

# NEW YORK STATE STANDARD PRACTICES FOR FINGERPRINTING JUVENILES

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# ***New York State Standard Practices for Fingerprinting Juveniles***

## **Introduction**

Welcome to the on-line version of the "New York State Standard Practices for Fingerprinting Juveniles" (Manual). "[The New York State Standard Practices Manual for Processing Fingerprintable Criminal Cases](http://www.criminaljustice.ny.gov/stdpractices/main_menu.htm)," is also available at [http://www.criminaljustice.ny.gov/stdpractices/main\\_menu.htm](http://www.criminaljustice.ny.gov/stdpractices/main_menu.htm) on the Division of Criminal Justice Services (DCJS) website.

### **I. Purpose**

This Manual provides documentation on the procedures and standards essential to the efficient and accurate exchange and reporting of fingerprintable juvenile delinquent arrest and disposition information to the Division of Criminal Justice Services. This Manual may be used to develop policies and procedures for the fingerprinting of juveniles, ensure the proper electronic transmission of juvenile fingerprints to DCJS and set forth the necessary procedures for maintaining; sealing and destroying records pertaining to a juvenile delinquency case. The fingerprints of a juvenile offender or an adolescent offender or a sixteen or seventeen year old charged with a violation or a Vehicle and Traffic Law misdemeanor should be processed as an adult according to the "New York State Standard Practices for Processing Fingerprintable Criminal Cases."

## ***Chapter 1: Arrest Processing***

### **Introduction**

Fingerprints from the arrest of a fingerprintable JD must be submitted by the appropriate arresting or other police agency to the New York State Division of Criminal Justice Services (DCJS). DCJS processes arrest fingerprints received from police agencies, courts and presentment agencies, updates the arrest information to the Computerized Case History file (CCH) and electronically provides the juvenile's criminal history report to the entity which submitted the fingerprints.

Please contact DCJS Customer Contact Center (CCC) with any questions you may have. DCJS can be contacted:

- by mail: New York State Division of Criminal Justice Services, Data Quality Management Unit, Alfred E. Smith Office Building, 5<sup>th</sup> floor, 80 South Swan Street, Albany, New York, 12210
- by phone: 1-800-262-3257 or
- electronically: via the feedback option on the Integrated Justice Portal or by e-mail at [ccc@dcjs.ny.gov](mailto:ccc@dcjs.ny.gov)

# Standard Practices for Arrest Processing

The practices listed below pertain to the processing of fingerprintable juvenile delinquent cases.

## I. Standard Practices Regarding Fingerprinting in Certain Juvenile Delinquent Cases

### A. Statutory Requirements for Fingerprinting of Certain Alleged Juvenile Delinquents

Authority: Family Court Act §306.1

The arresting or other appropriate police officer or agency must take, or cause to be taken, fingerprints of the individual alleged to be a juvenile delinquent, if an offense which is the subject of the arrest or which is charged in the delinquency petition filed, is:

- a class A or B felony and the juvenile is 11 or 12 years of age; or
- any felony and the juvenile is 13 years of age or older.

Note: Every effort should be made to verify the age or identity of a juvenile taken into custody for a fingerprintable offense.

### B. Responsibility For and Timing of Fingerprinting in Certain Arrest Circumstances

#### 1. Fingerprinting upon Arrest

Authority: Family Court Act §306.1

Following the arrest of a juvenile alleged to be a juvenile delinquent the arresting agency must fingerprint juveniles if authorized and forward the fingerprints, without unnecessary delay, to DCJS.

#### 2. Fingerprinting after the Issuance of a Family Court Appearance Ticket (OCA Form 3-3)

Authority: Family Court Act §307.1

- a. A Family Court appearance ticket is a written notice issued and subscribed by a peace officer or police officer, a probation agency director or his/her designee or the administrator responsible for operating a detention facility or his/her designee, directing a juvenile and his/her parent or other person legally responsible for his/her care to appear, at a designated probation agency on a specified return date in connection with the juvenile's alleged commission of the crime or crimes specified on the appearance ticket.
- b. When the juvenile appears in response to the appearance ticket, the court should arrange for fingerprinting if authorized.

- c. If the crime alleged to have been committed by the juvenile is a designated felony, the return date shall be no later than 72 hours, excluding Saturdays, Sundays and public holidays, after the issuance of the appearance ticket.
  - d. If the crime alleged to have been committed is not a designated felony, the return date shall be no later than 14 days after the issuance of the appearance ticket.
  - e. A copy of the appearance ticket shall be forwarded by the issuing person or agency to the complainant, juvenile, juvenile's parent and appropriate probation agency within 24 hours after its issuance. In addition, the arrest file should be promptly forwarded to the probation agency.
  - f. If a juvenile subject to fingerprinting was issued an appearance ticket and not fingerprinted prior to release, notification to the probation agency that fingerprinting did not occur, and the reason for it not taking place, should accompany a copy of the appearance ticket.
3. Fingerprinting when Corporation Counsel/County Attorney's Petition is Filed Prior to Arrest Process

Authority: Family Court Act §310.1

If a juvenile subject to fingerprinting surrenders to the court without being arrested, based upon the direct filing of a petition, the presentment agency should make arrangements for fingerprinting.

4. Special Circumstances

- a. When a police officer determines that fingerprinting is not possible at the time of arrest, or if the juvenile refuses or is unable to be fingerprinted, or is partially printed, the probation or presentment agency, as appropriate, should be informed to ensure that fingerprinting will occur.
- b. If some fingers are bandaged or missing, a partial set of fingerprints should be obtained and the reason for omission of the remainder should be noted in the fingerprint submission (see, Section II [4]).
- c. If responding to a request from DCJS for reprinting, please follow "Completing Partial Fingerprinting or Responding to DCJS Request for Reprinting."
- d. If submitting a fingerprint transaction to complete previous partial fingerprinting, please follow "Completing Partial Fingerprinting or Responding to DCJS Request for Reprinting".

