



## Shelby County Criminal Justice System

*March 2025*

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# Introduction

On February 28, 2024, Lieutenant Governor Randy McNally sent a letter requesting that the Comptroller of the Treasury and the Administrative Office of the Courts investigate the criminal justice system in Shelby County.<sup>A</sup> In his letter, the Lieutenant Governor expressed concerns about:

1. The length of time it takes to dispose of cases.
2. The number of career criminals<sup>B</sup> committing additional crimes while awaiting case disposition.
3. The apparent discrepancy between the charges at arrest and the charges for which defendants are prosecuted.
4. The final disposition of cases not meting out proportional judgment, resulting in an overall lack of deterrent to crime.

The Comptroller's Office of Research and Education Accountability (OREA) completed this investigation as directed by the Comptroller. See Appendix A for the Lieutenant Governor's request letter.

## Research methods

Over the past year, OREA interviewed over 70 individuals, spent over 100 hours at the Shelby County Criminal Justice Center conducting research and observing court proceedings, and obtained and analyzed datasets from at least 22 state and local entities. OREA analyzed felony charges that were filed in Shelby County between January 1, 2018, and June 30, 2024. When possible, OREA compared these charges to felony charges filed in the 10 other most populated counties in Tennessee over the same time period. (The counties are listed on page 3.) OREA analyzed charges that were initially filed as a felony because felony charges move through both General Sessions Court and Criminal Court, allowing the functions of both courts to be considered.<sup>C</sup>

## Interviews

Individuals from the following entities were interviewed:

- Center for Community Research and Evaluation at the University of Memphis\*
- City of Memphis Mayor's Office
- Greater Memphis Chamber
- Just City\*
- Memphis Police Department
- Memphis Shelby Crime Commission
- Shelby County Attorney's Office\*
- Shelby County Criminal Court Clerk's Office\*
- Shelby County Criminal Court Judges\*
- Shelby County District Attorney General's Office\*
- Shelby County General Sessions Court Clerk's Office\*
- Shelby County Mayor's Office
- Shelby County Pretrial Services\*

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<sup>A</sup>The Tennessee Administrative Office of the Courts (AOC) has no investigative authority over Tennessee courts or the criminal justice system. As such, the AOC assisted OREA with procuring data in production of this report.

<sup>B</sup>The term "career criminal" informally refers to a defendant who has a prior record of convictions, as specified in statute. State law refers to these defendants as career offenders. As per *TCA 40-35-108*, a career offender is a defendant who has received (1) any combination of six or more Class A, B, or C prior felony convictions, and the defendant's conviction offense is a Class A, B, or C felony; (2) at least three Class A or any combination of four Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony; or (3) at least six prior felony convictions of any classification if the defendant's conviction offense is a Class D or E felony.

<sup>C</sup>Misdemeanors can also move through both courts, but only Criminal Court Judges can try felony cases. Any offense that can be punished with a sentence greater than a year is considered a felony.

- Shelby County Public Defender’s Office\*
- Shelby County Sheriff’s Office\*
- Tennessee Administrative Office of the Courts\*
- Tennessee Bureau of Investigation\*
- Tennessee Comptroller of the Treasury – Division of Investigations\*
- Tennessee District Attorneys General Conference\*
- Tennessee Department of Correction\*
- Tennessee Department of Finance and Administration
- Tennessee Department of Mental Health and Substance Abuse Services
- Tennessee Public Defender’s Conference
- Tennessee Supreme Court

Additionally, OREA interviewed former Shelby County Criminal Court Judges, a private defense attorney who practices in Shelby County, and a Shelby County Judicial Commissioner.\* See Appendix B for a list of those interviewed and additional information. Interviewees denoted with an asterisk were given an opportunity to review this report and provide feedback prior to publication.

## **Court clerk data from Tennessee’s most populated counties**

OREA requested data from General Sessions and Criminal Court clerks in Tennessee’s 11 most populated counties:

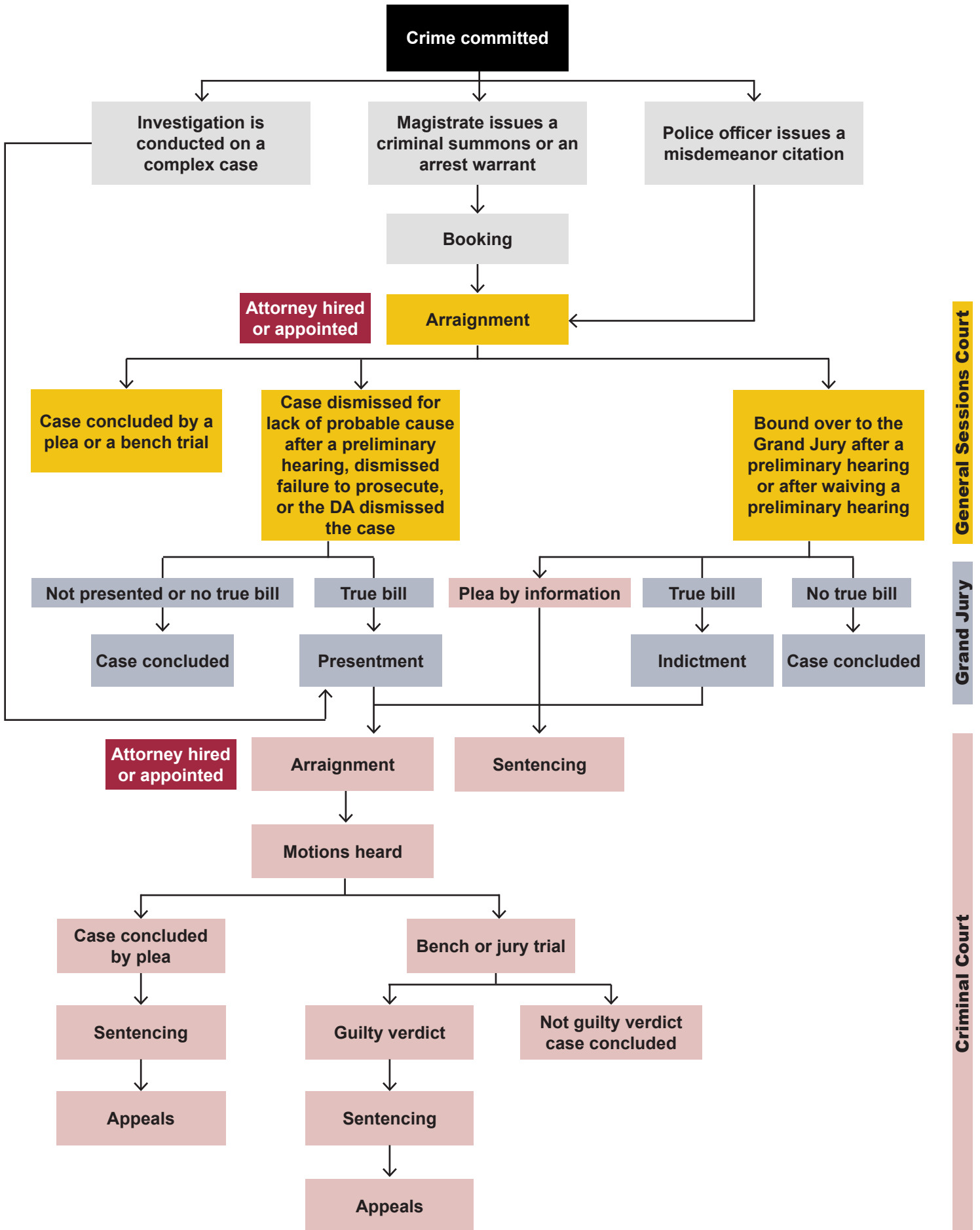
- Shelby County
- Davidson County
- Knox County
- Hamilton County
- Rutherford County
- Williamson County
- Montgomery County
- Sumner County
- Wilson County
- Sullivan County
- Blount County

## **Background**

The Shelby County criminal justice system is extraordinarily complex, involving numerous agencies, departments, offices, and officials at the state and local government levels. These various entities fall into three broad categories: law enforcement, the courts, and corrections. Given the concerns identified in the Lieutenant Governor’s request letter, this report largely focuses on the second category: the courts.

The courts in Shelby County can be divided into three phases: General Sessions Court, the grand jury, and Criminal Court. A criminal case can follow many paths within and through these three phases. As shown in Exhibit 1, when all the possible paths within and through the three phases are considered, the criminal justice system includes myriad possible paths for a case.

**Exhibit 1: Case progression**



General Sessions Court

Grand Jury

Criminal Court

Source: OREA adaptation of flow chart created by the Knox County District Attorney General's Office.

The following section explains what happens during the three phases: General Sessions Court, the grand jury, and Criminal Court.

## **General Sessions Court**

General Sessions Courts have three functions for felony cases: bail setting, arraignment, and preliminary hearing.<sup>D</sup> More information on these three functions are described below.

### ***Bail setting***

All defendants are eligible for bail, except those charged with capital offenses<sup>E</sup> where the presumption of guilt is high. Under Article I, Section 16 of the Tennessee Constitution, bail amounts must not be excessive. *TCA 40-11-118* states that bail amounts are to be the minimum amount required to reasonably ensure the defendant's future appearance in court and the safety of the community. For more information on bail setting, see page 21.

In Shelby County, bail is typically set by judicial commissioners, who are defined in state law as court officers whose duties include issuing search and arrest warrants, appointing attorneys for indigent defendants, and setting and approving bail and release on recognizance (ROR) for defendants. ROR is the granting of pretrial release without bail. There are certain offenses for which judicial commissioners cannot grant ROR. Per *TCA 40-11-115(d)*, only General Sessions and Criminal Court Judges can grant ROR to a defendant charged with a Class A felony, a Class B felony, aggravated assault, aggravated assault against a law enforcement officer or a first responder, or felony domestic assault.

State law does not set minimum qualifications for judicial commissioners, but counties can set qualifications. In Shelby County, judicial commissioners must have a Juris Doctorate degree, be licensed to practice law in Tennessee, and have at least five years of experience practicing law in Tennessee.

### ***Arraignment***

A defendant is arraigned when they make their first appearance before a magistrate in General Sessions Court. At an arraignment, the magistrate informs the defendant of the charges they were arrested for as presented on the affidavit of complaint.<sup>F</sup> For felony charges, the defendant is not asked to enter a plea of guilty or not guilty. After reading the affidavit, the magistrate informs the defendant of their rights, including: the right to counsel, the right to appointed counsel if indigent, the circumstances under which a defendant may obtain pretrial release, and the right to a preliminary hearing. When informing the defendant of their right to a preliminary hearing, the magistrate will ask if the defendant waives their right to a preliminary hearing. If a defendant charged with a felony waives their right to a preliminary hearing, the case is then bound over to the grand jury.

### ***Preliminary hearing***

If a defendant charged with a felony does not waive their right to a preliminary hearing, the magistrate schedules a preliminary hearing within fourteen days of the arraignment if the defendant is in custody, or within thirty days if the defendant is granted pretrial release. A magistrate can extend these time limits upon the showing of good cause by the defense.

During the preliminary hearing, the defense may present evidence and cross-examine witnesses. If the General Sessions Judge determines from the evidence presented that an offense occurred and that there is probable cause that the defendant committed the offense, the judge binds the defendant over to the grand jury. In Shelby County, when this happens, the case is considered held to state. If the judge determines from the evidence

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<sup>D</sup> Preliminary hearings can be waived in General Sessions Court. General Sessions Courts also serve other functions for misdemeanor cases, but this report focuses mostly on how General Sessions Courts handle felony cases.

<sup>E</sup> Capital offenses refer to criminal offenses which are punishable by death.

<sup>F</sup> An affidavit of complaint is a written statement which alleges that someone committed an offense and lists the facts of the case.

presented that there is not sufficient proof that an offense occurred or probable cause that the defendant committed it, the judge dismisses the defendant. If no probable cause is found, the district attorney's office can have the case heard in a grand jury for potential indictment.

## **Grand jury**

Once a case is bound over to a grand jury from General Sessions Court, the District Attorney General's (DAG) office prepares the case to be presented to the grand jury. The prosecution may present different charges than those listed on the affidavit of complaint in General Sessions Court if the prosecutor believes different charges better match the facts of the case.<sup>6</sup>

The grand jury, which consists of 12 jurors and a foreperson, holds separate votes on each count of a case, and 12 affirmative votes are required to return an indictment. Grand jurors vote to indict if they find the evidence presented to them establishes probable cause that the offense was committed by the defendant. Any count for which the grand jury's affirmative vote falls short of 12 does not move forward to Criminal Court. Grand jury proceedings are not open to the public nor are public records available documenting their work. A case progresses to Criminal Court with all counts that were indicted by the grand jury. The prosecution may choose to present any charges that were not indicted to another grand jury.

## **Criminal Court**

### ***Criminal Court arraignment***

Criminal Court arraignment is the first appearance a defendant makes before a Criminal Court Judge. At an arraignment, the judge reads the charges against the defendant on the indictment returned by the grand jury and the defendant formally enters a plea of guilty or not guilty. If the defendant previously had appointed counsel for the case, the judge will re-appoint defense counsel, whether that is the same attorney or a new one. If able to afford an attorney, a defendant hires his or her own attorney at this stage.

At any point after a defendant's arraignment, but before trial, the prosecution can make an offer to resolve the case by a plea agreement. A plea agreement between a defendant and the prosecution typically incentivizes a defendant to plead guilty to all or some of the charges against them in exchange for a known punishment. Agreements may include terms of imprisonment, alternative sentencing, and/or reduction or dismissal of charges. Plea agreements presented by the prosecution and defense must be approved by the trial court. Research from the United States Department of Justice suggests that between 90 to 95 percent of federal and state court cases are disposed by plea agreement.

### ***Report date(s)***

Following arraignment, the judge sets a report date for the prosecution and the defense to meet with the judge to estimate when the case will be ready for trial. Multiple report dates may be set on a case. For some cases, multiple report dates may be set to allow the prosecution and the defense to review evidence, such as police body camera footage, forensic evidence tested by a crime lab, and phone records. At any point after arraignment and before trial, a guilty plea can be entered by the defendant, either with terms by plea agreement, or a plea to the charges as filed after which the judge sentences the defendant.

### ***Trial***

If the case is not previously disposed and the defense and prosecution or the judge believe the case is ready for trial, the judge will set a date for trial. At the trial, both the prosecution and defense present evidence and call witnesses. The prosecution attempts to prove to the trial jury, or a judge if a defendant has waived the right to a trial by jury, beyond a reasonable doubt that the defendant committed the charged offense(s). The defense

<sup>6</sup> Cases dismissed in General Sessions can be presented to the grand jury at the discretion of the District Attorney General's office.

attempts to cast reasonable doubt on the prosecution's arguments or theories. If the prosecution fails to prove that the defendant committed the charged offenses, the case is dismissed and the defendant is released from custody, if applicable. If the defendant is convicted, the case proceeds to sentencing.

## Example cases from Shelby County

To better understand how cases progress through the system and to provide additional information relative to the Lieutenant Governor's request letter, OREA traced the path of a sample of criminal cases by observing hearings in Shelby County's General Sessions and Criminal Courts. The following are examples of actual cases from Shelby County taken from OREA observations conducted in August and September 2024. Defendant names have been changed.

The case of John Doe is an example of how a case can be disposed of in General Sessions Court.

John Doe was arrested for assault two weeks after a warrant was issued for his arrest. He appeared in General Sessions Court for an arraignment, where the judge read his charges to him. He hired an attorney, and three months later entered a guilty plea and the presiding judge placed the defendant on diversion. As outlined in his plea arrangement with the State, John Doe's case will be disposed after he serves 11 months and 29 days of judicial diversion and completes mandatory anger management classes.<sup>H</sup>

The case of Jane Smith also displays how a case can move through General Sessions Court, though Jane Smith's case was bound over to the grand jury.

Jane Smith was arrested for one count of identity theft and one count of assault on a first responder. She appeared in General Sessions Court for her arraignment, where the judge read her charges. Jane Smith stated she could not afford an attorney, so a public defender was assigned to her case. The public defender represented Jane Smith at her bail hearing, where the judge reduced her bail; Jane Smith remained in jail because she could not afford the reduced bail. Less than a month after her arraignment, she appeared in court for a preliminary hearing. After the preliminary hearing, the judge determined there was probable cause for assault on a first responder but no probable cause for identity theft. The defendant was bound over from General Sessions Court to the grand jury.

Michael Smith's case is an example of what can happen to a case after the defendant has been indicted by the grand jury.

Officers arrested Michael Smith and charged him with aggravated assault and aggravated robbery. His bail was set by a judicial commissioner the day after he was arrested, and on the same day he posted bail. Three days later, he appeared for his arraignment where a General Sessions Judge read his charges. Michael Smith stated he would hire an attorney, and he appeared three weeks later with his attorney. Two months later, Michael Smith's preliminary hearing allowed witnesses and police officers to share their testimony. The General Sessions Judge found probable cause for both the aggravated assault and aggravated robbery charges, and the defendant was bound over to the grand jury. About two months later, a grand jury heard Michael Smith's case, and he was indicted on both charges. He had a bail hearing with a Criminal Court Judge and hired an attorney to represent him. About two years after his initial arrest, Michael Smith's case was disposed when he accepted a plea agreement with the State. He pled guilty to assault, the aggravated robbery charge was dismissed, and he served 11 months and 29 days of probation.

While the majority of felony cases will be indicted by the grand jury, criminal information cases bypass the grand jury. Jane Doe's case is an example of how a criminal information case moves through the court system.

Jane Doe was arrested and charged with attempted first-degree murder, possession of a firearm in commission of a felony, being a convicted felon in possession of a handgun, and three counts of reckless

<sup>H</sup> Diversion is considered finalized at the completion of the sentence.

endangerment with a deadly weapon about six weeks after the crime occurred. After her arrest, she appeared before a General Sessions Judge for a video arraignment where her initial bail was set. Two weeks later after a preliminary hearing, where the General Sessions Judge determined probable cause, her six charges were transferred into Criminal Court. Within one month, she appeared in Criminal Court and entered a plea by way of criminal information after the judge read the charges to Jane Doe and her attorney. She agreed to serve a three-year sentence for the reduced charges of attempted voluntary manslaughter and convicted felon in possession of a handgun. Her case was disposed on the day she entered her guilty plea, which was three months after the date of the crime.

## Examples of diversion

In OREA's court observations, seven defendants appeared in Criminal Court for the successful completion of their diversion. In one instance, a defendant's case was held to state in 2017 for two attempted second-degree murder charges from one month prior. Four months later, the grand jury indicted the defendant, and the case was heard in front of a trial judge two months later for six charges: two each for attempted second degree murder, employing a firearm with intent to commit a felony, and aggravated assault. After multiple report dates before the judge, the defendant entered into a six-year judicial diversion and pled guilty to both counts of aggravated assault. OREA observed the successful end of diversion in August 2024, roughly seven years after the offense. As a result of completing diversion for the aggravated assault charges, the other charges were dismissed.

In another instance, a defendant had her case held to state four months after it entered General Sessions Court in January 2019; she was charged with five counts of reckless endangerment with a deadly weapon, a Class D felony. Once in Criminal Court, the defendant pled guilty to the same charge reduced to a Class E felony and began judicial diversion in 2022. In August 2024, after successfully completing diversion, her case was dismissed with cost.

## Two lenses of analysis: sample of cases and aggregate data

For each of the four concerns cited in the Lieutenant Governor's request letter, OREA analyzed the Shelby County criminal justice system through two lenses: (1) a sample of cases and (2) aggregate data.

### Sample of cases

OREA observed a sample of cases in General Sessions Court and Criminal Court between August 1 and September 24, 2024.<sup>1</sup> A total of 1,033 cases were observed and recorded, with 417 cases observed in General Sessions and 616 cases observed in Criminal Court. From these cases, OREA created a sample of cases that were disposed during observations. Of the 145 cases disposed, 97 were disposed in General Sessions Court and 48 were disposed in Criminal Court.

OREA made every attempt to observe regular operations of General Sessions and Criminal Court. OREA staff did not announce or identify themselves in the courtroom and sat in the general public area in each space, as is typical with local court watchers or members of the public interested in observing the court's business. When asked if it was a normal day in court, courtroom deputies agreed, with some stating it was slightly more or less busy than a regular day. However, there could have been irregularities that were not visible during this time or not shared that could have influenced court proceedings and collected data. While OREA's observation data has been carefully recorded and analyzed, it should not be generalized to the whole court system as it is a random sample collected at one point in time.

<sup>1</sup> In General Sessions Court, cases were observed in eight of the nine divisions. Each of these courts were observed at least once. Division 14, which primarily focuses on local ordinances related to traffic or environmental violations, was excluded because it does not typically process felony charges. In Criminal Court, cases were observed in all nine divisions. Each Criminal Court was observed at least twice.

OREA's court observations spanned more than 100 hours over 21 days within the General Sessions and Criminal Court courtrooms. During observation, OREA staff remained in the courtroom from the opening to closing of each courtroom. The more than 1,030 cases observed represent a fraction of the cases heard in these courtrooms on any given day. Across all eight General Sessions courtrooms that hear felony cases, more than 480 cases are heard daily. In the nine Criminal courtrooms, this number rises to over 500 cases heard daily. For these reasons, the observation data, while valid for the information and cases highlighted in this report, should be considered illustrative more than generalizable.

## Aggregate data

In addition to analyzing a sample of cases, OREA also analyzed thousands of felony charges filed in Shelby County Criminal Court between January 1, 2018, and June 30, 2024. When possible, OREA compared these charges to felony charges filed in the 10 other most populated counties in Tennessee over the same time period.<sup>J</sup>

OREA planned to use the data provided by the General Sessions and Criminal Court Clerks to analyze felony charges against defendants whose cases were processed by both courts. This was not possible because there is not a unique identifier attached to a case as it progresses through both courts.<sup>K</sup> Instead, when a case leaves General Sessions Court and is transferred to Criminal Court, a new case number is entered in Criminal Court.

Connecting cases between General Sessions and Criminal Court by using a defendant's name is problematic because a defendant's name may be entered differently in each court clerk's system (e.g., with or without middle initial, shortened name, nickname, hyphenated last name, etc.). Without a unique identifier, OREA was not able to achieve a high level of confidence that a new case entered for John Doe in Criminal Court, for example, was connected to a case entered for Jonathan J. Doe in General Sessions Court. Given the lack of a unique identifier, OREA's analysis of aggregate data is limited to Criminal Court.

The four concerns in the Lieutenant Governor's request letter are addressed through both lenses – the sample of cases lens and the aggregate data lens – in the following sections.

## Analysis of time to disposition

### Sample of cases

#### ***Almost all of the observed cases that were disposed in General Sessions Court were disposed within 266 days, or nine months***

Exhibit 2<sup>L</sup> shows the number of days a case was pending in General Sessions Court for the observation sample. For 77 of the 97 cases that were observed and disposed in General Sessions Court, OREA collected additional data to analyze the length of time each case spent from introduction to disposition.<sup>M</sup> The median age of all observed cases, represented by the line in the middle of the shaded box, was 63 days. This indicates that half of the observed General Sessions cases were disposed in just over two months. Nearly all the cases observed were

<sup>J</sup> The 11 counties analyzed in this report, listed in order of population from largest to smallest, are Shelby, Davidson, Knox, Hamilton, Rutherford, Williamson, Montgomery, Sumner, Wilson, Sullivan, and Blount.

<sup>K</sup> Each defendant who is booked receives a Records and Identification number (RNI) that corresponds to the defendant's fingerprint. (Some agencies refer to this number as R&I while others use RNI.) The RNI number is used in General Sessions Court, Criminal Court, and related entities (Sheriff's Office, Public Defender's Office, District Attorney General, etc.). However, this number represents an individual defendant, not a case, and therefore is unable to be used to link a case as it travels through General Sessions to Criminal Court.

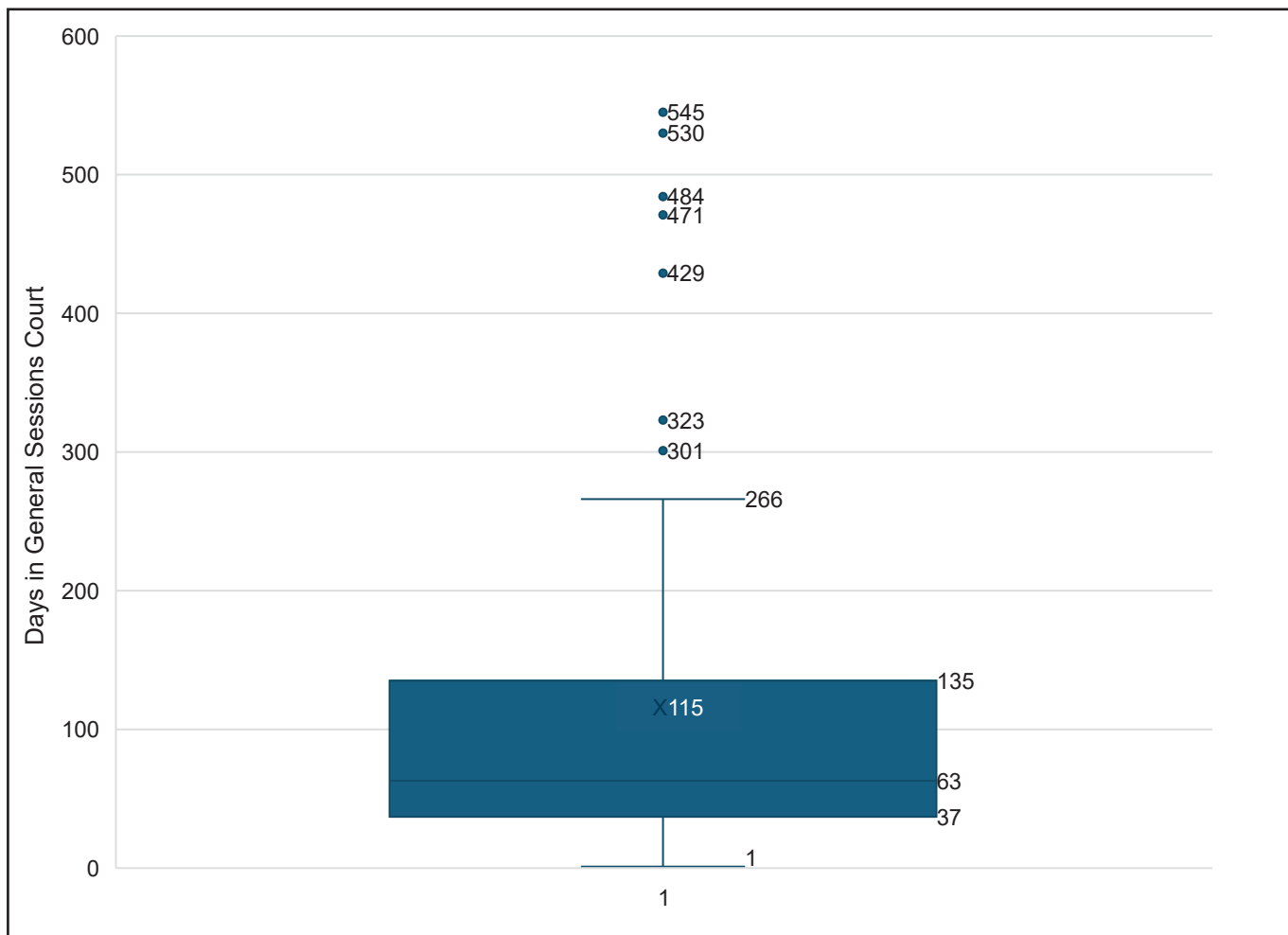
<sup>L</sup> Exhibit 2 is a box and whisker chart. This visually represents the spread of a dataset using five key components: the minimum, first quartile (Q1), median (Q2), third quartile (Q3), and maximum. The box represents the middle 50 percent of the data, with the line inside showing the median, while the whiskers extend to the smallest and largest values that are not outliers. Outliers, shown as individual points, indicate values significantly higher or lower than the rest of the data.

