



**Division of Criminal
Justice Services**

Plenary Day 2:

*New York State Association of Pretrial Services Agencies 2023
Conference*

October 24, 2023

New York State Bail Reform



Division of Criminal
Justice Services

Timeline of Pretrial Procedure Reforms

2019 bail law (eff. Jan 1, 2020) – first major reform to bail statutes since 1971

- Release required, except for certain qualifying offenses (primarily violent felony offenses)
- Non-monetary conditions added as an option for defendants charged with release required or bail qualifying offenses where a “risk of flight” is present
- Required consideration of a principal’s “individual financial circumstances”
- Required that any use of a questionnaire, instrument, or tool by a Pretrial Services Agency adhere to specific guidelines.

2020 amendments (eff. July 2, 2020) - Expanded the list of qualifying offenses/circumstances

- Several nonviolent felonies added to the list of qualifying offenses
- Felony arraign while on probation/parole
- Possible persistent felony offender
- Harm to harm provision
- New Non-Monetary Conditions: counseling, treatment, intimate partner violence programming, maintaining employment or school attendance; measures regarding victim safety
- New Data Tracking and Public Reporting Requirements: breakdowns by charge, criminal history, race, ethnicity, gender

Timeline of Pretrial Procedure Reforms

2022 amendments (eff. May 9, 2022)

- New Release Conditions: mental health assessment and evaluation
- Added specific gun offenses
- Defined “harm to property” to exclude instances where the offense is “negligible” and not intended to further criminal activity

2023 amendments (eff. June 2023)

- Replaced the “Least Restrictive Condition” Standard: Judges must base their conditions on the “kind and degree of control or restriction necessary to reasonably assure the principal’s return to court”
- Adding Cash Bail PLUS Non-Monetary Conditions Option: judges can order someone to be detained pretrial pending payment of bail and, if bail is paid, they will be subjected to non-monetary conditions
- Specifying Mental Health and Drug Treatment: specified these forms of “treatment” under the programming available via mandatory programming; judges can refer people to crisis stabilization centers
- Expanding Considerations when Addressing Noncompliance: clarified that Judges can set bail or bail *and* non-monetary conditions in response to non-compliance
- Adding New Data Reporting Requirements: requires OCA to provide monthly data on pretrial jail commitments

Qualifying Offenses

Violent Felony Offenses

- Except Robbery 2nd, Burglary 2nd if NOT in the living area of a dwelling

Class A Felonies

- If a PL 220 Drug felony, must be Class A-I (CPCS -1st, CSCS -1st, Operating as a Major Drug Trafficker)

Gun Felonies

- CPW On School Grounds, CPW -3rd, Criminal Sale of a Firearm to a Minor

Misdemeanors

- Sex Offenses
- DV offenses – Criminal Contempt and Criminal Obstruction of Breathing or Blood Circulation
- EWOC if the individual is required to be registered as a Level 3 Sex Offender
- Bail Jumping -3rd & Escape -3rd



Qualifying Offenses

Non-Violent Felonies

- Incest & Sex Offenses
- DV offenses – Criminal Contempt & Unlawful Imprisonment -1st
- Witness Intimidation & Tampering
- Conspiracy to Commit Murder
- Money Laundering in Support of Terrorism
- Offenses involving Sexual Performance by a Child
- Assault -3rd & Arson -3rd as a Hate Crime
- Vehicular Assault -1st & Aggravated Vehicular Assault
- Aggravated Assault Upon a Person Less Than 11 Years Old
- Financial Crimes: Grand Larceny -1st, Enterprise Corruption, Money Laundering -1st
- Failure to Register as a Sex Offender (Level 3 Offenders only)
- Bail Jumping & Escape
- Sex Trafficking



Qualifying Offenses

Broad Categories

- Any crime causing the death of another person
- Any felony committed while serving a sentence of probation or parole
- Any felony where the defendant qualifies for sentencing as a persistent felony offender
- Any felony or Class A misdemeanor involving harm to an identifiable person or property OR Criminal Possession of a Firearm that occurred while RELEASED on a felony or Class A Misdemeanor (or while awaiting arraignment on a DAT) involving harm to an identifiable person or property OR Criminal Possession of a Firearm



