

[Questions or comments may
be directed to 609-292-4638.]

Directive # 11-06

**TO: ASSIGNMENT JUDGES
CRIMINAL DIVISION JUDGES**

FROM: PHILIP S. CARCHMAN

**SUBJ: NEW CRIMINAL FORM – RECORDATION OF CUSTODIAL INTERROGATIONS
REPORTING FORM**

DATE: JULY 18, 2006

This Directive promulgates the *Recordation of Custodial Interrogations Reporting Form*. The form is intended to capture data regarding the custodial interrogations recording requirement for murder, aggravated manslaughter, and manslaughter crimes occurring on or after January 1, 2006.

Following State v. Thomahl Cook, 179 N.J. 533 (2004), the Chief Justice appointed the Special Committee on the Recordation of Custodial Interrogations to make recommendations on the use of electronic recordation of custodial interrogations. In April 2005, the Special Committee submitted its report to the Supreme Court. The report, as posted at <http://www.judiciary.state.nj.us/notices/reports/cookreport.pdf>, included a recommendation that “the Supreme Court...periodically review the implementation of the recording requirement” (Recommendation 9).

On October 14, 2005, the Supreme Court issued its Administrative Determination on the Report of the Special Committee, inter alia giving “the Administrative Director of the Courts and the Criminal Practice Committee...the responsibility to work with the Office of the Attorney General and the County Prosecutors to review the implementation of the recordation requirement.” The Court requested a status report by June 1, 2007, or sooner if the circumstances warrant it.

To meet this requirement, the Criminal Practice Committee and the Conference of Criminal Presiding Judges recommend use of the attached new form. Specifically, judges should completed and submit this form in cases where: (1) the defendant was charged with murder, aggravated manslaughter or manslaughter; and (2) the offense

occurred on or after January 1, 2006; and, (3) the defendant was tried or the State filed a notice of intent to rely on an unrecorded statement claiming an exception to the recording requirement, and the court made a ruling thereon.

Criminal judges thus should begin using this form immediately. The Division of Criminal Justice has created a separate form for completion by Prosecutors to capture data involving recordation of custodial interrogations from that perspective.

Any questions or comments regarding this Directive, or the appended form, may be directed to Assistant Director Joseph J. Barraco by e-mail or by telephone (609-292-4638).

P.S.C.

Attachment

cc: Chief Justice Deborah T. Poritz
Attorney General Zulima Farber
Public Defender Yvonne Smith Segars
County Prosecutors
Gregory Paw, DCJ Director
AOC Directors and Assistant Directors
Regional Deputy Public Defenders

Trial Court Administrators
Criminal Division Managers
Francis W. Hoeber, Special Assistant
Steven D. Bonville, Special Assistant
Vance D. Hagins, Criminal Practice
John Wieck, Criminal Practice
Melaney S. Payne, Criminal Practice

RECORDATION OF CUSTODIAL INTERROGATIONS REPORTING FORM

This form is to be filled out by the trial judge in cases where:

- A. The defendant was charged with a murder, aggravated manslaughter or manslaughter,
AND
- B. The offense occurred on or after January 1, 2006,
AND
- C. The defendant was tried OR the State filed a notice of intent to rely on an unrecorded statement claiming an exception to the recording requirement, and the Court made a ruling thereon.

1. Defendant's Name: _____

2. County: _____

3. Charge at Indictment:

Murder Aggravated Manslaughter Manslaughter

4. Charge that the defendant pled guilty to, was convicted of, or acquitted of:

Murder Aggravated Manslaughter
 Manslaughter Other: Please list _____

5. The defendant:

Pled guilty Was convicted at trial Acquitted at trial

6. Was there a recorded or unrecorded statement made by the defendant during a custodial interrogation made in a place of detention? (See R. 3:17)

No statement Yes. Recorded statement
 Yes. Unrecorded statement. If yes, answer question 8.

7. What method of electronic recording was used? (check one)

Audio Video Both

8. Did the State file a notice of intent to rely on an unrecorded statement?

No. If no, answer question 12.
 Yes. If yes, answer questions 9 through 12.

Promulgated by Directive #11-06 (July 18, 2006) CN 10779

9. The exception to the recording requirement that the State claimed was present was that:

- Electronic recordation was not feasible
- The statement was a spontaneous statement made outside the course of the interrogation.
- The statement was made in response to questioning that is routinely asked during the processing of the arrest of a suspect.
- The statement was made by a suspect who indicated, prior to the statement that he or she would participate in the interrogation only if it were not recorded.
- The statement was made during a custodial interrogation that was conducted out-of-state.
- The statement was given at a time when the accused was not a suspect for the crime to which that statement relates while the accused was being interrogated for a different crime that does not require recordation.
- The interrogation during which the statement was given occurs at a time when the interrogators have no knowledge that a crime for which recording is required has been committed.
- Other: Explain _____

10. Did the judge find that the exception claimed by the State was present?

- No. The issue was never decided by the trial judge.
- No, the judge found that another exception applied. If no, answer question 11.
- Yes

11. Exception found by judge:

- Electronic recordation was not feasible.
- The statement was a spontaneous statement made outside the course of the interrogation.
- The statement was made in response to questioning that is routinely asked during the processing of the arrest of a suspect.
- The statement was made by a suspect who indicated, prior to the statement that he or she would participate in the interrogation only if it were not recorded.
- The statement was made during a custodial interrogation that was conducted out-of-state.
- The statement was given at a time when the accused was not a suspect for the crime to which that statement relates while the accused was being interrogated for a different crime that does not require recordation.
- The interrogation during which the statement was given occurs at a time when the interrogators have no knowledge that a crime for which recording is required has been committed.
- Other: Explain _____

12. Name of Judge: _____

Completed original forms should be mailed to:

Administrative Office of the Courts
Criminal Practice Division
P.O. Box 982
Trenton, New Jersey 08625