



Leading Change

May 2022

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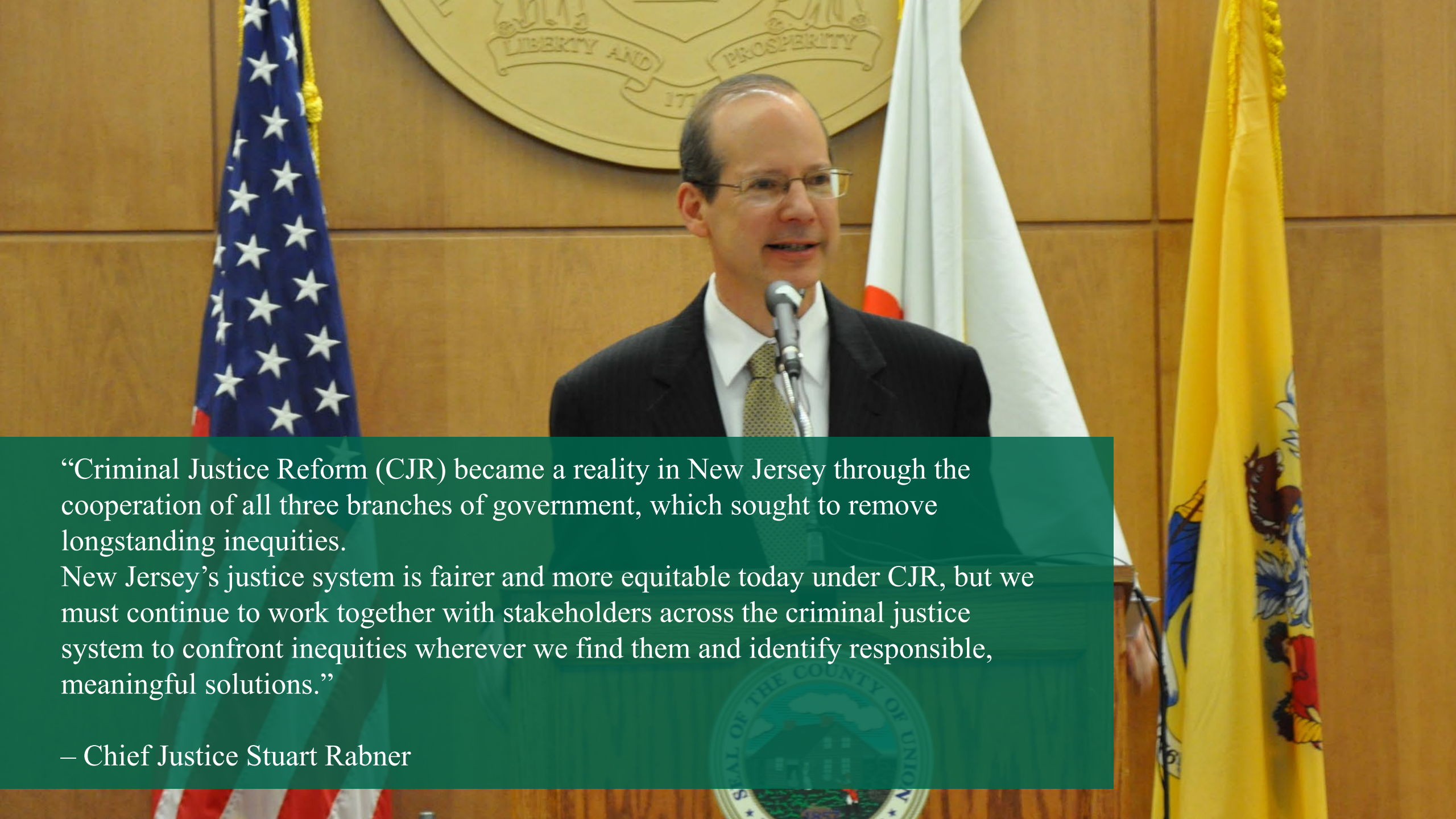
“Life's most persistent and urgent question is, "What are you doing for others?"”

– The Rev. Dr Martin Luther King, Jr.

WHY ARE WE HERE?

Why do we seek to change the criminal justice system?

