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**December 2021**

## **Implementation of 2020 Discovery Law Changes: Update**

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## Implementation of 2020 Discovery Law Changes: December 2021 Update

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*Originally published in November 2021, this report has been updated to include information obtained through a survey of defense service providers.*

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## Executive Summary

Criminal Procedure Law Article 245 (Discovery) established new, accelerated timeframes for the sharing of evidence between the prosecution and defense during the pretrial period. The law requires automatic discovery of materials, establishes a presumption of sharing, and sets specific timeframes for the sharing of evidence between the prosecution and defense during the pretrial period.

When it took effect on Jan. 1, 2020, the law required that the prosecution meet its initial discovery obligations no later than 15 days after an individual's arraignment and did not differentiate whether an individual was detained or released after arraignment. Subsequent amendments, which took effect May 3, 2020, considered an individual's custody status and provided the prosecution with additional time to meet its initial discovery obligations:

- Within 20 calendar days of arraignment if the defendant was in custody during the pendency of the criminal case.
- Within 35 calendar days of arraignment if the defendant was not in custody during the pendency of the criminal case.
- Not later than 15 days before trial in certain cases involving traffic infractions or petty offenses as defined by a municipal code that do not carry a sentence of imprisonment.

State law requires the chief administrator of the courts, in conjunction with the Division of Criminal Justice Services (DCJS), to report on how the new Discovery statute was implemented: the procedures used and resources needed to comply with the law; circumstances where discovery obligations were not met; and detail on case outcomes.

To comply with this statutory obligation, DCJS surveyed district attorneys' offices, police departments, sheriffs' offices, forensic laboratories, and defense service providers. Survey participation was voluntary, as the law does not include any reporting requirements or sanctions if agencies fail to share information. The state Office of Court Administration (OCA) surveyed judges and examined case outcomes and plans to publish a report with those results.

When reviewing this report, it is important to remember that discovery reforms took effect shortly before New York State and the nation faced the COVID-19 pandemic. The state temporarily suspended specific time limits for legal proceedings and curtailed court operations effective March 17, 2020, and given that, there is no way to distinguish the impact of the pandemic from the impact of discovery reforms on case processing or case outcomes.

DCJS distributed surveys to district attorneys' offices, police departments, sheriffs' offices, and forensic laboratories on May 12, 2021. Responses from district attorneys' offices and labs were due by June 4, 2021, while police departments and sheriffs' offices were given until July 2, 2021, in an attempt to increase participation by those agencies. The agency received responses from 54 (87%) of 62 district attorney's offices; 142 (29%) of 494 police departments, including the New York City Police Department (NYPD), and sheriffs' offices; and all 20 of the state's forensic laboratories. DCJS distributed surveys to 123 defense service providers on November 16, 2021, with responses due by November 30, 2021. The agency received 65 responses (53%).

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The overarching theme of all survey responses was lack of adequate staffing and financial resources to gather, review, compile and share an increased volume of materials during a significantly compressed timeframe than previously mandated by state law. Agencies, labs, and offices took similar actions in an effort to comply with the new requirements for sharing discoverable materials, such as statements, body-worn camera footage, 9-1-1 call recordings, and other paper and digital items, including:

- Hiring new sworn and civilian staff when possible;
- Reassigning existing staff; and
- Transitioning from a paper-based process of sharing and providing discoverable materials to a digital one, using either the Digital Evidence Management System (DEMS) developed and maintained by the New York Prosecutors Training Institute (NYPTI) or other similar systems.

New York State made \$38.25 million available to the 57 counties outside of New York City to assist with their implementation of the new discovery law and changes to the state's bail laws, which also took effect Jan. 1, 2020. Administered by DCJS, this funding was allocated to each county based on its proportion of criminal court arraignments statewide. Eligible expenses include, but are not limited to, training; administrative support; equipment, software and data connectivity; and overtime.

As of Nov. 3, 2021, 47 counties have received approximately \$32 million, the majority of which was allocated after the survey period closed. The remaining counties have not yet submitted applications for funding. Counties were required to prioritize requests for its district attorneys' offices, local police departments, and sheriffs' offices, but funding also could support pretrial services and increased case supervision resulting from bail reform, nonprofit organizations, and forensic laboratories.

## **Summary of Survey Responses**

### ***District Attorney's Offices***

Fifty-four (87%) of 62 district attorneys' offices submitted responses. Detailed survey responses are presented in Appendix C.

