

UNDER PRESSURE

*The Milwaukee County Justice System's
Recovery from COVID-19*



WISCONSIN
POLICY FORUM

ABOUT THE WISCONSIN POLICY FORUM

The Wisconsin Policy Forum was created on January 1, 2018, by the merger of the Milwaukee-based Public Policy Forum and the Madison-based Wisconsin Taxpayers Alliance. Throughout their long histories, both organizations engaged in nonpartisan, independent research and civic education on fiscal and policy issues affecting state and local governments and school districts in Wisconsin. The Wisconsin Policy Forum is committed to those same activities and to that spirit of nonpartisanship.

PREFACE AND ACKNOWLEDGMENTS

This report was undertaken to provide Milwaukee County justice system leaders and state and local policymakers and citizens with a more comprehensive understanding of how the pandemic impacted key system metrics and the extent to which recovery had taken place as of the end of 2022. We hope our findings will be used to inform policy discussions in Milwaukee County and among state leaders in Madison.

Report authors would like to thank the Milwaukee Community Justice Council and its staff for helping to financially support this research and for being a key source of data and information. We also thank officials and staff from the Milwaukee County District Attorney's Office and Office of the Sheriff and from the Milwaukee Police Department for similarly providing data and patiently answering our questions. Finally, we thank the Milwaukee-based Argosy Foundation for its generous support of this research.



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TABLE OF CONTENTS

Introduction	3
Background	4
Key Policy and Procedure Changes Related to the Pandemic.....	5
Collins Settlement Impacted Police Practices in Milwaukee	6
Offense, Arrest, and Clearance Rate Trends.....	7
Part 1 offenses up slightly over last five years despite spike in 2021.....	8
Serious offenses declining in suburbs but still higher than pre-pandemic in Milwaukee.....	9
Despite a slight rise in offense numbers, countywide Part 1 arrests decline dramatically	10
Sharp fall in MPD Part 1 arrests drives countywide trend	11
Part 1 clearance rates drop during height of pandemic then rebound somewhat	12
MPD Part 1 clearance rates lag suburbs.....	14
Part 2 offenses escalate in Milwaukee	14
MPD's Part 2 arrests plummet despite rise in offenses.....	15
Sharp drop in arrests not linked to rise in citations.....	15
Summary	16
District Attorney Referrals, Charges, and Dispositions.....	17
DA referrals decline, mostly for misdemeanors.....	17
The rate at which arrestees are charged has fallen sharply since the pandemic.....	18
Case dismissals rise, guilty pleas fall during pandemic and its aftermath.....	19
Sentences drop sharply, particularly for less-serious offenses	20
Summary	21
Cases Filed in the Courts.....	22
Case filings and openings plunge at height of pandemic and have yet to fully recover	22
Cases taking longer to resolve	23
Felony case backlog an ongoing concern.....	24
Summary	25
Insights and conclusion	26
Sharp Decline in Milwaukee Arrests	27
Drop in District Attorney Charge Rates.....	29
Rise in Case Dismissals.....	31
Growing Felony Backlog in the Courts.....	32
Bottom Line: Further Investigation Needed	33



INTRODUCTION

Since the height of the COVID-19 pandemic, Milwaukee County – like many other communities across the United States – has seen a surge in homicides and, at least initially, in other types of violent crime. Overall rates of violent crime and other serious offenses (particularly car thefts) have leveled off recently, and property-related crime rates are considerably lower than they were before the turn of the century. Nevertheless, public safety continues to be one of the central issues on the minds of both policymakers and residents as recovery from the pandemic continues.

This top-of-mind status has turned the spotlight on the functioning of Milwaukee County’s justice system. Some have questioned whether certain justice system policy changes driven by the pandemic may have contributed to increased violent crime, while others have posited that societal factors – including the tenuous nature of the national and local economy and changes in social interactions since the pandemic – could have played a role in any elevated crime levels.

While the root causes of crime and violent crime have been debated for centuries, there can be little debate about the substantial stress created by the pandemic in all components of the county’s justice system. Several elements of that stress continue to linger to this day, and they have now been compounded by an historically tight labor market and other fiscal and economic factors that are affecting employee turnover and the speed with which positions can be filled.

In this report – commissioned by the Milwaukee-based Argosy Foundation and the Milwaukee Community Justice Council (CJC) – we seek to provide greater understanding of how the pandemic and subsequent challenges have impacted the workings of the justice system in Milwaukee County and its effective functioning.

We start by analyzing data regarding critical points of the justice system pipeline, from reported offenses to arrests, charges, and dispositions by the courts. In doing so, we explore how key data points changed during the height of the pandemic and the extent to which they have now rebounded to pre-pandemic levels. Based on that trend analysis and key informant interviews, we then provide insights on how systemic issues may be continuing to disrupt the flow of cases through the system.

Among the key questions we seek to address are the following:

- What parts of the pipeline have been impacted most by the pandemic and to what extent are they returning to a pre-pandemic “normal”?
- What are the impacts of systemic challenges and how pressing is the need to address them?
- Where should policymakers be prioritizing attention and resources to restore the “regular” functioning of the Milwaukee County justice system?

This initial research raises important questions about the impact of these disruptions, both on the rights of individuals such as offenders and victims, as well as on overall outcomes such as public safety and the cost of the justice system. However, this report on its own cannot provide a firm conclusion on whether there may be a causal link between systemic justice system challenges and crime rates. Still, by assessing the system’s current functioning, we are able to provide perspective on the nature and scope of those challenges and shed some insight into those that require the immediate attention of policymakers.



BACKGROUND

This report explores key points along the justice system “pipeline” and how it has been impacted by the pandemic. We start with reported offenses and continue with data points that reflect the flow of individuals through the system and how their cases are resolved. We compiled data on offenses, arrests, citations, referrals, charges, case dispositions, and other important junctures on the pipeline in Milwaukee County. Our focus here is primarily on the justice system for adults – and not juveniles – although some of the data we collected (e.g. for offenses) do not distinguish between the two.

These data came from a variety of sources, including (most prominently) the Medical College of Wisconsin (MCW) through its data partnership with the CJC. Much of the data collected and provided to us by MCW came from the Wisconsin Department of Justice, which in turn collected the data from municipal law enforcement agencies in Milwaukee County. We also collected data from the Milwaukee County Sheriff’s Office, the Milwaukee County District Attorney’s Office, the Milwaukee Municipal Court, and the Wisconsin Court System.

The data in this report should be read and understood within the context of the severity of the COVID-19 pandemic, which upended the Milwaukee County justice system in countless ways. Over the last three years, the Wisconsin Policy Forum has focused on a number of such areas, including the public sector [workforce](#), [mortality trends](#) – highlighting deaths from both [alcohol](#) and [motor vehicle crashes](#) - and [chronic absenteeism](#) from schools.

Indeed, the pandemic’s stunning impacts on public health and on the ability of justice system participants to conduct in-person business were not the only factors that disrupted the system’s pipeline. In addition, its lingering social and economic effects even after the public health emergency dissipated have created major hurdles.

For example, high levels of mental illness and substance use disorders remain, as evidenced by a continued rise in drug deaths in Milwaukee County (from 419 in 2019 to 544 in 2020, 644 in 2021, and 650 in 2022). It could certainly be argued that the general increase in societal challenges stemming from the pandemic touched every aspect of the justice system and continues to do so to this day, ranging from first responders facing higher call volumes to prosecutors struggling to locate victims and witnesses to judicial administrators trying to hire the staff they need to ensure the appropriate functioning of the courts.

In this report, we focus both on justice system impacts directly caused by the pandemic at its height, as well as on areas that have been and continue to be challenged by indirect impacts. We also highlight some notable trends that first began to emerge prior to the arrival of COVID-19 and that may or may not have been perpetuated by its ramifications.

REPORT TIMING

Data gathering for this report largely took place from January through April, 2023. Consequently, most of the data used in our analysis only runs through December 2022 and we are unable to cite or analyze any changes to trends observed through that date that occurred in the first seven months of 2023. We would note that new crime data released in late July by the Milwaukee Police Department – which we did not independently review prior to this report going to press – show that through the first six months of 2023, serious violent and property crimes in the city continued to decline (as was the case in 2022) and homicides also continued to decline but remained well above pre-pandemic levels.



Key Policy and Procedure Changes Related to the Pandemic

To understand how the justice system may have been permanently transformed by the pandemic, it is important to have some knowledge of the measures that were put in place by justice system leaders at both the state and local levels to address the initial public health emergency in March 2020 and continued public health challenges caused by new variants. Most of those changes were temporary, but some have initiated systemic adjustments that remain in place today. The following summarizes some of the key changes that occurred in the early days of the pandemic in 2020:

- Initial changes by justice system leaders on March 16 included a suspension of universal screening interviews¹ for individuals booked into the Milwaukee County Criminal Justice Facility (CJF – also known as the Milwaukee County Jail) and suspension of drug testing as a condition of bond for those on pretrial supervision; a shift to virtual proceedings for initial court appearances; and expansion of GPS monitoring as a substitute for detention for certain individuals.
- On March 21, the Wisconsin Department of Corrections implemented a hold on admissions to most state prisons and juvenile facilities in an effort to prevent the spread of COVID-19 among those populations.
- On March 22, jury trials and in-person proceedings were halted by an order from the state Supreme Court.
- On March 23 in Milwaukee County, 14 felony courts and seven misdemeanor courts were consolidated into three courts. On March 25, the CJF and the Milwaukee County Community Reintegration Center (CRC – formerly called the House of Correction) began an initial review of potential releases in order to ease person-to-person contact and transmission of the virus.
- The following week, the Supreme Court suspended statutory deadlines for non-criminal jury trials, thus paving the way for a vast expansion of backlogs of pending cases. Additionally, a significant procedural change was made to restrict bookings into the CJF for misdemeanor and nonviolent offenses, with some exceptions such as incidents involving domestic violence.

Other changes to the pretrial system in the weeks and months that followed included several efforts during the course of 2020 and again in March 2021 to reduce pretrial supervision caseloads by bringing individuals who met certain criteria down to a reduced level of attention instead of requiring formal supervision.

On January 6, 2022, as Omicron infections spiked, universal screening interviews (which had fully resumed in September 2021) were temporarily halted for about a month before being gradually phased in again in March 2022. In June 2022, Milwaukee County leaders used federal pandemic relief dollars from the American Rescue Plan Act (ARPA) to broaden the use of Global Positioning

¹ Pretrial risk assessment, or screening, is conducted on all individuals booked into the CJF who are subject to bail. The assessment provides stakeholders with information to further inform their bail decisions. The screening interview is voluntary and preliminarily identifies individuals who may be eligible for early intervention programming (e.g. diversion, deferred prosecution, or treatment court).



System (GPS) monitoring as an alternative to detention for some individuals during the pretrial phase of their court case and to expand pretrial supervision program capacities.

In the courts, jury trials began to be phased in again in July 2020 and the number of courts in operation expanded from three to seven at that time. Additional phases of in-person resumption for hearings and jury trials began in September 2020, May 2021, and September 2021. Between April and September 2021, the county's Out of Custody Court (OCCR) – which handles initial appearances for individuals who are not in law enforcement custody – conducted approximately 700 additional initial appearances that had been delayed, helping to alleviate the backlog. By mid-December 2022, intake court for defendants in custody had returned to in-person operations.

In addition to the use of county-appropriated ARPA dollars mentioned above, justice system leaders received notice in March 2022 that they would receive \$14.6 million in ARPA funding from the state's allocation to address the courts backlog. The funds were intended, among other things, to allow the courts – as well as the District Attorney and State Public Defender – to hire additional staff and open additional courts. Ultimately, state ARPA funds also were used to hire a Mental Health Treatment Court coordinator and to help provide for 24/7 GPS monitoring of pretrial individuals.

Collins Settlement Impacted Police Practices in Milwaukee

Several additional important environmental factors occurred prior to and during the pandemic that undoubtedly have impacted the functioning of the justice system in the period covered by this report. While we cannot address and analyze each of those, one may have sufficiently impacted some of the data trends covered in this report that it is worthy of brief summarization here.

In February 2017, a group of individuals sued the City of Milwaukee, its Fire and Police Commission (FPC), and the Milwaukee Police Department (MPD) Chief on the alleged grounds that MPD's policies and procedures related to stops and frisks lacked reasonable suspicion and were racially motivated, and thus were unconstitutional. In July 2018, a Settlement Agreement was reached. The settlement,² known as the Collins Agreement, required MPD and the FPC to make several changes related to stop and frisk policies, documentation, training and oversight, and public transparency.

These changes included amendments to several MPD Standard Operating Procedures (SOPs) to ensure enhanced documentation and justification in areas like citizen contacts, field interviews, searches and seizures, practices regarding video and audio equipment and body cameras, and inspections. MPD also agreed to rescind and replace its traffic enforcement policy and was prohibited from using data related to numbers of traffic stops, field interviews, frisks, and other encounters for performance evaluation purposes. The overall intention, as stated in the agreement, was to ensure that police encounters in Milwaukee “are supported by individualized, objective, and articulable reasonable suspicion.”