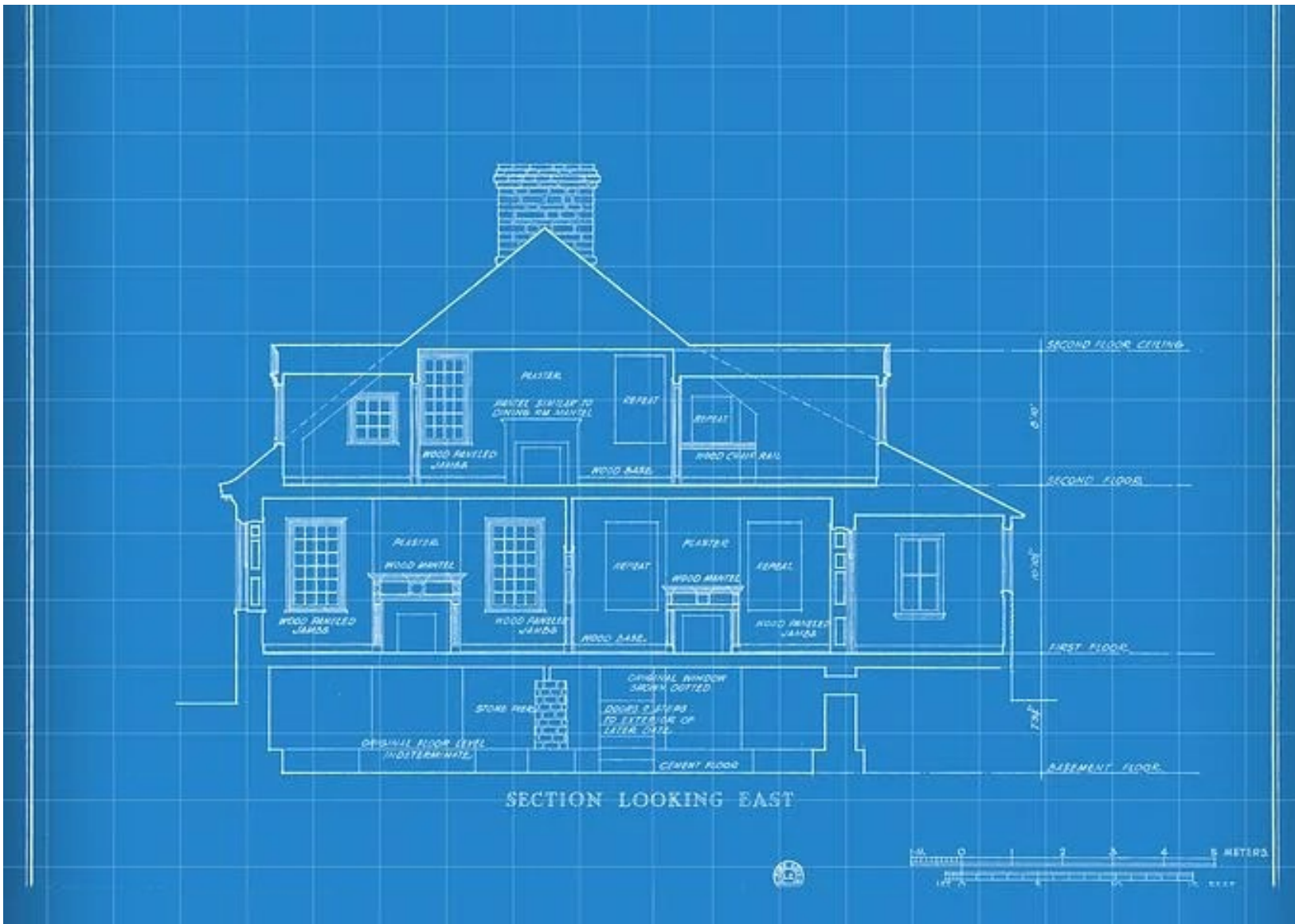
- We are focused on building the kind of society we want for our counties, our states, and our Country.

A man with glasses, wearing a dark suit, white shirt, and patterned tie, is speaking into a microphone at a podium. Behind him are three flags: the United States flag on the left, a white flag in the center, and the New Jersey state flag on the right. A large circular seal is mounted on the wood-paneled wall behind the flags. The seal features the words "LIBERTY AND PROSPERITY" and "1776".

“Criminal Justice Reform (CJR) became a reality in New Jersey through the cooperation of all three branches of government, which sought to remove longstanding inequities.


New Jersey’s justice system is fairer and more equitable today under CJR, but we must continue to work together with stakeholders across the criminal justice system to confront inequities wherever we find them and identify responsible, meaningful solutions.”

