



2020 Annual Report

UNIT DESCRIPTIONS

Adult Trial Section

The Adult Trial Section (ATS) is the largest unit in the Essex County Prosecutor's Office and thus responsible for handling the largest caseload in the Office. Essex County continues to lead the State in the number of criminal filings and handles a higher-than-average proportion of first and second-degree offenses, the majority of which are prosecuted by the ATS. The ATS is comprised of 39 Assistant Prosecutors who represent the State in criminal proceedings upon the arrest of a defendant until final disposition of the case. The ATS is headed by a Chief Assistant Prosecutor as well as a Director and four Supervisors. The remaining Assistant Prosecutors are assigned to a Superior Court Criminal Judge and are responsible for all litigation functions that are critical to the operation of an effective criminal justice system. Central to this role of the ATS Assistant Prosecutor is the preparation and prosecution of jury and non-jury trials. ATS Assistant Prosecutors also represent the State in a variety of other court proceedings including detention hearings, motions to revoke release, arraignment/status conferences, all pre-trial and post-trial motions, sentence hearings, hearings on violations of probation, appeals from the decisions of municipal courts, retraxit pleas of guilty to indictments and accusations and petitions for post-conviction relief. On occasion, they are responsible for presenting cases to a Grand Jury. Additionally, ATS Assistant Prosecutors handle Krol hearings, the periodic review of the status of persons committed to State psychiatric institutions incident to criminal proceedings, as well as determining the geographic scope of extradition efforts to be undertaken in the event a defendant absconds.

With the implementation of Criminal Justice Reform in January 2017, the burden of speedy trials has made the job of an ATS Assistant Prosecutor even more challenging due to the high volume of cases. Since many crimes require mandatory periods of parole ineligibility, rapid and effective disposition of these offenses has become more difficult. Hesitancy on the part of victims and witnesses to cooperate stemming from intimidation and threats of violence for testifying coupled with an increase in the distrust of law enforcement are additional hurdles that must be overcome. With the advancements in technology and social media, juries are demanding forensic evidence, video evidence, other forms of corroboration as well as eyewitness testimony to convict a defendant. The ATS continues to place a strong emphasis on mentorship and training for the ATS Assistant Prosecutors and to instill a sense of justice to see that fairness and equity is achieved in Essex County.

To assist ATS Assistant Prosecutors with their voluminous duties and responsibilities are twelve Detectives and four Investigative Aids who are overseen by a Captain, a Lieutenant, and a Sergeant. Together, all parties work closely to prepare cases for final disposition. Detectives perform a wide array of investigative tasks to support and supplement the prosecution of criminal cases. ATS Detectives locate and interview witnesses, prepare reports, take statements, schedule witness interviews, visit crime scenes, take photographs, locate evidence and reports from municipal

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police departments, serve subpoenas, and take any other additional investigative steps necessary to ensure a successful prosecution. Furthermore, the Detectives also receive training and mentorship from their superiors.

In January of 2020, the U.S. Department of Health and Human Services declared a public health emergency because of the COVID-19 coronavirus pandemic. On March 27, 2020, the Supreme Court of New Jersey signed an Omnibus Order which suspended all new in-person jury trials and grand jury proceedings in New Jersey. Moreover, the Supreme Court ordered that all in-person proceedings were prohibited unless in emergency situations. The Supreme Court further ordered that all hearings, proceedings, arguments would be conducted via video or telephone. In total, the Supreme Court of New Jersey issued nine Omnibus Orders through 2020. On September 17, 2020, the Eighth Omnibus Order of the Supreme Court of New Jersey was released which continued the suspension of most in-person court proceedings but called for all counties to have virtual grand jury proceedings by December 2020. The final Omnibus Order of the Supreme Court of New Jersey for 2020, which was issued on November 16, 2020, continued the suspension of in-person proceedings through the end of the year.

In 2020, the Essex County Prosecutor's Office, while complying with the prohibitions noted above by the Supreme Court of New Jersey, successfully indicted, or charged by accusations 1,448 defendants. The Essex County Prosecutor's Office also resolved 2,052 cases. The percentage of those cases that involved first or second-degree crimes was 43.5%. The ATS Assistant Prosecutors obtained 20 defendant dispositions by trial with an overall post-indictment/accusation conviction rate including pleas and trial of 73.3%.

