

**ADMINISTRATIVE OFFICE OF THE COURTS  
STATE OF NEW JERSEY**

**PHILIP S. CARCHMAN, J.A.D.  
ACTING ADMINISTRATIVE  
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PO Box 037  
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[Questions or comments may  
be directed to 609-292-4638.]

**Directive # 22-06**  
[Supersedes Directive #11-06]

**TO:           ASSIGNMENT JUDGES  
              CRIMINAL DIVISION JUDGES**

**FROM:       PHILIP S. CARCHMAN**

**SUBJ:       NEW CRIMINAL FORM – RECORDATION OF CUSTODIAL INTERROGATIONS  
              REPORTING FORM**

**DATE:       DECEMBER 19, 2006**

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This supersedes Directive #11-06, which was issued July 18, 2006. That earlier Directive promulgated a *Recordation of Custodial Interrogations Reporting Form*, intended to capture data regarding the custodial interrogations recording requirement for a limited category of cases -- murder, aggravated manslaughter, and manslaughter crimes -- occurring on or after January 1, 2006. This Directive promulgates a revised *Recordation of Custodial Interrogations Reporting Form* for use in an expanded category of cases, specifically, custodial interrogations conducted in any offense enumerated in Rule 3:17(a). The remainder of this Directive essentially restates the substance of superseded Directive #11-06.

Following State v. Thomahl Cook, 179 N.J. 533 (2004), the Chief Justice appointed the Special Committee on the Recordation of Custodial Interrogations to make recommendations on the use of electronic recordation of custodial interrogations. In April 2005, the Special Committee submitted its report to the Supreme Court. The report, as posted at <http://www.judiciary.state.nj.us/notices/reports/cookreport.pdf>, included a recommendation that "the Supreme Court...periodically review the implementation of the recording requirement" (Recommendation 9).

On October 14, 2005, the Supreme Court issued its Administrative Determination on the Report of the Special Committee. That document provided that the recordation requirement would become effective January 1, 2006 for homicide offenses and January 1, 2007 for all other offenses specified in Rule 3:17(a). The Administrative Determination also gave "the Administrative Director of the Courts and the Criminal Practice Committee...the responsibility to work with the Office of the Attorney General

and the County Prosecutors to review the implementation of the recordation requirement.” The Court requested a status report by June 1, 2007, or sooner if the circumstances warrant it.

To meet this requirement, the Criminal Practice Committee and the Conference of Criminal Presiding Judges recommended use of the Recordation of Custodial Interrogations Reporting Form promulgated by Directive #11-06 for homicide cases. That Directive thus advised judges to complete and submit the form in cases where: (1) the defendant was charged with murder, aggravated manslaughter or manslaughter; and (2) the offense occurred on or after January 1, 2006; and, (3) the defendant was tried or the State filed a notice of intent to rely on an unrecorded statement claiming an exception to the recording requirement, and the court made a ruling thereon.

In light of the Court’s direction for a status report on implementation of the recordation requirement, in order to collect data in the expanded category of cases that the recordation requirement will apply to as of January 1, 2007 – that is, all case types enumerated in Rule 3:17(a) – the Criminal Practice Committee has developed a revised version of the previously promulgated Recordation of Custodial Interrogations Reporting Form.

Criminal judges thus should use this Revised Recordation of Custodial Interrogations Reporting Form – including for those cases that were covered by the initial version of the form – beginning January 1, 2007. The Division of Criminal Justice has created a separate form for completion by Prosecutors to capture data involving recordation of custodial interrogations from that perspective.

Any questions or comments regarding this Directive, or the appended revised form, may be directed to Assistant Director Joseph J. Barraco by e-mail or by telephone (609-292-4638).

P.S.C.

Attachment

cc: Chief Justice James R. Zazzali  
Attorney General Stuart Rabner  
Public Defender Yvonne Smith Segars  
County Prosecutors  
Gregory Paw, DCJ Director  
AOC Directors and Assistant Directors  
Regional Deputy Public Defenders

Trial Court Administrators  
Criminal Division Managers  
Francis W. Hoeber, Special Assistant  
Steven D. Bonville, Special Assistant  
Vance D. Hagins, Criminal Practice  
John Wieck, Criminal Practice  
Melaney S. Payne, Criminal Practice

# RECORDATION OF CUSTODIAL INTERROGATIONS REPORTING FORM

**This form is to be filled out by the trial judge in cases where:**

- A. The defendant was charged with murder, kidnapping, aggravated manslaughter, manslaughter, robbery, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, second degree aggravated assault, aggravated arson, arson, burglary, violations of Chapter 35 of Title 2C that constitute first or second degree crimes, any crime involving the possession or use of a firearm, or conspiracies or attempts to commit such crimes,**

