


<b>ELIZABETH POLICE DEPARTMENT GENERAL ORDERS</b>			
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<b>SUBJECT: ARREST AND TRANSPORTATION</b>			
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<b>BY THE ORDER OF:</b> Chief Giacomo Sacca			
<b>BY AUTHORITY OF:</b> Police Director Earl J. Graves			
<b>SUPERSEDES ORDER #: V3C6 (06/28/2022) (05/15/2025)</b>			

**PURPOSE** The purpose of this general order is to maintain guidance to personnel and to codify standardized procedures regarding arrests, transportation, and release.

**POLICY** It is the policy of the Elizabeth Police Department to comply with all statutes, contemporary criminal procedure, attorney general and prosecutor directives and guidelines when arresting and subsequently transporting any person in order to protect any arrestee's or detainee's rights and to minimize risk to police personnel and the general public.

This general order is intended to supplement and not supplant existing criminal procedure. It provides basic guidelines in arrest and transport situations. Therefore, the vast plethora of case law with all of its nuances will not be listed. Arrests are governed by the 4th Amendment to the United States Constitution and Article I.7 of the State of New Jersey Constitution.

## PROCEDURES

### I. DEFINITIONS

- A. Arrest is defined as a substantial physical interference with the liberty of a person, resulting in apprehension and custodial detention. It is generally used for the purpose of preventing a person from committing a criminal offense, or calling upon a person to answer or account for an alleged completed crime or offense.
1. An actual arrest occurs when a law enforcement officer intentionally employs physical touching of a person and delivers a formal communication of a present intention to arrest.
  2. A constructive arrest occurs without an intentional use of physical contact and without a formal statement indicating an intention to take a person into custody. The courts generally consider whether there has been a submission to the assertion of authority.
- B. Fresh pursuit (hot pursuit) is defined by NJSA 2A: 156-2 as not necessarily implying immediate or instant pursuit, but pursuit without unreasonable delay.
- C. Ontario Domestic Assault Risk Assessment (ODARA) is a tool that predicts how likely an abusive partner is to assault again. No clinical expertise is required to administer an ODARA assessment. Officers can obtain the necessary information for scoring the ODARA's 13 items during an interview with a victim, a review of the defendant's criminal history, and related records (e.g., prior investigations, CAD records, etc.).
1. Related definitions include:
    - a. Defendant: the person being assessed.
    - b. Index assault: the most recent incident in which the defendant assaulted his/her current or former partner. Assault is any act of violence that involved physical contact with the index victim, or a credible threat of death made with a weapon displayed in the presence of the victim.
    - c. Partner: a person who currently is, or previously was, involved with the defendant in an intimate relationship. This includes current or former spouses, current or former intimate cohabitants, co-parents, and those currently or formerly in a dating relationship.
    - d. Victim: the person upon whom the index assault was committed.
  2. Instances of domestic violence that do not involve physical violence or threat of death with a weapon should not be assessed under ODARA.
  3. Officers shall complete the ODARA in those cases of domestic violence in which the following crimes/offenses are charges and the victim is a partner, as defined above:
    - a. Homicide (N.J.S.A. 2C: 11-1).

- b. Simple assault with contact or a weapon (N.J.S.A. 2C: 12-1a).
  - c. Aggravated assault (N.J.S.A. 2C: 12-1b).
  - d. Terroristic threats with contact or with a weapon (N.J.S.A. 2C: 12-3).
  - e. Kidnapping (N.J.S.A. 2C: 13-1).
  - f. False imprisonment with contact or with a weapon (N.J.S.A. 2C: 13-3).
  - g. Sexual assault (N.J.S.A. 2C: 14-2).
  - h. Criminal sexual contact (N.J.S.A. 2C: 14-3).
  - i. Robbery (N.J.S.A. 2C: 15-1).
  - j. Burglary, 2<sup>nd</sup> degree with contact or with a weapon (N.J.S.A. 2C: 18-2).
  - k. Any other crime involving risk of death or serious bodily injury (N.J.S.A. 2C: 25-19a(18)).
- D. Presence sums up the requirement that officers knew of the event by the use of any of their senses. A defendant's admission brings the offense within the presence of the officer. *NOTE: viewing a video recording does NOT satisfy the in-presence requirement.*
- E. Probable cause refers to facts or evidence that would make a reasonable person believe that a crime or wrongdoing has been, is being, or will be committed.
- 1. Vague hunches or suspicions are not enough.
  - 2. The belief must be supported by the facts that can be articulated in the officer's report and testimony.
  - 3. Experience as a police officer is a fact, which can be relied upon to support probable cause, provided it is documented.
  - 4. The facts upon which the belief of guilt is based must have been known at the time of arrest.
  - 5. Post-arrest actions by the accused are irrelevant to the lawfulness of the initial arrest.
  - 6. It is not necessary to believe beyond a reasonable doubt that a person committed an offense in order to arrest.
  - 7. There is no limit to the types of information that can be used to support probable cause, provided such information is not vague and can be documented. Among the types of information the officer can rely upon:

- a. Observed facts surrounding the incident (e.g., behavior, appearance and location of subject, subject's height and weight).
- b. Familiarity with the subject(s)' prior record, prior observation of the subject and earlier contacts with the subject.
- c. Reports from others (e.g., accounts given by victims or witnesses, reliable informants or citizen informants).
  - 1) Reports from citizen informants are differentiated from anonymous informants in that the citizen reports the information face-to-face with the officer. The citizen may be known to the police, but merely not identified. Citizen informants are considered more reliable than an anonymous informant (such as an untraceable telephone call.)
  - 2) Information received from anonymous sources is generally not sufficient cause to restrict a person's liberty without some corroboration of illegal activity. One exception is DWI where the courts have ruled that a 9-1-1 call reporting an ongoing DWI vehicle can be treated in the same manner as the citizen informant.
- d. Each of these sources of information can lead to a determination of probable cause, but some require corroboration by other facts if they are to be given weight.

F. Statewide Veterans Diversion Program is established under N.J.S.A. 2C: 43-23 et seq. and establishes a process to divert eligible veterans or active service members away from the criminal justice system and toward appropriate case management and mental health services as early as possible following an interaction with law enforcement in which the veteran or service member is alleged to have committed an eligible offense.

1. Related definitions include:

- a. Active service member is any active member of the United States Military.
- b. Eligible crime/offense includes:
  - 1) Non-violent disorderly person or petty disorderly person offense:
  - 2) 3<sup>rd</sup> or 4<sup>th</sup> degree crimes.
  - 3) Presumptively Ineligible:
    - a) Crimes or offenses resulting in domestic violence, N.J.S.A. 2C: 25-19a(3).
    - b) If offense is committed while subject to a TRO or FRO N.J.S.A. 2C: 25-17.

- c. Veteran is defined as any enlisted person or officer who was discharged or otherwise released from active service in the U.S. Armed Forces, or any reserve component, or the organized militia of New Jersey under conditions other than dishonorable, or if otherwise qualified for federal Veterans Affairs benefits as determined by the U.S. Department of Veterans Affairs.

## **II. GENERAL PROVISIONS**

- A. When a person has been arrested he/she will be processed for that arrest and the appropriate documentation presented to the appropriate court without unnecessary delay. When appropriate, bail will be set and the person will be provided a reasonable opportunity to arrange for the posting of bail.
- B. Officers shall employ only such force and restraints necessary to assure the safety of the arrestee, other persons, other police officers, and him/herself.
  - 1. Officers shall refrain from using unnecessary force or violence in making arrests. They must not strike an arrestee or any other person except when necessary in self-defense, or to overcome actual physical resistance in making an arrest.
  - 2. However, officers must be firm, resolute and energetic, exercising the necessary means to perform his/her duty properly.
  - 3. When it is necessary to use force, the circumstances shall be included in the preliminary incident report.
- C. Arresting officers are responsible for the safety and protection of the arrestee while in his/her custody. He/she shall notify his/her supervisor of any injury, apparent illness, or other conditions, which indicates that the arrestee might need care.
- D. Consular notification for non-US citizens is addressed in this department's general order on *Consular Notification and Access*.
- E. Diplomatic and consular immunity is addressed in this department's general order on *Diplomatic and Consular Immunity*.
- F. When practicable, officers should identify themselves to the person(s) being arrested and indicate the crime or offense. The arrestee should be informed of the warrant and the charges.

## **III. ARREST WITH A WARRANT**

- A. An arrest warrant has the purpose of interposing a probable cause determination by a neutral and detached judge between the law enforcement officer and the person to be arrested. Warrants include bench warrants, CDR warrants, ACS, ATS, and any other criminal process issued by a court.

