JUDICIARY

1. While the level of pending cases has been declining for at least the past several years, there is still a significant numbers of anticipated pending cases. For FY 2008 it is anticipated there were be 9,546 pending cases at the end of the fiscal year. For FY 2009, 8,669 pending cases are expected by the end of the year.

   What steps is the Judiciary taking to dispose of the backlog? How much of what appears to be a backlog is merely due to the length of time cases "normally" take to resolve and how much is an actually backlog due to lack of staffing/resources to accomplish the function? What is the average length of time for a child placement review to be resolved?

   The question refers to the number of FC cases listed as pending in the Judiciary's annual and monthly case reports. These cases are filed by the Division of Youth and Family Services (Division) when a child is removed from a home by the Division while an allegation of abuse or neglect is investigated. Within five calendar days of a child being placed out of home, the Division must file with the courts a document entitled a Notice of Placement (Notice). The Notice must include the date and type of placement and the reasons for such placement. When the Notice is filed with the courts, the case is docketed on the Family Automated Case Tracking System (FACTS) and the case is assigned a Child Placement (FC) docket number. The filing of the Notice grants jurisdiction over the placement of the child to the courts. The Division is required to submit to the courts a permanency plan for the child and the anticipated date of achieving that goal must be in the plan as well as objectives necessary to meet that goal. The duties and responsibilities of the Division, including the services to be provided to the parents and child, must be stated in the plan and addressed at a permanency hearing. It is the obligation of the Division to establish and implement the permanency plan for a child placed out of home. The court evaluates the progress of the case to ensure that the Division is doing all that is necessary to achieve the permanency plan for the child. The actual length of time a case is pending is dependent primarily on the actions of the Division, not the Judiciary. The "average" time to resolve a case is approximately two years. This figure has been consistent for the last five years. The number of new filings has declined over the last five years from 7,050 in 2003 to 5,720 in 2007. The number of children who are in placement (cases pending) at the end of the court (fiscal) year has declined from 12,599 in 2003 to 10,415 in June, 2007.

   The court is responsible for conducting a review of the Division's permanency plan within 365 days of the child's out of home placement. The conduct of this hearing, within 365 days, is the standard used by the Judiciary since 1999 to measure "backlog." As of June 30, 2007, the court had no FC cases in backlog, that is, a permanency hearing had been conducted when required. As of March 31, 2008, only 1 percent (101) of the 9,804 pending FC cases were in backlog status.

2. Evaluation data in the proposed budget indicates that child support collections for FY 2009 are expected to be $1.25 billion – an increase from FY 2008's anticipation of $1.187 billion.

Is the FY 2008 estimate still accurate based on collections received so far? What percent of child support due is represented by the anticipated collections? Is the increased estimate for FY 2009 simply a function of more cases or is it due to increased enforcement efforts or other factors? How do our State's collection efforts compare to other states? Are there collections method which the State should be considering that we are currently not using?

The 2008 estimate of collections for the fiscal year is still accurate based on collections to date.

Our anticipated child support collections represent about 66 percent of the child support due.

The increased estimate for FY 2009 collections is due to a number of factors and is based on recent history. We project that collections will increase by about five percent per year. Caseload has increased by about one percent per year and inflation has added one percent to two percent per year. We believe that collections have consistently increased above the levels attributable to those factors due to the implementation of the judiciary's best practices, improvements in management reports and a greater emphasis on employee training. Collections have also benefited from two changes which were enacted by the Federal Deficit Reduction Act of 2005: 1) the lowering of the arrears threshold required to deny the issuance of a passport (from $5,000.00 to $2,500.00); and 2) the ability to apply Federal Tax Offsets in matters where the child is over 18.

New Jersey ranks first in the country for collections received per case, 11th nationally in the percent of collections received during the period in which they were due, and 17th nationally in the percentage of cases with an arrears collection. On average, New Jersey's annual percentage increase in collections is about 1 percent higher than the rest of the nation.

New Jersey's judicial process allows us to take advantage of more collection methods than are available to other states. However, our program would benefit by the enactment of legislation establishing an age of emancipation. New Jersey is currently the only state lacking a legal age of emancipation. Such an act would help us in resolving older cases and would statistically improve our collections for current support as well as on those cases with arrears. Performance improvements in these two areas, which are federally measured, would serve to increase the amount of federal incentive funds New Jersey receives. An emancipation age would also curb the accumulation of arrearages for children who have reached the age of majority and allow staff to focus their efforts on cases where financial support is needed by children and families.

