forth in paragraph “137” of the complaint.

140. Deny the allegations set forth in paragraph “138” of the complaint.

141. Deny the allegations set forth in paragraph “139” of the complaint.

142. Deny the allegations set forth in paragraph “140” of the complaint and its wherefore clause and subparts.

143. In response to the allegations set forth in paragraph “141” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “142”, inclusive of this answer, as if fully set forth herein.

144. Deny the allegations set forth in paragraph “142” of the complaint.

145. Deny the allegations set forth in paragraph “143” of the complaint.

146. Deny the allegations set forth in paragraph “144” of the complaint.

147. Deny the allegations set forth in paragraph “145” of the complaint and its wherefore clause and subparts.

148. In response to the allegations set forth in paragraph “146” of the complaint, defendants repeats and reallege their responses set forth in the preceding paragraphs “1” through “147”, inclusive of this answer, as if fully set forth herein.

149. Deny the allegations set forth in paragraph “147” of the complaint.

150. Deny the allegations set forth in paragraph “148” of the complaint.

151. Deny the allegations set forth in paragraph “149” of the complaint and its wherefore clause and subparts.

152. In response to the allegations set forth in paragraph “150” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “151”, inclusive of this answer, as if fully set forth herein.

153. Deny the allegations set forth in paragraph “151” of the complaint.

154. Deny the allegations set forth in paragraph “152” of the complaint.

155. Deny the allegations set forth in paragraph “153” of the complaint and its wherefore clause and subparts.

156. In response to the allegations set forth in paragraph “154” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “155”, inclusive of this answer, as if fully set forth herein.

157. Deny the allegations set forth in paragraph “155” of the complaint, except admit that the charges were dismissed.

158. Deny the allegations set forth in paragraph “156” of the complaint.

159. Deny the allegations set forth in paragraph “157” of the complaint.

160. Deny the allegations set forth in paragraph “158” of the complaint.

161. Deny the allegations set forth in paragraph “159” of the complaint and its wherefore clause and subparts.

162. In response to the allegations set forth in the unnumbered paragraph under the title “Count Eighteen: Malicious Prosecution” on page 33, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “161”, inclusive of this answer, as if fully set forth herein.

163. Deny of the allegations set forth in paragraph “160” of the complaint, except admit that the charges were dismissed.

164. Deny the allegations set forth in paragraph “161” of the complaint.

165. Deny the allegations set forth in paragraph “162” of the complaint.

166. Deny the allegations set forth in paragraph “163” of the complaint.

167. Deny the allegations set forth in paragraph “164” of the complaint and its wherefore clause and subparts.

168. In response to the allegations set forth in paragraph “165” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “167”, inclusive of this answer, as if fully set forth herein.

169. Deny the allegations set forth in paragraph “166” of the complaint.

170. Deny the allegations set forth in paragraph “167” of the complaint and its wherefore clause and subparts.

171. In response to the allegations set forth in paragraph “168” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “170”, inclusive of this answer, as if fully set forth herein.

172. Deny the allegations set forth in paragraph “169” of the complaint, except knowledge or information sufficient to form a belief as to the truth of the allegations concerning plaintiff’s state of mind.

173. Deny the allegations set forth in paragraph “170” of the complaint and its wherefore clause and subparts.

174. In response to the allegations set forth in paragraph “171” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “173”, inclusive of this answer, as if fully set forth herein.

175. Deny the allegations set forth in paragraph “172” of the complaint and its wherefore clause and subparts.

176. In response to the allegations set forth in paragraph “173” of the complaint, defendants repeat and reallege their responses set forth in the preceding paragraphs “1” through “175”, inclusive of this answer, as if fully set forth herein.

177. Deny the allegations set forth in paragraph “174” of the complaint and its wherefore clause and subparts.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

178. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

179. Any injury alleged to have been sustained resulted from plaintiff’s own culpable or negligent conduct and/or the intervening conduct of third parties, and was not the proximate result of any act by the defendants.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

180. There was probable cause for the entry and for plaintiff's arrest, detention and prosecution.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

181. Defendants acted within the lawful and proper exercise of their discretion.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

182. Plaintiff provoked any incident.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

183. No punitive damages can be assessed against the City of New York.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

184. To the extent any force was used, it was reasonable, necessary, and justified.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:**

185. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, or any act of Congress providing for the protection of civil rights.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE:**

186. To the extent the complaint alleges any claims against the City of New York arising under state law, such claims are barred by the doctrine of immunity for judgmental errors in the exercise of governmental functions.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE:**

187. The individual defendants have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and, therefore, are protected by qualified immunity.



**WHEREFORE**, Defendants City of New York, Stephan Kroski, Paul Bliss, Jonathan Rodriguez and Lydia Figueroa request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
August 11, 2015

ZACHARY W. CARTER  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants City of New York, Stephan  
Kroski, Paul Bliss, Jonathan Rodriguez and Lydia  
Figueroa*  
100 Church Street  
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By: /s/  
Deborah L. Mbabazi  
*Assistant Corporation Counsel*

To: VIA ECF  
Lawrence P. LaBrew, Esq.  
*Attorney for Plaintiff*  
160 Broadway, Suite 600  
New York, NY 10038

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
Docket No. 15 CV 3480 (PAE)

WAHEEDAH SHAHEED,

Plaintiff,

-against-

CITY OF NEW YORK; NEW YORK CITY POLICE OFFICER STEPHAN KROSKI (In an Individual Capacity and In an Official Capacity); NEW YORK CITY POLICE OFFICER PAUL BLISS (In an Individual Capacity and In an Official Capacity); NEW YORK CITY POLICE OFFICER JONATHAN RODRIGUEZ (In an Individual Capacity and In an Official Capacity); NEW YORK CITY POLICE OFFICER LYDIA FIGUEROA (In an Individual Capacity and In an Official Capacity); NEW YORK CITY POLICE DETECTIVE JOHN DOE (fictitious name) (In an Individual Capacity and In an Official Capacity); NEW YORK CITY POLICE DETECTIVE JAMES DOE (fictitious name) (In an Individual Capacity and In an Official Capacity); NEW YORK CITY POLICE OFFICER JANE DOE (fictitious name) (In an Individual Capacity and In an Official Capacity); NEW YORK CITY POLICE OFFICER JOHN DOE (fictitious name) (In an Individual Capacity and In an Official Capacity); NEW YORK CITY POLICE OFFICER JAMES DOE (fictitious name) (In an Individual Capacity and In an Official Capacity)

Defendants.

**ANSWER TO COMPLAINT ON BEHALF OF DEFENDANTS CITY  
OF NEW YORK, STEPHAN KROSKI, PAUL BLISS, JONATHAN  
RODRIGUEZ AND LYDIA FIGUEROA**

**ZACHARY W. CARTER**

*Corporation Counsel of the City of New York  
Attorney for Defendants City of New York, Stephan Kroski, Paul Bliss,  
Jonathan Rodriguez and Lydia Figueroa  
100 Church Street  
New York, N.Y. 10007*

*by: Deborah L. Mbabazi  
Assistant Corporation Counsel  
Tel: (212) 356-2404*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2015*

*..... Esq.*

*Attorney for.....*

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the Matter of the Application of the Commissioner of  
The Administration for Children's Services, Special  
Services for Children, for Authorization to Enter Premises  
Known as:

26 East 129<sup>th</sup> Street, Apartment 3A  
New York, NY 10035

Pursuant to Family Court Act §1034

ORDER AUTHORIZING ENTRY OF  
PREMISES PURSUANT TO PCA  
Section 1034

Docket No.: NN-21912-13/12

Upon the application of the Commissioner of The Administration for Children's Services and  
upon information presented in support thereof, the Court finds that there is probable cause to  
believe that an abused or neglected child may be on the premises known as

26 East 129<sup>th</sup> Street, Apartment 3A  
New York, NY 10035

ORDERED that agents for the Commissioner of The Administration for Children's  
Services, a person conducting a child protective investigation, accompanied by police are  
authorized to enter the above premises using forcible entry to determine if the children  
[REDACTED] (also known as [REDACTED]), and [REDACTED]  
[REDACTED] are present and to proceed thereafter with a child protective investigation  
pursuant to §1034(2) (c) of the New York Family Court Act, and shall take whatever  
appropriate actions pursuant to §690.50 (1) of the New York Criminal Procedure Law.

ORDERED that this authorization be executed forthwith and such will be void if not executed  
within ten (10) days.

This Order may be executed any day of the week at any time.

Dated: June 29, 2012  
New York, New York

ENTER:

  
HON. CLARK V. RICHARDSON J.F.C.

Appendix K

00067

A0304



Family Court of the State of New York  
City of New York

60 LAFAYETTE STREET  
NEW YORK, N.Y. 10013

DEFENDANT'S  
EXHIBIT

A-1

RE: Shakeed Darrish

DOCKET #: NN-21972-12

I, Brian Kelly, Clerk of Court of the Family Court of the State of New York, County of New York,

CERTIFY: that I have compared the foregoing copies of the file(s) referenced above with the original thereof and same are true copies thereof;

IN WITNESS WHEREOF, I have here unto set my hand and affixed the seal of the Family Court of the State of New York, County of New York, this 25<sup>th</sup> day of September, 2018.

Brian Kelly

CLERK OF COURT

RECEIVED BY: x P. DiLiberto

PRINT NAME: x P. DiLiberto

DATED: x 9-25-18

At a term of the Family Court of the State of New York  
held in and for the County of New York at  
60 Lafayette Street, New York New York  
On June 6, 2012

PRESENT:

Hon. Clark V. Richardson  
Judge

In the Matter of

ABDUL-MALEEK RAHEEM

A Child Under the Age of Eighteen  
Alleged to be ~~(Abused) (and) (Neglected)~~ by

WAHEEDAH SHAHEED

Respondent(s)

DOCKET NO: NN-21912-12

Order on Application for  
Temporary Removal of  
Child  
(After Petition Filed)

NOTICE:

PLACEMENT OF YOUR CHILD IN FOSTER CARE MAY RESULT IN THE LOSS OF YOUR PARENTAL RIGHTS TO YOUR CHILD. IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15 MONTH PERIOD. ADDITIONALLY, IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS.

THE NEXT COURT DATE IS 8/7/12  
THE PERMANENCY HEARING SHALL BE HELD ON 1/9/13

A petition under Article 10 of the Family Court Act having been filed with this Court alleging that the above named child is (a)(an)(neglected child)(abused child)(severely or repeatedly abused child); and a preliminary hearing having been held by the Court pursuant to Section 1027 of the Family Court Act; and the following person(s) having appeared (with)(without) counsel herein to determine whether the child's interests require protection pending a final order of disposition [specify]:  
Respondent (with)(without)counsel  
[if respondent not present] Respondent (was)(was not) notified of this hearing by ( ).  
[if respondent unrepresented] Respondent (waived)(did not waive) the right to counsel.  
\_\_\_\_\_ attorney for the child, \_\_\_\_\_ petitioner; and

The Court having determined that:

- (The removal was made prior to this application pursuant to Family Court Act Section ~~(1021)(1022)(1024)~~ (No removal was made prior to this hearing); and
- [required in cases involving Native-American Children] The following individuals have been duly notified (parent/custodian)(tribe/nation)(United States Secretary of the Interior); and the tribe/nation having (appeared and participated as a party)(appeared and declined to assume jurisdiction)(appeared and requested transfer of jurisdiction)(not appeared);
- Said child's interests ~~(do)(do not)~~ require protection pending a final order of disposition and that continuation of residence by the child in the child's home:  
X would be contrary to the welfare and best interests of the child and that temporary removal of said child from (his)(her) home would not be contrary to the welfare and best interest of the child because: [be specific]  
RW makes recommended services for subject child's sibling and  
\_\_\_\_\_ would not be contrary to the welfare and best interests of the child.
- Imminent risk to the child ~~(can)(would not)~~ be eliminated by the issuance of an order of protection directing the removal of respondent from the child's residence; and

- e. ☒ Reasonable efforts were made prior to the date of the hearing herein to prevent or eliminate the need for removal from the home. The specific efforts made were:

ACS attempted to engage the respondent in conversations regarding the case. Respondent was very resistant. ACS tried to contact the hospital.

Reasonable efforts were not made prior to the date of the hearing herein to prevent or eliminate the need for removal from the home, but the lack of such efforts was reasonable and appropriate under the circumstances. The specific reasons why it was reasonable and appropriate not to make such efforts are:

Reasonable efforts were not made prior to the date of the hearing herein to prevent or eliminate the need or removal from the home and the lack of such efforts was not reasonable and appropriate under the circumstances; and

- f. The removal is necessary because

imminent danger to child;

; and

- g. Based upon the investigation conducted by the Commissioner of Social Services it appears that [specify name] ( ) is a suitable person related to the child with whom such child may appropriately reside and such person ( ) seeks approval as a foster parent pursuant to the Social Services Law for the purpose of providing care for such child ( ) wishes to provide care and custody for the child without foster care subsidy during the pendency of any orders herein ( ) there is no suitable person related to the child with whom such child may appropriately reside. )

NOW therefore, it is [delete inapplicable provision]:

ORDERED that the application for protection and/or removal is hereby (granted) (denied); and it is further

(ORDERED that said child be released to the custody of , said child's parents(s) or other person legally responsible for said child's care (under the supervision of ); (and it is further)

(ORDERED that said child be temporarily removed from the place where said child is residing by any peace officer or agent of a duly authorized agency, society or institution and that said child be brought to ACS pending further proceedings herein; ) (and it is further)

(ORDERED that pending further proceeding the child(ren) shall be placed in the custody of  
 the Commissioner of Social Services of N.Y. County (AS)  
 the Commissioner of Social Services of County to reside with [specify]  
 the following relative or other suitable person [specify] ; (and it is further)

(ORDERED that (any Hospital) (any M.D.) is hereby authorized to provide such emergency medical or surgical procedures for the said child as may be necessary to safeguard the child's life or health; ) (and it is further)

[Required in child abuse cases unless petition commenced on the basis of medical examination and discretionary in child neglect cases pursuant to 1027(g)]

(ORDERED that the child undergo a medical examination, pursuant to FCA§251 by the following physician [specify] , which shall include the taking of colored photographs and if appropriate a radiological examination, the results of which, along with the photographs, shall be submitted to the Court; (and it is further)

(ORDERED that colored photographs be taken of visible trauma to the child, if any; (and it is further)

(ORDERED that the child protective agency shall (provide)(arrange for) the following services or assistance to the (child)(child's family) pursuant to section 1015-a or 1022(c) of the Family Court Act [specify]: \_\_\_\_\_); (and it is further)

(ORDERED that the Commissioner of Social Services shall conduct a diligent search for any non-resident parents of the child(ren); inform them of the pendency of the proceeding and of the opportunity for seeking custody of the child(ren) and record the results of such investigation in the child's Uniform Case Record); (and it is further)

(ORDERED that the Commissioner of Social Services shall investigate whether there are any grandparents, other relatives or other suitable person(s) with whom the child(ren) may appropriately reside and shall inform them of the pendency of the proceeding and shall ascertain whether such person(s) wish to seek approval as foster parent(s) in order to provide care for the child(ren) or wish to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein; and shall record the result of such investigation in the child's Uniform Case Record); (and it is further)

(ORDERED that, within 24 hours of this order, the Commissioner of Social Services shall commence an investigation of the following relatives or other suitable persons as foster parents and thereafter approve such person(s) to be foster parents, if qualified, and, if not, to report such fact to the Court, all parties and counsel, including the attorney for the child, forthwith [specify] \_\_\_\_\_); (and it is further)

Dated: June 6, 2012

ENTER

CLARK V. MCCARTHY

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF THE COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Order mailed on [specify date(s) and to whom mailed]:  
Order received in court on [specify date(s) and to whom given]:

TRUE COPY OF THIS ORDER IS TO BE FILED IN THE MATTER DESIGNATED IN SUCH CASE AND SHOWN BY THE RECORDS OF THE FAMILY COURT OF THE STATE OF NEW YORK WITHIN THE CITY OF NEW YORK FOR THE COUNTY OF NEW YORK.

Brian R. [Signature] Clerk of Court

DATE OCT 12 2018



Family Court of the State of New York  
City of New York

80 LAFAYETTE STREET  
NEW YORK, N.Y. 10013

DEFENDANT'S  
EXHIBIT

A-2

RE: Hannah Olodan

DOCKET #: NN 21913-12

I, Brian Kelly, Clerk of Court of the Family Court of the State of New York, County of New York,

CERTIFY: that I have compared the foregoing copies of the file(s) referenced above with the original thereof and same are true copies thereof.

IN WITNESS WHEREOF, I have here unto set my hand and affixed the seal of the Family Court of the State of New York, County of New York, this OCT 12 2018 day of October, 2018.

Brian Kelly

CLERK OF COURT

RECEIVED BY: Patricia Johnson

PRINT NAME: [Signature]

DATED: OCT 12 2018



On June 6, 2017

Hon. Clark V. Richardson  
Judge

Respondent(s):

Order on Application for  
Temporary Removal of  
Child  
(After Petition Filed)

PLACEMENT OF YOUR CHILD IN FOSTER CARE MAY RESULT IN THE LOSS OF YOUR PARENTAL RIGHTS TO YOUR CHILD. IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15 MONTH PERIOD. ADDITIONALLY, IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS.

THE NEXT COURT DATE IS 6/7/12  
THE PERMANENCY HEARING SHALL BE HELD ON 1/1/13

attorney for the child, \_\_\_\_\_ petitioner; and

d. Imminent risk to the child(ren) ~~would~~ would not be eliminated by the issuance of an order of protection directing the removal of resident from the child's residence; and

- e. ☒ Reasonable efforts were made prior to the date of the hearing herein to prevent or eliminate the need for removal from the home. The specific efforts made were:

ACS attempted to engage the respondent in conversations regarding their concerns, but respondent was not responsive. ACS spoke to hospital staff.

☐ Reasonable efforts were not made prior to the date of the hearing herein to prevent or eliminate the need for removal from the home, but the lack of such efforts was reasonable and appropriate under the circumstances. The specific reasons why it was reasonable and appropriate not to make such efforts are:

☐ Reasonable efforts were not made prior to the date of the hearing herein to prevent or eliminate the need or removal from the home and the lack of such efforts was not reasonable and appropriate under the circumstances; and

- f. The removal is necessary because

Respondent mother refuses to seek mental health services for her daughter despite subject child's cutting behaviors and hospital recommendations. and

- g. Based upon the investigation conducted by the Commissioner of Social Services it appears that [specify name](\_\_\_\_\_ is a suitable person related to the child with whom such child may appropriately reside and such person )(seeks approval as a foster parent pursuant to the Social Services Law for the purpose of providing care for such child)(wishes to provide care and custody for the child without foster care subsidy during the pendency of any orders herein)(there is no suitable person related to the child with whom such child may appropriately reside.)