- B. All pre-planned arrest warrants shall be de-conflicted in accordance with [New Jersey Attorney General Directive 2016-1](#). Deconfliction is not required for warrant arrests that occur spontaneously. No-knock arrest warrants shall be served consistent with no-knock search warrant requirements and procedures. See this agency's general order on *Search Procedures*.
- C. Sworn police officers have the right to serve a warrant by arresting defendants at their homes or at any public place within the State.
- D. A police officer making an arrest should identify himself/herself to the person being arrested. The officer should also indicate the crime/offense for which the suspect is being arrested.
- E. If the warrant is not in the arresting officer's possession at the time of the arrest, the person arrested should be informed of the offenses charged and the fact that a warrant has been issued.
- F. An arrest warrant permits entry into a dwelling to make an arrest only if the dwelling is the primary residence of the person to be arrested. If the dwelling is not the primary dwelling of the person to be arrested, an entry cannot be made without a search warrant, consent, or exigent circumstances.
- G. Forcible entry or subterfuge may be used to gain entry, when warranted and when consensual entry is refused.
- H. When serving an arrest warrant outside of the City of Elizabeth, officers should provide prior notice to the law enforcement agency in that jurisdiction prior to service except under exigent circumstances when prior notice is impracticable or may otherwise compromise the investigation.
- I. To serve arrest warrants out of the State of New Jersey, contact the Union County Sheriff's Office, Fugitive Unit.
- J. Officers should only use that amount of force necessary to make the arrest. Unless impracticable, pre-planned warrant arrests shall be conducted by a minimum of two officers. More officers or tactical resources should be used depending upon the circumstances and anticipated flight risk.
- K. Officers shall not serve an arrest warrant without first confirming or taking reasonable measures to confirm the validity of the warrant.
  - 1. The arrest warrant should be verified and confirmed through ACS, ATS, and/or NCIC.
  - 2. Verify the identity of the person to be arrested
    - a. Understand the scope of the arrest warrant so as not to exceed any limitations set by the warrant.
    - b. If an arrest has already been made and the warrant is determined to be invalid or the person is determined to not be the person named in the warrant, the person shall be immediately released and the incident thoroughly documented on an incident report.

3. Arrest warrants issued by a judge of any court, not listed in the ACS/ATS system, shall be confirmed as valid with the issuing authority prior to any action being taken.
  4. An NCIC hit is not probable cause to make an arrest. A confirmation request shall be sent to the agency that entered the person. A positive response by that agency will serve as confirmation of the warrant as per Part 7 of the *National Crime Information Center Operating Manual*.
  5. A printed copy of the request and response shall be included with the incident report.
- L. After completing the service of a warrant, the desk lieutenant or his/her designee is responsible to ensure the warrant is administratively executed in the ACS/ATS system.
- M. Municipal court arrest warrants. In accordance with *New Jersey Attorney General Law Enforcement Directive 2022-6* and *New Jersey Administrative Office of the Courts Directive 04-22* and without authorization from the municipal court administrator, when encountering a subject with a municipal court arrest warrant (i.e., ACS, ATS, bench):
1. Except as noted in subsection III.M.4 below, if bail is set at \$500 or less, such persons named in the arrest warrant, even if they are unable to post the bail required by the warrant, shall not be arrested, handcuffed, or searched incidental to arrest unless:
    - a. Issuing such notice of the arrest warrant on scene poses a safety risk to the officer or others nearby; or
    - b. Probable cause that a crime has been committed or a pre-existing circumstance, independent of the arrest warrant, justifies such action.
    - c. In situations that fall within these limited exceptions, the officer may take the person into custody on the warrant, handcuff and conduct a search incident to arrest, and transport the person to headquarters for processing and release on their own recognizance.
    - d. In rare instances, an officer may, in his/her discretion, determine that a person is not suitable for release and take the individual into custody on the warrant. For example, this provision may apply when the person has an unusually high number of outstanding qualifying warrants that indicate a substantial risk of nonappearance.
  2. If a person has multiple arrest warrants each with bail amounts of \$500 or less, so long as each warrant individually qualifies, then these procedures apply. The bail amounts should be considered individually, not added together, subject to the exceptions above.
  3. Before releasing individuals on their own recognizance on a municipal court arrest warrant, officers should obtain valid identification from the individuals or take reasonable steps to verify their identity and current address

- a. Officers shall not accept any bail payments on scene, even if individuals with qualifying warrants are able to pay partial or full bail.
  - b. Officers must complete a *Bail Recognizance Form* prior to release on qualifying arrest warrants with the below conditions captured in the *Bail Recognizance Form*. These conditions apply regardless of what municipal court (including courts in other counties) issued the warrant. If multiple qualifying warrants exist, a separate bail recognizance must be issued for each warrant.
    - 1) Such forms are available in NCR paper (carbonless paper – four copies) at the municipal courts with copies issued to the individual and the relevant court, that includes:
      - a) Updated address and contact information for the individual.
      - b) Date and time on which the individual must appear before the municipal court that issued the warrant.
      - c) Notice to the individual that a failure to appear may reinstate the warrant.
      - d) Individual's signature.
    - 2) Officers should set appearance dates two weeks from the date of the encounter (or if the court is not sitting on that date, the first available court date following the two-week period), or as otherwise mandated by the jurisdiction issuing the warrant. A list of sitting dates and telephone numbers for New Jersey's municipal courts is available at [njcourts.gov/courts](http://njcourts.gov/courts) and by clicking the link for 'Municipal Court Session Schedules' or 'Municipal Court Directory'.
    - 3) If an individual refuses to provide information for or sign the bail recognizance form, the individual may be taken into custody on the outstanding warrant.
  - c. Each such warrant served shall be administratively executed in ACS or ATS as soon as possible and in any event by the end of the officer's shift.
4. Domestic violence exception. These procedures do not apply when the underlying offense involves domestic violence. Officers should continue to arrest individuals encountered with outstanding domestic violence warrants.
- a. Officers should note that only warrants listed within the municipal courts' electronic Automated Complaint System (ACS) will need to be queried for domestic violence involvement. This query can be done through the 'DV Indicator' within ACS (marked 'Y' or 'N').



- b. Warrants related to traffic offenses listed within the Automated Traffic System (ATS) do not need to be queried for domestic violence involvement.
  - 5. Individuals arrested on a municipal court warrant with a bail amount over \$500 who are unable to post bail shall be arrested and processed. Such individuals shall be entitled to a bail hearing within 48 hours, excluding weekends or holidays.
- N. Fugitives from justice:
- 1. Prior to making any arrest based on the authority provided for in N.J.S.A. 2A:160-21, officers will request a supervisor respond to their location.
  - 2. As the result of electronic information and or confidential information, officers must verify the identity of the fugitive by way of:
    - a. Photo identification.
    - b. Individual identifies him/herself as such.
    - c. Police officer identification.
    - d. Photograph provides by issuing authority/sheriff's office.
    - e. Fingerprint verification.
    - f. Other means at the officer's disposal.
  - 3. Officers need to ensure that NLETS/NCIC information is verified and shall not be used as sole authority for the arrest.
  - 4. Upon identifying the subject of a fugitive warrant from another State, officers will attempt to determine based on reasonable information that the subject of the warrant is accused of a crime punishable by imprisonment exceeding one (1) year.
  - 5. Officers shall verify the fugitive warrant with the issuing out-of-state authority and receive confirmation through NLETS/NCIC that the issuing authority will extradite the fugitive.
  - 6. Upon positive identification of the subject, officers will place the individual under arrest and process the person pursuant to all procedures in this general order.
  - 7. Officers shall notify the Union County Sheriff's Office Fugitive Unit. The UCSO will file charges against the person for being a fugitive from justice.
  - 8. If the notification is after regular business hours, the investigating officer will contact the Union County Sheriff's Office operations phone number. The arrestee will be transported to the Union County Jail and turned over to the Union County Sheriff's Office along with the necessary documentation as per the jail's guidelines.

#### IV. ARREST WITHOUT A WARRANT

- A. Officers may make a warrantless arrest of a person within the territorial limits of the State of New Jersey if there is probable cause to believe that the suspect has committed or is presently committing a crime (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree crime). When making an arrest without a warrant, officers may detain the person based upon their probable cause but, shall follow the charging procedures promulgated by the Union County Prosecutor's Office.
1. N.J.S.A. 2A: 155-1 et seq., permits a New Jersey law enforcement officer, who is in fresh pursuit, to enter another state to effectuate an arrest for a 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree crime.
  2. N.J.S.A. 2A: 156-1, et seq., authorizes a police officer, who is in fresh pursuit of a person and who is reasonably believed by him/her to have committed a 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree crime or has committed, or attempted to commit, any criminal offense in the presence of such officer, or for whom such officer holds a warrant of arrest may arrest and hold that person anywhere in the State.
  3. However, if the offense is a 4<sup>th</sup> degree crime, disorderly person, petty disorderly person offense, or DWI the authority to pursue under N.J.S.A. 2A: 156-1 only extends to offenses committed in the officer's presence or ones that he/she holds a warrant for the arrest of the person.
- B. Within the territorial limits of the City of Elizabeth, or when acting in an official mutual aid capacity in another jurisdiction, officers may make a warrantless arrest of someone who, in their presence, has committed a disorderly person offense or other minor offense that involves a breach of the peace (N.J.S.A. 40A: 14-152).
- C. In certain circumstances, an officer may make the warrantless arrest of a person whom the officer has probable cause to believe has committed an offense, even though the offense did not take place in the officer's presence. Viewing video evidence doesn't satisfy the in-presence requirement. These offenses are:
1. Driving while intoxicated.
  2. Shoplifting.
  3. Theft of library materials.
  4. Domestic violence related offenses.
- D. Only in rare circumstances involving serious crimes and exigent circumstances can an officer enter a dwelling to make a warrantless arrest.
1. Officers in fresh pursuit of a person suspected of motor vehicle infractions or a disorderly person or petty disorderly person offense may not make a warrantless entry into a dwelling to effectuate an arrest.
  2. Fresh pursuit alone is an insufficient justification for a warrantless entry into a person's dwelling to effectuate an arrest absent exigent circumstances.