In sum, the ATS Assistant Prosecutors and Detectives work closely to ensure that all criminal matters are brought to justice, strive to serve victims, witnesses, and the community at large and include victims and witnesses in all aspects of the criminal justice process.

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The following cases highlight some of the significant cases handled by the ATS Assistant Prosecutors:

On February 2, 2020, a jury found Defendant Ayoni Williams guilty of second-degree Unlawful Possession of a Weapon – a handgun. Williams was subsequently sentenced to 8 years in New Jersey State Prison with 4 years of parole ineligibility pursuant to the Graves Act.

On February 20, 2020, a jury found Defendant Oraine Brown guilty of second-degree Unlawful Possession of a Weapon – a handgun. Brown was subsequently sentenced to 5 years in New Jersey State Prison with 42 months of parole ineligibility pursuant to the Graves Act.

On March 4, 2020, Defendant Leroy Lee pleaded guilty to second-degree Aggravated Assault for shooting his girlfriend with a firearm at their residence in Newark New Jersey. Lee was subsequently sentenced to 10 years in New Jersey State Prison pursuant to the No Early Release Act. The No Early Release Act requires a defendant to serve 85% of his sentence before being released.

On March 12, 2020, a jury found Defendant Shaquay Proctor guilty of second-degree Unlawful Possession of a Weapon – a handgun, third-degree Possession of a Controlled Dangerous Substance – Heroin, and third-degree Possession of a Controlled Dangerous Substance – Cocaine. Proctor was subsequently sentenced to 5 years in New Jersey State Prison with 42 months of parole ineligibility pursuant to the Graves Act for the handgun. Proctor was also sentenced to a concurrent term of 3 years in New Jersey State Prison for the possession of controlled dangerous substance counts.

On May 11, 2020, Defendant Victor Collazo pleaded guilty to third-degree aggravated assault for slashing a victim multiple times with a box cutter in Newark, New Jersey in exchange for 5 years in New Jersey State prison. Collazo, however, absconded and failed to appear for sentencing. Upon apprehension, Collazo was sentenced to an enhanced sentence of 7 years in New Jersey State Prison.

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Appellate Section

The Appellate Section of the Essex County Prosecutor's Office is the largest appellate practice of any County Prosecutor's office in New Jersey. It is comprised of career appellate lawyers, all of whom enjoy considerable experience in the state and federal appellate courts. In total, the Section's attorneys have argued dozens of cases in the state Supreme Court, hundreds more in the Appellate Division, and have extensive oral argument and briefing experience in both the United States District Court for the District of New Jersey and the United States Court of Appeals for the Third Circuit.

The Section handles all litigation on behalf of the ECPO in the Appellate Division and the Supreme Court of New Jersey, whether it be pre-trial, during trial, or post-sentencing. It also 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. The Section also handles all petitions for habeas corpus in federal court, and oversees all municipal appeals, gun permit applications and appeals, name change applications, reciprocal witness applications, appeals of orders granting or denying pretrial detention and petitions for post-conviction relief, and all requests made under the Open Public Records Act.

The Section also takes great pride in being an always-ready resource for ECPO's trial prosecutors. Providing legal advice, second-chairing trials or motions, drafting jury instructions, handling some of the more difficult trial motions, providing legal updates, and teaching CLE courses are just a few of the ways the Section is integral to the ECPO's mission of seeking justice, serving justice, and doing justice, both on appeal and throughout the investigative and trial processes.

Significant 2020 Cases:

Supreme Court of New Jersey

State v. Robert Andrews – In this case of first impression, the Appellate Division (457 N.J. Super. 14 (2018)) agreed with the Section that obtaining a defendant's cell phone password does not violate his federal or state constitutional rights to remain silent. The Supreme Court granted the defendant's petition for certification, and by a 4-3 vote affirmed the judgment of the Appellate Division, holding that: the Fifth Amendment privilege against self-incrimination did not protect defendant from the compelled disclosure of the passcodes; the passcodes were not "incriminating," within meaning of statutes and evidence rules codifying the state law protection against compelled self-incrimination; and the state common law privilege against self-incrimination was not violated by order compelling defendant to disclose the passcodes. 243 N.J. 447 (2020). Defendant sought certiorari in the United States Supreme Court, and on May 17, 2021, that Court denied review, leaving in place this important case of first impression.