An independent consultant evaluates the progress made by the city, MPD, and the FPC on these items and publishes regular reports. Several components of the agreement have not yet been fully implemented, and the most recent progress report that is publicly available – a six-month update released in March 2023 – found that 13 items remained non-compliant and an additional three were “deemed unable to assess.”³

² <https://city.milwaukee.gov/fpc/Reports/Settlement-Agreement.htm>

³ <https://city.milwaukee.gov/ImageLibrary/Public/ImageLibrary/Photos/CJISix-MonthReportMarch2023.pdf>

OFFENSE, ARREST, AND CLEARANCE RATE TRENDS

In this section, we begin our examination of Milwaukee County's justice system pipeline by reviewing data on reported offenses, clearance rates, and arrests – the initial data points in the pipeline that involve law enforcement agencies. Our objective is to gauge how the incidence of reported crimes and the activity levels of law enforcement agencies changed from the period immediately preceding the pandemic to the height of the pandemic to its emerging aftermath. Consequently, we largely use data that spans the time frame of January 2018 to December 2022.

Our primary source is data collected for the CJC by its research partner, the Medical College of Wisconsin (MCW). MCW received the data from the Wisconsin Department of Justice (DOJ), which collected it directly from law enforcement agencies in Milwaukee County and shared it with MCW with the approval of the Milwaukee County Law Enforcement Association.

The data follow the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) program, which has standardized the way law enforcement agencies nationally report on crime since 1930 and which collects data from more than 18,000 agencies annually. Nearly all law enforcement agencies in Milwaukee County report data to the Wisconsin DOJ as part of the UCR program.

Here, we break down the UCR program data to explore both countywide trends and separate trends for MPD and 20 other agencies in the county that reported to DOJ per the UCR program in each year covered by this report.⁴ Our isolation of MPD reflects the prominent role it plays in countywide trends given that Milwaukee accounts for nearly 60% of the county's population and an even higher proportion of offenses. In light of MPD's much higher activity levels, it is understandable that many of the metrics cited in this section would show distinctions between MPD and the other agencies.

Within the UCR, crime is separated into two categories. Part 1 crimes, [according to the FBI](#), are “serious crimes” that “occur with regularity in all areas of the country” and “are likely to be reported to the police.” These crimes include criminal homicide (all murder and manslaughter cases), forcible rape, robbery, aggravated assault, burglary, larceny theft, motor vehicle theft, and human trafficking.

Part 2 crimes include all other offense types tracked by the UCR, including simple assault, forgery and counterfeiting, fraud and embezzlement, stolen property, vandalism, weapons, prostitution, sex offenses, drug violations, gambling, offenses against the family and children, driving under the influence, disorderly conduct, and others. While most law enforcement agencies collect arrest data on both Part 1 and Part 2 crimes, data on offenses are only reported publicly for Part 1 crimes.

In the pages that follow, we analyze trends on offenses and arrests across the 21 Milwaukee County law enforcement agencies, breaking them out into Part 1 and Part 2 crimes where possible. For Part 1 crimes, we also provide data on the percentages that have been resolved in some way, or cleared. Additionally, because the city of Milwaukee accounts for such a high proportion of countywide reported offenses and arrests, we include analysis of Part 2 offenses and arrests for MPD.

⁴ The 20 other agencies include one police department from each of the 18 additional Milwaukee County municipalities plus the Milwaukee County Sheriff and Marquette University Police Department.



Part 1 offenses up slightly over last five years despite spike in 2021

Our analysis of Part 1 offenses across all of the Milwaukee County agencies shows relatively steady numbers between the starting and ending points of our timeframe, but a noticeable spike in 2021 (see Table 1). From 2018 to 2020, Part 1 offenses totaled between 33,000 and 36,500 annually, before jumping to 44,795 in 2021 and subsequently declining back down to 37,822 in 2022.

Table 1: Part 1 Offenses in Milwaukee County, 2018-2022

	2018	2019	2020	2021	2022
Larceny Theft	16,459	16,534	16,029	16,575	14,790
Motor Vehicle Theft	5,265	4,028	5,343	14,114	10,872
Aggravated Assault	5,992	5,978	7,397	7,480	6,700
Burglary	5,094	4,387	4,174	3,467	2,650
Robbery	2,526	2,117	2,175	2,081	1,790
Rape	615	548	570	573	499
Arson	266	219	315	264	262
Murder & Non-Negligent Manslaughter	106	106	197	205	221
Human Trafficking*	0	54	31	14	25
Manslaughter by Negligence	7	15	34	22	13
TOTAL	36,330	33,986	36,265	44,795	37,822

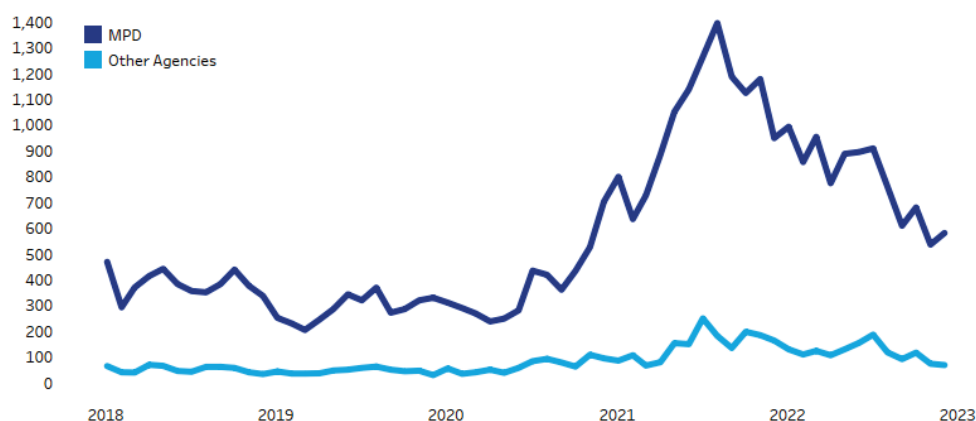
*Human Trafficking data was not collected in 2018.

Sources: WI Department of Justice, Uniform Crime Reporting Program, through the Medical College of Wisconsin

The 2021 spike appears to be driven by one type of serious crime: motor vehicle theft. After 4,000 to 5,500 motor vehicle thefts in each year from 2018 to 2020, there were 14,114 motor vehicle thefts in 2021, a nearly 300% increase. Notably, while total motor vehicle thefts in 2022 were still elevated (10,872), they decreased significantly from 2021. In fact, November (612) and December (652) 2022 saw the fewest such thefts of any month since November 2020 (see Figure 1).⁵

Figure 1: Motor Vehicle Thefts Spike, Start to Decline

Motor vehicle theft offenses by month, MPD vs. other Milwaukee County law enforcement agencies



Source: WI Department of Justice, Uniform Crime Reporting Program, through the Medical College of Wisconsin

⁵ A technical error resulted in the over-reporting of motor vehicle thefts for MPD, and the department is currently working with the Wisconsin DOJ to correct the numbers. MPD believes these corrections will show reported motor vehicle thefts in



While they do not account for a large proportion of Part 1 offense totals, **one additional important type of crime was up significantly – murder and non-negligent manslaughter**. In both 2018 and 2019, there were 106 offenses in this category; that almost doubled to 197 in 2020, then rose again in 2021 (205) and 2022 (221).

The only other Part 1 offense categories that remained higher in 2022 than in 2019 were arson (up 19.6%) and aggravated assault (up 12.1%), though both decreased relative to 2021. All other offense categories declined in 2022 when compared to 2019, including serious crime categories like burglary (-39.6%), larceny theft (-10.5%), and robbery (-15.4%).

Serious offenses declining in suburbs but still higher than pre-pandemic in Milwaukee

Across each of the past five years, MPD logged between 68% and 76% of all Part 1 offenses in the county. It is not surprising, therefore, that the trends discussed above also generally reflect Part 1 offense trends within the city of Milwaukee, though there were smaller but still substantial increases in the suburbs.

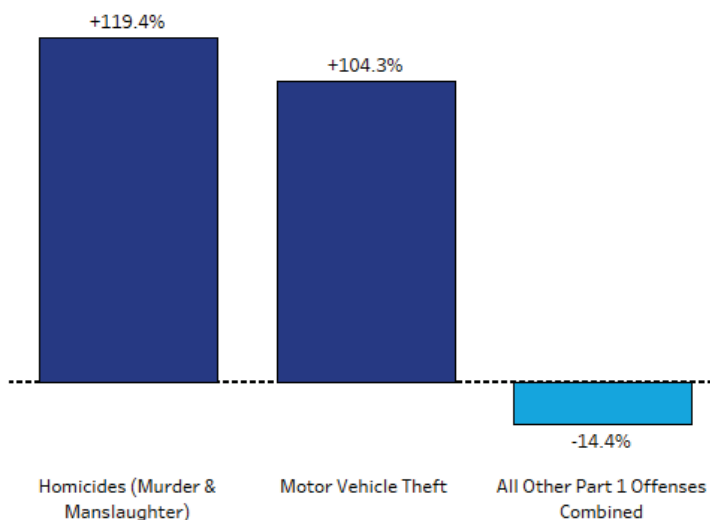
For example, motor vehicle thefts in the city spiked from 4,528 in 2020 to 12,344 in 2021 – an increase of nearly 173% – before declining to 9,447 in 2022. Motor vehicle thefts reported by non-MPD agencies rose 117% in 2021 to 1,770 and then also fell in 2022.

Murders rose in each of the last few years in the city of Milwaukee (from 100 in 2018 to 214 in 2022); and most other offense categories showed lower totals in 2022 than in 2019. Figure 2 shows the percentage changes from 2018 to 2022 in these categories. As in the countywide data, MPD counts fewer total Part 1 offenses in 2022 than in 2021, but more than in 2019. Murder and manslaughter figures from non-MPD agencies were much smaller. They rose from nine in 2019 to 11 in 2021 and then fell to seven in 2022.

When we look in greater detail at data from the 20 other law enforcement agencies in the county, we find divergent trends. In these agencies, Part 1 offense counts have been remarkably consistent over time

– in no year were there fewer than 9,300 offenses or more than 10,600 offenses. However, offense totals *peaked* in 2019, and have fallen in each year since, reaching a low of just 9,350 in 2022.

Figure 2: Homicides, Motor Vehicle Thefts Diverge in MPD
Change from 2018 to 2022 in number of offenses by type, Part 1 Offenses (MPD only)



Sources: WI Department of Justice, Uniform Crime Reporting Program, through the Medical College of Wisconsin

the city totaling 10,482 in 2021 instead of the 12,344 shown in the figure, and that totals for 2022 will fall from 9,447 to a corrected number of 8,100. However, these corrections would not materially alter the trends observed in the figure.



Relative to 2019, the only offense categories that showed increases for the non-MPD agencies in 2022 were motor vehicle thefts and robberies, which saw an 8.1% jump (from 197 to 213).

Despite a slight rise in offense numbers, countywide Part 1 arrests decline dramatically

While Part 1 offense data show serious crime generally staying flat over the last five years – with the exception of motor vehicle thefts – the same cannot be said for Part 1 arrests (see Figure 3). In both 2018 and 2019, the 21 Milwaukee County agencies made just over 8,000 arrests for Part 1 crimes. In 2020, Part 1 arrests declined to 6,598, with a huge drop occurring in the early months of the pandemic (see Figure 3). **Notably, arrest numbers have not rebounded since that time, dropping again to 5,518 in 2021 and rising only slightly to 5,942 in 2022 – 27.2% below 2018 levels.**

Figure 3: Part 1 Arrests Decline During Pandemic, Stay Flat Since 2021

Total Part 1 arrests in Milwaukee County by month, 2018 to 2022



Sources: WI Department of Justice, Uniform Crime Reporting Program, through the Medical College of Wisconsin

Four crimes constitute the vast majority of Part 1 arrests: aggravated assault, larceny theft, burglary, and robbery. In each year from 2018 to 2020, those crimes constituted more than 90% of all Part 1 arrests, while in 2022 they accounted for 85.7%. Similar to the overall Part 1 arrest trend, arrests for these four crimes dropped – from just under 7,500 in 2018 and 2019 to just over 5,000 in 2022.

Of these four categories, only aggravated assault (+11.8%) saw an uptick in offenses from 2018 to 2022; arrests for the same period for that category declined by 20.7%. The drop in burglary arrests (-46.0%) mirrors a similar drop in offenses (-48.0%). However, both larceny theft (-10.1%) and robbery (-29.1%) saw offense declines that were smaller than their arrest declines (-34.2% for larceny theft, -38.4% for robbery). The decline in larceny theft arrests is perhaps the most notable, as it made up a majority of all Part 1 arrests in three of the last five years (2018, 2019, 2022).

Arrests for rape have declined in each year since 2018, from 269 in that year to 194 in 2022. Both motor vehicle theft (+66.6%) and murder & non-negligent manslaughter (+47.8%) have seen



significant increases in arrests since 2018 that correspond with a concurrent rise in offenses. The other Part 1 arrest categories – arson, human trafficking, and manslaughter by negligence – generally result in very few arrests each year.