<sup>M</sup> OREA used the online Criminal Justice Information System (CJIS) portal to find case information for cases that were disposed of during OREA's court observations. Court clerks maintain CJIS and update the portal with case information (motions, attorney appointments, hearings, affidavits) as cases move through the criminal justice system. Twenty cases were not present in CJIS when OREA attempted to retrieve the files; these cases were all dismissed during observation. For certain charges, defendants have the right to expunge charges after dismissal.

disposed within 266 days, or nine months, as shown by the horizontal lines in the exhibit. A quarter of cases were resolved in 37 days or fewer.

The points above the horizontal line for 266 days represent outliers; these seven cases were disposed of between 301 and 545 days (or 10 to 18 months). Two cases were extreme outliers, having spent 1,656 and 1,624 days pending in General Sessions, and do not appear in the exhibit. One of these cases was disposed by guilty plea, and the defendant was given credit for time served. For the other case, on the day of the scheduled preliminary hearing, the witness did not appear in court and the case was dismissed for lack of prosecution.

**Exhibit 2: Almost all of the disposed cases observed in General Sessions Court were disposed within nine months, or 266 days**



Source: OREA court observations, August and September 2024.

***OREA identified common factors that affect a case’s length of time to disposition***

Each courtroom has a docket, or a schedule, of cases that will be heard each day. The courtroom closes for the day once the docket has been completed or once all the cases on the list have been heard or reset (i.e., rescheduled for a later date). Cases can be scheduled as a “report to court” or “report date” on the docket; on these dates an attorney and/or defendant will provide the judge with an updated status of the case. If a party needs to obtain or review evidence, hire counsel, work with opposing counsel on a resolution, or needs additional time to work on other aspects of the case, the defense, prosecution, or defendant (if no counsel is hired yet) may ask for a continuance, or reset, to appear at a later date and provide an update. The allowance of a continuance and its length is determined by the judge, typically decided in consultation with the other involved parties.

**A change in defense counsel was the most common reason observed cases were delayed in General Sessions and Criminal Court**

During Shelby County General Sessions and Criminal Court observations in August and September 2024, OREA observed 121 and 354 occurrences, respectively, when an attorney or defendant requested a case be rescheduled for another date. See Exhibits 3 and 4.

For over 80 percent of the cases reset for a later date in General Sessions Court, the reason was due to a change with defense counsel. In these cases, a defendant may have a newly appointed attorney or may be making his first appearance with a retained attorney. In other cases, a reset was granted because the defendant had not yet hired or been appointed an attorney, or the defendant’s attorney was not present when the defendant was called before the judge. These reasons were also the most common justifications for case resets in Criminal Court.

**Exhibit 3: A newly appointed or retained attorney for the defendant was the top reason for resetting a case for a later date in observed General Sessions cases | August and September 2024**

<b>Reason</b>	<b>Occurrence</b>
Defendant has newly appointed or retained attorney	64
Defendant needs to hire attorney	28
Mental evaluation ordered	11
Attorney not present	7
Align with another case for defendant	5
Reschedule with co-defendant	3
Victim appearance requested	2
Defendant in hospital	1

Source: OREA court observations, August and September 2024.

**Exhibit 4: A newly appointed or retained attorney for the defendant was the top reason for resetting a case for a later date in observed Criminal Court cases | August and September 2024**

<b>Reason</b>	<b>Occurrence</b>
Defendant has newly appointed or retained attorney	70
Evidence	60
Reschedule with co-defendant	59
Review state’s offer/working on negotiation	30
Align with another case for defendant	30
Defendant needs to hire attorney	25
Order for pre-sentencing report	18
Attorney not present	16
Defendant not present	16
Victim/witness appearance requested	10
Mental or drug evaluation	11
Awaiting treatment placement	6
Order for pretrial services	3

Source: OREA court observations, August and September 2024.

During court observations, OREA identified several reasons why an attorney on a case may change. A defendant may decide to obtain a new attorney, or a prosecutor, public defender, or a private attorney may leave their position. After a new attorney is assigned or hired, the attorney may ask the judge to reset a case's next appearance on the docket to allow time for the attorney to familiarize themselves with the case. Multiple interviewees told OREA that it is typically in the best interest of both the defense and prosecution for the judge to grant a reset when counsel on a case changes. This ensures that defendants receive adequate representation and reduces the likelihood that the case will be appealed.

In both General Sessions and Criminal Court, OREA observed 28 and 25 occurrences, respectively, of case resets because the defendant needed to hire an attorney. Defendants are responsible for obtaining an attorney. Hiring a private attorney typically requires the defendant to pay a retainer fee before the attorney officially signs on to the case as attorney of record with the court clerk. Defendants who are indigent complete a form<sup>N</sup> or testify to a judge that they cannot afford an attorney, at which point one is appointed for them. Some defendants may attempt to collect funds to hire an attorney; a judge uses his or her discretion to determine how long to allow this before determining the defendant indigent and appointing an attorney. Private attorneys can be appointed in the event a co-defendant is represented by the public defender's office. Some attorneys may choose to only operate in General Sessions cases; if a defendant's case moves to Criminal Court, the hiring or appointment will begin again. Unlike prosecuting attorneys, defense attorneys (including attorneys appointed through the Public Defender's office) cannot begin work on a case until they are hired or appointed.

### **Turnover in the Shelby County Criminal Justice System has contributed to case delays**

Turnover within the Shelby County Criminal Justice System has contributed to the length of time it takes to process cases. Between September 2022, the month after Steve Mulroy was newly elected as Shelby County's district attorney general (DAG), and February 2024, 54 attorneys left the office (e.g., fired, resigned, retired, etc.), and 50 new attorneys were hired to replace them. When an attorney leaves the DAG's office, their cases are reassigned to other attorneys within the office. This can cause a delay as the new attorney needs time to familiarize himself or herself with the case before proceeding.

Turnover among attorneys has also occurred in the Shelby County Public Defender's Office, and multiple interviewees emphasized the shortage of public defenders as a cause for case delays. Between January 2022 and December 2024, 34 attorneys left the Shelby County Public Defender's Office. Of the attorneys that left the office during this time, 11 joined the Shelby County District Attorney's Office. To address this turnover, the Public Defender's office hired and trained 39 attorneys. As of January 2025, the Shelby County Public Defender's Office had nine unfilled full-time attorney positions.<sup>O</sup> The Shelby County Public Defender's Office attempted to address turnover by recruiting five private attorneys to provide part-time case support, but three of those private attorneys resigned before being assigned any cases.<sup>P</sup> According to information provided by the Shelby County Public Defender's office, pay disparity negatively impacts hiring and retaining public defenders within the office. *TCA* 8-14-107 and 8-7-226 ensures pay parity between state-funded assistant district attorneys and public defenders, but does not apply to locally-funded assistant district attorneys or public defenders. In Shelby County, some of these positions are locally funded.

Turnover also occurred in the General Sessions and Criminal Courts in 2022, as seven new judges were elected (three in General Sessions and four in Criminal Court). As they adjust to their new role and gain experience, new judges can be slower to process cases than those with more experience.

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<sup>N</sup> The form given to defendants in General Sessions Court requires the defendant to state current work and wages, pensions, property owned, and if the defendant believes he or she or family can afford bail and an attorney, all sworn under oath.

<sup>O</sup> An additional four full-time attorney positions in the Public Defender's Office are unfilled, however, these positions are anticipated to be filled by current law clerks in the office who will take the bar exam in 2025.

<sup>P</sup> The three private attorneys are not included in the 34 attorneys who resigned from the office between January 2022 and December 2024.

One of the new judges elected to a Criminal Court Judgeship in 2022 resigned from the bench in 2024. The cases assigned to this judge's courtroom were slow to be resolved, in part because of the judge's performance, according to multiple interviewees. The cases assigned to the judge's courtroom were reassigned to other Criminal Court Judges and to a senior judge. The General Assembly removed this judgeship from Shelby County in 2024, reducing the number of Shelby County Criminal Court Judges from 10 to nine.

### **Wait time for evidence testing was another common reason for case delays**

Interviewees from the Shelby County DAG's Office, Shelby County Criminal Court judiciary, and TBI also cited long waiting periods for TBI's forensic testing results as a reason some cases linger in Criminal Court. The Assistant Director for TBI's Forensic Services division stated that wait times for submission of evidence and forensic testing can be lengthy, and that the amount of time needed to process a submission depends on the type of testing that is required.

Long-term understaffing of TBI's forensic scientists and support staff have contributed to long wait times and a large inventory of submissions waiting to be tested. In 2022, the General Assembly appropriated approximately \$4,000,000 in recurring funds and \$348,000 in non-recurring funds for 50 positions in the forensic services division to reduce TBI's forensic testing inventory. After staff are hired, training times vary between units and can take 12 to 24 months. TBI's Assistant Director for Forensic Services indicated the new positions will help with reducing the submissions in inventory waiting to be tested.

TBI has one forensic testing lab in each of Tennessee's three Grand Divisions. These labs are located in Knoxville, Nashville, and Jackson. The Jackson lab handles most of Shelby County's forensic testing submissions.

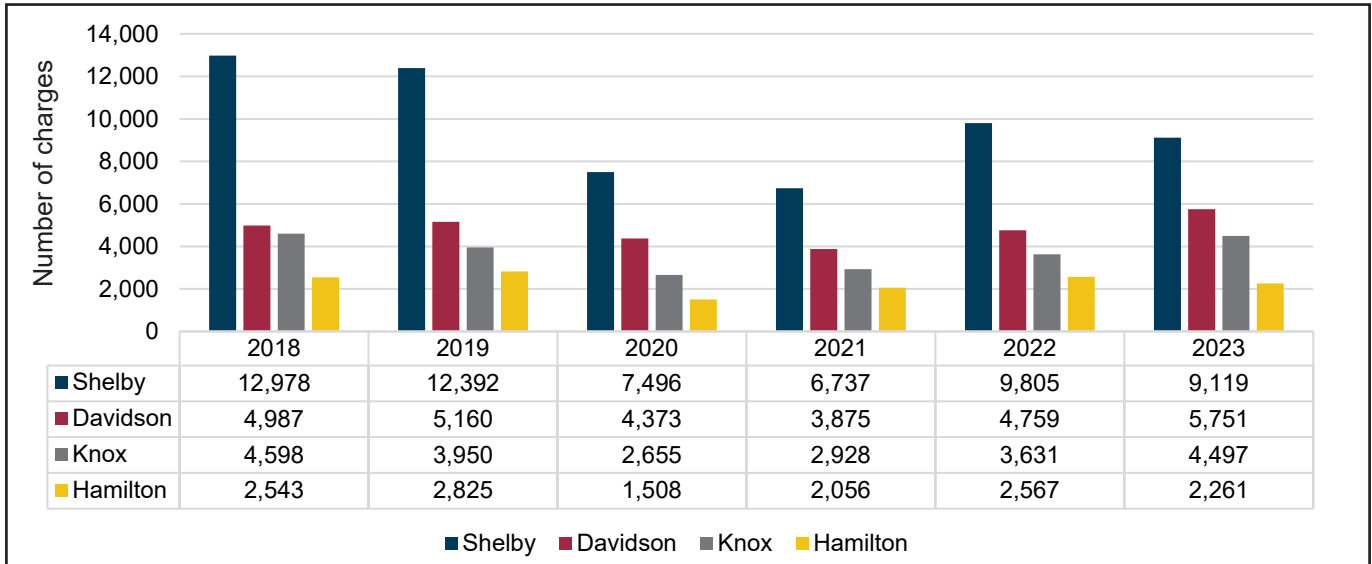
## **Aggregate data**

### ***Shelby County's Criminal Court processes more felony charges than the next three largest Tennessee counties***

During interviews with OREA, stakeholders within the Shelby County criminal justice system frequently mentioned the volume of cases as a cause for delay. OREA analyzed felony charge filings in Tennessee's four most populated counties (Shelby, Davidson, Knox, and Hamilton) from 2018 through 2023, as shown in Exhibit 5.

In each of the six years analyzed, the number of felony charges filed in Shelby County was nearly double that of Tennessee's other three most populous counties. The number of felony charges filed in Shelby County's Criminal Court exceeded 12,000 in 2018 and 2019, surpassing the number filed in the other three counties' Criminal Courts. In Davidson County's Criminal Court, which consistently ranked second after Shelby County, the number of felony charges filed in 2018 and in 2019 was between 4,000 and 6,000. In the same two year (2018 and 2019), Knox Hamilton Counties' Criminal Courts reported significantly fewer felony filings, ranging from 3,500 to 5,000 and 2,000 to 3,000, respectively. In the following two years, 2020 and 2021, all four counties experienced a sharp decline in felony filings, due to disruptions caused by the COVID-19 pandemic. In those two years, Shelby County's Criminal Court felony filings dropped to around 6,000 – still higher than Davidson County's filings in 2018 or 2019.

**Exhibit 5: Number of felony charges filed in Criminal Court by county | 2018 through 2023**



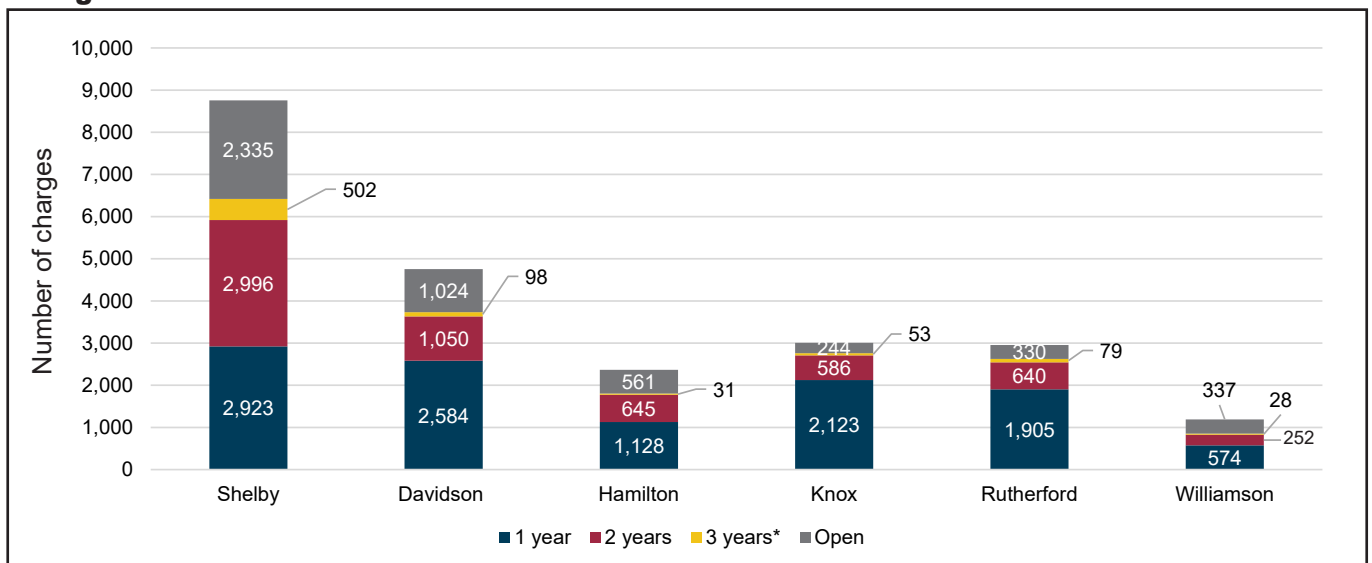
Source: OREA analysis of Criminal Court Clerk data.

**Shelby County’s Criminal Court has disposed of a higher number of felony charges, but a lower percentage, compared to other Tennessee counties**

OREA analyzed felony charges filed in 2022 in Shelby County’s Criminal Court and the five other most populated counties in Tennessee. As shown in Exhibit 6, Shelby County disposed of 2,923 felony charges within one year, which was slightly more than the number of felony charges disposed in Davidson County within one year (2,584 charges). Within two years, Shelby County disposed of an additional 2,996 charges, nearly triple the number of additional charges disposed in Davidson County (1,050 charges).

However, Shelby County had the largest number of open charges (2,335), significantly higher than any other county; Davidson County had less than half the number of open charges (1,024) as Shelby. Knox and Rutherford Counties process charges more efficiently, with a higher proportion of charges disposed within a year and fewer open charges relative to the total filed charges.

**Exhibit 6: Number of felony charges disposed of within one, two, and three years by county | Charges filed 2022**

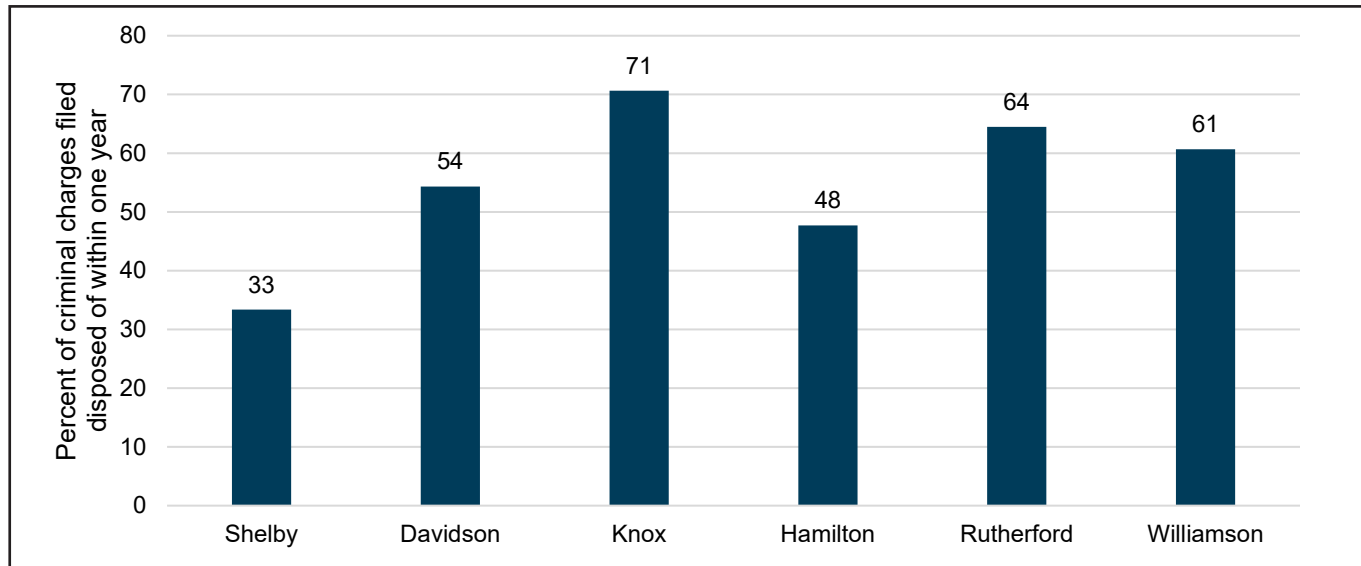


Notes: (1) The data used to create this exhibit is current as of July 1, 2024. As a result, charges filed in 2022 that were still pending as of July 1, 2024, may have been disposed within three years but are included in the open category of this exhibit. (2) The number of felony charges filed in 2022 in Shelby County’s Criminal Court differ from other exhibits in this report because this exhibit includes charges that were disposed through diversion.

Source: OREA analysis of Criminal Court Clerk data.

OREA also analyzed the percent of felony charges disposed within 365 days of initial filing in Shelby County and the five other most populated counties in Tennessee. Considering all felony charges filed in 2022, Shelby County disposed of 33 percent of charges within 365 days, lower than any other county shown in Exhibit 7. The other five counties disposed of a higher percentage of charges within 365 days, ranging from 48 percent (Hamilton County) to 71 percent (Knox County).

**Exhibit 7: Percent of felony charges disposed within 365 days of initial filing | Charges filed in 2022**

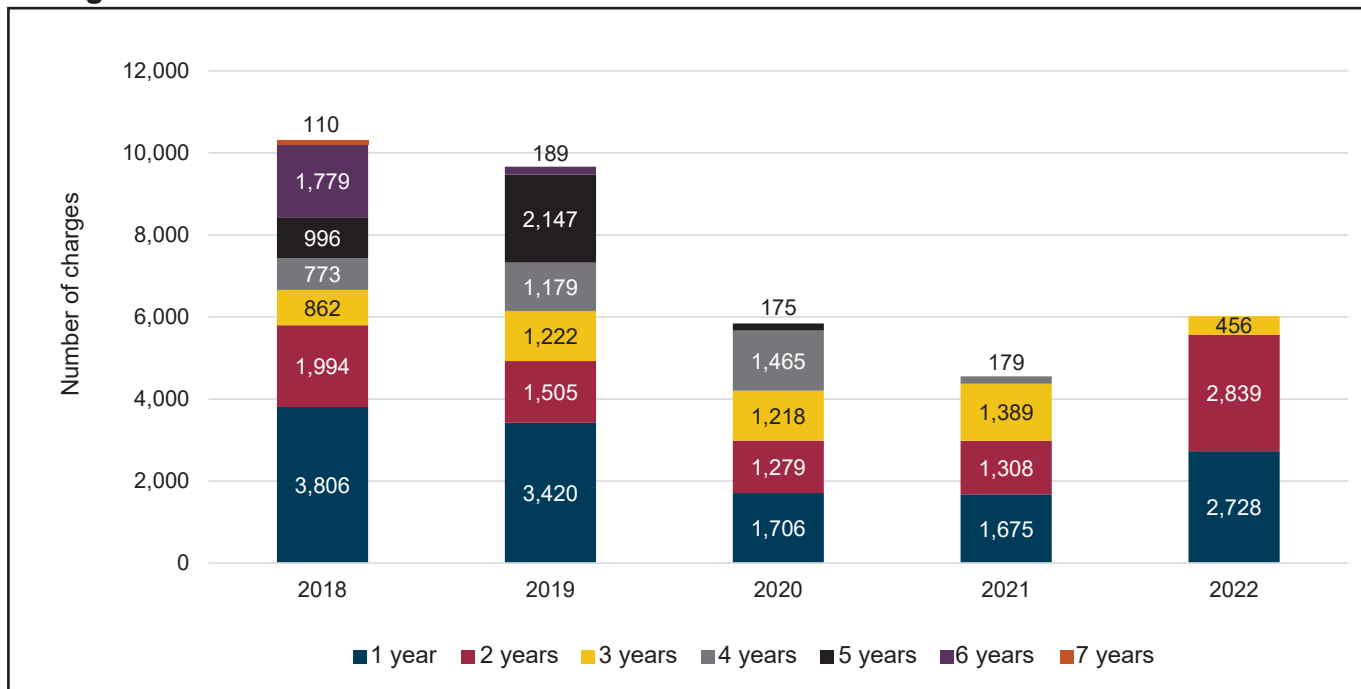


Source: OREA analysis of Criminal Court Clerk data from the counties included in the exhibit.

Exhibit 8 shows felony charges that were filed in Shelby County’s Criminal Court by disposition time in years. For example, of the felony charges filed in 2018, 3,806 were disposed within one year of being filed in Criminal Court, and an additional 1,994 were disposed within two years of being filed. Of the charges filed in each year shown in the exhibit, most were disposed within three years.

The percent of charges filed in each year that were disposed within one year range from 26.7 percent (1,706 charges) in 2020 to 35.9 percent (3,806 charges) in 2018. In 2022, the most recent year shown in Exhibit 8, 32.6 percent of charges (2,728 charges) filed were disposed in one year.

**Exhibit 8: Shelby County Criminal Court disposition time in years | Felony charges filed 2018 through 2022**



Note: \*The data used to create this exhibit is current as of July 1, 2024. As a result, charges filed in 2022 that were still pending as of July 1, 2024, may have been disposed within three years but are not included in this exhibit.

Source: OREA analysis of data provided by the Shelby County Criminal Court Clerk’s Office.

As found in the observed sample data and aggregate data, case dispositions are delayed due to a variety of factors. The National Center for State Courts’ Effective Criminal Case Management (ECCM) Project could help Shelby County courts reduce delays in processing criminal cases. The ECCM Project has documented effective practices for handling criminal cases in state courts. The project’s work also includes a Cost of Delay calculator and tools to consider for effective caseload management. By using available information from ECCM, Shelby County courts may be able to reduce delays in processing criminal cases. Additional information on the ECCM project can be found in the recommendations section on page 47 of this report.