NOW therefore, it is [delete inapplicable provision]:

ORDERED that the application for protection and/or removal is hereby ~~granted~~ denied, and it is further

(ORDERED that said child be released to the custody of \_\_\_\_\_, said child's parents(s) or other person legally responsible for said child's care(under the supervision of \_\_\_\_\_));(and it is further)

(ORDERED that said child be temporarily removed from the place where said child is residing by any peace officer or agent of a duly authorized agency, society or institution and that said child be brought to ACS pending further proceedings herein;)(and it is further)

(ORDERED that pending further proceeding the child(ren) shall be placed in the custody of

☒ the Commissioner of Social Services of ACS, New York County  
☐ the Commissioner of Social Services of \_\_\_\_\_ County to reside with [specify]  
☐ the following relative or other suitable person [specify] \_\_\_\_\_; (and it is further)

(ORDERED that ( ANY Hospital)( ANY M.D.) is hereby authorized to provide such emergency medical or surgical procedures for the said child as may be necessary to safeguard the child's life or health;)(and it is further)

[Required in child abuse cases unless petition commenced on the basis of medical examination and discretionary in child neglect cases pursuant to 1027(g)]

(ORDERED that the child undergo a medical examination, pursuant to FCA§251 by the following physician [specify] \_\_\_\_\_, which shall include the taking of colored photographs and if appropriate a radiological examination, the results of which, along with the photographs, shall be submitted to the Court; (and it is further)

(ORDERED that colored photographs be taken of visible trauma to the child, if any; (and it is further)

(ORDERED that the child protective agency shall (provide)(arrange for) the following services or assistance to the (child)(child's family) pursuant to section 1015-a or 1022(c) of the Family Court Act [specify]: \_\_\_\_\_); (and it is further)

(ORDERED that the Commissioner of Social Services shall conduct a diligent search for any non-respondent parents of the child(ren), inform them of the pendency of the proceeding and of the opportunity for seeking custody of the child(ren) and record the results of such investigation in the child's Uniform Case Record); (and it is further)

(ORDERED that the Commissioner of Social Services shall investigate whether there are any grandparents, other relatives or other suitable person(s) with whom the child(ren) may appropriately reside and shall inform them of the pendency of the proceeding and shall ascertain whether such person(s) wish to seek approval as foster parent(s) in order to provide care for the child(ren) or wish to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein; and shall record the result of such investigation in the child's Uniform Case Record); (and it is further)

(ORDERED that, within 24 hours of this order, the Commissioner of Social Services shall commence an investigation of the following relatives or other suitable persons as foster parents and thereafter approve such person(s) to be foster parents, if qualified, and, if not, to report such fact to the Court, all parties and counsel, including the attorney for the child, forthwith [specify] \_\_\_\_\_); (and it is further)

Dated: JUN 06 2012

ENTER  
CLARK J.C. J.F.C.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF THE COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Order mailed on [specify date(s) and to whom mailed]: \_\_\_\_\_  
Order received in court on [specify date(s) and to whom given]: \_\_\_\_\_

15 0271

CRIMINAL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORKCERTIFICATE OF DISPOSITION  
NUMBER: 409849THE PEOPLE OF THE STATE OF NEW YORK  
VSSHAHERD, WAHERDAN  
Defendant01/02/1958  
Date of Birth26 EAST 129 STR  
Address10517632P  
NYSID NumberMANHATTAN NY  
City State Zip06/29/2012  
Date of Arrest/Issue

Docket Number: 2012NY050853

Summons No:

135.05  
Arraignment Charges

## Case Disposition Information:

<u>Date</u>	<u>Court Action</u>	<u>Judge</u>	<u>Part</u>
04/02/2014	DISM - SPEEDY TRIAL PROVISIONS	TISCH, A	C

## NO FEE CERTIFICATION

☐ GOVERNMENT AGENCY ☐ COUNSEL ASSIGNED

☐ NO RECORD OF ATTORNEY READILY AVAILABLE. DEFENDANT STATES COUNSEL WAS ASSIGNED

SOURCE ☐ ACCUSATORY INSTRUMENT ☐ DOCKET BOOK/CRIMS ☐ CRC3030 [CRS963]

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN  
THIS COURT.[Signature]  
COURT OFFICIAL SIGNATURE AND SEAL06/16/2015  
DATE

FEE: NONE

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT  
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)**SEALED**

pursuant to Section 160.50 of the Cr

20141247  
SF  
D. M. B. J. J.

CRIMINAL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

CERTIFICATE OF DISPOSITION  
NUMBER: 395731

THE PEOPLE OF THE STATE OF NEW YORK  
VS

SHAHED, DAGHRIE  
Defendant

10/16/1986  
Date of Birth

26 EAST 129 ST  
Address

10007871H  
NYSID Number

NY NY  
City State Zip

06/06/2012  
Date of Arrest/Issue

Docket Number: 2012NY044694

Summons No:

205.30 195.05  
Arraignment Charges

Case Disposition Information:

Date	Court Action	Judge	Part
09/18/2013	DISM - SPEEDY TRIAL PROVISIONS	SCHERZER, A	C

NO FEE CERTIFICATION

☐ GOVERNMENT AGENCY ☐ COUNSEL ASSIGNED  
☐ NO RECORD OF ATTORNEY READILY AVAILABLE. DEFENDANT STATES COUNSEL WAS ASSIGNED  
SOURCE ☐ ACCUSATORY INSTRUMENT ☐ DOCKET BOOK/CRIMS ☐ CRC3030[CRS963]

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN  
THIS COURT

SPINNETT, J.  
COURT OFFICIAL SIGNATURE AND SEAL

03/05/2015  
DATE FEE: NONE

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT  
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)

**SEALED**

pursuant to Section 160.50 of the CP

CRIMINAL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

CERTIFICATE OF DISPOSITION  
NUMBER: 409850

THE PEOPLE OF THE STATE OF NEW YORK  
VS

SHAHEED WAHEEDAH  
Defendant

01/02/1958  
Date of Birth

263 129 STREET  
Address

10517632P  
NYSID Number

NEW YORK NY  
City State Zip

06/07/2012  
Date of Arrest/Issue

Docket Number: 2012NY044692

Summons No:

120.05 205.30 125.05  
Arraignment Charges

Case Disposition Information:

Date	Court Action	Judge	Part
09/18/2013	DISM - SPEEDY TRIAL PROVISIONS	SCHERZER, A	C

NO FEE CERTIFICATION

☐ GOVERNMENT AGENCY ☐ COUNSEL ASSIGNED

☐ NO RECORD OF ATTORNEY READILY AVAILABLE. DEFENDANT STATES COUNSEL WAS ASSIGNED

SOURCE ☐ ACCUSATORY INSTRUMENT DOCKET BOOK/CRIMS ☐ CRC3030 [CRS963]

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN  
THIS COURT.

[Signature]  
COURT OFFICIAL SIGNATURE AND SEAL

06/16/2015  
DATE

FEE: NONE

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT  
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)

SEAL

Subsequent to Section 160.50 of the CP

GF16 08/2010

At a term of the Family Court of the  
State of New York, held in and for  
the County of New York, at 60  
Lafayette Street, New York, NY  
10013, on January 26, 2015

**PRESENT:** Hon. Clark V. Richardson

In the Matter of

**File #:** 7513

**Docket #:** NN-21913-12

**Hannah Olodan** (DOB: 9/18/1996),

**CPS #:** 5280801

A Child under Eighteen Years of Age  
Alleged to be Neglected by

**ORDER OF DISMISSAL**

**Waheedah Shaheed,**

Respondent.

A petition under Article 10 of the Family Court Act, having been filed in this Court on June 6, 2012 for the following: Neglect;

And the matter having duly come on to be heard before this Court and the following having appeared: ACS-NY; Waheedah Shaheed; Sandrine Anne Valentine;

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to subject child has reached the age of emancipation; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

**Dated:** January 26, 2015

**ENTER**

THIS IS TO CERTIFY THAT THIS IS A  
TRUE COPY OF  
MADE IN THE MATTER DESIGNATED IN SUCH COPY  
AND SHOWN BY THE RECORDS OF THE FAMILY COURT  
OF THE STATE OF NEW YORK WITHIN THE CITY OF  
NEW YORK FOR THE COUNTY OF NEW YORK.

*Brian Kelly*  
CLERK

SEP 07 2017

Hon. Clark V. Richardson, JFC

F.C.A. §§ 1017, 1033-b, 1040, 1044,  
1046, 1051, 1052, 1053,  
1054, 1055, 1057, 1059

10-10 3/2009

At a term of the Family Court of the  
State of New York, held in and for  
the County of New York, at 60  
Lafayette Street, New York, NY  
10013, on January 26, 2015

**PRESENT:** Hon. Clark V. Richardson

---

In the Matter of

**File #:** 7513

**Docket #:** NN-21912-12

**Abdul Maleek Rahim** (DOB: 3/2/2001),

**CPS #:** 5280801

A Child under Eighteen Years of Age  
Alleged to be Neglected by

**ORDER OF DISPOSITION**

**Waheedah Shaheed,**

Respondent.

---

**NOTICE: WILLFUL FAILURE TO OBEY THE TERMS AND CONDITIONS OF THIS ORDER MAY RESULT IN COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS.**

**IF YOUR CHILD IS PLACED IN FOSTER CARE, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.**

**IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD.**

**IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS.**

The petition of ACS-NY under Article 10 of the Family Court Act, having been filed in this Court on June 6, 2012 alleging that the above-named Respondent neglected the above-named child; and

Notice having been duly given to the Respondent pursuant to section 1036 or 1037 of the Family Court Act; and

**And the matter having thereafter duly come on for a DISPOSITIONAL HEARING before the Court,**

And the child having been represented by an attorney and the Court having considered the position of the child regarding the permanency plan;

**A0317**



NOW therefore, upon findings made in the dispositional hearings; and upon all proceedings had herein,

**Order of Disposition**

And the Court, having considered the best interests and safety of the child, including whether the child would be at risk of abuse or neglect if returned to the parent(s) or other person(s) legally responsible, hereby orders the following:

ORDERED that the child is released to the custody of the respondent mother without supervision of a child protective agency, social services official, or duly authorized agency; and it is further

ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this proceeding, and the date on which the child ran away; and it is further

ORDERED that, not later than 60 days prior to the expiration of this order, the Commissioner of Social Services shall report to the Court, the child's attorney, the parties, their attorneys and the non-respondent parent(s) on the status and circumstances of the child and family and any actions contemplated, if any, by the agency with respect to the child and family.

Dated: January 26, 2015

ENTER

TRUE COPY OF THIS IS TO CERTIFY THAT THIS IS A  
MADE IN THE MATTER DESIGNATED IN SUCH CASE  
AND SHOWN BY THE RECORDS OF THE FAMILY COURT  
OF THE STATE OF NEW YORK WITHIN THE CITY  
NEW YORK FOR THE COUNTY OF NEW YORK.  
CLERK OF COURT  
SEP 07 2017

Hon. Clark V. Richardson, JFC

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

- ☐ Order mailed on [specify date(s) and to whom mailed]: \_\_\_\_\_  
☐ Order received in court on [specify date(s) and to whom given]: \_\_\_\_\_

**APPENDIX A [22 NYCRR §205.83]**

§ 205.83 Terms and Conditions of Order in Accordance With Sections 1053, 1054, and 1057 **A0318**

**of the Family Court Act (Child Protective Proceeding)**

(a) An order suspending judgment entered pursuant to section 1052 of the Family Court Act shall, where the child is in foster care, set forth the visitation plan between respondent and the child and between the child and his or her sibling or siblings, if any, and shall require the agency to notify the respondent of case conferences. A copy of the order, along with the current service plan, shall be furnished to the respondent. Any order suspending judgment shall contain at least one of the following terms and conditions that relate to the adjudicated acts or omissions of the respondent, directing the respondent to:

- (1) refrain from or eliminate specified acts or conditions found at the fact-finding hearing to constitute or to have caused neglect or abuse;
- (2) provide adequate and proper food, housing, clothing, medical care, and for the other needs of the child;
- (3) provide proper care and supervision to the child and cooperate in obtaining, accepting or allowing medical or psychiatric diagnosis or treatment, alcoholism or drug abuse treatment, counseling or child guidance services for the child;
- (4) take proper steps to insure the child's regular attendance at school;
- (5) cooperate in obtaining and accepting medical treatment, psychiatric diagnosis and treatment, alcoholism or drug abuse treatment, employment or counseling services, or child guidance, and permit a child protective agency to obtain information from any person or agency from whom the respondent or the child is receiving or was directed to receive treatment or counseling.

(b) An order pursuant to section 1054 of the Family Court Act placing the person to whose custody the child is released under the supervision of a child protective agency, social services officer or duly authorized agency, or an order pursuant to section 1057 placing the respondent under the supervision of a child protective agency, social services official or authorized agency, shall contain at least one of the following terms and conditions requiring the respondent to:

- (1) observe any of the terms and conditions set forth in subdivision (a) of this section;
- (2) cooperate with the supervising agency in remedying specified acts or omissions found at the fact-finding hearing to constitute or to have caused the neglect or abuse;
- (3) meet with the supervising agency alone and with the child when directed to do so by that agency;
- (4) report to the supervising agency when directed to do so by that agency;
- (5) cooperate with the supervising agency in arranging for and allowing visitation in the home or other place;
- (6) notify the supervising agency immediately of any change of residence or employment of the respondent or of the child;
- (7) do or refrain from doing any other specified act of omission or commission that, in the judgment of the court, is necessary to protect the child from injury or mistreatment and to help safeguard the physical, mental and emotional well-being of the child;

(c) When an order is made pursuant to section 1054 or 1057 of the Family Court Act:

- (1) the court shall notify the supervising agency in writing of its designation to act and shall furnish to that agency a copy of the order setting forth the terms and conditions imposed;

- (2) the order shall be accompanied by a written statement informing the respondent that a willful failure to obey the terms and conditions imposed may result in commitment to jail for a term not to exceed six months;
  - (3) the court may, if it concludes that it is necessary for the protection of the child, direct the supervising agency to furnish a written report to the court at stated intervals not to exceed six months setting forth whether, and to what extent:
    - (i) there has been any alteration in the respondent's maintenance of the child that is adversely affecting the child's health or well-being;
    - (ii) there is compliance with the terms and conditions of the order of supervision;
    - (iii) the supervising agency has furnished supporting services to the respondent.
- (d) A copy of the order setting forth its duration and the terms and conditions imposed shall be furnished to the respondent.

U.S. CONST. amend. IV

**Amendment 4 Unreasonable searches and seizures.**

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The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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**§ 13. [Family court]**

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**a.**The family court of the state of New York is hereby established. It shall consist of at least one judge in each county outside the city of New York and such number of additional judges for such counties as may be provided by law. Within the city of New York it shall consist of such number of judges as may be provided by law. The judges of the family court within the city of New York shall be residents of such city and shall be appointed by the mayor of the city of New York for terms of ten years. The judges of the family court outside the city of New York, shall be chosen by the electors of the counties wherein they reside for terms of ten years.

**b.**The family court shall have jurisdiction over the following classes of actions and proceedings which shall be originated in such family court in the manner provided by law: (1) the protection, treatment, correction and commitment of those minors who are in need of the exercise of the authority of the court because of circumstances of neglect, delinquency or dependency, as the legislature may determine; (2) the custody of minors except for custody incidental to actions and proceedings for marital separation, divorce, annulment of marriage and dissolution of marriage; (3) the adoption of persons; (4) the support of dependents except for support incidental to actions and proceedings in this state for marital separation, divorce, annulment of marriage or dissolution of marriage; (5) the establishment of paternity; (6) proceedings for conciliation of spouses; and (7) as may be provided by law: the guardianship of the person of minors and, in conformity with the provisions of section seven of this article, crimes and offenses by or against minors or between spouses or between parent and child or between members of the same family or household. Nothing in this section shall be construed to abridge the authority or jurisdiction of courts to appoint guardians in cases originating in those courts.

**c.**The family court shall also have jurisdiction to determine, with the same powers possessed by the supreme court, the following matters when referred to the family court from the supreme court: habeas corpus proceedings for the determination of the custody of minors; and in actions and proceedings for marital separation, divorce, annulment of marriage and dissolution of marriage, applications to fix temporary or permanent support and custody, or applications to enforce judgments and orders of support and of

custody, or applications to modify judgments and orders of support and of custody which may be granted only upon the showing to the family court that there has been a subsequent change of circumstances and that modification is required.

**d.**The provisions of this section shall in no way limit or impair the jurisdiction of the supreme court as set forth in section seven of this article.

## History

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Add, 1961, eff Sept 1, 1962.

Former § 13, formerly § 15, renumbered, 1925, continued, 1938, repealed, 1961, eff Sept 1, 1962.

Prior § 13, add, 1894, renumbered § 10, 1925. Source, 1777, art 33; 1821, art 5, § 2; 1846, art 6, § 1; 1869, Judiciary art, § 1.

Sub b, amd, L 1973, eff Jan 1, 1974.

## § 1.20. Definitions of terms of general use in this chapter

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Except where different meanings are expressly specified in subsequent provisions of this chapter, the term definitions contained in [section 10.00 of the penal law](#) are applicable to this chapter, and, in addition, the following terms have the following meanings:

- 1."Accusatory instrument" means an indictment, an indictment ordered reduced pursuant to subdivision one-a of section 210.20 of this chapter, an information, a simplified information, a prosecutor's information, a superior court information, a misdemeanor complaint or a felony complaint. Every accusatory instrument, regardless of the person designated therein as accuser, constitutes an accusation on behalf of the state as plaintiff and must be entitled "the people of the state of New York" against a designated person, known as the defendant.
- 2."Local criminal court accusatory instrument" means any accusatory instrument other than an indictment or a superior court information.
- 3."Indictment" means a written accusation by a grand jury, more fully defined and described in article two hundred, filed with a superior court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a crime, and which serves as a basis for prosecution thereof.
- 3-a."Superior court information" means a written accusation by a district attorney more fully defined and described in articles one hundred ninety-five and two hundred, filed with a superior court pursuant to article one hundred ninety-five, which charges one or more defendants with the commission of one or more offenses, at least one of which is a crime, and which serves as a basis for prosecution thereof.
- 4."Information" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which may serve both to commence a criminal action and as a basis for prosecution thereof.

**5.**<sup>[1]</sup>"Simplified traffic information" means a written accusation, more fully defined and described in article one hundred, by a police officer or other public servant authorized by law to issue same, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, charges a person with one or more traffic infractions or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.

**5.**<sup>[2]</sup>

**(a)**"Simplified information" means a simplified traffic information, a simplified parks information, or a simplified environmental conservation information.

**(b)**"Simplified traffic information" means a written accusation by a police officer, or other public servant authorized by law to issue same, more fully defined and described in article one hundred, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, charges a person with one or more traffic infractions or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.

**(c)**"Simplified parks information" means a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of parks and recreation, charges a person with one or more offenses, other than a felony, for which a uniform simplified parks information may be issued pursuant to the parks and recreation law and the navigation law, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.

**(d)**"Simplified environmental conservation information" means a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which being in a brief or simplified form prescribed by the commissioner of environmental conservation, charges a person with one or more offenses, other than a felony, for which a uniform simplified environmental conservation simplified<sup>[3]</sup> information may be issued pursuant to the environmental conservation law,

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<sup>[1]</sup> [n1] There are two subdivisions 5.

<sup>[2]</sup> [n2] There are two subdivisions 5.

<sup>[3]</sup> [n3] So in original.



and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.

**6.**"Prosecutor's information" means a written accusation by a district attorney, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which serves as a basis for prosecution thereof.

**7.**"Misdemeanor complaint" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a misdemeanor and none of which is a felony, and which serves to commence a criminal action but which may not, except upon the defendant's consent, serve as a basis for prosecution of the offenses charged therein.

**8.**"Felony complaint" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more felonies and which serves to commence a criminal action but not as a basis for prosecution thereof.

**9.**"Arraignment" means the occasion upon which a defendant against whom an accusatory instrument has been filed appears before the court in which the criminal action is pending for the purpose of having such court acquire and exercise control over his person with respect to such accusatory instrument and of setting the course of further proceedings in the action.

**10.**"Plea," in addition to its ordinary meaning as prescribed in sections 220.10 and 340.20, means, where appropriate, the occasion upon which a defendant enters such a plea to an accusatory instrument.

**11.**"Trial." A jury trial commences with the selection of the jury and includes all further proceedings through the rendition of a verdict. A non-jury trial commences with the first opening address, if there be any, and, if not, when the first witness is sworn, and includes all further proceedings through the rendition of a verdict.

**12.**"Verdict" means the announcement by a jury in the case of a jury trial, or by the court in the case of a non-jury trial, of its decision upon the defendant's guilt or innocence of the charges submitted to or considered by it.

**13.**"Conviction" means the entry of a plea of guilty to, or a verdict of guilty upon, an accusatory instrument other than a felony complaint, or to one or more counts of such instrument.

**14.**"Sentence" means the imposition and entry of sentence upon a conviction.

**15.**"Judgment." A judgment is comprised of a conviction and the sentence imposed thereon and is completed by imposition and entry of the sentence.

**16.**"Criminal action." A criminal action (a) commences with the filing of an accusatory instrument against a defendant in a criminal court, as specified in subdivision seventeen; (b) includes the filing of all further accusatory instruments directly derived from the initial one, and all proceedings, orders and motions conducted or made by a criminal court in the course of disposing of any such accusatory instrument, or which, regardless of the court in which they occurred or were made, could properly be considered as a part of the record of the case by an appellate court upon an appeal from a judgment of conviction; and (c) terminates with the imposition of sentence or some other final disposition in a criminal court of the last accusatory instrument filed in the case.

**17.**"Commencement of criminal action." A criminal action is commenced by the filing of an accusatory instrument against a defendant in a criminal court, and, if more than one accusatory instrument is filed in the course of the action, it commences when the first of such instruments is filed.

**18.**"Criminal proceeding" means any proceeding which (a) constitutes a part of a criminal action or (b) occurs in a criminal court and is related to a prospective, pending or completed criminal action, either of this state or of any other jurisdiction, or involves a criminal investigation.

**19.**"Criminal court" means any court defined as such by section 10.10.

**20.**"Superior court" means any court defined as such by subdivision two of section 10.10.

**21.**"Local criminal court" means any court defined as such by subdivision three of section 10.10.

**22.**"Intermediate appellate court" means any court possessing appellate jurisdiction, other than the court of appeals.

**23.**"Judge" means any judicial officer who is a member of or constitutes a court, whether referred to in another provision of law as a justice or by any other title.

**24.**"Trial jurisdiction." A criminal court has "trial jurisdiction" of an offense when an indictment or an information charging such offense may properly be

filed with such court, and when such court has authority to accept a plea to, try or otherwise finally dispose of such accusatory instrument.

**25.**"Preliminary jurisdiction." A criminal court has "preliminary jurisdiction" of an offense when, regardless of whether it has trial jurisdiction thereof, a criminal action for such offense may be commenced therein, and when such court may conduct proceedings with respect thereto which lead or may lead to prosecution and final disposition of the action in a court having trial jurisdiction thereof.

