

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentencing Alternatives/Decisions & Probation Working Group
MINUTES

April 7, 2023 / 9:00AM-11:30AM
Virtual Meeting

ATTENDEES:

WORKING GROUP MEMBERS

Glenn Tapia, *Working Group Leader*, Director, Div. of Probation Services/ Judicial Branch
Chris Gallo, Chief Deputy District Attorney/ 18th Judicial District (JD)
Kristin Heath, Assistant Director, Jefferson County Justice Services
Heather McClure, Adams County Division of Community Safety and Well-Being
Clay McKisson, Judge/ 3rd JD
Jenifer Morgen, Chief Probation Officer/ 17th JD
Greg Otte, Deputy Chief Parole Officer/ 8th JD
Thea Reiff, Office of the State Public Defender
Elaina Shively, District Attorney's Office/ 20th JD
Abigail Tucker, (CCJJ Vice-Chair) Psychologist/ Mental health services provider and consultant

STAFF

Richard Stroker, CCJJ Consultant
Stephané Waisanen, WG staff, Division of Criminal Justice
Jack Reed, Research Director, Division of Criminal Justice
Laurence Lucero, SRTF staff, Division of Criminal Justice

ABSENT

Kazi Houston, Rocky Mountain Victim Law Center
Matthew James, Denver District Attorney's Office/2nd JD

GUESTS

Sherri Hufford, Evaluation Unit Manager, Division of Probation Services/ Judicial Branch

Issue/Topic	Discussion
<p>Welcome & Agenda <i>Glenn Tapia, Working Group Leader</i></p>	<p>Glenn Tapia, Working Group Leader, welcomed members and reviewed the meeting agenda. Glenn will quickly review the topic from the last meeting, "Justice-Involved Women: Probation," and will ask Heather McClure, WG Member, for her perspective and thoughts. Jen Morgen and Greg Otte, WG Members, will provide highlights from their informal survey of Chief Probation Officers on gender-specific programs. As a follow-up to diversity and disparity issues in probation, Sherri Hufford will provide a presentation titled, "Exploring Race & Ethnic Disparities: Colorado Courts & Probation."</p>

Issue/Topic	Discussion
<p>Recap and Reactions to "Justice-Involved Women: Probation" <i>Glenn Tapia, Working Group Leader</i> <i>Heather McClure, Working Group member</i></p>	<p>Glenn referenced the presentation from the February 3 meeting of the Working Group titled, "Justice-Involved Women: Probation." He pointed out that women in probation:</p> <ul style="list-style-type: none"> • Are overrepresented in some specialized high-risk probation populations • Are found in large numbers on mental health caseloads • Often have trauma in their histories • Suffer from traumatic brain injuries (97% in some jurisdictions) • Have limited access to wrap-around services in some areas • Have limited access to gender-specific services in some areas <p>Glenn had previously asked Heather McClure who has lived experience in probation if she wouldn't mind sharing her reactions to the previous presentation and her own experiences and awareness of other women's experiences on probation.</p> <p>Heather relayed that the factors that lead to her success on probation and are important to anyone on probation include:</p> <ul style="list-style-type: none"> • supportive and informed probation officers, • sober living, • working, and • good social supports. <p>Probation officers must have a good grasp of the available programs and have the skills to strategically identify programs that are located in close proximity to each other, to one's workplace, and one's home. A probation officer's knowledge of housing options and navigating food programs is also critical.</p> <p>Some of the factors that were a challenge to her success and to the success of others include:</p> <ul style="list-style-type: none"> • Disruptions in supervision. Transfers to different probation officers can be very disruptive to one's probation success. • One's trauma history will affect the ability to plan for and execute probation goals. In general, one's trauma history and traumatic brain injury are immensely significant factors in the ability to effectively navigate the demands of probation. • Similar to the above, if one is struggling with an addiction, the path through probation is very challenging.

<p>Issue/Topic Recap and Reactions to “Justice-Involved Women: Probation” <i>Glenn Tapia, Working Group Leader</i> <i>Heather McClure, Working Group member</i> (continued)</p>	<ul style="list-style-type: none"> • Meeting probation conditions (for example, maintaining employment and taking required classes) is extremely difficult when one is prevented from driving. Public transportation across the metro area is extremely difficult to coordinate and trips across the area are very long. This is also true for those in rural and frontier areas who must find transportation to travel long distances to participate in some treatment and programs. <p>Probation officers must have a good grasp of the impact of trauma and traumatic brain injury on their clients. Trauma-affected clients require extensive support in planning, organizing, and executing a probation plan. They also must be fully trained on the process and challenges of addiction recovery as well as other behavioral health struggles.</p> <p>Jen Morgen concurred that probation officers need an immense amount of training and awareness on all the issues Heather raised in order to successfully partner with their clients.</p>
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<p>Issue/Topic Survey of Chief Probation Officers: Gender-specific Programming <i>Jen Morgen & Greg Otte, Working Group members</i></p>	<p style="text-align: center;">Discussion</p> <p>Glenn introduced Jen and Greg to offer highlights from their informal survey of Chief Probation Officers on gender-specific programs. Jen referenced a summary document that was distributed to members prior to the meeting (appended below) and that she would offer highlights, rather than restating the information. Jen described that she didn’t receive responses from all the Chief Probation Officers, but summarized the information she did receive in the distributed document.</p> <p>She offered these general observations of the responses she did receive:</p> <ul style="list-style-type: none"> • There are some amazing, interesting, and creative gender specific programs and resources that are happening at specific locations across the state. • Many, but not all, metropolitan districts have the ability to offer specialized resources and services for women. • Many of the gaps in services are not necessarily gender specific; these gaps would apply to both men and women on probation, for example: <ul style="list-style-type: none"> ○ job training opportunities, ○ access to certain treatment resources and incentives, ○ probation officers who are easily accessible and available to probationers, and ○ the ability to eliminate obstacles to probationer success. <p>DISCUSSION</p> <p>Glenn opened the floor for questions and discussion regarding the information Jen shared or, in general, on the topic of women in probation.</p> <p>Thea Reiff asked about standardization and the breadth of training probation officers (PO) receive in the orientation/onboarding process.</p> <p>Jen described that there is no standard orientation process for POs across jurisdictions. A lot of what POs learn occurs on the job. Probation</p>
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<p style="text-align: center;">Issue/Topic</p> <p>Survey of Chief Probation Officers: Gender-specific Programming <i>Jen Morgen & Greg Otte, Working Group members</i> (continued)</p>	<p>departments look for opportunities to educate POs to be more effective in connecting with clients and connecting clients to resources. There is no all-encompassing training program that will provide all the information a PO could possibly need. POs seek out support from other POs as resources and that knowledge is transmitted and maintained by means of the PO network and culture.</p> <p>Greg agreed that there is little standardized training but also stated that probation offices invite service providers of all varieties to offer presentations and trainings on the services available in their respective communities.</p> <p>Thea Reiff followed up, asking whether there is any basic level of training, standards, and/or best practices that are imparted to a new PO.</p> <p>Jen responded that the typical on-the-job training occurs as one figures out how to structure a plan for the probationer when a PO receives the Pre-Sentence Investigation Report and/or the set of terms and conditions from the court to which the probationer must abide. With this information, the PO will devise a case plan, identifying the programs, treatment, and services the probationer will require to be successful. This process leads POs to identify/develop their “peer learning community” that will begin to map the knowledge they need to do the job.</p> <p>Heather McClure offered that the United Way 211 Help Center is a great resource for the services and programs available in Colorado communities. If POs can develop a simple resource guide of fundamental services, this would be a great start to assist the new probationer.</p> <p>Jen agreed that resource guides would be very helpful, especially if they are made available electronically where they could be constantly updated. Greg offered that probation offices can develop relationships with service providers who regularly visit offices to provide a “one-stop” shop to connect probationers with these service entities.</p> <p>Elaine Shively felt that basic services checklists could be developed to help POs guide the initial stages of assistance to probationers. Also, because everyone has gained virtual meeting experience, it should be a simple matter to create a regular series of virtual meetings to provide POs the opportunity to meet, learn from, and collaborate with service providers regarding their program offerings.</p> <p>Abigail Tucker emphasized the importance of “peer learning networks” that were mentioned by Jen. Whether formal or informal, such networks build the capabilities of individual POs and capacity of probation offices. Such networks can also help prevent PO attrition not only by building one’s professional network but also through the camaraderie and support of your peers. Also, can the connections be formalized between former probationers with different lived experiences and new POs? That could be extremely impactful.</p>
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<p style="text-align: center;">Issue/Topic</p> <p>Survey of Chief Probation Officers: Gender-specific Programming <i>Jen Morgen & Greg Otte, Working Group members</i> (continued)</p>	<p>Heather added that probationer peer support networks are as valuable as PO support networks. Jen agreed and observed that probationer peer support is rarely designed into probation supervision programs or experiences.</p> <p>Glenn noted the typical three roles of the PO:</p> <ul style="list-style-type: none"> • Enforcement - in other words “watch them and make sure they don't do bad things.” This role involves very little engagement with probationers. • Service broker - the PO’s job is simply to connect or assign the probationer to services. Any behavioral change is external to the PO’s relationship to the probationer. • Change agent - the PO is a participant with the probationer’s efforts toward behavioral change. <p>The Enforcement role is unconcerned with change, the Broker role considers change something that happens elsewhere, and the Change Agent role creates a partnership for change. In reality, POs may need to play all those roles at different times with their clients. These roles are probably too much for any individual PO and maybe a better model is a team or network approach to supervision that includes community resource folks.</p> <p>Jen noted that a multidisciplinary team approach is built to provide wrap-around services when working with juveniles. POs that do not have juvenile supervision experience may not appreciate or understand the value this collaborative method could bring to adult supervision.</p> <p>Abigail followed up on the idea of POs as change agents. The challenge of this role is that POs must realize that change resides within the client. Not recognizing this can result in misapprehensions that lead to consequences for the PO: 1) POs are at high risk of burnout due to their rate of secondary and primary trauma exposure, 2) An unrealistic sense of capability to change the behavior of others increases the threats to their own mental wellness, and 3) This may lead an unrealistic sense of responsibility for the client’s behavior.</p> <p>Glenn appreciated Abigail’s observations because, generally speaking, people who work for probation are empathic and social-work oriented and may be more susceptible to secondary and vicarious trauma and burnout. The work stressors and unrealistic self-expectations may lead to PO attrition because POs feel they are not being successful. Ignoring these individual factors results in organization-level issues of PO retention and turnover.</p> <p>Glenn Tapia and members summarized the major points of the discussion made thus far, observing some agreement around the potential to develop ideas around these (bolded) concepts:</p> <ul style="list-style-type: none"> • Peer/mentor support for both POs and probationers, and • Elaborate a model for more collaborative teams to serve probation clients. <p>Elaina Shively offered that many different types of expertise have been mentioned and that there could be PO training leading to a certificate or accreditation on these topics.</p>
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<p>Issue/Topic Survey of Chief Probation Officers: Gender-specific Programming <i>Jen Morgen & Greg Otte, Working Group members</i> (continued)</p>	<p>Jen and Greg agreed that there may be creative ways to foster such training on these areas of expertise.</p> <p>Abigail Tucker reiterated a point made earlier by Greg regarding “one-stop-shops” or mobile response teams for services that could be offered in unique ways to probationers.</p> <p>Glenn and members then noted <u>foundational principles (underlined)</u> across these ideas: <u>probation must collaborate and integrate efforts with other agencies and the importance of training and peer networks</u> cannot be understated.</p> <p>Clay McKisson stated that, when further developing any of these ideas, another fundamental consideration is to <u>recognize the differences in availability of resources and capacity of services in urban, rural and frontier parts of the state.</u></p> <p>Further elaborating this point, Chris Gallo pointed out that <u>specialized programs are not uniformly offered in urban areas, much less in rural and frontier areas</u> (for example, types of substance abuse treatment, sex offender treatment, specialty courts, pretrial programs, etc.). This may require clients to travel dozens or more than a hundred miles to participate in such programs.</p> <p>The Working Group will continue to make note of these over-arching and specific issues and concerns for further concept development.</p>
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<p>Issue/Topic Exploring Race & Ethnic Disparities: Colorado Courts & Probation <i>Sherri Hufford, Division of Probation Services</i></p>	<p style="text-align: center;">Discussion</p> <p>Glenn introduced Sherri Hufford (Div. of Probation Services) who offered a presentation titled, “Exploring Race & Ethnic Disparities: Colorado Courts & Probation (Convictions, Pre-Sentence Investigations, Probation Program Placement & Probation Outcomes). The presentation can be found on the Commission website on the Sentencing Reform Task Force page under the “Materials - Working Groups” tab at ccjj.colorado.gov/ccjj-srtf and is appended below.</p> <p>Sherri offered some background and a simple orientation to some of the data presented:</p> <ul style="list-style-type: none"> • The presentation focuses on data surrounding pre-sentence investigation (PSI) and on convictions and probation terminations by race and ethnicity. • Mentions of convictions includes deferred judgments and diversion cases. • Not all cases with a PSI are sentenced to probation and not all probation cases have a PSI. • Individuals may be involved in multiple cases. The data represent the most serious charge for any individual. • Depending on the information presented, the data may represent cases or the data may represent individuals. • A PSI may be completed in one year and sentencing for that case may occur in a subsequent year. • Judicial data includes all county and District Court data, except Denver County that fails to share data with Judicial.
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<p>Issue/Topic Exploring Race & Ethnic Disparities: Colorado Courts & Probation <i>Sherri Hufford, Division of Probation Services</i> (continued)</p>	<ul style="list-style-type: none"> • The data presented include the pandemic years, which had an impact on various totals and percentages. • Additional slides are provided with related definitions, references, and a “map” of the criminal justice system from entry to reentry. • Judicial data are limited in the ability to reflect race and ethnicity. <p>Sherri offered these specific observations beyond the information provided on particular slides [slide number noted]:</p> <ul style="list-style-type: none"> • The overall percentages by race for Colorado court convictions is affected by the aforementioned vagaries in categorization of race and ethnicity. [Slide 7] • There's a disproportionate number of black individuals with felony convictions. [Slide 8] • The reduced numbers in 2020 and 2021 reflect the COVID impact on court proceedings. A PSI is ordered in a small percentage of the cases (12-14%) [Slide 9] • The PSIs ordered in community corrections cases is high relative to other systems (76%) because a PSI is required as a part of the screening process for community corrections. [Slide 12] • There are regional differences in the tendency for judicial districts to order a PSI. The judicial districts where more Native American happen to live order more PSIs. [Slides 13 and 14] • The statistical model built by the Division of Criminal Justice to identify Hispanic names provides an estimate of the Hispanic population in Judicial data. [Slides 18 and 19] <p style="text-align: right;">(See Appendix C in <i>SUMMARY: Report on the C.L.E.A.R. Act at...</i> https://cdpsdocs.state.co.us/ors/docs/reports/2020-SB15-185-Rpt.pdf)</p> <ul style="list-style-type: none"> • White probationers are underrepresented and the Black and Hispanic probationers are overrepresented in the LS (limit setter) category. The reverse is true in the CC (casework control) category. [Slide 23] • While representing a much smaller proportion of the probation population, the Native American population is overrepresented in the LS category. [Slide 24] • Although these data on 2020 terminations does not represent the entirety of the data for that year, it is still representative of the overall race and ethnicity of probationers. Even though the Asian population typically falls into the lowest risk group, over half of those who failed in 2020 absconded. A smaller percentage of the Black population was revoked for technical violations than the Hispanic or White populations. [Slide 36] <p>DISCUSSION</p> <p>Upon the conclusion of the presentation, Glenn opened the floor to discussion.</p> <p>Clay McKisson observed that, while the presentation offers a lot of good information, it will take a lot more work to synthesize the major takeaways to present to the Task Force. There are many questions yet to answer whether this data or other data can identify the sources of disparate treatment and impact.</p>
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<p>Issue/Topic Exploring Race & Ethnic Disparities: Colorado Courts & Probation <i>Sherri Hufford, Division of Probation Services</i> (continued)</p>	<p>Glenn concurred that these data say more about symptoms of disparate impact than they do about identifying the causes of disparate impact. However, such data can help identify issues - within probation or the courts - associated with placement in standard and specialized programs and, for example, in practices that lead to terminations. Other disparate impact issues are extremely complex, arising at various points in the system that are passed through, that interact, and that are compounded across all points in the criminal justice system.</p> <p>Chris Gallo echoed the complexity of teasing apart the elements of the system that contribute to disparate impact. There are also historical, societal, economic, and community factors that contribute to the disparities.</p> <p>Glenn and members engaged in an exchange regarding the immense scope of disparate impact problems and what can be reasonably identified for attention by the Working Group. Those who work in the criminal justice system cannot continue to avoid trying to address such issues simply because of the vast and complex nature of the problem. The conclusion was that the group can't address the problem broadly, but the group can identify specific issues within probation that could be addressed.</p> <p>Sherri and Jack Reed described that there are opportunities to improve and modernize data collection across the criminal justice system that will enhance the ability to study and address problems of disparate impact.</p> <p>Elaina Shively and Chris Gallo commented on training and guardrails around decision making by those at various points in the criminal justice system that can impact but also can improve the equity of the system.</p> <p>Based on the discussions thus far, Glenn summarized a few areas for potential study and development raised by the group:</p> <ol style="list-style-type: none"> 1) Implicit bias training and diversity, equity and inclusion training for POs. 2) Improve data/modernize client management systems for better data collection processes in Judicial to gather both race and ethnicity based on self-reported/identified information that is not dependent on law enforcement. There must also be quality assurance where this information can be updated and/or corrected across the entire system. 3) Develop equitable decision making processes when determining placement in specialized and intensive programs. 4) Address the systemic drivers of disproportionality and inequitable treatment (for example, transportation barriers, treatment costs, housing options and limitations, educational opportunities). <p>The group will continue to explore potential and specific areas to address race and ethnic disparities in probation.</p>
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Issue/Topic	Discussion
<p>Public Comment and Next Steps & Adjourn</p>	<p>Glenn solicited, but there were no public comments offered.</p> <p>Glenn quickly summarized points of the discussion that he will compile in a document for the next meeting (also reviewing summary points made during the meeting):</p>
<p>ACTION See summary at right</p>	<p>Regarding women in probation...</p> <ul style="list-style-type: none"> • peer mentor programs • integrating/collaborating with other behavior change agencies like, social service and community agencies • potential ways to accredit specialized training for probation staff • recognizing the underlying principle that probation can't do it all • address rural areas and the access to services and programs <p>Regarding for race and ethnicity...</p> <ul style="list-style-type: none"> • training for probation staff in the areas of DEI, implicit bias, and systemic drivers of inequity • better data collection • better decision making processes for placement in intensive and specialized programs
	<p>Glenn stated that the above can be revisited at the next meeting and elaborated where there is potential for improvement. He asked whether Richard had feedback or guidance on the plan for next steps.</p> <p>Richard Stroker agreed that these are the key topics within the two broad areas explored today. At the next meeting, the goal would be to agree on the specific topics within each area for further examination. In the next two meetings, it would be helpful to develop specific ideas for the recommendations in these areas. It seems plausible that within three months the group would have specific draft recommendations to share with the Sentencing Reform Task Force.</p> <p>Glenn will prepare the summary document and the Division of Criminal Justice staff will distribute it to members in advance of the next meeting.</p> <p>Glenn asked if there were any questions, and with none, he thanked members and adjourned the meeting.</p>

