

Why Are Black People in Ypsilanti Disproportionately Arrested on Bench Warrants?

Part 1: Data Trends

Black men and women in Ypsilanti accounted for 63% (1,179 of 1,869)¹ of all Washtenaw County arrests in 2014 on “failure to appear” bench warrants, even though they make up less than 2% of the county’s total population.² Black men in Ypsilanti alone accounted for over 51% of all arrests on “failure to appear” bench warrants in the county (Table 1 and 2).

Bench warrants are warrants for arrest issued by a judge (i.e., from the bench), usually for “failure to appear.” In Washtenaw County, these typically result from a failure to appear at a misdemeanor or felony hearing. In some circumstances, repeated failure to timely pay a fine can also result in a “failure to appear” bench warrant. Aside from “failure to appear,” a bench warrant might also be issued for offenses like perjury or contempt of court, but these are so rare that in the remainder of this report, the shorter term “bench warrant” will be used to refer specifically to “failure to appear” bench warrants.

The issuance of a bench warrant is at the discretion of the judge, who may accept an excuse for absence from a representing attorney or may reset the hearing date if a possible change of address could have resulted in a failure to receive notice.³ Failure to appear is charged as a misdemeanor “Obstruction of Justice” that in Michigan can carry penalties of up to a year in jail and up to \$1,000 in fines, as well as forfeiture of any bond paid.⁴ More details are needed from the county courts to understand policies and practices around issuing bench warrants.

It bears emphasizing at the outset that the crime of “failure to appear” in itself poses no threat to public safety. A complete audit would be required to determine the nature of the underlying charges from which the warrants arise. However, the impact of an arrest on the arrestee/defendant can be very significant, sometimes resulting in trauma, lost income, lost employment, childcare problems, etc. In part 2 of this study, we will continue researching the human impact of failure to appear arrests in the community.

If you, or someone you know, has been arrested in Washtenaw County on a failure to appear bench warrant, please contact us at raw1@riseup.net.

Whites in Ypsilanti also experienced higher than the county average rate of arrests on bench warrants: 355, or 19% of the county total, despite making up less than 4% of the county population. However, in

Ypsilanti nearly four times as many Black men as white men, and twice as many Black women as white women, were arrested on a bench warrant (Table 1 and 2). Hispanic ethnicity and multi-racial identities are not recorded for arrests in Michigan.

LIMITATIONS TO PUBLICLY AVAILABLE DATA

Before we continue, it is important to understand the limitations of publicly available data on demographics, arrests, and bench warrants. Detailed arrest data are currently available from the Michigan State Police Michigan Incident Crime Reporting dataset from 2008 to 2014. Detailed demographics of Michigan counties, cities, villages, and townships are available from the 2010 U.S. Census.

We believe that despite the limitations of the publicly available data, the trends uncovered in this report are so dramatic that data limitations are a minor issue. A full audit of each of the police agencies and courts in the county relevant to Ypsilanti residents would be extremely helpful in developing more precise measures. If authorities refuse to cooperate with providing these data, we will proceed to investigate using the Freedom of Information Act.

If you would like to understand these data sources in greater detail, read the following caveats. If not, feel free to skip to the next section.

1. MICR records numbers of arrests, not number of persons arrested. The same person could be arrested more than once in a year.
2. MICR does not collect data on all arrestable offenses. 99 arrest offenses are included in the database. Arrests on violations of local ordinances and of civil infractions are not included.
3. MICR data are dependent on police department self-reporting. Although state law mandates reporting, the statute specifies that the reporting is “voluntary.” Agencies have some incentive to report in that federal funding could, in theory, be reduced for failure to report eligible arrests to MICR.
4. MICR race data are based on the report of the police officer, not necessarily on the arrestee’s self-reported racial identity.
5. The geographic category to which an arrest is attributed is a complicated issue. As a general rule, an arrest will be attributed to a geographic location based on the *location of the arrest*, not (in the case of bench warrants) on the location of the underlying alleged crime, **nor the residence of the arrestee**, nor the location of the court issuing the bench warrant, nor the municipality of the arresting agency. An exception to this rule is that university/college police department ar-

rests are categorized in the database under the name of the department, regardless of whether the arrest occurred on campus or off campus.

