

Trends in Prosecutor Charging Decisions 2018-2022





Overview

This report presents information about prosecution charging decisions for arrests filed with the Bronx District Attorney's Office (the Bronx DA) by NYPD. The analysis shows trends in the rate of prosecution for arrests filed in 2018 through 2022, overall and by charge class; as well as charging rates for the most common offenses in 2022 and for demographic groups.

Arrests are defined as all charges submitted by NYPD on the same day for the same person. If an individual is arrested on more than one unique date, each of those arrests is counted separately. If multiple charges or arrests are filed on the same day for the same person, that counts as one arrest.

When NYPD submits an arrest to the Bronx DA, a prosecutor reviews the circumstances of the arrest, interviews witnesses and/or victims, and decides whether to prosecute the defendant on the arrest—and if so, for what charges. The arrest is considered “charged” even if the prosecutor's charges differ from those submitted by NYPD at the time of arrest. In the current report, arrests are categorized by the top charge submitted by NYPD (for example, an arrest with a top charge that is a felony is categorized as a felony in this analysis, even if the prosecutor decided to prosecute the arrest for a misdemeanor charge).

Data Source: Arrest information is based on NYPD arrest documents submitted to the Bronx DA. Prosecution charging decisions are based on documentation filed with the court after the prosecutor reviews the circumstances of the arrest. If the prosecutor initiates charges, an accusatory instrument is filed with the courts. If the prosecutor declines to prosecute, a “decline to prosecute” form is filed with the Bronx Criminal Court.



Prosecution Charging Decision Trends

Figure 1 shows the proportion of arrests submitted by NYPD that the Bronx DA charged or declined to prosecute (DP), for all arrests and then for felony and misdemeanor arrests, between 2018 and 2022. Table 1 presents the number of arrests filed and declined and the corresponding DP rate for each charge category (felony, misdemeanor, and violation/other).