- E. As a rule, an arrest for a violation of NJSA 39 (except DWI, possession of CDS in a vehicle, or leaving the scene of an accident with serious injuries) is improper if the underlying offense poses little or no threat to the public safety, and if there is no reason to believe that the offender would fail to respond to a summons.
- F. If at any time during the arrest process the probable cause to make the arrest dissipates, the arresting officer shall immediately release the arrestee and return any property that had been taken as a result of the arrest. The incident shall be thoroughly documented on an incident report.
- G. Representatives of the superior court, usually the pretrial services program manager or his/her designee, will be alerted if a previously released defendant violates any electronic monitoring conditions. Under certain circumstances, the pretrial services program representative will contact this department of the violation's circumstances.
  - 1. Communications personnel shall obtain as much information as possible from the pretrial services program representative, including the identities of the defendant/violator, contact information for victims and witnesses, and pertinent addresses.
  - 2. Communications **must immediately** dispatch an officer to investigate the violation and to secure the safety of the victim.
  - 3. Officers shall promptly conduct a welfare check on any potentially impacted victims or witnesses, particularly when a no-contact condition may have been violated. Also, officers should consult available databases (e.g., CAD, RMS, domestic violence central registry, the automated statewide deconfliction database, etc.) to help with decisions as to any response and to ensure the safety of victims, witnesses, and responding officers.
  - 4. The pretrial services program representative may be able to provide communications with the GPS coordinates or a street address where the defendant could be located when such information is available through the defendant's electronic monitoring device.
  - 5. The pretrial services program may apply for a bench warrant for contempt of court for violating the conditions of release. If the judge grants the request for a bench warrant, the pretrial services program representative will advise this agency to arrest the defendant on the bench warrant.
  - 6. The pretrial services program representative should be able to provide officers with copies of the pretrial release orders. When the pretrial services program representative is unable to provide copies of pretrial release orders, officers should request complaint numbers or Promis/Gavel numbers, so they can view the orders in the case jacket of the eCDR system.
  - 7. If there is evidence that any defendant has committed a new crime or offense, including a violation of a domestic violence temporary or final restraining order, officers should consult with an assistant prosecutor to file new criminal charges based on those violations.

- H. With respect to city ordinance violations, N.J.S.A. 40A: 14-152 provides: *“The officers of a police department, within the territorial limits of the municipality, shall have all the powers of peace officers and upon view may apprehend and arrest any disorderly person or any person committing a breach of the peace.”*
1. Under this statute, there are three (3) prerequisites that must be met before an officer may arrest:
    - a. The offense must occur in the City of Elizabeth; and
    - b. The offense must have occurred upon view of the officer; and
    - c. The offender either must be a disorderly person or have committed a breach of the peace.
  2. The preferred method for charging a violation of a city ordinance is by use of a special form of complaint and summons.

## V. **HANDCUFFING**

- A. Officers are required to purchase and maintain while on duty at least one set of operable handcuffs and have them in their possession at all times while on duty.
- B. To provide greater control of an arrestee/detainee, officers should:
  1. Remain alert for any unexpected moves by the subject.
  2. Approach the subject from his/her rear or side.
  3. Maintain control of the subject and keep him/her off balance.
  4. Unless special circumstances exist, handcuff the subject behind their back, palms facing outwards with the handcuff keyhole away from the hands.
  5. Double lock the handcuffs.
  6. Never handcuff a subject to yourself or another officer.
  7. Never handcuff a subject to the inside of a vehicle or a fixed object unless the object is designed for that purpose.
- C. Use of handcuffs during investigations and prior to an at-scene arrest:
  1. Officers should not use handcuffs prior to arrest unless special circumstances exist to warrant their use. Special circumstances include:
    - a. The subject is uncooperative or takes action at the scene that raises a reasonable probability of danger or flight.
    - b. When officers have information that the suspect is currently armed.
    - c. Where the stop/detention is in proximity (time and space) following a violent crime or offense.

- d. When officers have information that a crime or offense involving violence is imminent.
2. In the absence of a continuing threat to the officer or public safety, the handcuffs should be removed if the protective frisk discovers no weapons.
3. Any incident when a suspect is handcuffed during an investigative detention should be documented on an incident report.

## VI. CUSTODY AND TRANSPORTATION

- A. It is the policy of the Elizabeth Police Department that **all persons** other than sworn personnel are to be frisked for weapons before entry and transport in a department owned vehicle. This applies to both custodial and non-custodial transports. In **non-custodial situations only**, the person should be advised of this policy and their right to refuse. Officers should assist them in making other arrangements should they refuse to comply with this policy.
- B. Officers shall search the rear seat of vehicles used for arrestee transportation at the beginning of their shift and document the search on a car sheet. Officers shall also conduct an inspection prior to occupation by an arrestee. Vehicles shall be searched again immediately after transportation to ensure that contraband or evidence had not been secreted by the arrestee. Found property/evidence shall be collected and processed in accordance with existing procedures. The arrestee should be charged accordingly, when applicable.
- C. Immediately upon arrest all persons will be adequately secured. At a minimum, they should be handcuffed unless handcuffing is not possible due to injury or disability. Unless impractical due to injury, disability or physical size, handcuffs should be placed behind the back, see subsection IV. Officers should remain aware of the dangers of positional asphyxia and continually monitor arrestees for symptoms.
  1. Ankle shackles and a handcuffing belt may be utilized when deemed necessary to provide additional restraints for subjects who are combative or deemed a flight risk.
  2. Disposable handcuffs (e.g., Nylon flex cuffs, Nylon zip ties, etc.) are authorized for incidents where the number of arrestees exceeds the number of available handcuffs or when the arrestee's injury, disability or physical size prohibits the use of handcuffs. When such nylon devices are used, officers shall ensure that they have immediate access to a cutting tool if the arrestee suffers a medical emergency (e.g., respiratory distress due to positional asphyxia, etc.).
  3. Officers should ensure that the arrestee is seated upright and, whenever possible, secured in the vehicle's occupant restraints after the application of mechanical restraints and prior to transportation.
- D. The entire person of the arrestee is to be searched (not simply frisked) for weapons, contraband, evidence, and implements of escape, as is the area under that individual's immediate control. The search must be thorough enough to ensure the safety of the individual, the arresting officer, and other officers and persons the individual may encounter while in custody.

1. This search must be conducted contemporaneous (happening at the same time) to the arrest immediately after the person has been restrained.
  2. In situations when an arrestee is accepted from another law enforcement agency, facility, store security, or officer, the officer conducting the transportation must not assume that a competent search has already been conducted. Arrestees that are coming from these various environments may have inadvertently been exposed to contraband or weapons after their initial search and this possibility warrants the need for a new pre-transportation search.
- E. After being restrained and searched the arrestee should be placed in the rear of a police vehicle equipped with a partition between the front and rear passenger compartments with the rear door and window controls disabled or removed. The arrestee should be further secured with the vehicle's occupant restraints. This further restraint will provide an additional level of security for the transporting officer(s). The following are situations when using the vehicle's occupant restraints could be inappropriate or unsafe:
1. Aggressive/combatative arrestee making attempts to secure him/her impracticable.
  2. Injuries to the arrestee that may be aggravated by the vehicle's occupant restraints.
  3. The use of supplementary restraints on the arrestee that make it difficult, impossible, or unsafe for the vehicle's occupant restraints to be employed.
- F. If the unit transporting the arrestee contains a single officer, another officer shall follow closely behind to be in a position to render immediate assistance.
- G. If no such equipped vehicle is available or when confronted with a legitimate and unforeseen exigency that requires transportation of an arrestee in a vehicle that is not equipped with a security partition, two (2) officers shall be present in the vehicle for the transportation. In such situations, both officers may ride in the front seat, but the passenger officer's attention will be on the arrestee(s).
- H. Arrestees shall not be left unattended after being placed into police vehicles awaiting transportation. Officers must be constantly aware that other persons may attempt to free or otherwise facilitate an escape.
- I. Generally, arrestees are not permitted to communicate with anyone except a police officer during transportation or while waiting to be transported. Persons approaching a police vehicle containing an arrestee shall be instructed to leave and advised that the failure to oblige may result in their arrest and/or prosecution.
- J. Prior to commencing transportation, officers shall advise communications of the number of arrestees being transported, their sex, their classification (adult or juvenile), the starting location, their destination, and starting mileage to the nearest 1/10<sup>th</sup> of a mile. Upon arrival at their destination officers are to give their ending mileage. All such radio transmissions shall take place on channel 2.
- K. Juvenile and adult arrestees shall not be transported together in the same vehicle.

