

**REPORT OF THE
RECONVENED
JOINT COMMITTEE
ON
CRIMINAL JUSTICE**

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Subcommittee on Data Analysis, Chair

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Subcommittee on Pretrial Process, Chair

Hon. Lisa Thornton, Assignment Judge, Monmouth Vicinage,
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Thomas Dellane, President, New Jersey State Association of Chiefs of Police

John Donnadio, Executive Director, New Jersey Association of Counties

Kevin Logan on behalf of Assemblyman John DiMaio, Minority Leader, Assembly
(Observation Only)

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Michael Molimock and Sara Fletcher, on behalf of Senator Steven V. Oroho,
Minority Leader, Senate (Observation Only)

Sheriff Robert Nolan, Vice President, Sheriff's' Association of New Jersey

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This report is dedicated in memory of Assignment Judge Lisa P. Thornton, chair of the Subcommittee on Pretrial Services.



EXECUTIVE SUMMARY

➤ The Past: Original Joint Committee on Criminal Justice

By June 2013, New Jersey's criminal justice system was at a crossroads, beholden to a process that prioritized an individual's ability to pay cash bail over the risk posed to the community if the person were released pending trial. To examine alternatives to that framework, the Chief Justice established the Joint Committee on Criminal Justice and invited prosecutors, defense counsel, advocacy groups, and representatives from each branch of government to consider a new approach to criminal justice.

In March 2014, the Committee issued a comprehensive report to the Legislative and Executive Branches¹ that described the core concern as follows:

The current system presents problems at both ends of the spectrum: defendants charged with less serious offenses, who pose little risk of flight or danger to the community, too often remain in jail before trial because they cannot post relatively modest amounts of bail, while other defendants who face more serious charges and have access to funds are released even if they pose a danger to the community or a substantial risk of flight ... (at p.2)

The resulting criminal justice reform (CJR) measures implemented in New Jersey -- including the adoption of an objective, risk-based system to set conditions of release, a program for supervised pretrial release, a constitutional amendment allowing for pretrial detention of defendants who pose a substantial risk of flight or danger to the community, and the enactment of a speedy trial law -- fundamentally improved the landscape of our criminal justice system. As a result of those interlocking reforms, people with limited economic means who pose minimal risk to

¹ [Report of the Joint Committee on Criminal Justice \(njcourts.gov\)](http://njcourts.gov).

society are no longer held in jail awaiting trial, while higher-risk defendants cannot buy their pretrial release.

CJR has advanced key objectives: (1) reduction in detention of people charged with minor offenses; (2) consistent incarceration of defendants accused of serious crimes; (3) prevention of new criminal activity; and (4) improved court appearance rates for people on pretrial release.

- In 2012, before the implementation of CJR, nearly 12% of New Jersey's county jail population -- just over 1,500 people -- remained in custody because they could not post bail of \$2,500 or less.² By October 7, 2020, that number had decreased to 0.2% and has remained consistently low through 2022.
- Whereas in 2012, more than half of the jail population was comprised of people not charged with violent crimes, sex crimes, or weapons offenses.³ Today, individuals charged with 1st or 2nd degree offenses comprise more than two-thirds of the jail population, meaning that most of those detained have been accused of serious crimes.
- Nearly all defendants released successfully complete their pretrial period without acquiring a new charge, with the rate of rearrest for very serious crimes at less than 1% annually since 2018.
- Defendants released pretrial today also appear for court more consistently than before CJR: in 2014, the court appearance rate was 92.7% as compared to 97.1% in 2020.

² Marie VanNostrand, Ph.D., New Jersey Jail Population Analysis (March 2013).

³ Of those inmates in custody on October 3, 2012, 43.9% were charged with either a violent, sex or weapon offense. Conversely, more than half of all inmates had primary charges that are considered non-violent such as drug (17%), theft/fraud (8%) and traffic (5%).

➤ The Present: Reconvened Joint Committee on Criminal Justice

The diminished use of monetary bail combined with the use of an objective, risk-based assessment for pretrial release, have sustained the safety of our communities while positioning New Jersey as a national model for criminal justice reform. Despite that progress, however, the Covid-19 pandemic strained resources and inhibited normal court operations, resulting in a significant increase in the number of defendants on pretrial release -- from 30,000 as of January 2020 to 46,000 today - - and prompting questions about the future of CJR.

Committed to the collaboration started in 2013, the Chief Justice in January 2023 consulted with key stakeholders and Executive and Legislative leaders and then reconvened the Joint Committee on Criminal Justice. Although each member brought a unique perspective and particular views on criminal justice, the broad-based Committee is in agreement about the early success and ongoing benefits of CJR as well as its current challenges and areas in need of improvement.

- ***CJR Strengths and Benefits***

At the Committee's first meeting, each member shared their thoughts on CJR, with the group in unanimous agreement that New Jersey's risk-based criminal justice system remains superior to the former cash bail model. Members also stated that CJR in general has worked as intended, with preventive detention supporting public safety through incarceration of high-risk offenders while low-risk individuals return to their employment, families, and communities pending trial.

The Committee recognized the productive working relationships among stakeholders and affirmed the importance of the discretion afforded to law enforcement officers, prosecutors, and judges at various points in the pretrial process. Several members noted that CJR had strengthened the entire criminal justice process through broader understanding and enhanced use of data analysis and reporting.

Without exception, the Committee agreed that any improvements to the system should be grounded in data and evidence.

- ***CJR Concerns and Areas for Improvement***

The Committee identified and discussed specific concerns, including questions related to defendants who are repeatedly arrested and the rate of new offenses for defendants who have pending charges at the time of arrest.

- For the large number of defendants arrested in 2021 with no pending charges at the time of their current offense, more than 80% successfully completed their pretrial period without any additional arrests. In contrast, fewer than half the individuals who were previously arrested on two separate occasions with those charges still pending successfully completed their pretrial release period without another arrest.

Members recommended exploring the release and detention rates of repeat offenders, individuals charged with auto theft or Graves Act weapons offenses, and people facing domestic violence charges. Rather than revert to more pretrial detention, stakeholders advocated for therapeutic treatment and related resources to address the root causes of criminal behavior, further examination of electronic monitoring as an alternative to pretrial detention, and new strategies to involve law enforcement in pretrial monitoring.

In addition, stakeholders requested deeper review of the factors associated with the high rate of people of color in county jails.

- Black people constitute 15.2% of the New Jersey population yet represent more than half of its jail population.

Accordingly, the Committee pushed to review and enhance the Public Safety Assessment (PSA) in order to eliminate race-related disparity to the extent possible.

➤ The Future: Committee Process and Summary of Recommendations

To address the complex and interrelated issues involved in CJR, the members of the reconvened Joint Committee divided into three subcommittees: (1) Pretrial Process, (2) Pretrial Services, and (3) Data Analysis. To inform its work, the Committee received and reviewed data compiled by the Administrative Office of the Courts (AOC) regarding the changes resulting from the initial CJR reforms.

Each subcommittee independently focused on the challenges associated with the small number of defendants who cycle through the criminal justice system. On that point, the Committee highlighted the urgent need to invest resources in those defendants to interrupt the cycle, rather than simply increasing detention. In addition, each subcommittee also focused on the high turnover of personnel throughout the criminal justice system -- law enforcement officers, prosecutors, defense attorneys, and judges -- and proposed system-wide training on an ongoing basis to ensure the system functions as intended.

Against that backdrop, the Joint Committee endorsed a series of recommendations, which are summarized as follows:

- The Legislative and Executive Branches should provide funding for statewide resources to support defendants on pretrial release, with a focus on offering repeat offenders the opportunity to engage in treatment in lieu of revocation of release.
- The Criminal Justice Reform Act should be modified to make clear that, for defendants in custody, the process and time frames for motions to revoke release mirror the procedures for detention motions.
- The Act should be amended (1) to require pretrial services to make a recommendation to revoke release for eligible defendants who had two or more prior arrests, with charges still pending, when they were arrested for a new offense, and (2) to provide that this recommendation may be used as prima facie evidence to overcome the presumption of release.

- Stakeholders should coordinate efforts to provide additional and ongoing training about Criminal Justice Reform to law enforcement officers, prosecutors, judges, and defense attorneys.
- Additional funding should be provided to ensure that the Judiciary has sufficient staff to monitor the high volume of people currently on pretrial release.
- The Judiciary should take steps to resolve the oldest pending criminal and municipal disorderly persons cases in order to reduce the number of people currently on pretrial release to pre-pandemic levels.
- The Judiciary should engage in continued, comprehensive research, utilizing New Jersey data, to improve both the predictive accuracy of the PSA and minimize racial disparities.

➤ Conclusion

Nearly a decade ago, stakeholders in New Jersey came together to recommend and then implement CJR reforms. Today, that same broad engagement and collaboration is necessary to sustain the strengths of the current system and integrate further improvements. In that spirit of collaboration, and informed by the extensive data compiled since 2017, the diverse members of the Joint Committee here offer recommendations to further advance CJR in New Jersey.

I. Subcommittee on Pretrial Process

TRAINING & RESOURCES: SUMMONS/WARRANT PHASE

RECOMMENDATION 1:

- The Attorney General, County Prosecutors Association, Chiefs of Police Association, and Judiciary should coordinate efforts to ensure additional and ongoing training for law enforcement officers.
- Such training should include an overview of Criminal Justice Reform; the Attorney General Directive related to a summons / warrant decision; information provided within a Preliminary PSA; completion of the PLEIR, Affidavit of Probable Cause and ODARA; the need to timely transmit all discovery and police reports to the County Prosecutor for first appearance, detention, and revocation hearings; new statutory provisions for charging contempt of court for violations of home detention and electronic monitoring; and requesting a complaint-warrant in the electronic complaint system (eCDR) system.

RECOMMENDATION 2:

- The Attorney General should update its quick reference guide for law enforcement to use when making a summons / warrant decision.
- The Judiciary should enhance its eCDR so that officers can easily access the guide.

RECOMMENDATION 3:

- The Attorney General should examine statewide usage of the Preliminary Law Enforcement Investigation Report (PLEIR) that is submitted with a complaint. Content modifications should be considered to assist law enforcement officers when seeking a complaint-warrant.
- The Judiciary should seek to enhance its electronic complaint system (eCDR) to further automate completion of the PLEIR.

RECOMMENDATION 4:

- The Attorney General should continue to review the issue of repeated shoplifting, the use of the current charging statutes, and the use of citizen complaints to charge shoplifting, and, in collaboration with the County Prosecutors Association, incorporate those findings into future trainings for law enforcement.

RECOMMENDATION 5:

- The Judiciary should seek to modify its eCDR system so that a Preliminary PSA is automatically generated for law enforcement once a defendant has been fingerprinted and a complaint initiated.

RECOMMENDATION 6:

- The Judiciary should partner with the Attorney General and the New Jersey State Police to provide law enforcement officers more comprehensive out-of-state conviction information within the Preliminary PSA packet.

RECOMMENDATION 7:

- The Judiciary should seek to reorganize the content in the PSA packet to make it more readable and understandable for law enforcement and other stakeholders.
- The Judiciary, in collaboration with the Attorney General, should review the recommendations to law enforcement that appear on the Preliminary PSA to make such recommendations more understandable.

RECOMMENDATION 8:

- The Judiciary should provide additional and ongoing training to judicial officers who consider requests from law enforcement to issue a complaint-warrant.
- Such training should include an overview of Criminal Justice Reform, Rules of Court, and policies related to the issuance of summonses and warrants, and a review of annual data.

TRAINING & RESOURCES: MOTIONS FOR DETENTION
& REVOCATION OF RELEASE

RECOMMENDATION 9:

- The Attorney General and County Prosecutors Association should partner to provide additional and ongoing training for prosecutors.
- Such training should include an overview of Criminal Justice Reform, applicable Attorney General Directives and Rules of Court, the pretrial process, motions for detention and revocation of release, and the obligation to produce discovery within the timeframes for a detention or revocation hearing.

RECOMMENDATION 10:

- The Judiciary should provide additional and ongoing training to judges making release, detention, and revocation of release decisions.
- Such training should include an overview of Criminal Justice Reform and the pretrial process; applicable Rules of Court and administrative policies; conditions of release; legal standards for detention and revocation of release; legal standards for the adjournment of a detention or revocation hearing; and a review of annual data.

RECOMMENDATION 11:

- The Judiciary should review policies and procedures related to pretrial monitoring to allow pretrial services to recommend, for eligible defendants who have remained compliant for at least six (6) months, a reduction of conditions or monitoring level.
- Such procedures should include notice to the parties and an opportunity to be heard regarding any adjustments to a pretrial defendant's conditions or monitoring level.

II. Subcommittee on Pretrial Services

PRETRIAL SERVICES STAFFING

RECOMMENDATION 12:

- Additional funding should be provided to enable the Judiciary to increase Pretrial Services staffing in order to ensure appropriate oversight of the large volume of defendants currently on pretrial release.
- The additional funding should remain in place until the number of defendants on pretrial release returns to pre-pandemic levels.

RECOMMENDATION 13:

- Judiciary Pretrial Services staff should conduct a basic needs assessment for every eligible defendant who has been ordered released.
- Staff should be trained to emphasize that referrals made as a result of the assessment would be voluntary.

INCREASED CONNECTIONS TO RESOURCES

RECOMMENDATION 14:

- Judiciary Pretrial Services staff should use all available resources to assist defendants -- whether through state, county, or non-profit entities -- and provide a list of available resources directly to defendants.
- In high volume counties, specific staff should be designated to liaison with local providers and directly connect defendants to such resources.

RECOMMENDATION 15:

- The Legislature should consider providing an opportunity for each County to establish a “Pretrial Coordinator,” who would work to connect those on pretrial release to programs and services in the County. A model for such a program could be the Fair Release and Reentry Act, which was amended in

2021 to provide grant funding to counties to establish a “Reentry Coordinator” for those being released after a sentence of incarceration. The legislation should make clear that each county is permitted, where applicable, to use its current Reentry Coordinator to assist individuals on pretrial release, or hire additional staff to work as a Pretrial Coordinator.

RECOMMENDATION 16:

- Following New Jersey’s successful Recovery Court model, the Department of Human Services should receive additional funding to provide services for defendants on pretrial release.

RECOMMENDATION 17:

- For defendants who have been on pretrial release more than six (6) months, or upon indictment, Judiciary staff should screen their case(s) to determine whether they may be eligible for Recovery Court in the future.
- Such defendants should be offered the opportunity to, on a voluntary basis, begin treatment for substance use disorder while on pretrial release.

PRETRIAL MONITORING

RECOMMENDATION 18:

- The Attorney General should review Directives related to Criminal Justice Reform and consider modifications to (1) include cases charging contempt of an order for home detention or electronic monitoring among the cases for which law enforcement must apply for a complaint-warrant, and (2) include such cases among the cases for which the prosecutor is presumed to seek detention or revocation of release.

RECOMMENDATION 19:

- The Judiciary should review Rules of Court related to the issuance of summonses and warrants and consider amendments to make contempt of an order for no contact, or home detention or electronic monitoring a presumed warrant charge.

III. Subcommittee on Data Analysis

REPEAT OFFENDERS

RECOMMENDATION 20:

- For an eligible defendant who has been detained or has had their release revoked, and who has more than one case pending in Superior Court, the court should schedule a case management conference within 60 days of the order detaining the defendant or revoking the defendant's release.
- At the conference, the prosecutor and defendant's attorney should be prepared to discuss all pending cases, including disorderly persons cases issued on a complaint-warrant, and update the court as to the progress of plea negotiations.

RECOMMENDATION 21:

- For an eligible defendant who has more than one case pending in Superior Court, upon the joint request of the parties, when they have indicated they are prepared to discuss a resolution of all pending matters, the court should schedule a case management conference.
- At the conference, the prosecutor and defendant's attorney should be prepared to discuss all pending cases, including disorderly persons cases issued on a complaint-warrant, and update the court as to the progress of plea negotiations.

RECOMMENDATION 22:

- The Legislature should consider amending the Criminal Justice Reform Act to clarify that it allows for the temporary detention of an eligible defendant when a prosecutor has filed a motion for revocation of release and the defendant is in custody. The process and timelines should be similar to those for motions for detention.

RECOMMENDATION 23:

- The Legislature should consider amending the Criminal Justice Reform Act to require pretrial services to make a recommendation to revoke release for an eligible defendant who has been charged with a new offense on a complaint-warrant and who, at the time of the current offense, had previously been arrested on two separate occasions, and those charges were still pending at the time of the current offense. The Act should further provide that such recommendation by pretrial services may be used as prima facie evidence to overcome the presumption of release.
- The above requirement should apply if the current offense or at least one of the pending charges is for an indictable offense or a disorderly persons offense where domestic violence is indicated.

RECOMMENDATION 24:

- The Legislature should consider amending the Criminal Justice Reform Act to grant the court the discretion to permit a defendant whose release has been revoked to voluntarily accept an offer for release on conditions that include attendance and completion of drug, alcohol, or mental health treatment at an approved program or facility when and to the extent clinically indicated.

AUTO THEFT

RECOMMENDATION 25:

- The Attorney General should review Directives related to Criminal Justice Reform and consider modifications to (1) include automobile theft cases among the cases for which law enforcement must apply for a complaint-warrant, and (2) include cases involving repeat automobile theft charges among the cases for which the prosecutor is presumed to seek detention or revocation of release.

