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

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June 23, 2017

Michael J. Darcy, CAE, Executive Director
New Jersey State League of Municipalities
222 West State Street
Trenton, New Jersey 08608
(via mail and email)

Re: Criminal Justice Reform - Defense Counsel Representation at Pretrial Detention Hearings for Defendants Charged with Disorderly Persons Offenses

Dear Executive Director Darcy:

Thank you for your February 15 letter regarding municipal public defender representation of indigent defendants at pretrial detention hearings held in Superior Court when the highest charge is a disorderly persons offense involving allegations of domestic violence. I value the relationship that the Administrative Office of the Courts has with the New Jersey State League of Municipalities and appreciate the important feedback you provided in your letter. I am very pleased to advise you that, for pretrial detention motions filed on or after June 1, 2017, Public Defender Joseph Krakora has committed the Office of the Public Defender (OPD) in specific circumstances to provide representation for indigent defendants charged with disorderly persons domestic violence offenses that fall within the jurisdiction of the municipal court, as well as disorderly persons domestic violence contempt proceedings (N.J.S.A. 2C:29-9b) that fall within the jurisdiction of the Family Division of Superior Court. As described below, there still will be limited situations in which a municipal public defender will be required to represent an indigent defendant in Superior Court when a detention motion is filed.

Initially, I would like to highlight that the Criminal Justice Reform Law provides that the prosecutor may file a motion for pretrial detention at any time, and a defendant has a right to appeal from a pretrial detention order issued by the court. With that in mind, Public Defender Krakora has indicated that the Office of the Public Defender will provide representation to defendants at their detention hearings in Superior Court on what we refer to as “initial” pretrial detention motions, that is, detention motions that are filed either at, or prior to, the defendant’s CJP (Central Judicial Processing) or first appearance. The OPD’s agreement to provide representation does not apply where the court previously has issued a pretrial release decision and either a revocation of release or a subsequent motion for pretrial detention is filed. Those cases are actively being prosecuted, and therefore the municipal public defender would need to handle the detention motion, as he or she will be the attorney of record. While we expect that only a small percentage of detention motions will be filed subsequent to the defendant’s first appearance, in those instances the municipal public

defenders thus will be required to appear in Superior Court to represent their clients at the detention motion hearings. Similarly, where the attorney of record is a Madden pro bono attorney (the domestic violence contempt Madden casetype), that attorney will be required to handle any post-CJP detention motions for cases falling within the jurisdiction of the Family Court.

Second, Public Defender Krakora has stated that the OPD's representation for disorderly persons offenses will end at the completion of the pretrial detention hearing, regardless of the outcome of the hearing. Accordingly, if the Superior Court judge issues an order detaining the defendant, and the defendant exercises the right to appeal, the OPD will not file the appeal or represent the defendant on appeal. Rather, either a municipal public defender (for municipal court cases) or a Madden attorney (for family court cases) will be responsible for filing the appeal to the Appellate Division and for representing the indigent defendant on appeal. To streamline this process, if the defendant wishes to appeal from the detention order, the OPD will advise the Superior Court judge so that the assignment of counsel can be coordinated with the appropriate court. As with current practice, the municipal public defender will be responsible for handling any further proceedings in the municipal court for disposing of the charges.

I am mindful of your concerns about municipal public defenders being asked to appear in Superior Court for pretrial detention-related disorderly persons hearings and appeals. Our careful analysis of the applicable statutes and court rules has revealed that although pretrial detention hearings and pretrial detention appeals are handled in the Superior Court, representation of indigent defendants charged with disorderly persons offenses involving domestic violence, for the circumstances described in this letter, rests with Municipal Public Defenders.

I trust that this exceptional commitment by Public Defender Krakora to Criminal Justice Reform to handle certain detention motions involving disorderly persons offenses will ameliorate many of the logistical and financial concerns raised in your letter. Please do not hesitate to contact me if you have any questions regarding this issue, and once again, thank you for bringing your concerns to my attention. You may share this information with the local municipalities, as you deem appropriate.

Very truly yours,



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

cc: Steven D. Bonville, Chief of Staff
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