



# Civil Asset Forfeiture: Selected Statistics on Cases Filed and Disposed in the Superior Court

Massachusetts Trial Court  
Department of Research and Planning  
July 2022



## Selected Massachusetts Statutes Authorizing Civil Forfeiture

- G.L. c. 94C, §47, Forfeiture under the Controlled Substances Act (1971)
- G.L. c. 90, §24W, Forfeiture of Motor Vehicles Owned by repeat Drunk Driving Offenders (2005)
- G.L. c. 257, §§1-15, Seizure, Libeling, and Sale of Forfeited Property (1793)
- G.L. c. 265, §56, Forfeiture for Human Trafficking Offenses (2011)



## G.L. c. 94C, §47, Forfeitures under the Controlled Substances Act (1971)

- ▶ **§47(a) authorizes forfeiture of:**
  - controlled substances
  - materials, conveyances, equipment, etc., “used or intended for use” in manufacturing, delivering, distributing, transporting, concealing, etc.
  - “moneys . . . or other things of value furnished or intended to be furnished . . . in exchange for a controlled substance . . . , all proceeds traceable to such an exchange”
  - “real property . . . used in any manner . . . to commit or to facilitate the commission of a violation”
- ▶ **Exception:** Conveyances and real property only if owner “knew or should have known” of use. Real property also subject to homestead exemption.
- ▶ **§47(b) Property subject to forfeiture “shall, upon motion of” AG or DA “be declared forfeit by any court . . . having final jurisdiction over any related criminal proceeding.”** So Commonwealth may move for forfeiture upon conviction, by plea or trial, in District Court/BMC or Superior Court.
- ▶ **§47(d) Commonwealth may file separate civil action seeking order of forfeiture.**



## G.L. c. 94C, §47, Forfeitures under the Controlled Substances Act (cont.)

- DA or AG may file proceeding in rem in Superior Court for order of forfeiture.
- Court “shall order” notice by certified or registered mail to owner “and such other persons as appear to have an interest.”
- Court may issue ex parte order to seize or secure, or for custody of, property pending proceeding.
- Court must hold hearing within two weeks of notice; may continue hearing, on request of owner, pending outcome of criminal prosecution.
- At hearing: Commonwealth has burden to show probable cause; then claimant (owner) has burden to prove not subject to forfeiture.



## **G.L. c. 90, §24W, Forfeiture of Motor Vehicles Owned by repeat Drunk Driving Offenders (2005)**

- Can be filed in either District Court/BMC or Superior Court, but are almost exclusively brought in the District Court/BMC.

## **G.L. c. 257, §§1-15, Seizure, Libeling, and Sale of Forfeited Property (1793)**

- Can be filed in either the District Court/BMC or Superior Court, but are almost exclusively brought in the District Court.
- Statute pre-dates more specific forfeiture statutes.

## **G.L. c. 265, §56, Forfeiture for Human Trafficking Offenses (2011)**

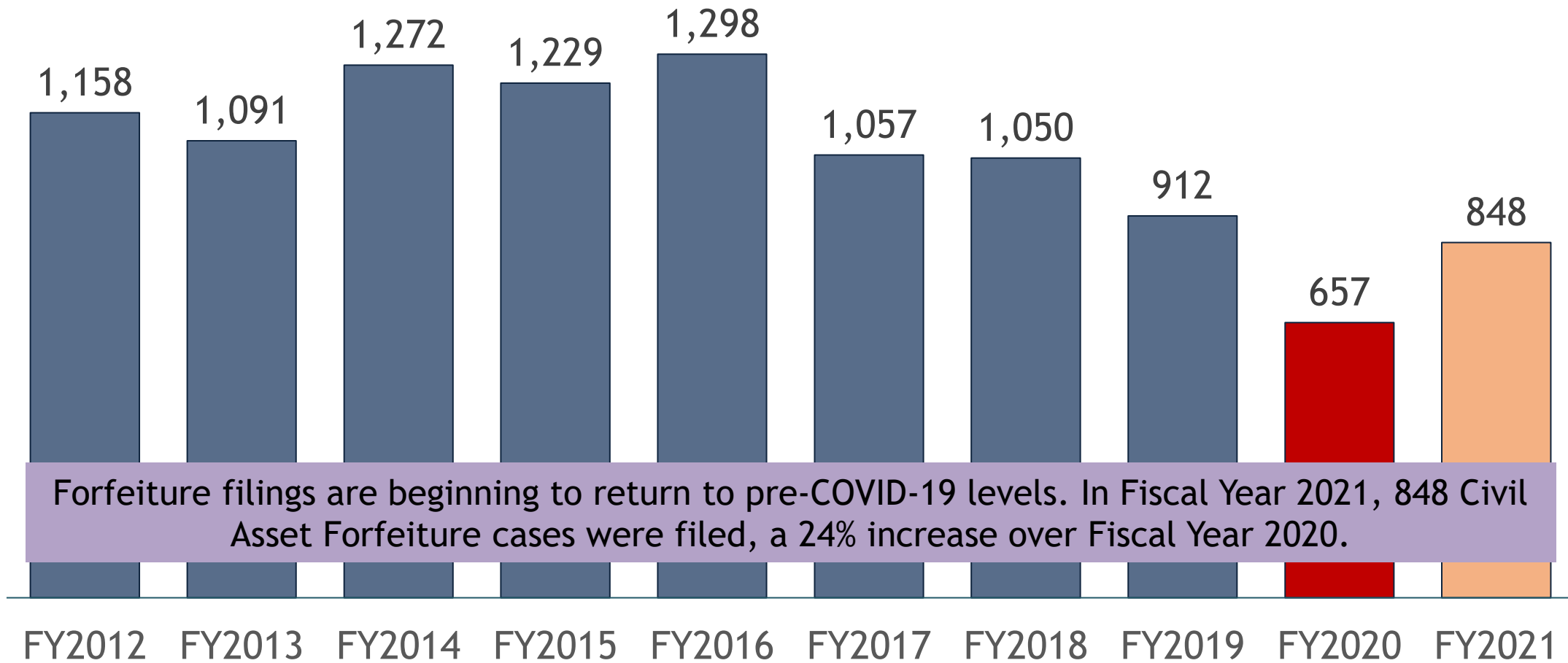
- Can only be filed in the Superior Court.



# Analysis of Civil Asset Forfeiture Cases Filed in the Superior Court



# Civil Asset Forfeiture Cases Filed in Superior Court

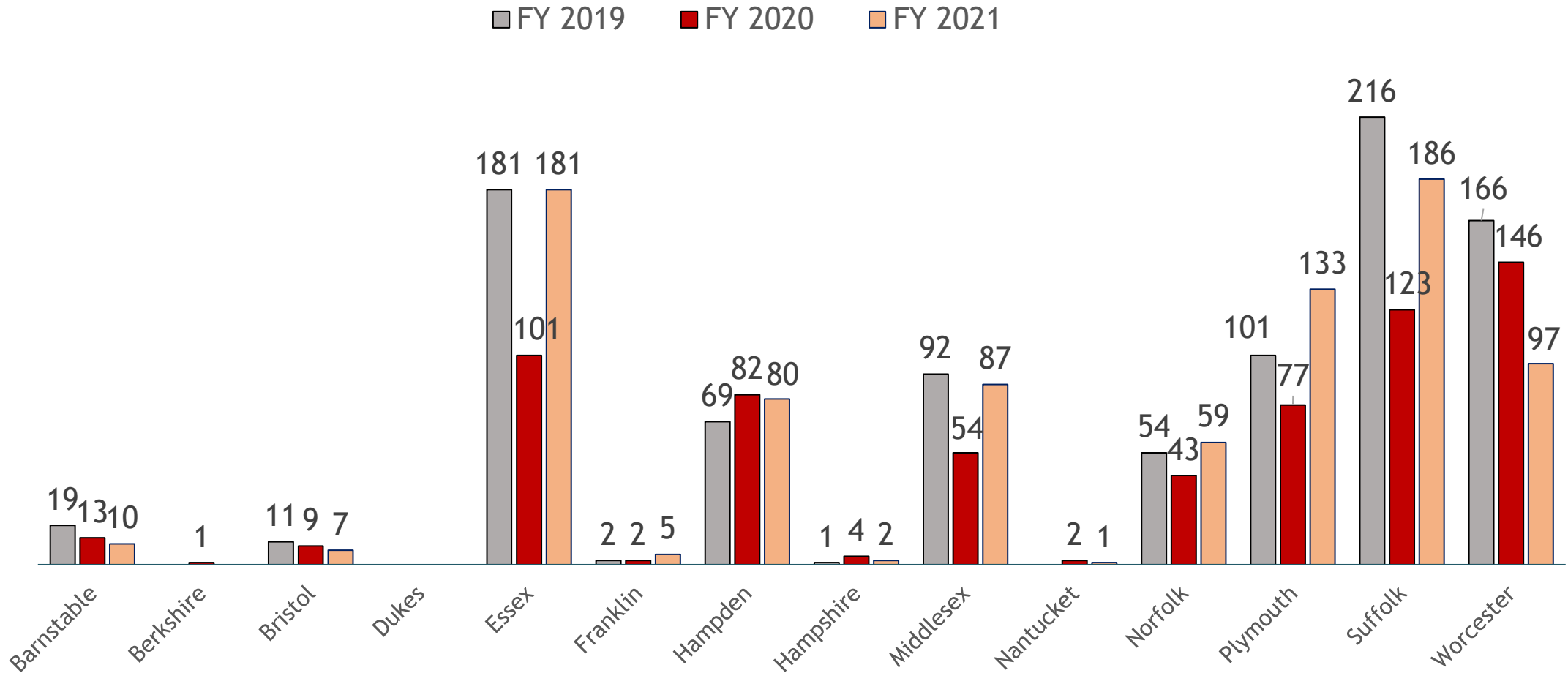


\* Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.



