

NJ Criminal Justice System Reform

On January 1, 2017, the most comprehensive set of reforms to New Jersey’s criminal justice system since the adoption of the 1947 Constitution took effect. Both the statutory changes and the constitutional amendment move the state from a pretrial system based primarily on monetary bail to one based on a scientific assessment of risk, creating a pretrial services program, and adopting stringent speedy trial time requirements. Under this new system, the decision to release or detain a defendant is based on an assessment of the risk that the defendant will commit another offense and the risk that the defendant will not appear for required court appearances. This new approach based on the measurement of risk will ensure that the highest risk defendants are kept in jail until trial, that moderate risk defendants will be released until trial with conditions and monitoring to mitigate the defendants’ risk, and that the lowest risk defendants are released until trial with little or no monitoring and few or no conditions.

This fundamental shift from a pretrial release system based on the defendant’s resources and ability to pay to one based on scientifically measured risk to the community will result in a criminal justice system that is more fair and more just and will assist in better preserving the safety of the citizens of New Jersey. Generally, an “eligible defendant” is a person against whom a complaint-warrant is issued for an indictable offense or a disorderly person’s offense, (unless otherwise specifically provided by the bail law) where the arrest takes place on or after January 1, 2017, regardless of when the offense occurred (N.J.S.A. 2A:162-15).

270 Words

NJ Criminal Justice Reform Process Highlights

PROCESS HIGHLIGHTS

After an arrest, a law enforcement officer may issue a complaint-summons to the defendant or apply to the court for the issuance of a complaint-warrant. If a complaint-warrant is issued, an eligible defendant is temporarily detained in county jail pending a risk assessment and pretrial release hearing. If a complaint-summons is issued, a defendant is released and considered a non-eligible defendant.

Law enforcement also makes a report about the facts of the arrest, called a Preliminary Law Enforcement Investigative Report or PLEIR.

Pretrial Services Program or PSP staff will then:

- Interview the eligible defendant to complete the Uniform Defendant Intake Report or UDIR. This report helps determine whether the defendant is eligible for a public defender and collect demographic data for the Judiciary. This report is also referred to as the 5A application.
- Run a computerized tool called a Public Safety Assessment or PSA that measures the risk that the defendant will: 1) fail to appear in court or FTA, 2) commit New Criminal Activity or NCA, and 3) commit New Violent Criminal Activity known as NVCA or “flag”.
- Apply the PSA score to a Decision-Making Framework or DMF to provide a recommendation to the court regarding release: either 1) Release on Recognizance or ROR, 2) Release with conditions, known as Pretrial Monitoring

– Level 1, 2, 3, or 3+ (PML1, PML2, PML3, or PML3+) or 3) No Release
Recommended or NRR.

- Provide to the judge the PSA, release recommendation, and other information in the form of Supplemental Information that includes the defendant's juvenile record if it is within the past ten years, Final Restraining Orders entered against the defendant, and whether the defendant is currently on probation.

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A judge will then make a decision regarding release at a Central Judicial Processing or CJP First Appearance, which must be held within 48 hours of the defendant's commitment to county jail. CJP 1st appearances must be on the record and open to the public. When held on weekends via a virtual courtroom event, a CJP 1st appearance will be streamed on the Internet for public viewing but will not be recorded online.

Present at CJP 1st appearance is a judge, a prosecutor, a public defender, a PSP staff person, the defendant, and an interpreter if needed. The judge will rely on the PSA, release recommendation, and any information or reports presented by the parties such as the PLEIR. The court will then make its pretrial release decision. If the court's pretrial release decision departs from the Pretrial Services Recommendation, the judge must state the reasons for departure on the record and include them in the pretrial release order.

Eligible defendants must be released unless the prosecutor files a Motion for Detention, which can be filed any time after the arrest including before the CJP 1st appearance. If the prosecutor does not file for this motion, the defendant will be released following the CJP 1st appearance. If a detention motion is filed, the defendant will be detained until the detention hearing that will take place within a few days of the CJP 1st appearance.

