



WAYNE STATE
UNIVERSITY
School of Social Work
Center for Behavioral Health and Justice

Evaluation of Administrative Jail Release Practices During the COVID-19 Pandemic

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Matthew Larson, Ph.D., M.S.
Erin Comartin, Ph.D., LMSW
Hon. Timothy M. Kenny, J.D.
Victoria Nelson, Ph.D., M.A.
Nanci Hambrick, LMSW
Bianca Burch, M.A., M.S.W.
Amani El-Edlebi, B.S.W.
Sheryl Kubiak, Ph.D., LMSW

Executive Summary

As COVID-19 ripped through the country in March 2020, the Wayne County Sheriff's Office and the Detroit Police Department were some of the first local organizations to experience devastating contagion and loss from the virus. Recognizing that Wayne County Jails had the potential to become a COVID-19 superspreading site, Chief Judge Timothy Kenny of the Third Circuit Court took extraordinary measures to protect the health and safety of Wayne County Jail inmates and staff.

In early Spring 2020, Chief Kenny convened a small group of criminal justice leaders and decision makers to focus on quickly and efficiently releasing as many jail inmates as possible to address the risk of COVID-19 spread while balancing risk to community safety. The group expanded upon an existing process called Administrative Jail Release (AJR) in an effort to safely and fairly reduce the jail population.

Since 1991, the Wayne County Jail has used AJR as a tool to reduce jail population by administratively releasing detainees charged with non-violent misdemeanors or ordinance violations. Traditionally used to address overcrowding, AJRs prior to COVID-19 occurred under varying circumstances with fluctuating criteria. However, risk and circumstances created by COVID-19 called for systematically expanding criteria to expedite jail releases for medically vulnerable detainees and those who were not considered high risk to the community. In addition, the group openly shared information among and between group members to inform release decisions. The group utilized input, advocacy, and information from a variety of other sources including family outreach.

This report examines the expanded criteria and collaborative process utilized by the COVID-19 AJR group to increase health and safety in the jail by decreasing the jail population. We incorporate both quantitative and qualitative analyses of the unique efforts initiated during an unprecedented time. The qualitative portion of this report comes from interviews with the COVID-19 AJR group members. Interviews focused on how the group was formed, the role of the group member, how the COVID-19 AJR group was developed and changed over time, and lessons learned from the process.

The quantitative portion of this report includes analysis of all Wayne County Jail bookings from 1/1/2018 – 12/31/2020. The goal of this portion of the evaluation was to better understand the characteristics of those who were granted AJRs specifically in response to the COVID-19 crisis (COVID-19 AJRs) that began mid-March 2020. The following questions were considered.

- How do the characteristics of Non-AJR jail bookings compare to the characteristics of those granted either COVID-19 AJRs or traditional AJRs?
- How do the characteristics of those granted COVID-19 AJRs compare to the characteristics of those granted traditional AJRs?
- Did expanding jail releases to protect the health and safety of jail staff and detainees increase risk to community safety?



Key Findings and Recommendations

Notable findings and recommendations are summarized below.

- Over 61,762 jail bookings were recorded during the study period; less than 1% (n=402) of those bookings resulted in any AJR (251 COVID AJR).
- COVID-19 AJRs were largely granted to individuals booked for 1) income, drug, or property crimes or 2) probation violations. Only a few COVID-19 AJRs were granted to individuals booked for assaultive offenses.
- 32% of the people who were granted a COVID-19 AJR were identified as mental health consumers in the jail.
- Of the 249 people granted a COVID-19 AJR (there were two people granted AJRs more than once), the vast majority did not rebook by June 2021 (six months following the last COVID-19 AJRs).
- Of the few COVID-19 AJR cases that did rebook within six months of release, nearly all were for minor crimes or probation violations. Only 3% (n=8) of the people granted COVID-19 AJRs were rebooked into Wayne County Jails for assaultive crimes.
- Wayne County Jail was nationally recognized for successfully mitigating COVID-19 in the jails; reducing the jail population was a key factor in COVID-19 mitigation efforts.
- The collaborative group approach was valued by all members of the COVID-19 AJR group. Nearly all group members expressed a desire to continue group meetings beyond the pandemic.
- Expanding the use of AJRs during COVID-19 highlighted gaps in the jail's AJR data collection and monitoring.
- Between 1/1/18 – 12/31/20, 74% of jail bookings involved people of color. Over half (53%) of the COVID-19 AJRs were granted to people of color, an increase over the Traditional AJRs granted to people of color (43%).
- The use of expanded criteria for COVID-19 AJRs increased all release rates across demographic groups, with Whites seeing the largest difference across AJR types.
- The COVID-19 group worked to assess risk based upon a variety of factors in 2020. Going forward, the Wayne County Jail should explore implementing a **systematic** and **objective** process for equitable continuation and expansion of the use of Administrative Jail Release.

Acknowledgements

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Introduction

An accelerated release process was implemented in Wayne County Jail based on the administrative jail release (AJR) process that has been in place in the jails since 1991. The COVID-19 AJR was implemented in an effort to decrease transmission of the COVID-19 virus within the jail facility where social distancing was not possible and safety was of utmost concern. The criteria for COVID-19 AJR was expanded with an emphasis on addressing individuals with serious medical conditions that would be more vulnerable to contracting the virus. A collaborative process was utilized by the COVID-19 AJR to efficiently reduce jail population to mitigate the spread of the virus within the jail.

We incorporated quantitative and qualitative analyses of the unique collaborative efforts initiated during an unprecedented time.

Qualitative Results: Themes from Interviews with COVID-19 AJR Group Members

An interviewer met individually with group members in April and May of 2021 to learn about each member's thoughts and experiences on this novel group process. The interviews were recorded, analyzed, and consolidated into themes. The interviews focused on five main areas: 1) the role of the group member and their work history; 2) how the group formed; 3) how the COVID-19 AJR process was developed; 4) how the COVID-19 AJR process changed over time; and 5) lessons learned from the COVID-19 AJR group process.

History of Administrative Jail Release

- While the AJR process has been regularly used by jail administration to reduce overcrowding, the COVID-19 pandemic prompted expanding criteria to release detainees and engaging new parties in decision making using the AJR process.
- The criminal justice leaders and decision makers invited to be a part of the COVID-19 AJR group all had a long history of work (an average of 20 years or more) in Wayne County.
- The COVID-19 AJR group is the first of its kind to collectively discuss individual AJRs.

