

Judge Grant, Having finished reading the above Report I would like to make a comment. Directive 04-11 mandates except for "compelling reason" that all Municipal Court matters accompanying an indictable matter should be disposed of in Superior Court. Often one of the Municipal matters is a DUI complaint. It takes a significant amount of time in many cases to dispose of the indictable matter, often one year or more. The DUI is then returned to Municipal Court not having been disposed in Superior. While I do not take issue as to the compelling reason for its return, what is frustrating is that no discovery on the DUI has been exchanged while the matter is in Superior and it is only after the remand that defense attorneys and prosecutors start exchanging discovery, seek lab reports and retain experts. It is as if we start the clock anew as to the age of the DUI. What is especially frustrating is that there have been dangerous examples of this. I have seen one case where it is the defendant's third DUI and he had a blood alcohol content of .40 and yet continued to drive for 14 months while his indictable moved through the Superior Court. As I pressed the parties to dispose of the matter within 30 days of the remand I was receiving pushback that I am stepping on the defendant's constitutional rights of due process by not allowing him to now for the first time to obtain discovery and submit it to an expert. With the implementation of the new Rules recommended by the Criminal Practice Committee I see a unique opportunity to put all parties on notice that discovery even on the Municipal matters needs to be exchanged at the Superior Court level so that even if the Municipal matters come back to Municipal Court they will at the very least be "trial ready" and that the defendant has had plenty of time to prepare his or her defense while the matter has been processed in the Superior Court. The proposed Rule 3:13-3b(3) does contain reference to Alcotest data but I am sure that reference will be only considered in Superior Court to mean when it is relevant to indictable matters such as death by auto cases. I would therefore comment that the Rule 3:13-3 should contain language such as "including all discovery relevant to accompanying Municipal Court matters" in both the Pre-Indictment

Discovery and Post Indictment Discovery paragraphs (a)and (b).Thank
you!Roy F.McGeady