



# Ithaca Police Department

120 East Clinton Street  
Ithaca, New York 14850

General Order Number: 523

Appearance Tickets and Pre-Arrestment Bail

Issuing Authority: Chief John Barber

Effective Date: 02/10/16

Rescinds/Supersedes: General Order 523 dated 12/15/15

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Applicable NYSLEA Standards: 5.3; 47.1

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## I. Purpose

To establish the policy and procedures for the issuance of appearance tickets, in lieu of an immediate arraignment and the acceptance of pre-arrestment or police bail.

## II. Definitions

- A. An Appearance Ticket is written notice issued and subscribed by a Police Officer directing a person to appear in a local criminal court at a future time, in connection with such person's alleged commission of an offense.
- B. This notice will either be the Appearance Ticket for offenses of the New York State Penal Law or Local Law violation, or a Uniform Traffic Summons (TSLED) for violations of the New York State Vehicle and Traffic Law.

## III. Policy

- A. Officers will run a Criminal History for any individual arrested for a crime and include it within the case following GO 543 procedures.

B. An Appearance Tickets shall not be issued when the offenses alleged are:

1. Class A, B, C, or D Felonies, or
2. Class E Felonies in violation of the Penal Law sections:
  - a) 130.25 Rape Third Degree
  - b) 130.40 Sodomy Third Degree
  - c) 205.10 Escape Third Degree
  - d) 205.17 Absconding from Temp Release First
  - e) 205.19 Absconding from Community Treatment Facilities
  - f) 215.56 Bail Jumping First Degree
3. Appearance Tickets will not be issued to any person being arrested on a Bench Warrant, or where there is a warrant for violation of probation or parole.
4. Appearance tickets will not be issued to any person who is charged with an offense and who is NOT a resident of New York State unless some form of pre-arraignment bail is posted. Refer to Section. IV.E.
5. Appearance Tickets will be issued for all other offenses, where a defendant is arrested, and released from custody prior to arraignment.
6. In the event an issuing justice for a local warrant stipulates an appearance ticket be issued rather than appear immediately before the court, the arresting officer shall document such order of the court on the incident report, or supplemental report form.

C. Eligibility Criteria

1. A defendant is eligible for the issuance of an Appearance Ticket when:
  - a) The Defendant's identity is established and,
  - b) The Defendant's address is established, and
  - c) The Defendant is a resident of New York State and
  - d) The officer reasonably believes the defendant will not continue/repeat the conduct he was arrested for, and
  - e) Examination of the Defendant's Criminal history reveals no threat of physical violence, threats of safety to the community, and no bench warrant history.

2. A Defendant is not Eligible for issuance of an Appearance Ticket by field personnel when arrested for:
  - a) A Driving While Intoxicated arrest when there is a motor vehicle accident where serious physical injury involved to a person other than the Defendant. These cases are monitored by the Tompkins County District Attorney's Office and a representative of that office must clear any request for the issuance of an Appearance Ticket.
  - b) Any arrest for a bench warrant, with no bail amount stipulated.
  - c) Any warrant from another jurisdiction
  - d) Any Family Court Warrant unless a suggested bail is listed upon the warrant.
  - e) Any arrest for Criminal Contempt Second/ Violation of Order of Protection
  - f) Any arrest for an incident constituting a Family Offense as defined in General Order 442.

#### **IV. Procedures**

- A. The issuing officer will complete all the applicable parts of the Spillman Report reflecting the officer's actions and observations.
- B. The arresting officer will fingerprint and photograph the Defendant if appropriate.
- C. Defendants issued Appearance Tickets without posting bail will be scheduled for arraignment (return Date) in court of competent jurisdiction.
- D. An Appearance Ticket will be completed. The copies of the Appearance Ticket are distributed as follows:
  1. The top copy original will be given to the defendant, and the officer will instruct the defendant when and where to appear, and that a warrant for his/her arrest will result in his/her failure to appear.
  2. The rest of the copies will be turned into the Records Division who will prepare the court's copies and forward them.

## E. Pre-Arrestment or Police Bail

1. Sections 150.30 and 150.75 of the Criminal Procedure Law CPL) and Section 155-a of the Family Court Act (FCA) authorize police officers to set and accept pre arraignment bail in certain instances.
2. Basic Requirements
  - a) Pre-Arrestment bail may be accepted in connection with:
    - i. Issuance of an appearance ticket; or
    - ii. Issuance of a uniform traffic ticket (TSLED) (non-felony); snowmobile or navigation ticket; or
    - iii. Execution of a Family Court arrest warrant.
  - b) The offense may only be a:
    - i. traffic infraction
    - ii. violation
    - iii. misdemeanor
    - iv. Class E felony (except those specified in III B.2. of this general order)
  - c) When pre-arrestment bail is taken, issue an appearance ticket to the defendant or respondent.
    - i. In V&T cases the TSLED is the appearance ticket
    - ii. In Family Court cases, set the appearance date for the morning of the next regularly scheduled court day.
  - d) Per the Criminal Procedure Law, sections 150.30-2 and 150.30-3, the required amounts for Pre-Arrestment Bail shall not exceed the following:
    - i. Eligible Class E felonies \$750.00
    - ii. Class A misdemeanors \$500.00
    - iii. Class B and unclassified misdemeanors \$250.00
    - iv. Violations \$100.00
    - v. Unlicensed Operator \$50.00
  - e) The bail amounts listed above are the maximum allowed by law. Lower bail amounts may be set at the discretion of a Supervisor.
  - f) The amount of bail required to be posted for Family Court warrants will be indicated on the warrant.

- g) Pre-Arrestment bail may only be accepted in cash.
- h) Upon acceptance of pre-arrestment bail, a receipt must be completed and issued to the person posting bail. The defendant must be warned that the bail will be forfeited upon failure to comply with the directions of the appearance ticket.
- i) The bail receipt book will be kept at the Front Desk area.

3. Pre-Arrestment Bail Record Keeping Procedures

- a) Count the cash.
- b) Complete the Cash Bail Receipt which shall include:
  - i. Defendant's name
  - ii. Arrest charges
  - iii. Case #
  - iv. Court Date
  - v. Court
  - vi. Amount of bail
  - vii. Who received the bail
  - viii. Person posting bail
- c) Wrap the yellow copy of the bail receipt around the cash, staple it together once, and place it in the locked bail drop box at the front desk.
- d) Make a copy of the bail receipt and include it in the case file.
- e) The bail will be delivered to the Ithaca City Court by the Warrant Officer, who will obtain a receipt from the person accepting the bail on behalf of the court.
- f) Record all transactions and retain for three (3) years.

4. Determining Factors

- a) Consider the following factors when deciding whether to set pre-arrestment bail:
  - i. Is a Judge available for arraignment;
  - ii. Is the defendant a resident of New York State
  - iii. Does the defendant have any strong ties to Tompkins County;
  - iv. In your opinion, will the defendant fail to appear for court or flee the jurisdiction of the court?
- b) An intoxicated defendant shall not be released on bail or his/her own recognizance. The defendant may be released to the custody of a sober friend or relative with or without bail as determined by a Supervisor.

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