

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

GLENN A. GRANT, J.A.D.
ACTING ADMINISTRATIVE
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[Questions or comments may be
directed to 609-292-4638.]

**To: ASSIGNMENT JUDGES
 CRIMINAL PRESIDING JUDGES**

Directive # 08-09
[Supplementing
Directive #14-08]

FROM: GLENN A. GRANT, J.A.D.

SUBJ: CRIMINAL PLEA FORMS – AMENDMENTS TO TWO FORMS (corrected)

DATE: SEPTEMBER 4, 2009

This Directive promulgates amendments to question #17 of the Main Plea Form (Attachment 1 of Directive #14-08). It also promulgates a revision of the Additional Questions for Certain Drug and Weapons Offenses Committed on or after June 24, 1998 (Attachment 8 of Directive #14-08) to correct a typographical error.

In State v. Nuñez-Valdéz, 200 N.J. 129 (2009), the Supreme Court instructed “that the plea form should inform a non-citizen defendant that ‘if your plea of guilty is to a crime considered an aggravated felony under federal law you will be subject to deportation/removal.’” 200 N.J. at 144. The Court also determined “that the form should instruct defendants of their right to seek legal advice regarding their immigration status.” Id. at 144. The Court directed the Criminal Practice Committee and the Administrative Director to revise the plea form to include the language set forth above. In Exhibit A of the opinion, the Court provided suggested language to revise Question #17 of the Plea Form. Id. at 144.

More specifically, the Court suggested that Question #17 state as follows:

17. a. Are you a citizen of the United States [Yes] [No]
- b. Do you understand that if you are not a United States citizen or national, you may be deported by virtue of your plea of guilty? [Yes] [No]

- c. Do you understand that if your plea of guilty is to a crime considered an “aggravated felony” under federal law you will be subject to deportation/removal? [Yes] [No]
- d. Do you understand that you have the right to seek legal advice on your immigration status prior to entering a plea of guilty? [Yes] [No]

This Directive promulgates amendments to Question #17 of the Plea Form as suggested by the Court in Núñez-Valdéz. The Criminal Practice Committee will review the form at an upcoming meeting and modifications, if any, will be promulgated by a future directive.

For guidance in assessing whether a crime would be considered an aggravated felony under federal law, judges may wish to consider "The Immigration Consequences of Selected New Jersey Criminal Offenses," a comparative chart created by Rutgers Law School. The chart was created in 2005 and has not been updated since. It can be found at <http://www.immigrantdefenseproject.org/webPages/deportation.htm>. A copy of the federal statute that defines the term “aggravated felony,” 18 U.S.C § 1101(a)(43), is attached for your reference.

Additionally, the “Additional Questions for Certain Drug and Weapons Offenses Committed on or after June 24, 1998” form has been revised to correct a misspelling of the word “attempting” in paragraph 1b.

These two plea form amendments are promulgated pursuant to Rule 3:9-2, which provides that plea forms are to be in a form “prescribed by the Administrative Director of the Courts.” The revised forms also will be posted separately on the forms page of the Judiciary Internet website at <http://www.judiciary.state.nj.us/forms.htm>.

You should begin using these forms as soon as possible. Both English and English-Spanish versions of the forms promulgated by this Directive are attached. Any questions or comments regarding this Directive, or the appended forms, should be directed to Assistant Director Joseph J. Barraco, Esq. at (609) 292-4638.

1. Four-Page Plea Form Attachment 1
(Supersedes Attachment 1 of Directive #14-08)

The four-page *Plea Form* has been amended to revise Question #17 consistent with State v. Núñez-Valdéz to advise defendants that if they enter a guilty plea to a crime considered an “aggravated felony” under federal law they will be subject to deportation/removal and that they have the right to seek legal advice on their immigration status prior to entering a guilty plea.

2. 18 U.S.C § 1101(a)(43)

Attachment 2

**3. Additional Questions for Certain Drug and
Weapons Offenses Committed on or After
June 4, 1998**

Attachment 3

(Supersedes Attachment 8 of Directive #14-08)

The Additional Questions for Certain Drug and Weapons Offenses Committed on or After June 24, 1998 is being reissued to correct a misspelling of the word “attempting” in paragraph 1b.

Attachments

cc:

Chief Justice Stuart Rabner
Attorney General Anne Milgram
Public Defender Yvonne Smith Segars
County Prosecutors
Deborah Gramiccioni, DCJ Director
AOC Directors and Assistant Directors
Regional Deputy Public Defenders

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

ATTACHMENT 1

FOUR-PAGE PLEA FORM

ENGLISH AND ENGLISH-SPANISH VERSIONS



New Jersey Judiciary
Plea Form

County _____

Prosecutor File Number _____

Defendant's Name:

before Judge:

List the charges to which you are pleading guilty:

Ind./Acc./Comp.#	Count	Nature of Offense	Degree	Statutory Maximum			VCCO Assmt*
					Time	Fine	
_____	_____	_____	_____	Max	_____	_____	_____
_____	_____	_____	_____	Max	_____	_____	_____
_____	_____	_____	_____	Max	_____	_____	_____
_____	_____	_____	_____	Max	_____	_____	_____
_____	_____	_____	_____	Max	_____	_____	_____
Your total exposure as the result of this plea is:				Total	_____	_____	_____

