[Questions or comments may be directed to 609-292-0012 (Criminal) or 609-984-8241 (Municipal)]

Directive # 9-05

TO: **ASSIGNMENT JUDGES**

FROM: **PHILIP S. CARCHMAN, J.A.D.**

DATE: **MAY 12, 2005**

SUBJ: **BAIL SCHEDULES AND POLICIES TO IMPROVE BAIL PRACTICES**

This Directive promulgates two Statewide Bail Schedules and adopts policies on bail practices offered in the Conference of Criminal Presiding Judges Report on Bail Practices. The recommendations contained in that report were approved by the Judicial Council at its November 10, 2004 meeting. That report is available on the New Jersey Judiciary InfoNet at http://home.courts.judiciary.state.nj.us/bail.pdf and the New Jersey Judiciary Internet site at http://www.njcourtsonline.com/bail.pdf.

STATEWIDE BAIL SCHEDULES

The two Statewide Bail Schedules attached to this Directive supersede all previously issued bail schedules, including the schedule contained in the Memorandum to Municipal Court Judges, dated May 29, 1985, from former Administrative Director Robert D. Lipscher**,** and are effective immediately. All local bail schedules are also superseded and may not be used.

The bail schedules should be used only when the presumption that a summons should be issued is overcome and the factors required for a warrant are present. R. 3:3-1(c) and R. 7:2-2(b).

Bail Schedule 1 contains offenses for which only a Superior Court Judge may set bail. R. 3:26-2. Bail Schedule 2 contains frequently charged offenses, including disorderly persons and petty disorderly persons offenses, for which bail may be set by a Superior Court Judge, a Municipal Court Judge or, when

authorized by the Municipal Court Judge, a municipal court administrator or deputy court administrator. The authority of an authorized court administrator to set bail may be exercised only in accordance with Bail Schedule 2, promulgated by this Directive.

It should be emphasized that these bail schedules contain general bail ranges that are meant to be advisory in nature. Each case is fact sensitive. Bail must not be assessed solely by determining the degree of the charged offense, since many crimes within the same degree are significantly different with respect to the seriousness of the criminal conduct, the harm to the victim, and the danger to the community.

Releasing a defendant on bail is not a mere formality. The Supreme Court in State v. Johnson, 61 N.J. 351 (1972), directed that an evaluation should be conducted using the following factors: (1) the seriousness of the crime charged, the apparent likelihood of conviction**,** and the extent of the punishment prescribed; (2) the defendant's criminal record and previous record on bail; (3) the defendant's reputation and mental condition; (4) the defendant's length of residence in the community; (5) the defendant's family ties and relationships; (6) the defendant's employment status, record of employment and financial condition; (7) the identity of responsible members of the community who would vouch for the defendant's reliability; and (8) any other factors indicating the defendant's mode of life or ties to the community or bearing on the risk of failure to appear. See also R. 3:26-1 and R. 7:4-1.

A summary of the court rules and statutes governing bail as of May 1, 2005 has been attached to this directive for reference when utilizing the Statewide Bail Schedules.

STATEWIDE BAIL POLICIES

I. No monetary amount of bail may be set when a defendant is released on his or her own recognizance.

When the court determines that a defendant should be released on his or her own recognizance (ROR), no monetary amount of bail may be set. The development of this statewide policy is based on the premise that setting a monetary amount on an ROR bail is antithetical to the setting of an ROR bail. The theory behind ROR is to release a defendant on his or her own promise to appear in court. In other words, when a judge releases a defendant on his or her own recognizance the judge has made a determination that a defendant will return to court without the need for a monetary bail to ensure his or her appearance. If a judge believes there is a risk that the defendant will not return to court, the judge can always set bail with a monetary amount.

In addition, this policy is designed to eliminate various administrative complications involved in forfeiting ROR bails. For instance, some courts have attached a monetary amount to ROR bails, while others have not. Even in those courts that set monetary amounts on ROR bails, the majority made no effort to collect those amounts when bail was forfeited.

II. Criminal Presiding Judges and Municipal Presiding Judges must ensure that procedures for periodic bail reviews for incarcerated defendants are in place.

Fairness in bail practices involves not only the initial setting of bail amounts and conditions**,** but also the continuing and careful review of the bail set on defendants who are unable to make bail. Such subsequent reviews normally involve much more information than was available to the judge or judicial officer who initially set the bail.

A. Criminal Presiding Judges and Municipal Presiding Judges must ensure that all defendants held on bail receive their first appearance within 72 hours pursuant to R. 3:4-2 and R. 7:3-1. Further, Criminal Presiding Judges and Municipal Presiding Judges must ensure that procedures are in place to periodically review bail amounts of all incarcerated defendant charged with matters cognizable in the municipal courts or held on post-adjudication warrants to make sure that they are not held for unreasonable periods of time.

B. Criminal Presiding Judges must pay particular attention to ensure that procedures are in place that provide for a periodic review of the bail set for all defendants who are held in lieu of bail on indictable charges pending presentation to the Grand Jury or who are post-indictment but prior to arraignment.

C. Criminal Presiding Judges must carefully monitor and expeditiously move to trial all post-indictment defendants who have indicated that they do not wish to resolve their cases by pleas. If substantial delays occur, particularly if not caused by the defendant, serious consideration is to be given to reducing the bail of an incarcerated defendant.

III. Municipal Court Judges and other authorized judicial officers should give careful consideration to setting bail for post-adjudication

warrants and not merely automatically or routinely designate the bail amount as the total amount of the outstanding fines.

In order to give indigent defendants a better opportunity to make bail and thereafter to pay or otherwise perform the remainder of their obligations, the bail amount set on post-adjudication warrants for failure to pay fines or failure to meet other conditions must be reasonable and should take into account the defendant's personal circumstances. Therefore, the automatic setting of bail in the amount of the outstanding fines, penalties and costs is usually inappropriate. State v. Johnson, 61 N.J. 351 (1972).

