

**RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
RULE 3:2. CONTENTS OF COMPLAINT, ARREST WARRANT AND SUMMONS**

Rule 3:2-1. Contents of Complaint; Citizen Complaints for Indictable Offenses; Forwarding of Indictable Complaints to Prosecutor and Criminal Division Manager; Forwarding of Investigative Reports to Prosecutor

(a) Complaint.

(1) General. The complaint shall be a written statement of the essential facts constituting the offense charged made on a form approved by the Administrative Director of the Courts. All complaints except complaints for traffic offenses, as defined in R. 7:2-1 where made on Uniform Traffic Tickets and complaints for non-indictable offenses made on the Special Form of Complaint and Summons, shall be by certification or on oath before a judge or other person authorized by N.J.S.A. 2B:12-21 to take complaints. The clerk or deputy clerk, municipal court administrator or deputy court administrator shall accept for filing any complaint made by any person. Acceptance of the complaint does not mean that a finding of probable cause has been made in accordance with R. 3:3-1 or that the Complaint-Warrant (CDR-2) or Complaint-Summons (CDR-1) has been issued.

(2) Issuance of a Citizen Complaint Charging Indictable Offenses. A Complaint-Warrant (CDR-2) or a Complaint-Summons (CDR-1) charging any indictable offense made by a private citizen may be issued only by a judge.

(3) County Prosecutor Review of Citizen Complaints Charging Indictable Offenses. Prior to a finding of probable cause and issuance of a Complaint-Warrant (CDR-2) or a Complaint-Summons (CDR-1) charging any indictable offense made by a private citizen against any individual, the Complaint-Warrant or Complaint-Summons shall be reviewed by a county prosecutor for approval or denial. Prior to approval, the prosecutor has the authority to modify the charge. If the prosecutor approves the citizen complaint charging an indictable offense, the prosecutor shall indicate this decision on the complaint and submit it to a judge who will determine if probable cause exists and whether to issue a Complaint-Warrant or a Complaint-Summons in accordance with R. 3:3-1 in the Judiciary's computerized system used to generate complaints. If the prosecutor denies the citizen complaint charging an indictable offense, the prosecutor shall report the denial and the basis therefor to the Assignment Judge on the record or in writing and shall notify the citizen complainant and the defendant. The absence of approval or denial within the timeframe set forth in paragraph (a)(4) of this rule shall be deemed as not objecting to the citizen complaint. The citizen complaint charging an indictable offense shall be reviewed by the judge for a probable cause finding and whether to issue a Complaint-Warrant or Complaint-Summons pursuant to R. 3:3-1.

(4) Period of Time for County Prosecutor Review of Citizen Complaints Charging Indictable Offenses. The county prosecutor shall review citizen complaints charging indictable offenses within a period of no more than forty-five calendar days

following receipt of the citizen complaint in the Judiciary's computerized system used to generate complaints. The prosecutor may apply to the court to extend the period of review upon a showing of good cause for additional periods of time no greater than ten calendar days each.

(b) Forwarding of Indictable Complaints to Prosecutor and Criminal Division Manager. Where a Complaint-Summons (CDR-1) or Complaint-Warrant (CDR-2) alleges an indictable offense, the complaint shall be forwarded through the Judiciary's computerized system used to generate complaints to the prosecutor and the criminal division manager's office immediately upon issuance. When the Judiciary's computerized system used to generate complaints is not available, complaints shall be forwarded pursuant to procedures prescribed by the Administrative Director of the Courts.

(c) Forwarding of Investigative Reports to Prosecutor. For a Complaint-Summons (CDR-1), all available investigative reports shall be forwarded by law enforcement to the prosecutor within 48 hours. For a Complaint-Warrant (CDR-2), all available investigative reports shall be forwarded by law enforcement to the prosecutor immediately upon issuance of the complaint.

Note: Source--R.R. 3:2-1(a) (b); amended July 26, 1984 to be effective September 10, 1984; main caption amended, caption added, former text amended and redesignated paragraph 3:2-1(a), paragraph (b) adopted July 13, 1994 to be effective January 1, 1995; paragraph (a) amended January 5, 1998 to be effective February 1, 1998; caption amended, paragraph (b) amended, and new paragraph (c) adopted August 30, 2016 to be effective January 1, 2017; caption amended, paragraph (a) amended and redesignated as subparagraph (a)(1) with caption added, new subparagraphs (a)(2), (a)(3), and (a)(4) adopted August 2, 2019 to be effective January 1, 2020.