Figure 1: Proportion of Prosecution Charging Decisions Submitted to the Bronx DA

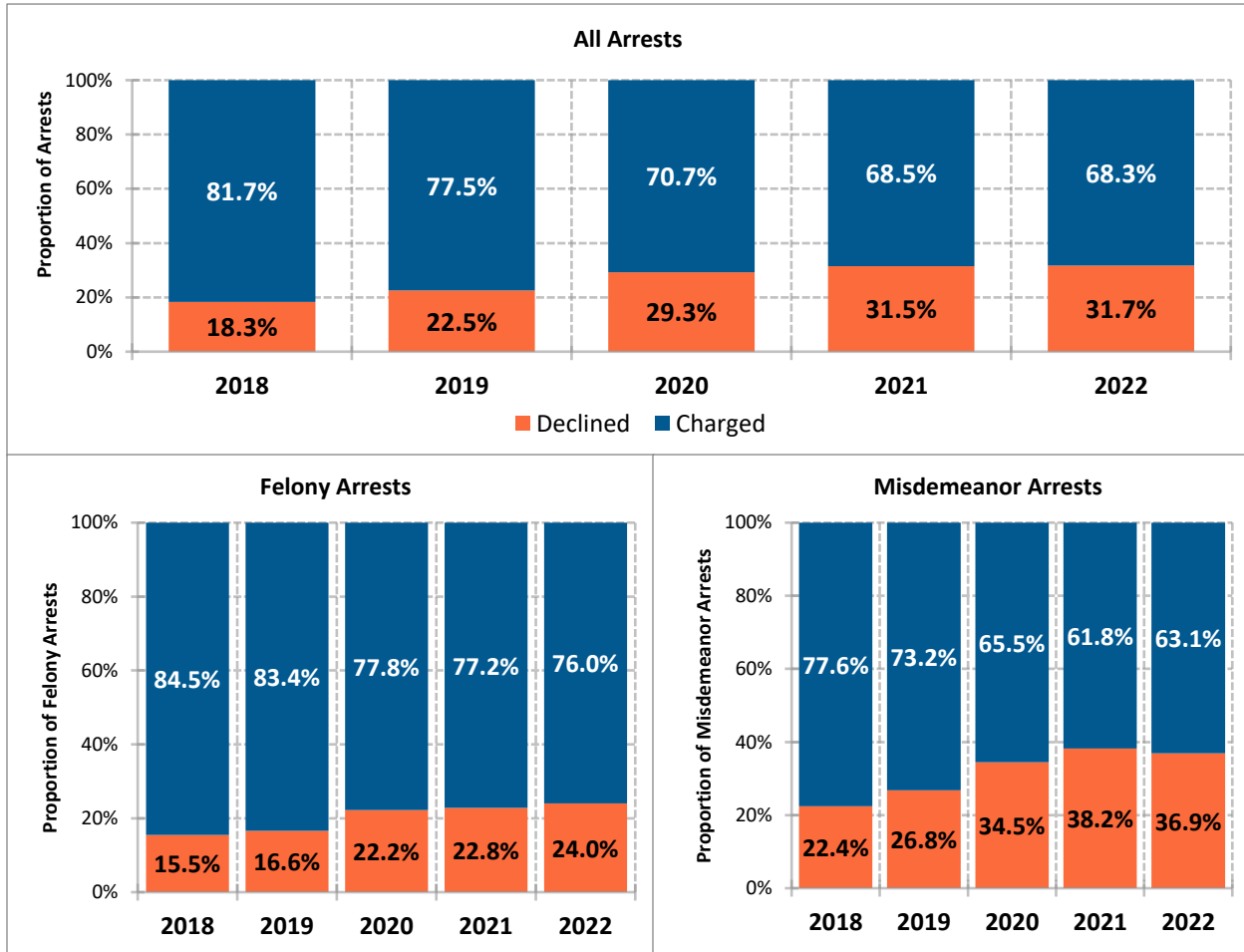


Table 1: Declined Prosecution Rates by Year of Arrest

Year	Number of Arrests Submitted				Number of Arrests Declined to Prosecute				DP Rate			
	Felony	Misd.	Violation & Other	Total	Felony	Misd.	Violation & Other	Total	Felony	Misd.	Violation & Other	Total
2018	14,406	28,069	6,137	48,612	2,226	6,277	414	8,917	15.5%	22.4%	6.7%	18.3%
2019	14,666	25,327	1,853	41,846	2,432	6,786	204	9,422	16.6%	26.8%	11.0%	22.5%
2020	11,391	15,385	443	27,219	2,534	5,307	134	7,975	22.2%	34.5%	30.2%	29.3%
2021	12,020	14,987	509	27,516	2,738	5,724	214	8,676	22.8%	38.2%	42.0%	31.5%
2022	14,949	19,283	842	35,074	3,586	7,123	406	11,115	24.0%	36.9%	48.2%	31.7%



Ten Most Common Arrest Top Charges and Prosecution Rate

Table 2 lists the top ten most common charges based on the combination of law article and charge category (*i.e.*, PL 120 misdemeanor and PL 120 felony are separate rows). The table reports the number of arrests submitted by NYPD with that combination of law article and charge category.

The most common offense type is felony and misdemeanor assault, with 6,165 and 3,774 arrests referred by NYPD, respectively. The column on the far right indicates the prosecutor charge rate for each offense category. For felony assault, the charge rate was 70.6%. The average charge rate across all arrests is 68.3%.

Table 2: Top Ten Most Common Offenses and Prosecution Charge Rate

Law Article	Charge Category	Offense	Number of Arrests	Percent Charged
PL 120	Misdemeanor	Assault	6,165	59.4%
PL 120	Felony	Assault	3,774	70.6%
PL 155	Misdemeanor	Petit Larceny	1,853	89.5%
PL 160	Felony	Robbery	1,808	73.2%
PL 170	Misdemeanor	Forgery	1,590	26.9%
PL 165	Misdemeanor	Theft	1,516	53.3%
PL 265	Felony	Firearms	1,405	92.0%
PL 220	Misdemeanor	Controlled Substances	1,320	91.3%
PL 220	Felony	Controlled Substances	1,257	95.9%
PL 145	Misdemeanor	Criminal Mischief	1,205	55.9%
All Arrests			35,074	68.3%



Ten Most Common Felony Arrest Top Charges and Prosecution Rate

Table 3 lists the top ten most common *felony* charges. The table reports the number of arrests submitted by NYPD with that charge. The center column indicates offense categories which include violent felonies. The charge rate for felony offenses is 76%, meaning that the prosecutor charges about three fourths of all felony arrests submitted to the office.

