CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lieutenant Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

JOHN J. HOFFMAN
Acting Attorney General

Attorney General Law Enforcement Directive 2014-2

TO: Director, Division of Criminal Justice
All County Prosecutors
Superintendent, New Jersey State Police
All County Sheriffs
All Chief Law Enforcement Executives

FROM: John J. Hoffman, Acting Attorney General

DATE: October 28, 2014

SUBJECT: Directive Concerning Heroin and Opiate Investigations/Prosecutions

New Jersey is in the midst of a heroin and prescription opiate crisis. The epidemic is ruining, and too often taking, the lives of countless adolescents and young adults. The situation is dire, and demands urgent attention. It therefore is necessary and appropriate to exercise the Attorney General's authority as the State's chief law enforcement officer under the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 *et seq.*, to ensure that all police and prosecuting agencies throughout the State take steps to address the heroin and opiate abuse crisis in a coordinated fashion to promote uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State.

1. *Overdose Prevention Act Training and Compliance*

On May 2, 2013, Governor Christie signed the "Overdose Prevention Act." This law saves lives by encouraging persons to seek immediate medical assistance whenever a drug overdose occurs. In the past, individuals were unwilling to call authorities for help for fear that this might lead to an arrest for illegal drug use or possession. To address that fear, the Act affords immunity from arrest, prosecution, and conviction for a drug use or simple possession charge when a person, in good faith, seeks medical assistance for him/herself or another who is experiencing an overdose.

To ensure that the Act is properly implemented, Attorney General Law Enforcement Directive 2013-1instructs police and prosecutors on the requirements of the law and how to apply it fairly and uniformly. Embracing the spirit of the law and not just its literal text, the Attorney General Directive extends the immunity feature to persons who were present and collaborated in making the call for medical assistance, and not just to the person who actually placed a call for help to 9-1-1.

It is important now to send a strong message to the public by making certain that police officers responding to an overdose event understand and respect the Act's immunity policy. It therefore is appropriate to supplement Directive 2013-1 to establish statewide training requirements to ensure that officers responding to an overdose event understand their responsibilities under the Act and the Attorney General Directive.

Accordingly, it is hereby Directed that:

a. **Development of Statewide Training Program for Police. Within 120 days of the issuance of this Directive, the Division of Criminal Justice shall develop and make available an in-service training program, utilizing the NJLEARN system, if possible, to explain the immunity provisions of the Overdose Prevention Act and Attorney General Law Enforcement Directive 2013-1 as supplemented by this Directive. The Division shall advise the chief executive of every law enforcement agency operating under the authority of the laws of the State of New Jersey when the training program is available, and the means by which officers may participate in the training (*e.g.*, via NJLEARN, if applicable). The Division also shall develop and submit for approval by the Police Training Commission training materials for inclusion in the Basic Course for Police Officers. These pre-service training materials also shall be integrated in the State Police Academy course for recruits.**

b. **Required Training for Certain Officers. The chief executive of every law enforcement agency operating under the authority of the laws of the State of New Jersey shall take such steps necessary to ensure that every sworn officer assigned to patrol duties, every sworn officer who directly supervises officers assigned to patrol duties, and every sworn officer whose duties include investigating the circumstances of or related to an overdose event (*e.g.*, detectives assigned to narcotics enforcement, detectives who might investigate a suspected violation of N.J.S.A. 2C:35-9 (strict liability for drug-induced death), etc.) receives the training developed pursuant subsection a. of this Section. Such officers shall receive the training within 120 days of the training program being made available by the Division of Criminal Justice (*e.g.*, when the program is put on the NJLEARN system). The chief executive shall report in writing to the appropriate county prosecutor, or to the Director of the Division of Criminal Justice in the case of**

a state agency, documenting that all such officers have completed the training requirement.

