

OFFICE OF POLICY & MANAGEMENT

Criminal Justice

Policy & Planning Division



First Analysis of Prosecutor Data (PA 19-59) Report to the Criminal Justice Commission

Marc Pelka, Undersecretary of Criminal Justice Policy and Planning

Kyle Baudoin, Policy Development Coordinator

July 14, 2020

Today's program includes three presentations

1

Office of Policy and Management Criminal Justice Policy and Planning Division

Marc Pelka, *Undersecretary of Criminal Justice Policy and Planning*

Kyle Baudoin, *Policy Development Coordinator*

2

Division of Criminal Justice and State's Attorney

Richard Colangelo, Jr., *Chief State's Attorney*

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The Urban Institute

Robin Olsen, *Senior Research Associate*

Leigh Courtney, *Policy Associate*

Introduction and overview of Public Act 19-59

Front-end impacts on prosecutor operations.

First analysis of prosecutorial caseflow and operations

In August 2019, Connecticut became the first state to require the routine collection, analysis, and reporting of prosecutor data.



On August 7, 2020, following unanimous passage in the house and senate, Governor Lamont signed the bill (PA 19-59) into law.

State legislators, prosecutors and criminal justice reform advocates participated in the bill signing.

Connecticut received national attention as federal, state, and county governments pursued greater prosecutorial data and transparency.

“These new requirements will be an important step toward increasing the confidence that communities have in the criminal justice system by helping to ensure that justice is attained in the fairest ways possible.”

–Governor Lamont

Rich Colangelo has emphasized the need for improved use of data and IT in prosecutorial operations.



Rich Colangelo, Jr.
Chief State's Attorney

“The case management system will greatly modernize and strengthen Connecticut’s local and state public-safety network and provide the essential data we need to explore crucial criminal justice issues throughout the state.

The data can help create new laws and policies and transform the way offenders are punished or rehabilitated so that we in the criminal justice system can advance equity and improve safety and health across our communities.”

PA 19-59 creates a platform and process for using data to paint a picture of prosecutorial caseflow and operations.

Phase 1

July 2020
Presentation

To prepare for the first PA 19-59 presentation, OPM staff:

- Analyzed a data set from the Judicial Branch containing 300,074 individual case records;
- Met with prosecutors and other criminal justice system stakeholders to develop scope, methodology, and priority questions to analyze; and
- Delivered an initial presentation in November at DCJ to state's attorneys, state legislators, and criminal justice reform advocates to receive input and questions.

Phase 2

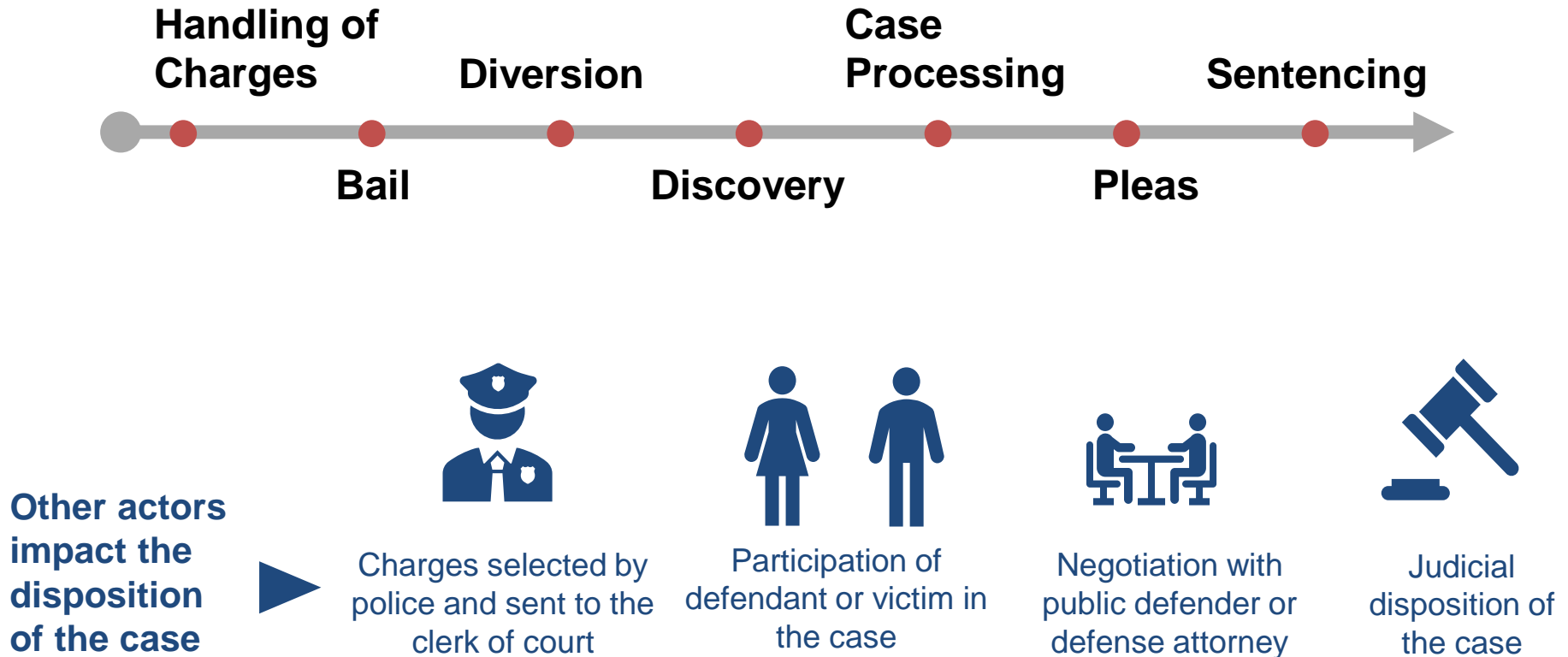
July 2021—

Beginning with the July 2021 presentation, OPM's presentation to include a wider array of data analysis, including:

- (1) Arrests
- (2) Arraignments
- (3) Continuances
- (4) Diversionary programs
- (5) Contact between victims and prosecutorial officials
- (6) Dispositions
- (7) Nonjudicial sanctions
- (8) Plea agreements
- (9) Cases going to trial
- (10) Demographics, including data on race, sex, ethnicity and age
- (11) Court fees or fines
- (12) Restitution
- (13) The zip code of the defendant's primary residence.

Greater recognition of prosecutors' gatekeeper role has galvanized interest across the country in prosecutorial operations.

Seven critical prosecutorial decision points impacting a case



Improving data-led operations in prosecutors' offices can help achieve several outcomes.



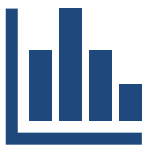
Policy and budget development.



Statewide administration of prosecutorial operations.



Communication to media and the public.

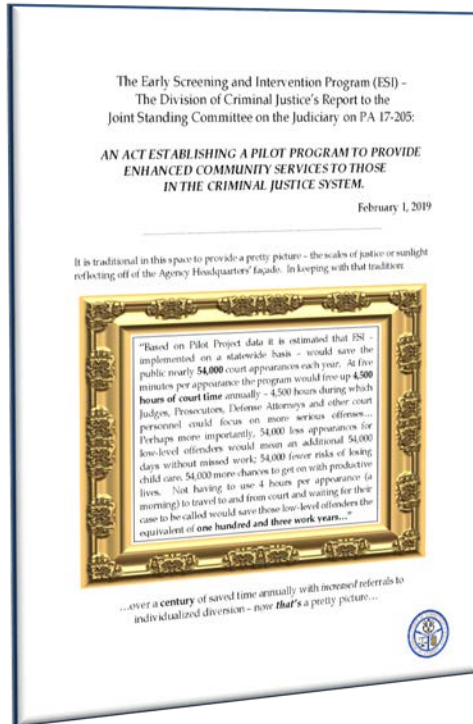


Performance metrics, statewide and in each court.



Use of case-level information by line prosecutors.

The Early Screening and Intervention program is a good example of data collection and outcome tracking.



Case-level data are tracked for ESI participants, including:

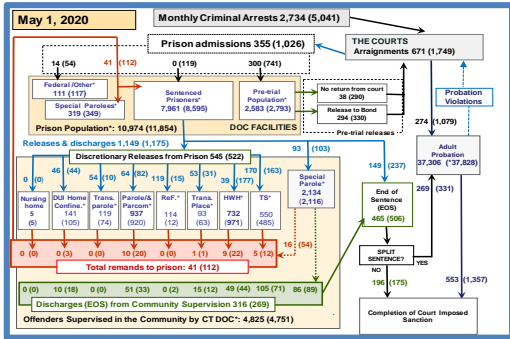
- Defendant demographics
- Criminal charges and history
- Needs (e.g. behavioral health, homelessness)
- Number of continuances
- Diversion outcome (e.g. nolle, dismissal, plea)

Using this data, the report indicated that ESI participants had:

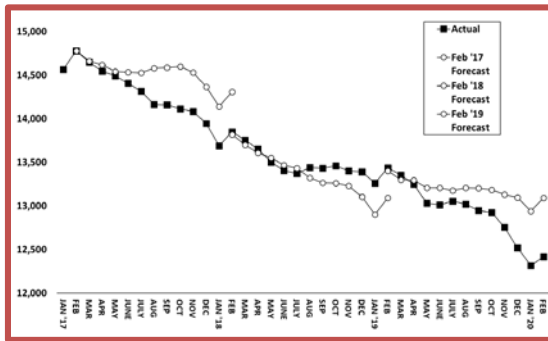
- 350% fewer appearances before a judge;
- 94% more diversions into community-based services;
 - 450% more diversion for people with behavioral health or homelessness needs;
- More than twice as many cases resulting in a dismissal; and
- Cost avoidance.

ESI's case-level data collection makes further analysis possible: program outcome by risk level, relative correlation of need factors with recidivism, and longitudinal tracking of recidivism.

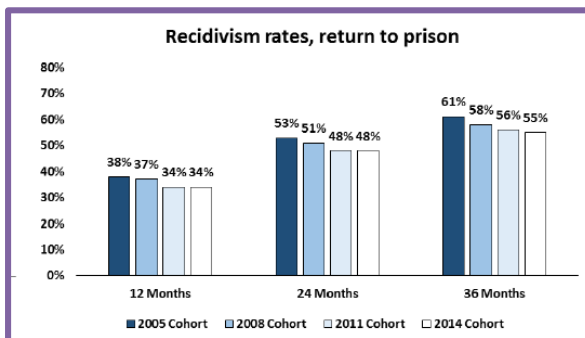
OPM's data partnership with the DOC leads to routine and ad hoc reports analyzing case flows through corrections.



The *Monthly Indicators Report* depicts case flow through the DOC compared to previous periods, painting a high-level picture of changes across the criminal justice system.



The *Annual Correctional Population Forecast* estimates correction population change over the forthcoming year to help state policymakers, agency officials, and community partners make cost and population estimates.



