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BERGEN COUNTY
BOARD OF CHOSEN FREEHOLDERS
HACKENSACK, NEW JERSEY
WORK SESSION
WEDNESDAY, MARCH 16, 2016
COMMENCING AT 4:35 P.M.

FREEHOLDERS PRESENT:

- TRACY S. ZUR, ACTING CHAIRWOMAN
- JOHN A. FELICE, CHAIRMAN PRO TEMPORE
- DAVID L. GANZ
- DR. JOAN M. VOSS
- MAURA R. DeNICOLA
- THOMAS J. SULLIVAN

FREEHOLDERS ABSENT:

- STEVEN A. TANELLI, CHAIRMAN

KIM O. FURBACHER, C.C.R., R.M.R.
P.O. BOX 213
ROCHELLE PARK, NEW JERSEY 07662-0213
201-226-9218

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ALSO PRESENT:

LISA SCIANCALEPORE
CLERK TO THE BOARD

LARA RODRIGUEZ
DEPUTY CLERK TO THE BOARD

MICHAEL BELLUCCI
DEPUTY COUNTY ADMINISTRATOR

EDWARD J. FLORIO, ESQ.
COUNSEL TO THE BOARD

JAMES J. TEDESCO, III
COUNTY EXECUTIVE

JARED LAUTZ
DIRECTOR OF COMMUNICATIONS & POLICY

JOHN DANUBIO
DEPUTY DIRECTOR OF COMMUNICATIONS & POLICY
and DIRECTOR OF POLICY RESEARCH

KIM O. FURBACHER, C.C.R., R.M.R.
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I N D E X

PAGE NO.

4:37 PM PRESENTATION ON BAIL REFORM &
CENTRAL JUDICIAL PROCESSING 5

Carol Novey Catuogno, Senior Assistant Prosecutor
Trial Chief
Bergen County Prosecutor's Office

Leslie Darcy
Criminal Division Manager - Bergen Vicinage
Bergen County Prosecutor's Office

Gurbir Grewal, Acting Bergen County Prosecutor

John Higgins, First Assistant Prosecutor

Frank Puccio, Executive Assistant Prosecutor

Carol Petuna, Section Trial Chief
Bergen County Prosecutor's Office

Bonnie J. Mizdol, Bergen County Assignment Judge

Susan J. Steele, Criminal Division Presiding Judge

Laura A. Simoldoni, Trial Court Administrator

6:01 PM PUBLIC COMMENT 79

(No public wishing to comment)

6:01 PM CLOSED SESSION 80

1 ACTING CHAIRWOMAN ZUR: All right.
2 Seeing a quorum in the room, this meeting is called
3 to order at 4:35.

4 Before we begin our meeting, I ask that
5 everyone please take a moment to silence their
6 phones, including me.

7 Will the Clerk please read the Sen.
8 Byron Baer Open Public Meetings Act.

9 MS. SCIANCALEPORE: In accordance with
10 Section 5 of the Sen. Byron Baer Open Public Meetings
11 Act, adequate notice of this meeting has been
12 provided in the Annual Notice Schedule, which
13 contained the time, date, and location of this
14 meeting, copies of which Notices were forwarded to
15 the official County newspapers, to wit: The Herald
16 News; The Record; and the Star Ledger, and a copy of
17 which was posted on the bulletin board in the Bergen
18 County Justice Center and Administration Building,
19 One Bergen County Plaza, Hackensack, New Jersey, and
20 filed with the Office of the Bergen County Clerk.

21 ROLL CALL:

22 ACTING CHAIRWOMAN ZUR: Will the Clerk
23 please call the roll.

24 (At this point in the proceeding roll
25 call is taken with Freeholders DeNicola, Felice,

1 Ganz, Sullivan, Voss, and Acting Chairwoman Zur
2 present, Chairman Tanelli absent.)

3 PLEDGE OF ALLEGIANCE:

4 ACTING CHAIRWOMAN ZUR: Will you all
5 please rise, and will Judge Mizdol please lead us in
6 the Pledge.

7 (At this point in the proceeding all
8 rise for a recitation of the Pledge of Allegiance,
9 led by Judge Mizdol.)

10 ACTING CHAIRWOMAN ZUR: If you'll
11 please remain standing as we just observe a moment of
12 silence.

13 The Board of Chosen Freeholders offers
14 its condolences to Chief Financial Officer Joe
15 Luppino on the passing of his brother Sal. Our
16 thoughts and our prayers are with Sal's children,
17 Vincenzo, Francesca, and Angelina, and his close
18 friend, April Lanza, and the entire Luppino family.

19 (Whereupon a Moment of Silence is
20 observed.)

21 ACTING CHAIRWOMAN ZUR: Thank you.

22 4:37 PM PRESENTATION ON BAIL REFORM & CENTRAL

23 JUDICIAL PROCESSING:

24 ACTING CHAIRWOMAN ZUR: We now have our
25 presentation. It's indicated here that Senior

1 Assistant Prosecutor Carol Catuogno, the Trial Chief;
2 and the Division Manager, Leslie Darcy, from the
3 Criminal Division from the Bergen Vicinage, will be
4 presenting to us a very weighty presentation on bail
5 reform and its Central Judicial Processing, but I
6 believe the Prosecutor wishes to address us first.

7 COUNTY EXECUTIVE TEDESCO: Me.

8 ACTING CHAIRWOMAN ZUR: Oh, you do,
9 County Executive. That's why you're in the chair.

10 I'm so used to seeing you at the table,
11 County Executive.

12 COUNTY EXECUTIVE TEDESCO: Thank you,
13 Madam Vice-Chairwoman.

14 Thank you for allowing this
15 presentation to go forward. I am honored today to
16 have Judge Mizdol with us and the Prosecutor. You'll
17 hear from both of them, and then from some of their
18 staff.

19 But I thought this was important for
20 the Freeholder Board to hear about the justice reform
21 and/or bail reform, as its known, and the impacts
22 that this is going to have, not only from a financial
23 standpoint but from an operating standpoint from the
24 Prosecutor's Office, from the courts, and how we as a
25 legislative body are going to have to not only

1 understand it but deal with the consequences of this.

2 To my understanding, most of this is
3 all mandated but unfunded or the funding will not
4 come from anywhere else but the taxpayers of Bergen
5 County. There might be some small other nominal
6 money that comes forward, you'll hear that in the
7 presentation, but I felt that there's such a
8 financial impact as we go forward this year and
9 potentially next year, and this also will affect the
10 Sheriff and you'll hear that also. We talked about
11 potentially having this done at the budget hearing,
12 but we felt that it was more important to do it in a
13 meeting like this and not during the budget hearing.

14 So that as we've just gotten this
15 information over the last few weeks, we've adjusted
16 the budget somewhat, and that's causing some of the
17 delay -- not the delay but some of the other
18 workings, so that we can fit and put money into the
19 budget to accommodate the requests that are coming
20 forward, although with maybe not being able to
21 accommodate some of the things, and that's the big
22 issue is: To what level we can tolerate the
23 financial impacts to doing some of this in one fiscal
24 year?

25 So I thought it was important that you

1 heard it directly from all the folks, and they have a
2 good presentation, that all of you should be able to
3 walk away with a great understanding of what's going
4 to take place, but the impacts are fairly dramatic,
5 from an operating standpoint, certainly for the
6 Sheriff's Department, for the Prosecutor's Office and
7 for the judiciary, but the financial impact is also
8 something that is quite a lift for us.

9 So thank you for allowing us to come
10 before you today, and I think Judge Mizdol is going
11 to be the first one to talk.

12 ACTING CHAIRWOMAN ZUR: Thank you very
13 much.

14 JUDGE MIZDOL: Thank you.

15 Good afternoon.

16 FREEHOLDER GANZ: Good afternoon.

17 ACTING CHAIRWOMAN ZUR: Good afternoon,
18 your Honor.

19 JUDGE MIZDOL: Thank you all for
20 entertaining the presentation here today. There are
21 several stakeholders here today, and we are here in
22 unison, because we need to collaborate to make this
23 work. It is now legislation. It is not a choice on
24 our behalf, it is our duty to uphold that law, and it
25 takes effect on January 1st of 2017.

1 So with our group today, we have acting
2 Prosecutor Gurbir Grewal, who is going to address you
3 as well. We have his First Assistant, John Higgins.
4 We have his Section Trial Chief, Carol Petuna. We
5 have our Criminal Presiding Judge, Susan Steele; our
6 Trial Court Administrator, Laura Simoldoni; as well
7 as our Criminal Division Manager, Leslie Darcy.

8 Ms. Darcy and Ms. Catuogno will be
9 actually doing the presentation.

10 But, before we begin, I just want to
11 address very generally about this criminal justice
12 reform and indicate to you that the bedrock of our
13 criminal justice system in the United States is
14 twofold. And that twofold prong is, one, that those
15 who are charged are innocent unless they are proven
16 guilty beyond a reasonable doubt, and that those
17 parties are entitled to a speedy trial.

18 And right now, the system that we have
19 in place, with respect to bail, is a system that is
20 focused on dollars. So that if a criminal defendant
21 is able to post bail, they can be released, whether
22 or not they are, in essence, a danger or they are a
23 risk of flight.

24 This new system that is being
25 implemented, and it has been implemented in several

1 other states, and it's worked successfully in several
2 other states, is a risk-based assessment system,
3 which means that those who are most at risk, the
4 defendants who are a danger to the community, can be
5 held without bail, and those who are less at risk,
6 the minimal offenders who are in the jail who are
7 losing their families, their jobs and their homes as
8 a result of being incapable of posting even the most
9 minimum bails, \$500, \$2,500, are now not going to be
10 incarcerated but will be monitored by probation
11 officers on conditions of release. And you'll hear
12 more about that, but I want to talk about the impact.

13 I heard from the chief about the
14 statewide impact. I want to share that with you.

15 Statistics show that in New Jersey, an
16 arrest is made every 1 to 2 minutes. That equates to
17 831 arrests per day, or a little over 300,000 a year
18 in the state.

19 On any given day in New Jersey, there
20 are 15,000 people incarcerated in our county jails.

21 So, currently, as I speak to you today,
22 we have approximately 312 defendants in our County
23 Jail, pre-indictment and pretrial.

24 We have spoken with the Warden. We
25 know that it costs approximately \$99.78 per day per

1 inmate. So that means the county is spending
2 approximately \$31,000 a day or about \$11 million a
3 year to house those inmates.

