

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

Richard J. Williams, J.A.D.
Acting Administrative Director of the Courts

Richard J. Hughes Justice Complex
PO Box 037
Trenton New Jersey 08625-0037
(609) 984-0275
FAX: (609)292-3320

April 24, 2000

TO: Presiding Judges-Municipal Courts

FROM: Richard J. Williams

RE: Municipal Court Plea Agreements – Implementation of R. 7:6-2

The Conference of Assignment Judges has asked that I enlist your assistance to eliminate practices in some municipal courts that threaten the integrity of the plea agreement process. Specifically, it has come to the Conference's attention that in some municipal courts, pleas are being offered and accepted without careful adherence to the requirements of R. 7:6-2 (Pleas, Plea Agreements), and the "Guidelines for Operation of Plea Agreements in the Municipal Courts of New Jersey." (Appendix to Part VII of the Rules.) Rule 7:6-2(d) requires that the terms and the factual basis that support a proposed plea agreement be set forth fully on the record. The Rule also mandates that any sentence recommendations are not to circumvent minimum sentences required by law.

An example that has come to light is the offer of a plea to a violation of N.J.S.A. 39:4-215 (failure to obey signals, signs or directions posted in response to an emergency declared by the Attorney General) in lieu of another Title 39 offense that was initially charged. In a plea agreement involving a violation of that statute, the factual basis must always include identification of the emergency condition declared by the Attorney General that existed at the time and at the location of the offense. Absent a record containing that key information, there would be no clear basis for a judge to accept a proposed plea to that violation and, as set forth in R. 7:6-2(d), the court should consider rejecting the plea and informing the defendant of the right to withdraw the plea if already entered.

I understand that the issues related to plea agreements were addressed at the April 6-7, 2000, Municipal Division Retreat and that you are developing plans to more closely oversee and mentor the municipal court judges in your vicinages to better insure compliance with the plea agreement rules. As a part of that process, each judge should be reminded that the Supreme Court has established a Standing Subcommittee of the Supreme Court Committee on Municipal Courts to monitor the plea agreement process and to recommend changes to R. 7:6-2 and the Guidelines. Suggestions for improving the process should be passed on to that Subcommittee.

The plea agreement process must be conducted strictly in accordance with the rules. Each of you must see to it that every judge in your vicinage understands and carefully applies every technical requirement of the plea agreement process, especially the requirement for a factual basis. The Assignment Judges and I are counting on your support to end any practices that are inconsistent with the rules, wherever they exist in the municipal courts.

cc: Chief Justice Deborah T. Poritz
Assignment Judges
Theodore J. Fetter
Dennis L. Bliss
Trial Court Administrators
Municipal Division Managers