6. MICR and the U.S. Census Bureau use different racial/ethnic categories.
7. U.S. Census Bureau population estimates after 2010 are based on housing stock, which is no longer a very reliable basis of estimation due to the housing crisis.
8. Demographics by race/ethnicity for Michigan townships are only available from the 2010 U.S. Census. Because of (7) and (8), we rely on 2010 population estimates in this analysis.
9. Many EMU students will have a primary residence somewhere other than Ypsilanti. The same applies to UM students and Ann Arbor.
10. District courts hear cases for crimes allegedly committed within their jurisdiction, regardless of where the defendant was arrested or resides.
11. When a judge or magistrate issues a bench warrant, it is entered in the Law Enforcement Information Network (LEIN) database and becomes available to law enforcement throughout the state. We are told by the Michigan State Police Criminal Justice Information Center that no summary LEIN data whatsoever are accessible to the public. Cooperation from the courts would be helpful in determining the number of bench warrants issued by each court in Washtenaw County, including data on residency of defendants.

COMPARISON WITH COUNTY AND NEIGHBORING MUNICIPALITIES

How do arrests on bench warrants in Ypsilanti compare to other municipalities in Washtenaw County? In contrast to the City of Ypsilanti, Blacks in Ypsilanti Charter Township made up less than 4% of the county total arrests on bench warrants, and Black residents constitute an estimated 5% of the county population. In other words, Blacks in Ypsilanti Township experience bench warrant arrests in proportions similar to their numbers in the county. In the entire city of Ann Arbor, only 16 Blacks were arrested on bench warrants, for 0.8% of the county total. The grand total of 31 arrests on bench warrants for Ann Arbor constitutes 1.6% of the county total, despite the fact that Ann Arbor makes up 33% of the county's population.

Tables 1 and 2 compare rates of arrest on bench warrants and demographics for the county, Ypsilanti, Ypsilanti Township, and Ann Arbor. Percentages compare the particular demographic to the county total.

	White		Whites % of County Total	Black		Blacks % of County Total	Unknown		Total	% of County Total
	Male	Female		Male	Female		Male	Female		
Washtenaw County	349	152	27%	1055	253	70%	45	15	1,869	100%
City of Ypsilanti/EMU	246	109	19%	962	217	63%	38	11	1,583	85%
Ypsilanti Township	22	8	<2%	47	21	4%	4	4	106	6%
Ann Arbor/UM	11	3	<1%	15	1	<1%	1	0	31	1.6%

Table 1. 2014 Bench Warrant Arrests⁵

	White	Whites % of County Total	Black	Blacks % of County Total	White and Black	Total	% of County Total
Washtenaw County	256,880	75%	43,767	12.6%	3,726	344,791	100%
City of Ypsilanti	11,952	3.4%	5,669	1.6%	334	19,435	5.6%
Ypsilanti Township	31,171	9%	17,528	5%	1,148	53,362	15%
Ann Arbor	83,171	24%	8,804	2.5%	1,018	113,934	33%

Table 2. 2010 Population Census Data⁶

TRENDS AND TOTAL ARRESTS

What could account for this shocking disparity in arrests on bench warrants in Ypsilanti? Since a bench warrant can only be issued when a defendant fails to appear for an underlying misdemeanor or felony charge, one theory could be that rates of arrest for other crimes are also extraordinarily high in Ypsilanti. Examining trends in arrests for failure to appear and arrests for all other crimes contradicts this theory. At best, crime rates in Ypsilanti can only explain a small proportion of the disparity, both between Ypsilanti and the rest of the county, and between whites and Blacks within Ypsilanti.

The Michigan Incident Crime Reporting (MICR) database includes detailed arrest data beginning in 2008; the most recent year available is 2014. Figure 1 below charts arrests on bench warrants as compared to all other “underlying” arrests for Washtenaw County, *excluding* the City of Ypsilanti and *excluding* arrests by the EMU Police Department. Two features are evident: 1) bench warrant arrests constitute a very small fraction of total arrests and 2) they do not vary greatly from year to year.

