

Executive Order No. 211 Study

An analysis of the potential challenges and benefits of Criminal Justice Reform

Contents

Executive Summary	4
Report Organization.....	7
Introduction	7
Criminal Justice Reform	8
Risk Assessment Tools	9
Effectiveness of Risk Assessments	11
New Jersey’s Risk Assessment Tool.....	12
PART I Comparison of Current Arrest Processes and Reformed Processes	18
Making an Arrest.....	19
Transport of Arrestees	20
Criminal Processing.....	21
1. Live Scan/identify the arrestee	22
2. Preparation of charging documents and supporting documents using eCDR	23
3a. Running of preliminary Public Safety Assessment via the eCDR system	24
3b. Gathering relevant criminal history information.....	25
4. Compilation and consideration of other known, relevant information not accounted for by the PSA.....	25
Pre-Charging Case Screening	26
Determination of complaint-summons or complaint-warrant.....	30
Consequences of Charging by Complaint-Summons vs. Complaint-Warrant.....	32
Transport Logistics	33
Bail Reduction and Source and Sufficiency Hearings	35
First Appearance	36
Location of the First Appearance	36
Documentation Requirements of the First Appearance	36
Arresting Officer Availability Prior to First Appearance	37
Recognizing and Protecting Crime Victims’ Rights	38
Revocations.....	38
Detention.....	40
Speedy Indictment and Trial	42
PART II Context of Criminal Justice Reform	45
Data Description	46
Criminal Justice System Volume	49
Population and Crime Trends.....	49
Complaints Issued Data: Promis/Gavel	50
Administrative Office of the Courts (AOC) Data	58
County Jail Volume.....	64
State Police Arrest Data	72
Self-Reported Arrest Volumes	78
Self-Reported Transport Volumes.....	83
Self-Reported Intake Volumes	89
Prosecutors’ Offices Caseload	90
Current Staffing Issues	94
Total Number of Law Enforcement Officers.....	94
Municipal Police Department Staffing	95
Sheriff’s Office Staffing	97

Prosecutor’s Office Staffing 98

Jail Staffing 100

Comments and Concerns Noted in Bail Reform Questionnaire 104

 Arrest Volumes 104

 Prosecutorial Screening/Approval System 104

 Documentation 105

 Speedy Trial Deadlines 105

 Defendant Transports 106

 Public Safety 107

 Prosecutors’ Anticipated Costs 108

Appendix A Bail Reform Questionnaire 109

Appendix B Bail Reform Questionnaire Response Data 121

 Bail Reform Questionnaire Results 122

Executive Summary

On January 1, 2017, New Jersey's adult criminal justice system will undergo a substantial transformation as the "Bail Reform Law," P.L. 2014, c. 31, and a significant amendment to Article 1, paragraph 11 of the New Jersey Constitution take effect. The sweeping changes of "Criminal Justice Reform" are purposed to advance various components of New Jersey's criminal justice policies and procedures, replacing the current "resource-based" pretrial release system with a "risk-based" approach, enhancing current case screening practices, providing speedy indictment and trial protections to those detained pretrial, and overall promoting greater justice for defendants and enhanced community safety throughout New Jersey. The Supreme Court recently issued revised and new court rules that will govern the procedures for these reforms. And the Attorney General Law Enforcement Directive No. 2016-6 (the "Directive") establishes the policies, standards, and practices that will guide prosecutors and law enforcement officers in carrying out their responsibilities under the reform initiative.

A defining feature of the Bail Reform Law is the implementation of the Public Safety Assessment (PSA), a risk assessment device that enables the empirical measurement of defendant risk level, generating novel insight into defendant likelihood of failing to appear in court, committing new criminal activity, and committing a new violent crime. Defendant risk scores will be used to inform the complaint-warrant versus complaint-summons decision, in addition to informing decisions regarding pretrial detention or conditions for pretrial release. Only those individuals who pose the highest risk will be detained pretrial, whereas individuals who pose lesser risks will be released on conditions informed by and developed from his or her unique risk scores. The provision of monetary bail as a condition for pretrial release is nearly eradicated under the reform initiative. Thus such strategic procedural changes move New Jersey away from a pretrial system oriented around defendants' ability to post bail to a more informed, objective, and nuanced system, capable of identifying and appropriately detaining those most serious and dangerous offenders. As shown within this report, 65% of all county jail inmates had a primary custody status indicating pretrial detention (as of August 31st, 2016). It is this majority population of New Jersey jails that will be substantially impacted and reconfigured by the reform initiative, as the new pretrial population will no longer contain low-risk offenders unable to post bail, but high risk offenders whose monetary resources will no longer facilitate their pretrial release.

The reform initiative also calls for the establishment of a pre-charge case screening system. The purposes and advantages of this initial evaluation or "screening" are to promote the accuracy of charges and complaints early on in case processing. Building pre-charge case screening into the reform initiative is expected to yield positive results; as indicated within this report, 51% of all arrests that received review by a Prosecutor's Office in New Jersey in 2015 were screened out. Consideration of the timing of arrests, however, is critical: whereas only 24% of arrests for Sheriff's Offices occurred outside of normal business hours (8am-5pm), New Jersey's police departments reported making approximately 57% of arrests outside of normal business hours. Data available for all of 2015 indicate that New Jersey State Police made more than half, 52%, of arrests outside of these hours. Thus given the fact that arrests do not conform to typical business hours, those agencies specifically electing to provide prosecutorial pre-charge screening— rather than screening by designated supervisory law enforcement officers— may need to make staffing adjustments to accommodate the new reforms.

Criminal Justice Reform also includes speedy indictment and trial protections for those individuals detained pretrial. Analyses of New Jersey's jail population indicate substantial case backlog and unnecessarily long periods of pretrial detention. Such lengthy periods of incarceration are known to yield a detrimental influence on inmates' family presence, employment, finances, and likelihood of non-criminal outcomes. Thus the imposed deadlines for indictment and trial can be expected to improve case backlog, reduce inmate length of stay, and mitigate the impacts associated with lengthy incarceration.

As indicated, Criminal Justice Reform alters current criminal justice practices, from the time of arrest to case disposition. As such, over the last 18 months, key participants and stakeholders in the criminal justice system have analyzed the myriad of issues that are raised by these reforms. New automated systems have been designed to measure identified risk levels, increase case processing efficiency, and meet speedy indictment and trial deadlines. New Jersey's law enforcement community— comprised of police departments, Prosecutors' Offices, Sheriff's Offices, and county jail facilities—is preparing for the broad-sweeping changes that Criminal Justice Reform will present. Although not within the purview of this report, the judiciary and defense bar also are, no doubt, engaged in necessary programs and projects to address particularized responsibilities. Stated simply, all eyes of New Jersey's criminal justice universe are firmly affixed to this new way of doing business as January 1st draws near.

Executive Order No. 211, issued on June 30, 2016, instructs the Attorney General to "evaluate the costs, savings, and administrative challenges" associated with the reform initiatives. This report provides an overview of the impending changes throughout the criminal justice system, comparing current policies and procedures to those that will be implemented under Criminal Justice Reform on January 1, 2017. To generate an in-depth understanding of the contemporary arrest volume that will be processed under new Bail Reform procedures, this report provides contemporary data on the nature of crime in New Jersey, depicting the timing of arrests, the current volume of complaint-warrants and complaint-summons issued, and the charges cited in these complaints. Staffing data throughout New Jersey's criminal justice agencies are presented, detailing the human resources available throughout police departments, Sheriff's Offices, Prosecutors' Offices, and county jails, who will process cases within the new procedural and time specifications of Criminal Justice Reform. Prosecutorial case screening data is presented to highlight the substantial benefit that can be expected from the impending shift to pre-charge screening. Given that the Bail Reform Law particularly seeks to transform the composition of New Jersey's jail population, county jail data pertaining to inmates' current length of stay and custody status are presented and discussed in anticipation of the impending reforms. Last, qualitative data is presented to highlight specific concerns raised throughout New Jersey's criminal justice agencies in light of the impending reforms.

At the outset, it must be recognized that the constitutional amendment, law, court rules, and Directive will not cause a single additional offender to be arrested or a single additional criminal case file to be opened. Moreover, many of the steps that comprise the criminal justice process in New Jersey will remain largely intact, although the sequence and ordering of those steps may change, especially at the outset of the criminal justice process.

It is especially important to note that the Attorney General Directive was designed to afford County Prosecutors and police department flexibility to adapt practices and procedures to address local needs and available resources. In other words, the Directive has not been fashioned as a “one size fits all” approach. Thus, the extent to which new procedures will affect any given agency—and thereby produce costs or savings—depends on the exercise of discretion vested in County Prosecutors. As a result, it is not possible in this report to project monetary amounts relating to costs or savings associated with implementing Criminal Justice Reform. Rather, this report identifies the aspects of Criminal Justice Reform that may pose challenges and produce benefits to police departments, Sheriffs’ Offices, Prosecutors’ Offices, and county jails.

Report Organization

The Introduction of this report presents an overview of the new processes to be implemented under Criminal Justice Reform, followed by a discussion of the use of risk assessment tools in the Criminal Justice system generally, and how these tools will be utilized in New Jersey.

Part I of this report provides a comparative analysis of the current processes and procedures and those to be implemented on January 1, 2017. This section will address the potential impact of these changes in the context of current policies and procedures. Within each element of the process, anticipated costs, savings/non-monetary benefits, and administrative challenges are discussed.

Part II of the report provides additional context for Criminal Justice Reform through discussion of the caseloads of police departments, Prosecutors' Offices, Sheriff's Offices, and county jails and discussion of the staffing levels in these agencies. These caseloads are defined as the volume of crime and arrests in New Jersey, the volume of cases reviewed and screened, and the size of the inmate population.

As noted previously, at no point will this report attempt to quantify the estimated monetary costs or savings of Criminal Justice Reform, as the specific implementation of Criminal Justice Reform is dependent upon the discretion of each Prosecutor's Office and their interaction with each Criminal Justice agency within their jurisdiction. Instead of discussing "savings", this report will discuss non-monetary benefits afforded to agencies. Though there may be quantifiable monetary savings associated with Criminal Justice Reform, there are equally important and notable non-monetary benefits that agencies will see as the result of these reforms. Rather than use the term "costs", the word "challenges" will be used. Challenge covers a broad range of possible concerns that may be administrative, financial, personnel based, training based, or related to the availability of other resources.

Introduction

Executive Order No. 211, issued on June 30, 2016, instructs the Attorney General to "evaluate the costs, savings, and administrative challenges associated with the reforms to New Jersey's pretrial system" under Criminal Justice Reform. This report provides an overview of the impending changes throughout the criminal justice system, comparing current policies and procedures to those which will go into effect under Criminal Justice Reform on January 1, 2017; further, this report presents benefits and challenges that are likely to result from these revisions. Ultimately, the report notes that most changes require a shifting of resources rather than the introduction of new resources.

The heart of Criminal Justice Reform is the near eradication of monetary bail. Rather than enabling individuals to pay a specific monetary value in order to obtain pretrial release, individuals will be assessed on their risk of failing to appear, re-offending while on release, or committing a new violent crime using an objective, empirically validated risk assessment known as the Public Safety Assessment (PSA). The implementation of this tool is accompanied by a re-organization of current procedures and the imposition of time limits for indictment and trial for those charged on a complaint-warrant.

Based on the stipulations of the Attorney General's Directive (2016-06), the true impact of Criminal Justice Reform is dependent on the specific iteration desired by each county Prosecutors' Office. While Criminal Justice Reform strives to make the arrest process more uniform throughout the State, there are several points of discretion afforded to Prosecutors' Offices in regard to the practical implementation of these changes. Because of this wide discretion, which may lead to variation in policies for different law enforcement departments, and the unknown specifics in terms of volume and type of crime and the criminal histories of arrestees, this report will not (nor could it) provide a specific monetary cost associated with implementing Criminal Justice Reform. Instead, this report attempts to identify the areas and aspects of Criminal Justice Reform that may result in benefits or challenges for police departments, Sheriff's Offices, Prosecutors' Offices, and county jails.

Criminal Justice Reform

The purpose of bail is to ensure that an individual appears at trial while balancing community risks with the individual rights of those accused of crimes. However, though arrest rates have declined since the 1980s, the number of individuals lodged in jail overall has continually increased until very recent years.¹ At the same time, the use of monetary bail has become increasingly common and the amounts used for bail have continually risen.² The result has been that poorer individuals are more frequently detained pretrial due to an inability to meet bail,³ whereas individuals with greater access to money can post bail, obtain pretrial release, and potentially re-offend within the community. Further, based on data from 2014, the majority of jail inmates are male, more than half are racial/ethnic minorities, and the majority of inmates are held pretrial.⁴ A 2002 survey of inmates in jails indicated that only about a quarter of all inmates in jails were held for violent offenses.⁵ Additionally, for many in jail, lengthy periods of time pass between detention and trial.⁶ Thus, the current system holds individuals for extensive durations, impacting their ability to earn a living, and does so at disproportionate rates across racial/ethnic and socioeconomic groups. In sum, the current resource-based bail system has the unintended consequence of disproportionately incarcerating poor offenders and releasing wealthy offenders with little regard for their likelihood to re-offend or harm others. These findings are true across the country, especially in New Jersey.

¹ Subramanian Ram., Delany, Ruth, Roberts, Stephen, Fishman, Nancy, and McGarry, Peggy. (2015). *Incarceration's Front Door: The Misuse of Jails in America*. Vera Institute of Justice. New York: NY.

http://archive.vera.org/sites/default/files/resources/downloads/incarcerations-front-door-report_02.pdf

² Justice Policy Institute. (2012). *Bail Fail: Why the U.S. Should End the Practice of Using Money for Bail*. Justice Policy Institute: Washington, DC: <http://www.texasrev.com/wp-content/uploads/2015/08/Baradaran-McIntyre-90-TLR-497.pdf>

³ Report of the Joint Committee on Criminal Justice.

https://www.judiciary.state.nj.us/pressrel/2014/FinalReport_3_20_2014.pdf

⁴ Minton, Todd and Zeng, Shen. (2015). *Jail Inmates at Midyear 2014*. Bureau of Justice Statistics: Special Report. Washington, DC, US Department of Justice, Office of Justice Programs. <http://www.bjs.gov/content/pub/pdf/jim14.pdf>

⁵ James, D. (2004). *Profile of Jail Inmates, 2002*. Bureau of Justice Statistics. Washington, DC, US Department of Justice, Office of Justice Programs. <http://www.bjs.gov/content/pub/pdf/pji02.pdf>

⁶ VanNostrand, Marie (2013). *New Jersey Jail Population Analysis: Identifying Opportunities to Safely and Responsibly Reduce the Jail Population*. Available at:

https://www.drugpolicy.org/sites/default/files/New_Jersey_Jail_Population_Analysis_March_2013.pdf

A 2013 study of New Jersey jails,⁷ examining the jail population on October 3, 2012, found that slightly more than 5,000 inmates (roughly 38% of the total inmate population) were held pretrial solely because they could not make bail. Further, 873 inmates could have been released for less than \$500. Roughly 12% of the entire jail population could have been released for \$2,500 or less. The implication from this study is clear; defendants who can afford to pay bail are released, while those unable to do so remain in jail.

To remedy these issues, New Jersey's Criminal Justice reform includes several initiatives that focus on bail, pretrial risk, and the length a case may sit prior to indictment and trial. In New Jersey, Criminal Justice Reform began with Public Question No. 1 on the November 4, 2014 general election ballot.⁸ The question asked whether voters approved of an amendment to New Jersey's Constitution that would allow the court to mandate pretrial detention in certain circumstances. The results indicated that roughly 61% of voters approved such an amendment. Though the language of the question suggests a harsh stance on arrestees, mandating pretrial detention in some cases, the actual Criminal Justice Reform developed from this ballot measure is intended to reduce the number of individuals unnecessarily detained pretrial.

The Bail Reform Law, effective January 1, 2017, will virtually eliminate New Jersey's reliance on a "resource-based" (i.e., money-based) bail system and replace it with a "risk-based" bail system. Criminal Justice Reform will move New Jersey away from the current system oriented around defendants' ability to post bail and toward a more informed, objective, and nuanced system that will work to detain only those who, if released, would potentially fail to appear in court, threaten the safety of others and/or the community, or subvert the criminal justice process. The purposes and advantages of this new system are to ensure that those who pose such risks are not released pretrial and that those who do not pose such risks are not detained unnecessarily. Further, Criminal Justice Reform also places time constraints on the length of time that can pass between pretrial detention and indictment and indictment and trial.

A major component of Criminal Justice Reform is an objective, empirically validated assessment, which will measure the risk that an arrested individual will fail to appear, re-offend, or commit a new violent offense. The results of this assessment will inform the charging decision and decisions regarding the deployment of tools designed to manage identified risks such as pretrial detention and monitored release conditions.

Risk Assessment Tools

Risk assessment of offenders and pretrial services were first implemented in 1961 in Manhattan by the Vera Institute of Justice.⁹ This initiative was launched to determine whether defendants could be categorized based on the risk that they would fail to appear in court. Risk was assessed based on

⁷ VanNostrand, Marie (2013). New Jersey Jail Population Analysis: Identifying Opportunities to Safely and Responsibly Reduce the Jail Population. Available at:

https://www.drugpolicy.org/sites/default/files/New_Jersey_Jail_Population_Analysis_March_2013.pdf

⁸ <http://nj.gov/state/elections/2014-results/2014-official-general-public-question-1.pdf>

⁹ Vera Institute of Justice <https://www.vera.org/publications/manhattan-bail-project-official-court-transcripts-october-1961-june-1962>

measures that indicated the strength of an individual's bond to their family and the community. Defendants who were well enmeshed in their family and community were determined to be eligible for release without bail being set. Since then, the use of offender characteristics to determine the risk of failing to appear or reoffending has become increasingly common among jurisdictions. In a 2009 survey, which included responses from 33 states and Washington, D.C., the majority, 90%, of pretrial service programs surveyed indicated the use of a pretrial risk assessment tool.¹⁰ Of those who use a risk assessment, 60% assess failure to appear and re-offense risks and 29% only assess risk of failure to appear.

Typically, risk assessments utilize an offender's criminal history to determine the likelihood of failure to appear or reoffending. Researchers have examined the following characteristics in relation to this likelihood: prior failure to appear, prior convictions, a current felony charge, unemployment, drug abuse history, other pending cases, prior incarceration, community ties and residential stability, education, and age.¹¹ To varying degrees, these elements have been incorporated into various risk assessment tools to identify risk of failure to appear and of reoffending.

The central tenet of risk assessments is to ensure that interventions are appropriate for defendants. The goal is to ensure that individuals do not receive unnecessarily limiting or lenient interventions. Research on risk assessments has helped to elucidate the consequences of inappropriate interventions. Research has demonstrated that individuals identified as low risk by a risk assessment, but who were detained prior to trial, are more likely to fail to appear and re-offend. Further, this likelihood exponentially increased the longer the period of time spent in jail prior to trial for low-risk offenders. Even more concerning, pretrial detention also increases the risk of recidivism after case disposition.¹² Further, defendants who have been detained for the entire pretrial period had a greater likelihood of being sentenced to jail, a greater likelihood of being sentenced to prison and longer sentences for both prison

¹⁰ Pretrial Justice Institute. 2009 Survey of Pretrial Services Programs. <http://www.pretrial.org/download/pji-reports/new-PJI%202009%20Survey%20of%20Pretrial%20Services%20Programs.pdf>

¹¹ Mamalian, Cynthia. (2011). State of the Science of Pretrial Risk Assessment. Pretrial Justice Institute: Gaithersburg, MD. https://www.bja.gov/publications/pji_pretrialriskassessment.pdf

Bechtel, Kristin, Holsinger, Alexander, Lowenkamp, Christopher, Warren, Madeline. (2016). A Meta-Analytic Review of Pretrial Research: Risk Assessment, Bond Type, and Interventions. Available at SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2741635

¹² Lowenkamp, Christopher, VanNostrand, Marie, and Holsinger, Alexander. (2013). The Hidden Costs of Pre-Trial Detention. Laura and John Arnold Foundation. New York City, NY. <https://www.pretrial.org/download/research/The%20Hidden%20Costs%20of%20Pretrial%20Detention%20-%20LJAF%202013.pdf>

Laura and John Arnold Foundation. (2013). Developing a National Model for Pretrial Risk Assessment. http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF-research-summary_PSA-Court_4_1.pdf kl

and jail.¹³ Finally, it has been suggested that using evidence based (or risk-based) decisions could result in the release of up to 25% more defendants pretrial while decreasing pretrial crime.¹⁴

Risk assessments have been implemented in a variety of jurisdictions across the country including (but not limited to): Kentucky, Arizona, five counties in California, Vermont, Delaware, Hawaii, West Virginia, Washington DC, Virginia, and the Federal Court System. In these jurisdictions, risk assessments are used to aid in the determination of whether to release or detain an individual prior to trial.

Effectiveness of Risk Assessments

Several studies have examined the effectiveness of risk assessments in the Criminal Justice System. Generally, the results are positive, indicating that the tools appropriately predict risk of failure to appear or re-offending among defendants. In Kentucky, the risk assessment resulted in an increase in the proportion of defendants released prior to trial, a 15% reduction in the crime committed by defendants on pretrial release, and no increase in the failure to appear rate. Further, compared to those not flagged as violent, those who were flagged as violent and were released were 17 times more likely to be arrested for a new violent offense while on release.¹⁵ In California risk assessments have been used to successfully release low- and moderate-risk defendants without an increase in failures to appear or new criminal activity. Additionally, there has been a decrease in mandatory early releases due to jail crowding as a result of placing the appropriate arrestees in jail rather than all.¹⁶ For the 2015 fiscal year, the District of Columbia reported that through the use of their risk assessment, of those who were released prior to trial, 91% did not re-offend, 98% did not commit a violent offense while on release, and 90% appeared as required for court. Further, for 88% of those released prior to trial there were no requests for revocation of release.¹⁷

These assessments indicate the strength of the science behind current risk assessment tools. While there are no perfectly predictive risk assessments that can guarantee that released individuals will not re-offend or fail to appear, the discerning features of an objective, empirically validated risk assessment substantially advance and improve upon current monetary bail-oriented practices. Thus, release or detention no longer needs to be dictated by a defendants' ability to post bail, but can be determined by judges' knowledge and decision-making that incorporates this new insight into a defendants' potential level of risk.

¹³ The Laura and John Arnold Foundation. (2013). Research Summary: Pretrial Criminal Justice Research. New York City, NY. <https://www.pretrial.org/download/featured/Pretrial%20Criminal%20Justice%20Research%20Brief%20-%20LJAF%202013.pdf>

Lowenkamp, Christopher, VanNostrand, Marie, and Holsinger, Alexander. (2013). Investigating the Impact of Pretrial Detention on Sentencing Outcomes. New York, NY. http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_state-sentencing_FNL.pdf

¹⁴ Baradaran, Shima, McIntyre, Frank (2012). Predicting Violence, Texas Law Review, 90: 497-570. <http://www.texaslrev.com/wp-content/uploads/2015/08/Baradaran-McIntyre-90-TLR-497.pdf>

¹⁵ The Laura and John Arnold Foundation. (2014). Results from the First Six Months of the Public Safety Assessment-Court™ in Kentucky. <http://www.arnoldfoundation.org/wp-content/uploads/2014/02/PSA-Court-Kentucky-6-Month-Report.pdf>

¹⁶ Californians for Safety and Justice (2015). Pretrial Progress: A Survey of Pretrial Practices and Services in California. http://libcloud.s3.amazonaws.com/211/95/d/636/PretrialSurveyBrief_8.26.15v2.pdf

¹⁷ Pretrial Services Agency. Washington, DC. Performance Measures. https://www.psa.gov/?q=data/performance_measures

New Jersey's Risk Assessment Tool

New Jersey has adopted a risk assessment tool- the Public Safety Assessment (PSA)- to be utilized in the impending Criminal Justice Reform. The PSA was developed by the Laura and John Arnold Foundation (LJAF)¹⁸. The PSA was evaluated using over one million arrest cases from 300 cities, counties and federal judicial districts. This specific PSA has already been implemented statewide in Kentucky and Arizona and in 11 counties in various states in the nation.¹⁹

The PSA indicates the likelihood that defendants with specific characteristics will fail according to three pretrial risks: a failure to appear, commissions of new criminal activity scale, and commission of new violent activity. Among other sources, the PSA will draw data from National Crime Information Center computerized criminal history (NCIC/CCH), PROMIS/Gavel, Automated Traffic System/Automated Complaint System (ATS/ACS), and the County Corrections Information System (CCIS). The PSA utilizes the following information to determine these risks: age at current arrest; whether the current charge is a violent offense; pending charges at the time of offense; prior disorderly person convictions; prior indictable convictions; prior violent convictions; prior failures to appear at trial in the past two years; prior failures to appear at trial more than two years ago; and sentences served prior to incarceration. This information is entered into the PSA and each individual is classified based on a six point scale, with one indicating low risk and a 6 indicating high risks for failure to appear and likelihood of committing a new criminal activity. Individuals with prior violent convictions and current violent offenses are flagged as being at risk for new violent activity under the new violent criminal activity risk measure.

The PSA was developed for use by the Pretrial Services Program as a tool to inform recommendations to a court regarding an eligible defendant's pretrial release. However, this past July the Laura and John Arnold Foundation and the New Jersey Attorney General entered into a Memorandum of Understanding which authorizes the law enforcement community throughout New Jersey to utilize the Public Safety Assessment—free of charge—in connection with decisions relating to arrest, charging by complaint-summons or complaint-warrant, and pretrial detention, release, and conditions of release.

The PSA has been validated for use on arrestees in New Jersey.²⁰ To accomplish this, a sample of defendants who were serving time in county jail from 2009 to 2010 was analyzed. These defendants are those for whom a complaint-warrant was issued and who had already been confined pretrial and were not released prior to trial. The PSA accounts for various background factors including current charge, criminal history, court appearance history, and current status to generate probability based risk scores. Risk scores do not indicate the likelihood that an individual person will fail to appear or re-offend. Rather, these scores indicate the likelihood that any individual with these characteristics would fail to appear, engage in new criminal activity, or engage in new violent criminal activity.

¹⁸ For more information about this PSA, see: <http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/public-safety-assessment/>

¹⁹ California: Santa Cruz and San Francisco counties; Florida: Volusia County; Illinois: Cook, McLean, and Kane counties; Ohio: Lucas County; North Carolina: Mecklenburg County; Pennsylvania: Allegheny County; Washington: Yakima County; and Wisconsin: Milwaukee County.

²⁰ VanNostrand, Marie (2016). Introduction to the Public Safety Assessment and Decision Making Framework. Presented in July 2016 at the New Jersey First Assistant Prosecutors' Meeting.

The results of the PSA were then input into a decision-making framework to determine what monitoring level was most appropriate based on the risk of failure to appear and or commit new criminal activity. The intersection of these two risk scores corresponded to a level of monitoring. Individuals with low scores on both scales were recommended for the least restrictive release conditions.²¹ Individuals with high scores on both scales were recommended for detention or the maximum monitoring conditions.²² Based on these risk scores, only 20.8% of the sampled defendants who were held pretrial were not recommended for release. All other defendants held pretrial were recommended for release, albeit with varying levels of conditions.

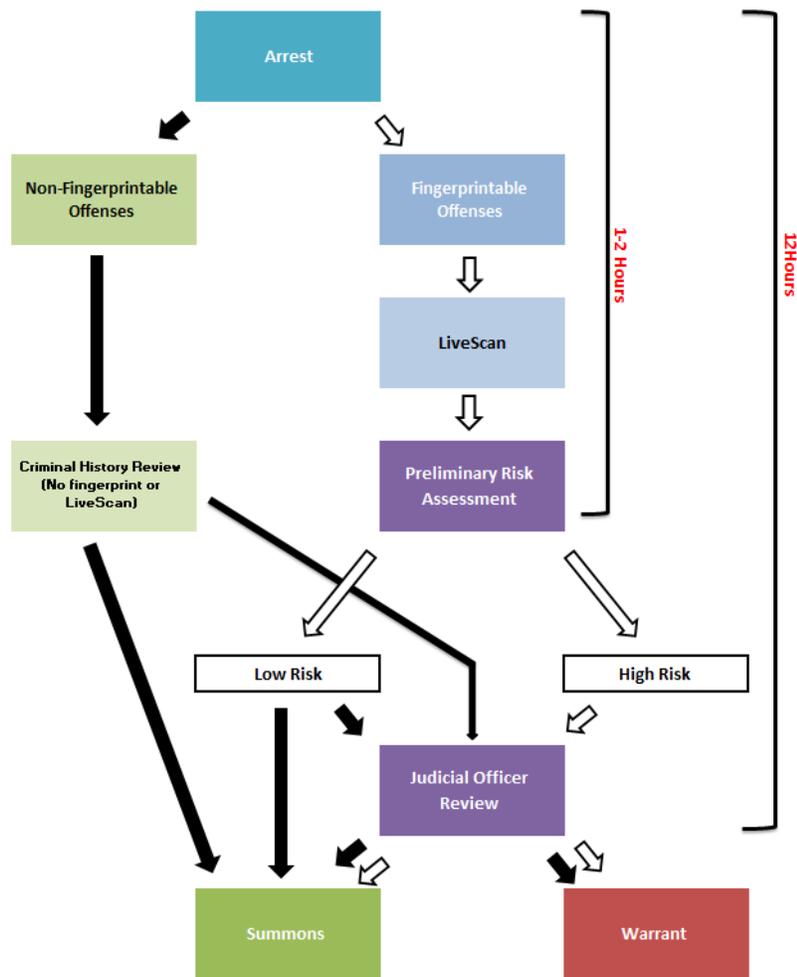
The importance of the risk assessment and decision-making framework is that even though a large number of defendants were held prior to trial in 2009 and 2010, only a small proportion were identified as having an elevated risk of failing to appear or re-offending. The majority of defendants posed little risk despite the restrictions of their current detention. Thus, the majority of defendants held pretrial could be monitored outside of jail because of their low likelihood of re-offending or failing to appear.

²¹ Such as release on own recognizance and a request not to commit any offenses.

²² The conditions can include no contact orders, restraining orders, substances abuse intervention and monitoring, electronic monitoring, house arrest, curfews, and/or restrictions on personal associations. Individuals released after the determination of a complaint-warrant can be issued monetary bail only for the purpose of discouraging flight if less restrictive conditions are deemed to likely be ineffective; it cannot be issued to prevent release or to assure the safety of any other person or the community.

Figure One: Bail Reform Process Part 1

This validation study led to the adoption of the PSA for the entire State. As a result, the processes discussed in this report have been set to take effect on January 1, 2017 to facilitate the use of a risk-based bail system.²³ The specific implementation of some elements of the process described will remain at the discretion of each individual County Prosecutor and/or the specific police department(s) under his or her command. However, each arrestee should experience the process as generally outlined in Figure One.



Individuals arrested for fingerprintable²⁴ offenses will be Live Scanned²⁵ to identify prior criminal activity. Individuals arrested for offenses for which fingerprinting is not authorized cannot be Live Scanned. However, police officers

²³ As described in the Attorney General Law Enforcement Directive No. 2016-6

²⁴ N.J.S.A. 53:1-15 provides in pertinent part that:

The sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers shall, immediately upon the arrest of any person for an indictable offense, or for any of the grounds specified in paragraph (1), (2), (3) or (4) of subsection a. of section 5 of P.L. 1991, c. 261 (C. 2C:25-21) or of any person believed to be wanted for an indictable offense, or believed to be a habitual criminal, or within a reasonable time after the filing of a complaint by a law enforcement officer charging any person with an indictable offense, or upon the arrest of any person for shoplifting, pursuant to N.J.S. 2C:20-11, or upon the arrest of any person for prostitution, pursuant to N.J.S. 2C:34-1, or the conviction of any other person charged with a nonindictable offense, where the identity of the person charged is in question, take the fingerprints of such person, according to the fingerprint system of identification established by the Superintendent of State Police and on the forms prescribed, and forward without delay two copies or more of the same, together with photographs and such other descriptions as may be required and with a history of the offense committed, to the State Bureau of Identification.

N.J.S.A. 53:1-18.1 further requires fingerprinting immediately upon the arrest of any person charged with any offense "relating to narcotic or dangerous drugs, whether the same shall be indictable or otherwise."

²⁵ Live Scan is a technique and technology used by law enforcement to capture fingerprints electronically. The software uses fingerprints to identify individuals and obtain criminal history information.

can still access criminal histories for these individuals. If based on criminal history, an officer feels that a complaint-warrant should be issued, he/she may still apply for one.

Information obtained from the Live Scan will initiate a preliminary automated risk assessment.²⁶ The risk assessment will incorporate current charges and criminal history to identify the individual as either a high risk or low risk offender. Individual risk will be based on three risk indicators: the likelihood of failure to appear, the likelihood of committing new criminal activity, and the likelihood of committing new violent criminal activity. The results of the assessment, the affidavit of probable cause, the Preliminary Law Enforcement Incident Report (PLEIR), and evidence regarding the individual's criminal history not contained in the risk assessment (e.g., juvenile records, Domestic Violence Registry results, out of state criminal history) will be provided to the judicial officer tasked with reviewing the case. The judicial officer will then issue a complaint-warrant or complaint-summons within 12 hours of arrest. The 12-hour time limit may require judicial officers to review cases outside of traditional business hours and/or on weekends.

The majority of arrestees are expected to be charged by complaint-summons. However, certain charges will require the issuance of a complaint-warrant²⁷ and certain charges presume the issuance of a warrant, though this presumption can be overcome.²⁸ All other charges are presumed to require a summons, although this presumption, too, can be overcome. Officers wishing to overcome these presumptions must present their case to the prosecutor and/or designated supervisory police officer.

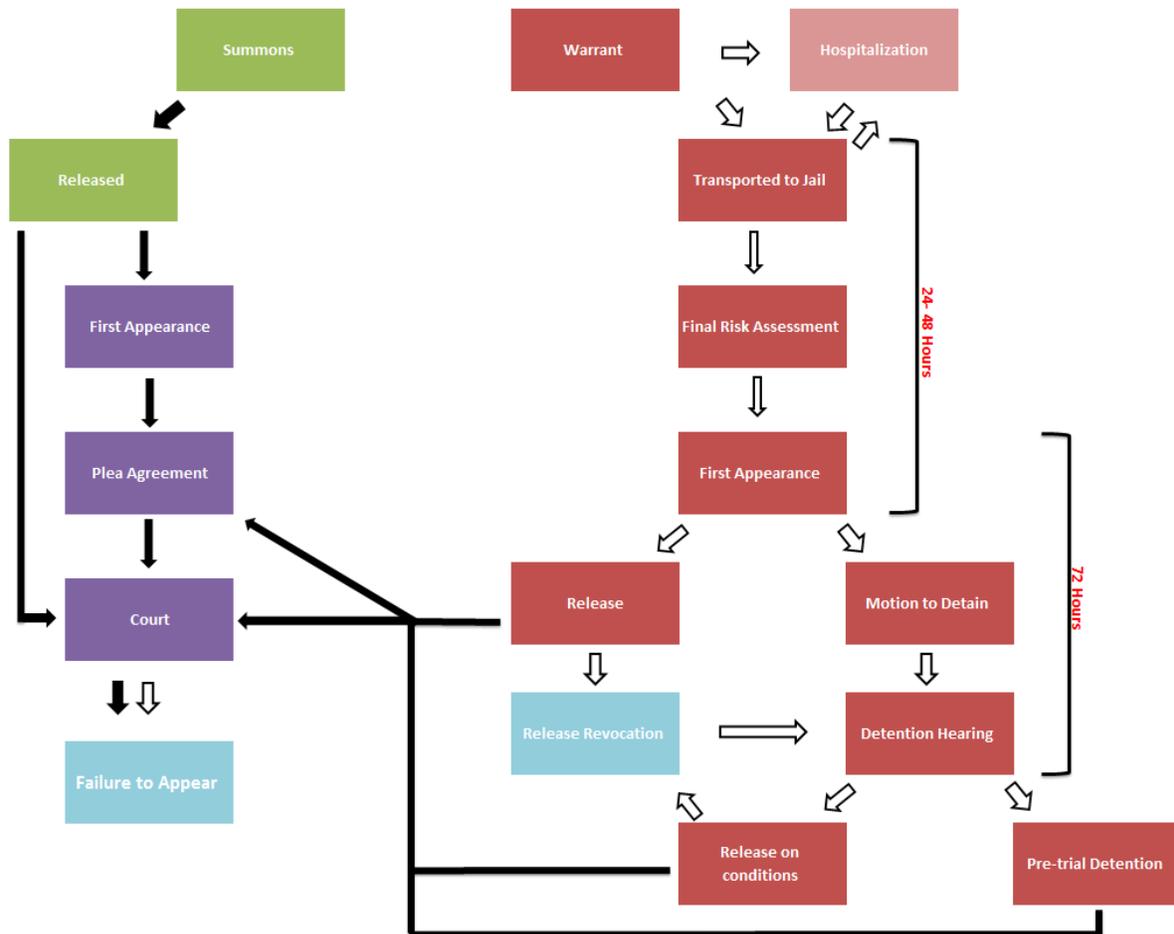
Figure Two depicts the second part of the Bail Reform process which occurs after the decision to issue a complaint-summons or apply for a complaint-warrant. Those issued a complaint-summons will be released pending a court date. There is no time requirement as to when the court date will occur if a summons was issued. Individuals who do not appear for their court date will be issued a bench warrant for failure to appear. At any point in time, the prosecutor may file a motion to revoke release of these individuals charged on a complaint-warrant if information indicates that they are either a threat to society, have reoffended, or have attempted to subvert the criminal justice system.

²⁶ The automated risk assessment selected by New Jersey for implementation under Criminal Justice Reform is the Public Safety Assessment (PSA). Information regarding this assessment is available from the Laura and John Arnold Foundation: <http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/public-safety-assessment/>

²⁷ Charges requiring a warrant include: murder (N.J.S.A. 2C:11-3); aggravated manslaughter (N.J.S.A. 2C:11-4a); manslaughter (N.J.S.A. 2C:11-4b); aggravated sexual assault (N.J.S.A. 2C:14-2a); sexual assault (N.J.S.A. 2C:14-2b or c); robbery (N.J.S.A. 2C:15-1); carjacking (N.J.S.A. 2C:15-2); escape (N.J.S.A. 2C:29-5a); or an attempt to commit any of the foregoing crimes.

²⁸ Charges presuming the issuance of a warrant include: a violation of Chapter 35 of Title 2C that constitutes a first or second degree crime; a crime involving the possession or use of a firearm; vehicular homicide (N.J.S.A. 2C:11-5); aggravated assault that constitutes a second degree crime (N.J.S.A. 2C:12-1b); disarming a law enforcement officer (N.J.S.A. 2C:12-11); kidnapping (N.J.S.A. 2C:13-1); aggravated arson (N.J.S.A. 2C:17-1a); burglary that constitutes a second degree crime (N.J.S.A. 2C:18-2); extortion (N.J.S.A. 2C:20-5); terrorism (N.J.S.A. 2C:38-2); producing or possessing chemical weapons, biological agents, or radiological devices (N.J.S.A. 2C: 38-3); racketeering (N.J.S.A. 2C:41-2); firearms trafficking (N.J.S.A. 2C:39-9i); causing or permitting a child to engage in a prohibited sexual act (N.J.S.A. 2C:24-4b(3)); or an attempt to commit any of the foregoing crimes.

Figure Two: Bail Reform Process Part 2



Those issued a complaint-warrant will be transported to jail. Under the current system, individuals had the option of posting monetary bail to avoid commitment to jail. Bail, at this stage, is no longer an option under Criminal Justice Reform. As is practiced currently, individuals requiring medical care will continue to be transported to a hospital for medical clearance prior to being committed to jail.

Within 48 hours of commitment to jail, a first appearance hearing will be held to determine whether the prosecutor will file a motion to detain the individual. This first appearance may occur on weekends and will include the results of the final PSA and other relevant history to inform the decision to file for detention. This final PSA may include information that was not yet available during the preliminary PSA, including, but not limited to, out of state criminal history coded to reflect substantively similar charges under New Jersey's statutes.

