

EXECUTIVE SUMMARY

UNDER PRESSURE

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



WISCONSIN

POLICY FORUM

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. These disturbing trends – as well as more recent challenges generated by an historically tight labor market – have turned the spotlight on the functioning of Milwaukee County’s justice system.

In this report – commissioned by the Milwaukee-based Argosy Foundation and the Milwaukee Community Justice Council – 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 do so by exploring key points along the justice system “pipeline,” starting with reported offenses and continuing with data points that reflect the flow of individuals through the system and how their cases are resolved. Our focus here is primarily on the justice system for adults – and not for juveniles – although some of the data we collected (e.g. for offenses) do not distinguish between the two.

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. 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.

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 have been perpetuated by its effects.

Offense and Arrest Trends

We begin our examination by reviewing data on reported offenses, clearance rates, and arrests – the initial data points in the pipeline that involve law enforcement agencies. Our objective was 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 used data from January 2018 to December 2022.

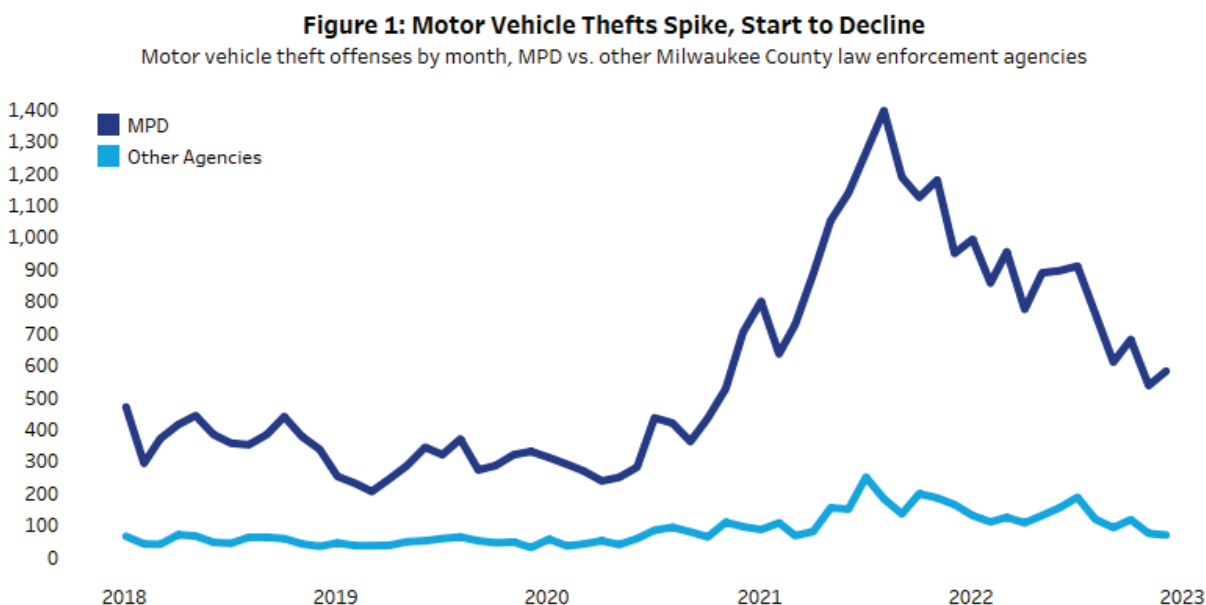
Our data cover 21 Milwaukee County law enforcement agencies – one police department in each of the county’s 19 municipalities plus the Milwaukee County Office of the Sheriff and the police force serving Marquette University. Offense and arrest data are broken down by Part 1 crimes, which are more serious in nature and include homicide, rape, robbery, aggravated assault, burglary, and motor vehicle theft; and Part 2 crimes, which include less serious offenses like simple assault, embezzlement, vandalism, prostitution, and drug-related violations. Here, we summarize our findings only on offenses and arrests – analysis of clearance rates is included in the full report.

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. From 2018 to 2020, Part 1 offenses totaled between 43,000 and 46,000 annually, before jumping to 54,039 in 2021 and subsequently declining back down to 46,927 in 2022.