4 So I'm going to end on that note and
5 leave this to Ms. Darcy and Ms. Catuogno to explain,
6 hopefully, how this will affect those numbers.

7 And I'm sorry, Mr. Grewal is going to
8 speak first. I apologize.

9 ACTING PROSECUTOR GREWAL: Thank you to
10 the Freeholders. Thank you to the County Executive.

11 There's no other way to put it, this is
12 going to be a sea change with respect to criminal
13 justice and how it's administered in this state. And
14 Leslie and Carol will go through the ins and outs of
15 it, but from a practical perspective, it's requiring
16 us to basically restructure the entire office.

17 And as Leslie and Carol will explain,
18 what essentially is going to happen is those initial
19 appearances that happen in the municipal courts on
20 warrants and on indicted cases, will move to
21 Hackensack. The initial appearances will have to
22 happen within 48 hours. They'll have to be bail
23 determinations made. And that's going to require a
24 tremendous amount of bodies from our office.

25 And the only thing I would ask is, you

1 know, we understand that there's budgetary
2 constraints. You know, we are attempting to work
3 within those budgetary constraints this year. It's
4 going to be much, much more, after January 1st, 2017,
5 when bail reform actually kicks in.

6 We are essentially moving to a New York
7 type system, where these appearances are going to
8 have to happen much more quickly.

9 The only thing I would leave you with
10 is that our authorized strength right now, based on
11 the 2006 resolution from the Freeholders, is 60
12 Prosecutors. We will likely be back here in the near
13 future asking you to increase that to 70. And I'm
14 not even sure 70 will be enough in the years to come,
15 given the strains that are going to be put on the
16 system and on the folks in our office.

17 On the law enforcement side, our
18 authorized strength is 125. I think we can work
19 within those parameters, but certainly on the
20 Prosecutor's side, where you're going to have the
21 initial appearances here, you're going to have bail
22 hearings, full blown-out bail hearings and arguments,
23 because we're moving from a monetary system to a
24 risk-based system, and then you're also going to have
25 a component called the "Early Disposition

1 Conference," which will be two weeks out from the
2 initial appearance where there will be an effort to
3 resolve cases. These are all additional steps being
4 put into place, into the pre-indictment part of the
5 criminal justice system, which requires staffing.

6 And from our perspective, realigning
7 might be a short-term Band-Aid, but it's not a
8 long-term solution. We are going to have to come
9 back to you at some point in the future to at least
10 ask for the authorization to increase our authorized
11 strength to a higher number. Whether we'll need all
12 those assistant prosecutors, you know, we'll see down
13 the road as this is implemented.

14 You know, to underscore how
15 unpredictable this is, we have 21 counties really
16 taking 21 different approaches to figure out how best
17 to address this, and it's going to be a fluid
18 process, and I'm sure we'll be back in the near
19 future asking for some more help. So I'll turn it
20 over to Carol and Leslie.

21 FREEHOLDER GANZ: I just have one
22 question at this point, if I may ask the Acting
23 Prosecutor?

24 ACTING CHAIRWOMAN ZUR: Yes,
25 Freeholder.

1 FREEHOLDER GANZ: There's clearly going
2 to be a need for additional people. What about
3 machinery and software?

4 ACTING PROSECUTOR GREWAL: We will need
5 that as well, because, you know, at the Early
6 Disposition Conferences, you're going to need the
7 ability to print court documents, plea papers,
8 charging documents. We're going to need clerical
9 staffing. It's going to be everything. And I thank
10 the Freeholder for that question, because the
11 clerical support that we're going to need to make
12 this function is going to be enormous as well.

13 FREEHOLDER GANZ: Thank you.

14 COUNTY EXECUTIVE TEDESCO: So the
15 Prosecutor, just to make sure that everybody
16 understands, when you talked about authorized head
17 count, that is outside of the authorized head count?

18 ACTING PROSECUTOR GREWAL: That's
19 right.

20 ACTING CHAIRWOMAN ZUR: Prosecutor, I
21 have one question regarding, in your clerical
22 staffing head count, what are you authorized as far
23 as there, and where are you with your FTEs on the
24 clerical side?

25 ACTING PROSECUTOR GREWAL: I'm going to

1 defer to Frank Puccio on the clerical.

2 MR. PUCCIO: The actual number of
3 clerical and support staff that we have --

4 ACTING CHAIRWOMAN ZUR: You have to
5 come over here, so Kim can hear you, and please state
6 your name for the record.

7 MR. PUCCIO: Frank Puccio, Executive
8 Assistant Prosecutor.

9 The maximum amount of clerical and
10 support staff that we can have is not controlled by
11 statute except for one title, "Agents." The maximum
12 we can have of those is 12, and we may not have a
13 need to go far above those.

14 So the only constraints on clerical
15 staff are what the Freeholders list as our authorized
16 strength. So informally we can deal with that.

17 What the Prosecutor was referring to as
18 to assistant prosecutors and investigators, that's
19 controlled by statute. The statute initially set the
20 numbers very low many, many years ago, with the
21 provision that they can always be increased by a
22 resolution of the Board of Freeholders and an order
23 from the Assignment Judge.

24 The last time we did that, that is, got
25 a resolution increasing the number by a resolution

1 from the Freeholders and an order from the assignment
2 judge was in 2006. So it hasn't been increased in
3 ten years. That's the more formal process that we'll
4 have to go through.

5 ACTING CHAIRWOMAN ZUR: Thank you very
6 much.

7 Freeholder Sullivan.

8 FREEHOLDER SULLIVAN: I just have a
9 question, Prosecutor.

10 The bail hearing has to be within
11 48 hours?

12 ACTING PROSECUTOR GREWAL: The initial
13 appearance has to be within 48 hours of the arrest,
14 and the bail hearing, I think there's a provision to
15 be three days within the initial arrest.

16 FREEHOLDER SULLIVAN: That will no
17 longer take place in the municipality?

18 ACTING PROSECUTOR GREWAL: No, it will
19 happen in Central Judicial Processing.

20 FREEHOLDER SULLIVAN: It's not like you
21 can put them in the car and bring them to the
22 municipality? Because it seems like they're shifting
23 the cost to us, where it really belongs on the
24 municipality.

25 PROSECUTOR GREWAL: That's essentially

1 what's happening, by law, not by us.

2 ACTING CHAIRWOMAN ZUR: A lot of this
3 is going to become clearer in the presentation. I
4 was fortunate to hear it last week up at the
5 Academies, when they presented it to law enforcement.

6 ACTING PROSECUTOR GREWAL: Right.

7 FREEHOLDER SULLIVAN: The way we do it
8 now, you put them in the car and you take them there?

9 ACTING PROSECUTOR GREWAL: Yes.

10 FREEHOLDER SULLIVAN: That can't
11 happen?

12 ACTING PROSECUTOR GREWAL: No, by law.

13 ACTING CHAIRWOMAN ZUR: Freeholder
14 DeNicola.

15 FREEHOLDER DeNICOLA: Have any other
16 counties implemented this yet?

17 ACTING PROSECUTOR GREWAL: When Carol
18 and Leslie speak to this, I think there are three
19 pilot counties who started this before this, and they
20 can tell you about the lessons learned, because
21 they've been talking to those counties as to the
22 problems they're encountering. I don't think it's
23 been, you know, super helpful, but I'll defer to you.

24 ACTING CHAIRWOMAN ZUR: Freeholder
25 Ganz, I'm just going to ask that we hold the

1 questions until the presentation, because I think the
2 presentation is actually going to highlight a lot of
3 issues.

4 FREEHOLDER GANZ: I would really like
5 to ask this one question.

6 ACTING CHAIRWOMAN ZUR: I would really
7 like to get the presentation done, because I am sure
8 it is very likely that it will be answered. Let's go
9 ahead with the presentation. The Prosecutor is not
10 going anywhere, right?

11 ACTING PROSECUTOR GREWAL: No, I'll be
12 here.

13 FREEHOLDER GANZ: This is actually
14 directed to both Judge Mizdol and the Prosecutor.

15 ACTING CHAIRWOMAN ZUR: All right. Go
16 ahead, Freeholder Ganz.

17 FREEHOLDER GANZ: Thank you.

18 This is to Judge Mizdol and the
19 Prosecutor.

20 Judge Mizdol is aware of what Fair Lawn
21 did a number of years ago with the televised. Is all
22 that being thrown out now with this?

23 JUDGE MIZDOL: No, it's not all being
24 thrown out, we're going to be doing a certain number
25 of appearances through those monitors to our

1 courthouse, and we've set that up. And we'll be
2 doing it the same way that we did it in Fair Lawn,
3 for a number of those appearances.

4 FREEHOLDER GANZ: Thank you.

5 JUDGE MIZDOL: Just to try to avoid the
6 transport back and forth of those defendants.

7 FREEHOLDER DeNICOLA: Yes.

8 ACTING CHAIRWOMAN ZUR: Thank you very
9 much.

10 Carol and Leslie.

11 MS. DARCY: Good afternoon, everyone.

12 FREEHOLDER GANZ: Good afternoon.

13 MS. DARCY: On behalf of the Criminal
14 Division and my presiding judge, the Assignment
15 Judge, and Trial Court Administrator, thank you for
16 inviting us, along with the Prosecutor's Office, to
17 give you this presentation.

18 As Judge Mizdol and the Prosecutor have
19 indicated, this represents an enormous sea change for
20 the way New Jersey does business.

21 This is not just a judiciary
22 initiative, this affects every stakeholder, and you
23 will see as we go through the presentation that it
24 really is going to take a concerted effort on
25 everyone's part to make sure that everything is

1 handled.

2 You're going to hear this afternoon
3 about terms like "CJP," "Centralized Judicial
4 Processing" court. You're going to hear about bail
5 reform, criminal justice reform.

6 I'm just curious by a show of hands if
7 anyone is familiar with those terms currently?

8 You sat through the presentation.

9 As somebody asked before, there are
10 three pilot counties, Passaic, Morris/Sussex, and
11 Camden, who have been tapped to sort of roll out this
12 process in practice. The law does not go into effect
13 until January 1st, but those counties are working
14 through some of the bugs and testing and staffing, so
15 that by the time it gets to Bergen, we'll be good to
16 go.

17 As some of you may have seen in the
18 paper, each of those pilot counties kicked off with a
19 bail summit, if you will, and we'll talk about that a
20 little bit later on, to introduce the main concepts
21 to the county, the stakeholders.

