

➔ Adult Trial Section

The Adult Trial Section represents the State in the criminal proceedings which follow the filing of an indictable criminal complaint and/or arrest of a defendant. Trial Assistant Prosecutors present their cases to the Grand Jury, and try those cases before a petit jury. These Trial Assistant Prosecutors are responsible for the following: bail review and bail source hearings; arraignment/status conferences; plea negotiations; motions; extradition waiver hearings; status reviews of civil commitments incident to criminal proceedings; jury and non-jury trials; sentencing hearings; hearings for probation violations; interlocutory appeals; municipal court appeals; and petitions for post-conviction relief.

Trial Assistant Prosecutors and Detectives assigned to the Trial Section work in teams, consisting of three Prosecutors and two Detectives for each of the 15 criminal trial courts in Essex County. The Trial Assistant Prosecutors work closely with their assigned Detectives, who interview witnesses, prepare reports, take statements, schedule witness interviews, visit crime scenes, take photographs, locate evidence and reports from municipal police departments, serve subpoenas, and take any other additional investigative steps as required.

Since 2004 the prosecution system for criminal cases has followed the “vertical” model. Each Trial Assistant Prosecutor handles each case from pre-indictment preparation through the Grand Jury process, and remains primarily responsible for subsequent plea negotiations, trial presentation, and sentencing. Having the same Trial Assistant Prosecutor and Detective continue with a case encourages efficiency, enhances accountability and permits a better response to victims and witnesses.

2010 Accomplishments

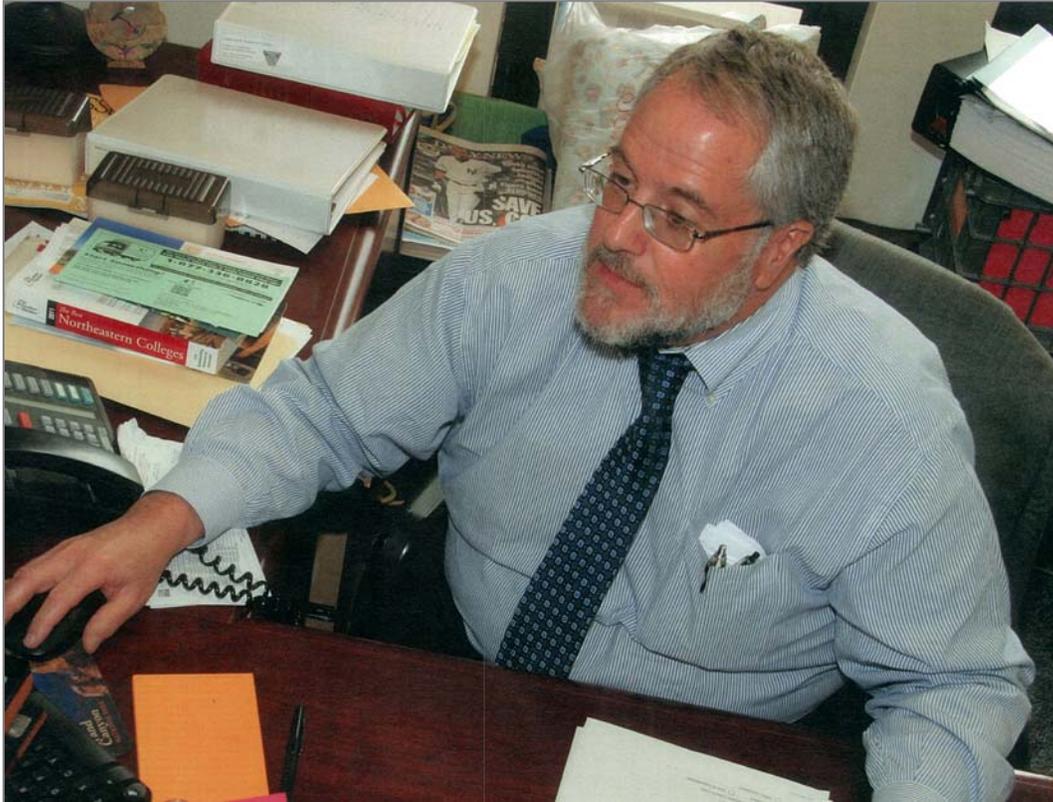
The Adult Trial Section continued to handle the largest and most serious caseload in the State. Essex County leads the State in the number of criminal filings, and handles a higher-than-average proportion of first and second-degree offenses. All first and second-degree crimes of violence require mandatory periods of parole ineligibility, making disposition of these offenses more difficult. In 2010, the Essex County Prosecutor’s Office successfully indicted or charged by accusations 5,154 defendants, and resolved the cause of 5,723 defendants previously indicted or charged by accusation; 56 percent of those cases involved first or second degree charges.

In conjunction with the special crime squads, the Trial Section obtained 168 defendant dispositions by trial in 2010; the overall post-indictment/accusation conviction rate including pleas and trial was 80 percent.

The Trial Section will continue its emphasis on mentorship and training for its Trial Assistant Prosecutors, and will continue to enhance its coordination with all elements

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of the investigation process, especially given the increasing levels of distrust and hesitancy to cooperate on the part of victims and witnesses stemming from intimidation and threats of violence from organized street crime elements. Increased and more effective use of forensic evidence is also a priority for the Trial Section in order to ensure that justice will be achieved in Essex County.



➔ Appellate Section

The Appellate Section of the Essex County Prosecutor's Office is the largest appellate practice of the 21 county prosecutor's offices in the State. The Section routinely initiates its own appeals from adverse pre-trial and post-trial rulings, often resulting in the successful re-instatement of prosecutions that were effectively terminated by the adverse rulings. The Section also works directly with the trial staff by assisting or taking over some of the more difficult trial motions, by serving in a consulting capacity for trial attorneys, by providing legal updates and case summaries, and by distributing memoranda on significant legal issues. Additionally, the Section continues to maintain a network brief bank that is available to the entire staff via the ECPO office computer network.

Past practice in the Office was to include Appellate in a general rotation leading to a trial slot. Such is no longer the case, and all attorneys assigned to the Section are career appellate lawyers. Consequently, the quality of the work produced by the Section continues to be consistently high. Senior appellate attorneys supervise more junior staff members, ensuring an outstanding work product and uniformity in legal positions taken in the Section. Every Supreme Court brief is read by at least two supervisors, and a moot court is conducted for arguments in the Supreme Court, the federal Court of Appeals for the Third Circuit, and every significant argument in the state Appellate Division.

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The Section continued its quest towards becoming a paperless unit by scanning all incoming documents received and sent out of the Section.

Trial attorney input – trial assistants are notified when their cases are on appeal. The trial assistants are given copies of defendants' briefs and are encouraged to speak with the Appellate attorney who is assigned to the particular case.

Trial briefs/legal resource – Appellate Section attorneys are increasingly involved in providing legal opinions to assistants assigned to trial and investigative sections and in drafting trial briefs on novel or complex issues.

Maintenance of the brief bank – the Section maintains an updated network brief bank for the ECPO staff. The Appellate Section coordinates all petitions for post-conviction relief and municipal appeals. For the last several years, Appellate Section attorneys have obtained dismissals or denials in a majority of petitions for habeas corpus relief filed in the District Court.

The Appellate Section also reviews gun permit applications and represents the State in gun permit hearings. The Appellate Section also handles Reciprocal Witnesses applications and requests for telephone records under N.J.S.A. 2A:81-19. The Section also responds to applications for name changes.

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The Appellate Section supervises an increasingly active internship program. Over the course of the year and during the summer, interns from both local and national colleges and law schools participate in the program. Interns are assigned to units throughout the office and third year law students appear in court.

Training has long been a professional requirement for members of the Essex County Prosecutor's Office. With the adoption and implementation of mandatory continuing legal education by the Supreme Court, attorneys participate in training sessions covering legal trends, trial advocacy, ethics and professionalism, and forensic technology. The program has been recognized by the CLE Boards of New Jersey, Pennsylvania, and New York, and Provider status has been approved in these jurisdictions. The program has grown in popularity and regular attendees now include attorneys from the office of the Essex County Counsel and Municipal Prosecutors within Essex County.

Significant cases included:

State v. Triestman --- Successfully prosecuted this sexual assault appeal where the Appellate Division held that in a criminal sexual contact case, the State is not required to prove force in addition to that necessary to accomplish the act of criminal sexual contact.

State v. Walker --- Successfully prosecuted this homicide case where the Supreme Court held that based on the evidence presented, the trial court should have on its own charged the jury with the statutory affirmative defense of felony murder. However, because the jury's findings negated most of the factors required to establish the affirmative defense, a new trial was not warranted.

State v. Peters --- Successfully prosecuted this appeal where the defendant was charged with selling false government documents and possession of materials to make false driver's licenses, and the trial court, over the objection of the State, sentenced the defendant to probation. The Appellate Division reversed and remanded for re-sentencing, holding that the findings and reasons articulated by the sentencing judge do not support imposition of a non-custodial term.

State v. Miller --- Successfully prosecuted this robbery case in the Appellate Division in which the trial was videotaped and where, upon the jury's request, the trial court exercised its discretion and replayed the entire video of a witness' testimony, as opposed to having the testimony transcribed and then read to the jury.

State v. Baskerville and Alfaro (Newark schoolyard defendants) --- Successfully prosecuted interlocutory appeals involving these defendants who are charged with, among other things, the killing of three college students in a Newark schoolyard. The defendants had challenged the admission of incriminating statements they gave to police and also argued that because they were juveniles at the time they were charged

in complaints, their right to counsel was triggered at the time the complaints were filed. The Appellate Division rejected the defendants' arguments.

State in the Interest of T.M. --- Successfully prosecuted this narcotics case where the Appellate Division found that the Family Part erred in denying the State's application to have jurisdiction over the juvenile waived to the Criminal Division. The Appellate Division held that the State had established probable cause to conclude that the 17 year-old juvenile possessed firearms while in possession of heroin with intent to distribute, and thus jurisdiction should have been waived to adult court.

State v. Alston --- Successfully prosecuted this homicide case in the Appellate Division where the trial court had suppressed the defendant's custodial statement on the basis that defendant had invoked his right to counsel. The Appellate Division reversed, finding that defendant's inquiry as to an attorney was not an invocation of his right to counsel, and that the police properly responded to and clarified defendant's questions relating to the right to counsel.



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➔ Central Judicial Processing Unit

Under the Rules Governing the Courts of New Jersey (R.3:4-2), all defendants charged with an indictable complaint (as opposed to a disorderly persons offense) must appear before a judge to be informed of the charges against them and to arrange bail, if appropriate. In 1987, a Central Judicial Processing (CJP) Court was established in Essex County to handle this responsibility for all municipalities in the County. Other counties with a CJP Court include Union, Hudson and Camden Counties.

Essex County's CJP Unit handles all arraignment and bail hearings. CJP also performs an important case screening function for custody and non-custody cases. All criminal complaints in Essex County charging an indictable crime are "screened" to separate indictable cases, those subject to prosecution in Superior Court, from cases that can be more quickly and appropriately resolved at another level. Cases can be also be diverted to the Municipal Courts, Family Court, Remand Court, and Drug Court.

Indictable cases are referred to any one of 15 Vertical Prosecution Courts or to a specialized prosecution squad. The nature of the offense, surrounding circumstances, quality of the evidence, character and arrest/conviction history of the defendant are all considered in making the screening decision. By performing this type of early case screening, cases can be diverted before they enter the grand jury and trial stages, thereby conserving valuable judicial and prosecutorial resources.

2010 Accomplishments

In 2010, the CJP Court arraigned approximately 10,987 criminal defendants. Of these, 8,552 were referred for possible presentation to the Grand Jury, and 2,435 were referred to the Special Remand Court for resolution. In 2009, the CJP court arraigned another 12,247 defendants. Of these, 10,906 were referred for possible Grand Jury presentation, and 1,132 were referred to the Special Remand Court.

Over the past six years, the CJP Unit has worked in conjunction with the Essex County Chiefs of Police, the Essex County Sheriff's Office and other agencies to develop standardized arrest and incident reports in addition to a secure electronic data exchange also known as the ILEI (Integrated Law Enforcement Initiative). The ILEI will allow participating law enforcement agencies in Essex County and the New Jersey State Police to share and exchange information electronically through a secure fiber optic network.

In 2008, the ILEI "went live," allowing the CJP Unit to electronically access police arrest and incident reports from the Newark Police Department. In 2009, the Unit worked closely with the Newark Police Department and other ILEI participants to increase the availability and reliability of information. This development has enabled CJP and ISU attorneys to routinely utilize the network thereby enhancing the efficiency and effectiveness of case screening and evaluation. This Unit will continue to benefit as

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information from arrest activity from the Sheriff's Office becomes available. The system will eventually expand to all municipal police departments in Essex County.

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➔ Drug Court

The Drug Court program began in Essex County in 1999. Judges, prosecutors, public defenders, drug court professionals, substance abuse evaluators and probation officers work together to assist the participants in this program in their endeavors to conquer their addictive behavior. This program links the criminal justice system with drug treatment and rehabilitation services. The program's purpose is to break the cycle of addiction and recidivism among these non-violent drug offenders.

Offenders receive intensive supervision and swift sanctions for non-compliance as they undergo treatment and counseling for their drug and alcohol addictions. Public safety concerns are addressed through the close monitoring of each defendant by probation officers. The program involves a team approach on the part of judges, court staff, attorneys, probation officers, substance abuse evaluators and treatment counselors who support and monitor a participant's recovery.

2010 Accomplishments

The Court's reporting year is from July 1 to June 30. At the end of the 2009-2010 Court year (ending June 30, 2010), 308 applications were submitted for consideration. A total of 133 defendants were admitted into Drug Court and 25 defendants graduated from this program. Please note that the graduates were persons who over a period of 5 years successfully completed this program. As of November 20, 2010 there are a total of 420 active participants in this program.

➔ Forfeiture Unit

The Forfeiture Unit of the Essex County Prosecutor's Office is responsible for implementing New Jersey's forfeiture statute in Essex County. The statute, N.J.S.A. 2C:64-1 et seq., is designed to remove the profit motive from crime by seizing all proceeds of criminal activity and any property used to facilitate the commission of a crime. Examples of such property include money derived from the illegal sale of narcotics, vehicles used to transport such narcotics, or houses used to stash and/or sell such narcotics. While narcotics cases make up the large majority of these cases, the forfeiture statute applies to any indictable offense.

The Forfeiture Unit's day-to-day functions are primarily legal, in that it is responsible for generating all civil "in rem" forfeiture complaints on property that is seized throughout Essex County by all of the various law enforcement agencies and police departments. This includes those cases prosecuted by the Essex County Prosecutor's Office that may involve federal or state-wide agency participation. If, after reviewing a criminal case, the Forfeiture Unit determines that it is appropriate to seek forfeiture of any money or other property seized by the police agency, a civil forfeiture complaint must be filed within ninety days of the property's seizure.

The use of forfeiture funds obtained by the Prosecutor's Office is strictly regulated by law. Forfeited monies may only be used for law enforcement purposes as defined by Attorney General Guidelines. The funds cannot be used to defray normal operating expenses such as salaries, leases, and other regularly incurred expenses. Training expenses, special equipment purchases, and forensic witness fees are examples of permitted forfeiture expenditures.

2010 Accomplishments

In 2010, the Forfeiture Unit generated \$1,603,391 in forfeitures from criminal defendants. Of that amount \$1,297,032 was in cash, \$295,959 was the value of motor vehicles and \$10,400 was other property, including a Samsung Flat Screen TV, a Gateway Laptop, a CD/DVD dubbing tower, a ladies diamond bracelet and other electronic equipment.

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➔ Grand Jury Unit

The Grand Jurors make an independent determination to indict or formally charge the accused based on their assessment of the evidence presented to them by an Assistant Prosecutor. After listening to witnesses, viewing physical evidence, if any, and discussing the case, the Grand Jury can vote:

- A True Bill, which formally charges the accused,
- A No Bill, which dismisses the charges, or
- A No Bill with Remand, which refers the case back to the municipal court on lesser charges.

The Grand Jury is an independent body consisting of 23 members of the community, with 12 affirmative votes needed in order to return an indictment. The proceedings are private, but a transcript is made for use by the Court, the Prosecutor's Office and the defendant. The defendant may or may not testify before the Grand Jury.

Grand Jurors in Essex County sit one day per week for 15 weeks. They hear approximately 25 to 30 cases per day between the hours of 9 a.m. and 4 p.m. To facilitate case scheduling, while respecting the wishes of most Grand Jurors to be released at the 4 p.m. closing time (given domestic and child care responsibilities), the Essex County Prosecutor's Office has developed a "weighting" system. Under this system, Grand Jury Clerks receive advance notification of the complexity of a given presentation, allowing more efficient and realistic scheduling of cases.

Under the present vertical prosecution system, Assistant Prosecutors from the Adult Vertical Trial Section present most cases before the Grand Jury. They remain assigned to their True Bill cases, from initial pleading and bail setting through resolution

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In 2010, 4,794 cases were presented to the Grand Jury with True Bills being returned for 2,893 cases, with an additional 15 cases referred to the Remand Court or municipal courts for resolution.

➔ Initial Screening Unit

All criminal complaints in Essex County charging indictable crimes are screened by the Essex County Prosecutor's Office. It is the primary function of the Essex County Prosecutor's Office Initial Screening Unit (I.S.U.) to review criminal complaints with an emphasis on diverting those complaints not warranting prosecution on the Superior Court level to the municipal court level.

The first level of screening for the majority of cases reviewed by the Essex County Prosecutor's Office is at the municipal level. Thus, the I.S.U. reviews criminal complaints involving indictable offenses originating from all twenty-two of Essex County's municipal courts. This is accomplished by telephonically reviewing cases for all municipalities except Newark.

Since approximately sixty percent of the I.S.U.'s reviews originate from the City of Newark, the I.S.U. is headquartered in Newark adjacent to the Newark Municipal Court. Case screening is facilitated through a close working relationship with Newark Police personnel and the Newark Municipal Court.

The I.S.U. also pre-screens cases with Detectives of the Newark Police Department prior to the filing of criminal complaints.

Many complaints are also generated from the diverse law enforcement agencies operating throughout Essex County. These agencies include the Port Authority of NY/NJ; the New Jersey State Police; the New Jersey Transit Police; the Departments of Public Safety for Rutgers University; N.J.I.T.; U.M.D.N.J.; and Essex County College and the Essex County Sheriff's Office. Each of these agencies files their criminal complaints with the Newark Municipal Court. These cases are then screened by the I.S.U.

The I.S.U. is also assigned the task of reviewing matters referred by the NJ Department of Corrections and the NJ Division of Parole entities within the jurisdiction of Essex County. These cases involve escapes from correctional institutions (including halfway houses), violations occurring within these institutions and parole absconder cases.

The Unit also identifies and recommends certain cases for prosecution in the Special Remand Court when circumstances indicate prosecution for disorderly persons offenses, but the nature of the offense or the defendant's record warrant prosecution at the county level.

2010 Accomplishments

In 2010 the Initial Screening Unit reviewed a total of 16,136 custodial and non-custodial cases. Of these, 8,770 cases were screened out and 7,366 cases were referred to Central Judicial Processing (CJP). The ISU recommended that 311 of the cases

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referred to CJP be downgraded and prosecuted as disorderly person offenses in the Special Remand Court.



➔ Parole Notification Function

In August of 2000, the Essex County Prosecutor's Office created a formal system for advising the New Jersey State Parole Board of its position regarding the release of parole eligible inmate. As inmates become eligible for release, input regarding the appropriateness of an inmate's parole release is solicited from the assistant prosecutor who prosecuted the inmate. In any given week, Essex County has the highest number of parole eligible inmates of the 21 counties in the state. For example, the Parole Eligibility Notice dated November 2, 2009 listed 296 statewide parole eligible inmates; 51 of those inmates committed their crimes in Essex County. This number represents approximately 17 percent of the total number of parole eligible inmates in the State for that particular week. During the same week, Camden County, which had the next highest number of parole eligible inmates, had a total of 42 parole eligible inmates. This number represents approximately 14 percent of the total number of parole eligible inmates in the State for that week.

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During 2010 a total of 109 pre-parole packages were requested and reviewed by the Parole Notification Unit. Of those packets requested, 101 letters objecting to parole release were written to the Parole Board.

Murder: 8 inmates	Kidnapping: 1 inmate
Attempted Murder: 4 inmates	Carjacking: 2 inmates
Manslaughter: 4 inmates	Arson: 1 inmate
Assault: 29 inmates	Robbery: 38 inmates
Sexual Assault: 6 inmates	
Endangering the Welfare of a Child: 4 inmates	

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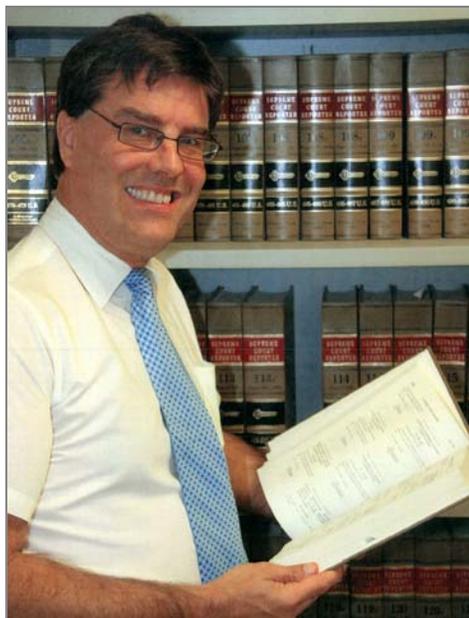
➔ Police Legal Advisor

The primary function of the Police Legal Advisor is to advise law enforcement agencies operating within Essex County. The Police Legal Advisor is also responsible for training police, corrections and juvenile detention officer recruits at the Essex County College Police Academy, the Newark Police Academy and the State Police Academy. The Police Legal Advisor is also responsible for training the Deputy Sheriff and Auxiliary Police classes. The advisor also keeps officers abreast of the law by preparing and disseminating legal memoranda, conducting in-service training classes, and advising Assistant Prosecutors assigned to the trial section and pre-indictment units on police procedures and legal issues. Additional responsibilities include reviewing gun permit applications, supervising and conducting physical lineups, drafting and applying for investigative detention orders, preparing communication data warrants, reviewing search warrants, and answering thousands of police inquiries regarding police activities annually.

The Police Legal Advisor is on call "24/7" and also assists the Appellate Section by preparing appellate briefs, representing the state at oral arguments and answering Habeas Corpus Petitions.

2010 Accomplishments

In both 2009 and 2010, the Police Legal Advisor provided training for six recruit classes, four Deputy Sheriff classes, two Juvenile Detention officer classes and six Corrections Officer classes. The Police Legal Advisor also taught at the Auxiliary Police Program, Junior Police Academy, and dozens of in-service training programs throughout the County. The Police Advisor also maintains an active relationship with the County Chiefs of Police and made several presentations at their Association meetings.