Next Meeting

Wednesday, May 5, 2023 / 9:00-11:30am

Details of the next meeting will be forwarded to the group and posted on the CCJJ web and calendar (ccjj.colorado.gov/ccjj-meetings & ccjj.colorado.gov/ccjj-calendar).

[NOTE: The May 5 meeting was subsequently canceled. No further meetings were scheduled due to the sunset of the Commission.]

Justice Involved Women in Colorado - Probation (2023)

What is your district doing that is having a positive impact?

So much! We have a female-specific unit designed to serve the specific needs of justice-involved women. All our programming is gender-informed. Here are some examples:

- In-house gender-specific trauma-informed, skills-based treatment groups run by a clinician to meet the needs of the women
- A WISE program, modeled off of CCIP, Women's Intensive Supervision & Engagement Program is a three-phase focused on higher-risk/high need women with prior failures in tx/on supervision and a high level of instability, substance use, and trauma.
- GRIT - Gender Responsive Intervention Track – a program designed for women whose substance use issues are getting in the way of their success but are not quite eligible for problem solving courts or the WISE program. They have immediate and subsidized access to treatment designed specifically to address substance use and trauma issues.
- Two gender-informed problem-solving court – a family integrated treatment court focused on D&N cases and an adult-integrated treatment court with hearings with the Judge separated by gender given trauma-related issues come up frequently.
- Providing easy and prompt access to a medication provider, access to a resource navigator for housing/employment/Medicaid/etc, access to a field specialist for transportation needs to and from various appointments/court/tx/etc
- Ongoing training in gender-responsive issues for the team – one example is every PO is trained to use and teach grounding techniques with their clients
- Access to incentives and creative ways of motivating behavior change
- During the holiday season, we gather donations of toys that the women can “shop-for-free” to get toys for their children that they couldn't ordinarily afford
- Access to our clothing closet for clothes in general as well as clothes for interviews in particular
- Access to our food bank and hygiene supply closet
- A life-skills training series that includes women's health/HIV, a cooking/nutrition course, trauma informed yoga, expressive arts, budgeting, organization, etc.
- Access to a Natural Highs group where women receive acudetox (auricular acupuncture) and engage in prosocial ways to support their reward system. They have the opportunity to train as peer leaders through this process and then offer free acudetox to others in the community during large events.
- Support from a peer specialist (we are currently working on launching this program) so that they can give back through the peer-support model

Assessing typology, tailoring a supervision approach to the needs of the client. Ensuring that women, and people of all backgrounds are hired as Probation Officers, wanting our staff to represent the clients we serve. Offering opportunities to attend training on trauma informed care, and TBI's. Making appropriate referrals for services to assist in the challenges/barriers that justice involved women face. Provide vouchers when appropriate. Be flexible with children being brought into appointments. Discuss ways to take advantage of free (or low cost) transportation.

Just began Self Compassion group (fingers crossed!). IBA work which increases positive self-talk and planning focused on doing things the legal way and believing it. SBC: providing financial assistance for

April 7, 2023

Page 1 of 3

Jenifer Morgen, Working Group member

Prepared for the Sentencing Alternatives/Decisions & Probation Working Group

Colorado Commission on Criminal and Juvenile Justice / Sentencing Reform Task Force

Justice Involved Women in Colorado - Probation (2023)

food, etc. MRT groups. Reward Corners/libraries to check stuff out (or let's face it- to keep! I don't often get them back- haha). Great intake staff doing assessments with clients. Wonderful items like socks, sweatshirts, Gatorade, snacks, etc. Winter Wonderland/Spring Forward events. The old walking group/coffee group.

Clothing/diapers/hygiene - helping hands committee.

Peer support groups for female probationers.

LSIP/CCINT officers are meeting the standards of intensive supervision, meeting clients accordingly, providing OFS/PDD funding , vouchers for housing and making appropriate referrals to Treatment, Providing resources for the homeless women.

Providing opportunities for pro-social engagement and activities that are female specific (picnics, peer-facilitated groups, life skills groups, healthy sex education).

What gaps or opportunities would you identify that if changed, would make a difference (within your department, community, or in partnership with DPS)?

Job training programs tailored to meet their needs – e.g., free job training for a particular field with support through job placement • Easily accessible childcare solutions • Easily accessible and low-barrier entry to inpatient treatment • Gender-informed treatment options • Easily accessible, rapid housing solutions • Parenting coaching and support in the home • After-hours access to gender informed crisis support and peer support specialists.

Trauma informed care and training on how to do this. Understanding the brain better- fight/flight/freeze and how it is scientifically described and how it manifests in behaviors, and what to do when it happens. Women tend to have a history of victimization. Just because they are the perpetrator in out probation cases, we need more programming to work with them from that lens also. More EMDR, specific trauma assessments, TBI assessments and care, more programming dealing with trauma (neurofeedback, alternative treatments). Self-Compassion groups. (Good gracious I hope ours is successful)- training in reframing and self-compassionate talk (this could be lunch and learn with direct concrete ideas to use immediately). More social opportunities under the umbrella for probation: structured, prosocial (with FUNDING). Hotel funding when leaving a bad relationship or trying to stay away from one. Our shelter is not always available, or it is not always an intimate partner. Contract with taxi, uber, or other transportation company. Or even getting bikes! More choices for SBC gift cards: Michaels, Kohls, etc.

Barriers to affordable housing in the community. Lack of affordable child care in the community. There is a need to continue discussing ways women in the justice system can be independent, breaking barriers from toxic relationship that may offer them financial stability. Lack of affordable food options for mothers, and their children. Finding ways to break the overall stigma that justice involved women may face, including stigma around possible struggles as a mother involved in the court system. More safe shelters/places for women to go to. Need for low cost, affordable and available health care for women/birth control, etc...

April 7, 2023

Page 2 of 3

Jenifer Morgen, Working Group member

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Justice Involved Women in Colorado - Probation (2023)

Seeking Safety groups

In house access to a MH professional would be very impactful.