# Civil Forfeiture Filings by County and Fiscal Year

Suffolk, Essex, and Plymouth accounted for the majority of civil forfeiture cases filed over the past fiscal year.

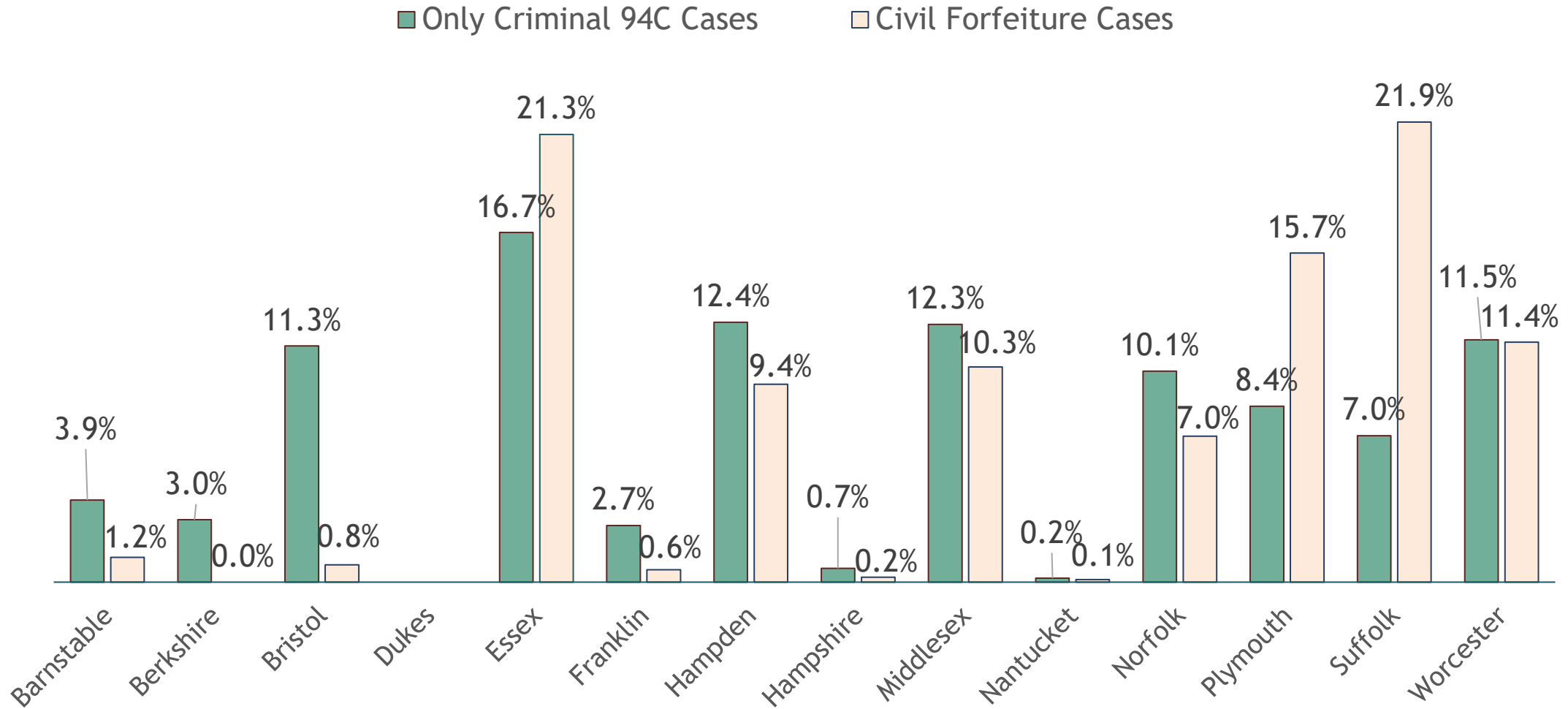


\* Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.





# Forfeiture Cases Filed in relation to Criminal Cases Filed by County, FY2021



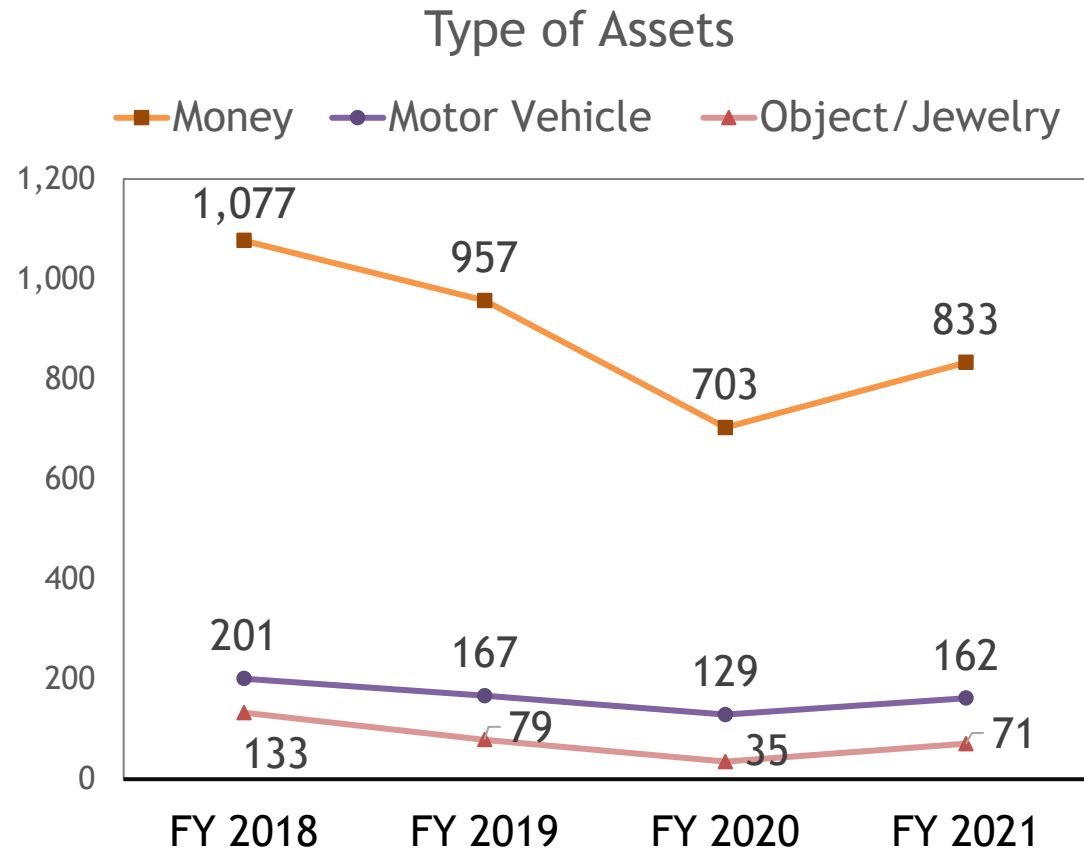
\* Figures reflect criminal cases filed with one or more G.L. c. 94C, charge, and civil forfeiture cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, by county, as a percentage of such cases filed statewide in MassCourts.

\*\* Massachusetts General Laws, Chapter 94C, section 47 provides for civil forfeiture of assets involved in the violation of Mass. General Laws, Chapter 94C, Forfeiture of Motor Vehicles from Fourth or Subsequent OUI Offender, c90, §24W, Forfeiture of Property Seized for Criminal Offense, c257, §6, and Forfeiture for Human Trafficking Offenses, G.L. c. 265, §56.