22 And one of the things that Carol and I
23 have seen, as we've done numerous trainings over the
24 last month or so, is that very few people are
25 informed, in fact, about what's coming in January.

1 And as I said, it is a huge sea change.

2 So without further ado, we're going to
3 talk a little bit about where we have been
4 historically, how the system works currently.

5 Carol is going to address the law
6 itself and what that means. Then we're going to talk
7 about where we go in January, and we're going to talk
8 about the interim process.

9 We're also going to talk about the risk
10 assessment and pretrial services. So that by the
11 conclusion of this presentation, you should be very
12 well informed as to where we're going.

13 So, historically, as everyone knows,
14 every defendant who is arrested currently has the
15 right to monetary bail.

16 Does it matter what the charge?

17 It could be a very high bail, but
18 defendants are entitled to bail.

19 If they can make it, then they're out
20 on the streets. If they don't, then they're held
21 within the jail.

22 Currently, we do not have any provision
23 for pretrial detention of high risk defendants. So,
24 you could have someone who commits a very heinous
25 crime, they pay their very high bail, and they are

1 out on the street with no supervision.

2 Conversely, you could have someone who
3 has a very low risk crime and a very low bail, and
4 they are stuck in jail.

5 There was a study done in 2013 that
6 said 12 percent of all defendants in New Jersey were
7 held on very low bails, \$2,500 or less, for very low
8 risk crimes.

9 Historically, we have operated on a
10 resource-based system. If you can afford the bail,
11 you're out. If you cannot, you're held in jail.

12 We are moving towards a risk-based
13 system.

14 Essentially, we have an obligation to
15 protect the community and to uphold the rights of the
16 accused, and that's where this law is going, and
17 that's what the law is based on.

18 Lastly, historically, the state has had
19 no speedy trial statute or rules. So once somebody
20 is arrested, they could wait weeks, months, or
21 sometimes even years before their case is indicted or
22 brought to trial.

23 This new law will change all of that.

24 Currently, if someone is arrested,
25 probable cause is determined, and the law enforcement

1 decides, after consultation with the judge, whether
2 there will be probable cause and whether there will
3 be issued a complaint warrant or a complaint summons.

4 If it's a complaint summons, which
5 means it's a lower risk type of crime, the person is
6 given a notice to report to my office across the
7 street for an intake interview for a five-day
8 application to determine public defender eligibility,
9 and then they are given a notice to report back to
10 their municipality for their first appearance.

11 If it is a complaint warrant, a call is
12 made to the judge and bail is set within 12 hours of
13 the arrest, and the person has the opportunity to
14 bail out of the charging agency, or, if they can't
15 bail out at that time, they're transported to the
16 Bergen County Jail and they still the opportunity to
17 bail out from the jail.

18 If they are still held in the jail,
19 their first appearance is held within 72 hours.
20 Currently in the jail, it's held on Mondays and
21 Thursdays, to satisfy the 72-hour rule. This is the
22 current process. This is all going to change.

23 This is a float chart just sort of
24 summarizing what it is that I just discussed: An
25 arrest. Probable cause is determined. If it's a

1 summons, their first appearance is at municipal
2 court; if a warrant is issued and they are not able
3 to make bail, their first appearance is held within
4 the jail within 72 hours.

5 Here is where we get to the headliner
6 of the whole presentation -- oh, I'm sorry, I skipped
7 ahead.

8 A special Supreme Court committee was
9 formed back in 2014. It was comprised of judges, of
10 prosecutors, of public defenders, of members of the
11 Attorney General's Office, of members of the ACLU.

12 They felt that the current criminal
13 justice system in New Jersey was unjust for the
14 reasons that we just stated before: There was no
15 protection for public safety, for law enforcement or
16 the community at-large. And those that were accused,
17 their rights were often violated because they could
18 not make the bail.

19 They came up in a March 2014 report
20 with a series of recommendations. These
21 recommendations then went to become part of the
22 legislation that was on the November 2014 ballot,
23 which 62 percent of New Jersey voters voted bail
24 reform and speedy trial.

25 From that, came centralized first

1 appearances for indictable crimes and a
2 pre-indictment event, which we're going to talk
3 about.

4 These are more court rules, and these
5 are the things that are going to go into effect
6 sooner than January 1st, in anticipation of how we
7 can get there and enforce the law come January.

8 MS. CATUOGNO: Good afternoon. I'm
9 Carol Catuogno from the Prosecutor's Office, and
10 thank you again for having you here today.

11 I'm going to talk a little bit about
12 the statute that has been passed but doesn't become
13 effective until January 1st of 2017.

14 As Leslie told you, that the Joint
15 Committee on Criminal Justice had a series of
16 recommendations. Essentially many of those
17 recommendations were adopted, not entirely all of
18 them, but some of them were adopted and ultimately
19 that became this piece of legislation which we refer
20 to as "Bail Reform and Speedy Trial" law.

21 So effective January 1st of 2017, the
22 statute will apply to anyone who the statute calls
23 "eligible defendant." And an "eligible defendant" is
24 any defendant against whom a complaint warrant has
25 issued.

1 So for those of you who may not know,
2 when someone is charged by an arresting agency, they
3 are charged on either a complaint warrant or a
4 complaint summons.

5 A complaint summons is served on them,
6 and they go and are given a return date to come back
7 and they leave the charging agency.

8 A complaint warrant requires not only,
9 of course, a judge to find probable cause, but a
10 judge to set bail on that complaint warrant.

11 Currently, the defendant can bail out
12 from the charging agency. And the defendant has a
13 right to have a bail to be set within 12 hours of
14 being charged.

15 So the bail reform and speedy trial
16 legislation is only going to apply to those
17 defendants who are charged on a complaint warrant
18 after January 1st of 2017. And, interestingly, this
19 applies to both people charged with indictable
20 offenses or disorderly persons offenses.

21 Of course, in New Jersey we don't have
22 a felony/misdemeanor distinction, we have matters
23 that are required to be presented to a grand jury or
24 indictables, and disorderly persons or petty
25 disorderly persons, which are noncriminal lesser

1 offenses, and this applies equally to both.

2 What the bail reform statute does to
3 these eligible defendants, it not only allows us, it
4 requires us to hold those defendants for a period of
5 time.

6 So, currently, when a bail is set
7 within 12 hours and a defendant can bail out from the
8 municipality; after January 1st of 2017, all
9 defendants who are charged on complaint warrants will
10 be lodged in the Bergen County Jail pending a release
11 decision from a judge.

12 That decision has to be made within
13 48 hours of the defendant being lodged in jail.

14 During that time, pretrial services,
15 which is going to be a portion of the court that
16 Leslie is going to talk about, is going to conduct a
17 risk assessment on that defendant, and ultimately
18 that defendant will come for their first appearance
19 at that centralized location that was required by the
20 committee and what we anticipate is going to be
21 required by court rule. And that is what we are
22 calling "Central Judicial Processing Court."

23 So all of these defendants, within
24 48 hours, will be transported to the superior court
25 where they will have their first appearance.

1 At that first appearance, a bail will
2 be set. And, of course, bail can be either a release
3 on one's own recognizance with conditions of a
4 nonmonetary nature, and we do that to a certain
5 extent now, where we ask people to surrender a
6 passport or not to have contact with the victim of a
7 crime.

8 The court can also set monetary bail,
9 which is the system we currently have. However, the
10 statute is fairly clear that it says the court should
11 not set a monetary amount to prevent the release of a
12 defendant. So the court is to look at setting an
13 amount, just enough to entice the defendant to come
14 back to court so that he or she can recoup their
15 money when they come back to court. They can also
16 set conditions on that monetary bail. And this is
17 the result of the referendum that Leslie referenced
18 that was on the ballot in 2014, which means that now
19 in the State of New Jersey, we can detain someone
20 without bail pending trial, which we were never
21 allowed to do before.

22 So the statute, when it lists the
23 purposes of bail reform, interestingly, prior to this
24 legislation, the purpose of bail in the State of New
25 Jersey was to ensure a defendant's return to court

1 and that was it.

2 So, now, not only, of course, is the
3 court concerned about ensuring that defendant's
4 return, but it's also allowed to factor into any
5 pretrial release decisions the safety of a community
6 or a specific person in the community.

7 And, lastly, it can consider whether or
8 not this defendant may be a risk to obstruct justice,
9 if he or she is released pending a trial.

10 Pretrial detention, which is one of the
11 largest changes in the law, a court ultimately has to
12 determine whether or not a defendant can be detained
13 pretrial, but that can only be done upon motion of
14 the state.

15 So the state, according to the statute,
16 may move to pretrial detention in a series of
17 enumerated offenses. This charge for NERA is any
18 charge that is subject to the No Early Release Act,
19 where someone has to serve 85 percent of their
20 sentence prior to becoming parole eligible, and, of
21 course, a list of other enumerated crimes; charge is
22 subject to the Graves Act, involves firearms charges.
23 And one of the most interesting aspects of this is
24 that a charge for a domestic violence offense is what
25 the statute says, it does not indicate that it has to

1 be a crime, which means presumably, one, the state
2 could move for detention even if a defendant is
3 charged only a domestic violence disorderly persons
4 offense.

5 A pretrial detention hearing has to be
6 held before a superior court judge. So presumably
7 the state is making its motion for detention at the
8 defendant's first appearance, and then that matter is
9 being set down within three days for a detention
10 hearing before a judge of the superior court.

11 Weekends and holidays are exempt in
12 this portion of the statute. They are not exempt in
13 the 48-hour rule.

14 At this hearing that has to be held
15 within three days, the state has to establish
16 probable cause and establish that the only way we can
17 ensure a defendant's return, the safety of the public
18 or a particular person, or that the defendant will
19 not obstruct justice, is by detaining him or her, and
20 we have to establish that by clear and convincing
21 evidence.

22 The defendant, at this hearing,
23 according to statute, may testify, may call and cross
24 examine witnesses, or rely simply on a proffer or his
25 or her attorney giving information to the court

1 themselves.

2 The Rules of Evidence would not apply
3 at these hearings. The statute tells us that.

4 One of the main concerns is the scope
5 of these hearings and what we are going to see at the
6 time the state is moving for detention. If a
7 defendant, for example, chooses to try to call a
8 victim to testify at a detention hearing, there is
9 nothing in the statute that guards against that. So
10 this is something that is, it's a broad statute.
11 We're looking to figure out how it is that we can
12 narrow the scope of that as prosecutors, and hope
13 that the court allows that as well.

