

**RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
RULE 7:2. PROCESS**

7:2-1. Contents of Complaint, Complaint-Warrant (CDR-2) and Summons

(a) Complaint: General. The complaint shall be a written statement of the essential facts constituting the offense charged made on a form approved by the Administrative Director of the Courts. Except as otherwise provided by paragraphs (f) (Traffic Offenses), (g) (Special Form of Complaint and Summons), and (h) (Use of Special Form of Complaint and Summons in Penalty Enforcement Proceedings), the complaining witness shall attest to the facts contained in the complaint by signing a certification or signing an oath before a judge or other person so authorized by N.J.S.A. 2B:12-21.

If the complaining witness is a law enforcement officer, the complaint may be signed by an electronic entry secured by a Personal Identification Number (hereinafter referred to as an electronic signature) on the certification, which shall be equivalent to and have the same force and effect as an original signature.

(b) Acceptance of Complaint. The municipal court administrator or deputy court administrator shall accept for filing every complaint made by any person.

(c) Summons: General. The summons shall be on a Complaint-Summons form (CDR-1) or other form prescribed by the Administrative Director of the Courts and shall be signed by the officer issuing it. An electronic signature of any law enforcement officer or any other person authorized by law to issue a Complaint-Summons shall be equivalent to and have the same force and effect as an original signature. The summons shall be directed to the defendant named in the complaint, shall require defendant's appearance at a stated time and place before the court in which the complaint is made, and shall inform defendant that an arrest a bench warrant may be issued for a failure to appear.

(d) Complaint-Warrant (CDR-2)

(1) Complaint-Warrant (CDR-2): General. The arrest warrant for an initial charge shall be made on a Complaint-Warrant (CDR-2) or other form prescribed by the Administrative Director of the Courts and shall be signed by a judicial officer after a determination of probable cause that an offense was committed and that the defendant committed it. A judicial officer, for purposes of the Part VII rules, is defined as a judge, authorized municipal court administrator or deputy court administrator. An electronic signature by the judicial officer shall be equivalent to and have the same force and effect as an original signature. The warrant shall contain the defendant's name or, if unknown, any name or description that identifies the defendant with reasonable certainty. It shall be directed to any officer authorized to execute it.

(2) Complaint-Warrant (CDR-2) -- Disorderly Persons Offenses. When a Complaint-Warrant (CDR-2) is issued and the most serious charge is a disorderly persons offense, the court shall order that the defendant be arrested and remanded to the county jail pending a determination of conditions of pretrial release. Complaints in which the most serious charge is an indictable offense are governed by R. 3:2-1.

(3) Complaint-Warrant (CDR-2) -- Petty Disorderly Persons Offense or Other Matters within the Jurisdiction of the Municipal Court. When a Complaint-Warrant (CDR-2) is issued and the most serious charge is a petty disorderly persons offense or other non-disorderly persons offense within the jurisdiction of the Municipal Court, the court shall order that the defendant be arrested and brought before the court issuing the warrant. The judicial officer issuing a warrant may specify therein the amount and conditions of bail or release on personal recognizance, consistent with R. 7:4, required for defendant's release.

(e) Issuance of a Complaint-Warrant (CDR-2) When Law Enforcement Applicant is Not Physically Before a Judicial Officer. A judicial officer may issue a Complaint-Warrant (CDR-2) upon sworn oral testimony of a law enforcement applicant who is not physically present. Such sworn oral testimony may be communicated by the applicant to the judicial officer by telephone, radio, or other means of electronic communication.

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

A Complaint-Warrant (CDR-2) may issue if the judicial officer finds that probable cause exists and that there is also justification for the issuance of a Complaint-Warrant (CDR-2) pursuant to the factors identified in Rule 7:2-2(b). If a judicial officer does not find justification for a warrant under Rule 7:2-2(b), the judicial officer shall issue a summons.

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

does not have the ability to promptly access the Judiciary's computerized system used to generate complaints, the judicial officer shall direct the applicant to complete the required certification and activate the complaint pursuant to procedures prescribed by the Administrative Director of the Courts.