# Assets Identified in Civil Filings, Last Four Fiscal Years

- Assets identified in civil filings included (but were not limited to): US currency, car vehicles, Rolex watches, iPhones, shoe collections, tablets, computers, TVs, and foreign/ international currency.
- Over the past four fiscal years, there were 4,548 assets identified in civil filings in the Superior Court. Money assets represented 79% of all assets.
- The overall number of assets identified in filings increased 23% when comparing fiscal year 2020 and fiscal year 2021, representing a return in case filings towards pre-COVID-19 levels. Money assets also increased 18%.



\* In some instances, a single asset listed on a case may represent multiple items.

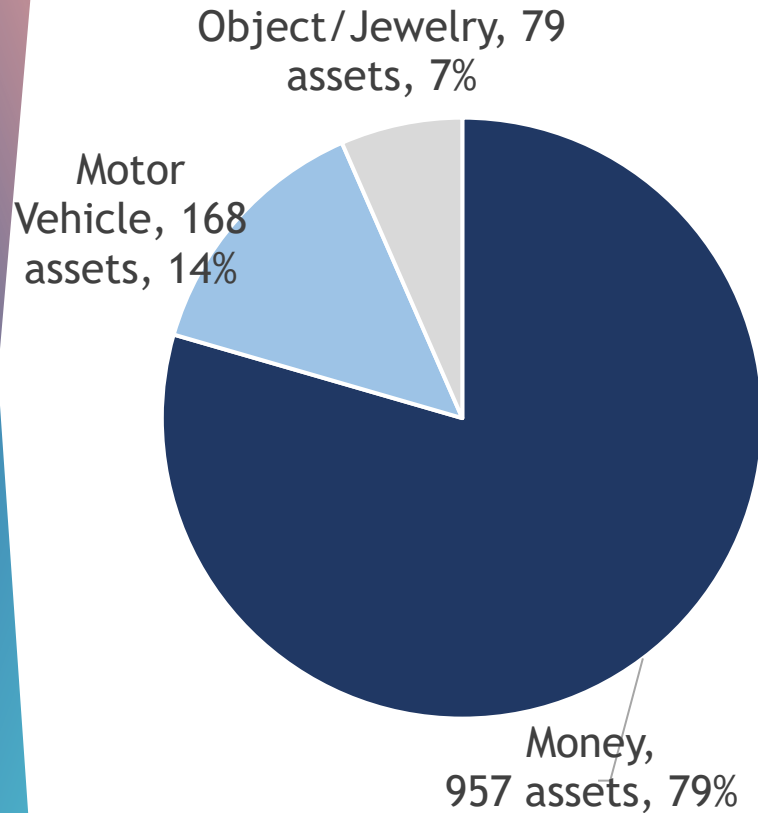
\*\* For cases where there were two or more money-based assets listed on the case, the asset with the highest dollar value was assigned as the dollar value for the case.

\*\*\* There were twenty-two (22) cases where the type of asset listed on the case could not be extracted from MassCourts. Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.

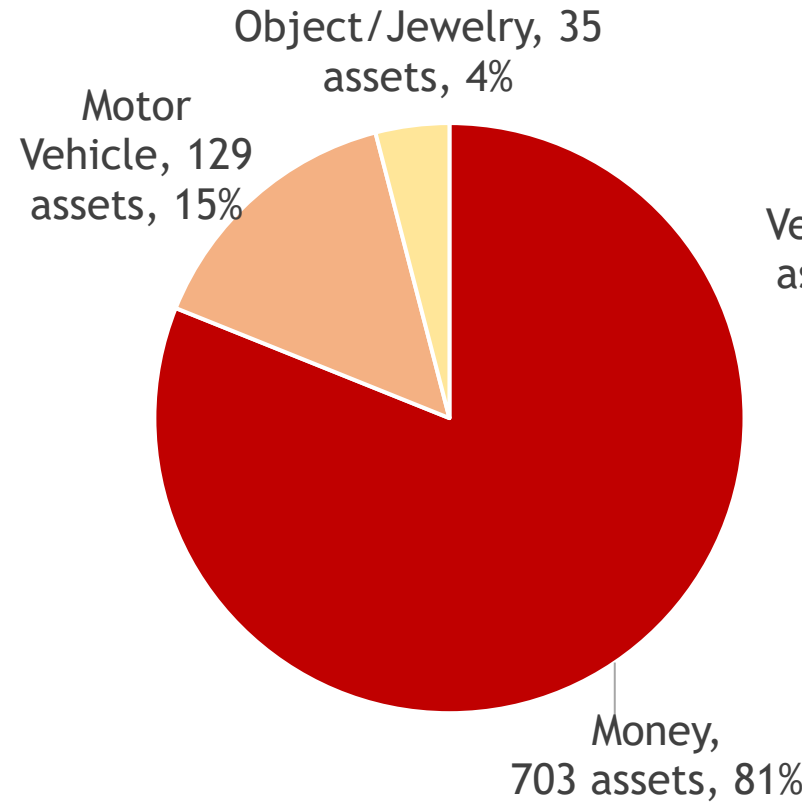


# Proportion of Assets as Identified in Civil Filings Fiscal Year-over-Year Comparison

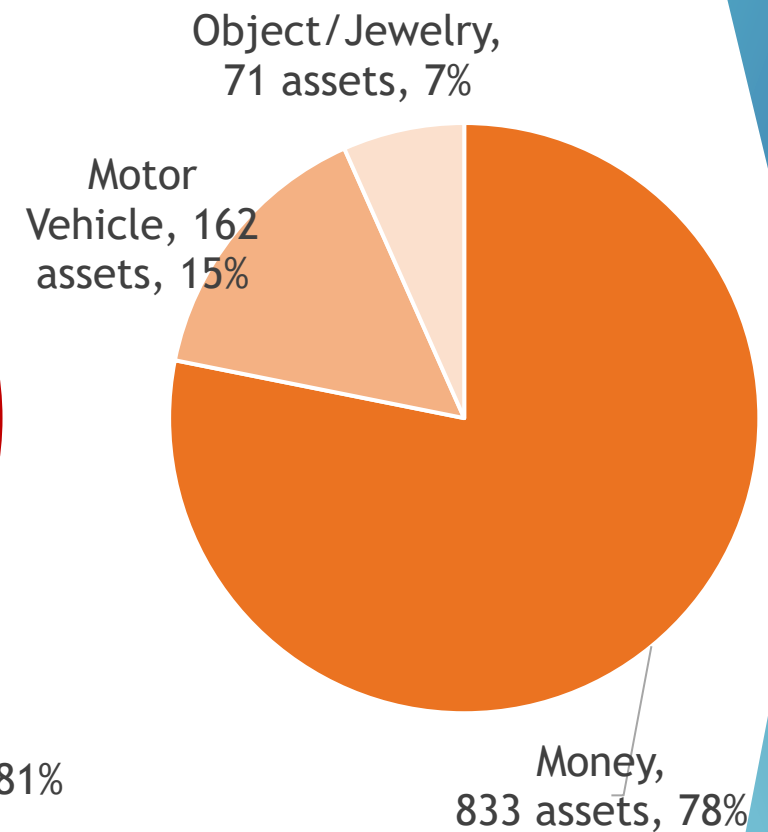
## FY 2019



## FY 2020



## FY 2021



\* In some instances, a single asset listed on a case may represent multiple items.