Being one of the largest districts and having seen an increase in CCINT/LSIP female offenders we are struggling with having sufficient officers to provide the appropriate supervision for these clients. One opportunity that we have is to cap the workload value to a manageable number, looking at increasing special program officers, work with community stake holders to provide appropriate services. Increase funding for community resources such as, temp employments, housing, education and treatment along with medical needs. Life skill programing along with women seeking safety CBT programs. Collaborate with law enforcement for services that may be appropriate for our female clients (sex and drug trafficking).

Access to inpatient resources.

Exploring Race & Ethnic Disparities: Colorado Courts & Probation Convictions, Pre-Sentence Investigations, Probation Program Placement & Probation Outcomes

Sherri Hufford, Evaluation Unit
Division of Probation Services
April 7, 2023

Presentation to the Sentencing Alternative, Decisions & Probation Working Group
Sentencing Reform Task Force
Colorado Commission on Criminal and Juvenile Justice

CCJJ

Sentencing Reform Task Force

Sentencing Alt./ Dec. & Probation Working Group

Request for Information

Sentencing Alt./Dec. & Prob. Working Group
Sentencing Reform Task Force
Colorado Commission on Criminal and Juvenile Justice

The CCJJ is statutorily charged to examine racial disparities in the criminal justice system. (Enabling legislation: HB07-1358, HB08-1119, HB13-1299, SB13-007 and HB18-1287)

The CCJJ Sentencing Reform Task Force, through its Probation Working Group, is exploring various decision-making points in the criminal justice system to identify opportunities to further examine racial disparities in and around probation.

Due to the nuances of Judicial data related to PSIs, sentencing, and collection of race and ethnicity data, the task force asked Judicial to provide the following:

- 1) Pre-sentence Investigations Ordered and Convictions by Race/Ethnicity
- 2) Probation Terminations by Race/Ethnicity (using CLEAR data)

Explore Race/Ethnic Disparities in Courts/Probation

April 7, 2023

Helpful Information

Common Definitions and Information

- For the purpose of this presentation, convictions include cases where there was a finding or plea of guilty, and will also include other case closures (e.g., deferred judgments, diversion) Convictions will not include any cases that were dismissed.
- Presentence Investigations are completed by Probation Departments upon order of the Court. PSIs are used by the court to inform sentencing decisions. Parties to the case make requests to the Court regarding PSIs. Stipulated sentences impact orders for PSIs. Not all cases with PSIs are sentenced to Probation. Not all probation cases have PSIs.

Information and Data Limitations

- All data in this analysis is Calendar Year, focused on Adults, any exceptions will be noted. Defendants may have multiple cases, with multiple charges. Offense Type will defer to the most serious charge. Depending on the subject matter, the analysis may be done by case, or by person. Ns from slide to slide will not match, given various approaches to analyzing data. Notable exceptions will be identified.
- Ordered vs Completed PSIs (not all defendants show up for their interviews or for sentencing)
- Judicial data includes county and district court data, with the exception of Denver County.

COVID impact on operations and timeline of the analysis

- The volume of justice involved individuals drastically changes from 2018/2019 to 2020/2021 due to the pandemic and the impact on operations.
- When looking at trends, we will do our best to show you numbers and percentages to provide as much context as possible.

Research on Bias in the CJ System: It's Complicated

Disparities are rarely a function of a single point of entry into the system

Hinton, E. & Cook, D. (2020). The Mass Criminalization of Black Americans: A Historical Overview. *Annual Review of Criminology*, 4, 261-286.

Hinton, E., Henderson, L. & Reed, C. (2018). *An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System*. Vera Institute of Justice. <https://www.vera.org/publications/for-the-record-unjust-burden>

Kovera, M. B. (2019). Racial Disparities in the Criminal Justice System: Prevalence, Causes, and a Search for Solutions. *Journal of Social Issues*, 75(4), 1139-1164.

Nembhard, S. & Robin, L. (2021). *Racial and Ethnic Disparities throughout the Criminal Legal System: A Result of Racist Policies and Discretionary Practices*. Urban Institute.

<https://www.urban.org/sites/default/files/publication/104687/racial-and-ethnic-disparities-throughout-the-criminal-legal-system.pdf>

More Study is Needed - the Data Raises More Complex Questions than Provides Simple Answers

What is the sequence of events in the criminal justice system?

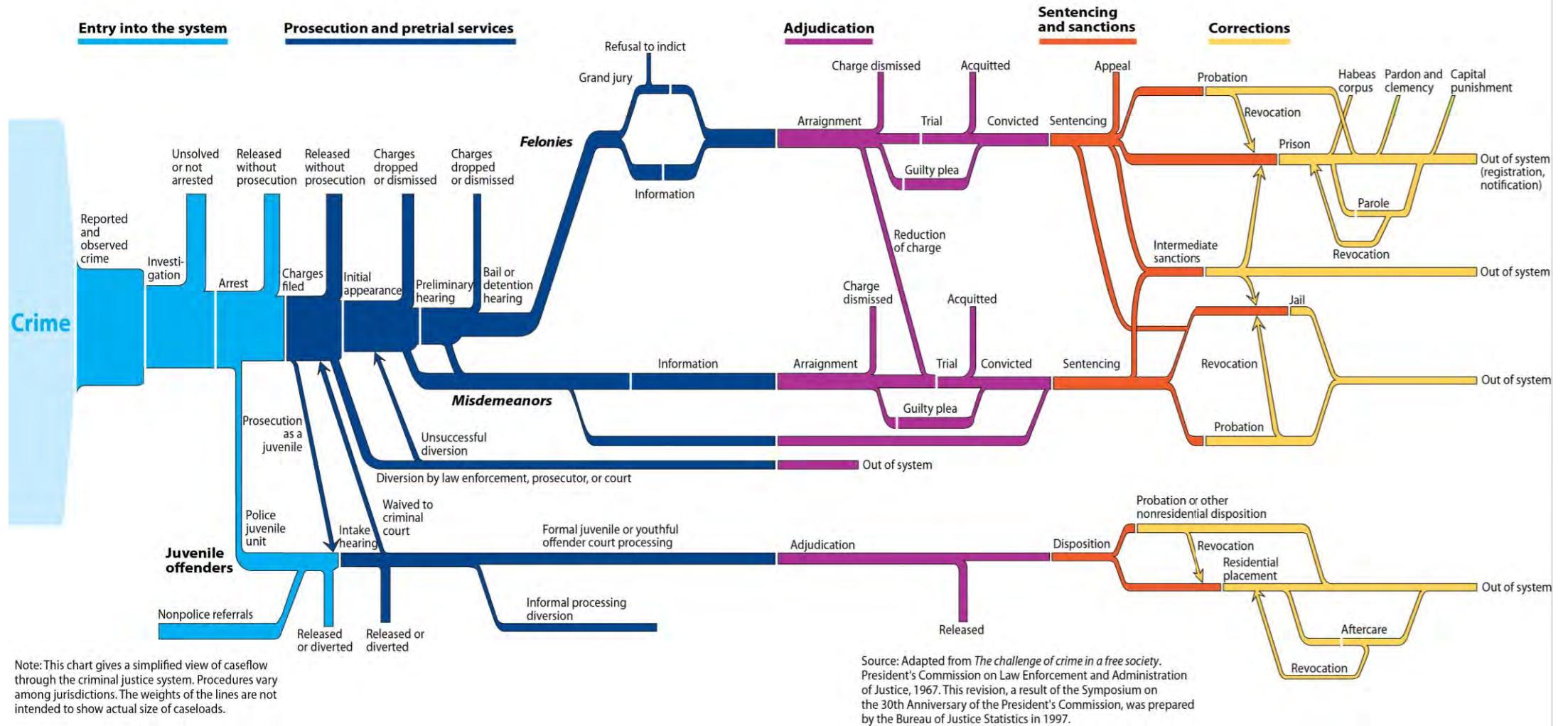


Image from Bureau of Justice Statistics



Judicial's Role in the Criminal Justice Process Probation's Role in the Criminal Justice Process

Sentencing Alt./Dec. & Prob. Working Group

Explore Race/Ethnic Disparities in Courts/Probation

April 7, 2023

Sentencing Reform Task Force/ Colorado Commission on Criminal and Juvenile Justice

5 of 41

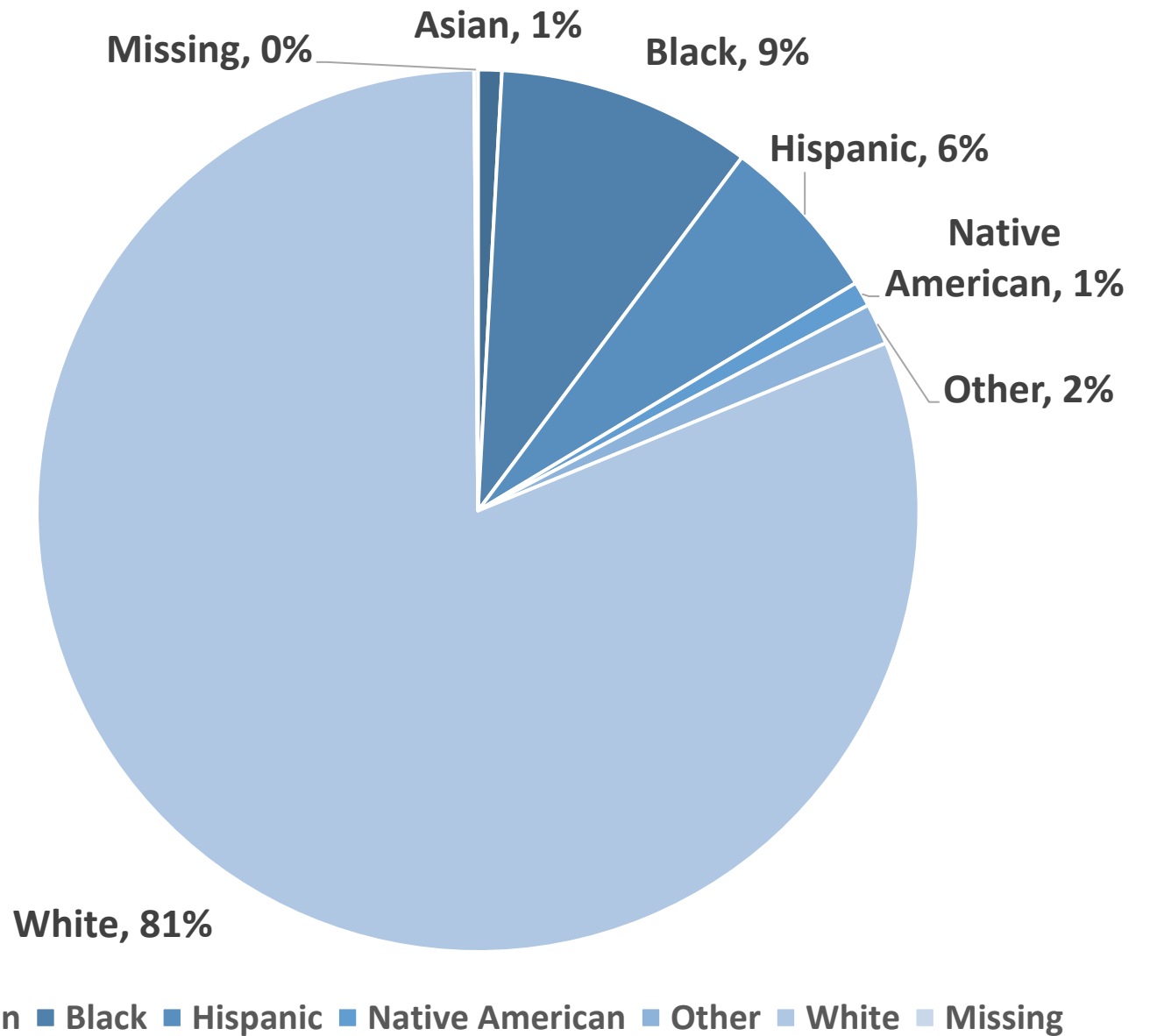
Judicial's Race/Ethnicity Data: Challenges

- In criminal matters, data are entered by court staff who receive information from law enforcement and District Attorney's offices (e.g., arrest report, summons, affidavits, complaints)
- Race and ethnicity are combined
- Categories are limited for race
- Data are not typically self-report
- Data are shared with other agencies (NCIC, CCIC/CBI, local law enforcement)

**COLORADO
COURTS ADULT
CONVICTIONS
CY2018-2021
N=329,079**

These data are entered by court staff from information provided in the summons, affidavit, arrest report, or complaint filed by the District Attorney's Office.

