

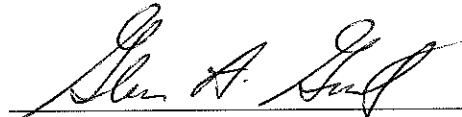
NOTICE TO THE BAR

Removal of Petty Disorderly Persons Offenses from the Criminal Justice Reform Process

By order of August 30, 2016 (the "Omnibus2 Order"), the Supreme Court adopted a number of amendments to the Court Rules to implement Criminal Justice Reform (also referred to as Bail Reform and Speedy Trial Law). Those amendments defined petty disorderly persons offenses as being within the "eligible defendants" category.

Following reconsideration of that particular aspect, the Court has determined that petty disorderly persons offenses (PDPs) should not be included within the definition of "eligible defendants" for Criminal Justice Reform purposes. Appended to this notice are the eleven rule amendments that the Court adopted November 14, 2016 to be effective January 1, 2017. Accordingly, when a defendant is charged on a Complaint-Warrant and the highest charge is a petty disorderly persons offense, the defendant will continue to be treated under the existing process and will be eligible for bail or release on his/her own recognizance. However, defendants charged on a Complaint-Warrant with a petty disorderly persons offense in conjunction with a higher offense will be considered eligible defendants and subject to Criminal Justice Reform on the basis of the higher charge.

The rule amendments to the Part III and Part VII rules effectuate these changes.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: November 14, 2016

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to the following Rules Governing the Courts of the State of New Jersey are adopted to be effective January 1, 2017:

Rules 3:25-4, 3:26-1, 3:26-2, 7:2-1, 7:2-3, 7:3-1, 7:4-1, 7:4-2, 7:4-3, 7:4-9, and 7:8-11.

For the Court,

A handwritten signature in black ink, appearing to be "S. R. Guadagnoli", written over a horizontal line.

Chief Justice

Dated: November 14, 2016

3:25-4. Speedy Trial for Certain Defendants

(a) Eligible Defendant. For purposes of this rule, the term “defendant” or “eligible defendant” shall mean a person for whom a complaint-warrant or complaint-warrant on indictment was issued for an initial charge involving an indictable offense or a disorderly persons offense and who: (1) is detained pursuant to R. 3:4A, or (2) is detained in jail due to an inability to post monetary bail pursuant to R. 3:26. This rule only applies to an eligible defendant who is arrested on or after January 1, 2017, regardless of whether the crime or offense related to the arrest was allegedly committed before, on, or after January 1, 2017. For defendants who are detained only for a disorderly persons offense [or a petty disorderly persons offense], the limits on pretrial incarceration are governed by R. 7:8-11.

(b) On Failure to Indict. ... no change

(c) On Failure to Commence Trial.

(1) Time Period. Except as provided in paragraph (d), an eligible defendant who has been indicted shall not remain detained in jail for more than 180 days on that charge following the return or unsealing of the indictment, whichever is later, not counting excludable time as set forth in paragraph (i) of this rule, before commencement of the trial. For an eligible defendant whose most serious charge is a disorderly persons offense [involving domestic violence], the time period shall begin with the defendant’s initial detention. See R. 7:8-11.

(2) Motion by the Prosecutor. ... no change

(3) Objection by Defendant. ... no change

(4) Court Determination. ... no change

(d) Period to Readiness of Prosecutor for Trial.

(1) An eligible defendant shall be released from jail upon conditions set by the court, after a release hearing if, excluding any delays attributable to the defendant, two years after the court's issuance of the pretrial detention order for the eligible defendant or after the detention of the eligible defendant in jail due to an inability to post monetary bail as a condition of release, the prosecutor is not ready to proceed to voir dire or to opening argument, or to proceed to the hearing of any motions that had been reserved for the time of trial. In the case of an eligible defendant whose most serious charge is a fourth-degree offense, the maximum time period for the defendant's incarceration shall be 18 months. In the case of an eligible defendant whose most serious charge is a disorderly persons offense [involving domestic violence], the maximum time period for the defendant's incarceration shall be six months. See R. 7:8-11.

