

## NH JUDICIAL COUNCIL REPORT ON FELONIES FIRST

NH RSA 592-B:2, VI created the following reporting requirement to assist the legislature in monitoring the progress of Felonies First:

Prior to the implementation of this chapter in counties other than Cheshire county, Strafford County and Belknap County, the judicial council shall issue a report on the implementation of this chapter to the senate president, the speaker of the house of representatives, and the chairpersons of the senate and house judiciary committees. The judicial council shall survey the municipalities, and counties affected by the felonies first project in order to obtain cost and effectiveness opinions. The judicial council shall evaluate the number of probable cause hearings requested, waived, denied, and held and the final disposition of each probable cause hearing held. The judicial council shall also evaluate the number of discovery depositions requested, denied and approved.

Beginning on July 1, 2017, the Judicial Council (Council) was required to submit annual reports for a four-year period. This is the Council's third report. The earlier reports can be found on the Council's website.<sup>1</sup> The Council is tasked with submitting one additional report, and anticipates completing this in January of 2020.

### **Executive Summary**

*The views and opinions expressed herein do not necessarily reflect the views and opinions of the Council or its individual members. This report is a chronicle of the feedback received from different actors in the criminal justice system.*

*The Council did not generate any of the data included in this report. All data was provided by other entities to assist the Council with its reporting obligations. The Council did not independently review or confirm the data contained in this report.*

Felonies First has now been implemented throughout the State and the transition period is over. Stakeholders were generous in sharing their time and insights.<sup>2</sup> Their shared dedication to the criminal justice system is exceptional.

Several County Attorneys and police departments noted that the quality of prosecutions has gone up under Felonies First. Earlier involvement with the investigation has been credited with this improvement.

With one exception, all County Attorney Offices reported that Felonies First resulted in increases in both caseload and general workload.<sup>3</sup> Several County Attorneys reported that part of the increase is

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<sup>1</sup> See Publications at <https://www.nh.gov/judicialcouncil/forms/index.htm>.

<sup>2</sup> Complete stakeholder responses are available through the Judicial Council.

<sup>3</sup> Strafford County Attorney Thomas Velardi reported no impact to workload as a result of Felonies First. The Belknap County Attorney did not provide a response to the Council, therefore that office is not included in general statements about County Attorney responses.

due to both the elimination of misdemeanor resolutions at the circuit court level and the truncated timeframes for resolving cases. While there is still the opportunity to resolve felonies as misdemeanors at the Superior Court, multiple stakeholders reported that this process is more time consuming in Superior Court. Two County Attorneys requested a mechanism that would allow misdemeanors to be sent back to the Circuit Courts.

With one exception, all County Attorney Offices reported that Felonies First required additional staff to meet the increased workload. These costs range from \$80,000 in Coos County to over \$500,000 in Hillsborough County. While there have been savings at the municipal level, it does not appear that these offset the increased costs at the county level. The Strafford County Attorney's Office reported that Felonies First has had no impact on its expenditure. This county has been using this type of prosecution model since 2008. When Felonies First legislation was passed, no fiscal impact to the counties was anticipated. Based on individual County Attorney's responses, the cost to counties has been approximately \$1.5 million.

Several county attorneys reported that the initial information from law enforcement is often incomplete. This makes charging decisions and complying with deadlines to make plea offers challenging.

Under Felonies First, incarcerated clients do not wait as long for an attorney assisted bail hearing. However, multiple stakeholders commented on the challenges presented by Felonies First arraignments. Incarcerated arraignments take place on a daily basis, and non-incarcerated arraignments often take place on a weekly, bi-weekly or monthly basis – depending on the court. One of the premises of Felonies First was that every court hearing would be meaningful. Responses from the Public Defender reveal that the time period to meet with incarcerated clients is often too short to allow the opportunity to confirm bail facts. Many non-incarcerated defendants are being met for the first time at arraignment because they have not filed for court appointed counsel yet. Some public defenders have reported concerns about the quality of representation that can be provided under these circumstances.

Additionally, the logistics of covering the arraignments result in one attorney handling multiple arraignments on a particular day, but most often that is not the attorney that ultimately handles the case. If a case is selected for Early Case Resolution (ECR) it will often be assigned to a different attorney who handles that caseload. If the case is not resolved through ECR, it will often be assigned to a third attorney for trial. This is often referred to as horizontal representation” – a representational scheme whereby one attorney represents the client during one court proceeding before handing off the client's case to another attorney to cover the next stage. In contrast, “vertical representation,” is the continuous representation by the same attorney.

Horizontal representation contravenes one of the *American Bar Association's (ABA) Ten Principles of a Public Defense Delivery System*: “The same attorney represents the client until completion of the case.”<sup>4</sup> The ABA rejects the use of horizontal representation.

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<sup>4</sup> See *ABA Ten Principles of a Public Defense System*, Principle 7 available at [https://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_sclaid\\_def\\_tenprinciples\\_booklet.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_tenprinciples_booklet.pdf).

Three of six sheriff departments strongly argued in favor of video arraignments. Four of nine jails also argued for this – though it should be noted that the Cheshire County opinion came from the booking commander, not the Superintendent.<sup>5</sup>

Multiple stakeholders commented on the increase in failures to appear since Felonies First was implemented. It appears that this occurs most frequently at the arraignment. This creates additional work for prosecutors, defense attorneys, sheriffs and the courts.

It was anticipated that Felonies First would result in law enforcement savings by reducing the need for officers to appear at probable cause hearings. Of all responding police departments, Manchester reported the most significant savings in overtime costs (\$58,618). A total of six out of ten departments believe there have been overtime savings, but some departments are unable to isolate these specific expenditures from other overtime costs. The remaining departments believed that there was no change to overtime hours or believed that any savings from court appearances was offset by overtime costs for completing reports during the shorter timeframe instituted under Felonies First.

It was anticipated that the elimination of automatic probable cause hearings would also lead to more officer time for community policing. Nine of ten police departments reported that Felonies First has not resulted in more time for community policing. Often, court appearances occurred when the officers were off-duty, so the reduction of probable cause hearings does not result in increased community policing.

Most jails reported that Felonies First has had a positive impact on their facility.<sup>6</sup> The length of pretrial detention has decreased in every facility. Many facilities have seen fewer individuals being held pretrial. The use of one court and one docket number has helped streamline processes at most jails.

The fiscal impact on jails is more complex, as fewer inmates equates to a higher cost per inmate/per day amount. However, expenses like medical care and food have decreased. In addition, pretrial inmates are unable to take advantage of rehabilitative programs available at the jails.

Sheriff departments are experiencing different results from Felonies First, with transports in some counties decreasing while other counties have experienced an increase. While there may be fewer hearings over the life of a case under Felonies First, some departments report that many hearings at the circuit court level were handled via video. Additionally, two departments reported increased overtime costs due to hearings running late.

Two sheriff departments reported late transport requests from their respective Superior courts. This results in the need to pull staff from other duties and causes disruption to the efficient running of the department.

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<sup>5</sup> Please see the Judicial Council's October 16, 2017 Report on Felonies First for a discussion on the Public Defender's inability to represent defendants through video arraignments absent additional funding, p. 39, available at <https://www.nh.gov/judicialcouncil/documents/felonies-first-10-16-17.pdf>.

<sup>6</sup> The Strafford County House of Corrections did not provide a response to the Council, therefore that facility is not included in general statements about jail responses.

Several sheriff departments have noticed an increase in warrants since the implementation of Felonies First. Again, this appears to be the result of individuals not appearing for Felonies First arraignments.

Both law enforcement and county attorneys reported that Felonies First has led to improved communication between their agencies. Victims are being contacted earlier on in the process and receive consistent communication about their case.

Multiple stakeholders believe that beginning felonies in the court with jurisdiction makes sense.

The Public Defender reported a state-wide increase of 14% in felony convictions since Felonies First was implemented. Many of these cases are drug-related. A felony conviction creates barriers to such basic necessities as employment and housing.

One of the main goals of Felonies First was to resolve cases more quickly. This was believed to lead to better outcomes for victims and defendants. The goal of “same or better justice sooner” was often cited during the Felonies First discussion. Several stakeholders, including county attorneys and public defenders, reported that the advantages of earlier resolution do not seem worth the increased workload.

Stakeholders were asked to provide written responses to various questions about Felonies First. Their responses follow.

### **Data From State Wide Public Defender Program**

In 2018, the New Hampshire Public Defender resolved 1,682 of 3,368 (approximately 50%) of felonies opened that year as misdemeanors or less. In the year prior to the implementation of Felonies First in each county, the New Hampshire Public Defender resolved 2,271 of 3,658 (approximately 62%) felonies as misdemeanors or less. In 2018, 48% of defendants were convicted of a felony. In the year prior to implementation of Felonies First, 34% of defendants were convicted of a felony. This program has seen a 12% decrease in misdemeanor or less resolutions and a 14% increase in felony convictions. NHPD's supporting data can be found in Attachment A.

In September of 2018, the American Civil Liberties Union of New Hampshire issued a report entitled *Lost Labor: The Collateral Consequences of a Criminal Record and their Impact on New Hampshire's Workforce*.<sup>7</sup> The report found that as a result of the opioid crisis, "more Granite Staters are seeking to re-enter society with a criminal record and facing the resulting barriers to employment, affordable housing and other services." The report also concludes the following:

Reliable employment is a central ingredient to reducing recidivism. A job provides stability and resources, which lessen the chances that someone will go back to habits or substances that contributed or directly lead to their conviction and incarceration. Put another way, the harder it is for people with first time convictions and those recently released from incarceration to find jobs, the more likely a return to criminal behavior will occur. New Hampshire communities and families would benefit from reducing the barriers to successful re-entry, including as part of comprehensive efforts to address the opioid epidemic.<sup>8</sup>

**Please see Attachment A for Public Defender data.**

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<sup>7</sup> See American Civil Liberties Union of New Hampshire (NH ACLU) and Scherr, Alfred E. *Lost Labor: The Collateral Consequences of a Criminal Record and Their Impact on New Hampshire's Workforce*. NH ACLU. 2018. Available at [https://www.aclu-nh.org/sites/default/files/lost\\_labor\\_report.pdf](https://www.aclu-nh.org/sites/default/files/lost_labor_report.pdf)

<sup>8</sup> *Id.* at 5.

## Belknap County

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney**

No response received.

### **Public Defender**

The Public Defender's Laconia office handles both Belknap and Carroll Counties. Their responses are included in the Carroll County section.

### **Superintendent**

There isn't much of a change in staff workload or fiscal savings, but this is not because of Felonies First. In Belknap County, we have seen an increase in the number of defendants processed into the facility recently. Through 10 months of 2018, the number of pretrial bookings has increased by 19 per month from 2017 pretrial bookings. If our booking numbers had remained constant, there would be a lower Average Daily Population which would have resulted in savings.

### **Sheriff**

Criminal Division Detectives are at times necessary to assist in performing transport functions to accommodate the Felonies First program. This causes a loss of criminal work product. When a fresh arrest is made, the time constraints on getting the felony paperwork in can be a burden and sometimes rushed and incomplete.

### **Sheriff, Jenn Schillinger**

Workload has increased for our civil/transport deputies as well as our Court Security staff. When Felonies First (FF) was presented, it was laid out that Departments would have a deadline to submit paperwork for that day's docket and FF arraignments would all be at 1330. That is unfortunately not how Belknap Superior seems to be running FF. It is commonplace for Belknap Superior to change those times, whether it be by allowing late paperwork, resulting in either this agency receiving [transport orders] late (sometime as late as after 12pm) or sending additional TPOs when the FF run has already been done; or by requesting to see subjects as early as 9am. All of this results in our civil/transport deputies having to change plans, or worse, by having to pull deputies who are not assigned to civil/transport in order to accommodate the increase in workload. Another item that increases workload is when the Court will schedule other items for 1330. If there are already items on the docket for 1330, and we have 5 people for Felonies First (as can happen – this Monday there were a total of 7 people in custody on just SO capiases) it not only impacts our civil/transport division, but it increases work for our [court security officers]. The holding cells at Belknap County Superior Court are inadequate to hold so many people, and oftentimes that means inmates are held in other rooms, and need their own [court security officer] to guard them, which ultimately becomes a safety issue for anyone inside Superior Court.

### **Laconia Police Department**

To the question about officers spending more time community policing, the answer would be no. For efficiencies and workloads, I would say that there is certainly an increased workload. Based on the necessity, we have become more efficient at completing it. Officers could previously rely on administrative assistants to complete some of the paperwork that could be dictated on a recorder and submitted. Now they either type it out themselves or submit it marked priority.

**Center Harbor Police Department**

This department does not handle many felonies but has found Felonies First to be a good program. As with any new program, there were some growing pains. Those issues have resolved and Felonies First has saved on court time for officers. Both the Chief and the prosecutor have found the system to be more efficient and believe the program is an overall success.

**Please provide a summary of any efficiencies that have resulted from Felonies First.**

**County Attorney**

No response received.

**Public Defender**

The Public Defender's Laconia office handles both Belknap and Carroll Counties. Their responses are included in the Carroll County section.

**Superintendent**

The inmate turnover is much faster. There are fewer inmates that languish in a pretrial status for a long period of time.

**Sheriff**

We have found less arraignment/probable cause hearings, thus freeing up Detectives from presenting the case.

**Laconia Police Department**

Please see answer above.

**Center Harbor Police Department**

This department does not handle many felonies but has found Felonies First to be a good program. As with any new program, there were some growing pains. Those issues have resolved and Felonies First has saved on court time for officers. Both the Chief and the prosecutor have found the system to be more efficient and believe the program is an overall success.

**Please provide your opinion on the fiscal impact Felonies First has had on your department.**

**County Attorney**

No response received.<sup>9</sup>

**Public Defender<sup>10</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually

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<sup>9</sup> The previous County Attorney reported adding a prosecutor as a result of Felonies First at a cost of \$89,329.

<sup>10</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this information. It is not specific to any one county.

waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>11</sup> In most cases, NHPD filed “97”s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

- 8000 arraignments @ .5 hours each = 4000 hours.
- 4000 hours divided by 1950 hours/year/atty = 2.05.

This is approximately two attorneys’ worth of time per year. Attorneys of all experience levels cover arraignments, so it’s hard to put a figure on that cost, but let’s approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

### **Superintendent**

There isn’t much of a change in staff workload or fiscal savings but this is not because of Felonies First...If Felonies First had not been implemented, the [average daily population] in Belknap County Jail would be 10-15 more than our current number of 85. Without Felonies First, there would have been a cost increase in Belknap County due to the increase in pretrial defendants. Along with that, the increase in pretrial defendants would have caused a housing dilemma due to the number of pretrial beds available in this facility. We probably would have been required to transfer some of our inmate population to other facilities due to overcrowding.