**Rearrest rate (number of career criminals committing additional crimes while awaiting case disposition)**

**Sample of cases**

*Seven of the 95 defendants in OREA’s sample were arrested for a new offense while on pretrial release awaiting disposition for a prior offense.*

To determine how many defendants were rearrested while waiting for their case to be disposed, OREA sent a list of 95 defendants obtained from its court observation disposition sample and requested information from the following agencies on each defendant: the Tennessee Department of Correction Division of Community Supervision, the Shelby County Sheriff’s Office, and Shelby County Pretrial Services. OREA received the requested information from Community Supervision, which responded with information on the rearrest if a defendant was booked on another charge at any point between the defendant’s case being filed and disposed. Exhibit 9 includes the individuals who received a new offense while waiting for their case to be disposed, the original offense for the open case, the highest class from the initial set of charges, and the new offense for the rearrest.

**Exhibit 9: Initial offense compared with new offense for 10 defendants in OREA's sample**

<b>Name</b>	<b>Initial offense</b>	<b>Initial offense – highest class</b>	<b>New offense</b>
Defendant A	Fail to exercise due care (Mis-C) Intentionally evading arrest in auto (Fel-E), Theft of property \$1,000 or less (Mis-A)	Fel-E	Theft of merchandise \$1,000-\$2,500 (Fel-E)
Defendant B	Aggravated assault – reckless (Fel-D), Aggravated assault (Fel-C). Vandalism \$1,000 or less (Misd-A)	Fel-C	Alt/Fals./Forge Auto Title Plates, Driving while license invalidated, Poss Marij W/I M/D/S & Traffic (Mis. A,B,C & Fel E)
Defendant C	Domestic assault – bodily harm (Mis-A)	Mis-A	Domestic assault – bodily harm (Mis-A)
Defendant D*	First degree murder (Fel-M), second degree murder (Fel-A), especially aggravated robbery (Fel-A)	Fel-M	Intentionally evading arrest in auto (Fel-E)
Defendant E	Aggravated assault first responder (Fel-C), identity theft (Fel-D)	Fel-C	Poss. of controlled substance – meth, evading arrest (Mis-A)
Defendant F*	Aggravated rape (Fel-A), aggravated kidnapping (Fel-B), aggravated kidnapping (Fel-B)	Fel-A	Aggravated Rape (Fel-A)
Defendant G	Burglary of vehicle (Fel-E), theft of property \$1,000-\$2,500 (Fel-E), possession of burglary tools (Mis-A)	Fel-E	Poss of Burglary Tools; PCS W/I To M/D/Sx2 (Mis-A, Fel)
Defendant H*	Criminal attempt first degree murder (Fel-A), criminal attempt first degree murder, aggravated assault, aggravated assault, reckless endangerment w/ deadly weapon, theft of property \$2,500-\$10,000	Fel-A	Theft of property \$10,000-\$60,000 (Fel-C), Theft of property \$60,000-\$250,000 (Fel-B)
Defendant I	Aggravated Assault (Fel-C), Carjacking (Fel-B)	Fel-B	Agg. Assault (Fel-C), Conv. Felon in Poss of Handgun
Defendant J	Aggravated assault (Fel-C), possession of item with miss/alt plate, termination of diversion	Fel-C	Domestic assault – bodily harm x3 (Mis-A)

Source: OREA analysis of data provided by the Tennessee Department of Correction, Community Supervision.

Seven of the 10 defendants shown in Exhibit 9 were arrested for a new offense while on pretrial release awaiting disposition for a prior offense. For six of these seven defendants, their initial offense as well as their new offense included a felony charge. For example, Defendant B was arrested for a Felony E offense and Misdemeanor A, B, and C offenses while awaiting disposition on Felony C, Felony D, and Misdemeanor A offenses. Details on the prior offense, including the highest offense class, and the new offense for each defendant are shown in Exhibit 9.

The cases of the remaining three defendants illustrates one of the reasons why reviewing data on rearrests requires careful examination. Defendant D was indicted by the grand jury in April of 2021, which started the case against her. While a warrant was issued, she was not arrested at the time. Defendant D was arrested and charged with one count of evading arrest in an automobile in August of 2021. The defendant was booked on the initial charges of first-degree murder, second-degree murder, and especially aggravated robbery on the same day that the charges for evading arrest were filed. This suggests that either Defendant D committed the offense of evading arrest when officers attempted to execute the warrant for the initial charges or a traffic stop and subsequent evading arrest crime led to her booking and discovery of an outstanding warrant. Since Defendant D had not yet been booked, arraigned, or considered for pretrial release, this does not fall under OREA's definition of a rearrest.

Defendant F was in TDOC custody at the time of being charged with a new offense of aggravated rape. This defendant has been in TDOC custody since February 2015 and remains in custody. The new aggravated rape charge stemmed from the defendant’s DNA matching the evidence from an unsolved rape case.

Defendant H’s case offers another example of why rearrest data must be carefully examined. The initial information obtained makes it appear that Defendant H was awaiting disposition for a case involving several charges when he was charged with new offenses for theft of property worth \$10,000-\$60,000 and theft of property worth \$60,000-\$250,000. Further details of the case showed that Defendant H’s initial offenses had been indicted before any arrest was made. Upon indictment, a warrant was issued for Defendant H. When Defendant H was arrested following the new offenses, he was also served for the outstanding warrant for the initial offenses.

As in the case with Defendants D, F, and H, it can be difficult to determine if a new charge is the result of a new offense committed by the defendant while their case was pending, if the charges are related to offenses committed prior to the defendant’s case being filed, or if the defendant is currently incarcerated while new charges are filed against them. These are just three instances from OREA sample case set that illustrate the need for careful analysis of data.

Of the seven defendants rearrested while on pretrial release, Defendant B and Defendant J had no prior convictions. Defendant A had prior convictions that only included misdemeanors. The four remaining defendants had prior convictions that included at least one felony and one misdemeanor.

**Exhibit 10: Prior criminal record and dates of convictions for case sample rearrests**

Name	Prior convictions
Defendant A	8 misdemeanors (2008 through 2020)
Defendant B	No prior convictions
Defendant C	3 felonies (2014) and 1 misdemeanor (2023)
Defendant E	1 felony (1995) and 7 misdemeanors (1991 through 1994)
Defendant G	5 felonies (2004 through 2008) and 15 misdemeanors (2002 through 2022)
Defendant I	2 felonies (2017) and 1 misdemeanor (2004)
Defendant J	No prior convictions

Source: Shelby County Criminal Justice Information System.

**Aggregate data**

***The rearrest rate calculation depends on the definition and data used in its calculation***

OREA requested data from several organizations to measure rearrest rates in Shelby County: Shelby County Pretrial Services, the Shelby County Sheriff’s Office, General Sessions and Criminal Court Clerks, and the Tennessee Department of Correction Division of Community Supervision. OREA received data from the Shelby County General Sessions and Criminal Court Clerks and Community Supervision.<sup>Q</sup>

OREA planned to use the data provided by the General Sessions and Criminal Court Clerks to identify defendants for whom a new case was filed while they were awaiting disposition for a pending case. However, because the date of disposition for cases in General Sessions Court was not provided, OREA could not determine if a rearrest occurred while the case was waiting for disposition and could not link General Sessions and Criminal Court data without a unique case identifier that remains consistent between both courts. This prevented OREA from determining the dates during which a defendant’s case was pending and therefore

<sup>Q</sup>The data received from Community Supervision was used in OREA’s case sample analysis, as described on pages 16-18.

prevented OREA from determining if new charges were filed while another case was still open. Additionally, as evidenced from the case sample rearrest data, determining if a rearrest is related to a new charge or an additional charge for an outstanding case is difficult given the data available in aggregate. OREA also did not have data on the custody status of defendants.

Given the data limitations, OREA reviewed statistics on rearrests in Shelby County as reported by other entities. For these reports, authors used differing definitions of rearrest and data sources to determine a rearrest rate for the defendants in their sample. To examine instances of bail relating to pretrial release and rearrest, OREA used General Sessions Court Clerk data to analyze bail amounts in Shelby County and compare the average bail amounts in Shelby and Davidson Counties.

**Reports and statistics on rearrest from other agencies and organizations**

Two organizations, the Center for Community Research and Evaluation (CCRE) at the University of Memphis and Just City, released reports regarding rearrest statistics in Shelby County in August and October 2024, respectively. Additionally, the Shelby County Judicial Commissioners included statistics on rearrest in their 2023 Annual Report to the Shelby County Commission. However, their report is not included in OREA’s report due to errors with data analysis. The reports by CCRE and Just City analyzed rearrest and reoffense rates, respectively. Both reports differ in the definition, methods, and data used to evaluate rearrest rates. See Exhibit 11.

**Exhibit 11: Comparison of reports with rearrest rates**

Report	Definition	Data sources	Rearrest rates
Center for Community Research and Evaluation (CCRE) at the University of Memphis, August 2024	Defendant booked into jail within 120 days of his or her initial release from jail. The new jail booking must be associated with a different General Sessions case filed at least one day after the defendant’s release from jail.	Shelby County General Sessions Court; Shelby County Sheriff’s Office; Shelby County Pretrial Services	2/15-8/14/22: 14.3% 8/15/22-2/14/23: 14.6% 2/15/23-8/15/23: 16%
Just City, October 2024	Reoffends: New charge filed within 120 days of defendant’s release, even if they were not arrested for the offense. “Reoffense while out on bail”: reoffense in the period between a person’s pretrial release and the resolution of all charges related to that arrest.	Shelby County Criminal Justice Portal; Shelby County Sheriff’s Office Inmate Lookup	2/15-8/14/22: 17.6%* 8/15/22-2/14/23: 17.1%* 2/15/23-8/15/23: 18.1%*  Released on bail: 2/15-8/14/22: 12.6%* 8/15/22-2/14/23: 12.5%* 2/15/23-8/15/23: 12.2%*  *also broken down by violent vs. nonviolent

Sources: *Analysis of Pretrial Detention System in Shelby County*, University of Memphis Center for Community Research and Evaluation, August 2024; *Pretrial Reoffense after the “Standing Bail Order:” An Analysis by Just City*, October 2024.

CCRE released *Analysis of Pretrial Detention System in Shelby County* in August 2024. The analysis of rearrests from CCRE was part of a larger report analyzing the pretrial detention system in Shelby County following adoption of the Standing Bail Order (SBO).<sup>R</sup> The report was produced in partnership with Shelby County Government because no county agency had staff capable of compiling or analyzing data for this purpose.<sup>S</sup>

<sup>R</sup> The Standing Bail Order (SBO) resulted in three changes to Shelby County’s pretrial detention practices, including the creation of a bail hearing courtroom in the Shelby County Courthouse, the right to a bail hearing within three days of the defendant’s arrest, and consideration of the defendant’s finances prior to the setting of bail using the Vera Institute’s “Ability to Pay” calculator.

<sup>S</sup> When the SBO was adopted in August 2022 by the Shelby County Commission, the enacting resolution required a report that would provide the Commission with information in consideration of renewal and funding of the program. In September 2023, the Lead Judicial Commissioner reported to the Commission that no participating county agency had staff capable of compiling or analyzing the data required by the resolution. As a result, Shelby County Government partnered with CCRE to fulfill the reporting requirements.

In October 2024, Just City released *Pretrial Reoffense after the “Standing Bail Order.”* Just City is an organization that advocates for criminal justice reform and was also one of several organizations that initiated negotiations with Shelby County judicial and government officials that led to the creation of the SBO. In its report, Just City used data from two publicly available online databases: the Shelby County Criminal Justice Portal (CJS, also known as Odyssey) and the Shelby County Sheriff’s Inmate Lookup.

Just City defines reoffense as any new misdemeanor or felony charge filed in General Sessions or Criminal Court within 120 days of release, regardless of whether the person was arrested, meaning the new charge could be connected with a pending case. In contrast, CCRE defines rearrests as new jail bookings within 120 days of release that are associated with a different General Sessions case filed at least one day after the defendant’s release from jail, meaning their dataset excludes individuals who may have been charged but not arrested. Additionally, Just City included expunged cases and Criminal Court data, meaning their dataset captured a broader range of reoffenses.

CCRE reported an increase in overall rearrest rates, from 14.3 percent between February and August 2022 to 16.0 percent between February and August 2023. Just City found an increase in overall reoffense rates, from 17.6 percent to 18.1 percent across the same timeframe. (The difference in rates, as reported by Just City and CCRE, is likely due to their use of different data sources and definitions.) However, these statistics do not differentiate between defendants released on bail and defendants released for other reasons, such as pleading guilty, having their charges dismissed, or serving their sentence. In addition, these statistics do not adequately answer the question in the Lt. Governor’s letter, as it specifically inquires about career criminals committing additional crimes *while waiting for their cases to be disposed of*. Defendants released on bail are awaiting disposition of their case, while defendants released because their charges were dismissed, they pled guilty, or they already served their sentence are not.<sup>T</sup> Further, neither report takes into consideration an individual’s prior criminal record.<sup>U</sup>

Just City was, however, able to calculate reoffense rates among individuals released on bail. Their analysis found that the reoffense rate for defendants released on bail declined by 0.4 percentage points, from 12.6 percent between February and August 2022 to 12.2 percent between February and August 2023. Just City’s report also differentiates between violent and non-violent offenses. Between February and August 2022, the violent reoffense rate was 2.5 percent for defendants out on bail; this rate was 2.2 percent between February and August 2023.<sup>V</sup>

Both reports have limitations that affect their reported rates. Just City’s dataset may include additional charges added to pending cases, which would overestimate reoffense rates. CCRE’s analysis is limited to new General Sessions cases that originate from a new jail booking and does not capture data from cases that are transferred to Criminal Court, thus underestimating rearrest rates. Finally, both reports focus on six-month windows, meaning they do not account for long-term recidivism trends. It remains unclear how these reports addressed the limitation experienced by OREA in connecting cases or charges between the same defendant without a unique identifier.

OREA did not measure rearrest rates for several reasons:

1. OREA requested data from Pretrial Services and the Shelby County Sheriff’s Office but was directed elsewhere for data or told that the data was unusable in its present format. Ultimately, these groups were unable to provide any rearrest data to OREA. CCRE obtained data through Shelby County IT, including booking data from the Shelby County Sheriff’s Office, Public Safety Assessment data from Pretrial Services, and other court data from the CJIS system.

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<sup>T</sup> Being arrested for a new charge may not lead to conviction. For example, if the judge does not find probable cause, the charge is dismissed. Being able to track defendants through the court system to final disposition is necessary to determine how many defendants are ultimately found to have committed an additional crime while awaiting disposition for a pending case.

<sup>U</sup> Full criminal history data across all jurisdictions is considered CJIS-protected data, and there are barriers to non-criminal justice agencies and research groups obtaining this data for evaluation purposes.

<sup>V</sup> Violent offenses include those involving aggravated assault, rape, murder, or robbery in line with FBI Uniform Crime Reporting standards.

2. OREA received data from the Shelby County General Sessions and Criminal Court Clerks but was unable to confidently connect cases or charges for the same defendant in General Sessions Court and Criminal Court without a unique identifier for cases. CCRE used data from General Sessions Court only.
3. OREA did not use the publicly available datasets used by Just City because such an analysis would have relied on connecting information between the two data systems using limited information. Similar to the issue OREA encountered in connecting cases between General Sessions and Criminal Court, OREA could not confidently connect entries between the same defendant without a unique identifier for cases.<sup>w</sup>

## **Bail**

Given continuing interest in bail practices in Shelby County, OREA conducted an analysis of bail setting. OREA received bail amount data from the Shelby County General Sessions Court Clerk's office and interviewed judges, prosecutors, a judicial commissioner, and representatives of law enforcement about bail practices in Shelby County.

### ***Bail setting***

Article I of the Tennessee Constitution states that all prisoners shall be bailable unless they are charged with a capital offense where the proof is evident or the presumption of guilt is great. All defendants charged with a bailable offense may be granted pretrial release by a magistrate through any of the following three methods:

1. released on recognizance,
2. by agreeing to non-monetary bail conditions, such as not contacting the alleged victim(s) or not leaving their residence during certain hours, or
3. by posting a monetary bail.

A magistrate can combine the latter two methods by setting a monetary bail as well as non-monetary bail conditions. When determining whether to grant pretrial release, magistrates are required by state law to first consider the safety of the community and thereafter consider the following conditions to determine if the defendant is likely to reappear for future court proceedings:

1. the defendant's length of residence in the community;
2. the defendant's employment status;
3. the defendant's prior criminal record, including prior releases on recognizance or bail;
4. whether, at the time of being charged with the offense, the defendant was on release pending trial, sentencing, or appeal in connection with another offense;
5. the nature of the offense, the apparent probability of conviction, and the likely sentence, insofar as these factors are relevant to the risk of nonappearance and the safety of the community;
6. any substance use or mental health issues that would be better addressed in a community-based treatment program; and
7. any other factors indicating the defendant's ties to the community or bearing on the defendant's risk of willful failure to appear, including, but not limited to, whether the defendant is lawfully present in this state.

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<sup>w</sup> Just City's report includes a link to its dataset. OREA attempted to verify the dataset used in Just City's report through the Shelby County Inmate Lookup system but was unable to confirm or recreate defendant data due to retention policies on booking data within the Shelby County Sheriff's Office.

If a magistrate chooses to set a monetary bail, state law requires nine factors be considered when determining the dollar amount:

1. the defendant's length of residence in the community;
2. the defendant's employment status, employment history, and financial condition (as of May 2024, the defendant's ability to pay shall not be considered when assessing the defendant's financial condition);
3. the defendant's family ties and relationships;
4. the defendant's reputation, character, and mental condition;
5. the defendant's prior criminal record, record of appearance at court proceedings, record of flight to avoid prosecution, or failure to appear at court proceedings;
6. the nature of the offense and the apparent probability of conviction and the likely sentence;
7. the defendant's prior criminal record and the likelihood that because of that record the defendant will pose a risk of danger to the community;
8. the identity of responsible members of the community who will vouch for the defendant's reliability (however, no member of the community may vouch for more than two defendants at any time while charges are still pending or a forfeiture is outstanding); and
9. any other factors indicating the defendant's ties to the community or bearing on the risk of the defendant's willful failure to appear, including, but not limited to, whether the defendant is lawfully present in this state.

### ***Shelby County Standing Bail Order***

On August 15, 2022, Shelby County began overhauling its bail system, referred to as the Standing Bail Order (SBO). Several individuals interviewed by OREA stated that an impetus for the SBO was threatened litigation by the American Civil Liberties Union, the American Civil Liberties Union of Tennessee, Just City, and The Wharton Law Firm, in partnership with Stand for Children Tennessee and the Official Black Lives Matter Memphis Chapter. The SBO resulted in three changes to Shelby County's pretrial detention practices:

1. the creation of a bail hearing courtroom in the Shelby County Courthouse,
2. the right to a bail hearing with counsel within three days of the defendant's arrest, and
3. consideration of the defendant's finances prior to the setting of bail using the Vera Institute's "Ability to Pay" calculator.

These changes went into full effect on February 15, 2023. Once fully implemented, bail setting after a defendant's booking at the Shelby County Jail has three phases:

1. information compiling,
2. a release screening conducted by a judicial commissioner, and
3. a bail hearing.

### ***Information compiling***

Information compiling is conducted by Shelby County Pretrial Services. Prior to May 2024, the arrestee was interviewed using the Vera Institute's "Ability to Pay" calculator which enabled Pretrial Services to relay the arrestee's financial status and an affordable bail amount to the judicial commissioner who conducts the release screening. The "Ability to Pay" calculator has not been used since May 2024 due to a change in state law, although financial circumstances can be considered generally when setting bail.<sup>x</sup> Pretrial Services compiles demographic information and past criminal history in their reports for judicial commissioners to use when setting bail. These reports can also recommend release conditions or supervision.

<sup>x</sup> Public Chapter 869 (2024).

## **Release screening**

Within 12 hours of an arrestee's booking, a judicial commissioner conducts a release screening. The SBO requires judicial commissioners to follow the sequence below when conducting a release screening:

1. First, per state law, the judicial commissioner is to presume that all arrestees are to be released on recognizance unless evidence shows that they are a threat to community safety or a risk to not appear in court in the future.
2. If evidence shows that the arrestee is not to be released on recognizance, the judicial commissioner is then instructed to impose the least restrictive release conditions that ensure the arrestee's future appearance in court. This includes release conditions required or recommended by statute for specific charges. For example, a judicial commissioner should consider the use of a transdermal monitoring device and/or the use of electronic alcohol or drug testing to release an arrestee charged with vehicular assault with a prior alcohol-related conviction. For those release conditions that require the arrestee to post a monetary bail, the commissioner is to consider their individual finances before assigning this condition.
3. The commissioner can choose to use the bail amount provided by Pretrial Services instead of granting release on recognizance or pretrial release with bail conditions if they believe that this reasonably assures the arrestee's future appearance in court or if necessitated by concerns for public safety.
4. Lastly, if the judicial commissioner believes none of the above pretrial release methods reasonably assure the arrestee's future court appearance and the safety of the public, the commissioner may set an unaffordable bail, which entitles the arrestee to a bail hearing. The commissioner can also choose to set no monetary amount until a bail hearing is held for capital offenses.

## **Bail hearing**

Under Shelby County's SBO, all defendants have the right to a bail hearing with legal representation to challenge the initial bail amount set by judicial commissioners during the release screening. Defendants are to have a bail hearing before a General Sessions Judge or a judicial commissioner within three days of their arrest unless the defendant waives their right to a bail hearing or posts their bail. The defense may seek a reduction in the defendant's bail and less restrictive or no pretrial release conditions at a bail hearing. The prosecution can argue against motions from the defense to reduce bail and may also argue the defendant's bail should be raised. The presiding judge or judicial commissioner considers these arguments and then sets bail.

## **Interview feedback on bail setting/rearrest**

The impression of multiple Shelby County Criminal Court Judges and some members of the Shelby County District Attorney General's Office is that more defendants accused of serious offenses, including murder, have been able to make bail and gain pretrial release in recent years.

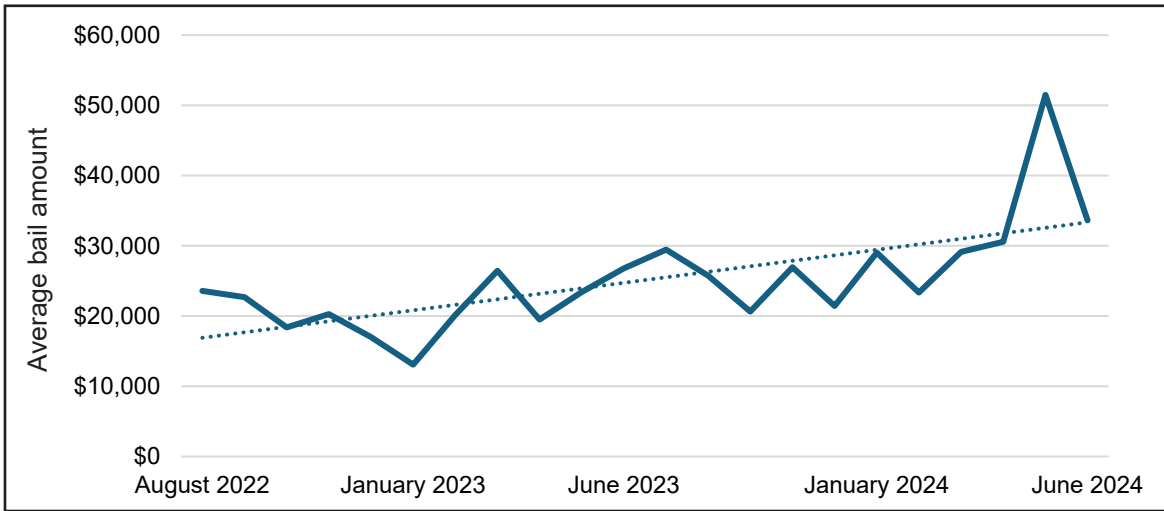
## **The average bail amount in Shelby County has increased since 2022**

OREA analyzed data provided by the Shelby County General Sessions Court Clerk to analyze patterns and trends in average bail amounts over time. In August 2022, the average bail amount<sup>Y</sup> in Shelby County was around \$23,000. By December 2022, the average bail amount had decreased to just over \$13,000. In 2023, the average bail amount began rising in January, reached the highest point for the year in June (approximately \$27,000) and then declined to around \$21,500 in December. The average bail amount in 2024 was at its lowest point for the year in February and reached its highest point in the year when the average spiked to over \$50,000. The average then decreased but remained higher than the months preceding the spike. For June 2024, the average bail amount was approximately \$33,000.

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<sup>Y</sup> OREA's analysis of average bail amounts includes releases on recognizance, incorporated into the analysis as zero-dollar bail amounts.

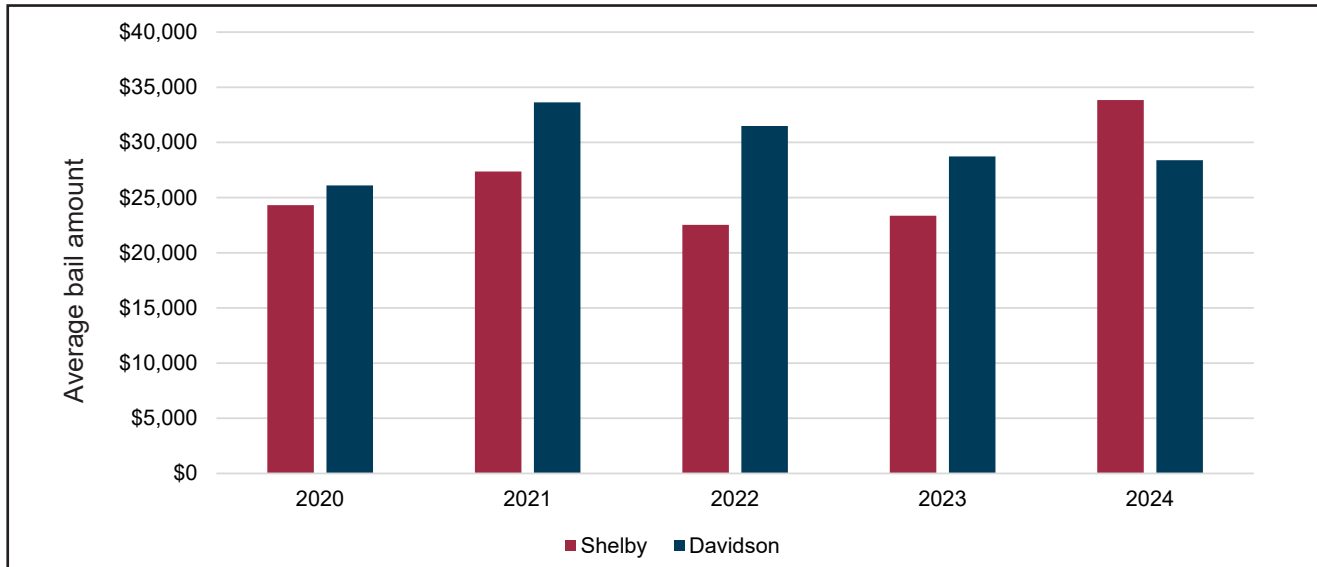
**Exhibit 12: Average bail amount by month | August 2022 through June 2024**



Note: Due to fluctuations in the data, reported numbers vary by ±1.5 percent.  
Source: OREA analysis of data provided by the Shelby County General Sessions Court Clerk.

