



Kathy Hochul
Governor

Rossana Rosado
Commissioner

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Implementation of 2020 Discovery Law Changes

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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 on May 3, 2020, and May 9, 2022, 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.
- For defendants charged with a traffic infraction or a petty offense as defined by a municipal code, the court shall advise them of their right to file a motion for discovery at first appearance.

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

DCJS published [its first report](#) in late 2021. This report covers the 12-month period from May 3, 2021, one year following the effective date of the first amendments to the discovery law, through May 2, 2022.

DCJS distributed surveys to district attorneys' offices, police departments, sheriffs' offices, defense service providers, and forensic laboratories in late May with responses from police departments and sheriffs' offices and laboratories were due in early- to mid-June. The agency received responses from 48 (77%) of 62 district attorney's offices; 285 (58%) of 494 police departments and sheriffs' offices; 16 (80%) of 20 of the state's forensic laboratories, and 77 (62%) responses from defense service providers.

To date, New York State made \$80 million available in two funding rounds to assist the 57 counties outside of New York City with their implementation of the discovery law and changes to the state's bail laws, which also took effect Jan. 1, 2020. DCJS administered the funding and determined each county's share based on its proportion of criminal court arraignments outside of New York City. Eligible expenses include, but are not limited to, training; administrative support; equipment, software and data connectivity; and overtime.

To obtain funding, counties were required to submit plans to DCJS that prioritized requests for its district attorneys' offices, local police departments, and sheriffs' offices, but also could

support pretrial services and increased case supervision resulting from bail reform, nonprofit organizations, and forensic laboratories.

First Round: 49 counties received funding. The remaining counties opted not to submit plans.

Second Round: 18 counties applied for funding as of September 29, 2022.

Summary of Survey Responses

Note: *This report covers the 12-month period from May 3, 2021, one year following the effective date of the first amendments to the discovery law, through May 2, 2022.*

District Attorney's Offices

Forty-eight (77%) of 62 district attorneys' offices submitted responses. Detailed survey responses are presented in Appendix C.

Staff Training

Nearly 80 percent of respondents (38) trained staff on the new law in the 12-month period, with 30 respondents training 76 percent to 100 percent of staff. Of those offices that provided training, 95 percent (36) trained assistant district attorneys, 87 percent (33) trained support staff and 45 percent (17) trained DA investigators. Support staff received the most training, an average of 28 hours, with assistant district attorneys receiving an average of 21 hours and investigators receiving an average of 16 hours.

Staff Responsibilities and Staffing Changes

Reassigning staff (63%, 30) was the most common staffing change, with some offices reassigning staff to exclusively handle discovery materials and coordinate with law enforcement agencies. Hiring additional staff (60%, 29) was the next most common staffing change. Several offices established a specialized unit, changed staff responsibility, or increased the number of hours staff devoted to meet the increasing demand of discovery.

Eighty-eight percent (42) of respondents noted that the office spent more time coordinating with law enforcement agencies to obtain discoverable materials as compared to the first year of discovery reform implementation. Most respondents reported that staff spent more time reviewing discovery on cases (85%) and on case assessment and intake (77%). Respondents also reported spending more time reviewing audio, video, and photographic materials, as well as filing certificates of compliance.

Respondents reported that the implementation of body-worn cameras by the New York State Police and other local law enforcement agencies significantly increased the amount of time spent on downloading, uploading, processing and reviewing video footage. This resulted in reduced work productivity and overtime without compensation. Two respondents also noted more time spent on seeking protective orders, especially in domestic violence cases.

Obtaining, Managing and Disclosing Discoverable Materials

Sixty-three percent of offices (30) modified procedures for obtaining discoverable materials from law enforcement agencies. Staff spent additional time following-up with law enforcement agencies to obtain all necessary materials. Eighty-eight percent (42) of respondents used the New York Prosecutors Training Institute's (NYPTI) Digital Evidence Management System (DEMS), while another 13 percent (6) used other systems.

Forty-three percent (20) of respondents changed how they disclosed discoverable materials to defense counsel, with most offices disclosing discoverable materials using digital platforms. Respondent noted that they established new procedures to protect discovery materials, including monitoring compliance and applying watermarks on sensitive videos. One respondent noted the expiration dates on materials were extended to improve access by defense counsel.

Eighty-five percent (40) of respondents indicated more resources were needed to meet the additional requirements for obtaining, managing, and disclosing discoverable materials. Eighty-three percent of respondents (39) noted additional technology resources were needed to handle discoverable materials.

Stakeholder Coordination

Twenty-nine offices (62%) changed how they coordinated with law enforcement agencies and other stakeholders. Many respondents noted increased coordination with law enforcement agencies through regular meetings and phone calls about discovery compliance obligations, particularly for body-worn camera footage. Two respondents also reported they regularly inform law enforcement agencies when their office policies changed in response to different court rulings on discovery-related issues. Several offices reported changing procedures regarding obtaining and disclosing police disciplinary records.

