

RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
RULE 5:20. COMPLAINT; PROCESS

Rule 5:20-1. Complaint

(a) How Made, Contents. The complaint in juvenile delinquency actions shall be captioned "The State of New Jersey in the Interest of _____", shall be made on oath and in the form prescribed by the Administrative Director of Court and shall include:

(1) The name, address and date of birth of the juvenile;

(2) The names and addresses of the juvenile's parents or guardian or custodian;

(3) The date, time, place and nature of the conduct alleged as the basis of the complaint; a citation of the law or ordinance allegedly violated by the juvenile, but error in citation shall not be grounds for dismissal if the juvenile has not been misled thereby to the juvenile's prejudice;

(4) The signature of the complainant, who may be any person having knowledge of the facts alleged to constitute delinquency or who is informed of such facts and has reason to believe they are true; and

(5) Where practicable, a statement of the names and addresses of all other persons having knowledge of relevant facts concerning the acts alleged in the complaint, but failure to include this statement shall not be grounds for dismissal of the complaint.

(b) Filing and Service. The complaint shall be filed with the clerk of the court who shall promptly refer it to court intake services and the county prosecutor. A copy of the complaint shall be served with the summons or, whenever practicable, at the time of the execution of the warrant.

(c) Court Intake Services Referral. Every complaint alleging juvenile delinquency shall be reviewed by court intake services in the manner provided by law for recommendation as to whether the complaint should be dismissed, diverted or referred for further court action. Where the complaint alleges conduct which, if committed by an adult, would constitute a crime as defined by N.J.S. 2C:1-4a or a repetitive disorderly persons offense as defined by N.J.S. 2A:4A-22(h), or any disorderly persons offense as defined in chapter 35 or chapter 36 of Title 2C, the matter shall not be diverted by the court unless the prosecutor consents thereto. Nothing in this rule precludes the court from diverting any complaint pursuant to N.J.S. 2A:4A-73(a) after a hearing wherein all parties have an opportunity to be heard.

(d) Amendment. The court may amend the complaint to correct an error in form or the description of the offense intended to be charged or to charge a lesser included

offense provided that the amendment does not charge another or different offense from that alleged and the defendant will not be prejudiced thereby in the defense on the merits.

(e) Consolidation. If two or more complaints are filed alleging separate acts constituting delinquency, hearing of the several complaints may be consolidated and a single disposition made of the combined causes.

Note: Source-R. (1969) 5:8-1(a), (b), (c), and (d); R. (1969) 5:9-3(a) and (b). Adopted December 20, 1983, to be effective December 31, 1983; paragraphs (a)(3) and (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended July 29, 2019 to be effective September 1, 2019.

Rule 5:20-2. Summons.

(a) Issuance. A summons may be issued on a complaint if the law enforcement officer who made the complaint issues the complaint-summons upon the law enforcement officer's finding of probable cause. This shall be done without the necessity of a judicial officer making the probable cause finding to issue the complaint. Once the complaint-summons is filed with the court, a law enforcement officer shall within five days of filing of the complaint-summons personally serve the complaint-summons on the juvenile and the parent, guardian, or custodian without taking the juvenile into custody. After expeditious review of the complaint-summons by the court intake service, a notice of proceeding date and time shall issue to the juvenile and the juvenile's parent, guardian or custodian.

(b) Form. The summons shall be signed by the judge, or by the clerk of the court if authorized by the judge and shall have affixed thereto a copy of the complaint. It shall set forth the name of the juvenile and the names of the parents, guardian, or custodian of the juvenile; shall command the juvenile and the juvenile's parents, guardian, or custodian to appear before the court at a stated time and place; shall advise that the juvenile and the juvenile's parents, guardian, or custodian have the right to be represented by counsel at every stage of the proceeding and that if unable to afford counsel, upon application to the court counsel will be assigned if in the opinion of the court the proceedings may result in the institutional commitment of the juvenile or other consequences of magnitude; and shall advise the juvenile and the juvenile's parents that all witnesses reasonably necessary for the defense of the juvenile will be subpoenaed by the court on request. In lieu of summons the judge may issue a warrant if the nature of the case requires the immediate custody of the juvenile. The warrant shall be substantially in the same form as the summons except that it shall command that the person or persons named therein be taken into custody and placed in detention or shelter care, or brought before the court.

(c) Service. The summons shall be served in the manner provided by R. 4:4-4 upon the juvenile and the juvenile's parents or either of them, or the juvenile's guardian or custodian, or by mailing it to their last known address.

Note: Source-R.R. (1969) 5:8-4(a)(b)(c); 5:8-5(a)(b). Adopted December 20, 1983, to be effective December 31, 1983; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraphs (a), (b) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 30, 2021 to be effective September 1, 2021.