**Please Circle
Appropriate Answer**

2. a. Did you commit the offense(s) to which you are pleading guilty? [Yes] [No]
- b. Do you understand that before the judge can find you guilty, you will have to tell the judge what you did that makes you guilty of the particular offense(s)? [Yes] [No]
3. Do you understand what the charges mean? [Yes] [No]
4. Do you understand that by pleading guilty you are giving up certain rights? Among them are:
- a. The right to a jury trial in which the State must prove you guilty beyond a reasonable doubt? [Yes] [No]
- b. The right to remain silent? [Yes] [No]
- c. The right to confront the witnesses against you? [Yes] [No]
- d. Do you understand that by pleading **you are not waiving** your right to appeal (1) the denial of a motion to suppress physical evidence (R. 3:5-7(d)) or (2) the denial of acceptance into a pretrial intervention program (PTI) (R. 3:28(g))? [Yes] [No]
- e. Do you further understand that by pleading guilty **you are waiving** your right to appeal the denial of all other pretrial motions except the following: [Yes] [No]
- _____
- _____
- _____
5. Do you understand that if you plead guilty:
- a. You will have a criminal record? [Yes] [No]
- b. Unless the plea agreement provides otherwise, you could be sentenced to serve the maximum time in confinement, to pay the maximum fine and to pay the maximum Victims of Crime Compensation Agency Assessment? [Yes] [No]
- c. You must pay a minimum Victims of Crime Compensation Agency assessment of \$50 (\$100 minimum if you are convicted of a crime of violence) for each count to which you plead guilty? (Penalty is \$30 if offense occurred between January 9, 1986 and December 22, 1991 inclusive. \$25 if offense occurred before January 1, 1986.) [Yes] [No]

* Victims of Crime Compensation Office Assessment

Defendant's Initials _____

5. d. If the offense occurred on or after February 1, 1993 but was before March 13, 1995, and you are being sentenced to probation or a State correctional facility, you must pay a transaction fee of up to \$1.00 for each occasion when a payment or installment payment is made? If the offense occurred on or after March 13, 1995 and the sentence is to probation, or the sentence otherwise requires payments of financial obligations to the probation division, you must pay a transaction fee of up to \$2.00 for each occasion when a payment or installment payment is made? [Yes] [No]
- e. If the offense occurred on or after August 2, 1993 you must pay a \$75 Safe Neighborhood Services Fund assessment for each conviction? [Yes] [No]
- f. If the offense occurred on or after January 5, 1994 and you are being sentenced to probation, you must pay a fee of up to \$25 per month for the term of probation? [Yes] [No]
- g. If the crime occurred on or after January 9, 1997 you must pay a Law Enforcement Officers Training and Equipment Fund penalty of \$30? [Yes] [No]
- h. You will be required to provide a DNA sample, which could be used by law enforcement for the investigation of criminal activity, and pay for the cost of testing? [Yes] [No]
6. Do you understand that **the court could**, in its discretion, impose a minimum time in confinement to be served before you become eligible for parole, which period could be as long as one half of the period of the custodial sentence imposed? [Yes] [No]
7. Did you enter a plea of guilty to any charges **that require** a mandatory period of parole ineligibility or a mandatory extended term? [Yes] [No]
- a. If you are pleading guilty to such a charge, the minimum mandatory period of parole ineligibility is _____ years and _____ months (fill in the number of years/months) and the maximum period of parole ineligibility can be _____ years and _____ months (fill in the number of years/months) and this period cannot be reduced by good time, work, or minimum custody credits.
- b. If you are pleading guilty to such a charge, the minimum mandatory extended term is _____ years and _____ months (fill in the number of years/months) and the maximum mandatory extended term can be _____ years and _____ months (fill in the number of years/months).
8. Are you pleading guilty to a crime that contains a presumption of imprisonment which means that it is almost certain that you will go to state prison? [Yes] [No]
9. Are you presently on probation or parole? [Yes] [No]
- a. Do you realize that a guilty plea may result in a violation of your probation or parole? [Yes] [No] [NA]
10. Are you presently serving a custodial sentence on another charge? [Yes] [No]
- a. Do you understand that a guilty plea may affect your parole eligibility? [Yes] [No] [NA]
11. Do you understand that if you have plead guilty to, or have been found guilty on other charges, or are presently serving a custodial term and the plea agreement is silent on the issue, the court may require that all sentences be made to run consecutively? [Yes] [No] [NA]

Defendant's Initials _____

12. List any charges the prosecutor has agreed to recommend for dismissal:

Ind./Acc./Compl.#	Count	Nature of Offense and Degree
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

13. Specify any sentence the prosecutor has agreed to recommend:

14. Has the prosecutor promised that he or she will **NOT:**

a. Speak at sentencing?	[Yes]	[No]
b. Seek an extended term of confinement?	[Yes]	[No]
c. Seek a stipulation of parole ineligibility?	[Yes]	[No]

15. Are you aware that you must pay restitution if the court finds there is a victim who has suffered a loss and if the court finds that you are able or will be able in the future to pay restitution? [Yes] [No] [NA]

16. Do you understand that if you are a public office holder or employee, you can be required to forfeit your office or job by virtue of your plea of guilty? [Yes] [No] [NA]

