Justice Center
THE COUNCIL OF STATE GOVERNMENTS

Justice Reinvestment in Maine

Second Presentation to the Maine Commission to Improve the Sentencing, Supervision, Incarceration and Management of Prisoners

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What is Justice Reinvestment?

JUSTICE REINVESTMENT

A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety

The Justice Reinvestment Initiative is funded principally by the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** with additional funding from **The Pew Charitable Trusts.**

Technical assistance for states participating in the Justice Reinvestment Initiative is provided by **The Council of State Governments (CSG) Justice Center** and Community Resources for Justice's **Crime and Justice Institute (CJI).**

The process of collecting and analyzing case-level data from criminal justice agencies in Maine is underway.

Justice Reinvestment Data Request Update		
Data Requested	**Source**	**Status**
Arrests/Criminal History	Maine Department of Public Safety (DPS)	Received, analyzed
Court Filings and Sentences Charges, dispositions and sentences, specialty court dockets	Maine Administrative Office of the Courts (AOC)	Received, analyzed
Prosecutorial Data Charges, filings, dispositions and sentences, diversions	District Attorneys	Received, analysis pending
Probation Admissions, terminations, program participation, sanctions	Maine Department of Corrections (MDOC)	Received, analysis pending
Prison Admissions, releases, program participation	MDOC	Received, analysis pending

Section 1 in this presentation is based on arrest data from the Department of Public Safety. Section 2 is based on court data from the Administrative Office of the Courts.

A. DPS Computerized Criminal History Data:

- More than 570,000 arrest records from January 1, 2008 to December 31, 2018
- Race information is missing or marked as ”unknown” in 17 percent of records. Sex* information is missing in 16 percent of records. Much of the missing information is for more recent Class D and Class E offenses.
- Analyzed by arrest date, with the most serious offense taking precedence

B. AOC Data on Charges, Cases, and Probation Revocations:

- More than 203,000 criminal cases, including those…
  - filed between July 1, 2015 and June 30, 2019
  - disposed between July 1, 2015 and June 30, 2019
  - having a probation revocation between July 1, 2015 and June 30, 2019
- More than 332,000 criminal charges
- Race information is missing for almost 4 percent of records. Gender* information is missing for about 1 percent of records.
- Analyzed by filing date, with the most serious offense taking precedence; by finding date, with the most serious offense taking precedence; and by sentence date, with a combination of most restrictive sentence and most serious offense taking precedence

**DPS uses the term “sex,” while AOC uses the term “gender.” Both terms are used and intended as synonyms in this document.*

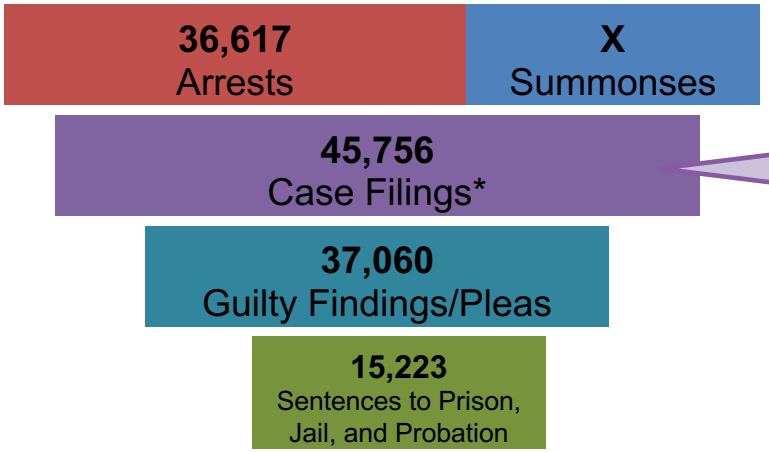
***Source**: Data from the Maine Department of Public Safety and Maine Administrative Office of the Courts, 2019.*

Because the data looks at different parts of the system from different points in time, the data does not always exactly match other publicly available reports.

This data analysis:

- Largely examines *events,* not *people*
- May not capture each case in its entirety; the time from arrest to sentencing can take months, and these events may span different calendar or fiscal years
- Connects data between arrest and court case filing using the arrest tracking number (ATN) and count tracking number (CTN) to account for a person's in-state criminal history

Flow of Data Analyzed, Example: FY 2018



*For FY2018, about 47 percent of case filings had a matching arrest record. Not all Class D or Class E offenses in Title 12 (Conservation) or Title 29A (Motor Vehicle/Traffic) require an ATN, which, along with errors in data entry, likely accounts for the large number of case filings that cannot be matched to a specific arrest or summons event.

95 percent of cases missing arrest information are misdemeanor-level case filings.

The five most frequent charges filed without ATN information were:

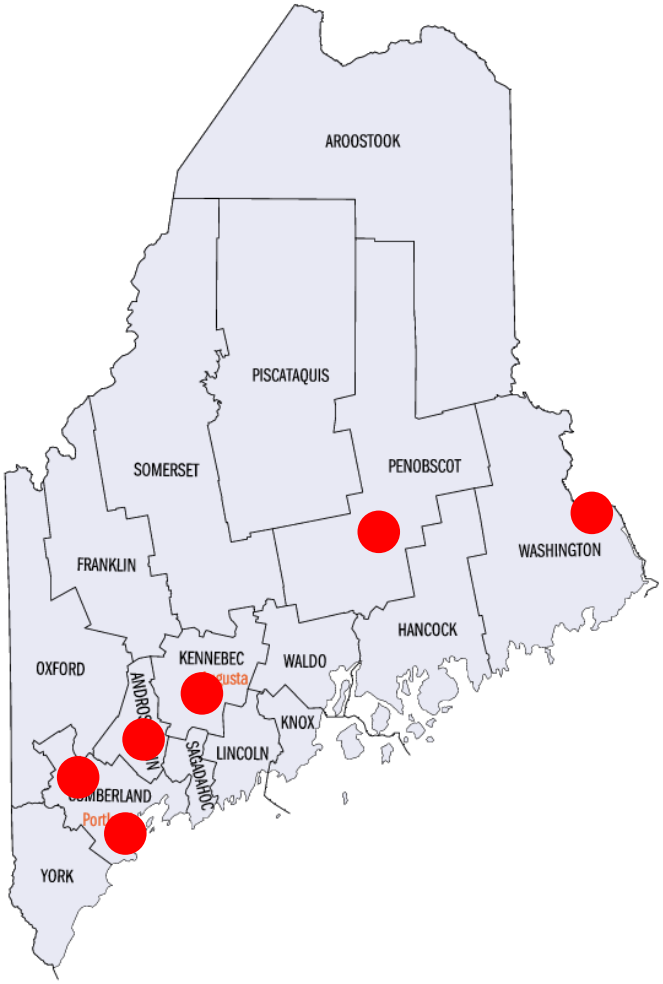
- Operating while license suspended or revoked
- Operating a vehicle without license
- Operating while license suspended or revoked, prior
- Failure to register vehicle
- Motor vehicle speeding: 30+ MPH over speed limit

***Source**:* CSG Justice Center analysis of DPS data, 2008–2019, CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019, Maine .

CSG Justice Center staff continued to engage with Maine criminal justice stakeholders to learn more about the system's strengths, needs, and areas of opportunity.

Since the last commission meeting in early October, CSG Justice Center staff conducted the following on-site engagement and assessment activities:

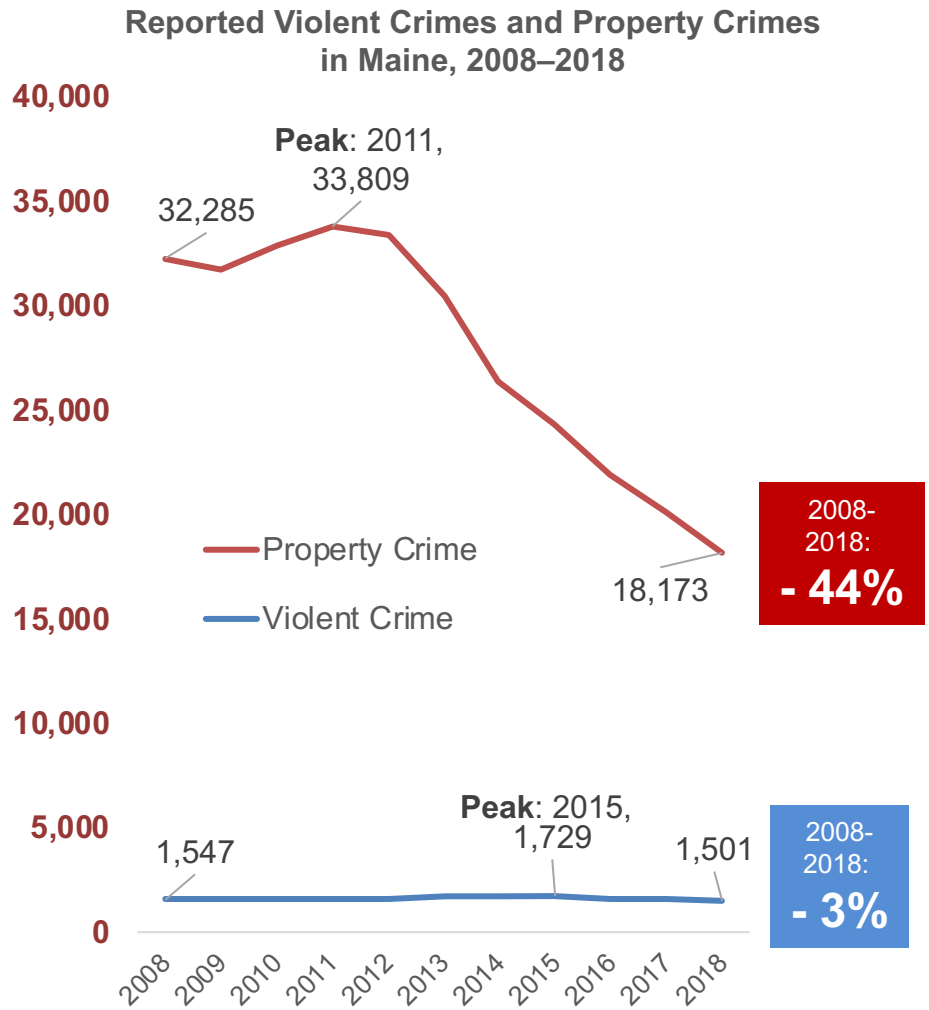
- Tour of the Maine Correctional Center (MCC) and Southern Maine Women's Reentry Center (SMWRC) in Windham
- Interviews with regional correctional managers, probation officers, probation officer assistants, and people on probation supervision in DOC Region 2 (Lewiston/Androscoggin County) and Region 3 (Calais/Washington County)
- Meeting with leadership of the Calais Regional Hospital
- Meeting with staff from the governor's office and other entities on opioid response and the criminal justice system



Presentation Overview

1. Data Analyses: Arrest and Criminal History
2. Data Analyses: Criminal Case Filings
3. Maine Probation Policy and Practice Assessment

Updated FBI reports show that the recent downward trend in both violent and property crime in Maine continued in 2018.



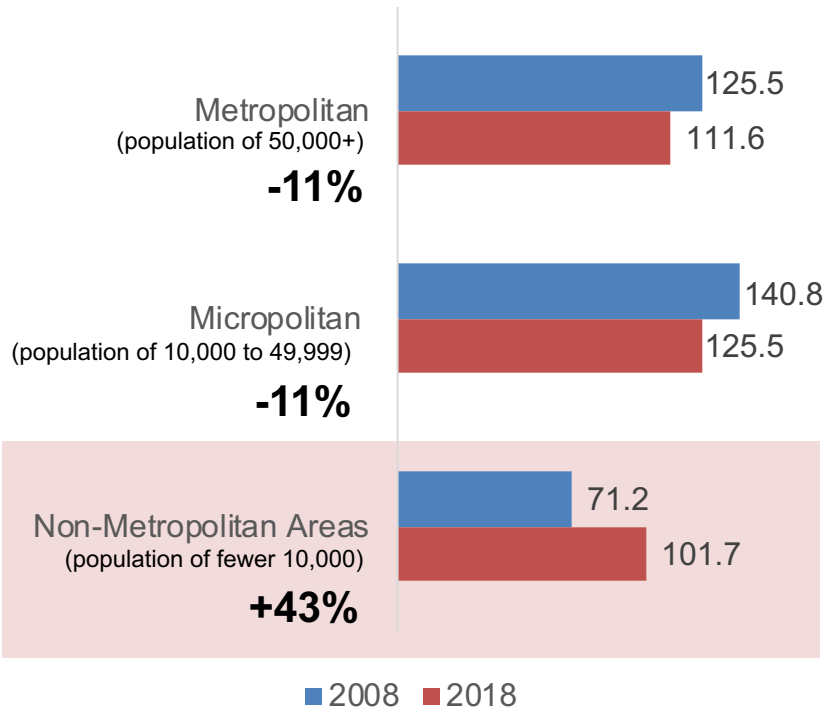
***Source**:* Federal Bureau of Investigation, Crime in the United States, 2018 (Washington, DC: United States Department of Justice, 2019), https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018.

Index Crime	2017	2018	Percent Change
Murder	23	24	+4.3%
Rape	470	446	-4.6%
Robbery	249	228	-8.4%
Aggravated Assault	868	803	-7.5%
Violent Index Crime	**1,610**	**1,501**	**-6.8%**
Burglary	3,337	2,713	-18.7%
Larceny	16,012	14,683	-8.3%
Motor Vehicle Theft	793	777	-2.0%
Property Index Crime	**20,142**	**18,173**	**-9.8%**

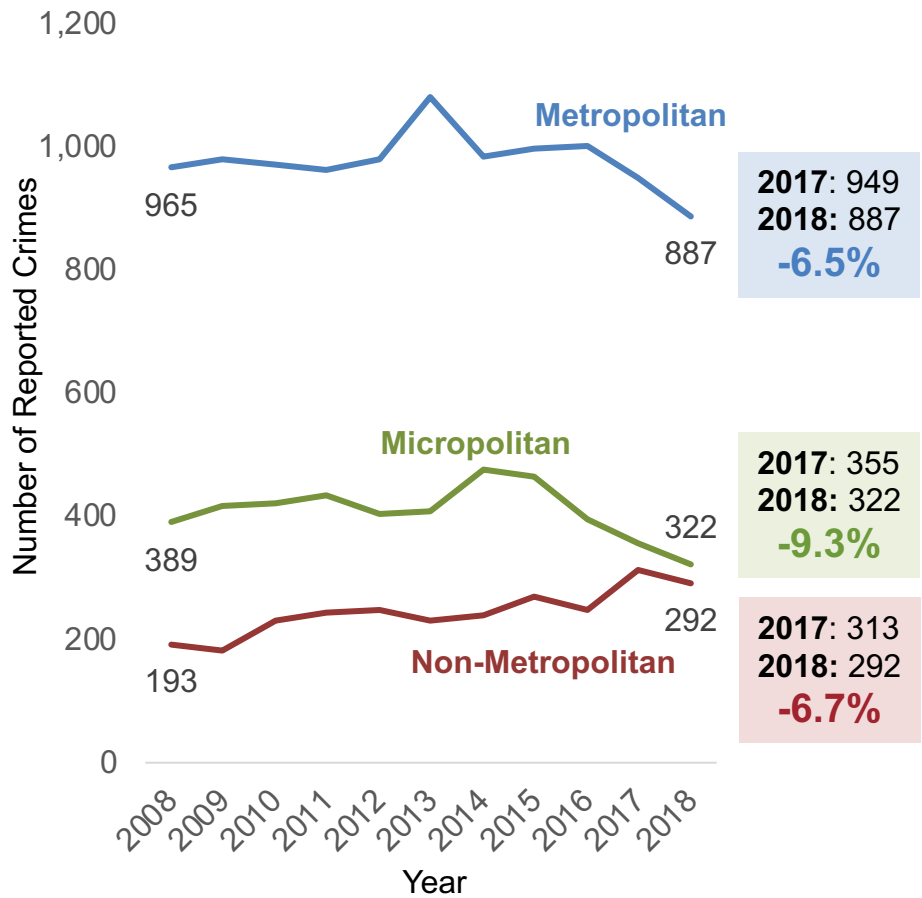
Maine **maintained its national ranking** for both violent and property crime in 2018, with the nation's lowest violent crime rate (112.1 violent crimes per 100,000 residents) and the fourth-lowest property crime rate (1,357.8 property crimes per 100,000 residents).

While violent crime in Maine's rural areas increased overall between 2008 and 2018, it declined from 2017 to 2018.

Violent Crime Rates in Maine by Population Area, 2008 and 2018
(reported crimes per 100,000 residents)



Reported Violent Crimes in Maine by Population Area, 2008–2018



Source: Federal Bureau of Investigation, Crime in the United States, 2008 (Washington, DC: United States Department of Justice, 2008), https://ucr.fbi.gov/crime-in-the-u.s/2007; Federal Bureau of Investigation, Crime in the United States, 2018 (Washington, DC: United States Department of Justice, 2018), https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2018.

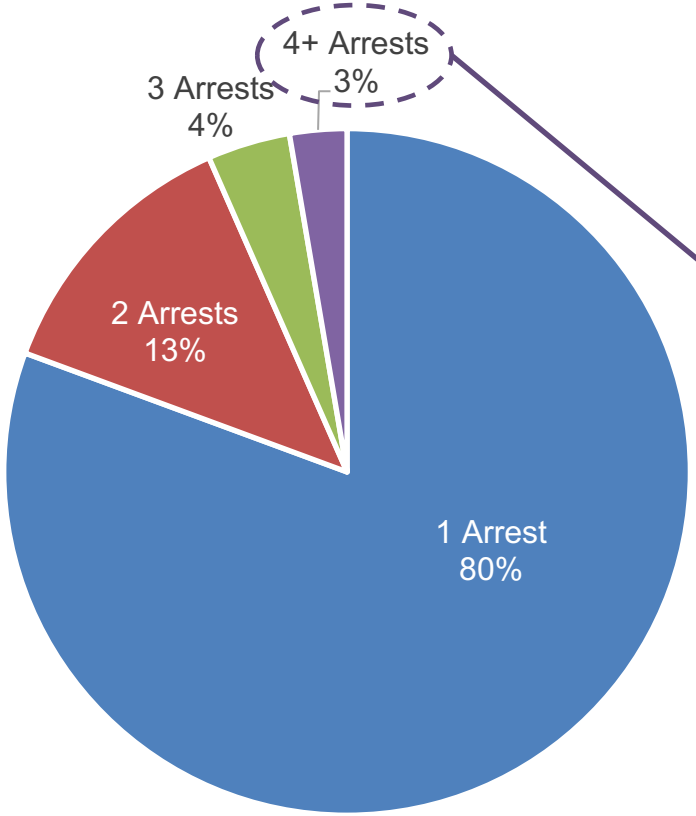
Crimes in Maine fall into one of five categories other than murder: Class A, B, and C offenses are felonies, and Class D and E offenses are misdemeanors.

	Class	Punishment Range	Sentencing Options	Example Offenses
Felony	A	Jail up to 9 months, prison up to 30 years, $50,000 fine	**Eligible for:** probation, unconditional discharge	Manslaughter, gross sexual assault, aggravated trafficking
Felony	B	Jail up to 9 months, prison up to 10 years, $10,000 fine	**Eligible for:** probation, unconditional discharge	Trafficking, aggravated assault, driving under the influence (DUI) with serious injury
Felony	C	Jail up to 9 months, prison up to 5 years, $5,000 fine	**Eligible for:** deferred disposition, probation, unconditional discharge	Aggravated operating under the influence (2 priors), aggravated theft or criminal mischief
Misdemeanor	D	Jail up to 364 days & $2,000 fine	**Eligible for:** deferred disposition, unconditional discharge, probation eligible only for some offenses, community service, administrative release	Domestic violence assault, operating under the influence (OUI)/DUI
Misdemeanor	E	Jail up to 180 days & $1,000 fine	**Eligible for:** deferred disposition, unconditional discharge, probation eligible only for some offenses, community service, administrative release	Operating While License Suspended or Revoked, disorderly conduct, theft < $1,000

The 36,000+ arrests in Maine in 2018 were of just over 27,000 people, the vast majority of whom were arrested only once during the year.

