

Jan 1. - Dec. 31

2017



Report to the Governor and the Legislature



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NEW JERSEY JUDICIARY

Submitted by:

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CRIMINAL JUSTICE REFORM REPORT TO THE GOVERNOR AND THE LEGISLATURE FOR CALENDAR YEAR 2017

EXECUTIVE SUMMARY

The enactment of the “Criminal Justice Reform Law,” L.2014, c.31, and the amendment to Article I of the New Jersey Constitution, mandated a number of major changes to our state’s criminal justice system. The implementation of those changes, on January 1, 2017, was the culmination of almost eighteen months of planning, design, outreach, and training. The Judiciary, in collaboration with its partners in the criminal justice system has (a) dramatically transformed the process for making pretrial release decisions, (b) implemented pretrial monitoring through the newly-formed Pretrial Services Program, (c) created procedures and electronic tools necessary to enforce the speedy trial timeframes established by statute, and (d) developed overall technological solutions, including automation and rapid electronic dissemination of information, to efficiently process criminal cases in our state. Collectively, we refer to this massive undertaking simply as “Criminal Justice Reform” (CJR).

The foundation for this initiative has a number of key components. In 2013, Chief Justice Stuart Rabner formed the Joint Committee on Criminal Justice (“Committee”), comprised of representatives from all branches of government. The Committee unanimously recommended a series of comprehensive reforms that served as the blueprint for CJR. The Legislature then passed and the Governor signed into law the CJR statute authorizing this initiative. The citizens of this state approved a constitutional amendment allowing for pretrial detention in New Jersey.

According to the CJR law, defendants issued a complaint-warrant are considered “eligible defendants” and are subject to the statutory provisions regarding release and detention.¹ To evaluate a defendant’s risk and to reach a release decision, the judges and staff use an evidence-based risk assessment developed by the Laura and John Arnold Foundation called the Public Safety Assessment (PSA), and its accompanying Decision Making Framework (DMF). The PSA, a risk measurement tool, and the DMF, a risk management tool, work in unison to measure and manage a defendant’s risk of non-appearance in court or danger to the public. The PSA is based entirely upon the underlying objective research. It objectively analyzes the defendant’s criminal history and predicts the risk that he or she will fail to appear for court events (FTA), engage in new criminal activity (NCA), or engage in new violent criminal activity (NVCA). These risk results

¹ A defendant can be charged with a crime or offense on a complaint-summons, issued by law enforcement with a date to appear in court, or a complaint-warrant issued by a judicial officer requiring that the defendant be transported to the jail. Pursuant to the CJR statute, only defendants issued a complaint-warrant are “eligible defendants” subject to the provisions of the law.

inform the DMF's risk management strategy. The DMF is primarily driven by the defendant's charges and the risk that the criminal justice system is willing to tolerate concerning defendants who are charged with certain types of crimes. Through these combined measures, Pretrial Services staff provide judges with informative and consistent recommendations of release that are aligned with a defendant's risk level.

The CJR law outlines the conditions of release that the court may impose. Taking into consideration the recommendation from the Pretrial Services Program and information provided by the parties, the court determines the appropriate release conditions relative to a defendant's risk level and the severity of his or her charges. Typically, the court releases the lowest-risk defendants on their own recognizance. Defendants who pose increasingly greater risks may receive increased conditions of release and more frequent contacts with pretrial services staff. The court may place defendants who pose a more elevated risk on pretrial release, but fall short of the need for pretrial detention, on home supervision with or without an electronic monitoring device. All defendants may elect to receive text message, email or phone call reminders of their court events. Finally, for indictable charges and disorderly persons domestic violence charges, the prosecutor may move for the pretrial detention of defendants whom the prosecutor believes are too dangerous for release. At the detention hearing, defendants have the opportunity to present evidence in opposition to detention. Consistent with the CJR law requirements, the judge will weigh the evidence presented by both parties in reaching a decision to grant or deny the detention motion.

Stakeholders have taken critical steps towards CJR success. Two notable partners are the Office of the Attorney General and the Office of the Public Defender. Through CJR-related Directives, the Office of the Attorney General issued comprehensive guidance to Prosecutors and Police addressing many topics, including the issuance of complaint-summons and requests for complaint-warrants, compliance with fingerprinting protocols, and encouraging early review and screening of complaints. Equally important, the Office of the Public Defender has committed to represent all eligible defendants provisionally at their first appearances, where the court makes its initial release determination. The Public Defender's commitment to this aspect of CJR ensures that all eligible defendants are represented by an attorney when the court makes a release decision.

This report provides information regarding the implementation of these various aspects of CJR. It also quantifies, from several different perspectives, the statistical results of CJR after one year of operation. The initial sections examine the impact of the risk assessment tool on pretrial release decisions and the Judiciary's compliance with the 48-hour timeframe for making such decisions. Empirical evidence shows data on the performance of the program from arrest through pretrial monitoring, including the number of defendants released together with the conditions of their release. Finally, the report tracks prosecutorial and judicial decisions as they relate to pretrial detention applications.

New Jersey has become a national leader in pretrial justice reform. In November, the Pretrial Justice Institute released a state report card on the state of pretrial justice in America. New Jersey was the only state to receive an “A.” An editorial earlier in the year from The Press of Atlantic City, entitled *“New Jersey’s Leadership on Bail Reform a Shining Bipartisan Success,”* noted “In the centuries ahead, 2017 will be regarded as the year cash bail was abandoned in favor of a remarkably more effective system – with New Jersey as the leader of the nationwide movement.”

The addendum to this report sets forth the Judiciary’s progress toward the development, maintenance and administration of the eCourts system as required by N.J.S.A. 2B:1-11a. Additionally, Appendix A contains a quick reference tool entitled “Criminal Justice Reform: A Step-by-Step Guide.”

Highlights

Creation of the Pretrial Services Program, Staffing and Training

As required by the CJR law, the Judiciary established the Pretrial Services Program. Statewide, in addition to judges, there are a total of 267 managers, supervisors and staff dedicated to the program. The Pretrial Services Program operates on a 24 hours per day, 7 days a week schedule, with judges and staff available to address emergent matters. In slightly less than one-third of the counties, county jail staff assist in responding to emergent monitoring alerts. Pretrial Services staff handle these emergent alerts in all other counties.

To meet the 48-hour timeframe for a release decision, Judges preside over Centralized First Appearance or Central Judicial Processing court events six days per week, including weekends and holidays. Pretrial Services staff provide support for those hearings, while also managing caseloads and monitoring for defendants who are issued conditions of release. Pretrial Services staff monitor released defendants through several different methods, including sending text reminders, requiring defendants to report to Pretrial Services by phone or in-person, and in some circumstances through electronic monitoring. Through technology enhancements, the Judiciary in eCourts has automated most aspects of the pretrial process, creating efficiencies in case management, as well as affording a streamlined process for court staff.

Education and training remain at the forefront of the Pretrial Services Program. Both prior to and since CJR implementation, judges and staff have attended and continue to participate in extensive ongoing training on a wide range of CJR-related topics, such as technology, changes in Court Rules, violations of pretrial monitoring, electronic monitoring, and detention hearings. Specialized training for Pretrial Services Staff also focuses on preparing the pretrial recommendation, pretrial monitoring protocols and procedures, responding to non-compliance, and contacting law enforcement for emergent issues.

Detention and Release

There are two perspectives of pretrial detention. One perspective compares the number of detained defendants to the universe of 44,319 defendants issued a complaint-warrant. The other compares the number of detained defendants to the entire universe of all 142,663 defendants issued a complaint-warrant or a complaint-summons.

During the 2017 calendar year, judicial officers under CJR issued complaint-warrants to 44,319 defendants. Prosecutors filed 19,366 motions for pretrial detention. Of those, the court ordered 8,043 defendants detained. Thus, when considering only the 44,319 CJR-eligible defendants issued a complaint-warrant in 2017, and the 8,043 defendants ordered detained, the rate of pretrial release was 81.3% and the rate of pretrial detention was 18.1%.

To put these detention statistics in a broader perspective, in 2017, a total of 142,663 defendants were charged on either a complaint-warrant or complaint-summons. Of that total, although 44,319 were issued a complaint-warrant, a greater number of defendants, 98,344, or 68.9%, were released by law enforcement on a complaint-summons.

Considering the entire universe of 142,663 complaint-summons and complaint-warrants filed in 2017, and the 8,043 defendants actually detained, the rate of pretrial release is 94.2% and pretrial detention is actually 5.6% of all defendants issued complaints in 2017.

Additionally, in calendar year 2017, judges ordered only 44 CJR-eligible defendants to post monetary bail as a condition of release.

Pretrial Jail Population

The statistics show a reduction of the pretrial jail population by 20% from January 1, 2017 to January 1, 2018, and a reduction of 35% from January 1, 2015 to January 1, 2018.

Court Decisions and Rule Changes

In this first operational year of CJR, the Supreme Court has adopted important changes to Court Rules. The Municipal and Criminal Practice Committees continue to recommend refinement to the Court Rules and procedures. The Appellate Division and the Supreme Court have issued opinions interpreting the CJR statute and clarifying the pretrial process. These rules and decisions provide the Judiciary with the guidance necessary to implement CJR.