**26.**"Appearance ticket" means a written notice issued by a public servant, more fully defined in section 150.10, requiring a person to appear before a local criminal court in connection with an accusatory instrument to be filed against him therein.

**27.**"Summons" means a process of a local criminal court or superior court, more fully defined in section 130.10, requiring a defendant to appear before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

**28.**"Warrant of arrest" means a process of a local criminal court, more fully defined in section 120.10, directing a police officer to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

**29.**"Superior court warrant of arrest" means a process of a superior court directing a police officer to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.

**30.**"Bench warrant" means a process of a criminal court in which a criminal action is pending, directing a police officer, or a uniformed court officer, pursuant to paragraph b of subdivision two of section 530.70 of this chapter, to take into custody a defendant in such action who has previously been arraigned upon the accusatory instrument by which the action was commenced, and to bring him before such court. The function of a bench warrant is to achieve the court appearance of a defendant in a pending criminal action for some purpose other than his initial arraignment in the action.

**31.**"Prosecutor" means a district attorney or any other public servant who represents the people in a criminal action.

**32.**[Until June 30, 2013] "District attorney" means a district attorney, an assistant district attorney or a special district attorney, and, where appropriate, the

attorney general, an assistant attorney general, a deputy attorney general or a special deputy attorney general.

**32.**[Eff June 30, 2013] "District attorney" means a district attorney, an assistant district attorney or a special district attorney, and, where appropriate, the attorney general, an assistant attorney general, a deputy attorney general [fig 1] , a special deputy attorney general, or the special prosecutor and inspector general for the protection of people with special needs or his or her assistants when acting pursuant to their duties in matters arising under article twenty of the executive law.

**33.**"Peace officer" means a person listed in section 2.10 of this chapter.

**34.**"Police officer." The following persons are police officers:

- (a)A sworn member of the division of state police;
- (b)Sheriffs, under-sheriffs and deputy sheriffs of counties outside of New York City;
- (c)A sworn officer of an authorized county or county parkway police department;
- (d)A sworn officer of an authorized police department or force of a city, town, village or police district;
- (e)A sworn officer of an authorized police department of an authority or a sworn officer of the state regional park police in the office of parks and recreation;
- (f)A sworn officer of the capital police force of the office of general services;
- (g)An investigator employed in the office of a district attorney;
- (h)An investigator employed by a commission created by an interstate compact who is, to a substantial extent, engaged in the enforcement of the criminal laws of this state;
- (i)The chief and deputy fire marshals, the supervising fire marshals and the fire marshals of the bureau of fire investigation of the New York City fire department;
- (j)A sworn officer of the division of law enforcement in the department of environmental conservation;
- (k)A sworn officer of a police force of a public authority created by an interstate compact;
- (l)Long Island railroad police.

**(m)**A special investigator employed in the statewide organized crime task force, while performing his assigned duties pursuant to section seventy-a of the executive law.

**(n)**A sworn officer of the Westchester county department of public safety services who, on or prior to June thirtieth, nineteen hundred seventy-nine was appointed as a sworn officer of the division of Westchester county parkway police or who was appointed on or after July first, nineteen hundred seventy-nine to the title of police officer, sergeant, lieutenant, captain or inspector or who, on or prior to January thirty-first, nineteen hundred eighty-three, was appointed as a Westchester county deputy sheriff.

**(o)**A sworn officer of the water-supply police employed by the city of New York [fig 1] , appointed to protect the sources, works, and transmission of water supplied to the city of New York, and to protect persons on or in the vicinity of such water sources, works, and transmission.

**(p)**Persons appointed as railroad policemen pursuant to section eighty-eight of the railroad law.

**(q)**An employee of the department of taxation and finance (i) assigned to enforcement of the taxes imposed under or pursuant to the authority of article twelve-A of the tax law and administered by the commissioner of taxation and finance, taxes imposed under or pursuant to the authority of article eighteen of the tax law and administered by the commissioner, taxes imposed under article twenty of the tax law, or sales or compensating use taxes relating to [fig 1] petroleum products or cigarettes imposed under article twenty-eight or pursuant to the authority of article twenty-nine of the tax law and administered by the commissioner or (ii) designated as a revenue crimes specialist and assigned to the enforcement of the taxes described in paragraph (c) of subdivision four of section 2.10 of this title, for the purpose of applying for and executing search warrants under article six hundred ninety of this chapter, for the purpose of acting as a claiming agent under article thirteen-A of the civil practice law and rules in connection with the enforcement of the taxes referred to above and for the purpose of executing warrants of arrest relating to the respective crimes specified in subdivision four of section 2.10 of this title.

**(r)**Any employee of the Suffolk county department of parks who is appointed as a Suffolk county park [fig 1] police officer.

**(s)**A university police officer appointed by the state university pursuant to paragraph 1 of subdivision two of section three hundred fifty-five of the education law.

**(t)**A sworn officer of the department of public safety of the Buffalo municipal housing authority who has achieved or been granted the status of sworn police officer and has been certified by the division of criminal justice services as successfully completing an approved basic course for police officers.

**(u)**Persons appointed as Indian police officers pursuant to section one hundred fourteen of the Indian law.

**(v)**Supervisor of forest ranger services; assistant supervisor of forest ranger services; forest ranger 3; forest ranger 2; forest ranger 1 employed by the state department of environmental conservation or sworn officer of the division of forest protection and fire management in the department of environmental conservation responsible for wild land search and rescue, wild land fire management in the state as prescribed in subdivision eighteen of section 9-0105 and title eleven of article nine of the environmental conservation law, exercising care, custody and control of state lands administered by the department of environmental conservation.

**34-a.**"Geographical area of employment." The "geographical area of employment" of certain police officers is as follows:

**(a)**[Until Sept 1, 2013 (see 1999 note below)] Except as provided in paragraph (d) of this subdivision, New York state constitutes the "geographical area of employment" of any police officer employed as such by an agency of the state or by an authority which functions throughout the state, or a police officer designated by the superintendent of state police pursuant to section two hundred twenty-three of the executive law;

**(a)**[Eff Sept 1, 2013 (see 1999 note below)] Except as provided in paragraph (d), New York state constitutes the "geographical area of employment" of any police officer employed as such by an agency of the state or by an authority which functions throughout the state;

**(b)**A county, city, town or village, as the case may be, constitutes the "geographical area of employment" of any police officer employed as such by an agency of such political subdivision or by an authority which functions only in such political subdivision; and

**(c)**Where an authority functions in more than one county, the "geographical area of employment" of a police officer employed thereby extends through all of such counties.

**(d)**The geographical area of employment of a police officer appointed by the state university is the campuses and other property of the state university,

including any portion of a public highway which crosses or abuts such property.

**35.**"Commitment to the custody of the sheriff," when referring to an order of a court located in a county or city which has established a department of correction, means commitment to the commissioner of correction of such county or city.

**36.**"County" ordinarily means (a) any county outside of New York City or (b) New York City in its entirety. Unless the context requires a different construction, New York City, despite its five counties, is deemed a single county within the meaning of the provisions of this chapter in which that term appears.

**37.**"Lesser included offense." When it is impossible to commit a particular crime without concomitantly committing, by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense." In any case in which it is legally possible to attempt to commit a crime, an attempt to commit such crime constitutes a lesser included offense with respect thereto.

**38.**"Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated.

**39.**"Petty offense" means a violation or a traffic infraction.

**40.**"Evidence in chief" means evidence, received at a trial or other criminal proceeding in which a defendant's guilt or innocence of an offense is in issue, which may be considered as a part of the quantum of substantive proof establishing or tending to establish the commission of such offense or an element thereof or the defendant's connection therewith.

**41.**"Armed felony" means any violent felony offense defined in [section 70.02 of the penal law](#) that includes as an element either:

(a)possession, being armed with or causing serious physical injury by means of a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious physical injury may be discharged; or

(b)display of what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

**42.**"Juvenile offender" means (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of [section 125.25 of the penal law](#), or such conduct as a sexually motivated felony, where authorized pursuant to [section 130.91 of the penal law](#); and (2) a person fourteen or fifteen years old who is criminally

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[1993, ch 446, § 1](#), eff Nov 1, 1993, [L 1993, ch 508, § 11](#) (see 1993 and 2008 notes below), [L 1995, ch 2, §§ 68](#), 69 , eff Sept 1, 1995 (see 1995 note below), [L 1998, ch 424, §§ 1, 2](#), eff Jan 1, 1999, [L 1998, ch 435, § 1](#), eff Nov 1, 1998, [L 1999, ch 428, § 2](#), eff Nov 1, 1999, expires and repealed Sept 1, 2013 (see 1999 note below), [L 2000, ch 599, § 1](#), eff Dec 20, 2000, [L 2001, ch 504, § 5](#), eff Nov 21, 2001, [L 2002, ch 318, §§ 1, 2](#), eff Aug 6, 2002 (see 2002 note below), [L 2003, ch 121, § 1](#), eff July 1, 2003, [L 2003, ch 264, § 35](#), eff Nov 1, 2003, [L 2005, ch 558, § 2](#), eff Aug 23, 2005 [L 2006, ch 693, § 1](#), eff Sept 13, 2006, [L 2007, ch 7, § 46](#), eff April 13, 2007 (see 2007 note below), [L 2011, ch 61, § 55](#) (Part K), eff Sept 1, 2011 (see 2011 note below), [L 2012, ch 501, § 4](#) (Part A), eff June 30, 2013 (see 2012 note below).

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## **§ 2.10. Persons designated as peace officers**

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Notwithstanding the provisions of any general, special or local law or charter to the contrary, only the following persons shall have the powers of, and shall be peace officers:

- 1.** Constables or police constables of a town or village, provided such designation is not inconsistent with local law.
- 2.** The sheriff, undersheriff and deputy sheriffs of New York city and sworn officers of the Westchester county department of public safety services appointed after January thirty-first, nineteen hundred eighty-three to the title of public safety officer and who perform the functions previously performed by a Westchester county deputy sheriff on or prior to such date.
- 3.** Investigators of the office of the state commission of investigation.
- 4.** Employees of the department of taxation and finance designated by the commissioner of taxation and finance as peace officers and assigned by the commissioner of taxation and finance
  - (a)** to the enforcement of any of the criminal or seizure and forfeiture provisions of the tax law relating to (i) taxes imposed under or pursuant to the authority of article twelve-A of the tax law and administered by the commissioner, (ii) taxes imposed under or pursuant to the authority of article eighteen of the tax law and administered by the commissioner, (iii) taxes imposed under article twenty of the tax law, or (iv) sales or compensating use taxes relating to [fig 1] petroleum products or cigarettes imposed under article twenty-eight or pursuant to the authority of article twenty-nine of the tax law and administered by the commissioner or
  - (b)** to the enforcement of any provision of the penal law relating to any of the taxes described in paragraph (a) of this subdivision and relating to crimes effected through the use of a statement or document filed with the department in connection with the administration of such taxes or

(c)as revenue crimes specialist and assigned to the enforcement of any of the criminal provisions of the tax law relating to taxes administered by the commissioner of taxation and finance other than those taxes set forth in paragraph (a) of this subdivision or any provision of the penal law relating to such taxes [fig 1] , and those provisions of the penal law (i) relating to any of the foregoing taxes and (ii) relating to crimes effected through the use of a statement or document filed with the department in connection with the administration of such foregoing taxes or

(d)to the enforcement of any provision of law which is subject to enforcement by criminal penalties and which relates to the performance by persons employed by the department of taxation and finance of the duties of their employment.

Provided, however, that nothing in this subdivision shall be deemed to authorize any such employee designated as a peace officer after November first, nineteen hundred eighty-five to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*, and further provided that, prior to such designation by the commissioner each such employee shall have successfully completed the training requirements specified in section 2.30 of this [fig 1] article. Provided, further, that any license issued to such employee pursuant to such peace officer designation by the commissioner shall relate only to the firearm issued to such employee by the department of taxation and finance and such permit shall not cover any other firearms. The foregoing sentence shall not be deemed to prohibit such peace officer from applying for a separate permit relating to non-departmental firearms.

5.Employees of the New York city department of finance assigned to enforcement of the tax on cigarettes imposed by title D of chapter forty-six of the administrative code of the city of New York by the commissioner of finance.

6.Confidential investigators and inspectors, as designated by the commissioner, of the department of agriculture and markets, pursuant to rules of the department.

7.Officers or agents of a duly incorporated society for the prevention of cruelty to animals.

7-a.[Expires and repealed Aug 11, 2014] Officers or agents of a duly incorporated society for the prevention of cruelty to children in Rockland county; provided, however, that nothing in this subdivision shall be deemed to authorize such officer or agent to carry, possess, repair, or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the*

*penal law*; and provided further that such officer or agent shall exercise the powers of a peace officer only when he is acting pursuant to his special duties.

**8.**Inspectors and officers of the New York city department of health when acting pursuant to their special duties as set forth in section 564-11.0 of the administrative code of the city of New York; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**9.**Park rangers in Suffolk county, who shall be authorized to issue appearance tickets, simplified traffic informations, simplified parks informations and simplified environmental conservation informations.

**10.**Broome county park rangers who shall be authorized to issue appearance tickets, simplified traffic informations, simplified parks informations, and simplified environmental conservation informations; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**11.**Park rangers in Onondaga and Cayuga counties, who shall be authorized to issue appearance tickets, simplified traffic informations, simplified parks informations and simplified environmental conservation informations, within the respective counties of Onondaga and Cayuga.

**12.**Special policemen designated by the commissioner and the directors of in-patient facilities in the office of mental health pursuant to [\*section 7.25 of the mental hygiene law\*](#), and special policemen designated by the commissioner and the directors of facilities under his jurisdiction in the office of mental retardation and developmental disabilities pursuant to [\*section 13.25 of the mental hygiene law\*](#); provided, however, that nothing in this subdivision shall be deemed to authorize such officers to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**13.**Persons designated as special policemen by the director of a hospital in the department of health pursuant to section four hundred fifty-five of the public health law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**14.**[Repealed]

**15.**Uniformed enforcement forces of the New York state thruway authority, when acting pursuant to subdivision two of section three hundred sixty-one of the public authorities law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**16.**Employees of the department of health designated pursuant to section thirty-three hundred eighty-five of the public health law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**17.**Uniformed housing guards of the Buffalo municipal housing authority.

**18.**Bay constable of the city of Rye, the villages of Mamaroneck, South Nyack and bay constables of the towns of East Hampton, Hempstead, Oyster Bay, Riverhead, Southampton, Southold, Islip, Shelter Island, Brookhaven, Babylon, Smithtown, Huntington and North Hempstead; provided, however, that nothing in this subdivision shall be deemed to authorize the bay constables in the city of Rye, the village of South Nyack or the towns of Brookhaven, Babylon, Southold, East Hampton, Riverhead, Islip, other than a bay constable of the town of Islip who prior to April third, nineteen hundred ninety-eight served as harbormaster for such town and whose position was reclassified as bay constable for such town prior to such date, Smithtown, Huntington and Shelter Island to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**19.**Harbor masters appointed by a county, city, town or village.

**20.**Bridge and tunnel officers, sergeants and lieutenants of the Triborough bridge and tunnel authority.

**21.a.** Uniformed court officers of the unified court system.

**b.**Court clerks of the unified court system in the first and second departments.

**c.**Marshall, deputy marshal, clerk or uniformed court officer of a district court.

**(d)**<sup>[1]</sup>Marshalls or deputy marshalls of a city court, provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

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<sup>[1]</sup> [n1] So in original.

e.Uniformed court officers of the city of Mount Vernon.

f.Uniformed court officers of the city of Jamestown.

**22.**Patrolmen appointed by the Lake George park commission; provided however that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**23.**Parole officers or warrant officers in the [fig 1] department of corrections and community supervision.

**23-a.**Parole revocation specialists in the [fig 1] department of corrections and community supervision; provided, however, that nothing in this subdivision shall be deemed to authorize such employee to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**24.**Probation officers.

**25.**Officials, as designated by the commissioner of the department of [fig 1] corrections and community supervision pursuant to rules of the department, and correction officers of any state correctional facility or of any penal correctional institution.

**26.**Peace officers designated pursuant to the provisions of the New York state defense emergency act, as set forth in chapter seven hundred eighty-four of the laws of nineteen hundred fifty-one, as amended, when acting pursuant to their special duties during a period of attack or imminent attack by enemy forces, or during official drills called to combat natural or man-made disasters, or during official drills in preparation for an attack by enemy forces or in preparation for a natural or man-made disaster; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*; and provided further, that such officer shall have the powers set forth in section 2.20 of this article only during a period of imminent or actual attack by enemy forces and during drills authorized under section twenty-nine-b of article two-B of the executive law, providing for the use of civil defense forces in disasters. Notwithstanding any other provision of law, such officers shall have the power to direct and control traffic during official drills in preparation for an attack by enemy forces or in preparation for combating natural or man-made disasters; however, this grant does not include any of the other powers set forth in section 2.20 of this article.

**27.**New York city special patrolmen appointed by the police commissioner pursuant to subdivision c or e of section 434a-7.0 or subdivision c or e of section 14-106 of the administrative code of the city of New York; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law* and the employer has authorized such officer to possess a firearm during any phase of the officers on-duty employment. Special patrolmen shall have the powers set forth in section 2.20 of this article only when they are acting pursuant to their special duties; provided, however, that the following categories of New York city special patrolmen shall have such powers whether or not they are acting pursuant to their special duties: [fig 1] school safety officers employed by the board of education of the city of New York; parking control specialists, taxi and limousine inspectors, urban park rangers and evidence and property control specialists employed by the city of New York; and further provided that, with respect to the aforementioned categories of New York city special patrolmen, where such a special patrolman has been appointed by the police commissioner and, upon the expiration of such appointment the police commissioner has neither renewed such appointment nor explicitly determined that such appointment shall not be renewed, such appointment shall remain in full force and effect indefinitely, until such time as the police commissioner expressly determines to either renew or terminate such appointment.

**28.**All officers and members of the uniformed force of the New York city fire department as set forth and subject to the limitations contained in section 487a-15.0 of the administrative code of the city of New York; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**29.**Special policemen for horse racing, appointed pursuant to the provisions of the pari-mutuel revenue law as set forth in chapter two hundred fifty-four of the laws of nineteen hundred forty, as amended; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**30.**Supervising fire inspectors, fire inspectors, the fire marshal and assistant fire marshals, all of whom are full-time employees of the county of Nassau fire marshal's office [fig 1] .

**31.**[Repealed]

**32.** Investigators of the department of motor vehicles, pursuant to section three hundred ninety-two-b of the vehicle and traffic law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**33.** A city marshall of the city of New York who has received training in firearms handling from the federal bureau of investigation or in the New York city police academy, or in the absence of the available training programs from the federal bureau of investigation and the New York city police academy, from another law enforcement agency located in the state of New York, and who has received a firearms permit from the license division of the New York city police department.

**34.** Waterfront and airport investigators, pursuant to subdivision four of section ninety-nine hundred six of the unconsolidated laws; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**35.** Special investigators appointed by the state board of elections, pursuant to [\*section 3-107 of the election law\*](#).

**36.** Investigators appointed by the state liquor authority, pursuant to section fifteen of the alcoholic beverage control law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**37.** Special patrolmen of a political subdivision, appointed pursuant to section two hundred nine-v of the general municipal law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**38.** A special investigator of the New York city department of investigation who has received training in firearms handling in the New York police academy and has received a firearms permit from the license division of the New York city police department.

**39.** Broome county special patrolman, appointed by the Broome county attorney; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.



**40.**Special officers employed by the city of New York or by the New York city health and hospitals corporation; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*. The New York city health and hospitals corporation shall employ peace officers appointed pursuant to this subdivision to perform the patrol, investigation, and maintenance of the peace duties of special officer, senior special officer and hospital security officer, provided however that nothing in this subdivision shall prohibit managerial, supervisory, or state licensed or certified professional employees of the corporation from performing such duties where they are incidental to their usual duties, or shall prohibit police officers employed by the city of New York from performing these duties.

**41.**Fire police squads organized pursuant to section two hundred nine-c of the general municipal law, at such times as the fire department, fire company or an emergency rescue and first aid squad of the fire department or fire company are on duty, or when, on orders of the chief of the fire department or fire company of which they are members, they are separately engaged in response to a call for assistance pursuant to the provisions of section two hundred nine of the general municipal law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**42.**Special deputy sheriffs appointed by the sheriff of a county within which any part of the grounds of Cornell university or the grounds of any state institution constituting a part of the educational and research plants owned or under the supervision, administration or control of said university are located pursuant to section fifty-seven hundred nine of the education law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**43.**Housing patrolmen of the Mount Vernon housing authority, acting pursuant to rules of the Mount Vernon housing authority; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**44.**The officers, employees and members of the New York city division of fire prevention, in the bureau of fire, as set forth and subject to the limitations contained in subdivision one of section 487a-1.0 of the administrative code of the

city of New York; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**45.**Persons appointed and designated as peace officers by the Niagara frontier transportation authority, pursuant to subdivision thirteen of section twelve hundred ninety-nine-e of the public authorities law.