## 5. Fingerprinting upon Arrests Involving Multiple Local or State Agencies

Only the arresting agency performing a referral to a probation or presentment agency should submit an arrest fingerprint transaction to DCJS. Only the offenses filed by that agency should be reported with the fingerprint transaction. If an agency assisting in an arrest is **not** performing a referral, no arrest fingerprint transaction should be submitted to DCJS by that agency.

## 6. Arrests Involving Multiple Incidents or Jurisdictions

- a. An arresting agency should include all related incidents occurring within the same county, for a single arrest, with a fingerprint transaction. Related incidents are those incidents occurring during a series of criminal acts.
- b. Arrests involving multiple unrelated incidents require a fingerprint transaction to be submitted separately for each incident.
- c. An arresting agency should submit separate fingerprint transactions with the appropriate charges for each county covered by an arrest.

*Note: If, subsequent to the issuance of an appearance ticket, the juvenile is arrested by the same or another agency for another unrelated crime, a second set of arrest fingerprints should be submitted; one for the appearance ticket and the second for the unrelated crime.*

## 7. Fingerprinting upon Arrests Involving Execution of Warrants

Authority: Family Court Act §312.2

- a. The wanting agency (the agency requesting the warrant) should submit a fingerprint transaction to DCJS if the juvenile has not been fingerprinted for the arrest. The wanting agency may need to contact the presentment agency to determine if a fingerprint transaction has been submitted.
- b. An agency, other than the wanting agency, taking the juvenile into custody on a warrant may submit an electronic inquiry request containing fingerprints in order to establish the identity and receive a criminal history for the juvenile. A set of fingerprints and related data submitted as a criminal inquiry will not be updated to the CCH database. In order to ensure that the arrest appears on the CCH database, the wanting agency must submit arrest fingerprints.
- c. The agency taking a juvenile into custody, based upon another agency's warrant, should not submit a fingerprint transaction to DCJS unless new fingerprintable charges are also lodged by the agency taking the juvenile into custody.
- d. If new charges are lodged, a fingerprint transaction 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 fingerprint transaction.

## C. Submission of Fingerprints

### 1. Method of Fingerprinting

#### a. Juvenile delinquent arrest transmissions are sent to DCJS electronically either by:

- Electronic acquisition and transmission of arrest fingerprints using livescan equipment;
- Capturing of fingerprint images and data on a hard copy fingerprint card and electronic acquisition and transmission of that information using cardscan equipment.

### 2. Ensuring the Quality of Fingerprint Impressions

#### a. Fingerprint impressions should be the highest quality obtainable.

#### b. Agencies should become proficient in fingerprinting by utilizing training available through DCJS.

#### c. If necessary, agencies should cooperate with each other to assist in fingerprinting their cases.

#### d. If arrest fingerprints are rejected by DCJS with a request for re-printing the juvenile, agencies should follow the practices presented in Section II (4) (b,c) Completing Partial Fingerprinting and Responding to a DCJS Request for Re-printing.

### 3. Fingerprint Transaction Submission Types

#### a. Juvenile delinquent arrest transactions:

Type of transaction: If the individual is under seventeen years of age and is not being charged as a juvenile offender or adolescent offender and is not being charged with only a violation or a Vehicle and Traffic Law misdemeanor, the Criminal Ten-Print Submission Answer Required Juvenile Delinquent Arrest (CARJDR) arrest transaction should be submitted.

#### b. Special circumstances involving juveniles: If an arrest involving multiple incidents spans the juvenile's 17th birthday, two fingerprint transactions should be submitted. The offenses committed prior to the birthday should be submitted as a juvenile delinquency transaction (CARJDR). The other offense should be submitted as an adult transaction Criminal Ten-Print Submission Answer Required Adult Arrest (CARAAR).

### 4. Completion of the Data Related to a Fingerprint Transaction

#### a. Required Arrest Data

Each element listed on the following table will be transmitted with the New York State Criminal Justice Electronic Fingerprint Transmission Standards (EBTS) tag number indicated. Further transmission requirements and details are found in the EBTS document (available upon request from DCJS).

The last column of this table identifies the required fields that must be completed for DCJS to accept a fingerprint transaction. However, all fields should be completed, if at all possible.

Field Name	Guidance for Completion of Field, if Necessary	Electronic Submission	
		EBTS Tag	Required Field(x)
NYSID Number		1101	
Name		1110	X
Criminal Justice Tracking Number	The number assigned by DCJS to a set of fingerprints - usually pre-filled on cards, assigned by computer if prints submitted electronically.	1217	
Street Address		1130	
Apartment Building Number		1130	
City		1130	
State		1130	
Zip		1130	
Alias or Maiden Name	Nicknames and street names are not currently updated on the CCH database and criminal history report.	1111	
Place of Birth (State or Country)		1117	
Facsimile Control No.		1221	
Date of Birth		22	X
Age		1116	
Sex		1112	X
Race		1113	X
Ethnicity		1115	X
Skin		1114	
Hair		1121	
Eyes		1120	
Height		27	
Weight		29	
Contributor ORI	Enter the name or ORI of the agency submitting the fingerprints to DCJS. This may be different from the agency making the arrest.	1199	x
8			
<i>Arrest Processing</i>			