State v. Jose Medina – The Supreme Court of New Jersey granted the Section’s petition for certification following the Appellate Division’s reversal of defendant’s aggravated assault conviction, which arose from a bar fight in which he slashed the victim’s face with a sharp object (unpublished 2018). 237 N.J. 419 (2019). The Supreme Court reinstated defendant’s conviction, agreeing with the Section that the trial prosecutor did not engage in any misconduct or elicited any improper hearsay from the primary detective. 242 N.J. 397 (2020).

In the Matter of Registrant H.D. – The Supreme Court of New Jersey granted the Section’s petition for certification after the Appellate Division (457 N.J. Super. 205) ruled that this sex offender could escape his Megan’s Law registration obligations despite having been convicted of failing to register following his State Prison sentence. 237 N.J. 582 (2019). The Supreme Court agreed with the Section’s position and reversed the Appellate Division, holding that H.D.’s most recent offense disqualified him from being relieved of his registration obligations. 241 N.J. 412 (2020).

State v. Zakariyya Ahmad - The Appellate Division (unpublished 2019) agreed with the Section and held that the motion court properly admitted the juvenile defendant’s statement after finding that the police did not improperly conduct a custodial interrogation based on the record. In the Fall of 2020, the Section argued this case in the Supreme Court of New Jersey, and a decision is pending.

State v. Edwin Andujar – After an Essex County jury convicted defendant of the murder of his wheelchair-bound roommate, the Appellate Division reversed the conviction on the theory that defendant was denied a fair trial when the prosecutor learned and disclosed that a prospective juror had a criminal history. 462 N.J. Super. 537. The Appellate Section successfully petitioned the Supreme Court of New Jersey to hear the case, 244 N.J. 170, and that Court held argument in early 2021.

State v. Michelle Paden-Battle & State v. Mark Melvin – In these cases, the Section represented the State in arguing that the sentencing court appropriately considered the entirety of the evidence in defendants’ cases, including credible evidence related to those counts for which the jury did not return a guilty verdict. A decision is expected in 2021.

COVID-19 Litigation – The Section, on behalf of amicus curiae County Prosecutors Association of New Jersey, participated in two important COVID-19-related cases before the Supreme Court. In *In re Request to Modify Prison Sentences*, 242 N.J. 357 (2020), the Supreme Court addressed various issues related to release of certain inmates due to the pandemic. And, in *State v. David Chavies*, the Supreme Court granted review to answer the questions, “Did defendant satisfy the medical predicates for relief under Rule 3:21-10(b)(2), and is a defendant barred from

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release under Rule 3:21-10(b)(2) while serving a mandatory period of parole ineligibility?” An opinion in *Chavies* is expected in 2021.

Appellate Division

State v. Tywaun Hedgespeth – In this case, the Section convinced the Appellate Division to affirm defendant’s convictions for drug and gun offenses and reject defendant’s arguments that the trial court committed various errors, including ruling his prior drug offenses were admissible and admission of the State Police’s no-permit affidavit violated his rights under the Confrontation Clause. 464 N.J. Super. 421. The Supreme Court has granted review, 244 N.J. 362, with oral argument expected sometime in the Fall of 2021.

In the Matter of Registrant A.A. – In 2019, the Appellate Division held that this sex offender was afforded procedural due process protections during his “similar to” summary hearing under Megan’s Law, and that the sex offender’s conviction under a New York statute prohibiting “disseminating indecent material to minors in the second degree” was “similar to” New Jersey’s endangering the welfare of a child statute to require him to register as a sex offender in New Jersey. 461 N.J. Super. 385 (App. Div. 2019). The Section successfully convinced the Supreme Court to leave undisturbed this important decision that will protect Essex County’s children. 241 N.J. 403 (2020).