Upon approval of a Complaint-Warrant (CDR-2), the judicial officer shall memorialize the date, time, defendant's name, complaint number, the basis for the probable cause determination, and any other specific terms of the authorization. That memorialization shall be either by means of a recording device or by adequate notes.

A judicial officer authorized for that court shall verify, as soon as practicable, any warrant authorized under this subsection and activated by law enforcement. Remand to the county jail for defendants charged with a disorderly persons offense and a pretrial release decision are not contingent upon completion of this verification.

Procedures authorizing issuance of restraining orders pursuant to N.J.S.A. 2C:35-5.7 ("Drug Offender Restraining Order Act of 1999") and N.J.S.A. 2C:14-12 ("Nicole's Law") by electronic communications are governed by R. 7:4-1(d).

(f) Traffic Offenses

(1) Form of Complaint and Process. The Administrative Director of the Courts shall prescribe the form of Uniform Traffic Ticket to serve as the complaint, summons or other process to be used for all parking and other traffic offenses. On a complaint and summons for a parking or other non-moving traffic offense, the defendant need not be named. It shall be sufficient to set forth the license plate number of the vehicle, and its owner or operator shall be charged with the violation.

(2) Issuance. The complaint may be made and signed by any person, but the summons shall be signed and issued only by a law enforcement officer or other person authorized by law to issue a Complaint-Summons, the municipal court judge, municipal court administrator or deputy court administrator of the court having territorial jurisdiction. An electronic signature of any law enforcement officer or other person authorized by law to issue a Complaint-Summons shall be equivalent to and have the same force and effect as an original signature.

(3) Records and Reports. Each court shall be responsible for all Uniform Traffic Tickets printed and distributed to law enforcement officers or others in its territorial jurisdiction, for the proper disposition of Uniform Traffic Tickets, and for the preparation of such records and reports as the Administrative Director of the Courts prescribes. The provisions of this subparagraph shall apply to the Chief Administrator of the Motor Vehicle Commission, the Superintendent of State Police in the Department of Law and Public Safety, and to the responsible official of any other agency authorized by the Administrative Director of the Courts to print and distribute the Uniform Traffic Ticket to its law enforcement personnel.

(g) Special Form of Complaint and Summons. A special form of complaint and summons for any action, as prescribed by the Administrative Director of the Courts, shall be used in the manner prescribed in place of any other form of complaint and process.

(h) Use of Special Form of Complaint and Summons in Penalty Enforcement Proceedings. The Special Form of Complaint and Summons, as prescribed by the Administrative Director of the Courts, shall be used for all penalty enforcement proceedings in the municipal court, including those that may involve the confiscation and/or forfeiture of chattels. If the Special Form of Complaint and Summons is made by a governmental body or officer, it may be certified or verified on information and belief by any person duly authorized to act on its or the State's behalf.

Note: Source – Paragraph (a): R. (1969) 7:2, 7:3-1, 3:2-1; paragraph (b): R. (1969) 7:2, 7:3-1, 7:6-1, 3:2-2; paragraph (c): R. (1969) 7:2, 7:3-1, 7:6-1, 3:2-3; paragraph (d): R. (1969) 7:6-1; paragraph (e): R. (1969) 4:70-3(a); paragraph (f): new. Adopted October 6, 1997 to be effective February 1, 1998; paragraph (a) caption added, former paragraph (a) amended and redesignated as paragraph (a)(1), former paragraph (b) amended and redesignated as paragraph (a)(2), former paragraph (c) redesignated as paragraph (a)(3), former paragraph (d) redesignated as paragraph (b), former paragraph (e) caption and text amended and redesignated as paragraph (c), and former paragraph (f) redesignated as paragraph (d) July 12, 2002 to be effective September 3, 2002; caption for paragraph (a) deleted, former paragraphs (a)(1) and (a)(2) amended and redesignated as paragraphs (a) and (b), former paragraph (a)(3) redesignated as paragraph (c), new paragraph (d) adopted, former paragraph (b) amended and redesignated as paragraph (e), former paragraph (c) deleted, former paragraph (d) amended and redesignated as paragraph (f), and new paragraph (g) adopted July 28, 2004 to be effective September 1, 2004; paragraph (a) amended, new paragraph (b) adopted, former paragraphs (b), (c), (d), and (e) amended and redesignated as paragraphs (c), (d), (e), and (f), former paragraphs (f) and (g) redesignated as paragraphs (g) and (h) July 16, 2009 to be effective September 1, 2009; paragraph (e) caption and text amended July 9, 2013 to be effective September 1, 2013; caption amended, and paragraphs (d) and (e) caption and text amended August 30, 2016 to be effective January 1, 2017; paragraph (d) reallocated as paragraphs (d)(1) and (d)(2), new paragraph (d)(3) added, new paragraph (d) caption added, and paragraph (e) amended November 14, 2016 to be effective January 1, 2017.

