



# NEWARK POLICE DIVISION GENERAL ORDER



<b>SUBJECT:</b> Arrests With or Without an Arrest Warrant		<b>GENERAL ORDER NO.</b> 18-16
<b>SUPERCEDES:</b> New	<b>DATED:</b> 12/31/2018	<b>SECTION CODE:</b>

**Related policies:**

General Order 17-06 “Bias-Free Policing”

General Order 14-16 “Stationhouse Adjustments”

New Jersey Attorney General Law Enforcement Directive No. 2008-2 “Attorney General Guidelines for Stationhouse Adjustment of Juvenile Delinquency Offenses”

General Order 87-03 “Administrative Reporting Unusual Events”

This Order contains the following numbered Sections:

- I. PURPOSE**
- II. POLICY**
- III. RESPONSIBILITY FOR COMPLIANCE**
- IV. DEFINITIONS**
- V. PROHIBITED ACTIONS**
- VI. PROBABLE CAUSE**
- VII. INVESTIGATIVE STOP/DETENTION CONVERTED INTO ARREST / DEFACTO ARREST**
- VIII. ARRESTS WITH AN ARREST WARRANT**
- IX. ARRESTS WITHOUT AN ARREST WARRANT**
- X. ENTRY INTO A STRUCTURE TO EFFECT AN ARREST**
- XI. ARREST PROCEDURES**
- XII. VOIDING ARRESTS**



# NEWARK POLICE DIVISION GENERAL ORDER



## **XIII. SUPERVISOR RESPONSIBILITIES**

## **XIV. ADMINISTRATIVE REVIEW**

## **XV. TRAINING**

## **XVI. EFFECT OF THIS ORDER**

### **I. PURPOSE**

The purpose of this General Order is to ensure that officers of the Newark Police Division engage in lawful practices when conducting arrests during their official duties. Officers are guided by this order when making an arrest, with or without an arrest warrant. Officers who effect an improper arrest are subject to discipline, including termination, civil liability, and/or criminal prosecution.

The Newark Police Division are invested in their communities and therefore the Newark Police Division will not tolerate arrests prefaced upon discrimination against any demographic category. The Newark Police Division will hold all officers accountable for when they are found to be operating outside of the confines of the law in order to ensure community members' rights are not violated.

### **II. POLICY**

It is the policy of the Newark Police Division to conduct all arrests in accordance with both the U.S. Constitution, and Article 1, Paragraph 7 of the New Jersey Constitution, as well as federal, and state law. Arrests are lawful to the extent they meet the requirements of the Fourth Amendment to the Constitution, which safeguards "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Separate from the United States Constitution, arrests must comply with the New Jersey State Constitution that provides in Article 1, Paragraph 7: "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the papers and things to be seized."

Arrests must be supported by probable cause to believe that the person has committed, is about to commit, or is in the process of committing a crime.



# NEWARK POLICE DIVISION

## GENERAL ORDER



Officers shall not consider age, race, ethnicity, national origin, gender, gender identity, language ability, disability, political belief, sexual orientation, immigration status, economic status, or housing status in effecting an arrest, except as part of a credible description of a specific suspect or suspects in any investigation into a violation of the law, and then only in combination with other detailed descriptors. Such conduct constitutes biased-based policing. Aside from being unlawful, biased-based policing violates Newark Police General Order 17-06.

Officers should realize that arresting a person is an interference with a person's liberty that can be humiliating, embarrassing or demeaning and that officers shall therefore make all reasonable efforts, that do not compromise officer safety, to conduct the arrest of a person with respect, dignity, courtesy and in a professional manner.

Arrests of minors can have lifelong effects on the arrestee. Officers will examine the possibility of using "Stationhouse Adjustments" as an alternative to effecting the arrest of a minor. Officers are guided by General Order # 14-16 "Stationhouse Adjustments" and the New Jersey Attorney General Law Enforcement Directive No. 2008-2 "Attorney General Guidelines for Stationhouse Adjustment of Juvenile Delinquency Offenses" in utilizing Stationhouse Adjustments when applicable.

### III. RESPONSIBILITY FOR COMPLAINT

All Division members shall be responsible for complying with this policy. Command and Supervisory Officers will review, understand and comply with this policy and shall also ensure that all subordinate personnel read and acknowledge understanding of this directive.

