

BEST PRACTICES FOR

CODE ENFORCEMENT INSPECTORS

FOR MEANINGFUL AND SUCCESSFUL
PROSECUTION IN THE
JERSEY CITY MUNICIPAL COURT

Prepared by The Jersey City Office of the Municipal Prosecutor
July 2020

CITY
JERSEY



It is plain and simple: municipal court matters. Municipal court is where we solve the problems that affect residents' quality of life. It is where we force stubborn landlords to make repairs and unclean store owners to cease unsanitary practices. It is where we tackle public nuisances and unsafe structures.



This important problem-solving would not be possible without our hard-working code enforcement inspectors. By issuing summonses, our inspectors are the ones who present these issues to the Office of the Municipal Prosecutor to handle in court. From there, our inspectors and assistant municipal prosecutors work together to get the just results our residents deserve.

This guide was prepared by the Office of the Municipal Prosecutor and is offered to assist our hard-working code enforcement inspectors prepare for court. With this guide, inspectors will know what tools to bring with them to court to be well-prepared witnesses in our office's prosecutions.

The Office of the Municipal Prosecutor expresses its gratitude toward our code enforcement inspectors, and we look forward to continuing to work together toward meaningful and successful prosecution of quality-of-life offenders.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jacob V. Hudnut'.

Jacob V. ("Jake") Hudnut
Chief Municipal Prosecutor

1 Familiarity with
Laws/Ordinances pg 2

2 Probable Cause,
Proofs and Evidence pg 8

3 Field Practice
Tips pg 12

4 Issuance of
Summons pg 14

5 Providing
Discovery pg 18

6 Court Decorum -
Pre Trial Conference pg 22

7 Court Decorum -
Engaging with Defendants
and their Counsel pg 26

8 Preparing for
Testimony pg 28

9 Providing
Testimony pg 30

Familiarity with Laws/Ordinances

Familiarity with Laws and Codes

KNOW YOUR CODES

All inspectors should be familiar with the federal, state, and city laws relevant to their respective enforcement duties. Ordinances and/or laws should be reviewed regularly to ensure awareness of any updates, amendments and/or modifications.

- A current catalogue of Jersey City local ordinances can be found via the City’s website at jcnj.org/localordinances
- The specific language of the ordinances and/or local laws should be clearly written on the face of the summons when alleging a violation, including the proper legal citation.



NOTE: A missing subsection of an ordinance or statute may be grounds for a dismissal of a summons.



CAN I ENFORCE THIS

If you are writing a violation for an ordinance that you do not typically enforce, consult your supervisor to confirm you are empowered to enforce it. Court Rule 7:2-2(a) limits the subject matter that a code enforcement inspector may enforce to those laws which the inspector is “empowered” to enforce.

Probable Cause, Proofs & Evidence

Probable Cause Proofs & Evidence

WHEN IS A VIOLATION A VIOLATION

2

To write a violation, you need probable cause that a violation exists. Put simply, probable cause means there are enough facts and circumstantial evidence that an ordinary person would conclude a violation exists.

For a more detailed examination, see Brinegar v. United States, 338 U.S. 160, 175-176 (1949), State v. Mark, 46 N.J. 262, 271 (1966); State v. Chippero, 201 N.J. 14, 28 (2009).

Later at trial, the prosecutor will need to prove the violation by a higher standard called “beyond a reasonable doubt.” This standard requires the prosecutor to remove any reasonable doubts from the judge’s mind before the judge agrees with your summons and finds the defendant guilty.

Certain summonses for penalty enforcement related to the Construction Board of Appeals have a different procedure and standard. Consult your supervisor, director, or the Municipal Prosecutor if writing this type of summons.

PROBABLE CAUSE, PROOFS & EVIDENCE

HOW DO THE PROSECUTORS AND I PROVE THE VIOLATION EXISTS

All summons issues must be supported by proofs and evidence.

Proofs and evidence can be:

1. **physical evidence** (i.e., photographs or evidence recovered from a scene); and/or
2. **testimonial evidence** (a witness’s sworn statements offered during a hearing or trial).



What evidence do prosecutors prefer?

The best, ideal evidence is photographs (that are date-stamped) of the alleged violation,

In order to introduce a photograph into evidence, the prosecutor will need to know who took the photograph and when. In most circumstances, the individual who took a photograph – if someone other than you – will need to be subject to subpoena and available to testify if necessary to authenticate and identify the photograph. New Jersey Rule of Evidence 901.

Probable Cause, Proofs & Evidence

In addition to photographs, inspectors should take notes or prepare a summary of the alleged violation(s) on the same day of the inspection/violation or soon as possible, including the following:

- a. date, time and location of the violation;
- b. inspection history;
- c. observations of the violation;
- d. date that the notes or summary were prepared; and
- e. names and contact information for any witnesses that were present and/or have knowledge of the violation

Why does the prosecutor want notes and summaries?

Failure to take notes, summaries, and reports does not mean the prosecutor can't prove the violation, but it may give the defense the opportunity to question the accuracy of your testimony at trial. Similarly, if the notes or summaries are not prepared close in time to the issuance of the summons, the defense may question the accuracy of your recollection, your reliability as a witness, or code enforcement practices.



DOES PRIOR HISTORY WITH THE DEFENDANT MATTER

Yes, if a defendant has had prior code or law enforcement issues with you or the City's code enforcement, the inspector should provide a brief summary to the prosecutor, noting any previous summons numbers when possible. In certain circumstances, the prosecutor may be able to introduce this history to the judge in either proving the violation or in recommending an appropriate penalty.