Group Formation

- COVID-19 AJR group members were asked to join the group by Chief Judge Kenny.
- COVID-19 AJR group was made up of a judge, prosecutors, attorneys representing detainees at large^{1*}, tether program administration, jail booking personnel and jail medical staff.
- Some COVID-19 AJR group members knew each other well and other group members were familiar with each other but had not worked together previously.
- Input and advocacy from all COVID-19 AJR group members was considered with open information sharing between group members.
- Chief Judge Kenny listened to the group's expertise before making final decisions.

* Some attorneys who participated in the COVID-AJR group represent a class of "all past, present, and future detainees" in the Wayne County Jail, as defined by the plaintiff group in *Wayne County Jail Inmates v. Wayne County Sheriff, 1971*. Defense attorneys of record (representing individual detainees) were not included in case reviews.



Changes Over Time

- After the first five months (March – August) the frequency of group meetings decreased.
- As of March 2021, the group was still meeting every other month.
- Some group members were no longer participating in meetings by early 2021 as the pandemic began to ease.
- Group members stated that the number of AJR cases reviewed and released doubled during the pandemic.
- The practice of releasing people on tether increased substantially in number during the pandemic as a method for decreasing the number of individuals housed within the jail facility. The AJR process was a factor, along with current and previous offenses.

Initial Process Development:

- The COVID-19 AJR group began meeting at the end of March 2020.
- All meetings were held via conference call with meetings lasting between 1 – 2 hours.
- The group met several times per week early in the pandemic and less often as time went on.
- The group was provided a list by the Wayne County Jail which prioritized detainees with medical vulnerabilities to COVID-19 as defined by the CDC.
- Group members reviewed the list prior to each meeting in order to consider relevant details from their point of view including availability of housing, access to resources, outstanding warrants in other communities, etc.
- The number of cases reviewed each meeting fluctuated.
- Select group members (Prosecutor, attorneys representing detainees at large^{2*}, Jail Health Administration and Chief Judge) were asked to provide input on each individual case including whether or not that person should be released. It should be noted that defense attorneys of record were not included.
- Community safety and jail/inmate safety and health were priorities for AJR consideration.
- The group sought to ensure that people released with mental health issues or substance use issues had appropriate housing available upon release, as most treatment centers were shut down due to the COVID-19 pandemic.
- Center for Disease Control guidelines were used when considering medical needs for each case.
- Initial considerations focused on the medically vulnerable population, such as pregnant women and people with uncontrolled diabetes.
- Other medical concerns were soon considered and prioritized including:
 - Respiratory issues
 - Other serious preexisting conditions (i.e., cancer or HIV)
 - Co-morbidities
 - Advanced age
- In addition, charge type was considered as follows:
 - Charge type was considered equal to medical concern(s),
 - Serious felonies did not usually qualify for AJR,
 - Capital cases were excluded from consideration.
- As the jail population decreased due to AJRs and fewer jail bookings, the number of cases discussed among group members decreased.

* Some attorneys who participated in the COVID-AJR group represent a class of “all past, present, and future detainees” in the Wayne County Jail, as defined by the plaintiff group in *Wayne County Jail Inmates v. Wayne County Sheriff, 1971*. Defense attorneys of record (representing individual detainees) were not included in case reviews.



Lessons Learned

- The group recognized the importance of increasing discussion around detainees with mental health concerns.
- Group members see value in this type of collaboration beyond the pandemic and want to continue.
- The increased collaboration and pooling of information was beneficial to the COVID-AJR process and should be extended. Considering this process for all AJRs and further increasing collaboration and information gathering (e.g. detainee financial information and defense attorneys of record) will extend the benefits seen during COVID-AJR.
- Housing is a major factor in determining AJR eligibility and additional resources are needed, especially as housing options were extremely limited during the height of the COVID-19 AJR group process.
- A sense of fairness and equal consideration for AJRs was a high priority for the group.
- Decreasing the jail population was consistently important to all members.
- Staff safety and the potential spread of the virus to staff and jail detainees was a concern.
- Group members recognize that increased resources are needed for those being released to decrease the potential for recidivism.
- Group members were very proud of the mitigation strategies that were implemented in the jail facilities to keep the number of COVID-19 cases low.

Quantitative Results: Analyses of Jail Data

The goal of this portion of the evaluation was to better understand the characteristics of those who were granted AJRs specifically in response to the COVID-19 crisis (COVID-19 AJRs) that began mid-March 2020. The following questions were considered.

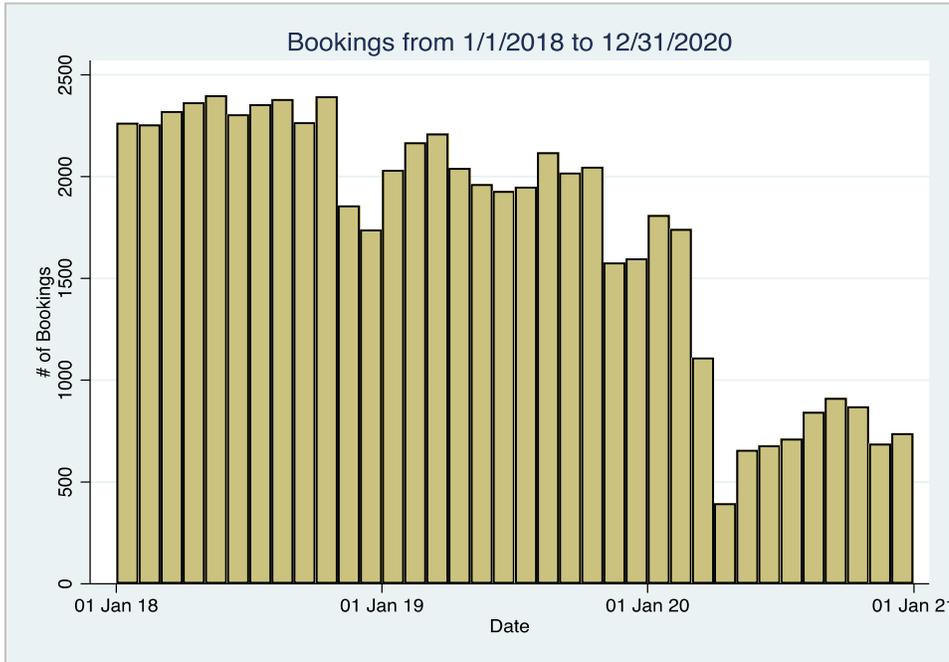
- How do the characteristics of Non-AJR jail bookings compare to the characteristics of those granted either COVID-19 AJRs or traditional AJRs?
- How do the characteristics of those granted COVID-19 AJRs compare to the characteristics of those granted traditional AJRs?
- Did expanding jail releases to protect the health and safety of jail staff and detainees increase risk to community safety?
- What is the prevalence of people rebooked on new charges among those granted a COVID-19 AJR?

