

## **(1) STATE’S ATTORNEYS: BIG PICTURE**

Upon requests from the House Committee on Judiciary and the House Committee on Appropriations, the Department of State’s Attorneys and Sheriffs (“SAS or the Department”) received data from the Judiciary on December 10, 2023. Members of the Office of the Executive Director of the Department and members of the Executive Committee of State’s Attorneys have examined the 12/10/23 data to evaluate the caseloads of SAS staff as well as the work occurring at the county level by SAS attorneys, victim advocates, and administrative staff.

SAS attorneys handle 99% of criminal-justice and the vast majority of family-juvenile justice cases in Vermont. Current staffing levels at the county level are insufficient to support, review, prosecute, or otherwise dispose of the over 26,000 pending cases (of which, roughly, 21,500 are criminal).

During the 2023 legislative session, and in discussions with legislators in preparation for the 2024 legislative session, SAS staff and legislators discussed increasing staffing to reduce the average caseload of SAS attorneys and SAS victim advocates.<sup>1</sup> It should be noted that there is a difference between “caseload” and “workload.” “Workload” can never be fully accounted for with “caseload” data alone. That said, average caseload data is essential in understanding the work of SAS staff.

- **Criminal-Only SAS Attorney Caseload Average.** As of 12/10/23 there were 21,539 pending SAS-related “criminal-only” cases.<sup>2</sup> 21,539 divided by [14 State’s Attorneys plus 58 DSAs] results in an average criminal-only caseload of:
  - **299.15.**
- **Family-Criminal-Civil SAS Attorney Caseload Average.** As of 12/10/23 for all SAS case types (excluding Appeals, ERPOs, and investigation related work), there were 26,039 pending cases. There is a distinction between SAS criminal-only cases and SAS cases for all case types. As of 12/10/23 for all pending SAS case types, the statewide SAS attorney average was:
  - **361.652**
- **SAS Victim Advocate Caseload Average.** The current estimated average caseload for SAS victim advocates:
  - **665.**

SAS recommends that lawmakers provide adequate resources to assist the Department in reducing the workload amongst SAS attorneys, victim advocates, and administrative staff. [See below for county specific caseload data.](#) In response to a request from Representative Trevor Squirrell on December 22, 2023, SAS recommended a [230 to 250 average per SAS attorney](#). That said, any increase in staffing/resources allocated to the Department will assist in better addressing the many thousands of pending cases assigned to SAS staff.

The time that it takes to prosecute or otherwise manage or dispose of each case varies depending on the facts and circumstances (*misdemeanor, felony, multiple victims, multiple witness, expert testimony etc.*) but each defendant and each victim deserves to know that Vermont prosecutors will have the time, resources, and staff to carefully review each case **in the interest of justice**. Increasing SAS staffing (attorneys, victim advocates [see estimates above and below], and administrative staff [see workflow graphic in the appendix]) will lead to more prudent outcomes and heightened pursuit of administration of justice. More time to allocate to each case per/staff will result in a more thorough approach and review of each case.

<sup>1</sup> During a hearing of the House Committee on Appropriations held on December 19, 2023, [legislators expressed concern about rising crime](#), as noted by CSG and FBI data, and SAS staff burnout.

<sup>2</sup> 21,539 is the total of pending criminal division cases likely assigned to SAS attorneys, which excludes the criminal cases known to be assigned to known to be assigned to AGO attorneys. Pending “criminal” data does not include cases in the Family Division (*CHINS, ERPOS, Juvenile Delinquency, Youthful Offender*) or the Civil Division (*e.g., PCRs*) assigned to SAS ATTYS. Pending criminal data also does not include appeals or investigation related workload.

➤ **Research concerning national best practices suggests:**

- That “prosecutors should not handle more than 150 felonies or 400 misdemeanors per year.”<sup>3</sup> And, in Vermont SAS prosecutors handle much more than criminal cases.
- SAS Attorneys are assigned to handle 99% of cases in the Criminal Division (*Felonies, Fish and Wildlife, and Misdemeanors*) but are also assigned to a large volume of cases in the Family Division (*e.g., CHINS, Juvenile Delinquencies, YO cases, and ERPOs*), as well as complex case types in the Civil Division (*e.g., PCRs*). Further SAS staff also handles the majority of criminal division appeals and a number of family division appeals.

➤ **Pending data fails to account for:**

- The active and resource intensive work for unsolved cases and investigation-related activities. SAS assists in many thousands of investigation-related requests each year (Search Warrants, Inquests, Subpoena Duces Tecum, and NTOs).
- SAS also provides legal advice to law enforcement concerning case review and legal questions that arise roadside, during criminal investigations, and calls for service. SAS has on-call prosecutors 24/7 who provide support 365 days each year at all hours of the day and night to law enforcement officers in the field. 99% of the investigation-related prosecutorial workload and on-call support is staffed and resourced by SAS (not captured by pending criminal data).

➤ **Crime is on the rise in Vermont:**

- As noted in Representative Martin LaLonde’s December 19, 2023<sup>4</sup> presentation to the House Committee on Appropriations and the Governor’s State of the State on January 4, 2024, upon a review of FBI Data (current through 2022) presented by CSG, **violent crime is on the rise in Vermont and trending upwards in many categories.**
- SAS is currently prosecuting over **80 murder/attempted murder cases** in Vermont courts. Murder and attempted murder cases have been filed and are pending in every county except Essex and Grand Isle. The complexity and seriousness of pending crimes in Vermont courts as well as the ongoing investigations relating to unsolved cases and cases yet to be charged are stretching SAS resources thin. **As of 12/10/23, there were 211 pending cases** under the following offense types: all forms of murder and attempted murder, including 1st, 2nd; manslaughter and attempts, death resulting, and agg assaults.
- **SAS is responding to multiple points of community crisis:** a housing emergency leaving many people unhoused; community level crimes against property, businesses, cars, and persons; drug-related crime; increasing crime amongst younger offenders; domestic violence; child abuse; sexual assault; an overdose/opioid epidemic; increasing gun violence; and repeat offenders who fail to abide by court orders. Both low-level and serious crime are on the rise, and it is taking too long for cases to reach final disposition.

<sup>3</sup> See Northwestern University School of Law. “THE STATE (NEVER) RESTS: HOW EXCESSIVE PROSECUTORIAL CASELOADS HARM CRIMINAL DEFENDANTS.” 2011 (emphasis added); see also Prosecutor Workload Report (centerforjusticeresearch.org).

<sup>4</sup> See weblink here: [Appropriations Public Safety Presentation](#) (Rep. Martin LaLonde, 12/19/23).

## CURRENT STATE’S ATTORNEY & DEPUTY STATE’S ATTORNEY STAFFING BY COUNTY AS OF 12/28/23

**(14 State’s Attorneys and 58 Deputy State’s Attorneys for a total of 72 total SAS Attorneys managing over 26,000 cases).**

- Addison: (1 SA) (2 DSAs)
  - Bennington: (1 SA) (5 DSAs)
  - Caledonia: (1 SA) (4 DSAs)
  - Chittenden: (1 SA) (14 SAs)
  - Essex: (1 SA)
  - Franklin: (1 SA) (5 DSAs)
  - Grand Isle: (1 SA)
  - Lamoille: (1 SA) (1 DSA)
  - Orange: (1 SA) (1 DSA)
  - Orleans: (1 SA) (4 DSAs)
  - Rutland: (1 SA) (6 DSAs)
  - Washington: (1 SA) (6 DSAs)
  - Windham: (1 SA) (5 DSAs)
  - Windsor: (1 SA) (5 DSAs)
- **Criminal-Only SAS Attorney Caseload Average.** As of 12/10/23 there were 21,539 pending SAS-related “criminal-only” cases.<sup>5</sup> 21,539 divided by [14 State’s Attorneys plus 58 DSAs] results in an average criminal-only caseload of:
- **299.15.**
- **Family-Criminal-Civil SAS Attorney Caseload Average.** As of 12/10/23 for all SAS case types (excluding Appeals, ERPOs, and investigation related work), there were 26,039 pending cases. There is a distinction between SAS criminal-only cases and SAS cases for all case types. As of 12/10/23 for all pending SAS case types, the statewide SAS attorney average was:
- **361.652**
- **SAS Victim Advocate Caseload Average.** The current estimated average caseload for SAS victim advocates:
- **665.**

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<sup>5</sup> 21,539 is the total of pending criminal division cases likely assigned to SAS attorneys, which excludes the criminal cases known to be assigned to known to be assigned to AGO attorneys. Pending “criminal” data does not include cases in the Family Division (*CHINS, ERPOS, Juvenile Delinquency, Youthful Offender*) or the Civil Division (e.g., *PCRs*) assigned to SAS attorneys. Pending criminal data also does not include appeals or investigation related workload.

## (2) ALL\* SAS CASE TYPES

### Chart 1. SNAPSHOT OF PENDING CASES FOR ALL SAS CASE TYPES<sup>6</sup>

(Criminal, Family (excluding ERPOS), and Civil cases (excluding Appeals))

- The total number of pending SAS-related cases, as of 12/10/23, was 26,039.<sup>7</sup> As noted above, for pending SAS case types, excluding Appeals, ERPOs, and investigation related work, the statewide SAS attorney average is: 361.652 (26,039/72). The snapshot below includes Family Division matters (*CHINS, Juvenile Delinquency, Youthful Offender, excluding ERPOS*); some Civil Division matters assigned to SAS (*including PCR*s); and Criminal Division matters (*Felonies, Fish and Wildlife, and Misdemeanors*). Data excludes pending Appeals.