Technological Advances

The Judiciary has reached many milestones and accomplishments for the Pretrial Service Program from both technological and operational viewpoints. New Jersey is the first state in the country to create a statewide technological infrastructure to support criminal case processing. In order to limit the expenditure of county resources, the program has established a virtual courtroom for holding centralized first appearance hearings where judges issue release decisions on weekends and holidays. The virtual courtrooms offer the same protections and functions, as in-person hearings, without the need to open entire courthouses. The public may view first appearance

sessions held in virtual courtrooms via LiveStream technology. Additionally, through the diligent and significant efforts of law enforcement throughout the state, the fingerprinting and identification of all defendants through the Live Scan system prior to issuance of the complaint has increased from less than 30% in 2016 to 93% in 2017. The Judiciary's creation, operation and maintenance of a statewide technological infrastructure allows for an automated criminal case processing system benefitting the core stakeholders who participate in the criminal justice process, including jail staff, law enforcement, prosecutors, defense counsel, court staff and judges.

Challenges

There are three major challenges to full implementation of this program in New Jersey. Pursuant to the CJR statute, the Judiciary is obligated to report on the revenue collected for this initiative. As of December 31, 2017, annual revenue collection for fiscal year 2018 is 2.4% below the revenue collection over that same timeframe for fiscal year 2017. In addition, expenses for the Pretrial Services Program will exceed revenues beginning in fiscal year 2018. The funding of an ongoing court operation through court filing fees is simply not sustainable. Continued success of the Pretrial Services Program requires a stable and dedicated funding stream at an appropriate level through the General Fund, rather than from court fee revenue.

A second challenge involves the inability of the Pretrial Services Program staff to offer necessary services to certain defendants released on pretrial monitoring. Defendants are at times in need of support to address outstanding mental health, housing, or substance abuse issues. In order for these individuals to be truly successful, the state needs to develop access to community-based substance abuse treatment, mental health treatment, and housing assistance programs.

Third, the Judiciary continues to assess the most effective and efficient ways to address issues associated with defendants subject to electronic monitoring. The cost of electronic monitoring is \$3.59 to \$4.19 per defendant per day. As of December 31, 2017, the Judiciary spent a total of \$784,017 in the first year of CJR implementation in connection with electronic monitoring. In addition to the costs, the Judiciary dedicates significant resources to address non-compliance with electronic monitoring. Emergent alerts can occur 24 hours a day for a variety of reasons, including when a defendant enters a prohibited zone. Response to emergent alerts includes contacting the court and/or dispatching law enforcement to a specific location. In less than one-third of the counties across the state, the county jails handle and respond to emergent electronic monitoring alerts. In the remaining counties, Pretrial Services staff perform these functions. The Judiciary continues to evaluate the electronic monitoring process and the best way to manage resources while ensuring public safety.

Despite these accomplishments, much work remains to be done, and our efforts must continue full force in order to accomplish this vitally important goal of permanently transforming and improving the system of criminal justice in this state. Through the work of the New Jersey Judiciary, its partners in the other branches of government, and its criminal justice stakeholders, we will continue to build upon this success. However, that success will depend on the continued

collaboration among the three branches of government and the CJR stakeholders, a sustainable revenue stream that can ensure full funding of the program, and services that provide defendants with the means to ensure their own pretrial success.

INTRODUCTION

On January 1, 2017, New Jersey's criminal justice system transformed a centuries-old, antiquated money bail system that discriminated against the poor into a risk-based system that relies on empirical evidence to identify defendants' risk to the community, while respecting defendants' constitutional rights and presumption of innocence. Prior to that date, clearly dangerous defendants who could afford to post bail were released into the community with little recourse and without any form of monitoring. Other defendants who posed minimal risk and had committed only minor offenses remained incarcerated in jail because they could not afford to post even very small amounts of bail. Some of these defendants spent months or years in jail awaiting trial. These systemic errors not only negatively affected the community, and increased jail costs for counties, but also were profoundly unfair.

The primary purpose of Criminal Justice Reform (CJR) is to create a fairer system of pretrial justice, in which the decision to release or detain the defendant prior to trial is based on an analysis of the risk the defendant poses that applies evenly, regardless of the defendant's finances. This shift negates the systemic errors inherent in a money bail system. Before CJR, courts could only assess the defendant's risk of failure to appear for court when setting conditions of release. Now, in addition to the defendant's risk of failure to appear, judges also consider the danger the defendant poses to the community, and the risk the defendant will obstruct the criminal justice process. Where the prosecutor believes the defendant to be too dangerous for release, and/or given the nature of the defendant's charges, the prosecutor may move for pretrial detention. The judge, based on the PSA risk results and the arguments put forth by the parties, determines whether the defendant is to be released or detained. Defendants whom the prosecutor can demonstrate are too dangerous to release may be detained pending trial, while lower-risk defendants who are released may return to their lives, keep their jobs and support their families while awaiting adjudication of their cases. This result is a more comprehensive, reasonable, and most importantly, a fairer system of pretrial release.

Broad-based support for this initiative was evidenced at an early stage by the willingness of all three branches of government and a wide array of criminal justice stakeholders to engage in a collaborative effort to implement reform. In 2012, Governor Chris Christie publicly called for an amendment to the state constitution to allow for pretrial detention. In 2013, Chief Justice Stuart Rabner formed the Joint Committee on Criminal Justice, comprised of representatives from all branches of government. Through the Chief Justice's leadership, the Committee unanimously recommended a series of comprehensive reforms that served as the blueprint for this initiative. A year later, the Legislature, with the strong backing of Senate President Stephen Sweeney and Assembly Speaker Vincent Prieto, adopted a majority of the Committee's recommendations. On August 11, 2014, Governor Christie signed the resulting legislation into law. The public took the next major step in November 2014, with more than 60% of New Jersey voters approving a constitutional amendment giving judges, for the first time, the ability to detain defendants who pose a risk to public safety.

The Judiciary's partners in the criminal justice system have been hard at work implementing every aspect of CJR in New Jersey. These efforts have received national recognition, as New Jersey received the only 'A' in the country from the Pretrial Justice Institute, a national non-profit group that examines bail practices. Our collective success has provided a source of encouragement as other states and jurisdictions across the country undertake their own reform efforts. Many stakeholders have been instrumental in making this program a success. The Office of the Attorney General, under the leadership of Acting Attorneys General John Jay Hoffman and Robert Lougy, and Attorney General Christopher Porrino, and the Office of the Public Defender, under the leadership of Joseph Krakora, played key CJR implementation roles through their engagement in, and public support of, this program. Other key stakeholders include the county prosecutors, the county freeholders, the county sheriffs and jail wardens, the New Jersey State Police, local law enforcement, the municipalities, the private bar, and the members of the Pretrial Services Program Review Commission. The successful implementation of CJR would not have occurred without the contributions and support of each of these groups. This initiative, however, will continue to be a success in the years to come only with ongoing cooperation throughout the criminal justice system and the continued support of all branches of state, county, and municipal government.

Like all major reforms, CJR has come with challenges. Continued success of this program requires establishment of a stable sustainable funding stream. Without that, projections are that the Judiciary will not have adequate funding to support this program. In order for defendants to succeed on pretrial release and beyond, the state must provide funding for access to community-based substance abuse treatment, mental health treatment, and housing assistance programs. In addition, all stakeholders must remain vigilant in identifying issues and improvements that will make the system fairer and our communities safer.

OVERVIEW OF THE PRETRIAL PROCESS

CJR redefined the criminal justice process in New Jersey. Defendants can be charged with a crime or offense on a complaint-summons issued by law enforcement or a complaint-warrant issued by a judicial officer. If charged on a complaint-summons, the defendant is released and given a date to appear in court. If charged on a complaint-warrant, law enforcement transports the defendant to the jail to be processed. In 2017, a total of 142,663 defendants were charged on either a complaint-warrant or a complaint-summons. Of those defendants, 68.9% were released on a complaint-summons, while 31.1% were issued a complaint-warrant. This report focuses on those defendants issued a complaint-warrant, also referred to as "eligible defendants" under the CJR law.

There are several components of the pretrial process for defendants. The Pretrial Services Program evaluates the defendant's risk and provides a release recommendation to the court, based on information gathered from an objective risk assessment instrument comprised of the Public Safety Assessment (PSA) and other factors. Courts consider the Pretrial Services risk recommendation, along with other relevant information presented by the parties, in making a

pretrial release decision and conditions of release narrowly tailored to meet the needs of the defendant and society. Pretrial Services staff monitor released defendants to ensure compliance with the conditions imposed by the court.

The prosecutor may file an application to detain those defendants who present an elevated risk, defendants charged with an indictable crime or a domestic violence-related disorderly persons offense, or based on additional information or concerns. Once detained, defendants are subject to the CJR law's speedy trial parameters, which require the case to proceed to indictment and trial in a timely manner.

This redefined pretrial process represents a significant improvement in the criminal justice system. The Judiciary has automated many tasks, including production of the PSA, to facilitate faster and more efficient processing of cases. Now, information is gathered and distributed electronically, accelerating the pretrial process and resulting in efficiencies that benefit our criminal justice system. Utilizing a risk measurement and risk management model, judges have the benefit of specific objective information about a defendant in order to make an informed release or detention decision. Through ongoing community outreach, development of Court Rules governing practice and procedure, and case law, the pretrial process will continue to evolve. The sections below more fully describe the pretrial process components.

THE PRETRIAL SERVICES PROGRAM

PRETRIAL SERVICES PROGRAM FUNDING

Revenues

Since November 17, 2014, the Judiciary has collected a total of \$130.9 million from court fees, which is the funding source for CJR. As of December 31, 2017, in accordance with the statutory requirements, the Judiciary allocated the funds as follows:

- (1) \$67.4 million to the Pretrial Services Program;
- (2) \$30.6 million for eCourts;
- (3) \$30.9 million to Legal Services of New Jersey; and
- (4) \$2 million to the discretionary account.

