

## Responses to Discussion Points

1. P.L.2019, c.32 established several multiyear schedules for gradually raising the State minimum wage from currently \$8.85 per hour to not less than \$15.00 per hour. The increase may affect Judiciary staff, third parties that provide services to or on behalf of the Judiciary, and programs with means-tested eligibility criteria. For example, the courts assess a defendant's income in determining whether the defendant is eligible for reduced-cost legal representation by the Office of the Public Defender.

In FY 2020, the general State minimum wage will rise as follows: 1) on July 1, 2019 to \$10 per hour; and 2) on January 1, 2020, to not less than \$11 per hour. The general minimum wage schedule will increase to at least \$12 per hour on January 1, 2021; \$13 per hour on January 1, 2022; \$14 per hour on January 1, 2023; and \$15 per hour on January 1, 2024.

- *Questions:* Please quantify the fiscal impact to the Judiciary in FY 2020, and the number of employees from \$8.85 to \$10 per hour on July 1, 2019 and from \$10 to \$11 per hour on January 1, 2020, and the number of employees who will be impacted by each increase. Relative to current compensation levels, please provide the same information assuming an hourly minimum wage of \$12, \$13, \$14, and \$15.

*Answer:* The increase in the minimum wage from \$8.85 to \$10 per hour and then to \$11 per hour will not have an impact on Judiciary employees. Entry level staff make no less than \$15.02 in FY 19 and \$15.32 in FY 20. Current temporary employment services (TES) staff would not be impacted by the increase in the minimum wage to \$10 per hour and then \$11 per hour, as the lowest hourly wage is \$12.00. Assuming an increase of \$13, \$14 and \$15 per hour, about 40 of the current TES staff would be impacted, and wages would have to be increased to meet the legal minimum wage.

- *Questions:* Please quantify the fiscal impact to the Judiciary in FY 2020 of the increases in the minimum wage of employees of third parties that provide services either to the Judiciary, including temporary employment services, or on behalf of the Judiciary according to contractual agreements. Relative to current compensation levels, please provide the same information assuming an hourly minimum wage of \$12, \$13, \$14, and \$15.

*Answer:* The increase in the minimum wage from \$8.85 to \$10 per hour and then to \$11 per hour will likely not have an impact on employees of third parties that provide temporary services. Though one temporary position on the schedule pays \$9.40 per hour, we are not currently utilizing anyone in that title. Assuming an increase of \$13, \$14 and \$15 per hour, the current employees of temporary employment services that we utilize (about 10) would most likely be impacted, and their wages would have to be increased to meet the legal minimum wage. The pay schedule for most of those employees range from \$11 per hour to \$20 per hour.

- *Questions:* Please quantify the fiscal impact to the Judiciary in FY 2020 of the increases in the minimum wage of participants in programs run by the Judiciary that have means-tested eligibility criteria. Relative to current compensation levels, please provide the same information assuming an hourly minimum wage of \$12, \$13, \$14, and \$15. Please list the programs with income-based eligibility criteria that will be affected by P.L.2019, c.32 and for each such program specify the law's projected effects on enrollment, the benefits provided to enrollees, and the projected cost savings to the Judiciary. Please pay particular attention to the determination of eligibility for reduced-cost legal services by the Office of the Public Defender. What formula does the Judiciary use in determining eligibility?

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Answer: It is not possible to determine the impact an increase in the minimum wage will have on the Judiciary. The two programs that may be impacted are: 1) the appointment of a public defender at both the municipal and Superior Court level, and 2) the municipal court program, pursuant to N.J.S.A. 2B:12-23.1 and N.J.S.A. 39:4-203.1, which enables a defendant to be able to pay his/her financial penalties in installments. While increases in salary may impact defendant qualification, there is no way to determine the extent of that impact at this time.

2. Criminal Justice Reform authorized by Constitutional amendment and implemented under P.L.2014, c.31 became fully operational Statewide on January 1, 2017. The program provides for pretrial detention of certain criminal defendants, establishes non-monetary bail alternatives for release; and authorized the Judiciary to increase certain fines.

To evaluate a defendant's risk and to reach a pretrial release decision, the courts use an evidence-based risk assessment called the Public Safety Assessment and its accompanying Decision Making Framework. The two tools measure and manage a defendant's risk of non-appearance in court or danger to the public. The Public Safety Assessment analyzes the defendant's criminal history and predicts the risk that the defendant will fail to appear to court events, engage in new criminal activity, or engage in new violent criminal activity. These risk results inform the risk management strategy. The Decision Making Framework, in turn, is primarily driven by the defendant's charges and the risk that the criminal justice system is willing to tolerate concerning defendants who are charged with certain types of crimes.

In response to an FY 2019 OLS Discussion Point, the Judiciary expressed a high level of confidence in the risk assessment tools producing accurate risk scores, detailed revisions to the tools in 2017 to improve their accuracy and noted that it was engaged in "significant data analysis" to evaluate the success of the program.

- *Questions:* Having used the risk assessment tools for more than two years, what is the Judiciary's conclusion as to the risk assessment tools' reliability and the use of the tools in pretrial release decisions? What steps has the Judiciary taken since responding to last year's Discussion Points to address any concerns with the risk tools and with the overall implementation of Criminal Justice Reform? Has the "significant data analysis" to evaluate the success of the program been completed? If so, please provide a copy of the analysis comment on its findings and detail any changes the Judiciary has implemented or intends to implement as a result of the findings. If the analysis is ongoing, by what date does the Judiciary anticipate its completion?

Answer: The Public Safety Assessment has been revalidated. The data analysis is ongoing and will be provided in the Judiciary's annual report on Criminal Justice Reform. In 2019, in addition to any changes to the risk assessment that may result from the research findings, the topics of domestic violence, juveniles and disparity will be examined in the context of the risk assessment tool.

- *Questions:* Please provide updates on how the imposition of bail reform affected the population of inmates in the county jails. How many offenders have been released under bail reform in each county? How many have been detained in jail pending trial? How many of those released pending trial have been re-arrested on additional criminal charges?

## Responses to Discussion Points

Answer: The pretrial jail population decreased 44 percent between December 31, 2015 and December 31, 2018. The specific data is as follows: December 31, 2015 = 8,899; December 31, 2016 = 7,058; December 31, 2017 = 5,718; and December 31, 2018 = 4,995.

In 2017, 94 percent of the 142,663 defendants charged on a summons or warrant were released. 98,344 defendants were released on a summons, 34,444 defendants on warrants were released on their own recognizance or pretrial monitoring, and 1,594 were released prior to a release decision. In 2018, 94 percent of the 135,009 defendants charged on a summons or warrant were released. 90,626 defendants were released on a summons, 33,741 defendants on warrants were released on their own recognizance or pretrial monitoring, and 1,861 were released prior to a release decision. In 2017, judges granted detention motions for 8,043 defendants, and in 2018, judges granted detention motions for 8,669 defendants. Statistics for defendants that had new criminal activity after pretrial release will be included in the 2018 Criminal Justice Reform Annual Report.

3. P.L.2014, c.31 authorized the Judiciary to increase certain fees to cover the cost of Criminal Justice Reform. The revenue from the fee increases is deposited in the dedicated 21<sup>st</sup> Century Justice Improvement Fund, to provide for (1) the development, maintenance and administration of a Statewide Pretrial Services Program (\$22 million); (2) the development, maintenance and administration of a Statewide digital e-court information system (\$10 million); and (3) the provision to the poor of legal assistance in civil matters y Legal Services of New Jersey and its affiliates (\$10.1 million). According to the Governor's FY 2020 Budget in Brief, FY 2019 and FY 2020 fee collections are projected to equal statutory amounts.

The Judiciary is concerned that the current dedicated revenue source for the Pretrial Services Program is insufficient to meet annual operating expenditures, according to the Judiciary's 2017 Criminal Justice Reform Report to the Governor and the Legislature. The Judiciary related that, as of December 31, 2017, it had allocated \$67.4 million out of \$130.9 million in total fee collections to the Pretrial Services Program. Of the \$67.4 million, some \$33.8 million had been expended or committed to be expended, as of December 31, 2017, leaving a balance of \$44.6 million. The Judiciary projected that annual program expenses would exceed annual dedicated fee collections beginning in FY 2018 but noted that because of unexpended account balances the annual structural deficit would not affect program operations until calendar year 2019 or 2020. To remedy the program's structural imbalance, the Judiciary proposed shifting program staff positions from the dedicated funding stream to the State General Fund.

