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Directive # 33-17
[Supersedes Directive # 06-03 and all Supplements to that Directive]

To: **Assignment Judges**
Criminal Presiding Judges

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

Subj: **Criminal – (1) Revised Arraignment/ Initial Case Disposition Conference Order and (2) Plea Cut-Off Exception Form**

Date: **December 18, 2017**

This superseding Directive promulgates (1) the revised form Arraignment/Initial Case Disposition Conference Order and (2) the revised form Request to Plead Case off the Trial List as a Plea Cut-Off Exception (Plea Cut-off Exception). The two revised forms supersede the forms as originally promulgated by Directive # 6-03 ("Implementation of Criminal Division Court Event Forms").

Directive # 6-03, issued on July 22, 2003, promulgated an Arraignment/Status Conference Order form and a Plea Cut-Off Exception form. Those forms were issued in response to a series of recommendations regarding the use of standardized statewide forms in the Report of the Conference of Criminal Presiding Judges and Criminal Division Managers on Backlog Reduction (Backlog Report). That Report was approved by the Judicial Council on October 31, 2002.

(1) Arraignment/Initial Case Disposition Conference Order

The original Arraignment/Status Conference Order form was promulgated to conform with the requirements for that court proceeding in R. 3:9-1(c). Thereafter, that form order was superseded by the forms issued in the Supplements to Directive # 6-03 dated on August 20, 2010, June 26, 2013, and the May 26, 2016.[1] All prior versions are superseded by the attached

[1] Paragraph #7 was added in the August 20, 2010 order upon the recommendation of the Conference of Presiding Judges in accordance with State v. Nuñez-Valdez, 200 N.J. 129, 144 (2009), in which the Supreme Court requested that the plea form instruct defendants of their right to seek legal advice regarding their immigration status. The Conference was of the view that the defendant and defense counsel should discuss potential immigration consequences early in the court process. Paragraph # 7 was added to alert defense counsel to discuss with the defendant his/her immigration status, the potential consequences of a guilty plea or conviction and the right to seek legal advice on his/her immigration status.

Arraignment/Initial Case Disposition Conference Order form. This new version includes the following revisions recommended by the Conference of Criminal Presiding Judges: (1) the place of birth question was eliminated in paragraph 7a; and (2) "review of conditions of pretrial release" was added to the list of consequences for a failure to appear in court in paragraph 10.

(2) Plea Cut-Off Exception Form

The original form Request to Plead Case off the Trial List as a Plea Cut-Off Exception was recommended by the Conference of Presiding Judges in November 2002. It was the view of the Conference, as expressed in the Backlog Report, that the "key to a solid trial list is strict adherence to the policy established by the Supreme Court in the plea cut-off rule." R. 3:9-3(g). Only formatting revisions are being made to this form.

Attached are the revised form Arraignment/Initial Case Disposition Conference Order (Attachment 1) and the Plea Cut-Off Exception form (Attachment 2). Any questions or comments regarding this Directive or the appended forms may be directed to Sue Callaghan, Assistant Director for Criminal Practice, at 609-815-2900 extension 55300 or sue.callaghan@njcourts.gov.

Attachments: Arraignment/Initial Case Disposition Order (Attachment 1)
Plea Cut-Off Exception Form (Attachment 2)

cc: Chief Justice Stuart Rabner
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Melaney S. Payne, Special Assistant
Ann Marie Fleury, Special Assistant
Trial Court Administrators
Criminal Division Managers and Assistants
Vance D. Hagins, Chief
Maria Pogue, Assistant Chief

The June 26, 2013 order added new paragraph #7b advising defense counsel to discuss with the defendant whether he or she may be a candidate for sentencing to drug court.

The May 26, 2016 order included a series of amendments because of Criminal Justice Reform: (1) replaced "arraignment/status" conference with the "arraignment" and initial, final, and discretionary disposition conferences to conform with amendments to R. 3:9-1; (2) updated references to "monetary" bail and "conditions of pretrial release" in the defendant's status options; (3) added place of birth in paragraph 7a; (4) eliminated former paragraph 9, which required cases to be scheduled for trial immediately after disposition of dispositive motions, and designated former paragraph 10 on the plea cutoff date as paragraph 9; and (5) added paragraph 10 to confirm that the defendant was fingerprinted and the case was included in the defendant's criminal history.