In the first two full fiscal years of collections, fiscal years 2016 and 2017, the Judiciary collected \$44.1 million and \$41 million, respectively. As of the date of this report, fiscal year 2018 collections are tracking 2.4% below fiscal year 2017 for the same timeframe.

In the fiscal note submitted on the CJR legislation, the Judiciary estimated that it would need 400 new employees to administer risk assessments and monitor defendants pending trial. The Judiciary also estimated that \$35 million would be necessary for electronic monitoring, drug testing, and treatment services, and that it would need an additional \$2.4 million in initial costs to establish a fully integrated information technology system dedicated to the work of the Pretrial

Services Program. OLS concluded that, assuming full implementation and given the estimates of revenue and costs that would result, the additional costs to the State would exceed the amount of additional State revenue by at least \$13 million annually.

Pretrial Judge and Staffing Resources

The Judiciary has dedicated significant judicial resources to CJR. P.L. 2016, c. 103, which took effect on July 1, 2017, created an additional 20 Superior Court judgeships to support implementation of CJR, and appropriated \$9.3 million to the Judiciary for the costs associated with those judgeships. As a result, the Judiciary has assigned more judges to the Criminal Division than it has in many years. Judges must handle Centralized First Appearance/Centralized Judicial Processing hearings, which occur six days per week. Municipal Court judges, as authorized and designated by the Chief Justice, primarily preside over these hearings and pretrial services staff provide administrative support. Superior Court judge preside over pretrial detention hearings, which may occur multiple days each week.

The Judges, along with central office and vicinage staff, have received extensive CJR training, both before and after implementation. Judges and staff have attended conferences and training programs on CJR-related topics such as technology, changes in Court Rules, violations of pretrial monitoring, electronic monitoring, and detention hearings.

To promptly assess and respond to emergent monitoring alerts, certain aspects of the program function on a 24-hour-per day schedule. Additionally, the court-related Pretrial Services Program operates six days per week, including holidays and weekends, to meet the statutory requirement that all pretrial release decisions occur within 48 hours of the defendant's arrest. The Pretrial Services Program, as of December 31, 2017, consisted of 267 managers, supervisors and staff.

Pretrial Services staff receive extensive and thorough training on a range of topics, including but not limited to preparing the pretrial recommendation, pretrial monitoring protocols and procedures, responding to non-compliance, and contacting law enforcement for emergent issues.

Public Safety Assessment (PSA) and Decision Making Framework (DMF)

As required by the CJR law, the Judiciary has implemented an objective risk assessment instrument developed by the Laura and John Arnold Foundation. The risk assessment instrument has two components, the PSA and the DMF, that in combination assist judges in making pretrial release decisions. The instrument is standardized, based upon national empirical data, and has been validated for use in New Jersey. The instrument has both a risk measurement component and a risk management component that assist judges in making an objective and informed pretrial release decision. These combined tools are intended only to assist judges; they do not replace judicial discretion.

Public Safety Assessment (PSA)

The **risk measurement** component of the process, the Public Safety Assessment (PSA), utilizes the defendant's personal criminal history data to predict the risk of defendant engaging in new criminal activity or failing to appear in court, and also whether there is an elevated risk of new violent criminal activity. Through collaboration with the Office of the Attorney General and the New Jersey State Police, the Judiciary has automated the PSA for use in the State of New Jersey.

The PSA specifically measures the following nine risk factors:

- (1) the defendant's age at the time of arrest;
- (2) whether the current charge is a violent offense;
 - (2a) whether the current charge is a violent offense and the defendant is 20 years old or younger;
- (3) whether the defendant has a pending charge at the time of the offense;
- (4) whether the defendant has a prior disorderly persons conviction;
- (5) whether the defendant has a prior indictable conviction;
 - (5a) whether the defendant has a prior disorderly persons or indictable conviction
- (6) whether the defendant has a prior violent conviction;
- (7) whether the defendant has a prior failure to appear pretrial in the past two years;
- (8) whether the defendant has a prior failure to appear pretrial older than two years; and
- (9) whether the defendant has a prior sentence to incarceration.

The PSA evaluates these factors using a weighted algorithm. Depending on the number and variety of factors present, the defendant will receive a risk score between 1 through 6 on two separate scales, with 1 being the lowest risk and 6 being the highest risk. These two scales show the defendant's objective risk scores for Failure to Appear (FTA) and New Criminal Activity (NCA), respectively. In addition, the PSA calculates whether the defendant has an elevated risk of committing a new violent offense while on pretrial release, displayed to the court through a presence or absence of a New Violent Criminal Activity (NVCA) flag.

The factors considered by the PSA and the risk progression between the scores are based on empirical research. The factors and formula are available to the public at <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf>.

Decision Making Framework (DMF)

The **risk management** component of the process, called the Decision Making Framework (DMF), categorizes defendants into risk levels. It considers the PSA results and the defendant's current charges and identifies a pretrial release recommendation designed to manage the defendant's risk in the most effective manner. The DMF reflects the Judiciary's organizational policy, with stakeholders' input and feedback, and as approved by the Court, that due to their nature, certain crimes warrant a heightened response. Essentially, these include escape and the equivalent of

three of the Violent Crime Index offenses: murder, rape and robbery. These crimes will automatically result in a no release recommendation on the DMF, regardless of the defendant's PSA risk results. Similarly, where the DMF identifies an elevated risk toward violence, or where the defendant was arrested while on pretrial release for two or more pending offenses, the DMF will not recommend the defendant's release. Other crimes, namely the NERA crimes that do not result in an automatic no release recommendation or certain Graves Act gun and weapon charges, are increased by one level on the DMF to reflect that they also warrant a heightened response, although not an automatic no release recommendation.

The DMF, which has also been automated, ensures consistency in outcomes for pretrial release recommendations statewide. After receiving feedback from CJR stakeholders, and an analysis of data and initial outcomes, the Administrative Director of the Courts recommended revisions to the DMF during the course of the year. The Supreme Court's first revision, in January 2017 clarified that defendants charged with disorderly persons offenses not related to domestic violence are not eligible under the CJR statute for pretrial detention. In March 2017, the Court revised the DMF a second time to clarify that the highest risk defendants shall not be recommended for release under any conditions, including home detention and electronic monitoring. Finally, in May 2017, the Court revised the DMF to provide for more restrictive recommendations for defendants charged with certain Graves Act crimes or other crimes involving guns and weapons, as well as for defendants repeatedly rearrested while on pretrial release. The Court made these last revisions due to concerns that the PSA did not adequately account for the risk of danger presented by these defendants.

Together, the PSA and DMF provide the process for determining the least restrictive means for managing the defendant's risk while on pretrial release. The tools, however, do not replace judicial discretion. When determining the conditions of release that should apply, the judge must take into account specific facts presented by the parties and render a decision tailored to the individual defendant. The court does not have independent authority to detain defendants pretrial. Absent a detention motion filed by the prosecutor, the court release the defendant. Prosecutors are authorized to, and responsible for, filing applications for pretrial detention in appropriate cases.

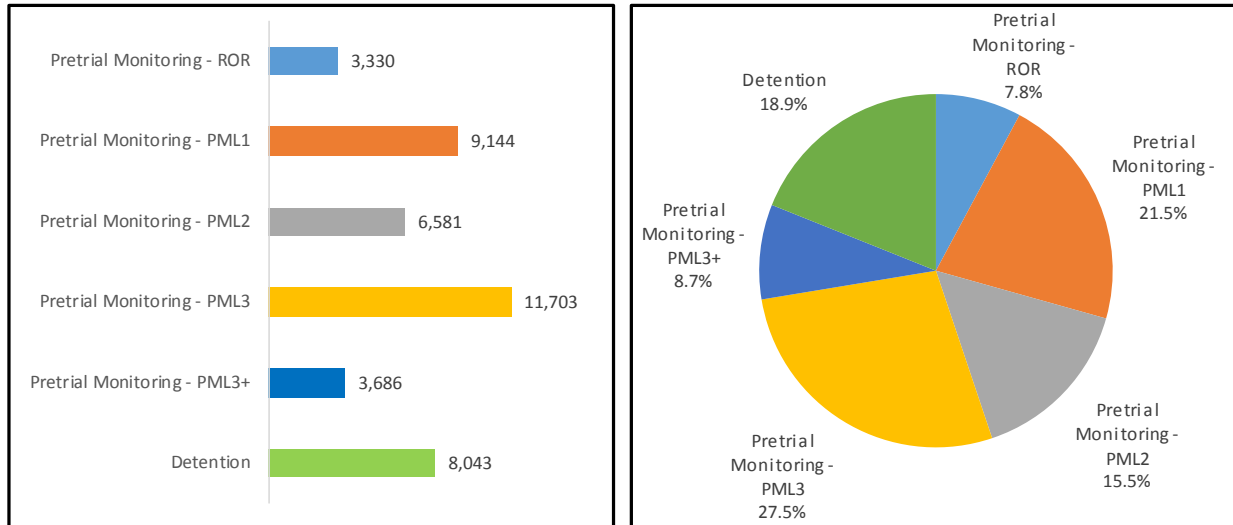
Pretrial Release Decisions

Under New Jersey's CJR statute, after arrest, eligible defendants are temporarily detained in jail while Pretrial Services staff prepare release recommendations for the court. After considering the circumstances of the offense, the risk assessment, and recommendations provided by Pretrial Services, the prosecutor and the defense, the court makes a pretrial release decision no later than 48 hours after the defendant's commitment to jail.

As of December 31, 2017, judicial officers issued complaint-warrants for 44,319 eligible defendants. Of those defendants, 1,594 cases were resolved prior to the court's release decision. Another 238 defendants were still awaiting a release decision as of December 31, 2017. Judges

made release or detention decisions for the remaining 42,487 defendants. The chart below details the courts' decisions for those 42,487 defendants.