14 We anticipate that this is going to
15 give rise to a series of appellate litigation, both
16 on the state side and on the defendant side, if they
17 are detained and they believe wrongfully so.

18 In addition to bail reform, there's a
19 speedy trial component to the statute.

20 Prior to this legislation going into
21 effect, a defendant had a right to have a trial
22 within a reasonable period of time, but "reasonable"
23 is a fairly amorphous standard. So this new
24 legislation, which also only applies to eligible
25 defendants, to defendants who are detained pending

1 trial after a detention hearing or who were unable to
2 make that monetary bail that is supposed to be enough
3 to entice them to come back. If they're detained
4 during trial, speedy trial laws do apply to them.
5 And what they tell us is, within 90 days of a
6 defendant being charged, the state has to present the
7 case and a grand jury has to return an indictment.
8 There's a possibility for a 45-day extension, but
9 that would require the court to allow us that
10 extension.

11 After the indictment is returned or
12 handed up, as we say, there's 180 days for the case
13 to commence trial. Of course, this 180 days is what
14 we call "includable time." The statute lists a
15 series of events that would be excluded. For
16 example, if a defendant were to make a statement to
17 the police and the defense attorney moves to suppress
18 the statement, meaning we can't use it because we
19 violated the defendant's Miranda warning, he filed a
20 motion, we would respond, there would be a hearing,
21 and the court would, of course, render a decision.
22 All of that time to be excludable under the statute.

23 The remedy for violations of either of
24 these is the release of the defendant. So we cannot
25 hold a defendant after these timeframes, if the

1 defendant is eligible and the statute applies to him
2 or her.

3 MS. DARCY: So as Carol indicated,
4 probably the largest and most shocking piece for most
5 people when we're doing this presentation is that
6 come January, if you are arrested on a complaint
7 warrant, you will not have the opportunity to bail
8 out, you must go to the Bergen County Jail.

9 So, we trained over 600 law enforcement
10 officers, and this obviously was of some concern,
11 especially to the smaller departments who maybe only
12 have one or two officers. You will automatically be
13 lodged in the Bergen County Jail on a complaint
14 warrant for up to 48 hours.

15 What we think that we will see, and
16 we're waiting for rules and guidelines, is that we
17 may see the number of complaint summonses increase
18 and the number of complaint warrants decrease, but
19 for now this is where we are.

20 Now, as Carol indicated, "Pretrial
21 Services" is a brand new division that is being
22 created in every county under the Criminal Division
23 umbrella.

24 We will be hiring approximately 22 new
25 staff members, consisting of an Assistant Criminal

1 Division Manager, two supervisors, and Court Service
2 Officers, both level 1 and level 2. These officers
3 will be conducting the risk assessments, determining
4 eligibility for public defender, and they will also
5 monitor the defendant's release for pretrial. It's
6 not probation. These defendants have not been found
7 guilty yet, this is pretrial services.

8 So let's talk for a moment about the
9 risk assessment that the pretrial services officers
10 are going to be conducting.

11 There was an outside agency that
12 developed this tool, and it is a tool and it measures
13 the risk. It was developed using the largest
14 database ever compiled. They looked at approximately
15 1.5 million cases from 300 different cities and
16 counties in federal judicial districts. It was
17 validated, and then a study specific to New Jersey
18 was done, with over 68,000 New Jersey defendants
19 during a one year period, and the study confirmed the
20 predicted validity of the cases; in other words, it
21 accurately classified the risk using this measure.

22 So they took a cross section of data.
23 It is currently being used by the entire State of
24 Arizona, the entire State of Kentucky, and, as of
25 January, the entire State of New Jersey. It is also

1 being used in eight other different states in 11
2 different counties.

3 This empirical data, they feel, is a
4 much fairer way to determine a risk, rather than
5 whether a defendant can post bail or not.

6 So the risk assessment is going to look
7 at nine different risk measures, and they vary, from:
8 Age at current arrest, to failure to appear, to prior
9 sentences at incarceration. This will be an
10 automated tool that will be done on a computer by my
11 officers.

12 The risk assessment is going to look at
13 two different things. It's going to look at the
14 likelihood that the defendant will fail to appear if
15 they are released, the likelihood if they are
16 released they will commit another crime, and the
17 likelihood that if they commit another crime, it will
18 be a violent crime.

19 So the risk assessment is going to spit
20 out two scores, one for failing to appear and one to
21 commit new criminal activity, and there will be a
22 violence indicator flag to highlight the third bullet
23 point here. So on a scale of 1 to 6, we will get two
24 different scores.

25 We will take this scores and plug it

1 into a decision-making framework, which will offer
2 the judge guidance for pretrial release conditions.

3 The risk assessment is a tool to
4 measure the risk. The decision-making framework is a
5 tool to manage the risk and to guide the judge in his
6 or her decision.

7 This is what the decision-making
8 framework looks like. It's sort of like a large
9 Excel spreadsheet. Across the top you have a score
10 of 1 to 6 for new criminal active, and down the
11 column you have a score of 1 to 6 on failure to
12 appear. Where the two scores meet is the recommended
13 pretrial release condition.

14 So if your score comes out as 1, 1,
15 then ROR would be the best course of action. If you
16 are a 6, 6 -- and you can't see this because it's not
17 in color, but these range from green all the way to
18 red -- and if you are a 6, 6, you are in the red and
19 considered a very high risk, and that would be when
20 the state would move for detention.

21 You'll also see some numbers that say
22 PML-1, PML-2, PML-3. That stands for "Pretrial
23 Release Monitoring Level."

24 As we said, another function of my
25 officers, in addition to running the risk assessment,

1 will be to monitor the defendants who are released
2 pretrial, and the different levels indicate the
3 various levels of monitoring. It could be that they
4 may have to call in once a week or they may have to
5 do face-to-face visits.

6 This is a sampling, a study that they
7 did with New Jersey defendants over a year period of
8 time. They took a look at all the defendants who
9 were charged on complaint warrants, they ran risk
10 assessments, and this is how it broke out. You can
11 see, close to 50 percent landed in the low risk
12 category and 21 percent landed in the red.

13 Interestingly to note is that this is a
14 sampling of all New Jersey defendants, but very
15 interesting is that this is also the exact percentage
16 of what would apply to Bergen defendants.

17 So we've been talking about bail reform
18 and where we're going as of January 1st, and all
19 these things that are going to take place and
20 everything that's going to change.

21 One of the crucial things, aside from
22 having to go to the jail, is that these first
23 appearances have to be held within 48 hours for those
24 people who are held in jail.

25 In order to get there, in order to

1 bridge the gap from where we are today, with all the
2 first appearances being held within the
3 municipalities, to bridge to where we need to get to,
4 we needed to create a Centralized Judicial Processing
5 court, which as the Prosecutor indicated before,
6 means that as of March 31st, first appearances for
7 all indictable cases will no longer be held in the
8 municipalities themselves, they will be held here
9 across the street in superior court.

10 So CJP starts on April 1st. It will be
11 held on Mondays, Wednesdays, and Fridays in the
12 Bergen County Courthouse, Courtroom No. 114. We will
13 see those people who are out on bail or who are on
14 summonses in the morning, and we will address the
15 defendants who are held in the jail in the afternoon
16 via video. The Hon. Roy McGeady, Presiding Judge of
17 Municipal Court, will preside. And, again, as of
18 March 31st, the municipalities will no longer handle
19 first appearances on indictable cases.

20 Special note is that as of January, as
21 Carol indicated, for those defendants held on
22 complaint warrants, the first appearance must be held
23 within 48 hours. So if you were arrested on a
24 Thursday night, we cannot wait until Monday morning
25 to do your first appearance, which means we will have

1 to have court on Saturdays. That court will be held
2 in the jail.

3 Until then, from now until January, the
4 municipal court judge will still continue to set bail
5 within the 12 hours and defendants will still have
6 the opportunity to bail out, either from the charging
7 agency or from the jail.

8 So how is it going to work?

9 Well, when somebody gets arrested, the
10 charging agency is going to provide a notice to them
11 approximately two weeks from the date of arrest
12 telling them that they need to report to Criminal
13 Case Management for an intake interview and then see
14 the judge for their first appearance.

15 Somebody who is in jail will be seen on
16 the very next CJP day, whether it's a Monday,
17 Wednesday or Friday. So we are still satisfying the
18 72-hour rule. Because, as of now, we just have to do
19 72 hours, it's not 48 hours until January.

20 So the defendant reports to Criminal
21 Case Management for their assigned intake. The
22 Public Defender's Office has agreed to represent or
23 stand in for all incarcerated defendants for the
24 purposes of a first appearance, whether they are
25 eligible or not. And they will stand in for all

1 defendants who are out on bail, as long as they are
2 eligible.

3 If someone fails to appear for their
4 first appearance, a bench warrant will be issued.
5 And then at their first appearance, they will be
6 given a second notice to return for an early
7 disposition court date.

8 Currently, as I mentioned in the
9 beginning of the presentation, we do not have that.
10 We have some cases that are filtered through a
11 pre-indictment court, but now everyone will be given
12 a date to return for an Early Disposition Conference.

13 This will be held before a superior
14 court judge, our Presiding Judge, Judge Steele. And
15 with the exception of murder and I think vehicular
16 homicide, every case will go through this. So it
17 will be an opportunity to have early case resolution.

18 So just to take a moment to address a
19 few judicial research concerns as we go forward.

20 We are using Courtroom 114. It is
21 actually a civil courtroom. It would be our hope
22 that at some point we had a dedicated CJP courtroom
23 with proper space for the public defenders to meet
24 with their clients, for space for enough family
25 members. We have no idea, we're anticipating 50-60

1 people on each Monday, Wednesday, and Friday. What
2 we did was we took a look at the number of filings
3 for all of Bergen County and we divided it so that we
4 tried to make it even; in other words, we didn't want
5 to have five of our largest towns be scheduled all
6 for the same day. So we divided it up equally, and
7 all of the charging agencies are aware of their
8 specific town, including the State Police and Port
9 Authority.

10 Another concern would be additional
11 backup municipal court judges. Judge McGeady is
12 presiding over all of these first appearances. He
13 does have three backup judges who could help in his
14 absence, but with the addition of Saturday court come
15 January, that will add additional strain.

16 As I mentioned, the Criminal Division
17 will be hiring 22 additional staff members. We need
18 to have these people in place by August. Currently
19 we do not have space for them.

20 And, lastly, the Saturday court events.
21 The Saturday court events are a defined
22 court event. And what it means by that is that the
23 defendant must be present, it must be viewable by the
24 public, and it must be recorded.