### IV. DEFINITIONS

- A. Arrest** - the exercise of control or custody over a person by restricting that person's liberty of movement for a significant period of time. Arrests can be made "actually" or "constructively." Actual arrests take place when an officer has physically restrained a person's ability to leave. Constructive arrests occur when an officer's words or actions prevent a person from leaving. All arrests must be based upon probable cause.
- B. Bias-Based Policing** - The differential treatment of any person by members motivated by the specific characteristics, perceived or actual, of that person. This conduct is specifically prohibited. (See Newark Police General Order 17-06 Bias-Free Policing for more information).
- C. Blue Team** - A computer application extension of IA-Pro. The application allows users to enter collected data from incidents, such as police pursuits, citizen contacts or stops, events where force is used, complaints on police, police-involved accidents, and administration of discipline to facilitate a complete capture of activities and allow for tracking.
- D. Conclusory** – A statement (oral or written) that contains a conclusion without providing the specific facts that explain or justify how the conclusion was reached.



# NEWARK POLICE DIVISION

## GENERAL ORDER



- E. Demographic Category** - A shared common characteristic of a population, including but not limited to, age, race, ethnicity, national origin, gender, gender identity, language ability, disability, political belief, sexual orientation, immigration status, economic status, or housing status.
- F. Exigent Circumstances** – A compelling urgency or true emergency that a member can specifically describe not using vague terms or boilerplate language. Circumstances that cause a reasonable person to believe that prompt action is necessary can be an immediate threat to public safety, an active attempt by a suspect to destroy evidence of a crime or escape, or in instances of community caretaking.
- G. Investigatory Stop / Detention** - A seizure of a person for investigative purposes. This seizure occurs when a police officer stops a citizen from moving about freely, by means of physical force or show of authority, in order to investigate a matter. The seizure may also occur if an officer uses words, actions or demeanor that would make a reasonable person believe that he or she is not free to leave. Stops of this manner need to be based on reasonable and articulable suspicion that a violation of law has just occurred, is occurring or is about to occur. An investigatory stop can come in different forms (i.e. pedestrian, motor vehicle, bicycle, etc.). Also known as a “Terry Stop.”
- H. Pro Forma** – A standard use of wording, document or form used to justify an action that does not tie to the underlying events.
- I. Probable Cause** – Specific, and articulable facts to permit a reasonable person to believe that a subject committed a violation of the law or that evidence of a crime would be found in a search. Probable cause is a higher standard of evidence than having reasonable suspicion, but is less than the beyond a reasonable doubt standard needed for conviction. Probable cause is a practical, non-technical probability.
- J. Reasonable Suspicion** – Specific, and articulable facts that, within the totality of the circumstances, would lead an officer to reasonably believe that a person has, is in the process of, or is about to engage in criminal activity. A person’s mere presence in an identified high crime neighborhood or area taken alone, does not rise to the level of reasonable suspicion. Reasonable suspicion is a lower standard than probable cause.

### V. PROHIBITED ACTIONS

Newark Police Officers are prohibited from:

- A.** Arresting an individual unless the officer has probable cause to do so;
- B.** Considering a subject’s demographic category to justify an arrest or seek an arrest warrant, except that officers may rely on a demographic category in a specific suspect description where the description is from a trustworthy source that is relevant to the locality and time, (e.g. from a victim or a witness) and then only in combination with other detailed descriptors;



# NEWARK POLICE DIVISION

## GENERAL ORDER



- C. Using pro forma or conclusory language, such as wording that makes claims without supporting evidence, or has little true meaning or importance. All supporting details, which combined add up to probable cause, shall be clearly documented for all arrests. Examples of pro forma or conclusory language are “the suspect was frisked for officer safety” or “the suspect was detained based upon reasonable suspicion”;
- D. Relying on information known to be materially false or incorrect to justify an arrest or seek an arrest warrant;
- E. Basing an arrest solely on information or evidence discovered after the arrest was executed;
- F. Basing an arrest solely on an individual’s presence with or near other people suspected of criminal activity;
- G. Detaining, arresting, using force against, or threatening to detain, arrest or use force against individuals in response to activity protected by the First Amendment, including verbal criticism, questioning police actions, or gestures that do not give rise to reasonable fear of harm to officers or others; and
- H. Detaining, prolonging the detention of, arresting, using force against or threatening to detain, prolong the detention of, arrest, or use of force against an individual for remaining in the proximity of, recording or verbally commenting on officer conduct unless it violates the law, incites others to violate the law or refuses to comply with an officer’s lawful order to observe or record from an alternate location because the bystander’s presence would jeopardize a crime scene or the safety of an officer, the suspect or others.