Attachments
c: Chief Justice Deborah T. Poritz
Superior Court Judges
Municipal Court Judges
Theodore J. Fetter, Deputy Administrative Director
AOC Directors and Assistant Directors
Trial Court Administrators
Civil Division Managers
Criminal Division Managers
Family Division Managers
Finance Division Managers
Municipal Division Managers
Municipal Court Administrators and Directors
John Podeszwa, Municipal Court Services
Florence S. Powers, Municipal Court Services
John J. Wieck, Criminal Practice Division
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

New Jersey Judiciary

Bail Schedules

Prepared by:
The Conference of Criminal Presiding Judges
Subcommittee on Bail Practices

Approved by the Judicial Council
November 10, 2004

Bail Schedule 1

STATUTES WHICH REQUIRE BAIL TO BE SET BY A SUPERIOR COURT JUDGE PURSUANT TO RULE 3:26-2

Rule 3:3-1; 2C:25-31. All of these listed offenses require warrants.

Rule 3:26-1 delineates factors to be considered when setting bail.

Bail Ranges for attempts or conspiracies should generally be the same as the actual substantive crime.

Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:11-3(a)	Murder	Purposely or knowingly causes the death of another; minimum 30 years before parole and up to life in prison.	1st Degree	$250,000 to $750,000	No 10%
2C:11-3(3)	Felony Murder	Death is caused to a person, other than a co-participant, during one of the crimes listed in the statute; minimum 30 years before parole and up to life in prison.	1st Degree	$250,000 to $750,000	No 10%
2C:13-1(a)	Kidnapping	Unlawful confinement or removal of another for various criminal purposes as set forth in statute; second degree if victim is released unharmed and in a safe place prior to apprehension; otherwise first degree; requires life with 25 years parole ineligibility if child under 16 is sexually assaulted or delivered to another for pecuniary gain.	1st Degree	$200,000 to $400,000	No 10%
			2nd Degree	$100,000 to $200,000	No 10%
2C:11-4(a)	Aggravated Manslaughter	Actor recklessly causes death under circumstances manifesting extreme indifference to the value of human life, or actor causes death while eluding a police officer.	1st Degree	$200,000 to $500,000	No 10%
2C:12-1.1	Manslaughter	Actor recklessly causes death of another or purposely or knowingly causes death while in the heat of passion resulting from a reasonable provocation.	2nd Degree	$100,000 to $200,000	No 10%

Bail Schedule 1

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Rule 3:3-1; 2C:25-31. All of these listed offenses require warrants.

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:14-2(a)(1) to (7)	Aggravated Sexual Assault	Actor commits sexual penetration with victim under 13; or victim age 13-15 and supervisory or loco parentis relationship; or commits during other crimes listed in the statute; or uses weapon; or uses force and victim suffers severe personal injury; or victim is physically helpless or mentally defective; or two or more persons use force on victim.	1st Degree	$150,000 to $300,000	No 10%
2C:14-2(b)(1) to (4)	Sexual Assault	Actor commits sexual contact on victim less than 13 and actor is 4 or more years older; or sexual penetration with force; or sexual penetration where actor is a relative as defined in statute or has supervision over victim as defined in statute; or victim is age 13-15 and actor is at least 4 years older.	2nd Degree	$50,000 to $200,000	No 10%
2C:14-3(a)	Aggravated Criminal Sexual Contact	Actor commits sexual contact with victim age 13 to 15 and is a relative as defined in statute or has supervisory power as defined in statute; or is committed during other listed crimes; or actor is armed or threatens use of weapon; or actor uses force and victim suffers severe personal injury; or victim is physically helpless or mentally defective or mentally incapacitated.	3rd Degree	$25,000 to $100,000	10% permissible
2A:160(1) to (25) Uniform Criminal Extradition Act	Extradition Proceeding	Court may withhold bail or grant bail to fugitive charged in another state; if the person is charged with a crime punishable by death or life imprisonment, no bail shall be granted.		Depends Upon Crime Charged	Not Addressed in Statute. Probably Permissable

Bail Schedule 1

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Statute	**Charge**	**Description**	**Degree**	**Bail Range**	**10% Cash Bail Option**
2C:29-9(b)	Contempt of Domestic Violence Restraining Order	Actor purposely or knowingly violates any provision of a Domestic Violence restraining order; fourth degree if conduct constitutes a crime or disorderly persons offense; otherwise it is a disorderly persons offense.[1]	4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $2,500	10% permissible

[1]The Domestic Violence Manual permits Municipal Court Judges to set bail if the contempt charge is a disorderly persons offense and the Assignment Judge of the vicinage has issued an order permitting this authority.

Bail Schedule 2

STATUTES WHERE BAIL MAY BE SET BY A SUPERIOR COURT JUDGE OR A MUNICIPAL COURT JUDGE OR, IN THE MUNICIPAL COURT JUDGE'S ABSENCE, THE MUNICIPAL COURT ADMINISTRATOR OR DEPUTY COURT ADMINISTRATOR, PURSUANT TO RULE 3:26-2

Rule 3:3-1(c)(1) (indictable offenses) and Rule 7:2-2(b) (non-indictable offenses) delineate factors regarding whether a warrant or a summons should issue.

Rule 3:26-1 (indictable offenses) and Rule 7:4-1 (non-indictable offenses) delineate factors to be considered when setting bail and provide for the option of R.O.R. bail where appropriate.