Arresting Officer's ID Number or Arresting Officer's Name		1204 1205	X
Arresting Agency Name/ORI	Enter the name or ORI of the agency making the arrest. This may differ from the contributing agency	1201	X

	submitting the fingerprints to DCJS.		
Arrest Number		1210	X
Local ID Number		1102	
Court of Jurisdiction	Do not enter the judge's name.	1218	Only if different from Court of Arraignment
Court of Arraignment		1216	X
Arrest Date	The date the juvenile was originally taken into custody on the charges associated with this arrest.	45	X
Arrest Location Code		1206	X
Arrest Time		1208	
Weapon Information		1211	
Arrest Time		1208	
Incident Date		1214	x
Incident Location Code		1214 (incident location) 1223 (multiple incidents included)	x
Arrest Type		1209	
Arrest Status			
Social Security Number		16	
Signature of Arrestee			
Arrest Charge(s)	At least one fingerprintable charge must be included. All non-fingerprintable charges included in the arrest should also be entered. All elements of each charge must be recorded.	1212 and 1223 (if multiple incidents are included, in which case 1212 is also used but in summary capacity)	x
Incident Number	While not required, this field should be completed if there is no arrest number.	1213	
Fingerprint Images		Send as Type 4 or 14 records	x
Date Fingerprinted		1006	x
Signature of Person Taking Prints		1001	
Scar, Mark, Tattoo Information		1126	
Arresting Officer's Name or Arresting Office's ID Number		1205 1204	x
Command			
Miscellaneous			
Name of County			



Field Name	Guidance for Completion of Field, if Necessary	Electronic Submission	
		EBTS Tag	Required Field(x)
Incremental Data Counter		2	x
Attention Indicator		6	
FBI Number		14	
Miscellaneous Number		17	
Attention Indicator		6	
FBI Number		14	
Miscellaneous Number		17	
Country of Citizenship		21	
Fingerprint Pattern Level Classification		34	
Palm Print Availability		35	
Image Processing Field		67	x
Amputated/Bandaged Finger(s)		84	
Resubmission Indicator		1000	
Fingerprinter's ID Number		1002	x
Person Submitting Name		1003	
Person Submitting ID Number		1004	x
Image Size Override		1008	x
Image Quality Override		1009	x
Finger Position Override		1010	x
Local Identifier Designation		1030	
US Citizenship		1118	
Photo Availability		1122	
SMT Descriptors		1123	
SMT Color		1124	
SMT Size		1125	
Drivers License Number		1132	
Mother's Maiden Name		1133	
Street Name/Nickname		1134	
Gang Information		1135	
Caution and Medical Conditions		1149	
Arrest Agency Unit		1203	
Warrant Information		1215	
Arrestee Number		1220	
Assisting Agencies ORI Numbers		1222	
Crimes Matrix		1223	
Fingerprint Image Capture ORI		1224	
Anticipated Date of Arraignment		1225	
Domestic Incident Report		1226	

Field Name	Guidance for Completion of Field, if Necessary	Electronic Submission	
		EBTS Tag	Required Field(x)
Arrestee Residence Status		1227	
Domestic Incident Report		1226	
Arrestee Residence Status		1227	

5. Storage and Retention of Juvenile Delinquent Fingerprints, Palmprints and Photographs

Authority: Family Court Act §306.1(4)

Arresting agencies shall not retain copies of fingerprints. Arresting agencies must maintain confidentiality of Juvenile Delinquent photographs and palmprints that have been taken and store them separate and apart from the files of adults.

Authority: Family Court Act §381.3

All police records relating to the arrest and disposition of any person under Family Court Act Article 3 shall be kept in files separate and apart from the arrests of adults and shall be withheld from public inspection, except as enumerated in Family Court Act §381.3(2).

**II. Standard Practices Following Receipt of Arrest Criminal History Reports and Modifications to Arrests**

A. DCJS Criminal History Report

Authority: Family Court Act §306.2(2)

Upon the completion of processing the arrest fingerprint transaction, DCJS promptly electronically transmits the juvenile’s criminal history report to the submitting agency in the Integrated Justice Portal.

1. Dissemination of Arrest Fingerprint-Based Criminal History Report

Authority: Family Court Act §306.2(3)

- a. The recipient of the fingerprint-based DCJS criminal history report must promptly transmit two copies of it to the Family Court in which the proceeding may be originated and two copies to the presentment agency. The presentment agency shall furnish a copy to the attorney for the juvenile.

Note: This statutory provision requires arresting agencies to transmit two copies of the fingerprint-based DCJS criminal history report to presentment agencies and the Family Court. However, this requirement was enacted prior to electronic transmission of arrest fingerprint based rapsheets through the Integrated Justice Portal. The Integrated Justice Portal now

provides this information directly to the Family Court via their criminal in-boxes, as required. For this reason, the Family Court may opt to waive this provision upon the request of the arresting agency.

- b. If a fingerprint-based arrest rapsheet is not available at the initial appearance, the court should temporarily use a non-fingerprint-based Name Search (Inquiry) criminal history report to ensure that a criminal history report is available. The court should share this criminal history report with the presentment agency and the counsel for the juvenile.

## 2. Criminal History Report Use, Dissemination and Destruction

The arresting agency should develop and uniformly apply a policy consistent with the Use and Dissemination Agreement signed with DCJS regarding criminal history report use, dissemination and destruction. A criminal history report is a confidential document. It should not be shared except as authorized by law. The criminal history report should not be used for any purpose other than that for which it was originally obtained. If a criminal history report is needed after the arrest, a new criminal history report should be requested. A request can be made for a current criminal history report at any stage of the case.