RECOMMENDATION 26:

- The Judiciary should review Rules of Court related to the issuance of summonses and warrants and consider amendments to make automobile theft a presumed warrant charge.

DOMESTIC VIOLENCE

RECOMMENDATION 27:

- The Attorney General and County Prosecutors Association should partner to ensure that law enforcement officers and prosecutors receive additional and ongoing training regarding charges for strangulation of a domestic violence victim, and the resources available to provide victims support during the pendency of a criminal or domestic violence case.

RECOMMENDATION 28:

- The Legislature should take action to require standards for abusive partner intervention domestic violence programs.
- Resources should be allocated to make such programs available for individuals on pretrial release.

RECOMMENDATION 29:

- The Legislature should take action to provide for representation by the Office of the Public Defender in domestic violence related CJR cases that are within the jurisdiction of the Superior Court, Family Division.
- Appropriate funding must be included to properly implement this new role.

RECOMMENDATION 30:

- The Judiciary should continue to engage in research, using New Jersey court data, to determine whether improvements can be made regarding the predictive accuracy of the PSA.
- Areas of examination should include the use of temporary restraining order or other domestic violence data; the use of age as a factor; limiting failures to appear to within a certain period of time; limiting disorderly persons convictions to within a certain period of time; and limiting indictable convictions to within a certain period of time.

RESEARCH ON DISPARITY CONCERNS

RECOMMENDATION 31:

- The Judiciary should engage in continued, comprehensive research, utilizing New Jersey data, to improve both the predictive accuracy of the PSA and minimize any racial disparities.

REPORT OF THE PRETRIAL PROCESS

SUBCOMMITTEE

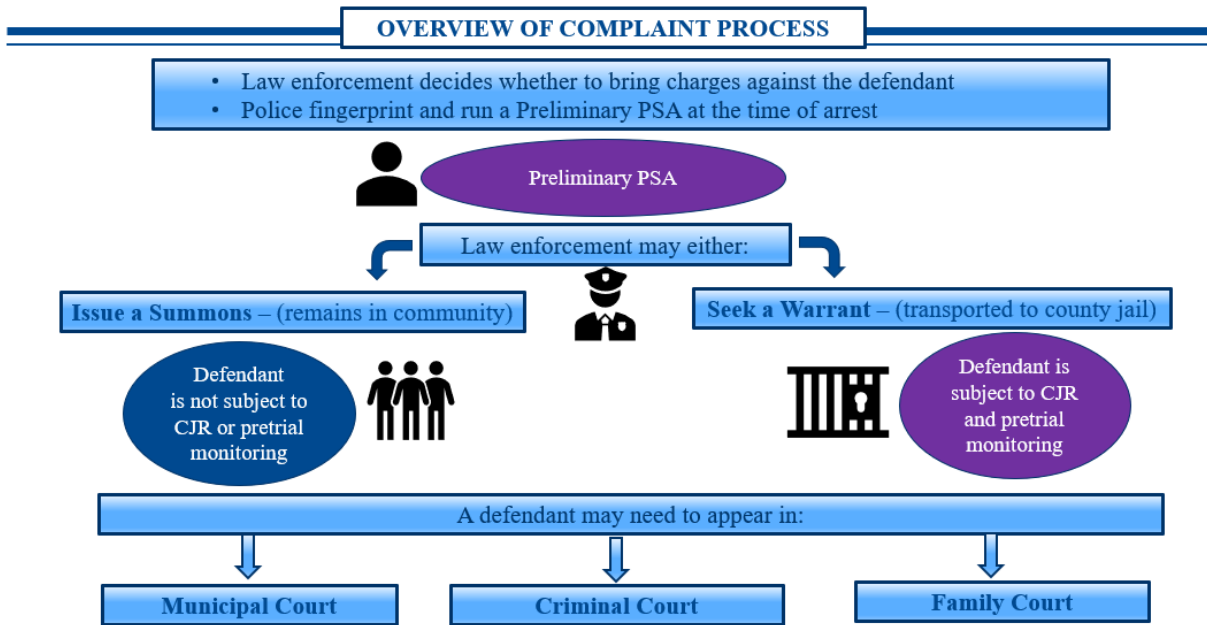
The Criminal Justice Reform Act (CJRA) establishes pathways from the point of arrest to a defendant's eventual release or detention during the pretrial period. The Pretrial Process Subcommittee examined each phase of that pretrial process in sequence: (1) the law enforcement decision to charge on a complaint-summons or apply for a complaint-warrant; (2) the prosecutor's decision to file a motion for pretrial detention, and the judicial determination as to detention; and (3) the prosecutor's decision to apply to revoke release, and the judicial determination as to revocation.

At each phase, data show notable differences at the county level, which may not be fully explained by variations in crime patterns. Accordingly, to support consistent implementation of CJR protocols -- and thereby ensure comparable treatment of similarly situated defendants throughout New Jersey -- the Subcommittee recommends ongoing training for law enforcement, prosecutors, judicial officers, judges, and defense attorneys. In conjunction with such training, the Subcommittee recommends refinement of certain Attorney General and Judiciary CJR resources, including directives and technology.

1. Summons / Warrant Decision

Fig. 1

Process Flow of the Complaint Issuance Process



When a defendant is arrested, the CJRA provides that a law enforcement officer can issue charges on a complaint-summons, or request that a judicial officer issue a complaint-warrant. If a complaint-summons is issued, law enforcement immediately releases the defendant with a court date. If a complaint-warrant is issued, law enforcement temporarily detains and transports the defendant to the county jail, Pretrial Services staff prepare a risk assessment, and a judge decides whether the “eligible defendant” can be safely released on conditions⁴ pending trial.

CJR relies on consistent charging decisions by law enforcement officers to ensure that individuals who are charged with more serious offenses, or who pose

⁴ N.J.S.A. 2A:162-15 et seq.

heightened risks to public safety, are evaluated by a judicial officer and either detained or released with appropriate conditions.

- ***Law Enforcement Guidance***

Attorney General Directives guide a law enforcement officer's decision to issue a complaint-summons or request a complaint-warrant.⁵ Those directives instruct officers to consider the nature of the current charge and fingerprint the defendant in order to run a Preliminary Public Safety Assessment (Preliminary PSA).⁶

In deciding whether to request a complaint-warrant, a law enforcement officer considers the Preliminary PSA and a number of other factors, including but not limited to the defendant's Ontario Domestic Assault Risk Assessment (ODARA) score; domestic violence history; juvenile delinquency history; prior failure to appear; outstanding warrants; as well as whether the defendant has been charged with certain weapons-related offenses; and whether the defendant was on pretrial release when charged with the current offense.⁷ The officer then must complete both the Preliminary Law Enforcement Investigative Report (PLEIR) and the Affidavit of Probable Cause.

⁵ N.J.S.A. 2A:162-16c.

⁶ The Preliminary PSA is the initial computer-generated assessment available to law enforcement officers and prosecutors considering whether to charge on a summons or warrant. A final version of the PSA is produced for the judge, prosecutor and defense attorney at the defendant's first appearance.

⁷ [Attorney General Law Enforcement Directive 2016-6, v.3.0, Modification of Directive Establishing Interim Policies, Practices, and Procedures to Implement Criminal Justice Reform Pursuant to P.L. 2015, c. 31, § 4, at pp. 28-54.](#)

A law enforcement officer requesting a complaint-warrant speaks directly to a judicial officer, who will first determine probable cause and then decide whether to issue a complaint-warrant. The law enforcement officer can present relevant information beyond the Preliminary PSA, such as those factors set out in the Attorney General Directive.

- ***Guidance for Judges and Judicial Officers***

Rule 3:3-1 and the Preliminary PSA inform the decision by a judicial officer as to whether to issue a complaint-warrant. Rule 3:3-1(e) requires issuance of a complaint-warrant “when a judicial officer finds pursuant to R. 3:3-1(a) that there is probable cause to believe that the defendant committed murder, aggravated manslaughter, manslaughter, aggravated sexual assault, sexual assault, robbery, carjacking, or escape, or attempted to commit any of the foregoing crimes, or where the defendant has been extradited from another state for the current charge.” Certain other serious and violent offenses also presumptively result in the issuance of a complaint-warrant pursuant to Rule 3:3-1(f). Those offenses include, but are not limited to, crimes involving the possession or use of a firearm, vehicular homicide, aggravated assault, disarming a law enforcement officer, kidnapping, aggravated arson, and burglary.

Finally, pursuant to Rule 3:3-1(d), a judicial officer can issue a complaint-warrant “when the judicial officer finds . . . that a complaint-warrant is needed to reasonably assure a defendant’s appearance in court when required, to protect the safety of any other person or the community, or to assure that the defendant will not obstruct or attempt to obstruct the criminal justice process.”

- *Variation in Complaint Type by County*

Statewide, complaint-summonses comprised 54.7% of the 76,734 complaints issued between January 1 and December 31, 2022. However, rates of summonses and warrants varied substantially from county to county. For example, in Atlantic and Sussex Counties, complaint-summonses constituted nearly 75% of all complaints, yet in Essex and Hudson complaint-summonses accounted for less than 40% of complaints.

Fig. 2

Complaint-Summonses and Complaint-Warrants Issued by County: January 1 – December 31, 2022

County	Total Defendants	Released on Summonses	Percent Released on Summonses	Issued Warrants and Committed to Jail	Percent Issued Warrants
Atlantic	4,068	2,957	72.7%	1,111	27.3%
Bergen	4,479	2,967	66.2%	1,512	33.8%
Burlington	3,584	2,263	63.1%	1,321	36.9%
Camden	7,867	4,374	55.6%	3,493	44.4%
Cape May	1,246	753	60.4%	493	39.6%
Cumberland	3,175	2,142	67.5%	1,033	32.5%
Essex	9,084	3,155	34.7%	5,929	65.3%
Gloucester	2,919	1,899	65.1%	1,020	34.9%
Hudson	6,313	2,430	38.5%	3,883	61.5%
Hunterdon	642	428	66.7%	214	33.3%
Mercer	4,498	1,970	43.8%	2,528	56.2%
Middlesex	5,482	3,364	61.4%	2,118	38.6%
Monmouth	4,551	2,834	62.3%	1,717	37.7%
Morris	1,844	1,254	68.0%	590	32.0%
Ocean	4,300	2,428	56.5%	1,872	43.5%
Passaic	5,050	2,219	43.9%	2,831	56.1%
Salem	891	582	65.3%	309	34.7%
Somerset	1,176	530	45.1%	646	54.9%
Sussex	686	506	73.8%	180	26.2%
Union	4,079	2,511	61.6%	1,568	38.4%
Warren	800	390	48.8%	410	51.3%
State	76,734	41,956	54.7%	34,778	45.3%

Differing crime patterns throughout the state may partly explain the variations among counties in issuing complaints. However, fingerprinting rates have declined over time, which suggests a reduced use of the Preliminary PSA. To the extent that crime patterns remain consistent, the change in charging practices could indicate inconsistent adherence to Attorney General Directives.

Fig. 3

Statewide LiveScan Fingerprinting Rates

	Summonses	Warrants	Total
December 2017	91.6%	95.0%	92.7%
December 2018	93.4%	96.0%	94.2%
December 2019	91.5%	96.5%	93.0%
December 2020	88.1%	95.6%	90.7%
December 2021	87.0%	95.6%	90.8%
December 2022	88.2%	93.4%	90.5%

Other factors might contribute to a reduction in charges by complaint-warrant in particular counties. Those factors could include misunderstandings about parts of the Attorney General’s Directive, processes within the electronic Complaint Disposition Reporting (eCDR) system, and applicable Court Rules.

- ***Subcommittee Considerations***

The Subcommittee focused on the high rate of turnover of personnel in several areas, including law enforcement, prosecutors, judicial officers, judges, and defense attorneys. In addition, the Subcommittee acknowledged the demands on law enforcement officers, including the time required to process complaints and complete the PLEIR and the Affidavit of Probable Cause, the requirement to recall numerous factors set out in the AG Directive and the Preliminary PSA, and the challenges of communicating essential information to a judicial officer when requesting a complaint-warrant. The Subcommittee also discussed concerns associated with quality-of-life offenses, such as shoplifting, and the benefit of focused training on those matters.

- ***Subcommittee Recommendations -- Summons/Warrant Phase***

To support law enforcement, prosecutors, judicial officers, judges, and defense attorneys in understanding and adhering to CJR pretrial processes, the Subcommittee recommends ongoing training, refinements to written guidance, and expanded use of technology, as follows:

LAW ENFORCEMENT TRAINING & RESOURCES

RECOMMENDATION 1:

- The Attorney General, County Prosecutors Association, Chiefs of Police Association, and Judiciary should coordinate efforts to ensure additional and ongoing training for law enforcement officers.
- Such training should include an overview of Criminal Justice Reform; the Attorney General Directive related to a summons / warrant decision; information provided within a Preliminary PSA; completion of the PLEIR, Affidavit of Probable Cause and ODARA; the need to timely transmit all discovery and police reports to the County Prosecutor for first appearance, detention, and revocation hearings; new statutory provisions for charging contempt of court for violations of home detention and electronic monitoring; and requesting a complaint-warrant in the electronic complaint system (eCDR) system.

RECOMMENDATION 2:

- The Attorney General should update its quick reference guide for law enforcement to use when making a summons / warrant decision.
- The Judiciary should enhance its eCDR so that officers can easily access the guide.

RECOMMENDATION 3:

- The Attorney General should examine statewide usage of the Preliminary Law Enforcement Investigation Report (PLEIR) that is submitted with a complaint. Content modifications should be considered to assist law enforcement officers when seeking a complaint-warrant.
- The Judiciary should seek to enhance its eCDR to further automate completion of the PLEIR.

RECOMMENDATION 4:

- The Attorney General should continue to review the issue of repeated shoplifting, the use of the current charging statutes, and the use of citizen complaints to charge shoplifting, and, in collaboration with the County Prosecutors Association, incorporate those findings into future trainings for law enforcement.

JUDICIARY TRAINING & RESOURCES

RECOMMENDATION 5:

- The Judiciary should seek to modify its eCDR system so that a Preliminary PSA is automatically generated for law enforcement once a defendant has been fingerprinted and a complaint initiated.

RECOMMENDATION 6:

- The Judiciary should partner with the Attorney General and the New Jersey State Police to provide law enforcement officers more comprehensive out-of-state conviction information within the Preliminary PSA packet.

RECOMMENDATION 7:

- The Judiciary should seek to reorganize the content in the PSA packet to make it more readable and understandable for law enforcement and other stakeholders.

- The Judiciary, in collaboration with the Attorney General, should review the recommendations to law enforcement that appear on the Preliminary PSA to make such recommendations more understandable.

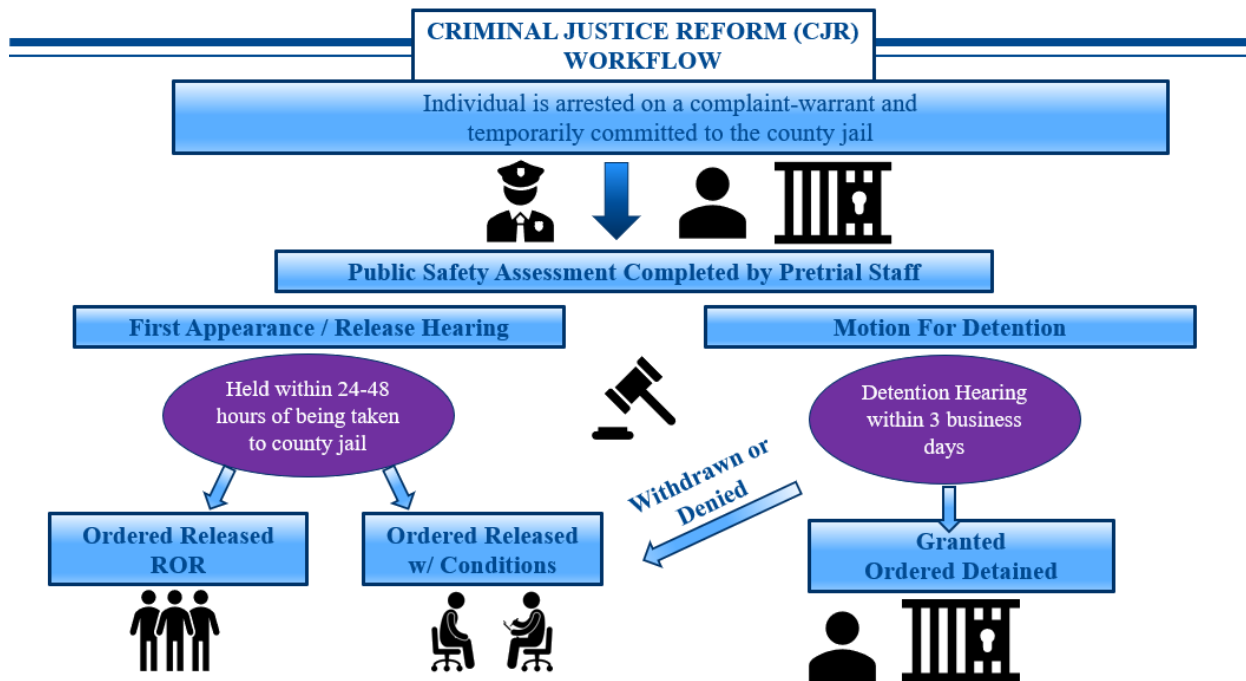
RECOMMENDATION 8:

- The Judiciary should provide additional and ongoing training to judicial officers who consider requests from law enforcement to issue a complaint-warrant.
- Such training should include an overview of Criminal Justice Reform, Rules of Court, and policies related to the issuance of summonses and warrants, and a review of annual data.

