

JOYCE A. SMITH  
ACTING DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY  
NASSAU COUNTY

**OFFICIAL REQUEST FOR INFORMATION**

September 2, 2021

All Police Commanders  
Local & State Police Agencies  
Operating in Nassau County

RE: Compliance with New York State  
Criminal Procedure Law Article 245  
*Official & Standing Request for Information*

TO ALL POLICE COMMANDERS HAVING JURISDICTION AND/OR OPERATIONS IN  
THE COUNTY OF NASSAU, STATE OF NEW YORK:

This correspondence supersedes and replaces the Standing Request for Information issued by then-District Attorney Madeline Singas on December 5, 2019. This correspondence outlays a new standing request, which is based upon our near-two year practical experience with the criminal justice reforms.

Pursuant to sections 245.20(2), 245.35(3), and 245.55(2) of the New York State Criminal Procedure Law, I, acting in my capacity as Acting District Attorney of Nassau County, hereby request and require that your law enforcement agency provide my office with “a complete copy of its complete records and files” relating to any and all investigations and prosecutions with which it had any role in initiating or assisting. This request applies to all open and unresolved cases that are pending in any criminal court within the District of Nassau as of the date of this correspondence and shall remain a standing request with respect to all future cases brought by your agency until this request is rescinded in writing by me or my successor-in-office. No Assistant District Attorney may rescind this request – in whole or in part – on my behalf.

Pursuant to the mandates of section 245.55(1) of the New York State Criminal Procedure Law, I have directed that my Early Case Assessment Bureau be staffed and available to your departments 24 hours-a-day / 365 days-a-year to ensure that a sufficient flow of information can and will exist between our agencies. While internally staffed at all times, the Early Case Assessment Bureau will additionally maintain an on-call list of prosecutors from every bureau and unit in my office as well as a general roster – with contact information – of all Nassau County Assistant District Attorneys. Furthermore, to buttress Early Case Assessment Bureau’s intake processes, I have directed that my Discovery Compliance Bureau be staffed and available to your departments 7 days

per week / 365 days per year. This Bureau has the responsibility for compiling follow-on discovery items not produced at the arrest stage of the case. For purposes of compliance with the above request, please therefore utilize the aforesaid bureaus for the transmission of your complete records and files. The Early Case Assessment and Discovery Compliance Bureaus have been instructed to log all communications with your agency as well as all completed file transmissions. However, this correspondence serves as the exclusive vehicle of my office's standing request – the staff of the Early Case Assessment and Discovery Compliance Bureaus shall not be responsible for its reiteration on a case-by-case basis and have no authority to defer, modify, condition, or in any other way countermand it.

The following production schedule is based upon my office's approximately 2 years' experience with interacting with your departments. It is imperative that this request is complied with in order to maintain a constant workflow, avoid duplicative efforts on both sides of the information exchange, adequately prepare cases for the court environment, and avoid dismissals for violation of defendants' statutory speedy trial rights. In the event that this request is not complied with as written, the NCDA may seek judicial intervention to compel production.

The requested timeline of production is as follows:

- Concurrent with arrest screening by the NCDA Early Case Assessment Bureau or within 24 hours of an arrest/issuance of an appearance ticket, whichever event occurs first, I request that a “complete copy” of all then-generated police records in existence be transmitted to my office, via the Early Case Assessment or Discovery Compliance Bureau. Such records should include, but not be limited to:
  - all form reports regarding the charged individual and the circumstances of the arrest;
  - all statements made by witnesses (including audio/video recordings);
  - all statements made by defendants and co-defendants (including audio/video recordings and controlled calls);
  - adequate contact information for all witnesses;
  - a listing of all property recovered from the defendant or a co-defendant;
  - a complete and clear listing of all law enforcement personnel involved in any way with the case;
  - all photographs, videos, and digital evidence related to the case;
  - all handwritten notes and memoranda from all police personnel who responded to scene or have information related to the subject matter of the case;
  - the name, rank, command, and contact information of the individual responsible for your agency's compliance with this request for the particular case-at-issue.

For Nassau County Police Department arrests, the above categorical listing shall specifically be deemed to include, but not be limited to:

- Arrest Reports
- Crime Reports
- Case Reports
- Supporting Depositions

- Domestic Incident Reports (DIRs)
  - All CTS DWI paperwork on VCB cases
    - a. Alcohol/Drug Report Form (PDCN 38)
    - b. Alcohol/Drug Script (PDCN 38S)
    - c. Report of Refusal
    - d. SFST Field Notes (PDCN 30)
    - e. Blood Specimen Instructions (PDCN 373)
    - f. Blood Kit paperwork/consent form
    - g. Breath Card / Breath Alcohol Analysis Record
    - h. Drug Influence Evaluation (PDCN 38E)
    - i. CTS Worksheet
    - j. Accident Report (MV-104)
  - Patient Care Reports (PCRs) from EAB
  - Memo books of all Officers and Police Medics
  - Impound Report and Worksheet (PDCN 94 and 94A)
  - DD Case Jackets (cover and entire file as one digital package) including DD Narratives
  - Property Bureau Invoice (PDCN 106)
  - Forensic Evidence Bureau Examination Request (PDCN 301)
  - Arrest photos
  - Any and all Body Worn Camera Footage
  - Any and all Dash Camera Footage
  - CTS Refusal Videos
  - Any and all recovered video surveillance footage (where applicable)
  - Color photos of evidence and injuries (where applicable)
  - Serious Incident Time Log (where applicable)
  - Discovery Checklist (PDCN 155)
  - Notification of Rights (PDCN 233)
  - Statement of Admission (PDCN 317)
  - Statement of Admission Continuation (PDCN 317A)
  - Property Receipt (PDCN 41A)
  - Seizure Report (PDCN 131)
  - Supporting Deposition – Photo Array ID (PDCN 309)
  - Identification Section Evidence Worksheet (PDCN 349)
  - Photo Array Worksheet (Case Information and Witness Instructions) (PDCN 456)
  - Photo Array Worksheet (Showing the Photo Array) (PDCN 456A)
  - Photo Array Worksheet (Information Worksheet) (PDCN 456B)
  - Case Index (PDCN 513)
- Prior to arraignment of the arrestee, I request that a “complete copy” of all then-generated police records in existence be transmitted to my office, via the Early Case Assessment Bureau or Discovery Compliance Bureau. Such records should include, but not be limited to:

- Any/all “follow-on” reports or materials, as referenced above, regarding the charge that had not been generated at or near the time of arrest
- Evidence Logs
- Arrestee Movement/Processing Logs
- Electronic recordings;
- Mobile data transmissions;
- Peer-to-peer communications (e.g. radio, text, messaging systems);
- Event chronologies;
- Search warrant execution (Tac) plans;
- Calibration records of any utilized equipment; and
- Test results with back-up documentation.

For Nassau County Police Department arrests, the above categorical listing shall specifically be deemed to include, but not be limited to:

- PDCN 248 (Detention and Stationhouse)
  - 911 calls
  - Radio Transmissions
  - CAD Records
  - PDCN 79 (Precinct and Detention)
  - Suicide Prevention Screening Forms
  - Morning Reports (where applicable)
  - Local Record (PDCN 344)
  - Fingerprint Response Report
  - EMU Chain of Custody Reports
  - Defendant Condition Log
  - Main Office Evidence Logs
  - Precinct Evidence Logs
  - Squad Evidence Blotters
  - Precinct Arrest Logs
  - Squad Blotters
  - Detention Arrest Logs
  - Arrest Photos
  - CSSS Photos/Video Recordings
  - CSS Paperwork (reports, diagrams, sketches, handwritten notes)
  - ESU Green Sheets
  - Aviation/Marine Bureau logs, dive sheets, reports, photos, and videos
- Within 3 days of arraignment, I request that a “complete copy” of all generated police records in existence at that time be transmitted to my office via the Discovery Compliance Bureau, unless sooner contacted and instructed by the case-assigned Assistant District Attorney to transmit said records directly to his or her attention. Such records should include, but not be limited to all
    - Inventories resulting from the execution of a search warrant;

- A summary of all promises, rewards and inducements, if any, made to any witness or potential witness
  - Use of Force Reports
  - A copy of all electronically-stored information taken from a device owned or possessed by the arrestee.
  - Any and all police security video footage
    - NCPD Detention Videos (Prisoner Entry Camera)
    - NCPD Detention Cell Videos
    - Stationhouse Video Surveillance
  - Any and all Electronics Squad Paperwork
  - Disciplinary records of any police officer witness to the case.<sup>1</sup>
- Finally, I request that any records or materials generated by your agency subsequent to the commencement of prosecution (e.g. case report updates, property log updates) be transmitted as soon as practicable, but no later than 24 hours after their generation by the individual identified as “the individual responsible for your agency’s compliance with this request for the particular case-at-issue,” as noted above.

Additionally, pursuant to section 245.55(3) of the New York State Criminal Procedure Law, upon the filing of each accusatory instrument, if not before, I request that the “arresting officer or lead detective” expeditiously notify my office, via the Early Case Assessment Bureau, of the existence of all known police-generated electronic recordings (e.g. “911 telephone calls, police radio transmissions and video and audio footage”). Pursuant to that section, I note that such notification must be “in writing.” I have prepared a sample form for your review and/or use that is appended to this correspondence.

Electronic files that are unable to be transmitted due to technological limitations must be preserved and made available for viewing, inspection, and copying by members of my office as well members of the defense bar. In such event, the individual responsible for your agency’s compliance with this request for the particular case-at-issue, referenced above, should promptly communicate such limitations, preservation, and means of availability, in writing at the time such recordings were otherwise due to be transmitted.

**Pursuant to section 245.20(2), my office is deemed to be in possession of your records and files, whether or not we have obtained actual possession of them. Accordingly, failure to comply with this request as outlined may result in case sanctions up to and including dismissal.** Your cooperation is therefore imperative to the proper functioning of our criminal justice system. I stress further that this request for information applies to all charges commenced by “indictment, superior court information, prosecutor’s information, information, simplified information, misdemeanor complaint, or felony complaint” (see section 245.10(1)(a)), and

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<sup>1</sup> It is acknowledged that the Nassau County Policy Department has already entered into a Memorandum of Agreement (MOA) for the production of disciplinary records of NCPD officers on an institutional basis and that the production is now operating on a rolling basis.

therefore any reference to “case” in this correspondence applies to all prosecutions of felonies, misdemeanors, violations, and/or infractions proffered by your respective entity.

Please retain a copy of this request for your records and disseminate to all affected staff in your agency. This request will be published to all staff of the Nassau County District Attorney’s Office, incorporated into court filings, and will also be posted on our office website.

Thank you in advance for your anticipated cooperation.

Sincerely,



Joyce A. Smith  
Acting District Attorney  
Nassau County