Trends in Pretrial Release



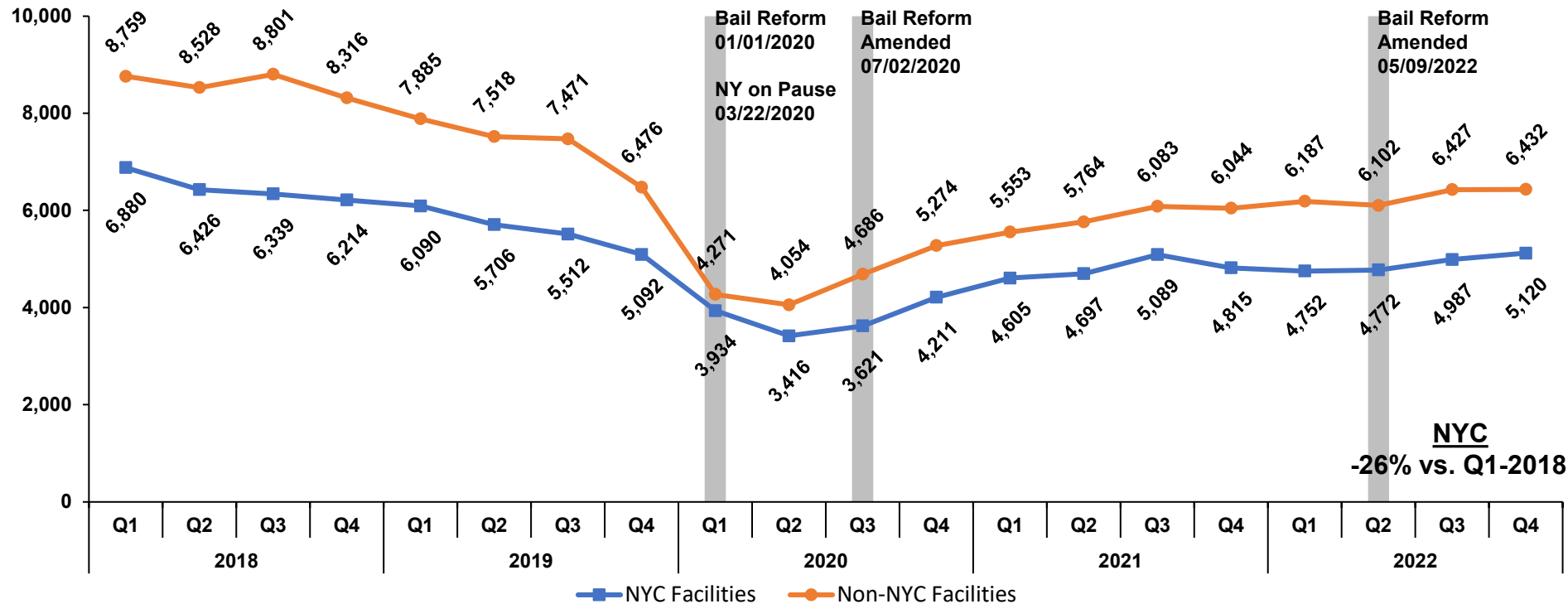
Summary Information

Average Daily Census: Jails in New York State

	August 2023	August 2022	Percent Change 2023 vs. 2022
Statewide	16,402	15,617	+5%
New York City	6,152	5,593	+10%
Outside New York City	10,249	10,024	+2%

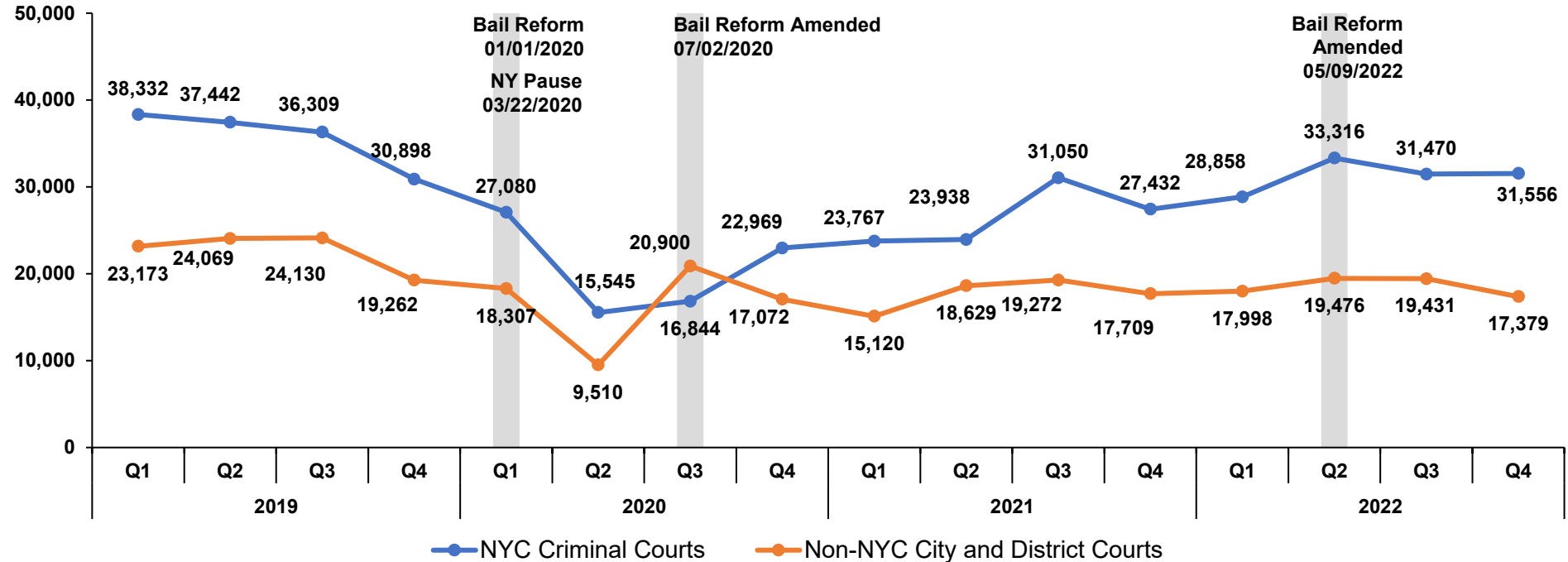
NYC and Non-NYC Unsentedenced Jail Population

Unsentedenced by Quarter, 2018-2022



Arraignment volume back to pre-pandemic levels

Lower Court Arraignments in New York State 2019-2022



Notes:

Arraignments in DCJS CCH that were not matched to OCA pretrial release information are not included.

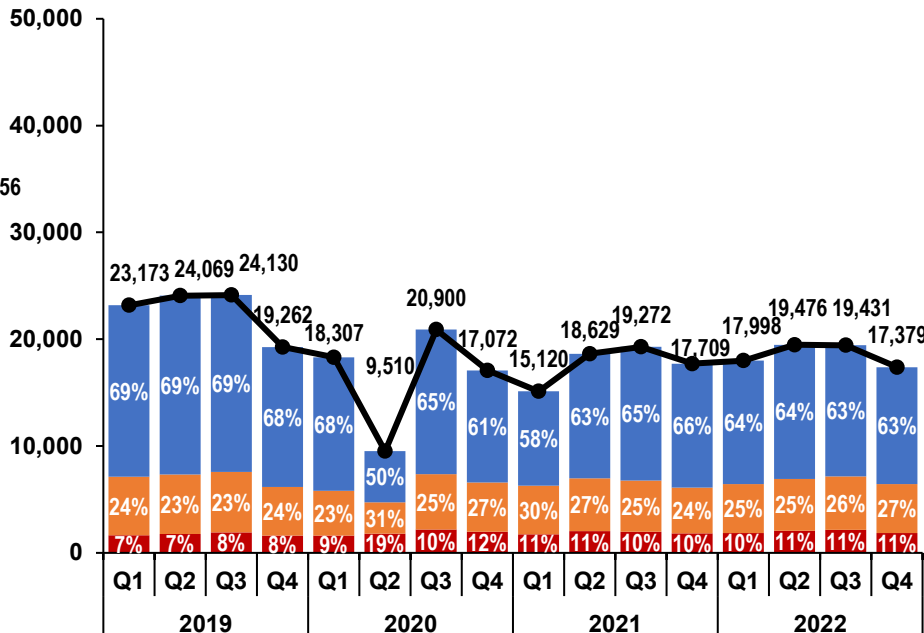
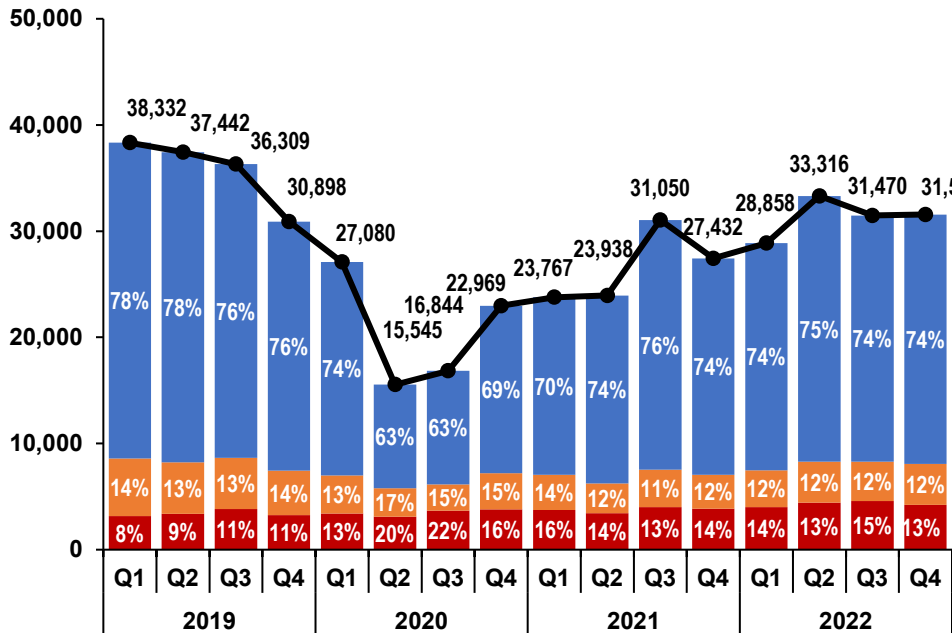
Non-NYC lower court arraignments limited to City and District Courts.

