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NEW YORK STATE STANDARD PRACTICES MANUAL

PROCESSING FINGERPRINTABLE CRIMINAL CASES

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Introduction

Why Standard Practices?

The highly decentralized nature of the New York State criminal justice system is a key obstacle to system coordination and integration. While criminal justice is a single process that begins with an arrest and ends with release from custody or supervision, over 3,000 criminal justice agencies operating at the State, County, City, District, Town and Village levels of government are responsible for the administration of justice.

The lack of standardization and compliance with statutory requirements in processing criminal cases among criminal justice negatively impacts criminal history data quality. Examples where this failure impacts on the quality of criminal history record information available include the following:

- When an arresting agency fails to submit arrest fingerprints as required by law:
 - The criminal history repository cannot create or update an individual's history or if appropriate, generate an arrest hit notice for criminal justice agencies and for civil agencies for employment and license.
 - The court and the district attorney will not have an arrest fingerprint based rapsheet for decisions at arraignment or for enhanced charges if warranted.
 - Criminal justice agencies may not be aware of warrants pending against the individual.
 - Supervisory agencies such as parole and probation may not be aware that an individual under their supervision has been rearrested.

- When a prosecuting agency fails to provide sufficient information on the status of arrests and docketed cases to courts:
 - A court may not be able to report the outcome of a case covered by plea bargain in another court.
 - A lower court may not know to seal a case record based upon a "no bill" voted by a grand jury.
 - A court may not know that an undocketed case was resolved by a decline to prosecute and should be sealed on their database.

- When a court fails to report the disposition for a docketed case:
 - An individual seeking employment, licensing, or other civil matters such as an adoption will have an open case appear on their criminal history instead of a conviction or a sealed or suppressed record that would normally not be disseminated.
 - Parole or probation or other criminal justice agencies supervising individuals will have to contact the court to get the missing disposition.
 - If the individual is subsequently rearrested, the arresting agency may have to contact the court to determine if the individual was convicted of a charge that

might warrant the enhancement of the charge associated with the arrest or the accusatory instrument.

- If a supervisory agency (probation, jail, parole or state prison) fails to notify that the individual has been admitted or discharged from their supervision:
 - An agency conducting a criminal investigation may not be readily able to determine if the individual is under supervision.
 - An individual seeking employment or licensing or other civil matters may not be able to document that he/she had been discharged from supervision.
 - A wanting agency may not know who to contact to inquire about the individual's current status for the purpose of executing the warrant.

Manual Contents

The "New York State Standard Practices Manual for Processing Fingerprintable Criminal Cases" provides documentation on the procedures necessary to the efficient and accurate exchange and reporting of fingerprintable criminal case information in New York State for the following areas:

- Arrest Processing
- Prosecutorial Processing
- Judicial Processing
- Custody and Supervision Processing

This revision reflects changes required due to legislation raising the age of criminal responsibility to seventeen on October 1, 2018, and to eighteen on October 1, 2019 as well as changes in criminal history record processing in the past fifteen years. This revision also includes the following changes:

1. Removal of fingerprint requirements for juveniles that have not reached the age of 12, per the Raise the Lower Age legislation.
2. Removal of references to the repealed Penal Law §240.37,
3. Update to procedures for arrests involving multiple incidents,
4. Updates to DCJS contact information, and locations for the supplement forms on the eJusticeNY Integrated Justice Portal.

Representatives of agencies involved in the original Manual were consulted in its development.

Key Identifiers

Key identifiers are data elements which are essential to the accurate updating of information to a DCJS Criminal History Record. The key identifiers are used to associate information first

to a criminal history and then to a particular arrest on that criminal history. Without the use of key identifiers, a rapsheet may contain portions of a case which do not associate to any arrest or will not contain vital information related to a particular criminal history. The key identifiers which each agency should use and share with other agencies are the following:

- Name of the individual
- Arrest Date
- NYSID Number assigned to the individual's New York State criminal history
- Criminal Justice Tracking Number (CJTN) - the number assigned to a particular set of Arrest Fingerprints - is used to identify the particular arrest on the individual's New York State criminal history. The number was formerly known as the Court Control Number, OBTS Number or 501 Number
- Date of Birth of the individual
- Case Number, as appropriate (i.e., Arrest ID Number, Court Case Number, Inmate ID Number, Parole ID Number, Probation Registrant Number), used to identify each reporting agency's identification number for the individual
- Gender of the individual
- Crime Date
- Crime Place
- FBI Number (UCN Number) which is used to identify the individual's record at the Federal Bureau of Investigation. It is associated with the person's record in New York State and may also be linked to other records

Arrest Processing

Introduction: An individual's criminal history at the New York State Division of Criminal Justice Services (DCJS) consists of a record of all reported fingerprintable arrests of the individual, the charges reported with the arrests, the prosecutorial and judicial actions involved in disposing of the charges on which the individual is arraigned, and information related to the custodial or supervisory sentences imposed by the court. These arrest records are initialized by and supported by a set of arrest fingerprints and related data submitted to DCJS by arresting agencies.

Local Arresting Agencies: County sheriff departments, as well as town, village, district or county police and city police departments are considered local arresting agencies. Also included in this category are Prosecutor Investigators, Railroad Police, New York City Fire Marshals, New York City Water Supply Police and other similar agencies.

State Arresting Agencies: New York State arresting agencies include the State Police, State Environmental Conservation Police, State Parks and Recreation Police, State University of New York Police and State Taxation Department investigators.

Peace Officers: Peace Officers (as defined by Criminal Procedure Law 2.10) may be authorized to arrest an individual for a charge that requires that fingerprints be taken pursuant to

Criminal Procedure Law 160.10. However, the agency may not be authorized to submit an arrest fingerprint card to DCJS because it is not a “qualified agency.” Pursuant to Executive Law §837(6) only a “qualified agency” may submit fingerprints to DCJS. Qualified Agency is defined by Executive Law §835(9). These agencies must make arrangements to submit the arrest fingerprints through a “qualified agency.”

The Criminal History Record: The criminal history record begins with documentation of the arrest and the establishment of a fingerprint-supported record in the State Criminal Record Repository (DCJS).

Arrest Fingerprinting and Fingerprint Submission

Under Criminal Procedure Law 160.10, 160.20, 160.30 and 160.40, law enforcement agencies are responsible for fingerprinting individuals arrested on a felony, any misdemeanor defined in the Penal Law, and non-Penal Law misdemeanors that escalate to a felony upon a subsequent conviction, and the violation defined in Penal Law §240.37(02). Under Family Court Act §§306.1 and 306.2, law enforcement agencies are responsible for fingerprinting alleged juvenile delinquents (aged 7 to 16 or starting October 1, 2019, aged 7 to 17) charged with a class A or B felony if the child is 11 or 12 years of age, or charged with any felony if the child is 13 to 15 17 years of age. A 16 or 17-year-old and, starting October 1, 2019, a 17-year old charged with a misdemeanor, other than a Vehicle and Traffic Law misdemeanor, will be charged as a juvenile delinquent but will not be fingerprintable. Children aged 7 to 11 may be charged as a juvenile delinquent for certain homicide offenses but fingerprinting is not authorized. The fingerprints from those arrests must be submitted to the State Criminal Record Repository (DCJS) without unnecessary delay.

Individuals charged with a fingerprintable offense through a court summons must be fingerprinted upon arraignment unless charged through a civilian complaint. Individuals charged through a civilian complaint must be fingerprinted upon conviction (Criminal Procedure Law 130.60). Individuals who are arrested and subsequently issued an appearance ticket must be fingerprinted before being released (Criminal Procedure Law 140.20). If a police officer issues an appearance ticket for a fingerprintable offense in lieu of an arrest, fingerprinting is not completed until after court arraignment (Criminal Procedure Law 150.70). However, arresting agencies are encouraged to fingerprint individuals on appearance ticket at time of issuance.

DCJS electronically transmits criminal histories to the court of arraignment and the District Attorney using the Integrated Justice Portal. Criminal Procedure Law 160.40 still requires law enforcement agencies to transmit a copy of the criminal history report to the prosecutor and two copies to the court where the case is pending. The court, in turn, is responsible for providing the defendant's/respondent's counsel with a copy of the criminal history.

Meticulous case documentation, sharing of information with the rest of the agencies involved with the case, and reporting of arrest information and fingerprints to DCJS are essential for the creation of a complete and accurate criminal history record at DCJS. Incomplete reporting to DCJS or inadequate sharing of information with other criminal justice agencies involved in the case impedes the ability of other agencies involved in the process to fully report their information to DCJS.

The fingerprints of individuals charged with fingerprintable offenses, provide the starting point and anchor for the New York State criminal history information available to the criminal justice community. The inclusion of arrest identifiers allows other agencies including prosecutors, the courts and custody and supervisory agencies to provide related information that can be linked to the arrest information on the individual's criminal history.

This section of the Manual includes Standard Practices for those aspects of arrest processing related to the collection, recording and transmission of arrest information for fingerprintable crimes to DCJS and other criminal justice agencies (e.g., courts and prosecutors) and the use and dissemination of arrest fingerprint-based rapsheets.

Arresting Agency Standard Practices

The practices listed below pertain to the processing of fingerprintable arrests.

I. Standard Practices Regarding Criminal Case Documentation

A. Providing Complete Case Documentation to Other Criminal Justice Agencies

Authority: Criminal Procedure Law 100.15; 160.10; 160.40 and 22 NYCRR § 134.2, Family Offense Designation.

1. Key Identifiers: The following Key Identifiers should be included in all exchanges of information with other agencies involved with a criminal case:
 - a. Name
 - b. Arrest Date
 - c. NYSID Number
 - d. Criminal Justice Tracking Number (CJTN)
 - e. Date of Birth
 - f. Arrest Number
2. Additional Information to be Reported to the Court and Prosecutor

The arresting agency should provide the following detailed information to the prosecutor and court in separate reports. This information should match the information submitted to DCJS with the set of fingerprints taken in connection with the arrest of the individual as described in Section II. If copies of the Arrest Report are used for this purpose, the court's copy should not include information about the complainant or police investigative information.

- a. Key Identifiers
- b. Defendant Sex
- c. Crime Date (s)
- d. Crime Place (s)
- e. All Arrest Charges with the following details:
 - Law title and section
 - Subdivision
 - Class and category
 - Degree
 - Counts
 - Charge attempted or completed indicator
 - Description
- f. Notification of need for fingerprints to be taken if printing has not occurred.

3. Arrest Fingerprint-Based Rapsheet to be Provided to the Court and Prosecutor

DCJS electronically transmits arrest fingerprint based rapsheets to the court of arraignment and the district attorney using the Integrated Justice Portal. Criminal Procedure Law § 160.40 still requires law enforcement agencies to transmit a copy of the rapsheet to the prosecutor and two copies to the court where the case is pending.

NOTE: Until the arrest fingerprint-based rapsheet is delivered, or at any other time, a rapsheet may be obtained by the arresting agency, the district attorney or the court through an electronic inquiry using the Integrated Justice Portal. If the arresting agency requests a rapsheet for the court or prosecutor, the agency must enter the judge's or prosecutor's name or agency as the requestor. This is NOT a fingerprint-based rapsheet and is not a replacement for the arrest fingerprint-based rapsheet.

4. Additional Documents to be Provided to the Court

The case documentation provided to the court should also include the:

- a. Accusatory Instrument: In addition to the requirements specified in Criminal Procedure Law § 100.15, an accusatory instrument should include:
 - Indicator of juvenile offender status, where applicable
 - Indicator of adolescent offender status, where applicable

- Name of the agency filing the instrument
 - Filing agency's case number
- b. Documentation of Criminal Justice Tracking Number (CJTN)
- Note: The Criminal Justice Tracking Number (CJTN) is electronically assigned by DCJS upon receipt of an arrest fingerprint transmission being updated to the criminal history database. It is returned to the arresting agency, the court of arraignment and the district attorney on the arrest fingerprint based rapsheet transmitted electronically via the Integrated Justice Portal. In the absence of a fingerprint card stub, it is essential that the arrest information and Criminal Justice Tracking Number (CJTN) continue to be transmitted to the court through a means developed by the arresting agency:*
- *If fingerprinted at the time of arrest, the information should accompany the Accusatory Instrument at arraignment.*
 - *If fingerprinted after arraignment, the information should be forwarded to the court as soon as possible.*
 - *This serves as a cross-check to the arrest fingerprint based rapsheet received by the court.*
- c. Other Supporting Documents as detailed in the Unified Court System's guidelines and statutory law.

B. Sharing Documents with Other Agencies

1. Documents Generated by the Arresting Agency to be Forwarded to Other Agencies

- a. Complaint Report: Forward to the prosecutor.
- b. Arrest Report: Forward to the prosecutor and to the court.
- c. Accusatory Instrument, and other supporting documentation which establishes the basis for the charges filed against the individual: Forward to the prosecutor and to the court.
- d. A report of the Criminal Justice Tracking Number (CJTN) assigned to the arrest fingerprint submissions: Forward to the court.
- e. New York State Inquiry Fingerprint Transaction (CARCIR), electronic inquiry used to determine identity (does not create a new arrest record at DCJS): Electronically forward to DCJS and receive response electronically via Integrated Justice Portal
- f. Request for Court to Notify Defendant to Appear for Fingerprinting (if not printed at time of arrest): Forward to the court.

- g. Arrest Information Update Form: Agencies can submit these requests by using the Arrest Information Update form, which can be obtained from the eJusticeNY Integrated Justice Portal, or by sending a letter detailing the request on the agency's letterhead.
- Resources» Reference Library» Law Enforcement Forms and Publications >> Arrest Supplement Form, or
 - Resources» Reference Library» >>Arrest Supplement Form
- h. All requests must be signed by a police officer or higher ranking member of the department, or someone specifically authorized by your department to submit these requests. The form must include your agency name and ORI number, the arrestee's name and date of birth, NYSID number, Criminal Justice Tracking Number, and date of arrest in order for DCJS to identify the arrest event to be corrected. These requests also should clearly list the information that needs to be added and/or removed.
- i. Arresting agency Criminal Procedure Law 160.50 Seal Order when arresting agency determines not to proceed with arrest prior to court arraignment. Use the Arrest Information Updates from or a letter on agency letterhead.

2. Documents Generated by Other Agencies for Dissemination by the Arresting Agency to Other Agencies

- a. Copies of the rapsheet provided to the arresting agency by DCJS when Arrest Fingerprints are processed at DCJS: Forward two copies to the Court and one copy to the prosecutor and maintain a copy in the arresting agency's files.
- Note: DCJS electronically forwards an electronic copy of the rapsheet to the court and the prosecutor via the eJusticeNY Integrated Justice Portal.*
- b. Rapsheet obtained through an electronic inquiry to DCJS via the eJusticeNY Integrated Justice Portal by the arresting agency, the district attorney or the court. If the arresting agency is making this request for the court or prosecutor, the agency must enter the judge's or prosecutor's name or agency as the requestor. **This is not a fingerprint-based rapsheet and is not a replacement for the arrest fingerprint-based rapsheet.**

3. Documents Generated by Other Agencies for Arresting Agency Action

- a. Arrest and Bench Warrants, including an indication of whether the defendant should be fingerprinted when picked up on the warrant and the arrest date to use: Created by and forwarded from the court.

