500 DAYS FORWARD...

10 YEARS BACK.

AN EVALUATION OF EILEEN O'NEILL BURKE'S FIRST 500 DAYS AS COOK COUNTY STATE'S ATTORNEY

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500 DAYS FORWARD, 10 YEARS BACK: AN EVALUATION OF EILEEN O'NEILL BURKE'S FIRST 500 DAYS AS COOK COUNTY STATE'S ATTORNEY

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The Appendix for this report can be found at chicagoappleseed.org/Burke-500-appendix.

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INTRODUCTION

Eileen O'Neill Burke assumed the role of Cook County State's Attorney on December 2, 2024. In her first 500 days in office, she has implemented a wide range of formal and informal policies, several of which reverse priorities for decarceration, police accountability, and court transparency from the previous administration. This report examines the impact of Burke's policies in her first 500 days and puts forward recommendations for her office to better serve the people of Cook County.

METHODOLOGY

The analysis conducted for this report is primarily based on a review of the Cook County State's Attorney's Office's (CCSAO) formal policies, press releases from the CCSAO, and articles published by news sources about the Burke administration. Our understanding of the office's policies and their consequences is supported by conversations with representatives from the CCSAO, system experts, and community partners.

This review was supplemented with quantitative analysis of data from various sources. Pretrial detention data, Restorative Justice Community Courts data, First Time Weapon Offense Program data, the Gun Accountability Program two-pager, and the Federal Immigration Enforcement Action Response Protocol were obtained from the CCSAO via Freedom of Information Act (FOIA) requests. Charges in the detention data were manually categorized by a team of pro bono lawyers and the research team. Data on the "Expedited Felony Review" policy were obtained from the Chicago Police Department via FOIA requests. Jail population data were obtained from the Cook County Sheriff's Office via FOIA requests. Exoneration data were obtained from the National Registry of Exonerations via their website. Additional statistics were calculated using the Cook County Criminal Justice Data Dashboard. Most of the records and data sets analyzed for this report can be accessed and downloaded at github.com/chicagoappleseed/Burke-500.

For Chicago Appleseed's published reports on Kim Foxx's tenure as Cook County State's Attorney, the records and data sets made public alongside this report, and the references cited throughout this report, see the Appendix.

BACKGROUND

Prosecutors hold expansive power in the criminal legal system, deciding which criminal cases to pursue and how to charge them and driving policy conversations around crime and sentencing. For decades, prosecutors in the United States have stacked charges and prioritized the most serious available charges, even when lower-level offenses might have been more appropriate. State's attorney's offices have driven policy decisions around mandatory minimum sentences and enhanced sentences, often working to restrict the use of diversion programs. Prosecution led by a win-at-all-costs mindset has been a critical factor driving mass incarceration to its current state where more than 10 million people are imprisoned every year.

Amid increased awareness and outrage over aggressive prosecutorial tactics and mass incarceration rose the "progressive prosecutor" (or "reform-oriented prosecutor") movement, an effort to change priorities in prosecution and reduce mass incarceration. Though often criticized as "progressive" in name only, some of the movement's policies succeed in reducing harm for people entangled in the criminal legal system without increasing the scope of prosecutorial discretion and power.

In 2016, Kim Foxx ran for Cook County State's Attorney on a progressive platform, and her campaign was supported by a number of grassroots organizations. In her eight-year tenure leading the CCSAO, Foxx declined to prosecute any low-level drug offenses during a period of the COVID-19 pandemic, charged fewer retail theft and driving on a suspended license (DSL) offenses as felonies, diverted more felony cases from the traditional criminal process, improved police accountability by creating a public list of discredited officers, and set a new precedent of transparency by releasing case-level data on prosecution and case disposition. While important changes were made during her tenure, it is unclear whether these changes will stand the test of time or meaningfully shift the culture of the office. Chicago Appleseed co-authored several reports evaluating the Foxx administration's policies and their impacts alongside our community partners.[1]

Shortly after Foxx revealed that she would not be running for a third term in the 2024 election, Eileen O'Neill Burke announced her candidacy for the position. Burke served as a Cook County Assistant State's Attorney, a criminal defense attorney, and a Cook County Judge before being elected as a First District Appellate Court Justice in 2016. She also served as President of the Illinois Judges Association. Burke went on to assume the role of Cook County State's Attorney on December 2, 2024.

With more than 1,300 staff members handling upwards of 200,000 cases annually, the CCSAO is one of the largest prosecutorial offices in the nation. Its 2026 budget is approximately $260 million, up $40 million from 2025. Given the expansive authority, reach, and resources of the office, it is critical to monitor its policies under each administration.

[1] See the Appendix for a list of the reports Chicago Appleseed published about Kim Foxx's tenure as Cook County State's Attorney.

EVALUATION

Eileen O'Neill Burke's first 500 days as Cook County State's Attorney reflect a departure from the previous administration's reform orientation and a shift toward tough prosecution and deference to law enforcement. She implemented policies and protocols that clearly shift the direction of the CCSAO, namely:

- The Burke administration directed Assistant State's Attorneys (ASAs) to charge more retail theft cases as felonies and request detention in more gun possession, domestic violence, and retail theft cases.
- The Burke administration restructured diversion programs for gun possession, decreasing the capacity of this programming while advocating for its expansion.
- The Burke administration put policies in place that erode police accountability efforts by bypassing felony review for gun possession charges, discontinuing expansive lists of police who have offered false testimony or engaged in misconduct, failing to investigate and prosecute federal agents who are

accused of on-duty crimes, and making the relief process more difficult for people wrongfully convicted of a crime.
- Finally, Burke replaced a comprehensive data dashboard published under her predecessor with less useful data dashboards, significantly reducing the transparency of the CCSAO and the Circuit Court of Cook County.

The sections that follow summarize these policies, compare them to the policies of former State's Attorney Kim Foxx, and analyze some of their risks and observed consequences.

CHARGING, DETENTION, DIVERSION, & SENTENCING

Prosecutors wield a lot of discretion over how people are charged and what consequences they face pretrial and post-conviction. Each administration sets its own charging policies, which determine how the office charges alleged offenses; for example, a charging policy can determine the boundary between a simple or aggravated charge. Some charging policies pose great risks to accused people, such as up-charging, which is the prosecutorial practice of charging accused people with more serious offenses than is most appropriate. Beyond the potential for a wrongful conviction, up-charging can increase the likelihood of pretrial jailing, as it inflates the threat to public safety that the accused person seems to pose, and can pressure accused people to plead guilty, even when they have viable defenses, to avoid the risk of harsher penalties at trial. Accurate charging is key to fair outcomes for accused people.

Since she took office, Burke has prioritized three categories of criminal cases in her policies and talking points: retail theft, gun possession, and domestic violence.

Retail theft is the criminal charge for shoplifting, where someone steals from a store without paying the full price. It is a non-violent offense and does not include damage to property, which would be a separate charge. In Chicago, over a quarter of retail theft incidents happen at just 25 stores, such as Target, Macy's, and other multibillion-dollar companies. In the years following the pandemic-era retail shortages of 2020, corporations and politicians have made widespread claims of a sharp incline of retail theft, even though they are not supported by the limited data that exist.

Burke's language mirrors the national sensationalization of retail theft and frames all forms of it as "organized crime." According to Burke, "retail crime has become increasingly violent and sophisticated, and if left unchecked, will continue to wreak devastating economic consequences in our communities." Given that 17% of Chicagoans were living below the federal poverty line in 2024, poverty likely plays a significant role in driving retail theft in the city.

Likewise, Burke has made inflammatory statements about gun violence in Cook County, citing "war zone numbers of people wounded by gunfire" and promising to aggressively prosecute people who "use these weapons of war to terrorize our communities." Her rhetoric on gun possession lacks nuance and does not reflect the reality that many people, especially Black youth on the South and West Sides of Chicago, carry weapons not because they plan to use them but because they feel that it is necessary to protect themselves from the very violence Burke decries.

Mere possession of a gun is a nonviolent offense that is ultimately an issue of licensure, and many Chicagoans experience difficulty in obtaining the two licenses[2] required to legally carry a gun in public in Illinois due to age, geography, cost, or criminal background. Cook County's response to gun violence has been to criminalize and incarcerate people who simply carry guns without the proper licensure, further destabilizing communities facing violence without addressing its root causes. Read Chicago Appleseed's 2024 report, Punishing fear: The devastating impacts of the war on gun possession in Chicago, for more context and nuance on the hypercriminalization of gun possession.

Lastly, Burke also made domestic violence an immediate priority, referring to the state of domestic violence in Cook County as "a house on fire." Burke created a Special Victims Bureau within the CCSAO to take on domestic violence cases and other cases of violence against vulnerable populations like children, elderly people, and people with disabilities. According to the CCSAO, the office staffed the bureau with highly experienced ASAs and improved continuity for survivors of domestic violence by allowing ASAs to follow a case throughout the criminal legal process.

Burke has committed to not only "hold offenders accountable" but also "better protect survivors" through "trauma-informed best practices." Maximizing survivor autonomy is a key tenet of best practices for supporting survivors of domestic violence, but this principle is often unmet because of the United States' historical reliance on the criminal legal system to prevent and respond to domestic violence. Mandatory policies, such as those that require arrest or prosecution to occur in all reported cases of domestic violence, deprive survivors of full autonomy by making blanket decisions about their lives and relationships without a way to take their input into account; mandatory practices can also criminalize survivors' responses to or defenses against domestic violence.