- 17. a. Are you a citizen of the United States?** [Yes] [No]
- b. Do you understand that if you are not a United States citizen or national, you **may** be deported by virtue of your plea of guilty?** [Yes] [No]
- c. Do you understand that if your plea of guilty is to a crime considered an “aggravated felony” under Federal law you **will** be subject to deportation/removal?** [Yes] [No]
- d. Do you understand that you have the right to seek legal advice on your immigration status prior to entering a plea of guilty?** [Yes] [No]

- 18. a. Do you understand that pursuant to the rules of the Interstate Compact for Adult Offender Supervision if you are residing outside the State of New Jersey at the time of sentencing that return to your residence may be delayed pending acceptance of the transfer of your supervision by your state of residence?** [Yes] [No]
- b. Do you also understand that pursuant to the same Interstate Compact transfer of your supervision to another state may be denied or restricted by that state at any time after sentencing if that state determines you are required to register as a sex offender in that state or if New Jersey has required you to register as a sex offender?** [Yes] [No]

19. Have you discussed with your attorney the legal doctrine of merger? [Yes] [No] [NA]

Defendant's Initials _____

20. Are you giving up your right at sentence to argue that there are charges you [Yes] [No] [NA]
pleaded guilty to for which you cannot be given a separate sentence?

21. List any other promises or representations that have been made by you, the prosecutor, your defense attorney, or anyone else as a part of this plea of guilty:

22. Have any promises other than those mentioned on this form, or any threats, been [Yes] [No]
made in order to cause you to plead guilty?

23. a. Do you understand that the judge is not bound by any promises or [Yes] [No]
recommendations of the prosecutor and that the judge has the right to reject the
plea before sentencing you and the right to impose a more severe sentence?

b. Do you understand that if the judge decides to impose a more severe sentence [Yes] [No]
than recommended by the prosecutor, that you may take back your plea?

c. Do you understand that if you are permitted to take back your plea of guilty [Yes] [No]
because of the judge's sentence, that anything you say in furtherance of the
guilty plea cannot be used against you at trial?

24. Are you satisfied with the advice you have received from your lawyer? [Yes] [No]

25. Do you have any questions concerning this plea? [Yes] [No]

Date: _____ Defendant: _____

Defense Attorney: _____

Prosecutor: _____

[] This plea is the result of the judge's conditional indications of the maximum sentence he or she would impose independent of the prosecutor's recommendation. Accordingly, the "Supplemental Plea Form for Non-Negotiated Pleas" has been completed.

Defendant's Initials _____



Poder Judicial de Nueva Jersey
New Jersey Judiciary

Formulario de Declaración
Plea Form

Condado _____
County _____

Número de archivo del fiscal _____
Prosecutor File Number _____

Nombre del acusado _____

Defendant's Name:

ante el Juez _____

before Judge:

1. Enumere los cargos de que usted se declara culpable:

List the charges to which you are pleading guilty:

				Máximo estatutario Statutory Maximum			
No. de Ac. Formal / Ac./Denun. Ind./Acc./Comp.#	Cargo Count	Naturaleza de la infracción Nature of Offense	Grado Degree		Tiempo Time	Multa Fine	Multa de la VCCO* VCCO Assmt*
_____	_____	_____	_____	Máx/Max	_____	_____	_____
_____	_____	_____	_____	Máx/Max	_____	_____	_____
_____	_____	_____	_____	Máx/Max	_____	_____	_____
_____	_____	_____	_____	Máx/Max	_____	_____	_____
_____	_____	_____	_____	Máx/Max	_____	_____	_____
Su exposición total como resultado de esta declaración es:				Total/Total	_____	_____	_____

Your total exposure as the result of this plea is:

Sírvase marcar la respuesta
apropiada con un círculo

Please Circle
Appropriate Answer

2. a. ¿Cometió usted la infracción (las infracciones) de que se declara culpable? [Sí/Yes] [No/No]
Did you commit the offense(s) to which you are pleading guilty?
- b. ¿Entiende que antes de que el juez lo pueda encontrar culpable, tendrá que decirle al juez qué es lo que usted hizo que lo hace culpable de la infracción particular (de las infracciones particulares)? [Sí/Yes] [No/No]
Do you understand that before the judge can find you guilty, you will have to tell the judge what you did that makes you guilty of the particular offense(s)?
3. ¿Entiende lo que significan los cargos? [Sí/Yes] [No/No]
Do you understand what the charges mean?
4. ¿Entiende que al declararse culpable, usted renuncia a ciertos derechos? Entre ellos están: [Sí/Yes] [No/No]
Do you understand that by pleading guilty you are giving up certain rights? Among them are:
- a. El derecho a un juicio con jurado en que el Estado tiene que probar su culpabilidad fuera de duda razonable? [Sí/Yes] [No/No]
The right to a jury trial in which the State must prove you guilty beyond a reasonable doubt?
- b. El derecho a guardar silencio? [Sí/Yes] [No/No]
The right to remain silent?
- c. El derecho a carearse con los testigos en su contra? [Sí/Yes] [No/No]
The right to confront the witnesses against you?