- L. If any suspicious, threatening, dangerous, or alarming incident occurs during transportation, the officer should immediately notify communications and pull over in a safe location to further observe or correct the situation. Particular attention shall be directed toward arrestees who are or might possibly be under the influence of alcohol or drugs or who have a propensity or history of being violent.
- M. Ordinarily, arrestees shall be transported directly to police headquarters, another law enforcement agency, or confinement facility as directed unless being taken to a medical facility for evaluation and/or treatment.
  - 1. Unless the injury is serious or life threatening, the arrestee can refuse medical evaluation and/or treatment.
  - 2. Officers shall employ the level of additional security at the treatment facility permitted by the nature of the injury, the regimen of treatment, and in consultation with the treating physician/nurse. Contact a supervisor if there are any conflicts or security concerns.
  - 3. Any evidence or indication of injury or illness to an arrestee shall be documented on the officer's incident report.
  - 4. Officers shall take universal precautions against blood-borne pathogens and infectious diseases.
  - 5. Officers shall not sign any documents at the hospital or medical facility indicating that the City of Elizabeth is the responsible billing party.
  - 6. Arrestee visitors are prohibited. Only authorized medical staff shall be allowed into the room and have contact with the arrestee.
  - 7. Officer(s) shall ensure that the room/area is secure so that the arrestee cannot escape.
  - 8. Officer(s) shall remain at the arrestee's room or inside and ensure that no unauthorized personnel enter. The arrestee shall be continuously monitored to minimize the potential for escape.
  - 9. If an escape occurs, see subsection VI.N and contact hospital security.
  - 10. If the hospital informs the officer that an arrestee who is to be committed to the Union County Jail has a medical condition that requires admission to the hospital, the officer shall notify the desk lieutenant. The desk lieutenant shall arrange for the Union County Sheriff to take custody of the arrestee at the hospital. The officer at the hospital shall remain at the hospital guarding the arrestee until the sheriff's officer arrives and custody is transferred, or the officer is relieved by another Elizabeth police officer.
- N. Arrestee transportation should not be interrupted except in extreme cases involving potentially serious bodily injuries or if someone's life is in jeopardy. If arrestee transportation is interrupted, one officer (transporting officer or supporting officer) shall maintain close security on the arrestee.

- O. If an arrestee escapes while in custody prior to or during transportation:
1. The arresting/transporting officer(s) shall promptly notify communications. Extreme caution shall be exercised to minimize the potential of a hostage scenario.
  2. A general radio broadcast to all duty personnel shall be broadcast as soon as practicable and provide the following information at a minimum:
    - a. Arrestee's name, if known.
    - b. General description.
    - c. Clothing description.
    - d. Last known home address.
    - e. Last direction of flight.
    - f. Crime(s) originally arrested for.
    - g. Weapons, if known.
    - h. Any other pertinent information known.
  3. Additionally, the radio room supervisor shall ensure that the escape is broadcast over SPEN to surrounding communities. Provide the same information listed above. Update any changes to this information as necessary.
  4. The desk lieutenant shall cause notification to the shift commander.
  5. The shift commander may assign additional staffing, as needed for assistance, to the scene or to provide patrol coverage while existing duty personnel are committed to the escape investigation/search. Activation of additional resources should be consistent with the offense for which the escapee had been taken into custody, the likelihood of injury to the escapee and/or other persons, the likelihood of apprehension, and the anticipated duration of the search.
  6. The radio room supervisor shall ensure that telephone contact is made with any jurisdiction where the escapee may be likely to flee, provide the pertinent information, and request assistance from that jurisdiction in apprehension.
  7. When the escapee is recaptured, the desk lieutenant should direct a minimum of two (2) officers to reclaim the arrestee and transport him/her back to Elizabeth Police Department headquarters. Any alarm or broadcast to patrols or surrounding agencies should be promptly cancelled. Additional measures should be taken to prevent any further escape.
  8. Seek medical attention if the escapee requires it. Additional security measures shall be deployed to minimize any future escape attempt.



9. The incident must be fully documented on an incident report and the appropriate charges filed.
- P. When transportation terminates at this department, officers will secure their handguns in the appropriate handgun lockers and bring the arrestee(s) into the booking area.
- Q. If an officer suspects that an arrestee may have a communicable disease, officers shall wear appropriate protective equipment while searching, fingerprinting and processing the arrestee.
  1. Clean the handcuffs with an alcohol or disinfectant (anti-bacterial) wipe after removal from an arrestee.
  2. Officers shall thoroughly wash their hands with disinfectant soap after completing the search.
  3. If an officer has reason to believe his/her clothing has become contaminated as a result of contact with a party with a communicable disease, his/her clothing should be removed and placed in a bag and cleaned as soon as practicable. After placing clothing in a bag, officers should wash their hands thoroughly with disinfectant soap.
  4. The vehicle shall be parked at the police garage clearly tagged as needing disinfecting.
  5. Paper towels used to clean up are to be discarded in a plastic bag and placed in an outside trash receptacle. Cloth towels shall be laundered with a disinfectant or discarded.

## **VII. SPECIAL NEEDS CUSTODY AND TRANSPORTATION**

- A. There may be instances when normal custody and transportation procedures are impracticable. These reasons include, but are not limited to:
  1. Arrestee who exhibit signs of mental illness.
  2. Arrestee who may be emotionally disturbed.
  3. Arrestee who are physically disabled.
  4. Arrestee who is injured.
  5. Arrestee with a communicable disease.
  6. Arrestee who is morbidly obese.
- B. Transportation for arrestees who exhibit special needs may be accomplished by EMS, if available. Restraints should be used, if available and practical. If the arrestee has a wheelchair, the wheelchair should be transported with him/her. Canes and crutches should also be taken, but shall be stored as prisoner property until needed.

- C. The desk lieutenant will determine whether the person being arrested should be taken to the booking room or to a medical facility for evaluation and/or treatment first.
- D. If an arrestee indicates that he/she has medication that they need to sustain his/her health, the arresting officer should take possession of the medication.
  - 1. Officers shall not dispense or permit arrestees to take medication (prescription or non-prescription) without authorization of a licensed medical professional or paramedic. In emergent situations, a certified EMT may permit an arrestee to utilize common lifesaving medications (e.g., asthma inhaler, Epi-pen®, etc.) consistent with the prescription.
  - 2. If the arrestee needs immediate medical attention, he/she shall be transported to the hospital via EMS.
  - 3. If the arrestee is going to be committed to the Union County Jail the transporting officer shall bring the medication for determination by the Jail's medical staff.
- E. Arrestees have no right or privilege to attend funerals, religious services, visit in hospitals with critically ill family or friends, make telephone calls other than to contact an attorney, family member, arrange for bail, or attend probate proceedings while in the custody of this department.

## **VIII. POST ARREST IDENTIFICATION AND PROCESSING**

- A. Officers should wear protective gloves and face coverings while fingerprinting an arrestee or prisoner.
- B. If an officer has evidence along with the arrest:
  - 1. At no time will an officer keep evidence in the processing room with an arrestee in that area. This will minimize the opportunity for the arrestee to gain access to the evidence.
  - 2. If an arrestee does manage to have actual contact with the evidence during the booking process, consider charging the arrestee with N.J.S.A. 2C: 26-6 *Tampering with Evidence*.
- C. NOTE: do not use physical force against an uncooperative arrestee to complete the fingerprinting process. Rather, constructive authority (i.e., verbal commands, gestures, warnings) is the appropriate approach in such a situation.
  - 1. If necessary, an appropriate level of physical contact with the individual (i.e., guiding the individual, holding the individual's arm) could also be allowable if it involves only routine or procedural contact with the arrestee necessary to complete the fingerprinting process.
  - 2. Any other practical solutions, such as allowing for the passage of time after a refusal by the defendant (e.g., cooling off period, sobering up period), should also be utilized as appropriate.

3. If the arrestee refuses to comply with the fingerprinting procedure, he/she should be charged as a disorderly person under N.J.S.A. 53:1-15.
- D. Fingerprints and booking photographs (mug shots) shall be completed for all adult arrestees when:
1. Arrested for an indictable offense.
  2. Arrested for a violation of any state law relating to narcotics or dangerous drugs, whether indictable or otherwise.
  3. Within a reasonable time after the filing of a complaint-summons by an officer charging the defendant with an indictable offense.
  4. Arrested for shoplifting.
  5. Arrested for prostitution.
  6. Charged in an indictment/accusation and had not already been arrested, fingerprinted/photographed for the charge(s). The indictment number shall be listed on the front of the state fingerprint card.
  7. Arrested and believed to be wanted for an indictable offense.
  8. Arrested for a domestic violence related crime/offense where any of the following four criteria are met:
    - a. Victim exhibits signs of injury caused by an act of domestic violence.
    - b. A warrant is in effect.
    - c. There is probable cause to believe that the person has violated a judicial order in NJSA 2C: 29-9 AND there is probable cause to believe that the person has been served with that order.
    - d. There is probable cause to believe that a weapon as defined in NJSA 2C: 39-1 has been involved in an act of domestic violence.
  9. Arrested and believed to be a habitual criminal.
- E. Such mug shots must be:
1. Face straight on (e.g., not tilted side-to-side, not tilted front-to-back, no open mouth, etc.) and right profile (left pose).
  2. Adequately lighted (e.g., no shadows, no uneven light, etc.).
  3. Composed with no facial obstructions (e.g., hair hanging in front of the face, eyeglasses, facial piercings, dirt, blood, excessive make-up, etc.).
  4. When possible, long hair should be tied back or tucked behind the ears.