Sharp fall in MPD Part 1 arrests drives countywide trend

Looking at just MPD, we find that total Part 1 arrests fell at an even sharper rate than countywide, declining from 3,929 in 2018 to 2,483 in 2022 (36.8%). As shown in Table 2, even if we exclude motor vehicle thefts, which generally result in lower percentages of arrests than most other Part 1 crimes – we still see that arrests fell by a much higher percentage (43.6%) than offenses (13.8%).

Table 2: MPD Part 1 Arrests and Offenses by Year

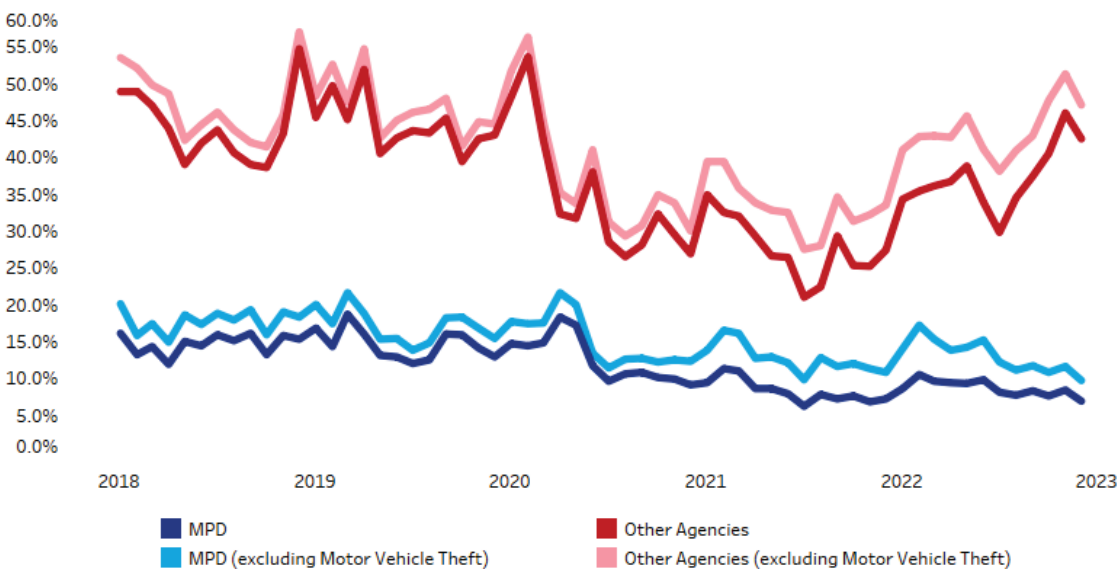
Year	Arrests	Arrests (excluding Motor Vehicle Theft)	Offenses	Offenses (excluding Motor Vehicle Theft)
2018	3,929	3,697	26,683	22,058
2019	3,371	3,270	23,435	19,965
2020	3,162	3,083	26,248	21,720
2021	2,823	2,656	34,880	22,536
2022	2,483	2,086	28,472	19,025

Sources: WI Department of Justice, Uniform Crime Reporting Program, through the Medical College of Wisconsin

Another distinction when comparing MPD Part 1 arrests to those of other agencies in the county is that while arrests as a share of offenses in the suburban agencies have recovered to near pre-pandemic levels, MPD's 2022 ratio of 8.7% was still well below the 14.4% ratio in 2019 (see Figure 4).

Figure 4: MPD Arrest Ratio Continues to Fall as Other Agencies Recover

Part 1 arrests as a share of Part 1 offenses by month, MPD vs. Other Milwaukee County agencies, 2018-2022



Sources: WI Department of Justice, Uniform Crime Reporting Program, through the Medical College of Wisconsin

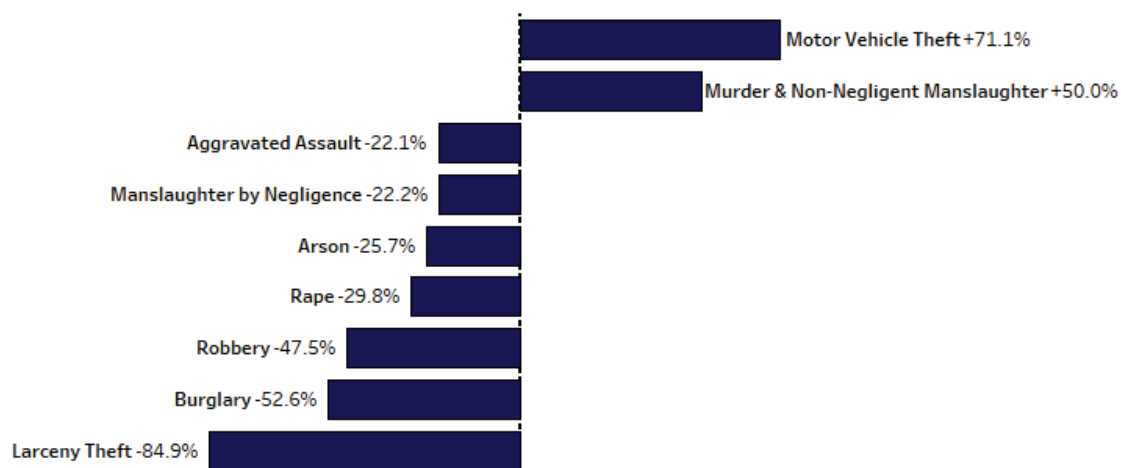
Further examination of MPD arrest data shows that the four predominant categories of Part 1 arrests (aggravated assault, larceny theft, burglary, and robbery) make up a large but declining proportion of Part 1 arrests, peaking at 88.2% of the total in 2019 and dropping to 72.8% of all Part 1 arrests in



2022. While aggravated assault (-22.1%), burglary (-52.6%), and robbery (-47.5%) have all seen significant declines in arrest totals since 2018, the drop in larceny theft arrests is particularly notable (see Figure 5). In 2018, MPD made 935 arrests for larceny theft. That dropped to 549 in 2019, before falling to 168 in 2020 and staying below 150 in each of the two most recent years. **The decline of 794 larceny theft arrests from 2018 to 2022 accounts for more than half of the total Part 1 arrest decline within MPD over those years.**

Figure 5: MPD Sees Declines for Nearly Every Arrest Category

% change in total Part 1 MPD arrests made by arrest category, 2022 vs. 2018



Source: WI Department of Justice, Uniform Crime Reporting Program, through the Medical College of Wisconsin

In the 20 non-MPD agencies, the four predominant arrest categories accounted for at least 94.3% of all Part 1 arrests in each of the last five years. Robbery arrests were slightly higher in 2022 (129) than in 2018 (127), while arrests for aggravated assault (-12.5%), burglary (-25.0%), and larceny theft (-20.9%) all fell. In the non-MPD agencies, larceny theft alone accounted for at least 77.1% of all Part 1 arrests each year; arrests in this category declined from a peak of 3,876 in 2019 to 2,836 in 2022, but have rebounded since 2021 (2,079).

Part 1 clearance rates drop during height of pandemic then rebound somewhat

Police department “clearances” refer to offenses that – after investigation – are “cleared” by virtue either of an arrest or, per the UCR program, by “exceptional means.” According to the U.S. Department of Justice, exceptional means refer to “elements beyond law enforcement’s control (that) prevent the agency from arresting and formally charging the individual.”⁶ It is important to note that a case can be cleared by one or multiple arrests. Clearance rates refer to the ratio of clearances to offenses in a given year, and we examined these rates to determine if they offered a clue into the deviation between Part I offense and arrest trends in Milwaukee County.⁷

⁶ See <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/clearances#:~:text=In%20the%20FBI's%20Uniform%20Crime,the%20offense%20for%20UCR%20purposes> for further explanation.

⁷ Clearance figures refer to cases cleared within a particular time period. These may or may not be the same cases as the offenses reported during that time period. In other words, the clearance rate represents an overall percentage of cases cleared in a given time period, but that may not correspond with the percentage of the cases reported during the same time period that were cleared.



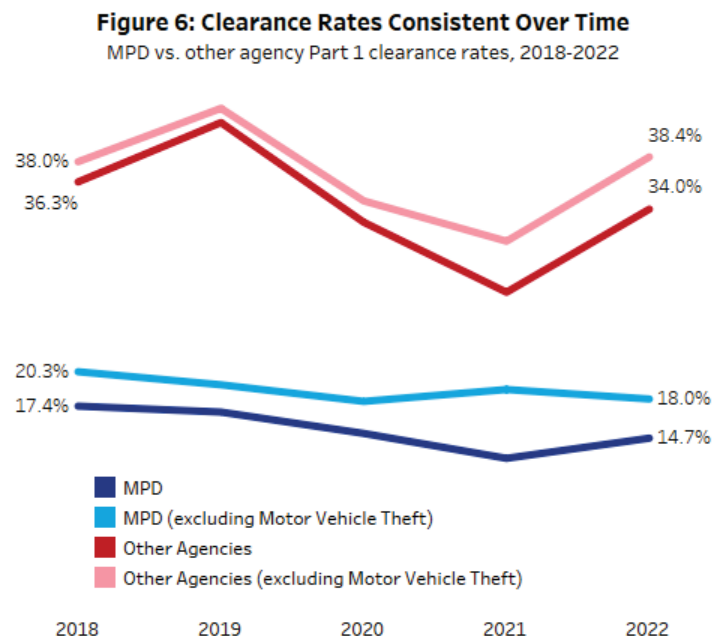
Across the entire county, overall clearance rates for Part 1 offenses have seen some variation over the past five years: **in total, 22.4% of all offenses were cleared in 2018 and 24.5% in 2019, but the percentages dropped to 20.0% in 2020 and again to 16.1% in 2021, before rising to 19.5% in 2022.** The lower numbers in both 2020 and 2021 may reflect at least in part the impact of the pandemic, as it stands to reason that police investigators would have had reduced access to witnesses and community members who may have had information about crimes that may lead to arrests.

While the reduced clearance rates are at least partially explained by the decline in arrests, the arrest decline is much sharper than the decline in clearance rates. One caveat is that we cannot determine what percentage of clearances resulted in an arrest – as opposed to a determination that there would not be an arrest – and whether the ratio of arrest versus non-arrest clearances changed over time.

It is also worth noting that while the 2020 drop in clearance rates did seem to play out across most offense types, lower clearance rates in 2021 and 2022 seem to be driven by the rise in motor vehicle thefts. Those offenses, in general, are cleared at a much lower rate than all other types of crime. If motor vehicle thefts are removed, then countywide Part 1 clearance rates for each of the five years of data are between 22% and 27%.

Over all five years and across every department for which data are available, three Part 1 offense types have shown clearance rates above 50%: human trafficking (61.3%), manslaughter by negligence (60.4%), and murder and non-negligent manslaughter (55.2%). However, many categories in which offenses routinely total over 1,000 each year have much lower clearance rates, including aggravated assault (41.3%), robbery (26.8%), larceny theft (19.4%), burglary (9.5%), and motor vehicle theft (5.1%).

Motor vehicle theft clearance rates are of particular note, as these have significantly contributed to the overall increase in Part 1 offenses in and around Milwaukee. **No single year since 2018 has seen a clearance rate above 10% for motor vehicle thefts; in 2021, just 429 out of 14,114 cases (3.0%) were cleared.** However, while the number of motor vehicle thefts decreased significantly from 2021 to 2022 (10,872), the number of cases cleared more than doubled (895), leading to a clearance rate of 8.2%, by far the highest of any year of data. Because this offense type has seen such a large increase within the last few years, this may be a sign that police departments have become better at apprehending individuals responsible.



Sources: WI Department of Justice, Uniform Crime Reporting Program, through the Medical College of Wisconsin

The only Part 1 offense categories that saw higher clearance rates in 2022 than in 2019 were burglary, motor vehicle theft, and robbery.

MPD Part 1 clearance rates lag suburbs

Figure 6 on the previous page breaks down clearance rates for MPD and the other 20 agencies. We see that the percentage point change over the five years for MPD largely is consistent with that of the other agencies, but MPD's clearance rates are much lower. Also, while overall clearance rates by MPD declined in 2020 as they did for the other agencies, those rates have not yet rebounded as sharply. As noted earlier, it would be expected that a large law enforcement agency like MPD would have lower clearance rates than smaller departments given the much higher volume of offenses.

Across all five years of data, 15.2% of all offenses were cleared by MPD, and 18.8% when not including motor vehicle thefts. Notably, **the rates of clearance for burglary, larceny theft, and motor vehicle theft – which combined accounted for a majority of Part 1 offenses in 2022 – were all below 10% across the five years of data.** Clearance rates for murder and non-negligent manslaughter were 67.0% in 2018 and 64.9% in 2019, but with a rise in murders dropped to 54.2% in 2020 and 45.9% in 2021, before rebounding somewhat to 50.5% in 2022.