The *Annual Connecticut Recidivism Study* reviews outcomes using a key criminal justice system metric—recidivism rates—over a three-year period for each person returning to the community following pretrial or a sentence across four measures.

The roles of the CJC and DCJ are unique nationally.

The CJC's appoints prosecutors.

45 states have elected prosecutors

Prosecutors are appointed in 5 states: Connecticut, Rhode Island, New Jersey, Delaware, and Alaska.

Connecticut is the only state where a commission appoints prosecutors. Elsewhere, appointing authority rests in the governor (1) or attorney general (3).

DCJ administers a largely state-level prosecutorial system with local autonomy of state's attorney.

Prosecutors are county officials except for Connecticut and Rhode Island, which operate largely state-level prosecutorial systems.

Connecticut is the only state with an entity outside the AG's office—DCJ—that administers prosecutorial operations statewide.

Although state's attorneys are state employees and DCJ plays an administrative function, they practice considerable local autonomy.

Presentation Overview

Introduction and overview of Public Act 19-59

Front-end impacts on prosecutor operations.

First analysis of prosecutorial caseflow and operations

Front-end impacts on prosecutor operations

This section depicts the topography of cases as they enter the court system and are distributed across courts and enter prosecutorial workflow.

Key Takeaways:

- Caseflow is non-linear and multifaceted: 1 in 4 people transiting the court system in 2019 had two or more disposed cases, including filings in multiple courts and requiring more than a year before disposition.
 - Yet there is relative equilibrium in court operations, with added and disposed cases roughly equal to each other.
 - Prosecutors and other criminal justice system stakeholders use their discretionary decision-making to tailor responses based on caseflow.
- Case dispositions are concentrated in GA Courts, which disposed of 9 of 10 cases in 2019, and 7 in 10 disposed cases had a misdemeanor as its most serious charge.
- Reported violent crime is concentrated in 3 of Connecticut's 13 Judicial Districts, which also is where majorities of the state's Black and Hispanic populations reside
 - There is disproportionality in the racial and ethnic composition of the resident population and case dispositions, including within felony and misdemeanor classes.

For today's presentation, more than 300,000 lines of data, primarily sourced from the Judicial Branch Court Operations, were analyzed.

The dataset consists of all criminal and motor vehicle cases closed in CY 2019

Judicial Branch Court Operations provided the dataset to OPM.

- For purpose of this analysis, charges original to the docket are reported.
- A case refers to a unique docket number, and an individual person can have multiple cases, but multiple people will not appear on a single case
- Sources for slides are this dataset unless otherwise indicated.

The dataset consists of:

300,074 rows of data

124,493 cases (unique docket numbers)

81,133 individual people*

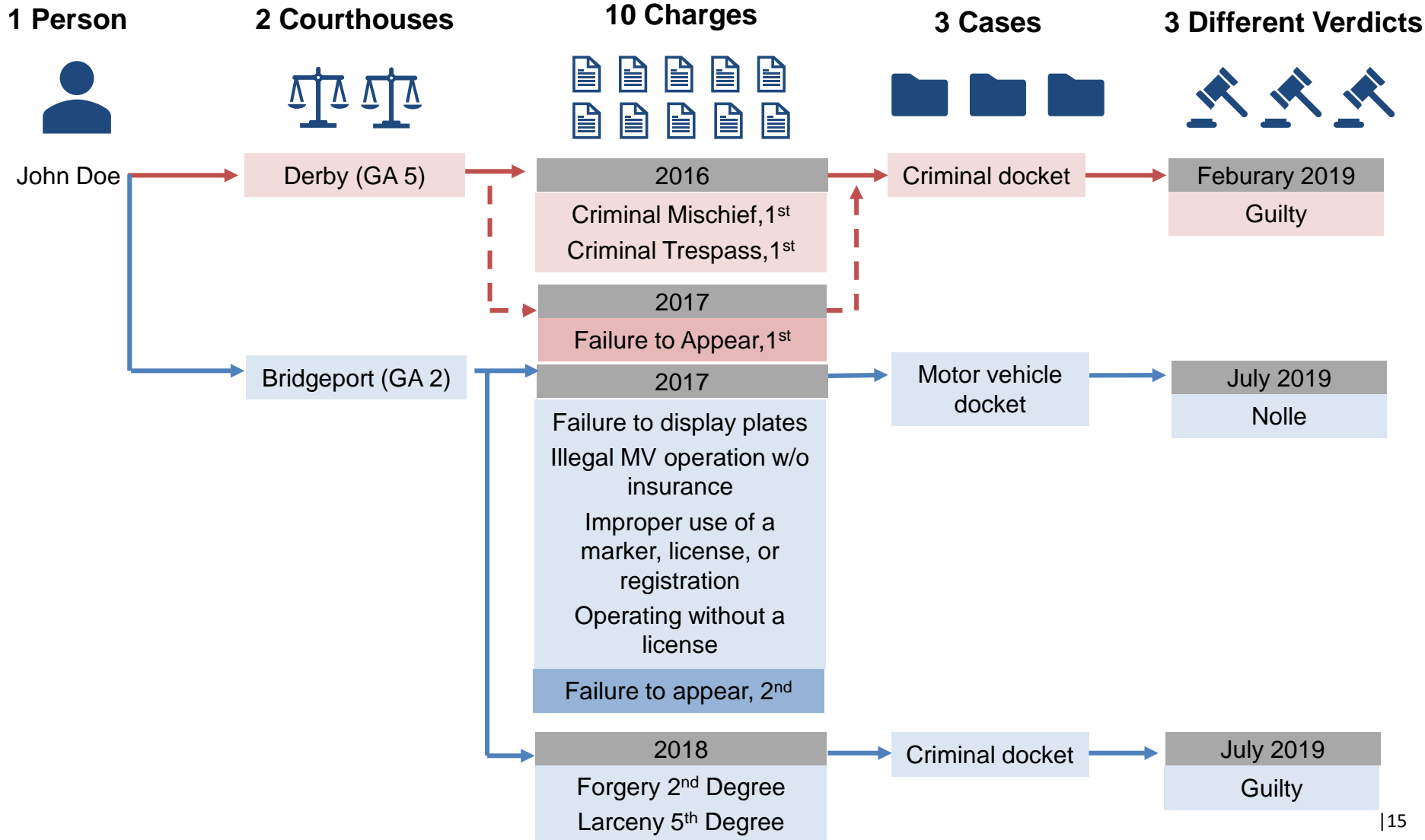
1,224 separate statutes cited

56,568 charges resulted in convictions

22,778 dockets linked to diversionary programs

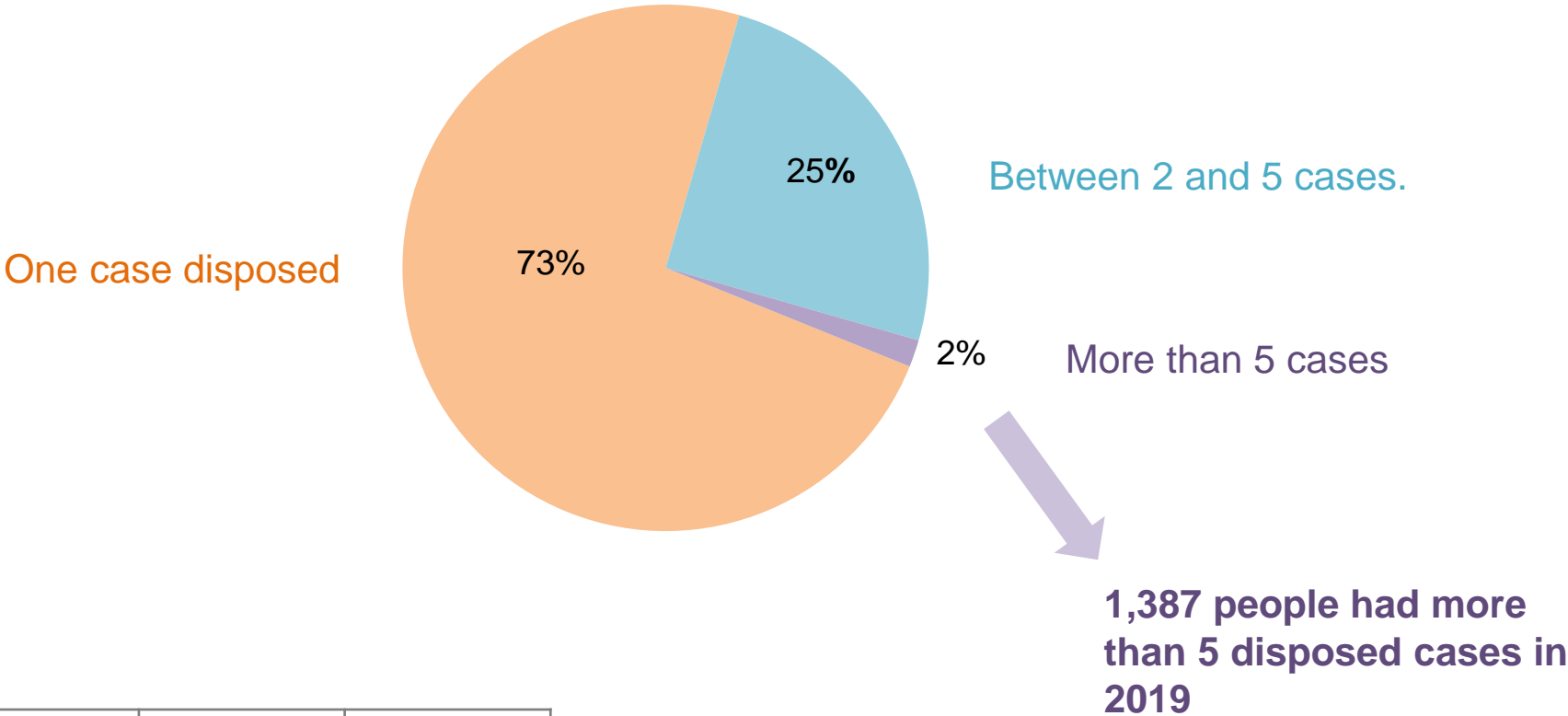
*Based on matching estimate using names, date of birth, and other identifying information.

A person may have numerous pending charges and cases, spanning months or years, even in front of multiple courts, before being resolved with multiple dispositions.



27% of people transiting the court system in 2019 had more than one disposed case.