Table 3: Top Ten Most Common Felony Offenses and Prosecution Charge Rate

Law Article	Offense	Includes VFO Charges	Number of Arrests	Percent Charged
PL 120	Assault	✓	3,774	70.6%
PL 160	Robbery	✓	1,808	73.2%
PL 265	Firearms	✓	1,405	92.0%
PL 220	Controlled Substances		1,257	95.9%
PL 121	Strangulation	✓	929	68.8%
PL 215	Bribery		841	73.0%
PL 155	Larceny		841	67.8%
PL 170	Forgery		774	55.2%
PL 140	Burglary	✓	738	79.0%
PL 145	Criminal Mischief		728	69.5%
All Felony Arrests	-		14,949	76.0%
All Arrests	-		35,074	68.3%



Prosecutor Charging Rate by Defendant Race/Ethnicity in 2022

Figure 2 shows the percentage of arrests in 2022 that were charged by the Bronx DA for each race/ethnicity category. Table 4 presents the total number of defendants in each race/ethnicity category, including for arrests that were declined to prosecute.

- About two-thirds of arrestees are charged by the Bronx DA. In general, White defendants are charged at higher rates relative to arrests involving people of other races. This finding is consistent with other prosecution research, including in New York City.¹ A small proportion of arrestees in the Bronx identify as White (3%), as is their representation in the larger population of the County (9%).