➤ Pre-Trial Intervention & Expungement Unit

The Pre-Trial Intervention (PTI) & Expungement Unit has two separate functions. First, the Unit is responsible for the complete review and processing of all applications for the Pre-Trial Intervention Program. This program is somewhat similar to probation, but it allows a participant to avoid a criminal conviction. Appropriate candidates are placed into the program with necessary conditions to fulfill. At the end of the PTI term, an Assistant Prosecutor from the Unit reviews and signs a dismissal order. If an applicant is deemed inappropriate for PTI, a rejection letter is prepared, reviewed and disseminated by Unit personnel. The letter must fully and accurately articulate the grounds for rejection. Requests for reconsideration and appeals sometimes follow and receive an appropriate response.

The Unit is also responsible for reviewing applications for expungement, a process for clearing a criminal record. In 2010, the State Legislature eased many of the time limits and criteria for expungements resulting in a significant increase in the applications processed by our Unit. In 2010 our Unit processed 898 applications. The application is usually prompted by employment concerns and requires the Unit to conduct a thorough and extensive check of the applicant's entire criminal history to determine eligibility (as provided for by statute). If eligible, Unit personnel prepare, review and submit appropriate orders for the Court's signature. If not, orders for dismissal are prepared and forwarded to the Court.

2010 Accomplishments

In 2010, the volume of the PTI Unit remained extremely high as defendants filed a total of 460 applications for admission to the Essex County Pretrial Intervention Program. Specifically, our Unit accepted 236 defendants into the program and rejected 182 individuals during this time. One PTI case of specific note was the case of State v. Robert Gonzales, where the former Seton Hall University Head Basketball Coach was admitted to the PTI Program for various theft offenses arising from a shop-lifting incident at the Short Hills Mall.

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➔ Remand Court Section

The Remand Court Section of the Essex County Prosecutor's Office handles cases that have been referred to the Remand Court from CJP, the Vertical Trial Court Units, and the specialized prosecution squads. The Essex County Remand Court was established in June 1990, to address a significant backlog in the processing and prosecution of indictable offenses. The Remand Court acts as a municipal court, handling disorderly persons cases, while retaining county-wide jurisdiction. The expanded jurisdiction of the Remand Court gives the Prosecutor's Office the option of downgrading an indictable offense to a disorderly persons charge while retaining prosecutorial responsibility. Before the Remand Court was established, all disorderly persons cases had to be referred to the municipal level. Given the high volume of cases handled in Essex County, this represents an important option, as it combines the professional resources of the County Prosecutor with the procedural speed of a municipal court.

The Assistant Prosecutors assigned to the Remand Court craft plea bargains, address victim/witness concerns including restitution and counseling, in addition to preparing cases for trial in a speedy manner. Dispositions include probation, offense-specific treatment and counseling, fees and fines and/or jail time. Remand Court is not appropriate for more serious indictable cases, nor for the usual Municipal Court case, but for lower to middle-level criminal offenses. The court allows greater flexibility in the exercise of prosecutorial discretion, improves efficiency, maintains the protection of victims' rights as well as defendants' rights and imposes appropriate sentences in accordance with the offense(s) committed.

The Remand Court is a high volume court designed to dispose of 200 or more cases per month, compared to the 50 cases per month in each of the post-indictment trial courts. The majority of cases calendared in the Remand Court are scheduled directly from Central Judicial Processing where all defendants are initially arraigned. The swift and certain punishment meted out in the Remand Court is reflected in a custodial sentencing rate continually in excess of 70%.

2010 Accomplishments

In 2010 the Special Remand Court Section disposed of 8,560 charges for 4,238 defendants. The Courts also imposed fines in the amount of \$ 604,238.

The Special Remand Court continued to be productive through the year 2010. In 2010, the Section disposed of 9,352 charges for 4,238 defendants. There were 2,320 guilty pleas. The Courts also imposed fines in the amount of \$804,239.