Individuals for whom a motion for detention is not filed will be released, potentially with conditions. The conditions can include a request not to commit any offenses, no-contact orders, restraining orders, substance abuse intervention and monitoring, electronic monitoring, house arrest, curfews, and/or restrictions on personal associations. Individuals released after the determination of a complaint-warrant can be issued monetary bail only for the purpose of discouraging flight if less restrictive

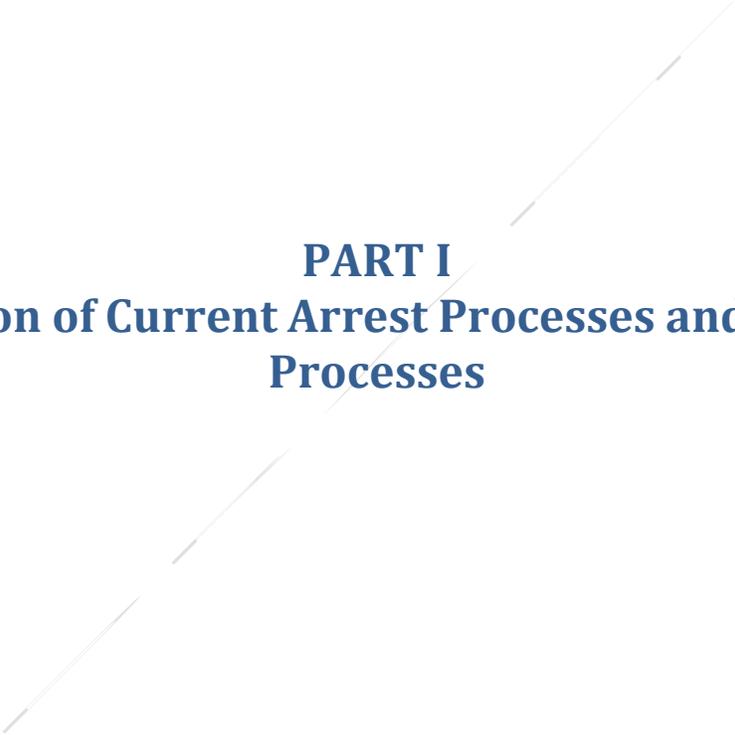
conditions are deemed to likely be ineffective; bail cannot be imposed to prevent release or to assure the safety of any other person or the community.

Individuals for whom a motion for detention is filed will have a pretrial detention hearing within 72 hours of the first appearance. As a result of the pretrial detention hearing, individuals may be released with any of the above-mentioned conditions or detained pretrial in county jail. Criminal Justice Reform includes a presumption against applying for pretrial detention. It is necessary for the prosecutor to overcome this presumption. Pretrial detention is reserved for serious offenses or individuals who are identified as high risk by the PSA. The Directive further delineates several specific instances where prosecutors may apply for pretrial detention.

Criminal Justice Reform also introduces a new escalating plea deal system. Currently, plea agreements tend to become more lenient as the trial date approaches. Under Criminal Justice Reform, the opposite will happen; the most lenient plea will be the first plea offered. If an individual accepts a plea, the case is resolved. Individuals who do not accept a plea deal will then appear in court.

Coupled with Criminal Justice Reform is the requirement of Speedy Indictment and Trial to ensure that those who are arrested and held are processed in swift and expeditious manner. The 2013 New Jersey jail study also found evidence of extreme case backlog. Inmates in jail awaiting trial post-indictment had been held an average of 314 days. The new procedures apply to those individuals who are arrested, issued a complaint-warrant, and detained prior to trial. They do not apply to individuals who are issued a complaint-summons or issued a complaint-warrant but released pretrial. Speedy indictment and trial require an indictment within 90 days of detention and a trial within 180 days of an indictment. By motion of the prosecutor and under certain conditions, the court can allocate no more than an additional 45 days for indictment and additional time for trial that shall not exceed two years after the issuance of pretrial detention. If the time requirements of the speedy indictment or trial are not met, the court is required to issue the release of the defendant.

Such broad, sweeping changes necessarily require effort and flexibility on the part of all individuals and agencies involved in implementation. These changes will immediately impact a number of agencies and entities in the State: municipal police departments, County Prosecutors' Offices, Sheriffs' Offices, county jails, and the New Jersey State Police. The extent to which these changes will affect each agency is dependent upon the specific implementation of Criminal Justice Reform as determined by the County Prosecutor and the procedures and policies enacted in each agency.



PART I
Comparison of Current Arrest Processes and Reformed Processes

The impending reforms to New Jersey’s criminal justice system, indeed, represent a momentous transformation. The conversion of our resource-based system of pretrial release to one which focuses on objective risk factors that are entirely unrelated to a defendant’s financial means will present challenges—both administrative and financial. Speedy indictment and speedy trial mandates will create additional strains on resources. However, it is anticipated that new procedures to be employed to meet these challenges will bring benefits by way of greater efficiencies.

The sections below encompass, on a phase-by-phase basis, a comparative analysis of the processes and procedures currently in place and those which will be implemented on January 1, 2017, when Criminal Justice Reform takes effect. Where applicable, the anticipated impacts are addressed, highlighting challenges and benefits. Though potential consequences are highlighted, results are obviously not guaranteed. The true impact of Criminal Justice Reform is difficult to assess as there are many unknowable factors involved including the future volume of arrests, the offenses for which individuals will be arrested in the future, the specific circumstances surrounding offenses, the body of evidence supporting criminal allegations, and the criminal histories of future offenders. While it is possible to extrapolate some of this information from data on arrests and arrestees from prior years, the ability to quantify monetary savings and costs is severely limited, if not practically impossible.

Making an Arrest

Unplanned Arrests without a Warrant

<i>Currently:</i>	<p>Indictable Offense: An officer must have knowledge of facts establishing probable cause to believe that an indictable offense is being or has been committed and that the person in question is committing or has committed said offense.</p> <p>Disorderly Persons Petty DP Offense: With limited exception, in order to arrest without a warrant, a disorderly persons or petty disorderly persons offense must be committed in the officer’s presence.</p>
<i>Under CJ Reform:</i>	Unchanged

Planned Arrests with a Warrant

<i>Currently:</i>	The State must establish probable cause to believe that one of the offenses enumerated in <u>R. 3:3-1(c)(1)</u> has been committed and the person in question committed same. With all other offenses, there is a presumption that a summons be issued <u>unless</u> the presumption is overcome by one of the exceptions set forth in <u>R. 3:3-1(c)(2)-(6)</u> .
<i>Under CJ Reform:</i>	Largely unchanged. The Attorney General Directive (the “Directive”), specifically the provisions of Section 4, will guide the determination of whether an application for a complaint-warrant is appropriate or whether a summons should be issued. The Supreme Court has made minor modifications to <u>R. 3:3-1</u> .

Criminal Justice Reform calls for no procedural changes to the arrest phase of the criminal justice process.

Any anticipated benefits and challenges associated with making arrests are largely dependent upon the volume of arrests made. Crime trends have been declining (See Population and Crime Trends, page 49) for nearly 25 years. Further, the seasonality, county-volumes, and types of arrests have remained fairly stable over the past six years (See Complaints Issued Data and AOC Data, pages 50-64). Moreover, the Bail Reform Law does not work to expand the number or type of criminal, disorderly persons, or petty disorderly persons offenses. Rather, the reforms consist of modifications to the procedures to be employed when addressing individuals charged with offenses.

In response to a questionnaire (See Comments and Concerns, page 104), some agency executives have indicated an expectation that the number of arrests will increase following the implementation of Criminal Justice Reform, believing that there will be a significant increase in the number of individuals who will be charged by complaint-summons, released, and then fail to appear for court proceedings when required or re-offend. Because the PSA has not been used previously to inform charging decisions, research is unavailable on whether this possibility has happened in other jurisdictions. Thus, this concern remains a potential consequence of Criminal Justice Reform.²⁹

Transport of Arrestees

Transport of Arrestee to Police Headquarters

<i>Currently:</i>	Arrestee is immediately transported to police headquarters/station for “processing”.
<i>Under CJ Reform:</i>	Unchanged

Law enforcement’s current practice of transporting an arrestee upon arrest to a police headquarters or station for processing is, in no way, altered by the procedural initiatives included with Criminal Justice Reform.

²⁹ Those charged with crimes that do not require fingerprinting will not have PSA scores and thus, this may be a valid concern. However, by its very nature, the PSA is designed to measure these risks and appropriately identify those likely re-offend.

Any impact to arrestee transports is dependent on the volume of arrests made (see analysis of “Making an Arrest” above). If there are more arrests made in 2017, the number of transports to the station will also increase. A potential increase could occur if individuals with outstanding warrants are less likely to be released on their own recognizance under Criminal Justice Reform than they are currently. However, the timeliness of these transports will not change.

Criminal Processing

The processing of arrestees prior to issuing a complaint-summons or applying for a complaint-warrant is one of the areas of greatest change under Criminal Justice Reform. These changes concern fingerprinting, preparing charging documents, and preparing documents which support charged offenses such as Affidavits of Probable Cause and Preliminary Law Enforcement Incident Reports (PLEIRs).

Fingerprinting and Charging Document Preparation

<i>Currently:</i>	<p>The process is guided by <u>R. 3:4-1</u> and <u>R. 3:3-1 (c)</u>. Key elements of the process are as follows:</p> <ol style="list-style-type: none"> 1. Determination as to appropriate charges and immediate preparation of complaint (in most instances made by arresting officer without screening review). 2. Gathering of criminal history information (e.g., NCIC/CCH, Interstate Identification Index) and compiling other known, relevant information to inform summons/warrant determination.
<i>Under CJ Reform:</i>	<p>Provisions of Sections 2, 3 and 4 of the Directive will guide this process. Key elements of the process are as follows:</p> <ol style="list-style-type: none"> 1. Live Scan/identify arrestee when charging fingerprint required offenses. This requires the use of a system capable of initiating the preliminary Public Safety Assessment (PSA). 2. Preparing the complaint and documents which support charges utilizing the judiciary’s eCDR system. 3. a. Running of the preliminary PSA through the eCDR system. 3. b. Gathering of criminal history information (e.g., NCIC/CCH, Interstate Identification Index) in cases in which fingerprinting is not required. 4. Compiling and considering other known, relevant information not accounted for by the preliminary PSA.

Required procedures under Criminal Justice Reform leverage some very significant technological advances including an interface between Live Scan fingerprinting systems and the judiciary’s eCDR system that permits officers to swiftly identify and fingerprint an arrestee and prepare charging and supporting documents such as Affidavits of Probable Cause and PLEIR reports. A breakdown of these new procedures follows.

1. Live Scan/identify the arrestee

For purposes of accurately identifying an arrestee, criminal processing begins with Live Scan which is an electronic means of capturing fingerprints in an inkless, digitized format and transmitting them to the State Police and the FBI.³⁰ The Live Scan software sends each print through New Jersey's Automated Fingerprint Identification System (AFIS) where the scanned fingerprints are matched to fingerprints already on file, confirming the individual's identity. If the individual does not have fingerprints in AFIS, a new record is created for that individual. From AFIS, the confirmed identity is sent to New Jersey's Computerized Criminal History (CCH) database to match the identified person to a criminal history record. If no criminal history record is found, a new record is created in CCH. Finally, the results of the identity and criminal history lookups are transferred to the Electronic Court Disposition Reporting (eCDR) system for use in the preliminary PSA. The Live Scan system greatly streamlines the process of validating an individual's identity and his or her criminal history.

The Attorney General Directive requires that, upon the arrest of an individual for any offense for which fingerprinting is required, the individual shall be fingerprinted with the use of a Live Scan system capable of initiating the preliminary PSA. Those law enforcement agencies which are not equipped with proper functioning Live Scan systems must develop a plan to identify the agency or agencies whose Live Scan system(s) will be utilized to ensure compliance with Live Scan requirements. The Directive, thus, provides an alternative to those agencies which lack up-to-date Live Scan systems and do not have the budgetary means of acquiring one. After reviewing its records this past July, the Identification and Information Technology Section of the New Jersey State Police reported that there were only five police departments and eight County Prosecutors' Offices which were not equipped with requisite Live Scan systems.³¹

Aside from merely having Live Scan available, there is a cost associated with keeping the Live Scan software up to date through maintenance contracts with vendors, as required under Criminal Justice Reform. All agencies with Live Scan are required to "continually receive the most up-to-date and accurate set of data tables" to ensure that results obtained reflect the most recent information available. The cost of this software is already one assumed by the great majority of law enforcement agencies and as such, should not be an additional cost under Criminal Justice Reform for most agencies.

Though Live Scan will streamline the process of confirming an arrestee's identification and obtaining his or her criminal history information, the system is not without anomalies and challenges. Fingerprint characteristics (e.g., ridges, whorls, valleys, etc.) undoubtedly vary from person to person, and the ability to obtain quality prints will vary based on the individual's actual fingerprints and the skill of the officer employing the system. Additionally, the information entered into Live Scan by the officer is required to be formatted correctly. Should the fingerprint be of lesser clarity or the data entered be

³⁰ The requirement to initiate the Live Scan process so as to fingerprint and identify an arrestee at the outset of the "booking" process is a departure from current practice which involves fingerprinting an arrestee after formal charges are filed.

³¹ The police departments identified to be without Live Scan were: Fieldsboro (Burlington County), Springfield Township (Burlington County), Pine Valley Borough (Camden County), Frenchtown Borough (Hunterdon County), and Blairstown Township (Warren County). The Prosecutors' Offices without Live Scan were: Burlington County, Hunterdon County, Middlesex County, Ocean County, Salem County, Somerset County, Sussex County, and Warren County.

formatted incorrectly, the success of the Live Scan process may be impacted. The State Police have identified common issues and programmed automatic fixes, but some issues may require the need for manual intervention. In some instances, this may increase the time necessary to obtain results.

As noted previously, Live Scan refers to the instrument and the software used to digitize fingerprints, confirm an arrestee's identity, and use the prints to obtain an individual's criminal history. This process has several potential failure points. If any of the required systems—AFIS, CCH, or eCDR—are not functioning properly or are offline, officers may experience delays in obtaining records. Fortunately, this process is typically very efficient. For the time period of June 1, 2016 to September 30, 2016, 85% of all Live Scan submissions were processed within 10 minutes. Further, 90.8% were processed within one hour.³² Thus, only a small portion of Live Scans require extended time to process.

Just as the speed of a computer decreases with age, so too will the Live Scan systems. The age of the Live Scan machine may impact the length of time to return results. As of September 9, 2016, there were 328 Live Scan machines that were more than six years old.³³ Further, some Live Scan vendors only support Live Scan machines manufactured after a certain date. Thus, not only may older machines operate slowly, but vendors may be unwilling to update these machines as required.

Though there are potential issues noted with Live Scan, agencies throughout New Jersey have availed themselves of the technological advantages that Live Scan provides when it comes to fingerprinting and identifying arrestees for years. Further, aside from placing Live Scan fingerprinting at the very outset of the processing stage, Criminal Justice reform does not change the Live Scan procedure for officers. For these reasons, Live Scan requirements associated with Criminal Justice Reform present little, if any, impacts, and the benefits of leveraging technology such as Live Scan are myriad.

2. Preparation of charging documents and supporting documents using eCDR

The heavily loaded and fast paced "front end" phases of Criminal Justice Reform will, in many instances, require law enforcement officers to prepare charging and supporting documents quickly and during the processing of an arrestee. These documents will regularly be necessary for effective pre-charge screening considerations. Facts and circumstances included in these documents may also serve to guide summons and warrant decisions as well as pretrial detention and release determinations. Questionnaire results from police departments and Sheriff's Offices demonstrate that, in many instances, officers currently require extended periods of time to complete supporting documents like Affidavits of Probable Cause. In many instances, these documents are deemed unnecessary as practices presently employed allow ample time for the completion of comprehensive arrest or investigation reports prior to any meaningful complaint screening.

Established in 2005, the Judiciary's eCDR system is a web-based application used by law enforcement agencies statewide to generate criminal complaints electronically, memorialize determinations as to

³² These statistics were obtained from the New Jersey State Police Information Technology Bureau, State Bureau of Identification.

³³ According to New Jersey State Police.

probable cause, and transmit critical data to the Judiciary's case management system. Currently, the overwhelming majority of complaint-summons and complaint-warrants are prepared using the eCDR system. The Judiciary has recently implemented system enhancements which include the aforementioned interface between the eCDR and Live Scan systems that enables the sharing of an arrestee's State Bureau of Identification (SBI) number and other personal data integral to the preparation of the complaint and supporting documentation such as Affidavits of Probable Cause and PLEIRs. Much of the personal data will automatically populate into documentation prepared through the eCDR, thereby saving officers the time of having to repeatedly re-enter same manually. Once the preliminary documentation is prepared in the eCDR system, it can be made available to an Assistant Prosecutor or supervisory police officer for screening and charging approval review in accordance with the Directive (see below). Another enhancement permits an officer to initiate the PSA directly through the eCDR system. The eCDR system is an invaluable tool for law enforcement, and it is anticipated that the new technological enhancements will greatly assist police officers and Assistant Prosecutors with their responsibilities under Criminal Justice Reform to proceed at the pace which the reform initiatives will require.

One potential challenge associated with the completion of charging documents is officer scheduling. Should an officer make an arrest at the end of his/her shift, the details of the arrest need to be documented prior to going off duty or the officer may need to remain on duty to complete the process, depending on the department's own policies. The majority of departments reported working 12-hour shifts. Further, most police departments follow a schedule whereby officers work a series of two to three days on, followed by two to three days off (e.g., Pitman schedule). Thus, waiting for the next shift to complete a report would violate the timing requirements of Criminal Justice Reform. Requiring officers to remain after a shift to complete reports could potentially result in overtime pay, and could also affect the quality of reports. This issue could be ameliorated with the use of a "power" shift or early shift that staggers some officers to provide coverage to ensure timely relief of duty and to minimize overtime. Nonetheless, police departments indicated that they already incur overtime; on average this was about 101 hours for the week of July 31, 2016 to August 6, 2016. For State Police, 501 hours were specifically related to completion of the arrest process, completion of an affidavit, completion of requisite reports (arrest, investigation, or supplemental investigation), or completion of an investigation. In current practice, police departments already make the choice of allowing officers to remain on duty, and incurring overtime to complete documentation. Thus, this potential challenge is not one that will result from Criminal Justice Reform, though the timeliness requirements may further exacerbate this challenge.

3a. Running of preliminary Public Safety Assessment via the eCDR system

As indicated previously, enhancements to the eCDR will enable an officer to initiate the court-approved PSA after the Live Scan process has been completed. PSA results will serve to inform many of the most significant decisions under the reform initiative (e.g., determinations to charge by complaint-summons or complaint-warrant, motions for pretrial detention, and recommendations for release conditions) as most of the frameworks for decision-making included in the Directive are linked to PSA results. Thus, in

those instances in which Live Scan is performed, the PSA is likely to serve as an extremely powerful tool for police and prosecutors.

As noted previously, fingerprints obtained through a Live Scan system are processed through AFIS, matched to a criminal history in CCH, and then ultimately published to the eCDR system. Again, law enforcement in New Jersey is quite familiar with Live Scan fingerprinting. However, the use of Live Scan results to initiate the preliminary PSA is entirely new. As such, police officers have raised concerns that the PSA process will be time-consuming and result in more time in the station and less time on the road. As noted previously, roughly 90% of all Live Scans from June 1, 2016 to September 30, 2016 processed within one hour. Thus, for the great majority of cases, there should be no additional challenges associated with this step unless an officer is required to stay after his/her shift to complete the PSA.

3b. Gathering relevant criminal history information

Results from the preliminary PSA cannot be obtained in those instances in which fingerprinting is not required or the results of the Live Scan do not properly process into the eCDR system. When this happens, the Directive requires that officers gather relevant criminal history information from databases in the same manner that they currently do and apply the provisions and presumptions included in the Directive that do not require PSA results. Although this “manual” gathering of criminal histories is nothing new for officers, the inability to traverse through Live Scan and into the eCDR system to obtain PSA results could certainly impact efficiencies otherwise achieved through these technologies.

4. Compilation and consideration of other known, relevant information not accounted for by the PSA

Officers may need to gather additional information from sources that do not currently feed into the databases accessed with Live Scan and which are not accounted for by the PSA. Such sources include the Domestic Violence Central Registry, the Sexual Assault Survivor Protection Act Registry, and Juvenile Central Registry. This information can also include the specific facts and circumstances of the current offense, the strength of the evidence in the case, pending charges or convictions from other states, juvenile history, expunged records, or information that might be known to an officer but not recorded in criminal or judicial databases. The Directive specifically requires that certain sources of information be checked and that relevant information be utilized in decision making. Since officers are currently required to collect this information, no additional challenges are expected with this step. Further, because Live Scan will be used to identify much of the criminal history information, officers are only required to do this for information not stored in databases accessed by the PSA. Thus, this is an anticipated benefit under Criminal Justice Reform.

Pre-Charging Case Screening

Determining Applicable Charges and Whether to Proceed by Complaint-Warrant or Complaint-Summons

Currently: The process is guided by R. 3:4-1 and R. 3:3-1 (c). Key elements of the process are as follows:

1. Determination as to complaint-warrant or complaint-summons (in most instances made by arresting officer without screening review) using criminal history and other relevant information.
2. Issuance of complaint-summons or presentation of matter to judge or judicial officer no later than 12 hours after arrest for application for complaint-warrant and setting of bail.
3. Identifying and fingerprinting defendant when required. See N.J.S.A. 53:1-15 and N.J.S.A. 53:1-18.1.

Under CJ Reform: Provisions of Sections 2, 3 and 4 of the Directive will guide this process. Key elements of the process are as follows:

1. Compliance with the on-call prosecutorial screening/approval system or County Prosecutors' charging directive which authorizes supervisory police officer screening/approval prior to finalization of complaint.
2. Application of the provisions of Section 4 of the Directive to determine whether to issue a summons or apply for a warrant.
3. If decision is made to charge offense(s) on a complaint-warrant, an application for same must be made to a judicial officer.

The above process and the previous criminal processing will generally occur within one to two hours of arrest and must be completed no later than 12 hours after arrest.

Pre-Charging Case Screening

Under the current practice, the great majority of criminal and disorderly/petty disorderly persons offense complaints are prepared and filed by law enforcement officers entirely without prior screening. Decisions to issue complaint-summons or apply for complaint-warrants, too, are made without such review. This existing practice requires officers to be exceptionally knowledgeable as to the multitude of statutory offenses set forth in New Jersey's criminal code, judicial opinions interpreting those offenses, and the intricate procedures contained within the applicable court rules governing criminal practice and admissibility of evidence.

The Attorney General Directive requires the establishment of a system of on-call Assistant Prosecutors and Deputy Attorneys General to provide legal advice, case screening, and charging approval 24 hours a day, 7 days a week in matters involving indictable crimes and mandatory-arrest domestic violence disorderly persons offenses. In those cases, no complaint-summons is to be issued and no application for complaint-warrant can be made without such review and approval. This screening consultation may occur in person or through the utilization of telephonic or other electronic communication.

Recognizing that factors such as personnel and caseloads might impact the feasibility of some Prosecutors' Offices to implement an on-call Assistant Prosecutor system of screening, the Directive allows for an alternative. A County Prosecutor is permitted to issue a detailed directive which authorizes designated supervisory police officers (with sufficient experience and training) to screen charges and make critical decisions as to whether those charges will be pursued by way of complaint-summons or complaint-warrant. Further, the Directive permits a Prosecutor to impose limits or conditions on the delegation of this screening function.

Case screening allows a Prosecutor's Office to be apprised of the facts and circumstances of an offense prior to the case being formally charged. The fundamental objective of pre-complaint screening is to determine whether charges can be reasonably substantiated by admissible evidence. Through effective pre-charge screening, cases are appropriately charged or declined and channeled to proper courts at their very inception.

Case screening—in some form, albeit not typically pre-charging—occurs now in every County Prosecutor's Office at some stage in the prosecution of a matter. Assistant Prosecutors assigned to screening units participate in the screening function in Central Judicial Processing Courts, Special Remand Courts, Early Disposition Courts, Pre-Indictment Court, and the like. In response to the questionnaire, all 21 counties indicated that they engage in case screening. The volume of cases reviewed by each Prosecutor's Office is reported annually to the Division of Criminal Justice. This total number declined 2% from 2014 to 2015. The majority of counties reported a decrease in the number of case reviews with the exception of three counties. For the week of July 31, 2016 to August 6, 2016, Prosecutors' Offices reviewed/screened 1,831 arrests (see Prosecutors' Offices Caseload, pages 90-94).³⁴ This number clearly varied across counties and by days of the week. Further, as noted in Figure Thirty-Five (see page 93), over 90% of case reviews took place during business hours, typically between 8:00am and 5:30pm. Only emergent or major crimes were reviewed during non-business hours. These numbers are indicative of both immediate reviews/screens and those that may occur days or weeks after an arrest is made and charges are filed. Thus, these numbers are reflective of the true case-load experienced by Prosecutors' Offices in a given week. Given the expectation that pre-complaint screening should reduce the overall case volume of Prosecutors' Offices, in the future these numbers will be more reflective of pre-complaint screening rather than total case volume.

The implementation of pre-complaint screening will shift the timing of these reviews. Rather than waiting hours, and in some cases days or weeks, for the case to be reviewed by the Prosecutor's Office, an initial review must be implemented shortly after an arrest, prior to the issuance of a complaint-summons or application for a complaint-warrant. Prosecutors' Offices could manage these reviews by staggering work shifts, so that some Assistant Prosecutors work during typical business hours and others work an earlier or later shift, so that the offices are staffed for the majority of the day. Given that there is a lull in the times that police departments make arrests, typically between 2am and 10am, full staffing

³⁴ As reported on the Bail Reform Questionnaire.

may not be required during these times to handle pre-complaint screening. For example, an on-call overnight Prosecutor (or a few) could handle the overnight pre-complaint screenings.

The process of around the clock pre-charge case screening is not entirely new to Prosecutors' Offices. It has been the practice in the Somerset County Prosecutor's Office and, to some extent, in the Union County Prosecutor's Office for decades. The benefits to Prosecutors' Offices from pre-charge case screening are tangible and likely include: a reduction in the number of indictable complaints (*i.e.*, files opened in Prosecutors' Offices); a reduction in the time from arrest to indictment; an increase in percentage of complaints resulting in indictments; and a reduction of time spent by County Prosecutors' personnel on matters that were properly within the jurisdiction of a Municipal Court. These anticipated benefits can greatly improve the prosecution's ability to comply with the speedy indictment/trial components of Criminal Justice Reform.

Evidence exists in New Jersey that pre-complaint screening processes may significantly lessen the caseloads for Prosecutors' Offices and increase operating efficiencies. Such processes have been used in Somerset County since the 1980s where the pre-complaint screening process reduced the number of indictable complaints by 34% in one year.

As noted previously, Prosecutors' Offices currently, with the exception of Somerset County, implement post-complaint screening. Statewide, roughly half of all cases that are reviewed by the Prosecutor's Office are screened out and not ultimately brought to trial in Superior Court (*see* Prosecutors' Offices Caseload, pages 90-94). These defendants were charged on a complaint-warrant, issued bail, likely held pretrial for a period of time, but the case was ultimately not deemed appropriate for Superior Court. The individuals arrested in these cases could have been processed more efficiently and quickly through the system, without potential jail time and the consequences of detention. Further, numerous resources from police, jails, and prosecutors were unnecessarily devoted to these cases. For these reasons, pre-complaint screening would likely introduce tremendous benefits to the criminal justice system.

In sum, while the majority of Prosecutors' Offices indicated that they do engage in case screening, it is evident that these processes vary considerably and most screening does not occur prior to filing charges. The descriptions of pre-complaint screening processes indicated that most were for major crimes rather than all crimes or for specific types of cases (*e.g.*, investigations resulting in an arrest). Only Somerset County indicated that all indictable complaints are screened prior to filing charges. Under Criminal Justice Reform, the case screening function has been placed firmly at the outset of the process for good reason. Requiring prompt assessment of the nature of charges, quality of evidence, and victim impact by experienced attorneys or supervisory officers involves "front-end" effort which will likely reduce or eliminate a waste of valuable time and resources in later stages of the process for police departments, Prosecutors' Offices, and jails.

On-Call Overnight Procedures

As indicated, the Directive calls for the establishment of a 24/7 on-call prosecutorial screening/approval system to be established by each County Prosecutor and the Division of Criminal Justice, wherein

Assistant Prosecutors and Deputy Attorneys General will be available “24/7” to provide law enforcement officers with legal advice and charging approval upon an individual’s arrest.

This around the clock, on-call requirement essentially extends the length of operating hours of Prosecutors’ Offices. Presently, core business hours for Prosecutors’ Offices are between 8:00am at the earliest and 5:30pm at the latest. According to the data provided by police departments for the week of July 31, 2016 to August 6, 2016, only 43.15% of arrests occurred between 8am and 5pm. Over half, 56.84% of arrests, occurred during non-business hours. Further, arrest data from State Police for 2015 indicate that 52.03% of arrests occur during non-business hours.

The requirements of Criminal Justice Reform may pose a logistical challenge and cost to Prosecutors’ Offices. Because there is such a wide range in the number of on-call overnight Assistant Prosecutors and the functions of these on-call Assistant Prosecutors varies considerably, it is likely that most counties will feel challenged by the requirement of an Assistant Prosecutor to be available 24/7 for legal advice and charging approval. That said, the actual implementation of this requirement will likely vary across Prosecutors’ Offices. As previously indicated, the Attorney General’s Directive allows for an alternative system by which the County Prosecutor can choose to require that an Assistant Prosecutor be contacted for all arrests, for only major arrests, or not at all prior to the decision to charge, leaving the determination of whether to charge by complaint-summons or complaint-warrant up to a designated supervisory officer in each police department. Counties that require Assistant Prosecutors to be contacted for all arrests will likely experience the largest burden; they will need to provide enough Assistant Prosecutors to handle all arrests outside of core business hours. Counties that implement a system of designated police supervisors to make charging decisions may feel less burdened by the changes to Criminal Justice Reform.

Though Prosecutors’ Offices are only open for a limited portion of the day, they currently have procedures in place to handle certain crimes that occur during non-core hours. All 21 County Prosecutors’ Offices indicated that they currently have Assistant Prosecutors scheduled on-call overnight for major crime events (e.g., homicides, sexual assaults, police shootings, etc.). Overall, there are between one and 10 Assistant Prosecutors on-call overnight for Prosecutors’ Offices, with an average of 2.5 Assistant Prosecutors scheduled on-call overnight to handle major crime events. For remaining offenses, the volume of on-call prosecutors is considerably lower, averaging 1.67 Assistant Prosecutors per Prosecutor’s Office.

Though Prosecutors’ Offices may have on-call policies and procedures, the functions performed during overnight hours by on-call Assistant Prosecutors clearly varies. All Prosecutors’ Offices reported performing charging approvals and pre-complaint screening functions overnight for major crime events (e.g., homicides, police shootings, etc.) and nearly half indicated that these tasks were not performed overnight for the remaining offenses. Frequently, Prosecutors’ Offices provided qualified responses, indicating, for example, that on-call functions depend on the degree of the crime or that they perform these functions only when law enforcement officers have questions. Typical protocol when an arrest occurs after normal business hours varied; seven Offices indicated that the arrest is processed

“immediately”, nine Offices indicated that the arrest is processed “the next day,” and other offices indicated that protocol is case-specific. The variation of responses to the on-call overnight functions indicates that Prosecutors’ Offices will likely have to make changes to their on-call procedures to be in compliance with the Attorney General’s Directive, potentially increasing the number of Assistant Prosecutors assigned to on-call overnight duty. Thus, for a limited number of Prosecutors’ Offices, a requirement of prosecutorial approval for all charging decisions, even those at night, would not be a dramatic change from current procedures. However, for others, this would be a considerable change, potentially increasing the number of Assistant Prosecutors assigned to on-call overnight duty.

Logistical challenges occur for police departments if the County Prosecutor requires consultation for all arrests. The expectation in this procedure is that an Assistant Prosecutor will be consulted. The challenges noted previously surrounding shift changes and potential overtime would apply to any charging directives requiring an exchange of information between Assistant Prosecutors and police departments, especially in instances where these conversations must take place within a brief period of time after arrest and prior to the decision to apply for a warrant or summons.

The County Prosecutor may determine that a specific individual from the Prosecutor’s Office need not be contacted for any arrests. Instead, the charging directive can pass this responsibility to a designated supervisory police officer. In these instances, the timing of the arrest is irrelevant; an on-call Assistant Prosecutor is not needed to handle the case. Further, the timing of conversations between the prosecutor and police officers is not as strict. Rather than the one to two hour window prior to the charging decision, the conversation merely needs to take place prior to the first appearance hearing. While for complaint-warrants this will be within 48 hours of confinement to jail, for complaint-summons, there is no time requirement for the first appearance hearing.

Surely, implementing a 24/7 attorney screening system in a County Prosecutor’s Office is no light lift. Staffing an on-call schedule for non-business hours invokes issues of compensation (financial remuneration or compensatory time off). Where one on-call Assistant Prosecutor per shift might very well work in one county, three or four might be necessary to handle case screening in another. While it would appear that pre-charge screening responsibilities can be handled from an on-call Assistant Prosecutors’ residence, County Prosecutors might deem it necessary for on-call attorneys to work a “night shift” out of the Prosecutor’s Office facility.

Determination of complaint-summons or complaint-warrant

Currently, police officers are guided by applicable court rules when determining whether to charge a case by way of complaint-summons or complaint-warrant. Again, the overwhelming majority of those determinations are made by officers without prior consultation or review. As the next section addresses, the Bail Reform Law establishes significant consequences for individuals charged by complaint-warrant. The Directive, thus, calls for review and supervision in the summons/warrant decision.

The Directive’s decision making framework for determining whether to issue a complaint-summons or apply for a complaint-warrant is far from simple. For certain offenses, the applicable court rules and the

Directives require that an application be made for the issuance of a complaint-warrant—no discretion is permitted (See Footnote previous note 27). In addition, a number of offenses trigger a rebuttable presumption of applying for a complaint-warrant (See previous note 28). Such a presumption may be overcome based upon the facts and circumstances particular to the case. For all other charges, the presumed outcome is the issuance of a complaint-summons, and that presumption, too, may be overcome if specific legal grounds and factual circumstances are identified. The preliminary PSA, which takes into account an individual’s current charges and criminal history, will play a critical role in the determination of an application for a complaint-summons or a complaint-warrant.

The Directive along with a County Prosecutor’s charging directive (when issued) will dictate the procedural and substantive paths that must be navigated when making summons/warrant decisions. An officer’s initial determination will be subject to review and approval.

Consequences of Charging by Complaint-Summons vs. Complaint-Warrant

<i>Currently:</i>	<p>A law enforcement officer is authorized to issue a complaint-summons without judicial review. When an offense is charged by complaint-summons, the arrestee is released upon the completion of processing.</p>
	<p>If a complaint-warrant is sought, <u>R. 3:4-1(a)(2)</u> requires the presentation of the matter to a judge or judicial officer no later than 12 hours after arrest for a warrant/summons determination and the setting of bail “immediately.” Bail must be set within 12 hours after arrest (<u>R. 3:4-1</u>) and in an amount in accordance with <u>R. 3:26-2</u>. If the defendant is able to post bail, he/she is released. If the defendant is unable to post bail, he/she is transported to the county jail and is entitled to have his/her bail reviewed by a Superior Court Judge no later than the next day. <u>R. 3:26-2(c)</u>. A first motion for bail reduction must be heard within 7 days of its filing. <u>R. 3:26-2(d)</u>. Special conditions (<u>e.g.</u>, “no contact” provisions) may be attached to defendant’s release on bail. <u>R. 3:26-1(a)</u>. Additionally, the State’s ability to request a hearing for the purpose of challenging the source and sufficiency of a defendant’s bail is governed by <u>N.J.S.A. 2A:162-12 et seq.</u> and <u>R. 3:26-8</u>.</p>
<i>Under CJ Reform:</i>	<p>For complaint-summons, the process is unchanged. Moreover, individuals charged by complaint-summons do not meet the definition of an “eligible defendant” under the Bail Reform Act. Accordingly, the provisions of the Bail Reform Act do not apply to those charged by complaint-summons.</p> <p>If a complaint-warrant is issued, an “eligible defendant” must be transported to county jail to be “temporarily detained” and enable the Pretrial Services Program to, within 48 hours of the eligible defendant’s commitment to jail, complete a risk assessment with recommendations on conditions of release. <u>N.J.S.A. 2A:162-16</u>. The Directive requires that this transport be completed “as soon as practicable” taking into account the need for investigative activities and the availability of resources. The Bail Reform Law effectively eliminates the setting of bail at this stage.</p>

Currently, arrestees are released from custody once they post bail. Under Criminal Justice Reform, individuals who are charged with offenses on a complaint-warrant will not be eligible for monetary bail. Instead, the provisions of the Bail Reform Law require that those charged by way of a complaint-warrant be transported to county jail for a period of up to 48 hours. During this temporary detention, the Pretrial Services Program will prepare its risk assessment and recommendations as to release conditions. Under the reform initiatives, monetary bail will be used sparingly, typically as a release condition imposed at a First Appearance and only for the purpose of discouraging flight if less restrictive conditions are deemed to likely be ineffective. Monetary bail cannot be used as a condition to prevent release or to assure the safety of any other person or the community. Thus, monetary bail will no longer be an option for arrestees charged by complaint-warrant; they will be transported to the county jail and detained temporarily.

Without knowing the specific facts and circumstances of future crimes or the histories of individuals who will commit crime in the future, it is impossible to predict the proportion of arrests that will result in a complaint-warrant or complaint-summons. Arrests made in previous years can be examined to determine, based solely on offenses charged, which arrests would require or presume a warrant and which would presume a summons. These numbers are presented in Table One. As shown, there were fewer than 1,000 complaints issued in each year that would likely result in a warrant based on charges alone. The number of complaints based on charges requiring or presuming a warrant has declined since 2010, matching the overall decline in complaint volume and arrest volume. Further, the numbers of complaints requiring warrants and presuming warrants were consistent across years (See pages 62-63 and 75-78). These numbers indicate the volume of defendants who will experience the new implementation of the Bail Reform Law, especially pertaining to the setting of bail and detention.

Table One: Warrant Assumptions for Complaints Issued
2010-2015

	Warrant Required	Warrant Presumed
2010	722	112
2011	622	111
2012	655	113
2013	675	86
2014	656	85
2015	564	111
NJSP 2015	53	344

Transport Logistics

Under current practice, defendants who are able to make bail are permitted to post their bail directly at the police station. These individuals do not require transport to the county jail. The most obvious change of this phase of the process under Criminal Justice Reform is that defendants charged by complaint-warrant will no longer be eligible for immediate release. A transport to the county jail is necessary, and jails must house these individuals until their first appearance hearing, if not longer. Police departments and county jails, thus, face challenges in this new process.

One challenge relates to the manner in which agencies physically transport arrestees. Responses submitted on the Bail Reform Questionnaire indicated that the majority of police departments, 413, and Sheriff's Offices, 13, transport arrestees individually rather than in groups. Though there are important practical and safety concerns behind individual arrestee transports, the mandatory requirement of transport for those charged on complaint-warrant may pose a logistical challenge for some agencies.

Transport scheduling is likely based on staffing availability in some departments. Across police departments, daytime staff numbers tend to be larger than nighttime staff numbers. Taking into

consideration that a higher proportion of arrests occur outside of business hours, nighttime transports may not be feasible for all departments. Further, some departments, such as State Police, indicate that all transports require the use of two officers for safety purposes. Thus, individuals arrested during a period of low staffing levels may be held at the station for a lengthier period of time until more officers are on-duty to ensure that the department can adequately handle any potential calls that may arise.

Transports to jail may also be dependent upon each station's in-house capacity. Agencies with the ability to hold a larger volume of arrestees for a shorter period of time may be able to wait longer periods to transport arrestees. On average, police departments indicated an arrestee capacity of 6.09 arrestees. However, there was considerable variation across departments. For departments with low maximum number of arrestees, a small number of arrests could put these departments at or above capacity, requiring transport sooner than at stations with larger capacities. It is these smaller departments, who may experience a greater burden under Criminal Justice Reform, as the number of arrests requiring mandatory transport may increase.