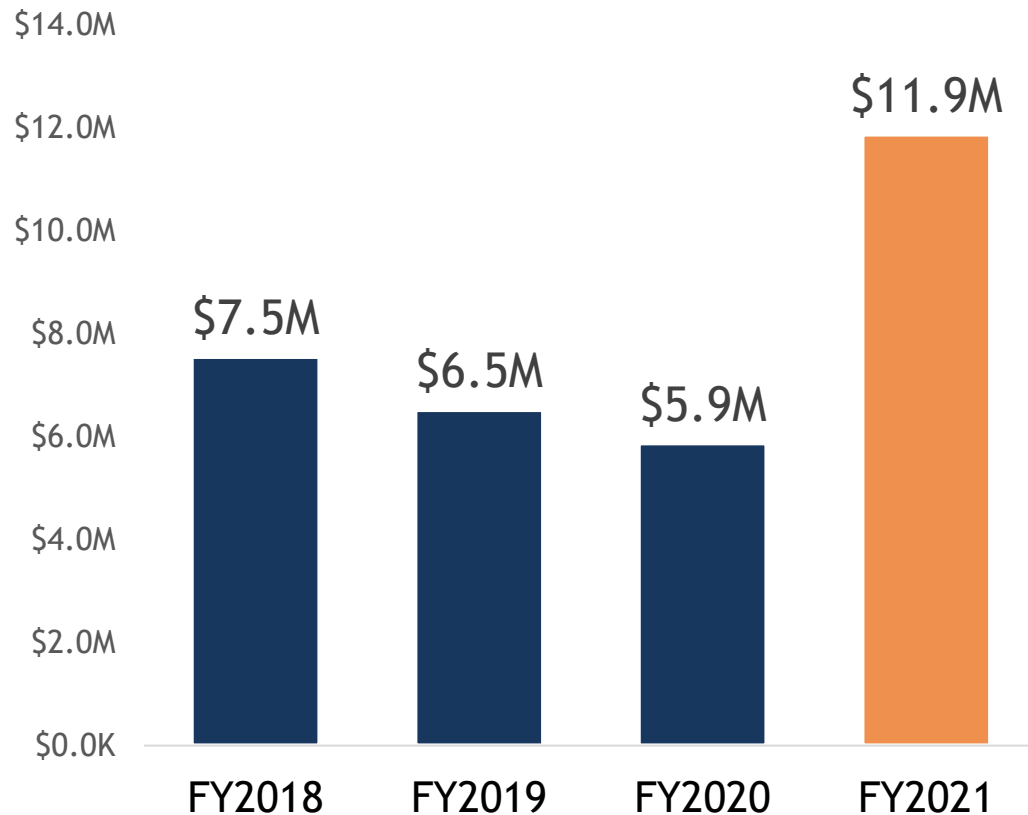
\*\* There was only one case filed in the time period where one of the assets listed included real estate.

\*\*\* There were nine (9) cases where the type of asset listed on the case could not be extracted from MassCourts. Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.



# Money Assets Identified in Civil Filings, Last Four Fiscal Years

Money Assets (in dollars)



- Civil assets forfeiture filings contained various types of money-based assets such as US currency, foreign/international currency, bank accounts, and pre-paid gift cards.
- In some instances, cases listed more than one dollar value asset.
- Over \$31M was identified in 3,404 filings over the past four fiscal years in the Superior Court.
- One case filed in FY2021 identified over \$4M in money-based assets.

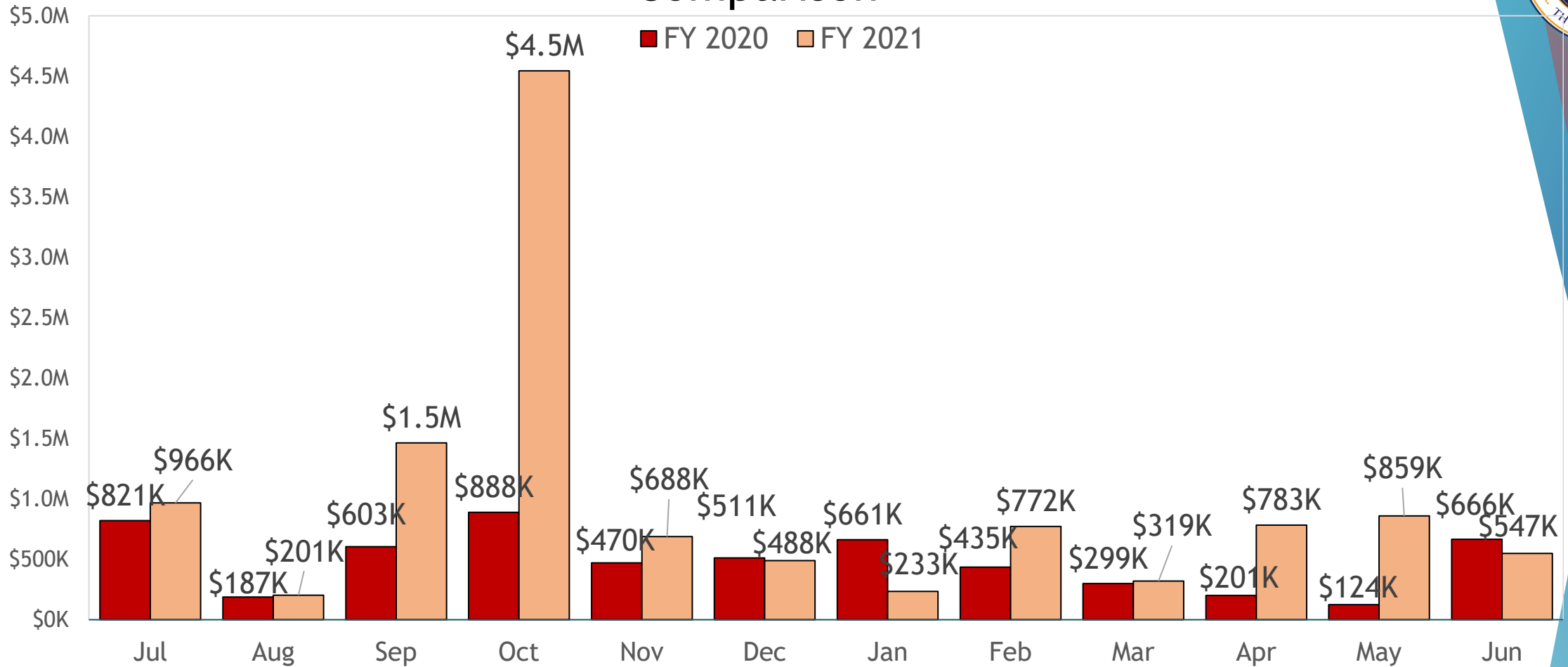
\* In some instances, a single asset listed on a case may represent multiple items.

\*\* For cases where there were two or more money-based assets listed on the case, the asset with the highest dollar value was assigned as the dollar value for the case.

\*\*\* There were twenty-two (22) cases where the type of asset listed on the case could not be extracted from MassCourts. Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.



# Distribution of Money Assets (in dollars) by Month, Year-over-Year Comparison



\* In some instances, a single asset listed on a case may represent multiple items.

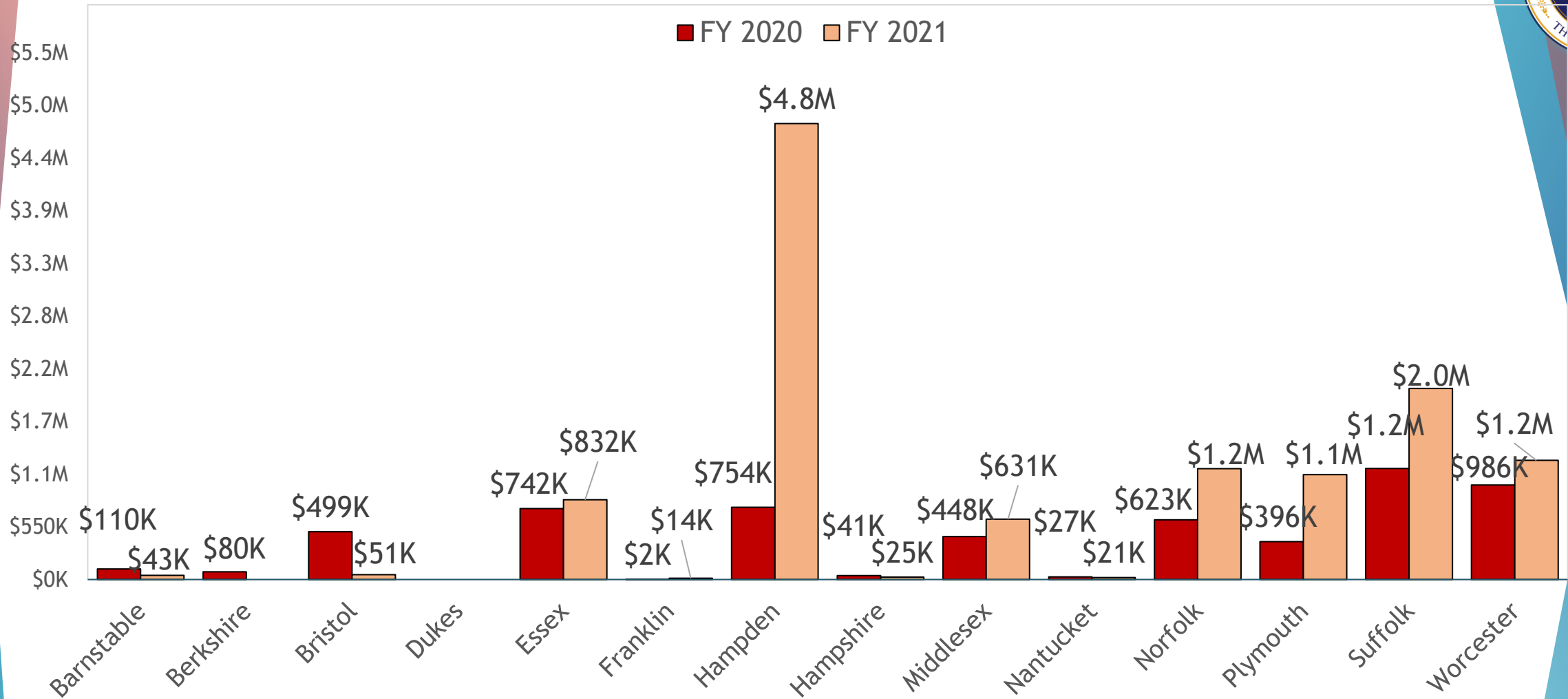
\*\* For cases where there were two or more money-based assets listed on the case, the asset with the highest dollar value was assigned as the dollar value for the case.