Figure 2: Charge Rates by Defendant Race/Ethnicity

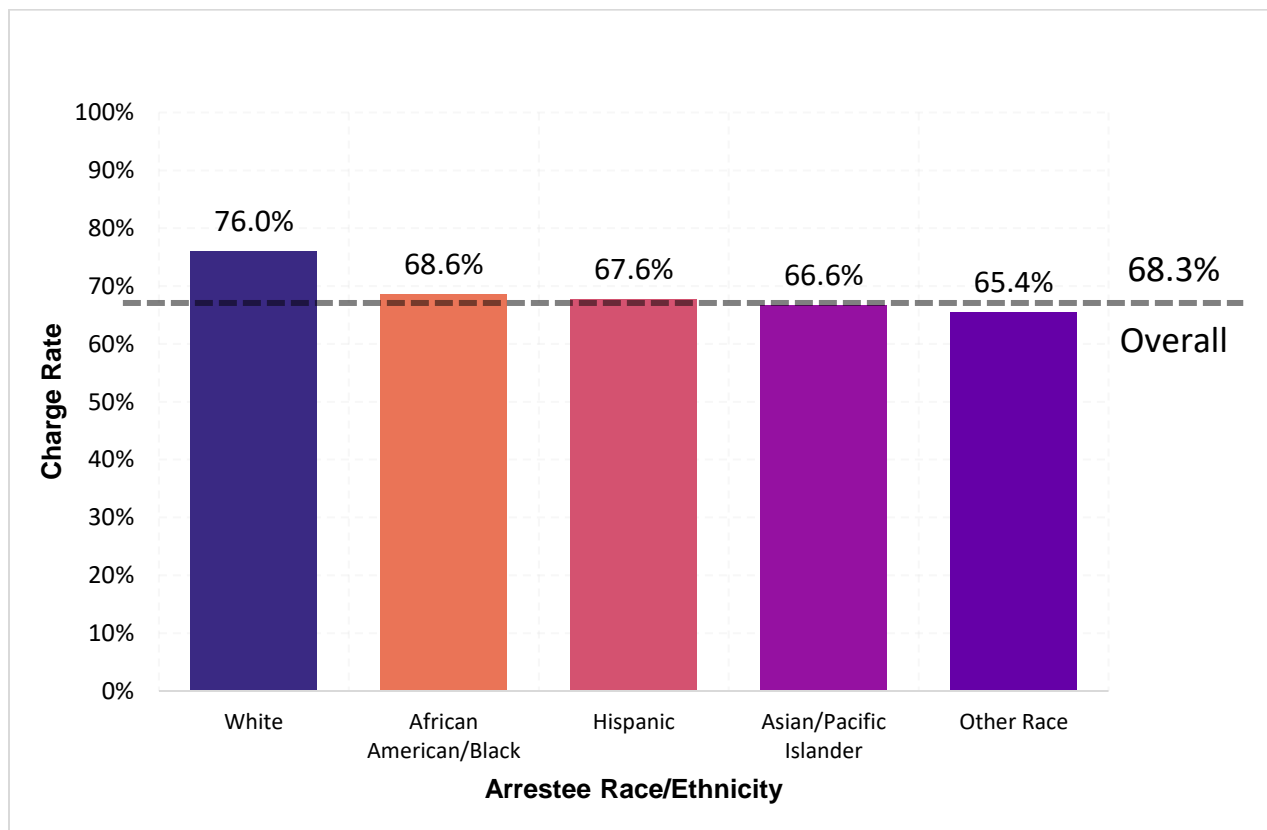


Table 4: Arrestees in 2022 by Race/Ethnicity

	African American/Black	Hispanic	White	Asian/Pacific Islander	Other
Total Arrests	16,501	16,718	1,129	509	217

¹ Ferone et al., “Justice in Decision-Making: Studying Racial & Ethnic Disparities in the Brooklyn District Attorney’s Office.” Kutateladze et al., “Cumulative Disadvantage”; Kutateladze and Andilorio; Ferone et al., “Justice in Decision-Making: Studying Racial & Ethnic Disparities in the Brooklyn District Attorney’s Office.”



Prosecutor Charging Rate by Defendant Age at Offense in 2022

Figure 3 shows the percentage of arrests in 2022 that were charged by the Bronx DA for each age category. Table 5 presents the total number of defendants in each age category, including for arrests that were declined to prosecute.

- The Bronx District Attorney’s Office charged 82.5% of arrests involving youth under the age of 18. This was higher than the prosecution rate for all other age groups. The higher prosecution rate for youth is consistent with the fact that youth are much more likely to be arrested for a serious charge than adults. Almost all youth (99.4%) were arrested for a felony.