Attachment 1

Arraignment/Initial Case Disposition Conference Order

(To be executed on day of Arraignment/Initial Case Disposition Conference)

Superior Court of New Jersey
Law Division, Criminal Part
_____ Vicinage

State of New Jersey

Indictment Number: _____
Prosecutor's Number: _____

vs.

_____
(Defendant)

(Check appropriate event)

☐ Arraignment/ ☐ Initial Case Disposition Conference Order

Status: ☐ Jail ☐ Monetary Bail ☐ Pretrial Release

Arraignment date: _____, 20____

Initial Case Disposition Conference (ICDC) date: _____, 20____

As a result thereof, it is hereby **ORDERED**:

1. **Plea Offer:** Terms of plea agreement offered by the State:

_____
_____
_____

2. **Discovery:** **State:** ☐ All Discovery has been provided.
☐ The following Discovery is to be provided:

_____
_____
_____

Defense: ☐ No Discovery has been provided.
☐ All Discovery has been provided.
☐ The following Discovery is to be provided:

_____
_____
_____

All Discovery shall be completed no later than _____, 20____

3. **Co – Defendant Status:** _____
_____
_____

4. **Motion:** With the exception of *Sands/Brunson*, all **Dispositive** motions shall be heard prior to the imposition of the plea cutoff and execution of the **Trial Memo**.

Dispositive Motions: _____
_____
_____

Non-Dispositive Motions: _____
_____
_____

5. All motions must be filed no later than _____, 20____

The State's brief must be filed no later than _____, 20____

The Defense brief must be filed no later than _____, 20____

6. **Hearings on motions in this case shall be conducted as follows:**

Dispositive Motions – on _____, 20____ at _____ AM or _____PM

Non Dispositive Motions
immediately before trial on _____, 20____ at _____ AM or _____PM

7a. Did defense counsel discuss with the defendant his/her immigration status, the potential consequences of a guilty plea or conviction and his/her right to seek legal advice on his/her immigration status. (*State v. Nunez-Valdez*, 200 *N.J.* 129 (2009))? ☐ Yes ☐ No

7b. Did defense counsel discuss with the defendant whether he/she is mandated for sentencing to drug court pursuant to *N.J.S.A.* 2C:35-14.2 or wishes to voluntarily apply for drug court pursuant to *N.J.S.A.* 2C:35-14? ☐ Yes ☐ No

8. The parties shall next appear and be ready for the

Initial Case Disposition Conference on: _____, 20____

Final Case Disposition Conference on: _____, 20____

Discretionary Case Disposition Conference on: _____, 20____

9. **Plea Cut Off Date:** _____, **20**____

10. The State confirms that the defendant has been fingerprinted and the case is properly reflected on the defendant's criminal history (CCH). ☐ Yes ☐ No

A Failure to Appear on the Date and Time Specified Herein Will Result in the Issuance of a Bench Warrant, the Forfeiture of any Monetary Bail, and/or Review of Conditions of Pretrial Release.

11. **Other:** _____

_____

_____

_____
Prosecutor (print name)

_____
Defense Counsel (print name)

_____
Signature

_____
Signature

_____
Honorable **, J.S.C.**

Original: Court File Pink: Prosecutor Gold: Defense Counsel **Copy:** Criminal Division

Attachment 2

Plea Cut-off Exception Form

Judge _____
Defense Attorney _____
Asst. Prosecutor _____
Indictment No: _____
Promis/Gavel Case No. _____

State of New Jersey

v

_____
(Defendant)

Request to Plead Case off the Trial List as a Plea Cut-Off Exception

Reason for request (check all that apply)

- ☐ Material change of circumstances
- ☐ Avoid protracted trial
- ☐ Avoid manifest injustice

Explanation (required):

_____
_____
_____
_____
_____
_____

Requested by: _____
Defense Attorney/Asst. Prosecutor

Request consented to: _____
Defense Attorney/Asst. Prosecutor

Recommended by: _____
Signature of Trial Judge

Was approval granted for plea cut-off exception? ☐ Yes ☐ No

_____
Criminal Presiding Judge

_____
, J.S.C. (Designee)

Form Promulgated via Directive # 33-17 (12/18/2017), CN 12137