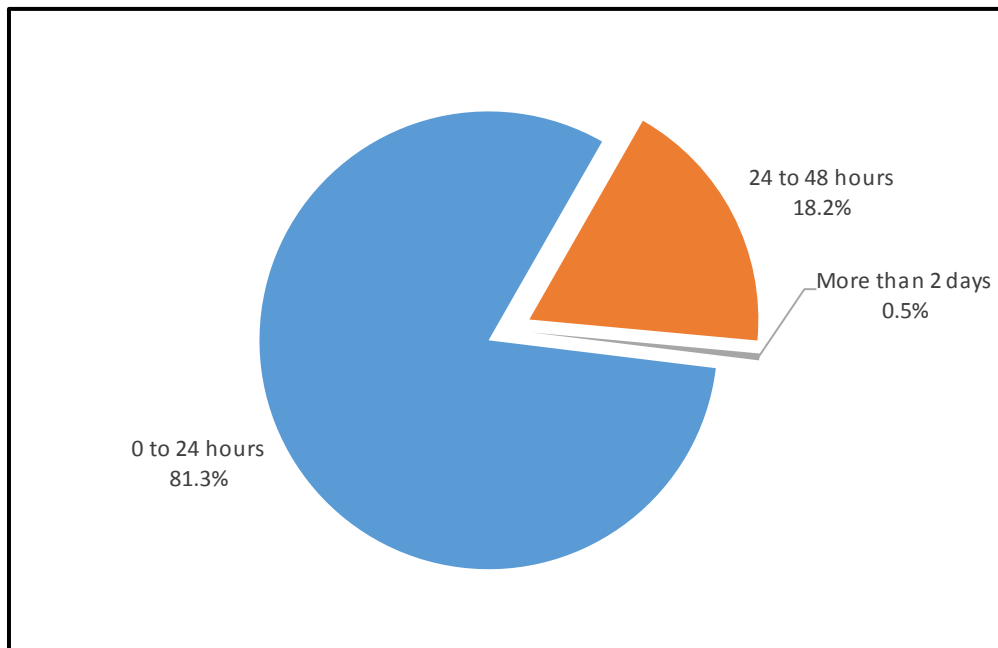
Initial Release Decisions for Criminal Justice Reform Eligible Defendants
January 1, 2017 - December 31, 2017
 (Total of 42,487 defendants)



Note: These graphs plot initial release decisions for criminal justice reform eligible defendants who were arrested on or after January 1, 2017 on a complaint-warrant. Defendants who only received a complaint-summons are not included in these graphs. The graphs also do not include defendants who were addressed prior to release decisions (1, 594) or defendants whose decisions were still pending (238).

While the CJR law requires that courts make their pretrial release decisions within 48 hours of the defendant's commitment to jail, Chief Justice Rabner has set a goal for the courts to make those decisions within 24 hours where possible. Between January 1, 2017 and December 31, 2017, for eligible defendants for whom the prosecutor did not file a detention motion, courts made release decisions for 81.3% within 24 hours and 99.5% within 48 hours.

**Time from Commitment to Release Decision
For Criminal Justice Reform Eligible Defendants Where Prosecutors
Did Not File Motions for Detention
January 1 - December 31, 2017**

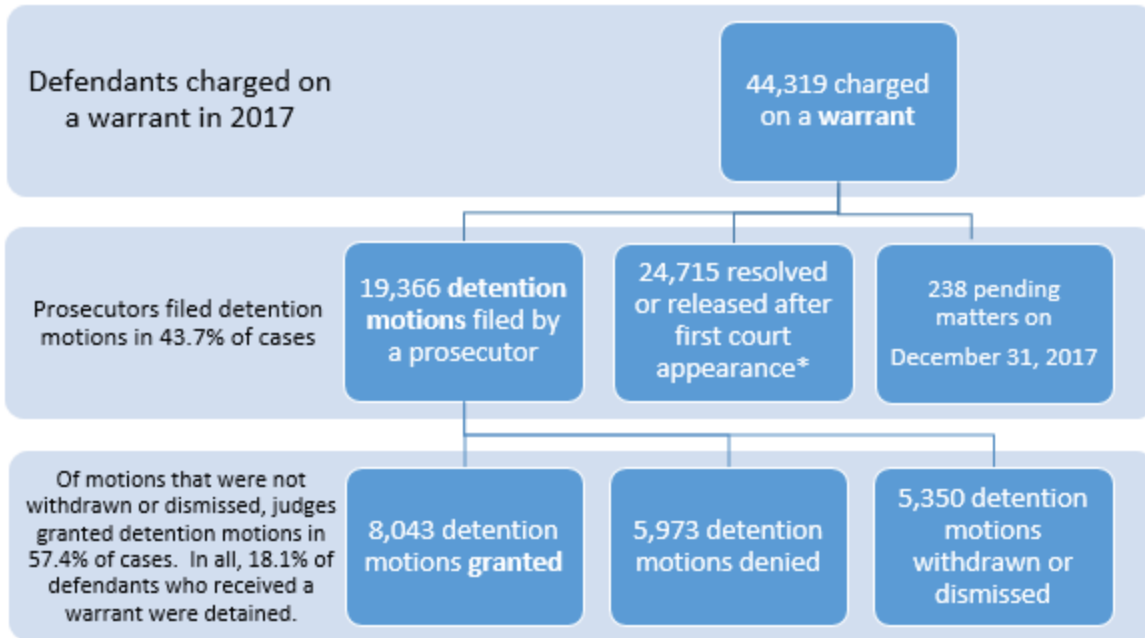


An exception to the requirement that the court must make a release decision within 48 hours occurs when a prosecutor files a motion for the defendant’s pretrial detention. Pursuant to the CJR statute, a judge may only detain the defendant pretrial upon the motion of the prosecutor. Once the prosecutor files a detention motion, the court schedules a detention hearing, and the defendant remains detained while awaiting the hearing and the court’s release/detention determination.

Pretrial Detention Decisions

The Judiciary has collected data regarding the number of detained defendants. One perspective below compares the percentage of detained defendants to the overall number of eligible defendants charged on a complaint-warrant, while the other perspective compares the percentage of detained defendants to the total universe of defendants charged on either a complaint-warrant or a complaint-summons.

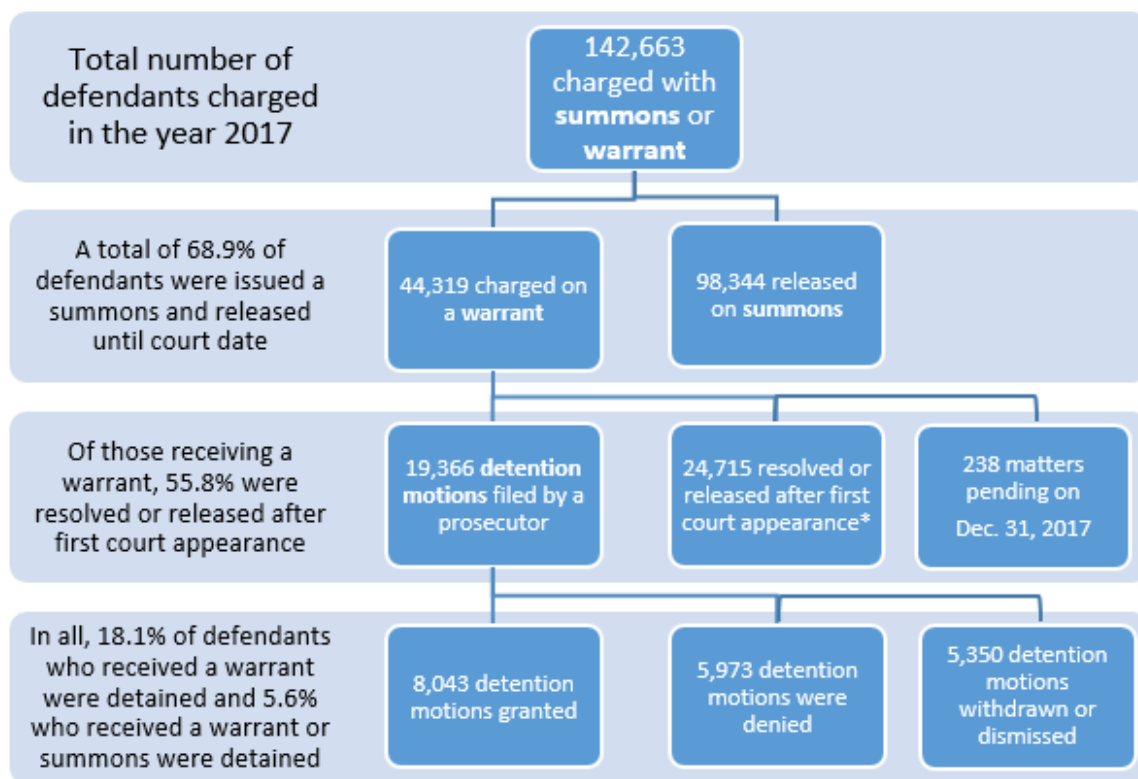
As of December 31, 2017, of the 44,319 defendants charged on a complaint-warrant and committed to jail, prosecutors filed 19,366 motions for pretrial detention. Of those, the prosecutor withdrew or the court dismissed 5,350 motions. The remaining 14,016 motions required a judicial decision. Judges granted 8,043 detention motions (57.4%), and denied 5,973 (42.6%). The charts below detail those results. Overall, the 8,043 defendants ordered detained in 2017 represent 18.1% of the 44,319 defendants charged on a complaint-warrant.



