

ANNUAL REPORT OF THE OFFICE OF THE GREENE COUNTY PUBLIC DEFENDER FOR THE CALENDAR YEAR 2022

In the year 2022, the Greene County Public Defender's Office (hereinafter referred to as "the Office") opened an additional 1945 new cases. Of the new cases 383 cases involved family court matters and 1485 cases covered criminal court matters. Regarding the criminal court matters, the Office opened a total of 365 felony cases, 945 misdemeanor cases and 175 cases dealing solely with non-criminal violations. The remaining cases were comprised of miscellaneous matters as described below. **See Figure 1 and Figure 2 annexed hereto.**

The Office continued to represent clients in support violation proceedings, parole violation hearings and appeals, Habeas Corpus petitions, Article 81 guardianship cases, Sexual Offender Registration Act (SORA) hearings, applications for an early termination of probation and applications for a certificate of relief from disabilities. In addition, the Office advocated on behalf of clients who had been sentenced to prison and whose cases were technically closed. These cases involved errors in their criminal record or miscalculations in jail time credit, such as those who had not been given credit for time served in local jail. Finally, in the year 2022 New York State implemented the red flag law which seeks to prevent individuals who show signs of being a threat to themselves or others from purchasing or possessing any kind of firearm. The Office represented clients in situations where New York State sought an Extreme Risk Protection Order (Red Flag Law). This order required that an individual surrender any firearms to law enforcement and prevented that individual from purchasing or possessing any firearms for a period of time.

The number of cases handled by the Office in the year 2022 saw an increase from the previous year by 241 cases or 14.1%. It is surmised that the increase during the year 2022 was likely due to the widespread vaccination of the public and the continued relaxing of many restrictions that became part of everyday life with the emergence of COVID-19. The number of cases in 2022 is more indicative of the number of cases in previous years before the emergence of COVID-19. The total number of criminal court cases increased from 1317 cases in 2021 to a total of 1485 cases in 2022 for a total of 12.8%. The number of felony cases decreased by 8 cases or almost 2.1%. The number of misdemeanor cases increased by 149 cases or almost 18.7%. The number of violation cases increased by 27 cases or almost 18.2%. Mirroring the increase in criminal court matters, the total number of family court cases increased by 58 cases or almost 17.9%. **See Figure 3 and Figure 4 annexed hereto.**

The year 2022 saw the same number of jury trials and bench trials from the previous year. As the COVID-19 outbreak subsided, most criminal courts began operating on a regular basis for the year 2022 as they prior to the COVID-19 pandemic. Throughout the year 2022 the Office continued to update technology to enable both attorneys and clients to attend court virtually and access files from outside the office when necessary. The Office was successful in doing so and as a result was able to continue to provide zealous and effective representation for all clients. As courts continue to resume normal operation, the Office's staff worked to help resolve all cases that could not be resolved virtually during the COVID-19 court restrictions. This, at times, resulted in heavier than normal caseloads scheduled for court appearances for the Office's staffing. Despite the increase, the Office was still able to continue to provide zealous and effective representation.

A unique circumstance in 2022 was that the New York State Appellate Division, Third Department, reversed a felony jury trial conviction of one of our clients. This reversal occurred in part due to the trial court denying our client the right to raise a possible defense at trial and thus prejudicing our client. This defense, if asserted, may have afforded our client the possibility of an acquittal or conviction of a less serious offense. Due to the Office's advocacy at trial (in year 2020) and continued involvement throughout the appellate process, the conviction was overturned thereby affording our client the opportunity for a new trial. The Office remains hopeful that this matter will be resolved favorably for our client.

