

CARTERET POLICE DEPARTMENT STANDARD OPERATING PROCEDURES		
SUBJECT: ARREST AND TRANSPORTATION		
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EFFECTIVE DATE: July 20, 2020	BY THE ORDER OF: Chief Dennis McFadden	

PURPOSE The purpose of this standard operating procedure is to maintain guidance to officers and to codify standardized procedures regarding arrests and subsequent transportation.

POLICY It is the policy of the Carteret Police Department to be in compliance with all statutes, contemporary criminal procedure, New Jersey Attorney General and Middlesex County 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.

All sworn members of the Carteret Police Department are required to have in their possession at all times, photographic identification issued to them by the department and an approved Carteret Police Department badge.

All arrest processes must conform to Middlesex County Prosecutor's Directive #1, as amended, and this SOP.

All arrest processes must conform to Middlesex County Prosecutor's Directive #12, as amended, and this SOP.

All criminal complaint processes must conform to Middlesex County Prosecutor's Directive #65, as amended, and this SOP.

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.
 3. In order to determine if an arrest has occurred, the relative inquiry will be whether, in view of the totality of the circumstances surrounding the police-citizen encounter a reasonable person would have believed that he was not free to leave.
- B. Criminal complaint (complaint-warrant or complaint-summons) is to be made on a form approved by the Administrative Director of the Courts and shall be written statement of the essential facts constituting the offense charged.
- C. Execution of a warrant is the arrest of the person named in the warrant.
1. A person arrested under a warrant shall be taken without unnecessary delay before the court named in the warrant.
 2. The warrant does not have to be in the possession of the officer at the time of the arrest; but, upon request, the officer shall show the warrant to the defendant as soon as practicable.
 3. If the warrant is not in the possession of the officer at the time of the arrest, the officer shall inform the defendant of the offense charged and of the fact that a warrant has been issued.
- D. Exigent circumstances (emergency conditions) are those circumstances that would cause a reasonable person to believe that a relevant prompt action was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.
- E. Fresh pursuit (hot pursuit) is defined by N.J.S.A. 2A: 156-2 as not necessarily implying immediate or instant pursuit, but pursuit without unreasonable delay.
- F. Judicial officer includes a judge, court clerk, deputy court clerk, court administrator, or deputy court administrator.
- G. Medical facility means Raritan Bay Medical Center unless circumstances dictate otherwise.

- H. 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. ODARA Scoring Form: The risk assessment tool utilized to determine the course of action to be taken regarding the issuance of a complaint-warrant v. a complaint-summons. NOTE: officers shall use ONLY the ODARA scoring form authorized by the New Jersey Division of Criminal Justice.
 - d. 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.
 - e. 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, 2nd 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)).
- I. 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.
- J. Probable cause implies a level of proof greater than reasonable suspicion but, less than actual proof. Probable cause describes that amount of evidence that would be sufficient to lead an ordinary and prudent person to reasonably believe that a crime is occurring or has occurred and that the person to be arrested committed that crime or is committing that crime.
- 1. Vague hunches or suspicions are not enough.
 - 2. The belief must be supported by the facts.
 - 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 that an officer can rely on:
 - 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 subject and earlier contacts with subject.
 - c. Reports from others (e.g., accounts given by victims or witnesses; reliable informants, etc.).
 - 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.

- K. Statewide Veterans Diversion Program is established under N.J.S.A. 2C: 43-23 et seq. and establishes a process to divert eligible 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 service member is alleged to have committed an eligible offense.
1. Access <https://www.nj.gov/military/veterans/diversion-program/> for Veterans Diversion Resource Entity for referrals to the program, as required by the statute.
 2. Pre-complaint veterans' diversion will **ONLY** be considered if all of the following are met:
 - a. A law enforcement officer has confirmed that the individual has a valid and verified Middlesex 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 Form 214 to confirm this status; and
 - c. The individual is exhibiting symptoms of mental illness; and
 - d. The potential crime or offense, if not diverted, would be the equivalent of a third degree or lower; and
 - e. The individual must be receptive to diversion; and
 - f. The potential crime or offense does not involve a victim, (other than a law enforcement officer, medical transport personnel or medical staff) unless the victim has expressly consented to the individual's consideration for pre-complaint veterans' diversion; and
 - g. The potential crime or offense does not involve restitution; and
 - h. The potential crime or offense does not involve violence or threat of violence; and
 - i. The potential crime or offense does not involve the violation of any restraining order or protective order; and
 - j. All pre-complaint investigation and documentation (with the exception of the complaint itself) must be completed as if complaints were signed.

II. GENERAL PROVISIONS

- A. This SOP 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 1.7 of the State of New Jersey Constitution.

- B. Unless impracticable, 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.
 - 1. Uniformed officers effectuating an arrest need not identify themselves if their identity as a police officer is plainly evident.
 - 2. Non-uniformed officers must verbally identify themselves as police officers and exhibit their department issued identification and badge as evidence of their authority.
 - 3. Officers effectuating an arrest shall immediately notify communications over the police radio. (NOTE: arrests occurring within headquarters can be transmitted to communications by telephone).
- C. Consular notification for non-US citizens is addressed in this department's SOP on *Consular Notification and Access*.
- D. Diplomatic and consular immunity is addressed in this department's SOP on *Diplomatic and Consular Immunity*.

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.
- C. Sworn police officers have the right to execute a warrant by arresting defendants at their homes or at any public place within the State.
 - 1. An arrest warrant permits entry into a residence to make an arrest only if the premises is the primary residence of the person to be arrested. If the property is not the primary residence of the person to be arrested, an entry cannot be made without a search warrant, consent or an exigency.
 - 2. When executing an arrest warrant outside of Carteret, officers should provide prior notice to the law enforcement agency in that jurisdiction prior to execution except under exigent circumstances where prior notice is impracticable or may otherwise compromise the investigation.
 - 3. To execute arrest warrants out of the State of New Jersey, contact the Middlesex County Prosecutor's Office, Extradition Unit.
 - 4. A search warrant, consent, or an exigent circumstance is required to make a warrant arrest in a third party's dwelling. Generally, entry is permitted:
 - a. Upon failure to be granted admittance after the officer announces his/her authority and purpose to make an arrest by warrant for a crime.

