SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY: PART 32

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THE PEOPLE OF THE STATE OF NEW YORK :

-against- : **DECISION AND ORDER**
Ind. 75657-24

LUIGI MANGIONE, :

Defendant.

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JUSTICE GREGORY CARRO:

On December 4, 2024, Brian Thompson, the CEO of UnitedHealthcare, was shot to death outside the Hilton hotel in midtown Manhattan. On December 9, 2024, the defendant was arrested at a McDonald's in Altoona, Pennsylvania, after he was recognized by employees who had seen media coverage. A nine-millimeter gun was recovered from the defendant's backpack, as well as, among other items, a loaded magazine, a silencer, cash, a passport, and a notebook.

Defendant has moved to suppress the evidence recovered as well as statements made to law enforcement officers during and after his arrest. On September 16, 2025, this court ordered *Mapp* and *Huntley* hearings, and those hearings were held in December, 2025, during which the court heard testimony from 17 witnesses. Both parties filed written submissions. For the reasons stated below, the motion is granted in part and denied in part.

Findings of Fact

The Arrest at McDonald's

The facts relevant to the hearing are largely undisputed. Several officers from the Altoona Police Department testified and their bodyworn camera footage was introduced into evidence. On December 9, 2024, the defendant bought food at the Altoona McDonald's and sat in a back area to eat. A McDonald's employee called 911 to report that the defendant resembled the suspect in the Thompson killing.[1] Altoona police officers Joseph Detwiler and Tyler Frye responded to the scene at about 9:30 a.m. Detwiler was a 14-year veteran of the police department who was familiar with the videos and news related to the Thompson killing, while Frye was a rookie

[1]Photographs of the suspect had circulated in the media.

officer who knew very little about the shooting.

Detwiler and Frye saw the defendant sitting at a back table near the bathrooms with a backpack sitting on the floor near his feet, and a laptop in front of him. When the defendant pulled down his face mask upon Detwiler's request, Detwiler immediately recognized the defendant as the New York City shooter. When asked for his name, defendant responded that it was "Mark Rosario," and when asked for identification, defendant produced a New Jersey driver's license in that name. While Frye went to verify the license in the NCIC database, Detwiler asked the defendant questions about where he was from and whether he had been to New York recently. Detwiler then had the defendant stand up and frisked him, but did not find any weapons or contraband.

Frye then stood next to the defendant while Detwiler went outside to call Lieutenant Tom Hanelly at the station, telling him that he was "about 100% sure" that the defendant was the New York City shooter, and asking him to come to the McDonald's. Lt. Hanelly then headed for the McDonald's along with Sgt. Jon Burns, Cpl. Garrett Trent, and Officer Samuel McCoy.

Detwiler returned to the table, again asking the defendant if he was from New Jersey, what he was doing in Altoona, and whether he had been to New York recently. Defendant said that he had not. He also stated that he was homeless. Detwiler told the defendant that they were "just trying to confirm" his identity, and that he would then be able to leave, although Detwiler conceded that he had no intention of letting the defendant leave. In response to further questions, the defendant said that he was from the "DMV" area.[2]

While Lt. Hanelly was on his way to the McDonald's, he attempted to reach the New York City Police Department by calling 911 and alerting the operator that the Altoona police may have located the New York City shooter. Hanelly was still on the phone with 911 as he reached the McDonald's, took the Rosario license from Detweiler, and relayed information from it to the 911 operator. Meanwhile, Detweiler moved the backpack that had been near the defendant's feet out of the way, and out of the defendant's reach.

As Sgt. Burns and Cpl. Trent arrived, Burns asked Detweiler if the defendant had been

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[2]Apparently a reference to the acronym for the "District of Columbia, Maryland, and Virginia."

frisked, and Detweiler responded that he had. About a minute later, Officers McCoy and Luke Yeager also arrived at the McDonald's and went toward the back where the defendant was seated. Another officer, Cpl. Bryan Miller, also arrived at about the same time and went toward the back of the McDonald's. Detweiler asked McCoy to stand next to the defendant, at about 9:42 a.m., while Detweiler and Hanelly spoke outside. Frye, McCoy, and Yeager continued to stand next to the defendant. Hanelly testified that he considered the defendant "detained" at this point.