\*\*\* Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.

\*\*\*\* One case filed in October 2020 identified over \$4M in money-based assets.



# Money Assets (in dollars) by County, Year-over-Year Comparison



\* In some instances, a single asset listed on a case may represent multiple items.

\*\* For cases where there were two or more money-based assets listed on the case, the asset with the highest dollar value was assigned as the dollar value for the case.

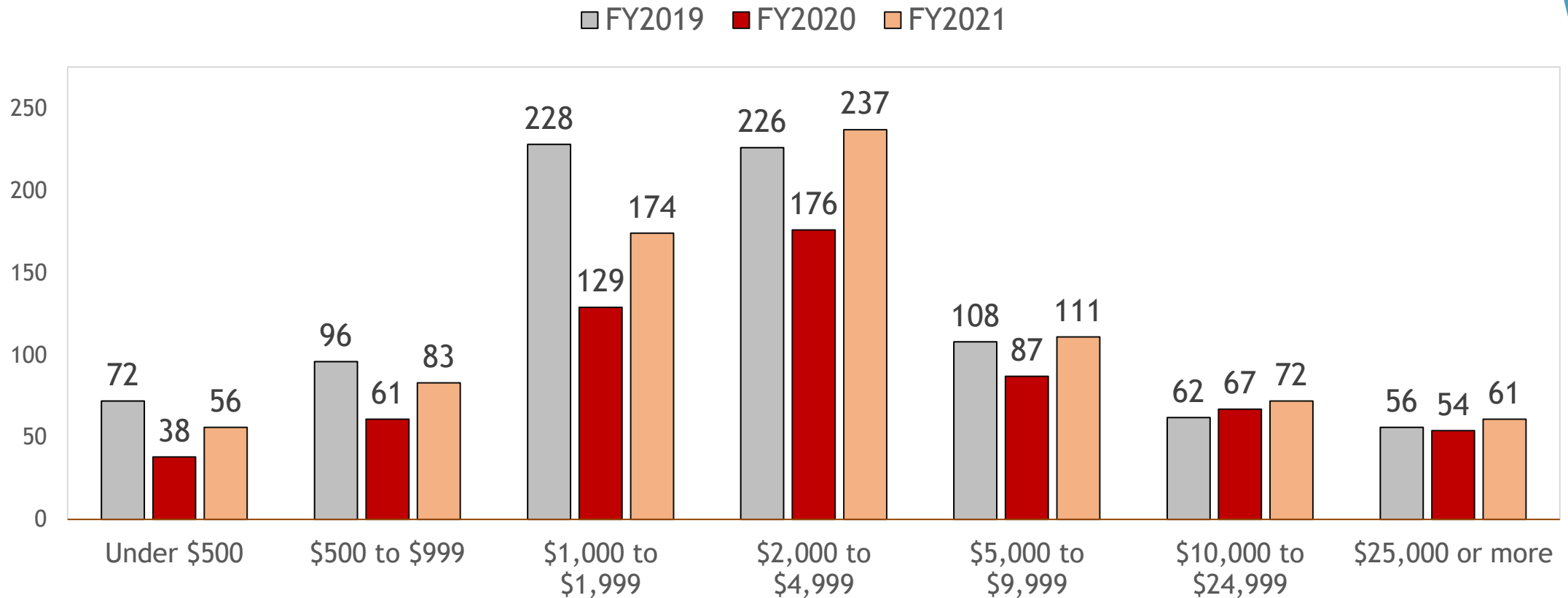
\*\*\* There were nine (9) cases where the type of asset listed on the case could not be extracted from MassCourts. Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.

\*\*\*\* One case filed in Hampden in FY2021 identified over \$4M in money-based assets.



# Distribution of Dollar Amounts by Fiscal Year

Amounts in the range of \$1,000-\$1,999 (22%) and \$2,000-\$4,999 (30%) accounted for the highest number of cases in FY2021.



\* In some instances, a single asset listed on a case may represent multiple items.

\*\* For cases where there were two or more money-based assets listed on the case, the asset with the highest dollar value was assigned as the dollar value for the case.

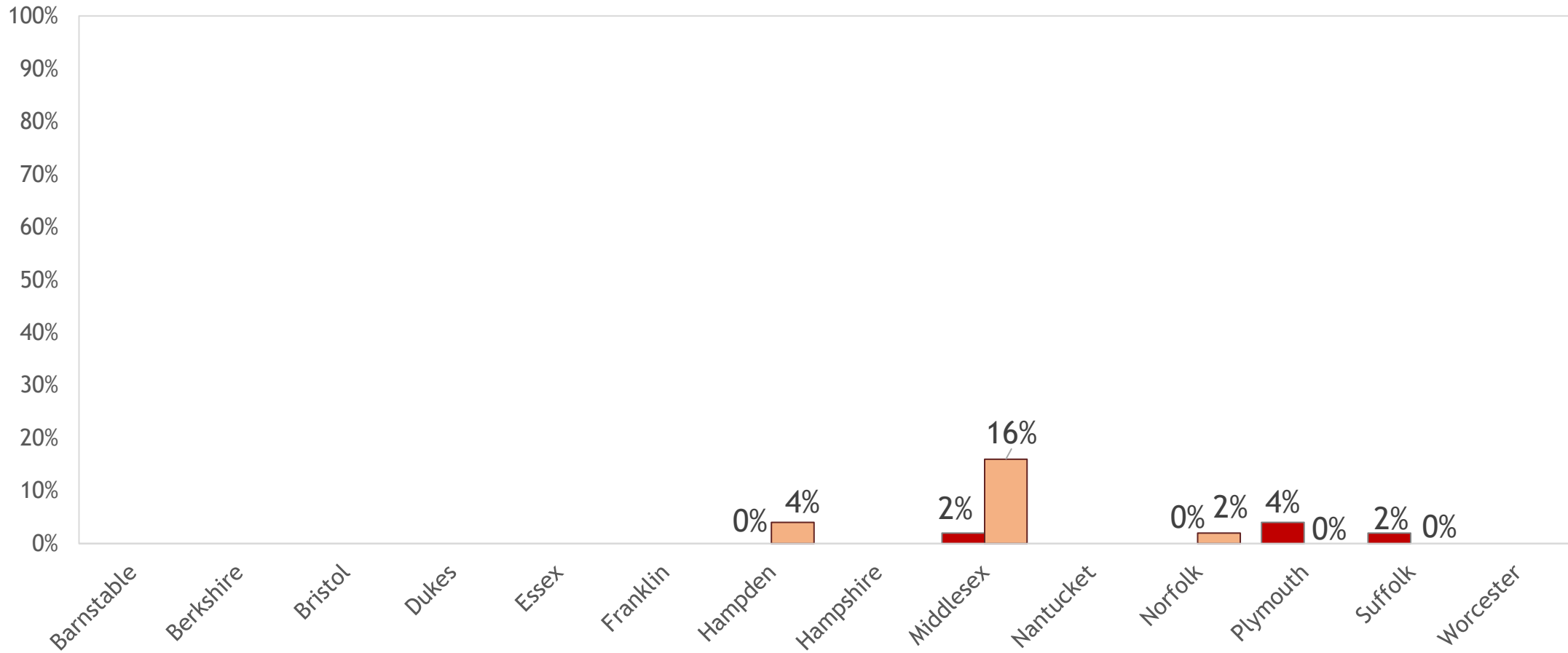
\*\*\* There were fourteen (14) cases where the type of asset listed on the case could not be extracted from MassCourts. Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.





# Proportion of Money Assets Under \$250 by County

■ Under \$250 in FY2020    ■ Under \$250 in FY2021



\* In some instances, a single asset listed on a case may represent multiple items.

\*\* For cases where there were two or more money-based assets listed on the case, the asset with the highest dollar value was assigned as the dollar value for the case.