**46.**Persons appointed as peace officers by the Sea Gate Association pursuant to the provisions of chapter three hundred ninety-one of the laws of nineteen hundred forty, provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**47.**Employees of the [fig 1] department of [fig 2] financial services when designated as peace officers by the superintendent of [fig 3] financial services and acting pursuant to their special duties as set forth in article four of the financial services law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**48.**New York state air base security guards when they are designated as peace officers under military regulations promulgated by the chief of staff to the governor and when performing their duties as air base security guards pursuant to orders issued by appropriate military authority; provided, however, that nothing in this subdivision shall be deemed to authorize such guards to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**49.**Members of the army national guard military police and air national guard security personnel belonging to the organized militia of the state of New York when they are designated as peace officers under military regulations promulgated by the adjutant general and when performing their duties as military policemen or air security personnel pursuant to orders issued by appropriate military authority; provided, however, that nothing in this subdivision shall be deemed to authorize such military police or air security personnel to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**50.**Transportation supervisors in the city of White Plains appointed by the commissioner of public safety in the city of White Plains; provided, however,

that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**51.** Officers and members of the fire investigation division of the fire department of the city of Rochester, the city of Binghamton and the city of Utica, when acting pursuant to their special duties in matters arising under the laws relating to fires, the extinguishment thereof and fire perils; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**52.** Security hospital treatment assistants, as so designated by the commissioner of the office of mental health while transporting persons convicted of a crime to court, to other facilities within the jurisdiction of the office of mental health, or to any state or local correctional facility; provided, however, that nothing in this subdivision shall be deemed to authorize such employee to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of penal law*.

**53.** Authorized agents of the municipal directors of weights and measures in the counties of Suffolk, Nassau and Westchester when acting pursuant to their special duties as set forth in section one hundred eighty-one of the agriculture and markets law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**54.** Special policemen appointed pursuant to section one hundred fifty-eight of the town law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**55.**[Expired]

**56.** Dog control officers of the town of Brookhaven, who at the discretion of the town board may be designated as constables for the purpose of enforcing article twenty-six of the agriculture and markets law and for the purpose of issuing appearance tickets permitted under article seven of such law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**57.** Harbor Park rangers employed by the Snug Harbor cultural center in Richmond county and appointed as New York city special patrolmen by the police commissioner pursuant to subdivision c of section 14-106 of the administrative code of the city of New York. Notwithstanding any provision of law, rule or regulation, such officers shall be authorized to issue appearance tickets pursuant to section 150.20 of this chapter, and shall have such other powers as are specified in section 2.20 of this article only when acting pursuant to their special duties. Nothing in this subdivision shall be deemed to authorize such officers to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law* and the employer has authorized such officer to possess a firearm during any phase of the officer's on-duty employment.

**57-a.**<sup>[2]</sup> Seasonal park rangers of the Westchester county department of public safety while employed as authorized by the commissioner of public safety/sheriff of the county of Westchester; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**57-a.**<sup>[3]</sup> Officers of the Westchester county public safety emergency force, when activated by the commissioner of public safety/sheriff of the county of Westchester; provided, however that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**58.** Uniformed members of the security force of the Troy housing authority provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**59.** Officers and members of the sanitation police of the department of sanitation of the city of New York, duly appointed and designated as peace officers by such department; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*. Provided, further, that nothing in this subdivision shall be deemed to

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<sup>[2]</sup> [n2] There are two subdivisions 57-a.

<sup>[3]</sup> [n3] There are two subdivisions 57-a.

apply to officers and members of the sanitation police regularly and exclusively assigned to enforcement of such city's residential recycling laws.

**60.**[Repealed]

**61.** <sup>[4]</sup>Chief fire marshal, assistant chief fire marshal, fire marshal II and fire marshal I, all of whom are full-time employees of the Suffolk county department of fire, rescue and emergency services, when acting pursuant to their special duties in matters arising under the laws relating to fires, the extinguishment thereof and fire perils; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**61.** <sup>[5]</sup>[Repealed]

**62.** <sup>[6]</sup>Chief fire marshal, assistant chief fire marshal, fire marshal II and fire marshal I, all of whom are full-time employees of the town of Babylon, when acting pursuant to their special duties in matters arising under the laws relating to fires, the extinguishment thereof and fire perils; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**62.** <sup>[7]</sup>Employees of the division for youth assigned to transport and warrants units who are specifically designated by the director in accordance with section five hundred four-b of the executive law, provided, however, that nothing in this subdivision shall be deemed to authorize such employees to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**63.** <sup>[8]</sup>Uniformed members of the fire marshal's office in the town of [fig 1] Southampton and the town of Riverhead, when acting pursuant to their special duties in matters arising under the laws relating to fires, the extinguishment thereof and fire perils; provided, however that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

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<sup>[4]</sup> [n4] There are two subdivisions 61.

<sup>[5]</sup> [n5] There are two subdivisions 61.

<sup>[6]</sup> [n6] There are two subdivisions 62.

<sup>[7]</sup> [n7] There are two subdivisions 62.

<sup>[8]</sup> [n8] There are two subdivisions 63.

**63.**<sup>[9]</sup> Employees of the town court of the town of Greenburgh serving as a security officer; provided, however, that nothing in this subdivision will be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law* or to authorize such officer to carry or possess a firearm except while on duty.

**64.** Cell block attendants employed by the city of Buffalo police department; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**65.** Chief fire marshall, assistant chief fire marshall, fire marshall II and fire marshall I, all of whom are full-time employees of the town of Brookhaven, when acting pursuant to their special duties in matters arising under the laws relating to fires, the extinguishment thereof and fire perils; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license thereof has been issued pursuant to *section 400.00 of the penal law*.

**66.** Employees of the village court of the village of Spring Valley serving as security officers at such village court; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**67.** Employees of the town court of the town of Putnam Valley serving as a security officer; provided, however, that nothing in this subdivision will be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law* or to authorize such officer to carry or possess a firearm except while on duty.

**68.**<sup>[10]</sup> Employees of the town court of the town of Southampton serving as uniformed court officers at such town court; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

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<sup>[9]</sup> [n9] There are two subdivisions 63.

<sup>[10]</sup> [n10] There are five subdivisions 68.

**68.**<sup>[11]</sup>The state inspector general and investigators designated by the state inspector general; provided, however, that nothing in this subdivision shall be deemed to authorize the state inspector general or such investigators to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**68.**<sup>[12]</sup>Dog control officers of the town of Arcadia, who at the discretion of the town board may be designated as constables for the purpose of enforcing article twenty-six of the agriculture and markets law and for the purpose of issuing appearance tickets permitted under article seven of such law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**68.**<sup>[13]</sup>Employees appointed by the sheriff of Livingston county, when acting pursuant to their special duties serving as uniformed marine patrol officers; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license has been issued pursuant to *section 400.00 of the penal law* or to authorize such officer to carry or possess a firearm except while on duty.

**68.**<sup>[14]</sup>Persons employed by the Chautauqua county sheriff's office serving as court security officers; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**69.**Employees of the village court of the village of Amityville serving as uniformed court officers at such village court; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**70.**Employees appointed by the sheriff of Yates county, pursuant to their special duties serving as uniformed marine patrol officers; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license has been

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<sup>[11]</sup> [n11] There are five subdivisions 68.

<sup>[12]</sup> [n12] There are five subdivisions 68.

<sup>[13]</sup> [n13] There are five subdivisions 68.

<sup>[14]</sup> [n14] There are five subdivisions 68.

issued pursuant to *section 400.00 of the penal law* or to authorize such officer to carry or possess a firearm except while on duty.

**71.** Town of Smithtown fire marshalls when acting pursuant to their special duties in matters arising under the laws relating to fires, the extinguishment thereof and fire perils; provided, however, that nothing in this subdivision shall be deemed to authorize such officers to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**72.** Persons employed by Canisius college as members of the security force of such college; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**73.** Employees of the town court of the town of Newburgh serving as uniformed court officers at such town court; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**74.** <sup>[15]</sup>

**a.** Special deputy sheriffs appointed by the sheriff of Tompkins county pursuant to paragraphs b and c of this subdivision; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**b.** For the protection of the grounds, buildings and property of Ithaca college the prevention of crime and the enforcement of law and order, and for the enforcement of such rules and regulations as the board of trustees of Ithaca college shall from time to time make, the sheriff of Tompkins county may appoint and remove following consultation with Ithaca college such number of special deputy sheriffs as is determined by the sheriff to be necessary for the maintenance of public order at Ithaca college, such appointments to be made from persons nominated by the president of Ithaca college. Such special deputy sheriffs shall comply with requirements as established by the sheriff and shall act only within Tompkins county. Such special deputy sheriffs so appointed shall be employees of the college and subject to its supervision and control as outlined in the terms and conditions to be mutually agreed upon

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<sup>[15]</sup> [n15] There are four subdivisions 74.



between the sheriff and Ithaca college. Such special deputy sheriffs shall have the powers of peace officers and shall act solely within the said grounds or premises owned or administered by Ithaca college, except in those rare and special situations when requested by the sheriff to provide assistance on any public highway which crosses or adjoins such property. Ithaca college will provide legal defense and indemnification, and hold harmless the county of Tompkins, its officers and employees and the Tompkins county sheriff, its officers and employees, from all claims arising out of conduct by or injury to, such personnel while carrying out their law enforcement functions except in those situations when they are acting under the direct supervision and control of the county or sheriff's department.

c. Every special deputy sheriff so appointed shall, before entering upon the duties of his or her office, take and subscribe the oath of office prescribed by article thirteen of the constitution of the state of New York which oath shall be filed in the office of the county clerk of Tompkins county. Every special deputy sheriff appointed under this subdivision when on regular duty shall wear conspicuously a metallic shield with a designating number and the words "Special Deputy Sheriff Ithaca College" thereon.

74.<sup>[16]</sup> Parks and recreation forest rangers employed by the office of parks, recreation and historic preservation; provided, however, that nothing in this subdivision shall be deemed to authorize such individuals to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

74.<sup>[17]</sup> Employees of the village court of the village of Quogue, town of Southampton serving as uniformed court officers at such village court; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

74.<sup>[18]</sup> Employees of the town court of the town of East Hampton serving as uniformed court officers at such town court; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

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<sup>[16]</sup> [n16] There are four subdivisions 74.

<sup>[17]</sup> [n17] There are four subdivisions 74.

<sup>[18]</sup> [n18] There are four subdivisions 74.

**75.**<sup>[19]</sup> Dog control officers of the town of Clarence, who at the discretion of the town board may be designated as constables for the purpose of enforcing article twenty-six of the agriculture and markets law and for the purpose of issuing appearance tickets permitted under article seven of the agriculture and markets law; provided, however, that nothing in this subdivision shall be deemed to authorize such officers to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**75.**<sup>[20]</sup> Airport security guards, senior airport security guards, airport security supervisors, retired police officers, and supervisors of same, who are designated by resolution of the town board of the town of Islip to provide security at Long Island MacArthur Airport when acting pursuant to their duties as such, and such authority being specifically limited to the grounds of the said airport. However, nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**75.**<sup>[21]</sup> Officers and members of the fire investigation unit of the fire department of the city of Buffalo when acting pursuant to their special duties in matters arising under the laws relating to fires, the extinguishment thereof and fire perils; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**76.**<sup>[22]</sup> Employees of the village court of the village of Southampton, town of Southampton serving as uniformed court officers at such village court; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**76.**<sup>[23]</sup> Animal control officers employed by the city of Peekskill; provided, however, that nothing in this subdivision shall be deemed to authorize such individuals to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

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<sup>[19]</sup> [n19] There are three subdivisions 75.

<sup>[20]</sup> [n20] There are three subdivisions 75.

<sup>[21]</sup> [n21] There are three subdivisions 75.

<sup>[22]</sup> [n22] There are two subdivisions 76.

<sup>[23]</sup> [n23] There are two subdivisions 76.

77. <sup>[24]</sup>

**(a)**[fig 1] Syracuse University peace officers appointed by the chief law enforcement officer of the city of Syracuse pursuant to paragraphs (b), (c) and (d) of this subdivision, who shall be authorized to issue appearance tickets and simplified traffic informations; provided, however, that nothing in this subdivision shall be deemed to authorize any such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**(b)**For the protection of the grounds, buildings and property of Syracuse University, the prevention of crime and the enforcement of law and order, and for the enforcement of such rules and regulations as Syracuse University shall from time to time establish, the chief law enforcement officer of the city of Syracuse may appoint and remove, following consultations with Syracuse University; such number of Syracuse University peace officers as is determined by the chief law enforcement officer of the city of Syracuse to be necessary for the maintenance of public order at such university, such appointments to be made from persons nominated by the chancellor of Syracuse University. Such peace officers shall comply with such requirements as shall be established by the chief law enforcement officer of the city of Syracuse. Such Syracuse University peace officers so appointed shall be employees of such university, and subject to its supervision and control and the terms and conditions to be mutually agreed upon between the chief law enforcement officer of the city of Syracuse and Syracuse University. Nothing in this paragraph shall limit the authority of Syracuse University to remove such peace officers. Such Syracuse University peace officers shall have the powers of peace officers within the geographical area of employment of the grounds or premises owned, controlled or administrated by Syracuse University within the county of Onondaga, except in those situations when requested by the chief law enforcement officer of the city of Syracuse or his or her designee, including by means of written protocols agreed to by the chief law enforcement officer of the city of Syracuse and Syracuse University, to provide assistance on any public highway which crosses or adjoins such grounds or premises. Syracuse University shall provide legal defense and indemnification, and hold harmless the city of Syracuse, and its officers and employees from all claims arising out of conduct by or injury to, such peace officers while carrying out their law enforcement functions, except in those situations when they are acting under the direct supervision and control of the chief law enforcement officer of the city of Syracuse, or his or her designee.

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<sup>[24]</sup> [n24] There are two subdivisions 77.

(c) Every Syracuse University peace officer so appointed shall, before entering upon the duties of his or her office, take and subscribe the oath of office prescribed by article thirteen of the state constitution, which oath shall be filed in the office of the county clerk of the county of Onondaga. Every such peace officer appointed pursuant to this subdivision when on regular duty shall conspicuously wear a metallic shield with a designating number and the words "Syracuse University Peace Officer" engraved thereon.

(d) To become eligible for appointment as a Syracuse University peace officer a candidate shall, in addition to the training requirements as set forth in section 2.30 of this article, complete the course of instruction in public and private law enforcement established pursuant to paragraph (c) of subdivision five of section sixty-four hundred fifty of the education law.

77. <sup>[25]</sup> Chief fire marshal, assistant chief fire marshal, and fire marshals, all of whom are full-time employees of the town of East Hampton, when acting pursuant to their special duties in matters arising under the laws relating to fires, the extinguishment thereof and fire perils; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

78. A security officer employed by a community college who is specifically designated as a peace officer by the board of trustees of a community college pursuant to subdivision five-a of section sixty-three hundred six of the education law, or by a community college regional board of trustees pursuant to subdivision four-a of section sixty-three hundred ten of the education law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

79. <sup>[26]</sup> Court security officers employed by the Wayne county sheriff's office; provided however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

79. <sup>[27]</sup> Supervisors and members of the arson investigation bureau and fire inspection bureau of the [fig 1] office of fire prevention and control when acting

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<sup>[25]</sup> [n25] There are two subdivisions 77.

<sup>[26]</sup> [n26] There are four subdivisions 79.

<sup>[27]</sup> [n27] There are four subdivisions 79.

pursuant to their special duties in matters arising under the laws relating to fires, their prevention, extinguishment, investigation thereof, and fire perils; provided, however, that nothing in this subdivision shall be deemed to authorize such employees to carry, possess, repair, or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**79.** <sup>[28]</sup>Peace officers appointed by the city university of New York pursuant to subdivision sixteen of section sixty-two hundred six of the education law, who shall have the powers set forth in section 2.20 of this article whether or not they are acting pursuant to their special duties; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**79.** <sup>[29]</sup>Animal control officers of the city of Elmira, who at the discretion of the city council of the city of Elmira may be designated as constables for the purpose of enforcing article twenty-six of the agriculture and markets law, and for the purpose of issuing appearance tickets permitted under article seven of such law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**80.**Employees of the Onondaga county sheriff's department serving as uniformed court security officers at Onondaga county court facilities; provided, however, that nothing in this subdivision shall be deemed to authorize such officers to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**81.** <sup>[30]</sup>Members of the security force employed by Erie County Medical Center; provided however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**81.** <sup>[31]</sup>Employees of the town of Riverhead serving as court officers at town of Riverhead court facilities; provided, however, that nothing in this subdivision shall be deemed to authorize such officers to carry, possess, repair or dispose of a

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<sup>[28]</sup> [n28] There are four subdivisions 79.

<sup>[29]</sup> [n29] There are four subdivisions 79.

<sup>[30]</sup> [n30] There are six subdivisions 81.

<sup>[31]</sup> [n31] There are six subdivisions 81.

firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**81.** <sup>[32]</sup> Employees of the town court of the town of Southold serving as uniformed court officers at such town court; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**81.** <sup>[33]</sup> Commissioners of and court officers in the department of public safety for the town of Rye when acting pursuant to their special duties in matters arising under the laws relating to maintaining the safety and security of citizens, judges and court personnel in the town court, and effecting the safe and secure transport of persons under the custody of said department; provided, however, that nothing in this subdivision shall be deemed to authorize such employees to carry, possess, repair, or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**81.** <sup>[34]</sup> Employees of the town of Yorktown serving as court attendants at town of Yorktown court facilities; provided, however, that nothing in this subdivision shall be deemed to authorize such employees to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**81.** <sup>[35]</sup> Employees of the Lewis county sheriff's department serving as uniformed court security officers at Lewis county court facilities; provided, however, that nothing in this subdivision shall be deemed to authorize such officers to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**82.** Employees of the New York city business integrity commission designated as peace officers by the chairperson of such commission; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**83.** <sup>[36]</sup> [Eff June 15, 2013] Members of the security force employed by Kaleida Health within and directly adjacent to the hospital buildings on the medical

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<sup>[32]</sup> [n32] There are six subdivisions 81.

<sup>[33]</sup> [n33] There are six subdivisions 81.

<sup>[34]</sup> [n34] There are six subdivisions 81.

<sup>[35]</sup> [n35] There are six subdivisions 81.

<sup>[36]</sup> [n36] There are two subdivisions 83.

campus located between East North Street, Goodell Street, Main Street and Michigan Avenue. These officers shall only have the powers listed in paragraph (c) of subdivision one of section 2.20 of this article, as well as the power to detain an individual for a reasonable period of time while awaiting the arrival of law enforcement, provided that the officer has actual knowledge, or probable cause to believe, that such individual has committed an offense; provided however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**83.** <sup>[37]</sup>

**(a)** Security services officers employed by the University of Rochester who are designated as peace officers by the board of trustees of the University of Rochester pursuant to paragraphs (b), (c), (d) and (e) of this subdivision; provided, however, that nothing in this subdivision shall be deemed to authorize any such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to *section 400.00 of the penal law*.

**(b)** For the protection of the grounds, buildings and property of the University of Rochester, the prevention of crime and the enforcement of law and order, the board of trustees of the University of Rochester may appoint and remove such number of security services officers designated as peace officers as is determined by the board of trustees to be necessary for the maintenance of public order consistent with this subdivision. Such peace officers shall comply with such requirements as shall be mutually agreed upon between the chief law enforcement officers of the applicable local law enforcement jurisdictions and the University of Rochester. Such University of Rochester peace officers so appointed shall be employees of the University of Rochester and subject to its supervision and control. Such University of Rochester peace officers shall have the powers of peace officers within the geographic area of employment of the grounds or premises owned, controlled or administered by the University of Rochester within the county of Monroe except as provided in paragraph (c) of this subdivision; provided, however, such peace officers shall have the powers of peace officers beyond such geographic area upon the request of the chief law enforcement officer of the local law enforcement jurisdiction or his or her designee, for the purpose of transporting an individual who has been arrested in accordance with section 140.27 of this

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<sup>[37]</sup> [n37] There are two subdivisions 83.

chapter and when no local law enforcement officer is available for transporting such individual in a timely manner.

**(c)**University of Rochester peace officers who are assigned to work at Strong Memorial Hospital shall only have the powers in *section 9.41 of the mental hygiene law* and the powers listed in paragraphs (a), (c) and (h) of subdivision one of section 2.20 of this article. Provided that in order to exercise the power set forth in paragraph (a) of subdivision one of section 2.20 of this article, the officer has actual knowledge, or probable cause to believe, that such individual has committed an offense.

**(d)**The University of Rochester shall provide legal defense and indemnification to applicable municipality and its officers and employees, and hold them harmless, against all claims arising out of conduct by or injury to such peace officers while carrying out their special duties, except in those situations when they are acting as agents of the chief law enforcement officer of the applicable local law enforcement jurisdiction or his or her designee.