### **Staff Training**

Nearly all respondents (52 of 54) trained staff on the new law, with 85 percent (44 of 52) training 76 percent to 100 percent of staff. Of those offices that provided training, 100 percent (52) trained assistant district attorneys, 94 percent (49) trained support staff and 63 percent (33) trained DA investigators. Assistant district attorneys received the most training, an average of 24.8 hours, with support staff receiving an average of 18.3 hours and investigators receiving an average of 10.5 hours.

### **Staff Responsibilities and Staffing Changes**

Hiring additional staff was the most common staffing change, with 44 offices (82%) reporting hiring new assistant district attorneys and support staff to facilitate the digital conversion of

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materials and coordinate with outside agencies on the transmission of discoverable materials within the necessary timeframe.

Reassigning staff (72%, 39 offices) was the next most common staffing change, with assistant district attorneys being reassigned in some offices to exclusively handle training and coordination with law enforcement agencies and forensic labs.

Several offices established a unit or bureau dedicated to discovery compliance. These units focused on case assessment and intake, coordinating with law enforcement agencies, and internally managing discovery compliance.

Generally, respondents noted that their attorneys spent more time gathering the necessary documentation, reviewing and redacting documentation, and filing certificates of compliance, which took away from other case preparation.

### Obtaining, Managing and Disclosing Discoverable Materials

Every office (54) changed how it obtained discoverable materials from law enforcement agencies. In the past, law enforcement agencies would deliver case reports by hand or email them to district attorney's offices. Many law enforcement agencies now submit discoverable materials to a digital platform where those materials are accessed by district attorneys' offices. Respondents reported training law enforcement agencies on the law and how to use various digital platforms, and developed discovery checklists for law enforcement agencies to ensure that necessary materials were sent to their offices. Checklists also were implemented within their offices to ensure there were not any missing documents. Staff spent additional time following-up with law enforcement agencies to obtain all necessary documents.

Ninety-three percent (50) of offices adjusted procedures for managing discoverable materials within their office. The majority of offices are transitioning away from paper and relying on cloud-based digital discovery management. Eighty-five percent (46) of those offices use the New York Prosecutors Training Institute's Digital Evidence Management System (DEMS), while another 13 percent (seven offices) use a similar system (eProsecutor, JustWare, NICE:Investigate, PRO/Portal or the Prosecutor Case Management System). This transition required additional training of attorneys and support staff on software and equipment; renovation of office space; and increased information technology staffing.

Ninety-three percent (50) of offices changed how they disclose discoverable materials to defense counsel, with almost all using DEMS and other similar systems. Exceptionally large files are disclosed using portable drives. One respondent from an office that does not use DEMS reported that it coordinated with the defense bar to establish a satisfactory workflow for disclosing discoverable materials.

### Stakeholder Coordination

All but two offices (52 of 54, 96%) changed how they coordinated with law enforcement agencies and other stakeholders. While some respondents noted that coordination with law enforcement agencies has been hampered by the additional workload associated with discovery compliance, others noted that the transition from paper to digital sharing resulted in newly implemented regular meetings and formal arrangements, such as memoranda of understanding, that have improved coordination. These changes included: creating a discovery coordinator

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position within their offices to work with outside agencies on training, troubleshooting and oversight; and sending DA investigators to smaller law enforcement agencies to assist them with submitting materials and training them on the new technology.

### Impact of the COVID-19 Pandemic

Forty-eight percent (26) of respondents reported that the pandemic delayed the full impact of the law and 32 percent (17) reported the full impact on their jurisdiction was somewhat delayed.

Remote work and staffing shortages required offices to adjust procedures they had developed to comply with the law. Respondents also noted the impact of COVID on law enforcement agency staffing and resources. Officers were sick, quarantined or reassigned, which resulted in a shortage of personnel available to assist with gathering discoverable materials.

### Additional Comments

Respondents expressed concern for their overworked and overburdened staffs. Some respondents also stated that their offices did not receive sufficient financial support to hire additional attorneys, support staff, and grand jury stenographers, which increased costs and the workloads of existing staff. Some have noted an increase in litigation related to discovery compliance. Financial and technical support for new equipment and technology also was lacking.

### ***Police Departments and Sheriffs' Offices***

Only 29 percent (142 of 494) of law enforcement agencies responded. Given the low response rate, these findings may not reflect the experiences of all law enforcement agencies in the state. Detailed survey responses are presented in Appendix D.

### Staff Training

More than three-quarter of respondents (78%, 111) provided training to staff, with 81 percent (90 of 111) training between 76 percent and 100 percent of staff. Of those law enforcement agencies that provided training, 98 percent (109) trained sworn personnel and 44 percent trained non-sworn personnel. Sworn personnel received the most training, an average of 7.8 hours, and non-sworn personnel received an average of 4.7 hours.