Impact of the COVID-19 Pandemic

Thirty-eight percent (18) of respondents reported that the pandemic delayed the full effect of the law to a great extent, while 50 percent (24) reported the full impact on their jurisdictions was somewhat delayed.

A few respondents reported that as the pandemic waned and courts re-opened for in-person proceedings, workloads increased significantly at the same time offices were still processing backlogs attributable to the pandemic. The elimination of speedy trial suspensions worsened the situation and created other issues, including increased overtime without compensation and higher attorney attrition rates.

Additional Comments

Respondents expressed concerns for their overworked and overburdened staffs. Some respondents stated that their offices did not receive sufficient financial support to hire additional attorneys and support staff, which increased costs and workloads of existing staff. Some respondents reported staff attrition due to the increased working pressure and the lack of compensation. Some offices reported that the lack of appellate court guidance in interpreting different court decisions on discovery-related issues, particularly certificates of compliance,

resulted in increased motions from defense attorneys to challenge discovery materials. Financial and technical support for new equipment and technology continued to be lacking.

Police Departments and Sheriffs' Offices

Fifty-eight percent (285 of 494) of law enforcement agencies responded. Detailed survey responses are presented in Appendix D.

Staff Training

Sixty-five percent of respondents (186) provided training to staff, with 133 respondents training between 76 percent and 100 percent of staff. Of those law enforcement agencies that provided training, 98 percent (183) trained sworn personnel and 40 percent trained civilian personnel. Sworn personnel received the most training, an average of nine hours, and civilian personnel received an average of five hours.

Staff Responsibilities and Staffing Changes

Sixty percent of respondents (172) made staffing or scheduling changes, with requiring overtime (35%, 100) and reassigning staff (31%, 89) most commonly reported. Thirty-nine percent (110) did not make any changes to staffing or scheduling. Agencies designated certain officers or civilian staff to manage discoverable materials; hired additional officers and staff; assigned the responsibility to supervising officers or support staff; or relied on arresting officers to process materials for their own cases.

Sixty-nine percent of respondents reported spending more time gathering discoverable materials, including audio, video, and photographic materials. Agencies reported a significant increase in staff workloads and overtime to process these items, especially videos, and several agencies expressed concerns about scaling back normal police duties to perform more clerical duties.

Transmitting Discoverable Materials to the District Attorney's Office

Half (143) of all agencies changed procedures for transmitting discoverable materials to district attorney's offices and 65 percent (186) reported using NYPTI's DEMS to transfer materials.

Fifty-three percent (151) of respondents reported needing more resources, including technology, to fulfill their discovery obligations. Forty-one percent (118) of respondents made changes to how they coordinated with stakeholders as part of meeting the requirements of the law.

Respondents reported challenges transmitting discoverable materials due to limitations in digital transmitting systems, such as file size and internet speed, particularly with video footage from body-worn cameras. On occasion, agencies hand-delivered or used surface mail to ensure timely transmission of large files.

Impact of the COVID-19 Pandemic

Twenty percent (58) of respondents reported that the full effect of the law on their agencies was delayed to a great extent; 36 percent (102) reported it was delayed somewhat, and 37 percent

(107) reported that the full impact has been delayed very little or not at all. The most common impact reported was a personnel shortage due to COVID exposure.

Additional Comments

Law enforcement agencies reported reassigning officers from policing duties to complete discovery-related administrative paperwork. Respondents also reported they lacked financial support to hire additional officers and civilian personnel, cover overtime costs and purchase equipment to scan and upload discoverable materials. Some agencies noted that the discovery time frames set by the law was unreasonable and overburdened their staff.

Forensic Laboratories

Sixteen of 20 (80%) forensic laboratories responded to the survey. Detailed survey responses are presented in Appendix E.

Staff Training

Half of the responding laboratories (8) provided training to staff and of those, six trained managers, supervisors, scientists and technicians, and seven trained support staff. Support staff received the most training, with an average of 11 hours. Management and leadership received an average of six hours and scientists and technicians, an average of five hours.

Staff Responsibilities and Staffing Changes

Ten laboratories (63%) reported staffing or scheduling changes to meet the law's requirements. Hiring additional staff (38%, 6) and requiring overtime (25%, 4) were most common. Six laboratories (38%) did not make any staffing or scheduling changes.

Obtaining, Managing and Disclosing Discoverable Materials

Half (8) of the respondents reported the volume of discoverable materials they prepared remained the same and 56 percent (9) reported no change in resource needs to fulfill their discovery obligations. In addition, eight laboratories reported needing additional technology resources to handle discoverable materials.