Case Status	(All)														
Count of Case Nu	Column	CHINS A -													
Row Labels	Abandoned or Abused by Parent/Guardian/Custodian	CHINS B - Without Parental Care or Subsistence (Neglect)	CHINS C - Is Without or Beyond the Control of p/g/c	CHINS D - Habitually and Without Justification Truant	Civil Miscellaneous	Civil Suspension	Felony	Fish and Game	Judicial Bureau Appeal	Juvenile Delinquency	Misdemeanor	Ordinance	Prisoner Case - Post Conviction Relief	Youthful Offender	Grand Total
Addison Unit	2	166	11	6	4	18	204	7		85	527		1	31	1,062
Bennington Unit	2	85	15	24		56	682	1		44	1,190		15	32	2,146
Caledonia Unit		87	1	13	6	82	486	7	1	47	1,170	1		40	1,941
Chittenden Unit	29	209	13	21	18	79	1,147	11	8	187	2,552	1	6	83	4,364
Essex Unit	1	17			4	3	114	2		4	171		3	3	322
Franklin Unit	9	327	50	43	6	61	511	21		306	1,204		5	162	2,705
Grand Isle Unit	3	24	1	5	3	4	35	2	1	5	94			5	182
Lamoille Unit	3	47	3	11	1	50	280	7		48	689		2	6	1,147
Orange Unit		26		10	7	22	175	2		17	399			8	666
Orleans Unit	19	74	12	1	10	55	600	15		46	1,149		11	18	2,010
Rutland Unit	3	169	26	21	4	69	789	9	2	136	1,705		12	26	2,971
Washington Unit	5	88	4	6	12	50	498	9		169	1,163	6	4	64	2,078
Windham Unit	1	101	7	6	6	53	733	4		141	1,776		5	25	2,858
Windsor Unit	7	64	4	5	8	36	494	2	1	38	983		12	13	1,667
<b>Grand Total</b>	<b>84</b>	<b>1,484</b>	<b>147</b>	<b>172</b>	<b>89</b>	<b>638</b>	<b>6,748</b>	<b>99</b>	<b>13</b>	<b>1,273</b>	<b>14,772</b>	<b>8</b>	<b>76</b>	<b>516</b>	<b>26,119</b>

Currently, the case status is set to all.

- **Takeaways concerning all SAS case types, excluding ERPOS and APPEALS, as of 12/10/23:**
  - **(Criminal) Misdemeanors: 14,772** (note VT is one of the only states where the misdemeanor cut-off is the 2-year penalty, most states have the 1-year cut-off); **Felonies: 6748**; **Fish and Game: 99**; **Murders: 83** (includes attempts);<sup>8</sup>
  - **(Civil) PCR: 76**; **(Family) Juvenile Delinquencies: 1,273**; **YO: 517**; **CHINS D** (truancy): **172**; **CHINS C** (without or beyond control of the p/g/c): **147**; **CHINS B** (neglect): **1,484**; and, **CHINS A: 85** (abandoned or abused by p/g/c).

<sup>6</sup> Data does not include appeals and investigation related workload.

<sup>7</sup> It is estimated that SAS staff are assigned to 99% of the cases in the Criminal Division, to the majority of Family cases and PCR in the Civil Division. Note, data obtained from the Judiciary does not include TPR cases, staffed by AGO. 26,039 is the total if you remove the criminal cases assigned to AGO. Pending cases, obtained from Judiciary data includes Criminal division, Family division, and Civil division case types where SAS staff are likely to be assigned in the Vermont Superior Court. Again, data obtained from the Judiciary does not include appeals, ERPOS, and investigation related work.

<sup>8</sup> 83 was as of 12/10/23. It is believed that the number is now 82.

**Chart 2. STATEWIDE<sup>9</sup> PENDING SAS CASELOAD CHART FOR ALL CASE TYPES: RANKED BY AVERAGE CASELOAD BY COUNTY**

(Criminal, Family (excluding ERPOS), and Civil cases (excluding Appeals))

COUNTY (SAS ATTY POSITIONS IN SAO)	STATE’S ATTORNEY	DEPUTY STATE’S ATTORNEYS (DSAS)	<b>AVERAGE CASELOAD</b> PER SAS ATTY AS OF 12/10/23	TOTAL PENDING CASES AS OF 12/10/23 <i>(INCLUDES SAS FAMILY, CRIMINAL, AND CIVIL CASE TYPES, EXCLUDING APPEALS, ERPOS, AND INVESTIGATION RELATED WORKLOAD)</i>	PENDING CASELOAD BY RANK ACCORDING TO AVERAGE ATTY CASELOAD	NOTES:
<b>Lamoille</b> (2 SAS ATTYS)	1	1	<b>573.5</b>	1,147	<b>1</b>	3 pending murder cases.
<b>Windham</b> (6 SAS ATTYS)	1	5	<b>476.33</b>	2,858	<b>2</b>	6 pending murder cases.
<b>Franklin</b> (6 SAS ATTYS)	1	5	<b>450</b>	2,705	<b>3</b>	4 pending murder cases.
<b>Rutland</b> (7 SAS ATTYS)	1	6	<b>424.42</b>	2,971	<b>4</b>	5 pending murder cases.
<b>Orleans</b> (5 SAS ATTYS)	1	4	<b>402</b>	2,010	<b>5</b>	8 pending murder cases.
<b>Caledonia</b> (5 SAS ATTYS)	1	4	<b>388.2</b>	1,941	<b>6</b>	9 pending murder cases.
<b>Bennington</b> (6 SAS ATTYS)	1	5	<b>357.66</b>	2,146	<b>7</b>	<b>16</b> pending murder cases.
<b>Addison</b> (3 SAS ATTYS)	1	2	<b>354</b>	1,062	<b>8</b>	3 pending murder cases.
<b>Orange</b> (2 SAS ATTYS)	1	1	<b>333</b>	666	<b>9</b>	2 pending murder cases.
<b>Essex</b> (1 SAS ATTY)	1	0	<b>322</b>	322	<b>10</b>	Part time SA.
<b>Washington</b> (7 SAS ATTYS)	1	6	<b>296.85</b>	2,078	<b>11</b>	4 pending murder cases.
<b>Chittenden</b> (15 SAS ATTYS)	1	14	<b>290.9</b>	4,364	<b>12</b>	<b>20</b> pending murder cases.
<b>Windsor</b> (6 SAS ATTYS)	1	5	<b>277.833</b>	1,667	<b>13</b>	3 pending murder cases.
<b>Grand Isle</b> (1 SAS ATTY)	1	0	<b>182</b>	182	<b>14</b>	Part time SA.

<sup>9</sup> Excluding appeals and investigations workload.

## **(3) CRIMINAL-ONLY SAS CASES**

**Chart 3. SNAPSHOT OF PENDING CRIMINAL-ONLY CASES**

- **21,619** pending “criminal”<sup>10</sup> cases are related to **13,216** persons.
  - **Repeat Offenses:** Of those persons with pending cases, **3,485 defendants had two or more dockets and represented 12,688 pending criminal dockets** (of the total pending 21,619 dockets). Meaning, nearly 60% (58.68%) of pending criminal dockets involve people with two or more dockets—alleged to have committed repeated criminal conduct (a docket may, typically, include multiple individual counts).
  - **Misdemeanors:**<sup>11</sup> **14,772** (note VT is one of the only states where the misdemeanor cut-off is the 2-year penalty, most states have the 1-year cut-off). **Felonies: 6,748** (83 pending murder cases, including attempt).
  - **Retail theft: 1,596** pending “retail” dockets. See below for all the pending dockets that include “retail” in the literal charge. Note, as with any filed *information*, a docket may have multiple counts, meaning that there may be many more counts of retail theft (e.g., you could have a 5-count *information* with 5 counts of retail theft in a single docket/case). Likely most retail theft cases are charged as a misdemeanor.
  - **Failure to Appear Arrest Warrants** (FTA Aws): **5,023** (1/1/23-12/29/23).

Case Status (All)										
Column Labels										
Row Labels	Felony		Misdemeanor		Fish and Game		Total Count of Case Number		Total Percent	
	Count of Case Number	Percent	Count of Case Number	Percent	Count of Case Number	Percent				
Chittenden Unit	1,147	17.00%	2,552	17.28%	11	11.11%			3,710	17.16%
Windham Unit	733	10.86%	1,776	12.02%	4	4.04%			2,513	11.62%
Rutland Unit	789	11.69%	1,705	11.54%	9	9.09%			2,503	11.58%
Bennington Unit	682	10.11%	1,190	8.06%	1	1.01%			1,873	8.66%
Orleans Unit	600	8.89%	1,149	7.78%	15	15.15%			1,764	8.16%
Franklin Unit	511	7.57%	1,204	8.15%	21	21.21%			1,736	8.03%
Washington Unit	498	7.38%	1,163	7.87%	9	9.09%			1,670	7.72%
Caledonia Unit	486	7.20%	1,170	7.92%	7	7.07%			1,663	7.69%
Windsor Unit	494	7.32%	983	6.65%	2	2.02%			1,479	6.84%
Lamoille Unit	280	4.15%	689	4.66%	7	7.07%			976	4.51%
Addison Unit	204	3.02%	527	3.57%	7	7.07%			738	3.41%
Orange Unit	175	2.59%	399	2.70%	2	2.02%			576	2.66%
Essex Unit	114	1.69%	171	1.16%	2	2.02%			287	1.33%
Grand Isle Unit	35	0.52%	94	0.64%	2	2.02%			131	0.61%
<b>Grand Total</b>	<b>6,748</b>	<b>100.00%</b>	<b>14,772</b>	<b>100.00%</b>	<b>99</b>	<b>100.00%</b>			<b>21,619</b>	<b>100.00%</b>

<sup>10</sup> “Criminal” only data DOES NOT include Appeals, Family Division matters (CHINS, Juvenile Delinquency, Youthful Offender, ERPOs), or Civil Division matters assigned to SAS (e.g., PCRs).

<sup>11</sup> Total counts for Violations of Conditions of Release (VCRs) (as of 1/9/24): 4605. Counts are distinct from dockets.

❖ **PENDING CRIMINAL-ONLY CASE DATA DOES NOT INCLUDE:**

- PCRS (Postconviction Relief) (civil division),
- ERPOS (civil matter handled in the family division),
- CHINS (family division),
- JUVENILE DELINQUENCIES (family division),
- YO CASES, (family division),
- SEARCH WARRANTS, INQUESTS, NTOS, SUBPOENAS DT,
- CASE REVIEW,
- THE ACTIVE AND RESOURCE INTENSIVE WORK FOR UNSOLVED CASES AND INVESTIGATION RELATED ACTIVITIES,
- PRE-CHARGE AND POST-CHARGED CASES BEING MONITORED OR PENDING,
- (THOSE APPEALS PENDING AT THE SUPREME COURT).

❖ **PENDING CRIMINAL-ONLY CASE DATA DOES INCLUDE:** (Note “inactive” is a misnomer.)

- ADULT DIVERSION CASES and ADULT TAMARACK CASES,
- ADULT PENDING EVALS (COMP EVALS) (nearly 400 pending as of 12/10/23),
- ONH CASES and OH CASES,
- VOPs,
- ARREST WARRANTS,
- ACTIVE / ACTIVE PRETRIAL / ACTIVE READY FOR TRIAL / ACTIVE UNDER ADVISEMENT / ACTIVE READY FOR SENTENCE,
- TREATMENT COURT CASES,
- PRE-ARRAINGMENT (docketed but not yet arraigned),
- SOME POST-JUDGMENT CASES.