Field Practice Tips

IF I SEE A VIOLATION ON SOMEONE'S PROPERTY CAN I GO ONTO THEIR PROPERTY TO PHOTOGRAPH IT

No. The Fourth Amendment of the Constitution protects against unreasonable searches of people's properties. Inspections without a warrant are unreasonable, unless they fall within the limited warrant exceptions below.



Why is this important?

Evidence obtained during the course of an unlawful search or inspection may be thrown out by the judge and perhaps result in a dismissal of the summons. An inspector who has entered on private property without permission or a warrant may be subject to a charge of trespassing. Additionally, this may open up the city to civil liability if you or someone else is injured on the property during an unlawful inspection.



DO I NEED A WARRANT

Not necessarily. If the situation fits within the exception below, you do not need a warrant.

Consent: The most important exception to the general rule requiring search warrants is voluntary consent to the search or inspection given by a person responsible for the property to be entered. Once consent to entry is given, a search warrant is not required and the investigator can no longer be considered a trespasser. However, consent must be given voluntarily; it must not be forced.

Plain view: If you can see the violation from a lawful viewing area such as a public street or sidewalk, then you do not need to worry about a warrant. But be sure you are not trespassing on the property in question, like going in their driveway or backyard. Additionally, you may be able to get permission from a neighbor to enter their yard and take a photos of the neighboring violation from there.

Businesses: A limited exception to the “administrative warrant” requirement has been established by the United States Supreme Court, holding that, even in the absence of consent, an administrative inspection may be made without a warrant if the business searched is one in which there is a legitimate public interest in close regulation and if the search is conducted under the authority of a statute meeting certain specificity requirements.

Exigent circumstances: When an emergency which threatens the public health or safety arises which necessitates immediate entry onto property, such entry may be permitted without a warrant or prior consent. If, under the circumstances, obtaining consent or a warrant would take so much time that the public would be endangered, entry to investigate and mitigate the danger is permissible.

Statutory permission: additionally, the departments below have statutory authorization to enter premises without a warrant when certain specific conditions exist. Visited the cited regulations and speak to your director to learn more.

Environmental Health: See *N.J.A.C.* Title 26, et. seq.

Fire: See *N.J.A.C.* 5:70-2.1

Housing & Construction Code: See Local Ordinance § 254-16

Zoning: See Local Ordinance § 345-76



WHAT DO I DO IF I AM DENIED ACCESS OR ENTRY

If you have been denied access to a premises but need to inspect the premises, contact the Office of the Municipal Prosecutor to obtain an administrative search warrant.

What is an administrative search warrant?

An administrative warrant is a warrant issued by a judge authorizing a code enforcement inspector to conduct a search to determine if a violation exists. The warrant application must be supported by a sworn affidavit from the inspector seeking the warrant with personal knowledge of the reason that inspected is needed. You will be asked to submit a sworn affidavit to the prosecutor and the prosecutor will ask the court for a warrant.

NOTE: Each warrant submitted to a judge continues an affidavit and a proposed warrant. The code inspector prepares the affidavit and the prosecutor prepares the proposed warrant. Prosecutors are available to assist inspectors in the preparation of their affidavits.

What should I include in the affidavit?

You will need to state that you are an authorized inspector, the specific property to be inspected and the reason you wish to inspect the property.

NOTE: Two samples warrants and affidavits can be found in Appendix II.

What is the legal standard for an administrative warrant? The inspector must have a reasonable reason for inspecting the property that does not include any subjective or bad faith reason for singling out that property. See *Camara v. Municipal Court of San Francisco*, 387 U.S. 523, 535, 538 (1967).

How long after a warrant is issued can I inspect the property?

The warrant will provide the time, place and scope of the inspection that can be done. Typically, the inspection must be conducted within 10 days of the issuance of the search warrant by the judge and during reasonable hours.

Issuance of Summonses

CAN I SHARE MY TICKET BOOK WITH ANOTHER INSPECTOR

No, every ticket book is specifically assigned to a specific officer or inspector. Sharing ticket books can cause complications when the court's scheduling office processes summonses.

CAN MORE THAN ONE VIOLATION GO ON A SINGLE, SHORT FORM SUMMONS

No, state law requires that each separate violation must be written on a separate summons. Each summons must also include the following:

- A brief description of the nature of the violation;
- A citation to the proper ordinance and/or law that coincides with violation;
- The date and time of the offense alleged; and
- A sworn certification and signature.

CAN TWO DEFENDANTS BE WRITTEN ON ONE SUMMONS

No, state law requires that a separate summons be written for each entity and/or individual responsible for a violation (i.e., if two or more persons co-own a property subject to a violation).

CAN I WRITE A SUMMONS TO A BUSINESS

Yes, but each summons must contain a full legal name of a human being too, so that the prosecutor may request and obtain a warrant of arrest for any defendant who fails to appear in court. A warrant of arrest may not be executed on a business.

What human being's name do I include if the defendant is a business?

If a summons is being issued to an entity such as a corporation, LLC, not-for-profit organization, or other business entity, the summons must: 1) be written in the name of that entity, and 2) must include a responsible individual or registered agent as a "care of" for that defendant.



Where do I write the human being's name when summoning a business?

You will write a "care of" (or "c/o") after the business's name. The "care of" is the individual against whom a warrant for arrest will be executed.



