

**Understanding
Juvenile Fingerprinting
In New York State:
Procedures and Record Use**



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Recent Changes to New York State Laws Governing Juvenile Fingerprinting and Record Use

Several procedural changes accompany the recent amendments to State laws governing juvenile fingerprinting and record use.

- Fingerprintable offenses for 13 to 15 year olds were expanded to include all felony offenses (FCA §306.1). This amendment strengthens the State's ability to track the delinquent activity of juveniles who commit serious crimes.
- DCJS must now destroy appropriate juvenile records upon receipt of a disposition notification from the family court clerk rather than a court order directing record destruction as previously required (FCA §354.1). Similarly, local agencies must now seal juvenile case files based on disposition notification from the family court clerk (FCA §375.1). This amendment will prevent delays in record destruction and sealing.
- DCJS may no longer disseminate a juvenile arrest record on a rap sheet if the disposition information has not been reported within two years of the arrest date (FCA §354.1). This provision protects against the disclosure of arrest information that would have been destroyed if a disposition favorable to the respondent had been reported to DCJS.

*As of December 1, 1996, Chapter 645 of the Laws of 1996 is available through the DCJS
INTERNET homepage:
<http://criminaljustice.state.ny.us>.*

Understanding Juvenile Fingerprinting: Procedures and Record Use

Effective November 1, 1996, the Family Court Act (FCA §306.1) specifies that, following the arrest of a child alleged to be a juvenile delinquent, law enforcement agencies in New York State must fingerprint:

- Juveniles 13 to 15 years of age charged with any felony offense (Class A, B, C, D or E), and
- Juveniles 11 to 12 years of age charged with a Class A or B felony offense.

Along with the juvenile's fingerprints, certain personal identifier and arrest information must be recorded on the juvenile fingerprint card and the attached "stub" (OCA 501 J). When a juvenile is charged at arrest as a Juvenile Offender (JO), this information must be recorded on both adult and juvenile fingerprint cards (DCJS-2 and DCJS-2 JD, respectively) and on the Federal Bureau of Investigation (FBI) fingerprint card.

■ The fingerprints must be immediately forwarded to the State's central repository for fingerprints -- DCJS.

The New York State Division of Criminal Justice Services (DCJS) is the State's central repository for juvenile and adult fingerprint records. Upon taking a juvenile's fingerprints, agencies must forward the original juvenile and, when taken, the adult and FBI fingerprint cards to DCJS without unnecessary delay. The FBI card is then forwarded to the FBI. The police cannot retain the original fingerprints or copies of those prints [FCA §306.1(4)].

Outside New York City, the stub, along with other relevant information, is forwarded to the agency where processing of the juvenile's case continues.

■ DCJS must provide the arresting agency with information on any pending arrests and prior juvenile delinquency adjudications for the fingerprinted juvenile.

Juvenile fingerprints, along with offender and arrest information from the fingerprint card, are stored in DCJS's Computerized Criminal History (CCH) data base.

DCJS must search this data base for any information it has concerning a juvenile delinquency adjudication, adult conviction, or pending matter for the fingerprinted juvenile. DCJS must then promptly transmit a report -- commonly referred to as a "rap sheet" -- to the arresting agency with the results of this search.

DCJS also searches its data bases containing missing person fingerprints and crime scene fingerprints.

■ **Copies of the rap sheet must be shared with other appropriate agencies.**

Upon receiving the rap sheet, the arresting agency must promptly transmit two copies to the family court and two copies to the presentment agency [FCA §306.2(3)]. In turn, the presentment agency must furnish a copy of the rap sheet to the juvenile's law guardian or counsel. The probation department may request a copy of the rap sheet from DCJS for the purpose of preparing a pre-disposition report ordered by the court (FCA §351.1).

■ **Outside New York City, the agency terminating the processing of a case in which fingerprints have been taken must record the case disposition on the fingerprint card stub and forward it to DCJS.**

The agency that terminates the processing of a case must record how the case was disposed on the fingerprint card stub and then forward the stub to DCJS. New York City is excluded from this reporting process because its disposition data are submitted via a computer interface with DCJS.

The stub of the fingerprint card is the only mechanism DCJS has to secure disposition data for cases outside New York City. The stub must be completed and returned to DCJS by:

- A law enforcement agency that does not refer a case for further legal processing;
- A probation department that adjusts a case at intake;
- A presentment agency that declines to file a petition in family court; or
- A family court when it disposes of a juvenile delinquency case. The court must also provide DCJS with the adjudication charge and disposition (type, length and date) when a finding of juvenile delinquency is entered.

