



TIME TO DISPOSITION IN FELONY CASES

A Research and Policy Brief

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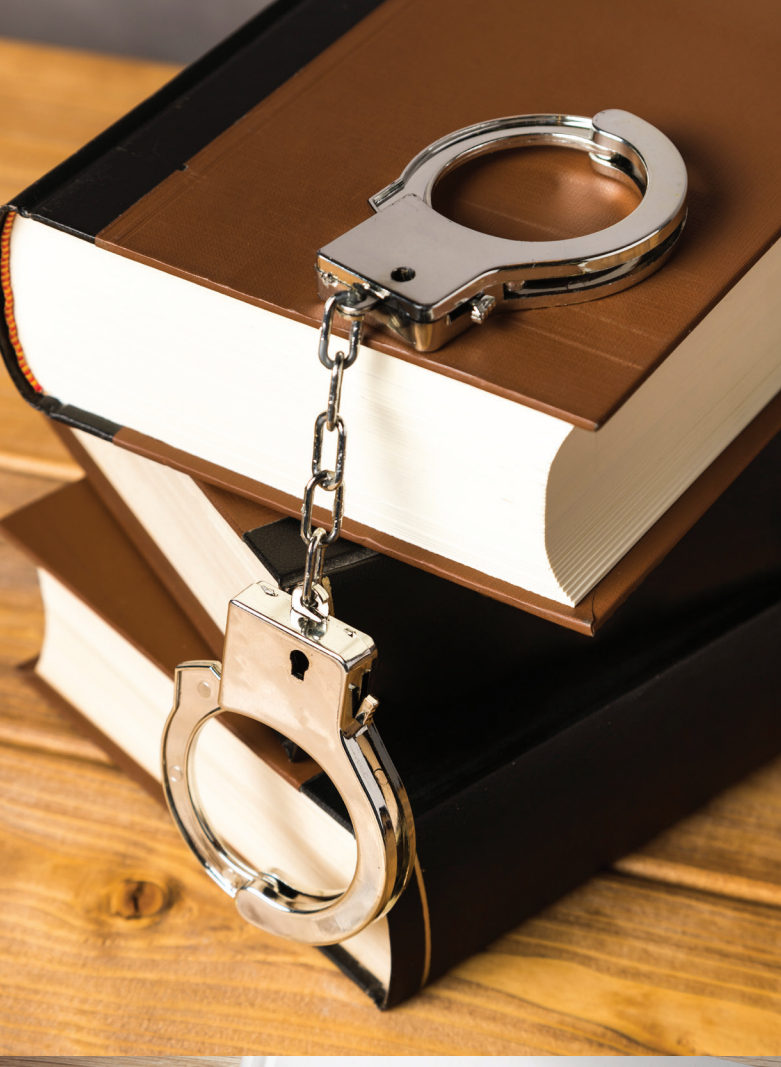


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PPIs is a research and technical assistance project which aims to promote more effective, just, and transparent decision making in prosecution. It is a bipartisan effort to be smart on crime, to think about new ways to maximize public safety, to enhance fairness, and to create a new system of accountability to the public. It involves over 30 forward-thinking prosecutors across the nation working with researchers at Florida International University, Loyola University Chicago, and University of Massachusetts Lowell to take a new look at prosecutorial decision making and performance over time.

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SUMMARY

Criminal case processing is affected by many factors, including case complexity, frequency of continuances, discovery rules, and office resources and caseloads. In most jurisdiction, the COVID-19 pandemic brought the legal system to a halt, leading to significant increases in case processing times in the following months and years. However, not all jurisdictions fared the same; some experienced a minimal disruption to their case processing.

In this brief, we examine time to disposition in felony cases before and since COVID-19 across 21 U.S. prosecutorial offices. Four distinct patterns of felony case processing trends emerged: (1) an increase in felony time to disposition to a new, higher plateau; (2) an increase followed by a decrease; (3) a persistent increase; and (4) no change in case processing timelines, with the two latter patterns being far less common. However, all 21 jurisdictions experienced a net increase in time to felony disposition between 2019 and 2022, with an average increase of 107 additional days. The brief also provides initial recommendations for reducing felony case processing timelines.