State v Sandro Vargas - In this case, the Appellate Division addressed whether the motion court erred in refusing to admit a statement by the murder victim’s daughter pursuant to N.J.R.E. 404(b). The Court found that based on the record it was an abuse of discretion for the trial court to not admit the statement and found that the trial court’s invocation of N.J.R.E. 803(b) to allow the statement’s admission was error. According to its later opinion, the admission of the statement alleging a prior bad act must satisfy the balancing test of N.J.R.E. 404(b), and in this case it did. The panel therefore affirmed defendant’s murder conviction. 463 N.J. Super. 958 (App. Div. 2020). Later in 2020, the Section successfully convinced the Supreme Court to leave this important decision undisturbed. 244 N.J. 302 (2020).

State v. Ian Marias – In a case of first impression, the Section sought leave to appeal a trial court order dismissing a count of first-degree money laundering. The Section convinced the Appellate Division to hold that: 1) where a defendant is charged under the “transactional” provision of the money laundering statute, the “amount involved” is the fair market value of the property transferred in that transaction and any other transactions conducted as part of that common scheme; 2) the issue of whether amount involved exceeded the \$500,000 first-degree threshold was for the jury; and 3) a defendant charged under the “transactional” provision of the money laundering statute was culpable for what he transacted, not for what he otherwise possessed or transported. 463 N.J. Super. 526. The Supreme Court denied defendant’s application to review this important decision.

The 2013 Short Hills Mall Murder/Carjacking Cases – The Section successfully defended four appeals from the four defendants involved in this tragic case. In each case, the Appellate Division upheld the defendants’ convictions and sentences, and in each case the Supreme Court of New Jersey denied review.

U.S. District Court & Third Circuit Court of Appeals

Porter v. Administrator, N.J. State Prison, et al. – A jury convicted defendant of the 2003 murder of Rayfield Ashford and the attempted murder of David Veal. After defendant exhausted all avenues of state review, the U.S. District Court denied defendant’s petition for habeas corpus, holding, among other things, that defendant’s trial attorney was not ineffective for electing not to pursue an alibi defense and appellate counsel was not ineffective for failing to raise that issue on direct appeal. In 2020, the Court of Appeals agreed to hear this case limited to these issues. A decision is expected sometime in 2021.

Cordero v. Warren, et. al. – Defendant, convicted of murder, claimed that his lawyers prejudicially represented him during plea negotiations. After defendant exhausted all avenues of state review, the U.S. District Court (unpublished 2019) on habeas review held that defendant’s lawyers gave him wrong or no advice about how gap-time would apply to his sentence and how the statute of limitations barred his prosecution on some non-homicide charges, but defendant could not establish that he was prejudiced by these shortcomings because there was no evidence that the State had extended a formal plea offer to defendant. In 2020, the U.S. Court of Appeals for the Third Circuit agreed to hear the case, and a decision is expected in 2021.

Murphy v. Administrator, East Jersey State Prison, et al. – The U.S. District Court (unpublished 2018) denied defendant’s petition for a writ of habeas corpus, rejecting among other issues his claim that a co-defendant gave law enforcement a statement exculpating defendant in the 1995 murder of Corey Davis. In 2019, the U.S. Court of Appeals for the Third Circuit agreed to hear the case, limited to that issue, and a decision is pending.

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Central Judicial Processing Unit

Under New Jersey Court Rule 3:4-2, and until the advent of the Criminal Justice Reform on January 1, 2017, all defendants charged with an indictable complaint (as opposed to disorderly-persons offenses) 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. Essex County’s CJP Unit handles all first appearances. 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 also be diverted to the Municipal Courts, Family Court, Special Remand Court, and Drug Court.

Indictable cases are referred to any one of 13 Vertical Prosecution Courts or to a specialized prosecution squad. The nature of the offense, surrounding circumstances, quality of evidence, and character and arrest/conviction history of the defendant are all considered when 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.

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Even though the COVID pandemic hit New Jersey hard, the Central Judicial Processing Court never took one day off from producing detained defendants for their first appearance as dictated by the Criminal Justice Reform Act of 2017. CJP went from being an in-person appearance court to literally overnight being an all-virtual court. During the 2020 calendar year, CJP handled 7,628 detained defendants in their first appearances in CJP Custody Court and filed detention motions on 2,582 of those matters. The pandemic also took away the ability for non-custody matters to be heard in person until May of 2020 when plans were made and put into place to have non-custody defendants appear from the safety of their homes via Zoom for their first appearance. Since May of 2020 the CJP Non-Custody Court has listed 2,148 matters for first appearance. The work of the Central Judicial Processing Court has never faltered despite the pandemic’s grip on our State, preserving all defendant’s rights to be seen within 48 hours of being detained in custody.