**Chart 4. REPEAT CRIMINAL OFFENSES**



**REPEAT OFFENSES / BAIL / VCRs: TIMELINESS OF RESPONSE PROMOTES ACCOUNTABILITY**

## Repeat Offenses

Draft for discussion purposes

As of 12/10/23 there were **3,485 people with 12,688 pending dockets**. As of 12/10/23 there was 21,619 pending criminal cases. As such, 58.68% of all pending criminal cases were alleged *repeat offenders* (two or more pending criminal dockets).

- 8 people with 25 or more open dockets, representing 297 pending dockets.
- 20 people with 20 or more open dockets, representing 558 pending dockets.
- 59 people with 15 or more open dockets, representing 1,198 pending dockets.
- 157 people with 10 or more open dockets, representing 2,287 pending dockets.
- **689 people with 5 or more open dockets, representing 5,587 pending dockets.**

(Data Source, Vermont Judiciary 12/10/23)

Row Labels	Addison Unit	Bennington Unit	Caledonia Unit	Chittenden Unit	Essex Unit	Franklin Unit	Grand Isle Unit	Lamoille Unit	Orange Unit	Orleans Unit	Rutland Unit	Washington Unit	Windham Unit	Windsor Unit	Grand Total
Count of Defendants	136	341	339	740	71	399	40	201	147	372	454	376	374	278	
															<b>Grand Total</b>
															<b>Count</b>
															<b>12,688</b>
															<b>3,485</b>

- Data in chart above represents defendants *with two or more* pending dockets. Note a docket may include multiple counts.
- As noted above, the 3,485 people with 12,688 pending dockets are those defendants with *two or more* pending dockets. Meaning of the 21,619 pending criminal dockets – 12,688 relate to 3,485 persons. As such, nearly 60% of pending cases are persons alleged to have committed repeated criminal conduct.

**Chart 5. REPEAT CRIMINAL OFFENSES, SNAPSHOT TOP 20 PERSONS WITH MULTIPLE PENDING CRIMINAL DOCKETS**

- The chart below is snapshot of the top 20 persons with multiple pending dockets (pending dockets are in the column on the right and represent a total of 558 dockets amongst 20 persons).
- The data below represents those persons with the top 20 highest pending dockets as of 12/10/23.
  - A defendant in Windham has 74 pending dockets.
  - A defendant in Bennington has 47 pending dockets.
  - A defendant in Chittenden has 41 pending dockets.
  - A defendant has 13 pending dockets in Washington, 9 in Chittenden, and 7 in Caledonia.
  - A defendant has 27 pending dockets in Rutland and one pending docket in Addison.
  - In Rutland there are three defendants with over 20 pending dockets.
  - In Windham there are five defendants with 20 or more pending dockets.

B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Addison Unit	Bennington Unit	Caledonia Unit	Chittenden Unit	Essex Unit	Franklin Unit	Grand Isle Unit	Lamoille Unit	Orange Unit	Orleans Unit	Rutland Unit	Washington Unit	Windham Unit	Windsor Unit	Grand Total
	47											74		74
			41											47
		7	9								13			41
1										27				29
4	1									22				28
												26		27
			25											26
												24		25
												24		24
												24		24
										23				23
			22											22
		7							15					22
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21														21
			21											21
	21							1			20			21
												20		21
		20												20
														20

## **Chart 6. SNAPSHOT OF PENDING CRIMINAL-ONLY CASES ASSIGNED TO SAS ATTORNEYS**

- As of 12/10/23 there were 21,539 pending SAS-related “criminal” cases.<sup>12</sup> 21,539 divided by (14 State’s Attorneys plus 58 Deputies) results in an average criminal caseload of **299.15**.
  - **To achieve an average caseload of 250 “criminal” cases per SAS attorney, there would need to be 86 total SAS attorney positions at the county level (21,539 / 86 = 250.45). As such, 14 new attorneys would need to be hired to achieve a caseload of 250 criminal cases per SAS attorney.**
  - To achieve an average caseload of 230 “criminal” cases per SAS attorney, there would need to be 93 SAS attorney positions (21,539 / 92 = 231.601). As such, 21 new attorneys would need to be hired to achieve a caseload of 230 criminal cases per SAS attorney.

Case Status (All)									
Column Labels									
Row Labels	Felony		Misdemeanor		Fish and Game		Total Count of Case Number		Total Percent
	Count of Case Number	Percent	Count of Case Number	Percent	Count of Case Number	Percent			
Chittenden Unit	1,147	17.00%	2,552	17.28%	11	11.11%	3,710	17.16%	
Windham Unit	733	10.86%	1,776	12.02%	4	4.04%	2,513	11.62%	
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Bennington Unit	682	10.11%	1,190	8.06%	1	1.01%	1,873	8.66%	
Orleans Unit	600	8.89%	1,149	7.78%	15	15.15%	1,764	8.16%	
Franklin Unit	511	7.57%	1,204	8.15%	21	21.21%	1,736	8.03%	
Washington Unit	498	7.38%	1,163	7.87%	9	9.09%	1,670	7.72%	
Caledonia Unit	486	7.20%	1,170	7.92%	7	7.07%	1,663	7.69%	
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Grand Isle Unit	35	0.52%	94	0.64%	2	2.02%	131	0.61%	
<b>Grand Total</b>	<b>6,748</b>	<b>100.00%</b>	<b>14,772</b>	<b>100.00%</b>	<b>99</b>	<b>100.00%</b>	<b>21,619</b>	<b>100.00%</b>	

It was noted at the Joint Hearing of 1/10/2024 that: 10-14 Deputy State's Attorneys, 6 Victim Advocates, and 8 Administrative staff would assist the Department in reducing SAS staff workloads and reduce attorney and victim advocate caseloads. 10-14 Deputy State's Attorneys would assist the Department in reducing the criminal-only caseloads (as of current data) of SAS attorneys (to achieve 250-275 criminal cases per attorney).

<sup>12</sup> 21,539 is the total of pending criminal division cases likely assigned to SAS attorneys, which excludes the criminal cases known to be assigned to known to be assigned to AGO attorneys. Pending “criminal” data does not include cases in the Family Division (*CHINS, ERPOS, Juvenile Delinquency, Youthful Offender*) or the Civil Division (*e.g., PCRs*) assigned to SAS ATTYS. Pending criminal data also does not include appeals or investigation related workload.

## **Chart 7. PENDING “CRIMINAL-ONLY” SAS CASELOAD CHART: RANKED BY ORDER OF AVERAGE CRIMINAL CASELOAD BY COUNTY**

➤ PENDING “CRIMINAL ONLY” CASES: 21,539.<sup>13</sup> Data in the charts below DOES NOT include Appeals, Family Division matters (CHINS, Juvenile Delinquency, Youthful Offender, ERPOs), or Civil Division matters assigned to SAS (e.g., PCRs).

COUNTY (SAS ATTY POSITIONS IN SAO)	STATE’S ATTORNEY	DEPUTY STATE’S ATTORNEYS (DSAS)	PENDING CRIMINAL CASELOAD AVERAGE AS OF 12/10/23	TOTAL PENDING CRIMINAL CASES AS OF 12/10/23	PENDING CRIMINAL CASELOAD RANK ACCORDING TO AVERAGE ATTY CASELOAD	NOTES:
Lamoille (2 SAS ATTYS)	1	1	488	976	1	<a href="#">3 pending murder cases.</a>
Windham (6 SAS ATTYS)	1	5	418.833	2513	2	<a href="#">6 pending murder cases.</a>
Rutland (7 SAS ATTYS)	1	6	357.6	2503	3	<a href="#">5 pending murder cases.</a>
Orleans (5 SAS ATTYS)	1	4	352.8	1764	4	<a href="#">8 pending murder cases.</a>
Caledonia (5 SAS ATTYS)	1	4	332.6	1663	5	<a href="#">9 pending murder cases.</a>
Bennington (6 SAS ATTYS)	1	5	312.2	1873	6	<a href="#">16 pending murder cases.</a>
Franklin (6 SAS ATTYS)	1	5	289.3	1736	7	<a href="#">4 pending murder cases.</a>
Orange (2 SAS ATTYS)	1	1	288	576	8	<a href="#">2 pending murder cases.</a>
Essex (1 SAS ATTY)	1	0	287	287	9	Part time SA. No pending murder cases.
Chittenden (15 SAS ATTYS)	1	14	247.3	3710	10	<a href="#">20 pending murder cases.</a>
Windsor (6 SAS ATTYS)	1	5	246.5	1479	11	<a href="#">3 pending murder cases.</a>
Addison (3 SAS ATTYS)	1	2	246	738	12	<a href="#">3 pending murder cases.</a>
Washington (7 SAS ATTYS)	1	6	238.6	1670	13	<a href="#">Note: 4 pending murder cases.</a>
Grand Isle (1 SAS ATTY)	1	0	131	131	14	Part time SA. No pending murder cases.

<sup>13</sup> 21,539 is the total of pending criminal division cases assigned to SAS attorneys, which excludes the criminal cases known to be assigned to known to be assigned to AGO attorneys.