[2] Firearm Owners Identification (FOID) card and Concealed Carry License (CCL).

Burke lowered the threshold to charge retail theft as a felony.

In Illinois, retail theft may be charged as a felony if the person is alleged to have stolen more than $300 worth of goods—one of the lowest felony thresholds for retail theft across the United States—or if they have previously been convicted of theft, robbery, burglary, or certain other property offenses. The $300 felony threshold has been in place statewide since 2011, when it was increased from $150. Since state's attorneys have discretion over charging, individual state's attorneys can set their own charging policies regarding felony thresholds.

Within her first month in office, Foxx announced that her administration would not charge people with felony retail theft unless the goods allegedly stolen were valued at more than $1,000 or the accused person had at least 10 prior retail theft convictions. A statewide commission strategizing to reduce the state's prison population, as well as then-CPD Superintendent Eddie Johnson, concurred that incarcerating for theft was not the "best use of prison resources."

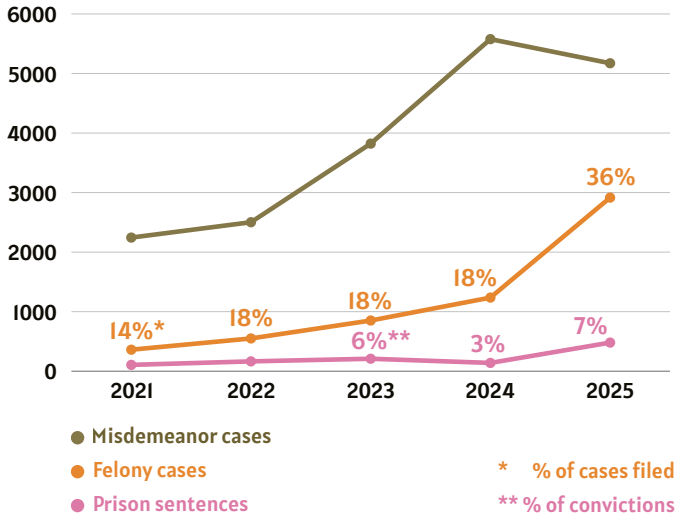
Burke lowered the threshold for simple shoplifting without use of force back to $300 on her very first day in office, and her administration charges any retail theft case as a felony if the accused person has even a

single felony retail theft conviction in their criminal history. According to the CCSAO, this was part of a "National Organized Retail Crime Blitz," a national effort to deter retail theft coordinated by the office's new Multi-Jurisdictional Bureau.

Felony retail theft is most often a Class 4 or Class 3 felony, a conviction that typically carries up to five years of imprisonment. Felony convictions could pose serious, lifelong consequences beyond multiple years of imprisonment by weakening people's capacities to obtain and keep employment, housing, and other essential elements of their lives. Given that retail theft is largely a consequence of poverty, imprisoning people convicted of retail theft for multiple years only serves to exacerbate the problem and destabilize families and communities. The new policy also escalates retail theft under $300 to a felony charge when the accused person has any prior felony retail theft convictions, perpetuating a cycle of incarceration that could prevent people from ever reaching economic stability.

FIGURE 1

RETAIL THEFT CHARGES FILED BY CLASS AND SENTENCES IMPOSED IN COOK COUNTY BY YEAR, 2021 – 2025



Note: Burke took office in December 2024

This charging policy has had immediate consequences for people accused of retail theft, as 36% of retail theft cases were charged as felonies in 2025 compared to 18% in the preceding years. Potentially as a result, the number of prison sentences imposed for retail theft cases more than doubled in 2025, and we expect that this number will increase in 2026 as more cases filed by Burke are resolved. By lowering the threshold for filing retail theft charges as felonies, Burke undid a constructive step toward decarceration and is exposing more people to the harms of a felony conviction.

See **Figure 1** for the number of felony and misdemeanor charges filed and prison sentences imposed for retail theft cases each year since 2021.

36% of retail theft cases were charged as felonies in 2025 compared to 18% in the preceding years.

In January 2025, the CCSAO announced another policy escalating its prosecution strategy for other charges. The CCSAO will seek a sentence of imprisonment for all felony offenses where the accused person was allegedly in possession of:

- A machine gun or machine gun conversion device,
- An extended magazine or drum magazine,
- An automatic switch,
- A privately-made firearm or ghost gun (i.e., unregistered and untraceable), or
- A defaced firearm.

In practice, this means that the Burke administration does not reduce felony charges, even as part of a plea deal, if there is substantial evidence that a machine gun or conversion device was used. Many charges in this set of offenses have mandatory prison sentences following a conviction, so this policy is mainly symbolic to underline Burke's focus on modified guns. Expectedly, there has not been a large increase in the number of gun possession cases resulting in prison sentences since Burke took office.[3]

[3] For accused people whose sentences were recorded in the Clerk of the Circuit Court of Cook County's case management system, 59% of sentences for weapons cases in 2025 were prison sentences compared to 54% in 2024.

Burke expanded pretrial jailing for gun possession, domestic violence, and retail theft cases.

Pretrial detention[4] is carefully limited in Illinois by the Pretrial Fairness Act, which was fully implemented in 2023. When someone is arrested, a state's attorney's office can only file a petition to deny pretrial release if their charge is detention-eligible. If the office files a petition, the accused person appears before a judge in a detention hearing, where the prosecutor argues that there is evidence that the accused person committed the alleged offense and releasing them would pose a danger or flight risk that cannot be mitigated by imposing conditions on their release, such as electronic monitoring. The judge, in theory, only detains an accused person if the prosecutor successfully proves all of this. If an accused person is released pretrial, a state's attorney's office can later petition to *revoke* pretrial release if they are charged with an additional felony or Class A misdemeanor before their case is resolved or if they violate a term of their pretrial release, such as being away from their home past curfew on electronic monitoring.

Importantly, petitions to deny or revoke pretrial release are rarely mandatory under the Pretrial Fairness Act.[6] In most cases, even if a case is detention-eligible or the accused person violates the conditions of their release, a state's attorney's office can still decide not to file a petition.

On her very first day in office, Burke announced a policy that requires her ASAs to request detention in any of the following cases:

- Detainable gun possession or discharge charges where the firearm has an extended magazine, drum magazine, or automatic switch or is untraceable or defaced in any way;
- Domestic violence, stalking, or sex offense charges involving a firearm;
- Detainable felony charges committed on public transportation;
- Murder charges and Class X felony charges;
- Sex offense charges involving an adult offender and a victim under 13 years old; and
- Charges related to creating, owning, or sharing child pornography.

The practice of seeking detention in a blanket manner based solely on the alleged offense violates the spirit of the Pretrial Fairness Act, which states that "decisions regarding . . . detention prior to trial must be individualized, and no single factor or standard may be used exclusively to order detention." Though Foxx petitioned to detain in many of these cases as well,[5] Burke's policy represents a greater willingness to seek detention in a blanket manner without considering the specific facts of the case.

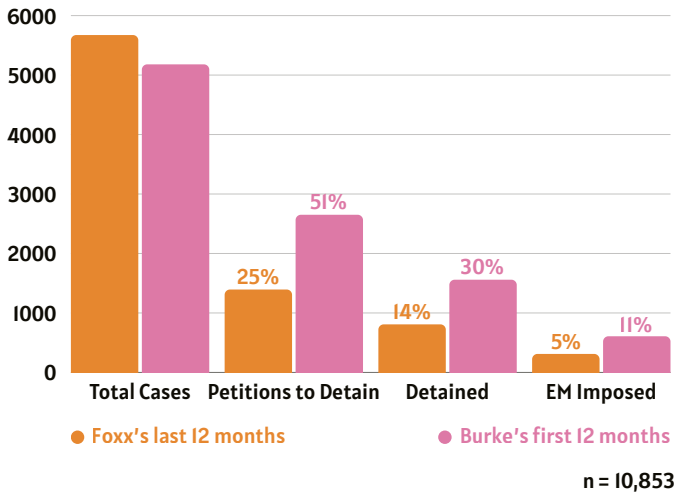
The office has also failed to show any connection between the offenses it pursues detention for and the accused person's likelihood of posing a safety or flight risk, the only relevant factors according to the statute. For example, the CCSAO has not publicly presented evidence that someone accused of illegal gun possession is more likely to harm people or miss their court dates if the gun they allegedly possessed had been modified.

This policy's potential consequences for gun possession cases are especially alarming given Cook County's already hypercriminalized approach to them. Many of the factors named in the policy (notably a gun being untraceable or defaced) are present in many of the guns young Chicagoans are able to access without a Firearm Owners Identification (FOID) card.[7] The decision to seek detention for all felonies committed on public transportation also has severe implications for gun possession cases, as many people who carry guns for protection rely on public transportation to safely traverse the city.