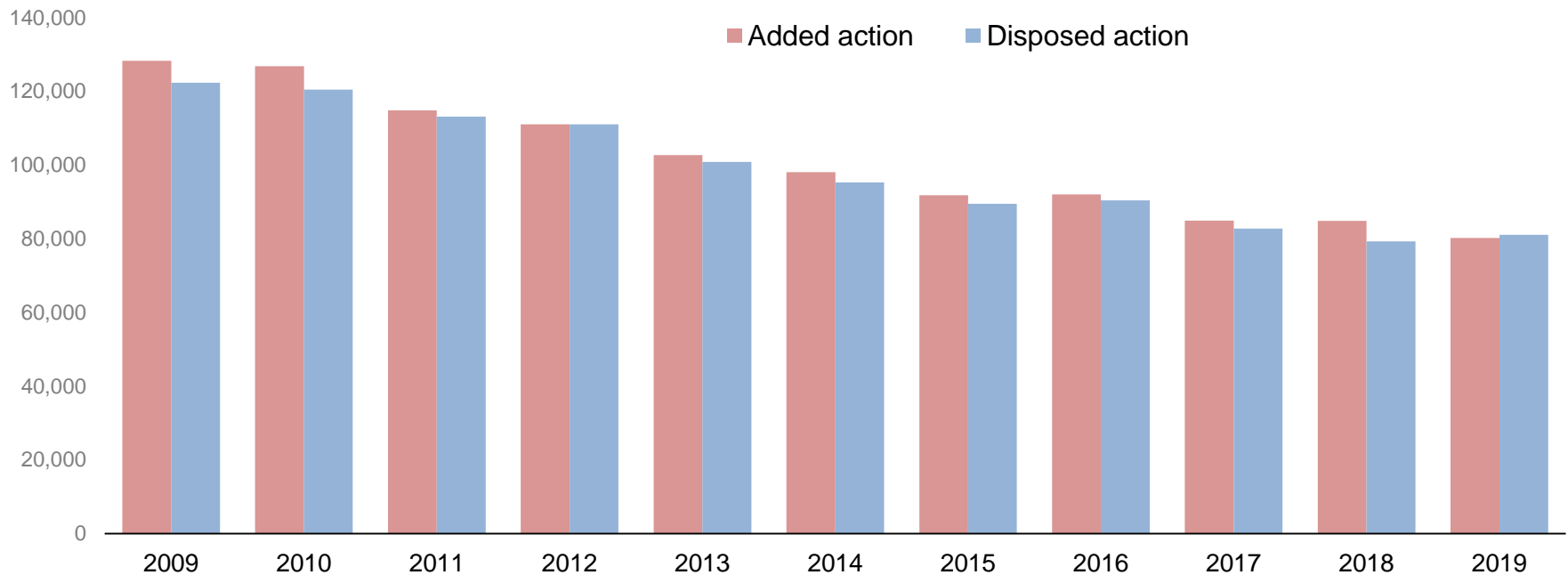
Number of total disposed cases of by people who had at least one disposed case, 2019



1 case disposed	Between 2 and 5 cases disposed	More than 5 cases disposed
61,020	20,726	1,387

Although some cases, with serious or multiple charges, may span multiple years before disposition, there is relatively close equilibrium annually between added and disposed cases.

Added and disposed actions in JD and GA courts, FY2009-19



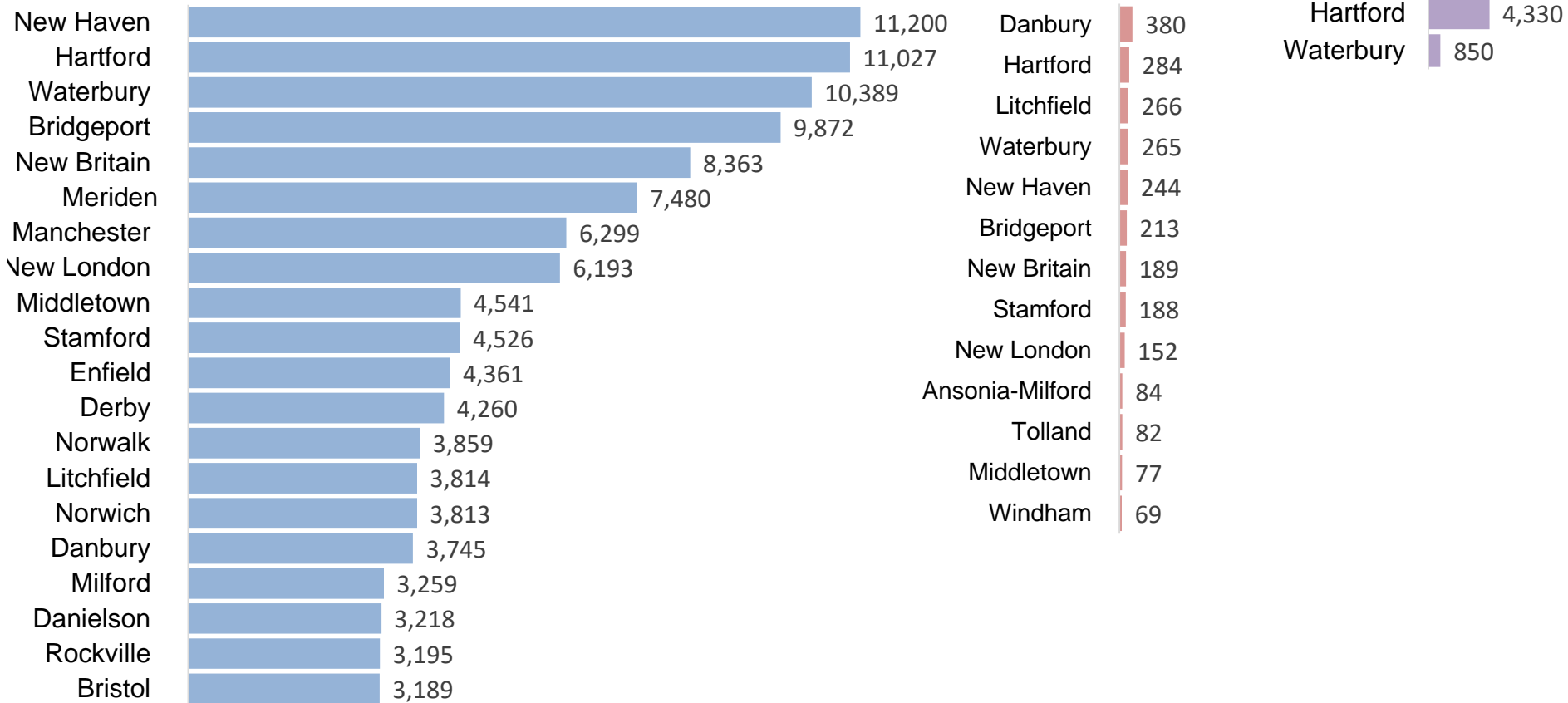
Most volume flows through the GA courts: 94% compared to 2% in JDs.