**Chart 8. CRIMINAL-ONLY CASES BY SAS-PROSECUTORS w/OVER 300 CASES (12/10/23 data)**

Count of Case Number	Column Labels			
Row Labels	Felony	Misdemeanor	Fish and Game	Grand Total
Leyva, Farzana K.	263	465	3	731
Shriver, Tracy Kelly	162	530		692
Shove, Todd A.	165	495	6	666
Plunkett, Robert F.	259	382		641
Gartenstein, David W.	207	404		611
Bathey, Nicholas R.	116	478	3	597
Richards, Ryan	153	420		573
Zaleski, Jessica E.	189	377	6	572
Byford, Maria L.	204	307	2	513
Olney, Kelton D.	135	342	10	487
Wheeler, Diane C.	205	260	5	470
Bevacqua, Andrew P.	81	367		448
Raleigh, Daron	183	251		434
Novick-Smith, Eliza Z	129	289		418
Bevere, Peter M.	122	279	2	403
Paul, Thomas Ryan	106	274		380
Hughes, James A.	67	296	15	378
Goodenough, Ward Hunt	117	257	1	375
Olteanu, Corina	81	283	8	372
Donnelly, Michelle	143	225		368
Brown, Arthur O.	97	257	4	358
Burke, Alexander N.	137	216	1	354
Brown, Steven M.	130	215	4	349
Sturges, Alexandra D.	77	271		348
Shane, Patricia C.	32	295	2	329
Baker, Sarah A.	70	249	2	321
Sullivan, Ian C.	117	203		320
Pijanowski, Emily Page	92	225		317
George, Sarah F.	99	209		308

## Retail Theft Data (12/10/23)

	Addison	Bennington	Caledonia	Chittenden	Essex	Franklin	Grand Isle	Lamoille	Orange	Orleans	Rutland	Washington	Windham	Windsor	Grand Total
<b>Grand Total Retail Theft Dockets</b>	35	69	41	608	4	117	1	59	12	98	270	144	94	44	1,596
Docket total as % of Statewide total	2.19%	4.32%	2.57%	38.10%	0.25%	7.33%	0.06%	3.70%	0.75%	6.14%	16.92%	9.02%	5.89%	2.76%	100%
2020 Census population	37,363	37,347	30,233	168,323	5,920	49,946	7,293	25,945	29,277	27,393	60,572	59,807	45,905	57,753	643,077
Population as % of State population	5.81%	5.81%	4.70%	26.17%	0.92%	7.77%	1.13%	4.03%	4.55%	4.26%	9.42%	9.30%	7.14%	8.98%	100%
Difference between % of RT dockets and % of population	-3.62%	-1.48%	-2.13%	11.92%	-0.67%	-0.44%	-1.07%	-0.34%	-3.80%	1.88%	7.50%	-0.28%	-1.25%	-6.22%	0%

## Diversion Data (2023)

SAS attorneys continue to heavily utilize restorative justice and court diversion. In 2023:

- 1,531 Adult Diversion Referrals and 357 Tamarack Referrals Occurred in the Criminal Division (20% of all new Misd Charges);
- 244 Delinquencies were sent to Diversion (35% of delinquency filings were to sent to diversion);
- 87 YO cases were sent to Diversion (28% of YO filings were sent to diversion).
- Countless hundreds of cases are declined and deflected each year by SAS attorneys and also referred to pre-charge programming.

## (FTA Warrants)

### **FTAs (Failure to Appear)**

➤ From 1/1/23 to 12/29/23 – there were **5023 FTA ARREST WARRANTS (AW)**.

✓ Note: Sometimes Judges may not issue a FTA warrant even when someone fails to appear (e.g., a Judge may wish reschedule the person for another arraignment date or provides defense attorney further time to locate client). Or a Judge will intend to issue a FTA AW but then the defendant eventually appears prior to COB and the warrant never issues (sometimes a person who FTAs may become aware of the potential for an AW and in response appear in court after hearing time. Or def appears after learning that they had missed the appearance by other means and as such FTA AW is never issued).

**Chart 9. SAS VICTIM ADVOCATE AVERAGE CASELOAD ESTIMATES**

SAS Victim Advocates are critical positions in Vermont’s efforts to ensure that victims’ rights are protected, and services are accounted for.<sup>14</sup> It should be noted that some advocates in Vermont carry a caseload far greater than 700. Because Vermont has legislated that SAS Victim Advocates have a substantial amount of responsibility; our state must invest in adequate staffing of Victim Advocates. The current estimated caseload for SAS victim advocates: 665/per SAS VA.

VA	CASELOAD*	COUNTY
Addison - Dutton	410	ADDISON
Addison - Bowdish	100	ADDISON (Assigned to Addison SAO, works for WomenSafe)
Bennington - Loveland	560	BENNINGTON
Bennington - Kalinowski	475	BENNINGTON
Caledonia - Gould	660	CALEDONIA
Caledonia - Colby	445	CALEDONIA
Chittenden - Dziobek	300	CHITTENDEN (Assigned to CUSI)
Chittenden - Burns	1375	CHITTENDEN
Chittenden - Ferrer	900	CHITTENDEN
Chittenden - Panagoulis	1290	CHITTENDEN
Essex - Thibault	165	ESSEX
Franklin - Woodward	1630	FRANKLIN
Franklin - Boyce	825	FRANKLIN
Grand Isle - Sicard	310	GRAND ISLE
Lamoille - Rooney / Jones JOB SHARE	750	LAMOILLE
Orange - Bickelman	350	ORANGE
Orleans - Vos SPLIT	427.5	ORLEANS
Orleans - Visan SPLIT	427.5	ORLEANS
Rutland - Gaiotti	1,100	RUTLAND
Rutland - Kennedy	740	RUTLAND
Washington - Leach	650	WASHINGTON
Washington - Vacant	650	WASHINGTON
Windham - Scott	575	WINDHAM
Windham - Lukasik	700	WINDHAM
Windham - Sell-Knapp	360	WINDHAM
Windsor - King-Childs	900	WINDSOR
Windsor - Place	900	WINDSOR
<b>TOTAL</b>	<b>17975</b>	<b>TOTAL</b>
	<b>665/per VA</b>	<b>AVERAGE</b>

<sup>14</sup> See “System-based victim advocates identify resources and barriers to supporting crime victims,” (weblink <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9837801/pdf/nihms-1860998.pdf>) (“Frequently advocates carry a caseload between 400 and 700 cases a year, making it impossible to provide the level of relationship building and care needed.”).

# (4) DECREASING TIME TO DISPOSITION & CASELOAD MANAGEMENT

**Statewide Criminal Clearance Rate Data Through December By County (Below)**

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
		2022 December	2023 January	2023 February	2023 March	2023 April	2023 May	2023 June	2023 July	2023 August	2023 September	2023 October	2023 November	2023 December	
2	Addison	207%	69%	133%	300%	91%	75%	98%	89%	62%	76%	111%	86%	85%	
3	Bennington	59%	97%	132%	62%	92%	111%	65%	95%	88%	88%	128%	101%	130%	
4	Caledonia	93%	63%	85%	200%	197%	179%	71%	72%	99%	130%	94%	98%	75%	
5	Chittenden	75%	114%	67%	105%	122%	83%	80%	107%	69%	118%	88%	78%	95%	
6	Essex	114%	85%	136%	325%	94%	125%	65%	78%	77%	108%	100%	183%	150%	
7	Franklin	128%	101%	91%	217%	105%	62%	135%	111%	89%	80%	99%	140%	85%	
8	Grand Isle	100%	120%	110%	85%	64%	72%	130%	263%	67%	75%	55%	240%	113%	
9	Lamoille	74%	57%	95%	85%	191%	239%	119%	154%	113%	102%	179%	166%	87%	
10	Orange	83%	65%	94%	86%	88%	90%	94%	58%	56%	90%	122%	161%	178%	
11	Orleans	59%	75%	75%	147%	101%	83%	114%	68%	115%	109%	145%	96%	110%	
12	Rutland	142%	108%	106%	114%	153%	117%	109%	105%	138%	160%	115%	123%	136%	
13	Washington	124%	147%	122%	114%	83%	107%	91%	64%	109%	97%	98%	87%	90%	
14	Windham	124%	101%	112%	275%	117%	104%	64%	92%	93%	97%	108%	119%	93%	
15	Windsor	121%	84%	130%	136%	111%	129%	73%	98%	111%	109%	102%	122%	79%	

**Statewide Criminal Clearance Rate Data Through November (Below)**

CRIMINAL				
StartOf	ClearanceRate	Total Incoming	Total Outgoing	
2022-12	110%	1,539	1,696	
2023-01	112%	1,919	2,142	
2023-02	110%	1,674	1,840	
2023-03	107%	1,956	2,101	
2023-04	119%	1,627	1,939	
2023-05	111%	1,852	2,051	
2023-06	94%	1,914	1,797	
2023-07	102%	1,640	1,666	
2023-08	95%	2,072	1,969	
2023-09	107%	1,793	1,924	
2023-10	107%	2,027	2,161	
2023-11	100%	1,361	1,366	
Average	106%			

**Statewide Juvenile Clearance Rate Data Through November (Below)**

JUVENILE				
StartOf	ClearanceRate	Total Incoming	Total Outgoing	
2022-12	79%	165	131	
2023-01	123%	152	187	
2023-02	113%	125	141	
2023-03	85%	163	138	
2023-04	99%	142	140	
2023-05	92%	165	151	
2023-06	79%	172	136	
2023-07	90%	121	109	
2023-08	87%	128	111	
2023-09	112%	124	139	
2023-10	85%	171	146	
2023-11	103%	100	103	
Average	96%			

## REPEAT OFFENSES / BAIL / VCRs: TIMELINESS OF RESPONSE PROMOTES ACCOUNTABILITY

- **Closing the gap in time between date of offense and date of consequences** will also decrease repeat-offense, misdemeanor, first-time offenders, and VCR accountability, particularly, for lower-level community criminal conduct.
- **Immediacy is an essential ingredient** as well as **certainty of a date where consequences could occur**.

- **It is better for the Defendant, Victim, and Community to reduce time period between arrest-date and date of potential consequences.** For lower-level crime: **date of arrest is too far removed from final disposition...**
- **On the rise: “lower-level” community crime** (e.g., VCRs, Simple Assault, Driving-related conduct, Dis.Conduct, VAPOs, Interference w/Access to Emergency Services, Petit Larceny, Retail Theft, Unlawful Mischief, Unlawful Trespass, etc. in Vermont. Even amongst “lower-level” offenses, we are seeing an increase in violent-conduct and gun-related incidents).
- **Not unusual for defendants with 10-15 pending dockets** (increase in cycles of noncompliance w/repeated VCRs).

- ✓ **Stricter timelines for those with VCRs and expanded court time for those held on misdemeanor bail, or on elevated conditions of release (#4, curfew, etc.)** (complexities abound: MH, Substance Use, Housing, Generational Poverty, DV/SV violence, etc.).
- ✓ **VCRs.** The State may pursue criminal contempt for VCRs and may file criminal charges for VCRS - but what other tools could be pursued to expedite VCR-related cases and increase accountability for lack of compliance with COR and repeat-offense cases? Should there be enhanced expedited pathway for Civil Contempt relating to elevated-conditions VCRs?

Source. Rep. LaLonde, Pres. 12.19.23

## Roles of the Criminal Justice System

- Retribution, rehabilitation, incapacitation, and deterrence
- Deterrence: Probability and Severity of Consequences
- Many studies find that the probability of consequences deters more than the severity of punishment.
- Probability of Consequences
  - Chances of Being Caught
  - Certainty and Expediency of Consequences
- Rubb, T., Meta Analysis of Crime and Deterrence: A Comprehensive Review of Literature (2008)

- **Should Vermont provide for expedited VCR enforcement scheme whereby VCR-related cases take priority?**
- Should those convicted of a VCR or certain repeat offenses no longer be eligible for midpoint review or other consequences?
- **If one of the goals of criminal justice system is public safety**, we have seen in practice that the longer the timeframe from offense to consequences, for lower-level crimes (VCRs, dc, pl, um, etc.), that there is an increase in chances/opportunities to re-offend. Lack of timeliness sends a message that criminal conduct is not going to be met with a response, particularly, if while awaiting trial, multiple VCRs and/or FTAs occur with no detention or imposition of bail to mitigate “risk” of flight from prosecution.