Drug Court Program

The Drug Court Program began in Essex County in 1999. It was the original pilot program for the State of New Jersey. Judges, prosecutors, public defenders, court professionals, substance abuse evaluators, treatment facilitators and probation officers work together to assist participants in the program to conquer their addiction. The program links the criminal justice system with drug treatment and rehabilitative services promoting life skills. The purpose is to break the cycle of addiction and recidivism among these non-violent offenders.

Participants receive intensive probation supervision and swift graduated 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 and the Drug Court Team. The program involves a team approach on the part of judges, court staff, attorneys, probation officers, substance abuse evaluators and treatment facilitators who support and monitor every participant's recovery. The Drug Court Team discusses each participant weekly.

In 2015, Essex County began preparing to become a Mandatory Drug Court County. On July 1, 2016, Essex County joined the following counties that already are Mandatory Drug Court Counties – Atlantic, Cape May, Bergen, Burlington, Hudson, Mercer, Monmouth, Passaic, Somerset, Hunterdon, Warren, and Ocean. Being a Mandatory Drug Court County means that every eligible defendant must participate in Drug Court. The change significantly increased the number of defendants who enter the program and the resources needed to manage them.

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Because of COVID-19, many of the activities and events that are a routine part of Drug Court shifted from in-person to virtual. Yet, the Drug Court continued to provide participants with the services and support needed to maintain their sobriety and meet their other obligations necessary to remain in the program. At any given time, there are anywhere from 500 to 600 individuals in Drug Court in Essex County. In 2020, there were 92 new admissions. Of that number, 72 were voluntary. The other 20 were mandated by the court to participate in the program.

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Forfeiture Unit

The Forfeiture Unit of the of the Essex County Prosecutor's Office prosecutes all asset forfeiture actions brought pursuant to N.J.S.A. 2C:64-1 et. seq., the State's forfeiture statute. The primary mission of the Unit is to fairly and efficiently forfeit all property seized from defendants within Essex County that can be linked to criminal activity, either as proceeds of such activity or as property used to facilitate the commission of said activity. This is done primarily through the filing of civil "in rem" complaints against the seized property with notice to the defendants. The forfeiture complaints must be filed within 90 days of the 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.

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In 2020, the Forfeiture Unit, through appropriate civil and criminal process, forfeited \$1,498,240 which was determined to be either proceeds or instrumentalities of crime. Of that amount, \$1,283,012 was in cash, \$154,103 was the value of motor vehicles, and \$61,125 was other property, including various items of electronics equipment.

Grand Jury Unit

Grand Jurors make an independent determination to indict, or formally charge, persons accused of crimes based on their assessment of the evidence presented to them by an Assistant Prosecutor. After listening to witness testimony, viewing physical evidence, if any, and discussing the case, the Grand Jury can vote to either True Bill a matter, which formally charges the accused; to No Bill a matter, which dismisses the charges; or Amend and Remand the matter 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 to return an indictment. The actual proceedings are secret, but a transcript is made available for use by the Court, the Prosecutor's Office and the Defendant after the vote is taken. The defendant may or may not elect to testify before the Grand Jury.

Grand Jurors in Essex County sit one day per week from 15 to 18 weeks, hearing approximately 20 to 25 cases per day. To facilitate case scheduling, while respecting the wishes of most Grand Jurors to be released at closing time, 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 system, there are three Assistant Prosecutors assigned to the Grand Jury Unit who present cases assigned to the Adult Trial Section. Those matters are then returned to the Trial Assistant Prosecutor for resolution via plea or trial. Various specialized units have their own Assistant Prosecutors present their cases in a vertical prosecution system. They remain assigned to their cases from charging decision through indictment, to the final resolution of the matter.