### **Sheriff**

Notable increase manpower needs for prisoner management with daily FF arraignments. Also created the need to assign and keep bailiffs at court on court “Administrative Days” which previously could be handled with a reduced staffing level. Additional bailiffs are required for hearings and prisoner management. The addition of manpower assignments would clearly have a negative impact on any possible savings.

### **Laconia Police Department**

There is no breakdown of different types of overtime such as court, covering for sick or injured officer, etc. There was no significant change to overtime costs since Felonies First...It is our belief that any increase in officers having to stay over their shift for felonies first paperwork is offset by the reduction of overtime costs to cover for probable cause hearings...I think it’s fair to say if there is a change in overtime costs it is a reduction and not an increase. We do not have a specific line item for prosecution costs, so those numbers are also something that I can’t provide. I have no reason to believe that those costs have changed.

### **Center Harbor Police Department**

This department does not handle many felonies but has found Felonies First to be a good program. As with any new program, there were some growing pains. Those issues have resolved and Felonies First has saved on court time for officers. Both the Chief and the prosecutor have found the system to be more efficient and believe the program is an overall success.

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<sup>11</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.



**Please provide your opinion on the effectiveness of Felonies First.**

**County Attorney**

No response received.

**Public Defender**

The Public Defender's Laconia office handles both Belknap and Carroll Counties. Their responses are included in the Carroll County section.

**Superintendent**

I hope that Felonies First continues. It keeps my pretrial population at a manageable level.

**Sheriff**

**Sgt. Bill Wright:** The overall concept of the Felonies First Program is on key with streamlining court processes. Our department spends the same amount of time on transporting as it was presenting the case via video. It is my opinion that if the Felonies First Program was video based for the first hearing, the process would benefit the department. As the program sits, there is no true savings or otherwise benefit to the agency.

**Sgt. Douglas Jameson:** It is my opinion that Felonies First has hindered the process for felony matters from nearly every aspect. It has brought addion[al] work to the Superior Court. It has reduced the ability for prosecutors and defense counsel to resolve matters more appropriately and efficiently when moved from the Circuit Courts. The addition of Felonies First has burdened the Superior Court with the addition of "Settlement Conferences" and "Early Case Resolution" hearings as an attempt to create the appearance that all is better. While a creatively and carefully crafted explanation and sales pitch may have seemed "progressive" and beneficial, Felonies First has been anything but that.

**Deputy LeBlanc:** I am unsure how effective it is on the court procedure end, but regarding transports, workload has increased. The court has not been efficient in sending out transport orders. The majority of the time transport orders are issued within an hour of the hearing and sometimes with no notice at all. There have been many times we receive the transport order and the court would like the inmate transported immediately. This makes it difficult for us in planning and could be alleviated using the video arraignment option. When there is no judge for our court and a judge from another court is used, we transport inmates to court for them to be seen via video instead of it being done at the jail.

**Laconia Police Department**

There is no breakdown of different types of overtime such as court, covering for sick or injured officer, etc. There was no significant change to overtime costs since Felonies First...It is our belief that any increase in officers having to stay over their shift for felonies first paperwork is offset by the reduction of overtime costs to cover for probable cause hearings...I think it's fair to say if there is a change in overtime costs it is a reduction and not an increase. We do not have a specific line item for prosecution costs, so those numbers are also something that I can't provide. I have no reason to believe that those costs have changed.

**Center Harbor Police Department**

This department does not handle many felonies but has found Felonies First to be a good program. As with any new program, there were some growing pains. Those issues have resolved and Felonies First has saved on court time for officers. Both the Chief and the prosecutor have found the system to be more efficient and believe the program is an overall success.

**Please see Attachment B for Belknap County data.**

## Carroll County

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney**

Although we anticipated a short spike in cases, due to the overlap between the pre-Felonies First cases and the new procedure, we have sustained a more than 100% increase in cases received. The factors involved in reviewing the cases, running criminal histories on all of the increased cases, drafting complaints in addition to indictments, copying and providing discovery to defense counsel, filing court notices and calendaring the increased dates, presenting more than twice as many cases to the Grand Jury, and responding to an increased number of motions, etc. has had a substantial impact on our ability to process cases.

With more than double the work, we did not receive a corresponding number of additional personnel to process the work. This resulted in long hours for our staff, who found themselves taking work home and working weekends in order to continue providing services to the county without a decrease in quality. Although we added an additional prosecutor, we were not able to add additional legal support until very recently. This had a definite impact on our ability to retain staff, as the workload was untenable.

Our office experienced some growing pains as we tried to accommodate the tighter deadlines for paperwork and discovery without adding support staff. The court, perhaps understandably, was not patient with our progress. There were times when discovery was not able to be processed in a timely manner due to the tight deadlines. Law Enforcement has not always been able to provide us with complete discovery during the time frames which the court held us to. We were expected to make offers on cases without the benefit of complete discovery or returns on lab analysis, and the court was not always patient with granting extensions for indictment when cases were still being processed.

### **Public Defender**

Felonies First has increased the workload in my office and led to a decrease in morale. It has changed the overall landscape of our day to day practice. Whereas prior to implementation the Circuit Court was the hub of daily activity, Superior Court has now become an almost all-day affair, every day. In Superior Court, the formalities of the court, the paperwork and the process of dealing with the county attorney's office on every case create double the amount of work. Additionally, as alternative disposition rates have significantly decreased, clients are facing increased sanction through the process.

### **Superintendent**

More faxing, copying and organization of paperwork has increased.

### **Sheriff**

The Carroll County Sheriff's Office has seen some savings in the area of wages as a deputy is not needed to stay with the person in custody as we did for PC hearings in the Circuit Courts. There is some time reduced in a Deputy preparing a case for a PC hearing as we did prior to Felonies First. Staff workload has reduced slightly...

**Conway Police Department**

Our officers have utilized the felony warrant exception more effectively because of Felonies First. Overtime has decreased as officers have not had to come in for court appearances for probable cause hearings. No exact figure is known. Felonies First has not resulted in more time for community policing.

**Tuftsboro Police Department**

Given the relatively few cases we experience, I see no real impact.

**Please provide a summary of any efficiencies that have resulted from Felonies First.****County Attorney**

Felonies First is a much-needed improvement for the criminal case process here in New Hampshire. It allows prosecutors to sort out cases which should be declined or processed as misdemeanors. Under the prior process, law enforcement were given the first opportunity to make decisions on cases, and this often occurred without input from prosecutors. Thus, some cases were pushed through as felonies which perhaps should have been declined or brought as misdemeanors. Conversely, cases were plea bargained without sufficient input from victims, and this resulted in sometimes unequal justice for the victims of crime. Having the prosecutor be able to identify potential trial issues at an earlier stage of the proceedings allows for better investigations and tighter cases being set for trial. This streamlines the process and benefits the judiciary as well as victims and defendants accused of crime.

**Public Defender**

There are a few efficiencies that have resulted in Felonies First. First, there are far less scheduling conflicts between the district and superior courts. Secondly, it has created a little less paperwork since the case begins and ends in the same court, so we don't need to file two packets of opening paperwork in different courts. Finally, by dealing with the same prosecutor throughout the case, there is some continuity in discussion and understanding in attempting to resolve a case. (However, see above, the efficiencies lead to worse outcomes for the clients.)

**Superintendent**

No more bound overs.

**Sheriff**

Cases going directly to the County Attorney's Office are much more efficient. This is where they will be adjudicated and it gives the County Attorney an opportunity for early case resolution or plea agreements earlier than they may have before. The cases are given to the County Attorney's Office sooner so there are less court hearings, motions and discovery issues potentially.

**Conway**

The cases are getting to the County Attorney's office quicker. If they identify additional follow up that needs to be done in cases, our department is getting notified quicker and [is] able to resolve any lingering issues.

### **Chief Shagoury**

I see no efficiencies for us other than the elimination of the probable cause hearings. While that is helpful, there have been costs associated with implementing Felonies First. In a pending case, due to the tight time constraints of turning in documentation the next morning the defendant was released on [personal recognizance] bail. It was subsequently found he had given a false name. It took quite a while to find that person again. I am confident that if some more time had been available, we would have discovered it was false name prior to his release. It was discovered shortly after his release through a check on social media.

**Please provide your opinion on the fiscal impact Felonies First has had on your department.**

### **County Attorney**

Felonies First, while necessary and productive, has resulted in the addition of approximately \$153,000 in costs to our overall budget, per year, thus far. We anticipate an additional \$5,000-\$6,000 to next year's bottom line due to the conversion of a part-time position to full-time in order to assist in handling discovery dissemination.

### **Public Defender<sup>12</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>13</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

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This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

### **Superintendent**

Might be some savings in length of stay.

### **Sheriff**

As outlined in the answers to #9 and #11 [pages 10 and 11 of this report], the fiscal impact in this early stage of Felonies First is only slight noticed. I feel that it is still early and that change could increase or decrease in further savings.

### **Conway Police Department**

Felonies First has slightly reduced our department's overtime usage. Prior to Felonies First it was not uncommon for multiple officers to be present for a Probable Cause hearing. Now, in rare situations,

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<sup>12</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this statewide information.

<sup>13</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.

an investigating officer might have to extend their shift to complete the necessary court paperwork in compliance with the Felonies First guidelines.

#### **Tuftonboro Police Department**

The fiscal savings has been minimal. We have saved time from not having to do probable cause hearings. The savings are offset by the increased demands of early case submission and time spent trying to get an absconder who gave a fake name.

#### **Please provide your opinion on the effectiveness of Felonies First.**

#### **County Attorney**

See ¶ 10, above [p. 11 of this report]. As an office we have seen an increase in the quality of prosecutions since we have become involved at an earlier stage in the proceedings.

#### **Public Defender**

The effectiveness depends on what you value. For the population of defendants in NH and the attorneys who represent them, Felonies First has been more work, more cases, more time to resolution and led to harsher outcomes.

#### **Superintendent**

Not sure how effective it has been with the courts, but we have some more miscommunications with local police and the County Attorney's office. Sometimes offenders are charged with misdemeanors that should be felonies and sometimes the opposite. It has created more work for the processing department to try to resolve issues.

#### **Sheriff**

Again this answer has some relation to the answer in #s 9, 10 & 11 above [p. \_\_\_ of this report]. The Sheriff's Office tended to use the indictment process and rarely used the Circuit Courts to initiate proceedings. Deputies have used the Felonies First on drug cases, and feedback has been neutral. I believe our proximity and Government affiliation with the Carroll County Attorney's Office is advantageous as we can easily reach out and speak or meet with them. Carroll County Superior Court is one-way less than one (1) mile from the House of Corrections. There are 2 Circuit Courts in Carroll County. The Ossipee branch is in the same building as the Superior Court and the Conway branch is about 35 miles north from the Carroll County House of Corrections. We are able to make adjustments in lieu of having to travel to the Conway Court for arraignments if the subject was being held overnight on a felony charge by one of the agencies in the northern half of the county. We will be able to make a better overall assessment of Felonies First as time goes on.

#### **Conway Police Department**

In our opinion it has been effective in several ways. These cases are getting to the County Attorney's office quicker which initiates dialogue with the prosecuting entity to determine the needs of the case and the services for the victim. The victims in the cases are also introduced to the services of the County's Victim Witness Program quicker.

#### **Tuftonboro Police Department**

While well intended, Felonies First is not effective. There almost no cases resolved through early case resolution. Perhaps if defense attorneys would change their mindset to be more receptive to

early case resolution, it would be more effective. The mindset is to get the client off at all costs which means they won't accept evidence is truly evidence unless the analysis is completed for example: a drug is fentanyl until the actual lab analysis. I caution to say this is the norm across the state. It could be a combination of factors unique to the Carroll County Superior Court that creates this dynamic; the usual judge and the particular public defender office which has been resistive to drug court and other new ideas. Anecdotally, I have heard more than one department in our area say they get better resolution of felony drug possession cases taking them as misdemeanors in the Circuit Court. Again we have relatively few felony cases and we refer them to Superior Court.

**Please see Attachment C for Carroll County data.**

## COÖS COUNTY

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney**

The implementation of FF has front loaded much of the workload here at the Office of the Coös County Attorney. As such, the office has added one additional attorney position, and established an on-call system to address law enforcement questions and to ensure attorney coverage for FF arrests, review, charging and arraignment. One of the most challenging aspects following the implementation of FF has been the case submittal process. Although spelled out to local departments in a memorandum from the Office of the Coös County Attorney that was sent to all departments, certain necessary documents are not always included in the FF packets. This has the effect of creating more work for attorneys and staff who are frequently put in the position of "running down discovery." This at times occurred prior to the implementation of FF, but has certainly increased due to the truncated timeframes. Local departments are not always forthcoming with completed discovery, and so a close line of communication is necessary to charge and meet initial discovery obligations, and later on to comply with full discovery obligations.

### **Public Defender**

In a sense, it has only changed that we have less time to prepare for a case than if we had the probable cause hearing option. They seem to come in cycles or waves out of Coös County have slowed down considerably within the last couple of months. I had heard that the prosecutors/police chiefs were instructing law enforcement to get indictments to save time and energy on the departments. Felonies First has greatly reduced the number of cases we were able to get resolved as misdemeanors.

### **Superintendent**

Felonies First has been relatively easy to transition into. We have an outstanding relationship with the court personnel, county attorney's office, public defender's office and the surrounding arresting agencies. We find that to be most productive when dealing with Felonies First cases.

### **Sheriff**

No response received.

### **Berlin Police Department**

Again, as stated earlier, the workload really hasn't changed. The process has changed and transformed itself. The process has also somewhat streamlined itself. The burden has really shifted from police departments to the County Attorney. The same amount of work being put into each case hasn't changed.

### **Lancaster Police Department**

No response received.



**Please provide a summary of any efficiencies that have resulted from Felonies First.**

**County Attorney**

Cases move faster through the process. For the most part, those cases where arrests are made now move quickly. As a result, there is generally a shorter period of time lapse between arrest and disposition. Following the implementation of Felonies First, cases where there is an arrest will sometimes resolve faster than before FF commenced.

**Public Defender**

Other than perhaps not having to prepare for probable cause hearings, there really seem to be none.

**Superintendent**

Not applicable

**Sheriff**

No response received.

**Berlin Police Department**

The process has become easier and more efficient from the perspective of the district court and certainly the prosecutor. The District Court is no longer being clogged with Probable Cause Hearings to essentially re-iterate what the arresting officer has observed/saw/heard simply so that it could be moved on to Superior Court. It was a waste of resources from both the courts and police departments. Officers can now put together the necessary information into a Felony First "packet" and forward it to Superior Court.

**Lancaster Police Department**

No response provided.