5. Head coverings should be removed unless they serve a religious or medical purpose. Such head coverings include, but are not limited to:
  - a. Hijab is a piece of fabric used as a headscarf and fastened under the chin, in traditional Islamic dress is a veil traditionally worn by Muslim women in the presence of adult males outside of their immediate family, which usually covers the head and chest. The term can further refer to any head, face, or body covering worn by Muslim women that conform to a certain standard of modesty. The hijab should not cover the face on the mug shot.
  - b. Snood is a type of female headgear designed to hold the hair in a cloth or yarn bag. In the most common form, the headgear resembles a close-fitting hood worn over the back of the head. It is similar to a hairnet, but snoods typically have a looser fit, a much coarser mesh, and noticeably thicker yarn. Snoods are permitted if they do not cover the face.
  - c. Yarmulke (also known as a kippah, kippa, or kipah) is a brimless cap, usually made of cloth, worn by followers of Judaism to fulfill the customary requirement held by Orthodox authorities that the head be covered. Yarmulkes are permitted.
  - d. Bandages and other medically necessary appliances are permitted. If a bandage or other medical appliance interferes with the mug shot, such photograph can be taken at a later time.
- F. The arresting officer shall ensure that the following queries are made on the arrestee(s) prior to release or transfer:
  1. NCIC.
  2. ACS/ATS.
- G. Juvenile fingerprints/photographs shall be taken consistent with N.J.S.A. 2A: 4A-61 et seq.
- H. No arrestee shall be released from custody until such queries are made. The arresting officer shall ensure that all appropriate victim/witness notifications are made.
- I. The arresting officer shall ensure that guidelines for alternate care for arrestee's dependents are followed and documented on the incident report. See *General Order V3C7*.
- J. DNA sampling from qualifying arrestees shall be completed prior to release or transfer. See *General Order V5C9*.

## IX. COMPLAINT PROCESSING

- A. When a person is taken into custody for a crime or offense, the officer shall inquire whether the person is an active service member or has ever served in the military services of the United States. The results of this mandated inquiry shall be included in the officer's investigation report
1. In certain circumstances, N.J.S.A. 2C: 43-25 permits criminal justice diversion of a veteran by a municipal police officer in lieu of signing a criminal complaint.
  2. An assistant prosecutor assigned to the special offenders' unit of the UCPO or his/her designee must expressly approve such pre-complaint diversion of an individual pursuant to N.J.S.A. 2C: 43-25.
  3. If approval is not or cannot be obtained, regular complaint procedures established in this section (IV.D) shall be followed.
  4. Pre-complaint veterans' diversion will only be considered in the following situations:
    - a. The officer has confirmed that the individual has a valid and verified Union County address and valid and verified phone number; and
    - b. The individual is known to the officer to be or has indicated to the officer that he/she is an active service member or a veteran eligible for veterans' services through the Veterans Administration (VA) and is willing to provide or obtain a DD-214 to confirm this status; and
    - c. The potential crime or offense, if not diverted, would be the equivalent of a third degree or lower; and
    - d. The potential crime or offense does not involve a victim other than a law enforcement officer, medical transport personnel, or medical staff; and
    - e. Medical transport personnel or medical staff has expressly consented to the individual's consideration for pre-complaint veterans' diversion; and
    - f. The individual being considered for diversion is willing and is willing to cooperate with any evaluations and recommended treatment; and
    - g. The individual is willing to complete the *Pre-Arrest Diversion* application.
      - 1) The arresting officer will complete those portions of the application with input from the applicant (where indicated).
      - 2) The applicant will complete those portions of the application, where indicated.

- h. All pre-complaint investigation and documentation (except for the complaint itself) must be completed as if complaints were signed.
  - i. All pre-complaint investigation and documentation (except for the complaint itself) must be completed as if complaints were signed and forwarded to [unionsou@ucnj.org](mailto:unionsou@ucnj.org)
- 5. During regular business hours, the special offenders' unit can be reached via the main phone number of the Union County Prosecutor's Office, (908) 527-4500. After hours and during holidays the designated assistant prosecutor can be contacted via the Union County Police Department at (908) 654-9800.
- 1. When an officer believes or has information that a person being charged has a mental illness, the officer shall notify the Union County Prosecutor's Office Special Offenders Unit by indicating in Infoshare and providing any additional information via the initial report, the notes in Infoshare or by emailing [unionsou@ucnj.org](mailto:unionsou@ucnj.org). The procedures in subsection VI.A.4 (above apply, except for the procedures (and application questions) applying to solely veterans).
- B. The Union County Prosecutor's Office must preauthorize all complaint-warrants (CDR-2) for any crime/offense that is considered a mandatory complaint-warrant or presumed complaint-warrant, see subsections IX.D and IX.E below.
- C. The desk lieutenant is authorized to approve the issuance of a complaint-summons (CDR-1) for those offenses that are considered presumed complaint-summons, see subsection IX.E below.
- D. MANDATORY COMPLAINT-WARRANT – Crimes/conditions requiring a mandatory application for a complaint-warrant where probable cause exists to believe that defendant committed or attempted to commit:
  - 1. Murder (N.J.S.A. 2C: 11-3).
  - 2. Aggravated manslaughter (N.J.S.A. 2C: 11-4(a)).
  - 3. Manslaughter (N.J.S.A. 2C: 11-4(b)).
  - 4. Aggravated sexual assault (N.J.S.A. 2C: 14-2(a)).
  - 5. Sexual assault (N.J.S.A. 2C: 14-2(b) or (c)).
  - 6. Robbery (N.J.S.A. 2C: 15-1).
  - 7. Carjacking (N.J.S.A. 2C: 15-2).
  - 8. Escape (N.J.S.A. 2C: 29-5(a)).
  - 9. The defendant was extradited from another state for the current charge (the officer must notify the court of the extradition).
  - 10. A lawful detainer has been lodged against the defendant by another law enforcement agency (the officer must notify the court of the detainer(s)).

11. Note: If a defendant is arrested for an offense committed under the laws of another state, or the United States, and is not charged with an offense under New Jersey law, the *Bail Reform Act* does not apply, and the officer shall proceed in accordance with the laws, practices, and procedures currently in place.

E. PRESUMED COMPLAINT-WARRANT:

1. Automated risk assessment (PSA) indicates an elevated risk of flight (i.e., FTA score of 3, 4, 5 or 6).
2. Automated risk assessment (PSA) indicates elevated risk of flight risk of new criminal activity (i.e., NCA score of 3, 4, 5 or 6).
3. Automated risk assessment (PSA) indicates that there is a risk of new violence (i.e., the new violent criminal activity (NVCA) flag is indicated).
4. When 'unclassifiable charges' appear on a preliminary PSA unless otherwise directed by an assistant prosecutor.
5. The defendant has violated a domestic violence restraining order or a condition of release as part of present offense.
6. The defendant has violated a sexual assault survivor protection order or a condition of release as part of present offense.
7. There is probable cause to believe that the defendant committed bail jumping in violation of N.J.S.A. 2C: 29-7, witness tampering or retaliation in violation of N.J.S.A. 2C: 28-5, witness obstruction in violation of N.J.S.A. 2C: 29-3b(3), or witness tampering in violation of N.J.S.A. 2C: 29-3a(3).
8. There is probable cause to believe that the defendant committed or attempted to commit:
  - a. A 1<sup>st</sup> or 2<sup>nd</sup> degree crime in N.J.S.A. 2C: 35-1 et seq.
  - b. A crime involving the possession/use of a firearm.
  - c. Vehicular homicide (N.J.S.A. 2C: 11-5).
  - d. A 2<sup>nd</sup> degree aggravated assault (N.J.S.A. 2C: 12-1(b)).
  - e. Assault on public officials or employees, 3<sup>rd</sup> degree (N.J.S.A. 2C: 12-1(b)(5)).
  - f. Disarming a law enforcement officer (N.J.S.A. 2C: 12-11).
  - g. Kidnapping (N.J.S.A. 2C: 13-1).
  - h. Aggravated arson (N.J.S.A. 2C: 17-1(a)).
  - i. 2<sup>nd</sup> degree burglary (N.J.S.A. 2C: 18-2).