In terms of total offenses, the 2021 spike appears to be driven by one main type of serious crime: **motor vehicle theft**. After 4,000 to 5,500 motor vehicle thefts in each of the years between 2018 and 2020, there were 14,114 motor vehicle thefts recorded in 2021, a nearly threefold increase. Notably, while total motor vehicle thefts in 2022 were still elevated (10,872), they decreased significantly from the previous year (see Figure 1).¹



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

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).

Across each of the past five years, the Milwaukee Police Department (MPD) logged 70% to 80% 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. For example, motor vehicle thefts in the city spiked from 4,528 in 2020 to 12,344 in 2021 – an increase of 173% – before declining to 9,447 in 2022. Homicides rose in each of the last few years Milwaukee (from 100 in 2018 to 214 in 2022) while most other offense categories showed lower totals in 2022 than in 2019.

Despite a slight rise in offense numbers, Part 1 arrests decline dramatically, and particularly in Milwaukee

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 2 on the next page). 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

¹ A technical error resulted in the over-reporting of motor vehicle thefts for MPD, and the department is working with the Wisconsin DOJ to correct the numbers. These corrections would not materially alter the trends observed in the figure.



early months of the pandemic (see Figure 2). Notably, arrest numbers have not rebounded, dropping again to 5,518 in 2021 and rising only slightly to 5,942 in 2022 – 27.2% below 2018 levels.

Figure 2: 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

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%). Even if we exclude motor vehicle thefts, which generally result in lower percentages of arrests than most other Part 1 crimes, we still find that arrests fell by a much higher percentage (43.6%) than offenses (11.1%) in those same years.

Part 2 offenses escalate in Milwaukee but arrests sharply decline

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.

The MPD data show that Part 2 offenses increased by 26.4% over our study period – from 19,074 in 2018 to 24,106 in 2022. The increase was particularly sharp in 2021, when Part 2 offenses escalated from the previous year’s 21,978 to 25,188, before declining by about 1,100 in 2022.

Strikingly, despite the 26.4% increase in Part 2 offenses, Part 2 arrests declined by 61.0% in the city of Milwaukee from 2018 to 2022. 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 36.8% decrease in Part 1 arrests.



District Attorney Referrals, Charges, and Dispositions

Our next area of analysis 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 data sources accessed from the Milwaukee County DA's website.

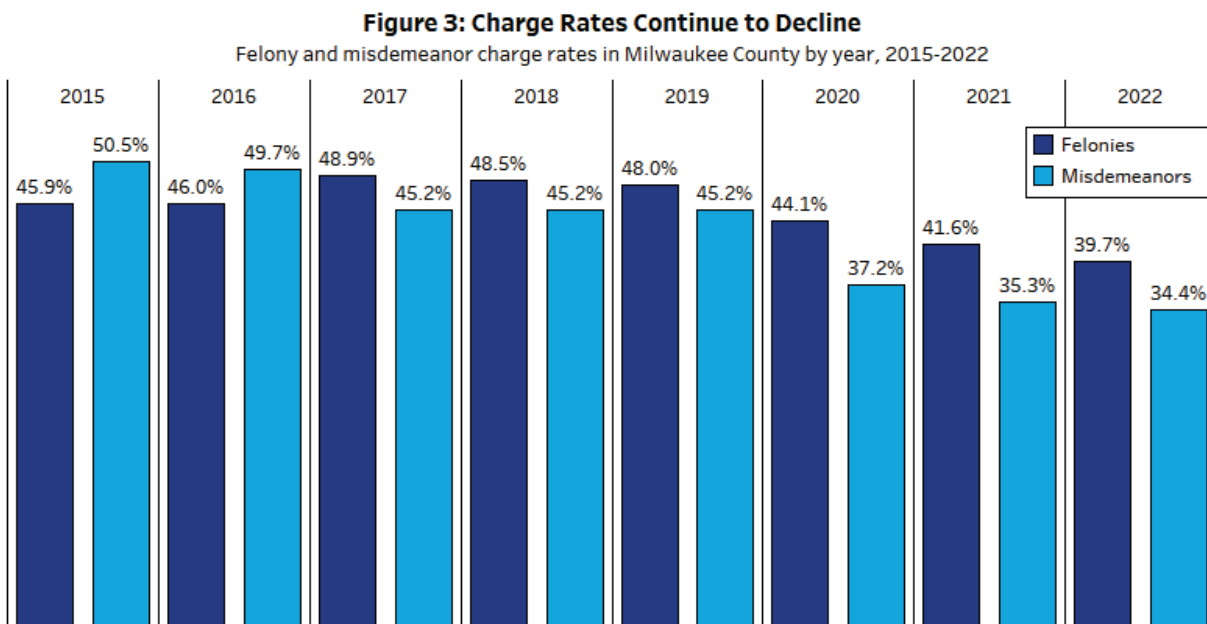
DA referrals and charging rates decline

Individuals are referred to the Milwaukee County DA's Office for review when an alleged crime is deemed appropriate for potential charges. Referrals declined from 29,786 in 2018 to 25,642 by 2022 (-13.9%). This trend, as would have been expected, corresponds with the sharp declines in arrests discussed previously.

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. Additionally, some individuals may be diverted into substance use disorder or other treatment programs, or other factors may come into play that lead to a decision not to prosecute.

Charges filed for cases referred from all Milwaukee County law enforcement agencies in 2018 totaled 14,916, representing 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 3).



Source: Milwaukee County District Attorney's Office



Case dismissals rise 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. We were curious to see whether case dismissals 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**. Dismissals then fell slightly to 30.8% of resolved cases in 2022.

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.

Cases Filed in the Courts

Our final area of data gathering and analysis involves the Milwaukee County Circuit Court. Criminal complaints filed by the DA'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 and dispositions from 2018 through 2022.

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

Case filings reflect all criminal complaints submitted by the DA's office to the Circuit Court. The data show that 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 – the 4,907 felony cases filed in 2022 were just 6.1% below the 5,226 filed in 2019. Misdemeanor filings fell from 2019 to 2020, rebounded in 2021, but dropped again in 2022 to 22.4% below 2019 levels. 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.

Cases taking longer to resolve

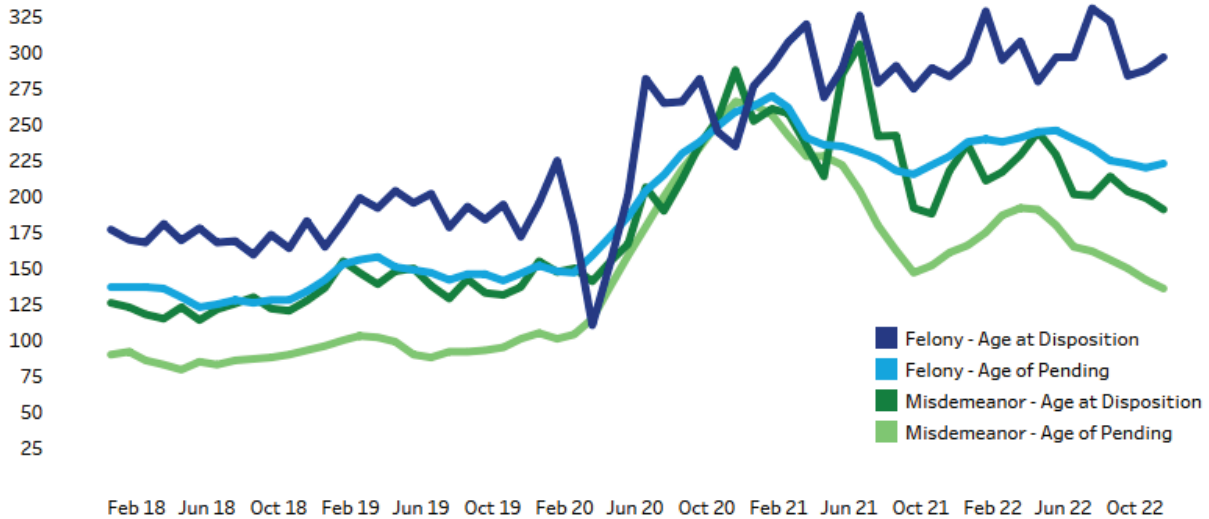
When we look at the median age of pending cases, we see that the time needed to process cases increased significantly during the pandemic and has not fully recovered (see Figure 4 on the next page). In mid-2018, the median age of pending felony cases reached a low of 123 days in June and the median age of misdemeanor cases reached a low of 79.5 days in May. However, both began to increase significantly at the onset of the pandemic.

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 reached its high, 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 despite some progress, as of the end of last year cases still were lingering far longer than prior to the pandemic.**



Figure 4: 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

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 felony case at disposition in 2018 and 2019 generally ranged from 150 to 200 days. It began rising in early 2020 and peaked at 331 days in August 2022. The median age has been above 250 days in every month since the start of 2021 and in **December 2022 (289 days) was higher than in any month from the start of 2018 until February 2021.**

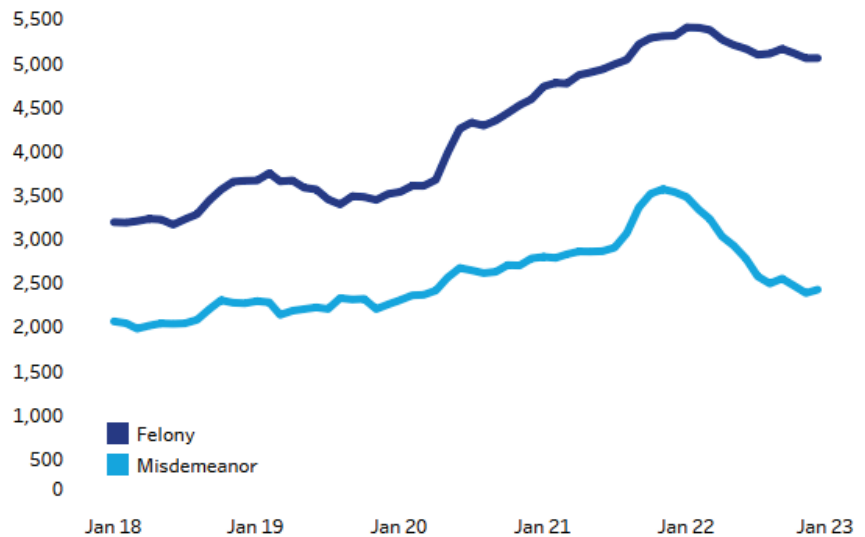
Felony case backlog an ongoing concern

A sense of any “backlog” in cases pending before the courts is provided by reviewing data on the change in number of pending cases by month (see Figure 5). 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, but felony cases tell a different story. The number of

Figure 5: Felony Cases Continue to Pend as Backlog Slowly Diminishes

Active pending felony and misdemeanor cases in Milwaukee County, 2018-2022



Source: Wisconsin Court System



pending felony cases generally ranged from 3,100 to 3,800 in 2018 and 2019 and then rose slowly starting at the beginning of the pandemic, peaking at 5,405 in January 2022. Since that time, they have started to 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.

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 instances of continued challenges that should prompt further discussion and analysis by justice system leaders and policymakers.

Sharp Decline in Milwaukee Arrests

While 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 verify these points. As shown in Figure 6 on the next page, 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%. Also relevant are data showing that the highest-priority calls (i.e. Priority 1 calls), which involve "life-threatening conditions," rose 24%. Meanwhile, 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.

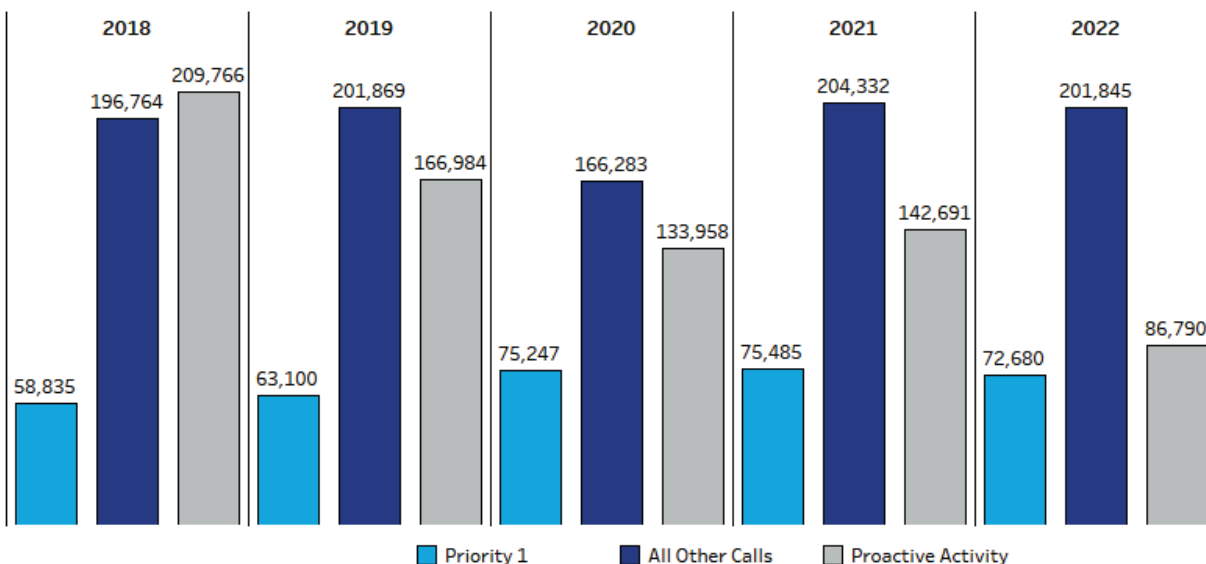
MPD officials attribute the increase in medical runs mainly to an overcrowding situation at the Milwaukee County Criminal Justice Facility. This situation, they say, has caused MPD to hold much greater numbers of individuals at its district stations and for lengthier amounts of times. Consequently, the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

- **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. The number of sworn officers fell gradually throughout the 2018 to 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.



Figure 6: As Time-Consuming High Priority Calls Rise, Proactive Policing Plummetts

MPD calls for service and CAD-logged activity by type, 2018-2022



Source: Milwaukee Police Department

- **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 the 2017 “Collins Agreement” – which produced new MPD policies requiring officers to take extensive steps to document and support frisks, traffic stops, and other encounters with citizens – as well as the impacts of the George Floyd murder and protests may have 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 police contacts with potential witnesses and informants.

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 and Priority 1 calls for service – 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.

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 45% and 50%. Those rates then plummeted in 2020 to 44.1% and 37.2%, respectively, and they continued their descent through 2022, when the felony charge rate dropped below 40% and the misdemeanor charge rate dipped below 35%. DA office officials offered several potential explanations:

- The first mirrors the points discussed above regarding reduced officer time to conduct proactive policing and make arrests. 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 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. 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 – from 31.8% in 2019 to 18.8% in 2022 – as a substantial contributor to the drop in overall charge rates. They attribute the change, 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.

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.

This trend was 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.

Key informants hypothesized that because cases are taking much longer to resolve, there is a much higher likelihood of dismissal, as there is greater chance that witnesses cannot be located or that other factors will impede the ability of prosecutors to support charges or cause complainants to drop their 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.

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](#), the former Chief Judge 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. With regard to prosecutors, we discussed above the



high rates of turnover in the Milwaukee County DA's office, while 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.

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. Interviewees also cited 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 received data that shows a 32% increase from 2018 to 2022 in the number of individuals held in the CJF or CRC each year for whom an examination to determine their competency to stand trial had been ordered by the courts. The treatment needed for an individual to be declared competent can add many months to the time it takes to resolve a case.

Bottom Line: Further Investigation Needed

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 discussed above 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 Criminal Justice Facility and Community Reintegration Center 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.

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 identified challenges, and whether additional resources or other solutions are required to get the system back on track.