How do I know who the "care of" is?

The care of is either the registered agent for the business or another responsible person (i.e., an owner, property manager, or other person with authority to act on the business's behalf. Important research tools for determining property ownership, dates of birth, and registered agents includes:

- a. Tax Assessor
201-547-5131 | taxes.cityofjerseycity.com/
- b. LexisNexis. We hope to be expanding code enforcement access in the near future.
- c. Public Access ROAM site,
HUDSON.LANDRECORDSONLINE.COM/Hudson
- d. Contact the Office of the Municipal Prosecutor for assistance.

Issuance of Summons

Why are defendants' dates of birth so important? Including a defendant's date of birth requires extra research but is extremely helpful for law enforcement to effectuate a warrant for an arrest, either intentionally or during routine encounters like traffic stops.

DO I HAVE TO CHECK OFF "COURT APPEARANCE REQUIRED"?



No, you do not have to check off "court appearance required" at the bottom of the ticket. If you do not check it off, the defendant may be able to pay the minimum fine by mail without appearing in court for certain eligible offenses. This may be appropriate for isolated incidents such as putting trash out too early. For more serious violations or problematic offenders, you should check off "court appearance required" at the bottom of the summons.

WILL THE COURT DATE I PUT ON THE TICKET BE THE ACTUAL FIRST COURT DATE FOR THE SUMMONS

Not necessarily. The scheduling department at the Municipal Court will most likely assign a different court date and notice the defendant of that new date by mail.

MON

8

Issuance of Summons

WHERE DO I BRING THE COURT'S COPY OF THE SUMMONS



Upon issuance of a summons, when feasible, please submit to Room 118 of the Municipal Court the copy designated for the court by delivering it in person or using the City's messenger service.

HOW MUCH TIME DO I HAVE TO SUBMIT MY SUMMONS TO THE COURT

By order of the Chief Municipal Judge, all issued summonses should be returned promptly to Jersey City Municipal Court within the following time limits:



Local Law/Code Enforcement – must return summonses within four (4) days from the day the summons was issued; and

State Law/Code Enforcement – must return summonses within seven (7) days from the day the summons was issued.

Failure to do so within these time limits, may result in dismissal.

Sample Summons can be found in Appendix II.

Providing Discovery

WHAT IS DISCOVERY?

Providing Discovery

Discovery is the formal process by which evidence is exchanged between prosecutors and defendants in advance of trial.



New Jersey law supports an “open file” or “expanded discovery” approach to turning over evidence. New Jersey law requires courts to rule liberally and favorably toward defendants on what is included in discovery.



1. This means that when the Office of the Prosecutor asks you to provide discovery, you do not only provide your “best” photograph or proof. You must provide all your photographs or proofs related to the violations.
2. It is important to note that the scope of discovery is broader than the scope of what is admissible at trial. Admissibility is a decision that only a judge can make once a trial starts.



Why is it important to follow the rules of discovery?

If the prosecutor does not provide these proofs and evidence to the defendant or defense counsel, this may result in a dismissal of the case, the exclusion of those proofs and evidence at trial, or even sanctions against the prosecutor



What if I have evidence that favors the defendant and hurts the prosecutor’s case?

It does not make a difference. The prosecutor must also provide any known evidence or proofs that are favorable toward a defendant (called “exculpatory” evidence. See *Brady v. Maryland*, 373 U.S. 83 (1963)).

Providing Discovery

HOW DOES THE PROCESS OF DISCOVERY WORK?

As stated above, a municipal prosecutor is required to provide the defendant with all proofs and evidence related to the violation. When requested to do so by the prosecutor's office, your code enforcement office must prepare a file including all proofs and evidence in the office's possession to hand deliver and/or email to the Office of the Municipal Prosecutor.



The following items related to a violation are discoverable: division and/or inspector notes, summaries, calls, and statements; records; documents; photos; names, addresses, and dates of birth of witnesses; recordings or videos; admissions. Audio or video evidence must be provided via a USB drive or CD. For the complete listing, consult Court Rule 7:7-7(b).

After providing discovery to the prosecutor's office, the code enforcement office must maintain its own a copy of all discovery submitted to the Office of the Municipal Prosecutor.



Certain summaries of administrative action taken or recommended resolutions exchanged between the enforcement division and the Office of the Municipal Prosecutor may be considered strategic analysis, legal work product, and not subject to discovery rules. If you are unsure about the discoverable nature of a document prepared in the course of enforcement, your division director should consult the Municipal Prosecutor.

Court Decorum Pre Trial Conferences

WHO TALKS TO THE JUDGE WHEN WE GO TO COURT

The prosecutor is the only individual authorized by law to speak or make any statement on the record before the court on behalf of the State and City. *N.J.S.A. 2B-25.5a; Local Ordinance § 3-119.1.*

WHEN IS A CODE INSPECTOR REQUIRED IN COURT

When in court, a code inspector is a fact witness. A code inspector’s presence in court is not generally needed unless the matter is scheduled for a motion requiring testimony or for trial. When a code inspector receives a court notice, s/he should contact the Office of the Municipal Prosecutor to find out the nature of the proceeding and whether his or her testimony is required.

NOTE: A directory for the prosecutor’s office (current as of 2020) can be found in Appendix III.