3. Budget data shows an increase in positions anticipated for FY 2009 of 119. Yet the Salaries and Wages lines are flat-funded.

How will the Judiciary be increasing positions by 119 without any change in salary appropriations? Do the salary appropriations already cover the increased salaries for judges?

In order to achieve the $27 million cost reduction recommended by the Governor, the Judiciary anticipates the implementation of an early retirement program that will reduce funded staffing levels by approximately 300 positions in FY 2009. This reduction is not reflected in the FY 2009 Budget Book evaluation data. Savings from staffing reductions and Information Technology deferred spending will provide the funding for the increased salaries for judges.

4. Language included in the proposed budget would allow the Judiciary to carry-forward up to $9 million in funds unexpended in FY 2008.

   Please provide the Committee with your estimate of the level of funding that will be unexpended at the end of FY 2008. Please also provide a five-year history of amounts carried-forward into the succeeding fiscal year

   A key component in meeting the Governor's recommendation to reduce the Judiciary's FY 2009 budget by $27 million includes the ability to have $9 million in state funds unexpended at the end of FY 2008, in effect allowing FY 2008 savings to be applied to FY 2009.

   The Judiciary's carry-forward amounts are addressed in the annual appropriation act. A five year history is as follows:

   - FY 2004 $3.0 million
   - FY 2005 $3.0 million
   - FY 2006 $3.0 million
   - FY 2007 $3.0 million
   - FY 2008 $3.0 million

5. The FY 2008 Appropriations Act authorized a 5.7% increase in judicial and other state and county official's salaries at a cost of $3.6 million. P.L. 2007, c.350 codified the 5.7% increase and authorized additional increases effective January 1, 2008 and January 1, 2009. The additional cost over the two-year period is $11,477,515 of which $7,628,790 will be for judicial salaries and $3,848,725 for increased fringe benefits costs. The legislation also increased salaries for Administrative Law Judges, Workers' Compensation Judges and the county surrogates, county clerks, registers of deeds and mortgages and sheriffs as well as increased salaries for the county prosecutors to match the salary of a Superior Court Judge. This increase would total 17.02% over a two-year period.

   Please detail the funding source for the two-year phase-in of the approximately $11.5 million necessary for the judicial salary increases. From what source will the Judiciary fund the $3.8 million fringe benefit costs?

   The Judiciary salary increases are being funded by a staffing reduction and the deferral of our Information Technology Strategic Plan initiatives. The $3.8 million fringe cost is included in the Executive Branch's Interdepartmental accounts.

6. In October 2007, the Governor announced his anti-crime initiative *"Strategy for Safe Streets and Neighborhoods."* This strategy consists of three components – Enforcement, Prevention and Re-Entry, and led to implementation of new policies on questioning arrestees on their immigration status, bail procedures, increased anti-gang initiatives, and efforts to stem the use of illegal handguns, street crime and recidivism.

   As a result of the August 2006 Newark shootings incident which prompted both the Governor's crime package and a judicial review of proceedings for the defendants in the case, Chief Justice Rabner directed an investigation into the procedures followed by the prosecutors, defense attorneys and the courts in setting and consolidating bail for Jose Carranza that allowed him to be free to commit further crimes in the community. While the AOC report by retired Superior Court Judge D'Italia found no defect in the procedures followed in this case, the Acting Director of the AOC, Judge Carchman, issued a follow-up memo to all the Criminal Presiding Judges.

   In his memo, Judge Carchman noted that in the future, any agreement for bail reduction by the prosecutor must be made "on the record" in open court, or memorialized or confirmed in writing. The judge's determination must be on the record, or in an order, so that all proceedings are accurately reflected in the record. Secondly, Judge Carchman noted that similar procedures were to be followed whenever applications for the reduction or increase in bail were presented to the court.

   Have the procedures outlined by Judge Carchman been implemented in the criminal courts?

   Yes. The September 5, 2007 memo from Judge Carchman was distributed to Criminal Division Judges and Criminal Division Managers advising them of the new policy with regard to bail reductions and increases. All counties report they have implemented the procedures.

   To date, has the Judiciary conducted any follow-up review of these procedures?

   There has not been a follow-up review of the procedures. Many of the vicinages employed these same procedures prior to development of the formal policy.