Transporting an individual after processing an arrest on a complaint-warrant may not be as simple as merely driving the individual to jail. Police departments have indicated the refusal of Sheriffs' Offices to accept or transport individuals who are objectively or who self-identify as "sick."³⁵ This is likely because upon arrival at the jail, the individual would be diverted first to a hospital and the transporting officer would be required to wait while the individual was evaluated. Agencies who transport their own arrestees have indicated similar experiences upon arriving at the jail that require diversion to a medical facility prior to transferring the arrestee to the care of the jail.

The timing of jail transports varies based on the reason for transport. Transports for current charges appear to occur throughout the day while transports based solely on pre-existing charges (*i.e.*, bench warrants) are clustered around shift changes. Thus, police departments appear to make strategic decisions regarding when to transport an arrestee to jail (See Self-Reported Transport Volumes, pages 84-88).

While police departments may find challenges associated with transporting a larger volume of arrestees, jails are required to have enough resources available to receive these arrestees. If the volume of individuals transported to jails increases as the result of removing the option to post bail, jails may need to increase staffing and other resources to accommodate these numbers, and additional space suitable to house these "temporary" detainees may be required. County jails reported an average of 4.21 intake officers per shift. However, the increase in jail population that is likely to result from Criminal Justice Reform is not long-term. While all arrestees charged on a complaint-warrant will be transported to jail, this detention is only guaranteed through the first appearance hearing, which is required to take place within 48 hours of commitment to jail. As noted, the intended goal of the PSA is to identify those

³⁵ This term is used in the vaguest sense. This includes any individual who self-identifies as sick or mentally ill, including, but not limited to those suffering from colds/flu, those experiencing withdrawal symptoms, those who may have been injured during the arrest, those who may be behaving erratically, or those who may be malingering.

individuals who pose the greatest risk of failing to appear, re-offending, or committing a new violent crime. It is only the arrestees identified as high on these risks who will likely be detained after the first appearance hearing. A large portion of arrestees are anticipated to be released following the first appearance hearing. Thus, though there may be an increase in the overall jail population, there will likely be a considerable decrease among the long-term pretrial population. This long-term decrease is a considerable benefit to jails as it will likely result in the reduction of associated costs relevant to feeding, clothing, and keeping inmates in good health.

Bail Reduction and Source and Sufficiency Hearings

Currently, a defendant who is charged by a complaint-warrant is issued a monetary bail in an amount fixed by a judge. However, as discussed throughout this report, many individuals are unable to make bail, and they are detained in the county jail pending the disposition of their cases. The setting of bail and the posting of bail by defendants present a myriad of issues that must currently be addressed in the criminal justice process. Defendants can file applications seeking to have their bail reviewed by the court and reduced. Prosecutors can challenge the source and sufficiency of a defendant's bail.

Hearings on the reduction and source and sufficiency of bail are a frequent occurrence. In 2015, the AOC reported 10,552 bail hearings were completed statewide. Through September 30, 2016, there were 5,668 bail hearings. These hearings require preparation and the devotion of resources from Prosecutors' Offices, county jails, and Sheriffs' Offices.

Because Criminal Justice Reform severely restricts the use of monetary bail, agencies, especially Prosecutors' Offices, will likely experience a dramatic reduction in workload in terms of hearings pertaining to bail. Given the additional tasks associated with Criminal Justice Reform, such as pre-complaint screening, this benefit is really an opportunity for agencies to re-allocate their resources to other tasks.

First Appearance

First Appearance after Filing Complaint

<i>Currently:</i>	If detained, a defendant's first appearance shall occur within 72 hours after his/her arrest, excluding holidays, and shall be before a judge with authority to set bail for the offenses charged. <u>R. 3:4-1(a)(2)</u> .
<i>Under CJ Reform:</i>	If detained, an eligible defendant's first appearance must occur within 48 hours of his/her commitment to the county jail and must be before a judge authorized to set conditions of release for the offenses charged. <u>N.J.S.A. 2A:162-16</u> .

The first appearance hearing serves two purposes. First, it is designed to provide notice to a defendant of his or her official charges. Second, in those cases in which the State has not filed a motion to detain prior to trial, the first appearance hearing is used to determine what conditions, if any, should be imposed on the defendant's release. Under Criminal Justice Reform, this hearing is required to take place no later than 48 hours after commitment to jail (although the judiciary has expressed a strong desire to reduce this period of time to 24 hours).

Location of the First Appearance

The location of this appearance will likely vary across counties. It might be required that a first appearance take place in person, in a courtroom, thus possibly necessitating another vehicle transport of the defendant if the county jail is not located in proximity to the courthouse. Further, the 48-hour limit on a defendant's temporary detention will, at times, require the first appearance to take place on weekends (the present plan includes hearings on Saturdays). If an actual appearance in court is necessary, the first appearance represents an additional challenge to ensure that the courthouse is opened and properly staffed and that all requisite parties are able to attend.

In other counties, a first appearance may take place remotely with video conferencing. All county jails indicated that video conferencing capabilities currently exist at the facility, wherein some counties are currently using video conferencing and others are preparing to do so. Many jails likely implemented the capacity for video conferencing based on the anticipated requirements of Criminal Justice Reform. This capability allows first appearance hearings to take place outside of a physical courtroom, deferring the cost of opening the courthouse, staffing the courthouse, and transporting the defendant to court. Further, video conferencing technology also allows judges and Prosecutors' Offices to remotely connect to the first appearance hearing rather than traveling to a specified location. Another potential benefit from video conferencing will be realized for defendants with outstanding warrants in multiple jurisdictions. Sheriff's Officers would no longer be required to transport an individual, for example, to a hearing in north Jersey one day and south Jersey another day. With video conferencing, the defendant can remain in the jail and remotely connect to both courtrooms.

Documentation Requirements of the First Appearance

The 48-hour requirement of the first appearance may, in certain instances, require that the arresting agency provide arrest and/or investigative reports (i.e., those in addition to the affidavit of probable

cause and the PLEIR) prior to this hearing to ensure that the assigned prosecutor has the ability to review all facts and circumstances of the case. Typically, most police departments provide these arrest and/or investigative reports in a relatively short period of time post arrest; only 59 police departments reported taking longer than 24 hours to complete these reports. However, State Police's current operating procedures require Troopers to complete the investigation report in 10 days. Thus, the potential need for arrest and/or investigative reports for first appearance hearings may not pose a challenge for many departments. However, though these reports may be requested by the Prosecutor's Office for the first appearance, the affidavit of probable cause and the PLEIR report are intended to be sufficient for this hearing.

Though in most instances, the affidavit of probable cause and the PLEIR will be sufficient documentation for a first appearance, additional documentation may, in some instances, also be requested by the Prosecutor's Office including reports, audio and video recordings of the incident if available, and lab results. The State Police are in the midst of completing an upgrade to eDiscovery system to provide faster discovery responses to all counties. Currently, it can take a lengthy period of time to return documentation as these documents are typically mailed via postal service. To facilitate a faster response, the new system will provide all results electronically in as little as 15 minutes if the information is readily available. As of August 10, 2016, the State Police indicated that they receive roughly 5,000 requests for discovery a month. At that time, there was a 6-month backlog in responding to requests for discovery. Currently, the time to return discovery may not coincide with the timing of the first appearance hearing, however, systematic upgrades are being incorporated to facilitate a speedier response. Thus, the transition to eDiscovery is an anticipated benefit under Criminal Justice Reform.

An additional challenge relates to certain types of discovery requested, specifically reports prepared by State Police labs. The State Police labs were also experiencing considerable delays in providing drug results, toxicology results, and DNA testing results from State Police labs. Although this information may not be required for a first appearance hearing, the current delays are lengthy enough to extend beyond the required time for first appearances and even indictments and trials under Criminal Justice Reform. Although State Police is working to remedy this situation, delays may still exist under Criminal Justice Reform. Criminal Justice Reform did not obviously cause these issues, but these issues may complicate the implementation of these reforms.

Arresting Officer Availability Prior to First Appearance

An additional requirement for first appearance hearings is the potential need for the assigned Assistant Prosecutor to speak with the arresting officer about details of a case that might not appear in the Affidavit of Probable Cause or the PLEIR. In some situations, an Assistant Prosecutor may already have had a conversation with the arresting officer during the pre-complaint screening process. But, if such a policy is not in place, it is very likely that the assigned assistant prosecutor may want to speak with the arresting officer or any officer involved in the arrest prior to the first appearance. In instances where the officer is scheduled to work at some point during the 48-hour window, this is not an issue. Some departments indicated that contacting officers while off duty might be a challenge due to a lack of uniformity in communication equipment (e.g., cell phones, laptop computers, etc.) provided to officers.

Further, depending on police contracts, even a five-minute discussion with the Prosecutor's Office can result in a requirement of overtime pay. This conversation may implicate existing negotiated contract provisions. Although officers likely want to ensure that criminals are handled in the most appropriate manner, there is a fine balance that needs to be achieved between an officer's off-duty availability, the Prosecutors' need to speak with the officer, and contract protections.

Recognizing and Protecting Crime Victims' Rights

Victims of crime in New Jersey are afforded strong legal protections and rights through a constitutional amendment and far-reaching legislation. See N.J. Const., art. I, para. 22; N.J.S.A. 52:4B-36. Among other things, victims have the right to be informed about the criminal justice process and, with limited exception, be present at any judicial proceedings. The statutory requirement that a defendant's first appearance be held within 48 hours of his or her commitment to the county jail (not to mention the judiciary's express desire to reduce this time to 24 hours) is likely to present some significant challenges to personnel assigned to the Coordinators and Advocates of the Offices of Victim/Witness Advocacy which are a part of County Prosecutors' Offices. It will be difficult, practically, to do what is necessary in the brief time allowed.

Revocations

Revocation of Bail or Release for Failure to Appear or Breach of Condition

<i>Currently:</i>	The court has the ability to revoke and forfeit a defendant's bail in those instances in which (a) a defendant does not appear for any stage of the criminal proceedings or (b) defendant breaches any condition of bail. <u>R. 3:26-6</u> .
<i>Under CJ Reform:</i>	While an eligible defendant will not be released immediately after arrest on bail, he/she may be released pending trial after the first appearance on monetary and non-monetary conditions. <u>N.J.S.A. 2A:162-17</u> . When so released and when he/she violates a restraining order or condition of release, fails to appear when required, or commits a new crime, the prosecutor may file a motion to revoke the eligible defendant's release and order him/her detained pending trial. <u>N.J.S.A. 2A:162-24 (R. 3:26-6(d))</u> .

One of the intended goals of Criminal Justice Reform is to reduce the number of defendants who are held in jail prior to trial. After January 1, 2017, only those defendants charged with murder, charged with an offense that would face an ordinary or extended term of life imprisonment, or who are determined to be at a high risk of re-offending, committing a new violent offense, or failing to appear will be subject to pretrial detention. The remaining defendants charged on a complaint-warrant will be released pending trial. Some of these individuals may be released outright while others may be released with certain conditions like home supervision, electronic monitoring, or no-contact orders. If an individual violates one of these conditions or commits a new offense (e.g., they are arrested), the Prosecutor's Office can file for a revocation of release.

Currently, revocations of release for violations of bail conditions are rare. For 2015, the AOC reported 103 bail revocation hearings. For 2016, through September 30, 2016, there were 101 bail revocation

hearings. These numbers indicate that bail is not frequently revoked outright. A more typical occurrence is that a bail hearing is held to increase the bail amount rather than revoke bail altogether. Further evidence of this is noted in the Promis/Gavel data on complaints issued; of the 196,409 complaints issued through September 17, 2016, there were only three complaints where the bail status was indicated as “revoked”.

There is the potential for revocation hearings to become more frequent under Criminal Justice Reform as more individuals will be released pretrial on conditions and, thus, there is more opportunity for violations of conditions. Research has noted, however, that the likelihood of pretrial offending is rare and statistically unlikely.³⁶ Only a small number of offenders are likely to engage in criminal activity while on release. The majority of defendants, as noted throughout research, are unlikely to offend while on release.³⁷ As noted previously, evaluation of risk assessments in the District of Columbia, noted that for 88% of those released pretrial, there were no requests for a revocation of release. Despite this positive finding, the possibility remains that requests for revocation may increase. Should an individual offend while released or violate conditions of release, a revocation hearing will be required, potentially increasing long-term inmate jail population. This underscores the importance of the expeditious and accurate completion of reports and quick transmission of recordings/results of the PSA to provide evidence that supports the request for revocation. These hearings will only occur during core business hours and therefore, should not require additional resources from agencies—particularly in light of the near elimination of bail reduction and source and sufficiency hearings.

³⁶ Mamalian, Cynthia. (2011). State of the Science of Pretrial Risk Assessment. Pretrial Justice Institute: Gaithersburg, MD. https://www.bja.gov/publications/pji_pretrialriskassessment.pdf

³⁷ Research on the effectiveness of risk assessment tools typically focuses on the whether the offender “failed” in terms of failing to appear or re-offending. Researchers have not routinely examined whether those on release violated conditions of release.

Detention

Detention

Currently: Not applicable.

Under CJ Reform: The Bail Reform Law provides for the ability of the prosecutor to file a motion at any time—before or after an eligible defendant’s release—to seek to detain an eligible defendant pretrial. N.J.S.A. 2A:162-18 and N.J.S.A. 2A:162-19. A pretrial detention hearing is to be held within three working days of the date on which the prosecutor’s motion was filed. There are provisions for continuations of the motion not exceeding three days (for the prosecution) and five days (for the eligible defendant), excluding weekends and holidays.

During the hearing, the eligible defendant has the right to representation by counsel (either privately retained or appointed, if qualified). The eligible defendant must be given the opportunity to testify, present witnesses, cross-examine witnesses, and present information by proffer or otherwise. The rules of evidence shall not apply to these hearings. In those cases for which there has not been an indictment, the prosecutor must establish probable cause that the eligible defendant committed the offense in question.

R. 3:4A, which was recently adopted by the Supreme Court, prescribes procedures for pretrial detention.

Detention hearings present, perhaps, the most dramatic change for all participants in the criminal justice system as these hearings are an entirely new component of the criminal justice process. It is anticipated that detention hearings will not occur with great frequency. The Bail Reform Law authorizes pretrial detention of only those “eligible defendants” who are charged with an indictable offense or a non-indictable offense involving domestic violence. See N.J.S.A. 2A:162-18(a) and N.J.S.A. 2A:162-19(a). Moreover, there is a general presumption against preventive detention except in those cases in which a defendant is charged with murder or is facing an ordinary or extended term of life imprisonment. There is, thus, a presumption for pretrial release that applies in all other cases. This pretrial release presumption can only be overcome when the State establishes by clear and convincing evidence that no release condition or combination of conditions will reasonably assure the eligible 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. See N.J.S.A. 2A:162-19.

For a defendant to be ordered detained pretrial, the Prosecutor must file a motion. Although detention motions can be filed at any time, it is anticipated that most will be filed prior to or during the first appearance. When a motion is filed, a pre-trial detention hearing must be held for the defendant within three working days. Similar to first appearances, the completion of all critical documentation, the availability of all relevant staff (police, prosecutors, and potentially courtroom staff), the potential transportation of defendants to the courtroom, and transmission of any further updated information on

reports, recordings, or results will be crucial for the detention hearing. However, these hearings will take place during traditional court hours, and not on weekends.

The Bail Reform Law and applicable court rule provide limited guidance as to scope and shape of a detention hearing. The defendant has the right to representation by counsel. He or she is entitled to discovery and must be given the opportunity to testify, present witnesses, cross-examine witnesses, and present information by proffer or otherwise. The rules of evidence do not apply to these hearings. In those cases for which there has not been an indictment, the prosecutor must establish probable cause that the eligible defendant committed the offense in question. See N.J.S.A. 2A:162-19(e) and R. 3:4A. Beyond that, little direction is offered.

There are a myriad of concerns regarding detention hearings. Most notable is the potential that the hearing will be time-consuming. Beyond that, the need for the completion of supporting documentation, the potential availability of witnesses, and the transport and production of the defendant are critical. Detention hearings will be held during “normal” working hours, and, thus, they are without the challenges presented by 24/7 pre-charging screening system and first appearance held on Saturdays.

Given the statutory framework, the expectation is that the majority of arrestees will not be detained prior to trial. In a 2013 study of New Jersey’s jail populations, there were approximately 9,500 (73.3% of the entire jail population) defendants held in pretrial detention in New Jersey on October 3, 2012.³⁸ Further, the 2013 U.S. Department of Justice Census of Jails indicated that 82% of inmates confined to a county jail in New Jersey in 2013 were held pretrial. According to the AOC, on August 31, 2016, there were 9,981 (65%) inmates in county jail whose primary custody status was identified as a pretrial hold.³⁹ These numbers indicate that for several years, a large portion of county jail inmates are held pretrial and thus, likely to be affected by the changes implemented under Criminal Justice Reform. As stated previously, the intended goal of Criminal Justice Reform is that only those who pose the greatest risk will be held pretrial, resulting in a smaller number of defendants housed pretrial.

As detailed in previous sections, there may be an initial increase in the number of arrestees sent to jail prior to their first appearance, but after that appearance, the number of inmates should decrease as only those inmates likely to re-offend, harm another, or subvert the criminal justice system will be detained pretrial. This is also likely to result in a decrease in the average length of stay of inmates. The National Institute of Corrections calculates average length of stay using the number of released inmates per time period. For 2014, the average length of stay was 43 days, in 2015 it was 44 days, and in 2016 it was 44 days.⁴⁰ Under Criminal Justice Reform, jails will likely experience an increase in inmates staying for short periods of time, a maximum of 48 hours, but the number of inmates in jails for lengthy periods is expected to decrease, potentially freeing bed space and reducing staffing needs in these facilities.

³⁸ VanNostrand, Marie (2013). New Jersey Jail Population Analysis: Identifying Opportunities to Safely and responsibly reduce the Jail Population. Luminosity & Drug Policy Alliance: Washington, DC. Available at: https://www.drugpolicy.org/sites/default/files/New_Jersey_Jail_Population_Analysis_March_2013.pdf

³⁹ As provided by the Administrative Office of the Courts.

⁴⁰ As of September 6, 2016

Speedy Indictment and Trial

Speedy Indictment and Speedy Trial

Currently: New Jersey has no statutory “speedy” requirements governing time within which the prosecution must either indict a defendant or bring a defendant’s matter to trial.

Under CJ Reform: N.J.S.A. 2A:162-22 sets time periods within which a prosecutor must indict an eligible defendant and when a trial must be started for a detained, eligible defendant who may include the following:

1. An eligible defendant detained in jail pursuant to a pretrial detention order. See N.J.S.A. 2A:162-18 -19.
2. An eligible defendant initially released on conditions who is later detained by order.
3. An eligible defendant who is detained due to his/her inability to post monetary bail. See N.J.S.A. 2A:162-17.
4. An eligible defendant who is released on conditions and subsequently detained due to the revocation of his/her release for violating conditions or reoffending. See N.J.S.A. 2A:162-24.

Speedy Indictment: an indictment must be returned against a detained, eligible defendant within 90 days, not counting “excludable time for reasonable delays.” See N.J.S.A. 2A:162-22(b).

Speedy Trial: a trial must be commenced for a detained, eligible defendant within 180 days of the return or unsealing of the indictment against said eligible defendant, not counting “excludable time for reasonable delays”. See N.J.S.A. 2A:162-22(b).

Allocation of Additional Time: the statute provides for a court’s ability to allocate additional time for both indictment (not exceeding 45 days) and trial (strict deadline of 2 years after issuance of pretrial detention order) upon motion by the prosecutor and under certain conditions.

Remedy: if the speedy indictment/trial time parameters are not met, the court is to order the release of the eligible defendant.

Speedy indictment/trial time requirements do not apply to:

1. A defendant that is issued a complaint-summons
 2. A defendant that is issued a complaint-summons for his/her initial offense even if that defendant is subsequently arrested on a warrant for failure to appear.
 3. An eligible defendant that is issued a complaint-warrant who is released on conditions after the prosecutor files a pretrial detention motion and the court denies it.
-

-
4. An eligible defendant that is issued a complaint-warrant who is released on conditions when the prosecutor does not file a pretrial detention motion.

Accordingly, defendants who would have been detained pretrial under the current system but will be released under Bail Reform may have a very real and practical incentive to delay the disposition of their cases in hopes of postponing their incarceration.

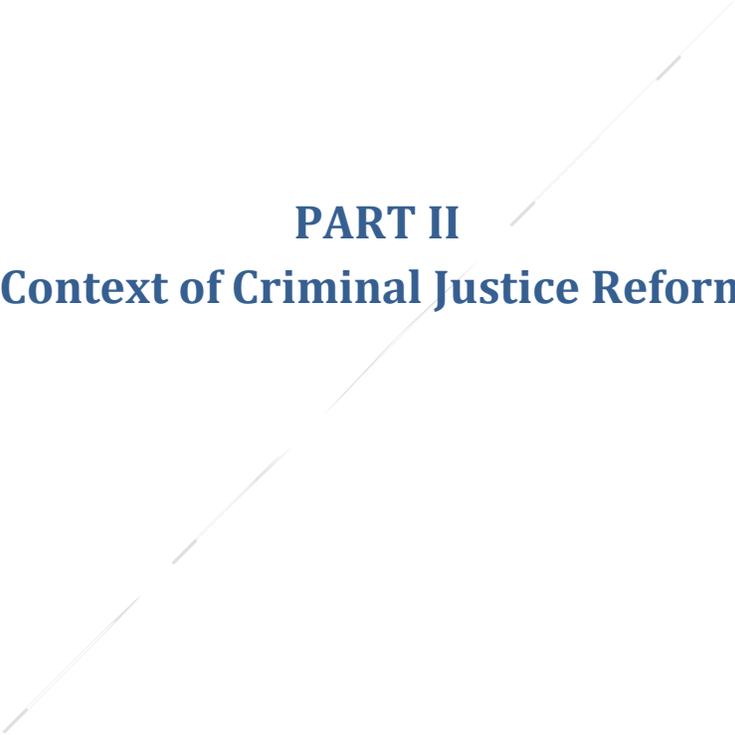
The timing requirements of speedy indictment and speedy trial will likely impact Prosecutors' Offices more than other agencies. Once a defendant is committed to detention, the prosecutor will have 90 days (not counting excludable time for reasonable delays) to indict the defendant. This will require the prioritization of cases likely to go to trial over those that will not. Further, once indicted, the Prosecutor's Office will only have 180 days (not counting excludable time for reasonable delays) before the start of the trial. Although extensions are possible, the consequences of violating these delays are severe—the defendant will be released.

Although the speedy indictment and trial components will only apply to a small proportion of all arrest cases—those that are detained pretrial—they still comprise a large volume of cases. There were 14,332 complaint-warrants issued in 2015 that would likely not meet these time requirements. For these complaints, more than 270 days passed between the date the complaint was issued and the date the case was disposed. Thus, these defendants could likely be released under Criminal Justice Reform due to a violation of time requirements. But it is important to note that the majority of these complaints, 13,261, never actually made it to a trial. They were all disposed of prior to a trial (*i.e.*, remanded, dismissed, resulted in a plea). Currently, defendants and their attorneys are often rewarded for not taking the first plea deal that is offered to them. Thus, defendants and Prosecutors' Offices may negotiate for lengthy periods before reaching a deal. But under Criminal Justice Reform, Prosecutors' Offices are required to abide by an escalating plea policy. By offering the "best" deal for the defendant initially, it is hoped that cases will settle sooner, clearing the docket for cases that truly need to proceed to trial.

Speedy indictment/trial time requirements do not apply to:

1. A defendant that is issued a complaint-summons.
2. A defendant that is issued a complaint-summons for his/her initial offense even if that defendant is subsequently arrested on a warrant for failure to appear.
3. An eligible defendant that is issued a complaint-warrant who is released on conditions after the prosecutor files a pretrial detention motion and the court denies it.
4. An eligible defendant that is issued a complaint-warrant who is released on conditions when the prosecutor does not file a pretrial detention motion.

Accordingly, defendants who would have been detained pretrial under the current system but will be released under Bail Reform may have a very real and practical incentive to delay the disposition of their cases in hopes of postponing their incarceration. This presents an unintended—but very real—challenge to Prosecutors’ Offices.



PART II
Context of Criminal Justice Reform

A comprehensive understanding of the benefits and challenges that may be expected during the implementation of Criminal Justice Reform necessitates an in-depth, factual view into the nature of New Jersey's crime and criminal justice system. Part II provides this discussion. Contemporary and historical data on the volume of crime, complaint-summonses and warrants issued, and charges cited in these complaints provide an understanding of the true extent of crime in New Jersey. The timing of arrests made by State Police, municipal police departments, and Sheriff's Offices are of particular importance given new statewide procedures requiring criminal processing within a relatively quick period of time. Contemporary data on Prosecutorial case screening highlights the substantial benefit that can be expected from the impending shift to pre-charge screening. Contemporary and historical data on staff levels throughout criminal justice agencies provide context in light of complaints that agencies will be increasingly overburdened by the imminent reforms. Length of stay and inmate custody status from county jails highlight the size of the population to be affected by new procedural changes related to First Appearance hearings and pre-trial detention. Further, specific concerns raised by criminal justice agencies are addressed and discussed, highlighting the key elements of concern for many agencies. Given that agencies to be affected by Criminal Justice Reform may have already obtained additional resources or will be prior to January 1, 2017, this section can be used to inform the allocation of these resources. Further, the analysis depicted in this section may provide evidence confirming or mitigating potential challenges raised regarding Criminal Justice Reform.

Data Description

To illustrate the potential effects of Criminal Justice Reform on agencies in New Jersey, several sources of information are used in this report.

1. Data on the volume of complaint-summonses and warrants (complaint volume) issued for indictable and domestic violence disorderly persons offenses by county and day for 2010 through 2015 were obtained from Promis/Gavel.⁴¹ The complaint volume represents cases that were handled in Superior Court and where a complaint-summons or complaint-warrant was issued. These cases represent the volume of cases that would be subject to the new policies and procedures of Criminal Justice Reform.

Also obtained from Promis/Gavel are the statutes cited in cases with a complaint-summons or warrant from 2010 through 2015. Each individual arrest can involve multiple complaint-summonses and/or warrants. Each complaint-summons or warrant can involve multiple charges. Thus, the total number of charges will be more than the total number of arrests and the total number of complaint-summonses or warrants issued. These data were used to illustrate the volume of complaint-summonses and warrants issued per day to determine whether any

⁴¹ The Promis/Gavel system is an automated criminal case tracking system enhanced and supported by the Criminal Practice Division and the Information System Division (ISD) of the Administrative Office of the Courts (AOC) in response to the needs of the criminal justice community. It captures information concerning defendants who have been charged with indictable offenses and tracks the processing of those defendants from initial arrest through appellate review.

apparent patterns exist based on day of the week and across counties. The specific time of arrests was not available for these data.⁴²

2. Data were obtained from the Administrative Office of the Courts (AOC) detailing the number of complaint-summons and warrants issued for arrests made in each year for indictable, disorderly persons offenses, and petty disorderly persons offenses handled in Municipal Courts. Included for each case are the date of arrest, the initial charges cited, the final charges cited, the initial bail amount, and the date of final disposition on the case. These data were obtained for complaint-summons or warrants issued from January 1, 2010 to September 17, 2016. Though these cases remained with the Municipal Court, they also represent a portion of the arrests that would be subject to the new policies and procedures of Criminal Justice Reform.
3. State Police provided data on the volume of arrests made on each day in 2015. State Police databases have the ability to pull all information recorded on an arrest report, including time of arrest. These data included the date of arrest, time of arrest, the specific charges cited in each arrest, whether a warrant or summons was issued, and the amount of bail imposed for the arrest.
4. Data on the number of law enforcement officers employed by police departments and Sheriff's Offices were obtained from the New Jersey Uniform Crime Reports for 1990 through 2014.⁴³ Data for 2015 were obtained from the State Police Uniform Crime Reporting Unit, which compiles the Uniform Crime Report for the entire state.
5. Data on the staffing levels in Prosecutors' Offices were obtained from the Division of Criminal Justice. Each year, Prosecutors' Offices provide the Division of Criminal Justice with a staffing report that details the total number of staff, salary, and benefit information, and the length of employment as of August 1st of that year. OLEPS requested copies of these reports for 2006 to 2016. All reports were provided with the exception of 2008, which was unavailable. The number of staff in 2008 was calculated using the percentage changes reported for 2009. Additionally, Prosecutors' Offices provide the Division of Criminal Justice with the volume of cases reviewed each year, the volume screened out, the method used to screen out cases, and the volume of cases that are sent to Grand Jury. These reports were available for 2007-2015.
6. The AOC also provided data on the number of inmates housed in each county jail and their average length of stay for 2014, 2015, and 2016 (year-to-date). The AOC also provided information on inmates housed in all county jails as of August 31, 2016, including whether they were held prior to trial (in either Municipal or Superior Court) and whether the individual was housed in the jail or whether they were on community release and/or monitoring. Also provided were the total counts of inmates on August 31, 2016 by custody status (defined as either confined or not confined to the jail and whether they were held pretrial).
7. OLEPS designed a questionnaire to gather information on policies and procedures currently in place in municipal police departments, Sheriff's Offices, County Prosecutors' Offices, and county jails. The questionnaire asked agencies to provide information on current practices surrounding

⁴² All references to day, weeks, and months in these data are based on the date that the complaint-summons or warrant was issued, not the date of arrest.

⁴³ Available at: <http://www.njsp.org/ucr/uniform-crime-reports.shtml>

arrests and information on the volume of certain law enforcement activities, including incidents of arrest, jail transports, pre-charge screenings of complaints, jail in-takes, and average length of stays in jail.

The biggest goal of this questionnaire was to determine the timing of arrests. The date of arrests is known from various databases, but the actual time of arrest is not recorded consistently in these databases. Thus, each agency was asked for information on the volume of arrests made/screened/processed for each hour during a specific time period. Because data management systems and their reporting abilities vary considerably across agencies, it was decided that it would be best for agencies to provide arrest information in real time. Due to the timing constraints on the production of this study, the data collection period was limited to July 31st to August 6th, 2016. All County Prosecutors' Offices, police departments, Sheriffs' Offices, and jail/correctional facilities were given access to the questionnaire prior to the reporting period and instructed to collect data responsive to its queries for the reporting period. Responses were due no later than August 19, 2016. The questionnaire was posted and maintained on a website approved by the Attorney General's Office. The overall response rate for the questionnaire was 99.6%.⁴⁴ A copy of the questionnaire is attached as Appendix A.

8. Staffing levels in county Jails were obtained from the Census of Jails,⁴⁵ compiled every five years by the Bureau of Justice Statistics. Also included in this Census is the total number of inmates housed in county jails for each year, whether they were confined or not-confined, and whether they were held prior to a conviction or post-conviction.
9. Because the Census of Jails is conducted only every five years and limited in terms of the historical availability of information, a questionnaire regarding jail staffing was sent to each county jail. Jails were simply asked to indicate the total number of staff employed by the jail from 1990 to 2015 for the entire year and year-to-date for 2016. In instances where there were noticeable fluctuations in staffing, each jail was contacted for clarification on the numbers. Responses were due no later than September 16, 2016. The overall response rate for the questionnaire was 68.2%.⁴⁶

⁴⁴ The overall response rate was calculated in accordance with the American Association for Public Opinion Research (AAPOR) response rate #3.

⁴⁵ United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. Census of Jails, 2013. ICPSR36128-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research (distributor)

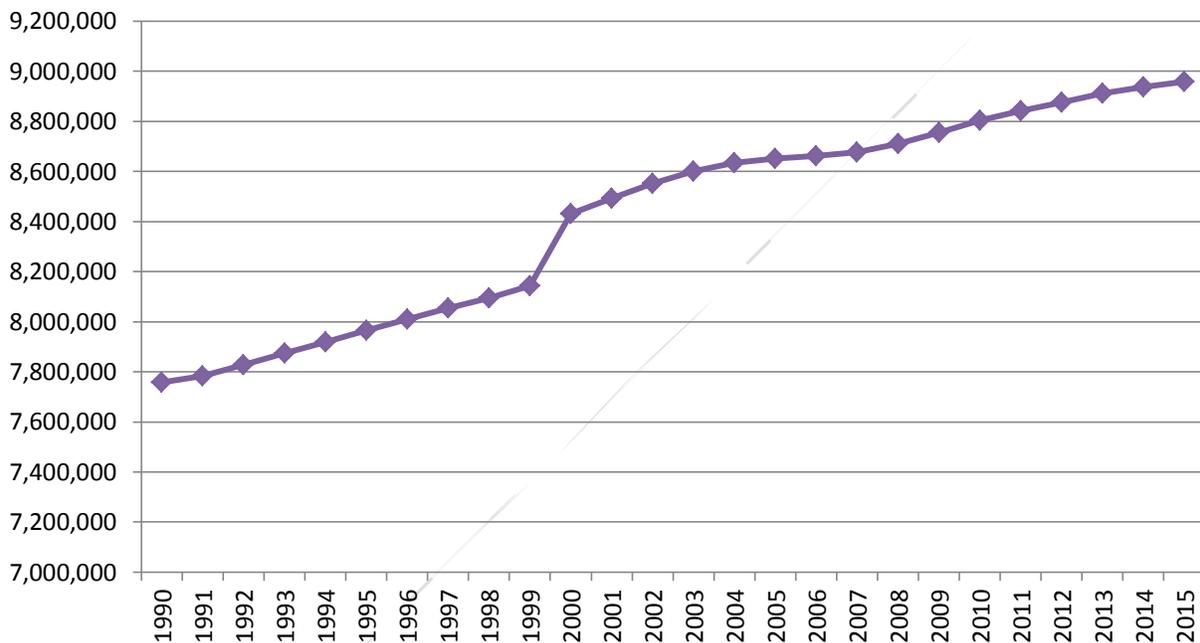
⁴⁶ The overall response rate was calculated in accordance with the American Association for Public Opinion Research (AAPOR) response rate #3.

Criminal Justice System Volume

Population and Crime Trends

Discussion of the potential impact of Criminal Justice Reform in New Jersey requires an understanding of the context within which the law will unfold. As of July 1, 2015, New Jersey is home to roughly 8,958,013 million individuals.⁴⁷ The population of New Jersey has been steadily increasing since the 1990s (Figure Three). With more residents, there may be an increased strain on the resources and services available in the State, including the Criminal Justice System. While many of the roughly 8.9 million residents of New Jersey will only feel an indirect impact of Criminal Justice Reform, the direct impact of the reform will be felt among those who are arrested and processed in the Criminal Justice System.

Figure Three: New Jersey Annual Population Estimates⁴⁸
1990-2015



While the population of New Jersey has steadily increased since 1990, the crime rate has not. According to the New Jersey Uniform Crime Report,⁴⁹ the rate of crime in New Jersey has continually declined since 1990. As shown in Figure Four, the crime rate in the 1990s was upwards of 400,000 index offenses per year. In 2015, the number was roughly 169,000, a nearly 60% decrease over the past 25 years. Despite the increased number of residents in the State of New Jersey, New Jersey has not experienced an increase in crime over the past 25 years. Research has suggested that the average citizen in the

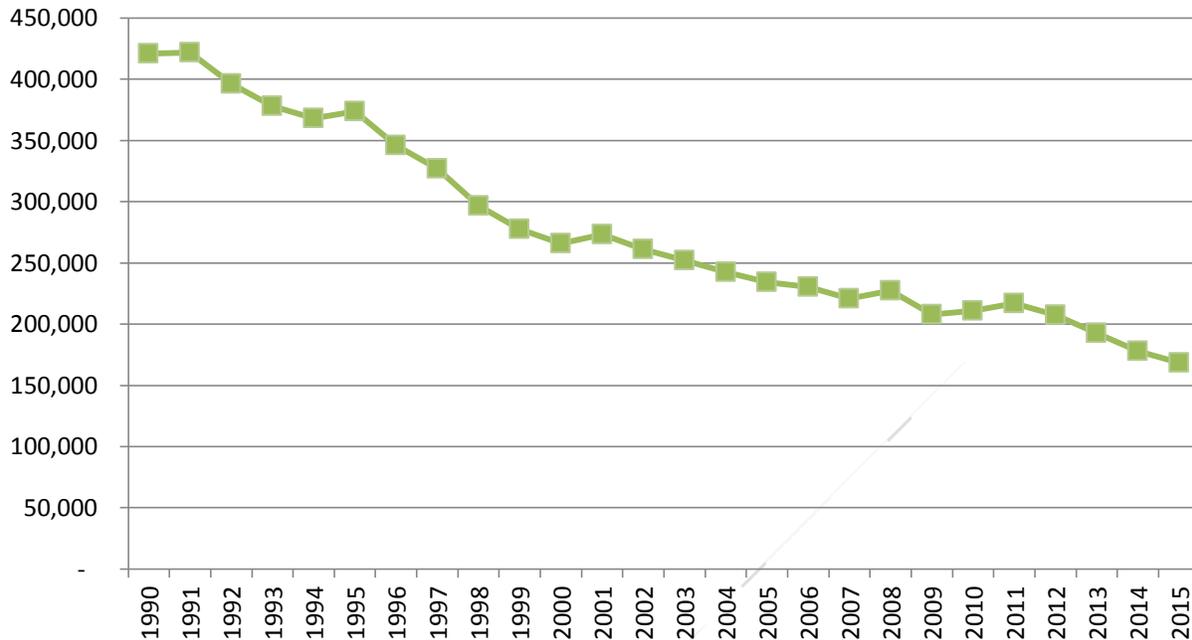
⁴⁷ According to the U.S. Census population estimate for July 1, 2015.

⁴⁸ Annual Population Estimates are provided by the U.S. Census Bureau as of July 1st of each year. Available at: <http://www.census.gov/popest/data/historical/index.html>

⁴⁹ The Uniform Crime Report is compiled annual by the New Jersey State Police according to Federal Bureau of Investigations' requirements.

United States is particularly uninformed on the reality of crime.⁵⁰ Concerns about Criminal Justice Reform may arise from this misperception of crime.

Figure Four: New Jersey Index Crime Rate⁵¹
1990-2015



The declining crime rate provides important context for the workload of the Criminal Justice System in New Jersey. The reforms that will take place on January 1, 2017, will affect a much smaller proportion of arrests than they would have 25 years ago. Examining the total volume of arrests provides a further understanding of how many individuals and interactions will be affected by Criminal Justice Reform.