Data from the CCSAO reveal the substantial impact of Burke's detention policy on people charged with unlawful gun possession. Even though there have been fewer unlawful possession of a weapon (UPW), aggravated unlawful possession of a weapon (AUPW), and unlawful possession of a weapon by a felon (UPWF) charges filed in Burke's first year in office than in the year prior, potentially reflecting a citywide decrease in crime, the CCSAO has petitioned to detain in more of these cases. The consequences are especially alarming for AUPW charges, for which Burke filed detention petitions in 52% of cases in her first year as compared to 18% in Foxx's last year, resulting in hundreds more people being jailed before their trials.[8]

FIGURE 2

PRETRIAL DETENTION REQUESTS AND OUTCOMES FOR UPW, AUPW, AND UPWF CASES IN THE YEAR BEFORE AND AFTER BURKE TOOK OFFICE



See **Figure 2** for pretrial detention requests and outcomes for UPW, AUPW, and UPWF cases.

In addition to the detention policy outlined above, Burke also implemented a policy of petitioning to detain in every felony domestic battery case. Together, these two detention policies mean that ASAs are mandated to seek detention for any domestic battery offense that either was charged as a felony or allegedly involved a firearm. Individualized attention is especially critical in pretrial detention decisions for domestic violence cases because they generally involve a complaining witness[9] whose safety and interests should be considered in detention decisions.

Because of this, input from any complaining witness should be prioritized by the CCSAO in its decision of whether to file a detention petition. The Pretrial

Fairness Act requires any state's attorney's office to notify crime victims ahead of a detention hearing to provide them time to create a safety plan. Pretrial jailing of the person accused of domestic violence may, in some cases, conflict with the survivor's interests and livelihood; for example, survivors of domestic violence who rely on their partners financially may be placed at great risk if their partner is detained pretrial.

This is why conversations with complaining witnesses in domestic violence cases are essential to ensuring that any decisions made by the CCSAO are in their best interests. Though it is possible that the office communicates regularly with complaining witnesses, a blanket detention policy leaves no room for their input to affect the outcome, inherently denying autonomy to survivors rather than empowering them to decide how best to keep themselves safe.

According to data from the CCSAO, there has been a dramatic increase in detention petitions filed for domestic battery cases since Burke has taken office. Burke filed a detention petition for 29% of domestic-related battery cases[10] in her first year in office, which is more than double the rate at which Foxx filed for these cases in her last year in office. This has resulted in a threefold increase in pretrial jailing for people facing these charges—as judges granted 51% of Burke's detention petitions for these cases as opposed to 37% of Foxx's—and amounted to 1,400 people being jailed as opposed to 450 the year before.

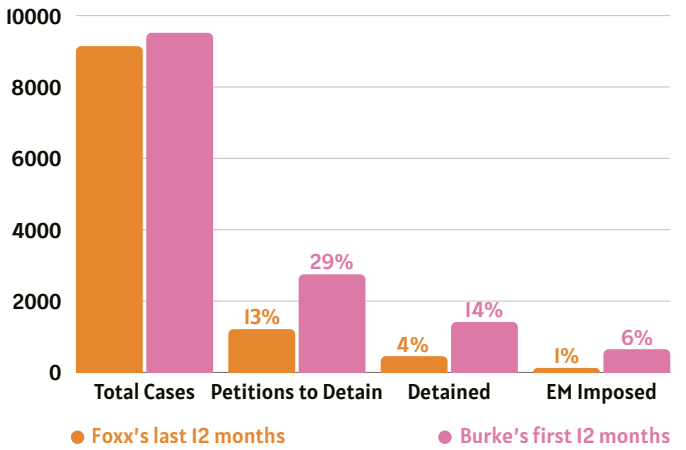
According to a representative at a partner organization,[11] Burke has made another change to how the CCSAO approaches decisions and arguments regarding detention in domestic violence cases. The CCSAO removed a firewall in its case management system that prevented the criminal and civil divisions from accessing the full array of records maintained by the office. Under Foxx, this firewall allegedly prevented ASAs from accessing aspects of the accused person's civil history, such as civil orders of protection and no contact orders, when deciding whether to request pretrial detention and preparing their arguments for detention hearings. This change increases the information prosecutors have access to, which supports their ability to make informed assessments of safety and willful flight risks; yet, the CCSAO's blanket detention policies limit the ability of ASAs to make informed, individualized decisions about pretrial detention based on this expanded information.

See **Figure 3** for pretrial detention requests and outcomes for domestic-related battery cases.

Alongside the policy to file more retail theft charges as felonies, the CCSAO also seems to be targeting retail theft cases for pretrial detention. People charged with misdemeanor retail theft are not eligible for pretrial detention, and people charged with felony retail theft may only be detained under the willful flight standard, not the dangerousness standard.[12] Consequently, the CCSAO petitions to detain in very few retail theft cases: The office has sought to deny pretrial release in fewer than 30 retail theft cases since the implementation of the Pretrial Fairness Act in 2023.

FIGURE 3

PRETRIAL DETENTION REQUESTS AND OUTCOMES FOR DOMESTIC-RELATED BATTERY CASES IN THE YEAR BEFORE AND AFTER BURKE TOOK OFFICE



n = 18,662

However, as for any case, a state's attorney can still petition to revoke pretrial release for retail theft cases if the accused person allegedly commits a felony or Class A misdemeanor, including any retail theft offense, while released pretrial.

Though the CCSAO does not track petitions to revoke pretrial release in a systematic way,[13] jail admission data from the Cook County Sheriff's Office suggests that they have increased under Burke. In 2024, there were 1,679 instances where people were admitted to the Cook County Jail for retail theft and stayed long enough to be assigned a bed; in 2025, that number increased to 2,878. This 71% increase for retail theft is much more substantial than the 20% increase in jail admissions for all other charges combined.[14] Since retail theft is not detainable in most cases, this increase is likely attributable to the CCSAO filing more petitions to revoke pretrial release.[15]

Burke's various strategies to increase the use of pretrial detention, especially for nonviolent offenses, is not only unnecessary but counterproductive to public safety.

The Burke administration has used another method that has led to more pretrial detention, which Burke introduced following a large administrative change to electronic monitoring in Cook County. In April 2025, Cook County's two electronic monitoring programs merged into a single program overseen by the Office of the Chief Judge (OCJ), a change Chicago Appleseed long advocated for because of the extreme limitations imposed on people monitored by the Sheriff's Office. The OCJ's program has been in operation since 2009 and was generally seen as the better-managed program due to its closer alignment with best practices and its case management system where every monitored person is assigned a pretrial officer.

In spite of this, Burke regarded the transition, which makes the OCJ the sole manager of electronic monitoring in the county, as "a serious threat to public safety" because the OCJ's probation officers lack legal authority to make arrests or file escape charges, relying instead on local law enforcement to deal with violations of monitoring. However, it is common across the state for electronic monitoring departments to be run by probation or pretrial offices; in fact, the Office of Statewide Pretrial Services runs the program in most of Illinois. Moreover, the Sheriff's program's overzealous policing of false alarms with its in-house police force led to many people being harassed and jailed unnecessarily.

Following the consolidation of the two programs, Burke issued a statement requiring prosecutors to object on the record in any case where an accused person they petitioned to detain was released on electronic monitoring instead. This policy, mostly a symbolic one, was a way for the CCSAO to pressure judges to grant their detention petitions. As Burke has said, "The judiciary is slow to come around to my way of thinking, but we're going to get there."

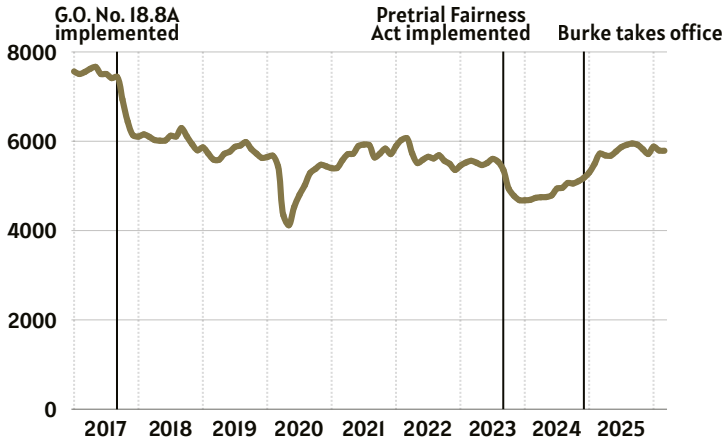
Data from the Cook County Sheriff's Office show that Burke's strategies have ultimately increased the jail population significantly. The jail population has decreased multiple times due to policy changes, such as

General Order Number 18.8A in 2017 and the Pretrial Fairness Act in 2023; as a result of Burke's detention strategies, the jail population has returned to its height before the Pretrial Fairness Act. Research shows that "even a single day of pretrial incarceration could harm an accused person's health, destabilize their life, and increase their likelihood of future arrest." In light of this, Burke's various strategies to increase the use of pretrial detention, especially for nonviolent offenses, is not only unnecessary but counterproductive to public safety.

See **Figure 4** for the average daily population of the Cook County Jail between January 2017 and March 2026.

FIGURE 4

AVERAGE DAILY POPULATION OF THE COOK COUNTY JAIL BY MONTH, JAN 2017 — MAR 2026



On the other hand, the CCSAO launched a pilot program in February 2026 that could help young people avoid pretrial detention. Funded by the Cook County Justice Advisory Council, the Juvenile Pre-trial Detention Alternative Pilot Program (JDAPP) provides an alternative to pretrial jailing for youth charged with "serious" juvenile offenses excluding murder, attempted murder, criminal sexual assault, or aggravated battery with a firearm. The program is initially being piloted in North Lawndale and Little Village.