- *Questions:* For each of FY 2019 and FY 2020, please project the Pretrial Services Program account balance at the beginning of the fiscal year, program expenditures, program revenues, and the year-end closing balance. Including previously accrued account balances, does the Judiciary dispose of sufficient funding to operate the program without imposing restrictions in FY 2019 and FY 2020? Please update the projection of the fiscal year in which program expenditures will exceed available resources. Please provide a breakout of budgeted FY 2020 program expenditures and the number, by title, of funded and filled positions.

## Responses to Discussion Points

Answer: Chart 1 shows the effect of leaving the Pretrial Services Program and its' related expenses in a Dedicated Fund.

<b>The Judiciary</b>			<b>CHART 1</b>
<b>Criminal Justice Reform : Pretrial Services Program (PSP)</b>			
<i>(Assumes positions remain as Dedicated Positions, and therefore continue to incur Fringe costs)</i>			
	<b>Act</b>	<b>Estimated</b>	
	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
<b>Resources:</b>			
Revenue	21,100,000	20,700,000	20,300,000
OMB (Retro Payments)		1,800,000	
<b>Total Resources</b>	<b>21,100,000</b>	<b>22,500,000</b>	<b>20,300,000</b>
<b>Expenses:</b>			
Salaries	11,400,000	18,100,000	20,600,000
Fringe Benefits	7,600,000	10,600,000	11,100,000
Retropayments (FY17 & FY18)		1,800,000	
<b>Total OE</b>	<b>5,100,000</b>	<b>5,200,000</b>	<b>5,300,000</b>
<b>Total Expenses</b>	<b>24,100,000</b>	<b>35,700,000</b>	<b>37,000,000</b>
<b>New Fiscal Year Activity</b>	<b>(3,000,000)</b>	<b>(13,200,000)</b>	<b>(16,700,000)</b>
Beginning Balance	31,700,000	28,700,000	15,500,000
<b>Ending Balance</b>	<b>28,700,000</b>	<b>15,500,000</b>	<b>(1,200,000)</b>
( ) = structural deficit			

Responses to Discussion Points

Chart 2 represents a snapshot of the Judiciary’s FY 2020 Technical Budget request for the PSP program to be moved to a permanent sustainable Direct State Service Appropriation.

<b>The Judiciary</b>			<b>CHART 2</b>
<b>Criminal Justice Reform : Pretrial Services Program (PSP)</b>			
<i>(Assumes (PSP) program is moved to a permanent sustainable Direct State Service Appropriation in FY 2020)</i>			
	<b>Act</b>	<b>Estimated</b>	
	FY18	FY19	FY20
<b>Resources:</b>			
Revenue	21,100,000	20,700,000	20,300,000
Revenue returned to the General Fund (begin FY20)			(20,300,000)
OMB (Retro Payments)		1,800,000	
Direct State Funded Appropriation - permanent (begin FY20)	n/a	n/a	25,900,000
<b>Total Resources</b>	<b>21,100,000</b>	<b>22,500,000</b>	<b>25,900,000</b>
<b>Expenses:</b>			
Salaries	11,400,000	18,100,000	20,600,000
Fringe Benefits	7,600,000	10,600,000	n/a
Retropayments (FY17 & FY18)		1,800,000	
Total OE	5,100,000	5,200,000	5,300,000
<b>Total Expenses</b>	<b>24,100,000</b>	<b>35,700,000</b>	<b>25,900,000</b>
<b>New Fiscal Year Activity</b>	<b>(3,000,000)</b>	<b>(13,200,000)</b>	<b>-</b>
Ending Balance	28,700,000	15,500,000	n/a
( ) = structural deficit			

The Administrative Director of the Courts has authorized up to 313 positions statewide for the program as of March 2019, including managers, court officers, investigators and clerical personnel. Currently, 299 Pretrial Service Program positions are filled (see below).

**PRETRIAL SERVICES – AS OF PP# 04/19**

**TARGET   FILLED   VARIANCE**

VICINAGES	297	276	(21)
AOC	16	14	(2)
<b>TOTAL</b>	<b>313</b>	<b>290</b>	<b>(23)</b>

- *Questions:* Has the Judiciary implemented cost-saving measures in the Pretrial Services Program in FY 2019 to reduce the imbalance between annual program revenues and expenditures? Does the Judiciary intend to implement cost-saving measures in FY 2020? Generally, please explain how the Judiciary plans to align program expenditures with program revenues once account reserves will be exhausted.

## Responses to Discussion Points

Answer: Even with close monitoring of staffing levels and cost-cutting measures in the areas of electronic monitoring and drug testing, the structural funding deficit is projected to continue unless

funding changes are made. The projected annual deficits will leave the Pretrial Services Program with a negative balance as of late fiscal year 2020-early fiscal year 2021.

The solution to this impending program funding crisis remains the same. Pretrial Services Program staff positions must be removed from the current Dedicated Fund positions to Direct State Service positions, thereby moving staff salary costs to the regular state budget and the fringe benefit costs to the Interdepartmental Account.

4. The cost of electronically monitoring defendants on pretrial release is \$3.59 to \$4.19 per defendant per day, according to the Judiciary's 2017 Criminal Justice Reform Report to the Governor and the Legislature. The Judiciary reported that it spent \$784,017 in calendar year 2017 on electronic monitoring. In addition to these costs, the Judiciary reported dedicating significant resources to address non-compliance by defendants with electronic monitoring release conditions. According to the Judiciary, in less than one-third of the counties across the State, the county jails handle and respond to emergent electronic monitoring alerts. In the remaining counties, Pretrial Services Program staff perform these functions. The Judiciary stated further that it continued to evaluate the electronic monitoring process to manage resources while ensuring public safety.
  - *Questions:* Please explain how the Judiciary plans on managing costs and resources while ensuring public safety? Has the Judiciary implemented any changes to the program in calendar year 2018 or 2019 to improve the performance of the program? Has the Judiciary shifted the responsibility of handling emergent electronic monitoring alerts to additional counties? How many emergent electronic monitoring alerts from defendants on release were recorded in each of 2017 and 2018? How many defendants participated in the pretrial release program in each of 2017 and 2018? What was the average number of emergent electronic monitoring alerts per defendant in each of 2017 and 2018? Does a specific subset of defendants account for a majority of emergent electronic monitoring alerts? What is the percentage of emergent electronic monitoring alerts that cannot be attributed to violations of pretrial release conditions by defendants?

Answer: The total number of defendants in the pretrial release program in 2017 and 2018 are as follows:

	2017	2018
ROR	3,330	3,861
PML1	9,144	7,539
PML2	6,581	7,577
PML3	11,703	12,150
PML3+	3,686	2,614
	34,444	33,741

The Judiciary has, through the issuance of Directives #6-18 and #7-18 as well as training and education of judges and pretrial staff, worked to ensure that electronic monitoring is only used in appropriate circumstances. There were 2856 defendants on electronic monitoring in 2017. That number decreased to 1748 in 2018. As a result, though the cost of electronic monitoring in 2017 was \$784,017, that cost decreased by \$218,854 in 2018.

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Emergent alerts, by definition, are addressed immediately and may result in a violation. The number of emergent alerts decreased from over 70,000 in 2017 to just over 66,500 in 2018.

The Judiciary has established partnerships with several county jails to assist in setting up electronic monitoring devices, and some assist with electronic monitoring alerts. The bulk of the alerts are still handled by the Judiciary. In 2018, the Judiciary implemented an EM Dashboard for Law Enforcement

that allowed law enforcement to look up defendants on electronic monitoring to verify their conditions and victim information. It also allowed for quick access to emergent bench warrants that are issued

for violation of electronic monitoring, and eMUGS, a database of defendant's prior mugshot photos, to assist law enforcement in identifying defendants in executing the bench warrant.

5. The Judiciary operates the Statewide County Corrections Information System (CCIS), which is an online network providing automated defendant information to various criminal justice agencies across New Jersey. P.L.2004, c.108 established a permanent dedicated funding source for the CCIS, notably \$12 from each fee for filing papers related to recognizance of civil bail. With Criminal Justice Reform having taken effect on January 1, 2017, cash bail is no longer a primary requirement for a defendant to be released pretrial. As a result, fee collections dedicated to the operation of the CCIS have plunged to a level insufficient to meet annual program expenditures. Specifically, between FY 2013 and FY 2016, annual CCIS collections ranged from \$353,000 to \$381,000. In FY 2017, they totaled \$198,000 before dropping to \$31,000 in FY 2018. The Governor's FY 2020 Budget includes no revenue projection for the program for FY 2020.