## 3. Monitoring Completeness and Accuracy of Criminal History Report

Each recipient of the criminal history report should review it for accuracy as to that agency's latest reported action. If errors or omissions are noticed, or the information did not associate to the appropriate arrest, DCJS should be notified:

- by mail: New York State Division of Criminal Justice Services, Data Quality Management Unit, Alfred E. Smith Office Building, 5th floor, 80 South Swan Street, Albany, New York, 12210
- by phone: 1-800-262-3257 or
- electronically: via the feedback option on the Integrated Justice Portal or by e-mail at [ccc@dcjs.ny.gov](mailto:ccc@dcjs.ny.gov)

### Notifications of Modifications or Additions to Arrests

After transmitting the arrest fingerprints to DCJS, arresting agencies should report added or revised information arising from that arrest to DCJS. DCJS should be notified by mail at New York State Division of Criminal Justice Services, Identification Unit, Alfred E. Smith Office Building, 5th floor, 80 South Swan Street, Albany, New York, 12210.

Notification should consist of:

- a notice sent on agency letterhead signed by an individual at the rank of sergeant, or of an equivalent or higher rank. 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

- New York State Arrest Information Update Form in the Law Enforcement Services suite in the Integrated Justice Portal.

*Note: 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, is unrelated and should be submitted as a separate arrest.*

#### 4. Completing Partial Fingerprinting or Responding to a DCJS Request for Reprinting

If an arrest fingerprint transaction is subsequently 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 database or in response to a DCJS request for reprinting of a juvenile, the arresting agency should follow the procedures below:

- a. For an arrest fingerprint transaction originally submitted:

An arrest fingerprint transaction originally submitted will be recognized as a reprint and processed by DCJS under the original Criminal Justice Tracking Number (CJTN) initially assigned to the fingerprint transaction.

- b. For second arrest fingerprint transactions for special situations:

A notice sent on agency letterhead signed by an individual at the rank of sergeant, or of an equivalent or higher rank, should accompany a second fingerprint transaction submission to explain the special situation. The envelope in which the letter and the fingerprint transaction are enclosed should be marked "Corrective Action."

The agency should remove the new Criminal Justice Tracking Number (CJTN) from the card used to submit the second fingerprint transaction and replace it with the CJTN from the previously submitted fingerprint transaction.

*Note: The original CJTN should have been retained in the arrest records. If not, it should be available on a name search criminal history report.*

The CJTN for the **second** fingerprint transaction should **not** be forwarded to the court; it should be **destroyed**.

#### 5. Election Not to Proceed With Arrest

Authority: Family Court Act §354.1(4), (5)

If, following the taking into custody of a person alleged to be a juvenile delinquent and the

taking and forwarding to DCJS of such person's fingerprints, but prior to referral to the probation agency or to the Family Court, an officer or agency elects not to proceed further, the officer or agency shall serve a certification of such election upon DCJS. The arresting agency should utilize the DCJS Arrest Information Update Form on the Integrated Justice Portal to notify the DCJS Data Quality Management Unit, New York State Division of Criminal Justice Services, Alfred E. Smith Office Building, 5th floor, 80 South Swan Street, Albany, New York 12210.

## B. Compiling Complete Case Documentation

Arrest File. The arresting agency should compile an arrest file containing the following documents as applicable for use by the court, probation and presentment agencies. The key identifiers, personal descriptors and arrest related data listed above should be found in these documents. If any information not available at the time of arrest becomes available to the arresting agency, it should be forwarded to the probation and/or presentment agency as appropriate.

- Arrest report
- Evidence that fingerprints have been taken
- DCJS juvenile delinquent arrest fingerprint-based criminal history report containing the New York State Identification Number (NYSID) and the CJTN
- Documentation of the CJTN: This should be sent with the arrest file so that it may be attached to the petition.
- Appearance ticket (OCA Form 3-3), if appropriate
- Incident report
- Depositions
- Other relevant evidentiary material including, but not limited to, any identification procedures, statements made by the juvenile to law enforcement, documentation of physical evidence recovered and damages and injuries sustained by the victim(s) of the crime
- Additions or modifications of arrest details through submission of the DCJS Arrest Information Update Form located in the Law Enforcement Services suite or on agency letterhead signed by an individual at the rank of sergeant, or an equivalent or higher rank
- Arresting agency Certification of Election Not to Proceed- DCJS Arrest Information Update form on eJusticeNY Integrated Justice Portal or a notification on agency letterhead, as appropriate
- Notification by the arresting agency of the need for fingerprints to be taken and a statement as to why they were not taken
- Probation intake referral form (local form)
- Other supporting documents

## C. Providing the Arrest File or Selected Information to Other Juvenile Justice Agencies

Authority: Family Court Act §§306.1(4); 307.1(3)

### 1. Critical Information to be Reported to Probation and/or Presentment Agencies



The arresting agency should provide the arrest file to the probation and/or presentment agency.

2. Critical Information to be reported to a Detention Facility:

If an arresting agency transports a juvenile to a detention facility when a court is not in session, the arresting agency should provide the detention facility with the following key identifiers:

Key Identifiers

*Personal Descriptors:*

- All arrest charges with the following details:
- Law title and section
- Subsection
- Class
- Category
- Degree
- Counts
- Charge attempted indicator
- Description
- Incident date(s)
- Incident location(s)

*Arresting agency identifiers:*

- Arresting agency name and originating agency identifier (ORI)
- Precinct, if applicable
- Arresting officer's name
- Arresting officer's shield number and/or tax registry number
- Command
- Command phone number
- Time of arrest

*Warrant (In-State and Out-of-State) information*

- Existence of outstanding warrants
- Court(s) of issuance
- Type(s) of warrant activity
- Date(s) of warrant activity

**IV. Sealing and Confidentiality**

A. Election Not to Proceed

Authority: Family Court Act §354.1(3), §354.1(4), §354.1(5)