While speaking outside, Detweiler repeated to Hanelly that defendant was "100%" the person wanted in New York City. Burns and Trent joined them outside, where they pulled up photos of the suspect on their phones. Inside, McCoy asked the defendant if the backpack and laptop belonged to him and he responded that they did. McCoy moved them to a table about nine feet away from the defendant.

Two more officers, Christy Wasser and Stephen Fox, entered the back of the McDonald's at about this time. Hanelly called the "turnkey" officer at headquarters and asked him to run the Mark Rosario license through the NCIC system; no record was found. Hanelly told Detweiler to give the defendant "false ID" warnings required by Pennsylvania law. Detweiler then told the defendant he would be arrested for "false ID" if he gave the police a false name, and he asked the defendant if his name was actually Mark Rosario, to which the defendant responded, "No, sir." Detweiler then asked for his actual name and date of birth, which the defendant provided. Defendant also acknowledged having a fake ID.[3]

At about 9:48 a.m., Cpl. Trent directed Fox to read defendant Miranda warnings, and Fox did so. When Fox asked the defendant if he wished to speak to them, he shook his head, also stating, "No, I don't think--". Fox told the defendant that he was "not in custody at this point." Fox continued to ask the defendant why he had a fake ID, and the defendant responded that he was going to "remain silent." Fox ordered the defendant to stand, and frisked him again. Defendant volunteered that he was carrying a jar of peanut butter. When Fox asked if he had any weapons, the defendant first said no, but then stated that he had a pocket knife. Sgt. Burns then

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[3]Asked by Fox why he had lied, defendant replied, "Clearly, I shouldn't have." Asked again by Frye why he had done so, the defendant replied, "That was the ID I had in my wallet, I had a fake ID."

relayed an instruction to Fox to handcuff the defendant, and he did so. After Fox retrieved the knife, he added it to the table where the backpack and laptop had been placed.

Hanelly reached out to the Blair County District Attorney's office to determine what charges to file, ultimately settling on forgery and tampering.[4] At about 9:58 a.m., Hanelly instructed the officers to place the defendant under arrest, and as Detwiler and Frye each took defendant by an arm, Wasser began to put on a pair of blue rubber gloves. McCoy confirmed that they were arresting the defendant for tampering, and announced on the radio that the defendant could be marked as "in custody."

Officers Detweiler, Frye, and McCoy searched the defendant's pockets and clothing, recovering the jar of peanut butter, a pouch with money, some coins, gloves, papers, a hat and some string. As Fox approached the table where the backpack was, he asked the defendant if there was anything in the bag they needed to know about. Defendant responded that he was "just going to remain silent." Wasser and Fox then proceeded to search the defendant's backpack. As they did so, employees and customers continued to walk through the back area to access a closet or the bathroom.

Wasser unzipped the backpack's main compartment, and removed a sandwich as well as a loaf of bread. As they continued to look through the backpack, Cpl. Trent approached and suggested that they "go through that back at the station," Wasser responded, "I don't know. Just want to make sure there's nothing in there that's gonna --". Fox joked that he would rather have a bomb "here than down at the station." Wasser responded, laughing, that she did not want to "pull a Moser," a reference to an officer who had once transported a pipe bomb back to the stationhouse.

Fox removed a red journal from the pouch and placed it on the table. Wasser recovered a waterproof bag (referred to as a Faraday bag), and removed a cellphone, a passport, and a wallet from inside the bag. Fox retrieved a small cardboard sleeve from the backpack and spent some time trying to open it with a knife. He eventually got it open and removed a computer data chip that was inside the cardboard. Wasser handed the passport to Sgt. Miller, and placed the other

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[4]While Hanelly was speaking with the DA's office, the defendant asked McCoy why there were so many officers there, and McCoy replied that they were "just trying to figure it out."

items back in the bag. Trent and Burns then inspected the passport. Wasser also examined the wallet, and took out and looked at two credit cards before returning them to the wallet.