- b. Criminal Procedure Law 160.50 Sealing Order from the prosecutor if the prosecutor declines to prosecute a case prior to court arraignment. This may be a form developed by the prosecutor or a letter on agency letterhead declining to prosecute the case. Some District Attorney offices in New York City transmit these orders electronically to DCJS via the court system, ensuring that the undocketed arrests are sealed on the Office of Court Administration (OCA) database.
- c. Criminal Procedure Law 160.50 Sealing Order: From the court if the court favorably disposes of a case and seals the record.

II. Standard Practices Regarding Fingerprinting

A. Statutory Requirements for Fingerprinting Adult Arrestees

Authority: Criminal Procedure Law 160.10(1).

- 1. The arresting or other appropriate police officer or agency must take, or cause to be taken, fingerprints of the arrested person or defendant if an offense, which is the subject of the arrest or which is charged in the accusatory instrument filed, is a:
 - a. Felony;
 - b. Misdemeanor defined in the Penal Law;
 - c. Misdemeanor defined outside the penal law which would constitute a felony if such person had a previous judgment of conviction for a crime;
or

B. Statutory Requirements for Fingerprinting of Adolescent Offender Arrestees

Authority: Criminal Procedure Law 160.10(1).

- 1. The arresting or other appropriate police officer or agency must take, or cause to be taken, fingerprints of the arrested person or defendant if an offense, which is the subject of the arrest or which is charged in the accusatory instrument filed, is a:
 - a. Felony;
 - b. Fingerprintable Misdemeanor defined in the Vehicle and Traffic Law (VTL);
- 2. Adolescent offender is defined as a person charged with a felony committed on or after October first, two thousand eighteen when he or she was sixteen

years of age or on or after October first, two thousand nineteen, when he or she was seventeen years of age.

- a. Starting 10/1/18 a 16-year old cannot be fingerprinted for a misdemeanor other than a fingerprintable VTL misdemeanor.
- b. Starting 10/1/19 a 17-year old cannot be fingerprinted for a misdemeanor other than a fingerprintable VTL misdemeanor.

C. Statutory Requirements for Fingerprinting of Juvenile Delinquent and Juvenile Offender Arrestees

Authority: Criminal Procedure Law 160.10 and Family Court Act § 306.1.

- 1. The following charges require fingerprinting of **Juvenile Offenders** under Criminal Procedure Law 160.10:

Juvenile Offender Fingerprintable Charges Table			
Age of Person	Penal Law Section	Subdivision	Description
Thirteen years old	125.25* ¹	one	murder in the second degree
	125.25* [†]	two	murder in the second degree
Fourteen or Fifteen years old	125.25* [†]	one and two	murder in the second degree
	125.25* [†]	three	murder in second degree provided that underlying crime is one for which person is criminally responsible
	135.25* [†]		kidnaping in the first degree
	150.20 [†]		arson in the first degree
	120.10 [†]	one and two	assault in the first degree
	125.20 [†]		manslaughter in the first degree
	130.35	one and two	rape in the first degree

¹ Includes the commission of the crime as a sexually motivated felony.

*Includes an attempt.

Juvenile Offender Fingerprintable Charges Table			
Age of Person	Penal Law Section	Subdivision	Description
	130.50	one and two	criminal sexual act in the first degree
	130.70		aggravated sexual abuse
	140.30 [†]		burglary in the first degree
	140.25 [†]	one	burglary in the second degree
	150.15 [†]		arson in the second degree
	160.15 [†]		robbery in the first degree
	160.10 ^{†1}	two	robbery in the second degree
	265.03		criminal possession of a weapon in the second degree on school grounds

2. The following charges require fingerprinting of **Juvenile Delinquents** under Family Court Act § 306.1:
 - a. A person aged 12 years of age
 - Class A or B felony
 - b. A person aged 13-15 years
 - Any felony
 - c. A 16-year old and, starting October 1, 2019, a 17-year old charged with a misdemeanor, other than a Vehicle and Traffic Law misdemeanor, will be charged as a juvenile delinquent but will not be fingerprintable.
 - d. Note: Children aged 7 to 11 may be charged as a juvenile delinquent for certain homicide offenses **but fingerprinting is not authorized**. The fingerprints from those arrests must be submitted to the State Criminal Record Repository (DCJS) without unnecessary delay.

D. Responsibility for and Timing of Fingerprinting in Certain Arrest Circumstances:

1. Summary Arrest

Authority: Criminal Procedure Law 160.10.

Arresting agencies must fingerprint individuals following an arrest as required under Criminal Procedure Law 160.10.

2. Appearance Ticket

Authority: Criminal Procedure Law 150.70 and 160.10.

- a. Arresting agencies should electronically fingerprint individuals at time of issuance of the appearance ticket by either:
 - Taking the individual to their own or another agency's livescan station to be fingerprinted; or
 - Fingerprinting the individual on a fingerprint card and subsequently electronically transmitting the arrest transaction on their own or another agency's cardscan station.
- b. If fingerprinting an individual issued an appearance ticket prior to being released is not feasible:
 - Notify the arraigning judge and court staff that fingerprinting did not occur.
 - Manual or automated tracking systems should be utilized to ensure that fingerprinting occurs prior to the next court appearance.
- c. The police department should train adequate staff to perform the task of fingerprinting for all shifts.
- d. If, subsequent to the issuance of an appearance ticket, the individual is arrested for another unrelated crime, two sets of Arrest Fingerprints should be submitted, one for the appearance ticket and the second for the unrelated crime.

3. Criminal Summons

Authority: Criminal Procedure Law 130.60 and 160.10.

- a. Arresting agencies should utilize a manual or automated tracking system for individuals issued criminal summons and not fingerprinted at time of issuance of the summons to ensure that fingerprinting is completed as required by law.

- b. If the summons was based upon an indictment, a prosecutor's information or a misdemeanor complaint filed by a police officer, the court must direct the individual to be fingerprinted upon arraignment.
- c. If the summons was based upon a complaint other than a police officer, the court may direct the individual to be fingerprinted if the court finds reasonable cause that the individual committed an offense fingerprintable under Criminal Procedure Law 160.10.
- d. Otherwise, the court must direct the individual issued a summons to be fingerprinted if convicted of an offense fingerprintable under Criminal Procedure Law 160.10.

4. Sealed Indictment

Authority: Criminal Procedure Law 210.10(3) and 160.10.

- a. If the prosecuting agency serves as the only investigating agency for a sealed indictment:
 - That office should assume responsibility for ensuring that fingerprinting is completed, and the prints are submitted to DCJS.
 - In this instance, the prosecuting agency should be listed as the arresting agency.
- b. If a defendant surrenders to the court on a sealed indictment:
 - The prosecuting agency should notify the investigating agency to execute the arrest warrant and make arrangements for fingerprinting of the defendant.
 - If the investigating agency is unable to do the fingerprinting, the prosecuting agency should assume responsibility for ensuring that the fingerprinting process is completed.
 - The prosecuting agency should also notify the court of the need to fingerprint the defendant.
- c. If a defendant is already incarcerated when a sealed indictment is handed down:
 - The prosecuting agency should notify the investigating agency to execute the warrant and to fingerprint the defendant on the charges in the sealed indictment.
 - If the investigating agency is unable to do the fingerprinting, the prosecuting agency should assume responsibility for ensuring that the fingerprinting process is completed.
 - The prosecuting agency should also notify the court of the need to fingerprint the defendant.

5. Prosecutor's Information Filed Prior to Arrest or Indictment resulting from Direct Presentation to a Grand Jury

Authority: Criminal Procedure Law 210.10(3) and 160.10.

- a. If a defendant surrenders to the court without being arrested, based upon the filing of a prosecutor's information or based upon an indictment resulting from a direct presentation, the prosecuting agency should make arrangement for fingerprinting of the defendant:
 - If an arrest warrant had been issued, the prosecuting agency should notify the investigating agency to execute the warrant and fingerprint the defendant.
 - If no arrest warrant had been issued, the prosecuting agency should assume responsibility for ensuring that the fingerprinting process is completed.
 - The prosecuting agency should also notify the court of the need to fingerprint the defendant.

6. Special Circumstances Due to an Arrestee's Physical Condition (Ill, Injured, Intoxicated, Combative)

An arresting agency should use universal precautions (i.e., the use of gloves) when fingerprinting an ill, injured or intoxicated arrestee.

- a. If at all possible, an arresting agency should fingerprint an incapacitated arrestee at the time of arrest, even if only a partial set can be taken. See Completing Delayed or Partial Fingerprinting section:
- b. If an arrestee is hospitalized, the arresting agency should consider fingerprinting the individual on a fingerprint card and electronically transmitting the arrest using their agency or another agency's cardscan equipment.
- c. If the arrestee is combative, an officer, other than the arresting officer, might be a neutral figure and more successful in completing fingerprinting.
- d. If the individual is too intoxicated to be fingerprinted upon arrest and the department has access to a holding facility, the arresting agency may consider holding the individual, if legally authorized to do so, until sober enough so that fingerprinting can be carried out.
- e. If fingerprinting is not possible at the time of arrest, the department should have a policy in place to be used in determining whether the fingerprinting of an individual may be delayed. Generally, that policy should include an on-duty supervisor's review of an officer's decision to delay fingerprinting. See Completing Delayed or Partial Fingerprinting below.

- f. If some fingers are bandaged or missing, a partial set should be taken and the reason for omission should be noted in the fingerprint submission. See Completing Delayed or Partial Fingerprinting below.

7. Refusal to be Printed

- a. If an individual refuses to be fingerprinted, the arresting agency can obtain a court order directing that the defendant submit to fingerprinting.
- b. It is appropriate for the police to hold the defendant pending the receipt of a court order to compel the defendant to submit to fingerprinting, as ruled in People v. Batista (128 Misc.2d 1054 [New York City Crim. Ct., 1985]).
- c. At arraignment, the judge and court staff should be informed of the individual's refusal to be printed. The officer should request that the judge direct that the individual go to the arresting agency for fingerprinting prior to the next appearance in court and return with evidence that fingerprinting has occurred.
- d. The arresting agency should employ a manual or automated tracking system to ensure that all individuals are fingerprinted as required by law.

8. Completing Delayed or Partial Fingerprinting

- a. If an arrestee is not fingerprinted or is temporarily partially fingerprinted:
 - The department should employ a manual or automated tracking system to ensure that the individual is subsequently fingerprinted.
 - The arraigning judge and court staff should be informed that fingerprinting has not been completed.
- b. If subsequent arrest fingerprints are forwarded to DCJS by an arresting agency for the purpose of updating images of previously bandaged or injured fingers or partially submitted fingerprints to the criminal history, the agency should use the current booking information from their livescan/cardscan system to resend the full images.

9. Responding to DCJS Request for Reprinting

- a. The arresting agency should use the current booking information from their livescan/cardscan system if requested by DCJS to reprint an arrestee due to the poor quality of the fingerprints.
- b. For Electronically Submitted Original Fingerprints.

Fingerprints originally submitted electronically should be resubmitted on a

New York State Arrest Fingerprint Card (DCJS2 / DCJS-2JD). The Criminal Justice Tracking Number (CJTN) assigned to the original set of fingerprints should be noted on the card.

10. Arrests Involving Multiple Local, State or Federal Arresting Agencies

- a. Only the agencies filing an accusatory instrument are responsible for submitting Arrest Fingerprints to DCJS. Only the offenses filed by that agency should be reported with the fingerprints. If an agency assisting in an arrest is not filing an accusatory instrument, no arrest fingerprints should be submitted to DCJS by that agency.
- b. If only federal charges are being filed against an individual, Arrest Fingerprints should not be submitted to DCJS. In this case, the federal agency will be responsible for submitting fingerprints directly to the FBI.
- c. If there is a combination of state and federal charges, Arrest Fingerprints should be submitted to DCJS listing only the state charges. The federal agency will be responsible for submitting fingerprints to the FBI for the federal charges.

11. Arrests Involving Multiple Incidents or Jurisdictions

- a. Arrests involving multiple unrelated incidents require a set of fingerprints be submitted separately for each incident.

NOTE: A string of incidents involved in a series of crimes (a crime spree), or a series of crime sprees committed over a period, may be reported with a single set of fingerprints; but an incident occurring prior to the spree should be reported with another set of fingerprints even if the arrest for the first incident occurred at the time of the arrest for the crime spree.

- b. Multiple incidents in a single arrest fingerprint submission are not supported, effective Sept. 27, 2022. DCJS will reject the submission and the arresting agency that submitted the print will receive a rejection reason of "Invalid Arrest – Multiple Incidents." The arresting agency must resubmit the arrest with only a single incident and submit a new arrest(s) for each additional incident. Please note: A single arrest fingerprint submission may contain multiple charges, but those charges should only relate to one incident that correlates to a single crime date and crime location.
- c. An arresting agency should submit separate sets of fingerprints with the appropriate charges for each court of preliminary jurisdiction covered by an arrest.

- d. Agencies may reuse fingerprint images through templating when submitting arrests for each incident within a 24-hour period, and an individual remains in custody between each submission. Your agency's vendor may need to enable templating on your Livescan or Cardscan to allow a user to copy or reuse fingerprint images so they can be applied to a new arrest submission. Templating is only allowed within a 24-hour period from the previous submission; historical fingerprints cannot be used for this process.

12. Arrests Involving Execution of Warrants

- a. The wanting agency should submit an electronic arrest transaction containing a set of fingerprints to DCJS if the person has not previously been fingerprinted for the arrest.
- b. An agency, other than the wanting agency, taking the person into custody on a warrant may submit an electronic inquiry request containing fingerprints to DCJS in order to establish the identity and receive a criminal history for the individual. A set of fingerprints submitted as an Inquiry request will not be updated to the CCH database.
- c. The agency taking a person into custody should not submit a set of Arrest Fingerprints to DCJS for individuals who are taken into custody based upon another agency's warrant unless new fingerprintable charges are also lodged against the individual by the agency taking the individual into custody.
- d. If new charges are lodged, a set of electronic Arrest Fingerprint images should be submitted with only the new charge information included. No charge information pertaining to the original arrest from which the warrant was issued should be included with the new set of fingerprints.

E. Ensuring the Quality of Fingerprint Impressions

Authority: Criminal Procedure Law 160.10(1) and Family Court Act §306.1.

1. Fingerprint impressions should be of the highest quality obtainable.
2. Arresting agencies should become proficient in fingerprinting by utilizing the Federal Bureau of Investigation training video available at:
<http://www.fbi.gov/about-us/cjis>.
3. If necessary, departments should consider working with other agencies to assist in fingerprinting their cases.

4. Arresting agencies should monitor the rejection rate of fingerprints as an indication of the need to retrain specific personnel responsible for fingerprinting.
5. If Arrest Fingerprints are rejected by DCJS with a request for reprinting the individual, agencies should follow the practices presented in Section II.C.8. (Completing Delayed or Partial Fingerprinting and Responding to a DCJS Request for Re-printing).