1. If, following the taking into custody of a person alleged to be a juvenile delinquent and the taking and forwarding to DCJS of such person's fingerprints, but prior to referral to the probation agency or to the Family Court, an officer or agency elects not to proceed further, the officer or agency shall serve a certification of such election upon DCJS. The arresting agency should utilize the DCJS Arrest Information Update Form on the Integrated Justice Portal to notify the New York State Division of Criminal Justice Services, Data Quality Management Unit, Alfred E. Smith Office Building, 5<sup>th</sup> floor, 80 South Swan Street, Albany NY 12210. An agency may also notify by a letter on agency letterhead, signed by an individual at the rank of sergeant, or of an equivalent or higher rank which should indicate the election not to proceed and include Name of the Juvenile, NYSID Number, Arrest Date, and Criminal Justice Tracking Number (CJTN).
2. If the appropriate presentment agency does not originate a proceeding for which the juvenile's fingerprints were taken, the agency shall serve a certification upon DCJS and upon the appropriate police department or law enforcement agency pursuant to Family Court Act §354.3. A form to report such information is included as Appendix A.
3. Based upon a certification under Family Court Act §§354.1(3)3 or 354.1(4), the arresting agency shall destroy all fingerprints, palm prints, photographs, and copies thereof and DCJS and all police departments and law enforcement agencies having copies of such records shall destroy them.

B. Termination in Favor of Respondent

Authority: Family Court Act §§308.1(12) and 354.1(5).

1. Upon receipt of certification from probation that a case has been adjusted, or from the presentment agency that it has declined to originate a proceeding, law enforcement agencies shall destroy all fingerprints, palm prints, photographs, and copies thereof, and all other information obtained in the case.

Authority: Family Court Act §354.1(2)

2. Upon receipt of notification from the court that the case:
  - has been dismissed or
  - the adjudication was for a non-felony or
  - the juvenile was 11 or 12 years old and was not adjudicated for a class A or B felony

The clerk of the court shall notify DCJS and the heads of all police departments and law enforcement agencies having copies of such records, which shall destroy such records without unnecessary delay.

C. Sealing of Records

Authority: Family Court Act §§375.1, 375.2

The arresting agency, upon receipt of notification of a termination in favor of a juvenile, or an election not to proceed or a court order to seal after fingerprinting, shall seal all records related to the arrest other than those destroyed pursuant to Family Court Act §354.1.

D. Expungement: Juvenile Delinquency Adjudication

Authority: Family Court Act §354.1(7)

DCJS reviews the records of individuals turning 21 years of age with fingerprintable juvenile criminal history events pursuant to Family Court Act Section 306.1 to determine if they qualify to have those records purged. Individuals:

- who reach the age of 21, or have been discharged from placement for at least three years, whichever occurs later, **and**
- have no criminal convictions or pending criminal actions which terminate in any conviction qualify to have their juvenile criminal history records purged.
- Upon making that determination, DCJS notifies the arresting agency which shall destroy all fingerprints, palm prints, photographs, and related information and copies obtained related to an arrest purged pursuant to this section.

*Note: Because DCJS cannot determine when a juvenile has been discharged from placement, records are expunged on the juvenile's 21st birthday if no adult arrest conviction exists.*

# ***Chapter 2 Probation Intake Processing***

## **Introduction**

The probation agency's intake unit provides a range of pre-adjudicatory services, including case reviews and evaluations. In some instances the intake unit may adjust the case without the need for Family Court intervention through conciliation, counseling and other means. Probation should utilize the Form found on the Integrated Justice Portal to send notification when a case has been adjusted by probation. The unit may also refer certain cases to Family Court or refer juveniles to other agencies, where appropriate.

## **Standard Practices for Probation Intake Processing**

The following are standard practices for probation intake processing in regards to arrest fingerprint processing:

If there is no evidence in the arrest file that fingerprints were taken (documentation should include the Criminal Justice Tracking Number (CJTN) identifying the set of fingerprints), or there is notification by the arresting agency of the need for fingerprints to be taken, the probation agency should take appropriate steps to have the juvenile fingerprinted.

### **I. Probation: Adjustment**

#### **A. Sealing and Confidentiality**

##### **1. Adjustment**

- a. Authority: Family Court Act §§308.1(12); 375.1; 375.1(5)

Probation shall certify to DCJS and to the appropriate police department or law enforcement agency whenever it adjusts, in any manner other than the filing of a petition, a case in which the juvenile's fingerprints were taken pursuant to Family Court Act §306.1. The key identifiers should be provided as part of this certification.

- b. Authority: Family Court Act §§354.1(5); 375.1(5)

Upon receipt of certification from probation pursuant to the Family Court Act that a case has been adjusted, DCJS and all police departments and law enforcement agencies having copies of such records shall destroy forthwith all fingerprints, palm prints, photographs, and copies thereof, and all other information obtained in the case pursuant to Family Court Act §306.1.

2. Authority: Family Court Act §375.1(3)

Sealed records shall be made available to the juvenile or his designated agent, and probation's records and papers shall be available to probation for the purpose of complying with Family Court Act §308.1(4) governing adjustment.

# ***Chapter 3: Presentment Agency Processing***

## **Introduction**

The presentment agency plays a pivotal role in the communication among all agencies involved in a juvenile delinquency case. If a lack of communication exists among the presentment agency and other agencies, the completeness of court information and the closure of all arrest charges presented on the DCJS criminal history report becomes problematic. Should the presentment agency elect not to proceed, notification should be sent to DCJS utilizing the standard form provided.

## **Standard Practices for Presentment Agency Processing**

The following are standard practices for presentment agency processing.

### **I. Juvenile Delinquent Case Documentation**

#### **A. Case File Contents and Origin**

The presentment agency should be provided with the Arrest File and other documents collected by the probation agency as appropriate.