Percentage of People with Multiple Arrests in the Year, 2018

N = 36,069 arrests; 27,134 people



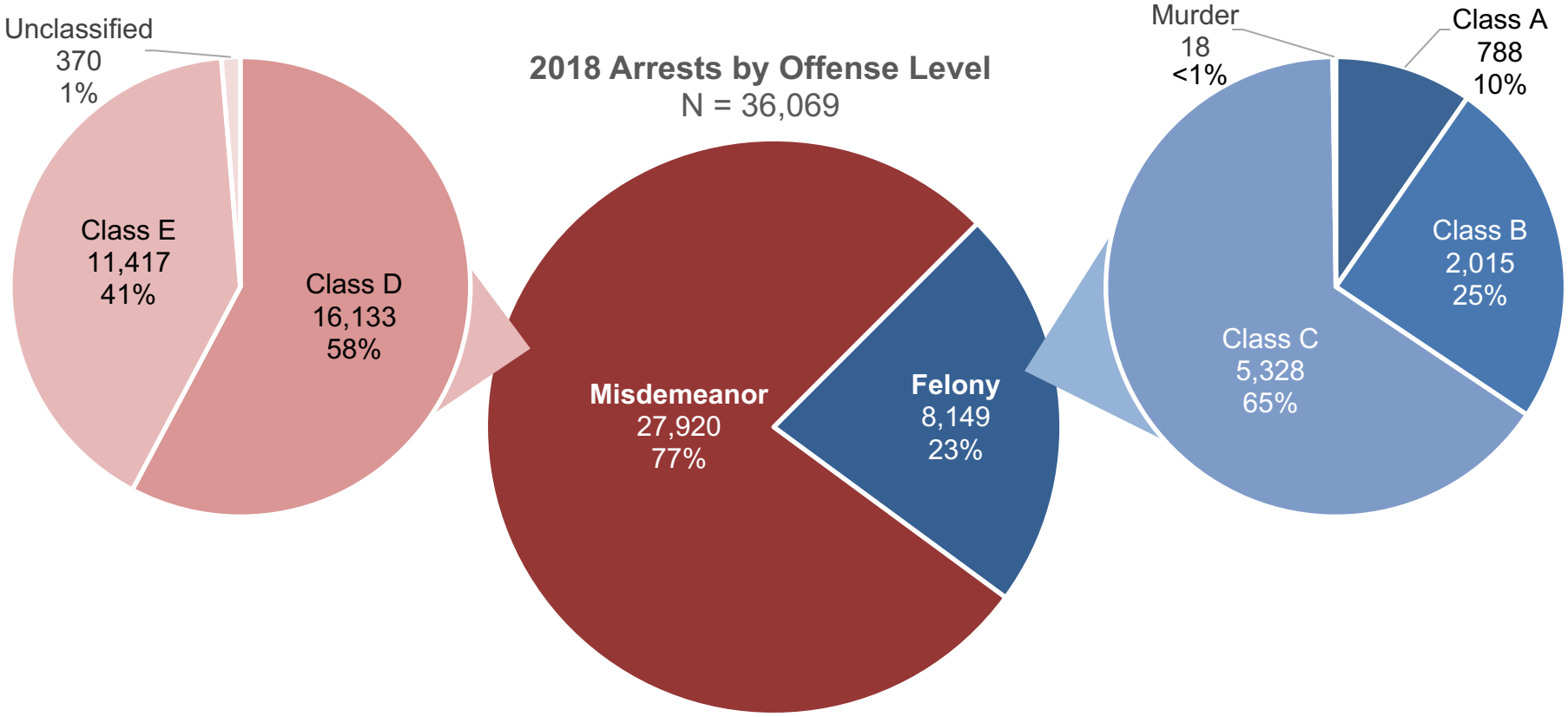
People Arrested in 2018 by Race (N= 27,134)	
White	68%
Black	4%
Native American	<1%
Asian	<1%
Unknown	27%

People with 4+ Arrests in 2018

3 percent of white people, 3 percent of Native Americans, and 4 percent of black people were arrested 4 or more times in the year.

Source: CSG Justice Center analysis of DPS data, 2008–2019.

More than three-quarters of arrests in Maine in 2018 were for misdemeanor offenses (Classes D and E).

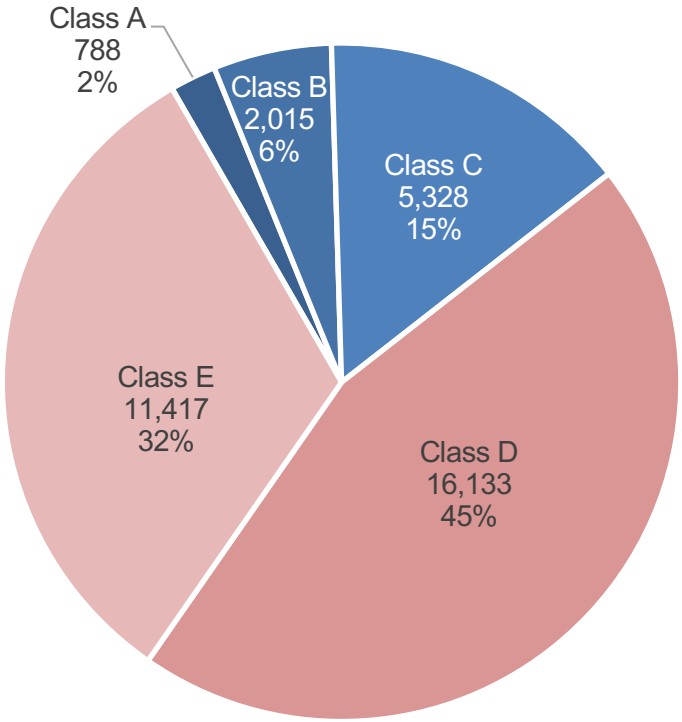


*Murder is included with felony offenses. Unclassified offenses are included with misdemeanor offenses.

***Source**:* CSG Justice Center analysis of DPS data, 2008–2019.

Class C offenses account for most felony arrests, while Class D offenses account for most misdemeanor arrests. In 2018, drug trafficking arrests made up over half of all Class A arrests and over one-quarter of Class B arrests.

2018 Arrests by Offense Level
N = 36,069



Not included are 2018 arrests for murder (18) and "unclassified" (370).

Top 5 Most Frequent **Felony** Arrests by Class

Class A Arrests		
Drug Trafficking	403	51%
Robbery	103	13%
Gross Sexual Assault	99	13%
Arson	65	8%
Aggravated Assault	41	5%

Class B Arrests		
Drug Trafficking	517	26%
Aggravated Assault	513	25%
Burglary	271	13%
Theft	190	9%
Forgery	129	6%

Class C Arrests		
Theft	1,292	24%
Operating License Susp.	482	9%
Drug Possession	426	8%
Domestic Violence	424	8%
Viol. Conditions of Release	387	7%

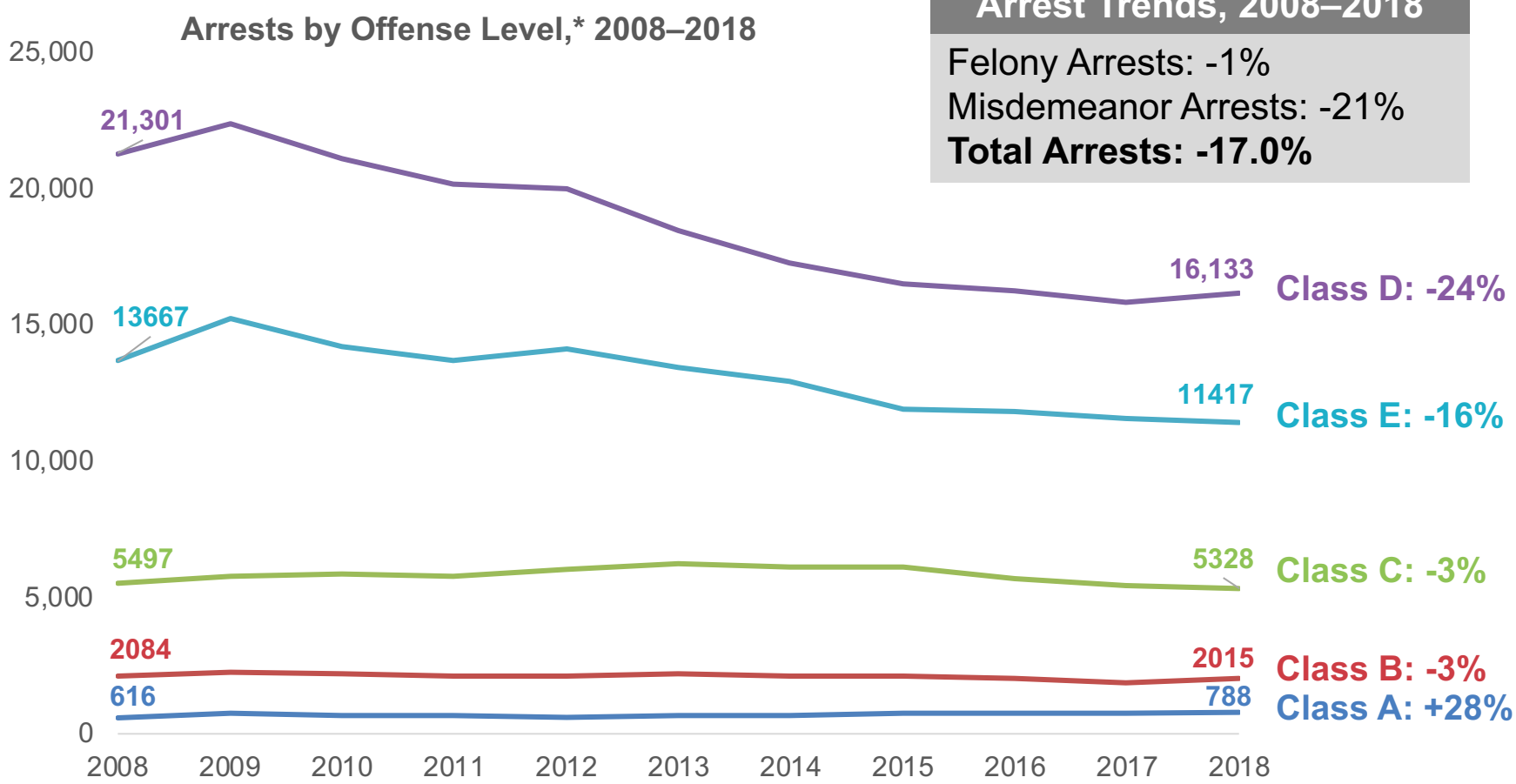
Top 5 Most Frequent **Misdemeanor** Arrests by Class

Class D Arrests		
OUI	5,466	34%
Domestic Violence	2,479	15%
Assault	1,747	11%
Drug Possession	1,209	7%
Criminal Mischief	1,151	7%

Class E Arrests		
Viol. Condition of Release	4,066	36%
Theft	3,534	31%
Disorderly Conduct	950	8%
Trespass	936	8%
Drinking in Public	471	4%

Source: CSG Justice Center analysis of DPS data, 2008–2019.

The statewide decline in arrests between 2008 and 2018 was almost entirely due to declines in misdemeanor arrests.



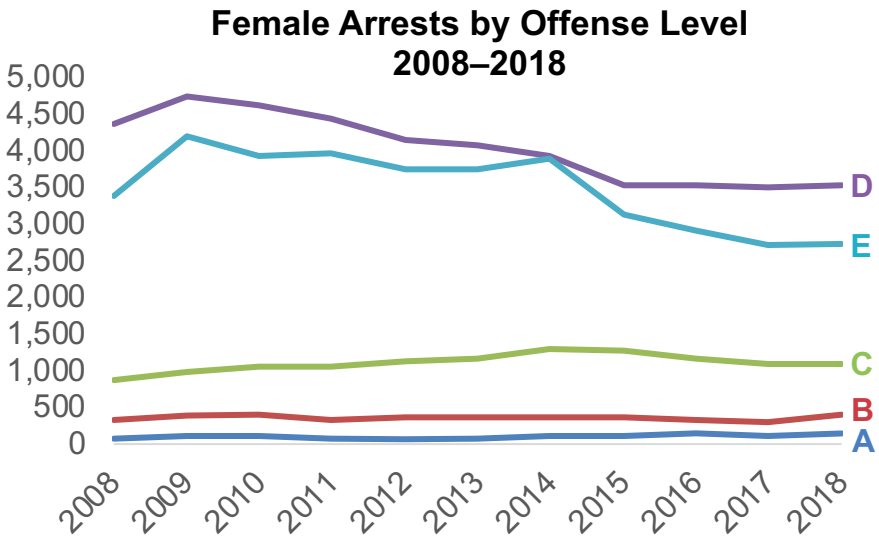
Arrest Trends, 2008–2018

Felony Arrests: -1%
Misdemeanor Arrests: -21%
Total Arrests: -17.0%

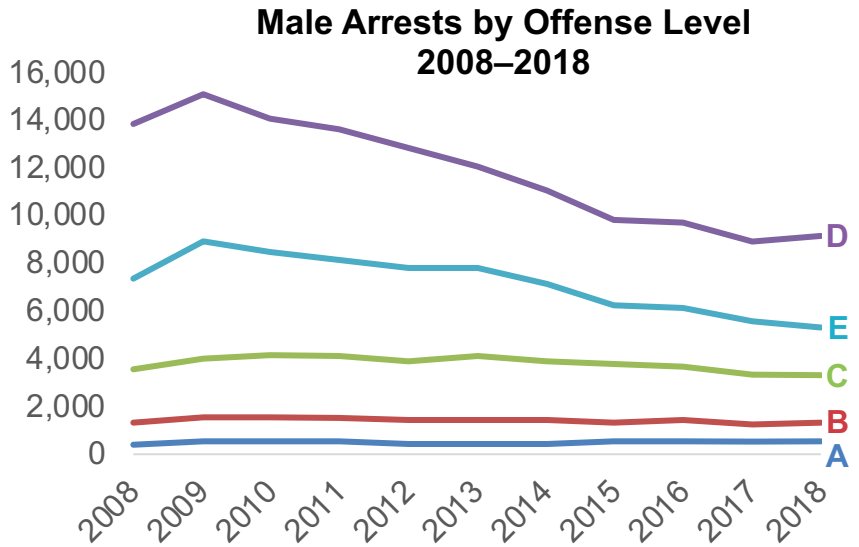
**Graph does not include murder (-31%) or unclassified offenses (+42%), which are a very small percentage of overall arrests. In 2018, there were 17 arrests for murder and 370 arrests for unclassified offenses.*

Source: CSG Justice Center analysis of DPS data, 2008–2019.

While the overall number of arrests declined between 2008 and 2018, felony arrests for women increased, especially for Class A offenses, which more than doubled.



	Class A	Class B	Class C	Class D	Class E
2008	**72**	**313**	**872**	**4,377**	**3,387**
2018	**145**	**384**	**11,00**	**3,513**	**2,742**
Change	*+73*	*+71*	*+228*	*-864*	*-645*
Percent Change	*+101%*	*+23%*	*+26%*	*-20%*	*-19%*



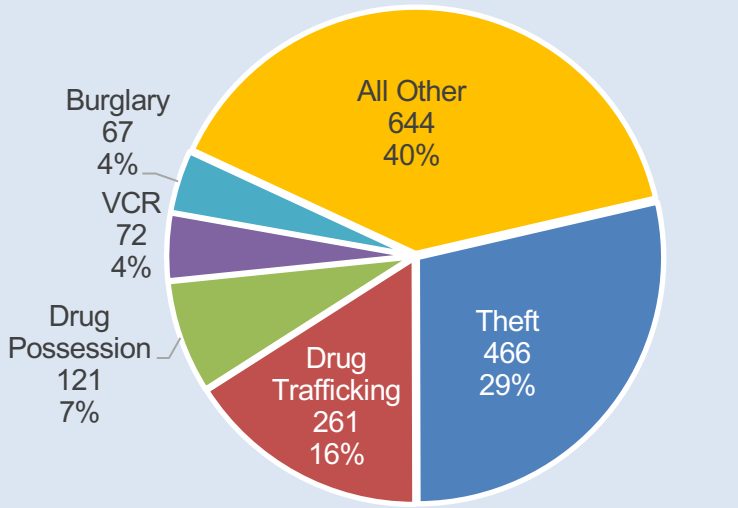
	Class A	Class B	Class C	Class D	Class E
2008	**398**	**1,335**	**3,578**	**13,817**	**7,409**
2018	**524**	**1,348**	**3,315**	**9,147**	**5,312**
Change	*+126*	*+13*	*-263*	*-4,680*	*-2,097*
Percent Change	*+32%*	*+1%*	*-7%*	*-34%*	*-28%*

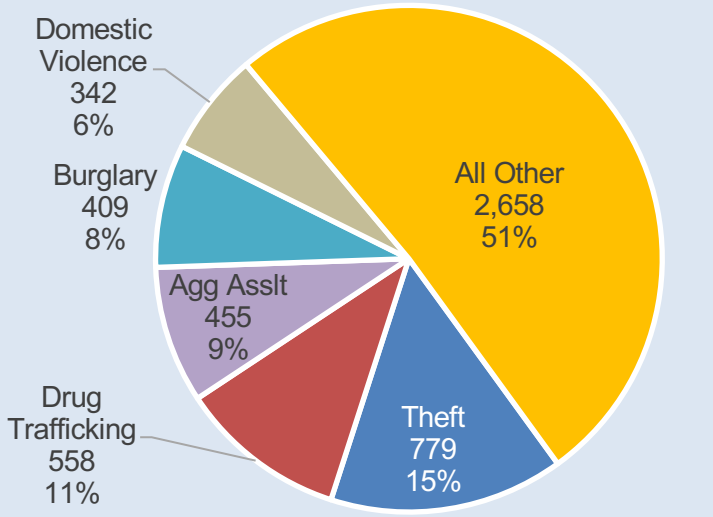
While felony arrests of women increased by a greater margin than felony arrests of men, the overwhelming majority of arrests are still of men. In 2018, **arrests of men made up 71.4 percent of all arrests** in Maine.

Source: CSG Justice Center analysis of DPS data, 2008–2019.

Drug and property offenses accounted for slightly more than half of women's felony arrests in 2018.

Felony



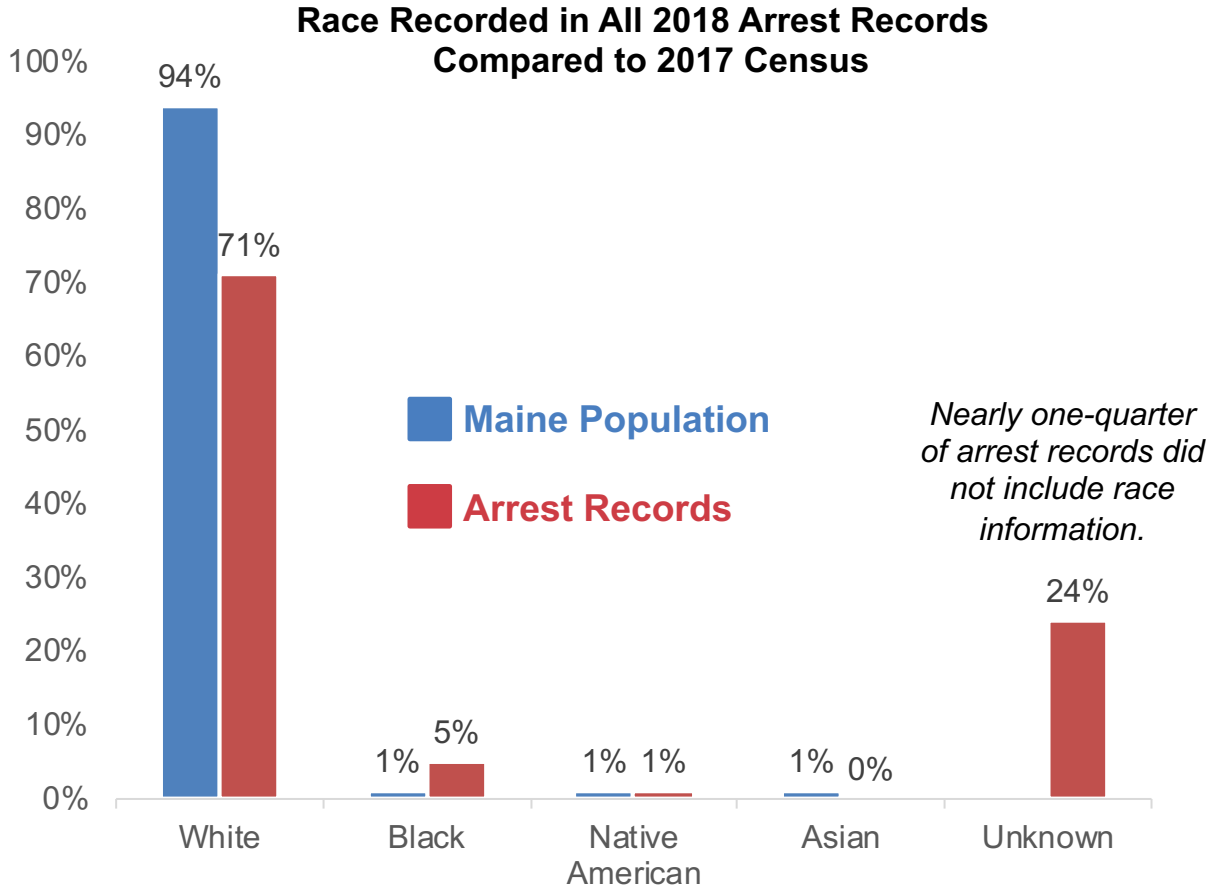


Misdemeanor

Offenses by Most Misdemeanor Arrests	Female Misd. Arrests	% of Female Misd. Arrests	Male Misd. Arrests	% of Male Misd. Arrests
OUI	1,333	21%	3,334	23%
Theft	1,212	19%	1,379	9%
VCR	884	14%	2,222	15%
Domestic Violence	618	10%	1,586	11%
Assault	388	6%	781	5%
Drug Possession	388	6%	781	5%
All Other Misdemeanors	1,468	23%	4,561	31%

Source: CSG Justice Center analysis of DPS data, 2008–2019.

In 2018, black people made up 1 percent of Maine's population but accounted for 5 percent of arrests.