25 So, currently we have some concerns

1 about the jail's current video system. As I
2 mentioned, we're also doing CJP via video in the
3 afternoons, and the jail system is somewhat
4 antiquated. It relies on an ISDN line, which is sort
5 of a step up from dialup. And it would be
6 recommended that they increase the capacity to sort
7 of an IP network, which is what the judiciary
8 currently uses, to accommodate what's coming.

9 MS. CATUOGNO: So, as of January 1st,
10 2017, after a law enforcement officer decides whether
11 to place charges on a summons or a warrant, and a
12 judge issues process on the warrant, a defendant
13 who's released on a summons leaves from the charging
14 agency, but is given a CJP notice to return for their
15 first appearance at Central Judicial Processing
16 court. They have their first appearance, and then
17 they go to this Early Disposition Conference, which
18 would be three weeks out. So from five weeks from
19 the date of the charge, a defendant who is not
20 detained pretrial, would be at their Early
21 Disposition Conference.

22 After January 1st, if charged on a
23 complaint warrant, the defendant will be lodged in
24 the Bergen County Jail, where he or she will be held
25 up to 48 hours, until a risk assessment scale is

1 done, their first appearance is held. If there's a
2 detention hearing, there will be a detention hearing
3 within three days. And then they would go to their
4 Early Disposition Conference within three weeks from
5 now.

6 Between April 1st, when we start
7 Central Judicial Processing court here in Bergen
8 County, and January 1st, when bail reform kicks in,
9 is a period that we've come to call the "Interim
10 Process."

11 We are establishing a mechanism to meet
12 our obligations, once bail reform comes into play,
13 but we're operating under the current statutes until
14 January 1st.

15 So during the interim period, when an
16 individual is charged, those charges are put again on
17 either a complaint summons or a complaint warrant. A
18 summons, they are released, they come to CJP for
19 their first appearance in the superior court
20 building. Within two weeks they have their first
21 appearance, and they go to EDC or Early Disposition
22 Conference before Judge Steele.

23 During this interim period, if the
24 charges are put on a warrant, either the defendant
25 bailed out, because until January 1st, we still have

1 to have that defendant have bail set within 12 hours,
2 and he or she may still make bail from the charging
3 agency. They will be given a CJP notice to come back
4 in two weeks. Simply in the event they bail out,
5 they know to come back, and they're basically
6 following the summons tract.

7 But for those who are lodged in the
8 Bergen County Jail, his or her first appearance will
9 be at the next CJP date, and that's our practicing to
10 get ready for January 1st of 2017, so when there is a
11 consequence, if we fail to have that first appearance
12 in a timely fashion.

13 So, our police agencies and our
14 charging agencies, which includes of course the
15 Prosecutor's Office and the Sheriff's Department, are
16 generally determined whether to put charges on a
17 complaint summons or a complaint warrant pursuant to
18 court Rule 3:3-1. And that court rule has certain
19 instances where charges have to go on a warrant,
20 certain instances where they're presumed not to go on
21 a warrant, and then some flexibility if there's a
22 flight risk or a concern that the defendant may not
23 appear or the defendant has other warrants out for
24 his or her arrest at the time they are charged.

25 After probable cause is determined by a

1 complaint warrant or a municipal court judge or a
2 superior court judge, an officer then has to
3 determine the CJP date and give the individual the
4 notice to appear. Again, if they're not
5 incarcerated, they're going to come back in two
6 weeks; if they are, they're going to have their first
7 appearance on the very next CJP day.

8 The arresting agency then comes to the
9 Prosecutor's Office. The defendant is not
10 incarcerated and given a two-week return date for
11 their first appearance, during that time period, the
12 charging agency comes down to the Prosecutor's
13 Office, sees us, brings us everything that they have,
14 so we can evaluate the case, and we make a decision
15 as to whether retain the case for prosecution at the
16 county level or downgrade and remand the charges to
17 the municipal level for prosecution there.

18 That's going to continue to occur.

19 So, interestingly, all of the
20 defendants who come into CJP court, we're only going
21 to retain a portion of those cases to prosecute, but
22 it is our responsibility to do the first appearance
23 on all of them, even those we downgrade and remand.

24 If a defendant is lodged at the Bergen
25 County Jail, the arresting agency is going to be

1 required to lodge with the body at the jail three
2 packets, one for the jail, which they do now, because
3 the jail requires certain information before they
4 will take the defendant/inmate; one for the courts so
5 that the court can be prepared for the CJP appearance
6 on potentially the next day -- so if one is arrested
7 on a Tuesday night, they are actually going to have
8 their first appearance on Wednesday at CJP court --
9 and one for the Bergen County Prosecutor's Office, so
10 that we can make a screening determination as to
11 whether or not we plan to keep that case at least
12 initially and then be prepared for the first
13 appearance the next day.

14 So the responsibilities of the Bergen
15 County Prosecutor -- and these responsibilities in
16 particular are added to our current workload. So
17 these are not responsibilities we have had prior to
18 the implementation of Central Judicial Processing
19 court.

20 We don't necessarily anticipate that
21 our caseloads are going to go up, we anticipate,
22 however, that our number of court appearances is
23 surely going to go up, and that we have to do things
24 at a more swift pace than we have in the past.

25 So Central Judicial Processing court,

1 it's going to be first appearances on all defendants
2 who would normally come up to us for a review, and
3 those are all defendants that are charged with
4 indictable crimes or they're co-defendants, even if
5 they're only charged with a disorderly persons
6 offense, because we need to keep co-defendants
7 together.

8 So we are going to do first appearance
9 on all indictables, whether they're complaint
10 summonses or complaint warrants; defendants who have
11 a disorderly persons offense charge, but their
12 codefendant is charged with an indictable; and after
13 January 1st, 2017, all defendants who are charged
14 with DPs on warrants, even if this is not a DP we
15 would normally retain. So we will be doing the first
16 appearance, and then the charge will be prosecuted
17 back in municipal court. We're required to do this,
18 because this defendant is required to have a risk
19 assessment done, and the Pretrial Services Division,
20 of course, is located here in Hackensack, not in each
21 municipality.

22 We're projecting, based upon taking a
23 look at the numbers of filings of defendants who came
24 through the Bergen County Prosecutor's Office
25 screening unit in 2015, we anticipate doing

1 approximately 7,600 first appearances in a full year.
2 As I said, in addition, we don't do any of these now,
3 with the exception of homicides, we do do homicides
4 now. With the exception of homicides. So we are
5 projecting doing that many first appearances.

6 Interestingly, of all the defendants
7 who come through the county Prosecutor's Office, our
8 screening unit, we retain only about 45 percent of
9 those cases, which means 55 percent of them are sent
10 back to the municipality for prosecution.

11 As I have said, the court statute
12 requires that we do the first appearance for
13 defendants lodged in the Bergen County Jail, which,
14 after January 1st of 2017, will be everybody who's
15 charged on a complaint warrant. We're required by
16 statute to do that within 48 hours.

17 Chief Justice Rabner has made it clear
18 he would like this done within 24 hours. He thinks
19 that is more fair to the individuals who are being
20 charged.

21 So within the first 24 to 48 hours of a
22 defendant being lodged in the Bergen County Jail, the
23 Prosecutor's Office is going to pick up information
24 that has been dropped off by the charging agency,
25 what we're calling a "CJP packet." We're picking

1 that up. We're going to review it for an intake
2 decision, arguably an initial intake decision. We're
3 only going to have so much information because of the
4 quick turnaround. We're going to prepare a CJP
5 packet. We may have to redact arrest reports, so
6 they can be given to defense counsel for the first
7 appearance. And we need to be prepared to make a
8 bail recommendation.

9 Even at the municipal court level now,
10 first appearances are not adversarial proceedings.

11 A bail is set by a judge, after a
12 conversation with a law enforcement officer, within
13 12 hours of the charge being filed. The first
14 appearance is more of a ministerial event.

15 After April 1st, all of the defendants
16 who are coming before the CJP court, even though they
17 had a bail set, because we're still operating under
18 the old statute structure, they're going to be
19 seeking, arguably, a bail review. So we need to be
20 prepared, because now all of a sudden these very
21 ministerial first appearances have become adversarial
22 proceedings.

23 After January 1st, 2017, there will be
24 no bail set. So the bail is being set in the
25 courtroom at the first appearance. So we need to

1 have criminal case histories available, both for the
2 state to consult, as well as defense counsel, and
3 some information, even if it's an initial preliminary
4 investigative report, so that both sides can make an
5 argument to the court, who, using the risk assessment
6 tool and the information we provide, will then make a
7 just determination as to the release of that
8 defendant.

9 Currently, 54 percent of defendants are
10 charged on complaint and warrants in Bergen County.
11 So, as I said, you're either charged on a complaint
12 warrant or a complaint summons.

13 Taking a look at 2015, we had a larger
14 portion of defendants charged on complaint warrants
15 who, under this new statute, would then of course be
16 automatically lodged in the Bergen County Jail.

17 Under these current rules, the
18 legislation, which is intended to decrease the Bergen
19 County Jail population of pretrial detainees, would
20 have an initial spike. So you'd have more people
21 coming in for a short period of time and, arguably,
22 less long-term stays pending trial.

23 In addition, we have heard that that
24 48 hours is required by statute and does not exclude
25 holidays and weekends.

1 So we anticipate having to staff a CJP
2 court for jail cases only. We don't anticipate
3 having people who are not incarcerated come in on
4 these off days, but we do have to staff Saturday
5 court, as well as holiday.

6 There are so many variables when we try
7 to project what is going to happen in terms of
8 numbers, and among those are anticipated revisions to
9 Rule 3:3-1. And, as I said, that's the court rule
10 that instructs when charges are to go on a complaint
11 warrant and when they're to go on a complaint
12 summons. We are told that there's revisions coming
13 to the court rule, that it's in committee. We
14 haven't seen any of the drafts.

15 We can only anticipate, in keeping with
16 the legislation, that those rules will give more
17 flexibility in terms of when to sign a complaint
18 summons or perhaps even require, in certain
19 instances, that a complaint summons be filed as
20 opposed to a complaint warrant.

21 So when trying to project what we're
22 looking at, it's difficult to say.

23 In addition, the statute itself
24 requires the Attorney General to issue guidelines on
25 when to issue a summons versus a warrant for law

1 enforcement.

