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**Section: THREE  
Chapter: THREE**

**SUBJECT:** Arrest Procedures  
**ISSUE DATE:** 08-15-16  
**REFERENCE:** NYS 8.2, 47.1, 50.8

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**PURPOSE:** To establish a policy and procedure so that officers comply with the New York State Criminal Procedure Law and to ensure that arrest processing is consistent and compliant with the policies and procedure set forth in this order.

**I. AUTHORITY**

- A. A police officer may arrest a person for:
  - 1. Any offense, for which he has reasonable cause to believe such person has committed such offense in his presence. ( CPL 140.10 sub a)
  - 2. A crime, when he has reasonable cause to believe that such person has committed such crime, whether in his presence or otherwise. (CPL 140.10 sub b)

**II ARREST PROCEDURES**

- A. Felony and Misdemeanor arrests
  - 1. The arresting officer will transport the defendant to the appropriate department facility for processing.
  - 2. The arresting officer will make the necessary inquiries to determine if any warrants are outstanding from other agencies.
- B. Violation arrests.
  - 1. The arresting officer will make the necessary inquiries to determine if any warrants are outstanding from other agencies.
- C. Appearance tickets
  - 1. Appearance tickets should be issued for violation and misdemeanor arrests, made with out a warrant, unless the arresting officer has reason to believe the defendant may not appear in court as scheduled or that the defendant may engage in continued illegal activity.
  - 2. Arrests for felony offences usually require immediate arraignment. The arresting officer should consult with the supervisor or the Officer in Charge if it is believed the felony charge is one of the class E felonies for which issuance of an appearance ticket is allowed in the Criminal Procedure Law. ( CPL article 150)
  - 3. The arresting officer should contact the court on any warrant arrest, other than a parking ticket warrant. The directives of the court will be followed.
- D. Arraignment
  - 1. Persons that have been arrested and, based on II C of this order, will not be issued an appearance ticket, will be immediately arraigned.

- 2 In the event the Village Justice is not available “with reasonable promptness” the arresting officer will cause the town justice to be notified and subsequently, adjacent towns, until an available justice is located.

### **III. FINGERPRINTS AND PHOTOGRAPHS**

The policy to the Village of Palmyra Police Department is to adhere to New York State laws pertaining to fingerprinting and photographing criminal suspects/defendants, juvenile suspects/defendants and processing civilian requests for fingerprinting.

- A. The arresting officer will take, or cause to be taken, fingerprints of the defendant when the offense charged in the accusatory instrument is:
  1. A felony
  2. A misdemeanor defined in the New York State Penal Law
  3. A misdemeanor defined outside the New York State Penal Law that would constitute a felony if such person had a previous conviction for that same crime (ie: NYS V&T Driving While Intoxicated).
- B. For arrests in which fingerprinting is not required, the arresting officer will take or cause to be taken, fingerprints of the defendant:
  1. In circumstances where the officer is unable to identify the defendant.
  2. The officer has grounds to believe the identity used by the defendant is fictitious.

These prints will be immediately submitted for review to make a determination of the defendant’s identity.

- C. When fingerprints are taken, the defendant shall also be photographed.
- D. As part of an investigative procedure an officer may obtain a voluntary set of fingerprints for purposes of comparison.
- E. Fingerprinting procedures of juveniles will be pursuant to section 306.1 of the Family Court Act. Guidelines of compliance with this section of the Family Court Act are listed as Appendix A of this order.
- F. It is understood that at times it is not practical to comply with these fingerprinting directives, for example, appearance tickets issued in the field or in cases of extreme intoxication or physical incapacitation of the defendant. In these instances, the arresting officer will attach a note to the arrest package so that at the first court appearance, the court will direct the defendant to the police station to complete the fingerprint and photograph procedure.

### **IV. CITIZEN REQUESTS FOR FINGERPRINTS**

It is policy of the Palmyra Police Department to assist residents in complying with fingerprinting requirements of job applications, permits, adoptions and professional licenses. Fingerprinting for these purposes will be done at times designated by the Chief of Police and will be during common business hours. The citizen will provide the necessary fingerprint cards.

By order of:  
David B. Smith  
Chief of Police

## Appendix A

### FAMILY COURT ACT OF NEW YORK STATE

**306.1. Fingerprinting of certain alleged juvenile delinquents. 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. Whenever fingerprints are required to be taken pursuant to subdivision one, the photograph and palmprints of the arrested child may also be taken.**

**3. The taking of fingerprints, palmprints, photographs, and related information concerning the child and the facts and circumstances of the acts charged in the juvenile delinquency proceeding shall be in accordance with standards established by the commissioner of the division of criminal justice services and by applicable provisions of this article.**

**4. Upon the taking of fingerprints pursuant to subdivision one the appropriate officer or agency shall, without unnecessary delay, forward such fingerprints to the division of criminal justice services and shall not retain such fingerprints or any copy thereof. Copies of photographs and palmprints taken pursuant to this section shall be kept confidential and only in the exclusive possession of such law enforcement agency, separate and apart from files of adults.**