

## Use of Prior Convictions

Directive #5-78  
Issued by:

December 21, 1978  
Arthur J. Simpson, Jr., J.A.D.,  
Acting Administrative Director

In *State v. Sands and Sheldrick*, 76 N.J. 127 (1978), decided May 1, 1978, the Supreme Court addressed the question of the admissibility of prior convictions to attack the credibility of a criminal defendant. The Court held prospectively that such a determination rests within the sound discretion of the trial court. As a consequence of that case, the question arises as to the appropriate time in the proceedings the decision on admissibility should be made.

Please be advised that the Supreme Court has determined as a matter of policy that the trial court should conduct a hearing outside the presence of the jury and rule on the admissibility of defendant's prior convictions before or upon the close of the State's case *or* at the option of defendant prior to defendant's taking the stand. In this way, the fact-finding process may well be furthered by encouraging the testimony of the defendant, who will have taken into account the trial court's ruling thereon.

### EDITOR-S NOTE

No change has been made to the original text.