2 One of the approaches that has been
3 discussed is something called "Complaint Approval."
4 And there are certain jurisdictions which do this
5 now, which means that anytime a law enforcement
6 officer seeks an application for a complaint warrant,
7 that an assistant prosector has to approve that
8 before the law enforcement officer can sign the
9 warrant and make application to the court to issue
10 that warrant.

11 Based on our current numbers and the
12 current court rules, we would project anywhere
13 between 4,000 and 7,000 requests a year, which I know
14 is a huge span, but it depends on what we're talking
15 about in terms of complaint approval. There are some
16 counties now who anytime a law enforcement agency
17 issues an indictable complaint, whether it be a
18 warrant or a summons, they have to seek an assistant
19 prosecutor's approval. One of the other approaches
20 is only when the law enforcement officer is seeking a
21 warrant do they have to have approval, and that's why
22 there's such a disparity in that number.

23 But even at 4,000, which is the low
24 number, 4,000 requests, that is a staggering amount
25 of phone calls that we don't already get. And,

1 remember, assistant prosecutors are already on call
2 all the time, because we act as legal advisors to
3 every municipality and every law enforcement agency
4 in the county.

5 Breaking that number down, we're
6 between 77 and 135 calls a week. I will say that
7 there are certain counties that give stipends to
8 assistant prosecutors who volunteer to do that duty.
9 And Somerset County just recently reported to us that
10 they pay \$500 a week to have one assistant prosecutor
11 on call, and they receive anywhere between 30 and 50
12 calls a week for the whole week, which is a bit of a
13 dramatic difference.

14 In addition, we are going to have to be
15 able to turn around CJP discovery. We don't really
16 know what that means yet, because the Attorney
17 General hasn't told us what he anticipates we're
18 going to be turning over at the first appearance, but
19 we do believe that at least on jail cases, it is
20 going to be, as I said, an initial or preliminary
21 investigative report, of course copies of the
22 complaint, and the defendant's criminal case history.

23 We have never done detention hearings,
24 because we've never had an opportunity to detain a
25 defendant pretrial. So the county Prosecutor's

1 Office, within three days of making our motion,
2 presumably at the first appearance, there are
3 provisions in the statute that would allow us to make
4 it later.

5 So, for instance, if a defendant was
6 initially released and then something else occurred,
7 we can move for pretrial detention later on. But,
8 generally speaking, we contemplate that these are
9 going to be done at the first appearance, the motion.

10 Within three days, we have a detention
11 hearing, which would be five days from the charge.
12 We anticipate that this is going to require law
13 enforcement testimony. The Rules of Evidence don't
14 apply, but the court may choose, rather than rely on
15 a proffer, they may choose to hear from a law
16 enforcement witness as to the nature of the
17 investigation and the circumstances of the crime.

18 As I said earlier, the good news,
19 especially for the superior court judges, because
20 they preside over these, is that those will be
21 weekdays only, not weekends. This requires of the
22 Prosecutor's Office, however, production of
23 discovery, witnesses, AP prep, and court time.

24 The interesting thing about the numbers
25 that Leslie showed on the risk assessment, while

1 there's approximately 50 percent of our criminal
2 defendants projected to be eligible for release on
3 their own recognizance or for that low level,
4 pretrial monitoring level 1, 20 percent are targeted
5 as potential detainees, which is a pretty high
6 number. And if you look at our numbers for 2015 of
7 the defendants we kept, that would be about 600
8 detention hearings a year that we currently don't do.

9 Three weeks after a defendant's first
10 appearance, as Leslie said, all cases, except for
11 homicides and fatal accidents, are going to be listed
12 for early disposition court, which means between 3
13 and 5 weeks from the charge, depending on whether or
14 not they're incarcerated, the Prosecutor's Office has
15 to be in a position to make an informed, intelligent,
16 and just plea offer to that defendant. If we are
17 not, then this Early Disposition Conference will have
18 no meaning. So it requires us and the law
19 enforcement agencies with whom we work to collect
20 information, get it to us, and process it more
21 quickly than we currently do.

22 We do have a pre-indictment plea court
23 now, and those cases are calendared at our request.
24 So, currently, the state decides which cases to put
25 on and which cases not to put on whenever our

1 investigation is concluded sufficiently so we can
2 tender a pre-indictment plea offer. We have
3 approximately 100 of those listed each month. We
4 anticipate that we're going to have 68 Early
5 Disposition Conferences each week, for a total of I
6 think 270 plus per month. Again, increasing that
7 number almost threefold.

8 As I said, the projections are
9 difficult, because we haven't seen the court rules
10 and we haven't seen the Attorney General guidelines,
11 but we do know that at least the initial court
12 appearances, the first appearances at CJP court,
13 which have not in the past been our responsibility,
14 are our responsibility. And that is going to stress
15 our staff, as the Prosecutor indicated.

16 I'd like to thank you all for your
17 time.

18 ACTING CHAIRWOMAN ZUR: Thank you so
19 much.

20 (Applause.)

21 FREEHOLDER DeNICOLA: I don't know if I
22 should applaud.

23 ACTING CHAIRWOMAN ZUR: Sure, exactly,
24 it doesn't feel very jovial.

25 I'm sure we all have a ton of questions

1 and our heads are swimming from the amount of
2 information that we just absorbed.

3 I have one that you didn't touch on,
4 just to start things off. The impact on probation,
5 as far as the supervision, who is going to be taking
6 care of that and who pays for it?

7 MS. DARCY: Well, probation is not
8 involved in this at all.

9 ACTING CHAIRWOMAN ZUR: So who is doing
10 the monitoring on that chart of the middle people?

11 MS. DARCY: The monitoring will fall to
12 what they call "Court Services Officers 1 and 2."
13 This is a job title that is currently not being used
14 in the Criminal Division. These are the officers
15 that will come on and be trained, they will be
16 running the risk assessment, and then they will be
17 doing the monitoring, and that will fall under the
18 Criminal Division, not probation.

19 ACTING CHAIRWOMAN ZUR: So the Criminal
20 Division is paid by whom?

21 MS. DARCY: The state.

22 ACTING CHAIRWOMAN ZUR: So the state is
23 going to be absorbing the cost for that?

24 MS. DARCY: Correct.

25 ACTING CHAIRWOMAN ZUR: And the state

1 is also absorbing the cost for the additional 22
2 staff members that you indicated?

3 MS. DARCY: Correct, but not for the
4 space where they're going to sit.

5 ACTING CHAIRWOMAN ZUR: Who is going to
6 be paying for the court on the weekends?

7 MS. SIMOLDONI: At this time, I'm
8 waiting for an answer back from Trenton regarding
9 judicial resources, for who will be covering the
10 Saturday court. But as far as the pretrial services
11 people, I know there will be staff that will come out
12 of the state budget for that, for the monitoring,
13 court clerk.

14 ACTING CHAIRWOMAN ZUR: But as far as
15 the court, that is Judge McGeady and Central
16 Municipal Court staff, the county pays for the
17 Central Municipal Court judges?

18 MS. SIMOLDONI: The Central Municipal
19 Court judges aren't the judges, my understanding,
20 that will be doing this. It will be Judge McGeady.

21 ACTING CHAIRWOMAN ZUR: But Judge
22 McGeady is Central Municipal Court. He's sitting in
23 that capacity, not in Central Municipal Court
24 capacity?

25 MS. CATUOGNO: Correct, he's sitting as

1 the Presiding Municipal Court Judge.

2 I think what might partially answer
3 your question is that we anticipate Saturday court
4 being held at the Bergen County Jail in the courtroom
5 there. So in terms we're not looking to open up the
6 courthouse. This is only going to involve defendants
7 who are currently incarcerated and who we are seeing
8 for their first appearance, so we can get them in and
9 out within the mandated period of time.

10 So, Freeholder, it requires jail staff
11 and it requires prosecutor staff and it requires
12 obviously a judge, and I leave that to you all to
13 work out who's paying the judge. And it requires
14 arguably court staff and potentially support staff
15 for the Prosecutor's Office. But in terms of the
16 building and that kind of stuff, we don't anticipate
17 that opening.

18 And I think, Leslie, you had indicated
19 earlier, the courthouse at the jail does qualify as
20 an open court, because there is the ability for
21 persons who want to observe to stand in the lobby of
22 the jail and view it on video.

23 ACTING CHAIRWOMAN ZUR: I have like a
24 dozen more questions, but I'll open it up to other
25 people.

1 Anyone?

2 David.

3 FREEHOLDER GANZ: I just have one.
4 Will you all agree that if we have additional
5 questions, as I believe we will, and if we tender
6 them to you in writing, that you'll respond to them
7 in a timely fashion?

8 MS. DARCY: Absolutely.

9 FREEHOLDER GANZ: We can't take nods of
10 the head for the record.

11 JUDGE MIZDOL: Absolutely.

12 MS. SIMOLDONI: Yes.

13 FREEHOLDER GANZ: Thank you, Judge
14 Mizdol.

15 ACTING CHAIRWOMAN ZUR: I have a couple
16 more.

17 The speedy trial piece of this and the
18 regulations that have now been proffered as far as
19 those are concerned, how much of the Prosecutor's
20 current caseload goes beyond those deadlines, and,
21 therefore, how much of an additional burden do you
22 anticipate that putting on the Prosecutor's Office?

23 MS. CATUOGNO: Well, virtually all of
24 our cases currently go beyond those. And it's
25 difficult to say, because it's going to depend on how

1 many defendants are held in after January 1st of
2 2017.

3 What is going to happen at the change
4 of the year is that we're going to be operating under
5 two systems simultaneously. We're going to have the
6 pre-2017 defendants, who even may be incarcerated,
7 who do not have the benefit or the protections of the
8 speedy trial statute. So, if you are arrested on
9 January 2nd of 2017, you are entitled to the
10 protections of a speedy trial, but your friend who
11 was arrested in November of 2016 is not. So we're
12 going to have two separate, I won't say
13 classifications, but two separate case types, those
14 that are subject to speedy trial and those that are
15 not.

16 So it's very difficult to answer the
17 question. Currently the answer is we need to move
18 faster, across-the-board, that's for sure. But
19 because those only apply to defendants who are
20 incarcerated, that may require us to look at other
21 decisions, when it comes to bail and detention. It
22 may require us to put our resources to the
23 post-January 1st, 2017 arrests, although we don't
24 want to ignore the defendants who have been arrested
25 and whose cases, whether they're incarcerated or not,

1 have been lingering longer. So I don't have a good
2 answer for your question, I apologize, Freeholder,
3 it's sort of yet to be seen. There's so many
4 variables.

