



# 2021 ANALYSIS OF PROSECUTOR DATA (PA 19-59)

## REPORT TO THE CRIMINAL JUSTICE COMMISSION

JULY 29, 2021

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# Today's report includes three sections

## I. Progress in improving prosecutor data and transparency in Connecticut

- Marc Pelka
- Chief State's Attorney Colangelo

## II. Comparative Analysis: Prosecutorial operations & case flows, 2019-2020

- Kyle Baudoin
- Kevin Neary

## III. Qualitative Analysis: Pathway to a Nolle, prosecutors' perspectives

- Robin Olsen
- Maurice Reaves

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## I. Progress in improving prosecutor data and transparency in Connecticut

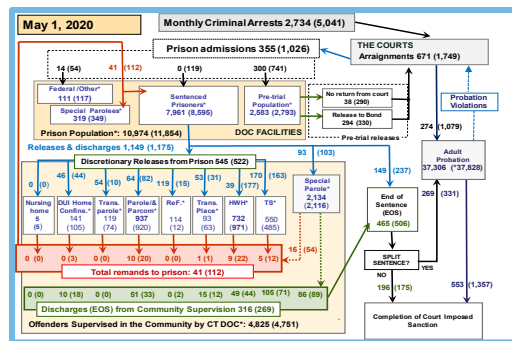
- Marc Pelka
- Chief State's Attorney Colangelo

# Today's presentations is a joint effort involving OPM staff and a subject matter expert from The Urban Institute.

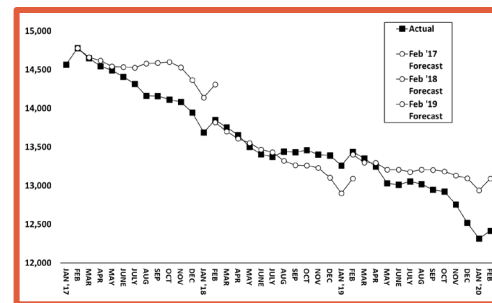
OPM produces routine reports analyzing criminal justice operations to produce findings regarding changes and intersections with other systems.

The Urban Institute's 2018 report *Collecting and Using Data for Prosecutorial Decision-making* has been integral to Connecticut's efforts from the outset.

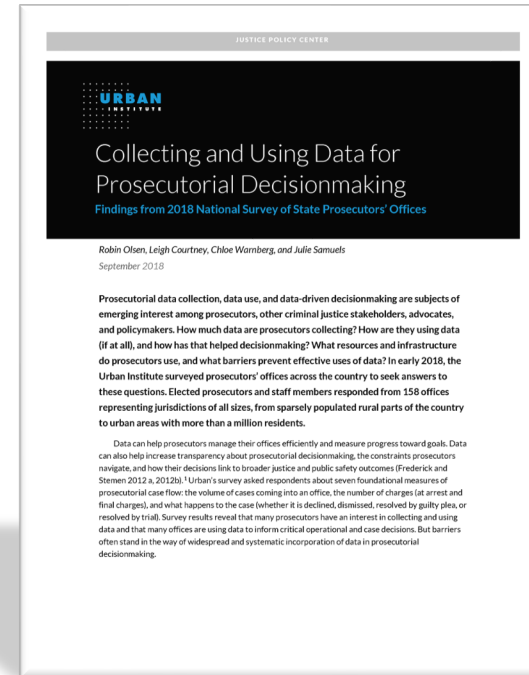
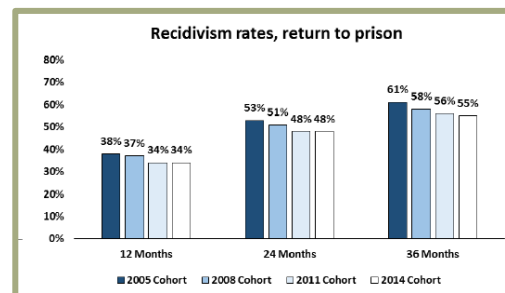
## Monthly Indicators Report



## Annual Correctional Population Forecast



## Annual Connecticut Recidivism Study



<https://www.urban.org/research/publication/collecting-and-using-data-prosecutorial-decisionmaking>

# Four prosecutorial decision-making data milestones.

## August 2019

Following unanimous passage in the house and senate, AAC Fairness and Transparency in the Criminal Justice System (PA 19-59) is signed into law by Governor Lamont.

Connecticut receives national attention as federal, state, and county governments pursue the collection and analysis of prosecutorial data and transparency.

## July 2020

The Criminal Justice Commission receives its first report and presentation from OPM staff.

The report is Connecticut's first intensive analysis of prosecutorial decision-making operations and caseflow.

Data includes CY2019 case disposition data.

## January 2021

The Division of Criminal Justice rolls out the eProsecutor electronic case management system.

eProsecutor serves multiple purposes, including enabling prosecutors to shift from paper to electronic storage of information and producing data for detailed analysis, including the annual prosecutor data presentation to the CJC.

## July 2021

The CJC receives the second prosecutor data report.

FY2020 data used in the analysis presents an opportunity to compare to the baseline in the prior year's analysis and assess the impact of the pandemic.

# **eProsecutor provides case management for prosecutors and produces data analysis.**

**Update on status of eProsecutor rollout**

**Current courthouses entering data**

**Technical obstacles**

**Data collected**

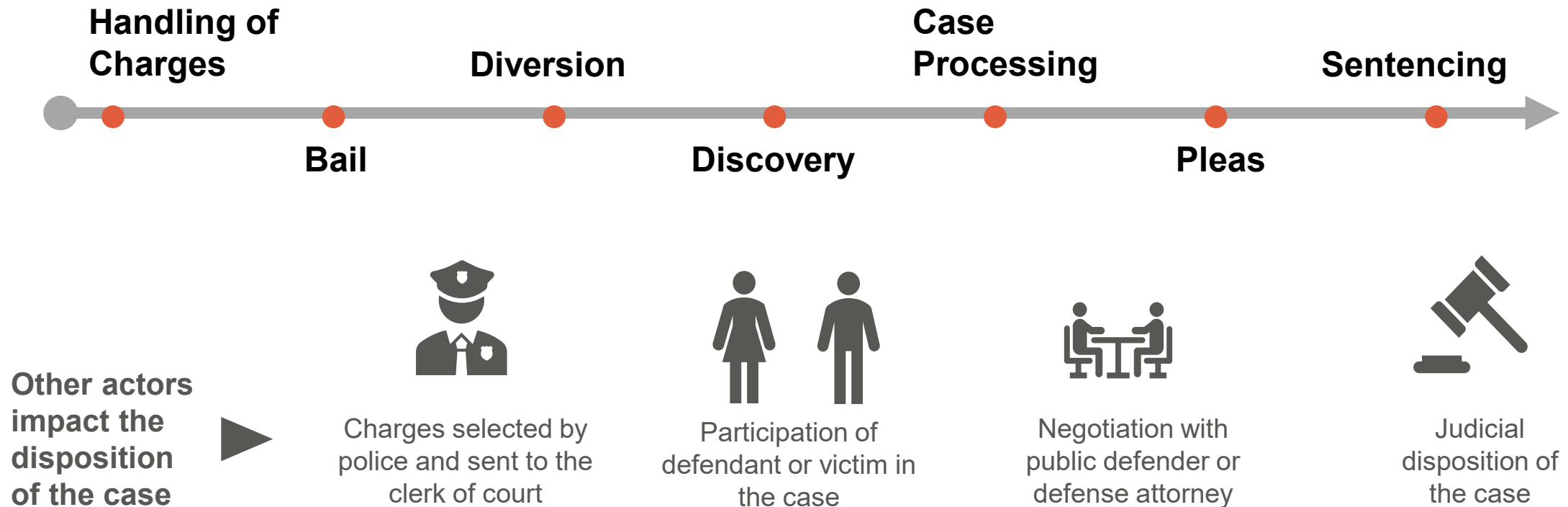
- Victim related
  - Contact
  - Demographics
- Defendant related
  - Needs (substance abuse, mental health, homelessness)
  - Criminal history score
  - Demographic information

**Concurrent with the rollout of eProsecutor, DCJ implemented several technological improvements**

- VPNs
- Tablets

# Reminder: Prosecutors have considerable influence on cases after court filing, though other actors contribute to case outcomes.

## Seven key prosecutorial decision points impacting a case



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## Reminder: Improving data collection 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.



# Today's report includes three sections

## II: Comparative Analysis: Prosecutorial operations & case flows, 2019-2020

- Kyle Baudoin
- Kevin Neary

## Preview of Section 2 Data Analysis.

GA Courts handle the largest volume of cases while JD Courts generally handle more serious, multi-charge cases, and misdemeanors are the most serious charge on approximately 70% of cases at the start.

Like many other criminal justice system indicators, court case volumes contracted and rebounded in the latter half of CY2020.

Aside from a pandemic-related reduction in the number of cases disposed, many of the proportions described in the *2020 Analysis of Prosecutor Data Report* were durable and are explored again in this year's report.

Within a total 43% contraction in case dispositions, the nolle remained the most frequent disposition type (47% of dispositions) while the share of dismissals climbed and guilty verdicts dropped.