   Has the implementation of these procedures resulted in any additional costs to the Judiciary?

   The Judiciary has not incurred additional costs as a result of these procedures.

   How many bail source hearings have been conducted by the criminal courts as a result of the enactment of P.L.2007, c.46? Has bail been denied, increased or denied in any of these matters?

The PROMIS/GAVEL System does not specifically track these hearings. However, information supplied by the vicinages indicates that statewide approximately 80 bail source hearings have been requested. In the vast majority of the cases a hearing was not conducted because the prosecutor withdrew the request for a hearing after receiving additional information about the source of the bail funds. The vicinages report that in no case has bail been denied nor a request to post bail been withdrawn due to a source of bail funds question or hearing.

7. The Governor's anti-crime strategy includes a pilot gun strategy to streamline the process for handling serious gun cases. Programs were established in Essex, Camden and Mercer counties in December 2007. Those designated serious cases are first and second degree offenses committed with a gun, such as assault, robbery and kidnapping, and possession of weapon for an unlawful purpose. In 2006 there were approximately 780 such cases in Newark, 315 in Camden and 215 in Trenton.

   According to the Attorney General's December 6, 2007 press release, two Superior Court judges in Essex County were to be assigned to closely manage 150 randomly selected cases from arrest through trial. The objective of the program is to avoid situations where cases are transferred from one judge to another or from one assistant prosecutor to another. In the Mercer and Camden County programs, a coordinating judge will handle serious gun cases through indictment, including preliminary bail review and pre-indictment proceedings. The total number of cases will not exceed 250 in each of these two counties.

   How have the three pilot programs to process serious gun offenses been implemented by the Judiciary?

   This is a law enforcement initiative. The Judiciary is cooperating with the program as established by the Attorney General, and our role is to expedite the processing of gun cases, as we have done in the past with other such initiatives.

   Our implementation effort has been geared towards providing judicial resources to implement the pilots and to providing some computer programming help, short-term, to the Attorney General's Office.

   Has this program resulted in additional costs to the Judiciary? Please provide a breakdown of the costs for establishing and implementing the pilot programs.

   Our general experience is that specialized courts, beyond their potential impact on neutrality, tend to be a less efficient form of case processing and can significantly interfere with the flexibility needed to manage our diverse statewide calendar, which exceeds a million filings annually in the Superior Court. However, we also try to accommodate the reasonable needs of the various participants in the administration of justice, and thus agreed to these pilot programs.

It is too early to ascertain whether the productivity of the judges involved will be impeded to the extent that additional judicial resources would be required to make the pilots permanent or expand them to other counties.

What factors will determine whether the pilot programs will be made permanent, and will the program be expanded to other counties in the State?

It is much too early to consider making the pilots permanent or considering expansion to other counties. We cannot speak for the Attorney General in terms of what she would consider "success" for evaluation purposes. The Judiciary would be interested in looking at whether the program will be able to lessen the time to disposition for these cases and whether there is a cost, in terms of loss of judge productivity, in implementing the program.

8. The FY 2009 funding recommendation for New Jersey's drug court program is $38.5 million. Of the $38.5 million appropriation, $26.4 million is designated for drug treatment and aftercare services provided by the Division of Addiction Services within the Department of Human Services.

   Legislation to expand the program is currently awaiting the Governor's signature, and would take effect in the late summer. The expanded program would be open to offenders with two or more prior third degree convictions, so long as the local county prosecutor provides approval. The six month inpatient treatment requirement is eliminated, and instead allows judges to determine, after evaluation, whether treatment should be on an in- or out-patient basis.

   Approximately 400 additional offenders per year will be eligible to participate, given the expanded eligibility criteria. Current law bars persons from entry into the drug court program if they have been previously convicted on two or more separate occasions of crimes of the first, second or third degree, other than drug possession or use crimes and will permit people that would otherwise be incarcerated to participate in the program.

   What is the funding source of the $38.5 million estimated for this expanded drug court program? The FY 2009 recommendation indicates that $26.4 million is designated for drug treatment and aftercare services provided by the Division of Addiction Services within the Department of Human Services. How will the remaining $12.1 be allocated?

   Funding for the Drug Court Program is included in the annual appropriation act and funded through the General Fund of the State of New Jersey.

   The Governor's recommended budget provides $1.6 million to the Judiciary for Drug Court Judges and their staff and $10.6 million for Judiciary Drug Court Operations.