F. Fingerprint Submission Types

The policy of the New York State Division of Criminal Justice Services (DCJS) is to accept only electronically submitted criminal fingerprint transactions. To receive an exception to that policy, the agency must contact the DCJS Training and Quality Assurance Unit at the address below:

Training and Quality Assurance Unit
Office of Criminal Justice Operations
New York State Division of Criminal Justice Services
80 South Swan Street
Albany, New York 12210
Telephone: 518-402-2752

1. Manual / Hard Copy Submissions:

DCJS Guidelines for Types of Fingerprint Cards to Use for a Criminal Arrest.

a. Adult, including Juvenile Offender and Adolescent Offender arrest fingerprinting requires the following Arrest Fingerprint Cards:

- FBI Arrest Fingerprint Card
- New York State Adult Arrest Fingerprint Card (DCJS-2)
- Local Arrest Fingerprint Card

Note: Juvenile Offender and Adolescent Offender arrests do not require the submission of a New York State Juvenile Delinquent Arrest Fingerprint Card (DCJS-2JD). If the Juvenile Offender or Adolescent Offender arrest is removed to Family per Criminal Procedure Law 725.15, DCJS will re-label the electronic all captured arrest fingerprints as a juvenile delinquent arrest.

b. Juvenile Delinquent Arrest Fingerprinting requires only:

- New York State Juvenile Delinquent Arrest Fingerprint Card (DCJS-2JD)

Note: Special circumstances involving juveniles: If an arrest involving multiple incidents spans the individual's 16th birthday, two sets of fingerprints

should be submitted. One set should include the offenses committed prior to the birthday while the second set should include all offenses committed on or after the birthday.

2. **Electronic Submissions:**

The Type of Transaction (TOT) identifies the Fingerprint Submission Type

a. Adult, Juvenile Offender and Adolescent Offender Arrest Transactions

- Type of Transaction: CARAAR

b. Juvenile Delinquent Arrest transactions

- Type of Transaction: CARJDR

c. Criminal Inquiry Transactions

- Type of Transaction: CARCIR

Note: Special circumstances involving juveniles: If an arrest involving multiple incidents spans the individual's 16th birthday, two sets of fingerprints should be submitted. One set should include the offenses committed prior to the birthday while the second set should include all offenses committed on or after the birthday.

G. **Completion of the Data Related to a Set of Arrest Fingerprints**

Authority: Criminal Procedure Law 160.10(4).

The policy of the New York State Division of Criminal Justice Services (DCJS) is to accept only electronically submitted criminal fingerprint transactions. To receive an exception to that policy, the agency must contact the DCJS Training and Quality Assurance Unit at the address below:

Training and Quality Assurance Unit
Office of Criminal Justice Operations
New York State Division of Criminal Justice Services
80 South Swan Street
Albany, New York 12210
Telephone: 518-402-2752

1. **Required Arrest Data:**

Manual/Hard Copy Fingerprint Submissions:

Due to Livescan/cardscan technology, Manual/Hard Cards will be accepted on an exception basis only, at the discretion of the Director of the State

Identification Bureau. Agencies should follow directions on the back of the Fingerprint Card. The New York State Arrest Fingerprint Card (DCJS-2) is being referenced. At a minimum, the fields listed in the Arrest Data Requirements Table below must be completed in the top portion of the Fingerprint Card and on the stub (UCS-501 Card) as applicable, prior to submission to DCJS and the court of arraignment.

The policy of the New York State Division of Criminal Justice Services (DCJS) is to accept only electronically submitted criminal fingerprint transactions. To receive an exception to that policy, the agency must contact the DCJS Training and Quality Assurance Unit at the address below:

Training and Quality Assurance Unit
 Office of Criminal Justice Operations
 New York State Division of Criminal Justice Services
 80 South Swan Street
 Albany, New York 12210
 Telephone: 518-402-2752

Electronic Submissions:

Each element listed below will be transmitted with the New York State Criminal Justice Electronic Biometric Transmission Standards' (EBTS) tag number which is located at <https://www.criminaljustice.ny.gov/ojis/documents/EBTS-V4.0.pdf>

Arrest Data Requirements Table			
Field Name	Instructions	Manual Submission	Electronic Submission
		Fingerprint Card Field	EBTS Tag
Name		2	2.1110
Date of Birth	Estimate the date of birth, if necessary	12	2.22
Sex	Enter M for male; F for female; or U for unknown/Gender X	14	2.1112
Incident Date		32	2.1214

Arrest Data Requirements Table			
Field Name	Instructions	Manual Submission	Electronic Submission
		Fingerprint Card Field	EBTS Tag
Arrest Date	See the Arrest Date Determination Matrix following this table in order to determine the appropriate date to use.	28	2.45
Arresting Agency Name ORI	Enter the correct name and NCIC/ORI number (Originating Agency Number initially assigned by the NCIC/FBI upon DCJS request) of the agency making the arrest. The arresting agency and contributing agency may be different agencies, so ensure the arresting agency ORI number is entered, rather than the contributing agency's ORI number. The ORI Number can be obtained from DCJS.	24	2.1201
Contributor ORI	Enter the correct name and NCIC/ORI number (Originating Agency Number initially assigned by the NCIC/FBI upon DCJS request) of the agency submitting the Fingerprint Card. This may not always be the Arresting Agency.	22	

Arrest Data Requirements Table			
Field Name	Instructions	Manual Submission	Electronic Submission
		Fingerprint Card Field	EBTS Tag
	This ORI represents the agency actually contributing the transaction to DCJS, and responsible for it.		
Arrest Number *	This is the unique number assigned by the Arresting Agency to identify a specific arrest of an individual. (This number is not shared with a co-offender.)	25	2.1210
Local ID Number *	If ID available, complete this field if there is no arrest number. This is the unique number assigned by the Arresting Agency to identify a specific arrested person.	26	2.1102
Incident Number *	If number available, complete this field if there is no arrest number. This is a unique number assigned by the arresting agency to identify the incident or complaint. It may be shared with co-offenders.	41	2.1213

Arrest Data Requirements Table			
Field Name	Instructions	Manual Submission	Electronic Submission
		Fingerprint Card Field	EBTS Tag
Court of Arraignment ORI	Enter ORI. If not known, enter court name, jurisdiction and county (e.g. Nassau Town Court, Rensselaer County). Do not enter the judge's name.	27	2.1216
Arrest and Incident Location Codes	Enter the correct City, Town or Village Code (CTV) code; e.g. 0101). If CTV code is unknown, enter name and type of municipality (e.g. Albany - city).	29 & 33	2.1206 (arrest location) 2.1214 (incident location) 2.1223 (Multiple incidents included)
Expected Arraignment Date	Enter the date the person has been told to appear in court or the date the Arresting Agency takes the person to court for arraignment.	37	2.1225

Arrest Data Requirements Table			
Field Name	Instructions	Manual Submission	Electronic Submission
		Fingerprint Card Field	EBTS Tag
Arrest Charges	All non-fingerprintable charges, in addition to fingerprintable charges, relating to the arrest should be entered. There MUST be at least one fingerprintable charge included in order to submit the arrest to DCJS. All elements of the charges, (Law, Article and Section, Subsection [if applicable] Class, Category, Degree, Attempt, Name of Charge, and Counts) must be reported.	38	2.1212 and 2.1223 (If multiple incidents are included, in which case 2.1212 is also used but in summary capacity)
Domestic Incident Report Indicator	Indicator that a Domestic Incident Report (DIR) was completed for this arrest	42	2.1226
Fingerprint Images	Images of 10 individual fingers and 4 slaps; any missing images and reason should be noted (e.g. amputated).		Send as Type 4 or 14 records
* At least one of these numbers is required			

2. Arrest Date Determination Matrix (presented later in this section)

The arrest date is the date when the individual is first taken into custody by those filing charges against the individual. When taken into custody, the individual has been deprived of his/her freedom relative to this case.

All the agencies involved in a case need to use the same arrest date when reporting to DCJS to ensure that the arrest, court disposition, custody and supervision information are properly linked on the Computerized Criminal History (CCH) file. The matrix presented later in this section, should be used to determine the appropriate arrest date.

a. Arrest Date Determination Matrix - Definition of Terms

- Date Initially Charged by Law Enforcement is the Arrest Date for most cases, rather than the date of fingerprinting.

While these two dates often are the same, fingerprinting may be delayed because an individual is intoxicated, ill or injured or is issued an appearance ticket and is not fingerprinted upon issuance. The Arrest Date is the date that law enforcement has taken the individual into custody and has filed charges against the individual.

- Date Taken into Custody as the result of an Arrest Warrant is the Arrest Date for cases where the individual had not been initially processed by law enforcement but is being taken into custody pursuant to an arrest warrant issued by a court.
- However, if the individual, apprehended on an arrest warrant, was already charged by law enforcement, the Date Initially Charged by Law Enforcement remains the Arrest Date. This covers those situations when an individual has been charged, but has not yet been arraigned, and the court then issues an arrest warrant.

This guideline covers situations such as when:

- 1) an individual failed to appear in court on a criminal summons
 - 2) an individual is named in a sealed indictment;
 - 3) the judge finds probable cause exists that an individual, not already in custody on other charges, committed a crime
- The Date of Arraignment is the Arrest Date if an arrest warrant has not been executed and the person has not yet been charged by law enforcement at the time of the court appearance.

This guideline covers situations such as:

- 1) answering a criminal summons;
- 2) voluntarily surrendering to the court (no arrest warrant having been executed);

- 3) being arraigned on new charges while already in custody (The court directs the custodial agency to produce the individual for arraignment on new charges.)

b. Arrest Date Matrix - Guidelines for Reading the Matrix:

- Read chart from top to bottom to determine the first applicable situation.
- Read across the row to locate the column with the “X.”
- Use the date identified by the “X” for the arrest date when reporting the arrest date on electronic arrest submissions and all related documentation.

Arrest Date Determination Matrix			
SITUATION	Date Initially Charged by Law Enforcement	Date Taken into Custody Pursuant to Arrest Warrant	Date of Arraignment
Arrest Without Warrant	X		
Arrest With Appearance Ticket Issued	X		
Arrest Warrant Executed: Individual Not in Custody of Arresting Agency		X	
Appearance on Criminal Summons			X
Voluntary Surrender to Court			X
In Custody on Other Charges			X

H. Timing of Submission of Fingerprints

Authority: Criminal Procedure Law 160.20.

1. Arrest Fingerprints should be forwarded to DCJS no later than 48 hours after arrest or after fingerprinting. Agencies should develop a tracking system to

ensure that Arrest Fingerprints are completed and forwarded to DCJS in a timely manner.

I. Juvenile Delinquent and Juvenile Offender Fingerprinting

Authority: Family Court Act § 306.1 and Penal Law § 10.00(18), Juvenile Offender charges.

1. Arresting agencies should ensure that procedures are in place to fingerprint juveniles as required by law.
2. Arresting agencies must make every effort to obtain proof of the age or identity of a juvenile taken into custody for a fingerprintable offense. Such proof could include information from school systems or physicians or birth or baptismal certificates. It should be noted that there may be confidentiality restrictions on arresting agencies in obtaining this information.
3. Probation departments, presentment agencies and family courts should make referrals of juveniles to arresting agencies if the juvenile has not been fingerprinted as required by law. These agencies should contact arresting agencies if they do not receive the Criminal Justice Tracking Number (CJTN), previously known as the Court Control Number, as evidence that fingerprinting has occurred when required.
4. An arresting agency should consult the New York State Standard Practices for Fingerprinting Juveniles for more detailed information about arrest processing for juvenile delinquents and juvenile offenders.
<https://www.criminaljustice.ny.gov/stdpractices/jj-stdpractices/jj-full-manual.pdf>

J. Standard Practices Following Rapsheets and Modifications to Arrests

A. DCJS Criminal History Report (Rapsheet)

Authority: Criminal Procedure Law 160.30 and 160.40(1).

1. Dissemination of Arrest Fingerprint-based Rapsheet

- a. The arresting agency shall ensure that the court (and defendant or defense attorney via the court) and the prosecutor receive the fingerprint based rapsheet, generated by the processing of electronically transmitted fingerprints at DCJS, for the arraignment. NOTE: DCJS provides the court and the prosecutor with the fingerprint based rapsheet via the eJusticeNY Integrated Justice Portal. If the arrest was not submitted electronically to DCJS and to ensure that a rapsheet is available at arraignment, the court (and defendant or defense attorney via the court) and prosecutor should temporarily use the non-fingerprint-based Name Search (Inquiry) rapsheet obtained electronically from the eJusticeNY Integrated Justice Portal for an arraignment involving fingerprintable

offenses. The court should use the RRB reason code (Release on Recognizance/Bail Investigation) in making this request. Minus the current arrest the courts RRB reason code inquiry based rapsheet mimics the fingerprint based rapsheet. If the court does not have access to the Portal, the arresting agency should make this request using the appropriate reason code. The non-fingerprint-based rapsheet should be destroyed and replaced with the fingerprint-based rapsheet when it is received.

2. Monitoring Completeness and Accuracy of Rapsheet

- a. Upon receipt of a rapsheet, each recipient should review it for accuracy as to their particular reported action. If errors or omissions are noticed, or the information did not associate to the appropriate arrest, you may either:

Write the New York State Division of Criminal Justice Services, Office of Criminal Justice Records, Alfred E. Smith Building 80 South Swan St., Albany, New York 12210.

If there are immediate questions related to the transmitting of arrest fingerprints to DCJS, please contact the DCJS Communication Line at 1-800-262-4515

3. Rapsheet Use, Dissemination and Destruction

- a. Develop and uniformly apply a written policy consistent with the Use and Dissemination Agreement signed with DCJS regarding rapsheet use, dissemination and destruction.
- b. The rapsheet:
 - is a confidential document and is not to be made available to the public.
 - must not be used for any purpose other than the decision point for which it was originally obtained.

B. Subsequent Notifications of Modifications to Arrests

1. Additions or Modifications to DCJS Criminal History Records

Authority: DCJS procedures.

- a. After transmitting the Arrest Fingerprints to DCJS, arresting agencies should report corrections to DCJS only if incorrect arrest information was originally reported. Charges added by the prosecutor who submits the accusatory instrument should not be added as arrest charges. These charges will be reported to DCJS by the court upon arraignment.

- b. An arresting agency should not submit additional charges stemming from unrelated incidents as a supplement to the charges reported with the original Fingerprints. (An incident occurring prior to another crime or series of crimes, for which a warrant may be lodged and discovered at the time of a crime spree, is unrelated and should be submitted as a separate arrest.)
- DCJS should be notified at the Office of Operations, Office of Criminal Justice Records, Alfred E. Smith Building, 80 South Swan St., Albany, New York 12210 by:
 - Sending a notice on agency letterhead agencies should provide, at a minimum, the mandatory data elements required by DCJS for the data being submitted, and identifiers to locate the history and arrest event; OR
 - Sending the Arrest Information Update form found on the on the Integrated Justice Portal.
 - Resources» Reference Library» Law Enforcement Forms and Publications >> Arrest Supplement Form, or
 - Resources» Reference Library» >>Arrest Supplement Form

2. Closure of Arrest No Longer to Be Referred for Prosecution

Authority: Criminal Procedure Law 160.50(3)(j).

- a. For arrests where the arresting agency elects not to proceed with the arrest after submitting Arrest Fingerprints to DCJS, but prior to arraignment of the defendant in court, the arresting agency should notify DCJS on the form below signed by a sergeant or above. The notification should include Name, NYSID Number, and Criminal Justice Tracking Number (CJTN), and should specify that the records should be sealed under CPL § 160.50. The notification should be sent to DCJS on the form available on the IJ Portal.
- Resources» Reference Library» Law Enforcement Forms and Publications >> Arrest Supplement Form, or
 - Resources» Reference Library» >>Arrest Supplement Form
- b. The arresting agency should also notify the prosecutor and any other agencies previously notified of the arrest to seal their records.