Cases disposed by court location and type, 2019

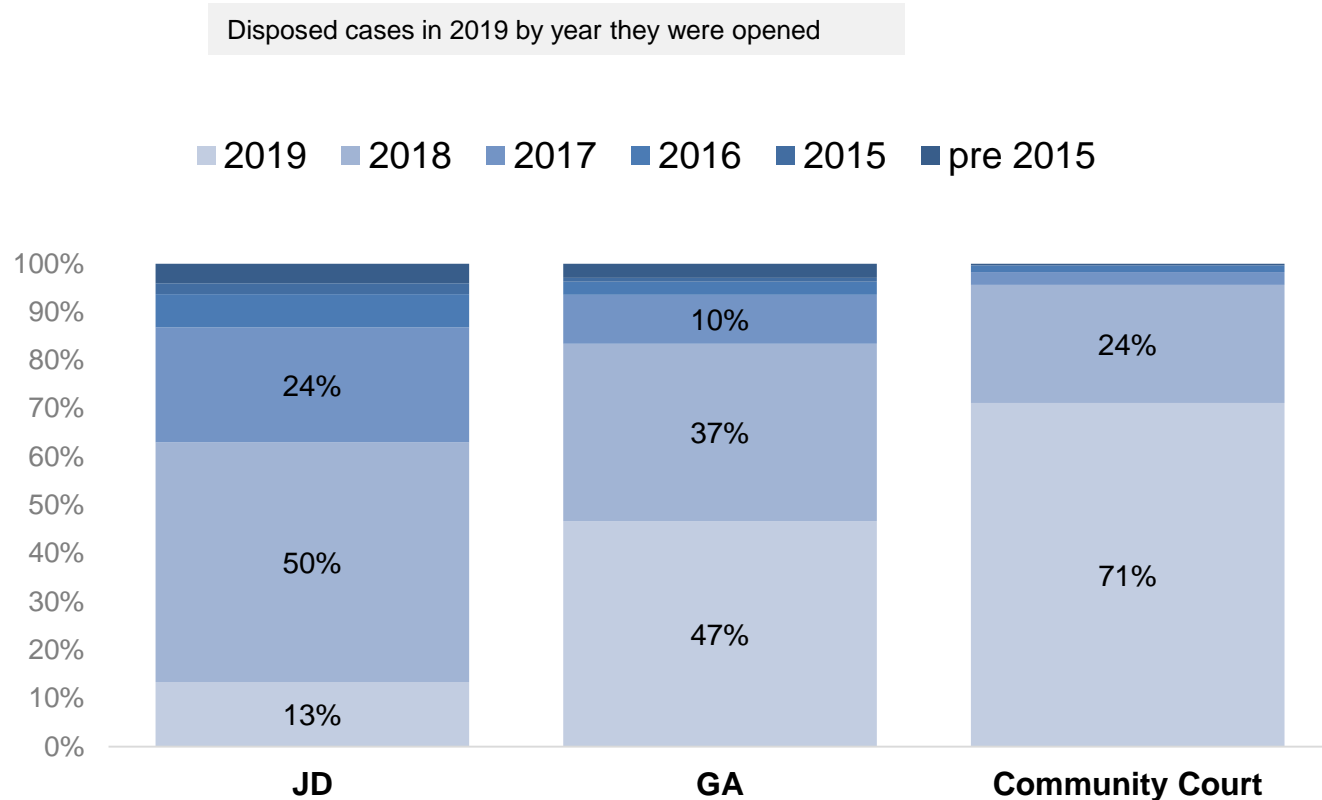
JD Courts
2%

Community Courts — 4%

GA Courts disposed 94% of total cases



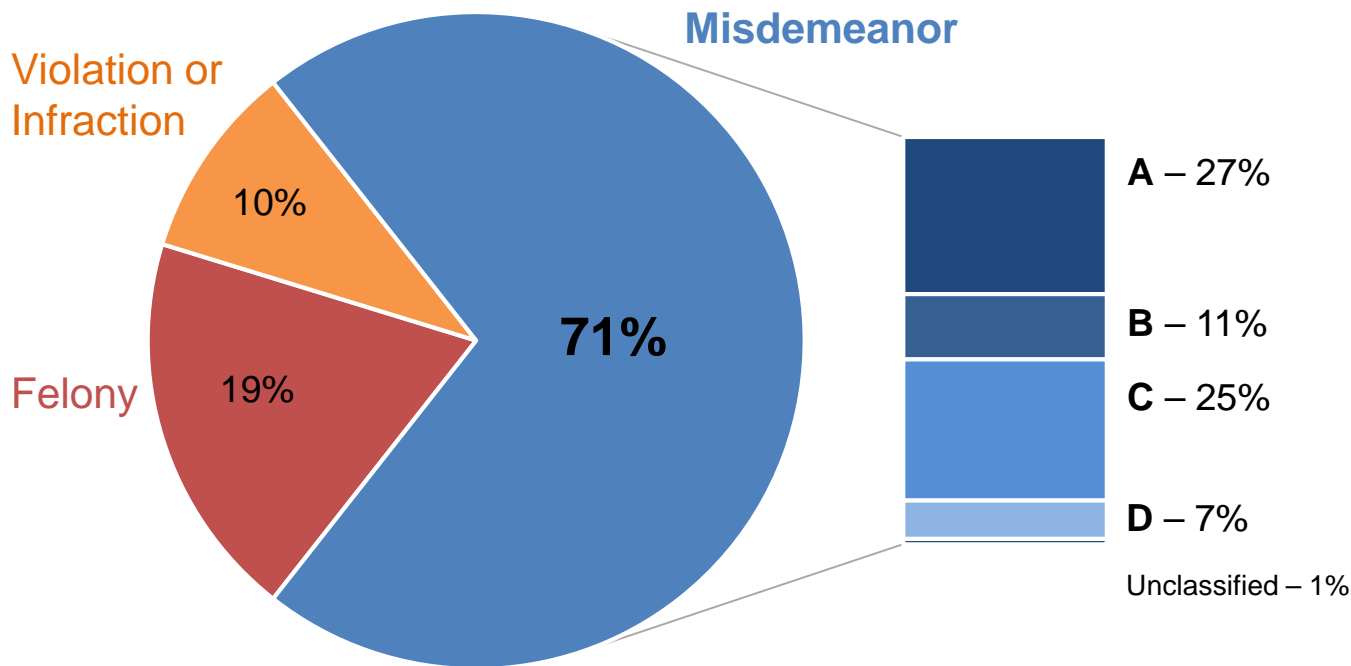
Cases move slower in JD courts, reflecting the heightened seriousness and array of charges, than in GA and Community Courts.



In JD courts, only 13% of disposed case in 2019 were opened the same year,
Compared to 47% in the GA Courts and
71% in the Community Courts.

In 2019, 71% of disposed cases had a misdemeanor as the most serious charge at the start of the case.

Disposed cases by most serious charge at the start of the case: felony, violation/infraction, and misdemeanor by class, 2019.



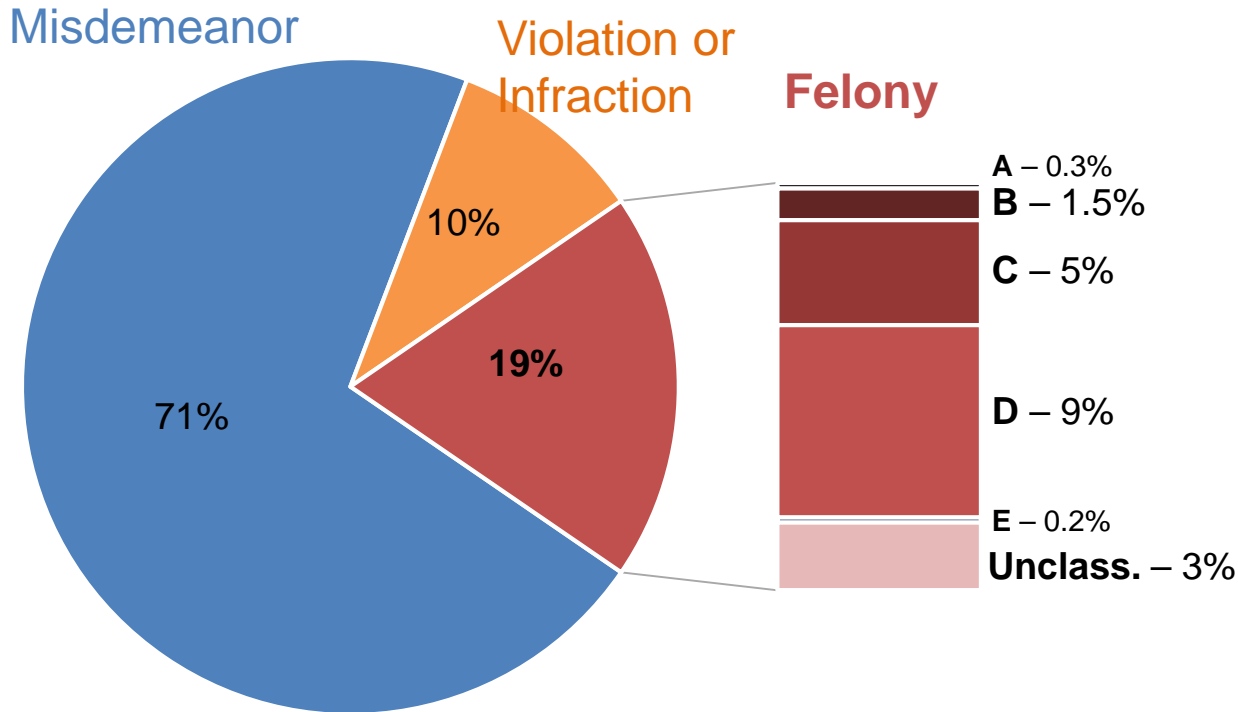
In 2019, the most serious charge on a case was most frequently a Misdemeanor A, followed closely by misdemeanor C.

Both groups were larger than all felony-level cases combined.

Felony	Viol./Inf ract.	Misd.	A	B	C	D	Unclass
23,780	11,992	88,510	34,141	14,211	30,650	8,365	1,127

19% of disposed cases had a felony as the most serious charge at the start of the case.

Disposed cases by most serious charge at the start of the case: felony, violation/infracton, and misdemeanor by class, 2019.



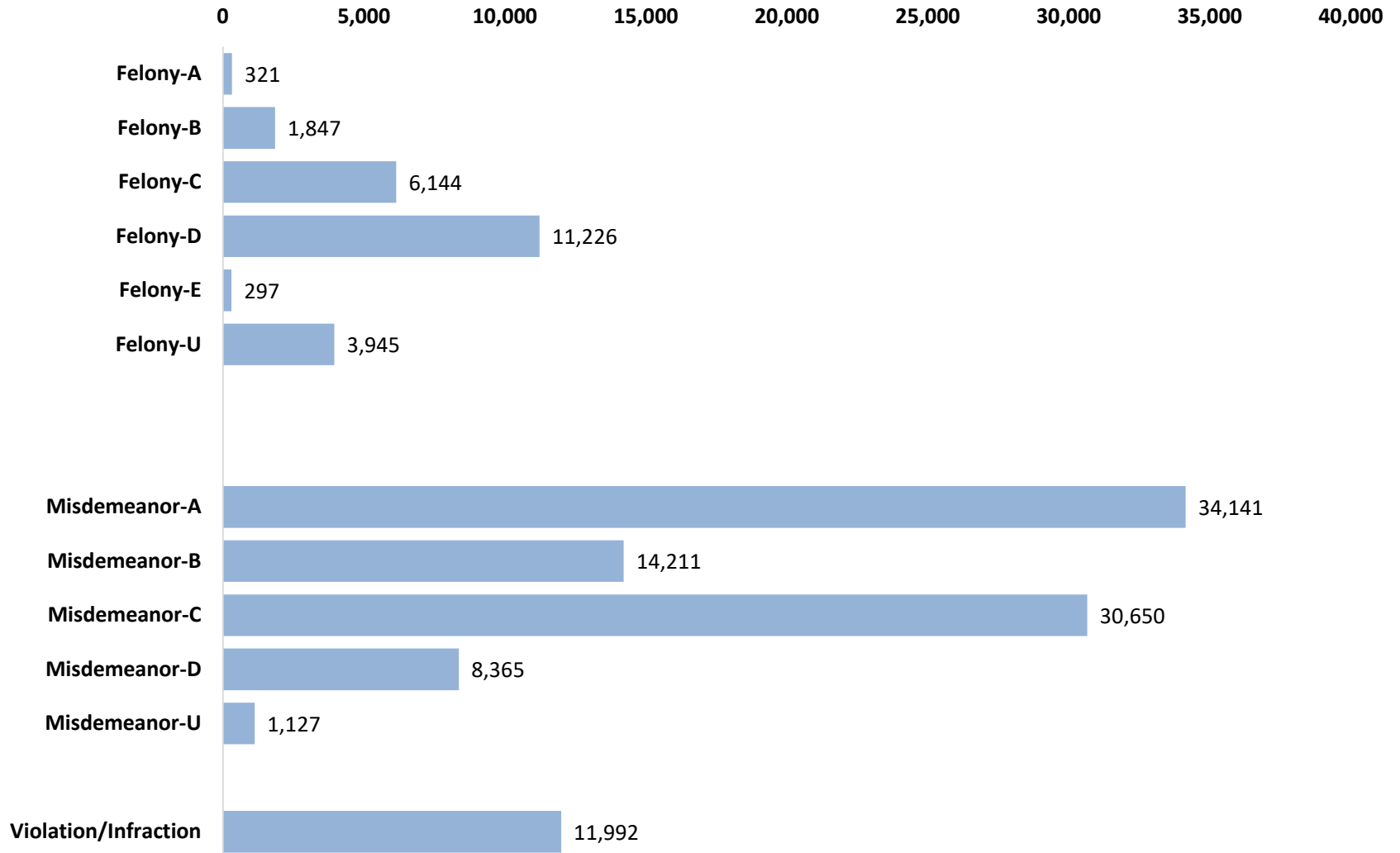
Felonies skew toward lower-level classes.

Felony Ds are nearly half of all felony cases.