(2) ... no change

(3) ... no change

(e) Commencement of Trial. ... no change

(f) Subsequent and Superseding Indictments. ... no change

(g) New Trial. ... no change

(h) Charge or Indictment in Another Matter. ... no change

(i) Excludable Time Criteria. ... no change

(j) Excludable Time Calculations. ... no change

Note: Adopted August 30, 2016 to be effective January 1, 2017; paragraphs (a), (c)(1), and (d)(1) amended November 15, 2016 to be effective January 1, 2017.

3:26-1. Right to Pretrial Release Before Conviction

(a) Persons Entitled; Standards for Fixing.

(1) Persons Charged on a Complaint-Warrant. Except when the prosecutor files a motion for pretrial detention pursuant to N.J.S.A. 2A:162-18 and 19 and R. 3:4A, all persons for whom a complaint-warrant or a complaint-warrant on indictment is issued for an initial charge involving an indictable offense[,] or disorderly persons offense[, or petty disorderly persons offense,] shall be released before conviction on the least restrictive non-monetary conditions that, in the judgment of the court, will reasonably assure their presence in court when required, the protection of the safety of any other person or the community, and that the defendant will not obstruct or attempt to obstruct the criminal justice process. In addition to these non-monetary conditions, monetary conditions may be set for a defendant but only when it is determined that no other conditions of release will reasonably assure the defendant's appearance in court when required. The court shall consider all the circumstances, the Pretrial Services Program's risk assessment and recommendations and any information that may have been provided by a prosecutor or the defendant on conditions of release before making any pretrial release decision. If the court enters a release order containing conditions contrary to those recommended by the Pretrial Services Program obtained using a risk assessment instrument then the court shall set forth its reasons for not accepting those recommendations. The court shall make a pretrial release determination no later than 48 hours after a defendant's commitment to the county jail.

When a defendant is charged with a crime or offense involving domestic violence, the court authorizing the release may, as a condition of release, prohibit the defendant from having any contact with the victim. The court may impose any additional limitations upon contact as otherwise authorized by N.J.S.A. 2C:25-26.

(2) Persons Charged on a Complaint-Summons. A defendant who is charged on a complaint-summons shall be released from custody.

(b) Restrictions on Contact. ... no change

(c) Crimes with Bail Restrictions Defined in N.J.S.A. 2A:162-12. ... no change

(d) Extradition Proceedings. ... no change

(e) Issuance of Restraining Orders By Electronic Communication. ... no change

Note: Source-R.R. 3:9-1(a)(b)(c)(d); paragraph (a) amended September 28, 1982 to be effective immediately; paragraphs (a), (b), (c) and (d) amended July 13, 1994 to be effective January 1, 1995; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; new paragraph (b) adopted, and former paragraphs (b), (c), and (d) redesignated as paragraphs (c), (d), and (e) June 15, 2007 to be effective September 1, 2007; new paragraph (c) adopted and former paragraphs (c), (d), and (e) redesignated as paragraphs (d), (e), and (f) July 9, 2008 to be effective September 1, 2008; paragraph (a) amended and new paragraph (g) adopted July 9, 2013 to be effective September 1, 2013; caption amended, text of paragraph (a) amended and redesignated as paragraph (a)(1) with caption added, new paragraph (a)(2) adopted, paragraphs (b) and (c) amended, former paragraphs (d) and (e) deleted; former paragraph (f) amended and redesignated as paragraph (d), former paragraph (g) amended and redesignated as paragraph (e) August 30, 2016 to be effective January 1, 2017; paragraph (a)(1) amended November 14, 2016 to be effective January 1, 2017.

3:26-2. Authority to Set Conditions of Pretrial Release

(a) Authority to Set Conditions of Pretrial Release. ... no change

(b) Conditions of Release. Conditions of pretrial release shall be set pursuant to R.

3:4-2 (c) or (d) for persons for whom a complaint-warrant or a complaint-warrant on indictment is issued for an initial charge involving an [on] indictable offense or a disorderly persons offense [non-indictable offenses].