Nine laboratories (56%) use an information management system to manage discoverable materials. Several laboratories upgraded equipment and software or transitioned to self-service portals to store, organize and transmit discoverable materials.

Coordination with Stakeholders

Eight laboratories changed the way in which they coordinated with stakeholders, with much of the coordination related to digital transmission of discoverable materials. Three respondents reported increased communication with a district attorney's office on discoverable materials.

Impact of the COVID-19 Pandemic

Laboratories reported experiencing staff attrition, personnel shortages, case backlogs and reduced efficiency due to the impact of the pandemic. Seven laboratories reported that the full

effect of the law was delayed, while seven others reported that the full impact was delayed very little or not at all by the pandemic.

Additional Comments

Several laboratories reported an increased need for advanced digital platforms to more efficiently transmit materials.

Defense Service Providers

Seventy-seven (62%) of 124 defense service providers surveyed submitted responses. Appendix F contains detailed survey responses.

Staff Training

Fifty-five percent of respondents (42) provided staff training on the new law, with 27 respondents training between 76 percent to 100 percent of staff. Of those offices that provided training, 88 percent (37) trained defense attorneys, 52 percent (22) trained support staff and 48 percent (20) trained assistant defense attorneys. Support staff received the most training with an average of 13 hours. Defense attorneys received an average of eight hours and assistant defense attorneys five hours.

Staff Responsibilities and Staffing Changes

Twenty-three respondents (30%) reported hiring additional staff, which was the most common staffing change. Reassigning staff (17%) was the next most common staffing change. Twenty-one (27%) respondents reported that no changes were made within the office.

Most respondents (70%, 54) reported an increase in time spent reviewing discoverable materials. Many respondents reported spending more time reviewing materials with clients (68%), reviewing discoverable materials, excluding audio, video and photographic materials (65%), reviewing audio, video, and photographic materials (69%); and managing discoverable materials received from the district attorney's office (66%). Several respondents noted that downloading discoverable materials and finding the right program to view the videos were very time consuming.

Obtaining, Managing and Disclosing Discoverable Materials

Thirty-six percent of respondents (28) modified their procedures for obtaining discoverable materials from district attorneys' offices and 45 percent (35) used some type of case management system, such as the New York State Defenders Association's Public Defense Case Management System (PDCMS), or other automated tools to manage discoverable materials.

Sixty-two percent of respondents (48) reported more resources were needed to meet the additional requirements for obtaining, managing, and receiving discoverable materials. A similar percentage of respondents (62%) stated that additional technology resources were needed to manage discoverable materials. Overall, respondents purchased or upgraded equipment and software, and assigned designated staff to manage discoverable materials. Some respondents

reported a lack of financial and technical support for digital storage and management of increased volume of materials.

Stakeholder Coordination

Forty-four percent (34) of respondents said they were notified each time discoverable materials were provided by district attorneys' offices, while 30 percent (23) reported not notified. One respondent reported that lack of notification prevented access to materials because the timeframe for obtaining them had expired.

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. Fourteen percent (11) reported the full effect of the law was delayed to a great extent, 27% (21) delayed somewhat, 18% (14) delayed very little, and 14% (11) not at all. Several respondents reported concerns related to personnel shortages, case backlogs and lack of financial and technological resources.

Additional Comments

While discovery reform increased the transparency of the system, several respondents reported the process was time consuming. The challenges mainly came from the handling of digital discoverable materials. Respondents reported needs for more storage space, case management systems or programs with more advanced functions, and more financial and technological support.

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	Chapter 56 of the Laws of 2022 Effective 05/09/2022
Open file discovery		
<ul style="list-style-type: none"> The law requires the “automatic” discovery of all relevant materials that the prosecution has in its possession. The new law also directs judges to apply a “presumption of openness” in favor of disclosure when interpreting the law in specific cases. 		
Timelines		
<ul style="list-style-type: none"> The law requires the prosecution to turn over all “discoverable” materials as soon as practicable, but no later than 15 days after arraignment (repealed effective 05/03/2020). An additional 30 days is permitted if the materials are voluminous or the prosecutor is not reasonably able to obtain them. 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). 	<ul style="list-style-type: none"> When defendants are detained, all “discoverable” materials must be turned over as soon as practicable, but no later than 20 days after arraignment. When defendants are NOT detained, all “discoverable” materials must be turned over no later than 35 days after arraignment. 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 (repealed effective 05/09/2022). 	<ul style="list-style-type: none"> The prosecutor’s obligations shall not apply to a simplified information charging a traffic infraction, or to an information charging petty offenses that would not result in imprisonment, or where the defendant has no record; The defendant can still file a motion for disclosure, and the court shall advise the defendant of this right at the first appearance.
Discoverable materials		
<ul style="list-style-type: none"> The law lists 21 types of materials that prosecutors must turn over. Notably, the prosecution will now be required to disclose: <ul style="list-style-type: none"> names and contact information for any person with relevant information (including law enforcement); statements by witnesses; electronic recordings (including 911 calls); and “Brady” disclosures, which entail information that favors the defendant. Parties may seek protective orders allowing some information to be withheld. 	<p>May be withheld:</p> <ul style="list-style-type: none"> the identity of a 911 caller, identity of the victim or witness of a sex offense or sex trafficking identity of any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise. The prosecution may withhold the names and identifying information of any person who contacted 911 without the need for a protective order. But the defendant may move the court for disclosure. 	