Sentencing Alt./Dec. & Prob. Working Group
Sentencing Reform Task Force
Colorado Commission on Criminal and Juvenile Justice

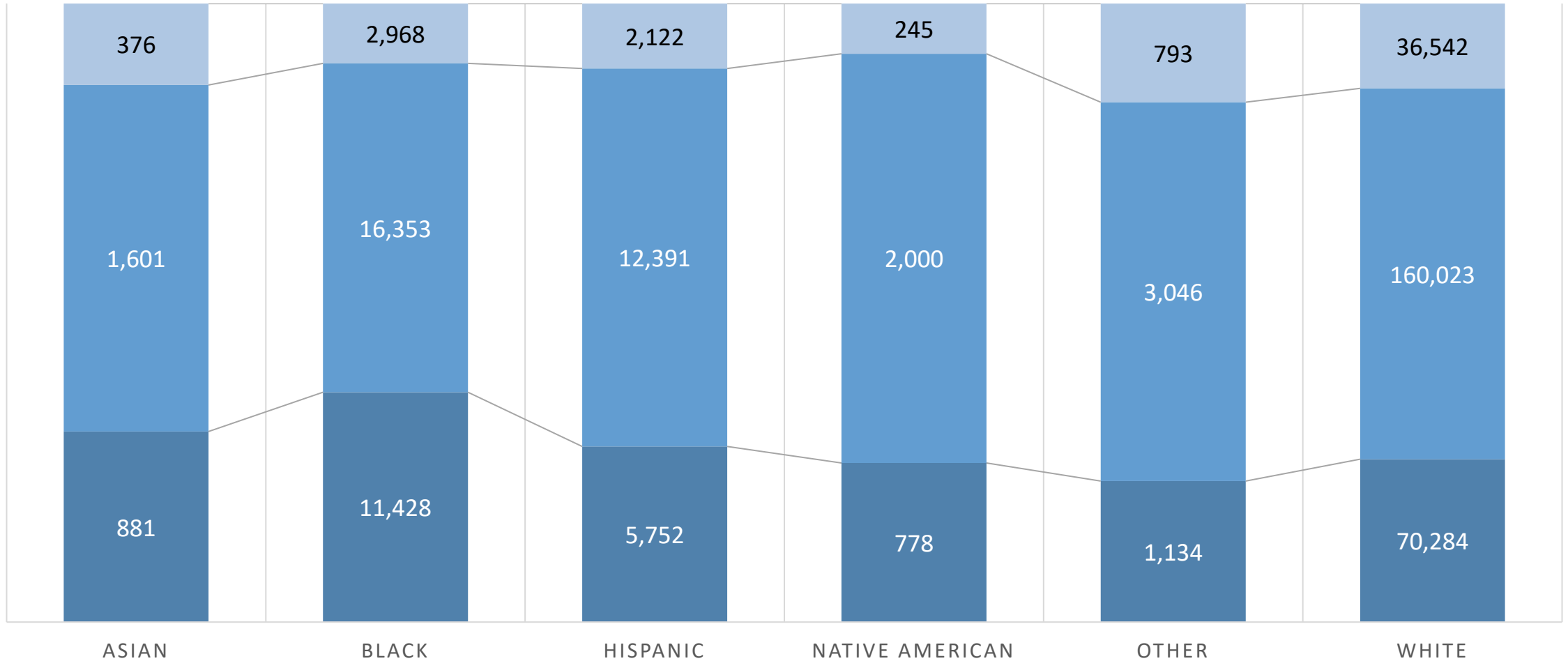


Explore Race/Ethnic Disparities in Courts/Probation

April 7, 2023

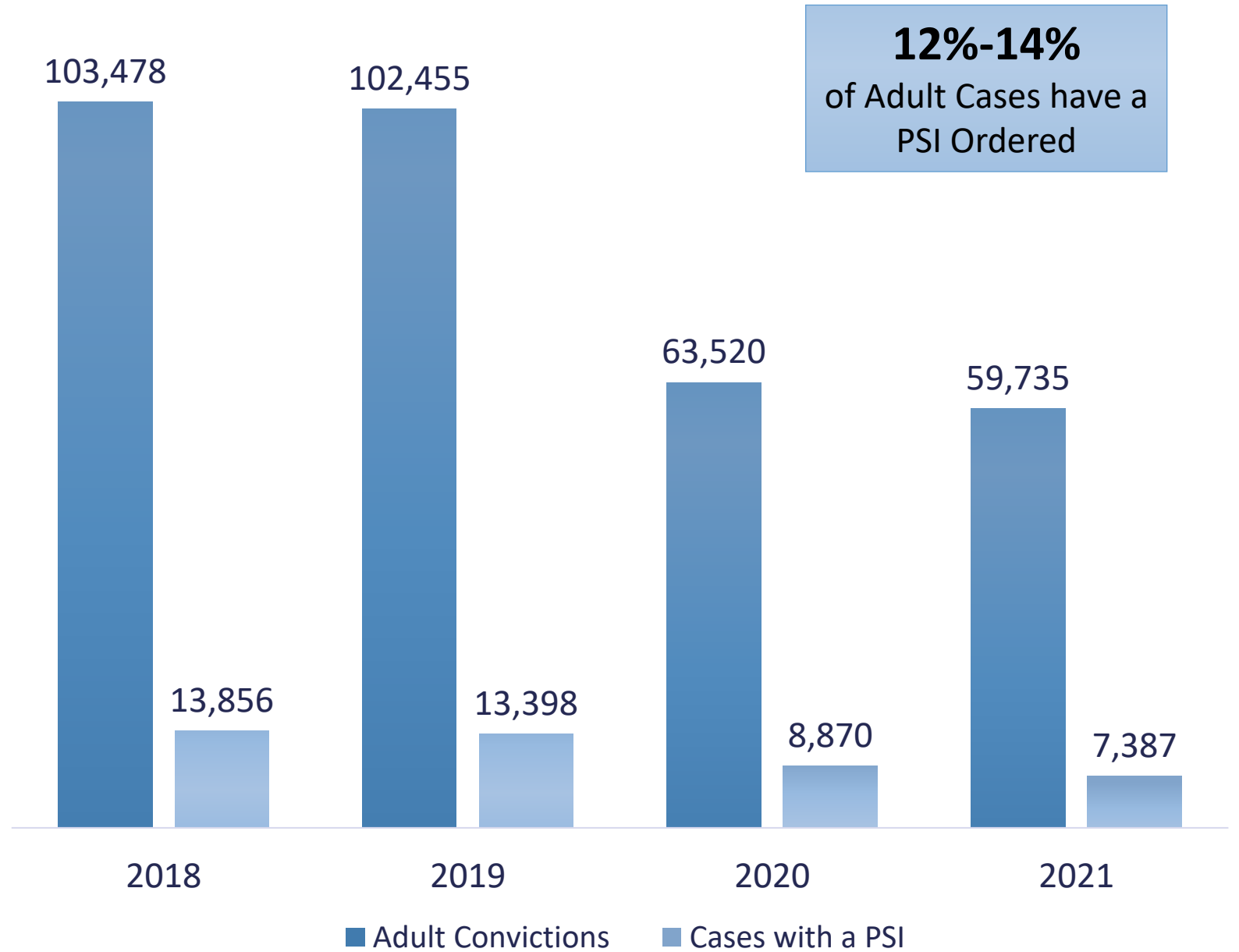
ADULT CONVICTIONS BY LAW CLASS & RACE 2018-2021

■ Felony/Drug Felony
 ■ Misdemeanor/Drug Misdemeanor
 ■ Other



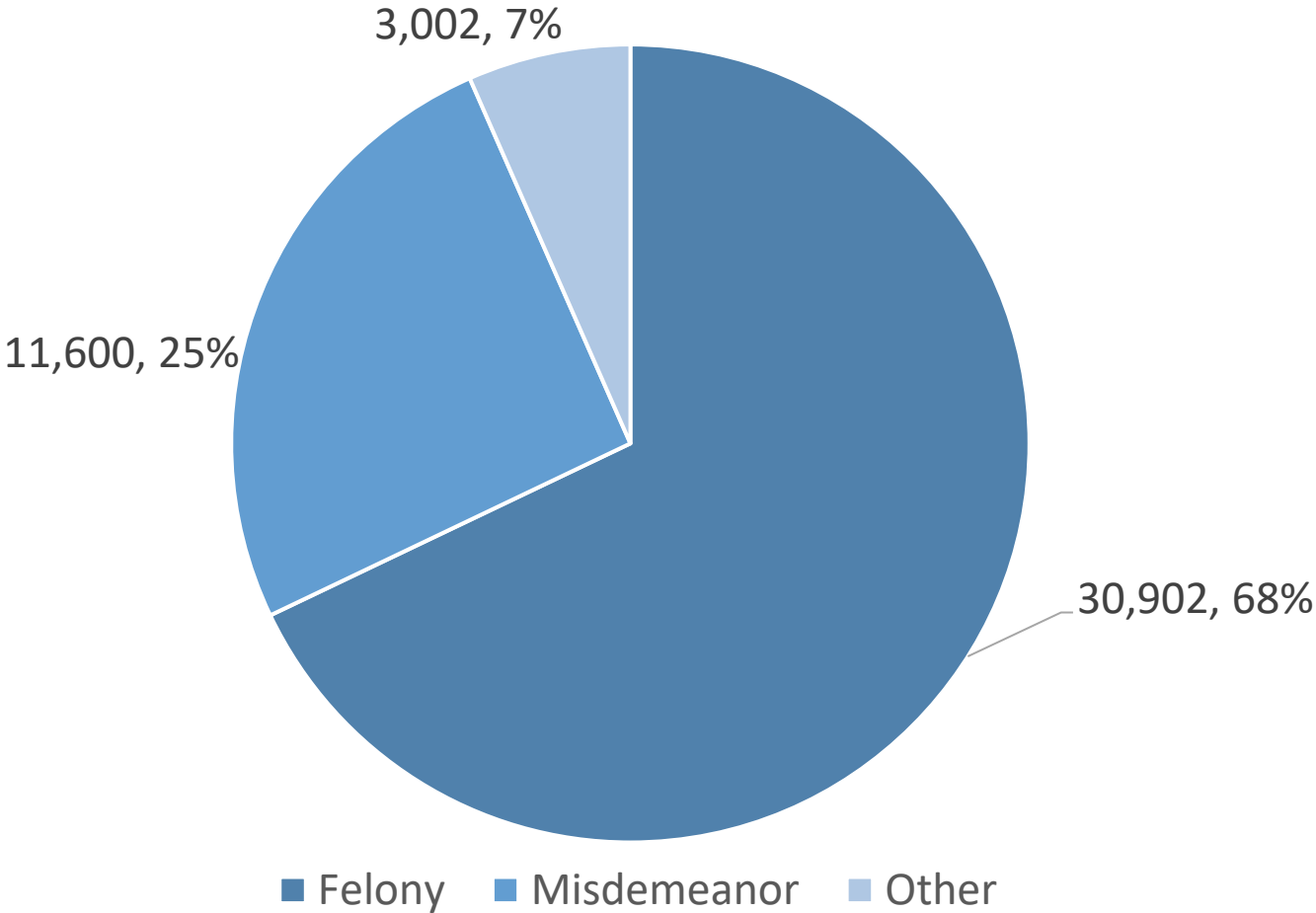
Other Convictions includes Unknown Law Classes, Petty, and Traffic Offenses.

Convictions and PSIs Ordered 2018-2021



Pre-sentence Investigations Completed 2018-2021

Adult PSI's Completed by Law Class n=45,504



*Other includes Unknown Law Class, Traffic, and Petty Offenses

PSI Trends

2018-2022 Offense Types with PSIs Ordered by Law Class

Offense Type	Felony Conviction	Misdemeanor Conviction	Other Conviction
Sex	88.8%	46.0%	29%
DUI	64.1%	2.8%	35%
Person	51.2%	13.8%	12%
Traffic	43.8%	2.9%	7%
Drug	40.5%	8.3%	24%
Other*	38.2%	11.0%	15%
Property	36.3%	9.9%	12%
Average	43.0%	7.4%	11%

*Other Offenses include a variety of crimes including, but not limited to harassment, forgery, false information to a pawnbroker, criminal impersonation, failure to register, menacing and weapons possession. Other Convictions includes Unknown Law Classes, Petty, and Traffic Offenses.