### VI. PROBABLE CAUSE

- A. All arrests will be made in accordance with the Fourth Amendment of the United States Constitution, which provides:

“The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized.”
- B. Although the word “arrest” does not appear in the Fourth Amendment to the United States Constitution, courts have consistently equated "arrest" with "seizure." The United States Supreme Court has stated: "it is the command of the Fourth Amendment that no warrants either for searches or arrests shall issue except upon probable cause."



# NEWARK POLICE DIVISION

## GENERAL ORDER



- C. All arrests also must be made in accordance with Article 1, Paragraph 7 of the New Jersey State Constitution which states: “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the papers and things to be seized.”
- D. Probable cause may be obtained by collecting facts of sufficient quantity and quality to determine that there is a well-grounded suspicion that an individual has committed a crime, is about to commit a crime, or is in the process of committing a crime.
1. Vague hunches or suspicions are not enough.
  2. A well-grounded suspicion must be supported by articulable facts.
  3. An officer's training and experience can be **one factor** that can support probable cause.
- E. Before making the arrest, the officer must be able to articulate the facts forming the basis for probable cause.
- F. The actions of an arrestee, words expressed by an arrestee, or evidence obtained after the arrest cannot form the original basis for probable cause, although these actions or words may be used to support the arrest in later reports.
- G. Officers have established probable cause when they can point to a sufficient number of facts that could convince a neutral and detached magistrate that it is reasonable to believe, that there is a fair probability, the person under arrest has committed or is committing an offense.
- H. There is no limit to the types of information that can be used to support probable cause, but the information must be credible, not be vague, and must be able to be documented. Officers can rely upon:
1. observed facts **surrounding a specific incident**, such as but not limited to the behavior, appearance and location of the suspect, or the suspect's height and weight.
  2. familiarity with the suspect, such as but not limited to, knowledge of the suspect's prior record, or prior observation and contacts with the suspect.
  3. reports from others, such as but not limited to, accounts given by witnesses or reliable informants.
- I. Multiple sources of information can lead to a determination of probable cause, but some may require corroboration by other facts if they are to be given due consideration; the information will be judged on the totality of the circumstances.



# NEWARK POLICE DIVISION GENERAL ORDER



- J. Each additional piece of incriminating evidence that an officer can point to increases the officer's ability to obtain reasonable suspicion and probable cause. When basing reasonable suspicion and probable cause on the totality of the circumstances, the whole is greater than the sum of its parts.

## VII. INVESTIGATIVE STOP/DETENTION CONVERTED INTO ARREST (*DE FACTO* ARREST)

There is no "bright line" test to determine when an investigative stop becomes a *de facto* arrest, however a *de facto* arrest occurs when the officer's conduct is more intrusive than necessary for an investigative stop. (*State v. Dickey*, 152 N.J. 468, 478, 706, A.2d 180, 185 (1998)). **Courts may consider, several factors** to determine whether an investigative stop / detention has elevated into an arrest, defined by the Fourth Amendment and Article 1, Paragraph 7 of the New Jersey State Constitution, **including, but not limited to:**

- A. Whether contact with the police was consensual or non-consensual;
- B. The basis for an investigative stop and whether the officer had reasonable **and** articulable suspicion to believe a criminal offense had occurred, including the grounds for that belief;
- C. The duration of the encounter;
- D. The investigative methods employed to confirm or dispel suspicions;
- E. Whether the officer informed the person that he or she is the subject of an investigation;
- F. Whether the officer informed the person that he or she is not free to leave;
- G. Whether the officer blocked the person's path or impeded their progress;
- H. Whether police weapons were displayed or officers used force in any other way to threaten a person;
- I. The number of police personnel on the scene and their demeanor;
- J. The location of the encounter; whether it occurred in a public or private space;
- K. The level to which the officer controlled the individual, physically or constructively;
- L. Whether the person was moved to another location without their consent, how far the person was moved, and/or the reason for moving them;
- M. Whether the person was free to choose between continuing or ending the encounter with the police; and
- N. Whether the person was handcuffed or confined in a police vehicle.