Wasser removed a pair of underwear from the backpack and unrolled it, revealing a loaded magazine for a handgun. After announcing her discovery to the other officers, Trent stated, "Now that you've cleared it all, let's just go back to the station." Wasser responded that they were "just making sure it's not a bomb or anything." Fox told Wasser, "Now that we found it [the magazine], let's just take it back." Hanelly testified that he then told Wasser and Fox that they should wait until they got back to the station before finishing the search of the backpack because he was concerned about cross-contamination of DNA evidence, and also because he did not want the search to occur in public. Wasser and Fox then placed everything back inside the backpack, except for a few items, which were placed in a separate McDonald's bag to be taken back to the station.

When asked if they had retrieved a particular item, Wasser stated that they had not completely searched the backpack, because they just wanted to "make sure there's no bombs." Trent then stated that "at this point, you're probably gonna need to do a search warrant for it;" Cpl. Miller agreed. Sgt. Burns and Fox disagreed, stating that they were permitted to do a search incident to an arrest. Wasser carried the backpack to her patrol car to transport it to the station, while Fox carried the McDonald's bag of items to his car.

Altoona Police Department Inventory Policies

Several officers, including the evidence custodian, George Featherstone, testified about the polices and guidelines concerning inventory searches, and the relevant APD General Orders were introduced into evidence. APD General Order 3.1.9 (A) (1) requires an inventory search of a detainee upon arrival at APD Headquarters, and before being placed in a cell. General Order 3.1.10 (A) instructs how to properly document and store a detainee's property, and requires officers to generate an "itemized inventory of all items taken from the detainee." Any contraband, evidence or weapons will not be returned to the detainee, but would be noted on the property form and documented in the official incident report.

Detainees should be escorted to the APD stationhouse intake area in order for the arrest to be processed. When possible, the detainee's property would be inventoried in his or her presence

so as to minimize claims of theft or damage. However, if the search revealed a weapon, the inventory search would be moved outside of the intake area and away from the detainee. Every piece of clothing would be searched, as would every bag. Jewelry, extra clothing, and other personal items would be removed and stored.

During the intake process, the officers would determine which items were personal property to be returned, and which items constituted contraband or evidence. Personal property would be listed on a receipt and inventory form, and then stored in a locker. Contraband or evidence would be documented, photographed and placed in labeled envelopes.

Overhead cameras as well as the officers' body-worn cameras would record the searches of the detainee's person and property. APD officers were not required to write inventory lists simultaneously with the inventory search, but could document the items at a later time.

The Searches at the Police Station

Once the defendant was brought to the station, Officers Frye and Austin Homan completed an intake which involved obtaining the defendant's pedigree information, as well as searching the defendant's clothing. Frye collected defendant's layers of clothing, his jewelry – which included a USB drive hanging on a necklace – and some personal items such as bus tickets. The USB drive was set aside as evidence, while the personal items were collected in a Lowe's bag.

Meanwhile, Wasser arrived at the station carrying the backpack as well as the McDonald's bag (which had been handed to her by Fox). Wasser placed the backpack on a chair in the intake area, where the defendant was being processed, and placed the bag on the floor. She began looking through the backpack, opening a compartment that she had not searched at the McDonald's, and quickly found a handgun. After telling Deputy Chief Derek Swope about the gun, he had her move the backpack to another room to continue the search. Wasser took the backpack and the bag to an adjoining hallway. As she "cleared" the gun, she discovered it was loaded; she and Swope then placed it in an evidence box.

Wasser continued to search the backpack, placing items in separate bags, including items that had been found at the McDonald's, such as the microchip, cellphone and Faraday bag, the knife, and the loaded magazine, as well as items that had just been found at the station, including

a silencer and the USB drive. At one point, she took the red notebook out of the backpack, examined it, and stated "it's like a journal." When Swope asked if she should "bag it," apparently suggesting it be treated as evidence rather than personal property, Wasser replied, "I would." Swope also stated at one point that Wasser should "make sure there's no explosives in there." After removing the items and placing them in bags, Wasser asked if she should "put this all back in," referring to personal items such as a bag of toiletries, batteries, clothing, and masks. An officer agreed that she should, and Wasser placed the items back in the backpack.[5]

Meanwhile, Lt. Hanelly spoke with NYPD Detective Leonardi of the Manhattan South Homicide Squad, who stated that he was on his way to Altoona, asked that nobody speak with the defendant, and requested that all of his property be held.