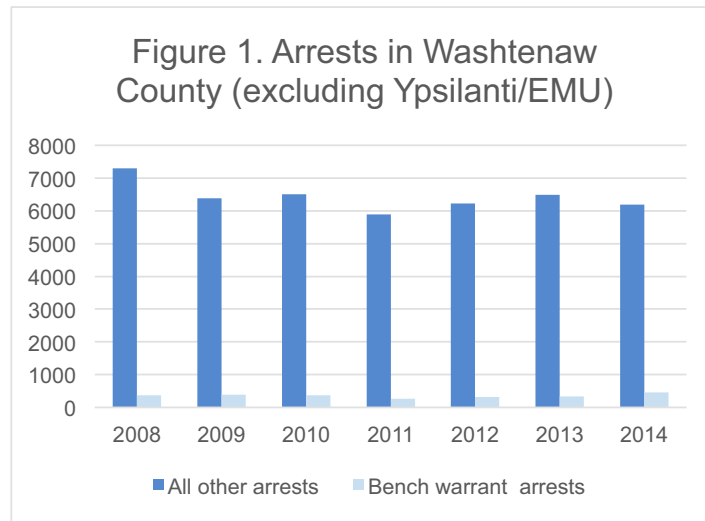


Figure 2 below charts the same statistics (bench warrant arrests and arrests for all other crimes) for Ypsilanti alone. We would expect to see a roughly similar shape and trend as for the rest of the county. Instead, we see drastically different trends. First, in Ypsilanti arrests on bench warrants are very, very high in comparison to all other “underlying” arrest charges. Second, after a dip in arrests of all kinds in 2012, arrests on bench warrants skyrocketed in 2013 and 2014. **In fact, there were far more arrests on bench warrants in 2013 and 2014 than for any “underlying” crimes!** Rates of arrests on other crimes were relatively low in 2013 and about average in 2014. Recall that in the rest of the county, arrests on bench warrants constitute a small fraction of total arrests (Figure 1).

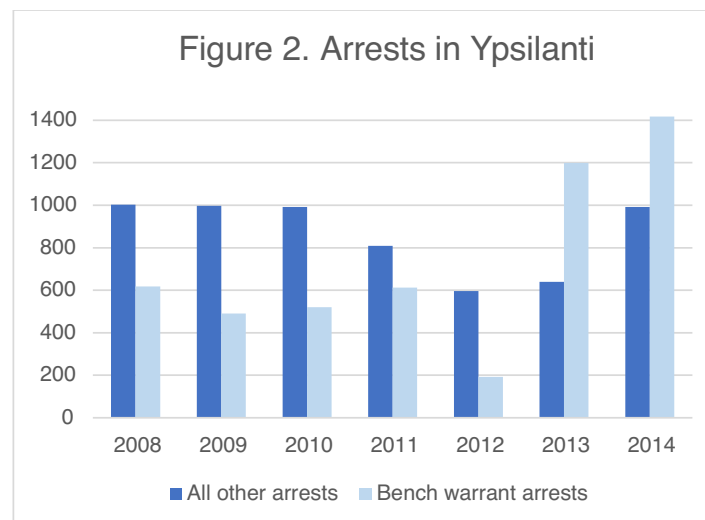


Figure 3 charts the same arrest statistics for the EMU Police Department. These are arrests conducted by EMU PD whether on campus or off campus. We see yet another pattern, of higher than average bench warrant arrests (compared to Figure 1) steadily rising and more than doubling between 2011 and 2014. Over the same period, arrests on other charges also increase dramatically, peaking in 2012 and then declining. EMU PD arrests are a small fraction of other arrests conducted in Ypsilanti. We will look more closely at differences between agencies below.