c. **Requirement to Investigate Immunity Eligibility Before Making an Arrest. An officer responding to a drug overdose shall not arrest any person present at the scene for violation of any offense eligible for immunity under the Overdose Prevention Act unless the officer has investigated, when feasible, whether the person made or participated in a call for medical assistance. The officer shall make an arrest for violation of an offense enumerated in the Act only after determining, to the extent feasible, that the person is not entitled to immunity from arrest pursuant to the Act and/or Attorney General Law Enforcement Directive 2013-1.**

d. **Notice to Prosecutor of Arrests Made at Scene of an Overdose Event. Whenever an arrest is made at the scene of an overdose event for an offense enumerated in the Overdose Prevention Act that is potentially eligible for immunity protection, the officer shall alert the municipal prosecutor or county prosecutor handling the complaint. The officer shall report on the steps taken to investigate whether the person arrested had made or participated in a call for medical assistance, and the reason why the officer determined, based on the information available to the officer at the scene of the arrest, that the person arrested was not entitled to immunity from arrest. The prosecutor handling the complaint shall as soon as practicable make an independent determination whether the person arrested may be entitled to immunity from prosecution. In the event that the prosecutor determines that the person is entitled to immunity from prosecution under the Act and/or Attorney General Law Enforcement Directive 2013-1, the complaint charging an immunity-eligible offense shall be dismissed as expeditiously as possible.**

2. *Reporting of Law Enforcement Narcan Deployments*

On April 2, 2014, Governor Christie announced the formal launch of a pilot program in Ocean and Monmouth counties to train and equip police officers to administer Narcan (Naloxone Hydrochloride), which is a nasally-injected opioid antidote that can save the life of a heroin or prescription opioid overdose victim. Work by the Ocean County Prosecutor's Office informed the State's pilot through the design of a voluntary program to make Narcan kits available to specially-trained police officers. The pilot program within Ocean and Monmouth counties demonstrated the life-saving capabilities of Narcan, as police officers and first responders reversed numerous opiate overdoses in the months following the initiation of the pilot program. Both before and after the initiation of the pilot program, the Department of Health, the Department of Human Services, and the Attorney General worked with county officials to address legal and regulatory issues that otherwise would have impeded the initiative to equip police officers and EMTs with this life-saving

antidote.

Due in part to the extraordinary cooperation among these state agencies, state-wide expansion of the program was realized quickly. On June 17, 2014, Governor Christie announced the expansion of the Narcan pilot program to all 21 counties in New Jersey and the State Police. Additional law enforcement agencies such as the State Park Police also are exploring having their members equipped with Narcan.

Law enforcement deployment of Narcan as a response to an overdose event is an important data point in the analysis of the State's opiate problem. By fusing this data with other available information from within the Department of Law and Public Safety as well as other State agencies, we will better understand where addiction, abuse, and dependence problems reside within our State. Such knowledge is a powerful tool that will allow us to make critical decisions on how to expend our limited law enforcement, prevention, and treatment resources. Within our Department, efforts are already underway to collect data sets in our fight against the opiate epidemic. The State Police's Drug Monitoring Initiative within its Regional Operations Intelligence Center (ROIC) collects and fuses various data and produces intelligence of great assistance to the law enforcement and public health communities. The usefulness and success of the Drug Monitoring Initiative depends in large part on the quality and timeliness of the information it receives.

Accordingly, it is hereby Directed that:

a. **Reporting Narcan Deployments to the ROIC. Every law enforcement agency operating under the authority of the laws of the State of New Jersey that equips its members with Narcan must develop and enforce policies and procedures to ensure that each deployment of Narcan is documented on a form and in a manner as may be prescribed by the Director of the Division of Criminal Justice. (See form attached hereto as Appendix A. Law enforcement agencies may use a comparable form with the approval of the Director.) Completed Narcan deployment forms shall be collected by the Narcan coordinator for that agency, or, in the case of a municipal law enforcement department, by the county Narcan coordinator. The Narcan coordinator shall report all deployments of Narcan to the ROIC's Drug Monitoring Initiative within 24 hours to ensure timely reporting of overdose events to a centralized location and to allow Drug Monitoring Initiative personnel to analyze the information and produce reports statewide as appropriate.**