The nolle remained the most consistent disposition by demographic distribution and volume.

# Today's report's analyzes case, charge and individual-level data for all criminal and motor vehicle cases closed in 2019 and 2020.

| Dataset Comparison                 |         |         |
|------------------------------------|---------|---------|
| Contents                           | 2019    | 2020    |
| Rows of Data (charges)             | 300,074 | 155,747 |
| Unique Statutes charged            | 1,224   | 1,052   |
| Charges resulted in convictions    | 56,568  | 19,308  |
| Unique Cases                       | 124,493 | 65,381  |
| Cases linked to Diversion programs | 22,778  | 15,784  |
| Estimated Unique Individuals*      | 83,133  | 47,242  |



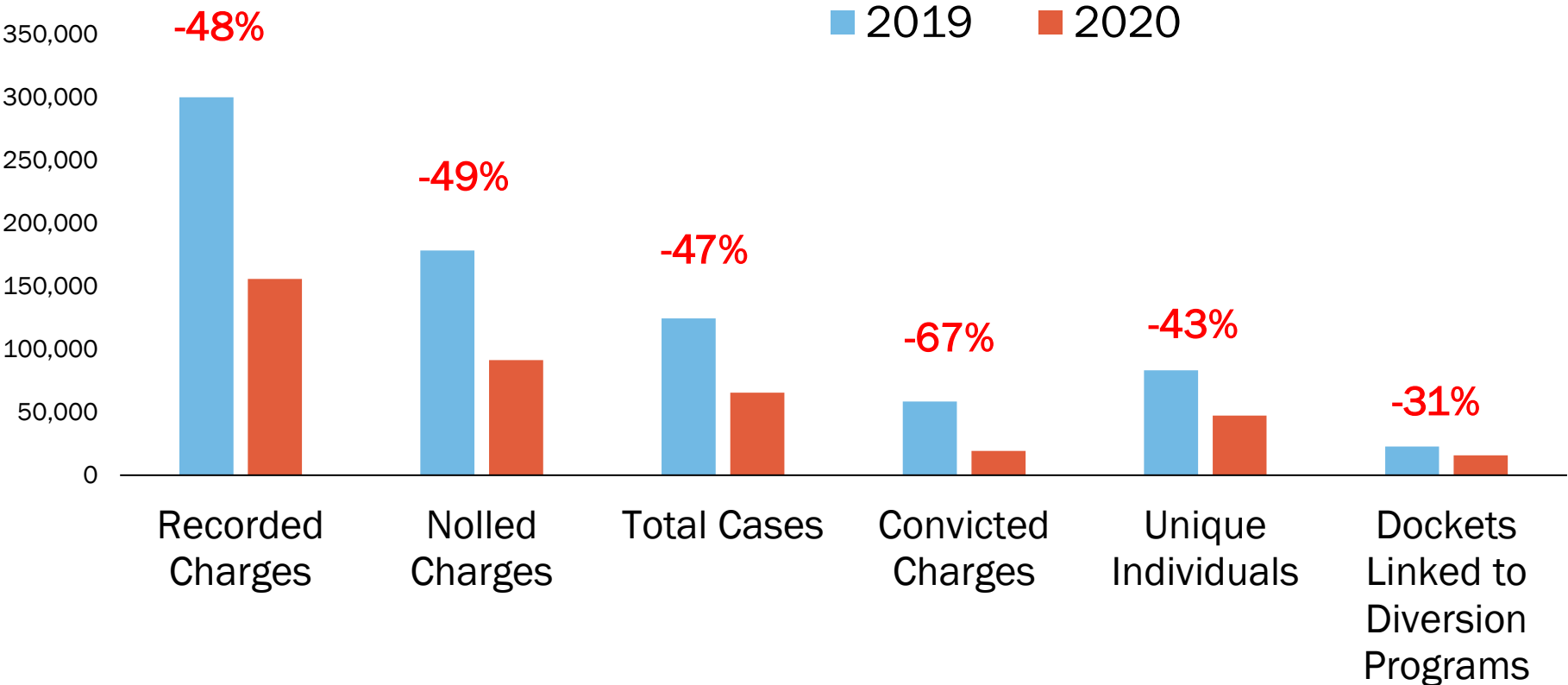
A case is the essential unit of criminal-case information, which contains a unique identifier tied to an individual and is used to follow business through Connecticut's judicial system.

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

Source: All slides in this presentation, unless cited otherwise, include analysis of Judicial Branch Court Operations data provided to OPM.

# Driven by effects of the pandemic, metrics fell across the board between 2019 and 2020.

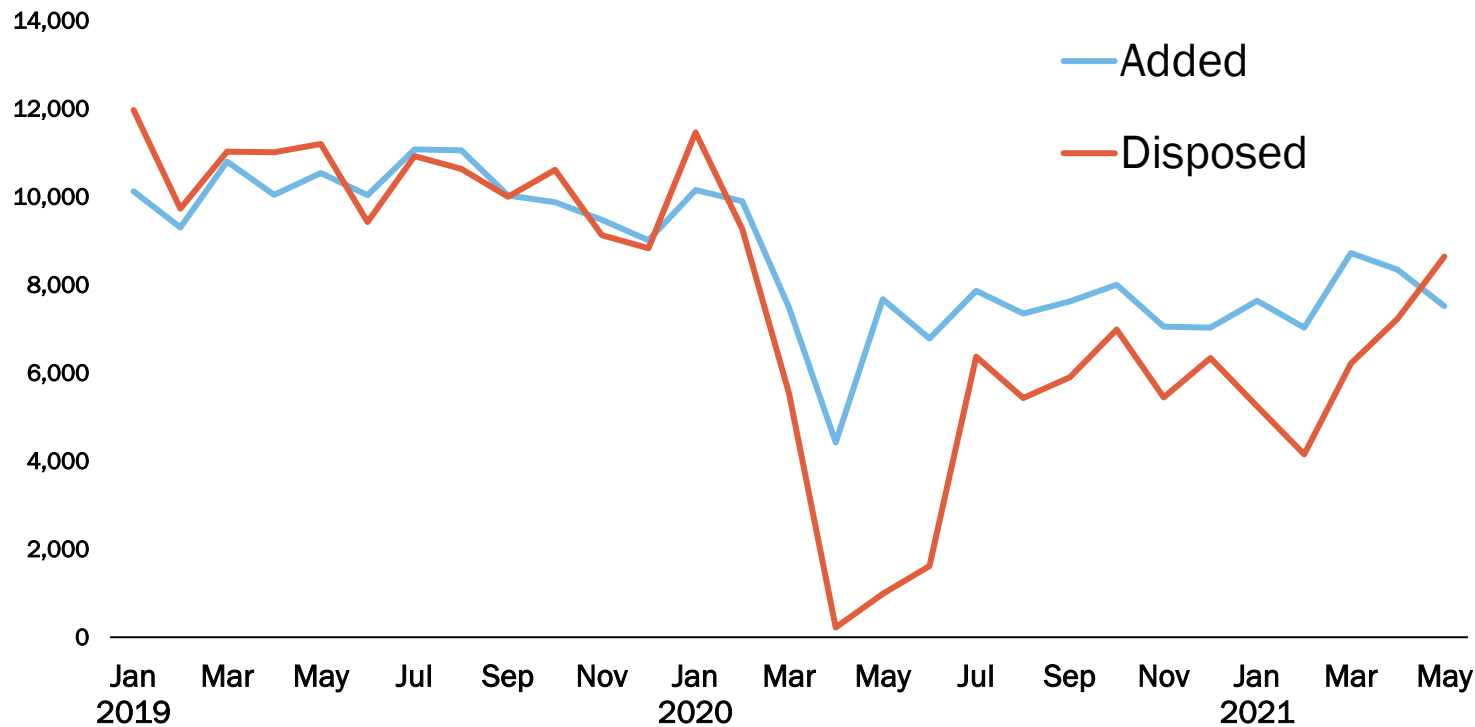
Percent change across several data elements, 2019 to 2020



Reflects cases disposed in 2019 and 2020. Process dynamics partially explain the smaller reduction in dismissals.

# At the onset of the pandemic, counts of dispositions plummeted before gradually recovering in the remaining months of 2020.

Count of cases added and disposed by month, 2019 and 2020



Following the immediate impact of the pandemic, the criminal justice system adapted: the Judicial Branch, prosecutors, and defense counsel amended procedure to collaboratively dispose cases and hear cases remotely.

Without swift action to creatively move cases forward, a chokepoint could have developed.

By December 2020, counts of dispositions reached nearly three-quarters of the 2019 level.

## Despite 2020's declines in case volume, many similarities observed in last year's Prosecutor Data Report persisted.

GA courts continue to handle most disposed case volume while JD Courts generally handle more serious cases, including those containing several charges.

- 94% of charges in 2019, 96% in 2020

In seven out of ten disposed cases, a misdemeanor is the most serious charge at the start of a case.

