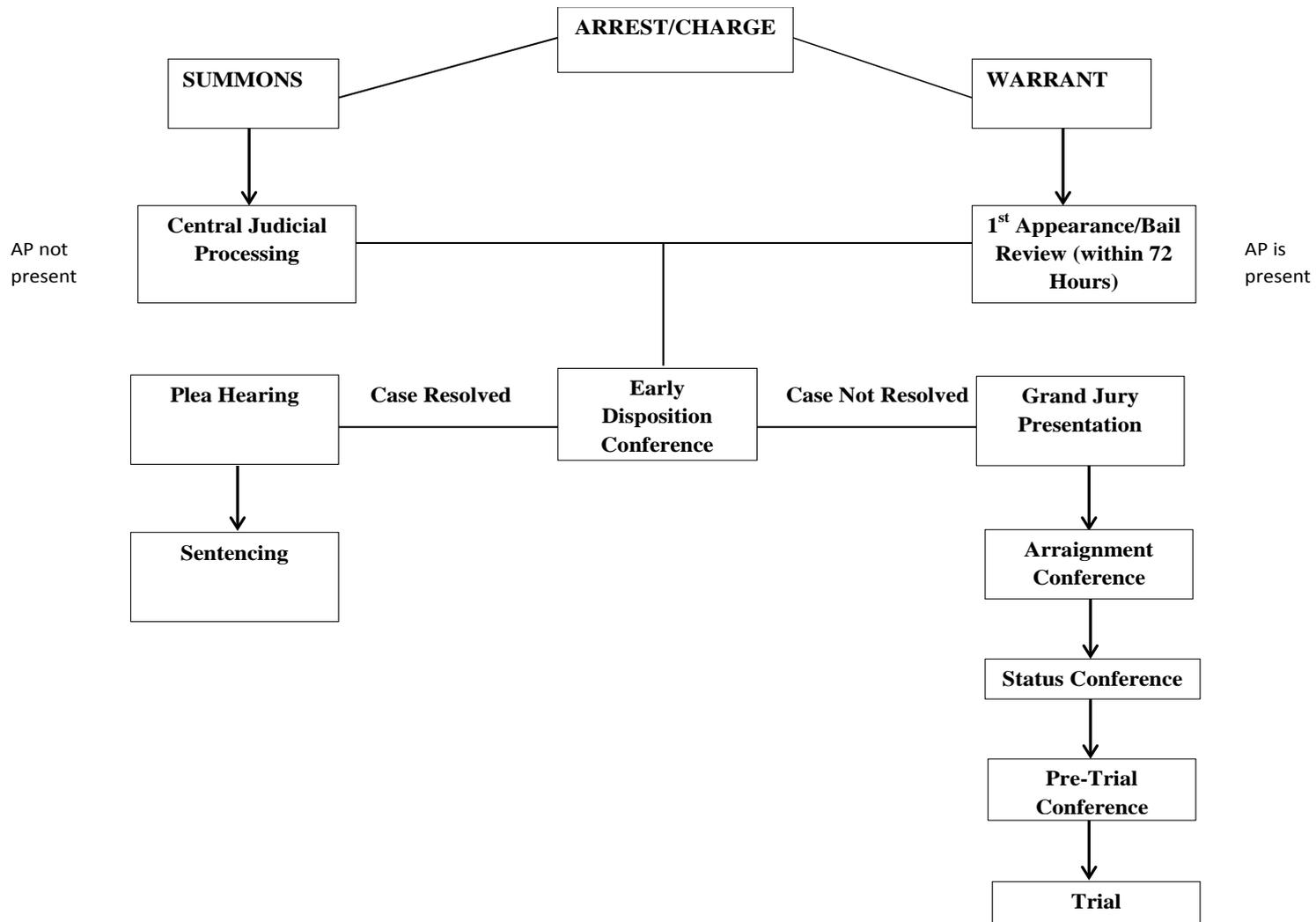


Bail Reform and Speedy Trial Act

- Substantial change to existing law that impacts pretrial incarceration decisions and the manner in which certain cases will be processed through the Court system.
 - Constitutional Amendment allowing Defendant's to be held without bail (passed by referendum in 2014)
 - Statutory changes impacting the manner in which pretrial incarceration decisions are made, and how a criminal case is processed for incarcerated offenders
- These changes have already been passed by the Legislature and signed into law by the Governor. The effective date of the law, statewide, is January 1, 2017.
- We are a pilot county. (Other pilot programs in Morris, Passaic, and Camden). Anticipated effective date of changes for Sussex County is May of 2016.