WHY CASE PROCESSING TIME MATTERS

A speedy trial is a right guaranteed by the Sixth Amendment of the U.S. Constitution. Yet, court systems across the United States continue to struggle with lengthy case processing and backlogs, which often results in victim disappointment, unnecessary pretrial detention, increased criminal justice expenditures, and staff frustration. In 2020, this situation was further exacerbated by COVID-19 restrictions. As courts and prosecutorial offices seek ways to expedite case dispositions, solutions are rarely apparent, and they can require prioritizing timeliness over other priorities. Overwhelmed by backlogs, prosecutors may be forced to rethink their case filing, diversion, dismissal, and plea-bargaining practices, among others. Making more attractive plea offers may in fact lead to faster case dispositions, for example. However, such solutions would be less than ideal if they threatened public safety or deepened racial disparities.

While time to disposition is not entirely within their control, prosecutors have vast discretion over decisions that ultimately impact how long it takes to resolve a case. Therefore, as one of many facets of prosecutorial performance, the [Prosecutorial Performance Indicators](#) (PPIs) measure the time to disposition for felony cases ([PPI 3.1](#)). This indicator is measured as the median number of days from filing to disposition for felony cases. Monitoring a decrease or increase in the number of days in overall felony processing times—while keeping an eye on other aspects of performance—provides valuable knowledge to the offices and incentivizes policy discussions.

It is widely acknowledged that case processing delays are generally undesirable, even if sometimes necessary. It is important to consider potential effects of such delays when engaging in the process of finding solutions and weighing different policy options. Research shows that long delays in case processing may affect victims, defendants, and the community. They can diminish victim and witness contact and cooperation, hinder evidence quality and retention, increase failures to appear, and potentially decrease the community's trust in the justice system. Extended processing times have also been found to increase jail populations, by holding defendants for longer periods of pretrial detention and affecting case outcomes.

Analyses of case processing times in Colorado, for example, show that, after controlling for defendant- and case-level factors, cases involving Black defendants take longer to resolve. Because Black defendants experience higher rates of pretrial detention in the state, these differences in processing time may create significant racial disparities in detention lengths and guilty plea outcomes. Other researchers, using data from Florida, also find that the more time prosecutors spend on a case post-filing, the more likely defendants are to receive custodial sentences and longer sentences. As such, that lengthier case processing time is highly and positively associated with punitive outcomes at sentencing.

However, expediting case processing may also have negative consequences. A recent study from Utah examined recidivism rates for a new program, known as the Early Case Resolution (ECR) Court. The program was designed to process misdemeanors and lower-level felonies using more immediate case reviews and faster dispositions. The evaluation showed that recidivism among ECR Court participants was significantly higher than for comparable non-ECR Court participants. Therefore, keeping an eye on recidivism rates is key while implementing new policies and practices, including expedited case processing programs.

Data

Data for this analysis came from PPI partner jurisdictions and other public prosecution dashboards that systematically capture time to disposition. We were able to compile data for 21 sites overall (see Figure 1 on p. 5). These sites include district and state attorneys' offices from Broward (FL), Cook (IL), Duval/Clay/Nassau (FL), King (WA), Milwaukee (WI), Multnomah (OR), Orange/Osceola (FL), Philadelphia (PA), San Francisco (CA), Santa Clara (CA), and Yolo (CA) Counties, as well as 10 district attorney's offices from Colorado (Judicial Districts 1, 2, 5, 6, 7, 8, 17, 18, 20, and 21). We analyzed data for all felony cases disposed in these jurisdictions from 2019 to 2022. Time to disposition is measured as the median number of days from case filing for prosecution to case disposition (which may include conviction, dismissal, diversion, or acquittal). Note that data for Orange/Osceola County run only through 2021.

¹See, e.g., The American University (1990). *An Assessment of Felony Case Process in Cook County, Illinois and Its Impact on Jail Crowding*, National Institute of Justice, Technical Assistance Report.

²Analyses of prosecutor cases in 13 judicial districts in the state, performed by the authors.

³Liu, L., Dunlea, R.R., and Kutateladze, B.L. (2021). "Time for Time: Uncovering Case Processing Duration as a Source of Punitiveness," *Crime and Delinquency*, 68(9): 1375-1401.

⁴Butters, R., Prince, K., Walker, A., Worwood, E. B., & Sarver, C. M. (2020). Does reducing case processing time reduce recidivism? A study of the early case resolution court. *Criminal Justice Policy Review*, 31(1), 22-41.