Wasser returned to the intake area with the backpack, where it was then moved to Featherstone's office so there would be more room to conduct an inventory search. Sgt. Eric Heuston began photographing items recovered from the defendant, including a Maryland license, the fake New Jersey license, the wallet, the passport, gun, and silencer. He also began photographing loose pieces of paper, as well as some of the writings in the notebook. Heuston and Hanelly sent some photos of the evidence to detectives in New York.

At some point, because Featherstone's office became too crowded, the officers decided to move everything to the roll-call room, where they would have more room. In the roll-call room, Burns photographed every item recovered from the defendant, including every loose piece of paper, as well as every page in the notebook. Burns was particularly careful to photograph where pages appeared to have been torn out of the notebook, in order to protect against claims of tampering or damage. Featherstone packaged and labeled every item, and kept a written record of each item recovered and photographed.

Application for a Search Warrant

Later that day, Heuston prepared an application for a search warrant for all the items recovered, listing the items that had been recovered from the backpack, and describing some of the information that had been found in the red notebook. Heuston also added information about

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[5]All of the bagged evidence in envelopes, as well as the personal property in the backpack, was later transferred to Featherstone, the evidence custodian.

the shooting that had been obtained from Detective Oscar Diaz of the NYPD. Heuston described the purpose of the warrant as, "to seize the items located during the search incident to arrest and inventory" of the property, "to continue the search of the items," and to "maintain" the property to later be transferred to the NYPD. The Blair County District Attorney's office approved the warrant and it was signed by a Pennsylvania judge.

Defendant's Statements

That evening, defendant was arraigned at the Blair County Courthouse on the Pennsylvania charges. On December 10, 2024, while defendant was housed at Pennsylvania's Huntingdon Correctional Institution, he was monitored by Corrections Officer Matthew Henry. Defendant told Henry that he was a software engineer, that he had been arrested at a McDonald's, that he had been carrying a backpack, that the backpack contained a 3D-printed pistol and a magazine, as well as a small amount of foreign currency, and that people were accusing him of being a foreign agent. Henry testified that defendant "blurted" out these comments, without any questioning from him.

On December 16, 2024, defendant was being monitored by Corrections Officer Tomas Rivers. Defendant talked about his travels, and places he had seen in Vietnam and Thailand. He also talked about people appearing to be happier in "third world countries," despite living in poverty, and they also discussed the health care system. Rivers could not recall who initiated the conversation, but Rivers did give his opinion about private versus public health care systems. Defendant also asked Rivers how the media was portraying him, and he stated that he had heard he was being compared to Ted Kaczynski. Defendant also said that he "wanted to make a statement to the public."

The next day, the defendant spoke with Rivers about books, including discussing his favorite authors and recommending a book by Aldous Huxley. They also discussed the standard of health among Americans compared to Europeans.

Conclusions of Law

Initially, this court must decide which state's law, New York's or Pennsylvania's, applies when determining whether evidence or statements should be suppressed. Defendant is being tried in New York for a crime that occurred in New York. Under these circumstances, it is clear that New York is the forum state, and that New York has a "paramount interest in the application of its law." *See People v. Espinal*, 161 AD3d 556, 557 (1st Dep't 2018) (suppression issues are governed by the law of the forum); *People v. Lerow*, 70 AD3d 66,70 (4th Dep't 2009) ("procedural and evidentiary issues are governed by the law of the forum state"); *People v. Johnson*, 303 AD2d 903, 904 (3d Dep't 2003). While the People argue that Pennsylvania law should apply as the Altoona Police Department followed Pennsylvania law in "good faith," that is not the test under New York law, and in any event, New York does not have a good faith exception to the exclusionary rule. *People v. Bigelow*, 66 NY2d 417, 422 (1985).

