



<b>FINGERPRINTS &amp; PHOTOGRAPHS</b>	
✓ <b>new:</b> <b>rescinds:</b> <b>amends:</b>	<b>cross-reference:</b>  <b>accreditation standards:</b> NYSLEAP Standard(s): 50.8
<b>effective date:</b> January, 2021	<b>amend date:</b>

**I. PURPOSE**

The purpose of this General Order is to establish and describe policies and procedures to be followed by office personnel when processing persons under arrest or under investigation by the office.

**II. POLICY**

It is the policy of the Tompkins County Sheriff's Office to obtain all identification from persons that have been arrested, or are under investigation, by the office. The Sheriff's Office will participate in the State Automated Biometric Identification System (SABIS), utilizing Livescan. Personnel will ensure that all applicable Federal, State, and local laws are complied with when obtaining this information.

**III. LIVESCAN PROCEDURES**

**A. Adult Offenders**

1. Following an arrest, or following the arraignment upon a local criminal court accusatory instrument of a defendant whose court attendance has been secured by a summons or an appearance ticket under circumstances described in sections 130.60 and 150.70 of the NYS Criminal Procedure Law, the arresting officer or other appropriate police officer or agency must obtain fingerprints of the arrested person if the offense is:
  - A felony; or
  - A misdemeanor defined in the penal law; or
  - A misdemeanor defined outside the penal law which would constitute a felony if such person had a previous judgment of conviction for a crime; or
  - Loitering for the purpose of engaging in a prostitution offense as defined in subdivision two of section 240.27 of the Penal Law.

2. Any person arrested pursuant to a warrant or as a Fugitive from Justice from another state will be fingerprinted prior to delivery to the appropriate Court or the Tompkins County Jail.

**Note:** An officer should only submit an electronic arrest transaction containing a set of fingerprints to DCJS if the person has **not** previously been fingerprinted for the arrest.

3. In addition, a police officer who makes an arrest for any offense, either with or without a warrant, may take or cause to be taken the fingerprints and photographs of the arrested person if such police officer: *Utilize the Criminal Inquiry Booking icon.*

- Is unable to ascertain such person's identity; or
- Reasonably suspects that the identification given by such person is not accurate; or
- Reasonably suspects that such person is being sought by law enforcement officials for the commission of some other offense.

4. The taking of fingerprints as prescribed in this section and the submission of available information concerning that arrested person and the facts and circumstances of the crime charged must be in accordance with the standards established by the commissioner of the Division of Criminal Justice Services. *See NYS Standard Practices Manual: Processing Finger printable Criminal Cases (10/2018)*

5. Fingerprints and photographs will normally be taken at the time of arrest. When this is not practical, the appropriate authority will be notified and arrangements made to have fingerprints taken at the time of arraignment or next court appearance.

B. Juvenile Offenders will be fingerprinted and photographed according to the procedures set forth in *G.O. 1004 Juvenile Contact & Arrest Procedures*.

C. Fingerprint Forms

1. All arrest fingerprint submissions are to be submitted, to DCJS, electronically using Livescan.
2. An officer 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).
3. Arrests involving multiple unrelated incidents require a set of fingerprints be submitted separately for each incident.

**Note:** If a subject is arrested again or needs an additional booking for a separate crime, the booking can be replicated within 48 hours of the original booking, thereby populating basic information such as pedigree, photos, and fingerprints. Again, navigating to the "Manage Transactions" screen, highlighting the booking, and clicking "Copy Transaction". A pop-up will ask what kind of transaction you are creating and, in most cases, it will obviously be "Criminal Booking". From there you would proceed as normal by opening the booking to

"Full View" and populating whatever information that did not populate over, i.e., case information, charges, etc..

4. An officer should submit separate sets of fingerprints with the appropriate charges for each court of preliminary jurisdiction covered by an arrest.
5. If the Livescan system is not functioning the arrestee is to be "ink" fingerprinted using two (2) DCJS-2 fingerprint cards (in case the first card is no good). When the Livescan system comes back online the suspect's fingerprint card is to be submitted to DCJS using the Cardscan system. See the *Live Scan Manual* for instructions.
  - a. The bottom (court copy) of the DCJS-2 print card can be torn off and discarded.
  - b. After fingerprints have been submitted to DCJS using Cardscan, the two (2) print cards shall be made a part of the case file.

