Simulated Exam 8

Answer Key

Sergeant Candidates

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1. A. All the buses need to be retrofitted with crossing control arms. – 39:3B-1.1. School buses to be equipped with crossing control arm Every school bus . . .which was originally designed to carry 10 or more passengers, and which is in operation on, or after, August 6, 1996, transporting public and nonpublic school pupils and every new or used such school bus acquired on or after that date to transport public and nonpublic school pupils shall be equipped with a crossing control arm at the right front corner of the bus.

2. B. The elementary schools shall receive Buses #1, #2, #3, #4, #5, and #6. The high school shall receive Buses #7 and #8. 39:3B-1.1. – School buses to be equipped with crossing control arm. . . .each vehicle used to transport elementary school students shall be given priority to be equipped with a crossing control arm in the first year following August 6, 1996.

3. C. $1600 – 39:3B-1.2. Reimbursement for retrofitting school buses with crossing control arm - Each agency, school district and nonpublic school that owns and operates its own school buses and each school bus contractor that operates school buses . . shall receive reimbursement from the Department of Education in an amount up to, but not to exceed, $300 per bus for retrofitting those school buses in operation before August 6, 1996, and an amount up to, but not to exceed, $200 per bus for buses put into operation after that date for the cost of including the crossing control arm on those buses.

4. C. Four – 39:3B-1.1. School buses to be equipped with crossing control arm – In each year after August 6, 1996, 50 percent of all school bus fleets in operation on that date owned by any agency, a board of education, a nonpublic school or a school bus contractor not already equipped with a crossing control arm shall be so equipped. All eight buses must eventually be retrofitted, four (50%) the first year.

5. B. Four – 39:3B-1.1. School buses to be equipped with crossing control arm – In each year after August 6, 1996, 50 percent of all school bus fleets in operation on that date owned by any agency, a board of education, a nonpublic school or a school bus contractor not already equipped with a crossing control arm shall be so equipped. All eight buses must eventually be retrofitted, four (50%) the first year. This leaves four buses left. Two the second year (50% of four) leaving two buses to retrofit. One the third year (50% of two) leaving one bus left for retrofitting on the fourth year.

6. B. I, II and III only - Aggravated Assault, Burglary, Extortion. Not Aggravated Criminal Sexual Contact. 2C:39-7. Certain persons not to have weapons or ammunition
   a. Except as provided in subsection b. of this section, any person, having been convicted in this State or elsewhere of the crime, or an attempt or conspiracy to commit the crime, of aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault, bias intimidation in violation of N.J.S.2C:16-1, carjacking in violation of section 1 of P.L.1993, c.221 (C.2C:15-2), gang criminality in violation of section 1 of P.L.2007, c.341 (C.2C:33-29), racketeering in violation of

N.J.S.2C:41-2, terroristic threats in violation of N.J.S.2C:12-3, unlawful possession of a machine gun in violation of subsection a. of N.J.S.2C:39-5, unlawful possession of a handgun in violation of paragraph (1) of subsection b. of N.J.S.2C:39-5, unlawful possession of an assault firearm in violation of subsection f. of N.J.S.2C:39-5, leader of firearms trafficking network in violation of section 1 of P.L.1995, c.405 (C.2C:39-16),or endangering the welfare of a child pursuant to N.J.S.2C:24-4, whether or not armed with or having in the person's possession any weapon enumerated in subsection r. of N.J.S.2C:39-1, or any person convicted of a crime, or an attempt or conspiracy to commit a crime, pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4 or N.J.S.2C:39-9, or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium unless the person possesses a certificate of a medical doctor or psychiatrist licensed to practice in New Jersey or other satisfactory proof that the person is no longer suffering from a mental disorder which interferes with or handicaps the person in the handling of a firearm, or any person who has been convicted of an offense, or an attempt or conspiracy to commit an offense, for the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2, other than a disorderly persons or petty disorderly persons offense, who purchases, owns, possesses or controls any of the specified weapons or any ammunition as defined in section 2 of P.L.2018, c.35 (C.2C:58-21) is guilty of a crime of the fourth degree.

7. A. Criminal Mischief – 2C:17-3a. Offense defined. A person is guilty of criminal mischief if he: (2) Purposely, knowingly or recklessly tampers with tangible property of another so as to endanger person or property, including the damaging or destroying of a <u>rental premises by a tenant</u> in retaliation for institution of eviction proceedings.

8. A. Bribery in Official and Political Matters – 2C:27-2 A person is guilty of bribery if he directly or indirectly offers, confers or agrees to confer upon another, or solicits, accepts or agrees to accept from another: a. Any benefit as consideration for a decision, opinion, recommendation, vote or exercise of discretion of a public servant, party official or voter on any public issue or in any public election; or b. Any benefit as consideration for a decision, vote, recommendation or exercise of official discretion in a judicial or administrative proceeding; or c. Any benefit as consideration for a violation of an official duty of a public servant or party official; or d. Any benefit as consideration for the performance of official duties. For the purposes of this section "benefit as consideration" shall be deemed to mean any benefit not authorized by law. It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office, or lacked jurisdiction, or for any other reason. In any prosecution under this section of an actor who offered, conferred or agreed to confer, or who solicited, accepted or agreed to accept a benefit, it is no defense that he did so as a result of conduct by another constituting theft by extortion or coercion or an attempt to commit either of those crimes. Any offense proscribed by this section is a crime of the second degree. If the benefit offered, conferred, agreed to be conferred, solicited, accepted or agreed to be accepted is of the value of $200.00 or less, any offense proscribed by this section is a crime of the third degree. Also see *State v. O'Donnell*, 255 N.J. 60 (2023)

the New Jersey Supreme Court held that "the plain language of the bribery statute encompasses candidates for office as well as elected officials." Id. at 74. Said the Court: [W]e find that the bribery statute provides sufficient notice that no person—candidate or incumbent—may accept unauthorized benefits "as consideration for the performance of official duties." See N.J.S. 2C:27-2(d). The law plainly states it is no defense that someone in defendant's position was not yet qualified to act. ... And ordinary people can understand that New Jersey's bribery statute does not allow them to accept a bag of cash in exchange for promising a future appointment to a city post.

9. C. The officers did not have reasonable and articulable suspicion to detain Larry to initiate an investigatory detention. – *State v. Goldsmith*, Supreme Court of New Jersey 251 N.J. 384 (2022) – Because the initial stop was unlawful, the Court did not reach the issue of whether the frisk was lawful.

10. A. An investigative detention occurred when the officer blocked in her vehicle, directed the patrol car's alley light to shine into her car, and then approached her driver's side window to address her. – *State v. Rosario* (NJ Sup. Ct. 2017) A person sitting in a lawfully parked car outside her home who suddenly finds herself blocked in by a patrol car that shines a flood light into the vehicle, only to have the officer exit his marked car and approach the driver's side of the vehicle, would not reasonably feel free to leave. That conclusion is consistent with ordinary notions of how a reasonable person responds to a demonstration of police authority. * * * Rather, such police activity reasonably would, and should, prompt a person to think that she must stay put and submit to whatever interaction with the police officer was about to come. Here, the officer immediately asked for the defendant's identification. Although not determinative, that fact only reinforces that this was an investigative detention. It defies typical human experience to believe that one who is ordered to produce identification in such circumstances would feel free to leave. [This] conduct is not a garden-variety, non-intrusive, conversational interaction between an officer and an individual. * * * The differentiating feature of a field inquiry is that, from the perspective of the person approached by an officer, the interaction is voluntary. * * *Accordingly, the Court concluded that "defendant was faced with an investigative detention once [the officer] blocked in her vehicle, directed the patrol car's alley light to shine into her car, and then approached her driver's side window to address her." Id. at 276. In addition, the Court concluded that the stop was not supported by a reasonable and articulable suspicion. First, the anonymous tip, "standing alone, inherently lacks the reliability necessary to support reasonable suspicion because the informant's 'veracity ... is by hypothesis largely unknown, and unknowable.' ... The fact that the tip accurately identified defendant and her vehicle is of no moment because a tipster's knowledge of such innocent identifying details alone 'does not show that the tipster has knowledge of concealed criminal activity.' " Id. [Citations omitted.] Here, "we have no corroborated criminal activity—only an observation of defendant in her own car parked in front of her residence." Id. In addition, the officer's "observation, upon shining a light in defendant's vehicle, that defendant was 'scuffling around' and leaning toward the passenger seat also does not provide a reasonable basis to suspect criminality." Id. at 276-77. Moreover, any safety concerns based on the asserted "furtive" movements by

defendant "cannot provide reasonable and articulable suspicion to support a detention in the first instance." Id. at 277. Consequently, because a "reasonable and articulable suspicion was not present when this investigative detention began," defendant's "statements and evidence obtained thereafter must be suppressed."

11. D. Mike's custodial status in the stationhouse did not strip him of all constitutional protections. – *State v. McQueen,* 248 N.J. 26 (2021), the New Jersey Supreme Court held that a person's right to privacy, safeguarded by our State Constitution, extends to an arrestee's call on a police line from the stationhouse when neither party to the call is aware that the police are recording their conversation.