DCJS, Computerized Criminal History system (as of Aug. 18, 2023).

Most arraignments are for misdemeanors

Lower Court Arraignments by Severity
NYC Criminal Courts

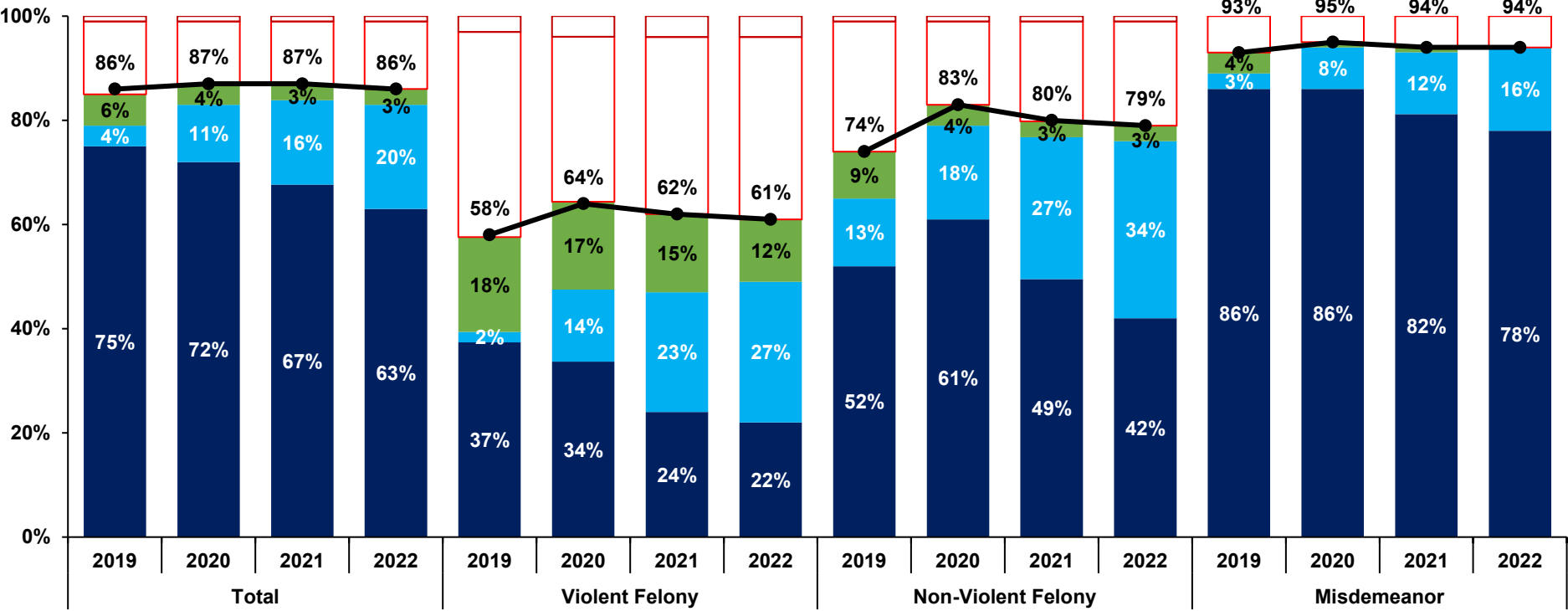
Lower Court Arraignments by Severity
Non-NYC City and District Courts



Violent Felony Non-Violent Felony Misdemeanor Total

Notes:
Percentages are based on Total Arraignments.
DCJS, Computerized Criminal History system (as of Aug. 18, 2023)