**(e)**To become eligible for designation as a University of Rochester peace officer, a candidate shall, in addition to the training requirements as set forth in section 2.30 of this article, complete the course of instruction in public and private law enforcement established pursuant to subdivision three of section sixty-four hundred thirty-five of the education law.

## History

Add, L 1980, ch 843, § 2, eff Sept 1, 1980; amd, L 1981, ch 175, §§ 6, 8, 9, eff July 2, 1981 and applicable to offenses committed on or after such date; amd, L 1981, ch 175, § 7, L 1981, ch 462, § 1, L 1981, ch 470, § 1, L 1981, ch 523, § 1, L 1981, ch 720, § 5, eff Nov 1, 1981 (see 1993 note below), L 1982, ch 658, § 2, retroactive to and deemed to have been in full force and effect on and after July 1, 1979 (see 1982 note below), L 1983, ch 969, §§ 3-6, 9, eff Aug 8, 1983 (see 1983 note below), L 1984, ch 740, § 1, L 1985, ch 65, § 4, eff April 17, 1985, L 1985, ch 266, § 1, L 1986, ch 318, § 2, eff July 17, 1986, L 1986, ch 364, § 1, L 1987, ch 617, § 11, eff Jan 1, 1988 (see 1987 note below), L 1987, ch 734, §§ 1, 2, L 1987, ch 734, § 2, eff Nov 1, 1987 (see 1987 note below) eff Nov 1, 1987 (see 1987 note below), L 1988, ch 141, § 70, eff June 20, 1988, L 1988, ch 438, § 1, eff July 29, 1988, L 1988, ch 274, § 1, L 1988, ch 695, § 3, eff Jan 1, 1989, L 1989, ch 188, § 1, eff June 24, 1989, L 1989, ch 189, § 1, L 1989, ch 285, § 1, L 1989, ch 426, § 1, [L 1990, ch 931, § 1](#), eff Oct 15, 1990, [L 1991, ch 166, § 341](#), eff June 12, 1991, expired Nov 1, 1993 (see 1991 note below), [L 1992, ch 93, § 1](#), eff May 17, 1992, [L 1992, ch 257, § 1](#), eff June 30, 1992, [L 1992, ch 294, § 1](#), eff June 30, 1992, [L 1992, ch 321, § 4](#), eff July 17, 1992, [L 1992, ch 487, § 1](#), eff July 17, 1992, [L 1992, ch 858, § 1](#), eff Dec 23, 1992, [L 1993, ch 157,](#)



[§ 1](#), eff July 28, 1993, [L 1993, ch 204, § 1](#), eff July 6, 1993, [L 1993, ch 508, § 12](#) (see 1993 and 2008 notes below), [L 1993, ch 687, § 9](#), eff Dec 2, 1993, [L 1994, ch 466, § 1](#), eff July 20, 1994, expired and repealed Jan 31, 1995 (see 1994 note below), [L 1994, ch 519, § 1](#), eff July 26, 1994, [L 1994, ch 620, § 1](#), eff July 26, 1994, [L 1994, ch 665, § 1](#), eff Aug 2, 1994, [L 1994, ch 668, § 1](#), [L 1995, ch 2, §§ 70](#) and 71, eff Sept 1, 1995 (see 1995 note below), [L 1995, ch 206, § 1](#), eff Sept 24, 1995, [L 1995, ch 457, § 1](#), eff Aug 2, 1995, [L 1995, ch 462, § 1](#), eff Aug 2, 1995, [L 1995, ch 521, § 1](#), eff Aug 2, 1995, [L 1995, ch 658, § 1](#), eff Aug 8, 1995, [L 1996, ch 314, § 1](#), eff July 17, 1996, [L 1996, ch 379, § 1](#), eff July 30, 1996, [L 1997, ch 378, § 1](#), eff Aug 5, 1997, [L 1997, ch 555, § 1](#), eff Sept 10, 1997, [L 1997, ch 562, § 1](#), eff Sept 10, 1997, [L 1998, ch 224, § 1](#), eff July 7, 1998, [L 1998, ch 424, § 3](#), eff Jan 1, 1999, [L 1995, ch 206, § 1](#), eff Sept 24, 1995, [L 1999, ch 212, § 2](#), eff July 6, 1999, [L 1999, ch 584, § 1](#), eff Nov 1, 1999, [L 2000, ch 168, § 1](#), eff July 18, 2000, [L 2000, ch 227, § 1](#), eff Aug 16, 2000, [L 2000, ch 393, § 1](#), Aug 30, 2000, [L 2000, ch 385, § 1](#), eff Aug 30, 2000, [L 2000, ch 404, § 1](#), eff Aug 30, 2000, [L 2001, ch 120, § 1](#), eff Aug 6, 2001, [L 2001, ch 481, § 1](#), eff Nov 21, 2001, [L 2001, ch 548, § 1](#), eff Dec 12, 2001, [L 2002, ch 260, § 1](#), eff July 30, 2002, [L 2002, ch 261, § 1](#), eff July 30, 2002, [L 2002, ch 318, §§ 3, 4](#), eff Aug 6, 2002 (see 2002 note below), [L 2002, ch 320, § 1](#), Aug 6, 2002, [L 2002, ch 321, § 1](#), Aug 6, 2002, [L 2002, ch 623, § 1](#), eff Oct 2, 2002, [L 2002, ch 623, § 1](#), eff Oct 2, 2002, [L 2003, ch 626, § 1](#), eff Sept 30, 2003, [L 2003, ch 638, § 1](#), eff Oct 7, [L 2003, ch 654, § 1](#), eff Oct 7, 2003, 2003, [L 2003, ch 665, § 1](#), eff Oct 15, 2003, [L 2003, ch 671, § 1](#), eff Oct 15, 2003, [L 2003, ch 689, § 3](#), eff Oct 21, 2003, [L 2004, ch 17, § 1](#), eff March 23, 2004, [L 2004, ch 24, § 3](#), eff April 6, 2004, [L 2004, ch 235, § 1](#), eff July 27, 2004, [L 2004, ch 241, § 1](#), eff July 27, 2004, [L 2004, ch 367, § 1](#), Aug 17, 2004, [L 2004, ch 664, §§ 2, 3](#), eff Oct 26, 2004, [L 2004, ch 752, § 1](#), eff Jan 28, 2005, [L 2005, ch 557, § 1](#), eff Aug 23, 2005, [L 2006, ch 438, § 1](#), eff July 26, 2006, expired and repealed Dec 31, 2006 (see 2006 note below), [L 2006, ch 467, § 1](#), eff Feb 12, 2007, [L 2006, ch 482, § 1](#), eff Aug 16, 2006, [L 2006, ch 501, § 1](#), eff Aug 16, 2006, [L 2006, ch 581, § 1](#), eff Aug 16, 2006, [L 2006, ch 584, § 1](#), eff Aug 16, 2006, [L 2006, ch 653, § 1](#), eff Sept 13, 2006, [L 2006, ch 693, § 2](#), eff Sept 13, 2006, [L 2008, ch 564, § 1](#), eff Sept 4, 2008, [L 2009, ch 329, § 7](#), eff Aug 8, 2009 (see 2009 note below), [L 2009, ch 329, § 8](#), eff Aug 11, 2009, expires and repealed Aug 11, 2014 (see 2009 note below), [L 2010, ch 56, § 50](#) (Part B), eff July 1, 2010, [L 2011, ch 61, § 56](#) (Part K), eff Sept 1, 2011 (see 2011 note below), [L 2011, ch 62, §§ 78, 78-a](#) (Part A), eff Oct 3, 2011 (see 2011 note below), [L 2011, ch 62, § 70](#) (Part C, Subpart B), eff March 31, 2011, [L 2012, ch 502, § 1](#), eff June 15, 2013, [L 2012, ch 504, § 1](#), eff Dec 17, 2012.

## § 2.20. Powers of peace officers

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1. The persons designated in section 2.10 of this article shall have the following powers:

- (a) The power to make warrantless arrests pursuant to section 140.25 of this chapter.
- (b) The power to use physical force and deadly physical force in making an arrest or preventing an escape pursuant to [\*section 35.30 of the penal law\*](#).
- (c) The power to carry out warrantless searches whenever such searches are constitutionally permissible and acting pursuant to their special duties.
- (d) The power to issue appearance tickets pursuant to subdivision three of section 150.20 of this chapter, when acting pursuant to their special duties. New York city special patrolmen shall have the power to issue an appearance ticket only when it is pursuant to rules and regulations of the police commissioner of the city of New York.
- (e) The power to issue uniform appearance tickets pursuant to article twenty-seven of the parks, recreation and historic preservation law and to issue simplified traffic informations pursuant to section 100.25 of this chapter and section two hundred seven of the vehicle and traffic law whenever acting pursuant to their special duties.
- (f) The power to issue a uniform navigation summons and/or complaint pursuant to section nineteen of the navigation law whenever acting pursuant to their special duties.
- (g) The power to issue uniform appearance tickets pursuant to article seventy-one of the environmental conservation law, whenever acting pursuant to their special duties.
- (h) The power to possess and take custody of firearms not owned by the peace officer, for the purpose of disposing, guarding, or any other lawful purpose, consistent with his duties as a peace officer.

(i) Any other power which a particular peace officer is otherwise authorized to exercise by any general, special or local law or charter whenever acting pursuant to his special duties, provided such power is not inconsistent with the provisions of the penal law or this chapter.

(j) Uniformed court officers shall have the power to issue traffic summonses and complaints for parking, standing, or stopping violations pursuant to the vehicle and traffic law whenever acting pursuant to their special duties.

2. For the purposes of this section a peace officer acts pursuant to his special duties when he performs the duties of his office, pursuant to the specialized nature of his particular employment, whereby he is required or authorized to enforce any general, special or local law or charter, rule, regulation, judgment or order.

3. A peace officer, whether or not acting pursuant to his special duties, who lawfully exercises any of the powers conferred upon him pursuant to this section, shall be deemed to be acting within the scope of his public employment for purposes of defense and indemnification rights and benefits that he may be otherwise entitled to under the provisions of section fifty-k of the general municipal law, section seventeen or eighteen of the public officers law, or any other applicable section of law.

## History

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Add, L 1980, ch 843, § 2, eff Sept 1, 1980.

Sub 1, formerly opening par, so numbered, L 1985, ch 722, § 1, eff Aug 1, 1985.

Former sub 1, redesignated sub 1, par (a), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (a), formerly sub 1, redesignated sub 1, par (a), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (b), formerly sub 2, redesignated sub 1, par (b), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (c), formerly sub 3, redesignated sub 1, par (c), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (d), formerly sub 4, redesignated sub 1, par (d), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (e), formerly sub 5, redesignated sub 1, par (e) and amd, L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (f), formerly sub 6, redesignated sub 1, par (f), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (g), formerly sub 7, redesignated sub 1, par (g), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (h), formerly sub 8, redesignated sub 1, par (h), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (i), formerly sub 9, redesignated sub 1, par (i), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 1, par (j), add, [L 2005, ch 685, § 1](#), eff Oct 4, 2005.

Sub 2, formerly last undesignated par, so numbered, L 1985, ch 722, § 1, eff Aug 1, 1985.

Former sub 2, designated sub 1, par (b), L 1985, ch 722, § 1, eff Aug 1, 1985.

Sub 3, add, L 1985, ch 722, § 1, eff Aug 1, 1985.

Former sub 3, redesignated sub 1, par (c), L 1985, ch 722, § 1, eff Aug 1, 1985.

Subs 4-9, redesignated sub 1, pars (d)-(i), L 1985, ch 722, § 1, eff Aug 1, 1985.

**§ 10.10. The criminal courts; enumeration and definitions**

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1.The "criminal courts" of this state are comprised of the superior courts and the local criminal courts.

2."Superior court" means:

(a)The supreme court; or

(b)A county court.

3."Local criminal court" means:

(a)A district court; or

(b)The New York City criminal court; or

(c)A city court; or

(d)A town court; or

(e)A village court; or

(f)A supreme court justice sitting as a local criminal court; or

(g)A county judge sitting as a local criminal court.

4."City court" means any court for a city, other than New York City, having trial jurisdiction of offenses of less than felony grade only committed within such city, whether such court is entitled a city court, a municipal court, a police court, a recorder's court or is known by any other name or title.

5."Town court." A "town court" is comprised of all the town justices of a town.

6."Village court." A "village court" is comprised of the justice of a village, or all the justices thereof if there be more than one, or, at a time when he or they are absent, an acting justice of a village who is authorized to perform the functions of a village justice during his absence.

7.Notwithstanding any other provision of this section, a court specified herein which possesses civil as well as criminal jurisdiction does not act as a criminal court when

acting solely in the exercise of its civil jurisdiction, and an order or determination made by such a court in its civil capacity is not an order or determination of a criminal court even though it may terminate or otherwise control or affect a criminal action or proceeding.

## **History**

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971.

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## § 120.10. Warrant of arrest; definition, function, form and content

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1.A warrant of arrest is a process issued by a local criminal court directing a police officer [fig 1] to arrest a defendant designated in an accusatory instrument filed with such court and to bring him before such court in connection with such instrument. The sole function of a warrant of arrest is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced.

2.A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of an offense charged in the underlying accusatory instrument, and (d) the name of the defendant to be arrested or, if such be unknown, any name or description by which he can be identified with reasonable certainty, and (e) the police officer or officers [fig 1] to whom the warrant is addressed, and (f) a direction that such officer arrest the defendant and bring him before the issuing court.

3.A warrant of arrest may be addressed to a classification of police officers, or to two or more classifications thereof, as well as to a designated individual police officer or officers [fig 1] . Multiple copies of such a warrant may be issued.

### History

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Add, L 1970, ch 996, § 1, with substance derived from Crim C §§ 151, 152; amd, L 1980, ch 843, § 8, eff Sept 1, 1980.

Amd,[L 1998, ch 424, § 4](#), eff Jan 1, 1999.

Sub 1, amd,[L 1998, ch 424, § 4](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or a peace officer appointed by the state university"

Sub 2, amd,[L 1998, ch 424, § 4](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officers appointed by the state university"

## § 120.20. Warrant of arrest; when issuable

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1. When a criminal action has been commenced in a local criminal court by the filing therewith of an accusatory instrument, other than a simplified traffic information, against a defendant who has not been arraigned upon such accusatory instrument and has not come under the control of the court with respect thereto [fig 1] :

(a) such court may, if such accusatory instrument is sufficient on its face, issue a warrant for such defendant's arrest; or

(b) if such accusatory instrument is not sufficient on its face as prescribed in section 100.40, and if the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an accusatory instrument that is sufficient on its face, the court must dismiss the accusatory instrument.

2. Even though such accusatory instrument is sufficient on its face, the court may refuse to issue a warrant of arrest based thereon until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged. Upon such inquiry or examination, the court may examine, under oath or otherwise, any available person whom it believes may possess knowledge concerning the subject matter of the charge.

3. Notwithstanding the provisions of subdivision one, if a summons may be issued in lieu of a warrant of arrest pursuant to section 130.20, and if the court is satisfied that the defendant will respond thereto, it may not issue a warrant of arrest. Upon the request of the district attorney, in lieu of a warrant of arrest or summons, the court may instead authorize the district attorney to direct the defendant to appear for arraignment on a designated date if it is satisfied that the defendant will so appear.

## History

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971.

Sub 1, opening par, formerly part of entire sub 1, so designated sub 1, opening par and amd, [L 2000, ch 506, § 1](#), eff Nov 1, 2000.

A0365



The 2000 act deleted at fig 1 a comma

Sub 1, par (a), formerly part of entire sub 1, so designated sub 1, par (a) and amd,[L 2000, ch 506, § 1](#), eff Nov 1, 2000.

Sub 1, par (b), add,[L 2000, ch 506, § 1](#), eff Nov 1, 2000.

Sub 3, amd,[L 1993, ch 446, § 3](#), eff Nov 1, 1993.

2010 N.Y. CRIM. PROC. LAW § 120.70

**§ 120.70. Warrant of arrest; where executable**

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**1.**A warrant of arrest issued by a district court, by the New York City criminal court or by a superior court judge sitting as a local criminal court may be executed anywhere in the state.

**2.**A warrant of arrest issued by a city court, a town court or a village court may be executed:

**(a)**In the county of issuance or in any adjoining county; or

**(b)**Anywhere else in the state upon the written endorsement thereon of a local criminal court of the county in which the arrest is to be made. When so endorsed, the warrant is deemed the process of the endorsing court as well as that of the issuing court.

**History**

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971, with substance derived from Crim C §§ 155, 156.

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End of Document

## § 120.80. Warrant of arrest; when and how executed

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1. A warrant of arrest may be executed on any day of the week and at any hour of the day or night.
2. Unless encountering physical resistance, flight or other factors rendering normal procedure impractical, the arresting police officer [fig 1] must inform the defendant that a warrant for his arrest for the offense designated therein has been issued. Upon request of the defendant, the officer must show him the warrant if he has it in his possession. The officer need not have the warrant in his possession, and, if he has not, he must show it to the defendant upon request as soon after the arrest as possible.
3. In order to effect the arrest, the police officer [fig 1] may use such physical force as is justifiable pursuant to [\*section 35.30 of the penal law\*](#).
4. In order to effect the arrest, the police officer [fig 1] may, under circumstances and in the manner prescribed in this subdivision, enter any premises in which he reasonably believes the defendant to be present; provided, however, that where the premises in which the officer reasonably believes the defendant to be present is the dwelling of a third party who is not the subject of the arrest warrant, the officer shall proceed in the manner specified in article 690 of this chapter. Before such entry, he must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice will:
  - (a) Result in the defendant escaping or attempting to escape; or
  - (b) Endanger the life or safety of the officer or another person; or
  - (c) Result in the destruction, damaging or secretion of material evidence.
5. If the officer is authorized to enter premises without giving notice of his authority and purpose, or if after giving such notice he is not admitted, he may enter such premises, and by a breaking if necessary.

### History

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971, with substance derived from Crim C §§ 170-176.

Sub 2, amd, L 1980, ch 843, § 11, eff Sept 1, 1980.

Sub 3, amd, L 1980, ch 843, § 11, eff Sept 1, 1980.

Sub 4, amd, L 1980, ch 843, § 11, [L 1991, ch 504, § 1](#), eff Nov 1, 1991.

Sub 4, opening par, amd, [L 1991, ch 504, § 1](#), eff Nov 1, 1991.

Sub 5, reenacted without change, L 1980, ch 843, § 11, eff Sept 1, 1980.

Sub 2, amd, [L 1998, ch 424, § 7](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

Sub 3, amd, [L 1998, ch 424, § 7](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

Sub 4, opening par, amd, [L 1998, ch 424, § 7](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

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**§ 690.05. Search warrants; in general; definition**

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**1.** Under circumstances prescribed in this article, a local criminal court may, upon application of a police officer, a district attorney or other public servant acting in the course of his official duties, issue a search warrant.

**2.** A search warrant is a court order and process directing a police officer [fig 1] to conduct:

(a) a search of designated premises, or of a designated vehicle, or of a designated person, for the purpose of seizing designated property or kinds of property, and to deliver any property so obtained to the court which issued the warrant; or

(b) a search of a designated premises for the purpose of searching for and arresting a person who is the subject of:

(i) a warrant of arrest issued pursuant to this chapter, a superior court warrant of arrest issued pursuant to this chapter, or a bench warrant for a felony issued pursuant to this chapter, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant; or

(ii) a warrant of arrest issued by any other state or federal court for an offense which would constitute a felony under the laws of this state, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant.

**History**

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971.

Sub 2, amd, L 1980, ch 843, § 20, eff Sept 1, 1980.

Sub 2, opening par, formerly part of sub 2, so designated and amd, [L 1991, ch 504, § 2](#), eff Nov 1, 1991.

Sub 2, opening par, amd, [L 1998, ch 424, § 9](#), eff Jan 1, 1999.

**A0370**

The 1998 act deleted at fig 1 "or a peace officer appointed by the state university"

Sub 2, par (a), formerly part of sub 2, so designated and amd,[L 1991, ch 504, § 2](#), eff Nov 1, 1991.

Sub 2, par (b), add,[L 1991, ch 504, § 2](#), eff Nov 1, 1991.

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**§ 690.25. Search warrants; to whom addressable and by whom executable**

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1.A search warrant must be addressed to a police officer whose geographical area of employment embraces or is embraced or partially embraced by the county of issuance. The warrant need not be addressed to a specific police officer but may be addressed to any police officer of a designated classification, or to any police officer of any classification employed or having general jurisdiction to act as a police officer in the county.

2.A police officer to whom a search warrant is addressed, as provided in subdivision one, may execute it pursuant to its terms anywhere in the county of issuance or an adjoining county, and he may execute it pursuant to its terms in any other county of the state in which it is executable if (a) his geographical area of employment embraces the entire county of issuance or (b) he is a member of the police department or force of a city located in such county of issuance.

3.[Repealed]

**History**

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971.

