

## Conflicts

Directive #6-70	January 25, 1971
Directive #1-72	September 12, 1972
Directive #15-72	April 24, 1973
Issued by:	Edward B. McConnell Administrative Director

### a) Criminal Matters

Since the question arises from time to time, this is to remind you that the Supreme Court is of the view that as a matter of general policy a judge may not sit in any criminal matter if his or her son or daughter or any member of the immediate family is associated with the Prosecutor's Office in the county in which the judge is sitting.

### b) Exceptions

The Chief Justice has discussed with the Supreme Court the question of granting an exception, as provided for in the rule, so as to permit a judge to sit in criminal cases notwithstanding that a relative (within the proscribed degree) is employed by the prosecutor's office.

This is to advise you that the Chief Justice is granting such an exception where the judge's disqualification creates undue problems for you in managing the calendar; provided the judge shall not sit in a case which the relative is handling or has been involved in and provided that the judge's relative is merely a member of the prosecutor's staff and is not the prosecutor.

### c) Civil Matters - Exceptions

This is to advise you that the Chief Justice is granting an exception under the rule to permit a judge who is related to a person in the Attorney General's Office to sit in civil matters in which the Attorney General's Office is involved, provided of course that the judge's relative is not handling or otherwise participating in the particular case.

Will you please call this matter to the attention of any of your judges who may have relatives on the staff of the Attorney General?

## EDITOR-S NOTE

Directives #6-70, #1-72, #15-72 have been combined to state the general policy regarding disqualification of a judge under *R. 1:12(b)* and the two exceptions to that policy. The exception as to criminal cases is reinforced by *State v. Connolly*, 120 *N.J. Super.* 511, 515 (App. Div. 1972), which held that the failure of a judge to disqualify himself from a criminal trial when his son was sworn in as assistant county prosecutor did not require reversal where the trial was held before a jury and the prosecution's connection with the son was remote. See also, *State v. McNamara*, 212 *N.J. Super.* 102 (App. Div. 1986), *certif. denied*, 108 *N.J.* 210 (1987), in which the directive was held not to require disqualification of a judge who had been First Assistant Prosecutor when the indictment was returned.

A further reference to an Assignment Judges' meeting at which this issue was raised was deleted because it is not significant or timely.