The People also argue that the cases cited by the defense apply only where the defendant claimed violations of another state's search and seizure laws, because New York courts will not "trouble themselves with asserted violations of other states' search-and-seizure law." People's Memorandum of Law at 51. This court does not believe, however, that those cases can be so limited. The courts clearly state that New York has a "paramount interest" in the application of its law, and that suppression issues, procedural issues and evidentiary issues are governed by the law of the forum state. The courts do not limit this clear pronouncement, and therefore, this court will follow New York law in deciding the issues involved.

Search Incident to Arrest

The Fourth Amendment to the United States Constitution protects individuals from unreasonable searches and seizures. The New York Court of Appeals has interpreted our state constitution as providing even broader protections. *See e.g., People v. Gokey*, 60 NY2d 309, 312 (1983); N.Y. Const. art. I, sec. 12. This provision serves to "shield citizens from warrantless intrusions," "including [of] their personal effects." *People v. Jimenez*, 22 NY3d 717, 719 (2014). To justify a warrantless search, the People must meet two separate requirements. The first "imposes spatial and temporal limitations" to ensure that the search is not divorced in time or place from the arrest. *See id.* at 721. In the context of searching closed containers incident to

arrest, the second requirement is that the People bear the burden of "demonstrating the presence of exigent circumstances" in order to invoke the exception to the warrant requirement. *See id.* at 722.

In order to invoke the exigency exception, the property must be within the suspect's "immediate control" or "grabbable area," *Gokey*, 60 NY2d at 312. Under those circumstances, there are two interests that justify a warrantless search: "the safety of the public and the arresting officer; and the protection of evidence from destruction or concealment." *Id; see also Jimenez*, 22 NY3d at 721-22. Even a bag within the immediate control or "grabbable area" of the suspect at the time of his arrest may not be subject to a warrantless search incident to arrest unless the circumstances "support a reasonable belief that the suspect may gain possession of a weapon or be able to destroy evidence located in the bag." *Jimenez*, 22 NY3d at 722; *Gokey*, 60 NY2d at 311.

Here, the backpack was not within the defendant's immediate control or "grabbable area" at the time of the arrest or search. Hanelly moved the backpack away from the defendant and out of his reach shortly after he arrived, while a number of officers stood around the defendant; Hanelly considered him "detained." A short while later, McCoy moved the backpack to a table about nine feet away from the defendant, while officers continued to surround him. Once defendant was arrested for the false identification, he was handcuffed, and remained surrounded by several officers. Hanelly was not concerned that defendant could reach the bag while rear-cuffed; McCoy was also unconcerned, testifying that the defendant was surrounded by officers who had "good body positioning." The defendant was also cooperative, described by several officers as "compliant" and "not combative," and offered no resistance to the frisk or the placing of the handcuffs. *See Jimenez*, 22 NY3d at 723; *People v. Evans,* 84 AD3d 573, 574 (1st Dep't 2011).

Under these circumstances, the backpack was not in the defendant's control or grabbable area. Indeed, the backpack was within the exclusive control of the police. *See Evans,* 84 AD3d at 574-75 (backpack under "complete control" of officer when it was searched); *People v. Diaz*, 107 AD3d 401 (1st Dep't 2013) (search of defendant's backpack unlawful because defendant handcuffed at time and it was no longer in his control); *People v. Medina*, 139 AD3d 460, 461

(1st Dep't 2016) (backpack removed from handcuffed defendant and within officer's dominion and control).

Even if the backpack could be seen as within the defendant's control or grabbable area, the People did not meet their burden of demonstrating exigency. The People assert that the police were merely searching for explosives in an effort to protect themselves and the public, before removing the backpack to the station. However, this justification for searching the backpack does not hold up to scrutiny. The officers' actions were inconsistent with merely performing a safety search. The area where the police searched the backpack was open to the public and to employees, both of whom passed by the area on their way to the bathrooms, and in the case of employees, to gain access to storage closets. A "safety search" for a possible bomb is inconsistent with this unsafe protocol. Moreover, the police stopped searching the backpack once they found the loaded magazine. Officer Fox even stated that now they had found the magazine, "let's just take it back." Similarly, if it was a search for a bomb, it was an incomplete one, as they left compartments unopened and untouched. Moreover, a search for explosives would be inconsistent with the examination of small items where a bomb would be unlikely to be found, such as the defendant's wallet and the close examination of and opening of the cardboard sleeve. This court is unpersuaded that the People have met their burden of showing exigent circumstances.

