

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

**PHILIP S. CARCHMAN, P.J.A.D.
ACTING ADMINISTRATIVE
DIRECTOR OF THE COURTS**



**RICHARD J. HUGHES
JUSTICE COMPLEX
PO Box 037
TRENTON, NEW JERSEY 08625-0037**

Directive # 11-07

**TO: ASSIGNMENT JUDGES
CRIMINAL PRESIDING JUDGES
MUNICIPAL PRESIDING JUDGES**

FROM: PHILIP S. CARCHMAN, P.J.A.D.

DATE: OCTOBER 25, 2007

**SUBJ: Protocol on Information Regarding an Arrestee's
Immigration Status**

[Questions or comments
may be directed to
609-984-8241 (Municipal) or
609-292-4638 (Criminal)]

This directive, which has been developed in consultation with the Attorney General's Office, will outline how the court officers who set bail will be notified of the immigration status of those arrested for indictable crimes or for driving while intoxicated (DWI).

On August 22, 2007, Attorney General Anne Milgram issued Law Enforcement Directive No. 2007-03, regarding the arrest of undocumented immigrants for indictable offenses or for DWI and the notification of the federal Immigration and Customs Enforcement Agency (ICE) of possible illegal immigrants. In that document, the Attorney General directed law enforcement officers, among other things, to inform "any court officer setting bail or conditions of pretrial release" if an arrestee was suspected of being unlawfully present in the United States.

The notification generally will be made through the current complaint forms: the Electronic CDR (E-CDR), the complaint warrant (CDR2), or the Uniform Traffic Ticket (UTT). If a law enforcement officer is using the E-CDR to charge the defendant with an indictable crime, a dialogue box will appear on the screen asking the officer if he or she has reason to believe defendant is an illegal immigrant. If the officer answers affirmatively, then the officer will receive a prompt to enter the basis for the conclusion as to immigration status by checking all of the following that apply: Absence of legal documentation; ICE confirmation; ICE contacted/awaiting reply; ICE replied—no record found; Defendant

admission or other statements; and Other (specify). This second-level question regarding the basis for the officer's belief was added at the request of the Attorney General. The officer's belief as to defendant's status thus will be printed in the narrative section of the E-CDR, and the basis for that belief will be printed on page 2 of the E-CDR (court action) in the miscellaneous information section. The attached sample E-CDR gives an example of the notices that will be printed on pages one and two.

If the law enforcement officer is using a paper complaint form (CDR2) to charge a defendant with an indictable crime or is using the UTT to charge a defendant with DWI, the officer will complete and affix a preprinted sticker to the CDR2 or the UTT indicating the officer's belief as to defendant's status and the basis for it. That sticker should be affixed to the narrative section of the CDR or to the traffic offenses or conditions section of the UTT. The sticker should be used only if the officer has reason to believe that defendant is an illegal immigrant. If there is no such belief, the officer should not use the sticker. The Attorney General's office will be distributing these stickers to law enforcement agencies along with directions for their use. A sample page of the preprinted stickers is attached for your information. .

If the court discovers during the pendency of an indictable criminal or DWI matter that a defendant may be an undocumented immigrant, but defendant is not identified as such in the complaint, the court should forward this information to the prosecutor in the case. The prosecutor then may inform ICE, in accordance with the Attorney General's Law Enforcement Directive. Note that since the Attorney General's Law Enforcement Directive requires law enforcement to contact ICE only in indictable and DWI cases, the Judiciary should limit its notification to the prosecutor to such cases.

If an initial bail is set by a judge or a municipal court administrator by telephone, the judge or administrator should expect that the law enforcement officer, in addition to entering the information on the CDR, will orally inform the judge or administrator if that officer has a reason to believe that the arrestee may not be lawfully present in the United States.

Of course, the factors a court officer should consider in setting bail are those originally set forth by the Supreme Court in State v. Johnson, 61 N.J. 351, 364-65 (1972), and incorporated into the Court Rules as R. 3:26-1(a) and R. 7:4-1. The Attorney General's Law Enforcement Directive does not alter those factors and a court officer should consider immigration status to the extent that it affects those factors. Further, judges and court administrators should continue to be guided by the Statewide Bail Schedule and Statewide Bail Policies found in Directive# 9-05 and supplements thereto.

Moreover, judges are reminded that, under the court rules (R. 7:2-1(e)), DWI is a traffic offense that may only be written on a UTT, which is a summons, not a warrant. Accordingly, a person arrested for DWI may not be held to bail.

Any questions regarding this protocol should be directed to Assistant Director Robert Smith (Municipal Court Services Division) at 609-984-8241 or Assistant Director Joseph Barraco (Criminal Practice Division) at 609-292-4638.

P.S.C.