Chapter 59 of the Laws of 2019 Effective 01/01/2020	Chapter 56 of the Laws of 2020 Effective 05/03/2020	Chapter 56 of the Laws of 2022 Effective 05/09/2022
Grand jury proceedings		
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.		
Plea offers		
<ul style="list-style-type: none"> • Defendants will no longer be required to consider a plea offer without knowing the evidence against them. • 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. • During other stages, discovery must be shared 7 days prior to the expiration of any plea offer. 		
The defense must provide “reciprocal” discovery to the prosecution		
The defense must provide “reciprocal” discovery within 30 days after the prosecution has served a “certificate of compliance.”		
Reporting requirements		
	The chief administrator of the courts and DCJS need to collect data and report annually regarding the impact and implementation of new discovery law.	
Waiver of discovery		
	The court and the counsel must ensure (on the record) defendants understand their rights to discovery and right to waive discovery.	
Certificates of compliance		
<ul style="list-style-type: none"> • When the prosecution has provided the discovery required by subdivision one of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, it shall serve upon the defendant and file with the court a certificate of compliance. The certificate of compliance shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, the prosecutor has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the defendant and filed with the court identifying the additional material and information provided. No adverse consequence to the prosecution or the prosecutor shall result from the filing of a 	<ul style="list-style-type: none"> • Additional exception to discovery by prosecution: <ul style="list-style-type: none"> ○ Discovery that is lost or destroyed as provided by paragraph (b), subsection 1 of CPL 245.80. • Additional requirement for the prosecutor to be immune from adverse consequence when filing the certificate of compliance: <ul style="list-style-type: none"> ○ The filing should be in good faith and reasonable under the circumstances. • Add exception to trial unreadiness: <ul style="list-style-type: none"> ○ A court may deem the prosecution ready for trial pursuant to section 30.30 of this chapter where information that might be considered discoverable under this article cannot be disclosed because it has been lost, destroyed, or otherwise unavailable as provided by paragraph (b) of subdivision one of CPL 245.80, despite diligent and good faith efforts, reasonable under the circumstances. 	<ul style="list-style-type: none"> • Requirements for supplemental certificate: <ul style="list-style-type: none"> ○ Detail the basis for the delayed disclosure; ○ The filing shall not impact the validity of the original certificate of compliance if filed in good faith and after exercising due diligence or if the additional discovery did not exist at the time of the original filing. • Challenging or questioning a certificate of compliance: <ul style="list-style-type: none"> ○ Notify the other party as soon as practical if aware of a potential defect of the certificate; ○ Challenges shall be addressed by motion as soon as practical; ○ Nothing in this section shall be construed to waive a party's right to make further challenges.

Chapter 59 of the Laws of 2019 Effective 01/01/2020	Chapter 56 of the Laws of 2020 Effective 05/03/2020	Chapter 56 of the Laws of 2022 Effective 05/09/2022
<p>certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.</p> <ul style="list-style-type: none"> When the defendant has provided all discovery required by subdivision four of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, counsel for the defendant shall serve upon the prosecution and file with the court a certificate of compliance. The requirements of the certificate by the defendant is the same as that by the prosecutor. Notwithstanding the provisions of any other law, absent an individualized finding of exceptional circumstances by the court before which the charge is pending, the prosecution shall not be deemed ready for trial for purposes of section 30.30 of this chapter until it has filed a proper certificate pursuant to subdivision one of this section. 	<p>Provided, however, that the court may grant a remedy or sanction for a discovery violation as provided by CPL 245.80.</p> <ul style="list-style-type: none"> Challenges to, or questions related to a certificate of compliance shall be addressed by motion. 	
<ul style="list-style-type: none"> Remedies or sanctions must be imposed for certain noncompliance. 		<ul style="list-style-type: none"> Remedies or sanctions for non-compliance: <ul style="list-style-type: none"> Adding conditions for dismissal of charges as a sanction: after considering all other remedies, dismissal is appropriate and proportionate to the prejudice suffered by the party entitled to disclosure; The above dismissal is appealable. When the above appeal is pending determination, the defendant may apply for ROR, NMR, or fixing bail; The judge can decide to ROR, NMR, fixing bail, or remand.