SO I AM NOT NEEDED FOR A PRE-TRIAL CONFERENCE

Correct. However, if a code inspector does not plan to attend a pre-trial conference, nor opts to send a division enforcement liaison in her place, then she must nonetheless make sure the prosecutor has, in advance of court, all the information (proofs and evidence, as well as the division’s recommended outcome) for the prosecutor to attempt to resolve the case.

What if I want my own summons dismissed?

If an inspector or enforcement liaison recommends to the prosecutor that a matter be dismissed, she should contact the prosecutor and explain her reasoning for a dismissal (i.e. issued in error, lack of proofs, abatement, etc.).

What if the defendant abated the violation?

If a violation(s) is corrected, mitigated, and/or abated, then the prosecutor needs to know that. Contact the prosecutor or be sure that the file reflects the abated condition and the date of the last inspection.

What if I have had problems with this defendant before this violation?

If a defendant is a repeat offender, details as to the prior violations should be prepared in advance of court and sent to the prosecutor.

WHEN DO I ADDRESS THE COURT

When attending court, inspectors and enforcement liaisons should only speak on the record in court when testifying under oath at a motion hearing or trial or when requested by the judge and/or the prosecutor to make a statement on the record.

WHAT DO I WEAR IN COURT

All witnesses attending court are expected to be dressed appropriately for the dignity and decorum of a court proceeding. All law or code enforcement officers and inspectors attending court as witnesses should wear, at a minimum, a shirt (or blouse, sweater, etc.), pants or skirt, and shoes. Badges, if applicable, should be worn and visible. Shorts, casual t-shirts, tank tops, and swimwear are not appropriate attire for court proceedings. Hats and headwear (unless religious) should be removed in the courtroom.

WILL I EVER BE NEEDED FOR A PRE-TRIAL CONFERENCE

There may be occasions where a prosecutor requests an inspector's presence in court with an eye toward resolving the case with the defendant or defense counsel rather than offering testimony at a motion or trial. This may be more likely to occur for a summons that enforces particularly technical matters, such as fire code and construction code. If you are unsure why you have been summoned to a pre-trial conference, be sure to ask the prosecutor when you reach out before court.

Court Decorum – Engaging with defendants and their counsel

Court Decorum – Engaging with defendants and their counsel

A. Prosecutors, prosecutor agents, inspectors, and enforcement liaisons should treat defendants and their counsel with respect, courtesy, and professionalism. Studies show that when court-involved persons are treated this way, they are more likely to be compliant with the court's decision and less likely to find themselves back in court with new violations.



B. When the court is in session, all discussions by and between inspectors or enforcement liaisons and defendants should be done outside the courtroom and only if the case's prosecutor consents to the inspector or enforcement liaison engaging with the defendant.

C. With the consent of the case's prosecutor, an inspector or enforcement liaison may engage in a dialogue with the defendants and their counsel for the following purposes:

To advise the defendant or defense counsel of the nature of the violation;

*To show the defendant or defendant counsel the proofs and evidence;
or*

To offer suggested recommendations for resolution of the case.

D. However, an inspector or enforcement liaison must confer with the case's prosecutor before making any plea offer or resolution to a defendant or defense counsel.

Preparing for Testimony

Preparing for

WHAT DO I BRING TO TRIAL?



An inspector must bring a copy of the entire file pertaining to the violation when coming to court.

HOW DO I PREPARE FOR TRIAL?

Prior to testifying, the inspector should review his or her file and ask the prosecutor any questions he or she may have. A prosecutor and the inspector must be available to one another prior to testimony in order to prepare.

WHAT SHOULD I EXPECT TO TESTIFY ABOUT?

While testifying, an inspector must be prepared to explain all the details leading up to and through the issuance of the summons. This includes:

- *The current title and job description of the inspector;*
- *The history of relevant employment and training of the inspector;*
- *The reasons for being at the site of the violation;*
- *The probable cause to issue a summons;*
- *The reason for the summons;*
- *The reason the inspector cited the defendant with that specific statute or city ordinance; and*
- *The effect that violation has on public safety on quality of life.*

WHAT WILL I HAVE WITH ME WHEN TESTIFYING?

When an inspector is testifying, he or she should expect to not have her file in front of her on the witness stand. There may be some instances where a prosecutor or defense counsel moves something from the file into evidence and asks the inspector to read it into the record. There may be other limited instances where a prosecutor or defense attorney allows an inspector to briefly review something from the file for the purposes of what the law calls “refreshing recollection.”

Providing Testimony

WHAT HAPPENS FIRST DURING TESTIMONY

Providing Testimony

The first phase of testimony is **direct** examination when the prosecutor will ask you questions.



During direct examination, the prosecutor will ask you to talk about the violation and identify any evidence you and the prosecutor have.

During direct examination, a judge will have some control over the scope and form of the questions. The judge can stop repetitive questioning and prevent the prosecutor from asking **leading questions** because questions during direct examination will mainly be **open-ended questions**.

What is an open-ended question?

Open-ended questions give you an opportunity to tell what you know in your words.



What are leading questions?

Leading questions (which are inappropriate on direct examination) are questions that contain the expected answers. Many leading questions begin with “isn’t it true that...”

Example.

Open-Ended: How long have you been an inspector with Jersey City Housing Code Enforcement and how many properties have you inspected during that time?

Leading: Isn’t it true you have been an inspector with Jersey City Housing Code Enforcement for 11 years and have inspected thousands of properties in that time?

Can I offer my opinion during testimony?