The current analyses were based on two overlapping sets of data including: 1) booking data from Wayne County Jails from 1/1/18 – 12/31/20, and 2) rebooking data for COVID-19 AJR recipients through 6/30/21. For the analysis, the first set of booking data was analyzed to develop an understanding and comparison of the demographic and offense history characteristics of 1) all individuals booked into the Wayne County Jails; 2) recipients of pre-COVID-19 AJRs; and 3) recipients of COVID-19 AJRs. The second set of booking data allowed us to examine the prevalence of rebooking through 6/30/21 among individuals who received a COVID-19 AJR through 12/31/20.

Jail Bookings

With the COVID-19 pandemic and consequent shutdowns beginning in mid-March 2020, this preliminary analysis is based on data from 61,762 bookings during the 26.5 months before the pandemic and bookings during the 9.5 months after the start of the pandemic (1/1/18 – 12/31/20).

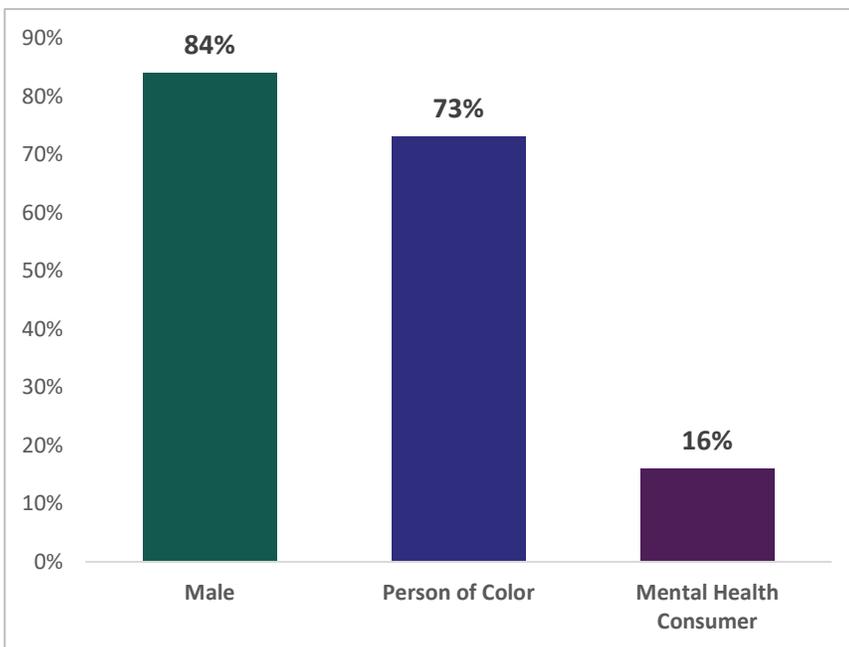
Figure 1: Bookings from 1/1/18 – 12/31/20 (Total N=61,762)



- A dramatic decline in bookings occurred immediately after the pandemic began and persisted throughout the remainder of 2020.

Data source:

Figure 2: Demographic Characteristics of those Booked into the Jail

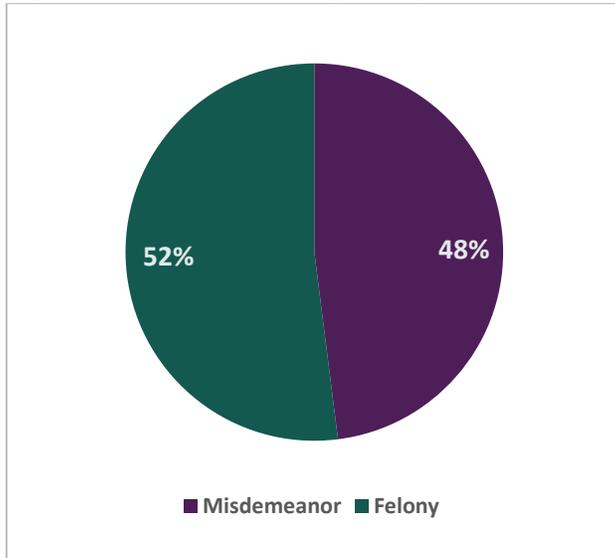


Of the 61,762 bookings during the period (1/1/18 – 12/31/20):

- 84% were male.
- 73% were people of color.
- 16% were identified as consumers of mental health services in the jail.

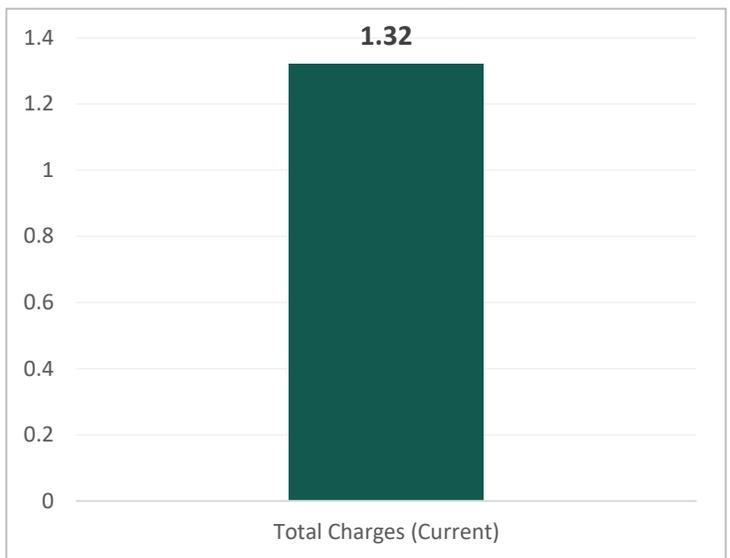
Data source:

Figure 3: Current Booking Charge



Data source:

Figure 4: Number of Current Charges



- A slight majority (52%) were booked for felony charges.
- The number of current charges at booking averaged 1.32.