3. *Prompt and Thorough Investigation of Possible Violations of N.J.S.A. 2C:35-9 (Strict Liability for Drug-Induced Death)*

New Jersey law holds drug dealers criminally responsible for deaths that result from the

ingestion of controlled dangerous substances that they have distributed. When the Comprehensive Drug Reform Act was adopted in 1987, it included a provision, codified in N.J.S.A. 2C:35-9, that makes it a first-degree crime to unlawfully distribute a controlled substance that results in a death. The statute prescribes strict liability, and it is no defense that the drug user contributed to his or her own death by voluntarily ingesting the substance that caused the death. The statute also applies to every person along the drug distribution chain, and not just to a "retail" distributor who may personally have interacted with the ultimate consumer/decedent.

Historically, the drug-induced death statute has been used sparingly, in part because it is difficult to establish by proof beyond a reasonable doubt who had provided the dose of controlled dangerous substance that caused the death. Experience has shown that to mount a successful prosecution for this crime, it is essential for investigators to move quickly, securing physical evidence before it is removed or destroyed, and taking statements from persons who had witnessed the overdose and/or the transaction in which the fatal dosage had been distributed to the victim.

While the drug-induced death charge must be used with appropriate circumspection, it shall be the law enforcement policy of this State to fully, fairly, and expeditiously investigate and prosecute violations of N.J.S.A. 2C:35-9 with a view toward deterring drug dealers from distributing or dispensing those types of controlled dangerous substances that are most often associated with overdose fatalities.

Accordingly, it is hereby Directed that:

a. **Development of Uniform Drug Overdose Investigation Standards. The Director of the Division of Criminal Justice in consultation with the county prosecutors shall within 120 days issue and thereafter periodically update as needed uniform investigation standards and protocols concerning possible violations of N.J.S.A. 2C:35-9 (strict liability for drug-induced deaths). These standards and protocols shall be followed by all law enforcement officers and agencies that respond to the scene of an overdose event or thereafter investigate the circumstances of an overdose death. The investigation standards shall:**

Emphasize the importance of investigating promptly the circumstances of a suspected drug overdose, securing the scene to preserve physical evidence, identifying and taking statements from witnesses at the earliest possible opportunity, and securing smart phones and applying for search warrants and/or communications data warrants when there is probable cause to believe those devices store information pertaining to the offense;

Include procedures to safeguard the rights afforded under the Overdose Prevention Act so as not to chill persons from seeking immediate medical

attention for an overdose victim;

Include a requirement to keep county prosecutors and, where applicable, the Division of Criminal Justice, apprised of overdose fatality investigations to ensure that all investigative leads and avenues are pursued as appropriate;

b. **Development of Training Program. Within 120 days of the issuance of this Directive, the Division of Criminal Justice shall develop and make available an in-service training program, utilizing the NJLEARN system if possible, to explain the drug overdose investigation standards and protocols promulgated pursuant to subsection a. of this Section. This training may be combined, as appropriate, with the training specified in Section 1.a of this Directive.**

c. **Required Training for Certain Officers. The chief executive of every law enforcement agency operating under the authority of the laws of the State of New Jersey shall take such steps necessary to ensure that every sworn officer assigned to patrol duties, every sworn officer who directly supervises officers assigned to patrol duties, and every sworn officer whose duties include investigating the circumstances of or related to an overdose event (*e.g.*, detectives assigned to narcotics enforcement, detectives who might investigate a suspected violation of N.J.S.A. 2C:35-9 (strict liability for drug-induced death), etc.) receives the training on drug overdose investigation standards and protocols developed pursuant subsection b. of this Section. Such officers shall receive the training within 120 days of the training program being made available by the Division of Criminal Justice (*e.g.*, when the program is put on the NJLEARN system). The chief executive shall report in writing to the appropriate county prosecutor, or to the Director of the Division of Criminal Justice in the case of a state agency, documenting that all such officers have completed the training requirement.**