Complaints Issued Data: Promis/Gavel

Superior Court Indictable Offenses and Domestic Violence Disorderly Persons

As noted previously, data on the volume of complaint-summonses/warrants issued for arrests made for indictable and domestic violence disorderly persons offenses by county and day for 2010 through 2015 were obtained from Promis/Gavel. These data are cases that were handled in Superior Court and where a complaint-summons or complaint-warrant was issued. The data included the total number and Title 2C chapters of all statutes cited in these arrests from 2010 through 2015. Each complaint-summons or warrant can involve multiple arrests, and multiple charges per arrest. These data illustrate the volume of complaint-summonses and warrants issued and will assist in determining whether any apparent

⁵⁰ McCarthy, Justin. (2015). More Americans say Crime is Rising in U.S. Gallup, Washington, DC. Available at: <http://www.gallup.com/poll/186308/americans-say-crime-rising.aspx>

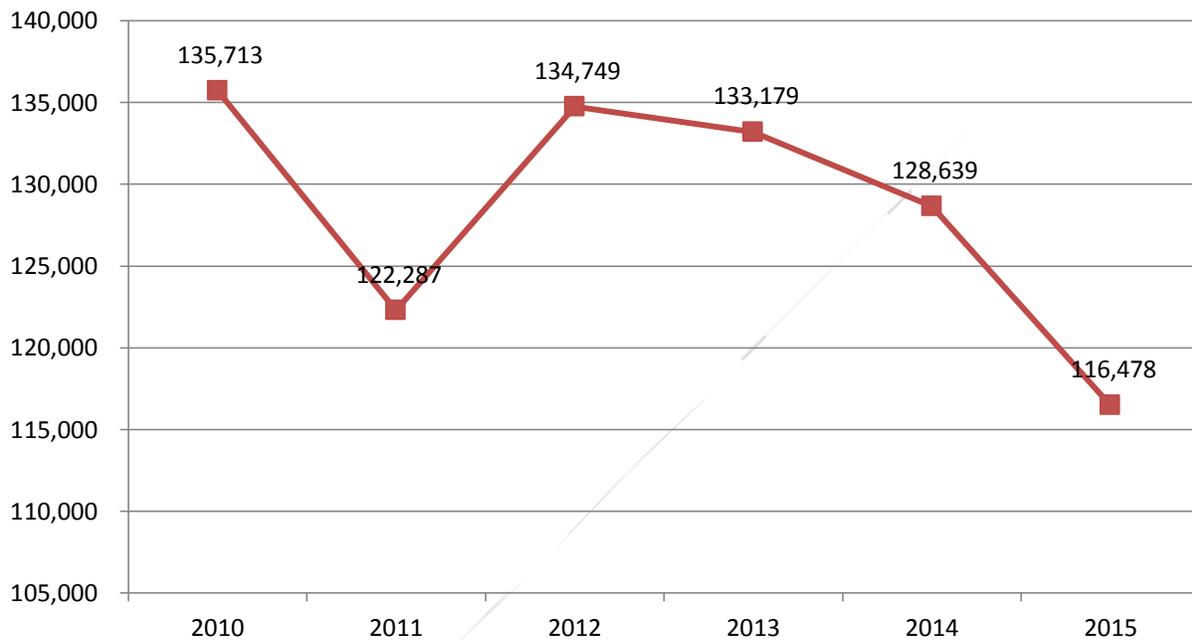
⁵¹ This chart depicts the crime index number as reported in the Uniform Crime Report. This number includes violent and non-violent crimes of: murder; rape; robbery; aggravated assault; burglary; larceny-theft; and motor vehicle theft which have been cleared by an arrest. The number provided for 2015 is an unofficial estimate provided by State Police as the 2015 report has yet to be released.

patterns exist across days, weeks, and counties. The specific time of arrest or issuance was not available for these data.

Total Complaints Issued

The trend of complaint-summonses or warrants issued for fingerprintable indictable offenses and domestic violence disorderly persons offenses for 2010-2015 are depicted in Figure Five.⁵² As shown, there is a general decline from a high of 135,713 complaints in 2010 to a low of 116,478 complaints in 2015, a 14.17% decrease. This trend mirrors the overall crime trends for the same time period.

Figure Five: Total Complaints for Indictable & Domestic Violence Disorderly Persons Offenses 2010-2015



Again, the data indicate lower volumes of cases for recent years. Though case volume may be declining, Criminal Justice agencies may still feel burdened by changes under Criminal Justice Reform due to lower staffing levels ([See Current Staffing Issues](#), page 94).

Counties

The 116,478 complaints in 2015 were issued by police departments in all 21 counties. On average, there were 5,547 complaints per county in 2015. Essex County typically issued the highest number of complaints, 12,294 in 2015, followed by Camden County with 10,978 complaints in 2015. The trend depicted in Figure Five most closely matches the trends noted in Essex and Camden counties. These two counties issued about 20% of all complaints in 2015. Thus, the overall trend is driven by counties which

⁵² Initial iterations of Criminal Justice Reform identified an eligible defendant as someone arrested for a finger-printable, indictable offense or domestic violence disorderly persons offense. Subsequent iterations have expanded the purview of the law to include all disorderly persons and petty disorderly persons offenses. These latter categories of arrests will be discussed below in the AOC data section.

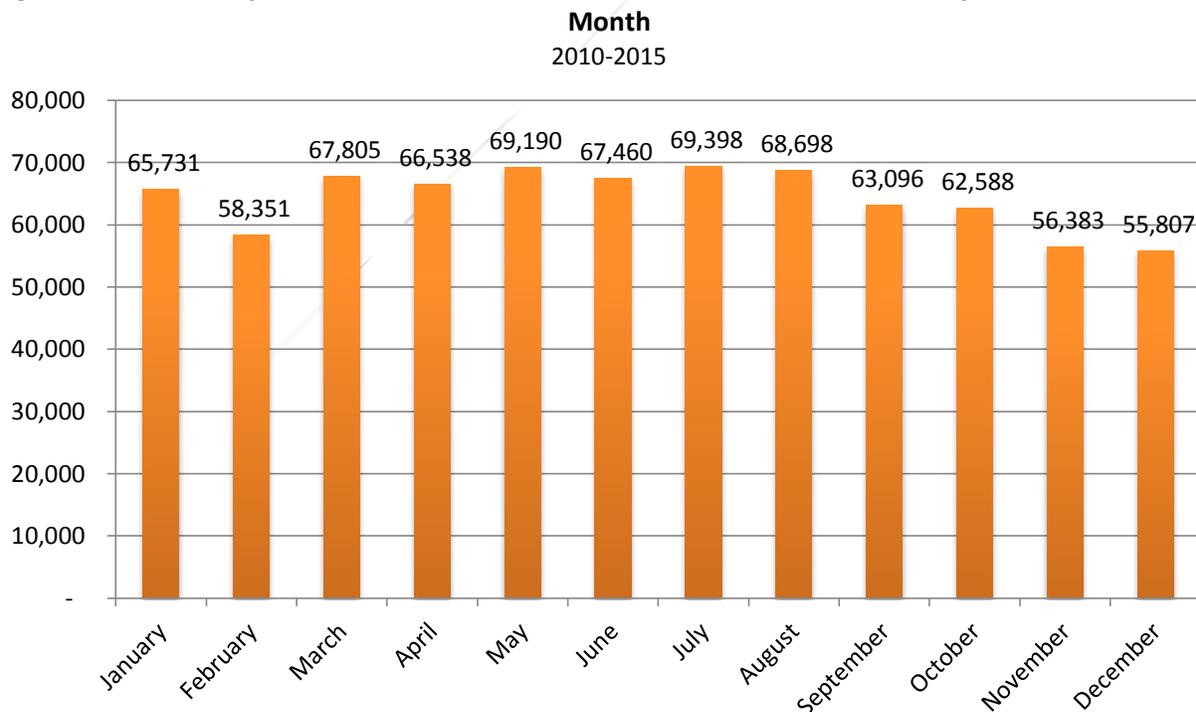
produce high volumes of complaints. Four counties reported only slightly more than 1,000 complaints for all of 2015: Hunterdon County reported 1,105 complaints; Salem County reported 1,173 complaints; Sussex County reported 1,158 complaints; and Warren County reported 1,332 complaints. Thus, while the total volume of complaints impacted by Criminal Justice Reform may be large, there is great variation to the volume of complaints across counties and also to the resources available to handle those complaints given changes under Criminal Justice Reform.

The volume of complaints issued across counties indicates the true variation of arrest activities across counties. While each county currently employs resources to meet their current needs, the impact of Criminal Justice Reform will be undoubtedly tied to the complaint volume in that county. As such, the allocation of personnel, financial, and other resources to counties will vary based on county volume.

Month

While arrests can occur at any time, there is an apparent clustering across the year. Criminal Justice researchers and practitioners have long noted seasonality to crime, particularly violent crimes; higher volumes of crime are noted in warmer months and lower volumes are noted in colder months. To a lesser extent, these same trends were noted for complaints issued for indictable and domestic violence disorderly persons offenses in New Jersey as shown in Figure Six. For complaints issued from 2010 to 2015, the highest proportion, 9%, were made in the month of July. However, there is a less than one percent difference in the proportion of complaints made in all months except for November and December. Typically, between 8% and 9% of all complaints were made each month.

Figure Six: Total Complaints Issued for Indictable & Domestic Violence Disorderly Persons Offenses by



While Figure Six depicts a relatively flat monthly distribution across the six years of data, there is variation within each individual year. Table Two depicts the months with the highest and lowest volume of complaints issued for 2010 to 2015. In four of the six years of data, summer months (June and August) have the highest volumes of complaints. In the remaining two years, April and May, also warmer months, have the highest volumes. Conversely, the months with the lowest volumes of complaints are consistently in colder months. In five of the six years of data, the lowest volume of complaints occurred in November or December. In 2015, February had the lowest volume of complaints.

Table Two: Highest and Lowest Monthly Complaint Volumes
2010-2015

	Highest Month	Lowest Month
2010	June	December
2011	April	November
2012	August	November
2013	August	December
2014	May	November
2015	August	February

While agencies are likely aware that arrest volume varies across the year, a monthly analysis further illustrates this volume and variation. By examining monthly trends, agencies can determine whether they need to provide the same resources at all times or whether they only need high levels of resources at certain times.

Weekly

Just as arrests vary across months, variation in crime can be observed across weeks. Agencies may not need the same level of resources in every week of the year. For example, arrest volumes in agencies across New Jersey vary based on seasonal population fluctuations. There are some agencies which make an extremely small number of arrests during the winter and a considerably larger volume in the summer and vice versa. Thus, weekly analysis is necessary to determine the potential resources needed for changes under Criminal Justice Reform.

The average number of complaints issued for indictable offenses and domestic violence disorderly persons offenses per week was calculated to determine the weekly volume of complaints.⁵³ Table Three depicts these averages for each year and the highest and lowest volume in any week during the years depicted. Overall, 2010 had the highest weekly average while 2015 had the lowest weekly average number of complaints for indictable and disorderly persons offenses. This is consistent with expectations based on the declining crime rate (See Figure Four, page 50). Further, there is considerable variation in the highest and lowest number of complaints per week across years. In 2012, for example,

⁵³ The information depicted uses only full weeks. In some years, the first and final weeks of the year were not a full seven days. These weeks were excluded from this analysis to minimize potential skew in the averages.

the difference between the highest and lowest weekly number of complaints is 1,501. However, in 2015, that number is only 724. Thus, in 2015, there appears to be less fluctuation in the number of complaints across weeks than in previous years, especially 2012.

Table Three: Average Weekly Complaints
2010-2015

	Average	Minimum	Maximum
2010	2,626.75	2,034	2,967
2011	2,353.94	1,923	2,795
2012	2,582.50	1,447	2,948
2013	2,557.37	2,017	2,915
2014	2,475.86	1,914	2,791
2015	2,242.82	1,799	2,523

As noted previously, the Criminal Justice Reform Questionnaire was issued to all police departments, Sheriffs’ Offices, Prosecutors’ Offices, and county jails in the State to ascertain the timing of arrests. Due to the timing constraints on the production of this study, the data collection period was limited to July 31st to August 6th, 2016. Though there was little choice in the period selected, it is still important to compare the volume noted during this week to every other week in each year to determine whether this week provides an accurate estimation of complaint volumes.

Figure Seven: Complaint Volume for July 31st to August 6th
2010-2015

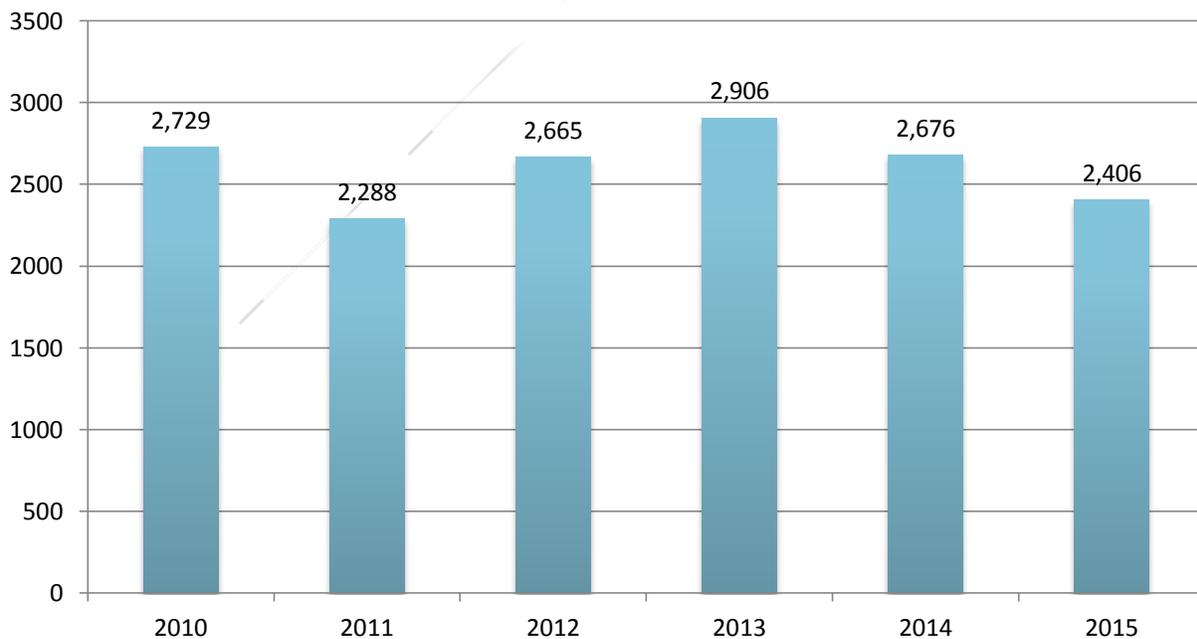


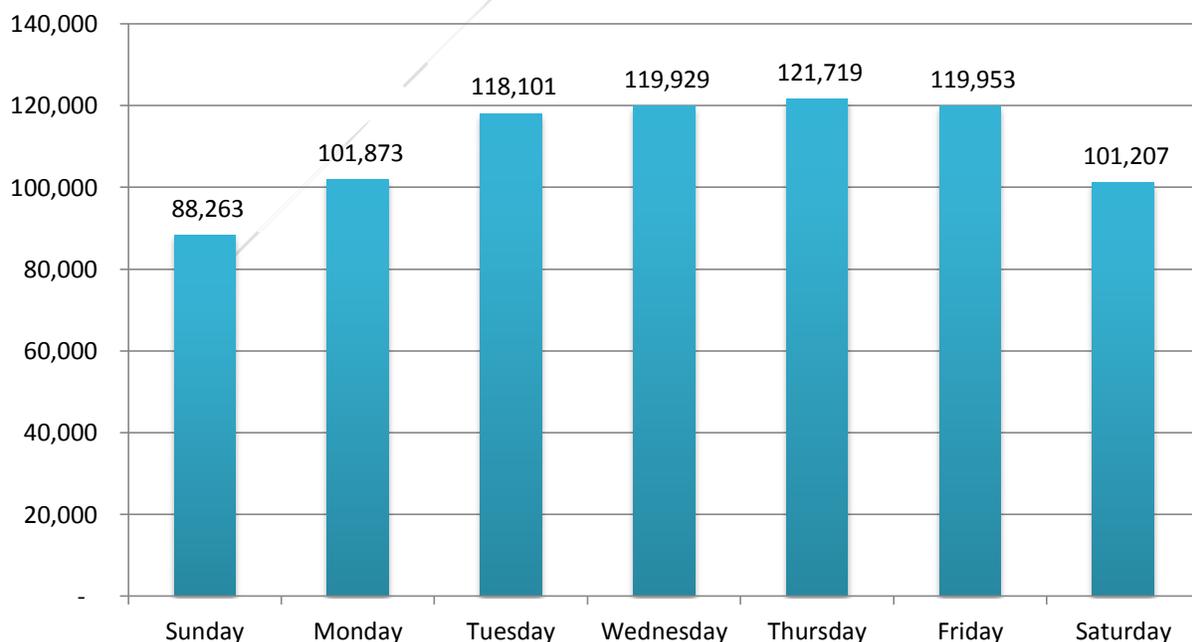
Figure Seven depicts the volume of complaints issued for the week of July 31st to August 6th for 2010 to 2015. On average, there are about 2,611.67 complaints issued in this week across all six years. However,

the true volume ranges from 2,288 to 2,906 arrests for this one week period. With one exception, when compared to all other weeks in each year, the period of July 31st to August 6th ranks higher than the average volume of arrests per week. The number of arrests made from July 31, 2011 to August 6, 2011 was less than the average for any week in 2011. Given this, the happenstance selection of July 31st to August 6th for the reporting period on the questionnaire is unlikely to provide an underestimate of arrest volume in the State. Naturally, there may be department-specific exceptions to this trend. However, overall, across the State, this week is representative of the general arrest volume in New Jersey.

Day of Week

One of the potential challenges to Criminal Justice Reform is the mismatch between court hours and the hours of crime. Crime is a constant; its occurrence is not limited to the normal business hours of most courts. As such, the time requirements implemented by Criminal Justice Reform (See Speedy Trial and Indictment Section, page 42-44) may be a logistical challenge depending on the timing of a crime and arrest. While the exact time of arrests was unavailable in the Promis/Gavel data, the day of the arrest was determinable. This, at the very least provides an indication of the volume of arrests made outside business hours, on weekends. Figure Eight depicts the volume of arrests made per day for 2010 to 2015. The largest number of arrests were made on Thursdays, 121,719 arrests for 2010 to 2015. However, there were also a very high number of arrests made on Tuesdays, Wednesdays, and Fridays. While the Tuesday volume is slightly smaller, the volume of arrests on Wednesdays and Fridays is nearly identical. As shown, the volume of arrests on Sundays is considerably smaller than on any other day of the week. This pattern holds for all years except 2013 when the largest number of arrests were made on Wednesdays. However, across counties, there is much more variation to the day with the highest volume of arrests.

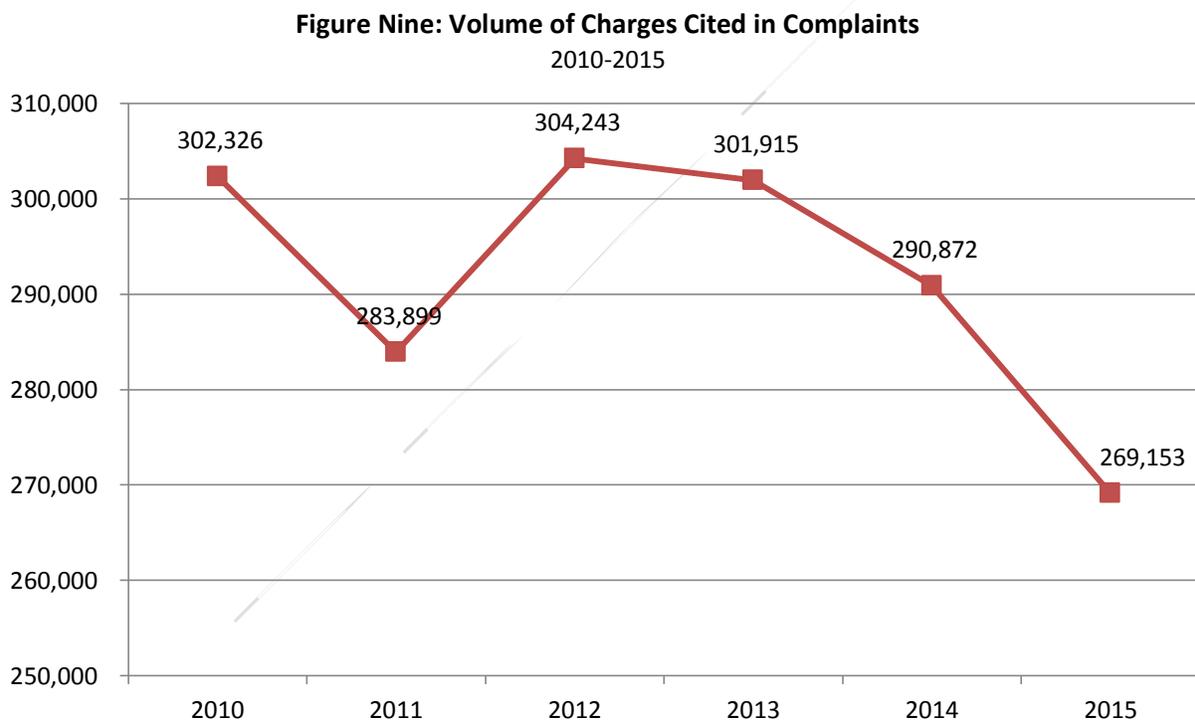
Figure Eight: Complaint Volume per Day of the Week
2010-2015



Statutes

Data from Promis/Gavel also included information on the statutes cited in complaints for indictable offenses and domestic violence disorderly persons offenses. In each complaint, multiple charges can be cited. As such, the total number of statutes cited is larger than the total number of complaints issued or arrests made. The charges are coded based on Title 2C chapter title to aid interpretation. The statutes cited are relevant to discussions of Criminal Justice Reform for multiple reasons. Though each specific crime is unique in terms of facts and circumstances, patterns do emerge in criminality. Thus, there may be similar elements to processing crimes based on the type of crime committed. Further, the specific charge cited may also invoke a presumption or requirement of charging by complaint-warrant.

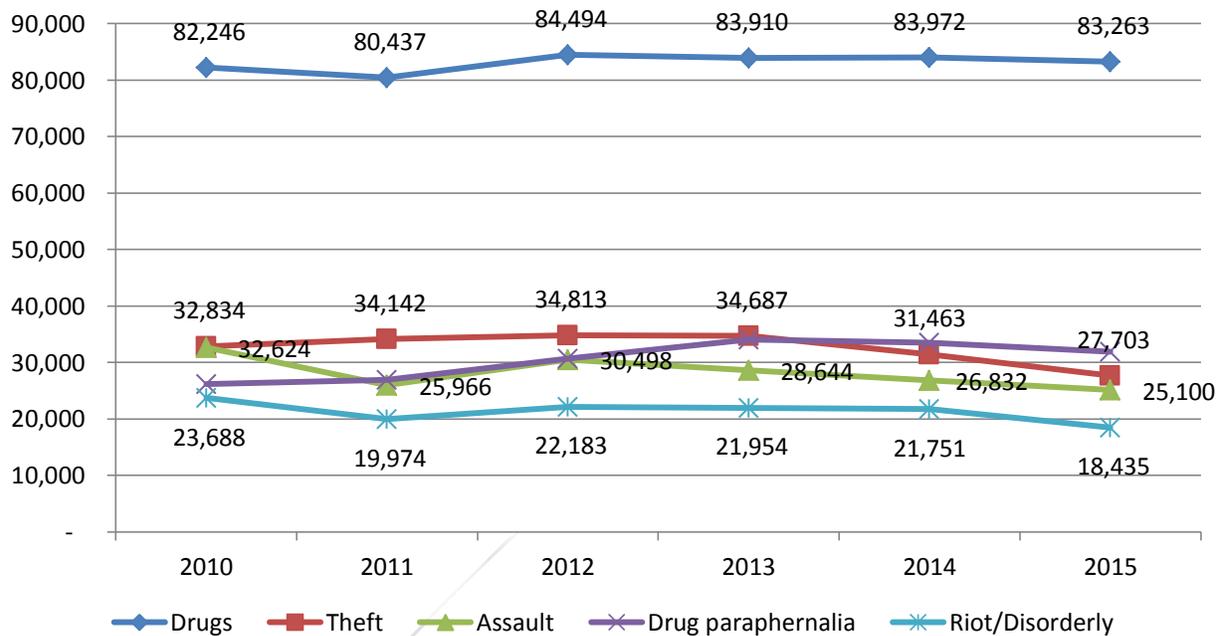
Consistent with the total volume of complaints for indictable persons offenses and domestic violence disorderly persons offenses, the volume of statutes cited in these complaints has declined since 2010. In fact, the pattern of the decline is very similar to the pattern noted among complaints. Figure Nine depicts the volume of charges cited in complaints from 2010 to 2015. As shown, there is a general decline from a high of 304,243 statutes cited in 2012 to 269,153 statutes cited in 2015, an 11.54% decrease.



From 2010 to 2015, the most commonly cited statutes rarely fluctuated. In fact, the five most commonly cited statutes in each year did not change at all. There was variation among the five most common in terms of frequency but, in each year Drugs (2C:35), Theft (2C:20), Assault (2C:12), Drug Paraphernalia (2C:36), and Riot/Disorderly Persons (2C:33) offenses were the most frequently cited statutes. Figure Ten depicts the five most frequently cited 2C chapters from 2010 to 2015. Across all years, Drug charges are by far, the most frequently cited charge, comprising 27% (2010) to 31% (2015) of all statutes cited.

Drug Paraphernalia charges became the second most frequently cited chapter in 2014. Riot/Disorderly charges were consistently the least frequently cited among all statutes. These charges were between 7% (2015) and 8% (2010) of all charges cited. Though the degrees of these crimes are unknown, they are not likely to all result in a warrant presumption or requirement. Thus, since many, if not most, of these arrests will likely result in a summons (unless the arrestees risk assessment identifies them as high risk based on their criminal history), the reporting, timing, and other limiting requirements of Criminal Justice Reform will likely not apply. Only a small portion of arrestees will be subject to first appearance hearings within 48 hours, detention hearings, and pretrial detention. Most arrestees, then, will likely be released from the station.

Figure Ten: Top Five 2C Chapters Cited in Complaints
2010-2015



Summary

Overall, the complaints data on indictable offenses and domestic violence disorderly persons offenses indicate:

- The volume of complaints has declined over the past six years;
- The largest portion of these complaints occur in Essex and Camden counties while the smallest occur in Hunterdon, Salem, and Sussex counties;
- The complaint volume typically peaks in the summer months (June-August) and dips in the early winter (November-December);
- The variation in complaint volumes across weeks of the year has declined; the weekly complaint volume is more constant in recent years;
- The volume of complaints for the period of July 31st to August 6th of any year is larger than the volume of complaints in any other weekly period;
- The highest volume of arrests occur on Thursdays;

- The statute information indicates that overall, the majority of arrestees for indictable offenses and domestic violence disorderly persons offenses are charged with drug related crimes.

Administrative Office of the Courts (AOC) Data

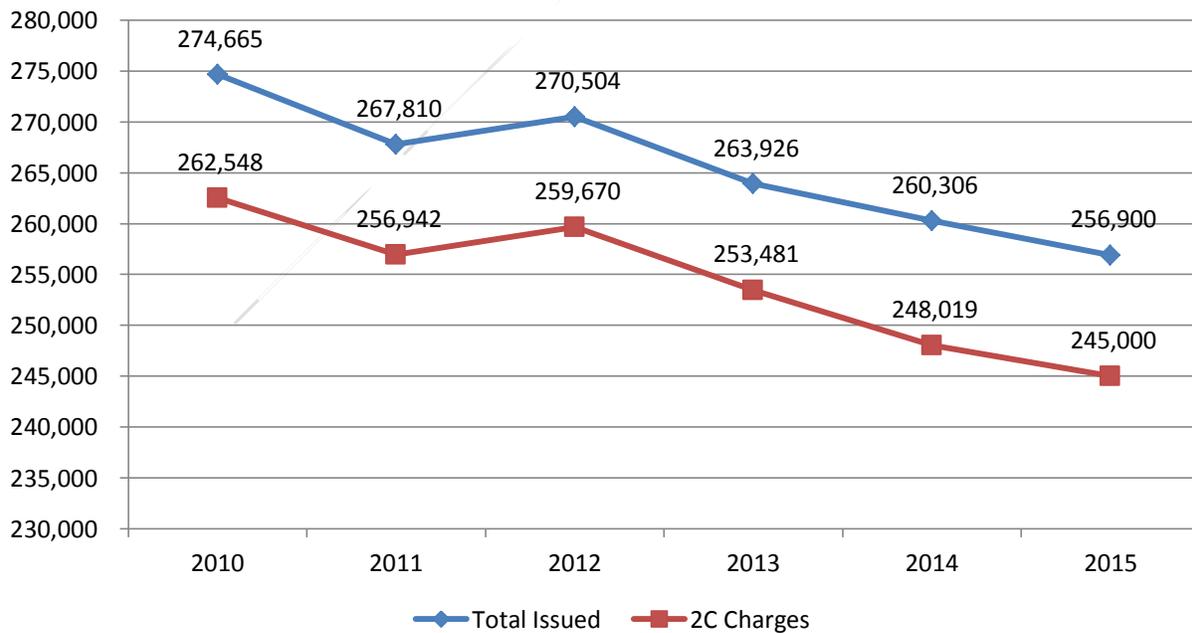
Municipal Court Indictable Offenses, Disorderly Persons, and Petty Disorderly Persons Offenses

As previously indicated, data were also obtained from the AOC. These data indicate the number of complaint-summonses and warrants issued for indictable, disorderly persons offenses, and petty disorderly persons offenses handled in Municipal Courts in each year. Included for each summons are the date of issuance, data of arrest, the initial charges cited, the final charges cited, the initial bail amount, and the date of final disposition on the case. These data were obtained for complaint-summonses or warrants made from 2010 to September 19, 2016. Though these cases remained with the Municipal Court, they also represent a portion of the arrests that would be subject to the new policies and procedures of Criminal Justice Reform.

Total Complaints Issued

Figure Eleven depicts the total number of complaint-summonses and warrants issued for each year from 2010 to 2015. As shown, there has been an overall 6.47% decline in the total number of complaints issued from 2010 to 2015. This is consistent with the general decline noted in data obtained from Promis/Gavel and with larger crime trends during the same time period. The majority of complaints issued, 95%, were issued for 2C charges. The remaining 5% were issued based on other charges such as local ordinances.

Figure Eleven: Total Complaint-Summonses and Warrants Issued
2010-2015



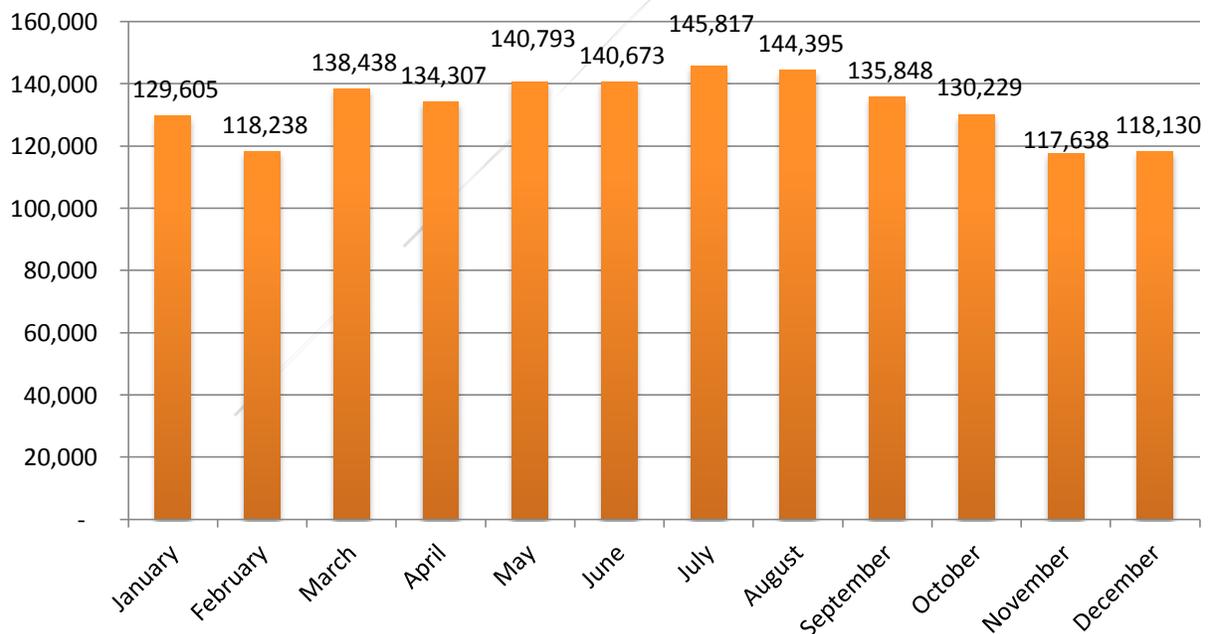
Counties

The 256,900 complaints in 2015 were issued by police departments in all 21 counties. On average, there were 12,233 complaints issued per county in 2015. Essex County typically issued the highest number of complaints, 36,116 in 2015, followed by Camden County with 23,396 complaints in 2015. The trend depicted in Figure Five most closely matches the trends noted in Essex and Camden counties. These two counties issued about 23% of the total complaints issued in 2015. Thus, the overall trend is driven by counties which produce high volumes of complaints. Four counties reported fewer than 3,000 complaints for all of 2015: Hunterdon County reported 1,872 complaints; Salem County reported 2,775 complaints; Sussex County reported 2,392 complaints; and Warren County reported 2,664 complaints. Thus, while the total volume of complaints impacted by Criminal Justice Reform may be large, there is great variation to the volume of complaints across counties.

Month

As noted previously, research has noted seasonality to crime. Figure Twelve depicts the volume of complaints issued in each month from 2010 to 2015. For the complaints issued from 2010 to 2015, the highest proportion, 9%, were made in the month of July. However, there is a less than one percent difference in the proportion of complaints made in all months except for February, November, and December. As noted in the data obtained from Promis/Gavel, typically between 8% and 9% of all complaints were made each month.

Figure Twelve: Total Complaints Issued for Indictable & Domestic Violence Disorderly Persons Offenses by Month



While Figure Twelve depicts a relatively flat monthly distribution across the six years of data, there is variation within each individual year. Table Four depicts the months with the highest and lowest volume of complaints for 2010 to 2015. Generally, the information in this table matches that noted in Table

Two. However, some variation is evident. In all years of data, summer months (June, July, and August) have the highest volumes of complaints. Conversely, the lowest volumes of complaints are consistently noted in colder months. In four of the six years of data, the lowest volume of complaints occurred in November or December. In 2011 and 2015, February had the lowest volume of complaints.

Table Four: Highest and Lowest Monthly Complaint Volumes

	Highest Month	Lowest Month
2010	June	December
2011	July	February
2012	August	November
2013	August	December
2014	July	November
2015	July	February

Weekly

The average number of complaints issued for indictable offenses, domestic violence disorderly persons offenses, and petty disorderly persons offenses per week was calculated to determine the weekly volume of complaints.⁵⁴ Table Five depicts these averages for each year and the highest and lowest volume in any week during the years depicted. Overall, 2010 had the highest weekly average while 2015 had the lowest weekly average number of complaints for indictable and disorderly persons offenses. This is consistent with the Promis/Gavel data. Further, there is considerable variation in the highest and lowest number of complaints per week across years. In 2012, for example, the difference between the highest and lowest weekly number of complaints is nearly 3,000 complaints. However, in 2015, the difference is only 1,637. Thus, similar to Promis/Gavel data, in 2015, there appears to be less fluctuation in the number of complaints across weeks than in previous years, especially 2012.

**Table Five: Average Weekly Complaints Issued
2010-2015**

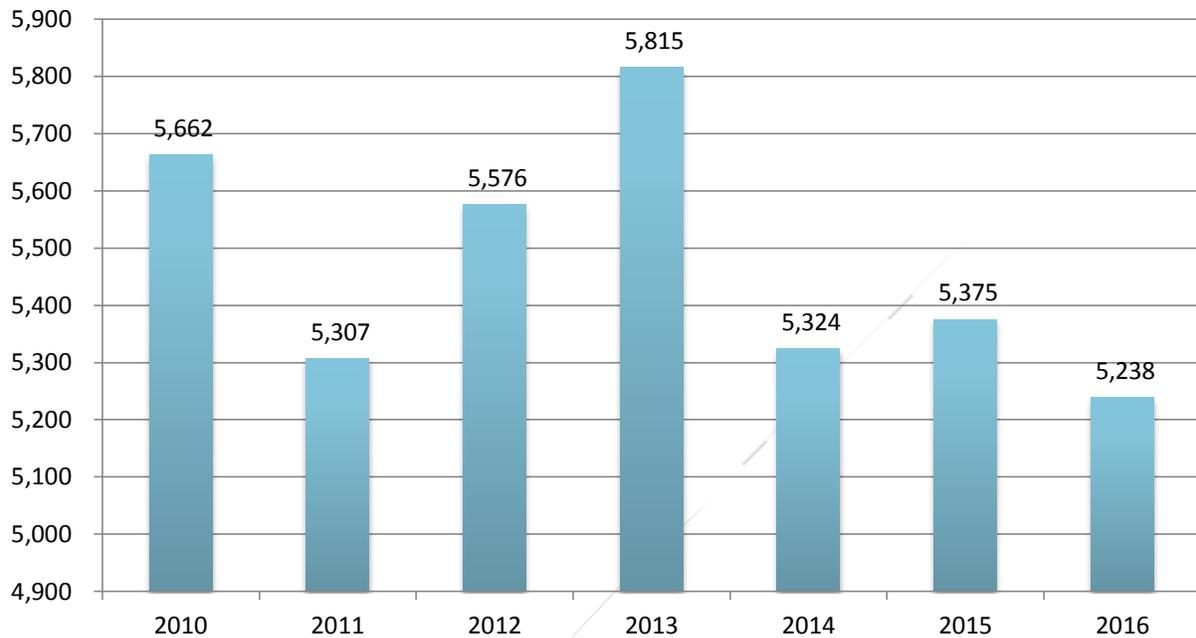
	Average	Minimum	Maximum
2010	5,318.12	3,831	6,052
2011	5,141.79	3,856	5,748
2012	5,182.46	2,862	5,797
2013	5,068.49	3,697	5,722
2014	5,012.63	3,518	5,791
2015	4,939.35	3,902	5,539

Figure Thirteen depicts the volume of complaints issued for the week of July 31st to August 6th for 2010 to 2015. On average, there are about 5,471 complaints issued in this week across all six years. However,

⁵⁴ The information depicted uses only full weeks. In some years, the first and final weeks of the year were not a full seven days. These weeks were excluded from this analysis to minimize potential skew in the averages.

the true volume ranges from 5,307 to 5,815 complaints for this one week period. When compared to all other weeks in each year, the period of July 31st to August 6th ranks higher than the average volume of complaints issued per week. This again confirms that the selection of July 31st to August 6th as the reporting period on the questionnaire is unlikely to provide an underestimate of complaint volume in the State.

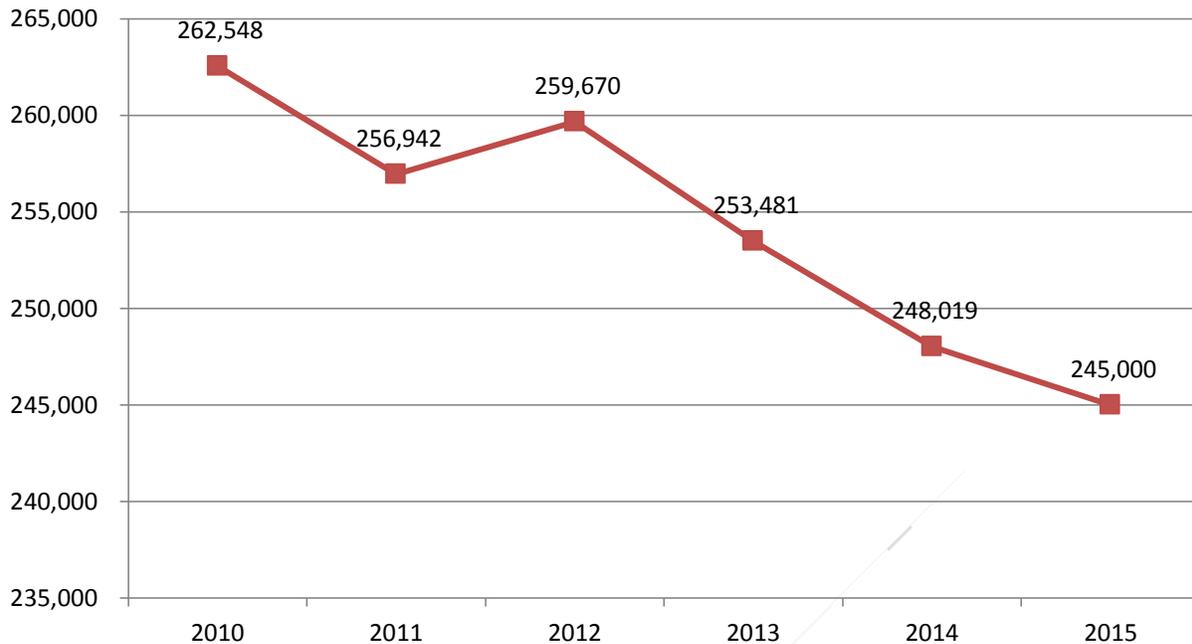
Figure Thirteen: Complaint Volume for July 31st to August 6th
2010-2015



Statutes

As noted previously, in each complaint, multiple charges can be cited. As such, the total number of statutes cited is larger than the total number of complaints issued or arrests made. Consistent with the total volume of complaints for indictable persons offenses and domestic violence disorderly persons offenses, the volume of statutes cited in these complaints has declined since 2010. In fact, the pattern of the decline is very similar to the pattern noted among complaints. Figure Fourteen depicts the volume of charges cited in complaints from 2010 to 2015. The graph depicts the frequency with which 2C Titles were cited in complaints issued each year. As shown, there is a general decline from a high of 262,548 2C Titles cited in 2010 to 245,000 statutes cited in 2015, an 6.68% decrease.