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In 2020, the COVID pandemic struck the world, and the work of the Grand Jury came to a complete halt at the end of March of 2020. Grand Jury did not sit for an entire six-month period. During that down time plans were formulated to accommodate a virtual Grand Jury—something that had never been contemplated due to the secrecy requirements of the Grand Jury. Through much hard work and collaboration with all stakeholders a virtual Grand Jury plan came into existence. All Grand Jurors were chosen virtually via Zoom and in Essex County an agreement was made where the grand jurors could conduct their civil duty from the safety of their respective homes. Jurors were provided with iPads if they did not have the equipment at home to attend the virtual Grand Jury hearings. Those jurors who did have computers could use their personal property as long as it was equipped with video and audio. All prospective jurors had to agree to the secrecy requirements and agree to abide by same with the possibility of criminal punishment for failure to maintain same.

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After the start of virtual Grand Jury, proceedings were calendared for a total of 971 cases in the year which is a greater number than most counties in a regular non COVID year. Of that number, 868 resulted in indictments; 77 were no billed; 3 resulted in No Cause of Action and 14 were referred to municipal court. The remaining cases were either held over, withdrawn, pled out or consolidated with other cases.

Juvenile Trial Unit

The primary legal function of the Essex County Prosecutor's Office Juvenile Justice Unit is to seek justice in the prosecution of complaints charging acts of juvenile delinquency (as defined by the New Jersey Code of Juvenile Justice and our Court Rules). The Unit has state-wide jurisdiction of all complaints charging county juvenile residents with an act of delinquency. Juvenile matters are heard in Family Court by specifically assigned judges selected to preside over such matters. New Jersey law requires that juvenile cases are sealed due to the age of the juvenile and, except for limited circumstances are also closed to the public. The goal of the juvenile justice system in New Jersey is to seek rehabilitation of the juvenile whenever possible with available resources. The Prosecutor's Office does so while also protecting the community from juveniles who pose a danger to themselves or others.

The cases handled by the Unit run the gamut from first-time minor offenses to serious and violent crimes. Municipal courts do not have jurisdiction over juvenile delinquency cases, so all matters must be referred to the Prosecutor's Office for disposition. ECPO works hand-in-hand with municipal police departments juvenile units, where specifically assigned officers investigate and process juvenile offenders.

For minor or less serious matters, a range of dispositions are available, these include, but are not limited to: Station House Adjustment – a program where the local police departments work with the juvenile, their parents and any potential victim to an amicable resolution (e.g. apology, restitution, community service, etc.), in lieu of charging; Juvenile Justice Commission (provides programs where a group of trained, court appointed volunteers from the community work with the charged juvenile to provide some type of community service, apology, restitution or other remedy; and Consequences of Crime (a program conducted in the Essex County Youth House where first-time offenders spend a day at the Youth House as directed by the Court. Successful completion of these various programs will generally result in a dismissal of the charges.

For more serious matters, available dispositions are probation, various residential placements, and placement in one of New Jersey's secure facilities which includes educational services. Pre-disposition (i.e., Pre-Trial), a juvenile can be placed on a variety of release conditions: such as house arrest, electronic (GPS) monitoring, or housed in the Youth House (if the Court deems that the juvenile poses a threat to themselves or others). The type of release a juvenile is subject to depends upon the seriousness of the offense, whether there has been a prior exposure to the criminal justice system, their family situation, and the potential danger to the community if released.

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In 2020, the Juvenile Justice Unit handled 1,298 referred cases ranging in severity from disorderly persons offenses to homicides. Two judges handle the caseload in Essex County, a lead full-time judge and a second part-time judge, among their other duties. The Assistant Prosecutors, Detectives and Investigative Staff handle all necessary investigative and legal issues associated with the case including plea negotiations, motions, trials, and sentencing.

The Unit has made significant changes starting in 2020. There has been an increased use of technology when working with local police departments and other agencies. Additionally, the Unit has nearly completed its goal of moving to an all-electronic environment. Moreover, the Unit began preparation and training for the implementation of a state-wide all-electronic charging system, known as Juvenile eCDR. Taking these actions, prepared the Juvenile Justice Unit for its biggest challenge since the overhaul of the Juvenile Justice System –COVID-19 and the resulting global pandemic.

The COVID-19 global pandemic fundamentally changed the day-to-day operations of the Unit. Prior to the pandemic, the Essex County Juvenile Court would be bustling with the activity of hundreds of individuals. Juveniles, their parents, attorneys, assistant prosecutors, police officers, court officers, probation officers, hearing officers, sheriff's officers, counselors, and others were in constant activity inside court, in the hallways and the various court offices and conference rooms. By March of 2020, all this necessary activity came to a complete halt.