Total Number of Adult Convictions 2018-2021:

329,079

13% of cases had a PSI Ordered by the Court (n=43,511)

28,980	127,694	8,310	101,882	62,213
DOC	Jail	CommCorr	Probation	Other
PSI Ordered: 37%	PSI Ordered: 8.5%	PSI Ordered: 76%	PSI Ordered: 15%	PSI Ordered: >1%

2018-2021 Sentence Placement and PSIs by Race (Felony Cases)

2018-2021	DOC	PSI Ordered	% with PSI	Community Corrections	PSI Ordered	% with PSI
Asian	216	84	39%	41	28	68%
Black	4,449	1,660	37%	795	564	71%
Hispanic	1,871	664	35%	380	308	81%
Missing	21	6	29%	2	2	100%
Native American	253	114	45%	80	69	86%
Other	328	106	32%	68	56	82%
White	21,842	8,297	38%	6,944	5,321	77%
Total	28,980	10,931	38%	8,310	6,348	76%

2018-2021 Sentence Placement and PSIs by Race (Felony, Misdemeanor, Traffic, Petty Offense)

2018-2021	Jail	PSI Ordered	% with PSI	Probation	PSI Ordered	% with PSI
Asian	882	77	9%	1,049	143	14%
Black	9,907	844	9%	10,508	1,625	15%
Hispanic	8,260	750	9%	6,480	1,111	17%
Missing	120	3	3%	71	2	3%
Native American	1,392	236	17%	858	289	34%
Other	1,795	151	8%	1,377	221	16%
White	105,338	8,783	8%	81,539	11,665	14%
Total	127,694	10,844	8%	101,882	15,056	15%



Observations & Items for further Exploration

- According to court records from 2018-2021, a large portion of adults sentenced for criminal offenses were classified as White (81%)
- Black individuals proportionally have more felony convictions than other race/ethnicities (37.2% compared to the average 27.4%)
- On average, 12%-14% of cases have a PSI ordered
- PSIs are ordered more frequently in Felony matters (68% of PSI completed are for felony cases)
- Felony and Misdemeanor Sex Offense cases are the most likely offense type to have PSIs ordered



More Observations & Items for further Exploration

- Adults sentenced to Community Corrections or DOC are more likely to have a PSI (76% and 37% respectively) than Probation (15%) or Jail (8.5%).
- Native American adults are more likely to have a PSI ordered than other race groups across all sentencing options (i.e., DOC, Jail, Probation, Community Corrections). Regional practices and populations may combine to account for this trend.

Focus on Probation:
Population, Risk and Needs Types by
Race/Ethnicity using
CLEAR Data

2020 Probationers

Helpful Information: Clear Act

What is the CLEAR Act?

The CLEAR Act mandates that the Division of Criminal Justice (DCJ) annually analyze, and report data provided by law enforcement agencies, the Judicial Department, and the Adult Parole Board, to reflect decisions made at multiple points in the justice system process.

See: Senate Bill 15-185, Community and Law Enforcement Action Reporting Act

Why use CLEAR Data?

The CLEAR Act requires that the data be analyzed by race/ethnicity and gender.

DCJ applies a statistical model to refine Judicial's race and ethnicity data that specifically detects the misidentified Hispanic population.

How was the data for this presentation created?

DCJ took 2020 data for the CLEAR Report, applied the statistical model and then sent the data back to Judicial, where the data was matched for this analysis. The numbers you see here will not match numbers in other reports for several reasons (e.g., matched data, calendar year vs. fiscal year)

Limitations:

This is a one-year data set from 2020 which restricts our ability to draw strong conclusions. The pandemic significantly impacted court and probation practices and the data may or may not reflect the norm.

DCJ's Interactive Dashboard:
<https://ors.colorado.gov/ors-sb185>

2020 Probation Population by Race/Ethnicity

**Clear
Data
Impact**

- Asian .7%
- Native American 1.0%
- Other 1.0%
- Black 8.9%
- **Hispanic 24.9%**
- **White 63.5%**

**Judicial Data:
Hispanic 10%
White 77%**

Probation's Regional Differences

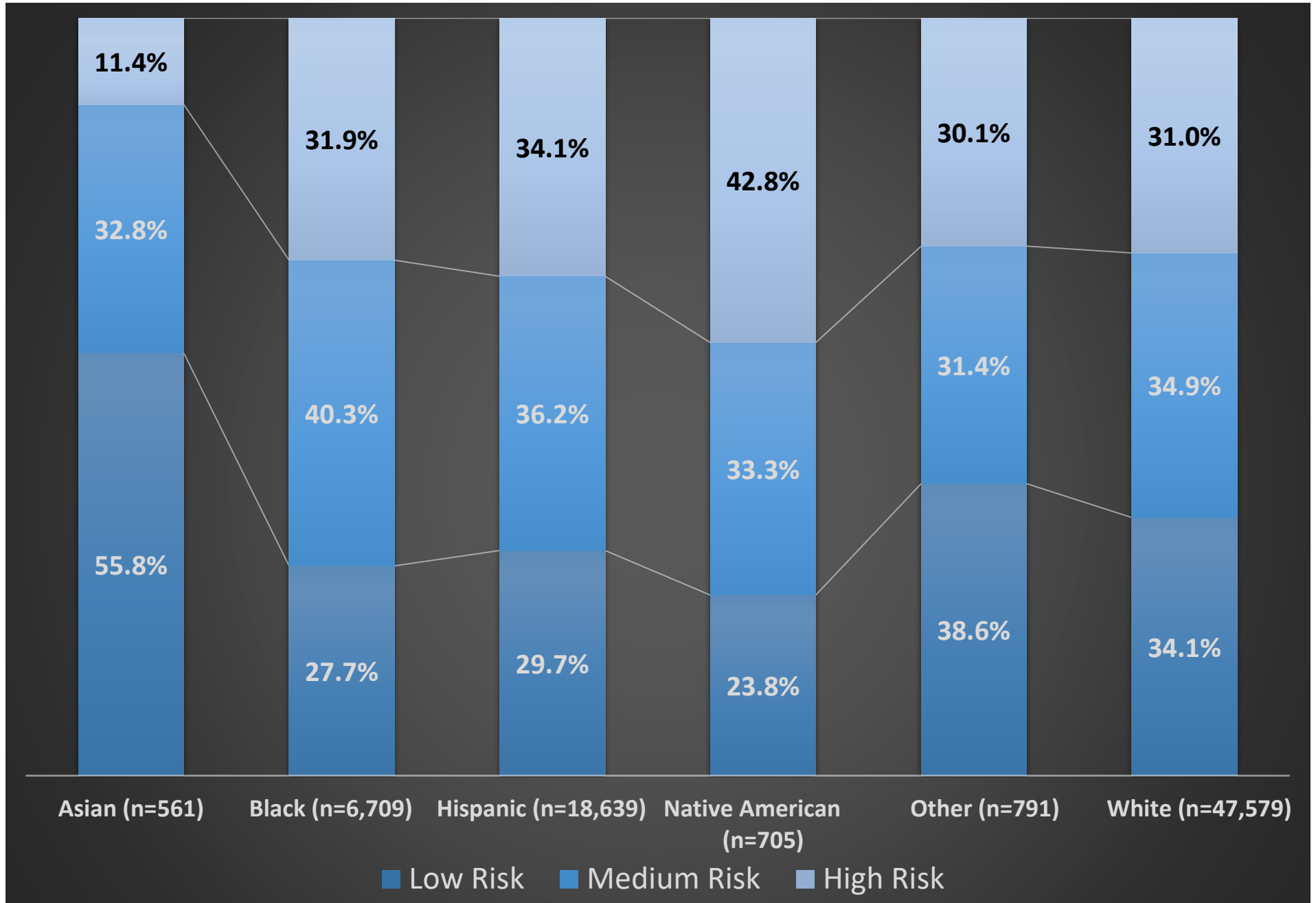
In 2020, 92% of Probation's Black population was supervised in the larger metro area (1st, 2nd, 4th & 18th)

In 2020, 59.3% of Probation's Native American population was supervised in the Southwest corner of the state (22nd and 6th JDs)

In 2020, Southern Colorado had the highest proportion of Hispanic probationers on supervision

- 3rd JD pop: 56.8% Hispanic
- 10th JD pop: 48% Hispanic
- 12th JD pop: 55.9% Hispanic

2020 Adult Probationers LSI Risk Level by Race/Ethnicity (CLEAR data)



Note: A small number of probationers (n=27) of unknown race/ethnicity were excluded from this chart

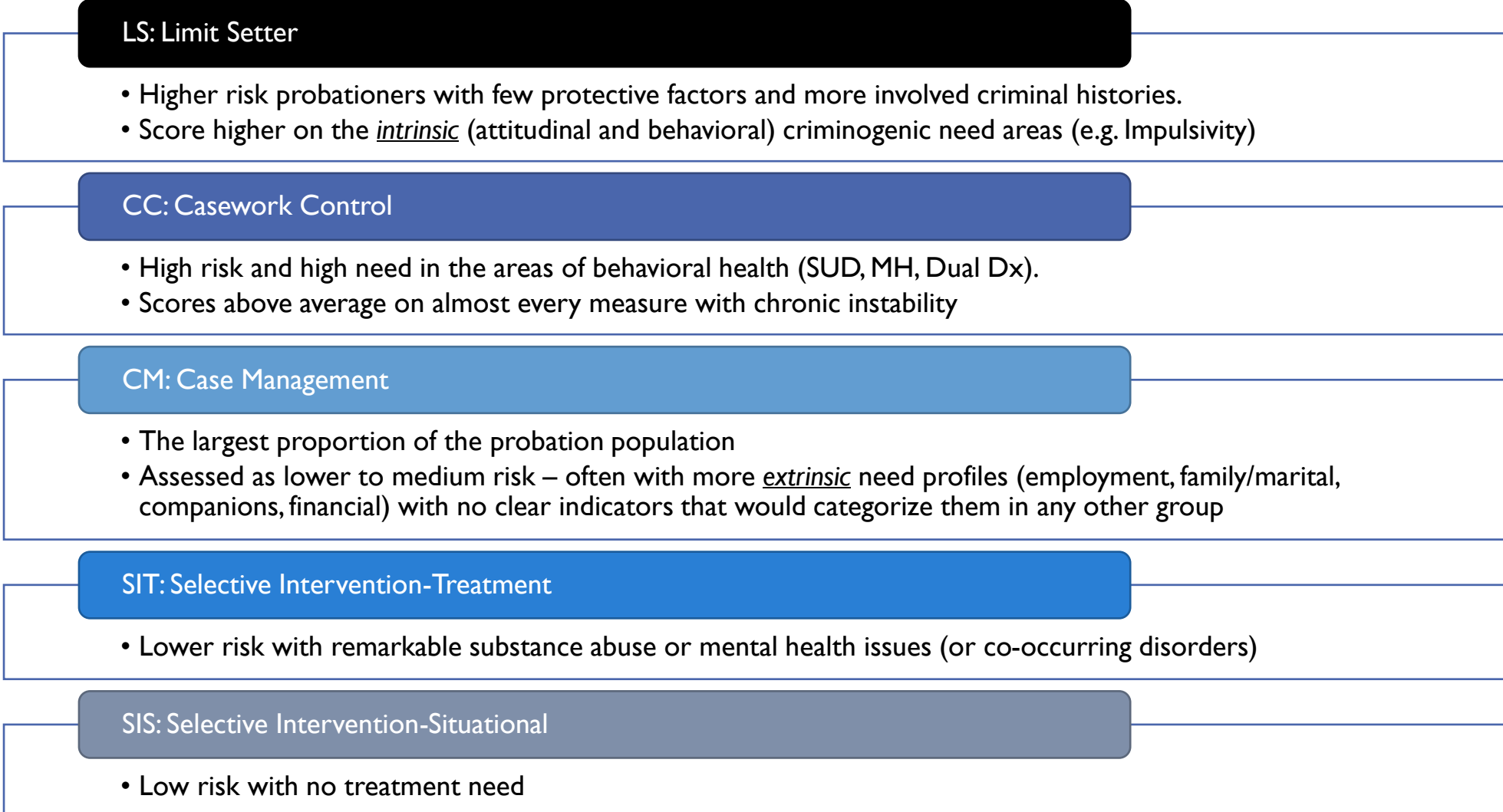
Colorado Probation Typologies

Typologies are a research-informed practice that categorize adult probationers according to similar risk and needs profiles to better tailor supervision strategies in alignment with the Risk-Needs-Responsivity framework. The profiles are listed below with distinguishing characteristics for each profile.