* Multa de la Oficina de Compensación a Víctimas de Delitos / Victims of Crime Compensation Office Assessment

Iniciales del acusado / Defendant's Initials _____

4. d. ¿Entiende que al declararse culpable **usted no renuncia** a su derecho a apelar (1) la denegación de un pedimento para excluir pruebas físicas (R. 3:5-7(d)) o (2) la denegación de admisión a un programa de intervención antes del juicio (PTI) (R. 3:28(g))?

Do you understand that by pleading **you are not waiving** your right to appeal (1) the denial of a motion to suppress physical evidence (R. 3:5-7(d)) or (2) the denial of acceptance into a pretrial intervention program (PTI) (R. 3:28(g))?

[Sí/Yes] [No/No]

- e. ¿Entiende además que al declararse culpable **usted renuncia a** su derecho a apelar la denegación de todos los demás pedimentos previos al juicio excepto los siguientes:

Do you further understand that by pleading guilty **you are waiving** your right to appeal the denial of all other pretrial motions except the following:

[Sí/Yes] [No/No]

5. ¿Entiende que si usted se declara culpable:

Do you understand that if you plead guilty:

- a. Tendrá antecedentes penales? [Sí/Yes] [No/No]
You will have a criminal record?

- b. A menos que el convenio declaratorio estipule otra cosa, se le podría sentenciar a cumplir el tiempo máximo de reclusión, a pagar la multa máxima y a pagar la multa máxima de la Oficina de Compensación a Víctimas de Delitos? [Sí/Yes] [No/No]
Unless the plea agreement provides otherwise, you could be sentenced to serve the maximum time in confinement, to pay the maximum fine and to pay the maximum Victims of Crime Compensation Office Assessment?

- c. Tendrá que pagar una multa mínima de la Oficina de Compensación a Víctimas de Delitos de \$50 dólares (un mínimo de \$100 dólares si se le condena por un delito violento) por cada cargo de que usted se declara culpable? (La multa es \$30 dólares si la infracción ocurrió entre el 9 de enero de 1986 y el 22 de diciembre de 1991; \$25 dólares si la infracción ocurrió antes del primero de enero de 1986.) [Sí/Yes] [No/No]
You must pay a minimum Victims of Crime Compensation Office Assessment of \$50 (\$100 minimum if you are convicted of a crime of violence) for each count to which you plead guilty? (Penalty is \$30 if offense occurred between January 9, 1986 and December 22, 1991 inclusive. \$25 if offense occurred before January 1, 1986.)

- d. Si la infracción ocurrió el primero de febrero de 1993 o después de dicha fecha pero antes del 13 de marzo de 1995 y se le sentencia a libertad a prueba o a un instituto correccional del estado, usted tendrá que pagar un gasto de transacción de hasta \$1.00 dólar en cada ocasión en que se haga un pago o en que se abone una cuota? Si la infracción ocurrió el 13 de marzo de 1995 o después de dicha fecha, y se le sentencia a libertad a prueba, o si la sentencia por otro motivo requiere pagos de obligaciones económicas a la división de libertad a prueba, usted tendrá que pagar un gasto de transacción de hasta \$2.00 dólares en cada ocasión en que se haga un pago o se abone una cuota? [Sí/Yes] [No/No]

If the offense occurred on or after February 1, 1993 but was before March 13, 1995, and you are being sentenced to probation or a State correctional facility, you must pay a transaction fee of up to \$1.00 for each occasion when a payment or installment payment is made? If the offense occurred on or after March 13, 1995 and the sentence is to probation, or the sentence otherwise requires payments of financial obligations to the probation division, you must pay a transaction fee of up to \$2.00 for each occasion when a payment or installment payment is made?

Iniciales del acusado / Defendant's Initials

5. e. Si la infracción ocurrió el 2 de agosto de 1993 o después de dicha fecha, usted tendrá que pagar una multa de \$75 dólares al Fondo de Servicios de Vecindarios Seguros por cada condena? [Sí/Yes] [No/No]
If the offense occurred on or after August 2, 1993 you must pay a \$75 Safe Neighborhood Services Fund assessment for each conviction?
- f. Si la infracción ocurrió el 5 de enero de 1994 o después de dicha fecha y se le sentencia a libertad a prueba, usted tendrá que pagar un cargo de un máximo de \$25 dólares por mes durante el término de la libertad a prueba? [Sí/Yes] [No/No]
If the offense occurred on or after January 5, 1994 and you are being sentenced to probation, you must pay a fee of up to \$25 per month for the term of probation?
- g. Si el delito ocurrió el 9 de enero de 1997 o después de dicha fecha, usted tendrá que pagar una multa de \$30 dólares al Fondo de Capacitación y Equipo de Oficiales del Orden Público? [Sí/Yes] [No/No]
If the crime occurred on or after January 9, 1997 you must pay a Law Enforcement Officers Training and Equipment Fund penalty of \$30?
- h. Se requerirá que usted suministre y pague el costo del análisis de una muestra de su ADN que podría ser usada por las autoridades del orden público en la investigación de actividades delictuosas? [Sí/Yes] [No/No]
You will be required to provide a DNA sample, which could be used by law enforcement for the investigation of criminal activity, and pay for the cost of testing?
6. ¿Entiende que a su discreción **el juez podría** imponerle un tiempo mínimo de reclusión que cumplir antes de que pueda aspirar a la libertad condicional, y que ese período podría ser tan largo como la mitad del período de la sentencia de privación de libertad que se le haya impuesto a usted? [Sí/Yes] [No/No]
Do you understand that **the court could**, in its discretion, impose a minimum time in confinement to be served before you become eligible for parole, which period could be as long as one half of the period of the custodial sentence imposed?
7. ¿Presentó usted una declaración de culpabilidad a algún cargo **que requiera** un período obligatorio sin posibilidades de libertad condicional o un término obligatorio prolongado? [Sí/Yes] [No/No]
Did you enter a plea of guilty to any charges **that require** a mandatory period of parole ineligibility or a mandatory extended term?
- a. Si usted se declara culpable de tal cargo, el período mínimo obligatorio sin posibilidades de libertad condicional es ____ años y ____ meses (llene la cantidad de años/meses) y el período máximo sin posibilidades de libertad condicional podrá ser de ____ años y ____ meses (llene la cantidad de años/meses) y dicho período no se podrá reducir por créditos por buen comportamiento, trabajo o custodia mínima.
If you are pleading guilty to such a charge, the minimum mandatory period of parole ineligibility is ____ years and ____ months (fill in the number of years/months) and the maximum period of parole ineligibility can be ____ years and ____ months (fill in the number of years/months) and this period cannot be reduced by good time, work, or minimum custody credits.