– Chief Justice Stuart Rabner

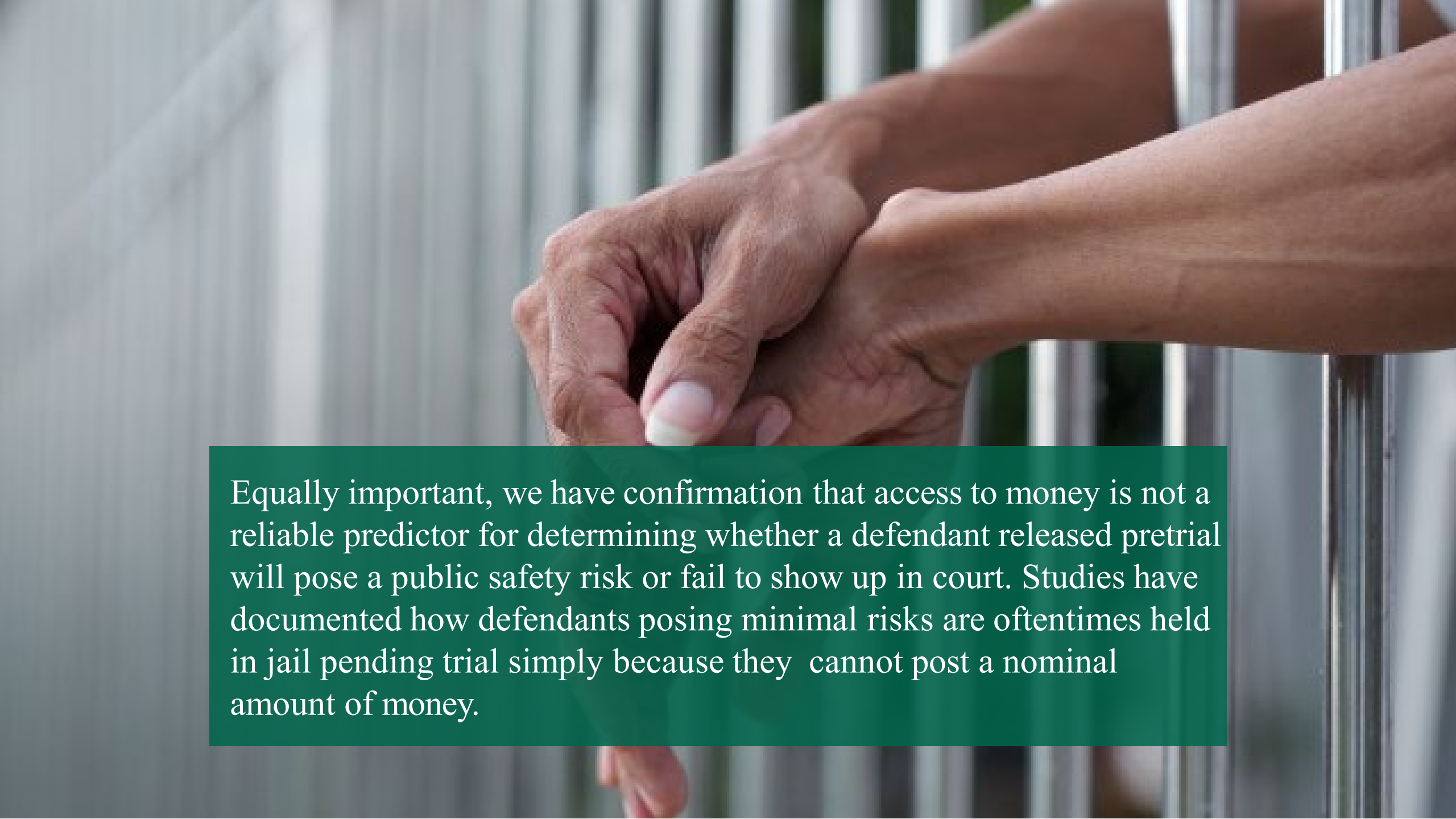


WHY ARE WE HERE?

America's historical struggles with issues associated with race and color permeate the criminal justice system.

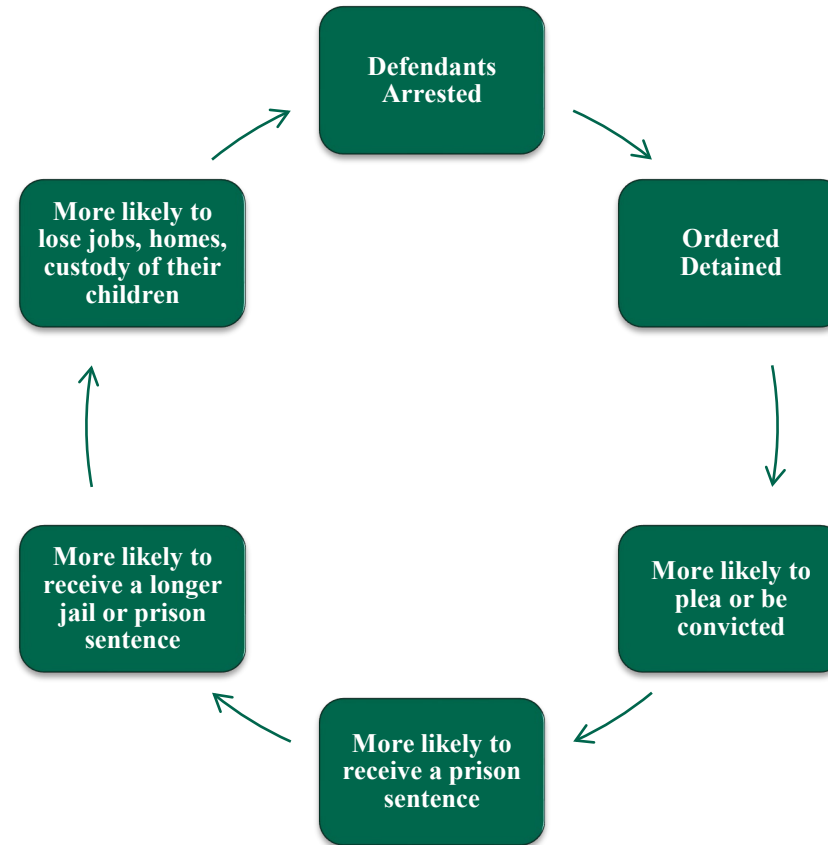
A blurred background of a courtroom with wooden benches and a microphone in the foreground. The microphone is black with a gold-colored grille and is mounted on a wooden podium. The background shows rows of wooden benches and a warm, golden light, suggesting a formal legal setting.