Figure 5: Charge Characteristics

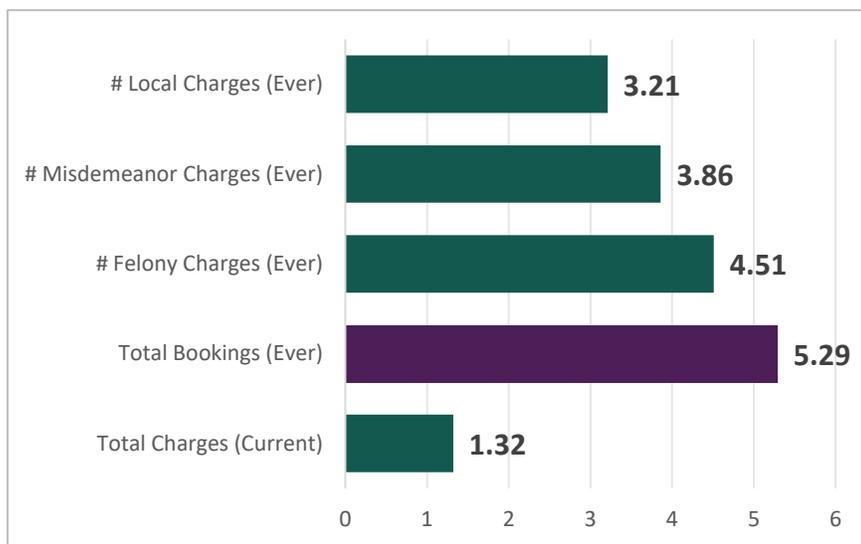
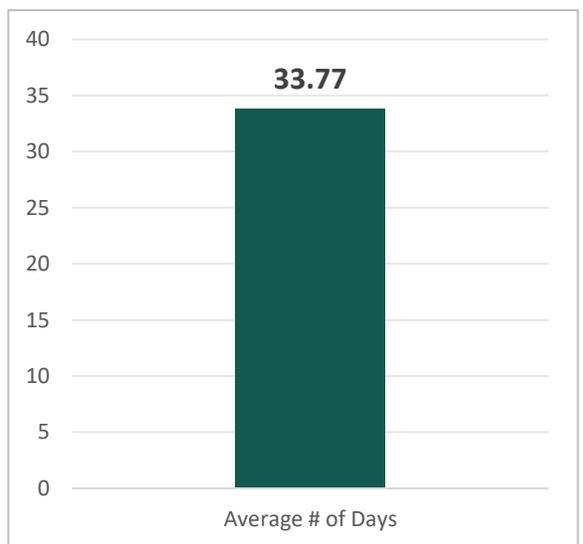
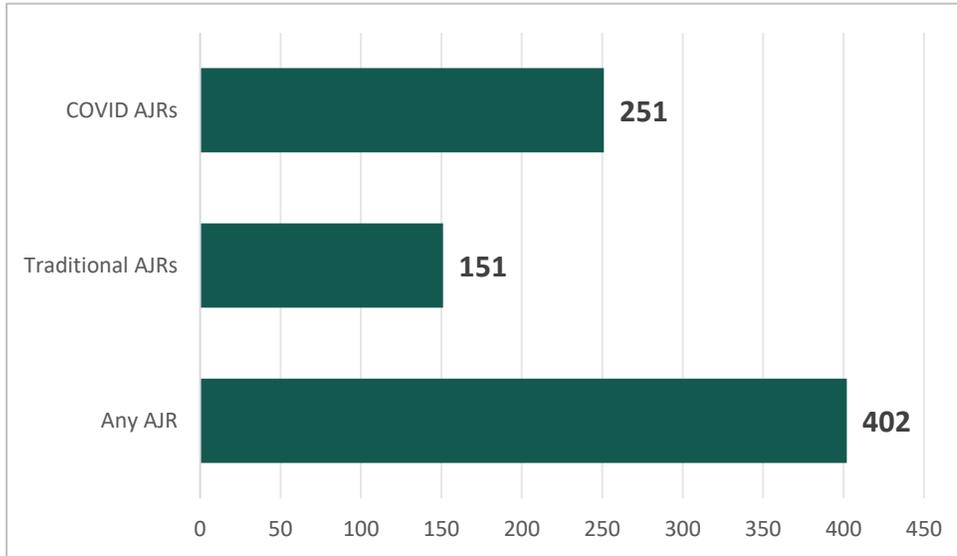


Figure 6: Length of Stay Before Release



- The average number of prior bookings was over five.
- The average length of stay in the jail before release was nearly 34 days.

Figure 7: Total Number of AJRs from 1/1/18 – 12/31/20



During the period examined (1/1/18 – 12/31/20), a total of 402 AJRs occurred.

- Less than 1% of those booked into the jail received any AJR.
- 151 were traditional AJRs occurring before the pandemic began.
- 251 were COVID-19 AJRs occurring from March 2020 forward.

Differences Between All AJR and Non-AJR Cases Based on Booking Information

Below we illustrate the differences in demographic characteristics, current booking status, and offense history between bookings for people granted AJRs versus those who did not receive an AJR.

Figure 8: Racial Differences Across AJR Status

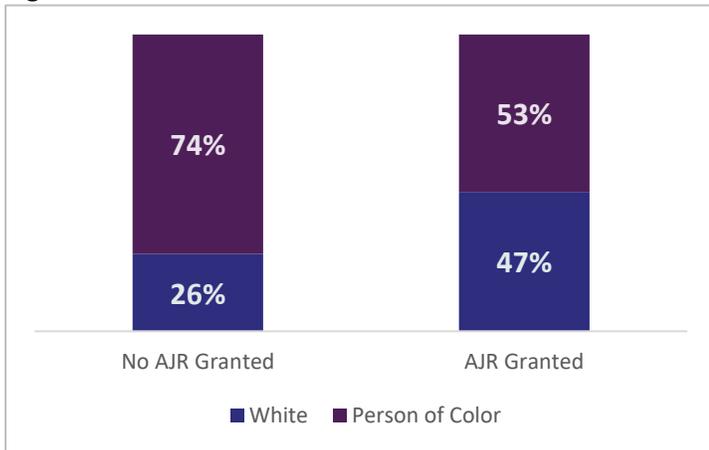
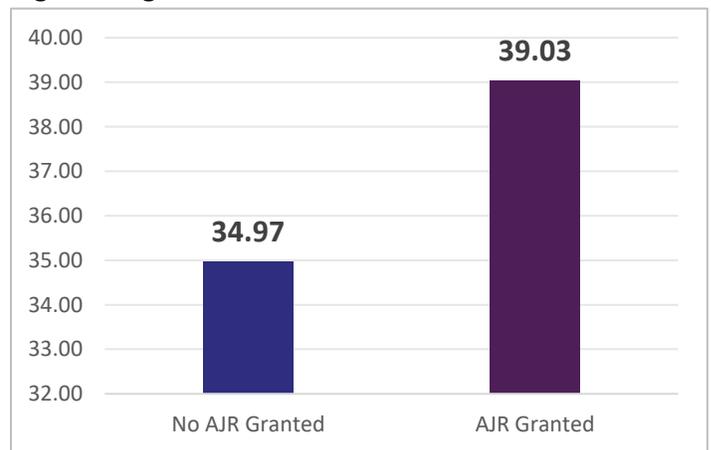


Figure 9: Age Differences Across AJR Status



- While 74% of all jail bookings involve people of color, only 53% of AJRs were granted to people of color.
- Those granted an AJR were older (39 years old) compared to those who were not granted an AJR (35 years old).