OREA also compared average bail amounts in Shelby and Davidson Counties over a longer time period. For 2020, the average bail amount in Shelby County was approximately \$24,000, lower than Davidson County’s average of around \$26,000. In 2021, the average increased in both counties, as Shelby rose to over \$27,000 and Davidson to over \$33,500. Davidson County’s average bail amount was higher than Shelby’s in 2022 and 2023. In 2024, however, Shelby’s average rose significantly and exceeded that of Davidson.

**Exhibit 13: Average annual bail amounts in Shelby and Davidson Counties**



Note: Due to fluctuations in the data, reported numbers vary by ±1.5 percent.  
Source: OREA analysis of data provided by the Shelby and Davidson County General Sessions Court Clerks.

## **Discrepancy between the charges at arrest and the charges for which defendants are prosecuted**

### **Reasons for changes in charges between arrest and prosecution**

There are many possible reasons for changes to occur between the charges made at a defendant’s arrest and the charges for which the defendant is prosecuted. A defendant’s charges may increase, decrease, or remain the same as a case progresses from General Sessions to Criminal Court, and OREA observed instances of such during court observations. Charges may decrease as a result of dismissal of the case, plea agreement, lack of probable

cause, problems with the investigation (i.e., lack of evidence), inability to locate witnesses, inconsistent witness statements, likely juror sympathy, uncooperative witnesses, a different charge more accurately reflecting the criminal conduct, or grand jury proceedings. Charges may also increase if new evidence emerges. In some cases, the charges do not change, and the defendant is prosecuted for the same charges as initially filed.

### ***Dismissal***

In some cases, all charges are dropped because the case is dismissed. The most common disposition in General Sessions Court during OREA's observation period was case dismissal, seen in 62 of the 97 cases. The most common reason for dismissals was due to nolle prosequi, or the prosecution's decision not to proceed with the case. Nolle prosequi dismissals account for 63 percent of the dismissals in the sample. Just under half of the observed nolle prosequi cases included charges related to vehicles or driving. Twenty-nine percent of the dismissals in the sample were due to lack of prosecution, which usually indicates that a witness or victim did not appear for a court hearing. Of the 18 cases dismissed for lack of prosecution, 12 were dismissed in the courtroom that is assigned domestic violence cases.

### ***Plea agreements***

For cases that are not dismissed, the charges can change as the case progresses. In some cases, the charges are reduced in number and/or offense level. A reduction of charges may occur during plea negotiations between the State and the defendant. Guilty pleas were the second most common disposition in General Sessions Courts and the most common disposition in Shelby County Criminal Court during OREA's observation period. Not all pleas are plea agreements; some defendants plead guilty as charged. OREA observation data does not differentiate between a guilty plea and a plea agreement. A plea agreement is built on an exchange: the prosecution gains a conviction and can move on to the next case, while the defense typically gains a certain sentence and a possible reduction in charge or sentence length compared to what might result from a trial.

Many factors can be part of a plea agreement. The prosecution may agree to a reduction in charges in cases that involve multiple defendants, for example. One defendant may agree to cooperate with the prosecution to strengthen the prosecution's case against other defendants in exchange for reduced charges and/or a lighter recommended sentence. In other cases, the prosecution may choose to reduce the charges (the number and/or the offense level) because of the strength of the evidence available in a case; a reduction in charges is more likely on weaker cases. For example, the law enforcement officer involved with a case may retire and become difficult to locate or the victim or a key witness may not wish to cooperate with the prosecutor's office. Without these individuals, the prosecution's case is weaker, and so charges may be reduced or the case may be dismissed. "Overcharging" by the prosecution is another factor that can contribute to a reduction in charges. The prosecutor may pursue numerous charges against a defendant with an eye toward dismissing some number of charges during future plea negotiations with the defense.

### ***Probable cause not found***

For other cases, a reduction in charges results from a General Sessions Judge not finding probable cause the defendant committed a crime. The judge may not find probable cause for any of the charges against a defendant and dismiss the case or the judge may find probable cause for some charges but not others. When the latter occurs, the charges for which probable cause was not found are dismissed and the case proceeds forward with the remaining charges for which probable cause was found. This occurred in two of the cases in OREA's case observation sample.

For example, Mary Brick was arraigned in General Sessions Court on two charges: one count of assault on a first responder and one count of identity theft. While Ms. Brick's case was in General Sessions Court, the charge for identity theft was dismissed by the judge for lack of probable cause. The judge found probable cause for the charge of assault on a first responder, and she was bound over to the grand jury.

## **Grand jury proceedings**

Charges may also change during the grand jury phase. Once a case is bound over to a grand jury from General Sessions Court, it is the responsibility of the District Attorney General's (DAG) office to prepare the case for the grand jury. The prosecutor may decide to present different charges than those that were heard in General Sessions Court or listed on the affidavit of complaint. This occurs if the DAG believes different charges better match the facts of the case. The grand jury may vote to indict on all charges or may vote to indict on some charges and return a no true bill (i.e., vote not to indict) for others. The grand jury may also choose not to indict on any of the charges; if this is done, the case is dismissed.

A case progresses to Criminal Court with all counts that were indicted by the grand jury. The prosecution may choose to present any charges that were not indicted to another grand jury.

## **Increased charges**

The number of charges can also increase as a case moves through the system. The prosecution, for example, may impose charges that carry a harsher sentence or a higher offense class if new evidence emerges that strengthens the prosecution's case against the defendant. In other cases, the grand jury may return an indictment on additional charges based on the evidence presented to them by law enforcement and witnesses. This occurred in at least one of the cases in OREA's case sample.

For example, Joe Green was arraigned in General Sessions Court on two counts of attempted second degree murder. Three weeks later, Mr. Green had a preliminary hearing in which the judge found probable cause, and the case was bound over to the grand jury. Although Mr. Green arrived at the grand jury with two charges filed against him, the grand jury chose to indict him for an additional four charges, including two counts of employment of a firearm with the intent to commit a felony and two counts of aggravated assault. Mr. Green was later arraigned on all six charges in Criminal Court.

## **Lesser-included offenses**

If a case is tried, the jury will be instructed to consider lesser included offenses when applicable. A lesser-included offense refers to an offense for which statutory elements form part of the basis of a more serious crime. *TCA 40-18-110* provides a list of what constitutes as a lesser-inclusive offense:

1. An offense that has all of its statutory elements met with the statutory elements of the offense charged.
2. The offense is facilitation of the offense charged or facilitation of a lesser included offense defined by item 1.
3. The offense is an attempt to commit the offense charged or of a lesser included offense defined by item 1.
4. The offense is solicitation to commit the offense charged or of a lesser included offense defined by item 1.
5. Second degree murder is a lesser included offense of first-degree murder.
6. Voluntary manslaughter is a lesser included offense of first-degree murder and second-degree murder.
7. Aggravated sexual battery is a lesser included offense of aggravated rape, aggravated rape of a child, and rape of a child.

## **Sample of cases**

### ***OREA examined change in charges for observed guilty pleas in Criminal Court***

Because a unique identifier was not available to link General Sessions cases to Criminal Court cases, OREA was unable to examine changes in charges across the entire Criminal Court system. However, OREA used observation data to glean insight into how some charges may change. Exhibit 14 below includes information from cases disposed through guilty pleas in Criminal Court. When available, information from General

Sessions Court is included. As shown, though, in nearly half of the cases, information on charges from General Sessions Court is unavailable. Additionally, information regarding the nature of the changes in charges is unavailable for most cases. For those observed guilty pleas, the disposed charges in Criminal Court compared to the General Sessions charges as follows:

- Twelve cases contained no General Sessions information to measure change.
- Three pled guilty to the original charge(s).
- Seven pled guilty to a reduced number of charges and potentially lower classes as compared to the initial General Sessions charges.
- Four pled guilty to increased charge(s) compared to initial General Sessions charges.
- Four pled guilty to a combination of increased and decreased charges; these final charges were different from the initial General Sessions charges including addition and removal of charges.

As OREA observed in court, some charges may be reduced in recognition of a defendant cooperating in another case or for a co-defendant, due to a defendant’s pending charges in another jurisdiction, or for other reasons not reported publicly in a courtroom. When these reasons were stated publicly, these instances have been noted immediately following Exhibit 14. However, because these reasons are not typically recorded in clerk case file data systems, reporting on causes for reduced charges at an aggregate level is problematic and likely incomplete.

**Exhibit 14: Guilty plea case information from sample cases observed in Criminal Court<sup>Z</sup>**

Guilty plea	General Sessions charge(s)	Criminal Court charge(s)	Change in charge(s) from GS to CC	Guilty plea charge(s)	Sentencing information
Guilty plea 1	Fel-B - aggravated robbery; Fel-C - aggravated assault	Fel-B - aggravated robbery; Mis-A - assault	Charges reduced: one felony dropped; one misdemeanor added	Mis-A - assault M	1 year of probation (1 year incarceration suspended)
Guilty plea 2	No information available	Fel-M - first degree murder; Fel-A - second degree murder; Fel-A - especially aggravated robbery	No GS information available to compare charges	Fel-A - second degree murder	15 years incarceration
Guilty plea 3	Fel-A - criminal attempt first degree murder; Fel-C - convicted felon in possession of a handgun; Fel-D - reckless endangerment with a deadly weapon x 3; Fel-E – criminal attempt possession firearm - danger felony	Fel-D - attempt voluntary manslaughter; Fel-E - convicted felon in possession of a handgun	Charges reduced: 4 felonies dropped	Fel-D - criminal attempt voluntary manslaughter; Fel-E - convicted felon in possession of a handgun	3 years incarceration
Guilty plea 4	No information available	Fel-B - carjacking; Fel-C - aggravated assault	No GS information available to compare charges	Fel-C - aggravated assault	6 years probation (6 years incarceration suspended)
Guilty plea 5	No information available	Fel-C - aggravated assault x 2	No GS information available to compare charges	Fel-C - aggravated assault	4 years probation (4 years incarceration suspended)
Guilty plea 6	No information available	Fel-E - child abuse/neglect under 6 yrs old	No GS information available to compare charges	Fel-E - child abuse/neglect under 6 yrs old	2 years probation (2 years incarceration suspended)

<sup>Z</sup> The minimum sentence for a Felony E is one year. For individuals in this exhibit who pled guilty to a Felony E (Guilty Plea 7, 10, 12, and 19), additional information is unavailable regarding the sentence including any determined suspended sentences. Due to the pace of court observations and data collection, it is likely more information was included but not recorded for these individuals.

Guilty plea	General Sessions charge(s)	Criminal Court charge(s)	Change in charge(s) from GS to CC	Guilty plea charge(s)	Sentencing information
Guilty plea 7	No information available	Fel-E – intentionally evade arrest in automobile; Mis-A - evade arrest	No GS information available to compare charges	Fel-E - intentionally evading arrest in automobile	12 days incarceration, credit 12 days time served
Guilty plea 8	Fel-A - aggravated rape; Fel-B - aggravated kidnapping	Fel-A - aggravated rape; Fel-B - aggravated kidnapping x 2	Charges increased: Additional felony charge added	Fel-A - aggravated rape; Fel-B - aggravated kidnapping	15 years incarceration
Guilty plea 9	No information available	Fel-C – theft of property between \$10,000 and \$60,000; Fel-E - evade arrest in automobile; Mis-B - reckless driving	No GS information available to compare charges	Fel-C – theft of property between \$10,000 and \$60,000;	3 years diversion
Guilty plea 10	Fel-E - intentionally evade arrest in automobile	Fel-E - intentionally evade arrest in automobile	Charges remained the same	Fel-E - intentionally evade arrest in automobile	60 days incarceration, 60 days time served credit
Guilty plea 11	No information available	Fel-B - vehicular homicide - intoxication; Fel-C - vehicular homicide - reckless; Fel-D - aggravated assault reckless	No GS information available to compare charges	Fel-B - vehicular homicide - intoxication	8 years incarceration
Guilty plea 12	Fel-E - theft of property between \$1,000 and \$2,500 x 2; Fel-E - vandalism \$1,000 to \$2,500; Mis-A - theft of property under \$1,000; Mis-A - possession of burglary tools	Fel-E – theft of property between \$1,000 and \$2,500; Fel-E - vandalism \$1,000 to \$2,500; Fel-E – solicitation for theft of property between \$10,000 and \$60,000; Mis-A - theft of property under \$1,000; Mis-A - possession of burglary tools	Charges remained consistent: one felony removed, one added	Fel-E - theft of property between \$1,000 and \$2,500	6 months incarceration, credit 6 months time served
Guilty plea 13	Fel-C - aggravated assault	Mis-C - disorderly conduct	Charges reduced: one charge reduced from felony to misdemeanor	Mis-C - disorderly conduct	2 days incarceration, credit 2 days time served
Guilty plea 14	Fel-E- intentionally evade arrest in automobile; Mis-A – theft of property under \$1,000; Mis-C - fail to exercise due care	Fel-E - intentionally evade arrest in automobile	Charges reduced: two misdemeanor charges dropped	Fel-E - intentionally evading arrest in automobile	3 years probation (2 years incarceration suspended sentence)
Guilty plea 15	Fel-C – forgery between \$10,000 and \$60,000; Fel-C - theft of property between \$10,000 and \$60,000; Mis-B - criminal impersonation	Fel-C - theft of property between \$10,000 and \$60,000	Charges reduced: one felony and one misdemeanor dropped	Fel-C - theft of property between \$10,000 and \$60,000	3 years probation (3 years incarceration suspended)
Guilty plea 16	Fel-C - theft of property between \$10,000 and \$60,000	Fel-C - theft of property between \$10,000 and \$60,000	Charges remained the same	Fel-C - theft of property between \$10,000 and \$60,000	3 years incarceration

Guilty plea	General Sessions charge(s)	Criminal Court charge(s)	Change in charge(s) from GS to CC	Guilty plea charge(s)	Sentencing information
Guilty plea 17	No information available	Fel-D - theft of property between \$2,500 and \$10,000	No GS information available to compare charges	Fel-D - theft of property between \$2,500 and \$10,000	2 days incarceration, 2 days time served credit
Guilty plea 18	Fel-A - possession of a controlled substance with intent to manufacture/deliver/sell x 2; Fel-E - unlawful possession of a controlled substance with intent to sell or distribute - cocaine; Mis-A - possession of drug paraphernalia	Fel-B - possession cocaine with intent to manufacture/deliver/sell x 2; Fel-C - possession of a controlled substance with intent to manufacture/deliver/sell x 2; Mis-A - possession of marijuana	Charges changed: Two felonies decreased in class, two felonies added, one felony dropped	Fel-B - Possession of cocaine with intent to manufacture/sell/deliver	1 year incarceration
Guilty plea 19	No information available	Fel-E - violation of sex offender registry act	No GS information available to compare charges	Fel-E - violation of sex offender registry act	90 days incarceration
Guilty plea 20	Fel-D – criminal attempt aggravated assault	Fel-D – criminal attempt aggravated assault	Charges remained the same	Fel-D - criminal attempt aggravated assault	2 years diversion
Guilty plea 21	No information available	Fel-C - aggravated assault; Fel-D - aggravated assault - reckless; Mis A - vandalism under \$1,000	No GS information available to compare charges	Fel-D - aggravated assault - reckless; Mis-A - vandalism under \$1,000	2 years diversion
Guilty plea 22	Fel-D - theft of property between \$2,500 and \$10,000; Mis-A - assault M	Fel-D - theft of property between \$2,500 and \$10,000	Charges reduced: misdemeanor dropped	Fel-D - theft of property between \$2,500 and \$10,000	2 years probation
Guilty plea 23	Fel-C - aggravated assault x2; Mis-A – facilitation of a felony; Mis A - vandalism under \$1,000	Fel-C - aggravated assault; Fel-D - aggravated assault - reckless; Mis A - vandalism under \$1,000	Charges changed: one felony added, one felony dropped, one misdemeanor dropped	Fel-D - aggravated assault - reckless; Mis A - vandalism under \$1,000	2 years diversion
Guilty plea 24	No information available	Fel-D - forgery between \$2,500 and \$10,000; Mis-A - criminal attempt forgery \$2,500 or less	No GS information available to compare charges	Mis-A - criminal attempt forgery \$2,500 or less	1 year incarceration
Guilty plea 25	Fel-M – murder in perpetration of a felony; Fel-A - especially aggravated robbery; Fel-C - tampering with or fabricating evidence; Fel-E - criminal attempt felony	Fel-M - first degree murder; Fel-A – especially aggravated robbery; Fel-B – criminal attempt especially aggravated robbery; Fel-C – criminal attempt facilitation second degree murder; Fel-C - employ firearm with intent to commit a felony;	Charges increased: one additional felony, one felony increased in class	Fel-C - criminal attempt facilitation second degree murder	6 years diversion
Guilty plea 26	Fel-E - possession of a controlled substance with intent to manufacture/deliver/sell x2; Mis-A - possession drug paraphernalia x 6	Fel-D - solicitation possession of a controlled substance with intent to manufacture/deliver/sell	Charges changed: felony increased, misdemeanors dropped	Fel-D - solicitation - possession controlled substance with intent to manufacture/deliver/sell	2 years incarceration; 2 years probation

Guilty plea	General Sessions charge(s)	Criminal Court charge(s)	Change in charge(s) from GS to CC	Guilty plea charge(s)	Sentencing information
Guilty plea 27	Fel-M - murder in perpetration of a felony; Fel-A - especially aggravated robbery; Fel-E - criminal attempt felony	Fel-M - first degree murder; Fel-A - especially aggravated robbery; Fel-B – criminal attempt second degree murder; Fel-B -criminal attempt especially aggravated robbery; Fel-C – employment of a firearm with intent to commit a felony	Charges increased: two additional felony charges added	Fel-B - criminal attempt second degree murder	8 years incarceration
Guilty plea 28	No information available	Fel-B - unlawful possession of a weapon; Fel-C - convicted felon in possession of a weapon	No GS information available to compare charges	Fel-B - unlawful carrying or possession of a weapon	2 days incarceration
Guilty plea 29	Fel-C - criminal attempt especially aggravated robbery	Fel-A – criminal attempt first degree murder; Fel-C - facilitation of aggravated robbery; Fel-C – employment of a firearm with intent to commit a felony	Charges increased: two additional felony charges added	Fel-C - facilitation of aggravated robbery	6 years incarceration, credit 6 years time served
Guilty plea 30	Fel-B – unlawful possession of a controlled substance with intent - meth; Fel-E - possession of a controlled substance with intent to manufacture/deliver/sell; Mis-A - possession of drug paraphernalia	Fel-E – possession of marijuana with intent to manufacture/deliver/sell	Charges decreased: one felony and one misdemeanor dropped	Fel-E - possession of marijuana with intent to manufacture/deliver/sell	1 year diversion

Note: For cases with probation and a suspended sentence, if probation is violated, the suspended sentence represents the length of incarceration that will instead be substituted for probation.

Source: OREA court observations, August and September 2024; Criminal Justice Information System.

Additional information about the defendants, as observed in courtroom proceedings and CJIS records:

- Guilty plea 9 was granted diversion after the defendant and employer testified to the support system available to the defendant at home. The judge granted diversion due in part to this support system, stating she was hopeful – not convinced – that it would be corrective.
- Guilty plea 11 pled guilty on the same day he received his sentence. The judge advised him that if he chose to go to trial, he could be facing eight to 30 years’ incarceration; instead, by pleading guilty, he could reduce the sentence length to just under two and a half years’ incarceration (eight years at 30 percent). During sentencing, the victim’s daughter read a victim impact statement in the courtroom and stated her opinion that the defendant should serve 100 percent of the sentence. Due to sentencing guidelines, the judge granted the sentence of eight years to be served at 30 percent.
- Guilty plea 12 had three similar cases disposed of on the same day via a guilty plea. The judge noted that after the plea, the defendant will be extradited to Mississippi for pending charges there.
- Guilty plea 16 requested probation in place of incarceration. The judge denied probation due to the defendant’s past record, which included seven probation violations, drug use, and multiple theft charges. During the defendant’s testimony at her sentencing hearing (immediately after entering her guilty plea), the prosecution asked a number of questions and remarked that he found the defendant to be less than forthcoming; at this time he asked for incarceration rather than probation. After remarking on her belief

that the defendant had less of a chance at rehabilitation, the judge sentenced guilty plea 16 to three years' incarceration at 30 percent, or just under one year total.

- Guilty pleas 21 and 23 were co-defendants.
- Guilty pleas 25, 27, and 30 were co-defendants for the same aggravated robbery from 2017. Guilty plea 25 had no prior felonies and was awarded diversion. Guilty plea 27 had been incarcerated since 2017 and was the admitted driver of the getaway car; he was sentenced to incarceration. However, he will serve only 30 percent of his sentence due to sentencing guidelines. Guilty plea 30 had been incarcerated for three years but due to sentencing guidelines only needs to serve 30 percent of his sentence. A fourth co-defendant, not part of the OREA observation sample data, pled guilty prior to these guilty pleas. The fourth co-defendant agreed to serve 24 years in prison.

## **Aggregate data**

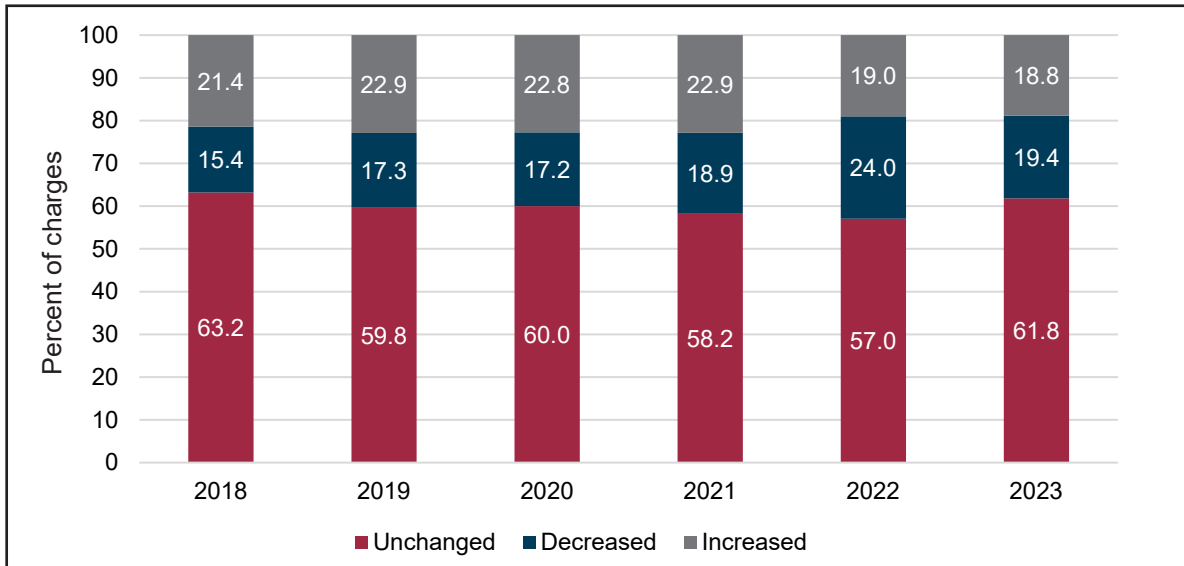
Due to the inability to link cases between General Sessions and Criminal Court (as described on page 9), OREA was unable to analyze how charges against a defendant changed from initial filing in General Sessions Court prior to entering the jurisdiction of the Criminal Court. Charges may change (i.e., more charges, fewer charges, and/or different charges) based on evidence produced by law enforcement in the course of their investigation of a case. Any charges that were reduced or dismissed while in the jurisdiction of General Sessions Court are not reflected in this analysis, which is limited to felony charges filed and disposed in Criminal Court.

OREA's analysis also excludes changes made to the charges against a defendant while the case is with the grand jury. For example, a grand jury may vote to indict on some charges, but not others. The charges not indicted are dropped and do not follow the defendant to Criminal Court.

### ***The majority (60 percent) of felony charges filed in Shelby County Criminal Court remained unchanged from 2018 through 2023***

Exhibit 15 shows the percentage of felony charges filed in Shelby County's Criminal Court that were unchanged, decreased, or increased at the time of disposition from 2018 through 2023. During this timeframe, the majority of charges (an average of 60 percent) remained unchanged, fluctuating between 57 percent in 2022 and 63.2 percent in 2018. The percentage of charges that decreased at disposition was higher in the last three years examined (2021 through 2023) compared to the first three years of the timeframe (2018 through 2020). From 2021 through 2023, an average of 21 percent of charges were reduced compared to an average of 17 percent from 2018 through 2020. The percentage of charges that increased was around 21 to 23 percent between 2018 and 2021, before declining in 2022 (19.0 percent) and 2023 (18.8 percent).

**Exhibit 15: Changes in felony charges at disposition | Shelby County Criminal Court | 2018 through 2023**



Source: OREA analysis of data provided by the Shelby County Criminal Court Clerk’s Office.

