

Supplemental Report
of the Supreme Court
Criminal Practice Committee
2002-2004 Term

March 23, 2004

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A. Proposed Rule Amendments Recommended for Adoption.

1. Surety Bonds and Bail Forfeiture.

On November 1, 2000, after reports were submitted by the Committee and the Ad Hoc Bail Rules Committee, the Supreme Court entered an order, effective January 1, 2001, relaxing Rules 1:13-3, 3:26-6(a) and 7:4-5. The order sets forth notice requirements to corporate surety companies, licensed insurance producers and limited insurance representatives when a court ordered that bail is forfeited, or the court entered a judgment of default that could preclude a corporate surety company's licensed insurance producers and limited insurance representatives from writing bail in the Superior and Municipal Courts. The order required notice to corporate sureties that failure to satisfy a judgment would result in the removal of the names of all the corporate surety companies, licensed insurance producers and limited insurance representatives from the Bail Registry until such time as the judgment was satisfied.

On June 11, 2002, the Supreme Court issued another relaxation order modifying Rules 1:13-3(e), 3:26-6(a) and 7:4-5. The order modified the time permitted to file an objection to set aside a forfeiture from 45 to 75 days.

On May 20, 2003, the Supreme Court issued an order amending the Court's prior orders to conform to statutory terminology changes effected by the *New Jersey Insurance Producer Licensing Act of 2001* (L.2001, c. 210). The Court also issued an amendment to R. 1:13-3(d) as part of that order.

On January 2, 2004, Governor McGreevey signed A-3012 into law as L. 2003, c. 202. The new law was effective on January 2, 2004. The law requires that a surety company register with the Clerk of the Superior Court the name and address of each

bail agent or agency authorized by it to write bail, as well as the identity of any bail agent or agency providing a guarantee to the surety company for the satisfaction of any forfeited bail or bail judgments. The new law defines "bail agent or agency" as any person or entity that solicits, negotiates or sells bail bonds, or is affiliated in any manner with the execution of bail and is licensed as a limited lines insurance producer pursuant to L. 2001, c. 210 (N.J.S.A. 17:22A-26 et seq.), an insurance producer or a limited insurance representative. The surety company is required to provide written notice to the Clerk when its relationship with a bail agent or agency has been terminated or the bail agent or agency is no longer authorized by the surety company to write bail. The surety company's registration must include a certification from each listed bail agent or agency stating that the information provided is true and accurate. The law further requires surety companies and bail agents to provide any additional information required by the New Jersey Court Rules.

A bail agent or agency that fails to provide full, accurate and truthful information to the Clerk of the Superior Court as required under the law or fails to satisfy a judgment(s) for forfeited bail is subject to sanctions.

In instances where a surety company, bail agent or agency files an appeal from a judgment or order enforcing the forfeiture of a bail bond, the law requires the surety company to deposit the full amount of the judgment or order in cash by certified, cashiers or bank check with the Clerk of the Superior Court or Supreme Court. The law allows the posting of a supersedeas bond only upon a showing of good cause, which shall not include an application by the surety to extend the time to forfeit the bond, to

stay payment of a default judgment for forfeiture or to extend the time to locate a defendant.

The law specifically provides that nothing in the law is to be construed to limit the authority of the Supreme Court to adopt rules or issue directives or procedures to preclude a surety company, or its bail agents or agencies from negotiating, soliciting or selling bail bonds on behalf of any defendant charged with a criminal or quasi-criminal offense pending in the Superior Court or Municipal Court.

The Civil Practice Committee approved a revision to R. 1:13-3 to address the provisions of this new law. The Criminal Practice Committee endorses the changes being recommended by the Civil Practice Committee.

The Committee is also recommending amendments to R. 3:26-6 to conform the rules to the Supreme Court orders dated November 1, 2000, June 11, 2002 and May 20, 2003. The rule amendments also reflect the changes to statutory terminology made by the *New Jersey Insurance Producers Licensing Act of 2001* and L. 2003, c. 202 and provide for notice to sureties consistent with the changes being made to R. 1:13-3.

1:13-3. Approval and Filing of Surety Bond; Judgment Against Principal and Surety

(a) . . . No Change.

(b) . . . No Change.

(c) . . . No Change.

(d) Registry of Insurance Producers or Limited Lines Insurance Producers [Licensed Insurance Producers and Limited Insurance Representatives] Authorized to Write Bail.

Surety bonds for purposes of bail may be accepted only from those [licensed] insurance producers and limited lines insurance producers [representatives] who are registered by the insurer [insurance company] for which they are authorized to write bail with the Clerk of the Superior Court. Such registration shall be effected by completing and submitting to the Clerk of the Superior Court an "Insurance Producer/Limited Lines Insurance [Representative] Producer Registration Form" in the form prescribed by Appendix XXI to these rules. The [insurance company] insurer shall provide written notice to the Clerk of the Superior Court when any insurance producer or limited lines insurance producer [licensed insurance producer or limited insurance representative] authorized to write bail is terminated.

(e) Removal from Bail Registry. Any insurance producer or limited lines insurance producer [licensed insurance producer or limited insurance representative] shall have his or her name removed from an insurer's [insurance company's] listing in the Bail Registry upon any of the following occurrences: (1) notice from an insurer [insurance company] of the individual's termination; (2) notice from the Insurance Commissioner of

the suspension or revocation of any individual's license or registration privileges; and (3) revocation or suspension of an insurer's [insurance company's] authority to do business in this State or of its certificate of authority to write surety instruments. Further, in the event any insurer [insurance company] has failed to satisfy a judgment entered pursuant to R. 3:26-6(c) or R. 7:4-5(c), [or to pay a forfeiture or to file a motion to vacate the forfeiture within forty-five (45) days of the date of the notice sent pursuant to R. 3:26-6,] the Clerk of the Superior Court shall forthwith serve notice, by certified mail return receipt requested, on the insurer whose name appears on the judgment at the address of the insurer recorded in the Bail Registry. The notice shall provide that failure to satisfy a judgment within fifteen days of the date of the notice, will result in the removal of the names of all [its] of the insurer's insurance producers or limited lines insurance producers [licensed insurance producers and limited insurance representatives shall be removed] from the Bail Registry until such time as the judgment has been satisfied. In that event, the individual insurance producer or limited lines insurance producer [licensed insurance producer or limited insurance representative] who acted as bail bondsman shall also have his or her name removed from all listings in the Bail Registry until such time as the judgment or forfeiture has been satisfied.

Note: Source--R.R. 1:4-8(b), 1:4-9, 3:9-7(c) (second, third and fourth sentences), 4:72-2, 4:118-6(a)(b). Paragraph (a) amended July 7, 1971 to be effective September 13, 1971; paragraph (b) amended July 14, 1972 to be effective September 5, 1972; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended June 28, 1996 to be effective September 1, 1996; new sections (d) and (e) added July 5, 2000 to be effective September 5, 2000[.]; paragraphs (d) and (e) amended _____ to be effective _____.

