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**To: Assignment Judges  
Trial Court Administrators**

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



**DIRECTIVE #26-20**

[Questions or comments may be directed to (609) 815-2900, ext. 54850]

**Subj: Statewide Dismissal Process for Old Unresolved Minor Municipal Court Cases**

**Date: December 17, 2020**

*Overview*

This directive provides guidance on the large-scale dismissal of certain old, unresolved, minor municipal court cases, as authorized by the Supreme Court, where there is an existing driver's license suspension or arrest warrant issued to the defendant for failure to appear.

The procedure is part of the Judiciary's multi-prong strategy to ensure that, following prosecutorial review, old minor cases that are unlikely to be successfully prosecuted no longer remain active on court dockets. This will significantly assist hundreds of thousands of defendants by eliminating outstanding arrest warrants and driver's license suspensions for failure to appear on these unresolved, very dated minor matters.

The procedure is established in accordance with [Rule 7:8-5\(c\)](#), which requires the periodic dismissal of certain eligible complaints that are more than ten years old. It also furthers Supreme Court-approved Recommendation 16 of the [Report of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees](#) ("Develop a policy formalizing the process for dismissal of old complaints that have not been disposed, taking into account the following: the seriousness of the offense charged; the age of the case; and other relevant factors.").

Following prosecutorial review, the dismissal of cases statewide will be effectuated by orders issued by the Chief Justice on behalf of the Supreme Court and then centrally dismissed in the ATS/ACS municipal court computer system by the Administrative Office of the Courts (AOC). At present, there are approximately 1.73 million cases falling within

the dismissal criteria specified below. To effectively manage such a large-scale dismissal project, the Chief Justice on behalf of the Court will issue five separate omnibus dismissal orders, with each order dismissing approximately 350,000 cases. The first dismissal order will include eligible cases where the warrant and/or license suspension for the failure to appear was ordered prior to January 1, 1994; the second dismissal order will include eligible cases where one or both were ordered prior to January 1, 1998; the third dismissal order will include eligible cases where one or both were ordered prior to January 1, 2004; the fourth dismissal order will include eligible cases where one or both were ordered prior to January 1, 2007; and the fifth dismissal order will include eligible cases where one or both were ordered prior to January 1, 2010. Following dismissal of these cases pursuant to these five orders, additional protocols will be promulgated by this office governing the ongoing periodic dismissal of outstanding municipal court cases consistent with the requirements of R. 7:8-5(c).

### ***Background***

As background, the Supreme Court by order dated January 17, 2019, [dismissed](#) 787,764 outstanding minor municipal court matters where the warrant for failure to appear was issued prior to January 1, 2003. The process set forth herein addresses the same categories of minor charges (see list of exclusions below), while expanding the universe of matters eligible for dismissal to also include those in which there is a driver's license suspension for failure to appear attached to the case.

As noted by the Court in its January 17, 2019 order, "old outstanding complaints and open warrants in minor matters raise questions of fairness, the appropriate use of limited public resources by law enforcement and the courts, the ability of the State to prosecute cases successfully in light of how long matters have been pending and the availability of witnesses, and administrative efficiency."

### ***Process***

- The first phase of this process involves the creation of reports by the Administrative Office of the Courts (AOC) that will be made available to municipal courts and municipal prosecutors via PCSAM on or about January 15, 2021, showing all unresolved municipal court cases that fit the criteria set forth below. The first set of reports will show, for each municipal court, those cases meeting the eligible dismissal criteria where the warrant or license suspension for failure to appear was ordered prior to January 1, 1994. Approximately every 90 days a new set of reports will be generated by the AOC constituting the next set of cases meeting the dismissal criteria and timeframes, until all five omnibus orders have been issued. Notice will be sent to municipal court administrators advising when those reports are available.