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:5-5	Burglar's tools	Actor possesses tools commonly used to commit theft or burglary with purpose to so employ; fourth degree if actor manufactures tools; otherwise a disorderly persons offense.	4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:7-2	Registration of Sex Offenders (Megan's Law)	Actor previously convicted of listed sex offense who fails to register.	4th Degree	$1,000 to $2,500	10% permissible
2C:11-5	Death by Auto or Vessel	Actor causes death while recklessly driving a vehicle or vessel; first degree if within 1000 feet of a school or driving through school crossing; otherwise, second degree.	1st Degree	$150,000 to $350,000	10% permissible
			2nd Degree	$50,000 to $150,000	10% permissible
2C:11-5.1	Knowingly Leaving the Scene of a Motor Vehicle Accident Resulting in Death	A motor vehicle operator knows he is involved in an accident under circumstances which violated N.J.S.A. 39:4-129 ("Action in case of accident") and the accident results in the death of another person.	3rd Degree	$15,000 to $35,000	10% permissible
2C:12-1(b)(1)	Aggravated Assault	Attempts to cause or causes serious bodily injury.	2nd Degree	$35,000 to $100,000	10% permissible
2C:12-1(b)(2)	Aggravated Assault	Attempts to cause or causes bodily injury with a deadly weapon.	3rd Degree	$20,000 to $50,000	10% permissible
2C:12-1(b)(3)	Aggravated Assault	Recklessly causes bodily injury with a deadly weapon.	4th Degree	$1,000 to $2,500	10% permissible

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Rule 3:3-1(c)(1) (indictable offenses) and Rule 7:2-2(b) (non-indictable offenses) delineate factors regarding whether a warrant or a summons should issue.

Rule 3:26-1 (indictable offenses) and Rule 7:4-1 (non-indictable offenses) delineate factors to be considered when setting bail and provide for the option of R.O.R. bail where appropriate.

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:12-1(b)(4)	Aggravated Assault	Pointing a firearm at or in the direction of another.	4th Degree	$1,000 to $2,500	10% permissible
2C:12-1(b)(5)	Aggravated Assault	Simple assault upon police officer or upon other categories of people as listed in the statute; (fireman, first aid person, school teacher, bus driver, DYFS worker, judge, motorbus operator); third degree if victim suffers bodily injury; otherwise, fourth degree.	3rd Degree	$5,000 to $15,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
2C:12-1(b)(6)	Aggravated Assault	Actor causes injury to another person during the course of an eluding or unlawful taking of a means of conveyance; third degree if victim suffers bodily injury; second degree if victim suffers significant bodily injury.	2nd Degree	$20,000 to $50,000	10% permissible
			3rd Degree	$5,000 to $15,000	10% permissible
2C:12-1(b)(7)	Aggravated Assault	Attempts to cause or causes significant bodily injury to another.	3rd Degree	$20,000 to $50,000	10% permissible
2C:12-1(b)(9)	Aggravated Assault	Pointing a firearm at a police officer.	3rd Degree	$50,000 to $75,000	10% permissible

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:12-1.1	Leaving Scene of a Motor Vehicle Accident Resulting in Serious Bodily Injury	A motor vehicle operator knows he is involved in an accident and knowingly leaves accident under circumstances which violate N.J.S.A. 39:4-129 ("Action in case of accident") and the accident results in serious bodily injury to another person.	4th Degree	$1,000 to $2,500	10% permissible
2C:12-3(a)(b)	Terroristic Threats	Threatens crime of violence or threat to kill; third degree; if threat of crime of violence occurs during declared period of national, state or county emergency, second degree.	2nd Degree	$25,000 to $50,000	10% permissible
			3rd Degree	$10,000 to $20,000	10% permissible
2C:12-10(a-1)	Stalking	Course of conduct toward a specific person causing fear of injury to victim or victim's family; fourth degree; if stalking is committed in violation of prior court order prohibiting same, or is a second or subsequent offense or is committed while on probation or parole for an indictable offense; third degree.	3rd Degree	$20,000 to $50,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
2C:13-2(a)	Criminal Restraint	Unlawfully restraining another with exposure to serious bodily or holds another in involuntary servitude.	3rd Degree	$10,000 to $25,000	10% permissible

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Statute	**Charge**	**Description**	**Degree**	**Bail Range**	**10% Cash Bail Option**
2C:13-6	Luring, Enticing Child, Attempts	Attempts to or lures child, or a person the actor reasonably believes to be a child, into motor vehicle, structure or isolated place or to meet at any other place with purpose to commit an offense. A child is defined as a person less than 18 years old.	2rd Degree	$50,000 to $100,000	10% permissible
2C:14-3(a)	Criminal Sexual Contact	Intentional touching of intimate parts of victim for actor's sexual gratification through force; or if victim is on probation or parole and actor is the supervising officer; or if the victim is age 16 or 17 and actor is related by blood or affinity to third degree, or has supervisory or disciplinary power over victim, or is foster parent or in loco parentis, or victim is age 13 to 15 and actor is at least four year older.	4th Degree	$1,000 to $2,500	10% permissible
2C:14-4	Lewdness	Exposure of intimate parts for sexual gratification of actor if conduct is likely to be observed by child under age 13 and actor is more than 4 years older; or is likely to be observed by mentally defective person who is unable to understand the sexual nature of the conduct; fourth degree; any other flagrantly rude or offensive conduct likely to be observed by a non-consenting person; disorderly persons offense.	4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:15-1	Robbery	Actor uses force or threats during theft or attempted theft; second degree; if act is committed while armed, or threatening use of weapon or there is attempt to inflict or does inflict serious bodily injury; first degree.	1st Degree	$100,000 to $250,000	No 10%
			2nd Degree	$50,000 to $100,000	No 10%
2C:15-2(a)	Carjacking	During course of theft of motor vehicle, actor uses force or threatens victim.	1st Degree	$100,000 to $250,000	No 10%
2C:17-1(a)	Aggravated Arson	Starts fire with purpose to put another in danger, or to destroy building, or to collect insurance and recklessly places any person in danger of death or injury; or to destroy forest.	2nd Degree	$35,000 to $75,000	No 10%
2C:17-1(b)	Arson	Starts fire and recklessly places person or structure in danger; or to collect insurance.	3rd Degree	$10,000 to $35,000	10% permissible
2C:17-3(a)	Criminal Mischief	Damages or tampers with property of another; third degree if $2,000 or more; fourth degree if in excess of $500; otherwise a disorderly persons offense; or if damages airport or other places or devices listed-fourth degree; if bodily injury is caused, third degree; if death is caused, second degree; or if grave or crypt is tampered with, third degree.	2nd Degree	$50,000 to $75,000	10% permissible
			3rd Degree	$5,000 to $15,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:18-2	Burglary	Enters or surreptitiously remains in a structure or research facility with purpose to commit an offense therein; third degree; if actor is armed with or displays what appears to be explosives or a deadly weapon or threatens to inflict or inflicts bodily injury; second degree.	2nd Degree	$35,000 to $75,000	No 10%
			3rd Degree	$10,000 to $50,000	10% permissible