- b. In fresh pursuit of a person suspected of committing a crime.
 - c. Exigent circumstances make it necessary to immediately enter to prevent/terminate the commission of a crime or threat to officer/public safety.
 - d. In all such circumstances the officer shall exercise good judgment in determining whether to enter the building or wait to make the arrest outside.
 - e. Whenever possible, an officer shall summon and receive approval from a supervisor prior to making entry to a building or residence to attempt the arrest.
 - f. If the decision to enter is made, the officer conducting the action shall announce his/her identity and demand that the person inside opens the door.
- D. Unless impracticable, the warrant should be exhibited. 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.
- E. Officers should only use that amount of force necessary to effectuate the arrest. Unless impracticable, pre-planned warrant arrests shall be conducted by a minimum of two officers. More officers or tactical resources can be used depending upon the circumstances and anticipated flight risk.
- F. Officers shall not execute 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. Officers initiating a warrant check should include a minimum of two identifiers (e.g., first and last name & DL# or first and last name and DOB.
 - b. If detainee has documentation stating the warrant has already been paid, the shift commander should respond. No arrest should be made until the documentation in question is verified.
 - c. If an arrest has already been made the party shall be immediately released and the incident shall be documented in an incident report.
 - 3. Understand the scope of the arrest warrant so as not to exceed any limitations set by the warrant
 - 4. Arrest warrants issued by a judge of the Carteret Municipal Court that are not listed in the ACS/ATS system are to be confirmed as valid with the municipal court administrator prior to any action being taken.

5. Arrest warrants issued by a judge of any other court not listed in the ACS/ATS system shall be confirmed as valid with the issuing authority prior to any action being taken.
 6. Employees of this department should not assist an outside law enforcement agency with the execution of an arrest warrant until such time as it has been confirmed that the warrant is valid.
 7. 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*.
 8. A printed copy of the request and response shall be forwarded to records to be placed in the case file.
- G. Requests from other jurisdictions to serve/execute their warrant(s) should be referred to the duty shift commander.
- H. The time of day that warrants may be executed (bench warrants v. criminal warrant-complaints):
1. Officers are given the authority to and obligated to serve valid arrest warrants. Generally, if officers are initiating an attempt to serve a valid failure to appear bench warrant upon on a person at his/her residence/domicile, these attempts shall be restricted to 0600 hours to 2200 hours.
 2. However, if legitimate exigencies exist (e.g., serious crime, information of impending flight, safety reasons, etc.), the bench warrant may be executed at any time. Service of bench warrants meeting exigent criteria shall be attempted as soon as possible to minimize chance of flight/risk to the public.
 3. Execution of a bench warrant during periods other than 0600-2200 hours shall be cleared with the zone assistant prosecutor prior to any attempt and the justification documented within the police department records.
 4. If, during the normal course of an officer's duty, he/she comes into contact with an individual and discovers that a valid warrant exists for the individual (regardless of the type), he/she shall effectuate the arrest, regardless of time of day/location. Examples of incidental contact include, but are not limited to a motor vehicle stop, a call for service, observing the defendant in a public place, etc.
 5. Criminal warrant-complaints (e.g., burglary, robbery, aggravated assault, etc.) can be served at any time.
- I. After completing the service of a warrant, communications personnel shall ensure that the warrant is administratively executed in the ACS/ATS system.

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 (1st, 2nd, 3rd, 4th degree crime).
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 effect an arrest for a 1st, 2nd, or 3rd 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 1st, 2nd or 3rd 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 4th 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 Borough of Carteret, 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 a non-indictable offense, even though the offense did not take place in the officer's presence. These non-indictable offenses are:
1. Driving while intoxicated;
 2. Shoplifting;
 3. Theft of library materials;
 4. Domestic violence related offenses.
- D. Only in rare circumstances involving crimes and exigent circumstances can an officer enter a residence 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 cannot make a warrantless entry into a home to effectuate an arrest.
 2. Fresh pursuit alone is an insufficient justification for a warrantless entry into a person's home to make an arrest absent exigent circumstances.
 3. Absent sufficient exigent circumstances, officers are not permitted to enter a third-party residence for the purpose of arresting a suspect who does not reside therein, without a search warrant.

4. Whenever an officer is involved in a situation when a warrantless entry to a suspect's residence is being contemplated, the officer shall first confer with a supervisor for authorization to conduct such entry unless the exigency that exists would prohibit such action
- E. As a general rule, an arrest for a violation of N.J.S.A. 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 in 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. Communications **must immediately** dispatch an officer to investigate the violation and to secure the safety of the victim.
 2. 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.
 3. 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.
 4. 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.
 5. The pretrial services program representative should be able to provide communications 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 eCDR system.

6. 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 municipal 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 Carteret; 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.

V. HANDCUFFING

- A. Officers shall maintain and carry on duty an operable set of handcuffs equipped with a double locking feature. Handcuffs shall be free of dirt, rust, lint or other conditions that may make them inoperative. If handcuffs are no longer functional, officers shall obtain a replacement.
- B. To provide greater control of an arrestee/detainee, officers shall:
 1. Remain alert for any unexpected moves by the subject;
 2. If practicable, approach the subject from his/her rear or side;
 3. Maintain control of the subject and keep him/her off balance.
 4. Handcuff the subject behind their back, with palms facing outwards;
 5. Double lock the handcuffs;
 6. For greater control, loop the handcuffs through a belt (if the subject is wearing a belt) or a belt loop, if able;
 7. Never handcuff a subject to yourself or another officer;
 8. 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 an action at the scene that raises a reasonable probability of danger or flight.

- b. Where officers have information that the suspect is currently armed;
 - c. Where the stop/detention is in close proximity (time and space) following a violent crime
 - d. Where officers have information that a crime involving violence is imminent;
2. In the absence of a continuing threat to the officer or citizen safety, the handcuffs should be removed if the protective frisk discovers no weapons.