244 Words

NJ Criminal Justice Reform Definitions

DEFINITIONS

Complaint-summons or CDR-1, Is a category of charging document. The complaint-summons must be directed to the named defendant and must command the defendant's appearance in court at a stated time and place to answer to the complaint. It will also advise that an arrest warrant may be issued for failure to appear in court as directed. After law enforcement utilizes LiveScan to obtain an electronic fingerprint for a defendant, the electronic fingerprint will be used to pull information from State Police and judiciary automated systems to assess a defendant's risk and generate a charging document for the alleged offense.

Complaint-warrant or CDR-2, Is a category of charging document. The Criminal Justice Reform legislation requires that an arrest warrant for an initial charge shall be made on a complaint-warrant CDR-2 form and signed by the judge or, when authorized by the judge, by the municipal court administrator or deputy court administrator after a determination of probable cause. The warrant shall be directed to any law enforcement officer authorized to execute it and, under criminal justice reform, shall order that the defendant be arrested and remanded to the county jail for a period of up to 48 hours pending a pretrial release determination.

Failure to Appear or FTA, is any missed court appearance while on release pending case disposition for the current case. A bench warrant is typically issued following an FTA. An eligible defendant's risk of FTA is one of the three pretrial failure risk indicators calculated in the Public Safety Assessment or PSA, as mentioned earlier which also

include the risk the defendant will commit New Criminal Activity or NCA, and commit New Violent Criminal Activity referred to as NVCA or “flag”.

No Early Release Act or NERA. The law requires people convicted of certain first or second-degree crimes under N.J.S.A. 2C:43-7.2d to have a minimum period of parole ineligibility of 85% of sentence and parole supervision.

NERA Bump = A Pretrial Monitoring level (PML) recommendation escalated one whole monitoring level if the current arrest is a NERA charge or a failure to appear (FTA).

Speedy Trial = a provision of the new bail reform law that limits the amount of time an eligible defendant may be incarcerated after detention hearing.

372 Words

On **January 1, 2017**¹, the most comprehensive **set**² of reforms to New Jersey’s criminal justice system since the adoption of the 1947 Constitution took effect. Both the statutory changes and the constitutional amendment move the state from a **pretrial system**³ based primarily on monetary bail to one **based on**⁴ a scientific assessment of risk, creating a pretrial services program, and adopting stringent speedy trial time requirements. Under this new system, the decision to **release**⁵ or detain a defendant is based on an assessment of the risk that the defendant will commit another offense and the risk that the defendant will not appear for required court appearances. This new approach based on the **measurement of risk**⁶ will ensure that the highest risk defendants are kept in jail until trial, that moderate risk defendants will be released until trial with conditions and **monitoring**⁷ to **mitigate**⁸ the defendants’ risk, and that the lowest risk defendants are released until trial with little or no monitoring and few or no conditions.

This fundamental **shift**⁹ from a pretrial release system based on the defendant’s resources and ability to pay to one based on scientifically measured risk to the community will result in a criminal justice system that is **more fair and more just**¹⁰ and will assist in better preserving the safety of the citizens of New Jersey. Generally, an “eligible defendant” is a person against whom a **complaint-warrant**¹¹ is issued for an **indictable offense**¹² or a **disorderly person’s offense**¹³, (unless otherwise specifically **provided**¹⁴ by the bail law) where the arrest takes place on or after January 1, 2017, regardless of when the offense occurred (**N.J.S.A. 2A:162-15**)¹⁵.

PROCESS HIGHLIGHTS

- After an arrest, a law enforcement officer may issue a **complaint-summons**¹⁶ to the defendant or **apply to the court**¹⁷ for the **issuance**¹⁸ of a complaint-warrant. If a complaint-warrant is issued, an eligible defendant is temporarily detained in county jail **pending**¹⁹ a risk assessment and pretrial release hearing. If a complaint-summons is issued, a defendant is released and considered a non-eligible defendant.