Rule 5:20-3. Warrant

(a) When Issued. In lieu of summons the judge may issue a warrant if the nature of the case requires the immediate custody of the juvenile. A warrant may also issue if any person or persons fail to appear as required by summons.

(b) Execution. The warrant shall be executed in accordance with R. 3:3-3(c), and upon execution the procedures of R. 5:21, to the extent applicable, shall govern.

Note: Source-R. (1969) 5:8-5(a) and (c). Adopted December 20, 1983, to be effective December 31, 1983.

Rule 5:20-4. Necessary parties

The parents, guardians or other person having custody, control and supervision over the juvenile shall be necessary parties to every proceeding in all juvenile delinquency actions.

Note: Source-R. (1969) 5:8-8. Adopted December 20, 1983, to be effective December 31, 1983.

Rule 5:20-5. Juvenile Delinquency Matters; Discovery and Inspection

(a) Timing of Discovery. All discovery that is available and within the possession, custody and control of the prosecutor shall be provided to the defense, which may include the juvenile, the juvenile's attorney, and the juvenile's parent or guardian:

(1) If the juvenile is detained, the prosecutor or law enforcement agency shall provide discovery no later than three business days after the filing of the complaint.

(2) If the juvenile is not detained and is not diverted or sent to a referee, the prosecutor or law enforcement agency shall provide discovery within 30 days after the filing of the complaint, or upon written request of the defense, but no later than five business days before the initial court appearance.

(3) If the juvenile is diverted to a juvenile conference committee or intake service conference or referred to a juvenile referee, the prosecutor or law enforcement agency shall provide discovery upon written request by the defense.

The prosecutor shall provide defense counsel with all available relevant material that would be discoverable pursuant to paragraph (b)(1) of this rule.

(b) Discovery to be Provided.

(1) Discovery by the Juvenile. Except for good cause shown, the prosecutor's discovery for each juvenile named in the complaint shall be provided to the attorney of record for the juvenile, or shall be available through the prosecutor's office, pursuant to paragraph (a) of this rule. Good cause shall include, but is not limited to, circumstances in which the nature, format, manner of collation or volume of discoverable materials would involve an extraordinary expenditure of time and effort to copy. In such circumstances, the prosecutor may make discovery available by permitting defense counsel to inspect and copy or photograph discoverable materials at the prosecutor's office, rather than by copying and delivering such materials. The prosecutor shall also provide defense counsel with a listing of the materials that have been supplied in discovery. If any discoverable materials known to the prosecutor have not been supplied, the prosecutor shall also provide defense counsel with a listing of the materials that are missing and explain why they have not been supplied.

Discovery shall include exculpatory information or material. It shall also include, but is not limited to, the following relevant material:

(A) books, tangible objects, papers or documents obtained from or belonging to the juvenile, including, but not limited to, writings, drawings, graphs, charts, photographs, video and sound recordings, images, electronically stored information, and any other data or data compilations stored in any medium from which information can be obtained and translated, if necessary, into reasonably usable form;

(B) records of statements or confessions, signed or unsigned, by the juvenile or copies thereof, and a summary of any admissions or declarations against penal interest made by the juvenile that are known to the prosecution but not recorded. The prosecutor also shall provide the juvenile with transcripts of all electronically recorded statements or confessions by a date to be determined by the trial judge, except in no event later than 14 days before the trial date or waiver hearing.

(C) results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the matter or copies thereof, which are within the possession, custody or control of the prosecutor;

(D) reports or records of prior adjudications of the juvenile;

(E) books, papers, documents, or copies thereof, or tangible objects, buildings or places which are within the possession, custody or control of the prosecutor, including, but not limited to, writings, drawings, graphs, charts, photographs, video and sound recordings, images, electronically stored information, and any other data or data compilations stored in any medium from which information can be obtained and translated, if necessary, into reasonably usable form;

(F) names, addresses, and birthdates of any persons whom the prosecutor knows to have relevant evidence or information, including a designation by the prosecutor as to which of those persons may be called as witnesses;

(G) record of statements, signed or unsigned, by such persons or by co-defendants which are within the possession, custody or control of the prosecutor and any relevant record of prior adjudication of such persons. The prosecutor also shall provide the juvenile with transcripts of all electronically recorded co-defendant and witness statements by a date to be determined by the trial judge, except in no event later than 14 days before the trial date or waiver hearing, but only if the prosecutor intends to call that co-defendant or witness as a witness at trial.