VI. CUSTODY AND TRANSPORTATION

- A. Officers shall search the rear seat of vehicles used for arrestee transportation at the beginning of their shift and 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.
- 1. Found property/evidence shall be collected and processed in accordance with existing procedures.
 - 2. The arrestee should be charged accordingly, when applicable.
 - 3. In situations when any vehicle other than a marked patrol vehicle must be used to transport an arrestee, the officer preparing to conduct the transportation shall complete the above described inspection immediately prior to and after the transportation
- B. Immediately upon arrest all persons shall 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.
- 1. Officers shall remain aware of the dangers of positional asphyxia and continually monitor arrestees for symptoms.
 - 2. Ankle shackles, handcuffing belt, and /or disposable handcuffs (i.e., nylon flex cuffs and nylon zip ties) 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 shall not utilize any means of restraint, which utilizes any hog-tying methods (e.g., that which ties the arrestee's feet backward toward the neck area, or tightly around the handcuffs).
 - 4. At no time shall an arrestee be handcuffed to any part of the transport vehicle during transport
 - 5. Officers should ensure that the arrestee is seated upright and, whenever possible, secured in a seatbelt after the application of restraints and prior to transportation. The following are situations when using a seatbelt may be inappropriate or unsafe:

- a. Aggressive/combative arrestee making attempts to secure him/her impracticable;
 - b. Injuries to the arrestee that may be aggravated by the seat belt;
 - c. The use of supplementary restraints on the arrestee that make it difficult, impossible, or unsafe for the seat belt to be employed.
- C. The entire person of the individual taken into custody shall be searched 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 come in contact with 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 department, 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.
 - 3. Unless an officer of the same sex as the arrestee is immediately available, arrestees of the opposite sex can still be searched incidental to arrest. Officers should consider the age, maturity (juveniles), charges, and the circumstances that may compel a full search incidental to arrest.
 - a. Maintain a professional demeanor and advise the arrestee what you are doing;
 - b. Confiscate and thoroughly check the suspect's handbag/purse, if applicable;
 - c. Use the edge of your hand to search the genital area or the breast area (women);
 - d. Have female arrestees pull their shirts/blouses tight against their body in an attempt to observe concealed weapons.
 - 4. When conducting a search incident to arrest in the field:
 - a. Officers preparing to conduct searches should wear protective gloves at all times unless impracticable.
 - b. Remove all bags, containers, packages and similar items from the subject's possession.
 - c. Approach the arrestee from a position that provides you with a tactical advantage.
 - 1) Approach subject in a well-lit area if possible.

- 2) Position yourself to cut off the subject's avenues of escape.
 - 3) Make proper use of cover and/or concealment.
 - 4) Maintain a visual observation of the subject's hands.
 - 5) Give clear and concise commands.
 - 6) If two officers are involved in the arrest, one is the contact officer and the other the cover officer.
 - 7) Maintain a proper body position, i.e. bladed boxer stance.
- d. Remove bulky coats, jackets and/or outer clothing.
 - e. Place the subject in a position that is most appropriate considering the person and the arrest location.
 - f. Search techniques:
 - 1) STANDING: Used with a cooperative person and provides the least amount of control of the subject by the officer.
 - 2) KNEELING: Used with a less cooperative person and provides greater control of the subject and adapts readily to speed cuffing.
 - 3) PRONE: Used with an uncooperative person, violent, armed or potentially armed person and provides the greatest degree of control of the suspect.
 - 4) WALL: An experienced criminal can easily defeat this method. Officers utilizing this position must remain in control of the suspect and alert to prevent escape or attack.
 - g. Start the search at the suspect's head and continue down to his/her feet.
 - 1) Tight fitting clothes, belts, etc. shall be pulled away from the body and/or removed when possible to allow concealed items to drop free.
 - 2) If a weapon, evidence or contraband is located, secure it and continue to search for additional weapons, evidence or contraband.
- D. 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.
1. Whenever an arrestee is placed into a police vehicle, the doors to the vehicle should be locked to prevent unauthorized persons from opening the vehicle door.

2. Officers shall exercise due care and assist arrestees who are entering or exiting a department vehicle during transportation procedures.
 3. A single officer may transport up to two arrestees. Arrestees will be securely seated in the rear passenger compartment. A single arrestee will be seated in the right rear passenger side.
 4. For mass arrests, the shift commander should request the use of large capacity prisoner transporting vehicles of the Middlesex County Sheriff's Office or the NJ State Department of Corrections. Additional officers should be utilized as necessary.
 5. Female arrestees (including transgender females) shall not be transported in the same vehicle as male arrestees (including transgender males) unless under the shift commander's direction (e.g., when arrestees are related) or if a specialized transport vehicle is used that can separate males (including transgender males) from females (including transgender females).
 6. Juvenile arrestees will be transported separately from adult arrestees. Juvenile arrestees of the opposite sex will be transported separately as well.
- E. 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.
- F. If confronted with a legitimate and unforeseen exigency that requires transportation of an arrestee in a vehicle that is not equipped with a security partition, if practicable two (2) officers should be present in the vehicle for the transportation. In such situations, both officers can ride in the front seat, but the passenger officer's attention will be on the arrestee(s).
- G. Generally, arrestees are not permitted to communicate with anyone except a police officer during transportation or while awaiting transportation. 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.
- H. Prior to commencing transportation, officers shall advise communications of the number of arrestees being transported, their apparent gender, their classification (adult or juvenile), the starting location, their destination, and starting mileage to the nearest 1/10th of a mile. Upon arrival at their destination officers are to give their ending mileage.
- I. 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.
- J. Arrestee transportation should not be interrupted except in extreme cases. If the arrestee is stricken with a condition requiring immediate medical aid or a motor vehicle crash involving the transport, the transporting officer shall stop safely and should not remove the arrestee from the vehicle to render aid unless another

officer is present to assist. If the officer(s) observe(s) a motor vehicle accident with potential serious bodily injuries or someone whose life is in jeopardy while transporting the arrestee, he/she may stop to render assistance until relieved.