3:26-6. Forfeiture

(a) Declaration; Notice. Upon breach of a condition of a recognizance, the court on its own motion shall order forfeiture of the bail, and the finance [criminal] division manager shall forthwith send notice of the forfeiture, by ordinary mail, to county counsel, the defendant, and [the] any surety or insurer, bail agent or agency whose names appear on the bail recognizance. Notice to any insurer, bail agent or agency shall be sent to the address recorded in the Bail Registry maintained by the Clerk of the Superior Court pursuant to R. 1:13-3. The notice shall direct that judgment will be entered as to any outstanding bail absent a written objection seeking to set aside the forfeiture, which must be filed within 75 [45] days of the date of the notice. The notice shall also advise the insurer that if it fails to satisfy a judgment entered pursuant to paragraph (c), and until satisfaction is made, it shall be removed from the Bail Registry and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. The court shall not enter judgment until the merits of any objection are determined either on the papers filed or, if the court so orders for good cause, at a hearing. In the absence of objection, judgment shall be entered as provided in paragraph (c), but the court may thereafter remit it, in whole or part, in the interest of justice.

(b) Setting Aside. The court may, either before or after the entry of judgment, direct that an order of [a] forfeiture or judgment be set aside, in whole or in part, if its enforcement is not required in the interest of justice upon such conditions as it imposes.

(c) Enforcement; Remission. In the absence of a motion, w[W]hen a forfeiture is not set aside or satisfied, the court shall, upon expiration of the 75 [45] days provided for in paragraph (a), summarily enter a judgment of default for any outstanding bail and execution may issue thereon. After entry of such judgment, the court may remit it in whole or in part in the interest of justice. If, following the court's decision on an objection pursuant to paragraph (a) of this rule, the forfeiture is not set aside or satisfied in whole or part, the court shall enter judgment for any outstanding bail and, in the absence of satisfaction thereof, execution may issue thereon.

Judgments entered pursuant to this rule shall also advise the insurer that if it fails to satisfy a judgment, and until satisfaction is made, it shall be removed from the Bail Registry and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry, as provided in paragraph (a). A copy of the judgment entered pursuant to this rule is to be served by ordinary mail to county counsel, and on any surety or any insurer, bail agent or agency named in the judgment. Notice to any insurer, bail agent or agency shall be sent to the address recorded in the Bail Registry. In any contested proceeding, county counsel shall appear on behalf of the government. County counsel shall be responsible for collection of forfeited amounts.

Note: Source--R.R. 3:9-7 (a)(b)(c) (first sentence) (d); paragraphs (a) and (c) amended July 10, 1998 to be effective September 1, 1998[.]; paragraphs (a), (b) and (c) amended to be effective _____.

2. **Telephonic Arrest Warrants**

In its 2002-2004 Report, the Committee recommended that the Court adopt proposed amendments to R. 3:2-3 addressing the issuance of telephonic arrest warrants. After the report was filed and published, the Joint Subcommittee on Telephonic Arrest Warrants held a conference call in an attempt to reach a consensus on language to be included in the Part III and Part VII rules regarding the issuance of telephonic arrest warrants. As a result of the conference call, the Municipal Court members of the Subcommittee agreed to review the proposed revisions to R. 3:2-3, and to suggest additional language explaining that if the facts supporting probable cause are fully contained on the face of the Complaint-Warrant (CDR-2) or in an accompanying affidavit, neither recordation nor contemporaneous notes would be required.

At its March 10, 2004 meeting, the Criminal Practice Committee considered the following revisions to R. 3:2-3(b) that were recommended by the Subcommittee: (1) after taking the oath and identifying himself or herself, the applicant must read verbatim the Complaint-Warrant (CDR-2) and any supplemental affidavit that establish probable cause for the issuance of an arrest warrant; (2) if the facts necessary to establish probable cause are contained entirely on the Complaint-Warrant (CDR-2) and/or supplemental affidavit, the judge or authorized judicial officer need not make a contemporaneous written or electronic recordation of the facts in support of probable cause; (3) if the law enforcement officer provides additional sworn oral testimony in support of probable cause, the judge or authorized judicial officer shall make a

contemporaneous written or electronic recordation of the sworn oral testimony; and (4) within 48 hours the applicant shall deliver to the court either in person or via facsimile transmission, the signed Complaint-Warrant (CDR-2) and supporting affidavit, if any, which shall be verified by the judge or judicial officer who authorized the issuance of the Complaint-Warrant (CDR-2).

Some members of the Committee were concerned that the 48-hour time frame could impact upon the Speedy Trial program, R. 3:2-1(b), which requires that indictable complaints be forwarded to the prosecutor and criminal division manager within 48 hours. Two prosecutor members of the Committee agreed to review this language and to provide comments.

After the Criminal Practice Committee meeting, the Municipal Court Practice Committee reviewed the proposed language of R. 3:2-3 and suggested the following changes to the language describing the 48-hour time requirement:

Within 48 hours the applicant shall deliver to the *judge or judicial officer who authorized the warrant*, either in person or via facsimile transmission, the signed Complaint-Warrant (CDR-2) and supporting affidavit, if any, which *if accurate*, shall be verified by the judge or judicial officer who authorized the warrant *by affixing his or her signature to the Complaint-Warrant CDR-2*).

After review, the two prosecutor members of the Criminal Practice Committee had no objections to the proposed 48-hour time requirement. The Municipal Court Practice Committee approved the proposed revisions to R. 3:2-3(b) and agreed to include identical language in the corresponding Part VII rule.

The Committee reviewed the amendments and had no objections to the proposed revisions.

3:2-3. Arrest Warrant

(a) An arrest warrant shall be made on a Complaint-Warrant (CDR2) form. The warrant shall contain the defendant's name or if that is unknown, any name or description which identifies the defendant with reasonable certainty, and shall be directed to any officer authorized to execute it, ordering that the defendant be arrested and brought before the court that issued the warrant. Except as provided in paragraph (b), [T]the warrant shall be signed by the judge, clerk or deputy clerk, municipal court administrator, or deputy court administrator.

(b) A judge, or other authorized judicial officer, may issue an arrest warrant upon sworn oral testimony of a law enforcement applicant who is not physically present. Such sworn oral testimony may be communicated by the applicant to the judge, or other authorized judicial officer, by telephone, radio or other means of electronic communication.

The judge, or other authorized judicial officer, shall administer the oath to the applicant. Subsequent to taking the oath, the applicant must identify himself or herself, and read verbatim the Complaint-Warrant (CDR2) and any supplemental affidavit that establishes probable cause for the issuance of an arrest warrant. If the facts necessary to establish probable cause are contained entirely on the Complaint-Warrant (CDR2) and/or supplemental affidavit, the judge or authorized judicial officer need not make a contemporaneous written or electronic recordation of the facts in support of probable cause. If the law enforcement officer provides additional sworn oral testimony in support of probable cause, the judge or authorized judicial officer shall contemporaneously

record such sworn oral testimony by means of a tape-recording device or stenographic machine if such are available; otherwise, adequate longhand notes summarizing what is said shall be made by the judge, or other authorized judicial officer. This sworn testimony shall be deemed to be an affidavit, or a supplemental affidavit, for the purposes of issuance of an arrest warrant.

An arrest warrant may issue if the judge, or other judicial officer, is satisfied that probable cause exists for issuing the warrant. Upon approval, the judge, or other authorized judicial officer, shall memorialize the time and the specific terms of the authorization and shall direct the applicant to enter this authorization verbatim on the Complaint/Warrant form. The judge, or other judicial officer, shall direct the applicant to print his or her name, the date and time of the warrant, followed by the phrase "By Officer _____, per telephonic authorization by _____" on the Complaint/Warrant (CDR-2) form. Within 48 hours the applicant shall deliver to the judge or judicial officer who authorized the warrant, either in person or via facsimile transmission, the signed Complaint-Warrant (CDR-2) and supporting affidavit, if any, which if accurate, shall be verified by the judge or judicial officer who authorized the warrant by affixing his or her signature to the Complaint-Warrant (CDR-2).