4. *Enhanced and Coordinated Investigation/Prosecution of Corrupt Healthcare Professionals and "Pill Mills"*

New Jersey's drug trafficking problem is not limited to violent gangs, international drug cartels, and brazen street dealers who ply their trade in open-air markets that erode the quality of life, especially in crime-ridden urban centers. New types of profit-minded drug traffickers have emerged and flourished, exploiting and fueling the epidemic of opiate abuse. One new breed of drug trafficker may have a medical or pharmacy degree, operating a so-called "pill mill" under the veil of a legitimate medical practice and creating a self-sustaining market by capitalizing on the addictive nature of prescription opiates. Another new type of trafficker is essentially a professional patient who engages in organized and carefully researched "doctor shopping." This new breed of drug trafficker is skilled at deceiving unwitting prescribers, not to sate his or her own addiction, but rather for the singular purpose of commercially exploiting the addiction of others by diverting prescribed

medications to the black market for profit.

These profiteers cause enormous harm by the sheer repetition of their crimes and the volume of prescription opiates they introduce into the stream of illicit commerce. For these prolific offenders, therefore, criminal prosecution as large-scale drug traffickers is warranted and necessary to send the strongest possible message, to put them out of business, and deter others from taking their place.

To address these new types of drug trafficker, the Division of Criminal Justice recently created a Prescription Fraud Investigation Strike Team (PFIST) comprised of detectives and deputy attorneys general. The Strike Team operates under the direction of the PFIST Coordinator. The Strike Team's primary mission is to investigate and prosecute corrupt healthcare professionals who purvey dangerous drugs for profit while hiding behind the veil of medical offices. For this initiative to be successful, it is essential that county prosecutors and local police departments assist the PFIST by collecting and sharing information that is needed to identify investigative targets.

The county prosecutors also must monitor the nature and scope of the prescription and heroin abuse problem within their jurisdiction. It will be important, for example, for police and prosecutors to debrief persons who have been arrested for unlawfully possessing/acquiring prescription drugs and to encourage those persons to cooperate by revealing their supplier/prescriber. Because county prosecutors handle the vast majority of cases involving prescription pills and heroin possession, they are in a position to encourage users/buyers to provide information about their supply sources.

Accordingly, it is hereby Directed that:

a. **<u>County Prosecutor Liaisons to PFIST</u>. Every county prosecutor shall within 30 days designate a liaison to the Prescription Fraud Investigation Strike Team who shall serve as an intelligence officer and who shall canvass local police departments and report to the PFIST Coordinator or a member of the Drug Monitoring Initiative at the ROIC on the nature and scope of the prescription fraud problem.**

b. **<u>Notifications of Suspicious Activity to PFIST</u>. Every county prosecutor and law enforcement agency operating under the authority of the laws of the State of New Jersey shall notify the PFIST Coordinator, in a manner as may be prescribed by the Coordinator, when there is reasonable articulable suspicion to believe that a licensed healthcare practitioner has committed a crime involving the prescribing or dispensing of any controlled dangerous substance.**

c. **<u>Specialized Training</u>. The PFIST Coordinator shall develop specialized training on best practices for investigating and prosecuting cases against licensed healthcare practitioners, including training on how to use grand jury subpoenas to obtain relevant**

information from the New Jersey Prescription Monitoring Program (NJPMP). The PFIST Coordinator shall make this training available to county detectives and assistant prosecutors.

d. **Soliciting Cooperation of Prescription Opiate Abusers. When a person is charged with unlawful acquisition, possession, or use of a prescription opiate, before dismissing, downgrading, or negotiating a disposition of the charge, the county prosecutor shall make reasonable efforts to convince the person to cooperate and to provide information concerning the source of prescription drugs and concerning the prescribing/dispensing practices of any practitioner from whom the person obtained a controlled substance or a prescription to obtain such substances.**

