

## I.O. 2 (208-27) DATs

Disqualifiers listed  
In 208-81 below.

### Arresting Officer

- For E Felony, Misd, Violation, inform prisoner they'll get DATed if qualified.
- Get ID as per 208-28, do Warrant check as per 208-22 & I-Card check as per 208-23.
  - Active warrant disqualifies, active I-Card does not.

### **208-23 in a nutshell**

- If I-Card from Detective, call Detective **Borough** Wheel. If Boro not available, call Detective **Bureau** Wheel.
- If I-Card from outside agency OR an FIO call RISC.

- Try and get contact info; (residence address, preferred mailing address, phone #s, etc)
  - A/O, either record above info on appropriate forms or inform the D.O. if they refuse to give it.
  - D.O., if they refuse, explain that the info allows the DA to contact them for possible participation in pre-arraignment diversion programs, and for the Office of Court Administration (OCA) to send reminders of upcoming court dates. Otherwise ensure refusal is indicated as appropriate.
- Put arrest data in OMNIFORM (Which App? DAT, or Community Court DAT (Midtown or RedHook).
  - If there are multiple reasons for potential DAT ineligibility, check all fields that apply.
- Confer with ID Section to see if a previous conviction exists which raises today's charge to a "D" Felony
  - OLBS charge will not be changed solely on information received via telephone.
- Request debriefing by PDS or other investigative unit, if appropriate.
- Fingerprint prisoner, generate a Prisoner Movement Slip, complete DAT arrest related paperwork.
- While waiting for fingerprint results, monitor "DAT Processing" in OMNIFORM:
  - If response reads "YES," DAT has been approved, Print DAT.
  - If response reads "NO," process arrest online & inform prisoner of ineligibility for DAT.
  - If response reads DNA owed, notify Desk Officer, attempt to collect DNA (as per 208-72) and continue processing DAT, because **owing DNA is not a disqualifying factor**.
  - If response reads, "WAIT," check back at reasonable intervals not to exceed **30** minutes;
    - After **2 hours**, contact BCS to ascertain status of fingerprint check and request DCJS (Division of Criminal Justice System) to expedite fingerprint search.
- Email paperwork to BCS & ensure the email subject heading has Arrest # and prisoner's last name.
  - Call BCS to confirm receipt of email & get DAT #, return date; time, arraignment part and court
  - Record above information received from BCS on DAT.
- If command computer system becomes non-operational or BCS supervisor directs, use snap-out DAT.
  - Notify BCS supervisor prior to issuing snap-out version of DAT.

- Make DAT returnable to arraignment part of Criminal Court except if it's returnable to Family Court, Community Court or it's necessary to permit arraignment of all prisoners in same Court Part.
- **3 Signatures:** A/O sign DAT, activate BWC & request prisoner to sign DAT, deliver to D.O. to sign.

Desk Officer

- Check paperwork for accuracy and completeness and ensure they're all noted on ARREST CHECKLIST.
- Confirm contact info (residence address, mail address, phone #s, e-mail address, etc.) has been provided.
- Sign DAT and return to arresting officer.

Arresting Officer

- Distribute *copies* of DAT to (3): defendant, complainant if applicable, and to command file.
- Scan *original* DAT and send to BCS, then it goes in personal file.
  - On above copy sent to BCS, put name, address, and phone # of civilian complainant, if any, in space "Additional Instructions"

Desk Officer

- Issue DAT if prisoner eligible and release.

This is the 2<sup>nd</sup> time you email paperwork to BCS; the first time was Step 12, right after OMNIFORM System said; "Yes -DAT" -the only difference is here, Step 24 lists the documents to fax (DAT, ARREST CHECKLIST, 61, OLBS Worksheet, copy of warrant check, A/L, copies of Prisoner Movement Slip, etc

Arresting Officer

- Email all arrest related paperwork to BCS & ensure subject has arrest # and prisoner's last name.
- Await call from DA & monitor status through OMNIFORM's "Prisoner Arraignment Lookup"
- Notify desk officer immediately if District Attorney's office is no longer accepting arrest paperwork.
- File all hard copies of arrest related paperwork in ARREST ENVELOPE.

Desk Officer

- Direct A/O to comply with P.G. 208-82, if DA no longer accepting arrest paperwork.
  - Assign arrest to another UMOS if A/O unavailable to speak with DA's office within 4 days.
  - Ensure assigned officer re-interview compl, witness & complies with 208-20, Turnover Arrest.