Iniciales del acusado / Defendant's Initials _____

7. **b.** Si usted se declara culpable de tal cargo, el término obligatorio prolongado mínimo es ____ años y ____ meses (llene la cantidad de años/meses), y el término obligatorio prolongado máximo puede ser ____ años y ____ meses (llene la cantidad de años/meses).

If you are pleading guilty to such a charge, the minimum mandatory extended term is ____ years and ____ months (fill in the number of years/months) and the maximum mandatory extended term can be ____ years and ____ months (fill in the number of years/months).

8. ¿Se declara usted culpable de un delito que conlleva la presunción de encarcelamiento, [Sí/Yes] [No/No] lo cual quiere decir que es casi seguro que usted irá a una prisión del estado?

Are you pleading guilty to a crime that contains a presumption of imprisonment which means that it is almost certain that you will go to state prison?

9. ¿Actualmente se encuentra usted bajo libertad a prueba o libertad [Sí/Yes] [No/No] condicional?

Are you presently on probation or parole?

- a. ¿Se da cuenta usted de que una declaración de culpabilidad podrá [Sí/Yes] [No/No] [No aplica/NA] dar por resultado una infracción de su libertad a prueba o bajo palabra?

Do you realize that a guilty plea may result in a violation of your probation or parole?

10. ¿Actualmente está cumpliendo usted una sentencia privativa de [Sí/Yes] [No/No] libertad por otro cargo?

Are you presently serving a custodial sentence on another charge?

- a. ¿Entiende usted que una declaración de culpabilidad podría [Sí/Yes] [No/No] [No aplica/NA] afectar sus posibilidades de conseguir libertad condicional?

Do you understand that a guilty plea may affect your parole eligibility?

11. ¿Entiende usted que si se ha declarado culpable de otros cargos, o lo [Sí/Yes] [No/No] [No aplica/NA] han encontrado culpable de otros cargos, o si actualmente está cumpliendo un término de privación de libertad y el convenio declaratorio no menciona el tema, el juez podrá requerir que las sentencias sean consecutivas?

Do you understand that if you have plead guilty to, or have been found guilty on other charges, or are presently serving a custodial term and the plea agreement is silent on the issue, the court may require that all sentences be made to run consecutively?

12. Enumere los cargos que el fiscal haya acordado recomendar que se desestimen:

List any charges the prosecutor has agreed to recommend for dismissal:

No. de Ac. Formal/Ac./Denun. Ind./Acc./Compl.#	Cargo Count	Naturaleza y grado de la infracción Nature of Offense and Degree
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Iniciales del acusado / Defendant's Initials _____

13. Especifique cualquier sentencia que el fiscal haya acordado recomendar:

Specify any sentence the prosecutor has agreed to recommend:

14. ¿Ha prometido el fiscal que él o ella **NO:**

Has the prosecutor promised that he or she will **NOT**:

- a.** Hablará cuando lo sentencien a usted? [Sí/Yes] [No/No]
Speak at sentencing?
- b.** Tratará de obtener un término prolongado de reclusión? [Sí/Yes] [No/No]
Seek an extended term of confinement?
- c.** Tratará de obtener la estipulación de que usted no podrá conseguir la libertad condicional? [Sí/Yes] [No/No]
Seek a stipulation of parole ineligibility?

15. ¿Sabe usted que tendrá que pagar una restitución si el juez determina que existe una víctima que ha sufrido una pérdida y si el juez determina que usted puede o en el futuro podrá pagar una restitución? [Sí/Yes] [No/No] [No aplica/NA]

Are you aware that you must pay restitution if the court finds there is a victim who has suffered a loss and if the court finds that you are able or will be able in the future to pay restitution?

16. ¿Entiende usted que si ocupa un cargo público o si es empleado público, se podrá requerir que renuncie a su cargo o empleo en virtud de su declaración de culpabilidad? [Sí/Yes] [No/No] [No aplica/NA]

Do you understand that if you are a public office holder or employee, you can be required to forfeit your office or job by virtue of your plea of guilty?