(1) ... no change

(2) ... no change

(3) ... no change

(c) Modification of Release Conditions. ... no change

(d) Violations of Conditions of Release.

(1) Violation of Condition of Release When Defendant Released from Jail. Upon the motion of the prosecutor, when a defendant for whom a complaint-warrant or complaint-warrant on indictment was issued is released from custody, the court, upon a finding, by a preponderance of the evidence, that the defendant while on release violated a restraining order or condition of release, or upon a finding of probable cause to believe that the defendant has committed a new crime while on release, may revoke the defendant's release and order that the defendant be detained pending trial where the court, after considering all relevant circumstances including but not limited to the nature and seriousness of the violation or criminal act committed, finds clear and convincing evidence that no monetary bail, non-monetary conditions of release or combination of monetary bail and conditions would reasonably assure the defendant's appearance in court when required, the protection of the safety of any other person or the

community, or that the defendant will not obstruct or attempt to obstruct the criminal justice process.

(2) Hearing on Violations of Conditions of Release. ... no change

(e) Person Released on a Complaint-Summons Who is Thereafter Arrested on a Warrant for a Failure to Appear. ... no change

Note: Source-R.R. 3:9-3(a) (b) (c); amended July 24, 1978 to be effective September 11, 1978; amended May 21, 1979 to be effective June 1, 1979; amended August 28, 1979 to be effective September 1, 1979; amended July 26, 1984 to be effective September 10, 1984; caption amended, former text amended and redesignated paragraph (a) and new paragraphs (b), (c) and (d) adopted July 13, 1994 to be effective January 1, 1995; paragraph (b) amended January 5, 1998 to be effective February 1, 1998; paragraph (d) amended July 9, 2013 to be effective September 1, 2013; paragraph (a) amended July 27, 2015 to be effective September 1, 2015; caption amended, paragraphs (a) and (b) caption and text amended, former paragraphs (c) and (d) deleted, and new paragraphs (c), (d), and (e) adopted August 30, 2016 to be effective January 1, 2017; paragraphs (b) and (d)(1) amended November 14, 2016 to be effective January 1, 2017.

7:2-1. Contents of Complaint, Complaint-Warrant (CDR-2) and Summons

(a) Complaint: General. ... no change

(b) Acceptance of Complaint. ... no change

(c) Summons: General. The summons shall be on a Complaint-Summons form (CDR-1) or other form prescribed by the Administrative Director of the Courts and shall be signed by the officer issuing it. An electronic signature of any law enforcement officer or any other person authorized by law to issue a Complaint-Summons shall be equivalent to and have the same force and effect as an original signature. The summons shall be directed to the defendant named in the complaint, shall require defendant's appearance at a stated time and place before the court in which the complaint is made, and shall inform defendant that [an arrest] a bench warrant may be issued for a failure to appear.

(d) Complaint-Warrant (CDR-2)

(1) Complaint-Warrant (CDR-2): General. The arrest warrant for an initial charge shall be made on a Complaint-Warrant (CDR-2) or other form prescribed by the Administrative Director of the Courts and shall be signed by a judicial officer after a determination of probable cause that an offense was committed and that the defendant committed it. A judicial officer, for purposes of the Part VII rules, is defined as a judge, authorized municipal court administrator or deputy court administrator. An electronic signature by the judicial officer shall be equivalent to and have the same force and effect as an original signature. The warrant shall contain the defendant's name or, if unknown, any name or description that identifies the defendant with reasonable certainty. It shall be directed to any officer authorized to execute it.

(2) Complaint-Warrant (CDR-2) -- Disorderly Persons Offenses. When a [A]
Complaint-Warrant (CDR-2) is issued and the most serious charge is a disorderly persons offense, the court shall order that the defendant be arrested and remanded to the county jail pending a determination of conditions of pretrial release. Complaints in which the most serious charge is an indictable offense are governed by R. 3:2-1.