## THOUGHTS ON MANAGEMENT OF CASELOADS?

- ▶ Each county has a different story to tell and are not easily summarized by numbers alone. Some caseloads are influenced by policies concerning case acceptance, disposition and resolution (e.g. referrals to community justice in lieu of creating a criminal docket or referral to diversion pre or post charge...) or philosophy on sentencing or plea offers). Covid 19, historical backlog unrelated to Covid 19, defense practices, law enforcement practices, health events, mental health concerns and systemic issues, judicial oversight and discretion, passage of new laws or changes to existing law or caselaw, and complexity of individual cases have tremendous impact on the potential timeline for case disposition.
- ▶ Informal case reviews that occur where a case is never generated or where the case was *pre-pre* diverted per discretion, but this is another way to decrease incoming cases based on case-by-case analysis.
- ▶ The court ecosystem entailing prosecutors, the defense bar, law enforcement, DCF, DOC, amongst others, and the judiciary – ALL PLAY A ROLE in the efficiency and timeliness of case processing – and will impact the endpoint outcomes.
- ▶ Stipulated Rule 48 (Franklin, 2021, Judge Maley e.g.) V.R.Cr.P. 48(b) provides that the court may dismiss a charge or docket:
  - ▶ (1) If the prosecution does not bring the defendant to trial within such time as the Supreme Court may provide by Administrative Order, or (2) If the court concludes that such dismissal will serve the ends of justice and the effective administration of the court’s business. Unless the court directs that the dismissal is with prejudice, the dismissal shall be without prejudice.
- ▶ Each county (Judges, Defense Bar, and Prosecution) should be encouraged to assess county data and make efforts to “clean up” or review cases outside of the active docket to minimize future work and to focus on the most critical cases at hand.
- ▶ Work closely with your County Court Judges and Staff, along with Defense Bar, to customize your approach in your county to go over the data and provide support in reducing the backlog and caseload concerns.

## Charging Decisions

- “We are all equally subject to the same legislatively conferred *prosecutorial discretion* to proceed . . . as the circumstances may seem to justify in a given case.... **Prosecutorial discretion** in charging decisions is no stranger to our law, and is entirely consistent with our Constitution....”  
Source: *State v. Rooney*, 2011 VT 14, ¶ 28 (internal citation omitted).
- State’s Attorneys and their deputies have the discretion/authority to charge someone with a crime or not charge someone with a crime. This discretion is true even when a victim does not wish for a prosecution to continue. This discretion is true even when a prosecutor chooses not to proceed with prosecution even when there is evidence and a victim would like the prosecution to proceed.
- **Prosecutor’s Options:** (1) decline charges; (2) hold/return for further investigation; (3) bring charges and file “criminal information” with the court (creates a docket); (4) refer to diversion program (may occur pre or post-arraignment); (5) refer the matter to CJC or other community programming (may occur pre or post-arraignment); or (6) utilize other alternative pathways/agreements to resolve the matter.
- **In practice:** a set of choices are available to divert a case from the trial track, ranging from CJC referrals, either pre-charge or post-charge/post-arraignment, diversion referrals, “Tamarack” referrals, and even in the midst of traditional criminal court track, there may a Treatment Court option or other alternative pathways.
- **Off-Ramps/Alts.to Justice Pathways:** Treatment Court/Diversion/CJCs/Other Programming (“prosecutorial discretion” is key).
- Only a Judge or State’s Attorney (or deputy) may dismiss the charge after it is filed.
- ***Prosecutorial Discretion is Foundational to the Criminal Justice System!***



Department of State's Attorneys and Sheriffs

# CRIMINAL JUSTICE PROCESS

*This presentation was prepared for educational purposes and may be subject to change.*

## Relevant Statutory Guidance Followed by Prosecutors

- Pretrial Services/Diversion: 3 V.S.A. § 164(b)(1)-(2) & (e)(1)
- Bail/Conditions of Release: 13 V.S.A. § 7554
- Pretrial Discovery: V.R.Cr.P. 15, 16, & 16.22
- Sentencing Alternatives: 13 V.S.A. § 7030
- Collateral Consequences: 13 V.S.A. § 8005
- Community Justice Centers: 24 V.S.A. ch. 58
- “Listed Crimes”:  
13 V.S.A. § 5301(7)
- “Big 12” Crimes:  
33 V.S.A. § 5204
- Vermont Model Criminal Jury Instructions ([vtjuryinstructions.org](http://vtjuryinstructions.org))

### VT Avenues for Appeal

1. Direct appeal;
2. Motion for new trial;
3. Motion to reconsider sentence;
4. PCR;
5. Habeas corpus;
6. Corum nobis;
7. Expungement;
8. Sealing; and
9. Certificate of restoration of rights;

### Non-Conviction Outcomes

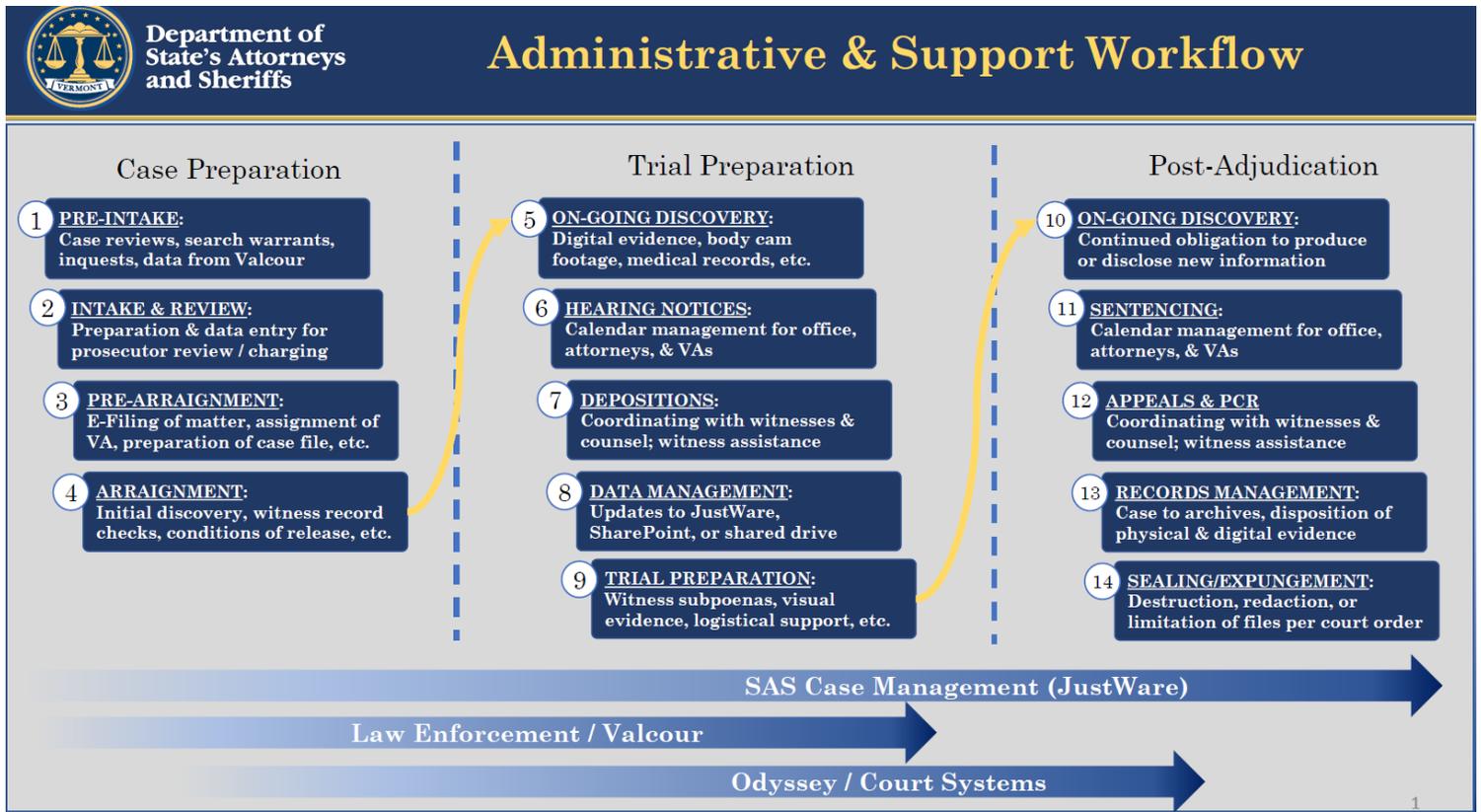
1. Diversion;
2. A CJC referral;
3. Tamarack;
4. Delinquency proceeding;
5. Youthful offender proceeding;
6. Deferred sentence.

### Final Note on RJ Pathways

In practice, there is spectrum of possibilities for both pre-charge and post-charge diversionary pathways, ranging from the following, but not limited to:

- *Pre-Charge Community Justice Center (“CJC”) referrals;*
- *Post-Charge/Post-Arrestment CJC referrals;*
- *Post-Charge County Diversion Program referrals;*
- *Post-Charge “Tamarack” referrals;*
- *Traditional Criminal Court Track where a referral to a CJC, County Diversion Program, or other community programming may take place post-charge/post-arrestment and further along in the process, including at a status conference or pre-trial conference, and where a pre-charge or diversion opportunity was not initially considered but is later suggested/referred with an active docket.*

**APPENDIX 1. (SAS ADMIN WORKFLOW)**



**Administrative & Support Workflow**

**SAS Administrative Assistants & Support Secretaries are Integral to Our Mission**

- Play a role in every aspect of case progression – from initial intake to case disposition.
- Must be proficient and rely upon multiple case management or filing systems – JustWare, Odyssey eFile, Valcour, and other modern methodologies for transfer of data from law enforcement.
- Administrative and support staff are on the front line of emergencies and critical filings – frequently only hours to prepare emergency cases for court (homicides/attempted homicides, complex domestic assaults, etc.)
- Digital era has increased workload – paperless case management and filing means more preparation time – formatting and redacting information, etc. Disparate case management systems between all parties generates significant inefficiencies in processes.
- Obligations to support reception, case preparation, on-going discovery, attorney calendars, and other office events requires significant knowledge, experience within the system, and flexibility to meet our public safety mission – many matters cannot wait.