**I.O. 3 (208-28) ID Standards for DAT**

Arresting Officer

- Establish violator's **ID and mailing address** through observation of the following (not limited to)
  - Driver License from any state/country, Non-Driver Photo ID from any state/federal, NYS Permit
  - US military photo ID,
  - Valid passport (US or foreign), Citizenship or naturalization papers, Resident alien card,
  - Municipal ID Card (including Canadian)

- Public Benefit Card, such as a medical assistance card, food stamp (EBT card), or any other ID issued by a NYS or municipal social service agency which entitles a person to obtain public assistance benefits under a local, state, or federal program.
- Other IDs may be acceptable. If reasonable suspicion ID is fake, D.O. makes final determination
- Do local, state, and federal warrant check as per 208-22 (Active warrant disqualifies, I-Card does not)
- DMV check through FINEST.
- Continue trying to ID by using Dept computers or by allowing contact with a third party to obtain ID.
  - Delay for a reasonable amount of time to allow for delivery of such document(s).
- If ID established, follow 208-27, DAT; if not, process as online arrest.

**Additional Data**

- A/O make every attempt to ascertain an address and collect contact information (preferred mailing address, work/home/cell phone number, email address, etc.).
- There is no requirement that a person present photo ID to get a DAT if ID is otherwise verifiable.
- Arrestee may be validly IDed through A/O’s personal knowledge of arrestee (previous arrest/summons).
- ID made by A/O’s personal knowledge should be properly documented in the OMNIFORM System.

Yes, we’re going out of order; you should look at I.O. 4 at the end, after I.O.s 5 & 6

**I.O. 5 (NEW 208-81) DAT Disqualifying Factors**

Here’s the short list of crimes and conditions that *automatically* prevent a DAT (“2D, FIVE DOCS”).

- 2 Failed to appear in Criminal Court in last 2 years,
- D In distress from facing harm if released without immediate medical attention or mental health care and further detention is in the defendant’s best interest.
  - Includes under the influence of drugs/alcohol to the degree that they may endanger self or others.
- Family offense against member of the same family/household.
- ID not up to the standards found in 208-28.
- Violates an OOP.
- Escape 2°, Absconding 1°, Absconding from Treatment Facility, Bail Jumping 2°.
- Driver license may be suspended or revoked by the court for the crime;
  - Vehicular Assault 2°, Leaving the Scene -Injury -Serious Injury or Prior, any DWI/DWAI
- Open Warrant,
- Child abuse, neglect, or maltreatment.
- Sex crime including all attempts or conspiracy to commit.

It no longer says you can DAT a DWI if hospitalized more than 24 hours.

Here's the list of crimes that don't AUTOMATICALLY prevent a DAT –they're qualified by this belief:

- If A/O reasonably believes a strong possibility of violence against compl/victim may occur and complaint/victim should seek an OOP against defendant, you MAY deny DAT for a number of offenses BUT, you WILL deny DAT for this belief for this list of crimes;

🔑 Realize as you read this list, these crimes do NOT by themselves preclude a DAT; they must be coupled with the belief of recurring violence/need for an OOP.

### **Crimes against Children, Family, Vulnerable people;**

- Reckless Assault of Child by a Child Day Care Provider
- Luring a Child, Substitution of Children, Custodial Interference 1°
- Disseminate Indecent Material to Minor 2°
- Aggravated Family Offense {do family offense with conviction of one in the last 5 years}
- Endangering the Welfare of an Incompetent or Physically Disabled Person 1°
- Endangering Vulnerable Elderly Person, or Incompetent or Physically Disabled Person 2°

### **Political/Hate Crimes;**

- Hate crime against an individual or private property and such property owner is a complainant.
- Aggravated Harassment 1° (with at least one specific victim [not a wholesale group] or on private property and such owner is a complainant)
- Criminal Interference with Health Care Services or religious Worship 1°

### **Other Crimes;**

- Stalking 2°, Menacing 2°, Sub 2 {Intend fear of DOA/PI/SPI by repeatedly following, etc.}
- Menacing 1° {do Menacing 2° with conviction of such in last 10 years}
- Coercion 2° (threaten Injury or prop damage, criminal accusation, commit a crime, other, etc)
- Assault 3° or Attempt; Menacing 2° or 3°; Harassment 1°, Aggravated Harassment
- Criminal Contempt 1° (Violate OOP), Tampering with a Witness 3°

### **Public Servants, etc;**

- Reckless Endangerment 2° against a City/State enforcement agent performing official duty
- Threaten, harass, menace UMOS, NYC Transit/MTA employee or a City, State, Fed elected official
- Criminal Impersonation 1° (impersonate a P.O. & attempt a felony or a Dr. & call in a 'script)