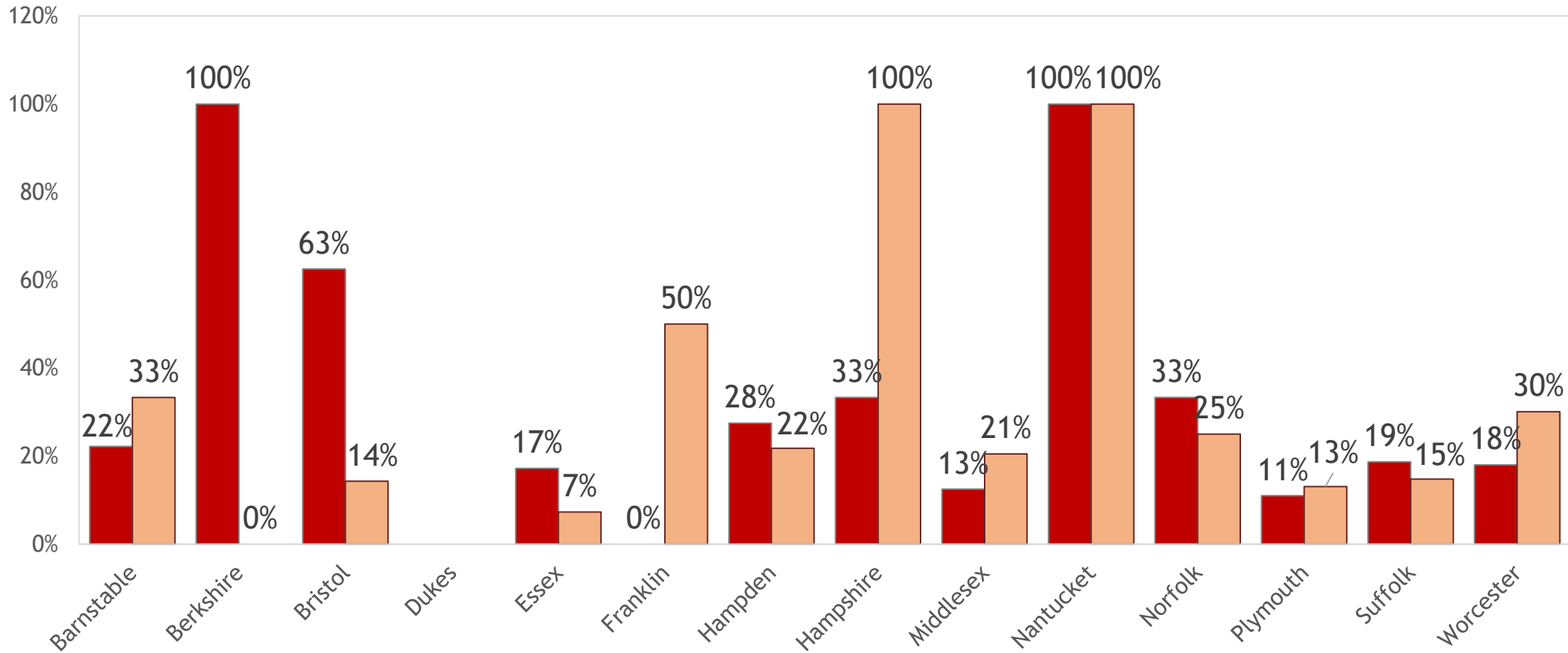
\*\*\* There were nine (9) cases where the type of asset listed on the case could not be extracted from MassCourts. Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.





# Proportion of Money Assets Over \$10,000 by County

■ Over \$10,000 in FY2020    ■ Over \$10,000 in FY2021



\* In some instances, a single asset listed on a case may represent multiple items.

\*\* For cases where there were two or more money-based assets listed on the case, the asset with the highest dollar value was assigned as the dollar value for the case.

\*\*\* There were nine (9) cases where the type of asset listed on the case could not be extracted from MassCourts. Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.

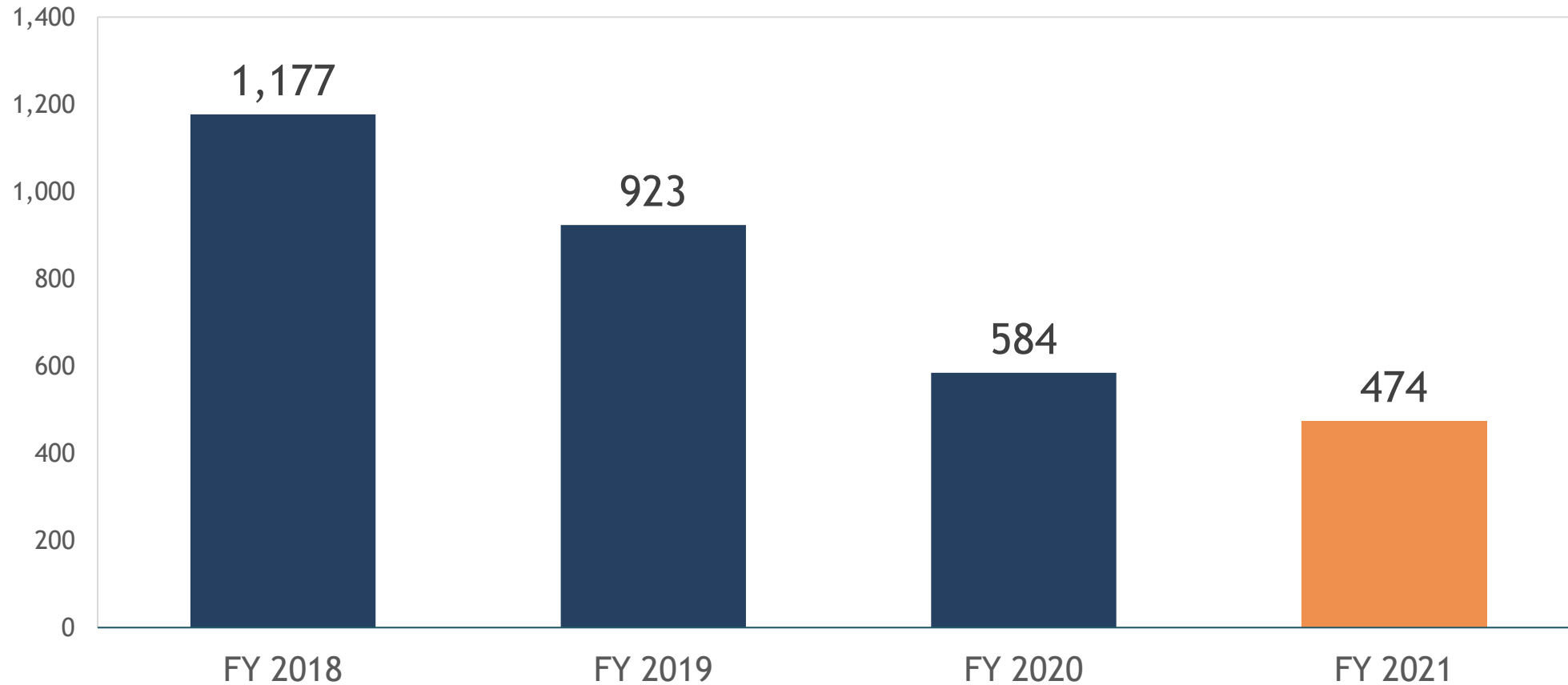


# Analysis of Disposed Forfeiture Cases in the Superior Court



# Civil Asset Forfeiture Cases Disposed, Last Four Fiscal Years

The COVID-19 reduction in non-emergency court business resulted in fewer disposed cases in FY2021.



\* A disposed case is best defined as a case with an initial or final resolution or adjudication such as an agreement for judgment, or dismissal.

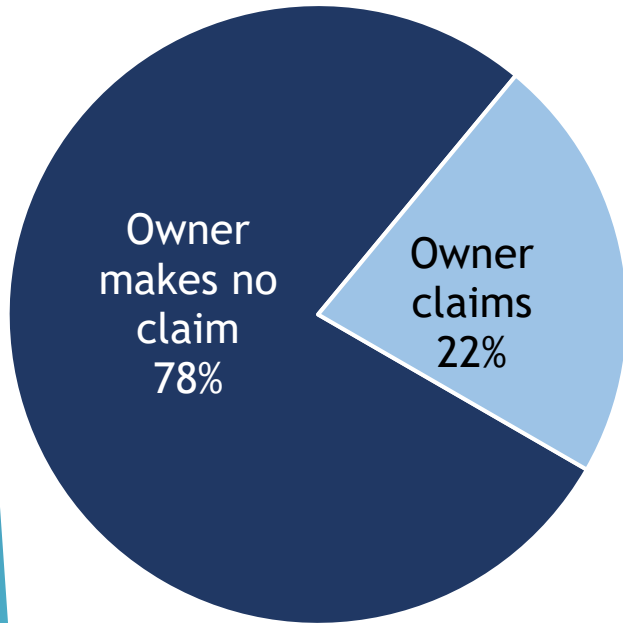
\*\* Figures reflect cases filed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.