2. Motions for Detention

Fig. 4

Process Flow for Criminal Justice Eligible Defendants on Complaint-Warrants



Appropriate standards for seeking detention -- and consistency in judicial determinations to grant or deny detention motions -- promote both fairness for criminal defendants and safety for New Jersey communities.

For CJR eligible defendants, Pretrial Services must conduct a pretrial risk assessment, and the court must make a release decision, within 48 hours of a defendant's commitment to the jail, unless a prosecutor files a motion for detention pending trial.⁸

An eligible defendant charged with an indictable offense or a disorderly persons offense that involves domestic violence may be detained when a prosecutor files a motion for detention and a judge makes certain findings. An eligible defendant cannot be detained on a disorderly persons offense that does not involve domestic violence.⁹

A judge can only detain an individual upon a finding that no combination of monetary or non-monetary release conditions would reasonably assure the defendant's appearance in court, protect public safety, and ensure that the defendant will not obstruct the criminal justice process.¹⁰ Charges that involve murder or subject a defendant to an ordinary or extended term of life imprisonment, carry a

⁸ N.J.S.A. 2A:162-16b(1).

⁹ N.J.S.A. 2A:162-18a(1).

¹⁰ Ibid.

presumption of detention.¹¹ A presumption of release applies in all other circumstances.¹²

- ***Information Considered Regarding Detention***

Prosecutors have access to the PSA, court history, out-of-state charges, and supplemental court information, including domestic violence restraining orders and juvenile history, when deciding whether to file or withdraw a motion for detention. Defense attorneys also have this information when arguing for release. Judges consider the same information to decide whether to grant or deny a motion for detention.¹³

- ***Prosecutor Filing & Withdrawal of Detention Motions***

In 2022, prosecutors filed detention motions for 14,973 (43.1%) defendants on complaint-warrants. Prosecutors withdrew, or judges dismissed at the request of the State, 2,672 (17.8%) of those detention motions. Judges decided 12,301 (82.2%) of detention motions.

¹¹ N.J.S.A. 2A:162-18b.

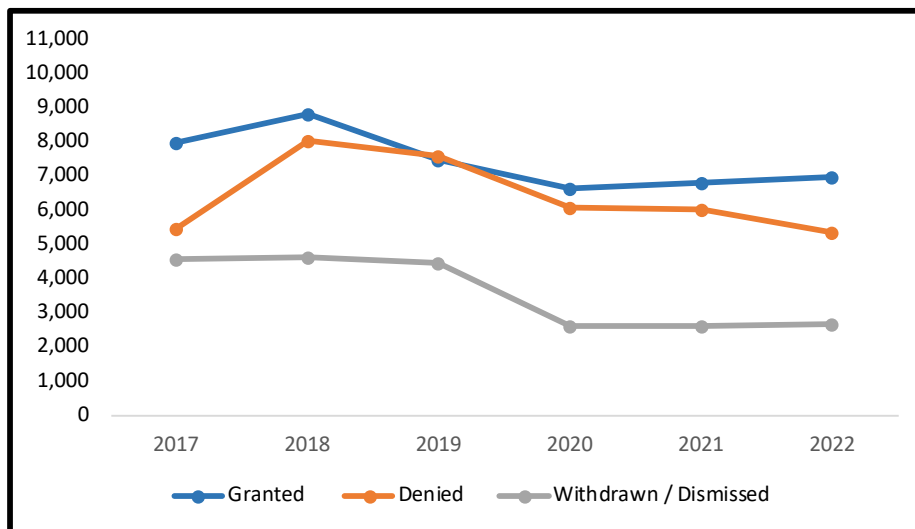
¹² As amended in 2022, the CJRA provides that pretrial services must recommend no release for defendants charged with most crimes involving a firearm that would be subject to a mandatory term of imprisonment pursuant to the Graves Act. That recommendation of no release may be used as prima facie evidence to overcome the presumption of release. N.J.S.A. 2A:162-20f and 2A:162-19g. See the Report of the Subcommittee on Data Analysis, pages 72-75, for further discussion of Graves Act considerations.

¹³ The PSA and the recommendation from Pretrial Services inform the judicial decision-making process but do not control the decision whether to order detention.

Fig. 5

Detention Motions for Criminal Justice Reform Eligible Defendants on Complaint-Warrants

	2017	2018	2019	2020	2021	2022
Total motions filed	17,981	21,422	19,487	15,267	15,439	14,973
Motions withdrawn / dismissed	4,540	4,613	4,454	2,616	2,613	2,672
Motions decided by judges	13,441	16,809	15,033	12,651	12,826	12,301
Motions granted	7,974	8,797	7,456	6,604	6,817	6,966
Motions denied	5,467	8,012	7,577	6,047	6,009	5,335

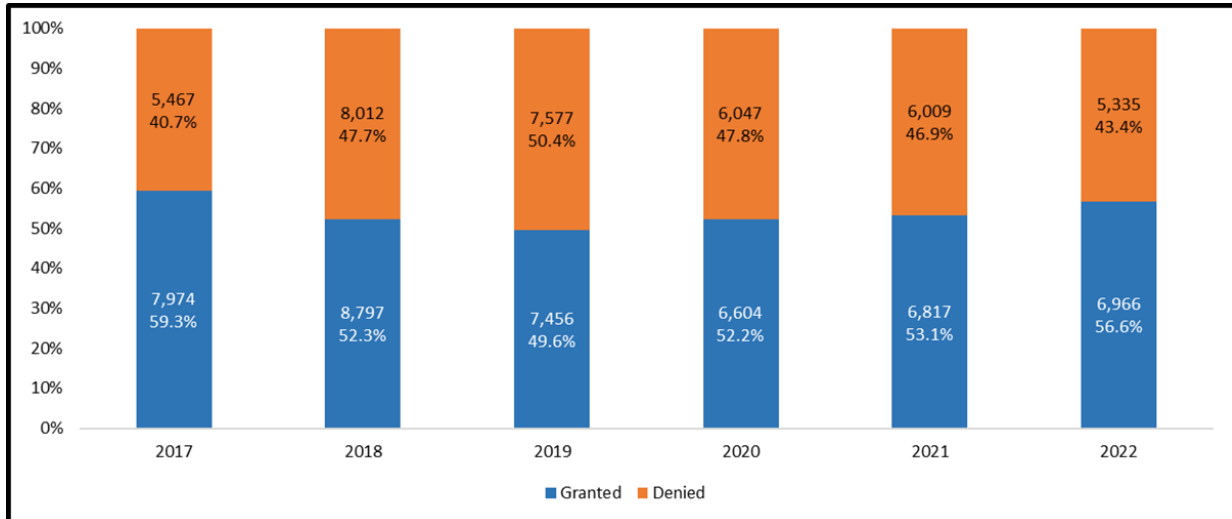


• ***Judicial Decisions to Grant or Deny Pretrial Detention Motions***

Since 2017, judges have granted 49.6% to 59.3% of detention motions decided after a hearing. In response to prosecutors' motions, judges detained 6,604 to 8,797 defendants per year.

Fig. 6

Detention Motions Decided by a Judge



- ***Variation in Detention Motions & Outcomes***

CJR calls for preventive detention of the most dangerous individuals. Although discretion afforded to prosecutors and judges is critical to the CJR model, the Subcommittee recommends additional education and training for prosecutors, defense attorneys, and judges to address county-level variation in the rates of detention motions filed, withdrawn, granted, and denied.

The table below describes results for defendants issued complaint-warrants in 2022. It includes defendants whose case was addressed prior to the release decision, those who did not have a detention motion filed and were ordered released after a first appearance hearing, and those who had a detention motion filed.¹⁴ Statewide, 53.4% of defendants on complaint-warrants were released after a first appearance hearing; no detention motion was filed in those cases. Conversely, 43.1% of defendants on complaint-warrants had a detention motion filed. Those results,

¹⁴ Pending motions are not reflected in this table.

however, varied by county. In some counties (Atlantic, Cape May, Salem), prosecutors filed a detention motion for more than 75% of eligible defendants; in other counties (Bergen, Essex, Hudson, Monmouth), prosecutors applied for detention for less than 40% of eligible defendants.

Fig. 7

Defendants Issued Complaint-Warrants: January 1 – December 31, 2022

County	Defendants Issued Warrants and Committed to Jail	Defendants Addressed prior to Release Decision	Percent Addressed prior to Release	Defendants Released - no Detention Motion Filed	Percent no Detention Motion Filed	Defendants held in Jail - Detention Motion Filed	Percent Detention Motion Filed
Atlantic	1,111	28	2.5%	166	14.9%	911	82.0%
Bergen	1,512	32	2.1%	880	58.2%	599	39.6%
Burlington	1,321	26	2.0%	585	44.3%	710	53.7%
Camden	3,493	93	2.7%	1,778	50.9%	1,621	46.4%
Cape May	493	17	3.4%	109	22.1%	366	74.2%
Cumberland	1,033	41	4.0%	162	15.7%	826	80.0%
Essex	5,929	412	6.9%	3,591	60.6%	1,896	32.0%
Gloucester	1,020	15	1.5%	420	41.2%	584	57.3%
Hudson	3,883	98	2.5%	2,552	65.7%	1,215	31.3%
Hunterdon	214	5	2.3%	115	53.7%	94	43.9%
Mercer	2,528	72	2.8%	1,691	66.9%	755	29.9%
Middlesex	2,118	90	4.2%	1,143	54.0%	865	40.8%
Monmouth	1,717	25	1.5%	1,020	59.4%	660	38.4%
Morris	590	25	4.2%	252	42.7%	306	51.9%
Ocean	1,872	16	0.9%	921	49.2%	935	49.9%
Passaic	2,831	47	1.7%	1,779	62.8%	995	35.1%
Salem	309	11	3.6%	17	5.5%	281	90.9%
Somerset	646	9	1.4%	334	51.7%	303	46.9%
Sussex	180	4	2.2%	90	50.0%	86	47.8%
Union	1,568	22	1.4%	788	50.3%	754	48.1%
Warren	410	3	0.7%	193	47.1%	211	51.5%
State	34,778	1,091	3.1%	18,586	53.4%	14,973	43.1%

In 2022, prosecutors statewide withdrew 2,631 (17.6%) of 14,973 detention motions. As reflected in the following table, prosecutors withdrew detention motions at different rates, ranging from a low of 2.7% in Atlantic County to a high of 49.3% in Warren County.

Judicial determinations likewise varied by county in 2022. Of the total motions filed, judges ordered detention in more than 60% of cases in Passaic County, as compared to only 25% of cases in Ocean County.

Fig. 8

Detention Motion Results by County: January 1 – December 31, 2022

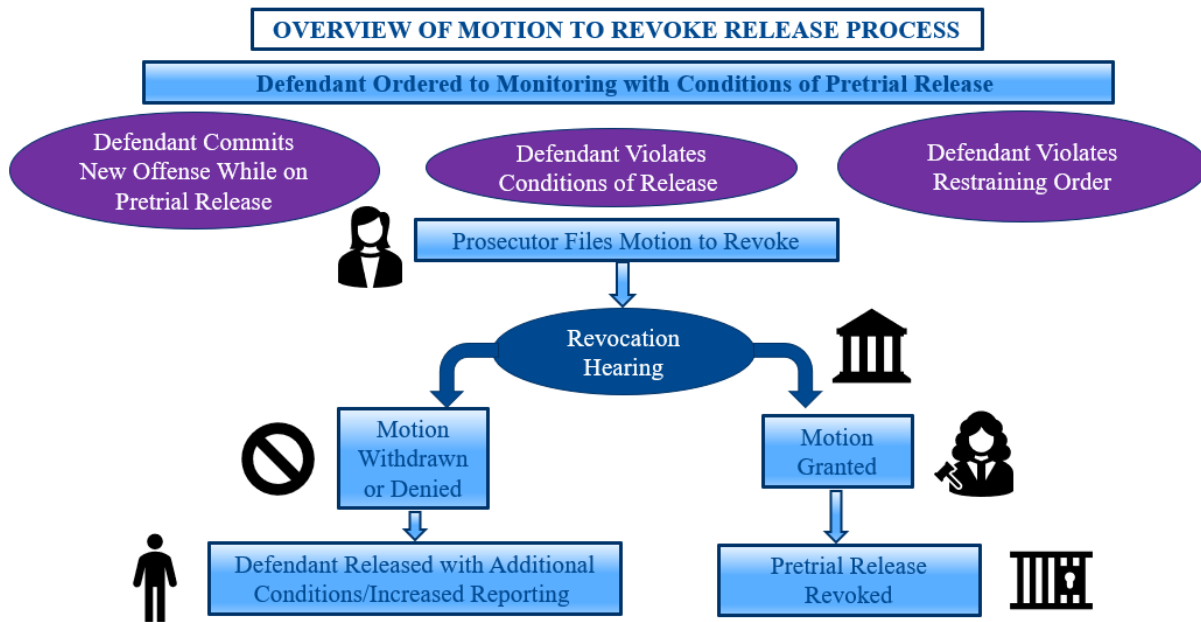
County	Total Detention Motions Filed	Released - Detention Motion Withdrawn	Percent of Detention Motions Filed	Released - Detention Motion Dismissed	Percent of Detention Motions Filed	Released - Detention Motion Denied	Percent of Detention Motions Filed	Detained - Detention Motion Granted	Percent of Detention Motions Filed
Atlantic	911	25	2.7%	2	0.2%	330	36.2%	554	60.8%
Bergen	599	168	28.0%	2	0.3%	128	21.4%	301	50.3%
Burlington	710	113	15.9%	5	0.7%	260	36.6%	332	46.8%
Camden	1,621	598	36.9%	0	0.0%	421	26.0%	602	37.1%
Cape May	366	21	5.7%	4	1.1%	142	38.8%	199	54.4%
Cumberland	826	56	6.8%	0	0.0%	415	50.2%	355	43.0%
Essex	1,896	300	15.8%	3	0.2%	617	32.5%	976	51.5%
Gloucester	584	174	29.8%	0	0.0%	211	36.1%	199	34.1%
Hudson	1,215	71	5.8%	5	0.4%	611	50.3%	528	43.5%
Hunterdon	94	41	43.6%	0	0.0%	14	14.9%	39	41.5%
Mercer	755	248	32.8%	0	0.0%	197	26.1%	310	41.1%
Middlesex	865	306	35.4%	7	0.8%	167	19.3%	385	44.5%
Monmouth	660	61	9.2%	0	0.0%	274	41.5%	325	49.2%
Morris	306	51	16.7%	10	3.3%	66	21.6%	179	58.5%
Ocean	935	99	10.6%	0	0.0%	602	64.4%	234	25.0%
Passaic	995	35	3.5%	1	0.1%	323	32.5%	636	63.9%
Salem	281	43	15.3%	0	0.0%	138	49.1%	100	35.6%
Somerset	303	19	6.3%	0	0.0%	157	51.8%	127	41.9%
Sussex	86	12	14.0%	0	0.0%	19	22.1%	55	64.0%
Union	754	86	11.4%	2	0.3%	206	27.3%	460	61.0%
Warren	211	104	49.3%	0	0.0%	37	17.5%	70	33.2%
State	14,973	2,631	17.6%	41	0.3%	5,335	35.6%	6,966	46.5%

Some variation may result from crime patterns by county, case volumes, and law enforcement resources to address and investigate serious crimes as opposed to lesser offenses. Variations may also arise from inconsistent understanding of the CJRA, Attorney General Directives, and Rules of Court.

3. Motions for Revocation of Release

Fig. 9

Process Flow for Motions to Revoke Release



A prosecutor may make a motion to revoke release (1) when there is reason to believe that an eligible defendant on pretrial release has violated a restraining order or a condition of release, or (2) based on a finding of probable cause that the defendant has committed a new crime.¹⁵ However, unlike a detention motion, the CJRA does not provide for the temporary detention of a defendant pending a motion to revoke release. Nor does the statute establish timeframes or presumptions for a revocation motion.

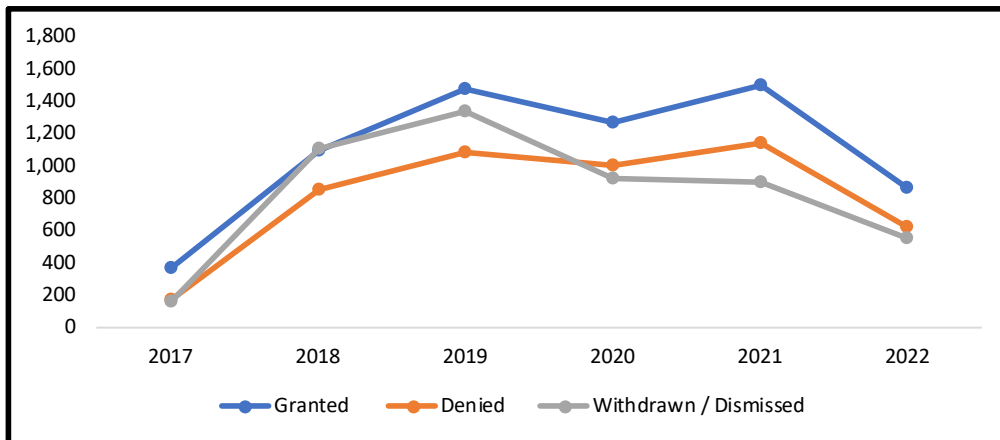
¹⁵ N.J.S.A. 2A:162-24(a).