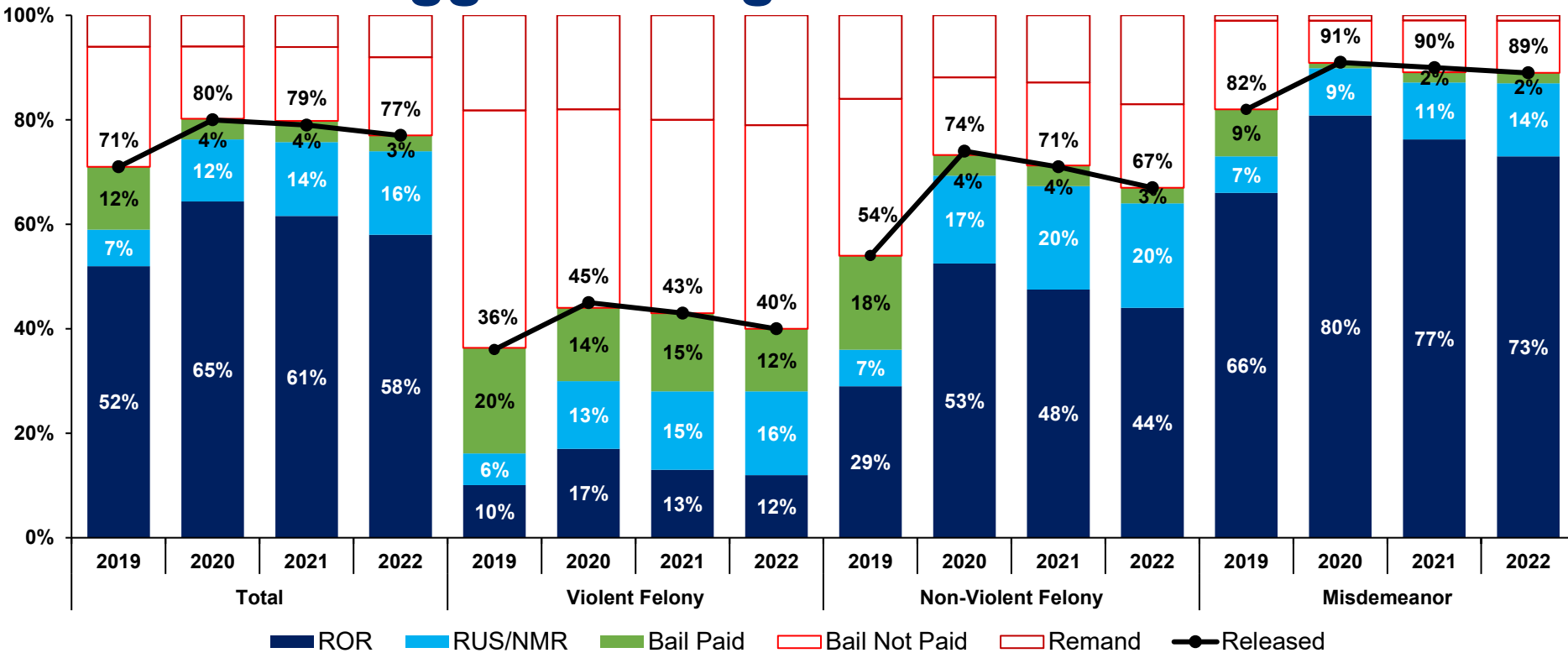
NYC: Changes in release type, especially for non-violent felonies



■ ROR
 ■ RUS/NMR
 ■ Bail Paid
 ■ Bail Not Paid
 ■ Remand
 ●— Released

Notes:
 Released and Not Released percentages are based on Total Arraignments with Pretrial Release Decisions.
 Cases disposed at arraignment or with unknown pretrial release decisions are not included.
 DCJS, Computerized Criminal History system (as of Aug. 18, 2023)

Non-NYC: Biggest change for non-violent felonies

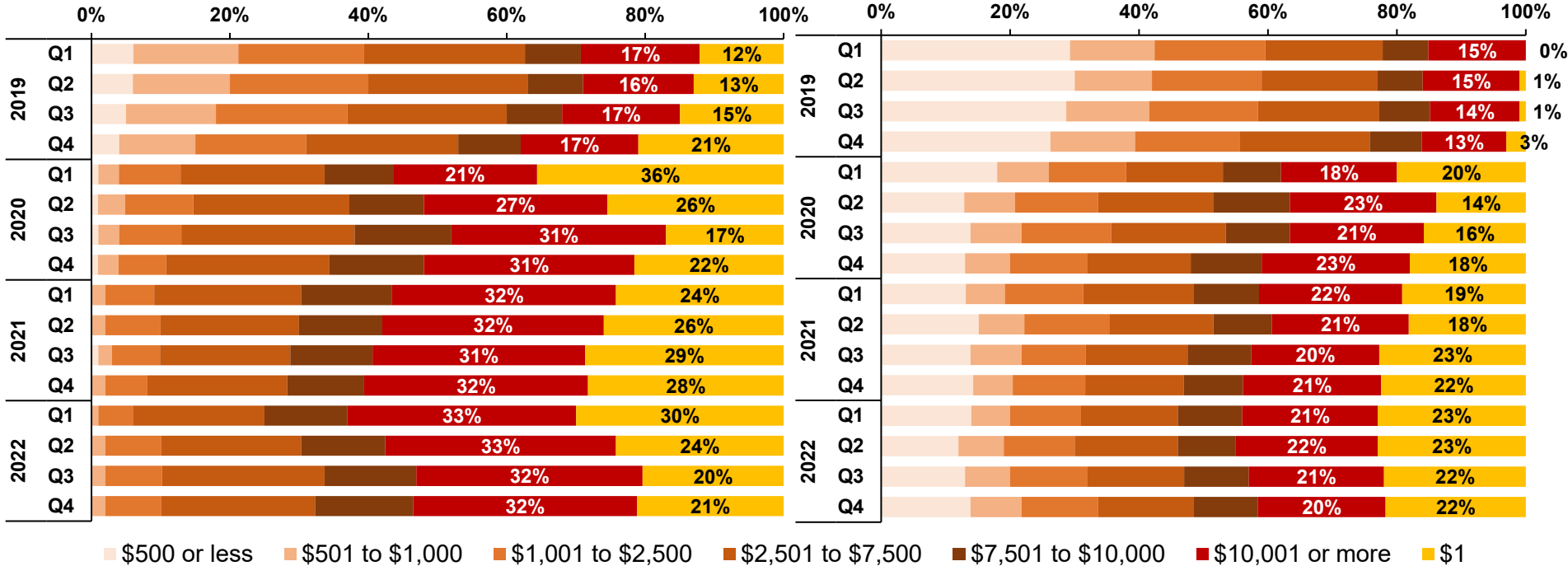


Notes:
 Released and Not Released percentages are based on Total Arraignments with Pretrial Release Decisions.
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Cash bail set increased over time; less low-level bail