Annual account expenditures, on the other hand, ranged from \$198,000 to \$407,000 between FY 2013 and FY 2018. In FY 2019, CCIS expenditures are largely met through balances carried forward from prior fiscal years. The \$157,000 remaining in the account as of March 18, 2019, however, is unlikely to cover CCIS operating expenditures through the end of FY 2020.

- *Questions:* Is the CCIS projected to have sufficient resources to finance its operations through the end of FY 2020? If not, what is the Judiciary's plan for replacing the dedicated CCIS revenues lost as a result of Criminal Justice Reform? Please provide a financial plan and detailed anticipated program expenditures for the CCIS for FY 2020.

*Answer:* The full cost of running of an automated statewide jail system has been funded through the Judiciary Direct State Service (DSS) budget since the jail system's inception in the 1980's. Before P.L.2004, c.108 was enacted, each county paid a \$16,000 user fee to use CCIS. The counties were concerned that their needs were not being met by this fee, and the law was established to create an account that the AOC could use to fund initiatives requested by the counties. The current estimated cost for CCIS, including Judiciary Information Technology Office (ITO) and Automated Trial Court Systems Unit (ATCSU) personnel, processing, networking, hardware and software, is \$2 million dollars. This cost is currently funded through DSS.

Criminal Justice Reform has virtually eliminated the revenue for this fund. The expenditures mentioned previously funded two positions. The Judiciary has absorbed those positions and will not charge the fund for those positions. Between FY 2013 and FY 2016, annual CCIS collections ranged from \$353,000 to \$381,000. In FY 2017, they totaled \$198,000 before dropping to \$31,000 in FY 2018. In FY 2019, the fund is only expected to receive \$22,000. The minimal funding will be

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used to offset some of the costs to run CCIS, mainly hiring contractor resources for CCIS enhancements needed for CJR.

- *Questions:* What role does the CCIS play in the current criminal justice reform process? Who has access to the system? Please provide usage statistics for FY 2017 and FY 2018.

*Answer:* CCIS is a cornerstone application for the criminal justice reform platform. All defendants arrested on a warrant are entered into CCIS with a timestamp that begins the 48 hour window for a risk assessment determination. Defendants detained after CJP are tracked through CCIS until the disposition of their case.

While we do not have usage statistics, on a daily basis, all jails use CCIS, other law enforcement entities access it, and staff in both the criminal and municipal courts use it. Established interfaces with both law enforcement and Judiciary systems automatically check CCIS for various purposes.

6. Effective October 1, 2018, P.L.2017, c.244 expanded the categories of convictions for criminal, disorderly persons, and petty disorderly persons offenses that qualify an individual for the expungement of the individual's criminal records and other related records and information. The law also revised procedures for expunging criminal and other records and information, including the shortening of certain waiting periods for expungement eligibility and the elimination of the requirement that formerly convicted persons satisfy any debts resulting from court-ordered fines and other financial obligations before they become eligible for expungement.

- *Questions:* Has P.L.2017, c.244 resulted in an increase in expungement petitions since October 1, 2018? How many expungement petitions have been filed since October 2018? How does that number compare with the same period a year earlier? Has the Judiciary hired, or does it intend to hire, additional staff to process expungement petitions? If so, please indicate the total number of additional positions, by title and salary range. Do additional expungement filing fee revenues as a result of the 2017 law suffice to defray the additional expungement processing expenditures the Judiciary incurs because of that law?

*Answer:* Yes, there has been an increase. In Court Year 2019 to date (8 months from July 1, 2018 to February 2019), there have been 10,216 expungement petitions filed. We estimate that in the last four months of Court Year 2019, we could potentially see over 15,000 petitions filed. This estimate represents an increase over Court Year 2018 (July 1, 2017 through June 30, 2018), when there were 11,707 expungement petitions filed.

To date, the Judiciary has not hired additional staff and is not currently looking to hire additional staff for the expungement process.

Expungement filing fee revenue is not necessarily increasing as some of the increase in the filings are a result of petitions that do not require a fee.

- *Questions:* In general, how long does it take to receive a final order for expungement after filing a petition? What percentage of applicants is successful in obtaining an expungement? Has P.L.2017, c.244 increased the average wait time to have an expungement petition approved or changed the percentage of petitions that result in an expungement?

*Answer:* On average, a petition is scheduled before a judge six to eight weeks from receipt. Judges often have to adjourn the case, however, as a result of the prosecutor's delay in providing the

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petition to the State Police for review, the delay by the State Police in providing their review letters, or both. Those delays are estimated to add two to six months to the process.

We currently do not track if an application is successful, only that a petition was filed. When the eCourts system is enhanced to accept expungement petitions, various additional statistics will be tracked.

- *Question:* For each of FY 2017 and FY 2018, what was the number of expungement petitions filed, the number of expungement petitions that resulted in a final order for expungement, and total revenue collected from the filing of expungement petitions?

*Answer:* In Court Year 2017, 9,222 expungement petitions were filed. In Court Year 2018, 11,707 were filed. At this time, we are not tracking if the petition was granted or denied. We will be able to do that once eCourts is enhanced.

Revenue:

FY17: \$489,475

FY18: \$383,050

FY19 To date: \$241,075

7. P.L.2017, c.244 removed the requirement that formerly convicted persons satisfy any debts resulting from court-ordered fines and other financial obligations before they become eligible for expungement. The law provides, however, that expunged records may be used by the Judiciary’s comprehensive enforcement program to collect restitution, fines and other court-ordered financial assessments that remain due at the time an expungement is granted. The law also permits the court, after providing appropriate due process, to nullify an expungement if the person willfully fails to comply with an established payment plan or otherwise cooperate with the comprehensive enforcement program to facilitate the collection of any outstanding restitution, fines, and other court-ordered assessments. The law took effect on October 1, 2018.

- *Questions:* Please provide initial statistics and observations on the impact of P.L.2017, c.244 on the comprehensive enforcement program. Does it appear that individuals convicted of offenses that are subject to the 2017 law who also owe debts resulting from court-ordered financial obligations have a reduced zeal to pay off the debt once they have attained the expungement of their criminal records? To date, in how many instances has the Judiciary collected amounts owing under the comprehensive enforcement program from individuals who have received an expungement under the 2017 law? Has the Judiciary already nullified an expungement because of the willful failure to comply with an established payment plan or otherwise cooperate with the comprehensive enforcement program?

*Answer:*

CASE STATUS	# OF CASES	PERCENT	TOTAL OWED	AVERAGE BALANCE	AVERAGE MONTHLY PAYMENT AMOUNT
PAYING	29	52%	\$293,810.43	\$24,484.20	\$263.75
NOT PAYING	27	48%	\$101,477.68	\$9,225.24	\$62.36
TOTAL	56	100%	\$395,288.11	\$16,854.72	\$163.06

- \* *Paying = Payments made within the last 3 months*
- \* *Not Paying = No payments within the 5 months +*

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- *Question:* Does it appear that individuals convicted of offenses that are subject to the 2017 law who also owe debts resulting from court-ordered financial obligations have a reduced zeal to pay off the debt once they have attained the expungement of their criminal records?

*Answer:* The data indicates that more than half of the clients who were granted an expungement with an existing balance continued to make voluntary payments on their case without any payment compliance intervention from CEP.

- *Question:* To date, in how many instances has the Judiciary collected amounts owing under the comprehensive enforcement program from individuals who have received an expungement under the 2017 law?

*Answer:* To date, no clients have been referred to CEP for a compliance hearing.

- *Question:* Has the Judiciary already nullified an expungement because of the willful failure to comply with an established payment plan or otherwise cooperate with the comprehensive enforcement program?

*Answer:* No cases have been referred by CEP for nullification of an expungement.

- *Question:* What measures may assist the Judiciary in improving debt collection?

*Answer:* The Judiciary is engaging in various automation and technological advancements to improve debt collection. These include:

- *Collections Software:* Algorithms functionality – case scoring will allow Probation to more easily identify clients who have the ability to pay and who are most likely to pay.
- *Electronic address verification service* will easily locate clients to send reminders of payments owed and reduce skip trace searches.