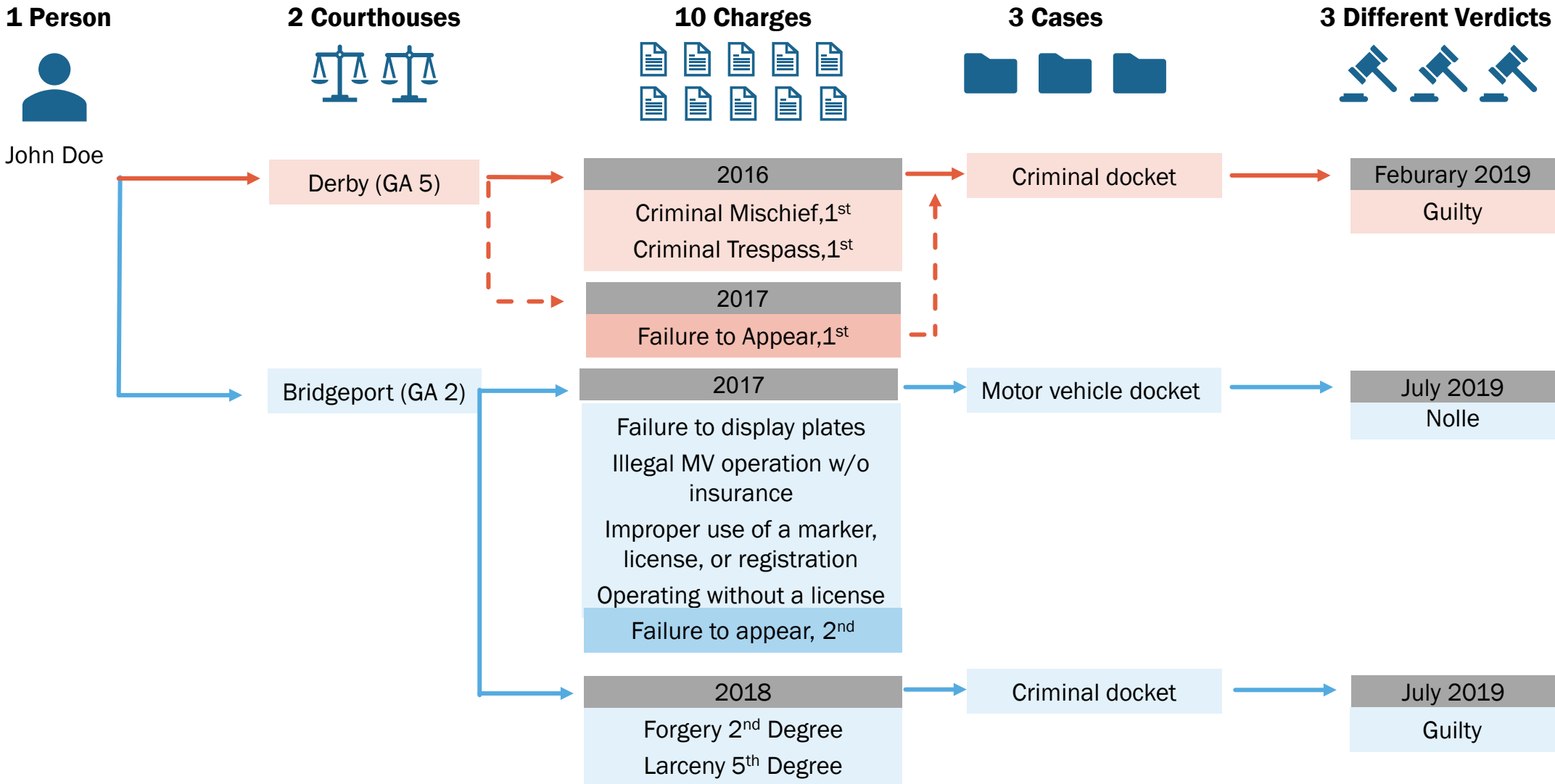
- 71% in 2019, 73% in 2020

Time to disposition was a bit slower in 2019, but similar patterns across dismissals, nolle and guilty findings were observed.

Approximately one in five disposed cases involve participation in a diversion program (18% in 2019, 24% in 2020), with dismissal dispositions having an even larger percentage.

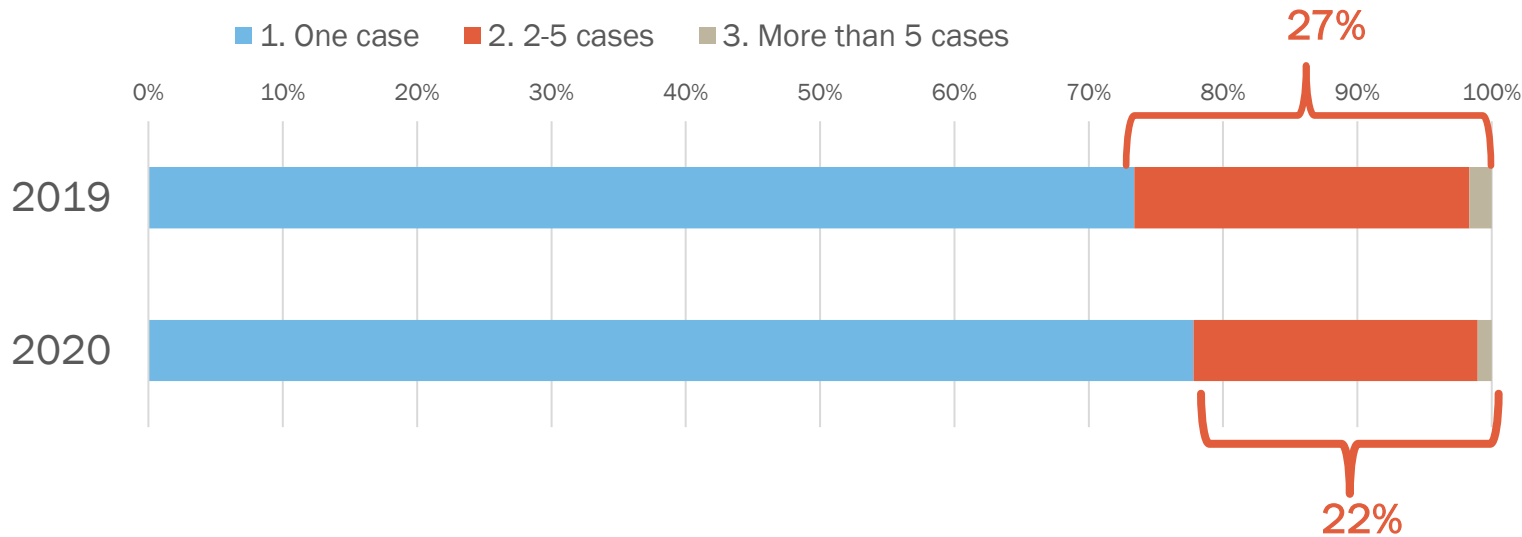
- Most dismissed cases were linked to a court sponsored diversion program, the most common being Accelerated Rehabilitation

# Reminder: People have numerous pending charges and cases, spanning months or years, before multiple courts, before receiving several dispositions.



# In 2019 and 2020, approximately one-quarter of people transiting the court system had more than one disposed case.

Number of cases disposed per person, 2019 and 2020



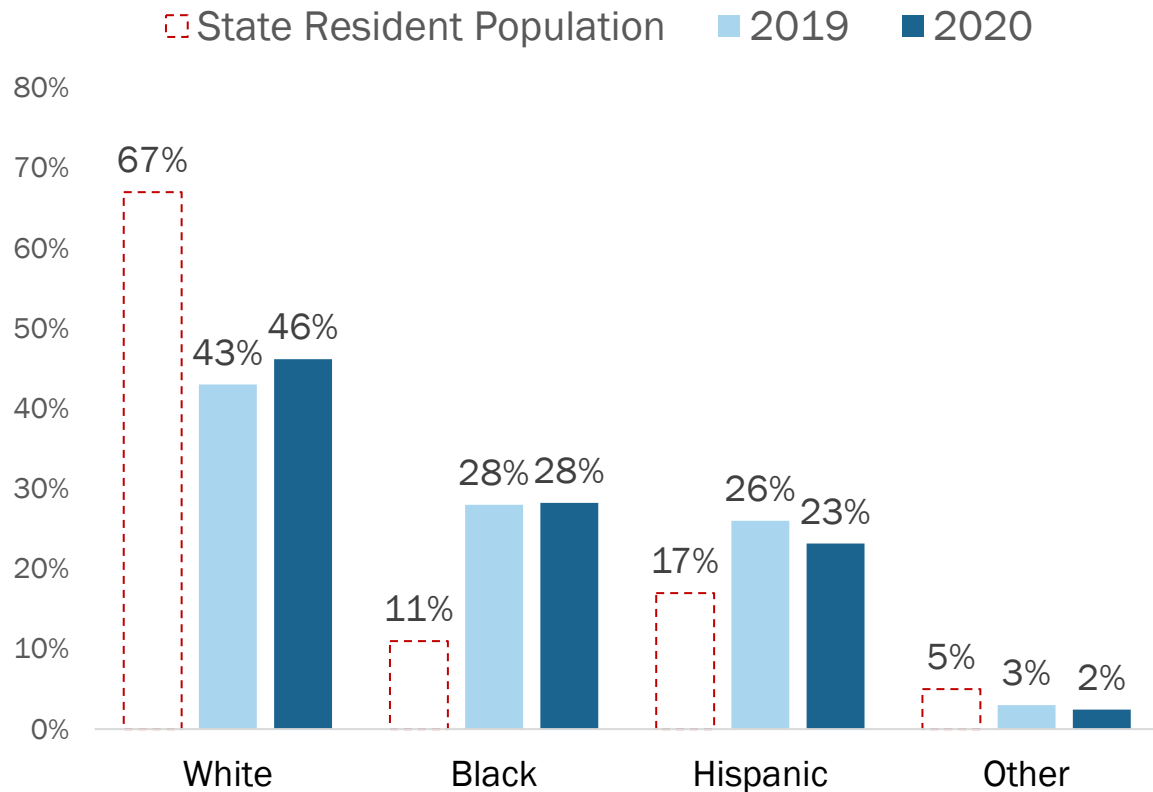
Despite the pandemic-driven disruption, the percentage of people with multiple case dispositions in 2020 was similar to 2019.