   The Governor's FY 2009 Recommended Budget includes a funding increase of $5.084 million for the expansion of the Drug Court Program related to the GEAR Commission

recommendation. The expansion funds are reflected in the Drug Court Treatment/Aftercare line in the budget. The Judiciary has submitted a budget resolution to realign $1.220 million to properly reflect the Judiciary portion of the GEAR Commission recommendation. This realignment will decrease the Treatment/Aftercare line by $1.220 million, and increase the Drug Court Judgeships line by $347,000 and the Drug Court Operations line by $873,000.

The legislation expanding the drug court program also makes it easier for an offender to be released from their mandatory Drug Enforcement and Demand Reduction Fund (DEDR) financial obligations. How will this decrease in DEDR penalty revenue impact the operations of the Judiciary?

The legislation approved by the Governor on April 21, 2008 only permits a judge to reduce a DEDR balance for successful drug court participants who cannot pay due to "extreme financial hardship". Therefore there is likely to be little impact as these funds would have gone uncollected anyway.

9. P.L.2007, c.297, which took effect in April 2008, permits the sentencing court to impose a single, rather than multiple, DEDR penalties for drug offenses. Alternatively, a defendant may propose a plan to perform "reformative service" in lieu of payment of up to one-half of the DEDR penalty which must be approved by the court and the prosecutor.

   How will this change in law impact DEDR revenue? Will the programs funded through the DEDR Fund see a reduction or a loss of funding?

   In Fiscal Year 2007 probation clients were ordered to pay approximately $14.7 million in DEDR penalties. Based on prior performance over the past six years, probation has collected approximately 80 percent of all DEDR monies ordered. It is therefore anticipated that approximately $11.8 million of the DEDR penalties ordered that fiscal year will eventually be collected. Additionally, in Fiscal Year 2007 there were 15,107 clients with DEDR penalties imposed with 2,259 clients having multiple penalties. Based on the collection compliance record, the number of potential eligible clients and the fact that "reformative service" is not determined solely on ability to pay, some penalties that would have been collected will be eliminated, thereby reducing the DEDR Fund in future fiscal years.

10. For each year beginning with FY 2002 through FY 2008, please provide by vicinage a count of the number of employees. Please use April 1 or the closest pay period as the date for determining the employee count for each vicinage.

    Attached is a chart that provides the number of filled positions by vicinage for Fiscal Year 2002 through FY 2008 as of April 11.

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HISTORY OF FILLED POSITIONS
FY 2002 - CURRENT

	FY 2002 PP # 08/02 3/23/02-4/5/02	FY 2003 PP # 08/03 3/22/03-4/04/03	FY 2004 PP # 08/04 3/20/04-4/2/04	FY 2005 PP # 08/05 4/2/05-4/15/05	FY 2006 PP # 08/06 4/1/06-4/14/06	FY 2007 PP # 08/07 3/31/07-4/13/07	FY 2008 PP # 08/08 3/29/08-4/11/08
ATLANTIC	364	358	356	363	361	377	390
CAPE MAY	112	116	113	112	113	115	115
	476	474	469	475	474	492	505
BERGEN	502	483	496	505	525	508	502
BURLINGTON	307	313	321	333	333	335	346
CAMDEN	654	651	648	647	673	669	638
ESSEX	1,040	1,005	1,019	1,000	984	989	991
HUDSON	600	613	616	618	617	601	600
MERCER	379	371	368	370	369	369	371
MIDDLESEX	555	572	591	608	565	570	561
MONMOUTH	478	470	467	486	480	479	500
MORRIS	275	277	283	287	286	280	285
SUSSEX	97	95	98	98	105	100	103
	372	372	381	385	391	380	388
PASSAIC	526	510	520	516	518	508	519
UNION	500	521	495	499	501	481	495
SOMERSET	186	176	178	194	194	199	197
HUNTERDON	76	74	76	78	75	75	77
WARREN	95	92	90	89	91	86	90
	357	342	344	361	360	360	364
OCEAN	347	381	386	393	386	381	402
CUMBERLAND	218	241	238	241	247	246	237
GLOUCESTER	225	237	236	232	234	231	240
SALEM	98	103	98	97	97	94	95
	541	581	572	570	578	571	572
TOTALS	7,634	7,659	7,693	7,766	7,754	7,693	7,754