**Bail Set Amounts
NYC Criminal Courts**

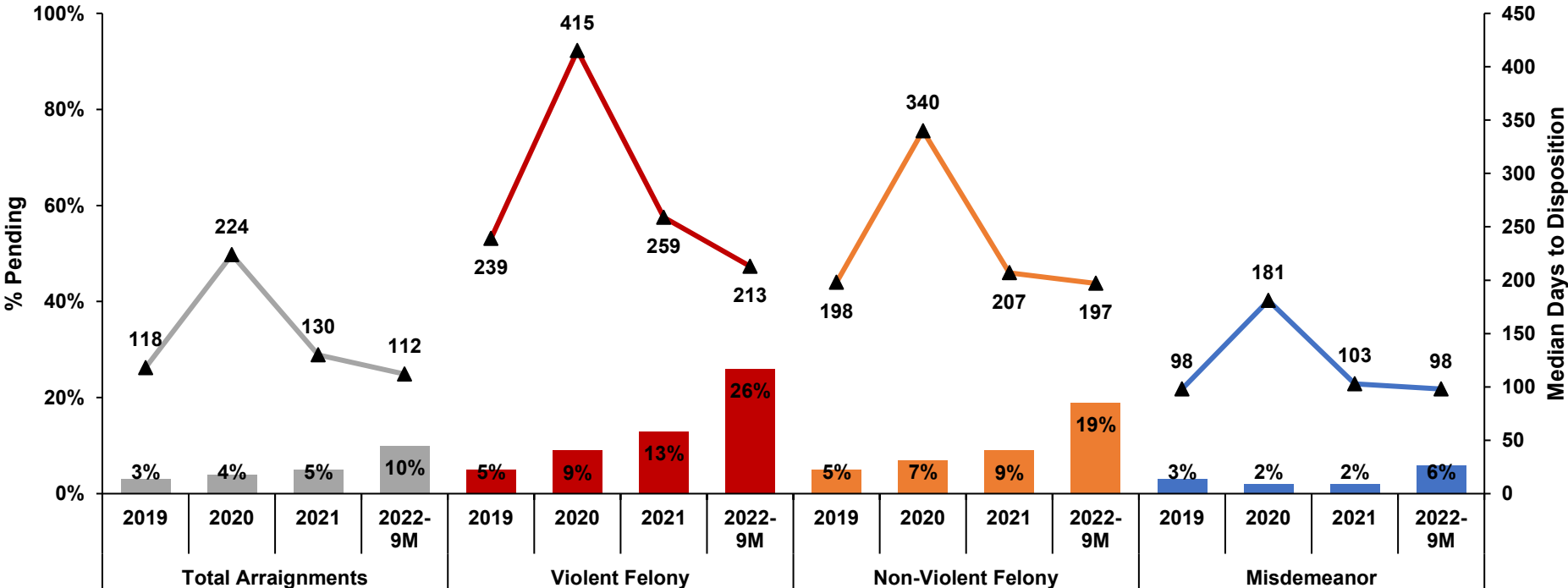
**Bail Set Amounts
Non-NYC City and District Courts**



Notes:
 Percentages are based on Total Arraignments with Bail-Set at Arraignment.
 DCJS, Computerized Criminal History system (as of Aug. 18, 2023)

NYC: Time to disposition at pre-reform levels

Percentage of Pending Cases and Median Days to Disposition
NYC Criminal Courts



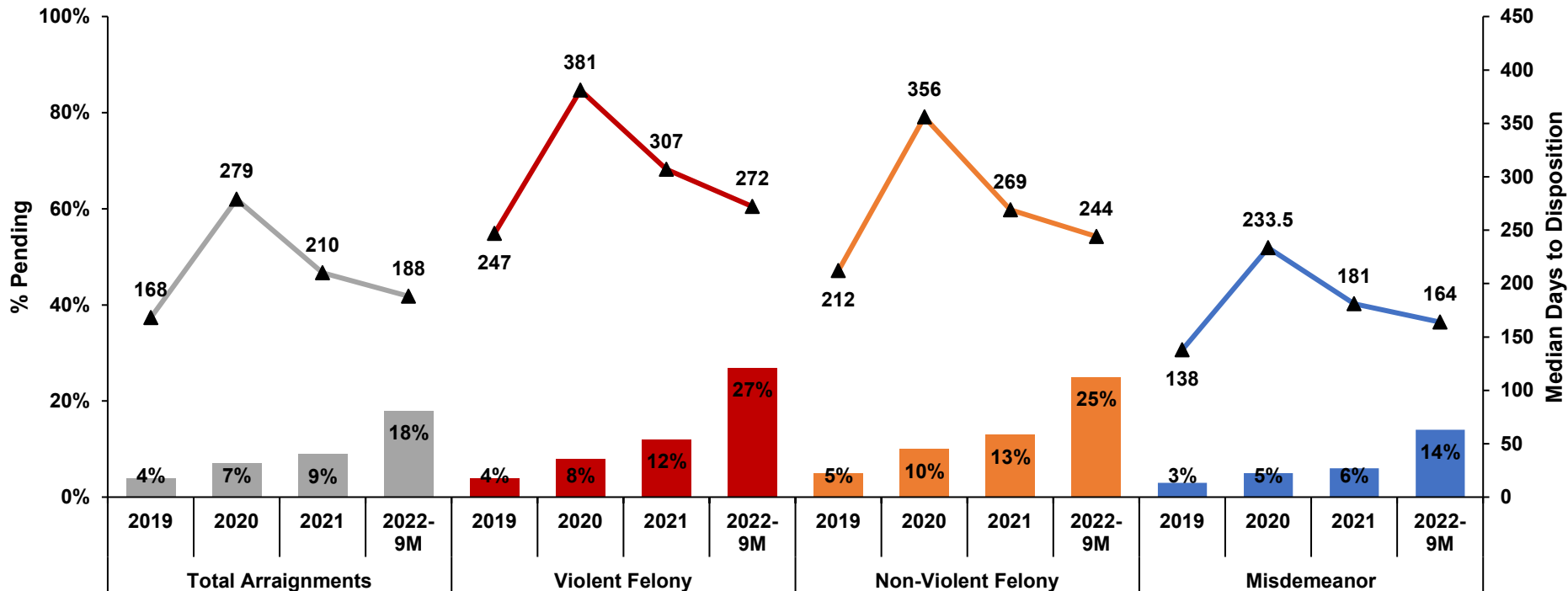
Notes:

Pending final disposition as of Aug. 18, 2023.

2022 arraignments limited to January through September.