Historically, the practice of posting bail was to guarantee a defendant's appearance in court. Until Dec. 31, 2016, in New Jersey this was recognized as a constitutional right. For some time, we recognized that our former bail system was unfair to the poor and has a disproportionate impact on minorities.



Equally important, we have confirmation that access to money is not a reliable predictor for determining whether a defendant released pretrial will pose a public safety risk or fail to show up in court. Studies have documented how defendants posing minimal risks are oftentimes held in jail pending trial simply because they cannot post a nominal amount of money.

Consequences of Pretrial Detention: Cumulative Disadvantage (a.k.a. “Snowball Effect”)



WHY ARE WE HERE?

Before Criminal Justice Reform

- New Jersey historically relied on monetary bail.
 - A 2013 study revealed 12% of the county jail population statewide could not afford a modest bail of \$2,500 or less yet posed little danger of flight.
 - There was widespread recognition that the monetary bail system as it existed was fundamentally unfair. This is sometimes referred to as a **dual-system error**:
 1. High risk defendants with access to money or assets can post bail and be released even if they pose a serious risk of danger or flight.
 2. Low risk defendants without money or assets, who cannot post bail, are cut off from families, may lose their jobs and housing. **Notably, studies show detaining low risk defendants correlates to increased short-term and long-term recidivism in those groups.*
 - Cases lingered for years from arrest to trial because N.J. did not have speedy trial statutes or rules.
 - **Money bail systems have an especially adverse effect on poor defendants and members of minority groups.**
-

WHY ARE WE HERE?

Technological Revolution is Occurring

WHY THE USE OF AN EVIDENCE-BASED TOOL IS NECESSARY

Two-Pronged Approach to meet local needs: (1) Measure and (2) Manage Risk

(1) Measure Risk: Public Safety Assessment

- * The PSA provides objective, data-driven information about a defendant's risk level. The PSA is shared with:
 - police and municipal court judge for summons / warrant decision (*preliminary* PSA)
 - Prosecutor for detention motion decision
 - Defense attorney and client
 - Judge for the release decision or detention motion
- * The PSA is *not* the decision. It is a tool that provides human decision-makers with information and objective risk measures to inform detention and release decisions at every critical stage.

Pretrial services staff complete a risk assessment and make a pretrial release recommendation to the court.

The risk assessment is objective and race/gender neutral.

The PSA considers the defendant's current charges, criminal history, and prior court history to determine the defendant's pretrial risk.



WHY ARE WE HERE?

“In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”

U.S. v. Salerno, 481 U.S. 739 (1987)

WHY ARE WE HERE?

You aren't looking to create the perfect system; you are seeking to build a better system than what you have under the current bail system.

You are seeking to balance the need to detain high-risk defendants with the need to release low-risk defendants who lack the money to post bail.

STAKEHOLDER ENGAGEMENT

New Jersey's Partners

- Governor
- State Legislature
- Law Enforcement
- County Prosecutors
- Public Defender
- Private Bar
- Municipalities
- County Government
- Federal Government
- Arnold Foundation
- Municipal Courts
- County Jails
- Jail Wardens
- County Sheriffs
- County Police
- Private Non-Profits

Partners

Community support and buy in is vital.

It takes a village to implement change, you will need the buy in of all those who are involved in or impacted by your criminal justice system.

Stakeholder Engagement

New Jersey consistently engaged stakeholders through a diverse array of committees, events and recurring meetings at the statewide and local levels, down to each individually county.

Early Engagement is key:

- Who are the stakeholders in your jurisdictions?
- Who are your community champions who will support your efforts?
- Who are the local leaders to reach the communities that will be affected by your change?
- Who can help dispel myths and support your consistent message?

WHY ARE WE HERE?



THE POWER OF THE ROAD

How do you get started?

Court systems and elected leaders can be a vehicle to drive change.

You need to bring internal and external partners together and start the discussion.

You must engage your partners and show them how the change will benefit them.

Win - Win

You must sell the change. Why should law enforcement, counties, jails, etc. be interested in supporting this change?

- Lower jail populations
- Detention of high risk defendants
- Benefit to poor and minority communities
- Advancing Justice and Fairness in the Criminal Justice System

What type of infrastructure do you have?

You do not need to have a Statewide Court system.

You need to focus in on the collaboration you already have based on your specific infrastructure.

- If you can't do this Statewide, start at the County level.
- If you can't do this at the County level, focus on the local level.

WHAT WE HAVE SEEN IN NEW JERSEY

CONSTITUTION OF NEW JERSEY

1947

A CONSTITUTION agreed upon by the delegates of the people of New Jersey, in Convention, begun at Rutgers University, the State University of New Jersey, in New Brunswick, on the twelfth day of June, and continued to the tenth day of September, in the year of our Lord one thousand nine hundred and forty-seven.