### Staff Responsibilities and Staffing Changes

More than three-quarters of respondents (78%, 111) modified staff responsibilities and 69 percent (98) hired staff or made scheduling changes, with reassigning staff and requiring overtime the most common actions to comply with the law. Thirty-one percent (44) did not make any changes to staffing or scheduling.

Agencies designated certain officers or non-sworn staff to manage discoverable materials; hired additional officers and civilian employees; assigned supervising officers or support staff to assume the responsibility; or relied on arresting officers to scan and upload materials for their own cases.

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Due to the vast number of discoverable materials, particularly videos, required to be reviewed and submitted under the new law, law enforcement agencies reported a significant increase in staff workloads and overtime. Several agencies expressed concerns about scaling back normal police duties to perform more clerical duties, and some respondents from smaller agencies reported that the new discovery demands have nearly eclipsed standard policing and other administrative duties.

#### Transmitting Discoverable Materials to the District Attorney's Office

Nearly all (94%, 134) agencies changed procedures for transmitting discoverable materials to district attorney's offices and 84 percent (120) reported needing more resources to fulfill their discovery obligations. Ninety percent (128) of agencies made changes to how they coordinate with stakeholders as part of meeting the requirements of the law.

#### Impact of the COVID-19 Pandemic

About one-quarter (24%, 34) of respondents reported that the full impact of the law on their agencies was delayed; 28 percent (40) reported it was delayed somewhat; and 42 percent (60) reported that the full impact has been delayed very little or not at all.

#### Additional Comments

Law enforcement agencies reported pulling officers away from their policing duties to complete the required administrative paperwork; and the lack of financial support to hire additional officers and non-sworn personnel, cover overtime costs and purchase equipment to scan and upload discoverable materials.

A handful of agencies reported that they had little to no problems with compliance. One agency with small arrest counts reported that only minor adjustments were necessary to process discoverable materials, while others noted that fewer overall arrests during the early months of the pandemic gave them more time to comply.

#### ***Forensic Laboratories***

All 20 forensic laboratories responded to the survey. Detailed survey responses are presented in Appendix E.

#### Staff Training

Eighty-five percent of labs (17) provided training to staff, with 81 percent (13) training between 76 percent and 100 percent of staff. Among the 17 that provided staff training, 16 trained managers, supervisors, scientists and technicians, and 11 trained support staff. Support staff received the most training, with an average of 14.9 hours. Management and leadership received an average of 12.6 hours and scientists and technicians, an average of 10.2 hours.

#### Staff Responsibilities and Staffing Changes

Most respondents reported that additional laboratory personnel were needed due to the increased workload and to meet the deadlines for transmitting materials to law enforcement and district attorney's offices. Information technology staff also were needed to manage and develop the digital information management systems.

All but one lab reported modifying staff responsibilities to meet the law's requirements. Several laboratories created new positions and hire extra staff to address the increase in casework and digital conversion of discoverable materials. At least one lab created a coordinator position to

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manage discoverable materials. Hiring additional staff (50%, 10) and requiring overtime (30%, 6) were the most common staffing adjustments (some labs reported both), while six labs (30%) did not make any staffing changes.

#### Obtaining, Managing and Disclosing Discoverable Materials

Ninety percent (18) of labs reported the volume of discoverable materials they prepared increased greatly and 90 percent (18) reported needing more resources to fulfill their discovery obligations. To meet these demands, laboratories converted from paper to digital materials and nearly all reported that they now transmit discoverable materials through digital sharing platforms or by providing the district attorney's office with access to their case management system.

Sixty-five percent (13) of laboratories use an information management system to manage discoverable materials. Among those, six transmit discoverable materials using DEMS.

All but two (90%, 18) laboratories modified procedures for when discovery packets were prepared in relation to a specific report of analysis. Sixty-five percent (13) of laboratories did not make changes to the evidence chain-of-custody as part of the changes made for CPL 245.

#### Coordination with Stakeholders

Eighty-five percent (17) of laboratories made changes to how they coordinate with stakeholders. Although much of the coordination was administrative, some laboratories reported working with outside stakeholders, primarily law enforcement agencies and district attorneys' offices, for training and oversight of the discovery process.

#### Impact of the COVID-19 Pandemic

While the pandemic did not impact new procedures – implementation occurred in advance of the law's effective date – it did cause labs to experience staff attrition, hiring freezes and lack of resources to add new staff positions to meet the workload. Seven labs reported that the full impact of the law was delayed to a great extent, while seven others reported that the full impact was delayed somewhat by the pandemic.

#### Additional Comments

Most laboratories cited an increased need for equipment, such as high-speed scanners and laptops, to digitize materials, but noted that they were still determining the full scope of staffing, equipment and technology needed to reach full compliance with the law.