Part 2 offenses escalate in Milwaukee

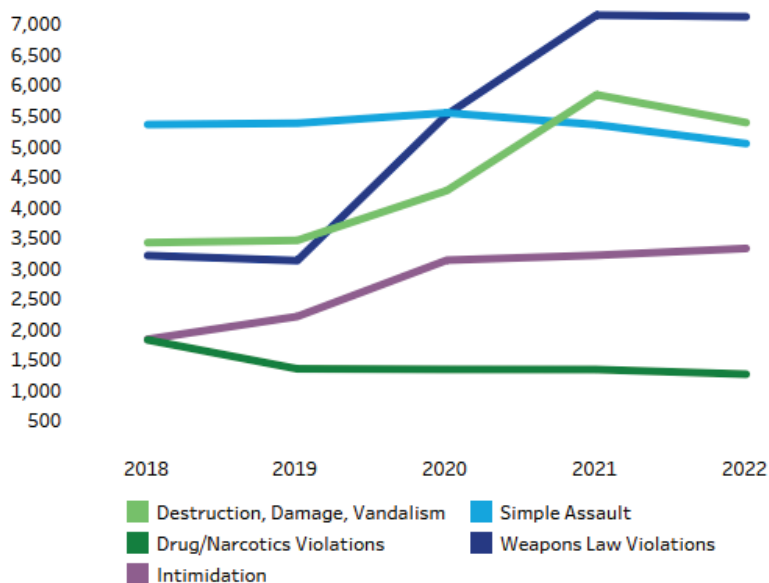
We were not able to analyze data for less-serious Part 2 crimes for each of the 21 Milwaukee County law enforcement agencies, as not all were reporting Part 2 offenses in the same manner in every year of the five-year period.

However, we received data directly from MPD that allowed us to explore Part 2 offense and arrest trends for that agency, which accounts for by far the largest number of both Part 2 offenses and arrests in the county.⁸

The MPD data show that Part 2 offenses increased by 26.4% from 2018 to 2022 (from 19,074 to 24,106). **The increase was particularly sharp in 2021, when the number of Part 2 offenses escalated from the previous year's 21,978 to 25,188, before declining by about 1,100 in 2022.**

The largest categories of Part 2 offenses in Milwaukee are

Figure 7: Weapons Violations, Destruction on the Rise
Selected MPD Part 2 Offenses by Year, 2018-2022



Source: Milwaukee Police Department

⁸ Offense and arrest data we received directly from MPD contained some modest variations from the same categories of MPD data we received from MCW. We were unable to resolve those variations, but we do not consider them to be material to our analysis.



weapons law violations (7,125 in 2022), destruction/damage/ vandalism (5,390), simple assaults (5,046), intimidation (3,327), and drug and narcotics violations (1,266). Together, those five categories accounted for 92% of Part 2 offenses in the city last year. Notably, as shown in Figure 7 on the previous page, substantial increases from 2018 to 2022 in weapons violations (+122%), intimidation (+81%), and destruction/damage/vandalism (+57%) accounted for much of the overall increase. Simple assaults declined by 6% over the same time period, while drug and narcotics violations dropped by 31%.

MPD's Part 2 arrests plummet despite rise in offenses

One of our most striking findings in this report is the **sharp (-61.0%) decline in Part 2 arrests in the city of Milwaukee from 2018 to 2022, despite the 26.4% increase in Part 2 offenses**. In fact, every Part 2 arrest category was lower in 2022 than it was in 2018, including 13 categories that saw declines of at least 50%. The decline in Part 2 arrests in Milwaukee – from 15,142 in 2018 to 5,901 in 2022 – also greatly exceeded the notable 36.8% decrease in Part 1 arrests.

In many cases, it appears that MPD either stopped entirely or significantly slowed down arrest operations for less-serious offenses. For example:

- There were 235 arrests for vagrancy violations in 2018, but just 14 over the last three years.
- There were 155 arrests for liquor law violations in 2018, compared to just one since the start of 2020.
- MPD made nearly 2,300 arrests for disorderly conduct in 2018, but that dropped to 872 in 2019 and has not gone above 301 since.

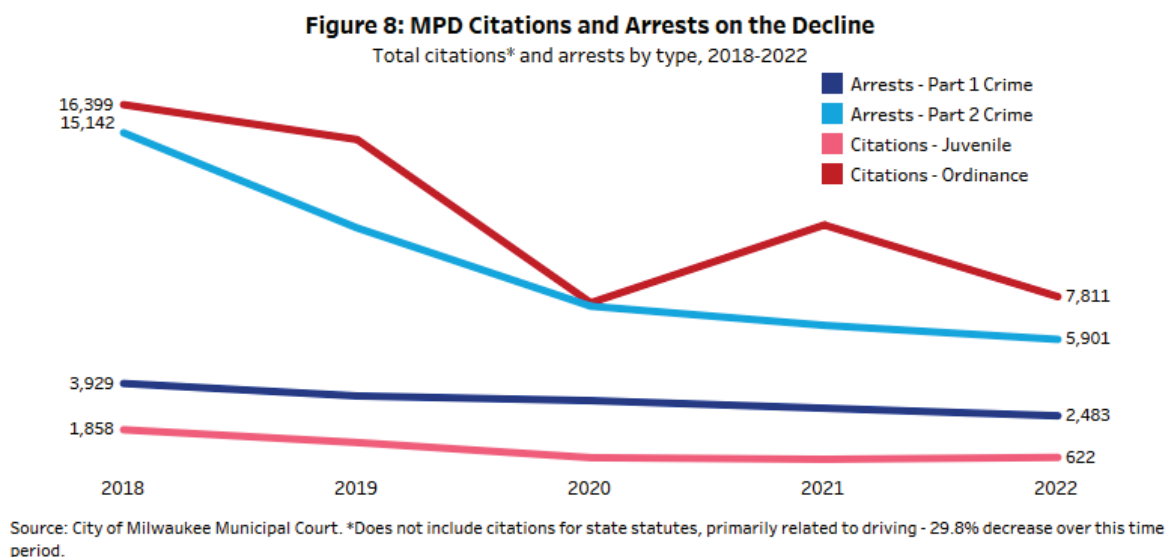
For other Part 2 categories, the decline in MPD arrests has been more gradual, but still quite large. For example, in 2018, MPD made 3,428 arrests for simple assault – in most years, the largest Part 2 arrest category - but that has declined each year and in 2022 stood at 2,292 arrests (-33.1%). Weapons arrests, which totaled over 1,100 in 2018, stood at 516 in 2022 (-53.1%). In many cases, declines are not fully attributable to the pandemic, as the largest occurred from 2018 to 2019; indeed, MPD's percentage decline in Part 2 arrests from 2018 to 2019 (-28.1%) was almost identical to the decline from 2019 to 2020 (-32.1%).

Sharp drop in arrests not linked to rise in citations

We theorized that, particularly for Part 2 offenses, the striking decline in arrests might be linked to various pandemic-related factors that resulted in the issuance of greater numbers of citations instead. For example, particularly for less-serious crimes, it would be reasonable to ask whether, for public health reasons, MPD was citing individuals rather than arresting them to avoid bringing them to crowded district stations.

We found, however, that this was not the case. As shown in Figure 8 on the next page, data we collected from the Milwaukee Municipal Court show that MPD citations related to ordinance

violations and juvenile infractions also declined sharply during the five-year period.⁹ (We did not consider traffic citations, which are defined in the data as state statute-related citations and constitute a vast majority of the municipal citations issued by MPD, given that they are not directly related to arrests in the same way as juvenile and ordinance citations.)



Summary

The analysis in this section shows that while the reported incidence of both serious and less-serious crimes in Milwaukee County increased modestly from 2018 to 2022, arrests plummeted. This was particularly the case in the city of Milwaukee, where arrests for Part 1 and Part 2 crimes decreased by 36.8% and 61.0% respectively. Also, while some decrease in arrests would have been expected during the height of the pandemic in 2020 and 2021 in light of reduced police interaction with potential witnesses and informants, arrests in both categories in Milwaukee continued to fall in 2022.

⁹ A recent audit of citations conducted by the Milwaukee Comptroller found that 525 ordinance citations were not properly transmitted to the Municipal Court between January 2020 and April 2021. Those missing citations are not included in the data used for the figure but do not have a significant impact on the general trend.

DISTRICT ATTORNEY REFERRALS, CHARGES, AND DISPOSITIONS

Our next area of analysis of the Milwaukee County justice system pipeline centers around the activities of the Milwaukee County District Attorney's (DA) office, which becomes the prominent justice system player after an arrest is made. In this section, we review several sources of data that we were able to access from the Milwaukee County DA's website. These data sources allowed us to extend our trend analysis from 2015 to 2022, as opposed to the 2018 to 2022 timeframe used in the previous section.

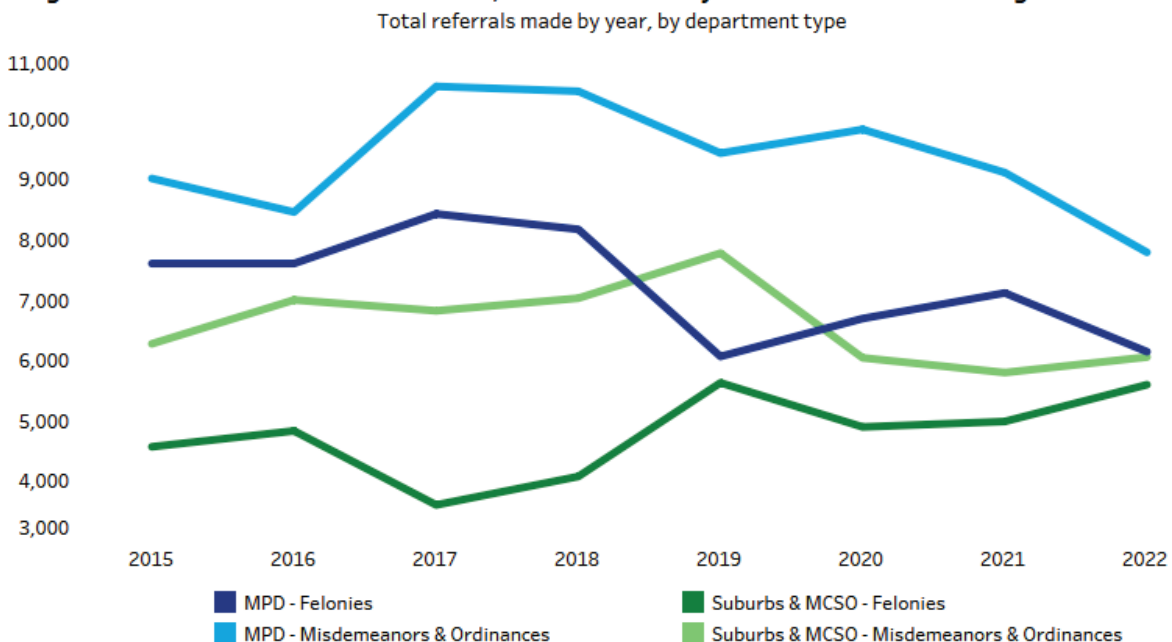
DA referrals decline, mostly for misdemeanors

Individuals are referred to the Milwaukee County DA's Office for review when an alleged crime is deemed appropriate for potential charges. Overall, referrals appear not to have been impacted immediately by the pandemic in a significant way, as more individuals were referred in 2020 (27,509) than in 2015 (27,493). Still, **overall numbers are down from a peak in 2018 (29,786), and have now dropped in four consecutive years, reaching a low of 25,642 by 2022 (-13.9% from 2018).**

The DA's referral data are broken down between felonies and misdemeanors. This breakdown shows that after peaking in 2017 at 15,537, referrals from all Milwaukee County law enforcement agencies for misdemeanors dropped in each of the next five years. Felony referrals stayed consistent, never going above 12,500 or below 11,500.

While non-MPD agencies made fewer referrals in 2020 (10,963) and 2021 (10,823) than in 2019 (13,432), their 2022 numbers grew to 11,676. However, as shown in Figure 9, **MPD referrals in 2022 dropped to their lowest level in the available data (13,966).**

Figure 9: MPD Referrals Continue to Fall, Suburbs & County Sheriff Referrals Show Signs of Recovery



Source: Milwaukee County District Attorney's Office



For the 2015 to 2022 timeframe, referrals from MPD for both felonies and misdemeanors were at their highest points in 2017 and 2018 – years in which the department referred more than 8,000 felonies and 10,000 misdemeanors. While both types of referrals were not noticeably impacted by the pandemic – there was no drop whatsoever from early 2020 to the rest of the year – felony referrals in 2022 (6,148) were lower than in all prior years in the data except 2019 (6,069), and misdemeanor referrals (7,787) were significantly lower than in any year during this period. These trends, as would have been expected, correspond with the sharp declines in MPD arrests discussed in the previous section.

Referrals from non-MPD agencies show trends that are less clear. There were nearly as many felony referrals in 2022 (5,601) as there were in peak year 2019 (5,633), but misdemeanor referrals in both 2021 (4,178) and 2022 (4,237) remained far below a 2019 peak of 5,752.

The rate at which arrestees are charged has fallen sharply since the pandemic

After receiving a referral, the DA's office can decide whether or not to file charges on a specific case. Not all referrals result in charges, as certain cases may not have sufficient evidence to justify a charge, some individuals are diverted into substance use disorder or other treatment programs, or other factors may come into play that lead to a decision not to prosecute.