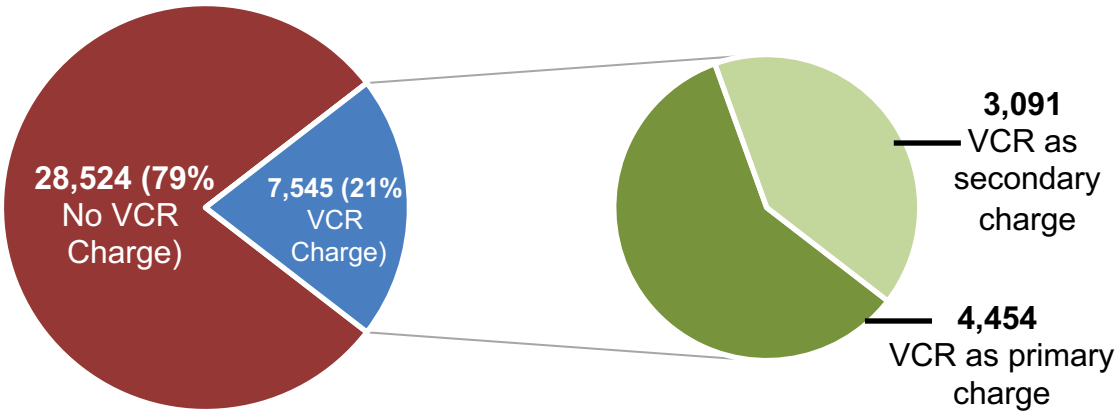
There is more race information for higher-level felony offenses, where disproportionality becomes even more pronounced.

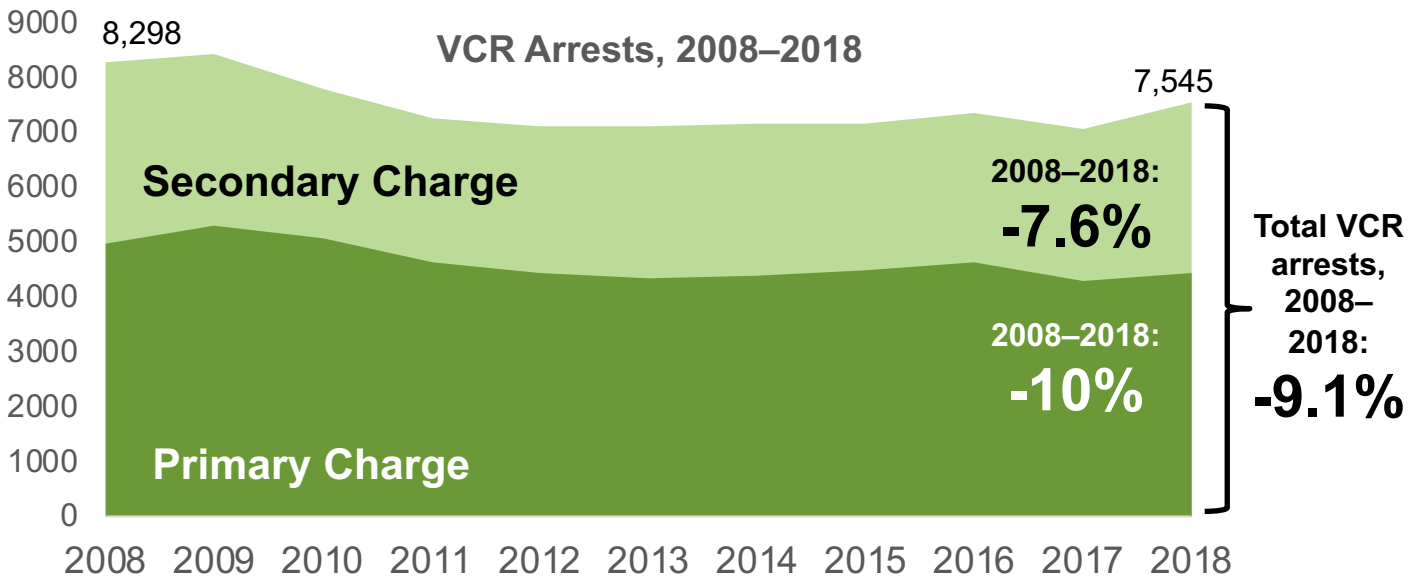
Arrests for Class A Offenses, 2018	
White	67%
Black	**16%**
Native American	1%
Asian	1%
Unknown	16%

Source: CSG Justice Center analysis of DPS data, 2008–2019; U.S. Census 2017.

Arrests involving pretrial "violation of conditions of release" (VCR) account for more than one-fifth of arrests in Maine.

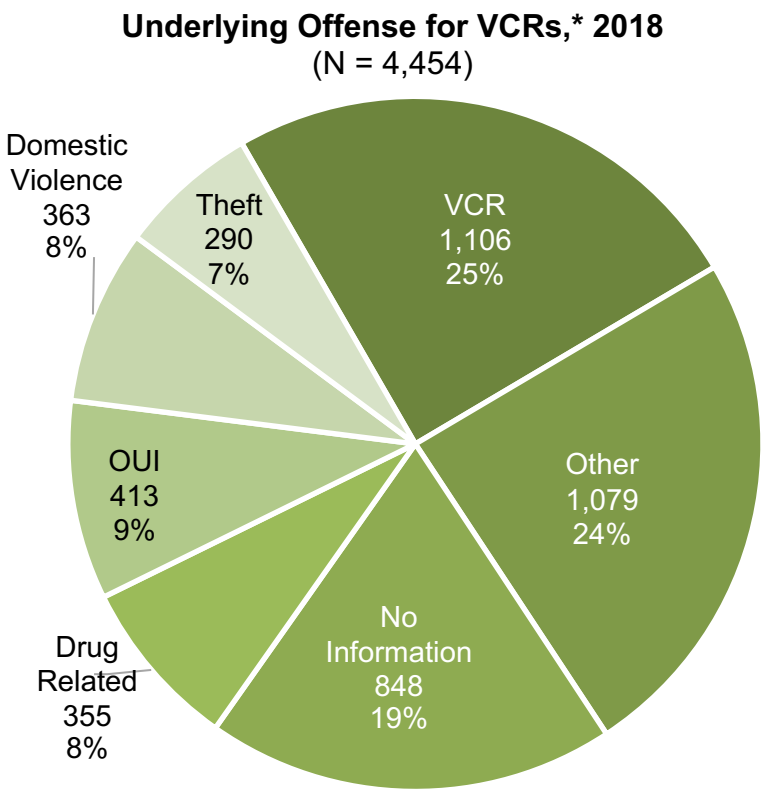
When a person is released on bail pending trial, certain conditions may be placed on them. Violation of those conditions may result in arrest—either as the primary charge or in conjunction with another arrestable offense (VCR as a secondary charge). Arrests that include a VCR as either the primary or a secondary charge made up more than 20 percent of all arrests in Maine in 2018.





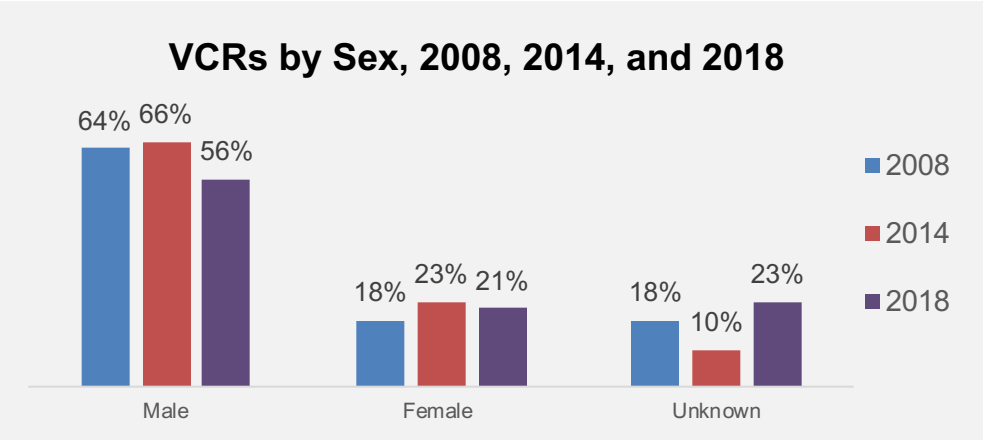
Source: CSG Justice Center analysis of DPS data, 2008–2019.

In many instances where VCR is the leading charge, it is difficult to determine what the original charge was.



**Drug related includes the two most frequent VCR offenses–drug possession and drug trafficking. Matched VCR to the most recent arrest prior to that VCR arrest.*

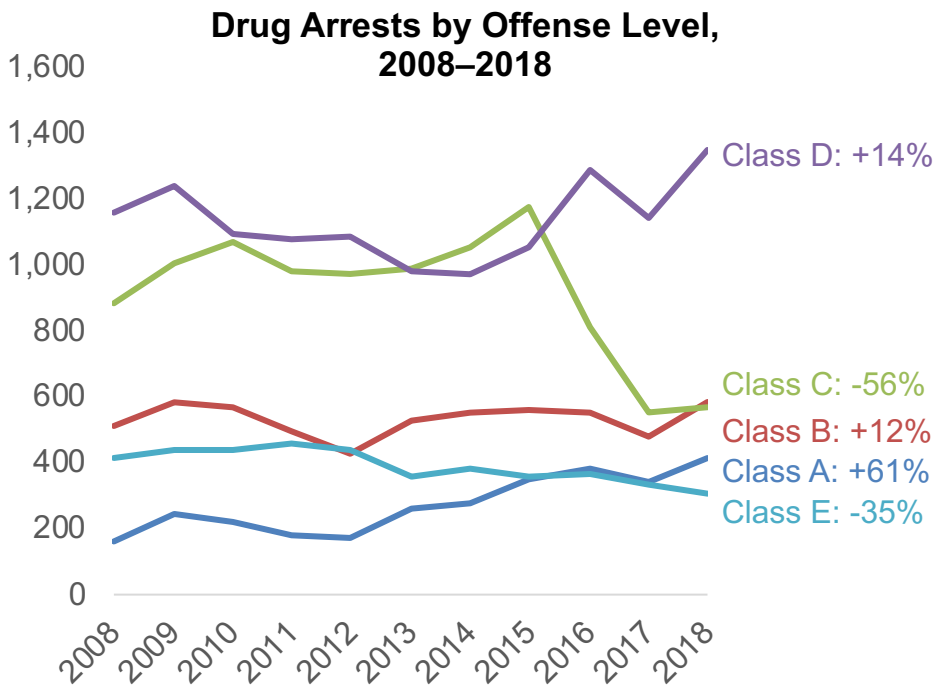
***Source**:* CSG Justice Center analysis of DPS data, 2008–2019.



VCRs by Race, 2008–2018			
Race	**2008**	**2014**	**2018**
White	77%	83%	72%
Black	3%	5%	4%
Native American	<1%	<1%	<1%
Asian	<1%	<1%	<1%
Unknown	19%	11%	23%

Drug arrests accounted for almost 9 percent of all arrests in Maine in 2018. Arrests for drug trafficking made up over half of all Class A arrests and over one-quarter of Class B arrests that year.

In 2018, 3,214 (8.9 percent) of the 36,069 arrests in Maine were for drug offenses. Drug arrests were divided fairly evenly between felony (48.5 percent) and misdemeanor (51.5 percent) offenses.



Source: CSG Justice Center analysis of DPS data, 2008–2019.

Most Frequent Class A Drug Arrests, 2018 (N = 414)		
Aggravated Trafficking of Scheduled Drugs	308	74%
Aggravated Trafficking of Schedule W Drug	95	23%
Aggravated Operation of Meth Laboratory – Residence	5	1%

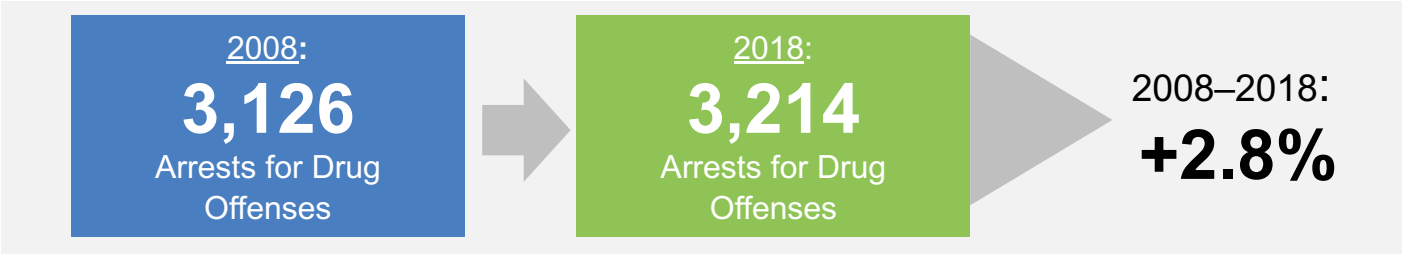
Most Frequent Class B Drug Arrests, 2018 (N = 582)		
Unlawful Trafficking in Scheduled Drugs	503	86%
Operate Meth Laboratory	22	4%
Unlawful Possession of Scheduled Drugs	14	2%

Most Frequent Class C Drug Arrests, 2018 (N = 564)		
Unlawful Possession of Heroin	140	25%
Unlawful Possession of Methamphetamine	68	12%
Unlawful Furnishing of Scheduled Drugs	45	8%

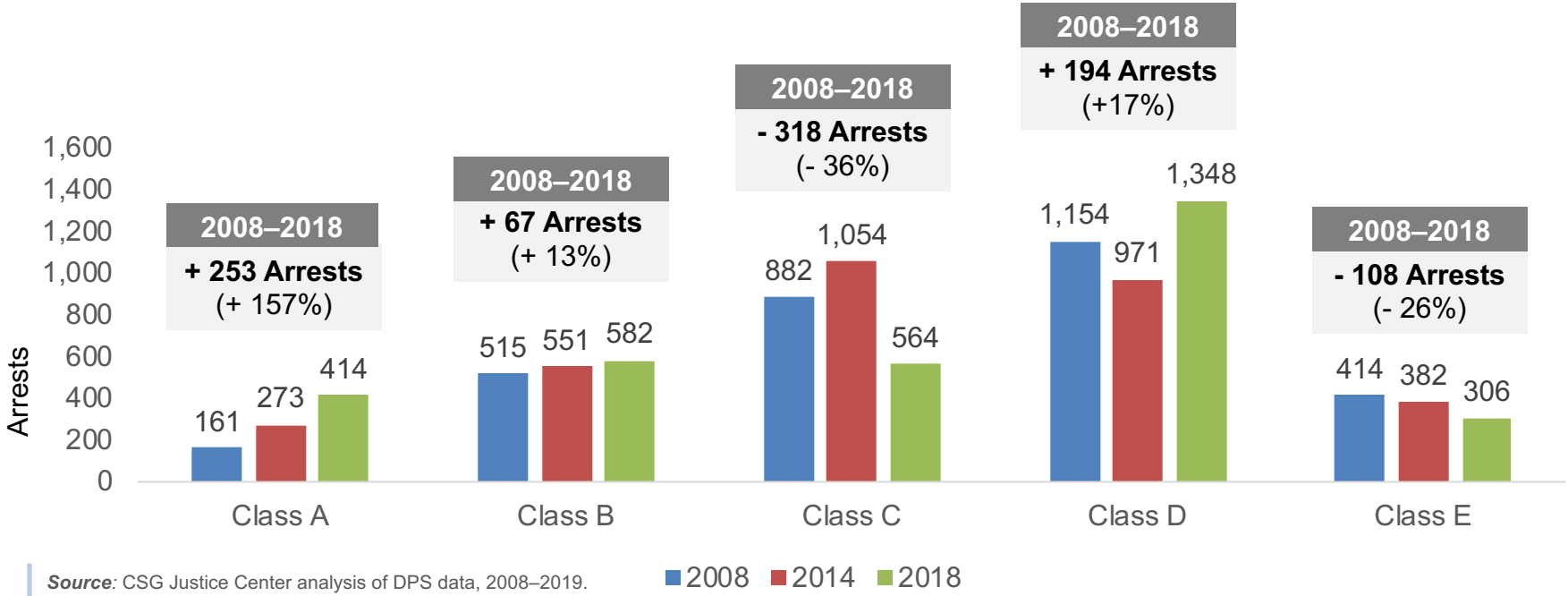
Most Frequent Class D Drug Arrests, 2018 (N = 1,348)		
Unlawful Possession of Scheduled Drugs	1,209	90%
Poss. of Hypodermic Apparatus	62	5%
Unlawful Furnishing of Scheduled Drug	32	2%

Most Frequent Class E Drug Arrests, 2018 (N = 306)		
Unlawful Possession of Scheduled Drugs	272	89%
Marijuana Under 18 Years	17	6%
Use of Drug Paraphernalia	10	3%

Total arrests for drug offenses in Maine rose slightly between 2008 and 2018. Class A drug arrests more than doubled during this period.

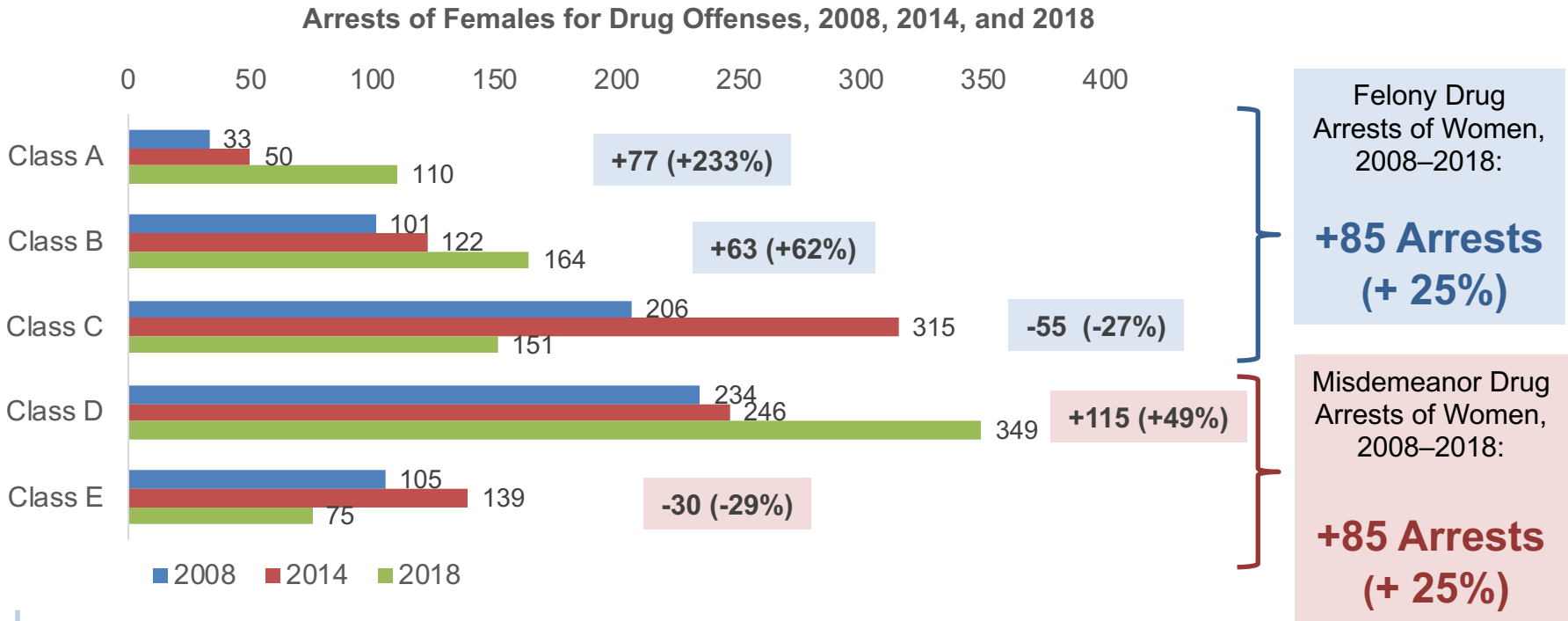


Drug Arrests by Offense Category, 2008, 2014 and 2018



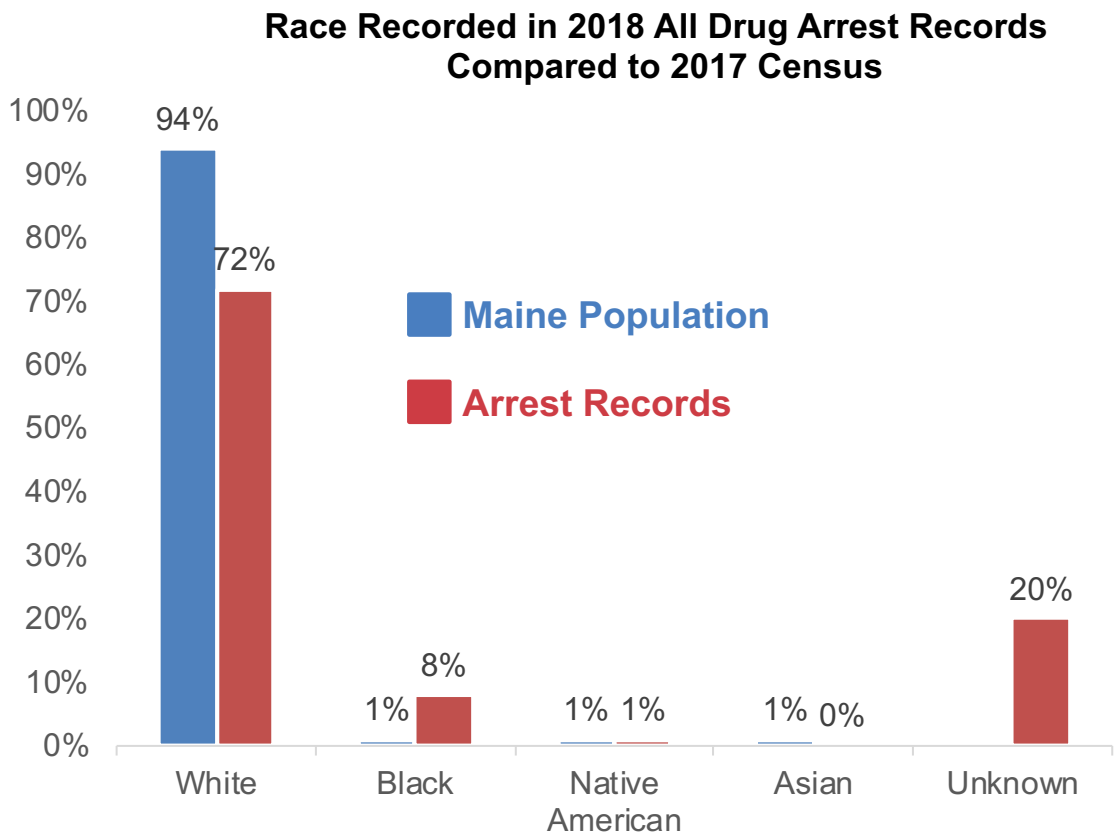
Source: CSG Justice Center analysis of DPS data, 2008–2019.