The Office continued to be a member of Greene County's Treatment Court where the Office appeared on a weekly basis as a community stakeholder. The Office provided valuable insight throughout the treatment court process and protected the rights of treatment court participants. The Office also continued working with Opioid Intervention Court in Greene County. The Opioid Intervention Court relies on immediate intervention and treatment of individuals at high risk of opioid overdose. This court focuses on prioritizing treatment over criminal prosecution to help save lives. The Office noticed a benefit to our clients who participated in the court and who were suffering from severe opioid addiction. When the Office's clients were not appropriate or selected for Treatment Court or Opioid Intervention Court, but had a desire to begin the process of recovery, the Office provided assistance by directing clients to appropriate community services. The Office initiated contact with treatment facilities and insurance companies and the Office arranged for the transfer of medical records. The Office set up treatment screening interviews at the county jails and made applications to courts for clients to be released to treatment, both of which require a Judicial Order written by the Office for those clients that are incarcerated. The Office remained the liaison between the facility, the Court, and the client for the duration of the case. This type of assistance would

generally be addressed by a social worker and the Office plans to create a new social work type position to increase the level of services offered by the Office.

The Greene County Public Defender's Office experienced a burden in the year 2022 with the continued closure of the Greene County Jail for female inmates. Female clients previously incarcerated in Greene County Jail continued to be held in Columbia County Jail and Ulster County Jail. This provided an increased obstacle for attorneys to have regular face to face contact with their clients. The Office is hopeful that soon the Greene County Jail will accommodate female inmates which will result in the Office having more consistent and more frequent contact with our female clients who are incarcerated. The Office continued to observe that the Greene County Jail provided both mental health and substance abuse services to our clients which assisted the Office with our representation of our clients. The Greene County Jail's focus on mental health services and substance abuse services assists our clients with rehabilitation and can also serve to reduce recidivism. This clearly benefits our clients and many leave the jail with a clear reentry plan to society.

The year 2022 saw the continuation of the Office's Counsel at First Appearance program (CAFA). This was the fourth full year of a new grant that became available wherein the Office began appearing (on October 1, 2018) at all arraignments both during business hours and after business hours. This originally occurred in the towns of Athens, Cairo, Catskill, Coxsackie and the village of Catskill. During the year 2020 the Office received an additional grant that enabled the Office to cover all arraignments throughout the county. In year 2022 our attorneys continued to appear at arraignments immediately following arrest and on appearance tickets at all courts within Greene County. The Office continued to successfully argue for the release of clients so that they may continue working, receive mental health and drug/alcohol abuse treatment, care for family members and continue paying their expenses. As expected, our clients benefited from having representation at every possible stage of a criminal prosecution. Our goal is to provide continuity of representation and ensuring that there will be less individuals inappropriately incarcerated in Greene County. An added benefit of appearing at arraignments was that inappropriate and/or errant charges can be dismissed at arraignment which reduces future court appearances for the Office.

In the year 2022, the Office continued to adjust to the complete overhaul of New York State's bail and discovery laws and procedures. New York reduced the number of offenses in which bail could be set and also expanded options for pretrial services to include GPS monitoring and supervision (through ankle monitoring bracelets). The Office has noticed that GPS monitoring became more widely used for our clients which resulted in fewer clients being incarcerated. This is beneficial in several manners in that it reduced costs to the county associated with incarceration, ensured that less clients were incarcerated, and served to protect the community as specific travel limitations

along with immediate location tracking of the client can go along with GPS monitoring. As a result of the bail reform, the Office's attorneys were able to advocate for more individuals to remain at liberty reducing the cost to the county associated with incarcerating individuals prior to conviction. Due to the change in discovery law, the Office generally received automatic discovery shortly after a case commences. This provides the ability to more effectively defend a client but an unintended consequence what that this has substantially increased the workload per case. Attorneys continued to routinely review surveillance and body camera footage both individually and with their clients. The Office has noticed that due to the increased amount of discovery received, and how strict the timeframes are to receive the discovery, that the Office is able to more effectively argue for clients, investigate cases immediately after incidents occur and negotiate better plea bargains.