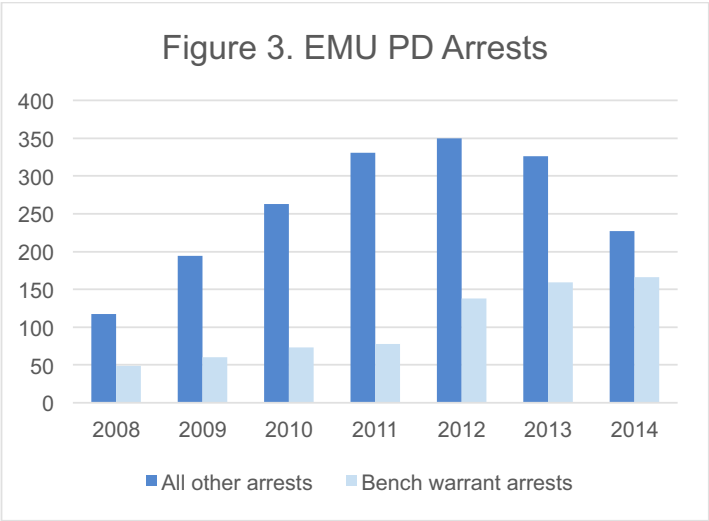
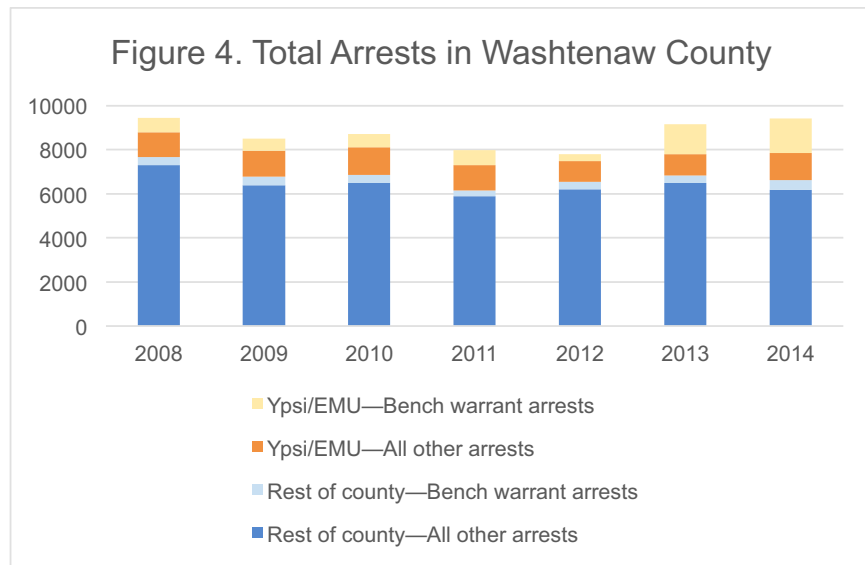


Figure 4 presents the same data as in Figures 1, 2, and 3, combined in a “stacked” chart. Each column in Figure 4 represents the total number of arrests in Washtenaw County. Each color represents a different segment of those arrests, with Ypsilanti/EMU PD’s combined share indicated in orange and the rest of the county in blue. Bench warrant arrests are the light orange segment at the top. In 2013 and 2014, bench warrant arrests for Ypsilanti/EMU PD alone represented a significant proportion of the county’s total arrests: 1,583 out of 9,044, or 17.5%.



RACIAL DISPARITY

The drastic increase in bench warrant arrests affected Blacks and whites alike in Ypsilanti. However, Black men and women were significantly more impacted by the trend than white men and women. Table 3 below compares the average rates of bench warrant arrests from 2008–2011 to the rates in 2014. 2012 is excluded due to the anomaly of lower overall arrests that year. EMU PD arrests are also excluded, since they exhibit a different trend pattern and arrest numbers within race/gender groups are too low to draw conclusions on racial disparities in trends.

Data indicate that rates of arrest at least doubled for all race categories and on average bench warrant arrests in 2014 were two-and-a-half times the average for 2008 through 2011. However, the increase was lower for white men and women and highest for Black women. There were *three times* as many arrests of Black women on bench warrants in 2014 than the average for 2008–2011. In absolute numbers of arrests, Black men have been most affected, with an increase from 340 (average) to 862 arrests per year—an increase of 522 arrests. **The disturbing trend in bench warrant arrests has disproportionately affected Black men and women.**

	White		Black		Unknown		Total
	Male	Female	Male	Female	Male	Female	
2008–2011 average	95	46	340	66	9	3	560
2014	225	98	862	200	26	6	1,417
Ratio of increase	2.37	2.13	2.53	3.03	2.89	2.00	2.53

Table 3. 2014 Bench warrant arrests in Ypsilanti (excluding arrests by EMU PD)⁷

COURTS, POLICE, OR BOTH?