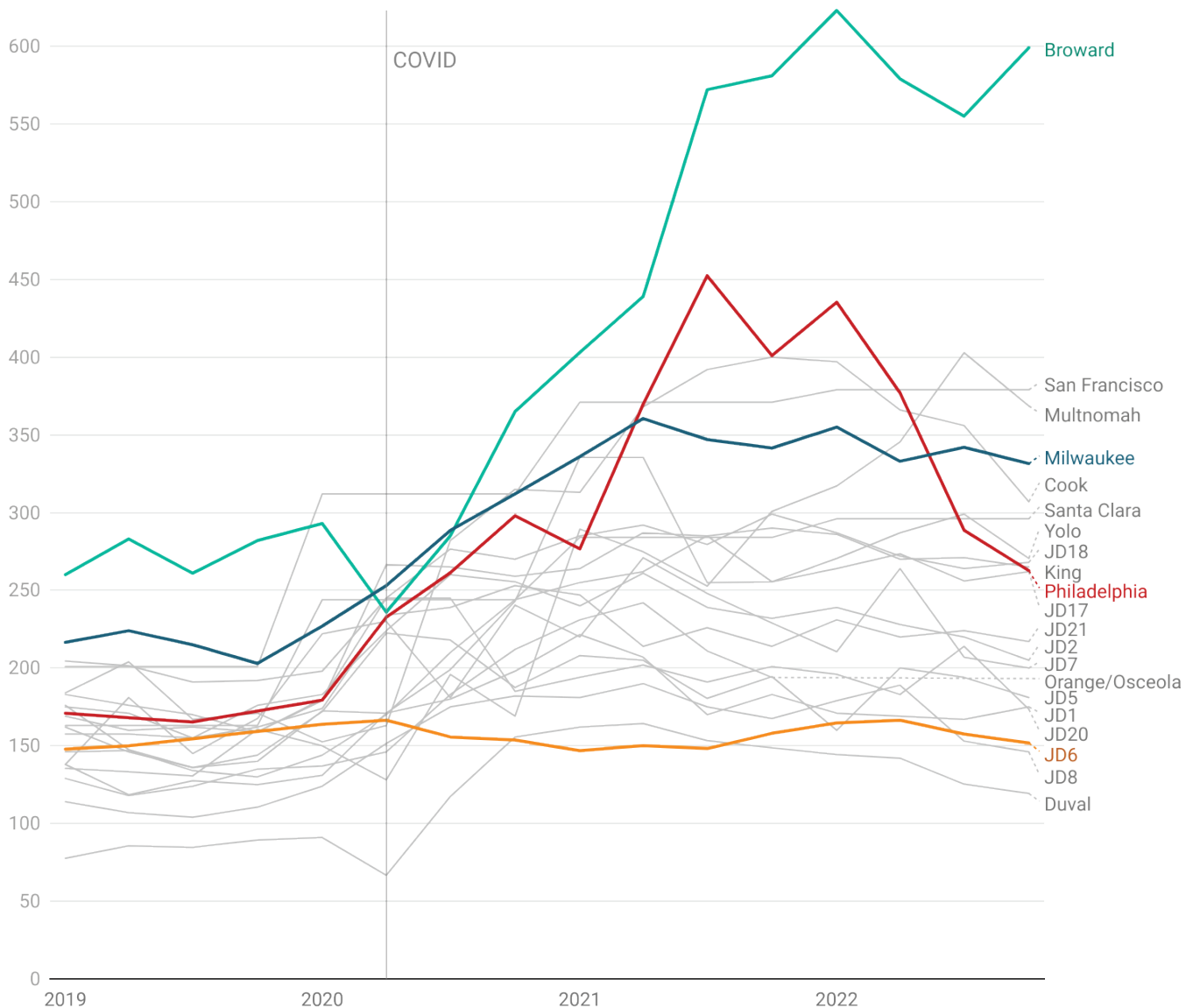
WHAT WE FOUND

In 2019, jurisdictions spent between 70 and 260 days on a typical felony case, from its filing to disposition. While time to disposition in felony cases increased during the COVID-19 pandemic in all 21 jurisdictions examined, the size of the increase was noticeably different across sites. In fact, case processing times were minimally affected in some sites, and others more than doubled their timelines.