(3) Complaint-Warrant (CDR-2) -- Petty Disorderly Persons Offense or Other Matters within the Jurisdiction of the Municipal Court. When a Complaint-Warrant (CDR-2) is issued and the most serious charge is a petty disorderly persons offense or other non-disorderly persons offense within the jurisdiction of the Municipal Court, the court shall order that the defendant be arrested and brought before the court issuing the warrant. The judicial officer issuing a warrant may specify therein the amount and conditions of bail or release on personal recognizance, consistent with R. 7:4, required for defendant's release.

(e) Issuance of a Complaint-Warrant (CDR-2) When Law Enforcement Applicant is Not Physically Before a Judicial Officer. A judicial officer may issue a Complaint-Warrant (CDR-2) upon sworn oral testimony of a law enforcement applicant who is not physically present. Such sworn oral testimony may be communicated by the applicant to the judicial officer by telephone, radio, or other means of electronic communication.

The judicial officer shall administer the oath to the applicant. After taking the oath, the applicant must identify himself or herself and read verbatim the Complaint-Warrant (CDR-2) and any supplemental affidavit that establishes probable cause for the issuance of a Complaint-Warrant (CDR-2). If the facts necessary to establish probable cause are contained entirely on the Complaint-Warrant (CDR-2) and/or supplemental affidavit, the judicial officer need not make a

contemporaneous written or electronic recordation of the facts in support of probable cause. If the law enforcement applicant provides additional sworn oral testimony in support of probable cause, the judicial officer shall contemporaneously record such sworn oral testimony by means of a recording device if available; otherwise, adequate notes summarizing the contents of the law enforcement applicant's testimony shall be made by the judicial officer. This sworn testimony shall be deemed to be an affidavit or a supplemental affidavit for the purposes of issuance of an arrest warrant.

A Complaint-Warrant (CDR-2) may issue if the judicial officer finds that probable cause exists and that there is also justification for the issuance of a Complaint-Warrant (CDR-2) pursuant to the factors identified in Rule 7:2-2(b). If a judicial officer does not find justification for a warrant under Rule 7:2-2(b), the judicial officer shall issue a summons.

If the judicial officer has determined that a warrant shall issue and has the ability to promptly access the Judiciary's computerized system used to generate complaints, the judicial officer shall electronically issue the Complaint-Warrant (CDR-2) in that computer system. If the judicial officer has determined that a warrant shall issue and does not have the ability to promptly access the Judiciary's computerized system used to generate complaints, the judicial officer shall direct the applicant to complete the required certification and activate the complaint pursuant to procedures prescribed by the Administrative Director of the Courts. [The judicial officer shall then direct the law enforcement officer to remand the defendant to the county jail pending a determination of conditions of pretrial release.]

Upon approval of a Complaint-Warrant (CDR-2), the judicial officer shall memorialize the date, time, defendant's name, complaint number, the basis for the probable cause

determination, and any other specific terms of the authorization. That memorialization shall be either by means of a recording device or by adequate notes.

A judicial officer authorized for that court shall verify, as soon as practicable, any warrant authorized under this subsection and activated by law enforcement. Remand to the county jail for defendants charged with a disorderly persons offense and a pretrial release decision are not contingent upon completion of this verification.

Procedures authorizing issuance of restraining orders pursuant to N.J.S.A. 2C:35-5.7 (“Drug Offender Restraining Order Act of 1999”) and N.J.S.A. 2C:14-12 (“Nicole’s Law”) by electronic communications are governed by R. 7:4-1(d).