- K. 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. Whenever circumstances dictate the need for an officer to accompany an individual during a transport by ambulance to an area hospital, the officer will retain possession of his/her duty handgun during the transport. The shift commander shall approve all such transports as well as the number of officers assigned.
 3. Officers shall employ the level of additional security at the treatment facility permitted by the nature of the injury, the regimen of treatment, and as allowed by the treating physician/nurse.
 4. Any evidence or indication of injury or illness to an arrestee shall be documented in the officer's investigation report.
 5. Officers shall take universal precautions against blood borne pathogens and infectious diseases.
 6. If an arrestee must be admitted to the hospital, an officer shall be assigned to guard and remain with him/her until properly relieved (e.g. Middlesex County Sheriff's Office, another officer, etc.).
 7. Police personnel shall not sign any documents at the hospital or medical facility indicating that the Borough of Carteret is the responsible billing party.
 8. Arrestee visitors are prohibited. Only authorized medical staff shall be allowed into the room and have contact with the arrestee.
 9. Officer(s) shall ensure that the room/area is secure to the extent possible so that the arrestee cannot escape.
 10. 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.
 11. If an escape occurs, see subsection VI.L and contact hospital security.
 12. If the hospital informs the officer that an arrestee who is to be committed to the Middlesex County Adult Correctional Center has a medical condition that requires admission to the hospital, the officer shall notify the shift commander. The shift commander shall arrange for adequate relief. The officer at the hospital shall remain at the hospital guarding the arrestee he/she is relieved by another officer, the arrestee is released ROR from a

judicial officer, or until custody is transferred to another law enforcement agency.

L. If an arrestee escapes while in custody prior to or during transportation:

1. The arresting/transporting officer(s) shall promptly notify communications.
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) / offense(s) originally arrested for;
 - g. Weapons, if known; and
 - h. Any other pertinent information known.
3. Additionally, the shift commander shall ensure that the escape is broadcast over SPEN and the county hotline to surrounding communities. Provide the same information listed above. Update any changes to this information as necessary. Enter the escapee into NCIC.
4. 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/crime 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.
5. The shift commander 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.
6. When the escapee is recaptured, the shift commander should direct a minimum of two (2) officers to reclaim the arrestee and transport him/her back to Carteret Police headquarters. Any alarm or broadcast to patrols or surrounding agencies should be promptly cancelled. Additional measures should be taken to prevent any further escape.
7. Seek medical attention if the escapee requires it. Additional security measures shall be deployed to minimize any future escape attempt.
8. The incident must be fully documented in an investigation report.

- M. When transportation terminates at this department, officers will bring the arrestee(s) into the booking/processing room and secure them. Officers will advise communications of their presence. Handcuffs can be removed as long as the arrestee is not violent and is cooperative.
- N. If an officer suspects that an arrestee may have a communicable disease, processing personnel shall wear appropriate protective equipment while searching, fingerprinting and processing the arrestee.
 - 1. Clean the handcuffs with an alcohol or disinfectant 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 plastic bag and cleaned as soon as practicable. After placing clothing in a plastic bag, personnel should wash their hands thoroughly with disinfectant soap.
 - 4. The interior of the police vehicles shall be disinfected before being used again.
 - 5. Paper towels used to clean up are to be discarded in a plastic bag and placed in an outside trash receptacle.

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(s) who exhibit signs of mental illness;
 - 2. Arrestee(s) who may be emotionally disturbed;
 - 3. Arrestee(s) who are physically disabled;
 - 4. Arrestee(s) who are injured;
 - 5. Arrestee(s) who are morbidly obese.
- B. Transportation for arrestees who exhibit special needs may be accomplished by ambulance, if available. Restraints should be used, if available and practicable. If the arrestee has a wheelchair and when practicable, the wheelchair should be transported with him/her. If not practicable to transport the wheelchair, other means of securing the wheelchair should be taken. (Example: officers should not attempt to lift or transport motorized wheelchairs but, should secure them at the scene or during normal business hours contact DPW to secure or transport the device.) Canes and crutches should also be taken but, shall be stored as arrestee property until needed.

- C. The shift commander 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 their 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);
 - 2. If the arrestee needs immediate medical attention, he/she shall be transported to the hospital via ambulance for a medical determination;
 - 3. If the arrestee is going to be committed to the Middlesex County Adult Correctional Center, the transporting officer shall bring the medication for determination by that facility'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 phone calls other than to contact an attorney, family member, or arrange for bail, or attend probate proceedings while in the custody of this agency.

VIII. POST ARREST IDENTIFICATION

- A. If the officer has evidence with the arrest, he/she shall secure the evidence to prevent tampering or destruction by the arrestee
- B. 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. Prior to filing a complaint-summons charging the defendant with an indictable offense.
 - 4. Arrested for shoplifting.
 - 5. Arrested for prostitution.
 - 6. Convicted of a non-indictable offense and the identity of the convicted person is in question. The disposition shall be listed on the front of the state fingerprint card; the date of sentence and terms of sentence shall be listed on the back of the fingerprint card.
 - 7. 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.
 - 8. Arrested and believed to be wanted for an indictable offense.

9. 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 N.J.S.A. 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 N.J.S.A. 2C: 39-1 has been involved in an act of domestic violence.
 10. Arrested and believed to be a habitual criminal.
- C. 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.
 2. Properly lighted (e.g., no shadows, no uneven light, etc.).
 3. Properly 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 kippah) 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.
- D. Once the arrestee is fingerprinted through Live Scan, the NJSP will send a Teletype reply arrest notification.
 - 1. Unless impracticable, officers should not release the arrestee until receipt of the NJSP arrest notification.
 - 2. The information located at the top of the NJSP arrest notification is the arrestee's correct identifiers. This shall be compared to the information that was supplied by the officer, which is located at the bottom. Any discrepancies should be handled accordingly.
- E. Juvenile fingerprints and photographs shall be taken consistent with N.J.S.A. 2A:4A-61.
- F. Special cases:
 - 1. If the arrest is for DWI and the BAC is .30% or higher, have EMS transport the subject to a medical facility immediately upon completion of the arrest process.
 - a. An officer will accompany the subject until such time as he/she is admitted to the medical facility or assessed and released.
 - b. If the arrestee refuses treatment, notify a responsible adult (e.g., relative, friend, etc.) to respond to the hospital to take control of the arrestee.
 - c. Such person will be advised of the circumstances surrounding the intoxicated person. The officer's responsibility for the arrestee will only be relinquished at such time the arrestee is admitted or custody accepted by a responsible adult. The on-duty medical professional will have the final say as to whether or not a patient who refuses treatment or is admitted due to an altered mental status.
 - d. If the subject arrested for DWI is going to be incarcerated, see this department's SOP on *Temporary Detention* for instructions.
 - 2. An arrestee exhibiting mental illness shall be treated in accordance with this department's SOP on *Emotionally Disturbed Persons* for instructions.
- G. The arresting officer shall ensure that the following checks are made on the arrestee(s) prior to their release or transfer to another facility or agency:
 - 1. NCIC;
 - 2. ACS/ATS.
- H. The arresting officer shall ensure that all appropriate victim/witness notifications are made.