12. B. The drugs will be suppressed because Hall was not advised of his *Miranda* rights. – *State v. Hall*, 253 N.J.Super. 84 (Law Div. 1990) There was no evidence that Dexter Hall lived or stayed at the apartment. There was no evidence tending to suggest he was connected with the suspected drug activity, or that he was armed. The mere fact that Dexter Hall arrived during the search cannot support his detention, or the patdown, much less a full search. The police should have asked defendant what he was doing at the apartment while he was outside the door. If he had given an innocent explanation ∗ ∗ ∗ with consistent knowledge and answers and without threat or suspicion, he should have been allowed to leave. One or more of the eight police officers at the scene could have stood guard outside if danger from third parties was feared. There were no exigent circumstances to justify holding [him]. The police had no valid reason for the patdown, nor for a search of defendant. The CDS that he had in his pocket must be suppressed both because of the Fourth Amendment violation and the *Miranda* violation.

13. D. None of the above statements are true. – *State v. Rice*, Superior Court, Appellate Division 251 N.J.Super. 136 (1991) "The police did not have probable cause to believe that drugs were being sold from 50 Oraton Street when they approached the house and knocked on the door[,]" and the "occupants' attempt to bar the police by closing the door" did not provide "the missing ingredient to convert suspicion into probable cause." Id. at 139, 140. In the absence of a warrant or probable cause, "the occupants had a right to bar the police from physical or visual access to the interior of their home and [] the exercise of that right may not be used to elevate reasonable suspicion to probable cause." While the State contended that the officer observed a "drug transaction," the court was not convinced, calling the officer's testimony "uncertain and equivocal." Id. According to the court, while the officers may have had a reasonable suspicion, they "did not have probable cause to believe that drugs were being sold from 50 Oraton Street when they approached the house and knocked on the door. Their information at that time was limited to an anonymous telephone tip and the visits to the house by a couple and an unaccompanied male. The police observed no exchange between the visitors and occupants of the house."

14. A. The search was unlawful because there were no facts to establish the probable cause necessary to conduct a search of the interior of the vehicle. – *State v. Jones*, 326 N.J.Super. 234, 237 (App.Div. 1999) Finding the search unlawful, the court held that there were no facts

in this case to establish the "probable cause necessary to conduct a search of the interior of the vehicle." Id. at 244. The odor of alcohol the Trooper detected on Jones' breath, together with his nervousness and admission concerning the consumption of one beer, does not, when viewed with the other existing circumstances, establish a well-grounded suspicion that either Jones or his passengers had open containers of alcohol in the vehicle in violation of N.J.S.[] 39:4-51a. * * *

15. C. The police entry into the dwelling was justified and their subsequent action in fanning out and conducting a full-blown search of the home was improper. – *State v. Kaltner*, 420 N.J.Super. 524 (App.Div. 2011), aff'd o.b., 210 N.J. 114 (2012) there is no broad "nuisance abatement" exception to the general rule that warrantless entries into private homes are presumptively unreasonable. The State failed to demonstrate the objective reasonableness of the officers' claimed exercise of their community caretaking function. Absent justification to search the entire house, [the officer] was not lawfully in the hallway outside defendant's bedroom when he viewed the ecstasy. Therefore, the entry into defendant's bedroom and seizure of the drugs therein cannot be sustained under the plain-view doctrine.

16. A. The officer's actions were improper. They were the functional equivalent of police interrogation without the benefit of the *Miranda* warnings. – *State in Interest of A.A.*, 240 N.J. 341 (2020) To avoid what occurred in this case, the Court directed the following: The police should advise juveniles in custody of their *Miranda* rights—in the presence of a parent or legal guardian—before the police question, or a parent speaks with, the juvenile. Officers should then give parents or guardians a meaningful opportunity to consult with the juvenile in private about those rights. ... That approach would enable parents to help children understand their rights and decide whether to waive them—as contemplated in *Presha*. If law enforcement officers do not allow a parent and juvenile to consult in private, absent a compelling reason, that fact should weigh heavily in the totality of the circumstances to determine whether the juvenile's waiver and statements were voluntary. ... If legitimate security concerns require the police to observe a private consultation, the police can monitor the interaction without listening to the words spoken between parent and child.

17. B. I, II and III only – I. the officer must be lawfully in the viewing area, II. the item's incriminating character is immediately apparent, and III. the officer must have a lawful right of access to the evidence. Not IV. the discovery of the evidence is inadvertent *State v. Xiomara Gonzalez*, Supreme Court of New Jersey, 227N.J. 77 (2016) The New Jersey Supreme Court follow the lead of *Horton v. California,* Supreme Court of the United States, 496U.S. 128, 110 S.Ct. 2301 (1990) and eliminated the inadvertence requirement of the plain view doctrine. The Court held that "the inadvertence requirement for a plain-view seizure is at odds with the objective-reasonableness standard that governs our state-law constitutional jurisprudence. Accordingly, like the United States Supreme Court in *Horton*, and most other state courts, [the New Jersey Supreme Court now holds] that an inadvertent discovery of contraband or evidence of a crime is no longer a predicate for a plain-view seizure. Provided that a police officer is lawfully in the viewing area and the nature of the evidence is immediately apparent (and other constitutional prerequisites are met), the evidence may be seized.

18. C. I, III and IV only. I. credibility of his or her informant, III. reliability of the information relayed, and IV. informant's basis of knowledge. Not II. informant's availability for future testimony – *State v. Basil*, Supreme Court of New Jersey, 202N.J. 570 (2010) In determining whether there was probable cause to make an arrest, a court must look to the totality of the circumstances, * * * and view those circumstances 'from the standpoint of an objectively reasonable police officer.' * * * In assessing the facts available to a police officer, important considerations are the witness's veracity, reliability, and basis of knowledge. Also, *State v. Sainz*, 210 N.J.Super. 17, 21 (App.Div. 1986) Even when an informant's inherent reliability has not been established in a search warrant affidavit, the affidavit may nevertheless be sufficient if elsewhere in the application there is enough to permit the suspicions engendered by the informant's report to ripen into a judgment that a crime was probably being committed. Also *State v. Hemenway*, 239 N.J. 111, 137 (2019) For search warrants, hearsay may be sufficient to establish probable cause, so long as there are facts which give the statement an appearance of trustworthiness.

19. B. Unfounded – NJ Attorney General's Internal Affairs Policy and Procedures, Section 2: Fundamentals of the Disciplinary Process, 2.2. Rules and Regulations, 2.2.3. Know the definitions of each of these answer choices. Unfounded: A preponderance of the evidence shows that the alleged conduct did not occur. Answer Choice A. Not sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation. Answer choice C. Sustained: A preponderance of the evidence shows an officer violated any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standing operating procedure; rule; or training. Answer Choice D. Exonerated – A preponderance of the evidence shows the alleged conduct did occur, but did not violate any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standing operating procedure; rule; or training.

20. D. Demeanor: NJ Attorney General's Internal Affairs Policy and Procedures, Section 2: Fundamentals of the Disciplinary Process, 2.2. Rules and Regulations, 2.2.2.(g) Demeanor – Complaint that an agency member's bearing, gestures, language or other actions were inappropriate. Know the definitions of the type of complaints. Answer choice A. Differential treatment – Complaint that the taking of police action, the failure to take police action or method of police action was predicated upon irrelevant factors such as race, appearance, age or sex. Answer Choice B. Serious rule infraction – Complaint for conduct such as insubordination, drunkenness on duty, sleeping on duty, neglect of duty, false statements or malingering. Answer Choice D. Minor rule infraction – Complaint for conduct such as untidiness, tardiness, faulty driving, or failure to follow procedures.

21. C. I, II, III and V only. – NJ Attorney General's Internal Affairs Policy and Procedures, Section 2: Fundamentals of the Disciplinary Process, 2.2. Rules and Regulations, 2.2.2.(i) Minor rule infractions. Complaint for conduct such as untidiness, tardiness, faulty driving, or failure to

follow procedures. Sleeping on duty is a serious rule infraction. Sleeping on duty is considered a serious rule infraction.

22. B. Officer Unger discharged her firearm putting an extremely injured deer, which was hit by a truck, out of its misery. – NJ Attorney General's Internal Affairs Policy and Procedures, Section 7: Internal Affairs Investigations Procedures, 7.11. Investigations of Firearms Discharges, 7.11.1 An agency's internal affairs function shall receive notice of any incidents involving: (a) Any firearm discharge by agency personnel, whether on-duty or off-duty, unless the discharge occurred during the course of (1) a law enforcement training exercise; (2) routine target practice at a firing range; (3) a lawful animal hunt; or (4) the humane killing of an injured animal; or (b) Any discharge of an agency-owned firearm by anyone other than agency personnel.