Generally, a witness cannot give an opinion or draw conclusions from the evidence unless that person has been qualified as an expert or the subject of the opinion is based on common knowledge and observation. See New Jersey Rule of Evidence 701 for more.

WHAT HAPPENS NEXT WHEN THE DEFENSE ATTORNEY QUESTIONS ME

After the prosecutor completes direct examination, the defense counsel (or pro se defendant) will have the opportunity to cross-examine you. Generally, **cross-examination** is limited to topics covered during the direct examination, but the lawyer may hone in on more specific details of your direct testimony and test the quality of your recollections of the offense’s details.

Will the defense attorney ask me leading questions?

Yes, the attorney may ask leading questions during cross-examination. This means that on cross-examination your answer may simply be “yes” or “no” because the answer is already in the wording of the question. See New Jersey Rule of Evidence 622(C) for more.

Cross-examination may also include matters affecting the credibility of the witness. See New Jersey Rule of Evidence 611 (b) for more.

1. ***How does credibility matter?*** The attorney may try to question the witness's credibility by showing that the witness is not reliable or that the witness may have misstated something during the direct examination. For example, if the witness said one thing in an inspection report and then testified differently at trial, the defense counsel can refer to the previous statements and show inconsistencies in the inspector’s story.
2. Another way to undermine the witness’s credibility is to show that the witness is biased, is prejudiced, or has a stake in the outcome of the case, which might influence the testimony. The attorney may also question the witness about the witness’s criminal convictions or about any crimes or acts involving dishonesty. Just as on direct examination, the opposing attorney can raise objections to the questions posed. The judge then rules on the objection.
3. Examples of credibility questions:
 - a. Isn’t it true that you and the prosecutor are both employed by the City of Jersey City and both have the same interest in this case?
 - b. Have you ever been disciplined for your conduct during an inspection?

Providing Testimony

WHAT HAPPENS AFTER CROSS-EXAMINATION

Following cross-examination of the witness, the prosecutor has an opportunity to ask the witness follow-up questions regarding topics discussed during the cross. After this, the opposing attorney can conduct a final re-cross examination of the witness, which is limited to the subjects brought up during the redirect.

TIPS FOR SUCCESSFUL TESTIMONY

- **Take a deep breath and tell the truth.** You are on the stand to relate facts, not opinions. Listen to each question carefully and respond clearly and fully.
- **If you need clarification, simply ask for it.** “I do not know” or “I do not remember” is a better answer than any guess.
- **If you do know remember to answer to a question, then say so.** “I do not remember” is a far better answer than any guess.
- **Do not talk over someone in the courtroom.** If the judge or an attorney starts talking during your testimony, stop talking for a moment. This will happen if an attorney makes an objection during your testimony.
- **Don’t answer more than is asked.** Avoid volunteering information in your answers unless an attorney asks for it directly.
- **If you make a mistake, admit it.** Modify your statement, if needed. We all misspeak on occasion. If you believe that your statement did not accurately reflect what happened, correct it as soon as possible. Ask if you can correct something that you said, and give a reason for the mistake. Getting flustered on the stand is perfectly normal.
- **Don’t talk about your testimony with anyone until the trial is done.** Remember that etiquette extends beyond the testimony. After you are excused from the stand, avoid saying anything about your time on the stand. Only once a case is resolved can you talk about what happened, but not before then.

APPENDIX I

2 SAMPLES SEARCH WARRANTS WITH AFFIDAVITS

MUNICIPAL COURT - JERSEY CITY *AFFIDAVIT (Sample 1)*

STATE OF NEW JERSEY :
: SS:
COUNTY OF HUDSON :

Stanley Hudson, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am a Public Health Investigator of the Jersey City Department of Health and Human Services, Division of Environmental Health, County of Hudson, State of New Jersey.
2. I have been a Health Inspector for the City of Jersey City for past 15 years.
3. I have reason to believe and do believe that in and upon the subject property and premises within the City of Jersey City, New Jersey and more particularly described as follows: 12 Office Lane, block 45678 lot 5, City of Jersey City, a .0638 parcel of land contains a two story house and an in-ground pool located in the rear yard.
4. The owner of record for said property is Oscar Martinez is William Brian Kelly and is currently residing at the subject property.
5. Based on numerous neighbor complaints and under the authority of NJSA 26:3-46, I inspected the property located at 33 12 Office Lane on the following dates: 4/18/17, 8/23/17, 6/19/18, 6/22/18, 7/10/18 and 6/6/19. On such dates, I witnessed numerous health code and other city code violations and thereafter issued numerous notices to Oscar Martinez ordering him to abate the high and overgrown vegetation/weeds located throughout the subject property and to properly drain the pool water in the in-ground pool located in the rear yard of the property.
6. In spite of notices and numerous summons to abate the aforementioned issue with the subject property, the condition set forth above still exists as of this date whereby the in-ground pool located in the rear yard is still in a state of neglect and is still filled with stagnant water that is providing a breeding ground for mosquitoes and there still exists high and overgrown vegetation/weeds located throughout the subject property. In accordance with N.J.S.A. 26:3-50 and we further seek to abate the high and overgrown vegetation/weeds located throughout the subject property and to remove the stagnant water in the rear in-ground pool which mosquito larvae are breeding.

APPENDIX I

2 SAMPLES SEARCH WARRANTS WITH AFFIDAVITS

7. Based on professional training and my 15 years of experience as public health investigator, it is my professional opinion and belief that the aforementioned situation set forth above in this affidavit poses a serious threat to the health of the immediately surrounding neighbors and the residents of the State of New Jersey as a whole due to West Nile Virus and the like and other mosquito borne diseases.