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- **Pretrial Services Program**²¹ or PSP staff will then:

Interview the eligible defendant to complete the **Uniform Defendant Intake Report**²² or UDIR. This report helps determine whether the defendant is eligible for a **public defender**²³ and collects **demographic data**²⁴ for the **Judiciary**²⁵. This report is also referred to as the 5A **application**²⁶.

Run a **computerized**²⁷ tool called a Public Safety Assessment or PSA that measures the risk that the defendant will: 1) **fail to appear**²⁸ in court or FTA, 2) commit New Criminal Activity or NCA, and 3) commit **New Violent Criminal Activity**²⁹ known as NVCA or “**flag**³⁰”.

Apply the PSA **score**³¹ to a **Decision Making Framework**³² or DMF to provide a recommendation to the court regarding release: either 1) Release on **Recognizance**³³ or ROR, 2) Release with conditions, known as Pretrial Monitoring – Level 1, 2, 3, or 3+ (**PML1, PML2, PML3, or PML3+**³⁴) or 3) **No Release Recommended**³⁵ or NRR.

Provide to the judge the PSA, release recommendation, and other information in the form of Supplemental Information that includes the defendant's **juvenile record**³⁶ if it is within the past ten years, Final Restraining Orders **entered**³⁷ against the defendant, and whether the defendant is currently on **probation**³⁸.

A judge will then make a decision **regarding**³⁹ release at a **Central Judicial Processing**⁴⁰ or CJP First Appearance, which must be held within 48 hours of the defendant's **commitment**⁴¹ to county jail. CJP 1st appearances must be **on the record**⁴² and open to the public. When held on weekends via a **virtual courtroom event**⁴³, a CJP 1st appearance will be **streamed**⁴⁴ on the Internet for public viewing but will not be recorded online.

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detained until the detention **hearing**⁵⁰ that will take place within a few days of the CJP 1st appearance.

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an FTA. An eligible defendant's risk of FTA is one of the three pretrial failure risk **indicators**⁶⁸ calculated in the Public Safety Assessment or PSA, **as mentioned earlier**⁶⁹ which also include the risk the defendant will commit New Criminal Activity or NCA, and commit New Violent Criminal Activity referred to as NVCA or "flag".

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NERA Bump⁷²= A Pretrial Monitoring level or PML recommendation **escalated**⁷³ one whole monitoring level if the current arrest is a NERA charge or a failure to appear.

Speedy Trial = a **provision**⁷⁴ of the new bail **reform**⁷⁵ law that limits the amount of time an eligible defendant may be incarcerated after detention hearing.

Direct Examination

Prosecutor: Inspector English¹, on the morning of June 6th, 2014², you and partner inspector Hildy Mulligan were dispatched to the home of Cindy Strauss at 1124 Brandon³ Street, is that correct?

Inspector: Yes, sir.

Prosecutor: And why were you called there?

Inspector: Ms. Strauss had failed to show⁴ at work, so one of her co-workers⁵, Bill Wilkerson, went to her house...uh...they were led in by the landlady⁶. When they entered they found a nude⁷ Ms. Strauss sprawled⁸ on the foot of the stairs⁹ that opened up into her bedroom. Based on her position, she had either fallen or was pushed down¹⁰ the stairs.

Prosecutor: Were you able to ascertain¹¹ the cause of death?

Inspector: According to the medical examiner¹², the cause of death was a broken neck¹³.

Prosecutor: Tell The Court¹⁴ what initially¹⁵ made you suspect that Eric Blunt¹⁶ might be Cindy Strauss' Killer?

Inspector: We usually look at a victim's best friends, spouse¹⁷, or family members. In this case, one of our clues¹⁸ was the presence, in plain view¹⁹, of multiple photographs of Ms. Strauss and Eric Blunt that indicated a very close and personal relationship.

Prosecutor: And what kind of pictures did you see²⁰?

Inspector: Pictures of them smiling, their arms around each other²¹, lying in bed together.

Prosecutor: And was that the only reason you suspected²² Eric Blunt?