**Please provide your opinion of the fiscal impact to your department.**

**County Attorney**

The fiscal impact to the office has been approximately \$75,000. This does not include the benefits associated with the approximately \$75,000 in salary that has resulted from hiring one full-time attorney and one part-time legal secretary (position went from part-time to full-time). These positions have been necessary in the wake of FF to properly prosecute cases that have not gone through other forms of vetting, such as would occur through the Circuit Court process.

**Public Defender<sup>14</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>15</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a

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<sup>14</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this statewide information.

<sup>15</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.

dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

- 8000 arraignments @ .5 hours each = 4000 hours.
- 4000 hours divided by 1950 hours/year/atty = 2.05.

This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

### **Superintendent**

Typically, the calculation used to find the daily incarceration rate is the net budget divided by 365 then divided by the year's average daily population. This yields this imaginary sum that is typically used as a benchmark for success among correctional facilities. The problem with using the daily incarceration rate as a benchmark for success is that it only lends favorability with a high census with a median to low budget. I would pose the question, would you say a high census is a positive thing? I find that important to note when responding to the fiscal impacts of initiatives like Felonies First or even more notable, the Criminal Justice Reform and Economic Fairness Act of 2018...

Felonies First as it relates to fiscal impacts, has negatively affected our jail when having to calculate a daily rate of incarceration. However, I will say that the annual net budget is down due to the decline of inmates. Medical costs are down, food and meals, clothing, legal services and so on. That is why I would encourage anyone measuring the success of a program or the success of jail operations to focus on a low census, low recidivism and successful reentry programs.

### **Sheriff**

No response received.

### **Berlin Police Department**

[There has been] [i]nsufficient time to gather and include any of the requested budgetary information.

### **Lancaster Police Department**

No response received.

### **Please provide your opinion on the effectiveness of Felonies First.**

#### **County Attorney**

My opinion on the effectiveness of FF is that it has been effective in speeding up, somewhat, the time that it takes to dispose of certain felony charges, and it has reduced slightly the number of questionable charges that are brought forward. However, departments struggle with supplementing a "probable cause" casefile to meet the 90-day window that we have to seek an indictment. This has resulted primarily in two outcomes, both of which tend to attenuate the purported purpose of FF: 1.) cases are brought to the Grand Jury where the investigation file is incomplete but where probable cause exists and 2.) casefiles are held and indictments are not brought within 90 days of an FF arrest due to the fact that we have not received a completed investigation file from the agency within 90 days. Both outcomes are not uncommon. In a couple of cases, arrests had been made, indictments presented and returned, and the cases proceeded to trial only to be nolle prossed on the eve of trial

because the investigation was not complete. Because of this, I have elected to hold off on indicting cases until I receive a completed investigation from the agency, notwithstanding the fact that an arrest has been made and further investigation materials are “forthcoming.” The charges, and whatever bail conditions are in place, simply disappear after the 90 days, only to be resurrected following return of indictments by the Grand Jury.

**Public Defender**

I don't see it as being very effective.

**Superintendent**

I will say that in a small county like Coos County, we hear a lot of frustration on the resolution of a lot of felony cases. It is a common perception that a society of catch and release has been created and public safety has taken the back seat. When considering if that is perception or reality, I would say you would need tangible, measurable results. I think that it is fair to say that I have tangible, measurable results that show the “catch and release” mindset may be true. That measurable figure is the sentenced population decline here at the Coos County Department of Corrections. The sentenced inmate population has drastically declined. So if public safety isn't taking a back seat, and felony resolution is still about justice, where are all the sentenced inmates? Felonies First initiatives to address a clogged system of pretrial offenders being housed for long periods of time is working. However, when it comes to resolution of these felony cases, I would say that it is failing the general public. I can only speak to the county level sentences that apply on felony cases, obviously some offenders are sentenced to the State Prison. However, I would say that a large portion of these felony cases are now seeing no incarceration at all...I will always be a proponent for public safety, and I would respectfully request that the Honorable members of the Judicial Council never sacrifice public safety in their endeavors to create a solution to a complex problem. Felonies First overall is a positive change and it works very well. However, when it goes hand in hand with the Criminal Justice Reform and Economic Fairness Act of 2018, it opens up major problems for public safety. Court cases at all levels are now treated in a cookie cutter fashion with little to no discretion left to our presiding Justices.

**Sheriff**

No response received.

**Berlin Police Department**

I don't think that felonies are being resolved any faster than they were before. I think the results are the same as they were before.

**Lancaster Police Department**

No response received.

**Please see Attachment D for Coos County data.**

## Cheshire County

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney**

Prior to the implementation of Felonies First, this office historically resolved 15 to 20 percent of felony arrests in Circuit Court as misdemeanors. As a result of Felonies First, this office's workload has increased 10 to 15 percent. The difference between the two figures has to do with some police departments' willingness to hold off on charging low-level felonies with associated misdemeanors and then consult with this office about the case(s) on a misdemeanor basis. As the NH Supreme Court's ruling regarding compulsory joinder in *State v. Locke*, 166 N.H. 344 (2014) gets interpreted and sorted out by the lower courts, this process of not charging all potential felonies in the first instance might stop.

### **Public Defender**

FF has had a minimal impact on total workload, perhaps slightly less from not having PC hearings.

### **Superintendent**

Overall with the implementation of Felonies First we have seen a drastic reduction in the number of times we have to transport offenders to the Booking department for court appearances and video arraignments. This means fewer searches needed for transports outside the facility from not having duplicate hearings in Circuit court and then in Superior has made life much easier. Reduction in movement has saved not only time but also reduces opportunities for introduction of contraband.

### **Sheriff**

Felonies First has impacted our staff load by increasing afternoon transports by an additional 4-6 transports on average a week. This probably evens out with the reduction in PC hearings at the district court level. This has created minimal impact except for occasional overtime that is due to hearings starting late or running long.

### **Keene Police Department**

Since Felonies First was implemented, the workload within Records has increased substantially. Records is responsible for the whole case management for each Felony case and providing said case to [the County Attorney's Office] (CAO). Making Felonies First a priority has also had a negative impact on the workflow within Records. When the majority of felony cases are received, they are not complete or approved. These cases must be constantly monitored and tracked in an effort to obtain and process, reports, property, and all information pertaining to each case. This often takes significant time to accomplish for many Felony First cases. Since Felonies First is priority, each time a report or information is added to a case, personnel must stop what they are doing and make the additions to the case and then provide to CAO.

Also, each time information is provided to the CAO, an entry is made into case management to keep track of outgoing materials for each case. Each additional piece of information needs to be written in the arrest file as well. This all contributes to an increased workload for the Records Bureau.

**Swanzy Police Department**

No response received.

**Please provide a summary of any efficiencies that have resulted from Felonies First.**

**County Attorney**

In my opinion, the efficiencies brought about by the implementation of Felonies First have inured to the benefit of police departments, the Circuit and Superior Courts and the NH Forensic Laboratory. Specifically, police departments are saving money and resources by having police officers sitting in Court waiting for probable cause hearings that were, for the most part, waived by defendants. In addition, owing to the need for this office to receive police reports and documents from police departments quickly, we have implemented a secure file sharing system, which saves the departments the cost of having to copy and mail (or hand-deliver) the police reports and documents.

**Public Defender**

I do not see a net gain or loss in efficiency from FF.

**Superintendent**

The greatest efficiency from Felonies First is in tracking the case through completion. No longer having to track the case through Circuit court and then “bound over” to Superior has been huge. The old way had us ending up with double entries in our system and this created confusion when trying to determine the status of charges for release eligibility. Additionally the decrease in movement within the facility from not having duplicate hearings in Circuit court and then in Superior has made life much easier. Reduction in movement has saved not only time but also reduces opportunities for introduction of contraband.

**HOC Booking Commander, Major David Morey II**

If the Superior Court system could/would make use of the video arraignment system like Circuit Court has I think there would be some drastic increases in efficiency. Initial arraignments, especially with the new bail laws, could see the offender arraigned by video and released from the jail. We do this as a matter of normal business with Circuit Court and it is extremely effective. It saves correctional staff from 2 searches (outgoing and returning). Offenders can be picked up at the jail by family/friends, or dropped off in town all at once with everyone else that may be getting released rather than staff making multiple trips into town.

**Sheriff**

The efficiencies from Felonies First are that it eliminates a transport to court by not having the PC hearing for the most part. The one problem we see frequently is the physical condition of a large number of the Felony First transports. They are either still impaired or detoxing from drugs. Some are so sick that they refuse transport or need to be returned to the jail before their hearing begins, due to being ill and vomiting.

**Keene Police Department**

Efficiencies include fewer man-hours being expended for officers to be in court as was the case when Probable Cause hearings were required. More expedient communications between State attorneys and law enforcement also results.

## **Swanzey Police Department**

No response received.

### **Please provide your opinion of the fiscal impact to your department.**

#### **County Attorney**

As indicated in my answer to question 4, the direct fiscal impact on this office brought about by Felonies First was changing a part-time attorney position to full-time.<sup>16</sup> What is not asked, probably because it is hard to quantify, is the impact on prosecutors and support staff brought about by increased workloads. I have seen quite a bit of employee (both attorneys and support staff) turnover in the last few years, and although I cannot say what exactly has caused the turnover – my speculation is that workloads and pay rate are two significant factors.

#### **Public Defender<sup>17</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>18</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

- 8000 arraignments @ .5 hours each = 4000 hours.
- 4000 hours divided by 1950 hours/year/atty = 2.05.

This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

#### **Superintendent**

Cost per inmate typically consider annual operating costs, minus revenue and then is divided by the average daily population. The trip wire here is that the fewer the number of inmates incarcerated, the greater the cost per inmate. Certainly it makes sense to have fewer offenders for many reasons, especially cost. Calculations in this way, however, can be misleading as fewer offenders held results in greater costs per offender. Our finance department has gone through tremendous accounting calculations in order to determine what our per diem reimbursement would be to house Federal offenders and that rate is \$105 per offender per day...Expenditures have been unremarkable. There seems to be irrefutable evidence that Felonies First in fact saves the County money in terms of man hours and resources.

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<sup>16</sup> As noted in the October 16, 2017 report on Felonies First, the Cheshire County Attorney's Office hired a new prosecutor at a cost of approximately \$90,000. See p. 26 of the report, available at <https://www.nh.gov/judicialcouncil/documents/felonies-first-10-16-17.pdf>.

<sup>17</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this statewide information.

<sup>18</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.

**Sheriff**

The fiscal impact of Felonies First has been minimal. We made a small adjustment to our budget to accommodate overtime for those hearings that may go late and deputies have to transport after hours. We also made some staffing adjustments in-house to facilitate the afternoon transports for Felonies First.

**Keene Police Department**

Fiscally, year ending 2017, it appears that [Keene Police Department] Overtime went over the budget by \$81,484.59, this may or may not be related to OT for Felonies First cases.

**Swanzey Police Department**

No response received.

**Please provide your opinion on the effectiveness of Felonies First.****County Attorney**

As with any major change, the transition period is often the most difficult, and that was true with Felonies First. This office is well past the transition stage, the Felonies First system is ingrained in prosecutors and police departments and their respective support staffs, and, ultimately, starting felony cases in the court that has jurisdiction over them makes sense. Although, selfishly, I long for the days of being able to resolve 15 to 20 percent of this office's cases with phone calls to Circuit Court police prosecutors, I understand that rationale for change.

**Public Defender**

Overall, I believe FF has resulted in faster case resolution for some cases (the ones that would have been bound-over before FF) and slower case resolution for others (the ones that would have pled out in Circuit Court). There is definitely a worrisome trade-off in less due process without PC hearings. I think the same efficiencies could have been achieved keeping PC hearings and reducing deadlines for discovery and indictment.

In Cheshire County, and I believe statewide, the total percentage of cases starting as felonies that resolve as misdemeanors has declined, and the percentage that resolved as felonies has increased since Felonies First has been implemented. Of course, this is very concerning and disappointing, as it means worse outcomes and more, not fewer, felons created.

**Superintendent**

In summary, Cheshire County Department of Corrections takes the official position that the Felonies First program processes offenders more efficiently through the criminal justice system, does not cause additional workload or strain on existing resources and results in overall savings in the operation of the jail.

**Sheriff**

We do believe Felonies First has stream-lined the process considerably and reduced the need for multiple transports to the circuit court before making it through the process to Superior Court. We have a great working relationship with the Superior Court staff and Judge David Ruoff. This relationship has allowed Felonies First in Cheshire County to be successful.

**Keene Police Department**

Overall, Felonies First has not resulted in anything detrimental but has resulted in better interaction for serious crimes with the County Attorney Office.

**Swanzey Police Department**

No response received.

**Please see Attachment E for Cheshire County data.**



## Hillsborough County

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney<sup>19</sup>**

As you can see in the chart which I used to answer question four, (information available at Attachment F) the office received one thousand two hundred and thirty eight more cases in fiscal year 2018 versus 2017. Prior to felonies first those additional cases were negotiated at the circuit court level. The cases are technically felonies but, by practice, the experienced local prosecutors know that the end result will be a misdemeanor plea. In thinly populated localities the local prosecutors work close enough to the arresting officers to continue the practice. However, in the cities the local prosecutors are far removed from the arresting officers. The arrest happens and is labeled what it is, a felony. The file begins its journey up the chain of command with no opportunity to change the charge before it is sent to the County Attorney's Office. This in a nut shell is why the small population county model is a poor fit for a large population reality. Hillsborough is different in that it has two cities, each of which is bigger than any other city in the state. Prosecutors with experience in both types of counties point out that the level of violence is also higher in crimes committed in the city.

### **Public Defender, Hillsborough North**

Felonies First has put a strain on our office – both on the attorneys and the support staff. It seems that the time and effort expended does not translate into better outcomes for our clients. Every Felonies First case needs to be screened for conflicts. The turnaround time for this is very short. This has changed the landscape of the office administrator position significantly. A large portion of the office administrator's morning is now devoted to dealing with Felonies First, leaving only the second half of the day to complete all of the other administrative tasks necessary for running an office that handles about five hundred cases per month.

We send three attorneys a week to cover walk-in arraignments for non-incarcerated defendants. They each spend an hour to an hour and a half a week. These attorneys are serving a purely administrative role. We are not providing any actual legal representation at these hearings. We complete paperwork with the clients so the court does not have to conduct formal arraignments. We seem to cover these hearings solely for the convenience of the court...Two attorneys are assigned each day to cover incarcerated arraignments, though 3 are assigned on Mondays and the days after holidays because of the large volume of cases we typically experience on those days...we spend approximately 25 attorney hours per week on covering incarcerated felonies first arraignments...we spend 4½ attorney hours per week covering walk-in arraignments. This means we spend about 30 attorney hours per week covering felonies first arraignments...we do not believe this time results in better outcomes for our clients.