Attachments

cc: Chief Justice Stuart Rabner
Attorney General Anne M. Milgram
Superior Court Judges
Municipal Court Judges
Theodore J. Fetter, Deputy Administrative Director
AOC Directors and Assistant Directors
Trial Court Administrators
Civil Division Managers
Criminal Division Managers
Family Division Managers
Municipal Division Managers
Municipal Court Administrators and Directors
John Podeszwa, Municipal Court Services
Florence S. Powers, Municipal Court Services
John J. Wieck, Criminal Practice Division
Carol A. Welsch, Municipal Court Services
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

COMPLAINT - SUMMONS

COMPLAINT NUMBER**1214****S****2007****000411**

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

**NEW BRUNSWICK MUNICIPAL COURT
25 KIRKPATRICK ST, POB 265
NEW BRUNSWICKS NJ 08903
(732)745-5089 COUNTY OF: MIDDLESEX**

ADDRESS:

123 MAIN ST**TRENTON****NJ 08628****THE STATE OF NEW JERSEY****VS.****DOE DOE**# of CHARGES **1** CO-DEFTS POLICE CASE #:COMPLAINANT **TPR K KINCS**
NAME: **NEW JERSEY STATE POLICE**

DEFENDANT INFORMATION

SEX: EYE COLOR: DOB:

DRIVER'S LIC. #:

SOCIAL SECURITY #:

TELEPHONE #:

DL STATE:

SBI #: **123456A**

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about **01-01-2007** in **NEW BRUNSWICK CITY**, **MIDDLESEX County, NJ** did: WITHIN THE JURISDICTION OF THIS COURT, SPECIFIC WORDING FOR THE NARRATIVE OF THE COMPLAINT.

in violation of: Reason to believe defendant is illegal immigrant.(Basis of information on page 2)

Original Charge

1) **2C:18-3A**

2)

3)

Amended Charge

CERTIFICATION:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Signed: **TPR K KINCS** Date: **10-25-2007**

The complaining witness is a law enforcement officer and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.

SUMMONS:

YOU ARE HEREBY SUMMONED to appear before this court to answer this complaint. If you fail to appear on the date and at the time stated below, a warrant may be issued for your arrest.

DATE TO APPEAR: 03-29-2008 TIME: 11:11am **TPR K KINCS** **10-25-2007**

Signature of Person Issuing Summons

Date

 Domestic Violence – Confidential **Related Traffic Tickets or Other Complaints** **Serious Personal Injury/ Death Involved****Special conditions of release:** **No phone, mail or other personal contact w/victim** **No possession firearms/weapons** **Other (specify):****ORIGINAL**

COMPLAINT - SUMMONS

COMPLAINT NUMBER

1214**S****2007****000411**

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

THE STATE OF NEW JERSEY

VS.

DOE DOE

NEW BRUNSWICK MUNICIPAL COURT
25 KIRKPATRICK ST, POB 265
NEW BRUNSWICKS NJ 08903
(732)745-5089 COUNTY OF: MIDDLESEX

ADDRESS: 123 MAIN ST
TRENTON NJ 08628

of CHARGES 1
CO-DEFTS
POLICE CASE #:

DEFENDANT INFORMATION

SEX: EYE COLOR: DOB:
DRIVER'S LIC. #. DL STATE:
SOCIAL SECURITY #: SBI #: 123456A
TELEPHONE #:

COMPLAINANT TPR K KINCS
NAME: NEW JERSEY STATE POLICE

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about 01-01-2007 in NEW BRUNSWICK CITY, MIDDLESEX County, NJ did: WITHIN THE JURISDICTION OF THIS COURT, SPECIFIC WORDING FOR THE NARRATIVE OF THE COMPLAINT.

in violation of:

Original Charge	1) 2C:18-3A	2)	3)
Amended Charge			

CERTIFICATION:

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Signed: TPR K KINCS Date: 10-25-2007

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Signature of Person Issuing Summons Date

 Domestic Violence – Confidential Related Traffic Tickets or Other Complaints Serious Personal Injury/ Death Involved**Special conditions of release:**

- No phone, mail or other personal contact w/victim
- No possession firearms/weapons
- Other (specify):

COURT COPY

COMPLAINT - SUMMONS

COMPLAINT NUMBER

1214**S****2007****000411**

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

NEW BRUNSWICK MUNICIPAL COURT
25 KIRKPATRICK ST, POB 265
NEW BRUNSWICKS NJ 08903
(732)745-5089 COUNTY OF: **MIDDLESEX**

ADDRESS: **123 MAIN ST**
TRENTON NJ 08628

THE STATE OF NEW JERSEY

VS.