Inspector: No. Several days earlier, I was investigating a murder²³ of a 50 year old pusher²⁴, Kevin Niars²⁵, uh, in the “Tenderloin district.” Now, in the course of this investigation, my partner²⁶ and I had the occasion of interviewing Mr. Blunt several times.

Prosecutor: How did the death²⁷ of a 50 year old pusher lead you to²⁸ Eric Blunt?

Inspector: On Kevin Niars’ Ipad there was an email addressed to²⁹ Mr. Blunt.

Prosecutor: And what’d this email say?

Inspector: It asked for fifty thousand³⁰ dollars or he would quote-unquote “go public.”³¹

Prosecutor: And did you infer³² from this that Kevin Niars was trying to blackmail³³ Eric Blunt?

Inspector: I did, sir.

Prosecutor: And when you asked Eric Blunt, what did he say about this email?

Inspector: Mr. Blunt said he never received the email and that he didn’t know who Kevin Niars was.

Prosecutor: And that was a lie. Wasn’t it³⁴?

Inspector: It was. My partner and I had interviewed Kevin Niars’ in-laws³⁵,

James and Betty³⁶ Harbuck. Now, they had a deceased daughter³⁷ who had

a son with Kevin Niars. This son was Eric Blunt. The Harbucks confirmed that Blunt did in fact³⁸ know that Kevin Niars was his biological³⁹ father.

Prosecutor: So when Eric Blunt denied⁴⁰ knowing who Kevin Niars was, that was a lie⁴¹.

Inspector: It was a lie. And then upon asking him⁴² again, he later admitted that he did know Kevin Niars was his biological father and that he had given him⁴³ money.

Prosecutor: Inspector, to recap⁴⁴, you first interviewed Eric Blunt in the murder of his biological father and then again in the death of Cindy Strauss⁴⁵, correct?

Inspector: Yes, sir.

Prosecutor: Don't you find that an odd⁴⁶ coincidence?

Inspector: No, I do not believe in coincidences, sir.

Prosecutor: Did Eric Blunt lie to you when you questioned him⁴⁷ about Cindy Strauss' death?

Inspector: He did. He said he had never slept with her⁴⁸ and that he hadn't seen her the night she was⁴⁹... the night she died. Excuse me⁵⁰.

Prosecutor: And both those statements were proved⁵¹ false by subsequent investigation?

Inspector: Yes, sir.

Prosecutor: I have no further questions.

Judge: Your witness, Mr. Daniels.

Defense Attorney: Inspector English, good morning.

Inspector: Good morning.

Defense Attorney: Inspector, did you ever⁵² consider the possibility that Eric Blunt didn't admit he knew Kevin Niars because he was embarrassed⁵³ or even ashamed⁵⁴ at his father, a drug addict⁵⁵ who was always asking him⁵⁶ for money?

Prosecutor: Objection. Calls for speculation⁵⁷.

Judge: Overruled⁵⁸.

Inspector: I never gave any thought⁵⁹ to what Blunt was thinking about Kevin Niars.

Defense Attorney: Is it correct that you didn't pursue⁶⁰ Mr.Blunt as a suspect⁶¹ in the death of Kevin Niars?

Inspector: Yes, sir.

Defense Attorney: Was that because you didn't think⁶² he committed the murder?

Inspector: He had an alibi⁶³. He was in Los Angeles the night of the murder.

Defense Attorney: So, you knew he couldn't have killed Mr.Niars. And as it turns out⁶⁴, a drug dealer named Chris Walton confessed to the murder and is now serving⁶⁵ his sentence⁶⁶ in San Quinton. Isn't that right⁶⁷?

Inspector: That is correct.

Defense Attorney: Now, in your earlier testimony⁶⁸ you stated⁶⁹ that you don't believe in coincidences. Is that correct?

Inspector: That is correct.

Defense Attorney: So, wouldn't you think⁷⁰ it was a coincidence that Mr. Blunt was a person of interest in two homicide investigations but had nothing to do with either⁷¹ death?

Inspector: I suppose so.