(H) police reports that are within the possession, custody, or control of the prosecutor;

(I) names and addresses of each person whom the prosecutor expects to call at trial as an expert witness, the expert's qualifications, the subject matter on which the expert is expected to testify, a copy of the report, if any, of such expert witness, or if no report is prepared, a statement of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(J) all records, including notes, reports and electronic recordings relating to an identification procedure, as well as identifications made or attempted to be made.

(2) Discovery by the State. Defense counsel shall provide a copy of the discovery materials to the prosecuting attorney by a date to be determined by the trial judge, except in no event later than 20 days before the trial or waiver hearing. Defense counsel shall also provide the prosecuting attorney with a listing of the materials that have been supplied in discovery. If any discoverable materials known to defense counsel have not been supplied, defense counsel also shall provide the prosecuting attorney with a listing of the materials that are missing and explain why they have not been supplied. A juvenile shall provide the State with all relevant material, including, but not limited to, the following:

(A) results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the matter or copies thereof, which are within the possession, custody or control of defense counsel;

(B) any relevant books, papers, documents or tangible objects, buildings or places or copies thereof, which are within the possession, custody or control of defense counsel, including, but not limited to, writings, drawings, graphs, charts, photographs, video and sound recordings, images, electronically stored information, and any other data or data compilations stored in any medium from which information can be obtained and translated, if necessary, into reasonably usable form;

(C) the names, addresses, and birthdates of those persons known to the juvenile who may be called as witnesses at trial and their written statements, if any, including memoranda reporting or summarizing their oral statements;

(D) written statements, if any, including any memoranda reporting or summarizing the oral statements, made by any witnesses whom the State may call as a witness at trial. The juvenile also shall provide the State with transcripts of all electronically recorded witness statements by a date to be determined by the trial judge, except in no event later than 14 days before the trial date or waiver hearing.

(E) names and address of each person whom the defense expects to call at trial as an expert witness, the expert's qualifications, the subject matter on which the expert is expected to testify, and a copy of the report, if any, of such expert witness, or if no report is prepared, a statement of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(3) Discovery Provided through Electronic Means. Unless otherwise ordered by the court, the parties may provide discovery pursuant to paragraphs (a) and (b) of this rule through the use of CD, DVD, e-mail, internet or other electronic means. Documents provided through electronic means shall be in PDF format. All other discovery shall be provided in an open, publicly available (non-proprietary) format that is compatible with any standard operating computer. If discovery is not provided in a PDF or open, publicly available format, the transmitting party shall include a self-extracting computer program that will enable the recipient to access and view the files that have been provided. Upon motion by the recipient, and for good cause shown, the court shall order that discovery be provided in the format in which the transmitting party originally received it. In all cases in which an Alcotest device is used, any Alcotest data shall, upon request, be provided for any Alcotest 7110 relevant to a particular juvenile's case in a readable digital database format generally available to consumers in the open market. In all cases in which discovery is provided through electronic means, the transmitting party shall also include a list of the materials that were provided and, in the case of multiple disks, the specific disk on which they can be located.

(c) Motions for Discovery. No motion for discovery shall be filed unless the moving party certifies that the prosecutor and defense counsel have conferred and been unable to resolve the issue(s).

(d) Documents Not Subject to Discovery. This rule does not require discovery of a party's work product consisting of internal reports, memoranda or documents made by that party or the party's attorney or agents, in connection with the investigation, prosecution or defense of the matter, nor does it require discovery by the State of records or statements, signed or unsigned, of the juvenile made to the juvenile's attorney or agents.

(e) Protective Orders.

(1) Grounds. On motion and for good cause shown, the court may at any time order that the discovery sought pursuant to this rule be denied, restricted, or deferred or may make such other order as is appropriate. In determining the motion, the court may consider the following: protection of witnesses and others from physical harm, threats of harm, bribes, economic reprisals and other intimidation; maintenance of such secrecy regarding informants as is required for effective investigation of criminal activity; confidential information recognized by law, including protection of confidential relationships and privileges; or any other relevant considerations.

(2) Procedure. The court may permit the showing of good cause to be made, in whole or in part, in the form of a written statement to be inspected by the court alone, and if the court thereafter enters a protective order, the entire text of the statement shall be sealed and preserved in the records of the court, to be made available only to the appellate court in the event of an appeal.

(f) Continuing Duty to Disclose; Failure to Comply. There shall be a continuing duty to provide discovery pursuant to this rule. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order such party to permit the discovery of materials not previously disclosed, grant a continuance or delay during trial, or prohibit the party from introducing in evidence the material not disclosed, or the court may enter such other order as it deems appropriate.

(g) Privacy and Non-Disclosure. The privacy and non-disclosure provisions of Part V of the Rules of Court continue to apply in all circumstances.

Note: Adopted July 29, 2019 to be effective September 1, 2019.