3. Closure of Specific Offenses Charged at Arrest Which Are Not to Be Pursued Through Arraignment

- a. The arresting agency should notify DCJS when specific charges that were included with the arrest fingerprints were not included on the accusatory instrument(s) filed in the court of arraignment.

Prosecutorial Processing

Introduction

Following completion of the arrest process for a fingerprintable offense, the district attorney prosecutes all criminal cases arising in the county. The office of Special Narcotics Prosecutor and the New York State Attorney General may also prosecute fingerprintable criminal cases in some counties in New York State. This office directs the progress of the case following arraignment in local criminal court through disposition at that level or continuation of the case in superior court.

Article 18 of the County Law of New York State describes the powers and duties of the District Attorney. District Attorneys are elected and serve a four-year term in office. Assistant District Attorneys are appointed by the district attorney. The District Attorney's office is the one agency in the criminal justice process that has contact with almost every criminal case. The Criminal Procedure Law (CPL 30.30, and Articles 170, 210, and 330) sets time limits for each step in the prosecution of a case, starting with the filing of an accusatory instrument with a criminal court (commencement of a criminal action). In addition to prosecuting adults, juvenile offenders are also prosecuted by district attorneys in criminal courts.

In some localities, particularly in New York City, the prosecutor is involved with the arresting agency in determining the charges to lodge against the individual. In other localities, the prosecutor is not involved until after the case is arraigned in court. There is also the possibility that the prosecutor will commence a case with a sealed indictment and by-pass the initial arrest process entirely.

From this point on, the prosecutor possesses the most complete overview of the progress of cases through the system. Often, only the prosecutor knows where each court case is and what agreements are being made regarding these cases. Only the prosecutor may be aware of what is occurring with regards to individual charges during the progression from arrest to arraignment and final disposition.

Thus, the prosecutor maintains a pivotal role in ensuring that communication occurs between all agencies involved in the criminal case. If this communication breaks down between the prosecutor and the other agencies and DCJS, the completeness of court information and the closure of all arrest charges presented on the DCJS Criminal History Report (rapsheet) becomes problematic.

Prosecutorial Standard Practices

The practices below pertain to the processing of arrests where fingerprinting is required.

I. Standard Practices Regarding Criminal Case Documentation

A. Providing Complete Case Documentation to Other Criminal Justice Agencies

1. Key Identifiers

The following **key identifiers** should be included in all exchanges of information with other agencies involved with a criminal case:

- a. Name.
- b. Arrest Date - See Arrest Date Determination Matrix at III. C. 2. if the arrest date was not reported to the Prosecutor.
- c. NYSID Number.
- d. Criminal Justice Tracking Number (CJTN)
- e. Date of Birth.
- f. Court Case Number (if known).

2. Additional Information to be Reported to the Court

- a. Defendant Sex.
- b. All Charges with the following details:
 - Law title and section
 - Subdivision
 - Class and category
 - Degree
 - Counts
 - Charge attempted or completed indicator
 - Description
- c. Notification of need for fingerprints to be taken if printing has not occurred.
- d. Accusatory Instrument: In addition to the requirements specified in CPL 100.15, an accusatory instrument should include:

- Indicator of juvenile offender status, where applicable
- Name of the agency filing the instrument
- Filing agency's case number

B. Case Processing, Reporting and Sharing Information with Other Criminal Justice Agencies

1. Prosecutor Actions

- a. Use the court assigned case number to identify a case when sharing information or reporting to other agencies.
- b. Include the key identifiers needed to associate information to the arrest on the DCJS Criminal History Report (rapsheet) when reporting or sharing information between the grand jury and courts.
- c. Monitor and act, when necessary, to obtain the key identifiers and case numbers. This should be ongoing throughout the life of the case.
- d. Report to the court the evolution of charges from arrest through closure, including reductions, deletions, modifications and additions.
- e. Include the section of law under which a dismissal occurs on the record in order to determine if the dismissal is eligible for sealing.
- f. Use the local court Divestiture Form which is passed to the prosecutor from the court holding the case for the Grand Jury or transferring the case to the Superior Court. These forms include identifiers and additional information the courts require to process information.

NOTE: The use of the Divestiture Form may vary depending upon each local criminal court's practices and its relationship with the District Attorney's Office.

2. Documents to be Provided to Other Criminal Justice Agencies

- a. Criminal Procedure Law 160.50 Seal Order for Decline to Prosecute Cases: Forward to arresting agency and the courts, Office of Court Administration or DCJS. Beginning in late 2015, the courts directly or the Office of Court Administration (OCA), have been entering decline to prosecute electronically and forwarding them to DCJS. This ensures that the undocketed arrest is sealed at the court. DCJS staff now forward these documents to OCA if a hard copy is transmitted to DCJS.
- b. Local Court Divestiture Form (s) pertaining to the SCI or Indictment charges: Forward to the superior court.
- c. Plea Agreement: Forward to the courts with cases involved in the agreement.

- d. List of Charges “Held or Waived for the Action of the Grand Jury” by local courts which are not included in the Indictment: Forward to the superior court.
- e. Monthly Case Status Report: Forward to the appropriate court(s).
- f. Reveal Order, a request to receive an unsealed rapsheet: Forward to New York State Division of Criminal Justice Services, Office of Criminal Justice Records, Alfred E. Smith Building, 80 South Swan St., Albany, New York 12210. A judicial subpoena is necessary.

II. *Standard Practices Regarding Criminal Case Processing*

A. Closure of the Entire Case or Specific Charges

1. Declining to Prosecute a Case Prior to Arraignment

Authority: Criminal Procedure Law 160.50(3)(i).

- a. Forward the seal order to the courts, the Office of Court Administration (OCA) or DCJS. Beginning in late 2015, the courts, directly, or OCA have been entering decline to prosecute orders electronically and forwarding them to DCJS. This ensures that the undocketed arrest is sealed at the court. DCJS staff now forward these documents to OCA if a hard copy is transmitted to DCJS.
- b. Notify the arresting agency.

B. Plea Agreements

Authority: Criminal Procedure Law 220.30 and 340.20.

1. The written consent filed with the plea court for a dismissal pursuant to Criminal Procedure Law 220.30(3)(a)(ii) should contain:
 - a. the signatures of the judge and prosecutor;
 - b. key identifiers;
 - c. plea court name and case number;
 - d. dismissing court name and case number.
2. When making a motion to dismiss a case pending in one court due to a plea agreement made in another court, the prosecutor should provide the case identifiers for both cases including court names and court case numbers, to each court involved in the agreement. Both courts must report the identifying information in order for the reporting system to make the appropriate

associations and suppressions between the related cases on the criminal history record.

C. Charges Held for the Action of the Grand Jury or Direct Presentation by the Prosecutor

1. The prosecutor should establish a monthly case status reporting system for unindicted felony cases, and individual charges pending 90 days or more. The prosecutor report to the court should include key identifiers for all involved cases.
2. Any complaints which are not mentioned, or any charges on a complaint which are not mentioned in the prosecutor's report to the court should be considered pending.

D. Presenting Allegations to the Grand Jury That Were Previously Dismissed and Sealed in Local Court

Authority: Criminal Procedure Law 130.60, 150.70 and 160.10.

The prosecutor must notify the superior court that fingerprinting is required when charges have been dismissed and sealed in a local court and the prosecutor subsequently presents the same allegations, which may be enhanced, or otherwise modified, to the grand jury resulting in a true bill of indictment and arraignment in a superior court.

E. Monitoring Pending Charges and Cases

Authority: New York Courts Rules and Regulations, Standards and Goals.

1. The prosecutor and defense counsel are to report on the status of pending cases at a time specified by the court.

III. *Standard Practices Regarding Fingerprinting*

F. Prosecutors' Responsibilities

Prosecutors have certain responsibilities for ensuring defendants are fingerprinted under the following conditions.

Authority: Criminal Procedure Law 210.10(3) and 160.10.

1. Sealed Indictment

- a. If the prosecuting agency serves as the only investigating agency for a sealed indictment:
 - That office should assume responsibility for assuring that fingerprinting is carried out and submitted to DCJS

- In this instance, the prosecuting agency should be listed as the arresting agency
- b. If a defendant surrenders to the court on a sealed indictment.:
- The prosecuting agency should notify the investigating agency to execute the arrest warrant of the defendant.
 - If the investigating agency is unable to do the fingerprinting, the prosecuting agency should assume responsibility for ensuring that the fingerprinting process is completed.
 - The prosecuting agency should also notify the court of the need to fingerprint the defendant.
- c. If a defendant is already incarcerated when a sealed indictment is filed:
- The prosecuting agency should notify the investigating agency to execute the arrest warrant and to fingerprint the defendant on the charges in the sealed indictment...
 - If the investigating agency is unable to do the fingerprinting, the prosecuting agency should assume responsibility for ensuring that the fingerprinting process is completed.
 - The prosecuting agency should also notify the court of the need to fingerprint the defendant.

2. Prosecutor's Information Filed Prior to Arrest or Indictment Resulting from Direct Presentation to a Grand Jury

Authority: Criminal Procedure Law 210.10(3) and 160.10.

- If a defendant surrenders to the court without being arrested, based upon the filing of a prosecutor's information or based upon an indictment resulting from a direct presentation, the prosecuting agency should make arrangements for fingerprinting of the defendant:
- If an arrest warrant had been issued, the prosecuting agency should notify the investigating agency to execute the warrant and fingerprint the defendant.
- If no arrest warrant had been issued, the prosecuting agency should assume responsibility for assuring that the fingerprinting process is completed.

- The prosecuting agency should also notify the court of the need to fingerprint the defendant.

3. Indictments Following Local Court Dismissal and Seal

Authority: Criminal Procedure Law 130.60, 150.70 and 160.10.

a. When charges are dismissed and sealed in a local court, and the prosecutor subsequently presents the same allegations, enhanced or not, to the Grand Jury, resulting in filing of an indictment and arraignment in a superior court, the following must occur:

- The prosecutor must notify the superior court that fingerprinting is required.
- That court must order the fingerprinting once so notified by the prosecutor, or once the judge becomes aware that fingerprinting has not occurred.
- The court must use the Criminal Justice Tracking Number (CJTN) associated with the new arrest for reporting action on the Indictment.
- The court may not use the Criminal Justice Tracking Number (CJTN) from any prior arrest in reporting action on the Indictment.

B. Fingerprint Submission Types

The policy of the New York State Division of Criminal Justice Services (DCJS) is to accept only electronically submitted criminal fingerprint transactions. To receive an exception to that policy, the agency must contact the DCJS Training and Quality Assurance Unit at the address below:

Training and Quality Assurance Unit
State Identification Bureau, New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210
Telephone: (518) 402-2752

1. Manual/Hard Copy Submissions:

DCJS Guidelines for Types of Fingerprint Cards to Use for a Criminal Arrest:

a. Adult including Juvenile Offender and Adolescent Offender arrest fingerprinting requires the following Arrest Fingerprint Cards:

- FBI Arrest Fingerprint Card
- New York State Adult Arrest Fingerprint Card (DCJS-2)

- Local Arrest Fingerprint Card

Note: Juvenile Offender and Adolescent Offender arrests do not require the submission of a New York State Juvenile Delinquent Arrest Fingerprint Card (DCJS-2JD). If the Juvenile Offender arrest is removed to Family Court per Criminal Procedure Law 725.15, DCJS will re-label the electronically captured arrest fingerprints as a juvenile delinquent arrest.

b. Juvenile Delinquent Arrest Fingerprinting requires only:

- New York State Juvenile Delinquent Arrest Fingerprint Card (DCJS-2JD)

Note: Special circumstances involving juveniles: If an arrest involving multiple incidents spans the individual's 16th birthday, two sets of fingerprints should be submitted. One set should include the offenses committed for the incidents prior to the birthday. The second set should include the offenses committed on or after the birthday.

2. Electronic Submissions:

The Type of Transaction (TOT) identifies the Fingerprint Submission Type

a. Adult and Juvenile Offender Arrest Transactions

- Type of Transaction: CARAAR

b. Juvenile Delinquent Arrest Transactions

- Type of Transaction: CARJDR

c. Criminal Inquiry Transactions

- Type of Transaction: CARCIR

Note: Special circumstances involving juveniles: If an arrest involving multiple incidents spans the individual's 16th birthday, two sets of fingerprints should be submitted: the offenses committed for the incidents prior to the birthday with one set and the rest on another set.

C. Completion of the Data Related to a Set of Arrest Fingerprints

Authority: Criminal Procedure Law 160.10(4).

The policy of the New York State Division of Criminal Justice Services (DCJS) is to accept only electronically submitted criminal fingerprint transactions. To receive

an exception to that policy, the agency must contact the DCJS Training and Quality Assurance Unit at the address below:

Training and Quality Assurance Unit
State Identification Bureau
Training and Quality Assurance Unit
State Identification Bureau, New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210
Telephone: (518) 402-2752

D. Required Arrest Data

1. Manual (Hard Copy) Fingerprint Submissions:
Follow directions on the back of the Fingerprint Card. The 9/2003 version of the New York State Arrest Fingerprint Card (DCJS-2) is being referenced. At a minimum, the fields listed in the Arrest Data Requirements Table below must be completed in the top portion of the Fingerprint Card and on the stub (UCS-501 Card) as applicable, prior to submission to DCJS and the court of arraignment.

2. Electronic Submissions: Each element in the arrest transmission is transmitted with the New York State Criminal Justice Electronic Biometric Transmission Standards' (EBTS) tag number which is located at <http://criminaljustice.ny.gov/advtech/ebts.pdf>

Arrest Data Requirements Table			
Field Name	Instructions	Manual Submission	Electronic Submission
		Fingerprint Card Field	EBTS Tag
Name		2	2.1110
Date of Birth	Estimate the date of birth, if necessary	12	2.22
Sex	Enter M for male; F for female; or U for unknown/Gender X	14	2.1112
Incident Date		32	2.1213
Arrest Date	See the Arrest Date Determination Matrix following this table in order to determine the appropriate date to use.	28	2.45
Arresting Agency Name ORI	Enter the correct name and NCIC/ORI number (Originating Agency Number initially assigned by the NCIC/FBI upon DCJS request) of the agency making the arrest. The arresting agency and contributing agency may be different agencies so ensure the arresting agency ORI number is entered, rather than the contributing agency's ORI number. The ORI Number can be obtained from DCJS.	24	2.1201

Arrest Data Requirements Table			
Field Name	Instructions	Manual Submission	Electronic Submission
		Fingerprint Card Field	EBTS Tag
Contributor ORI	Enter the correct name and NCIC/ORI number (Originating Agency Number initially assigned by the NCIC/FBI upon DCJS request) of the agency submitting the Fingerprint Card. This may not always be the Arresting Agency.	22	2.1199
Arrest Number	This is the unique number assigned by the Arresting Agency to identify a specific arrest of an individual. (This number is not shared with a co-offender.)	25	2.1210
Local ID Number *	Complete this field if there is no arrest number. This is the unique number assigned by the Arresting Agency to identify a specific arrested person.	26	2.1102
Incident Number*	Complete this field if there is no arrest number. This is a unique number assigned by the arresting agency to identify the incident or complaint. It may be shared with co-offenders.	41	2.1213
Court of Arraignment	Enter ORI. If not known, enter court name, jurisdiction and county (e.g. Nassau Town Court, Rensselaer County). Do not enter the judge's name.	27	2.1216

Arrest Data Requirements Table				
Field Name	Instructions	Manual Submission	Electronic Submission	
		Fingerprint Card Field		EBTS Tag
Arrest and Incident Location Codes	Enter the correct City, Town or Village Code (CTV) e.g. 0101). If CTV code is unknown, enter name and type of municipality (e.g. Albany - city).	29 & 33		2.1206
Arrest Charges	All non-fingerprintable charges, in addition to fingerprintable charges, relating to the arrest should be entered. There MUST be at least one fingerprintable charge included in order to submit the arrest to DCJS. All elements of the charges (Law, Article and Section, Subdivision [if applicable], Class, Category, Degree, Attempt, Name of Charge, and Counts) must be reported.	38	12	2.1212
Domestic Incident Report Indicator	Indicator that a Domestic Incident Report (DIR) was completed for this arrest.	42		2.1226
Fingerprint Images	Images of 10 individual fingers and 4 slaps; any missing images and reason should be noted (e.g. amputated).			
* At least one of these numbers is required				

2. Arrest Date Determination Matrix:

The arrest date is the date when the individual is first taken into custody by those filing charges against the individual. When taken into custody, the individual has been deprived of his/her freedom relative to this case.