8. Senate Bill No. 2703 and Assembly Bill No. 4497 seek to legalize and regulate the production, distribution, sale and consumption of marijuana for personal use. As part of the initiative, a new expedited expungement process would be established for persons previously charged with, convicted of, or adjudicated delinquent for any number of offenses involving (1) unlawful distribution, or possession with intent to distribute, of small amounts of marijuana or hashish, (2) possession of small amounts of marijuana or hashish, or (3) using or possessing with intent to use drug paraphernalia for marijuana or hashish.

- *Questions:* Please comment on the likely impact of the current versions of Senate Bill No. 2703 and Assembly Bill No. 4497 on the Judiciary's administration of the expungement process. How many additional expungement petitions does the Judiciary expect to be filed in FY 2020 and FY 2021 if the bills are enacted? Does the Judiciary have sufficient resources to process the additional expungement petitions in a timely manner? How many additional positions, by title and salary range, would have to be created to support the administration of expungement petitions? Might the Judiciary be able to accommodate the temporary increase in expungement filings through a

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reassignment of existing positions? What would be the projected cost of expanding the personnel assigned to the administration of the expungement process?

Answer: The bills will clearly have an impact on both the Judiciary's and the New Jersey State Police's administration of the expungement process based on volume alone.

To date, we do not know the number expected to be filed. However, the Judiciary has gathered estimates on the number of convictions and pending cases for certain marijuana

offenses. Depending on which charges are included in the legislation, the Judiciary could potentially see approximately 183,265 petitions filed over the next several years.

The Judiciary has not hired additional staff and is not currently looking to hire additional staff for the expungement process. We are working toward the development of an e-filing solution for expungements, which will assist in simplifying the current expungement process and enable us to handle high volumes in the event legislation is enacted.

Additionally, it should be noted that expungements connected to the proposed legislation will also impact municipal courts, which are funded by local municipal governments. It is not possible to assess the impact on municipal court resources, as that will be determined by the actual number of filings and the affected courts.

The below chart provides more detailed information.

Total Municipal Complaints/Criminal Cases with a Guilty Disposition for the Specified Charges as of March 7th, 2019									
Calendar Year	Marijuana				Marijuana with Paraphernalia				Total
	2C:35-10A(3)	2C:35-10A(4)	2C:35-5B(11)	2C:35-5B(12)	2C:35-10A(3) and 2C:36-2	2C:35-10A(4) and 2C:36-2	2C:35-5B(11) and 2C:36-2	2C:35-5B(12) and 2C:36-2	
2018	163	12,993	126	859	1,036	12,108	60	554	27,899
2017	755	14,475	166	943	954	13,037	57	624	31,011
2016	737	13,695	144	920	775	12,001	62	742	29,076
2015	485	11,971	160	931	536	9,175	58	610	23,926
2014	462	11,086	159	1,031	562	8,539	67	632	22,538
<b>Total</b>	<b>2,602</b>	<b>64,220</b>	<b>755</b>	<b>4,684</b>	<b>3,863</b>	<b>54,860</b>	<b>304</b>	<b>3,162</b>	<b>134,450</b>

Total Municipal Complaints/Criminal Cases Pending Disposition for the Specified Charges as of March 7th, 2019									
	Marijuana				Marijuana with Paraphernalia				Total
	2C:35-10A(3)	2C:35-10A(4)	2C:35-5B(11)	2C:35-5B(12)	2C:35-10A(3) and 2C:36-2	2C:35-10A(4) and 2C:36-2	2C:35-5B(11) and 2C:36-2	2C:35-5B(12) and 2C:36-2	
Municipal	0	27,457	194	403	0	14,119	13	6	42,192
Criminal	213	3,081	224	288	85	2,297	259	176	6,623
<b>Total</b>	<b>213</b>	<b>30,538</b>	<b>418</b>	<b>691</b>	<b>85</b>	<b>16,416</b>	<b>272</b>	<b>182</b>	<b>48,815</b>

Notes:

If another charge type exists on the complaint/case, the complaint/case is excluded from the count

If multiple charges of the types specified in this report are found on a complaint/case, the one with the highest degree is selected for counting

There are no date limitations on the Pending charges

Inchoate crimes are included in the counts

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9. A January 17, 2019 Order of the New Jersey Supreme Court dismissed 787,764 open municipal matters that were identified as minor and generally were at least 15 years old, recalled any associated open warrants, and rescinded any associated court-ordered driver's license suspensions or revocations. The order mentioned that doing so was the "appropriate use of limited public resources by law enforcement and the courts" and represented notions of fairness and administrative efficiency. In addition, the order called for an examination of whether eligible open matters should be dismissed after having been open for ten years and whether the types of offenses eligible for dismissal should be expanded. Lastly, the

order called for the development of a process for the periodic review and dismissal of open, dated municipal matters.

- *Questions:* By what date does the Judiciary anticipate the conclusion of the examination of whether eligible open municipal matters should be dismissed after having been open for ten years and whether the types of offenses eligible for dismissal should be expanded? By what date does the Judiciary

expect the implementation of a process for the periodic review and dismissal of open, dated municipal matters?

*Answer:* The Supreme Court has referred this issue to the Committee on Municipal Court Practice, which is comprised of judges, private citizens, prosecutors, defense counsel, members of the private bar, and Judiciary staff. The Committee is responsible for providing recommendations to the Supreme Court regarding Court Rule changes that impact municipal court practice.

Given the complexity of the issue, there is no way to determine when the Committee will conclude its work and submit its recommendations to the Supreme Court. Once that report is submitted, however, it will be published for public comment.

- *Questions:* Please provide the data and analyses that led the New Jersey Supreme Court to conclude that municipal unpaid court-imposed financial sanctions and open warrants are essentially unenforceable after 15 years. What is the cost of administering an open warrant or an unpaid financial sanction per year? After how many years do the costs of administering an open warrant or debt outweigh the benefits associated with the likelihood of successful enforcement?

*Answer:* All of the 787,764 matters dismissed by the Supreme Court involved pre-adjudication cases where the defendants had failed to appear in court and the bench warrant issued by the court for failure to appear was never executed by law enforcement. Given that all of the matters were pre-adjudication, no unpaid financial penalties were ever issued on these cases.

The Supreme Court issued an order in July 2018 creating a three-judge panel and directed the panel to "determine the appropriate way to address older, pending municipal complaints that involve minor matters." The panel held three regional hearings and solicited written comments on this issue. The panel received a number of comments concerning the difficulties associated with successfully prosecuting these cases, including locating the defendants and the diminished memories of police officers and witnesses.

Based on these comments and discussions with the Attorney Generals' office, the League of Municipalities, the New Jersey Municipal Prosecutors Association and others, the Supreme Court

## Responses to Discussion Points

determined that the ability to locate, schedule, and successfully prosecute these cases after so many years was low.

The costs to the Court to maintain an open bench warrant in our computer system is minimal. Costs to the Court are only incurred when the defendant is arrested and/or appears in court.

- *Questions:* Please indicate the percentage of municipal court-imposed financial sanctions that is being collected by year after having been imposed. For example, by the third year following the imposition, x percent of court-imposed financial sanctions has been collected; by the fourth year following the imposition, x percent of court-imposed financial sanctions has been collected. Please provide the same statistics for the enforcement of municipal warrants.

*Answer:* The Judiciary cannot generate data to provide this information due to the use of time payments (TPAY). TPAYs are regularly authorized by judges to enable defendants to pay their financial penalties over time. This accommodation is most often provided to defendants who are unable to pay in full on the day of court.

10. The Judiciary pilots an interactive juror summons process beginning this year. Jurors will receive instructions to complete online questionnaires. If they do not complete the online qualification within three weeks, they will receive a paper form to be mailed back to the local jury management office.

- *Question:* Please provide a status update on the pilot project.

*Answer:* As part of Phase I deployment of the new Courthouse Technologies Jury Management System (CHT-JMS), Atlantic County began issuing summonses from the new system on January 18, 2019 and has continued to do so each subsequent week. Jurors, judges, and court staff have provided positive feedback on the new system's functionality. The vendor, Courthouse Technologies, has assisted the Judiciary with daily support during the lead-up and go-live of CHT-JMS.

Phase I deployment of CHT-JMS in Atlantic County is scheduled to continue until May 1, 2019. The system will then be rolled-out on a county-by-county basis over the next several months. All counties are expected to be on CHT-JMS by the end of December 2019.