17. a. ¿Es usted ciudadano de los Estados Unidos? [Sí/Yes] [No/No]
(Si no lo es, conteste la pregunta 17b.)

Are you a citizen of the United States?
(If no, answer question #17b)

b. ¿Entiende usted que si no posee la ciudadanía o la nacionalidad de los Estados Unidos, podrá ser deportado en virtud de su declaración de culpabilidad? [Sí/Yes] [No/No]

Do you understand that if you are not a United States citizen or national, you may be deported by virtue of your plea of guilty?

c. ¿Entiende usted que si su declaración de culpabilidad es por un delito que se considera un “delito con agravantes” de acuerdo con las leyes federales estará sujeto a deportación o expulsión? [Sí/Yes] [No/No]

Do you understand that if your plea of guilty is to a crime considered an “aggravated felony” under Federal law you will be subject to deportation/removal?

Iniciales del acusado / Defendant's Initials _____

- 17. d.** ¿Entiende usted que tiene derecho a tratar de obtener asesoramiento legal sobre su estatus inmigratorio antes de presentar una declaración de culpabilidad? [Sí/Yes] [No/No]
Do you understand that you have the right to seek legal advice on your immigration status prior to entering a plea of guilty?
- 18. a.** ¿Entiende que, conforme a las reglas del Acuerdo Interestatal de Supervisión de Infractores Adultos, si usted reside fuera del estado de Nueva Jersey en el momento de ser sentenciado, su regreso a su residencia podría demorarse hasta que su estado de residencia acepte la transferencia de su supervisión? [Sí/Yes] [No/No]
Do you understand that pursuant to the rules of the Interstate Compact for Adult Offender Supervision if you are residing outside the State of New Jersey at the time of sentencing that return to your residence may be delayed pending acceptance of the transfer of your supervision by your state of residence?
- b.** ¿Entiende también que, conforme al mismo Acuerdo Interestatal, un estado puede denegar o restringir la transferencia de su supervisión a ese estado en cualquier momento después de que haya sido sentenciado si ese estado determina que se requiere que usted se registre como delincuente sexual en ese estado o si Nueva Jersey ha requerido que se registre como delincuente sexual? [Sí/Yes] [No/No]
Do you also understand that pursuant to the same Interstate Compact transfer of your supervision to another state may be denied or restricted by that state at any time after sentencing if that state determines you are required to register as a sex offender in that state or if New Jersey has required you to register as a sex offender?
- 19.** ¿Ha hablado usted con su abogado sobre la doctrina legal de fusión? [Sí/Yes] [No/No] [No aplica/NA]
Have you discussed with your attorney the legal doctrine of merger?
- 20.** ¿Renuncia usted al derecho que tiene cuando lo sentencien de argüir que hay cargos de que se declaró culpable para los cuales no se le puede imponer una sentencia aparte? [Sí/Yes] [No/No] [No aplica/NA]
Are you giving up your right at sentence to argue that there are charges you pleaded guilty to for which you cannot be given a separate sentence?
- 21.** Enumere cualquier otra promesa o representación que haya hecho usted, el fiscal, su abogado defensor, o cualquier otra persona como parte de esta declaración de culpabilidad:
List any other promises or representations that have been made by you, the prosecutor, your defense attorney, or anyone else as a part of this plea of guilty:
- 22.** ¿Se le ha hecho alguna otra promesa además de las que se mencionan en este formulario, o alguna amenaza, para conseguir que usted se declare culpable? [Sí/Yes] [No/No]

Iniciales del acusado / Defendant's Initials _____

Have any promises other than those mentioned on this form, or any threats, been made in order to cause you to plead guilty?

23. a. ¿Entiende usted que el juez no se encuentra obligado por ninguna promesa o recomendación del fiscal y que el juez tiene el derecho de rechazar la declaración antes de sentenciarlo a usted y el derecho de imponerle una sentencia mayor? [Sí/Yes] [No/No]

Do you understand that the judge is not bound by any promises or recommendations of the prosecutor and that the judge has the right to reject the plea before sentencing you and the right to impose a more severe sentence?

b. ¿Entiende usted que si el juez decide imponerle una sentencia mayor que la que recomienda el fiscal, usted podrá retractar su declaración? [Sí/Yes] [No/No]

Do you understand that if the judge decides to impose a more severe sentence than recommended by the prosecutor, that you may take back your plea?

c. ¿Entiende que si se permite que usted retracte su declaración de culpabilidad debido a la sentencia del juez, cualquier cosa que usted diga para apoyar la declaración de culpabilidad no se podrá usar en su contra en un juicio? [Sí/Yes] [No/No]

Do you understand that if you are permitted to take back your plea of guilty because of the judge's sentence, that anything you say in furtherance of the guilty plea cannot be used against you at trial?

24. ¿Está usted conforme con los consejos que ha recibido de su abogado? [Sí/Yes] [No/No]
Are you satisfied with the advice you have received from your lawyer?

25. ¿Tiene usted alguna pregunta con respecto a esta declaración? [Sí/Yes] [No/No]
Do you have any questions concerning this plea?

