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GLENN A. GRANT, J.A.D.
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[Questions or comments regarding this Directive may be directed to (609) 984-4228.]

Directive # 01-11

TO: **Assignment Judges**
Family Presiding Judges

FROM: **Glenn A. Grant, J.A.D.**

SUBJ: **Family – Post-Disposition Restitution Procedures in Juvenile Matters**

DATE: **April 14, 2011**

This directive, as approved by the Judicial Council, promulgates uniform procedures to be followed when the court orders restitution in juvenile matters, including those matters in which a judge approves a juvenile referee recommendation for restitution. The procedures are effective immediately.

The procedures permit the juvenile (in non-counsel mandatory matters heard by a judge and non-counsel mandatory juvenile referee matters) or counsel for the juvenile (in counsel mandatory matters) to object to the restitution amount within ten calendar days of submission of the restitution report (which is prepared by Family Division staff in non-counsel mandatory matters and by the prosecutor in counsel mandatory matters). However, if the restitution report is not submitted by the prosecutor within 60 days of disposition in counsel mandatory cases, the court will consider the matter disposed without restitution. The details of the procedures, as approved by the Judicial Council, are as follows:

Counsel Mandatory Matters

- For counsel mandatory matters, the Prosecutor shall make every effort to include any restitution requirement at the time a plea is entered. In the event that restitution has not been determined at the time of the entry of the plea, the judge hearing the matter in such cases, including those in which the juvenile is incarcerated, shall, at the point of plea/adjudication of delinquency, enter a disposition and order that restitution be submitted by the Prosecutor within 30 days.

- If a Pre-Dispositional Report is ordered, the judge shall order the Prosecutor to provide the restitution information and a recommendation in that regard to the Family Division for incorporation into the Pre-Dispositional Report.

- The juvenile and the juvenile's attorney shall be advised that if they do not agree with the final restitution amount, they may request a restitution hearing.

- The Prosecutor's Office is to submit the completed restitution report to the Family Division, the juvenile, and the juvenile's attorney within 30 days. (As noted below, in non-counsel mandatory hearings before a judge or a juvenile referee, the Family Division will present the restitution report to the judge and to the juvenile/parent/guardian within 30 days.

- Any objection by the juvenile to that report must be filed in writing with the court within 10 calendar days of submission of the report.

- If there is no objection, the judge at that point enters the restitution order. If there is an objection, the judge will schedule a restitution hearing, after which the judge makes a determination and enters an order.

- Family Division staff will enter the order into FACTS.

- A copy of the order is forwarded to all parties and to Probation and to the Juvenile Justice Commission, when appropriate.

- In the event that the required restitution report is not completed in counsel-mandatory cases or the Prosecutor fails to provide the recommendation for restitution for inclusion in the Pre-Dispositional Report within 60 days of disposition, the court will consider the matter disposed without any requirement of restitution.

Non-Counsel Mandatory Matters Heard by a Judge or a Juvenile Referee

- In non-counsel mandatory matters heard by a judge or by a Juvenile Referee, Family Division staff will prepare the required restitution report, when necessary.

- The Juvenile Referee recommends a disposition to the judge that either reflects the restitution amount agreed to by the parties at the hearing or indicates that a restitution report will be prepared by the Family Division within 30 days.

- The rest of the procedures for non-counsel mandatory matters heard by a judge or by a juvenile referee are the same as those for counsel mandatory matters, as set forth above, beginning with advising the juvenile that he or she may request a

restitution hearing (see above), except that the restitution report is prepared by the Family Division and presented to the judge, the juvenile, and the juvenile's parent/guardian.

If restitution is ordered on a deferred disposition case, Probation will monitor collection of the restitution amount.

Again, these procedures are effective immediately. Any questions regarding this directive may be directed to Harry T. Cassidy, Assistant Director, Family Practice Division at (609) 984-4228.

G.A.G.

c: Chief Justice Stuart Rabner
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Gurpreet M. Singh, Special Assistant