All the agencies involved in a case need to use the same arrest date when sharing data with other agencies and reporting to DCJS to ensure that the arrest, court disposition and custody and supervisory information are properly linked on the Computerized Criminal History (CCH). The matrix, presented later in this section, should be used to determine the appropriate arrest date.

a. Arrest Date Determination Matrix - Definition of Terms

- Date Initially Charged by Law Enforcement is the Arrest Date for most cases, rather than the date of fingerprinting. While these two dates often are the same, fingerprinting may be delayed because an individual is intoxicated, ill or injured or is issued an appearance ticket and is not fingerprinted upon issuance. Law enforcement has taken the individual into custody and has filed charges against the individual.
- Date Taken into Custody as the result of an Arrest Warrant is the Arrest Date for cases where the individual had not been initially processed by law enforcement but is being taken into custody pursuant to an arrest warrant issued by a court. Nothing in this definition is intended to affect definitions of custody for purposes of Criminal Procedure Law §§ 30.30 or 180.80 or create any rights on the part of a defendant.

However, if the individual, apprehended on an arrest warrant, was already charged by law enforcement, the Date Initially Charged by Law Enforcement remains the Arrest Date. This covers those situations when an individual has been charged, but has not yet been arraigned, and the court then issues an arrest warrant.

This guideline covers situations such as when:

- 1) an individual failed to appear in court on a criminal summons;
- 2) an individual is named in a sealed indictment or
- 3) the judge finds probable cause exists that an individual, not already in custody on other charges, committed a crime.

The **Date of Arraignment** is the Arrest Date if an arrest warrant has not been executed and the person has not yet been charged by law enforcement at the time of the court appearance.

This guideline covers situations such as:

- 1) answering a criminal summons;
- 2) voluntarily surrendering to the court (no arrest warrant having been executed); or
- 3) being arraigned on new charges while already in custody (The court directs the custodial agency to produce the individual for arraignment on new charges.)

b. Arrest Date Determination Matrix - Guidelines for Reading the Matrix:

- Read chart from top to bottom to determine the first applicable situation.
- Read across the row to locate the column with the “X.”
- Use the date identified by the “X” for the arrest date when reporting the arrest date on electronic arrest submissions and all related documentation.

Arrest Date Determination Matrix			
SITUATION	Date Initially Charged by Law Enforcement	Date Taken into Custody Pursuant to Arrest Warrant	Date of Arraignment
Arrest Without Warrant	X		
Arrest With Appearance Ticket Issued	X		
Arrest Warrant Executed: Individual Not in Custody of Arresting Agency		X	
Appearance on Criminal Summons			X

Arrest Date Determination Matrix			
SITUATION	Date Initially Charged by Law Enforcement	Date Taken into Custody Pursuant to Arrest Warrant	Date of Arraignment
Voluntary Surrender to Court			X
In Custody on Other Charges			X

D. Timing of Submission of Fingerprints

Authority: Criminal Procedure Law 160.20.

1. Arrest Fingerprints should be forwarded to DCJS no later than 48 hours after arrest or after fingerprinting. Agencies should develop a tracking system to ensure that Arrest Fingerprints which are completed and forwarded to DCJS in a timely manner.

E. Juvenile Delinquent and Juvenile Offender Fingerprinting

Authority: Family Court Act § 306.1 and Penal Law § 10.00 (18), Juvenile Offender charges.

1. Arresting agencies should ensure that procedures are in place to fingerprint juveniles as required by law.
2. Arresting agencies must make every effort to obtain proof of the age or identity of a juvenile taken into custody for a fingerprintable offense. Such proof could include information from school systems or physicians or birth or baptismal certificates. It should be noted that there may be confidentiality restrictions on arresting agencies in obtaining this information.
3. Probation departments, presentment agencies and family courts should make referrals of juveniles to arresting agencies if the juvenile has not been fingerprinted as required by law. These agencies should contact arresting agencies if they do not receive evidence (i.e., Criminal Justice Tracking Number [CJTN]) that fingerprinting has occurred when required.
4. An arresting agency should consult the New York State Standard Practices for Fingerprinting Juveniles for more detailed information about arrest processing for juvenile delinquents and juvenile offenders.
<https://www.criminaljustice.ny.gov/stdpractices/jj-stdpractices/jj-full-manual.pdf>

IV. **Standard Practices Regarding the DCJS Criminal History Report (Rapsheet)**

A. Dissemination of Arrest Rapsheet

Authority: Criminal Procedure Law 160.30 and 160.40(1).

1. The prosecutor should receive from the arresting agency the fingerprint-based rapsheet as a byproduct of the processing of fingerprints at DCJS.
NOTE: DCJS already provides the prosecutor with the fingerprint based rapsheet via the eJusticeNY Integrated Justice Portal.
2. If the fingerprint-based rapsheet is not available at arraignment, the prosecutor should temporarily use the non-fingerprint-based Name Search (inquiry) rapsheet obtained electronically from the eJusticeNY Integrated Justice Portal for an arraignment involving fingerprintable offenses. The non-fingerprint-based rapsheet should be destroyed and replaced with the fingerprint-based rapsheet when it is received.

B. Rapsheet Use and Destruction

1. Develop and uniformly apply a written policy consistent with the Use and Dissemination Agreement signed with DCJS regarding rapsheet use, dissemination and destruction.
2. The rapsheet is a confidential document. Do not make it available to the public.
3. Do not use the rapsheet for any purpose other than the decision point for which it was originally obtained. Prosecutors may request a current criminal history at any stage before final disposition or termination of a revocable sentence.
4. If the rapsheet is requested electronically through the eJusticeNY Integrated Justice Portal, the requestor and name of the agency using the rapsheet must be used if an agency other than the agency using the rapsheet is making the request, **Agencies with access to the eJusticeNY Integrated Justice Portal should use their own access rather than request a rapsheet from another criminal justice agency.**
5. Destroy the rapsheet 30 days after the filing of a judgment unless a notice of appeal has been filed. If a notice of appeal has been filed, retain the rapsheet for the duration of the appeal.

V. **Standard Practices Regarding Prosecution Follow-Up With DCJS**

- C. Monitoring Completeness and Accuracy of the DCJS Criminal History Report (Rapsheet)
 - 1. Each recipient of the rapsheet should review it for accuracy as to their latest reported action. If errors or omissions are noticed, or the information did not associate to the appropriate arrest, notify DCJS, Office of Criminal Justice Records, Alfred E. Smith Building, 80 South Swan St., Albany, New York 12210 to correct the information. Notification may also be made by phoning the DCJS Customer Service Contact Center at 518-457-5837 or 1-800-2623257 or by email at ccc@dcjs.ny.gov.
- D. Requesting Re-Arrest Notices
 - 1. The prosecutor may request that DCJS send notices of subsequent arrests for defendants in the following situations:
 - a. Revocable sentence (Penal Law Article 65)
 - b. Adjudgment in Contemplation of Dismissal
 - c. Warrant
 - d. Interim Supervision
 - e. Diversion
 - f. All pending cases

Judicial Processing

Introduction

Courts

There are four different levels of criminal courts within the New York State judicial system involved in processing criminal fingerprintable cases (Local Court; Superior Court (including the Grand Jury); Appellate Courts and the Court of Appeals). Each of these courts is responsible for sharing and reporting case information so that arrest information, stored at DCJS, is closed out with a court action.

Local Court

The local level is comprised of town and village justice courts; district courts in Nassau and Suffolk Counties; city courts, and criminal courts in New York City (NYC).

Local courts have trial jurisdiction over infractions, violations and misdemeanors. Felonies can be arraigned at this level. Felonies can also be dismissed at this level if the accusatory instrument is deficient or if the court determines the circumstances do not support a felony charge. Felony charges can also be reduced to misdemeanor charges and proceed to trial in the local court. All other felonies are transferred to the jurisdiction of the superior court for trial purposes.

Superior Court (and Grand Jury)

The second level of criminal jurisdiction courts, the superior court, is comprised of county and supreme courts. The courts in this level have trial jurisdiction over any case but generally process felony cases and lesser offenses associated with a felony case.

The grand jury is an arm of the superior court. Felony cases which are arraigned in the local court and held over for the action of the grand jury pass from local court jurisdiction to superior court jurisdiction when the local court passes the case file to the superior court. This should occur immediately upon holding the case for the action of the grand jury (Criminal Procedure Law 180.70[1]), rather than upon indictment. Reporting responsibilities on this case pass to the superior court clerk.

Appellate Courts

A third level processes appeals on prior court judgments. The county court hears appeals on judgments coming out of the upstate city courts and town and village justice courts in the 3rd and 4th Judicial Departments. The appellate term processes appeals on cases from the New York City Criminal Courts and Nassau and Suffolk County District Courts (1st and 2nd Judicial Departments). The appellate division hears appeals on county and supreme court cases.

Court of Appeals

The fourth level is the Court of Appeals. This court hears appeals on cases which have already been appealed once by courts in the appellate division, appellate term and county courts. The Court of Appeals is the highest court in New York State and the court of last resort.

New York State Unified Court System (UCS) Reporting Structure

The Unified Court System (UCS) is comprised of all the courts in New York State plus the Office of Court Administration, and the Administrative Offices of the individual Judicial Districts.

City, district, county, supreme courts, courts acting as appellate courts, and the Court of Appeals have a responsibility to report the criminal case outcome to the Unified Court System which maintains a repository of court case information.

Pursuant to New York State Executive Law and agreements made between the Executive Branch of government's state repository (Division of Criminal Justice Services [DCJS]) and the Judicial Branch of government's Office of Court

Administration (OCA), court actions on criminal cases are to be reported to the state repository. All courts – town, village, city, district, criminal and county courts - report to the Office of Court Administration which, in turn passes data electronically to the state repository.

Communication between the courts; between the court, UCS and DCJS; and between the courts and the prosecutor, is essential for the accurate reflection of judicial actions related to criminal arrests on the DCJS Criminal History Report (rapsheet).

Identifiers

That communication must include at a minimum the Defendant Pedigree Information and Criminal History Identifiers. The remaining Arrest Information Identifiers and Disposition Information Identifiers should be included as appropriate.

Defendant Pedigree Information:

- Name and Alias(es)
- Race
- Sex
- Age or date of birth, if available and verifiable

Criminal History Identifiers:

- NYSID Number
- Criminal Justice Tracking Number
- Arrest Date

Arrest Information:

- Crime Date (s)
- Crime Place (s)
- Name of the agency filing the instrument
- Filing agency's case number
- Detailed Arrest Charge information including law title and section, subsection, class and category, degree, counts, charge attempted or completed indicator and a description
- Notation that the defendant is a juvenile offender, if applicable

Disposition Information:

- Court Case Number (s)
- Court Name
- Arraignment or Disposition Charge information including law title and section, subdivision, class and category, degree, counts, charge attempted or completed indicator and a description

Judicial Standard Practices

The Judicial Standard Practices below pertain to the processing of arrests where fingerprinting is required.

I. Standard Practices Regarding Criminal Case Documentation

A. Providing Complete Case Documentation to Other Criminal Justice Agencies

1. Key Identifiers

The following **Key Identifiers** should be included in all exchanges of information with other agencies involved with a criminal case:

- a. Name
- b. Arrest Date
- c. NYSID Number
- d. Criminal Justice Tracking Number (CJTN)
- e. Date of Birth
- f. Crime Date
- g. Court Case Number
- h. Court Name

2. Additional Information Included when Reporting to other Criminal Justice Agencies

- a. Defendant Sex
- b. All Charges with the following details:
 - Law title and section

- Subsection
 - Class and category
 - Degree
 - Counts
 - Charge attempted or completed indicator
 - Description
- c. Notification of need for fingerprints to be taken if printing has not occurred.
- d. Where court calendars are used to note proceedings, court clerks should provide annotated copies of the court calendars to all parties involved in the case in lieu of each maintaining separate notes. It is recommended that a report of daily activity, excluding sealed information, be available to all parties using established terminology and codes.

B. Sharing Documents with Other Agencies

1. Documentation Received by the Court from Other Agencies consists of:
 - a. Arrest Report, including the Criminal Justice Tracking Number (CJTN): From the Arresting Agency.
 - b. Accusatory Instrument and other supporting documentation (Criminal Procedure Law 110.20): From the Arresting Agency or court clerk.
 - c. Documents produced by systems which electronically capture and transmit fingerprints to DCJS: From the Arresting Agency.
 - d. Rapsheet: From the Arresting Agency sent electronically by DCJS in the Integrated Justice Portal. Under Criminal Procedure Law 160.40, the arresting agency gives two copies to the Courts. **Note: DCJS provides the court with the arrest fingerprint based rapsheet electronically through the eJusticeNY Integrated Justice Portal.**
 - e. Rapsheet obtained through an electronic inquiry to the Integrated Justice Portal by the arresting agency upon court request (Court or judge's name used for Request).
Note: not a fingerprint-based rapsheet: The court has the capacity to electronically request this rapsheet from the eJusticeNY Integrated Justice Portal: From DCJS.
 - f. Sealing Order (Criminal Procedure Law 160.50, 160.55, 160.58 and 160.59): From another Court.
 - g. Youthful Offender Adjudication Order: From another Court.
 - h. Divestiture Form to Grand Jury / Superior Court: From another Court.

- i. Criminal Procedure Law 160.50 Seal Order for Decline to Prosecute Cases: From the Prosecutor.
 - j. Plea Agreement: From the Prosecutor.
 - k. List of Charges “Held or Waived for the Action of the Grand Jury” by Local Courts which are not included in the Indictment: From the Prosecutor.
 - l. Monthly Case Status Report: From the Prosecutor.
 - m. Probation Supervision Transfer Order: From the “Receiving” Probation Department.
2. Documents forwarded from the Court to other agencies includes the following, as appropriate:
- a. Arrest Warrant, including indication of whether defendant should be fingerprinted and have arrest fingerprints electronically transmitted to DCJS: Forward to Arresting Agency.
 - b. Bench Warrant, including indication of whether defendant should be fingerprinted and have arrest fingerprints electronically transmitted to DCJS: Forward to Arresting Agency.
 - c. Notification to Fingerprint Defendant: Forward to Arresting Agency.
 - d. Seal Order (Criminal Procedure Law 160.50, 160.55, 160.58 and 160.59): Forward to Arresting Agency, Prosecutor, Defendant or Defense Attorney, other courts covered by this court’s action. (UCS and DCJS should be notified through the court’s disposition reporting process.)
 - e. Notification of Youthful Offender Adjudication (Criminal Procedure Law 720.35[2]): Forward to Arresting Agency, Prosecutor, Defendant or Defense Attorney, other courts covered by this court’s action, and school if the individual is still in attendance. (UCS and DCJS should be notified through the court’s disposition reporting process.)
 - f. Divestiture Form. Forward to Prosecutor and Superior Court. Superior Court should send back to local court if case is to be transferred back to local court.
 - g. Monthly Pending Case Status Report: Forward to Prosecutor.
 - h. Rapsheet: Forward to Defendant or Defense Attorney (CPL 160.40).
 - i. Certified Disposition of Case Outcome upon request.