WE, the people of the State of New Jersey, grateful to Almighty God for the civil and religious liberty which He hath so long

Voters in November 2014 approved a change to the New Jersey Constitution that eliminated bail as a constitutional right. That change took effect on Jan. 1, 2017.

New Jersey's efforts included legislation and signed into law by the governor.

Legislation and Constitution

In New Jersey, we had a framework that we had to follow based on laws and the state Constitution. Your framework may be different.

- * Presumption of Release
- * Presumption of Detention for a few charges by statute
 - murder, cases subject to life imprisonment
- * Prosecutors must make a motion for detention
 - Judges cannot consider detention unless a motion is filed
 - Even if presumption of detention charge
- * Speedy Trial deadlines with provisions for excludable time
 - 90 days to indictment
 - 180 days from indictment to trial
 - 2-year overall limit

The Attorney General – Chief Law Enforcement Officer in New Jersey, issued directives to prosecutors and police:

- Guidance related to arrests, which would determine and who would go to jail
- Prosecutorial review of criminal charges before a police officer submits a request for an arrest warrant
- Using technology to identify individuals through LiveScan fingerprinting

Prior to the Covid-19 pandemic, Criminal Justice Reform in New Jersey resulted in the following:

- A reduction in the jail population
- The rate of criminal activity is less than or equal to pre-CJR rates
- The rate at which defendants appear in court has increased

WHY ARE WE HERE?

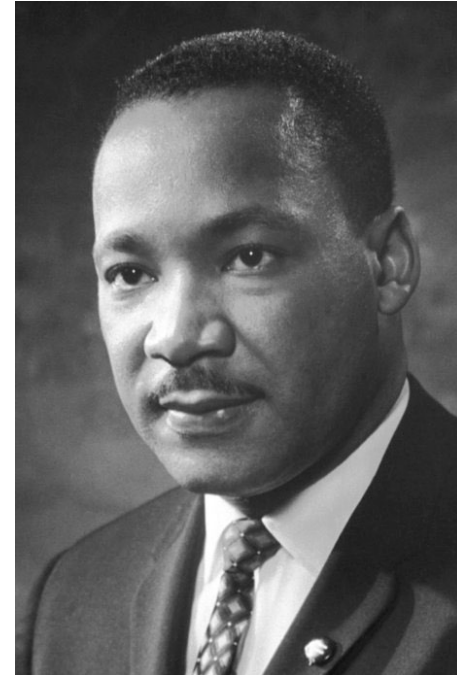
- Familiarize yourself with the five “C”s for leading change: Communication, Collaboration, Computerization, Commitment and Champions

Why Are We Here? – Conclusion

- We are here to create a system based on the principles that we all, in our positions of public trust believe in – a more just, fairer criminal justice system, balanced against the court's obligation to protect the safety of the community it serves.
- As you take the next steps to embark on this remarkable journey, remember that we all started at the beginning, and through continued engagement and commitment, overcame significant challenges to successful implementation.
- The wait and effort were worth it—these reforms created a new, fairer foundation from which to further improve our criminal justice system.