Figure 3: Arrest Prosecution Rate by Age Category at Offense in 2022

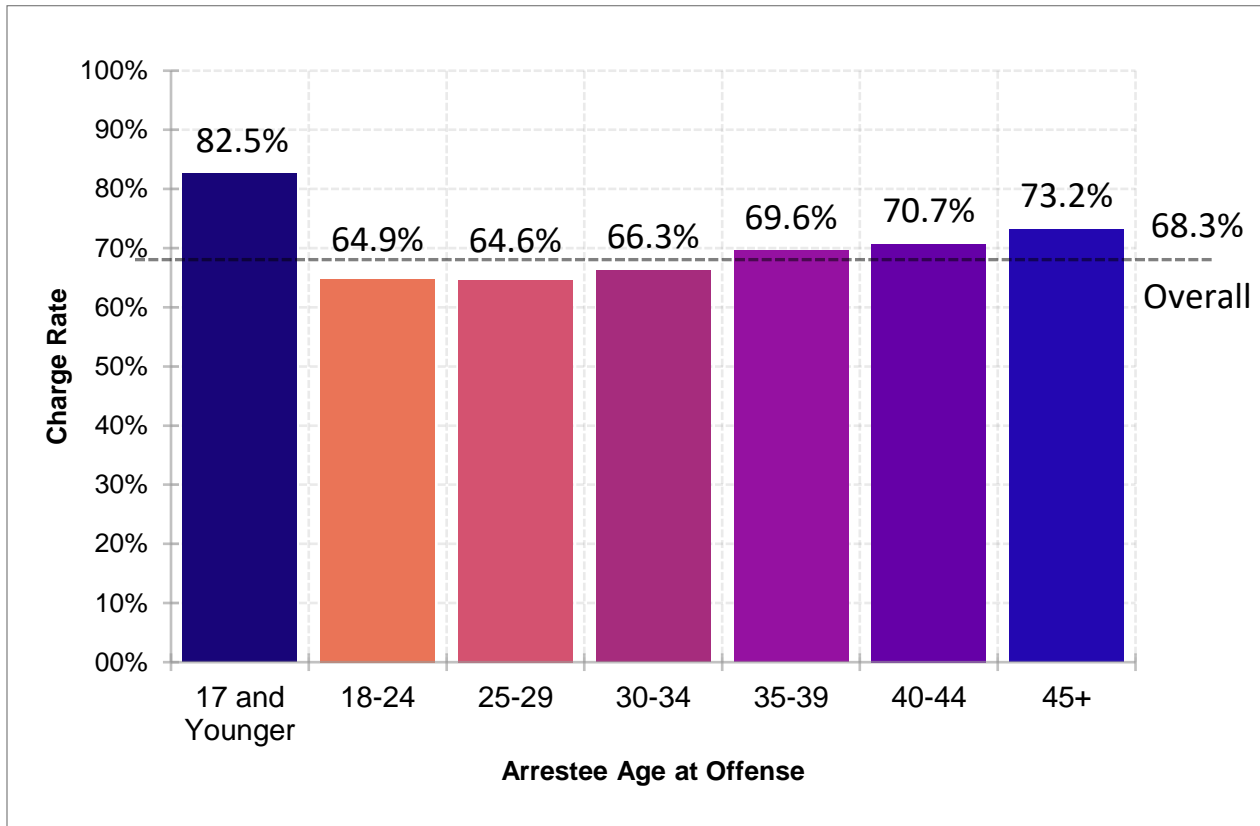


Table 5: Arrestees in 2022 by Age Category

	17 and Younger	18-24	25-29	30-34	35-39	40-44	45+
Total Arrests	618	6,945	6,141	5,942	4,575	3,596	7,257



Prosecutor Charging Rate by Defendant Gender in 2022

Figure 4 shows the percentage of arrests in 2022 that were charged by the Bronx DA for each gender category. Table 6 presents the total number of defendants in each gender category, including for arrests that were declined to prosecute.