The People also argue that the search of the backpack was justified because the officers had a reasonable belief that the bag contained an operable gun. However, while the body-worn camera footage showed that officers did express concern at the scene that the backpack might contain a bomb, there was no evidence that a gun was a concern or that it was the basis for the search. But even if it were a legitimate concern, there was no possibility at the time of the search that the defendant might retrieve a gun from the backpack, and thus no exigency. *See Gokey*, 60 NY2d at 311 (must be reasonable belief that suspect may gain possession of a weapon); *Medina*, 139 AD3d at 460-61 (backpack in the officers' control; no longer any safety concern that justified search). Nor can it be that whenever a gun is alleged to have been used that the police may conduct a warrantless search of a closed container, without a reasonable belief that the safety of the officers is threatened, as that would "run afoul of Court of Appeals jurisprudence and would eviscerate the grabbable area doctrine." *People v. Morales*, 126 AD3d 43, 48 (1st Dep't

2015).

Therefore, the evidence found during the search of the backpack at the McDonald's must be suppressed, including the magazine, cellphone, passport, wallet and computer chip.[6]

Inventory Searches at the Stationhouse

An inventory search is a "search designed to properly catalogue the contents of the item searched," and it must be "conducted according to a familiar routine procedure." *People v. Douglas*, 40 NY3d 385, 388 (2023); *People v. Johnson*, 1 NY3d 252, 256 (2003). It must not be a ruse for "general rummaging in order to discover incriminating evidence." *Florida v. Wells*, 495 U.S. 1, 4 (1990); *see also Johnson*, 1 NY3d at 256. While the discovery of incriminating evidence may be a consequence of an inventory search, it should not be its purpose. *Id.*

An inventory search procedure must be designed to protect the property of the defendant, protect the police against any claim of lost property, and protect police and others from dangerous instruments. *Douglas*, 40 NY3d at 388, *Johnson*, 1 NY3d at 256. "Reasonable police regulations relating to inventory procedures administered in good faith satisfy the Fourth Amendment," and minor deviations from procedure will not invalidate an inventory search. *See Douglas*, 40 NY3d at 389; *People v. Keita*, 162 AD3d 610 (1st Dep't 2018).

Here, it is clear that the Altoona Police Department had an established inventory search protocol that was set out in its written rules and regulations, that met the three objectives and sufficiently limited the discretion of the searching officers. *See Douglas*, 40 NY3d at 389. The People also demonstrated that the Altoona officers "conducted [the] search properly and in compliance with established procedures." *Id.* (citing *Johnson*, 1 NY3d at 256).[7]

The defendant was first brought to the intake area to be searched and processed, according to APD protocol. After Wasser arrived at the station, she placed the backpack on a chair in the intake area, also according to APD protocol that the detainee's property should be

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[6]The red notebook will not be suppressed, as the officers did not open or search it at the McDonald's. *See People v. Lewis,* 195 AD3d 427, 427 (1st Dep't 2021) (search of envelope occurred when police opened it and "peeked" inside).

[7]*And see United States v. Mangione*, 2026 U.S. Dist. LEXIS 18122, at *15 (SDNY 2026) (the search of the backpack was "consistent with the written regulations and standard practices for an inventory search").

searched in the detainee's presence, where possible. Once she quickly found the gun, she moved the backpack to a separate area, as required by APD protocol -- that the search be moved out of the detainee's presence if a weapon were recovered.

Once Wasser moved the backpack to a hallway area, she continued to sift through it, placing personal items back into the backpack, and putting other evidentiary items in manila envelopes, including items found at the McDonald's, such as the gun magazine, the cellphone, and the knife, as well as items found at the station, including a silencer, the USB drive, and the red notebook. This was also consistent with APD protocol, that personal items be separated from evidence or contraband. All the items were then moved to Featherstone's office so there would be more room to complete the inventory.