**Reduction of felony charges in Shelby County compared with other Tennessee counties**

Exhibit 16 shows the percent of each felony class that was reduced by two or more classes for Tennessee’s 11 most populated counties from 2018 through 2024.<sup>AA</sup> OREA identified changes of two or more classes to identify significant changes in charges; reductions in charges of one class can occur whenever a charge is modified to be an attempt, a solicitation, or a facilitation of an offense. In Shelby County, 12 percent of capital offenses and first-degree murder charges (Felony M) were reduced, which is higher than Davidson (9 percent), Knox (6 percent), and Hamilton (7 percent). Reduction percentages for the other felony classes and for 10 other counties are shown in Exhibit 16.

**Exhibit 16: Percent of each felony class reduced by two or more classes by county | 2018 through 2024**

	M	A	B	C	D	E
<b>Shelby</b>	12%	19%	7%	7%	4%	6%
<b>Davidson</b>	9%	10%	4%	8%	4%	5%
<b>Knox</b>	6%	8%	3%	3%	3%	4%
<b>Hamilton</b>	7%	14%	11%	10%	7%	10%
<b>Blount</b>	0%	2%	2%	1%	0%	0%
<b>Montgomery</b>	19%	18%	8%	6%	4%	10%
<b>Rutherford</b>	8%	16%	5%	5%	3%	7%
<b>Sullivan</b>	5%	13%	5%	5%	3%	7%
<b>Sumner</b>	17%	27%	10%	11%	6%	12%
<b>Williamson</b>	10%	17%	6%	8%	6%	11%
<b>Wilson</b>	17%	18%	8%	8%	8%	9%

Note: Data from 2024 includes January 1-June 30 only.

Source: OREA Analysis of the Criminal Court Clerk data from the counties included in the exhibit.

<sup>AA</sup> Felony classes range from A – the most serious – to E – the least serious. Examples of Class A felonies include especially aggravated kidnapping and second-degree murder while examples of Class E felonies include being a felon in possession of a handgun or aggravated rioting. Felony M is a code used by court clerks to refer to capital offense cases. Data for 2024 includes January 1-June 30 only.

## ***On average, Shelby and Davidson County Criminal Courts dispose felony charges as misdemeanors at the same rate (4.5 percent)***

Exhibit 17 shows the percent of charges that were initially filed as a felony but disposed as a misdemeanor in Shelby and Davidson County Criminal Courts between 2018 and June 2024. Shelby County disposed of more felony charges as misdemeanors, on average, than Davidson County in four of six felony classes (classes A, B, D, and E). Davidson reduced nearly 7 percent of felony C charges to a misdemeanor compared to an average of 4.4 percent in Shelby County. There were no instances of a felony Class M (e.g., first-degree murder charge) reduced to a misdemeanor in either county in this timeframe. On average, across all felony classes, Shelby County’s Criminal Court disposed of felony charges at the same rate as Davidson County’s Criminal Court (4.5 percent).

### **Exhibit 17: Percent of indicted charges in each felony class disposed as misdemeanors | 2018 through 2024**

	<b>Shelby</b>	<b>Davidson</b>
<b>A</b>	4.2	1.2
<b>B</b>	3.2	2.2
<b>C</b>	4.4	6.9
<b>D</b>	4.5	4.3
<b>E</b>	6.1	5.6
<b>M</b>	0.0	0.0
<b>Average</b>	4.5	4.5

Note: Data for 2024 includes January 1-June 30 only.

Source: OREA analysis of Shelby County Criminal Court clerk and Davidson County Criminal Court clerk data.

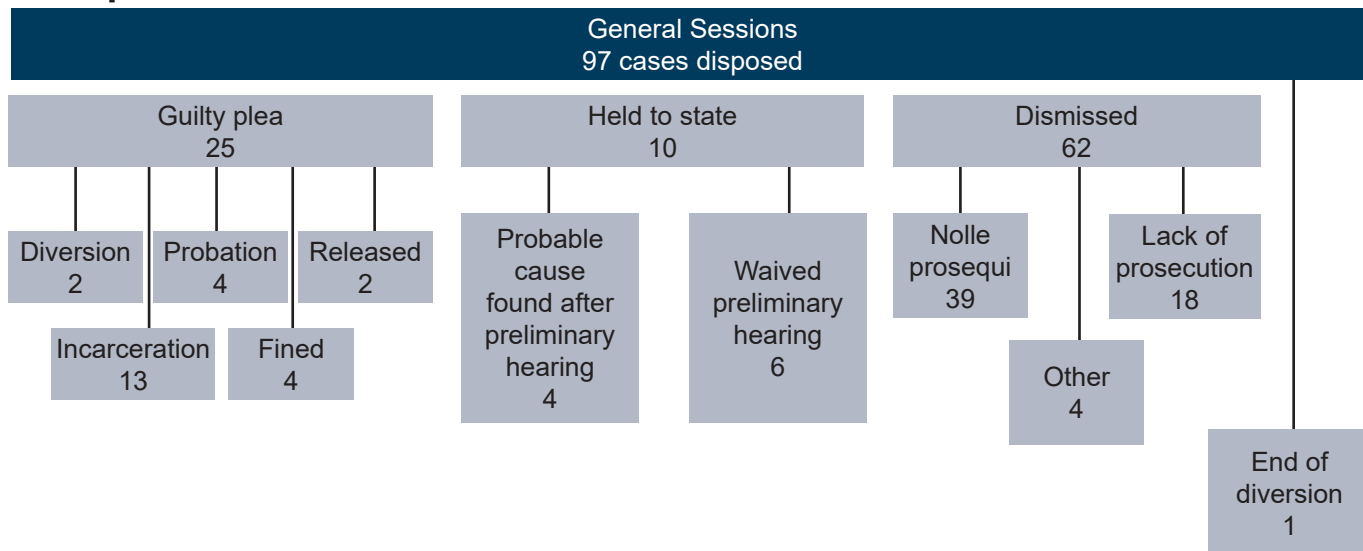
## **Final disposition and sentencing**

### **Sample of cases**

#### ***In General Sessions Court, over half of the observed disposed cases were dismissed***

As shown in Exhibit 18, of the 97 cases that were disposed in General Sessions Court, over half were dismissed, accounting for 62 cases (63 percent). Among the 62 dismissals, 39 were dismissed through nolle prosequi, meaning the prosecution chose not to proceed, and 18 were dismissed due to lack of prosecution. (Cases are commonly dismissed for lack of prosecution when a witness or the victim do not cooperate with the prosecution or appear for a scheduled hearing.) The second-most common disposition category was guilty plea, accounting for 25 cases (26 percent). The sentence for the 25 cases disposed by guilty plea was as follows: 13 defendants were incarcerated, four received probation, four were fined, two were placed on judicial diversion, and two were released. Another 10 cases (10 percent) were bound over to the grand jury. In six of the 10 cases, the defendant waived their preliminary hearing. In the other four, a judge found probable cause.

**Exhibit 18: Disposition of observed cases in Shelby County General Sessions Court | August and September 2024**

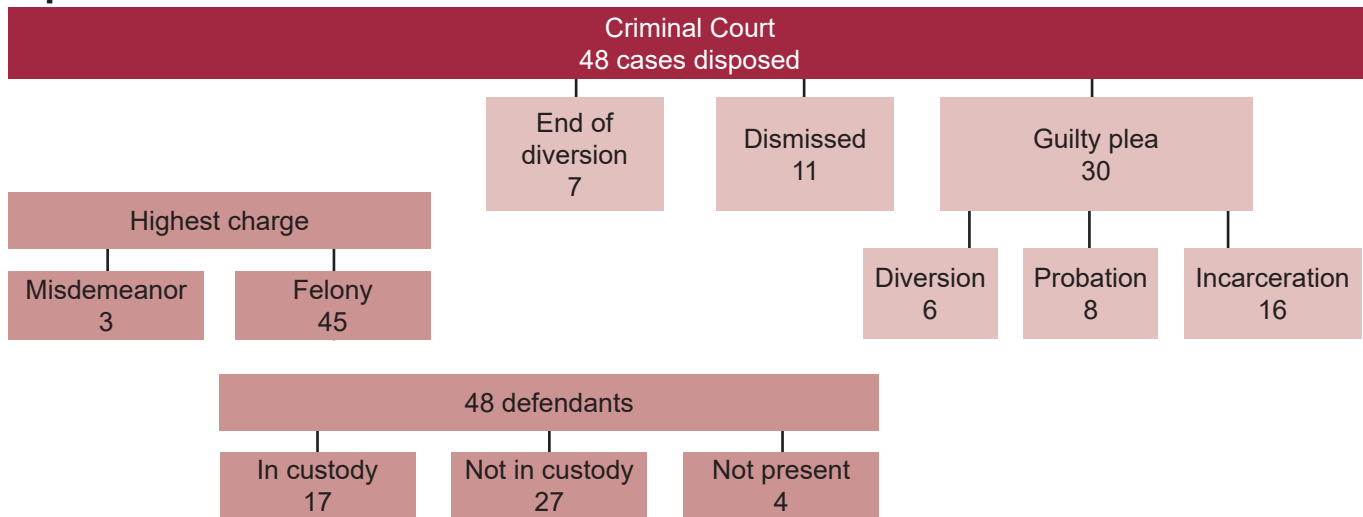


Source: OREA court observations, August and September 2024.

***In Criminal Court, over half of the observed disposed cases were disposed by guilty plea***

Thirty of the 48 cases (62 percent) observed in Criminal Court were disposed by guilty plea. Of those 30 cases, 16 defendants were sentenced to incarceration,<sup>AB</sup> eight were placed on probation, and six were placed on judicial diversion. (For more information on the guilty pleas observed in Criminal Court, including the related General Sessions cases and length of sentences, see Exhibit 14.) Eleven observed cases (23 percent) were dismissed.<sup>AC</sup> In seven of the 48 cases (15 percent), the defendant was before the court to complete their diversion program. Regarding the highest charge in each of the 48 cases, 45 were felony charges, while three were misdemeanors. Of the 48 defendants associated with these cases, 17 were in custody, 27 were not in custody, and four were not present in the courtroom.<sup>AD</sup>

**Exhibit 19: Disposition of observed cases in Shelby County Criminal Court | August and September 2024**



Source: OREA court observations, August and September 2024.

<sup>AB</sup> Incarceration includes sentences where the defendant was given credit for time served.

<sup>AC</sup> Of those dismissed, eight were nolle prosequi and three were withdrawn by prosecution. The nolle prosequi dismissals included two dismissals after the completion of anger management classes, one dismissal after restitution paid, two dismissals due to pending or completed federal charges, one dismissal due to evidence received that invalidated the charge, and two dismissals without stated reasoning during OREA observation. The three dismissals due to withdrawn charges included one clerical error, one where the prior (“trigger”) charge was dismissed in a lower court, and one without stated reasoning during court observation.

<sup>AD</sup> A defendant may not be present because he or she is in custody in another jurisdiction (including federal), if the appearance was excused, or in some cases, if the defendant was unable to appear due to broken court infrastructure such as elevators out of service.

## Observed Criminal Court dispositions include mostly guilty pleas

For cases disposed in during Criminal Court observations, roughly 63 percent – the majority of cases – were disposed using a guilty plea. Defendants who plead guilty to a case as charged or a lesser charge avoid what can be a lengthy and complicated journey toward a jury or bench trial. While a judge determines a sentence after a guilty plea, a prosecutor may work with a defense attorney to recommend a lesser sentence upon the defendant’s admitted guilty plea. Other dispositions in Criminal Court include dismissal, which accounts for 11 cases (about 23 percent of cases observed) and the end of a diversion program, which was observed for seven cases (roughly 15 percent of cases observed).

## Aggregate data

**The most common dispositions for Criminal Court filings in Shelby County over the past six fiscal years were dismissal, guilty plea (as charged), and guilty plea (to a lesser charge)**

The percentage of charges dismissed in Criminal Court in Shelby County ranged from a high of 64.22 percent in FY 2022-23 to a low of 55.02 percent in FY 2018-19. Guilty plea (as charged), the second-most common disposition, decreased from 25.39 percent in FY 2018-19 to 14.29 percent in FY2023-24. Guilty plea (to a lesser charge) ranged from 7.73 percent in FY 2019-20 to 6.31 percent in FY 2021-22.

The number of charges disposed in a trial held in Shelby County over this time period ranged from a high of 258 in FY 2019-20 to a low of 22 in FY 2020-21<sup>AE</sup> (the first year of the COVID-19 pandemic).

Percentages for other dispositions in Shelby County and for the other three most populated counties in Tennessee are shown in Exhibit 20.

**Exhibit 20: Criminal Court charge dispositions | FY 2018 through 2024**

	County	Acquittal	Conviction at trial	Dismissal	Diversion	Guilty plea – as charged	Guilty plea – lesser	Other	Retired	Transfer
FY 2018-19	Davidson	66 (0.53%)	178 (1.42%)	5,071 (40.49%)	375 (2.99%)	5,230 (41.76%)	514 (4.10%)	590 (4.71%)	499 (3.98%)	0
	Hamilton	13 (0.15%)	1,100 (12.32%)	5,228 (58.56%)	173 (1.94%)	1,720 (19.27%)	498 (5.58%)	141 (1.58%)	3 (0.03%)	52 (0.58%)
	Knox	118 (1.27%)	437 (4.69%)	3,891 (41.74%)	667 (2.65%)	3,179 (34.11%)	328 (3.52%)	402 (4.31%)	650 (6.97%)	2 (0.02%)
	Shelby	67 (0.27%)	181 (0.72%)	13,862 (55.02%)	667 (2.65%)	6,398 (25.39%)	1,899 (7.54%)	1,730 (6.87%)	387 (1.54%)	3 (0.01%)
FY 2019-20	Davidson	55 (0.39%)	141 (1.23%)	5,170 (45.13%)	383 (3.34%)	4,426 (38.63%)	477 (4.16%)	486 (4.24%)	318 (2.78%)	0
	Hamilton	16 (0.20%)	896 (11.25%)	4,390 (55.14%)	80 (1.00%)	1,431 (17.97%)	427 (5.36%)	262 (3.29%)	417 (5.24%)	43 (0.54%)
	Knox	54 (0.86%)	191 (3.04%)	2,646 (42.11%)	151 (2.40%)	2,731 (43.47%)	253 (4.03%)	253 (4.03%)	3 (0.05%)	1 (0.02%)
	Shelby	62 (0.27%)	196 (0.86%)	12,807 (55.95%)	555 (2.42%)	5,355 (23.40%)	1,769 (7.73%)	1,736 (7.58%)	406 (1.77%)	3 (0.01%)

<sup>AE</sup> The number of charges disposed of via trial was calculated by adding the number of charges disposed via acquittal and conviction at trial. There are charges disposed through other disposition types that could be part of a trial, but acquittals and convictions at trial are the most common.

	County	Acquittal	Conviction at trial	Dismissal	Diversion	Guilty plea – as charged	Guilty plea – lesser	Other	Retired	Transfer
FY 2020-21	Davidson	21 (0.22%)	14 (0.15%)	4,634 (48.547%)	309 (3.23%)	3,371 (35.26%)	428 (4.48%)	463 (4.84%)	321 (3.36%)	0
	Hamilton	1 (0.02%)	574 (11.82%)	3,017 (62.12%)	93 (3.88%)	741 (15.26%)	298 (6.14%)	72 (1.48%)	23 (0.47%)	38 (0.78%)
	Knox	20 (0.36%)	56 (1.01%)	2,655 (47.83%)	170 (3.06%)	2,239 (40.34%)	170 (3.06%)	241 (4.34%)	0	0
	Shelby	11 (0.07%)	11 (0.07%)	9,669 (57.99%)	437 (2.62%)	3,397 (20.37%)	1,073 (6.44%)	1,778 (10.72%)	286 (1.72%)	1 (0.01%)
FY 2021-22	Davidson	41 (0.39%)	82 (0.78%)	4,685 (44.44%)	289 (2.74%)	4,128 (39.15%)	472 (4.48%)	429 (4.07%)	417 (3.96%)	0
	Hamilton	11 (0.20%)	594 (10.77%)	3,428 (62.17%)	49 (0.89%)	967 (17.54%)	332 (6.02%)	907 (12.95%)	27 (0.49%)	20 (0.36%)
	Knox	49 (0.70%)	236 (3.37%)	2,743 (39.17%)	173 (2.47%)	2,715 (38.77%)	180 (2.57%)	907 (12.95%)	0	0
	Shelby	44 (0.24%)	205 (1.11%)	10,204 (55.45%)	607 (3.30%)	3,994 (21.70%)	1,161 (6.31%)	1,794 (9.75%)	393 (2.14%)	0
FY 2022-23	Davidson	71 (0.72%)	88 (0.89%)	4,572 (46.42%)	332 (3.37%)	3,669 (37.25%)	470 (4.77%)	319 (3.24%)	329 (3.34%)	0
	Hamilton	65 (1.03%)	697 (1.39%)	4,011 (63.47%)	1,045 (16.53%)	1,045 (40.33%)	289 (4.57%)	94 (1.49%)	0	28 (0.44%)
	Knox	37 (0.51%)	101 (1.39%)	2,741 (37.64%)	271 (3.72%)	2,937 (40.33%)	175 (2.40%)	1,018 (13.98%)	2 (0.03%)	0
	Shelby	31 (0.16%)	83 (0.43%)	12,508 (64.22%)	635 (3.26%)	3,091 (15.87%)	1,412 (7.25%)	1,638 (8.41%)	78 (0.40%)	0
FY 2023-24	Davidson	47 (0.46%)	84 (0.82%)	4,699 (45.68%)	397 (3.86%)	3,922 (38.13%)	498 (4.84%)	372 (3.62%)	267 (2.60%)	0
	Hamilton	18 (0.31%)	641 (11.09%)	3,544 (61.31%)	107 (1.85%)	1,052 (18.20%)	290 (5.02%)	89 (1.54%)	0	39 (0.67%)
	Knox	89 (1.11%)	252 (3.14%)	3,257 (40.60%)	256 (3.19%)	3,132 (39.04%)	216 (2.69%)	819 (10.21%)	0	2 (0.02%)
	Shelby	52 (0.30%)	102 (0.60%)	10,787 (63.10%)	631 (3.69%)	2,443 (14.29%)	1,186 (6.94%)	1,611 (9.42%)	283 (1.66%)	0

Note: The percentage of dismissals and convictions in this data differs from the data presented in OREA's analysis of Shelby County on page 37 because this data includes expunged charges. The data OREA received from the Shelby County Criminal Court Clerk does not include expunged charges.  
Source: Administrative Office of the Courts.

### ***Most felony charges filed in Shelby County Criminal Court result in conviction or dismissal***

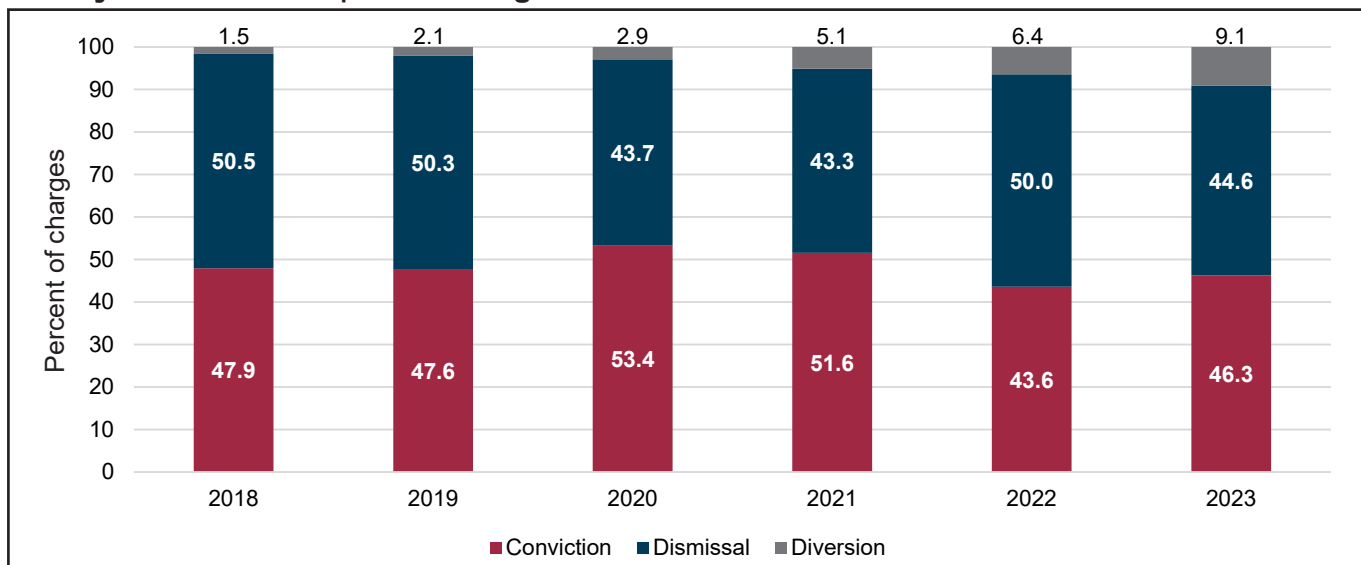
OREA also analyzed final disposition of felony charges filed with the Shelby County Criminal Court Clerk from 2018 through 2023. Most charges resulted in conviction (ranging between 44 and 54 percent) or dismissal (ranging between 43 and 51 percent). In three of the six years, the percentage of charges that resulted in conviction exceeded that for dismissals, while the reverse was true in the other three years.

The third category for felony charge disposition, as shown in Exhibit 21, is diversion. Through diversion, the judge requires the defendant to meet a set of conditions while sentencing or conviction is suspended. If the conditions of diversion have been met by the defendant, the prosecution will dismiss the charges, and

the defendant may petition to have the charges expunged. If the defendant does not meet the conditions of diversion, the defendant will plead guilty to the charge and the charge will not be eligible for expungement. The eligibility criteria for diversion are outlined in state law, and the TBI reviews applications for defendants seeking diversion.

Statistics on charges disposed by diversion are complicated by expungement. Defendants that successfully complete diversion may petition to have their charges expunged, and the data provided to OREA by the Shelby County Criminal Court Clerk does not include charges that have been expunged. The percentage of charges actually disposed by diversion may be higher than those shown for the earliest years in Exhibit 21 since some number of charges may have been expunged and are no longer included in the data maintained by the Shelby County Criminal Court Clerk. Thus, the percentage of charges disposed by diversion may not have increased, or may not have increased to the degree shown, in Exhibit 21.

**Exhibit 21: Percent of felony charges resulting in conviction, dismissal, or diversion | Shelby County Criminal Court | 2018 through 2023**



Note: The data presented in this exhibit excludes charges that have been expunged.  
 Source: OREA analysis of data provided by the Shelby County Criminal Court Clerk’s Office.

**Observed guilty pleas include a variety of sentences**

In OREA’s court observations, 30 guilty pleas were observed in Criminal Court. Observation data includes the sentences associated with each guilty plea. Information about the defendants and changing charges is included in Exhibit 14 on page 27. For these guilty pleas, defendants received the following types of sentences:

- Just over half (16 defendants) received a sentence including incarceration, which at times allowed a defendant to receive credit for time served while awaiting disposition.
- Eight of the 30 guilty pleas resulted in probation for the defendants, where the judge suspended the incarceration sentence and allowed the defendant to enter into probation for the determined length of the sentence.
- In six of the guilty pleas, defendants were granted judicial diversion for a specified length of time.

For both probation and diversion, if a defendant does not follow the prescribed conditions of the program, the defendant will appear before a judge again and faces the possibility of incarceration for the entire length of the sentence.

**Average sentence lengths have increased for most felony classes in Shelby County since 2018.**

Using data provided by the Shelby County Criminal Court Clerk, OREA analyzed the sentences for disposed felony charges from 2018 through September 2024 in Shelby County. The sentencing data did not include the time served by those defendants detained while awaiting the disposition of their case and their sentence. Some defendants do not serve any additional time incarcerated beyond the time served in custody awaiting the disposition of their case. Other defendants, however, must serve additional time incarcerated beyond the time they served in custody awaiting case disposition. Thus, the average sentence lengths shown in Exhibit 23 and are shorter than the actual time some defendants spent incarcerated after being sentenced. OREA’s analysis also excludes Class M felonies due to a small sample size of Class M sentences.

After a criminal defendant has been convicted of a crime, the judge assigned to the case imposes a sentence. Judges determine an appropriate sentence using sentencing guidelines established by the Tennessee Criminal Sentencing Reform Act of 1989 (*TCA 40-35-101*). These guidelines prescribe sentences based on the felony class for which the defendant has been convicted and a range based on the defendant’s prior record. There are five classifications based on a defendant’s prior record:

1. Especially Mitigated Offender,
2. Range I, Standard Offender,
3. Range II, Multiple Offender,
4. Range III, Persistent Offender, and
5. Career Offender.