It strains credulity to suppose that residents of Ypsilanti are suddenly failing to show up to court at rates two to three times higher than in the past. Such a dramatic change points to institutional causes, not behavioral ones. The question is, are the courts, the police, or both responsible for this trend? And, as importantly, how can it be reversed?

When we first spoke to staff at the Michigan State Police who work with the MICR database, on hearing of the disparate arrest statistics in Ypsilanti, they hypothesized that there might be an error in police reporting of arrests. How could the City of Ypsilanti, with a population of only 19,435 (in 2010), sustain 1,583 arrests for failure to appear? **We have so far been unable to find bench warrant arrest rates even approaching this in any other Michigan city.**

Table 4 lists a number of Michigan cities by bench warrant arrest rate per total population. Number and percentage of Black residents is indicated for demographic comparison with Ypsilanti. Ypsilanti's rate of bench warrant arrests is more than three times greater than the city with the next highest rate, Flint.

	Total population	Blacks (one race)	% Black	Bench warrant arrests	Bench warrant arrest rate
Ypsilanti/EMU	19,435	5,669	29%	1,583	8.1%
Flint	102,434	57,939	57%	2,664	2.6%
Benton Harbor	10,038	8,952	89%	152	1.5%
Romulus city	23,989	10,327	43%	129	0.5%
Detroit city	713,777	590,226	83%	3,613	0.5%
Auburn Hills	21,412	3,959	18%	92	0.4%
Highland Park city	11,776	11,012	94%	8	0.1%
Dearborn city	98,153	3,965	4%	39	0.0%
Eastpointe city	32,442	9,575	30%	12	0.0%

Table 4. *Michigan cities by bench warrant arrest rate per total population.*⁸

There is an example of another city of similar size in another state with even more astounding arrest rates for bench warrants: Ferguson, Missouri. Ferguson's population is approximately 21,000. By 2010, Ferguson was 67% Black with 25% of residents living below the poverty level. When the U.S. Department of Justice, Civil Rights Division, investigated the Ferguson Police Department, they discovered that in 2013 the municipal court (operating as part of the police department) issued over 9,000 bench warrants, largely on minor violations that would not otherwise have led to arrest or incarceration.⁹ In its scathing indictment of the court and police policy and practices, investigators found that the purpose of the arrests was not to protect public safety, but rather to generate significant revenue for the department and the city.

Ypsilanti differs from Ferguson in that it does not have a municipal court and bench warrants are issued mainly for failure to appear for misdemeanor or felony hearings, not civil infractions, and less often for failure to pay. Nevertheless, the question remains, are the courts responsible?

Two county courts have jurisdiction over alleged crimes committed in Ypsilanti. The Washtenaw County Trial Court (District Court 15) presides over all felonies and all misdemeanors carrying a penalty of over one year in jail. Since this court presides over the entire county, we would not expect the behavior of the court to be noticeably different for Ypsilanti residents versus other county residents. We can tentatively rule out District Court 15 as the source of the problem; nevertheless, more information from the court on this question would be helpful.

Washtenaw County District Court 14A-2 hears cases for criminal misdemeanors (penalty less than one year) and civil violations committed in the City of Ypsilanti (including EMU), Ann Arbor Township, Augusta Township, Salem Township, Superior Township, and the Village of Barton Hills. Judge Kirk Tabbey has presided at District Court 14A-2 since 1997. Unfortunately, no summary data are publicly available on how many bench warrants are issued by the court. Cooperation from Washtenaw County Courts in providing data on failures to appear and on bench warrants issued by each court would be helpful.