## VIII. ARREST WITH AN ARREST WARRANT



# NEWARK POLICE DIVISION GENERAL ORDER



- A. An arrest warrant is a court order directing officers to bring a certain person in front of the court to answer to charges. Officers have an obligation, not an option, to effect arrest warrants (*NJ Court Rule 3:2-3*).

It is preferable to obtain a warrant before arresting any individual when the circumstances allow it. Courts favor that officers seek arrest warrants when possible because, as the United States Supreme Court explained (in *Steagald v. United States, 451 U.S. 204, 212 (1981)*), they prefer to have “a neutral judicial officer assess whether the police have probable cause.”

- B. Arrest warrants require that an officer is able to articulate probable cause to believe that a person has committed or intends to commit a crime and that an impartial magistrate or judge who hears the facts relied on by the officer agrees and affirms that probable cause exists. The arrest warrant serves to protect individuals from unreasonable seizures.
- C. Whenever an officer possesses an arrest warrant for an individual, the officer has the right to serve the warrant anywhere in this state. The officer who established the probable cause necessary to obtain an arrest warrant need not be the actual arresting officer. Any officer who discovers a person has a valid arrest warrant is compelled to bring that person to court to answer to the charges.
- D. Arrest warrants are issued for offenses for which probable cause is established and are unique to an individual. Thus, before arresting someone based on an arrest warrant officers must:
1. Make sure the warrant is valid on its face. They may not ignore information that reasonably indicates the warrant was invalid because it has been executed or recalled, or because probable cause no longer existed to support the charges contained in the arrest warrant;
- AND
2. Attempt to ensure the person in front of them is the person the arrest warrant was issued for.

## IX. ARRESTS WITHOUT AN ARREST WARRANT

- A. The United States Constitution permits an officer to arrest a person in any public place without a warrant if there is probable cause to believe that the person has committed or is committing a criminal offense.
1. The Fourth Amendment permits such warrantless criminal arrests even if the officer had sufficient time to obtain an arrest warrant. (*United States v. Watson (1976) 423 U.S. 411, 423 (1976)*)





# NEWARK POLICE DIVISION

## GENERAL ORDER



2. New Jersey strictly follows the common law of arrest that allows a police officer to effect a warrantless arrest upon probable cause that a crime has been or is being committed by the person being arrested.
  3. New Jersey law grants municipal police officers the authority to effect an arrest anywhere in the state for a crime that is committed in his or her presence. N.J.S.A. 40A:14-152.1 provides: "Notwithstanding the provisions of N.J.S.A. 40A:14-152 or any other law to the contrary, any full-time, permanently appointed municipal police officer shall have full power of arrest for any crime committed in said officer's presence and committed anywhere in the territorial limits of the State of New Jersey."
- B.** When dealing with disorderly persons and petty disorderly persons offenses, state statute (N.J.S.A. 2A:169-3) provides: "[w]henver an offense is committed in his presence, any constable or police officer shall, and any other person may, apprehend without warrant or process any disorderly person and take him before any magistrate of the county where apprehended."
1. This statute clearly dictates that in order for a police officer to effect a warrantless arrest of a **disorderly person**, the offense must be committed in the officer's presence.
    - a. In *State of New Jersey v. Morse* 54 N.J. 32(1969), 252 A.2d.723, the New Jersey Supreme Court held that a defendant's admission to a police officer of the facts that establish the alleged offense satisfied the requirement that the officer knew of the event by use of his senses.
    2. State statutes also permit a police officer to effect the warrantless arrest of a person who the officer has probable cause to believe has committed certain specific disorderly or petty disorderly persons offenses, even though the offense did not take place in the officer's presence. The offenses are:
      - a. Shoplifting -- N.J.S.A. 2C:20-11e
      - b. Theft of Library Materials -- N.J.S.A. 2C:20-14b
      - c. Domestic Violence -- N.J.S.A. 2C:25-21
      - d. Driving While Intoxicated -- N.J.S.A. 39:5-25
- C.** With respect to **municipal ordinance violations**, N.J.S. 40A:14-152 states: "The officers of a police department and force, 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."