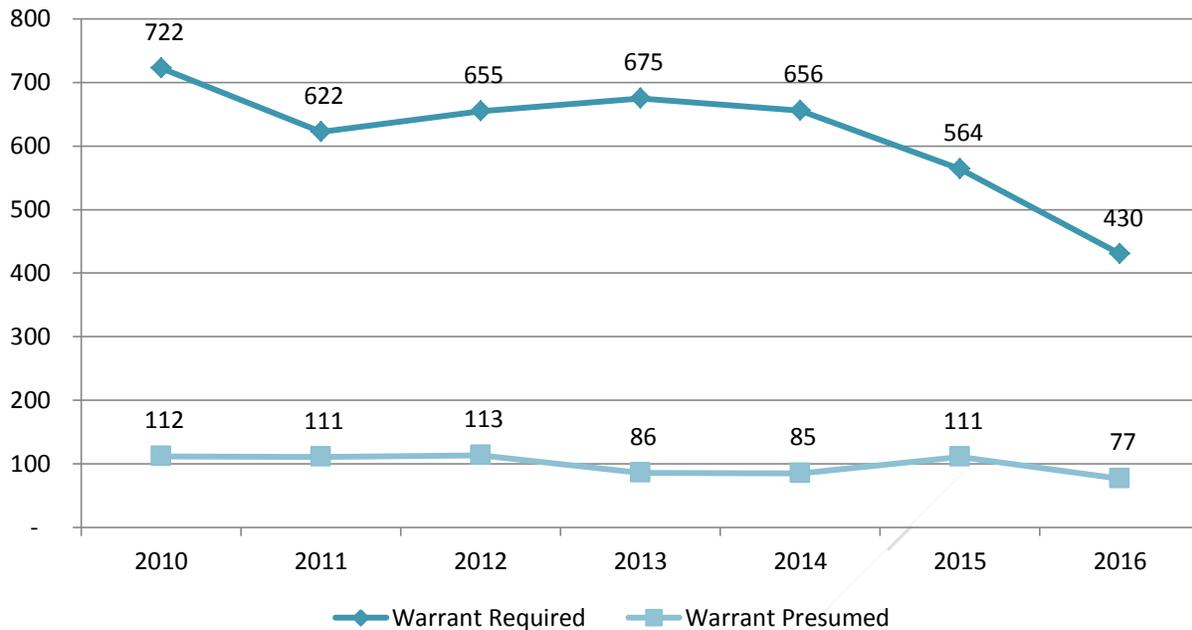
Figure Fourteen: Volume of 2C Titles Cited in Complaints Issued
2010-2015



Based only on the charges cited in each complaint, it was determined whether a complaint-summons or complaint-warrant would be required under Criminal Justice Reform. As noted previously, there are a number of charges that require the issuance of a warrant and some that presume the issuance of a warrant. The majority of charges, however, presume the issuance of a complaint-summons. Generally, the charges requiring or presuming a warrant are not especially common. As shown in Figure Fifteen, in each year, fewer than 1,000 complaints issued would require a warrant. Even fewer, typically about 100, would presume a warrant. Further, the volume of complaints that would require or presume a complaint-warrant, based on charges alone, has decreased over the past four years.

Again, this indicates that the majority of arrestees will be released at the station. These individuals will not require transports, a first appearance, or a potential detention hearing. Thus, the time requirements of Criminal Justice Reform under the Speedy Trial and Speedy Indictment components will not apply to all arrests. Thus, the bulk of arrests will only be affected by the renovations that take place prior to the issuance of a complaint. As noted previously, this portion of the reforms intended to create uniformity and consistency in charging decisions and to ensure that cases are funneled to the appropriate court and screened for adequacy.

Figure Fifteen: Volume of Charges Requiring and Presuming a Warrant in Complaints Issued
2010-2015



Length of Cases

Major components of Criminal Justice Reform are the Speedy Indictment and Speedy Trial requirements. These elements place constraints on the amount of time that may pass between commitment to detention and indictment and between indictment and trial date. The purpose of these requirements is to ensure that cases do not languish unnecessarily prior to trial. As noted previously, extensive periods of time have elapsed for many arrest cases in New Jersey.⁵⁵ Analysis of current case lengths provides context for Criminal Justice Reform by indicating how much of an impact the time requirements will have.

Data provided by the AOC include the date of arrest, the date the complaint was issued and the date the complaint was disposed of. The disposition date may be indicative of several actions- the date the individual pled, the date the case was dismissed, or the date that the trial was completed. For complaints issued in 2015, there were 196,402 complaints with a disposition date that occurred after the date of complaint issuance. On average, complaints were resolved in 141.40 days. However, there is considerable variation to this length.

Complaints were coded based on the disposition type issued. Complaint findings of “guilty” or “not guilty” are those that went to trial. All other complaint findings were dismissed at some point prior to trial through a plea agreement, remanding to another Court, dismissal on legal or factual bases, or charges were dropped. There were 46,102 complaints that resulted in a finding of guilty or not guilty

⁵⁵ VanNostrand, Marie (2013). New Jersey Jail Population Analysis: Identifying Opportunities to Safely and Responsibly Reduce the Jail Population. Available at:

https://www.drugpolicy.org/sites/default/files/New_Jersey_Jail_Population_Analysis_March_2013.pdf

and 150,296 that were dismissed. Of these complaints that went to trial, the average length of the case from date of issue to date of disposition was 114.93 days. For complaint-summonses this average was 116.51 days and for complaint-warrants it was 110.45 days. For dismissed complaints (those that did not go to trial), the average length of time from issuance to disposition was 149.53 days. For complaint-summons it was 138.75 days and for warrant complaints it was 162.84 days.

These averages are consistent with the requirements of the Speedy Indictment and Speedy Trial deadlines. However, there are 14,332 complaint-warrants issued in 2015 that would likely not meet the time requirements. For these complaints, more than 270 days passed between the date the complaint was issued and the date the case was disposed. It is unknown how many of these arrestees were actually detained. It is likely that not all 14,332 complaint-warrants resulted in detention. In 7,963 of these cases bail was set and not posted, indicating that these individuals are likely those held in jail for the duration of their case. These complaints represent the volume of complaints that could result in release from detention for violating the Speedy Indictment and Trial requirements.

Summary

Overall, the AOC complaints data indicate:

- The volume of complaints has declined over the past six years;
- The largest portion of these complaints occur in Essex and Camden counties while the smallest occur in Hunterdon, Salem, Sussex, and Warren counties;
- The complaint volume typically peaks in the summer months (June- August) and dips in the early winter (November- December);
- The variation in complaint volumes across weeks of the year has declined; the weekly complaint volume is more constant in recent years;
- The volume of complaints for the period of July 31st to August 6th of any year is comparable to the volume of complaints in any other weekly period;
- The statute information indicates that overall, the majority of complaints would result in a complaint-summons under Criminal Justice Reform;
- While the overall average period of time between issuance of the complaint and disposition was not excessively lengthy, a large proportion of complaint-warrants would violate the timing requirements of the Speedy Indictment and Speedy Trial as upwards of 270 days passed between detention and case disposition.

County Jail Volume

In addition to the volume of arrests, the county jail population is relevant to understanding the context within which Criminal Justice Reform will take place. A 2015 report from the Vera Institute of Justice commented on the current use of jails.⁵⁶ Across the United States, jail detention has become an

⁵⁶ Subramanian Ram., Delany, Ruth, Roberts, Stephen, Fishman, Nancy, and McGarry, Peggy. (2015). *Incarceration's Front Door: The Misuse of Jails in America*. Vera Institute of Justice. New York: NY.

http://archive.vera.org/sites/default/files/resources/downloads/incarcerations-front-door-report_02.pdf

increasingly popular method to combat crime. The rising numbers of inmates housed in county jails are not necessarily indicative of an escalating crime problem. Though arrest rates have declined over the past 30 years or so, the number of individuals booked in jails has increased. Some estimates suggest that there has been a 500% increase in jail spending to combat rising jail populations.⁵⁷ The majority of individuals housed in jails serve prior to their trial and are serving for a longer period of time than they had over the past 30 years.

For these reasons, a goal of Criminal Justice Reform is to decrease the proportion of individuals unnecessarily held in county jail prior to trial and to ensure that only those who pose the greatest risk are those held in detention. This could lead to long-term cost reductions as prison populations decrease.

Average Length of Stay

The Administrative Office of the Courts maintains records of individuals committed to county jails. Included in these records are the date of commitment and the date of release. These dates are used to determine the average length of stay of inmates. Research has noted lengthy periods of commitment for individuals prior to trial. Under Criminal Justice Reform, individuals receiving a complaint-warrant will be required to serve between 24 and 48 hours in jail prior to a determination of whether to detain or release the individual. Based on the New Jersey validation study of the PSA, only about 21% of inmates who were already detained pretrial were at a severe enough risk to warrant detention. The remaining inmates, though already detained, did not rank high enough on the risk assessment to require detention and would have been recommended for release.⁵⁸

At present, the population of individuals committed to jail prior to trial is dependent on the ability to make bail. Under Criminal Justice Reform, individuals are only committed to jail for a 48 hour period after the issuance of a complaint-warrant. After the first appearance hearing, only a small portion of arrestees will be detained in jail for a longer period of time, those who pose the greatest risk of re-offending, committing a new violent crime, and/or failing to appear. Thus, there are likely a number of individuals who are committed currently who would not be held for a period longer than 48 hours under Criminal Justice Reform. Ultimately then, because all arrestees who are issued a complaint-warrant will be detained initially, the overall volume of inmates committed throughout a year may not change, but the average length of stay of inmates is anticipated to decline, as only a small portion of arrestees will be held longer than 48 hours.

The average length of stay of inmates housed in county jails was calculated for 2014, 2015, and 2016. The average was calculated in two ways. First, the average length of stay for all active inmates in the time period was calculated. This number provides the average length of stay for all inmates in the jail during the time period in question regardless of when they were released. Second, the average length of stay of discharged inmates was calculated. The National Institute of Corrections (NIC) uses a specific

⁵⁷ National Association of Counties. (2009). Jail Population Management: Elected Officials' Guide to Pretrial Services. Washington, DC. <http://www.naco.org/sites/default/files/documents/Jail%20Population%20Management%20Guide.pdf>

⁵⁸ VanNostrand, Marie (2016). Introduction to the Public Safety Assessment and Decision Making Framework. Presented in July 2016 at the New Jersey First Assistant Prosecutors' Meeting.

count of inmates when calculating the average length of stay. This official count includes only inmates who were discharged during the time period in question. So, the average for 2014 would only include inmates who were discharged in 2014. If an inmate was housed for any period of time in 2014, but was not released until after 2014, they would not be included in the average for 2014. Thus, this average is a more accurate reflection of the average length of stay for discharged inmates. Both averages are depicted in the Table Six.

In 2014, there were 156,652 inmates housed in county jail for any period of time during the year.⁵⁹ There were also 141,324 inmates discharged from county jails in 2014. On average, each county housed 7,460 inmates and discharged 6,730 inmates during 2014. The largest number of inmates housed and discharged was in Essex County, 22,910 inmates housed and 20,290 inmates discharged. The smallest number of inmates housed and discharged was in Hunterdon County, 975 inmates housed and 899 discharged.⁶⁰ The average length of stay for active inmates in county jail in 2014 was 57 days while the average for discharged inmates was 43 days. Across counties the average length of stay varied considerably. Using the first method of calculation, the longest average length of stay was 87 days noted in Mercer County. The shortest average was 34 days noted in Burlington and Gloucester counties. Using the second method of calculation, the longest average length of stay (for discharged inmates) was 63 days in Mercer County, and the shortest average was 25 days in Somerset County.

In 2015, there were 149,029 inmates housed in county jail during the year. This number represents a nearly 5% decrease in the number of inmates compared to 2014. Additionally, there were 133,534 discharged inmates in 2015, a 6% decrease from 2014. As noted in 2014, Essex County housed and discharged the largest number of inmates, 19,579 inmates were housed and 16,497 inmates were discharged. Hunterdon County housed the smallest number of inmates, 1,038 inmates, and discharged the smallest number of inmates, 960 inmates. Overall, the average length of stay of active inmates was 59 days while the average length of stay for discharged inmates was only 44 days. However, the average length of stay of active inmates was as high as 88 days in Mercer County and as low as 35 days in Burlington and Somerset counties. The longest average length of stay for discharged inmates was 64 days in Passaic County, and the shortest length of stay was only 25 days in Somerset County.

⁵⁹ Totals consist of all active inmates during 2014. If any inmate was committed prior to 1/1/2014 but active in 2014, 1/1/2014 was used as the start date. If any inmate was discharged after 12/31/2014 but active in 2014, 12/31/2014 was used as end date.

⁶⁰ Hunterdon County does not actually maintain its own county jail. Instead, inmates from Hunterdon County are typically housed in Somerset County. These numbers may be reflective of individuals housed in other jails or under the guise of Hunterdon County's corrections, but not actually in jail- those on work release, home-monitoring, or some other non-residential program.

Table Six: Average Length of Stay of Active and Released Inmates in County Jails

County	2014-2016											
	2014				2015				2016			
	Total Inmates	Average Stay of Active Inmates	Total Inmates Released	Average Stay of Released Inmates	Total Inmates	Average Stay of Active Inmates	Total Inmates Released	Average Stay of Released Inmates	Total Inmates	Average Stay of Active Inmates	Total Inmates Released	Average Stay of Released Inmates
Atlantic	10,495	43	9,651	35	10,670	40	9,819	32	7,457	45	7,041	34
Bergen	8,766	55	7,905	40	8,449	58	7,598	39	5,539	72	4,948	39
Burlington	8,539	34	7,979	28	8,289	35	7,774	27	5,496	38	5,257	30
Camden	16,323	59	14,590	45	15,092	64	13,393	47	9,747	77	8,578	55
Cape May	3,341	41	3,072	34	3,145	46	2,862	38	2,054	50	1,870	37
Cumberland	6,725	48	6,188	36	6,547	45	6,047	37	4,461	44	4,238	31
Essex	22,910	71	20,290	56	19,579	79	16,497	59	13,890	94	11,672	65
Gloucester	6,131	34	5,734	27	5,755	36	5,390	27	4,096	35	4,026	26
Hudson	12,618	84	10,985	62	11,967	83	10,363	63	8,739	83	7,665	55
Hunterdon	975	39	899	35	1,038	36	960	31	730	36	694	33
Mercer	5,615	87	4,837	63	5,386	88	4,624	59	3,901	100	3,330	59
Middlesex	8,873	53	8,116	41	8,691	54	7,845	39	6,167	62	5,587	41
Monmouth	10,169	46	9,321	35	9,794	48	8,968	35	6,505	54	5,997	33
Morris	3,200	55	2,904	41	3,095	53	2,817	44	2,178	49	2,028	35
Ocean	8,436	42	7,824	35	8,414	38	7,840	30	5,398	43	5,050	32
Passaic	8,392	79	7,225	55	8,333	81	7,358	64	5,577	79	4,895	54
Salem	2,315	38	2,165	33	2,269	38	2,101	30	1,570	44	1,467	30
Somerset	3,296	35	3,108	25	3,449	35	3,166	25	2,764	43	2,594	30
Sussex	1,414	60	1,258	46	1,408	61	1,273	46	953	64	868	45
Union	6,560	66	5,852	45	6,124	72	5,428	48	4,239	83	3,748	47
Warren	1,559	46	1,421	33	1,535	47	1,411	37	1,069	47	1,006	34
Total	156,652	57	141,324	43	149,029	59	133,534	44	102,530	66	92,559	44

The year to date volume of inmates housed in county jail was provided for 2016. In total, there have been 102,530 inmates committed to county jail so far for 2016.⁶¹ Conversely, there have been 92,599 inmates discharged from county jail in 2016.⁶² Essex County has housed and discharged the largest proportion of inmates thus far, 13,890 inmates housed and 11,672 inmates discharged. Hunterdon County housed and discharged the smallest number of inmates, 730 inmates housed and 694 inmates discharged. On average, active inmates have been held for 66 days in 2016 while discharged inmates were held an average of 44 days. Mercer County has the longest average length of stay for active inmates, 100 days, while Essex has the longest average length of stay for discharged inmates, 65 days. Gloucester County has the shortest average length of stay for active and discharged inmates, 35 days for active inmates and only 26 days for discharged inmates.

These results suggest that the average length of stay in a jail may be influenced by the arrest caseload in each county. In counties with a smaller volume of arrests (such as Hunterdon or Gloucester), active inmates are held, on average, for a shorter period of time than counties with a larger volume of arrests (such as Essex or Mercer). This may be indicative of several potential characteristics. One is that in counties with a larger volume, there is a longer delay to trial. The second possibility is that the larger volume of cases increases the potential for more severe or complex cases that require additional resources. Further, the county jail population is likely reflective of the population within each county. The five counties with a larger volume of inmates each have large areas of urban populations. These areas typically have higher levels of crime than more rural or suburban areas, which are concentrated in the five counties with the lowest volume of inmates.

Primary Custody Status

The AOC also provided the primary custody status of inmates as of August 31, 2016. The total population of individuals in all 21 county jails on this date was 15,403. Consistent with the patterns noted in 2014, 2015, and 2016 year to date, Essex, Camden, and Hudson counties reported the largest inmate population.

⁶¹ As of August 24, 2016.

⁶² As of September 6, 2016. This date differs from the date noted for the number of active inmates because the data were provided by the AOC on different dates.

Table Seven: Total Inmates in County Jails
August 31, 2016

	Total Inmates
Atlantic	841
Bergen	937
Burlington	547
Camden	1,638
Cape May	281
Cumberland	453
Essex	2,901
Gloucester	318
Hudson	1,511
Hunterdon	86
Mercer	768
Middlesex	903
Monmouth	862
Morris	279
Ocean	643
Passaic	992
Salem	176
Somerset	318
Sussex	141
Union	698
Warren	110
Total	15,403

Figure Fifteen depicts the primary custody status of all inmates in county jails on October 3, 2012 and August 31, 2016.⁶³ On October 3, 2012 there were 13,003 inmates housed in county jails while there were 13,474 inmates on August 31, 2016.⁶⁴ This is a 4% increase in the volume of inmates, despite, as noted previously, a decline in the overall volume of arrests and index crime. As shown in Figure Sixteen, for both data points, the majority of inmates are held prior to trial. In 2012, this proportion was 73% while in 2016 it was 65%. The proportion of inmates on other services⁶⁵ is considerably larger in 2016, 20% compared to 11% in 2012. Overall, in 2016 a smaller proportion of inmates are housed in county jails pretrial, but this proportion still makes up the majority of all inmates. This population represents those who will be most impacted by Criminal Justice Reform. These inmates are those who will be screened for potential risk of failure to appear, likelihood of re-offending, and the likelihood of

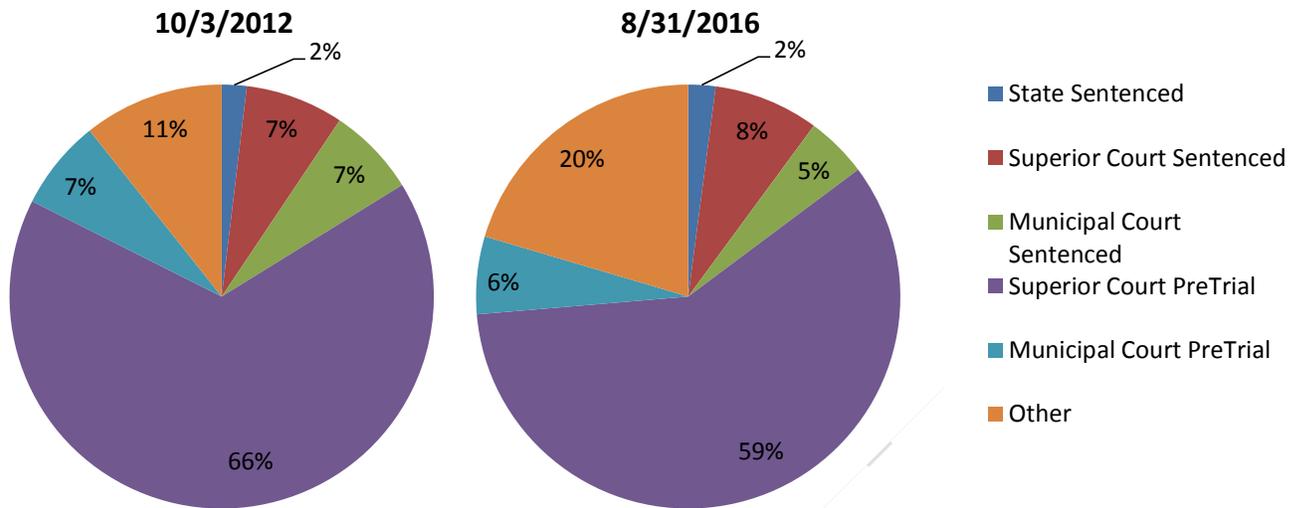
⁶³ The October 3, 2012 information was obtained from the 2013 New Jersey Jail Population Analysis. In this study, Bergen and Passaic counties did not provide information regarding their jail population.

⁶⁴ This number also excludes Bergen and Passaic counties. With Bergen and Passaic counties included, there were 15,403 inmates housed in jail on August 31, 2016.

⁶⁵ Such as work release, in home monitoring, electronic monitoring, or other non-residential programs.

committing a violent crime. Many of these inmates would likely be released prior to trial under Criminal Justice Reform.

Figure Sixteen: County Jail Inmate Custody Status



The county distribution of custody status was available for August 31, 2016.⁶⁶ On average, there were 43.4 inmates per county held with a status of municipal pretrial. The highest number of inmates with a status of municipal pretrial was found in Monmouth County, 118 inmates. On average, there were 431.85 inmates held per county prior to a Superior Court trial. The highest number of inmates with this status was in Essex County, 1,429 inmates. Camden County reported the highest number of inmates sentenced to county jail for both municipal (157 inmates) and Superior Court (317 inmates). On average, there were only 34.4 inmates per county sentenced from Municipal Court and 58.76 inmates per county sentenced from Superior Court. On average there were 15.23 inmates per county jail serving a State sentence. The largest number was in Essex County, 168 inmates. Essex County had the highest volume of inmates with a custody status of other, 1,076 inmates. On average, there were only 149.76 inmates per county with this custody status.

Across the State, as of August, 31, 2016, 64.8% of all inmates housed in county jail had a primary custody status indicating that they were currently held pretrial. However, in some counties, such as Hunterdon County, this proportion was as large as 84.88% and as small as 48.86.13% in Salem County. Conversely, only 14.78% of all inmates in county jails on August 31, 2016 were actually serving a sentence in the jail. In Camden County, 30.53% of all inmates were sentenced to Camden County Jail while in Hudson County, only 4.83% were serving a sentence. As of August 31, 2016, 20.42% of all inmates had a custody status indicating some other status (*i.e.*, work release, home monitoring, etc.). In

⁶⁶ This information was not available for 2012. As such, Bergen and Passaic counties are included in this discussion of county volumes.

Hudson County, 35.87% of the entire jail population fell under this category of custody status while in Warren County, only 5.45% of the entire jail population had a status of other.

Table Eight: Proportion of Inmates Pretrial v. Sentenced in County Jails
August 31, 2016

	% Pretrial	% Sentenced	% Other
Atlantic	51.13%	18.55%	30.32%
Bergen	50.91%	17.72%	31.38%
Burlington	76.78%	15.90%	7.31%
Camden	54.27%	30.53%	15.20%
Cape May	64.06%	18.86%	17.08%
Cumberland	76.60%	11.92%	11.48%
Essex	51.36%	11.55%	37.09%
Gloucester	72.01%	15.09%	12.89%
Hudson	59.30%	4.83%	35.87%
Hunterdon	84.88%	9.30%	5.81%
Mercer	79.82%	11.46%	8.72%
Middlesex	75.53%	17.94%	6.53%
Monmouth	84.92%	6.96%	8.12%
Morris	66.31%	22.22%	11.47%
Ocean	69.36%	20.22%	10.42%
Passaic	83.97%	8.06%	7.96%
Salem	48.86%	16.48%	34.66%
Somerset	70.44%	18.87%	10.69%
Sussex	69.50%	14.89%	15.60%
Union	81.95%	11.46%	6.59%
Warren	71.82%	22.73%	5.45%
Statewide	64.80%	14.78%	20.42%

The above illustrates the variation in custody statuses across county jails. While the pretrial population is always larger than that of the sentenced population in each county, the proportion of the sentenced population is noticeably larger in some counties. Under Criminal Justice Reform, each county should see a decrease in the number of inmates held pretrial, but the overall jail population may not decrease as noticeably due to high volumes of other custody statuses in counties with larger proportion of inmates serving sentences or with other types of custody statuses.

Summary

Overall, the data on county jails indicate:

- Inmates discharged from county jails are held for approximately 44 days (average for 2014-2016 year to date);

- The average of all active inmates is typically longer, 61 days (average for 2014-2016);
- In counties with a smaller volume of arrests, active inmates are held, on average, for a shorter period of time than counties with a larger volume of arrests;
- As of August 31, 2016, nearly 65% of all inmates in county jails are held prior to trial, slightly less than proportion noted on October 31, 2012.

State Police Arrest Data

The State Police maintain their own databases to manage trooper productivity. While arrests recorded in these databases are reflected in both the Promis/Gavel and AOC data, State Police databases are query-able in ways that the former are not. State Police are in a unique position under Criminal Justice Reform; each trooper must be aware of the county procedures for each county included in their station area. Further, State Police activity is largely trooper-initiated motor vehicle stops. As such, they historically make a high number of arrests for outstanding warrants. It is possible then, that Criminal Justice Reform may impact State Police in ways that it does not impact other police agencies in New Jersey. The following provides further information on the volume, timing, and charges cited in State Police arrests.

Total Arrests

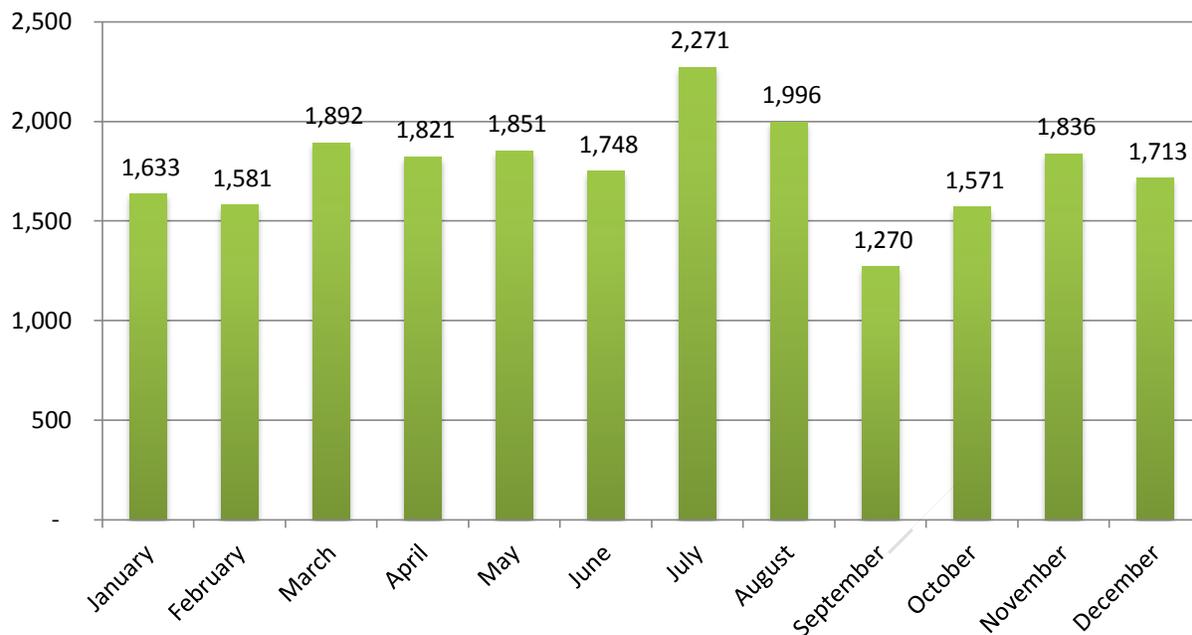
In 2015, there were 22,240 arrests of adults made by State Police. Given that the bulk of State Police's activity begins as a motor vehicle stop, the majority of these arrests stem from motor vehicle stops. Of these arrests, 20,140 resulted in a 2C Title. The remaining arrests resulted in charges from Title 5, 2A, a State Police statute, Title 39, no charges, or some other charge.

Month

As noted previously for complaints issued and recorded in Promis/Gavel or the AOC data, arrests made by State Police peak in the warmer months. State Police's arrests made in 2015 peak in July.⁶⁷ As shown in Figure Seventeen, there were 2,271 arrests made in July. The fewest number of arrests were made in September; only 1,270 arrests.

⁶⁷ Arrests made of adults for a 2C offense only.

Figure Seventeen: Monthly Volume of State Police Arrests
2015



Weekly

In each week of 2015, State Police made a minimum of 241 arrests per week and a maximum of 610 arrests per week. On average, there were 408.35 arrests per week.⁶⁸ As noted, the highest number of arrests made by State Police occurred in July. The week with the highest volume of State Police arrests also occurred in July. Aside from the month of September, the number of arrests made in each week of 2015 appears fairly consistent across the year.

Time of Day

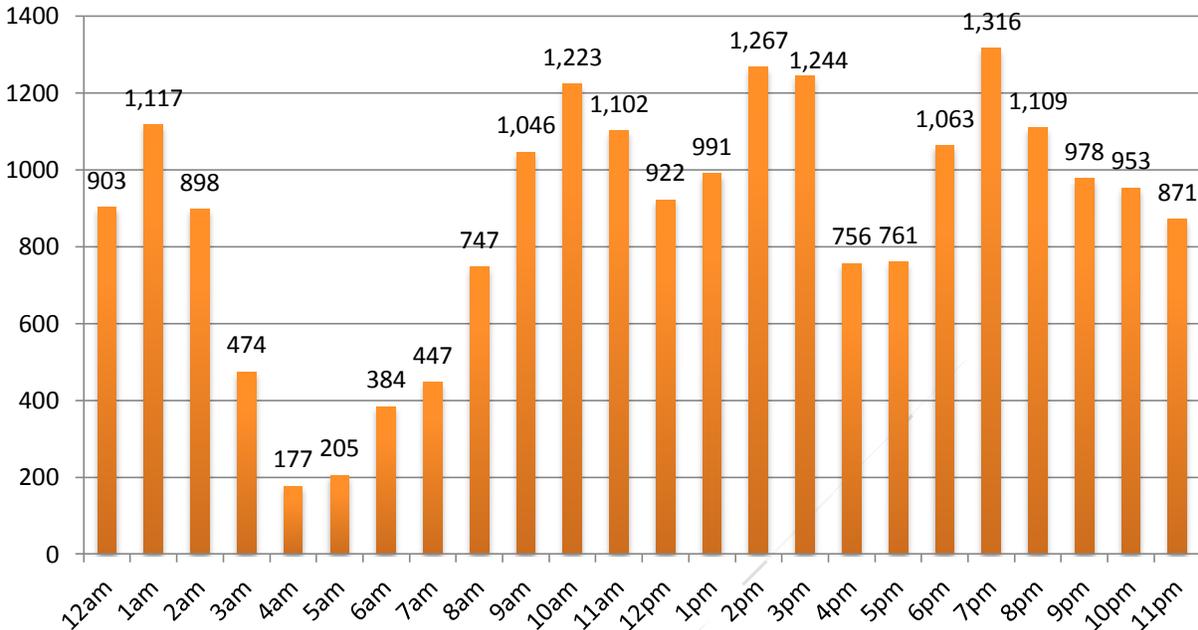
The timing of arrests is a useful piece of information for Criminal Justice Reform. The reform requires specific decisions to be made within a certain period of time after an arrest is made. Typically, within one to two hours of an arrest but not more than 12 hours, a judicial officer is required to make a determination of whether to issue a complaint-summons or warrant. Further, the directive strongly encourages the implementation of Prosecutorial pre-complaint screening. Because arrests occur at all times of the day, these screening determination may be required to be made in the middle of the night, outside of Prosecutors' Offices' current core business hours.

Figure Eighteen depicts the number of arrests per hour for State Police for 2015. The largest number of arrests, 1,316 arrests, occurred during the 7pm hour. The smallest number of arrests, 177, occurred during the 4am hour. For 2015, slightly more than half of all arrests, 52%, occurred outside of typical business hours (8am to 5pm). While State Police's arrest practices may differ from those of municipal

⁶⁸ The average is calculated based on the number of full, seven day, weeks in the year.

police departments, Prosecutors’ Offices would still be required to handle a large portion of arrests during non-business hours.

Figure Eighteen: Hourly Volume of State Police Arrests
2015



Statutes

The sections below discuss State Police’s arrests in terms of the statutes cited. Because the specific statutes cited are numerous, the sections below group statutes based on whether the charges alone would presume or require the issuance of a complaint-warrant or presume a complaint-summons.

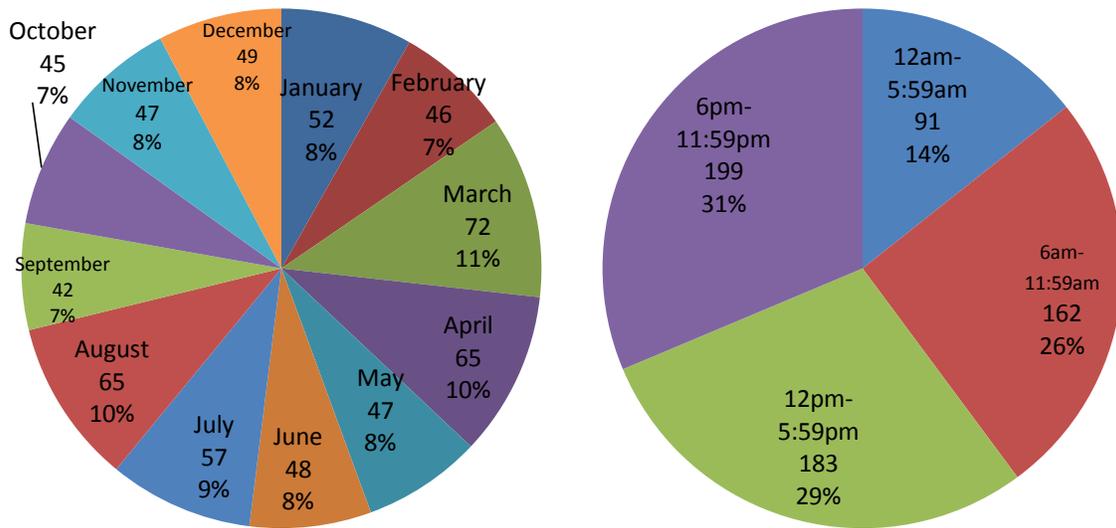
Outstanding Warrant Arrests

Of the Title 2C adult arrests, 11,357 (56.39% of all Title 2C adult arrests and 51.06% of all adult arrests) arrests were based (at least partially) on charges 2C:29-9 and/or 2C:29-7. These arrests represent those where the individual had an outstanding warrant. The majority of these arrests, 11,264 were “T.O.T.” arrests.⁶⁹ Of these arrests, an estimated 75% were actually released from the scene with a new court date.⁷⁰ Only a small portion of arrests were actually transferred back to a station. Of the arrests labeled “T.O.T.” arrests, 635 had a bail amount set at \$2,500 or more. Under Criminal Justice Reform, these arrests would likely require transport to a station and county jail. These arrests occurred in each month of the year, with a slightly higher proportion (11%) occurring in March. Further, 31% of these arrests were concentrated in the hours from 6pm-11:59pm.

⁶⁹ T.O.T.- Transfer over to. Typically, this indicates that the State Police released care of the individual to another agency or released them from the scene.

⁷⁰ Estimation from State Police based on understanding of typical outcomes.

Figure Nineteen: Monthly and Hourly Volume of State Police T.O.T. Outstanding Warrant Arrests with Bail of \$2500 or more
2015

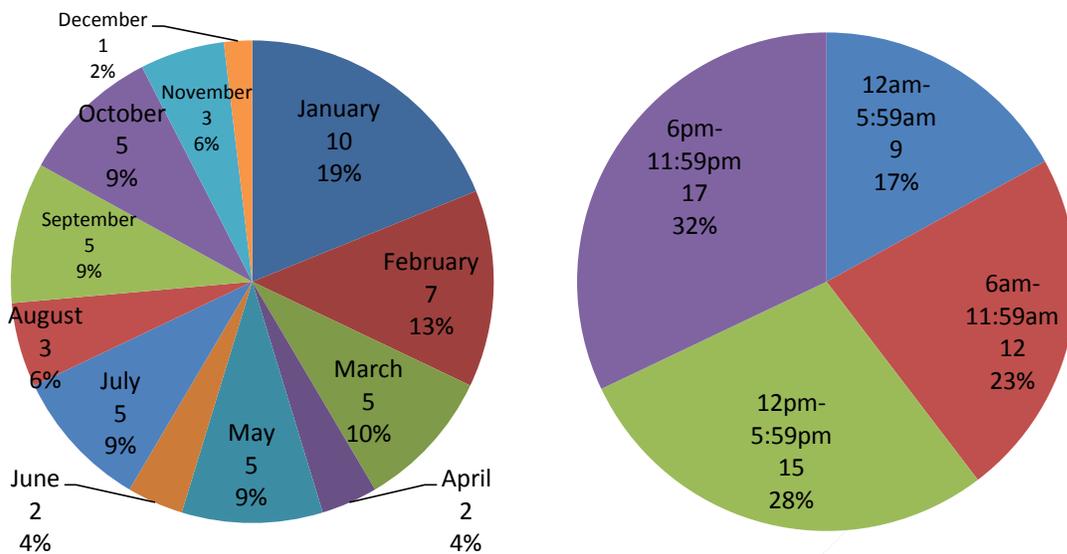


Warrant Required Arrests

Further, Criminal Justice Reform identifies several charges where there is no discretion afforded to the prosecutor; they require the issuance of a complaint-warrant.⁷¹ In 2015, there were only 53 arrests that cited these charges. Under Bail Reform, these arrests would require the issuance of a complaint-warrant and transportation to a jail. The largest proportion of these arrests occurred in January, 19%. As noted among the outstanding warrant arrests, the largest proportions were made between 12pm and 6pm.

⁷¹ These charges are: murder (N.J.S.A. 2C:11-3); aggravated manslaughter (N.J.S.A. 2C:11-4a); manslaughter (N.J.S.A. 2C:11-4b); aggravated sexual assault (N.J.S.A. 2C:14-2a); sexual assault (N.J.S.A. 2C:14-2b or c); robbery (N.J.S.A. 2C:15-1); carjacking (N.J.S.A. 2C:15-2); escape (N.J.S.A. 2C:29-5a); or an attempt to commit any of the foregoing crimes.

