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**TO: Assignment Judges
Criminal Presiding Judges** **Supplement to Directive # 6-03**

FROM: Glenn A. Grant, J.A.D. 

**SUBJ: Criminal – Arraignment/Initial Case Disposition Conference Order
(former Arraignment/Status Conference Order) – Revisions to
Address Amendments to R. 3:9-1.**

DATE: May 26, 2016

This Supplement to Directive # 6-03 promulgates a new Arraignment/Initial Case Disposition Conference Order to be used for indictments filed on or after May 20, 2016. For indictments filed prior to May 20, 2016, the existing Arraignment/Status Conference Order should continue to be utilized until further notice.

Directive # 6-03, entitled “Implementation of Criminal Division Court Event Forms,” originally issued July 22, 2003, promulgated an Arraignment/Status Conference Order and a Plea Cut-Off Exception form. Since then the Arraignment/Status Conference Order form was revised by Supplements to Directive #6-03 issued on August 20, 2010 and on June 26, 2013. This Supplement, which only addresses the form order, not the Plea Cut-Off Exception Form, reissues the June 26, 2013 form order (for use with indictments filed prior to May 20, 2016) (Attachment B) and promulgates the new form order (for use with indictments filed on or after May 20, 2016) (Attachment A).

The Supreme Court, on the recommendation of the Criminal Practice Committee, amended R. 3:9-1, effective May 20, 2016, to change post-indictment procedures for indictments filed on or after that date. Specifically, the prearraignment conference has been eliminated and certain procedures from that conference have been incorporated in the procedures governing the arraignment. See R. 3:9-1(b). New paragraph (e) of R. 3:9-1 limits the number of status conferences to two, with a third conference available on a showing of good cause and in the judge’s discretion. The three conferences are the Initial Case Disposition Conference (ICDC), the Final Case Disposition Conference (FCDC), and the Discretionary Case Disposition Conference (DCDC).

A. Indictments Filed Prior to May 20, 2016

Because the amendments to R. 3:9-1 became effective May 20, 2016, the existing

Arraignment/Status Conference Order (Attachment B) should continue to be used for indictments filed prior to that date, until further notice.

B. Indictments Filed On or After May 20, 2016

The Arraignment/Initial Case Disposition Conference Order (Attachment A), which has been approved by the Conference of Criminal Presiding Judges and the Conference of Criminal Division Managers, should be used for indictments filed on or after May 20, 2016. This order has been modified to conform with the changes to R. 3:9-1. Specifically, references to the "arraignment/status conference" on the first page have been updated to specify the "Arraignment" and the "Initial Case Disposition Conference," and the three options for the status conferences have been listed in paragraph 8 on page 2.

In advance of the criminal justice reform requirements, effective January 1, 2017, the order includes "monetary" bail and "pretrial release" in the defendant status options on the first page, and forfeiture of "monetary" bail is now referenced in the statement on the consequences for failure to appear on page 2. Additionally, the Conferences agreed that a question should be added to this form due to the defendant's criminal record being such a fundamental component of this reform. Therefore, paragraph 10 requires confirmation by the State that a defendant has been fingerprinted and the case is properly reflected on his or her criminal history (Computerized Criminal History (CCH)).

Paragraph 7a has been changed from an advisory statement into a direct question by the court to ensure that defense counsel has discussed with the defendant the issues raised by State v. Nunez-Valdez, 200 N.J. 129 (2009), *i.e.*, his or her immigration status and the potential consequences of a guilty plea or conviction, including the right to seek legal advice regarding their immigration status. Place of birth was also added in this question to assist in compliance with Nunez-Valdez.

Paragraph 7b was modified into a direct question to ensure that defense counsel has taken affirmative steps to discuss drug court with the defendant, and includes references to both mandatory and voluntary drug court pursuant to N.J.S.A. 2C:35-14.2 and 2C:35-14, respectively.

Former Paragraph 9, which required cases to be scheduled for trial immediately after disposition of dispositive motions, has been removed from the form. The plea cut off date (former Paragraph 8) has been moved to Paragraph 9, after the options for the status conference dates for a more practical flow.

Judges should also be mindful at the Initial Case Disposition Conference to address specific issues and motions that could lead to interruptions in case processing, such as those that may require ordering psychiatric examinations. Further, while the pretrial intervention program (PTI) is not included in this form order, confirmation should be sought as to whether the defendant was advised of the PTI program and that, if applicable, the application was filed.

Again, the Arraignment/Initial Case Disposition Conference Order (Attachment A) should be used for indictments filed on or after May 20, 2016. For indictments filed prior

to May 20, 2016, the existing Arraignment/Status Conference order (Attachment B) should continue to be used until further notice. Any questions or comments regarding this Supplement may be directed to the Criminal Practice Division at 609-292-4638.

Attachments (Arraignment/Initial Case Disposition Conference Order
and Arraignment/Status Conference Order)

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
Sue Callaghan, Chief, Criminal Practice
Maria Pogue, Assistant Chief, Criminal Practice

ATTACHMENT A

**Arraignment/Initial Case Disposition Conference Order
For Use with Indictments Filed on or After May 20, 2016**

(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.

(Check appropriate event)

Arraignment/ Initial
Case Disposition Conference
Order

(Defendant)

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

Place of Birth _____

- 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 and the Forfeiture of Monetary Bail.

11. Other: _____

 Prosecutor (print name)

 Defense Counsel (print name)

 Signature

 Signature

 Honorable _____, J.S.C.

ATTACHMENT B

Arraignment/Status Conference Order

For Use with Indictments Filed Before May 20, 2016

SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, CRIMINAL PART, _____ VICINAGE
(To be executed on day of Arraignment/Status Conference)

STATE OF NEW JERSEY

INDICTMENT NO. _____

vs.

PROS. NO. _____

(Defendant)

ARRAIGNMENT/STATUS CONFERENCE ORDER

Status: Jail _____ Bail _____

An arraignment/status conference was held on _____, 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. Defense counsel is to 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).)

7b. Defense counsel is to discuss with the defendant whether he/she may be a candidate for sentencing to drug court.

8. **PLEA CUT OFF DATE:** _____, 20__.

9. Immediately upon conclusion of the hearing and disposition of DISPOSITIVE motions, all cases as to all defendants that are not disposed of by plea or dismissal shall be immediately scheduled for trial, with the plea cutoff imposed.

10. **STATUS CONFERENCE:** The parties shall next appear and be ready for the next Status

Conference on: _____, 20__.

A FAILURE TO APPEAR ON THE DATE AND TIME SPECIFIED HEREIN WILL RESULT IN THE ISSUANCE OF A BENCH WARRANT AND THE FORFEITURE OF BAIL.

11. **OTHER:** _____

Prosecutor (print name)

Defense Counsel (print name)

Signature

Signature

HONORABLE _____, J.S.C.

Original: Court File Pink: Prosecutor Gold: Defense Counsel COPY: CCMO