Note: Adopted July 13, 1994 to be effective January 1, 1995 [.] original text of rule amended and designated paragraph (a) and new paragraph (b) added to be effective _____.

3. Confidentiality of Court Records.

The Conference of Criminal Presiding Judges recommended that the Committee consider an amendment to update R. 1:38. The Conference recognized that paragraph (b) of the Rule had not been updated when distinct divisions were created in the Administrative Office of the Courts and it only referenced County Probation Records. The Committee considered an amendment to add the Criminal, Family and Probation divisions to paragraph (b) of the Rule. The Committee adopted the proposed amendment without objection.

The Probation Division has no objection to the proposed rule amendment. The Family Practice Committee is not meeting again this term to consider the proposed amendment. However, the Conference of Presiding Family Judges anticipate considering the proposed amendment at its March, 2004 meeting.

RULE 1:38 CONFIDENTIALITY OF COURT RECORDS

All records which are required by statute or rule to be made, maintained or kept on file by any court, office or official within the judicial branch or government shall be deemed a public record and shall be available for public inspection and copying, as provided by law, except:

- (a) Personnel and pension records;
- (b) [County] Criminal, Family and P[p]robation division [department] records pertaining to investigations and reports made for a court or pertaining to persons on probation;
- (c) Completed jury questionnaires, which shall be for the exclusive use and information of the jury commissioners and the Assignment Judge, and the preliminary lists of jurors prepared pursuant to N.J.S. 2A:70-1 and 2, which shall be confidential unless otherwise ordered by the Assignment Judge;
- (d) Records required by statute or rule to be kept confidential or withheld from indiscriminate public inspection;
- (e) Records in any matter which a court has ordered impounded or kept confidential;
- (f) Records of programs approved for operation under R. 3:28 and reports made for a court or prosecuting attorney pertaining to persons enrolled in or under investigation fro enrollment in such programs;
- (g) Records of programs approved for operation under R. 7:8-1;

- (h) Reports required to be prepared by trial court judges and municipal court judges on a weekly, monthly, or other basis and submitted to the Administrative Director of the Courts pursuant to R. 1:32-1;
- (i) Records and information obtained and maintained by the Judicial Performance Committee pursuant to R. 1:35A, except as otherwise provided in that rule;
- (j) Discovery materials obtained by the criminal division manager's office from the prosecutor pursuant to R. 3:9-1 and R. 3:13-3.

Note: Source--R.R. 1:29-2 (second and third sentences), 1:35. Paragraph (f) adopted April 1, 1974 effective immediately; paragraph (g) adopted November 1, 1985 to be effective January 2, 1986; paragraphs (e), (f) and (g) amended and paragraphs (h) and (i) adopted November 7, 1988 to be effective January 2, 1989; paragraph (j) adopted July 13, 1994 and new text amended December 9, 1994, to be effective January 1, 1995; paragraph (g) amended January 5, 1998 to be effective February 1, 1998[.]; paragraph (b) amended _____ to be effective _____.

B. Other Recommendations.

1. Parole Supervision for Life.

On January 14, 2004, the Governor signed S-2659 into law as L. 2003, c. 267. The law makes several amendments to N.J.S.A. 2C:43-6.4 to clarify that a special sentence of “community supervision for life” is actually “parole supervision for life.” The law is effective immediately.

The Subcommittee on Forms met and recommended that the Committee adopt a new *Parole Supervision for Life Plea Form* to address the conditions of parole supervision for life and the consequences if a defendant violates a condition. The Criminal Practice Committee recommends that the new plea form be adopted.

As a conforming amendment, the Criminal Practice Committee recommends that the *Additional Questions for Certain Sexual Offenses Plea Form* include the following language at Question #4:

4. Community Supervision for Life [if the offense occurred before January 14, 2004. (If the offense occurred on or after January 14, 2004, the defendant should complete the Parole Supervision for Life Plea Form)].

Currently, page one of both the two-page and three-page Judgment of Conviction (JOC) contains a check box for community supervision for life. The Committee considered whether a check box should be added to the JOCs to address parole supervision for life. The Committee agreed to add a check box for parole supervision for life on both JOCs and to also include the effective dates of the statutes.

**PAROLE SUPERVISION FOR LIFE
(If the offense occurred on or after January 14, 2004)**

1. Do you understand that if you are pleading guilty to the crime of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to 2C:13-1c(2), endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of a child pursuant to 2C:24-4a, endangering the welfare of a child pursuant to 2C:24-4b(3), luring or an attempt to commit any of these offenses and the offense occurred on or after January 14, 2004, the court, in addition to any other sentence, will impose a special sentence of parole supervision for life? [YES] [NO]

2. Do you understand that being sentenced to parole supervision for life means that upon release from incarceration or immediately upon imposition of a suspended sentence you will be supervised by the Division of Parole for at least 15 years and will be subject to provisions and conditions of parole, including conditions appropriate to protect the public and foster rehabilitation, such as, but not limited to, counseling, and other restrictions which may include restrictions on where you can live, work, travel or persons you can contact? [YES] [NO]

3. Do you understand that if you violate a condition of parole supervision for life, your parole may be revoked and you can be sent to prison for 12 to 18 months for each revocation that occurs while you are being supervised and that the prison term you receive cannot be reduced by commutation or work credits? [YES] [NO]

4. Do you understand that if you violate a condition of parole supervision for life and you are indicted and convicted for that violation, you must receive a sentence of imprisonment that can be up to 18 months and that the sentence you receive could be in addition to any prison term you may receive from the Parole Board for a violation of parole supervision for life? [YES] [NO]

ADDITIONAL QUESTIONS FOR CERTAIN SEXUAL OFFENSES

These additional questions need to be answered if you are pleading guilty to the offense of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping under 2C:13-1c(2), endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child under 2C:24-4a, endangering the welfare of a child pursuant to 2C:24-4b(4), luring or enticing a child pursuant to 2C:13-6, criminal sexual contact pursuant to 2C:14-3b if the victim is a minor; kidnapping pursuant to 2C:13-1, criminal restraint pursuant to 2C:13-2 or false imprisonment pursuant to 2C:13-3 if the victim is a minor and the offender is not the parent, promoting child prostitution pursuant to 2C:34-1b(3), (4), or any attempt to commit any such offense. Note also that Question 7 includes the offense of felony murder if the underlying crime is sexual assault, as well as any offense for which the court makes a specific finding on the record that, based on the circumstances of the case, the offense should be considered a sexually violent offense, or an attempt to commit these offenses.

1. Registration

- a) Do you understand that you must register with certain public agencies?

[YES] [NO]

- b) Do you understand that if you change residence you must notify the law enforcement agency where you are registered, and must re-register with the chief law enforcement officer of the municipality in which you will reside, or the Superintendent of State Police if the municipality does not have a chief law enforcement officer agency, no less than 10 days before you intend to reside at the new address?

[YES] [NO]

2. Address Verification

Do you understand that if you are pleading guilty to aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to 2C:13-1c(2) or any attempt to commit any of these crimes and at sentencing the court finds that your conduct was characterized by a pattern of repetitive, compulsive behavior you must verify your address with the appropriate law enforcement agency every 90 days or if the court finds your conduct is not characterized by a pattern of repetitive and compulsive behavior, you must verify your address annually?