Rule 3:2-2. Summons

A summons shall be made on a Complaint-Summons (CDR-1) form, a Uniform Traffic Ticket, a Special Form of Complaint and Summons, or such other form as may be approved by the Administrative Director of the Courts. The summons shall be directed to the person named in the complaint, requiring that person to appear before the court in which the complaint is made at a stated time and place, and shall indicate that there will be consequences for failure to appear at the scheduled first appearance. If the individual fails to appear at that first appearance, a notice shall issue advising the individual of the rescheduled first appearance and that a failure to appear at that rescheduled first appearance will result in the issuance of a bench warrant. The summons shall be signed by the judicial or law enforcement officer issuing it. An electronic entry of the signature of the law enforcement officer shall be equivalent to and have the same force and effect as an original signature.

Note: Adopted July 13, 1994 to be effective January 1, 1995; amended July 27, 2006 to be effective September 1, 2006; amended August 30, 2016 to be effective January 1, 2017.

Rule 3:2-3. Arrest Warrant

(a) Issuance of an Arrest Warrant When Law Enforcement Applicant is Physically Before the Judicial Officer. An arrest warrant for an initial charge shall be made on a Complaint-Warrant (CDR-2) form. The warrant shall contain the defendant's name or if that is unknown, any name or description that identifies the defendant with reasonable certainty, and shall be directed to any officer authorized to execute it, ordering that the defendant be arrested and remanded to the county jail pending a determination of conditions of pretrial release. The warrant shall be signed by a judicial officer, which for these purposes shall be defined as the judge, clerk, deputy clerk, authorized municipal court administrator, or authorized deputy municipal court administrator.

(b) Issuance of and Procedures for an Arrest Warrant When Law Enforcement Applicant is Not Physically Before the Judicial Officer. A judicial officer may issue an arrest warrant on sworn oral testimony of a law enforcement applicant who is not physically present. Such sworn oral testimony may be communicated by the applicant to the judicial officer by telephone, radio or other means of electronic communication.

The judicial officer shall administer the oath to the applicant. Subsequent to taking the oath, the applicant must identify himself or herself, and read verbatim the Complaint-Warrant (CDR-2) and any supplemental affidavit that establishes probable cause for the issuance of an arrest warrant. If the facts necessary to establish probable cause are contained entirely on the Complaint-Warrant (CDR-2) and/or supplemental affidavit, the judicial officer need not make a contemporaneous written or electronic recordation of the facts in support of probable cause. If the law enforcement officer provides additional sworn oral testimony in support of probable cause, the judicial officer shall contemporaneously record such sworn oral testimony by means of a recording device, if available; otherwise, adequate notes summarizing the contents of the law enforcement applicant's testimony shall be made by the judicial officer. This sworn testimony shall be deemed to be an affidavit, or a supplemental affidavit, for the purposes of issuance of an arrest warrant.

An arrest warrant may issue if the judicial officer is satisfied that probable cause exists for issuing the warrant. On approval, the judicial officer shall memorialize the date, time, defendant's name, complaint number, the basis for the probable cause determination and any other specific terms of the authorization. That memorialization shall be either by means of a recording device, or by adequate notes.

If the judicial officer has determined that a warrant shall issue and has the ability to promptly access the Judiciary's computer system, the judicial officer shall electronically issue the Complaint-Warrant (CDR-2) in the computer system.

If the judicial officer has determined that a warrant shall issue and does not have the ability to promptly access the Judiciary's computer system, the judicial officer shall

direct the applicant, pursuant to procedures prescribed by the Administrative Director of the Courts, to enter into the Judiciary computer system, for inclusion on the electronic complaint, the date and time of the probable cause and warrant determinations. The judicial officer shall also direct the applicant to complete the required certification and activate the complaint.

The court shall verify, as soon as practicable, any warrant authorized under this subsection and activated by law enforcement. Remand to the county jail and a pretrial release decision are not contingent upon completion of this verification.

Procedures authorizing issuance of restraining orders pursuant to N.J.S.A. 2C:35-5.7 ("Drug Offender Restraining Order Act of 1999") and N.J.S.A. 2C:14-12 ("Nicole's Law") by electronic communication are governed by R. 3:26-1(e).

Note: Adopted July 13, 1994 to be effective January 1, 1995; original text of rule amended and designated as paragraph (a) and new paragraph (b) added July 28, 2004 to be effective September 1, 2004; paragraph (b) amended July 9, 2013 to be effective September 1, 2013; paragraphs (a) and (b) captions added and text amended August 30, 2016 to be effective January 1, 2017.