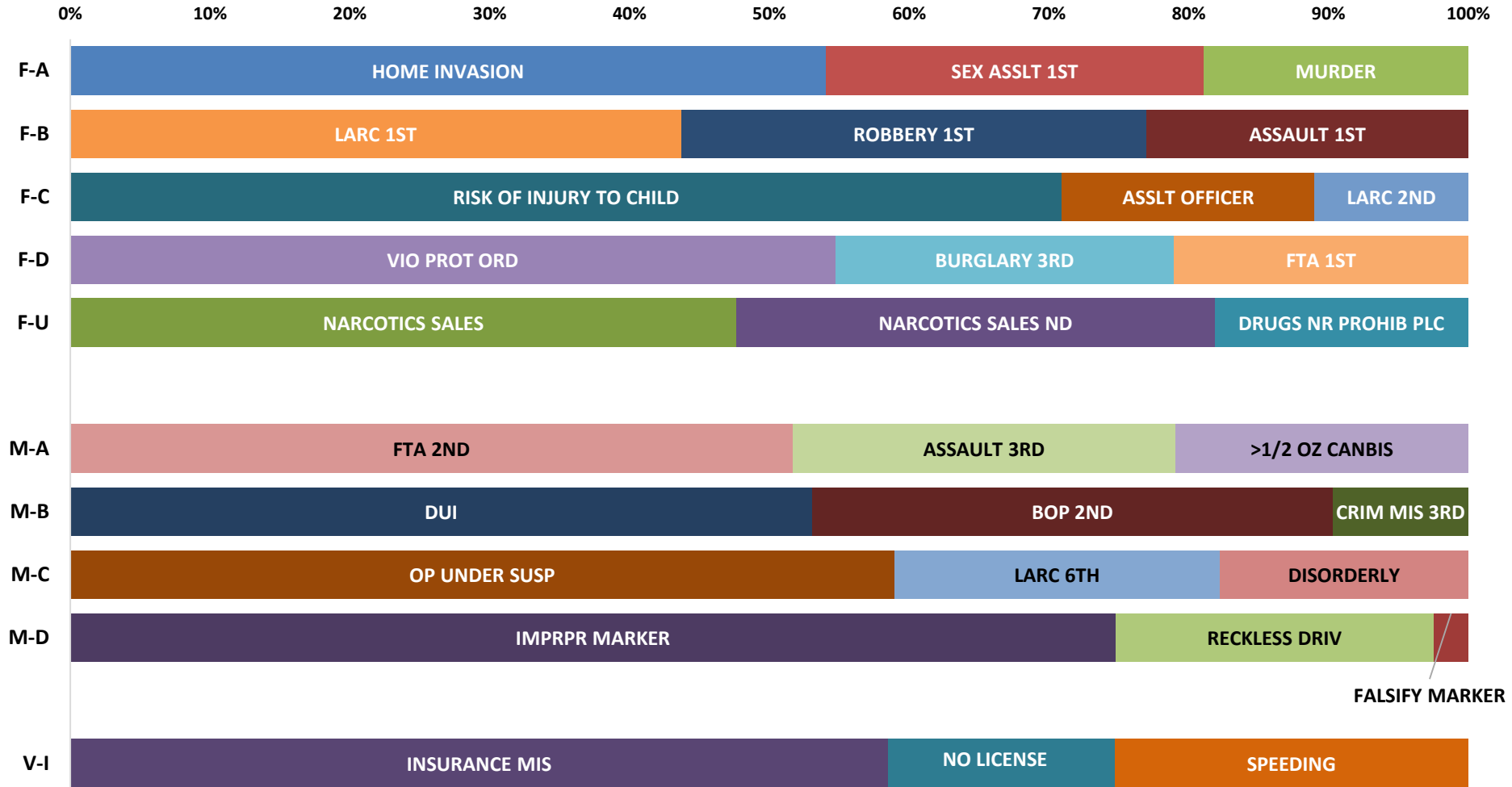
Unclassified felonies are also large subset of felonies.

Misd.	Viol./Infract.	Felony	A	B	C	D	E	Unclass.
88,510	11,992	23,780	321	1,847	6,144	11,226	297	3,945

Distribution of cases disposed in 2019 by most serious charge at the start of the case.

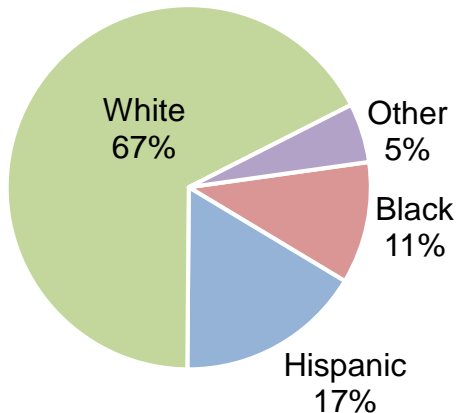


The three most common original charges for cases that were disposed in 2019 by felony and misdemeanor class.

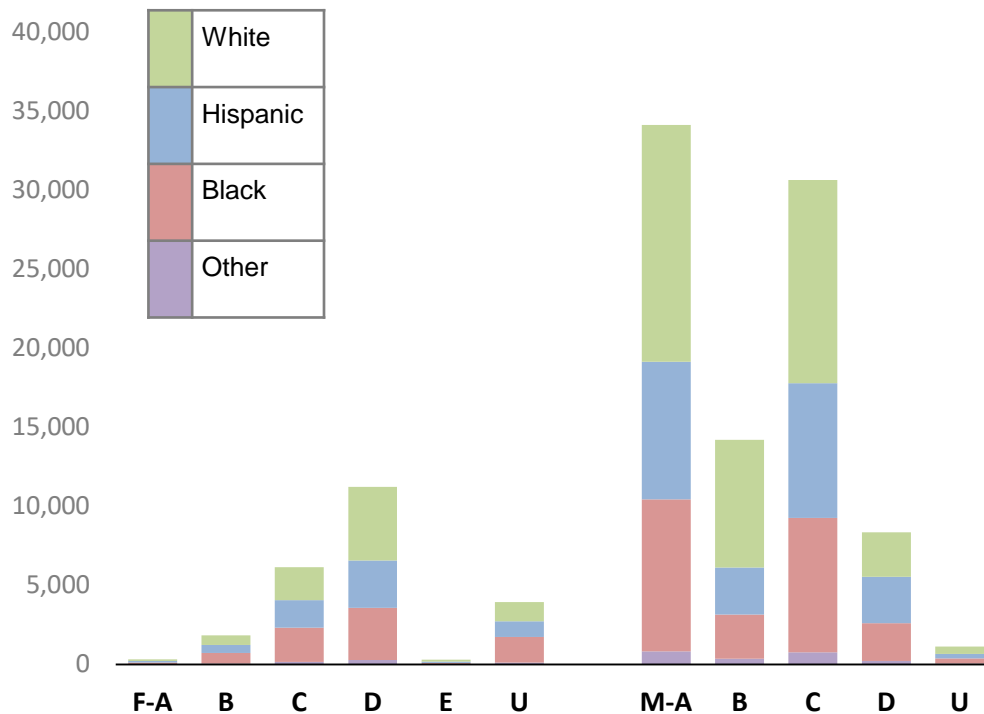


The racial and ethnic composition of the state resident population is disproportionate to that of disposed cases, with further variation by felony and misdemeanor classes.

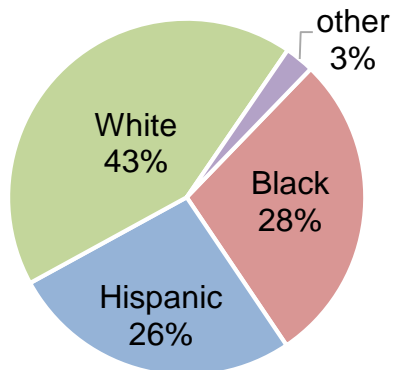
State resident population by race/ethnicity



Original charges on disposed cases by felony and misdemeanor class and race/ethnicity



Percent of disposed cases of by race/ethnicity



Patterns in original charges on disposed cases among Black, Hispanic, and white defendants.

Percent of all disposed cases by race and ethnicity

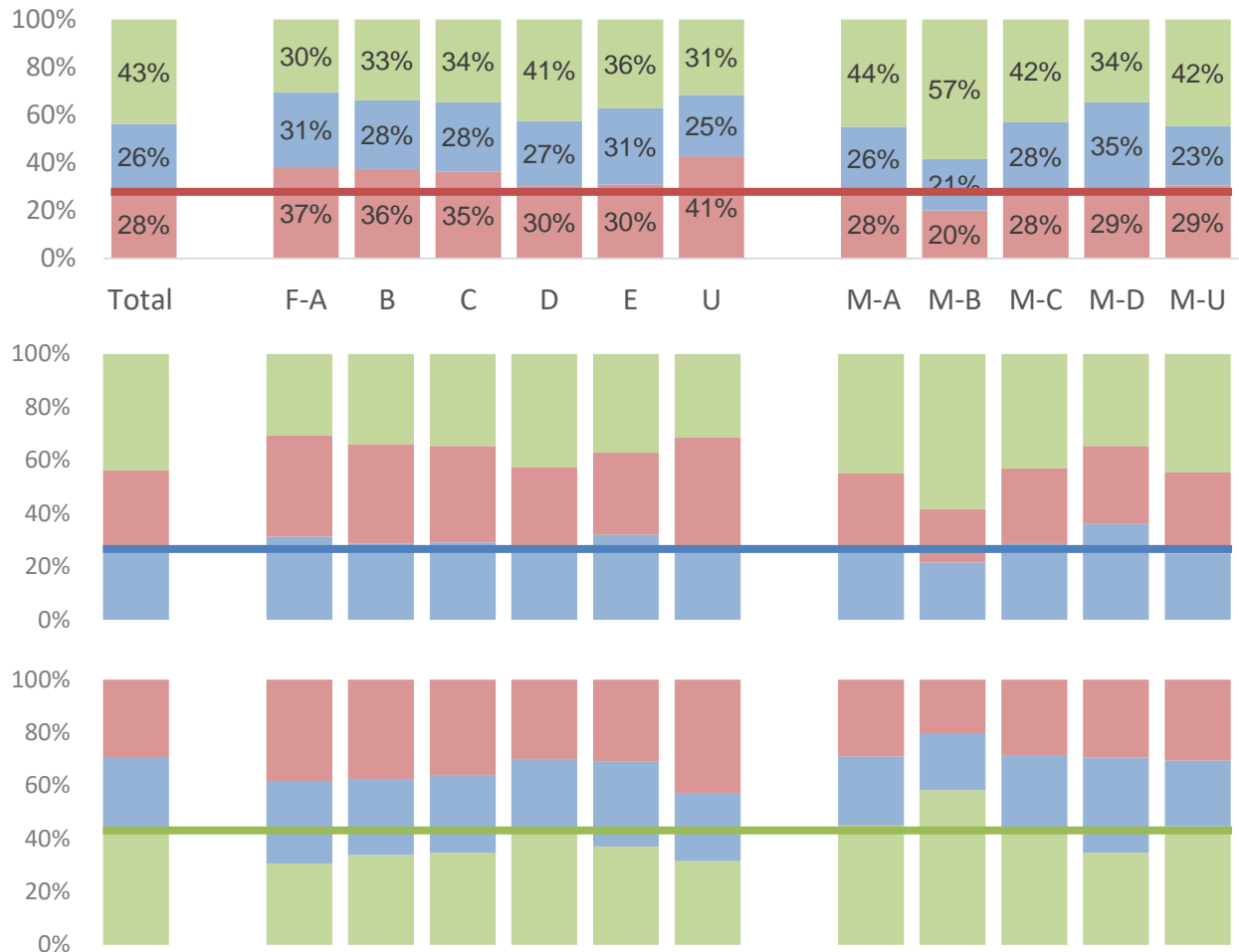
White	43%
Hispanic	26%
Black	28%

Black defendants are over-represented among original charges on felony case dispositions compared to their portion of total disposed cases.

Hispanic defendants show a greater level of parity across the classes.