7:2-2. Issuance of Complaint-Warrant (CDR-2) or Summons

(a) Authorization for Process

(1) Citizen Complaint. A Complaint-Warrant (CDR-2) or a summons charging any offense made by a private citizen may be issued only by a judge or, if authorized by the judge, by a municipal court administrator or deputy court administrator of a court with jurisdiction in the municipality where the offense is alleged to have been committed within the statutory time limitation. The complaint-warrant (CDR-2) or summons may be issued only if it appears to the judicial officer from the complaint, affidavit, certification or testimony that there is probable cause to believe that an offense was committed, the defendant committed it, and a Complaint-Warrant (CDR-2) or summons can be issued. The judicial officer's finding of probable cause shall be noted on the face of the summons or warrant and shall be confirmed by the judicial officer's signature issuing the Complaint-Warrant (CDR-2) or summons. If, however, the municipal court administrator or deputy court administrator finds that no probable cause

exists to issue a Complaint-Warrant (CDR-2) or summons, or that the applicable statutory time limitation to issue the Complaint-Warrant (CDR-2) or summons has expired, that finding shall be reviewed by the judge. A judge finding no probable cause to believe that an offense occurred or that the statutory time limitation to issue a Complaint-Warrant (CDR-2) or summons has expired shall dismiss the complaint.

(2) Complaint by Law Enforcement Officer or Other Statutorily Authorized Person. A summons on a complaint made by a law enforcement officer charging any offense may be issued by a law enforcement officer or by any person authorized to do so by statute without a finding by a judicial officer of probable cause for issuance. A law enforcement officer may personally serve the summons on the defendant without making a custodial arrest.

(3) Complaint by Code Enforcement Officer. A summons on a complaint made by a Code Enforcement Officer charging any offense within the scope of the Code Enforcement Officer's authority and territorial jurisdiction may be issued without a finding by a judicial officer of probable cause for issuance. A Code Enforcement Officer may personally serve the summons on the defendant. Otherwise, service shall be in accordance with these rules. For purposes of this rule, a "Code Enforcement Officer" is a public employee who is responsible for enforcing the provisions of any state, county or municipal law, ordinance or regulation which the public employee is empowered to enforce.

(b) Issuance of a Complaint-Warrant (CDR-2) or Summons

(1) Issuance of a summons. A summons may be issued on a complaint only if:

(i) a judge, authorized municipal court administrator or authorized deputy municipal court administrator (judicial officer) finds from the complaint or an accompanying affidavit or deposition, that there is probable cause to believe that an offense was committed and that the defendant committed it and notes that finding on the summons; or

(ii) the law enforcement officer or code enforcement officer who made the complaint, issues the summons.

(2) Issuance of a Warrant. A Complaint-Warrant (CDR-2) may be issued only if:

(i) a judicial officer finds from the complaint or an accompanying affidavit or deposition, that there is probable cause to believe that an offense was committed and that the defendant committed it and notes that finding on the Complaint-Warrant (CDR-2); and

(ii) a judicial officer finds that subsection (e), (f), or (g) of this rule allows a Complaint-Warrant (CDR-2) rather than a summons to be issued.