#### ***Defense Service Providers***

Sixty-five (53%) of 123 defense service providers surveyed submitted responses. Of those, 63 percent (41) represented public defender's offices or defender services, 26 percent (17) represented assigned counsel programs, 6 percent (4) represented alternative public defenders or conflict defenders, and 5 percent (3) were other types of defense providers. Appendix F contains detailed survey responses.

#### Staff Training

Most respondents (38 of 65, 59%) provided staff training on the new law, with 67 percent (24 of 36) training between 76 percent to 100 percent of staff. Of those offices that provided training, 94 percent (34) trained defense attorneys, 67 percent (24) trained support staff and 56 percent (20) trained assistant defense attorneys. Defense attorneys received the most training with an

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average of 11.4 hours. Assistant defense attorneys received an average of 9.4 hours and support staff 6.5 hours.

#### Staff Responsibilities and Staffing Changes

Hiring additional staff was the most common staffing change, with 23 respondents (35%) hiring paralegals and support staff, for example, to help receive, download, upload, organize and review discoverable materials. Reassigning staff (20%, 13 providers) was the next most common staffing change, with support staff being reassigned in some offices to handle obtaining and processing of materials. Eighteen respondents (28%) reported that no changes were made within the office.

Overall, respondents cited a significant increase in time commitment to complete discovery review, which was sometimes redundant, due to an increase in the volume of discoverable materials received for each case. In addition, some respondents reported technical difficulties managing video and audio materials they received.

#### Obtaining, Managing and Receiving Discoverable Materials

Most respondents (53 of 65) reported an increase in time spent reviewing discoverable materials. Some reported that, due to the volume of discoverable materials and increased reciprocal discovery obligations, attorneys had to accept fewer cases.

Sixty-six percent of respondents (43) modified their procedures for obtaining discoverable materials from district attorneys' offices; 54 percent (35) changed procedures for managing discoverable materials within the office; and 42 percent (27) used some type of case management system or automated tools to manage discoverable materials, such as the New York State Defenders Association's Public Defense Case Management System (PDCMS).

Some respondents reported a lack of financial and technical support for digital storage and management of increased volume of materials, while 69 percent (45 of 65) stated that additional technology resources were needed to manage discoverable materials.

#### Stakeholder Coordination

Forty-two percent (27) of respondents said they were notified each time discoverable materials were added to the portal by district attorneys' offices, while 35 percent (23) reported they were not notified. One respondent noted a lack of coordination among the district attorney's office, courts and defense attorneys: courts sometimes notified district attorney's offices when clients were assigned, but did not notify their defense attorneys. This resulted in the district attorney's office sending discovery related to clients whom attorneys did not know had been assigned to them. Two respondents reported they were not notified of supplemental uploads to the prosecution's system, which led to an increase in time spent reviewing, following up and downloading materials.

#### Impact of the COVID-19 Pandemic

Respondents were divided on the impact of the COVID-19 pandemic on the implementation of the new discovery law. Twenty-two percent (14) reported the full impact of CPL 245 was delayed to a great extent, 23% (15) delayed somewhat, 23% (15) delayed very little, and 9% (6) not at all.

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### Additional Comments

Several respondents expressed concerns about less availability and time to represent clients due to increased volume of discoverable materials and reciprocal discovery obligations. Some respondents, particularly those responsible for administering assigned counsel programs, also reported experiencing attorney shortages because of retirements and/or transfers to other areas of law practice as a result of the hourly rates paid under state law.

In addition, respondents reported a lack of financial and technical support in developing or purchasing adequate digital storage, creating additional security measures to protect confidentiality, and handling video and audio discoverable materials. Four respondents stated the discovery law changes had benefited their clients in relation to improved fairness and quality of justice.