The distribution of white defendants skews more heavily toward misdemeanor cases than the other demographic groups.

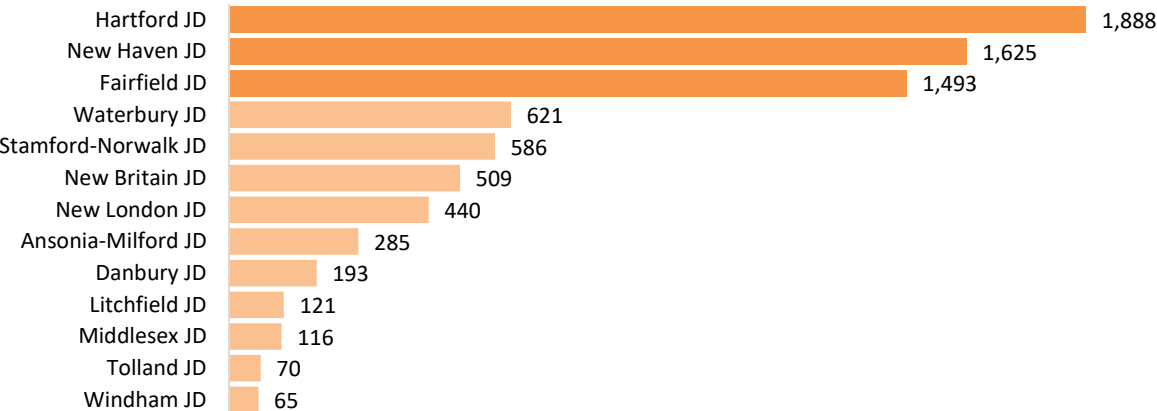
Percent of disposed cases by felony and misdemeanor original charges among Black, Hispanic, and white defendants, 2019



The majority of reported violent crime occurs in 3 Judicial Districts, which also are where large portions of the state's Black and Hispanic populations are concentrated.

Reported violent crime by judicial district, 2017

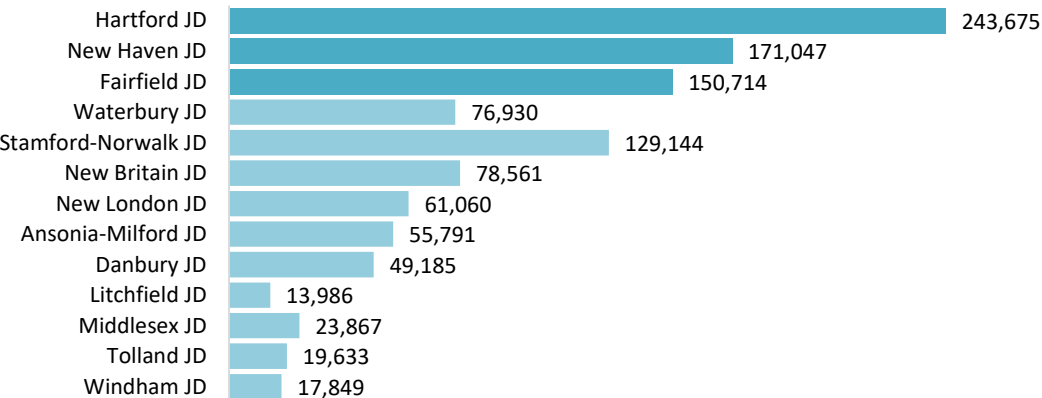
0 200 400 600 800 1,000 1,200 1,400 1,600 1,800 2,000



62% of violent crimes in Connecticut were reported in 3 of the state's 13 JDs: Hartford, New Haven, and Fairfield.

Total Black and Hispanic resident population by judicial district, 2014

0 50,000 100,000 150,000 200,000 250,000 300,000



63% of the state's Black non-Hispanic population and 47% of the state's Hispanic population reside in these 3 JDs.

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First analysis of prosecutorial caseflow and operations

First analysis of prosecutorial caseflow and operations

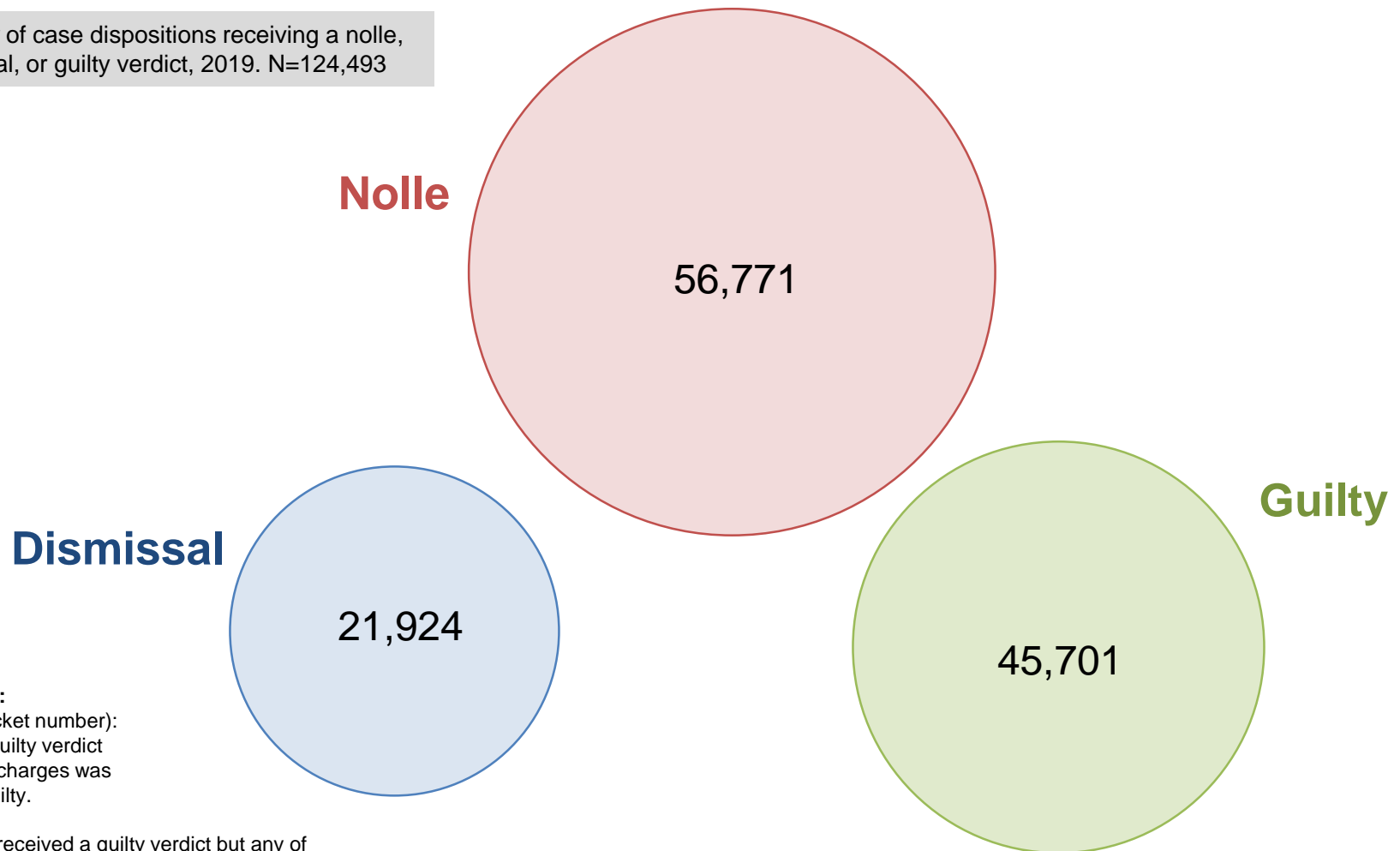
This section uses data to illuminate prosecutors' impact on cases, including using a nolle to no longer prosecute, and identifies a deficiency of information regarding prosecutors' use of non-judicial sanctions.

Key Takeaways:

- In 2019, a nolle was the most frequent case disposition, 24% larger than guilty verdicts and significantly larger than dismissals.
- A tiny fraction of cases is disposed of at arraignment; most dispositions occur several months later following some degree of case management.
- 18% of cases dispositions involved a referral to a state diversion program.
 - 7 programs account for virtually all referrals made in 2019.
- A significantly smaller fraction of nolle cases than dismissed cases received a referral to a state diversion program.
 - Prosecutors' use of non-judicial sanctions, for which no data are collected, is likely to partly explain the difference.

Nolles were the most common verdict among disposed cases in 2019, followed by a guilty, and, distantly, dismissals.

Number of case dispositions receiving a nolle, dismissal, or guilty verdict, 2019. N=124,493



Methodology:

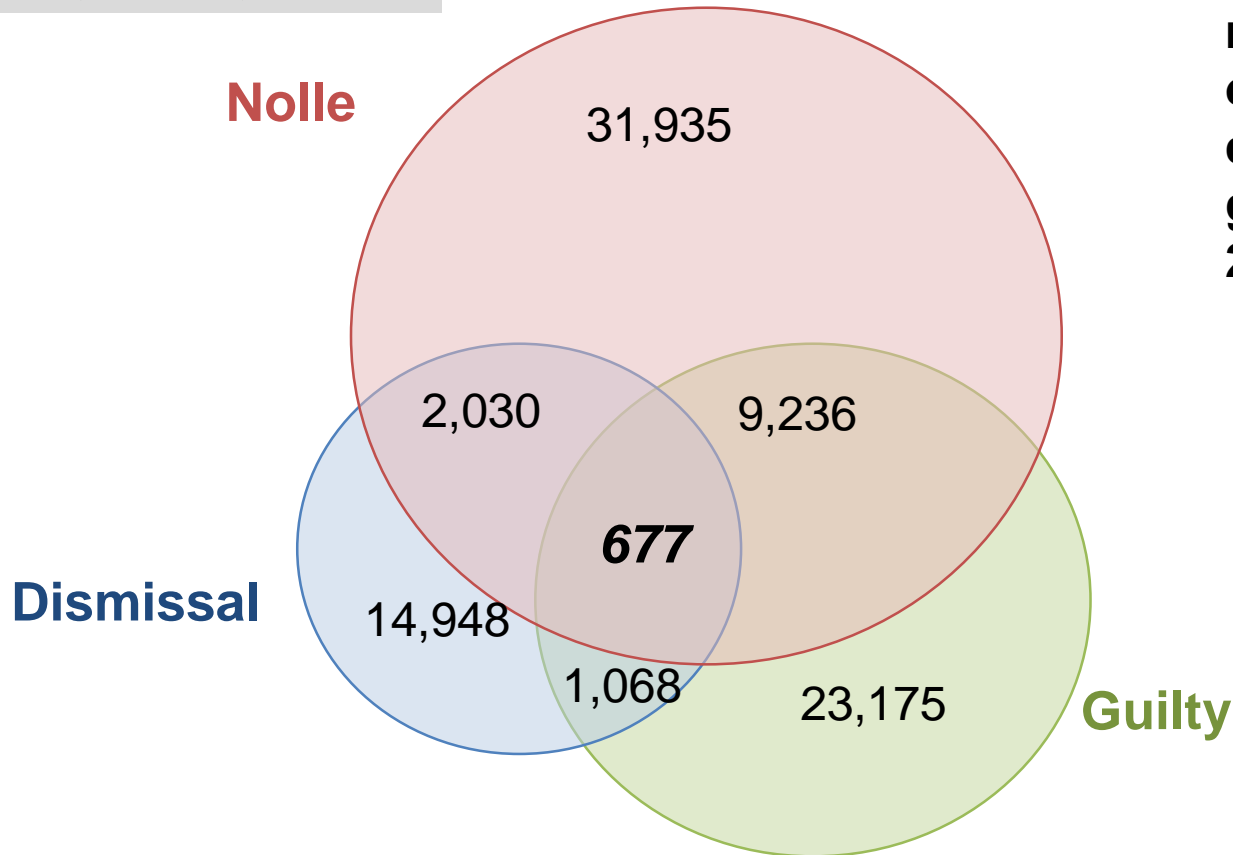
Any case (docket number) containing a guilty verdict on any of the charges was coded as a guilty.