The result is that our Unit operations had to change from completely in-person to completely virtual. The Unit had to immediately adapt to comply with common-sense social distancing rules in and out of the office, as well as the court. New procedures had to be developed, some in cooperation with the Juvenile Court and some with our law enforcement partners to ensure the operations of the Unit did not stop during the pandemic. While virtual court proceedings were both inevitable and foreseeable, law enforcement trainings, conferences and even complaint intake had to also adapt to comply with state-mandated social distancing guidelines and local stay-at-home orders. Crucially, we had to both develop and then train all our local municipal, county and state law enforcement agencies on the new processes created in response to responsible handling of the pandemic. Even though these events were unanticipated, the Unit rose to the occasion and continued its operations without interruption.

Despite so many changes in 2020, the Unit's Assistant Prosecutors and Detectives have developed a closer partnership with local police departments, especially when faced with serious matters such as carjacking, armed robbery, shootings, burglary, weapons, and assaults. The Juvenile Justice Unit also works closely with the other Units within ECPO, including, but not limited to, the Homicide Unit, the SVU Unit, the Crash & Fire Unit, the Narcotic/Gang Unit, and the Special Prosecution Unit, which

among its other duties, investigates social media crimes and school threats. This area of investigation has grown significantly and is especially relevant in juvenile matters.

The Unit continues the work of increasing community involvement for the disposition of non-serious matters involving first-time offenders, including the use community-based programs such as the Juvenile Conference Committees (JCCs), a six- to nine-member citizen volunteer panel appointed by the Family Division Judge that hears and decides matters involving juveniles. The Unit also supports the Newark Youth Court, a program run from the Newark Municipal Court. Juveniles, who are first-time offenders, are referred there to participate and, hopefully, be deterred from future involvement in the criminal justice system.

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Mental Health Unit

The Essex County Prosecutor's Office Mental Health Unit manages a diversion program focusing on defendants living with serious and persistent mental illnesses, such as Bipolar Disorder or Schizophrenia. The purpose of the Program is to combine community-based therapeutic treatment plans with traditional punishment-only oriented criminal case dispositions. The Program has been greatly enhanced over the past five years as the Unit continued to develop.

In 2015 ECPO, was successful as one of only two county Prosecutor's Offices in New Jersey (the other is Ocean County) in obtaining a grant from the New Jersey Attorney General's Office, Division of Law and Public Safety, for \$150,000 to be distributed equally over a two-year period, and aides County Prosecutor-led Mental Health and Co-Occurring Substance Abuse diversion programs. Funded by the OAG grant, Essex County Hospital Center has hired a full-time case manager to work exclusively with the ECPO's Program participants. The Case Manager is responsible for linking participants to a treatment plan developed by a mental health professional and will also assist participants with applying for social entitlements, housing, education, vocation, and other benefits that contribute toward greater functioning in the community. The Unit works with a clinician hired by the County Hospital Center. The clinician screens and assess applicants for acceptance into the Program. The clinician, a Licensed Specialist Clinical Social Worker, or LCSW, has developed a comprehensive community-based therapeutic treatment plan for acceptable Program candidates.

In 2017 when grant funding expired with the State, the ECPO was able to maintain a relationship with the Essex County Hospital Center (ECHC) to retain this program. The ECHC absorbed the cost of the LCSW and the Case Worker which increased the lifeline of this program.

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During 2020, the Mental Health Unit reviewed 49 defendant applications for the program. A total of 18 were legally accepted into the program. There were 11 legal rejections. There were 15 were determined not to be clinically acceptable to this program. Seven defendants successfully graduated, six applications were pending acceptance to be done in 2021 and 14 defendants withdrew their applications to pursue their case through traditional prosecution.



Pre-Trial Intervention & Expungement Unit

The Pre-Trial Intervention (PTI) & Expungement Unit is responsible for the complete review and processing of all applications for the PTI Program. This program is like probation but allows participants to avoid criminal conviction. Appropriate candidates are accepted into the program and required to fulfill certain conditions. 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 letter outlining the grounds for rejection is prepared, reviewed and disseminated by Unit personnel. Requests for reconsideration and appeals receive appropriate responses. The Unit also reviews traditional expungement applications aimed at clearing an offender's criminal record and is responsible for physically expunging those records and disseminating copies of the orders to all involved agencies.

