



State of New Jersey

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ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2019-7

TO: Director, Division of Criminal Justice
All County Prosecutors
All County Municipal Prosecutor Liaisons
All Municipal Prosecutors

FROM: Gurbir S. Grewal, Attorney General

DATE: December 4, 2019

SUBJECT: Directive Strengthening Oversight of Municipal Court Prosecutions

Municipal prosecutors play a major role in ensuring consistency and improving the quality of justice in our State's municipal courts. To that end, stakeholders from across New Jersey (including municipal prosecutors) have been meeting for more than a year to explore the role of prosecutors in establishing municipal court practices and procedures that better reflect New Jersey's interests in promoting justice and protecting public safety.

An initial working group of criminal justice stakeholders established in July 2018 identified a number of issues relating to municipal court prosecutions that warranted further study. Based in part on the working group's input, the Attorney General announced on August 28, 2018, that he would be directing the Division of Criminal Justice to prepare recommendations for action on several issues. Among the questions that the Attorney General identified for the Division of Criminal Justice to consider were:

- Should the Code of Ethics for County Prosecutors be extended to apply to municipal prosecutors?
- Should prosecutors adopt practices and policies to address criminal justice issues raised in the recent Report of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees?
- Is there an appropriate role for prosecutors to play in advising defendants of potential collateral consequences of convictions?



- Do Municipal Prosecutor Supervisors or Liaisons in County Prosecutors' Offices require additional guidance as to their duties?

After a series of meetings with stakeholders drawn primarily from the membership of the working group formed in July 2018, the Office of the Attorney General and the Division of Criminal Justice concluded that certain of the questions initially posed could not be properly answered without more comprehensive and reliable information concerning the State's municipal prosecutors. To provide one example, the working group could not properly evaluate whether to extend to municipal prosecutors the Code of Ethics for County Prosecutors without a better understanding of how many municipal prosecutors would be affected by the Code's restrictions on participating in political campaigns and holding elected office.

The necessary information about individual municipal prosecutors was not readily available. Many County Prosecutors' Offices did not have a current roster of the municipal prosecutors for each municipality within their jurisdiction. Nor did the Division of Criminal Justice. Yet without this information, neither is able to provide the kind of oversight contemplated by state laws, such as N.J.S.A. 2B:12-27, which establishes that municipal prosecutors act "under the supervision of the Attorney General or county prosecutor."

Pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State, I hereby direct all law enforcement and prosecuting agencies operating under the authority of the laws of the state of New Jersey to implement and comply with the procedures outlined below.

This Directive is designed to ensure that the Attorney General, the Division of Criminal Justice, and the County Prosecutors' Offices have the information needed to provide effective oversight and inform future policymaking, and that all stakeholders share and seek to constantly improve best practices.

I. Registration and Disclosure by Municipal Prosecutors

A. Duties of Municipal Prosecutors

1. Every municipal prosecutor must register with the Division of Criminal Justice. In municipalities with multiple persons authorized to act as municipal prosecutors, each prosecutor must register separately because each prosecutor must be appointed separately. *See* N.J.S.A. 2B:12-27; N.J.S.A. 2B:25-4.
2. Every municipal prosecutor shall annually file with the Division of Criminal Justice a completed Municipal Prosecutor Disclosure Statement ("Disclosure Statement"),

- using the form created and published by the Division of Criminal Justice pursuant to Section I.C below. Upon filing the required Disclosure Statement, the municipal prosecutor will be considered registered as a municipal prosecutor with the Division of Criminal Justice until such time as the filer files a Municipal Prosecutor Separation Statement (“Separation Statement”) or fails to timely file a required Disclosure Statement.
3. Deadlines for Initial Disclosure Statements:
 - a. For any person who is serving as a municipal prosecutor as of January 1, 2020, the initial Disclosure Statement is due no later than May 1, 2020.
 - b. For any person beginning service as a municipal prosecutor after January 1, 2020, but no later than April 1, 2020, the initial Disclosure Statement is due no later than May 1, 2020.
 - c. For any person beginning service as a municipal prosecutor after April 1, 2020, the initial Disclosure Statement is due within 30 days of taking office.
 4. After filing the required initial Disclosure Statement, a municipal prosecutor shall file annual Disclosure Statements by May 1 of each subsequent year for so long as they remain so employed.
 5. A person who ceases employment as a municipal prosecutor in a municipality shall notify the Division of Criminal Justice within 30 days of the last day of service by filing a completed Separation Statement. A person who has filed a Separation Statement and no longer serves as a municipal prosecutor in the municipality is not subsequently required to file with the Division of Criminal Justice annual Disclosure Statements in connection with the person’s service in that municipality.
 6. Municipal prosecutors serving in multiple municipalities must file separate Disclosure Statements and a separate Separation Statement for each position they hold.
 7. Persons who serve as municipal prosecutor on an acting, temporary, substitute, or similar basis shall file Disclosure Statements in accordance with instructions to be issued by the Division of Criminal Justice in accordance with Section I.C.1 of this Directive. However, this Directive does not apply to attorneys whose prosecutorial role is limited to serving as a private prosecutor for a citizen complaint pursuant to R. 7:8-7b.
 8. In addition to Disclosure Statements and Separation Statements, municipal prosecutors shall provide such additional information as the Division of Criminal