23. C. I, II, III and V only – NJ Attorney General's Internal Affairs Policy and Procedures, Section 2: Fundamentals of the Disciplinary Process, 2.2. Rules and Regulations, 2.2.4 In addition, the rules and regulations should set forth a schedule of possible penalties an officer might receive when discipline is imposed. The rules and regulations may incorporate a system of progressive discipline. Progressive discipline serves an important role in the process by which the agency deals with complaints of misconduct or inappropriate behavior. In lieu of discipline, counseling, re-training, enhanced supervision, oral reprimand and performance notices can be used as instructional or remedial devices to address deficiencies or inadequate performance. Not IV. written reprimands

24. C. Both A and B – NJ Attorney General's Use of Force Policy, Core Principal Five: Duty to Intervene and Report, 5.4 Duty to report illegal and inappropriate uses of force by other officers. Any officer who observes or has knowledge of a use of force that is illegal, excessive, or otherwise inconsistent with this directive or department policies must (a) notify a supervisor as soon as possible and (b) submit an individual written report to a supervisor before reporting off duty on the day the officer becomes aware of the misconduct.

25. C. I, II, IV and V only – NJ Attorney General's Use of Force Policy, Addendum B, Vehicle Pursuit Policy, 3. Deciding Whether to Pursue, 3.3. In the event that one of the authorization requirements is satisfied, a pursuit shall not be automatically undertaken. An officer must still consider the following factors: (a) likelihood of successful apprehension; (b) whether the identity of the violator is known so that later apprehension is possible; (c) degree of risk created by pursuit: (d) police officer characteristics. Not III. violator's characteristics

26. B. six – NJ Attorney General Law Enforcement Directive No. 2020-12 Juvenile Justice Reform, V. Determining Whether to Charge by Summons or Warrant, F. Short-term custody and the six-hour rule. According to *N.J.S.A.* 2A:4A-31(a), a juvenile may be taken into custody either pursuant to an order or warrant from a court with jurisdiction, or for delinquency by law enforcement, pursuant to the laws of arrest and the Rules of Court. Except where delinquent conduct is alleged, a juvenile may be taken into short-term

custody without a court order when: 1. An officer has reasonable grounds to believe that the health and safety of the juvenile is seriously in danger and taking them into immediate custody is necessary for their protection; 2. An officer has reasonable grounds to believe the juvenile has left the home and care of their parent or guardian without their consent; or 3. An agency legally charged with the supervision of a juvenile notifies law enforcement that the child has run away from the out of home placement. [*N.J.S.A.* 2A:4A-31(b).] Pursuant to *N.J.S.A.* 2A:4A-32(a), under no circumstances shall any juvenile taken into short-term custody be held for more than six hours. Short term custody begins once a juvenile has entered a police department and does not include when a juvenile is being held at the scene or while in transport. For delinquency complaints, the six-hour timeframe includes the duration of time required for processing and either release on a complaint-summons or transportation to a juvenile detention facility for a complaint-warrant. Therefore, law enforcement and prosecutors must ensure that these steps are completed as expeditiously as possible, but in no event longer than six hours from the time custody begins.

27. C. Officers are required to position themselves in a manner that gives individuals better angles or views while recording. *Be careful, this question is asking for the false statement – NJ Attorney General Law Enforcement Directive No. 2021-11: First Amendment Right to Observe, Object to, and Record Police Activity, I. Scope of the First Amendment, A. The right to record an officer's conduct. 2. As long as the recording takes place in a setting in which the bystander has a legal right to be present and does not interfere with an officer's safety or lawful duties, the officer shall not: i. Tell the bystander that the recording of police officers, police activity, or persons who are the subject of a police action is not allowed; ii. Tell a bystander that recording police activity requires a permit or officer consent; iii. Threaten, intimidate, order to cease, or otherwise discourage a bystander from remaining in the proximity of, recording, or verbally commenting on officer conduct directed at the officer's official activities; iv. Perform an investigatory stop or arrest of the bystander solely on the basis that the bystander is recording police conduct; v. Demand the bystander's identification; vi. Demand that the bystander state a reason why the bystander is recording; vii. Detain, arrest, or threaten to arrest a bystander based on activity protected by the First Amendment, including but not limited to the bystander's verbal criticism, questioning of police actions, lawful recording of the officers, or gestures; viii. Intentionally block or obstruct recording devices. Officers are not required to position themselves in a manner that gives individuals better angles or views while recording, but may not deliberately obstruct actions taken in public from the view of people who are recording (This provision is not intended (1) to prohibit law enforcement officers from protecting the privacy of people seeking medical assistance or experiencing a mental health crisis, or of the deceased, or (2) to prevent officers from establishing an appropriately sized crime scene perimeter for the purposes of evidence preservation.)

28. A. II and III only – NJ Attorney General Law Enforcement Directive No. 2023-07: Directive Clarifying Requirements for Carrying of Firearms in Public, I. Implementation of New Jersey Carry Permit Requirements: A. Review of Applications. In reviewing an individual's application for a permit to carry, the applicable law enforcement agency shall continue to

ensure that the applicant satisfies all of the criteria of *N.J.S.* 2C:58-4d and *N.J.A.C.* 13:54-2.4, except that the applicant need not submit a written certification of justifiable need to carry a handgun. 1. Statutory Prohibitions. The agency shall not approve a permit if the applicant is subject to any of the disabilities set forth at *N.J.S.* 2C:58-3(c)(1)-(11) that would prevent them from obtaining a permit to purchase a handgun or a firearms purchaser identification card. 2. Background Checks. The agency shall not approve a permit unless it confirms that the applicant is qualified to carry. The application must, among other things, "be endorsed by three reputable persons who have known the applicant for at least three years preceding the date of application, and who shall also certify thereon that the applicant is a person of good moral character and behavior." 3. Firearms Familiarity. The agency shall not approve a permit unless the applicant demonstrates "that he is thoroughly familiar with the safe handling and use of handguns," in accordance with *N.J.A.C.* 13:54-2.4(b). Not I. The applicant has demonstrated a justifiable need to carry a handgun.

29. D. Driving while under the influence of an intoxicating substance. – NJ Attorney General Law Enforcement Directive No. 2013-1: Directive to Ensure Uniform Statewide Enforcement of the "Overdose Prevention Act," 2. Specific Crimes and Offenses That Are Subject to Immunity From Arrest and Prosecution: 1) obtaining, possessing, using, being under the influence, or failing to make lawful disposition of any controlled dangerous substance or analog in violation of subsection a., b., or c. of *N.J.S.* 2C:35-10; 2) inhaling the fumes or possessing a toxic chemical in violation of subsection b. of *N.J.S.* 2C:35-10.4; 3) using, obtaining, attempting to obtain, or possessing any prescription legend drug or stramonium preparation in violation of subsection b., d., or e. of *N.J.S.* 2C:35-10.5; 4) acquiring or obtaining a controlled dangerous substance or analog by fraud in violation of *N.J.S.* 2C:35-13; 5) unlawfully possessing a controlled dangerous substance that was lawfully prescribed or dispensed in violation of *N.J.S.* 2C:35-24; and 6) using or possessing with intent to use drug paraphernalia in violation of *N.J.S.* 2C:36-2, or having under control or possessing a hypodermic syringe or other instrument for using a controlled dangerous substance or analog in violation of subsection a. of *N.J.S.* 2C:36-6. Also 3. Crimes That Are Not Subject to the Statutory Immunity Feature: the statute does not apply to or in any way limit the authority or discretion of law enforcement officers or prosecutors to investigate, arrest or prosecute an offense involving the manufacture, distribution, or possession with intent to distribute an illicit substance or paraphernalia. Nor does the statute preclude an arrest, prosecution or conviction for the crime of strict liability for drug-induced death in violation of *N.J.S.* 2C:35-9, or the offense of driving while under the influence of an intoxicating substance in violation of *N.J.S.* 39:4-50 or any related drunk/drugged driving offense or indictable crime.

30. B. I, II, III, and IV only – NJ Attorney General's Law Enforcement Drug Testing Policy, VIII Consequences of a Positive Result, C. When a sworn law enforcement officer tests positive for illegal drug use or is found to have been consuming or being under the influence of cannabis or marijuana while at work or during work hours. Roman Numeral V is a consequence of a positive result for an applicant. Trainees and Law Enforcement Officers will be permanently barred from future law enforcement employment in New Jersey.

31. D. Frank shall be arrested and processed in the ordinary course. – NJ Attorney General Law Enforcement Directive No. 2022-6: Municipal Court Bench Warrants, II. Municipal Court Warrants With Bail Amounts Over $500, Individuals arrested on a municipal court warrant with a bail amount over $500 who are unable to post bail shall be arrested and processed in the ordinary course. Per the AOC Directive, such individuals shall be entitled to a bail hearing within 48 hours, excluding weekends or holidays.

32. A. Preserve the image by covering it up and wait for the investigator to arrive. – NJ Attorney General Bias Incident Investigation Standards, 7. Initial Law Enforcement Response to a Bias Incident, Responding Officer, 3. Protect the crime scene to prepare for the gathering of evidence.