* this includes cases that were addressed prior to release decisions (1,594)

	Detention	Pretrial Release*	Pending
Summary Statistics (Warrant Cases)	18.1%	81.3%	0.5%
* this includes cases that were addressed prior to release decisions (1,594)			
Note: The percentages of Detention, Pretrial Release, and Pending do not add up to 100% due to rounding			

To put the detention statistics in a different perspective, one should also take into account all defendants, including those released on a complaint-summons. In 2017, a total of 142,663 defendants were charged on either a complaint-warrant or complaint-summons. Of that total, 98,344 (68.9%) defendants were released on complaint-summons. The remaining 44,319 (31.1%) defendants were charged on complaint-warrants. Of those defendants charged on a complaint-warrant, 24,715 (17.3% of the total defendants charged) were released at their first appearance or resolved, and 11,323 (7.9% of the total defendants charged) were released when detention motions were withdrawn or denied. In total, judges granted 8,043 detention motions. The chart below details these results. Overall, including both complaint-summons and complaint-warrants, 94.2% of all defendants charged in 2017 were released and 5.6% were ordered detained.



* this includes cases that were addressed prior to release decisions (1,594)

	Detention	Pretrial Release*	Pending
Summary Statistics (Warrant and Summons Cases)	5.6%	94.2%	0.2%

* this includes cases that were addressed prior to release decisions (1,594)

Expedited Appellate Review

Rule 2:9-13 provides that appeals from orders granting motions for pretrial detention are appealable as of right to the Appellate Division. These appeals are expedited. Defendant must file a notice of appeal and Expedited Information Form within seven days of entry of the detention order. Brief due dates and the length of briefs are subject to strict requirements. Depending on whether or not a transcript is necessary, the appellant's brief is due ten days from appellant's receipt of the transcript or the filing of the notice of appeal. Briefs may not exceed eight pages. The court considers cases on the record without argument, but has the option to request it.

Pretrial Services Monitoring

Pretrial Services staff monitors eligible defendants from the time of release until final disposition. The level of Pretrial Services staff involvement relates directly to the level of risk that the

defendant poses. Pretrial Services staff bases its frequency of contact with the defendant on the court-ordered level of pretrial monitoring. The following chart details the pretrial monitoring levels and corresponding conditions of release followed in New Jersey:

Pretrial Monitoring Level	Description
ROR	Defendant released on his or her own recognizance and not required to report to Pretrial Services staff for monitoring. Automated reminder notices for court events by text, email, or phone made available to the defendant.
PML1	Defendant required to report to Pretrial Services staff telephonically once per month. Automated reminder notices for court events and monitoring appointments by text, email, or phone made available to the defendant.
PML2	Defendant required to report to Pretrial Services staff telephonically once per month and in person once per month. Automated reminder notices for court events and monitoring appointments by text, email, or phone made available to the defendant.
PML3	Defendant required to report to Pretrial Services staff telephonically once every other week and in person once every other week. Automated reminder notices for court events and monitoring appointments by text, email, or phone made available to the defendant.
PML3+	Defendant required to remain at home with limited exceptions and may be required to wear an electronic monitoring (EM) device. Defendant also required to report to Pretrial Services telephonically once every other week and in person once every other week. Automated reminder notices for court events and monitoring appointments by text, email, or phone made available to the defendant.

Violations of Monitoring and Revocation of Pretrial Release

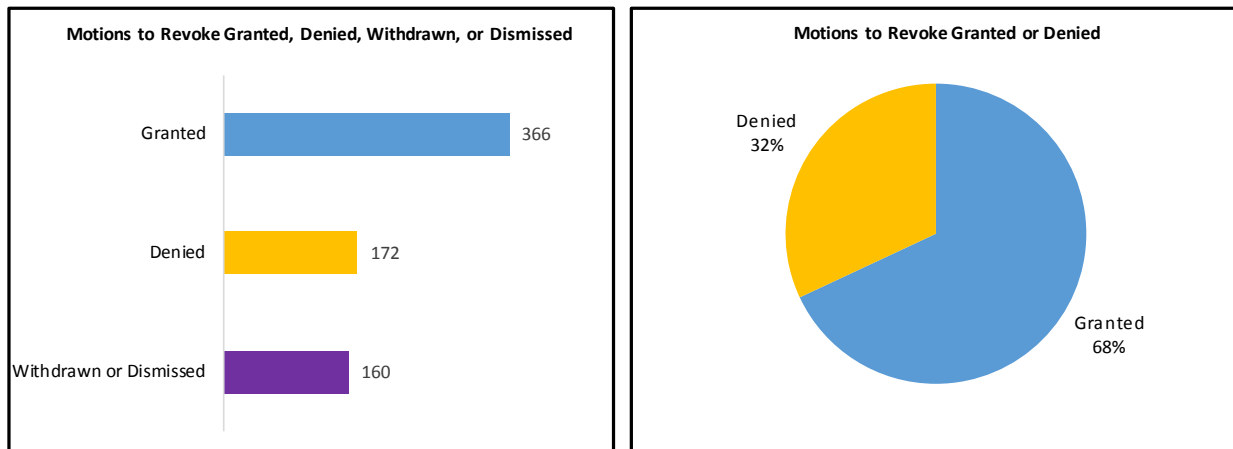
Pretrial Services staff use an automated system to track the defendant’s compliance with the terms and conditions of pretrial release. When court intervention is required, staff file a violation of monitoring and schedule the defendant to appear at a review hearing. The court may also issue a bench warrant for the defendant’s arrest. At the hearing, the prosecutor and defense have the opportunity to present evidence and argue their positions. On motion of the prosecutor, a judge may revoke the defendant’s pretrial release and order that he or she be detained until trial.²

² Note that under the CJR law, only eligible defendants charged with indictable crimes or domestic violence-related disorderly persons offenses can be detained. Thus, prosecutors cannot file motions to detain, or revoke the release of, defendants charged with disorderly persons offenses that are unrelated to domestic violence.

If a prosecutor files a release revocation motion, the court schedules the matter for a hearing. At that proceeding, the court may continue, modify or revoke the defendant's conditions of release, or order the defendant detained pretrial, subject to the statutory requirements.

Prosecutors filed a total of 698 motions to revoke release in 2017. Of those, 538 required a judicial decision: the court granted 366 motions, or 68.0%, and denied 172 motions, or 32.0%. The prosecutor withdrew or the court dismissed the remaining 160 motions (22.9%).

Motions to Revoke Filed
January 1, 2017 - December 31, 2017
(Total of 698 motions)



COURT DECISIONS AND RULE CHANGES

Since the January 1, 2017 implementation of CJR, the Supreme Court and the Appellate Division have addressed numerous emergent applications, motions, appeals, and other issues presenting important issues involving pretrial detention and matters of constitutional and statutory interpretation relative to CJR.

CJR-related opinions issued by the Supreme Court include State v. Robinson, 229 N.J. 44 (2017), in which the Supreme Court held that when seeking to detain the defendant, the State must disclose reports and photos used in the identification process to the defense, but not surveillance video. In State v. Ingram, 230 N.J. 190 (2017), the Court concluded that neither the CJR statute nor the principles of due process require the State to present testimony from a live witness at every detention hearing.

In State v. C.W., 449 N.J. Super. 231 (App. Div. 2017), the Appellate Division held that the defendant's prior history of juvenile delinquency and probation violations is a permissible consideration in the detention analysis. In State v. Stewart, A-0562-17T6 (App. Div. January 19, 2018), the Appellate Division held that when seeking to compel the testimony of an adverse

witness, the defendant must make a proffer regarding the witness' likely testimony and how that testimony will negate a finding of probable cause or rebut the evidence supporting detention.

In State v. Robinson, supra, the New Jersey Supreme Court also revised Rule 3:4-2 to specify, consistent with its opinion, the information that the State must provide to the defendant at the first appearance. In addition, the Court subsequently adopted Rule 3:26-9, which provides that no statement, written or otherwise, made by the defendant to a Pretrial Services employee may be used by the State to prove any crime or offense alleged in the pending case. The State may use the defendant's disclosures in a subsequent prosecution for fraudulently obtaining pretrial release or fraudulently obtaining the services of a public defender.