**“The arc of the moral universe is long,
but it bends toward justice.”**

**– The Rev. Dr. Martin Luther King,
Jr.**



Questions

Thank You

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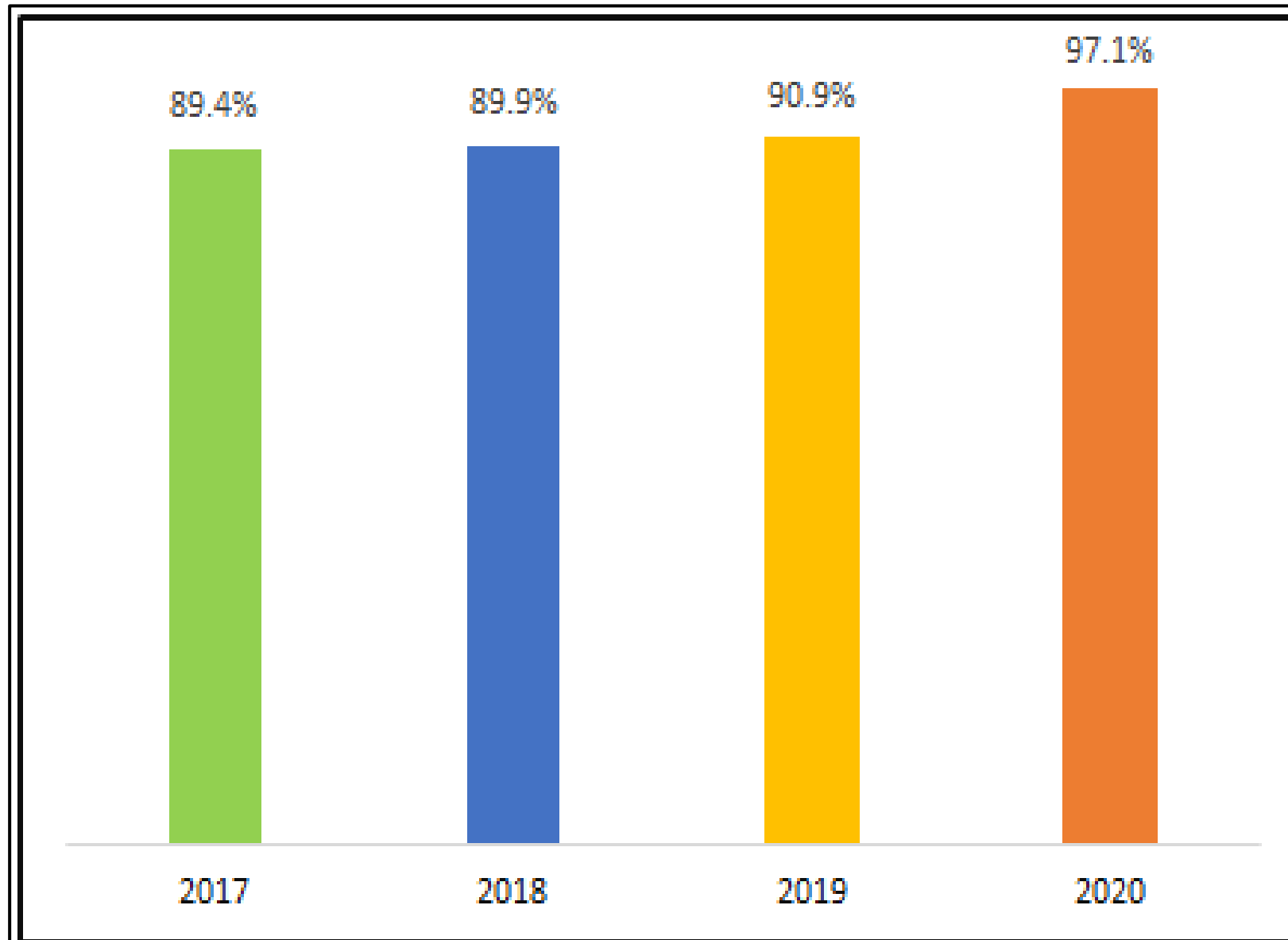
Areas that Contributed to New Jersey's Success:

- Stakeholder Engagement & Training
- Statute & Constitutional Amendment
- Attorney General Directive
- Evidence-Based Tools
- Statistical Information