This statute imposes two requirements before an officer may arrest:



# NEWARK POLICE DIVISION GENERAL ORDER



1. The offense must have occurred "upon view" of the officer

AND

2. There must be a "breach of the peace."

## X. ENTRY OF STRUCTURE TO EFFECT AN ARREST

- A. There are several types of court orders that authorize police to enter an arrestee's primary residence to effect an arrest:

1. Parole or Probation Warrant;
2. Grand Jury indictment Warrant;
3. Bench Warrant for failure to appear;
4. Arrest Warrant; or
5. Search Warrant;

- B. Officers can enter a structure with the purpose of executing an arrest warrant if:

1. The police have reason to believe that the place they wish to enter is one of the arrestee's primary residences (it cannot merely be a place where the arrestee occasionally stays) and the police reasonably believe the subject of the arrest warrant is inside. (*Payton v. New York*, 445 U.S. 573, 603 (1980)) **or**
2. Consent is obtained by officers from a person with authority over the third-party residence.

- C. Officers can enter any structure to effect the arrest of someone who has committed an indictable offense without an arrest or search warrant if exigent circumstances exist. Examples of exigent circumstances include:

1. **Hot pursuit** - This means that an officer has probable cause to arrest a suspect and the pursuit of the fleeing felon (for an indictable offense) was set in motion in a public place.
2. **Threat to Public Safety** – This is a situation where officers have probable cause to arrest a Suspect because (a) the suspect is reasonably believed to be armed or dangerous, (b) the suspect is inside a structure, (c) the suspect has injured or threatened to injure themselves or others; and (d) the suspect has refused to surrender to authorities or is in the process of causing bodily harm to someone. (*Ryburn v. Huff*, 132 S.Ct. 987 (2012))
3. **Destruction of Evidence** – Officers are authorized to enter a structure to effect an arrest, absent any type of warrant, if there is a serious threat that incriminating evidence on the premises being



# NEWARK POLICE DIVISION

## GENERAL ORDER



entered would be destroyed if officers take the time to obtain a search warrant and/or arrest warrant.

- To justify this type of entry to arrest, officers must have probable cause to believe that if the police took the time to obtain a search and/or arrest warrant: (i) there is evidence that can be destroyed on the premises, (ii) the offense being investigated must carry a potential jail sentence, and (iii) officers must have reason to believe that the suspect or someone else on the premises would attempt to destroy evidence, or undermine its value in court.

**D.** Third-party residences require consent or a search warrant to enter in order to effect an arrest. Consent can only be given if it is given freely knowingly and intelligently from a person who is authorized to give it. Giving consent freely means that it was given absent pressure, promises, threats, or other form of coercion by the police. Giving consent knowingly and intelligently means that while requesting consent, officers must make known their true intentions.

### **XI. ARREST PROCEDURES**

- A.** To effect any arrest, officers must identify themselves as police officers and clearly advise the subject to be arrested that he or she is under arrest.
1. Officers dressed in uniform effecting an arrest do not need to verbally identify themselves if it is plainly evident to a reasonable person that they are members of the police department.
  2. Non-uniformed officers **must** verbally identify themselves as police officers and exhibit their department-issued identification and badge as evidence of their authority.
- B.** During arrests, officers should keep in mind and utilize de-escalation techniques during all situations where appropriate.
- C.** As soon as practicable, officers shall inform the arrestee of the reason for the arrest. If a situation arises where the safety of officers or the public is an issue, the person to be arrested does not need to be advised of the reason for arrest until the safety of all is no longer in jeopardy.
- D.** Officers shall advise subjects of their Miranda Rights at the time of arrest or before any custodial interrogation.
- E.** After effecting an arrest, officers shall immediately notify central communications of the arrest. In most situations it is preferable that this notification be made over police radio.
- F.** If the arrestee has a visible injury or complains of pain, the officer will immediately request, over the police radio or otherwise, medical assistance from an appropriate Emergency Medical Service



# NEWARK POLICE DIVISION GENERAL ORDER



(“EMS”) for evaluation. Upon evaluation by a medical professional, if warranted, the arrestee will be transported to a proper medical facility to receive further treatment or appropriate evaluation.