The post-pandemic management of felony timelines is also quite distinct. In 2022, most jurisdictions managed to shorten these timelines, with several returning close to their pre-pandemic trends. In contrast, a few sites continued to experience further increases in case processing timelines.

Four distinct patterns in pandemic and post-pandemic processing times emerged, and we exemplify these patterns using four jurisdictions—Broward, Milwaukee, and Philadelphia Counties, along with Colorado’s 6th Judicial District (see Figure 1). These patterns include increase-plateau (Milwaukee), increase-decrease (Philadelphia), persistent increase (Broward), and no change (6th Judicial District, CO).

FIGURE 1: FOUR TRENDS IN FELONY DISPOSITION TIMELINES (MEDIAN NUMBER OF DAYS)



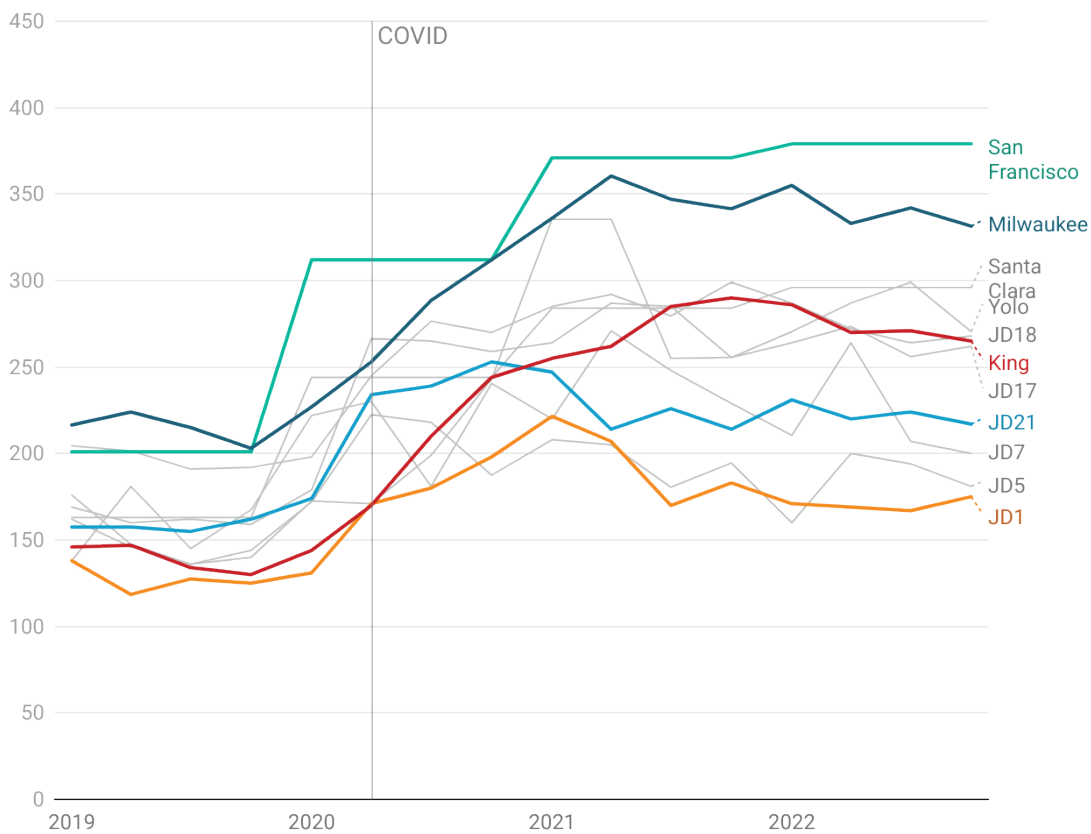
Data for Orange/Osceola County (FL) is only through 2021.

INCREASE - PLATEAU

Milwaukee illustrates the most common pattern, which was an increase in felony time to disposition following COVID restrictions, with offices soon landing at a new, higher plateau. While eleven jurisdictions experienced this trend, not all increases were equal.

In San Francisco, for example, felony time to disposition increased by 170 days, from 201 days in 2019 to 371 days in 2021, and then remained relatively stable through 2022. In contrast, Colorado's 1st Judicial District experienced a more modest increase, with felony time to disposition rising only 45 days, from roughly 127 days in 2019 to 172 days in 2022.