■ **DCJS must destroy a juvenile arrest record when the case outcome is favorable to the respondent or when the most serious adjudication charge is not among those specified for record retention.**

A disposition is updated to DCJS's CCH data base and the fingerprints are retained when a juvenile delinquency finding is entered and --

- The adjudication charges include a felony offense and the juvenile was 13 to 15 years old when the fingerprintable offense was committed; or
- The adjudication charges include a Class A or B felony offense and the juvenile was 11 to 12 years old when the fingerprintable offense was committed (FCA §354.1).

Upon receiving notification that a case has been disposed in any other manner than specified above, DCJS must destroy all records in its possession that pertain to the case. In such instances, arresting

agencies must also destroy any records in their possession obtained pursuant to FCA §306.1.

■ **The permanent retention status of adjudication records is usually determined when a youth reaches 21 years of age.**

The adjudication record becomes a permanent part of a youth's adult criminal history record if he or she is subsequently convicted of a crime that occurs before his or her 21st birthday [FCA§ 354.1(7)]. If no such criminal event occurs, the juvenile delinquency records must be destroyed forthwith when a youth reaches the age of 21, provided he or she has been discharged from placement for at least three years.

■ **It is important that local agencies make every effort to comply with their mandated reporting responsibilities.**

The Family Court Act requires arresting agencies to forward juvenile fingerprints to DCJS. It also requires probation departments [FCA §308.1(12)] and law enforcement agencies, presentment agencies and family courts (FCA §354.1) to submit case disposition information to DCJS upon terminating the processing of a juvenile delinquency case.

The failure of arresting agencies to submit fingerprints impedes the State's ability to track the delinquent activity of juveniles who commit serious crimes. When dispositions are not reported, rap sheets lack juvenile delinquency adjudication information that may be important for determining appropriate interventions.



Laws of New York
Chapter 645

TEXT

LAWS OF NEW YORK, 1996
CHAPTER 645

AN ACT to amend the family court act and the executive law, in relation to juvenile fingerprinting
Became a law September 13, 1996, with the approval of the Governor.
Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 306.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

1. Following the arrest of a child alleged to be a juvenile delinquent, or the filing of a delinquency petition involving a child who has not been arrested, the arresting officer or other appropriate police officer or agency shall take or cause to be taken fingerprints of such child if:

(a) the child is eleven years of age or older and the crime which is the subject of the arrest or which is charged in the petition constitutes a class A or B felony; or

(b) the child is thirteen years of age or older and the crime which is the subject of the arrest or which is charged in the petition constitutes a class C, D OR E felony.

§ 2. Subdivision 2 of section 306.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

2. Upon receipt of such fingerprints, the division of criminal justice services shall classify them and search its records for information concerning an adjudication or pending matter involving the person arrested. The division shall promptly transmit to such forwarding officer or agency a report containing any information on file with respect to such person's previous adjudications and pending matters or a report stating that the person arrested has no previous record according to its files. NOTWITHSTANDING THE FOREGOING, WHERE THE DIVISION HAS NOT RECEIVED DISPOSITION INFORMATION WITHIN TWO YEARS OF AN ARREST, THE DIVISION SHALL, UNTIL SUCH INFORMATION OR UP-TO-DATE STATUS INFORMATION IS RECEIVED, WITHHOLD THE RECORD OF THAT ARREST AND ANY RELATED ACTIVITY IN DISSEMINATING CRIMINAL HISTORY INFORMATION.

§ 3. Subdivisions 2, 6 and 7 of section 354.1 of the family court act, as added by chapter 920 of the laws of 1982, are amended to read as follows:

EXPLANATION--Matter in UPPER CASE is new; matter in brackets { } is old law to be omitted.

2. If a person whose fingerprints, palmprints or photographs were taken pursuant to section 306.1 or was initially fingerprinted as a juvenile offender and the action is subsequently removed to family court pursuant to article seven hundred twenty-five of the criminal procedure law has had all petitions disposed of by the family court in any manner other than an adjudication of juvenile delinquency for a felony, but in the case of acts committed when such person was eleven or twelve years of age which would constitute a class A or B felony only, {the family court shall enter an order directing that} all such fingerprints, palmprints, photographs, and copies thereof, and all information relating to such allegations obtained by the division of criminal justice services pursuant to section 306.1 shall be destroyed forthwith. {Such order shall be served by the} THE clerk of the court {upon} SHALL NOTIFY the commissioner of the division of criminal justice services and {upon} the heads of all police departments and law enforcement agencies having copies of such records, who shall {implement the order} DESTROY SUCH RECORDS without unnecessary delay.