Therefore, I respectfully request that the Court issue an administrative warrant thereby allowing the City of Jersey City to enter upon the premises and lands described above with the appropriate personnel for the specific and limited purpose to adequately abate the health hazard set forth above.

Sworn and Subscribed

before me this

10th day of January, 2020

Stanley Hudson

APPENDIX I

2 SAMPLES SEARCH WARRANTS WITH AFFIDAVITS

7. Upon information and belief, Captain Halpert observed a bed, cooking appliance(s), a sink, personal effects, and other signs that people may be inhabiting the basement area. Captain Halpert referred The Property to the Fire Prevention Bureau for further investigation and inspection.
8. Pursuant to the Uniform Fire Code N.J.A.C. 5:70-1 et. seq. and the New Jersey Uniform Fire Safety Act N.J.S.A. 52:27D-192 et. seq. and Jersey City Municipal Ordinance, The Property is required to be routinely inspected to ensure compliance with all applicable laws, to ensure the safety and welfare of all persons.
9. Inspector Ryan Howard of the Jersey City Fire Prevention Bureau made multiple attempts to inspect The Property, but was refused entry and access by Defendant and/or Defendant's agents on May 12, 2017, March 6, 2018, April 12, 2018, August 14, 2018
10. Accordingly, on or about September 28, 2017, Summons, bearing Docket Number SF-2017-327332 was filed against Defendant, for failure to grant access to the Property, and for failure to abate violations.
11. On or about September 25, 2018, after multiple court appearances, and one year later, the summonses were dismissed without prejudice, as Defendant had agreed to grant access to The Property.
12. After a dismissal of SF-2017- 327332, on or about October 24, 2018, Inspector Howard attempted to conduct an inspection, but was again denied access, by Defendant.
13. Thereafter, the instant complaints, bearing docket number SF-357185, 187, 188, 189, 191, and 192 were re-filed against Defendant, for the identical violations that had existed in **2017**. Specifically, the violations are the failure to do the following:
 1. Submit fire alarm report for The Property
 2. Submit Test Reports for Battery Operated Smoke Alarms – Residential Units
 3. Submit Test Report for Carbon Monoxide Detector Alarm Devices
 4. Submit Engineer's Report to Identify Structural Condition of Fire Escape
 5. Submit Annual Test Report for Exit Light Maintenance
 6. Submit Test Report for Emergency Lighting Maintenance

APPENDIX I

2 SAMPLES SEARCH WARRANTS WITH AFFIDAVITS

7. Submit Non Life Hazard Use Fee (“NHLU” Fee)
8. Provide Access to Premises to Conduct Inspection
14. More than 2 years after the initial filing, presently, there are three (3) open violations: failure to provide access to The Property, failure to submit a Structural Engineer’s Report for the fire escape, and non-payment of the NHLU Fee.
15. Upon information and belief, there may be additional fire and safety code violations that pose a serious threat to the health, safety, and welfare of occupants, neighbors, and passerby. The Fire Prevention has no knowledge as to the conditions in The Property, due to the Defendant’s continued refusal over the past 2 years, to grant access to the Fire Inspectors.
16. Based on my education and training as a New Jersey State licensed Fire Inspector, it is my professional opinion and belief that failure to provide access to The Property and failure to submit a Structural Engineer’s Report for the structural condition of the fire escape poses a serious threat to the safety and well-being not only of the occupants of The Property, but also of neighbors and passerby.

Based upon the foregoing, I respectfully request that the Court issue an Administrative Warrant thereby allowing the City of Jersey City to enter upon the premises and lands, described above, with the appropriate personnel, for the specific and limited purpose to perform an inspection of all areas of the The Property, including the common areas, individual units, basement, and area containing the fire escape.

Michael Scott
Jersey City Fire Prevention Bureau

Sworn and Subscribed Before me,
this _____ day of November 2019.

Print Name:

APPENDIX I

2 SAMPLES SEARCH WARRANTS WITH AFFIDAVITS

MUNICIPAL COURT - JERSEY CITY *ADMINISTRATIVE WARRANT (Sample 2)*

STATE OF NEW JERSEY :
 : SS:
COUNTY OF HUDSON :

TO: Any Peace Officer
Michael Scott, New Jersey State licensed Fire Inspector for the Jersey City Fire Prevention Bureau, Department of Public Safety, having personally appeared on this date before me, a Judge of the Municipal Court of Jersey City, County of Hudson, State of New Jersey, upon an application for the issuance of an administrative warrant on the grounds that he has probable cause to believe that in and upon certain premises within the City of Jersey City, in this County and State, to wit: the premises known as 123 Main Street and more particularly described as follows:

Real Property, located at Block 123, Lot 4, in the City of Jersey City, more commonly known as 205 Bowers Avenue, which is a .0663 parcel of land, which is three stories high, and contains 6 units within the building, common areas, and a basement, hereafter “The Property”. The Owner of record, Dwight Schrute, may reside in one of the units at The Property.