33. C. The suitcase was considered abandoned when Delto ran from the police and the search was justified based on the abandonment exception to the search warrant. – *State v. Curtis* L. Gartrell (A-31-22) (NJ App. 2024) Defendant's possessory or ownership interest in the suitcase ceased when he fled police outside Penn Station and deliberately left his suitcase behind in a public place with no evidence of anyone else's interest in the bag. Because the State has demonstrated by a preponderance of the evidence that the suitcase was abandoned, defendant is without standing to challenge its seizure and search. Here, no one disputes that defendant fled police to avoid a lawful arrest, knowing that "Spoon," if such a person existed -- the Court notes that the defense was unable to confirm "Spoon's" identity -- did not yet have possession of the suitcase. The act of fleeing to avoid a lawful arrest in a public place demonstrates defendant's intent to place as much distance as possible between himself and the property left behind. When defendant ran from police in the heavily trafficked area on the sidewalk outside of Penn Station, without any indication that he intended to return, he abandoned the suitcase in a public place.

34. B. within 24 hours. – NJ Attorney General Law Enforcement Directive No. 2018-5: Directive Implementing Procedures and Protocols for Sexual Assault Response and Referrals, II. Immediate Notification of Sexual Assault Incidents by Law Enforcement Agencies to County Prosecutors' Offices

35. C. seven – NJ Attorney General Law Enforcement Directive No. 2024-02: Expanding the Timeframe for Multidisciplinary Response to Victims of Sexual Assault. In accordance with current medical forensic research and technology, the standard SART activation period will be expanded to seven days from when the incident is reported to have occurred. In situations where the victim seeks assistance beyond the seventh day but reports continued pain, presence of visible injury, or other extenuating circumstances, the forensic nurse examiner should be consulted to determine the benefit of a sexual assault forensic medical exam up to nine days post assault. In such cases, the sexual assault forensic exam should be conducted.

36. A. 13 – NJ Attorney General Law Enforcement Directive No. 2018-5: Directive Implementing Procedures and Protocols for Sexual Assault Response and Referrals, I. Compliance with Attorney General Standards for Providing Services to Victims of Sexual Assault, Third Edition

37. C. Director of the Division of Criminal Justice. – NJ Attorney General Law Enforcement Directive No. 2024-03: Investigatory Use of Documentary Records and Physical Blood Samples Maintained by the Newborn Screening Program, I. Process and Approval Requirements, A. – What is a Dyal subpoena? A Dyal subpoena is a court-issued subpoena that allows law enforcement to obtain newborn blood spots and medical records from the Newborn Screening Program. The Dyal subpoena is based on the 1984 New Jersey Supreme Court case State v. Dyal. In the case, the court ruled that a patient's interest in the confidentiality of hospital records should not prevent access to blood alcohol test results. The court stated that the interest could be protected by requiring the police to establish a reasonable basis to believe that the operator was intoxicated, which is a lesser legal standard than probable cause.

38. D. I, II or III only – NJ Attorney General Law Enforcement Directive No. 2024-03: Investigatory Use of Documentary Records and Physical Blood Samples Maintained by the Newborn Screening Program, II. Process and Approval Requirements, B. Appropriate Legal Process. Not IV. a grand jury subpoena

39. B. The officer had reasonable and articulable suspicion to initiate a DWI stop based on a 9-1-1 call reporting defendant's erratic driving, however, the officer unlawfully entered defendant's garage to detain her. – *State v. Mary Mellody* (A-1087-22) (NJ App 2024) we also conclude the officer unlawfully entered defendant's garage to detain her. Viewed under an objective standard, the record shows the officer did not render emergency aid justifying the warrantless entry under the exigent circumstances exception. Rather, the officer conducted what might be characterized as a routine investigation of the suspected DWI and careless driving offenses, approaching the vehicle in the garage as if it were stopped on the side of a public road, and administering standard field sobriety tests without ever inquiring whether defendant needed medical attention. Because the State failed to establish exigent circumstances, entering the garage to detain defendant was unlawful, and the fruits of the ensuing investigation must be suppressed.

40. A. Home Invasion Burglary – 2C:18-2.1.a. A person is guilty of home invasion burglary if, with purpose to commit an offense therein or thereon, the person, without license or privilege to do so, enters or surreptitiously remains in a residential dwelling or accommodation, or a separately secured portion thereof, and in the course of committing the offense, the person: (1) Purposely, knowingly or recklessly inflicts, attempts to inflict, or threatens to inflict bodily injury on anyone; or (2) Is armed with, or displays what appear to be, explosives or a deadly weapon. An act shall be deemed “in the course of committing” an offense if it occurs in an attempt to commit an offense or in immediate flight after the attempt or commission. b. Home invasion burglary is a crime of the first degree

41. D. Residential Burglary – 2C:18-2.2.a. A person is guilty of residential burglary if, with purpose to commit an offense therein or thereon, the person: (1) Enters a residential dwelling or accommodation, or a separately secured portion thereof, unless the actor is licensed or privileged to enter; or (2) Surreptitiously remains in a residential dwelling or accommodation, or a separately secured portion thereof, knowing that the actor is not licensed or privileged to do so. b. For the purposes of subsection a. of this section, it is not an element of the offense that the actor knew that any other person was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein, and it shall not be a defense that the actor did not know that any other person was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein. c. Residential burglary is a crime of the second degree, subject to section 2 of P.L.1997, c.117 (C.2C:43-7.2), unless the actor demonstrates by a preponderance of evidence that the actor reasonably believed that no resident or any other person, other than a person acting in concert with the actor, was present in the residential dwelling or accommodation when the actor entered or surreptitiously remained therein, in which case the offense is a crime of the second degree (this might be a typo in the original bill).

42. B. Aggravated Sexual Extortion – 2C:14-9.1.c. An actor is guilty of aggravated sexual extortion if the actor commits an act of sexual extortion with purpose to coerce, or knowingly cause, a child under the age of 18 years or an adult with a developmental disability to: (1) engage in sexual contact, sexual penetration, or simulated sexual contact or penetration; (2) expose their intimate parts; or (3) produce, photograph, film, videotape, record, or otherwise reproduce in any manner, any image, video, or other recording of any individual's intimate parts or any individual engaged in sexual contact, sexual penetration, or simulated sexual contact or sexual penetration. Aggravated sexual extortion is crime of the second degree.

    A. Criminal Coercion –2C:13-5 A person is guilty of criminal coercion if, with purpose unlawfully to restrict another's freedom of action to engage or refrain from engaging in conduct, he threatens to:(1) Inflict bodily injury on anyone or commit any other offense, regardless of the immediacy of the threat; (2) Accuse anyone of an offense; (3) Expose any secret which would tend to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; (4) Take or withhold action as an official, or cause an official to take or withhold action; (5) Bring about or continue a strike, boycott or other collective action, except that such a threat shall not be deemed coercive when the restriction compelled is demanded in the course of negotiation for the benefit of the group in whose interest the actor acts; (6) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or (7) Perform any other act which would not in itself substantially benefit the actor but which is calculated to substantially harm another person with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships.

C. Sexual Assault – 2C:14-2 a. An actor is guilty of aggravated sexual assault if the actor commits an act of sexual penetration with another person under any one of the following circumstances: (1) The victim is less than 13 years old; (2) The victim is at least 13 but less than 16 years old; and (a) The actor is related to the victim by blood or affinity to the third degree, or (b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household; (3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, carjacking, kidnapping, homicide, aggravated assault on the victim or a person other than the victim, burglary, arson, or criminal escape; (4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object; (5) The actor is aided or abetted by one or more other persons and the actor commits the act using coercion or without the victim's affirmative and freely-given permission; (6) The actor commits the act using coercion or without the victim's affirmative and freely-given permission and severe personal injury is sustained by the victim; (7) The victim, at the time of sexual penetration, is one whom the actor knew or should have known was: (a) physically helpless or incapacitated; (b) intellectually or mentally incapacitated; or (c) had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the distinctively sexual nature of the conduct, including, but not limited to, being incapable of providing consent, or incapable of understanding or exercising the right to refuse to engage in the conduct. Aggravated sexual assault is a crime of the first degree.

b. An actor is guilty of sexual assault if the actor commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

c. An actor is guilty of sexual assault if the actor commits an act of sexual penetration with another person under any one of the following circumstances: (1) The actor commits the act using coercion or without the victim's affirmative and freely-given permission, but the victim does not sustain severe personal injury; (2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status; (3) The victim is at least 16 but less than 18 years old and: (a) The actor is related to the victim by blood or affinity to the third degree; or (b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household; (4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim; (5) The victim is a pupil at least 18 but less than 22 years old and has not received a high school diploma and the actor is a teaching staff member or substitute teacher, school bus driver, other school employee, contracted service provider, or volunteer and the actor has supervisory or disciplinary power of any nature or in any capacity over the victim. As used in this paragraph,

"teaching staff member" has the meaning set forth in N.J.S.18A:1-1. Sexual assault is a crime of the second degree.