(c) Indictable Offenses. Complaints involving indictable offenses are governed by the Part III Rules, which address mandatory and presumed warrants for certain indictable offenses in Rule 3:3-1(e), (f).

(d) Offenses Where Issuance of a Summons is Presumed. A summons rather than a Complaint-Warrant (CDR-2) shall be issued unless issuance of a Complaint-Warrant (CDR-2) is authorized pursuant to subsection (e) of this rule.

(e) Grounds for Overcoming the Presumption of Issuance of Complaint-Summons. Regarding a defendant charged on matters in which a summons is presumed, when a law enforcement officer requests, in accordance with guidelines issued by the Attorney General pursuant to N.J.S.A. 2A:162-16, the issuance of a Complaint-Warrant (CDR-2) rather than issues a complaint-summons, the judicial officer may issue a Complaint-Warrant (CDR-2) when the judicial officer finds that there is probable cause to believe that the defendant committed the offense, and the judicial officer has reason to believe, based on one or more of the following factors, that a Complaint-Warrant (CDR-2) is needed to reasonably assure a defendant's appearance in court when required, to protect the safety of any other person or the community, or to assure that the defendant will not obstruct or attempt to obstruct the criminal justice process:

(1) the defendant has been served with a summons for any prior indictable offense and has failed to appear;

(2) there is reason to believe that the defendant is dangerous to self or will pose a danger to the safety of any other person or the community if released on a summons;

(3) there is one or more outstanding warrants for the defendant;

(4) the defendant's identity or address is not known and a warrant is necessary to subject the defendant to the jurisdiction of the court;

(5) there is reason to believe that the defendant will obstruct or attempt to obstruct the criminal justice process if released on a summons;

(6) there is reason to believe that the defendant will not appear in response to a summons;

(7) there is reason to believe that the monitoring of pretrial release conditions by the pretrial services program established pursuant to N.J.S.A. 2A:162-25 is necessary to protect any victim, witness, other specified person, or the community.

The judicial officer shall consider the results of any available preliminary public safety assessment using a risk assessment instrument approved by the Administrative Director of the Courts pursuant to N.J.S.A. 2A:162-25, and shall also consider, when such information is available, whether within the preceding ten 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 the No Early Release Act (N.J.S.A. 2C:43-7.2), or an attempt to commit any of the foregoing offenses. The judicial officer shall also consider any additional relevant information provided by the law enforcement officer or prosecutor applying for a Complaint-Warrant (CDR-2).

(f) Charges Against Corporations, Partnerships, Unincorporated Associations. A summons rather than a Complaint-Warrant (CDR-2) shall issue if the defendant is a corporation, partnership, or unincorporated association.

(g) Failure to Appear After Summons. If a defendant who has been served with a summons fails to appear on the return date, a bench warrant may issue pursuant to law and Rule 7:8-9 (Procedures on Failure to Appear). If a corporation, partnership or unincorporated association has been served with a summons and has failed to appear on the return date, the court shall proceed as if the entity had appeared and entered a plea of not guilty.

(h) Additional Complaint-Warrants (CDR-2) or Summonses. More than one Complaint-Warrant (CDR-2) or summons may issue on the same complaint.

(i) Identification Procedures. If a summons has been issued or a Complaint-Warrant (CDR-2) executed on a complaint charging either the offense of shoplifting or prostitution or on a complaint charging any non-indictable offense where the identity of the person charged is in question, the defendant shall submit to the identification procedures prescribed by N.J.S.A. 53:1-15. Upon the defendant's refusal to submit to any required identification procedures, the court may issue a Complaint-Warrant (CDR-2).