- j. Order of Probation Pre-Sentence Investigation: Forward to County Probation Department.
- k. Order of Sentence to Probation: Forward to County Probation Department.
- l. Securing or Commitment Order for defendants prior to sentencing: Forward to Local Holding Center, County Jail, or State Correctional Facilities.
- m. Commitment Order for sentenced inmates: Forward to Local Holding Center, County Jail, or State Correctional Facilities.
- n. Case Files (Criminal Procedure Law 170.15, 180.20 and 410.80), including DCJS Criminal History Report (Rapsheet): Forward to Other Courts when transferring a case.
- o. Report of Court Action for courts that report disposition information via Disposition Report UCS-540, 540A, 540B, 540C, etc.: Forward to the Unified Court System and include in case file when forwarding case to another court.

I. *Standard Practices Regarding Reporting to UCS and DCJS*

A. *Monitoring Criminal Cases from Commencement to Closure for Completeness and Accuracy of Reporting*

- 1. The automated system used by the courts and OCA should generate warnings for what appears to be conflicting information or unmatched cases.
- 2. All automated and manual systems should allow for the collection of a Crime Date, Arrest Date and Criminal Justice Tracking Number (CJTN) for each charge.
- 3. An ongoing reconciliation process should be established between the courts, DCJS and OCA.
- 4. Corrections to previously reported court case information should be reported to the UCS which will electronically send the corrections to DCJS.
- 5. Courts should respond to reports which identify dispositions that were received but not updated to the DCJS database because of errors or conflicting information.

B. *General Reporting Requirements to the UCS and DCJS*

1. Courts should monitor and act, when necessary, to obtain the missing information. This should be ongoing throughout the life of the case.
2. Court activity should be reported using uniform coding which reflects the terminology used in the law.
3. Disposition Reporting to either OCA or DCJS, as appropriate, is required at the time of any of the following court actions:
 - a. Arraignment and Indictment
 - b. Issuance of a warrant
 - c. Vacate Warrant or Return on a Warrant
 - d. Transfer of case to another court jurisdiction, including Grand Jury
 - e. Removal to Family Court
 - f. Adjournment in Contemplation of Dismissal.
 - g. Adjudication of the case
 - h. Plea
 - i. Sentencing
 - j. Resentencing for Violations of Probation, Conditional Sentences or Adjournments in Contemplation of Dismissal
 - k. Appellate Actions
 - l. Notification of Sealing (Criminal Procedure Law 160.50, 160.55, 160.58 and 160.59)
 - m. Notification of Youthful Offender Adjudication (Criminal Procedure Law 720.35[2])
4. Automated reporting systems should report court actions at each stage of case processing arraignment, CPL Article 730 actions, arrest and bench warrants, adjournment in contemplation of dismissal, plea and conviction even when sentencing has not yet occurred.

C. Reporting a Court Action to Close Out Every Offense Charged

1. Report dispositions for every charge (fingerprintable and non-fingerprintable) included on an accusatory instrument related to a fingerprintable case.

2. Courts must report the evolution of charges from arraignment through closure, including reductions, deletions, modifications and additions.

D. Reporting When Case Jurisdiction Involves Both Local and Superior Courts

1. Report whenever a case passes from one court jurisdiction to another court jurisdiction by order of the superior court.
2. The superior court should report actions taken by the grand jury and by the superior court which transfers jurisdiction to the local court.
3. The local court should report actions on cases which the superior court sends back to their jurisdiction under the original local court case number.
4. Key identifiers and case identifiers should be included in the paperwork passed from the local court to the grand jury, from the grand jury to the superior court and from the superior court to the local court so that dispositions will associate to the appropriate arrest at DCJS.
5. A local court should report dispositions for charges pending in that local court which were included in a plea agreement in a superior court case.

E. Reporting Superseded Indictments or Counts

Authority: Criminal Procedure Law 200.80.

1. Report superseded indictments, or individual superseded counts, as "Dismissed superseded" to the UCS and DCJS and include the superseding case number in the report.

F. Reporting the Sentence Imposed

Authority: Penal Law Articles 60, 65, 70, 75, 80 and 85.

1. Sentencing should follow Penal Law Articles 60, 65, 70, 75, 80 and 85. The appropriate sentences under those laws are:
 - a. Unconditional discharge
 - b. Conditional discharge
 - c. Fine
 - d. Probation Supervision
 - e. Imprisonment which includes definite, indeterminate, determinate, and intermittent imprisonment sentences

- f. Parole Supervision
- g. Death*

**This sentence was determined to be unconstitutional by the Court of Appeals in People v. LaValle 3 N.Y. 3rd 88 (2004).*

G. Reporting Appellate Actions

Authority: Criminal Procedure Law 470.25 and 470.50.

1. Until an automated system for all appellate courts is implemented:
 - a. Any court exercising jurisdiction as an appellate court, including the Court of Appeals should report its decisions to the trial court, in addition to filing the decision with the county clerk. The appellate court, appellate case number, and trial court case number should be included in reporting the decision to the trial court. (See Criminal Procedure Law 470.25).
 - Trial courts should report all appellate decisions, other than affirmations, to the UCS through their existing trial court manual or automated reporting systems.
2. Once an automated system for all appellate courts is implemented, the appellate courts should report their decisions, both affirmation and modifications, directly to DCJS through OCA's reporting system.
3. Trial courts should report any action taken by the trial court, as a result of an appellate decision to the UCS through their existing trial court manual or automated reporting systems.
4. DCJS should include reversals and modifications of trial court decisions by appellate courts, as well as subsequent trial court activity on the rapsheet. Affirmations of trial court decisions by appellate courts should also be included on the rapsheet once an automated reporting system for appellate courts has been implemented.

II. Standard Practices for Courts in Identifying Individuals Requiring Fingerprinting

H. Statutory Requirements for Fingerprinting Adult Arrestees

Authority: Criminal Procedure Law 160.10(1).

1. The arresting or other appropriate police officer or agency must take or cause to be taken, fingerprints of the arrested person or defendant if an offense which is the subject of the arrest or which is charged in the accusatory instrument filed is a:

- a. Felony;
- b. Misdemeanor defined in the Penal Law;
- c. Misdemeanor defined outside the penal law which would constitute a felony if such person had a previous judgment of conviction for a crime; or
- d. Loitering for the purpose of engaging in a prostitution offense as defined in subdivision two of section 240.37 of the Penal Law.

III. Statutory Requirements for Fingerprinting of Adolescent Offender Arrestees

Authority: Criminal Procedure Law 160.10(1).

- 2. The arresting or other appropriate police officer or agency must take, or cause to be taken, fingerprints of the arrested person or defendant if an offense, which is the subject of the arrest or which is charged in the accusatory instrument filed, is a:
 - a. Felony;
 - b. Fingerprintable Misdemeanor defined in the Vehicle and Traffic Law (VTL);
 - c. Loitering for the purpose of engaging in a prostitution offense as defined in subdivision two of section 240.37 of the Penal Law.
- 3. Adolescent offender is defined as a person charged with a felony committed on or after October first, two thousand eighteen when he or she was sixteen years of age or on or after October first, two thousand nineteen, when he or she was seventeen years of age.
 - a. Starting 10/1/18 a 16-year old cannot be fingerprinted for a misdemeanor other than a fingerprintable VTL misdemeanor.
 - b. Starting 10/1/19 a 17-year old cannot be fingerprinted for a misdemeanor other than a fingerprintable VTL misdemeanor.

I. Statutory Requirements for Fingerprinting of Juvenile Delinquent and Juvenile Offender Arrestees

Authority: Penal Law Section § 10.10 and Family Court Act § 306.1.

- 1. Juvenile Offender charges defined by Criminal Procedure Law § 120(42) are:

Juvenile Offender Fingerprintable Charges Table			
Age of Person	Penal Law Section	Subdivision	Description
Thirteen years old	125.25 ^{□2}	one	murder in the second degree
	125.25 ^{*†}	two	murder in the second degree
Fourteen or Fifteen years old	125.25 ^{*†}	one and two	murder in the second degree
	125.25 ^{*†}	Three	murder in second degree provided that underlying crime is one for which person is criminally responsible
	135.25 [†]		kidnaping in the first degree
	150.20 [†]		arson in the first degree
	120.10 [†]	one and two	assault in the first degree
	125.20 [†]		manslaughter in the first degree
	130.35	one and two	rape in the first degree
	130.50	one and two	criminal sexual act in the first degree
	130.70		aggravated sexual abuse
	140.30 [†]		burglary in the first degree
	140.25 [†]	one	burglary in the second degree
	150.15 [†]		arson in the second degree

² Includes the commission of the crime as a sexually motivated felony.

*Includes an attempt.

160.15†		robbery in the first degree
160.10†	two	robbery in the second degree
265.03		criminal possession of a weapon in the second degree on school grounds

2. Juvenile Delinquent Charges authorizing fingerprinting Listed Under Family Court Act § 306.1 are:

- a. A person aged 12 years
 - Class A or B felony
- b. A person aged 13-15 years
 - Felony
- c. A 16-year old and, starting October 1, 2019, a 17-year old charged with a misdemeanor, other than a Vehicle and Traffic Law misdemeanor, will be charged as a juvenile delinquent but will not be fingerprintable.

Note: Probation departments, presentment agencies and family courts should make referrals of juveniles to arresting agencies if the juvenile has not been fingerprinted as required by law. These agencies should contact arresting agencies if they do not receive evidence (i.e., Criminal Justice Tracking Number [CJTN]) that fingerprinting has occurred when required.

J. Responsibility for and Time of Fingerprinting in Certain Arrest Circumstances

1. Summary Arrest

Authority: Criminal Procedure Law 160.10.

- a. Arresting agencies should fingerprint individuals upon arrest as required under Criminal Procedure Law 160.10.
- b. Courts should monitor cases to ensure individuals have been fingerprinted prior to or upon arraignment unless statutes allow for a delay or there are exceptional circumstances, in which case, fingerprinting should take place as early in the process as possible and prior to case closure.

2. Appearance Ticket

Authority: Criminal Procedure Law 150.70.

Arresting agencies should electronically fingerprint individuals at time of issuance of the appearance ticket by either:

- a. Taking the individual to their own or another agency's livescan station to be fingerprinted; or
- b. Fingerprinting the individual on a fingerprint card and subsequently electronically transmitting the arrest transaction on their own or another agency's cardscan station.

3. Criminal Summons

Authority: Criminal Procedure Law 130.60.

- a. A court should defer sentencing of individuals convicted of fingerprintable charges based upon issuance of a criminal summons until the court receives evidence that the individual has been fingerprinted on the charges.
- b. A court should comply with Criminal Procedure Law 390.10 which provides that a court may not pronounce sentence on fingerprintable conviction charges without a fingerprint-based DCJS Criminal History Report (rapsheet) or a police department report with respect to the defendant's prior arrest record.

4. Sealed Indictment

Authority: Criminal Procedure Law 210.10(3) and 160.10.

- a. If the prosecuting agency serves as the only investigating agency for a sealed indictment:
 - The prosecuting agency should assume responsibility for assuring that fingerprinting is carried out and submitted to DCJS.
 - In this instance, the prosecuting agency should be listed as the arresting agency.
- b. If a defendant surrenders to the court on a sealed indictment:
 - The prosecuting agency should notify the investigating agency to execute the arrest warrant and make arrangements for fingerprinting of the defendant.
 - The prosecuting agency should assume responsibility for assuring that the fingerprinting process is completed if the investigating agency is unable to do the fingerprinting.

- The prosecuting agency should also notify the court of the need to fingerprint the defendant.
- c. If a defendant is already incarcerated when a sealed indictment is handed down:
- The prosecuting agency should notify the investigating agency to execute the arrest warrant and to fingerprint the defendant on the charges in the sealed indictment.
 - The prosecuting agency should assume responsibility for assuring that the fingerprinting process is completed if the investigating agency is unable to conduct the fingerprinting.
 - The prosecuting agency should also notify the court of the need to fingerprint the defendant.
- d. In all of these situations, the court should ensure that fingerprinting occurs.
5. Prosecutor's Information Filed Prior to Arrest

Indictment Resulting from Direct Presentation to a Grand Jury

Authority: Criminal Procedure Law 210.10(3) and 160.10.

- a. If a defendant surrenders to the court without being arrested, based upon the filing of a prosecutor's information or based upon an indictment resulting from a direct presentation, the prosecuting agency should make arrangements for fingerprinting of the defendant:
- If an arrest warrant had been issued, the prosecuting agency should notify the investigating agency to execute the warrant and fingerprint the defendant.
 - If no arrest warrant had been issued, the prosecuting agency should assume responsibility for assuring that the fingerprinting process is completed.
 - The prosecuting agency should also notify the court of the need to fingerprint the defendant.
- b. The court should ensure that fingerprinting occurs.
6. Arrest Involving Multiple Local, State or Federal Arresting Agencies

Only the agencies filing an accusatory instrument are responsible for submitting the Arrest Fingerprints to DCJS. Only the offenses filed by that agency should be reported with the fingerprints. If an agency assisting in an arrest is not filing an accusatory instrument, no arrest fingerprints should be submitted to DCJS by

that agency. If only federal charges are being filed against an individual, Arrest Fingerprints should not be submitted to DCJS. In this case, the federal agency will be responsible for submitting federal fingerprints to the FBI.

- a. If there is a combination of state and federal charges, Arrest Fingerprints should be submitted to DCJS listing only the state charge. The federal agency will be responsible for submitting federal fingerprints to the FBI for the federal charges.

7. Determining Number of Arrest Fingerprint Sets Required

- a. An arresting agency should include all related incidents occurring within the same court of preliminary jurisdiction, for a single arrest, with one set of fingerprints. Related incidents are those incidents occurring during a series of crimes (a crime spree).
- b. Arrests involving multiple unrelated incidents require a set of fingerprints be submitted separately for each incident.

NOTE: A string of incidents involved in a crime spree, or a series of crime sprees committed over a period, may be reported with a single set of fingerprints; but an incident occurring prior to the spree should be reported with another set of fingerprints even if the arrest for the first incident occurred at the time of the arrest for the crime spree.

- c. An arresting agency should submit separate sets of fingerprints for each court of preliminary jurisdiction covered by an arrest.

8. Arrests Involving Execution of Warrants

- a. The wanting agency should submit an electronic arrest transaction containing a set of fingerprints to DCJS if the person has not previously been fingerprinted for the arrest.
- b. An agency, other than the wanting agency, taking the person into custody on a warrant may submit an electronic inquiry request containing fingerprints to DCJS, in order to establish the identity and receive a criminal history for the individual. A set of fingerprints submitted as an Inquiry Request will **not** be updated to the CCH database.
- c. The agency taking a person into custody should not submit a set of Arrest fingerprints to DCJS for individuals who are taken into custody based upon another agency's warrant unless new fingerprintable charges are also lodged against the individual by the agency taking the individual into custody. If new charges are lodged, a set of Arrest fingerprint images should be submitted with only the new charge information included. No charge information pertaining to the original arrest from which the warrant was issued should be included with the new set of fingerprints.

