



News Release

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Supreme Court Committee Calls for Major Changes to Criminal Justice Process

The Supreme Court today released the [report of the Joint Committee on Criminal Justice](#). The report calls for significant changes in the way bail is administered and for the enactment of a speedy trial law.

The committee, established in June 2013 by Chief Justice Stuart Rabner, includes judges, prosecutors, public defenders, private counsel, court administrators, and staff from the Legislature and the governor's office. The committee was chaired by the chief justice and developed 27 recommendations to improve New Jersey's criminal justice system.

“The committee confronted some very difficult problems relating to the current bail system and delays in bringing criminal cases to trial,” said Chief Justice Rabner. “It is telling that nearly all of the committee's recommendations—which include far-reaching proposals—have the unanimous support of judges, prosecutors, and defense counsel.”

The report's Executive Summary (pages 1 to 7) highlights the key issues and reasoning behind the committee's recommendations. A complete Table of Recommendations follows the summary (pages 8 to 10).

Supervised pretrial release

- New Jersey's current system of pretrial release is largely dependent upon a defendant's financial resources. Defendants who are unable to post bail are incarcerated before trial, which can have significant consequences. Poor and minority defendants are more likely to be affected.
- The New Jersey Constitution guarantees all defendants the right to bail. Judges have no authority to detain even the most violent and dangerous defendants if they can afford to post the amount of bail set.
- The current resource-based system presents problems at both ends of the system: some people are held on less serious crimes, with little risk of flight, only because they cannot pay relatively minor amounts of bail; others who pose a significant threat to the community and a substantial risk of flight must be released if they can afford to post bail.
- The committee recommends a statutory change from the present “resource-based” system to a “risk-based” system. Under a risk-based approach, judges rely on objective factors to assess the level of risk an individual defendant poses and then impose appropriate conditions of pretrial release.
- Pretrial service officers are needed to monitor compliance with nonmonetary conditions of release and supervise defendants who are released pretrial.

Preventive Detention

- For certain defendants, no combination of release conditions can reasonably ensure either the safety of the community or their appearance in court. A system of preventive detention would permit judges to consider those questions and decide whether to detain or release a defendant pretrial.
- The recommendations for a risk-based system of bail and pretrial detention, Recommendations 1 through 9, are interdependent and should not be considered individually. The recommendations call for both constitutional and statutory amendments.

Speedy Trial

- The New Jersey and the U.S. Constitutions provide the right to a speedy trial. Under New Jersey law, there are no specific timeframes to determine when that right has been violated.
- Defendants sometimes wait years between arrest and trial. Particularly for defendants who are incarcerated pretrial, those delays can cause serious, practical problems and affect how their cases proceed.
- Incarcerated defendants are more likely to receive less attractive plea offers, to plead guilty if they have already served a significant amount of time in jail, and to receive longer sentences.
- The committee recommends that the Legislature adopt a speedy trial act that sets forth specific timeframes in which defendants must be indicted and brought to trial. Recommendations 10 through 15 provide detailed proposals for incarcerated defendants and defendants who are released.

Resources

- The committee's recommendations for bail reform, preventive detention, and a speedy trial act are historic in their scope.
- The proposed recommendations require pretrial supervision of defendants who are released and sufficient numbers of judges, prosecutors, and public defenders to handle cases and trials more expeditiously.
- The proposed changes depend on the collaborative effort and full commitment of all three branches of government and the allocation of sufficient resources to succeed.

Other recommendations

- The committee proposes a series of changes to improve case management and the movement of cases through the courts.
- The recommendations include changes in procedures for pre-indictment court activities such as first appearances, appointment of counsel, and other matters. Recommendations 16 through 21 detail steps to improve pre-indictment activities.
- A final series of recommendations addresses post-indictment activities and is intended to reduce the amount of time to resolve a case. Recommendations 22 through 27 summarize those proposals.

Conclusion

In its Conclusion (page 96), the committee recaps its recommendations for bail reform, pretrial detention, and improvements to the pre- and post-indictment processes.

- a shift from the current “resource-based” system of pretrial release to an objective, “risk-based” system;
- appropriate supervision of defendants who are released by pretrial services officers;
- a constitutional amendment and enabling statute to allow for pretrial detention of any defendant for whom no conditions can reasonably assure either the safety of the community or a defendant’s appearance in court;
- a speedy trial act to ensure that criminal cases are brought to trial more promptly, for the benefit of the accused, the victims of crime, and the public; and
- sufficient additional resources in the form of pretrial service officers, judges, prosecutors, and public defenders to implement the recommended changes and enable them to succeed.

“We believe that the proposed changes will lead to a fairer and safer system of criminal justice,” said Chief Justice Rabner. “I thank the members of the committee for their dedication, insight, and thoughtful service, which we hope will add to the important discussion underway.”

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