[YES] [NO]

3. Notification

Do you understand that the requirement of registration may result in notification to law enforcement, community organizations, or the public at large, of your release from incarceration or presence in the community?

[YES] [NO]

4. Community Supervision for Life if the offense occurred before January 14, 2004. (If the offense occurred on or after January 14, 2004, the defendant should complete the Parole Supervision for Life Plea Form).

(a) Do you understand that if you are pleading guilty to the crime of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to 2C:13-1c(2), endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to 2C:24-4a, luring, or an attempt to commit any such offense, the court, in addition to any other sentence, will impose a special sentence of community supervision for life?

[YES] [NO] [N/A]

(b) Do you understand that being sentenced to community supervision for life means that: you will be supervised for at least 15 years as if on parole, and subject to conditions appropriate to protect the public and foster rehabilitation, including, but not limited to counseling; and other restrictions, which may include restrictions on where you can live, work or travel?

[YES] [NO] [N/A]

5. Internet Posting

Do you understand that as a result of your conviction your name, age, race, sex, date of birth, height, weight, eye color, any distinguishing scars or tattoos you have, your photograph, the make, model, color, year and license plate number of any vehicle you operate, the street address, zip code, municipality and county in which you reside and a description of the offense for which you are pleading guilty, may be publicly available on the internet?

[YES] [NO]

6. Statewide Sexual Assault Nurse Examiner Program Penalty

Do you understand that if the crime occurred on or after May 4, 2001 as a result of your guilty plea you will be required to pay a penalty of \$800 for each offense for which you are pleading guilty?

[YES] [NO]

7. Civil Commitment

Do you understand that if you are convicted of a sexually violent offense, such as aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping under 2C:13-1c(2)(b), criminal sexual contact, felony murder if the underlying crime is sexual assault, an attempt to commit any of these offenses, or any offense for which the court makes a specific finding on the record that, based on the circumstances of the case, the offense should be considered a sexually violent offense, you may upon completion of your term of incarceration, be civilly committed to another facility if the court finds, after a hearing, that you are in need of involuntary civil commitment?


[YES] [NO]

Date _____

Defendant _____


Defense Attorney _____

Prosecutor _____

<p>State of New Jersey</p> <p style="text-align: center;">v.</p>		 <p>New Jersey Superior Court Law Division - Criminal</p>	
DEFENDANT: (Specify Complete Name)		<input type="checkbox"/> JUDGMENT OF CONVICTION <input type="checkbox"/> CHANGE OF JUDGMENT <input type="checkbox"/> ORDER FOR COMMITMENT <input type="checkbox"/> INDICTMENT / ACCUSATION DISMISSED <input type="checkbox"/> JUDGMENT OF ACQUITTAL	
DATE OF BIRTH	SBI NUMBER		
DATE OF ARREST	DATE INDICTMENT/ ACCUSATION FILED		
DATE OF ORIGINAL PLEA	ORIGINAL PLEA <input type="checkbox"/> NOT GUILTY <input type="checkbox"/> GUILTY		
ADJUDICATION BY			
<input type="checkbox"/> GUILTY PLEA DATE: _____		<input type="checkbox"/> NON-JURY TRIAL DATE: _____	
<input type="checkbox"/> JURY TRIAL DATE: _____		<input type="checkbox"/> Dismissed/Acquitted DATE: _____	
ORIGINAL CHARGES			
IND / ACC NO.	COUNT	DESCRIPTION	DEGREE STATUTE
FINAL CHARGES			
COUNT	DESCRIPTION	DEGREE	STATUTE
It is, therefore, on _____ ORDERED and ADJUDGED that the defendant is sentenced as follows:			
<input type="checkbox"/> The defendant is hereby sentenced to parole supervision for life (if the offense occurred on or after 1/14/04).			
<input type="checkbox"/> The defendant is hereby sentenced to community supervision for life (if the offense occurred before 1/14/04).			
<input type="checkbox"/> The defendant is hereby ordered to serve a _____ year term of parole supervision which term shall begin as soon as defendant completes the sentence of incarceration.			
<input type="checkbox"/> The court finds that the defendant's conduct was characterized by a pattern of repetitive and compulsive behavior.			
<input type="checkbox"/> The court finds that the defendant is amenable to sex offender treatment.			
<input type="checkbox"/> The court finds that the defendant is willing to participate in sex offender treatment.			
The defendant is hereby ordered to provide a DNA sample and ordered to pay the costs for testing of the sample provided.			
<input type="checkbox"/> It is further ORDERED that the sheriff deliver the defendant to the appropriate correctional authority.			
<input type="checkbox"/> Defendant is to receive credit for time spent in custody (R. 3:21-8).		TOTAL NUMBER OF DAYS	DATE (From/To)
<input type="checkbox"/> Defendant is to receive gap time credit for time spent in custody (N.J.S.A. 2C:44-5b(2)).		TOTAL NUMBER OF DAYS	DATE (From/To)
Total Custodial Term _____ Institution _____		Total Probation Term _____	