Figure 10: Mental Health Consumers Across AJR Status

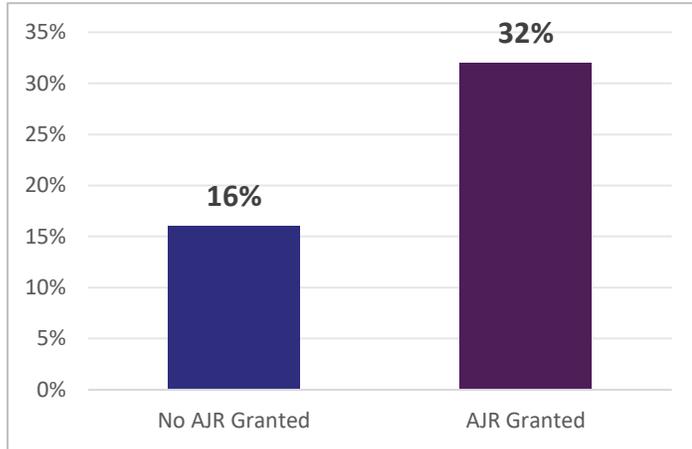
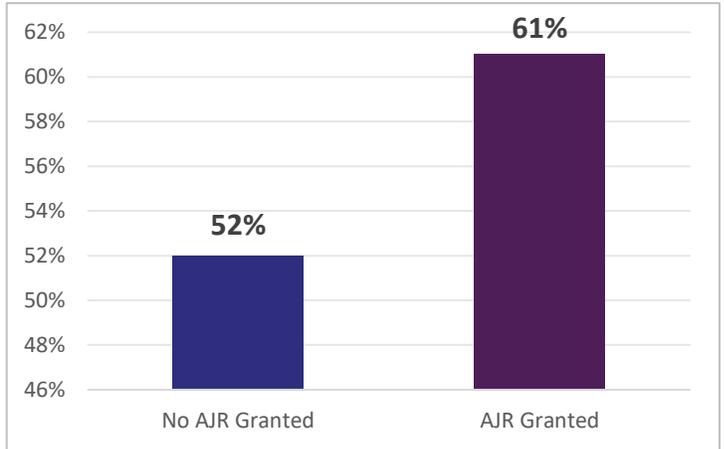
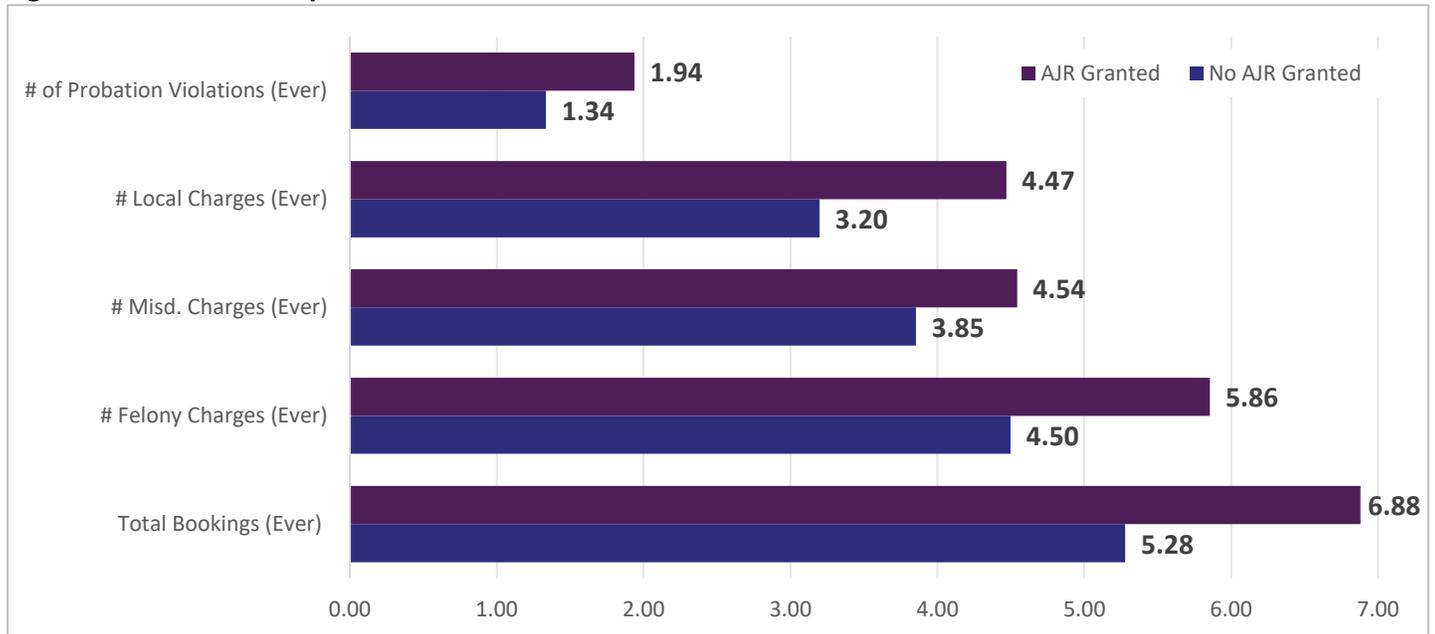


Figure 11: Percentage of Felony Bookings Across AJR Status



- Mental health consumers were more likely to get an AJR, as 32% of cases that received an AJR were known mental health consumers.
- About 61% of bookings that received an AJR involved a felony charge compared to 52% of Non-AJR bookings.