Justice or County Prosecutor's Office may from time to time require. Such information may be necessary, for example, to facilitate oversight and policymaking involving municipal court prosecutions. For instance, in evaluating policy proposals concerning prosecutorial independence in municipal court prosecutions, the Division may find it appropriate to solicit from all or some municipal prosecutors information regarding outside employment, political activity, and the sources and amounts of their income from the municipality and other sources.

B. *Duties of the County Prosecutors*

1. Every County Prosecutor's Office shall establish a "Municipal Prosecutor Liaison."
2. In addition to their other duties, which will be addressed in the Best Practices Manual developed in accordance with Section I.D below, Municipal Prosecutor Liaisons shall be responsible for coordinating with the Division of Criminal Justice and municipal prosecutors in their County to ensure that each municipal prosecutor in the County has a completed and up-to-date registrations and disclosures.

C. *Duties of the Division of Criminal Justice*

1. The Division of Criminal Justice shall create and publish the Disclosure Statement and Separation Statement forms no later than February 1, 2020. At the Division's discretion, Disclosure Statements and Separation Statements may be completed online using electronic forms. The Division also shall issue such clarifying instructions as are necessary to enable municipal prosecutors to make the required disclosures.
2. The Disclosure Statement form shall require disclosure of at least the following information:
 - a. The filer's name and contact information;
 - b. The filer's New Jersey attorney ID;
 - c. The first date of the filer's first consecutive term of service as municipal prosecutor;
 - d. The term of the filer's current appointment (or, if applicable, the date on which the filer assumed holdover status); and
 - e. Such other information as the filer is required to disclose on the Local Government Ethics Law Financial Disclosure Statement.
3. The Division of Criminal Justice shall establish the reporting periods to be covered by

- filers' initial and subsequent Disclosure Statements and for Separation Statements.
4. The Division of Criminal Justice shall develop policies and practices for securing the information that municipal prosecutors are required to disclose on their Disclosure Statements and Separation Statements, in the event that a municipal prosecutor or former municipal prosecutor fails to comply with this Directive.
 5. The Division of Criminal Justice shall designate one or more Deputy Attorney(s) General to serve as Municipal Prosecution Supervisor(s) within the Division's Prosecutors Supervision & Training Bureau.
 6. In addition to the other duties of the Municipal Prosecution Supervisor(s), the Municipal Prosecution Supervisor(s) shall be responsible for ensuring that the Division has completed and up-to-date registrations and disclosures for each municipal prosecutor in the State. The Municipal Prosecution Supervisor(s) shall carry out this duty with the assistance of the County Municipal Prosecutor Liaisons, and shall ensure that each County Municipal Prosecutor Liaison has copies of the completed and up-to-date registrations and disclosures for each municipal prosecutor in the relevant County.
 7. In carrying out the duties described in this Section, the Division shall seek to accomplish its objectives while minimizing the filing burden for municipal prosecutors.

D. *Best Practices Manual*

1. The Division of Criminal Justice, through its Municipal Prosecution Supervisor(s) and in consultation with the Municipal Prosecutor Liaisons, shall create a Best Practices Manual for County Municipal Prosecutor Liaisons.
2. The Best Practices Manual shall address, among other subjects, the best practices for communication and coordination among municipal prosecutors, Municipal Prosecutor Liaisons, and the Municipal Prosecution Supervisor(s).
3. The Division shall create the Best Practices Manual no later than April 1, 2020.

II. Other Provisions

- A. *Non-enforceability by third parties.*** This Directive is issued pursuant to the Attorney General's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the State. This Directive imposes limitations on law enforcement agencies and officials that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.

- B. *Severability.*** The provisions of this Directive shall be severable. If any phrase, clause, sentence or provision of this Directive is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of the Directive shall not be affected.
- C. *Questions.*** Any questions concerning the interpretation or implementation of this Directive shall be addressed to the Director of the Division of Criminal Justice, or their designee.
- D. *Effective date.*** This Directive shall take effect immediately, and shall remain in force unless and until rescinded or amended by Order of the Attorney General.



Gurbir S. Grewal
Attorney General

ATTEST:



Jennifer Davenport
First Assistant Attorney General
Dated: December 4, 2019