Drug arrests of women increased 25 percent between 2008 and 2018, with arrests for Class A offenses more than tripling during this period.



Source: CSG Justice Center analysis of DPS data, 2008–2019.

Racial disproportionality is more pronounced in drug arrests than in total arrests. Black people account for 21 percent of Class A drug arrests and 15 percent of Class B drug arrests.



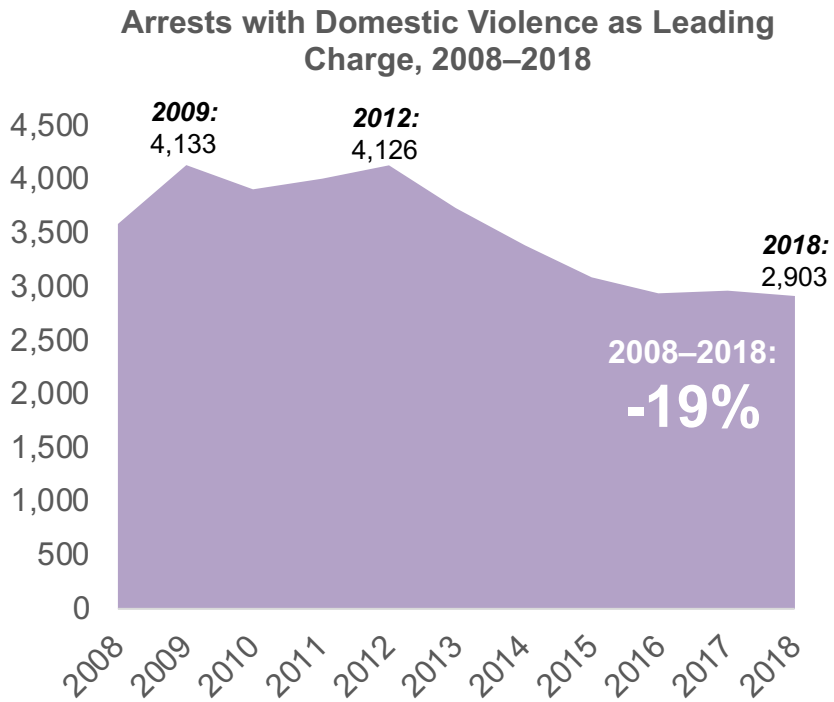
Arrests for Class A Drug Offenses, 2018 (N = 414)	
White	63%
Black	**21%**
Native American	1%
Asian	<1%
Unknown	14%

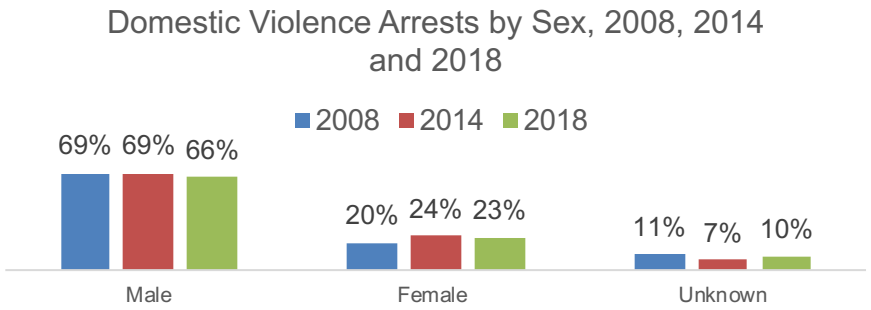
Arrests for Class B Drug Offenses, 2018 (N=582)	
White	67%
Black	**15%**
Native American	1%
Asian	<1%
Unknown	17%

Arrests for Class C Drug Offenses, 2018 (N=564)	
White	79%
Black	**4%**
Native American	1%
Asian	<1%
Unknown	16%

Source: CSG Justice Center analysis of DPS data, 2008–2019.

Domestic violence arrests decreased 19 percent between 2008 and 2018.





DV Arrests by Race, 2008, 2014, and 2018			
Race	**2008**	2014	**2018**
White	84%	86%	83%
Black	4%	6%	5%
Native American	<1%	<1%	1%
Asian	<1%	<1%	1%
Unknown	12%	8%	11%

Top Arrested Offenses in the Category of "Domestic Violence" (2018):
1. Domestic Violence Assault (2,206)
2. Domestic Violence Assault, Priors DV (319)
3. Domestic Violence Terrorizing (125)
4. Domestic Violence Criminal Threatening (94)
5. Domestic Violence Reckless Conduct (36)
6. Domestic Violence Stalking (30)
7. Domestic Violence Terrorizing, Priors DV (30)

Top Convicted Offenses for DV Arrests (2018):
1. Domestic Violence Assault (1,234)
2. Domestic Violence Assault, Priors DV (199)
3. Assault (94)
4. Domestic Violence Criminal Threatening (74)
5. Domestic Violence Terrorizing (68)
6. Aggravated Assault (56)
7. Domestic Violence Reckless Conduct (27)
8. Disorderly Conduct, Offensive Words, Gestures (19)
9. Domestic Violence Terrorizing, Priors DV (16)
10. Domestic Violence Assault, Priors T 19-A (15)

Source: CSG Justice Center analysis of DPS data, 2008–2019.

Key takeaways are about volume, violence, women and race.

Volume

- VCR was the primary or secondary charge in more than 20 percent of all arrests. (#18)
- Drug trafficking made up over half of all Class A arrests and over one-quarter of Class B arrests. (#20)
- 80 percent of people arrested are arrested only once in a year. (#11)

Violence

- Reported violent crime has increased 43 percent in rural areas of Maine over the last decade but has started to decline. (#9)
- Domestic violence and assault account for more than one-quarter of arrests for Class D offenses. (#13)
- Domestic violence arrests accounted for approximately 8 percent of all arrests in 2018, and the volume of domestic violence arrests decreased 19 percent from 2008 to 2018. (#24)

Women

- Despite an overall trend of decreasing arrests, felony arrests for women increased from 2008 to 2018, especially for Class A offenses, which more than doubled. (#15)
- Between 2008 and 2018, drug arrests for women increased by 25 percent. During that time, arrests of women for Class A drug offenses more than tripled. (#22)
- Women are arrested for felonies over half the time for theft, drug possession, or trafficking. For men those offenses account for one-quarter of felony arrests. (#16)

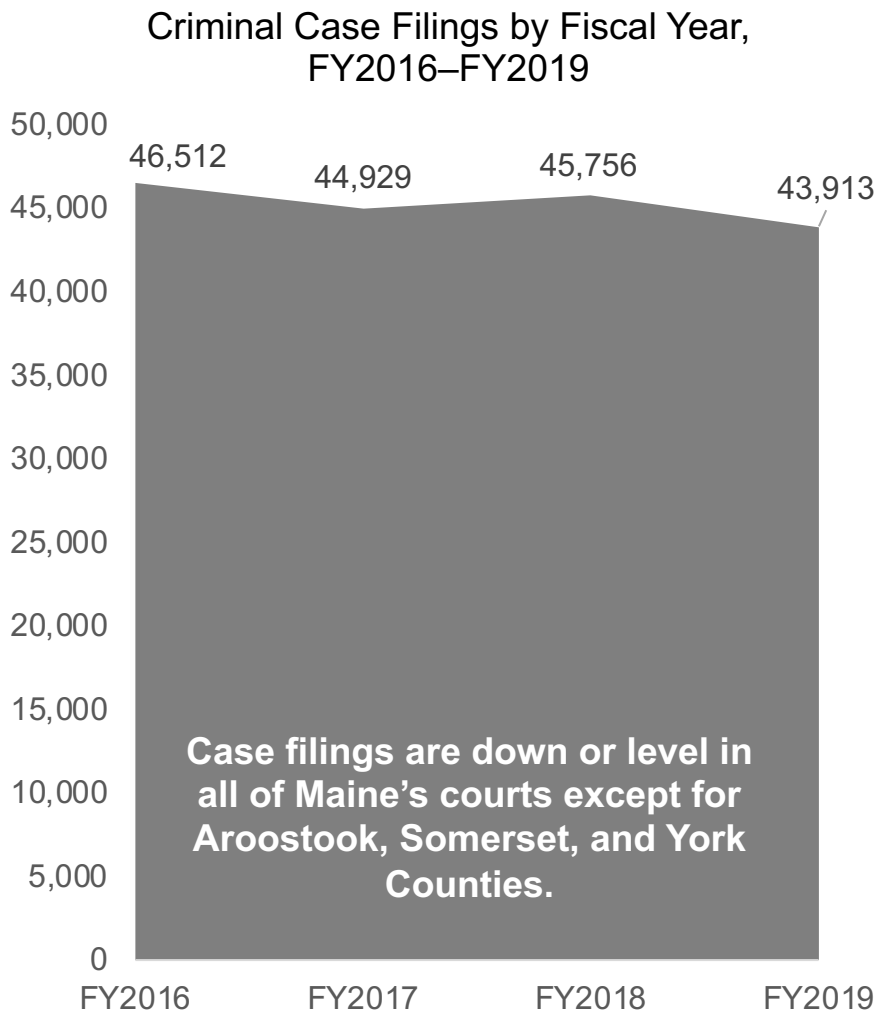
Race

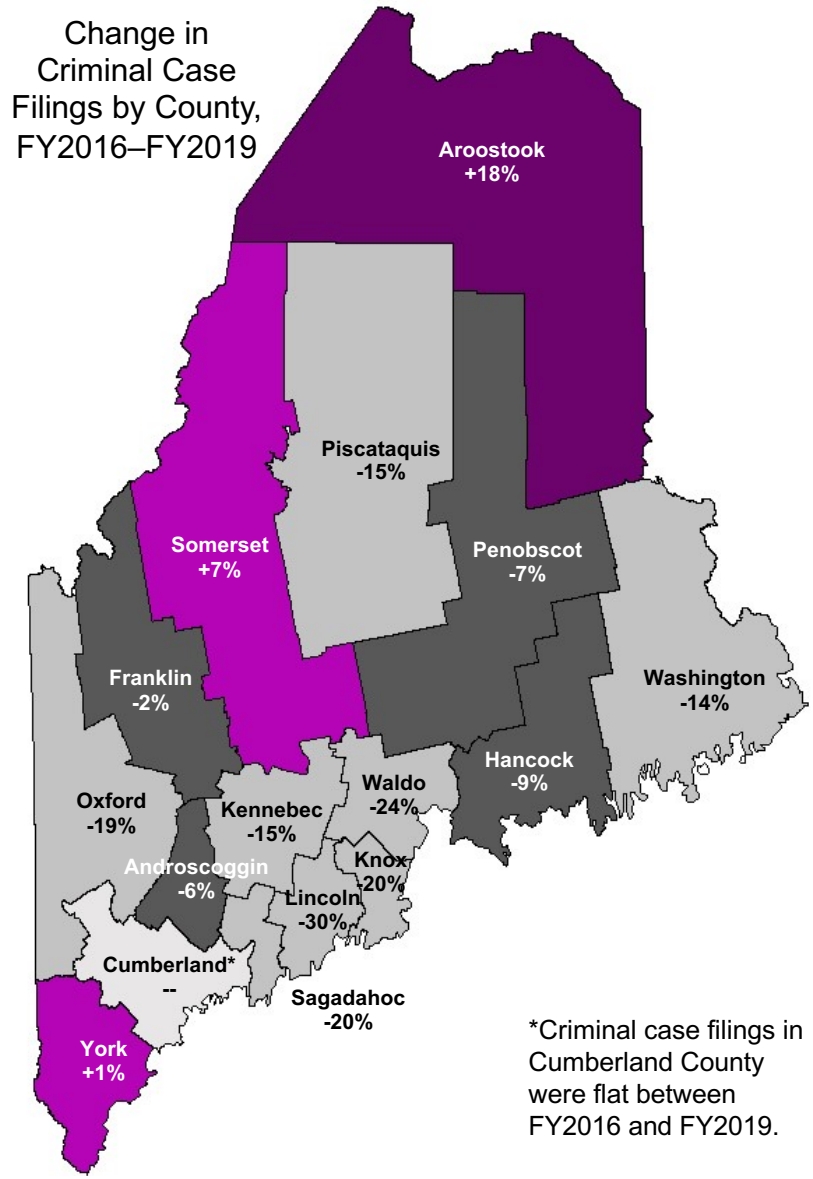
- Black people account for 1 percent of the state population and:
  - 5 percent of all arrests (#17)
  - 16 percent of arrests for Class A offenses (#17)
  - 21 percent of Class A drug arrests and 15 percent of Class B drug arrests. (#23)

Presentation Overview

1. Data Analyses: Arrest and Criminal History
2. Data Analyses: Criminal Case Filings
3. Maine Probation Policy and Practice Assessment

Between FY2016 and FY2019, criminal case filings decreased 6 percent.



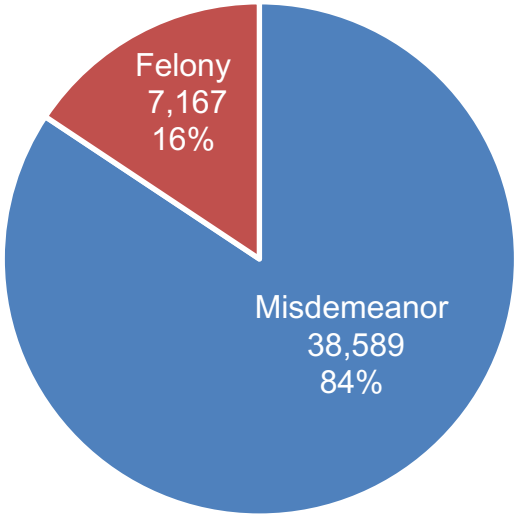


*Criminal case filings in Cumberland County were flat between FY2016 and FY2019.

***Source**:* CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019. AOC data organized by Fiscal Year.

The overwhelming majority of case filings are for misdemeanor offenses.

Case Filings by Offense Class, 2018



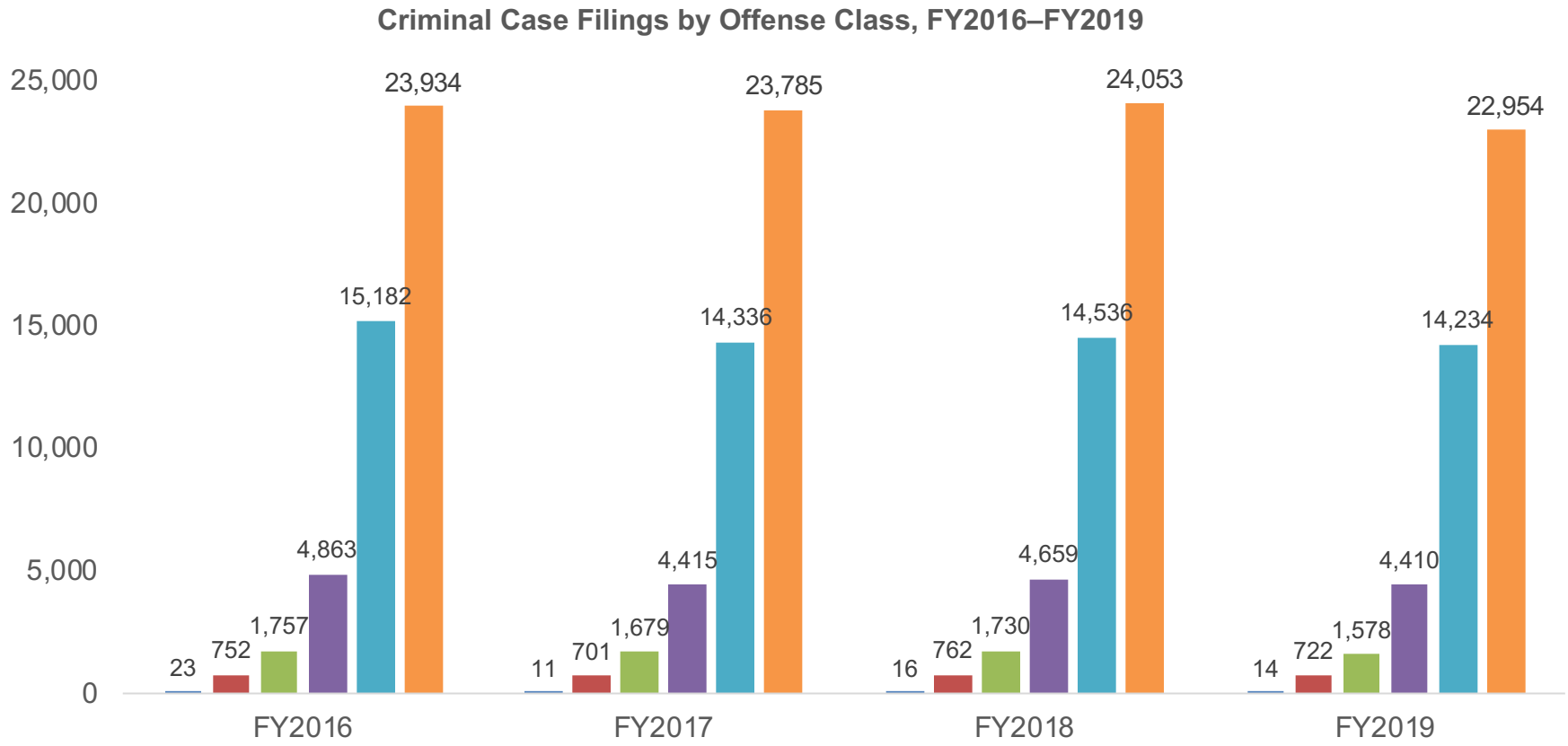
In FY2018**, 84 percent** of criminal case filings were for misdemeanors**.** By rough comparison, only **77 percent of arrests** in FY2018* were for misdemeanors.

**28,145 of the total 36,617 arrests in Fiscal Year 2018 (July 1, 2017-June 30, 2018) were for misdemeanor offenses.*

Top 5 Case Filings (All Offense Levels)	FY2016	FY2017	FY2018	FY2019
Operating Under the Influence (OUI) (Alcohol)	3,615	3,505	3,332	3,424
Operating While License Suspended or Revoked (OWLS/R)	3,132	3,226	3,292	3,017
Violation of Conditions of Release (VCR)	3,440	2,970	2,985	3,222
Theft by Unauthorized Taking/Transfer	3,381	3,161	3,099	2,840
Domestic Violence Assault	2,183	2,100	2,066	2,085

***Source**:* CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

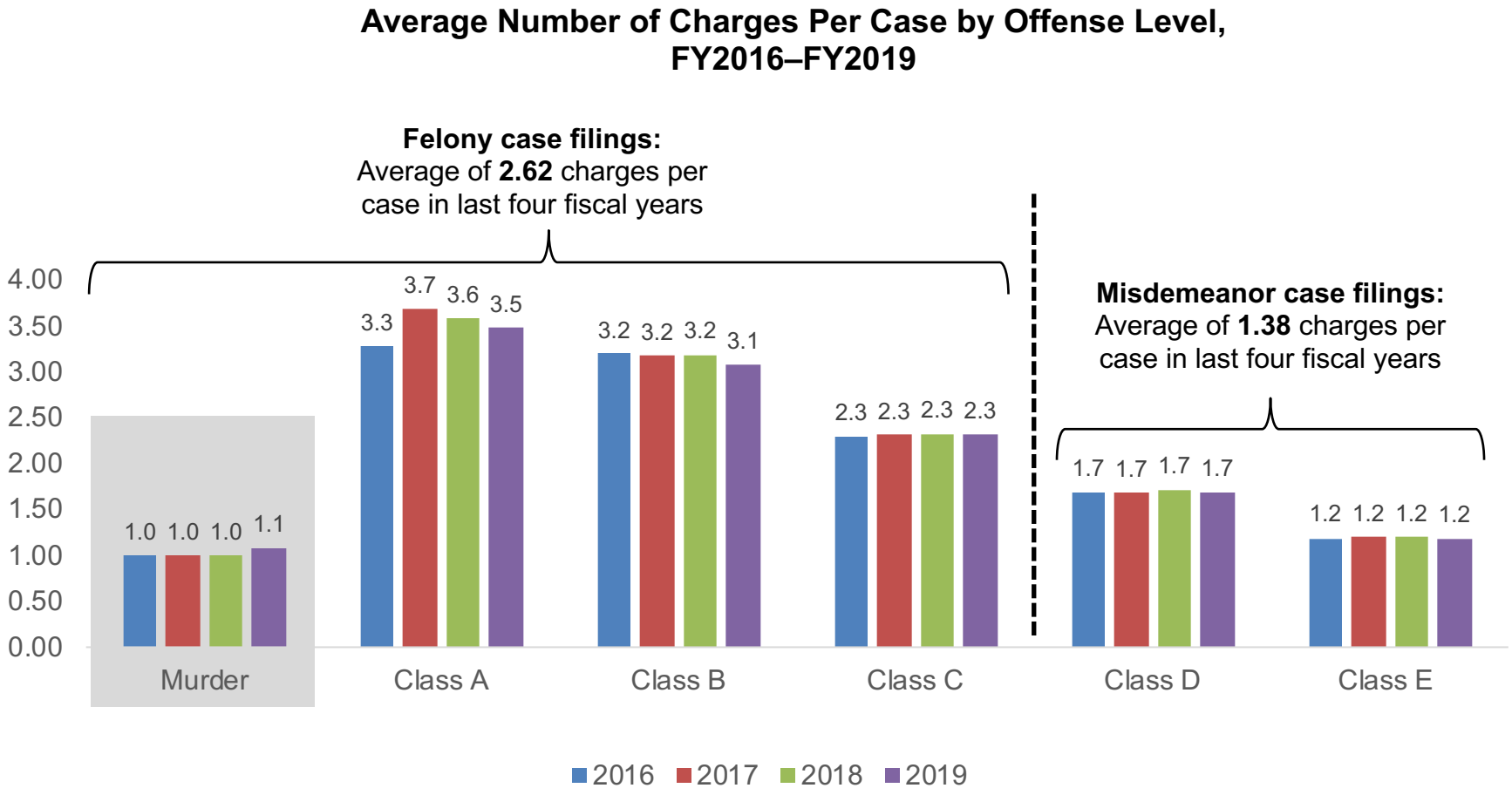
The number of criminal case filings in Maine declined across all offense classes between FY2016 and FY2019.