- j. Extortion (N.J.S.A. 2C: 20-5).
  - k. Theft of Motor Vehicle (N.J.S.A. 2C: 20-10.1).
  - l. Receiving Stolen Property (Motor Vehicle) (N.J.S.A. 2C: 20-10.2).
  - m. Causing or permitting a child to engage in a prohibited sexual act (N.J.S.A. 2C: 24-4b(3)).
  - n. Photographing, filming, sexual exploitation, or abuse of a child (N.J.S.A. 2C: 24-4(b)(3), (b)(4), or (b)(5)).
  - o. Witness Tampering/Retaliation (N.J.S.A. 2C: 28-5).
  - p. Eluding 2<sup>nd</sup> degree (N.J.S.A. 2C: 29-2(b)).
  - q. Violation of the terms of pretrial release (defendant committed criminal contempt (N.J.S.A. 2C: 29-9(a)) involving (a) a violation of a condition of pretrial release to avoid contact with an alleged victim or (b) a violation of a condition of home detention with or without the use of an approved electronic monitoring device ordered pursuant to N.J.S.A. 2A:162-17).
  - r. Hindering apprehension or prosecution (N.J.S.A. 2C: 29-3a(3)).
  - s. Bail Jumping (N.J.S.A. 2C: 29-7).
  - t. Booby traps in manufacturing/distribution facilities (N.J.S.A. 2C: 35-4.1(b)).
  - u. Strict liability for drug induced death (N.J.S.A. 2C: 35-9).
  - v. Terrorism (N.J.S.A. 2C: 38-2).
  - w. Producing or possessing chemical weapons, biological agents or radiological devices (N.J.S.A. 2C: 38-3).
  - x. Firearms trafficking (N.J.S.A. 2C: 39-9(i)).
  - y. Racketeering (N.J.S.A. 2C: 41-2).
9. The present offense was committed while on release for another offense (including release for any indictable crime or disorderly persons offense whether that previous offense had been charged by complaint-warrant or complaint-summons).
  10. The present offense was committed while on probation, special probation, intensive supervision program (ISP), parole or pretrial intervention (PTI), community supervision for life (CSL), or parole supervision for life (PSL), when the defendant pleaded guilty as required by N.J.S.A. 2C: 43-12g(3).
  11. The present offense was committed while the defendant was on release pending sentence or appeal.



12. Within the last 10 years, the defendant as a juvenile was adjudicated delinquent for a crime involving a firearm or a crime that if committed by an adult would be subject to N.J.S.A. 2C: 43-7.2.
13. It reasonably appears that the defendant has an out-of-state pending charge or conviction involving actual or threatened violence or unlawful possession or use of a firearm.
14. The ODARA score is 3 or greater regardless of the PSA scores.
15. The PSA results are not available because either the Live Scan system or the judiciary's automated PSA system is not operational, or the results from the PSA otherwise are not or will not be available within a reasonable period of time (e.g. within two hours of fingerprinting the defendant).
16. If any one of these above criteria exists, a complaint-warrant **must** be sought, **unless** there is a determination made that neither the interests of public or victim safety nor the interests of justice would be served by applying for a complaint-warrant.

F. DOMESTIC VIOLENCE RELATED CASES:

1. Officers shall complete an ODARA in those cases of domestic violence in which the following crimes/offenses are charges and the victim is a partner, as defined in subsection I.C.1 of this general order:
  - a. Homicide (N.J.S.A. 2C: 11-1).
  - b. Simple assault with contact or a weapon (N.J.S.A. 2C: 12-1a).
  - c. Aggravated assault (N.J.S.A. 2C: 12-1b).
  - d. Terroristic threats with contact or with a weapon (N.J.S.A. 2C: 12-3).
  - e. Kidnapping (N.J.S.A. 2C: 13-1).
  - f. False imprisonment with contact or with a weapon (N.J.S.A. 2C: 13-3).
  - g. Sexual assault (N.J.S.A. 2C: 14-2).
  - h. Criminal sexual contact (N.J.S.A. 2C: 14-3).
  - i. Robbery (N.J.S.A. 2C: 15-1).
  - j. Burglary, 2<sup>nd</sup> degree with contact or with a weapon (N.J.S.A. 2C: 18-2).
  - k. Any other crime involving risk of death or serious bodily injury (N.J.S.A. 2C: 25-19a(18)).

2. Prior to administering an ODARA, officers shall inform the victim about the use of the information being obtained and resultant score as well as the person(s) or agencies that will have access to the results and permit the victim to decline participation if the victim believes that participation will compromise his/her safety.
  - a. If the victim declines to participate in the ODARA interview, the officer shall complete the ODARA without the victim's participation. In such instances, the information to complete the ODARA can be obtained from others knowledgeable about the circumstances of the victim and the defendant, law enforcement reports, law enforcement databases, etc.
  - b. (NOTE: such information gathering can also be employed in those instances in which a victim is incapable of participating in an interview (e.g., hospitalized, etc.)).
3. In any case involving domestic violence and when considering the totality of circumstances, the following special considerations and factors must be assessed:
  - a. In all cases involving domestic violence and in consultation with the desk lieutenant, the officer must consider whether the mandatory detention that would result from the issuance of a complaint-warrant might exacerbate the domestic violence situation, or might discourage a victim from pursuing the charge or cooperating with the prosecution, or otherwise would not serve the interest of justice.
  - b. Given the repetitive nature of domestic violence offenses, the officer or desk lieutenant may consider whether it is appropriate to apply for a complaint-warrant in recognition that if the defendant is charged on a complaint-summons and thereafter commits a new crime while on pretrial release, the prosecutor cannot move to revoke release.
  - c. In determining whether to apply for a complaint-summons or a complaint-warrant in domestic violence cases, the desk lieutenant shall give special consideration to the following circumstances relevant to the risks that would be posed if the defendant were to be released on a complaint-summons:
    - 1) Whether the victim exhibited sign of injury caused by an act of domestic violence, and if so, the extent of injury.
    - 2) Whether any weapon was used or threatened to be used against the victim.
    - 3) Whether the defendant has at any time previously violated a domestic violence restraining order and the nature and seriousness of such violation(s).

- 4) Whether there is reason to believe that the defendant possesses one or more firearms that for practical or other reasons cannot be seized or surrendered pursuant to the *Prevention of Domestic Violence Act* before the defendant can be released on a complaint-summons.
  - 5) Whether the defendant exhibited suicidal behavior such as excessive sadness or moodiness or threatening self-injury.
  - 6) Whether the defendant attempted to or did strangle the victim during an assault or at any point prior thereto.
  - 7) Whether the defendant threatened to or did harm a household pet.
- d. In any application for a complaint-warrant, the presence of any of the above circumstances shall be included in the *Affidavit of Probable Cause*.
  - e. In any case involving domestic violence when the officer or desk lieutenant has reason to believe, considering the totality of the circumstances including, but not limited to the special factors listed above, that issuance of a no-contact condition or other restraint, a requirement to surrender weapons, or any other special condition of pretrial release expressly authorized by N.J.S.A. 2C: 25-26(a) is necessary to reasonably assure the immediate safety of the victim, the officer shall apply for a complaint-warrant and seek imposition of the condition(s) needed to reasonably assure the immediate safety of the victim.
  - f. Nothing in this subsection shall be construed to preempt or in any way alter the authority of the victim to apply for a temporary or final restraining order, and the special conditions of pretrial release in the criminal prosecution sought pursuant to this subsection shall be in addition to, not in lieu of, any such civil temporary or final restraining order.
  - g. In cases involving domestic violence, if the decision is made to apply for a complaint-warrant, the application shall clearly state that the offense involves domestic violence and shall include any relevant information contained in the *Domestic Violence Central Registry* and/or ODARA, if applicable. Whether the offense is charged by complaint-warrant or complaint-summons, the victim shall be informed how to apply for a restraining order under the *Prevention of Domestic Violence Act*. This requirement to inform the victim shall not be construed to preclude the officer or desk lieutenant from seeking imposition of a no contact or other appropriate restraint as a condition of release on a complaint-warrant as may be required.

- G. PRESUMED COMPLAINT-SUMMONS – If the case is not a mandatory or presumed complaint-warrant application, the officer **SHALL** issue a complaint-summons with the approval of the desk lieutenant, unless the application for a complaint-warrant is reasonably necessary to protect the safety of a victim or community, to reasonably assure the defendant's appearance in court when required, or to prevent the defendant from obstructing or attempting to obstruct the criminal justice process, AND there is a lawful basis to apply for a complaint-warrant:
1. The defendant has been served with a complaint-summons and has failed to appear; or
  2. There is reason to believe that the defendant is dangerous to him/herself if released on a summons; or
  3. There is reason to believe that the defendant will pose a danger to the safety of any other person or the community if released on a summons; or
  4. There is an outstanding warrant for the defendant; or
  5. The defendant's identity or address is not known, and a warrant is necessary to subject the defendant to the jurisdiction of the court; or
  6. There is reason to believe that the defendant will obstruct or attempt to obstruct the criminal justice process if released; or
  7. There is reason to believe that the defendant will not appear in response to a summons; or
  8. There is reason to believe that the monitoring of pretrial release conditions by the pretrial services agency is necessary to protect any victim, witness, other specified person, or the community.
- H. For all adult arrests requiring a mandatory or presumed complaint-warrant (CDR-2) or when the desk lieutenant determines that it is necessary to overcome a presumed complaint-summons (CDR-1), the desk lieutenant shall consult with the on-duty or on-call prescreening assistant prosecutor to determine the highest charge for which probable cause exists by completing the following. (Note: juvenile arrests are excluded from this procedure).
1. Fingerprint the defendant on LiveScan. The LiveScan records submission check shall include the highest degree crime for which the law enforcement officer has probable cause to charge and should also include all other charges for which there is probable cause.
  2. Wait until the LiveScan confirmation is received and determine if the LiveScan linked to a known individual.
  3. Select the 'to be determined' (TBD) complaint option in eCDR and complete the required fields.
  4. Complete the *Affidavit of Probable Cause* in eCDR.