Figure 4: Arrest Prosecution Rate by Gender

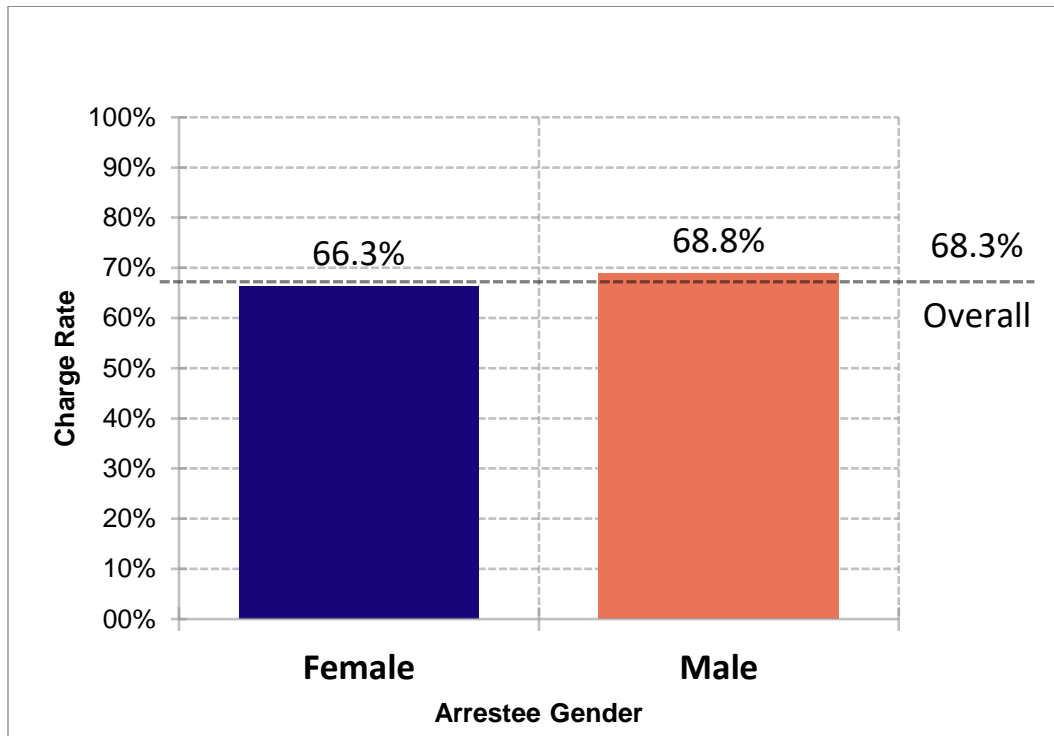


Table 6: Arrestees in 2022 by Gender

	Female	Male
Total Arrests	6,916	28,158



Glossary

Accusatory Instrument: A written accusation filed with the court by the Bronx DA that charges the defendant with one or more offenses.

Acquittal: The defendant is found not guilty at trial.

Arraignment: The first time the defendant appears before a judge and hears the charges against them. The defendant will then enter a plea of guilty, not guilty, or no contest.

Arrestee: An individual arrested for an offense(s) by NYPD.

Arrest Event: An individual is taken into custody by NYPD.

Bail: A cash or bond set by the court to ensure the defendant will return for future court appearances. Bail will be forfeited if the defendant does not return.

Charge Category: Felony, misdemeanor, or violation/infracton categorization. See the Office of Court Administration (OCA) for [more information](#) on charge severity definitions.

In some instances, felonies are further classified as violent felony offenses (VFOs) or non-violent felony offenses per the [definition](#) used by the Division for Criminal Justice Services (DCJS). The exact charges can be found in the [Listing of NYS Laws](#). Note that this definition classifies a charge as a VFO if it is defined as such in NYS Penal Law section 70.02 or if it is considered “like” a violent felony. Second-degree murder, for example, is not listed in section 70.02 but is categorized as a VFO because it is like a violent felony.

Charged: When NYPD submits an arrest to the Bronx DA, a prosecutor reviews the circumstances of the arrest, interviews witnesses and/or victims, and decides whether to prosecute the defendant on the arrest and, if so, for what charges. A case is considered “charged” or “prosecuted” if the prosecutor files an affidavit, or accusatory instrument, associated with the arrest.

The prosecution charging rates shown in this document are based on legal documentation filed with the court, such as an accusatory instrument or declined to prosecute forms.

Conviction: The defendant is found guilty, either through a guilty plea or at trial.

Conditional Discharge: A type of sentence that allows the defendant to be released from prison under certain conditions that do not include supervision. The judge may order a defendant to attend a treatment or substance abuse program, maintain legal employment, or meet other obligations.

Declined to Prosecute: If the prosecutor files a decline to prosecute form with the court for all charges on an arrest, the arrest is considered “declined.”

Defendant: A person charged with committing a crime.



Defendant Race: Race is based on information from the complaint that NYPD files with the Bronx DA at the time of arrest. In this analysis, “race” combines race and ethnicity such that any defendant of Hispanic origin is categorized as Hispanic, and defendants identified as non-Hispanic are categorized as White, African American/Black, Asian, or Another Race.

Defendant Age: Age is based on NYPD reports of the defendant’s date of birth at the time of the arrest.

Defendant Gender: Gender is based on NYPD reports of the defendant’s gender at the time of the arrest.

Dismissal: The prosecutor dismisses the charges on the case after the defendant has been charged.

Disposition: Resolution of the criminal case. A case can be disposed with an outcome of conviction, dismissal, or acquittal.

Felony: A crime punishable by a term of imprisonment greater than one year.

Fine: A type of sentence that requires a defendant to pay a specific amount of money.

Index Crimes: The FBI tracks the incidence of seven main or “index” crime types for the Uniform Crime Reporting Program. These include murder, rape, aggravated assault, robbery, burglary, grand larceny, and motor vehicle theft. See Appendix A for a complete list of the NYS penal law codes included in each index crime category.

Law Article: The Law article typically refers to a grouping of charges in the New York State Penal Law that includes different versions of an offense. For example, all charges related to Larceny are grouped into Penal Law Article 155. In these Data Stories, criminal cases are categorized based on the Charge Category and Penal Law Article.

Misdemeanor: A crime punishable by probation, a fine, or up to one year in jail.

Probation: A type of sentence that releases a defendant into the community under supervision.