1. For any indictable arrest in which a warrant is issued or for any arrest of domestic violence, the arresting officer will complete a *Victim/Witness Information Form* and supply the appropriate literature to the victim/witnesses. The completed *Victim/Witness Information Form* will be forwarded with reports to the records bureau.
 2. Upon the release of an arrestee from municipal detention and when the victim/witness has requested to be notified, the shift commander will ensure that proper notification is made. If the arrestee is transferred to county detention, forward a copy of the victim/witness form, commitment papers, and a completed *MCACC Intake Form*.
 3. The shift commander is responsible for making notifications to victims and/or witnesses upon request by the Department of Corrections, the prosecutor's office, or otherwise.
 4. Anytime a notification is made, create a CAD record and enter the date/time and the name of the person notified.
- I. The arresting officer shall ensure that guidelines for alternate care for arrestee's dependents are followed and documented in the investigation report.
 - J. The arresting officer shall ensure that a DNA sample is taken from arrestees with qualifying charges.

IX. COMPLAINT PROCESSING

- A. Following arrest, officers shall ask the defendant if he/she is a veteran or current service member. If the defendant indicates he/she is a veteran or current service member, the officer shall ask if he/she has any proof on his/her person of such status.
 1. If so, officers shall make copies of such proofs and include them in the case file and forward such documents to the MCPO with the case file. Proofs may include, but not be limited to a copy of his/her DD214, a copy of a military identification card/document, etc.
 2. If the defendant verbally indicates he/she is a veteran or current service member but, does not have any such proof on his/her person, the officer shall note such in the investigation report.
 3. If the defendant (veteran or current service member) wishes to be considered for the *Veteran Diversion Program* (see definitions, section I of this policy), he/she must complete the following forms:
 - a. *Department of Veterans Affairs – Request for and Authorization to Release Health Information form* (which can be accessed at <https://www.va.gov/vaforms/medical/pdf/vha-10-5345-fill.pdf>; and
 - b. *Veterans Diversion Program Referral Form* (which can be accessed on the MCPO website).

4. The officer initiating any criminal complaint(s) against the defendant shall indicate in the appropriate section(s) within the eCDR system that the defendant is a current service member or claiming veteran status.
 5. The arresting/charging officer shall document in the investigation report any statements that the defendant makes concerning past mental health issues, describe any behavior exhibited by the defendant (either at the time of the offense or after the arrest) that may lead a reasonable person to believe the defendant is possibly suffering from mental health issues, or if officers have past knowledge of this particular defendant having mental health issues.
 6. Within twenty-four (24) hours of the arrestee/custodial processing, all documents related to the case (*Department of Veterans Affairs – Request for and Authorization to Release Health Information form, Veterans Diversion Program Referral Form*, copies of all police reports, copies of the criminal complaint, other supporting documentation) shall be forwarded electronically to the MCPO at the e-mail address listed on the *Veterans Diversion Program Referral Form*.
- B. Prior to charging a defendant with any indictable crime or disorderly persons offense and **before** contacting a zone prosecutor or the shift commander, the officer must:
1. For qualifying crimes/offenses listed in subsection VIII.B, take and submit fingerprints of the defendant using Live Scan. Live Scan fingerprinting must be completed before beginning eCDR complaint entry.
 2. After a Live Scan confirmation is received, proceed to the eCDR system and begin generating a complaint.
 - a. Before a decision is made between the issuance of a complaint-summons and a complaint-warrant, and before a complaint is filed, initiate the automated pretrial risk assessment process and receive a preliminary public safety assessment (PSA).
 - b. If the PSA indicates that the defendant has an out-of-state criminal record, the appropriate out-of-state criminal history check must be run.
 3. In a case when the defendant has not been arrested, ascertain the defendant's criminal history by making an NCIC/CCH or Interstate Identification Index (III) query that does not require fingerprint verification.
 4. In a case where the defendant has not been fingerprinted because the offense(s) for which the defendant has been arrested does not require fingerprinting (and therefore no automated PSA score can be calculated), ascertain the defendant's criminal history by making an NCIC/CCH or III query that does not require fingerprint verification.
 5. In cases involving domestic violence:
 - a. Check the domestic violence central registry to determine whether the defendant is subject to a domestic violence restraining order.

- b. For qualifying domestic violence cases (see subsection I.H.3), conduct an ODARA:
 - 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.
- 6. In cases involving a sexual offense under N.J.S.A. 2C: 14-1 et seq., check the central registry established under N.J.S.A. 2C: 14-20 to determine whether the defendant is subject to a protective order issued pursuant to the *Sexual Assault Survivor Protection Act*.
- 7. If the defendant is less than 18 years old, check the juvenile central registry to determine if the defendant has a juvenile record that might have a material bearing on the charging decision.
- 8. Assess and be prepared to present to the zone prosecutor, shift commander, and/or the judicial officer, factors outside the PSA that could impact on a decision to seek a complaint-warrant, including but not limited to:
 - a. Any threat of future harm to a victim or witness;
 - b. Involvement with gang or organized crime;
 - c. Alcohol/drug dependency;
 - d. Mental illness;
 - e. Commission of the offense against a particularly vulnerable victim or in the presence of a child.
- 9. Complete a full and detailed *Preliminary Law Enforcement Incident Report* (P.L.E.I.R.) as part of the eCDR process. (Unless the zone 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.
- 10. If an application for a complaint-warrant is to be made, complete a full and detailed *Affidavit of Probable Cause* as part of the eCDR process. (Unless the zone prosecutor expressly indicates that an *Affidavit of Probable Cause* should not be completed in the eCDR).
 - a. In accordance with *New Jersey Attorney General's Directive 2017-1*, do not include a victim and/or witness identifying information in the *Affidavit of Probable Cause*, such as names and addresses!
 - b. DO NOT use initials! 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 police department's incident report.
 - c. 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. The amount of information should be more than what is required in the complaint narrative section but, need not be a full recitation of the facts.
 - d. 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*.
 - e. The affidavit will include a checkbox allowing the officer to certify that the statements in the affidavit are true.
- C. In consultation with the shift commander, the officer must determine whether the application for a complaint-warrant is either mandated or presumed:
 - 1. 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:
 - a. Murder (N.J.S.A. 2C: 11-3);
 - b. Aggravated manslaughter (N.J.S.A. 2C: 11-4(a));
 - c. Manslaughter (N.J.S.A. 2C: 11-4(b));