FIGURE 2: INCREASE IN FELONY TIME TO DISPOSITION TO A NEW, HIGHER PLATEAU



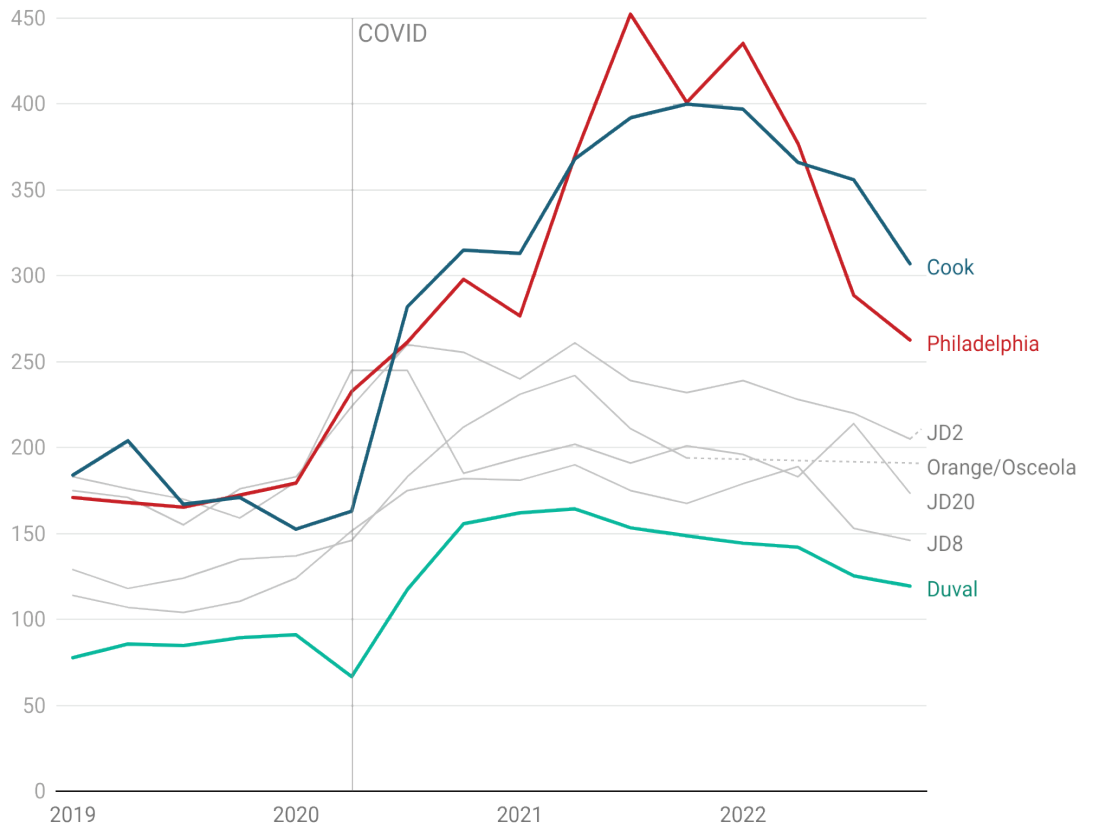
INCREASE - DECREASE

Seven jurisdictions saw a rapid increase in felony time to disposition followed by a steady decrease. Again, not all increases and not all decreases were equal.

Felony time to disposition in Philadelphia, for example, increased from roughly 172 days in 2019 to over 400 days through most of 2021 before decreasing to roughly 270 days in 2022 - still nearly 100 days longer than before COVID.

Duval/Clay/Nassau experienced both a less dramatic increase and a smaller decrease over time; felony time to disposition increased from roughly 84 days in 2019 to roughly 160 days in 2021 before dropping to 120 days in 2022 - an overall increase of 36 days.