5. *Enhanced Prosecution of Drug Traffickers Who Sell Ultradangerous Opiate Mixtures or Heroin Along With Other Opiates*

Drug traffickers constantly are developing new ways to market existing drugs by combining substances to enhance their psychotropic effect and attract users by affording a quicker, more intense, and longer-lasting "high." Recently, law enforcement and health officials learned that heroin sometimes is mixed with the synthetic narcotic fentanyl. This additive enhances the intoxicating effect and significantly increases the risk of overdose and death, especially if the user is not familiar with the enhanced effects of this ultradangerous mixture of narcotic substances. Drug traffickers, of course, do not provide warning labels or dosage instructions to their customers. Nor do they provide labels that identify all of the ingredients and warn of their synergistic effects.

Aside from enhancing prosecution efforts against drug dealers who prepare or sell ultradangerous opiate mixtures, it also is necessary to pay special attention to traffickers who sell heroin in addition to other forms of opiates. That practice makes it easier for users to consume opiate drugs in combination, and makes it easier for persons who are addicted to prescription pills to transition to heroin, because they can progress to that substance without having to find a new supplier.

To address these disturbing developments, it is appropriate to strengthen the Attorney General "Brimage Guidelines," which channel prosecutorial discretion in negotiating guilty pleas for offenses under the Comprehensive Drug Reform Act that carry a mandatory minimum sentence that can only be waived or reduced by the prosecutor pursuant to N.J.S.A. 2C:35-12. These revisions are needed to ensure appropriate punishment for drug dealers who distribute heroin along with other opiates. In addition, consistent with ongoing efforts to reform New Jersey's bail laws and practices to ensure protection of the public, see L. 2014, c. 31, prosecutors must make certain that courts setting bail/pretrial release conditions are alerted when a defendant will be subject to enhanced punishment – and thus have a greater incentive to flee – as a result of these revisions to the Brimage Guidelines.

It also is important to ensure that forensic laboratories test for multiple substances and provide prosecutors with reports that establish when a heroin sample submitted for testing contains any other Schedule I or II narcotic drug.

a. **Revision to Brimage Guidelines. The Revised Attorney General Guidelines for Negotiating Cases Under N.J.S.A. 2C:35-12 (Brimage Guidelines 2) (2004) hereby are amended to provide that in Brimage-eligible cases where the defendant has manufactured, distributed, or possessed with intent to distribute heroin simultaneously with fentanyl or any other Schedule I or II narcotic drug, whether combined by the defendant into a single mixture or not, the prosecutor shall increase the Brimage-calculated term of parole ineligibility by 12-18 months in the case of a first-degree crime, or 6-9 months in the case of a second-degree crime. The Director of the Division of Criminal Justice may issue specific instructions on how to implement this revision to the Brimage Guidelines. To ensure that bail/pretrial release conditions accurately reflect the defendant's sentencing exposure, prosecutors shall apprise a court responsible for setting or reviewing bail/release conditions when a defendant is subject to an enhanced Brimage plea offer pursuant to this Directive.**

b. **Review of Forensic Laboratory Testing Protocols for Ultradangerous Opiate Mixtures. The Superintendent of the Division of State Police, in consultation with the Director of the Division of Criminal Justice and the County Prosecutors, shall review and as appropriate revise forensic testing protocols and procedures used by the New Jersey State Police Forensic Laboratory to facilitate the identification of heroin samples submitted for analysis that also contain any other Schedule I or II narcotic drug in order to identify cases subject to an enhanced Brimage offer pursuant to Section 5.a of this Directive. County Prosecutors who oversee county forensic laboratories shall similarly ensure that laboratories operating under their auspices review and as appropriate revise their testing protocols and procedures to identify ultradangerous opiate mixtures.**

