NOTICE TO THE BAR

Criminal – Rescinded Directives

In our efforts to maintain current and relevant policies and procedures, all of the Administrative Directives affecting the Criminal Division have been reviewed. As a result of that review, the Criminal-related Directives have been categorized as follows: (a) Directives Requiring No Revision and remaining in effect as issued; (b) Rescinded Directives; (c) Directives with Technical Revisions; (d) Directives Containing Substantive Changes proposed by the Conferences of Criminal Presiding Judges and Criminal Division Managers; and (e) Directives Pending Revisions (these directives will require further updates, to be issued at a later time).

This Notice lists the Directives in the second category referenced above, that is, those Criminal-related Directives that have been rescinded. Going forward, the text of these rescinded directives will be removed from the compilation of directives, retaining only the number, date, and subject for historical reference purposes. The Directives that are rescinded by this Notice are as follows (including the basis for rescission):

General – Criminal

#14-69 - Pre-Trial - Search Warrants
This Directive established procedures for judges to seal search warrants. The procedures for sealing search warrants are set forth in R. 3:5-4 and R. 3:5-6.

#2-70 - Transfer of Bail - Waiver of Fee
This Directive was only intended to provide clarification that clients of the Public Defender should not be charged any filing fees. This Directive is no longer necessary because R. 1:13-2(a) provides the standards for waiving fees for eligible persons, including clients represented by the Office of the Public Defender.

#3A-71 - Waiver of Jury
This Directive provided interim guidance on waiving a criminal jury trial. This Directive is no longer necessary because the procedures to waive a criminal jury trial are set forth in R. 1:8-1(a).

#1-73 - Cash Bail Programs
This Directive provided initial guidance for counties on accepting ten percent cash bail. This Directive is no longer necessary as ten percent cash bail is addressed by R. 3:26-4(g).

#2-75 - Delivery of Presentence Reports and Judgments of Conviction to Custodial Institutions
This outdated Directive provided for the transmittal of the presentence report and judgment of conviction when a defendant received a custodial sentence. Directive #11-08 provides for the transmittal of this information to the Department

of Corrections and the State Parole Board. Additionally, procedures have been implemented that permit this information to be transmitted electronically to these entities.

#5-78 - Use of Prior Convictions

This Directive was only intended to provide interim guidance on the admissibility of defendant's prior convictions after the Supreme Court's decision in State v. Sands, 76 N.J. 127 (1978). This Directive is no longer necessary because the use of this evidence has been further refined through case law and the Rules of Evidence.

#1-79 and #3-91 – Three-Judge Resentencing Panel

This outdated Directive established a three-judge sentencing panel to decide motions filed for sentence review by persons sentenced to imprisonment prior to September 1, 1979, the effective date of the New Jersey Code of Criminal Justice. This Directive is no longer necessary.

#4-83 - VCCB - Suspended Proceedings

This outdated Directive clarified the procedures for sending judgments of conviction to the AOC Quantitative Research Unit. This data collection process was eliminated many years ago due to the development of statewide computerized systems.

#2-91 - Disbursement of Fine Monies Collected

This Directive was intended to clarify the criteria for the distribution of fines collected by probation to the county or the State Treasury. This Directive is no longer necessary because the criteria for disbursement of fines is set forth in N.J.S.A. 2C:46-4.

#3-96 - Procedure Governing Requests for Counsel by Criminal Defendants (Pursuant to State v. Tucker, 137 N.J. 259 (1994))

In response to the Supreme Court's 1994 holding in State v. Tucker, this Directive established uniform procedures for advising defendants at the first appearance of the right to counsel. This Directive is no longer necessary because the requirements for this first appearance proceeding are provided in R. 3:4-2.

#5-98 - Retention of Voir Dire Questionnaires in Capital Cases

This Directive established procedures for retaining voir dire questionnaires for jurors in death penalty cases. This Directive is no longer necessary because the death penalty was repealed by L. 2007, c. 204, effective December 17, 2007. Additionally, all previously imposed death penalty sentences have been commuted to life imprisonment without parole.

#05-03 Placing Defendants Under Oath for Plea Colloquy

This Directive provided interim guidance that all guilty pleas shall be under oath or by affirmation. This Directive is no longer necessary because R. 3:9-2 sets forth the requirements for guilty pleas.

To obtain copies of any Rescinded Directives or if there are questions regarding these Directives, contact the Criminal Practice Division of the Administrative Office of the Courts at 609-815-2900, ext. 55300, or by fax: 609-815-2919, or by mail: AOC, Criminal Practice Division, Richard J. Hughes Justice Complex, 7th Floor North, PO Box 982, Trenton, New Jersey 08625-0982.

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: June 30, 2017