Because a person can have multiple pending charges and cases, they can receive multiple dispositions as the case transits the court system.

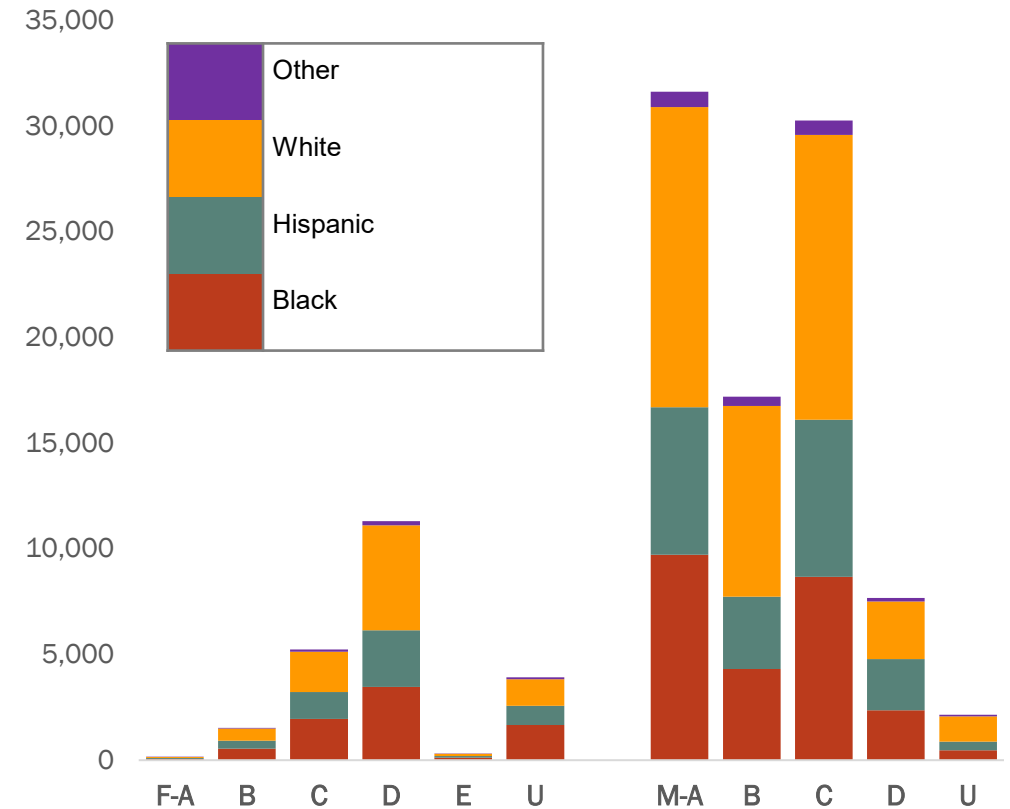


# The demographic composition of disposed cases is disproportionate to the state resident population, with further variation within felony and misdemeanor classes.

Demographics of state resident population and disposed cases, 2019 and 2020.




Original charges on 2020 disposed cases by felony and misdemeanor class and race/ethnicity




Source: CT DPH population 2019 estimates.

# Demographic patterns in original charges on disposed cases.

Demographics of disposed cases by original charges, 2019 and 2020.

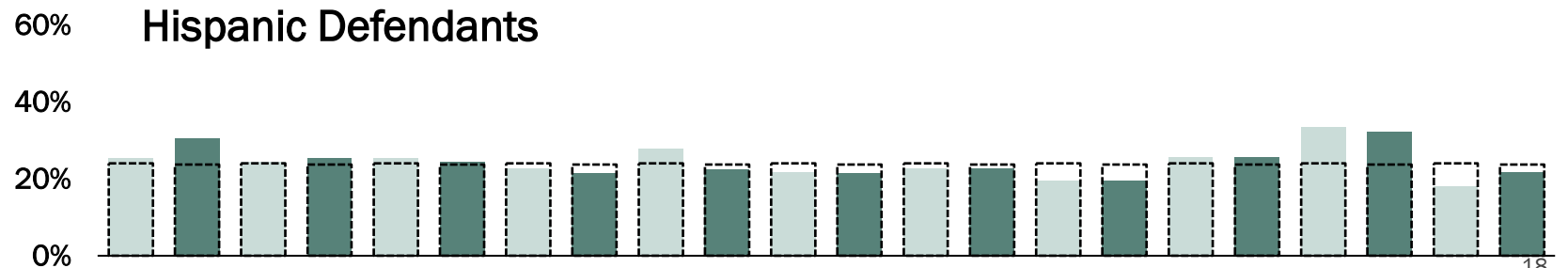
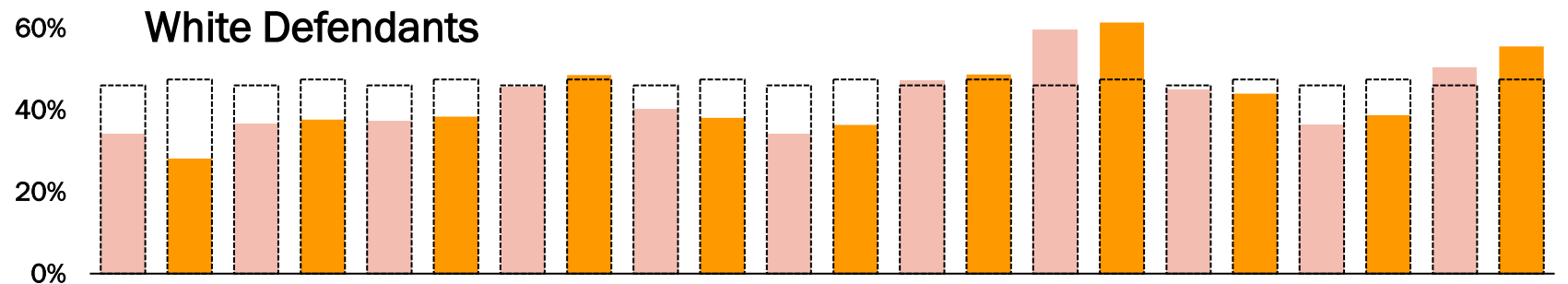
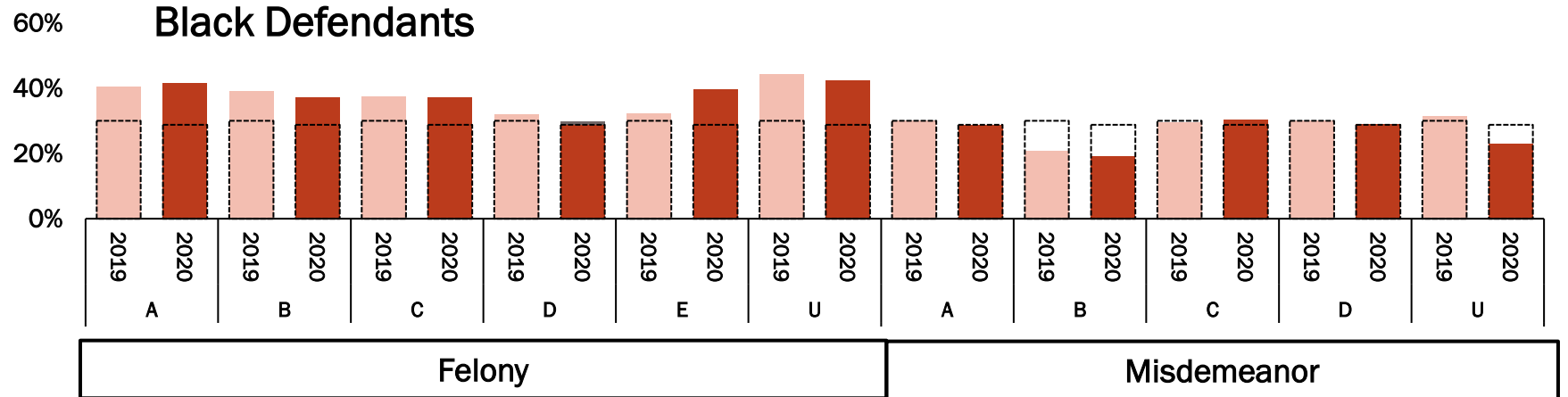
 % of dispositions by class and type