The data demonstrate a reduction in the total number of motions to revoke release filed in 2022 as compared to nearly all prior years. Further, since 2017, prosecutors withdrew around 20% to 37% of motions to revoke release.

Fig. 10

Motions to Revoke Release

	2017	2018	2019	2020	2021	2022
Total motions filed	698	3,052	3,899	3,193	3,548	2,044
Motions withdrawn / dismissed	160	1,109	1,336	924	901	553
Motions decided by judges	538	1,943	2,563	2,269	2,647	1,491
Motions granted	366	1,094	1,478	1,266	1,504	863
Motions denied	172	849	1,085	1,003	1,143	628



- ***Variation in Revocation Motions***

The Subcommittee discussed factors that may contribute to current trends in motions to revoke release. Such motions could be used strategically in combination with, or in place of, motions for detention. For example, if a defendant was ordered released on their first case and rearrested for a second case while on pretrial release for the first case, the prosecutor may file a detention motion on the second case rather than a motion to revoke release on the first case. If so, the actual number of motions

to revoke release may undercount the number of attempts to detain a defendant with repeated arrests.

Whether due to confusion, strategy, or underutilization of motions for revocation, the issue likely contributes to the delayed resolution of older cases for defendants detained after initially being released -- a significant concern in light of the increase in backlog of criminal cases.

- ***Subcommittee Recommendations – Detention & Revocation of Release***

To support consistent and appropriate practices for pretrial detention and revocation of release, the Subcommittee recommends training for all participants.

LAW ENFORCEMENT TRAINING

RECOMMENDATION 9:

- The Attorney General and County Prosecutors Association should partner to provide additional and ongoing training for prosecutors.
- Such training should include an overview of Criminal Justice Reform, applicable Attorney General Directives and Rules of Court, the pretrial process, motions for detention and revocation of release, and the obligation to produce discovery within the timeframes for a detention or revocation hearing.

JUDICIARY TRAINING

RECOMMENDATION 10:

- The Judiciary should provide additional and ongoing training to judges making release, detention, and revocation of release decisions.

- Such training should include an overview of Criminal Justice Reform and the pretrial process; applicable Rules of Court and administrative policies; conditions of release; legal standards for detention and revocation of release; legal standards for the adjournment of a detention or revocation hearing; and a review of annual data.

RECOMMENDATION 11:

- The Judiciary should review policies and procedures related to pretrial monitoring to allow pretrial services to recommend, for eligible defendants who have remained compliant for at least six (6) months, a reduction of conditions or monitoring level.
- Such procedures should include notice to the parties and an opportunity to be heard regarding any adjustments to a pretrial defendant's conditions or monitoring level.

REPORT OF THE PRETRIAL SERVICES SUBCOMMITTEE

In its September 2019 report, the Pretrial Services Program Review Commission recommended (1) more staffing for the Pretrial Services Program and (2) expanded referrals to mental health and addiction treatment resources for defendants released pending trial.¹⁶ The Pretrial Services Subcommittee examined those same issues and reached the same recommendations. The Subcommittee also focused on the substantial increase in the pretrial release population due to delays in criminal dispositions caused by the Covid-19 pandemic and judicial vacancies. To uphold public safety, the Subcommittee further recommends that Attorney General Directives and Court Rules be revised to reflect recent changes in the law allowing for contempt charges for certain violations of pretrial release.

1. Defendants on Pretrial Release

Most individuals who are charged with criminal offenses pose little risk to public safety and can be safely released and provided reminders of court dates while their case is pending. However, other defendants require additional support to comply with conditions of release. A smaller subset of high-risk

¹⁶ “While the Pretrial Services Program is able to carry out its statutory duties with current staffing, the Commission acknowledges that increased staffing would allow the Pretrial Services Program to provide greater services to released defendants

The Commission strongly recommends that the Legislature and Governor find ways to increase the availability of services, specifically in the areas of mental health and addiction treatment. As a result of the implementation of criminal justice reform, the overall jail population for defendants held pre-disposition has decreased. Some of these individuals would benefit from referrals to these services.” (at p.6)

defendants who require home detention, with or without electronic monitoring, must be closely monitored, with immediate and focused responses when there is an alleged violation of pretrial conditions.

- ***Pretrial Release Population vs. Pretrial Services Staffing***

From January 2020 to February 2023, the number of defendants on pretrial monitoring in New Jersey increased by 58.3%, from just under 30,000 to more than 46,000 people. Increases vary widely by county, with pretrial staff in some areas managing caseloads that have doubled in that time period.

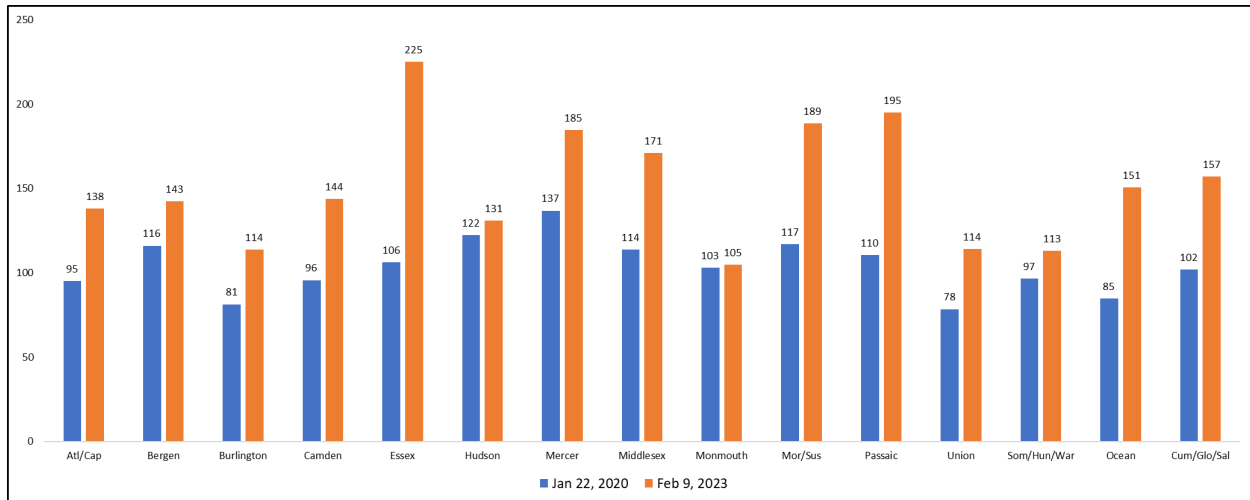
Fig. 11

Defendants on PTM and Pretrial Authorized Positions in January 2020 and February 2023

	Total Defendants on PTM			Authorized Positions			Defendants per Authorized Positions		
	Jan 22, 2020	Feb 9, 2023	Percent Change	Jan 16, 2020	Feb 14, 2023	Percent Change	Jan 2020	Feb 2023	Percent Change
Atl/Cap	1,045	1,657	58.6%	11	15	36.4%	95	110	16.3%
Bergen	1,509	1,995	32.2%	15	15	0.0%	101	133	32.2%
Burlington	1,301	1,934	48.7%	16	17	6.3%	81	114	39.9%
Camden	3,250	4,891	50.5%	36	39	8.3%	90	125	38.9%
Essex	4,778	8,557	79.1%	47	55	17.0%	102	156	53.0%
Hudson	3,178	4,979	56.7%	34	46	35.3%	93	108	15.8%
Mercer	2,600	3,877	49.1%	24	33	37.5%	108	117	8.4%
Middlesex	2,160	3,081	42.6%	20	23	15.0%	108	134	24.0%
Monmouth	1,337	2,199	64.5%	18	25	38.9%	74	88	18.4%
Mor/Sus	818	943	15.3%	8	10	25.0%	102	94	-7.8%
Passaic	1,877	3,704	97.3%	18	35	94.4%	104	106	1.5%
Union	1,176	1,712	45.6%	15	20	33.3%	78	86	9.2%
Som/Hun/War	869	1,581	81.9%	10	15	50.0%	87	105	21.3%
Ocean	1,355	2,108	55.6%	17	22	29.4%	80	96	20.2%
Cum/Glo/Sal	1,934	2,983	54.2%	21	21	0.0%	92	142	54.2%
Total	29,187	46,201	58.3%	310	391	26.1%	94	118	25.5%

Fig. 12

Defendants per Pretrial Services Staff



Despite the 58.3% increase in the number of defendants on pretrial release, the number of staff authorized for Pretrial Services has grown by only 26.1% -- from 310 in January 2020 to 391 in February 2023. In his April 2023 remarks to the Legislature as part of the budget process, the Administrative Director of the Courts requested funds beyond the \$22 million allotted to the Judiciary in order to meet basic staffing needs.

In light of the increase in defendants on pretrial release, including more defendants in need of services, the Subcommittee recommends an increase in Pretrial Services staffing along with additional responsibilities for those staff.

- ***Subcommittee Recommendations -- Pretrial Services Staffing***

RECOMMENDATION 12:

- Additional funding should be provided to enable the Judiciary to increase Pretrial Services staffing in order to ensure appropriate oversight of the large volume of defendants currently on pretrial release.

- The additional funding should remain in place until the number of defendants on pretrial release returns to pre-pandemic levels.

RECOMMENDATION 13:

- Judiciary Pretrial Services staff should conduct a basic needs assessment¹⁷ for every eligible defendant who has been ordered released.
- Staff should be trained to emphasize that referrals made as a result of the assessment would be voluntary.

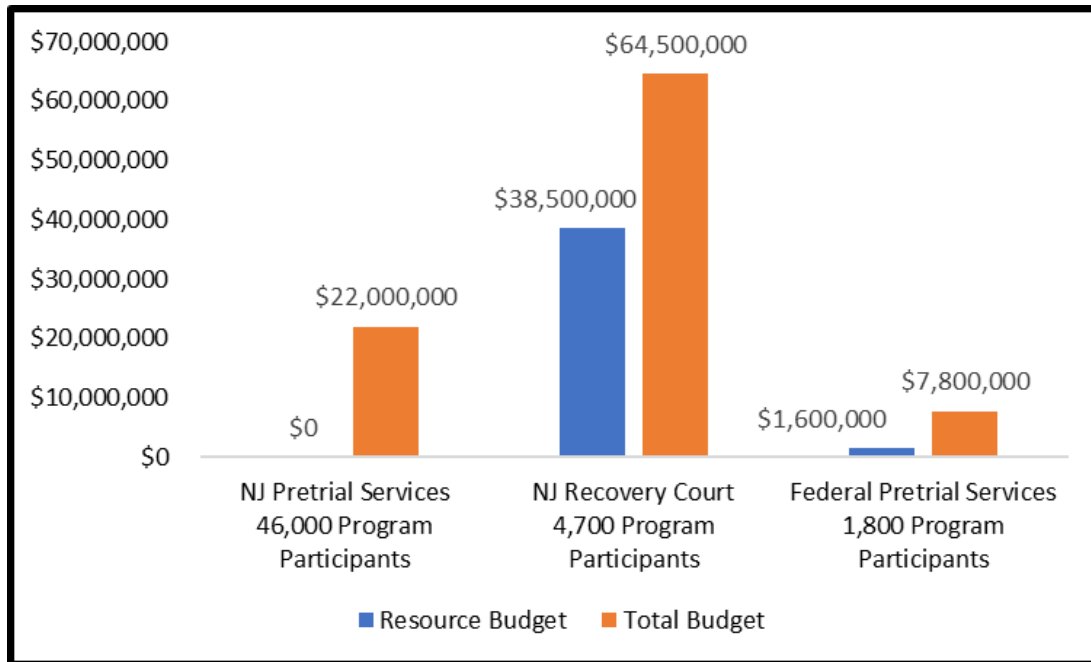
2. Resources for Defendants on Pretrial Release

The Subcommittee compared the current Pretrial Services program budget to other programs that provide supervision and services to support defendants. The New Jersey Federal Pretrial Program monitors about 1,800 federal defendants with a budget of \$7.8 million, with \$1.6 million of that budget available for social services and resources. The Judiciary's Recovery Court Program supervises about 4,700 clients and has a budget of almost \$65 million, with almost \$39 million dedicated to the Executive branch for resources and treatment services. In contrast, the New Jersey Pretrial Services Program currently monitors more than 46,000 defendants, with an operating budget of \$22 million, with no funding provided to the Executive branch for resources and services.

¹⁷ The tool would seek information about the defendant's housing, employment, transportation, food, treatment, and other potential needs.

Fig. 13

Budgeted Resources Allotted to Defendant Support Programs



The Subcommittee also reviewed other programs and initiatives that provide support services through cooperation and collaboration. For example, as amended in 2021, the Fair Release and Reentry Act of 2009 provides grant funding opportunities for every county to hire a “Reentry Coordinator” to help individuals released from prison obtain an identification card, housing and transportation, and connection to substance use and mental health treatment resources.¹⁸

Similarly, the Office of the Public Defender employs social workers to connect clients with local resources. Those “System Navigator” staff members are specially trained Public Defender investigators whose main job is to link

¹⁸ New Jersey’s Recovery Court Program, created in 1987 pursuant to N.J.S.A. 2C:35-14, likewise involves ongoing collaboration between the Judiciary, the Division of Mental Health and Addiction Services, community providers, prosecutors, and defense attorneys.

clients to social services. In addition, non-profit entities, including but not limited to the New Jersey Reentry Corporation, Volunteers of America, and Jewish Family Services, provide critical support resources to defendants sentenced to probation and defendants released from prison to the Intensive Supervision Program.

- ***Subcommittee Recommendations -- Increased Connections to Resources***

The Subcommittee concluded that with increased staffing, Pretrial Services could connect defendants with existing resources in the community. Early connections to those resources could improve success during the pretrial period and, in some cases, facilitate diversion and other outcomes favorable for both defendants and communities.

RECOMMENDATION 14:

- Judiciary Pretrial Services staff should use all available resources to assist defendants -- whether through state, county, or non-profit entities -- and provide a list of available resources directly to defendants.
- In high volume counties, specific staff should be designated to liaison with local providers and directly connect defendants to such resources.

RECOMMENDATION 15:

- The Legislature should consider providing an opportunity for each County to establish a “Pretrial Coordinator,” who would work to connect those on pretrial release to programs and services in the County. A model for such a program could be the Fair Release and Reentry Act, which was amended in 2021 to provide grant funding to counties to establish a “Reentry Coordinator” for those being released after a sentence of incarceration. The legislation should make it clear that each county is permitted, where applicable, to use its current Reentry Coordinator to assist individuals on pretrial release, or hire additional staff to work as a Pretrial Coordinator.

RECOMMENDATION 16:

- Following New Jersey's successful Recovery Court model, the Department of Human Services should receive additional funding to provide services for defendants on pretrial release.

RECOMMENDATION 17:

- For defendants who have been on pretrial monitoring more than six (6) months, or upon indictment, Judiciary staff should screen the defendant's case(s) to determine whether the defendant may be eligible for Recovery Court in the future.
- Such defendants should be offered the opportunity to, on a voluntary basis, begin treatment for substance use disorder while on pretrial release.

3. Pretrial Monitoring

- *Pretrial Monitoring Levels (PML)*

When making a decision to release, and after considering the risk to public safety and the risk of failure to appear, a judge will order an individual to a pretrial monitoring level (PML) as follows:

- ROR - Release recommended (may have no victim / witness contact condition).
 - Defendant not required to report to PSP.
- PML 1 - Release recommended with minimal conditions.
 - Defendant required to report to PSP telephonically once per month.
- PML 2 - Release recommended with conditions.
 - Defendant required to report to PSP telephonically once per month and in person once per month.
- PML 3 - Release recommended with conditions.
 - Defendant required to report to PSP telephonically once every other week and in person once every other week.

- PML 3+ - Release recommended with conditions including home detention *with or without electronic monitoring*.
 - Defendant required to report to PSP telephonically once every other week and in person once every other week, and also ordered to home detention with or without electronic monitoring.