FIGURE 3: INCREASE IN FELONY TIME TO DISPOSITION, FOLLOWED BY A DECREASE



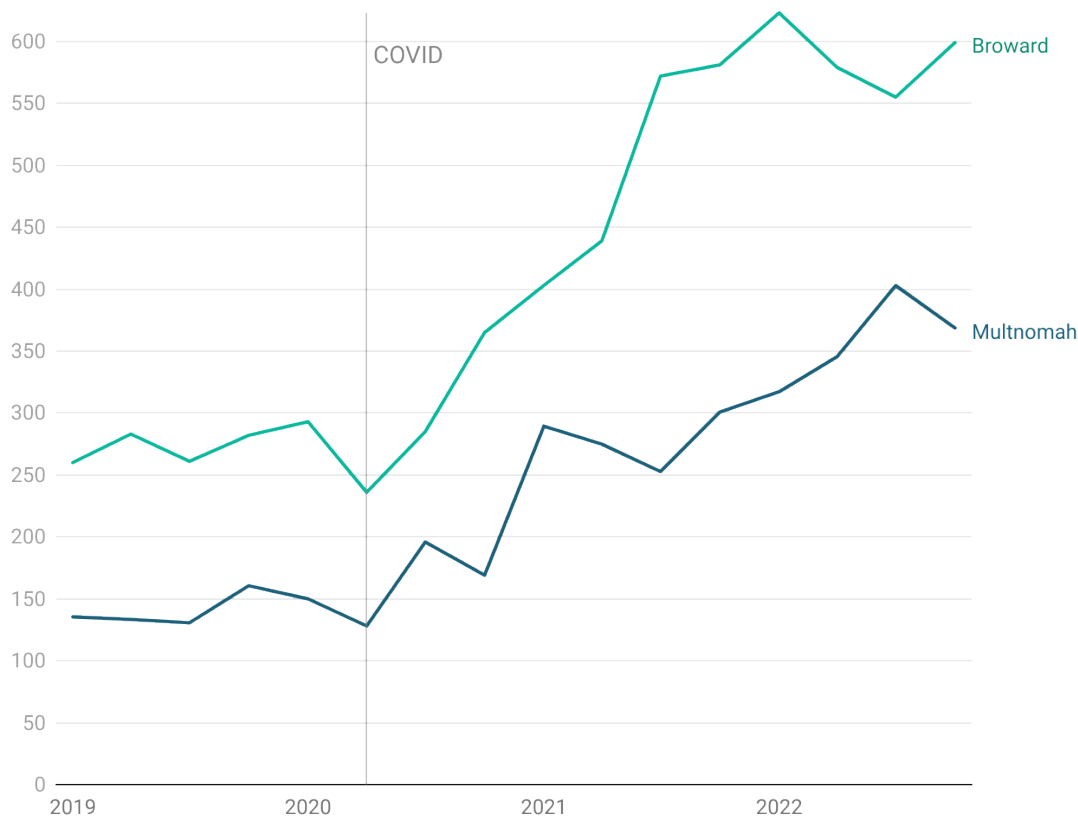
Data for Orange/Osceola County (FL) is only through 2021.

PERSISTENT INCREASE

A persistent increase is another noticeable, although uncommon, trend. In this pattern, the COVID increase has neither flattened nor reversed course by the end of 2022.

Broward and Multnomah Counties both experienced a persistent increase in felony time to disposition. Before COVID-19, it took roughly 140 days to resolve a felony case in Multnomah. This increased steadily, reaching over 400 days by the middle of 2022. In Broward County, where it took an average of 271 days to resolve a felony case before COVID-19, case processing times also continued to rise into 2022, when they reached 589 days.