 % of total dispositions

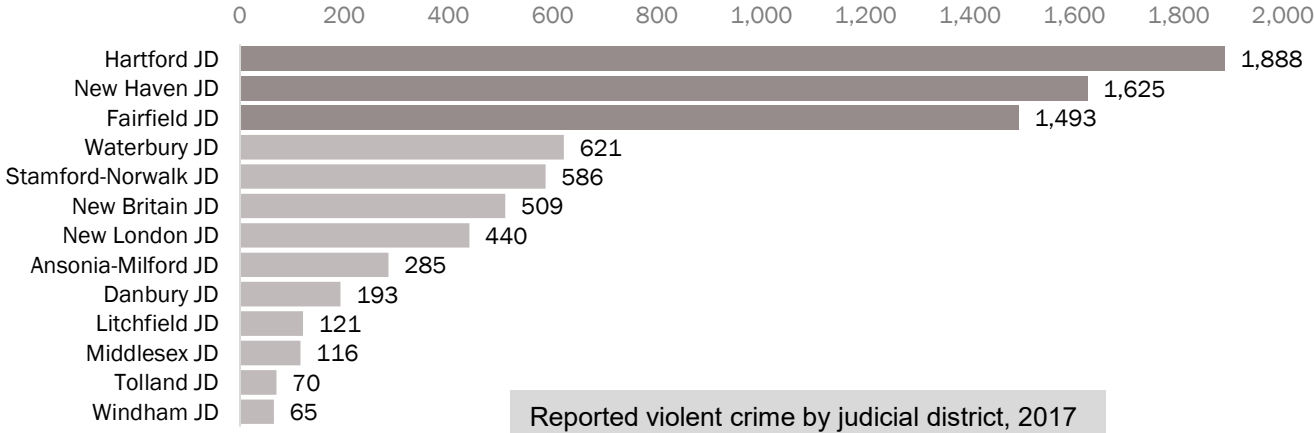
Black defendants are over-represented among original charges on felony case dispositions compared to their portion of total disposed cases.

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

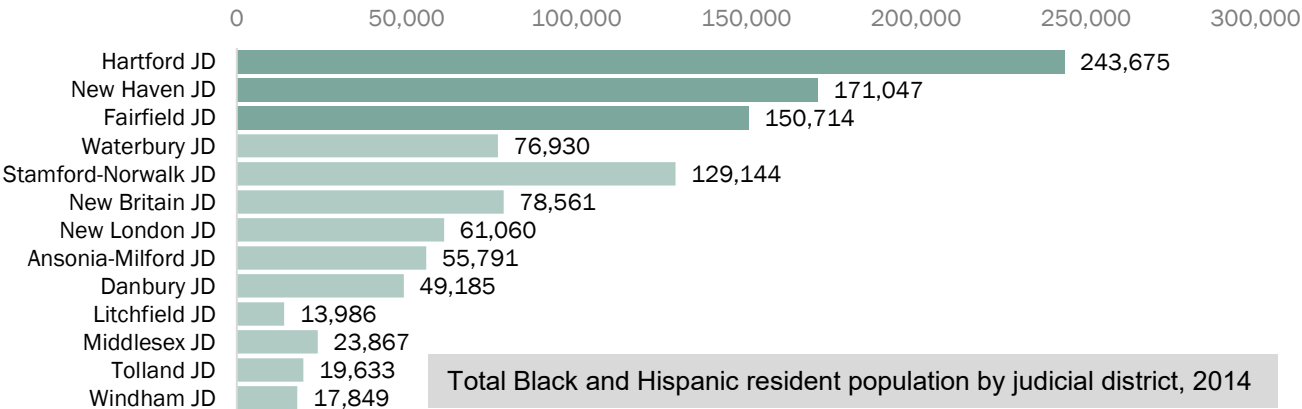
Hispanic defendants show a greater level of parity across the classes with exception among certain classes.



# 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.



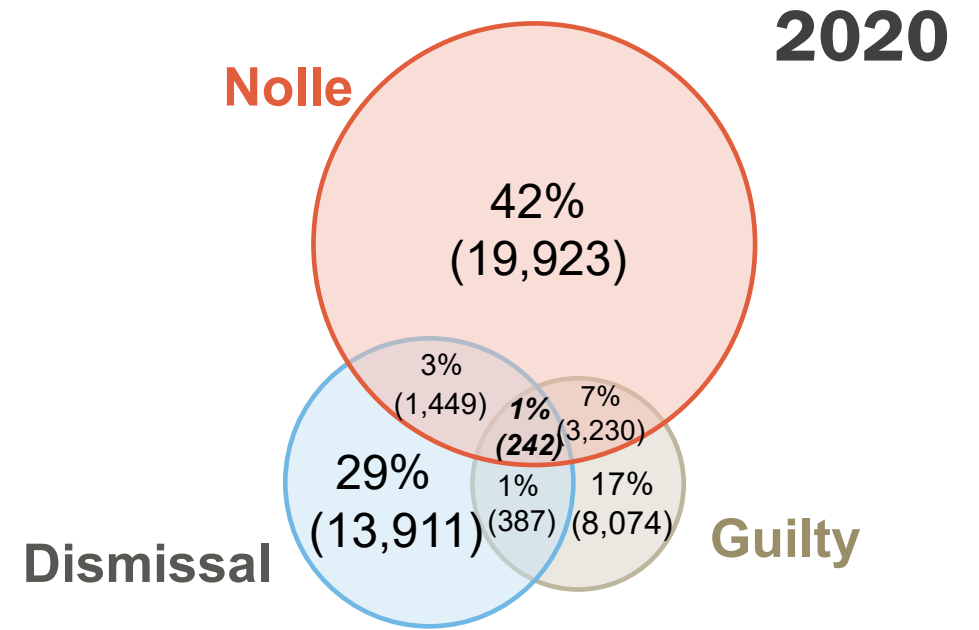
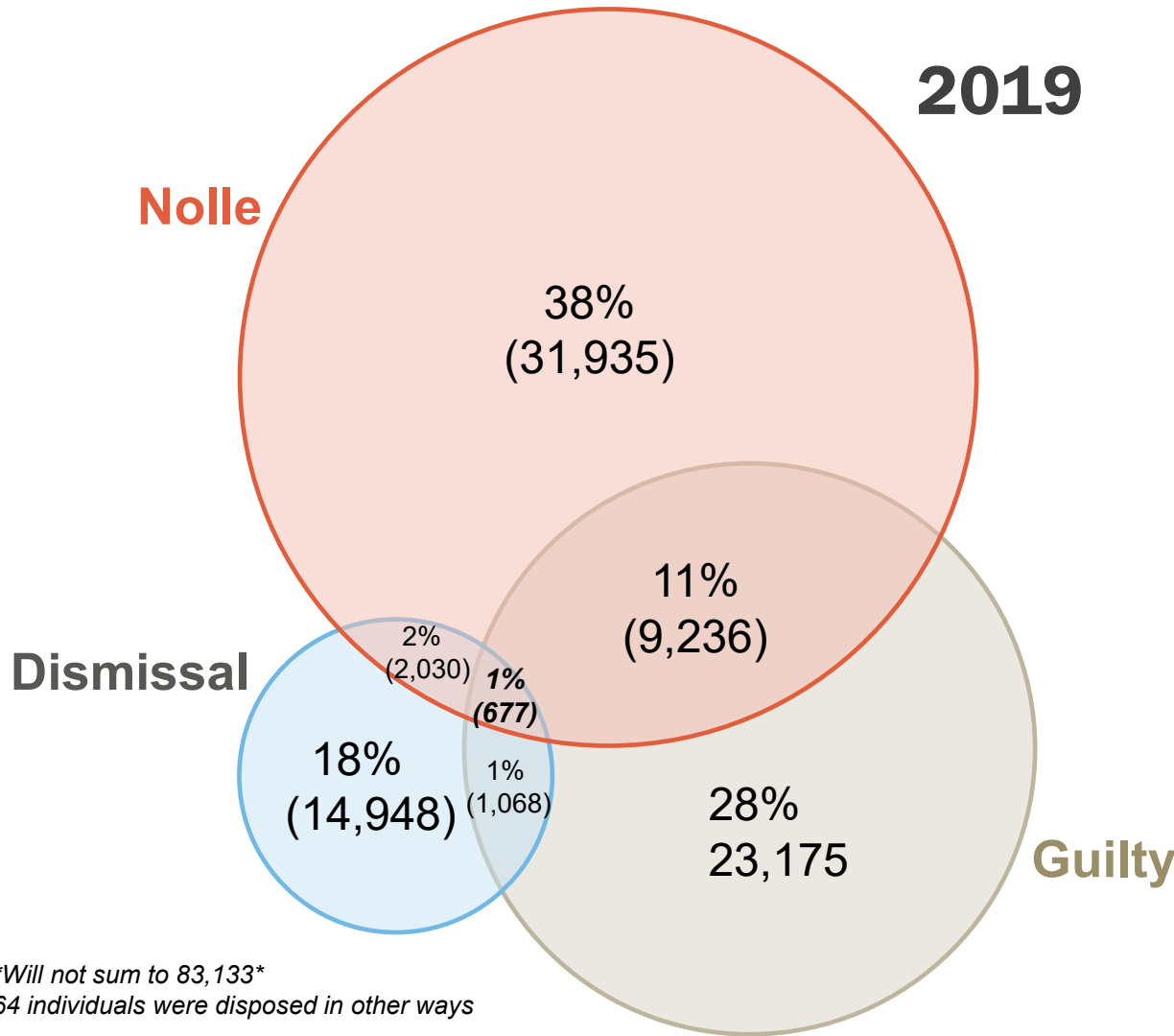
62% of violent crimes in Connecticut was reported in 3 of the state’s 13 JDs: Hartford, New Haven, and Fairfield.