The JDAPP connects youth in the program with community organizations for after-school wraparound services. The program gives the criminal legal system control over many facets of young people's lives, potentially exposing them to a wide range of restrictions on their behavior; specifically, it requires them to engage in cognitive behavioral therapy. Though this would increase young people's access to therapy, autonomy is incredibly important in the mental health setting both from an ethical standpoint and for treatment success. More information about the pilot program will be needed to understand this fully.

Still, given that more than 100 children and young adults are admitted to Cook County's Juvenile Temporary Detention Center (JTDC) each month, the JDAPP could present opportunities for many young people to avoid the destabilizing effects of pretrial jailing. This program could especially benefit youth accused of illegal gun possession, as UPW and AUPW offenses accounted for 26% of the charges against people admitted to the JTDC in January 2026. The CCSAO should consider offering alternatives to detention for adults accused of serious crimes as well.

[4] Jailing/detaining and imprisoning are distinct: A jail is predominantly used to incarcerate people before their trials, whereas a prison only confines people convicted of a crime.

[5] The only exception is when a person violates an order of protection whose subject is the victim in the underlying case, in which case the state's attorney's office is required to file a petition to revoke pretrial release.

[6] For example, Foxx petitioned to detain in 29% of weapons cases in her last year in office, and many of these likely involved the factors included in Burke's policy.

[7] This insight is based on conversations with a Chicago-based community organization that works with young people who carry guns.

[8] The data do not reflect petitions to revoke pretrial release filed by the CCSAO, which can result in pretrial jailing.

[9] A "complaining witness" is a person alleging to be the victim of a crime.

[10] This encompasses all charges categorized as battery charges by the research team and flagged as domestic-related by the CCSAO.

[11] The CCSAO also seemed to reference this change in a press release.

[12] This means that a state's attorney's office can only petition to detain someone for retail theft if it argues that the accused person poses a risk of willfully evading prosecution; arguments that the accused person poses a safety risk alone cannot justify detention for these cases.

Burke has a mixed track record on diversion for gun possession cases.

A diversion program is an alternative pathway for people charged with a criminal offense to resolve their cases and possibly avoid a conviction; they often take place in specialized court settings rather than traditional criminal courtrooms. A diversion program can be "pre-plea," which means that the case is diverted in the pretrial period and the accused person may avoid a criminal conviction altogether; in contrast, a "post-plea" diversion program requires the accused person to plead guilty in order to participate in the program. Though both types of diversion programming often result in dismissal of the charges upon successful completion, post-plea programs generally pose a greater risk for participants because any violation of the program requirements can result in a finding of guilt. Burke indicated during her campaign that she supported the creation of specialized courts to "tackle the underlying issues driving criminal behavior rather than resorting to detention."

As the CCSAO has taken on a more aggressive approach to gun possession in the past decade, diversion has become an increasingly important offramp for people facing these charges. In Cook County, there are multiple diversion programs that accept low-level gun possession cases.

The Restorative Justice Community Courts (RJCCs), established in 2017 and managed by the OCJ, comprise a pre-plea diversion program offered to young adults facing nonviolent misdemeanor or felony charges if they live, work, or worship in a neighborhood with an RJCC and have no violent offenses in their criminal history. Though the RJCCs primarily handled drug possession cases in their early years, 83% of the cases diverted to the RJCCs in 2024 were for gun possession.

In February 2025, it was reported that the CCSAO would no longer divert gun possession cases to the RJCCs. As a result, only 16 gun possession cases were diverted to the RJCCs in 2025 in comparison to an average of 143 cases annually for the prior three years (**Figure 5**). The CCSAO justified this policy shift by arguing that gun possession cases would be better served by diversion programming that provides gun safety education and supports accused people in obtaining their FOID cards.

In our previous reporting, Chicago Appleseed emphasized that restorative justice practices do not make sense for gun possession cases, which amount to licensure offenses with no identifiable victim, and argued that these cases would be resolved better by assisting accused people in obtaining gun licensure. Still, the RJCCs offer a pathway for some people accused of gun possession to avoid felony convictions and

imprisonment, and the decision to no longer divert gun possession cases to them violates the expressed interests of community members.

In January 2026, the CCSAO reversed this decision and resumed diverting gun possession cases to the RJCCs, explaining that the decision to remove these cases severely diminished the caseload of the RJCCs. The office also claimed that the RJCCs would replace their peace circles with restorative justice conferences for gun possession cases and that participants would be educated on gun safety and legal gun ownership.

Another diversion opportunity for people facing gun possession charges is the First Time Weapon Offense Program (FTWOP), implemented statewide as a pilot program in 2018. Public Act 103-0370 made the post-plea diversion program permanent in 2023 and expanded its eligibility beyond the initial restriction to people aged 18 to 20 years. Any circuit court in Illinois can establish a FTWOP and sentence people charged with UPW or Class 4 AUPW to the program. The FTWOP is post-plea; lasts between six months and two years; and requires consent from the court, the state's attorney, and the accused person. This program restricts eligibility to a small range of people charged with illegal gun possession, and even fewer are offered the opportunity by the judge and state's attorney.

See **Figure 5** for the number of gun possession cases diverted to the FTWOP by month.

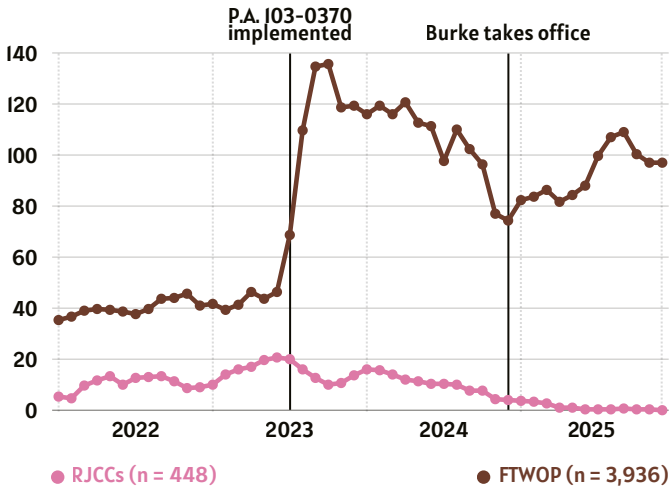
A third diversion program for gun possession cases, the Gun Accountability Program (GAP), was announced in March 2026 following the passage of statewide legislation that Burke advocated for. Public Act 104-0398 amends the statute governing the FTWOP to allow people participating in a diversion program to apply for a FOID card while their Class 4 gun possession charges are pending. If the Illinois State Police approves their application, they will obtain a FOID card upon successful completion of the diversion program. People with pending charges are generally ineligible to apply for FOID cards, so this makes it possible for people who successfully complete a diversion program to lawfully own a gun as soon as it ends instead of waiting for the processing time, which typically takes around two weeks.

The only benefit of the amendment is that people will now be able to expedite this two-week waiting period following the conclusion of their diversion program; they will still have to avoid rearrest during the entire period of their diversion program, which can range from a few months to multiple years. Also, the legislation only allows for people to apply for a FOID card, not a Concealed Carry License (CCL), while in a diversion program; this means that, even if someone were to obtain a FOID card immediately after completing a diversion program, they would still have to wait to legally carry a gun on their person.

The GAP began accepting gun possession cases in April 2026. The GAP has significant overlap with the FTWOP in terms of eligibility, but it is limited to people

FIGURE 5

GUN POSSESSION CASES DIVERTED BY PROGRAM AND MONTH, 2022 — 2025 (ROLLING AVERAGE)



aged 21 years or older. Notably, it is a deferred prosecution program and thus pre-plea, unlike the FTWOP, meaning that participants do not need to plead guilty to their charges in order to participate in the program. The GAP requires participants to appear regularly before a judge and complete gun education programming, including a 2.5-hour course from Train SMART, and the program lasts 9 to 12 months. This is much longer than necessary for the program's goal of streamlining safe and legal gun ownership. Given that many people facing these charges carried a gun because they felt it was necessary to protect themselves or their loved ones, requiring GAP participants to wait up to a year before they can legally own a gun will place some in a dangerous situation that could set them up for rearrest.

See **Figure 6** for a table comparing elements of the RJCCs, FTWOP, and GAP.

FIGURE 6
TABLE COMPARING COOK COUNTY DIVERSION PROGRAMS ACCEPTING GUN POSSESSION CASES

	Restorative Justice Community Courts (RJCCs)	First Time Weapon Offense Program (FTWOP)	Gun Accountability Program (GAP)
Year established	2017	2018	2026
Age requirement	18-26	None	21+
Eligible charges	Nonviolent felony or misdemeanor	Class 4 or misdemeanor, UPW or AUPW	Class 4, UPW or AUPW
Exclusions based on prior conviction	Violent offense	Gun offense or violent offense	Gun offense, violent offense, or felony
Exclusions based on prior arrest	Violent offense	None	Gun offense or violent offense
Gun exclusions	None	None	Modified/untraceable gun, multiple guns
Guilty plea required	No	Yes	No
Duration	Most often 5-16 months	6-24 months	9-12 months
Required programming	Repair of harm agreement, gun education (for gun possession cases)	None	2.5-hour firearm safety course

More research is needed to understand the GAP's processes and outcomes, so Chicago Appleseed plans to observe GAP hearings through our Court Observation & Education Program (COEP).