Sub 3, add, L 1980, ch 843, § 21, eff Sept 1, 1980.

Sub 3, repealed,[L 1998, ch 424, § 10](#), eff Jan 1, 1999.

## § 690.35. Search warrants; the application

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1. An application for a search warrant may be in writing or oral. If in writing, it must be made, subscribed and sworn to by a public servant specified in subdivision one of section 690.05. If oral, it must be made by such a public servant and sworn to and recorded in the manner provided in section 690.36.

2. The application shall be made to:

(a) A local criminal court, as defined in section 10.10 of this chapter, having preliminary jurisdiction over the underlying offense, or geographical jurisdiction over the location to be searched when the search is to be made for personal property of a kind or character described in section 690.10 of this article except that:

(i) if a town court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the local criminal court of any village within such town or, any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county;

(ii) if a village court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and

(iii) if a city court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the local criminal court of any adjoining town or village, or village court embraced by an adjoining town, within the same county as such city.

(b) A local criminal court, as defined in section 10.10 of this chapter, with geographical jurisdiction over the location where the premises to be searched is located, or which issued the underlying arrest warrant, when the search warrant is



sought pursuant to paragraph (b) of subdivision two of section 690.05 of this article, for the purpose of arresting a wanted person.

Any search warrant issued pursuant to this section shall be subject to the territorial limitations provided by section 690.20 of this article.

**3.**The application must contain:

- (a)**The name of the court and the name and title of the applicant; and
- (b)**A statement that there is reasonable cause to believe that property of a kind or character described in section 690.10 may be found in or upon a designated or described place, vehicle or person, or, in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a statement that there is reasonable cause to believe that the person who is the subject of the warrant of arrest may be found in the designated premises; and
- (c)**Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated. The applicant may also submit depositions of other persons containing allegations of fact supporting or tending to support those contained in the application; and
- (d)**A request that the court issue a search warrant directing a search for and seizure of the property or person in question; and
- (e)**In the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a copy of the warrant of arrest and the underlying accusatory instrument.

**4.**The application may also contain:

- (a)**A request that the search warrant be made executable at any time of the day or night, upon the ground that there is reasonable cause to believe that (i) it cannot be executed between the hours of 6:00 A.M. and 9:00 P.M., or (ii) the property sought will be removed or destroyed if not seized forthwith, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, the person sought is likely to flee or commit another crime, or may endanger the safety of the executing police officers or another person if not seized forthwith or between the hours of 9:00 P.M. and 6:00 A.M.; and
- (b)**A request that the search warrant authorize the executing police officer [fig 1] to enter premises to be searched without giving notice of his authority and purpose, upon the ground that there is reasonable cause to believe that (i) the property sought may be easily and quickly destroyed or disposed of, or (ii) the giving of such notice may endanger the life or safety of the executing officer.

another person, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05 for the purpose of searching for and arresting a person who is the subject of a warrant for a felony, the person sought is likely to commit another felony, or may endanger the life or safety of the executing officer or another person.

Any request made pursuant to this subdivision must be accompanied and supported by allegations of fact of a kind prescribed in paragraph (c) of subdivision two.

## History

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971.

Sub 1, amd, L 1982, ch 679, § 1, eff Sept 20, 1982.

Sub 2, add,[L 1992, ch 815, § 2](#); amd, [L 1992, ch 816, § 2](#), eff Nov 1, 1992.

Former sub 2, redesignated sub 3,[L 1992, ch 815, § 2](#), eff Nov 1, 1992.

Sub 2, par (a), formerly first undesignated par, opening par, so designated par (a),[L 1992, ch 816, § 2](#), eff Nov 1, 1992.

Sub 2, par (a), subpar (i), formerly par (a), so designated,[L 1992, ch 816, § 2](#), eff Nov 1, 1992.

Sub 2, par (a), subpar (ii), formerly par (b), so designated,[L 1992, ch 816, § 2](#), eff Nov 1, 1992.

Sub 2, par (a), subpar (iii), formerly par (c), so designated,[L 1992, ch 816, § 2](#), eff Nov 1, 1992.

Sub 2, par (b), add,[L 1992, ch 816, § 2](#), eff Nov 1, 1992.

Former sub 2, par (b), redesignated sub 2, par (a), subpar (ii),[L 1992, ch 816, § 2](#), eff Nov 1, 1992.

Sub 2, par (c), redesignated sub 2, par (a), subpar (iii),[L 1992, ch 816, § 2](#), eff Nov 1, 1992.

Sub 3, formerly sub 2, so designated,[L 1992, ch 815, § 2](#), eff Nov 1, 1992.

Former sub 3, amd, L 1980, ch 843, § 22; redesignated sub 4,[L 1992, ch 815, § 2](#), eff Nov 1, 1992.

Sub 3, par (b), formerly sub 2, par (b), amd,[L 1991, ch 504, § 3](#), eff Nov 1, 1991.

Sub 3, par (d), formerly sub 2, par (d), amd,[L 1991, ch 504, § 4](#), eff Nov 1, 1991.

Sub 3, par (e), formerly sub 2, par (e), add,[L 1991, ch 504, § 4](#), eff Nov 1, 1991.

Sub 4, formerly sub 3, so designated,[L 1992, ch 815, § 2](#), eff Nov 1, 1992.

Sub 4, par (a), formerly sub 3, par (a), amd,[L 1991, ch 504, § 5](#), eff Nov 1, 1991.

Sub 4, par (b), formerly sub 3, par (b), amd,[L 1991, ch 504, § 5](#), eff Nov 1, 1991.

Sub 4, par (b), amd,[L 1998, ch 424, § 11](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

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End of Document

**§ 690.36. Search warrants; special provisions governing oral applications therefor**

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1. An oral application for a search warrant may be communicated to a judge by telephone, radio or other means of electronic communication.
2. Where an oral application for a search warrant is made, the applicant therefor must identify himself and the purpose of his communication. After being sworn as provided in subdivision three of this section, the applicant must also make the statement required by paragraph (b) of subdivision two of section 690.35 and provide the same allegations of fact required by paragraph (c) of such subdivision; provided, however, persons, properly identified, other than the applicant may also provide some or all of such allegations of fact directly to the court. Where appropriate, the applicant may also make a request specified in subdivision three of section 690.35.
3. Upon being advised that an oral application for a search warrant is being made, a judge shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within twenty-four hours of the issuance of a warrant. If longhand notes are taken, the judge shall subscribe a copy and file it with the court within twenty-four hours of the issuance of a warrant.

**History**

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Add, L 1982, ch 679, § 2, eff Sept 20, 1982.

## § 690.40. Search warrants; determination of application

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1. In determining an application for a search warrant the court may examine, under oath, any person whom it believes may possess pertinent information. Any such examination must be either recorded or summarized on the record by the court.

2. If the court is satisfied that there is reasonable cause to believe that property of a kind or character referred to in section 690.10, and described in the application, may be found in or upon the place, premises, vehicle or person designated or described in the application, or, in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, that there is reasonable cause to believe that the person who is the subject of a warrant of arrest, a superior court warrant of arrest, or a bench warrant for a felony may be found at the premises designated in the application, it may grant the application and issue a search warrant directing a search of the said place, premises, vehicle or person and a seizure of the described property or the described person. If the court is further satisfied that grounds, described in subdivision [fig 1] four of section 690.35, exist for authorizing the search to be made at any hour of the day or night, or without giving notice of the police officer's [fig 2] authority and purpose, it may make the search warrant executable accordingly.

3. When a judge determines to issue a search warrant based upon an oral application, the applicant therefor shall prepare the warrant in accordance with section 690.45 and shall read it, verbatim, to the judge.

### History

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971.

Sub 2, amd, L 1980, ch 843, § 23, [L 1991, ch 504, § 6](#), eff Nov 1, 1991.

Sub 3, add, L 1982, ch 679, § 3, eff Sept 20, 1982.

Sub 2, amd, [L 1998, ch 424, § 12](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "three" and at fig 2 "or peace officer's appointed by the state university,"

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## **§ 690.45. Search warrants; form and content**

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A search warrant must contain:

- 1.The name of the issuing court and, except where the search warrant has been obtained on an oral application, the subscription of the issuing judge; and
- 2.Where the search warrant has been obtained on an oral application, it shall so indicate and shall state the name of the issuing judge and the time and date on which such judge directed its issuance.
- 3.The name, department or classification of the police officer [fig 1] to whom it is addressed; and
- 4.A description of the property which is the subject of the search, or, in the case of a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a description of the person to be searched for; and
- 5.A designation or description of the place, premises or person to be searched, by means of address, ownership, name or any other means essential to identification with certainty; and
- 6.A direction that the warrant be executed between the hours of 6:00 A.M. and 9:00 P.M., or, where the court has specially so determined, an authorization for execution thereof at any time of the day or night; and
- 7.An authorization, where the court has specially so determined, that the executing police officer [fig 1] enter the premises to be searched without giving notice of his authority and purpose; and
- 8.A direction that the warrant and any property seized pursuant thereto be returned and delivered to the court without unnecessary delay; and
- 9.In the case of a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a copy of the warrant of arrest and the underlying accusatory instrument.

## History

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971, with substance derived from Crim C §§ 797, 799, 801.

Sub 1, amd, L 1982, ch 679, § 4, eff Sept 20, 1982.

Sub 2, add, L 1982, ch 679, § 5, eff Sept 20, 1982.

Former sub 2, amd, L 1980, ch 843, § 24; renumbered sub 3, L 1982, ch 679, § 5, eff Sept 20, 1982.

Sub 3, formerly sub 2, amd, L 1980, ch 843, § 24; renumbered sub 3, L 1982, ch 679, § 5, eff Sept 20, 1982.

Former sub 3, renumbered sub 4, L 1982, ch 679, § 5, eff Sept 20, 1982.

Sub 4, formerly sub 3, renumbered sub 4, L 1982, ch 679, § 5; amd, [L 1991, ch 504, § 7](#), eff Nov 1, 1991.

Former sub 4, renumbered sub 5, L 1982, ch 679, § 5, eff Sept 20, 1982.

Sub 5, formerly sub 4, renumbered sub 5, L 1982, ch 679, § 5, eff Sept 20, 1982.

Former sub 5, renumbered sub 6, L 1982, ch 679, § 5, eff Sept 20, 1982.

Sub 6, formerly sub 5, renumbered sub 6, L 1982, ch 679, § 5, eff Sept 20, 1982.

Former sub 6, amd, L 1980, ch 843, § 24; renumbered sub 7, L 1982, ch 679, § 5, eff Sept 20, 1982.

Sub 7, formerly sub 6, amd, L 1980, ch 843, § 24; renumbered sub 7, L 1982, ch 679, § 5, eff Sept 20, 1982.

Former sub 7, renumbered sub 8, L 1982, ch 679, § 5, eff Sept 20, 1982.

Sub 8, formerly sub 7, renumbered sub 8, L 1982, ch 679, § 5; amd, [L 1991, ch 504, § 8](#), eff Nov 1, 1991.

Sub 9, add, [L 1991, ch 504, § 8](#), eff Nov 1, 1991.

Sub 3, amd, [L 1998, ch 424, § 13](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

Sub 7, amd, [L 1998, ch 424, § 13](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"



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**§ 690.50. Search warrants; execution thereof**

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1. In executing a search warrant directing a search of premises or a vehicle, a police officer [fig 1] must, except as provided in subdivision two, give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof before entry and show him the warrant or a copy thereof upon request. If he is not thereafter admitted, he may forcibly enter such premises or vehicle and may use against any person resisting his entry or search thereof as much physical force, other than deadly physical force, as is necessary to execute the warrant; and he may use deadly physical force if he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

2. In executing a search warrant directing a search of premises or a vehicle, a police officer [fig 1] need not give notice to anyone of his authority and purpose, as prescribed in subdivision one, but may promptly enter the same if:

(a) Such premises or vehicle are at the time unoccupied or reasonably believed by the officer to be unoccupied; or

(b) The search warrant expressly authorizes entry without notice.

3. In executing a search warrant directing or authorizing a search of a person, a police officer [fig 1] must give, or make reasonable effort to give, such person notice of his authority and purpose and show him the warrant or a copy thereof upon request. If such person, or another, thereafter resists or refuses to permit the search, the officer may use as much physical force, other than deadly physical force, as is necessary to execute the warrant; and he may use deadly physical force if he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

4. Upon seizing property pursuant to a search warrant, a police officer [fig 1] must write and subscribe a receipt itemizing the property taken and containing the name of the court by which the warrant was issued. If property is taken from a person, such receipt

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must be given to such person. If property is taken from premises or a vehicle, such receipt must be given to the owner, tenant or other person in possession thereof if he is present; or if he is not, the officer must leave such a receipt in the premises or vehicle from which the property was taken.

5. Upon seizing property pursuant to a search warrant, a police officer [fig 1] must without unnecessary delay return to the court the warrant and the property, and must file therewith a written inventory of such property, subscribed and sworn to by such officer.

6. Upon arresting a person during a search for him or her pursuant to a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a police officer [fig 1] shall comply with the terms of the warrant of arrest, superior court warrant of arrest, or bench warrant for a felony, and shall proceed in the manner directed by this chapter. Upon arresting such person, the police officer [fig 2] shall also, without unnecessary delay, file a written statement with the court which issued the search warrant, subscribed and sworn to by such officer, setting forth that the person has been arrested and duly brought before the appropriate court, return to the court the warrant and the property seized in the course of its execution, and file therewith a written inventory of any such property, subscribed and sworn to by such officer.

## History

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Add, L 1970, ch 996, § 1, eff Sept 1, 1971, with substance derived from Crim C §§ 799, 803, 805.

Sub 1, amd, L 1980, ch 843, § 25, eff Sept 1, 1980.

Sub 2, opening par, amd, L 1980, ch 843, § 26, eff Sept 1, 1980.

Sub 3, amd, L 1980, ch 843, § 27, eff Sept 1, 1980.

Sub 4, amd, L 1980, ch 843, § 27, eff Sept 1, 1980.

Sub 5, amd, L 1980, ch 843, § 27, eff Sept 1, 1980.

Sub 6, add, [L 1991, ch 504, § 9](#), eff Nov 1, 1991.

Amd, [L 1998, ch 424, § 14](#), eff Jan 1, 1999.

Sub 1, amd, [L 1998, ch 424, § 14](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

Sub 2, opening par, amd, [L 1998, ch 424, § 14](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

Sub 3, amd,[L 1998, ch 424, § 14](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

Sub 4, amd,[L 1998, ch 424, § 14](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

Sub 5, amd,[L 1998, ch 424, § 14](#), eff Jan 1, 1999.

The 1998 act deleted at fig 1 "or peace officer appointed by the state university"

Sub 6, amd,[L 1998, ch 424, § 14](#), eff Jan 1, 1999.

The 1998 act deleted at figs 1 and 2 "or peace officer appointed by the state university"

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## 2012 N.Y. FAM. CT. ACT § 141

### **§ 141. Findings**

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This act defines the conditions on which the family court may intervene in the life of a child, parent and spouse. Once these conditions are satisfied, the court is given a wide range of powers for dealing with the complexities of family life so that its action may fit the particular needs of those before it. The judges of the court are thus given a wide discretion and grave responsibilities.

The people of the state of New York have concluded that legal training and experience should be required before any person may assume the office of family court judge and so provided in section twenty, paragraph a, of the judiciary article of the constitution of the state of New York. Judges of the family court should also be familiar with areas of learning and practice that often are not supplied by the practice of law.

### **History**

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Add, L 1962, ch 686, § 1, eff Sept 1, 1962.

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End of Document

### **§ 153. Subpoena, warrant and other process to compel attendance**

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The family court may issue a subpoena or in a proper case a warrant or other process to secure or compel the attendance of an adult respondent or child or any other person whose testimony or presence at a hearing or proceeding is deemed by the court to be necessary, and to admit to, fix or accept bail, or parole him pending the completion of the hearing or proceeding. The court is also authorized to issue a subpoena duces tecum in accordance with the applicable provisions of the civil practice act and, upon its effective date, in accordance with the applicable provisions of the CPLR. A judge of the family court is also authorized to hear and decide motions relating to child support subpoenas issued pursuant to section one hundred eleven-p of the social services law.

### **History**

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Add, L 1962, ch 686, § 1; amd, L 1963, ch 809, § 1, [L 1997, ch 398, § 60](#), eff Jan 1, 1998 (see 1997 note below).

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**§ 153-a. Warrant of arrest; when and how executed**

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(a) A warrant of arrest may be executed on any day of the week, and at any hour of the day or night.

(b) Unless encountering physical resistance, flight or other factors rendering normal procedure impractical, the arresting police officer must inform the subject named therein that a warrant for his arrest for attendance at the proceeding designated therein has been issued. Upon request of such subject, the police officer must show him the warrant if he has it in his possession. The officer need not have the warrant in his possession, and, if he has not, he must show it to the subject upon request as soon after the arrest as possible.

(c) In order to effect the arrest, the police officer may use such physical force as is justifiable pursuant to [\*section 35.30 of the penal law\*](#).

(d) In order to effect the arrest, the police officer may enter any premises in which he reasonably believes the subject named therein to be present. Before such entry, he must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof.

(e) If the officer, after giving such notice, is not admitted, he may enter such premises, and by a breaking if necessary.

**History**

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Add, L 1975, ch 416, § 1, eff July 8, 1975.

## 2012 N.Y. FAM CT. ACT § 157

### **§ 157. Interpretation of this part**

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If there is any conflict between the application of any provision of this part to any proceeding under this act and any provision of the article of this act governing the proceeding, the article governing the proceeding controls.

### **History**

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Add, L 1962, ch 686, § 1, eff Sept 1, 1962.

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End of Document



**§ 1022. Preliminary orders of court before petition filed**

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(a)(i) The family court may enter an order directing the temporary removal of a child from the place where he or she is residing before the filing of a petition under this article, if

(A) the parent or other person legally responsible for the child's care is absent or, though present, was asked and refused to consent to the temporary removal of the child and was informed of an intent to apply for an order under this section and of the information required by section one thousand twenty-three of this [fig 1] part; and

(B) the child appears so to suffer from the abuse or neglect of his or her parent or other person legally responsible for his or her care that his or her immediate removal is necessary to avoid imminent danger to the child's life or health; and

(C) there is not enough time to file a petition and hold a preliminary hearing under section one thousand twenty-seven of this part.

(ii) When a child protective agency applies to a court for the immediate removal of a child pursuant to this subdivision, the court shall calendar the matter for that day and shall continue the matter on successive subsequent court days, if necessary, until a decision is made by the court.

(iii) In determining whether temporary removal of the child is necessary to avoid imminent risk to the child's life or health, the court shall consider and determine in its order whether continuation in the child's home would be contrary to the best interests of the child and where appropriate, whether reasonable efforts were made prior to the date of application for the order directing such temporary removal to prevent or eliminate the need for removal of the child from the home. If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, the court order shall include such a finding.

(iv) If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that such efforts were appropriate under the circumstances, the court shall order the child protective agency to provide or arrange for the provision of appropriate services or assistance to the child and the child's family pursuant to section one thousand fifteen-a of this article or subdivision (c) of this section.

(v) The court shall also consider and determine whether imminent risk to the child would be eliminated by the issuance of a temporary order of protection, pursuant to section [fig 1] one thousand twenty-nine of this [fig 2] part, directing the removal of a person or persons from the child's residence.

(vi) Any order directing the temporary removal of a child pursuant to this section shall state the court's findings with respect to the necessity of such removal, whether the respondent was present at the hearing and, if not, what notice the respondent was given of the hearing, [fig 1] whether the respondent was represented by counsel, and, if not, whether the respondent waived his or her right to counsel.

(vii) At the conclusion of a hearing where it has been determined that a child should be removed from his or her parent or other person legally responsible, the court shall set the date certain for an initial permanency hearing pursuant to paragraph two of subdivision (a) of section one thousand eighty-nine of this act. The date certain shall be included in the written order issued pursuant to subdivision (b) of this section and shall set forth the date certain scheduled for the permanency hearing.

(b)[fig 1] Any written order pursuant to this section shall be issued immediately, but in no event later than the next court day following the removal of the child. The order shall specify the facility to which the child is to be brought. Except for good cause shown or unless the child is sooner returned to the place where he or she was residing, a petition shall be filed under this article within three court days of the issuance of the order. The court shall hold a hearing pursuant to section one thousand twenty-seven of this part no later than the next court day following the filing of the petition if the respondent was not present, or was present and unrepresented by counsel, and has not waived his or her right to counsel, for the hearing pursuant to this section.

(c) The family court, before the filing of a petition under this article, may enter an order authorizing the provision of services or assistance, including authorizing a physician or hospital to provide emergency medical or surgical procedures, if

(i) such procedures are necessary to safeguard the life or health of the child; and

(ii) there is not enough time to file a petition and hold a preliminary hearing under section one thousand twenty-seven. Where the court orders a social services

official to provide or contract for services or assistance pursuant to this section, such order shall be limited to services or assistance authorized or required to be made available pursuant to the comprehensive annual services program plan then in effect.