- G.** An officer will notify a Supervisor and request their presence immediately after effecting an arrest:
- where the officer used force;
  - for obstructing the administration of law;
  - for resisting arrest;
  - for disorderly conduct;
  - for a violation where there is a breach of the peace; or
  - for a motor vehicle infraction.
    - Although N.J.S.A. 39:5-25 authorizes arrests for motor vehicle violations, custodial arrests for motor vehicle violations are limited to only serious infractions (*State v. Pierce*, 136 N.J. 184 (1994)).
- H.** An arrestee shall be secured with handcuffs behind their back, unless a physical or medical condition precludes it, at the earliest practical opportunity. When faced with an unusual situation that makes it unfeasible or impossible to employ accepted handcuffing practices, officers should rely on common sense and good judgment to determine the most practical means for securing the individual.
- I.** The arrestee will be transported to the processing facility dictated by Newark Police Division orders without unnecessary delay so the arrestee may be processed.
- J.** A Preliminary Arrest Report, (DP1:2036), will be executed prior to escorting an arrestee into a police building for processing, unless exigent circumstances prevent the officer from doing so.
- K.** All reports relating to lawful arrests will be executed and submitted to the appropriate supervisor for review. An additional entry into Blue Team, or other authorized database, is required if force is used during an arrest.
- L.** Officers are required to make all reasonable efforts to safely secure all arrestees in NPD transport vehicles.

## **XII. VOIDING ARRESTS**

If an arrest is made by an officer and, while still in the field, it is determined by further investigation that the person arrested did not commit the offense in question or the probable cause standard cannot be met, the officer’s Supervisor shall be notified of the circumstances. The officer will advise their Supervisor of the circumstance that led to the arrest and the circumstances that dictate voiding the arrest. The Supervisor will evaluate the totality of the circumstances and if warranted, authorize the immediate release of the arrestee.

If an officer’s immediate Field Supervisor is not available, officers will exhaust all other measures to contact another Supervisor from their command to make the determination. If a Supervisor from the



# NEWARK POLICE DIVISION GENERAL ORDER



officer's command is not able to be reached, the officer continue to pursue all other logical means to obtain input of an on-duty Newark Police Division Supervisor for final determination.

As a final and last resort, if no Newark Police Division Supervisor is available to make the determination and the officer has reason to believe that the probable cause which initially existed to make the arrest no longer exists, the officer will immediately release the arrestee.

If the person has already been lodged in the precinct and good cause for voiding an arrest is discovered, the Desk Supervisor shall be notified of all the circumstances leading to the arrest, and the circumstances that dictate voiding the arrest and, if warranted, authorize the immediate release of the arrestee. The Desk Supervisor shall then enter all pertinent information into the desk blotter and notify the Communications Division, *refer to General Order 87-03 Administrative Reporting Unusual Events*.

**If it is determined that the arrest shall be voided, the arrestee shall be released immediately.**

If a Central Arrest number has been issued, the Desk Supervisor shall notify the Communications Division and the command responsible for distributing Central Arrest number that the Central Arrest Number has been voided. The Communications Division and the command responsible for distributing Central Arrest numbers shall indicate in their blotter that the Central Arrest has been voided and the Division member who authorized voiding the arrest.

**In all instances the arresting officer shall document the entire incident on an Incident Report (DP1:802), indicating everything learned in a clearly explained chronological order of events. The report will include the probable cause that was initially believed to authorize the arrest, and the circumstances of the investigation that led to the probable cause being debunked.**

In all cases where another officer or a Supervisor makes the arresting officer aware that probable cause does not exist, or no longer exists, the Desk Supervisor shall immediately explain to the arresting officer why the arrest was not valid. This shall be documented by the arresting officer(s) *via* an Administrative Report (DP1:1001) and will require that the officer(s) receive formal training in the near future. The training provided will be relevant to the subject matter in which the officer was found to be deficient.