The Property has been and continues to remain a public health, safety and welfare concern, as Property Owner Dwight Schrute has failed to provide Fire Inspectors access to The Property for more than two (2) years, and has failed to submit a Structural Engineer’s Report for the fire escape. The Property is required to be inspected by Jersey City Fire Inspectors and a Structural Engineer’s Report for the fire escape is required to be submitted, pursuant to the Uniform Fire Code N.J.A.C. 5:70-1 et. seq. and the New Jersey Uniform Fire Safety Act N.J.S.A. 52:27D-192 et. seq. and Jersey City Municipal Ordinance § 3-88.1 et. als. – Fire Prevention Code.

Access to The Property was denied to Inspectors of the Jersey City Fire Prevention Bureau on May 12, 2018, March 6, 2018, April 12, 2018, August 14, 2018, and on September 24, 2019.

There is also probable cause to suspect that the Property may contain illegal tenancies, of which units are not in compliance with applicable zoning, building, and fire codes, posing additional public health, safety, and welfare concerns.

APPENDIX I

2 SAMPLES SEARCH WARRANTS WITH AFFIDAVITS

And the Court having taken the affidavits of Michael Scott and having examined under oath the following witnesses:

And pursuant to N.J.A.C. 5:70-2.1(c) when a property owner or occupant denies entry to the fire official or his authorized representative, the procedure being to obtain a warrant,

And the Court being satisfied from the foregoing that grounds for granting the application exist,

NOW, THEREFORE, YOU ARE HEREBY COMMANDED to enter, with the necessary and proper assistance, The Property specified above,, and to take any reasonable actions necessary to perform all inspections and to abate any emergent public health conditions, pursuant to the mandates of the New Jersey Administrative Code and Jersey City Municipal Ordinances, with the assistance of the Department of Public Safety to the end that the same may be dealt with according to law.

YOU ARE FURTHER COMMANDED to execute this warrant within ten (10) days from the issuance hereof, between the hours of 9:00 am - 5:00 pm, and forthwith abate the imminent health hazards cited within for the safety of the residents of the State of New Jersey.

GIVEN AND ISSUED under my hand on this _____ day of _____

2019

The Hon. William J. Brennan, J.M.C.
Jersey City Municipal Court

APPENDIX II

SAMPLE SUMMONSES

COURT I.D. 0906	PREFIX SF	COMPLAINT NUMBER 371652	Municipal Court of Jersey City 365 Summit Ave. Jersey City, NJ 07306 AGENCY: Dpw
The State of New Jersey vs.			
Defendant's Name: First Initial Last John Smith & Jane Smith			
Address 23 Ocean Dr. Jersey city			
State NJ		Zip Code 07306	
Telephone			
SOCIAL SECURITY NUMBER			
BIRTH DATE: Mo. Day Yr. Sex Eyes Hair Height Restrictions			
DRIVER'S LICENSE #			
State: NJ Exp. Date			
STATE OF NEW JERSEY COUNTY OF HUDSON JSS:			
Complaining Witness: Nick Adams (Name) Of Dpw (Identify Dept/Agency Represented) (Badge No.) Residing at 13 Linden Ave			
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the _____ Month _____ Day _____ Year _____ Time in JERSEY CITY County of HUDSON N.J. did commit the following offense: Improper Storage (DESCRIPTION OF OFFENSE)			
in violation of (one charge only) 287-8G (Statute, Regulation or Ordinance Number)			
LOCATION OF OFFENSE Describe Location (other than traffic)			
OATH: Subscribed and sworn to before me this _____ day of _____ yr _____		CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.	
OR			
(Signature of Complaining Witness)		(Date) 1/10/2020	
(Signature of Person Administering Oath)		(Signature of Complaining Witness)	
PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:			
COURT USE ONLY		LAW ENFORCEMENT USE ONLY	
Probable cause is found for the issuance of this Complaint-Summons		<input type="checkbox"/> The complaining witness is a law enforcement or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint - Summons.	
Yes _____ No _____ (Signature of Judicial Officer)			
Yes _____ No _____ (Signature of Judge)			
YOU ARE HEREBY SUMMONED TO APPEAR BEFORE THIS COURT TO ANSWER THIS COMPLAINT IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED. A WARRANT MAY BE ISSUED FOR YOUR ARREST.			
NOTICE TO APPEAR			
<input type="checkbox"/> COURT APPEARANCE REQUIRED	COURT DATE	Month	Day
1/10/2020			
(Date Summons issued)	(Signature of Person Issuing Summons)		

This is a defective summons because:

1. The same summons is issued to two defendants.
2. The statutory citation does not match the description of the offense.
3. It does not list an offense location.
4. There is no offense date listed.

Any one of these errors can result in the summons getting dismissed.