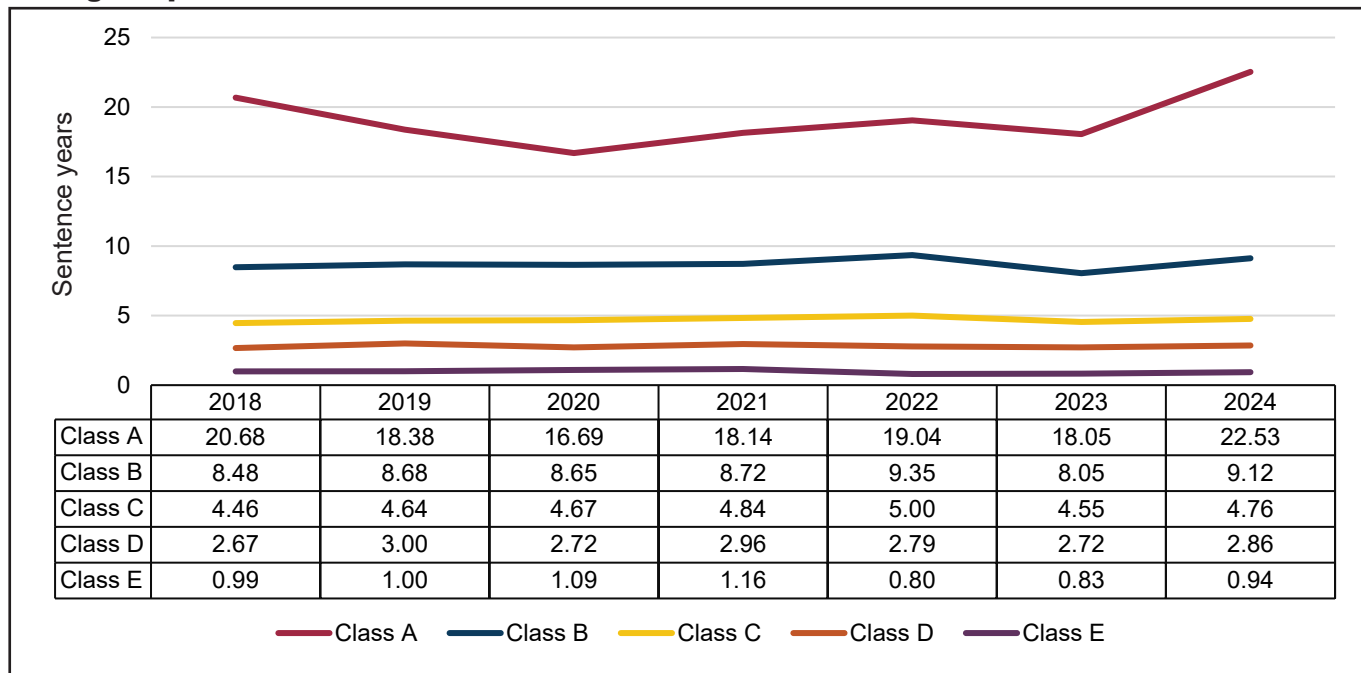
**Exhibit 22: Sentencing ranges**

<b>Especially Mitigated</b>	<b>Range I Standard</b>	<b>Range II Multiple</b>	<b>Range III Persistent</b>	<b>Career</b>
0 prior convictions and 0 enhancement factors in current conviction.	0-1 prior felony convictions within the conviction class, a higher class, or within the next 2 lower classes.	2-4 prior felony convictions within the conviction class, a higher class, or within the next 2 lower classes.  One prior Class A felony conviction if the conviction class is A or B.	5 or more felony convictions within the conviction class, or higher, or within the next 2 lower classes.  Two prior Class A felony convictions or 3 prior Class A or B class convictions if the current conviction is a Class A or B felony.  Any combination of 3 prior Class A and B felonies if conviction class is A or B.	If the conviction class is A, B, or C, any combination of 6 prior Class A, B or C felonies.  If the conviction class is A or B, 3 prior Class A felonies or a combination of 4 prior Class A and B felonies.  If the conviction class is D or E, 6 prior felony convictions of any class.

Source: *TCA 40-25-105 to 40-35-109*.

Exhibit 23 shows the average sentence length by felony class from 2018 through September 2024 in Shelby County. The average sentencing lengths increased for four felony classes over the time period. For example, the average sentence for a Class A felony increased from 20.68 years in 2018 to 22.53 years in 2024. (The sentence lengths presented in Exhibit 23 exclude time served, or the amount of time a defendant spent in custody while their case was pending.)

**Exhibit 23: Average felony class sentence (in years), by charge disposition year | 2018 through September 2024**



Notes: (1) The sentence lengths presented in this exhibit exclude time served, or the amount of time a defendant spent in custody while their case was pending. (2) Data for 2024 is not complete and represents all sentencing data entered by the Shelby County Criminal Court Clerk’s Office prior to October 1, 2024. Source: OREA analysis of data provided by the Shelby County Criminal Court Clerk’s Office.

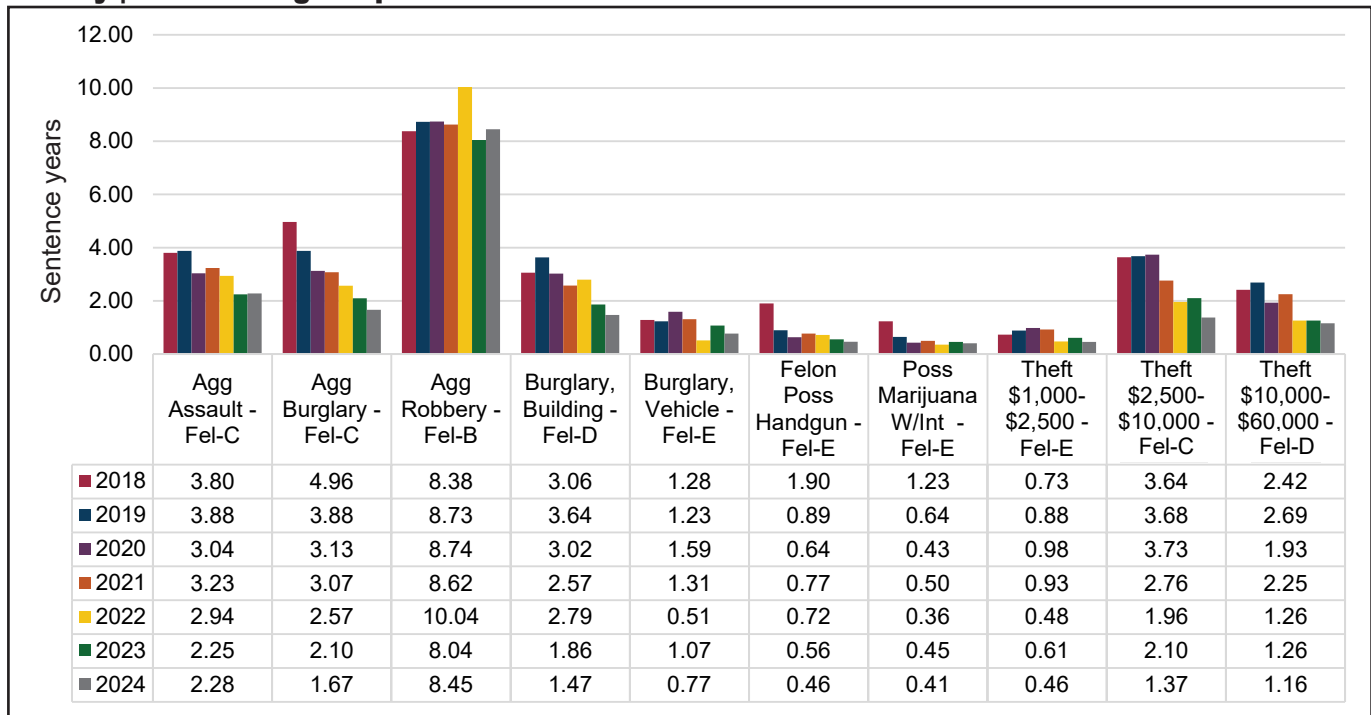
**Average sentence lengths for the 10 most common felony offenses in Shelby County decreased between 2018 and September 2024**

OREA compared average sentencing lengths in Shelby County for the 10 most convicted and sentenced felony offense types, by number of convictions, between 2018 and September 2024:

1. aggravated assault (Class C): 1,604 convictions,
2. theft of property valued between \$1,000 - \$2,500 (Class E): 677 convictions,
3. theft of property valued between \$2,500 - \$10,000 (Class D): 650 convictions,
4. aggravated robbery (Class B): 640 convictions,
5. burglary of a vehicle (Class E): 628 convictions,
6. aggravated burglary (Class C): 610 convictions,
7. convicted felon in possession of a handgun (Class E): 581 convictions,
8. burglary via entering a building without the owner’s consent (Class D): 506 convictions,
9. possession of marijuana with intent to sell or distribute (Class E): 460 convictions, and
10. theft of property valued between \$10,000 and \$60,000 (Class C): 395 convictions.

As shown in Exhibit 24, overall, the average sentencing lengths for the 10 most common offenses decreased between 2018 and 2024. Nine offense types had a shorter average sentence in 2024 than in 2018. For example, the average sentence for vehicle burglary decreased from 1.28 years in 2018 to 0.77 years in 2024. The average sentence length for aggravated robbery increased during this time from 8.38 years in 2018 to 8.45 years in 2024 than 2018. (The sentence lengths presented in Exhibit 24 exclude time served, or the amount of time a defendant spent in custody while their case was pending.)

**Exhibit 24: Average sentences (in years) of the 10 most common felony offenses in Shelby County | 2018 through September 2024<sup>AF</sup>**



Note: The sentence lengths presented in this exhibit exclude time served, or the amount of time a defendant spent in custody while their case was pending.  
 Source: OREA analysis of data provided by the Shelby County Criminal Court Clerk's Office.

## Conclusion

**There are numerous opportunities for enhancing the transparency, accessibility, and usability of aggregate data on the operations and outcomes of the Shelby County criminal justice system.**

OREA's research on a sample of criminal cases taken from the over 1,000 cases observed in Shelby County General Sessions and Criminal Court produced a detailed analysis of time to disposition, rearrest, changes in charges as a case progresses through the system, and final disposition and sentencing. While this analysis includes more specific information on the observed defendants and their cases, it is not generalizable data. Aggregate data, collected over a longer span of time and including all potential cases, is more reliable than sample observation data when considering the purpose of this report. However, there were barriers and limitations that prevented a more complete analysis of the cases at the aggregate level. As explained on page 9, the lack of a unique case identifier that remains consistent between courts was a significant barrier that prevented OREA from connecting cases as they progressed from General Sessions Court to Criminal Court. Cases are currently entered using the defendant's name, which may be entered differently (e.g., with or without middle initial, etc.) in the Shelby County General Sessions Court Clerk's system and that of the Shelby County Criminal Court Clerk. Connecting cases by name is also problematic for defendants who have multiple cases or previously disposed cases. Without a unique case identifier that remains consistent between courts, OREA lacked a high level of confidence in connecting cases between General Sessions Court and Criminal Court. This hindered efforts to calculate the length of time to disposition for felony cases that begin in General Sessions and are disposed in Criminal Court. The lack of a unique identifier was also a barrier to analyzing other concerns in the Lieutenant Governor's request, such as rearrest rates and how the charges on a case can change.

<sup>AF</sup> As of July 1, 2022, the following offenses in Exhibit 24 had their release eligibility dates modified by Public Chapter 988 to require offenders to serve at least 85 percent of their sentence incarcerated: some forms of aggravated assault, aggravated burglary, and aggravated robbery. For the full Tennessee sentencing matrix see: <https://www.tndagc.org/wp-content/uploads/2023/10/Sentencing-Matrix-1.pdf>.

Additionally, aggregate data for some of the key dates in a case's progression in General Sessions Court is not currently collected, such as the date a defendant is detained and begins his or her time in custody and the date cases are held to state, meaning bound over to the grand jury after probable cause has been found in General Sessions Court. Because so many felony cases begin in General Sessions Court, the absence of this data point was an additional hindrance to conducting end-to-end date tracking for felony cases disposed in Criminal Court.

Despite the limitations inherently available when using a small sample of just over 1,000 cases, the observed cases illustrate in a transparent, accessible, and understandable way the path those cases followed through the system. However, the Shelby County criminal justice system processes thousands of cases every year, and a similar degree of transparency, accessibility, and usability of publicly reported data on the overall operations and outcomes of the system does not currently exist. The result is that the public cannot assess overall, aggregate trends and patterns; the public cannot see the big picture.

OREA's analysis of time to disposition, rearrest rates and bail, changes in charges as cases progress, and final disposition and sentencing through a sample of cases lens and an aggregate data lens provides a starting point for more detailed and public reporting from the Shelby County criminal justice system in the future.

### ***Time to disposition***

OREA's analysis of the number of felony charges disposed over time in Shelby County and other counties is meant to prompt discussions and, ultimately, action in the form of aggregate reporting from the courts about time to disposition. Regular aggregate reporting could answer questions such as:

- What is the overall time to disposition for different felony offenses?
- How long do different felony offenses spend in the General Sessions phase, the grand jury phase, and the Criminal Court phase?
- How many cases are outliers in terms of time to disposition (e.g., more than double the average, more than 500 days, etc.), and what are the reasons for delays in disposing of such cases?

### ***Rearrest rates and bail***

Aggregate data on rearrest rates is not regularly reported by the Shelby County Judicial Commissioners, Shelby County Sheriff's Office, Shelby County Pretrial Services, or the court clerks' offices.

Information regarding the justification for bail amount and bail conditions is stored on individual PDF files within Shelby County's CJIS portal but is not aggregated or regularly reported. Neither the Shelby County Judicial Commissioners, Shelby County Sheriff's Office, Shelby County Pretrial Services, nor the court clerks' offices report bail statistics by category, such as bail amounts for those arrested for violent versus non-violent crimes and bail amounts for defendants with prior criminal records who are granted bail. Data on changes in bail between arrest and the final bail amount is also not reported in the aggregate.

### ***Change in charges***

OREA identified barriers and limitations relative to changes in charges as a case moves through the criminal justice system. Data on the charges at booking is currently collected by the Shelby County Sheriff's Office but is not publicly reported, and there are limitations that prevent the Sheriff's Office from accessing this information for defendants held in other municipal jails in Shelby County.

Through court observations, OREA traced the change in charges for 30 cases that began in General Sessions Court and were disposed by guilty plea in Criminal Court. A similar analysis was not possible on the aggregate level because of the lack of a unique identifier connecting cases and defendants between General Sessions Court and Criminal Court; thus, any charges that were changed while in the jurisdiction of General Sessions

Court or that may have occurred during the grand jury phase are not included in OREA's aggregate lens analysis, which is limited to felony charges filed and disposed in Criminal Court.

Data on rationale categories for changes to charges made as part of plea agreements (e.g., the percentage of plea agreements for which charges were reduced because the defendant agreed to cooperate with the district attorney's office in the prosecution of other defendants, the percentage for other categories that capture the reasons a prosecutor would agree to a guilty plea for lesser charges or a lighter sentence) are not readily available in an aggregate format nor publicly reported.

### ***Final disposition and sentencing***

Through court observations, OREA identified the sentences for 30 cases disposed by guilty plea in Criminal Court, but, again, there were barriers and limitations to conducting a similar analysis on the aggregate level.

The data provided to OREA by the Shelby County Criminal Court Clerk did not account for the manner of sentences (e.g., incarceration, probation, etc.). Any time spent incarcerated while awaiting disposition was also not accounted for in the provided data. Some defendants do not serve any additional time incarcerated beyond the time served in custody awaiting the disposition of their case. Other defendants, however, must serve additional time incarcerated beyond the time they served in custody awaiting case disposition. Thus, the average sentence lengths shown in Exhibit 23 and 24 are shorter than the actual time some defendants spent incarcerated after being sentenced.

Regarding cases disposed by diversion, the data provided did not account for charges that may have been expunged, so the aggregate percentage of charges disposed by diversion lacks precision. In addition, data on defendants who are sentenced to short or suspended sentences due to pending cases in another jurisdiction, including in federal court, is not readily available in an aggregate format.

The Lieutenant Governor's request letter references deterrence relative to final dispositions and proportional judgement. One measure of deterrence is a recidivism rate for individuals with a criminal record who are convicted of additional crimes. Regarding sentencing, an individual's criminal record is taken into account through the sentencing ranges that are part of Tennessee's sentencing guidelines. The sentencing ranges include the Especially Mitigated Offender category for those with no prior conviction (and no enhancement factors) at one end of the range and the Career Offender category at the other end. Accordingly, judges have access to an individual's prior criminal record when deciding on a sentence, but aggregate data on sentenced offenders with a prior conviction and the offense for which the offender has a prior conviction are not reported.

OREA's analysis of thousands of data points related to criminal cases and charges in Shelby County, and other Tennessee counties, yielded insights into trends and patterns, but the analysis also identified multiple barriers and limitations to assessing the system's processes and results on an overall, aggregate level. The result of these barriers and limitations is a system lacking transparency, especially in the form of publicly reported aggregate data on operations and outcomes. Transparency is of particular importance in a system in which so much discretion is exercised by multiple parties. The limited transparency and lack of regular public reporting impede oversight of and accountability for the Shelby County criminal justice system's operations and outcomes.

# Recommendations

## Agencies within the Shelby County Criminal Justice System should collect and publicly report data for key metrics on a regular basis

OREA developed 18 metrics for the Shelby County criminal justice system based on this report's conclusions. Multiple metrics are provided for each of the four concerns in the Lieutenant Governor's request letter:

1. the length of time it takes to dispose of cases,
2. the number of career criminals committing additional crimes while awaiting case disposition,
3. the apparent discrepancy between the charges at arrest and the charges for which defendants are prosecuted, and
4. the final disposition of cases not meting out proportional judgement, resulting in an overall lack of deterrent to crime.

Regularly sharing clear reports on these metrics would improve transparency in and accountability for the Shelby County criminal justice system's agencies and groups. By making these reports easily understandable for the public, the four concerns in the Lieutenant Governor's letter could not only be measured but tracked on a regular basis. There is a great deal of discretion exercised by various parties, especially prosecutors and judges, and public reporting of aggregate data would bring needed transparency to how this discretion is exercised. Through regular public reporting of data relative to these and other metrics, the various agencies of the Shelby County criminal justice system can provide the public with a greater understanding of patterns and trends in the system's operations and outcomes.

All agencies, departments, offices, and officials that make up the Shelby County criminal justice system should review this report, select the metrics most relevant to their role in the system, and establish the reporting structures necessary to begin publicly reporting aggregate data relative to these metrics on a regular basis. In some cases, however, criminal justice data and information should not be disclosed, such as when doing so might compromise a criminal investigation. Full criminal history data across all jurisdictions is considered protected information and there are significant barriers to non-criminal-justice agencies in obtaining such data.

Additional consideration should be given to expungements. Longitudinal studies that attempt to compare older data to newer data may contain data from recent years that is set to be expunged at the appropriate time and older data from which expunged cases have been removed. By law, expunged cases are not stored in criminal data systems; this can create a distortion of the data and analysis in studies that compare trends over several years. As OREA discovered in case observation analysis, cases that were missing from the information system were likely expunged and that data was unable to be included in the analysis.

Exhibit 25 lists and defines each of the 18 metrics related to the data in this report and addresses whether such data is reported, whether it is collected, and, if collected, the agency or agencies that collect the data.

As explained previously, there is not a unique identifier that follows defendants through General Sessions Court to Criminal Court. While the presence of a Records and Identification (RNI) number is used in court documentation, it is connected to a defendant's fingerprint, not criminal cases as they travel from General Sessions to Criminal Court. The lack of a unique identifier impeded OREA's analysis of time to disposition, rearrest rates, and changes to charges over time. The Shelby County General Sessions Court Clerk and the Shelby County Criminal Court Clerk should create a unique identifier to follow defendants as they progress through the court system. A unique identifier will assist with collecting and reporting data for multiple metrics.

**Exhibit 25: Eighteen metrics for the Shelby County criminal justice system**

Metric/indicator	Definition	Is it reported? Is it collected?
Total days for case disposition	The number of days between a case being filed by the General Sessions Court Clerk and case disposition.	Aggregate data is not reported. The data is collected by the General Sessions and Criminal Court Clerks' offices.
Number of continuances and reason for granting	The number of continuances granted on a case and the reason for why the continuance was granted.	Aggregate data is not reported. Data on the number of continuances is collected in the Shelby County Criminal Justice Information System, but the reason for continuances is not. The Shelby County Criminal Justice Information System is managed by the Shelby County General Sessions and Criminal Court Clerks' Offices.
Number of days in custody pending disposition	The number of days, beginning with the defendant's booking, that a defendant is held in custody while waiting for their case's disposition.	Aggregate data is not reported. It is unknown if this data is collected.
Pretrial release completion	The rate at which defendants complete pretrial release without violating release conditions.	Aggregate data is not reported. It is unknown if this data is collected.
Pretrial release conditions	All requirements imposed on a defendant granted pretrial release, such as a monetary bail and the final amount of the bail.	Aggregate data is not reported. The data is collected by the Shelby County Pretrial Services office.
Rearrest status	An indicator of whether the defendant was arrested for a new charge while on pretrial release for another charge. This should include the initial charge the defendant was granted pretrial release for, as well as the charge at the new arrest.	Aggregate data is not reported. It is unknown if this data is collected.
Diversion type	An indicator of whether the defendant was placed on pretrial diversion or judicial diversion.	Aggregate data is not reported. The data OREA received from the Shelby County General Sessions and Criminal Court Clerks' offices indicated when a case was disposed by judicial diversion. The Shelby County Criminal Justice Information System indicates whether pretrial or judicial diversion is granted in a case.
Diversion completion status	An indicator of whether the defendant successfully completed the conditions of diversion, or if the diversion was revoked. If revoked, why diversion was revoked (i.e., failure to meet imposed conditions or failure to pay court fees). If the diversion was revoked due to the defendant being arrested for/ committing a new offense, the charged offense should be stated.	Aggregate data is not reported. The data is collected in the Shelby County Criminal Justice Information System. Cases that receive judicial diversion can be expunged upon successful completion.

Metric/indicator	Definition	Is it reported? Is it collected?
Charges at booking	The charges approved by the Judicial Commissioner or on a warrant when the defendant is booked.	Aggregate data is not reported.  The data is collected by the Shelby County Sheriff's Office. There are limitations preventing the Shelby County Sheriff's Office from accessing this information for defendants held in other municipal jails within Shelby County.
Documentation of dismissal/nolle prosequi	Why the charge(s) against the defendant was dismissed. Examples include: dismissed lack of prosecution due to unavailable witnesses, dismissed lack of prosecution for evidentiary reasons, dismissed due to conviction on a separate higher charge, dismissed due to conviction on a separate equal charge, dismissed due to conviction on a separate lesser charge, etc.	Aggregate data is not reported.  Such information was stated in court during OREA's court observations conducted in August and September 2024.
Trial requested	If a defendant has indicated they are ready for trial and has requested that their case be tried.	Aggregate data is not reported.  It is unknown if this data is collected.
Plea agreement offer	The charges that a defendant pleads guilty to via a plea agreement. If there is a recommended sentence negotiated as part of the agreement (including a recommendation to place the defendant on judicial diversion), this should be included as well.	Aggregate data is not reported.  The data OREA received from the Shelby County Criminal Court Clerk's Office indicates if a charge is disposed of via guilty plea but does not specify if the plea was the result of a plea agreement.  Recommended sentences from plea agreements are not collected but are likely included on the judgment form.
Sentencing range	The sentencing range assigned to the defendant during sentencing.	Aggregate data is not reported.  This data is recorded on judgement forms kept by the Shelby County Criminal Court Clerk's Office.
Alternative sentencing length and incarceration length	A delineation of the length of a sentence that is suspended to be served as probation and the length of the sentence that is to be served incarcerated.	Aggregate data is not reported.  This data is recorded on judgement forms kept by the Shelby County Criminal Court Clerk's Office.
Time served amount	The number of days credited to a defendant's sentence for time spent in jail awaiting case disposition.	Aggregate data is not reported.  The number of days credited to a defendant's sentence for time spent in jail awaiting case disposition is collected in the Shelby County Criminal Justice Information System.
Judicial diversion terms	For cases disposed via judicial diversion, the diversion conditions (i.e., searching for / obtaining employment, anger management classes, parenting classes, etc.).	Aggregate data is not reported.  It is unknown if this data is collected.

Metric/indicator	Definition	Is it reported? Is it collected?
Judicial diversion completion rate	The rate at which offenders complete judicial diversion without violating the terms of diversion.	Aggregate data is not reported.  The data OREA received from the Shelby County Criminal Court Clerk's Office did not include this information.  Cases that receive judicial diversion can be expunged upon successful completion.
Reconvictions	If a sentenced offender has a prior conviction and the offense for which the offender has a prior conviction.	Aggregate data is not reported.  The Shelby County Criminal Court Clerk's Office keeps records of all prior convictions.

Source: OREA.

These metrics are recommendations for continued measurement to facilitate meaningful data collection and regular public reporting by Shelby County agencies in the future. Regarding the “number of continuances and reason for granting” metric, this report does not include data on the aggregate number of continuances granted for cases or the reason for granted continuances, as this information is not stored in General Sessions or Criminal Court. OREA gained information on the number of continuances and the reason for them for a sample of cases from August and September 2024, but this does not represent the full picture that could be provided by the courts by collecting and regularly reporting aggregate data.

Further, OREA’s analysis was limited to the publicly stated rationales given in each courtroom. Additional factors outside of this scope may have influenced delays in case progression. The lack of systemic reporting in continuances as well as the length of time of these continuances is not tracked in the aggregate. Additional data analysis is needed to explore the factors that affect time to disposition in criminal cases, as not all factors that delay a case may be represented in currently collected data or in this report.

Finally, data on the reason for continuances may illuminate factors, such as availability of attorneys or evidence testing, that disproportionately hinder the timely disposition of cases and may require further study.

## **Shelby County’s General Sessions Judges and Criminal Court Judges should explore methods for reducing delays in processing criminal cases.**

When considering methods to reduce delays, the judges should study the Effective Criminal Case Management (ECCM) project, a national initiative designed to discover and document effective practices that drive high performance in handling criminal cases in state courts.<sup>AG</sup> The project is the largest national study of criminal cases ever undertaken and “identified key factors driving the success of timely courts while dispelling much of the conventional wisdom about court delay.”

ECCM researchers analyzed a standardized set of case-level data from over 136 state courts in 21 states to identify the most important factors that affect how long it takes to process criminal cases. (Tennessee was not one of the 21 states.) Multiple variables were taken into account in the analysis, including court structure, court organization, and case characteristics, such as the seriousness of offenses and the number of continuances. The ECCM project found broad similarity across all the courts studied in terms of the mix of case types and the way cases are disposed, but also concluded that some courts consistently resolve cases

<sup>AG</sup> For more information including interactive tools, visit <https://www.ncsc.org/consulting-and-research/areas-of-expertise/court-management-and-performance/caseload-management/effective-criminal-case-management>.

with tighter timeframes than others. While the most timely courts may have differed in their structures and organization, what they had in common was effective caseflow management.