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

**In 2019, 16% of people with a disposed case received multiple verdicts, and in 2020, the percentage dropped slightly to 11%.**

Overlapping shaded areas represent unique people with multiple cases and different disposition types in CY 2019 and CY 2020



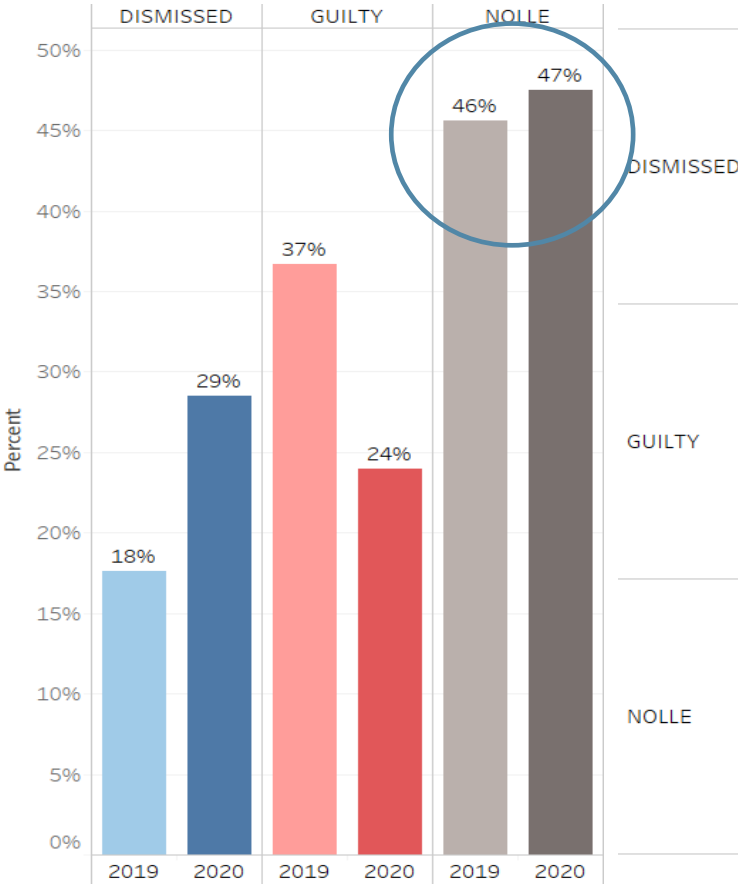
The percentage of dismissals jumped from 18% to 29%

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

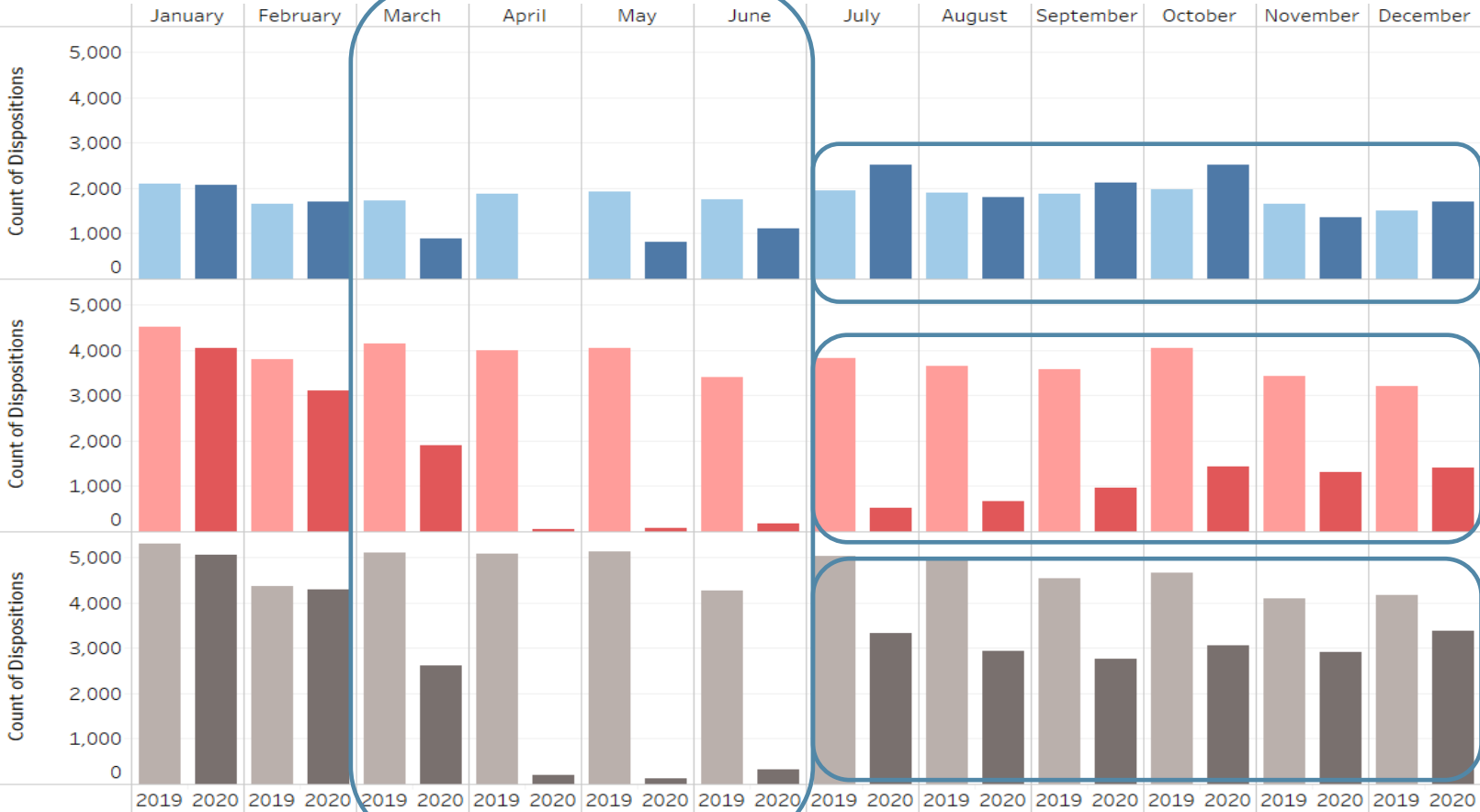
\*Will not sum to 47,242\*  
26 individuals were disposed in other ways

# After the onset of the pandemic, nolles and dismissals recovered more quickly than guilty verdicts, which typically require more time inside the courtroom.