D. Sexual Extortion 2C:19-1An actor commits the crime of sexual extortion if: a. with the purpose to coerce another person to: engage in sexual contact, sexual penetration, or simulated sexual contact or sexual penetration, expose their intimate parts, or produce, photograph, film, videotape, record, or otherwise reproduce in any manner any image, video, or other recording of any individual's intimate parts or any individual engaged in sexual contact, sexual penetration, or simulated sexual contact or sexual penetration, the actor communicates by any means a threat: (1) to the person, property, or reputation of the victim or any other person; or (2) to disclose an image, video, or other recording of the victim or any other person engaged in sexual contact, sexual penetration, simulated sexual contact or penetration, or of the victim's or any other person's intimate parts; or b. the actor knowingly causes another person to engage in sexual contact, sexual penetration, or, simulated sexual contact or penetration, or expose their intimate parts, or produce, photograph, film, videotape, record, or otherwise reproduce in any manner, any image, video, or other recording of any individual's intimate parts or any individual engaged in sexual contact, sexual penetration, or simulated sexual contact or penetration; by communicating by any means a threat: (1) to the person, property, or reputation of the victim or any other person; or (2) to disclose an image, video, or other recording of the victim or any other person engaged in sexual contact, sexual penetration, simulated sexual contact or sexual penetration, or of the victim's or any other person's intimate parts. Sexual extortion is a crime of the third degree.

43. C. Theft of a Motor Vehicle – 2C:20-10.1 a. A person commits the crime of theft of a motor vehicle if the person unlawfully takes, or exercises unlawful control over, another person's motor vehicle with the purpose to deprive that person of the motor vehicle. b. Theft of a motor vehicle constitutes a crime of the second degree if the value of the motor vehicle involved is $75,000 or more or if the theft involved more than one motor vehicle, otherwise it is a crime of the third degree.

A. Theft by Unlawful Taking – 2C:20-3.a. Movable property. A person is guilty of theft if he unlawfully takes, or exercises unlawful control over, movable property of another with purpose to deprive him thereof.
2C:20-2.b. Grading of theft offenses.
(1) Theft constitutes a crime of the second degree if:
(a) The amount involved is $75,000 or more;
(b) The property is taken by extortion;
(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the quantity is in excess of one kilogram;
(d) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is $75,000 or more;

(e) The property stolen is human remains or any part thereof; except that, if the human remains are stolen by deception or falsification of a document by which a gift of all or part of a human body may be made pursuant to P.L.2008, c. 50 (C.26:6-77 et al.), the theft constitutes a crime of the first degree; or
(f) It is in breach of an obligation by a person in his capacity as a fiduciary and the amount involved is $50,000 or more.
(2) Theft constitutes a crime of the third degree if:
(a) The amount involved exceeds $500 but is less than $75,000;
(b) The property stolen is a firearm, vessel, boat, horse, domestic companion animal or airplane;
(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the amount involved is less than $75,000 or is undetermined and the quantity is one kilogram or less;
(d) It is from the person of the victim;
(e) It is in breach of an obligation by a person in his capacity as a fiduciary and the amount involved is less than $50,000;
(f) It is by threat not amounting to extortion;
(g) It is of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant;
(h) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is less than $75,000;
(i) The property stolen is any real or personal property related to, necessary for, or derived from research, regardless of value, including, but not limited to, any sample, specimens and components thereof, research subject, including any warm-blooded or cold-blooded animals being used for research or intended for use in research, supplies, records, data or test results, prototypes or equipment, as well as any proprietary information or other type of information related to research;
(j) The property stolen is a New Jersey Prescription Blank as referred to in R.S.45:14-14;
(k) The property stolen consists of an access device or a defaced access device;
(l) The property stolen consists of anhydrous ammonia and the actor intends it to be used to manufacture methamphetamine; or
(m) The property stolen consists of a package delivered to a residential property by a cargo carrier and the amount involved is less than $75,000 or is undetermined.
(3) Theft constitutes a crime of the fourth degree if the amount involved is at least $200 but does not exceed $500.
(4) Theft constitutes a disorderly persons offense if:
(a) The amount involved was less than $200; or
(b) The property stolen is an electronic vehicle identification system transponder.

B. Receiving a Stolen Motor Vehicle – 2C:20-10.2 a. Receiving a stolen motor vehicle. A person is guilty of receiving a stolen motor vehicle if the person knowingly receives or brings into this State a motor vehicle that is the property of another knowing that it has been stolen, or believing that it is probably stolen. Receiving a stolen motor vehicle is a crime of the second degree if the value of the motor vehicle is $75,000 or more, otherwise it is a crime of the third degree.

D. Unlawful taking of means of conveyance – 2C:20-10
a. A person commits a disorderly persons offense if, with purpose to withhold temporarily from the owner, he takes, operates, or exercises control over any means of conveyance, other than a motor vehicle, without consent of the owner or other person authorized to give consent. "Means of conveyance" includes but is not limited to motor vehicles, bicycles, motorized bicycles, boats, horses, vessels, surfboards, rafts, skimobiles, airplanes, trains, trams and trailers.
b. A person commits a crime of the fourth degree if, with purpose to withhold temporarily from the owner, he takes, operates or exercises control over a motor vehicle without the consent of the owner or other person authorized to give consent.
c. A person commits a crime of the third degree if, with purpose to withhold temporarily from the owner, he takes, operates or exercises control over a motor vehicle without the consent of the owner or other person authorized to give consent and operates the motor vehicle in a manner that creates a risk of injury to any person or a risk of damage to property.
d. A person commits a crime of the fourth degree if he enters and rides in a motor vehicle knowing that the motor vehicle has been taken or is being operated without the consent of the owner or other person authorized to consent.

44. C. Threat to a Health Care Professional, Health Care Facility Volunteer, Employee – 2C:12-3.1. a. A person commits a disorderly persons offense if the person orally or in writing: (1) knowingly and willfully makes a threat against any health care professional, volunteer working for a health care professional or working at a health care facility, supportive services staff member working for a health care professional or working at a health care facility, or employee of a health care professional or health care facility, with the intent to intimidate, interfere with, or impede the health care professional, volunteer, supportive services staff member, or employee in the performance of the health care professional's, volunteer's, supportive services staff member's, or employee's official duties; or (2) knowingly sends, delivers, or makes for the purpose of sending or delivering a threat prohibited pursuant to paragraph (1) of this subsection.

45. D. The officers' seizure of the clothing was justified under the search-incident-to-arrest exception to the warrant requirement. – *State v. Torres*, 253 N.J. 484 (2023) Finding the seizure of the sweatshirt lawful, the Court agreed with the trial court and Appellate Division that "the officers' seizure of the sweatshirt was justified under the search-incident-to-arrest exception to the warrant requirement in the circumstances presented." Id. at 488-89. In so ruling, the Court endorsed and applied the two-factor test of *State v. Lentz*, 463 N.J. Super. 54, 70 (App.Div. 2020), "authorizing delayed warrantless searches of a person incident to that person's arrest so long as both (1) the delay itself and (2) the scope of the search were objectively reasonable." Id. at 489. According to the Court, "the totality of circumstances here establishes such reasonableness, particularly given the officers' observation and video footage showing that defendant appeared to be removing some substance from his fingers and rubbing his clothing while he was being interviewed, as well as the risk that biological

evidence would dissipate during the delay while the warrant application was processed." Id. Thus, "[t]he seizure of defendant's sweatshirt was justified under the incident-to-arrest exception to the warrant requirement and involved no unreasonable delay or excessive scope."

46. D. The confessions were improperly obtained. Once Rudy invoked his right to counsel the detectives were required to clarify the ambiguity or cease questioning. Even the next day's confession was unlawfully secured. – *State v. Rivas*, 251 N.J. 132 (2022) - Once Rivas invoked his right to counsel on March 18, however ambiguously, the detectives were required to clarify the ambiguity or cease questioning. See *State v. Alston*, 204 N.J. 614, 624, 10 A.3d 880 (2011). The detectives did neither. Instead, the detectives interrogated Rivas for nearly six hours, eliciting a confession. After the improper interrogation and Rivas's tainted confession -- a confession Rivas had reason to believe was lawful -- Rivas asked to see the detectives again. Those remarks cannot be fairly characterized as Rivas voluntarily initiating further communications with the detectives because the questioning never truly ceased. The interrogation and the request to speak again with the detectives were inextricably intertwined. When a suspect in *Miranda* custody requests counsel, all questioning must stop. In *Edwards v. Arizona*, 451 U.S. 477, 101 S.Ct. 1880 (1981), the United States Supreme Court established a "bright-line rule" that, during custodial interrogation, once an accused asserts his right to counsel, he "is not subject to further interrogation by the authorities until counsel has been made available to him, unless the accused himself initiates further communication, exchanges or conversations with the police." *Edwards* at 484-85, 101 S.Ct. at 1884-85. Under *Edwards*, because Rivas never freely initiated further conversations with the detectives, further questioning of defendant was barred. That Rivas waived his *Miranda* rights on March 19 -- a day later -- does not alter the equation. An *Edwards* violation is not subject to an attenuation analysis. Therefore, in compliance with our constitutional jurisprudence, Rivas's March 19 statements must be suppressed. Rivas's March 19 confession to killing his wife -- a mirror image of his March 18 confession -- was a central pillar of the State's case. The improper admission of that confession had the clear capacity to cause an unjust result and cannot be deemed harmless error. See *R. 2:10-2*. We are therefore constrained to vacate Rivas's convictions and remand for a new trial.