Figure Twenty: Monthly and Hourly Volume of State Police Arrests for Charges Requiring a Complaint-Warrant under Criminal Justice Reform
2015



Warrant Presumed Arrests

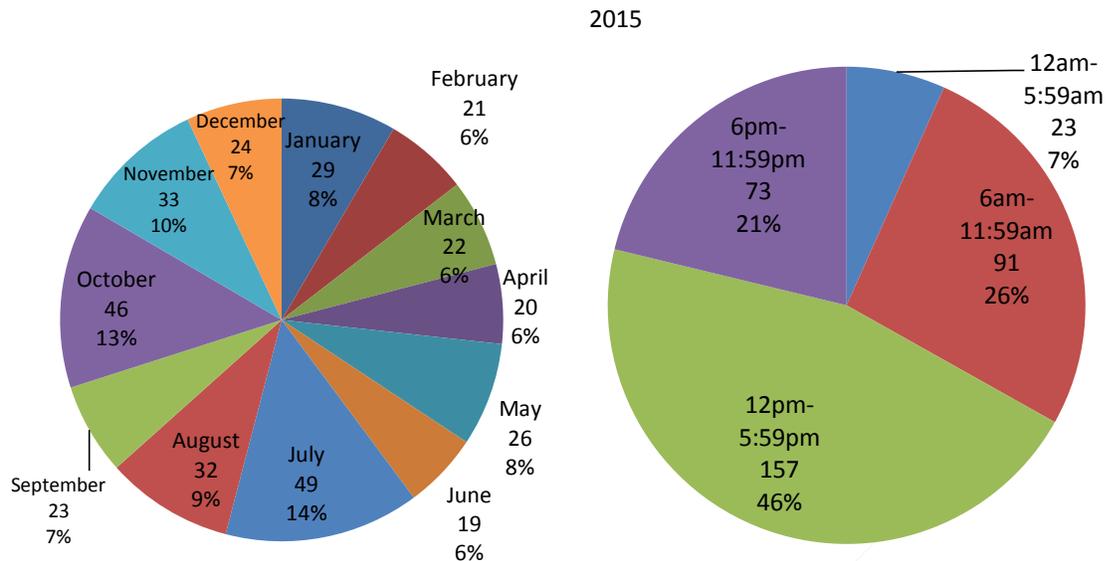
In addition, there are a number of charges where there is a rebuttable presumption of applying for a complaint-warrant.⁷² That is, these charges are presumed to result in a complaint-warrant. However, the officer may overcome this presumption based on the facts and circumstances of the case.

In 2015, these charges were cited in 344⁷³ arrests by State Police. Under Bail Reform, these arrests would presume a complaint-warrant unless the officer can overcome this presumption based on the facts and circumstances of the case. The largest proportion of these arrests, 14%, was made in the month of July. In terms of timing, the largest proportion of these arrests, 46%, were made between 12pm and 5:59pm, unlike the two previous categories of arrests.

⁷²These include: a violation of Chapter 35 of Title 2C that constitutes a first or second degree crime; a crime involving the possession or use of a firearm; vehicular homicide (N.J.S.A. 2C:11-5); aggravated assault that constitutes a second degree crime (N.J.S.A. 2C:12-1b); disarming a law enforcement officer (N.J.S.A. 2C:12-11); kidnapping (N.J.S.A. 2C:13-1); aggravated arson (N.J.S.A. 2C:17-1a); burglary that constitutes a second degree crime (N.J.S.A. 2C:18-2); extortion (N.J.S.A. 2C:20-5); terrorism (N.J.S.A. 2C:38-2); producing or possessing chemical weapons, biological agents, or radiological devices (N.J.S.A. 2C: 38-3); racketeering (N.J.S.A. 2C:41-2); firearms trafficking (N.J.S.A. 2C:39-9i); causing or permitting a child to engage in a prohibited sexual act (N.J.S.A. 2C:24-4b(3)); or an attempt to commit any of the foregoing crimes.

⁷³ 319 of these arrests cite a burglary charge of 2C:18-2. The data available does not indicate the degree of these crimes. Therefore, it is possible that these arrests might not result in the presumption of a warrant under bail reform.

Figure Twenty-One: Monthly and Hourly Volume of State Police Arrests for Charges Presuming a Complaint- Warrant



Combining the number of individuals arrested based on outstanding warrants, those charged with offences that presume, and those that require a warrant, there were 11,754 adult Title 2C arrests from 2015 that could potentially result in a complaint-warrant under Criminal Justice Reform. This represents roughly 53% of all arrests made by State Police in 2015. Based solely on the charges cited in the 2015 State Police arrest data, over half of all arrests would be placed on a warrant under Criminal Justice Reform. It is possible that some of the arrests based solely on preexisting charges (contempt and bail jumping), could be retained on a summons post-Criminal Justice Reform, but those decisions would be case specific. Using a more conservative estimate, whereby only those outstanding warrants associated with a bail of \$2500 or more are examined, only 652 arrests (2.93% of all adult arrests) would result in the issuance of a complaint-warrant under Criminal Justice Reform. Further, it is even more likely that some individuals arrested by State Police would be placed on a complaint-warrant due to the risk scores generated by the Public Safety Assessment (PSA). Under Criminal Justice Reform, it is possible that the volume of arrests made by State Police for which a complaint-warrant is issued, and for which transportation to jail is required, may not decrease.

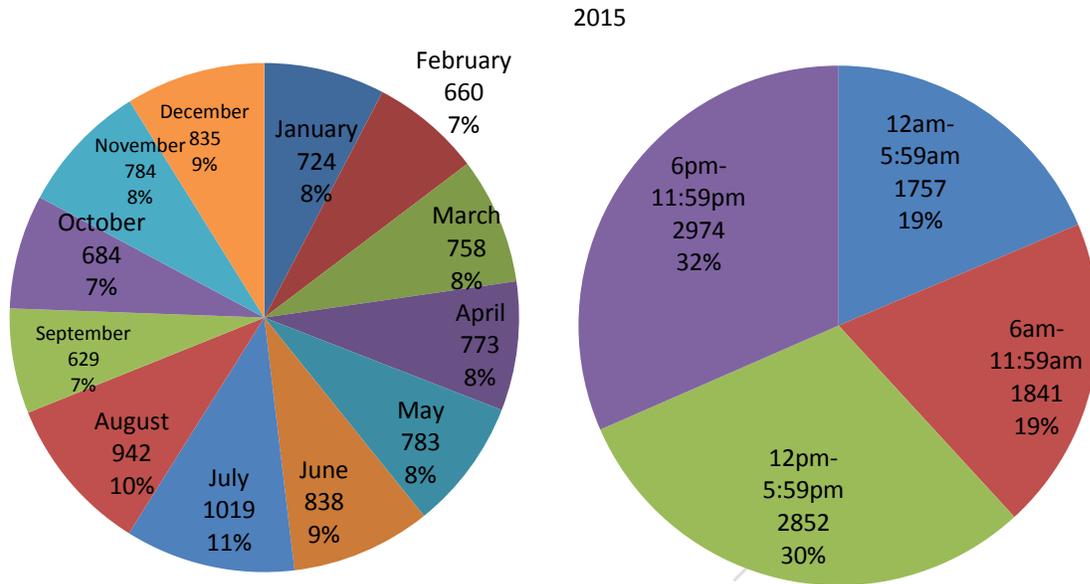
Summons Presumed Arrests

The remaining 10,486 adult arrests would be presumed to result in a complaint-summons under Criminal Justice Reform.⁷⁴ However, prosecutors can overcome this presumption by presenting specific facts and circumstances that indicate the individual could potentially re-offend, be a danger to their self or another person, and/or subvert the criminal justice process. The largest proportion of these arrests

⁷⁴ This statement is made without any knowledge of the criminal history of the arrestees. It is entirely possible that a review of such history might reveal several factors that would indicate the need to pursue a warrant, though this is expected to be infrequent.

occurred in July, 11%. Further, the largest proportion, 32%, occurred between 6pm and 11:59pm, again reinforcing the fact that crime is not restricted to normal business hours.

Figure Twenty-Two: Monthly and Hourly Volume of State Police Arrests for Charges Presuming a Complaint- Summons



Summary

Overall, State Police arrest data indicate:

- Similar patterns in terms of month and day of the week as the data from Promis/Gavel;
- The largest number of arrests occur in the 7pm hour and the smallest number in the 4am hour;
- Slightly more than half of all arrests, 52%, occurred outside of typical business hours (8am to 5pm);
- Based on charges alone, 55% of arrests made by State Police in 2015 would presumably result in the issuance of a complaint-warrant under Criminal Justice Reform, and would require jail transport and at the very least a First Appearance Hearing.

Self-Reported Arrest Volumes

Because no single source of arrest data provided an accurate representation of the timing of arrests for municipal police departments, each police department and Sheriff’s Office was asked to keep a log of all arrests made for indictable offenses and domestic violence disorderly persons offenses for the week of July 31, 2016 to August 6, 2016. These agencies were also requested to provide their total number of arrests from 2014 and 2015.⁷⁵

⁷⁵ These numbers reflect the total number of arrests for these years, not just those relevant to Criminal Justice Reform.

Total Arrests

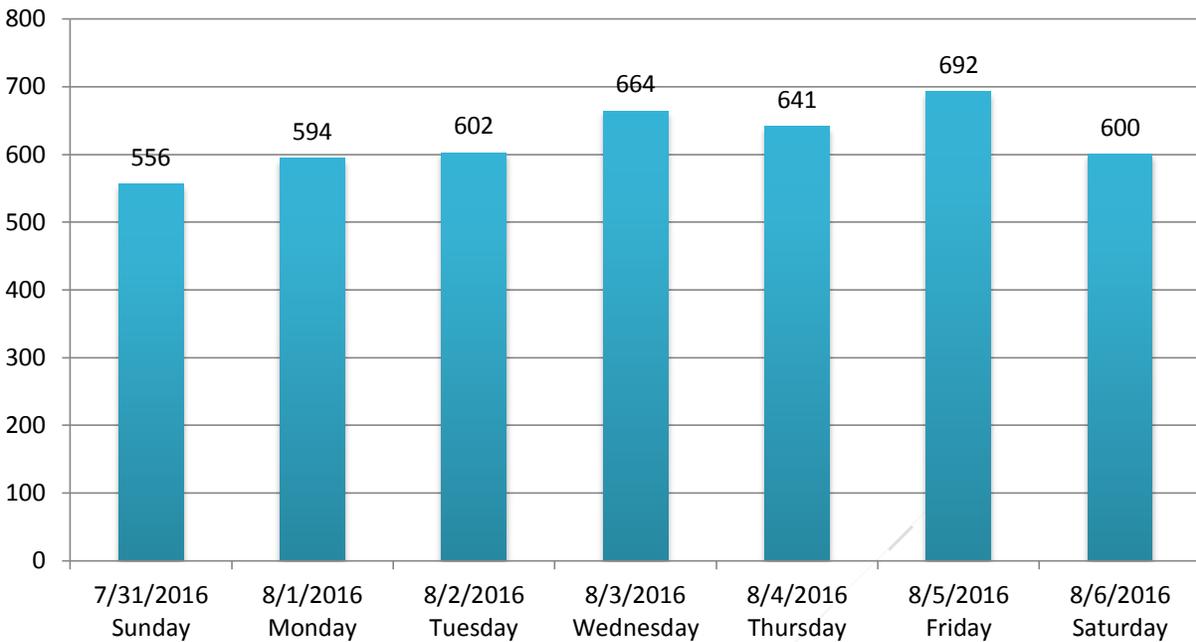
Police Departments and Sheriff's Offices in New Jersey were asked to indicate the total number of arrests made in 2014 and 2015. Responses were received from 478 police departments and all 21 Sheriff's Offices. Great variation exists in the number of arrests reported for 2014 and 2015. Across police departments (excluding the New Jersey State Police), there was a minimum of four and a maximum of 13,569 arrests made in 2014, with an average of 595.01 arrests in this year. In 2014, State Police reported making 24,697 arrests. Two-hundred nine police departments reported making 200 arrests or less, and 269 departments (including State Police) reported making more than 200 arrests in 2014. Across Sheriff's Offices, there was a minimum of 18, a maximum of 7,618, and an average of 1,397 arrests in 2014. For police departments in 2015, there was a minimum of eight, a maximum of 11,189 arrests, and an average of 572.33 arrests. In 2015, State Police reported 22,405 arrests. Two-hundred-two police departments reported making 200 or fewer arrests, and two-hundred seventy-six departments (including State Police) reported making more than 200 arrests in 2015. Across Sheriff's offices, there was a minimum of 14, a maximum of 7,466, and an average of 1,323 arrests made in 2015. While an individual can be arrested multiple times, these numbers indicate the volume of individual instances that would be subject to the new procedures under Criminal Justice Reform.

Daily Volume of Arrests

Each department was also asked to indicate the volume of arrests made for the week of July 31, 2016 to August 6, 2016. Responses were received from a total of 487 police departments. In total, there were 4,349 arrests made in this week.⁷⁶ Figure Twenty-Three depicts the volume of arrests on each day of this week, as reported by police departments and Sheriff's departments. The highest number of arrests occurred on Friday, August 5th. This daily pattern differs slightly from the pattern noted in the Promis/Gavel data, where Wednesdays and Fridays were the days with a consistently higher volume of arrests.

⁷⁶ This number is considerably larger than the volume of arrests reported from the Promis/Gavel arrest data. The data reported from Promis/Gavel are reflective of cases that have been processed and ultimately assigned to Superior Court. The arrest numbers reported for July 31, 2016 to August 6, 2016 are reported in real time- covering all cases, including those that may ultimately be remanded or dismissed. Further, the questionnaire instructed agencies to provide the number of arrests for indictable persons and domestic violence disorderly persons offenses only. However, some departments indicated that they were only able to provide the total number of arrests rather than the requested subset.

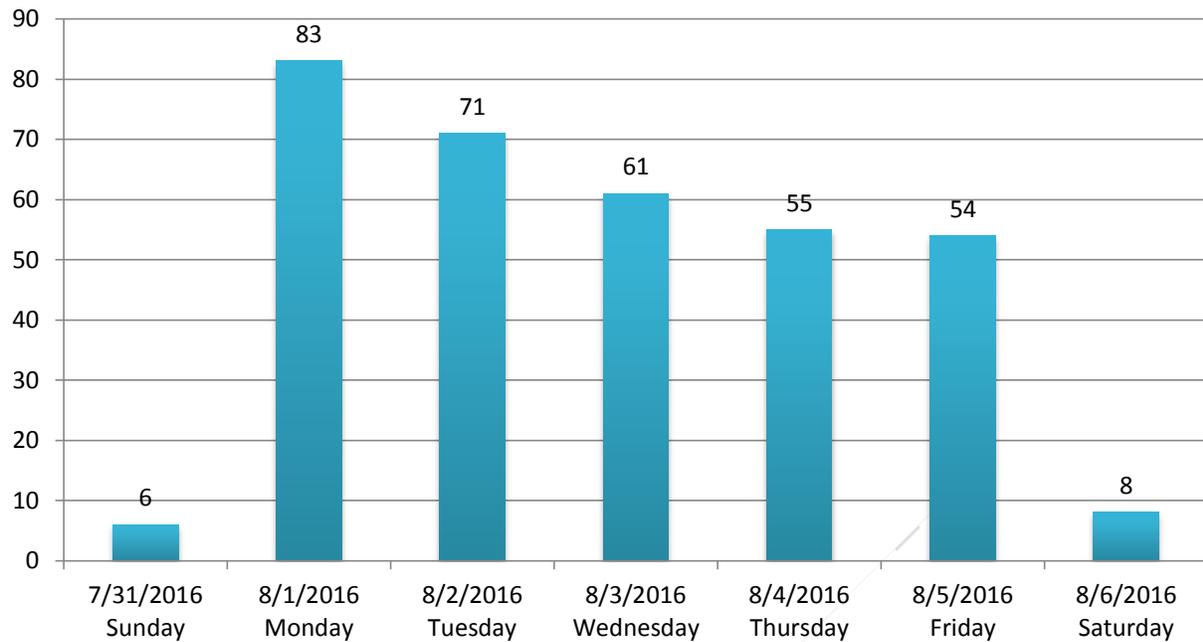
Figure Twenty-Three: Self-Report Daily Arrest Volume for Police Departments
July 31, 2016- August 6, 2016



Since Sheriff's Offices also make arrests, they were also asked to provide the volume of arrests made each day of the week from July 31, 2016 to August 6, 2016. Twelve Sheriff's Offices indicated that they handle general policing duties, and eight offices indicated that they both handle general policing and manage their local jail facilities. In total, Sheriff's Offices reported making 338 arrests in the given week. For Sheriff's Offices, the highest volume of arrests occurred on Monday, August 1, 2016. There were 83 arrests made on this day. A very small number of arrests were made by Sheriff's Offices on the weekend during the reporting period (10 arrests). This pattern may be reflective of the type of arrests made by Sheriff's Offices versus police departments. Many Sheriff's Offices perform directed arrests, i.e., arrests of planned specific individuals who likely have some sort of outstanding warrant. Conversely, arrests by police departments are more likely to be unplanned, i.e., those resulting from calls for service, motor vehicle incidents, or observed criminal activity.

Figure Twenty-Four: Self-Report Daily Arrest Volume for Sheriff's Offices

July 31, 2016- August 6, 2016

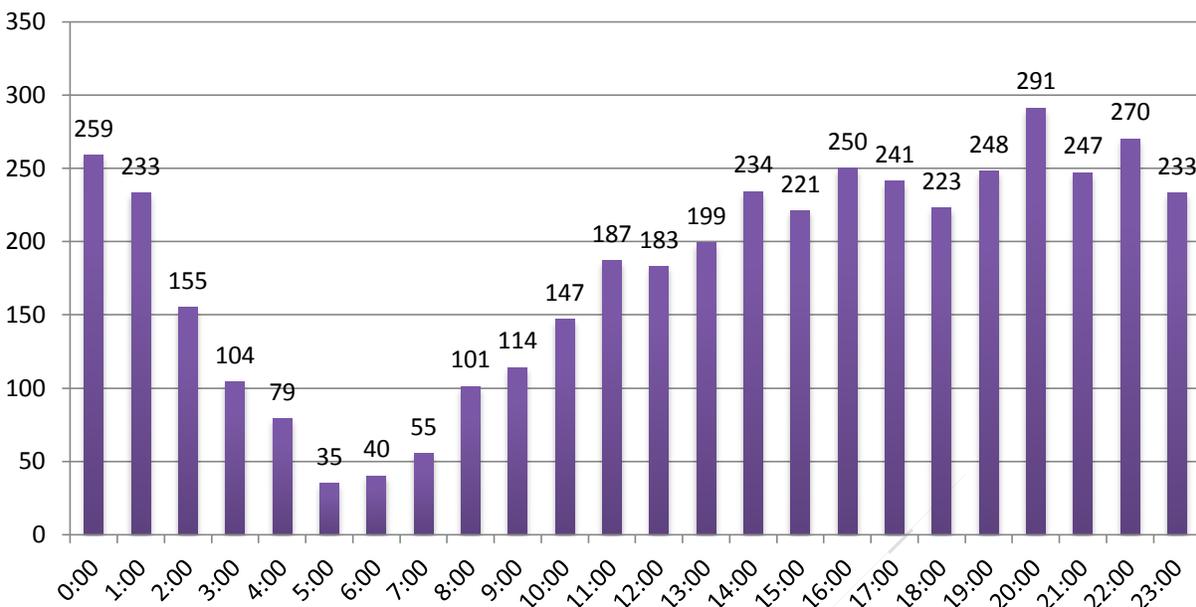


Time of Arrests

For the week of July 31, 2016 to August 6, 2016, police departments were asked to indicate the number of arrests made per hour on each day of the week-long reporting period. This data was requested to indicate the variation of arrest times made throughout a typical week. Since the time of an arrest is not consistently provided in CCH or Promis/Gavel, this was the easiest way to ascertain the fluctuation of arrests volumes throughout the day. Figure Twenty-Five depicts the total number of arrests per hour of the day in this week. The largest volume of arrests, 6.7% occurred during the 8pm (20:00) hour. Generally, there is a larger volume of arrests made after noon and a smaller volume of arrests made between 3am and 9am each day. Nonetheless, approximately 43% of police departments' arrests occurred during normal business hours (8am-5pm), whereas nearly 57% of police departments' arrests occurred outside of these hours.

Figure Twenty-Five: Self-Report Arrest Times for Police Departments

July 31, 2016- August 6, 2016

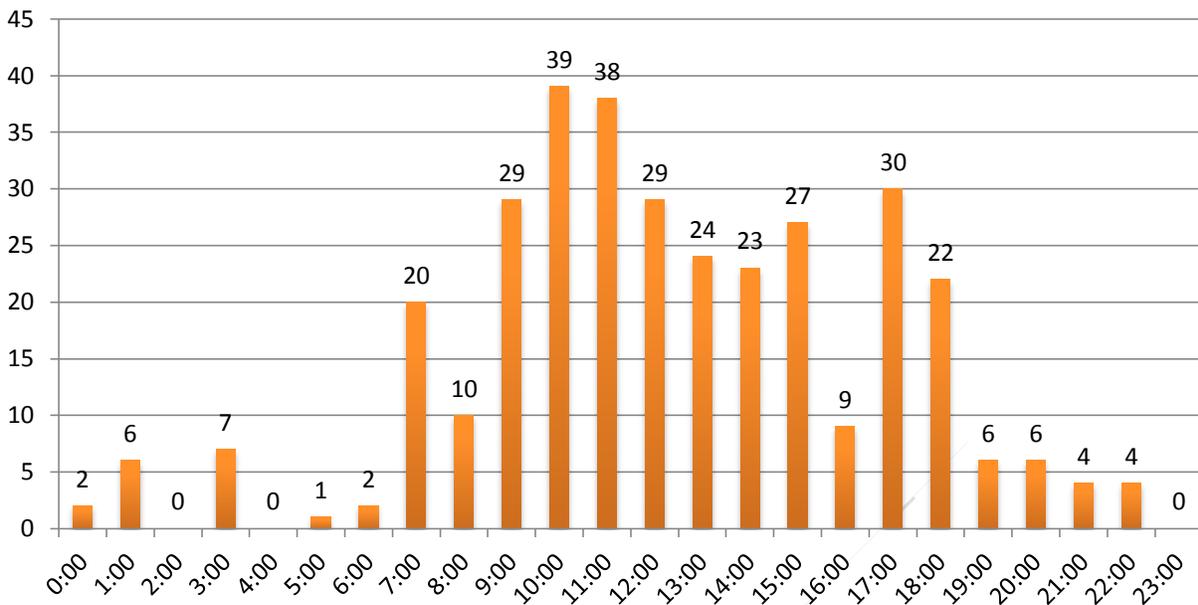


The timing of arrests made by Sheriff's Offices differs considerably from that of Police Departments. While police department arrests are more common during the evening and night, Sheriff's Office arrests are most common during traditional business hours, as shown in Figure Twenty-Six. The highest numbers of arrests per hour were noted at 10 and 11am, when 39 and 38 arrests were made, respectively. Generally, there were very few arrests made outside of traditional business hours; only 80 arrests, roughly 24%, were made outside of traditional business hours. Further, there were only 38 arrests made between the hours of 7pm and 6am. As noted previously in this report, Sheriff's Offices are typically staffed more during business hours than non-business hours. This is likely due to the policing duties handled by Sheriff's Offices, which commonly include courthouse security and prisoner transports for court appearances.

That such a large proportion of police department arrests occur outside of traditional business hours is of note. As discussed, Prosecutors' Offices are directed to implement pre-complaint screening under Criminal Justice Reform. Since most complaint determinations will likely be made shortly after an arrest, Prosecutors' Offices will likely need to screen arrests at all hours. Given the current core hours of Prosecutors' Offices, typically between 8:30am and 5:30pm, schedule adjustments may be required to accommodate pre-complaint screening.

Figure Twenty-Six: Self-Report Arrest Times for Sheriff's Offices

July 31, 2016- August 6, 2016



Summary

Overall, the self-reported arrest data indicate:

- Arrests peaked on Friday, August 5th for police departments and Monday, August 1st for Sheriff's Offices;
- Arrests made by police departments peaked at 8pm while for Sheriff's Offices they peaked at 10am;
- For police departments, arrests occur throughout the day, especially during the evening and night hours. The only lull in activity is noted in the very early morning hours;
- For Sheriff's Offices, arrests occur during traditional business hours. Very few arrests occur during the evening and overnight hours.

Self-Reported Transport Volumes

Each police department and Sheriff's Office was asked to keep a log of all transport related activities for arrests made for the week of July 31, 2016 to August 6, 2016. These agencies were asked to track the number of arrestees not transported, transported based on current charges,⁷⁷ and those transported based on pre-existing charges. Because the potential exists that Criminal Justice Reform may increase the number of required jail transports due to mandatory jail time for any individuals charged on a complaint-warrant, this information will provide valuable insight into the timing of these transports and the potential impact on police department, Sheriff's Office, and jail staffing.

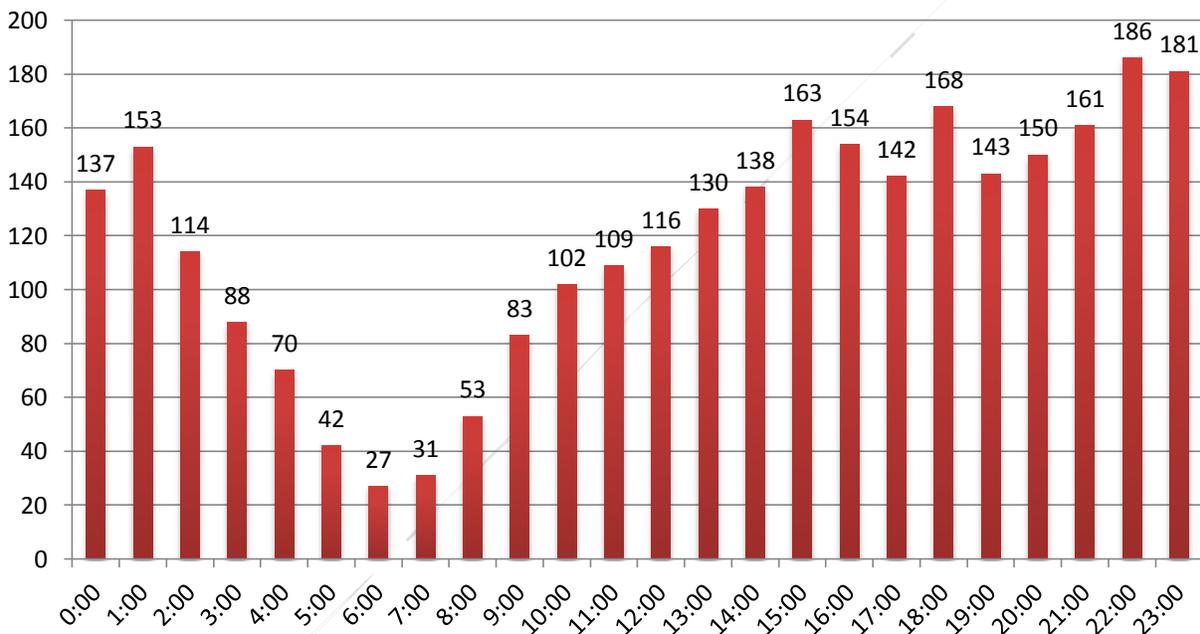
⁷⁷ As noted previously, the questionnaire instructed agencies to provide the number of arrests for indictable persons and domestic violence disorderly persons offenses only. However, some departments indicated that they were only able to provide the total number of transports based on current charges rather than the requested subset.

Non-Transports

For the week of July 31, 2016 to August 6, 2016, 2,841 individuals were arrested but not transported to jail. These individuals may include those who received a complaint-summons following their arrest, but also those who received a complaint-warrant and made bail. This subset of arrestees represents the potential increase in the volume of transports under Bail Reform.

The timing of non-transports for individuals who were released or made bail varies throughout the day. The pattern of these releases more closely mirrors that of the timing of all arrests; dropping to very low levels after 3am and reaching peak levels at 6pm and 11pm. There are no noted peaks in the hours right before a shift change, when there are potential overlaps in shifts. Individuals who are arrested and ultimately released from the station are processed as these arrests are made throughout the day.

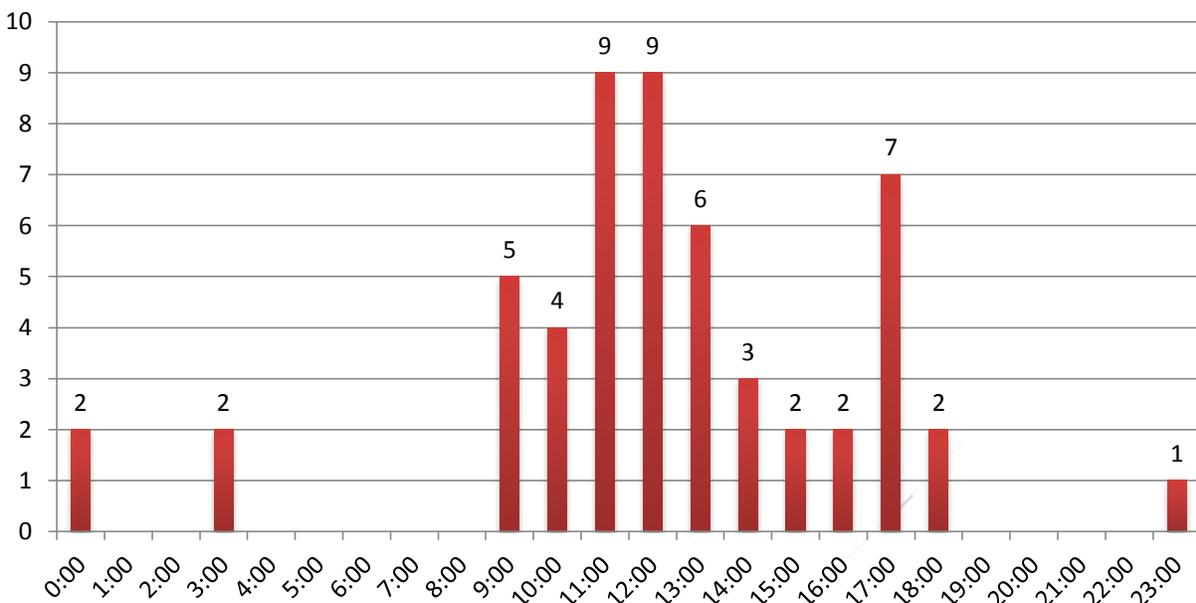
Figure Twenty-Seven: Self-Reported Time of Non-Transports for Police Departments
July 31, 2016- August 6, 2016



Sheriff’s Offices which handle general policing duties were also asked to report the volume of individuals who were not transported to jail. For the week of July 31, 2016 to August 6, 2016, there were only 54 individuals who were arrested by Sheriff’s Offices but not transported to jail. As noted for the overall volume of arrest data for Sheriff’s Offices, non-transports are clustered during traditional business hours, approximately 9am to 6pm. The largest volumes of individuals released occurred at 11am and 12pm, when nine individuals were released in each hour.

Figure Twenty-Eight: Self-Report Time of Non-Transports for Sheriff's Offices

July 31, 2016- August 6, 2016



Pre-Existing Charges Transports

Of those transported, 768 were transported based on pre-existing charges only. These individuals were arrested based on an outstanding warrant only. Their transport to jail was solely dependent upon the fact that they had an outstanding warrant for which monetary bail was not an option or that they could not pay. Under Criminal Justice Reform, these individuals, and those who met bail, could still require transport to jail.

Transports to county jail for pre-existing charges typically occur throughout the day. Figure Twenty-Nine depicts the timing of transports based on pre-existing charges only. These 768 transports occurred at various times throughout the day. The largest proportion of transports occurred at noon, 5pm, 6pm, and 11pm. Roughly 7.5% of all transports based on pre-existing charges took place at noon and 5pm while 7% occurred at 6pm or 11pm. This clustering of transports may coincide with shift changes. As noted previously in this study, police departments indicated that shifts were frequently 8 or 12 hours and commonly began at noon, 6pm, 7pm, or midnight.

Figure Twenty-Nine: Self-Report Time of Transports for Pre-Existing Charges for Police Departments
July 31, 2016- August 6, 2016

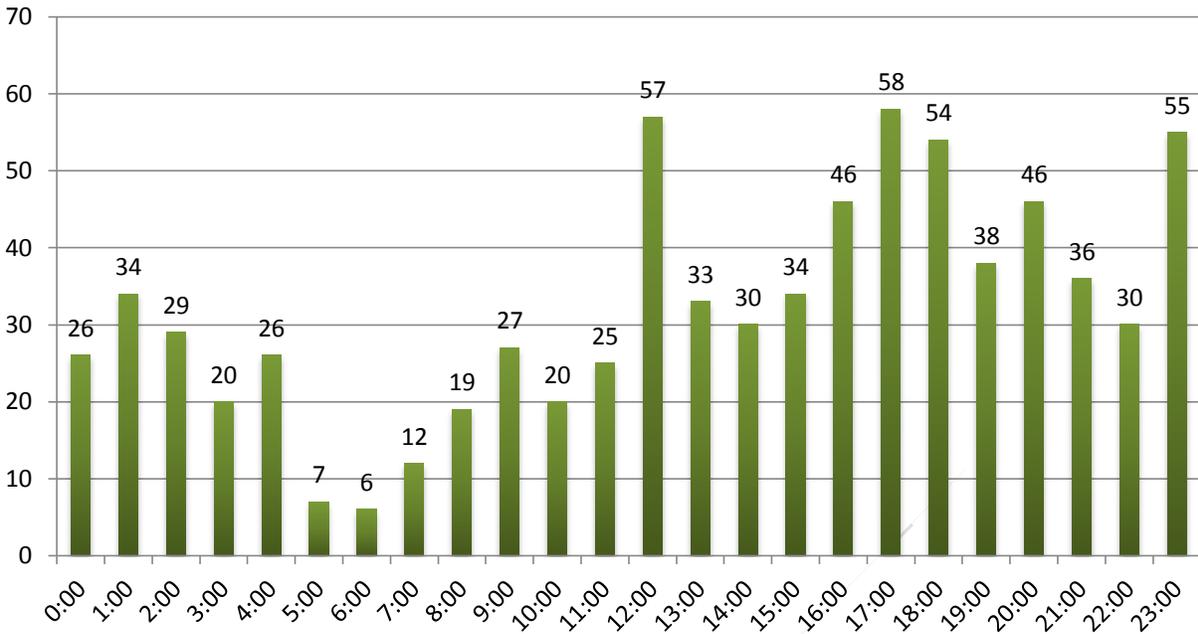
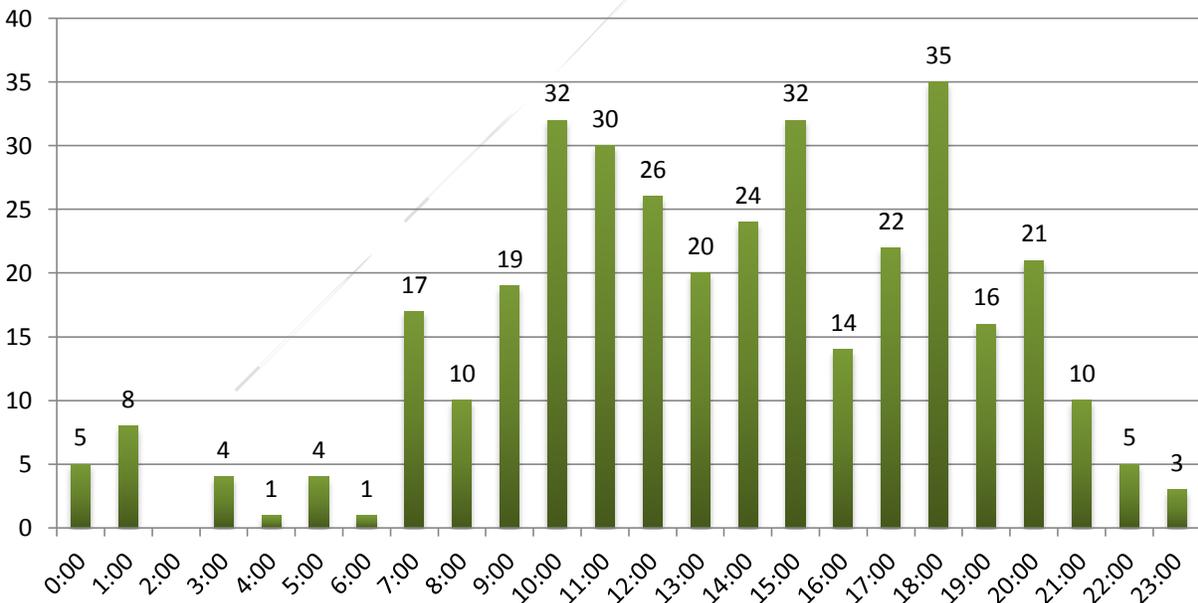


Figure Thirty: Self-Report Time of Transports for Pre-Existing Charges for Sheriff's Offices
July 31, 2016- August 6, 2016



As noted previously, many Sheriff's Offices are tasked with serving warrants. As such, transport of individuals arrested for pre-existing charges is fairly common for Sheriff's Offices. For the week of July 31, 2016 to August 6, 2016, there were 359 transports made based on pre-existing charges alone, larger than the total number of arrests made in this same time period by Sheriff's Offices. As shown in Figure

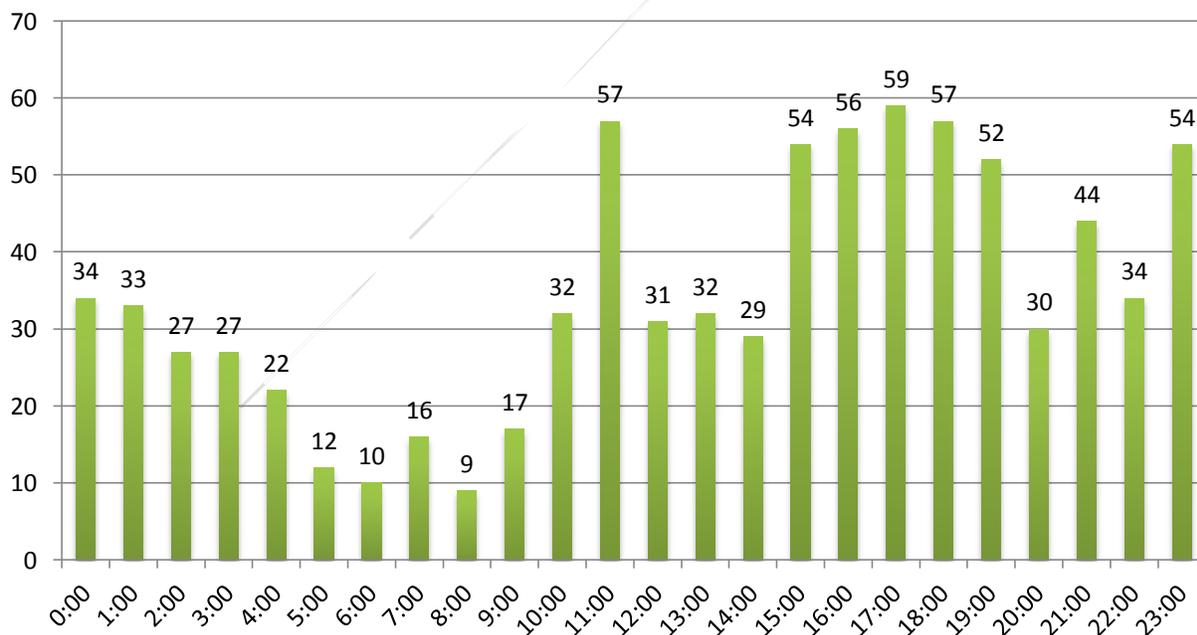
Thirty these transports are typically made during traditional business hours, but some do occur overnight. In total, 219 transports for pre-existing charges were made during traditional business hours, while 140 transports occurred outside of traditional business hours. These transports likely correspond to timing of warrant raids in these departments.

Current Charges Transports

Of those transported to jail, 828 were transported based on current charges only. These individuals did not have any outstanding warrants; they were transported to jail solely based on the charges on which they were arrested rather than any prior charges. This number will change under Criminal Justice Reform. First, given the presumption of a summons for the majority of offenses and the presumption or requirement of a warrant for only a limited number of offenses, the likelihood of being placed on a complaint-warrant and thus, transported should be lower under Criminal Justice Bail Reform. However, the current numbers of arrestees transported based on current charges does not include individuals who made bail immediately at the station. Under Criminal Justice Reform, this option will be removed. All individuals placed on a complaint-warrant will be transported to jail pending first appearance.

For transports based only on current charges, a time clustering is noted. The largest proportions of these transports occurred at 11am, 3pm, 4pm, 5pm, 6pm, 7pm, and 11pm. Roughly 7% of all transports based on current charges occurred at 11am, 5pm, and 6pm while roughly 6.5% occurred at 11pm.