Total charges for cases referred from all Milwaukee County law enforcement agencies peaked in 2018, at 14,916 charges issued. That represented at least the fourth straight year of increases. Charges dropped slightly to 14,507 in 2019 and then fell significantly in 2020 to 11,855. They have dropped in both years since, to 11,357 in 2021 and 10,593 in 2022.

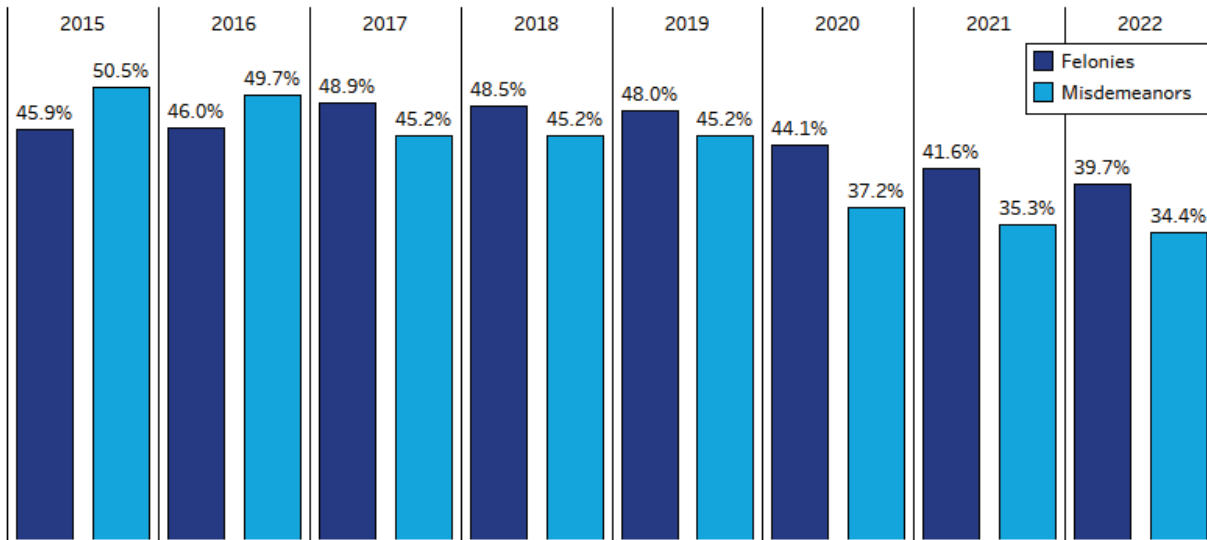
The decline in charges partially reflects the drop in referrals noted above, which in turn reflects the decline in arrests discussed in the previous section. However, **charge rates – defined as the percentage of referrals that result in a charge – also dropped.** For both felonies and misdemeanors, in each year between 2015 and 2019, the charge rate was above 45%. Since 2020, there has yet to be a year in which the misdemeanor charge rate has been above 37.2%, and it fell to a low of 34.4% in 2022. Felony charge rates also have seen a drop-off, from a peak of 48.9% in 2017 to 44.1% in 2020, 41.6% in 2021, and a low of 39.7% in 2022 (see Figure 10 on the next page).

When looking solely at cases referred from MPD, both felony and misdemeanor charge numbers have fallen off significantly, which is not surprising given the sharp decline in MPD arrests (the data do not allow us to break out MPD and non-MPD charge rates). In 2022, the DA issued 2,127 felony charges and 1,938 misdemeanor charges related to MPD referrals. Those charge numbers were 18.4% lower for felonies and 40.8% lower for misdemeanors than in 2019.

For charges related to referrals from all non-MPD agencies, misdemeanor charges show a similar trend. The DA issued 2,198 misdemeanor charges for cases referred from those agencies in 2022, a decline of 38.7% from 2019. However, felony charges have trended dissimilarly with regard to cases referred from the 20 non-MPD agencies relative to MPD: while 2022 felony charges (2,534) were below 2019 numbers (3,014), they were higher than total charges in 2020, 2021, and each year of data available prior to 2019. Also, there were fewer felony charges from cases referred by the non-MPD departments in 2020 and 2021 than in 2019, but numbers since the pandemic were still above levels from 2015 to 2018.

Figure 10: Charge Rates Continue to Decline

Felony and misdemeanor charge rates in Milwaukee County by year, 2015-2022



Source: Milwaukee County District Attorney's Office

Case dismissals rise, guilty pleas fall during pandemic and its aftermath

While obviously not completely in the hands of prosecutors, the Milwaukee County DA's office also tracks how the cases of those they charge are resolved. The number of cases that have been resolved in court dropped significantly during the pandemic, and have not yet rebounded to pre-pandemic levels. In each year from 2015 to 2019, at least 11,740 cases were resolved each year, and in no month were fewer than 700 cases resolved. Given the disruption that occurred early in the pandemic, **it is not surprising that monthly case resolutions fell to just 99 in April 2020, but they did not get back above 700 in a month until March 2021.**

Still, in each year since the start of the pandemic, the number of resolved cases has grown. In fact, in 2022, only 12.6% fewer cases were resolved than in 2019 (as compared to 30.0% fewer cases in 2021 and 49.7% fewer cases in 2020).

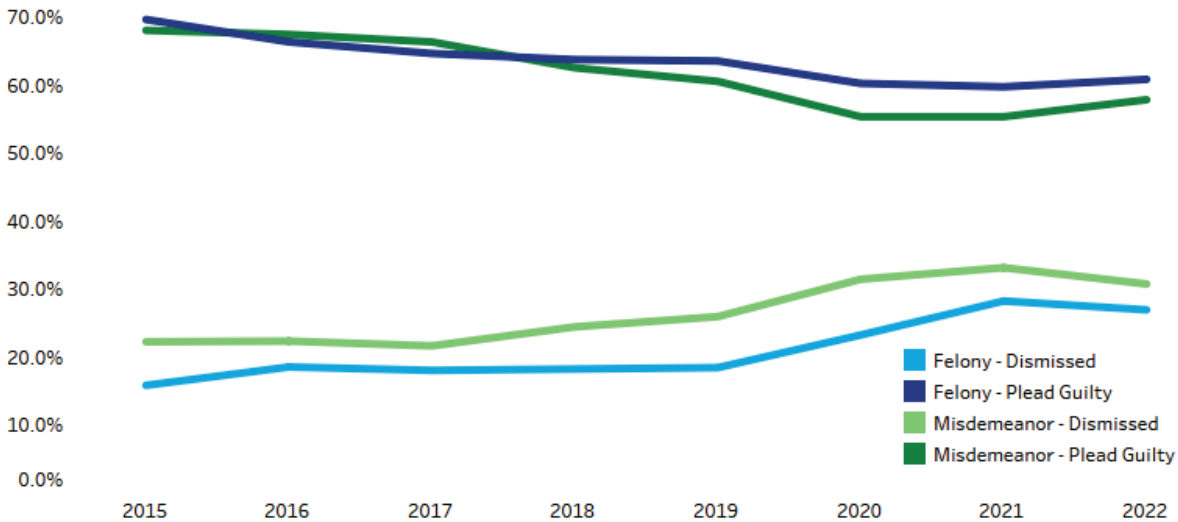
We were curious to see whether case dismissals¹⁰ may have increased in the wake of the pandemic, perhaps as a result of backlogs in the court system. We found, interestingly, that **the proportion of misdemeanor cases that ended with a dismissal was rising noticeably prior to the pandemic and then continued to increase, from 21.7% in 2017 to 33.2% in 2021** (see Figure 11 on the next page). Dismissals then fell slightly to 30.8% of resolved cases in 2022. It is also important to note that while misdemeanor dismissal rates were high at the very beginning of the pandemic – above 41% in April, May, and June 2020 – they returned to pre-pandemic levels quickly.

Meanwhile, after staying consistently between 18% and 19% in each year from 2016 to 2019, **dismissals for felony cases jumped significantly** – to 23.3% in 2020 and again to 28.3% in 2021, then fell slightly to 27.0% in 2022.

¹⁰ Courts may dismiss cases for a variety of reasons, including as a response to a defendant's motion to dismiss and a determination by a plaintiff not to pursue the case (often because of an out-of-court settlement).

Figure 11: Pandemic Brings More Dismissals, Fewer Guilty Pleas

Major disposition type rates by year, by charge, 2015-2022



Source: Milwaukee County District Attorney's Office

For both misdemeanors and felonies, higher percentages of dismissals intuitively correspond with lower percentages of guilty pleas. From 2015 to 2019, the percentage of felony cases that ended with a guilty plea declined from 69.7% to 63.6%, before dropping further to 60.3% in 2020 and 59.8% in 2021. In 2022, for the first year in the available data, they increased (to 60.9%).

Sentences drop sharply, particularly for less-serious offenses

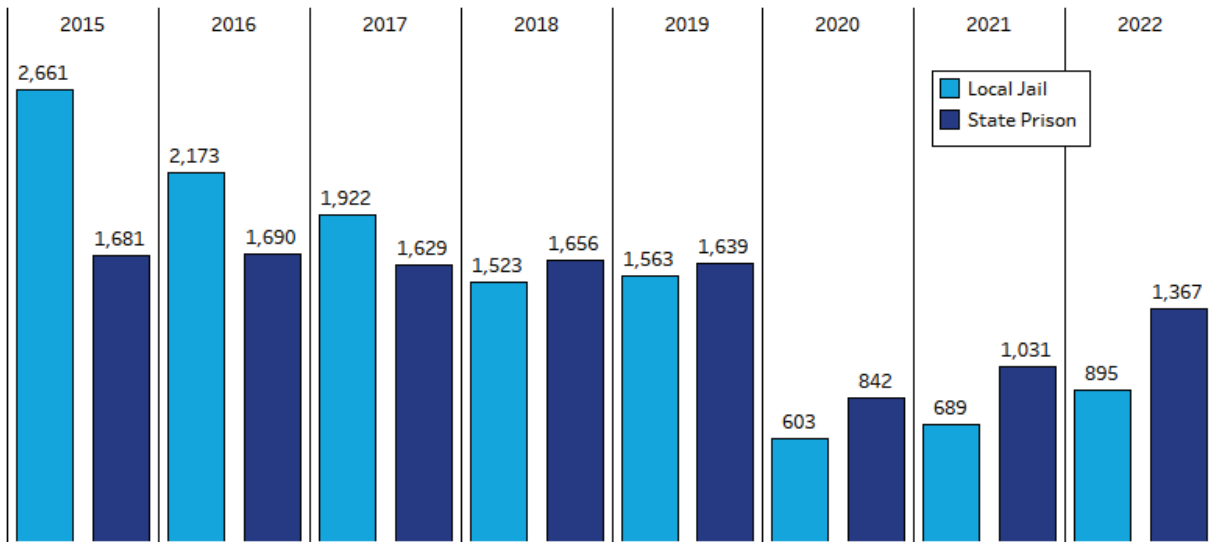
The DA's office also tracks sentences monthly and annually, both in terms of totals and how many of those convicted go to either local jails or a state prison. Total sentences had fallen significantly prior to the pandemic, from 4,342 in 2015 to 3,202 in 2019 (-26.3%). In 2020, they plummeted further, with only 1,445 sentences handed out, a decline of 54.9% from the prior year. Total sentences increased in both 2021 (1,720) and 2022 (2,262), but have yet to return to pre-pandemic levels.

Those who are sentenced to state prisons usually have been convicted of more serious crimes with sentences generally exceeding one year. State prison sentences were consistent from 2015 to 2019, never going below 1,600 or above 1,700. However, they fell from 1,639 in 2019 to just 842 in 2020 (-48.6%), before rising to 1,031 in 2021 and 1,367 in 2022. **Local jail sentences fell from 2,661 in 2015 to 1,563 in 2019, but then dropped by more than 60% to just 603 in 2020; the 2022 total was 895, still well below pre-pandemic numbers** (see Figure 12 on the next page).

This phenomenon appears to be strongly related to the fact that nearly every misdemeanor that ends with a custodial sentence results in an individual being sent to a local jail, and misdemeanor sentencing has remained far below pre-pandemic levels since March 2020. Misdemeanor jail sentences had already fallen from 2,121 in 2015 to 1,137 in 2019, but then they dropped to just 392 in 2020 before rebounding modestly to 462 in 2021 and 631 in 2022. Felony jail sentences have also remained below pre-pandemic levels, dropping by more than half from 2019 (426) to 2020 (211), and remaining below 300 in both years since. However, while felony prison sentences also saw a nearly 50% decline from 2019 (1,620) to 2020 (832), they rose to 1,362 in 2022, just 15.9% below 2019 numbers.

Figure 12: Sentencing Dropped During Pandemic, Recovered After

Total sentences by destination, 2015-2022



Source: Milwaukee County District Attorney's Office

Summary

Based on our arrest findings in the previous section, it is not surprising that the number of DA referrals has declined dramatically during the past five years. However, we also find some notable DA-related trends that are not necessarily related to the decline in arrests and that have continued as the pandemic has waned, including lower charge rates, higher numbers of case dismissals, and fewer individuals sentenced, particularly for misdemeanors.