# Disposed Forfeiture Cases by Claim of Property, Year-over-Year

In 399 or 84% of disposed forfeiture cases in FY2021, the property owner made no claim to the property.

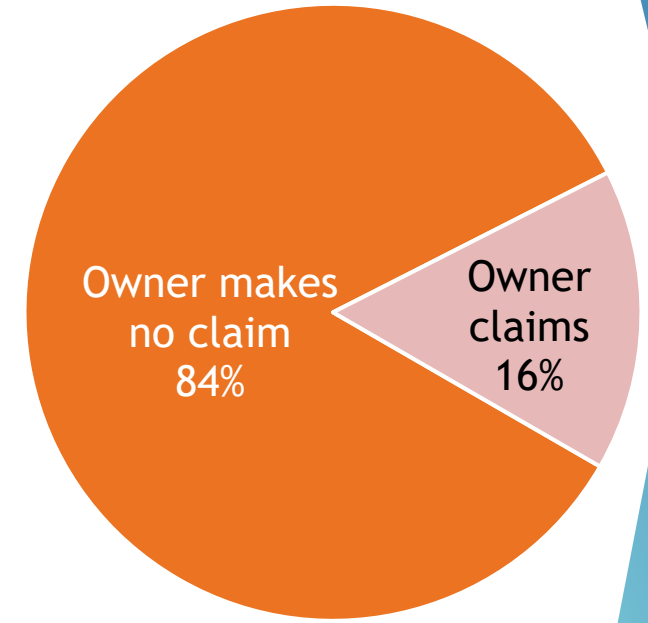
FY 2019



FY 2020



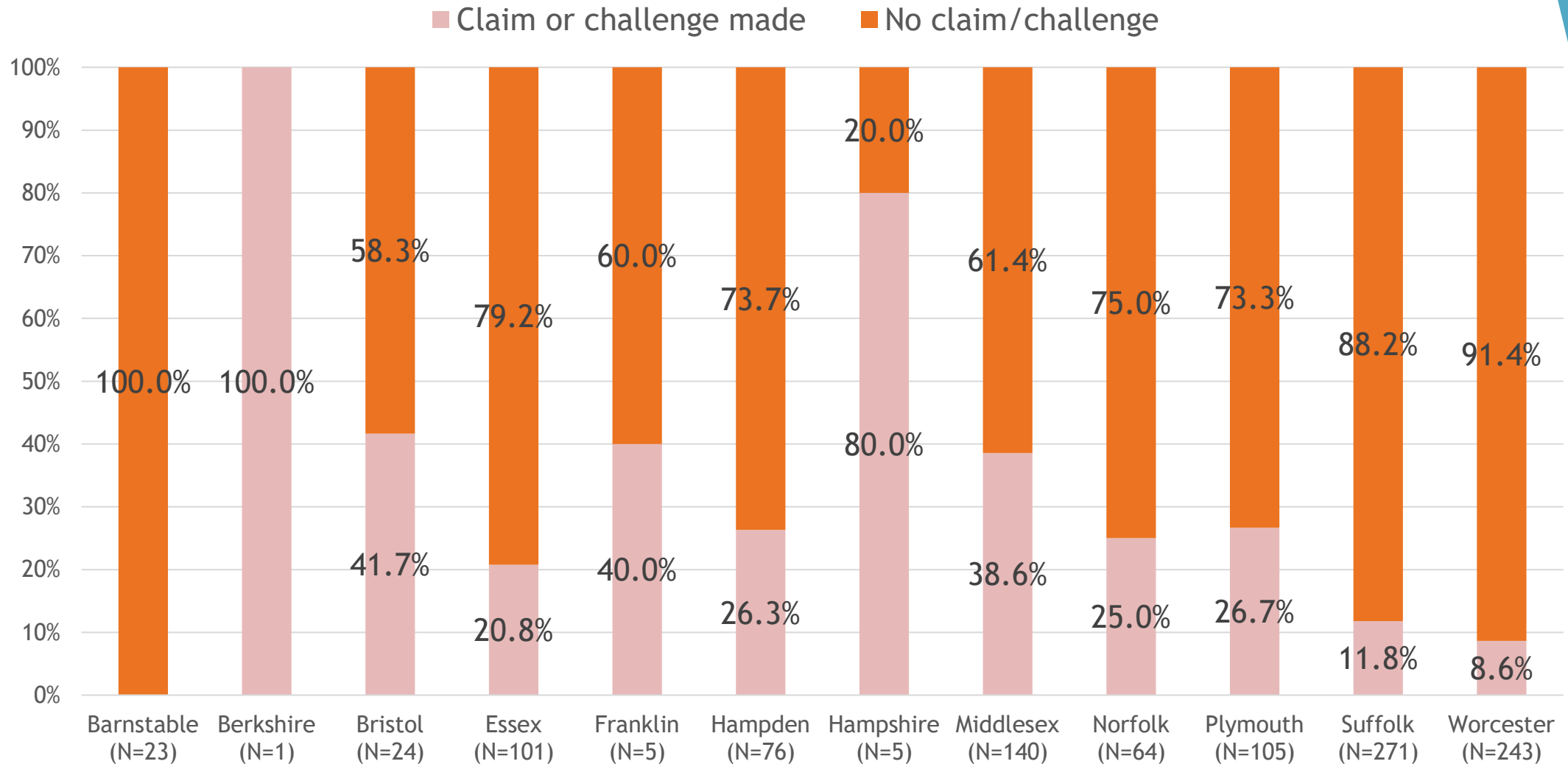
FY 2021



\* Figures reflect cases filed and disposed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.



# Disposed Forfeiture Cases by Claim of Property, 2-Year Total FY 2020 and FY 2021

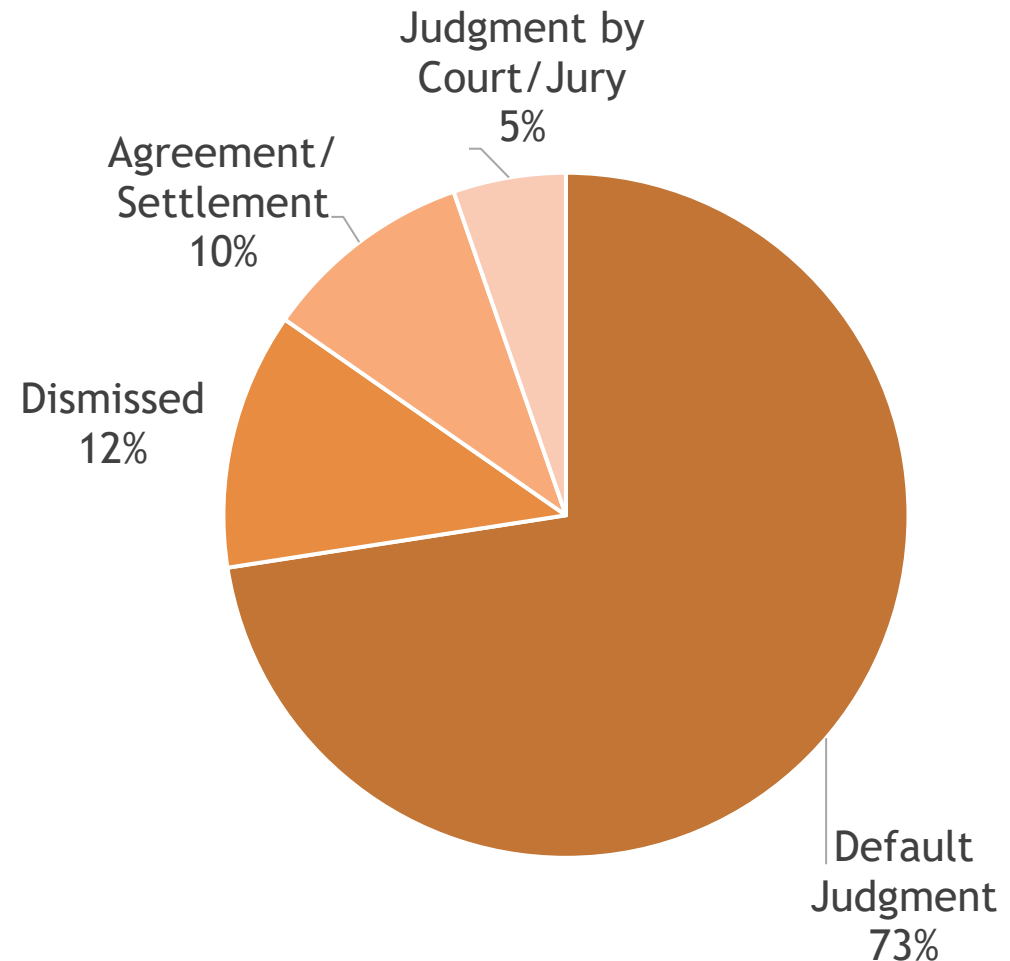


\* Figures reflect cases filed and disposed under G.L. c. 94C, §47(d), and G.L. c. 265, §56, in MassCourts.