Fecha: _____ Acusado _____
Date Defendant

Abogado defensor _____
Defense Attorney

Fiscal _____
Prosecutor

[] Esta declaración es el resultado de las indicaciones condicionales del juez en cuanto a la sentencia máxima que él o ella impondría sin consideración de la recomendación del fiscal. Por consiguiente, se ha completado el "Formulario Suplementario para Declaraciones No Negociadas".

This plea is the result of the judge's conditional indications of the maximum sentence he or she would impose independent of the prosecutor's recommendation. Accordingly, the "Supplemental Plea Form for Non-Negotiated Pleas" has been completed.

Iniciales del acusado / Defendant's Initials _____

ATTACHMENT 2

18 U.S.C. § 1101(a)(43)

*** CURRENT THROUGH PL 111-15, APPROVED 4/24/2009 ***

TITLE 8. ALIENS AND NATIONALITY
CHAPTER 12. IMMIGRATION AND NATIONALITY
GENERAL PROVISIONS

Go to the United States Code Service Archive Directory

8 USCS § 1101

§ 1101. Definitions [Caution: See prospective amendment notes below.]

(a) As used in this Act--

(43) The term "aggravated felony" means—

(A) murder, rape, or sexual abuse of a minor;

(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act [21 USCS § 802]), including a drug trafficking crime (as defined in section 924(c) of title 18, *United States Code*);

(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, *United States Code*) or in explosive materials (as defined in section 841(c) of that title);

(D) an offense described in section 1956 of title 18, *United States Code* (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded \$ 10,000;

(E) an offense described in--

(i) section 842 (h) or (i) of title 18, *United States Code*, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, *United States Code* (relating to firearms offenses); or

(iii) section 5861 of the *Internal Revenue Code of 1986* [26 USCS § 5861] (relating to firearms offenses);

(F) a crime of violence (as defined in section 16 of title 18, *United States Code*, but not including a purely political offense) for which the term of imprisonment [is] at least one year;

(G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment [is] at least one year;

(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

(J) an offense described in *section 1962 of title 18, United States Code* (relating to racketeer influenced corrupt organizations), or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses), for which a sentence of one year imprisonment or more may be imposed;

(K) an offense that--

(i) relates to the owning, controlling, managing, or supervising of a prostitution business;

(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) if committed for commercial advantage; or

(iii) is described in any of sections 1581-1585 or 1588-1591 of title 18, United States Code (relating to peonage, slavery, involuntary servitude, and trafficking in persons);

(L) an offense described in--

(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code;

(ii) section 601 of the National Security Act of 1947 [50 USCS § 421] (relating to protecting the identity of undercover intelligence agents);

(iii) section 601 of the National Security Act of 1947 [50 USCS § 421] (relating to protecting the identity of undercover agents);

(M) an offense that--

(i) involves fraud or deceit in which the loss to the victim or victims exceeds \$ 10,000;
or

(ii) is described in *section 7201 of the Internal Revenue Code of 1986* [26 USCS § 7201] (relating to tax evasion) in which the revenue loss to the Government exceeds \$ 10,000;

(N) an offense described in paragraph (1)(A) or (2) of section 274(a) [8 USCS § 1324(a)(1)(A) or (2)] (relating to alien smuggling), except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose

of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act[;]

(O) an offense described in section 275(a) or 276 [8 USCS § 1325(a) or 1326] committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;

(P) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of *section 1543 of title 18, United States Code*, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment is at least 12 months, except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act;

(Q) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 5 years or more;

(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which the term of imprisonment is at least one year;

(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which the term of imprisonment is at least one year;

(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

(U) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph.

ATTACHMENT 3

ADDITIONAL QUESTIONS FOR CERTAIN DRUG AND WEAPONS OFFENSES COMMITTED ON OR AFTER JUNE 24, 1998

English and English-Spanish Versions



New Jersey Judiciary
**Additional Questions for Certain Drug and Weapons Offenses
Committed on or After June 24, 1998**

The following questions need to be answered if you are pleading guilty to certain drug offenses and also are pleading guilty to possession of a firearm or other weapon while committing, attempting to commit or conspiring to commit any of the following offenses. If a firearm was possessed, answer questions 1a, b and c. If a firearm was not possessed, mark question 1a not applicable [NA] and answer questions 1b and c.

1. Do you understand that if you plead guilty to any of the following offenses: leader of a narcotics trafficking network (2C:35-3); operating a controlled dangerous substance production facility (2C:35-4); manufacturing a controlled dangerous substance (2C:35-5) distribution, possession or manufacture of gamma hydroxybutyrate (2C:35-5.2); distribution, possession or manufacture of flunitrazepam (2C:35-5.3); employing a juvenile in drug distribution (2C:35-6); distributing, dispensing or possessing with intent to distribute a controlled dangerous substance within 1,000 feet of school property (2C:35-7); distributing, dispensing or possessing a controlled dangerous substance within 500 feet of a public housing facility, park or building (2C:35-7.1); or, distribution, possession or manufacture of an imitation controlled dangerous substance (2C:35-11)

AND

- a. you also plead guilty to possessing a firearm while committing, attempting to commit or conspiring to commit any of these offenses you will receive a consecutive sentence for possessing the weapon? [Yes] [No] [NA]