However, if Ypsilanti's arrest rates on bench warrants could be attributed primarily to the behavior of Court 14A-2, we would expect to also see disproportionately high rates of arrests on bench warrants in the other municipalities over which Court 14A-2 presides.

The data for 2014 do not indicate this. For all five other municipalities over which 14A-2 presides, there were only 39 bench warrant arrests in 2014. The resident population of these five municipalities totaled 30,822. These municipalities accounted for only 2% of bench warrant arrests in the county, while accounting for about 9% of the county's total population and 4% of all arrests in the county (Table 4).

These data suggest that although the courts are responsible for issuing bench warrants in the first place, they are at most only partially responsible for the alarming trend in Ypsilanti arrest rates.

	2010 Population	White		Black		Unknown		Total
		Male	Female	Male	Female	Male	Female	
Ypsilanti	19,721	246	109	962	217	38	11	1,583
Rest of 14A-2 Constituency	30,822	19	6	9	4	1	0	39

Table 5. 2014 Bench warrant arrests in Ypsilanti compared to the total of bench warrant arrests in Ann Arbor Township, Augusta Township, Salem Township, Superior Township, and the Village of Barton Hills.¹⁰

WHICH AGENCIES ARE RESPONSIBLE?

What has changed in policing in Ypsilanti, then, to explain these alarming trends in Ypsilanti arrest rates on bench warrants? Chief Tony DeGiusti took over the Ypsilanti Police Department in 2013. We would like to hear his explanation for these trends, since the data do not support the idea that the courts are solely responsible.

The public needs to know, from all five of the agencies that police the 4.5 square miles of the City of Ypsilanti, what policies and practices are leading to such extraordinary numbers of bench warrant arrests.

Some data are available on which agencies conducted the 1,583 bench warrant arrests in Ypsilanti. According to MICR, EMU PD reported 166 bench warrant arrests in 2014, both on and off campus, and presumably within the city limits of Ypsilanti. In answer to our Freedom of Information Act request, EMU informed us that their police department performed 188 bench warrant arrests. The difference may be due to arrests on minor offenses not included in MICR. In either case, EMU PD owes the public an explanation for performing at least 5 times more bench warrant arrests than occurred in the entire city of Ann Arbor in the same time period.

The University of Michigan Police Department in neighboring Ann Arbor reported 16 “failure to appear” bench warrant arrests in 2014. However, it is notable that UM PD also reported 93 arrests for the charge “Obstructing Justice: Obstructing Justice.” In other words, within the broader category of Obstructing Justice arrests, of which failure to appear is one sub-category, another sub-category is generic obstructing justice, sometimes known as interfering with police. Most other municipalities in Washtenaw County included in this study have far fewer of these “obstructing justice” arrests. Only 7 are reported for the city of Ypsilanti and none for EMU PD. Further investigation is required to understand why UM PD reports such high numbers in the obstructing justice sub-category.

Excluding arrests by EMU PD, we have data on type of agency performing an arrest, but only for the broader category of Obstructing Justice arrests. However, we know that the vast majority (1,417) of the 1,540 Obstructing Justice arrests in Ypsilanti were for failure to appear bench warrants. Of those 1,540, only one was conducted by a county Sheriff. Since Ypsilanti Township also contracts with the Sheriff to staff its police department, this one arrest likely accounts for arrests by both the county and Ypsilanti Township. However, it’s possible that when a Sheriff’s Deputy apprehends someone with a bench warrant they turn the arrest over to the YPD. 44 arrests were conducted by the Michigan State Police (MSP). 1,495 of the remaining Obstructing Justice arrests were performed by police departments.¹¹

By process of elimination, we can deduce that the vast majority of the 1,417 bench warrant arrests were reported by the Ypsilanti Police Department. It is unclear whether and how frequently the other east county agencies turn over arrests to YPD for reporting.

The very fact that five different agencies—YPD, EMU PD, Ypsilanti Township PD, County Sheriff, and MSP—police such a small geographic area (with only 5.6% of the county’s population) may help explain why, even from 2008 to 2011, Ypsilanti had much higher rates of arrest on bench warrants than the rest of the county. The highly-touted Eastern Washtenaw Safety Alliance (EWSA), formed in mid-2014, allows for countywide arrest authority for officers in all four member agencies. This further complicates determining responsibility and appropriate changes. Each department needs to answer for its role in this problem. The agencies need to explain to the public why they are so “successful” at arresting people on bench warrants, historically and especially in 2013 and 2014 when arrests for underlying crimes remained low or average.