**APPENDIX 2. (ACTIVE SERIOUS/MAJOR VIOLENCE CASES BY COUNTY) (211)**

Offense types: active homicide/murder related cases (homicide, all forms of murder and attempts, including 1st, 2nd), including manslaughter and attempts, all forms of death resulting, and agg assaults). Excludes sexual assault cases and other violent offense types.

Addison Unit		
Offense Code	Offense Description	Cases
153	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - THREATEN WITH DEADLY WEAPON	1
2309	DUI #3 - DRUG OR BOTH - DEATH RESULTING	1
369	MANSLAUGHTER	2
364	MURDER - 2ND DEGREE	2
365	MURDER - 2ND DEGREE - ATTEMPT	3
<b>Sub-Total Count:</b>		<b>9</b>

Bennington Unit		
Offense Code	Offense Description	Cases
2409	ACCESSORY - ATTEMPT - MURDER - 1ST DEG	1
2281	ACCESSORY AIDING IN THE COMMISSION - AGGRAVATED ASSAULT WITH DEADLY WEAPON	3
2245	ACCESSORY BEFORE THE FACT - AGGRAVATED ASSAULT	1
149	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - PREVENT EXERCISE OF LAWFUL DUTY	1
2257	ATTEMPTED AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - PREVENT EXERCISE OF LAWFUL DUTY	3
2145	DISPENSING HEROIN - DEATH RESULTING	1
369	MANSLAUGHTER	1
367	MURDER - 1ST DEGREE	2
2295	MURDER - 1ST DEGREE - AIDING IN THE COMMISSION	1
364	MURDER - 2ND DEGREE	2
365	MURDER - 2ND DEGREE - ATTEMPT	17
850	SELLING OR DISPENSING A REGULATED DRUG W/ DEATH RESULTING	5
18V4250AD	SELLING OR DISPENSING A REGULATED DRUG WITH DEATH RESULTING	1
<b>Sub-Total Count:</b>		<b>39</b>

Caledonia Unit		
Offense Code	Offense Description	Cases
2245	ACCESSORY BEFORE THE FACT - AGGRAVATED ASSAULT	1
149	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - PREVENT EXERCISE OF LAWFUL DUTY	1
137	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - SERIOUS BODILY INJURY	2
153	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - THREATEN WITH DEADLY WEAPON	3
13V1024A41028A1	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER-PREVENT EXERCISE OF LAWFUL DUTY	1

*1/10/24 Draft Discussion Notes (data as of 12/10/23) – Department of State’s Attorneys and Sheriffs (“SAS” or “the Department”)*

Offense Code	Offense Description	Cases
2275	AIDING IN THE COMMISSION - AGGRAVATED ASSAULT	1
367	MURDER - 1ST DEGREE	1
2295	MURDER - 1ST DEGREE - AIDING IN THE COMMISSION	4
366	MURDER - 1ST DEGREE - ATTEMPT	1
364	MURDER - 2ND DEGREE	1
365	MURDER - 2ND DEGREE - ATTEMPT	2
13V23011D	MURDER-1ST DEG	1
850	SELLING OR DISPENSING A REGULATED DRUG W/ DEATH RESULTING	2
18V4250AD	SELLING OR DISPENSING A REGULATED DRUG WITH DEATH RESULTING	1
<b>Sub-Total Count:</b>		<b>22</b>

Chittenden Unit		
Offense Code	Offense Description	Cases
2409	ACCESSORY - ATTEMPT - MURDER - 1ST DEG	1
2281	ACCESSORY AIDING IN THE COMMISSION - AGGRAVATED ASSAULT WITH DEADLY WEAPON	1
AA	AGGRAVATED ASSAULT	1
149	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - PREVENT EXERCISE OF LAWFUL DUTY	1
2402	CONSPIRACY - MURDER - 1ST DEGREE	2
2145	DISPENSING HEROIN - DEATH RESULTING	1
369	MANSLAUGHTER	1
MUR	MURDER	2
367	MURDER - 1ST DEGREE	3
13V23011D3	MURDER - 1ST DEGREE - AIDING IN THE COMMISSION	1
366	MURDER - 1ST DEGREE - ATTEMPT	2
364	MURDER - 2ND DEGREE	5
365	MURDER - 2ND DEGREE - ATTEMPT	10
13V23011D	MURDER-1ST DEG	2
13V23012D	MURDER-2ND DEG	1
13V23012D9	MURDER-2ND DEG/ATTEMPT	1
850	SELLING OR DISPENSING A REGULATED DRUG W/ DEATH RESULTING	1
<b>Sub-Total Count:</b>		<b>36</b>

Franklin Unit		
Offense Code	Offense Description	Cases
AA	AGGRAVATED ASSAULT	3
139	AGGRAVATED ASSAULT ON A CORRECTIONS OFFICER - SERIOUS BODILY INJURY	2
13V1024A11028AA1	AGGRAVATED ASSAULT ON A CORRECTIONS OFFICER-SERIOUS BODILY INJURY	2
137	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - SERIOUS BODILY INJURY	2
153	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - THREATEN WITH DEADLY WEAPON	2
367	MURDER - 1ST DEGREE	1
366	MURDER - 1ST DEGREE - ATTEMPT	1
364	MURDER - 2ND DEGREE	1
365	MURDER - 2ND DEGREE - ATTEMPT	1
13V23012D9	MURDER-2ND DEG/ATTEMPT	1
850	SELLING OR DISPENSING A REGULATED DRUG W/ DEATH RESULTING	1
<b>Sub-Total Count:</b>		<b>17</b>
Lamoille Unit		
Offense Code	Offense Description	Cases
AA	AGGRAVATED ASSAULT	2
364	MURDER - 2ND DEGREE	2
365	MURDER - 2ND DEGREE - ATTEMPT	1
13V23012D	MURDER-2ND DEG	1
<b>Sub-Total Count:</b>		<b>6</b>

Orange Unit		
Offense Code	Offense Description	Cases
2281	ACCESSORY AIDING IN THE COMMISSION - AGGRAVATED ASSAULT WITH DEADLY WEAPON	1
153	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - THREATEN WITH DEADLY WEAPON	1
369	MANSLAUGHTER	2
364	MURDER - 2ND DEGREE	2
365	MURDER - 2ND DEGREE - ATTEMPT	1
<b>Sub-Total Count:</b>		<b>7</b>

Orleans Unit		
Offense Code	Offense Description	Cases
2281	ACCESSORY AIDING IN THE COMMISSION - AGGRAVATED ASSAULT WITH DEADLY WEAPON	4
137	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - SERIOUS BODILY INJURY	1
153	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - THREATEN WITH DEADLY WEAPON	1
369	MANSLAUGHTER	1
366	MURDER - 1ST DEGREE - ATTEMPT	4
364	MURDER - 2ND DEGREE	1
365	MURDER - 2ND DEGREE - ATTEMPT	4
13V23012D9	MURDER-2ND DEG/ATTEMPT	2
<b>Sub-Total Count:</b>		<b>18</b>

Rutland Unit		
Offense Code	Offense Description	Cases
AA	AGGRAVATED ASSAULT	3
141	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - BODILY INJURY WITH A DEADLY WEAPON	2
149	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - PREVENT EXERCISE OF LAWFUL DUTY	2
137	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - SERIOUS BODILY INJURY	2
13V2304	MANSLAUGHTER	1
369	MANSLAUGHTER	2
MUR	MURDER	1
367	MURDER - 1ST DEGREE	1
364	MURDER - 2ND DEGREE	3
13V23012D	MURDER-2ND DEG	2
13V23012D9	MURDER-2ND DEG/ATTEMPT	1
<b>Sub-Total Count:</b>		<b>20</b>

Washington Unit		
Offense Code	Offense Description	Cases
153	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - THREATEN WITH DEADLY WEAPON	1
13V1024A51028A1	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER-THREATEN WITH DEADLY WEAPON	1
369	MANSLAUGHTER	2
364	MURDER - 2ND DEGREE	1

Washington Unit		
Offense Code	Offense Description	Cases
365	MURDER - 2ND DEGREE - ATTEMPT	4
372	MURDER - AGGRAVATED	2
13V23012D	MURDER-2ND DEG	1
13V23119	MURDER-AGG/ATTEMPT	1
850	SELLING OR DISPENSING A REGULATED DRUG W/ DEATH RESULTING	1
<b>Sub-Total Count:</b>		<b>14</b>

Windham Unit		
Offense Code	Offense Description	Cases
AA	AGGRAVATED ASSAULT	2
AA1	AGGRAVATED ASSAULT 1ST DEGREE	1
367	MURDER - 1ST DEGREE	1
364	MURDER - 2ND DEGREE	5
365	MURDER - 2ND DEGREE - ATTEMPT	1
372	MURDER - AGGRAVATED	2
18V4250AD	SELLING OR DISPENSING A REGULATED DRUG WITH DEATH RESULTING	1
<b>Sub-Total Count:</b>		<b>13</b>
Windsor Unit		
Offense Code	Offense Description	Cases
139	AGGRAVATED ASSAULT ON A CORRECTIONS OFFICER - SERIOUS BODILY INJURY	1
137	AGGRAVATED ASSAULT ON A LAW ENFORCEMENT OFFICER - SERIOUS BODILY INJURY	1
MUR	MURDER	1
364	MURDER - 2ND DEGREE	1
365	MURDER - 2ND DEGREE - ATTEMPT	3
850	SELLING OR DISPENSING A REGULATED DRUG W/ DEATH RESULTING	1
18V4250AD	SELLING OR DISPENSING A REGULATED DRUG WITH DEATH RESULTING	2
<b>Sub-Total Count:</b>		<b>10</b>

**Total Count: (211)**

**APPENDIX 3. BAIL/VCRS: COMMUNITY EXPECTATIONS V. REALITY**

*Draft for discussion purposes*

- **“HOLD WITHOUT BAIL.”** Defs can only be held without bail for certain crimes of violence (13 V. 7553a) & life offenses (13 V. 7553) – very limited circumstances.
- **IMPOSITION OF BAIL.** Cash bail is a tool utilized by Judges, in Vermont, only to secure appearances / AND per our bail statute, “mitigate the risk of flight from prosecution.” 13 V. 7554(a)(1).
  - **13 V. 7554(a)(1). COURTS CONSIDER . . .** the following factors when imposing bail and mitigating risk of flight from prosecution: {13 V. 7554(a) + Caselaw}: “in addition to any other factors...” the seriousness, number of offenses, the nature and circumstances of the offense charged etc. amongst others. State v. Pratt (2017). Often prior failures to appear (FTAs) are heavily relied upon in the bail analysis.
  - **THE CURRENT DEFINITION OF 13 V. 7576 (9)** . . . does not expressly include contemplation of VCRs but “flight from prosecution” means any action or behavior undertaken by a person charged with a criminal offense to avoid court proceedings.”
- **NOTES AND QUESTIONS:**
  - **Bail.** What is missing in the 7576 and 7554 analysis? Express mention of VCRs? What can be done to ensure efficient and expedient prosecution to close gap between offense date and consequences?
  - **VCRs.** The State may pursue criminal contempt for VCRs / may file criminal charges for VCRS but what other tools could be pursued to expedite VCR-related cases and increase accountability for lack of compliance with VCR-related cases? Enhanced expedited pathway for Civil Contempt for elevated-conditions VCRs?
  - Many reference 13 V. 7575 “revocation” for VCRs etc. but 7575 is seldom requested given the high bar set by caselaw, amongst other reasons. If this statute is to have meaning, what can be done to improve its ability to be used in practice?