### **By Landlords, etc;**

- Harassment of Rent Regulated Tenant, Unlawful Eviction (Admin Code 26-521)
- Unlawful Surveillance 2°, Dissemination of an Unlawful Surveillance Image 1°

## **I.O. 6 (NEW 208-82) DAT Conferral with DA**

### PURPOSE & SCOPE

- Required to expeditiously give the DA all arrest paperwork (includes A/L of all involved officers)
- A/O must talk to DA on day of arrest or, if DA closes before getting paperwork, on next scheduled tour

### Patrol Supervisor/Desk Officer/Unit Supervisor

- Determine likelihood A/O will be able to confer with DA on the day of arrest, ***before*** DA stops accepting paperwork, based on the complexity of the arrest, probability of DAT, time of arrest, other factors.
- Determine A/O's next regularly scheduled tour (1<sup>st</sup> platoon extend into 2<sup>nd</sup> platoon to confer with DA)
  - If UMOS not able to confer with DA on day of arrest and scheduled Dept training precludes conferral on next regularly scheduled tour within 4 days of arrest, reschedule training, if poss.
- Any officer with a scheduled assignment precluding them from conferring with DA on their next scheduled tour (detail, court, training that cannot be rescheduled, etc.), will perform scheduled assignment and then confer with DA on their next scheduled tour following the assignment.
- If A/O unavailable to confer on day of arrest or next scheduled tour within 4 days, assign to another UMOS.
  - Ensure assigned officer re-interviews compl, witness & complies with 208-20, Turnover Arrest.

### **DA Stops accepting paperwork & Arresting/Assigned Officer hasn't Completed arrest process**

### Desk Officer/Unit Supervisor

- Ensure arresting/assigned officer's next regularly scheduled tour is within four days.
- Confer with DA, confirm they're no longer accepting, inform them of A/O's next scheduled tour.
- Notify BCS that DA no longer accepting paperwork & give them A/O's name and date of next tour.
- In the **Telephone Record (TR)** put (3 Names, **D A D**);
  - Name at DA's office confirming they're no longer accepting paperwork,
  - Name of who you notified at BCS,
  - Name of A/O,
  - **D**AT #, **A**rrest #, **D**ate of A/O's next scheduled tour.
- Direct A/O to complete arrest processing and to confer with DA on next scheduled tour
  - If permanent assignment is 3<sup>rd</sup> platoon, A/O confer with DA on next regular scheduled 3<sup>rd</sup> pltn.
  - Put on ROLL CALL ADJUSTMENT, A/O's name, **D**AT #, **A**rrest #, **D**ate of A/O's next tour. ←

### Roll Call

- Review all platoon ROLL CALL ADJUSTMENT and **Telephone Record**.
- Finalize Roll Call, noting any A/O that must confer with DA's office & include arrest & DAT #s.

## **Commencement of Tour**

### Desk Officer/Unit Supervisor

- Review R/C & TR (including TR for previous day), to see if any UMOS needs to confer with DA.
  - Ensure UMOS available to confer with DA's office during first 2 hours of tour, if necessary.
- Telephone DA at start of tour with name & Dept cellphone# of UMOS(es) that need to confer.
- Put (2 names & time) A/O's name, DA's office name and time you contacted DA's office in **TR**.
- Inform UMOS that DA's office will contact them within 2 hours –ensure UMOS has a Dept cellphone

### Arresting/Assigned Officer

- Perform administrative duties while awaiting conferral with DA's office.
- Inform desk officer if DA's office has not called within 2 hours.
- Notify desk officer when conferral with DA's office is complete.

### Desk Officer

- If DA hasn't called within 2 hours, make two phone calls –but only 1 goes in the TR;
  - DA's office & put A/O Name, Arrest#, DAT# & Name at DA's office in **TR**.
  - Also call BCS.

## **I.O. 4 (208-72) Obtaining Prisoner DNA**

### SCOPE

- When processing a DAT and it is discovered that the prisoner is required to submit a DNA sample, the attempt to obtain the sample will be conducted **at the command of arrest**.
  - When processing an online arrest the attempt to obtain the sample will be conducted at BCS.

### **Prisoner consents**

#### UMOS

- Notify D.O, get sample using DNA Specimen Collection Kit & notify D.O. again once sample obtained.

#### Desk Officer

- Review completed Collection Kit for accuracy and completeness & forward to Mail & Distribution Unit
- Ensure OMNIFORM DAT QUEUE is updated, as appropriate & notify BCS that DNA was obtained.

### **Prisoner Refuses**

#### UMOS

- Notify D.O, activate BWC & read to prisoner a statement on the REFUSAL TO PROVIDE DNA SAMPLE.
- If consent, take sample; if they continue to refuse, arrest on separate charge of OGA 2° (but still DAT).