ACCOUNTABILITY OF LAW ENFORCEMENT

Chicago is commonly referred to as "the wrongful conviction capital of the United States" due to its history of corruption, police misconduct, and wrongful convictions. Between 1988 and 2018, nearly 250,000 allegations were filed against officers in the Chicago Police Department (CPD). Furthermore, more than 400 people were exonerated in Cook County between 2010 and 2025, according to the National Registry of Exonerations.

Whereas Foxx expanded the CCSAO's capacity and willingness to hold the CPD accountable throughout the criminal legal process, Burke's policies in her first 500 days present fewer checks on police power in prosecution and prevent wrongfully convicted people from seeking redress. Her policies at the charging, trial, and post-conviction stages reflect less emphasis on ensuring the integrity of police testimony and conduct and have a deleterious effect on basic due process and transparency.

Burke allows the police to file felony gun possession charges without prosecutorial approval.

Since the 1970s, the CCSAO has systematically reviewed most felony arrests before filing a felony criminal case. Though felony review is a relatively unique practice among prosecutorial offices across the United States, it is necessary because of Cook County's culture of police misconduct and dishonesty. Before Burke took office, felony review was required in Cook County for all felony cases except some drug offenses.[16] The CCSAO only proceeds with the charge if the case meets basic thresholds for factual basis, legal sufficiency, and due process in the police encounter.

See **Figure 7** for a flowchart representing the felony review process.

FIGURE 7
FLOWCHART OF THE FELONY REVIEW PROCESS

Police generally lack the legal training necessary to charge accurately or assess issues of constitutionality in arrests, and abdicating this responsibility to police presents an obvious conflict of interest. Felony review serves to limit the risk of unjustified pretrial jailing, legal fees, and convictions for unlawful arrests or cases charged without sufficient basis. Safeguards are necessary to ensure that cases that could deprive people of their liberty, even temporarily, are legal, accurate, and strong.

In January 2025, the CCSAO started piloting a "Felony Review Bypass Program" in the CPD's 7th District (Englewood), expanding it to the 5th District (Calumet) in April. The new policy means that the CCSAO automatically files the CPD's charging recommendations for UPW, AUPW, and UPWF[17] offenses without scrutinizing the evidence, effectively allowing the CPD to directly file the most common felony gun possession charges. Gun possession cases are only eligible to bypass felony review through this policy if body-worn cameras recorded the arrest, and each case must be reviewed by a CPD Watch Commander before it is filed.

See **Figure 8** for a flowchart representing the process for felony charges filed through this policy.

FIGURE 8
FLOWCHART OF THE "EXPEDITED FELONY REVIEW" PROCESS

In May 2025, Chicago Appleseed wrote a letter to Burke's office, signed by 38 organizations and 98 individuals, to express concern over the policy. The CCSAO did not respond privately or publicly to the letter, but it justified the policy by claiming that it improves police efficiency, enabling officers to spend less time waiting for charge approval. Burke said that these two districts were selected for the pilot because they have the longest average response times for 911 calls, but this rationale assumes that delays in these districts are caused by felony review rather than misallocation of resources. In practice, the decision to pilot a reduction of due process in predominantly Black neighborhoods increased the authority of the CPD in neighborhoods with disproportionate police misconduct.

In November 2025, Burke expanded this policy citywide, rebranding it as "Expedited Felony Review" (EFR) even though it does not expedite the felony review process but bypasses it entirely. Advocates have come out against this decision to put "unconditional faith in the CPD," an institution that more than warrants the scrutiny it has been under.

This policy poses severe potential consequences for Chicagoans. In particular, it is yet another escalation of the city's hypercriminalized approach to gun possession. Even if a felony case is later dismissed, the criminal process can still impose many restrictions on an accused person's life, such as having to take off work to attend court or potentially being jailed pretrial. In light of the CCSAO's policy requiring its ASAs to seek pretrial detention for all gun possession cases with certain factors present, EFR will likely lead to more people being jailed pretrial, potentially for cases involving unlawful arrests or insubstantial evidence.

The decision to pilot a reduction of due process in predominantly Black neighborhoods increased the authority of the CPD in neighborhoods with disproportionate police misconduct.

To justify expanding the policy citywide, the CCSAO cited that, "during the course of the pilot, 99% of EFR cases survived a preliminary hearing or resulted in a grand jury true bill." However, these hearings require a finding of mere probable cause, a much lower standard of proof than these cases would later face at trial,

and do not involve any evidence beyond witness testimony, most often by police officers. Neither the grand jury nor preliminary hearing examine the strength of a case with the rigor that felony review would.

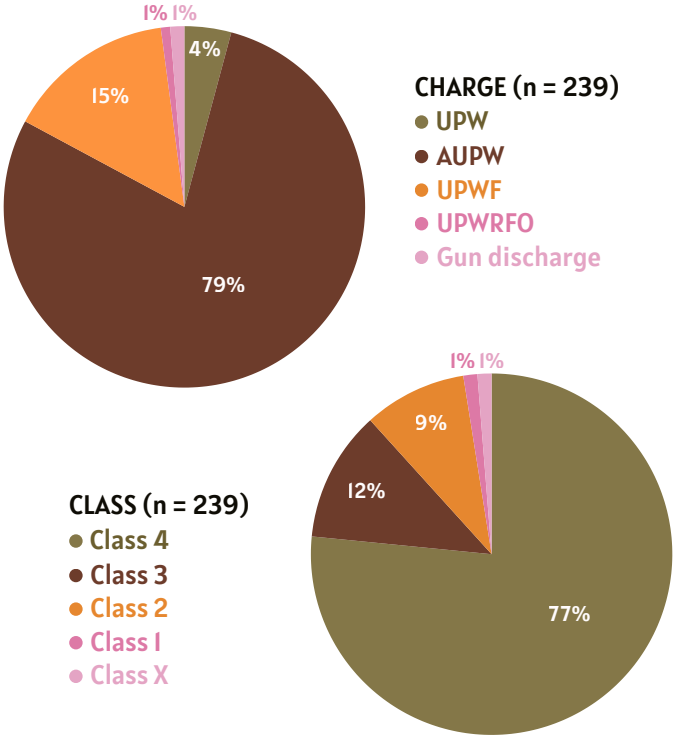
According to data from the CPD, 239 felony gun possession charges were filed across 220 arrests through the EFR policy in its first 15 months. A large majority of these charges were AUPW offenses (79%), with UPWF offenses representing most of the remaining cases (15%). Though these offenses start at a Class 4 and Class 3 felony, respectively, they can be elevated to higher-class felonies if they are repeated offenses or if certain factors are present, such as if the possessed firearm is a machine gun.

Alarmingly, the data suggest that the CPD has bypassed felony review for felony gun offenses that should not be eligible for the EFR policy according to the CCSAO. There have been two counts of unlawful possession of a weapon by a repeat felony offender[18] (UPWRFO) and three counts of aggravated discharge of a firearm filed through EFR, even though neither is one of the three charges the CCSAO included in their press releases for this policy. As a Class X felony, UPWRFO is the most serious gun offense that does not involve discharge, manufacturing, sale, or delivery, and aggravated discharge of a firearm is a Class 1 felony that goes beyond mere possession of a weapon.

The Expedited Felony Review policy has seemingly expanded beyond its previously defined scope of "low-level gun possession cases" in complete silence.

FIGURE 9

CHARGES AND CLASSES OF FELONY GUN CHARGES FILED THROUGH EXPEDITED FELONY REVIEW, JAN 2025 — MAR 2026



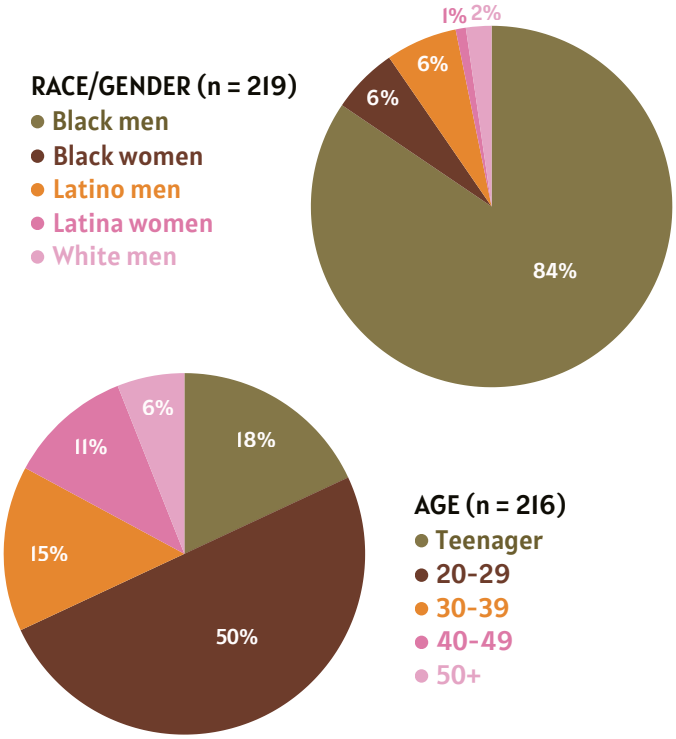
Most of the felony gun possession charges filed through EFR in the first 15 months were Class 4 felonies, but 12% were Class 2 felonies or higher, prison sentences for which can range from three to 60 years depending on the offense and imposition of extended terms. Three Class X felonies, the highest class below murder, were also filed through EFR; two were UPWRFO charges, and one was an UPWF charge where the weapon allegedly possessed was a machine gun, an elevated charge that carries a sentence of 12 to 50 years of imprisonment if they are convicted. Cases carrying significant risk of long-term incarceration should be held to a strict legal standard which the police are generally not trained to assess.