APPENDIX II

SAMPLE SUMMONSES

COURT I.D. 0906	PREFIX SF	COMPLAINT NUMBER 371654	Municipal Court of Jersey City 365 Summit Ave. Jersey City, NJ 07306
AGENCY HEAC			
The State of New Jersey			
vs.			
Defendant's Name: First Initial Last 23 Ocean Ave, LLC			
Address 23 Ocean Ave Jersey City			
State NJ		Zip Code 07306	
Telephone		City	
Birth Date: Mo. Day Yr.	Sex	Eyes	Height
Restrictions	Driver's License #		
STATE OF NEW JERSEY		COUNTY OF HUDSON	
JSS:			
Complaining Witness: Nick Adams			
of Housing Code Enforcement			
Residing at 20 Montgomery St. Jersey City, NJ			
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the 19 2020 10:00 am			
in JERSEY CITY 0906 County of HUDSON N.J.			
did commit the following offense: Failure to repair bathroom door			
in violation of (one charge only) 254-45A			
LOCATION OF OFFENSE: 23 Ocean Ave			
OATH: Subscribed and sworn to before me this ___ day of ___, yr ___			
CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.			
(Signature of Complaining Witness)		(Date) 1/10/2020	
(Signature of Person Administering Oath)		(Signature of Complaining Witness)	
PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:			
COURT USE ONLY		LAW ENFORCEMENT USE ONLY	
Probable cause is found for the issuance of this Complaint-Summons		<input checked="" type="checkbox"/> The complaining witness is a law enforcement or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint - Summons.	
<input type="checkbox"/> Yes <input type="checkbox"/> No (Signature of Judicial Officer)			
<input type="checkbox"/> Yes <input type="checkbox"/> No (Signature of Judge)			
YOU ARE HEREBY SUMMONED TO APPEAR			
BEFORE THIS COURT TO ANSWER THIS COMPLAINT IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.			
NOTICE TO APPEAR			
<input type="checkbox"/> COURT APPEARANCE REQUIRED	COURT DATE	Month Day Year	Time AM PM
	1/10/2020		
(Date Summons Issued)	(Signature of Person Issuing Summons)		

This summons is defective because:

1. It is issued to a business without specifying a "care of" person or a registered agent
2. The court appearance box is not checked even though this is a more serious violation

A summons cannot only be issued to a business without including a "care of" or a registered agent. This error can result in the summons getting dismissed.

APPENDIX II

SAMPLE SUMMONSES

This summons is written correctly

COURT I.D.	PREFIX	COMPLAINT NUMBER	Municipal Court of Jersey City 365 Summit Ave. Jersey City, NJ 07306
0906	SF	371655	AGENCY HEDC

The State of New Jersey											
vs.											
Defendant's Name: First Initial Last 23 ocean AVE, LLC 40 John Smith											
Address 23 ocean AVE Jersey city											
State		Zip Code		Telephone		LOCAL SECURITY NUMBER		SUMMER		WINTER	
NJ		07306									
Birth Date:	Mo.	Day	Yr.	Sex	Eyes	Height	Restrictions				
9	12	18	1986	M							
Driver's License #											
State Exp. Date											

STATE OF NEW JERSEY HUDSON COUNTY OF HUDSON JSS:

Complaining Witness: Nick Adams
 Of: housing Code Enforcement #1734
 Residing at: 30 Montgomery St. Jersey City, NJ

by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the 9 Month 20 Day 2020 Year 8:00 pm Time in JERSEY CITY County of HUDSON N.J. did commit the following offense:

Failure to provide electricity

(DESCRIPTION OF OFFENSE)

in violation of (one charge only) 254-23 (Statute, Regulation or Ordinance Number)

LOCATION OF OFFENSE: 7647 Belvidere Street

OATH: Subscribed and sworn to before me this _____ day of _____, yr _____

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

OR

(Signature of Complaining Witness) [Signature] (Date) 1/9/2020

(Signature of Person Administering Oath) [Signature] (Signature of Complaining Witness)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:	
COURT USE ONLY	LAW ENFORCEMENT USE ONLY
Probable cause is found for the issuance of this Complaint-Summons <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Signature of Judicial Officer)	<input checked="" type="checkbox"/> The complaining witness is a law enforcement or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint - Summons.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Signature of Judge)	

YOU ARE HEREBY SUMMONED TO APPEAR
 BEFORE THIS COURT TO ANSWER THIS COMPLAINT IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED. A WARRANT MAY BE ISSUED FOR YOUR ARREST.

NOTICE TO APPEAR

COURT APPEARANCE REQUIRED

COURT DATE: 2 Month 15 Day 2020 Year 9 Time 10 PM

1/9/2020 (Date Summons issued) [Signature] (Signature of Person Issuing Summons)

COMPLAINT-SUMMONS SF-1 (7/14)



Office of the Municipal Prosecutor

(201) 209-6755

prosecutor@jcnj.org • jcnj.org/prosecutor

Jacob V. Hudnut, Chief Prosecutor
201-209- 6751, jhudnut@jcnj.org

Steven R. Hummell, First Assistant Prosecutor
201-209- 6783, shummell@jcnj.org

David Labib*, Deputy First Asst. Prosecutor
201-209-6779, dlabib@jcnj.org

Assistant Prosecutors:

Linda Aristondo, 201-209-6786, laristondo@jcnj.org

Monica Cho, 201-209-6782, mcho@jcnj.org

Nadine Ibrahim*, 201-209-6780, nibrahim@jcnj.org

Vishnu Khemraj, 201-209-6784, vkhemraj@jcnj.org

Gloria Oh, 201-209-6781, goh@jcnj.org

Paul Scalia, 201-209-6785, pscalia@jcnj.org

Law Enforcement:

Sgt. Dave Calton, 201-209-6787, dcalton@njcps.org
JCPD Quality of Life Unit Commander

Support Staff:

Jose Cantarero*, Agent, 201-209-6757, jcantarero@jcnj.org

Nelson Cotto, Agent, 201-209-6752, cotton@jcnj.org

Gabriel Manzo, Office Manager, 201-209-6753, manzog@jcnj.org

Anita Martinez, Clerk, 201-209-6754, martineza@jcnj.org

* Assigned to Code Enforcement Matters



JERSEY CITY

J **C**  **M** **P**

OFFICE OF THE MUNICIPAL PROSECUTOR