5 ACTING CHAIRWOMAN ZUR: Speaking of
6 variables, one of the things that was giving me a
7 little bit of solace maybe, that some of the burden
8 would be taken off of our municipalities as far as
9 their judges needing to handle bail in the middle of
10 the night.

11 But one of the concerns I do have is if
12 you see a spike in cases being written on summonses
13 rather than on warrants, now you're going to see some
14 officers who are writing more summonses of cases that
15 they may have written on warrants, and, therefore,
16 you're going to see municipal prosecutors less
17 willing or able to plea bargain those cases out.
18 That's going to, therefore, put additional burden on
19 municipalities, correct? Am I reading that
20 correctly?

21 MS. CATUOGNO: I'm not sure. I think
22 that you are probably right, and we anticipate that
23 there's going to be changes to the rules, so that
24 would make sense, when you're looking at the purposes
25 behind the statute, to decrease the number of

1 complaint warrants and increase the number of
2 complaint summonses issued. But those complaint
3 summonses, the ones that we are talking about, are
4 just charging indictables. So they are going to come
5 up here.

6 So the municipal court, aside from
7 actually having to accept the filing from the police
8 and send the complaints up to the Criminal Division,
9 the municipal court, unless we downgrade or remand
10 the case, is essentially not going to have anything
11 to do with it after it leaves the charging agency.

12 JUDGE MIZDOL: Even though it's on a
13 summons, which is very unusable.

14 FREEHOLDER DeNICOLA: Interesting.

15 ACTING CHAIRWOMAN ZUR: Right. I'm
16 sorry to be wearing my municipal prosecutor hat for a
17 moment, but if I'm seeing a charge that the officer
18 utilized his discretion already in writing it on a
19 summons and charging it on that lower level, I'm less
20 likely to want to plea bargain it.

21 MS. CATUOGNO: I'm sorry, you're
22 talking about a charge that comes out of the DP from
23 its inception?

24 ACTING CHAIRWOMAN ZUR: Exactly.

25 So that is going to cause a backlog on

1 the municipal court level, correct, potentially?

2 MS. CATUOGNO: Potentially it could.

3 If a municipal prosecutor is looking at a charge
4 that's on a summons and they're looking to plead it
5 to the charge as is charged, some may say what is the
6 incentive for a defendant to enter a plea, and you
7 might see a spike in trials.

8 Now, similarly, you may say if a
9 defendant is not incarcerated pending the trial even
10 in a county level, that there may be less of an
11 impetus to dispose of the case earlier.

12 FREEHOLDER DeNICOLA: Can I ask a
13 question?

14 ACTING CHAIRWOMAN ZUR: Yes, please.

15 FREEHOLDER DeNICOLA: It also sounds
16 like there's going to be an additional burden -- how
17 are you, and thank you for this presentation,
18 although I'm not sure that we should be thanking
19 anybody for what's happening here right now -- but it
20 does seem like there will be an additional burden on
21 the municipalities in terms of law enforcement too,
22 because the arresting agency will have a greater
23 responsibility or time and effort in dealing with
24 your office, and then the possibility of testimony
25 initially as well is going to be time or overtime,

1 depending on when it takes place.

2 MS. CATUOGNO: I think you are reading
3 this accurately. And Leslie made reference to the
4 fact that we have been talking to a lot of different
5 groups of people, we have spent the last number of
6 weeks. And the first group we met with were the
7 police chiefs, and they had the exact same reaction
8 as you did, Freeholder DeNicola. The police chiefs,
9 we've met with over 600 law enforcement officers from
10 all the different agencies within the county,
11 including the State Police, who are trying to figure
12 out how they're going to deal with all of the
13 counties in which they operate.

14 We met with the entire staff of the
15 Prosecutor's Office, both APs and law enforcement.
16 We have met with the municipal court administrators,
17 the municipal court judges. We've met with you.
18 Tomorrow we're meeting with the Bergen County Bar
19 Association. The Public Defender's Office is still
20 on our agenda. Who else? Municipal court judges and
21 the superior court judges.

22 MS. DARCY: They wear a different suit.

23 MS. CATUOGNO: But you are absolutely
24 right, the arresting agencies, especially our smaller
25 departments -- interestingly, the larger departments

1 say, "We have too much volume to accommodate this,"
2 and the smaller departments say, "We don't have
3 enough people to accommodate this." And if they
4 effect an arrest and the defendant can't bail out,
5 that defendant has to be transferred to the Bergen
6 County Jail.

7 Some of these departments currently
8 don't have the manpower overnight to do that. That's
9 going to have to change. They're going to have an
10 arrest report or an initial preliminary investigative
11 report that is filed with the body at the Bergen
12 County Jail.

13 FREEHOLDER DeNICOLA: Yes. That
14 doesn't happen.

15 MS. CATUOGNO: Which means they're
16 going to have to stop what they're doing and write a
17 report.

18 But the problem is, we can't have a
19 defendant show up at their first appearance and
20 expect to represent the state, nor can a defense
21 attorney expect to represent their client, if nobody
22 knows what the case is about. So this has a
23 tremendous ripple effect within the municipal
24 departments and within our own agency. Our law
25 enforcement officers who are affecting arrests on

1 some very complicated cases are going to have to be
2 able to produce something fairly quickly for us, so
3 that we can stand up in court and represent the case.

4 ACTING CHAIRWOMAN ZUR: You are
5 expecting overtime to spike in municipal police
6 departments as well as in your office?

7 MS. CATUOGNO: I would expect it, yes,
8 and I was extraordinarily unpopular with the police
9 chiefs when I suggested that, but I think it will.

10 MS. DARCY: I will tell you that come
11 January, it is anticipated we are moving in a brand
12 new direction involving technology. And in July, our
13 law enforcement and the Prosecutor's Office and the
14 municipal court administrators and the judges and
15 everybody that it affects will be trained on this new
16 technology, which should ease the burden somewhat.
17 Everything will become automated. There will be no
18 longer faxing up or making copies in different
19 packets. It will all be automated. They're working
20 very closely to link the systems now between ECDR and
21 the Live Scan, which is how the law enforcement
22 fingerprints. It will automatically link the CCH,
23 the Criminal Case History will populate at a push of
24 a button, a risk assessment will be run at another
25 push of the bottom. The information will be sent to

1 the jail, to the Prosecutor's Office, to the court.
2 So they are working diligently on it, but until we
3 get to January, it will be somewhat cumbersome.

4 ACTING CHAIRWOMAN ZUR: Freeholder
5 Ganz.

6 FREEHOLDER GANZ: I would like to talk
7 about pushing buttons, and, if I may, has anything
8 like this ever been done before? And, if so, how
9 long did it take for the software and the machinery
10 to catch up with the concept?

11 MS. DARCY: Well, I don't know that
12 anything's been done previously in New Jersey. As I
13 indicated --

14 FREEHOLDER GANZ: Anywhere?

15 MS. DARCY: Well, I don't know the
16 answer to that.

17 Potentially, in the other states that
18 are running the risk assessments, I know that the
19 judiciary spent sometime in Arizona and Kentucky
20 observing. So I don't know specifically the answer
21 to your question, but I will tell you that the pilot
22 counties are getting the technology sooner than we
23 are, so that they can roll it out to test the bugs,
24 so that we should have some more information come
25 fall.

1 FREEHOLDER GANZ: And if it's not ready
2 by January 1st, is there a contingency plan?

3 MS. DARCY: It will be.

4 It is our hope that in the fall we will
5 have some sort of Bail Reform Summit, where we will
6 have the Chief Justice and the Acting Administrator
7 Director to grant members of the AOC who can speak
8 about the new technology, we would like to have some
9 sort of summit where we can have all of you and the
10 mayors and the police chiefs, so that everybody is
11 informed about what's coming.

12 FREEHOLDER GANZ: And, if I may, one
13 final question, with respect to this.

14 What is the estimated cost to the
15 municipalities of the amount of overtime that it's
16 going to take, in order to transport the defendants
17 that are charged, from their home county to home city
18 to Hackensack and back again? I think that there's
19 minimum charge, generally speaking, of four hours in
20 most of the contracts.

21 MS. CATUOGNO: You're talking about for
22 overtime?

23 FREEHOLDER GANZ: Yes.

24 MS. CATUOGNO: I don't know that any of
25 the municipal departments have been able to

1 extrapolate out and get a number. A large part of
2 that depends. It's going to vary dramatically.
3 Certain departments may not incur any overtime,
4 because they are 24 hour departments and have many
5 people on the road, other departments may not.

6 I also believe the Bergen County
7 Sheriff picks up, I'm not sure how that works out,
8 but I know he has a relationship with the municipal
9 departments that he assists with his staff to pick up
10 folks.

11 FREEHOLDER GANZ: He gets paid for
12 doing that.

13 MS. CATUOGNO: I'm sure he does, sir.

14 ACTING CHAIRWOMAN ZUR: I'm sure we'll
15 hear some of that in their budget presentation as
16 well, as far as the impacts that this is going to
17 have on their overtime.

18 FREEHOLDER GANZ: Who are we going to
19 get numbers from to be able to have a reliable
20 statistic as to how many dollars in overtime were
21 spent this year, which would probably be as good a
22 measure as any to track what we know in the future?

23 MR. PUCCIO: Overtime for
24 municipalities? No, we have no idea.

25 MR. BELLUCCI: Maybe the pilot towns.

1 ACTING CHAIRWOMAN ZUR: I think one of
2 the statistics that it might be interesting for our
3 help for budgetary purposes is, of the 54 percent
4 that were written on complaint warrants last year, to
5 look at how many were handled ROR or who never went
6 to jail, so we can then offset that against what
7 maybe we can anticipate this year.

8 FREEHOLDER FELICE: Well, I think the
9 County Executive is working on those very numbers, so
10 that when he presents the budget, because it's going
11 to go December 31st, so you're going to pro rate what
12 you think that additional cost might be, if I'm not
13 mistaken.

14 COUNTY EXECUTIVE TEDESCO: So to answer
15 or not answer the question, I need to sit with the
16 Sheriff again, I need to sit with the Prosecutor
17 again. I've had one face-to-face meeting with the
18 Prosecutor on the bail reform issue, and just a
19 conversation with the Sheriff on the bail reform
20 issue.

21 So, Judge Mizdol is going to take two
22 minutes to give you another piece of information here
23 that is important for you to hear. You're not going
24 to like what you hear, but it's important that you
25 hear it, because while this isn't directly tied to

1 bail reform, it's tied to the court, and safety and
2 security in the courts.