CASES FILED IN THE COURTS

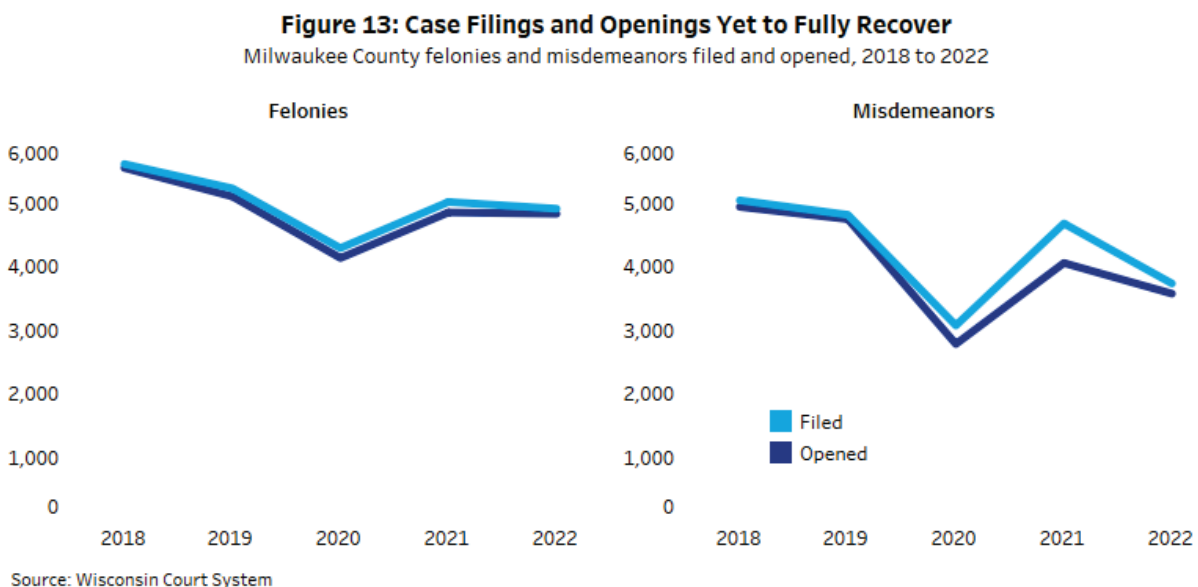
Our final area of data gathering and analysis involves the Milwaukee County Circuit Court. Criminal complaints filed by the District Attorney's office are addressed by the courts, which generally open a case file that moves through the judicial process until it is disposed of in some fashion (either closed or dismissed). In this section, using data obtained from the Wisconsin Court System, we track case filings, case openings, and case dispositions from 2018 through 2022. This allows us to paint a picture of the backlog that emerged during the height of the pandemic and the state of recovery as the impacts of the pandemic have subsided.

Case filings and openings plunge at height of pandemic and have yet to fully recover

Case filings reflect all criminal complaints submitted by the district attorney to the Circuit Court. Sometimes – but not often – cases may be dismissed prior to being opened. The data we obtained were broken out by criminal traffic, felony, and misdemeanor cases; here, we focus on misdemeanor and felony cases to be consistent with previous sections.

In general, the data show that total case filings were down significantly in 2020 – more than 12,300 cases were filed in both 2018 and 2019 before a decline to just 8,447 in 2020. While case filings rose in 2021 to 11,314, they again dropped to 9,484 in 2022.

Felony case filings have recovered the most of any individual category, as shown in Figure 13 – the 4,907 felony cases filed in 2022 were just 6.1% below the 5,226 filed in 2019, and 14.4% above the number filed in 2020. Misdemeanor filings fell from 2019 to 2020, rebounded in 2021, but dropped again in 2022 to 22.4% below 2019 levels. More than three-fifths of all months from January 2018 to February 2020 saw at least 400 misdemeanor cases filed; since the beginning of the pandemic, however, there have been just three months in which at least that many cases were filed. For both felonies and misdemeanors, the drop in case filings in 2022 appears to be linked, at least in part, to the far fewer numbers of arrests and charges discussed in earlier sections.



Once a case is filed, it is considered opened when it is accepted in circuit court; for criminal cases, this is considered to be the moment at which an initial appearance is held. In general, case openings in Milwaukee County's court system track filings very closely, with felony case openings in 2022 just 5.3% below 2019 levels and misdemeanor openings down by a larger 24.7%. In both 2018 and 2019, at least 12,000 cases were opened; that dropped to 7,794 in 2020, recovered to 10,287 in 2021, and fell again in 2022 to 9,257.

Cases taking longer to resolve

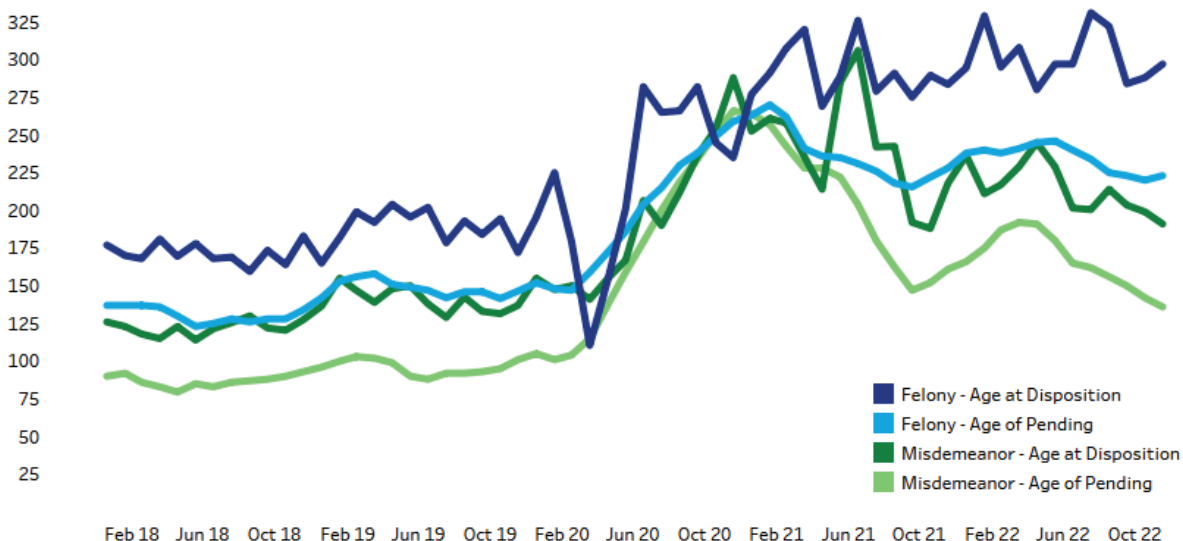
Opened cases are eventually closed, or disposed of, when the court reaches a decision or enters a judgment (the Wisconsin Court System notes that a case may be disposed of more than once if it is reopened at any point). Disposition data are key to gauging case backlogs in the courts, as backlogs are created when dispositions plunge (as they did during the height of the pandemic) while the number of cases filed and opened remains largely consistent.

Wisconsin Court System data show a nuanced trend in this regard. Felony dispositions fell from 5,105 in 2019 to 3,029 in 2020 (40.7%), before recovering by 2022 to 4,966 cases, just 2.7% below 2019 levels. Similarly, misdemeanor case dispositions dropped 51.2% (to 2,356) in 2020 before recovering by 2022 to 4,767 cases, or 1.3% below the 2019 level.

When we look at the median age of pending cases, however, we see that the time needed to process cases increased significantly during the pandemic and has not fully recovered (see Figure 14). In mid-2018, the median age of pending felony cases reached a low of 123 days in June and the median age of misdemeanor cases reached a low of 79.5 days in May. However, both began to increase significantly at the onset of the pandemic.

Figure 14: Misdemeanor Backlog Starting to Resolve While Felony Backlog Remains

Median age of pending and disposed cases by month, January 2018 to December 2022



Source: Wisconsin Court System

By December 2020, the median age of pending misdemeanor cases had peaked, more than tripling to 266 days; while by February 2021, the median age of pending felony cases had done the same,



more than doubling to 270 days. Since that time, both have fallen but remain significantly above their pre-pandemic lows: in December 2022, at 218 days, the median age of pending felony cases was 77.2% above the pre-pandemic low, and the median age of pending misdemeanor cases was similarly 76.1% above its low point. **These data indicate that while disposition numbers are now close to pre-pandemic levels, the two years in which the pandemic reduced the number of dispositions has caused cases to linger far longer than prior to the pandemic.**

Another metric that sheds light on that point is the average amount of time it takes to dispose of a case (this differs from the age of pending cases in that it measures disposition time from start to finish as opposed to average time of cases pending at a specific point in time). The median age of a misdemeanor case at disposition ranged from about 120 to 150 days prior to the pandemic but started rising significantly at the pandemic's height, hitting a peak of 306 days in July 2021. As of December 2022, that number had fallen back to 186 days, however.

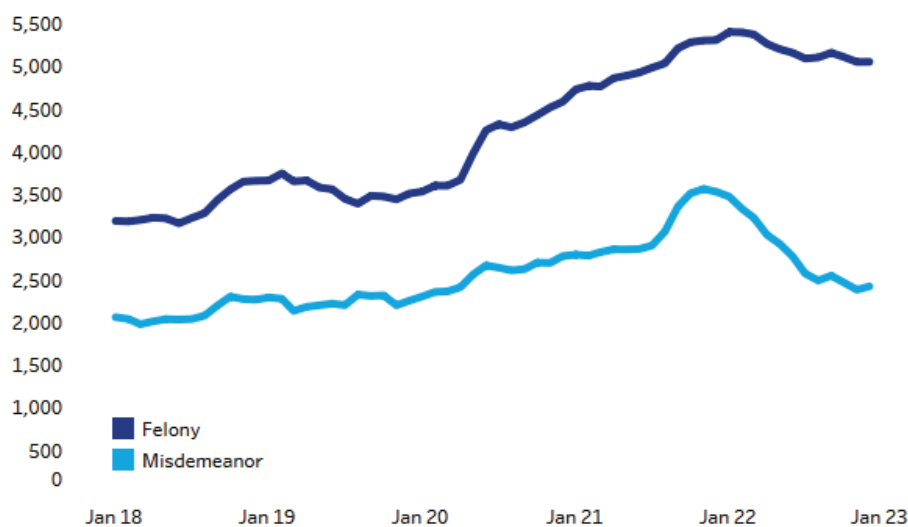
Felony cases tell a different story. The median age of a felony case at disposition from January 2018 until the beginning of the pandemic generally ranged from 150 to 200 days. As with misdemeanor cases, the median age began rising in early 2020, but it did not peak until August 2022 when it hit 331 days, and it has been above 250 days in every month since the start of 2021. In fact, **the median age of a disposed felony case in December 2022 (289 days) was higher than in any month from the start of 2018 until February 2021.**

Felony case backlog an ongoing concern

A sense of any “backlog” in cases pending before the courts is provided by reviewing data on the change in number of pending cases¹¹ by month (see Figure 15). Prior to the pandemic, 1,900 to 2,400 misdemeanor cases were pending in any given month; that rose to a peak of 3,566 by November 2021. Since that time, the misdemeanor pending caseload has returned to pre-pandemic levels, as the number of pending misdemeanor cases in December 2022 (2,424) was very similar to the number of cases when the pandemic commenced.

Here, felony cases again tell a different story. The number of pending felony cases generally ranged from 3,100 to 3,800 in 2018 and 2019 and then rose slowly for nearly two years starting at the beginning of the pandemic, peaking at 5,405 in January 2022. Since that time, they have started to

Figure 15: Felony Cases Continue to Pend as Backlog Slowly Diminishes
Active pending felony and misdemeanor cases in Milwaukee County, 2018-2022



Source: Wisconsin Court System

¹¹ Per the Wisconsin Court System, a case is pending if it is in “open” status for any amount of time.



drop, but the 5,056 pending cases in December 2022 were just 6.5% lower than the pending case peak and 59.8% higher than the pre-pandemic low of 3,163 cases.

Summary

Amid the disruption caused by the pandemic, the number of cases filed, opened, and disposed of plummeted in 2020. There has been considerable recovery since that time, but the reduced number of dispositions in 2020 and 2021 has led to much lengthier case processing times and a sizable increase in pending felony cases that had yet to be meaningfully reduced as of the end of last year. As we will discuss in the next section, this formidable backlog and lengthier case processing times raise concerning questions for the justice system as a whole.