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:18-3	Criminal Trespass	Enters or surreptitiously remains in structure or research facility or in school or on school property; or if structure is a dwelling or if committed in school or on school property; fourth degree; otherwise a disorderly person; enters any place where notice is given against trespass; petty disorderly persons; peering into dwelling; fourth degree.	4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:20-3	Theft	Steals property valued at $75,000 or more; or by extortion; or takes human remains.	2nd Degree	$35,000 to $75,000	10% permissible except if by extortion.
					No 10% if by extortion.
2C:20-3	Theft	Steals property valued at more than $500 but less than $75,000; or property is a firearm or motor vehicle or boat or domestic animal ; or property is taken from the person of victim.	3rd Degree	$5,000 to $20,000	10% permissible
2C:20-3	Theft	Steals property valued at least $200 but not more than $500; if lesser value, it is a disorderly persons offense.	4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:20-10	Unlawful Taking of a Means of Conveyance	Takes motor vehicle without consent of owner, fourth degree; operates motor vehicle without consent of owner and drives recklessly, third degree; rides in a motor vehicle knowing it has been taken without consent of the owner; fourth degree.	3rd Degree	$2,500 to $10,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible

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STATUTES WHERE BAIL MAY BE SET BY A SUPERIOR COURT JUDGE OR A MUNICIPAL COURT JUDGE OR, IN THE MUNICIPAL COURT JUDGE'S ABSENCE, THE MUNICIPAL COURT ADMINISTRATOR OR DEPUTY COURT ADMINISTRATOR, PURSUANT TO RULE 3:26-2

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:20-11	Shoplifting	Carries away property or conceals property with intent to steal or alters tags or removes labels with intent to deprive merchant of some or all of its value; second or third degree or fourth degree or disorderly persons offense depending upon value as delineated in section (c).	2nd Degree	$35,000 to $75,000	10% permissible
			3rd Degree	$5,000 to $20,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:21-1	Forgery	With purpose to defraud or injure another, makes or alters or utters documents which are forged or fictitious; third or fourth degree depending upon types of documents as laid out in statute.	3rd Degree	$5,000 to $20,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
2C:21-2.1	Driver's license or other document issued by governmental agency to verify identity or age; simulation	Actor sells, transfers, or purposes with intent to sell a writing which falsely purports to be a driver's license or other document issued by a governmental agency which could be used to verify a person's identity or age or who make or possesses devices or materials to make such documents; second degree; if actor exhibits or utters such documents, third degree except that this statute does not apply if actor purchases alcoholic beverage underage or tobacco underage and there is no other fraud or injury to another; if actor possesses such documents, fourth degree.	2nd Degree	$35,000 to $75,000	10% permissible
			3rd Degree	$5,000 to $20,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible

Bail Schedule 2

STATUTES WHERE BAIL MAY BE SET BY A SUPERIOR COURT JUDGE OR A MUNICIPAL COURT JUDGE OR, IN THE MUNICIPAL COURT JUDGE'S ABSENCE, THE MUNICIPAL COURT ADMINISTRATOR OR DEPUTY COURT ADMINISTRATOR, PURSUANT TO RULE 3:26-2

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:21-5	Bad Checks	Issues or passes check knowing it would not be honored or if no account to draw on; second or third or fourth degree or disorderly persons offense depending upon amount of check; second degree-$75,000 or more; third degree-$1,000 but less than $75,000; fourth degree $200 but less than $1,000; disorderly persons-less than $200.	2nd Degree	$35,000 to $75,000	10% permissible
			3rd Degree	$5,000 to $20,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:21-6	Credit Cards	Receiving with intent to sell or selling lost or stolen credit cards; fourth degree; uses lost or stolen or fictitious credit cards; third degree	3rd Degree	$5,000 to $20,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
2C:24-4	Endangering Welfare of Children	(a). If actor has legal duty to care for child or who has assumed responsibility for child and engages in sexual conduct with child under 16 or who harms or abuses child, second degree; if actor has no legal duty or has not assumed responsibility for child, third degree;	1st Degree	$100,000 to $250,000	No 10%
		(b). If actor causes or allows child to engage in prohibited or simulated prohibited sexual act for filming or reproduction; first degree if parent or guardian; if any other person, second degree;	2nd Degree	$50,000 to $100,000	No 10%
		(b)(4) If actor photographs or films child in prohibited sexual act or simulation thereof or reproduces image of a child in a prohibited sexual act or simulation, second degree;	3rd Degree	$20,000 to $50,000	10% permissible
		(b)(5) If actor received with intent to sell or sells film or photograph of child in a prohibited sexual act or simulation thereof, second degree;	4th Degree	$1,000 to $2,500	10% permissible
		(b)(6) If actor possesses or knowingly views photograph or film of child in prohibited sexual act or simulation thereof, including via the internet, fourth degree.			

Bail Schedule 2

STATUTES WHERE BAIL MAY BE SET BY A SUPERIOR COURT JUDGE OR A MUNICIPAL COURT JUDGE OR, IN THE MUNICIPAL COURT JUDGE'S ABSENCE, THE MUNICIPAL COURT ADMINISTRATOR OR DEPUTY COURT ADMINISTRATOR, PURSUANT TO RULE 3:26-2

Rule 3:3-1(c)(1) (indictable offenses) and Rule 7:2-2(b) (non-indictable offenses) delineate factors regarding whether a warrant or a summons should issue.