This initial inventory sufficiently complied with Altoona procedure to be a valid inventory search. *See People v. Craddock*, 235 AD3d 1105, 1109 (3d Dep't 2025). Nor does the effort to separate evidence from personal property render the search unlawful. *See People v. McCray*, 195 AD3d 555, 557 (1st Dep't 2021) (that one of the requirements of the inventory search was to "remove any contraband" did not render the inventory search invalid). While Wasser did not prepare a written list of the items, APD policies did not require documentation to be simultaneous with the search, and all the items were documented once they were moved to Featherstone's office and the larger area of the roll-call room. Minor deviations from procedure will not invalidate an inventory search, *Keita*, 162 AD3d at 610, and courts have upheld inventory searches where there was a delay in documentation. *See Douglas*, 40 NY3d at 389 (11-hour delay in preparing list): *People v. Echevarria*, 173 AD3d 638, 639 (1st Dep't 2019).

Once the items were moved to Featherstone's office, and then the roll-call room, all items were meticulously documented. Featherstone, Heuston, and eventually Burns, placed each item in an envelope, labeled each envelope, and kept written lists of the items. Heuston and Featherstone also photographed each item, including each loose piece of paper and each page of the notebook.

Thus, it is clear that that the Altoona Police Department had an established inventory search protocol, that the protocol was followed, and that the search produced the "hallmark of an inventory search: a meaningful inventory list." *Johnson*, 1 NY3d at 256. And as noted above, any

"minor deviations" from the protocol do not invalidate the search.[8] Therefore, the People met their burden of establishing that this was a valid inventory search.

Defendant also argues that Wasser's brief examination of the notebook to determine whether it should be treated as evidence, and Heuston's and Burns's photographing of its pages, were an unlawful extension of an inventory search. This court disagrees, finding that the cataloguing and photographing of the notebook was a valid part of the inventory search. Nor does the evidence suggest that the purpose of examining the notebook was "investigative" rather than conducting an inventory. That the officers photographed every single page demonstrates that the purpose was to catalogue rather than investigate, and Burns was careful to document every page of the notebook to protect against claims of damage or tampering. *Cf. People v. Sommerville,* 170 Misc2d 1024, 1025 (S. Ct. NY Cty 1996) (may not look through book during an inventory search for "sole purpose of investigation"); *see also People v. Lawrence*, 180 AD3d 1070, 1071 (2d Dep't 2020); *People v. Cole*, 151 AD3d 662, 663 (1st Dep't 2017).

The Pennsylvania Search Warrant

The People argue that the search warrant for the backpack obtained at the end of the day after the search at McDonald's and the inventory searches at the station provided an independent source for the evidence, citing *People v. Arnau*, 58 NY2d 27 (1982). However, the presence of an "independent source" does not "automatically immunize an initial warrantless search." *People v. Burr*, 70 NY3d 354, 362 (1987). In *Arnau*, the search warrant was obtained based "solely on information obtained prior to and independent of the illegal entry." *See also People v. Vasquez*, 159 AD3d 517 (1st Dep't 2018) (phone initially searched without a warrant, but police already had probable cause, based on victim's statements to police, and they were the basis for the warrant). Here, the Altoona police relied partly on the evidence itself recovered from the backpack, and information given to them by the NYPD *after* the searches had occurred. Therefore, the independent source doctrine does not apply, and to apply it under these circumstances would improperly vitiate the warrant requirement.

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[8]Nor is this court persuaded by the defendant's argument that the protocol only permits inventory searches of the defendant's person, rather than his property. This claim is not supported by the language of the General Orders, *see* 1.2.2 (C) (1) (a) (1). Moreover, it defies common sense and would defeat the purpose of an inventory search – to catalogue and preserve the defendant's property.

Defendant's Statements to Law Enforcement

A defendant's statements obtained through custodial interrogation, and without Miranda warnings must be suppressed. However, "[a]ny statement given freely and voluntarily without any compelling influences is, of course, admissible in evidence." *Miranda v. Arizona*, 384 U.S. 436, 478 (1966). Volunteered statements of any kind are not barred by the Fifth Amendment. *Id.* The *Miranda* safeguards do not come into play unless a person in custody "is subjected to either express questioning or its functional equivalent." *Rhode Island v. Innis*, 446 U.S. 291, 300-301 (1980); *see also People v. Ferro*, 63 NY2d 316, 322 (1984).