- d. Aggravated sexual assault (N.J.S.A. 2C: 14-2(a));
- e. Sexual assault (N.J.S.A. 2C: 14-2(b) or (c));
- f. Robbery (N.J.S.A. 2C: 15-1);
- g. Carjacking (N.J.S.A. 2C: 15-2);
- h. Escape (N.J.S.A. 2C: 29-5(a));
- i. The defendant was extradited from another state for the current charge (the officer must notify the court of the extradition);
- j. A lawful detainer has been lodged against the defendant by another law enforcement agency (the officer must notify the court of the detainer(s)).
- k. 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 agency making the arrest or having custody of the defendant shall proceed in accordance with the laws, practices, and procedures currently in place.

2. PRESUMED COMPLAINT-WARRANT:

- a. Automated risk assessment (PSA) indicates an elevated risk of flight (i.e. FTA score of 3, 4, 5 or 6);
- b. Automated risk assessment (PSA) indicates an elevated risk of new criminal activity (i.e. NCA score of 3, 4, 5 or 6);
- c. Automated risk assessment (PSA) indicates that there is a risk of new violence (i.e. the new violent criminal activity (NVCA) flag is indicated);
- d. When 'unclassifiable charges' appear on a preliminary PSA unless otherwise directed by the zone prosecutor;
- e. The defendant has violated a domestic violence restraining order as part of present offense;
- f. The defendant has violated a sexual assault survivor protection order as part of present offense;
- g. 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);
- h. There is probable cause to believe that the defendant committed or attempted to commit:

- 1) A 1st or 2nd degree crime set forth in Chapter 35 of Title 2C;
 - 2) A crime involving the possession/use of a firearm;
 - 3) Vehicular homicide (N.J.S.A. 2C: 11-5);
 - 4) A 2nd degree aggravated assault (N.J.S.A. 2C: 12-1(b));
 - 5) Disarming a law enforcement officer (N.J.S.A. 2C: 12-11);
 - 6) Kidnapping (N.J.S.A. 2C: 13-1);
 - 7) Aggravated arson (N.J.S.A. 2C: 17-1(a));
 - 8) Second-degree burglary (N.J.S.A. 2C: 18-2);
 - 9) Extortion (N.J.S.A. 2C: 20-5);
 - 10) Booby traps in manufacturing/distribution facilities (N.J.S.A. 2C: 35-4.1(b));
 - 11) Strict liability for drug induced death (N.J.S.A. 2C: 35-9);
 - 12) Terrorism (N.J.S.A. 2C: 38-2);
 - 13) Producing or possessing chemical weapons, biological agents or radiological devices (N.J.S.A. 2C: 38-3);
 - 14) Racketeering (N.J.S.A. 2C: 41-2);
 - 15) Firearms trafficking (N.J.S.A. 2C: 39-9(i));
 - 16) Causing or permitting a child to engage in a prohibited sexual act (N.J.S.A. 2C: 24-4b(3));
 - 17) Eluding 2nd degree (N.J.S.A. 2C: 29-2(b));
 - 18) Assault on public officials or employees 3rd degree (N.J.S.A. 2C: 12-1(b)(5));
 - 19) Photographing, filming, sexual exploitation, or abuse of a child (N.J.S.A. 2C: 24-4(b)(3), (b)(4), or (b)(5)).
- i. 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);
 - j. 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) where the defendant pleaded guilty as required by N.J.S.A. 2C: 43-12g(3);

- k. The present offense was committed while the defendant was on release pending sentence or appeal;
- l. 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;
- m. 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;
- n. 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).

3. DOMESTIC VIOLENCE RELATED CASES:

- a. 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.H.1 of this SOP:
NOTE: Domestic violence charges that are not listed below cannot be scored with an ODARA and the *ODARA Scoring Form* cannot be used:
 - 1) Homicide (N.J.S.A. 2C: 11-1);
 - 2) Simple assault with contact or a weapon (N.J.S.A. 2C: 12-1a);
 - 3) Aggravated assault (N.J.S.A. 2C: 12-1b);
 - 4) Terroristic threats with contact or with a weapon (N.J.S.A. 2C: 12-3);
 - 5) Kidnapping (N.J.S.A. 2C: 13-1);
 - 6) False imprisonment with contact or with a weapon (N.J.S.A. 2C: 13-3);
 - 7) Sexual assault (N.J.S.A. 2C: 14-2);
 - 8) Criminal sexual contact (N.J.S.A. 2C: 14-3);
 - 9) Robbery (N.J.S.A. 2C: 15-1);
 - 10) Burglary, 2nd degree with contact or with a weapon (N.J.S.A. 2C: 18-2);
 - 11) Any other crime involving risk of death or serious bodily injury (N.J.S.A. 2C: 25-19a(18)).