3 So it's important that you hear what
4 the presiding judge has to say to you that's coming
5 out of the state for a requirement that, while it's
6 not tied to bail reform, it's all in the same package
7 of the judicial system and the costs to implement
8 that.

9 And so to try to answer Freeholder
10 Ganz's question, we will reach out to some of our
11 friends in law enforcement and try to get some
12 information. I can tell you, as they discussed in
13 the town of Paramus, while it's a larger department,
14 they had the ability to transport the prisoners to
15 and from the jail. The arrangement the Sheriff has
16 today with in the smaller departments, when there's
17 only two members on duty, he has an agreement with
18 them that he will pick up and transport for those
19 smaller departments so that they can retain coverage
20 in their local municipalities.

21 Now, if that grows exponentially, there
22 probably needs to be something looked at from the
23 Sheriff's side, because either he's going to have
24 more men on duty or he's going to have to have
25 something that's going to allow for that

1 accommodation.

2 ACTING CHAIRWOMAN ZUR: Or some kind of
3 mutual aid, shared services among some of the
4 municipalities --

5 COUNTY EXECUTIVE TEDESCO: Correct.

6 ACTING CHAIRWOMAN ZUR: -- where
7 Cliffside Park does Fairview and Edgewater or
8 something of that sort.

9 MS. CATUOGNO: Another variable that is
10 still sort of unknown also is that there is some
11 discussion about the creation of a complaint summons
12 that allows conditions to be set on someone's
13 release. So currently that doesn't exist. So, you
14 talked about complaint warrants where a judge RORs
15 the defendant, but the charges are put on a complaint
16 warrant, appropriately so, and the judge has the
17 ability to issue conditions of that defendant's
18 release on his or her own recognizance.

19 On a complaint summons, currently the
20 judges don't have the ability to do that. And there
21 is some discussion, although I don't know when we're
22 going to see it, and I don't know if it's going to be
23 implemented at the time bail reform becomes
24 effective, but there has been some discussion, I have
25 also heard they're talking about a complaint summons

1 that allows the court to put conditions on it as well
2 that would take the place of warrant in some
3 instances.

4 ACTING CHAIRWOMAN ZUR: So basically in
5 some instances we need a crystal ball.

6 COUNTY EXECUTIVE TEDESCO: Can you let
7 Judge Mizdol --

8 FREEHOLDER GANZ: Just before Judge
9 Mizdol, I'd just like to ask the Executive whether
10 you'll share that data with us when you get it?

11 COUNTY EXECUTIVE TEDESCO: When we get
12 it, I would gladly share it with you, Freeholder.

13 FREEHOLDER GANZ: Thank you so much.

14 I'm sorry, judge.

15 JUDGE MIZDOL: No, that's fine.

16 I just had one other comment flowing as
17 to what we're saying as to the transport of the
18 defendants to and from the jail.

19 In the current system, if they are
20 transported to the jail, remember, they are
21 transported back to the municipality for first
22 appearances, and then transported back to the jail
23 again, if they cannot meet the bail condition that's
24 currently in place. So this will at least stop the
25 back and forth --

1 COUNTY EXECUTIVE TEDESCO: Right.

2 JUDGE MIZDOL: -- in connection with
3 that transport.

4 ACTING CHAIRWOMAN ZUR: But now it will
5 be everyone who gets transported --

6 JUDGE MIZDOL: Absolutely.

7 ACTING CHAIRWOMAN ZUR: -- rather than
8 a small percentage.

9 You know as well, I handled those
10 middle of the night phone calls where we set bail and
11 those people were not --

12 JUDGE MIZDOL: Just trying to give a
13 better light from all perspectives, because obviously
14 you can see that this is going to affect the
15 judiciary as much as it's going to affect the
16 Prosecutor's Office and as much as it's going to
17 affect the Freeholders. So the man hours that are
18 going to be necessary in order to staff these courts
19 and to do it, and I apologize, you know, we talked
20 about those cases, and Ms. Catuogno was accurate in
21 what she said. There are cases now that what we call
22 backlog are already in backlog, and now we're going
23 to be faced in January with having to meet these
24 deadlines. It is not fair to allow those defendants
25 not to have those same opportunities, so we are

1 working diligently together to try to move all of
2 those backlog cases now before this January date.

3 And with all of our limited resources,
4 and fortunately I don't have to make the application
5 to you for judges, because then it would really be a
6 bad day here today, because I would be doing just
7 that, we need many more judges to accommodate this as
8 well.

9 FREEHOLDER DeNICOLA: Right.

10 JUDGE MIZDOL: But be that as it may,
11 and I'm not even, I'm teasing, I'm not even
12 addressing the renovations to the courthouse, we're
13 not even talking about that right this minute, we're
14 going to talk about another directive that I have
15 received, and that directive --

16 COUNTY EXECUTIVE TEDESCO: I didn't
17 even want to go there.

18 JUDGE MIZDOL: I know that. I know
19 that, but I can't help myself.

20 The other directive is that I've
21 received word from the Office of Administrative
22 Courts that every one of our civil division judges is
23 now going to be required to have a Sheriff's Officer
24 in the courtroom with them during session.

25 And the Sheriff's Department projects

1 that we need 17 more officers in order to do that.

2 So I am making you aware that that is
3 coming, and we have gotten notice that it's on its
4 way. They haven't given us a final date for
5 implementation, but they have required of us, as I
6 have spoken to the County Executive and the Sheriff,
7 we have had to put an implementation plan together to
8 map out what timing it's going to take for us to be
9 able to do that, because right now only our criminal
10 and our family division judges have protection in the
11 courtroom.

12 I don't think I have to go into the
13 security reasons why this is necessary and why we all
14 think that it's on the forefront, but it's coming and
15 the Sheriff's Department, I think, tells me now that
16 they have six candidates who are currently in the
17 program and going through it and should be prepared
18 and ready to come onboard by the end of December, but
19 we're looking at another 11 come January. So you
20 just need to be aware that that's coming as well.

21 ACTING CHAIRWOMAN ZUR: Freeholder
22 DeNicola.

23 FREEHOLDER DeNICOLA: Getting back to
24 this change, do you foresee a Saturday court being
25 enough? Do you think we're going to have to look at

1 a night court or adding hours?

2 JUDGE MIZDOL: I think we're too early
3 to make that assessment. I don't know how all of
4 that is going to play out. I can tell you, though,
5 from my judicial resources, I'm going to have to
6 reassign judges who may be doing just this as opposed
7 to anything else, so, therefore, you can expect a
8 trickle effect. You all know what happened when we
9 didn't have sufficient judges and we had a very
10 limited number of judges handling cases here, Judge
11 Doyne had to issue an order that said we were going
12 to stop all of the civil and the family part trials
13 in order to accommodate these issues. I can't tell
14 you that's something that's not in the back of my
15 mind when it comes to being able to implement this,
16 because how can I justify not complying with the
17 legislation? I cannot. I must. There is no choice.

18 FREEHOLDER DeNICOLA: Right.

19 ACTING CHAIRWOMAN ZUR: Thank you, all,
20 for your very thorough presentations. I'm sure we
21 are going to have a whole host of questions as the
22 budgeting process unfolds, but, more importantly, as
23 this April 1st deadline and then the January deadline
24 approaches as well. So we look forward to a
25 continued communication.

1 6:01 PM PUBLIC COMMENT:

2 ACTING CHAIRWOMAN ZUR: Can I have a
3 motion to open the meeting to the public?

4 FREEHOLDER GANZ: So moved.

5 FREEHOLDER VOSS: Second.

6 FREEHOLDER FELICE: Second.

7 ACTING CHAIRWOMAN ZUR: Viva voce, all
8 in favor?

9 (All present Freeholders respond in the
10 affirmative.)

11 ACTING CHAIRWOMAN ZUR: We're now going
12 to have a Hearing of the General Public, with a
13 three-minute time limit in effect. The Board
14 Attorney will keep the time.

15 Is there anyone from the general public
16 who wishes to address the Board at this time?

17 MR. FLORIO: There is no one,
18 Chairwoman.

19 ACTING CHAIRWOMAN ZUR: Seeing no one,
20 may I have a motion to close the meeting to the
21 public?

22 FREEHOLDER DeNICOLA: So moved.

23 FREEHOLDER FELICE: Second.

24 ACTING CHAIRWOMAN ZUR: Thank you.

25 All in favor?

1 (All present Freeholders respond in the
2 affirmative.)

3 ACTING CHAIRWOMAN ZUR: The meeting is
4 closed to the public.

5 6:01 PM CLOSED SESSION:

6 ACTING CHAIRWOMAN ZUR: We're now going
7 to go into Closed Session, and we'll return to the
8 public session.

9 Will the attorney briefly state the
10 matter for which we will be discussing in Closed
11 Session.

12 MR. FLORIO: Yes, Chairwoman.

13 There will be a status report on an
14 ongoing litigated matter, Sim v. County of Bergen.

15 FREEHOLDER ZUR: May have a motion to
16 go into Closed Session?

17 FREEHOLDER SULLIVAN: So moved.

18 FREEHOLDER FELICE: Second.

19 ACTING CHAIRWOMAN ZUR: All in favor?

20 (All present Freeholders respond in the
21 affirmative.)

22 (Whereupon, Closed Session is held.)

23 (Open Session resumes at 6:18 p.m.)

24 MR. FLORIO: We're on the record,
25 Chairwoman.

1 ACTING CHAIRWOMAN ZUR: There being
2 nothing further to come before this meeting, may I
3 have a motion to adjourn.

4 FREEHOLDER GANZ: So moved.

5 FREEHOLDER FELICE: Second.

6 ACTING CHAIRWOMAN ZUR: All in favor?

7 (All present Freeholders respond in the
8 affirmative.)

9 ACTING CHAIRWOMAN ZUR: All opposed?

10 (No response.)

11 ACTING CHAIRWOMAN ZUR: The ayes have
12 it, motion carries.

13 (Whereupon, the Work Session is
14 adjourned at 6:18 p.m.)

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C E R T I F I C A T I O N

I, KIM O. FURBACHER, License No. XIO1042, a Certified Court Reporter, Registered Merit Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with Regulation 13:43-5.9 of the New Jersey Administrative Code.

KIM O. FURBACHER, CRCR, CCR, RMR
License #XIO1042, and Notary Public
of New Jersey

My Commission Expires:
7/11/19