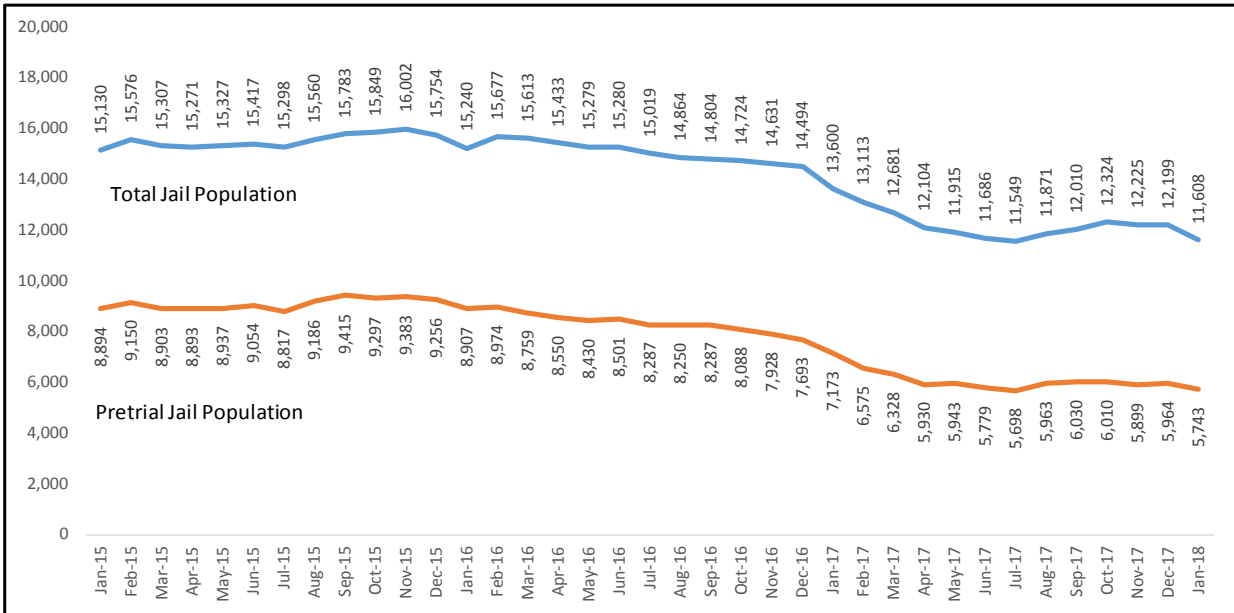
GUIDANCE TO LAW ENFORCEMENT

In May 2017, the Office of the Attorney General revised its CJR Directive, originally issued in October 2016. The revision added a presumption that prosecutors will seek an arrest warrant and/or pretrial detention for defendants charged with gun crimes, assaults on police, certain crimes involving sexual exploitation of children, and any indictable offense committed while on release or under post-conviction supervision for another crime. The Office of the Attorney General revised its CJR Directive a second time in September 2017 to provide guidance to law enforcement on their use of the Ontario Domestic Assault Risk Assessment (ODARA), a domestic violence risk assessment tool.

IMPACT ON COUNTY JAIL POPULATIONS

The Judiciary has been closely tracking the county jail populations, both overall and pretrial, prior to and after January 1, 2017. CJR preparation and related activities began in early 2015. While not specifically undertaken to reduce the county jail population, CJR has had that effect. Among the many initiatives, Superior and Municipal Courts across the state, along with prosecutors and defense counsel, reviewed their local pretrial jail populations, including bails set and pretrial case processing status. As a result, during the two years prior to CJR implementation, the pretrial jail population fell from 8,894 defendants to 7,173. In the first year of CJR, the pretrial jail population further decreased to 5,743 defendants, a 20% decrease. Over this three-year period between January 2015 and December 2017, the pretrial jail population decreased by 35%.

**Total Jail Population and Pretrial Jail Population
January 1, 2015 - January 1, 2018**



COMMUNICATION AND OUTREACH

Beginning in 2015, the Judiciary implemented a comprehensive outreach plan to inform and educate all stakeholders and the public regarding CJR. This plan includes training classes, webinars, videos, and published materials. The Judiciary’s web page, njcourts.gov, includes a CJR information center with links to our virtual courtrooms, publications, statistical reports, and news stories. Judiciary publications on CJR are available in Spanish, Haitian Creole, Polish, Portuguese, and Korean.

Much of our outreach effort has focused on holding public CJR forums in each vicinage. Each vicinage has held public information sessions, and several Assignment Judges have written articles for their respective bar association newsletters that detail the progress of CJR in their vicinages. The Atlantic/Cape May vicinage conducted a public CJR panel discussion in Spanish, which the Judiciary recorded and posted to its YouTube page for future reference and use.

The Judiciary’s Office of Communications and Community Relations has organized multiple seminars at the Hughes Justice Complex in Trenton and in courthouses around the state to educate the news media about the workings of CJR and to answer questions from the press. New Jersey’s CJR efforts have earned praise from national newspapers and television programs such as the *New York Times*, the *Wall Street Journal*, the *Washington Post*, and *PBS News Hour*, as well as from the editorial boards of New Jersey’s leading newspapers, including the *Star Ledger* and *The Record*. The *Press of Atlantic City* noted: “In the centuries ahead, 2017 will be regarded as the year cash bail was abandoned in favor of a remarkably more effective system – with New Jersey as the leader of the nationwide movement.”

CRIMINAL JUSTICE REFORM TECHNOLOGY

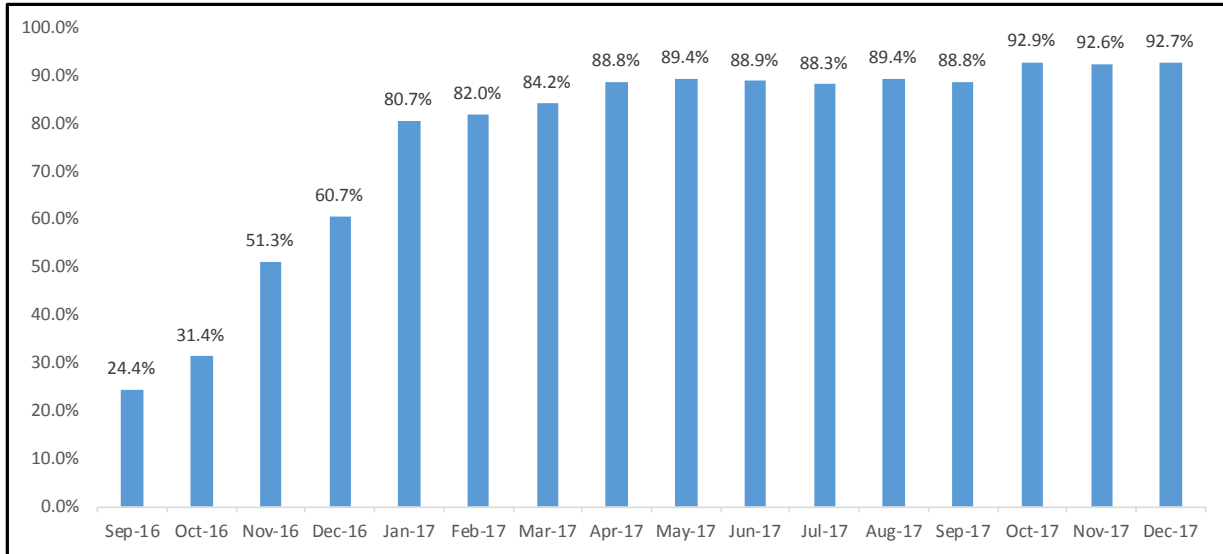
The successful implementation of CJR is due in no small part to the transformative shift from a paper-driven process to one that is fully electronic. Automating data collection and data sharing involved a complicated system redesign to allow the new applications to connect with the older Judiciary and State Executive Branch legacy systems. The following interconnected CJR information technology projects are among those currently ongoing.

Enhancements to the eCDR System and Live Scan Interface

The Electronic Court Disposition Recording system (eCDR), maintained by the Judiciary and used by law enforcement, is a web-based application built in 2005. The application allows a police officer to create a complaint-warrant or complaint-summons, allows the judicial officer to record the probable cause determination, and sends the resulting data to the case management system. As part of CJR, the Judiciary enhanced the eCDR application. As a result, when law enforcement fingerprints the defendant, the application now sends data from the New Jersey State Police's Computerized Criminal History system (CCH) and pre-fills 51 data fields in the complaint for the law enforcement officer. This step allows for the immediate identification of the defendant, minimizes data entry errors, and eliminates future gaps in the defendant's criminal history.

Before CJR, only 30% of defendants were fingerprinted using Live Scan prior to the issuance of the complaint. Now, 93% of defendants are fingerprinted using Live Scan prior to the issuance of the complaint. This improvement could not have happened without the commitment of state and local law enforcement to invest in and utilize Live Scan fingerprint technology. Another enhancement saves an image of each criminal complaint to an electronic case jacket in eCourts, for access by the prosecutor, defense counsel, Pretrial Services staff, and the judge. eCourts also maintains an electronic display of case summary information, as well as images of key documents, including complaints, motions, briefs, signed orders, and notifications.

**Statewide Live Scan Compliance
September 2016 - December 2017**



The Judiciary continues to enhance the eCDR application to provide additional functionality. Thus far, the Judiciary has created a master statute table for use across Judiciary and law enforcement applications and two new forms requested by the Office of the Attorney General: the Affidavit of Probable Cause form and the Preliminary Law Enforcement Investigative Report (PLEIR). Additionally, the system now includes a prosecutor workflow screen, allowing prosecutors to review complaints created by law enforcement prior to submission to the court. In addition, law enforcement now has the ability to enter disorderly persons and indictable charges on the same complaint.

Master Data Management (MDM)

During the last 40 years, the Judiciary has built automated case management systems detailing the interactions between the public and court system. To identify the associated cases and remove biased interpretation of this historic data, the judiciary implemented a probabilistic data matching software. Our Master Data Management (MDM) identifies the demographic data of 40 million Judiciary records and links them on demand with current defendants entering the criminal justice system. We estimate that staff would spend over two hours researching defendants and aliases across multiple systems. Instead, the MDM identifies the necessary information in a few seconds.

Identification of Defendants: Compilation of Court Information and Criminal History

When the Judiciary receives a fingerprint arrest record from CCH, the automated systems instantly run algorithms against 40 million Judiciary records to cross check that defendant against individuals who have had previous interactions with the courts. This technological advancement

adds efficiency and speed to the process of identifying defendants and compiling their individual court and criminal histories.

Prosecutors use the data provided through the PSA tool to assist in their decision whether to file a motion to detain. Prosecutors have immediate access to the charging document and the defendant's history in the newly created eCourts electronic case jacket. Electronic filing through eCourts reduces the delay inherent in a paper process, and enables all parties to meet the statutory timeframes on release decisions.