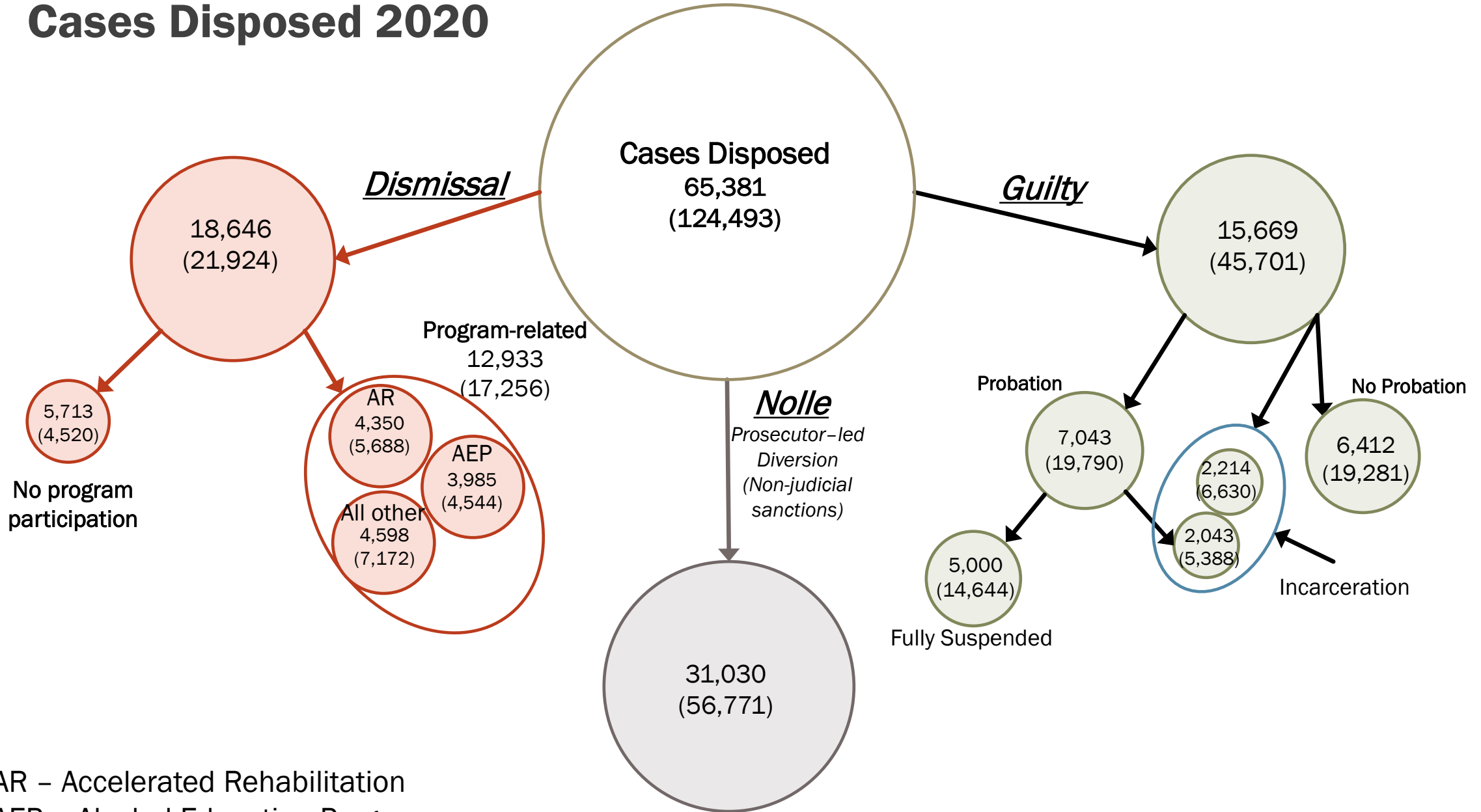
Cases disposed by type, 2019 & 2020



Cases disposed by month and type, 2019 & 2020



# Cases Disposed 2020

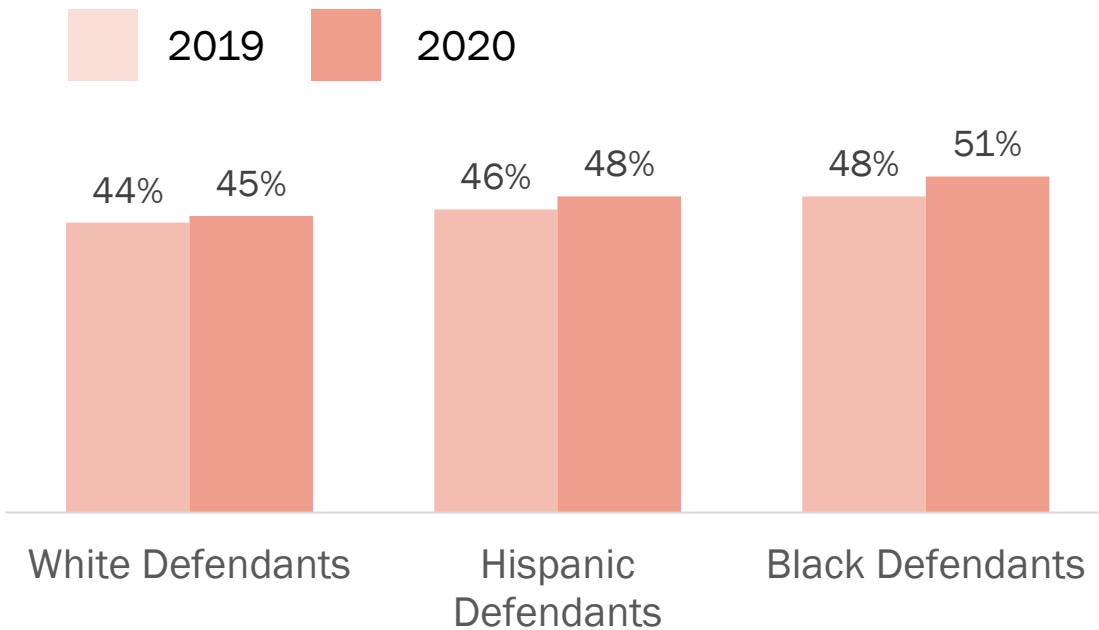


AR – Accelerated Rehabilitation  
AEP – Alcohol Education Program

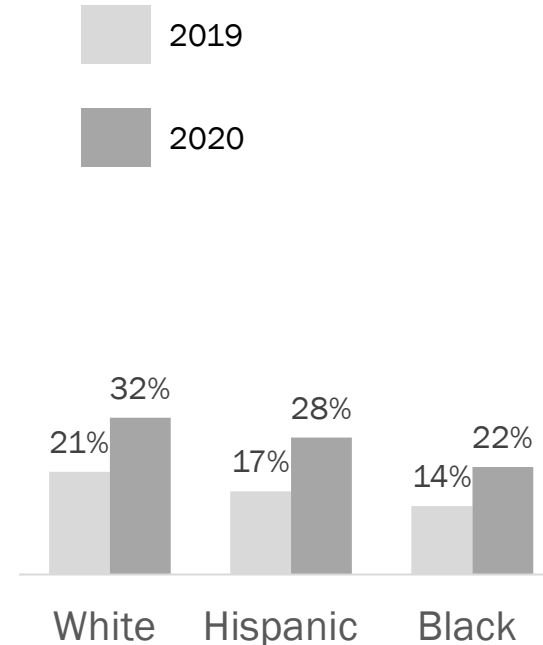
# In 2019 and 2020, the most consistent disposition type, regarding demographic distribution and volume, is the nolle.

Percent of disposition types by defendants' demographics, 2019 and 2020.

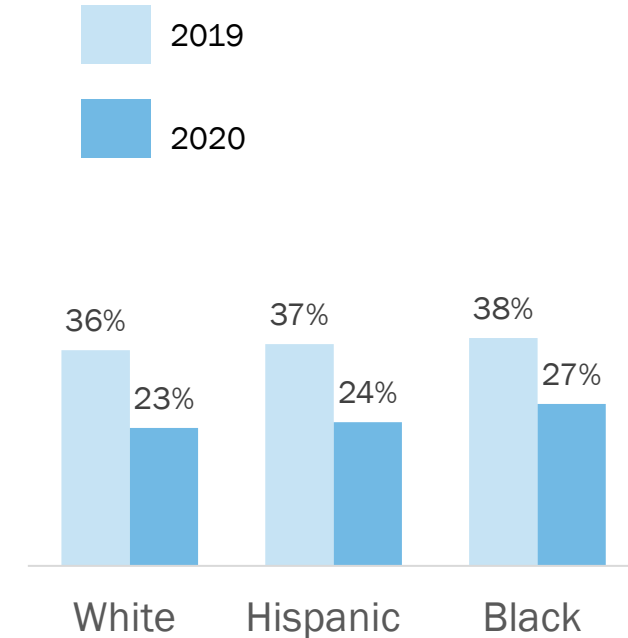
## Nolle



## Dismissal



## Guilty





## Today's report includes three sections

### III. Qualitative Analysis: Pathway to a Nolle, prosecutors' perspectives

- Robin Olsen
- Maurice Reaves



# Pathway to a Nolle: Prosecutors' Perspective

July 2021



Robin Olsen  
with Maurice Reaves, OPM

## Key questions for this research

- Why and when are cases nolledd?
- What is involved in cases that are nolledd (e.g., what activities are prosecutors and other court actors doing)?
- What are key factors related to data collection and communication of nolledd decisionmaking?

# Methodology

- To help answer those questions, OPM engaged prosecutors in a set of interviews.
- In June 2021, OPM and Robin Olsen (Urban Institute) interviewed 9 prosecutors from across the state of Connecticut. The semi-structured interviews were about 45 minutes each.
- The interviewees ranged in number of years on the job and by role (some were supervisors).
- Findings from the interviews are summarized in this presentation.



# Findings

- Prosecutors' overall view of nolle
- Reasons for nolle
  - When used and why
  - Frequency of use
- COVID
- Implications of the research

## Prosecutors view on the role and purpose of a nolle

- Nolles are one of the prosecutor's most impactful tools. Interviewees indicated that
- Many interviewees commented that they always have a thought-through reason to nolle a case even if they have not formally recorded a reason.
- Prosecutors indicated that nolles are sometimes the best resolution for a case.

## Frequency response was raised in interviews regarding reasons for using a nolle.

High  
Frequency  
Response

Global dispositions  
Motor vehicle compliance  
Theft/restitution needed

Medium

Dispute resolution/unruly behavior  
Family violence cases

Low

Compliance with behavioral health treatment  
Lack of evidence/uncooperative witnesses

# Global dispositions

- What it is:
  - When there are multiple cases and charges and it doesn't make sense to get sentences/convictions on all of them, a prosecutor may choose to nolle some of them.
  - For example, 1 case can have 8 charges, the prosecutor is going to get a plea deal conviction on 2-3 of them and the rest will be nolle.
- What prosecutors said about global dispositions:
  - Could be a multijurisdictional case
  - Part of a plea bargain
  - Part of managing the flow of cases

## Frequency:

Prosecutors in multiple geographies reported that this happens quite a bit and would likely represent a lot of cases.