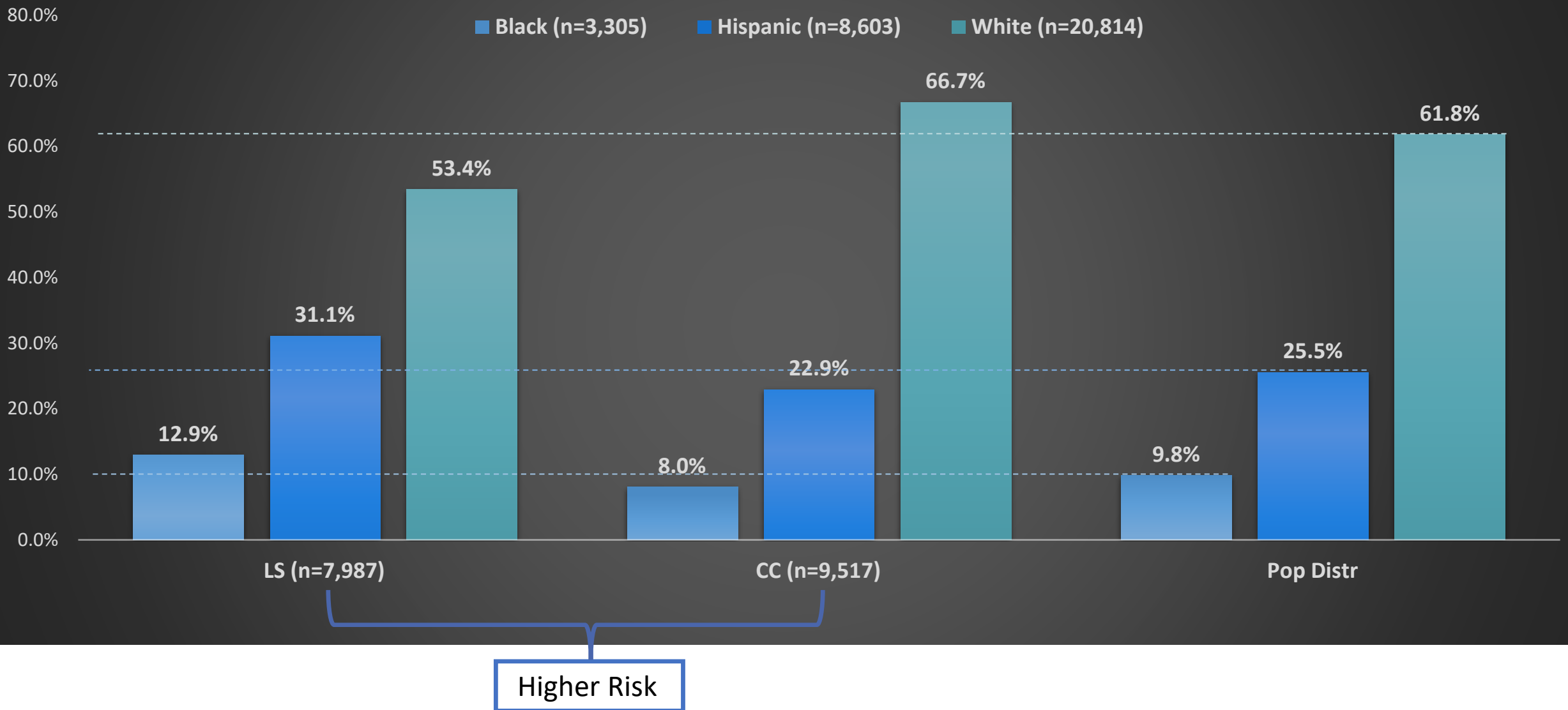
Higher Risk
and Need



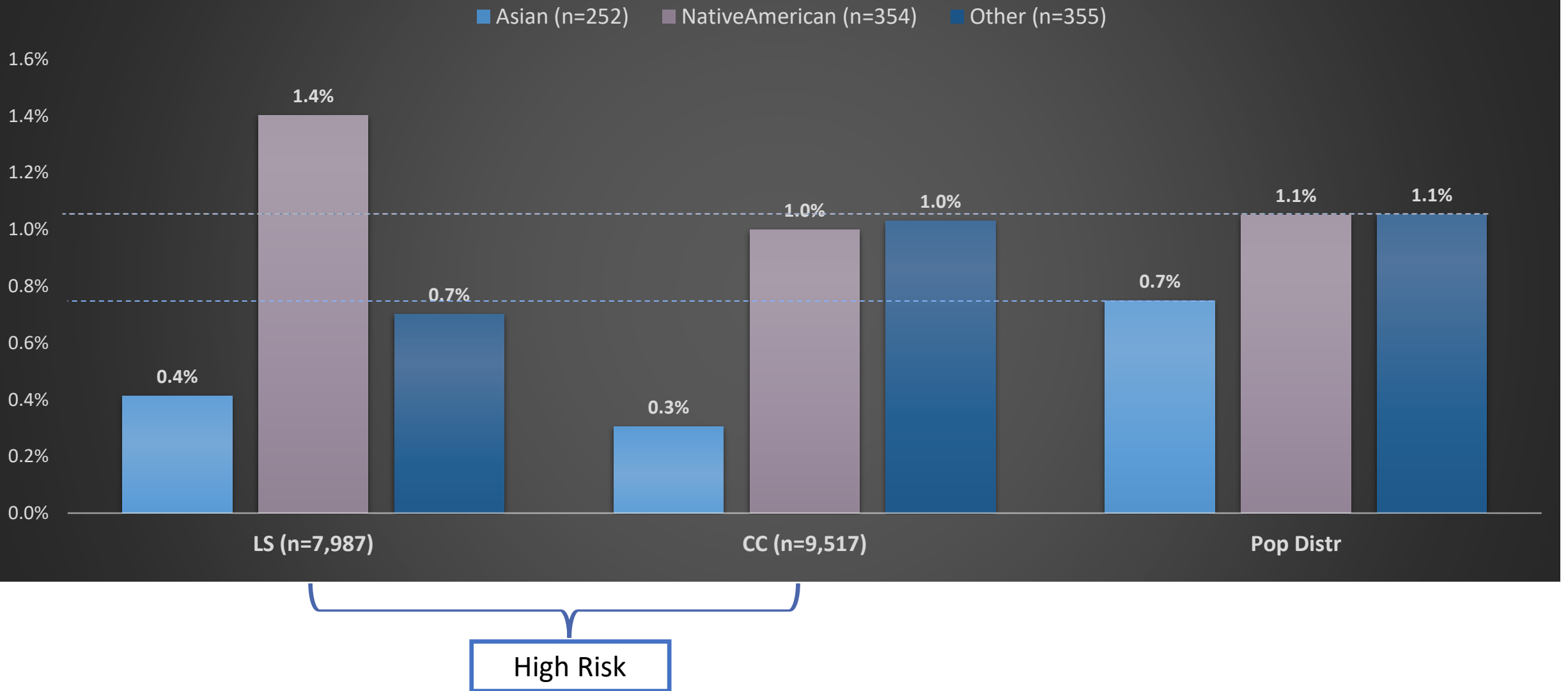
Lower
Risk and Need



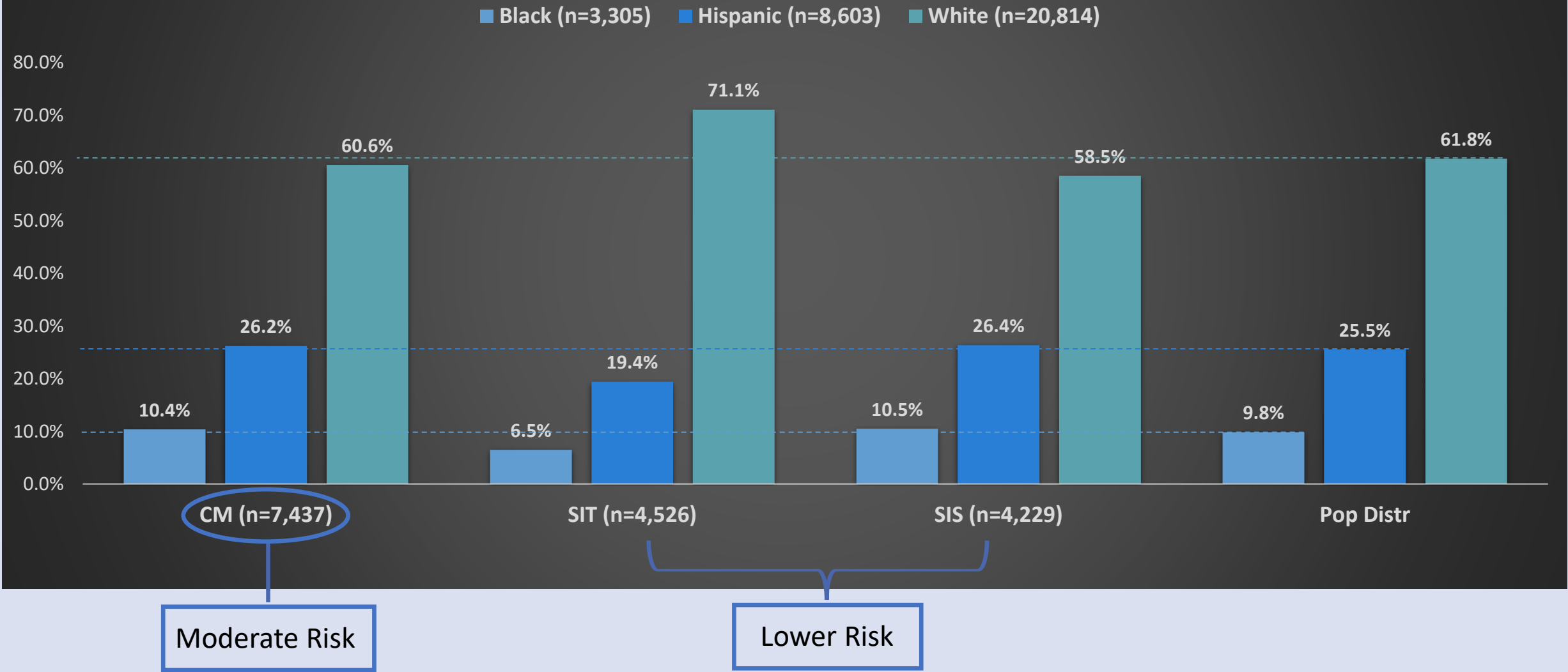
Initial Probation Typology by Race/Ethnicity with Population Distributions



Initial Probation Typology by Race/Ethnicity with Population Distributions

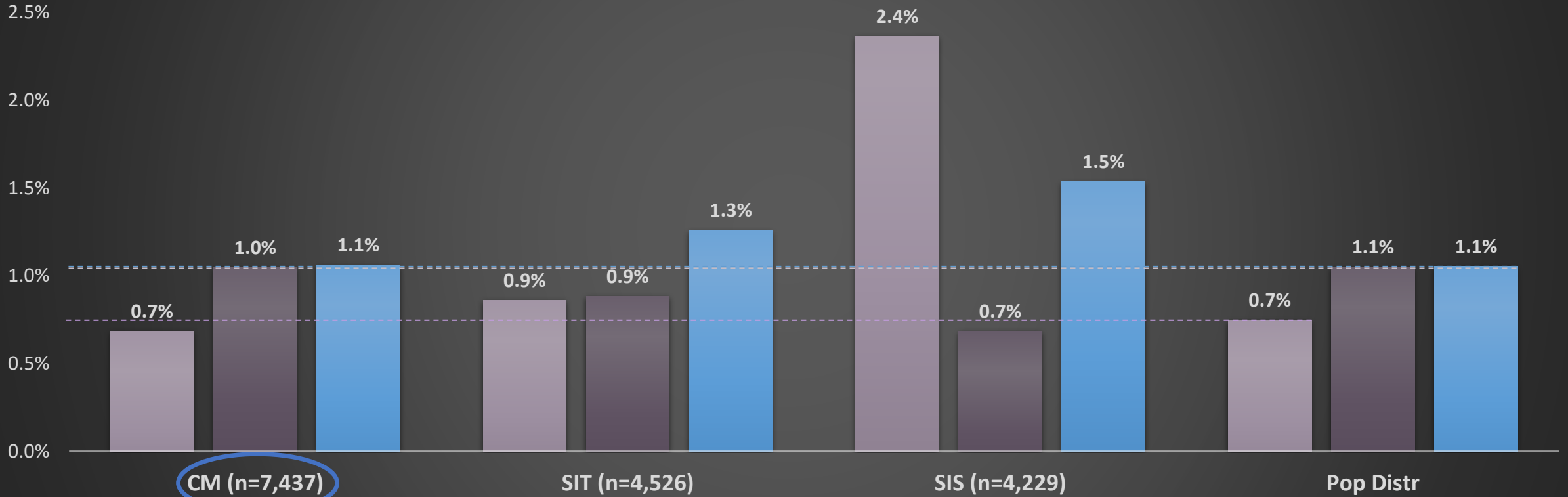


Initial Probation Typology by Race/Ethnicity with Population Distributions



Initial Probation Typology by Race/Ethnicity with Population Distributions

Asian (n=252) NativeAmerican (n=354) Other (n=355)