### **XIII. SUPERVISOR RESPONSIBILITIES**

#### **A. Field Supervisors**

1. Field Supervisors will respond to the incident scene, absent exceptional circumstances, to approve arrests made by officers:
  - where the officer used force;
  - for obstructing the administration of law;



# NEWARK POLICE DIVISION

## GENERAL ORDER



- for resisting arrest;
  - for disorderly conduct;
  - for a violation where there is a breach of the peace;
  - for a custodial arrest for a motor vehicle infraction
2. If the officer's immediate Supervisor is unable to respond to the scene to approve the arrest, the officer will notify the Central Communications Unit. The Central Communications Unit will attempt to locate another available supervisor from the field to respond to the incident scene for arrest approval.
  3. If a Field Supervisor is unable to respond to the incident scene, the Supervisor who is unable to respond will document the circumstances preventing his or her presence in the case file. This documentation can be done by executing an Administrative Report (D.P.I. 1001) under the specific event number and/or central complaint number in the Records Management System for the incident.
  4. The Field Supervisor will approve or disapprove the officer's arrest recommendation, based on existence of justifiable probable cause and NPD policy.
  5. The Field Supervisor will take appropriate actions to address a violation or deficiencies in the officer's arrest recommendation, including:
    - immediately releasing the subject;
    - recommending non-disciplinary corrective action for the involved officer and/or;
    - referring the incident for administrative or criminal investigation.

### **B. Desk Supervisor Receiving Arrestee (MAPS Supervisor/Desk Supervisor/Watch Commander)**

Upon the arrestee entering the police-processing facility, the Desk Supervisor will be responsible for:

- visually inspecting each arrested person for injury;
- ask the arrestee if he or she has complaints of pain;
- ensuring that the arrestee receives medical attention from an appropriate medical provider, if necessary;
- documenting the results of the visual inspection in the desk blotter;
- reviewing all officer reports for completeness and the proper documentation of the necessary probable cause for arrests;
- reviewing all officer reports to ensure that officers are not using *pro forma* or conclusory statements;
- reviewing all officer reports for information that is not current, authentic or correct;



# NEWARK POLICE DIVISION

## GENERAL ORDER



- reviewing the available video and written documentation of consent prior to approving an arrest based on evidence obtained via a consent search;
- For every search or arrest involving the recovery of contraband evidence, the arresting officer's Desk Lieutenant or Unit Commander will review the circumstances of the encounter, including video from body-worn cameras alongside the corresponding Incident Report (DP1:802), to assess the appropriateness of the seizure. The Supervisor will memorialize that review in writing and will include an assessment of the circumstances under which the search was conducted, the evidence was recovered and/or the probable cause for the arrest was ascertained.
- On an on-going basis, Supervisors will also review a random selection of video recordings of stops and detentions, searches and arrests amounting to a minimum of 10 percent of all stops and detentions, searches, and arrests.
- Upon reviewing videos of investigatory stops and detentions, searches, and arrests, Supervisors shall submit an administrative report (DP1:1001) filed under the event number for the corresponding video reviewed by the end of their tour of duty, listing:
  - The event number;
  - The name(s) of the officer(s) who recorded the video(s) and type of video they recorded (e.g. body worn camera video, in-car video, or both);
  - The reason for reviewing the video (e.g. random review, recovery of contraband, stop, search, detention, arrest, suspected non-compliance with NPD policy or law);
- approving or disapproving the officer's arrest recommendation, based on existence of justifiable probable cause and NPD policy; and
- taking appropriate actions to address violation or deficiencies in the officer's arrest recommendation, including:
  - releasing the subject;
  - recommending non-disciplinary corrective action for the involved officer; or
  - referring the incident for administrative or criminal investigation.

### C. Unit Commander

1. The Unit Commander, or their Supervisor Designee, will review each arrest report by officers under their command and will memorialize the review in writing within 24 hours of the arrest absent exceptional circumstances. The deadline for review will be extended for an objectively reasonable amount of time dictated by the initial reason(s) for delay.
2. The Unit Commander will review reports and forms for deficiencies including:
  - *pro forma* or conclusory language;
  - inconsistent information;
  - insufficient articulation of the factual and/or legal basis for the police action;