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Bail Ranges for attempts or conspiracies should generally be the same as the actual substantive crime.

Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:28-4	False Reports to Law Enforcement Authority	Actor gives false information to law enforcement officer with purpose to implicate another.	4th Degree	$1,000 to $2,500	10% permissible
2C:28-5	Tampering with Witness and Informant	Actor knowing an official investigation is proceeding or is about to be instituted, attempts to induce witness to testify falsely, or withhold evidence or elude legal subpoenas or absent self from proceeding or investigation; second degree if actor uses threats of force; otherwise third degree.	2nd Degree	$50,000 to $100,000	10% permissible
			3rd Degree	$20,000 to $50,000	10% permissible
2C:29-1	Obstructing Administration of Law or other Governmental Function	Actor obstructs or impairs or attempts to prevent public servant from performing official function by force, intimidation or other unlawful act; fourth degree if actor obstructs investigation or prosecution of a crime; otherwise, a disorderly persons offense.	4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:29-2	Resisting Arrest, Eluding Officers	Actor resists arrest by use of force or threat of force or creates substantial risk to safety of officer; third degree; If actor resists arrest by flight, fourth degree; otherwise it is a disorderly persons offense.	3rd Degree	$5,000 to $10,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:29-2	Eluding	Actor driving motor vehicle fails to stop after signal from police; third degree; if actor eludes and drives in a manner that creates a risk of death or injury, second degree.	2nd Degree	$25,000 to $50,000	No 10%
			3rd Degree	$10,000 to $20,000	10% permissible
2C:29-3(a)(b)	Hindering Apprehension or Prosecution	(a) Actor has purpose to hinder or impair apprehension or prosecution of another and assists that person in avoiding detection or suppression of evidence; second or third or fourth degree depending upon degree of crime the other person is charged with or liable to be charged with and whether the actor is a parent of the other person.	2nd Degree	$25,000 to $50,000	10% permissible
		(b) Actor hinders own apprehension or investigation by suppressing evidence or intimidating others who could give information or testify against actor; or by giving false information to police; third or fourth degree or disorderly persons offense depending upon degree of crime to which actor is exposed or charged.	3rd Degree	$5,000 to $10,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:29-5	Escape	Leaves official detention without permission or absconds from parole; second degree if force or threats are used or weapon is employed; otherwise third degree.	2nd Degree	$25,000 to $50,000	No 10%
			3rd Degree	$10,000 to $25,000	No 10%

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Bail Ranges for attempts or conspiracies should generally be the same as the actual substantive crime.					
Statute	**Charge**	**Description**	**Degree**	**Bail Range**	**10% Cash Bail Option**
2C:34-1	Prostitution	Sexual activity with another person in exchange for something of economic value; promoting prostitution or owning or controlling a house of prostitution or soliciting another to become a prostitute; second or third or fourth degree depending upon circumstances, including whether a child under 18 is involved; disorderly persons offense if actor is charged only with engaging in prostitution.	2nd Degree	$25,000 to $50,000	10% permissible
			3rd Degree	$5,000 to $15,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:35-3	Leader of a Narcotics Trafficking Network	Actor conspires with 2 or more persons in a scheme or course of conduct to distribute CDS and is an organizer or supervisor of one of them.	1st Degree	$200,000 to $350,000	No 10%

Bail Schedule 2

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Statute	**Charge**	**Description**	**Degree**	**Bail Range**	**10% Cash Bail Option**
2C:35-5	Manufacturing, Distributing, Dispensing CDS	**Actor manufactures, distributes, dispenses or possesses with intent to distribute CDS: Numerous types of CDS are covered by this statute:**			
		Heroin or cocaine, 5 ounces or more. LSD or it analog, 10 grams or more. Methamphetamine or it analog, 5 ounces or more. Marijuana, 25 pounds or more, or 50 marijuana plants or more. Hashish, 5 pounds or more.	1st Degree	$100,000 to $250,000	No 10%
		Heroin or cocaine, 1/2 ounce or more but less than 5 ounces. LSD or its analog, 1/2 ounce or more but less than 5 ounces. Methamphetamine or its analog, 1/2 ounce or more but less than 5 ounces. Marijuana, 5 pounds but less than 25 pounds, or 10 or more marijuana plants but less than 50 marijuana plants. Hashish, 1 pound or more but less than 5 pounds. Other substances in Schedule I or II in quantity of one ounce or more.	2nd Degree	$75,000 to $150,000	No 10%
		Heroin or cocaine, less than 1/2 ounce. Metamphetamine, or its analog, less than 1/2 ounce. Marijuana, an ounce or more but less than 5 pounds. Hashish, 5 grams or more but less than 1 pound. Other substances in Schedule I or II in a quantity of less than 1 ounce. Other substances, or their analogs, in Schedules, I, II, III or IV.	3rd Degree	$5,000 to $20,000	10% permissible
		Marijuana in quantity of less than 1 ounce. Hashish in a quantity of less than 5 grams. Any substance, or its analog, in Schedule V.	4th Degree	$1,000 to $2,500	10% permissible
2C:35-6	Employing a Juvenile in a Drug Distribution Scheme	Actor solicits or employs a person, 17 years or younger, in a drug distribution scheme.	2nd Degree	$50,000 to $100,000	No 10%

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:35-7	Distributing, Dispensing or Possessing CDS with Intent to Distribute on or near School Property or School Bus	Actor distributes, dispenses or possesses with the intent to distribute CDS on or within 1000 feet of school property or a school bus.	3rd Degree	$15,000 to $35,000	10% permissible
2C:35-7.1	Distributing, Dispensing or Possessing CDS with Intent to Distribute Within 500 feet of Certain Public Property	Actor distributes, dispenses or possesses with the intent to sidtribute CDS within 500 feet of public property. Public property means public park, public housing facility or public building; second degree unless CDS is less then 1 ounce of marijuana; then it is a third degree.	2nd Degree	$25,000 to $50,000	No 10%
			3rd Degree	$10,000 to $25,000	10% permissible
2C:35-10	Possession of CDS or Analog	Actor possesses CDS or Analog in Schedules I, II, III, or IV, other than if specifically covered in statute, third degree; CDS or analog in schedule V, fourth degree; possession of marijuana over 50 grams, fourth degree; otherwise it is a disorderly persons offense.	3rd Degree	$5,000 to $10,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
			Disorderly Persons	$500 to $1,000	10% permissible
2C:35-13	Obtains CDS by Fraud	Actor obtains CDS by fraud, forgery or deception.	3rd Degree	$5,000 to $10,000	10% permissible

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Bail Ranges for attempts or conspiracies should generally be the same as the actual substantive crime.

Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:39-3	Prohibited Weapons and Devices	Actor possesses destructive devices and sawed off shotgun; third degree; defaced firearm, certain knives and other listed weapons, stun guns, dum-dum bullets; fourth degree.	3rd Degree	$7,500 to $20,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
2C:39-4	Possession of Weapons for Unlawful Purposes	Actor possesses weapon with purpose to use unlawfully against a person or property; firearms and destructive devices, second degree; other weapons, third degree; imitation firearm, fourth degree.	2nd Degree	$50,000 to $100,000	No 10%
			3rd Degree	$10,000 to $20,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible
2C:39-5	Unlawful Possession of Weapons	Possession of machine gun, third degree; possession of firearm without permit, third degree; possession of rifle and shotgun without firearm purchase card, third degree; other weapons under circumstances not manifestly appropriate, fourth degree; assault weapons, third degree.	3rd Degree	$7,500 to $20,000	10% permissible
			4th Degree	$1,000 to $2,500	10% permissible

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Statute	**Charge**	**Description**	**Degree**	**Bail Range**	**10% Cash Bail Option**
OTHER DISORDERLY PERSONS OFFENSES AND PETTY DISORDERLY PERSONS OFFENSES					
2C:12-1a(1)(2)(3)	Simple Assault	Attempts to or purposely or knowingly or recklessly causes bodily injury to another; or negligently causes bodily injury to another with a deadly weapon; or attempts by physical menace to put another in fear of imminent serious bodily injury; disorderly persons offense; if fight or scuffle entered into by mutual consent, petty disorderly persons offense.	Disorderly Persons	$500 to $2,500	10% permissible
			Petty Disorderly Persons	$100 to $500	10% permissible
2C:13-3	False Imprisonment	Actor knowingly restrains another unlawfully so as to interfere substantially with his liberty; disorderly persons offense.	Disorderly Person	$500 to $2,500	10% permissible
2C:24-7	Endangering the Welfare of an Incompetent Person	Actor knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself because of a mental disease or defect; disorderly persons offense.	Disorderly Person	$500 to $2,500	10% permissible
2C:33-2	Disorderly Conduct	Actor with purpose to cause a public inconvenience, annoyance or alarm, engages in fighting or threatening or violent behavior or creates a hazardous or physical dangerous condition with no legitimate purpose or engages in unreasonably loud or offensive language in a public place with purpose to offend others or in reckless disregard of doing so; petty disorderly persons offense.	Petty Disorderly Persons	$100 to $500	10% permissible

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:33-2.1	Wandering, Remaining in or Prowling Public Places with purpose of obtaining or selling controlled substances	Actor wanders, prowls, or remains in public place for purpose of unlawfully obtaining or distributing a controlled dangerous substance; disorderly persons offense.	Disorderly Persons	$500 to $2,500	10% permissible
2C:33-4	Harassment	Actor with purpose to harass another, engages in anonymous or offensive communications or subjects another to kicking or shoving or other offensive touching or threatens to do so, or engages in repeated conduct. Petty disorderly persons offense unless actor is in prison or on parole or probation for indictable offense. It is then fourth degree	4th Degree	$500 to $1,000	10% permissible
			Petty Disorderly Persons	$100 to $500	10% permissible
2C:33-7	Obstructing Highways and Other Public Places	Actor purposely or recklessly obstructs a public passage or, in a gathering, refusal to obey a reasonable official request to move; petty disorderly persons offense	Petty Disorderly Persons	$500 to $1,000	10% permissible
2C:33-12	Maintaining a Nuisance	Actor knowingly or recklessly maintains a condition which endangers the safety or health of a considerable number of persons or knowingly maintains any premises or place where people gather for the purpose of engaging in unlawful conduct; disorderly person offense unless the premises is place where obscene material is made or sold. It is then fourth degree.	4th Degree	$100 to $1,000	10% permissible
			Disorderly Persons	$100 to $1,000	10% permissible
2C:33-13.1	Sale of Cigarette to Minors	Actor sells or gives cigarettes or tobacco to any person under 18; petty disorderly persons offense.	Petty Disorderly Persons	$100 to $500	10% permissible

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Statute	Charge	Description	Degree	Bail Range	10% Cash Bail Option
2C:33-15	Possession or Consumption of Alcoholic Beverage by Person under Legal Age	Actor under legal age possesses or consumes alcohol in any school, public conveyance, public place, or place of assembly or motor vehicle; disorderly persons offense.	Disorderly Persons	$500 to $1,000	10% permissible
2C:33-16	Possession of Alcoholic Beverage on School Property	Actor of legal age to purchase alcohol brings or possesses alcohol on school property without written permission of school board; disorderly persons offense.	Disorderly Persons	$500 to $1,000	10% permissible
2C:33-17	Offering Alcoholic Beverages to Underage Persons	Actor offers or entices underage person to drink alcohol; disorderly persons offense unless it falls into one of the listed exceptions in statute. (Exceptions occur when an underage person is given alcohol either by a parent or guardian who is of legal age to consume alcohol; or by another person, who is of legal age, in that person's home and in the presence of and with permission of the parent or guardian who is of legal age to consume alcohol; or is given alcohol during a religious ceremony, observance or rite.)	Disorderly Persons	$500 to $1,000	10% permissible