# Motor vehicle compliance

- What it is:
  - Some cases will come in for lack of insurance or driving under suspension .
  - The person can be fined or have to pay for damage. If they have no insurance, they'll need to come into compliance.
- What prosecutors said about this:
  - The prosecutor will nolle them to get the person focused on getting into compliance. A fine or something very punitive can take away the money they need to get into compliance, and it can be time consuming, so a nolle sometimes is the best answer.
  - It can mean a case is continued for 6 months or so while someone comes into compliance and gets their insurance in order.

## Frequency:

This disposition for these offenses was reported to be very frequent in many districts but not all.



# Theft/restitution needed

- What it is:
  - When someone has been charged with some lower level theft or shoplifting crimes, graffiti, property damage, or bad checks, nolles can be an outcome.
- What prosecutors said about this:
  - Prosecutors indicated that they would consider nolles in these cases especially if someone has no criminal history, the person can pay it back the amount taken, and it is not a chronic issue.
  - Oftentimes, restitution is what victim wants. Prosecutors also require community service for shoplifting at times.

## Frequency:

This was a relatively common reason for nolles in interviews across prosecutors.

# Dispute resolution/unruly behavior

- What it is:
  - This involves cases such as a dispute between neighbors, unruly behavior, or disturbing the peace.
- What prosecutors said about this:
  - These are cases where the people involved can sometimes solve it themselves. These cases might not be serious, and it may not be worth it to use a diversion program.
  - Prosecutors will sometimes get two sides get together and agree to address it. Social work sometimes has a role.
  - The nolle can take about 3-6 months.

Frequency:

This was referenced often by prosecutors

# Family violence cases

- What it is:
  - These are cases between family members or intimate partners and may get handled by a Family Relations Office (Family Relations makes recommendations for intervention which could be through a formal diversion offer or outside of that).
- What prosecutors said about this:
  - Nolles can include conditions for no contact, no violent arrests (there are often underlying behavioral health issues and anger management issues).
  - Nolles would be more likely to be used for minor domestic issues
  - Nolles can also be used for cases previously entered into formal diversion that fell short of all the requirements in ways that are not a threat to safety and a nolle is the best outcome

## Frequency:

Some offices have a fair number of these, others very few.

# Compliance with behavioral health treatment

- What it is:
  - For cases where someone has a behavioral health issue that is driving the arrest, the prosecutor may choose to nolle the case to give the person an opportunity deal with the behavior.
- What prosecutors said about this:
  - Sometimes the prosecutors will require drug treatment be completed and require proof of completion along with desisting from drug use.
  - Prosecutors may also require charitable contributions or community service (e.g., 10 hours).

## Frequency:

Prosecutors sometimes brought this up due to factors related to behavioral health within a case for a non-drug charge (e.g., for a theft case or family violence case).

# Lack of evidence/uncooperative witnesses

- What it is:
  - The prosecutor can't meet burden of proof for the case
  - Witnesses/evidence not available or present
- What prosecutors said about this:
  - These are cases we can't move forward with
  - Have an ethical obligation not to pursue it

## Frequency:

Prosecutors indicated that these cases are not that frequent. They occur in rare instances where key witnesses are no longer present or available.

# COVID

- The pandemic and the subsequent impact on courtrooms and court practices did create accumulated cases.
  - Jurisdictions had different ways of handling the shutdowns, with some courtrooms still closed and others reopening relatively quickly. Some offices started processing cases from home while others did not.
- Interviewees anticipated that many cases were nolle in 2020 and would be in 2021
  - Primarily these would be expected to be low level cases
  - For some of these, the cases were continued for 12 months, the person has not picked up any new charges and this will factor into the decision to nolle.
  - Some of these were processed through special nolle dockets
  - Some interviewees expected that 2021 will also see a lot of nolle as the system works out the accumulated cases

# Implications of this research

- Communicating what prosecutors are doing with nolles is important and not something that's been done in the past.
  - Prosecutors felt that the public does not have a great sense of what they do and how nolles are part of making an impact and a positive difference.
  - Prosecutors spend substantial and meaningful time on cases that are nolleed – which can include monitoring that compliance requirements are being met, treatment has been completed, or brokering agreement between two parties.
- Nolles are key to making other dispositions work (e.g., filling in gaps in the intent of a formal diversion program; making a family violence case fit the intervention needed; ensuring compliance occurs on motor vehicle cases; and making plea bargaining work for the parties involved)
- E-prosecutor will help gather more information about these decisions, but data collection around nolles will be a challenge as nolles are individualized decisions, and it is difficult for prosecutors to sort and then record nolle decisionmaking in clear categories.

# Implications of this research, con't

## Implications for other aspects of the CJ system

- The type of defense representation a person has plays a role in how a person may navigate a nolle. Defendants may not have representation or have public or private attorneys. Providing information to the prosecutor and participating in the requirements for nolle is a part of the process.
- The CJ system has changed a lot over the last 20 years, with public sentiment shifting about marijuana and other offenses. Nolles are used in ways now that they weren't in the past in order to align with public sentiment and legislative direction.
- Prosecutors' communications with victims are a big part of how nolles are explained and play a large role in decisionmaking on a case.

**Prosecutors shared that every case does not need prison, and as a result and they emphasized the power in using restraint.**

- They noted that they are looking for people not to come back to the court system, and sometimes a nolle is the best way to accomplish that



# Summary

Nolles are a powerful discretionary tool for prosecutors

Reasons for nolles vary

- By personal experience and interpretations of case specifics about determining justice
- By how a local district prefers certain types of offenses be handled (e.g., family violence or motor vehicle compliance)
- By how the general public and interested groups feel about particular offenses (e.g., DUI or marijuana)

Preliminary rough estimates indicate that

- Global dispositions, motor vehicle compliance, and theft/restitution needed are common and may make up a lot of nolles
- Dispute resolution/unruly behavior and family violence cases were the next most common categories referenced



## Areas for discussion

- How much does this represent consensus? Do others have different observations or opinions?
- How would it be best to summarize and communicate what roles are and what work goes into them?
- How can this be incorporated into data collection and reporting?



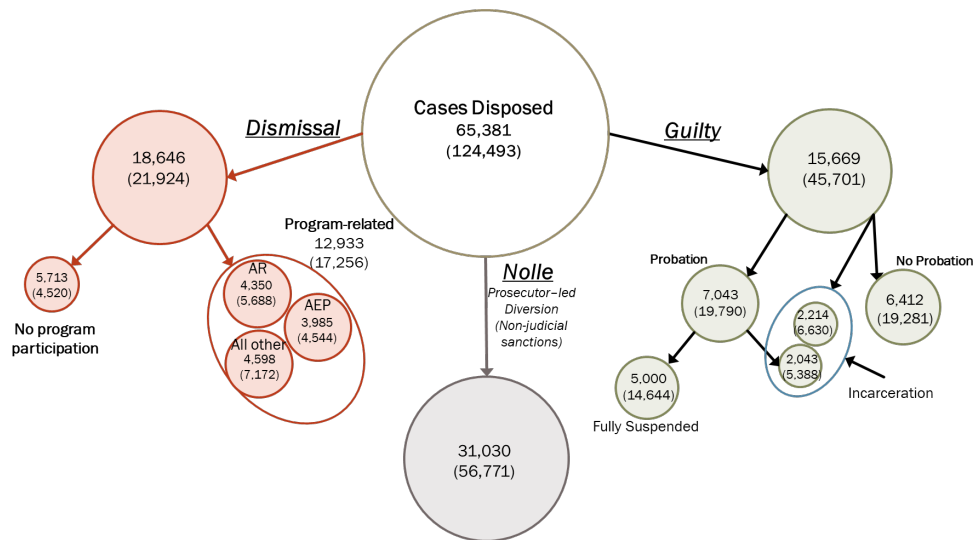
# Thank you!

**Robin Olsen** ([rolsen@urban.org](mailto:rolsen@urban.org))

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# 2022 proposal: A concise report covering essential metrics using data visualization to track movements and cover salient topics.

## Examples of analysis to be included in an annual report:



Incorporation of eProsecutor data, within judicial districts and eventually statewide, into the report will enable first-time, intensive analysis of prosecutor-entered data.

- Monthly added and disposed cases;
- Caseflow through prosecutors' offices;
- People transiting the court system with single or multiple cases;
- Defendant demographics by charge type, felony or misdemeanor class, criminal history, and other characteristics;
- Case dispositions by nolle, guilty, and dismissal;
- Characteristics by disposition type, including time to disposition;
- Use of state diversion programs and non-judicial sanctions;
- Degree of victim contact and involvement in the case;
- Charge and case characteristics at key decision-making points in the handling of the case; and
- Specialized analysis of salient topics and indicators.

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>**