During the year 2022, the Office represented clients for a total of 1,539 arraignments. Of these, 399 were felony arraignments, 960 were misdemeanor arraignments, 141 were non-criminal violation arraignments and 39 were other arraignments. Of these arraignments, 1,035 occurred during a scheduled time when the Office was present at court and 504 arraignments occurred outside normal court hours which required an on-call attorney from the Office to be contacted. Of these outside normal court hour arraignments, 169 clients were either remanded to jail with or without bail, 18 clients were released with pretrial supervision conditions, and the remaining 317 arraignments clients were released on their own recognizance or with non-monetary bail conditions. **See Figure 5, Figure 6, and Figure 7 annexed hereto.**

Due to the continued availability of state funding for indigent legal services, the office continues to expand in an effort to comply with caseload standards and limits recommended by the New York State Office of Indigent Legal Services. The Office created an additional full time attorney position which is now filled. The Office also was able to fill a vacant full time position that was created with previous state funding afforded to the Office. In addition, from the aforementioned grant funding, the Office was able to purchase multiple laptops enabling staff to readily access discovery and other documents at court while present with clients. All attorneys are now provided with updated workstations that allow access from any remote location allowing them to more quickly and more effectively work on their caseload. This allowed attorneys to continue to zealously and effectively advocate for clients both in the office and outside of the office. With this increased remote access, the Office is better situated in the event of any future emergency situations that would prevent office or data access. It is expected that remote access will allow the Office to transition to a paperless office both increasing efficiency and reducing cost to the county.

Every year the Office experiences a challenge with our Assigned Counsel cost. Ethics rules that govern all attorneys in New York require outside assignment of counsel

whenever a conflict of interest arises and the Office has no method to predict when and how often such a conflict will arise. As such, this makes the cost of Assigned Counsel difficult to project or limit. In year 2022, the cost of Assigned Counsel increased from the previous year by about 6.32%. This increase was expected in light of the case load increase of the Office and this cost is not static and is expected to continue to fluctuate. It is the Office's belief that in light of increased discovery for our clients, and the responsibility of attorneys to review discovery for all cases, that assigned counsel cost will continue to increase. Additionally, as a result of grants that became available, the Office is working toward the establishment of an assigned counsel program that is run by an assigned counsel administrator. The goals of the program is to provide more effective representation of clients by providing more oversight to the assigned counsel program and to provide more resources to assigned conflict attorneys who many times are operating out of home offices with little to no support.

The Office continues to improve the contact that it has with clients that are incarcerated in county jail and state prison. The Office has ensured that clients are able to contact their attorneys now that they are located in different county jails. Clients are able to make free telephone calls to their attorneys to discuss case updates and concerns. In addition, public defender investigators travel to interview clients face to face at the outset of their case and on an as needed basis. The Office strongly feels that it is vital to the attorney client relationship to have regular in person contact and will continue to do so despite various clients being located outside of the county.

Attorneys have a requirement to receive continuing legal education to remain abreast of the latest case law developments and trial techniques. The Office's attorneys receive training on material that is relevant to criminal and family law which allows the Office to provide the most effective services and representation. The Office sponsored a train in conjunction the New York State Defender's Association Veteran's Defense Program that was open to the legal community that was well attended. The Office plans to continue to provide yearly programs.

As your Public Defender, my goal is to provide quality and effective representation for all persons utilizing the services of the Office. While it is my belief that the Office is succeeding in this goal, I encourage the public to provide any suggestions so that the Office may continue to improve.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'A. Scaturro', with a long horizontal flourish extending to the right.

Angelo F. Scaturro, Esq.
Greene County Public Defender

Figure 1:

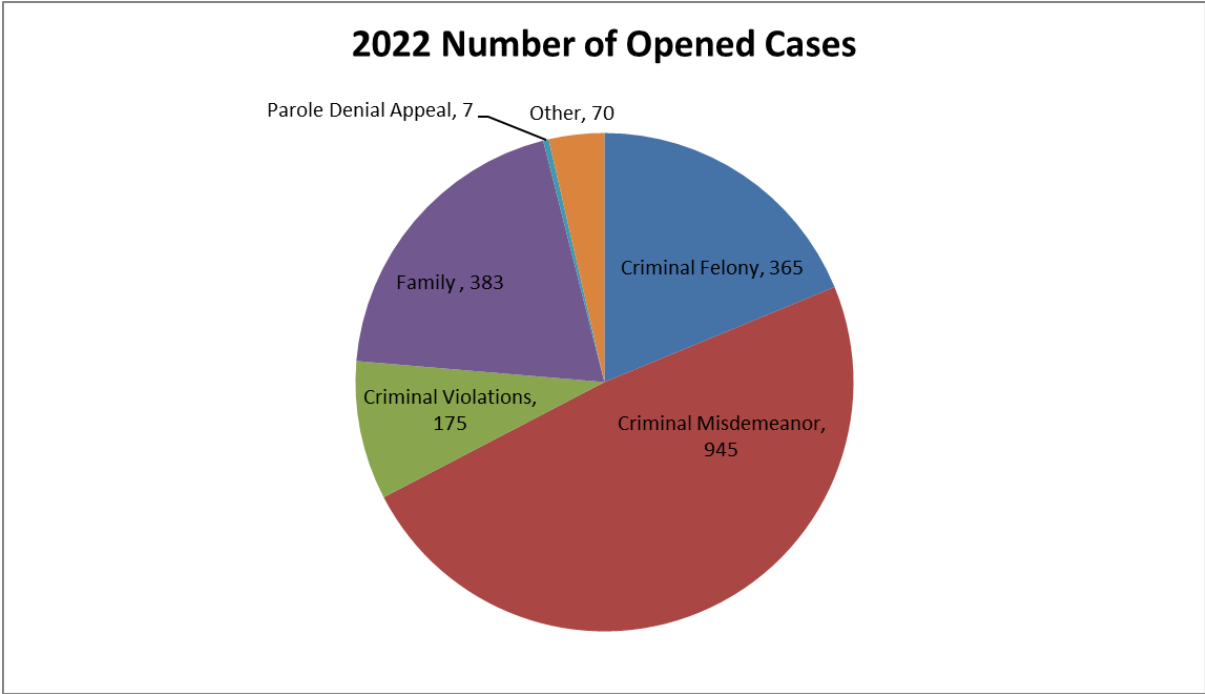


Figure 2:

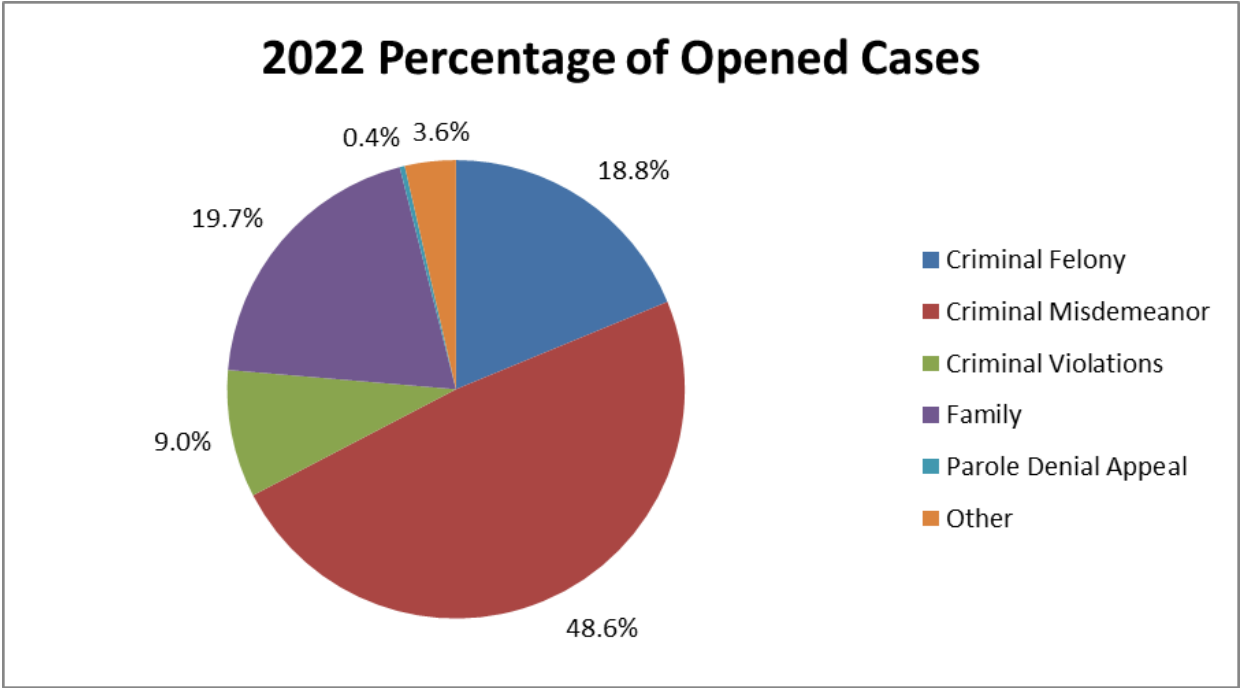


Figure 3:

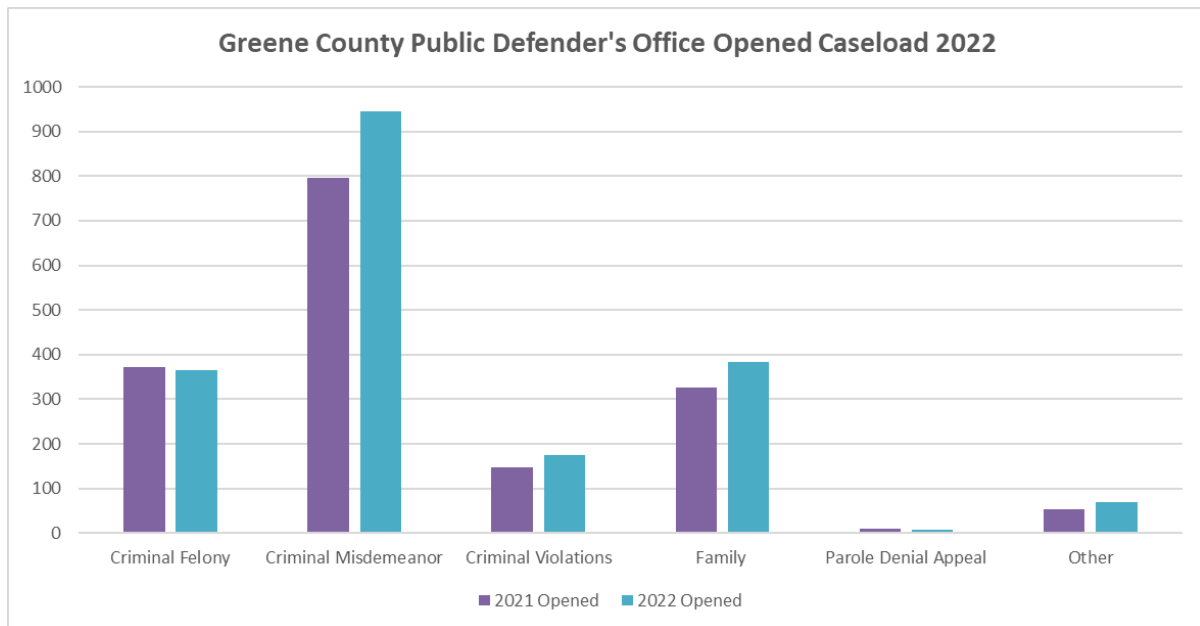


Figure 4:

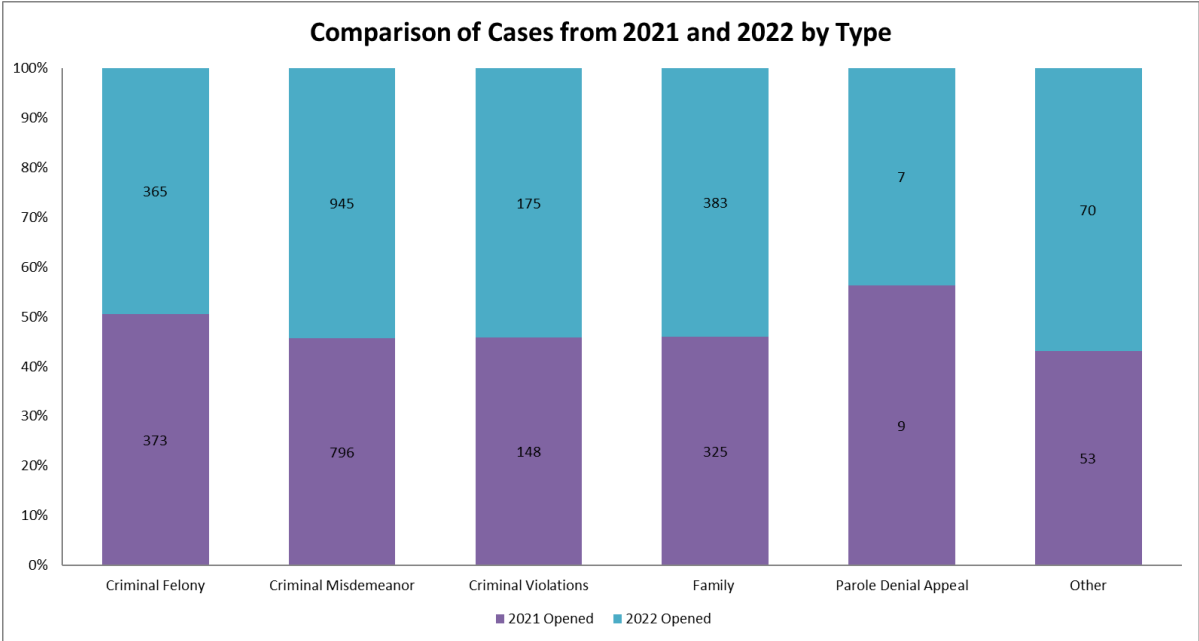


Figure 5:

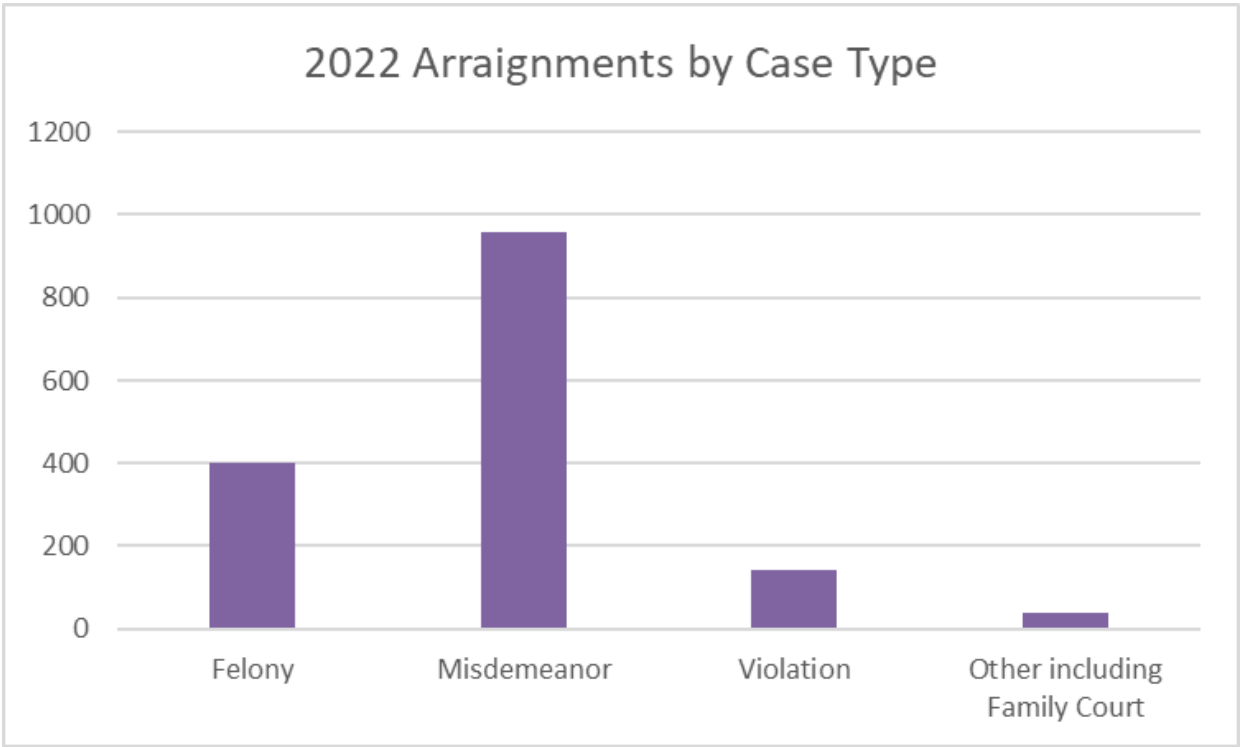


Figure 6:

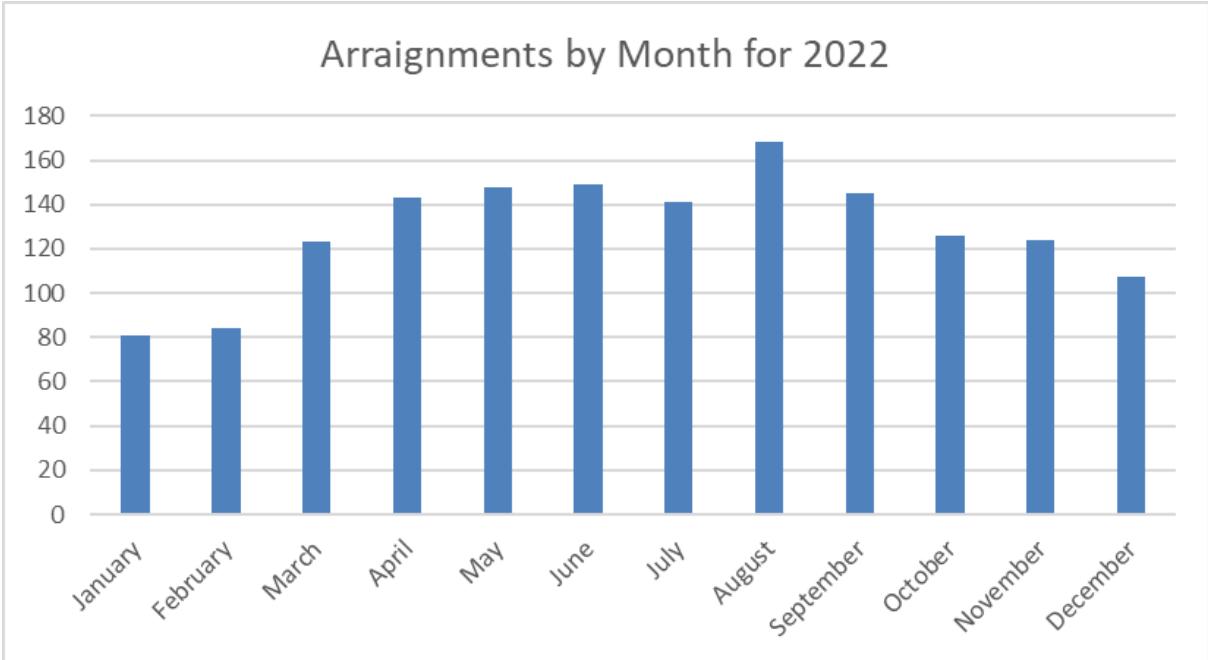


Figure 7:

