



ADULT TRIAL SECTION

Trial Assistants assigned to vertical courts are responsible for a case immediately after the filing of an indictable criminal complaint and/or arrest of a defendant. Trial Assistants present their cases to the Grand Jury, and try those cases before a petit jury. Trial Assistants are responsible for the following: extradition waiver hearings; interlocutory appeals; status reviews of civil commitments incident to criminal proceedings; bail review and bail source hearings; arraignment/status conferences; plea negotiations; motions; jury and non-jury trials; sentencing hearings; hearings for probation violations; municipal court appeals; and petitions for post-conviction relief.

2006 - 2007 Achievements:

The Adult Trial Section continued to handle the largest and most serious crime 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. According to statistics from



the Administrative Office of the Courts, 50% of the indictments filed in Essex County in 2006 were first and second-degree crimes. The statewide average of first and second-degree indictments filed was 27%. All first and second-degree crimes of violence require mandatory periods of parole ineligibility, making disposition of these offenses more difficult.

In 2006, ECPO obtained 202 case dispositions by trial verdict, an increase from the 186 case dispositions by trial obtained in 2005. The rate of defendants disposed through jury trials across the counties varied in 2006 from 55% to 98%, with Essex County disposing of a respectable 81% of its trials before a jury. In 2006 there were 6,727 post-indictment dispositions in Essex County; 3,418 of the foregoing dispositions involved first and second-degree crimes. ECPO disposed of 51% of the first and second-degree cases filed in the County while the statewide average for resolution of such cases was 28%.



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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, by distributing memoranda on significant legal issues, and by running training programs in areas of need. Additionally, the Section created and maintains 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 of the Third Circuit, and every significant argument in the state Appellate Division.

2006 - 2007 Achievements:

- 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 attorneys are also given a copy of the State's final appellate brief before the brief is submitted to the Appellate Division.
- 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 Appellate Section coordinates all petitions for post-conviction relief and municipal appeals.
- The Section responds to applications for name changes; in 2006, 46 applications were reviewed.
- For the last several years, Appellate Section attorneys have obtained dismissals or denials in every petition for *habeas* corpus relief filed in the District Court.
- The Appellate Section reviewed 279 gun permit applications and represented the State in 23 gun permit hearings.
- The Appellate Section handled seven Reciprocal Witnesses applications and requests for telephone records under N.J.S.A. 2A:81-19.
- 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.

Significant cases included:

State v. Shackelford – Successfully prosecuted this appeal by the State from an order of the trial court which placed defendant into PTI over the Prosecutor's objection.

State v. DiFrisoc – Continues to represent the State on the defendant's petition for post-conviction relief in this death row case. Latest decision from the Supreme Court vacated defendant's death sentence and imposed a life sentence, which defendant is now appealing.

State v. Cobb – Successfully prosecuted the State's appeal of an order granting post-conviction relief in this homicide case.

Sweetwood v. Prosecutor's Office et al. – Decision from the Appellate Division pending in this State's appeal of the trial court's interpretation of the relationship between the Domestic Violence Act and firearms regulatory statute.

State v. Delgado – Successfully prosecuted this homicide case in the Supreme Court, where defendant challenged the identification procedures used to identify him.

State v. Blanding and Mathis – Successfully prosecuted on an interlocutory basis, this case in which defendants’ motion to dismiss the indictment was denied. The victim was the defendants’ 6-month-old son who died of injuries sustained when he fell from his stroller.

State v. Kess – Successfully prosecuted this municipal appeal where defendant was convicted of cruelty to animal.

State v. Cottle – Successfully prosecuted this case in the Appellate Division, where defendant claimed a conflict of interest on the part of his trial counsel who had legal, professional and personal problems at the time he represented defendant. The case is now pending before the New Jersey Supreme Court.

Douglas v. Hendricks – Successfully prosecuted this homicide case in the Third Circuit where the defendant argued a denial of his right to a speedy trial.

State v. Dunnell – Successfully prosecuted on an interlocutory basis, this case where the trial court had suppressed 167 vials of cocaine, after finding an illegal search and seizure.



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.