State of New Jersey v. _____ S.B.I. # _____ IND/ACC# _____

<p>Total FINE \$ _____</p> <p>Total RESTITUTION \$ _____</p> <p>If the offense occurred on or after December 23, 1991, an assessment of \$50 is imposed on each count on which the defendant was convicted unless the box below indicates a higher assessment pursuant to <u>N.J.S.A. 2C:43-3.1</u>. (Assessment is \$30 if offense is on or after January 9, 1986 but before December 23, 1991, unless a higher penalty is noted. Assessment is \$25 if offense is before January 9, 1986.)</p> <p><input type="checkbox"/> Assessment imposed on _____ count(s) _____ is \$ _____ each.</p> <p>Total VCCB Assessment \$ _____</p> <p><input type="checkbox"/> Installment payments are due at the rate of \$ _____ per _____ beginning _____ (DATE)</p>	<p>If any of the offenses occurred <u>on or after</u> July 9, 1987, and is for a violation of Chapter 35 or 36 of Title 2C,</p> <p>1) A mandatory Drug Enforcement and Demand Reduction (D.E.D.R.) penalty is imposed for <u>each</u> count. (Write in # times for each.)</p> <table style="width:100%; border: none;"> <tr> <td style="width:50%; border: none;"> <input type="checkbox"/> 1st Degree @ \$3000 <input type="checkbox"/> 2nd Degree @ \$2000 <input type="checkbox"/> 3rd Degree @ \$1000 </td> <td style="width:50%; border: none;"> <input type="checkbox"/> 4th Degree @ \$750 <input type="checkbox"/> Disorderly Persons or Petty Disorderly Persons @ \$500 </td> </tr> </table> <p style="text-align: right;">Total D.E.D.R. Penalty \$ _____</p> <p><input type="checkbox"/> Court further ORDERS that collection of the D.E.D.R. penalty be suspended upon defendant's entry into a residential drug program for the term of the program.</p> <p>2) A forensic laboratory fee of \$50 per offense is ORDERED. _____ Offenses @ \$50.</p> <p style="text-align: right;">Total Lab Fee \$ _____</p> <p>3) Name of Drugs involved _____</p> <p>4) A mandatory driver's license suspension of _____ months is ORDERED.</p> <p>The suspension shall begin today, _____ and end _____</p> <p>Driver's License Number _____</p> <p>(IF THE COURT IS UNABLE TO COLLECT THE LICENSE, PLEASE ALSO COMPLETE THE FOLLOWING)</p> <p>Defendant's Address _____</p> <p>Eye Color _____ Sex _____ Date of Birth _____</p> <p><input type="checkbox"/> The defendant is the holder of an out-of-state driver's license from the following jurisdiction _____ Driver's License Number _____</p> <p><input type="checkbox"/> Defendant's non-resident driving privileges are hereby revoked for _____ months.</p>	<input type="checkbox"/> 1st Degree @ \$3000 <input type="checkbox"/> 2nd Degree @ \$2000 <input type="checkbox"/> 3rd Degree @ \$1000	<input type="checkbox"/> 4th Degree @ \$750 <input type="checkbox"/> Disorderly Persons or Petty Disorderly Persons @ \$500
<input type="checkbox"/> 1st Degree @ \$3000 <input type="checkbox"/> 2nd Degree @ \$2000 <input type="checkbox"/> 3rd Degree @ \$1000	<input type="checkbox"/> 4th Degree @ \$750 <input type="checkbox"/> Disorderly Persons or Petty Disorderly Persons @ \$500		
<p>If the offense occurred on or after February 1, 1993 but was before March 13, 1995 and the sentence is to probation or to a state correctional facility, a transaction fee of up to \$1.00 is ordered for each occasion when a payment or installment payment is made. (<u>P.L. 1992, c. 169</u>). 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, a transaction fee of up to \$2.00 is ordered for each occasion when a payment is made. (<u>P.L. 1995, c. 9</u>).</p>			
<p>If the offense occurred on or after August 2, 1993, a \$75 Safe Neighborhood Services Fund assessment is ordered for each conviction. (<u>P.L. 1993, c. 220</u>)</p>			
<p>If the offense occurred on or after January 5, 1994 and the sentence is to probation, a fee of up to \$25 per month for the probationary term is ordered. (<u>P.L. 1993, c. 275</u>) Amount per month _____</p>			
<p>If the crime occurred on or after January 9, 1997, a \$30 Law Enforcement Officers Training and Equipment Fund penalty is ordered.</p>			
<p>If the crime occurred on or after May 4, 2001, and the defendant has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping under 2C:13-1c(2), endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of a minor under 2C:24-4a, endangering the welfare of a child pursuant to 2C:24-4b(4), luring or enticing a child pursuant to 2C:13-6, criminal sexual contact pursuant to 2C:14-3b if the victim is a minor, kidnapping pursuant to 2C:13-1, criminal restraint pursuant to 2C:13-2 or false imprisonment pursuant to 2C:13-3 if the victim is a minor and the offender is not the parent, promoting child prostitution pursuant to 2C:34-1b(3) or (4), or an attempt to commit any of these crimes, a \$800 Statewide Sexual Assault Nurse Examiner Program Penalty is ordered for each of these offenses. If the crime occurred on or after April 8, 2004, and the defendant has been convicted of endangering the welfare of a child pursuant to 2C:24-4b(3) or (5)(a), or an attempt to commit these offenses, a \$800 Statewide Sexual Assault Nurse Examiner Program Penalty is ordered.</p>			
NAME (Court Clerk or Person preparing this form)	TELEPHONE NUMBER	NAME (Attorney for Defendant at Sentencing)	
STATEMENT OF REASONS - Include all applicable aggravating and mitigating factors			
JUDGE (Name)	JUDGE (Signature)	DATE	

<p>State of New Jersey</p> <p style="text-align: center;">v.</p>		 <p>New Jersey Superior Court Law Division - Criminal</p>	
DEFENDANT: (Specify Complete Name)			
DATE OF BIRTH	SBI NUMBER		
DATE OF ARREST	DATE INDICTMENT/ ACCUSATION FILED		
DATE OF ORIGINAL PLEA	ORIGINAL PLEA <input type="checkbox"/> NOT GUILTY <input type="checkbox"/> GUILTY		
ADJUDICATION BY <input type="checkbox"/> GUILTY PLEA DATE: _____ <input type="checkbox"/> NON-JURY TRIAL DATE: _____ <input type="checkbox"/> JURY TRIAL DATE: _____ <input type="checkbox"/> Dismissed/Acquitted DATE: _____			
ORIGINAL CHARGES			
IND / ACC NO.	COUNT	DESCRIPTION	DEGREE STATUTE
FINAL CHARGES			
COUNT	DESCRIPTION		DEGREE STATUTE
It is, therefore, on _____ ORDERED and ADJUDGED that the defendant is sentenced as follows:			
<input type="checkbox"/> The defendant is hereby sentenced to parole supervision for life (if the offense occurred on or after 1/14/04). <input type="checkbox"/> The defendant is hereby sentenced to community supervision for life (if the offense occurred before 1/14/04). <input type="checkbox"/> The court finds that the defendant's conduct was characterized by a pattern of repetitive and compulsive behavior. <input type="checkbox"/> The court finds that the defendant is amenable to sex offender treatment. <input type="checkbox"/> The court finds that the defendant is willing to participate in sex offender treatment. The defendant is hereby ordered to provide a DNA sample and ordered to pay the costs for testing of the sample provided.			
<input type="checkbox"/> It is further ORDERED that the sheriff deliver the defendant to the appropriate correctional authority.			
<input type="checkbox"/> Defendant is to receive credit for time spent in custody (R. 3:21-8).		TOTAL NUMBER OF DAYS	DATE (From/To)
<input type="checkbox"/> Defendant is to receive gap time credit for time spent in custody (N.J.S.A. 2C:44-5b(2)).		TOTAL NUMBER OF DAYS	DATE (From/To)
Total Custodial Term _____ Institution _____ Total Probation Term _____			

State of New Jersey v. _____ S.B.I. # _____ IND/ACC# _____

Total FINE \$ _____

Total RESTITUTION \$ _____

If the offense occurred on or after December 23, 1991, an assessment of \$50 is imposed on each count on which the defendant was convicted unless the box below indicates a higher assessment pursuant to N.J.S.A. 2C:43-3.1. (Assessment is \$30 if offense is on or after January 9, 1986 but before December 23, 1991, unless a higher penalty is noted. Assessment is \$25 if offense is before January 9, 1986.)

Assessment imposed on
count(s) _____
is \$ _____ each.

Total VCCB Assessment \$ _____

Installment payments are due at the rate of
\$ _____ per _____
beginning _____
(DATE)

If any of the offenses occurred on or after July 9, 1987, and is for a violation of Chapter 35 or 36 of Title 2C,

1) A mandatory Drug Enforcement and Demand Reduction (D.E.D.R.) penalty is imposed for each count. (Write in # times for each.)

___ 1st Degree @ \$3000 ___ 4th Degree @ \$750
___ 2nd Degree @ \$2000 ___ Disorderly Persons or Petty
___ 3rd Degree @ \$1000 ___ Disorderly Persons @ \$500

Total D.E.D.R. Penalty \$ _____

Court further ORDERS that collection of the D.E.D.R. penalty be suspended upon defendant's entry into a residential drug program for the term of the program.

2) A forensic laboratory fee of \$50 per offense is ORDERED. _____ Offenses @ \$50.

Total Lab Fee \$ _____

3) Name of Drugs involved _____

4) A mandatory driver's license suspension of _____ months is ORDERED.

The suspension shall begin today, _____ and end _____

Driver's License Number _____

(IF THE COURT IS UNABLE TO COLLECT THE LICENSE, PLEASE ALSO COMPLETE THE FOLLOWING.)