Figure 12: Offense History Across AJR Status



As highlighted above, a number of substantively and statistically meaningful differences emerge:

- The average number of prior bookings among bookings that received an AJR was 6.88, whereas the average number for Non-AJR cases was 5.28.
- In general, bookings that received an AJR had a greater average number of prior felony charges, prior misdemeanor charges, prior probation violations, and prior parole violations than Non-AJR bookings.

Differences Between Traditional AJR and COVID-19 AJR Subgroups

Of the 402 AJRs identified in this dataset, 62% received a COVID-19 AJR (n = 251), beginning in March 2020 at the start of the pandemic, and 38% received a Traditional AJR (n = 151) before the COVID-19 pandemic began. The following figures show that there are a set of five demographic and offense history differences across these two types of AJR that merit attention.

Figure 13: Racial Differences Across AJR Type

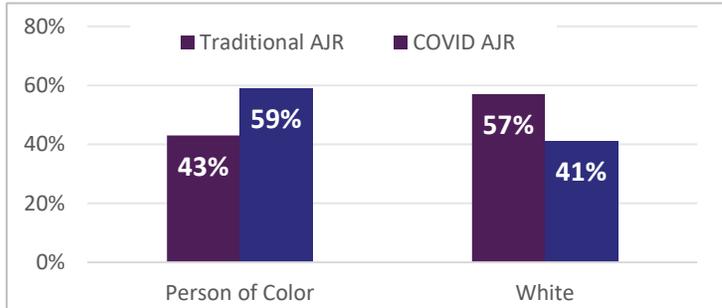
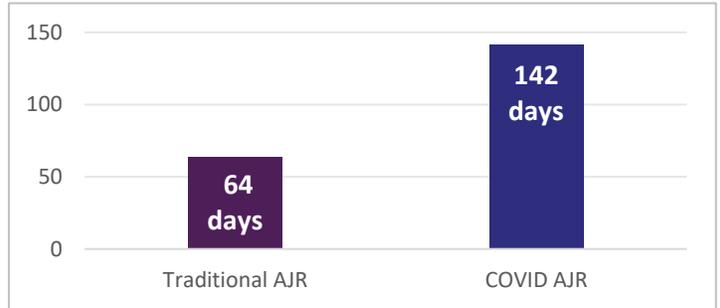


Figure 14: Average Length of Stay Across AJR Type



- COVID AJRs were granted to people of color at a rate of 59%, which is much higher than the percentage of Traditional AJRs received by people of color at a rate of 43%.
- People of color were more likely to receive a COVID AJR than a Traditional AJR, while White people were more likely to receive a Traditional AJR than a COVID AJR.
- People who received a COVID AJR had been in jail over two times as long as people who received a Traditional AJR.

Figure 15: Current Felony Charges by AJR Type

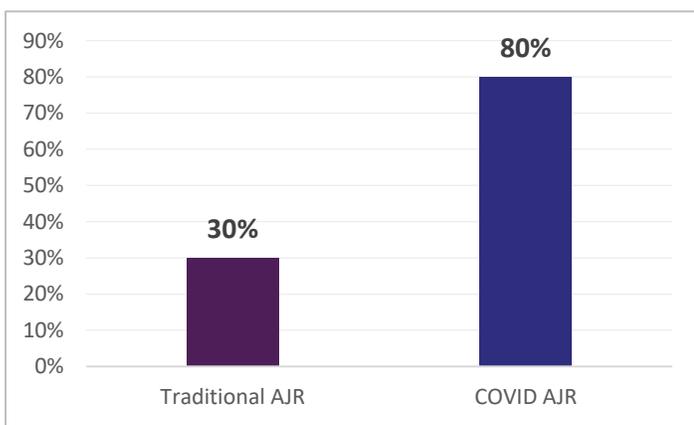
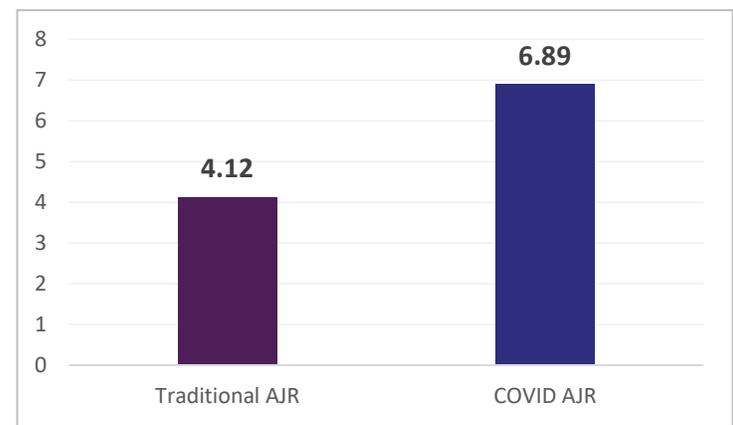


Figure 16: Historic Felony Charges by AJR Type



- 80% of people granted COVID-19 AJRs were for bookings that involved felony charges.
- The COVID AJR subgroup had more prior felony charges than the Traditional AJR subgroup.