47. B. The detectives had probable cause to arrest Sal although they did not know exactly what offense(s) he would eventually be charged with. Sal knowingly, voluntarily, and intelligently waived his *Miranda* rights and the confession was properly secured. – *State v. Sims*, 250 N.J. 189 (2022) The rule of A.G.D. mandates disclosure of factual information about pending charges that the officer can readily confirm and clearly convey. Even when there is probable cause for an arrest, there may be insufficient information about the victim's injuries, the arrestee's mental state, and other key issues to enable an officer to accurately identify the charges. See id. at 381-83, 246 A.3d 814 (Susswein, J., concurring and dissenting). An officer acting in good faith might inadvertently misinform an arrestee as to the charges that he will eventually face. We do not share the Appellate Division's conclusion that law enforcement officers can resolve any ambiguities or disputes about charging decisions

before a judicial officer has reviewed the showing of probable cause and issued a complaint-warrant or arrest warrant.

48. D. None of the above – *State v. Johnson*, Superior Court, Law Division 203 N.J.Super. 436 (1985) 39:4-50 The term "motor vehicle" as used in the drunken driving legislation is clearly and precisely defined in *N.J.S.* 39:1-1: Motor vehicle includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run upon rails or tracks and motorized bicycles. It is "clearly apparent from the plain language of the statute that the muscular powered bicycle is not to be included." Id. While *N.J.S.* 39:4-14.1 provides, and the prosecutor argued: Every person riding a bicycle ... shall be subject to all the duties applicable to the driver of a vehicle ... except to those provisions thereof which by their nature can have no application[,] the court was not swayed. It reasoned that "when there is a conflict between a general and specific act on the same subject, the latter shall prevail." As a result, *N.J.S.* 39:4-50 is inapplicable to bicyclists who propel their means of transportation by muscular power.

49. D. Possession of a Controlled Dangerous Substance and two counts Bribery. – *State v. Jenkins*, Superior Court, Appellate Division 255 N.J.Super. 482 (1992) When a public officer is offered a material object in exchange for violating or performing an official duty, there is no need to prove the value of the article or, as the defendant contends, that the object had some value to the public officer. Traditionally, in law, any material object, even a peppercorn, is deemed to have intrinsic value. A jury is free to conclude that the offer to give a material object, however small its value, constitutes the offer to confer a "benefit" which N.J.S.A. 2C:27-2 proscribes; for the intended recipient is to receive something not previously possessed. The value of the item defines the degree of the offense, not its existence. 2C:27-2. Bribery in official and political matters: A person is guilty of bribery if he directly or indirectly offers, confers or agrees to confer upon another, or solicits, accepts or agrees to accept from another: a. Any benefit as consideration for a decision, opinion, recommendation, vote or exercise of discretion of a public servant, party official or voter on any public issue or in any public election; or b. Any benefit as consideration for a decision, vote, recommendation or exercise of official discretion in a judicial or administrative proceeding; or c. Any benefit as consideration for a violation of an official duty of a public servant or party official; or d. Any benefit as consideration for the performance of official duties. For the purposes of this section "benefit as consideration" shall be deemed to mean any benefit not authorized by law. It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office, or lacked jurisdiction, or for any other reason. In any prosecution under this section of an actor who offered, conferred or agreed to confer, or who solicited, accepted or agreed to accept a benefit, it is no defense that he did so as a result of conduct by another constituting theft by extortion or coercion or an attempt to commit either of those crimes. Any offense proscribed by this section is a crime of the second degree. If the benefit offered, conferred, agreed to be conferred, solicited, accepted or agreed to be accepted is of the value of $200.00 or less, any offense proscribed by this section is a crime of the third degree.

50. B. I, III, and V – *State v. Hemenway*, Supreme Court of New Jersey 239 N.J. 111 (2019) N.J.S. 2C:25-28(j). "As written, the Act does not require a judicial finding of probable cause for the issuance of a search warrant authorizing the search of a home for weapons. Instead, a judge issuing a TRO and related weapons search warrant need only find 'reasonable cause to believe the weapon is located' in a particular place." *Hemenway* at 130. Through case law, however, the courts have imposed standards to conform the Act to the Fourth Amendment and our State Constitution. See *State v. Dispoto*, 189 N.J. 108, 120-21 (2007); *State v. Johnson*, 352 N.J. Super. 15, 20 (App. Div. 2002). In applying the requirements of the Fourth Amendment and Article I, Paragraph 7 of the New Jersey Constitution to the Domestic Violence Act's authorization to courts to issue warrants for the search of weapons in places that include the home. "One long-established definition for probable cause for a criminal search warrant 'is a well-grounded suspicion.' See *State v. Smith*, 212 N.J. 365, 388 (2012) (quoting *State v. Moore*, 181 N.J. 40, 45 (2004)). Transferred into the domestic violence context, the court issuing a weapons search warrant would merely have to find a well-grounded suspicion that the defendant committed an act of domestic violence, that a seizure of weapons is necessary to protect the life, health or well-being of the victim, and that the weapons are located in the place to be searched. A showing of probable cause 'is not a high bar.'" *Hemenway* at 136-37 (quoting *District of Columbia v. Wesby*, 583 U.S. ___, 138 S.Ct. 577, 586 (2018)).

51. A. The seizure of the evidence was unlawful. The officer, who walked onto the driveway of the home without permission or a warrant, was not lawfully there when he observed illegal narcotics in a hole in the home's front porch. – *State v. Ingram*, Superior Court, Appellate Division 474 N.J.Super. 522 (App.Div. 2023) the State failed to satisfy the first prong of the plain-view exception to the warrant requirement, i.e., that the officer was lawfully in the area where he observed and seized the evidence.

52. C. Release Stiles after completing a NJ Bail Recognizance Form, setting a new appearance date, and obtaining proper identification and a signature from Stiles. – NJ Attorney General Law Enforcement Directive No. 2022-6: Municipal Bench Warrants, I. Municipal Court Warrants With Bail Amounts Of $500 Or Less, D. Multiple warrants. If an individual is encountered with multiple warrants with bail amounts of $500 or less, so long as each warrant individually qualifies, then the procedures of Section I apply. That is, the bail amounts should generally be considered individually, not added together, subject to the exception of Section I.B.2. (B. Custodial arrest generally prohibited. Individuals encountered with qualifying warrants should generally not be subject to a custodial arrest, a search, or handcuffing, unless (a) issuing the notice on scene poses a safety risk or (b) probable cause that a crime has been committed or a pre-existing circumstance—independent of the warrant—justifies such action. 2. In rare instances, an officer may—in their discretion—determine that an individual is not suitable for release and take the individual into custody on the warrant. For example, this provision may apply where the individual has an unusually high number of outstanding qualifying warrants that indicates a substantial risk of non-appearance.)

A. Arrest Stiles simply because the total amount of the bail for the warrants exceeds $500. – NJ Attorney General Law Enforcement Directive No. 2022-6: Municipal Bench Warrants. I. Municipal Court Warrants With Bail Amounts Of $500 Or Less, D. Multiple warrants. If an individual is encountered with multiple warrants with bail amounts of $500 or less, so long as each warrant individually qualifies, then the procedures of Section I apply. That is, the bail amounts should generally be considered individually, not added together, subject to the exception of Section I.B.2. (B. Custodial arrest generally prohibited. Individuals encountered with qualifying warrants should generally not be subject to a custodial arrest, a search, or handcuffing, unless (a) issuing the notice on scene poses a safety risk or (b) probable cause that a crime has been committed or a pre-existing circumstance—independent of the warrant—justifies such action. 2. In rare instances, an officer may—in their discretion—determine that an individual is not suitable for release and take the individual into custody on the warrant. For example, this provision may apply where the individual has an unusually high number of outstanding qualifying warrants that indicates a substantial risk of non-appearance.)

B. Have headquarters check for domestic violence involvement. If none found, then release Stiles on his own recognizance. – – I. Municipal Court Warrants With Bail Amounts Of $500 Or Less, F. Domestic violence exception. Per AOC Directive #04-22, the procedures of Section I do not apply where the underlying offense involves domestic violence. Officers should continue to arrest individuals encountered with outstanding domestic violence warrants. 1. Officers should note that only warrants listed within the municipal courts' electronic Automated Complaint System (ACS) will need to be checked for domestic violence involvement. This check can be done through the "DV Indicator" within ACS (marked "Y" or "N"). 2. Warrants related to traffic offenses (listed within the Automated Traffic System (ATS)) will not need to be checked for domestic violence involvement.

D. Ask Stiles if he can make bail on the scene. If so, reschedule an appearance for a later date after accepting the bail. – I. Municipal Court Warrants With Bail Amounts Of $500 Or Less, E. Bail payments. Officers shall not accept any bail payments on scene, even if individuals with qualifying warrants are able to pay partial or full bail.