**Appendix B:
Judiciary Law 216(6)**

Chapter 56 of the Laws of 2022

6. 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, monies received pursuant to section ninety-nine-hh of the state finance law, including the amount of money utilized for the services and expenses eligible pursuant to subdivision three of such section, 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 be published annually thereafter.

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

Did the office provide staff training on CPL 245 between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	38	79%
No	9	19%
Not applicable	1	2%
Total	48	

What types of staff were trained?						
Trained on CPL 245	Assistant District Attorneys		DA Investigators		Support Staff/Other	
	N	%	N	%	N	%
Not trained	2	5%	21	55%	5	13%
Trained	36	95%	17	45%	33	87%
Total	38		38		38	
Excluded*	10	--	10	--	10	--
Mean hours of training	21.3		16.3		28.0	

Note: Mean hours of training based on information from 33 responses for Assistant District Attorneys, 21 responses for DA Investigators, and 30 responses for Support Staff/Other.

*Excluded based on a response to the previous question.

What percent of total staff were trained?		
Percent of staff trained	N	%
25 percent or less	0	0%
26 to 50 percent	0	0%
51 to 75 percent	7	19%
76 to 100 percent	30	81%
Total	37	
Missing	1	--
Excluded*	10	--

*Excluded based on a response to a previous question.

Has the amount of time your office spends reviewing discovery on cases changed between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Response	N	%
Time increased	41	85%
No change	7	15%
Time decreased	0	0%
Not applicable	0	0%
Total	48	

Did staff responsibilities related to CPL 245 change between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?								
Response	More time spent		No change		Less time spent		Not applicable	
	N	%	N	%	N	%	N	%
Case assessment/intake	37	77%	11	23%	0	0%	0	0%
Reviewing and redacting materials, excluding audio, video, and photographic	39	81%	8	17%	1	2%	0	0%
Reviewing audio, video, and photographic discoverable materials	41	85%	6	13%	1	2%	0	0%
Coordinating with law enforcement agencies to obtain discoverable materials	42	88%	5	10%	1	2%	0	0%
Filing certificates of compliance	39	81%	9	19%	0	0%	0	0%
Discovery conferences	33	69%	12	25%	0	0%	3	6%
Other	12	26%	4	9%	0	0%	31	66%

Did your office make staffing or scheduling changes to meet CPL 245 requirements between May 3, 2021, and May 2, 2022? Check all that apply.		
Staffing/scheduling changes	N (48)	%
Hired additional staff	29	60%
Adjusted staff hours	15	31%
Reassigned staff	30	63%
Required overtime	14	29%
Other changes	6	13%
No changes made	8	17%
Not applicable	0	0%

Note: Respondents could make multiple selections.

Did the office modify its procedures for obtaining discoverable materials from law enforcement between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	30	63%
No	18	38%
Not applicable	0	0%
Total	48	

Does the office use NYPTI's Digital Evidence Management System (DEMS) to manage discoverable materials?		
Response	N	%
Yes	42	88%
No	6	13%
Not applicable	0	0%
Total	48	

Did the office transition to DEMS between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	7	17%
No	34	83%
Total	41	
Missing	1	--
Excluded*	6	--

*Excluded based on a response to a previous question.

Is a system other than NYPTI's DEMS used to manage discoverable materials?		
Response	N	%
Yes	6	100%
No	0	0%
Total	6	
Excluded*	42	--

*Excluded based on a 'yes' response to a previous question.

Did the office transition to this system between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	1	17%
No	5	83%
Total	6	
Excluded*	42	--

*Excluded based on a response to a previous question.

Do you plan to use NYPTI DEMS in the future?		
Response	N	%
Yes	0	0%
No	5	83%
Not sure	1	17%
Total	6	
Excluded*	42	--

*Excluded based on a response to a previous question.

Were changes made to procedures for disclosing discoverable materials to defense?		
Response	N	%
Yes	20	43%
No	26	55%
Not applicable	1	2%
Total	47	
Missing	1	--

Did the additional requirements for obtaining, managing, and receiving discoverable materials create the need for more resources between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Resource needs	N	%
More resources needed	40	85%
No changes in resource needs	6	13%
Fewer resources needed	0	0%
Not sure	1	2%
Not applicable	0	0%
Total	47	
Missing	1	--

Did your office require additional technology resources to handle discoverable materials (e.g., data storage, cloud services, new equipment) between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation??		
Response	N	%
Yes	39	83%
No	6	13%
Not sure	2	4%
Not applicable	0	0%
Total	47	
Missing	1	--

Were changes made to how your office coordinates with stakeholders (e.g., law enforcement, courts, forensic laboratories) around discovery obligations between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	29	62%
No	17	36%
Not applicable	1	2%
Total	47	
Missing	1	--