6. *Enhancing the Role of Prosecutors in Enabling Drug Treatment in Lieu of Imprisonment*

The law enforcement community cannot solve the current heroin and prescription opiate epidemic solely by making arrests and incarcerating drug dealers. Some drug offenders, of course, need to be imprisoned. Professional drug traffickers who are motivated by greed must be targeted for appropriately stern punishment commensurate with their culpability. Likewise, drug dealers who participate in street gang activity, intimidate witnesses, carry firearms, or otherwise engage in violence, generally face stern punishment. For certain other drug offenders, however, traditional incarceration may not be necessary.

Indeed, for some non-violent drug offenders who suffer from addiction, incarceration may be a lost opportunity to protect the public from future criminality. Some offenses are committed by addicts while they are under the influence of a mind-altering substance that interferes with their ability to assess risks and make reasoned choices. Many non-violent offenses are committed by addicts who are desperate to raise money to pay for the drugs they crave. Were we to address the underlying addiction that precipitates criminal activity, we could prevent future crimes by breaking a vicious cycle. While the threat of imprisonment can and in appropriate cases should be used to encourage addicted offenders to overcome denial and engage in the rehabilitation process, our overarching goal should be to avoid having to imprison non-violent addicts when a more effective alternative exists.

In 2012, Governor Christie signed a law that calls for the gradual expansion of New Jersey's nationally-acclaimed Drug Court Program by authorizing judges to order addicted non-violent offenders to participate in court-supervised drug treatment whether they ask for treatment or not. The new compulsory treatment provision addresses a major shortcoming of a program that had depended on addicts making rational, farsighted choices – something addicts may not have the capacity or wherewithal to do. The new law is based on a well-established body of scientific research that shows that compulsory treatment works as well if not better than voluntary treatment. Under this statutory framework, the authority and leverage of the criminal justice system is used constructively to overcome an addict's denial, which is one of the characteristics of this disease.

Prosecutors have an important supporting role in the continued success of Drug Court. In many respects, prosecutors are the gatekeepers of the criminal justice system, deciding what charges to bring and how those cases will be presented to courts for adjudication and disposition. In exercising charging and plea negotiation discretion, prosecutors must be careful not to unwittingly discourage addicts from applying to Drug Court, or discourage courts from exercising their authority under the new law to compel addicts to participate in the program.

Prosecutors also have an important role to play in protecting the integrity of the Drug Court admission process. Not all drug dealers are selling to support their own addiction. Many are motivated by greed, rather than driven by drug dependence. Furthermore, there are some profit-minded distributors who will feign addiction in an effort to avoid traditional imprisonment. Given the limitation on the number of treatment beds that are available, those resources must not be wasted on malingerers.

Furthermore, to promote the long-term interests of public safety, sometimes, the request to conduct a diagnostic assessment to determine whether and to what extent a defendant is drug or alcohol dependant should come from an alert prosecutor. While prosecutors generally are not in a position to diagnose a defendant's substance abuse problems, prosecutors should not ignore indications of addiction that are readily apparent from a careful review of the information that is readily available to prosecutors, such as, for example, information in an arrest report that suggests

that the defendant was under the influence of a controlled dangerous substance, or findings or self-admissions of substance abuse memorialized in presentence reports from prior cases. Prosecutors whenever feasible should inform judges about any case-specific circumstances that reasonably suggest that a defendant may suffer from the disease of addiction, and should do so at the earliest opportunity (*e.g.*, a next-day bail review). A prosecutor should not assume that the judge handling the matter is aware of these circumstances merely because this information is captured in court records (*e.g.*, a presentence report from a prior case).