Non-NYC: Time to disposition coming back down

Percentage of Pending Cases and Median Days to Disposition
Non-NYC City and District Courts



Notes:

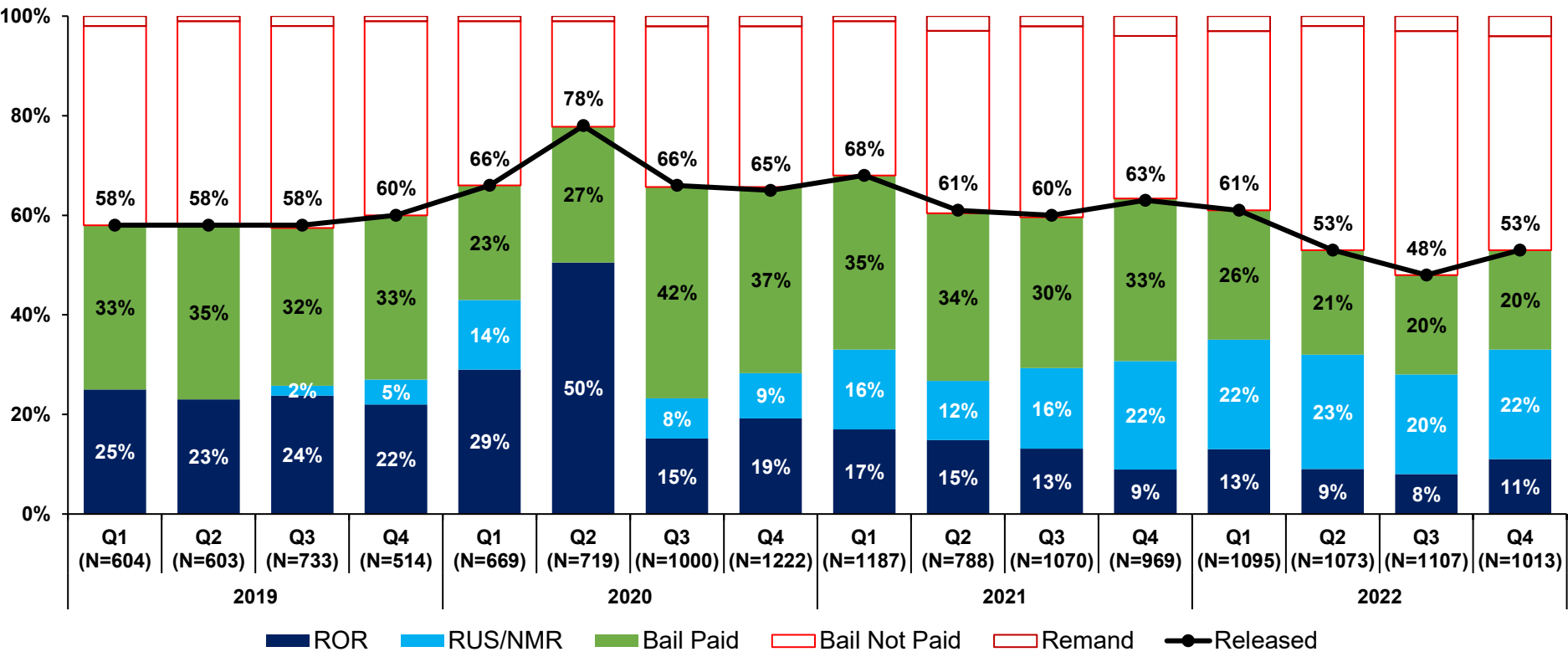
Pending final disposition as of Aug. 18, 2023.

2022 arraignments limited to January through September.

Firearm Arraignments and Release Types

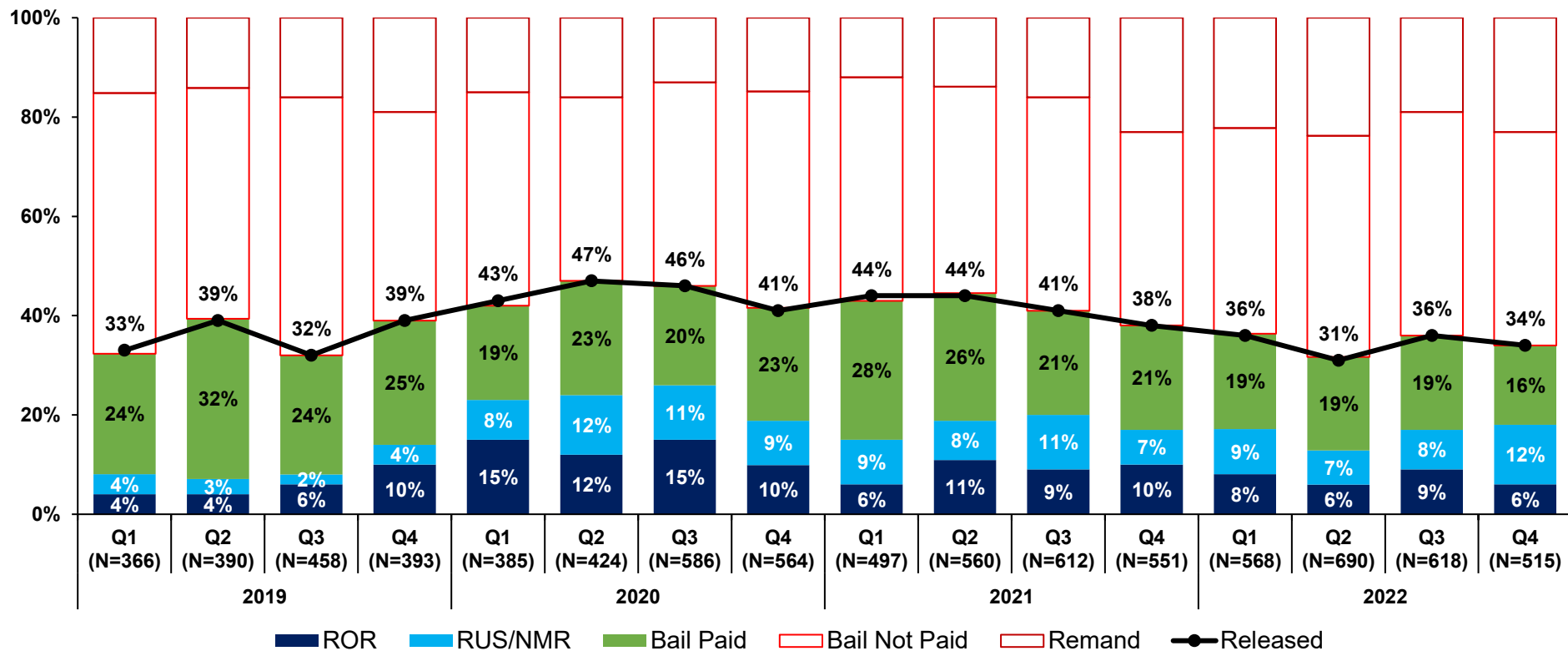


NYC Firearm arraignments: Releases decreasing since 2020 peak



Notes:
 Cases disposed at arraignment or with unknown pretrial release decisions are not included.
 DCJS, Computerized Criminal History system (as of Aug. 18, 2023)

Non-NYC Firearm arraigns: Releases decreasing since 2020 peak



Notes:
 Cases disposed at arraignment or with unknown pretrial release decisions are not included.
 DCJS, Computerized Criminal History system (as of Aug. 18, 2023)