Criminal case processing has been impacted by court closures and delays in 2020-2021, and the work of other agencies was disrupted as well. Between May 3, 2021, and May 2, 2022, to what extent was the full impact of CPL 245 delayed for your jurisdiction as a result of the COVID-19 pandemic?		
COVID-19 impact on CPL 245	N	%
To a great extent	18	38%
Somewhat	24	50%
Very little	4	8%
Not at all	2	4%
Not sure	0	0%
Not applicable	0	0%
Total	48	

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

Did the agency provide staff training on CPL 245 between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	186	65%
No	91	32%
Not applicable	8	3%
Total	285	

What types of staff were trained?				
Trained on CPL 245	Sworn Personnel		Non-Sworn Personnel	
	N	%	N	%
Not trained	3	2%	111	60%
Trained	183	98%	75	40%
Total	186		186	
Excluded*	99	--	99	--
Mean hours of training	9.1		5.1	

Note: Mean hours of training based on information from 175 responses for Non-Sworn Personnel and 100 responses for Non-Sworn Personnel.

*Excluded based on a response to a previous question.

What percent of total staff were trained between May 3, 2021, and May 2, 2022?		
Percent of staff trained	N	%
25 percent or less	35	19%
26 to 50 percent	7	4%
51 to 75 percent	8	4%
76 to 100 percent	133	73%
Total	183	
Missing	3	--
Excluded*	99	--

*Excluded based on a response to a previous question.

Did staff responsibilities related to CPL 245 change between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?								
Response	More time spent		No change		Less time spent		Not applicable	
	N	%	N	%	N	%	N	%
Gathering discoverable materials, excluding audio, video, and photographic materials	196	69%	82	29%	1	0%	6	2%
Gathering audio video, and photographic discoverable materials	200	70%	75	26%	1	0%	9	3%
Transmitting discoverable materials to the district attorney's office	198	69%	79	28%	3	1%	5	2%
Coordinating with other agencies	168	59%	109	38%	0	0%	8	3%
Other	39	14%	56	20%	0	0%	190	67%

Did your agency make staffing or scheduling changes to meet CPL 245 requirements between May 3, 2021, and May 2, 2022? Check all that apply.		
Staffing/scheduling changes	N (285)	%
Hired additional staff	36	13%
Adjusted staff hours	43	15%
Reassigned staff	89	31%
Required overtime	100	35%
Other changes	9	3%
No changes made	110	39%
Not applicable	6	2%

Note: Respondents could make multiple selections.

Did the agency modify its procedures for transmitting discoverable materials to the district attorney's office between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	143	50%
No	135	47%
Not applicable	7	2%
Total	285	

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?		
Response	N	%
Yes, DEMS	186	65%
No, but expect to gain access	6	2%
No, and not expecting access	23	8%
No, and not sure about future access	37	13%
Not applicable, not familiar with DEMS	33	12%
Total	285	

Did the agency transition to DEMS between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	111	60%
No	73	40%
Total	184	
Missing	2	--
Excluded*	99	--

*Excluded based on a response to a previous question.

Is a system other than the district attorney's DEMS used to transmit discoverable materials to the district attorney's office?		
Response	N	%
Yes	66	69%
No	30	31%
Total	96	
Missing	3	--
Excluded*	186	--

*Excluded based on a response to a previous question.

Did the agency transition to this system between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	31	47%
No	35	53%
Total	66	
Excluded*	219	--

*Excluded based on response to a previous question.

Did the additional requirements for managing and transmitting discoverable materials create the need for more resources between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Resource needs	N	%
More resources needed	151	53%
No changes in resource needs	105	37%
Fewer resources needed	5	2%
Not sure	20	7%
Not applicable	4	1%
Total	285	

Did your agency require additional technology resources to handle discoverable materials (e.g., data storage, cloud services, new equipment) between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Response	N	%
Yes	152	53%
No	115	40%
Not sure	13	5%
Not applicable	5	2%
Total	285	100%

Were changes made to how your agency coordinates with stakeholders (e.g., district attorneys and forensic laboratories) around discovery obligations between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	118	41%
No	151	53%
Not applicable	16	6%
Total	285	

Criminal case processing was impacted by court closures and delays in 2020-2021, and the work of other agencies was disrupted as well. Between May 3, 2021, and May 2, 2022, to what extent was the full impact of CPL 245 delayed for your jurisdiction as a result of the COVID-19 pandemic?		
COVID-19 impact on CPL 245	N	%
To a great extent	58	20%
Somewhat	102	36%
Very little	66	23%
Not at all	41	14%
Not sure	12	4%
Not applicable	6	2%
Total	285	

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

Did the laboratory provide staff training on CPL 245 between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	8	50%
No	8	50%
Not applicable	0	0%
Total	16	

What types of staff were trained?						
Trained on CPL 245	Management/Supervisors		Scientists/Technicians		Support Staff/Other	
	N	%	N	%	N	%
Not trained	2	25%	2	25%	1	13%
Trained	6	75%	6	75%	7	88%
Total	8		8		8	
Excluded*	8	--	8	--	8	--
Mean hours of training	5.7		4.5		11.4	

Note: Mean hours of training based on information from 6 responses for Management/Supervisors, 6 responses for Scientists/Technicians, and 7 responses for Support Staff/Other.