Figure Thirty-One: Self-Report Time of Transports for Current Charges for Police Departments
July 31, 2016- August 6, 2016

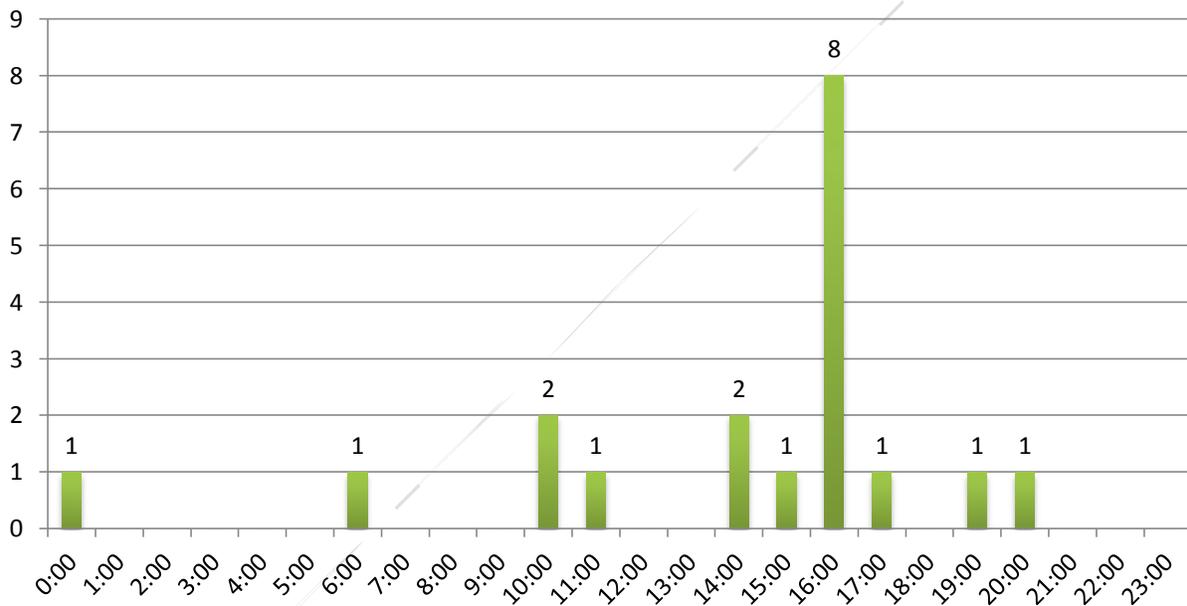


Overall, transports of arrestees appear clustered around shift changes. In some departments there are likely overlaps in shifts to ensure that all requisite information is transferred from those ending to those starting their tour of duty for the day. At these times, there may be more officers available to handle transports. Further, some departments indicated that the last hour of a shift is typically used to catch up

on paperwork and administrative duties, which may include prisoner transports. The requirements of Criminal Justice Reform may possibly affect transport timing. However, there are no exact requirements pertaining to the timing of transports following an arrest. Overall, because the number of individuals placed on a complaint-warrant is likely to decline, it is expected that these transports will decline despite the fact that all issued a complaint-warrant will require transport.

Transports based solely on current charges (as defined as an arrest for an indictable offense or domestic violence disorderly persons offense) were relatively infrequent for Sheriff’s Offices. For the week of July 31, 2016 to August 6, 2016, there were only 19 transports. Figure Thirty-Two depicts the timing of these transports for consistency. However, due to the extremely low volume, conclusions regarding the timing of these transports will not be made.

Figure Thirty-Two: Self-Report Time of Transports for Current Charges for Sheriff’s Offices
July 31, 2016- August 6, 2016



Summary

Overall, the self-reported transport data indicate:

- Arrests requiring no prisoner transport peak in the afternoon and evening hours for police departments and midday for Sheriff’s Offices;
- Pre-existing charges transports vary considerably throughout the day for police departments but appear to cluster around common shift change times. For Sheriff’s Offices, these transports peak during traditional business hours;
- Current charges transports peak during the early evening hours for police departments and are very uncommon for Sheriff’s Offices.

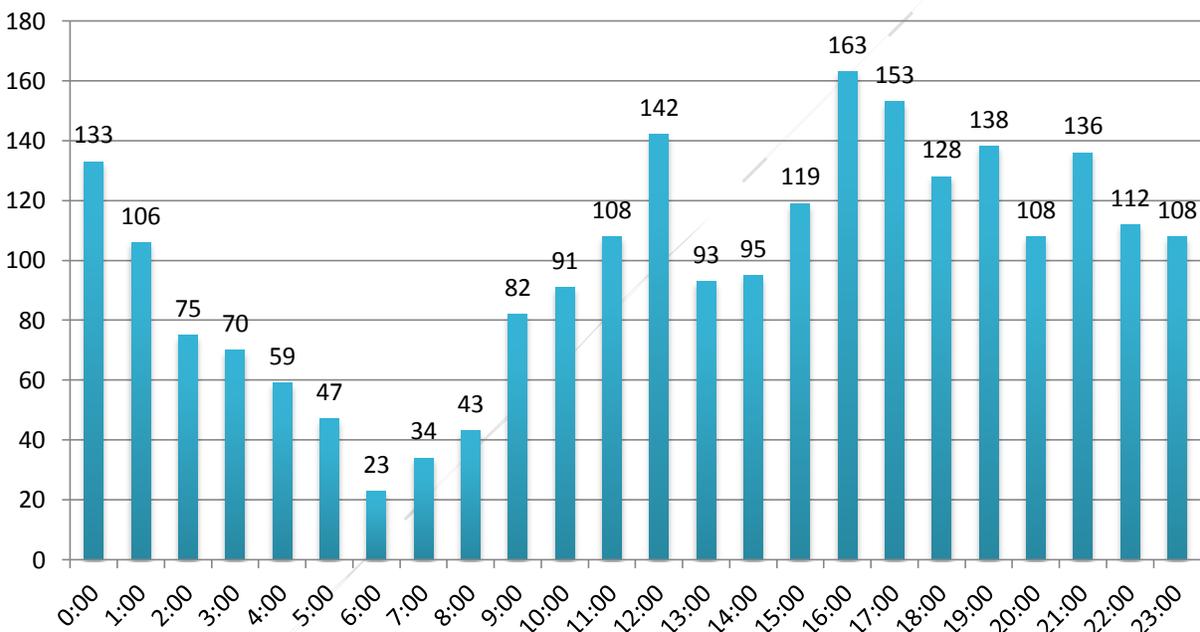
Self-Reported Intake Volumes

Each jail was asked to keep a log of intakes for the week of July 31, 2016 to August 6, 2016. The timing of intakes is relevant to Criminal Justice Reform as the charging decisions are required to be made in no case later than 12 hours after an arrest. If current intake activity clustered during certain hours, jails might experience challenges in ensuring that intakes could be handled around the clock. If the timing of charging decisions changes the timing of transports, jails may experience a shift in the timing of intakes.

For the week of July 31, 2016 to August 6, 2016, jails indicated that they received 2,366 inmates. There were 1,089 arrestees received during normal business hours (8am-5pm). However, there were 1,277 arrestees received outside of normal business hours. The timing of intakes, seen in Figure Thirty-Three is generally consistent with the timing of transports reported by police departments. The fewest number of intakes, 23, took place at 6am while the greatest numbers of inmates, 163, were booked at 4pm.

Figure Thirty-Three: Self-Report Hourly Intake Volume for County Jails

July 31, 2016- August 6, 2016



As noted above, there were slightly more intakes received outside of normal business hours. For each county, this proportion varied. There were 11 counties (Burlington, Camden, Cape May, Gloucester, Hunterdon, Morris, Ocean, Passaic, Salem, Somerset, and Union) that reported receiving more inmates during typical business hours. The remaining 10 counties reported receiving more inmates during overnight hours. With the exception of four counties, the difference in the number of inmates received during business hours and non-business hours was fewer than 20 inmates. In Essex County, there were 147 more inmates received overnight than during normal business hours. In Middlesex County there were 58 more received outside business hours while in Hudson County this difference was 45 inmates. Camden County received 24 more inmates during business hours than non-business hours.

Given that all jails indicated receiving inmates overnight, changes to the timing of transports based on pre-complaint screening may not cause a dramatic change for jails. However, as noted previously, many

police departments transport arrestees to jail during normal business hours and around shift changes. As such, jails may need to alter staffing schedules to ensure that there are enough officers to match the volume of transports at all times.

Prosecutors' Offices Caseload

Total Cases

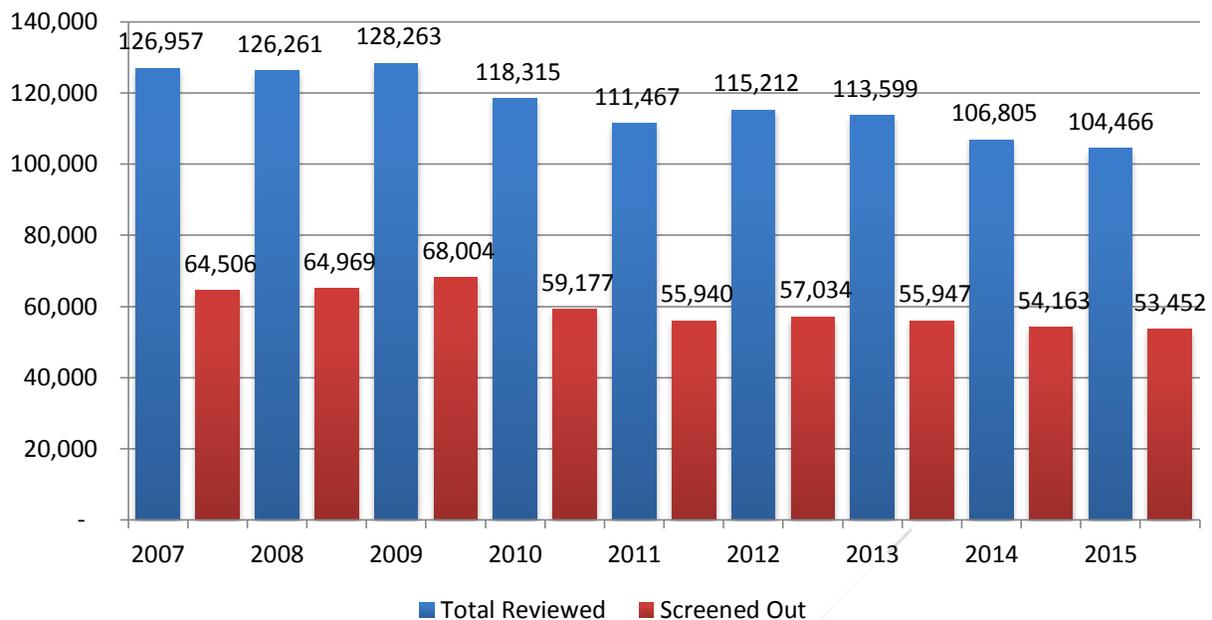
Once an arrest is made, the case may be referred to the county Prosecutors' Office. In 2015, County Prosecutors' Offices reviewed 104,466 arrest cases. This number is a roughly 2% decrease from the number of cases reviewed in 2014 when 106,805 cases were reviewed. Generally, Prosecutors' Offices review arrests after the determination of a complaint-summons or warrant has been made. The individuals in the cases reviewed by Prosecutors' Offices have likely been assigned a bail amount and either held pretrial or they were released on their own recognizance.

Across counties, Essex County reviewed the largest number of arrests- 11,690 arrests followed by Camden County which reviewed 10,803 arrests. Hunterdon County reviewed 917 arrests in 2015. The county-distribution is generally consistent with the patterns of arrest volumes in each county. Counties with a larger number of reported arrests are those counties with a higher volume of arrests reviewed by the Prosecutors' Office.

Cases Screened Out

While an arrest may be referred to the Prosecutors' Office, not every arrest results in a trial. In fact, half of all arrests (51.17%) reviewed by a Prosecutor's Office in New Jersey in 2015 were screened out. That is, these cases are never brought to trial. These cases are most frequently downgraded (which may send the case back to Municipal Court), administratively dismissed, recommended for diversion, otherwise screened out, or transferred to a different venue. Across counties, the proportion of cases screened out varies from a high of 69.36% of all cases reviewed in Bergen County, to a low of 29.8% of all cases reviewed in Cape May County.

Figure Thirty-Four: Cases Reviewed and Screened Out by Prosecutors' Offices
2007-2015



That roughly half of all cases are screened out in New Jersey is especially relevant to Criminal Justice Reform. These cases represent instances where an officer made an arrest, the individual was charged on a complaint-warrant, likely held on bail, but ultimately, the Prosecutor's Office declined to move forward with the case. Thus, these cases represent time and energy devoted to cases unnecessarily. Further, individuals arrested in these cases could have been processed more efficiently and quickly through the system, without potential jail time and the consequences of detention. For these reasons, Criminal Justice Reform incorporates pre-complaint screening into the Criminal Justice System.

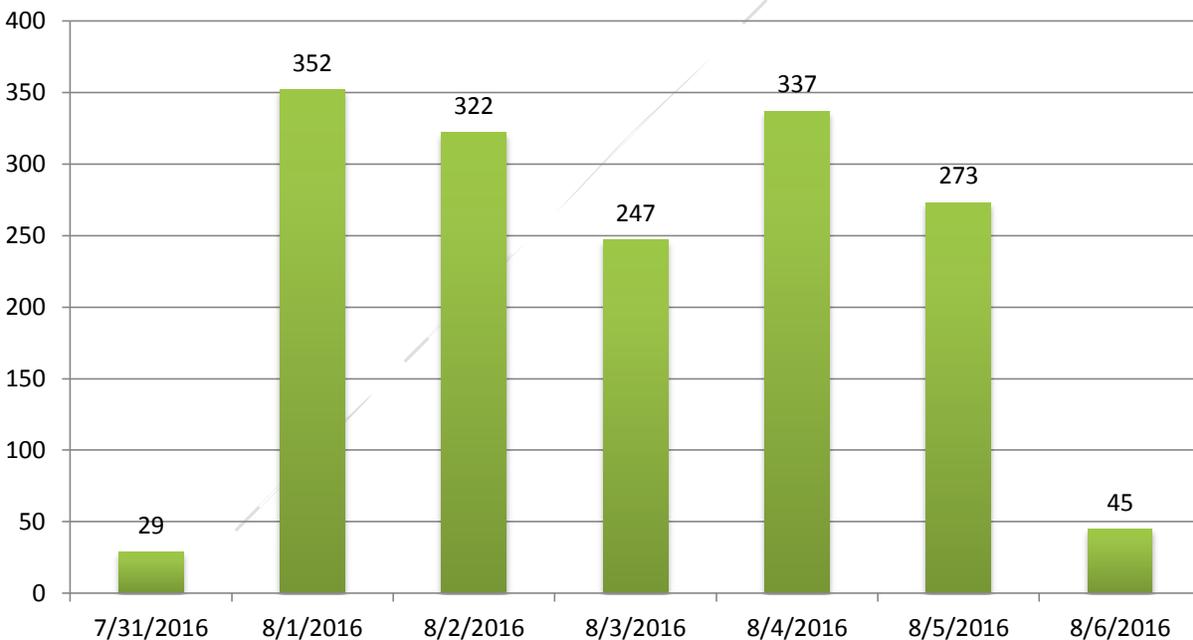
In 2015, Somerset County was the only Prosecutor's Office to use pre-complaint screening. That is, prior to the determination of a complaint-summons or warrant, Somerset County reviewed the arrest documentation, the associated facts and circumstances, and made a determination regarding whether the matter would proceed to Grand Jury. In all other counties in 2015, cases were screened out after the determination of complaint-warrant was made. This is also after the police officer has likely devoted resources into preparing the case and his/her statements for a trial. Further, the arrestee has also likely either made bail or is being held in jail due to an inability to make bail. The screened out cases represent inefficiency in the Criminal Justice System that results in individuals unnecessarily being jailed and the unnecessary contribution of resource. Pre-complaint screening would screen out cases prior to the devotion of these resources and prior to the setting of bail or detention, saving time, money, and other resources for Police Departments, Prosecutors' Offices, and county jails.

Self-Reported Case Reviews

Each Prosecutor's Office was asked to indicate the total volume of cases reviewed for the week of July 31, 2016 to August 6, 2016, for each hour of the day.⁷⁸ During this week, 1,831⁷⁹ cases were reviewed across Prosecutors' Offices. Generally, cases were reviewed Monday through Friday, as shown in Figure Thirty-Five. The highest number of cases, 352, were reviewed on Monday, August 1st. The smallest number of cases, 29, were reviewed on Sunday, July 31st, as expected. Since only Somerset County currently reviews cases prior to determining a complaint-summons or warrant; all other reviews likely take place post-complaint and during traditional business hours.

A word of caution is warranted regarding the volume of cases reviewed/screened. As noted previously, there were 106,805 cases reviewed in 2014. This averages to about 2,053 cases per week. The 1,831 cases reported for July 31, 2016 to August 6, 2016 is slightly smaller than the average noted for 2014. This is not of concern by itself, as the total volume of cases reviewed has been declining over recent years. However, the 1,831 cases are from 19 counties as two counties reported zero case reviews this week. Thus, the self-reported number of cases reviewed by may not be an accurate portrayal of all cases reviewed/screened by Prosecutors' Offices.

Figure Thirty-Five: Cases Reviewed/Screened by Prosecutors' Offices
July 31, 2016- August 6, 2016



Across counties, there was considerable variation in the number of cases reviewed during the reporting period. The highest volume of cases reviewed, 307, was reported by Union County. Three counties

⁷⁸ Only 19 counties provided the number of cases reviewed. Cumberland and Hudson counties did not indicate the timing of cases reviewed. Hudson County later provided the total number of cases reviewed during the entire week, 226.

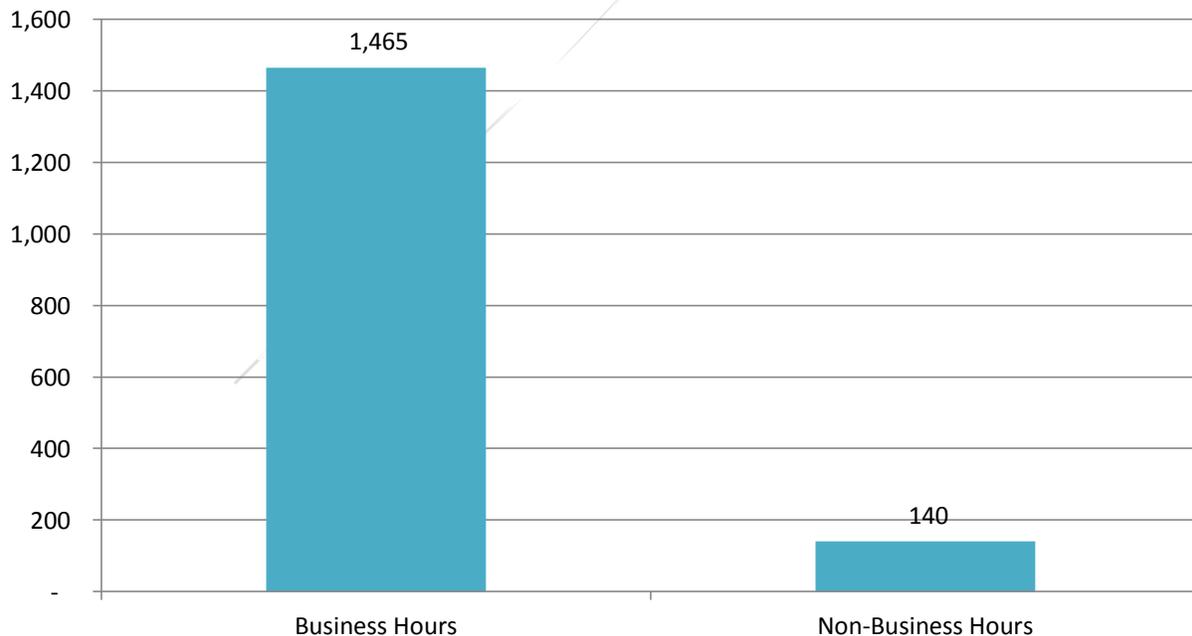
⁷⁹ This number includes the 226 cases reviewed by Hudson County. No date or time information was provided for these reviews and so these cases are not included in Figure Thirty-Five.

reported reviewing zero cases during this week- Hudson, Salem, and Warren Counties. In the comment section, Hudson County did report reviewing 17 emergent issues, 150 complaint-warrant cases, and 59 complaint-summons cases. However, no information was provided regarding the day or time of these reviews.

Prosecutors' Offices were asked to indicate the total number of cases reviewed/screened each hour of each day for July 31, 2016 to August 6, 2016. Not all Prosecutors' Offices were able to provide this information. Several offices merely provided the total number of cases reviewed each day and not by hour. Typically, these offices placed their total cases reviewed at either 9am or 5pm, indicating that this volume of cases was reviewed at some point during that day. Additionally, as noted above, Hudson County only provided the total reviewed that week and not by day and hour. Given the above, Figure Thirty-Five depicts the number of cases reviewed during business (8am-5pm) and non-business hours. The vast majority of case reviews, 1,465, took place during business hours. Only 140 cases were reviewed during non-business hours. Thus, a very small portion, less than 10% of arrests were reviewed/screened during non-business hours.

Given the above, Figure Thirty-Five depicts the number of cases reviewed during business and non-business hours. The vast majority of case reviews, 1,465, took place during business hours. Only 140 cases were reviewed during non-business hours. Thus, a very small portion, less than 10% of arrests were reviewed/screened during non-business hours.

Figure Thirty-Five: Cases Reviewed/Screened by Prosecutors' Offices during Business Hours⁸⁰
July 31, 2016- August 6, 2016



⁸⁰ The 226 cases reviewed/screened by Hudson County were excluded from this figure since the dates and times of these reviews are unknown.

The data depicted in Figure Thirty-Four corroborates the commentary provided by Prosecutors' Offices. Many offices indicated that arrest reviews/screening only take place during normal business hours. The exception to this were incidents involving a major crime or a case that has been deemed emergent. Under Criminal Justice Reform, the requirement of pre-complaint screening may require review of cases outside of business hours. Since the timing of reviews indicates that these reviews currently take place during business hours, there are likely not Assistant Prosecutors scheduled during non-business hours. Thus, Criminal Justice Reform may alter the schedule needs of each Prosecutor's Office.

Summary

Overall, the data on the caseloads of Prosecutors' Offices indicate:

- Prosecutors' Offices review a high volume of cases each year;
- Roughly half of all cases reviewed are screened out and not presented at Grand Jury;
- With the exception of Somerset County, these cases are screened out after the determination of a complaint-summons or warrant, after bail has been set, and after the arrestee has spent time in jail;
- Nearly all case reviews take place during normal business hours;
- A small portion of cases are reviewed during non-business hours; these are likely major or emergent cases.

Current Staffing Issues

This section details trends in staffing in police departments, Sheriffs' Offices, Prosecutors' Offices, and county jails. Current staffing levels are presented as a baseline for the implementation of Criminal Justice Reform. Anecdotally, many agencies have indicated that they are currently understaffed and overworked. Many feel that the new procedures of Criminal Justice Reform will further exacerbate staffing issues, which may lead to an increased reliance on overtime or the need for additional staff to accommodate Criminal Justice Reform. Others, however, expect long-term fiscal benefits resulting from fewer defendants being incarcerated in county jails at taxpayer expense.

Total Number of Law Enforcement Officers

Nationwide, police departments are experiencing high rates of attrition and turnover that outpace the ability to recruit new officers.⁸¹ New Jersey is not immune to this phenomenon. In 2008 and 2009, the United States and New Jersey experienced an unprecedented economic downturn. The economy bottomed in 2009, with companies, organizations, and governments experiencing great strain to their budgets. Many municipal departments experienced tightening of their budgets which forced some to lay off officers and severely limited the ability of many departments to hire new officers in the wake of attrition.⁸² The budgetary constraints also affected the ability of departments to replace aging

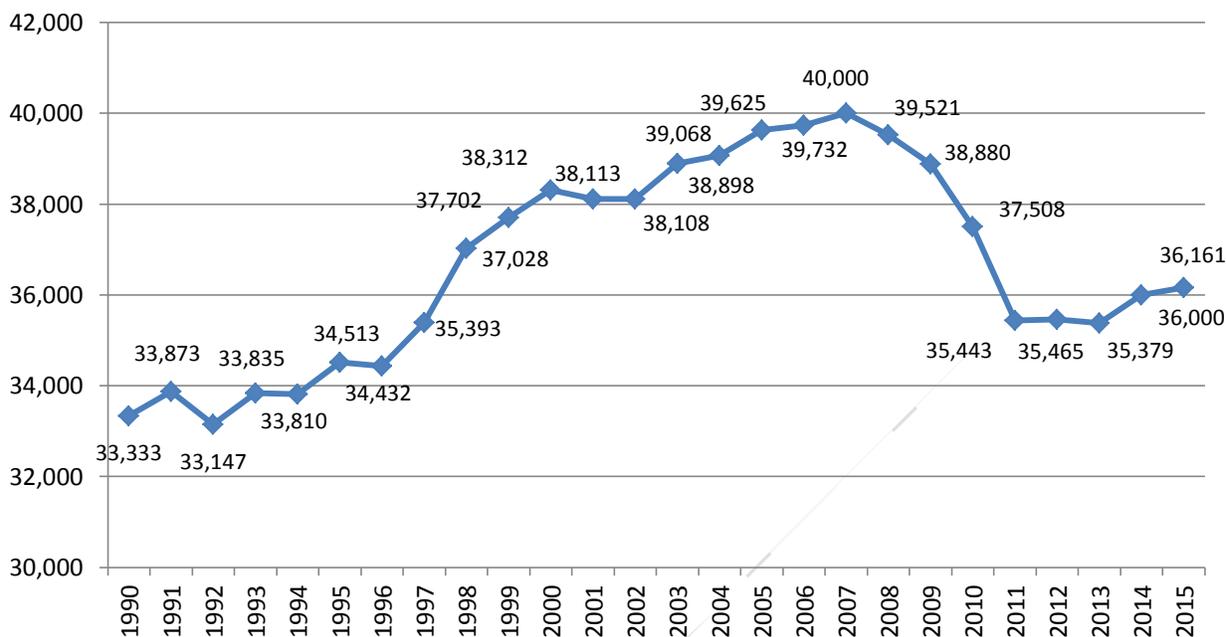
⁸¹ Orrick, Dwayne. (No date) Best Practices Guide for Recruitment, Retention, and Turnover in Law Enforcement. International Association of Chiefs of Police.

http://www.nccpsafety.org/assets/files/library/Recruitment_Retention_and_Turnover_in_Law_Enforcement.pdf

⁸² <http://nj1015.com/nj-police-departments-struggle-with-cop-shortages/>

equipment or systems and keep up with technological advances in policing. Figure Thirty-Six depicts the total number of police officers employed in New Jersey from 1990 to 2015.⁸³

**Figure Thirty-Six: Total Law Enforcement Officers Employed
1990-2015**



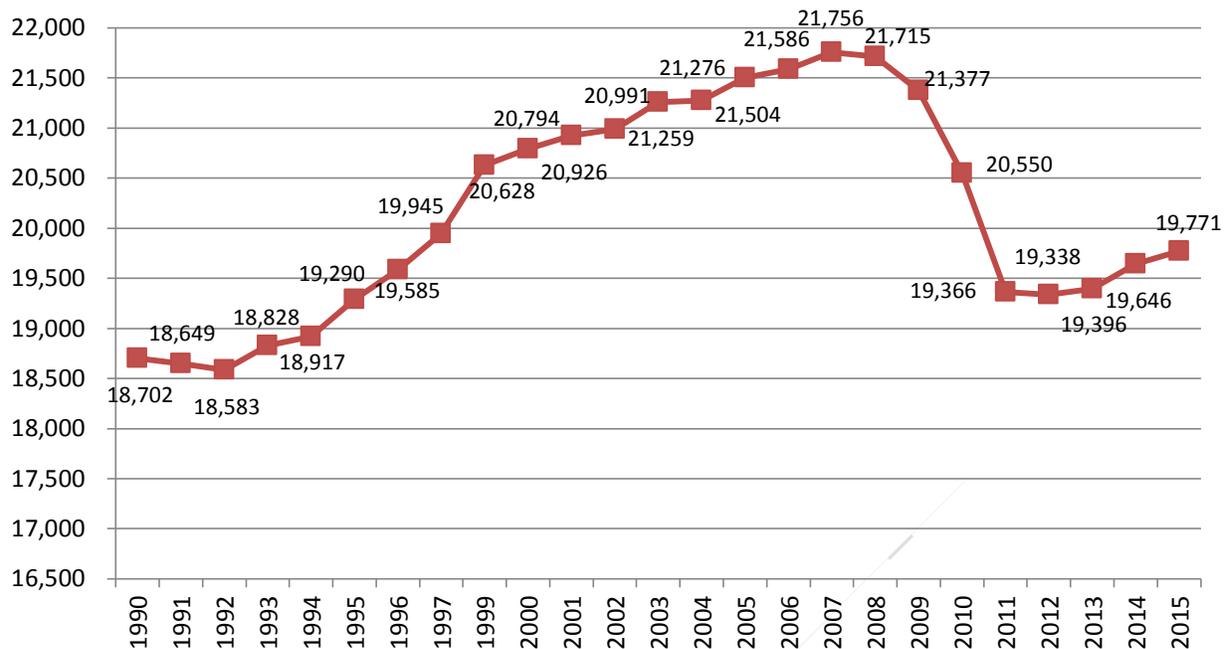
The number of law enforcement officers in New Jersey increased steadily from 1990 to 2007 and dropped sharply in 2010. Since 2010, there has been a slight increase in the number of law enforcement officers employed in New Jersey, but ultimately, the number remains considerably smaller than those employed since 1998. With the impending changes under Criminal Justice Reform, many police departments have expressed concerns about the further burden placed on already low staffing levels, particularly relating to report writing, transports to jail, and the potential need to be present at first appearance or detention hearings. These concerns may be a particularly salient issue for departments who are understaffed.

Municipal Police Department Staffing

The majority of police officers in New Jersey are employed by a municipal police department. Figure Thirty-Seven depicts the trend of municipal police department staff from 1990 to 2015. The trend is nearly identical to that of the total number of police officers employed during the same time period. The same increase is noted throughout the 1990s, peaking in 2007, and declining sharply until 2013. Increases in the number of municipal police officers have been noted since 2013. However, as of 2015, there were 1,985 fewer municipal police officers employed than there were at the peak in 2007.

⁸³ Source: New Jersey Uniform Crime Reports. Available at: <http://www.njsp.org/ucr/uniform-crime-reports.shtml>

**Figure Thirty-Seven: Total Law Enforcement Officers Employed by Municipal Police Departments
1990-2015**



Seventeen out of 21 counties experienced their highest levels of municipal police employment between 1999 and 2007, and eight counties (Burlington, Camden, Gloucester, Middlesex, Morris, Ocean, Passaic, and Sussex) experienced their highest levels in 2007. A decline in staffing is observed for the majority of counties starting in 2007. Consistent with the overall trend, most counties reached the bottom of this decline between 2011-2012. Small and incremental increases in the number of police employees are noted after 2012. However, six counties (Atlantic, Cape May, Essex, Hudson, Mercer, and Salem) reported their lowest levels of municipal police employees between 2013 and 2015. As of 2015, no county has returned to the peak staffing levels noted across this 25 year timeframe. However, in 12 of the 21 counties (Bergen, Cape May, Cumberland, Gloucester, Hunterdon, Monmouth, Morris, Ocean, Salem, Somerset, Sussex, and Warrant counties) the difference between the peak and 2015 staffing levels is less than 100 officers.

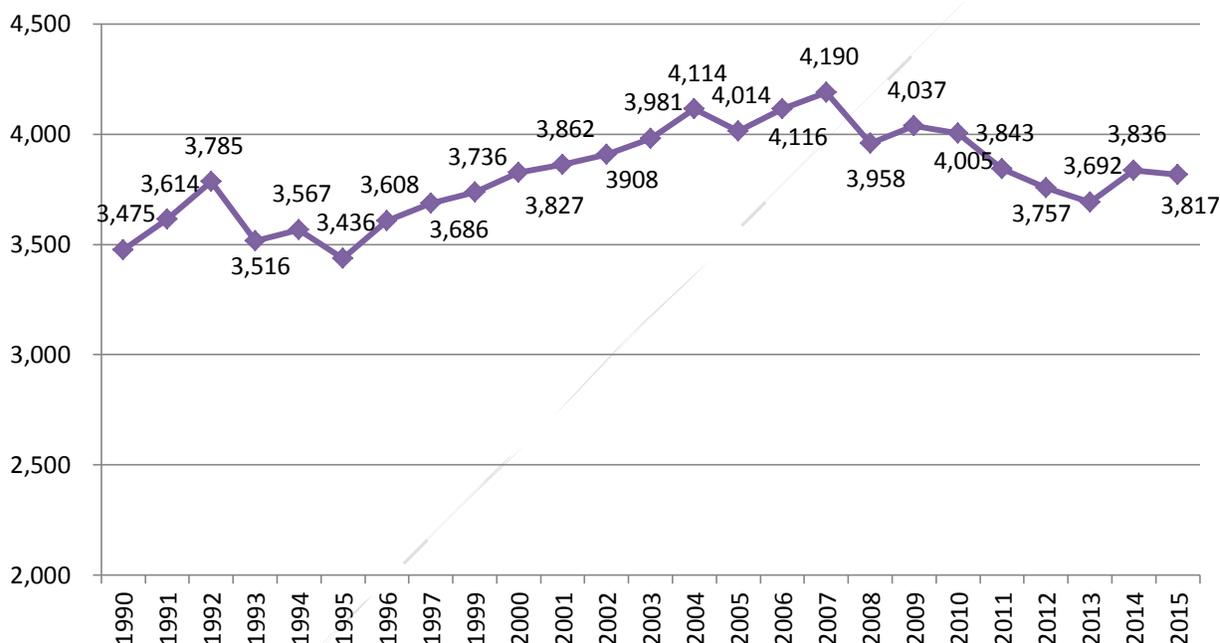
Certain counties deviate from these general trends. Salem County experienced continued declines in the number of municipal police employees through 2015. Warren County, however, maintained relatively stable levels of municipal police employees throughout all years and reported its highest number of municipal police employees in 2014.

These numbers confirm the concerns noted by police departments. Compared to seven or eight years ago, most police departments have experienced continued declines in staff. Though the crime rate has declined, the population continues to increase, which can increase the demand for police services. Many departments have expressed concern that the changes under Criminal Justice Reform may require slightly more of officers. However, as noted throughout this report, many of the changes of Criminal Justice Reform- Live Scan, affidavit of Probable Cause, PLEIR, and PSA are intended to reduce the workload of Prosecutors' Offices and make the arrest process both more efficient and consistent.

Sheriff's Office Staffing

The full functions of Sheriff's Offices vary across counties; in some counties Sheriffs perform general policing duties, courthouse security, jail management, or some combination of these categories. However, Sheriff's Offices, unlike other law enforcement agencies, did not experience as dramatic fluctuations in staffing levels from 1990 to 2015, as shown in Figure Thirty-Eight. At their peak in 2007, the 21 Sheriff's Offices in New Jersey employed 4,190 officers. While this was a notable increase from the roughly 3,400 officers employed between 1990 and 1996, this increase was not nearly as large as that noted among municipal agencies. Further, the decline noted after 2007, is not nearly as dramatic as that noted among municipal agencies, bottoming in 2013 at 3,692 Sheriff's Officers. Overall, no individual Sheriff's Office experienced a fluctuation of more than 300 officers.⁸⁴ However, as of 2015, there are 373 fewer municipal police officers employed than there were at the peak in 2007.

Figure Thirty-Eight: Total Law Enforcement Officers Employed by Sheriff's Offices
1990-2015



Across counties, the fluctuation of Sheriff's Offices staffing varied. Seven out of New Jersey's 21 counties (Bergen, Monmouth, Morris, Ocean, Passaic, Somerset, and Union) experienced their highest volume of Sheriff's officers between 2006 and 2009. For the vast majority of counties, fluctuations and declines starting in 2007 and are followed by little to no growth from 2010-2015. As of 2015, 15 of the 21 Sheriffs' Offices were within 25 officers of their peak number of officers. Further, seven of these Sheriff's offices were within 10 officers of their peak numbers by 2015.

⁸⁴ Technically, Camden County Sheriff's Office reported a low of 103 officers in 2013 and a peak of 499 officers in 1992. While Camden County showed consistent declines in the number of officers employed across these years, the county also underwent major changes to its policing structure in 2013-2014 with the advent of a county police force. While some of this decline may be attributable to the same factors that affected other law enforcement agencies, it is also possible that the dramatic declines are more related to the political restructuring of county law enforcement.

Though the extent of fluctuation in Sheriff's Office staffing is not as great as that noted among municipal police departments, the impact of these fluctuations may be more pronounced in Sheriff's Offices given the variation of responsibilities within each office. While the crime rate may have continued to drop, more and more arrestees have been committed to jail in recent years.⁸⁵ Thus, though overall crime may be down, Sheriff's Offices in particular, have not seen a dramatic decrease in workload as more arrestees have been confined to jail prior to trial. The additional transports that may be required under Criminal Justice Reform may further tax these offices; especially given that they are staffed at levels lower than previous years. Further, most Sheriff's Offices also provide security for the county courthouses. Should a county determine that a courthouse is to open outside of traditional business hours, in the evening or on the weekend, Sheriff's officers would be required to staff the building. Additionally, they would also be required to transport prisoners to such hearings if the county requires the arrestee to be present in person.

Prosecutor's Office Staffing

Prosecutors' Offices provide staffing information to the Division of Criminal Justice each year. This provision is strictly voluntary and not mandated by any rule or regulation. Each office provides information on the total number of employees, salaries, benefits, and the length of employment for employees. These reports categorize staff as "Assistant Prosecutors", "Detectives and Investigators", "Secretarial and Clerical Staff", and "Support Staff". The staffing information was provided for the years 2006 to 2016. The 2008 report was not available. However, the 2009 report included the percentage change in staffing numbers from 2008 to 2009. This percentage change was used to calculate the number of staff in 2008.

⁸⁵ Subramanian Ram., Delany, Ruth, Roberts, Stephen, Fishman, Nancy, and McGarry, Peggy. (2015). *Incarceration's Front Door: The Misuse of Jails in America*. Vera Institute of Justice. New York: NY.
http://archive.vera.org/sites/default/files/resources/downloads/incarcerations-front-door-report_02.pdf

Figure Thirty-Nine: Total Assistant Prosecutors Employed by Prosecutors' Offices
2006-2016

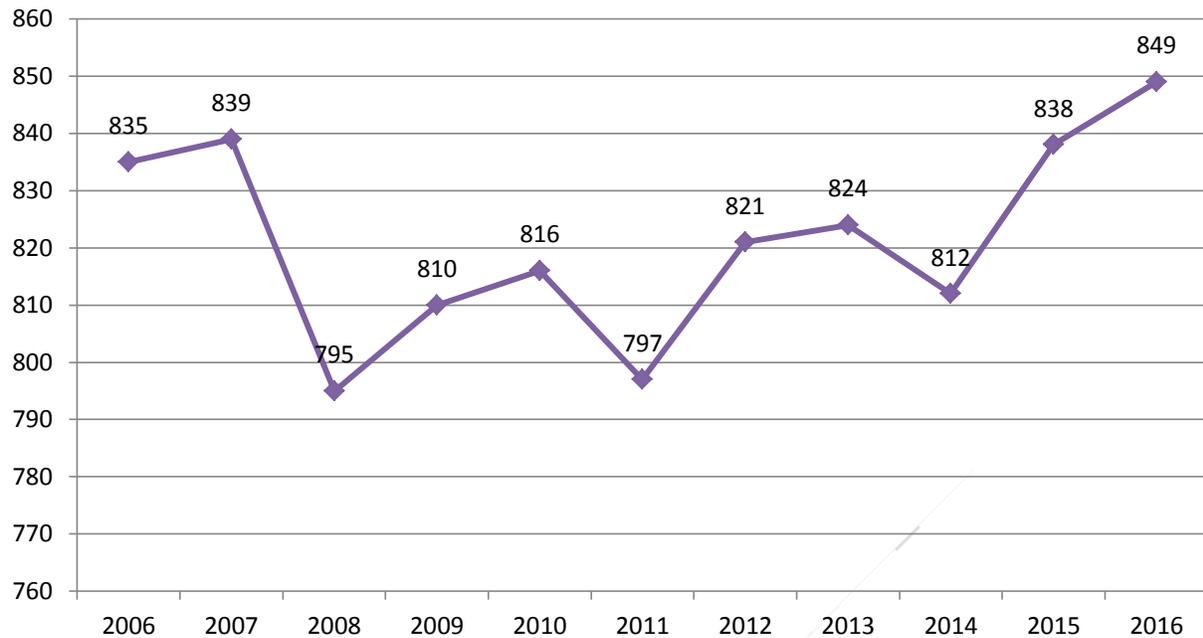


Figure Thirty-Nine indicates the total number of Assistant Prosecutors employed in New Jersey⁸⁶ from 2006 to 2016. Similar to the trend noted among the number of law enforcement officers employed in the State, there is a noticeable decline in the number of Assistant Prosecutors beginning in 2007. In 2007, there were 839 Assistant Prosecutors. This number dropped to 795 in 2008. Since 2008, the number of prosecutors has increased overall, but not consistently. In 2015, there were 838 county Assistant Prosecutors employed, nearly identical the 2007 peak of 839. It appears then that Prosecutors' Offices were also susceptible to the economical struggles that plagued police departments during the late 2000s. However, the declines noted for Prosecutors' Offices do not appear as large as those noted for police departments. The 2016 staffing numbers indicate that there are 849 Assistant Prosecutors in New Jersey, the highest volume in ten years.