**Appendix A**  
**Criminal Procedure Law Article 245**  
**Original and Amended Provisions**

Chapter 59 of the Laws of 2019 Effective 01/01/2020	Chapter 56 of the Laws of 2020 Effective 05/03/2020
<b>Open file discovery</b>	
<ul style="list-style-type: none"> <li>The law requires the “automatic” discovery of all relevant materials that the prosecution has in its possession.</li> <li>The new law also directs judges to apply a “presumption of openness” in favor of disclosure when interpreting the law in specific cases.</li> </ul>	
<b>Timelines</b>	
<ul style="list-style-type: none"> <li>The law requires the prosecution to turn over all “discoverable” materials as soon as practicable, but no later than <b>15 days</b> after arraignment (repealed effective 05/03/2020).</li> <li>An additional 30 days is permitted if the materials are voluminous or the prosecutor is not reasonably able to obtain them.</li> <li>In effect, the maximum timeframe for most discovery information (with a limited number of specific exceptions) is 45 days after the initial arraignment (note – no longer accurate as of 05/03/2020).</li> </ul>	<ul style="list-style-type: none"> <li>When defendants are detained, all “discoverable” materials must be turned over as soon as practicable, but no later than <b>20 days</b> after arraignment.</li> <li>When defendants are NOT detained, all “discoverable” materials must be turned over no later than <b>35 days</b> after arraignment.</li> <li>When defendants are charged with traffic infractions or petty offenses, the prosecution must turn over all “discoverable” materials as soon as practicable, but no later than 15 days before the trial.</li> </ul>
<b>Discoverable materials</b>	
<ul style="list-style-type: none"> <li>The law lists 21 types of materials that prosecutors must turn over.</li> <li>Notably, the prosecution will now be required to disclose: <ul style="list-style-type: none"> <li>names and contact information for any person with relevant information (including law enforcement);</li> <li>statements by witnesses;</li> <li>electronic recordings (including 911 calls);</li> <li>and “Brady” disclosures, which entail information that favors the defendant.</li> </ul> </li> </ul>	<p>May be withheld:</p> <ul style="list-style-type: none"> <li>the identity of a 911 caller,</li> <li>identity of the victim or witness of a sex offense or sex trafficking</li> <li>identity of any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise.</li> </ul>
<b>Grand jury proceedings</b>	
When the defendant wishes to testify in the grand jury, the prosecution must provide to the defense any statements made to law enforcement by the defendant or a co-defendant 48 hours prior to the defendant’s scheduled grand jury testimony.	
<b>Plea offers</b>	
<ul style="list-style-type: none"> <li>Defendants will no longer be required to consider a plea offer without knowing the evidence against them.</li> <li>If the prosecution makes a pre-indictment plea offer to a felony (before grand jury proceedings), the prosecution must turn over discovery materials at least 3 days prior to the expiration of the offer.</li> <li>During other stages, discovery must be shared 7 days prior to the expiration of any plea offer.</li> </ul>	
Information possessed by law enforcement must be turned over.	Added: Such information includes video footage from body-worn cameras, surveillance cameras, or dashboard cameras.
The prosecution must submit a certificate of compliance.	Added: Challenges to, or questions related to a certificate of compliance shall be addressed by motion.

Chapter 59 of the Laws of 2019 Effective 01/01/2020	Chapter 56 of the Laws of 2020 Effective 05/03/2020
<b>The defense must provide “reciprocal” discovery to the prosecution.</b>	
The defense must provide “reciprocal” discovery within 30 days after the prosecution has served a “certificate of compliance.”	
Parties may seek protective orders allowing some information to be withheld.	The prosecution may withhold the names and identifying information of any person who contacted 911 without the need for a protective order.
Remedies or sanctions must be imposed for certain noncompliance.	
	The chief administrator of the courts and DCJS need to collect data and report annually regarding the impact and implementation of new discovery law.
	The court and the counsel must ensure (on the record) defendants understand their rights to discovery and right to waive discovery.
	The prosecution can be deemed ready for trial when information that might be considered discoverable under this article cannot be disclosed because it has been lost, destroyed, or otherwise unavailable.

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**Appendix B:  
Judiciary Law 216(5)**

5. The chief administrator of the courts, in conjunction with the division of criminal justice services, shall collect data and report annually regarding the impact of article two hundred forty-five of the criminal procedure law. Such data and report shall contain information regarding the implementation of article two hundred forty-five of the criminal procedure law, including procedures used to implement the article, resources needed for implementation, information regarding cases where discovery obligations are not met, and information regarding case outcomes. The report shall be released publicly and published on the websites of the office of court administration and the division of criminal justice services. The first report shall be published eighteen months after the effective date of this section, and shall include data from the first twelve months following the enactment of this section. Reports for subsequent years shall published annually thereafter.

**Appendix C:  
Detailed Results of the District Attorney's Office Survey**

<b>Did the office provide staff training on CPL 245?</b>		
Response	N	%
Yes	52	96%
No	2	4%
Total	54	

<b>What types of staff were trained?</b>						
Trained on CPL 245	Assistant District Attorneys		DA Investigators		Support Staff/Other	
	N	%	N	%	N	%
Not trained	0	0%	19	37%	3	6%
Trained	52	100%	33	63%	49	94%
Total	52		52		52	
Missing	2	--	2	--	2	--
Mean hours of training	24.8		10.5		18.3	

Note: Mean hours of training based on information from 48 responses for Assistant District Attorneys, 33 responses for DA Investigators, and 42 responses for Support Staff/Other.

