

## NOTICE TO THE BAR

**CRIMINAL JUSTICE REFORM – PRETRIAL RELEASE:**  
**(1) AMENDMENTS TO RULE 3:26-2; (2) DIRECTIVE #09-24;**  
**(3) ORDER AUTHORIZING MUNICIPAL COURT JUDGES HANDLING**  
**CJP TO ALSO ADDRESS CERTAIN VIOLATIONS OF MONITORING**

The Supreme Court has amended Rule 3:26-2 (“Authority to Set Conditions of Release”) to (1) establish a process for review of eligible defendants’ compliance with pretrial release conditions, with a potential reduction in monitoring level for defendants who have been compliant for six months, and (2) clarify the timeframe and process for handling Violations of Monitoring. The Court’s September 12, 2024 Order is attached. The amendments to Rule 3:26-2 are effective November 1, 2024.

In addition to the rule amendments, this notice also publishes the following items that implement the Court’s action:

- Administrative Directive #09-24 (“Criminal Justice Reform – Pretrial Services Defendant Compliance Reviews; Implementation of Amendments to Rule 3:26-2(c)”), which sets out the process for Pretrial Services compliance reviews and promulgates two new forms: (i) “Notification of Defendant Compliance Review” (CN 13243); and (ii) “Order [Granting/Denying] Proposed Reduction in Defendant’s Level of Pretrial Monitoring” (CN 13244); and
- September 12, 2024 Order authorizing those Municipal Court judges authorized to handle CJP (Central Judicial Processing) or centralized first appearance matters to also handle Violations of Monitoring matters in accordance with the amendments to Rule 3:26-2.

The Court’s action implements a recommendation of the Joint Committee on Criminal Justice, which reconvened in 2023 to recommend potential improvements to procedures and policies related to New Jersey’s Criminal Justice Reform.

Questions regarding this notice should be directed to the Administrative Office of the Courts Criminal Practice Division by phone at (609) 815-2900, ext. 55300, or by email at [AOC-CrimPrac.mbx@njcourts.gov](mailto:AOC-CrimPrac.mbx@njcourts.gov).



\_\_\_\_\_  
Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Dated: September 16, 2024

**SUPREME COURT OF NEW JERSEY**

It is ORDERED that the attached amendments to Rule 3:26-2 (“Authority to Set Conditions of Pretrial Release”) of the Rules Governing the Courts of the State of New Jersey are adopted to be effective November 1, 2024.

For the Court,



Chief Justice

Dated: September 12, 2024

R. 3:26-2. Authority to Set Conditions of Pretrial Release

(a) Authority to Set Conditions of Pretrial Release. ... no change

(b) Conditions of Release. ... no change

(c) Modification of Release Conditions.

(1) Monetary Bail Restrictions. ... no change

(2) Review of Conditions of Release. ... no change

(3) Pretrial Services Compliance Review. For defendants who have been compliant with their conditions of release for a six-month period, the Pretrial Services Program shall conduct a pretrial compliance review pursuant to a process prescribed by the Administrative Director of the Courts and, upon notice to the parties, shall submit the results of that review to the court for its consideration in determining whether to reduce a defendant's level of monitoring. The parties shall have the right to object and be heard. This compliance review is not meant to modify the conditions of a defendant's release.

(d) Violations of Conditions of Release.

(1) Violation of Condition of Release When Defendant Released from Jail. Upon the motion of the prosecutor, when a defendant for whom a complaint-warrant or warrant on indictment was issued is released from custody, the court, upon a finding, by a preponderance of the evidence, that the

defendant while on release violated a restraining order or condition of release, or upon a finding of probable cause to believe that the defendant has committed a new crime while on release, may revoke the defendant's release and order that the defendant be detained pending trial where the court, after considering all relevant circumstances including but not limited to the nature and seriousness of the violation or criminal act committed, finds clear and convincing evidence that no monetary bail, non-monetary conditions of release or combination of monetary bail and conditions would reasonably assure the defendant's appearance in court when required, the protection of the safety of any other person or the community, or that the defendant will not obstruct or attempt to obstruct the criminal justice process. The disposition of a motion filed pursuant to this subparagraph, or filed pursuant to Rule 3:4A, shall resolve any pending violation of monitoring that has been filed by the Pretrial Services Program.