Change in Case Filings by Offense Class, FY2016-FY2019:	Murder	Class A	Class B	Class C	Class D	Class E
	-9 (-39%%)	-30 (-4%)	-179 (-10%)	-453 (-9%)	-948 (-6%)	-980 (-4%)

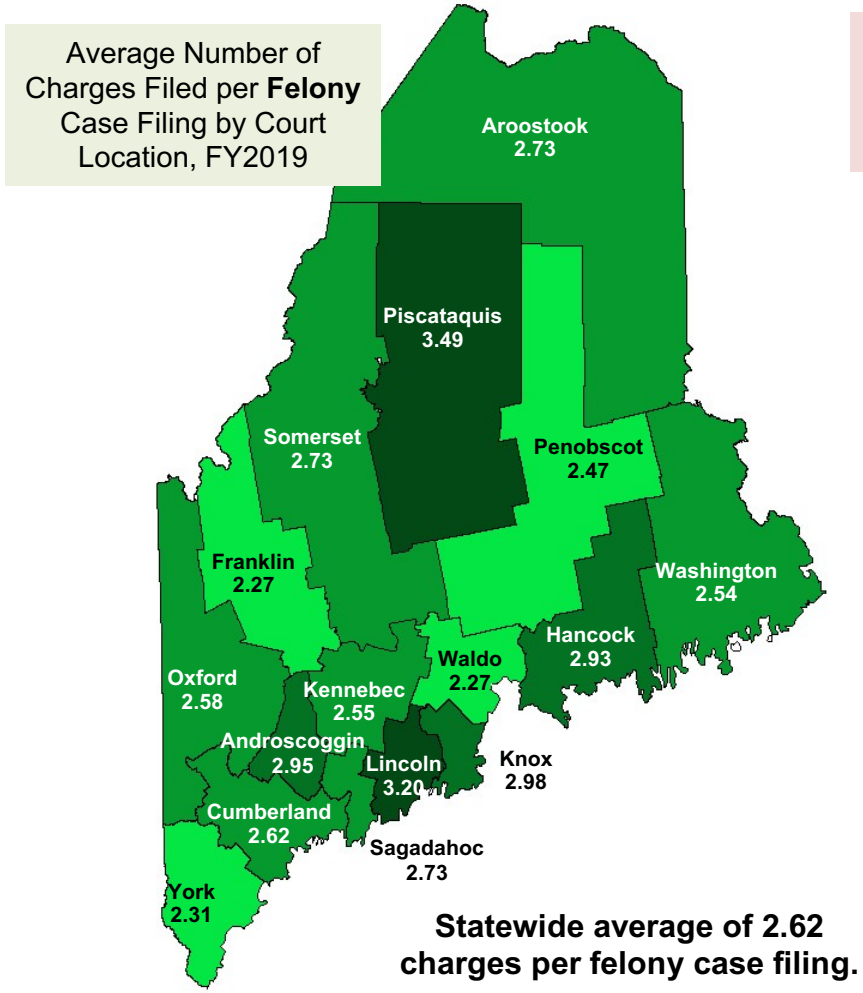
Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

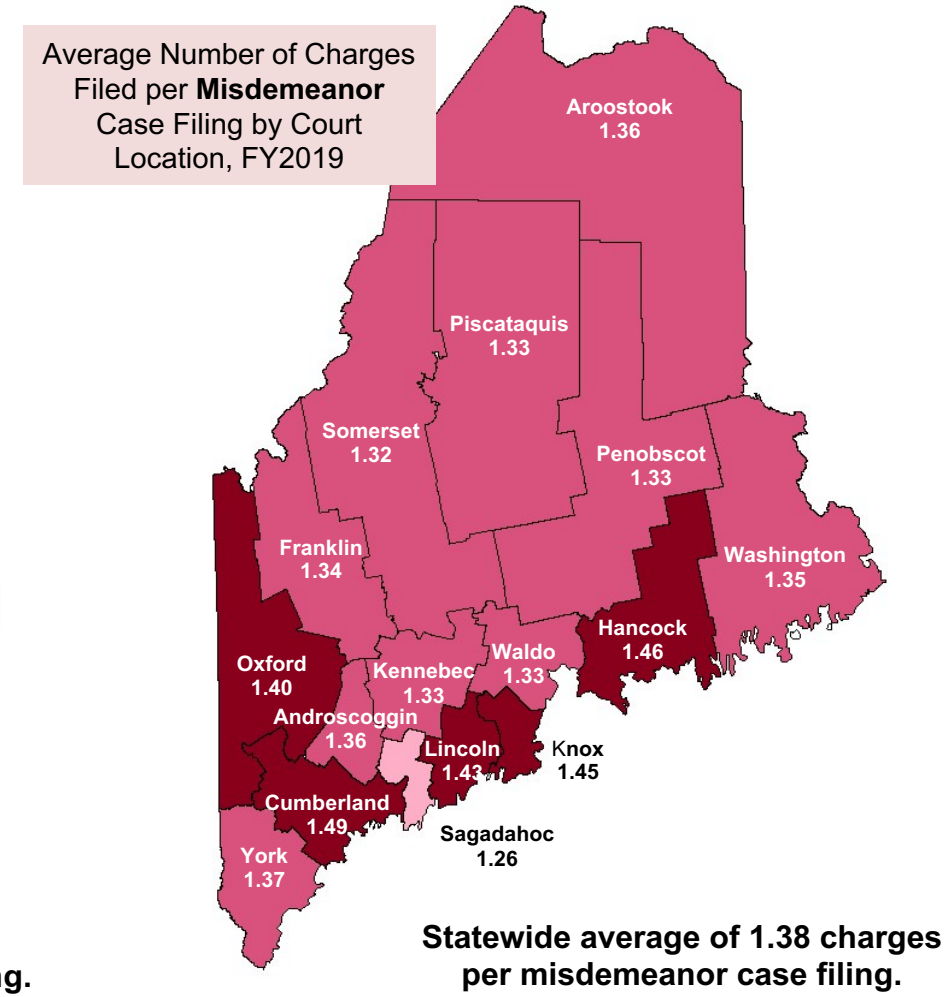
On average, there are just over 2.6 charges per felony case, but about half that per misdemeanor case.



Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

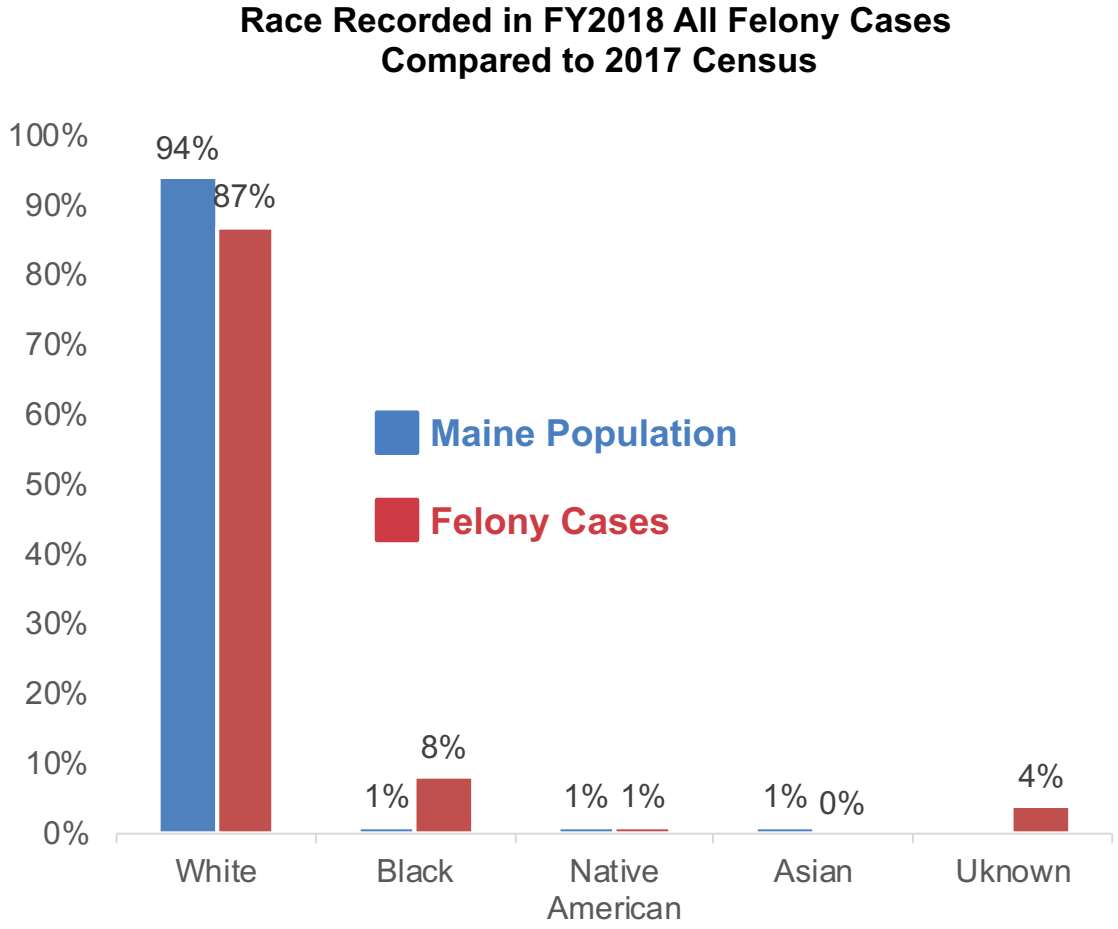
The number of charges per case varies significantly by county and between felony and misdemeanor cases.





***Source**:* CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

The number of felony cases filed against black defendants is disproportionate in comparison to their proportion of the state's population.



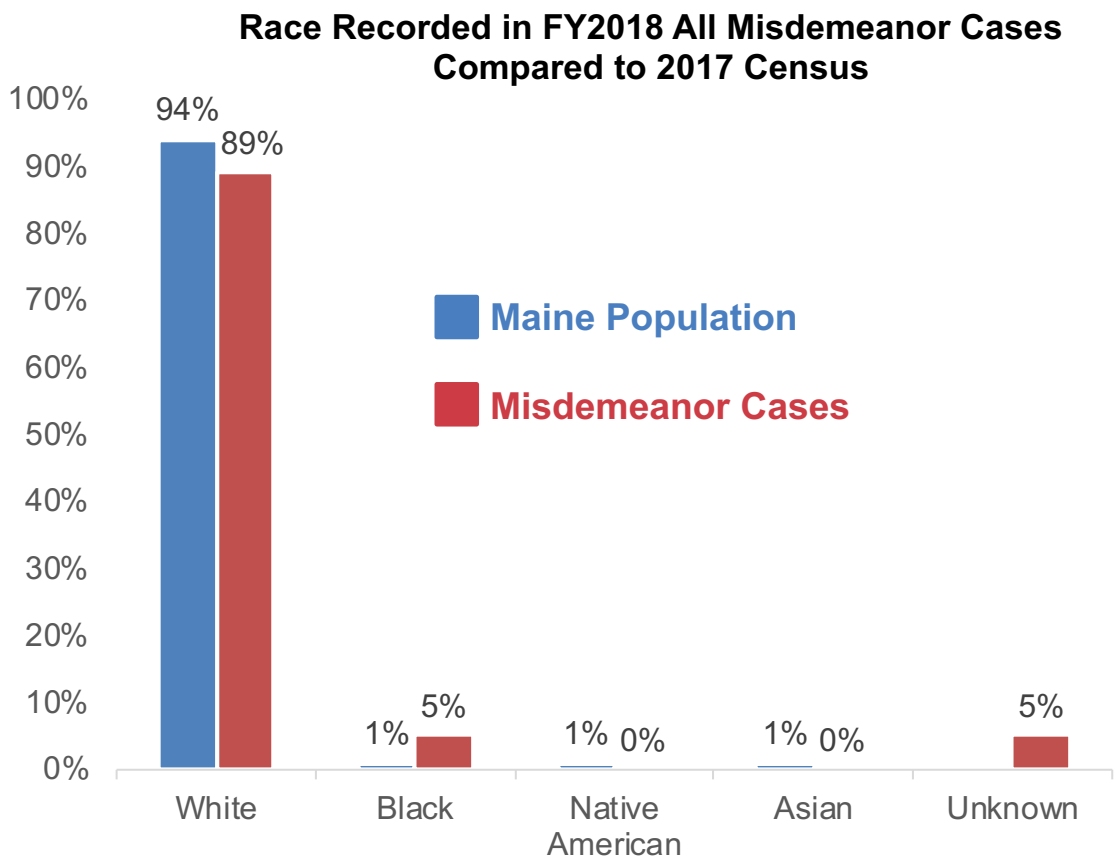
Race for Class A Filings, FY2018	
White	68%
Black	**24%**
Native American	1%
Asian	1%
Unknown	6%

Race for Class B Filings, FY2018	
White	84%
Black	**10%**
Native American	1%
Asian	1%
Unknown	4%

Race for Class C Filings, FY2018	
White	91%
Black	**5%**
Native American	1%
Asian	<1%
Unknown	3%

Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

To a slightly lesser extent, a disproportionate number of misdemeanor cases are filed against black defendants.



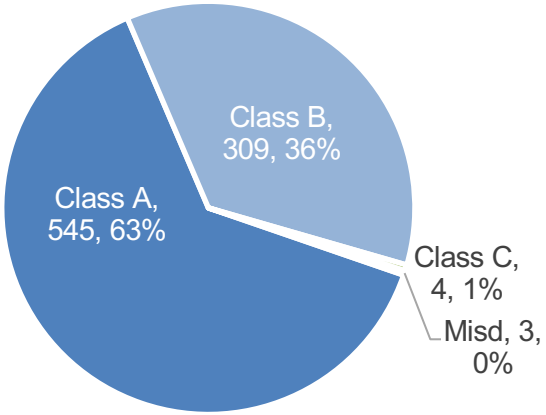
Race for Class D Filings, FY2018	
White	91%
Black	4%
Native American	1%
Asian	<1%
Unknown	4%

Race for Class E Filings, FY2018	
White	88%
Black	6%
Native American	<1%
Asian	<1%
Unknown	5%

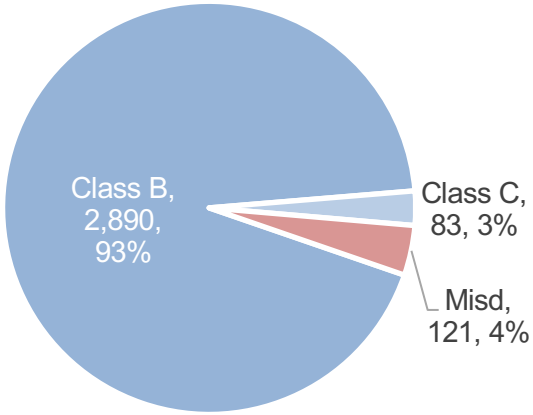
Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

Although just 63 percent of Class A filings are disposed as a Class A offense, the vast majority of cases are disposed as they are filed.

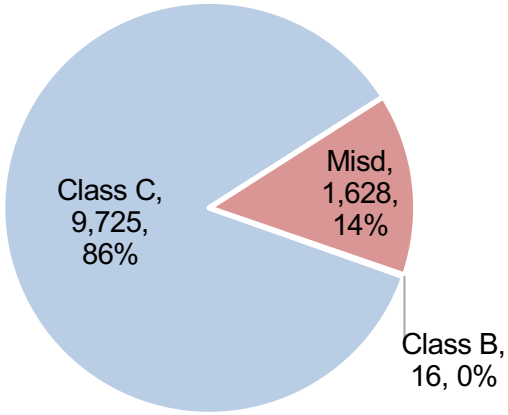
Class A Filing Class by Disposed Class, 2016–2019



Class B Filing Class by Disposed Class, 2016–2019

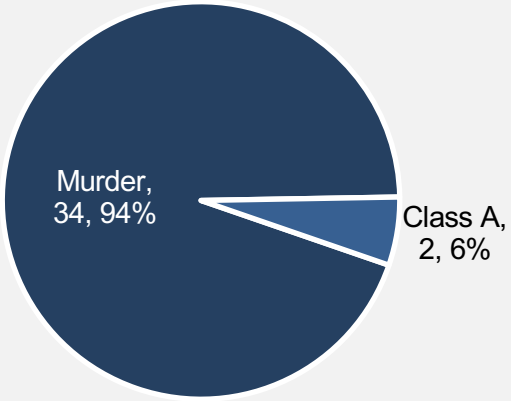


Class C Filing Class by Disposed Class, 2016–2019



Nearly 100 percent of Class D and Class E cases are disposed as they were filed.

Murder Filing Class by Disposed Class, 2016–2019

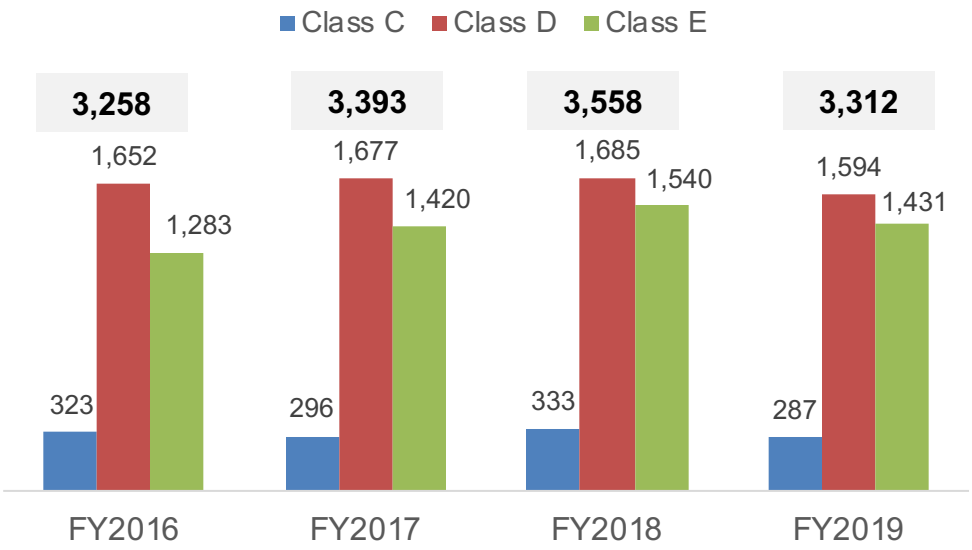


Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

Each year, a relatively small percentage of cases (mostly misdemeanors) receive a deferred disposition. Of these, more than half are ultimately dismissed.

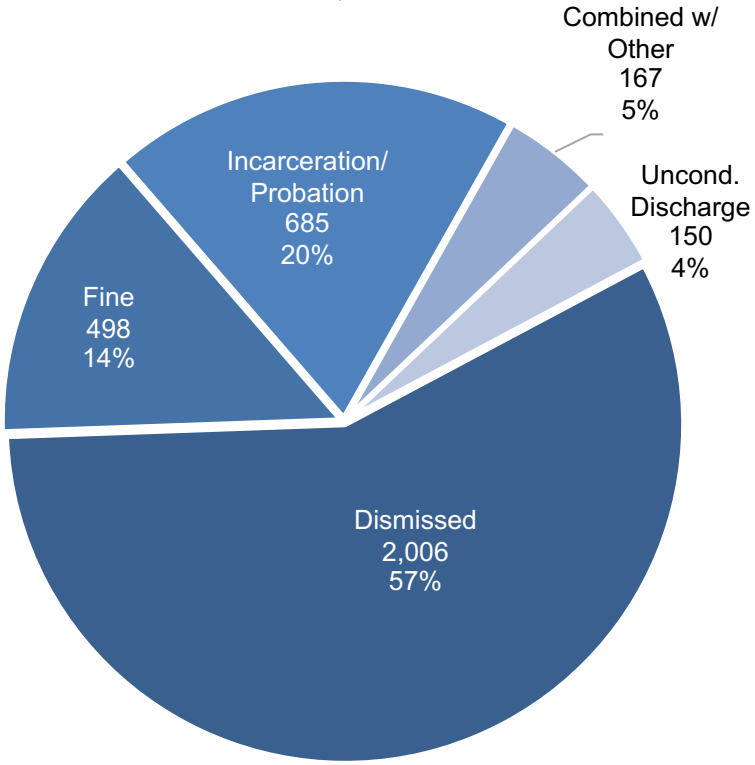
Of the 46,577 cases disposed in FY2018, **3,558 (7.6%)** were given deferred disposition.

