

GENERAL ORDER # 2020-009**Subject:** Implementation of Mayor’s Executive Order 2020-001: Appearance Tickets**INTRODUCTION**

Buffalo Police Officers shall be guided by the requirements of Criminal Procedure Law Article 150 when issuing such appearance tickets. Officers should refer to CPL §150.20 when determining whether to issue an appearance ticket. Before issuing the appearance ticket, officers “must inform the arrestee that they may provide their contact information for the purposes of receiving a court notification to remind them of their court appearance date” and obtain such contact information, including phone number(s), residential address or address at which the arrestee receives mail, or email address, from the arrestee consistent with CPL §150.10(3).

WHEN APPEARANCE TICKETS MAY NOT BE ISSUED

An appearance ticket shall **not** be issued for crimes involving violent or threatening conduct where a request for an order of protection on behalf of the complaining witness(es) is appropriate, sex offenses, violation(s) of an order of protection, domestic violence incident(s), Class A, B, C, or D felonies, violations and crimes related to the operation of a motor vehicle while under the influence of alcohol or drugs under the Vehicle and Traffic Law, and felony narcotic sales or possession charges. In such cases, an arrest must be effectuated.

WHEN APPEARANCE TICKETS SHALL BE ISSUED

Officers shall issue appearance tickets *from their vehicles*, in accordance with CPL §150.20(1)(a), for all nonviolent Class E felonies, misdemeanors, Vehicle and Traffic law crimes and violations, and other violations, **except** for the following scenarios where officers should **not** issue an appearance ticket and should effectuate an arrest:

SECTION	TITLE	CATEGORY
Penal Law § 130.25	Rape in the 3 rd Degree	Class E Felony
Penal Law §130.40	Criminal Sexual Act in the 3 rd Degree	Class E Felony
Penal Law § 205.10	Escape in the 2 nd Degree	Class E Felony
Penal Law § 205.17	Absconding...1 st Degree	Class E Felony
Penal Law § 205.19	Absconding from Community Treatment Facility	Class E Felony
Penal Law § 215.56	Bail Jumping in the 2 nd Degree	Class E Felony

AGGRAVATING CIRCUMSTANCES TO CONSIDER PRIOR TO ISSUING AN APPEARANCE TICKET

Pursuant to CPL §150.20(1)(b), an officer is *not required* to issue an appearance ticket, and therefore may consider effectuating a custodial arrest for a class E felony or lesser offense if:

- (1) the person has one or more outstanding local criminal court or superior court warrants;
- (2) the person has failed to appear in court proceedings in the last two year;
- (3) the person has been given a reasonable opportunity to make their identity verifiable and method of contact known and has been unwilling to do so;
- (4) the person is charged with a crime between members of the same family or household;
- (5) the person is charged with a crime defined in Article 130 of the Penal Law;
- (6) it reasonably appears the person should be brought before the court for consideration of issuance of an order of protection based on the facts of the crime the officer has reasonable cause to believe occurred;
- (7) the person is charged with a crime for which the court may suspend or revoke his or her drivers’ licenses; and
- (8) it reasonably appears to the officer, based on the observed behavior of the individual in the present contact with the officer and facts regarding that person’s condition that indicates a sign of distress to such a degree that the person would face harm without immediate medical or mental health care, however, before making the arrest, the officer shall make all reasonable efforts to assist the person in securing appropriate services.

ARRESTS AND TRANSPORT TO CENTRAL BOOKING OR ISSUANCE OF APPEARANCE TICKETS AT CENTRAL BOOKING SHOULD BE EFFECTUATED FOR THE FOLLOWING PENAL LAW OFFENSES

Specifically, officers should effectuate an arrest and transport to Central Booking, where further investigation and consideration for the issuance of an appearance at Central Booking, for the following offenses:

SECTION	TITLE	CATEGORY
Penal Law §120.00	Assault in the 3 rd Degree	Class A Misdemeanor
Penal Law §120.01	Reckless Assault of a child by daycare provider	Class E Felony
Penal Law §120.03	Vehicular Assault in the 2 nd Degree	Class E Felony
Penal Law §121.11	Crim. Obstruction of breathing or blood Circulation	Class A Misdemeanor
Penal Law §120.12	Aggravated Assault upon a person less than 11 y/o	Class E Felony
Penal Law §120.13	Menacing in the 1 st Degree	Class E Felony
Penal Law §120.14	Menacing in 2 nd Degree	Class A Misdemeanor
Penal Law §120.15	Menacing in the 3 rd Degree	Class B Misdemeanor
Penal Law §120.55	Stalking in the 2 nd Degree	Class E Felony
Penal Law §120.70	Luring a Child	Class E Felony
Penal Law §125.10	Criminally Negligent Homicide	Class E Felony
Penal Law §130.20	Sexual Misconduct	Class A Misdemeanor
Penal Law §130.52	Forcible Touching	Class A Misdemeanor
Penal Law §130.53	Persistent Sexual Abuse	Class E Felony
Penal Law §130.55	Sexual Abuse in the 3 rd Degree	Class B Misdemeanor
Penal Law §130.60	Sexual Abuse in the 2 nd Degree	Class A Misdemeanor
Penal Law §130.65-a	Aggravated Sexual Abuse in the 4 th Degree	Class E Felony
Penal Law §130.85	Female genital mutilation	Class E Felony
Penal Law §135.05	Unlawful Imprisonment in the 2 nd Degree	Class A Misdemeanor
Penal Law §135.10	Unlawful imprisonment in the 1 st Degree	Class E Felony
Penal Law §165.05	Unauthorized use of a vehicle in the 3 rd Degree	Class A Misdemeanor
Penal Law §165.06	Unauthorized use of a vehicle in the 2 nd Degree	Class E Felony
Penal Law §205.05	Escape in the 3 rd Degree	Class A Misdemeanor
Penal Law §215.50	Criminal Contempt in the 2 nd Degree	Class A Misdemeanor
Penal Law §260.10	Endangering the Welfare of a Child	Class A Misdemeanor
Penal Law §263.11	Possessing an obscene sexual performance by a child	Class E Felony
Penal Law §263.16	Possessing a sexual performance by a child	Class E Felony
Penal Law §265.01	Criminal possession of a weapon in the 4 th Degree	Class A Misdemeanor
Penal Law §265.01-a	Criminal possession of a weapon on school grounds	Class E Felony
Penal Law §265.01-b	Criminal possession of a firearm	Class E Felony

ARREST AND TRANSPORT TO CENTRAL BOOKING OR ISSUANCE OF APPEARANCE TICKET AT CENTRAL BOOKING REQUIRED FOR THE FOLLOWING AGRI & MKTS and VTL OFFENSES

Specifically, officers should effectuate an arrest and transport to Central Booking, where further investigation and consideration for the issuance of an appearance at Central Booking, for the following offenses:

SECTION	TITLE	CATEGORY
AGRI & MKTS §353	Overdriving, torturing & injuring animals, failure to provide proper sustenance	Misdemeanor
AGRI & MKTS §353-a	Aggravated cruelty to animals	Felony
AGRI & MKTS §353-c	Electrocution of fur-bearing animals prohibited	Class A Misdemeanor
VTL §1192(2)-(4)	Operating a motor vehicle while under the influence of alcohol or drugs	Unclassified Misdemeanor
VTL §1192(2-a)	Aggravated Driving While Intoxicated	Unclassified Misdemeanor