New Jersey Judiciary

Summary of Rules/Statutes

Governing Bail

(as of May 1, 2005)

Prepared by:
The Conference of Criminal Presiding Judges
Subcommittee on Bail Practices

SUMMARY OF RULES AND STATUTES REGARDING BAIL FOR INDICTABLE OFFENSES

Rule or Statute	Description
Rule3:3-1. Determination on whether to issue A Summons or Warrant	The Rule provides that a summons shall issue unless the defendant is charged with murder, kidnapping, aggravated manslaughter, manslaughter, robbery, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, second degree aggravated assault, aggravated arson, arson, burglary, violations of Chapter 35[1] of Title 2C that constitute first or second degree crimes, or any crimes involving possession or use of a firearm, or conspiracies or attempts to commit such crimes; or the defendant has been served with a summons and has failed to appear; or there is reason to believe that the defendant is a danger to self, other persons or property; or there is an outstanding warrant for the defendant; or the defendant's identity or address is not known and a warrant is necessary to subject the defendant to the jurisdiction of the court; or there is reason to believe that the defendant will not appear in response to a summons.
Rule 3:26-1. Right to Bail Before Conviction. (Includes Option of R.O.R. Bail)	This Rule provides that all persons except those charged with crimes punishable by death where the prosecutor presents proof that there is a likelihood of conviction and reasonable grounds to believe that the death penalty may be imposed, shall be bailable before conviction on such terms as, in the judgment of the court, will ensure their presence in court when required. The Rule lays out the factors to be considered in setting bail which are the seriousness of the crime charged, the apparent likelihood of conviction and the extent of punishment permitted; the defendant's prior criminal record, if any, and previous record on bail, if any; the defendant's reputation and mental condition; the length of defendant's residence in the community; the defendant's family ties and relationships; the defendant's employment status; record of employment and financial condition; the identity of responsible members of the community who would vouch for defendant's reliability; any other factor indicating defendant's mode of life, or ties to the community or bearing on the risk of failure to appear and, particularly, the general policy against unnecessary sureties and detention. This Rule also provides that the Court may order the release of a person on that person's own recognizance, commonly known as "R.O.R. or O.R." Bail. The Court may also impose terms or conditions appropriate to release, including conditions necessary to protect the community. This Rule also provides that if a person charged with a crime punishable by death is not indicted within 3 months after commitment, the Judge, for good cause shown, may admit the defendant to bail. It further allows that if an incarcerated defendant's case is not moved for trial within 6 months after arraignment, a Superior Court Judge, for cause shown, may discharge the defendant upon the defendant's own recognizance. Finally, the Rule provides that where the person has been arrested in an extradition proceeding, that person may be admitted to bail except where that person is charged with a crime punishable by death.

[1] Chapter 35 is the Comprehensive Drug Reform Act of 1986.

Rule 3:26-2. Authority to Set Bail.	This Rule provides that a Superior Court Judge may set bail for any offense. Only a Superior Court Judge may set bail for persons charged with murder, kidnapping, aggravated manslaughter, aggravated sexual assault, aggravated criminal sexual contact, a person arrested in an extradition proceeding or a person arrested under 2C:29-9 for violating a domestic violence restraining order.[2] Bail for all other offenses may be set by any other Judge, or in the absence of a Judge, by a municipal court administrator or deputy court administrator. Notably, the rule does not require a Superior Court Judge to set bail on any of the enunciated offenses when the defendant is charged solely with an attempt to commit that crime or a conspiracy to commit that crime. Hence, such attempt or conspiracy charges may be set by a Municipal Judge or, in the absence of the Judge, a municipal court administrator or deputy court administrator.
2C:25-26(d)(e); 2C:25-31(a); 2C:29-9(b); Domestic Violence Procedures Manual, Bail in Domestic Violence Cases	2C:25-26(d) provides that when setting bail in a domestic violence case, the court must conduct a search of the Domestic Violence Central Registry. 2C:25-26(e) provides that once bail is set it shall not be reduced without notice to the county prosecutor and victim. It also provides that bail shall not be reduced by a judge other than the judge who originally ordered bail, unless the reasons for the original bail are available to the judge who reduces the bail and are set forth on the record. 2C:25-31 provides that when a defendant is arrested on a charge of contempt of a domestic violence restraining order, the law enforcement officer shall conduct a search of the Domestic Violence Central Registry.[3]
Rule 3:26-4 (g). Ten Percent Cash Bail.	This Rule provides that "Except in first or second degree cases as set forth in N.J.S.A. 2A:162-12 and unless the order setting the bail specifies to the contrary, whenever bail is set pursuant to Rule 3:26-1, bail may be satisfied by the deposit in court of cash in the amount of ten-percent of the amount of bail fixed and the defendant's execution of a recognizance for the remaining ninety percent. No surety shall be ordered unless the court fixing bail so orders."
N.J.S.A.2A:162-12. Crimes with Bail Restrictions.	Bail for listed offenses may only be posted by full cash, or a surety bond executed by an authorized corporation under Chapter 31 of Title 17 of the Revised Statutes, or a bail bond secured by real property situated in New Jersey with an unencumbered equity equal to the amount of bail undertaken plus $20,000. The offenses delineated are murder, manslaughter, kidnapping, sexual assault, robbery, carjacking, arson, causing or risking widespread injury or damage, burglary, theft by extortion, endangering the welfare of children, resisting arrest, eluding officer, escape, corrupting or influencing a jury, possession of weapons for unlawful purposes, and weapon training for illegal purposes. The statute also further defines "Crimes with bail restrictions" as any first or second degree drug-related crimes under Chapter 35 of Title 2C of the New Jersey statutes and any first or second degree racketeering crimes under Chapter 41 of Title 2C. When setting bail on any of these offenses: "....There shall be a presumption in favor of the court designating the posting of full United States currency cash bail to the exclusion of other forms of bail when a defendant is charged with an offense as set forth in subsection (a) of the this section and: (1) Has two other indictable offenses pending at the time of the arrest; or (2) Has two prior convictions for a first or second degree crime or for a violation of Section 1 of P.L. 1987, c. 101 (c.2C:35-7) in any combination thereof; or (3) Has one prior conviction for murder, aggravated manslaughter, aggravated sexual assault, kidnapping, or bail jumping; or (4) Was on parole at the time of the arrest, unless the court finds that another form of bail authorized in subsection (b) of this section will ensure the defendant's presence in court when required."