Figure 17: Previous Probation Violations Across AJR Type



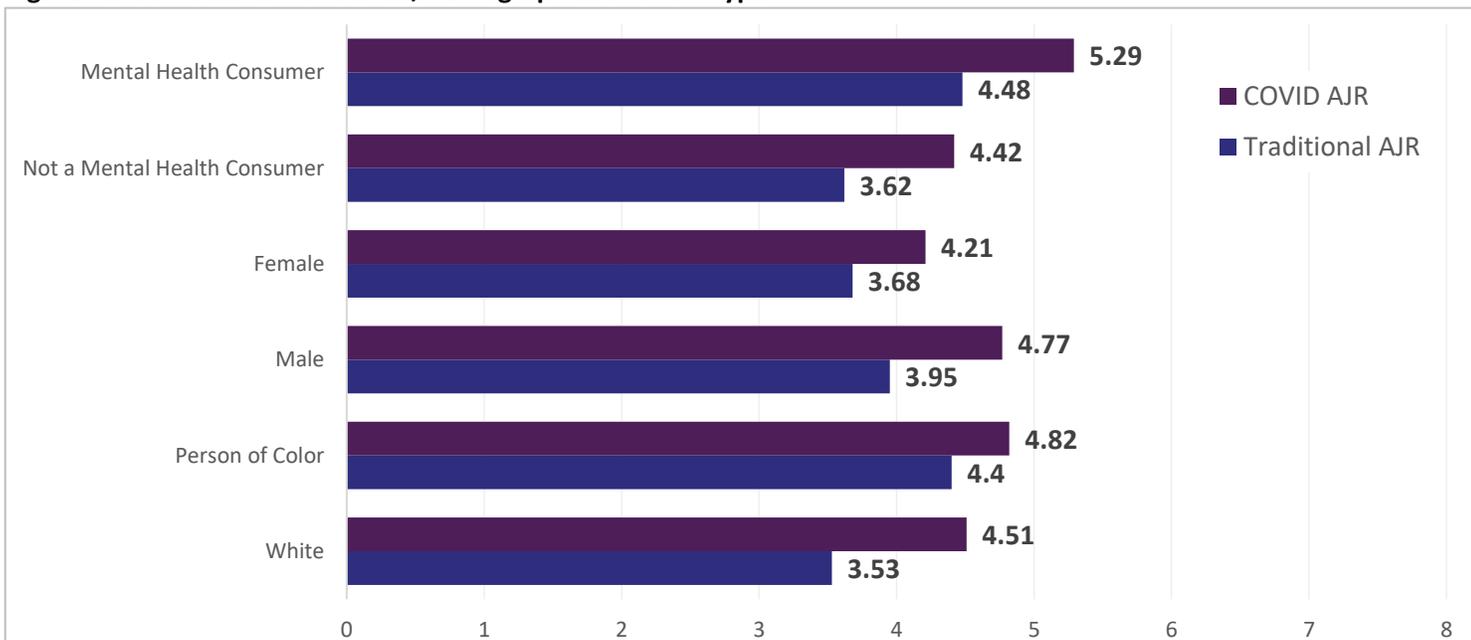
- The average number of prior probation violations across COVID-19 AJRs was 2.20, which was nearly one and a half times greater than the 1.51 average for Traditional AJRs.

Differences in Risk Between COVID-19 AJR and Traditional AJR

In an effort to quantify potential risk to community safety, a set of demographic and offense history variables were used to develop a numerical scale** to evaluate the cumulative risk for recidivism among groups of individuals granted AJRs. Four variables were recoded as follows for this analysis, with 2 being the score for greatest risk and 0 being the score for least risk.

- Age (2 points = 17-24 years, 1 point = 25 to 30 years, 0 points = 31+ years)
- Current Booking Offense (2 points = Felony, 1 point = Misdemeanor, 0 points = Civil/Local)
- Number of Prior Felonies (2 points = 3+ felonies, 1 = 1-2 felonies, 0 = 0 felonies)
- Number of Prior Misdemeanors (2 points = 5+ misdemeanors, 1 point = 1-4 misdemeanors, 0 points = 0 misdemeanors)

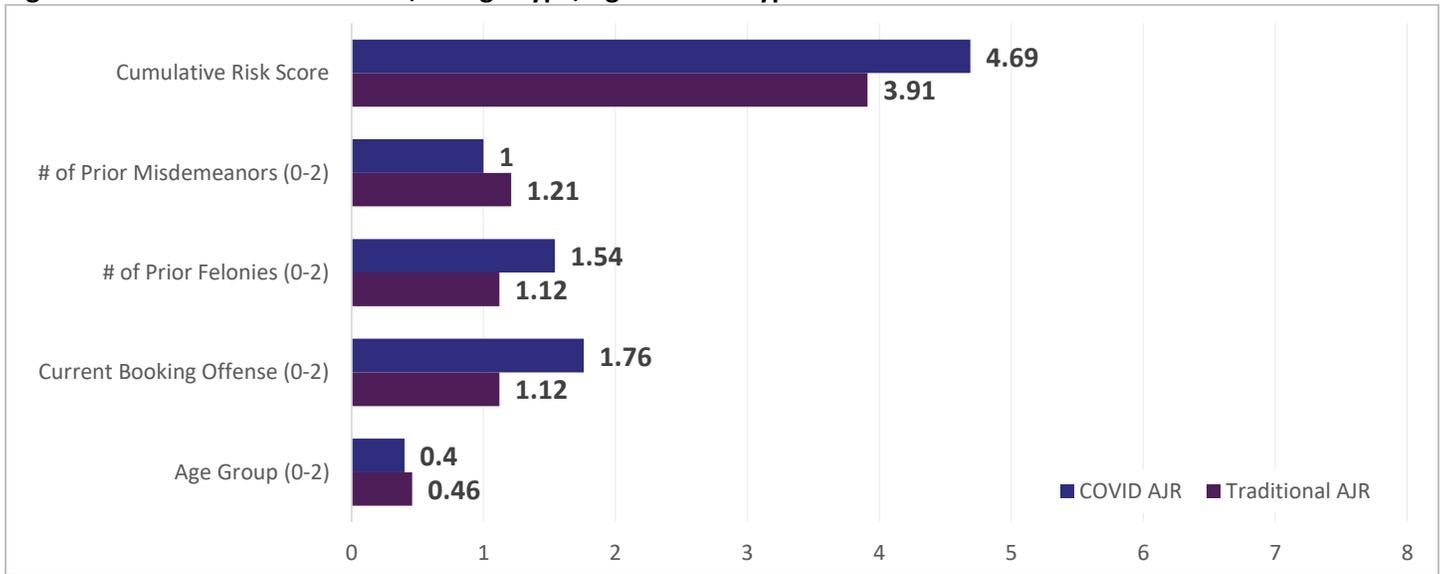
Figure 18: Cumulative Risk Scores, Demographics and AJR Type



- The COVID AJR bookings had higher risk scores overall than the Traditional AJR sub group.
- Cumulative risk scores across COVID-19 AJR bookings of whites were greater than Traditional AJR bookings involving whites. In fact, this represents the largest substantive difference identified in the comparison of risk scores across AJR types and demographics.
- Bookings involving people of color that were granted COVID-19 AJRs had higher cumulative risk scores than bookings involving people of color that were given Traditional AJRs.
- Bookings of men that received a COVID-19 AJR had significantly higher cumulative risk scores than bookings of men that received Traditional AJRs.
- Bookings of mental health consumers and non-mental health consumers that received COVID-19 AJRs both had significantly higher cumulative risk scores than their counterpart bookings that received Traditional AJRs.

** It should be noted that this scale was developed to look at cumulative risk across groups and was not developed to predict or score an individual's risk for recidivating.