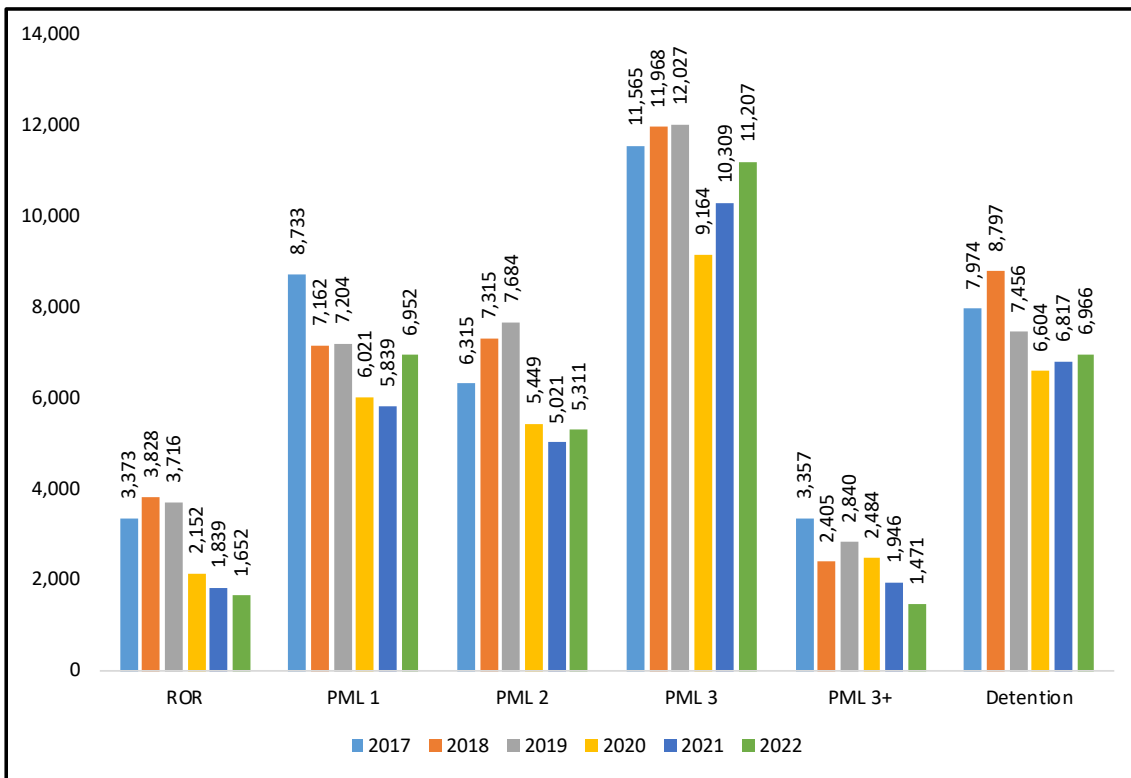
Judges order most defendants released on low levels of monitoring,¹⁹ with a small number of defendants released on PML3+²⁰ and a subset of those defendants subject to electronic monitoring.

¹⁹ Together, the categories of ROR, PML 1 and PML 2 totaled from 12,699 defendants in 2021 to a high of 18,604 defendants in 2019. Each year, judges ordered the largest number of defendants released on PML 3, ranging from a high of 12,027 in 2019 to a low of 9,164 defendants in 2020.

²⁰ For example, in 2022, judges ordered 1,471 defendants released on PML 3+.

Fig. 14

Initial Release Decisions for Criminal Justice Reform Defendants on Complaint-Warrants



This information is derived from the Criminal Justice Reform monthly statistics.

- ***Electronic Monitoring by Pretrial Services***

For defendants who are ordered to home detention with a GPS electronic monitoring (EM) bracelet, Pretrial Services staff receive alerts related to possible zone violations or bracelet tampering day and night, seven days a week. In response, Pretrial Services staff in all but two counties²¹ must contact law

²¹ Camden and Hudson County jails handle electronic monitoring and directly dispatch a law enforcement officer to respond to alerts when needed.

enforcement and request that an officer check the defendant's home or last known location. Since Pretrial Services staff are not law enforcement, they use the non-emergency dispatch number as would any civilian. The responding law enforcement officer performs the check and then contacts Pretrial Services staff to advise whether the defendant has been found in a restricted zone or outside of the defendant's authorized zone. If the defendant is located in a prohibited area, Pretrial Services staff then contact a judge for a bench warrant. The current process consumes considerable time during which a defendant may pose a risk to victims or the larger community.

Additional complexities arise when law enforcement cannot locate a defendant. If the defendant is still wearing the electronic monitoring device, Pretrial Services staff provide updates on the defendant's last known location and communicate through dispatch until law enforcement locates the individual. This multi-step process is inefficient. Delays in dispatching law enforcement and in locating defendants create undue risks to public safety. Those systemic limitations contribute to the minimal use of EM even though it offers a less intrusive and more cost-efficient alternative than detention.

The Subcommittee on Pretrial Services discussed the possibility of an expanded role for law enforcement, accompanied by appropriate funding, in statewide electronic monitoring. The stakeholders remain committed to continued discussion on these issues moving forward.

The Subcommittee also considered P.L. 2023, c. 46, which amends N.J.S.A. 29-9(a) to clarify that an individual on pretrial release can be charged with contempt for violation of an order for no contact with a victim, or home detention with or without electronic monitoring. Training for law enforcement and judges on this

recent statutory change will strengthen the response for violations of pretrial monitoring. Accordingly, the Subcommittee recommends that Attorney General Directives and Court Rules be revised to reflect this change in the law.

Subcommittee Recommendations – Pretrial Monitoring

RECOMMENDATION 18:

- The Attorney General should review Directives related to Criminal Justice Reform and consider modifications to (1) include cases charging contempt of an order for home detention or electronic monitoring among the cases for which law enforcement must apply for a complaint-warrant, and (2) include such cases among the cases for which the prosecutor is presumed to seek detention or revocation of release.²²

RECOMMENDATION 19:

- The Judiciary should review Rules of Court related to the issuance of summonses and warrants and consider amendments to make contempt of an order for no contact, or home detention or electronic monitoring a presumed warrant charge.

²² The Subcommittee considered P.L. 2023, c. 46 – Clarifies Penalties for Pretrial Release; directs prosecutor to provide written notice of release to victim.

REPORT OF THE DATA ANALYSIS

SUBCOMMITTEE

The Data Analysis Subcommittee examined areas in which data support further examination of -- and possible adjustments to -- the CJR processes. The Subcommittee reviewed data regarding: (1) repeat offenders; (2) theft offenses, including auto thefts; (3) domestic violence; (4) gun offenses; and (5) racial disparity in the pretrial jail population.

1. Repeat Offenders

To inform its examination of repeat offenders, the Subcommittee considered the substantial increase in defendants on pretrial release and the extended timeframes for case disposition.²³ It also compared data for defendants with no pending charges to the subset of defendants with two or more prior arrests, whose charges were pending at the time of their current offense.²⁴ In

²³ See the Report of the Pretrial Services Subcommittee, pages 36-38, for further information about the increase in pretrial population from 2020 to 2023.

²⁴ To understand the rearrest patterns of defendants with two or more arrests while on pretrial release when the charges were still pending, the Subcommittee considered a Research PSA, which included the calculation of PSA scores for all defendants with complaint-warrants and summonses in 2021. Further, the Supreme Court's Decision Making Framework identifies defendants with two or more separate pretrial arrests still pending at the time of the current offense. The analysis of repeat offenders specifically describes the subgroup of defendants rather than the universe of defendants with 2 or more separate, pending pretrial arrests.

addition, the Subcommittee reviewed data showing county-level variations in motions for detention and motions for revocation of release.²⁵

a. Case Disposition Rates

As detailed in the report of the Pretrial Services Subcommittee, the number of defendants on pretrial release has grown from 30,000 to more than 46,000 during the past three years. During that same timeframe, the Covid-19 pandemic and judicial vacancies have delayed criminal dispositions and extended the average pretrial period for defendants by more than 100 days.

As illustrated in the following table, criminal courts currently have nearly 18,000 more cases pending than in February 2020.

Fig. 15

Pending Criminal Division Cases

	February 29, 2020	March 31, 2023	Difference
Criminal Pre-Indictment	17,728	28,479	10,751
Criminal Post-Indictment	13,839	21,151	7,312
Municipal Appeals	211	174	-37
Post-Conviction Relief	565	495	-70
Total	32,343	50,299	17,956

Growth in the number of pending cases means that many defendants -- including those detained and on pretrial release -- wait longer for their cases to reach disposition. In addition, extended time awaiting trial can contribute to an

²⁵ See the Report of the Pretrial Services Subcommittee, pages 32-34, for details about county-level variation in handling revocations of release.

increased risk of rearrest, particularly for defendants in need of mental health, substance use, and other resources.²⁶

b. Analysis of Defendants with no Pending Charges at Current Arrest

According to the data, most defendants who have no pending charges at the time of their current arrest complete their pretrial release period without being rearrested. For 2021, for example, there were 36,935 defendants released on either a complaint-summons or a complaint-warrant who, at the time of their arrest, had no pending charges. Of those defendants, 29,679 (80.4%) were not rearrested while on pretrial release.²⁷

Of the other 7,256 people without pending charges who were rearrested while on pretrial release:

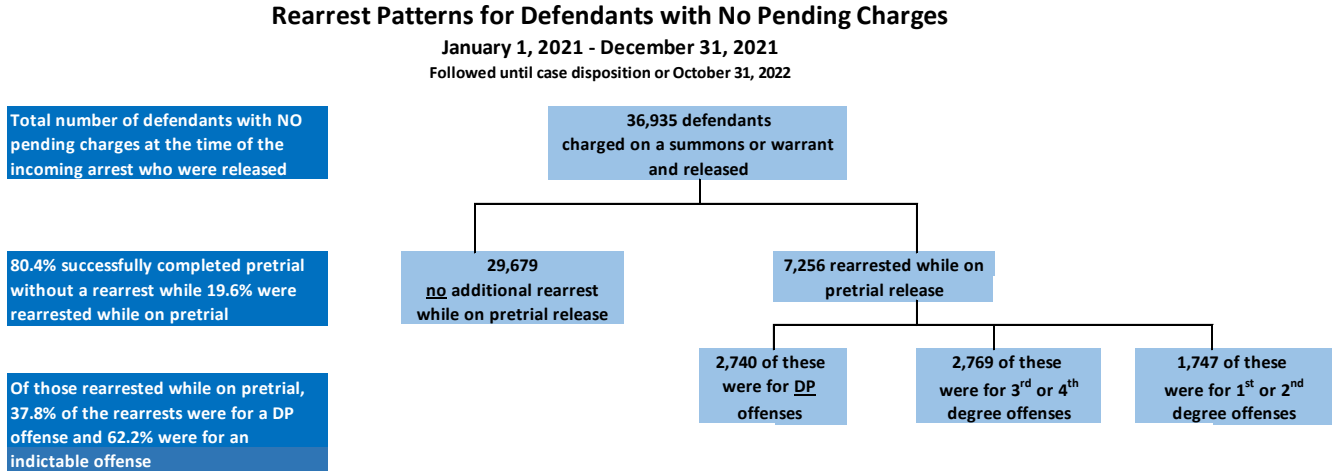
- 2,740 were rearrested for a disorderly persons offense
- 2,769 were rearrested for a 3rd or 4th degree offense
- 1,747 were rearrested for a 1st or 2nd degree offense

²⁶ See the Report of the Pretrial Services Subcommittee, pages 40-42, for recommendations to connect released defendants with treatment and other resources before case disposition.

²⁷ To examine rearrest rates including both complaint-summons and complaint-warrants, the Subcommittee utilized the Research PSA dataset. That dataset treats each person-arrest-event independently, which carries with it the possibility that a small number of defendants may be counted more than once.

Fig. 16

Rearrest Patterns for Defendants with No Pending Charges



c. Analysis of Defendants with 2 or More Prior Arrests with Those Charges Still Pending at Current Arrest

Unlike defendants with no pending charges at the time of arrest, defendants with two or more prior arrests at the time of the current offense with those charges still pending during the pretrial release period were more likely to be arrested again while on pretrial release.

The Supreme Court's Decision Making Framework (DMF) provides for a no release recommendation when a person was previously arrested on two separate occasions, and when those charges were still pending at the time of the current offense.²⁸ Therefore, if a defendant has two or more prior arrests with those charges still pending, the system generated Preliminary PSA recommends charging by a complaint-warrant; that recommendation will be displayed for the law enforcement officer who runs the Preliminary PSA. The Subcommittee considered that aspect of the DMF, focusing on defendants who were repeatedly rearrested.

There were 7,258 defendants in the subset of 2021 defendants identified by the DMF as having two or more repeated arrests on pretrial release at the time of the current offense. The Preliminary PSA would have resulted in a recommendation to charge by complaint-warrant for 7,258 defendants arrested in 2021. However, 4,894 (67.4%) of those 7,258 defendants were charged by complaint-summons and were therefore not monitored by Pretrial Services and not eligible for pretrial detention. That high rate of charging by complaint-

²⁸ [Decision Making Framework - Revised August 2, 2022 \(njcourts.gov\)](#); [Supreme Court Approves Changes to Pretrial Release Recommendations for Gun Crimes, Repeat Offenders \(njcourts.gov\)](#).

summonses suggests inconsistent adherence to law enforcement guidance regarding when to charge by summons versus warrant.²⁹

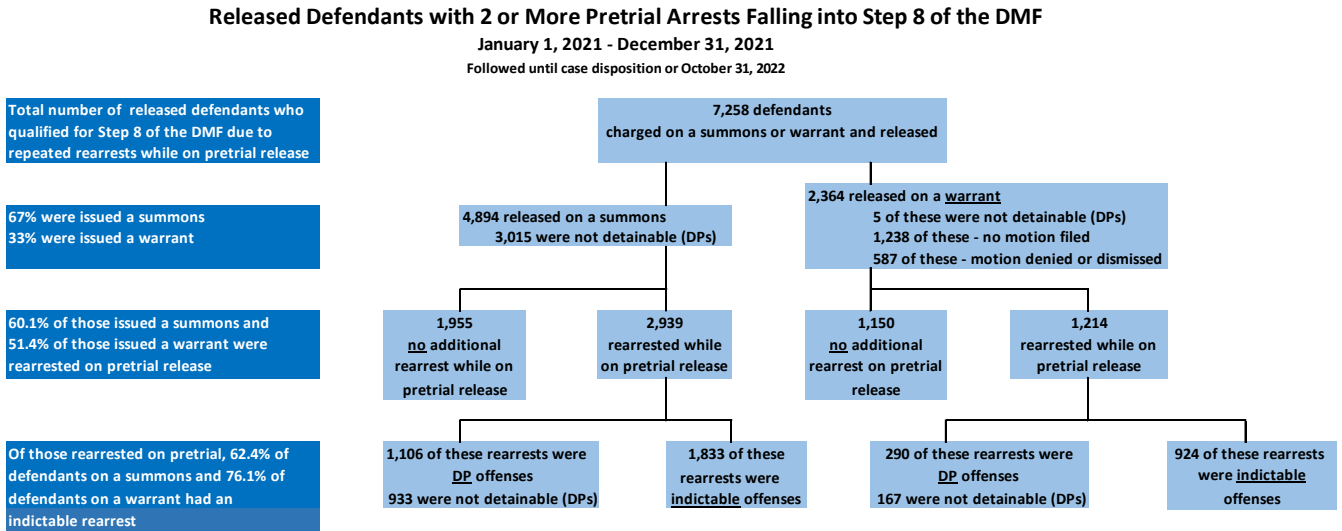
Ultimately, 2,939 (60.1%) of the 4,894 defendants charged by a complaint-summons were rearrested while on pretrial release. Of those 2,939 defendants:

- 1,302 were rearrested for a 3rd or 4th degree offense
- 1,106 were rearrested for a disorderly persons offense
- 531 were rearrested for a 1st or 2nd degree offense

²⁹ See the Report of the Subcommittee on Pretrial Processes, pages 18-20, regarding the use of the Preliminary PSA and factors to be considered in charging by summons versus warrant.

Fig. 17

Released Defendants with 2 or More Pretrial Arrests Falling into Step 8 of the DMF



Of the remaining 2,364 defendants who were released after issuance of a complaint-warrant, 1,214 defendants (51.4%) were rearrested while on pretrial release. Of those defendants:

- 609 were rearrested for a 3rd or 4th degree offense
- 290 were rearrested for a disorderly persons offense
- 315 were rearrested for a 1st or 2nd degree offense

As advocated by this and other Subcommittees, defendants on pretrial release would benefit from connection to mental health and substance use treatment as well as other resources.

The Subcommittee observed that (1) the PSA risk assessment considers pending charges at the time of an offense and heavily weighs the first rearrest during the pretrial release period; but (2) the PSA does not consider a second, third, or additional arrest incurred during the pretrial release period.³⁰ To address that concern with the PSA, the Supreme Court in 2017 modified the DMF to provide for a no release recommendation when a person was previously arrested on two separate occasions and those charges were still pending at the time of the current offense.³¹

d. Motions for Detention and Motions to Revoke Release

The data reveal substantial variation regarding the rates at which (1) prosecutors file motions to detain defendants pretrial; (2) prosecutors withdraw those motions; and (3) judges grant or deny detention.³² Inconsistency in

³⁰ Simply put, a defendant with one (1) pending offense will receive the same weighted score on the PSA as a defendant with five (5) pending offenses.

³¹ [Decision Making Framework - Revised August 2, 2022 \(njcourts.gov\)](https://www.njcourts.gov/newsroom/press-releases/2022/08/02/decision-making-framework-revised-august-2-2022)
[Supreme Court Approves Changes to Pretrial Release Recommendations for Gun Crimes, Repeat Offenders \(njcourts.gov\)](https://www.njcourts.gov/newsroom/press-releases/2017/06/27/supreme-court-approves-changes-to-pretrial-release-recommendations-for-gun-crimes-repeat-offenders).