<b>What percent of total staff were trained?</b>		
Percent of staff trained	N	%
25 percent or less	0	0%
26 to 50 percent	1	2%
51 to 75 percent	7	13%
76 to 100 percent	44	85%
Total	52	
Missing	2	--

<b>Were staff responsibilities modified to help meet the requirements of CPL 245?</b>		
Response	N	%
Yes	51	94%
No	3	6%
Total	54	

<b>Did your office make staffing or scheduling changes to meet CPL 245 requirements? Check all that apply.</b>		
Staffing/scheduling changes	N (54)	%
Hired additional staff	44	82%
Adjusted staff hours	21	39%
Reassigned staff	39	72%
Required overtime	19	35%
Other changes	8	15%
No changes made	1	2%

Note: Respondents could make multiple selections.

<b>Did the office modify its procedures for obtaining discoverable materials from law enforcement?</b>		
Response	N	%
Yes	54	100%
No	0	0%
Total	54	

<b>Does the office use NYPTI's Digital Evidence Management System (DEMS) to manage discoverable materials?</b>		
Response	N	%
Yes, DEMS	46	85%
No, using other system	7	13%
No system in place	1	2%
Total	54	

<b>Do you plan to use NYPTI's Digital Evidence Management System (DEMS) in the future?</b>		
Response	N	%
Yes	1	13%
No	6	75%
Not sure	1	13%
Total	8	

<b>Were changes made to procedures for managing discoverable materials within your office?</b>		
Response	N	%
Yes	50	93%
No	4	7%
Total	54	

<b>Were changes made to procedures for disclosing discoverable materials to defense counsel?</b>		
Response	N	%
Yes	50	93%
No	4	7%
Total	54	

<b>Did the additional requirements for obtaining, managing, and disclosing discoverable materials create the need for more resources?</b>		
Resource needs	N	%
More resources needed	53	98%
No changes in resource needs	1	2%
Fewer resources needed	0	0%
Not sure	0	0%
Total	54	

<b>Were changes made to how your office coordinates with stakeholders (e.g., law enforcement, courts, forensic laboratories) to meet the requirements of CPL 245?</b>		
Response	N	%
Yes	52	96%
No	2	4%
Total	54	

<b>Criminal case processing has been impacted by court closures and delays, and the work of other agencies has been disrupted as well. To what extent has the full impact of CPL 245 been delayed for your jurisdiction as a result of the COVID-19 pandemic?</b>		
COVID-19 impact on CPL 245	N	%
To a great extent	26	48%
Somewhat	17	32%
Very little	7	13%
Not at all	1	2%
Not sure	3	6%
Total	54	

**Appendix D:  
Detailed Results of the Police Departments and Sheriffs' Offices Survey**

<b>Did the agency provide staff training on CPL 245?</b>		
Response	N	%
Yes	111	78%
No	31	22%
Total	142	

<b>What types of staff were trained?</b>				
Trained on CPL 245	Sworn Personnel		Non-Sworn Personnel	
	N	%	N	%
Not trained	2	2%	62	56%
Trained	109	98%	49	44%
Total	111		111	
Missing	31	--	31	--
Mean hours of training	7.8		4.7	

Note: Mean hours of training based on information from 107 responses for Non-Sworn Personnel and 65 responses for Non-Sworn Personnel.

<b>What percent of total staff were trained?</b>		
Percent of staff trained	N	%
25 percent or less	8	7%
26 to 50 percent	2	2%
51 to 75 percent	11	10%
76 to 100 percent	90	81%
Total	111	
Missing	31	--

<b>Were staff responsibilities modified to help meet the requirements of CPL 245?</b>		
Response	N	%
Yes	111	78%
No	31	22%
Total	142	

<b>Did your agency make staffing or scheduling changes to meet CPL 245 requirements? Check all that apply.</b>		
Staffing/scheduling changes	N (142)	%
Hired additional staff	35	25%
Adjusted staff hours	21	15%
Reassigned staff	55	39%
Required overtime	52	37%
Other changes	5	3%
No changes made	44	31%

Note: Respondents could make multiple selections.

<b>Did the agency modify its procedures for transmitting discoverable materials to the district attorney's office?</b>		
Response	N	%
Yes	134	94%
No	8	6%
Total	142	

<b>Does the agency have access to the district attorney's Digital Evidence Management System (DEMS) to transmit discoverable materials to the district attorney's office?</b>		
Response	N	%
Yes, DEMS	134	66%
No, but expect to gain access	1	<1%
No, and not expecting access	5	4%
No, and not sure about future access	8	6%
Not applicable, not familiar with DEMS	34	24%
Total	142	

<b>Is a system other than the district attorney's Digital Evidence Management System (DEMS) used to transmit discoverable materials to the district attorney's office</b>		
Response	N	%
Yes	31	91%
No	3	9%
Total	34	

<b>Did the additional requirements for managing and transmitting discoverable materials create the need for more of the agency's resources to be devoted to compliance with CPL 245?</b>		
Resource needs	N	%
More resources needed	120	84%
No changes in resource needs	15	11%
Fewer resources needed	1	<1%
Not sure	6	4%
Total	142	

<b>Were changes made to how your agency coordinates with district attorneys and forensic laboratories to meet the requirements of CPL 245?</b>		
Response	N	%
Yes	128	90%
No	14	10%
Total	142	

<b>Criminal case processing has been impacted by court closures and delays, and the work of other agencies has been disrupted as well. To what extent has the full impact of CPL 245 been delayed for your jurisdiction as a result of the COVID-19 pandemic?</b>		
COVID-19 impact on CPL 245	N	%
To a great extent	34	24%
Somewhat	40	28%
Very little	40	28%
Not at all	20	14%
Not sure	8	6%
Total	142	

**Appendix E:  
Detailed Results of the Forensic Laboratories Survey**

<b>Did the laboratory provide staff training on CPL 245?</b>		
Response	N	%
Yes	17	85%
No	3	15%
Total	20	

<b>What types of staff were trained?</b>						
Trained on CPL 245	Management/ Supervisors		Scientists/Technicians		Support Staff/Other	
	N	%	N	%	N	%
Not trained	1	6%	1	6%	6	35%
Trained	16	94%	16	94%	11	65%
Total	17		17		17	
Missing	3	--	3	--	3	--
Mean hours of training	12.6		10.2		14.9	

Note: Mean hours of training based on information from 15 responses for Management/Supervisors, 15 responses for Scientists/Technicians, and 11 responses for Support Staff/Other.

<b>What percent of total staff were trained?</b>		
Percent of staff trained	N	%
25 percent or less	0	0%
26 to 50 percent	2	13%
51 to 75 percent	1	6%
76 to 100 percent	13	81%
Total	16	
Missing	4	--

<b>Were staff responsibilities modified to help meet the requirements of CPL 245?</b>		
Response	N	%
Yes	19	95%
No	1	5%
Total	20	

<b>Did your office make staffing or scheduling changes to meet CPL 245 requirements? Check all that apply.</b>		
Staffing/scheduling changes	N (20)	%
Hired additional staff	10	50%
Adjusted staff hours	1	5%
Reassigned staff	3	15%
Required overtime	6	30%
Other changes	2	10%
No changes made	6	30%

Note: Respondents could make multiple selections.

<b>Did the volume of discoverable materials prepared by the laboratory change as a result of the implementation of CPL 245?</b>		
Volume of materials	N	%
The volume increased greatly	18	90%
The volume increased somewhat	2	10%
The volume remained the same	0	0%
The volume decreased somewhat	0	0%
The volume decreased greatly	0	0%
Total	20	

Procedural changes items	Yes		No		Total
	N	%	N	%	
<b>Were changes made to procedures for managing discoverable materials within your laboratory?</b>	18	90%	2	10%	20
<b>Did the laboratory modify its procedures for when discovery packets are prepared in relation to a specific report of analysis?</b>	18	90%	2	10%	20
<b>Does the laboratory prepare discovery packets for all reports of analysis as a result of CPL 245 implementation?</b>	14	70%	6	30%	20
<b>Did the laboratory make modifications to procedures for the evidence chain-of-custody as a result of CPL 245 implementation?</b>	7	35%	13	65%	20

<b>Does the laboratory use an information management system to manage discoverable materials?</b>		
Response	N	%
Yes	13	65%
No	7	35%
Total	20	

<b>Does the laboratory transmit discoverable materials to law enforcement or the district attorney via the district attorney's Digital Evidence Management System (DEMS)?</b>		
Response	N	%
Yes	6	46%
No	7	54%
Total	13	

<b>Did the laboratory change how it transmitted discoverable materials to law enforcement or district attorney's offices?</b>		
Response	N	%
Yes	20	100%
No	0	0%
Total	20	

<b>Did the implementation of CPL 245 affect the resources needed by the laboratory to fulfill discovery obligations?</b>		
Resource needs	N	%
More resources needed	18	90%
No changes in resource needs	1	5%
Fewer resources needed	0	0%
Not sure	1	5%
Total	20	

<b>Were changes made to how your laboratory coordinates with stakeholders (e.g., law enforcement, courts, district attorneys) to meet the requirements of CPL 245?</b>		
Response	N	%
Yes	17	85%
No	3	15%
Total	20	