(f) Traffic Offenses ... no change

(g) Special Form of Complaint and Summons. ... no change

(h) Use of Special Form of Complaint and Summons in Penalty Enforcement

Proceedings. ... no change

Note: Source – Paragraph (a): R. (1969) 7:2, 7:3-1, 3:2-1; paragraph (b): R. (1969) 7:2, 7:3-1, 7:6-1, 3:2-2; paragraph (c): R. (1969) 7:2, 7:3-1, 7:6-1, 3:2-3; paragraph (d): R. (1969) 7:6-1; paragraph (e): R. (1969) 4:70-3(a); paragraph (f): new. Adopted October 6, 1997 to be effective February 1, 1998; paragraph (a) caption added, former paragraph (a) amended and redesignated as paragraph (a)(1), former paragraph (b) amended and redesignated as paragraph (a)(2), former paragraph (c) redesignated as paragraph (a)(3), former paragraph (d) redesignated as paragraph (b), former paragraph (e) caption and text amended and redesignated as paragraph (c), and former paragraph (f) redesignated as paragraph (d) July 12, 2002 to be effective September 3, 2002; caption for paragraph (a) deleted, former paragraphs (a)(1) and (a)(2) amended and redesignated as paragraphs (a) and (b), former paragraph (a)(3) redesignated as paragraph (c), new paragraph (d) adopted, former paragraph (b) amended and redesignated as paragraph (e), former paragraph (c) deleted, former paragraph (d) amended and redesignated as paragraph (f), and new paragraph (g) adopted July 28, 2004 to be effective September 1, 2004; paragraph (a)

amended, new paragraph (b) adopted, former paragraphs (b), (c), (d), and (e) amended and redesignated as paragraphs (c), (d), (e), and (f), former paragraphs (f) and (g) redesignated as paragraphs (g) and (h) July 16, 2009 to be effective September 1, 2009; paragraph (e) caption and text amended July 9, 2013 to be effective September 1, 2013; caption amended, and paragraphs (d) and (e) caption and text amended August 30, 2016 to be effective January 1, 2017; paragraph (d) reallocated as paragraphs (d)(1) and (d)(2), new paragraph (d)(3) added, new paragraph (d) caption added, and paragraph (e) amended November 14, 2016 to be effective January 1, 2017.

7:2-3. Warrants; Execution and Service; Return

(a) By Whom Executed; Territorial Limits. ... no change

(b) How Executed. The warrant shall be executed by the arrest of the defendant. The law enforcement officer need not possess the warrant at the time of the arrest, but upon request, the officer shall show the warrant or a copy of an Automated Traffic System/Automated Complaint System (ATS/ACS) electronic record evidencing its issuance to the defendant as soon as possible. If the law enforcement officer does not have the actual warrant to show or does not have access to an ATS/ACS printer to produce a copy of the electronic record at the time of the arrest, the officer shall inform the defendant of the offense charged and that a warrant has been issued. [Pursuant to R. 7:2-1(d), defendants] Defendants arrested on a Complaint-Warrant (CDR-2) charging an indictable or disorderly persons offense shall be remanded to the county jail pending a determination regarding conditions of pretrial release. Defendants arrested on a Complaint-Warrant (CDR-2) charging any other matter shall be brought before the court issuing the warrant, pursuant to Rule 7:2-1(d)(3).

(c) Return. ... no change

Note: Source -- Paragraph (a): R. (1969) 7:2; 7:3-1, 3:3-3(a), (b), (c), (e); Paragraphs (b)(1), (2), (3): R. (1969) 7:3-1; Paragraph (b)(4): R. (1969) 7:2, 7:3-1, 3:3-3(e). Adopted October 6, 1997 to be effective February 1, 1998; caption amended, caption of former paragraph (a) deleted, caption and text of former paragraph (b) deleted and relocated to new Rule 7:2-4, former paragraphs (a)(1), (a)(2), and (a)(3) redesignated as paragraphs (a), (b), and (c) July 28, 2004 to be effective September 1, 2004; caption amended, paragraphs (a), (b), (c) amended August 30, 2016 to be effective January 1, 2017; paragraph (b) amended November 14, 2016 to be effective January 1, 2017.

7:3-1. Procedure After Arrest

(a) First Appearance; Time; Defendants Not in Custody. ... no change

(b) First Appearance; Time; Defendants Committed to Jail. All defendants who are in custody shall have the first appearance conducted within 48 hours of their commitment to jail. For defendants incarcerated on an initial charge, on a Complaint-Warrant (CDR-2) for an indictable or disorderly persons offense, the first appearance shall be conducted at a centralized location and by a judge designated by the Chief Justice, as provided in Rule 3:26. For all other incarcerated defendants within the jurisdiction of the municipal court who require a first appearance, the first appearance shall be conducted by a judge authorized to set bail or other conditions of release; this includes those charged on an initial Complaint-Warrant (CDR-2) for a petty disorderly persons offense.