Note: Source - R. (1969) 7:2, 7:3-1, 3:3-1. Adopted October 6, 1997 to be effective February 1, 1998; paragraphs (b) and (c) amended July 10, 1998 to be effective September 1, 1998; paragraph (a)(1) amended July 5, 2000 to be effective September 5, 2000; paragraph (a)(1) amended, new paragraph (b)(5) added, and former paragraph (b)(5) redesignated as paragraph (b)(6) July 12, 2002 to be effective September 3, 2002; paragraph (a)(1) amended, and paragraph (a)(2) caption and text amended July 28, 2004 to be effective September 1, 2004; paragraph (a)(1) amended and new paragraph (a)(3) adopted July 16, 2009 to be effective September 1, 2009; caption amended, paragraph (a)(1) amended, former paragraph (b) deleted, new paragraphs (b), (c), (d), (e), (f) adopted, former paragraph (c) amended and redesignated as paragraph (g), former paragraph (d) caption and text amended and redesignated as paragraph (h), and former paragraph (e) amended and redesignated as paragraph (i) August 30, 2016 to be effective January 1, 2017.

7:2-3. Warrants; Execution and Service: Return

(a) By Whom Executed; Territorial Limits. A warrant shall be executed by any officer authorized by law. The warrant may be executed at any place within this State. This applies to all warrants issued by the municipal court, including Complaint-Warrants (CDR-2) and bench warrants that may be issued after the initial filing of the complaint. A bench warrant is any warrant, other than a Complaint-Warrant (CDR-2), that is issued by the court that orders a law enforcement officer to take the defendant into custody.

(b) How Executed. The warrant shall be executed by the arrest of the defendant. The law enforcement officer need not possess the warrant at the time of the arrest, but upon request, the officer shall show the warrant or a copy of an Automated Traffic System/Automated Complaint System (ATS/ACS) electronic record evidencing its issuance to the defendant as soon as possible. If the law enforcement officer does not have the actual warrant to show or does not have access to an ATS/ACS printer to

produce a copy of the electronic record at the time of the arrest, the officer shall inform the defendant of the offense charged and that a warrant has been issued. Defendants arrested on a Complaint-Warrant (CDR-2) charging an indictable or disorderly persons offense shall be remanded to the county jail pending a determination regarding conditions of pretrial release. Defendants arrested on a Complaint-Warrant (CDR-2) charging any other matter shall be brought before the court issuing the warrant, pursuant to Rule 7:2-1(d)(3).

(c) Return. The law enforcement officer executing a warrant shall make prompt return of the warrant to the court that issued the warrant. The arresting officer shall promptly notify the court issuing the warrant by electronic communication through the appropriate Judiciary computer system of the date and time of the arrest. If the defendant is incarcerated, the law enforcement officer shall promptly notify the court of the place of the defendant's incarceration.

Note: Source -- Paragraph (a): R. (1969) 7:2; 7:3-1, 3:3-3(a), (b), (c), (e); Paragraphs (b)(1), (2), (3): R. (1969) 7:3-1; Paragraph (b)(4): R. (1969) 7:2, 7:3-1, 3:3-3(e). Adopted October 6, 1997 to be effective February 1, 1998; caption amended, caption of former paragraph (a) deleted, caption and text of former paragraph (b) deleted and relocated to new Rule 7:2-4, former paragraphs (a)(1), (a)(2), and (a)(3) redesignated as paragraphs (a), (b), and (c) July 28, 2004 to be effective September 1, 2004; caption amended, paragraphs (a), (b), (c) amended August 30, 2016 to be effective January 1, 2017; paragraph (b) amended November 14, 2016 to be effective January 1, 2017.

7:2-4. Summons: Execution and Service; Return

(a) Summons; Personal Service Under R. 4:4-4 or By Ordinary Mail.

(1) The Complaint-Summons shall be served personally in accordance with R. 4:4-4(a), by ordinary mail or by simultaneous mailing in accordance with paragraph (b) of this rule. Service of the Complaint-Summons by ordinary mail may be attempted by the court, by the law enforcement agency that prepared the complaint or by an agency or individual authorized by law to serve process.