To determine the admissibility of a statement given without Miranda warnings, a court must determine (1) whether the person was in custody, and (2) whether the police questioning constituted interrogation. *See People v. Cabrera*, 41 NY3d 35, 52 (2023). To determine custody, a court must find that (1) a reasonable person innocent of any wrongdoing would not have believed that he or she was free to leave, and (2) there has been a "forcible seizure which curtails a person's freedom of action to the degree associated with a formal arrest." *Id.* Interrogation is defined as any questioning that is reasonably likely to elicit an incriminating response. *People v. Paulman*, 5 NY3d 122, 129 (2005).

During the initial interaction at the McDonald's (from about 9:29 a.m until about 9:47 a.m), I find that the defendant was not in custody. Only two or three officers approached or spoke with the defendant, the interaction occurred in a public setting where the defendant was eating breakfast, and there was no indicia of custody. The officers did not display their weapons, employ physical restraints, or engage in any conduct that would lead a reasonable person, innocent of any wrongdoing, to conclude that he was not free to leave or under arrest. *See Cabrera*, 41 NY2d at 52. Therefore, any of the statements made during that period will not be suppressed.[9]

The analysis is different, however, once more than eight officers arrived at the scene, and surrounded the defendant such that a reasonable person would not believe they were free to

[9]To the extent that some of the questions concerned the defendant's name, address, and date of birth, statements in response would be admissible in any event as "pedigree" information. *See People v. Wortham,* 37 NY3d 407 (2021).

leave. The officers positioned themselves in a manner that effectively encircled the defendant and controlled the immediate area, creating a police-dominated atmosphere. Their presence and positioning significantly restricted the defendant's freedom of movement and foreclosed any avenue of departure. *See Cabrera*, 41 NY3d at 52; *People v. Boyle*, 239 AD2d 512, 512-13 (2d Dep't 1997).

Under the totality of the circumstances, the court finds, as established by the video evidence, that at this point, at about 9:47 a.m., the defendant was in custody. Therefore, the responses given to the officers' questions that were interrogation or the functional equivalent – including Fox asking why defendant had lied about his name, Frye also asking why he had lied, and Fox asking if he had a fake ID – will be suppressed. However, the responses to Detwiler's and Frye's questions about defendant's real name, his date of birth, and his middle initial will not be suppressed, as they are admissible as pedigree information.[10]

After defendant was given Miranda warnings at 9:48:32 a.m, he shook his head when asked if he wanted to speak to the officers, and asked again why he had a fake ID, defendant responded that he was going to remain silent. Those responses are of course not admissible.[11] However, his responses to being asked to stand up for a frisk, if he had any weapons on him, and responses to follow-up questions about the pocketknife are all admissible as responses to safety concerns and related questions. *See People v. Johnson*, 46 AD3d 276, 277-78 (1st Dep't 2007); *People v. Hartley*, 295 AD2d 159 (1st Dep't 2002). Further responses to questions from Fox about his name, to McCoy about where he was from, and to Burns about his age, are all admissible as pedigree information.

Defendant also made statements to two Pennsylvania correctional officers, Matthew Henry and Tomas Rivers, who were monitoring him while he was being held at the correctional facility. Both Henry and Rivers testified at the hearing, and I find them to be credible witnesses.

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[10]Additionally, defendant's questions and statements to the officers ("calling a couple more cars?" and "This is a puffy jacket, I'm not very big" and "can I ask why there are so many cops here?") will not be suppressed, as they were spontaneous and not in response to police questioning.

[11]Similarly, defendant's response to the question about whether there was something in the bag, "Just gonna remain silent," is not admissible.

Henry's testimony was uncontroverted that he did not ask the defendant any questions or attempt to elicit any information from him, and I find those statements to be spontaneous and therefore admissible. Officer Rivers and the defendant engaged in casual conversation on various subjects. Again, the defendant's statements were not made in response to questioning or interrogation, and I find those statements to be admissible as well.

This constitutes the decision and order of the court.

Dated: May 18, 2026

Gregory Carro
Judge of the Court of Claims
Acting Justice, Supreme Court

HON. GREGORY CARRO