CM (n=7,437)

Medium Risk

SIT (n=4,526)

SIS (n=4,229)

Pop Distr

Low Risk

Focus on Probation: Program Placement by Race/Ethnicity using CLEAR Data

2020 Probationers

Program Placement

Regular

- Problem Solving Courts (criteria driven, acceptance criteria varies by district/court type, may not be in probation's discretion, not all districts have PSCs)
- Non-SOISP Sex Offenders (offense driven)
- Domestic Violence (offense driven)
- Mental Health (criteria driven)
- Economic Crime (offense & criteria driven)
- Regular Supervision

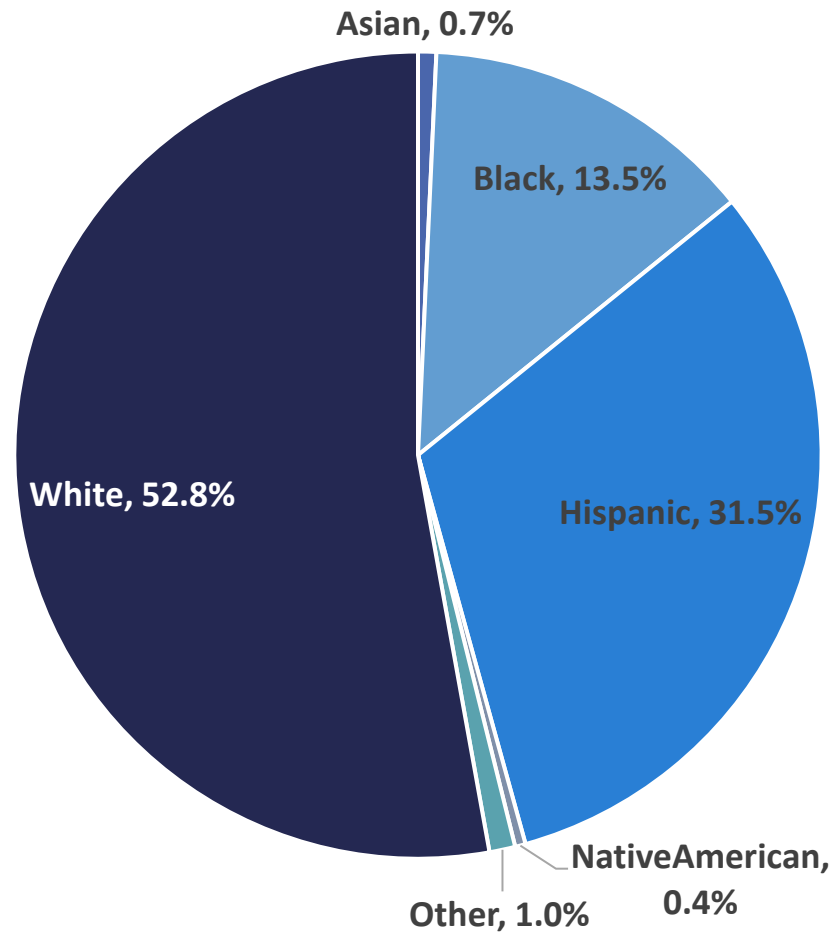
Intensive

- SOISP (statutorily driven, offense based)
- LS-Intensive (eligibility driven by assessment and program capacity)
- CC-Intensive (eligibility driven by assessment and program capacity)

Many programs have specific criteria that must be met for a client to be eligible for program placement.

LS-INTENSIVE (High Risk/Low Need)

n=2,608

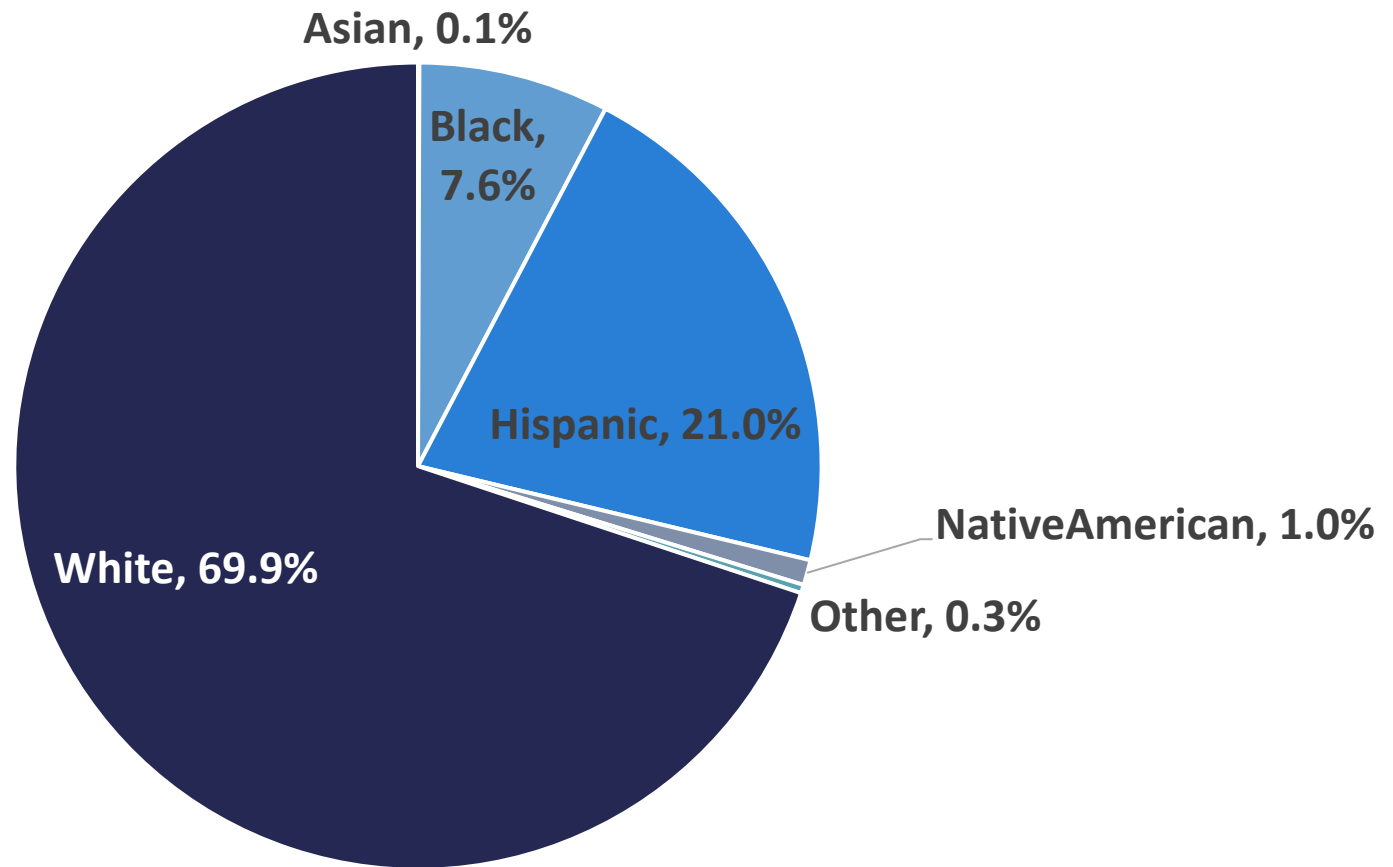


Important Notes:

- Criteria driven
- Phase supervision
- Can complete the program and transfer to regular supervision
- More males than females

CC-INTENSIVE (High Risk/High Need)

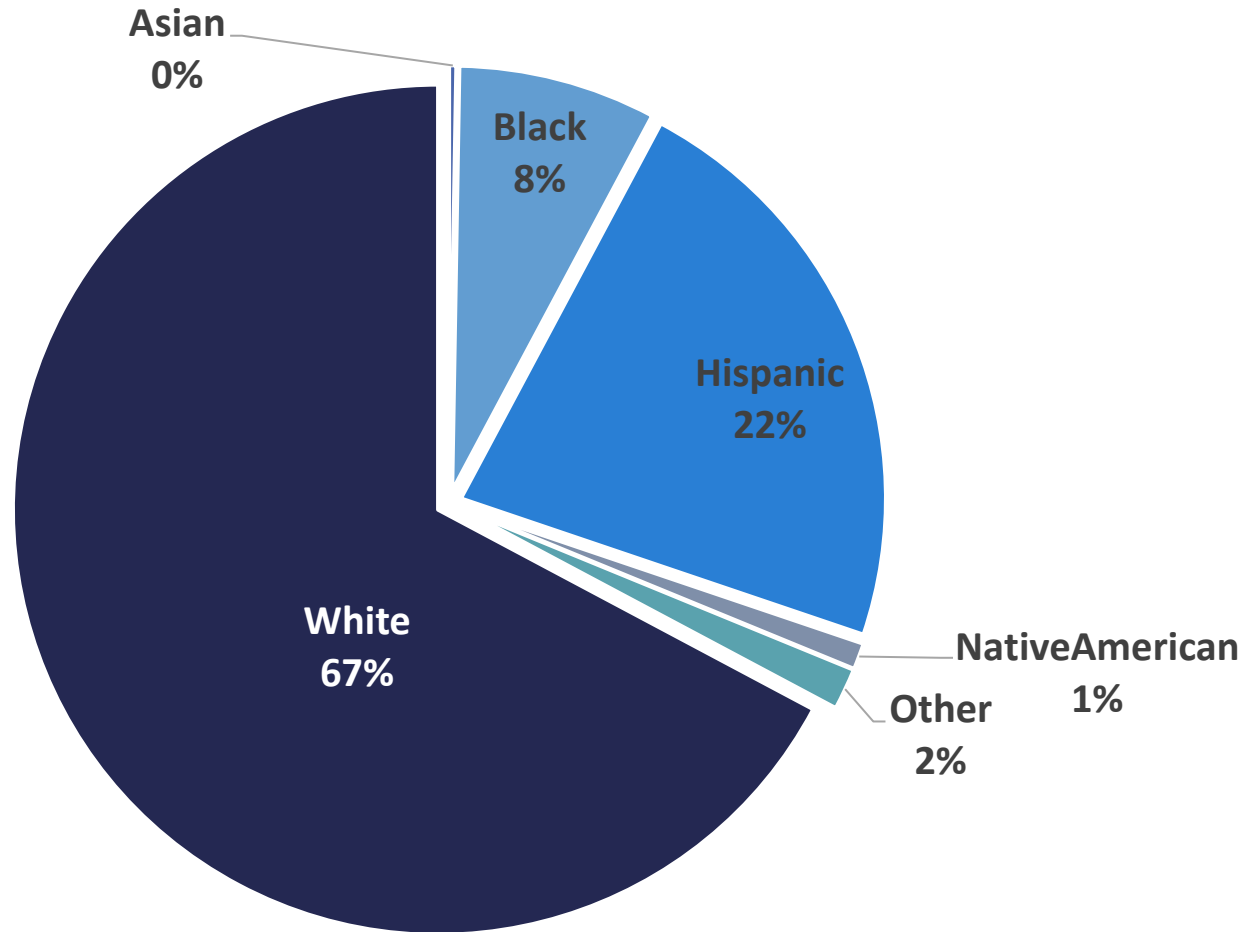
n= 1,782



Important Notes:

- Criteria driven
- Phase supervision
- Can complete the program and transfer to regular supervision
- More females than males