(2) Service by ordinary mail shall have the same effect as personal service if the defendant contacts the court orally or in writing in response to or in acknowledgment of the service of the Complaint-Summons. Service by ordinary mail shall not be attempted until a court date for the first appearance has been set by the municipal court administrator, deputy court administrator, or other authorized court employee.

(3) If the court is provided with a different, updated address for the defendant, along with a postal verification or other proof satisfactory to the court that the defendant receives mail at that address, service of the Complaint-Summons may be re-attempted.

(b) Simultaneous Service by Mail.

(1) If service is attempted by ordinary mail and the defendant does not appear in court on the first appearance date or does not contact the court orally or in writing by that date, the court subsequently shall send the Complaint-Summons simultaneously by ordinary mail and certified mail with return receipt requested to the defendant's last known mailing address. Service by simultaneous mailing shall not be attempted until a new court date for the first appearance has been set by the municipal court administrator, deputy court administrator, or other authorized court employee.

(2) When the Complaint-Summons is addressed and mailed to the defendant at a place of business or employment with postal instructions to deliver to addressee only, service will be deemed effective only if the signature on the return receipt appears to be that of the defendant to whom the Complaint-Summons was mailed.

(3) Consistent with due process of law, service by simultaneous mailing, as provided in Section (b)(1) of this rule, shall constitute effective service unless the mail is returned to the court by the postal service marked "Moved, Left No Address", "Attempted - Not Known", "No Such Number", "No Such Street", "Insufficient Address", "Not Deliverable as Addressed--Unable to Forward" or the court has other reason to believe that service was not effected. However, if the certified mail is returned to the court marked "Refused" or "Unclaimed," service is effective providing that the ordinary mail has not been returned.

(4) Process served by ordinary or certified mail with return receipt requested may be addressed to a post office box.

(c) Notice to Prosecuting Attorney and Complaining Witness; Dismissal of Complaint.

(1) If the court has not obtained effective service over the defendant after attempting service by simultaneous mailing under section (b)(1) of this rule, the court shall provide written notice of that fact to the prosecuting attorney and the complaining witness.

(2) The case shall be eligible for dismissal unless within 45 days of the receipt of the written notice, the prosecuting attorney or the complaining witness provides the court with a different, updated address for the defendant, along with a postal verification or other proof satisfactory to the court that the defendant receives mail at that address.

(3) Notwithstanding the provisions of this rule, nothing shall preclude the prosecuting attorney or other authorized person from attempting service in any lawful manner.

(4) If the prosecuting attorney and complaining witness do not respond to the court's written notice within 45 days or if the defendant is not otherwise served, the court may dismiss the case pursuant to R. 7:8-5.

(d) Parking Offenses. A copy of the Uniform Traffic Ticket prepared and issued out of the presence of the defendant charging a parking offense may be served by affixing it to the vehicle involved in the violation.

(e) Corporations, Partnerships and Unincorporated Associations. A copy of the Uniform Traffic Ticket charging a corporation, partnership or unincorporated association with a violation of a statute or ordinance relating to motor vehicles may be served on the operator of the vehicle.

(f) Return. The law enforcement officer serving a summons shall make return of the summons on or before the return date to the court before whom the summons is returnable.

Note: Former Rule 7:2-4 redesignated as Rule 7:2-5 and new Rule 7:2-4 (incorporating portions of former Rule 7:2-3) adopted July 28, 2004 to be effective September 1, 2004.

7:2-5. Defective Warrant or Summons; Amendment

No person arrested under a warrant or appearing in response to a summons shall be discharged from custody or dismissed because of any technical insufficiency or irregularity in the warrant or summons, but the warrant or summons may be amended to remedy any such technical defect.

Note: Source-R. (1969) 7:2, 7:3-1, 3:3-4(a). Adopted October 6, 1997 as Rule 7:2-4 to be effective February 1, 1998; redesignated as Rule 7:2-5 July 28, 2004 to be effective September 1, 2004.

7:2-6. [Deleted]

Note: Adopted July 28, 2004 to be effective September 1, 2004; rule deleted August 30, 2016 to be effective January 1, 2017.