(2) Hearing on Violations of Conditions of Release. ... no change

(3) Discovery. ... no change

(4) Timing of a Violation of Monitoring Filed by Pretrial Services.

A violation of monitoring filed by the Pretrial Services Program shall be considered contemporaneously with any motion filed by the prosecutor to revoke release, to detain, or to change conditions of release, unless the court

finds good cause to handle these matters separately. If no motion has been filed by the prosecutor, the court shall consider the violation of monitoring in the following situations:

(A) following the filing of new charges on a new complaint-warrant (CDR-2) or complaint-summons (CDR-1) at the defendant's first appearance by a judge with authority to set conditions of release for the offenses charged; or

(B) following the detention of defendant on a bench warrant issued by the court, within 3 business days before the trial judge if the defendant has been indicted or before a judge with authority to set conditions of release for the offenses charged; or

(C) for defendants not in custody, at the defendant's next scheduled court event or within twenty business days, whichever comes first.

(e) Person Released on a Complaint-Summons or Summons on Indictment

Who is Thereafter Arrested on a Warrant for a Failure to Appear. ... no change.

Note: Source -- R.R. 3:9-3(a) (b) (c); amended July 24, 1978 to be effective September 11, 1978; amended May 21, 1979 to be effective June 1, 1979; amended August 28, 1979 to be effective September 1, 1979; amended July 26, 1984 to be effective September 10, 1984; caption amended, former text amended and redesignated paragraph (a) and new paragraphs (b), (c) and (d) adopted July 13, 1994 to be effective January 1, 1995; paragraph (b) amended January 5, 1998 to be effective February 1, 1998; paragraph (d) amended July 9, 2013 to be effective September 1, 2013; paragraph (a) amended July 27, 2015 to be effective

September 1, 2015; caption amended, paragraphs (a) and (b) caption and text amended, former paragraphs (c) and (d) deleted, and new paragraphs (c), (d), and (e) adopted August 30, 2016 to be effective January 1, 2017; paragraphs (b) and (d)(1) amended November 14, 2016 to be effective January 1, 2017; paragraph (a) amended December 6, 2016 to be effective January 1, 2017; paragraphs (b) and (d)(1) amended, and caption and text of paragraph (e) amended July 28, 2017 to be effective September 1, 2017; paragraphs (a) and (b) amended, subparagraph (d)(2) amended, and new subparagraph (d)(3) adopted July 27, 2018 to be effective September 1, 2018; new subparagraph (c)(3) adopted, subparagraph (d)(1) amended, and new subparagraph (d)(4) adopted September 12, 2024 to be effective November 1, 2024.


**GLENN A. GRANT, J.A.D.**  
Acting Administrative Director of the Courts

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**Directive #09-24**

Questions may be directed to the Criminal Practice Division at 609-815-2900, x55300.

**TO:** Assignment Judges  
Trial Court Administrators

**FROM:** Glenn A. Grant, J.A.D. 

**RE:** Criminal Justice Reform – Pretrial Services Defendant  
Compliance Reviews; Implementation of Amendments to Rule 3:26-2(c)

**DATE:** September 13, 2024

The Supreme Court by [September 12, 2024](#) Order amended Rule 3:26-2(c) (“Modification of Release Conditions”) to provide that Pretrial Services shall review eligible defendants who have been compliant with the conditions of pretrial monitoring for at least six months. If a defendant meets the criteria set out in the Rule, Pretrial Services shall recommend a reduction in the defendant’s level of pretrial monitoring. This compliance review is not meant to modify the conditions of a defendant’s release. The rule amendments are effective November 1, 2024.

The Court’s action implements a recommendation<sup>1</sup> of the Joint Committee on Criminal Justice (JCCJ), which was reconvened by the Chief Justice in 2023 to review data and consider enhancing various procedures and policies related to Criminal Justice Reform in New Jersey. This Directive sets out the process for Pretrial Services compliance reviews and also is effective November 1, 2024.

