

# The Star-Ledger

## **You have a right to a speedy trial. What if juries are postponed indefinitely?**

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The U.S. Constitution guarantees your right to a “speedy trial.”

State law says that trial should begin about six months after you’re charged with a serious crime.

But since the coronavirus led state and federal courts to suspend jury trials throughout New Jersey, people in jail waiting to defend themselves have been thrown into limbo.

“I could see there being significant constitutional concerns,” said Kim Yonta, a criminal defense attorney and president-elect of the NJ Bar Association. “Any time taken from my client’s life is significant.”

Nobody has suggested that protecting potential jurors from crowded waiting rooms is a bad idea, but lawyers said they were worried about a suspension that could last weeks — or more.

“Depending on the length of the delay, defendants could challenge the prosecution on speedy trial grounds,” John Farmer, a former state attorney general and director of the Eagleton Institute of Politics at Rutgers University, wrote in a message.

There were 5,018 people in jail awaiting trial at the end of January, according to a judiciary spokesperson, although less than 100 of those are expected to ever face a jury.

“I am primarily concerned about people who are in the county jails who don’t need to be there,” said New Jersey Public Defender Joseph Krakora.

Public defenders are both working with prosecutors and filing motions to release some of those people, according to the public defender’s office. Freeing some non-violent residents, especially those who are elderly or with serious health issues, could protect both inmates and officers by lowering jail populations, officials said.

“I can only imagine how scared our clients are, thinking about how scared and panicked people are out here,” said Jennifer Sellitti, an office spokesperson.

The state is releasing hundreds of people already convicted of some low-level crimes, and the number of new defendants may slow since the state attorney general recommended some criminal charges be delayed.

Normally after an arrest, you must be indicted within 90 days and wait no more than 180 days for a trial, according to state law.

A judge may grant extensions for a long list of reasons, including a “natural disaster.” New Jersey Supreme Court Chief Justice Stuart Rabner issued an order Thursday saying more than two weeks of March would not be counted toward that 180-day limit.

More extensions could be on the way, although stopping the clock was “not intended to prevent the parties from making every effort to continue to resolve cases prior to indictment and trial,” Rabner wrote.

Prosecutors are relying on guidance from the judiciary about what extensions will be allowed, said Angelo Onofri, the Mercer County Prosecutor and president of the state’s county prosecutors association.

“We’re in uncharted territory,” Onofri said.

Other countries and states, from California to New York, have also halted jury trials.

Louisiana, which pushed back trials last week, experienced a much more catastrophic judicial shutdown after Hurricane Katrina.

“The similarities are the total discombobulation ... of the criminal justice system,” said Kevin Boshea, a criminal defense attorney in New Orleans who worked in the flood’s aftermath. Delays can make it harder to find witnesses, organize evidence and keep clients and their families healthy, he said.

“As soon as the court system opens, for the first weeks there will be this avalanche of cases that were backed up,” he said.

However, the experience prepared him and his colleagues to better handle this delay, he said.

Lawyers in New Jersey continue to work with clients and the courts, although much is being moved to phones and video since jails are restricting visitors. Some also said the reforms that established time limits eased pressure on a system that could be in much worse shape.

“The longer we go, the harder it’s gonna be to recover,” said Joseph Mazraani, a defense attorney with Mazraani and Liguori in New Brunswick. But before the reforms, he said, “people were sitting a lot longer in jail than they’re sitting now.”