³² See the Report of the Subcommittee on Pretrial Process, pages 29-31, for data on county-level variation in detention motions and outcomes.

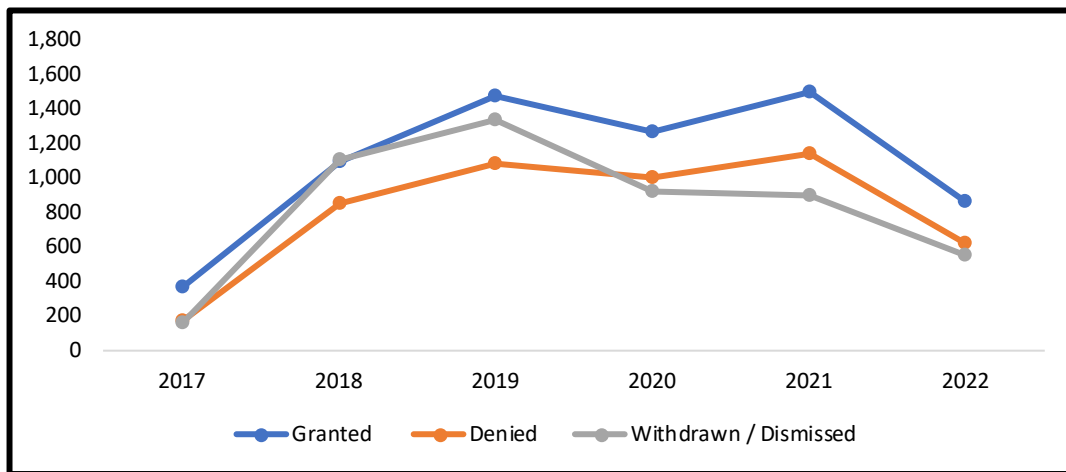
applications for pretrial detention -- and variations in the way judges handle such applications -- raise concerns about repeat offenders who may be more likely to be arrested on new charges while on pretrial release.

Similar concerns surround the variation in release revocation for repeat offenders. A prosecutor may file a motion to revoke release when a defendant violates release conditions, including for rearrest during the pretrial period, failure to appear for a court hearing, violation of electronic monitoring or home detention, or a threat against a victim or witness. As detailed in the Report of the Subcommittee on Pretrial Processes, motions to revoke release declined from 2021 to 2022, with a significant portion of those motions being withdrawn or dismissed.

Fig. 18

Motions to Revoke Release

	2017	2018	2019	2020	2021	2022
Total motions filed	698	3,052	3,899	3,193	3,548	2,044
Motions withdrawn / dismissed	160	1,109	1,336	924	901	553
Motions decided by judges	538	1,943	2,563	2,269	2,647	1,491
Motions granted	366	1,094	1,478	1,266	1,504	863
Motions denied	172	849	1,085	1,003	1,143	628



A statewide review of the number of motions to revoke release filed, and subsequently withdrawn, shows significant variation: from no withdrawn motions in one county, to another in which 71.4% of motions to revoke were withdrawn. Judges also granted and denied motions to revoke release at different rates: from a low of 33.3% in one county to a high of 80% in another county.

Fig. 19

Motions to Revoke Release Filed by Prosecutors in 2022

	Granted Motions		Denied Motions		Total Decisions by a Judge		Motions Filed then				Total Motions Filed, including Granted, Denied, Withdrawn and Dismissed
							Withdrawn		Dismissed		
	Number	Percent of Decisions	Number	Percent of Decisions	Number	Percent of Total Motions	Number	Percent of Total	Number	Percent of Total	
Atlantic	33	67.3%	16	32.7%	49	72.1%	19	27.9%	0	0.0%	68
Bergen	43	72.9%	16	27.1%	59	67.8%	25	28.7%	3	3.4%	87
Burlington	83	45.4%	100	54.6%	183	69.3%	79	29.9%	2	0.8%	264
Camden	26	61.9%	16	38.1%	42	46.2%	47	51.6%	2	2.2%	91
Cape May	44	66.7%	22	33.3%	66	76.7%	19	22.1%	1	1.2%	86
Cumberland	74	60.2%	49	39.8%	123	87.2%	15	10.6%	3	2.1%	141
Essex	22	66.7%	11	33.3%	33	54.1%	27	44.3%	1	1.6%	61
Gloucester	77	50.0%	77	50.0%	154	59.7%	95	36.8%	9	3.5%	258
Hudson	24	80.0%	6	20.0%	30	54.5%	20	36.4%	5	9.1%	55
Hunterdon	8	72.7%	3	27.3%	11	73.3%	4	26.7%	0	0.0%	15
Mercer	37	60.7%	24	39.3%	61	83.6%	11	15.1%	1	1.4%	73
Middlesex	38	63.3%	22	36.7%	60	75.0%	12	15.0%	8	10.0%	80
Monmouth	17	54.8%	14	45.2%	31	53.4%	27	46.6%	0	0.0%	58
Morris	17	60.7%	11	39.3%	28	68.3%	10	24.4%	3	7.3%	41
Ocean	69	34.0%	134	66.0%	203	83.9%	39	16.1%	0	0.0%	242
Passaic	131	78.4%	36	21.6%	167	93.8%	8	4.5%	3	1.7%	178
Salem	31	43.7%	40	56.3%	71	78.9%	19	21.1%	0	0.0%	90
Somerset	17	63.0%	10	37.0%	27	90.0%	2	6.7%	1	3.3%	30
Sussex	8	66.7%	4	33.3%	12	100.0%	0	0.0%	0	0.0%	12
Union	62	82.7%	13	17.3%	75	80.6%	16	17.2%	2	2.2%	93
Warren	2	33.3%	4	66.7%	6	28.6%	15	71.4%	0	0.0%	21
State	863	57.9%	628	42.1%	1,491	72.9%	509	24.9%	44	2.2%	2,044

The rates at which prosecutors file motions to revoke release, combined with variation in judicial decisions as to revocation, exacerbate problems associated with repeat offenders and may contribute to a perception that defendants are allowed to reoffend. The Subcommittee agreed it is important to offer new processes and treatment interventions to ensure consistent application of the tools available under CJR, increase

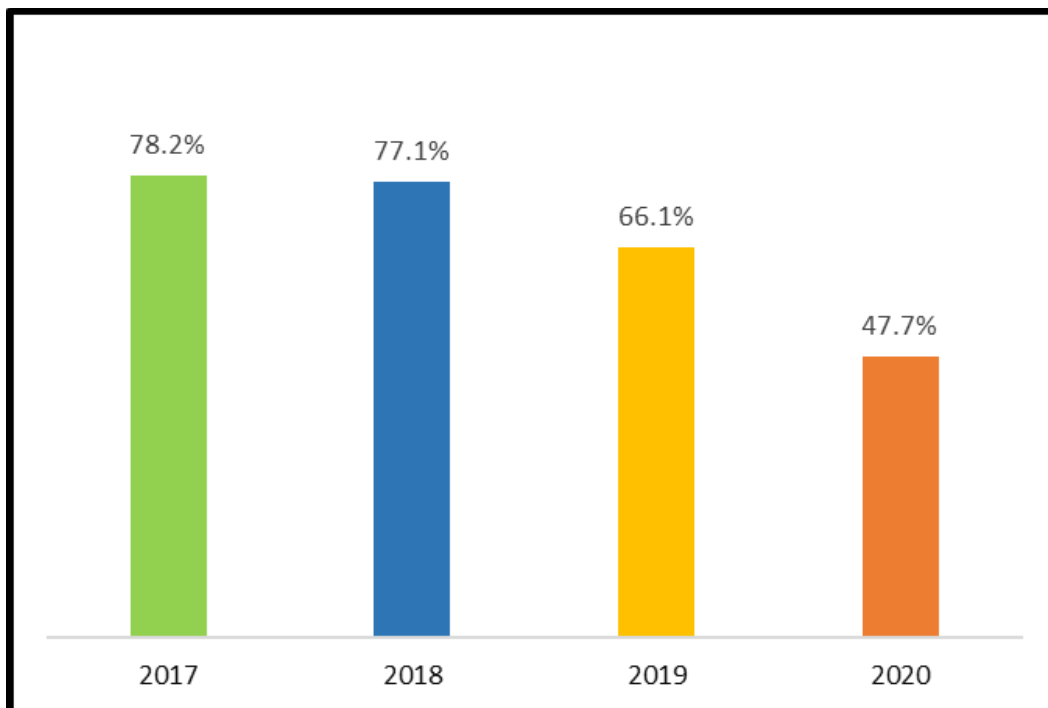
public safety, and offer defendants the opportunity for treatment to stop criminogenic behavior.

- ***Subcommittee Recommendations -- Repeat Offenders***

Case backlog, exacerbated by the impact of the Covid-19 pandemic and judicial vacancies, has caused the average pretrial period for defendants to increase significantly. In the first 2 years after implementation of CJR, nearly 80% of cases were disposed of by October 31st of the following year. In 2020 and 2021, however, less than 50% of defendants on pretrial release had their cases completed by October 31st of the following year. The Subcommittee recommends clarification and refinement of CJR processes, along with earlier resolution of cases and earlier connections to treatment and diversionary programs, to better address the public safety risk posed by repeat offenders. The Subcommittee further recommends strategies to support consistency in prosecutor and judge practices related to motions to revoke release.

Fig. 20

Percentage of Cases Disposed within 22-Month Period



RECOMMENDATION 20:

- For an eligible defendant who has been detained or has had their release revoked, and who has more than one case pending in Superior Court, the court should schedule a case management conference within 60 days of the order detaining the defendant or revoking the defendant's release.
- At the conference, the prosecutor and defendant's attorney should be prepared to discuss all pending cases, including disorderly persons cases issued on a complaint-warrant, and update the court as to the progress of plea negotiations.

RECOMMENDATION 21:

- For an eligible defendant who has more than one case pending in Superior Court, upon the joint request of the parties, when they have indicated they are prepared to discuss a resolution of all pending matters, the court should schedule a case management conference.
- At the conference, the prosecutor and defendant's attorney should be prepared to discuss all pending cases, including disorderly persons cases issued on a complaint-warrant, and update the court as to the progress of plea negotiations.

RECOMMENDATION 22:

- The Legislature should consider amending the Criminal Justice Reform Act to clarify that it allows for the temporary detention of an eligible defendant when a prosecutor has filed a motion for revocation of release and the defendant is in custody. The process and timelines should be similar to those for motions for detention.

RECOMMENDATION 23:

- The Legislature should consider amending the Criminal Justice Reform Act to require pretrial services to make a recommendation to revoke release for an eligible defendant who has been charged with a new offense on a complaint-warrant and who, at the time of the current offense, had previously been

arrested on two separate occasions, and those charges were still pending at the time of the current offense. The Act should further provide that such recommendation by pretrial services may be used as prima facie evidence to overcome the presumption of release.

- The above requirement should apply if the current offense or at least one of the pending charges is for an indictable offense or a disorderly persons offense where domestic violence is indicated.

RECOMMENDATION 24:

- The Legislature should consider amending the Criminal Justice Reform Act to grant the court the discretion to permit a defendant whose release has been revoked to voluntarily accept an offer for release on conditions that include attendance and completion of drug, alcohol, or mental health treatment at an approved program or facility when and to the extent clinically indicated.

2. Theft Offenses / Automobile Theft

Car thefts, including those involving juvenile offenders, continue to garner significant public attention. At a minimum, auto and other thefts compromise quality of life in our communities. In some cases, such criminal activity also threatens individual safety.

- ***Data on Theft Offenses***

Because there is no distinct charging statute, the data are unable to systematically differentiate between cases that involve automobile theft or other types of theft. As the next best alternative, the Subcommittee reviewed data regarding the offenses most likely involved when an individual is charged with vehicular theft.

Fig. 21

Frequency of Theft Charges per Year

Statute	Degree	Charge Description
Statutes charged fewer than 6,000 times per year		
2C:20-3A	3	Theft By Unlawful Taking-Movable Property Value \$500-\$74999 Etc
2C:20-7A	3	Receiving Stolen Property-Know Property Stolen-Value 500-74999 Etc
Statutes charged fewer than 200 times per year		
2C:20-3A	2	Theft By Unlawful Taking-Movable Property Value \$75000+ Etc
2C:20-2B(2)(B)	3	Theft-Firearm/Motor Vehicle/Vessel/ Boat/Horse/Pet/Airplane
Statutes charged fewer than 20 times per year		
2C:20-17A	2	Use Of Juvenile In Automobile Theft
2C:20-18	2	Leader Of Auto Theft Trafficking Network
2C:20-2B(4)(B)	D	Theft - Electronic Vehicle ID System Transponder
TOTAL		

The percentage of specific theft offenses charged by complaint-warrant as compared to those charged on a complaint-summons varies by county.

Fig. 22

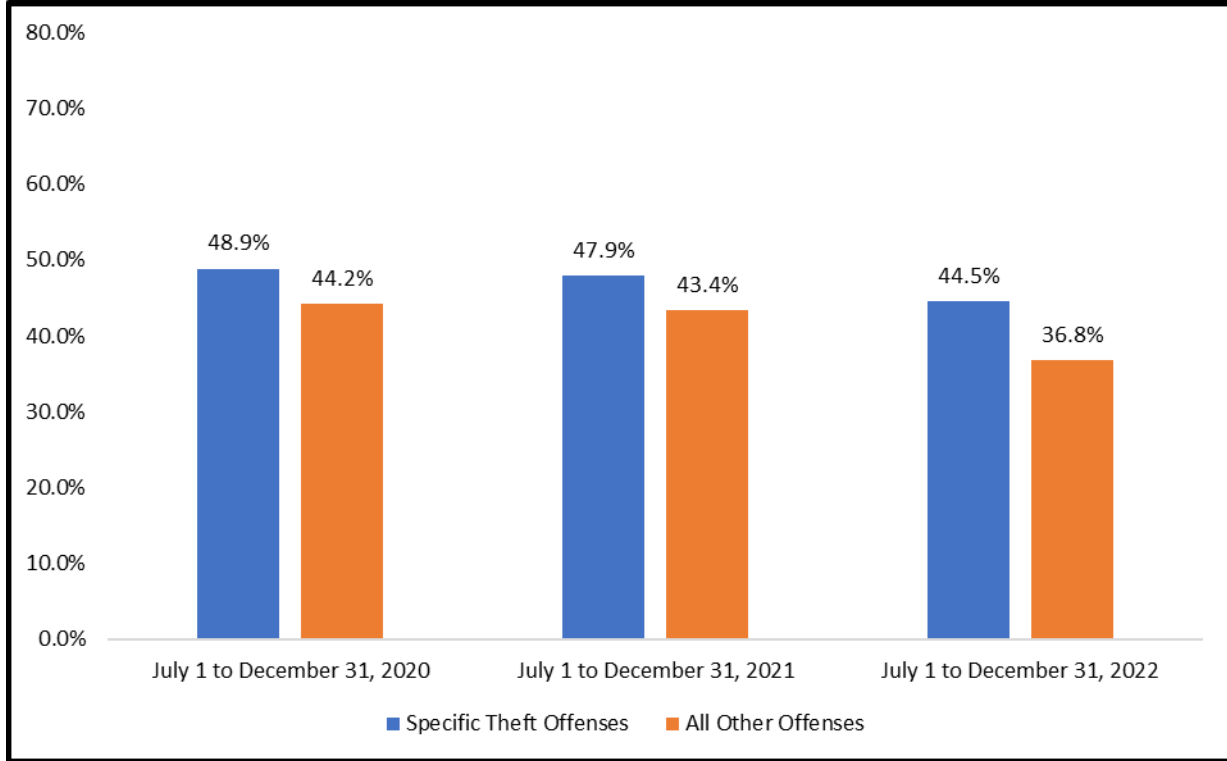
Number and Percentage of Summonses and Warrants with Specific Theft Offenses by County

County	Jul 1 to Dec 31, 2019				Jul 1 to Dec 31, 2020				Jul 1 to Dec 31, 2021				Jul 1 to Dec 31, 2022			
	Summonses		Warrants		Summonses		Warrants		Summonses		Warrants		Summonses		Warrants	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Atlantic	229	84.5%	42	15.5%	131	77.5%	38	22.5%	166	83.4%	33	16.6%	361	85.3%	62	14.7%
Bergen	255	65.4%	135	34.6%	169	60.6%	110	39.4%	184	62.8%	109	37.2%	265	56.5%	204	43.5%
Burlington	97	47.1%	109	52.9%	73	57.5%	54	42.5%	92	46.5%	106	53.5%	128	50.6%	125	49.4%
Camden	204	58.1%	147	41.9%	214	56.9%	162	43.1%	203	62.1%	124	37.9%	257	54.7%	213	45.3%
Cape May	29	53.7%	25	46.3%	24	53.3%	21	46.7%	29	50.0%	29	50.0%	29	53.7%	25	46.3%
Cumberland	87	61.3%	55	38.7%	77	71.3%	31	28.7%	70	55.6%	56	44.4%	60	49.2%	62	50.8%
Essex	149	27.9%	386	72.1%	143	29.4%	344	70.6%	167	32.1%	354	67.9%	171	29.4%	410	70.6%
Gloucester	82	63.1%	48	36.9%	52	45.2%	63	54.8%	76	55.1%	62	44.9%	108	58.4%	77	41.6%
Hudson	158	37.1%	268	62.9%	79	32.4%	165	67.6%	78	30.1%	181	69.9%	126	32.0%	268	68.0%
Hunterdon	14	60.9%	9	39.1%	8	53.3%	7	46.7%	10	62.5%	6	37.5%	18	50.0%	18	50.0%
Mercer	93	42.3%	127	57.7%	79	40.7%	115	59.3%	87	34.5%	165	65.5%	103	49.0%	107	51.0%
Middlesex	169	55.8%	134	44.2%	120	55.6%	96	44.4%	160	66.1%	82	33.9%	183	68.3%	85	31.7%
Monmouth	118	54.9%	97	45.1%	90	55.2%	73	44.8%	100	53.2%	88	46.8%	90	40.2%	134	59.8%
Morris	70	58.8%	49	41.2%	46	49.5%	47	50.5%	42	56.8%	32	43.2%	73	50.3%	72	49.7%
Ocean	80	51.6%	75	48.4%	64	47.1%	72	52.9%	73	49.7%	74	50.3%	75	45.5%	90	54.5%
Passaic	80	41.7%	112	58.3%	56	33.9%	109	66.1%	84	44.2%	106	55.8%	98	42.1%	135	57.9%
Salem	29	61.7%	18	38.3%	17	42.5%	23	57.5%	17	40.5%	25	59.5%	22	47.8%	24	52.2%
Somerset	8	38.1%	13	61.9%	18	33.3%	36	66.7%	16	43.2%	21	56.8%	11	25.0%	33	75.0%
Sussex	22	53.7%	19	46.3%	11	47.8%	12	52.2%	18	64.3%	10	35.7%	14	51.9%	13	48.1%
Union	106	50.2%	105	49.8%	85	63.4%	49	36.6%	84	52.8%	75	47.2%	145	47.4%	161	52.6%
Warren	6	28.6%	15	71.4%	4	18.2%	18	81.8%	10	45.5%	12	54.5%	13	43.3%	17	56.7%
Statewide Total	2,085	51.2%	1,988	48.8%	1,560	48.7%	1,645	51.3%	1,766	50.2%	1,750	49.8%	2,350	50.2%	2,335	49.8%

Overall, prosecutors file motions to detain defendants charged with specific theft offenses at a slightly higher rate than defendants charged with other offenses.