We provide legal representation at incarcerated felonies first arraignments. However, the quality of this representation is not as high as we would like it to be, given the time constraints. We have about fifteen to twenty minutes to meet with the clients before representing them at a contested bail hearing. We do not have time to contact friends or family members for clients, to confirm information provided to us by the clients, or to gather documentation to provide the court in support of our bail arguments. Though the judges are aware that we meet our clients less than half an hour

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<sup>19</sup>The County Attorney who responded to the Judicial Council's questions no longer holds this office.

before the bail hearing, we are repeatedly asked by judges to provide support for our bail arguments, something we are not in a position to be able to do.

### **Public Defender, Hillsborough South**

We schedule an attorney to cover Felonies First incarcerated arraignments daily from 11:30-2:30. If more than three defendants are arraigned we will send over a second attorney. We also assign two attorneys for non-incarcerated arraignments each Thursday afternoon. Our Office Administrator screens and prepares the incarcerated cases for daily arraignments each morning. Additionally, attorneys are squeezing what used to be 18 weeks of work on average into 12 weeks.

### **Superintendent**

Reports need to be provided at different time periods. Booking officers need to book inmates under time constraints. Records supervisors need to now monitor to ensure an inmate does not go over the 24 hour timeline for arraignments. Inmates need to be handled numerous times – booking, transport to the housing unit, fed, brought back down to booking, and released for court at 10:30 for a 1300 hour hearing. This has made the department change feeding times throughout the facility and to adjust correctional staffing. This all starts again when they return to the facility.

### **Sheriff**

Felonies First was implemented in Hillsborough County in September of 2017. There has been an increase in the number of hearings directly attributed to Felonies First. A number of these hearings would have been previously conducted by video conferencing in the circuit courts. There has also been a marked increase in warrants issued from the Superior Courts, this additional workload has impacted our operations.

### **Nashua Police Department**

Felonies First has not impacted the department's workload. We still handle misdemeanor and felony arrests the same way. There are some paperwork procedures that are now different as a result but nothing that has been more or less labor intensive. The issue of rolling discovery and the expedited timeline to get post arrest info to the County Attorney can sometimes be taxing, but it is achievable.

### **Manchester Police Department**

Overall, the workload of our patrol officers and investigators has not been impacted by Felonies First as our officers/investigators continue to process arrests and investigations in the same manner as before. Our Records Unit has seen a slight increase in workload due to the transfer of paperwork, specifically the arrest packets transferred to both the district court and the superior court each morning. While theoretically, it should be the same amount of arrest packets as before, just now with some going to district court and others going to superior court, there is some duplication. For example, a defendant arrested on a new felony charge while out on bail on a district court charge will produce two arrest packets, one sent to superior court for arraignment on the new felony charge and one sent to district court to address the violation of bail charge and subsequent motion to review bail resulting in a hearing generally scheduled the next day in district court.

Additionally, the new discovery deadlines established by Felonies First have resulted in challenges for our Records Unit and the timely production of reports to the [Hillsborough County Attorney's Office] (HCAO). Our RMS has several levels of an approval process which can result in a delay of approved reports ready to be transferred to HCAO. Our Records Division has seen a significant

increase in the email correspondence from the HCAO requesting discovery materials under more pressing time tables resulting in some additional workload for our first line supervisors and the Records Division as they track down officers and supervisors to facilitate the approval process of their reports in a more timely manner.

Records Division personnel are also being inundated with emails from the County Attorneys Office regarding the service of subpoenas which we also believed to be related to discovery timelines and related hearings.

The fact that all felony level offenses are arraigned at Superior Court has had a positive effect on the workload of our Legal Division, responsible for the arraignment of adult offenders and the prosecution of juvenile offenders at the district court. The Arraignment Officers have seen a notable decrease in the number of cases that they have to process at the District Court.

**Hollis Police Department**

No Response received.

**Weare Police Department**

No response received.

**Please provide a summary of any efficiencies that have resulted from Felonies First.**

**County Attorney**

We have developed efficiencies to deal with the deluge of files but there are no efficiencies from Felonies First.

**Public Defender, Hillsborough North**

None noted

**Public Defender, Hillsborough South**

We have saved time driving to and from the jail and litigating bail because of the decrease in pre-trial incarcerated clients since Felonies First began. However, attorneys are still appearing daily in district court for misdemeanor cases, so the time saved from no longer having PC hearings is minimal.

**Superintendent**

None

**Sheriff**

It is too soon from implementation to make any factually based judgement. We will be able to make a better overall assessment of Felonies First as time goes by.

**Nashua Police Department**

There have been a few efficiencies that have resulted from Felonies First. One is the significant (almost complete) reduction in probable cause hearings. Often detectives would have to appear in district court for PC hearings only to have the date continued. This reduction allowed detectives to focus time and efforts elsewhere. It is also convenient that the felony cases are now handled in one

court instead of bouncing back and forth between two courts. This makes it easier to know where the case is in the system for the purposes of communicating with attorneys. Additionally, it is more efficient to have a prosecutor involved in the case from the onset instead of 3 months following the arrest.

**Manchester Police Department**

Felonies First eliminates the need for there to be both a Probable Cause hearing at the District Court level and then Bail Hearing at the Superior Court. The streamlining of felony level offenses to one court reduces the number of times an officer is needed to testify and the number of court proceedings, especially at the district court level.

**Hollis Police Department**

No Response received.

**Weare Police Department**

No response received.

**Please provide your opinion of the fiscal impact to your department.**

**County Attorney**

The financial impact of felonies first on the Hillsborough County Attorney's office is different depending on the year in question because all the additional staff were added over two years. In Fiscal Year 2018 we added an advocate (\$72,534), one Step 3 attorney (\$88,180) and three Legal Secretaries (\$187,891) for a total of \$348,605. For Fiscal Year 2019 the cost is for keeping those added in 2018 plus two more ACAs at Step 1 (\$69,446 x 2) and one more Advocate (\$72,534).  $\$348,605 + 138,892 + 72,534 = \$560,031$ . In the coming years, Felonies First will cost the County \$560,031 plus per year.

In July and August of this year we are receiving 300 cases per month. If this turns out to be average then we will receive 3,600 for the fiscal year. With 24.5 prosecutors splitting the load that is 146 cases per person. Either the 2.5 prosecutors handling [Early Case Resolution] (ECR) will have to handle 950 per year or we will need more attorneys. Based on the numbers since January 1, 2018 that is possible. But one person handling 317 cases per year puts pressure on that person.

**Public Defender<sup>20</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>21</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

<sup>20</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this statewide information.

<sup>21</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.

- 8000 arraignments @ .5 hours each = 4000 hours.
- 4000 hours divided by 1950 hours/year/atty = 2.05.

This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

### **Superintendent**

It may have decreased the new population a little along with the new bail reform, thus reducing the inmate population. This would allow the department to close housing units, reducing staffing requirements on them. With the reduction of inmates Hillsborough County Department of Corrections will see a small savings on this year's budget. The reduction will be noticed at the next fiscal year's request.

### **Sheriff**

Referred to previous answer: Felonies First was implemented in Hillsborough County in September of 2017. There has been an increase in the number of hearings directly attributed to Felonies First. A number of these hearings would have been previously conducted by video conferencing in the circuit courts. There has also been a marked increase in warrants issued from the Superior Courts, this additional workload has impacted our operations.

### **Nashua Police Department**

Other than the witness overtime reduction cited in question 5, there has not been a significant fiscal impact due to Felonies First. It should be noted that while there have been savings due to Felonies First significantly reducing Probable Cause Hearings, the new Bail Reform law has caused an increase in Bail Hearings for individuals who are deemed a danger. Additionally, since most arrestees are being given Personal Recognizance Bail, we have seen an increase in Failure to Appear at arraignments. Therefore we must dedicate additional resources at locating and apprehending individuals who were never given a cash bail initially.

### **Manchester Police Department**

Fiscal year 2018, which closely mirrors the time period in which Felonies First was implemented in Hillsborough County, shows a significant reduction in our district court [officer appearance] costs from fiscal year 2017 [-\$58,618]. Prior to Felonies First, following the arraignment of felony level offenses at the district court level, many of our officers would be required to appear at subsequent preliminary hearings, i.e. probable cause hearings and bail revocation hearings, at the district court level. The direct filing of felony offenses at the superior court level has eliminated the need for these preliminary hearings and subsequent appearances at the district court.

The reduction in court costs in FY2018 and FY2017 at the superior court level was less significant [-\$1,537.07].

**Please provide your opinion on the effectiveness of Felonies First.**

### **County Attorney**

The task of the Hillsborough County Attorney's Office is to prosecute felonies in the Superior Courts of Hillsborough County. Felonies First has done nothing to improve prosecution in Hillsborough County.

The hoped for effect of Felonies First as explained by proponents was that defendants who receive a quick punishment would have less recidivism. Based on our experience, we have no reason to believe that is true. Another advertised benefit was that files would be handled quicker. We have no reason to claim that the type of files we handled before felonies first are handled [more] quickly during felonies first. We now have files that are opened and closed more quickly than the files we handled before. However, they are part of the more than one thousand cases we would not have received prior to Felonies First. There is no reason to think they are handled more quickly by us in the Superior Court than they were by local prosecutors in the Circuit Court. Any increase in the speed of disposing the cases we have always handled can be attributed to the Courts quickening of dates for hearings and trials. This could have been done without felonies first.

So to combine questions 12 and 13: we will spend an extra half million dollars each year in Hillsborough County with no improvement in the outcome of felony cases.

#### **Public Defender, Hillsborough North**

It seems that the time and effort expended does not translate into better outcomes for our clients.

Felonies first arraignments were supposed to be meaningful hearings. Beyond setting bail, nothing is accomplished at arraignment. I believe that fewer than five cases have been resolved at arraignment since felonies first started a year ago. Additionally, felonies first was not supposed to negatively impact the outcome of cases. I believe that removing the circuit courts has led to worse outcomes for clients. Fewer misdemeanor resolutions are reached and cases take more time to resolve, not less.

It is not simply that felonies first arraignments take up our time. The problem is that the time spent – though a considerable portion of an attorney’s day – is still not enough to provide the quality of representation that we would like. Clients are then denied further bail hearings. They are being preventably detained without bail in increasing numbers. And they are ending up with more felony convictions than before felonies first.

#### **Public Defender, Hillsborough South**

I believe that in order for Felonies First to work, we need discovery and offers earlier so that we can have meaningful conversations with clients and make timely and strategic decisions regarding suppression motions, investigation, and negotiations. Additionally, I think that our ECR program should be more robust and that there should be a better system for tracking those cases and scheduling them quicker. Finally, I think additional attorneys are needed to support the workload of processing cases quicker while staffing arraignments and drug court.

#### **Superintendent**

It may have decreased the population a little but it has placed a number of demands on the correctional staff here at the facility.

#### **Sheriff**

Overall, in my view, it is too early to assess the long term effectiveness of the Felonies First project. Since implementation, this office has seen an increase in the warrants issued from our Superior Courts and an increase in prisoner transports.

While measuring the effectiveness of this project, one area of concern I continue to have is that almost all prisoners are required to be transported to be physically present at the court for felony arraignment. I strongly urge going forward that video conferencing options be more fully utilized, especially for initial case proceedings involving those prisoners being held post arrest, who are charged with violent crimes and / or are high risk. Early resolution is often cited as the reason for requiring a physical appearance of an inmate. Those individuals charged with violent offenses, in my view, are very unlikely to have an early resolution to pending criminal charges.

Risk assessment and threat potential, in my view, are critical considerations. Expanding video conferencing options would significantly reduce the risk of an incident at the court facilities.

### **Nashua Police Department**

Felonies First successfully transferred felony level cases to Superior Court where they belong. This change from the old system is greatly appreciated for several reasons stated above. Other than some witness fee savings, the transfer of felony cases immediately to the Superior Court is the most significant benefit. Significant benefits have not been observed in the areas of freeing up resources, lessening workloads, or better case resolutions.

### **Manchester Police Department**

Felonies First has been effective in that cases are assigned to a single prosecutorial agency rather than going through the process of Probable Cause Hearing and then a Superior Court Bail Hearing. By having cases assigned to one agency, the process flows better and allows for the same prosecutor to gauge the strengths and weaknesses of each case.

Another effective element of Felonies First is in the fact that cases are litigated in a timely fashion. This allows for evidence to be purge[d] more efficiently. With volume evidence that is collected by members of the Manchester Police Department, this is an area where Felonies First has a positive impact.

There are two main areas of concern regarding Felonies First. The first issue being that Superior Court Bail Orders cannot be effectively enforced. As the District Court level, we have the jurisdiction to hold without bail an offender violating their district court bail conditions and file a motion at arraignment to revoke that bail. With felony level offenses now originating in superior court, we are not afforded that latitude as we do not have jurisdiction over those superior court bail conditions. This is becoming even more problematic with the new Bail Statute as we are seeing violent offenders released, even after violating previous bail conditions on personal recognizance bond. These two factors lead to there being no accountability for defendants to follow court ordered conditions of release.

The second issue directly correlates to our ability to combat the opioid crisis. Our Special Investigations Unit is informant driven and intelligence based in nature. This means that they rely on the cooperation of confidential informants to assist in investigations. Every informant should be protected to ensure their safety. Prior to Felonies First, motions to seal arrest warrants were generally valid for 90 days. This allowed for enough passage of time to insulate informants from being discovered by the offender. With the current format, sealed motions are being dismissed at 10

days. This does not provide the necessary insulation of time needed to protect informants. It is having impact on the number of individuals willing to cooperate.

Our initial conflicts with the HCAO over charging decisions have been improving and we have developed strategies that have improved the lines of communication between our agencies. Even when the HCAO chooses not to pursue a felony level offense at the superior court, they still need to file the related misdemeanor charges in superior court as there is no mechanism in place to transfer those misdemeanors back to district court and keep the defendant under bail conditions. In the same light, our ability to upgrade an offense originally charged as a misdemeanor to a felony can be challenging as well, where we try to maintain the case in district court so bail conditions will remain in place until such time that the felony can be filed through direct indictment and transferred to superior court with superior court bail conditions.

In conclusion, Felonies First has had positive and negative effects on this agency. If provisions were created to make Superior Court Bail Orders enforceable in real time and there was a mechanism in place to extend the amount of time that motions to seal remain in effect, Felonies First would become fully effective.