(d) The person removing the child shall, coincident with removal, give written notice to the parent or other person legally responsible for the child's care of the right to apply to the family court for the return of the child pursuant to section one thousand twenty-eight of this act, the name, title, organization, address and telephone number of the person removing the child, the name and telephone number of the child care agency to which the child will be taken, if available, the telephone number of the person to be contacted for visits with the child, and the information required by section one thousand twenty-three of this act. Such notice shall be personally served upon the parent or other person at the residence of the child provided, that if such person is not present at the child's residence at the time of removal, a copy of the notice shall be affixed to the door of such residence and a copy shall be mailed to such person at his or her last known place of residence within twenty-four hours after the removal of the child. If the place of removal is not the child's residence, a copy of the notice shall be personally served upon the parent or person legally responsible for the child's care forthwith, or affixed to the door of the child's residence and mailed to the parent or other person legally responsible for the child's care at his or her last known place of residence within twenty-four hours after the removal. The form of the notice shall be prescribed by the chief administrator of the courts.

(e) Nothing in this section shall be deemed to require that the court order the temporary removal of a child as a condition of ordering services or assistance, including emergency medical or surgical procedures pursuant to subdivision (c) of this section.

(f) The court may issue a temporary order of protection pursuant to section ten hundred twenty-nine of this article as an alternative to or in conjunction with any other order or disposition authorized under this section.

## History

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Add, L 1970, ch 962, § 9, eff May 1, 1970, with substance derived from § 322.

Former § 1022, add, L 1969, ch 264, § 2; repealed, L 1970, ch 962, § 8, eff May 1, 1970.

Sub (a), amd, L 1988, ch 527, § 1, L 1988, ch 478, § 3, eff Nov 1, 1988.

Sub (a), first undesignated par, subpar (i), amd, L 1988, ch 527, § 1, eff Aug 11, 1988.

Sub (a), second and third undesignated pars, add, L 1988, ch 478, § 3, eff Nov 1, 1988.

Sub (a), fourth undesignated par, add, L 1989, ch 727, § 2, eff Oct 1, 1989.

Sub (a), closing par, add,[L 1990, ch 171, § 1](#), eff Sept 1, 1990.

Sub (c), opening par, amd, L 1987, ch 776, § 1, eff Aug 7, 1987.

Sub (c), par (ii), amd, L 1987, ch 776, § 1, eff Aug 7, 1987.

Sub (d), add, L 1982, ch 379, § 1; amd, L 1989, ch 727, § 2, eff Oct 1, 1989.

Sub (e), add, L 1987, ch 776, § 2, eff Aug 7, 1987.

Sub (f), add, L 1988, ch 673, § 1, eff Sept 1, 1988.

Sub (a), par (i), formerly sub (a), opening par, so designated sub (a), par (i) and amd,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Former sub (a), par (i), redesignated sub a, par (i), subpar (A),[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), par (i), subpar (A), formerly sub (a), par (i), so designated sub (a), par (i), subpar (A) and amd,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

The 2005 act deleted at fig 1 "act"

Sub (a), par (i), subpar (B), formerly sub (a), par (ii), so designated sub (a), par (i), subpar (B) and amd,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), par (i), subpar (C), formerly sub (a), par (iii), so designated sub (a), par (i), subpar (C) and amd,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), par (ii), add,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Former sub (a), par (ii), redesignated sub (a), par (i), subpar (B),[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), par (iii), formerly sub (a), second undesignated par, so designated sub (a), par (iii),[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Former sub (a), par (iii), redesignated sub (a), par (i), subpar (C),[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), par (iv), formerly sub (a), third undesignated par, so designated sub (a), par (iv) and amd,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), par (v), formerly sub (a), fourth undesignated par, so designated sub (a), par (v) and amd,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

The 2005 act deleted at fig 1 "ten hundred" and at fig 2 "act"

Sub (a), par (vi), formerly sub (a), fifth undesignated par, so designated sub (a), par (vi) and amd,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

The 2005 act deleted at fig 1 "and whether the removal or the request therefor has been made pursuant to this section or section ten hundred twenty-one or ten hundred twenty-four of this article"

Sub (a), par (vii), add,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), second undesignated par, redesignated sub (a), par (iii),[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), third undesignated par, redesignated sub (a), par (iv),[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), fourth undesignated par, redesignated sub (a), par (v),[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (a), fifth undesignated par, redesignated sub (a), par (vi),[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

Sub (b), amd,[L 2005, ch 3, § 13](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

The 2005 act deleted at fig 1 "The"

### **§ 1023. Procedure for issuance of temporary order**

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Any person who may originate a proceeding under this article may apply for, or the court on its own motion may issue, an order of temporary removal under section one thousand twenty-two or one thousand twenty-seven or an order for the provision of services or assistance, including emergency medical or surgical procedures pursuant to subdivision (c) of section one thousand twenty-two, or a temporary order of protection pursuant to section ten hundred twenty-nine. The applicant or, where designated by the court, any other appropriate person, shall make every reasonable effort, with due regard for any necessity for immediate protective action, to inform the parent or other person legally responsible for the child's care of the intent to apply for the order, of the date and the time that the application will be made, the address of the court where the application will be made, of the right of the parent or other person legally responsible for the child's care to be present at the application and at any hearing held thereon and, of the right to be represented by counsel, including procedures for obtaining counsel, if indigent.

### **History**

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Add, L 1970, ch 962, § 9, with substance derived from § 323; amd, L 1973, ch 1039, § 6, L 1987, ch 776, § 3, L 1988, ch 527, § 2, L 1988, ch 673, § 2, [L 1990, ch 170, § 1](#), eff Sept 1, 1990.

Former § 1023, add, L 1969, ch 264, § 2; repealed, L 1970, ch 962, § 8, eff May 1, 1970.

Section heading, amd, L 1988, ch 527, § 2, eff Aug 11, 1988.

**§ 1024. Emergency removal without court order**

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(a) A peace officer, acting pursuant to his or her special duties, police officer, or a law enforcement official, [fig 1] or a designated employee of a city or county department of social services shall take all necessary measures to protect a child's life or health including, when appropriate, taking or keeping a child in protective custody, and any physician shall notify the local department of social services or appropriate police authorities to take custody of any child such physician is treating, without an order under section one thousand twenty-two of this article and without the consent of the parent or other person legally responsible for the child's care, regardless of whether the parent or other person legally responsible for the child's care is absent, if

(i) such person has reasonable cause to believe that the child is in such circumstance or condition that his or her continuing in said place of residence or in the care and custody of the parent or person legally responsible for the child's care presents an imminent danger to the child's life or health; and

(ii) there is not time enough to apply for an order under section one thousand twenty-two of this article.

(b) If a person authorized by this section removes or keeps custody of a child, he shall

(i) bring the child immediately to a place approved for such purpose by the local social services department, unless the person is a physician treating the child and the child is or will be presently admitted to a hospital, and

(ii) make every reasonable effort to inform the parent or other person legally responsible for the child's care of the facility to which he has brought the child, and

(iii) give, coincident with removal, written notice to the parent or other person legally responsible for the child's care of the right to apply to the family court for the return of the child pursuant to section one thousand twenty-eight of this act, and of the right to be represented by counsel in proceedings brought pursuant to this article and procedures for obtaining counsel, if indigent. Such notice shall also include the name, title, organization, address and telephone number of the



person removing the child, the name, address, and telephone number of the authorized agency to which the child will be taken, if available, the telephone number of the person to be contacted for visits with the child, and the information required by section one thousand twenty-three of this act. Such notice shall be personally served upon the parent or other person at the residence of the child provided, that if such person is not present at the child's residence at the time of removal, a copy of the notice shall be affixed to the door of such residence and a copy shall be mailed to such person at his or her last known place of residence within twenty-four hours after the removal of the child. If the place of removal is not the child's residence, a copy of the notice shall be personally served upon the parent or person legally responsible for the child's care forthwith, or affixed to the door of the child's residence and mailed to the parent or other person legally responsible for the child's care at his or her last known place of residence within twenty-four hours after the removal. An affidavit of such service shall be filed with the clerk of the court within twenty-four hours of serving such notice exclusive of weekends and holidays pursuant to the provisions of this section. The form of the notice shall be prescribed by the chief administrator of the courts. Failure to file an affidavit of service as required by this subdivision shall not constitute grounds for return of the child.

(iv) inform the court and make a report pursuant to title six of the social services law, as soon as possible.

(c) Any person or institution acting in good faith in the removal or keeping of a child pursuant to this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such removal or keeping.

(d) Where the physician keeping a child in his custody pending action by the local department of social services or appropriate police authorities does so in his capacity as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution, or his designated agent, who shall then become responsible for the further care of such child.

(e) Any physician keeping a child in his custody pursuant to this section shall have the right to keep such child in his custody until such time as the custody of the child has been transferred to the appropriate police authorities or the social services official of the city or county in which the physician maintains his place of business. If the social services official receives custody of a child pursuant to the provisions of this section, he shall promptly inform the parent or other person responsible for such child's care and the family court of his action.

## History

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Add, L 1970, ch 962, § 9, eff May 1, 1970, with substance derived from § 324.

Former § 1024, add, L 1969, ch 264, § 2; repealed, L 1970, ch 962, § 8, eff May 1, 1970.

Sub (a), amd, L 1973, ch 1039, § 7, L 1980, ch 843, § 218, L 1985, ch 677, § 29, eff Jan 1, 1986.

Sub (a), opening par (a), amd, [L 2009, ch 329, § 2](#), eff Aug 11, 2009 (see 2009 note below).

The 2009 act deleted at fig 1 "or an agent of a duly incorporated society for the prevention of cruelty to children"

Sub (a), subpar (i), amd, [L 2009, ch 329, § 2](#), eff Aug 11, 2009 (see 2009 note below).

Sub (a), subpar (ii), amd, [L 2009, ch 329, § 2](#), eff Aug 11, 2009 (see 2009 note below).

Sub (b), amd, L 1973, ch 1039, § 7, L 1976, ch 880, § 9, eff Nov 24, 1976.

Sub (b), par (i), reenacted without change, L 1985, ch 677, § 29, eff Jan 1, 1986.

Sub (b), par (iii), add, L 1982, ch 379, § 2; amd, L 1987, ch 162, § 1, eff Oct 27, 1987, L 1989, ch 727, § 3, eff Oct 1, 1989, [L 1990, ch 170, § 2](#), eff Sept 1, 1990.

Former sub (b), par (iii), renumbered sub (b), par (iv), L 1982, ch 379, § 2, eff Sept 1, 1982.

Sub (b), par (iv), formerly sub (b), par (iii), renumbered, L 1982, ch 379, § 2, eff Sept 1, 1982.

Sub (c), reenacted without change, L 1973, ch 1039, § 7, eff Sept 1, 1973.

Sub (d), add, L 1973, ch 1039, § 7; amd, L 1985, ch 677, § 29, eff Jan 1, 1986.

Sub (e), add, L 1973, ch 1039, § 7, eff Sept 1, 1973.

**§ 1027. Hearing and preliminary orders after filing of petition**

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**(a)**

**(i)**In any case [fig 1] where the child has been removed without court order or where there has been a hearing pursuant to section one thousand twenty-two of this part at which the respondent was not present, or was not represented by counsel and did not waive his or her right to counsel, the family court shall hold a hearing [fig 2] . Such hearing shall be held no later than the next court day after the filing of a petition to determine whether the child's interests require protection, including whether the child should be returned to the parent or other person legally responsible, pending a final order of disposition and shall continue on successive court days, if necessary, until a decision is made by the court.

**(ii)**In any such case where the child has been removed, any person originating a proceeding under this article shall, or the [fig 1] attorney for the child may apply for, or the court on its own motion may order, a hearing at any time after the petition is filed to determine whether the child's interests require protection pending a final order of disposition. Such hearing must be scheduled for no later than the next court day after the application for such hearing has been made.

**(iii)**In any case under this article in which a child has not been removed from his or her parent or other person legally responsible for his or her care, any person originating a proceeding under this article or the [fig 1] attorney for the child may apply for, or the court on its own motion may order, a hearing at any time after the petition is filed to determine whether the child's interests require protection, including whether the child should be removed from his or her parent or other person legally responsible, pending a final order of disposition. Such hearing must be scheduled for no later than the next court day after the application for such hearing has been made.

**(iv)**Notice of [fig 1] a hearing shall be provided pursuant to section one thousand twenty-three of this [fig 2] part.

**(b)(i)** Upon such hearing, if the court finds that removal is necessary to avoid imminent risk to the child's life or health, it shall remove or continue the removal of the child [fig 2]

1] . If the court makes such a determination that removal is necessary, the court shall immediately inquire as to the status of any efforts made by the local social services district to locate relatives of the child, including any non-respondent parent and all of the child's grandparents, as required pursuant to section one thousand seventeen of this article. The court shall also inquire as to whether the child, if over the age of five, has identified any relatives who play or have played a significant positive role in his or her life and whether any respondent parent or any non-respondent parent has identified any suitable relatives. Such inquiry shall include whether any relative who has been located has expressed an interest in becoming a foster parent for the child or in seeking custody or care of the child. Upon completion of such inquiry, the court shall remand [fig 2] or place the child:

(A)with the local commissioner of social services and the court may direct such commissioner to have the child reside with a relative or other suitable person who has indicated a desire to become a foster parent for the child and further direct such commissioner, pursuant to regulations of the office of children and family services, to commence an investigation of the home of such relative or other suitable person within twenty-four hours and thereafter expedite approval or certification of such relative or other suitable person, if qualified, as a foster parent. If such home is found to be unqualified for approval or certification, the local commissioner shall report such fact to the court forthwith so that the court may make a placement determination that is in the best interests of the child;

(B)to a place approved for such purpose by the social services district; or [fig 1]

(C)in the custody of a relative or suitable person other than the respondent.

(ii)Such order shall state the court's findings which support the necessity of such removal, whether the respondent was present at the hearing and, if not, what notice the respondent was given of the hearing, and, where a pre-petition removal has occurred, whether such removal took place pursuant to section [fig 1] one thousand twenty-one, [fig 2] one thousand twenty-two or [fig 3] one thousand twenty-four of this [fig 4] part. If the parent or other person legally responsible for the child's care is physically present at the time the child is removed, and has not previously been served with the summons and petition, the summons and petition shall be served upon such parent or person coincident with such removal. If such parent or person is not physically present at the time the child is removed, service of the summons and petition shall be governed by section one thousand thirty-six of this article. In determining whether removal or continuing the removal of a child is necessary to avoid imminent risk to the child's life or health, the court shall consider and determine in its order whether continuation in the child's home would be contrary to the best interests of the child and where appropriate

whether reasonable efforts were made prior to the date of the hearing held under subdivision (a) of this section to prevent or eliminate the need for removal of the child from the home and, if the child was removed from his or her home prior to the date of the hearing held under subdivision (a) of this section, where appropriate, that reasonable efforts were made to make it possible for the child to safely return home.

**(iii)**If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, the court order shall include such a finding.

**(iv)**If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that such efforts were appropriate under the circumstances, the court shall order the child protective agency to provide or arrange for the provision of appropriate services or assistance to the child and the child's family pursuant to section one thousand fifteen-a or as enumerated in subdivision (c) of section one thousand twenty-two of this article, notwithstanding the fact that a petition has been filed.

**(v)**The court shall also consider and determine whether imminent risk to the child would be eliminated by the issuance of a temporary order of protection, pursuant to section [fig 1] one thousand twenty-nine of this [fig 2] part, directing the removal of a person or persons from the child's residence.

**(c)**Upon such hearing, the court may, for good cause shown, issue a preliminary order of protection which may contain any of the provisions authorized on the making of an order of protection under section one thousand fifty-six of this act.

**(d)**Upon such hearing, the court may, for good cause shown, release the child to the custody of his parent or other person legally responsible for his care, pending a final order of disposition, in accord with section one thousand fifty-four.

**(e)**Upon such hearing, the court may authorize a physician or hospital to provide medical or surgical procedures if such procedures are necessary to safeguard the child's life or health.

**(f)**If the court grants or denies a preliminary order requested pursuant to this section, it shall state the grounds for such decision.

**(g)**In all cases involving abuse the court shall order, and in all cases involving neglect the court may order, an examination of the child pursuant to section two hundred fifty-one of this act or by a physician appointed or designated for the purpose by the court. As part of such examination, the physician shall arrange to have colored photographs

taken as soon as practical of the areas of trauma visible on such child and may, if indicated, arrange to have a radiological examination performed on the child. The physician, on the completion of such examination, shall forward the results thereof together with the color photographs to the court ordering such examination. The court may dispense with such examination in those cases which were commenced on the basis of a physical examination by a physician. Unless colored photographs have already been taken or unless there are no areas of visible trauma, the court shall arrange to have colored photographs taken even if the examination is dispensed with.

**(h)**At the conclusion of a hearing where it has been determined that a child should be removed from his or her parent or other person legally responsible, the court shall set a date certain for an initial permanency hearing pursuant to paragraph two of subdivision (a) of section one thousand eighty-nine of this act. The date certain shall be included in the written order issued pursuant to subdivision (b) of this section and shall set forth the date certain scheduled for the permanency hearing. A copy of such order shall be provided to the parent or other person legally responsible for the child's care.

## History

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Add, L 1970, ch 962, § 9, eff May 1, 1970; amd, L 1976, ch 880, § 10, eff Nov 24, 1976, L 1987, ch 469, § 1, L 1988, ch 478, §§ 4, 5, eff Nov 1, 1988, L 1988, ch 487, § 5, L 1988, ch 527, § 3, eff Aug 11, 1988 (neither act referred to the other), L 1988, ch 478, § 5, L 1988, ch 527, § 4, L 1989, ch 727, § 4, [L 1990, ch 171, § 2](#), [L 1991, ch 198, § 5](#), [L 1994, ch 36, § 1](#), eff April 4, 1994, [L 2005, ch 3, § 15](#) (Part A), eff Dec 21, 2005 (see 2005 note below), amd, [L 2005, ch 671, § 2](#), eff March 15, 2006 (see 2006 note below), [L 2006, ch 12, § 1](#), eff March 15, 2006 (see 2006 note below), [L 2010, ch 41, § 51](#), eff April 14, 2010.

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## **§ 1029. Temporary order of protection**

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(a) The family court, upon the application of any person who may originate a proceeding under this article, for good cause shown, may issue a temporary order of protection, before or after the filing of such petition, which may contain any of the provisions authorized on the making of an order of protection under section [fig 1] one thousand fifty-six. If such order is granted before the filing of a petition and a petition is not filed under this article within ten days from the granting of such order, the order shall be vacated. In any case where a petition has been filed and [fig 2] an attorney for the child has been appointed, such [fig 3] attorney may make application for a temporary order of protection pursuant to the provisions of this section.

(b) A temporary order of protection is not a finding of wrongdoing.

(c) The court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of a warrant directing that the respondent be arrested and brought before the court pursuant to section ten hundred thirty-seven of this article.

(d) Nothing in this section shall: (i) limit the power of the court to order removal of a child pursuant to this article where the court finds that there is imminent danger to a child's life or health; or (ii) limit the authority of authorized persons to remove a child without a court order pursuant to section one thousand twenty-four of this article; or (iii) be construed to authorize the court to award permanent custody of a child to a parent or relative pursuant to a temporary order of protection.

## **History**

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Add, L 1975, ch 495, § 1; amd, L 1981, ch 416, § 19, eff Aug 6, 1981, amd, L 1987, ch 67, § 1, L 1988, ch 673, § 4, eff Sept 1, 1988, [L 2010, ch 41, § 53](#), eff April 14, 2010.

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End of Document

**§ 1034. Power to order investigations**

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1. A family court judge may order the child protective service of the appropriate [fig 1] social services [fig 2] district to conduct a child protective investigation as described by the social services law and report its findings to the court:

(a) in any proceedings under this article, or

(b) in order to determine whether a proceeding under this article should be initiated.

2.(a) (i) [fig 1] Before a petition is filed and where there is [fig 2] reasonable cause to [fig 3] suspect that [fig 4] a child or children's life or health may be in danger, child protective services may seek a court order based upon:

(A) a report of suspected abuse or maltreatment under title six of article six of the social services law as well as any additional information that a child protective investigator has learned in the investigation; and

(B) the fact that the investigator has been unable to locate the child named in the report or any other children in the household or has been denied access to the child or children in the household sufficient to determine their safety; and

(C) the fact that the investigator has advised the parent or other persons legally responsible for the child or children that, when denied sufficient access to the child or other children in the household, the child protective investigator may consider seeking an immediate court order to gain access to the child or children without further notice to the parent or other persons legally responsible.

(ii) Where a court order has been requested pursuant to this paragraph the court may issue an order under this section [fig 1] requiring that the parent or other persons legally responsible for the child or children produce the child or children at a particular location which may include a child advocacy center, or to a particular person for an interview of the child or children, and for observation of the condition of the child, outside of the presence of the parent or other person responsible.