Figure 19: Cumulative Risk Scores, Charge Type, Age and AJR Type

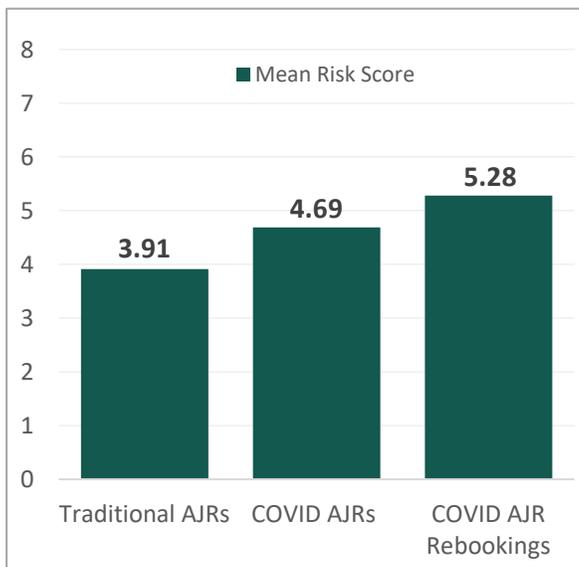


- The mean risk scores for number of prior felonies and number of prior misdemeanors were both higher for COVID-19 AJRs than Traditional AJRs.
- The average cumulative risk score for COVID-19 AJRs was 4.69, while Traditional AJRs had an average cumulative risk score of 3.91.

Cumulative Risk and Rebooking Among COVID-19 AJRs

To develop an understanding of the prevalence of rebooking among those who were granted COVID-19 AJRs, this analysis examines the rate of rebooking among individuals who specifically received an original COVID-19 AJR through, but not after, 12/31/2020. Booking data through 6/30/2021 was then examined to determine the prevalence of rebooking among this group.

Figure 19: Cumulative Risk Scores of both AJR Types and Rebooking Risk of COVID AJRs



- 26% of the 251 COVID-19 AJR recipients were rebooked into jail through 6/30/2021.
 - Over half (53%) of the COVID-19 AJR rebookings were due to probation violations; most of the other rebookings were due to property or drug related offenses.
 - Only 13% of the COVID-19 AJRs who were rebooked were due to acts of violence. These eight assaultive charges include: i) assault or assault & battery; ii) assault with a dangerous weapon (felonious assault); iii) criminal sexual conduct (1st degree); iv) domestic violence; v) domestic violence (third offense notice); vi) home invasion (2nd degree); vii) homicide (murder first degree premeditated); and viii) unarmed robbery.
 - Of the COVID-19 AJRs rebooked, the average cumulative risk score was 5.28.
- For the few cases of COVID-19 AJRs rebooked for assaultive offenses, the average risk score was not predictive between an assaultive charge and non-violent offense.
 - Appendix A lists the offenses for the 64 rebooked cases.
 - Appendix B lists the original booking offenses.



Recommendations and Next Steps

Review of the qualitative and quantitative data shows that the COVID-19 AJR process successfully and safely expanded jail releases through the collaborative efforts of the group members. The following recommendations offer possible next steps:

- The COVID-19 AJR group should consider disseminating this report beyond the group, including the Supreme Court Administrative Office (SCAO), pre-trial services and judges who set and/or renew bonds.
- The CBHJ recommends that Chief Kenny work with the COVID-19 AJR group and/or WCSO to pursue funding to research and pilot use of a systematic and objective process to enhance judges and pre-trial services understanding of assessing risk.
- Dr. Matthew Larson, Chief Judge Kenny and the CBHJ team will co-write an academic publication using the COVID-19 AJR data and this report.



APPENDIX A

Original COVID-19 AJR offense descriptions among rebooked cases

Offense Description	Frequency
Assault with a Dangerous Weapon (Felony)	1
Breaking & entering a building with intent	4
Burglars tools – Possession	3
Child support - Failing to pay - FOC - Friend of Court	1
Controlled substance - Possession of Methamphetamine/Ecstasy	2
Controlled substance - Del/Mfg. less than 50 grams	2
Controlled substance - Possession (Narc/Cocaine) less than 25 grams	1
Entering w/o permission	1
Failure to appear (Felony)	1
Home invasion (1st degree)	2
Home invasion (2nd degree)	1
Larceny in a building	1
Malicious destruction of building - \$1,000 or more but less than \$20,000	1
Malicious destruction of personal property - \$1,000 or more but less than \$20,000	1
Narcotic charge(s)	1
Operating - OUIL/Per se/OWI - 3rd offense notice	1
Operating - Suspended or revoked license	1
Ordinance violation	2
Organized retail crime prohibited conduct	2
Police officer - Assault/Resisting/Obstructing	1
Police officer - Fleeing - Fourth degree - Vehicle code	1
Probation violation (Felony)	14
Retail fraud - First degree	6
Retail fraud - Third degree	1
Stolen property - Receiving and concealing - Motor vehicle	5
Stolen property - Receive and conceal \$100 or less	1
Stolen property - Receiving/concealing - \$1,000 or more but less than \$20,000	1
Uttering & publishing	1
Weapons - Firearms - Possession by felon	1
Weapons - Carrying concealed	2
Weapons - Taser - Possession or sale of	1
Total: 64	



APPENDIX B

Offense descriptions for re-bookings of COVID-19 AJRs

Offense Description	Frequency
Breaking & entering - A building with intent	2
Breaking & entering - Illegal entry (Without owner's permission)	1
Burglars tools – Possession	1
Controlled substance - Delivery/manufacture - Methamphetamine/Ecstasy	1
Controlled Substance - Del/Mfg. - Less than 50 grams	1
Entering w/o permission	1
Failure to appear (Felon)	2
Identity theft	1
Larceny in a building	1
Malicious destruction of personal property - \$1,000 or more but less than \$20,000	1
Ordinance violation	1
Police officer - Assaulting/Resisting/Obstructing	1
Probation violation (Felony)	34
Receiving stolen property	1
Retail fraud - First degree	1
Retail fraud - Second degree	1
Stalking	1
Stolen property - Receiving and concealing - Motor vehicle	2
Weapons - Dangerous weapon - Carrying with unlawful intent	1
Weapons offenses	1
Assault or assault and battery	1
Assault with a dangerous weapon (felonious assault)	1
Criminal sexual conduct 1st degree (Multiple variables)	1
Domestic violence	1
Domestic violence - Third offence notice	1
Home invasion - 2nd degree	1
Homicide - Murder 1st degree premeditated	1
Unarmed robbery	1
Total:	64