Caseflow management refers to the set of actions a court takes to control the legal process of scheduling, arranging, and conducting the key procedural events of cases. Timeliness is determined by a court's policies and practices, according to the ECCM project, and one of the key elements of effective caseflow management is the court's expectations:

The court should set the tone for criminal case processing by insisting that cases move expeditiously from arrest to initial arraignment or bail hearing through plea or trial to sentencing and resolution of any post-sentence matters in the trial court. To ensure that dates are always assigned to events in every case, the court should consider a case-scheduling order early in every case. If both prosecution and defense lawyers have early access to the evidence in a case, the court can schedule case events at short intervals and insist that counsel meet deadlines for case preparation.

Monitoring of charge modifications and dismissals was another key element of effective caseflow management identified by the ECCM project:

Clarity on criminal case processing is enhanced by understanding the nature and frequency of charge modifications. Reductions in the seriousness of a case can occur for numerous reasons (e.g., insufficient evidence, plea deals, prosecutorial discretion) and are important to track due to their potential impact on case outcomes. Charges may also be increased in severity, typically due to adding more serious charges to a case or enhancement of an established charge through further discovery (e.g., lab test results, surveillance footage, use of a lethal weapon). The court gains insight into prosecutorial charging practices by monitoring the frequency of dismissal of individual charges or all charges in a case.

The ECCM project divided the courts being studied into three categories based on time to disposition for felony cases.

1. **More timely courts:** These courts resolved more than 90 percent of felony cases within 365 days. More timely courts maintained better control over scheduling and reduced both the number of continuances as well as the time a continuance or additional hearing was allowed to add to the schedule. More timely courts were found to be faster across all case types and all manners of disposition (e.g., dismissal, plea, trial, etc.).
2. **Midrange courts:** These courts resolved between 80 percent and 90 percent of felony cases within 365 days.
3. **Less timely courts:** These courts resolved less than 80 percent of felony cases within 365 days.

On average, the courts studied for the ECCM project resolved 83 percent of felony cases within 365 days. The primary drivers of case-processing time, according to ECCM researchers, are the number of continuances per case and the number of hearings per case.

### ***Cost of Delay calculator***

The ECCM project also produced a Cost of Delay calculator, a tool to estimate the cost of court delays.<sup>AH</sup> Using the calculator, researchers estimated the cost of delay in felony cases based on 48 courts in 10 states over approximately two years was \$307.9 million, with jail costs for in-custody defendants making up 97 percent of the total, or almost \$300 million.

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<sup>AH</sup> For more information on the estimates used in this calculator, visit [https://www.ncsc.org/data/assets/pdf\\_file/0017/53234/ECCM-Cost-of-Delay-Calculator.pdf](https://www.ncsc.org/data/assets/pdf_file/0017/53234/ECCM-Cost-of-Delay-Calculator.pdf).

The variables included in the calculator are:

- the annual felony caseload,
- the percentage of cases with continuances and the number of continuances,
- the salaries of the involved parties (the judge and other court personnel, the prosecution, and the defense), which are used to calculate an estimated cost per failed court event (i.e., court hearing), and
- the percentage of defendants in custody,<sup>A1</sup> the jail bed cost per day for such defendants, and the length of detention.

The ECCM Cost of Delay calculator publication states, “While the cost of a single delay may not appear too large, when applied to the number of cases in which delay occurs, the true cost skyrockets... The total cost... shows the large impact of ‘business as usual,’ in which continuances are accepted as normal and allowed to add significant delay.”

### ***Tools for effective caseload management***

In addition, the ECCM project includes tools for court management and reports covering such topics as:

- a detailed analysis of the factors most directly shaping criminal case-processing time,
- a self-assessment instrument for determining the level of implementation of caseload management principles and practices by a court, and
- a step-by-step guide to collecting, analyzing, and presenting data on key indicators for effective management of criminal cases.

One of the ECCM reports is designed to help courts adopt the Effective Criminal Case Management methodology by following four steps:

1. documenting the major case processing events that may occur in the life of a criminal case,
2. identifying the relevant data elements that capture key events in the criminal caseload management process,
3. specifying a meaningful and feasible set of measures and indicators to be generated from the identified data elements to help manage the flow of criminal cases, and
4. analyzing and presenting performance results in an interpretable and compelling way.

The report identifies efficiency, effectiveness, productivity, and other measures of performance and also includes a data checklist for assessing whether information is currently collected, whether it is currently used to track cases, and the reporting of aggregate caseload statistics.

The ECCM project emphasizes the importance of good data for reducing delay. “To understand the extent to which courts have the ability to handle criminal cases in a timely manner, courts need information about why some cases are resolved more quickly than others and why some courts are more expeditious than others. Without that knowledge, efforts to improve court timeliness are left to intuition and opinion.”

## **The Tennessee General Assembly could create a study committee to review this report and make recommendations for greater transparency of the criminal justice system in Shelby County and possibly in other counties**

While this report focuses on the Shelby County criminal justice system, its conclusions, especially those related to the need for greater transparency in the form of more public reporting of aggregate data, also apply to other counties in Tennessee.

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<sup>A1</sup> Percent of defendants in custody is estimated from the Bureau of Justice Statistics studies 1990 to 2004 of felony cases in the largest 75 counties.

## ***Tennessee's current data systems and public reporting requirements***

In considering future initiatives to improve the transparency, accessibility, and usability of criminal justice data in Tennessee, several data systems and public reporting requirements in Tennessee should be taken into account.

### ***General Sessions Data Repository and the Tennessee Judicial Information System***

The General Sessions Data Repository (GSDR), managed by the Administrative Office of the Courts (AOC), might also be used as part of a criminal justice transparency initiative in Tennessee. The GSDR includes data on charges, bail amounts, and disposition dates from the state's General Sessions Courts. Shelby County, however, is one of three counties that does not currently use the preferred software for General Sessions criminal filings, which impairs the uploading of their data into the GSDR.<sup>AJ</sup> The Tennessee Judicial Information System (TJIS), the data repository for the state's trial courts, is another source of data to consider relative to any future transparency initiative. The GSDR and TJIS are both reliant on data reported by General Sessions and Criminal Court Clerks.

### ***Annual reports from district attorneys general***

The General Assembly passed legislation in 2024 requiring more public reporting from each district attorney general. Public Chapter 895 (2024) requires each district attorney to report the following aggregate data, at a minimum, categorized by offense on an annual basis:

- arrests made and offenses referred;
- number of indictments filed;
- number of cases transferred to another law enforcement entity;
- number of cases in which an indictment was sought for an individual and the indictment was for an offense other than the offense for which the individual was originally arrested; and
- number of each disposition entered by a court, including dismissals, pretrial diversions, plea agreements, trial outcomes, and sentences imposed.

Each district attorney general must provide an annual report to the Governor, the Speaker of the House of Representatives, the Speaker of the Senate, the Chair of the House Criminal Justice Committee, the Chair of the Senate Judiciary Committee, and District Attorney's General Conference. The District Attorneys General Conference will summarize the information provided by each attorney general in a report made available to the public. Public Chapter 895 (2024) takes effect on July 1, 2026.

### ***Administrative Office of the Courts case management system***

In 2023, the legislature appropriated \$75 million to the AOC for the implementation of a statewide eFiling and case management system to foster consistent reliable data collection and reporting. Public Chapter 947 (2024) aims to create a new centralized system of case management, document management, electronic case filing, electronic payment methods, and data reporting. The legislation also states the system should possess any capability deemed necessary for collection and reporting of all state and local court public case level data. When the system is complete, all court clerks shall adopt and convert to the new centralized system to ensure uniform and consistent data throughout the state.

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<sup>AJ</sup> The other two counties are Davidson and Morgan.

## ***The national perspective***

The lack of accessible, usable, and timely criminal justice data is also a national issue.

Justice Counts is a national initiative led by the Council of State Governments and an office within the U.S. Department of Justice to improve the accessibility and usability of criminal justice data. The initiative has identified the following persistent challenges with criminal justice data across the nation:

1. It is sparse - very little timely criminal justice data is made available to the public.
2. It is scattered - information is spread across multiple offices and departments, rarely consolidated in a way that is useful for the people working to improve how the system functions.
3. It is stale - by the time it reaches the desks of decision-makers, data related to jails, probation, and crime are often outdated – months, or sometimes years, old.

The result of these challenges, according to Justice Counts, is that “decision-makers often lack even the most basic data on criminal justice patterns and trends to inform their decisions – decisions that have lasting effects on everything from public safety to the people and communities disparately impacted by the criminal justice system.”

Data on the criminal justice system is, in most cases, not aggregated in a manner to allow policymakers and other parties to assess the functioning of various parts of the system as well as the system as a whole. The Bureau of Justice Assistance in the U.S. Department of Justice describes the state of criminal justice data as follows: “Critical data is often collected but not analyzed, analyzed but not shared, or shared but not acted upon. The result is a criminal justice system with a widespread desire to make data-informed decisions, but individual agencies lacking the time, ability, or organizational mandate to do so.” OREA found these statements apply to the Shelby County criminal justice system.

Justice Counts includes the various agencies that make up the criminal justice system: law enforcement, prosecution, defense, courts and pretrial, jails, prisons, and community supervision. For each of these agencies, the initiative has created two tiers of metrics designed to provide policymakers with “precise, consistent, and useful data metrics that enable them to quickly and easily understand how people move through the criminal justice system and how related policy and financial changes may impact public safety.”

The Tier 1 metrics were released in May 2022 and are being piloted by hundreds of criminal justice agencies across the nation. The Tier 2 metrics are more detailed and address performance, outcomes, and trends in the agencies that make up the criminal justice system.

### ***Sample metrics categorized by agency include:***

#### **Prosecution**

- Cases prosecuted
- Cases declined
- Cases diverted/deferred
- Cases disposed with reduced charges
- Diversion program completions
- Caseload for victim advocates (e.g., victim witness coordinators in Shelby County)
- Pretrial release recommendations accepted by the court
- Sentence recommendations
- Cases reversed due to prosecutorial misconduct

## **Defense**

- Time to case disposition
- Investigation before case resolution
- Cases with appointed counsel

## **Courts and pretrial**

- Continuances
- Pretrial releases
- Changes in release status
- New offenses while on pretrial release
- Sentences imposed
- Incarceration sentence length
- Age of case

## **Community supervision**

- Violations
- Revocations
- Violations before revocation
- Program completions
- Sanctions applied
- Incentives applied
- Reconvictions

Some metrics are separated into subcategories. For example, the pretrial releases metric for the Courts and pretrial category is divided into the following subcategories:

- Release on own recognizance
- Monetary bail
- Non-monetary bail
- Other pretrial releases
- Unknown pretrial releases

See Appendix D for all Tier 1 and Tier 2 metrics for all agencies.

National partners in the Justice Counts initiative include the National Center for State Courts, the National Conference of State Legislatures, the National District Attorneys Association, the National Governors Association, the National Legal Aid & Defender Association, and the National Sheriffs' Association. In February 2024, the Shelby County District Attorney's Office adopted Justice Counts.

One of the national partners in Justice Counts, the National Conference of State Legislatures, has identified five challenges and barriers that prevent or reduce legislators' ability to use data to guide criminal justice policy decisions:

1. lack of high-quality, comparable, and relevant data,
2. lack of timely and responsive data when they are most needed,
3. need for context and return-on-investment data to help prioritize resource allocations,

4. data silos and lack of data sharing, perhaps driven in part by a fear of sharing data among the involved agencies, and
5. difficulty obtaining stakeholder engagement and buy-in.

### ***Legislation passed in other states***

Some states have passed legislation to require that local agencies collect criminal justice data. Colorado passed a law focused on jails and jail populations, while a Connecticut law centered on prosecutorial decisions. Other states, which have established councils to track the progress of criminal justice reforms, have required the collection of performance data related to provisions in their criminal justice reform laws.

The Florida Legislature passed legislation as part of the state's Criminal Justice Data Transparency (CJDT) initiative to increase public visibility of criminal justice processes throughout the state and to provide policymakers with the information they need to make informed policy decisions. (See Appendix E for the Florida laws.)

One of the laws related to the CJDT initiative states the Florida Legislature's findings and intent:

It is the intent of the Legislature to create a model of uniform criminal justice data collection by requiring local and state criminal justice agencies to report complete, accurate, and timely data, and making such data available to the public. The Legislature finds that it is an important state interest to implement a uniform data collection process and promote criminal justice data transparency.

Data from court clerks, county detention facilities (jails), the Florida Department of Corrections, Public Defender Offices, and State Attorney Offices, as well as other entities, are included in the initiative. Florida law also requires the creation of a unique identifier for each criminal case that identifies the person who is the subject of the criminal case. The unique identifier must be the same for that person in any court case and used across local and state entities for all information related to that person at any time.

Multiple dashboards for data points such as arrest/booking reports and case reports are also part of the initiative.<sup>AK</sup>

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<sup>AK</sup> The dashboards can be accessed through the following site: [Criminal Justice Data Transparency](#).

# Appendix A: Request letter from Lt. Governor McNally

**RANDY McNALLY**  
**LIEUTENANT GOVERNOR**

CORDELL HULL BUILDING, SUITE 700  
425 REP. JOHN LEWIS WAY NORTH  
NASHVILLE, TN 37243  
(615) 741-6806

**STATE OF TENNESSEE**



94 ROYAL TROON CIRCLE  
OAK RIDGE, TN 37830  
(865) 483-5544

**OFFICE OF THE LIEUTENANT GOVERNOR**  
**SPEAKER OF THE SENATE**

February 28, 2024

Jason Mumpower  
Office of the Comptroller  
600 Dr. M.L.K. Jr Blvd  
Nashville, Tennessee 37243

Director Michelle Long  
Administrative Office of the Courts  
511 Union Street, Suite 600  
Nashville, TN 37219

Dear Comptroller Mumpower and Director Long,

Having become increasingly concerned about the rising tide of crime in Memphis, I am writing to ask that your offices investigate the criminal justice system in the city. Media reports are making it abundantly clear that there is a severe problem with how the system works in Memphis.

Specifically, I would like you to look at the length of time cases take from start to finish. It appears that too many career criminals are committing additional crimes while their cases are being disposed of. I am also concerned about the apparent discrepancy between the charges at arrest and the charges defendants end up being prosecuted for. Finally, I am concerned that the final disposition of cases does not mete out proportional punishment resulting in an overall lack of deterrent to crime.

I believe your offices can zero in on the exact source or sources of the issue so that the legislature may deliberate on a solution. State government's primary responsibility is to keep our citizens safe. It is clear that too many of our citizens are at risk due to this rising tide of crime. I am hopeful an investigation by your office can shine a light on the problem within the system that is resulting in these poor outcomes.

I thank you for your consideration in this matter. Please do not hesitate to reach out to me to further discuss this issue.

Sincerely,

A handwritten signature in black ink that reads "Randy McNally".

Randy McNally  
Lieutenant Governor  
Speaker of the Senate

## Appendix B: Interviewees

Group	Number of interviewees	Elected officials interviewed
18th Judicial District Attorney General's Office	1	
City of Memphis Mayor's Office	1	Paul Young, Mayor of Memphis
Greater Memphis Chamber	1	
Private practice criminal defense attorney	1	
Just City	1	
Memphis Police Department	1	
Shelby County Criminal Court	9	Judge Skahan, Judge Fitzgerald, Judge Jones, Judge Blackett, Judge Addison, Judge Pool, Judge Coffee, Judge Craft, Judge Mitchell
Shelby County Criminal Court Clerk	3	Heidi Kuhn, Criminal Court Clerk
Shelby County District Attorney's Office	14	Steve Mulroy, Shelby County District Attorney
Shelby County General Sessions Court Clerk	1	
Shelby County Mayor's Office	3	Lee Harris, Shelby County Mayor
Shelby County Pretrial Services	4	
Shelby County Public Defender's Office	1	
Shelby County Sheriff's Office	2	Floyd Bonner, Shelby County Sheriff
Tennessee Administrative Office of the Courts	2	
Tennessee Bureau of Investigation	9	
Tennessee Comptroller of the Treasury - Division of Investigations	2	
Tennessee Department of Correction	10	
Tennessee Department of Finance and Administration	1	
Tennessee Department of Mental Health and Substance Abuse Services	2	
Tennessee District Attorneys General Conference	3	
Tennessee Public Defender's Conference	2	
University of Memphis Center for Community Research and Evaluation	1	

Additional interviewees include former Mayor of Memphis Jim Strickland, former Shelby County District Attorney Amy Weirich, former Criminal Court Judges Bobby Carter and Mark Ward, and Bill Gibbons, current Executive Director of the Public Safety Institute at the University of Memphis and President of the Memphis Shelby Crime Commission. Gibbons also served as former Shelby County District Attorney and former Commissioner of the Tennessee Department of Safety and Homeland Security.

OREA was unable to interview the Shelby County General Sessions Court Clerk and most of the Shelby County Judicial Commissioners. OREA met briefly with all General Sessions Judges and three Shelby County Attorneys; however, the meeting did not offer insight into the research questions. OREA was unable to meet with General Sessions Judges individually. The General Sessions Judges were, however, given an opportunity to review this report and provide feedback prior to publication.

# Appendix C: Agencies and groups within the Shelby County Criminal Justice System

## Local Agencies and Groups

- **Memphis Police Department:** Law enforcement agency for the city of Memphis; responsible for arresting individuals accused of crimes
- **Shelby County District Attorney General's Office:** Prosecutes misdemeanor and felony cases that occur in Shelby County, including in General Sessions and Criminal Court; includes special units for certain types of crimes as well as Victim and Witness Services
- **Shelby County Public Defender's Office:** Provides lawyers for indigent defendants, or individuals who cannot afford to hire a private attorney
- **Shelby County General Sessions Court:** Hears misdemeanor cases and preliminary hearings for felony cases within the nine divisions; the **General Sessions Clerk's** office maintains records for cases filed in General Sessions. In addition to the nine judges, fourteen **Judicial Commissioners** serve as magistrates to sign warrants and set bail. Judicial Commissioners are appointed by the **Shelby County Commission** and re-elected by General Sessions Judges.
- **Shelby County Criminal Court:** Hears cases for indicted felony and misdemeanor cases within the nine judges for Criminal Court and the **Criminal Court Clerk's** office, which maintains records for cases filed in Criminal Court
- **Shelby County Pretrial Services:** Responsible for maintaining records related to jail release, probation, and other case supervision services
- **Shelby County Sheriff's Office:** Law enforcement agency; responsible for the Shelby County Jail booking and pre-trial detention of inmates accused of crimes

## State Agencies and Groups

- **Tennessee Bureau of Investigation:** State law enforcement; responsible for criminal investigations, forensic services such as evidence testing,
- **Tennessee District Attorneys General Conference:** Offers support and training for the state's District Attorneys General from 32 judicial districts
- **Tennessee Department of Correction:** Responsible for detention of individuals convicted of state-level offenses– includes **Community Supervision**, which maintains records on individuals serving probation for state convictions
- **Tennessee Department of Mental Health and Substance Abuse Services:** Responsible for justice-involved individuals who are experiencing behavioral health and substance abuse challenges, including Recovery Courts and Mental Health Courts
- **Tennessee Public Defender's Conference:** Coordinates, trains, and maintains the 32 statewide offices for district public defenders for indigent defendants
- **Tennessee Administrative Office of the Courts:** Provides support to the state court system regarding information technology and database services, training of staff, and fiscal oversight of the state court system budget

## Appendix D: Justice Counts metrics



Created by experts in the field, for experts in the field, Justice Counts metrics empower criminal justice agencies to tell their stories and enable decision-makers to make informed, impactful decisions about public safety.

**Tier 1.** Tier 1 Metrics were released in May of 2022 and are being piloted by hundreds of criminal justice agencies across the country. These metrics take advantage of data agencies already have to offer a panoramic view of essential measures and a comprehensive examination of each sector.

**Tier 2.** Tier 2 metrics build on the foundation of Tier 1 to create a more expansive picture of the entire criminal justice system. Technical Implementation Guides are in development for these metrics, and implementation will begin later this year.

Learn more at [justice-counts.org](https://justice-counts.org).

	Capacity & Costs	Population Movements	Operations & Dynamics	Public Safety	Demographics	Fairness*
Law Enforcement	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Funding</li> <li>• Expenses</li> <li>• Staff</li> <li>• Staff by Race and Ethnicity</li> <li>• Staff by Gender</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Staff by Age</li> <li>• Staff by Tenure</li> <li>• Sworn Officer and Recruit Retention</li> <li>• Hours of Training Provided</li> <li>• Officers Fluent in a Second Language</li> <li>• Staff Salaries</li> <li>• Sworn Officer Educational Attainment</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Calls for Service</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Mental Health/Substance Use Crisis Calls for Service</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Arrests</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Officer-Initiated Stops</li> <li>• Deflection and Pre-Arrest Diversions</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Reported Crime</li> <li>• Use of Force Incidents</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Deaths of People in Police Custody</li> <li>• Officer Deaths</li> <li>• People Sustaining Non-Fatal Injuries</li> <li>• Outstanding Warrants</li> <li>• Clearance of Reported Crimes</li> <li>• Seizures</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Arrests</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Deflection and Pre-Arrest Diversions</li> <li>• Seizures</li> <li>• Deaths of People in Police Custody</li> <li>• Officer-Initiated Stops</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Civilian Complaints Sustained</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Use of Force Investigations</li> <li>• Officers Sanctioned for Findings of Misconduct</li> </ul>
Prosecution	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Funding</li> <li>• Expenses</li> <li>• Staff</li> <li>• Caseload</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Staff by Race and Ethnicity</li> <li>• Staff by Gender</li> <li>• Staff by Age</li> <li>• Staff by Tenure</li> <li>• Staff Attrition</li> <li>• Staff Salaries</li> <li>• Victim Advocate Caseload</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Cases Referred</li> <li>• Cases Declined</li> <li>• Cases Diverted/Deferred</li> <li>• Cases Prosecuted</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Sentence Recommendations</li> <li>• Cases with Probable Cause Finding</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Cases Disposed</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Pretrial Release Recommendations Accepted by the Court</li> <li>• Diversion Program Offered</li> <li>• Diversion Program Completions</li> <li>• Cases Resulting in Conviction</li> <li>• Cases Filed Resulting in an Acquittal</li> <li>• Cases Disposed with Reduced Charges</li> </ul>	<p><b>Tier 1</b></p> <p>No Tier 1 Metric</p> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• New Case for Person with Previous Convictions</li> <li>• Non-Fatal Shooting Cases Referred</li> <li>• Homicide Filing Rate</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Cases Declined</li> <li>• Cases Diverted/Deferred</li> <li>• Cases Prosecuted</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Diversion Program Offered</li> <li>• Diversion Program Completions</li> <li>• Cases Disposed with Reduced Charges</li> <li>• Non-Fatal Shooting Cases Referred</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Violations Filed Resulting in Discipline</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Restitution Orders Requested</li> <li>• Cases Reversed Due to Prosecutorial Misconduct</li> </ul>

	Capacity & Costs	Population Movements	Operations & Dynamics	Public Safety	Demographics	Fairness*
Defense	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Funding</li> <li>• Expenses</li> <li>• Staff</li> <li>• Caseload</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Staff by Race and Ethnicity</li> <li>• Staff by Gender</li> <li>• Staff by Age</li> <li>• Staff by Tenure</li> <li>• Staff Attrition</li> <li>• Staff Salaries</li> <li>• Client Contacts</li> <li>• Support Staff Caseload</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Cases Appointed Counsel</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Clients with Language Access Needs</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Cases Disposed</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Investigation before Case Resolution</li> <li>• Time to Case Disposition</li> <li>• Cases Appointed Counsel</li> <li>• Cases involving a Request for Expert Consultant</li> <li>• Time from Counsel</li> <li>• Appointment to Initial Meeting</li> <li>• Discovery Received</li> </ul>	<p><b>Tier 1</b></p> <p>No Tier 1 Metric</p> <p><b>Tier 2</b></p> <p>No Tier 2 Metric</p>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Cases Disposed</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Investigations before Case Resolution</li> <li>• Cases Appointed Counsel</li> <li>• Termination of Counsel</li> <li>• Time to Disposition</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Client Complaints Sustained</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Cases Appointed Counsel</li> <li>• Costs Imposed on People Charged</li> <li>• Probable Cause Challenges Resulting in Dismissal</li> <li>• Motions Filed and Granted to Exclude Evidence</li> <li>• Cases Successfully Appealed</li> </ul>
Courts and Pretrial	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Funding</li> <li>• Expenses</li> <li>• Judges and Staff</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Judges and Staff by Race and Ethnicity**</li> <li>• Judges and Staff by Gender **</li> <li>• Judges and Staff by Age **</li> <li>• Judges and Staff by Tenure **</li> <li>• Staff Attrition</li> <li>• Caseload</li> </ul> <p><i>**Shared only for courts where data will not identify court personnel.</i></p>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Criminal Case Filings</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Diversion Program Enrollment</li> <li>• Diversion Program Completions</li> <li>• Incarceration Sentence Length</li> <li>• Changes in Release Status</li> <li>• Continuances</li> <li>• Cases Disposed with Reduced Charges</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Pretrial Releases</li> <li>• Sentences Imposed</li> <li>• Cases Disposed</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Diversion Program Enrollment</li> <li>• Diversion Program Completions</li> <li>• Incarceration Sentence Length</li> <li>• Changes in Release Status</li> <li>• Continuances</li> <li>• Cases Disposed with Reduced Charges</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• New Offenses While on Pretrial Release</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Orders of Protection Filed</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Sentences Imposed</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Failures to Appear</li> <li>• Diversion Program Enrollment</li> <li>• Diversion Program Completions</li> <li>• Cases Disposed with Reduced Charges</li> <li>• Individual Perception of Fairness and Justice</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Civilian Complaints Sustained</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Number of Appearances Time to Disposition</li> <li>• Age of Case</li> <li>• Individual Perception of Fairness and Justice</li> </ul>