5. Complete a full and detailed *Preliminary Law Enforcement Incident Report* (P.L.E.I.R.) as part of the eCDR process. (Unless an assistant prosecutor expressly indicates that a P.L.E.I.R. should not be completed. If the incident involves an ODARA, officers must include the following in the PLEIR:
- a. That an ODARA had been completed.
    - 1) Whether the victim was confined at the index assault.
    - 2) Whether there was a threat to harm or kill anyone at the index assault.
    - 3) Victim's concern about future assaults.
    - 4) Victim and/or defendant have more than 1 child altogether.
    - 5) Victim has a biological child with someone other than the defendant.
    - 6) Assault on the victim while she was pregnant (at index assault or prior assault).
    - 7) Two or more indicators of substance abuse.
    - 8) Victim faces at least 1 barrier to support.
    - 9) Prior violent incident against a non-domestic victim.
    - 10) Prior domestic incident of assault in a police report or criminal record (against current or former partner or partner's child).
    - 11) Prior non-domestic incident of assault in a police report or criminal record (against any person other than a partner or a partner's child).
    - 12) Prior custodial sentence of 30 days or more.
    - 13) Failure on current or prior conditional release (including bail, parole, probation, or pretrial release order) or conditions of a restraining order (TRO, FRO, DORO, SORO, SASPA, stalking).
  - b. NOTE: Factors scored a '1' on the *ODARA Scoring Form* should be checked off on the PLEIR. Officers should not convey to the court factors scored with a '?' or '0'.
  - c. Also note:
    - 1) Whether the defendant has access to firearms.
    - 2) Whether the defendant attempted to or did strangle the victim during this incident or at any time prior.

- 3) Defendant's characteristics:
  - a) Defendant has history of mental illness (may include PTSD, depression, etc.).
  - b) Defendant exhibited suicidal behavior (such as excessive sadness or moodiness) or threatened self-injury during this incident or at any time prior thereto.
  - c) Defendant has a history of stalking, harassment or terroristic threats (towards any victim).
  - d) Defendant threatened to or did harm a household pet during this incident or at any time prior.
  - e) Defendant is unemployed or has a history of chronic unemployment.
- 4) Relationship changes:
  - a) Victim recently left defendant or informed defendant that he/she was ending the relationship.
  - b) Victim is with a new intimate partner.
  - c) There have been changes in custody of the children.
6. Run the PSA. The PSA score will include the following:
  - a. Failure to appear (FTA) (1-6).
  - b. New criminal activity (NCA) (1-6).
  - c. New violent criminal activity flag (NVCA) (Yes or No).
7. The following additional information must also be provided to the prescreening assistant prosecutor.
  - a. CCH.
  - b. Out of state CCH (III).
  - c. Juvenile history (FACTS).
  - d. Domestic violence registry check.
  - e. Sexual assault registry check.
  - f. Expunged records (if available).
  - g. Any other information relied upon by the law enforcement agency in processing arrest (e.g., ATS, ACS warrant checks, de-confliction checks, if appropriate, etc.).

- h. ODARA (domestic violence cases only; see subsection I.C.3 or subsection IX.E.1 of this general order for qualifying domestic violence related crimes/offenses).
    - 1) NOTE: Use an *ODARA Scoring Form* regardless of the gender of the person committing the index assault or the gender of the victim, but officers shall only use the ODARA scores to frame decision-making in cases in which a male or a person who self identifies as a male has assaulted a female or a person who self identifies as a female partner.
    - 2) In all other cases, officers should include a concise description of all ODARA items found to be present in any *Affidavit of Probable Cause* submitted with an application for a complaint-warrant.
  - i. The PSA does not take into account the threat of future harm to victim(s) or witnesses, defendant's involvement or affiliation with gang or organized crime, alcohol and drug dependence or mental illness. The desk lieutenant MUST alert the court to additional known relevant facts and circumstances in filing in the blanks that will not be known based upon the PSA.
- 8. Applying all relevant information, determine with the desk lieutenant if the charge(s) are:
    - a. Mandatory complaint-warrant; or
    - b. Presumed complaint-warrant; or
    - c. Presumed complaint-summons.
  - 9. The submitting officer must then submit the eCDR for the prescreening assistant prosecutor's review.
  - 10. The assistant prosecutor will review and/or approve the eCDR, forward it to the submitting officer for submission to the judicial officer for approval.
  - 11. If there are any revisions required, the prescreening assistant prosecutor will return the eCDR to the submitting officer for further revision.
- I. If a judge or other judicial officer denies an application for a complaint-warrant (CDR-2), leaving the officer with no choice but to issue a complaint-summons (CDR-1), the desk lieutenant shall immediately contact the assistant prosecutor who authorized the complaint.
  - J. Charging decisions when Live Scan is unavailable, results are delayed, or defendant is not yet arrested:
    - 1. If the Live Scan system or the judiciary's automated PSA is not operational; or

2. If the PSA result is not available within 2 hours of fingerprinting the defendant; or
  3. If probable cause exists to issue a complaint for a defendant not yet arrested:
    - a. The desk lieutenant SHALL make a complaint-warrant versus complaint-summons determination by applying the provisions and presumptions set forth in this section that do not depend on the results of the automated PSA tool.
    - b. In making this decision, the desk lieutenant SHALL give special consideration to the interests of public protections served by providing the pretrial services program with an opportunity to conduct an objective assessment and to make recommendations as to any conditions that may be needed to manage the risks that would be posed by defendant's release.
    - c. If the desk lieutenant determines that a complaint-warrant (CDR-2) should be issued, contact the on-call assistant prosecutor. Otherwise, the desk lieutenant can authorize the issuance of a complaint-summons (CDR-1)
- K. When a complaint-warrant is authorized, the officer SHALL prepare an *Affidavit Of Probable Cause*, which will be filed electronically through the eCDR system.
1. In accordance with *New Jersey Attorney General's Directive 2017-1*, do not include victim and/or witness' identifying information in the *Affidavit of Probable Cause*, such as names and addresses! DO NOT use initials! Officers must still include the victim's name in the narrative of the eCDR.
  2. Instead, use anonymous pseudonyms (e.g., John/Jane Doe #1, John/Jane Doe #2, etc.) and reference such pseudonyms to the correct person in the division's incident report.
  3. The affidavit will include a checkbox allowing the officer to certify that the statements in the affidavit are true. The affidavit SHALL include a concise description of relevant facts and circumstances. It should also include a concise statement as to the officer's basis for believing the defendant committed the offense. It shall also indicate whether a victim was injured and, if so, to what extent.
  4. In domestic violence related cases, officers should include a concise description of all ODARA items found to be present in the *Affidavit of Probable Cause* and PLEIR.
  5. The desk lieutenant should review the statement of probable cause prior to submission in the eCDR system.
  6. Additionally, the officer SHALL prepare and file electronically through the eCDR system the *Preliminarily Law Enforcement Incident Report* (PLEIR). The desk lieutenant should review the PLEIR prior to submission in the eCDR system.



7. The officer preparing the complaint-warrant shall contact the Union County Police Department to notify the on-call assistant prosecutor that a complaint-warrant has been prepared.
  8. The assistant prosecutor will review the complaint, the *Affidavit of Probable Cause* and the *Preliminarily Law Enforcement Incident Report* and, when appropriate, either approve or deny the complaint and accompanying documents, if any.
- L. The desk lieutenant shall ensure that all CDRs and supporting documents are electronically forwarded to the Union County Prosecutor's Office and Central Intake through InfoShare.
2. When a complaint-warrant is issued, all available reports shall be submitted immediately.
  3. When a complaint-summons is issued, all available reports shall be submitted within 48 hours.
  4. *ODARA Scoring Forms*:
    - a. Officers shall upload a copy of the completed *ODARA Scoring Form* to the Union County Prosecutor's Office InfoShare module as soon as practicable following completion along with the incident reports, photograph, statements, etc., see subsection IX.L below.
    - b. Officers shall also transmit a copy of the completed *ODARA Scoring Form* to the Union County Prosecutor's Office as soon as practicable following completion at [ucpodv@ucnj.org](mailto:ucpodv@ucnj.org).
    - c. Officers shall also transmit a copy of the completed *ODARA Scoring Form* to the Division of Criminal Justice as soon as practicable following completion at [ODARA@njdcj.org](mailto:ODARA@njdcj.org).
    - d. The original *ODARA Scoring Form* shall be maintained in the applicable case file.
    - e. ODARA scores shall not be communicated or disseminated to members of the judiciary (i.e., judicial officers, including judges and court administrators, and pretrial service program personnel), and completed *ODARA Scoring Forms* shall not be offered in evidence. This prohibition applies to every stage of a criminal prosecution (e.g., applications for complaint-warrants, requests for conditions of release, hearings for pretrial detention, and trials). However, officers should utilize any information learned from the ODARA to frame critical decisions during criminal prosecutions, including whether to seek a complaint-warrant and whether to seek detention.
    - f. *ODARA Scoring Forms* are subject to discovery.