**APPENDIX 4. PENDING VCRS AS OF 1/9/2024**

CONFIDENTIAL VCR-CASETYPES: 88

PUBLIC-LIMITED VCR COUNTS (SEE BELOW BY COUNTY): 4517

**TOTAL: 4605**

Cases by Offense Code Report

VTPROD

Date Range: 01/01/1900 to 01/09/2024    Sort Order: Case Number    Case Type: Felony,Misdemeanor  
Summary

Addison Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	12
728	VIOLATION OF CONDITIONS OF RELEASE	113
Sub-Total Count:		125

Bennington Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	55
728	VIOLATION OF CONDITIONS OF RELEASE	325
Sub-Total Count:		380

Caledonia Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	123
728	VIOLATION OF CONDITIONS OF RELEASE	414
Sub-Total Count:		537

Chittenden Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	66
728	VIOLATION OF CONDITIONS OF RELEASE	418
Sub-Total Count:		484

Essex Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	25
728	VIOLATION OF CONDITIONS OF RELEASE	65
Sub-Total Count:		90

Franklin Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	57
728	VIOLATION OF CONDITIONS OF RELEASE	95
Sub-Total Count:		152

Grand Isle Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	9
728	VIOLATION OF CONDITIONS OF RELEASE	10
Sub-Total Count:		19

Lamoille Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	20
728	VIOLATION OF CONDITIONS OF RELEASE	126
Sub-Total Count:		146

Orange Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	5
728	VIOLATION OF CONDITIONS OF RELEASE	87
Sub-Total Count:		92

Orleans Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	192
728	VIOLATION OF CONDITIONS OF RELEASE	554
Sub-Total Count:		746

Rutland Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	84
728	VIOLATION OF CONDITIONS OF RELEASE	330
Sub-Total Count:		414

Washington Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	46
728	VIOLATION OF CONDITIONS OF RELEASE	249
Sub-Total Count:		295

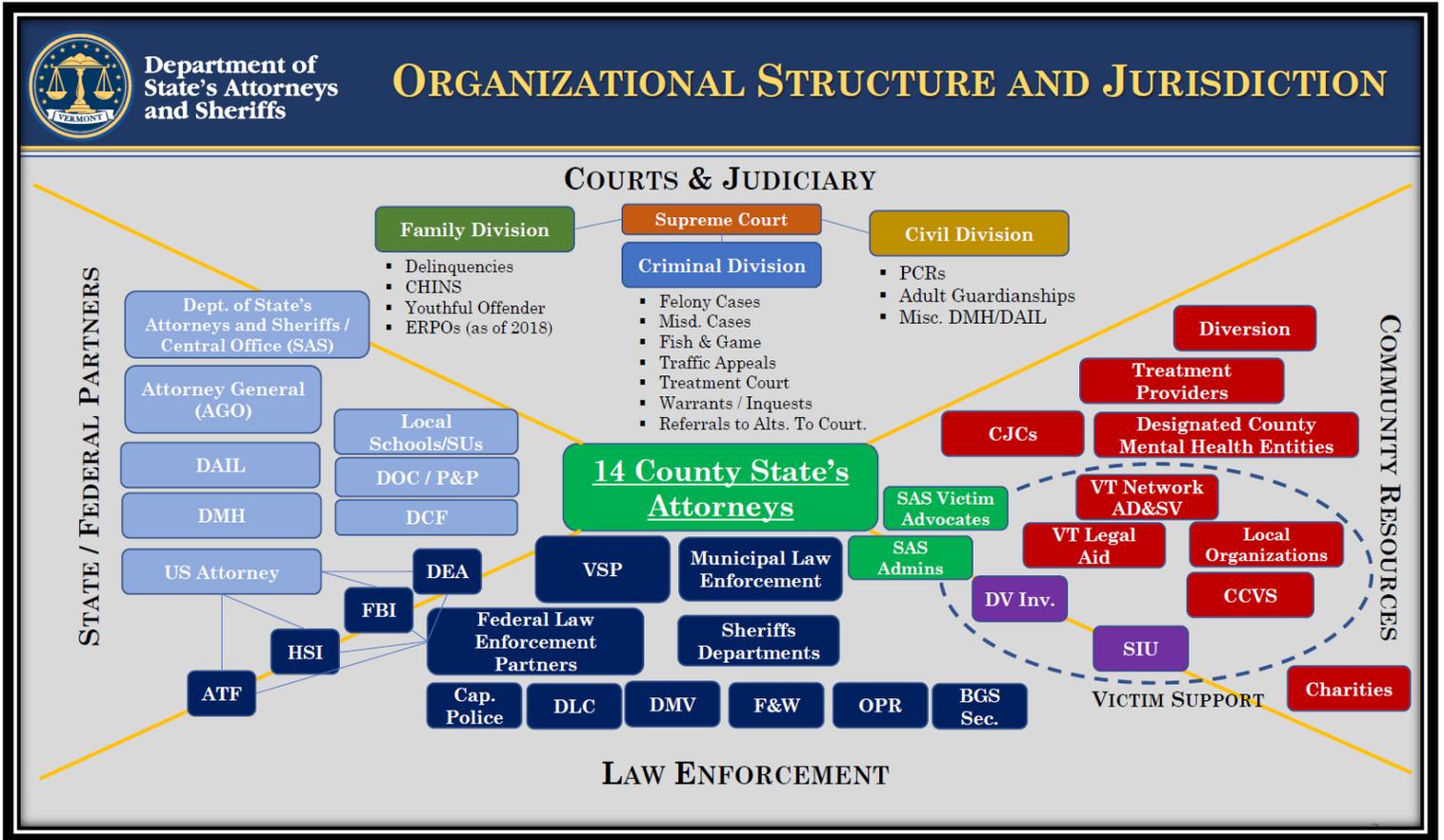
Windham Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	204
728	VIOLATION OF CONDITIONS OF RELEASE	599
Sub-Total Count:		803

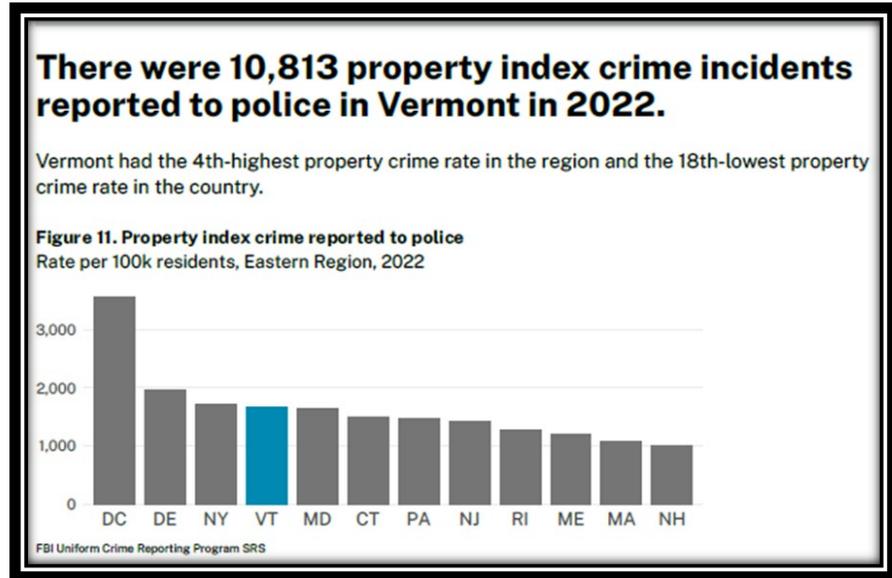
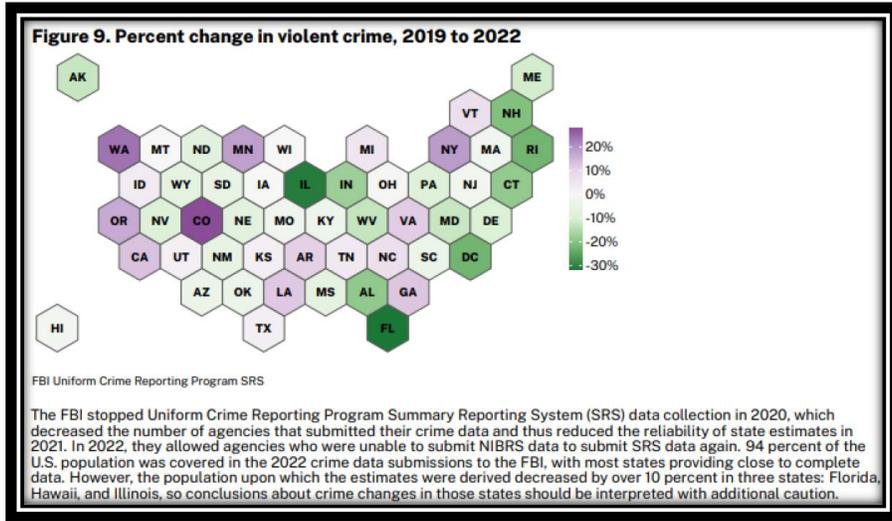
Windsor Unit

Offense Code	Offense Description	Cases
13V7559E	VIOLATION OF CONDITIONS OF RELEASE	33
728	VIOLATION OF CONDITIONS OF RELEASE	201
Sub-Total Count:		234