Deferred Disposition Cases by Offense Class, FY2016–FY2019



Judicial Regions 1 (York County) & 4 (Kennebec and Somerset Counties) appear to use deferred disposition the most. District 5 (Penobscot County) appears to use it the least.

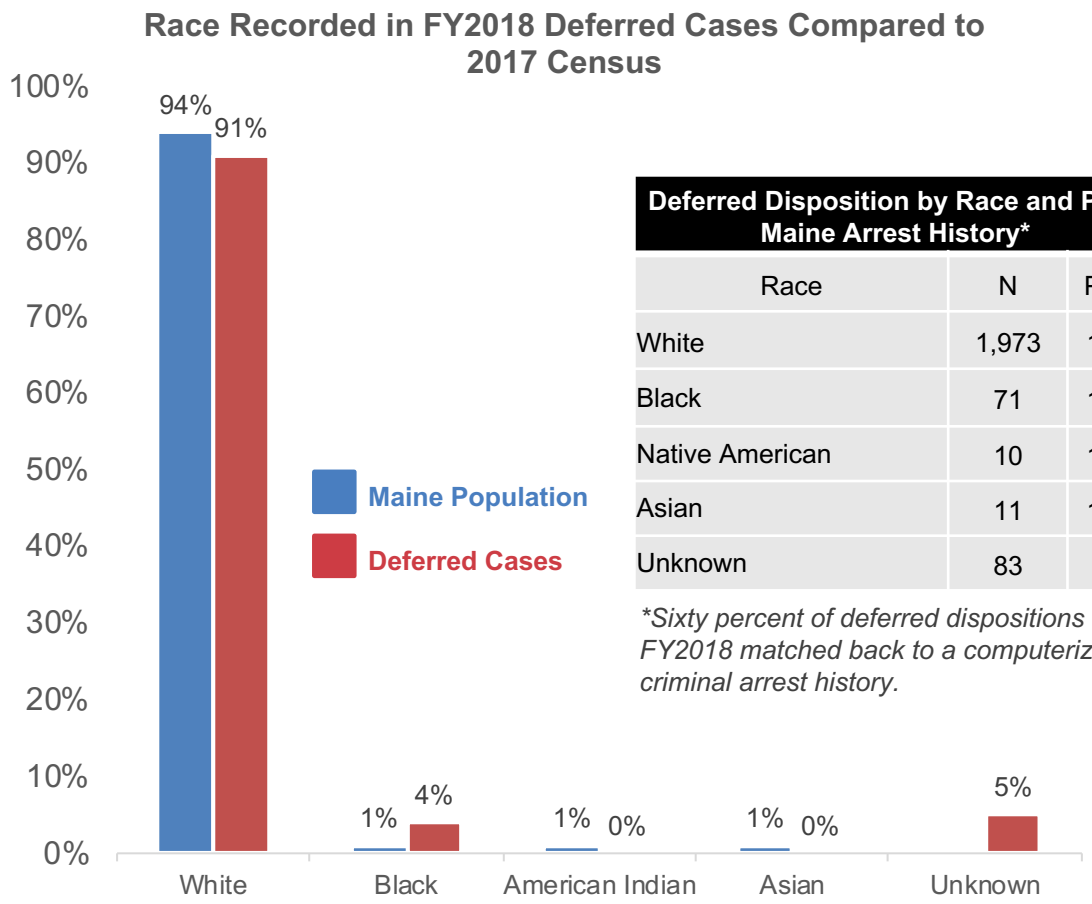
Deferred Disposition Outcomes, FY2018
N = 3,558



52 cases either remained open (37 cases), had a sentence of "other" (3 cases), or a problem with data transmission (12 cases).

Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

While sample sizes are small, available data shows that white people who receive deferred dispositions consistently have more average prior in-state arrests than black people who receive deferred dispositions.



Deferred Disposition by Race and Prior Maine Arrest History*		
Race	N	Prior
White	1,973	1.31
Black	71	1.11
Native American	10	1.80
Asian	11	1.18
Unknown	83	.81

**Sixty percent of deferred dispositions in FY2018 matched back to a computerized criminal arrest history.*

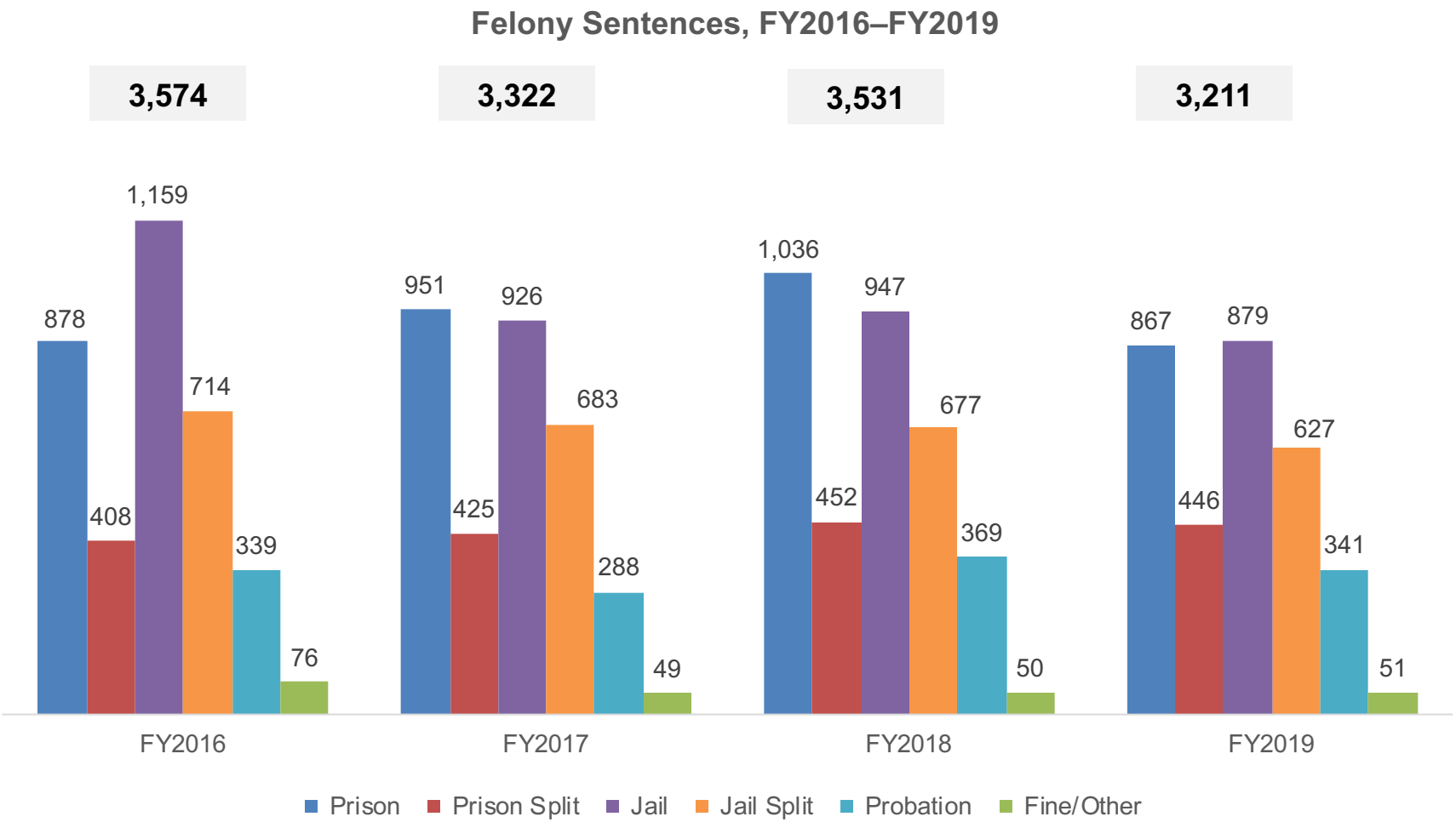
Class C Deferred Dispositions by Race and Prior Arrest History		
Race	**N**	**Prior**
White	235	2.27
Black	10	2.10

Class D Deferred Dispositions by Race and Prior Arrest History		
Race	**N**	**Prior**
White	1,179	1.19
Black	35	1.17
Unknown	56	.68

Class E Deferred Dispositions by Race and Prior Arrest History		
Race	**N**	**Prior**
White	559	1.10
Black	26	.65
Unknown	20	.85

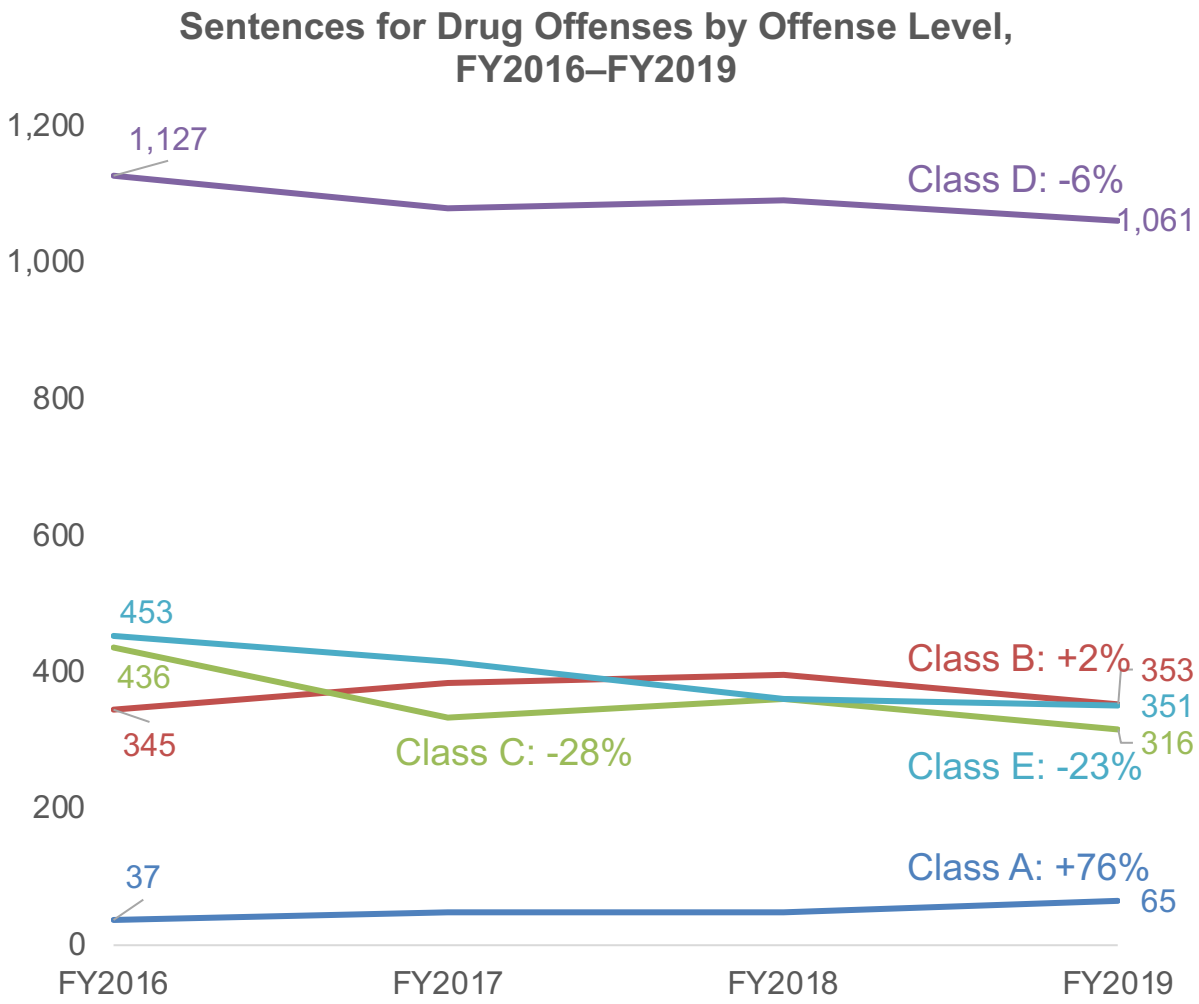
***Source**:* CSG Justice Center analysis of Maine Administrative Office of the Courts Data, FY2016–FY2019.

The number of felony sentences decreased 10 percent between FY2016 and FY2019, but the number of sentences to prison increased 2 percent.



Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

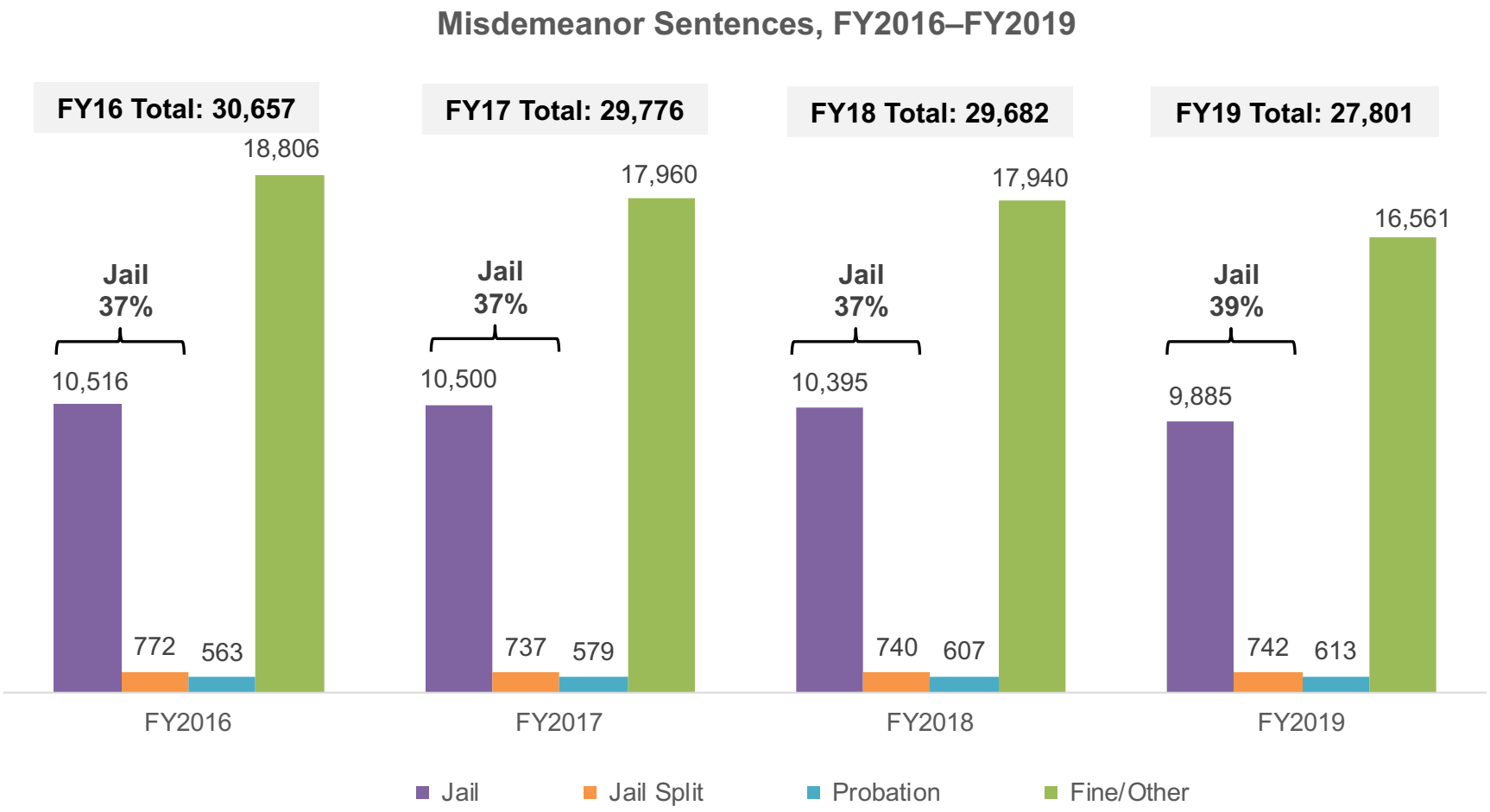
Between FY2016 and FY2019, the number of sentences for drug offenses went down across offense levels, except for Class A and Class B.



Sentences for Drug Offenses as Percent of Total Sentences, by Offense Level		
Offense Class	**% in FY2016**	**% in FY2019**
Class A	29%	46%
Class B	41%	49%
Class C	17%	14%
Class D	10%	10%
Class E	2%	2%

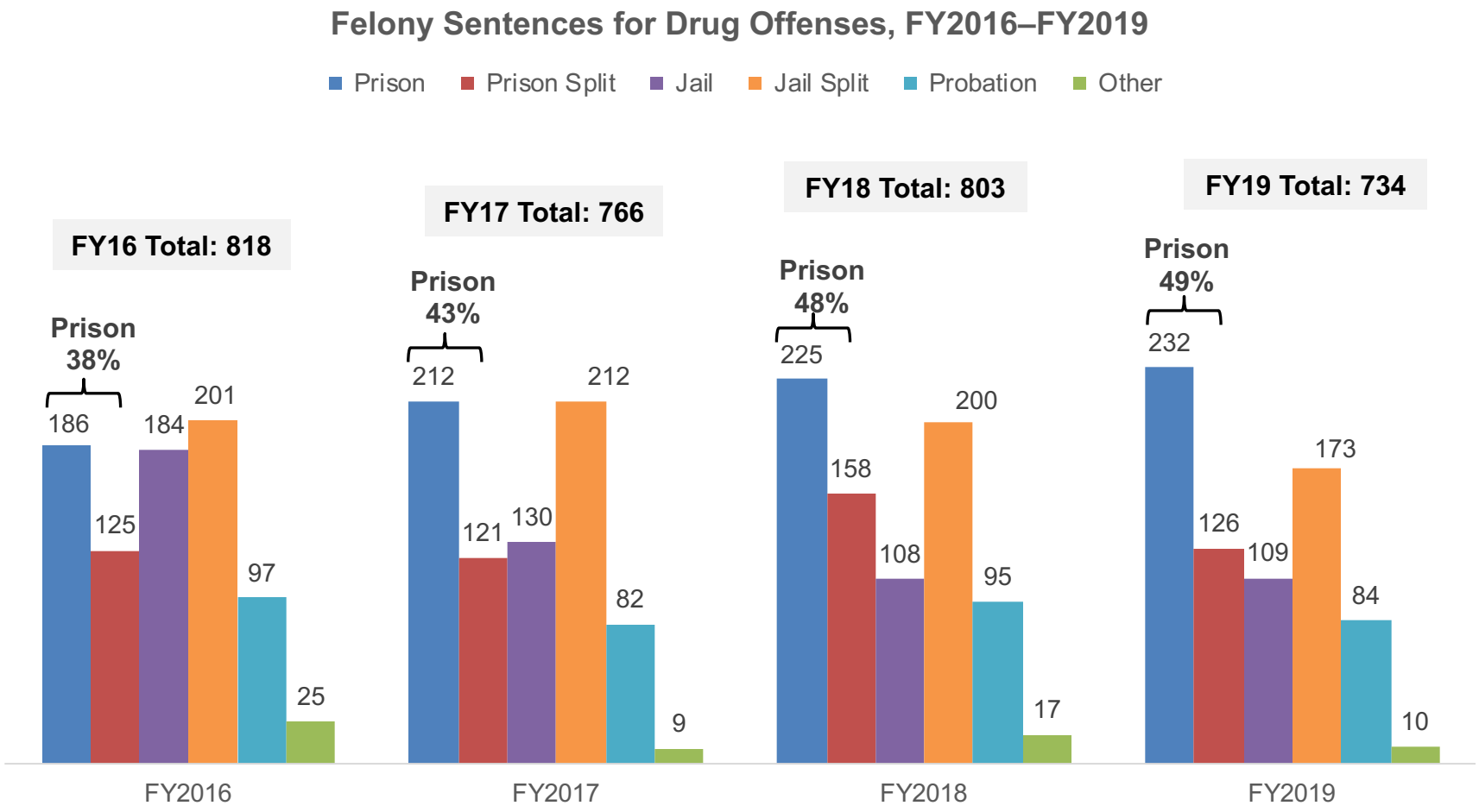
Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

The number of misdemeanor sentences decreased 9 percent between FY2016 and FY2019, and sentences to jail decreased 6 percent.



Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

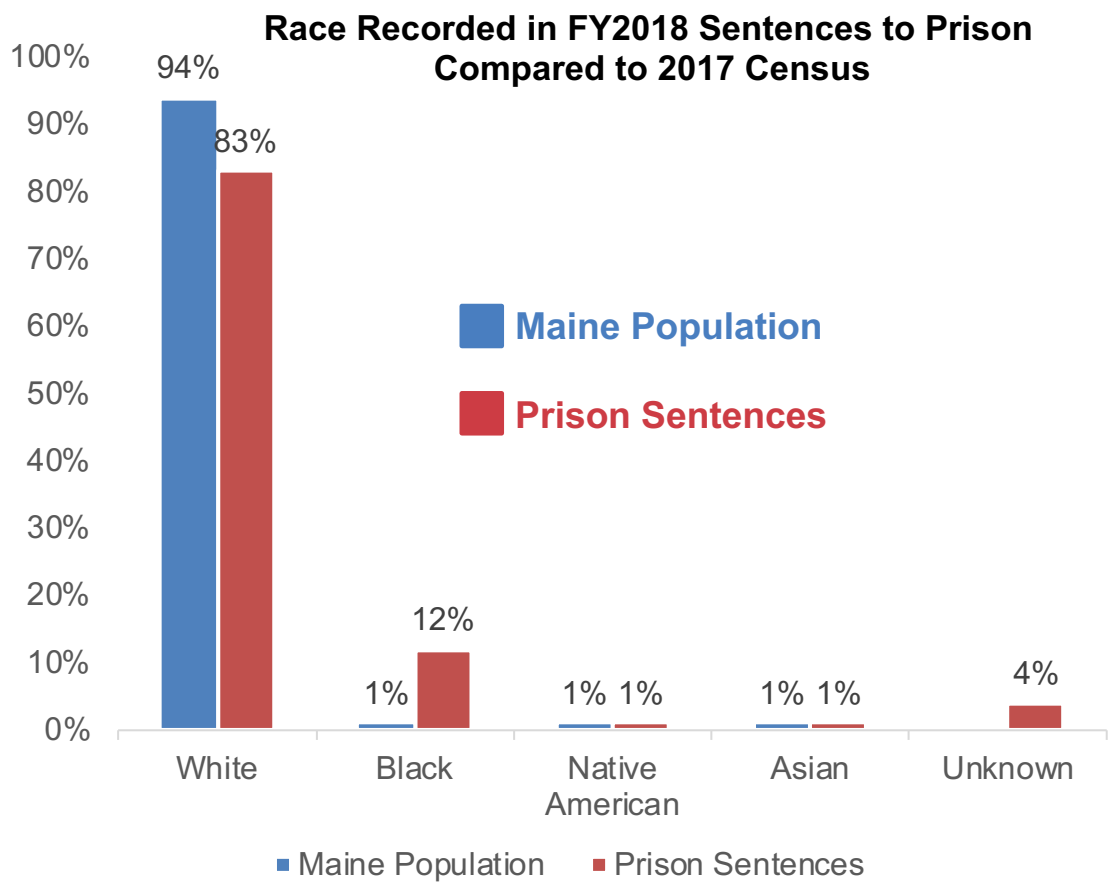
In FY2019, nearly half of sentences for felony drug offenses resulted in a sentence to prison.



In FY2019, the offense sentenced to prison the most was the "unlawful trafficking in scheduled drugs" (145 cases), an increase of 17 percent from FY2016.

Source: CSG Justice Center analysis of Maine Administrative Office of the Courts Data, FY2016–FY2019.

While black people make up only 1 percent of Maine's population, 12 percent of prison sentences are for black defendants. This disproportionality is even higher for Class A and B prison sentences.



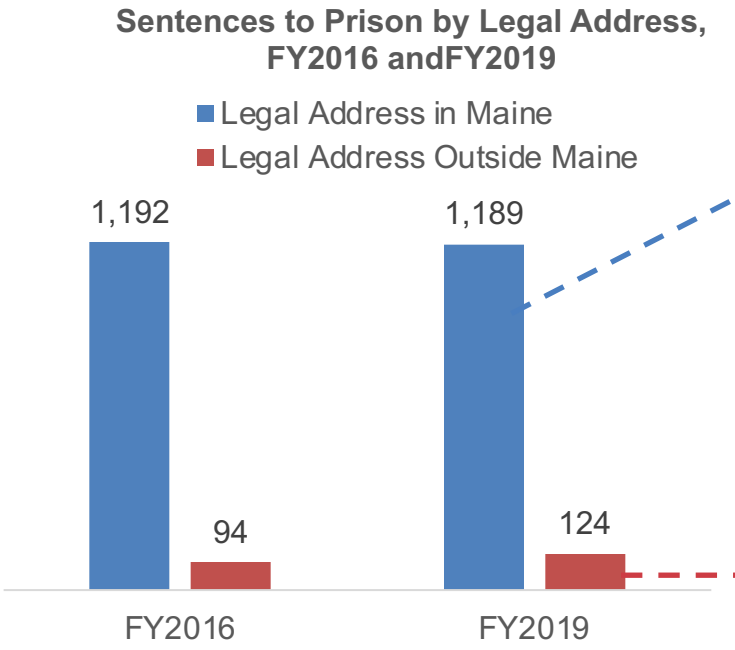
Race for Class A Prison Sentences, FY018	
White	71%
Black	**23%**
Native American	<1%
Asian	<1%
Unknown	5%

Race for Class B Prison Sentences, FY2018	
White	75%
Black	**19%**
Native American	1%
Asian	1%
Unknown	4%

Race for Class C Prison Sentences, FY2018	
White	89%
Black	**7%**
Native American	1%
Asian	<1%
Unknown	3%

Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

The proportion of people from outside Maine who were sentenced to prison increased between 2016 and 2019.



FY2016
7%
of sentences to prison were for people with a non-Maine legal address

FY2019:
9%
of sentences to prison were for people with a non-Maine legal address

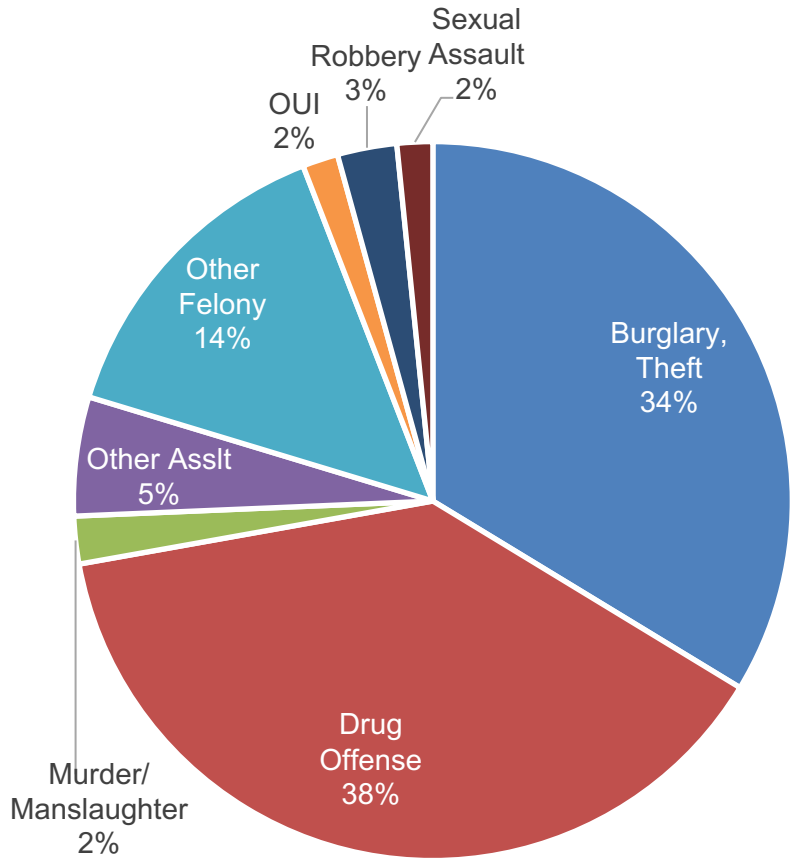
FY2019 Sentences to Prison for People with a Legal Address in Maine (N = 1,189)		
	Prison Sentences	Percentage
White	1,036	87%
Black	88	7%
Native American	11	<1%
Asian	6	<1%
Unknown	48	4%
TOTAL	**1,189**	**100%**

FY2019 Sentences to Prison for People with a Legal Address outside Maine (N = 124)		
	Prison Sentences	Percentage
White	48	39%
Black	59	48%
Native American	1	1%
Asian	2	1%
Unknown	14	11%
TOTAL	**124**	**100%**

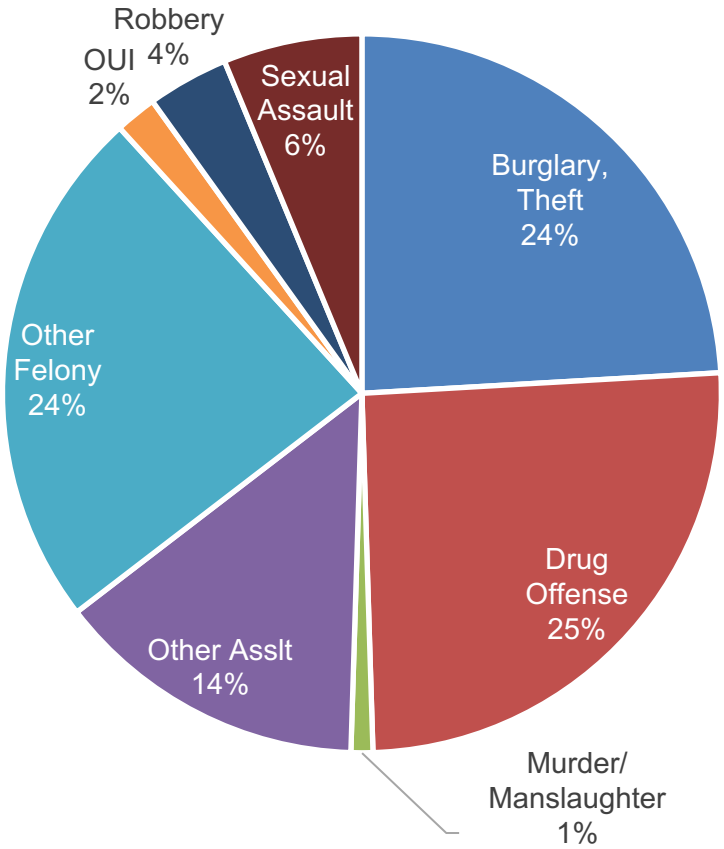
Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

A larger proportion of women's sentences to prison are for drug and burglary/theft than men's.

Women's Prison Sentences by Offense Type, FY2019

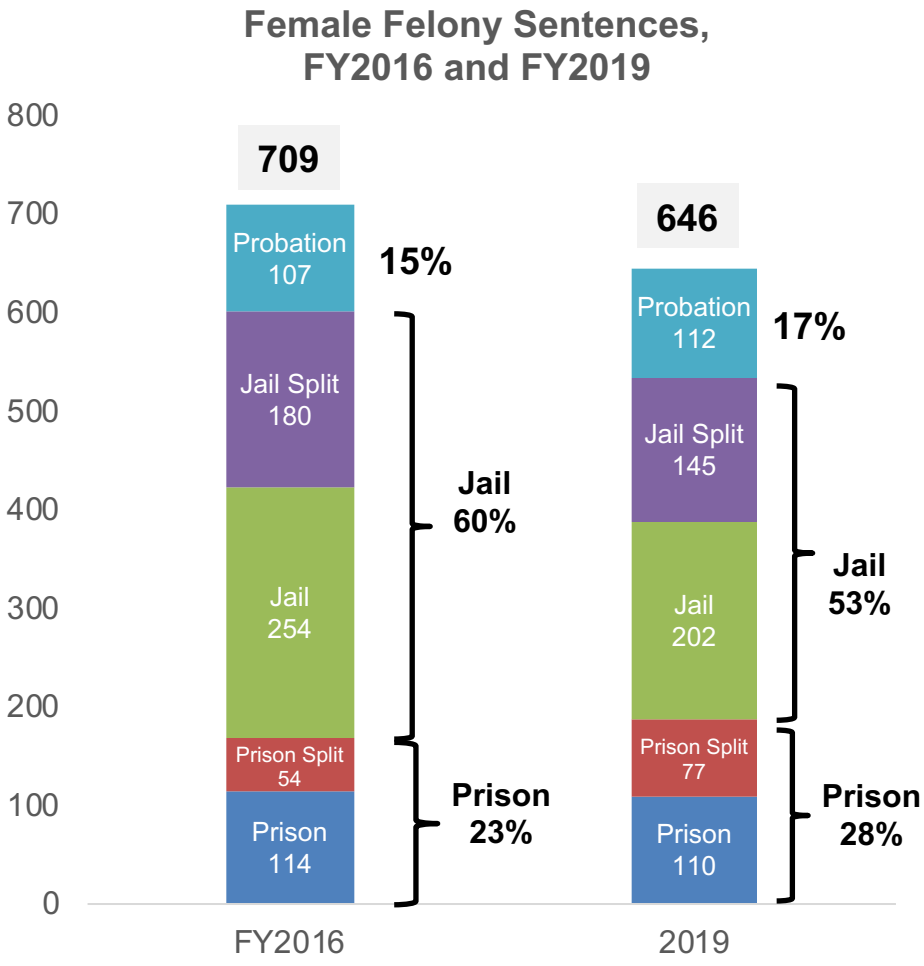


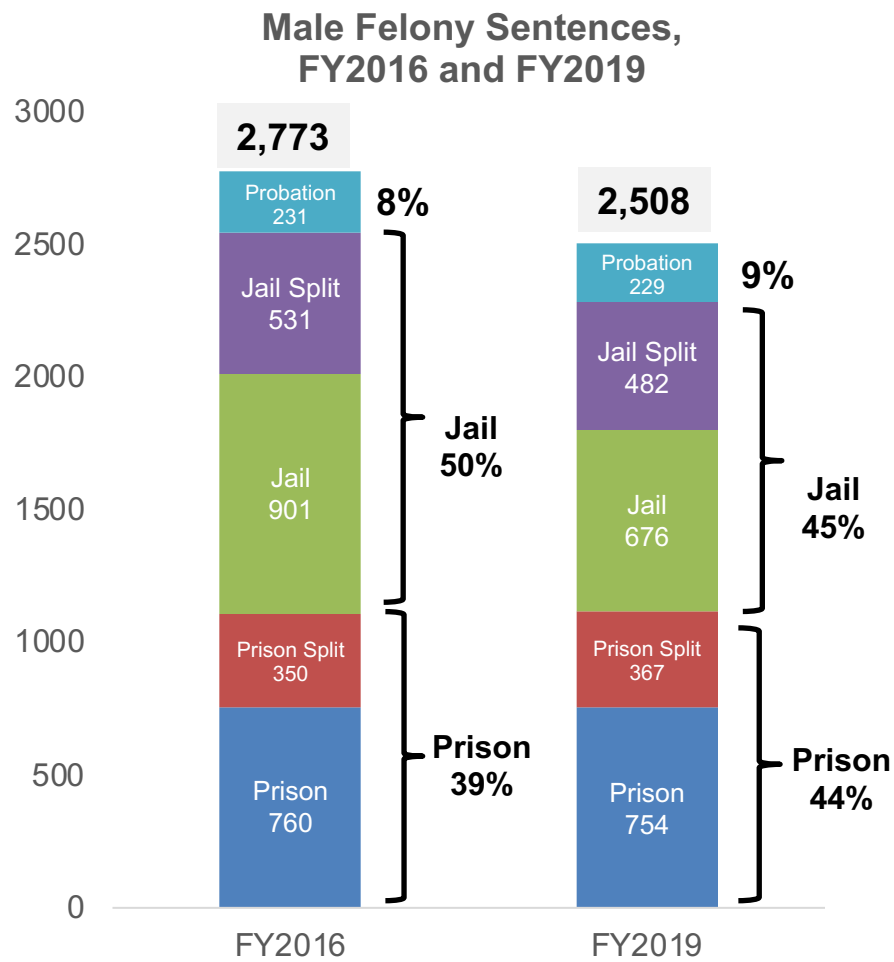
Men's Prison Sentences by Offense Type, FY2019



Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

While the number of felony sentences is declining, more than 80 percent of felony sentences involve a period of incarceration in either jail or prison.

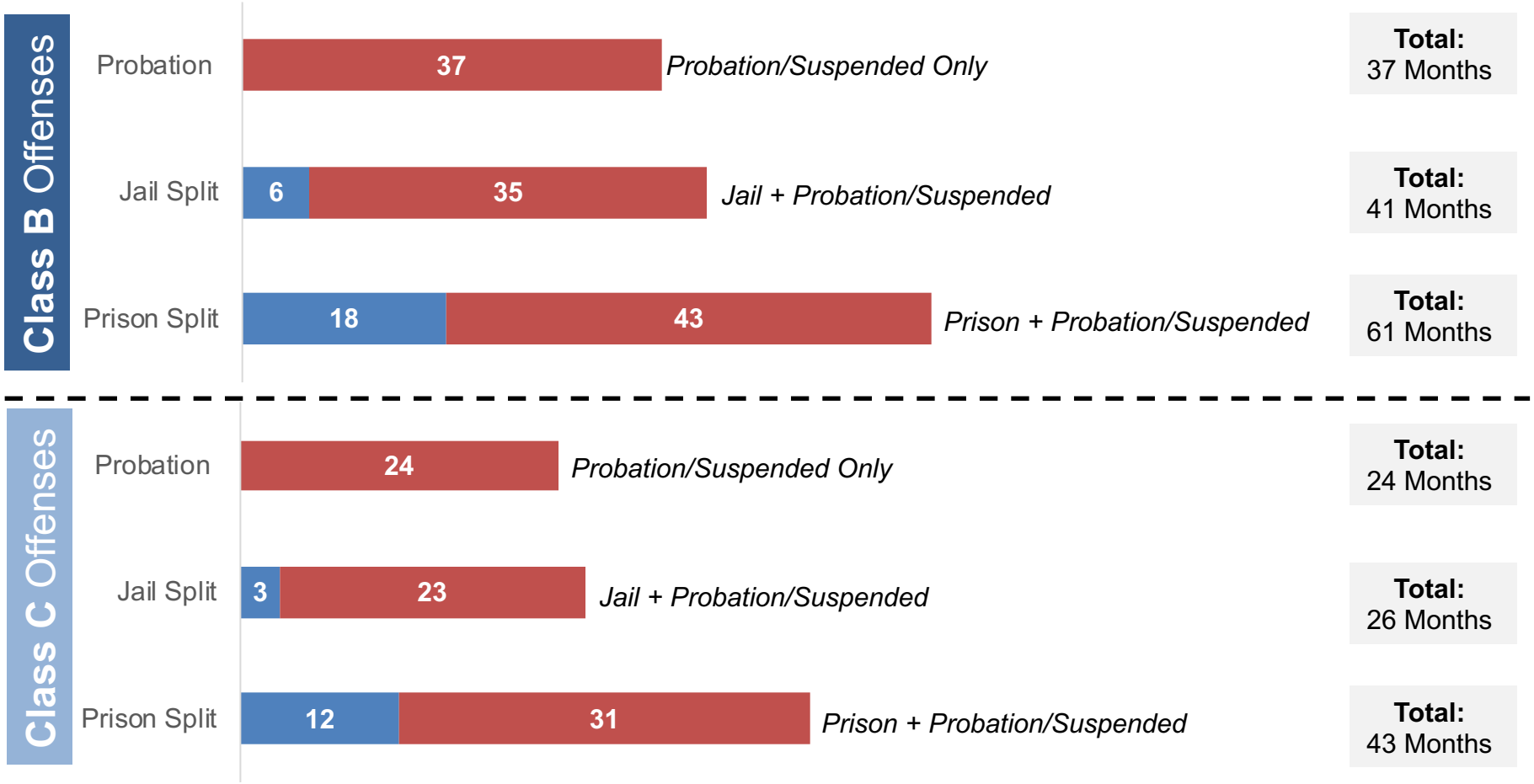




Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

Despite the low number of probation sentences, split sentences—even to jail—can make for a long term of supervision.

Median Probation/Suspended Only and Split Sentence Lengths in Months by Offense Level and Confinement Type, FY2019



Source: CSG Justice Center analysis of Maine Administrative Office of the Courts data, FY2016–FY2019.

Key takeaways are about sentencing, women, and race.