**AND**

- B. (1) The murder, aggravated manslaughter, or manslaughter offense occurred on or after January 1, 2006**

**OR**

- (2) Any other crime listed under paragraph A occurred on or after January 1, 2007,**

**AND**

- C. The defendant was tried OR the State filed a notice of intent to rely on an unrecorded statement claiming an exception to the recording requirement, and the Court made a ruling thereon.**

1. Defendant's Name: \_\_\_\_\_

2. County: \_\_\_\_\_

3. Charge at Indictment:

- ☐ Murder
- ☐ Kidnapping
- ☐ Aggravated Manslaughter
- ☐ Manslaughter
- ☐ Robbery
- ☐ Aggravated Sexual Assault
- ☐ Sexual Assault
- ☐ Aggravated Criminal Sexual Contact
- ☐ Criminal Sexual Contact
- ☐ Second Degree Aggravated Assault

- ☐ Aggravated Arson
  - ☐ Arson
  - ☐ Burglary
  - ☐ Violations of Chapter 35 of Title 2C that constitute First or Second Degree Crimes
  - ☐ Crime involving the Possession or Use of a Firearm
  - ☐ Conspiracy or Attempt to commit
- \_\_\_\_\_

4. Charge that the defendant pled guilty to, was convicted of, or acquitted of:

- ☐ Murder
- ☐ Kidnapping
- ☐ Aggravated Manslaughter
- ☐ Manslaughter
- ☐ Robbery
- ☐ Aggravated Sexual Assault
- ☐ Sexual Assault
- ☐ Aggravated Criminal Sexual Contact
- ☐ Criminal Sexual Contact
- ☐ Second Degree Aggravated Assault

- ☐ Aggravated Arson
  - ☐ Arson
  - ☐ Burglary
  - ☐ Violations of Chapter 35 of Title 2C that constitute First or Second Degree Crimes
  - ☐ Crime involving the Possession or Use of a Firearm
  - ☐ Conspiracy or Attempt to commit
- \_\_\_\_\_

☐ Other \_\_\_\_\_

5. The defendant:

- ☐ Pled guilty                      ☐ Was convicted at trial                      ☐ Was acquitted at trial

6. Was there a recorded or unrecorded statement made by the defendant during a custodial interrogation made in a place of detention? (See R. 3:17)

- ☐ No statement
- ☐ Yes. Recorded statement
- ☐ Yes. Unrecorded statement. If yes, answer question 8.

7. What method of electronic recording was used? (check one)
- ☐ Audio ☐ Video ☐ Both
8. Did the State file a notice of intent to rely on an unrecorded statement?
- ☐ No. If no, answer question 12.  
☐ Yes. If yes, answer questions 9 through 12.
9. The exception to the recording requirement that the State claimed was present was that:
- ☐ Electronic recordation was not feasible.  
☐ The statement was a spontaneous statement made outside the course of the interrogation.  
☐ The statement was made in response to questioning that is routinely asked during the processing of the arrest of a suspect.  
☐ The statement was made by a suspect who indicated, prior to the statement, that he or she would participate in the interrogation only if it were not recorded.  
☐ The statement was made during a custodial interrogation that was conducted out-of-state.  
☐ The statement was given at a time when the accused was not a suspect for the crime to which that statement relates while the accused was being interrogated for a different crime that does not require recordation.  
☐ The interrogation during which the statement was given occurs at a time when the interrogators have no knowledge that a crime for which recording is required has been committed.  
☐ Other: Explain \_\_\_\_\_
10. Did the judge find that the exception claimed by the State was present?
- ☐ No. The issue was never decided by the trial judge.  
☐ No. The judge found that another exception applied. If no, answer question 11.  
☐ Yes.
11. Exception found by judge:
- ☐ Electronic recordation was not feasible.  
☐ The statement was a spontaneous statement made outside the course of the interrogation.  
☐ The statement was made in response to questioning that is routinely asked during the processing of the arrest of a suspect.  
☐ The statement was made by a suspect who indicated, prior to the statement, that he or she would participate in the interrogation only if it were not recorded.  
☐ The statement was made during a custodial interrogation that was conducted out-of-state.  
☐ The statement was given at a time when the accused was not a suspect for the crime to which that statement relates while the accused was being interrogated for a different crime that does not require recordation.  
☐ The interrogation during which the statement was given occurs at a time when the interrogators have no knowledge that a crime for which recording is required has been committed.  
☐ Other: Explain \_\_\_\_\_
12. Name of Judge: \_\_\_\_\_

**Completed, original forms should be mailed to:**

Administrative Office of the Courts  
Criminal Practice Division  
P.O. Box 982  
Trenton, New Jersey 08625