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[Supplement to Directive # 02-16]

TO: Assignment Judges
Trial Court Administrators

FROM: Glenn A. Grant, J.A.D. *GAG*
Acting Administrative Director of the Courts *SDB*

SUBJECT: Criminal/Family/Municipal – Expungement Order (CN 12621) –
Expungement of Arrests Not Resulting in Conviction or Adjudication
of Delinquency (N.J.S.A. 2C:52-6)

DATE: June 29, 2020

This Supplement to Directive #02-16 promulgates new procedures to expunge arrests not resulting in conviction or adjudication of delinquency and a new expungement order (CN 12621) for use in Criminal, Family, and Municipal Courts in accordance with the statutory amendments to N.J.S.A. 2C:52-6, effective June 15, 2020. See L. 2019, c. 269. **Specifically, the court is required to order an expungement of all related records and information at the time of the dismissal, acquittal, or discharge without a conviction or adjudication of delinquency (including juvenile diversion).** The defendant or juvenile is no longer required under the law to apply for an expungement of these matters.

Accordingly, this supplement supersedes the guidance contained in section II (“Expungements of Arrests Not Resulting in Conviction (N.J.S.A. 2C:52-6)”) of Directive #02-16 (“Protocol for ‘Drug Court’ Expungements (N.J.S.A. 2C:35-14(m)) and Arrests Not Resulting in Conviction (N.J.S.A. 2C:52-6)”) (dated May 23, 2016) and in the the separate May 23, 2016 memorandum applicable to the Municipal Courts (“Municipal Courts – Expedited Expungement of Arrest or Charge Records – Amendment to N.J.S.A. 2C:52-6 Attachment and Forms”).

To effectuate these statutory changes, designated staff in Criminal, Family, and Municipal Courts will complete the attached expungement order for the judge’s signature as soon as practicable after the court grants the expungement. Staff will then forward copies of the signed expungement order to the defendant (or the juvenile and the juvenile's parent/guardian), the appropriate Superior Court or Municipal Court, and the county prosecutor. The county prosecutor is responsible for forwarding the expungement order to appropriate law enforcement agencies and correctional institutions who have custody and control of the records specified in the order (N.J.S.A. 2C:52-6(a)(4)).

An expungement will not be ordered where the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges (N.J.S.A. 2C:52-6(a)(3)). This bar does not apply once the conviction is itself expunged.

Upon a service member or former service member's successful participation in a Veterans Diversion Program (N.J.S.A. 2C:43-23 to -26), the court can order the expungement at the time of the dismissal of the charge(s) on the service member's request or the request of the prosecutor on the service member's behalf. If the court did not order the expungement at the time of the dismissal, the service member may subsequently apply for expungement at any time following the order of dismissal. N.J.S.A. 2C:52-6(c)(2).

Additionally, the recent statutory amendments did not change the process for charges that are dismissed in accordance with a supervisory treatment program (N.J.S.A. 2C:43-12), a conditional discharge (N.J.S.A. 2C:36A-1), or a conditional dismissal (N.J.S.A. 2C:43-13.1). In those instances, the individual must wait six months after entry of the dismissal order before applying for an expungement. N.J.S.A. 2C:52-6(c).

Individuals seeking an expungement of an arrest or charge not resulting in a conviction or adjudication of delinquency that was disposed of prior to June 15, 2020 may present, at any time, a duly verified petition as provided in N.J.S.A. 2C:52-7, in the Superior Court in the county in which the disposition occurred. Any such application should be assigned to the Superior Court judge designated to handle expungements. The pro se expungement packet on the Judiciary's website at http://www.njcourts.gov/forms/10557_expunge_kit.pdf contains information on filing an expungement petition.

Questions regarding this Supplement to Directive # 02-16 should be directed to the Criminal Practice Division at 609-815-2900 ext. 55300, the Family Practice Division at 609-815-2900 ext. 55350, or the Municipal Court Services Division at 609-815-2900 ext. 54850.