The Drug Court Program embraces the principle that treatment services must be matched to clinical needs. Studies show that clinically-inappropriate treatment (*e.g.*, outpatient treatment when inpatient treatment is needed, or inpatient treatment when it is not needed) produces poor results, and wastes valuable treatment resources. A prosecutor generally would be expected to defer to a TASC (Treatment Assessment Services for the Courts) evaluator's assessment as to the appropriate type and level of care (*e.g.*, inpatient, intensive outpatient, or outpatient treatment). If a prosecutor has concerns about community safety were a defendant to be sentenced to outpatient treatment, rather than automatically objecting to the defendant's admission to Drug Court, a prosecutor instead might consider, for example, whether the interests of public protection would best be served by asking the court to impose a curfew and to require the defendant to wear an ankle bracelet to record his or her movements, at least until the defendant is making good progress in recovery and has earned the privilege of having the monitoring device removed. In this way, a defendant's violation of a court order concerning his or her movements, or his or her presence at the scene of a reported offense, could be ascertained simply by checking the electronic monitoring records.

Ultimately, that approach – finding ways to support treatment with appropriate safeguards rather than objecting automatically to treatment – might better serve the interests of community safety than if the prosecutor were to ask the court to impose a State Prison sentence after which the defendant upon his or her return to society likely would commit new crimes as a result of his or her untreated addiction.

Accordingly, it is hereby Directed that:

a. **Alerting the Court of Possible Addiction. The prosecutor assigned to handle a case involving a non-violent offense shall to the extent feasible review available information concerning any indicia that the offender may be a drug or alcohol dependent person as defined in N.J.S.A. 2C:35-2 (e.g., current arrest report, presentence reports in prior cases, etc.). If the prosecutor becomes aware of information reasonably suggesting that the defendant is a drug or alcohol dependent person, he or she shall report such information to the court at the earliest opportunity.**

b. **Policy to Encourage Drug Court. Where a defendant is eligible for special probation pursuant to N.J.S.A. 2C:35-14, the prosecutor shall request the court at sentencing to**

impose special probation unless the County Prosecutor or designated senior assistant prosecutor, or Director of the Division of Criminal Justice or designated Assistant Attorney General in cases prosecuted by the Division, determines in writing that admission to Drug Court would pose a danger to the community. In making that determination, the prosecutor shall consider whether any conditions of probation (*e.g.*, electronically monitored curfew) are available that adequately would address the community safety concerns.

c. **Approval of Objections Based on Community Safety. A prosecutor shall not object to a defendant being sentenced to special probation pursuant to N.J.S.A. 2C:35-14 on the grounds that defendant's admission to Drug Court would pose a danger to community safety unless the basis for such objection has been reviewed and approved by the County Prosecutor or designated senior assistant prosecutor, or Director of the Division of Criminal Justice or designated Assistant Attorney General in cases prosecuted by the Division, considering whether any conditions of probation (*e.g.*, electronically monitored curfew) are available that would adequately address the community safety concerns.**

d. **Identifying Malingers. In cases being considered for Drug Court where the prosecutor has concerns that a defendant is feigning addiction, the prosecutor shall review the TASC (Treatment Assessment Services to the Courts) evaluation and shall to the extent feasible determine whether the TASC evaluator had reviewed all appropriate collateral documents, including any prior presentence investigation reports. Prosecutors shall make certain that TASC evaluators have access to potentially relevant information that might be found in the prosecutor's files, including information stored in a file pertaining to any other pending case or a prior case involving the defendant.**

e. **Explaining Drug Court Policies and Procedures to Prosecutors. The Division of Criminal Justice in consultation with the County Prosecutors shall develop and periodically update materials for use by assistant prosecutors and deputy attorneys general to explain the prosecutor's role and participation in the Drug Court Program and to ensure statewide uniformity in the exercise of prosecutorial discretion. These materials shall include training on the nature and indications of addiction, and how to review information available in a prosecutor's file to identify indicia of addiction that should be reported to the court pursuant to this Directive.**

f. **Explaining Drug Court to Victims. The Division of Criminal Justice in cooperation with the County Prosecutors and the Office of Victim Witness Advocacy shall within 120 days develop informational materials to explain the Drug Court process to victims, and shall develop standards to be used by assistant prosecutors and deputy attorneys general to ensure that victims' constitutional and statutory rights are respected in cases**

being considered for Drug Court.