Current Processing of a Criminal Case



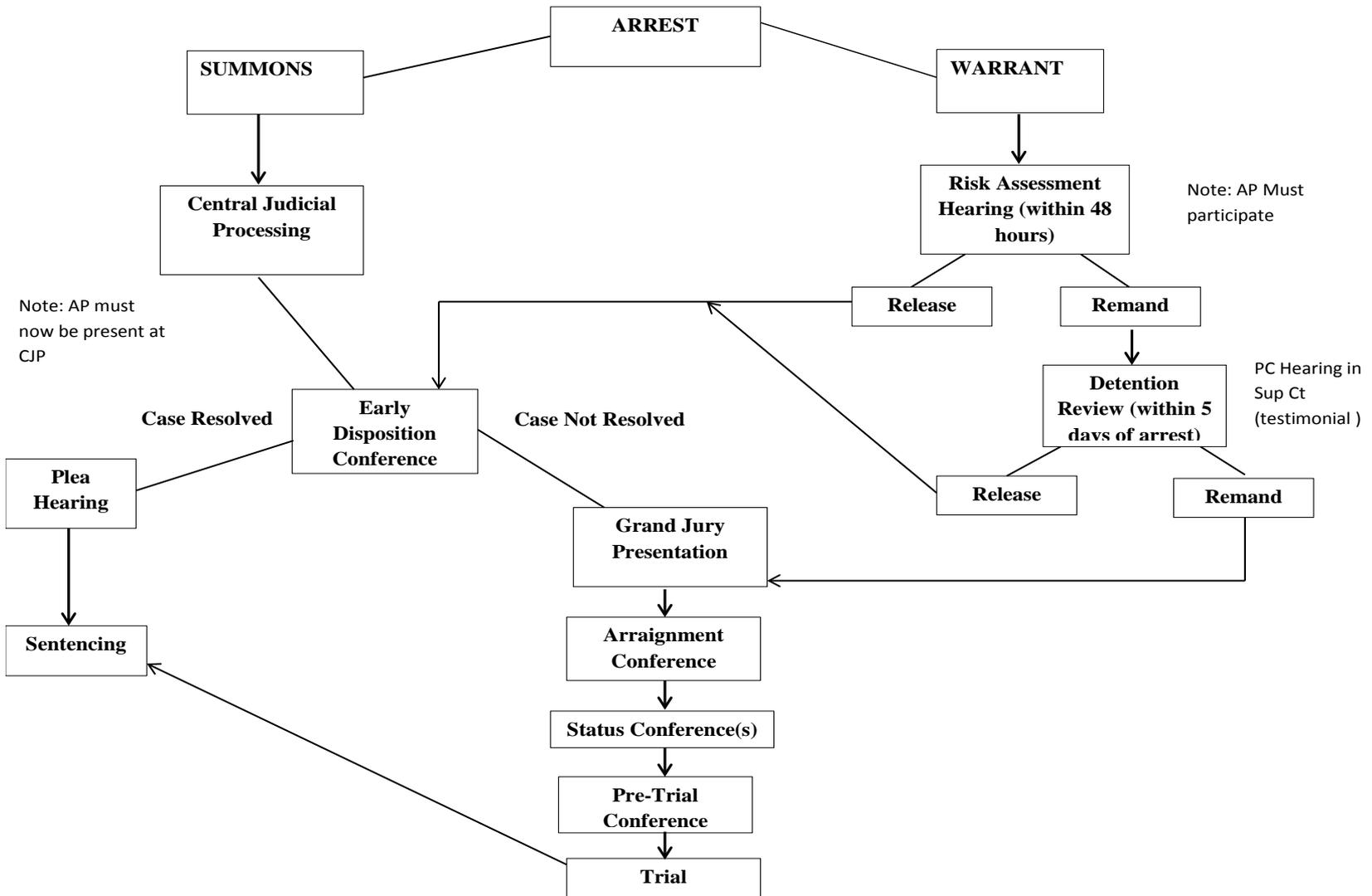
Aspects of Existing System That Will Change

- Under the current system, the SCPO is not required, and does not, have an AP present at CJP Court.
 - CJP Court currently sits 1 day per week and is in session for about 4 hours
- Under the current system, for defendants remanded to the jail on a warrant, no weekend appearance is necessary.
 - This is so because the first appearance/bail review does not need to take place for 72 hours.
 - Therefore, for a defendant arrested on a Friday, we can legally wait until Monday for the first appearance/bail review

Aspects of Existing System That Will Change (Continued)

- Under the current system, there are no lengthy testimonial hearings prior to the EDC conference.
- Under the current system, there are no statutory requirements governing how quickly we must present a case to the Grand Jury.
- Under the current system, there are no statutory requirements governing how quickly we must bring a case to trial.
- Under the current system, Assistant Prosecutors on Emergent Duty do not need to approve every criminal complaint placed on a warrant.

Criminal Case Processing Under New Law



Additional Assistant Prosecutor Responsibilities Under New Law

- **CJP Court:**

- We will be required to have an assistant prosecutor cover CJP Court. It is anticipated that the volume of cases in CJP Court will rise **dramatically** and the court may be in session two (2) full days each week.