Defense Attorney: You suppose so. Do you think Mr. Blunt had something to do with both⁷² deaths?

Inspector: I didn't say that.

Defense Attorney: Well, what are you saying, inspector⁷³?

Inspector: I'm saying that the common denominator⁷⁴ in both deaths is Eric Blunt.

Defense Attorney: So, let me get this straight⁷⁵. You suspected Eric Blunt in the murder of his biological father and because someone else confessed to the murder you were predisposed⁷⁶ to the biased belief⁷⁷ that he murdered Cindy Strauss.

Prosecutor: Objection. He's badgering⁷⁸ the witness.

Defense Attorney: No further⁷⁹ questions.

Examination of the Plaintiff in Accident Case

Q: Good morning sir, please state your name and **spell it**¹ for the record.

A: My name is Frank Castro.

Q: Mr. Castro, where do you presently reside?

A: I live on **Willow Street number 199**², in the Bronx.

Q: **And**³...who do you live there with, Mr. Castro?

A: I live there with my wife and **four**⁴ children.

Q: Are you presently employed, Mr. Castro?

A: **Not at the present time**⁵. You know, I haven't been able to work since the accident; it left me in really **bad shape**⁶.

Q: Well, before the accident, **were you employed**⁷?

A: Oh yeah, of course.

Q: What **type**⁸ of work did you do?

A: I worked at a **print shop**⁹.

Q: And...how long **had you been working**¹⁰ at the print shop before the accident?

A: I had been working at that job for **more than**¹¹ seven years, and they really liked me there because I have always been an **honest man**¹² and very reliable in everything I do.

Q: Yes, I understand. Now Mr. Castro, at the time this accident occurred, was your job within **walking distance**¹³ from your home, or did you **have to take**¹⁴ a bus or train?

A: **Well**¹⁵, let me tell you, when I first started working at the print shop, I did live far away; that is why my wife and I decided **to move**¹⁶ to the Bronx.

Q: Very well, please go on.

A: We were very fortunate to find an apartment that was **five blocks**¹⁷ from the print shop, many times I had time to go home for lunch.

Q: **Would you say**¹⁸ that the print shop is located in a **residential**¹⁹ or in a commercial area?

A: Well, in that area there are some very nice houses, but there are more businesses than residences **so**²⁰ I'd say it's **a commercial zone**²¹.

Q: Now, Mr. Castro, I want you to **think back**²² to the morning of **April 4th, 1983**²³. Did you walk to work that day?

A: April fourth was the day of the accident...yeah.

Q: Yes, but did you walk to work that day?

A: Yeah, yeah, of course I went to work. I was **always on time**²⁴, I almost never missed work. When you have four children you can't **afford the luxury**²⁵ of **skipping work**²⁶ all the time. You know how hard it is to find a good job. **Besides**²⁷, I really enjoyed working for that company.

Q: On that occasion, sir, how did you **get to**²⁸ your job? Did you walk?

A: Yes, yes, I walked to work **as usual**²⁹.

Q: Mr. Castro, what were the **weather conditions**³⁰ on the morning of April 4th?

A: **Let's see**³¹...that was a sunny morning even though it was still a little bit **chilly**³².

Q: Now, Mr. Castro, please **tell us**³³ what happened when you got to the intersection of North and Pine streets, the intersection you **had to cross**³⁴ in order to get to the print shop.

A: Well, when I got to **the corner**³⁵ of **North and Pine**³⁶, I stopped for a second to wait for the **green light**³⁷; as soon as the light changed I started to cross.

I swear³⁸ I hadn't walked more than three steps when I felt a huge **blow**³⁹ from behind. I next felt terrible pain in **my left leg**⁴⁰. I don't know exactly what happened. I only know that I fell forward; I went **headlong**⁴¹ into the pavement.

Q: Did you lose consciousness **at this time**⁴² Mr. Castro?

A: No, I didn't lose consciousness, but I was a little bit **dazed**⁴³, yeah.

Q: Mr. Castro, what was the first thing you noticed as you were lying there, **face down**⁴⁴ on the street?