[2]The Domestic Violence Procedures Manual permits Municipal Court Judges to set bail if the contempt charge is a disorderly persons offense and the Assignment Judge of the vicinage has issued an order permitting this authority.

[3]Ibid.

2C:6-1. Bail for persons accused of minor offenses.	This statute provides that the Court shall not require a bail in excess of $2,500 for a person charged with a fourth degree crime or disorderly persons offense or petty disorderly persons offense unless the Court finds that the person presents a serious threat to the physical safety of potential evidence or of persons involved in circumstances surrounding the alleged offense; or unless the Court finds that bail of that nature will not reasonably assure the appearance of the defendant as required. The statute requires that the Judge, for good cause shown, may impose bail in excess of $2,500 but the reasons must be set forth on the record.
Rule 3:26-3. Bail for Witness.	This Rule provides for proceedings to be conducted by a Superior Court Judge in a matter where either the prosecutor or defense counsel is concerned that a person with material and relevant information in a pending case may fail to respond to a subpoena. The Rule allows that, in certain circumstances, bail may be set and other conditions imposed to ensure the appearance of the witness.
2A:160(1) to (25) Uniform Criminal Extradition Act - Extradition Proceeding	The Court may withhold bail or grant bail to fugitive charged in another state; if the person is charged with a crime punishable by death or life imprisonment, no bail shall be granted.
2A:162-13. Bail Sufficiency Hearings.	This statute, effective on January 9, 2004, provides that when a person charged with an offense posts cash bail or secures a bail bond, the Court may, upon application of the prosecutor, conduct an inquiry to determine the reliability of the obligator or person posting cash bail; the value and sufficiency of any security offered; the relationship of the obligor or person posting cash bail to the defendant and the defendant's interest in ensuring that bail is not forfeited; and whether the funds used to post the cash bail were acquired as a result of criminal or unlawful conduct. In the case of a surety bond, inquiry is also permitted into the qualifications of the surety and its executing agent.
2A:162-14. Procedures.	This statute, effective on January 9, 2004, provides that the inquiry as authorized in 2A:162-13 be governed by rules adopted by Supreme Court.

SUMMARY OF RULES AND STATUTES REGARDING BAIL FOR NON-INDICTABLE OFFENSES - DISORDERLY PERSONS AND PETTY DISORDERLY PERSONS OFFENSES

Rule or Statute	Description
Rule 7:2-2 (b). Determination of whether to issue a Summons or Warrant.	This Rule provides that a summons rather than an arrest warrant shall be issued if the defendant is a corporation, partnership or unincorporated association. If the defendant is an individual, a summons rather than an arrest warrant shall be issued unless the Judge or duly authorized municipal court administrator or deputy municipal court administrator finds that the defendant has failed to respond to a summons; or there is reason to believe that the defendant is dangerous to himself or herself, to others or to property; or there is one or more outstanding arrest warrants for the defendant; or the address of the defendant is not known and an arrest warrant is necessary to subject the defendant to the jurisdiction of the court; or there is reason to believe that the defendant will not appear in response to a summons.
Rule 7:4-1. Right to Bail Before Conviction. (Includes Option of R.O.R. Bail)	This Rule provides that every defendant shall have a right to bail before conviction on such terms as, in the judgment of the court, will insure the defendant's presence when required, having regard for the defendant's background, residence, employment and family status and, particularly, the general policy against unnecessary sureties and detentions. In its discretion, the Court may order the defendant's release on the defendant's own recognizance and may impose terms or conditions appropriate to such release.
Rule 7:4-2. Authority to set bail.	This Rule provides that conditions of pre-trial release, including bail, may be set by a Judge sitting regularly in or acting as a temporary Judge of the jurisdiction in which the offense was allegedly committed or by a vicinage Presiding Judge of the Municipal Courts. In the absence of the Judge, and consistent with N.J.S.A. 2B:12-21, a defendant charged with a non-indictable offense that may be tried by the Judge may be admitted to bail by the municipal court administrator or deputy court administrator. In the absence of the Judge, the municipal court administrator and the deputy court administrator, the defendant may be admitted to bail by any other person authorized by law to admit to bail. The authority of the municipal court administrator, deputy court administrator, or other authorized person shall be exercised "only in according with the bail schedules promulgated by the Administrative Office of the Courts or the municipal court judge."
Rule 7:4-3(g). Ten Percent Cash Bail.	This Rule provides that "Unless otherwise specified in the order setting the bail, bail may be satisfied by the deposit in court or cash in the amount of ten percent of the amount fixed together with the defendant's executed recognizance for the remaining ninety percent. No surety shall be required, unless specifically ordered by the court."
N.J.S.A. 2B:12-21. Officials Authorized to Act for Court.	This statute provides that the authority of the municipal court to set conditions of pre-trial release may be exercised by an administrator or deputy court administrator of a municipal court who is authorized by the Judge of that court; or by any police officer in charge of a police station, other than an officer who participated in the arrest of the defendant. This authority may be exercised only in accordance with bail schedules promulgated by the Administrative Office of the Courts or by the municipal courts. This statute further provides that, except as otherwise provided by the Rules of Court, a person charged with a non-indictable offense shall be released on a summons or personal recognizance without unnecessary delay and within 12 hours after arrest unless a judge or court administrator or deputy court administrator has set the conditions for pre-trial release and the conditions remain unmet.