

**RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
R. 3:3 SUMMONS OR WARRANT UPON COMPLAINT**

Rule 3:3-1. Issuance of an Arrest Warrant or Summons

(a) Issuance of an Arrest Warrant. An arrest warrant may be issued on a complaint only if: (1) 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 warrant; and (2) a judicial officer finds that paragraphs (d), (e), or (f) of this rule allow a warrant rather than a summons to be issued.

(b) Issuance of a Summons. A summons may be issued on a complaint only if: (1) 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 summons; or (2) the law enforcement officer who made the complaint, issues the summons.

(c) Offenses Where Issuance of a Summons is Presumed. Unless issuance of an arrest warrant is authorized pursuant to paragraph (d) of this rule, a summons rather than an arrest warrant shall be issued when a defendant is charged with an offense other than one set forth in paragraphs (e) or (f) of this rule.

(d) Grounds for Overcoming the Presumption of Issuance of a Complaint-Summons. Notwithstanding the presumption that a summons shall be issued when a defendant is charged with an offense other than one set forth in paragraphs (e) or (f) of this rule, when a law enforcement officer prepares a complaint-warrant rather than a complaint-summons in accordance with guidelines issued by the Attorney General pursuant to N.J.S.A. 2A:162-16, the judicial officer may issue an arrest warrant when the judicial officer finds pursuant to paragraph (a) of this rule that there is probable cause to believe that the defendant committed the offense, and has reason to believe, based on one or more of the following factors, that a complaint-warrant 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 are 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; or

(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.

When the application for an arrest warrant is based on reason to believe that the defendant will not appear in response to a summons, will pose a danger to the safety of any other person or the community, or will obstruct or attempt to obstruct the criminal justice process if released on a summons, 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 escape, 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 an arrest warrant.

(e) Offenses Where Issuance of an Arrest Warrant Is Required. An arrest warrant shall be issued when a judicial officer finds pursuant to R. 3:3-1(a) that there is probable cause to believe that the defendant committed murder, aggravated manslaughter, manslaughter, aggravated sexual assault, sexual assault, robbery, carjacking, or escape, or attempted to commit any of the foregoing crimes, or where the defendant has been extradited from another state for the current charge.

(f) Offenses Where Issuance of an Arrest Warrant is Presumed. Unless issuance of a summons rather than an arrest warrant is authorized pursuant to paragraph (g) of this rule, an arrest warrant shall be issued when a judicial officer finds pursuant to paragraph (a) of this rule that there is probable cause to believe that the defendant committed a violation of Chapter 35 of Title 2C that constitutes a first or second degree crime, a crime involving the possession or use of a firearm, or the following first or second degree crimes subject to the No Early Release Act (N.J.S.A. 2C:43-7.2), vehicular homicide (N.J.S.A. 2C:11-5), aggravated assault (N.J.S.A. 2C:12-1(b)), disarming a law enforcement officer (N.J.S.A. 2C:12-11), kidnapping (N.J.S.A. 2C:13-1), aggravated arson (N.J.S.A. 2C:17-1(a)(1)), burglary (N.J.S.A. 2C:18-2), extortion (N.J.S.A. 2C:20-5), booby traps in manufacturing or distribution facilities (N.J.S.A. 2C:35-4.1(b)), strict liability for drug induced deaths (N.J.S.A. 2C:35-9), terrorism (N.J.S.A. 2C:38-2), producing or possessing chemical weapons, biological agents or nuclear or radiological devices (N.J.S.A. 2C:38-3), racketeering (N.J.S.A. 2C:41-2), firearms trafficking (N.J.S.A. 2C:39-9(i)), causing or permitting a child to engage in a prohibited sexual act knowing that the act may be reproduced or

reconstructed in any manner, or be part of an exhibition or performance (N.J.S.A. 2C:24-4(b)(3)) or finds that there is probable cause to believe that the defendant attempted to commit any of the foregoing crimes.