6. If a person fingerprinted pursuant to section 306.1 and subsequently adjudicated a juvenile delinquent for a felony, but in the case of acts committed when such a person was eleven or twelve years of age which would constitute a class A or B felony only, is subsequently convicted of a crime, all fingerprints and related information obtained by the division of criminal justice services pursuant to such section and not destroyed pursuant to subdivisions two, five and seven or subdivision {eleven} TWELVE of section 308.1 shall become part of such division's permanent adult criminal record for that person, notwithstanding section 381.2 or 381.3.

7. When a person fingerprinted pursuant to section 306.1 and subsequently adjudicated a juvenile delinquent for a felony, but in the case of acts committed when such person was eleven or twelve years of age which would constitute a class A or B felony only, reaches the age of twenty-one, or has been discharged from placement under this act for at least three years, whichever occurs later, and has no criminal convictions or pending criminal actions which ultimately terminate in a criminal conviction, all fingerprints, palmprints, photographs, and related information and copies thereof obtained pursuant to section 306.1 in the possession of the division of criminal justice services, any police department, law enforcement agency or any other agency shall be destroyed forthwith. The division of criminal justice services shall notify the agency or agencies which forwarded fingerprints to such division pursuant to section {806.1} 306.1 of their obligation to destroy those records in their possession. In the case of a pending criminal action which does not terminate in a criminal conviction, such records shall be destroyed forthwith upon such determination.

§ 4. Subdivision 1 of section 375.1 of the family court act, as separately amended by chapters 105 and 423 of the laws of 1987, is amended to read as follows:

1. Upon termination of a delinquency proceeding against a respondent in favor of such respondent, unless the presentment agency upon written motion with not less than eight days notice to such respondent demonstrates to the satisfaction of the court that the interests of

justice require otherwise or the court on its own motion with not less than eight days notice to such respondent determines that the interest of justice require otherwise and states the reason for such determination on the record, {the court shall enter an order which} THE CLERK OF THE COURT shall immediately {be served by the clerk of court upon} NOTIFY the law guardian or counsel for the child, the director of the appropriate presentment agency, and {upon} the heads of the appropriate probation department and police department or other law enforcement agency, {directing} that THE PROCEEDING HAS TERMINATED IN FAVOR OF THE RESPONDENT AND, UNLESS THE COURT HAS DIRECTED OTHERWISE, THAT THE RECORDS OF SUCH ACTION OR PROCEEDING, OTHER THAN THOSE DESTROYED PURSUANT TO SECTION 354.1 OF THIS ACT, SHALL BE SEALED. UPON RECEIPT OF SUCH NOTIFICATION all official records and papers, including judgments and orders of the court, but not including public court decisions or opinions or records and briefs on appeal, relating to the arrest, the prosecution and the probation service proceedings, including all duplicates or copies thereof, on file with the court, police agency, probation service and presentment agency SHALL be sealed and not made available to any person or public or private agency. Such records shall remain sealed during the pendency of any motion made pursuant to this subdivision.

§ 5. Subdivision 6 of section 837 of the executive law, as added by chapter 399 of the laws of 1972 and such section as renumbered by chapter 603 of the laws of 1973, is amended to read as follows:

6. Establish, through electronic data processing and related procedures, a central data facility with a communication network serving qualified agencies anywhere in the state, so that they may, upon such terms and conditions as the commissioner, and the appropriate officials of such qualified agencies shall agree, contribute information and, EXCEPT AS PROVIDED IN SUBDIVISION TWO OF SECTION 306.2 OF THE FAMILY COURT ACT, have access to information contained in the central data facility, which shall include but not be limited to such information as criminal record, personal appearance data, fingerprints, photographs, and handwriting samples;

§ 6. This act shall take effect immediately and sections two, three, four and five of this act shall apply retroactively to a person whose fingerprints were taken pursuant to section 306.1 of the family court act or who was initially fingerprinted as a juvenile offender on or after January 1, 1986 and whose fingerprints are on file with the division of criminal justice services, provided that in the case of a juvenile offender action the case was subsequently removed to family court; and provided, further, that section one of this act shall take effect on the first day of November next succeeding the date on which it shall have become a law.

The Legislature of the STATE OF NEW YORK SS: (JURAT PLACEHOLDER)

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO
TEMPORARY PRESIDENT OF THE SENATE

SHELDON SILVER
SPEAKER OF THE ASSEMBLY