#### **B. Criminal History Report**

Authority: Family Court Act §320.5(4)

1. The presentment agency should receive the fingerprint-based criminal history report from the arresting agency, where applicable. At the initial appearance, the presentment agency may introduce this record to the court.
2. If the arrest fingerprint-based criminal history report is not provided, and the Criminal Justice Tracking Number (CJTN) is unknown, the presentment agency should contact the arresting agency without delay.
3. If the fingerprint-based criminal history report is not available at the initial appearance, the presentment agency should attempt to obtain a name search inquiry criminal history report.
4. The presentment agency should follow the procedures for arrest processing set forth in chapter 1 regarding the accuracy, confidentiality and sealing of fingerprints and the criminal history report.

# ***Chapter 4: Petition Filing***

## **Introduction**

A Family Court proceeding to adjudicate a person a Juvenile Delinquent can be commenced only by a presentment agency filing a petition in Family Court or where there is an order of removal of a Juvenile Offender (as defined by Criminal Procedure Law §1.20(42)) from a court of criminal jurisdiction to Family Court. The Family Court Act specifies required content in order for a petition to be legally sufficient. A petition may allege more than one crime but should be limited to one juvenile.

The Office of Court Administration has promulgated an official form for a juvenile delinquency petition. In the case of a removal from a court of criminal, the criminal court pleadings and order of removal are deemed to be the petition.

## **Standard Practices for Petition Filing Processing**

The following are standard practices for the filing of a petition in Family Court:

### **I. Filing of Petition**

Authority: Family Court Act §§310.1; 311.1

Documentation of the Criminal Justice Tracking Number (CJTN): This should have been included in the Arrest File. It is essential that the arrest information and CJTN continue to be transmitted to the probation or presentment agency, whichever is receiving the Arrest File, through the fingerprint based rapsheet that is returned as a result of the electronic transmission.

If fingerprinted after any appearance, the CJTN must be forwarded to the agency to which the Arrest File was initially provided.

#### **A. DCJS Arrest Fingerprint-Based Criminal History Report (Rapsheet)**

1. The arrest fingerprint-based criminal history report is transferred to the court and to the presentment agency by the arresting agency (Family Court Act §306.2[3]).
2. At the initial appearance, the presentment agency may introduce the criminal history report. At the conclusion, that criminal history report is returned to the presentment agency and not made a part of the court record (Family Court Act §320.5[4]).

#### **B. Removal from a Court of Criminal Jurisdiction**

Authority: Criminal Procedure Law Article 725; Family Court Act §311.1(7)

In a removal to the Family Court from a court of criminal jurisdiction, an order of removal pursuant to Criminal Procedure Law Article 725 will be filed with the clerk of the Family

Court. Such order and accompanying pleadings and proceedings shall be deemed to be a petition if the juvenile was originally charged as a juvenile offender. Adolescent offenders removed to Family Court begin with probation adjustment.

- The criminal court of removal must notify DCJS of the removal to Family Court

*These items must be transferred to the Family Court as soon as possible but no later than 30 days.*

1. In cases of removal, the Family Court should notify the presentment agency. The presentment agency should then notify the arresting agency that the case has been removed.
  - a. If fingerprints for the juvenile offender or adolescent offender arrest were submitted to DCJS, DCJS will, upon notification of the removal, change the “juvenile offender” or “adolescent offender” arrest to a “juvenile delinquent” arrest. The NYSID and Criminal Justice Tracking Number (CJTN) will remain the same.
  - b. If fingerprints were not taken at the time of arrest and the juvenile is fingerprinted after any appearance, the criminal history report must be forwarded to the agency to which the Arrest File was initially provided.
2. Documentation of the Criminal Justice Tracking Number (CJTN) from the juvenile offender arrest.
  - a. The criminal court of removal should provide the Family Court with documentation of the CJTN associated with the juvenile offender fingerprint submission to DCJS.
  - b. For fingerprints sent to DCJS, it is essential that the arrest information and CJTN continue to be transmitted to the Family Court and the presentment agency by the court of removal.

#### C. Guidelines for Use of the DCJS Criminal History Report

At the initial appearance the presentment agency may introduce the juvenile’s previous delinquency findings entered by a Family Court. The presentment agency may also introduce the fingerprint-based criminal history records maintained by DCJS.

Prior to the initial appearance, the arresting agency shall furnish two copies of the arrest fingerprint-based DCJS criminal history report to the Family Court in which the proceeding is to be held and two copies to the presentment agency, who shall furnish a copy to the attorney for the juvenile.

If the fingerprint-based criminal history report is not available at the initial appearance, the court can use a name search inquiry generated criminal history report if fingerprints had previously been submitted.

The court should develop and uniformly apply a policy consistent with the Use and



Dissemination Agreement signed with DCJS regarding criminal history report use,

dissemination and destruction. Any criminal history report is a confidential document. It should not be shared except as authorized by law. The criminal history report should not be used for any purpose other than the decision point for which it was originally obtained, unless expressly authorized. A request can be made for a current criminal history at any stage of the case.

## II. Sealing and Confidentiality

Authority: Criminal Procedure Law § 725.15; Family Court Act §§166, 375.1. 375.2

Unless authorized by the court, all official records up to and including the order of removal, whether on file with the court, a police agency or DCJS are confidential and shall not be made available to any person or public or private agency. Availability of any records or papers on file with the Family Court shall be governed by provisions that apply to Family Court records.

# ***Chapter 5: Court Appearances – Interim Case Processing***

## **Introduction**

After a juvenile delinquency petition is scheduled for an appearance in Family Court, one or more court appearances may take place prior to a final disposition. For the purposes of this Manual, all appearances, including the first or initial appearance, up to but not including the final or dispositional appearance, are referred to as “interim court appearances.”