*Excluded based on a response to a previous question.

What percent of total staff were trained?		
Percent of staff trained	N	%
25 percent or less	2	29%
26 to 50 percent	0	0%
51 to 75 percent	2	29%
76 to 100 percent	3	43%
Total	7	
Missing	1	--
Excluded*	8	--

*Excluded based on a response to a previous question.

Did staff responsibilities related to CPL 245 change between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?								
Response	More time spent		No change		Less time spent		Not applicable	
	N	%	N	%	N	%	N	%
Processing case notes and materials	5	31%	11	69%	0	0%	0	0%
Coordination with the district attorney's office	9	56%	7	44%	0	0%	0	0%
Preparation of electronic discovery packets	8	50%	6	38%	1	6%	1	6%
Monitoring/quality assurance of digital record	4	25%	11	69%	0	0%	1	6%
Other	2	13%	2	13%	0	0%	12	75%

Did your laboratory make staffing or scheduling changes to meet CPL 245 requirements? Check all that apply.		
Staffing/scheduling changes	N (16)	%
Hired additional staff	6	38%
Adjusted staff hours	1	6%
Reassigned staff	3	19%
Required overtime	4	25%
Other changes	1	6%
No changes made	6	38%
Not applicable	0	0%

Note: Respondents could make multiple selections.

Did the volume of discoverable materials prepared by the laboratory change between May 3, 2021, and May 2, 2022?		
Volume of materials	N	%
The volume increased greatly	3	19%
The volume increased somewhat	4	25%
The volume remained the same	8	50%
The volume decreased somewhat	1	6%
The volume decreased greatly	0	0%
Not applicable	0	0%
Total	16	

Procedural changes items	Yes		No		Not applicable		Total
	N	%	N	%	N	%	
Did the laboratory modify its procedures for managing discoverable materials between May 3, 2021, and May 2, 2022?	8	50%	8	50%	0	0%	16
Did the laboratory prepare discovery packets for all reports of analysis between May 3, 2021, and May 2, 2022?	10	63%	6	38%	0	0%	16

Does the laboratory use an information management system to manage discoverable materials?		
Response	N	%
Yes	9	56%
No	7	44%
Not applicable	0	0%
Total	16	

Did the laboratory transition to an information management system between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	1	14%
No	6	86%
Total	7	
Missing	1	--
Excluded*	8	--

*Excluded based on a response to a previous question.

Did the laboratory begin transmitting discoverable materials to law enforcement or the district attorney via the district attorney's Digital Evidence Management System (DEMS) between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	7	47%
No	8	53%
Total	15	
Missing	1	--

If the laboratory is not transmitting discoverable materials via the district attorney's Digital Evidence Management System (DEMS), do you have plans to use it in the future?		
Response	N	%
Yes	1	17%
No	2	33%
Not sure	3	50%
Total	6	
Missing	2	--
Excluded*	8	--

*Excluded based on a response to a previous question.

Did the fulfillment of discovery obligations create the need for more resources (e.g., staffing, technology) between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Resource needs	N	%
More resources needed	7	44%
No changes in resource needs	9	56%
Fewer resources needed	0	0%
Not sure	0	0%
Not applicable	0	0%
Total	16	

Did the laboratory require additional technology resources to handle discoverable materials (e.g., data storage, cloud services, new equipment) between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Response	N	%
Yes	8	50%
No	8	50%
Not sure	0	0%
Not applicable	0	0%
Total	16	

Were changes made to how your laboratory coordinates with stakeholders (e.g., law enforcement, courts, district attorneys) around discovery obligations between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	8	50%
No	8	50%
Not applicable	0	0%
Total	16	

Criminal case processing was impacted by court closures and delays in 2020-2021, and the work of other agencies was disrupted as well. Between May 3, 2021, and May 2, 2022, to what extent was the full impact of CPL 245 delayed for your laboratory as a result of the COVID-19 pandemic?		
COVID-19 impact on CPL 245	N	%
To a great extent	3	19%
Somewhat	4	25%
Very little	3	19%
Not at all	4	25%
Not sure	2	13%
Not applicable	0	0%
Total	16	

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

Did the office provide staff training on CPL 245 between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	42	55%
No	21	27%
Not applicable	14	18%
Total	77	

What types of staff were trained?						
Trained on CPL 245	Defense Attorneys		Assistant Defense Attorneys		Support Staff/Other	
	N	%	N	%	N	%
Not trained	5	12%	22	52%	20	48%
Trained	37	88%	20	48%	22	52%
Total	42		42		42	
Excluded*	35	--	35	--	35	--
Mean hours of training	7.6		4.5		13.2	

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.