#### D. Fingerprinting Procedures

1. Please refer to the *Live Scan Manual* that is attached to this Order and posted on the Live Scan unit. See the *NYS DCJS Livescan Training Guideline* attachment for further guidance.
2. The standard fingerprints require two types of impressions:
  - Rolled impressions of the last segment (from the tip to one quarter inch below the first joint) of each individual finger and thumb which should start from one nail bed and finish at the other edge; and
  - Flat impressions of all four fingers on each hand taken simultaneously and flat impressions of each thumb.
3. Double thumbs or webbed fingers should be printed together as one.
4. Missing, mutilated, amputated, or otherwise damaged fingers should be indicated.
5. Properly enter all identifying information; and
  - Obtain the defendant's signature;
  - If the arrestee refuses to sign the fingerprint card personnel may wait a reasonable amount of time and attempt to obtain the appropriate signature. If the arrestee continues to refuse signing the card, enter: REFUSED in the arrestee's signature block.
  - If an individual refuses to be fingerprinted, you can obtain a court order directing that the defendant submit to fingerprinting. It is appropriate for the police to hold the defendant to submit to fingerprinting, as ruled in *People v. Batista* (128 Misc.2d 1054 [New York City Crim. Ct., 1985]).
  - 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 the individual report to the Office for fingerprinting prior to the next appearance in court and return with evidence that fingerprinting has occurred.

## E. Photograph Procedures

1. Any person arrested for a finger printable offense will also be photographed. Photographs will be taken using the Live Scan unit.
2. At a minimum, always capture the centered, full-face pose. The eyes should be open, looking at the camera, and the face should be expressionless, if possible.
3. Glasses, hats and any other visually distracting items should be removed prior to the photo capture process.
4. The subject's eyes should be about 55% up from the bottom of the image. The distance between the subject's ears should be about half the width of the total image.
5. No booking placard (noting agency name, date, arrest number, etc.), height measurements on the wall behind the subject, nor any other prejudicial indicators, references, or markers should be used. (Any inference as to a subject's possible criminal history or activity reduces the suitability for the photo for subsequent use in photo line-ups)
6. Orange or distinctive Corrections-issued jumpsuits or clothing should be avoided, if possible.
7. If the Livescan system is not functioning the officer should utilize a patrol camera to capture the aforementioned photograph(s). When the Livescan system comes back online the suspect's photograph can be attached to the booking.

## F. Submit to DCJS

1. Verification can be completed in the following ways: **This step should be done before releasing the arrestee or inquiry subject.**
  - a. You can sign into your eJustice account and go to the "agency inbox", CCH (Computerized Criminal History tab), periodically refresh the page and you should see your rap sheet there. If you have received the rap sheet back you may release the arrestee upon reviewing the rap sheet confirming the correct identity.
  - b. Within the portal, navigate to "People" >> "Criminal/Civil Transaction" >> "Transactions Inquiry/Search" and then enter the subject's first and last name. This provides a detailed response including rejection reasons.
  - c. Upon a successful transaction confirmation, print the associated form and attach it to the case file.

## G. Responding to DCJS Error Response

1. The officer should use the current booking information from their Livescan system if requested by DCJS to reprint an arrestee due to the poor quality of the fingerprints.
2. The officer should correct the error(s) listed by DCJS and then manually resubmit the booking to DCJS by navigating to "Manage Transactions". The list of bookings now appears and the one in question generally shows "error" in its status. Highlight that booking and click "Resubmit" at the top and a pop-up will ask if the booking has previously been received by the agency and you click "yes", which will open the booking and the field for resubmission. Make the necessary corrections and scroll down to "Resubmission Indicator" and choose the option that applies. **Upon fixing a booking, the Transaction Inquiry should be completed again to indicate a successful transaction.**

**Note:** Generally, the Transaction Inquiry will list the error, such as "fingerprint taker ID invalid". This example usually occurs when a user ID (badge number) is required for that line and the line is left as TCSO or they type a name in the field. If you follow the line-by-line instructions on the left of the screen, errors can be avoided.

## H. Requests to Amend, Seal or Void an Arrest

1. All requests to amend information that accompanied fingerprints, or requests to seal or void an arrest must be sent in writing to DCJS. Agencies can submit these requests by using the *Arrest Information Updates form*, which can be obtained from Resources » Reference Library » Law Enforcement Forms and Publications link on the eJusticeNY Integrated Justice Portal. See the *Fingerprint Submission Reminder for Police Agencies* attachment for details.

### Attachments:

- A. *Live Scan Manual*
- B. *NYS Standard Practices Manual: Processing Finger printable Criminal Cases (10/2018)*
- C. *Arrest Information Updates form*
- D. *Fingerprint Submission Reminder for Police Agencies*

By Order Of



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Sheriff