See **Figure 9** for a charge and class breakdown.

Unsurprisingly, the data also revealed that Black men have borne the greatest consequences of the policy, as they made up 84% of the people charged.[19] In fact, all but five of the more-than-200 people charged with gun possession through Expedited Felony Review in its first 15 months were Black or Latine. This is likely a consequence of the police districts selected for the

FIGURE 10

RACIAL AND GENDER DEMOGRAPHICS AND AGE DEMOGRAPHICS OF PEOPLE PROSECUTED THROUGH EXPEDITED FELONY REVIEW, JAN 2025 — MAR 2026



pilot as well as racial profiling in policing.[20] Furthermore, young people compose a large proportion of the people charged with felonies through this policy, with more than two thirds less than 30 years old.

See **Figure 10** for demographic breakdowns.

In the first 15 months, EFR was implemented in ten of the CPD's 22 districts. All but five of the 220 arrests conducted were on the South and West Sides of Chicago, even though the policy has, in theory, expanded to encompass the entire city.

See **Figure 11** for a map of the arrests.

Though the consequences of the policy cannot currently be estimated, as many of the cases charged through it have not yet gone to trial, EFR reflects the Burke administration's inappropriate deference to the police and increases the risk of wrongful convictions in a city notorious for them. Ten people were exonerated for weapon possession or sale between 2010 and 2025 in Cook County, and they collectively spent more than 20 years imprisoned for these faulty convictions; all ten of these cases involved official misconduct by police officers. This is an extreme undercount of wrongful convictions because a minority of them are ever corrected, especially in cases with relatively short sentences, so the injustices of wrongful convictions for gun possession go largely unmeasured.

All but five of the more-than-200 people charged with gun possession through Expedited Felony Review in its first 15 months were Black or Latine.

The decision to bypass felony review for gun possession cases exacerbates the city's harmful policing practices, hypercriminalization of gun ownership, and racial disparities in prosecution.

[16] Chicago Appleseed has previously criticized the practice of allowing police officers to directly file felony drug possession cases without review.

[17] Unlawful possession of a weapon, aggravated unlawful possession of a weapon, and unlawful possession of a weapon by a felon.

[18] This charge was previously named "armed habitual criminal."

[19] The data may not accurately reflect the racial and gender identities of all people charged through this policy.

[20] We discuss the role of investigatory stops in racial disparities for gun possession cases in *Punishing fear*.

Burke no longer maintains lists of police officers who have been deemed unreliable.

The 1963 Supreme Court case *Brady v. Maryland* established the due process right of the defense to receive exculpatory evidence held by the prosecution. Exculpatory evidence is evidence favorable to the defendant that tends to support their argument. *Giglio v. United States* and other appellate cases[21] have clarified the duty that prosecutorial offices have to disclose any evidence that undermines the credibility of witnesses, including police. Furthermore, due process requires prosecutors to act diligently and proactively to seek existing evidence that would discredit their witnesses.[22] In Illinois, this prosecutorial responsibility is further clarified by rules from the Supreme Court of Illinois.[23]

Historically, *Brady*/*Giglio* violations have been the source of many wrongful convictions in Cook County: Between 2010 and 2025, more than 370 people were exonerated in cases where the CCSAO withheld exculpatory evidence, representing 89% of exonerations during this period. Disclosing exculpatory evidence is not only constitutionally required of prosecutorial offices but is essential to preventing wrongful convictions.

In 2023, Foxx implemented a private "disclosure list" in accordance with *Brady* and *Giglio* as well as a public "do-not-call list."

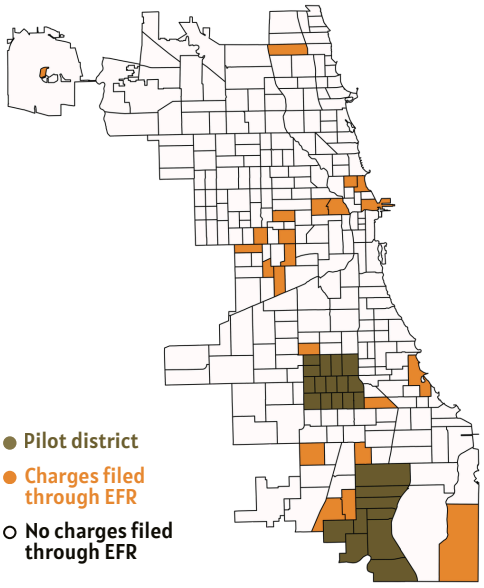
The disclosure list documented officers and expert witnesses who had been found untruthful or biased; had a history of complaints or disciplinary actions; or had been arrested, charged, or convicted of a crime. Being on the disclosure list did not categorically bar a witness from testifying; instead, it meant that the prosecutor had to inform the defense about their background.

The do-not-call list identified police officers and expert witnesses who the CCSAO would not call as witnesses due to serious misconduct, and it included almost 300 names by the end of 2024. Though not required under Brady and Giglio, the do-not-call list improved the quality of criminal proceedings by limiting the role of discredited police officers and was a useful accountability tool for the public.

These lists were at the discretion of the Chief Ethics Officer, *Brady*/*Giglio* Officer, and *Brady* Committee under the CCSAO, but a witness on either list could appeal their inclusion within 90 days by submitting a letter. The CCSAO relied on honest reporting from all law enforcement agencies in Cook County, including the CPD; they typically added a witness to the disclosure or do-not-call list because

FIGURE 11

CPD BEATS COLORED BY EXPEDITED FELONY REVIEW STATUS, JAN 2025 — MAR 2026



the witness' employer informed the CCSAO of potential impeachment information or the witness themself revealed such information when questioned by the CCSAO. As a result, these lists were not comprehensive: Data revealed in 2024 that the CCSAO actually captured a small portion of officers with sustained Rule 14 violations, which means that they were found to have made false statements. Still, the CCSAO's Brady/Giglio policy established a systematic process for maintaining and publishing information on witness credibility, improving the quality of criminal trials, and ensuring the office's compliance with constitutional requirements.

In March 2025, Burke implemented a new *Brady/Giglio* policy for the CCSAO that no longer includes maintaining disclosure and do-not-call lists. Instead, the office maintains a single list of officers relieved of police authority, which is less inclusive than either of Foxx's lists and is not published by the office. The CCSAO does not currently have a mechanism to track officers who have been accused of misconduct, falsifying reports, or perjury but have not been stripped of police powers or have since been reinstated, nor does the present policy indicate that the CCSAO still has a *Brady/Giglio* Officer and *Brady* Committee to review their internal list and make decisions about disclosure. Without the do-not-call list, the CCSAO no longer systematically precludes any officers or expert witnesses from being called to testify by the office but instead makes these decisions on a case-by-case basis.

To determine whether it has an obligation to disclose evidence about a witness to the defense, the CCSAO now relies entirely on this list of officers relieved of police authority; evidence previously obtained by the office; and a standard questionnaire for witnesses to report their own history of complaints, investigations, and disciplinary actions and other evidence that would damage their credibility. The policy also eliminates other avenues for witness credibility findings; for example, the CCSAO seemingly no longer requires ASAs to seek clarity on and report apparent adverse credibility findings made by judges. The policy also means that prosecutors no longer proactively request sustained disciplinary findings related to dishonesty from the Civilian Office of Police Accountability and the CPD's Bureau of Internal Affairs, actively limiting their ability to check credibility. The CCSAO justified the updated policy by falsely claiming that the prior policy had no procedure for a witness to appeal their inclusion in the lists.

Burke's *Brady/Giglio* policy reflects less concern with police accountability and transparency and raises serious due process concerns. By maintaining a less comprehensive list of discredited witnesses and being less proactive in collecting evidence on police witnesses, the CCSAO might actually be failing to meet its responsibilities under *Brady* and *Giglio*. The CCSAO's new policy increases the likelihood of false testimonies in criminal proceedings, generating wrongful convictions and allowing law enforcement to avoid accountability for intentional misconduct.

[21] *United States v. Bagley* and *People v. Beaman*.

[22] *Kyles v. Whitley*.

[23] Special Responsibilities of a Prosecutor (Rule 3.8) and Disclosure to Accused (Rule 412).

Burke has failed to investigate and prosecute federal agents for on-duty misconduct and violence.