If no charges received a guilty verdict but any of them received a dismissal, the docket was coded as dismissed. If no charges were guilty or dismissed but some were nolle, the docket was coded as nolle.

*three largest categories of dismissal type (n=124,396), which account for 99.9% of disposed cases

16% of people with a disposed case in 2019 received multiple verdicts.

Number of people receiving a nolle, dismissal, and/or guilty verdict, 2019. N=83,133

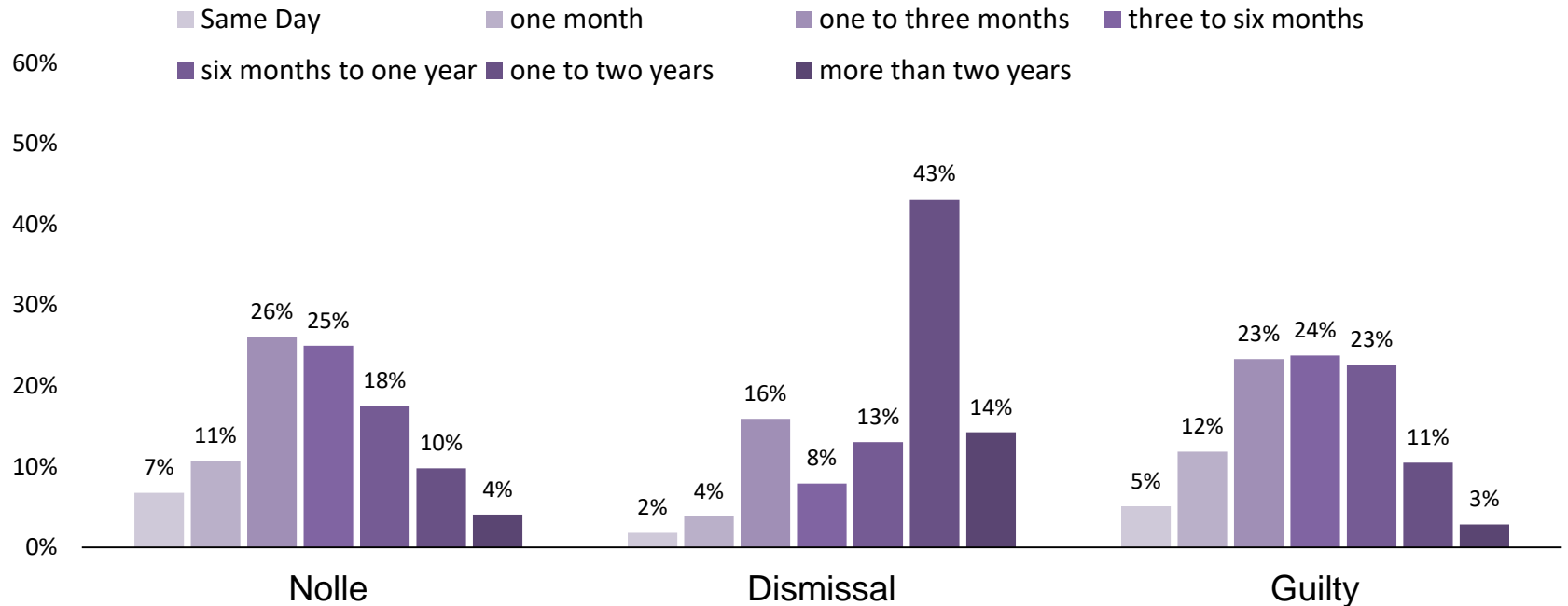


677 people received at least one nolle, dismissal, and guilty verdict in 2019.

**Will not sum to 83,133*
64 individuals were disposed in other ways*

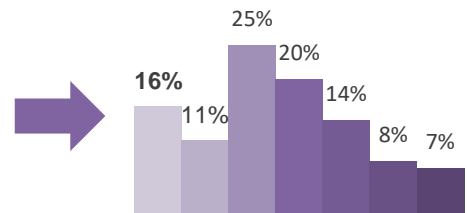
Most cases receive a continuance at assignment while work is done on the case prior to disposition occurring months or, even, years later.

Time from assignment to disposition by case, cases disposed in CY 2019



Most nolle cases occur within one to six months from assignment.

When motor-vehicle cases are added, a larger share of nolle cases are resolved earlier (16% at assignment).



18% of all disposed cases, mostly dismissals, included a referral to at least one state diversion program.

Disposed cases by verdict and referral to program or not, 2019



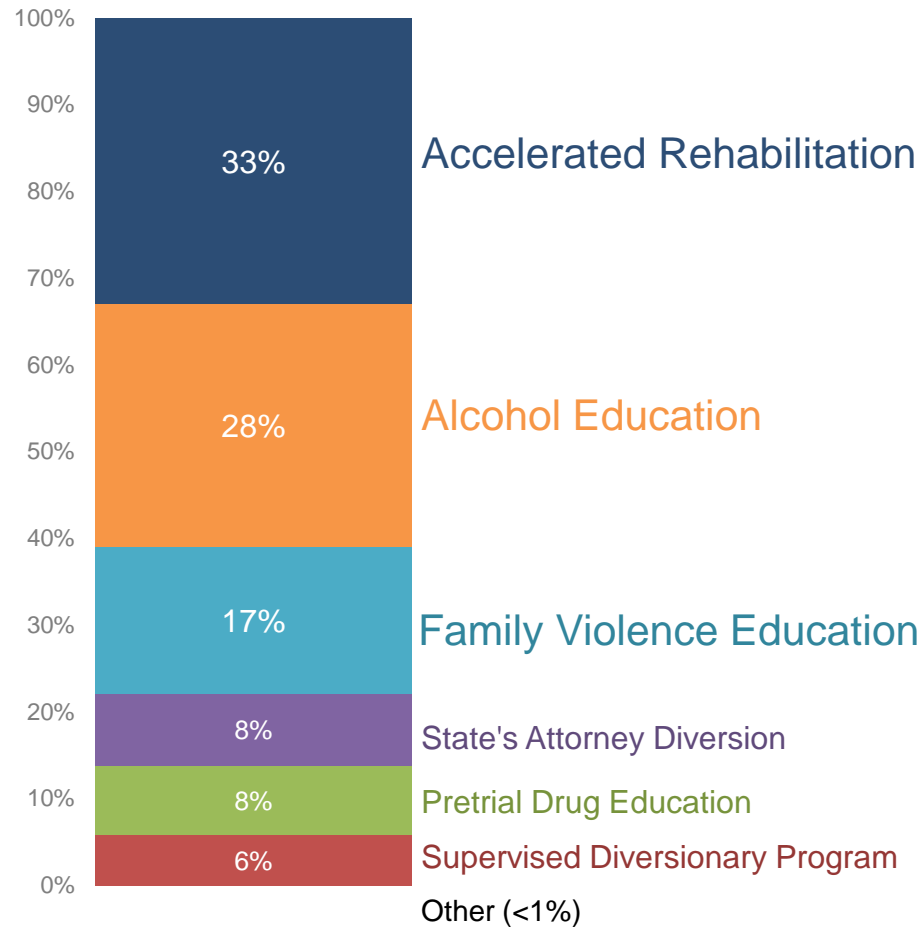
No Program Referral	Program Referral		
	Dismissal	Nolle	Guilty
101,715	17,256	2,936	2,585

79% of dismissed cases were referred to a state diversion program.

6 state diversion programs received virtually all the referrals from dismissed cases.

State diversion program receive a referral among dismissed cases, 2019

17,256 dismissed cases involved a referral to a state diversion program



The nolle (“will no longer prosecute”) reflects use of prosecutor-led diversion from the criminal justice system.

Under prosecutor-led diversion:

“The prosecutor files the case with the court, typically leading to one or more court appearances, until—generally in partnership with the court—the prosecutor suspends the normal adjudication process while a diversion-based alternative takes place.”

In Connecticut, because on-site arrests are largely automatically docketed in the criminal court, prosecutor-led diversion is almost all post-filing.

Following a nolle, police, court, and prosecutor records are automatically sealed, then automatically erased 13 months later provided the prosecutor doesn’t reopen the case (§54-142a).