53. C. All actions of the police were lawful. Victor drove his car when his blood-alcohol level was .12%, thereby being guilty of DWI. – *State v. Fogarty*, 128 N.J. 59 (1992), the Court disallowed Fogarty's defenses of entrapment, "quasi-entrapment," and duress to his driving-while-intoxicated prosecution because, according to the Court, allowing such defenses "would 'surely frustrate the efficient and vigorous enforcement of our laws against driving while intoxicated.' " Id. at 74 (quoting *Hammond* at 318). The duty rests on the operator not to drink and drive. A person who finds himself or herself in the defendant's situation should inform police that he or she is intoxicated. Such a person should seek an alternative to violating the law. Defendant did not attempt to avail himself of any noncriminal alternative. Instead, he chose to drive himself, knowing that he had consumed several alcoholic beverages. DWI is an absolute liability offense requiring no culpable

mental state. The State need not demonstrate a defendant's culpable state of mind to prove a violation of *N.J.S.[]* 39:4-50. ∗ ∗ ∗ Defendant drove his car when his blood-alcohol level was .12%. ∗ ∗ ∗ Thus, ∗ ∗ ∗ he was *per se* guilty of DWI.

54. C. is aware of specific and articulable facts – NJ Attorney General Directive 2017-1: Prevention of Victim and Witness Intimidation, 2. Statewide Action Plan: Strategies to Prevent and Respond to Victim and Witness Intimidation, b. Police Response to Witness Intimidation and Notice to Prosecutors, Note that the standard for this notification is intended to be comparable to the "*specific and articulable facts warranting heightened caution*" standard used in New Jersey search and seizure case law; that is, more than an inarticulable hunch but less than the "reasonable articulable suspicion" standard commonly used in search-and-seizure case law and also used to authorize the collection and storage of criminal intelligence information.

55. B. The "murder scene exception" is inconsistent with the Fourth and Fourteenth Amendments. The warrantless search of Chavez's apartment was not constitutionally permissible. – *Mincey v. Arizona*, Supreme Court of the United States 437U.S. 385, 98 S.Ct. 2408 (1978) "Except for the fact that the offense under investigation was a homicide, there were no exigent circumstances in this case[.] ∗ ∗ ∗ There was no indication that evidence would be lost, destroyed or removed during the time required to obtain a search warrant. ∗ ∗ ∗ And there is no suggestion that a search warrant could not easily and conveniently have been obtained."

56. D. None of the above – *State v. Kocen*, Superior Court, Appellate Division 222 N.J.Super. 517 (1988) defendant's conduct does not constitute a theft of service within the meaning of that provision. N.J.S. 2C:20-8a. provides in pertinent part: A person is guilty of theft if he purposely obtains services which he knows are available only for compensation, by deception or threat, or by false token, slug, or other means, including but not limited to mechanical or electronic devices or through fraudulent statements, to avoid payment for the service. In this case, defendant "knowingly accepted services without payment which he knew were available only for compensation. There was no evidence, however, of use of deception or threat, false token, slug, mechanical or electronic devices, or fraudulent statements." Kocen at 520. Moreover, there is nothing to indicate that our Legislature intended "to criminalize the passive act of knowingly accepting services for which the supplier negligently does not send a bill." Id. Accordingly, "a person who knowingly accepts services without payment which the person knows are available only for compensation does not violate N.J.S.[] 2C:20-8(a) unless there is a verbal or physical act of deception, fraud or threat, or false token, slug, mechanical or electronic device or like means employed to avoid payment for the service." Kocen at 510. [Emphasis added.] The court in Kocen, supra, specifically points out that its opinion should not in any way be read "to reward deadbeats." Neither does it offer the criminal law as a remedy for a utility's self-created failure to bill a customer for eleven years." Id. at 520. The court does note, however, that "[c]ivil liability is another matter."

57. B. The entry was lawful because Bob's flight created exigent circumstances, allowing warrantless entry. – *State v. Hutchins*, , 116 N.J. 457 (1989) the Court ruled that exigent circumstances, such as a suspect fleeing into a residence to evade arrest, can justify warrantless entry by police officers if there is probable cause to believe the suspect is involved in criminal activity. Here, Bob's flight, combined with the informant's tip and the officers' observations, created exigent circumstances allowing the officers to pursue him into the house.

58. D. All of the above. – *State v. Miranda,* 253 N.J. 461 (2023) In order to access the exigent-circumstances exception to justify a warrantless search, the State must prove by a preponderance of the evidence that (1) the search was premised on probable cause and (2) law enforcement acted in an objectively reasonable manner to meet an exigency that did not permit time to secure a warrant. In this regard, courts will consider the following non-exclusive factors: the seriousness of the crime under investigation; the urgency of the situation faced by the officers; the time it would have taken to secure a warrant; the threat that evidence would be destroyed or lost, or people would be endangered unless immediate action was taken; information that the suspect was armed and posed an imminent danger; and the strength or weakness of the probable cause relating to the item to be searched or seized.

59. C. I, II, IV, and V – *State v. Cruz-Pena*, Supreme Court of New Jersey 243 N.J. 342 (2020) Defendant was charged in a multi-count indictment with first-degree kidnapping, N.J.S.A. 2C:13-1(b)(1) ; first-degree aggravated sexual assault, N.J.S.A. 2C:14-2(a)(6) ; second-degree aggravated assault, N.J.S.A. 2C:12-1(b)(1) ; third-degree aggravated assault, N.J.S.A. 2C:12-1(b)(2) ; third-degree possession of a weapon for an unlawful purpose, N.J.S.A. 2C:39-4(d) ; fourth-degree unlawful possession of a weapon, N.J.S.A. 2C:39-5(d) ; and first-degree robbery, N.J.S.A. 2C:15-1(a)(1) and (2). his case meets all of the statutory criteria for first-degree kidnapping[.]" Id. at 361. It is a "classic example of kidnapping by confinement." Id. at 360. C.M.'s confinement on the porch was not merely incidental to the underlying crimes. Said the Court: "Holding a victim in captivity for a period of four to five hours, while sexually abusing and assaulting her, satisfies the 'substantial period' requirement of the kidnapping statute—even if the length of the confinement is co-extensive with the continuous sexual and physical abuse of the victim." Not III. Distribution of a Controlled Dangerous Substance. Shane did not distribute CDS.

60. A. Arson – *State v. Kreiger*, 193 N.J.Super. 568 (App.Div. 1983), rev'd on dissent, 96 N.J. 256 (1984) this defendant planned and intended to start a fire when he lit the bales of material.

61. D. In the event that a dispute between Underhill and Overhill cannot be resolved by the management/executive leadership of those agencies, the matter shall be referred to that County Prosecutor for resolution. – NJ Attorney General Law Enforcement Directive 2016-1: Automated Deconfliction of Planned Law Enforcement Operations and Investigations – 7. Conflict Resolution: D. General Principles for Resolving Conflict Alerts. Disputes between agencies with a shared interest in a target/suspect should be resolved amicably by

the parties within their respective chains of command. The resolution should be based on all equitable considerations, including in particular the amount of resources that already have been expended in their respective investigations and the potential for the most significant charges and sentencing outcomes that would have the greatest impact on public safety. The agency that submits target/suspect or event location information to the system first does not automatically have primary or superior rights to investigate that target/suspect, or to conduct a planned operation at that location. However, to encourage agencies to submit deconfliction information pursuant to this Directive as early as possible, the timing of data submission to the system is a relevant consideration.

E. Resolution of Disputes by County Prosecutor or Director. In the event that a dispute between agencies operating under the authority of the laws of the State of New Jersey cannot be resolved by the management/executive leadership of those agencies, if all the agencies are subject to the jurisdictional authority of a single County Prosecutor, the matter shall be referred to that County Prosecutor for resolution. If one of the agencies operates outside the jurisdictional authority of the County Prosecutor, or is a State agency, the dispute shall be referred to the Director of the Division of Criminal Justice for resolution. The County Prosecutor or Director is hereby authorized to resolve the dispute, and that resolution shall be final and binding on any agency operating under the authority of the laws of the State of New Jersey.

62. A. In all cases where all defendants have been charged and all of the defendants in the case are deceased, upon proof of death being submitted. – NJ Attorney General Law Enforcement Directive No. 2011-1: Guidelines for the Retention of Evidence, 1. Homicide Evidence
    B. In cases where the defendants were convicted and no appeals or post-conviction relief motions are pending, after a period of 10 years from the date of conviction or upon the defendants' expiration of sentence, whichever is later. – Should be 5 years
    C. In cases where no suspects have been identified but a DNA profile has been obtained and submitted to CODIS, or fingerprint evidence that has been submitted to AFIS, or there is no statute of limitations, the evidence shall be retained for 30 years. – Should be indefinitely.

63. D. All of the above – 2C:33-31 a. A person is guilty of dog fighting if that person knowingly: (1) keeps, uses, is connected with or interested in the management of, or receives money for the admission of a person to, a place kept or used for the purpose of fighting or baiting a dog; (2) owns, possesses, keeps, trains, promotes, purchases, breeds or sells a dog for the purpose of fighting or baiting that dog; (3) for amusement or gain, causes, allows, or permits the fighting or baiting of a dog; (4) permits or suffers a place owned or controlled by that person to be used for the purpose of fighting or baiting a dog; (5) is present and witnesses, pays admission to, encourages or assists in the fighting or baiting of a dog; (6) gambles on the outcome of a fight involving a dog ; or (7) owns, possesses, buys, sells, transfers, or manufactures dog fighting paraphernalia for the purpose of engaging in or otherwise promoting or facilitating the fighting or baiting of a dog. Dog fighting is a crime of the third degree.

