

TESTIMONY OF DR. DARAIUS IRANI
REGIONAL ECONOMIC STUDIES INSTITUTE
TOWSON UNIVERSITY

My name is Dr. Daraius Irani. I am the executive director of the Regional Economic Studies Institute located at Towson University in Maryland. By way of background, I received my Ph.D. from the University of California, Santa Barbara and have been working as an economist for the last 18 years.

Through my tenure with the **Regional Economic Studies Institute**, the organization and I have **completed in excess of 250 economic and fiscal studies over the past fifteen years**. Ranging across such issues as tort reform, medical insurance for disabled workers, privatization of child support enforcement, competition in gas stations, my group and I have analyzed a number of economic and fiscal issues as they relate to both business and government.

The **Regional Economic Studies Institute (RESI) of Towson University has been tasked with enumerating the potential costs to the State of New Jersey of instituting Senate Bill No. 946 (2014) and Assembly Bill No. 1910 (2014), both of which will alter the current pretrial process and establish the New Jersey Pretrial Service Unit (NJPSU).**

Before I go into a great deal of detail about the report, I want to highlight three considerations

- **The bill will not save money because the judiciary is already understaffed**
- **the programs proposed in the bill will not save money because any potential costs to be saved by reducing the jail population will be consumed by the programming infrastructure investment for the pretrial services agency**
- **legal services will not only not be funded through this bill but this bill will deliver a likely situation where the judiciary or the legislature will be forced to prioritize those agencies to receive funds under the language of this bill as multiple programs will be looking to the funding source for operational investment.**

So I will now explain and illustrate our findings to the committee.

Through the use of current pretrial service statistics, RESI enumerated the potential cost to New Jersey based on three separate categories:

- **Start-up costs** consist of the spending necessary to launch the NJPSA. These costs include the hiring and training of staff, the purchasing of equipment, and the furnishing of the workspace required.
- **Operating costs** were those incurred through the year-to-year functioning of the NJPSU. These costs included employee expenses, software licenses, facilities and upkeep, and programming provisions.
- **Indirect costs** quantify the potential expenses that would be incurred by the State as a result of the change in judicial practices as the bills mandate or as a result of actions by

the NJPSU. These costs were collected from additional public defender and courtroom usage, and the failure to appear (FTA) and recidivism of released defendants. FTA and recidivism cost money to the state through rearrest costs and damages to the community. These costs can increase if levels pretrial misconduct are not properly managed through supervision and programming.

Figure 1: Cost Estimates by Expense Category

Expense	Cost Estimate
Start-Up Costs	\$16,591,360
Operating Costs	\$379,589,599
Indirect Costs	\$65,069,321

Source: RESI

As shown in Figure 1, RESI projected that NJPSU start-up costs would amount to approximately \$16.6 million; the annual operating cost of the NJPSU was estimated to be \$379.6 million; and the indirect cost to the state that would be induced by the bills could potentially reach at least \$65.1 million.

This cost projection was modeled off of the DCPSA program because it best reflects the legislation provided for the NJPSU, because it must provide for similar costs of living, and because it is widely regarded as the most effective pretrial release program. It is important to note that the NJPSU also has a provision that requires it to consider monetary release conditions only as a final resort when non-financial conditions will not reasonably assure the safety of the community and the appearance of the defendant in court. In comparison the DCPSA is to first consider monetary conditions before assigning DCPSA program release. Ultimately, this provides the potential for the NJPSU to experience even higher levels of program spending per arrest than the DCPSA.

RESI also considered the cost saving that would be generated by diverting pretrial defendants away from jail and prison due to release. Using figures from New Jersey’s “Report of the Joint Committee on Criminal Justice,” RESI found that decreasing the level of pretrial detention by 50 percent could save the New Jersey state budget approximately \$164 million dollars. However, there are several things to consider with this figure. First, the committee’s assumption that approximately 50 percent of pretrial detainees are being held needlessly is very generous, because most populations see a total release rate of approximately 50 percent. Furthermore, with each release there is an increased change of FTA and recidivism, incurring additional costs against the state. Finally, still considering the \$164 million in potential savings, RESI projects that the annual operating costs of the NJPSU would still result in a net budget cost of more than \$215 million per year.