FIGURE 4: PERSISTENT INCREASE IN FELONY TIME TO DISPOSITION

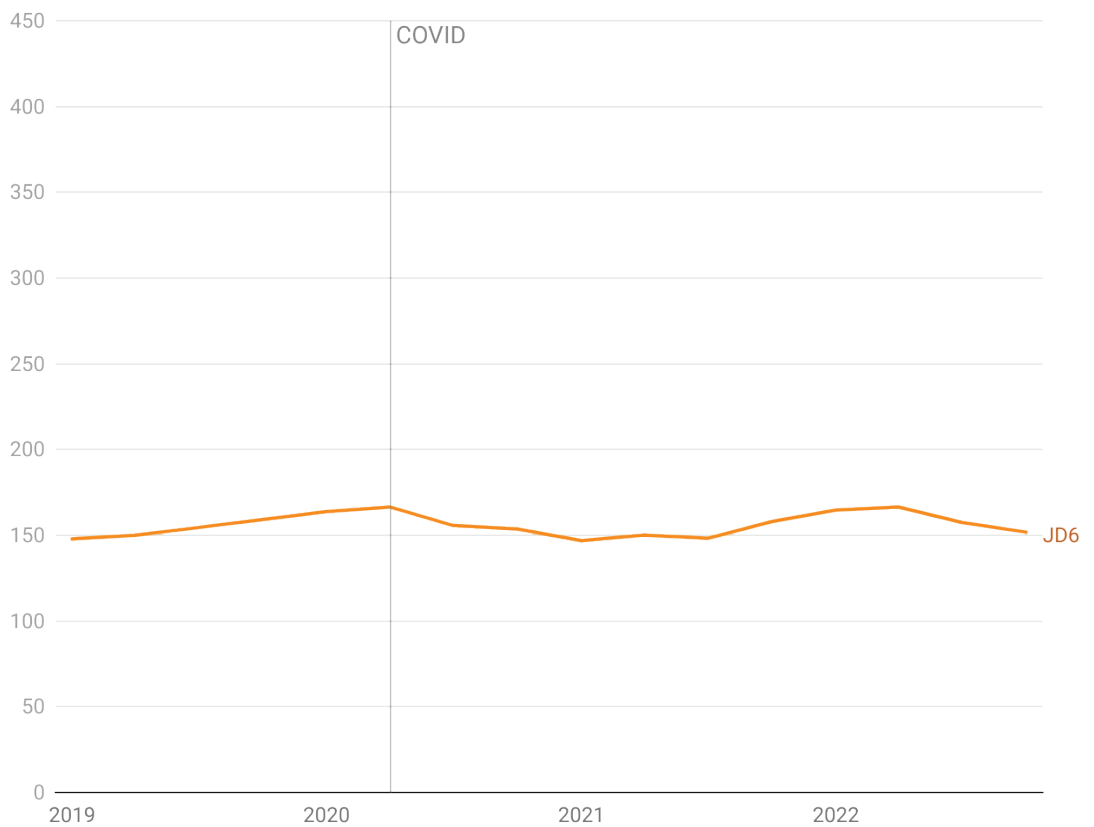


NO CHANGE

The fourth and final pattern represents no change to the median number of days in felony dispositions. Only one of the 21 examined jurisdictions fell under this category, suggesting that this pattern may be extremely uncommon.

The 6th Judicial District in Colorado experienced almost no change in felony time to disposition over the past four years. There was a very slight increase at the onset of COVID, but felony time to disposition in the jurisdiction hovered around 150 days from 2019 to 2022.

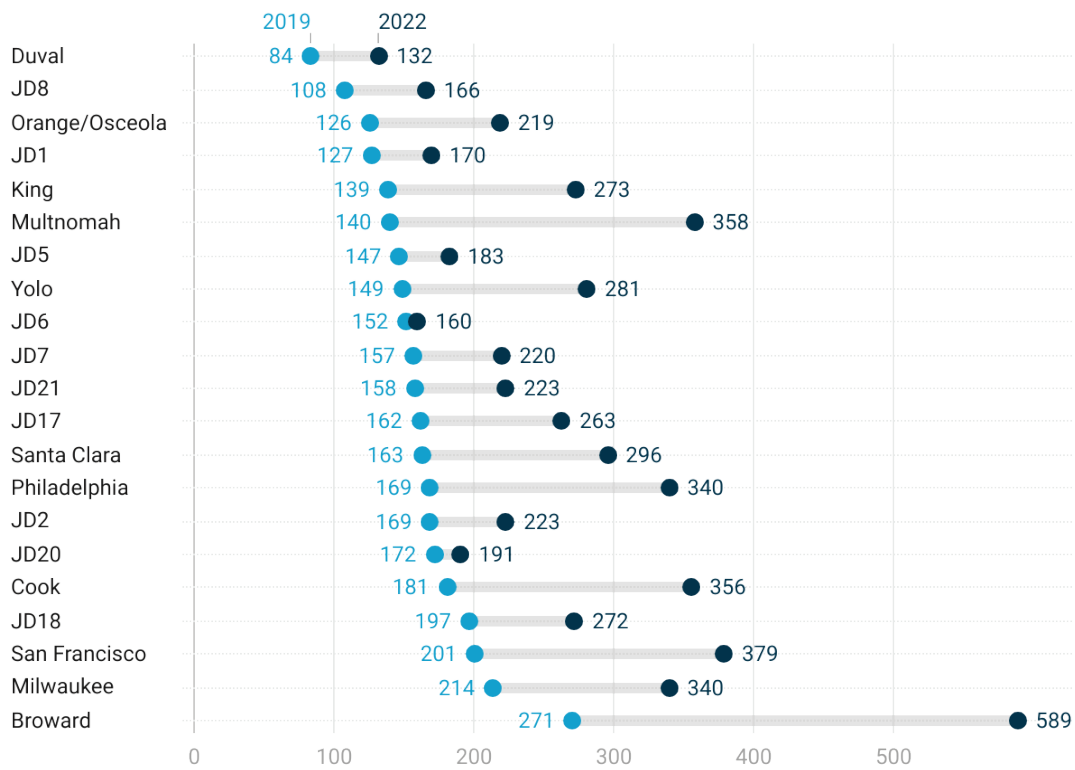
FIGURE 5: NO CHANGE IN FELONY TIME DISPOSITION