**Compliance Reviews for Eligible Defendants**

Pretrial Services staff shall conduct compliance reviews for eligible defendants on pretrial monitoring who have remained compliant with pretrial

<sup>1</sup> See, Recommendation 11 - [Report of the Reconvened Joint Committee on Criminal Justice \(njcourts.gov\)](#).



conditions for a six-month period and who are not excluded as set forth below. “Compliant” shall mean that no Violation of Monitoring (VOM) has been filed against the defendant in the preceding six-month month period.

The following individuals are not eligible for a compliance review:

- Defendants who are charged with an offense involving domestic violence (DV);
- Defendants who scored a six (6) on the New Criminal Activity risk scale on their most recent Public Safety Assessment (PSA);
- Defendants who were released from jail because their case could not be processed within the statutory speedy trial deadlines;
- Defendants who have been issued a violation of Monitoring (VOM) during the preceding six (6) months;
- Defendants who have been charged with a new offense, including in a jurisdiction outside of New Jersey, in the preceding six (6) months; and
- Defendants who have failed to appear in court in the preceding six (6) months.

All other individuals who remain compliant for six (6) months as defined above are entitled to a Defendant Compliance Review.

### **Defendant Compliance Review Process**

Once Pretrial Services determines that a defendant is eligible for a possible reduction in level of monitoring, Pretrial Services will complete the attached “Notification of Defendant Compliance Review” form (CN 13243), which will be distributed via eCourts to notify the judge, prosecutor, and defense counsel of the proposed reduction in monitoring level.

The parties shall then have ten (10) business days to file a written objection via eCourts. The written objection must set forth in detail the reasons the filing party believes that the defendant’s level of monitoring should not be reduced.

When considering a recommended reduction in monitoring level, the court shall ensure the appropriate balance between public safety, the presumption of innocence, and the Criminal Justice Reform Act’s (CJRA) requirement that conditions of release be the least restrictive necessary to ensure that defendants

appear in court when required and do not commit further offenses while on pretrial release.

If the prosecutor and/or defense counsel objects to a reduction in the defendant's level of monitoring, or if the court has concerns with granting a reduction in monitoring level, the court will conduct a hearing on the proposed reduction at the defendant's next court date, with an opportunity for all parties to be heard. Absent a written objection or concerns on the part of the court, the recommendation may be considered without a hearing.

Attached to this Directive is a customizable form order for the court to issue granting or denying the recommended change in monitoring level (CN 13244). If the decision is to reduce the defendant's monitoring level, the court must also enter an Amended Pretrial Release Order. As noted above, this compliance review is not meant to modify the conditions of a defendant's release, which conditions would remain in place and be reflected as still in place in the Amended Pretrial Release Order, for example, an existing no-contact condition of release. All orders will be distributed to the parties through eCourts.

If at any point during this process the defendant fails to remain "eligible" as set forth above, the Defendant Compliance Review shall be concluded, and the court will enter an appropriate order (using the attached customizable template).

### **Continued/Renewed Compliance**

A defendant will be eligible for another compliance review if the defendant remains compliant for an additional six (6) months following the court's entry of an order either granting or denying a recommended monitoring level reduction.

### **Conclusion**

As authorized by the Supreme Court, the Defendant Compliance Review process established in Rule 3:26-2(c) reaffirms the Judiciary's commitment to Criminal Justice Reform, including the value of incentivizing defendants' compliance with pretrial release conditions. This transparent process seeks to ensure that conditions of release are modified only when the appropriate conditions have been met. Consistent with the principles of Criminal Justice Reform, this process seeks to balance community safety with the presumption of a defendant's innocence.

Any questions about the amendments to Rule 3:26-2(c) or this Directive may be directed to the Criminal Practice Division by phone at (609) 815-2900, ext. 55300, or by email at [AOC\\_CrimPrac.mbx@njcourts.gov](mailto:AOC_CrimPrac.mbx@njcourts.gov).

Attachments:

- (1) Notification of Defendant Compliance Review (CN 13243)
- (2) Order [Granting/Denying] Proposed Reduction in Defendant's Level of Pretrial Monitoring (CN 13244)

cc: Chief Justice Stuart Rabner  
Matthew J. Platkin, Attorney General  
Jennifer Sellitti, Public Defender  
County Prosecutors  
Presiding Judges (Criminal, Family, Municipal)  
Jonathan Garelick, Chief of Staff (OAG)  
Steven D. Bonville, Chief of Staff  
AOC Directors and Assistant Directors  
Clerks of Court  
Special Assistants to the Administrative Director  
Division Managers and Assistant Division Managers (Criminal, Family, Municipal)

**State of New Jersey**

v.

