



## PATROL GUIDE

Section: Arrests

Procedure No: 208-81

### DESK APPEARANCE TICKET - DISQUALIFYING FACTORS

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#### PURPOSE

To determine the factors that would disqualify a defendant from receiving a Desk Appearance Ticket (DAT).

#### PROCEDURE

A defendant who is charged with a Class E felony, misdemeanor or violation will be issued a DAT unless one or more of the following factors exist:

1. Defendant is not properly identified as per *P.G. 208-28, "Desk Appearance Ticket - Identification Standards."*
2. Defendant has an open warrant.
3. Defendant is charged with a family offense.
  - a. Complainant/victim and offender are members of the same family/household as defined in the Criminal Procedure Law or as defined in the expanded definition of a family/household as per *P.G. 208-36, "Family Offenses/Domestic Violence."*
4. Defendant is charged with a sex crime as defined in Article 130 of the New York State Penal Law (including all attempts or conspiracy to commit such offenses).
5. Defendant is charged with an offense that would constitute child abuse, neglect, or maltreatment (see *P.G. 215-03, "Emergency Removals or Investigation and Reporting of Abused, Neglected or Maltreated Children"* and *P.G. 208-36, "Family Offenses"*).
6. Defendant is charged with a crime for which the court may suspend or revoke their driver license.
  - a. PL 120.03 – Vehicular Assault in the Second Degree,
  - b. VTL 600(2)(a) – Leaving the Scene of an Incident without Reporting (Physical Injury, Serious Physical Injury or Prior),
  - c. VTL 1192 – DWI/DWAI – all charges, or
7. Defendant is charged with Escape in the Second Degree, Absconding in the First Degree, Absconding from Treatment Facility, or Bail Jumping in the Second Degree.
8. Defendant has violated an Order of Protection.
9. Defendant's condition indicates signs of distress that the defendant would face harm if released without immediate medical attention or mental health care for further detention is in the defendant's best interest.
  - a. This includes a defendant under the influence of drugs/alcohol to the degree that they may endanger self or others.
10. Defendant has failed to appear in criminal court proceedings in the last two years.
11. Circumstances of the case cause the arresting officer to reasonably believe that a strong possibility of violence against the complainant/victim may occur and that the complainant/victim should seek an Order of Protection against the defendant.

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- a. A DAT may be denied for this reasoning for a number of offenses based on the circumstances presented to the arresting officer.
- b. A DAT will not be issued based on this reasoning, where an arrestee is charged with the following offenses:
  - (1) PL 120.01 - Reckless Assault of Child by a Child Day Care Provider
  - (2) PL 120.13 - Menacing in the First Degree
  - (3) PL 120.14 (sub 2) - Menacing in the Second Degree
  - (4) PL 120.55 - Stalking in the Second Degree
  - (5) PL 120.70 - Luring a Child
  - (6) PL 135.50 - Custodial Interference in the First Degree
  - (7) PL 135.55 - Substitution of Children
  - (8) PL 135.61 - Coercion in the Second Degree
  - (9) PL 190.26 - Criminal Impersonation in the First Degree
  - (10) PL 215.11 - Tampering with a Witness in the Third Degree
  - (11) PL 215.51 (Sub b through d) - Criminal Contempt in the First Degree
  - (12) PL 235.21 - Disseminating Indecent Materials to Minors in the Second Degree
  - (13) PL 240.25 - Harassment in the First Degree
  - (14) PL 240.31 - Aggravated Harassment in the First Degree (where there is at least one specifically identified victim [not a wholesale group] or such act takes place on private property and such owner is a complainant)
  - (15) PL 240.71 - Criminal Interference with Health Care Services or religious Worship in the First Degree
  - (16) PL 240.75 – Aggravated Family Offense
  - (17) PL 241.05 – Harassment of Rent Regulated Tenant
  - (18) PL 250.50 - Unlawful Surveillance in the Second Degree
  - (19) PL 350.60 – Dissemination of an Unlawful Surveillance Image in the First Degree
  - (20) PL 260.25 – Endangering the Welfare of an Incompetent of Physically Disabled Person in the First Degree
  - (21) PL 260.32 – Endangering Vulnerable Elderly Person, or an an Incompetent of Physically Disabled Person in the Second Degree
  - (22) AC 26-521 – Unlawful Eviction
  - (23) Assault 3 (PL 120.00); Attempted Assault in the Third Degree (PL 110/120.00); Menacing in the Second Degree (PL 120.14); Menacing in the Third Degree (PL 120.15); (Harassment in the First Degree (PL 240.25); Aggravated Harassment (PL 240.30); Reckless Endangerment in the Second Degree (PL 120.20) when committed against a City/State enforcement agent performing official duty



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- (24) Whenever a person is arrested for threatening, harassing, or menacing a uniformed member of the service, an elected official of any City, State or federal office or an employee of the New York City Transit Authority or Metropolitan Transit Authority (MTA)
- (25) Any hate crime where there is an individual victim/complainant or which takes place on private property and such property owner is a complainant



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