Attachment – Expungement Order (CN 12621)

c: Chief Justice Stuart Rabner
Criminal Presiding Judges
Family Presiding Judges
Municipal Presiding Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Special Assistants to the Administrative Director
AOC Criminal, Family, and Municipal Chiefs
and Assistant Chiefs
Vicinage Criminal, Family, and Municipal Managers
and Assistant Division Managers

Prepared by Court _____

_____ of New Jersey

Law Division

County _____

Municipality _____

Expungement

Docket Number _____

In the Matter of the Expungement of the
Criminal/Juvenile Records of

(defendant/juvenile name)

Civil Action

Expungement Order

This matter having resulted in an arrest/charge not resulting in a conviction or adjudication of delinquency (dismissal, acquittal, discharge without a finding of guilt) for

(defendant/juvenile name) _____ whose date of birth is (date) _____,

and State Bureau of Identification (SBI) number, if available, is (SBI number, if available) _____,

and it appearing that the requirements for Expungement under N.J.S.A. 2C:52-6, have been satisfied;

IT IS ORDERED this _____ day of _____, _____, that the

The Attorney General of New Jersey,

The Superintendent of the New Jersey State Police, Expungement Unit,

The _____ County Prosecutors Office(s),

The administrator(s) of the _____ Municipal Court(s),

Chief(s) of the _____ Police Department(s),

The _____ County Probation Division(s),

The Warden of the _____ Jail/Prison,

The Superintendent of _____ (name of institution for juveniles only),

Deputy Clerk of the Superior Court of New Jersey, Criminal and/or Family Divisions,

_____ County, remove from their records all information relating to

(defendant/juvenile name) _____'s

(1) (date) _____ arrest/custody on the charge of violating N.J.S.A. (statute) _____
under (original indictment/accusation/summons/warrant/complaint/FJ or FO docket number) _____;

(2) (date) _____ arrest/custody on the charge of violating N.J.S.A. (statute) _____
under (original indictment/accusation/summons/warrant/complaint/FJ or FO docket number) _____;

(3) (date) _____ arrest/custody on the charge of violating N.J.S.A. (statute) _____
under (original indictment/accusation/summons/warrant/complaint/FJ or FO docket number) _____;

(4) (date) _____ arrest/custody on the charge of violating N.J.S.A. (statute) _____
under (original indictment/accusation/summons/warrant/complaint/FJ or FO docket number) _____;

(5) (date) _____ arrest/custody on the charge of violating N.J.S.A. (statute) _____
under (original indictment/accusation/summons/warrant/complaint/FJ or FO docket number) _____;

(6) If applicable, including the following Family Part docket numbers in which I am a co-delinquent

(FJ docket numbers) _____.

and remove all records concerning the subsequent criminal and/or juvenile proceedings regarding such arrest(s), charge(s), dismissal(s), or disposition(s), if applicable, and place such information in the control of a person within the office designated to retain control over expunged records.

IT IS FURTHER ORDERED that any of the above officers or agencies which sent fingerprints and/or any records of the above arrest/charge/disposition and proceedings to the Federal Bureau of Investigation or any other office or agency shall notify same of this Order and that the agencies designated to retain such records take sufficient precautions to insure that such records and information are not released.

IT IS FURTHER ORDERED that any records, or the information therein, shall not be released except as provided under the provision of N.J.S.A. 2C:52-1, *et seq.* and that the persons designated to retain control over expunged records take sufficient precautions to insure that such records and information are not released.

IT IS FURTHER ORDERED that in response to requests for information or records, the court office or law enforcement agency shall reply with respect to the arrest/charge/disposition, which is the subject of this Order, that there is no record.

IT IS FURTHER ORDERED that the arrest/charge/disposition, which is the subject of this Order, shall be deemed not to have occurred, and the individual may answer accordingly any question relating to this occurrence pursuant to N.J.S.A. 2C:52-27.

IT IS FURTHER ORDERED that this Order does not expunge the records contained in the Controlled Dangerous Substances Registry created pursuant to *P.L. 1970, c. 227 (C.26:2G-17 et seq.)* or the registry created by the Administrative Office of the Courts pursuant to N.J.S.A. 2C:43-21.

IT IS FURTHER ORDERED that pursuant to N.J.S.A. 2C:52-6(a)(4), the County Prosecutor shall promptly distribute copies of this expungement Order to appropriate law enforcement agencies and correctional institutions who have custody and control of the records specified within this expungement order.

Judge