OCA Data 2022

<https://ww2.nycourts.gov/court-research/annualstatisticalreports.shtml>



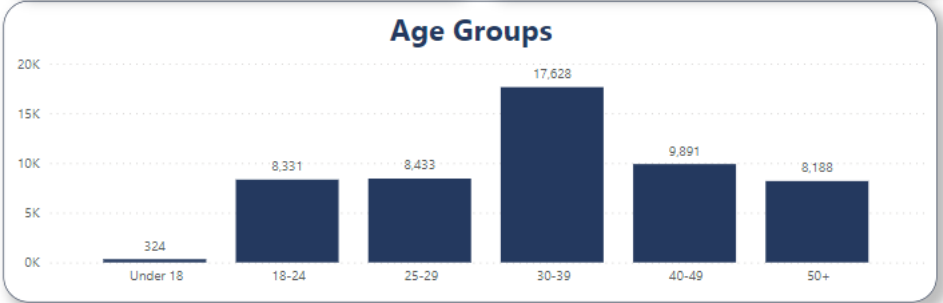
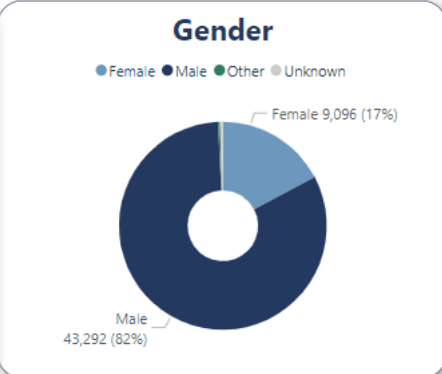
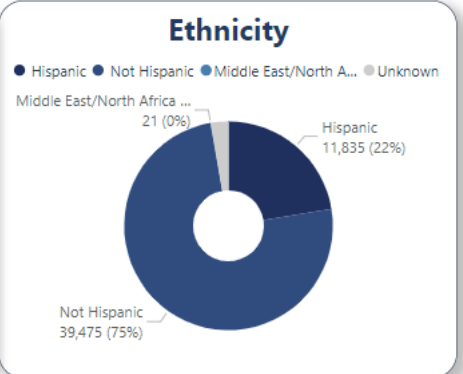
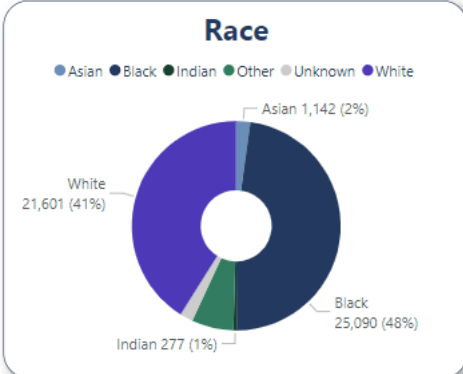
Division of Criminal
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Demographics of Individuals Under NMR


 New York State Unified Court System
 Division of Technology & Court Research

Pretrial Services Agency Annual Report
 Section 510.45, subdivision 5-A-G of the bail law

Year:
 County, Agency:
 Total Supervised: **53K**



Average Age of Participants

34

Average Number of Days in Supervision

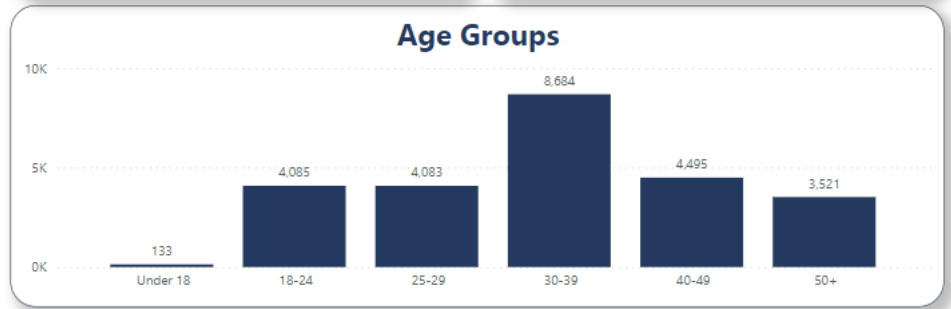
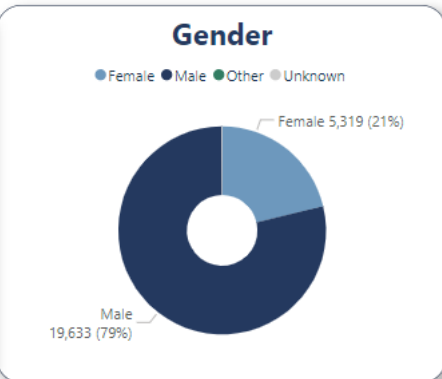
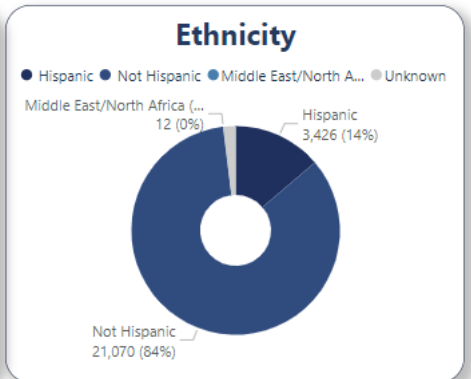
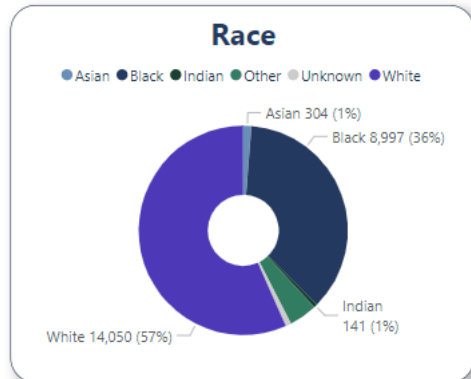
110

Demographics of Individuals Under NMR * NYC


 New York State Unified Court System
 Division of Technology & Court Research

Pretrial Services Agency Annual Report
 Section 510.45, subdivision 5-A-G of the bail law