- *Question:* What percentage of prospective jurors who have been invited to complete the online questionnaires has done so? If the Judiciary does not intend to adopt the online questionnaires statewide, please explain the reason(s) for not doing so.

*Answer:* Similar to the legacy jury management system, all jurors summoned through CHT-JMS have the opportunity to qualify for service online. The Judiciary has already used an online juror qualification program – the Juror Online System (JOS) – for a number of years.

The new eResponse portal incorporates the existing online questionnaire and includes enhancements that provide a new level of customer service to jurors. eResponse gives jurors the opportunity to qualify for service online, as well as make self-service disqualification, excuse, and deferral requests. Jurors who provide their e-mail address and telephone number are sent electronic communications and reminders regarding their service. To date, approximately 50% of the jurors summoned through CHT-JMS have used the eResponse online questionnaire to qualify for service.

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The system also accounts for those jurors who do not have access to a computer or smartphone. A paper letter questionnaire is mailed to jurors who do not qualify online within three weeks of initial summoning. These jurors can mail their completed hard copy questionnaire back to the local jury management office for processing. Juror reporting instructions will also continue to be accessible on a recorded phone message updated daily by jury management office staff.

- *Question:* What problems has the Judiciary encountered with the pilot?

*Answer:* Overall, the system has operated effectively as intended. The Judiciary continues to work closely with the vendor, Courthouse Technologies, to address technical issues with the system. Though a few aspects of the system's functionality have required careful analysis by the Judiciary and revisions by the vendor, they are relatively minor in the scope of the project.

- *Question:* Is the response rate high enough for the Judiciary to expand the pilot into a statewide program?

The eResponse juror portal, connected to CHT-JMS, will be expanded statewide on a rolling basis throughout 2019. During this time, the Judiciary will carefully monitor online response rates and usage data to take appropriate action, when necessary, to increase participation.

- *Question:* Please detail the annual cost savings the Judiciary would realize if it were to adopt the pilot statewide.

*Answer:* The cost savings from the statewide deployment of CHT-JMS will primarily derive from the use of a new summons format. Phase I of CHT-JMS deployment in Atlantic County also includes the implementation of new summons documents – an initial postcard summons notice and a letter-sized summons questionnaire mailed in a regular size-10 envelope – in lieu of the pressure seal forms used previously. The Judiciary anticipates an annual savings of \$185,400 from the use of the postcard summons notice and letter questionnaire.

- *Question:* Would the online process allow for a reduction in funded positions in jury management offices in the vicinages?

*Answer:* As previously stated, the Judiciary has provided an online qualification questionnaire to jurors for a number of years. In the short term, in part because of the transition to a new system, staffing needs will remain static. Though eResponse and CHT-JMS may change the work of jury management office staff, the Judiciary does not anticipate it will do so in a way that would reduce the number of summons mailed or jurors attended.

11. Specialized drug courts target nonviolent criminal defendants and offenders who have alcohol and other drug dependency problems. The courts represent a close collaborative relationship between criminal justice, drug treatment, and social services professionals. The drug court judge heads a team of court staff, attorneys, probation officers, substance abuse evaluators and treatment professionals who work together to support and monitor a participant's recovery.

P.L.2012, c.23 reformed New Jersey's Drug Court program from a voluntary program in several vicinages to a mandatory, statewide program. The reform was implemented over the course of five years. As of July 1, 2017, mandatory drug courts are now operational statewide. Prior to the reform, eligible nonviolent criminal defendants voluntarily entered the program by consenting to drug treatment.

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Under the 2012 law, a judge can now order the mandatory participation in a drug treatment program for eligible nonviolent, drug-addicted offenders, regardless of whether they apply for admission to the drug court program.

- *Questions:* Please provide performance metrics for the drug court program since inception and separately for FY 2018. Please provide a comparison of the number, retention and completion rates of mandatory participants involved with the program versus those who voluntarily request to participate in the program and are accepted. What factors account for any statistically significant differences?

*Answer:* Since inception, there have been 23,695 defendants sentenced into the Drug Court Program and a total of 4,894 graduates. In FY 2018, 2,197 defendants were sentenced into the program. Of those 2,197 sentences, 188 were mandatory. In FY 2018, 574 graduated and, of those, 26 were mandatory sentences.

- *Questions:* Within three years of drug court graduation what percentage of mandatory drug court participants was arrested for a new indictable offense, re-convicted for a new indictable offense, and newly sentenced to State prison? How do these percentages compare to those of individuals who were convicted of nonviolent criminal offenses that did not qualify the individuals for participation in the drug court program? What factors account for any statistically significant differences?

*Answer:* The rollout of Mandatory Drug Court started in July 2013, with statewide implementation occurring in July 2017. As our first Mandatory Drug Court graduate did not matriculate until court year 2017, we do not yet have recidivism data.

- *Questions:* To date has funding been sufficient for the effective operation of the program? Is there a current shortfall of available beds relative to need?

*Answer:* At the current time, funding for the program is sufficient. An increase in halfway house beds throughout the state would benefit our clients. All other residential levels of care beds are currently adequate.

12. A Request for Quotation (RFQ) for Market Study was issued by the Judiciary on January 17, 2019 with the intent to engage a qualified professional consulting firm to review the Judiciary's existing compensation structure. The study shall determine if the Judiciary's salaries are in line with comparable jobs in the private and public sectors in relevant markets and whether employees are compensated fairly based on job tasks, skills, and talents. The submission deadline for quotations was February 25, 2019.

The Judiciary explains in the RFQ that its existing compensation structure was developed in 1998. An evaluation of the compensation structure for non-managerial employees in 2011 led to the creation of a secondary salary schedule for some employees based upon their date of hire. The minimum starting salaries in some titles were increased, while the maximum salaries of all titles were decreased. In January 2018, the Judiciary implemented revised job specifications. The Judiciary would now like to determine if the current salary structure for all employees is still competitive and reflective of market conditions.

- *Questions:* What were the perceived shortcomings of the current compensation structure that prompted the RFQ? In a competitive labor market with a comparatively low general unemployment

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rate, has the Judiciary had an unusual degree of difficulty in attracting and retaining talent? If so, please describe some of the difficulties in greater detail using any data that may be available.

**Answer:** The Judiciary is not yet aware if there is a shortcoming in the current compensation structure. As the labor market continues to become more competitive, however, the Judiciary's compensation structure needs to be evaluated against other similar organizations, both public and private, to ensure its competitiveness.

- **Question:** Have the revised job specifications that were implemented in January 2018 created misalignments between expectations and compensation for certain titles that have impacted hiring or retention? If so, please specify.

**Answer:** No. The revised job specifications have not created misalignments between expectations and compensation. The project was conducted to align the job specifications with changes in how work is performed and changing technology.

- **Questions:** Please provide a status update on the RFQ for a compensation market study. How many submissions did the Judiciary receive in response to the RFQ? Were the submissions responsive and helpful? By what date does the Judiciary hope to make a contract award? If the contract award has been made, please provide the name of the engaged professional consulting firm and the terms of compensation. If the Judiciary has abandoned the initiative after receiving responses to the RFQ, please detail the reason(s) for doing so.

**Answer:** The Judiciary received two submissions in response to the RFQ. One proposal was deemed responsive. The evaluation committee is reviewing the proposal and developing clarification questions. Once we review the responses to the clarification questions and receive the best and final offer, the Judiciary plans to make a contract award by April 30, 2019.

13. N.J.S.A.2A:17-56.41 provides that upon the issuance of a child support-related warrant the obligor's driver's license shall be suspended. However, in Kavadas v. Martinez, MER-L-1004-15 (decided December 7, 2018), the New Jersey Superior Court ruled that the automatic suspension of drivers' licenses violated due process guarantees of the New Jersey Constitution and the State's "doctrine of fundamental fairness." The court ruled that obligors must be provided with advance notice and an opportunity to be heard when driver's license suspensions are to be used as a mechanism to enforce child support collection. (The court also noted that New Jersey was the only state in the country to automatically suspend driver's licenses upon the issuance of child support-related warrants.) The Kavadas opinion called upon the Legislature to remove the statute's provision for automatic suspension, noting that such removal "would allow the current warrant process to continue without major changes."

- **Question:** How would ceasing the automatic suspension of driver's licenses upon the issuance of child support-related warrants affect child support collections?