Fig. 23

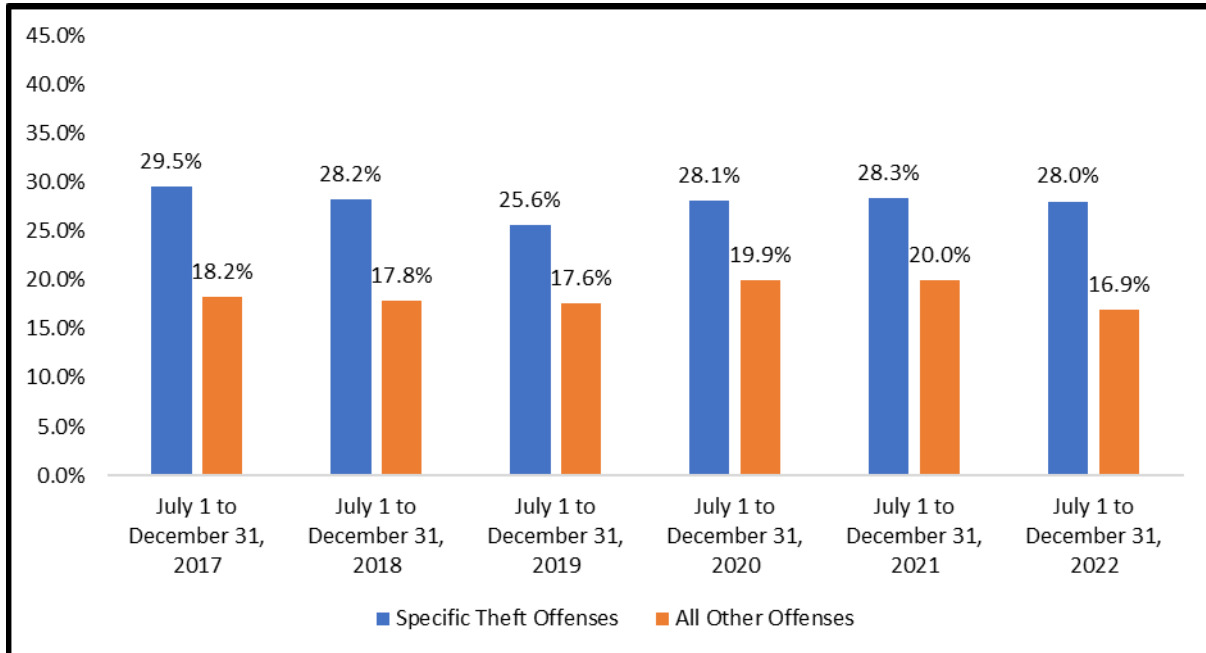
Percent of Defendants with Detention Motions Filed by Prosecutors



In addition, judges order detention for defendants charged with specific theft offenses at a higher rate than defendants charged with other offenses.

Fig. 24

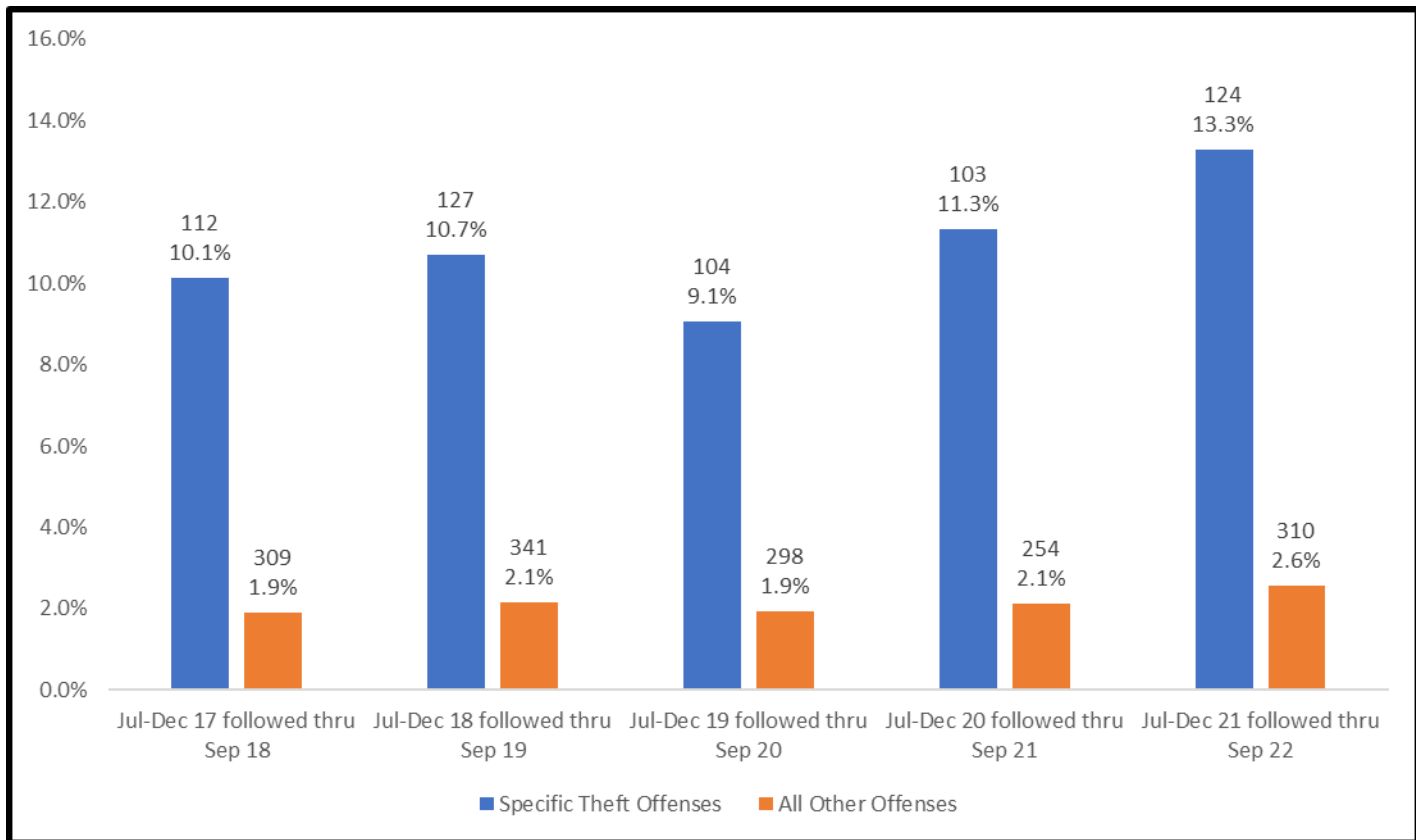
Percent of Defendants Detained out of Those Issued Complaint-Warrants



Defendants charged with specific theft offenses and released pending trial tend to be rearrested more frequently for new specific theft offenses than defendants initially charged with other offenses.

Fig. 25

Percentage of Defendants with Complaint-Warrants Who were Rearrested for Specific Theft Offenses on Pretrial Release



• ***Subcommittee Recommendations -- Auto Theft***

RECOMMENDATION 25:

- The Attorney General should review Directives related to Criminal Justice Reform and consider modifications to (1) include automobile theft cases among the cases for which law enforcement must apply for a complaint-warrant, and (2) include cases involving repeat automobile theft charges among the cases for which the prosecutor is presumed to seek detention or revocation of release.

RECOMMENDATION 26:

- The Judiciary should review Rules of Court related to the issuance of summonses and warrants and consider amendments to make automobile theft a presumed warrant charge.

3. Domestic Violence

Domestic violence causes an array of direct and indirect harms to victims, as well as children and other witnesses. Leaders of all branches of government, as well as advocates and community members, continue to work together to identify and implement strategies to stop the cycle of abuse, protect victims, and facilitate rehabilitation for perpetrators.

- ***Domestic Violence Data***

Where domestic violence is indicated, law enforcement most frequently charges a defendant with simple assault, contempt for violation of a restraining order, harassment, criminal mischief, or strangulation.³³

³³ The number of complaints in which strangulation of a domestic violence victim was the highest charge increased from 2020 to 2021, likely due to increased awareness of the offense among law enforcement and recent legislation that provides for strangulation to be charged as a 2nd or 3rd degree offense. P.L. 2021, c. 172 – Increases Strangulation Assault to Crime of the Second Degree.

Fig. 26

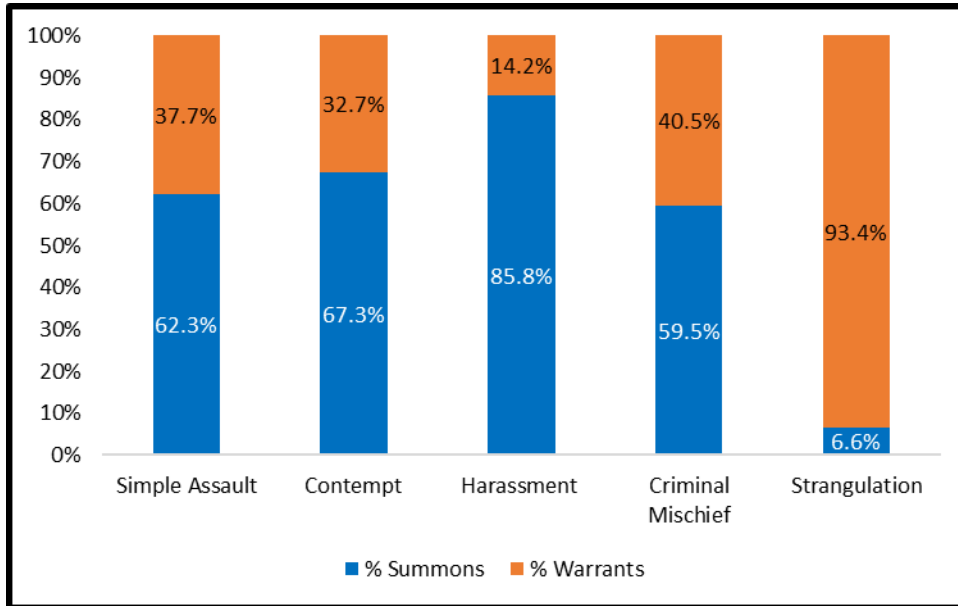
Count of Primary Charges on DV-indicated Complaints

Primary Charges	2020	2021	2022
Simple assault	13,262	12,762	13,039
Contempt	5,180	5,735	6,137
Harassment	2,331	2,065	2,185
Criminal mischief	2,146	2,084	2,203
Strangulation of a DV victim	1,732	2,137	2,661
Possession of a weapon	754	750	821
Aggravated assault of a DV victim	696	655	679
Murder	32	42	37
Attempted murder	31	33	45

The rates of charges issued on a complaint-summons, as opposed to a complaint-warrant, generally align with the seriousness of the circumstances and degree of offense. For example, for domestic violence indicated matters in 2022, law enforcement charged 60% of simple assaults and 80% of harassments by complaint-summons. In contrast, law enforcement charged more than 90% of strangulations by complaint-warrant.

Fig. 27

Primary Charge on Domestic Violence Indicated Complaint by Type in 2022



Data for 2021 show that defendants issued complaints for domestic violence indicated matters were charged by complaint-warrants (59.7%) more often than by complaint-summonses (40.3%). As in other areas, however, charging practices vary by county, with one county at 90% of domestic violence indicated defendants charged by complaint-warrants, and another county at only 25.9%. Such county-level variation suggests that law enforcement and prosecutors may benefit from continued training on Attorney General Directives on domestic violence matters.

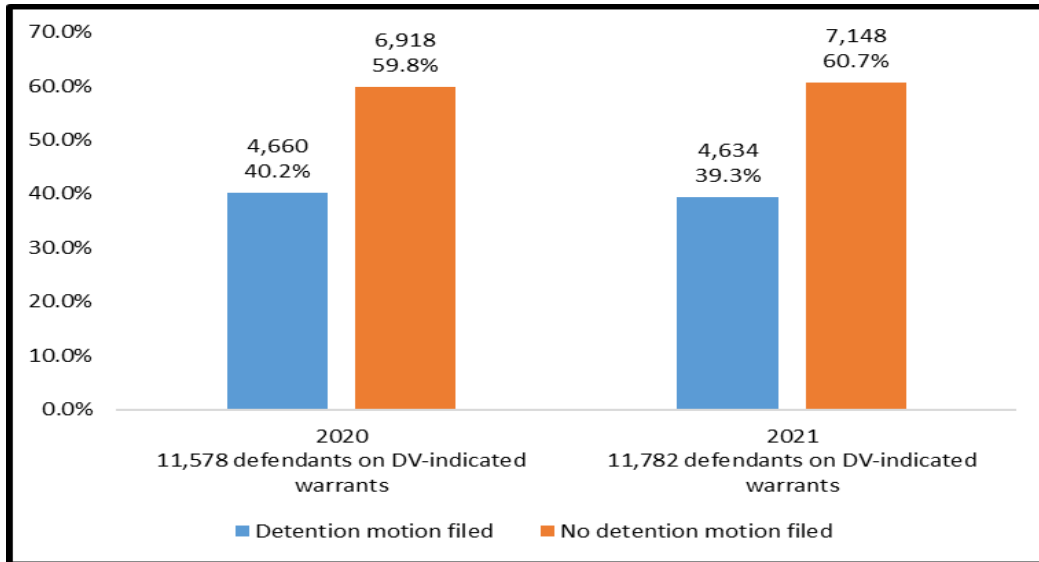
Fig. 28**Defendants Issued Domestic Violence Indicated Complaints by Type and County**

County	2020					2021				
	Summonses	Percent	Warrants	Percent	Total	Summonses	Percent	Warrants	Percent	Total
Atlantic	564	67.1%	276	32.9%	840	647	74.1%	226	25.9%	873
Bergen	450	51.0%	432	49.0%	882	414	49.9%	415	50.1%	829
Burlington	533	52.8%	476	47.2%	1,009	452	49.9%	454	50.1%	906
Camden	1,281	55.7%	1,019	44.3%	2,300	1,272	51.9%	1,178	48.1%	2,450
Cape May	154	50.8%	149	49.2%	303	112	40.1%	167	59.9%	279
Cumberland	635	67.1%	311	32.9%	946	697	67.1%	342	32.9%	1,039
Essex	666	21.5%	2,438	78.5%	3,104	444	18.6%	1,943	81.4%	2,387
Gloucester	539	62.7%	320	37.3%	859	513	61.4%	323	38.6%	836
Hudson	427	32.0%	908	68.0%	1,335	441	29.2%	1,067	70.8%	1,508
Hunterdon	83	65.4%	44	34.6%	127	57	64.8%	31	35.2%	88
Mercer	90	8.2%	1,011	91.8%	1,101	88	8.4%	964	91.6%	1,052
Middlesex	626	46.4%	722	53.6%	1,348	567	42.5%	768	57.5%	1,335
Monmouth	431	44.8%	530	55.2%	961	332	36.7%	573	63.3%	905
Morris	233	54.1%	198	45.9%	431	163	45.2%	198	54.8%	361
Ocean	468	42.9%	623	57.1%	1,091	408	39.3%	630	60.7%	1,038
Passaic	440	31.3%	967	68.7%	1,407	457	29.7%	1,084	70.3%	1,541
Salem	178	62.0%	109	38.0%	287	194	63.4%	112	36.6%	306
Somerset	177	42.5%	239	57.5%	416	140	35.2%	258	64.8%	398
Sussex	148	75.1%	49	24.9%	197	113	69.3%	50	30.7%	163
Union	428	39.0%	669	61.0%	1,097	397	31.7%	856	68.3%	1,253
Warren	71	44.7%	88	55.3%	159	59	29.2%	143	70.8%	202
Statewide Total	8,622	42.7%	11,578	57.3%	20,200	7,967	40.3%	11,782	59.7%	19,749

The Subcommittee also examined data related to detention motions for domestic violence indicated defendants. In 2021, law enforcement filed detention motions for 4,634 of 11,782 defendants (or 39.3%) with charges in which domestic violence was indicated.