Figure 2: Potential Net Cost

Expense	Cost Estimate
Operating Costs	\$379,589,599
Pretrial Detainment Savings	\$164,250,000
Net Cost	\$215,339,599

Source: RESI

The NJPSU and associated legislation was designed to shorten the aggregate time-to-trial and, as a result, reduce the time defendants remain in pretrial detention. From streamlining the pretrial process in such a way, a goal of the bills is to save the State money on the pretrial defendants. However, several provisions from the bills will likely extend the time-to-trial and the associated costs, including:

- Changing the “initial appearance” phase from an informational court appearance into something that more closely resembles an adversarial hearing.
- Granting defendants the right to appeal the release decision made in aforementioned hearing.
- The use of non-monetary release conditions compared to monetary bonds, which can result in a substantial increase in the time-to-pretrial release of a defendant. This does not affect the overall time to trial, but affects the underlying source of cost (time in pretrial detention).

Time-to-trial is also affected by the judicial caseload. The additional appearances that will be necessary will have to be dispersed among an already overloaded judiciary.

The bills also establish the 21st Century Justice Improvement Fund, and grant the Supreme Court the power to increase statutory fees on filings and other matters, funds which are meant to then be distributed to several state judicial departments. However, considering the funding goals and the limit on additional fees (maximum of \$50 per instance), there would need to be approximately:

- 300,000 applicable crimes committed to meet the \$15 million dollar funding cap for the NJPSU
- 640,000 applicable crimes committed to meet the \$17 million funding cap for the e-court initiative
- 842,000 applicable crimes committed to meet the \$10.1 million funding cap for Legal Services of New Jersey.

The number of applicable crimes needed to meet the Legal Services cap is more than twice the number of arrests in 2012 (301,744) and would constitute the commission of an applicable crime by almost 1 of every 10 citizens of New Jersey. The funding of the later programs may become difficult depending on where the courts find it applicable to increase fees.

The bills are also likely to the negatively impact the commercial bonding industry, and likewise hurt the New Jersey economy. If New Jersey enacts the NJPSU it will divert pretrial release traffic to non-financial conditional release, and away from commercial bondsman. The resulting loss in commercial bail usage will be manifested in the loss of commercial bail employees and eventually the closing of commercial bonding firms. RESI conducted an economic impact analysis using IMPLAN modeling software. For every 10 employees lost in the commercial bail bonds industry, New Jersey would:

- Lose an additional 7 jobs.
- Lose nearly \$2.1 million in output.
- Lose nearly \$0.6 million in wages.
- Resulting in a loss of approximately \$103,000 in tax revenues.

Some of these losses could possibly be offset by the effects of employment gains in the NJPSU; however, the resulting wages would come from the budget of the state government, rather than from the private sector. Spending and employment by commercial bonding firms created a

positive net fiscal impact; when the private employment changes to public employment, the net fiscal impact on the state government will be substantially negative.

A review of pretrial research illustrated the importance of maintaining a highly effective pretrial justice process. The presence of supervision on non-monetary releases is highly important, as the level of pretrial misconduct is highly correlated with the presence of proper supervision over all defendants. This indicates the importance of maintaining high quality supervision for non-monetary releases. Other research also further reinforced the importance of rapid pretrial processing; as the length of pretrial detention was directly correlated with the likelihood of FTA and recidivism. Finally, research indicated that pretrial detention is directly correlated with the trial outcome and imprisonment. Though this correlation is often seen to be an injustice to detained defendants, it could also be an indication that the judiciary has substantial insight into correctly detaining those defendants who are likely to be guilty.

RESI found the net costs to the State of New Jersey of instituting Senate Bill No. 946 and Assembly Bill No. 1910 to be at least \$215,339,599 considering all potential savings. This cost could likely be higher if the NJPSU does not function quickly and effectively. Depending on the losses experienced by the commercial bail industry, the New Jersey State Government could also lose anywhere from \$100,000 to millions in tax revenue. Additionally, reductions in spending that stem from reductions in programming are likely to bring even greater costs in the form of FTA and recidivism. Considering the use of conservative figures throughout this report, RESI holds a \$215,339,599 cost to be a conservative estimate of the cost of Senate Bill No. 946, Assembly Bill No. 1910, and the NJPSU.

Thank you for the opportunity to discuss my estimations and further concern over the economic impact of this proposed legislation.