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- The municipal court administrator should promptly send these reports to the municipal prosecutor to provide the prosecutor with notice and an opportunity for review. R. 7:8-5(c). Those reports will be sortable to facilitate review, including by issue date, defendant name, issuing officer, and offense charged. Prosecutors will have **45 days** after the reports are first made available to the courts to notify the court if they object to any case on the eligible for dismissal list.
- If within 45 days the prosecutor **does not** notify the court to object to a case or cases on the eligible for dismissal list, those cases shall move ahead in the dismissal process.
- If the prosecutor **does** notify the court to object to a case or cases on the eligible for dismissal list, municipal court staff shall flag those cases for review by the municipal court judge. The presumption is that cases flagged for possible removal from the list are matters that the prosecutor believes can still be successfully prosecuted.
- The municipal court judge will then determine on the record within **30 days** after such notification whether to grant the municipal prosecutor's request to remove those select case(s) from the eligible for dismissal list. Cases that the judge orders to be removed from the eligible for dismissal list thus will not be dismissed as part of the Supreme Court's next omnibus dismissal order.
- When so ordered by the judge, court staff shall promptly enter into the ATS/ACS computer system a code that removes those cases from the current eligible for dismissal list. Details regarding that code and the data entry requirements will be distributed to municipal court administrators under separate cover. Note that cases removed by the court from the current dismissal list will automatically appear on the subsequent dismissal list unless the court schedules the defendant for court or otherwise adjudicates the case.
- Approximately 90 days following generation of the eligible for dismissal reports by the AOC, the Chief Justice, on behalf of the Supreme Court, will issue a statewide order dismissing all cases remaining on the eligible for dismissal lists. Those dismissals will promptly be effectuated in the Judiciary's computer system. Additionally, AOC will take steps to prevent the local municipal court notices normally generated by these types of dismissals from issuing.
- Press releases will publicize the fact of the dismissals. Defendants will be able to search a portal on the Judiciary's public website to determine if their case has been dismissed. Additionally, the AOC will provide reports to the Motor Vehicle Commission advising of those cases for which license suspensions have been lifted.

*Categories of cases on eligible for dismissal list*

The parameters of cases that will be listed on the AOC's reports of cases eligible for dismissal are as follows:

- A. The complaint is unresolved and is in the ATS/ACS municipal computer system; **and**
- B. An arrest warrant and/or license suspension is attached to the complaint; **and**
- C. The current arrest warrant or license suspension has been in effect for at least the length of time indicated in the respective threshold period referenced above; **and**
- D. The charge(s) does not fall within the category of cases excluded from this dismissal protocol (see below).

Charges that will **not** be included on reports listing cases eligible for dismissal:

- A. Indictable charges
- B. Disorderly persons charges
- C. Petty disorderly persons charges
- D. The following motor vehicle charges:
  - N.J.S.A. 39:3-10 Driving without a license
  - N.J.S.A. 39:3-10.13 Operating a commercial vehicle while intoxicated
  - N.J.S.A. 39:3-10.24 Refusal to submit to a breath test while operating a commercial vehicle
  - N.J.S.A. 39:3-10.18(b) Operating a commercial vehicle while commercial license suspended or revoked
  - N.J.S.A. 39:3-40 Driving while license suspended or revoked
  - N.J.S.A. 39:4-49.1 Drugs in a motor vehicle
  - N.J.S.A. 39:4-50 Driving while intoxicated
  - N.J.S.A. 39:4-50.4a Refusal to submit to a chemical test
  - N.J.S.A. 39:4-50.14 Underage driving while intoxicated
  - N.J.S.A. 39:4-50.19 Failure to install an interlock device
  - N.J.S.A. 39:4-96 Reckless driving
  - N.J.S.A. 39:4-98 Speeding (only those complaints in which the speed was alleged to be in excess of 35 mph over the posted speed limit)
  - N.J.S.A. 39:4-128.1 Passing a stopped school bus
  - N.J.S.A. 39:4-129(a), (b) Leaving the scene of an accident with personal injury or property damage
  - N.J.S.A. 39:6B-2 Driving without insurance
  - N.J.S.A. 12:7-46 Boating while intoxicated
- E. Charges associated with any of the above charges.

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Please note that this statewide dismissal procedure in no way limits the existing authority of a municipal court judge to dismiss any unresolved case of their own accord, pursuant to R. 7:8-5, if the judge deems it appropriate in the interests of justice.

For questions on this directive, please contact Steven A. Somogyi, Assistant Director for Municipal Court Services at 609-815-2900, ext. 54850.

cc: Chief Justice Stuart Rabner  
Municipal Court Presiding Judges  
Municipal Court Judges  
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