**Answer:** Ascertaining if a noncustodial parent's child support payment was the result of the automatic suspension of a driver's license or the result of the issuance of a bench warrant is difficult to discern. The Judiciary relies upon data provided by the Department of Health and Human Services, Division of Family Development (DFD), which is the designated Title IV-D agency for the

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State of New Jersey. DFD's data shows that 22,954 driver's licenses were suspended in 2018. These automatic suspensions were the result of bench warrants issued due to the obligor's failure to pay child support (approximately 56% or 12,855 of the suspensions) or the obligor's failure to appear for court (approximately 44% or 10,099 of the suspensions). In 2018, as a result of those suspensions, we collected \$1,815,654.41 within thirty days of the warrant issued date, a collection rate of approximately \$79.10 per suspension, or \$1,016,830.50 per year for failure to pay warrant suspensions and \$798,823.91 per year for failure to appear suspensions.

Upon the removal of automatic suspensions, it is anticipated there will be a negative effect on collections. Since it is difficult to discern whether the collections were due to the driver's license suspension or due to a bench warrant, the Judiciary cannot anticipate how much of the approximately \$1,016,830.50 collected from suspensions resulting from failure to pay warrants will be impacted. Once the automatic suspension of driver's licenses is separated from the issuance of a bench warrant, the Judiciary will be able to collect data on driver's license suspensions independently from the issuance of bench warrants.

14. The Foreclosure Mediation Program began in January 2009 as a collaboration of the Judiciary, the New Jersey Housing and Mortgage Finance Agency (NJHMFA), the Office of Dispute Settlement in the Office of the Public Defender, Legal Services of New Jersey, and the Office of the Attorney General. The

NJHMFA provided free trained housing counselors to eligible homeowners, while the Office of Dispute Settlement provided the mediation services and generally administered the program.

The program was originally funded through P.L.2008, c.104, which appropriated \$10.0 million from the Long Term Obligation and Capital Expenditure Fund for foreclosure mediation and \$2.5 million for NJHMFA-provided mortgage counseling. According to the Judiciary's August 2018 "Report of the Special Committee on Residential Foreclosures," by 2015 housing counselor services could no longer be sustained, and by 2017 the Office of Dispute Settlement ceased the mediation program. The Judiciary

then absorbed and restructured the program in the Superior Court Clerk's Office. The mediations are currently conducted by trained Judiciary staff, rather than by paid mediators.

- *Questions:* Please describe the program's current operations. For each of FY 2018, FY 2019, and FY 2020, please detail actual or anticipated: a) operating expenditures; b) the number of filled and funded positions, by title and salary range, assigned to the program; and c) caseload information, including information on the disposition of foreclosure cases referred to the program. Does the program currently refer cases to third-party mediators?

*Answer:* On November 19, 2008, the Supreme Court created the Foreclosure Mediation Program to allow defendants the opportunity to meet with a lender representative to negotiate a resolution of foreclosure litigation. That program was initially administered by the Judiciary's Civil Practice Division and used volunteer attorneys as mediators. When this construct proved labor-intensive, the Judiciary transferred administration to the Office of Dispute Resolution within the Public Defender's Office. Funded by the proceeds of certain federal and state settlements with lenders that had engaged in improper practices, foreclosure mediation enabled residential homeowners, with the assistance of housing counselors, to restructure or modify existing loans to avoid foreclosure. By 2015, the funding for housing counselor services could not be sustained, and by 2017, the Office of Dispute Resolution ceased operating the program. The program was once again absorbed by the Judiciary.

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In October 2017, the program was restructured and assigned to the Superior Court Clerk's Office (SCCO). The Clerk's Office trained and assigned its foreclosure law clerks to serve as mediators and assist the parties in reaching a resolution that may include a loan modification, cash for keys, deed in lieu of foreclosure, or other remedial measures returning the property to the lender absent litigation.

Currently, foreclosure mediation may be requested by the homeowner(s) up to 60 days after the service of the summons and complaint. Once the 60 days have elapsed, homeowners may only participate in program by court order. Mediation is limited to residential mortgage foreclosures, where the defendant homeowners satisfy the prescribed eligibility requirements, unless otherwise ordered by the court. Those eligibility requirements include:

- Final Judgment has not been entered;
- All mortgage borrowers consent to actively participate in the mediation; and
- The mortgage borrowers are not in bankruptcy proceedings.

Additionally, as of June 15, 2018, the Murphy Administration, through the New Jersey Housing and Mortgage Finance Agency, has appointed at least two housing counseling agencies per county to provide this valuable service to homeowners.

The SCCO staff are responsible for all aspects of the administration of the mediation program

including, but not limited to:

- Reviewing the mediation application;
- Entering data in the court's case management systems;
- Determining eligibility;
- Scheduling mediation sessions;
- Conducting mediation sessions;
- Referring to and coordinating with the housing counselors;
- Compiling metrics; and
- Conducting public outreach and awareness campaigns.

The titles assigned to the administration of the program and the allocated percentage of time include:

- Court Executive 2A (10%)
- Court Services Supervisor 1 (33%)
- Administrative Specialist 4 (10%)
- Law Clerks- 10 (33%)
- Court Services Officer (25%)
- Judiciary Clerk 3 (33%)

The chart below reflects the mediation metrics and outcomes from January 2018 to February 2019:

Disposition	Outcome	Percentage of Total
BANKRUPTCY	1	0%
NOT SETTLED	564	63%
SETTLED	322	36%

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CASH FOR KEYS	0	0%
SHORT SALE	3	0%
DEED IN LIEU	0	0%
NOT ELIGIBLE	7	1%
Total	897	100%

It is  
not

anticipated that the program will refer matters to third party mediators or paid mediators in the near future.

- *Questions:* Does the Judiciary intend to implement any changes to the program through the end of FY 2020? Does the Judiciary intend to refer cases to paid mediators in FY 2020? How does the Judiciary intend to fund the program in FY 2020?

*Answer:* The Supreme Court Special Committee on Residential Foreclosure recommended that the foreclosure mediation process be codified in a court rule. The proposed foreclosure mediation rule was published for public comment, and additional amendments were recommended to the Supreme Court. The Supreme Court is currently considering those recommendations. The only change to the program that is anticipated is the creation of the new court rule.

The Judiciary does not intend to refer foreclosure mediation cases to paid mediators at this time. The Judiciary intends to use existing staff to support the program and its administration.

The Legislature has proposed a bill that would increase the foreclosure complaint filing fee to help support the Judiciary's costs associated with foreclosure mediation. That bill has passed the Senate and Assembly and is on the Governor's desk.

15. P.L.2014, c.31 provides for \$10 million annually to allow the Judiciary to develop, maintain and operate a statewide digital e-court information system. The Judiciary has used the funding to develop the integrated eCourts electronic filing, storage, and case management application. According to the

Judiciary's 2017 Criminal Justice Reform Report to the Governor and the Legislature, once fully implemented, eCourts will contain millions of party and case records previously maintained in numerous decades-old databases. In the report, the Judiciary noted progress but pointed out that the significant undertaking of migrating databases, records, and systems to eCourts would take several more years until completion. The report provides a status update of the migration to eCourts for different areas within the Judiciary.

In response to a FY 2019 OLS Discussion Point, the Judiciary stated that eCourts had enabled the elimination of costs associated with the filing and storage of paper documents in areas that had already been converted to the new application. Moreover, in many cases, eCourts had allowed for physical mailings to be replaced by electronic notifications. Litigants had also benefited from attorneys having immediate, electronic access to case information.

In February 2019, the Commission on Capital Budgeting and Planning did not recommend that the FY 2020 Appropriations Act include an additional \$14 million in capital funding for eCourts that had been requested by the Judiciary. The funding would have been used to develop and implement systems in the Family, Civil, and Criminal courts that support web-enabled applications using internet browser-based access and intuitive graphical interfaces that would have enabled ready public access to the records. The total project cost over seven years was estimated at \$88 million.

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- *Questions:* To the extent possible, please quantify the annual cost savings attributable to the adoption of eCourts. What are the Judiciary's plans for the next step in expanding the use of eCourts? What is the target date for completing the migration of case records and databases to eCourts?

Answer: The Judiciary is engaged in a multifaceted initiative to convert its legacy information technology systems, based on mainframe databases, into a modern integrated eCourts electronic filing, electronic storage, and electronic case management application. eCourts has been implemented across all practice areas in varying degrees. The practice of sunseting the legacy applications will continue until case management is completely migrated into eCourts.