Year: 2022
 County, Agency: Multiple selections
 Total Supervised: 25K



Average Age of Participants

34

Average Number of Days in Supervision

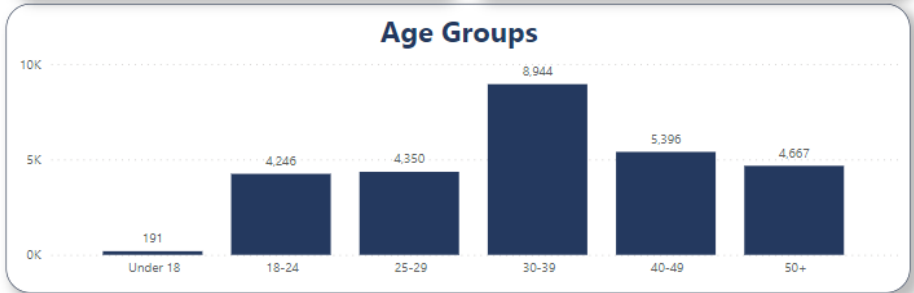
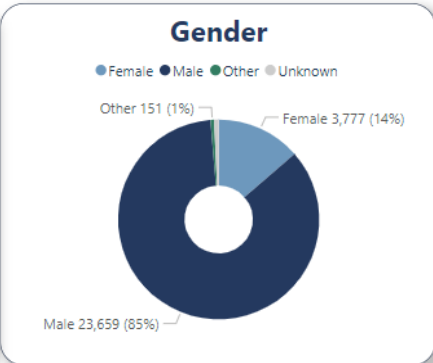
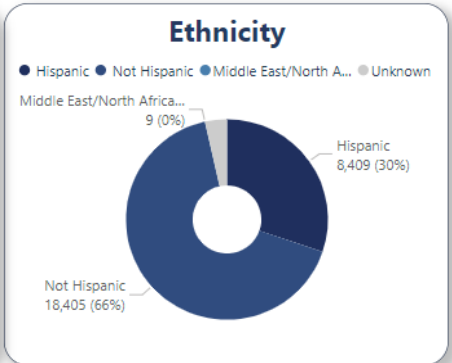
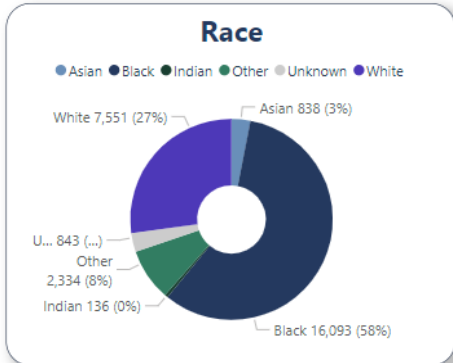
109

Demographics of Individuals Under NMR ^{*} Outside NYC


 New York State Unified Court System
 Division of Technology & Court Research

Pretrial Services Agency Annual Report
 Section 510.45, subdivision 5-A-G of the bail law

Year: 2022
 County, Agency: Multiple selections
 Total Supervised: 28K



Average Age of Participants

36

Average Number of Days in Supervision

119

Funding, Uniform Practice, Pretrial Assessment Tools, Case Management, and Accessing Services



Funding for Pretrial Services Agencies

FY 22-23 \$20 million dollars awarded to OCA certified Pretrial Services Agencies outside of NYC “to offset the costs associated with the provision of certified pretrial services, including but not limited to screening, assessments, supervision, and reporting.”

FY 23-24 This award was renewed for the same use as identified above.



Uniformity in Practice

<http://www.nyapsa.org>



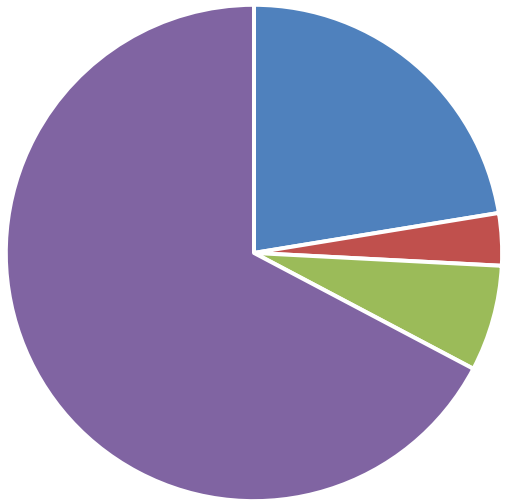
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Division of Criminal
Justice Services

Pretrial Tools

Questionnaire,
instruments, or tools
utilized in NY State



■ RAI ■ CJA ■ Considering ■ None

Contact Information for Risk Assessments:

RAI

- Pretrial Services of Monroe Co. Bar Assn.
- Niagara County Probation Department
- Washington County Alternative Sentencing/Youth Bureau

CJA

- New York City Criminal Justice Agency



**Division of Criminal
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Data Collection and Case Management Software

CPL 510.45 (5)

“Each pretrial service agency certified by the office of court administration pursuant to this section shall at the end of each year prepare and file with such office an annual report...”

Elements to capture in the case management system: (OCA Website)

- Case information
- Demographic information
- Intake process
- Release status & bail
- Warrants
- Prior arrests & rearrests



City Tours

- Rochester – May 2nd
- Syracuse – May 4th
- Albany – May 31st
- Suffolk – June 27th
- Nassau – June 28th
- Buffalo – July 11th
- Niagara – July 12th
- Yonkers – July 13th
- Mt. Vernon – July 20th
- Troy – August 2nd
- Poughkeepsie – August 23rd
- Utica – September 12th
- Binghamton – November 9th
- Newburgh -TBD
- Schenectady-TBD



Accessing Services

Governor Hochul announced:

- 1/5/22 – Statewide Initiative to End the Homelessness Crisis and Address Longstanding Inequities in Housing
- 7/7/22 - \$71 Million for Development of 12 Supportive Crisis Stabilization Centers
- 9/13/22 - \$10.25 Million to Expand Addiction Services for Underserved New Yorkers
- 12/15/22 - \$7.2 Million for Residential Step-Down Housing in NYC



Accessing Services continued

- 1/10/23 – Comprehensive Plan to Fix New York State’s Continuum of Mental Health Care
- 2/7/23 - \$8.6 Million for Innovative Programs to Treat Opioid Addiction
- 3/15/23 – New Online Tool to Help New Yorkers Access Childcare
- 5/8/23 – Over \$7 Million to Support Medication for Addiction Treatment
- 6/22/23 - \$21 Million for Supportive Housing Projects
- 10/16/23 - \$4.7 Million for new addiction treatment programs



Resources and Contacts

DCJS/OPCA

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Darcy Katz-Marra, CCR2

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<https://www.criminaljustice.ny.gov/crimnet/ojsa/stats.htm>

<https://ww2.nycourts.gov/pretrial-release-data-33136>