- **Risk Assessment Hearings:**

- Assistant Prosecutors are required to cover the Risk Assessment Hearing. This will require hearings on the weekend. The law requires that the risk assessment hearing be conducted within 48 hours of a defendant's arrest on a complaint warrant. Consequently, for any such defendant arrested on Friday, a hearing must be held no later than Sunday.

- **Detention Review Hearings:**

- Assistant Prosecutors will be required to cover Detention Review Hearings within five (5) days of a defendant's arrest if he/she is still remanded to the jail. These hearings will be involved and require significant preparation. They are testimonial hearings and the State will have to establish that there is sufficient evidence in support of the charge and that the defendant poses a risk to the community.

Additional Assistant Prosecutor Responsibilities Under New Law (Continued)

- **Increased Duty Assignments:**
 - For all defendants remanded to the jail on a complaint warrant, that defendant will be subject to the new additional hearings referenced above. In addition, that defendant will have new statutory speedy trial rights. Because of this, we need to be very thoughtful and careful regarding the cases that will be placed on a warrant. It is anticipated that most cases will be placed on a summons. However, ***for any case that an officer seeks to place on a warrant, the officer will now need the approval of the “on-call” Assistant Prosecutor.***
- **Note:** I will discuss the statutory speedy trial rights and the new factors to consider in deciding whether to issue a summons or warrant on future slides

Additional Assistant Prosecutor Responsibilities Under New Law (Continued)

- **Hearings Regarding Conditions of Release:**
 - For those defendants released on a summons, a judge will now be permitted to attach conditions to a defendant's release. It is anticipated that some defendants will violate the conditions of pre-trial release prompting additional violation hearings. These hearings will be handled by an Assistant Prosecutor.
- **Speedy Trial:**
 - The State will now have relatively short time frames to prosecute a case. There are new time frames to present a case to the Grand Jury and new time frames to bring a case to trial. It will take additional resources to meet these timeframes, especially in light of the five (5) new areas of responsibility referenced above

Speedy Trial

- Speedy Trial applies to:
 - An eligible defendant for whom a complaint warrant was issued and the arrest occurred on, or after, January 1, 2017, regardless of when the offense occurred **and**
 - The initial charge involved an indictable or a disorderly persons offense and the defendant is:
 1. Detained pursuant to the pretrial detention provisions of the bail law, **or**
 2. Detained in jail due to an inability to post monetary bail
- Speedy Trial does NOT apply to:
 - Persons for whom a complaint summons was issued
 - Persons for whom a complaint warrant was issued prior to January 1, 2017

Speedy Trial (Continued)

- There are three (3) different Speedy Trial standards:
 - 1. Pre-Indictment (90 days not including excludable time)**
 - An eligible defendant shall not remain detained in jail for more than 90 days following the date of the defendant's commitment to the county jail, not counting excludable time.
 - 2. Post-Indictment (180 days not including excludable time)**
 - An eligible defendant who has been indicted shall not remain detained in jail for more than 180 days on that charge following the return or unsealing of the indictment, whichever is later, not counting excludable time before commencement of trial.
 - 3. Overall (2 years not counting excludable time attributable to the defendant and the prosecutor is not ready to proceed to trial)**

Speedy Trial (Continued)

- An eligible defendant shall be released from jail on ROR or conditions set by the court if, two (2) years after the court's issuance of the pre-trial detention order for the defendant, excluding any delays attributable to the defendant, the prosecutor is not ready to proceed to voir dire or to opening argument, or to the hearing of any motions that had been reserved for the time of trial.

*** Note that there are 13 different categories of excludable time contained in the Bail Law

Summons v. Warrant (The “In or Out” Decision)

- **Current System:**

- All persons charged with a crime are entitled to be released on monetary bail, regardless of their criminal history or threat they may pose to the public. It is a resource or monetary based system.
- R. 3:3-1(c) currently governs what cases should go on a warrant, and what cases should go on a summons. This Rule is in the process of being revised.
- Under the current system, 60% to 70% of defendants charged with an Indictable crime are charged on a warrant. Many of the defendants remain in county jail, unable to post bail until their case is resolved

Summons v. Warrant (The “In or Out” Decision)

- **New System:**

- Defendants can be held without bail if they pose a risk to the community.
- The focus is on community risk.
- A Risk Assessment will be done for every defendant charged with an Indictable crime, and the result of that assessment will be a critical guide in determining whether a defendant is remanded on a warrant or released on a summons. The Risk Assessment will also be important in determining what conditions should attach to a defendant’s release.
- The Risk Assessment protocol will give a **green**, **yellow**, or **red** result regarding each criminal defendant. The Risk Assessment recommendation can be over-ridden by the Assistant Prosecutor.
- A law enforcement officer will not be permitted to apply for a complaint warrant, except in accordance with guidelines to be established by the AG, and with the permission of the duty Assistant Prosecutor.