**Please see Attachment F for Hillsborough County data.**



## Grafton County

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney<sup>22</sup>**

The impact on our workload has been significant, for prosecutors, administrative staff and the victim witness program. As of today,<sup>23</sup> in calendar year 2018 we have received 152 "felony first" referrals where the defendant was not incarcerated, and 109 "felony first" referrals where the defendant was incarcerated for a total of 261 felony first referrals. This meant that, by 11:00 the first court day after the arrest, in 109 cases we had to receive the information from law enforcement, open a file, review the probable cause affidavit, and draft and file complaints and a bail form. If the probable cause affidavit needed modifications, we had to locate the arresting officer (usually no longer on duty) or find another officer, not the lead, to modify the affidavit. If we are requesting preventative detention, we need to arrange for and prepare "live" witnesses, in person or via video, for the bail hearing that afternoon.

We are also receiving and reviewing cases that used to be resolved in circuit court, but are now in superior court. Sometimes, after reviewing the PC affidavit, the prosecutor feels the crime is a misdemeanor, not a felony. An efficient mechanism to transfer such cases back to circuit court does not exist. Such a mechanism would be of assistance, especially since plea and setencings take significantly more time in superior court than circuit court.

Administratively, we had to develop a system to receive the information on short notice, including with agencies that are not 24/7 agencies (so no one might be on duty the next morning). Grafton County has 38 towns, and one city, and 31 police departments. The vast majority of our agencies are located over 45 minutes, and up to 1 hour and 15 minutes, away. Asking them to stop by the office and drop off the paperwork is an expensive, unreasonable request. We purchased software to enable them to share information with us securely. This was needed not only for the PC affidavit and complaints, but felonies first requires discovery to be provided "as it becomes available," a term that is not exactly defined but implies we need to obtain discovery in pieces, and we can't wait for the entire file to be ready. This has been problematic. Agencies forward duplicates, as they try to recall what has been forwarded in the past. Support staff have to review files in an effort to avoid duplicates and overlapping material, which is confusing. We have to generate cover letters and mail discovery on multiple occasions, instead of one occasion. These are just some examples. For the victim witness program, they have to ensure that the agency provides us accurate contact information for the victim, and follow up with the victim the first court day after the crime. This is additional work. Ultimately we believe it improves justice for victims, but it is extra work.

The new bail statute has resulted in efficiencies in Grafton County as law enforcement has to appear "live" in person or by video to meet the clear and convincing evidence standard when preventative detention is requested. I am cautiously optimistic that legislative reform may resolve that issue.

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<sup>22</sup> The County Attorney who responded to the Judicial Council's questions no longer holds this office.

<sup>23</sup> Letter dated November 7, 2018.

**Public Defender**

Our office feels busier than ever. We are a fairly small office covering a wide geographic area, and having an attorney available on a daily basis for potential Felonies First arraignment is not always easy. Felonies First has also impacted our office administrator's workload. She is tethered to her computer all morning in anticipation of receiving information regarding the afternoon arraignments and managing the paperwork involved.

**Superintendent**

Prior to Felonies First, if someone was arrested on felony and misdemeanors in the same incident they would eventually have two separate cases in two separate courts due to the bind over to the Superior Court. This would result in more transports, court hearings, more work for our booking officers and would often result in multiple bail orders as well.

**Sheriff**

None received

**Police Bethlehem**

This department does not have a lot of felonies, so there has not been any significant overtime savings. Some felonies now require the officer to stay late in order to finish the necessary paperwork. Cases are resolving more quickly, which is better for victims and makes them feel as if the system has done something for them. In the past, cases would drag out but this is no longer happening.

**Police Lebanon**

None received

**Please provide a summary of any efficiencies that have resulted from Felonies First.****County Attorney**

- (1) Victims are connected with the Victim Witness Program earlier in the process.
- (2) Prosecutors are able to connect with investigations earlier in the process.
- (3) Prosecutors can make plea offers earlier
- (4) The time and delays associated with a PC hearing and bind overs minimized
- (5) The court system does not have to open two files (one in circuit court, one in superior)

**Public Defender**

Though Felonies First is still relatively new, we have not found it to be efficient. As previously mentioned in the answer to question number three, the percentage of cases opened and resolved within the same year actually dropped during the first full year of felonies first.

**Superintendent**

Cases are much easier to keep track of. When we had bind overs the charge identification numbers constantly changed and we were constantly contacting the court or the court call center to try and find out what happened to a particular charge. Often after a charge was bound over the County Attorney's office would rewrite the charging document and give it a new charge ID number and then give the charge a different number. This proved to be very difficult to keep track of and no longer

happens with Felonies First as the charge ID never changes. The case also stays in one court for its entirety which makes it more efficient.

**Sheriff**

None received

**Police Bethlehem**

This department does not have a lot of felonies, so there has not been any significant overtime savings. Some felonies now require the officer to stay late in order to finish the necessary paperwork. Cases are resolving more quickly, which is better for victims and makes them feel as if the system has done something for them. In the past, cases would drag out but this is no longer happening.

**Police Lebanon**

None received

**Please provide your opinion of the fiscal impact to your department.**

**County Attorney**

The fiscal impact has been significant. This has resulted in the need for at least two more positions, an attorney and a support staff.<sup>24</sup> It is probably more than one position on the support side of things, as managing files where discovery comes in increments and pieces, and has to be released to defense in pieces as opposed to in one time, is significantly more time consuming. We are handling cases that would have been resolved in circuit court as well.

**Public Defender<sup>25</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>26</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

- 8000 arraignments @ .5 hours each = 4000 hours.
- 4000 hours divided by 1950 hours/year/atty = 2.05.

This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

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<sup>24</sup> The County Attorney estimated the cost for an attorney position (including benefits and ancillary costs) at \$113,758 and the cost for a clerical staff position (including benefits and ancillary costs) at \$78,388.

<sup>25</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this statewide information.

<sup>26</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.

**Superintendent**

It has not affected our head count or staffing levels to date in order to affect us monetarily.

**Sheriff**

No response received.

**Bethlehem Police Department**

This department does not have a lot of felonies, so there has not been any significant overtime savings. Some felonies now require the officer to stay late in order to finish the necessary paperwork. Cases are resolving more quickly, which is better for victims and makes them feel as if the system has done something for them. In the past, cases would drag out but this is no longer happening.

**Lebanon Police Department**

No response received.

**Please provide your opinion on the effectiveness of Felonies First.****County Attorney**

It is good that prosecutors and victim witness coordinators are involved in serious felonies earlier in the process. But for counties that did not cover circuit matters before felony first, it is an increase in workload.

New Hampshire needs to develop a mechanism to easily transfer misdemeanors back to circuit court. If the police arrest on a felony that the prosecutor believes, after reading the PC affidavit, is actually better charged as a misdemeanor, that case should be able to be transferred back to circuit court. That avenue currently does not exist, and thus the case, a misdemeanor, remains in superior court.

Moreover, prosecutors sometimes make a plea offer to reduce a felony to a misdemeanor. That case should be able to be transferred to circuit court. Misdemeanor plea and sentencings take longer in superior court than circuit court. Handling cases that would have previously been resolved in circuit court, in superior court is not as efficient.

I am concerned about the inefficiencies associated with sending discovery in increments, "as it becomes available." Prior to Felonies First, the law enforcement agency completed its investigation. It was sent to the county attorney's office and reviewed for grand jury. After grand jury, the file was forwarded to defense, in essentially one package. The support staff thus prepared one discovery letter, sent the discovery, and filed it once. Now discovery is sent "as it becomes available." Thus, police agencies forward files in pieces. Sometimes the same material is sent twice, as agencies err on the side of caution to ensure all information is sent. The administrative staff pull file[s] multiple times, generate multiple discovery letters, file the information multiple times. The administrative staff all agree this is a much more time consuming process.

For the workload to decrease, other programs must work as well. Part of the idea with felonies first was that the county attorneys would be involved earlier, and can make plea offers earlier. Early Case Resolution (ECR) could occur systematically. If cases would resolve earlier, the system would be more efficient and effective. ECR is easier said than done though, and I hope defendants become

more responsive to ECR, which should ideally streamline the criminal justice system. We are not there yet. Indeed, with the new bail statute I fear the data will show an increase in failures to appear. If a defendant does not appear, we cannot engage in Early Case Resolution. We will keep those statistics in place.

**Public Defender**

I am unable to speak as to whether this new system is reducing court costs, but Felonies First has not yet fulfilled its promise of providing the same justice more quickly, and it has not generally benefited our clients.

**Superintendent**

I feel the overall effectiveness is great. It is much easier for jail staff to keep track of an individual's charges, bail/sentence, court dates, etc., doing away with bindovers and dealing with one court is much easier, especially if someone has charges out of other counties/jurisdictions.

**Sheriff**

No response received.

**Bethlehem Police Department**

This department does not have a lot of felonies, so there has not been any significant overtime savings. Some felonies now require the officer to stay late in order to finish the necessary paperwork. Cases are resolving more quickly, which is better for victims and makes them feel as if the system has done something for them. In the past, cases would drag out but this is no longer happening.

**Lebanon Police Department**

No response received.

**Please see Attachment G for Grafton County data.**

## Merrimack County

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney<sup>27</sup>**

The impact on our workload has been severe. The speed at which charges are now required to be filed has resulted in for more work for our support staff and the police departments that are involved. Specifically, because of the discovery requirements, we are obligated to provide whatever we have within 10 days after the arraignment which usually means the complaints, affidavits and whatever police reports have been finalized at that time. This also means that we do not have the entire file in order to make all charging decisions. Because the Police Departments no longer have time to give us the entire investigative file before Grand Jury, we are receiving discovery and sending it to defense counsel piecemeal. This has led to us receiving duplicate police reports and other documents that require prosecutors to review in order to ensure that they are in fact duplicates. It has also resulted in us not knowing if we have received everything, including sometimes exculpatory information.

### **Public Defender**

I don't believe Felonies First has decreased our workload. Our office spends at least 2.5 hours of lawyer time per day on Felonies First arraignments. On some days, we spend significantly more time. I am including actual time at court for arraignments, plus all preparation time at the office, plus all follow-up time after arraignments, and all time spent helping individuals who fail to appear at their arraignment dates.

### **Superintendent**

With the increase in transports, staff is required to complete additional tasks to ensure the transports are successful. Upon return from the transport, inmates are required to be searched and therefore increase staff involvement. Our kitchen is required to prepare bag court lunches each day for transported inmates.

### **Sheriff**

#### **Wendy Adams, Transport Secretary**

The Felonies First program has made a huge impact on transports. These are added to our transport list for that day which requires a lot of last minute changes and assignments. Usually we receive notification by 7 am, but there have been times when we've received additional Felonies First transports as late as noon time for a 1:00 court time. On days that there are numerous Felonies First transports, deputies have to be pulled from other assignments such as warrants, and the civil department to assist. There have also been occasions where have had to go out of county to pick them up at the last minute, which depending on how far we have to go can tie up deputies on one transport for a good portion of their day making them unavailable for any assignments they may have already had. This is still a fairly new program and as it progresses there are some changes that would help smooth out the process, such as the use of video especially on out of county additions.

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<sup>27</sup> The County Attorney who responded to the Judicial Council's questions no longer holds this office.

**Concord Police Department**

Once procedural issues regarding Felonies First were ironed out, there was a negligible impact on the department's workload.

**Hopkinton Police Department**

No response received.

**Please provide a summary of any efficiencies that have resulted from Felonies First.**

**County Attorney**

There is nothing efficient about Felonies First. We are hamstrung by the charging decisions of Police Departments rather than prosecutors. Cases come in that should have been charged as misdemeanors yet they remain in Superior Court because they were filed there. We now have violation level offenses that must be decided upon by the judge during a jury trial. In some cases this requires severance because the jury cannot hear evidence of the other charge, for example where a person is charged with a felony Habitual Offender and a class B misdemeanor DWI. In addition there is duplication of arraignments and dispositional conferences are sometimes continued because of discovery issues. There is more to say about its inefficiencies but suffice it to say that it has not done what it was intended to do, and that is to speed up the disposition of cases.

**Public Defender**

I think there is likely less court paperwork to process and it is probably easier that all proceedings occur at one courthouse (clients are less confused as to where to go).

**Superintendent**

- a. Charges are no longer boundover from District to Superior Court creating less paperwork and confusion in the charges.
- b. One docket and one charge ID follows a charge through from beginning to end
- c. When there are issues or concerns with a charge there is only one court to contact
- d. Better communication between vested agencies (PT services, Prosecutor, Public Defender, etc.)

**Sheriff**

Only efficiencies I have seen is the defendants only have to appear once instead of twice.

**Concord Police Department**

The department has not noted any quantifiable improved efficiencies from Felonies First.

**Hopkinton Police Department**

No response received.

**Please provide your opinion of the fiscal impact to your department.**

**County Attorney**

The cost to Merrimack County to support Felonies First is over \$220,000 annually. This is because we hired 2 new prosecutors and a secretary to ensure that we could comply with the requirements of

Felonies First. That is a lot of money considering the negligible impact that Felonies First has had on the speed of final disposition of cases.

**Public Defender<sup>28</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>29</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately 1/2 hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

- 8000 arraignments @ .5 hours each = 4000 hours.
- 4000 hours divided by 1950 hours/year/atty = 2.05.

This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

**Superintendent**

N/A

**Sheriff**

I agree with the concept of Felonies First however it has cost my agency in the area of \$150,000. If this is the same in other counties I think it would have been more cost effective to hire more public defenders so that we could do video arraignments, this would be safer and definitely more timely even for the court.

**Concord Police Department**

Felonies First has had minimal, if any, fiscal impact on the department.

**Hopkinton Police Department**

No response received.

**Please provide your opinion on the effectiveness of Felonies First.**

**County Attorney**

Felonies First is not as effective as the system that was in place before it. Under the old system, many cases that were appropriate as misdemeanors were handled by District Court Prosecutors who would almost without exception have our approval. In addition, many cases that were erroneously filed as felonies would be weeded out by them. As it is now, we have to file felony charges and indict and then possibly reduce the charges to misdemeanors. In addition, there have been a number of incidents where felony complaints were filed but there was no basis to charge a felony. This has

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<sup>28</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this information. It is not specific to any one county.

<sup>29</sup> For routine felonies, Managing Attorneys typically assigned a public defender who was already scheduled to be at that circuit court, thus minimizing additional court appearances.



resulted in some charges remaining in Superior Court that are B misdemeanors and violations that would require bench trials if not otherwise disposed of.

**Public Defender**

While things operate differently, I have not seen any meaningful criminal justice reform under Felonies First.

**Superintendent**

N/A

**Sheriff**

Felonies First has been effective for the defendants, again video arraignments would be much more effective.

**Concord Police Department**

The department has no opinion at this time on the effectiveness of Felonies First. Other than the implementation of some procedural changes in the processing of paperwork, no significant changes have occurred within the department as a result of Felonies First.

The department has no opinion at this time on whether Felonies First results in better outcomes.