- Notify BCS of refusal & OGA arrest & get the following to complete the REFUSAL form;
  - Date of original offense, PL offense arrestee was convicted of, and Sentencing information.
- Complete REFUSAL form & include it as part of paperwork for initial arrest and OGA arrest, if necessary.

#### Desk Officer

- Put refusal in OMNIFORM DAT QUEUE for original arrest, if qualified for DAT and for OGA arrest.

#### **Additional Data**

- A banner on a RAP sheet reading REQUIRED TO PROVIDE DNA SAMPLE FOR INCLUSION IN STATE DNA DATABANK will be removed 1 month after DNA samples have reached the State Police Lab. If prisoner re-arrested before the month has passed, MOS concerned can verify sample was obtained by contacting NYS DCJS Office of Forensic Services, or respective borough's Court Section concerned.

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## **Key Recap of the changes to the DAT procedures**

### “E Felony”

- Used to be a ~~short list of~~ “E” Felonies you only DATed for if the prisoner was hospitalized
- Now you DAT for **ALL “E” Felonies**

### Discretion

- In the definition it no longer says, ~~at the direction of a desk officer~~
- Step 2 used to have the D.O. tell the prisoner that they *may* get a DAT if qualified.
- Now Step 2 has the **arresting officer** tell the prisoner they **will** get a DAT if qualified.
- All this adds up to, no discretion; issue the DAT –if qualified.

### No longer charge OGA for ~~Uncooperative Actions~~

- Uncooperative actions meant; going limp, etc. we used to charge OGA (not resisting) but still gave DAT
- There is no more mention of charging OGA for this, in fact it's no longer mentioned at all.

### Other changes

- D.O. no longer maintains ~~DAT Log~~, and so no longer ~~creates~~ a DAT Serial # (# now comes from BCS)
- In fact, most of the D.O. steps at the beginning of the procedure (Steps 2-15) are GONE.
  - Most of them said to ‘direct the cop to do this..’ or ‘ensure the cop does that...’ Now the P.G. directs the cop to do these things (get prisoner's ID/contact info, confer with ID Section, etc)

Here are the crimes and conditions that used to disqualify but no longer do –means you **will** DAT for these;

### **Crimes**

- Resisting, Obstructing, Fireworks, Photographable misdemeanors, Marihuana (including Sale)  
Interference with Professional Sporting Event, Vehicle offenses: Attempted Grand Larceny 4<sup>th</sup>,  
Intentionally damage vehicle up to \$250 (window break) to attempt to steal car or contents.

### **Conditions**

- Misdemeanor recidivist, I-Card, owes DNA, on Parole or Probation, Out of state resident, used mechanical means ('sleeping dragon') –chained self to stationary object –all GONE.

### Gone but not forgotten

- What 'Gone but not forgotten' means is, these crimes below used to disqualify for a DAT automatically. Now, there is that condition attached; reasonable belief of strong possibility of violence against compl/victim and complaint/victim should seek an OOP –so these don't stand alone to disqualify;
  - Menacing & Stalking in the Second Degree, Unlawful Eviction
  - Against a City/State enforcement agent performing official duty; Assault 3 or attempt, Menacing 2 or 3, Harassment 1, Aggravated Harassment, Reckless Endangerment 2
  - Threatening, harassing, menacing a UMOS, elected official of any City, State or federal office or employee of NYC Transit Authority or MTA) (**TA/MTA are new**)

### **208-28 ID Standards for DAT**

- It used to say to do the checks ~~in ORDER~~ and if one failed, stop checking –that is GONE.
- Passport; used to just say "Valid Passport" they added this parenthetical (**US or foreign**)
- Municipal ID card used to say (ID NYC) they added this parenthetical (**Including Canadian**)
- Non-Driver Photo ID used to be NYS, they added (**federal or out of state**)
- **ADDED: Public Benefit Card**, food stamp assistance card (EBT card), or any other ID issued by a NYS or municipal social service agency.
- ~~Desk Officer~~ IS GONE from the procedure

### These are completely new;

- Allow violator to contact 3<sup>rd</sup> party to get appropriate ID & delay for reasonable time to allow delivery.
- No requirement for photo ID to get a DAT if the ID is otherwise verifiable through A/O's personal knowledge of the arrestee (previous arrest/summons, etc) –document in OMNIFORM system.

### Now they want an address, BUT

- A/O make every attempt to ascertain an address –but this statement below is GONE;
  - ~~D.O. determine validity of offered address, if not satisfied with it, NO DAT.~~