64. B. Theft (from the person) – *State v. Sein*, Supreme Court of New Jersey 124 N.J. 209 (1991)his conduct did not amount to a "robbery" because there was no evidence that he had used force on Mrs. Williams during the course of the purse-snatching. The Appellate Division agreed, and the Supreme Court herein affirmed. Purse-snatching cases have always required the courts to ascertain where to draw the line between robbery and the lesser offense of theft from the person. "The predominant view [] is that there is insufficient force to constitute robbery when the thief snatches property from the owner's grasp so suddenly that the owner cannot offer any resistance to the taking." 2C:20-3. Theft by unlawful taking or disposition a. Movable property. A person is guilty of theft if he unlawfully takes, or exercises unlawful control over, movable property of another with purpose to deprive him thereof.

65. C. One count of Robbery against both John and Dana. – *State v. Lawson*, Superior Court, Appellate Division 217 N.J.Super. 47 (1987) In its concluding remarks, the Appellate Division, per Judge Furman, expressed complete disagreement with that portion of the trial court's ruling whereby it concluded that a defendant who uses force against two individuals during the course of committing a single theft commits two robberies. "A robbery conviction must be premised upon a separate theft, whether from the robbery victim or another[.] N.J.S. 2C:15-1(a) should not be extended by implication to sustain two robbery convictions for assaults upon two victims in immediate flight after a theft or attempted theft from a third person."
    2C:15-1. Robbery
    a. Robbery defined. A person is guilty of robbery if, in the course of committing a theft, he: (1) Inflicts bodily injury or uses force upon another; or (2) Threatens another with or purposely puts him in fear of immediate bodily injury; or (3) Commits or threatens immediately to commit any crime of the first or second degree.
    An act shall be deemed to be included in the phrase "in the course of committing a theft" if it occurs in an attempt to commit theft or in immediate flight after the attempt or commission.
    b. Grading. Robbery is a crime of the second degree, except that it is a crime of the first degree if in the course of committing the theft the actor attempts to kill anyone, or purposely inflicts or attempts to inflict serious bodily injury, or is armed with, or uses or threatens the immediate use of a deadly weapon.

66. D. One count of Knowingly Leaving the Scene of an Accident Under Certain Circumstances (2nd Degree Crime) – 2C:11-5.1; A motor vehicle operator who knows he is involved in an accident and knowingly leaves the scene of that accident under circumstances that violate the provisions of *R.S.*39:4-129 (Action in case of accident) shall be guilty of a crime of the second degree if the accident results in the death of another person. Also see State v. Bell, Supreme Court of New Jersey 250 N.J. 519 (2022) [T]his offense can be distilled to the following four elements: (1) the driver "knows" the driver was "involved in an accident"; (2) the driver "knowingly" leaves the scene of the accident; (3) the driver violates the requirements of N.J.S. 39:4-129; and (4) the accident "results" in the death of another

person. Nothing in the language of N.J.S. 2C:11-5.1 reveals or suggests the Legislature intended to charge a defendant based on the number of fatalities that result from the accident. We conclude N.J.S. 2C:11-5.1 applies only to the act of fleeing from the scene of an accident and the number of fatalities that may result from the accident is not an element of this offense.

67. B. Proof that the defendant was driving while intoxicated. – 2C:11-5.a. Criminal homicide constitutes reckless vehicular homicide when it is caused by driving a vehicle or vessel recklessly. Some of the requirements to prove recklessness are noted below. Which of the below is "*shall* give rise that the driver was driving recklessly" and not "*may* give rise that the driver was driving recklessly"? The below "may" give rise to the driver driving recklessly.

    A. Proof that the defendant fell asleep while driving or was driving after having been without sleep for a period in excess of 24 consecutive hours.
    C. Proof that the defendant was operating a hand-held wireless telephone while driving a motor vehicle.
    D. Proof that the defendant failed to maintain a lane.

68. D. None of the above – *State in the Interest of M.N.*, Superior Court, Appellate Division 267 N.J.Super. 482 (1993) *N.J.S.* 2C:17-1b. provides: A person is guilty of arson, a crime of the third degree, if he purposely starts a fire or causes an explosion, whether on his property or another's: (1) Thereby recklessly placing another person in danger of bodily injury; or (2) Thereby recklessly placing a building or structure of another in danger of damage or destruction; "In order for M.N. to be guilty of third-degree arson, two elements of culpability—'purposely start[ing]' and 'recklessly placing'—must be proved. Therefore, the youth must have 'purposely' started a fire, and in so doing, he must have 'recklessly' placed the life or structure of another in danger." M.N. at 487.
    " 'Purposely' is the highest standard of culpability in the Code of Criminal Justice." [2C:2-2b.(1)]. 'Crimes entailing purposive conduct by definition focus on the subjective attitude of the accused: they require not only that he engage consciously in the proscribed conduct, but that he desire the prohibited result.' " Id. [Citation omitted.]
    The State argued that "M.N.'s act of striking a match 'started' a fire and that is the only purposeful act necessary." Id. M.N. contended that "while his lighting a match may prove he literally started a fire on a matchhead, it fails to prove beyond a reasonable doubt that he 'purposely start[ed] a fire,' as within the statutory meaning of the term." Id. at 488. [Court's emphasis.] The Appellate Division agreed with M.N. In this case, the trial judge concluded "only that M.N. purposely lit a match. There was no finding that M.N. had a purpose to start any other fire, even the leaves, at the time." Id. at 490. M.N. did not purposely light anything "except the match." Id. "This is not enough," held the court, "reasonably to constitute an element of the crime of third-degree arson." Id. at 490. Accordingly, " 'purposely' lighting a match does not, in these circumstances, satisfy the requirements of 'purposely starts a fire' as proscribed by [] 2C:17-1b. Moreover, purposely lighting the match, in the absence of an additional act or omission by the accused, could not in these circumstances have '[t]hereby recklessly plac[ed]' the structures of another in danger. [] 2C:17-1b.(2)." M.N. at 490.

[Court's emphasis.] "In view of the above, M.N.'s conviction for third-degree arson * * * cannot stand."

69. C. II and III only – *State v. Cross*, Superior Court, Appellate Division 330 N.J.Super. 516 (App.Div. 2000) Defendant was acquitted of Aggravated Assault 2C:12-1.b.(5)(a) b. Aggravated assault. A person is guilty of aggravated assault if the person: (1) Attempts to cause serious bodily injury to another or causes injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury. Defendant was found guilty of Resisting Arrest (2C:29-2.a.) and Disarming a Law Enforcement Officer 2C:12-11.b.. The court focused on this charge. In pertinent part, 2C:12-11 provides: "A person who knowingly takes or attempts to exercise unlawful control over a firearm or other weapon in the possession of a law enforcement or corrections officer when that officer is acting in the performance of his duties, and either is in uniform or exhibits evidence of his authority, is guilty of a crime of the second degree." The statute "is designed to protect law enforcement officers from being disarmed by an offender. The offense occurs when there is an interference with an officer's possession or control of a weapon[,]" and this interference can result from either a "taking" or "an attempt to exercise unlawful control" by an offender. Id. at 521-22. In cases where an offender attempts to "exercise unlawful control over" an officer's weapon, "possession" by the offender "is not an element of the offense."

70. C. I, II, and IV only – *State v. Mirault*, Supreme Court of New Jersey 92 N.J. 492 (1983) *N.J.S.A.* 2C:15-1 a. The robbery statute as enacted read: a. Robbery defined. A person is guilty of robbery if, in the course of committing a theft, he: (1) Inflicts bodily injury upon another; or (2) Threatens another with or purposely puts him in fear of immediate bodily injury; or (3) Commits or threatens immediately to commit any crime of the first or second degree. An act shall be deemed to be included in the phrase "in the course of committing a theft" if it occurs in an attempt to commit theft or in immediate flight after the attempt or commission. b. Grading. Robbery is a crime of the second degree, except that it is a crime of the first degree if in the course of committing the theft the actor attempts to kill anyone, or purposely inflicts or attempts to inflict serious bodily injury, or is armed with, or uses or threatens the immediate use of a deadly weapon.
The defendant argued that our Legislature did not intend enhanced punishment to apply where a thief uses force against an arresting police officer. He argues that although the Legislature intended to protect innocent citizens of this State, neither the Legislature nor any commentator has indicated that the robbery statute also exists as a sanction against the thief who may have no propensity to assault his theft victim, but who may fight a police officer who intends to apprehend him. This Court, he argues, should not presume that the Legislature's unspoken intention was to include police officers in the class of persons protected by the statute.
Defendant further argues that the theft was complete when the police officer ordered the defendant to "freeze" and that what happened thereafter is a distinct offense unrelated to the theft. We disagree. As noted, the Code has broadened the concept of robbery. It specifically includes in the phrase "in the course of committing a theft" both the attempt

before and immediate flight after the theft. Here the continuous and violent struggle took but a few minutes, never moved beyond the scene of the crime, and never found the defendant in complete custody until the backup police arrived. Under the circumstances the robbery and aggravated assault were clearly part of a continuous transaction; the assault thus took place "in the course of committing a theft."