In recent years, there have been many changes to the expungement law. In 2016, the State Legislature again amended the expungement statute to allow successful Drug Court graduates the opportunity to expunge their entire criminal record. The expungement statute was also amended to permit those found not guilty of a criminal offense to expunge their record immediately.

In December of 2017 Gov. Phil Murphy signed (S3307) into law. The new law, which took effect on Oct. 1, 2018, further amended the expungement process. Under the new changes it reduced the waiting time to seek an expungement of a criminal conviction from 10 years to six years. The changes in the law also allow someone involved in a "crime spree," meaning multiple criminal acts, to seek expungement of up to two indictable convictions, meeting certain criteria. The amendment also increases the number of disorderly person and/or petty disorderly person offenses and indictable offenses (also known as felonies) eligible for expungement from two to three.

In December of 2019, Governor Murphy signed (A5981/S454) into law. The new law took effect on June 15, 2020. Of the many changes, the main one is the "clean slate" provision, where a petitioner's entire record of arrest and eligible convictions can be expunged after 10 years from the most recent conviction, meaning there is no limit as to the number of convictions. In addition, the law also provides for municipal judges to sign orders of expungements immediately upon the dismissal of municipal cases, removing the requirement for the petitioner to file for the expungement and to need for a Superior Court Judge to sign the order. The State was to implement a means for petitioners to electronically file petitions for expungement that would generate orders and create responses from the County Prosecutors Office and the State Police. Due to the pandemic, in August of 2020, the Governor of New Jersey issued an Executive Order which extended deadlines and statutory effective dates of certain delineated statutes to February 15, 2021.

LEGAL UNITS

All these changes have resulted and will continue to result in significant increase in number of filed petitions, more preparation, court time, and appeals. Expungement applications are typically prompted by employment concerns and require the Unit to extensively examine the applicant's full 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 the applicant is deemed ineligible, orders for dismissal are prepared and forwarded to the Court.

2020 Accomplishments

The COVID pandemic affected New Jersey in the middle of March 2020. As such, we had to develop a new way in which to receive PTI applications from the Courts, disseminate and share information within the Unit, and provide communication with the trial Assistant Prosecutors and the Chief/Deputy Chief Assistant Prosecutors responsible for signing PTI orders. Some 122 defendants applied for PTI in 2020. Of that number 72, were accepted into the program. The remaining 50 were rejected.

The same challenges presented themselves in the Expungement Unit. Especially since all petitions were manually submitted and prepared. In addition, the Unit was down one person for half of the year and the courts were down a judge for half of the year as well. In 2020, there were 295 new traditional expungement applications (non-drug court). Final orders of traditional expungement were granted in 377 cases. Some of these cases involve applications from the prior year.

Remand Court Section

The Remand Court Section of the Essex County Prosecutor's Office handles cases that have been referred from Central Judicial Processing, Vertical Courts and Special 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 countywide jurisdiction. The expanded jurisdiction of the Remand Court gives the Prosecutor's Office the option of downgrading an indictable offense to a disorderly person charge while retaining prosecutorial responsibility. Before the Remand Court was established, all disorderly person offenses 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 and 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 or for typical municipal court cases, but for low- to mid-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 offenses committed.

2020 Accomplishments

The COVID pandemic brought about the shutdown of virtually every court in the State of New Jersey, including the Special Remand Court. Remand Court was closed for several months but ultimately efforts were made to handle all Special Remand Appearances virtually via Zoom. After much preparation on the part of all stakeholders, the Court went live via Zoom in May of 2020. At the onset, as with all virtual Courts there were some glitches such as getting the correct contact information for defendants to get the Zoom link to them for the Court appearance. A change in the information collected at the time of arrest by the arresting agencies to include defendant's contact information, particularly their cellular number and/or email address made a significant difference in facilitating the defendant's virtual appearance. Despite these issues brought on by the pandemic, the Special Remand Court had 850 new matters referred to the Court in 2020. During this year the Special Remand Court was able to resolve 364 matters via guilty pleas and during this virtual world three matters were tried virtually.