The Judiciary, police, prosecutors, and public defenders tested this application during November and December of 2016, before implementation of CJR. Based on this and other user feedback, the Judiciary has made numerous enhancements. In 2017, law enforcement officers have run more than 76,126 preliminary PSAs, providing them with valuable information in making the decision to issue a complaint-summons or seek a complaint-warrant.

Master Statute Table Implementation

The master statute table is a comprehensive electronic listing and description of New Jersey's criminal statutes standardized across all case management applications. The new table contains all current criminal statutes and mapping to former statutes, and allows for subsequent updates necessitated by future legislative changes to criminal statutes. All online case management applications and programs have integrated the master statute table, which allows for changes across all systems. The creation of this table was critical to the implementation of CJR.

Application to Track Speedy Trial Dates

If the court orders an eligible defendant detained pretrial, the defendant is subject to the speedy trial provisions of the CJR statute. The Judiciary's computer systems track the statutorily required speedy trial timeframes and any excludable time. The system provides alerts to the court when defendants are approaching any of the speedy trial timeframes. That information is easily accessible to the parties and the court.

Pretrial Monitoring Application

When a judge decides to release the defendant, the case management system transmits relevant data to a Pretrial Services monitoring application. This application provides the necessary case management functions to monitor the defendant, including intake, contact information, notification, conditions of release, compliance status, and eventual discharge from monitoring.

Pretrial Services staff receive daily notifications from various case management systems on the activities of defendants they are monitoring. If defendants are rearrested, recommitted to jail or miss scheduled court events or appointments, automated worklists reflect that occurrence. Staff

members catalogue the defendant's compliance with monitoring conditions and file a violation of monitoring when appropriate.

In an effort to maximize appearance rates, defendants on pretrial release have the option of receiving automated reminder notices for court events and monitoring appointments through text, email, and phone calls. The reminders are in several languages, including English, Spanish, Portuguese, and Haitian, with plans to add Korean and Polish.

Virtual Courtroom

To meet the 48-hour deadline in which the court must make its release decisions, and to limit costs associated with opening courthouses on weekends and holidays, the Judiciary, working in close partnership with local officials, developed virtual courtrooms in every county. These courtrooms use video conferencing technology to bring the judge, prosecutor, defense counsel, incarcerated defendant, interpreter, and Pretrial Services staff, who may be in different locations, into a single courtroom environment. Through livestream technology, the public can view these court proceedings at www.njcourts.gov/vc.

CRIMINAL JUSTICE REFORM CHALLENGES

CJR has experienced challenges in its first year of implementation. The funding deficit between the revenue generated each year from the fee increases and the annual cost of operating the Pretrial Services Program and the lack of a stable funding source is the most pressing issue. Other important issues include the lack of available services for pretrial defendants and the resources required for electronic monitoring.

CJR Expenses to Date

A primary challenge for the Judiciary is the concern that the current revenue source is insufficient to meet the operating costs of the Pretrial Services Program. As previously noted, the Judiciary has collected \$130.9 million from court fees, with \$67.4 million allocated to the Pretrial Services Program. To date, the Judiciary has expended or encumbered a total of \$33.8 million for Pretrial Services, leaving a balance of \$33.6 million. For eCourts, the Judiciary has expended or encumbered \$14.7 million to date, leaving a balance of \$15.9 million. Legal Services of New Jersey has received \$30.9 million. Also, the Judiciary to date has expended or encumbered \$4.5 million for software for Pretrial Services and for eCourts, with the majority of that amount (\$3.8 million) coming out of the Pretrial Services funding.

With regard to the Pretrial Services Program expenditures, electronic monitoring cost \$784,017 from January 1, 2017 through December 31, 2017. Per diem payments to authorized Municipal Court judges for handling centralized judicial processing hearings for eligible defendants totaled \$855,000 for the year. Staff salaries for the calendar year totaled \$17.8 million.

Projection: Expenses will exceed revenues in fiscal year 2018

Current projections indicate that the annual expenses for the Pretrial Services Program will exceed the annual fee-increase revenues beginning in calendar year 2018. This substantial annual structural deficit will not be fully felt until 2019 or 2020 because of the revenues that accumulated prior to the January 2017 program implementation date. However, the projected annual deficits will result in the Pretrial Services Program component of the 21st Century Justice Improvement Fund being in a negative balance as of late fiscal year 2020-early fiscal year 2021, with that negative balance increasing substantially each year thereafter. As noted earlier, the original projected annual cost of operating the Pretrial Services Program was \$13 million more than the amount of revenues allocated to the program in the legislation. The solution to this impending program funding crisis would be to change the Pretrial Services Program staff positions from the current Dedicated Fund positions to Direct State Service positions. That would move the staff salary costs to the regular state budget and the fringe benefit costs to the Interdepartmental Account.

Services for Pretrial Defendants

The lack of available and affordable community-based substance abuse treatment, mental health treatment, and housing assistance programs has been a significant challenge for Pretrial Services, and it will continue absent additional sustainable funding. The CJR statute sets forth conditions of pretrial release that a court may order when releasing the defendant on pretrial monitoring. These conditions include requiring the defendant to undergo medical, psychological or psychiatric treatment, drug or alcohol treatment, obtain and/or maintaining employment, and obtain or maintain attendance in an educational program. Pretrial Services has found that even when the court does not order pretrial defendants to submit to treatment or services as a condition of their pretrial release, defendants may request support or voluntary placement assistance, typically with housing or placement in a drug treatment program.

To help ensure defendants' pretrial success, it is imperative that defendants receive the services that they need. Prior to CJR implementation, each county compiled lists of available community resources. Pretrial Services staff use these lists to refer defendants to local services. It has become apparent, however, that there is not an adequate supply of available services. Pretrial Services staff also have difficulty locating affordable programs or services for pretrial defendants, as many programs often charge for their services and rarely waive their fees. When a free program is available, it often takes months for space to become available.

Electronic Monitoring

Over the first year of operation, the Judiciary has experienced unique challenges related to defendants ordered to comply with an electronic monitoring release condition. In 2017, courts ordered 3,686 pretrial defendants, or 8.7% of the 42,487 eligible defendants for whom the court made an initial release decision, released on Pretrial Monitoring Level 3+, the level that includes

electronic monitoring (EM) as a release condition. Pretrial Services staff reviews and responds to monitoring alerts. Depending on the circumstances, Pretrial staff will contact law enforcement in certain emergent situations, may contact the defendant, or may take steps to resolve the issue in the EM system.

Emergent alerts occur 24 hours a day for a variety of reasons, including a defendant's entry into a prohibited zone, tampering with an EM device, or signal issues. Response to emergent alerts includes contacting the court and/or dispatching law enforcement to a specific location. In less than one-third of the counties across the state, the county jails have assumed responsibility for receiving and responding to emergent electronic monitoring alerts. In the remaining counties, PSP staff perform these functions.

The cost to monitor defendants subject to EM is between \$3.59 and \$4.19 per defendant per day. In 2017, the Judiciary spent a total of \$784,017 in connection with electronic monitoring. The Judiciary continues to evaluate the EM process to manage resources while ensuring public safety.

CONCLUSION

New Jersey has successfully transformed an antiquated money bail system into a modern risk-based system that relies on empirical evidence to better identify the risk the defendant poses if released pending trial. Not only does this remediate the unfairness inherent in the old system, it allows for the pretrial detention of the most dangerous defendants without the possibility to post bail. This corrects the systemic inequalities inherent in a money bail system. While no system of pretrial release can guarantee that every defendant will appear for court when required and remain arrest-free, the Judiciary has developed a comprehensive system for managing these cases.

However, now is not the time to be content with our collective accomplishments. Continued success requires a sustainable funding stream. Court fees should not be the source of funding for CJR. Without a stable source of funding, expenses for the Pretrial Services Program will exceed revenues beginning in fiscal year 2018. While the Judiciary diligently works to be cost-conscious, and exercises strict controls on expenses, the Pretrial Services Program requires appropriate funding through the General Fund, rather than from court fee revenue, to ensure the viability of the reforms.

In addition, defendants in need of services released pretrial must have access to services in order to succeed on pretrial release. Even when they are not court-ordered to submit to treatment or other services, many defendants on pretrial release request assistance in areas such as mental health and drug treatment. This requires expansion and sufficient funding of New Jersey's social care system to ensure that it provides accessible and integrated assistance for these individuals. This not only meets the intent of CJR to promote safety and assure that defendants achieve

pretrial success, but also comports with our moral values, our obligations as stewards of the criminal justice system, and the duty owed to our state's citizens as leaders of our communities.

Finally, the Judiciary, along with its many vital partners, must continue to identify issues and improvements that will make the criminal justice system fairer and our communities safer. The first year of implementation saw adjustments through Supreme Court and Appellate Division decisions, amendments to Court Rules, modifications to the Decision Making Framework, and revisions to the Attorney General's CJR Directive, including areas involving gun crimes and repeat arrests. These kinds of significant adjustments, sparked by legitimate concerns raised by various segments of the criminal justice community and rooted in a review of empirical data, indicate that the program is working as intended and that the Judiciary's criminal justice stakeholders are actively engaged in implementing the reforms. As with any reform, there will be challenges, but in the spirit of CJR, we shall face those challenges together, through partnership, collaboration and mutual support. The Judiciary looks forward to continuing its work with all criminal justice stakeholders to achieve these most critical goals of CJR.