Fig. 29

Motions Filed for Domestic Violence Indicated Complaints

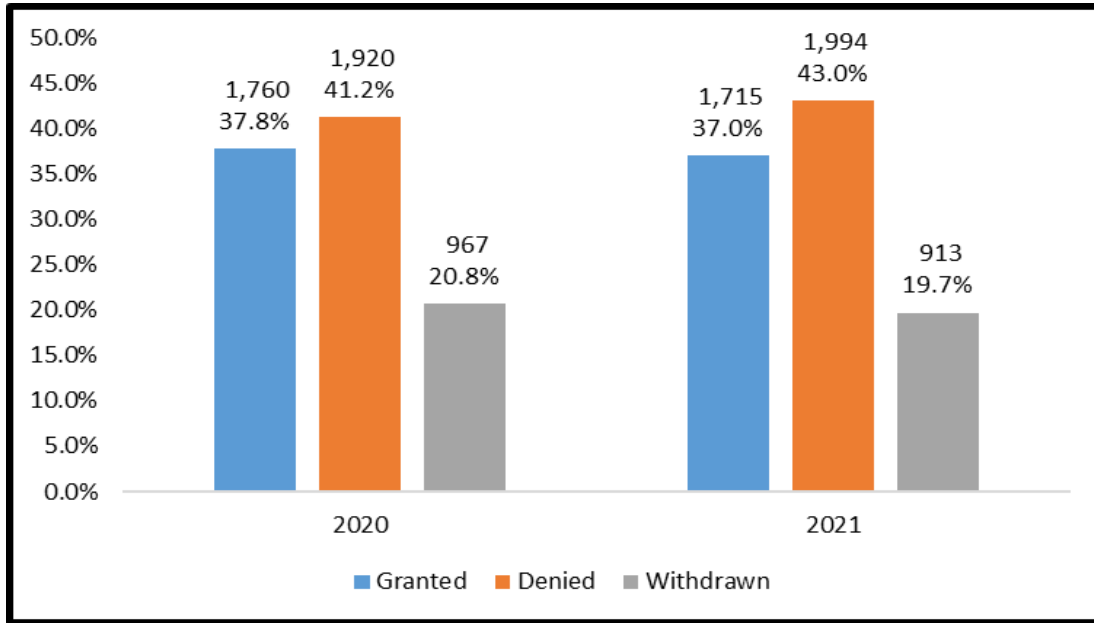


Of those 4,634 defendants with detention motions filed in 2021:

- 913 (19.7%) were withdrawn
- 1,994 (43.0%) were denied
- 1,715 (37.0%) were granted
- 12 (0.3%) were dismissed (not shown in Fig. 17)

Fig. 30

Motions Results for Domestic Violence Indicated Complaints



The Subcommittee discussed the current practice in which attorneys are appointed to provide pro bono representation for defendants charged with restraining order violations that are heard in the Family courts. Because those charges are graded as disorderly persons offenses, they do not technically qualify for representation by the Office of the Public Defender. Given the needs of this docket type and the vulnerable populations involved, the Subcommittee noted that the system would be better served by having consistent representation by the Office of the Public Defender, which is in a better position to identify and link the needs of charged individuals as a result of their subject-matter expertise.³⁴

³⁴ See the Report and Recommendations of the Judiciary Working Group on Attorney Pro Bono Assignments, as published for public comment on [May 8, 2023](#), for this same recommendation.

- ***Subcommittee Recommendations -- Domestic Violence***

Despite the benefits of recent legislative amendments and awareness efforts, the Subcommittee recommends further training, resources, and system-wide improvements to address domestic violence matters.

RECOMMENDATION 27:

- The Attorney General and County Prosecutors Association should partner to ensure that law enforcement officers and prosecutors receive additional and ongoing training regarding charges for strangulation of a domestic violence victim, and the resources available to provide victims support during the pendency of a criminal or domestic violence case.

RECOMMENDATION 28:

- The Legislature should take action to require standards for abusive partner intervention domestic violence programs.
- Resources should be allocated to make such programs available for individuals on pretrial release.

RECOMMENDATION 29:

- The Legislature should take action to provide for representation by the Office of the Public Defender in domestic violence related CJR cases that are within the jurisdiction of the Superior Court, Family Division.
- Appropriate funding must be included to properly implement this new role.

RECOMMENDATION 30:

- The Judiciary should continue to engage in research, using New Jersey court data, to determine whether improvements can be made regarding the predictive accuracy of the PSA.

- Areas of examination should include the use of temporary restraining order or other domestic violence data; the use of age as a factor; limiting failures to appear to within a certain period of time; limiting disorderly persons convictions to within a certain period of time; and limiting indictable convictions to within a certain period of time.

4. Graves Act Offenses

The Subcommittee examined preliminary data regarding detention of defendants charged with gun offenses pursuant to the Graves Act.

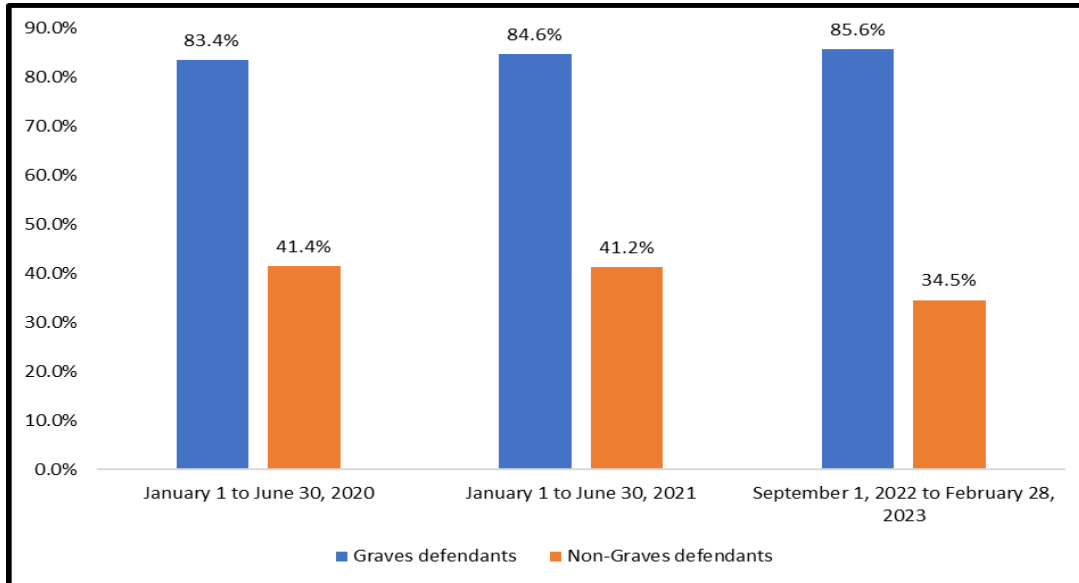
- ***Effects of Recent Legislative Amendments***

In June 2022, the Legislature amended the CJRA for defendants charged with gun offenses that subjected them to sentencing pursuant to the Graves Act. For those defendants, Pretrial Services must issue a recommendation of no release, and that recommendation can be used as prima facie evidence to overcome the presumption of release.

The Subcommittee reviewed data for defendants subject to a no release recommendation pursuant to the amendment and found that prosecutors filed detention motions at a rate of 85.6%, which is slightly higher than prior years and demonstrably higher than the rate of detention motions for defendants who are not charged with Graves Act offenses.

Fig. 31

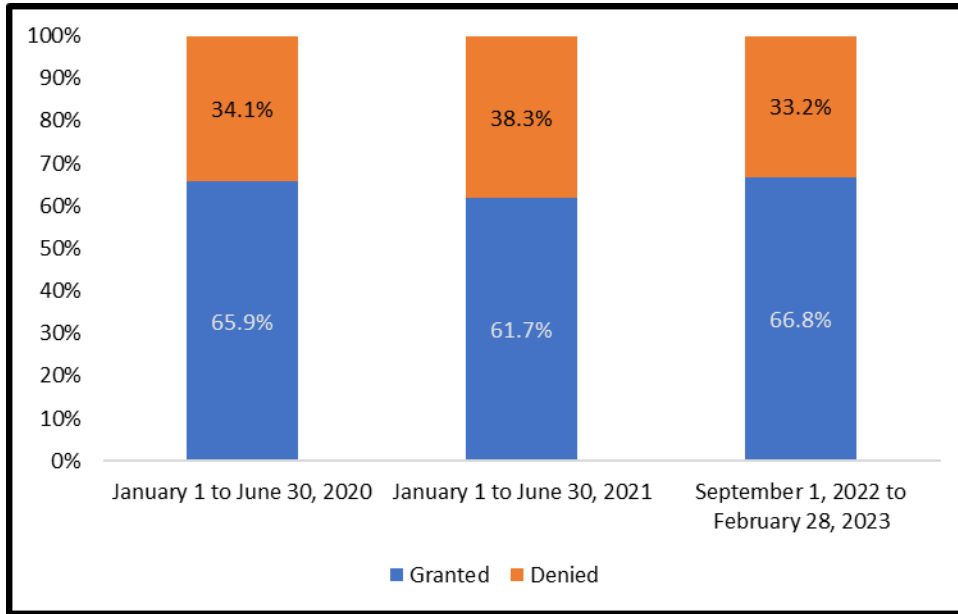
Detention Motions Filed for Defendants with Certain Graves Act Offenses



In addition, judges ordered detention for defendants charged with Graves Act offenses at a rate of 66.8%, which is slightly higher than before the amendments to the CJRA.

Fig. 32

Detention Motions Decided for Defendants with Certain Graves Act Offenses



• ***Subcommittee Conclusion -- Graves Act Offenses***

In light of the relatively recent amendments to the CJRA in this area, the Subcommittee makes no specific recommendations. The Judiciary should continue to collect and share data regarding this category of cases. Action by the Legislature to amend the CJRA as to repeated rearrests could also have an effect on the prior changes to the statute related to Graves Act Offenses.

5. Disparity Concerns

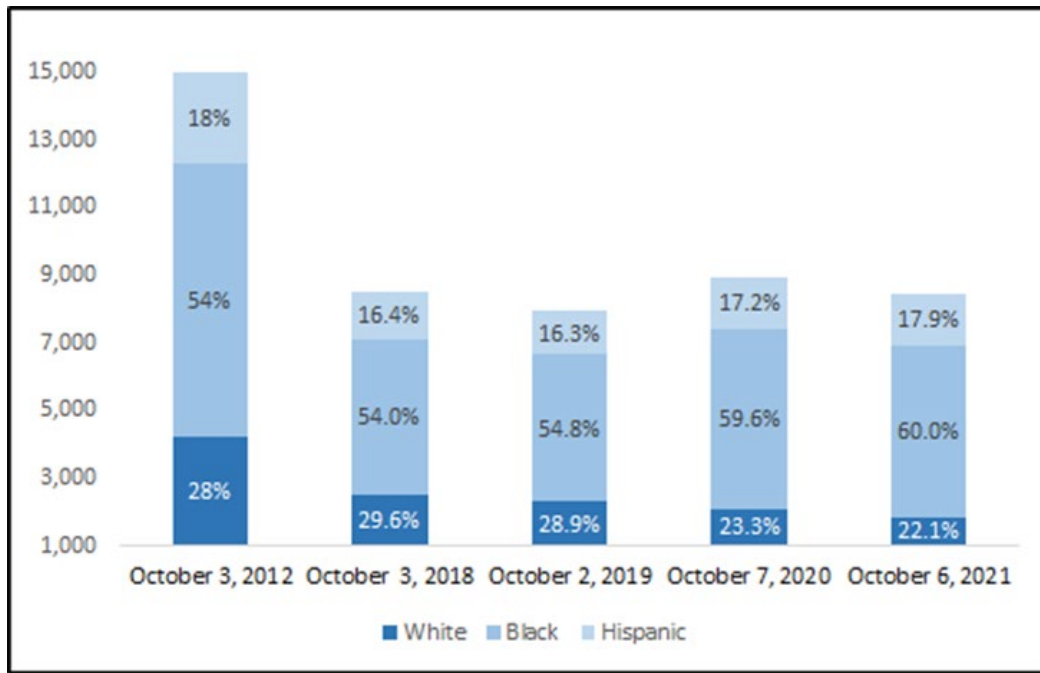
The percentage of jail inmates identified as Black has continued to increase, even since implementation of initial CJR reforms.³⁵ On October 3, 2012, New Jersey

³⁵ The U.S. Census Bureau enables individuals to self-identify as Hispanic or Non-Hispanic, for ethnicity, as well as one or more racial categories, including Black and White. In contrast, New Jersey county jails use Hispanic as one racial category among others, including Black and White, meaning that jail data classifies inmates

county jails classified 54% of inmates as Black. Eight years later, in October 2020, jail data showed that Black inmates comprised 59.6% of the jail population.³⁶ In contrast, although 63.5% of New Jersey’s population self-identifies as White, as of October 6, 2021, jails classified only 22.1% of the inmate population as White.

Fig. 33

Jail Population by Race



The Subcommittee discussed the complex societal issues related to racial disparity in the criminal justice system, and the continued efforts underway by all stakeholders to support fair treatment of defendants at each phase of the criminal justice process. The Subcommittee also discussed whether and how PSA scoring

as either Hispanic or Black or White. This difference in data categories complicates analysis and precludes a one-to-one comparison with U.S. Census data.

³⁶ As of October 6, 2021, jails reported 17.9% of the inmate population as Hispanic. As noted in the preceding footnote, jail demographic categories prevent precise comparison against U.S. Census data.

might be improved to reduce racial disparity while increasing predictive accuracy. The Subcommittee recommended continued exploration of the timeframes for failures to appear and prior convictions, the use of age as a factor, and consideration of temporary restraining order data to improve accuracy of the new violent criminal activity scale.

- *Subcommittee Recommendation -- Research on Racial Disparity*

RECOMMENDATION 31:

- The Judiciary should engage in continued, comprehensive research, utilizing New Jersey data, to improve both the predictive accuracy of the PSA and minimize any racial disparities.

APPENDIX A

THE CRIMINAL JUSTICE REFORM LINKS TO USEFUL MATERIALS

TITLE:	DESCRIPTION:	LINK:
AG Directive 2016-6 v3.0	Modification of Directive Establishing Interim Policies, Practices, and Procedures to Implement Criminal Justice Reform Pursuant to <u>P.L. 2015, c.31</u>	ag-directive-2016-6_v3-0.pdf (nj.gov)
Decision Making Framework August 2022	Revised August 2, 2022 Addition of Step 3 – Graves Act	Decision Making Framework - Revised August 2, 2022 (njcourts.gov)
Criminal Justice Reform: Directive #08-22	Criminal Justice Reform: (1) Amended by <u>P.L. 2022, c. 43</u> to Address Graves Act Offenses; (2) Amendments to Court Rule 3:4A(b)(5); (3) Changes to Decision-Making Framework (DMF)	Directive #08-22 - Criminal Justice Reform - (1) Amended by P.L. 2022, c. 43 to Address Graves Act Offenses; (2) Amendments to Court Rule 3:4A(b)(5); Changes to the Decision-Making Framework (DMF) (njcourts.gov)
Directive #15-19 (Supersedes #07-18)	Criminal Justice Reform: Promulgation of the Updated Written Protocol for Issuing an After-Hours Bench	Administrative Directive #07-18 – Criminal Justice Reform - After-Hour Bench Warrant for a Violation

	Warrant for a Violation of Electronic Monitoring Conditions	of Pretrial Release Electronic Monitoring Conditions. (njcourts.gov)
<u>P.L. 2023, c. 46</u>	Clarifies penalties for certain violations of pretrial release; directs prosecutor to provide written notice of release to victim	1463_I1.PDF (state.nj.us)
Annual Reports to the Governor and the Legislature for 2017 to 2022	Annual Reports	CJR - Annual Report to the Governor and the Legislature (njcourts.gov)
Prisoner Reentry Program: December 21, 2021	An act concerning services for certain inmates and amending and supplementing various parts of the statutory law. Expands scope of inmate reentry assistance.	NJ Legislature (state.nj.us)