A: Well, I remember **feeling sharp pain**⁴⁵ in my left leg, I tried moving it but I couldn't.

Q: Did anyone come to your **assistance**⁴⁶ at this time?

A: **Quite a bit**⁴⁷ of people started gathering around me, and I **still**⁴⁸ couldn't move my leg. Finally, someone told me not to move, that an ambulance was **on its way**⁴⁹. I did **feel a little better**⁵⁰ when I heard this.

Q: And...did the ambulance **eventually**⁵¹ arrive?

A: Yes, the paramedics arrived. They very carefully picked me up and placed me on a **stretcher**⁵²; then, while I was still **strapped**⁵³ to the stretcher, they lifted me into the ambulance and took me to the emergency room.

Q: What happens...**I'm sorry**⁵⁴, what happened once you were brought into the emergency room?

A: The nurses got there...sorry, the nurses **cut off**⁵⁵ the left leg of the pants I was wearing and started **taking x-rays**⁵⁶ of my leg with a portable machine they had there. They also hooked my right arm up to an **IV**⁵⁷ and **drew**⁵⁸ some blood.

Q: **Go on**⁵⁹ Mr. Castro, what else did they do for you at the hospital?

A: Well, at that time the doctor arrived. He **injected me**⁶⁰ with some anesthesia and I fell asleep. I don't know what happened after that.

Q: Mr. Castro did you **lose consciousness**⁶¹ at any time before the anesthesia was administered to you?

A: No, I didn't lose consciousness at any moment, though the pain was **so**⁶² bad I almost cried.

Q: I understand. When you **came out**⁶³ of the anesthesia, what happened? How were you feeling at that time?

A: Uh, I felt my head was very heavy and I was kind of out of it. My leg was hurting a lot, **it was throbbing**⁶⁴. When I was able to sit up on the bed, I saw they had put **a cast**⁶⁵ on me all the way from my **big toe**⁶⁶ to my groin.

Q: And...**how long**⁶⁷ did you have to stay at the hospital Mr. Castro?

A: I was there for about eight days.

Q: During your stay at the hospital, what else did the doctors do for you, **if anything**⁶⁸?

A: They didn't do much, really. **The orthopedist**⁶⁹ went to see me the next day and explained that, according to **the x-rays**⁷⁰, it looked like I had a broken femur, tibia or **fibula**⁷¹, but that he wasn't sure yet.

Q: **Did they tell you**⁷² anything else at that time Mr. Castro?

A: Uh, as it turned out, I had in fact broken my **femur**⁷³. I also had a **dislocated**⁷⁴ knee **joint**⁷⁵.

Q: Did the doctor, the orthopedist, did he say anything to you at this time? **Anything else**⁷⁶?

A: He explained that **I had to try**⁷⁷ and leave my leg still because that was the function of the cast they had put on me.

Q: And...**what function**⁷⁸ was that?

A: Well, to **hold down**⁷⁹ the fractured bones, so that they could properly **fuse**⁸⁰ together.

Q: Did the doctor **prescribe**⁸¹ any type of medicine for you while you were in the hospital Mr. Castro?

A: I think the only medicine they gave me were some **painkillers**⁸², because I was in a lot of pain. My leg felt **swollen**⁸³.

Q: Do you remember if the doctor gave you any medications **to reduce**⁸⁴ the swelling in your leg?

A: Yes, I think so.

Q: And...aside from the swelling and the pain in your leg, Mr. Castro, did you experience any other **discomforts**⁸⁵ during the time you were in the hospital?

A: Well, I couldn't sleep at night.

Q: Why was that Mr. Castro? Was it because of the pain?

A: It was simply because lying in bed all day made my body **go numb**⁸⁶. I also began **to suffer**⁸⁷ from terrible back pain. I guess the back pain **was a result of**⁸⁸ being in bed **24 hours a day**⁸⁹.

Q: I understand. Thank you very much for your time Mr. Castro, we're all done⁹⁰
here.

A: You're welcome.

90 Scoring Units