OR

- b. you also plead guilty to possessing a weapon, other than a firearm, for an unlawful purpose while committing, attempting to commit or conspiring to commit any of these offenses you will receive a consecutive sentence for possessing the weapon for an unlawful purpose? [Yes] [No] [NA]

OR

- c. you also plead guilty to possessing a weapon, other than a firearm, under circumstances not manifestly appropriate for lawful use of the weapon while committing, attempting to commit or conspiring to commit any of these offenses you will receive a consecutive sentence for possessing the weapon? [Yes] [No] [NA]

Date _____ Defendant _____

Defense Attorney _____

Prosecutor _____



Poder Judicial de Nueva Jersey
New Jersey Judiciary

**Preguntas Adicionales Para Ciertos Actos Criminales Relacionados Con Drogas Y
Armas Que Se Cometieron El 24 De Junio De 1998 O Después De Esa Fecha**
Additional Questions for Certain Drug and Weapons Offenses
Committed on or After June 24, 1998

Es necesario contestar a las siguientes preguntas si Ud. se declara culpable de ciertos actos criminales relacionados con drogas y también se declara culpable de la posesión de un arma de fuego u otra arma mientras cometió, trató de cometer o conspiró para cometer cualquiera de los siguientes actos criminales. Si poseía un arma de fuego, conteste a las preguntas 1 a, b y c. Si no poseía un arma de fuego, indique que la pregunta 1a no le incumbe [NA] y conteste a las preguntas 1b y c.

The following questions need to be answered if you are pleading guilty to certain drug offenses and also are pleading guilty to possession of a firearm or other weapon while committing, attempting to commit or conspiring to commit any of the following offenses. If a firearm was possessed, answer questions 1 a, b and c. If a firearm was not possessed, mark question 1a not applicable [NA] and answer questions 1b and c.

1. Entiende que si Ud. se declara culpable de cualquiera de los siguientes actos criminales: líder de una red de tráfico de narcóticos (2C:35-3); operación de una instalación de producción de una sustancia peligrosa regulada (2C:35-4); fabricación de una sustancia peligrosa regulada (2C:35-5); distribución, posesión o fabricación de gamma hidroxibutirato (2C:35-5.2); distribución, posesión o fabricación de flunitrazepam (2C:35-5.3); utilización de un menor en la distribución de drogas (2C:35-6); distribución, preparación o posesión de una sustancia peligrosa regulada con la intención de distribuirla dentro de 1.000 pies de distancia de la propiedad de una escuela o colegio (2C:35-7); distribución, preparación o posesión de una sustancia peligrosa controlada dentro de 500 pies de distancia de una instalación de viviendas subvencionadas, un parque o edificio público (2C:35-7.1); o distribución, posesión o fabricación de una imitación de una sustancia peligrosa regulada (2C:35-11)

Y

Do you understand that if you plead guilty to any of the following offenses: leader of a narcotics trafficking network (2C:35-3); operating a controlled dangerous substance production facility (2C:35-4); manufacturing a controlled dangerous substance (2C:35-5) distribution, possession or manufacture of gamma hydroxybututyrate (2C:35-5.2); distribution, possession or manufacture of flunitrazepam (2C:35-5.3); employing a juvenile in drug distribution (2C:35-6); distributing, dispensing or possessing with intent to distribute a controlled dangerous substance within 1,000 feet of school property (2C:35-7); distributing, dispensing or possessing a controlled dangerous substance within 500 feet of a public housing facility, park or building (2C:35-7.1); or, distribution, possession or manufacture of an imitation controlled dangerous substance (2C:35-11)

AND

- a. también se declara culpable de poseer un arma de fuego cuando cometió, trató de cometer o conspiró para cometer cualquiera de esos actos criminales, Ud. recibirá una sentencia consecutiva por poseer el arma?
[Sí/Yes] [No/No] [No aplica/NA]
you also plead guilty to possessing a firearm while committing, attempting to commit or conspiring to commit any of these offenses you will receive a consecutive sentence for possessing the weapon?

O/OR

1. b. también se declara culpable de poseer un arma que no sea de fuego para un propósito ilegal cuando cometió, trató de cometer o conspiró para cometer cualquiera de esos actos criminales, recibirá una sentencia consecutiva por poseer el arma para un propósito ilegal? [Sí/Yes] [No/No] [No aplica/NA]

you also plead guilty to possessing a weapon, other than a firearm, for an unlawful purpose while committing, attempting to commit or conspiring to commit any of these offenses you will receive a consecutive sentence for possessing the weapon for an unlawful purpose?

O/OR

- c. también se declara culpable de poseer un arma que no sea de fuego bajo circunstancias no claramente apropiadas para el uso legal del arma cuando cometió, trató de cometer o conspiró para cometer cualquiera de esos actos criminales, recibirá una sentencia consecutiva por poseer el arma? [Sí/Yes] [No/No] [No aplica/NA]

you also plead guilty to possessing a weapon, other than a firearm, under circumstances not manifestly appropriate for lawful use of the weapon while committing, attempting to commit or conspiring to commit any of these offenses you will receive a consecutive sentence for possessing the weapon?

Fecha _____ Acusado _____
Date _____ Defendant _____

Abogado Defensor _____
Defense Attorney _____

Fiscal _____
Prosecutor _____