MAGNITUDE OF INCREASE

Despite the variety of patterns over time, all 21 sites saw a net increase in the median number of days taken to process felonies between 2019 and 2022. The net increase ranged from 9 additional days (20th Judicial District, CO) to 318 additional days (Broward), with an overall average of 107 additional days.

FIGURE 6: DIFFERENCE IN FELONY DISPOSITION TIME BETWEEN 2019 AND 2022



Data for Orange/Osceola County (FL) is only through 2021.

RECOMMENDATIONS

The following recommendations have been compiled based on review of the data and conversations with prosecutors in our partner offices.

1. Acknowledge and prioritize the problem. Examine case processing times over the past five or more years, and designate someone to be responsible for overseeing reduction efforts. This responsibility can take the form of a specialized unit that addresses backlogged cases, or, in offices that are experiencing a staffing shortage or in smaller jurisdictions, a task force of experienced prosecutors that regularly reviews backlogged cases. In addition to considering office organizational changes, the unit or task force should work on identifying specific case types that tend to result in backlog and review whether years-old cases with no known recidivism can be safely dropped. Explore what other jurisdictions have done to manage their backlogs.

2. Create office-specific targets. While time-to-disposition standards provided by organizations such as the American Bar Association and state administrators tend to be aspirational, they can be used as a guide for the time frame in which felonies should be resolved. One tactic that has seen efficacy involves creating “120-day lists” and holding prosecutors accountable. Auto-reminders are sent to line prosecutors when their cases approach 120 days of case processing, and supervisors can assist when prosecutors are struggling to resolve cases. As part of creating these new targets, special care must be taken to train new prosecutors, who may need to build confidence to make firm and timely decisions. Set both short- and long-term benchmarks, so that progress is attainable and measurable.

3. Improve the timeliness of evidence delivery. Often, delays are attributed to delays in law enforcement submitting reports and other key pieces of evidence, which prosecutors are required to provide to the defense to move the case forward. The elected prosecutor should engage in meetings with the chiefs of police in their jurisdiction to find methods for faster delivery of evidence. Jurisdictions with unified case management systems and real-time data exchanges tend to see less of these issues. As such, as a long-term solution, elected prosecutors should work with other justice stakeholders to source funding for effective unified systems.

4. Reduce continuances. While there are steps that the elected prosecutor can take internally to reduce backlogs, court and defense continuances remain a substantial barrier to timely case resolutions. Defendants must be given adequate time to investigate the charges against them, but lingering cases do not benefit the criminal justice system as a whole. One short-term tactic for addressing continuances is the use of expedited plea calendars, where a judge, defense attorneys, and the prosecutor resolve backlogged cases through significantly reduced plea terms. To avoid coercion, special care must be taken to ensure the cases on this docket are those that have the potential for a mutually agreeable resolution, not those with issues that should be resolved via trial.

5. Avoid unintended consequences. As prosecutors seek to eliminate backlogs through policy changes or new programs, they must consistently review, monitor, and adjust to ensure that new problems do not emerge. Changes may involve unintended consequences such as higher recidivism rates and greater racial and ethnic disparities. Developing hard-hitting policies may also damage staff morale and contribute to avoidable turnover. Regular reviews can help ensure that problems are identified early and minimize any threat to public safety.



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