**Criminal case processing has been impacted by court closures and delays, and the work of other agencies has been disrupted as well. To what extent has the full impact of CPL 245 been delayed for your laboratory as a result of the COVID-19 pandemic?**

COVID-19 impact on CPL 245	N	%
To a great extent	7	35%
Somewhat	7	35%
Very little	3	15%
Not at all	1	5%
Not sure	2	10%
Total	20	

**Appendix F:  
Detailed Results of the Defense Service Providers Survey**

<b>Did the office provide staff training on CPL 245?</b>		
Response	N	%
Yes	38	59%
No	13	20%
Not applicable	14	22%
Total	65	100%

<b>What types of staff were trained?</b>						
Trained on CPL 245	Defense Attorneys		Assistant Defense Attorneys		Support Staff/Other	
	N	%	N	%	N	%
Not trained	2	6%	16	44%	12	33%
Trained	34	94%	20	56%	24	67%
Total	36	100%	36	100%	36	100%
Missing	29	--	29	--	29	--
Mean hours of training	11.4		9.4		6.5	

Note: Mean hours of training based on information from 32 responses for Defense Attorneys, 20 responses for Assistant Defense Attorneys, and 25 responses for Support Staff/Other.

<b>What percent of total staff were trained?</b>		
Percent of staff trained	N	%
25 percent or less	2	6%
26 to 50 percent	3	8%
51 to 75 percent	7	19%
76 to 100 percent	24	67%
Total	36	100%
Missing	29	--

<b>Has the amount of time your office spends reviewing discovery on cases changed due to CPL 245?</b>		
Response	N	%
Time spent reviewing discovery on cases increased	53	82%
No change	0	0%
Time spent reviewing discovery on cases decreased	1	2%
Not applicable	11	17%
Total	65	100%

<b>Were staff responsibilities modified due to implementation of CPL 245?</b>		
Response	N	%
Yes	41	63%
No	12	19%
Not applicable	12	19%
Total	65	100%

<b>Did your office make staffing or scheduling changes due to implementation of CPL 245? Check all that apply.</b>		
Staffing/scheduling changes	N	%
Hired additional staff	23	35%
Adjusted staff hours	10	15%
Reassigned staff	13	20%
Required overtime	4	6%
Other changes	7	11%
No changes made	18	28%
Not applicable	13	20%

Note: Respondents could make multiple selections.

<b>Did the office modify its procedures for obtaining discoverable materials from district attorneys' offices?</b>		
Response	N	%
Yes	43	66%
No	8	12%
Not Applicable	14	22%
Total	65	100%

<b>Does the office use any type of digital evidence management system or other automated tools to manage discoverable materials?</b>		
Response	N	%
Yes	27	42%
No	25	39%
Not applicable	13	20%
Total	65	100%

<b>Do you plan to use any digital evidence management system or other automated tools in the future?</b>		
Response	N	%
Yes	6	24%
No	6	24%
Not sure	13	52%
Total	25	100%
Missing	40	

<b>Were changes made to procedures for managing discoverable materials within your office?</b>		
Response	N	%
Yes	35	54%
No	17	26%
Not sure	13	20%
Total	65	100%

<b>Did the additional requirements for obtaining, managing, and receiving discoverable materials create the need for more resources?</b>		
Resource needs	N	%
More resources needed	41	63%
No changes in resource needs	8	12%
Fewer resources needed	0	0%
Not sure	3	5%
Not applicable	13	20%
Total	65	100%

<b>Did your office require additional technology resources to handle discoverable materials?</b>		
Response	N	%
Yes	45	69%
No	5	8%
Not sure	3	5%
Not applicable	12	19%
Total	65	100%

<b>If the district attorney's office delivers discoverable materials to your office via a portal, is your office notified each time materials are added to the portal?</b>		
Response	N	%
Yes	27	42%
No	23	35%
Not applicable	15	23%
Total	65	100%

<b>Criminal case processing has been impacted by court closures and delays, and the work of other agencies has been disrupted as well. To what extent has the full impact of CPL 245 been delayed for your office as a result of the COVID-19 pandemic?</b>		
COVID-19 impact on CPL 245	N	%
To a great extent	14	22%
Somewhat	15	23%
Very Little	15	23%
Not at all	6	9%
Not sure	6	9%
Not applicable	9	14%
Total	65	100%

<b>Respondent type</b>		
Type	N	%
Public Defender/Defender Services	41	63%
Alternate Public Defender/Conflict Defender	4	6%
Assigned Counsel	17	26%
Other	3	5%
Total	65	100%