Defendant.

Superior Court of New Jersey  
Law Division – Criminal Part  
\_\_\_\_\_ County

Case Number(s): \_\_\_\_\_

SBI Number: \_\_\_\_\_

### Notification of Defendant Compliance Review

The above referenced defendant is currently on Pretrial Monitoring Level \_\_\_\_\_ as set forth in the attached order. The defendant has been compliant with the conditions of release contained within their Pretrial Release order for at least 180 days.

Pretrial Services has reviewed the defendant for eligibility pursuant to Rule 3:26-2(c) and Directive #09-24 and determined that:

- There are no charges pending that involve domestic violence,
- The most recent PSA results were less than 6 for new criminal activity,
- The defendant is not on release due to statutory speedy trial deadlines,
- There have been no Violations of Monitoring during the preceding six (6) months,
- There have been no new charges in any jurisdiction in the preceding six (6) months, and
- The defendant has consistently appeared in court in the preceding six (6) months.

Since release, the defendant has been indicted ..... Yes No

Since release, the defendant’s charges have been downgraded ..... Yes No

Since release, the defendant’s charges have been modified ..... Yes No

Since release, defendant has had a Defendant Compliance review granted ... Yes No

Based on the above review, Pretrial Services recommends a reduction in the defendant’s Pretrial Monitoring Level to \_\_\_\_\_. Pursuant to Rule 3:26-2(c), if an objection is not filed through eCourts within ten (10) business days of this notice, the court will conduct a defendant compliance review and enter an appropriate order. This compliance review will not affect the conditions of the defendant’s release.

If an objection is received in writing through eCourts, the parties will be notified of a hearing date on the proposed reduction in the defendant’s Pretrial Monitoring Level.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Submitted By

**State of New Jersey**

v.

Defendant.

Superior Court of New Jersey  
Law Division – Criminal Part  
\_\_\_\_\_ County

Case Number(s): \_\_\_\_\_

**Order [Granting/Denying]  
Proposed Reduction in  
Defendant’s Level of  
Pretrial Monitoring**

**Findings:**

On \_\_\_\_\_, Pretrial Services submitted a “Notification of Defendant Compliance Review” to the court with notification to the attorneys of record pursuant to R. 3:26-2(c)(3).

The parties were provided ten (10) business days to object to the suggested reduction in monitoring. In response,

- No objection was filed by the parties.
- The State filed an objection on \_\_\_\_\_.
- The Defense filed an objection on \_\_\_\_\_.
- A hearing was held by the court on \_\_\_\_\_.

Having reviewed the Notification of Defendant Compliance Review submitted by Pretrial Services; and, having considered any objection or input submitted by the parties; and, having heard the arguments of the parties during the hearing held on \_\_\_\_\_; and, for the reasons set forth on the record, the proposed reduction in defendant’s Pretrial Monitoring Level from PML \_\_\_ to PML \_\_\_ is hereby:

- GRANTED**
- DENIED** for the following reasons:  
(Enter detailed reasons for denial.)

**This Order does not change the conditions of the defendant’s pretrial release.**

\_\_\_\_\_ Date

\_\_\_\_\_ Judge’s Signature

## SUPREME COURT OF NEW JERSEY

In furtherance of the ongoing operation of Criminal Justice Reform, an order dated November 3, 2016 listed by vicinage the Municipal Court judges authorized by the Chief Justice pursuant to Rules 3:4-2(b) and 7:3-1(b) to handle CJP (Central Judicial Processing) or centralized first appearance matters. Several supplemental orders on the same subject were entered afterward.

It is hereby ORDERED, effective November 1, 2024, that the above orders are amended such that the judges listed are also authorized to handle Violation of Monitoring matters in accordance with the September 12, 2024 amendments to Rule 3:26-2, even if the underlying monitored case is for an indictable offense, when no motion for pretrial detention or motion to revoke release has been filed against the defendant being monitored.

For the Court,



Chief Justice

Dated: September 12, 2024