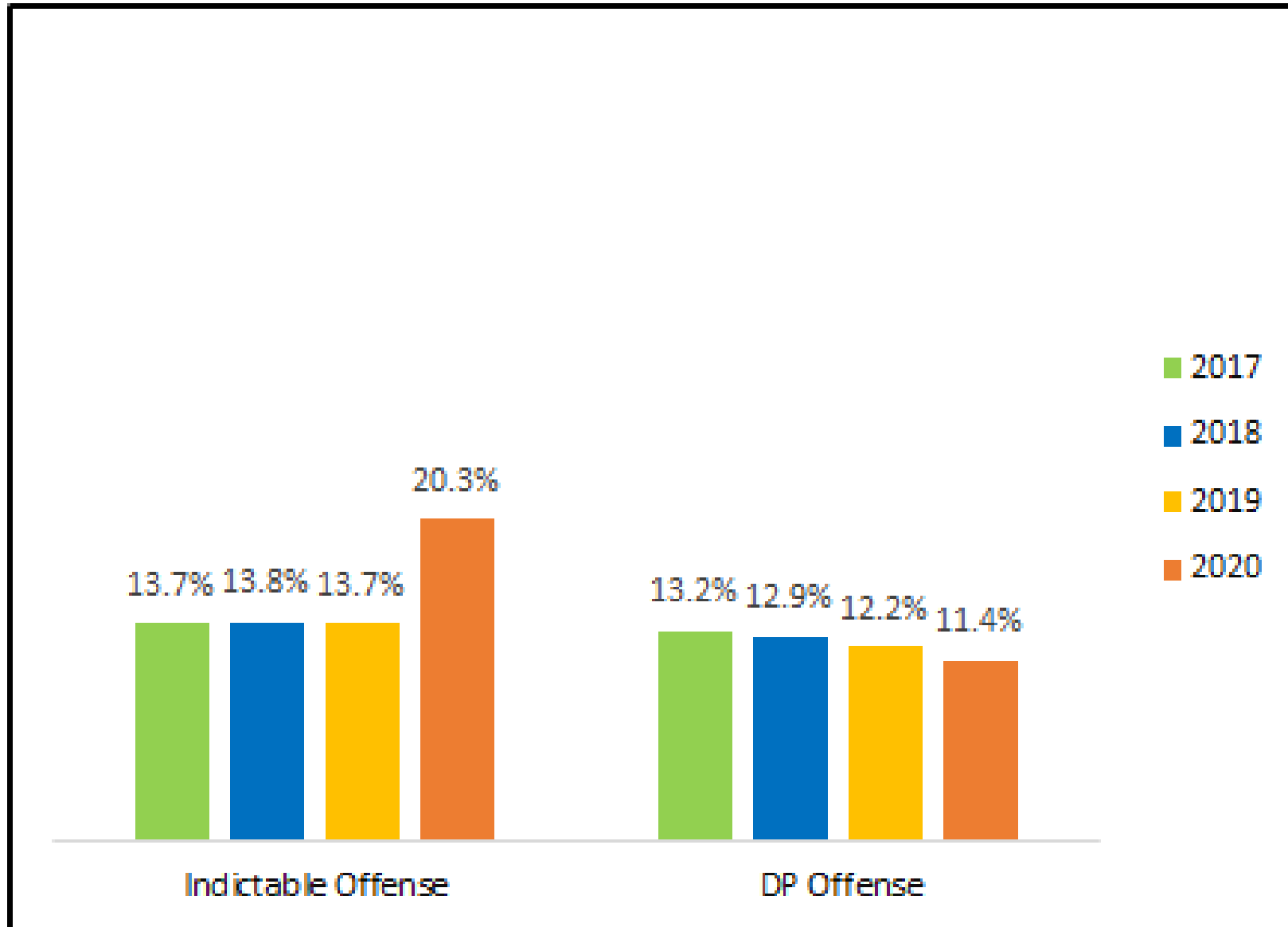


Statistical Information: The Importance of Continued Commitment and Refinement

Court Appearance Rates:

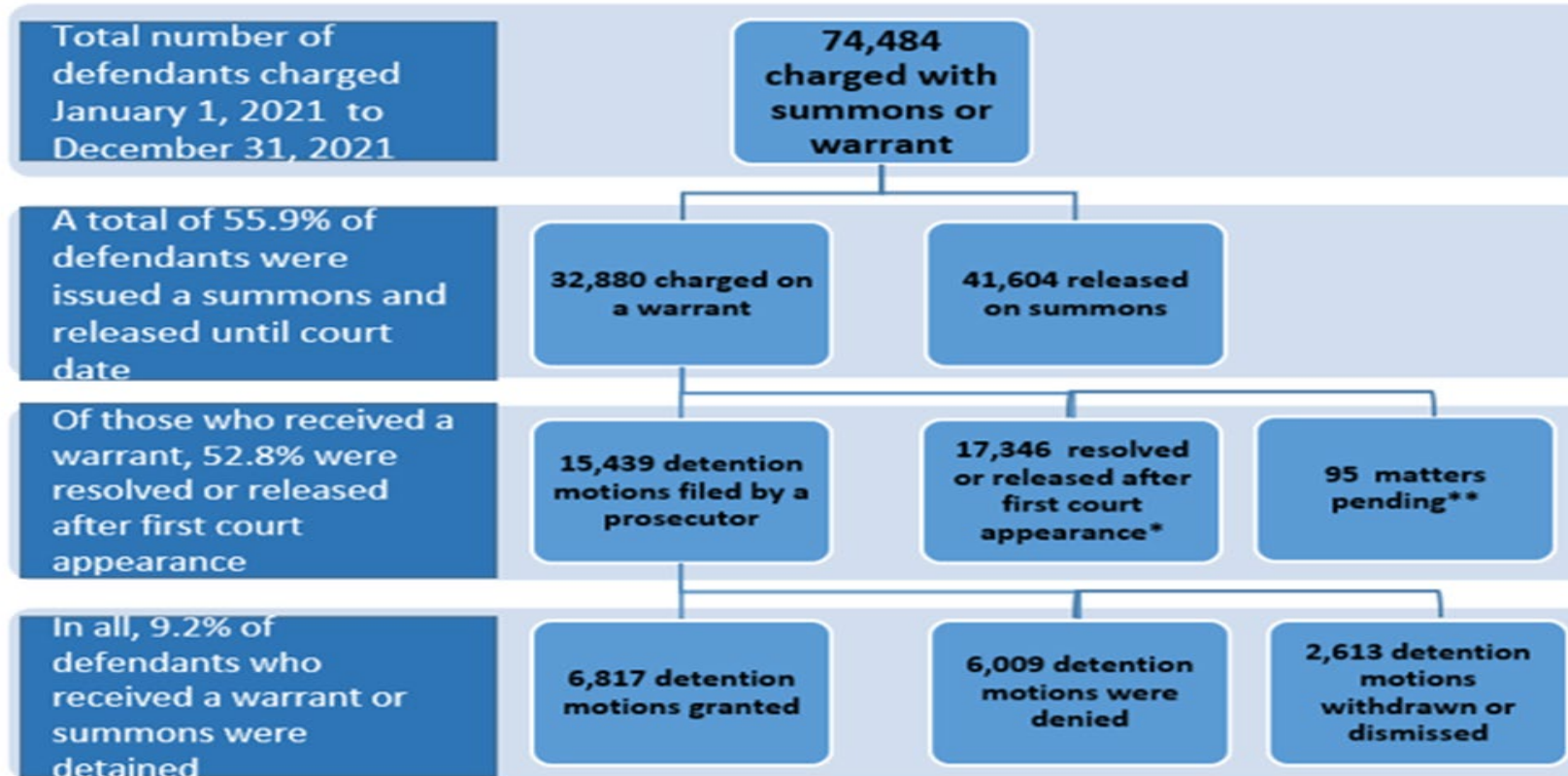


New Criminal Activity:



Statistical Snapshot, 2021

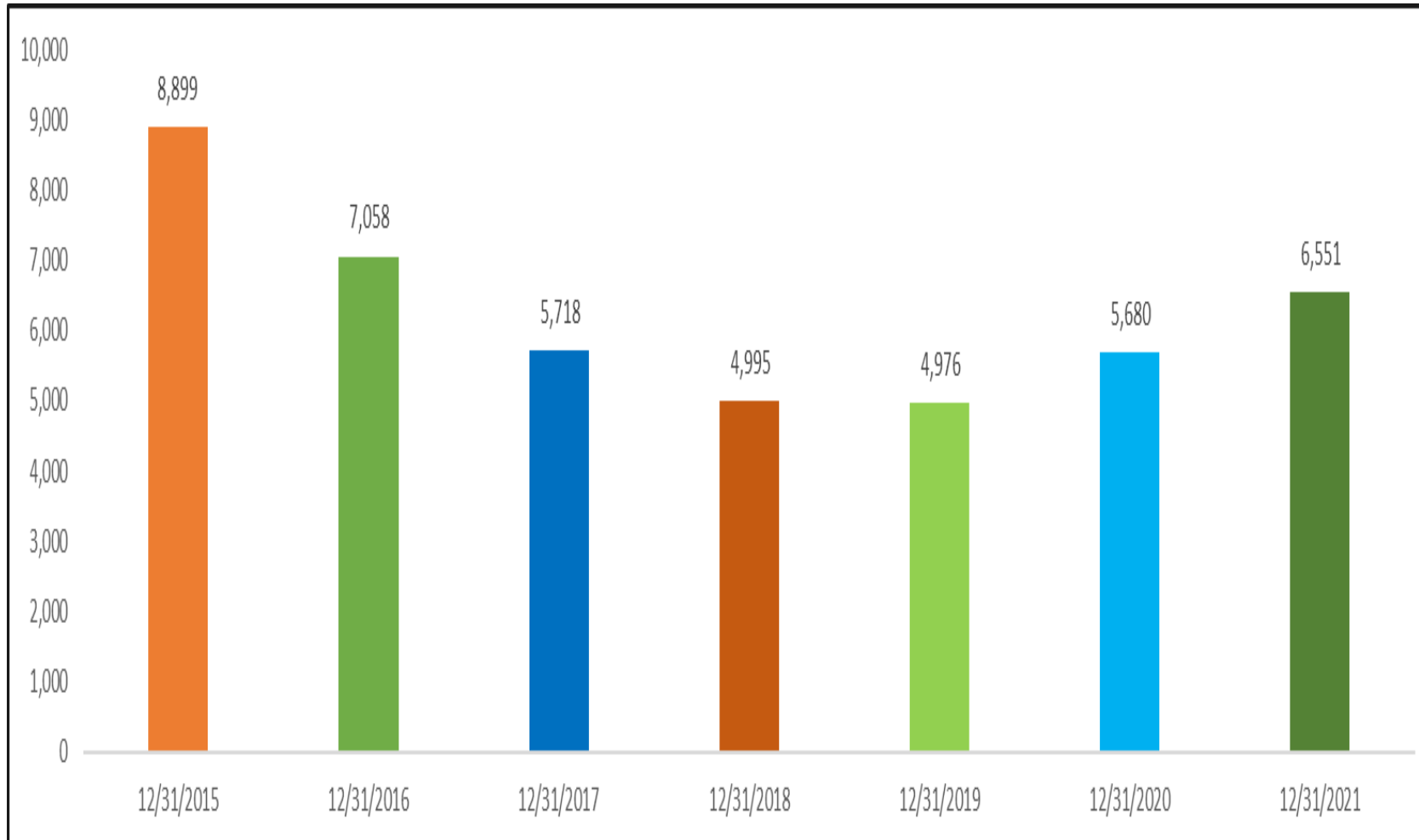
Pretrial Detention Decisions Summons or Warrant January 1, 2021 - December 31, 2021



| Summary Statistics (Warrant and Summons Cases) | Detention | Pretrial Release* | Pending |
|---|-----------|-------------------|---------|
| | 9.2% | 90.7% | 0.1% |
| * this includes cases that were addressed prior to release decisions (1014) | | | |
| ** as of January 14 th , 2022 | | | |

Reduction in Jail Population

Non-sentenced Pretrial Jail Population



The New Jersey Judiciary publishes annual reports to the Legislature and Governor. Those reports are located here:

- **Criminal Justice Reform Information Center**
(njcourts.gov)

Data is vital to your effort to implement change.

You need to be able to adjust your approach based upon the data you capture.