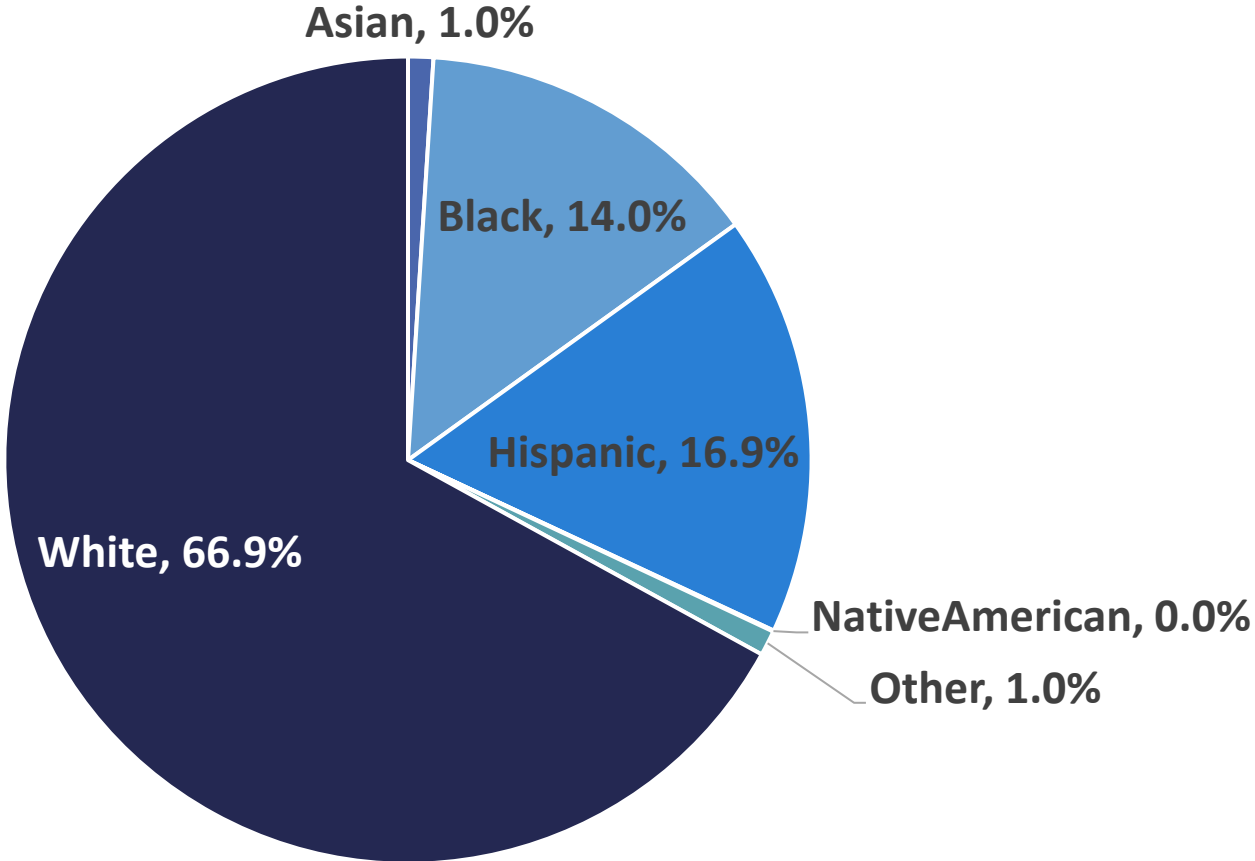
Adult Problem Solving Courts (n=2,591)



Important Notes:

- Pathways to PSCs vary
- Not all districts have PSCs
- PSCs are more than drug courts

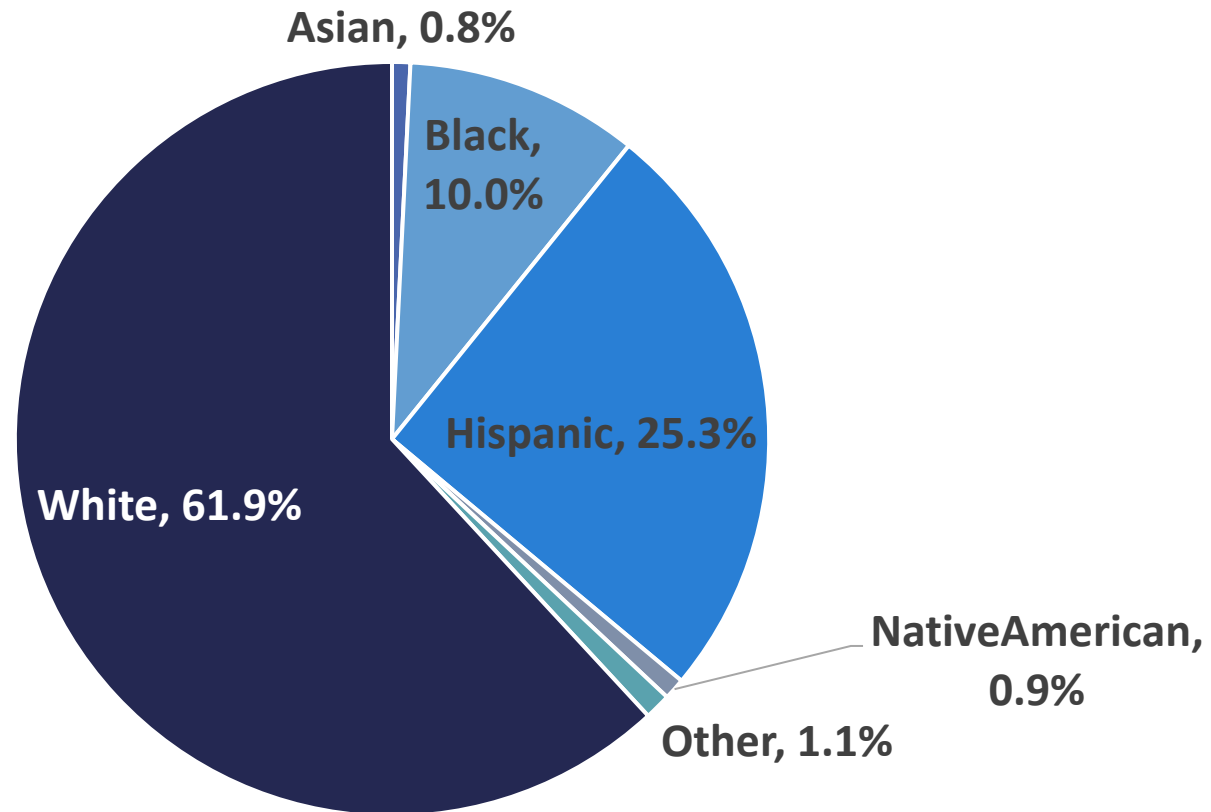
Mental Health (n=2,278)



Important Notes:

- Must have a current professional diagnosis
- Special Terms and Conditions

Domestic Violence (n=18,401)



Important Notes:

- Driven by Offense
- Probationers with DV Offense may be supervised in intensive programs
- Distribution is similar to the statewide population

Focus on Probation: Adult Termination by Race/Ethnicity using CLEAR Data

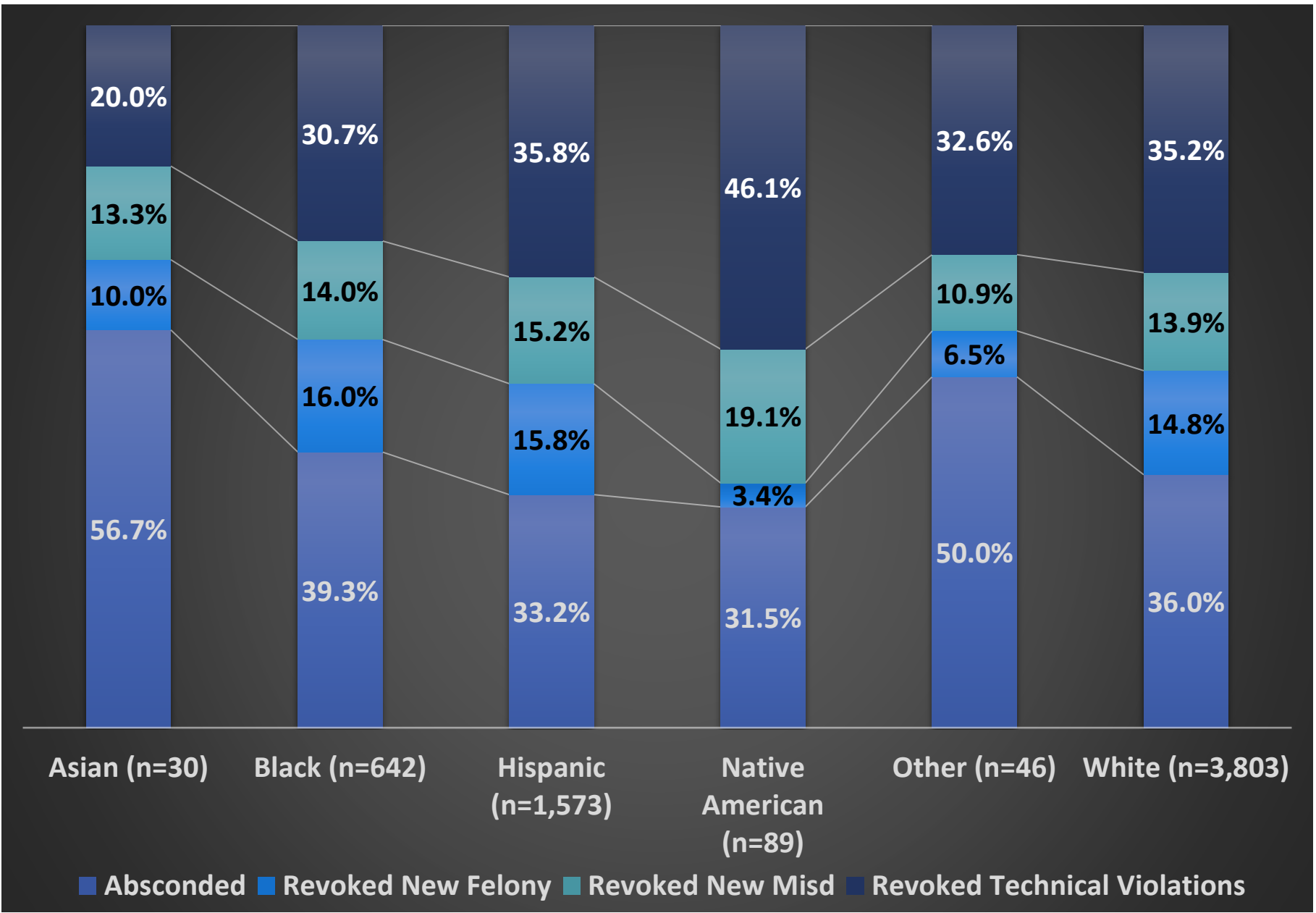
2020 Probationers

Adult Probation Terminations- CLEAR data

Limitations:

- This chart represents adult probationers who started and were unsuccessfully terminated in the same year. As the average length of stay for probationers is between 18-24 months, this data set represents a much smaller number of terminations in that same year.
- This is only one year of data, captured during the pandemic.
- Success rates are not included in this data set.
- The Clear Act interactive dashboard only displays revocations- this chart does the same and adds absconders.
- Absconder rates increased during the pandemic for all community based criminal justice agencies. Note: absconders are administrative closures for probation, court-ordered warrants are still active.

Adult Probation Unsuccessful Terminations 2020 CLEAR Data





Observations & Items for further Exploration

(2020 Clear Data)

- A portion of Probation's Hispanic population is misidentified as White. The Hispanic population increased from 10% → 25% when matched on CLEAR data
- Regional differences, both in population and practice, can impact the data. Caution should be exercised when drawing conclusions.
- Native American probationers represent the largest proportion of high-risk (42.8%), Black probationers represent the largest proportion of medium-risk (55.8%) and Asian probationers have the largest proportion of low-risk (40.3%)

More Observations- Probation Types (2020 Clear Data)

Lower Risk/Needs Types

- Asian Probationers are overrepresented in the lowest risk/need type (SIS)
- White Probationers are overrepresented in lower risk with Tx needs (SIT)
- Black and Hispanic probationers are underrepresented in lower risk with Tx needs (SIT)

Moderate Risk/ Needs Types

- The probationers in this risk/need profile are representative of the race/ethnicity breakdown in the state probation data

Higher Risk/Needs Types

- Black and Hispanic probationers are overrepresented in the High Risk/Lower Need Type (LS) and underrepresented in the High Risk/High Need Type (CC)
- White probationers are overrepresenting the High Risk/High Need Type (CC)
- Native American probationers are slightly overrepresented in High Risk/Lower Need (LS), Other probationers are underrepresented in High Risk/Lower Need (LS), while Asian probationers are underrepresented in both High Risk Types (LS and CC)



More Observations & Items for further Exploration

(2020 Clear Data)

Program Placement

Intensive Programs

Black and Hispanic probationers make up 45% of LS-Intensive

White probationers make up nearly 70% of CC-Intensive

Problem Solving Courts

White and Other probationers are slightly overrepresented in PSCs

Mental Health

Black probationers are overrepresented and White probationers are slightly overrepresented in this program compared to the general probation population

Black: 14%, White: 66.9%



More Observations & Items for further Exploration

(2020 Clear Data)

Adult Terminations

(2020 CLEAR Data- unsuccessful terminations only)

- Hispanic and Black probationers were slightly more likely to be revoked for new crimes compared to White probationers.
- Black probationers were less likely to be revoked for technical violations than White and Hispanic probationers.
- Asian and Black probationers were more likely to abscond than White and Hispanic probationers.

Overall

- Better race and ethnicity data is required to fully explore racial disparities

Thank you



Colorado Judicial Courts and Probation
Office of the State Court Administrator
Division of Probation Services
Evaluation Unit
www.courts.state.co.us