	Capacity & Costs	Population Movements	Operations & Dynamics	Public Safety	Demographics	Fairness*
Jails	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Funding</li> <li>• Expenses</li> <li>• Staff</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Staff by Race and Ethnicity</li> <li>• Staff by Gender</li> <li>• Staff by Age</li> <li>• Staff by Tenure</li> <li>• Staff Attrition</li> <li>• Overtime Hours</li> <li>• Hours of Training Provided</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Admissions</li> <li>• Daily Population</li> <li>• Releases</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Lenth of Stay</li> <li>• Daily Population in Restrictive Housing</li> </ul>	<p><b>Tier 1</b></p> <p>No Tire 1 Metric</p> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Length of Stay in Restrictive Housing</li> <li>• Access to Health Care Services</li> <li>• Reentry Needs at Release</li> <li>• Program Enrollment</li> <li>• Program Completions</li> <li>• Needs Identified at Admission Screening</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Use of Force Incidents</li> <li>• Readmissions</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Deaths of People In Custody</li> <li>• People Sustaining Non-Fatal Injuries</li> <li>• Deaths of Staff on the Job</li> <li>• Misconduct</li> <li>• Participation in Staff Wellness Offerings</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Daily Population</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Daily Population in Restrictive Housing</li> <li>• Program Enrollment</li> <li>• Program Completions</li> <li>• Deaths of People In Custody</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Grievances Upheld</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Victim Notifications</li> <li>• Time Out of Cell</li> <li>• People Receiving Visitation</li> </ul>
Prisons	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Funding</li> <li>• Expenses</li> <li>• Staff</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Staff by Race and Ethnicity</li> <li>• Staff by Gender</li> <li>• Staff by Age</li> <li>• Staff by Tenure</li> <li>• Staff Attrition</li> <li>• Overtime Hours</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Admissions</li> <li>• Daily Population</li> <li>• Releases</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Lenth of Stay</li> <li>• Daily Population in Restrictive Housing</li> </ul>	<p><b>Tier 1</b></p> <p>No Tire 1 Metric</p> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Length of Stay in Restrictive Housing</li> <li>• Access to Health Care Services</li> <li>• Reentry Needs at Release</li> <li>• Program Enrollment</li> <li>• Program Completions</li> <li>• Needs Identified at Admission Screening</li> <li>• Parole Hearings</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Use of Force Incidents</li> <li>• Readmissions</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Deaths of People In Custody</li> <li>• People Sustaining Non-Fatal Injuries</li> <li>• Deaths of Staff on the Job</li> <li>• Misconduct</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Daily Population</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Daily Population in Restrictive Housing</li> <li>• Program Enrollment</li> <li>• Program Completions</li> <li>• Deaths of People In Custody</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Grievances Upheld</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Victim Notifications</li> <li>• Time Out of Cell</li> <li>• People Receiving Visitation</li> </ul>

Continues next page

	Capacity & Costs	Population Movements	Operations & Dynamics	Public Safety	Demographics	Fairness*
Community Supervision	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Funding</li> <li>• Expenses</li> <li>• Staff</li> <li>• Caseload</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Staff by Race and Ethnicity</li> <li>• Staff by Gender</li> <li>• Staff by Age</li> <li>• Staff by Tenure</li> <li>• Staff Attrition</li> <li>• Hours of Training Provided</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• New Cases</li> <li>• Daily Population</li> <li>• Discharges</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Length of Supervision Sentence</li> <li>• Daily Population on Specialized Caseloads</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Violations</li> <li>• Revocations</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Violations before Revocation</li> <li>• People on Supervision Referred for Programs</li> <li>• Program Enrollment</li> <li>• Program Completions</li> <li>• Post-Supervision Plans Completed</li> <li>• People on Supervision with a Case Plan</li> <li>• People with Assessed Needs Referred to Services While under Supervision</li> <li>• Sanctions Applied</li> <li>• Incentives Applied</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Reconvictions</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Daily Population with Protective Factors</li> <li>• People on Supervision Assessed for Risk and Needs</li> <li>• Contacts Completed Monthly</li> </ul>	<p><b>Tier 1</b></p> <ul style="list-style-type: none"> <li>• Daily Population</li> </ul> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Program Enrollment</li> <li>• Program Completions</li> <li>• Length of Supervision Sentence</li> </ul>	<p><b>Tier 1</b></p> <p>No Tier 1 Metric</p> <p><b>Tier 2</b></p> <ul style="list-style-type: none"> <li>• Early Termination Requests Denied</li> <li>• Corrective Action Taken for Staff Misconduct</li> <li>• People on Supervision with Housing Restrictions</li> <li>• Cost Imposed on Person Being Supervised</li> </ul>

\*Many factors can lead to a complaint, grievance, or appeal that are not related to fairness. The existence of these processes reflects a functioning system.

# Appendix E: Florida legislation

## The 2024 Florida Statutes (including 2025 Special Session C)

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[Title XLVII](#)  
CRIMINAL PROCEDURE AND CORRECTIONS

[Chapter 900](#)  
GENERAL PROVISIONS

[View Entire Chapter](#)

### **900.05 Criminal justice data collection.—**

(1) **LEGISLATIVE FINDINGS AND INTENT.**—It is the intent of the Legislature to create a model of uniform criminal justice data collection by requiring local and state criminal justice agencies to report complete, accurate, and timely data, and making such data available to the public. The Legislature finds that it is an important state interest to implement a uniform data collection process and promote criminal justice data transparency.

(2) **DEFINITIONS.**—As used in this section, the term:

(a) “Annual felony caseload” means the yearly caseload of each full-time state attorney and assistant state attorney, public defender and assistant public defender, or regional conflict counsel and assistant regional conflict counsel for cases assigned to the circuit criminal division, based on the number of felony cases reported to the Supreme Court under s. [25.075](#). The term does not include the appellate caseload of a public defender, assistant public defender, regional conflict counsel, or assistant regional conflict counsel. Cases reported pursuant to this term must be associated with a case number, and each case number must only be reported once regardless of the number of attorney assignments that occur during the course of litigation. The caseload shall be calculated on June 30 and reported once at the beginning of the reporting agency’s fiscal year.

(b) “Annual felony conflict caseload” means the total number of felony cases the office of the public defender or office of regional conflict counsel has declined or withdrawn from in the previous calendar year due to lack of qualified counsel or due to excessive caseload. The caseload shall be calculated on June 30 and reported once at the beginning of the reporting agency’s fiscal year.

(c) “Annual misdemeanor caseload” means the yearly caseload of each full-time state attorney and assistant state attorney, public defender and assistant public defender, or regional conflict counsel and assistant regional conflict counsel for cases assigned to the county criminal division, based on the number of misdemeanor cases reported to the Supreme Court under s. [25.075](#). The term does not include the appellate caseload of a public defender, assistant public defender, regional conflict counsel, or assistant regional conflict counsel. Cases reported pursuant to this term must be associated with a case number, and each case number must only be reported once regardless of the number of attorney assignments that occur during the course of litigation. The caseload shall be calculated on June 30 and reported once at the beginning of the reporting agency’s fiscal year.

(d) “Annual misdemeanor conflict caseload” means the total number of misdemeanor cases the office of the public defender or office of regional conflict counsel has declined or withdrawn from in the previous calendar year due to lack of qualified counsel or due to excessive caseload. The caseload shall be calculated on June 30 and reported once at the beginning of the reporting agency’s fiscal year.

(e) “Attorney assignment date” means the date a court-appointed attorney is assigned to the case or, if privately retained, the date an attorney files a notice of appearance with the clerk of court.

(f) “Attorney withdrawal date” means the date the court removes court-appointed counsel from a case or, for a privately retained attorney, the date a motion to withdraw is granted by the court.

(g) “Case number” means the uniform case number assigned by the clerk of court to a criminal case.

(h) “Case status” means whether a case is open, active, inactive, closed, reclosed, or reopened due to a violation of probation or community control.

- (i) “Charge description” means the statement of the conduct that is alleged to have been violated, the associated statutory section establishing such conduct as criminal, and the misdemeanor or felony classification that is provided for in the statutory section alleged to have been violated.
- (j) “Charge disposition” means the final adjudication for each charged crime, including, but not limited to, dismissal by state attorney, dismissal by judge, acquittal, no contest plea, guilty plea, or guilty finding at trial.
- (k) “Charge modifier” means an aggravating circumstance of an alleged crime that enhances or reclassifies a charge to a more serious misdemeanor or felony offense level.
- (l) “Concurrent or consecutive sentence flag” means an indication that a defendant is serving another sentence concurrently or consecutively in addition to the sentence for which data is being reported.
- (m) “Daily number of correctional officers” means the number of full-time, part-time, and auxiliary correctional officers who are actively providing supervision, protection, care, custody, and control of inmates in a county detention facility or state correctional institution or facility each day.
- (n) “Defense attorney type” means whether the attorney is a public defender, regional conflict counsel, or other counsel court-appointed for the defendant; the attorney is privately retained by the defendant; or the defendant is represented pro se.
- (o) “Deferred prosecution or pretrial diversion agreement date” means the date an agreement is signed by the parties regarding a defendant’s admission into a deferred prosecution or pretrial diversion program.
- (p) “Deferred prosecution or pretrial diversion hearing date” means each date that a hearing, including a status hearing, is held on a case that is in a deferred prosecution or pretrial diversion program, if applicable.
- (q) “Disciplinary violation and action” means any conduct performed by an inmate in violation of the rules of a county detention facility or state correctional institution or facility that results in the initiation of disciplinary proceedings by the custodial entity and the consequences of such disciplinary proceedings.
- (r) “Disposition date” means the date of final judgment, adjudication, adjudication withheld, dismissal, or nolle prosequi for the case and if different dates apply, the disposition dates of each charge.
- (s) “Disposition type” means the manner in which the charge was closed, including final judgment, adjudication, adjudication withheld, dismissal, or nolle prosequi.
- (t) “Domestic violence flag” means an indication that a filed charge involves domestic violence as defined in s. 741.28.
- (u) “Gang affiliation flag” means an indication that a defendant is involved in or associated with a criminal gang as defined in s. 874.03 at the time of the current offense.
- (v) “Gain-time credit earned” means a credit of time awarded to an inmate in a county detention facility in accordance with s. 951.21 or a state correctional institution or facility in accordance with s. 944.275.
- (w) “Habitual offender flag” means an indication that a defendant is a habitual felony offender as defined in s. 775.084 or a habitual misdemeanor offender as defined in s. 775.0837.
- (x) “Habitual violent felony offender flag” means an indication that a defendant is a habitual violent felony offender as defined in s. 775.084.
- (y) “Number of contract attorneys representing indigent defendants for the office of the public defender” means the number of attorneys hired on a temporary basis, by contract, to represent indigent clients who were appointed a public defender, whereby the public defender withdraws from the case due to a conflict of interest.
- (z) “Pretrial release violation flag” means an indication that the defendant has violated the terms of his or her pretrial release.
- (aa) “Prior incarceration within the state” means any prior history of a defendant’s incarceration in a state correctional institution or facility.
- (bb) “Prison releasee reoffender flag” means an indication that the defendant is a prison releasee reoffender as defined in s. 775.082 or any other statute.
- (cc) “Sexual offender flag” means an indication that a defendant was required to register as a sexual predator as defined in s. 775.21 or as a sexual offender as defined in s. 943.0435.
- (dd) “Tentative release date” means the anticipated date that an inmate will be released from incarceration after the application of adjustments for any gain-time earned or credit for time served.

(ee) “Three-time violent felony offender flag” means an indication that the defendant is a three-time violent felony offender as defined in s. 775.084 or any other statute.

(ff) “Violent career criminal flag” means an indication that the defendant is a violent career criminal as defined in s. 775.084 or any other statute.

(3) DATA COLLECTION AND REPORTING.—An entity required to collect data in accordance with this subsection shall collect the specified data and report them in accordance with this subsection to the Department of Law Enforcement on a monthly basis.

(a) *Clerk of the court.*—Each clerk of court shall collect the following data for each criminal case:

1. Case number.
2. Date that the alleged offense occurred.
3. Date the defendant is taken into physical custody by a law enforcement agency or is issued a notice to appear on a criminal charge.
4. Whether the case originated by notice to appear.
5. Date that the criminal prosecution of a defendant is formally initiated.
6. Arraignment date.
7. Attorney appointment date.
8. Attorney withdrawal date.
9. Case status.
10. Charge disposition.
11. Disposition date and disposition type.
12. Information related to each defendant, including:
  - a. Identifying information, including name, known aliases, date of birth, race, ethnicity, and gender.
  - b. Zip code of last known address.
  - c. Primary language.
  - d. Citizenship.
  - e. Immigration status.
  - f. Whether the defendant has been found to be indigent under s. 27.52.
13. Information related to the charges filed against the defendant, including:
  - a. Charge description.
  - b. Charge modifier description and statute, if applicable.
  - c. Drug type for each drug charge, if known.
  - d. Qualification for a flag designation as defined in this section, including a domestic violence flag, gang affiliation flag, sexual offender flag, habitual offender flag, habitual violent felony offender flag, pretrial release violation flag, prison releasee reoffender flag, three-time violent felony offender flag, or violent career criminal flag.
14. Information related to bail or bond and pretrial release determinations, including the dates of any such determinations:
  - a. Pretrial release determination made at a first appearance hearing that occurs within 24 hours of arrest, including any monetary and nonmonetary conditions of release.
  - b. Modification of bail or bond conditions made by a court having jurisdiction to try the defendant or, in the absence of the judge of the trial court, by the circuit court, including modifications to any monetary and nonmonetary conditions of release.
  - c. Cash bail or bond payment, including whether the defendant utilized a bond agent to post a surety bond.
  - d. Date defendant is released on bail, bond, or pretrial release for the current case.
  - e. Bail or bond revocation due to a new offense, a failure to appear, or a violation of the terms of bail or bond, if applicable.
15. Information related to court dates and dates of motions and appearances, including:
  - a. Date of any court appearance and the type of proceeding scheduled for each date reported.
  - b. Date of any failure to appear in court, if applicable.

- c. Deferred prosecution or pretrial diversion hearing, if applicable.
- d. Each scheduled trial date.
- e. Date that a defendant files a notice to participate in discovery.
- f. Speedy trial motion date and each hearing date, if applicable.
- g. Dismissal motion date and each hearing date, if applicable.
- 16. Defense attorney type.
- 17. Information related to sentencing, including:
  - a. Date that a court enters a sentence against a defendant.
  - b. Charge sentenced to, including charge sequence number, and charge description.
  - c. Sentence type and length imposed by the court in the current case, reported in years, months, and days, including, but not limited to, the total duration of incarceration in a county detention facility or state correctional institution or facility, and conditions of probation or community control supervision.
  - d. Amount of time served in custody by the defendant related to each charge that is credited at the time of disposition of the charge to reduce the imposed length of time the defendant will serve on the term of incarceration that is ordered by the court at disposition.
  - e. Total amount of court costs imposed by the court at the disposition of the case.
  - f. Total amount of fines imposed by the court at the disposition of the case.
  - g. Restitution amount ordered at sentencing.
- 18. The sentencing judge or magistrate, or their equivalent.
- (b) *State attorney*.—Each state attorney shall collect the following data:
  - 1. Information related to a human victim of a criminal offense, including:
    - a. Identifying information of the victim, including race, ethnicity, gender, and age at the time of the offense.
    - b. Relationship to the offender, if any.
  - 2. Number of full-time prosecutors.
  - 3. Number of part-time prosecutors.
  - 4. Annual felony caseload.
  - 5. Annual misdemeanor caseload.
  - 6. Disposition of each referred charge, such as filed, declined, or diverted.
  - 7. Number of cases in which a no-information was filed.
  - 8. Information related to each defendant, including:
    - a. Each charge referred to the state attorney by a law enforcement agency or sworn complainant related to an episode of criminal activity.
    - b. Case number, name, and date of birth.
    - c. Drug type for each drug charge, if applicable.
    - d. Deferred prosecution or pretrial diversion agreement date, if applicable.
- (c) *Public defender*.—Each public defender shall collect the following data:
  - 1. Number of full-time public defenders.
  - 2. Number of part-time public defenders.
  - 3. Number of contract attorneys representing indigent defendants for the office of the public defender.
  - 4. Annual felony caseload.
  - 5. Annual felony conflict caseload.
  - 6. Annual misdemeanor caseload.
  - 7. Annual misdemeanor conflict caseload.
- (d) *County detention facility*.—The administrator of each county detention facility shall collect the following data:
  - 1. Maximum capacity for the county detention facility.
  - 2. Weekly admissions to the county detention facility for a revocation of probation or community control.
  - 3. Weekly admissions to the county detention facility for a revocation of pretrial release.

4. Daily population of the county detention facility, including the specific number of inmates in the custody of the county that:
  - a. Are awaiting case disposition.
  - b. Have been sentenced by a court to a term of incarceration in the county detention facility.
  - c. Have been sentenced by a court to a term of imprisonment with the Department of Corrections and who are awaiting transportation to the department.
  - d. Have a federal detainer, are awaiting disposition of a case in federal court, or are awaiting other federal disposition.
5. Information related to each inmate, including:
  - a. Identifying information, including name, date of birth, race, ethnicity, gender, case number, and identification number assigned by the county detention facility.
  - b. Immigration status.
  - c. Date when an inmate is processed and booked into the county detention facility subsequent to an arrest for a new violation of law, for a violation of probation or community control, or for a violation of pretrial release.
  - d. Reason why an inmate is processed and booked into the county detention facility, including a new law violation, a violation of probation or community control, or a violation of pretrial release.
  - e. Qualification for a flag designation as defined in this section, including domestic violence flag, gang affiliation flag, habitual offender flag, habitual violent felony offender flag, pretrial release violation flag, sexual offender flag, prison releasee reoffender flag, three-time violent felony offender flag, or violent career criminal flag.
6. Total population of the county detention facility at year-end. This data must include the same specified classifications as subparagraph 4.
7. Per diem rate for a county detention facility bed.
8. Daily number of correctional officers for the county detention facility.
9. Annual county detention facility budget. This information only needs to be reported once annually at the beginning of the county's fiscal year.
10. Annual revenue generated for the county from the temporary incarceration of federal defendants or inmates.
  - (e) *Department of Corrections.*—The Department of Corrections shall collect the following data:
    1. Information related to each inmate, including:
      - a. Identifying information, including name, date of birth, race, ethnicity, gender, case number, and identification number assigned by the department.
      - b. Immigration status.
      - c. Highest education level.
      - d. Date the inmate was admitted to the custody of the department for his or her current incarceration.
      - e. Current institution placement and the security level assigned to the institution.
      - f. Custody level assignment.
      - g. Qualification for a flag designation as defined in this section, including sexual offender flag, habitual offender flag, habitual violent felony offender flag, prison releasee reoffender flag, three-time violent felony offender flag, violent career criminal flag, gang affiliation flag, or concurrent or consecutive sentence flag.
      - h. County that committed the prisoner to the custody of the department.
      - i. Whether the reason for admission to the department is for a new conviction or a violation of probation, community control, or parole. For an admission for a probation, community control, or parole violation, the department shall report whether the violation was technical or based on a new violation of law.
      - j. Specific statutory citation for which the inmate was committed to the department, including, for an inmate convicted of drug trafficking under s. 893.135, the statutory citation for each specific drug trafficked.
      - k. Length of sentence served.
      - l. Length of concurrent or consecutive sentences served.
      - m. Tentative release date.

- n. Gain time earned in accordance with s. 944.275.
- o. Prior incarceration within the state.
- p. Disciplinary violation and action.
- q. Participation in rehabilitative or educational programs while in the custody of the department.
- r. Digitized sentencing scoresheet prepared in accordance with s. 921.0024.
- 2. Information about each state correctional institution or facility, including:
  - a. Budget for each state correctional institution or facility.
  - b. Daily prison population of all inmates incarcerated in a state correctional institution or facility.
  - c. Daily number of correctional officers for each state correctional institution or facility.
- 3. Information related to persons supervised by the department on probation or community control, including:
  - a. Identifying information for each person supervised by the department on probation or community control, including his or her name, date of birth, race, ethnicity, gender, case number, and department-assigned case number.
  - b. Immigration status.
  - c. Length of probation or community control sentence imposed and amount of time that has been served on such sentence.
  - d. Projected termination date for probation or community control.
  - e. Revocation of probation or community control due to a violation, including whether the revocation is due to a technical violation of the conditions of supervision or from the commission of a new law violation.
- 4. Per diem rates for:
  - a. Prison bed.
  - b. Probation.
  - c. Community control.

This information only needs to be reported once annually at the time the most recent per diem rate is published.

(f) *Justice Administrative Commission.*—The Justice Administrative Commission shall collect the following data:

- 1. Number of private registry attorneys representing indigent adult defendants.
- 2. Annual felony caseload assigned to private registry contract attorneys.
- 3. Annual misdemeanor caseload assigned to private registry contract attorneys.

(g) *Criminal regional conflict counsel.*—Each office of criminal regional conflict counsel shall report the following data:

- 1. Number of full-time assistant regional conflict counsel handling criminal cases.
- 2. Number of part-time assistant regional conflict counsel handling criminal cases.
- 3. Number of contract attorneys representing indigent adult defendants.
- 4. Annual felony caseload.
- 5. Annual felony caseload assigned to contract attorneys.
- 6. Annual felony conflict caseload.
- 7. Annual misdemeanor caseload.
- 8. Annual misdemeanor caseload assigned to contract attorneys.
- 9. Annual misdemeanor conflict caseload.

(4) **DATA PUBLICLY AVAILABLE.**—The Department of Law Enforcement shall publish datasets in its possession in a modern, open, electronic format that is machine-readable and readily accessible by the public on the department's website. The published data must be searchable, at a minimum, by data elements, county, circuit, and unique identifier. Beginning March 1, 2019, the department shall publish the data received under subsection (3) in the same modern, open, electronic format that is machine-readable and readily accessible to the public on the department's website. The department shall publish all data received under subsection (3) no later than January 1, 2020, and monthly thereafter.

(5) **NONCOMPLIANCE.**—Notwithstanding any other law, an entity required to collect and transmit data under subsection (3) which does not comply with the requirements of this section is ineligible to receive funding from the

General Appropriations Act, any state grant program administered by the Department of Law Enforcement, or any other state agency for 5 years after the date of noncompliance.

(6) **CONFIDENTIALITY.**—Information collected by any reporting agency which is confidential and exempt upon collection remains confidential and exempt when reported to the Department of Law Enforcement under this section.

**History.**—s. 2, ch. 2018-127; s. 108, ch. 2019-3; ss. 46, 126, ch. 2019-167; s. 168, ch. 2020-2; s. 18, ch. 2021-156; s. 1, ch. 2022-193.

# The 2024 Florida Statutes (including 2025 Special Session C)

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[Title XLVII](#)

[Chapter 943](#)

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## CRIMINAL PROCEDURE AND CORRECTIONS DEPARTMENT OF LAW ENFORCEMENT

**943.6871 Criminal justice data transparency.**—In order to facilitate the availability of comparable and uniform criminal justice data, the department shall:

(1) Collect, compile, maintain, and manage the data submitted by local and state entities pursuant to s. [900.05](#) and coordinate related activities to collect and submit data. The department shall create a unique identifier for each criminal case received from the clerks of court which identifies the person who is the subject of the criminal case. The unique identifier must be the same for that person in any court case and used across local and state entities for all information related to that person at any time. The unique identifier shall be randomly created and may not include any portion of the person's social security number or date of birth.

(2) Promote criminal justice data sharing by making such data received under s. [900.05](#) comparable, transferable, and readily usable.

(3) Create and maintain an Internet-based database of criminal justice data received under s. [900.05](#) in a modern, open, electronic format that is machine-readable and readily accessible through an application program interface. The database shall allow the public to search, at a minimum, by each data element, county, judicial circuit, or unique identifier. The department may not require a license or charge a fee to access or receive information from the database.

(4) Develop written agreements with local, state, and federal agencies to facilitate criminal justice data sharing.

(5) Establish by rule:

(a) Requirements for the entities subject to the requirements of s. [900.05](#) to submit data through an application program interface.

(b) A data catalog defining data objects, describing data fields, and detailing the meaning of and options for each data element reported pursuant to s. [900.05](#).

(c) How data collected pursuant to s. [900.05](#) is compiled, processed, structured, used, or shared. The rule shall provide for tagging all information associated with each case number and unique identifier.

(d) Requirements for implementing and monitoring the Internet-based database under subsection (3).

(e) How information contained in the Internet-based database under subsection (3) is accessed by the public.

(6) Consult with local, state, and federal criminal justice agencies and other public and private users of the database under subsection (3) on the data elements collected under s. [900.05](#), the use of such data, and adding data elements to be collected.

(7) Monitor data collection procedures and test data quality to facilitate the dissemination of accurate, valid, reliable, and complete criminal justice data.

(8) Develop methods for archiving data, retrieving archived data, and data editing and verification.

(9) Keep all information received by the department under s. [900.05](#) which is confidential and exempt when collected by the reporting agency confidential and exempt for purposes of this section and s. [900.05](#).

(10)(a) By October 1, 2019, assist the Criminal and Juvenile Justice Information Systems Council in developing specifications for a uniform arrest affidavit to be used by each state, county, and municipal law enforcement agency to facilitate complete, accurate, and timely collection and reporting of data from each criminal offense arrest. The uniform arrest affidavit must at a minimum include all of the following:

1. Identification of the arrestee.
2. Details of the arrest, including each charge.
3. Details of each vehicle and item seized at the time of arrest.
4. Juvenile arrestee information.
5. Release information.

The uniform arrest affidavit specifications must also include guidelines for developing a uniform criminal charge and disposition statute crosswalk table to be used by each law enforcement agency, state attorney, and jail administrator; and guidelines for developing a uniform criminal disposition and sentencing statute crosswalk table to be used by each clerk of the court.

(b) By January 1, 2020, subject to appropriation, the department shall procure a uniform arrest affidavit, a uniform criminal charge and disposition statute crosswalk table, and a uniform criminal disposition and sentencing statute crosswalk table following the specifications developed under paragraph (a). The department shall provide training on use of the affidavit and crosswalk tables to each state, county, and municipal law enforcement agency, clerk of the court, state attorney, and jail administrator, as appropriate.

(c) By July 1, 2020, each state, county, and municipal law enforcement agency must use the uniform arrest affidavit, each state attorney and jail administrator must use the uniform criminal charge and statute crosswalk table, and each clerk of the court must use the uniform criminal disposition and sentencing statute crosswalk table.

*History.*—s. 7, ch. 2018-127; s. 53, ch. 2019-167.

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