**Hopkinton Police Department**

No response received.

**Please see Attachment H for Merrimack County data.**

## **Rockingham County**

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney**

In order to keep up with the increased work load due to Felonies First, we added two Assistant County Attorneys, one victim witness coordinator and one legal assistant.<sup>30</sup> When I prepared for Felonies First I contacted all 37 police departments in the County to determine approximately how many felony cases the police prosecutors resolved as misdemeanors. The cases that were resolved as misdemeanors in circuit court never made it up to the County Attorney's Office. With Felonies First, all the felony cases come directly to the County Attorney's Office. In looking at these numbers, I determined that our caseload would increase by at least 40%. Additionally, due to the deadlines built in felonies first, my staff has to complete the work faster than they had to pre-felonies first. For instance, when a felony arrest is made and the defendant is being held without bail, my staff only has 24 hours to obtain the paperwork from the police department, review the materials, file the complaint and affidavit, make copies for discovery purposes, arraign the defendant within 24 hours and contact the victim (if a victim is involved) to inform them of the date and time of the arraignment. Additionally, we have more arraignments than we did pre-felonies first. Many of the defendants fail to appear at the first scheduled arraignment. Thus, another hearing is scheduled and my prosecutors must go to court twice and be prepared for a second time to do the arraignment. Moreover, with the new bail statute hearings have increased even more in order to meet our burden as it relates to dangerousness.

### **Public Defender**

Felonies First has put a drastic strain on the resources of this office. Cases are expected to be processed at a quicker rate (there is no boundover period).

### **Superintendent**

The staff workload has decreased on the housing units while increasing in the Processing area. There is more work to identify the Felonies First in house and then do a risk assessment on them and write the list so that the courts, PDs and prosecutors are aware.

### **Sheriff**

Early data indicates a decrease in travel time and mileage because the prisoners are being moved to the closest court from the primary holding facility in Rockingham County. Deputies still have to remain with the prisoners. Data also shows that the Warrants Division is receiving more warrants which if it continues trending this way will require additional NCIC Tech support staff and additional assignments to the Warrant's Division.

The total number of individuals transported since 2014 has been reduced, however, the number of trips has not significantly dropped to warrant a reduction in deputies assigned to the Court Services Division.

The Rockingham County Sheriff's Office structured much of our statistical reporting around the number of people transported. The data indicates we are transporting less people. However, we did

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<sup>30</sup> The cost (including benefits) for an Assistant County Attorney is approximately \$105,345. The minimum salary for a victim witness coordinator is \$43,139 and the minimum salary for a legal assistant is \$32,760.

not see a reduction in demand on our deputies to perform transports. During this time, we started focusing not on how many people were being moved, but on how many assignments to transport the deputies were performing. Based on this information we found the deputies were still making the same daily transports. They are still spending the same number of hours at the court; the only difference is the smaller number of passengers, which could be attributed to video arraignment. Our monthly Average of deputies assigned to transports since 2014 is three hunder and eighty-eight (388).

There has not been a significant drop in the need for deputies to make trips that enable us to reallocate personnel to the Warrants Division to work on the increasing number of warrants we are receiving from the Rockingham Superior Court.

#### **Portsmouth Police Department**

Responsibilities have shifted around the department.

#### **Auburn Police Department**

Advised that responding to the Judicial Council's request for information is too time consuming and costly.

#### **Please provide a summary of any efficiencies that have resulted from Felonies First.**

#### **County Attorney**

My attorneys are involved in the cases earlier and thus the cases are resolved more quickly and efficiently. This is especially true with regard to the cases that are earmarked for our Early Case Resolution Program.

#### **Public Defender**

In my opinion the most visible efficiency of Felonies First is the ability to identify a client quickly for specialty courts. In the past there would be a delay between the local police department getting the information to the Coty Attorney. Under this new system the County Attorney receives this information at the beginning of the case.

#### **Superintendent**

Some of the efficiencies that have come from Felonies First include a more thorough check of defendant orders and charges. It forces our Booking staff to document more information so that the other people in the facility can easily access it. Due to the increase in PR bails (32% for circuit and 40% for superior (Felony First) we had to create a Bail Commissioner rotation which simplifies who will come in and do bails and cuts down on the dead time waiting for Bail Commissioner since they know they are on call for that week.

#### **Sheriff**

It is too soon from implementation to make any factually based judgement.

#### **Portsmouth Police Department**

Case work has been more streamlined within the department. There is no longer court prep for our Court Office. Electronic transmitting of cases has decreased time that was spent driving cases to the

Rockingham County Attorney's Office. PC hearings have been eliminated and that is less time for our court office and our officers to spend in court for felony cases.

### **Auburn Police Department**

Advised that responding to the Judicial Council's request for information is too time consuming and costly.

**Please provide your opinion of the fiscal impact to your department.**

### **County Attorney**

Since Felonies First began, our Sheriff's Department had to arrest 98 defendants on warrants where the defendant failed to appear to an arraignment prior to indictment. Extradition expenses are a huge cost for County Attorney Offices. Most judges will not order defendants to pay restitution to the County for the cost of extraditing him or her back to our state. Furthermore, we hired 2 attorneys, a legal assistant and a victim advocate. The budget increased due to these positions.

### **Public Defender<sup>31</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>32</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

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This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

### **Superintendent**

Felonies First has had a positive fiscal impact overall in our facility. Both in staffing costs and the reduced cost of inmate resources with lowered numbers.

### **Sheriff**

Felonies First was implemented in Rockingham County in the fall of [2017]. We don't yet have enough information to analyze any changes on our current Court Services operations. The Warrants Investigations Division has seen a marked increase in warrants. In the past, many of these warrants would have been Electronic Circuit Court Warrants. The change to Felonies First has placed an additional burden on our NCIC Tech and our Warrants Division. We also have been in communication with the Sheriff's Offices throughout the State and are concerned about deputies being called out after hours for overtime to arrest subjects as a result of these Felony First Warrants.

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<sup>31</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this statewide information.

<sup>32</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.

Data indicates that we may have to hire additional personnel with the change from Circuit Court EBWs to Felony First Warrants or the additional warrants issued when the defendants fail to appear after arraignments. This may not be a direct cause of Felonies First, but the result of bail reform.

Having only a few months of data from implementation of Felonies First, it is not reasonable to determine if there are any cost savings. Initial data indicates there is a cost shift from Court Services to the Warrants Investigations Division. There is absolutely no convincing data that would support any workforce reductions. Our data for the last four years is a monthly average of three hundred eighty-eight (388) trips. Our 2018 monthly average was three hundred sixty-two, a decrease of less than one assignment daily. The number of persons transported has significantly decreased, meaning we may only have to send one deputy instead of two.

**Portsmouth Police Department**

Overall costs have not decreased.

**Auburn Police Department**

Advised that responding to the Judicial Council's request for information is too time consuming and costly.

**Please provide your opinion on the effectiveness of Felonies First.**

**County Attorney**

Although Felonies First caused cost shifting from the towns to the counties, I believe Felonies First is effective as it allows our cases to resolve sooner rather than later. Additionally, we are in touch with victims of crime sooner which makes the process easier to tolerate and less frightening. Furthermore, we can make recommendations regarding the need for more investigation when the crime is fresh. This helps strengthen our cases and increases the chances of successful prosecution. Here at Rockingham County, we are fortunate as the Commissioners and our State Representatives provided my office with the resources we needed in order to keep up with the increased workloads and faster timelines. Unfortunately, I don't think other County Attorney Offices have been so fortunate.

**Public Defender**

In concept I think Felonies First is a good idea. "Same justice sooner" has been espoused when describing the new process. However, this Office was accustomed to resolving a large number of felony cases with very favorable results at the Probable Cause level in Circuit Court. Those types of results have not been achieved under the new system.

**Superintendent**

Felonies First seems to be very effective. We have seen less traffic in general due to all the time constraints involved with felonies so it seems the [police departments] are more willing to release on [personal recognizance] (PR) bail at the time of arrest (this added with bail reform reinforces that). We see an 8% increase in PR bails that we do in Circuit Court. It also prevents people from spending needless time incarcerated between the PC hearing and arraignment on Superior Court when far more times than not, PC was waived in order to get a better bail which oftentimes they still could not reach.

A very significant initiative to enhance the effectiveness of Felonies First moving forward, would be the ability to do the arraignment of incarcerated individuals through the "Video Arraignment" system. It is a very large burden to prepare each defendant and get them ready to transport and then transported to the court and back. This process is also a very high security concern. This adds significantly to the cost when you factor in the cost of a deputy from the Sheriff's office to facilitate each transport.

We currently do the Felonies First arraignments by video on days that it may be required, i.e. holidays...

Last week we also did six Felony First arraignments via video for other counties where the defendant was housed here. This tells me that the video process for Felonies First is an acceptable application. The ability to video arraign all Felonies First defendants would alleviate a large security concern, reduce the workload at the facility of processing all of the defendants out and back in, and we would realize greater cost savings of staff hours if those transports were eliminated.

#### **Sheriff**

The Sheriff's Office tended to use the indictment process and rarely used the Circuit Courts to initiate court proceedings. Deputies have used the Felonies First on drug cases, and feedback has been neutral. I believe our proximity and Government affiliation with the Rockingham County Attorney's Office is advantageous as we can easily reach out and speak or meet with them. Rockingham County Superior Court is one-way six (miles) from the House of Corrections. There are rarely any traffic issues. We are able to make adjustments in lieu of having to travel six (6) times as far to the County Circuit Courts. We will be able to make a better overall assessment of Felonies First as time goes on.

#### **Portsmouth Police Department**

The County Attorney's Office does not have the manpower to deal with the now tighter timelines along with the number of cases they receive. Consequently, victims are not getting the best results. The process has become more efficient, but the end results or resolutions of cases has resulted in dissatisfaction by the officers whose hard work has "gone for naught" due to the number of cases being dismissed or dramatically reduced by plea offers. We also rarely receive the actual Mittimus for cases which results in a huge amount of paperwork in our office.

Overall, I give the Felonies First program as it currently exists a C-. It has had some limited successes, but has also negatively impacted staff, workloads and outcomes.

#### **Auburn Police Department**

Advised that responding to the Judicial Council's request for information is too time consuming and costly.

**Please see Attachment I for Rockingham County data.**

## Strafford County

**Please provide a summary of the impact Felonies First has had on your office's workload.**

### **County Attorney**

Felonies First has not impacted the workload appreciably because it has been the work force model for the office since before the legislation went into effect.

### **Public Defender**

It is a staffing and logistical challenge. I have to ensure that at least one attorney is available every day for potential arraignment coverage in the Superior Court, and that two are available every Thursday, when the non-incarcerated clients are arraigned.

The attorney who is assigned the incarcerated arraignments on any given day can spend anywhere from 30 minutes to 75 minutes all together, depending on the number of clients and the complexity of the case. The attorney is expected to do a client interview to gather bail facts, engage (when needed) in bail negotiations, review the Gerstein affidavit and charging documents with the client and be prepared to argue bail before the Court. We typically only have one or two incarcerated arraignments at a time. Our office would be hard pressed if that number ever increased to four or five at a time, and I would probably need in that case additional staff to handle the arraignments.

The non-incarcerated arraignments are typically not time intensive, but if it's an unusually busy day – say, 15 or more clients – then it can take a considerable amount of time, and sometimes as many as three or four attorneys have had to become involved. The frustration for attorneys is that it can start to seem like “assembly line” justice at that point, as the attorney has to make sure the client understands the charge and Gerstein affidavit without being able to answer questions or engage substantively, as that can lead to the problems identified in question 16 [impact on attorney client relationships].

### **Superintendent**

No response received.

### **Sheriff**

Minor impact to workload as a result of felonies first. We consider this issue part of doing business and really do not spend time tracking or discussing any impacts. Strafford County as a whole is very supportive of the program and have nothing negative to say about any impact of it to this office.

### **Dover Police Department**

Felonies First has not had any significant impact on the department's workload. As mentioned previously, vertical prosecution had already been in place for years so the adjustments were minor in nature.

### **Durham Police Department**

No response received.

**Please provide a summary of any efficiencies that have resulted from Felonies First.**

**County Attorney**

Efficiencies include system improvements for persons using the criminal justice system. Most notably, savings of time and money for law enforcement due to the elimination of probable cause hearings. The elimination of non-dispositional hearings (such as probable cause hearings) also lends itself to focusing on better outcomes for accused citizens sooner, rather than using a vestigial procedural hearing to bargain over issues that now happen automatically, such as the earlier provision of discovery.

**Public Defender**

There is less time spent in Circuit Court on felony cases, quicker discovery, and incarcerated clients don't wait as long for an attorney assisted bail hearing.

**Superintendent**

No response

**Sheriff**

My office has adapted to the program with little adjustment and when infused to the complex transportation unit we operate within this office, the impact here has been negligible at best. For us the change took place some time ago and we were convinced of the significant benefit to the entire system prior to implementation.

**Dover Police Department**

Strafford County has had vertical prosecution for many years prior to Felonies First. Under this system the County Attorney's Office was arraigning felony defendants even when those arraignments were in District Court. When those felonies were arraigned in District Court, the arraignment was often handled by whatever prosecutor was scheduled to be in that District Court that day. Now, with the arraignments in Superior Court, there is less travel time for prosecutors. In addition, often the prosecutor that handles the arraignment handles the case going forward, which are clearly efficiencies gained.

**Durham Police Department**

No response received.

**Please provide your opinion of the fiscal impact to your department.**

**County Attorney**

Felonies First has had no perceptible fiscal impact on the Strafford County Attorney's office. There have been no staff increases or other operational changes within the office requiring added expenditures due to Felonies First.



### **Public Defender<sup>33</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>34</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

- 8000 arraignments @ .5 hours each = 4000 hours.
- 4000 hours divided by 1950 hours/year/atty = 2.05.

This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

### **Superintendent**

No response received.

### **Sheriff**

None identified.

### **Dover Police Department**

Felonies First has decreased the number of probable cause hearings, which were often scheduled on short notice and often resulted in overtime expenditures without any significant increase in expenditures. As such, Felonies First saves the department some money compared to the previous system.

### **Durham Police Department**

No response received.

### **Please provide your opinion on the effectiveness of Felonies First.**

### **County Attorney**

Felonies First, when implemented properly, unquestionably delivers to all constituents the potential for better outcomes. The removal of felonies from the Circuit Court affords accused citizens a rational approach to their cases, that is, the case remains in a single court system. This change undoubtedly has improved the operations of the overburdened Seventh Circuit Court. Strafford County law enforcement agencies are also fiscally assisted by not having to pay for overtime hours for officers appearing at probable cause hearings that historically were waived in over 90% of the cases. The elimination of duplicative appointment of counsel arraignments at two separate layers of the court system represents a real improvement in the efficiency of the criminal justice system, with likely cost savings to the State of New Hampshire.