The various systems described below represent a significant undertaking and a bold push toward the Chief Justice's vision of total modernization. Despite the progress that has been made in the areas of eFiling, several more years of work are required to complete our goals of replacing all systems from both front end eFiling to back end case management. While cost savings have not yet been calculated, it is anticipated that paperless savings and postage and resource reductions will be significant over the next few years.

### **eCourts Supreme Court: Implementation began in 2017**

The Offices of the Attorney General, Public Defender, and County Prosecutors are all filing electronically in the Supreme Court. The Judiciary is presently expanding electronic filing to include private attorneys in criminal matters. The next expansion will include private attorneys in civil matters.

### **eCourts Tax: Implementation began in February 2015**

The introduction of electronic filing in the Tax Court was instrumental in reducing significant data entry and processing backlogs. Added functionality allows non-attorneys, such as municipal assessors, municipal clerks, and county boards of taxation, the ability to receive electronic

notification of a new case or judgment and to access the Electronic Case Jackets. By summer of 2019, attorneys will be able to file with a credit card. Pro se eFiling is also being developed with a pilot expected by the end of 2019.

### **eCourts Probation Electronic Case Jacket: Implementation began in June 2016**

An eCourts electronic case jacket was implemented for the Probation Division in June 2016, eliminating most paper files and allowing simultaneous access to probation information by judges and staff. eCourts Probation will be expanded to include a mobile application for the Intensive Supervision Program (ISP) in July 2019, and case management functions by December 2019.

### **eCourts Family FM (Dissolution/Divorce) case jacket archived cases: Implementation began in November 2016**

This eCourts project provides judges and court staff with easy access to archived files. Thousands of paper records converted to digital images are now easily accessible for court proceedings or to

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fulfill records requests from the public. eCourts FM will be expanded to include efilings, automatic notification, and case management. That pilot is expected to launch in April 2020.

### **eCourts Criminal – Criminal Justice Reform: Implementation began in January 2017**

eCourts Criminal required enhancement to accommodate the many tasks involved in Criminal Justice Reform (CJR), including automation of the Public Safety Assessment (PSA) risk assessment tool utilized by judges to inform their release decisions. Planned enhancements in early April 2019 include: automation of detention, release, and revoke-release orders, which will result in improved data collection.

### **eCourts Municipal: Implementation began in January 2017**

This broad initiative, integral to CJR, provides an enhanced and improved complaint system for law enforcement statewide. Plans for enhancements to eCourts Municipal include allowing attorneys to file documents and cross reference other municipal cases, including disorderly persons and traffic offenses. This will be implemented over the course of 2019 and 2020.

### **eCourts Special Civil Landlord Tenant (LT) case jacket: Implementation began in September 2017**

This ongoing project provides an electronic case jacket, enabling simultaneous access by judges, court staff, and attorneys. Implementation began with the placement of all notices in the case

jacket and will be expanded in 2020 to include efilings, auto docketing, case management, and centralized printing functionality.

### **eCourts Civil Law: Implementation began in December 2017**

The end result of this project will be the electronic filing of all documents from complaint through final judgment. Enhancements are being planned to include an arbitration program module, which will allow for electronic notification to parties and arbitrators. That pilot is expected to launch in early 2020.

### **eCourts Family Children in Court (CIC) Dockets: Implementation began in September 2017 & June 2018**

This eCourts project focuses on electronic filing in child neglect cases initiated by the Attorney General's Office on behalf of the New Jersey Division of Child Protection and Permanency, the Office of Parental Representation, and the Office of the Law Guardian. Four different docket / case types have been implemented in 2017 and 2018. Enhancements are being made to include motion filing and order processing to enable more efficient case management and to assist both the Judiciary and its Executive Branch partners in meeting federal processing time goals.

### **eCourts Family (FJ): To be implemented in December 2019**

This eCourts project focuses on automating the process of filing juvenile delinquency complaints to enable the timely review and entry of juvenile matters as well as improved data collection on juvenile complaints.

- *Questions:* Does the Judiciary plan to implement the eCourts web-enabling project using resources other than a direct FY 2020 State appropriation? Could the resources provided by

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P.L.2014, c.31 for eCourts be used to pay for the web-enabling component? Please detail FY 2018 and FY 2019 expenditures charged to the dedicated eCourts account and provide the projected FY 2019 year-end balance.

**Answer:** Through the leadership of the Chief Justice and Administrative Director, the Judiciary is in the midst of a digital transformation. All processes, events, decisions, and documents are recorded digitally. Data is then analyzed to identify efficiencies in processes and provide information for data-driven decision making. The eCourts funding along with all other revenue streams are being utilized to drive this vision across the Judiciary.

16. According to a Judiciary response to an FY 2019 OLS Discussion Point, there were 14 Superior Court vacancies as of April 8, 2018, which represented a substantial reduction from 56 vacancies in February 2015. The Judiciary now reports an uptick to 38 vacancies and anticipates another 12 vacancies by December 31, 2019. P.L.2016, c.103 created 20 new judgeships for the Superior Court, effective July 1, 2017 to assist the courts with Criminal Justice Reform. In replying to an FY 2019 OLS Discussion Point, the Judiciary stated that even though the 20 additional positions were fully funded, it did not have sufficient funding for all authorized judgeships. The Judiciary elaborated that over the course of many years, it had consistently been denied funding for 15 authorized judgeships.

- *Questions:* How does the current Superior Court vacancy rate compare with vacancy rates over the past five years? How has the number of Superior Court judicial vacancies affected court operations and case backlogs? Does the Judiciary's FY 2020 recommended budget have sufficient funding to

support all authorized judgeships? What factors account for the increase in Superior Court vacancies from 14 reported in April 2018?

**Answer:** As the below chart indicates, the Judiciary's current number of Superior Court vacancies is comparable to vacancies experienced in most of the preceding 10 years.

### JUDICIAL VACANCIES

April 1, 2009 - April 1, 2019 (As of March 22, 2019)

DATE	VACANCIES	COMMENTS
April 1, 2009	39	Does not include 1 Tax Court Vacancy. Total Vacancies equal 40.
April 1, 2010	28	Does not include 1 Tax Court Vacancy. Total Vacancies equal 29.
April 1, 2011	46	Does not include 2 Supreme Court Vacancies and 1 Tax Court Vacancy. Total Vacancies equal 48.
April 1, 2012	50	Does not include 1 Supreme Court Vacancy and 1 Tax Court Vacancy. Total Vacancies equal 53.
April 1, 2013	36	Does not include 2 Supreme Court Vacancies and 1 Tax Court Vacancy. Total Vacancies equal 39.
April 1, 2014	49	Does not include 2 Supreme Court Vacancy and 1 Tax Court Vacancy.

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		Total Vacancies equal 52.
April 1, 2015	52	Does not include 1 Supreme Court Vacancy and 1 Tax Court Vacancy. Total Vacancies equal 54.
April 1, 2016	43	Does not include 1 Supreme Court Vacancy and 1 Tax Court Vacancy. Total Vacancies equal 45.
April 1, 2017	20	
April 1, 2018	14	
April 1, 2019	39	

Backlog refers to cases that remain open beyond the self-imposed time goals that the Judiciary has established for each case type. The Judiciary has implemented backlog standards for virtually every case type and strives to resolve as many cases as possible within these time frames. When multicounty litigation cases (formerly called “mass tort”) are excluded, the overall backlog had a 9.9 percent reduction from 25,521 cases in February 2018 to 22,992 cases in February 2019. Backlog decreased 23.3 percent from 29,981 in February 2015 to 22,992 cases in February 2019. During the same period, vacancies decreased from 56 in February 2015 to 13 in February 2018 and then increased to 37 in February 2019.

The Governor’s FY2020 State Budget for the Judiciary includes full salary funding for the 482 authorized judge and justice positions including salary increases.

To date, Governor Murphy has one candidate who was both nominated and confirmed to the Superior Court, resulting in an increase in Superior Court vacancies.

17. General Provision #89 of the FY 2019 Appropriations Act authorizes State agencies to obtain employment and income information from third-party commercial consumer reporting agencies for the

purpose of obtaining real-time employment and income information to help determine program eligibility. The intent of the general provision is to achieve cost savings, improve timeliness, and minimize fraud. The Judiciary may use the services of commercial consumer reporting agencies in determining whether a defendant is eligible for reduced-cost legal representation by the Office of the Public Defender.