The outcomes of these “interim” court appearances are many and varied. Some “outcomes” are substantive and require the court to notify and involve other agencies. For example, a Family Court may issue a warrant, order detention, direct a return to probation intake, adjourn the matter in contemplation of dismissal (ACD), make a fact-finding order (by admission or hearing), request pre-dispositional reports and/or other diagnostic assessments, and/or transfer the case to another jurisdiction. These are all outcomes directing other agencies to take action and report to the court pending a final determination

### **I. Sealing and Confidentiality**

Authority: Family Court Act §351.1(6); 9 NYCRR Part 348; 9 NYCRR §350.10(c)

- A. All Pre-Disposition Investigation (PDI) reports or other documents prepared or obtained by probation for the purpose of a dispositional hearing shall be deemed confidential and subject to disclosure only as provided for by law.

In general, Family Court Act §351.1(6) establishes that all reports or memoranda prepared or obtained by a probation agency for the purpose of a dispositional hearing shall be deemed confidential information furnished to the court and are subject to disclosure solely in accordance with that section or as otherwise provided by law. DCJS rules and regulations governing probation case records and probation investigations and reports establish that probation investigation records are confidential and are accessible only where authorized by law, court order, and/or DCJS. The following are some instances where access to such records is authorized for specific purposes:

1. Interstate/Intrastate probation supervision  
Authority: Family Court Act §176; Executive Law §501(e); 9 NYCRR Part 348
2. Juvenile Probation Investigation  
Authority: Family Court Act §§351.1(1), 750; 9 NYCRR Part 350
3. Child protective services information  
Authority: Executive Law §256-a

# ***Chapter 6: Court Appearance(s): Final Disposition Processing***

## **Introduction**

After the interim court appearances have been concluded and the Family Court is ready to make its determination, the court will schedule the proceeding for disposition. At this appearance, the court will announce its decision by directing one or more dispositions. Final dispositions include dismissal, substitution of petition, conditional discharge, probation supervision, placement (including specifying restrictive or non-restrictive), or abatement by death. Final dispositions require notifications to all individuals and agencies involved in the proceeding, including DCJS. While these dispositions may require other agencies to take certain actions and/or continue their involvement with the juvenile, the disposition effectively marks the end of the court's involvement and closes the court case unless supplemental proceedings occur.

## **Standard Practices for Court Appearance(s): Final Disposition Processing**

The following are standard practices for court appearances for interim case processing:

### **I. Final Disposition**

Authority: Family Court Act §§311.4; 345.1; 352.2

The court should notify DCJS, the arresting agency, presentment agency, probation agency, attorney for the juvenile, detention facility, and placement agency, as appropriate, of the final disposition. Final dispositions can include the following:

- Dismissal
- Substitution of petition (PINS)
- Conditional discharge
- Probation supervision
- Placement (restrictive or non-restrictive) in accordance with Family Court Act §353.3; 353.5
- Transfer in accordance with Family Court Act §353.4
- Abated by death

*Note: Family Court dispositions are received electronically by DCJS through the Office of Court Administration, Universal Case Management System.*

### **II. Notification When Case Is Transferred**

The originating court should notify DCJS when a case is being transferred to another county for disposition and include the following identifiers:

- Key Identifiers
- Originating docket number
- Date case was transferred
- Name of originating court
- Name of receiving court

Upon receipt of the case, the receiving court should immediately notify DCJS of the key identifiers and the new docket number(s).

### III. Documents and information Forwarded to DCJS:

The court forwards the following elements to DCJS upon final outcome:

- Key Identifiers
- Personal Descriptors
- Docket number
- Docket disposition date
- Final docket outcome
  - ACD granted
  - Dismissal
  - Substitution of petition (PINS)
  - JD finding (adjudication) and disposition
  - Conditional discharge
  - Probation supervision
  - Placement
    - Local Department of Social Services (DSS)
    - Office of Children and Family Services (OCFS)
    - OCFS/Voluntary Agency

*Note: Special conditions [e.g., restitution, community service, supervision and order(s) of protection] may be ordered as part of certain dispositions.*

- Charge dispositions
- Notice of disposition or termination of proceeding (OCA Form 3-37)

#### IV. Documents and information forwarded to the arresting agency and detention facility

The following documents and information are forward to arresting agency and detention facility upon final outcome of case:

- Key Identifiers
- Personal Descriptors
- Docket disposition date
- Final docket outcome/disposition
  - ACD granted
  - Dismissal
  - Substitution of petition (PINS)
  - JD finding (adjudication) and disposition
  - Conditional discharge
  - Probation supervision
  - Placement
    - Local Department of Social Services (DSS)
    - Office of Children and Family Services (OCFS)
    - OCFS/Voluntary Agency

*Note: Special conditions [e.g., restitution, community service, supervision and order(s) of protection] may be ordered as part of certain dispositions.*

- Charge dispositions
- Notice of disposition or termination of proceeding (OCA Form 3-37)

#### V. Documents Forwarded to Other Agencies

The court should forward the following documents and information to the probation agency, the presentment agency, and the attorney for the juvenile upon final disposition:

- Key Identifiers
- Personal Descriptors
- Docket number
- Order of disposition
- Order of dismissal
- Other court orders, as applicable

## VI. Documents for Case File

The following documents and information should be collected for the case file, where applicable:

- Order of disposition
- Other court orders
- Notice of disposition or termination of proceeding (OCA Form 3-37)
- Order of protection
- Originating docket number
- Date case was transferred
- Name of originating court
- Name of receiving court
- New docket number
- New family file number in instances of transfer
- Name of judge
- Docket disposition date
- Final docket outcomes
  - ACD granted
  - Dismissal
  - Substitution of petition (PINS)
  - JD finding (adjudication) and disposition
  - Conditional discharge
  - Probation supervision
  - Placement
    - Local Department of Social Services (DSS)
    - Office of Children and Family Services (OCFS)
    - OCFS/Voluntary Agency

*Note: Special conditions [e.g., restitution, community service, supervision and order(s) of protection] may be ordered as part of certain dispositions.*

- Charge dispositions

## VII. Sealing and Confidentiality

### A. Record Sealing and Destruction

Authority: Family Court Act §§308.1; 315.3; 354.1; 375.1; 375.2

#### 1. DCJS - Record Destruction

Upon notification by a police department/law enforcement agency, probation agency, presentment agency or Family Court that a juvenile delinquency proceeding has been terminated in any manner other than an adjudication for a crime which, if committed by an adult, would constitute a felony (or in the case of a juvenile eleven or twelve years of age at the time of commission, for a class A or B felony only), DCJS must destroy all records in its possession pertaining to a juvenile delinquency proceeding.