Defendant's Address _____

Eye Color _____ Sex _____ Date of Birth _____

The defendant is the holder of an out-of-state driver's license from the following jurisdiction _____ Driver's License Number _____

Defendant's non-resident driving privileges are hereby revoked for _____ months.

If the offense occurred on or after February 1, 1993 but was before March 13, 1995 and the sentence is to probation or to a state correctional facility, a transaction fee of up to \$1.00 is ordered for each occasion when a payment or installment payment is made. (P.L. 1992, c. 169). 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, a transaction fee of up to \$2.00 is ordered for each occasion when a payment is made. (P.L. 1995, c. 9).

If the offense occurred on or after August 2, 1993, a \$75 Safe Neighborhood Services Fund assessment is ordered for each conviction. P.L. 1993, c. 220

If the offense occurred on or after January 5, 1994 and the sentence is to probation, a fee of up to \$25 per month for the probationary term is ordered. (P.L. 1993, c. 275) Amount per month _____.

If the crime occurred on or after January 9, 1997, a \$30 Law Enforcement Officers Training and Equipment Fund penalty is ordered.

NAME (Court Clerk or Person preparing this form)	TELEPHONE NUMBER	NAME (Attorney for Defendant at Sentencing)
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If the offense occurred on or after April 2, 1991 and the conviction or guilty plea is for violation of N.J.S.A. 2C:20-2 for theft of a motor vehicle
or
If the offense occurred on or after August 2, 1993 and the conviction or guilty plea is for a violation of N.J.S.A. 2C:20-10 for unlawful taking of a motor vehicle ("Joyriding") the following are imposed:

1. A mandatory penalty of \$ _____.

First Offense \$ 500
Second \$ 750
3rd or Subsequent Offense \$ 1000

2. A mandatory driver's license suspension of _____ years is ORDERED.

First Offense 1 year license suspension
Second Offense 2 year license suspension
3rd or Subsequent Offense 10 year license suspension

The suspension shall begin today, _____ and end _____. Driver's License Number _____

IF THE COURT IS UNABLE TO COLLECT THE LICENSE, PLEASE ALSO COMPLETE THE FOLLOWING:

Defendant's Address _____ Eye color _____ Sex _____ Date of Birth _____

Defendant is the holder of an out-of-state driver's license from the following jurisdiction _____ Driver's License Number _____

Defendant's non-resident driving privileges are hereby revoked for _____ Months.

State of New Jersey v. _____ S.B.I. # _____ IND/ACC # _____

STATEMENT OF REASONS – INCLUDE ALL APPLICABLE AGGRAVATING AND MITIGATING FACTORS

JUDGE (Name)	JUDGE (Signature)	DATE
--------------	-------------------	------

Administrative Office of the Courts
State Bureau of Identification

CP0106 (rev. 11/06/2003)
Page 3 of 3

COPIES TO: CHIEF PROBATION OFFICER STATE POLICE AOC CRIMINAL PRACTICE DIVISION DEPT OF CORRECTIONS OR COUNTY PENAL INSTITUTION

2. **New Megan's Law Crimes.**

Effective April 8, 2004, L. 2003, c. 219 and L. 2003, c. 220, amend *Megan's Law* to require persons convicted of two additional child pornography offenses to register as sex offenders. L. 2003, c. 219 amends *Megan's Law* to require persons convicted, adjudicated delinquent or acquitted by reason of insanity of endangering the welfare of a child by causing or permitting a child to engage in a prohibited sexual act where the person knows that the prohibited act may be photographed, filmed, reproduced or reconstructed in any manner or may be part of an exhibition or performance in violation of N.J.S.A. 2C:24-4b(3) to comply with the State's sex offender registration requirements.

L. 2003, c. 220 amends *Megan's Law* to require persons convicted, adjudicated delinquent or acquitted by reason of insanity of endangering the welfare of a child by selling, procuring, manufacturing or distributing any photograph, film, video tape or other reproduction which depicts a child engaging in a prohibited sexual act in violation of N.J.S.A. 2C:24-4b(5)(a) to comply with the State's sex offender registration requirements.

Currently, the *Additional Questions for Certain Sexual Offenses (Megan's Law) Plea Form* lists each crime to which *Megan's Law* applies. Currently, the first paragraph of the *Additional Questions for Certain Sexual Offenses Plea Form* lists all of the crimes that require registration pursuant to *Megan's Law*. The Subcommittee on Forms reviewed the legislation and recommended an amendment to the *Additional Questions for Certain Sexual Offenses Plea Form* to include these offenses. The Committee adopted the proposed amendment.

Currently, page two of the two-page Judgment of Conviction lists the *Megan's Law* offenses to which the Sexual Assault Nurse Examiner Fund Penalty applies. The Subcommittee recommended amending the section of the JOC addressing the Sexual Assault Nurse Examiner Fund Penalty to reflect these new *Megan's Law* crimes:

"If the crime occurred on or after April 8, 2004, and the defendant has been convicted of endangering the welfare of a child pursuant to 2C:24-4b(3) or (5)(a), or an attempt to commit these offenses, a \$800 Statewide Sexual Assault Nurse Examiner Program Penalty is ordered."

The Committee adopted the proposed amendment.

ADDITIONAL QUESTIONS FOR CERTAIN SEXUAL OFFENSES

These additional questions need to be answered if you are pleading guilty to the offense of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping under 2C:13-1c(2), endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child under 2C:24-4a, endangering the welfare of a child pursuant to ~~2C:24-4b(4)~~, 2C:24-4b(3), (4) or (5)(a), luring or enticing a child pursuant to 2C:13-6, criminal sexual contact pursuant to 2C:14-3b if the victim is a minor; kidnapping pursuant to 2C:13-1, criminal restraint pursuant to 2C:13-2 or false imprisonment pursuant to 2C:13-3 if the victim is a minor and the offender is not the parent, promoting child prostitution pursuant to 2C:34-1b(3), (4), or any attempt to commit any such offense. Note also that Question 7 includes the offense of felony murder if the underlying crime is sexual assault, as well as any offense for which the court makes a specific finding on the record that, based on the circumstances of the case, the offense should be considered a sexually violent offense, or an attempt to commit these offenses.

1. Registration

- a) Do you understand that you must register with certain public agencies?

[YES] [NO]

- b) Do you understand that if you change residence you must notify the law enforcement agency where you are registered, and must re-register with the chief law enforcement officer of the municipality in which you will reside, or the Superintendent of State Police if the municipality does not have a chief law enforcement officer agency, no less than 10 days before you intend to reside at the new address?

[YES] [NO]

2. Address Verification

Do you understand that if you are pleading guilty to aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to 2C:13-1c(2) or any attempt to commit any of these crimes and at sentencing the court finds that your conduct was characterized by a pattern of repetitive, compulsive behavior you must verify your address with the appropriate law enforcement agency every 90 days or if the court finds your conduct is not characterized by a pattern of repetitive and compulsive behavior, you must verify your address annually?

[YES] [NO]

3. Notification

Do you understand that the requirement of registration may result in notification to law enforcement, community organizations, or the public at large, of your release from incarceration or presence in the community?

[YES] [NO]

4. Community Supervision for Life

(a) Do you understand that if you are pleading guilty to the crime of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to 2C:13-1c(2), endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to 2C:24-4a, luring, or an attempt to commit any such offense, the court, in addition to any other sentence, will impose a special sentence of community supervision for life?