Top Charge: The most serious charge at a given point in the case flow (for example, there will be a top charge at arrest, a top charge at arraignment, top charge at disposition, top charge at sentencing, etc.). The top charge can change from one point to another for a variety of reasons. For example, the Bronx DA may decide to prosecute for a different charge than the one submitted by NYPD after reviewing the evidence and speaking with witnesses. The charge could change again after arraignment if the defendant agrees to a plea deal.

Charges are ranked based on category (felony, misdemeanor, violation, infraction, unknown), then by class (‘A’, ‘B’, ‘C’, ‘D’, ‘E’, ‘U’). If there is a tie, preference is given to (1) murder charges, per Article 125.25, 125.26, and 125.27, and then (2) ‘Violent Felony’ offenses. In situations where charges are still tied, the tie is broken by the lowest Law Article number.

Violation: An offense punishable by a fine or up to 15 days in jail.



Index crime definitions

Murder: The willful killing of one human being by another. Excluded from this category are deaths caused by negligence, suicide, or accident, justifiable homicides, and attempts to murder, which are classified as assault.

Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Robbery: The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault: The unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm, and also includes attempts to commit murder.

Burglary: The unlawful entry of a structure to commit a felony or theft. The use of force to gain entry is not required to classify an offense as burglary.

Larceny: The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. It includes crimes such as shoplifting, purse snatching, bicycle thefts, etc., in which no use of force, violence, or fraud occurs. This offense category does not include offenses such as embezzlement, forgery, or bad checks.

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle, including automobiles, trucks, buses, motorcycles, and snowmobiles.

Note: In this report, only felony charges are included in all of the index crime categories.



Index Crime Type Definition by Charge

Category	Index Crime Type	Title	Section	Subsection	
Violent	Murder	PL	125.27	All	
		PL	125.25	All	
		PL	125.26	All	
	Rape	PL	130.35	All	
		PL	130.30	All	
		PL	130.25	All	
		PL	130.40	All	
		PL	130.45	All	
		PL	130.50	All	
		PL	130.66	All	
		PL	130.67	All	
		PL	130.70	All	
		PL	130.75	All	
		PL	130.80	All	
		PL	130.90	All	
		PL	130.95	All	
		PL	130.96	All	
		PL	120.60	02	
		PL	255.26	All	
		PL	255.27	All	
		PL	130.65-A	All	
		Robbery	PL	160.15	All
			PL	160.10	All
	PL		160.05	All	
	Assault	PL	120.10	All	
		PL	120.07	All	
		PL	120.05	00, 00X, 00T, 00H, 01, 01X, 01T, 01H, 02, 02X, 02T, 02H, 04, 04X, 04T, 04H, 05, 05X, 05T, 05H, 06, 06X, 06T, 06H, 07, 07X, 07T, 07H, 08, 08X, 08T, 08H, 09, 09X, 09T, 09H, 11, 11T, 11BH, 11BX, 11B, 11H, 11X, 11BT, 3BH, 3BT, 3BX, 4-AH, 4-A, 4-AT, 4-AX	
		PL	120.06	All	
		PL	120.01	All	
		PL	120.02	All	
PL		120.08	All		



		PL	120.09	All
		PL	120.11	All
		PL	120.12	All
		PL	120.55	01, 01H
		PL	121.12	All
		PL	121.13	All
		PL	130.85	All
		PL	195.08	All
		PL	215.13	All
		PL	215.17	All
		PL	215.51	B1
		PL	240.73	All
		PL	260.32	03
		PL	260.34	All
		PL	121.13-a	All
		Property	Burglary	PL
PL	140.25			All
PL	140.20			All
Larceny	PL		155.42	All
	PL		155.40	00, 00H, 00Z
				01, 01H
	PL		155.35	All
	PL		155.30	00, 00H, 00Z, 01, 01H, 02, 02H, 03, 03H, 04, 04H, 05, 05H, 07, 07H, 09, 09H, 10, 10H, 11, 11H
	PL		165.10	All
	PL		165.11	All
	PL		155.43	All
Motor Vehicle Theft	PL		155.30	08, 08H
	PL		165.06	All
	PL		165.08	All