DOE DOE

of CHARGES: **1**
CO-DEFTS: POLICE CASE #:

DEFENDANT INFORMATION
SEX: EYE COLOR: DOB:
DRIVER'S LIC. #: DL STATE:
SOCIAL SECURITY #: SBI #: **123456A**
TELEPHONE #:

COMPLAINANT NAME: **TPR K KINCS**

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about **01-01-2007** in **NEW BRUNSWICK CITY**, **MIDDLESEX County, NJ** did: WITHIN THE JURISDICTION OF THIS COURT, SPECIFIC WORDING FOR THE NARRATIVE OF THE COMPLAINT.

in violation of:

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DATE TO APPEAR: 03-29-2008 TIME: 11:11am **TPR K KINCS** **10-25-2007**
Signature of Person Issuing Summons Date

Domestic Violence – Confidential **Related Traffic Tickets or Other Complaints** **Serious Personal Injury/ Death Involved**

Special conditions of release:

- No phone, mail or other personal contact w/victim**
 No possession firearms/weapons
 Other (specify):

DEFENDANT'S COPY

COMPLAINT - SUMMONS

COMPLAINT NUMBER

1214**S****2007****000411**

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

NEW BRUNSWICK MUNICIPAL COURT
25 KIRKPATRICK ST, POB 265
NEW BRUNSWICKS NJ 08903
(732)745-5089 COUNTY OF: **MIDDLESEX**

ADDRESS: **123 MAIN ST**
TRENTON NJ 08628

THE STATE OF NEW JERSEY

VS.

DOE DOE

of CHARGES **1** CO-DEFTS POLICE CASE #:

COMPLAINANT **TPR K KINCS**
NAME: **NEW JERSEY STATE POLICE**

DEFENDANT INFORMATION
SEX: EYE COLOR: DOB:
DRIVER'S LIC. #. DL STATE:
SOCIAL SECURITY #: SBI #: **123456A**
TELEPHONE #:

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about **01-01-2007** in **NEW BRUNSWICK CITY**, **MIDDLESEX County, NJ** did: WITHIN THE JURISDICTION OF THIS COURT, SPECIFIC WORDING FOR THE NARRATIVE OF THE COMPLAINT.

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Original Charge	1) 2C:18-3A	2)	3)
Amended Charge			

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 Domestic Violence – Confidential **Related Traffic Tickets or Other Complaints** **Serious Personal Injury/ Death Involved****Special conditions of release:**

- No phone, mail or other personal contact w/victim**
- No possession firearms/weapons**
- Other (specify):**

POLICE COPY

COMPLAINT - SUMMONS

COMPLAINT NUMBER				THE STATE OF NEW JERSEY VS. DOE DOE
1214	S	2007	000411	
COURT CODE	PREFIX	YEAR	SEQUENCE NO.	
NEW BRUNSWICK MUNICIPAL COURT 25 KIRKPATRICK ST, POB 265 NEW BRUNSWICK NJ 08903 (732) 745-5089 COUNTY OF: MIDDLESEX				ADDRESS : 123 MAIN ST TRENTON NJ 08628
# of CHARGES 1	CO-DEFTS	POLICE CASE #:		DEFENDANT INFORMATION SEX: EYE COLOR: DOB: DRIVER'S LIC. #. DL STATE: SOCIAL SECURITY # SBI #: 123456A TELEPHONE #:
COMPLAINANT TPR K KINCS NAME: NEW JERSEY STATE POLICE				

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about **01-01-2007** in **NEW BRUNSWICK CITY**, **MIDDLESEX County, NJ** did:
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in violation of:

Original Charge	1) 2C:18-3A	2)	3)
-----------------	--------------------	----	----

Check √	Certification by Police Regarding Complaint-Summons
	I certify that I served the complaint-summons by delivering a copy to the defendant personally.
	I certify that I personally served the complaint-summons by leaving a copy at the defendant's usual place of abode with a competent member of the household of the age 14 or over _____ Name of family member over 14 years of age
	I certify that I mailed a copy of the complaint-summons by ordinary mail to the defendant at his or her last known address. _____ Defendant's last known address
	I certify that I served the complaint-summons by delivering a copy to a person authorized to receive service of process on the defendant's behalf. _____ Name and title of authorized person
	Other manner of service: I certify that I served the complaint-summons in the following manner: _____
	I certify that I was unable to serve the complaint-summons.

Signed: _____ Date of Action: _____
Name, Title and Department of Officer

RETURN OF SERVICE INFORMATION

COMPLAINT - SUMMONS

COMPLAINT NUMBER			
1214	S	2007	000411
COURT CODE	PREFIX	YEAR	SEQUENCE NO.
NEW BRUNSWICK MUNICIPAL COURT 25 KIRKPATRICK ST, POB 265 NEW BRUNSWICKS NJ 08903 (732)745-5089 COUNTY OF: MIDDLESEX			
# of CHARGES 1	CO-DEFTS	POLICE CASE #:	
COMPLAINANT NAME: TPR K KINCS NEW JERSEY STATE POLICE	DEFENDANT INFORMATION SEX: EYE COLOR: DOB: DRIVER'S LIC. #. DL STATE: SOCIAL SECURITY #: SBI #: 123456A TELEPHONE #:		ADDRESS: 123 MAIN ST TRENTON NJ 08628

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Signature of Person Issuing Summons Date

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Domestic Violence – Confidential | <input type="checkbox"/> Related Traffic Tickets or Other Complaints | <input type="checkbox"/> Serious Personal Injury/ Death Involved |
|---|---|---|

Special conditions of release:

- No phone, mail or other personal contact w/victim**
- No possession firearms/weapons**
- Other (specify):**

SUPERIOR COURT COPY