Across counties, the trend of Assistant Prosecutors varied considerably. Slightly less than half of all counties, nine, experienced their peak staffing levels in 2016 (Atlantic, Camden, Cape May, Mercer, Morris, Ocean, Salem, Sussex, and Warren counties). Bergen, Essex, Hudson, and Middlesex counties experienced their highest number of Assistant Prosecutors in 2007. The pattern noted for lowest staffing levels is less consistent; eight counties experienced their lowest staffing levels between 2010 and 2012 (Atlantic, Bergen, Cape May, Gloucester, Monmouth, Salem, Union, and Warren counties). However, Essex County experienced its lowest number of Assistant Prosecutors in 2016.

The difference between the highest number of Assistant Prosecutors and the lowest number was three or less for Cape May, Cumberland, Gloucester, Hunterdon, Salem, Somerset, Sussex, and Warren

⁸⁶ These numbers represent the number of Assistant Prosecutors employed by counties, not by the Division of Criminal Justice.

counties. For these counties, there was very little fluctuation in the number of Assistant Prosecutors employed between 2006 and 2015. Conversely, Camden, Essex, Hudson, Morris, Ocean, and Passaic counties experienced a difference of 10 or more Assistant Prosecutors between their highest and lowest staffing levels between 2006 and 2016. The largest difference was noted for Essex County. There was a difference of 18 Assistant Prosecutors between their peak of 140 in 2006 and 2007 and their low of 124 in 2016.

Overall, Prosecutors' Offices experienced a decline in staffing from the highs noted in 2007. However, the extent of this decline varied considerably across counties. Further, the number of Assistant Prosecutors appears more consistent from 2006 to 2015 than the staffing patterns noted for police departments. Though fluctuations are evident, they are small for most counties. Counties experiencing the largest fluctuations tend to be larger in terms of crime volume (*i.e.*, Essex and Camden counties) than those experiencing smaller fluctuations.

The Prosecutor's Office staffing numbers indicate that these offices are staffed much more consistently than police departments. With few exceptions, these departments are not understaffed currently. Criminal Justice reform will not likely change the caseload of these departments but merely shift the Prosecutor's Office review to an early point in the process. Further, the removal of bail reduction hearings, which occur frequently, may provide further time and opportunity for pre-charging screening and for detention hearings.

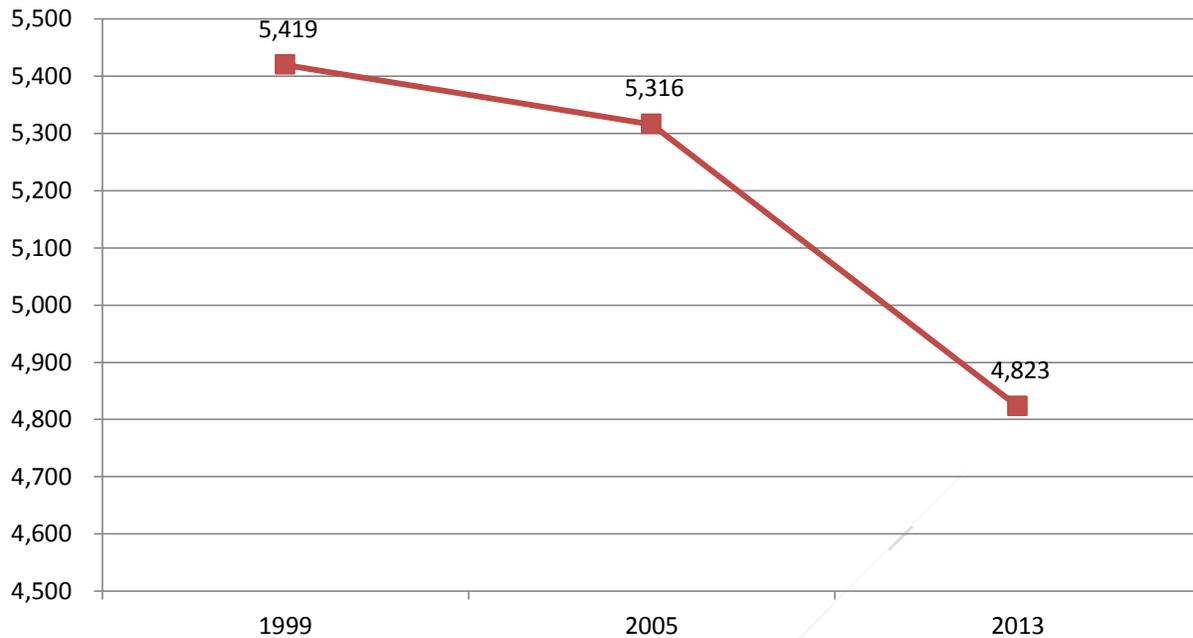
Jail Staffing

The volume of staff employed by county jails was provided by the Census of Jails.⁸⁷ Administered by the Bureau of Justice Statistics, the total number of full-time staff employed by each jail was reported for 1999, 2005, and 2013. Figure Forty depicts the trend of staff in New Jersey's county jails from 1999 to 2013. Since 1999, the total number of staff employed by county jails has declined by nearly 600 employees (about 11%).

Across counties, the extent of the change in staffing between 1999 and 2013 varied. Ten of the 21 counties reported more staff in 2013 than in 1999. On average, there were about 30.5 more employees in 2013 than in 1999 for those counties that experienced increases in staffing. The largest increase was noted for Salem County, which experienced an increase of 63 employees between 1999 and 2013. However, the 11 counties that experienced decreases in staffing from 1999 to 2013, experienced considerable declines. On average, there were 81.9 fewer employees in 2013 than in 2009 for counties experiencing declines in staffing. The largest decline was noted in Essex County, which reported 295 fewer staff in 2013 than in 1999.

⁸⁷ United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. Census of Jails, 2013. ICPSR36128-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research (distributor)

Figure Forty: Total Staff in County Jails
1999-2013



Discussions with county jails, revealed that following the recession in 2009, there were staffing changes in jails. Particularly, several jails noted that a number of positions were outsourced, such as nurses or medical staff. Thus, the overall staffing levels may have declined, but the number of officers may not have declined. Further, the staffing needs of each jail are dependent upon the structure of the jail and tend to remain fairly consistent to meet these needs.

The 2013 Census of Jails⁸⁸ also documented information on the type of staff employed in each county jail. In total, jails reported employing a total of 4,823 individuals to manage the more than 15,000 inmates in 2013. In every county, there were considerably more correctional staff than other staff.⁸⁹ While Essex County may have the largest population of inmates under the care of the county jail, Hudson County actually reported a larger number of correctional staff, 390, than Essex County, 384. Further, the ratio of staff to 100 inmates is typically smaller in counties with large inmate populations. In Essex County, there were 16 staff (correctional and other) employed per 100 inmates. Camden County employed less than 20 staff per 100 inmates (17 staff per 100 inmates, to be exact). Thus, for every 100 inmates in county jails, there were fewer than 20 staff members assigned to handle the corresponding work for those inmates. In contrast, in Somerset County, there were 68 staff employed per 100 inmates. Several other counties had high ratios of staff to inmates; Salem County reported 54 staff per 100 inmates, Sussex reported 56 staff per 100 inmates, and Warren County reported 59 staff per 100

⁸⁸ United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. Census of Jails, 2013. ICPSR36128-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research (distributor)

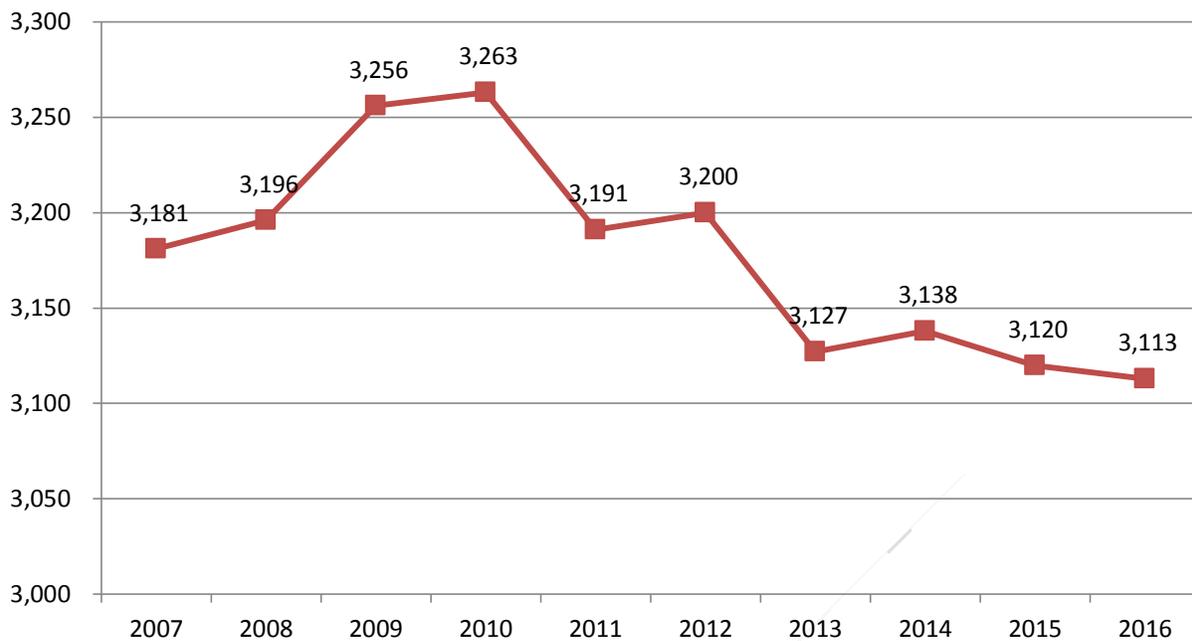
⁸⁹ Other staff are defined as any individual employed by the jail not categorized as a Correctional Officer. This includes: administrative staff; clerical and maintenance staff; educational staff; professional and technical staff; and any other category that the jail may use.

inmates. In these counties then, for every 100 inmates, there were upwards of 50 staff members available to handle all requisite duties. The census does not comment on whether these county facilities are understaffed; however, it is likely that staff in counties with lower ratios of inmate to staff likely feel greater pressure than those in counties with higher ratios.

Table Nine: Type of Staff in County Jails
2013

	Correctional Staff	Other Staff	Total Staff
Atlantic County Justice Facility	208	32	240
Bergen Co. Jail	282	43	325
Burlington Co. Det. Ctr., Corr. Ctr. & Work Release	192	8	200
Camden County Correctional Facility	311	25	336
Cape May Co. Corr. Ctr.	50	9	59
Cumberland Co. Jail	162	29	191
Essex County Correctional Facility	384	84	468
Gloucester County Jail	50	15	65
Hudson County Correctional Facility	390	150	540
Hunterdon Co. Jail	36	3	39
Mercer County. Corr. Ctr.	116	47	163
Middlesex County Adult Correctional Center	207	35	242
Monmouth County Correctional Institution	302	44	346
Morris Co. Corr. Fac.	150	40	190
Ocean Co. Jail	203	34	237
Passaic County Jail	330	47	377
Salem Co. Corr. Fac.	160	27	187
Somerset County Jail	105	28	133
Sussex Co. - Keogh Dwyer Corr. Fac.	68	21	89
Union County Jail	283	34	317
Warren Co. Corr. Ctr.	73	6	79
Total	4,062	761	4,823

Figure Forty-One: Self-Reported County Jail Staff
2007-2016



To ascertain more precise staffing numbers for county jails, a questionnaire was e-mailed to each county jail via the New Jersey County Jail Warden's Association. The questionnaire asked each jail to provide staffing numbers for as many years as possible from 1990 to 2016. Responses were received from 15 counties. The non-responsive counties were all contacted for follow-up, but still did not complete the questionnaire.⁹⁰ The completeness of responses varied; some counties provided staffing information through the 1990's, but most provided staff numbers from 2007 through 2016. Though the data are not reflective of all county jails, they do indicate the same general patterns observed among police departments. As shown in Figure Forty-One, the number of jail staff peaked in 2010 and has declined since.

One of the biggest goals of Criminal Justice Reform is to reduce the volume of inmates in county jails by decreasing the volume of inmates held unnecessarily prior to trial. Thus, the decreasing volume of jail staff may not be an issue for jails, as the number of inmates confined for lengthy periods is expected to decline. Stakeholders should continue to monitor the implementation of Criminal Justice Reform to ensure appropriate alignment of resources that fully capture potential efficiencies and savings to taxpayers.

⁹⁰ The non-responsive counties were Camden, Cumberland, Hudson, and Mercer counties.

Comments and Concerns Noted in Bail Reform Questionnaire

Within the questionnaire provided to all New Jersey police departments, Sheriff's Offices, Prosecutors' Offices, and jails, agencies were provided the opportunity to list any additional comments/concerns on the potential benefits and challenges associated with Criminal Justice Reform. One-hundred and three police departments, five Sheriff's Offices, nine Prosecutors' Offices, and six jails/correctional facilities provided feedback, totaling 123 qualitative responses from agencies overall. The majority of responses involved references to staffing, documentation, overtime, and expected benefits and challenges that will come with Criminal Justice Reform. Many of these comments address the increased burden that will be placed on agencies who already feel taxed by limited resources. The tone of comments varied considerably; many agencies expressed concern about the impacts of Criminal Justice Reform, wishing that the specific implementation of these reforms had been discussed prior to codification; some were excited by the reform; some were concerned that the reform will create a larger public safety issue; and others specified particular adaptations that must be implemented within their own agencies in order to comply with the stipulations of the law.

Arrest Volumes

Several police departments provided insight into the effects of arrests on staffing conditions currently. Certain departments indicated that arrests currently can be handled within normal shift hours when adequately staffed. However, overtime costs for officers becomes inevitable and unavoidable when departments are functioning at minimum staffing levels. Other departments indicated that multiple overlapping or back-to-back arrests can place a strain on manpower. Specifically, one department indicated that it made four arrests in one day leading to 20 hours of patrol overtime, 14 hours of detective bureau overtime, and 6 hours of dispatch overtime. While, rare, these situations can lead to unexpected challenges for some departments. Departments also raised the effect of the severity and complexity of crimes on manpower, indicating that one arrest can take a substantial amount of time (e.g., 4 hours).

Criminal Justice Reform is not expected to increase the volume of arrests (planned and unplanned), but the potential for an increase in re-arrests of individuals for failure to appear or re-offending exists. The arrest volume is more likely to be influenced by external factors, but has been declining (See pages 50-64). Understanding this baseline context is important, however, as other police responsibilities that must take place after arrests under Criminal Justice Reform, such as those related to documentation and court hearings, will occur earlier in the Criminal Justice process. As such, the need for departments' continued flexibility and openness to overtime in various instances of arrests will persist.

If departments are experiencing staffing crises with current arrest volumes, it is possible that the additional administrative responsibilities associated with Criminal Justice Reform may further tax those departments. These considerations underscore the importance of close oversight in scheduling and adherence to regulations regarding overtime as changes unfold under Criminal Justice Reform.

Prosecutorial Screening/Approval System

As previously indicated, quantitative responses from Prosecutors' Offices show that all 21 offices perform charging approvals and/or pre-complaint functions overnight for major crime events (e.g.,

homicides, police shootings, etc.). However, the majority of offices do not perform such duties overnight for offenses not considered to be major crimes. Qualitatively, certain Prosecutors' Offices explained that consultations and charging/complaint approvals in line with Criminal Justice Reform will "drastically change" current operations, with one office indicating that compliance with the law will require "a total overhaul" of their legal advisor system (*i.e.*, involving Assistant Prosecutors scheduled on nights, weekends, and holidays to execute the stipulated prosecutorial screening/approval system). Indeed, bolstering Assistant Prosecutor availability to provide legal guidance over charging and complaint processes may be a substantial shift for Prosecutors' Offices to adapt to Criminal Justice Reform. The Directive affords County Prosecutors' Offices the discretion to make decisions regarding the type of staff and structuring of schedules that enable Offices to meet the demands of their county's criminal justice system, generating best practices that can be further enhanced, shared, and implemented across other counties, as appropriate.

Documentation

Police departments indicated that additional time, and potentially overtime, will be required by officers to complete necessary documentation expeditiously after an arrest, while other departments noted that supervisors will need additional time for approval prior to submission for prosecutorial review. Further, departments vocalized a need to hire additional staff to handle records transmission and discovery requests to ensure timely transmission of all critical documentation and relevant information for prosecutorial and judicial officer review, first appearances, and detention hearings, as applicable. As noted previously, many departments already complete requisite reports well within time constraints of Criminal Justice Reform, *i.e.*, "immediately" or within one hour. Further, many departments already contact a judicial officer (or court administrator) to notify them of the arrest within a short period of time. If reports are already completed and the judicial officer has already been contacted, there would not be a need for overtime immediately following an arrest. That said, arrests can happen at any hour, for example, near the end of an officer's shift. In this instance, it is important for departments to keep in mind the time stipulations over certain deadlines for documentation. As appropriate, certain shifts may need to be elongated and future shifts may potentially need to be adjusted to complete and transmit documentation regarding arrests within the stipulations of Criminal Justice Reform. County Prosecutors will provide departments with additional guidelines as appropriate.

Some agencies indicated that they felt that Criminal Justice Reform would relieve some of the current burdens placed on smaller agencies. Specifically, it was noted that some police departments currently begin preparing lengthy "packets," including reports and documentation for all arrests, because of the uncertainty in whether the arrest will result in a summons or warrant. Built into Criminal Justice Reform, prosecutorial screening and approval will limit the discretion of this decision, and all parties involved will have a much better understanding of which cases would require more robust documentation immediately.

Speedy Trial Deadlines

Given specific time requirements of first appearances, detention hearings, and speedy trial deadlines, it is important for police officers in certain circumstances to take phone calls from Prosecutors to clarify facts within a case; address issues with defendants, who may also call officers as witness; or be present

for First Appearance or Detention Hearings. As noted previously in the report, many police departments employ a staffing schedule with multiple days off in a row (e.g., Pitman scheduling, which routinely involves three days off or department schedules involving four days of work followed by four days off). Further, police officers also raised the concern of pre-planned (e.g., week-long) vacations. Although departments are already fluent in making arrangements for police consultations and appointments for hearings when officers are on patrol duty, there can likely be instances where police presence (whether physically or virtually) may be more urgent due to speedy trial deadlines. This underscores the importance of accurate completion of documentation regarding arrests prior to officers' ending their shifts, in addition to greater communication and collaboration of officers with prosecutors prior to vacation days or longer periods of time off work. Nuanced and individualized decisions regarding such issues will likely be dependent on the specific procedures put in place by each Prosecutor's Office.

Within their qualitative responses, Prosecutors' Offices articulated expected increases in challenges due to speedy trial deadlines: One office explained that whereas First Appearances are currently held three times a week, with the implementation of Criminal Justice Reform, these hearings will now be held within this particular Office six days a week, including weekends and holidays. As previously mentioned, weekend hearings may be routine under Criminal Justice Reform. Three Prosecutors' Offices estimated costs around \$1 million dollars to account for salary expenses and benefits that will come with hiring additional personnel in anticipation of new requirements for prosecutorial screening and hearing regulations. Certain Offices indicated that funding has already been received and others indicated that amounts have been requested. Nonetheless, decisions regarding policies, scheduling, and staffing will ultimately be made according to the particular needs and volume of cases within each particular county.

Jails and correctional facilities also articulated expected increases in costs due to additional court hearings throughout the week and on weekends (e.g., "Saturday Court"). As indicated in quantitative responses, all jails and correctional facilities indicated having the capacity for video conferencing, to enable virtual appearances for defendants. However, qualitative responses show that certain facilities have yet to purchase all equipment necessary to execute virtual appearances. Virtual versus in-person court hearings will be both case- and county-specific. Counties deciding to hold in-person hearings—particularly on weekends—must take into consideration costs and other challenges associated with courtroom maintenance and security and defendant transportation.

Defendant Transports

Police departments indicated that after an arrest, waiting for transport to arrive and waiting in line to process prisoners within jails can be, depending on certain circumstances, time-consuming. Certain agencies employ a two-officer transport procedure whereby two officers are used to transport each prisoner. However, transports are typically handled by one officer. Within other counties, however, Sheriff's Offices maintain responsibility for transports generated by municipal police departments. One Sheriff's Office which maintains such responsibility, is preparing to add personnel for an expected increase in transports related to all municipal police arrests, warrant arrests generated from their own office, and out-of-county warrant arrests as well. Further, this Sheriff's Office is adding a seven-day transportation shift to assist with transports relevant to stipulations like the time requirements of First

Appearances. Given the stipulations within Criminal Justice Reform, adequate staffing will need to be in place in order to efficiently transport defendants to jail and their respective court appointments.

Given these considerations, it is important to note that Criminal Justice Reform will likely result in a small proportion of offenders being placed on a complaint-warrant and taken to jail. The unknown variable is the proportion of individuals whose criminal histories will identify them as high risk. As noted throughout this report, a high number of individuals currently in jail in the U.S. and in New Jersey are awaiting trial. In most instances, these individuals are in jail simply because of a failure to make monetary bail. In many instances these individuals are held on a relatively small bail amount. These are the likely individuals, who under Criminal Justice Reform, would be released prior to trial and thus would not need to be transported to jail. There also may be a reduction in the number of individuals requiring transport to jail because there may be more individuals who receive a summons rather than a warrant. One potential exception is the number of individuals who make bail prior to transport. If all individuals who make bail currently and do not require transport would be placed on a complaint-warrant under Bail Reform, they would require transport to jail. However, this is statistically unlikely based on previous research of risk assessment tools. Criminal Justice Reform should not result in an immediate increase in the total number of individuals transported to jail. Further, the volume of transports to first appearance and detention hearings can be affected by the details of the case, and in part determined by counties' decision-making regarding virtual courtroom hearings over in-person appearances.

Related to transport is the issue of medical clearance for arrestees. Several departments noted that jails have refused to accept inmates without a medical clearance because the arrestee exhibited some sort of physical or mental symptoms. Some departments indicated that this has resulted in increased overtime as the officer transports the arrestee to the hospital for an examination and waits. Other agencies have indicated that because they are such a small department, they have had to contact the judge and request that the individual be R.O.R.ed because a hospital transport would create a public safety issue for the office.

Public Safety

Several responses refer to potential concerns for public safety resulting from these reforms. Specifically, concerns were noted that officers would not be on patrol, but rather in the station handling the administrative tasks of Criminal Justice Reform. While possible under extreme circumstances, such as multiple, complex arrests occurring at the same time, this concern will likely not be the norm. The majority of police departments reporting such comments are small departments, with very few officers overall and less than four officers scheduled per shift. Typically, these departments do not have a high volume of arrest activity. As noted previously, most departments complete requisite reports within one hour. Further, Live Scanning, waiting for results of the scan, and running the PSA should be a short process that would not require an officer to be off the road for an extensive period of time. Again, while there are certainly exceptions, it is unlikely that these officers will be forced to choose between the road and administrative duties related to Criminal Justice Reform.

Last, certain departments raised concerns regarding the volume of recidivism among released offenders. That is, concern is expressed that defendants who are currently detained but will be released under

Criminal Justice Reform will potentially re-offend while awaiting their day in court. Research has noted that the likelihood of pretrial offending is rare and statistically unlikely.⁹¹ This statement may be of little comfort to victims of those who have offended while on release, but, it remains the reality. In actuality, only a small number of offenders are likely to engage in criminal activity while on release. The body of evidence on risk assessment tools has indicated a high level of predictive validity. That is, these assessments have been found to appropriately identify the small portion of defendants who are likely to offend if released. The majority of defendants, as noted throughout research, are unlikely to offend while on release. Further, research has also found that pretrial detention may increase future offending by limiting the opportunity of a defendant to make a living, maintain a residence, and ensure community ties that may insulate the individual from offending.

Prosecutors' Anticipated Costs

In a 2016 report prepared by the New Jersey Association of Counties, several counties provided estimated monetary costs for implementing Bail Reform. These estimates typically included the addition of several staff members within the Prosecutors' Office. There are currently four counties undergoing a pilot program for Bail Reform that began in March 2016. These counties- Camden, Morris, Passaic, and Sussex- provided preliminary estimates of the cost of Bail Reform. Camden, Morris, and Sussex counties indicated the need for additional Prosecutor's Office staff to address the changes under Criminal Justice Reform. The report does not delineate whether any of the additional staff would be Assistant Prosecutors for these counties.

The report also provided estimated costs from Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hudson, and Union counties. While these counties are not currently on a pilot program, they estimated potential staffing and financial needs for the implementation of Criminal Justice Reform. All of these counties specifically indicated the need for additional Prosecutor's Office staff. Cumberland County further delineated the need for two additional Assistant Prosecutors and Hudson County indicated a need for five additional Assistant Prosecutors. As of August 1, 2015, Cumberland County reported one less Assistant Prosecutor than the highest number reported since 2006 while Hudson County reported five fewer Assistant Prosecutors than their highest number.

It has already been determined that eight new criminal court judges will be installed throughout the State, effective September 1, 2016, in anticipation of the Criminal Justice Reform. The addition of a new judge in a county could potentially require the addition of Assistant Prosecutors to support the judge. These additional judges are likely being added to ameliorate the time restraints imposed by the Speedy Indictment and Speedy Trial requirements of Criminal Justice Reform.

⁹¹ Mamalian, Cynthia. (2011). State of the Science of Pretrial Risk Assessment. Pretrial Justice Institute: Gaithersburg, MD. https://www.bja.gov/publications/pji_pretrialriskassessment.pdf



Appendix A

Bail Reform Questionnaire

NJ State Bail Reform

On January 1, 2017, a new State Bail Reform Law will go into effect. In order to determine the costs, savings, and administrative challenges of the law, this questionnaire will ask you to provide information about your agency including the volume of arrests handled by your agency.

Please answer all questions to the best of your ability. If an answer is unknown, please leave it blank. However, be aware that the more information you can provide, the better. This will aid the State and Counties in determining the potential impact of the new bail procedures.

If you have any questions about this questionnaire specifically, technical issues, or require a paper version of the questionnaire, please contact the Office of Law Enforcement Professional Standards at 609-341-3228.

If you have any questions about Bail Reform in general, please contact your prosecutors office.

Thank you.

This questionnaire is designed to save your progress. That means, you may begin completing the questionnaire, close your browser, and then return to the questionnaire at another time. This feature will only work as long as you access the questionnaire from the same computer each time.

Agency Name *

Your Name *

First Name

Last Name

E-mail *

Phone Number *

Area Code

Phone Number

Which of the following describes your agency? *

Sheriffs Offices: Does your agency handle general policing duties, manage jail facilities, or both?

- General Policing
- Jail Facilities
- Both

The following questions should only be answered by *police departments and/or sheriffs offices*.

Please answer the following questions to the best of your knowledge. Accuracy will aid in determining the potential impact of the new bail procedures.

How long, in hours, is a typical shift in your department?

Please describe your staffing schedule.

D'100

How many officers are typically scheduled per day shift?

How many officers are typically scheduled per night shift?

From July 31st, 2016 to August 6th, 2016, how many overtime hours were worked by officers?

For the purposes of this questionnaire, an arrest refers to an unplanned arrest for indictable offenses or disorderly persons offenses (not a petty disorderly persons offense, ordinance violation, or a traffic offense, including DWI).

How long after an arrest does an officer typically complete an affidavit of probable cause?

How long after an incident does an officer typically complete an arrest or investigation report?

Typically, does your department transport arrestees to jail individually, or are they transported in groups? (If Other, please specify)

Individually

Groups

Other

What is the maximum capacity of arrestees for your station?

How many arrests did your department make in 2014?

How many arrests did your department make in 2015?

In an attempt to determine the impact of the bail reform law, it is necessary to determine the timing of arrests. To that end, we are requesting that you provide us with the number of arrests made by your department each hour for the week of **Sunday July 31st, 2016 to Saturday August 6th, 2016.**

Arrest Log

	7/31/16	8/01/16	8/02/16	8/03/16	8/04/16	8/05/16	8/06/16
0:00	<input type="text"/>						
1:00	<input type="text"/>						
2:00	<input type="text"/>						
3:00	<input type="text"/>						
4:00	<input type="text"/>						
5:00	<input type="text"/>						
6:00	<input type="text"/>						
7:00	<input type="text"/>						
8:00	<input type="text"/>						
9:00	<input type="text"/>						
10:00	<input type="text"/>						
11:00	<input type="text"/>						
12:00	<input type="text"/>						
13:00	<input type="text"/>						
14:00	<input type="text"/>						
15:00	<input type="text"/>						
16:00	<input type="text"/>						
17:00	<input type="text"/>						
18:00	<input type="text"/>						

19:00							
20:00							
21:00							
22:00							
23:00							

In an attempt to determine the impact of the bail reform law, it is necessary to determine the timing of transports to jail. To that end, we are requesting that you provide us with the number of transports to county jail by your department based on pre-existing charges (e.g., an outstanding warrant) each hour for the week of Sunday July 31st, 2016 to Saturday August 6th, 2016.

Pre-Existing Charges Transport Log

	7/31/16	8/01/16	8/02/16	8/03/16	8/04/16	8/05/16	8/06/16
0:00							
1:00							
2:00							
3:00							
4:00							
5:00							
6:00							
7:00							
8:00							
9:00							
10:00							
11:00							
12:00							
13:00							
14:00							
15:00							
16:00							
17:00							

18:00							
19:00							
20:00							
21:00							
22:00							
23:00							

We are requesting that you provide us with the number of transports to county jail by your department based solely on current charges each hour for the week of **Sunday July 31st, 2016 to Saturday August 6th, 2016.**

Current Charges Transport Log

	7/31/16	8/01/16	8/02/16	8/03/16	8/04/16	8/05/16	8/06/16
0:00							
1:00							
2:00							
3:00							
4:00							
5:00							
6:00							
7:00							
8:00							
9:00							
10:00							
11:00							
12:00							
13:00							
14:00							
15:00							
16:00							
17:00							

18:00							
19:00							
20:00							
21:00							
22:00							
23:00							

In an attempt to determine the impact of the bail reform law, it is necessary to determine the timing of non-transport releases. To that end, we are requesting that you provide us with the number of arrestees that made bail, were released at the station, and did not require transport by your department. Please identify the number of arrestees released by the hour of release for each hour for the week of **Sunday July 31st, 2016 to Saturday August 6th, 2016.**

Non-Transport Log

	7/31/16	8/01/16	8/02/16	8/03/16	8/04/16	8/05/16	8/06/16
0:00							
1:00							
2:00							
3:00							
4:00							
5:00							
6:00							
7:00							
8:00							
9:00							
10:00							
11:00							
12:00							
13:00							
14:00							
15:00							
16:00							

17:00							
18:00							
19:00							
20:00							
21:00							
22:00							
23:00							

The following questions should only be answered by *Prosecutors Offices*.

Please answer the following questions to the best of your knowledge. Accuracy will aid in determining the potential impact of the new bail procedures.

What are your "normal business hours"?

What is your total number of Assistant Prosecutors?

How many Assistant Prosecutors do you typically have scheduled on-call overnight to handle major crime events (e.g. homicides, police shootings, etc.)?

How many Assistant Prosecutors do you typically have scheduled on-call overnight to handle the remaining offenses?

Do you perform charging approvals and pre-complaint functions overnight for major crime events (e.g., homicides, police shootings, etc)?

Yes

No

Other

Do you perform charging approvals and pre-complaint functions overnight for the remaining offenses?

Yes

No

Other

When an arrest occurs after business hours, what typically happens?

- Processed the next day
- Processed immediately with assistance of Prosecutor on-call
- Other

For the purposes of this questionnaire, an arrest refers to an unplanned arrest for indictable offenses or disorderly persons offenses (not a petty disorderly persons offense, ordinance violation, or a traffic offense, including DWI).

Do you currently have a pre-complaint screening process (including major crime events)?

- Yes
- No

Please describe your pre-complaint screening process (including major crime events).

0/500

In an attempt to determine the impact of the bail reform law, it is necessary to determine the timing of arrests. To that end, we are requesting that you provide us with the number of arrests reviewed/screened by your office by each hour of the week of **Sunday July 31st, 2016 to Saturday August 6th, 2016.**

Arrests Reviewed/Screened Log

	7/31/16	8/01/16	8/02/16	8/03/16	8/04/16	8/05/16	8/06/16
0:00	<input type="text"/>						
1:00	<input type="text"/>						
2:00	<input type="text"/>						
3:00	<input type="text"/>						
4:00	<input type="text"/>						
5:00	<input type="text"/>						
6:00	<input type="text"/>						
7:00	<input type="text"/>						
8:00	<input type="text"/>						

9:00							
10:00							
11:00							
12:00							
13:00							
14:00							
15:00							
16:00							
17:00							
18:00							
19:00							
20:00							
21:00							
22:00							
23:00							

The following questions should only be answered by *jail/correctional facilities and/or sheriffs offices*.

Please answer the following questions to the best of your knowledge. Accuracy will aid in determining the potential impact of the new bail procedures.

How long, in hours, is a typical shift for an intake officer?

How long, in hours, is a typical shift for a corrections officer?

How many intake officers are typically scheduled per shift?

Does your facility currently have capability for video conferencing?

- Yes
 No

For the following questions, please insert the number of inmates processed through intake by your facility for each day and time period for the week of **Sunday July 31st, 2016 to Saturday August 6th, 2016**.

In an attempt to determine the impact of the bail reform law, it is necessary to determine the timing of inmate intake. To that end, we are requesting that you provide us with the number of intakes for each hour of the week of **Sunday July 31st, 2016 to Saturday August 6th, 2016**.

Intake Log

	7/31/16	8/01/16	8/02/16	8/03/16	8/04/16	8/05/16	8/06/16
0:00							
1:00							
2:00							
3:00							
4:00							
5:00							
6:00							
7:00							
8:00							
9:00							
10:00							
11:00							
12:00							
13:00							
14:00							
15:00							
16:00							
17:00							
18:00							
19:00							
20:00							

21:00	<input type="text"/>						
22:00	<input type="text"/>						
23:00	<input type="text"/>						

Please indicate the number of inmates that correspond to each category as of August 6, 2016.

	# of Inmates
Held 1 month+	<input type="text"/>
Held 3 months+	<input type="text"/>
Held 6 months+	<input type="text"/>
Held Pre-Trial	<input type="text"/>
Total Inmates	<input type="text"/>

Please indicate the average length of stay (in days) pre-trial for your facility for the time periods below.

	Avg Length of Stay (Days)
2014	<input type="text"/>
2015	<input type="text"/>
2016 (to date)	<input type="text"/>

Please use the space below to provide any other information that you feel might help determine the costs, savings, or administrative challenges anticipated with bail reform.

0/500

Submit

Appendix B
Bail Reform Questionnaire Response Data

Bail Reform Questionnaire Results

Table One: Bail Reform Questionnaire Data from Municipal Police Departments (486 Departments)

Question	Average			
<i>How long, in hours, is a typical shift in your department?</i>	11.07			
<i>How many officers are typically scheduled per day shift?</i>	6.86			
<i>How many officers are typically scheduled per night shift?</i>	6.72			
<i>From July 31st, 2016 to August 6th, 2016, how many overtime hours were worked by officers?</i>	101.33			
<i>How long after an arrest does an officer typically complete an affidavit of probable cause? (in hours)</i>	2.24			
<i>How long after an incident does an officer typically complete an arrest or investigation report? (in hours)</i>	16.57			
<i>What is the maximum capacity of arrestees for your station?</i>	6.08			
<i>How many arrests did your department make in 2014?</i>	595.01			
<i>How many arrests did your department make in 2015?</i>	572.33			

Question	Departments on Pitman Schedule	Departments on Modified Pitman Schedule	Departments on "Other" Schedule	
<i>Please describe your staffing schedule.</i>	206	35	236	

Question	Individually	Groups	Both	Sheriff Transport
<i>Typically, does your department transport arrestees to jail individually, or are they transported in groups? (If Other, please specify)</i>	412	29	15	10

Table Two: Bail Reform Questionnaire Data from County Prosecutors' Offices (21 Prosecutors' Offices)

Question	Average	
<i>What is your total number of Assistant Prosecutors?</i>	39.57	
<i>How many Assistant Prosecutors do you typically have scheduled on-call overnight to handle major crime events (e.g. homicides, police shootings, etc.)?</i>	2.57	
<i>How many Assistant Prosecutors do you typically have scheduled on-call overnight to handle the remaining offenses?</i>	1.67	

Question	Yes	No
<i>Do you perform charging approvals and pre-complaint functions overnight for major crime events (e.g., homicides, police shootings, etc.)?</i>	21	0

Question	Yes	No
<i>Do you perform charging approvals and pre-complaint functions overnight for the remaining offenses?</i>	5	9

Question	Processed Immediately	Processed Next Day
<i>When an arrest occurs after business hours, what typically happens?</i>	7	9

Question	Yes	No
<i>Do you currently have a pre-complaint screening process (including major crime events)?</i>	14	7

Table Three: Bail Reform Questionnaire Data from County Sheriff Departments (20 Sheriff's Offices)

Question	General Policing	Both	
<i>Does your agency handle general policing duties, manage jail facilities, or both?</i>	12	8	

Question	Average
<i>How long, in hours, is a typical shift in your department?</i>	8.28
<i>How many officers are typically scheduled per day shift?</i>	89.05
<i>How many officers are typically scheduled per night shift?</i>	13.32
<i>From July 31st, 2016 to August 6th, 2016, how many overtime hours were worked by officers?</i>	308.26
<i>How long after an arrest does an officer typically complete an affidavit of probable cause? (in hours)</i>	5.29
<i>How long after an incident does an officer typically complete an arrest or investigation report? (in hours)</i>	14.86
<i>What is the maximum capacity of arrestees for your station?</i>	57.20
<i>How many arrests did your department make in 2014?</i>	1396.68
<i>How many arrests did your department make in 2015?</i>	1322.7

Question	Offices on Pitman Schedule	Offices on Modified Pitman Schedule	Offices on Other Schedule
<i>Please describe your staffing schedule.</i>	0	1	19

Question	Individually	Groups	Both
<i>Typically, does your department transport arrestees to jail individually, or are they transported in groups? (If Other, please specify)</i>	13	5	2

Table Four: Bail Reform Questionnaire Data from County Jails (18 County Jails/Correctional Facilities; 3 Sheriff's Offices)

Question	Average
<i>How long, in hours, is a typical shift for an intake officer?</i>	8.87
<i>How long, in hours, is a typical shift for a corrections officer?</i>	8.83
<i>How many intake officers are typically scheduled per shift?</i>	4.21