(c) Custodial Arrest Without Warrant.

(1) Preparation of a Complaint and Summons or Warrant. ... no change

(2) Probable Cause; Issuance of Process. If a Complaint-Warrant (CDR-2) is prepared, the law enforcement officer shall, without unnecessary delay, but in no event later than 12 hours after arrest, present the matter to a judge, or in the absence of a judge, to a municipal court administrator or deputy court administrator who has been granted authority to determine whether a Complaint-Warrant (CDR-2) or summons will issue. The judicial officer shall determine whether there is probable cause to believe that an offense was committed and that the defendant committed an offense. If probable cause is found, a summons or Complaint-Warrant (CDR-2) may issue. If the judicial officer determines that the defendant will appear in response to a summons, a summons shall be issued consistent with the standard prescribed by R. 7:2-2. If the judicial officer determines that a warrant should issue, consistent with the standards prescribed

by R. 7:2-2 after the Complaint-Warrant (CDR-2) is issued, the defendant charged with a disorderly persons offense shall be remanded to the county jail pending a determination of conditions of pretrial release. If the defendant is charged on a Complaint-Warrant (CDR-2) with a petty disorderly persons offense or any other non-disorderly persons offense within the jurisdiction of the municipal court, bail shall be set without unnecessary delay, but in no event later than 12 hours after arrest. The finding of probable cause shall be noted on the face of the summons or Complaint-Warrant (CDR-2). If no probable cause is found, no process shall issue and the complaint shall be dismissed by the judge.

(3) Summons. If a complaint-summons form (CDR-1 or Special Form of Complaint and Summons) has been prepared, or if a judicial officer has determined that a summons shall issue, the summons shall be served and the defendant shall be released after completion of post-arrest identification procedures required by law and pursuant to R. 7:2-2 (i) [7:2-2(e)].

(d) Non-Custodial Arrest. ... no change

(e) Arrest Following Bench Warrant. ... no change

Note: Source -- R. (1969) 7:2, 7:3-1, 3:4-1. Adopted October 6, 1997 to be effective February 1, 1998; paragraphs (b)(1) and (b)(2) amended July 12, 2002 to be effective September 3, 2002; paragraph (b) caption amended, paragraphs (b)(1) and (b)(2) amended, and new paragraph (c) adopted July 28, 2004 to be effective September 1, 2004; paragraph (a) caption and text amended, new paragraph (b) adopted, former paragraph (b) amended and redesignated as paragraph (c) , and text amended, former paragraph (c) redesignated as paragraph (d), and new paragraph (e) adopted August 30, 2016 to be effective January 1, 2017; paragraphs (b), (c)(2) and (c)(3) amended November 14, 2016 to be effective January 1, 2017.

7:4-1. Right to Pretrial Release

(a) Defendants Charged on Complaint-Warrant (CDR-2) with Disorderly Persons Offenses. Except as otherwise provided by R. 3:4A (pertaining to preventative detention), defendants charged with a disorderly persons offense on an initial Complaint-Warrant (CDR-2) shall be released before conviction on the least restrictive non-monetary conditions that, in the judgment of the court, will reasonably ensure their presence in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, pursuant to R. 3:26-1(a)(1). In accordance with Part III, monetary bail may be set for a defendant arrested on a disorderly persons offense on an initial Complaint-Warrant (CDR-2) only when it is determined that no other conditions of release will reasonably assure the eligible defendant's appearance in court when required. For these defendants [arrested on an initial Complaint-Warrant (CDR-2),] the court shall make a pretrial release determination no later than 48 hours after a defendant's commitment to the county jail; the court shall consider the Pretrial Services Program's risk assessment and recommendations on conditions of release before making a release decision.