If a proceeding has been adjourned in contemplation of dismissal, notifications should be sent on the date of adjournment; however, official records and papers in such cases should not be destroyed until receipt of court notification of the matter being terminated in favor of the juvenile.

#### 2. Police Departments and Law Enforcement Agencies - Record Destruction and Sealing

Upon notification by a probation department, presentment agency or Family Court that a Juvenile Delinquency proceeding has been terminated in any manner other than an adjudication for a crime which, if committed by an adult, would constitute a felony (or in the case of a juvenile eleven or twelve years of age at the time of commission, a class A or B felony only), the heads of all police departments and law enforcement agencies having copies of fingerprints, palm prints, and photographs must destroy those records.

Unless the Family Court determines that the interests of justice require otherwise, all other official records and papers relating to the allegations must be sealed when a juvenile delinquency proceeding has been terminated in favor of the juvenile. Such records and papers shall not be made available to any person or public or private agency. During the pendency of any motion to prevent sealing, such records and papers must remain sealed.

If a proceeding has been adjourned in contemplation of dismissal, notifications should be sent on the date of adjournment; however, official records and papers in such cases should not be sealed/destroyed until receipt of court notification of the ultimate dismissal.

Sealed records shall be made available to the juvenile or his designated agent, and probation's records and papers shall be available to probation for the purpose of complying with Family Court Act §308.1(4), governing adjustment.



### 3. Other Agencies - Record Sealing

Unless the Family Court determines that the interests of justice require otherwise, where a juvenile delinquency proceeding has been terminated in favor of a juvenile, the Family Court, presentment agency, attorney for the juvenile, and probation agency must, upon receipt of notification from the agency terminating the juvenile delinquency proceeding, seal all official records and papers (not including public court decisions, opinions or briefs on appeal) relating to the arrest, the prosecution and the probation agency proceedings, and shall not make such records and papers available to any person or public or private agency. During the pendency of any motion to prevent sealing, such records and papers must remain sealed.

If a proceeding has been adjourned in contemplation of dismissal, notifications should be sent on the date of adjournment; however, official records and papers in such cases should not be sealed until receipt of court notification of the ultimate dismissal.

#### B. Expungement of court records

Authority: Family Court Act §375.3

Family Courts have inherent authority to expunge court records. Nothing contained in Family Court Act Article 3 shall preclude a court from exercising this authority over its own records. A court cannot, however, order the expungement of DCJS records where expungement is not authorized by statute.

#### C. Confidentiality of arrests and proceedings

Authority: Family Court Act §380.1

Juvenile delinquency adjudications shall not be deemed a conviction. No person shall be required to divulge information pertaining to a juvenile delinquency arrest or any subsequent proceeding filed pursuant to Family Court Act Article 3, except where specifically required by statute. For example:

- Court notification to the designated educational official of the school where the juvenile is enrolled if the juvenile has been placed with OCFS (OCA form 3-47)
- CPL 160.30 and Family Court Act §306.2 require DCJS, upon submission of fingerprints, to include information on a criminal history report regarding adjudications as a juvenile delinquent
- CPL 390.30 and Family Court Act §351.1 require probation departments to include history of delinquency conduct in any pre-sentence or pre-dispositional investigation and report
- Family Court Act §176, Executive Law §501-e and applicable governing rules (See Interstate /Intrastate Compact for Juveniles) authorize probation agencies to disclose certain probation case information concerning juveniles in Interstate /Intrastate transfer of probation cases.

- Family Court Act §166 provides that the records of any proceeding in the Family Court shall not be open to indiscriminate public inspection. However, the court in its discretion in any case, may permit the inspection of any papers or records (see, 22 NYCRR §205.5).

D. Transfer of records and information to institutions and agencies

Authority: Family Court Act §381.1

Whenever a juvenile is placed, the Family Court must transmit a copy of its orders pursuant to Family Court Act §352.1 and §352.2 as well as copies of the probation report and all other relevant evaluative records in its possession or in the possession of the probation department, including but not limited to any diagnostic, educational, medical, psychological and psychiatric records with respect to such juvenile, notwithstanding any contrary provision of law.

E. Use of records in other courts

Authority: Family Court Act §381.2

The fact that a juvenile was before the Family Court for a juvenile delinquency hearing, as well as any confessions, admissions or statements made by the juvenile to the court or any other officer thereof, are not admissible as evidence against the juvenile in any other court.

However, in imposing sentence upon an adult after conviction, another court may receive and consider the records and information on file with the Family Court, unless such records and information have been sealed pursuant to Family Court Act §375.1.

F. Use of police records

Authority: Family Court Act §381.3

All police records relating to the arrest and disposition of any alleged and/or adjudicated juvenile delinquent shall be kept in files separate and apart from the arrests of adults and shall be withheld from public inspection.

The Family Court in the county in which the petition was adjudicated may, upon motion and for good cause, issue a written order opening such records:

- a. to the juvenile or his/her parent or person responsible for his/her care; or

if the juvenile is subsequently convicted of a crime, to a judge of the court in which he/she was convicted, unless such record has been sealed pursuant to Family Court Act §375.1.