- b. 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.
 - 1) 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.
 - 2) (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.)).
- c. In any case involving domestic violence and when considering the totality of circumstances, the following special considerations and factors must be assessed:
- d. In any case involving domestic violence and when considering the totality of circumstances, the following special considerations and factors must be assessed:
 - 1) ODARA score of 3 or greater for crimes/offenses listed above: the officer must apply for a complaint-warrant. Furthermore, for any of the indictable charges listed above, the officer must also contact the zone assistant prosecutor prior to initiating e-CDR for review of charges and the *Affidavit of Probable Cause*.
 - 2) ODARA score of 3 or greater for DP simple assault or false imprisonment: when based on the ODARA score, a complaint-warrant is necessary or the disorderly person charges of simple assault or false imprisonment, the officer may apply for a complaint-warrant without consulting a zone assistant prosecutor. Upon a finding of probable cause and the issuance of the complaint-warrant for simple assault or false imprisonment by the municipal court judge, the officer must submit an email as soon as possible to mcpopto@co.middlesex.nj.us with name of defendant and warrant number so that the MCPO Pre-Trial Unit will be aware of the complaint-warrant prior to the initial appearance.
 - 3) ODARA score of 2 or below for DP simple assault or false imprisonment: the officer is NOT required to contact the zone assistant prosecutor prior to the initiation of the complaint process but, must obtain the approval of the shift commander prior to taking any of the actions mentioned below.

- 4) The officer may issue a complaint-summons for a domestic violence related disorderly person simple assault or false imprisonment charge without contacting a zone assistant prosecutor.
 - 5) If the officer believes a no contact order is needed to protect the victim, in addition to charging the simple assault or false imprisonment on a summons, the officer should apply for a complaint-warrant with the municipal court judge charging defendant with the petty disorderly persons offense of harassment (N.J.S.A. 2C: 33-4b) and request a no contact order as a condition of release.
- e. If a complaint-warrant is neither mandatory nor presumed the officer must apply for a complaint-warrant and contact a zone assistant prosecutor prior to the initiation of the complaint process when the totality of the below circumstances weigh in favor of detention or obtaining release conditions for the safety of the victim:
- 1) Whether detention will exacerbate the situation;
 - 2) Whether defendant is already on pre-trial release or probation;
 - 3) Whether the victim's injuries were severe;
 - 4) Whether a weapon was used or threatened;
 - 5) Whether defendant previously violated a restraining order with this victim or others;
 - 6) Whether this offense a violation of a restraining order;
 - 7) Whether defendant has firearms;
 - 8) Whether the defendant suicidal;
 - 9) Whether the victim was strangled;
 - 10) Whether the defendant harmed a pet;
 - 11) Whether the department has a history of calls to the home;
 - 12) Whether there is a concern the defendant will obstruct the criminal justice process;
 - 13) Whether defendant will fail to appear in court.
- f. In any application for a complaint-warrant, the presence of any of the above circumstances shall be included in the *Affidavit of Probable Cause*.

- g. If the defendant has violated a restraining order but, there is no accompanying indictable charge, the officer may apply for a complaint-warrant without contacting a zone prosecutor. Upon the finding of probable cause and the issuance of the warrant by the municipal court judge, the officer **must** submit an email as soon as possible to mcporto@co.middlesex.nj.us with name of defendant and warrant number so that the MCPO Pre-Trial Unit will be aware of the issuance of the complaint-warrant prior to the initial
4. **PRESUMED COMPLAINT-SUMMONS** – If the case is not a mandatory or presumed warrant application, the officer **SHALL** issue a complaint-summons, 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:
- a. In addition to the PSA score, the defendant has:
 - 1) A history of juvenile delinquency;
 - 2) An out-of-state criminal history;
 - 3) Known gang or organized crime affiliation;
 - 4) Is on probation or parole.
 - b. The defendant has been served with a complaint-summons and has failed to appear;
 - c. There is reason to believe that the defendant is dangerous to him/herself if released on a summons;
 - d. 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;
 - e. There are one or more outstanding warrants for the defendant;
 - f. The defendant's identity or address is not known and a warrant is necessary to subject the defendant to the jurisdiction of the court;
 - g. There is reason to believe that the defendant will obstruct or attempt to obstruct the criminal justice process if released;
 - h. There is reason to believe that the defendant will not appear in response to a summons; or
 - i. 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.

- D. A zone prosecutor **must** be contacted for consultation and approval prior to the issuance of a complaint-summons or an application for a complaint-warrant regarding any indictable crime or disorderly persons offense if:
1. The case involves a first or second-degree charge; or
 2. The officer seeks to issue a complaint-summons when an application for a complaint-warrant is presumed; or
 3. The officer seeks to apply for a complaint-warrant when the issuance of a complaint-summons is presumed.
- E. A zone prosecutor **does not** have to be contacted for consultation and approval prior to the issuance of a complaint-summons or an application for a complaint-warrant regarding any indictable crime or disorderly persons offense if:
1. The case does **not** involve a charge of the first or second degree, and the officer seeks to issue a complaint-summons when the issuance of a complaint-summons is presumed; or
 2. The case does **not** involve a charge of the first or second degree, and the officer seeks to apply for a complaint-warrant when the application for a complaint-warrant is presumed.
 3. In such circumstances where contact and approval of a zone prosecutor is **not** required, the expressed approval of the shift commander is required prior to the issuance of the complaint-summons or the application for a complaint-warrant.
- F. If an officer applies for a complaint-warrant and the judge or other judicial officer reviewing the application declines to issue a complaint-warrant, the officer shall notify the zone prosecutor as soon as practicable.
- G. *ODARA Scoring Forms:*
1. Officers shall transmit a copy of the completed *ODARA Scoring Form* to the Middlesex County Prosecutor's Office mcpopto@co.middlesex.nj.us as soon as practicable following completion.
 2. 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.
 3. The original *ODARA Scoring Form* shall be maintained in the applicable case file.
 4. 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.

5. *ODARA Scoring Forms* are subject to discovery.

X. REPORTING REQUIREMENTS

- A. All arrest incidents shall minimally require the following documentation whether electronic or paper equivalent:
1. *Arrest Report* (booking application);
 2. *Investigation Report*;
 3. *Preliminary Law Enforcement Incident Report* (when required);
 4. *Affidavit of Probable Cause* (when required);
 5. *ODARA Scoring Form* (when required);
 6. CAD record;
 7. DWI related reports (in DWI cases);
 8. Detainee property report (if required);
 9. Consent to search (if required);
 10. Use of force report (if required);
 11. Witness statements (if required);
 12. Miranda Waiver (if required);
 13. *Victim Notification Form* (if required);
 14. *MCACC Intake Form* (if required);
 15. *MCDOC Uniform Inmate Transport Checklist* (if required).