# NEWARK POLICE DIVISION GENERAL ORDER



- any indications that the information in the reports or forms is not correct or complete;
  - arrests following stops based solely on information or evidence discovered after the stop was initiated (e.g., open warrants);
  - arrests made without plausible justification for the initial stop or search; and
  - arrests that are unsupported by probable cause, or are otherwise in violation of federal or state law, or NPD policy.
3. The Unit Commander will document for review by their chain of command:
- investigatory stops and detentions that appear unsupported by reasonable and articulable suspicion, or that are otherwise in violation of NPD policy;
  - searches that appear to be without legal justification or are in violation of NPD policy; and
  - stops or searches that, while comporting with law and policy, indicate a need for corrective action or review of agency policy, strategy, tactics or training to support effective and legitimate policing principles.
4. For every search or arrest involving the recovery of contraband evidence, the Desk Lieutenant or Unit Commander will review the circumstances of the encounter, including video from body-worn cameras, to assess the appropriateness of the seizure. The Supervisor will memorialize that review in writing and will include an assessment of the circumstances under which the search was conducted, the evidence was recovered and/or the probable cause for the arrest was ascertained.

## **D. Command-Level Supervisors**

Within seven days, a Command-Rank Officer will confirm in writing that he or she has reviewed any stop or detention, search, and arrest that another Supervisor determined:

- was not supported by probable cause;
- was in violation of Newark Police Division policy;
- a possible need for corrective action; and
- a possible need for review of agency policy, strategy, tactics or training.

The Commander will evaluate the Supervisor's assessment and recommendations and take all appropriate corrective actions, including referring the incident to the Office of Professional





# NEWARK POLICE DIVISION GENERAL ORDER



Standards for investigation, if warranted.

The Commander also will take appropriate corrective or disciplinary action against Supervisors who fail to conduct complete, thorough and accurate reviews of officers' investigatory detentions, searches and arrests.

## E. All Police Supervisors

All police Supervisors will take appropriate actions to address all apparent violations or deficiencies in investigatory stops or detentions, searches and arrests. Appropriate actions may include recommending non-disciplinary corrective action for the involved officers, or referring the incident for administrative or criminal investigation.

Supervisors will document each violation or deficiency and any corrective action taken in the officer's performance evaluations and in Blue Team, which will provide data for the Newark Police Division's Early Warning System to identify officers needing repeated corrective action.

## XIV. ADMINISTRATIVE REVIEW

The Commander of the Professional Standards Unit, or his/her designee, will conduct **cumulative** and **quarterly** demographic analyses of the enforcement activities of Newark Police Division members to ensure that the tenants of this General Order are implemented and adequately monitored.

The Commander of Professional Standards Unit, or his/her designee, will identify and evaluate trends, outliers, or other relevant indicators. This data will be analyzed and weighed based on the type of enforcement activities, member unit or assignment, demographics of subjects, shift or time of day, force used and resistance encountered, and peer comparisons.

This data shall be based on accurate, complete and reliable information, including but not limited to:

- a) Misconduct complaints;
- b) Stop, detention and arrest data;
- c) Use of force analysis; and
- d) Enforcement practices based on community input.

Members, including Supervisors, found to have violated this Order will be subject to disciplinary action (including counseling, mediation and training) up to and including termination.



# NEWARK POLICE DIVISION GENERAL ORDER



## XV. TRAINING

Newark Police Division shall provide training on this topic to all new recruits and current members of the Newark Police Division.

Newark Police Division will ensure that all members receive, at a minimum, an initial sixteen (16) hours of comprehensive and interdisciplinary instruction on stops, searches and arrests, which includes voluntary police-citizen contacts and investigatory stops.

Thereafter, a minimum of four (4) hours of training shall be given **annually**. Training will include:

- A. the requirements of Fourth Amendment, the New Jersey Constitution, and related law and NPD policies regarding investigatory stops and detentions, searches and seizures;
- B. the differences among the scope and degree of intrusion of various police contacts; between probable cause, reasonable suspicion and mere speculation; and between voluntary consent and mere deference to police authority; and
- C. the effect that differing approaches to stops, searches, and arrests can have on community perceptions of police legitimacy and public safety.

## XVI. EFFECT OF THIS ORDER

This Order is effective immediately upon promulgation. Any previous Orders, Memoranda, Directives, or portions thereof that conflict with this Order are hereby rescinded.

BY ORDER OF

---

ANTHONY F. AMBROSE  
PUBLIC SAFETY DIRECTOR

AFA/BO/jg

Attachment A – Preliminary Arrest Report (DP1:2036)