FOLLOW THE MONEY

In Ferguson, DOJ investigators determined that the motivation for excessive issuance of bench warrants was fiscal: the city, court, and police department depended on the revenue generated from these arrests. In Ypsilanti, the situation seems to be different, but we need more information from the courts and from the police to determine exactly what costs to arrestees and what benefits to courts and agencies may be exacted.

INCONCLUSIVE

We are left with more questions than answers. The questions include (but are not limited to):

1. What is the human impact of arrests for failure to appear on people’s lives in Ypsilanti? This will be the focus of Part 2 of our investigation.
2. How many bench warrants are issued by District Court 14A-2 compared to other district courts in the county?
3. If District Court 14A-2 issues a disproportionately higher number of bench warrants for residents of Ypsilanti, what policies, ordinances, or practices lead to this disparate impact? How can they be improved?
4. How many bench warrants are issued by District Court 15 by municipality of defendant?
5. What policies and practices impact when county judges and magistrates issue failure to appear bench warrants? What alternatives can be found?

6. Why have bench warrant arrest rates historically been disproportionately higher in Ypsilanti than in other municipalities in the county?
7. Why did bench warrant arrests skyrocket in 2013 and 2014 while other arrests remained stable?
8. Why are Black men and women in Ypsilanti disproportionately impacted by this spike in bench warrant arrests?
9. Are Black men and women disproportionately impacted by bench warrant arrests in other parts of the county?
10. Which agencies are responsible for the bench warrant arrests in Ypsilanti?
11. What is the effect of the Eastern Washtenaw Safety Alliance on arrest rates overall, and on bench warrant arrests specifically?
12. How much effort is the EMU Police Department spending on policing off-campus and why?
13. Under what range of circumstances are bench warrant arrestees apprehended? Are they apprehended at their homes, stopped while driving cars, stopped in the street, etc.?
14. What policies and practices of the policing agencies are leading to enormous numbers of bench warrant arrests?
15. How soon can policies and practices be changed in order to provide relief to the large numbers of Ypsilanti residents being arrested on bench warrants?

NOTES

1. Michigan Incident Crime Reporting (<http://www.micrstats.state.mi.us/MICR/Home.aspx>), Reports 7 and 8. Obstructing Justice: Failure to Appear is arrest charge number 5015.
2. U.S. Census Bureau, 2010 Census, Demographic Profiles for Michigan. Ypsilanti City population, Blacks (one race): 5,669. Total Washtenaw County population: 344,791.
3. Lisa Fusik, District Court 14A-2 Deputy Court Administrator, personal communication.
4. MCL Section 780.62.
5. Michigan Incident Crime Reporting (<http://www.micrstats.state.mi.us/MICR/Home.aspx>), Reports 7 and 8. There were no arrests for failure to appear among American Indian, Alaska Native, Pacific Islander, or Asian residents in the listed geographic areas.
6. U.S. Census Bureau, 2010 Census, Demographic Profiles for Michigan.
7. Michigan Incident Crime Reporting (<http://www.micrstats.state.mi.us/MICR/Home.aspx>), Report 8.
8. Michigan Incident Crime Reporting (<http://www.micrstats.state.mi.us/MICR/Home.aspx>), Report 8; U.S. Census Bureau, 2010 Census, Demographic Profiles for Michigan.
9. *Investigation of the Ferguson Police Department*. March 4, 2015. U.S. Department of Justice: Civil Rights Division.
10. Michigan Incident Crime Reporting (<http://www.micrstats.state.mi.us/MICR/Home.aspx>), Report 8; U.S. Census Bureau, 2010 Census, Demographic Profiles for Michigan.
11. Michigan Incident Crime Reporting (<http://www.micrstats.state.mi.us/MICR/Home.aspx>), Report 11.