INSIGHTS AND CONCLUSION

In the preceding pages, we highlighted important trends that show how the pandemic disrupted several key points along Milwaukee County's justice system "pipeline" and the extent to which those impacts have dissipated as the public health emergency has faded. Overall, there are several areas in which the system is returning to a pre-pandemic "normal," but there are also a handful of findings that should prompt further discussion and analysis by justice system leaders and policymakers, including the following:

- 1) Arrests in the city of Milwaukee began to plummet even before the pandemic and have continued their descent since that time. In 2022, arrests were 36.8% lower for Part 1 crimes and 61.0% lower for Part 2 crimes in the city than in 2018.
- 2) While it is logical that the drop in arrests in Milwaukee would have resulted in fewer charges being filed by the DA's office countywide, charge *rates* also have been declining. Only 34.4% of misdemeanor cases referred to the DA resulted in charges in 2022 (down from 45.2% in 2017) and only 39.7% of felony cases resulted in charges (down from 48.9% five years earlier).
- 3) The percentage of cases dismissed by the courts began rising prior to the pandemic and escalated in 2020 and 2021 before falling slightly last year. Still, the percentage of misdemeanor cases dismissed was 10.1 percentage points higher in 2022 than in 2017 (30.8% vs. 21.7%) and the percentage of felony cases dismissed was 8.9 percentage points higher (27.0% vs. 18.1%).
- 4) Sizable backlogs in cases pending before the courts understandably emerged during the peak months of the pandemic and have now largely been erased for misdemeanors. However, the felony backlog had budged only slightly by the end of 2022 despite decreases in felony arrests and charges and increases in felony dismissals. In fact, the 5,056 felony cases pending in December 2022 were 59.8% higher than the 2018 monthly low of 3,163 cases.

It is appropriate to now consider why each of these changes in the functioning of the justice system has occurred and whether new or expanded strategies – and perhaps the allocation of additional resources – are required to address them. It is possible that the trends we have observed either will not be perceived as problematic by justice system leaders or already are on course to being reversed. Conversely, those leaders as well as other state and local policymakers may see a need for new interventions or policy changes to address any negative impacts to public safety or the rights of victims or alleged offenders.

Unfortunately, we do not possess the data and have not conducted sufficient analysis to fully assess the causes of these trends or their impacts, but we conducted several interviews with justice system leaders in an effort to posit some hypotheses on what environmental factors may be contributing to them and to seek greater clarity on the connections between them. It is important to emphasize that these are only hypotheses and that additional research and data-gathering would need to take place to identify causality.

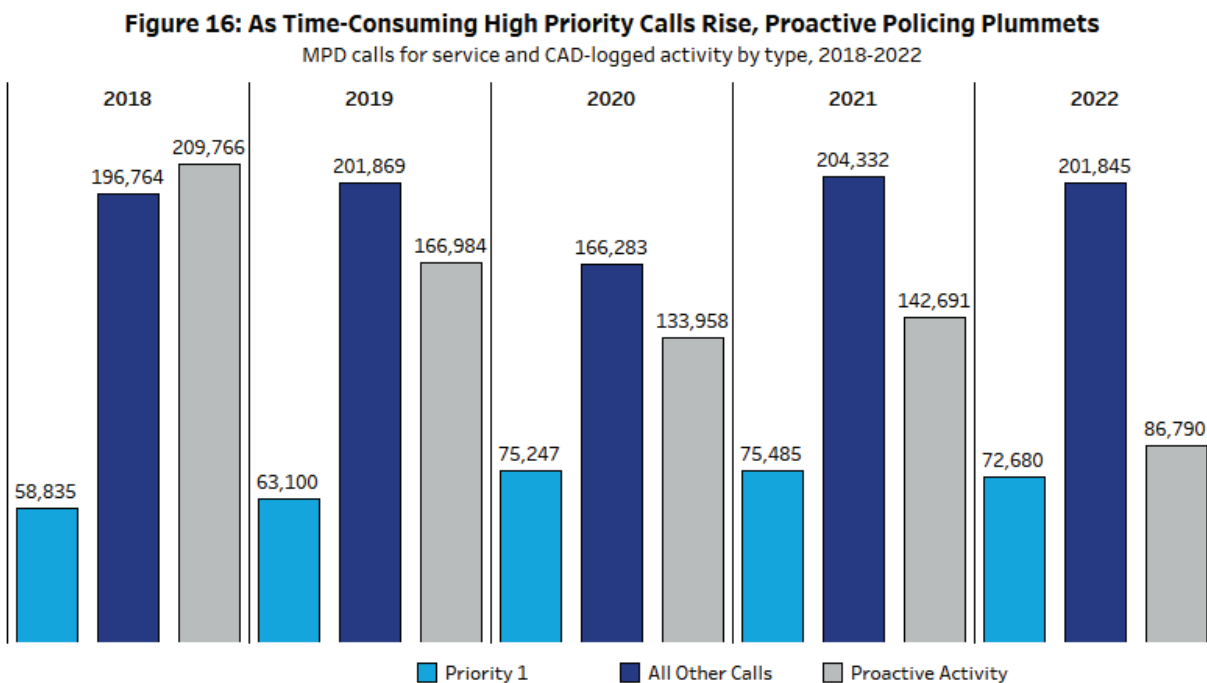
Sharp Decline in Milwaukee Arrests

While the magnitude of the drop in Milwaukee arrests is striking, perhaps what stands out most is its pre-pandemic onset and continued decline even as the impacts of the pandemic have eased. Our interviews with officials from MPD and other justice system leaders yielded the following possible explanations:

- **Officers have less capacity to work on and make arrests.** MPD officials suggest that a likely explanation for the decline in arrests is the increased workload for officers caused by growing calls for service and increased “medical runs” to transport individuals detained in district stations to hospitals or physicians to attend to their medical needs. They say increased work volumes in these two areas preclude officers from spending as much time on the types of proactive policing activities that often produce arrests.

Data we obtained from MPD verifies both workload increases and the decline in proactive policing. As shown in Figure 16, dispatched calls for service increased by 7% from 2018 to 2022, while proactive policing activities logged by MPD’s dispatch system declined by a whopping 59%. The decline in proactive policing activities began prior to the pandemic, leveled off somewhat at its height, and then declined even more precipitously in 2022.

Also relevant are data showing that the highest-priority calls to dispatchers (i.e. Priority 1 calls), which involve “life-threatening conditions” per MPD, rose 24%, from 58,835 in 2018 to 72,680 in 2022 (after exceeding 75,000 in both 2020 and 2021). Meanwhile MPD data show that the number of annual medical runs each year hovered between 2,000 and 2,600 from 2018 to 2021 but then almost tripled to 6,638 in 2022. According to officials, these runs can exhaust several hours of officers’ time as they wait with detainees to receive care.



Source: Milwaukee Police Department

MPD officials attribute the increase in medical runs mainly to an overcrowding situation at the Milwaukee County Criminal Justice Facility (CJF). This situation, according to MPD officials, has caused MPD to hold much greater numbers of individuals at its district stations and for lengthier amounts of times. Consequently, the number of medical runs for detainees at those stations has skyrocketed.

The overcrowding status at the CJF has been attributed both to correction officer shortages and increased lengths of stay. Those increased stays, in turn, resulted at

least in part from restricted admissions by the Wisconsin Department of Corrections during the height of the pandemic. Data we obtained from the Milwaukee County Sheriff's office show that indeed, the average length of stay for a pretrial detainee at the CJF of 183 days in December 2022 was 44.9% higher than it was just prior to the pandemic in February 2020 (see Figure 17).¹² Meanwhile, a *Milwaukee Journal Sentinel* [article](#) in September 2022 noted that the CJF employed only 144 corrections officers as of the middle of that month, which was just over half of the 251 authorized positions.

- **MPD has fewer officers.** In addition to seeing an increase in workload from greater numbers of service calls and medical runs, MPD officials cite a shrinking number of officers on the street to handle that workload as a likely contributor to the sharp drop in arrests. As shown in Figure 18, the number of sworn officers fell gradually throughout the 2018 to

Figure 17: Average Length of Stay Increased During Pandemic
Average length of stay at the Milwaukee Criminal Justice Facility by confinement reason, 2019-2022

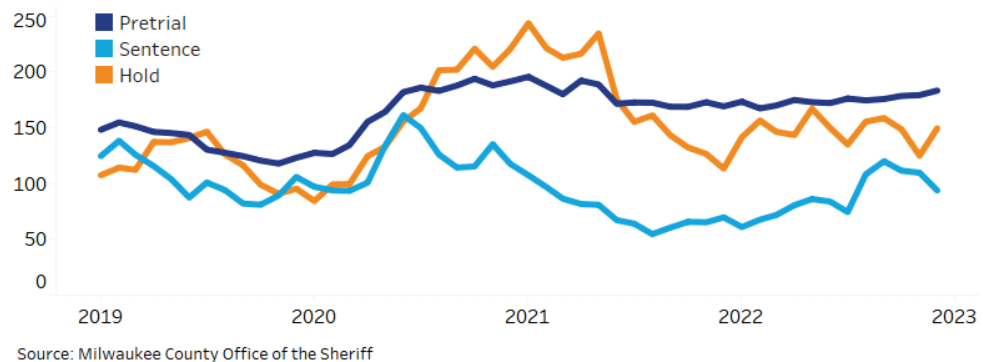
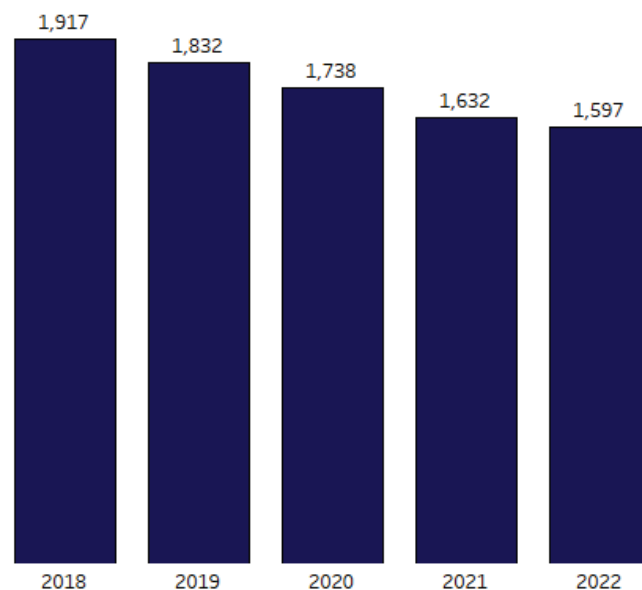


Figure 18: MPD Sworn Strength Down Significantly
Total sworn officers in MPD, 2018-2022



¹² Individuals being held after arrest but prior to trial or sentencing make up the largest group at the CJF, but individuals who were at the CJF as a result of a hold (typically because a sentence has expired but the individual has another pending charge in another jurisdiction) or post-sentencing also experienced increases in average lengths of stay in the months immediately following the emergence of the pandemic. In the case of sentenced individuals, average lengths of stay have now just about returned to pre-pandemic levels.



2022 period; the department had 1,597 sworn officers (i.e. filled positions) as of the last pay period of 2022, which was 320 (17%) fewer than the number of filled officer positions as of the last pay period of 2018. This reduction was a product of both budget cuts that reduced the number of sworn positions and an increased number of vacant positions caused by a surge in retirements and other factors.

- **Legal and external factors may have created an environment in which MPD officers interact less frequently with individuals who may have engaged in criminal behavior.** While there are no data to confirm this, some interviewees outside of the department suggested that both the 2017 “Collins Agreement” (briefly discussed earlier in this report) and the public outcry and demonstrations following the murder of George Floyd and other high-profile police incidents as possibly having contributed to a change in the way Milwaukee police officers are carrying out their duties on the street. The Collins Agreement was a legal settlement of a lawsuit alleging that MPD’s policies and procedures related to stops and frisks lacked reasonable suspicion and were racially motivated. Per the agreement, MPD and the Milwaukee Fire and Police Commission established several new policies and protocols that required, among other things, that officers take additional and extensive steps to document and provide explanations for frisks, traffic stops, and other encounters with citizens.

That settlement – as well as the highly increased scrutiny of all police actions in the wake of the Floyd tragedy – was cited by some of our interviewees as potentially having reduced the inclination of officers to formally encounter individuals, thus reducing the number of arrests that once would have resulted from such encounters and also limiting their contacts with potential witnesses and informants. However, it is again important to note that there are no available data to prove or disprove that hypothesis. Also, it is possible that changes in the department’s leadership during the study period may have contributed as much or more than these other environmental factors to some of the data trends we have outlined, though again such a hypothesis is only speculative.¹³

Overall, MPD officials say it could be the confluence of several factors cited above and throughout this report – e.g. the reduction in sworn officers *coupled* with sizable increases in offenses, Priority 1 calls for service, and other workload-related factors – that has diminished the department’s ability to conduct the types of proactive activities and investigations that lead to arrests, thus causing the decline in recent years. They note further that the increase in Part I offenses includes a 36% increase in firearm-related violent offenses and a 136% increase in firearm-related homicides, and that investigations related to these types of crimes require extensive time from both patrol officers and the Criminal Investigations Bureau, thus further limiting the department’s overall capacity to make arrests.

Drop in District Attorney Charge Rates

Milwaukee County DA charge rates were consistent from 2015 to 2019, with the rate for felonies hovering between about 46% and 49% each year and the rate for misdemeanors between about 45% and 50%. Those rates then plummeted in 2020 to 44.1% and 37.2%, respectively, and they

¹³ MPD Chief Edward Flynn left the department in 2018 and was replaced by Chief Alfonso Morales, who served between 2018 and 2020. Morales was followed by Acting Chief Michael Brunson before current Chief Jeffrey Norman assumed the role in 2021.

continued their descent through 2022, when the felony charge rate dropped below 40% and the misdemeanor charge rate dipped below 35%.