(g) Grounds for Overcoming the Presumption of Issuance of an Arrest Warrant. Notwithstanding the presumption that an arrest warrant shall be issued when a defendant is charged with an offense set forth in paragraph (f) of this rule: (1) a judicial officer may authorize issuance of a summons rather than an arrest warrant if the judicial officer finds that were the defendant to be released without imposing or monitoring any conditions authorized under N.J.S.A. 2A:162-17, there are reasonable assurances that the defendant will appear in court when required, the safety of any other person or the community will be protected, and the defendant will not obstruct or attempt to obstruct the criminal justice process. The judicial officer shall not make such finding without considering the results of a 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 without also considering whether within the preceding ten years the defendant as a juvenile was adjudicated delinquent for escape, 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 information provided by a law enforcement officer or the prosecutor relevant to the pretrial release decision; or (2) a law enforcement officer may issue a summons in accordance with guidelines issued by the Attorney General pursuant to N.J.S.A. 2A:162-16.

(h) Finding of No Probable Cause. If a judicial officer finds that there is no probable cause to believe that an offense was committed or that the defendant committed it, the officer shall not issue a warrant or summons on the complaint. If the finding is made by an officer other than a judge, the finding shall be reviewed by a judge. If the judge finds no probable cause, the judge shall dismiss the complaint.

(i) Additional Warrants or Summonses. More than one warrant or summons may issue on the same complaint.

(j) Process Against Corporations. A summons rather than an arrest warrant shall issue if the defendant is a corporation. If a corporation fails to appear in response to a summons, the court shall proceed as if the corporation appeared and entered a plea of not guilty.

Note: Source -- R.R. 3:2-2(a)(1)(2)(3) and (4); paragraph (a) amended, new paragraph (b) adopted and former paragraphs (b) and (c) redesignated as (c) and (d) respectively July 21, 1980 to be effective September 8, 1980; paragraph (b) amended and paragraph (e) adopted July 16, 1981 to be effective September 14, 1981; paragraph (b) amended July 22, 1983 to be effective September 12, 1983; caption and paragraph (a) amended and paragraph (f) adopted July 26, 1984 to be effective September 10, 1984; paragraph (b) amended January 5, 1988 to be effective February 1, 1988; captions and text amended to paragraphs (a), (b), (c), (e) and (f), paragraph (g) adopted July 13, 1994, text of paragraph (a) amended December 9, 1994, to be effective January 1, 1995; paragraphs (a), (c), (e), (f), and (g) deleted,

paragraph (b) amended and redesignated as paragraph (c), paragraph (d) amended and redesignated as paragraph (e), new paragraphs (a), (b), (d), and (f) adopted July 5, 2000 to be effective September 5, 2000; paragraph (a) caption and text amended, paragraph (b) amended, former paragraph (c) deleted, new paragraphs (c), (d), (e), (f), and (g) adopted, and former paragraphs (d), (e) and (f) redesignated as (h), (i) and (j) August 30, 2016 to be effective January 1, 2017.

Rule 3:3-2. (Reserved)

Note: Source -- R.R. 3:2-2(b); deleted July 13, 1994 to be effective January 1, 1995.

Rule 3:3-3. Execution or Service; Return

(a) By Whom. The warrant shall be executed and the summons served by any officer authorized by law.

(b) Territorial Limits. The warrant may be executed and the summons served at any place within this State. An officer arresting a defendant in a county other than the one in which the warrant was issued shall take the defendant, without unnecessary delay, before the nearest available committing judge authorized to set conditions of pretrial release in accordance with R. 3:26-2. Nothing in this rule shall affect the provisions of N.J.S. 2A:156-1 to 2A:156-4 (Uniform Act on Intrastate Fresh Pursuit).

(c) Execution of Warrant. The warrant shall be executed by the arrest of the defendant. The warrant need not 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 possible. 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) Service of Summons. The summons shall be served in accordance with R. 4:4-4.

(e) Return. The officer executing a warrant shall make prompt return thereof to the court which issued the warrant. The officer serving a summons shall make return thereof to the court before whom the summons is returnable on or before the return day.

Note: Source -- R.R. 3:2-2(c); paragraphs (b) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended August 30, 2016 to be effective January 1, 2017.

Rule 3:3-4. Defective Warrant or Summons

(a) 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.

(b) Issuance of New Warrant or Summons. If prior to or during the hearing as to probable cause, it appears that the warrant executed or summons issued does not properly name or describe the defendant, or the offense with which the defendant is charged, or that although not guilty of the offense specified in the warrant or summons there is reasonable ground to believe that the defendant is guilty of some other offense, the court shall not discharge or dismiss the defendant but shall forthwith cause a new complaint to be filed and thereupon issue a new warrant or summons.

Note: Source -- R.R. 3:2-2(d); paragraph (b) amended July 13, 1994 to be effective September 1, 1994.