E. Obtaining the Criminal Justice Tracking Number (CJTN) as Proof Fingerprinting Occurred

1. The court should obtain the Criminal Justice Tracking Number (CJTN) as proof that the arrest fingerprinting has occurred and include it when reporting to the UCS or in transferring cases to another court jurisdiction. The Criminal Justice Tracking Number (CJTN) can be obtained from:
 - a. For electronically transmitted fingerprints: an alternative document from the arresting agency containing the Criminal Justice Tracking Number (CJTN).
 - b. The arrest fingerprint-based rapsheet for that case.
2. The UCS should notify courts if an arrest record and Criminal Justice Tracking Number (CJTN) is received from DCJS for a court case already on file. The courts should merge disposition and arrest information as soon as notification is received and report the merged information to DCJS to close out the arrest.
3. If the Criminal Justice Tracking Number (CJTN) cannot be obtained, there is no evidence that the defendant has been fingerprinted. The court should:
 - a. Contact the arresting agency for the information, and
 - b. Ensure the fingerprinting occurs so that the identifiers are present for reporting case information.

F. Ordering Defendant Fingerprinted

Authority: Criminal Procedure Law 130.60 and 150.70.

1. The court should order the defendant to be fingerprinted prior to the next court appearance date if there is no indication that fingerprinting of the defendant has occurred.
 - a. Sentencing should not occur until fingerprinting has been completed.
 - b. The case should not be closed until fingerprinting and submission of the fingerprints to DCJS has occurred.
2. The following mechanisms should be used to ensure fingerprinting occurs:
 - a. Utilize an in-house procedure to identify defendants who require fingerprinting.
 - b. Utilize a procedure to identify cases lacking the required information

(Defendant Name, Date of Birth, Sex, Race, NYSID Number, Arrest Date, Crime Dates, Court Control Number, Arrest Number) and obtain the information from the arresting agency.

- c. Consider having the defendant charged with Penal Law § 215.50(3) as a last resort if the defendant refuses to be fingerprinted.
3. The UCS should notify courts when an arrest record is received from DCJS for a court case already on file. The courts should merge disposition and arrest information as soon as notification is received that the arrest is on file so that the court information will close out the arrest. The court should also resubmit any previously reported disposition information.

G. Determining the Appropriate Arrest Date

The arrest date is the date when the individual is first taken into custody by those filing charges against the individual. When taken into custody, the individual has been deprived of his/her freedom relative to this case.

It is important that all the agencies involved in a case use the same arrest date when reporting to DCJS. This will ensure that the arrest, court disposition and custody and supervision information are properly linked on the Computerized Criminal History (CCH). The Arrest Date Determination Matrix presented later in this section should be used to determine the appropriate arrest date.

1. Arrest Date Determination Matrix - Definition of Terms:

- a. "Date Initially Charged by Law Enforcement" is the Arrest Date for most cases, rather than the date of fingerprinting.

Explanation: While these two dates often are the same, fingerprinting may be delayed because an individual is intoxicated, ill or injured or is issued an appearance ticket and is not fingerprinted upon issuance. Law enforcement has taken the individual into custody and has filed charges against the individual.

- b. "Date Taken into Custody as the Result of an Arrest Warrant" is the Arrest Date for cases where the individual had not been initially processed by law enforcement but is being taken into custody pursuant to an arrest warrant issued by a court.

However, if the individual apprehended on an arrest warrant was already charged by law enforcement, the "Date Initially Charged by Law Enforcement" remains the Arrest Date. This covers those situations when an individual has been charged, but has not yet been arraigned, and the court then issues an arrest warrant.

Explanation: This guideline covers situations including when:

- an individual failed to appear in court on a criminal summons;
 - an individual is named in a sealed indictment;
 - the judge finds probable cause exists that an individual, not already in custody on other charges, committed a crime.
- c. The “Date of Arraignment” is the Arrest Date if an arrest warrant has not been executed and the person has not yet been charged by law enforcement at the time of the court appearance.

This guideline covers situations such as:

- Answering a criminal summons
- Voluntarily surrendering to the court (no arrest warrant having been executed)
- Being arraigned on new charges while already in custody (In the last situation, the court directs the custodial agency to produce the individual for arraignment on new charges).

2. Arrest Date Determination Matrix: Guidelines for Reading the Matrix

- a. Read chart from top to bottom to determine the first applicable situation.
- b. Read across the row to locate the column with the “X.”
- c. Use the date identified by the “X” for the arrest date when reporting the arrest date on an electronic arrest submissions and all related documentation.

Arrest Date Determination Matrix			
SITUATION	Date Initially Charged by Law Enforcement	Date Taken into Custody Pursuant to Arrest Warrant	Date of Arraignment
Arrest without Warrant	X		
Arrest with Appearance Ticket Issued	X		
Arrest Warrant Executed: Individual not in Custody of Arresting Agency		X	

Appearance on Criminal Summons			X
Voluntary Surrender to Court			X
In Custody on Other Charges			X

IV. ***Standard Practices for Processing a Case***

A. **Receiving Arrest Documentation**

Beyond the minimum documents referenced below, other supporting documents may be forwarded to the court for the processing of a criminal fingerprintable arrest as detailed in the UCS guidelines, as well as New York State law. Key identifiers which enable the court information to be associated to an arrest at DCJS should be included in the documentation.

The arresting agency, at a minimum, must forward the following documents to the court:

1. **Arrest Report**

This report should not include confidential information about the complainant or police investigation. Other report formats could replace the arrest report as long as the report contains the key identifiers and detailed charge information which match the information sent to DCJS. This report should be filed with the accusatory instrument in court.

2. **Accusatory Instrument**

In addition to the requirements specified in Criminal Procedure Law § 100.15, an accusatory instrument should include:

- a. indicator of juvenile offender, where applicable;
- b. name of the agency filing the instrument;
- c. filing agency's case number.

Note: The instrument must be filed at or before arraignment.

3. **Arrest Fingerprint Card Stub (UCS 501 Card) or Equivalent Notification in Electronic Fingerprint Transmission Systems**

This includes:

- a. arrest charges

- b. Criminal Justice Tracking Number (CJTN)
- c. trial court(s)
- d. expected arraignment date
- e. arraignment court and county

Note: If fingerprinting does not occur until after arraignment, the arrest information and Criminal Justice Tracking Number (CJTN) should be forwarded to the court as soon as possible after fingerprinting is completed.

4. Arrest Fingerprint-Based Rapsheet

The fingerprint based rapsheet is forwarded to the court when arrest fingerprints are processed and updated to the criminal history database at DCJS (CPL 160.30 & 160.40). The court must provide a copy to the defendant or defense attorney (CPL 160.40).

Note: DCJS provides the court with the arrest fingerprint based rapsheet through the eJusticeNY Integrated Justice Portal. The NYSID Number and Criminal Justice Tracking Number (CJTN) are located on the arrest fingerprint-based rapsheet.

B. Initial Case Number Assignment

1. The Court Case Number should be assigned at the beginning of the case, upon the filing of the accusatory instrument, during, or as soon after arraignment as possible, and prior to any reporting of information to other agencies.
2. The Unified Court System recommended format is alphanumeric with:
 - a. the first four digits for the year the case was initiated in court;
 - b. six digits for a sequentially assigned case number starting over at the beginning of the new year;
 - c. two digits to identify co-defendants;
 - d. three digits for internal court use.

C. Conditions Under Which a Court Case Number Can Be Changed

1. Court Case Numbers should remain the same throughout the course of a case within a court. A court may change a case number in the following circumstances:

- a. Superseding indictments or information (in some cases, both can remain standing)
- b. Appellate overturns resulting in new Grand Jury action
- c. Resubmission after dismissal with leave to re-present or re-file
- d. Violation of probation transfers to other jurisdictions
- e. Grand jury or judge directs the filing of a Prosecutor's Information in local court after the local court held the case for grand jury

D. Establishment of Case Record During Arraignment

Authority: 22 New York State Codes, Rules & Regulations Sections 200.23 and 20.24.

- 1. An arraigning court must maintain appropriate records of the arraignment, including transfer of cases to other courts.
- 2. The record should include:
 - a. Defendant's Name
 - b. Arrest Date
 - c. Criminal Justice Tracking Number (CJTN)
 - d. NYSID Number (when available)
 - e. Offenses included in each accusatory instrument
 - f. Name of court receiving the transferred case (when applicable)

E. Arraigning for Another Court and Transferring Case to That Court

Authority: Criminal Procedure Law 180.20.

- 1. Forward the case documents to the court to which the case is transferred.
- 2. If there is a delay in receiving all the documents in time for transfer, the arraigning court should transfer the remaining documents upon receipt. This includes a copy of:
 - a. Fingerprint Card stub or notification of the Criminal Justice Tracking Number (CJTN)
 - b. DCJS Criminal History Report (rapsheet)

- c. In courts using the UCS-540 Disposition Report, a copy of that report, which reflects the arraignment and transfer
- 3. Implement a standardized arraignment procedure for the transmittal of key identifiers, between local courts.
 - a. Include a form that would contain a checklist of items to be included in the transferred file.
 - b. Forward information directly to the court with preliminary jurisdiction at the time of transfer, or as soon as available.

F. Plea Agreements and Dismissals Resulting from a Plea Agreement

Authority: Criminal Procedure Law 220.30(3)(a)(ii).

- 1. The written consent filed with the plea court should contain:
 - a. Signatures of the judge and prosecutor
 - b. Key identifiers
 - c. Plea court name
 - d. Plea court case number
 - e. Dismissing court name
 - f. Dismissing court case number
- 2. The plea court shall make notification to all the other courts whose cases are involved in the plea agreement once the person has been sentenced. Upon receipt of that notification from the plea court, the other courts should dismiss all pending charges related to the cases involved in the agreement. (Note: These are also known as charges covered by or satisfied by the plea and reported as such.)

G. Bench and Arrest Warrants

Authority: Criminal Procedure Law 120.10, Form and Content.

- 1. Bench Warrants should include the following, if known:
 - a. Key identifiers
 - b. Social security number

- c. Original arrest date (or date appearance ticket issued)
 - d. Indication of original arrest fingerprint status
 - e. Last known address
 - f. Height
 - g. Weight
 - h. Sex
 - i. Race
 - j. Hair color
 - k. Eye color
 - l. Scars
 - m. Marks and tattoos
 - n. Alias and street names
 - o. Complexion
 - p. Facial hair
 - q. Hair style
 - r. Gang affiliation
 - s. Employment information
 - t. Last known phone number
2. Arrest warrants should contain as many available identifiers as possible.

H. **Divesting Jurisdiction Between Local and Superior Courts**

Authority: Criminal Procedure Law 170.20, 170.25, 180.40 and 180.70.

1. Report to the UCS and DCJS whenever a case passes from one court jurisdiction to another court jurisdiction by order of the superior court.
2. The superior court should report actions taken by the grand jury and by the superior court which transfers jurisdiction back to the local court.

3. The local court should report actions on cases which the superior court sends back to their jurisdiction under the original local court case number.
4. Key identifiers should be included in the paperwork that goes from the local court to the grand jury and from the grand jury to the superior court and from the superior court to the local court, so that dispositions will associate to the appropriate arrest at DCJS.
5. A local court should report dispositions for charges pending in that local court which were included in a plea agreement in a superior court case.

I. Recording Dismissals, Sealed Cases and Denial of Sealing

1. The judge should place on the record, the section of law under which a dismissal occurs on the record, in order to document whether the dismissal is eligible for sealing. The section of law should be included whenever reporting such dismissals to another agency.
2. If sealing is denied in the interest of justice, it should be noted in the record and reported as such.

J. Sealing Court and Other Agency Records

Authority: Criminal Procedure Law 160.50, 160.55, 160.58 and 160.59.

1. The court shall immediately send a notification to all agencies to seal their respective records in compliance with the Criminal Procedure Law and other statutes requiring sealing. Sealing notifications must include:
 - a. Key identifiers
 - b. Defendant pedigree information
 - c. Detailed charges and disposition information
 - d. Agencies notified
 - e. Statute under which sealing occurred
2. An Agency Notification List should be maintained for each seal order documenting the agencies to which notifications have been sent. The list should include:
 - a. Clerks of all appropriate courts with records which may need sealing
 - b. Commissioner of New York State Division of Criminal Justice Services through the court's disposition reporting system (DCJS notifies the FBI)
 - c. Heads of all arresting agencies involved in the arrests

- d. Prosecutor
- e. County clerk's office for superior court seals

K. Indictments Following Local Court Dismissal and Seal

Authority: Criminal Procedure Law 210.10(3) and 160.10.

1. When charges are dismissed and sealed in a local court, and the prosecutor subsequently presents new charges based on the same incident to the Grand Jury, resulting in filing of an indictment and arraignment in a superior court, the following must occur:
 - a. The prosecutor must notify the superior court that fingerprinting is required. The fingerprints from the dismissed arrest cannot be used.
 - b. That court must order the fingerprinting once so notified by the prosecutor, or once the judge becomes aware that fingerprinting has not occurred.
 - c. The court must use the Criminal Justice Tracking Number (CJTN) associated with the new arrest for reporting action on the Indictment.
 - d. The court may not use the Criminal Justice Tracking Number (CJTN) from any prior arrest in reporting action on the Indictment.

L. Monitoring and Tracking a Court Case to Closure

Authority: Direction of Deputy Chief Administrative Judge for Court Operations.

B. Pending, Adjourned or Deferred Cases

- a. All court cases, including cases deferred or diverted, should be assigned a control date (adjournment date) by the court at which time the prosecutor and defense counsel are to report on the status of pending cases.
- b. The assignment of control dates should occur throughout adjudication of the case.
2. Unindicted Felony Cases, and Other Individual Charges Pending 90 Days or More
 - a. For unindicted felony cases, individual charges and misdemeanor charges pending 90 days or more, the prosecutor and the court should establish a monthly case status reporting system. The prosecutor and court should communicate on the status of these cases at least once a month. The prosecutor's report should include key identifiers for all involved cases.

- b. Any accusatory instruments or any charges on an accusatory instrument, which are not mentioned in the prosecutor's report to the court should be considered pending and the court should consult with the prosecutor regarding disposition.
- c. Deferred or diverted cases should be calendared through the assignment of an adjournment date.

Note: An example of a tracking mechanism is the Monroe County "Disposition Memo" which provides information, in particular, the follow up date, to the superior court to report on charges not presented to the Grand Jury or not considered by the Grand Jury.

C. Transfer of Probation Supervision

Authority: Criminal Procedure Law 410.80.

- 1. Probation supervision transfer orders should be filed with the receiving court and with the sending court by the receiving probation department.
- 2. The transfer order should include:
 - a. Key identifiers including arrest date
 - b. Sending court case number
 - c. Sending court name
 - d. Sending court address
 - e. Sending court phone number
 - f. Receiving court name
 - g. Receiving court address
 - h. Receiving court phone number

V. DCJS Criminal History Report (Rapsheet), Use, Dissemination and Destruction

A. Dissemination of Arrest Rapsheet

Authority: Criminal Procedure Law 160.30 and 160.40.

