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TO: DIRECTOR, DIVISION OF CRIMINAL JUSTICE
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FROM: Gurbir S. Grewal, Attorney General

DATE: November 25, 2020

SUBJECT: Guidance for Marijuana Possession-Related Cases Pending in Municipal and Superior Courts

As we await guidance from the Legislature on the parameters for decriminalization of marijuana and legalization of regulated cannabis, I am issuing this guidance concerning marijuana possession-related cases currently pending in Municipal and Superior Courts. This memorandum supplements prior guidance issued by this office concerning the prosecution of low-level marijuana cases.[1]

All New Jersey municipal, county, and state prosecutors are instructed to seek an adjournment, until at least January 25, 2021, of any juvenile or adult case involving any of the following charges, alone or in combination with each other, where there are no other pending charges:

- possession of marijuana or hashish in violation of N.J.S. 2C:35-10(a)(3);
- possession of marijuana or hashish in violation of N.J.S. 2C:35-10(a)(4);
- being under the influence of marijuana or hashish in violation of N.J.S. 2C:35-10(c);
- failure to make lawful disposition of marijuana or hashish in violation of N.J.S. 2C:35-10(d);
- use or possession with intent to use drug paraphernalia under N.J.S. 2C:36-2 involving only marijuana or hashish;
- possession of a controlled dangerous substance while operating a motor vehicle in violation of N.J.S. 39:4-49.1 involving only marijuana or hashish; and

[1] *See* August 29, 2018 Guidance Regarding Municipal Prosecutors' Discretion in Prosecuting Marijuana and Other Criminal Offenses and November 4, 2020 Interim Guidance on the Constitutional Amendment Legalizing Cannabis.

- any disorderly persons offense or petty disorderly persons offense subject to conditional discharge pursuant to N.J.S. 2C:36A-1 involving only marijuana or hashish.

In cases where there are other pending charges in addition to the marijuana possession-related offenses enumerated above, prosecutors shall use their discretion to either postpone the case in its entirety or seek dismissal, without prejudice, of the above-enumerated marijuana possession-related charge(s) and proceed with prosecution of the remaining charges.

Please note that this shall not be construed in any way to create any substantive right that may be enforced by any third party, nor does it affect the prosecution of distribution of marijuana or possession with the intent to distribute marijuana in violation of N.J.S. 2C:35-5.

Fairness and justice require that we, as prosecutors, not move forward with charges that the Legislature may foreclose in the near future. We will provide more comprehensive guidance, including direction on handling of previously adjudicated matters, when the Legislature provides details of the framework for marijuana decriminalization and the legalization of adult-use cannabis. In the meantime, you may direct questions to Assistant Attorney General Sara M. Quigley at quigleys@njdcj.org.