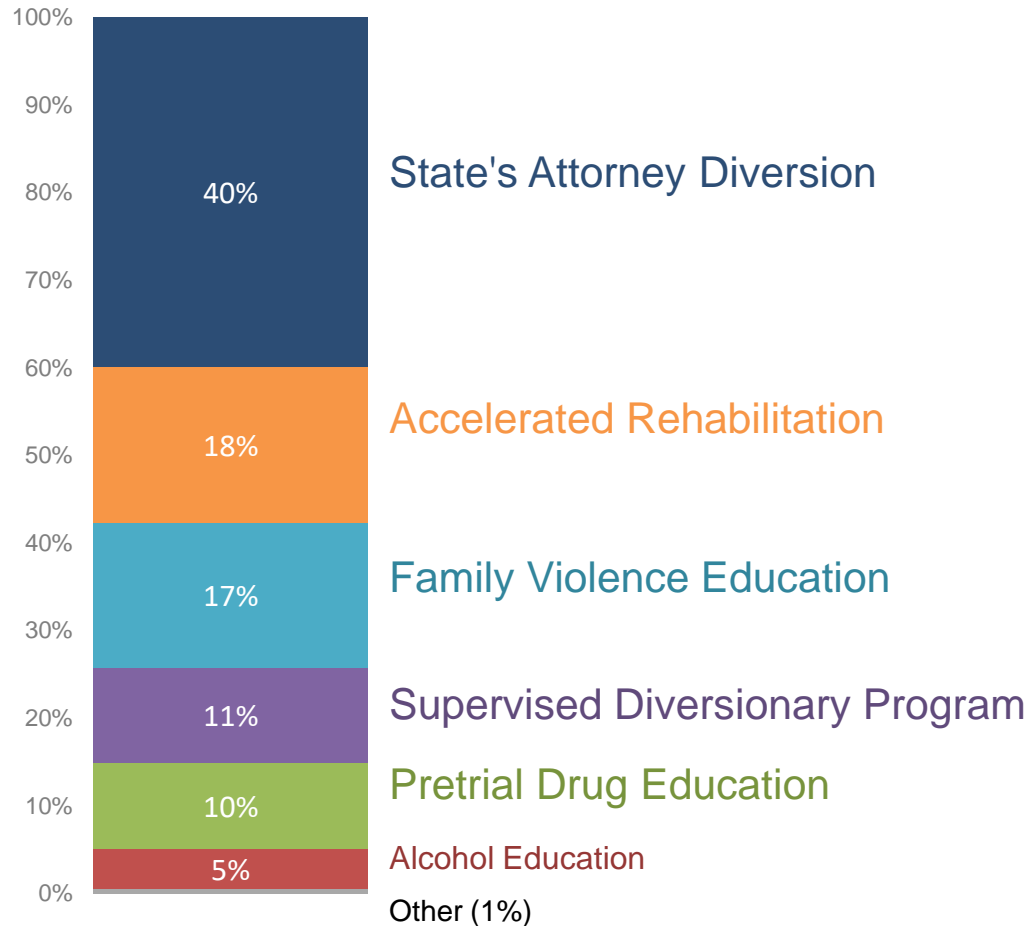
Common goals of prosecutor-led diversion:

- Administrative efficiency and cost savings
- Reducing convictions and collateral consequences.
- Community engagement
- Defendant accountability
- Recidivism reduction
- Rehabilitation,
- Restorative justice

5% of nolled cases involved a referral to a state diversion program, a plurality of which were referred to State's Attorney's Diversion

State diversion programs receiving a referral among nolled cases, 2019

5% of the 56,771 nolled cases involved a referral to a state diversion program.



Non-judicial sanctions likely play a key role in nolle cases but no data on their use is collected.

Some portion of nolle cases received a “**non-judicial sanction**,” which prosecutors present to defendants as a diversionary option prior to offering a nolle. The role of non-judicial sanctions explains the lower frequency of state diversion programs among nolle cases compared to dismissals.

Because non-judicial sanctions are a tool employed by prosecutors, the Judicial Branch doesn't not collect related data, resulting in a deficiency of information.

Examples of non-judicial sanctions

Restitution

Return of stolen
property

Charitable
donation

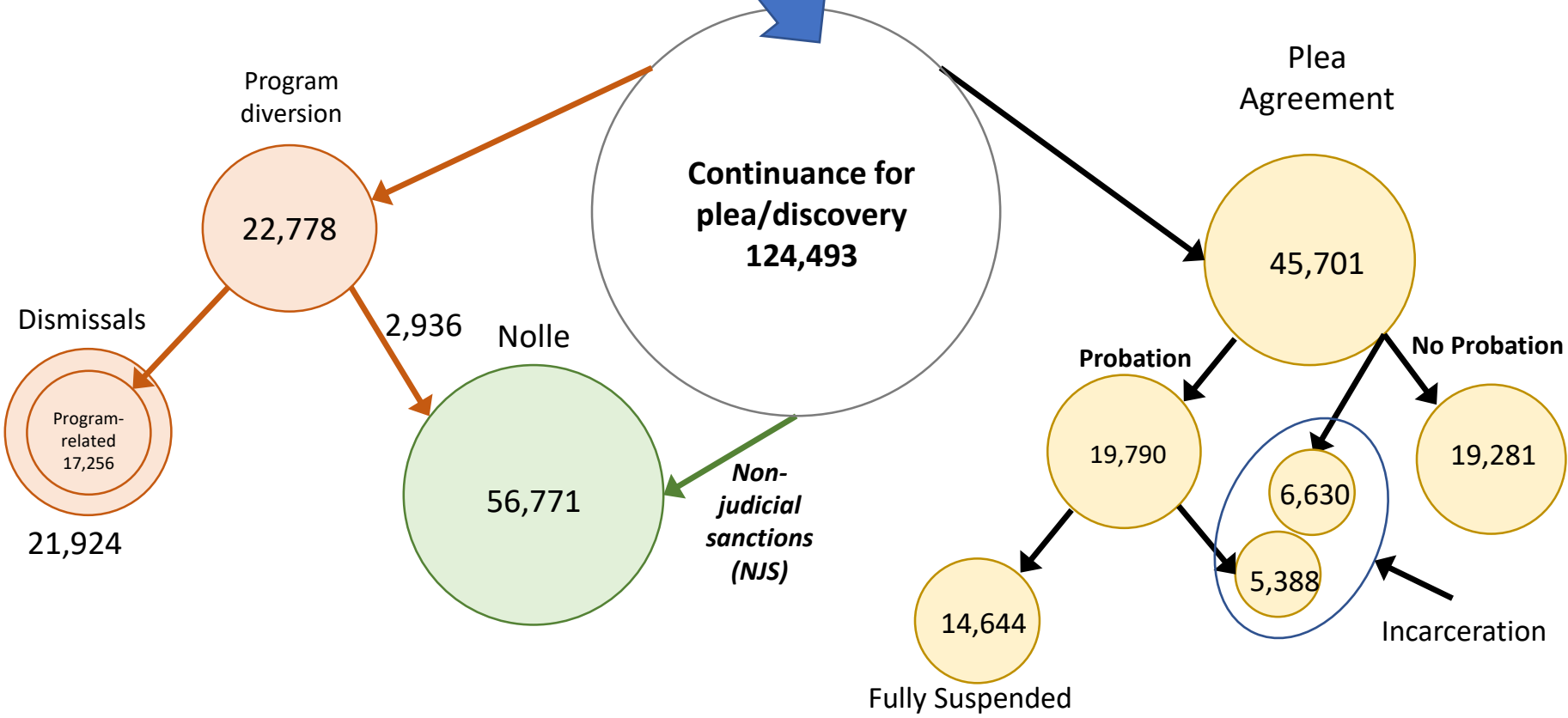
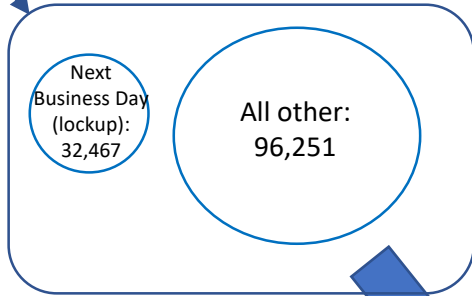
Community
service

Victim/
defendant
mediation

Good-faith
agreement to
desist from crime

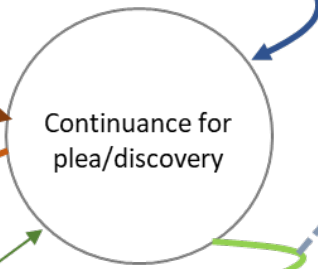
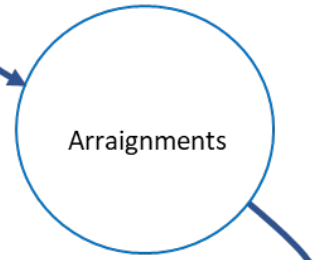
Arrests:

- Criminal 74,160
- Motor vehicle 54,658
 - Warrants 17,821
 - On-site arrests 106,672

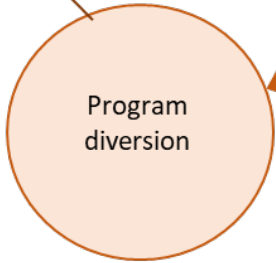


Arrests:

- Criminal (Court Ops)
- Motor vehicle (Court Ops)
- Summonses (Court Ops)
- Infractions (Court Ops)
 - Warrants (CSAO)
 - On-site arrests (CSAO)



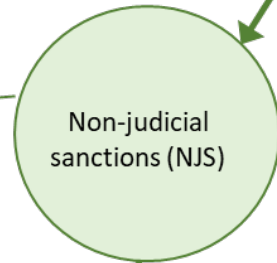
Program failure



Programs:

- Applications
- Cases granted
- Successful completions
- Program failures
- Persons in programs

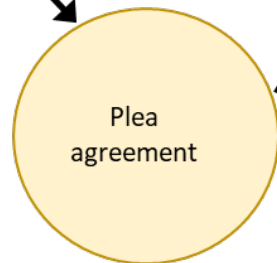
Successful completion - dismissal



Succeed NJS - nolle

Non-judicial sanctions:

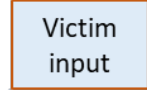
- Applications
- Successful completions
- NJS failures
- # of persons on NJS



Plea agreement

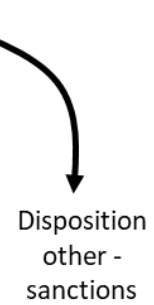
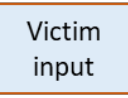
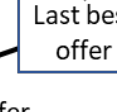
- involving probation
- Incarceration
- Other
 - Time served flag

Key prosecutorial decision points where new or existing data can be entered to create an operational model of case flow.



Trial list:

- Added cases
- Pending cases
- Disposed cases
- Dispositions at trial
- Dispositions, other



Conclusion

In Connecticut, and nationally, a growing appreciation for the influence prosecutors have on criminal justice system outcomes has had a galvanizing effect among many people, including policymakers, academicians, advocates, and the media. Although prosecutors are one of many decision-makers shaping outcomes, they are rightly recognized as having powerful discretion to employ as gatekeepers in the criminal justice system.

The absence of prior intensive data analyses of prosecutorial operations has contributed to vastly different perceptions concerning prosecutorial decision-making. Compared to other criminal justice system stakeholders, prosecutors operate at a disadvantage because they tend to lack comprehensive case-level data to explain their operations. This vacuum is often filled by less reliable information, including high-profile cases, anecdotes, and qualitative description of their workflow.

Today's presentation used a large volume of court data—all disposed cases in 2019—to begin to depict the effect of front-end caseload on prosecutorial operations and the impact of prosecutors on case outcomes. Data analysis both illuminated the role of nolle as the most frequent case disposition in 2019 and identified a key information deficiency related to the nolle: use of non-judicial sanctions.

The presentation both analyzed available data and created space for future analysis that will be possible, with greater precision and detail, as the prosecutors' electronic case management system is introduced. The case management system's rollout will have significant impacts in explaining the work of prosecutors, from line prosecutors' daily practice to the chief state's attorney's administration of policy and budget and the Criminal Justice Commission's use of its appointing authority.

OFFICE OF POLICY & MANAGEMENT

Criminal Justice

Policy & Planning Division



Thank you.

For more information, please visit

<https://portal.ct.gov/OPM/CJ-About/Homepage/CJPPD>