- M. Prior to transporting a defendant to the Union County Jail on an indictable charge, the desk lieutenant shall ensure that the following documents are scanned and uploaded to InfoShare. Provide the jail's intake official with a copy of the *Document Upload Receipt*. A defendant will not be accepted without a completed *Document Upload Receipt*.
1. Copies of all CDRs for indictable crimes.
  2. Initial investigation reports.
  3. All other relevant reports.
  4. All available written statements.
  5. Service sheet copy of associated disorderly person complaints.
  6. Copies of associated uniform traffic tickets.
  7. Defendant's CCH (and III, when applicable).
  8. If charged on a complaint-summons:
    - a. *First Appearance Notice to Appear Form*; and
    - b. *Return of Service* for CDRs for indictable crimes.
  9. Union County Jail Commitment Form with SBI number.
  10. A copy of the NJSP 10-print criminal fingerprint card.
  11. *Victim Notification Form* (when required).
  12. Any other complaints, photographs, etc. previously required.
- N. Because InfoShare does not have the capability to store video and audio recordings, such recordings (e.g., statements, BWC, 9-1-1 recordings, radio transmissions, surveillance, etc.) shall be burned to a DVD or CD and physically transported to the UCPO.

## **X. REPORTING REQUIREMENTS**

- A. All arrest incidents shall minimally require the following documentation whether electronic or paper equivalent:
1. *Arrest Card*.
  2. *Incident Report*.
  3. *Preliminary Law Enforcement Incident Report* (when necessary).
  4. *Affidavit of Probable Cause* (when necessary).
  5. *ODARA Scoring Form* (when required).

6. DWI Reports (when applicable).
7. *Evidence Report* (if required).
8. *Consent to Search* (if required).
9. *Miranda Waiver* (if required).
10. *Victim Notification Form* (if required).
11. *Union County Jail Commitment Form* (if subject to custodial confinement).

## **XI. SUPPLEMENTAL PRISONER TRANSPORTATION**

- A. This section addresses instances when prisoners already in custody are transported to and from this department.
- B. Prior to beginning any transportation, officers assigned shall ensure that the vehicle being used is sufficiently fueled. For transportation over long distances, officers should be prepared to purchase fuel if necessary, receipt required. Reimbursement shall be sought through the chain of command.
- C. Take an E-Z Pass transponder, when required.
- D. Typically, the Union County Sheriff's Office will perform Interstate transportation. If this department is called upon to assist, officers(s) assigned shall be briefed on and adhere to the sheriff's policies and procedures.
- E. Prisoners being taken to or from county jail, state prison, or other facility should be handcuffed in the back unless circumstances require handcuffing in the front. The circumstances may include but, are not limited to:
  1. Transporting to/from long distances (typically out-of-county).
  2. Disability.
  3. Potential for positional asphyxia (morbid obesity, etc.).
  4. Ankle shackles, handcuffing belt, and/or disposable handcuffs (e.g., nylon flex cuffs, nylon zip ties, etc.) may be utilized when deemed necessary to provide additional restraints for subjects, who are combative or deemed a flight risk. When such nylon restraints are used, officers shall ensure that they have immediate access to a cutting tool if the arrestee suffers a medical emergency (e.g., respiratory distress due to positional asphyxia, etc.)
  5. Transportation of arrestees/prisoners in a prone (face down) or supine (face up) position is prohibited. Accordingly, the application of mechanical restraints must be made in such a manner as to allow for upright transportation of all prisoners.
  6. At no time shall officers lose sight of a prisoner(s).

- F. Officers shall search the rear seat of vehicles being used for prisoner transportation prior to occupation by the prisoner(s). Vehicles shall be searched again following transportation.
- G. Prisoners being taken to/from any facility shall be searched prior to being placed in a vehicle. Do not assume that the prisoner is free of weapons, contraband, evidence, or implements of escape.
- H. Each prisoner being transported to or from another detention facility, court, or other law enforcement/judicial venue should be positively identified as the person who is to be moved. Names, physical identifiers, photographs (if available), date of birth, fingerprints, etc. shall be verified beforehand. Documentation and/or information shall accompany the prisoner being moved to or from another facility. This documentation and/or information includes, but is not limited to:
  - 1. Warrants.
  - 2. Personal property, if applicable.
  - 3. Commitment documents.
  - 4. Medical records of unusual illnesses or injuries (if applicable).
  - 5. Information relating to the prisoner's escape risk, suicide risk, unusual security risk, or other personal traits implying such risks.
  - 6. Victim notification forms.
- I. Prisoners should be transported in a vehicle equipped with a safety partition with the rear doors and windows controls disabled or removed. Prisoners should be secured with the vehicle's safety restraints. This further restraint will provide an additional level of security for the transporting officers. Two officers shall be used.
- J. Multiple prisoners can be transported within the same vehicle, but the number of prisoners shall not exceed the capacity of the safety devices (lap and shoulder harnesses) in rear seat area.
- K. Male and female prisoners should not be transported at the same time in the same vehicle wherever feasible.
- L. Juvenile and adult prisoners shall not be transported at the same time in the same vehicle.
- M. Follow intake/booking procedures when bringing prisoners to this facility.
- N. If any suspicious, threatening, dangerous, or alarming incident should occur during transportation, the officer should immediately notify communications and pull over in a safe location to further observe or correct the situation. Particular attention shall be directed toward prisoners who are or might possibly be under the influence of alcohol or drugs or who have a propensity or history of being violent.

- O. Prisoners are not permitted to communicate with anyone except a police officer during transportation or while waiting to be transported. Persons approaching a police vehicle containing a prisoner shall be instructed to leave and advised that the failure to oblige may result in their arrest and/or prosecution.
- P. Prisoners shall be transported directly to the intended destination as directed unless being taken to a medical facility for treatment.
- R. Arrestee transportation should not be interrupted except in extreme cases involving potentially serious bodily injuries or if someone's life is in jeopardy. If arrestee transportation is interrupted, one officer shall maintain close security on the arrestee. One of the officers shall:
  - 1. Immediately notify communications of the event and what type of assistance is needed. The radio room supervisor or field supervisor shall then direct the appropriate type and level of assistance, if local; and
  - 2. If the transporting vehicle is in another jurisdiction, communications or the radio room supervisor shall then immediately contact the law enforcement agency with jurisdictional responsibility for assistance.
- Q. If long-range transportation is necessary, the prisoner should be directed to use the restroom facilities prior to transportation. Officers must remain aware that any request to stop may be a pretext for escape. If a restroom stop is required, officers should use the facilities at a state, county or local law enforcement agency and not public restrooms at highway rest areas.
- R. Officers shall not stop to eat or take breaks while transporting prisoners.
- S. Prior to commencing transportation, officers shall advise communications of the number of prisoners being transported, their sex, the starting location, their destination, and starting mileage. Upon arrival at their destination, officers are to give their ending mileage. If out of radio range, use a telephone to relay this information and call a taped line.
- T. If a prisoner is being transported to another law enforcement agency, confinement facility, or a medical facility (hospital, etc.), officers shall comply with all of that agency's rules and procedures concerning weapons storage. If necessary, contact a supervisor to assign a second armed officer to assist.
- U. If the prisoner's destination is other than this department:
  - 1. Secure all handguns in appropriate receptacles in accordance with the receiving agency's weapons control policy. Shotguns, patrol rifles, and other firearms shall remain locked in the vehicle.
  - 2. Make a CAD entry noting the time the prisoner was transported from headquarters to another facility. The name of the facility and receiving official will be noted.
  - 3. When a prisoner is sent to the Union County Jail on a *No Bail* or *Pending Arraignment* commitment, a photocopy of the CDR is to accompany the prisoner.

4. Restraints should not be removed until just prior to placing the prisoner in a cell or other secure holding facility
  5. All necessary forms, documentation, and prisoner property, shall be turned over to the receiving agency
  6. The receiving agency or court shall be advised of any potential medical or security hazards concerning the prisoner(s) including if the prisoner(s) is (are) considered an unusual security risk.
- V. If a prisoner escapes during transportation, see section VI.L.
- W. If prisoners with special needs are being transported to a Union County facility, first notify the Union County Sheriff's Office to see if that agency can provide transportation.
- X. Do not presume that restraining devices are unnecessary for disabled prisoners, but exercise discretion in restraining a disabled or injured prisoner for transportation. Depending on the degree of disability or the body parts or functions that are disabled, simple handcuffing in the front through a belt may suffice. Prisoners who cannot ambulate without crutches or cane(s) may be permitted to do so without restraint depending on their security risk. A wheelchair may be preferred to transport non-ambulatory prisoners where high security is warranted. The prisoner should be secured to the wheelchair.
- Y. Prisoners being picked up at other locations and exhibiting signs of untreated injuries or illnesses shall normally be refused. If the prisoner is being picked up on an Elizabeth warrant:
1. Take the prisoner to the nearest medical facility for emergency treatment in accordance with subsection VI.L of this general order.
  2. If the prisoner exhibits signs of mental illness, follow the protocols found in *General Order V3C21 Emotionally Disturbed Persons*, specifically the subsections on mental health screening and commitment.
  3. Promptly notify the desk lieutenant and document the matter.