ADDENDUM

**(Development, Maintenance
and Administration of eCourts)**

ADDENDUM

DEVELOPMENT, MAINTENANCE and ADMINISTRATION of eCOURTS

The Judiciary is engaged in a multifaceted initiative to convert its legacy information technology systems, based on mainframe databases, into a modern integrated eCourts electronic filing, electronic storage, and electronic case management application. Over the years, the Judiciary has collected millions of party and case records, currently maintained in numerous decades-old databases, which require rebuilding from the ground up. Four essential functionalities support this concerted effort to transform the Judiciary into the digital age:

- (1) Electronic filing and information exchange between the court and attorneys;
- (2) The establishment of electronic case files;
- (3) The maintenance of electronic records management systems that provide attorneys and the public with appropriate access to case information; and
- (4) Modern case management systems that will enable the Judiciary to track, dispose of, report on, and share data with our government partners.

The various systems described below represent a significant undertaking and a bold push toward the Chief Justice's vision of total modernization. Despite the progress that has been made in the areas of eFiling, several more years of work are required to complete our goals of replacing all systems from both front end eFiling to back end case management.

eCourts Supreme Court: Implemented in 2017

More than 1,200 electronically filed cases in the Supreme Court as of the end of 2017

The Offices of the Attorney General, Public Defender, and County Prosecutors are all filing electronically in the Supreme Court. The Judiciary presently is expanding electronic filing to include private attorneys in criminal matters, and the next expansion will include private attorneys in civil matters. The application provides for electronic access by counsel, Justices, and Supreme Court staff to all electronically filed documents.

eCourts Appellate Division: Implemented June 2013

More than 10,000 appeals or motions for leave to appeal filed with an additional 50,000 documents added to those cases as of the end of 2017

eCourts Appellate was initially available in criminal cases in which the Public Defender filed the motion and the Attorney General or County Prosecutor was the responding party. The system has progressively added new case types or case filers over the last several years, including

Children in Court, Family, Pretrial Detention (CJR) appeals, and as of January 1, 2018, civil cases under mandatory eFiling. System use of both Judiciary Account Charge System (JACS) and credit cards has enabled access to the entire bar for filing. With the advent of eFiling, data and documents are transmitted to the appellate case management system, which has ensured access to these data and documents by the bar, the court, and staff. In addition, eFiling will assist with instant notifications of submissions, document review at the touch of a button, and record retention.

eCourts Criminal: Implemented July 2014

More than 350,000 filings as of the end of 2017

The Judiciary in 2014 implemented eCourts Criminal, the first eCourts application. At the outset, it provided the attorneys the ability to efile motions, responses and briefs. The Judiciary has since expanded the application to include almost all other documents filed in the Criminal Division. The Superior Court Clerk's Office has converted thousands of archived paper records to digital images and added them to the eCourts system. Documents filed with the Appellate Division automatically appear in the eCourts Criminal Case Jacket.

eCourts Criminal – Criminal Justice Reform: Implemented January 2017

eCourts Criminal required enhancement to accommodate the many tasks involved in Criminal Justice Reform (CJR), including automation of the Public Safety Assessment (PSA) risk assessment tool utilized by judges to inform their release decisions. Such automation helps Pretrial Services Program staff manage cases and prepare orders. Additional applications include a pretrial monitoring system and a detailed tracking mechanism for speedy trial dates.

eCourts Foreclosure: Implemented September 2016

More than 665,000 filings as of the end of 2017

eCourts Foreclosure, in September 2016, replaced the Judiciary Electronic Filing and Imaging System (JEFIS), implemented in 1995. In eCourts Foreclosure, attorneys can electronically file documents from complaint through judgment processing. Attorneys can also access electronic case files and automated notifications between attorneys of record and the court. County clerks and sheriffs can access eCourts Foreclosure Electronic Case Jackets to verify judgments of foreclosure.

eCourts Special Civil DC: Implemented September 2016

More than 1.3 million filings as of the end of 2017

eCourts Special Civil DC pertains to cases with a demand amount of less than \$15,000, and focuses on the replacement of an older electronic filing system, the Judiciary Electronic Filing and Imaging System (JEFIS). In eCourts Special Civil DC, attorneys can electronically file documents

from complaint through final judgment. Attorneys of record and the court can access Electronic Case Jackets and receive automated notifications.

eCourts Special Civil SC: Implemented September 2017

More than 15,800 notices as of the end of 2017

eCourts Special Civil SC pertains to cases with a demand amount of less than \$3,000. This ongoing project will provide an Electronic Case Jacket, enabling simultaneous access by judges, court staff, and attorneys. It also provides for centralized processing of court-generated notices. Implementation began with the placement of selected notices in the case jacket, with expansion to include additional notices.

eCourts Civil Law: Implemented in December 2017

More than 350,000 filings as of the end of 2017

The end result of this project will be the electronic filing of all documents from complaint through final judgment. It includes access to electronic case files and automated notifications between attorneys of record and the court. Rollout for pilot counties began in March 2017; all counties were operational by the end of 2017.

eCourts Family FM (Dissolution/Divorce): Implemented November 2016

More than 167,000 archived documents electronically stored as of the end of 2017

This eCourts project provides judges and court staff with easy access to archived files. Thousands of paper records converted to digital images are now easily accessible for court proceedings or to fulfill records requests from the public. This application has eliminated significant delays in accessing older records from the Superior Court Clerk's Office records warehouse in Trenton.

eCourts Family Children in Court (CIC-FN): Implemented September 2017

More than 4,100 filings as of the end of 2017

This eCourts project focuses on electronic filing in child neglect cases initiated by the Attorney General's Office on behalf of the New Jersey Division of Child Protection and Permanency, the Office of Parental Representation, and the Office of the Law Guardian.

eCourts Probation Electronic Case Jacket: Implemented June 2016

More than 108,000 documents electronically stored as of the end of 2017

This eCourts project provides the Probation Division with an electronic case file, eliminating most paper files and allowing simultaneous access to probation information by judges and staff. The

Probation case jackets also include embedded hyperlinks to other eCourts electronic files in the Criminal, Family, and Municipal Divisions, eliminating delays and gaps between Divisions.

eCourts Tax: Implemented February 2015

More than 340,000 filings as of the end of 2017

The introduction of electronic filing in the Tax Court was instrumental in reducing significant data entry and processing backlogs. This project automated case initiation and complaint docketing. Added functionality allows non-attorneys, such as municipal assessors, municipal clerks, and county boards of taxation, the ability to receive electronic notification of a new case or judgment and to access the Electronic Case Jackets.

eCourts Municipal: Implemented January 2017

More than 140,000 filings as of the end of 2017

This broad initiative, integral to CJR, provides an enhanced and improved complaint system for law enforcement statewide. It includes a Live Scan fingerprint interface, developed in partnership with the New Jersey State Police, which connects a defendant's complaint, arrest record, fingerprint record, and criminal history. The system utilizes the data from the Live Scan fingerprint interface to populate the criminal complaint and calculate the PSA risk score.

The system gives prosecutors the ability to review and modify charges on a complaint before a finding of probable cause. After a finding of probable cause and issuance of a summons or warrant, the complaint is stored in the eCourts Municipal Electronic Case Jacket, and is accessible by the court, prosecutors, attorneys, law enforcement, and the county jails. Plans for enhancements to eCourts Municipal include allowing attorneys to file motions and cross-reference other municipal cases, including disorderly persons and traffic offenses.

Conclusion

Upon completion, the New Jersey Judiciary will have eCourts applications at all levels, from the Supreme Court to Municipal Courts. The extraordinary collaboration with our internal and external partners and customers has made this successful transformation possible. Given the complexity involved, the numerous systems that require modernization, and the many interfaces to executive branch systems, much work remains to be completed. Continued funding for court modernization is absolutely essential to this endeavor. We are proud of the Judiciary's significant accomplishments and look forward to delivering more functionality in the future.

APPENDIX A
(Criminal Justice Reform: A Step-by-Step
Guide)

Criminal Justice Reform: A Step-by-Step Guide

Complaint

The defendant is fingerprinted by law enforcement and a criminal history is collected from various statewide databases. The information allows prosecutors and law enforcement to make a quick and informed decision about whether to authorize a summons or request a warrant from the court.

Summons Issued

The defendant is not subject to Criminal Justice Reform.

Warrant Issued

The individual is arrested and transported to county jail. The defendant is subject to Criminal Justice Reform.

Defendant Released

The defendant is given a date to appear in court.

Public Safety Assessment

Pretrial services staff prepare a release recommendation to the court based on a Public Safety Assessment (PSA) and other factors. The PSA uses the defendant's prior criminal and court history to assess the likelihood that the defendant will fail to appear in court or commit another crime. There is a recommendation of no release for certain crimes such as murder, and some crimes involving guns or weapons.

First Appearance Hearing

A first appearance hearing is held within 24 to 48 hours of a defendant being taken to a county jail. At the hearing, the prosecutor's office must make a motion to have the defendant detained. Otherwise, the judge will set conditions of release, considering the pretrial services recommendation along with arguments from the prosecutor and the defense attorney.

No Motion for Detention Made

After listening to the prosecution and the defense, the judge can either agree with the pretrial services recommendation or issue a statement of reasons for deviating from the recommendation.

Motion for Detention Made

If a detention motion is filed, a pretrial detention hearing is held within three to five business days. The prosecutor must demonstrate that no condition of release can reasonably assure the public's safety or that the defendant will return to court.

Defendant Released

The defendant is given a date to appear in court.

Defendant Released with Conditions

Defendants released with conditions are monitored by the court's pretrial services unit. Conditions of release range from phone calls and visits with a pretrial services officer to electronic monitoring and house arrest.

Defendant Detained

Defendants who are detained pretrial are subject to speedy trial guidelines and must be indicted within 90 days. There are also limits for the overall time a defendant can be kept in jail while the case is resolved.



Administrative Office of the Courts

STUART RABNER

Chief Justice

GLENN A. GRANT, J.A.D.
Acting Administrative Director
of the Courts

February 2018