(b) All Other Defendants [Issued a Bench Warrant]. [Every defendant] All defendants other than those set forth in paragraph (a) shall have a right to bail before conviction on such terms as, in the judgment of court, will insure the defendant's presence when required, having regard for the defendant's background, residence, employment and family status and, particularly, the general policy against unnecessary sureties and detention; in its discretion, the court may order defendant's release on defendant's own recognizance and may impose terms or conditions appropriate to such release. All other defendants include: (i) those charged on an

initial Complaint-Warrant (CDR-2) with a petty disorderly persons offense or other non-disorderly persons offense within the jurisdiction of the municipal court, and (ii) all defendants [Every defendant] brought before the court on a bench warrant for failure to appear or other violation, including [both] defendants initially charged on a Complaint-Warrant (CDR-2) and those initially charged on a summons. Defendants issued a bench warrant who were charged with a disorderly persons offense on an initial Complaint-Warrant (CDR-2) may also be subject to reconsideration of conditions of release pursuant to Rule 7:4-9.

(c) Domestic Violence; Conditions of Release. ... no change

(d) Issuance of Restraining Orders by Electronic Communication. ... no change

Note: Source-R. (1969) 7:5-1, 3:26-1(a). Adopted October 6, 1997 to be effective February 1, 1998.; text designated as paragraph (a), paragraph (a) caption adopted, new paragraphs (b) and (c) adopted July 9, 2013 to be effective September 1, 2013; caption amended, new paragraph (a) adopted, former paragraph (a) redesignated as paragraph (b) and caption and text amended, and former paragraphs (b) and (c) redesignated as paragraphs (c) and (d) August 30, 2016 to be effective January 1, 2017; paragraphs (a) and (b) caption and text amended November 14, 2016 to be effective January 1, 2017.

7:4-2. Authority to Set Bail or Conditions of Pretrial Release

(a) Authority to Set Initial Conditions of Pretrial Release on Complaint-Warrants (CDR-2) – Disorderly Persons Offenses. Initial conditions of pretrial release on an initial disorderly persons charge on a Complaint-Warrant (CDR-2) may be set by a judge designated by the Chief Justice, pursuant to R. 3:26 as part of a first appearance at a centralized location, pursuant to R. 3:4-2.

(b) Authority to Set Bail for Bench Warrants and All Other Matters within the Jurisdiction of the Municipal Court. Setting bail for bench warrants or for a Complaint-Warrant (CDR-2) in which the most serious charge is a petty disorderly persons offense or other non-disorderly persons offense within the jurisdiction of the Municipal Court may be done by a judge sitting regularly in or as acting or temporary judge of the jurisdiction in which the offense was committed, or by a vicinage Presiding Judge of the Municipal Courts, or as authorized by any other rule of court. In the absence of the judge, and to the extent consistent with N.J.S.A. 2B:12-21 and R. 1:41-3(f), a duly authorized municipal court administrator or deputy court administrator may set bail on defendants issued a bench warrant or a Complaint-Warrant (CDR-2) in which the most serious charge is a petty disorderly persons offense or other non-disorderly persons offense within the jurisdiction of the Municipal Court. The authority of the municipal court administrator, deputy court administrator or other authorized persons shall, however, be exercised only in accordance with bail schedules promulgated by the Administrative Office of the Courts or the municipal court judge.

(c) Authority to Take a Recognizance. ... no change

(d) Revisions of Bail or Conditions of Pretrial Release. ... no change

Note: Source-Paragraph (a): R. (1969) 7:5-3; paragraph (b): R. (1969) 7:5-1, 3:26-2(c). Adopted October 6, 1997 to be effective February 1, 1998; paragraphs (a) and (b) amended July 10, 1998, to be effective September 1, 1998; caption amended, paragraph (a) caption and text amended and portion redesignated as paragraphs (b) and (c), paragraph (b) redesignated and amended as paragraph (d) August 8, 2016 to be effective January 1, 2017; paragraphs (a) and (b) captions and text amended November 14, 2016 effective January 1, 2017.