XI. SUPPLEMENTAL PRISONER TRANSPORTATION

- A. This section addresses instances where prisoners already in custody are transported to and from this agency.
- B. Prior to beginning any transportation, personnel 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-ZPass transponder, when required.

- D. Typically, interstate transportation will be performed by the Middlesex County Sheriff's Office. If this agency 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 generally 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 (i.e., nylon flex cuffs and/or nylon zip ties) may be utilized when deemed necessary to provide additional restraints for subjects who are combative or deemed a flight risk. 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.).
- F. Transportation of arrestees/prisoners in a lying or supine position is prohibited. Accordingly, the application of additional restraints must be made in such a manner as to allow for upright transportation of all prisoners.
 - 1. Officers shall not utilize any means of restraint, which utilizes any hog-tying methods (e.g., that which ties the prisoner's feet backward toward the neck area, or tightly around the handcuffs).
 - 2. At no time shall a prisoner be handcuffed to any part of the transport vehicle during transport
 - 3. Female prisoners (including transgender females) shall not be transported in the same vehicle as male prisoners (including transgender males) unless under the shift commander's direction (e.g., when prisoners are related) or if a specialized transport vehicle is used that can separate males from females.
 - 4. Juvenile prisoners will be transported separately from adult prisoners. Juvenile prisoners of the opposite sex will be transported separately as well.
- G. 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.
- H. 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.
- I. When admitting a prisoner to the Middlesex County Adult Correctional Center (MCACC):

1. No person shall be transported to the MCACC until such time as a judicial officer authorizes the complaint/warrant and commitment papers. This documentation must be presented to Middlesex County Department of Corrections (MCDOC) personnel at the time the arrested person undergoes screening for admittance into the facility.
 2. Prior to transporting a defendant to the MCACC, the arresting agency must complete a *MCDOC Uniform Inmate Transport Checklist* and bring a copy of this checklist with them to the MCACC.
 3. The defendant must have an SBI #. If the defendant did not meet the specifications for mandatory fingerprinting prior to incarceration at the MCACC, a fingerprint INQUIRY shall be performed via Live Scan in order to obtain the SBI #.
 4. Submit a copy of the criminal complaint intake staff at the MCACC (no originals).
- J. In the event the prisoner being transported to a court is a security risk, the shift commander is responsible for ensuring that the judge and court administrator of the appropriate court are informed accordingly.
- K. Each prisoner being transported to or from another detention facility 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. The proper documentation shall accompany the prisoner being moved to or from another facility. This documentation includes, but is not limited to:
1. Warrants;
 2. Personal property, if feasible;
 3. Commitment forms;
 4. Medical records of unusual illnesses (if applicable);
 5. Information relating to the prisoner's escape or suicide potential or other personal traits of a security nature;
 6. Victim notification forms.
- L. Follow intake/booking procedures when bringing prisoners to this facility.
- M. Prisoners should be transported in a vehicle equipped with a safety partition with the rear doors and windows controls disabled or removed.
1. One officer in a partitioned vehicle can handle prisoner transports within Middlesex County.
 2. The shift commander has the discretion to assign more than one officer for a prisoner pickup within Middlesex County if the circumstances warrant such assignment.

3. Transports to and from all other jurisdictions require two officers in a partitioned vehicle.
 4. Two officers shall always transport a violent or resisting prisoner.
 5. Transports of multiple prisoners shall always require two officers in a partitioned vehicle.
- N. 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. Adult prisoners and juvenile detainees shall not be transported together in the same vehicle.
- O. Prior to commencing transportation, personnel shall advise communications of the number of prisoners being transported, their gender, the starting location, their destination, and starting mileage. Upon arrival at their destination, personnel are to give their ending mileage. If out of radio range, use a telephone to relay this information and call a recorded line.
1. 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.
 2. 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.
 3. Officers shall not stop to eat or take breaks while transporting prisoners.
 4. If a prisoner is being transported to another law enforcement agency or confinement facility, personnel shall comply with all of that agency's rules and procedures concerning weapons storage.
- P. 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.
- Q. 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.
- R. Prisoners shall be transported directly to the intended destination as directed unless being taken to a medical facility for treatment.
- S. Prisoner transportation should not be interrupted for any reason except in extreme cases. Should the prisoner be stricken with a medical condition requiring immediate aid or a vehicle crash involving the transporting vehicle, the transporting officer shall stop safely but, should not remove the prisoner from the vehicle to render aid unless another officer is present to assist.

- T. If transporting officers observe a motor vehicle collision with potential serious bodily injuries or someone whose life is in jeopardy while transporting the prisoner, he/she may stop to render assistance until relieved. In these situations, the officer shall;
1. Immediately notify communications of the event and what type of assistance is needed. Communications shall then direct the appropriate type and level of assistance, if local; and
 2. If the transporting vehicle is in another jurisdiction, communications personnel shall then immediately contact the law enforcement agency with jurisdictional responsibility for assistance.
- U. If the prisoner's destination is other than this agency,
1. Restraints should not be removed until just prior to placing the prisoner in a cell or other secure holding facility.
 2. All necessary forms, documentation, and prisoner property shall be turned over to the receiving agency.
 3. The name of the receiving official shall be documented in the transportation report/record.
 4. The receiving agency shall be advised of any potential medical or security hazards concerning the prisoner(s).
- V. If a prisoner escapes during transportation, see section VII.L of this SOP.
- W. 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.
- X. Prisoners who cannot walk 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 should normally be refused. If the prisoner is being picked up on a Carteret warrant:
1. Take the prisoner to the nearest medical facility for emergency treatment;
 2. If the prisoner exhibits signs of mental illness, follow the protocols found in the *Emotionally Disturbed Persons SOP*, specifically the subsections on mental health screening and commitment.
 3. Prisoners exhibiting signs of intoxication may be accepted but, should be transported to a medical facility for medical clearance.
 4. Promptly notify the shift commander and document the matter.

- Z. Operational or administrative problems encountered while transporting prisoners shall be documented. These problems include, but are not limited to:
1. Prisoners who become sick or injured during transportation;
 2. Agency vehicle crashes with prisoners on board during transportation;
 3. Prisoner escapes (or attempts to escape);
 4. Inoperative or damaged restraints or equipment;
 5. Intake problems at other facilities, etc.