(b)

**(i)** Before a petition is filed and where there is probable cause to believe that an abused or neglected child may be found on the premises, child protective services may seek a court order based upon:

**(A)** a report of suspected abuse or maltreatment under title six of article six of the social services law as well as any additional information that a child protective investigator has learned in the investigation; and

**(B)** the fact that the investigator has been denied access to the home of the child or children in order to evaluate the home environment; and

**(C)** the fact that the investigator has advised the parent or other person legally responsible for the child or children that, when denied access to the home environment, the child protective investigator may consider seeking an immediate court order to gain access to the home environment without further notice to the parent or other person legally responsible.

**(ii)** Where a court order has been requested pursuant to this paragraph the court may issue an order under this section authorizing the person conducting the child protective investigation to enter the home in order to determine whether such child or children are present and/or to conduct a home visit and evaluate the home environment of the child or children.

**(c)** The procedure for granting an order pursuant to this subdivision shall be the same as for a search warrant under article six hundred ninety of the criminal procedure law. If an order is issued in accordance with this subdivision the court shall specify which action may be taken and by whom in the order.

**(d)** In determining if such orders shall be made, the court shall consider all relevant information, including but not limited to:

**(i)** the nature and seriousness of the allegations made in the report;

**(ii)** the age and vulnerability of the child or children;

**(iii)** the potential harm to the child or children if a full investigation is not completed;

**(iv)** the relationship of the source of the report to the family, including the source's ability to observe that which has been alleged; and



(v)the child protective or criminal history, if any, of the family and any other relevant information that the investigation has already obtained.

(e)The court shall assess which actions are necessary in light of the child or children's safety, provided, however, that such actions shall be the least intrusive to the family.

(f)The court shall be available at all hours to hear such requests by the social services district which shall be permitted to make such requests either in writing or orally, pursuant to section 690.36 of the criminal procedure law, in person to the family court during hours that the court is open and orally by telephone or in person, pursuant to section 690.36 of the criminal procedure law, to a family court judge when the court is not open. While the request is being made, law enforcement shall remain where the child or children are or are believed to be present if the child protective services investigator has requested law enforcement assistance. Provided, however, that law enforcement may not enter the premises where the child or children are believed to be present without a search warrant or another constitutional basis for such entry.

(g)Where the court issues an order under this section, the child protective investigator shall within three business days prepare a report to the court detailing his or her findings and any other actions that have been taken pertaining to the child named in the report and any other children in the household.

(h)Nothing in this section shall limit the court's authority to issue any appropriate order in accordance with the provisions of this article after a petition has been filed.

## History

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Add, L 1973, ch 1039, § 9; amd, L 1978, ch 627, eff Sept 1, 1978.

Former § 1034, add, L 1970, ch 962, § 9; repealed, L 1973, ch 1039, § 9, eff Sept 1, 1973.

Sub 1, formerly entire section, so numbered, L 1978, ch 627, eff Sept 1, 1978.

Sub 1, opening par, amd,[\*L 2009, ch 329, § 3, eff Aug 11, 2009 \(see 2009 note below\)\*](#).

The 2009 act deleted at fig 1 "department of", at fig 2 "or request any other appropriate child protective agency"

Sub 2, add, L 1978, ch 627, § 7, eff Sept 1, 1978.

Sub 2, par (a), subpar (i), opening par, formerly part of entire sub 2, so designated sub 2, par (a), subpar (i) and amd,[L 2006, ch 740, § 2, eff Jan 18, 2006.](#)

The 2006 act deleted at fig 1 "Where", at fig 2 "probable", at fig 3 "believe" and at fig 4 "an abused or neglected child may be found on premises,"

Sub 2, par (a), subpar (i), cl (A), add,[L 2006, ch 740, § 2, eff Jan 18, 2007.](#)

Sub 2, par (a), subpar (i), cl (B), add,[L 2006, ch 740, § 2, eff Jan 18, 2007.](#)

Sub 2, par (a), subpar (i), cl (C), add,[L 2006, ch 740, § 2, eff Jan 18, 2007.](#)

Sub 2, par (a), subpar (ii), formerly part of entire sub 2, so designates sub 2, par (a), subpar (ii) and amd,[L 2006, ch 740, § 2, eff Jan 18, 2007.](#)

The 2006 act deleted at fig 1 "may authorize a person conducting the child protective investigation, accompanied by a police officer, to enter the premises to determine whether such a child is present. The standard of proof and procedure for such an authorization shall be the same as for a search warrant under the criminal procedure law."

Sub 2, par (d), add,[L 2006, ch 740, § 2, eff Jan 18, 2007.](#)

Sub 2, par (e), add,[L 2006, ch 740, § 2, eff Jan 18, 2007.](#)

Sub 2, par (f), add,[L 2006, ch 740, § 2, eff Jan 18, 2007.](#)

Sub 2, par (g), add,[L 2006, ch 740, § 2, eff Jan 18, 2007.](#)

**§ 1035. Issuance of summons; notice to certain interested persons and intervention**

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(a) On the filing of a petition [fig 1] under this article where the child has been removed from his or her home, unless a warrant is issued pursuant to section one thousand thirty-seven of this part, the court shall cause a copy of the petition and a summons to be issued [fig 2] the same day the petition is filed, clearly marked on the face thereof "Child Abuse Case", as applicable, requiring the parent or other person legally responsible for the child's care or with whom he [fig 3] or she had been residing to appear at the court within three court days to answer the petition, unless a shorter time for a hearing to occur is prescribed in part two of this article. [fig 4]

(b) In a proceeding to determine abuse or neglect, the summons shall contain a statement [fig 1] in conspicuous print informing the respondent that:

(i) the proceeding [fig 1] may lead to the filing of a [fig 2] petition under the social services law for the termination of respondent's parental rights and commitment of guardianship and custody of the child [fig 3] for the purpose of adoption; and

(ii) if the child is placed and remains in foster care for fifteen of the most recent twenty-two months, the agency may be required by law to file a petition for termination of respondent's parental rights and commitment of guardianship and custody of the child for the purposes of adoption.

(c) On the filing of a petition under this article [fig 1] where the child has not been removed from his or her home, the court shall forthwith cause a copy of the petition and a summons to be issued, clearly marked on the face thereof "Child Abuse Case", as applicable, requiring the parent or other person legally responsible for the child's care or with whom [fig 2] the child is residing to appear at the court to answer the petition [fig 3] within seven court days. The court may also require the person thus summoned to produce the child at the time and place named.

(d) Where the respondent is not the child's parent, service of the summons and petition shall also be ordered on both of the child's parents; where only one of the child's parents is the respondent, service of the summons and petition shall also be ordered on the child's other parent. The summons and petition shall be accompanied by a notice of

pendency of the child protective proceeding advising the parents or parent of the right to appear and participate in the proceeding as an interested party intervenor for the purpose of seeking temporary and permanent custody of the child, and to participate thereby in all arguments and hearings insofar as they affect the temporary custody of the child during fact-finding proceedings, and in all phases of dispositional proceedings. The notice shall also indicate that:

(i) upon good cause, the court may order an investigation pursuant to section one thousand thirty-four of this part to determine whether a petition should be filed naming such parent or parents as respondents;

(ii) if the court determines that the child must be removed from his or her home, the court may order an investigation to determine whether the non-respondent parent or parents would be suitable custodians for the child; and

(iii) if the child is placed and remains in foster care for fifteen of the most recent twenty-two months, the agency may be required by law to file a petition for termination of the parental rights of the parent or parents and commitment of guardianship and custody of the child for the purposes of adoption, even if the parent or parents were not named as a respondent or as respondents in the child abuse or neglect proceeding.

(e) The summons [fig 1] , petition [fig 2] and notice of pendency of a child protective proceeding served on the child's non-custodial parent in accordance with subdivision (d) of this section shall [fig 3] , if applicable, be served together with a notice that the child was removed from his or her home by a social services official. Such notice shall also include the name and address of the official to whom temporary custody of the child has been transferred, the name and address of the agency or official with whom the child has been temporarily placed, if different, and shall advise such parent of the right to request temporary and permanent custody and to seek enforcement of visitation rights with the child as provided for in part eight of this article.

(f) The child's adult sibling, grandparent, aunt or uncle not named as respondent in the petition, may, upon consent of the child's parent appearing in the proceeding, or where such parent has not appeared then without such consent, move to intervene in the proceeding as an interested party intervenor for the purpose of seeking temporary or permanent custody of the child, and upon the granting of such motion shall be permitted to participate in all arguments and hearings insofar as they affect the temporary custody of the child during fact-finding proceedings, and in all phases of dispositional proceedings. Such motions for intervention shall be liberally granted.

## History

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Section heading, amd, L 1986, ch 699, § 1, eff Aug 29, 1986.

Sub (a), amd,[L 2005, ch 3, § 16](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

The 2005 act deleted at fig 1 "involving abuse", at fig 2 "forthwith", at fig 3 "is" and at fig 4 "The court shall also, unless dispensed with for good cause shown, require the person thus summoned to produce the child at the time and place named."

Sub (b), add, L 1981, ch 739, § 1, eff Oct 25, 1981.

Former sub (b), designated sub (c), L 1981, ch 739, § 1, eff Oct 25, 1981.

Sub (c), formerly sub (b), so designated sub (c), L 1981, ch 739, § 1; amd, L 1986, ch 699, § 1, eff Aug 29, 1986.

Sub (c), amd,[L 2005, ch 3, § 16](#) (Part A), eff Dec 21, 2005 (see 2005 note below).

The 2005 act deleted at fig 1 "in which neglect only is alleged", at fig 2 "it" and at fig 3 "within three court days, where the child has been temporarily removed under this article, otherwise"

Sub (d), add, L 1986, ch 699, § 1; amd, L 1987, ch 443, § 1, eff July 27, 1987.

Sub (e), add, L 1988, ch 457, § 5, eff Nov 1, 1988.

Former sub (e), so designated sub (f), L 1988, ch 457, § 5, eff Nov 1, 1988.

Sub (f), formerly sub (e), add, L 1986, ch 699, § 1; amd, L 1987, ch 443, § 1; so designated sub (f), L 1988, ch 457, § 5, eff Nov 1, 1988.

Sub (b), opening par, formerly part of sub (b), so designated sub (b), opening par and amd,[L 2003, ch 526, § 1](#), eff Dec 16, 2003.

The 2003 act deleted at fig 1 "clearly marked on the face thereof,"

Sub (b), par (i), formerly part of sub (b), so designated sub (b), par (i) and amd,[L 2003, ch 526, § 1](#), eff Dec 16, 2003.

The 2003 act deleted at fig 1 "could", at fig 2 "proceeding" and at fig 3 "and that the rights of the respondent with respect to said child may be terminated in such proceeding under such law"

Sub (b), par (ii), add,[L 2003, ch 526, § 1](#), eff Dec 16, 2003.

Sub (d), opening par, amd,[L 2003, ch 526, § 2](#), eff Dec 16, 2003.

Sub (d), par (i), add,[L 2003, ch 526, § 2](#), eff Dec 16, 2003.

Sub (d), par (ii), add,[L 2003, ch 526, § 2](#), eff Dec 16, 2003.

Sub (d), par (iii), add,[L 2003, ch 526, § 2](#), eff Dec 16, 2003.

Sub (e), amd,[L 2003, ch 526, § 3](#), eff Dec 16, 2003.

The 2003 act deleted at fig 1 "and", at fig 2 "ordered to be" and at fig 3 "as"

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**§ 1036. Service of summons**

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(a) Except as provided for in subdivision (c) of this section, in cases involving abuse, the petition and summons shall be served within two court days after their issuance. If they cannot be served within that time, such fact shall be reported to the court with the reasons thereof within three court days after their issuance and the court shall thereafter issue a warrant in accordance with the provisions of section one thousand thirty-seven. The court shall also, unless dispensed with for good cause shown, direct that the child be brought before the court. Issuance of a warrant shall not be required where process is sent without the state as provided for in subdivision (c) of this section.

(b) Service of a summons and petition shall be made by delivery of a true copy thereof to the person summoned at least twenty-four hours before the time stated therein for appearance.

(c) In cases involving either abuse or neglect, the court may send process without the state in the same manner and with the same effect as process sent within the state in the exercise of personal jurisdiction over any person subject to the jurisdiction of the court under section three hundred one or three hundred two of the civil practice law and rules, notwithstanding that such person is not a resident or domiciliary of the state, where the allegedly abused or neglected child resides or is domiciled within the state and the alleged abuse or neglect occurred within the state. In cases involving abuse where service of a petition and summons upon a non-resident or non-domiciliary respondent is required, such service shall be made within ten days after its issuance. If service can not be effected in ten days, an extension of the period to effect service may be granted by the court for good cause shown upon application of any party or the [fig 1] child's attorney. Where service is effected on an out of state respondent and the respondent defaults by failing to appear to answer the petition, the court may on its own motion, or upon application of any party or the [fig 2] child's attorney proceed to a fact finding hearing thereon.

(d) If after reasonable effort, personal service is not made, the court may at any stage in the proceedings make an order providing for substituted service in the manner provided for substituted service in civil process in courts of record.

## History

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Add, L 1970, ch 962, § 9, with substance derived from former § 336; amd, [L 1990, ch 268, § 1](#), eff Sept 1, 1990, [L 1991, ch 69, § 1](#), eff April 22, 1991, [L 2010, ch 41, § 56](#), eff April 14, 2010.

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**§ 1037. Issuance of warrant and reports to court**

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(a) The court may issue a warrant directing the parent, or other person legally responsible for the child's care or with whom he is residing to be brought before the court, when a petition is filed with the court under this article and it appears that

(i) the summons cannot be served; or

(ii) the summoned person has refused to obey the summons; or

(iii) the parent or other person legally responsible for the child's care is likely to leave the jurisdiction; or

(iv) a summons, in the court's opinion, would be ineffectual; or

(v) the safety of the child is endangered; or

(vi) the safety of a parent, person legally responsible for the child's care or with whom he is residing, foster parent or temporary custodian is endangered.

(b) When issuing a warrant under this section, the court may also direct that the child be brought before the court.

(c) In any case involving abuse, the warrant shall be clearly marked on the face thereof "Child Abuse Case". If a warrant is not executed within two court days of its issuance, such fact shall be reported to the court within three court days of its issuance. Rules of court shall provide that reports of unexecuted warrants issued under this article shall be periodically made to the court.

(d) In a proceeding to determine abuse, the warrant shall contain a statement clearly marked on the face thereof, that the proceeding could lead to a proceeding under the social services law for the commitment of guardianship and custody of the child and that the rights of the respondent with respect to said child may be terminated in such proceeding under such law.

**History**

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Add, L 1970, ch 962, § 9, with substance derived from former § 337.

Sub (a), amd, L 1988, ch 271, § 3, eff July 19, 1988.

Sub (a), par (v), amd, L 1988, ch 271, § 3, eff July 19, 1988.

Sub (a), par (vi), add, L 1988, ch 271, § 3, eff July 19, 1988.

Sub (d), add, L 1981, ch 739, § 2, eff Oct 25, 1981.

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## 2012 N.Y. PENAL LAW § 120.05

### **§ 120.05. Assault in the second degree**

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A person is guilty of assault in the second degree when:

1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or
2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or
3. With intent to prevent a peace officer, a police officer, registered nurse, licensed practical nurse, sanitation enforcement agent, New York city sanitation worker, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a traffic enforcement officer or traffic enforcement agent, from performing a lawful duty, by means including releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, registered nurse, licensed practical nurse, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician, city marshal, traffic enforcement officer or traffic enforcement agent, he or she causes physical injury to such peace officer, police officer, registered nurse, licensed practical nurse, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, traffic enforcement officer or traffic enforcement agent; or
- 3-a. With intent to prevent an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, a vulnerable elderly person or an incompetent or physically disabled person, from performing such investigation or response, the actor, not being such child, vulnerable elderly person or incompetent or physically disabled person, or with

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intent to prevent an employee of a local social services district directly involved in providing public assistance and care from performing his or her job, causes physical injury to such employee including by means of releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activities of such employee; or

**4.**He recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

**5.**For a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to him, without his consent, a drug, substance or preparation capable of producing the same; or

**6.**In the course of and in furtherance of the commission or attempted commission of a felony, other than a felony defined in article one hundred thirty which requires corroboration for conviction, or of immediate flight therefrom, he, or another participant if there be any, causes physical injury to a person other than one of the participants; or

**7.**Having been charged with or convicted of a crime and while confined in a correctional facility, as defined in subdivision three of section forty of the correction law, pursuant to such charge or conviction, with intent to cause physical injury to another person, he causes such injury to such person or to a third person; or

**8.**Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly causes serious physical injury to such person; or

**9.**Being eighteen years old or more and with intent to cause physical injury to a person less than seven years old, the defendant causes such injury to such person [fig 1] ; or

**10.**Acting at a place the person knows, or reasonably should know, is on school grounds and with intent to cause physical injury, he or she:

(a)causes such injury to an employee of a school or public school district; or

(b)not being a student of such school or public school district, causes physical injury to another, and such other person is a student of such school who is attending or present for educational purposes. For purposes of this subdivision the term "school grounds" shall have the meaning set forth in subdivision fourteen of section 220.00 of this chapter.

**11.**With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator or station agent employed by any transit authority, he or she:

agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a traffic enforcement officer, traffic enforcement agent [fig 1] , sanitation enforcement agent, New York city sanitation worker, registered nurse or licensed practical nurse he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator or station agent, city marshal, traffic enforcement officer, traffic enforcement agent, registered nurse or licensed practical nurse [fig 2] , sanitation enforcement agent [fig 3] or New York city sanitation worker, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, or such city marshal, traffic enforcement officer, traffic enforcement agent, registered nurse or licensed practical nurse [fig 4] , sanitation enforcement agent or New York city sanitation worker, is performing an assigned duty.

**11-a.** With intent to cause physical injury to an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, vulnerable elderly person or an incompetent or physically disabled person, the actor, not being such child, vulnerable elderly person or incompetent or physically disabled person, or with intent to prevent an employee of a local social services district directly involved in providing public assistance and care from performing his or her job, causes physical injury to such employee; or

**12.** With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person.

Assault in the second degree is a class D felony.

## History

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Add, L 1965, ch 1030, with substance derived from §§ 2, 242, 243; amd, L 1967, ch 791, § 7, L 1968, ch 37, § 1, L 1972, ch 598, § 2, L 1974, ch 239, § 1, L 1974, ch 660, § 1, L 1975, ch 134, § 1, L 1975, ch 667, § 37, eff Aug 6, 1975, retroactive to and deemed to have been in full force and effect on and after April 1, 1975, L 1980, ch 471, § 25, L 1980, ch 843, § 39, L 1981, ch 372, §§ 4, 5, eff Sept 1, 1981, L 1984, ch 284, § 1, L 1985, ch 262, § 1, eff Sept 1, 1985, [L 1990, ch 477, § 2](#), eff Nov 1, 1990, [L 1996, ch 122, § 4](#), eff Aug 1, 1996 (see 1996 note below), 1998, ch 269, § 1, eff Nov 1, 1998, [L 1998, ch 287, § 1](#), eff Nov 1, 1998, [L 2000, ch 181, § 13](#), eff Nov 1, 2000 (see 2000 note below), [L 2002, ch 598, § 1](#), eff Nov 1, 2002, [L 2003, ch 607, § 1](#), eff Nov 1, 2003, [L 2006, ch 100, § 1](#), eff Nov 1, 2006 [L 2008, ch 45, § 1](#), eff July 22, 2008, [L 2008, ch 68, § 1](#), eff June 29, 2008, [L](#)

[2010, ch 318, §§ 1, 2](#), eff Nov 1, 2010, [L 2010, ch 345, § 1](#), eff Sept 12, 2010, [L 2012, ch 377, § 1](#), eff Sept 16, 2012, [L 2012, ch 434, § 1](#), eff Nov 1, 2012.

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## 2012 N.Y. PENAL LAW § 195.05

### **§ 195.05. Obstructing governmental administration in the second degree**

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A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, town, village, fire district or emergency medical service or by means of releasing a dangerous animal under circumstances evincing the actor's intent that the animal obstruct governmental administration.

Obstructing governmental administration is a class A misdemeanor.

### **History**

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Add, L 1965, ch 1030, § 1, with substance derived from §§ 196, 490, 1320, 1322, 1824, 1825, 1851; amd, L 1984, ch 956, § 1, [L 1998, ch 269, § 2](#), eff Nov 1, 1998.

First undesignated par, amd, [L 1998, ch 269, § 2](#), eff Nov 1, 1998.

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## 2012 N.Y. PENAL LAW § 205.30

### **§ 205.30. Resisting arrest**

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A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a police officer or peace officer from effecting an authorized arrest of himself or another person.

Resisting arrest is a class A misdemeanor.

### **History**

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Add, L 1965, ch 1030, § 1; amd, L 1980, ch 843, § 41, eff Sept 1, 1980.

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