CENTRAL JUDICIAL PROCESSING UNIT



Essex County's CJP Unit handles arraignments and bail hearings and also performs an important case screening function. All criminal complaints in Essex County charging an indictable crime are "screened" to separate indictable cases, i.e. those subject to prosecution in Superior Court, from cases that can be more quickly and appropriately resolved at the Municipal level. Cases can also be diverted to the Municipal Courts, Family Court, Special Remand Court, and Drug Court. Indictable cases are referred to the CJP Unit; or they can be sent to specialized prosecution units or one of the fifteen Vertical Prosecution Courts. The nature of the offense, surrounding circumstances, quality of the evidence and the character of the defendant are 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 prosecutorial resources.

2006 - 2007 Achievements:

In 2006, the CJP Court arraigned approximately 9,452 criminal defendants. In 2006, Video Arraignments continued to be a great success. With the completion of the Essex County Correctional Facility in 2004, all defendants who are charged with an indictable offense and have not yet posted bail are arraigned via video link between the jail and the CJP Court. This innovation significantly lowers costs by eliminating the transport of prisoners to

the courthouse for arraignments. Court appearance notices are transferred electronically to the Video Arraignment room at the jail where the defendant provides the Court with an acknowledgement of receipt with an electronic signature on his or her notice. The notice is then transferred back to the Court for record keeping purposes. Bail is set by the Court following the input from a CJP Unit attorney and a defense attorney. The bail arguments made by the attorneys are based on a variety of factors prescribed by law. The hub and spoke approach continues to work well for the court as cases are directed to various locations including the Grand Jury, Drug Court, Family Courts, fifteen Vertical Prosecution Courts, the Special Remand Court and 21 Municipal Courts.

In 2006, CJP was also closely associated with a pilot project known as the Integrated Law Enforcement Initiative. This “process automation” project is currently supported by the ECPO, the Essex County Sheriff’s Department, the Newark Police Department and the Essex County Correctional Facility. The long term goal of the project is to develop uniform standards for all police reports in the County, to develop a universal integration platform (computer system) for all reports and to provide a means by which all authorized law enforcement agencies in the County may input and access the data base through a secure data exchange network. The project also seeks to improve the accuracy of police reports by implementing accepted content standards as well as by disseminating data and reports in a more timely fashion.

In 2007, the Integrated Law Enforcement Initiative continued to make progress toward the ultimate goal of automating many of the functions which are currently “paper based”. The web based data exchange and information sharing network which is the backbone of the ILEI will, subject to the receipt of sufficient grant funds, be made available to all police departments and law enforcement agencies in Essex County.

From January through September of 2007 the CJP Court arraigned 9,081 defendants. As of October 22nd of 2007, all cases referred to the Essex County Prosecutor’s Office through CJP which remain indictable offenses are now assigned to one of fifteen Vertical Prosecution Courts. Video arraignments also continue to run smoothly.

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CONSOLIDATED PRE-GRAND JURY UNIT

Prior to October 2007 cases from CJP were forwarded to the Consolidated & Pre-Grand Jury Unit (Consolidated) for a screening and charging determination by Assistant Prosecutors.

With supervisory approval, the Assistant Prosecutors in Consolidated took the following actions on a complaint:

- Amend to a disorderly persons complaint and return to municipal court.
- Amend to a disorderly persons complaint and refer to the Special Remand Court, where the Prosecutor's Office retains the responsibility for prosecuting the complaints.
- Make a plea offer or refer the case to Drug Court.
- Make a plea offer, which permits the defendant to apply for Pre-Trial Intervention.
- Issue an administrative dismissal.
- Transfer the file to a specialized investigative/prosecution squad or Vertical Court.
- Prepare the file for Grand Jury presentation.

After October 2007, Consolidated did not receive any new cases. As of the end of October 2007, the Unit received 3,224 cases for processing. All cases from CJP are now directed to the Vertical Trial Courts. By early 2008 Consolidated will be dismantled.

2006 - 2007 Achievements:

In 2006, a total of 7,296 new defendants were entered, and 7,688 cases were processed by the Consolidated Pre-Grand Jury Unit. Of the cases processed, 4,888 were prepared for Grand Jury and 699 plead guilty after CJP arraignment. A total of 1,098 cases were downgraded, 558 cases were transferred and 247 cases were administratively dismissed. In addition, 198 cases were diverted to Pre-Trial Intervention.

In October 2007, the vertical prosecution process was in place in all of Essex County's criminal trial courts.

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DRUG COURT

In 1999 Drug Court began in Essex County. This unique program links the criminal justice system with drug treatment and rehabilitation services. Participants are non-violent drug dependent offenders who are likely to respond to rehabilitation and do not pose a risk to public safety. 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. 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 noncompliance 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.

2006 - 2007 Achievements:

In 2006, a total of 76 defendants were sentenced to participate in Drug Court. Currently, there are 252 active participants and since 1996 a total of 124 participants have graduated. From April 2002 to September 2007 a total of 477 defendants have been sentenced to Drug Court. Of that number, 159 or 33% (thirty-three percent) of the defendants were terminated for noncompliance.

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FORFEITURE UNIT

The Forfeiture Unit of the Essex County Prosecutor's Office is responsible for implementing New Jersey's state forfeiture statute in Essex County. The statute, N.J.S.A. 2C:64-1 et seq., is designed to remove the profit motive from all crimes 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 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.

2006 - 2007 Achievements:

In 2006, the Forfeiture Unit was called upon to help finance the completion of the newly expanded Crime Scene Unit. The Forfeiture Unit generated over 1.5 million dollars specifically earmarked for the Crime Scene Unit. Since its opening, the Crime Scene Unit has been hailed as a model for all future criminal forensic investigation laboratories.

In addition to its efforts to help finance the Crime Scene Unit, the Forfeiture Unit also generated an additional \$1,228,226.00 in cash forfeitures from criminal defendants. It also received thirty-one vehicles, valued at approximately \$209,000.00, and computer equipment with an approximate value of \$7,500.00, through its forfeiture proceedings.

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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 fifteen weeks. They hear approximately twenty-five to thirty cases per day between the hours of 9:00 a.m. and 4:00 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 is developing 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.

2006 - 2007 Achievements:

In 2006, 3,488 cases were presented to the Grand Jury with *True Bills* being returned for 3,051 cases. In 2007, 3,041 cases were presented to the Grand Jury with *True Bills* being returned for 2,742 cases.

As of October 2007 all trial courts became vertical courts. This will drastically reduce the caseload for the Grand Jury Unit in 2008. See Adult Trial Section Unit.

In 2006 and 2007, the GRAND JURY RETURNED

TRUE BILLS FOR 5,793 CASES.

INITIAL SCREENING UNIT



All criminal complaints charging indictable offenses in Essex County's municipal courts are subject to a first review by the Initial Screening Unit. In 2006, the Initial Screening Unit handled a total of 22,762 custody and non-custody cases. Each case was "screened" to ensure that the complaint correctly charged an indictable offense. Complaints not warranting prosecution on the Superior Court level were referred back to Municipal Court.

The Initial Screening Unit is headquartered in Newark adjacent to the City of Newark Municipal Court. Approximately sixty percent of the Unit's workload originates in that Court. Case screening is facilitated through a close relationship with Newark Police personnel and the Newark Municipal Court staff.

2006 - 2007 Achievements:

On August 1, 2004, the Newark Municipal Court started weekly Sunday sessions, becoming the first court in the state to hold a regular weekend schedule. Each weekend, two Essex County Assistant Prosecutors screen dozens of cases involving weekend arrests for disorderly conduct, public drinking and other disorderly persons offenses.

In addition to reviewing over 22,700 cases in 2006, the Initial Screening Unit did the following:

- Referred cases involving repetitive offenders to the Special Remand Court in order to ensure that penalties and sanctions are vigorously enforced. Roughly five percent of the Unit's cases are referred to the Special Remand Unit.
- Established a system of providing advance notice of non-custody dispositions for cases listed in CJP Court.
- Assisted Irvington and Orange in their municipal initiatives by ensuring that repetitive offenders and specific types of drug cases are vigorously prosecuted.

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PAROLE NOTIFICATION FUNCTION

In August 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 inmates. 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 July 30, 2007 listed 281 statewide parole eligible inmates; 49 of those inmates committed their crimes in Essex County. This number represents approximately 14 per cent 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 40 parole eligible inmates. This number represents approximately 11 % of the total number of parole eligible inmates in the State for that week.

2006 - 2007 Achievements:

Between January 1, 2006 and December 31, 2006, a total of 321 pre-parole packages were requested and reviewed by the Parole Notification Unit. In addition to the 321 packages requested, 313 letters objecting to parole release were written to the Parole Board. Those 313 letters represented inmates convicted of the following crimes:

- criminal homicide - 50 inmates
- sexual assault - 21 inmates
- carjacking - 28 inmates
- robbery - 100 inmates
- aggravated assault - 87 inmates
- kidnapping - 3 inmates
- burglary - 21 inmates
- attempted murder - 2 inmates
- arson - 1 inmate

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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 argument and answering Habeas Corpus Petitions.

2006 - 2007 Achievements:

In 2006 the Police Legal Advisor provided training for five police recruit classes, two Deputy Sheriff Classes, two Juvenile Detention Officer Classes, and two Corrections Officer classes. The Police Legal Advisor also taught at the State Police Academy, the Auxiliary Police Program, Junior Police Academy, and at dozens of in-service training programs throughout the County. The Police Legal Advisor also maintains an active relationship with the County Chiefs of Police and made several presentations at their Association Meetings.

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PRE-TRIAL INTERVENTION & EXPUNGEMENT UNIT



The Pre-Trial Intervention (PTI) & Expungement Unit, as its name suggests, 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 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 Section reviews and signs a dismissal order. If an applicant is deemed inappropriate for PTI, a rejection letter is prepared, reviewed and disseminated by Section personnel. The letter must fully and accurately articulate the grounds for rejection. Requests for reconsideration and appeals sometimes follow and are appropriately responded to.

The Unit is also responsible for reviewing applications for expungement, a process for clearing a criminal record. 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, Section personnel prepare, review and submit appropriate

orders for the Court's signature. If not, orders for dismissal are prepared and forwarded to the Court.

2006 - 2007 Achievements:

In 2006, the volume of the PTI cases was significantly higher than the previous year. Defendants filed 57 more applications for admission into the Essex County Intervention Program than the year before. Specifically, we accepted 350 defendants into the program and rejected 117 individuals. Only one of our decisions was appealed to the Appellate Division, which affirmed our decision.

The fact that there was only one appeal of our Unit's decisions in 2006 is a reflection of the Unit's careful and consistent decision making process and the detailed and accurate nature of its rejection letters.

In regard to expungements, in 2006 there were 28 more expungements petitions filed than the previous year for a total of 667. Hundreds of inquiries were handled in person, on the phone and via email.

In the case of *Matter of the Expungement Petition of NRO*, the New Jersey Appellate Division affirmed the denial of our opposition to an expungement application by a dentist who had applied for the expungement of a conviction for fourth-degree endangering the welfare of a child which involved, among other offenses, sexual misconduct with children.

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SPECIAL REMAND UNIT



The Special Remand Unit has assisted the Special Remand Court since its establishment in 1990. The Essex County Special Remand Court was established in June of 1990 to alleviate crowded criminal trial dockets. The Special Remand Court is essentially a municipal court with county-wide jurisdiction. The Court is staffed by Assistant Prosecutors and handles disorderly persons cases of a more serious nature than those typically prosecuted in local municipal courts. This gives the Prosecutor's Office the option of downgrading an indictable offense to a disorderly charge while retaining prosecutorial responsibility. Given the high volume of cases handled in Essex County, this represents an important option that combines the professional resources of the County Prosecutor with the procedural speed of the municipal court.

The Special Remand Court is a high volume court that is intended to dispose of 200 or more cases per month. Cases are generally referred to the Special Remand Courts directly from Central Judicial Processing or from the Consolidated Pre-Grand Jury Unit, with some post-indictment downgrades. The swift and certain punishment meted out in the Special Remand Court is reflected in a custodial sentencing rate continually in excess of 70%.

Assistant Prosecutors assigned to the Special Remand Courts craft plea bargains or forward cases to trial in a speedy manner. For the most part, dispositions include a sentence of probation and/or jail time. Sentences may also attach conditions including but not limited to restitution to victims, counseling for substance abuse and anger management when appropriate.

2006 - 2007 Achievements:

In 2006, the Special Remand Court Section handled 3,016 cases. There were 1,794 guilty pleas, 1,069 dismissals, 137 cases transferred to other units or courts, and 10 conditional discharges. 747 defendants were incarcerated. 1,013 defendants received probation. 59 defendants were diverted to alternative programs. The Courts also imposed fines in the amount of \$524,030.

The Special Remand Court continued to be productive through the year 2007. From January through September of 2007, there were 1,599 guilty pleas, 946 dismissals and 6 conditional discharges. 821 defendants were incarcerated. 763 defendants received probation. 74 defendants were diverted to alternative programs. The court also imposed fines of \$469,963 from January through September of 2007.

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