In September 2025, Immigration and Customs Enforcement (ICE) launched "Operation Midway Blitz," a large-scale deployment of ICE agents and military personnel in Chicago to arrest people suspected of undocumented immigration. The first round of Operation Midway Blitz jailed thousands at a facility in Broadview, the conditions of which were so abysmal that a federal judge issued orders in November requiring ICE to address them.

Tragically, in the first week of Operation Midway Blitz, an ICE agent fatally shot Chicago resident Silverio Villegas-Gonzalez during a traffic stop in Franklin Park. In the months since, federal agents have repeatedly employed tear gas, pepper spray, and pepper balls on protesters and other Chicagoans, often in residential areas, even after a federal judge issued a temporary injunction limiting the use of chemical weapons by federal agents in Chicago to situations that pose a "serious threat" to law enforcement.

Burke did not announce a policy to prosecute federal agents until months after Operation Midway Blitz began. In this way, she failed to swiftly assure the residents of Chicago that she would hold the federal government accountable for violating Illinois law. Furthermore, Burke mobilized her office against people who protested federal agents: The CCSAO prosecuted roughly 100 people arrested at early protests in Broadview, though a majority of these cases have since been dropped.

In January 2026, Chicago Mayor Brandon Johnson signed the ICE on Notice executive order directing the CPD to document illegal activity by federal agents, identify the officers involved, and report the crimes to the CCSAO "at the direction of the mayor's office." Burke criticized this executive order as overstepping and released a Federal Immigration Enforcement Action Response Protocol for prosecuting use of force by federal agents in February 2026.

The protocol is only triggered by an investigation conducted by a law enforcement agency, meaning the CCSAO will only prosecute federal agents for cases brought to them by the police but will not themselves initiate any investigations. Burke claimed that the CCSAO would "willfully violate the law" if it conducted a criminal investigation independently of the police. This is untrue, and there is a long history of the CCSAO taking initiative to investigate violations of Illinois law without police bringing the case first through its robust Investigations Bureau, Special Prosecutions Bureau, Consumer Fraud Unit, and more. In fact, Burke directly expressed her willingness to investigate and prosecute crimes not properly handled by other agencies with respect to federal corruption cases.

Although People v. Ringland acknowledges that state's attorneys in Illinois generally defer the role of investigation to the police, it also clarifies that prosecutorial offices not only have the authority but the responsibility to conduct an independent investigation "when it is not adequately dealt with by other agencies." Given the extensive documentation of several crimes committed by federal agents and the failure of law enforcement agencies in Cook County to present an investigation of these incidents to the CCSAO, Burke has a legal responsibility to investigate them independently. Burke has also claimed that the CCSAO "lacks jurisdiction over federal agencies except in extremely narrow and limited circumstances"; however, the CCSAO would be well within its authority to prosecute someone for violating Illinois' criminal code.

Moreover, the CCSAO's protocol only accounts for use of force rather than other forms of misconduct such as kidnapping, perjury, and obstruction of justice. While this omission would not prohibit the CCSAO from prosecuting federal agents for other offenses, it means that the office has not established a clear plan to do so.

In March 2026, Chicago law firm Loevy and Loevy filed a petition requesting that the court appoint a special prosecutor to prosecute federal agents for suspected state crimes. The petition emphasizes that ICE agents have "killed and maimed people, terrorized communities, and unleashed extreme force and chemical weapons indiscriminately," evidence of which has been "recorded, documented, submitted in federal court proceedings, and outlined in judicial opinions." As of the publication of this report, the petition has been signed by more than 80 government officials, 70 organizations, and 270 additional individuals. Despite the fact that this special prosecutor would be independent from the CCSAO and therefore less vulnerable to political consequences, Burke opposed it claiming it would "usurp" her authority.

This is another example of Burke deferring to police, who have demonstrated little initiative to investigate misconduct and violence committed by federal agents, in lieu of using her own discretion. Consequently, Burke is failing in her affirmative duty to prosecute crime and exposing Cook County residents to unfettered violence.

Burke has made it more difficult for people in Cook County to rectify wrongful convictions.

An individual convicted of a felony in Cook County may appeal their conviction directly to an appellate court or in some cases file a post-conviction petition to the trial court. A person with a claim of wrongful conviction or new evidence of innocence can also submit an application to the CCSAO's Conviction Integrity Unit (CIU). The CIU was established as a six-person team in 2012 by then-Cook County State's Attorney Anita Alvarez to investigate claims of wrongful felony convictions, a change that was especially necessary in Cook County. Foxx successfully expanded the size of the CIU staff in 2020 to handle police torture cases associated with a particular CPD district.

The creation of the CIU set up an alternative pathway for people to seek relief for wrongful convictions. Conviction integrity units follow a non-adversarial model for those seeking relief, providing a direct contrast to court-based avenues. Moreover, the post-conviction route is infamous for having extreme delays for petitioners, with prosecutors routinely seeking dismissal to prevent case advancement.

Under Burke, the CCSAO updated the CIU's webpage to emphasize that review by the unit is a last resort. Since its inception, the unit has only reviewed cases where direct appeals were exhausted and the convicted person has claims of "actual innocence." Now, in addition to cases with pending appeals, the CIU no longer accepts cases with pending post-conviction proceedings, creating a procedural roadblock for people to get relief as they wait for that process to conclude. As of April 2026, the CIU has not exonerated a single person under Burke's leadership.

The Burke administration has also made it more difficult for people with successful exonerations to rectify the consequences of a wrongful conviction. For someone convicted of and imprisoned for a felony, a

certificate of innocence is a court order stating that they are innocent of the offense which allows them to expunge their records in Illinois and be compensated up to $300,000 for time served. The convicted person must demonstrate to a judge that they are more likely innocent than not of the offense for which they were convicted in order to be granted a certificate of innocence. Prosecutors have the option to object to certificates of innocence; judges most often grant the certificates nonetheless, but the objection can extend the court process by months.

In March 2025, Burke explained that the CCSAO's strategy regarding certificates of innocence had shifted. She said that certificates should only be granted when there is "concrete, irrefutable evidence" that the accused person did not commit the offense, even though this is a much higher standard of proof than required by statute. Whereas Foxx objected to a quarter of certificates, the CCSAO has objected to 82% under Burke and purportedly told attorneys that it objects to them by default.

The best way to prevent wrongful conviction lawsuits is to prevent wrongful convictions, not to prevent people from seeking redress.

A beloved narrative of Chicago's law-and-order Democrats is that the city overspends on exonerations, wrongful convictions, and lawsuits for police misconduct. However, the best way to prevent wrongful conviction lawsuits is to prevent wrongful convictions, not to prevent people from seeking redress. Given Cook County's historical and ongoing reality of wrongful convictions, and in light of Burke's felony review and disclosure policies outlined above, it is dangerous to limit convicted people's options for review and slow down the process of obtaining certification of their innocence.

COURT TRANSPARENCY

Foxx greatly improved the transparency of the CCSAO by publishing the Felony Dashboard, a collection of five data sets at the case or charge level, which were generally updated quarterly. The Felony Dashboard included data on the race, gender, and age of the accused person; arrest date and city; charges filed (at the most specific statute level); felony review, detention, and electronic monitoring outcomes; case outcomes; types and lengths of sentences, if applicable; and programs, lengths, and outcomes for diversion programming, if applicable.

This data, though it was not completely accurate or incredibly easy to analyze, was very comprehensive and useful for researchers and policymakers because it was easily downloadable and not aggregated beyond the case level. This allowed organizations like Chicago Appleseed to investigate their own questions in the data, which was essential for various reports published while Foxx was in office.[24]

Upon entering office, Burke took the Felony Dashboard webpages down from the CCSAO's website and updated the pages for the data sets on the Cook County Open Data Portal with the following message:

> *The Cook County State's Attorney's Office believes data transparency is an important accountability and public safety tool and is committed to providing Cook County residents with this critical information. Currently, we are working to make sure that the data we share is valid, accurate, and presented in a format that is useful to the public. Our goal is to have resumed updating the Cook County open data site within the first 100 days of the new administration.*

Since this message was uploaded to the data portal, the CCSAO has published multiple data dashboards on its website, seemingly as replacements for the Felony Dashboard. The Community Dashboard features the number of cases, cases resulting in pretrial detention, and guilty convictions for various charge categories; the Domestic Violence Dashboard features charging, felony review, and conviction outcomes for domestic violence cases; and the Sexual Assault Dashboard features similar data as well as racial demographics for sexual assault cases. Rather than unaggregated, case-level data, these dashboards provide a limited set of summary statistics on filtered sections of the data, limiting their usefulness for research and advocacy.

The only case-level data the Burke administration has published is on the Detention Dashboard, which documents the primary charge, whether the CCSAO filed a petition to detain, whether it was granted, and whether electronic monitoring was imposed for every criminal case since December 2023. This data set is very useful in theory, and collecting this data in a systematic way is a step toward transparency, but the dashboard is unusable in its current form because it has no way for users to download the data as a CSV or Excel file. This means that, in order to conduct any meaningful analysis of the data, a researcher's options are to submit a FOIA request to the CCSAO or manually count thousands of rows of data by hand. The solution is very simple: Add a button to the Detention Dashboard that downloads the data set to the user's device. However, after repeated requests for the CCSAO to make this easy change, they have still failed to do so as of the publication of this report.