[YES] [NO]

(b) Do you understand that being sentenced to community supervision for life means that: you will be supervised for at least 15 years as if on parole, and subject to conditions appropriate to protect the public and foster rehabilitation, including, but not limited to counseling; and other restrictions, which may include restrictions on where you can live, work or travel?

[YES] [NO]

5. Internet Posting

Do you understand that as a result of your conviction your name, age, race, sex, date of birth, height, weight, eye color, any distinguishing scars or tattoos you have, your photograph, the make, model, color, year and license plate number of any vehicle you operate, the street address, zip code, municipality and county in which you reside and a description of the offense for which you are pleading guilty, may be publicly available on the internet?

[YES] [NO]

6. Statewide Sexual Assault Nurse Examiner Program Penalty

Do you understand that if the crime occurred on or after May 4, 2001 as a result of your guilty plea you will be required to pay a penalty of \$800 for each offense for which you are pleading guilty?

[YES] [NO]

7. Civil Commitment

Do you understand that if you are convicted of a sexually violent offense, such as aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping under 2C:13-1c(2)(b), criminal sexual contact, felony murder if the underlying crime is sexual assault, an attempt to commit any of these offenses, or any offense for which the court makes a specific finding on the record that, based on the circumstances of the case, the offense should be considered a sexually violent offense, you may upon completion of your term of incarceration, be civilly committed to another facility if the court finds, after a hearing, that you are in need of involuntary civil commitment?


[YES] [NO]

Date _____

Defendant _____

Defense Attorney _____

Prosecutor _____

<p>State of New Jersey</p> <p style="font-size: 24px; font-weight: bold;">v.</p>		 <p>New Jersey Superior Court Law Division - Criminal</p>		
DEFENDANT: (Specify Complete Name)		<input type="checkbox"/> JUDGMENT OF CONVICTION <input type="checkbox"/> CHANGE OF JUDGMENT <input type="checkbox"/> ORDER FOR COMMITMENT <input type="checkbox"/> INDICTMENT / ACCUSATION DISMISSED <input type="checkbox"/> JUDGMENT OF ACQUITTAL		
DATE OF BIRTH	SBI NUMBER			
DATE OF ARREST	DATE INDICTMENT/ ACCUSATION FILED			
DATE OF ORIGINAL PLEA	ORIGINAL PLEA <input type="checkbox"/> NOT GUILTY <input type="checkbox"/> GUILTY			
ADJUDICATION BY <input type="checkbox"/> GUILTY PLEA DATE: <input type="checkbox"/> NON-JURY TRIAL DATE: <input type="checkbox"/> JURY TRIAL DATE: <input type="checkbox"/> Dismissed/Acquitted DATE:				
ORIGINAL CHARGES				
IND / ACC NO.	COUNT	DESCRIPTION	DEGREE	STATUTE
FINAL CHARGES				
COUNT	DESCRIPTION	DEGREE	STATUTE	
It is, therefore, on _____ ORDERED and ADJUDGED that the defendant is sentenced as follows:				
<input type="checkbox"/> The defendant is hereby sentenced to parole supervision for life (if the offense occurred on or after 1/14/04). <input type="checkbox"/> The defendant is hereby sentenced to community supervision for life (if the offense occurred before 1/14/04). <input type="checkbox"/> The defendant is hereby ordered to serve a _____ year term of parole supervision which term shall begin as soon as defendant completes the sentence of incarceration. <input type="checkbox"/> The court finds that the defendant's conduct was characterized by a pattern of repetitive and compulsive behavior. <input type="checkbox"/> The court finds that the defendant is amenable to sex offender treatment. <input type="checkbox"/> The court finds that the defendant is willing to participate in sex offender treatment.				
The defendant is hereby ordered to provide a DNA sample and ordered to pay the costs for testing of the sample provided.				
<input type="checkbox"/> It is further ORDERED that the sheriff deliver the defendant to the appropriate correctional authority.				
<input type="checkbox"/> Defendant is to receive credit for time spent in custody (R. 3:21-8).		TOTAL NUMBER OF DAYS	DATE (From/To) _____ DATE (From/To) _____	
<input type="checkbox"/> Defendant is to receive gap time credit for time spent in custody (N.J.S.A. 2C:44-5b(2)).		TOTAL NUMBER OF DAYS	DATE (From/To) _____ DATE (From/To) _____	
Total Custodial Term _____ Institution _____ Total Probation Term _____				

State of New Jersey v. _____ S.B.I.# _____ IND/ACC# _____

<p style="text-align: center;">Total FINE \$ _____</p> <p style="text-align: center;">Total RESTITUTION \$ _____</p> <p>If the offense occurred on or after December 23, 1991, an assessment of \$50 is imposed on each count on which the defendant was convicted unless the box below indicates a higher assessment pursuant to <u>N.J.S.A. 2C:43-3.1</u>. (Assessment is \$30 if offense is on or after January 9, 1986 but before December 23, 1991, unless a higher penalty is noted. Assessment is \$25 if offense is before January 9, 1986.)</p> <p><input type="checkbox"/> Assessment imposed on count(s) _____ is \$ _____ each.</p> <p>Total VCCB Assessment \$ _____</p> <p><input type="checkbox"/> Installment payments are due at the rate of \$ _____ per _____ beginning _____ (DATE)</p>	<p>If any of the offenses occurred <u>on or after</u> July 9, 1987, and is for a violation of Chapter 35 or 36 of Title 2C,</p> <p>1) A mandatory Drug Enforcement and Demand Reduction (D.E.D.R.) penalty is imposed for <u>each</u> count. (Write in # times for each.)</p> <p style="margin-left: 20px;"> <input type="checkbox"/> 1st Degree @ \$3000 <input type="checkbox"/> 4th Degree @ \$750 <input type="checkbox"/> 2nd Degree @ \$2000 <input type="checkbox"/> Disorderly Persons or Petty <input type="checkbox"/> 3rd Degree @ \$1000 <input type="checkbox"/> Disorderly Persons @ \$500 </p> <p style="text-align: right;">Total D.E.D.R. Penalty \$ _____</p> <p><input type="checkbox"/> Court further ORDERS that collection of the D.E.D.R. penalty be suspended upon defendant's entry into a residential drug program for the term of the program.</p> <p>2) A forensic laboratory fee of \$50 per offense is ORDERED. _____ Offenses @ \$50.</p> <p style="text-align: right;">Total Lab Fee \$ _____</p> <p>3) Name of Drugs involved _____</p> <p>4) A mandatory driver's license suspension of _____ months is ORDERED.</p> <p>The suspension shall begin today, _____ and end _____</p> <p>Driver's License Number _____</p> <p>(IF THE COURT IS UNABLE TO COLLECT THE LICENSE, PLEASE ALSO COMPLETE THE FOLLOWING)</p> <p>Defendant's Address _____</p> <p>Eye Color _____ Sex _____ Date of Birth _____</p> <p><input type="checkbox"/> The defendant is the holder of an out-of-state driver's license from the following jurisdiction _____ Driver's License Number _____</p> <p><input type="checkbox"/> Defendant's non-resident driving privileges are hereby revoked for _____ months.</p>	
<p>If the offense occurred on or after February 1, 1993 but was before March 13, 1995 and the sentence is to probation or to a state correctional facility, a transaction fee of up to \$1.00 is ordered for each occasion when a payment or installment payment is made. (<u>P.L. 1992, c. 169</u>). 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, a transaction fee of up to \$2.00 is ordered for each occasion when a payment is made. (<u>P.L. 1995, c. 9</u>).</p>		
<p>If the offense occurred on or after August 2, 1993, a \$75 Safe Neighborhood Services Fund assessment is ordered for each conviction. (<u>P.L. 1993, c. 220</u>)</p>		
<p>If the offense occurred on or after January 5, 1994 and the sentence is to probation, a fee of up to \$25 per month for the probationary term is ordered. (<u>P.L. 1993, c. 275</u>) Amount per month _____.</p>		
<p>If the crime occurred on or after January 9, 1997, a \$30 Law Enforcement Officers Training and Equipment Fund penalty is ordered.</p>		
<p>If the crime occurred on or after May 4, 2001, and the defendant has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping under 2C:13-1c(2), endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of a minor under 2C:24-4a, endangering the welfare of a child pursuant to 2C:24-4b(4), luring or enticing a child pursuant to 2C:13-6, criminal sexual contact pursuant to 2C:14-3b if the victim is a minor, kidnapping pursuant to 2C:13-1, criminal restraint pursuant to 2C:13-2 or false imprisonment pursuant to 2C:13-3 if the victim is a minor and the offender is not the parent, promoting child prostitution pursuant to 2C:34-1b(3) or (4), or an attempt to commit any of these crimes, a \$800 Statewide Sexual Assault Nurse Examiner Program Penalty is ordered for each of these offenses. If the crime occurred on or after April 8, 2004, and the defendant has been convicted of endangering the welfare of a child pursuant to 2C:24-4b(3) or (5)(a), or an attempt to commit these offenses, a \$800 Statewide Sexual Assault Nurse Examiner Program Penalty is ordered.</p>		
<p>NAME (Court Clerk or Person preparing this form)</p>	<p>TELEPHONE NUMBER</p>	<p>NAME (Attorney for Defendant at Sentencing)</p>
<p>STATEMENT OF REASONS - Include all applicable aggravating and mitigating factors</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>		
<p>JUDGE (Name)</p>	<p>JUDGE (Signature)</p>	<p>DATE</p>

3. Amendment to Main Plea Form.

The Committee amended the *Main Plea Form* to correct two clerical errors. First, question #5(b) and (c) erroneously refer to the "Violent Crimes Compensation Board Assessment." They are being revised to correctly refer to the "Victims of Crime Compensation Board Assessment."

The Committee also has amended question #14 to delete the words [YES] and [NO] from the first line of this question.

PLEA FORM

County _____

Prosecutor File Number _____

DEFENDANT'S NAME _____

before Judge _____

1. List the charges to which you are pleading guilty:

Ind./Acc./Comp.#	Count	Nature of Offense	Degree		Statutory Maximum		VCCB 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]
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 ~~Violent Crimes~~ Victims of Crime Compensation Board Assessment? [YES] [NO]
- c. You must pay a minimum ~~Violent Crimes~~ Victims of Crime Compensation Board 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]
- 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]

* ~~VIOLENT CRIMES~~ VICTIMS OF CRIME COMPENSATION BOARD ASSESSMENT

Administrative Office of the Courts – Revised November 6, 2003;

Corrected December 31, 2003 & March 10, 2004

- 5. 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 sentenced 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.
- 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] [N/A]
- 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] [N/A]
- 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] [N/A]

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] [N/A]
- 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] [N/A]
- 17. 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] [N/A]
- 18. Have you discussed with your attorney the legal doctrine of merger? [YES] [NO] [N/A]
- 19. 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? [YES] [NO] [N/A]
- 20. 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:

- 21. Have any promises other than those mentioned on this form, or any threats, been made in order to cause you to plead guilty? [YES] [NO]
- 22. a. 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? [YES] [NO]
- b. 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? [YES] [NO]
- c. 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? [YES] [NO]
- 23. Are you satisfied with the advice you have received from your lawyer? [YES] [NO]
- 24. 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.

C. Other Business.

1. Use of Cellular Phones During Jury Deliberations.

The Committee discussed whether or not jurors should be required or asked not to take cellular phones into jury deliberations or if a jury instruction should be given with respect to the inability to use cellular phones during deliberations. The Committee recognized that currently there is a *Judiciary Policy on the Use of Cellular Phones, Pagers and Wireless Communication Devices*.

The Committee agreed that Judge Stern would write a memorandum to Judge Natal, Chair, Model Criminal Jury Charge Committee, to consider incorporating the judiciary policy on the use of cellular phones during deliberations into the "roadmap" Model Jury Charge.

D. Matters Held for Future Consideration.

1. Plea Waiver Rules.

During the last term, the Committee considered whether or not the plea waiver rules should be amended. Presently, two rules permit a defendant to preserve issues for appeal, notwithstanding a guilty plea, see R. 3:5-7(d) and R. 3:28(g), and one permits the defendant and prosecutor, with the consent of the court, to preserve specific, identified issues. See R. 3:9-3(f). The Committee agreed to consider amending the *Main Plea Form* to include a question addressing whether a defendant understands that by pleading guilty he/she is waiving the right to challenge the denial of all pretrial motions, except those specifically identified.

The Committee agreed to consider this issue during the next term.

2. **Procedures to Determine the Sufficiency of Bail.**

On January 9, 2004, the Governor signed S-1322 into law as L. 2003, c. 213. It is effective immediately. The law permits the court, upon request from the prosecutor to examine the reliability of the obligor or person posting cash bail, the relationship to the defendant, the value and sufficiency of the security offered and whether the funds used to post bail or secure bond were lawfully acquired. The law further states that:

“[t]he procedure to determine the sufficiency of bail shall be governed by rules adopted by the Supreme Court.”

The Committee did not reach this issue because it arose during the time the Committee was filing its original report. The Committee will consider this matter during the next term.

Respectfully submitted,

Honorable Edwin H. Stern, Chairman
Honorable Lawrence Lawson, Vice-Chairman
Honorable Carmen H. Alvarez
Honorable Eugene H. Austin
Honorable Linda G. Baxter
Honorable Michael R. Casale
Honorable James N. Citta
Honorable Elaine L. Davis
Honorable Frederick P. DeVesa
Honorable Katherine R. Dupuis
Honorable Donald S. Goldman
Honorable Paul T. Koenig, Jr.
Honorable Joseph F. Lisa
Honorable James F. Mulvihill
Honorable John Tomasello
Honorable Thomas R. Vena
Honorable Isaiah Steinberg
Honorable Harvey Weissbard
Prosecutor Robert D. Bernardi
Prosecutor Jeffrey S. Blitz
Alan Dexter Bowman, Esquire
John M. Cannel, Esquire
Peter C. Harvey, Attorney General
Pedro J. Jimenez, Jr., Deputy Attorney General
Dale Jones, Assistant Public Defender
Maria Noto, Esq., President, Association of Criminal Defense Lawyers of NJ
Steven C. Lember, First Assistant Prosecutor, Hunterdon
James P. Lynch, First Assistant Prosecutor, Camden
Peter D. Manahan, Esquire
Michael Marucci, Deputy Public Defender
Vaughn McKoy, Director, Division of Criminal Justice
Boris Moczula, Assistant Attorney General
Dennis A. Murphy, Esquire, Hudson County Criminal Division Manager
Joan H. Richardson, First Assistant Public Defender
Brenda B. Smith, Deputy Public Defender
Luis A. Valentin, Assistant United States Attorney
Justin P. Walder, Esquire
AOC Staff: Joseph J. Barraco, Esquire
Vance D. Hagins, Esquire
Melaney S. Payne, Esquire

March 23, 2004

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