The sharp drop during the first several months of the pandemic in 2020 is somewhat understandable, as the ability of DAs to pursue charges in some cases likely was severely hampered by a reduced ability to secure witnesses and by other pandemic-related factors that detracted from the efforts of police and prosecutors to build cases against suspects. However, the continued decrease in charge rates in 2021 and 2022 is more difficult to explain.

Officials from the DA's office did offer several potential explanations, which we summarize below.

- The first mirrors the points discussed above regarding reduced officer time to conduct proactive policing activities. DA officials note that MPD plays a critical role in charging decisions, as thorough police work provides the evidence needed to reliably charge alleged offenders. They suggest that first the turmoil caused by the pandemic, and then the limitations on officers' time to conduct investigatory work and supply prosecutors with needed evidence, may have impacted the ability of prosecutors to pursue charges.
- A second possible explanation relates to staffing in the DA's office. As we recently reported in an April 2023 [research brief](#) on statewide district attorney and public defender pay and turnover, there have been four years since 2000 in which at least 18 of the Milwaukee County DA office's nearly 120 attorney positions (15%) have turned over, with three of those (2017, 2019, 2022) coming in the last six years. In fact, while the office averaged 8.0 separations per year from 2000 to 2005, that almost doubled to 15.2 from 2018 to 2022 (see Table 3). Officials from the office note that new prosecutors generally enter with little background in the field and may be more reluctant to pursue charges than veteran prosecutors.
- A final explanation involves pandemic-precipitated changes in domestic violence-related prosecutions. Officials from the DA's office point to a substantial drop in the charge rate for such cases, which contributes substantially to the drop in overall charge rates. They attribute the decline – in large measure – to the greater difficulty the office experienced in communicating with and obtaining cooperation from victims and witnesses during the height of the pandemic and the lingering aspect of that phenomenon to this day.

Table 3: Milwaukee County DA Separations

Year	Number of Separations	Average Experience of Separating ADAs
2018	12.0	11.8
2019	20.0	9.5
2020	6.0	6.4
2021	17.0	9.5
2022	21.0	8.2

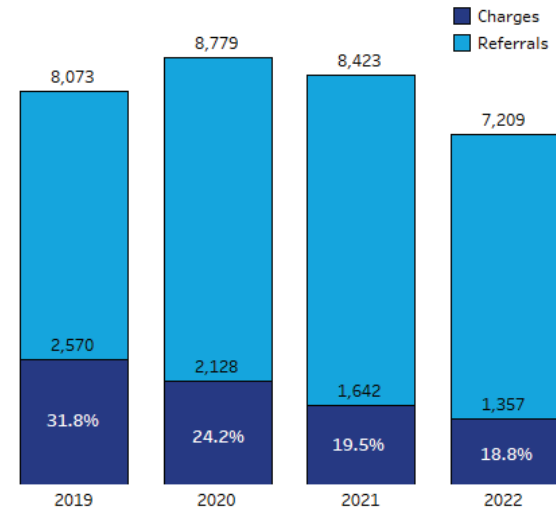
Source: Milwaukee County District Attorney's Office

Figure 19 on the following page shows the changes in the number of domestic violence case referrals, charges, and charge rates from 2019 through 2022. Interestingly, referrals jumped in the first year of the pandemic (2020) and remained elevated in 2021 before declining sharply in 2022. Meanwhile, the charge rate for domestic violence referrals declined each year, falling from 31.8% to 18.8% over the four-year period.



Officials from the DA's office say they noticed a significant decline in the number of victims seeking help at the Sojourner Family Peace Center, which houses an assistant district attorney to meet expeditiously with victims and consider charges. Data we received from the Family Peace Center verifies this development – whereas the organization served between 6,500 and 8,800 clients each quarter between January 2018 and January 2020, that number dipped to 3,895 in the second quarter of 2020 at the height of the pandemic and did not rise above 6,013 in any subsequent quarter through the end of 2021. In fact, only 4,582 clients were seen in the fourth quarter of 2021, which was only two-thirds the number seen in the last quarter preceding the pandemic.

Figure 19: Fewer Domestic Violence Referrals, Charges
Total referred and charged domestic violence cases in Milwaukee County (with rates), 2019-2022



Source: Milwaukee County District Attorney's Office

According to DA office officials, the decline in the number of domestic violence victims seeking assistance at the Family Peace Center has contributed substantially to the drop in the charge rate for domestic violence cases, as the ability to have easy access to those victims through the Family Peace Center significantly increases the odds of being able to bring a charge. The drop in charge rates for domestic violence cases, in turn, helps explain the decline in overall charge rates.

Finally, DA office officials note that there has been a decline in the percentage of domestic violence cases that are referred to the office in which the suspect has been arrested at the scene of the incident and is considered in custody. Whereas that percentage ranged between 44% to 46% in 2019 and 2020, it dropped to about 40% in 2021 and 2022. Officials say the lower percentage of cases in which the suspect is in custody may be contributing to lower charge rates given that when the suspect is not in custody it can be more difficult to prove the identification of the alleged offender and obtain any admission regarding conduct.

Rise in Case Dismissals

As with arrests, the rise in percentages of cases dismissed preceded the pandemic (particularly for misdemeanor cases). It logically escalated during the height of the pandemic before declining slightly in 2022, but at the end of that year it was still several percentage points above pre-pandemic levels. The data show that guilty pleas exhibited an inverse relationship (though the trend was not as pronounced), with the percentage of such pleas for felonies dropping from 63.8% in 2018 to 60.9% in 2022 and the percentage for misdemeanors falling from 62.6% to 57.9% over the same period.

The trends were attributed (at least in part) by most of our key informants to a backlog of pending cases in the courts and, more specifically, the substantial increases in the median time in which those cases are pending and being resolved. In December 2022, the median age of pending felony

cases was 77.2% higher than the pre-pandemic low, while the median age of pending misdemeanor cases was 76.1% above its low point. Meanwhile, the median age of a felony case at disposition rose from 150 to 200 days in the years preceding the pandemic to 331 days in August 2022 before dropping somewhat to 289 days in December 2022. The median age at disposition of misdemeanor cases followed a similar trend but recovered far more quickly in the last months of 2022 than the median age of felony cases.

Key informants hypothesized that because cases are taking much longer to resolve, there is a much higher likelihood of dismissal, as there is a greater chance that witnesses cannot be located and that other factors will transpire that will impede the ability of prosecutors to support charges or that will cause complainants to settle or drop their cases (DA office officials say this may be particularly the case for domestic violence-related cases). Similarly, they suggested that defense attorneys are now more inclined to urge clients not to plead guilty knowing that the case will linger and the odds of dismissal will rise as it does so.

Growing Felony Backlog in the Courts

While misdemeanor case backlogs that emerged during the height of the pandemic had largely been reduced to pre-pandemic levels by the end of 2022, the felony case backlog remained extremely high. The number of pending felony cases grew from 3,512 in December 2019 to a peak of 5,405 in January 2022 (53.9%). By the end of 2022, the backlog had only been trimmed to 5,056, and at the end of March 2023 it still stood at 5,032 pending cases. Also, backlogs remain formidable despite the substantial reductions in arrests and charges and rise in case dismissals.

Justice system officials have cited staffing shortages in positions ranging from court reporters to district attorneys to public defenders as a primary cause of sustained backlogs. In an August 2022 Milwaukee Journal Sentinel [article](#), then-Chief Judge Mary Triggiano cited a shortage of “about 20 court reporters” that she and other stakeholders attributed both to low rates of pay and an overwhelming workload that had caused some staff to depart. Moreover, despite the county’s receipt of \$14.6 million in federal relief dollars from the state to address backlogs (as discussed in an earlier section) – which were intended, in part, to allow for the opening of several additional courts – court officials say the system’s inability to hire staff precluded them from doing so.

With regard to prosecutors, we discussed above the high rates of turnover in the Milwaukee County DA’s office; we were unable to obtain similar turnover data for the Milwaukee public defender office, but we received statewide data from the Office of the State Public Defender (OSPD) that showed the turnover rate for trial attorneys statewide grew from the 10% to 11% range pre-pandemic to 17.9% in 2021 and 20.4% in 2022, or one out of every five trial attorneys.

Another possible explanation for the stubborn nature of backlogs cited by several interviewees is an increase in the time it takes to work on individual cases. That stems, at least in part, from an explosion in evidence from video cameras, cell phones, and computers.

For example, the Milwaukee public defender office alone had to review more than 4,000 hours of video evidence between December 2019 and September 2020. Statewide, officials with the OSPD note that about 70% of discovery is happening electronically and that their offices are now downloading roughly 5,000 hours of video per month. An OSPD memo notes that in a recent survey of nearly 100 public defense attorneys who represented a majority of Wisconsin’s counties, a majority said they spent an average of at least six hours per week viewing video footage, adding to

their workloads. It also stands to reason that the preponderance of video evidence has increased the workload of district attorneys.

Finally, we heard from several interviewees that the justice system has been confronted with several additional complexities that have stemmed in part from the pandemic and that likely have increased the amount of time it takes to move cases through the system. One cited example is the increased number of individuals in the system who suffer from behavioral health disorders, and whose cases may take longer to resolve as efforts are made to address their needs. We sought and received data from Wisconsin Community Services, a nonprofit organization that tracks the number of individuals held in the CJF or CRC each year for whom an examination to determine their competency to stand trial has been ordered by the courts. According to WCS data, that number jumped from 1,542 in state fiscal year 2018 (i.e. July 1, 2017 through June 30, 2018) to 2,041 in fiscal year 2022 – an increase of 32%. The treatment needed for an individual to be declared competent can add many months to the time it takes to resolve a case.

Overall, despite diligent efforts to keep the courts operational during the height of the pandemic, it is understandable that significant backlogs emerged. While significant progress has been made to eliminate the backlogs for misdemeanor cases since the pandemic has faded, the inability through the first quarter of 2023 to make a meaningful dent in the felony backlog suggests that new environmental factors may be hampering that effort, including those mentioned above. This reality may require both new strategies and new resources that the justice system does not currently possess.

Bottom Line: Further Investigation Needed

In the August 2022 *Journal Sentinel* article referenced above, Chief Judge Triggiano noted that “We are an ecosystem...If one part of the criminal justice system is struggling, we all feel the impact in a variety of ways.”

The findings of this report amplify that point. While the pandemic clearly disrupted the functioning of each of the various justice system players, many of the system’s key “pressure points” have recovered to pre-pandemic levels of functioning. The critical areas we have discussed that have not recovered have been impacted by circumstances that are connected in some way to one another and that either originated prior to the pandemic or have been exacerbated by new and intensifying workforce challenges (or both). For example:

- Workload and staffing challenges at MPD and possibly other factors may be contributing not only to fewer numbers of arrests and lower clearance rates, but also to reduced police capacity to supply prosecutors with the information they need to charge offenders.
- Staffing challenges at the Milwaukee County District Attorney’s office – which in this case involve the replacement of experienced prosecutors with newer ones – may also be contributing to reduced charging percentages, as well as to slower case processing times in the courts and, ultimately, higher numbers of dismissals.
- Meanwhile, workforce challenges in other positions central to the functioning of the courts – like public defenders and court reporters – similarly may have created and sustained case backlogs and led to longer case processing times and higher numbers of dismissals.

- While not a focus of this report, staffing challenges at the Milwaukee County CJF and CRC also have impacted the various players (including MPD and the amount of time that its officers may have for proactive policing), as well as the overall functioning of the justice system.

These findings raise questions about whether the disruptions could have contributed to reduced public safety, raised costs over the long term, and impaired the rights of individuals arrested or charged with a criminal offense, as well as those who have been victimized. This report alone, however, cannot answer those questions definitively.

It may stand to reason that fewer arrests, reduced charging rates, and higher numbers of case dismissals have contributed to an increase in the number of individuals on the street who are prone to committing crimes and that these factors have thereby contributed to recent increases in certain types of serious crimes (such as car thefts). At the same time, however, it would be critical to dive far more deeply into the patterns and circumstances involving the specific types of offenses that have seen increases – and to analyze other variables that may be coming into play like probation and parole policies, sentencing decisions, reductions in the availability of social supports during the height of the pandemic, and several others – before arriving at any firm conclusions regarding the impact to public safety.

It is also worth noting that, while there was an increase in reports of some of the most serious crimes following the arrival of COVID-19, the reported incidence of a number of other offenses actually fell. In explaining these changes, this report is not able to untangle the effects of an upended justice system from those of other factors such as the closure of school buildings, sharp rise of unemployment, disruption of social services, increase in individuals with substance use disorders, and murder of George Floyd and subsequent demonstrations, to name just some of the potential factors in play.

Overall, this report has revealed that multiple key points of the justice system pipeline in Milwaukee County are not functioning in the same way or at the same level as they were prior to the pandemic. It is now incumbent upon justice system leaders and state and local policymakers to aggressively explore why that is, to what degree it may have impacted public safety, what progress is being made in remedying the identified challenges, and whether additional resources or other solutions are required to get the system back on track.