# Disposed Forfeiture Cases by Type of Disposition, FY2021

- There were 474 cases with a disposition of default judgment, dismissed, or settlement/judgment.
- Default judgments accounted for 73% of disposed forfeiture cases;
- Agreements for judgment or settlements accounted for 10% of dispositions;
- Dismissals accounted for 12% of dispositions; and
- Judgment by court or jury accounted for 5% of dispositions.



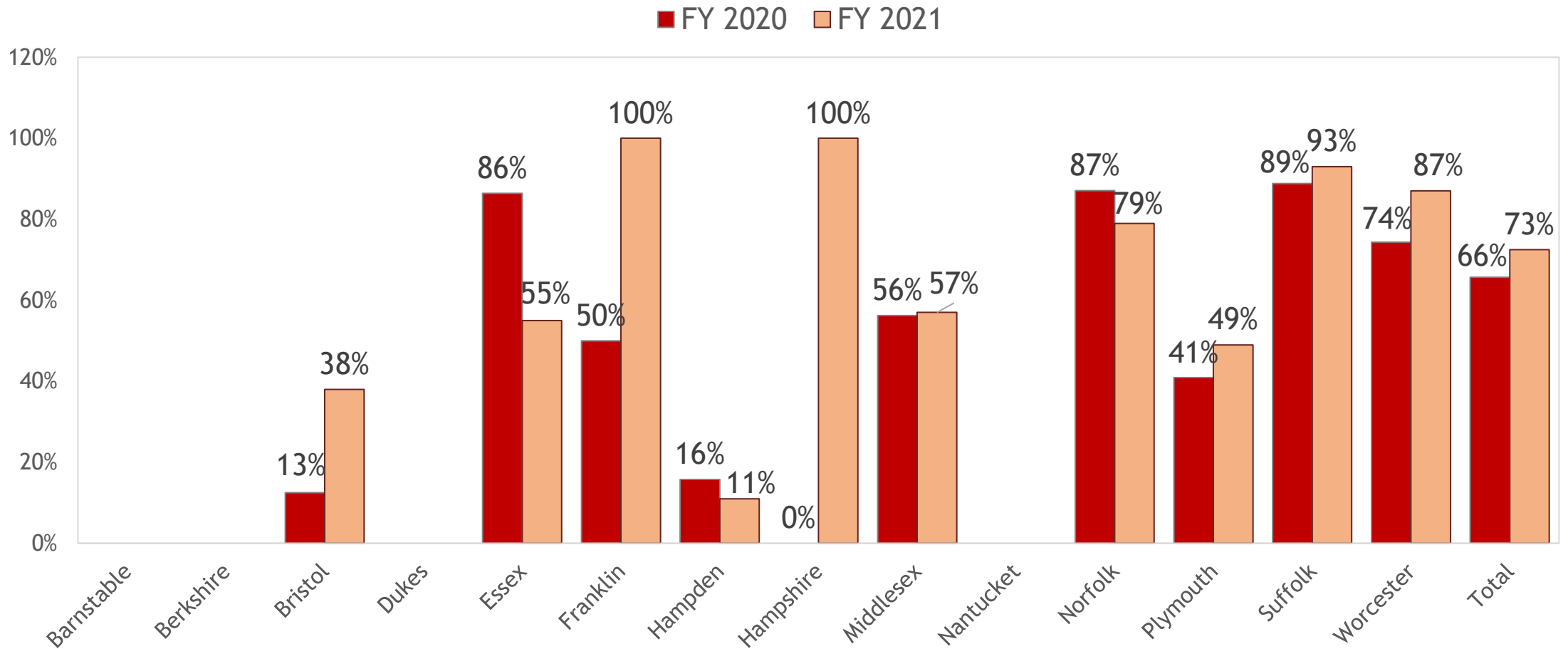
\* Type of disposition was computed from the case disposition and docket entries. In FY2021, there were four (4) cases where the disposition could not be determined from MassCourts.

\*\* Figures reflect cases filed and disposed under G.L. c. 94C, §47(d), and G.L. c. 265, §56.



# Proportion of Default Judgment Dispositions by County

The proportion of cases with a default judgment slightly increased when comparing fiscal year 2020 dispositions to fiscal year 2021.



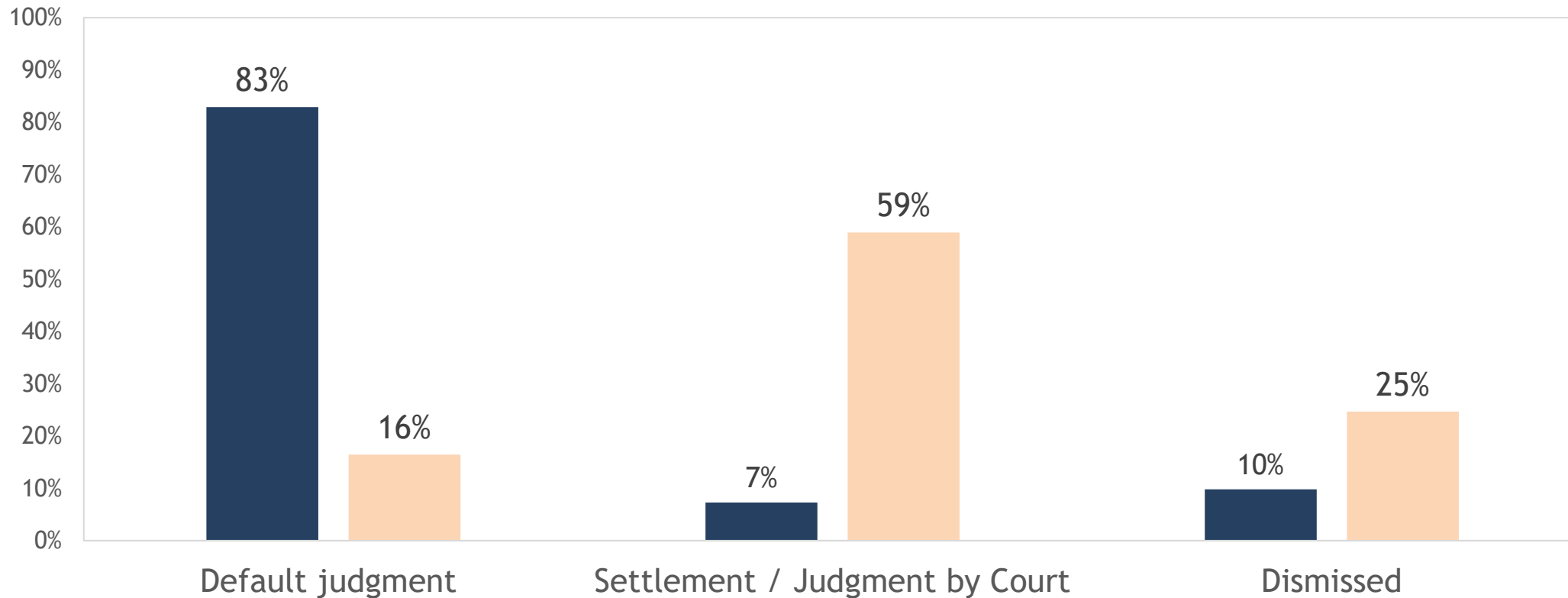
\* Type of disposition was computed from the case disposition and docket entries. There were six (6) cases where the disposition could not be determined from MassCourts in FY2020 and FY2021.

\*\* Figures reflect cases filed and disposed under G.L. c. 94C, §47(d), and G.L. c. 265, §56.



## Disposed Forfeiture Cases by Claim of Property and Disposition, FY2021

■ No claim/ challenge      ■ Claim or challenge made



\* Type of disposition was computed from the case disposition and docket entries. In FY2021, there were four (4) cases where the disposition could not be determined from MassCourts.

\*\* Figures reflect cases filed and disposed under G.L. c. 94C, §47(d), and G.L. c. 265, §56.