*Excluded based on a response to a previous question.

What percent of total staff were trained?		
Percent of staff trained	N	%
25 percent or less	2	5%
26 to 50 percent	3	7%
51 to 75 percent	9	22%
76 to 100 percent	27	66%
Total	41	
Missing	1	--
Excluded*	35	--

*Excluded based on a response to a previous question.

Has the amount of time your office spends reviewing discovery on cases changed between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Response	N	%
Time spent reviewing discovery on cases increased	54	70%
No change	7	9%
Time spent reviewing discovery on cases decreased	0	0%
Not applicable	16	21%
Total	77	

Did staff responsibilities related to CPL 245 change between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?								
Response	More time spent		No change		Less time spent		Not applicable	
	N	%	N	%	N	%	N	%
Obtaining assignment notices and accusatory instruments	16	21%	38	49%	4	5%	19	25%
Reviewing discoverable materials, excluding audio, video, and photographic	50	65%	10	13%	0	0%	17	22%
Reviewing audio, video, and photographic discoverable materials	53	69%	7	9%	0	0%	17	22%
Managing discoverable materials received from the district attorney's office	51	66%	9	12%	0	0%	17	22%
Gathering materials for reciprocal discovery	34	44%	26	34%	0	0%	17	22%
Reviewing materials with clients	52	68%	8	10%	0	0%	17	22%
Discovery conferences	32	42%	26	34%	0	0%	19	25%
Other	10	13%	12	16%	0	0%	54	71%

Did your office make staffing or scheduling changes due to CPL 245 between May 3, 2021, and May 2, 2022? Check all that apply.		
Staffing/scheduling changes	N	%
Hired additional staff	23	30%
Adjusted staff hours	10	13%
Reassigned staff	13	17%
Required overtime	7	9%
Other changes	5	6%
No changes made	21	27%
Not applicable	0	0%

Note: Respondents could make multiple selections.

Did the office modify its procedures for obtaining discoverable materials from district attorneys' offices between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	28	36%
No	28	36%
Not Applicable	21	27%
Total	77	

Does the office use any type of digital evidence management system or other automated tools to manage discoverable materials?		
Response	N	%
Yes	35	45%
No	27	35%
Not applicable	15	19%
Total	77	

Did the office transition to the system for managing discoverable materials between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	13	39%
No	20	61%
Total	33	
Missing	2	--
Excluded*	42	--

*Excluded based on a response to a previous question.

Is a system other than NYSDA's Public Defense Case Management System used to manage discoverable materials?		
Response	N	%
Yes	17	53%
No	15	47%
Total	32	
Missing	3	--
Excluded*	42	--

*Excluded based on a response to a previous question.

Do you plan to use any digital evidence management system or other automated tools in the future?		
Response	N	%
Yes, PDCMA	11	41%
Yes, other	6	22%
No	9	33%
Not sure	1	4%
Total	27	
Excluded*	50	--

*Excluded based on a response to a previous question.

Were changes made to procedures for managing discoverable materials within your office between May 3, 2021, and May 2, 2022?		
Response	N	%
Yes	30	39%
No	28	36%
Not Applicable	19	25%
Total	77	

Did the additional requirements for obtaining, managing, and receiving discoverable materials create the need for more resources between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Resource needs	N	%
More resources needed	48	62%
No changes in resource needs	8	10%
Fewer resources needed	0	0%
Not sure	1	1%
Not applicable	20	26%
Total	77	

Did your office require additional technology resources to handle discoverable materials (e.g., data storage, cloud services, new equipment) between May 3, 2021, and May 2, 2022, compared with the prior year of discovery reform implementation?		
Response	N	%
Yes	47	62%
No	11	14%
Not sure	1	1%
Not applicable	17	22%
Total	76	
Missing	1	--

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?		
Response	N	%
Yes	34	44%
No	23	30%
Not applicable	20	26%
Total	77	

Criminal case processing was impacted by court closures and delays, and the work of other agencies was disrupted as well. Between May 3, 2021, and May 2, 2022, to what extent has the full impact of CPL 245 been delayed for your office as a result of the COVID-19 pandemic?		
COVID-19 impact on CPL 245	N	%
To a great extent	11	14%
Somewhat	21	27%
Very Little	14	18%
Not at all	11	14%
Not sure	1	1%
Not applicable	19	25%
Total	77	

Respondent type		
Type	N	%
Public Defender/Defender Services	44	57%
Alternate Public Defender/Conflict Defender	7	9%
Assigned Counsel	19	25%
Other	7	9%
Total	77	