7:4-3. Form and Place of Deposit; Location of Real Estate; Record of Recognizances,
Discharge and Forfeiture

(a) Deposit of Bail; Execution of Recognizance. A defendant admitted to bail, shall, together with the sureties, if any, sign and execute a recognizance before the person authorized to take monetary bail or, if the defendant is in custody, the person in charge of the place of confinement. The recognizance shall contain the terms set forth in R. 1:13-3(b) and shall be conditioned upon the defendant's appearance at all stages of the proceedings until the final determination of the matter, unless otherwise ordered by the court. The total recognizance may be satisfied by more than one surety, if necessary. Cash may be accepted, and in proper cases, within the court's discretion, the posting of security may be waived. A corporate surety shall be one approved by the Commissioner of Insurance. A corporate surety shall execute the recognizance under its duly acknowledged corporate seal, and shall attach to its bond written proof of the corporate authority and qualifications of the officers or agents executing the recognizance. Real estate offered as security for bail for non-indictable offenses shall be approved by and deposited with the clerk of the county in which the offense occurred and not with the municipal court administrator.

A defendant charged on an initial Complaint-Warrant [complaint-warrant] (CDR-2) with a disorderly persons offense and released on non-monetary conditions shall be released pursuant to the release order prepared by the judge and need not complete a recognizance form.

(b) Limitation on Individual Surety. ... no change

(c) Real Estate in Other Counties. ... no change

(d) Record of Recognizance. ... no change

(e) Record of Discharge; Forfeiture. ... no change

(f) Cash Deposit. ... no change

(g) Ten Percent Cash Bail. ... no change

Note: Source - R. (1969) 7:5-1, 3:26-4. Adopted October 6, 1997 to be effective February 1, 1998; subsection (e) amended December 8, 1998 to be effective January 15, 1999; caption amended, and paragraphs (e), (f), and (g) amended July 28, 2004 to be effective September 1, 2004; paragraph (a) caption and text amended August 30, 2016 to be effective January 1, 2017; paragraph (a) amended November 14, 2016 to be effective January 1, 2017.

7:4-9. Changes in Conditions of Release for Defendants Charged on an Initial Complaint-Warrant (CDR-2) on Disorderly Persons Offenses

(a) Monetary Bail Reductions. ... no change

(b) Review of Conditions of Release. For defendants charged with a disorderly persons offense on an initial Complaint-Warrant (CDR-2) and released pretrial, a judge with jurisdiction over the matter may review the conditions of release on his or her own motion, or upon motion by the prosecutor or the defendant, alleging that there has been a material change in circumstance that necessitates a change in conditions. Upon a finding that there has been a material change in circumstance that necessitates a change in conditions, the judge may set new conditions of release.

(c) Violations of Conditions of Release. A judge may impose new conditions of release, including monetary bail, when a defendant charged with a disorderly persons offense and released on an initial Complaint-Warrant (CDR-2) violates a restraining order or condition of release. These conditions should be the least restrictive condition or combination of conditions that the court determines will reasonably assure the eligible defendant's appearance in court when required, protect the safety of any other person or the community, or reasonably assure that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process.

(d) Motions for Pretrial Detention. ... no change.

Note: Adopted August 30, 2016 to be effective January 1, 2017; caption amended and paragraphs (b) and (c) amended November 14, 2016 to be effective January 1, 2017.

7:8-11. Limitations on Pretrial Incarceration

(a) Defendants Subject to Limitations on Pretrial Incarceration. This rule applies to a defendant for whom a Complaint-Warrant (CDR-2) has been issued and who: (1) has been charged with [any] a disorderly persons offense involving domestic violence and is detained pursuant to R. 3:4A, or (2) is detained in jail due to an inability to post monetary bail on the initial disorderly persons offense charged on a Complaint-Warrant (CDR-2). This rule only applies to a defendant who is arrested on or after January 1, 2017, regardless of when the offense giving rise to the arrest was allegedly committed.

(b) Limitation on Pretrial Incarceration. ... no change

(c) Time Period of Pretrial Incarceration. ... no change

(d) Release. ... no change

Note: Adopted August 30, 2016 to be effective January 1, 2017; paragraph (a) amended November 14, 2016 to be effective January 1, 2017.