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<sup>33</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this statewide information.

<sup>34</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.

**Public Defender**

It works in Strafford County. I think the reasons have to do with a number of factors, but I'd primarily credit 1) our Clerk's office, 2) that we already had vertical prosecution in place, and 3) our county's culture of collaboration between the State, defense and Court. Since implementation, we've continued to work together over the years to modify the procedures as needed in ways that make the most sense for our local practice.

My chief complaint about Felonies First, which is not shared by the Courts or the prosecution, is that Felonies First has abolished probable cause hearings. While the rules allow for the defense to request a PC hearing, the standard is too high to meet. Understanding that automatic PC hearings posed significant costs and logistical challenges to the State and the police departments, my opinion is that the benefit of the PC hearings to the health of the criminal justice system as whole were under appreciated.

**Superintendent**

No response received.

**Sheriff**

My opinion is that the program is very successful. I base that on the positive feedback I have observed from the inmate population, prosecution staff and defense bar interaction.

I have no negative feedback in [any] area for you regarding this program. It has great value and I applaud the designers of the program and the cooperative collaboration displayed to get implementation completed. Please list the Strafford County Sheriff's Office as a satisfied participant with no negative feedback for your report to the legislature.

**Dover Police Department**

Because of Strafford County already had been utilizing vertical prosecution for some time, the switch to Felonies First was easy, and, as a result, Felonies First has been only positive for our department.

**Durham Police Department**

No response received.

**Please see Attachment J for Strafford County data.**

Sullivan County

**Please provide a summary of the impact Felonies First has had on your office's workload.**

**County Attorney**

Felonies First has had a significant impact on our workload. For example – in 2017 Sullivan County Superior Court opened 203 docket numbers – with only October-December – being Felony First. As of October 1, 2018, there 199 criminal docket numbers open in Sullivan County Superior Court. We have three more grand juries scheduled this year and fully expect to break 250 docket numbers in 2018.

**Public Defender**

Felonies First has generally increased our workload. Our office has three attorneys, and on a day when there is a felonies first arraignment a significant period of time must be allotted to ensure that the arraignment is adequately covered. This is especially difficult on days where our court is not in session, as our attorneys must drive half an hour to the jail to meet with the client and conduct the arraignment by video.

**Superintendent**

No impact

**Sheriff**

No response received.

**Claremont Police Department**

No response received.

**Police Sunapee**

No response received.

**Please provide a summary of any efficiencies that have resulted from Felonies First.**

**County Attorney**

I am hard pressed to find any efficiencies which have resulted from Felonies First.

**Public Defender**

The main efficiency has stemmed from appointment prior to arraignment which likely resulted in some clients not being initially detained pending a probable cause hearing.

**Superintendent**

No impact

**Sheriff**

No response received.

**Claremont Police Department**

No response received.

## **Sunapee Police Department**

No response received.

### **Please provide your opinion of the fiscal impact to your department.**

#### **County Attorney**

Felonies First's fiscal impact on our office is most simply represented by the FTEs – we have added one assistant county attorney FTE and likely in the next budget (FY 2020) will add ½ FTE victim witness clerical position and ½ FTE clerical office staff.<sup>35</sup> There is an additional impact – loss of office efficiency. A problem frequently encountered deals with remotely conducting arraignments and bail hearings when no judge is sitting in Sullivan County. For example – during times when no judge is sitting court staff spend an inordinate amount of time attempting to find judge time in another county to allow for video arraignments, bail hearings or other time sensitive hearings. While these hearings are in flux, both the County Attorney's Office and defense counsel are captives to yet unscheduled but essential hearings. Additionally, it is not unusual for these hearings to be conducted from multiple locations – defense counsel and defendant at the HOC, counsel for the state in Sullivan County Superior Court and the judge in another court all connected by video which is difficult to hear, difficult to see and frequently cutting out. I have no idea what the record for one of these hearings looks like. This no way to conduct the people's business and resolve conflicts regarding the safety and liberty of our citizens. Nothing in my comments should be viewed as critical of the presiding Justice, the Clerk's Office or our Court staff – they are doing the best job possible without adequate resources in a model which makes the efficient delivery of judicial services a challenge.

#### **Public Defender<sup>36</sup>**

Under Felonies First (FF), existing staff has had to cover FF arraignments for nearly 8,000 felonies per year. Those are additional appearances for our staff. Prior to FF, NH Public Defender's (NHPD) first scheduled felony appearance was a probable cause (PC) hearing which was usually waived (and if not, the PC hearing often resulted in the resolution of the case).<sup>37</sup> In most cases, NHPD filed "97"s and waived arraignment following indictment. Therefore, the easiest way to put a dollar figure on the cost of FF is to estimate the time involved (approximately ½ hour per arraignment, excluding travel) and divide that by the nominal annual work time for an NHPD attorney.

- 8000 arraignments @ .5 hours each = 4000 hours.
- 4000 hours divided by 1950 hours/year/atty = 2.05.

This is approximately two attorneys' worth of time per year. Attorneys of all experience levels cover arraignments, so it's hard to put a figure on that cost, but let's approximate it at \$75,000 for salary and benefits. Under this scenario, FF costs NHPD about \$150K per year.

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<sup>35</sup> The new Assistant County Attorney position is budgeted at \$102,742.78 for salary and benefits.

<sup>36</sup> Individual Public Defender offices were not asked to comment on the fiscal impact. NHPD Executive Director Randy Hawkes provided this statewide information.

<sup>37</sup> For routine felonies, Managing Attorneys typically assign a public defender who is already scheduled to be at that circuit court, thus minimizing additional court appearances.

**Superintendent**

I don't think felonies first has had any fiscal impact on the department. We haven't changed the way we do things from before this was in place.

**Sheriff**

No response received.

**Claremont Police Department**

No response received.

**Sunapee Police Department**

No response received.

**Please provide your opinion on the effectiveness of Felonies First.**

**County Attorney**

Felonies First is a bad idea, poorly executed, and certainly costly to taxpayers. It made no sense from its inception. The impetus for Felonies First was to avoid some 3,000 scheduled probable cause hearings in the circuit courts (many of which never happened) and achieve savings by moving all felonies and related misdemeanors to the Superior Court. The actual outcome was replacing one probable cause hearing in the Circuit Court with many more hearings in the Superior Court which is an inherently more time-consuming and expensive venue. An example of the lack of cost savings is a plea and sentence hearing. A plea and sentencing in the Circuit Court commonly takes 5-10 minutes. In Superior Court a plea and sentencing commonly takes 30 minutes or more. Felonies First as practiced, does not always communicate with the defense bar, prosecution or the public. An example of this lack of communication is person arrested for a felony, released by a bail commissioner with an order to appear in Superior Court for arraignment. The Court does not docket this scheduled arraignment unless and until the State files a complaint. There should be, irrespective of whether or not the State has filed a complaint, a notice on the Court docket that the bail commissioner has scheduled, on behalf of the court, the arraignment.

**Public Defender**

Felonies First has generally not been effective in streamlining cases or improving outcomes for clients. Every controlled drug possession case (besides marijuana) regardless of weight is now prosecuted as a felony in Superior Court. These cases were previously routinely and rapidly dealt with as misdemeanors in Superior Court. These cases now require more court hearings and litigation in Superior Court, and the outcomes are generally worse for clients.

**Superintendent**

Felonies First has been effective with getting felony cases to Superior Court faster than they were in the past.

**Sheriff**

No response received.

**Claremont Police Department**

No response received.

**Sunapee Police Department**

No response received.

**Please see Attachment K for Strafford County data.**

## GENERAL COMMENTS

**Attorney Chuck Keefe, NH Association of Criminal Defense Lawyers (NHACDL).** Attorney Chuck Keefe is a private criminal defense attorney and currently serves as the President of the NH Association of Criminal Defense Lawyers. He has received feedback from both private attorneys and contract attorneys on the impact of Felonies First.

Contract attorneys accept indigent criminal cases when the Public Defender is unavailable for assignment. Under Felonies First, contract attorneys are not assigned to a case until after arraignment, as this is when most indigent defendants complete an application for court appointed counsel. Due to challenges like homelessness and substance use, indigent clients are often unable to contact their attorney prior to the court's dispositional conference. The dispositional conference is intended to be a meaningful discussion of the case, including plea negotiations. If there has been no contact with the client, the contract attorney's ability to advocate is extremely limited. Due to significant case load increases in certain counties, such as Rockingham and Hillsborough, prosecutors are not always in a position to make a meaningful offer before the dispositional conference is scheduled.

The success of the Early Case Resolution (ECR) programs varies widely by county. Certain counties have assigned relatively younger and less-experienced attorneys to ECR. Significant trial experience for a prosecutor handling ECR is more helpful and effective as attorneys who don't have a comprehensive understanding of all potential legal issues (suppression, evidence, etc.) are less able to accurately assess what a case is worth. Due to the stress caused by pending criminal charges, clients do benefit from early resolution.

Prior to Felonies First, felonies began in the circuit court, and certain low-level charges were resolved as misdemeanors. There was more consistency in sentencing among circuit court prosecutors. With all felonies now resolving in superior courts, the regional differences among prosecutors are highlighted. Defendants with the same charge under similar circumstances face significantly different sanctions depending on where they are charged. Such differences can make our justice system appear capricious.

**Attorney Len Harden, NH Association of Criminal Defense Lawyers (NHACDL).** Attorney Harden expressed concern about the lack of local control under Felonies First. He shared his experiences with two specific cases. In the first case, the defendant was charged with a second degree assault for allegedly strangling his girlfriend. The complaining witness in this case had a long history of relevant conduct that was known to local law enforcement. The Grafton County Attorney's office proceeded to trial and the client was acquitted. Attorney Harden believes this matter would have been more expeditiously and fairly handled by the local police department. The second matter relates to a client who was charged with an aggravated driving while intoxicated charge due to serious bodily injury. The injury was a split lip to his passenger. Attorney Harden felt that this case should not have been brought as a felony. It was eventually resolved as a misdemeanor.

## CONCLUSIONS/RECOMMENDATIONS

- The court should have bail commissioners assist defendants with the application for counsel so attorneys can be appointed as quickly as possible. This would result in more meaningful arraignments. Counsel would also remind clients about upcoming court dates, thereby minimizing failures to appear.
- The State should retain services of an expert to provide a holistic review of criminal justice reform, including the impact that Felonies First has had on recidivism.
- It is recommended that all stakeholders disseminate relevant statistics to determine the impact of bail reform law.
- The Court should engage in a text messaging system to remind defendants of upcoming court dates. The Court has already used this technology for marital mediations and has plans to introduce it for criminal hearings in the future.
- All criminal justice stakeholders should track failures to appear.
- It is also recommended that criminal justice stakeholders track case resolutions that result in first-time felony convictions. The Legislature is encouraged to consider legislation that would reduce certain drug charges to misdemeanor level offenses as well as legislation that would require a written justification by prosecutors for imposing a first-time felony conviction.



**Public Defender Data on Misdemeanor Resolution Rates**

	Merrimack	Strafford	Cheshire	Belknap	Carroll	Coos	Hills North	Hills South	Sullivan	Grafton	Rockingham
Open in 2018	999	808	325	621	272	102	1905	782	198	395	1302
Opened+Closed	553	463	195	362	159	49	1159	432	112	231	760
Failed to Appear	108	53	9	57	28	0	82	42	14	23	99
Withdraw	57	55	19	33	17	5	160	61	12	30	91
Deceased	4	5	2	1	2	0	4	4	2	4	10
Incompetent	1	0	1	0	0	0	4	4	1	1	2

**Felonies opened and resolved in 2018 not including FTA, Deceased, Incompetent or Withdrawals**

	Merrimack	Strafford	Cheshire	Belknap	Carroll	Coos	Hills North	Hills South	Sullivan	Grafton	Rockingham
F Resolved	383	350	164	271	112	44	909	321	83	173	558
Nol Pros	79	66	46	83	21	11	188	104	15	39	117
Plea to M	56	90	31	38	25	6	222	104	18	13	155
Diversion	13	5	0	10	0	0	7	2	0	11	31
Dismissed	1	7	0	2	4	1	6	0	1	3	9
No Indict	4	4	2	6	4	1	9	3	0	6	3
conv F chg	230	173	74	119	48	24	432	95	48	98	220
conv less F	5	1	10	2	2	0	18	1	1	1	4
Resolved as M or Less	153	172	79	139	54	19	432	213	34	72	315
% Resolved as M or Less	39%	49%	48%	51%	48%	43%	48%	66%	41%	42%	56%
Year prior to FF	52%	62%	62%	55%	75%	61%	58%	75%	58%	63%	67%
<b>Difference</b>	<b>13%</b>	<b>13%</b>	<b>14%</b>	<b>4%</b>	<b>27%</b>	<b>18%</b>	<b>10%</b>	<b>9%</b>	<b>17%</b>	<b>21%</b>	<b>11%</b>

In 2018 NHPD resolved 1682 of 3368 felonies opened that year as misdemeanor or less	50%
NHPD resolved as M or less 2271 of 3658 F opened the year prior to implementation of FF	62%
	12% decrease in misdemeanor or less resolutions

In the year prior to FF implementation 34% of defendants were convicted of a felony	1259 of 3658	34%
In 2018 48% of defendants were convicted of a felony	1606 of 3368	48%
		14% increase in felony convictions

**Attachment A**

Belknap County										
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven	Time to Disposition*	Superior Court Criminal Filings**
2014	No response	No response	No response	60.55	485	\$94	No response	No response	166	326
2015	No response	No response	No response	78.09	400	\$126	No response	No response	149	366
2016	No response	No response	No response	61.76	548	\$105	No response	No response	132	566
2017	No response	No response	No response	53.32	541	\$121	No response	No response	154	581
2018	No response	No response	No response	45.5	428	\$127	No response	No response	176	646

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment B

Carroll County										
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	County Attorney Felony Cases Filed	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Sheriff Department Transports	Sheriff Miles Driven	Time to Disposition*	Superior Court Criminal Filings **
2014	\$469,781	\$464,411	Total (7) County Attorney (1) Assist. County Atty (3) Victim Witness Coord. (1) Office Manager (1) Legal Support (1)	212	Not available	Not available	636	Not available	191	211
2015	\$491,428	\$440,253	Total (7) County Attorney (1) Assist. County Atty (3) Victim Witness Coord. (1) Office Manager (1) Legal Support (1)	268	36.78	86	571	Not available	263	160
2016	\$444,931	\$411,835	Total (7) County Attorney (1) Assist. County Atty (3) Victim Witness Coord. (1) Office Manager (0) Legal Support (2)	284	25.97	172	491	Not available	274	289
2017	\$491,438	\$479,301	Total (9) County Attorney (1) Assist. County Atty (4) Victim Witness Coord. (1) Office Manager (1) Legal Support (2)	389	23.84	160	639	Not available	199	394
2018	\$569,841	\$281,818 (at 50% of FY)	Total (9) County Attorney (1) Assist. County Atty (4) Victim Witness Coord. (1) Office Manager (1) Legal Support (2)	221 (through 9/18/18)	20.94 (through 10/15/18)	109 (through 10/15/18)	Not provided	Not available	238	295