g. **CLE Training. The Attorney General Advocacy Institute shall make available continuing legal education programs concerning Drug Court to assistant prosecutors assigned to Drug Court, and to other assistant prosecutors and deputy attorneys general who may handle cases involving defendants who may be eligible for Drug Court.**

7. *Questions*

Any questions concerning this Directive shall be addressed to the Director of the Division of Criminal justice, or his designee.

8. *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. With respect to any provision or feature of this Directive for which a specific time period for implementation is not indicated, the provision or feature shall be implemented as soon as practicable.

John J. Hoffman
Acting Attorney General

Dated: October 28, 2014

ATTACHMENT A

NJ Attorney General's Heroin & Opiates Task Force
Naloxone Deployment Reporting Form

Police Department:	Case #:
Date of Overdose: / /	Time of Overdose: : ☐ AM ☐ PM
Location where overdose occurred: (Street address, City)	Address of victim:(Street address, City)
Gender of the victim: ☐ **Male** ☐ **Female** ☐ **Unknown**	**Age:**
Race/Ethnicity ☐ White ☐ Black ☐ Hispanic ☐ Asian/Indian ☐ American Indian ☐ Pacific Islander	

Signs of overdose present (check all that apply)

☐ **Unresponsive** ☐ **Breathing Slowly** ☐ **Not Breathing** ☐ **Blue lips**

☐ **Slow pulse** ☐ **No pulse** ☐ **Other (specify):**

Suspected overdose on what drugs (check all that apply)

☐ **Heroin** ☐ **Benzos/ Barbituates** ☐ **Cocaine/ Crack** ☐ **Suboxone** ☐ **Any other opioid**

☐ **Alcohol** ☐ Methadone ☐ **Don't Know** ☐ **Other (specify):**

Evidence

☐ **Heroin** **Stamp (Text/Color)** **Descibe Image:**

Stamp (Text/Color) **Descibe Image:**

☐ **Opiate Pills** **Pill Type:** **Doctor's Name:**

☐ **Evidence Secured** ☐ **Drugs** ☐ **Paraphernalia**

Details of Naloxone Deployment

Number of doses used:	Did Naloxone work: ☐ **Yes** ☐ **No** ☐ **Not Sure**

If yes, how long did it take to work: ☐ **<1 min** ☐ **1-3 min** ☐ **3-5 min** ☐ **>5 min** ☐ **Don't Know**

Patient's response to Naloxone ☐ **Responsive and alert** ☐ **Responsive but sedated** ☐ **No response to Naloxone**

Post-Naloxone withdrawal symptoms (check all that apply) ☐ **None** ☐ **Irritable or Angry**

☐ **Dope sick (e.g. nauseated, muscle aches, runny nose, and/or watery eyes)** ☐ **Physically Combative**

☐ **Vomiting** ☐ **Other (specify):** Did the person live: ☐ **Yes** ☐ **No**

What else was done: ☐ **Sternal Rub** ☐ **Recovery position** ☐ **Rescue breathing** ☐ **Chest compressions**

☐ **Automatic Defibrillator** ☐ **Yelled** ☐ **Shook them** ☐ **Oxygen**

☐ **EMS Naloxone** ☐ **Bystander Naloxone** ☐ **Other (specify):**

Disposition: ☐ **Care transfer to EMS** ☐ **Other (specify):**

Naloxone Information: Lot #: Expiration date: / /

Notes / Comments

Officer's Name	Signature	Date of Report

Please email form to roicadmin@gw.njsp.org and CountyCoordinator@???.gov or fax to NJROIC (609) 530-3650 and (???) ???-??? (Attn:)