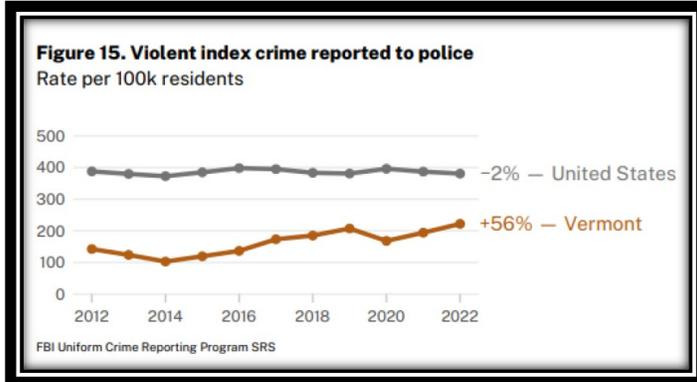
**APPENDIX 5. STATE’S ATTORNEY ORGANIZATIONAL STRUCTURE AND JURISDICTION.**



**Appendix 6. VERMONT CRIME DATA**

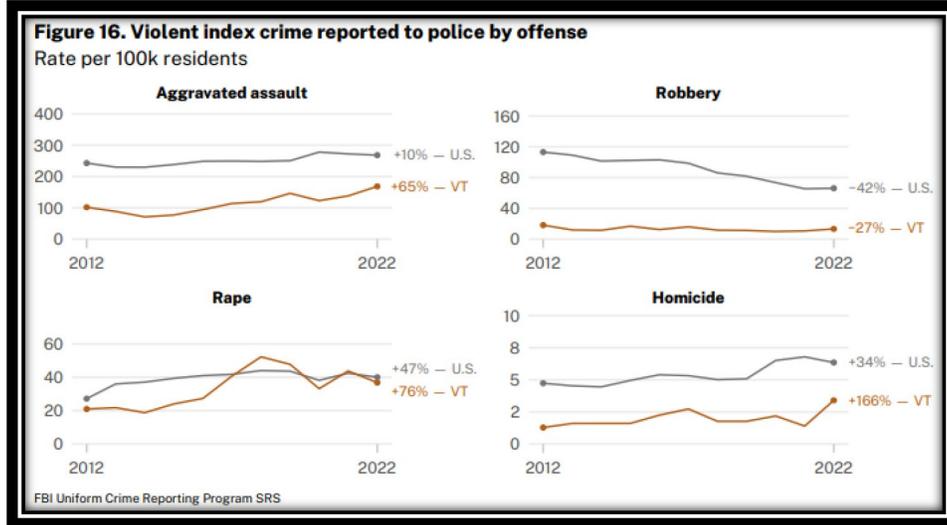


Source. Rep. LaLonde 12/19/2023 Presentation to House Appropriations Committee.<sup>15</sup>

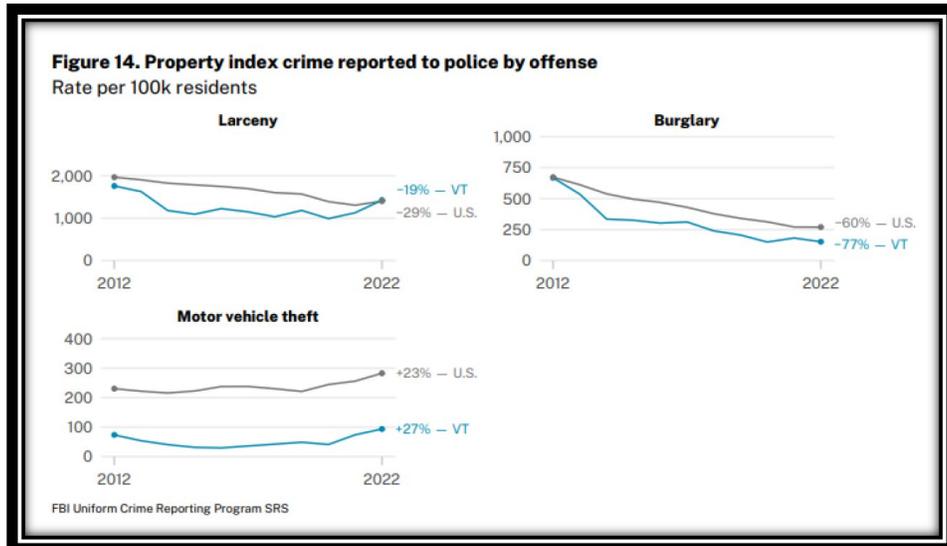


Source. Rep. LaLonde 12/19/2023 Presentation to House Appropriations Committee.

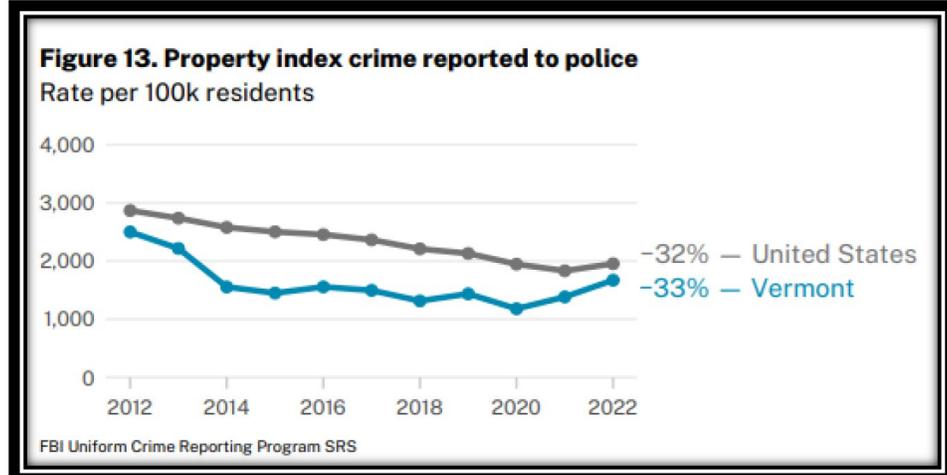
<sup>15</sup> W~Martin LaLonde~Appropriations Public Safety Presentation~12-19-2023.pdf.



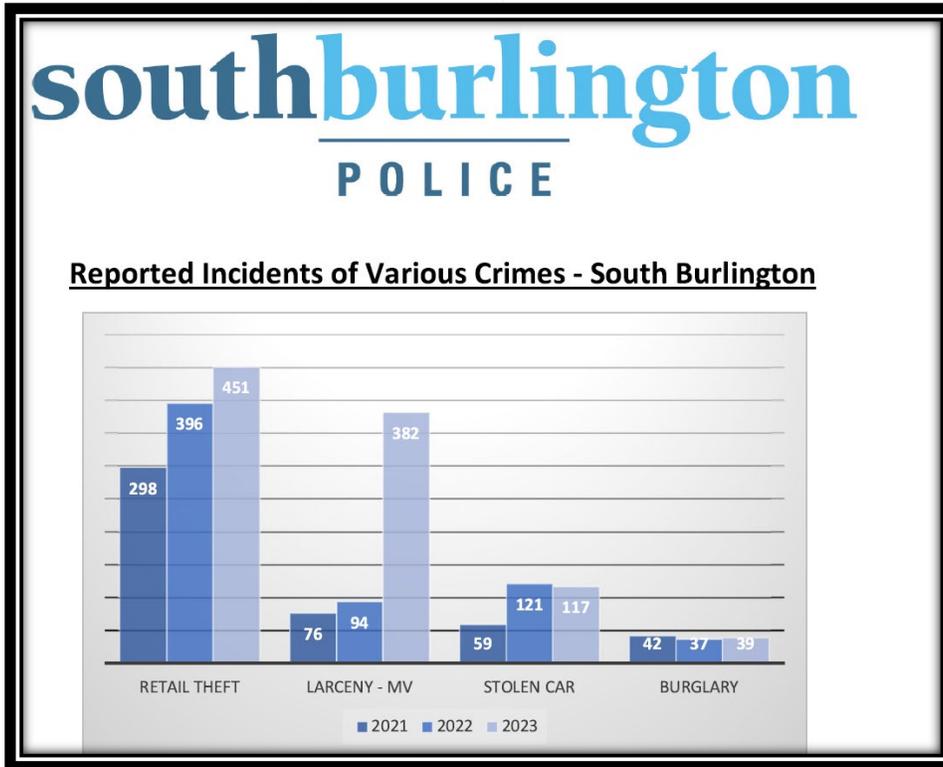
Source. Rep. LaLonde 12/19/2023 Presentation to House Appropriations Committee.



Source. Rep. LaLonde 12/19/2023 Presentation to House Appropriations Committee.



Source. Rep. LaLonde 12/19/2023 Presentation to House Appropriations Committee.



Source. Rep. LaLonde 12/19/2023 Presentation to House Appropriations Committee.

## Appendix 7. DIVERSION STATS

- SAS attorneys continue to heavily utilize restorative justice and court diversion.
  - In 2023:
    - ✓ 1,531 Adult Diversion Referrals and 357 Tamarack Referrals Occurred in the Criminal Division (20% of all new Misd Charges);
    - ✓ 244 Delinquencies were sent to Diversion (35% of delinquency filings were to sent to diversion);
    - ✓ 87 YO cases were sent to Diversion (28% of YO filings were sent to diversion).
  - In 2021:
    - ✓ Adult referrals, Diversion and Tamarack referrals represented 21% of all misdemeanors in FY 2021 and numbered more than those in FY 2017.
    - ✓ YO and JDs: Over one-third of delinquencies filed in Family Diversion were referred to Youth Diversion and over 20% of Youthful Offenders to Diversion.
  - From FY 2018 to FY 2019, statewide referrals to Adult Court Diversion increased 28%; much of this growth stems from prosecutors diverting criminal DLS (Driving Licensed Suspended) charges. Of all cases closed by Diversion in FY 2019, 40 percent involved DLS. These participants have a lower successful completion rate (56%) compared to those referred with other charges (87%); often the high cost of insurance and barriers to participation in IDRP (Impaired Driver Rehabilitation Program) limit people’s ability to regain their driver’s license.
    - ✓ FY 19 = 33% of all Misd. charges were referred to Diversion and Tamarack.
    - ✓ FY 18 = 27% of all Misd. charges were referred to Diversion and Tamarack.
  - Countless thousands of cases are declined and deflected by SAS attorneys and also referred to pre-charge programming or otherwise referred or disposed<sup>16</sup>
- Resources within each county vary greatly (*E.g., Chittenden County has multiple CJsCs with much more consistent staffing—meanwhile, some locations in the NEK and other rural areas do not enjoy the same level of financial or staffing resources*).

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<sup>16</sup> Current DOC data concerning pre-charge referrals is unvetted due to data reporting issues by CJsCs/and/or no data exists because successful deflection occurred informally.