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment C

Cheshire County										
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven	Time to Disposition*	Superior Court Criminal Filings **
2014	\$1,087,107	\$1,061,252	Total (18) Prosecutors Superior Court (7) Prosecutors Circuit Court (2) Police Prosecutor (1) Office Manager (1) Administrative Support (4) Victim/Witness Coordinators (2) Americorp (1)	111.56	132	\$105	2,614	Not available	201	322
2015	\$1,127,569	\$1,102,120	Total (18) Prosecutors Superior Court (7) Prosecutors Circuit Court (2) Police Prosecutor (1) Office Manager (1) Administrative Support (4) Victim/Witness Coordinators (2) Americorp (1)	108.82	214	\$105	2,956	Not available	179	306
2016	\$1,182,646	\$1,156,971	Total (18) Prosecutors Superior Court (7) Prosecutors Circuit Court (2) Police Prosecutor (1) Office Manager (1) Administrative Support (4) Victim/Witness Coordinators (2) Americorp (1)	65.48	192	\$105	2,524	Not available	172	440
2017	\$1,263,038	\$1,216,947	Total (18) Prosecutors Superior Court (7) Prosecutors Circuit Court (2) Police Prosecutor (1) Office Manager (1) Administrative Support (4) Victim/Witness Coordinators (2) Americorp (1)	73.54	188	\$105	2,400	1,668	149	394
2018	\$1,283,272	N/A	Total (18) Prosecutors Superior Court (7) Prosecutors Circuit Court (2) Police Prosecutor (1) Office Manager (1) Administrative Support (4) Victim/Witness Coordinators (2) Americorp (1)	50.42	181	\$105	2,084	1,523 as of 11/8/18	149	397

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment D

Coos County										
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven	Time to Disposition*	Superior Court Criminal Filings**
2014	\$305,750	\$272,272	Total (3) County Attorney (1) Assist. County Atty (1) Legal Secretary (1 PT)	79	33	\$150	No response	No response	156	167
2015	\$340,700	\$264,038	Total (3) County Attorney (1) Assist. County Atty (1) Legal Secretary (1 PT)	100	37	\$172	No response	No response	150	180
2016	\$399,830	\$299,003	Total (3) County Attorney (1) Assist. County Atty (1) Legal Secretary (1 FT)	94	31	\$199	No response	No response	152	143
2017	\$403,360	\$389,953	Total (4) County Attorney (1) Assist. County Atty (2) Legal Secretary (1 FT)	87	21	\$272	No response	No response	165	156
2018	\$422,145	\$221,368	Total (4) County Attorney (1) Assist. County Atty (2) Legal Secretary (1 FT)	43	20	Not available	No response	No response	175	163

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment E



Hillsborough County														
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	County Attorney Felony Cases Filed	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven	New Felony Warrants	Time to Disposition (Hills North)*	Time to Disposition (Hills South)*	Superior Court Criminal Filings (Hills North)**	Superior Court Criminal Filings (Hills South)**
2014	\$3,639,756	\$3,583,640	Total (39) County Attorney (1) First Assistant County Attorney (2) Investigators (2) Office Manager (1) Assistant Office Manager (1) PT Assistant County Attorney (1) Assistant County Attorneys (17) Legal Secretaries (9) Victim Witness Advocates (5)	2,224	Not tracked	Not available	\$65	14,934	135,272	665	186	195	1,387	847
2015	\$3,739,337	\$3,563,690	Total (39) County Attorney (1) First Assistant County Attorney (2) Investigators (2) Office Manager (1) Assistant Office Manager (1) PT Assistant County Attorney (1) Assistant County Attorneys (17) Legal Secretaries (9) Victim Witness Advocates (5)	2,271	Not tracked	284	\$74	Not available	113,401	704	164	186	1,707	872
2016	\$3,858,313	\$3,680,409	Total (39) County Attorney (1) First Assistant County Attorney (2) Investigators (2) Office Manager (1) Assistant Office Manager (1) PT Assistant County Attorney (1) Assistant County Attorneys (17) Legal Secretaries (9) Victim Witness Advocates (5)	2,851	Not tracked	236	\$76	15,544	170,523	838	168	196	1,676	951
2017	\$4,026,752	\$3,866,584	Total (42) County Attorney (1) First Assistant County Attorney (2) Investigators (2) Office Manager (1) Assistant Office Manager (1) PT Assistant County Attorney (1) Assistant County Attorneys (19) Legal Secretaries (10) Victim Witness Advocates (5)	2,720	Not tracked	235	\$87	15,699	152,855	981	158	203	2,285	949
2018	\$4,631,826	N/A	Total (46) County Attorney (1) First Assistant County Attorney (2) Investigators (2) Office Manager (1) Assistant Office Manager (1) PT Assistant County Attorney (1) Assistant County Attorneys (20) Legal Secretaries (13) Victim Witness Advocates (5)	3,958	Not tracked	158	\$98	15,811	125,124	1,420	151	192	2,464	1063

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment F

Gratton County										
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven	Time to Disposition*	Superior Court Criminal Filings**
2014	\$1,112,462	\$1,094,101	Total (18) County Attorney (1) Deputy Attorney (1) Assistant Attorney (5) Office Admin. (1) Assist. Office Admin. (1) Investigator (1) Victim Witness Coord. (2) Victim Witness Assist. (1) Legal Assistant (4) File Clerk (0) File Clerk; V/W CCC (0) Case Intake (1)	103	210	\$100	No Response	No Response	194	433
2015	\$1,293,140	\$1,196,012	Total (19) County Attorney (1) Deputy Attorney (1) Assistant Attorney (5) Office Admin. (1) Assist. Office Admin. (1) Investigator (1) Victim Witness Coord. (2) Victim Witness Assist. (1) Legal Assistant (4) File Clerk (1) File Clerk; V/W CCC (0) Case Intake (1)	109	205	\$107	No Response	No Response	149	401
2016	\$1,372,112	\$1,318,839	Total (20) County Attorney (1) Deputy Attorney (1) Assistant Attorney (6) Office Admin. (1) Assist. Office Admin. (1) Investigator (1) Victim Witness Coord. (2) Victim Witness Assist. (1) Legal Assistant (4) File Clerk (1) File Clerk; V/W CCC (0) Case Intake (1)	140	261	\$139	No Response	No Response	142	492
2017	\$1,491,707	\$1,454,564	Total (19) County Attorney (1) Deputy Attorney (1) Assistant Attorney (6) Office Admin. (1) Assist. Office Admin. (1) Investigator (1) Victim Witness Coord. (2) Victim Witness Assist. (1) Legal Assistant (4) File Clerk (0) File Clerk; V/W CCC (0) Case Intake (1)	91	281	\$158	No Response	No Response	154	595
2018	\$1,820,446	\$1,694,554	Total (21) County Attorney (1) Deputy Attorney (1) Assistant Attorney (8) Office Admin. (1) Assist. Office Admin. (1) Investigator (1) Victim Witness Coord. (2) Victim Witness Assist. (1) Legal Assistant (4) File Clerk (0) File Clerk; V/W CCC (0) Case Intake (1)	50	226	Not available	No Response	No Response	183	540

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

### Attachment G

Merrimack County										
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven	Time to Disposition*	Superior Court Criminal Filings**
2014	\$2,437,660	\$2,361,662	Total (27) County Attorney (1) Deputy (1) Attorney Solicitor (1) Assistant County Attorneys (10) Part-time County Attorneys (2) Sexual Assault Investigator (1) Office Manager (1) PT Investigator (1) Victim Witness Coordinators (4) Secretaries (4)	104.73	332	\$226	5,469	84,474	144	751
2015	\$2,520,146	\$2,363,945	Total (28) County Attorney (1) Deputy (1) Attorney Solicitor (1) Assistant County Attorneys (11) Part-time County Attorneys (2) Sexual Assault Investigator (1) Office Manager (1) PT Investigator (1) Victim Witness Coordinators (4) Secretaries (4) Receptionist (1)	94.19	402	\$202	6,042	95,183	150	793
2016	\$2,673,878	\$2,504,911	Total (32) County Attorney (1) Deputy (1) Attorney Solicitor (1) Assistant County Attorneys (10) Part-time County Attorneys (2) Sexual Assault Investigator (1) Office Manager (1) PT Investigator (1) Victim Witness Coordinators (4) Secretaries (4) Receptionist (1)	77.11	411	\$184	6,657	97,368	161	892
2017	\$2,998,643	\$2,839,056	Total (27) County Attorney (1) Deputy (1) Attorney Solicitor (1) Assistant County Attorneys (10) Part-time County Attorneys (2) Sexual Assault Investigator (1) Office Manager (1) PT Investigator (1) Victim Witness Coordinators (4) Secretaries (4) Receptionist (1)	69.91	461	\$180	6,777	112,057	138	1,208
2018	\$3,101,876	Not available	Total (32) County Attorney (1) Deputy (1) Attorney Solicitor (1) Assistant County Attorneys (15) Part-time County Attorneys (2) Sexual Assault Investigator (1) Office Manager (1) PT Investigator (1) Victim Witness Coordinators (4) Secretaries (4) Receptionist (1)	53.19	485	Not available	5,752 (through 10/31/18)	90,026 (through 10/31/18)	150	1,230

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment H



Rockingham County											
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven (2)	New Felony Warrants	Time to Disposition*	Superior Court Criminal Filings**
2014	\$3,221,630	Not available	Total (44) County Attorney (1) Deputy County Attorney (1) Assistant County Attorneys (19) Office Administrator (1) Assistant Office Administrator (1) Support staff (13) Victim Advocates (6) Investigators (2)	88	41	\$97.50	9,900	316,747	2,175	225	1,591
2015	\$3,116,153	Not available	Total (43) County Attorney (1) Deputy County Attorney (1) Assistant County Attorneys (21) Office Administrator (1) Assistant Office Administrator (1) Support staff (13) Victim Advocates (3) Investigators (2)	121	28	\$97.50	9,044	294,518	2,018	196	1,410
2016	\$3,221,747	Not available	Total (43) County Attorney (1) Deputy County Attorney (1) Assistant County Attorneys (19) Office Administrator (1) Assistant Office Administrator (1) Support staff (13) Victim Advocates (3) Investigators (3)	139	32	\$97.50	8,523	210,184**	2,076	188	1,620
2017	\$3,632,129	Not available	Total (49) County Attorney (1) Deputy County Attorney (1) Assistant County Attorneys (21) Office Administrator (1) Assistant Office Administrator (1) Support staff (18) Victim Advocates (3) Investigators (3)	62	43	\$97.50	8,697	226,637**	2,465	238	1,748
2018	\$5,550,706	Not available	Total (49) County Attorney (1) Deputy County Attorney (1) Assistant County Attorneys (21) Office Administrator (1) Assistant Office Administrator (1) Support staff (17) Victim Advocates (4) Investigators (3)	11	123	\$97.50	6,424 (as of 10/31/18)	103,873 (through 11/20/18)	not available	186	1,813

1. These numbers include people who chose to leave or were removed from the Rockingham County Attorney's Office and people who were hired to replace them, it does not reflect overall staffing needs.

2. Mileage reports for 2015-2017 were incomplete

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment I

Strafford County										
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates Held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven	Time to Disposition*	Superior Court Criminal Filings**
2014	\$1,247,289	\$1,306,308	Not provided	No response	No response	No response	Not available	Not available	202	704
2015	\$1,393,520	\$1,408,580	<b>Total (18.4)</b> County Attorney (1) Assistant County Attorneys (6.6) Legal Assistants (7) Investigators (.8) Victim Assistants (3)	No response	No response	No response	Not available	Not available	204	955
2016	\$1,426,879	\$1,451,799	<b>Total (18.8)</b> County Attorney (1) Assistant County Attorneys (7) Legal Assistants (7) Investigators (.8) Victim Assistants (3)	No response	No response	No response	Not available	Not available	208	1,060
2017	\$1,580,246	\$1,618,991	<b>Total (20.8)</b> County Attorney (1) Assistant County Attorneys (8) Legal Assistants (8) Investigators (.8) Victim Assistants (3)	No response	No response	No response	Not available	Not available	223	990
2018	\$1,706,758	\$839,372 (as of 9/15/18)	<b>Total (21.8)</b> County Attorney (1) Assistant County Attorneys (8) Legal Assistants (9) Investigators (.8) Victim Assistants (3)	No response	No response	No response	Not available	Not available	217	970

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment J

Sullivan County										
Year	County Attorney Authorized Budget	County Attorney Expended Budget	County Attorney Staffing	Average Length of Pretrial Felony Detention Stay	Number of Pretrial Felony Inmates held Annually	Average Daily Incarceration Costs	Sheriff Department Transports	Sheriff Miles Driven	Time to Disposition*	Superior Court Criminal Filings**
2014	\$558,866	\$512,614	Total (6) County Attorney (1) Assistant County Attorney (2) Secretary I (1) Secretary II (1) Victim Witness Coordinator (1)	Not available	Not available	\$113	No response	No response	143	177
2015	\$557,364	\$460,589	Total (6) County Attorney (1) Assistant County Attorney (2) Secretary I (1) Secretary II (2) Victim Witness Coordinator (1)	Not available	Not available	\$96	No response	No response	120	240
2016	\$556,660	\$527,357	Total (6) County Attorney (1) Assistant County Attorney (2) Secretary I (1) Secretary II (1) Victim Witness Coordinator (1)	Not available	Not available	\$119	No response	No response	142	167
2017	\$630,251	\$597,590	Total (6) County Attorney (1) Assistant County Attorney (2) Secretary I (1) Secretary II (1) Victim Witness Coordinator (1)	Not available	Not available	\$132	No response	No response	112	207
2018	\$772,129	\$708,259	Total (7) County Attorney (1) Deputy County Attorney (1) Assistant County Attorney (2) Secretary I (1) Secretary II (1) Victim Witness Coordinator (1)	Not available	Not available	\$163	No response	No response	122	263

Highlighting indicates calendar year in which Felonies First was implemented.

\*Data provided by the NH Judicial Branch Administrative Offices.

\*\*Data provided by the NH Judicial Branch Administrative Offices.

## Attachment K