- *Questions:*Please describe the extent to which the Judiciary uses the services of third-party commercial consumer reporting agencies for the purpose of obtaining real-time employment and income information to help determine program eligibility. Does the Judiciary use these services in determining a defendant’s eligibility for reduced-cost legal representation by the Office of the Public Defender? What cost savings does the Judiciary attribute to the use of commercial consumer reporting agencies in the eligibility determination process? If the Judiciary does not use such services, please provide the reason(s) for not doing so.

*Answer:* The Judiciary does not use the services of third-party commercial consumer reporting agencies for the purpose of obtaining real-time employment and income information to help determine program eligibility. The two programs that may be impacted by General Provision #89 are: (1) the appointment of a public defender at both the municipal and Superior Court level; and (2) the municipal court program, pursuant to N.J.S.A. 2B:12-23.1 and N.J.S.A. 39:4-203.1, which

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enables a defendant to pay his/her financial penalties in installments. With regard to eligibility for the public defender, the determination is made in accordance with the Federal poverty guidelines as defined by the U.S. Department of Health and Human Services. With regard to installment payments, the collection of this information is done locally by each municipal court, and there is no method available to centrally determine each eligible defendant's income. Additionally, there is no way to determine which defendants currently participating in these initiatives would benefit from the anticipated minimum wage increase. While increases in salary could potentially impact defendant qualification, we cannot determine the extent of that impact.

18. P.L.2017, c.286 requires that racial and ethnic community criminal justice and public safety impact statements be prepared for bills, resolutions, or amendments that may result in an increase or a decrease in the State's adult and juvenile pretrial detention, sentencing, probation, or parole populations. The statute also requires that racial and ethnic community criminal justice and public safety impact statements be included in the notice of a proposed agency rule that could increase or decrease the State's adult and juvenile pretrial detention, sentencing, probation, or parole populations. In order to implement this requirement, more data is needed concerning the racial and ethnic characteristics of persons engaged with the criminal justice system. The Judiciary replied to an FY 2019 OLS Discussion Point that it was currently working to enhance its data warehouse so that concerned data could be obtained.

- *Questions:* Please provide a breakdown of the number of individuals convicted during the past three years by base offense and ethnic identification. Please provide a breakdown of the number of individuals placed on probation during the past three years by base offense and ethnic identification.

*Answer:* The New Jersey State Police is the entity officially charged with maintaining criminal history records in the State of New Jersey, including defendant demographic information. The

Judiciary does not have reliable historical data on ethnic identification. Data the Judiciary is currently collecting pursuant to Criminal Justice Reform may provide reliable data in the future and also comes from the New Jersey State Police.

19. P.L.2017, c.42 requires the New Jersey Department of Military and Veterans Affairs to collaborate with the United States Department of Veterans Affairs to establish a Statewide Veterans Diversion Program

to divert eligible service members who have committed certain offenses away from the criminal justice system and into appropriate case management and mental health services. The law took effect December 1, 2017.

The law requires the Judiciary to periodically review the status of the deferred prosecution of the service member to consider whether the postponement of court proceedings should continue. If, after a minimum of six months from the date of the diversion agreement, the prosecutor is satisfied that the service member has complied with the diversion agreement, has not been the subject of any subsequent criminal charges, and continues to make progress with case management services and mental health recovery; the prosecutor may ask for the dismissal of the criminal charge and terminate the service member's participation.

The law also required the Judiciary to develop a differentiated mental health supervision case type within the Superior Court Probation Division to serve eligible service members sentenced to probation.

## Responses to Discussion Points

This is intended to promote the service members' recovery, compliance with terms of probation and reintegration into the community.

- *Questions:* What is the status of the Judiciary's participation in the program? To date, how many eligible service members have been diverted from the court system into the Veterans' Diversion Program? What impact have these diversions had on the Judiciary's court caseload? How many service members are being served by the Probation Division under the provisions of the law? Does the Probation Division have adequate resources to fully meet the actual and anticipated demand for all eligible service members?

*Answer:* To date, 35 defendants have been diverted under the Veteran's Diversion Program - 31 were diverted at the Superior Court level, and 4 were diverted at the municipal court level. Additionally, under the legislation, the Judiciary was required to develop procedures to enable military service members charged with a crime or offense to be identified. To satisfy this requirement, the Judiciary modified its electronic charging complaint form (eCDR) and its computer systems to capture this information. Through these enhancements, 1,518 cases involving military service members have been identified in the Superior Court, Criminal Division, while an additional 3,161 cases have been identified in our municipal courts. If the prosecutor does not make a motion to divert in accordance with the statute, these cases are adjudicated through regular case processing. The impact on the court's caseload has been minimal.

The main goal of the legislation is early diversion. Thus, the legislation also permits law enforcement to divert a matter prior to the filing of a formal complaint. As these diversions are handled solely by law enforcement, the Judiciary maintains no data regarding their frequency.

At this time, one defendant has been terminated from the Veteran's Diversion Program at the Superior Court level. However, if defendants are terminated from the program and are then placed on probation, the Judiciary is prepared to supervise them in our mental health caseloads with specially

trained officers. As of December 31, 2018, 44 veterans are currently being supervised on the mental health caseload. Probation's resources are adequate at the present time. If there was an increase in the number of veterans on the mental health caseload, there would be a need for additional specialized mental health probation officers and additional training for those officers.

20. P.L.2018, c.35, known as the Extreme Risk Protective Order Act of 2018, authorizes New Jersey courts to issue gun violence protective orders against individuals who pose a significant risk of personal injury

to themselves or others by possessing or owning a firearm. The protective orders prohibit the person who the order is filed against from securing or possessing any permit or license allowing firearm possession during the protective-order period. It is a fourth-degree crime for a person to purposely or knowingly violate any provision of an extreme risk protective order. The law also requires the Judiciary to create and maintain an electronic central registry of all persons who have had an extreme risk protective order entered against them, and all persons who have been charged with a violation of a temporary or final extreme risk protective order.

- *Questions:* Please provide a status update on the electronic central registry that the Extreme Risk Protective Order Act of 2018 requires the Judiciary to create. If the registry is not yet operational, please provide the anticipated completion date. What costs has the Judiciary incurred to date to

## Responses to Discussion Points

create and maintain the electronic central registry? To date, how many persons have had an extreme risk protective order entered against them? To date, how many persons have been charged with, and convicted of, a violation of a temporary or final extreme risk protective order?

Answer: P.L.2018, c.35, the "Extreme Risk Protective Order Act of 2018," will take effect on September 1, 2019. Accordingly, no extreme risk protective orders have yet been entered in the State, and no one has been either charged with or convicted of a violation of a temporary or final extreme risk protective order. With regard to the electronic central registry required under the legislation, the project is in development and will be operational in September 2019.

21. Municipal courts have jurisdiction over parking tickets. According to Evaluation Data in the Governor's FY 2020 Budget, the number of parking tickets processed by municipal courts was 2.64 million in FY 2017 and 2.76 million in FY 2018. The Judiciary projects the number to increase to 2.88 million in FY 2019 and 3.02 million in FY 2020. The FY 2020 estimate reflects 4.5 percent growth over the projection for FY 2019 and 14.2 percent growth over FY 2017. In contrast, the number of moving violations processed by municipal courts is projected to decrease slightly from FY 2017 to FY 2020.

- *Questions:*What factors account for the projected 14.2 percent increase in the number of parking tickets processed by municipal courts in FY 2020 relative to FY 2017? Is the Judiciary concerned about this increase? Are drivers complying less with parking regulations, are municipalities enforcing parking regulations more assiduously or are municipalities adopting more stringent parking restrictions?

Answer: Projecting municipal court volume for parking or any other case type is difficult as it is wholly dependent on activities by law enforcement and other entities who file cases with our municipal courts.

To generate the data, the Judiciary analyzed parking caseload data from prior years to plot the potential volume moving forward. Between FY 2017 and FY 2018, the total parking volume increased by 4.52 percent. Using that same 4.52 percent increase, the anticipated FY 2019 filings are projected

at 2.88 million; the FY 2020 filings are projected to be 3.01 million. The change between the FY2017 and FY2020 totals is the cumulative change based on the anticipated yearly increases.

From an administrative standpoint, the Judiciary is not concerned about this projected increase.

The Judiciary is not able to the questions regarding the activities and focus of law enforcement and municipalities.