- 1. The court (and defendant or defense attorney via the court) should receive the fingerprint-based rapsheet at arraignment, as a by-product of the processing of electronically transmitted fingerprints at DCJS.

2. If the arrest was not submitted electronically to DCJS to ensure that the fingerprint-based rapsheet is available at arraignment, the court (and defendant or defense attorney via the court) and prosecutor should temporarily use the Name Search (Inquiry) rapsheet obtained electronically from the eJusticeNY Integrated Justice Portal for an arraignment involving fingerprintable offenses. The court should use the RRB reason code in making this request. If the court does not have access to the Portal, the arresting agency should make this request using the appropriate reason code. The non-fingerprint-based rapsheet should be destroyed upon receipt of the fingerprint-based rapsheet.

B. Rapsheet Use, Dissemination and Destruction

1. Each agency should develop and uniformly apply a written policy consistent with the Rapsheet Use and Dissemination Agreement.
2. The court must provide a rapsheet to the defendant or the defense counsel upon receipt, thereof, pursuant to Criminal Procedure Law 160.40.
3. The rapsheet is a confidential document. Do not include it in the court record made available to the public.
4. Do not use the rapsheet for any purpose other than the decision point for which it was originally obtained. A current report should be obtained for any subsequent decision making.
5. Courts may request a current criminal history at any stage before final disposition or termination of a revocable sentence.
6. Destroy the rapsheet 30 days after the filing of a judgment unless a notice of appeal has been filed. If a notice of appeal has been filed, retain the rapsheet for the duration of the appeal.
7. The prosecutor and court may request that notices of subsequent arrest be generated and forwarded to the trial courts and prosecutor for cases involving:
 - a. Revocable Sentences (Penal Law Article 65)
 - b. Adjournment in Contemplation of Dismissal
 - c. Warrant Issuance
 - d. Interim Supervision
 - e. Diversion
 - f. All Pending Cases

8. Courts should not share the rapsheet with other agencies unless authorized to do so by statute or the DCJS Use and Dissemination Agreement.
9. If a rapsheet is obtained through the eJusticeNY Integrated Justice Portal for use by another agency, the ORI number of the agency for whom the rapsheet is being requested should be used.
- 10.

Custody and Supervision Processing

Introduction

Subsequent to the establishment of a criminal arrest record and the linking of prosecutorial and judicial actions to that arrest on the criminal history database at DCJS, information related to the sentencing of the individual should be added to the criminal history record.

Custodial Facilities

Custodial facilities in New York State include local and state agencies:

- Locally, county jails or correctional departments run by sheriff departments, or the county police serve as both holding centers for detained defendants and custodial facilities for defendants sentenced to an incarceration term of up to one year. Town, village, district and city police departments which happen to have holding centers are considered local custodial agencies for detention purposes only.
- The New York State Department of Corrections and Community Supervision (DOCCS) maintains facilities for defendants sentenced to an incarceration term greater than one year.

Once the defendant is sentenced to serve time, the defendant is transferred to a county facility if the sentence is for up to one year, or 2 one-year sentences to run consecutive to each other or to a state facility if the sentence is for more than a year.

In order to ascertain that the incarcerated person (inmate) is the same person who was arrested and convicted, it is the responsibility of the local correctional facility to fingerprint the inmate and electronically submit the Institution Admission to DCJS as required by Correction Law § 618. The taking and submission of an Institutional Admission transaction ensures the incarceration data is associated with the appropriate criminal history record.

DOCCS fingerprint inmates upon admission but does not send DCJS fingerprint images for identification purposes unless the on-line admission transaction sent to the repository is rejected as provided for under Correction Law § 618. DCJS uses the fingerprint images to associate the rejected admission transaction to the appropriate criminal history record.

Subsequent reporting of institution release data and parole data is associated with the appropriate event on that history through the inclusion of the key arrest identifiers.

Without the institution admission and release data, the DCJS Criminal History Report (rapsheet) is incomplete, leaving the criminal justice community unsure as to the inmate's status. Arresting agencies, probation departments, prosecutor offices and other criminal justice agencies may not be able to locate individuals currently incarcerated or would not have the incarceration history that might be useful in their investigations.

Probation Supervision

Probation departments provide information to the courts concerning a defendant's background, status in the community, special programs that may be helpful to the defendant and other factors. The departments also collect fine payments, restitution, surcharges and family support allowances involved in the sentencing of the defendants.

The Pre-Sentence Investigation report (PSI) and the Pre-Plea Investigation report (PPI) are some of the reports provided to the court. The PSI and PPI reports, by law, require inclusion of a legal history. A rapsheet is provided upon request to Probation and is used to provide a legal history for report purposes.

Probation departments send case information to the Integrated Probation Registrant System (IPRS). Transmissions that include fingerprintable arrest charges are then uploaded to the criminal history database via the eJusticeNY Integrated Justice Portal. The successful updating at DCJS is again dependent upon the inclusion of arrest identifiers to link the information to the appropriate arrest.

If an individual's criminal history does not reflect related probation information, either through failure to report or through a lack of key identifiers needed to update a transaction, the impact can be significant. The probation department will not be notified of any subsequent arrests while the individual is under supervision. The rest of the criminal justice community will be unaware of the individual's probation status at various stages of processing subsequent arrests, thus, impacting decisions such as release, bail, etc.

Parole and Post-Release Supervision

Within the New York State Division of Parole, now part of DOCCS, the Parole Operations Program, the core of the State parole system, is comprised of three major areas: preparing inmates for parole; assisting the 19 member Board of Parole in making parole release determinations; and supervising parolees upon release. As a result of changes to the Penal Law by the Sentencing Reform Act of 1995 and Jenna's Law, violent felony offenders will be subject to determinate sentencing and not eligible for early parole release. Those offenders, will, however, be subject to fixed periods of post-release supervision upon their release from prison and monitored by Parole Officers.

Subdivision 2 of Section 259-c of the Executive Law requires the State Board of Parole to maintain complete records of every person on parole, conditional release or post-release supervision. The Board is required to obtain and file as soon as practicable, information with regard to each inmate who is received in an institution under the jurisdiction of DOCCS. Such information shall include:

- A complete statement of the crime for which the inmate has been sentenced
- The circumstances of such crime
- All pre-sentence memoranda
- The nature of the sentence
- The court in which the offender was sentenced
- The name of the judge and district attorney
- Copies of such probation reports as may have been made and reports as to the inmate's social, physical, mental and psychiatric condition and history, and also all reports of parole officers in relation to such persons

These records, which also must include the aliases and photograph of each offender, are made available, as deemed appropriate by the Chairman, for use by the Department of Corrections and Community Supervision, the Division of Parole, and the Board of Parole. Key identifiers such as NYSID, Criminal Justice Tracking Number (CJTN), and Arrest Date are essential for reporting to DCJS.

Section 259-m of the Executive Law authorizes the Governor to enter into a compact on behalf of the state of New York with any state of the United States for the purposes of out-of-state parolee supervision.

Parole information is critical to a complete criminal history, especially upon subsequent arrest of the individual. The agencies involved in processing the later arrest need to be aware of the parole status. In addition, in cases of out-of-state parolee transfers, if the parole information is not available, the other state may not be made aware of the possible violation of parole conditions.

Custody/Supervision Practices

I. Standard Practices for Custodial Facilities and Parole Supervision

Authority: Correction Law § 618(2).

A. Fingerprinting a Sentenced Individual

1. DCJS Guidelines for Fingerprinting a Sentenced Individual
 - a. Local correctional facilities should electronically submit a set of Institution Admission Fingerprints for any incarceration offense if it is a fingerprintable offense, regardless of the length of incarceration.
 - b. If a set of Institution Admission Fingerprints is electronically received at DCJS for an incarceration offense which is not fingerprintable, the incarceration will be updated to the DCJS Criminal History Report (rapsheet) only if the sentence to custody time is for at least 15 days.
2. Standard Practices
 - a. Local correctional facilities should comply with Correction Law § 618 by electronically submitting a set of Institution Admission Fingerprints for individuals committed by the court to serve a sentence for a criminal offense as defined in the Penal Law, Correction Law, Vehicle and Traffic Law, and Agriculture and Markets Law.

B. Fingerprinting Interstate Cases by New York State Division of Parole Authority: Interstate Compact Agreement

1. Parole offices should electronically submit a set of New York State Interstate Fingerprints to DCJS for all Interstate cases.

C. Reporting Institution Release and Work Release Data to DCJS

Authority: Executive Law § 837(6).

1. Local correctional facilities should submit institution release information and work release information to DCJS for committed individuals.
2. The New York State Department of Corrections and Community Supervision (DOCCS) should electronically transmit work release data to DCJS for inclusion in the criminal history record.

- D. Obtaining the DCJS Criminal History Report (Rapsheet) Authority: Correction Law § 618(2).
1. Local correctional facilities should use an electronic means of transmitting a set of New York State Inquiry Fingerprints and New York State Institution Admission Fingerprint images and data to expedite the return of a fingerprint-based rapsheet to the facility.
 2. Local correctional facilities should use an electronic means to obtain the rapsheet for classification purposes.
 3. The court is permitted to provide the rapsheet to the local correctional facility in cases where the individual is detained (continuous custody cases).

E. DCJS Criminal History Report (Rapsheet), Use, Dissemination, Destruction and Review

1. Each agency should develop and uniformly apply a written policy consistent with the Rapsheet Use and Dissemination (U&D) agreement signed with DCJS.
2. The rapsheet:
 - a. is confidential and is not to be made available to the public;
 - b. must not be used for any purpose other than the decision point for which it was originally obtained;
 - c. should be destroyed upon case closure;
 - d. should not be shared with other agencies unless authorized to do so by statute or the U&D.
3. If the rapsheet is obtained through the Integrated Justice Portal for use by another agency, use the ORI number of the agency for whom the rapsheet is being requested.
4. Upon receipt of a rapsheet:
 - a. The agency should review the rapsheet to ensure that any information submitted by that agency is complete, accurate and associated to the correct arrest event.
 - b. The agency should contact DCJS to correct any errors or omissions by writing to the DCJS, Office of Criminal Justice Records, Alfred E. Smith Building, 80 South Swan St., Albany, New York 12210. Notification may also be made by phoning the Public Safety Contact Center at 518-457-5837 or 1-800-262-3257

F. Sharing Documents with Other Agencies

1. Documentation Received by Custodial Facilities from Other Agencies
 - a. Securing or Commitment Order for defendants prior to sentencing Local Holding Center, County Jail, or State Correctional Facilities: From the sentencing court.
 - b. Commitment Order for sentenced inmates: From the sentencing court.
 - c. DCJS Criminal History Report (rapsheet): From DCJS when the admission fingerprint transaction is processed.
 - d. Rapsheet obtained through an electronic inquiry to the Integrated Justice Portal upon facility request (Facility ORI number is to be used for the request).

2. Documentation Forwarded by Custodial Facilities to Other Agencies

All documentation should contain the appropriate Key Identifiers including NYSID, Criminal Justice Tracking Number (CJTN) and Arrest Date.

- a. Incarceration Fingerprint Images: Forwarded to DCJS.
- b. Commitment Information: Forwarded to DCJS electronically by DOCCS for state facility admissions and for local admissions.
- c. Release Information for state commitments only: Forwarded to DCJS electronically by DOCCS for state facility releases. Note: Release information is not reported for local commitments.

II. Probation Supervision Processing

A. Processing Court Requests for Reports

1. Pre-Sentence and Pre-Plea Investigation Reports

Authority: DCJS Use and Dissemination Agreement with Probation Departments.

- a. Probation departments may attach the DCJS Criminal History Report (rapsheet) obtained from DCJS to PSI and PPI reports prepared for the courts.
- b. Key identifiers, including NYSID, Criminal Justice Tracking Number (CJTN) and Arrest Date, should be included in all documents passed to other agencies.

B. Transferring Probation Supervision

1. Intrastate Probation Transfer of Supervision

Authority: 9NYCRR §349.4.

- a. If a probationer moves to another county during the course of serving the sentence of probation:
 - The probation supervision is transferred to the county where the defendant resides.
 - The original sentencing court may retain jurisdiction over the case for Violation of Probation re-sentencing purposes or may transfer court jurisdiction to a designated court (receiving court) in the county where probation supervision is transferred.
 - If the original trial court transfers trial jurisdiction to a court in the locality where the individual's probation supervision was transferred, transfer orders should be filed with the receiving court and with the sending court by the receiving probation department.
- b. The transfer order should include the key case identifiers and other pertinent information:
 - NYSID Number
 - Criminal Justice Tracking Number (CJTN)
 - Arrest Date
 - Sending Court Case Number
 - Sending Court Name, Address, Phone Number
 - Receiving Court Name, Address and Phone Number
- c. Upon the request of the receiving court, the sending court must forward a copy of the entire court case file to the receiving court.

2. Interstate Probation Transfer of Supervision

Authority: Interstate Compact.

- a. Local probation departments should electronically submit a set of New York State Interstate Fingerprints to DCJS for all incoming Interstate cases.
- b. If a local probation department does not have the capacity to electronically transmit fingerprints, arrangements for printing should be made with an agency with a livescan or cardscan station.

C. DCJS Criminal History Report (Rapsheet), Use, Dissemination, Destruction and Review

1. Each agency should develop and uniformly apply a written policy consistent with the Rapsheet Use and Dissemination (U&D) agreement signed with DCJS.
2. The rapsheet:
 - a. is a confidential document and is not to be made available to the public;
 - b. must not be used for any purpose other than the decision point for which it was originally obtained. A current report should be obtained for any subsequent decision making;
 - c. should be destroyed upon case closure;
 - d. should not be shared with other agencies unless authorized to do so by statute or the U&D. A current policy of DCJS does allow for a rapsheet obtained for this purpose to be attached to the Pre-sentence Investigation Report given to the court.
3. If a rapsheet is obtained through the Integrated Justice Portal for use by another agency, use the ORI number of the agency for whom the rapsheet is being requested.
4. Upon receipt of a rapsheet:
 - a. Review it to ensure information submitted by your agency is complete, accurate and associated to the correct arrest event; and
 - b. Transmit the correction via the Integrated Justice Registrant System (IPRS) for uploading to the individual's criminal history record.

D. Sharing Documents with Other Agencies

1. Documentation Received by Probation from Other Agencies
 - a. Order for Probation Pre-Sentence Investigation from the Court.
 - b. Order of Sentence to Probation: From the Court.
2. Documentation Forwarded from Probation to Other Agencies

All documentation should contain the appropriate Key Identifiers, including NYSID, Criminal Justice Tracking Number (CJTN) and Arrest Date.

- a. Pre-Sentence Investigation Report: Forward to Court.
- b. Notification of Violation of Conditions of Probation: Forward to Court.
- c. Notification of Transfer of Probation Supervision to Another County: Forward to Probation in county where supervision transferred.
- d. Notice of Transfer of Court Jurisdiction Upon Transfer of Probation Supervision to a Different County. Probation in County Where Supervision Transferred: Forward to Sending Court and Receiving Court.

E. Notification of Fingerprinting Needed

1. Probation departments, presentment agencies and family courts should make referrals of juveniles to arresting agencies if the juvenile has not been fingerprinted as required by law. These agencies should contact arresting agencies if they do not receive evidence (i.e., Criminal Justice Tracking Number [CJTN]) that fingerprinting has occurred when required by law. These agencies should contact arresting agencies if they do not receive evidence that fingerprinting has occurred.