Charges are also coded inconsistently within the Detention Dashboard,[25] making it very difficult for researchers to aggregate the data by their own delineated charge categories. For example, the data through March 2026 codes the singular charge of driving on a suspended license in 163 unique ways in the top_charge column. Foxx's Felony Dashboard used the Administrative Office of the Illinois Court's seven-digit charge codes as a standardized coding system for charges. We have recommended to the CCSAO's data team that they employ this same system (or alternatively add a column with exact statutes) for the Detention Dashboard to achieve the same level of consistency and granularity of charge data.

Finally, the Cook County Criminal Justice Data Dashboard, which aggregates data from various criminal legal agencies including the CCSAO,[26] was also published in June 2025 by the Cook County Government. This dashboard is a user-friendly resource for generating certain statistics about policing, prosecution, pretrial jailing, court cases, imprisonment, and parole, but it only features aggregated statistics rather than case-level data, limiting its utility.

In response to the ACLU of Illinois' 2024 Cook County State's Attorney Candidate Questionnaire, Burke promised that she "would prioritize increasing transparency throughout the office by implementing

measures to collect and publish data that highlight patterns of progress and areas of improvement in addressing racial bias." The CCSAO's decision to eliminate the Felony Dashboard and its failure to create a meaningful replacement is a clear subversion of this campaign promise.

[24] The Felony Dashboard was a critical data source for *Restorative justice, community, and the courts*, *Punishing fear*, and *The impact of the Pretrial Fairness Act on electronic monitoring in Cook County*.

[25] The Felony Dashboard had used the Administrative Office of the Illinois Court's seven-digit charge codes as a standardized coding system for charges. We have recommended to the CCSAO's data team that they employ this same system for the Detention Dashboard to achieve the same level of consistency and granularity of charge data.

[26] The sources of the data are the Clerk of the Circuit Court of Cook County, OCJ, Cook County Sheriff's Office, CCSAO, Cook County Public Defender's Office, CPD, and Illinois Department of Corrections.

RECOMMENDATIONS

RECOMMENDATIONS FOR THE COOK COUNTY STATE'S ATTORNEY'S OFFICE

Based on our evaluation of Burke's first 500 days in office, we present the following recommendations to the CCSAO. While some of these changes seem to demand an increase in capacity for certain units or procedures within the CCSAO, Chicago Appleseed objects to increased funding for the office. To meet these recommendations, we encourage the CCSAO to adjust its priorities and better utilize its budget of $260 million.

Reinstate the higher charging threshold for felony retail theft. Burke's decision to pursue felony retail theft charges in any case where the goods allegedly stolen are valued at $300 or more or where the accused person has any felony retail theft conviction in their background is a step backward in the push toward decarceration. This charging policy will result in more poor people receiving felony convictions, making it even harder for them to find employment and stable housing and thus exacerbating the issues that may have led them to shoplift in the first place. Burke should revert the charging threshold for retail theft so that the CCSAO is only charging these cases as felonies if the goods allegedly stolen are valued at $1,000 or more or if the accused person has ten or more prior convictions for retail theft.

End blanket detention policies. The Pretrial Fairness Act was clear that no detention decisions should be made based on a single factor, including the alleged charges. Burke should end her policy of filing petitions to detain in any case where certain charges and factors are present and instead grant her ASAs the opportunity to evaluate on a case-by-case basis whether detention is actually necessary to ensure safety or prevent willful flight.

Automatically divert eligible gun possession cases to diversion programs and expand eligibility to people of all ages. Burke should follow through on her campaign promises[27] and legislative advocacy by expanding the opportunities she grants to people accused of illegal gun possession to avoid the traditional criminal legal process and a conviction. She successfully advocated for legislation to allow people in

diversion programs to bypass the waiting period to apply for a FOID card, but the impact of this legislation in Cook County depends on her utilization of diversion programs. We recommend that she establish a policy of automatically diverting all eligible gun possession cases to the newly established Gun Accountability Program (GAP). Where possible, we encourage her to widen the scope of people diverted to this program as well by working with the Office of the Chief Judge to weaken the eligibility requirements; in particular, we recommend that the GAP be open to people of all ages.

Reinstate felony review for gun possession charges. Felony review is critical in Chicago given the CPD's history of unconstitutional arrests and perjury. Removing this due process protection for gun possession offenses will only subject more people to the consequences of a felony charge and criminal case. Burke should end the Expedited Felony Review policy and require prosecutorial review of all felony gun possession charges before they are filed.

Reinstate disclosure and do-not-call lists. These lists of police officers who have been deemed unreliable were critical tools to support both the CCSAO in providing exculpatory evidence and the public in holding the police accountable for misconduct. By replacing these lists with an internal, much less comprehensive list, the CCSAO has reduced accountability of an infamously corrupt police department and may even be failing to meet its requirements under *Brady* and *Giglio*. Burke should reinstate the internal disclosure list and public do-not-call list, using all methods of obtaining evidence employed by her predecessor.

Investigate and prosecute federal agents for on-duty misconduct and illegal use of force. Since police departments in Cook County have failed to bring charges to the CCSAO pertaining to well-documented state crimes committed by federal agents, Burke has not only the power but the responsibility to investigate these crimes.

Accept CIU cases with pending post-conviction proceedings and stop objecting to certificates of innocence by default. The CIU provides a useful alternative pathway to relief for people wrongfully convicted of a felony in Cook County, so the CCSAO should reinstate its broader scope under Foxx and accept cases that are pending in the post-conviction space. Furthermore, the Burke administration should end its alleged practice of objecting to certificates of innocence by default, as these objections only delay wrongfully convicted people's access to expungement and compensation for time served.

Publish the Detention Dashboard as a downloadable data set. This is the easiest recommendation to implement. Given that the CCSAO already maintains detention data and hosts a website for it, we only recommend that the office add a button to download the data set as a table. Alongside this, we also encourage the office to track petitions to revoke pretrial release as an additional column and document charges more consistently, ideally using standardized charge codes.

Collect and publish more case-level data. Burke's data dashboards do not provide data as comprehensive as the Felony Dashboard they replaced. If the CCSAO plans to maintain the standard of transparency set by Foxx, it should track intake and disposition dates, disposition outcomes, sentencing outcomes, and diversionary programming and publish this data at the case or charge level. The office is already collecting some of this data—diversion data, for example—but the public cannot access it without submitting a FOIA request.

[27] "I want to establish a Restorative Justice Bureau where specialized courts, dispersed throughout the judicial system, cater to non-violent offenders . . . The primary objective is to tackle the underlying issues driving criminal behavior rather than resorting to detention."

RECOMMENDATIONS FOR THE ILLINOIS GENERAL ASSEMBLY

The Burke administration has demonstrated its orientation toward indiscriminately harsh prosecution and away from accountability of law enforcement. Statewide legislation presents a means to circumvent some of her policies and shift the entirety of Illinois toward harm-reducing prosecution practices. We recommend that the Illinois General Assembly (ILGA) consider the following legislative reforms.

Increase the felony threshold for retail theft. In 2011, Illinois implemented Public Act 096-1301 which raised the felony threshold for retail theft to $300, still one of the lowest in the country. This means that retail theft is generally charged as a misdemeanor if the value of goods allegedly stolen is less than $300, excluding motor fuel. Since 2010, legislators have introduced bills to increase this felony threshold again, the most recent attempt being House Bill 1614 in 2019 which would have raised the threshold to $2,000. Six states already have felony thresholds at or above this value for theft.[28] We recommend that the ILGA pass legislation similar to House Bill 1614 to raise the felony threshold statewide.

Protect the Pretrial Fairness Act's detention eligibility net. The Pretrial Fairness Act clearly states which charges are eligible for pretrial detention under the dangerousness and willful flight standards. This existing "detention eligibility net" is an important limitation on detention that prevents state's attorney's offices from filing detention petitions for low-risk offenses. Burke's blanket detention policies and the consequent increase of pretrial jailing in Cook County highlight the importance of the detention eligibility net, so we urge the ILGA to oppose any future legislative efforts that intend to weaken or remove it.

Allow diversion without approval from the state's attorney. Many diversion programs, like the First Time Weapon Offense Program (FTWOP), require consent from the state's attorney to divert an accused person from the traditional criminal process. This places a lot of power in the hands of state's attorneys, potentially hindering the harm-reducing benefits of these programs in some counties. The ILGA should pass legislation to no longer require prosecutorial consent for a judge to divert an eligible person to diversionary programming. Two bills introduced in 2026, Senate Bill 3563 and House Bill 4422, would amend the statutes governing the Second Chance Probation and FTWOP in this way.

[28] Some of these felony thresholds may only apply to non-retail theft.

CONCLUSION

In only 500 days, Eileen O'Neill Burke has radically redirected the priorities and orientation of the Cook County State's Attorney's Office. The Burke administration has targeted retail theft, gun possession, and domestic violence cases, putting policies in place that impose higher charges and harsher pretrial conditions in an indiscriminate manner. The administration has also implemented policies and practices that remove checks

on the police and federal agents. Many ramifications of these policies cannot yet be fully understood or quantified; immediately, though, they represent a dangerous departure from the reform-oriented prosecution of Burke's predecessor and a return to the tough-on-crime prosecution that weakened Cook County communities for decades.

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