



# WISCONSIN POLICY FORUM

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## **Under Pressure: The Milwaukee County Justice System’s Recovery from COVID-19**

*Declines in arrests, charging rates, mounting felony case backlog among notable shifts*

Some key pillars of Milwaukee County’s justice system are not functioning in the same way or at the same level as prior to the COVID-19 pandemic –meriting attention by policymakers, and a response with potential new strategies and resources, according to a new Wisconsin Policy Forum report.

Using data analysis and interviews with justice system officials, the report seeks to enhance public understanding of how the pandemic affected each of the stages of Milwaukee County’s justice system pipeline and the extent to which affected areas have recovered.

The report notes that the pandemic “upended the Milwaukee County justice system in countless ways...Indeed, (its) 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.”

At the law enforcement level, data show that while the reported incidence of crimes increased slightly throughout Milwaukee County over the 2018 to 2022 timeframe, there were significant declines in arrests – especially in the city of Milwaukee.

We also found a drop in the rate at which the Milwaukee County District Attorney’s (DA) office brings charges in cases referred to it by law enforcement, and an increasing share of cases that are being dismissed.

In the Milwaukee County Circuit Court, cases are taking much longer on average to be resolved, and the backlog of felony cases remains much larger than pre-pandemic.

“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,” the report says.

The report – commissioned by the Milwaukee Community Justice Council (which was a key partner in data gathering) and the Milwaukee-based Argosy Foundation – sought to track changes at various junctures of the criminal justice pipeline at the height of the pandemic and to uncover where those changes have yet to be reversed.

Information compiled for the report include data on offenses and arrests (broken down by Part 1 crimes, which are more serious in nature and Part 2 crimes, which include less serious offenses); police clearance rates; DA referrals, charges, and case dispositions; and the length of times that cases pend in the courts as well as the nature of court backlogs. The data mainly span the 2018-

2022 timeframe, as data for the first several months of 2023 were not available while the research was being conducted.

**Key findings related to offenses and arrests** include:

- 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. The **2021 spike appears to have been driven by one main type of serious crime: motor vehicle theft**. One additional important type of crime also was up significantly – **murder and non-negligent manslaughter**.
- 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. Notably, **arrest numbers for serious crimes have not rebounded**, dropping again to 5,518 in 2021 and rising only slightly to 5,942 in 2022 – 27.2% below 2018 levels. **Looking at just the Milwaukee Police Department (MPD), we find Part 1 arrests fell at an even sharper rate** than countywide, declining from 3,929 in 2018 to 2,483 in 2022 (a 36.8% drop). The drop in MPD arrests began before the pandemic in 2018.
- Due to reporting issues, we were not able to analyze data for less serious Part 2 crimes for each of the 21 Milwaukee County law enforcement agencies. However, MPD data show that Part 2 offenses in the city of Milwaukee increased by 26.4% over our study period, driven by a large increase in weapons law violations, while **Part 2 arrests declined by 61% in the city** from 2018 to 2022.
- In interviews, MPD officials suggested 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 detained individuals to receive medical treatment. The **number of filled sworn MPD officer positions also declined 17%** during this period. Other key informants suggested that 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.

**Key findings related to the Milwaukee County DA's office** include:

- Amid declining arrests, the number of referrals to the Milwaukee County DA's Office also dropped by 13.9% from 2018 to 2022. But charge rates – **the share 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 fell** from a peak of 48.9% in 2017 to a low of 39.7% in 2022.
- DA officials suggest pandemic turmoil and **limits on police officers' time to conduct investigatory work** – and supply prosecutors with needed evidence – may have impacted the prosecutors' ability to pursue charges. **High levels of recent turnover** in the Milwaukee County DA's office also may have played a role, as new prosecutors may be more reluctant to pursue charges. Lastly, DA officials point to a large drop in the charge rate for domestic violence cases. They attribute this largely to **greater difficulty communicating with and obtaining cooperation** from victims and witnesses, especially during and after the pandemic.
- **Case dismissal** trends also are notable. 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 between 18% and 19% 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.

- Our interviewees attributed the case dismissal trend to **increases in the median time that cases are pending in court and resolved**. They hypothesized that because cases are taking much longer to resolve, there is a higher likelihood of dismissal, with a greater chance that witnesses cannot be located or other factors impede the ability of prosecutors to support charges or cause complainants to drop cases. They also suggested **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.

**Key findings relating to Milwaukee County Circuit Court** include:

- **Time needed to process cases increased during the pandemic and has not recovered.** In 2018, the median age of pending felony cases reached a low of 123 days for the period examined, and the median age of misdemeanor cases reached a low of 79.5 days. By December 2020, the median age of pending misdemeanor cases peaked, more than tripling to 266 days; by February 2021, the median age of pending felony cases peaked, more than doubling to 270 days. Both are down since but remain above pre-pandemic lows: in December 2022, at 218 days, the **median age of pending felony cases was 77.2% above the pre-pandemic low**.
- The pending caseload for misdemeanors has returned roughly to pre-pandemic levels, but **felony cases tell a different story**. The number of pending felony cases ranged from 3,100 to 3,800 in 2018 and 2019, then rose early in the pandemic, peaking at 5,405 in January 2022. Since then, they've started to drop, but the 5,056 pending felony cases in December 2022 were just 6.5% below the peak and **59.8% higher than the pre-pandemic low**.
- Officials cite **staffing shortages in positions including court reporters, district attorneys, and public defenders** as one cause of case backlogs. Another possible explanation is an increase in the time it takes to work on 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**, whose cases may take longer to resolve as efforts are made to address their needs.

Many of these issues are affected by circumstances that are interconnected– and that originated prior to the pandemic, have been exacerbated by intensifying workforce challenges, or both. Still, the result is that multiple points of the justice system pipeline in Milwaukee County are not functioning as they did, or at the same level they did, prior to the pandemic.

The report concludes that “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.”

Click here to read the full report.

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