Sentencing

- Over 3,000 cases per year (7.6 percent of cases in 2018) received deferred disposition, and over half of them end in case dismissal. (#35)
- The average number of charges per case is twice as high for felonies (other than murder) than misdemeanors and varies significantly by county. (#30 and 31)
- The number of felony sentences decreased 10 percent between FY2016 and FY2019, but the number of sentences to prison increased 2 percent. (#37)
- More than 80 percent of felony sentences involve a period of incarceration in either jail or prison; straight probation is notably uncommon. (#44)
- When split sentencing to jail or prison is used, the additional terms of supervision are generally longer than the average for straight probation cases. (#45)

Women

- Women are more likely than men to get a sentence of straight probation and less likely to get a sentence to prison. (#44)
- A larger proportion of women's sentences to prison are for drug and burglary/theft than men's. (#43)

Race

- White people who receive deferred dispositions consistently have more average prior arrests than black people who receive deferred dispositions. (#36)
- Black people account for 1 percent of the state population, 5 percent of arrests, and:
  - 5 percent of misdemeanor case filings (#33)
  - 8 percent of felony case filings and 24 percent of filings for Class A felonies. (#32)
  - 12 percent of sentences to prison, 23 percent of Class A sentences to prison, and 19 percent of Class B sentences to prison (#41)
- 9 percent of people sentenced to prison in 2019 had non-Maine legal addresses, and half of those people were black. (#42)

Presentation Overview

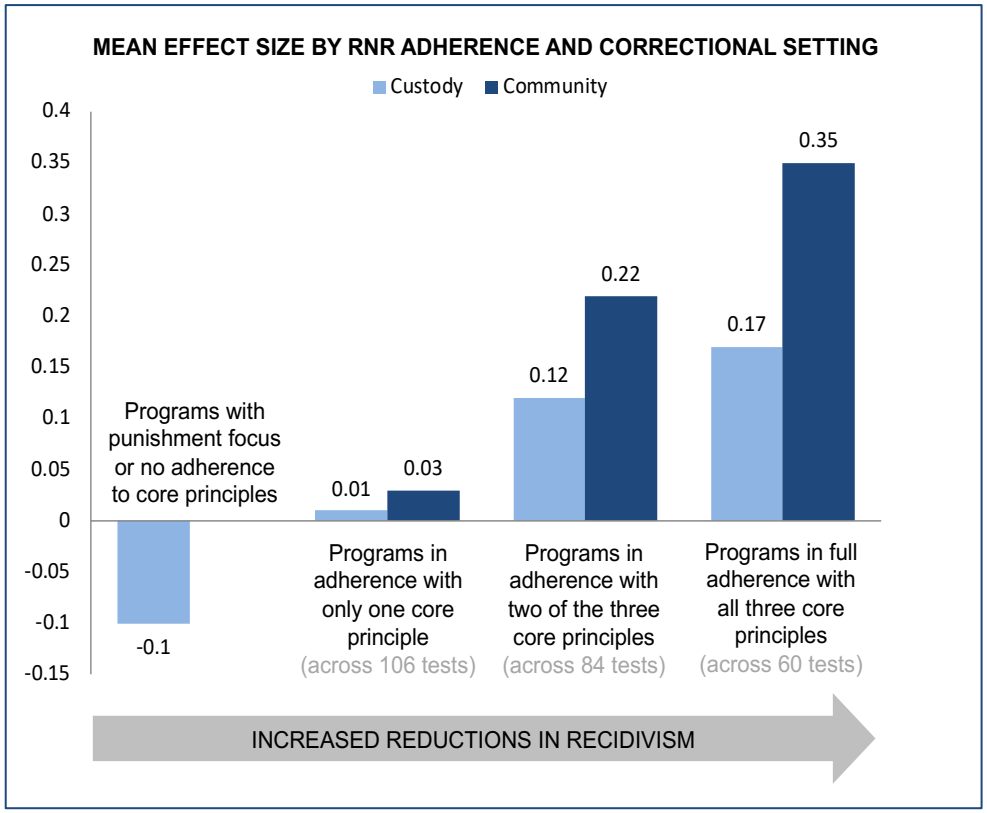
1. Data Analyses: Arrest and Criminal History
2. Data Analyses: Criminal Case Filings
3. Maine Probation Policy and Practice Assessment

The CSG Justice Center's probation policy and practice assessment covers eight dimensions to determine adherence to core principles of supervision: risk, need, and responsivity (RNR).

Eight dimensions of effective intervention

1	**Assess risk, need, and responsivity.**
2	**Target the right people.**
3	**Frontload supervision and treatment.**
4	**Ensure adequate investment in and access to proven programs.**
5	**Use case planning to facilitate positive behavior change.**
6	**Respond to both positive and negative behaviors.**
7	**Hold individuals accountable.**
8	**Measure outcomes.**

RNR program approaches within prisons are important, but **maximum recidivism reduction is achieved when RNR programs are delivered in the community, on probation, or after release.**

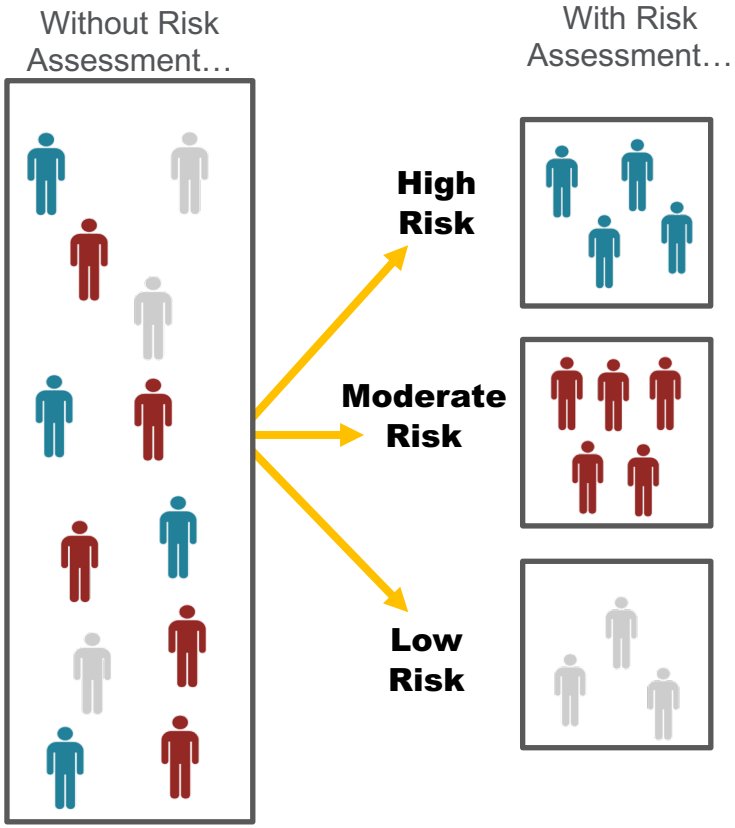


***Source**:* D.A. Andrews and J.Bonta. *The Psychology of Criminal Conduct,* 5th Ed. (New York: Routledge, 2010).

Principle 1: Assess risk, need, and responsivity.

RESEARCH

Risk and need assessments sort people into categories based on likelihood of committing more crime.



Source: Interviews with Maine Department of Corrections (MDOC) staff conducted by staff from The Council of State Governments Justice Center, analysis of MDOC policy, available online at https://www.maine.gov/corrections/PublicInterest/policies.shtml.

CURRENT PRACTICE IN MAINE

MDOC assesses a person's strengths as well as criminogenic risk and need.

MDOC uses three tools in prison and for community corrections and two other tools for prison only:

1. Level of Service Inventory-Revised (LSI-R) – all
2. Service Planning Instrument for Women (SPIn-W) – women
3. Static 99 – men convicted of sex offenses
4. Texas Christian University Drug Screening II (TCUDS II) – prison only
5. Ontario Domestic Assault Risk Assessment (ODARA) – prison only

MDOC has policies on assessment timing and data entry in CORIS.

AREAS FOR IMPROVEMENT

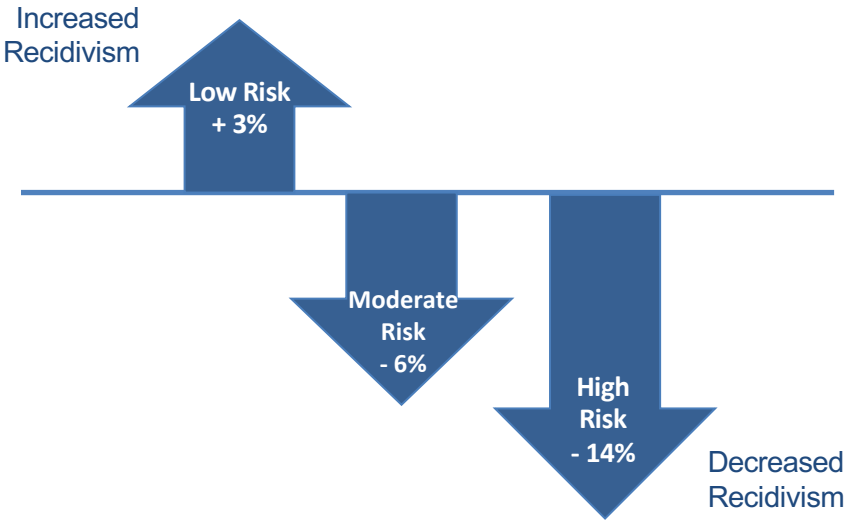
- Validate tools for Maine population and specialized subpopulations.
- Increase coordination between institutional and community corrections for effective discharge planning and to reduce duplicative assessment.
- Examine and refine probation officer (PO) caseloads.
- Revisit role and caseloads of probation officer assistants (POAs).

Principle 2: Target the right people.

RESEARCH

Failing to adhere to the risk principle can increase recidivism for people assessed as low risk.

Average Difference in Recidivism by Risk for Individuals in Ohio Halfway House



Sources: Presentation by Dr. Ed Latessa, "What Works and What Doesn't in Reducing Recidivism: Applying the Principles of Effective Intervention to Offender Reentry;" D.A. Andrews and J. Bonta. *The Psychology of Criminal Conduct,* 5th Ed. (New York: Routledge, 2010). Interviews with Maine Department of Corrections (MDOC) staff conducted by staff from The Council of State Governments Justice Center, analysis of MDOC policy, available online at https://www.maine.gov/corrections/PublicInterest/policies.shtml.

CURRENT PRACTICE IN MAINE

Contact standards are in policy, based on results of risk/need assessment, and focus officers on the highest-risk individuals.

Assessment tools are used to craft responsive case management plans for the highest-risk individuals (high- and maximum-risk individuals).

Probation officers (POs), who supervise all people assessed as high risk and high need, and probation officer assistants (POAs), who supervise people assessed as low risk or are on administrative supervision, work according to the Maine Integration Risk Reduction Model (MIRRM). This model is designed to help implement an RNR model with clients to reduce recidivism.

Some probation offices have capacity for specialized caseloads.

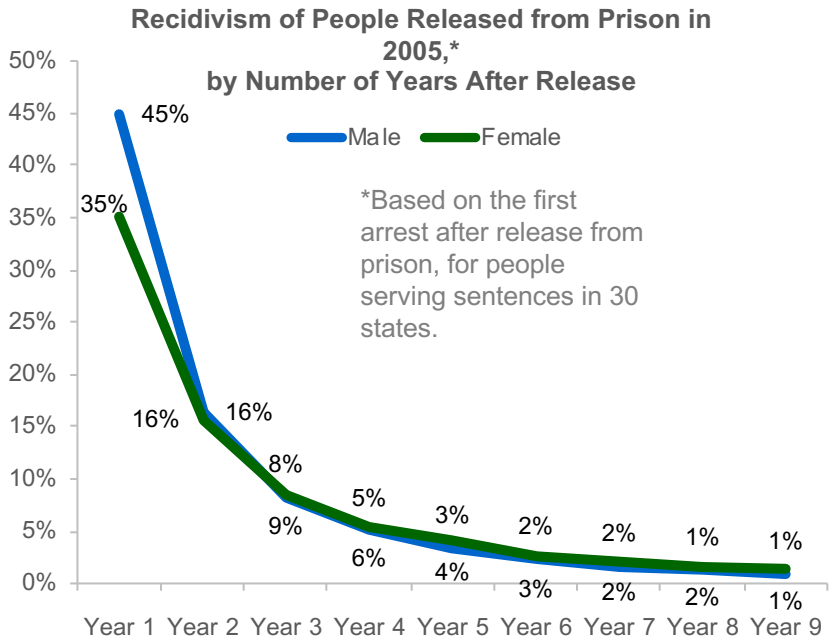
AREAS FOR IMPROVEMENT

- Case plans are created only for individuals who score high or maximum risk.
- Probation offices in rural areas lack capacity for specialized caseloads
- One POA reported it feels more like "debt collection" than supervision.
- There is the potential for the over supervision of low-risk and administratively supervised individuals.

Principle 3: Frontload supervision and treatment.

RESEARCH

Supervision and supports should be focused on the period when people are most likely to reoffend.



Source: Matthew R. Durose, Alexia D. Cooper, and Howard N. Snyder, "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010" (Washington DC: Bureau of Justice Statistics, April 2014).

CURRENT PRACTICE IN MAINE

Timely completion of assessments ensures effective sharing and access to data for individuals released from prison onto probation supervision.

Reentry and discharge processes from prison attempt to "step down" individuals to lower security facilities prior to release and build bridges to community-based services.

Regional correctional managers are required by MDOC policy 1.17, Establishment and Utilization of Community Resources, to seek outside resources in their regions.

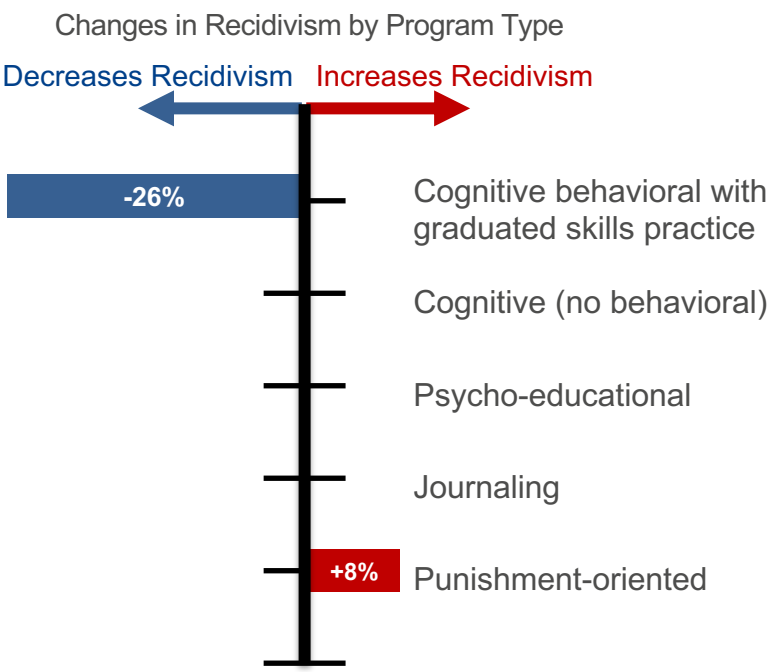
AREAS FOR IMPROVEMENT

- Probation offices do not offer services, programming, or treatment beyond case management.
- In many areas, community-based resources are limited, difficult to access, and difficult to assess for quality.
- Transportation is a serious limitation to access.
- Contact standards are difficult to accomplish due to the long distances for client or PO travel.
- Challenges with recruitment and retention of skilled behavioral health resources in rural areas contributes to lack of community resources.

Principle 4: Ensure adequate investment in and access to proven programs.

RESEARCH

Programs, treatment, and services should meet the unique needs of people in the criminal justice system.



Source: Mark Lipsey, "The Primary Factors that Characterize Effective Interventions with Juvenile Offenders: A Meta-Analytic Overview, *Victims & Offenders: An International Journal of Evidence-Based Research, Policy, and Practice,* 4, no. 2 (2009): 124-147. D.A. Andrews and J.Bonta. *The Psychology of Criminal Conduct,* 5th Ed. (New York: Routledge, 2010).

CURRENT PRACTICE IN MAINE

In Calais and Lewiston, probation supervisors and POs report having excellent relationships with community-based service providers.

MDOC has a robust Correctional Programming Department that has made significant investments in the adoption of evidence-based and effective principles of intervention, core correctional practices, and continuous quality improvement and fidelity processes. Core risk-reducing programming with an emphasis on cognitive behavioral interventions is in use institutionally in Maine statewide.

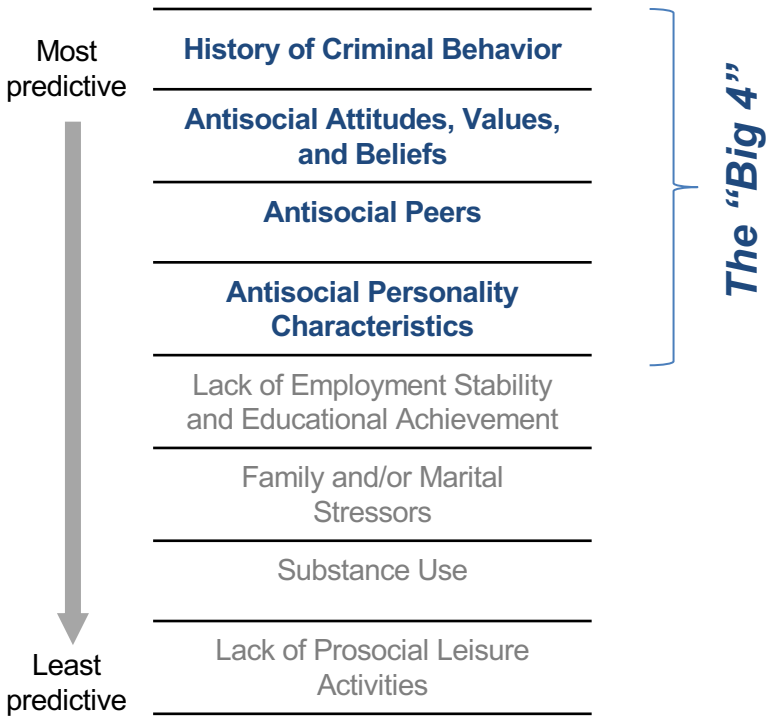
AREAS FOR IMPROVEMENT

- Provide evidence-based, core risk-reducing program curricula for probation offices across the state that provides a connection to prison programming.
- Increase accessibility, availability, quality of services, programming, and treatment in communities.
- Create or allow remote program delivery options, such as telehealth or mobile reporting, to address endemic geographic/transportation challenges.

Principle 5: Use case planning to facilitate positive behavior change.

RESEARCH

Focus case-planning goals on identified criminogenic need areas to facilitate positive behavior change.



CURRENT PRACTICE IN MAINE

Case plans contain SMART (Specific, Measurable, Achievable, Relevant, and Time-bound) goals created in collaboration with clients and evaluated during quarterly PO caseload reviews.

Case plans and management follow the MIRRM process. Supervisors are trained to guide PO use of evidence-based practices in community supervision (EPICS) framework, motivational interviewing (MI), and a strengths- and goals-focused approach to positive behavior change.

POs focus on client strengths as well as risk and need when collaborating on case plans.

AREAS FOR IMPROVEMENT

- PO caseload reviews by supervisors have a compliance focus as opposed to a behavior change focus, in contrast to stated supervision priorities.
- Fidelity and quality assurance during caseload reviews focuses only on the achievement of concrete elements of case management.
- Coaching, training, and support for evidence-based behavior change techniques for supervisors is not included as part of the documented review of the quality of case management services.

Principle 6: Respond to both positive and negative behaviors.

RESEARCH

Punishment alone is not an effective way to bring about long-term behavior change, partly because the negative behavior tends to return when the punishment is discontinued.

Incentives should be used **4x** more often than sanctions to promote and sustain behavior change.

CURRENT PRACTICE

Probation has used the MDOC Graduated Sanctions Grid (GSG) since 2013 to hold individuals accountable through use of low-, moderate-, and high-level sanctions.

Incentives are also graduated but are not codified in the GSG and are solely connected to the conditions of supervision.

POs have latitude and must only seek supervisor approval for moderate- or high-level sanctions.

In prison, MDOC Policy 23.6, Privilege Level System provides an objective system for incentives for prosocial behaviors and attitudes.

AREAS FOR IMPROVEMENT

- Risk domains driving sanctions on the GSG do not reflect those on the LSI-R, SPIn-W, and Static 99.
- Available sanctions on the GSG include referrals to cognitive behavioral programs, mental health treatment, and substance use treatment. Avoiding characterizing treatment as a sanction will improve its perceived utility by clients.
- Incentives are not included on any graduated sanctions grid, nor is there formal policy indicating how, when, under what circumstances, and for whom they should be applied.

***Source**:* Susan Yeres et al., "Making Sense of Incentives and Sanctions in Working with the Substance Abusing Offender," accessed Nov. 1 2019 at http://www.ncjfcj.org/sites/default/files/incentivesandsanctions_july_2009(2)_0.pdf.

Principle 7: Hold individuals accountable.

RESEARCH

Effective punishment is swift, certain, fair, and appropriate.

Swift. Sanctions are quick. Limit the time between violation and consequence.

Certain. Sanctions are predictable. Consequences are not random. There are set responses for certain violations.

Fair and Appropriate. The severity and duration of a response to a violation is proportionate to the violation.

Source: Source: Mark Kleinman, Beau Kilmer, and Daniel Fisher. "Theory and Evidence on the Swift-Certain-Fair Approach to Enforcing the Conditions of Community Supervision," Federal Probation, 78, no. 2 (2014).

CURRENT PRACTICE

Swiftness: POs have access to web-based case management (CORIS) with client information and are empowered to sanction or incentivize clients with low-level sanctions without supervisor approval.

Certainty: GSG and data entry on sanctions increase certainty that clients are being sanctioned at similar levels for similar behaviors.

Proportionality: Staff, supervisors, and district directors support use of sanctions, and PO recommendations for revocation require supervisor and district attorney's office approval. If a recommendation of revocation is approved at both of these levels it is then filed with the court.

AREAS FOR IMPROVEMENT

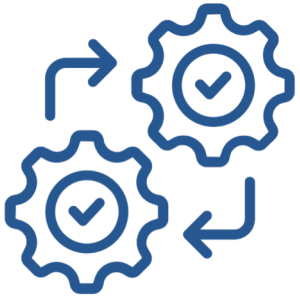
- GSG sanctions repeat across severity levels instead of escalating.
- POs often have to travel long distances in order to conduct home visits.
- Clients also travel long distances to comply with the conditions of supervision (i.e., office visits, treatment/service conditions) and contend with access to transportation barriers to do so.
- Limited resource accessibility can change the imposition of a "low-level" sanction into a severe sanction due to hardship.
- Data on use of sanctions are not communicated to supervisors and staff in a way that informs their delivery of case management services.

Principle 8: Measure outcomes.

RESEARCH

Data should be the driver for change at multiple levels of supervision delivery.

Correctional leadership, management, supervisors, and officers all need access to timely data showing how actions impact outcomes.



What gets measured, gets managed.

Source: Nick Chadwick, Angela Dewolf, and Ralph Serin. "Effectively Training Community Supervision Officers: A Meta-Analytic Review of the Impact on Offender Outcome," Criminal Justice & Behavior, 42, no. 10 (2015).

CURRENT PRACTICE

MDOC has a robust approach to evidence-based practices for training, risk assessment, case planning, case management, and fidelity.

MDOC has policies for assessing the quality of case plans and case management for POs (MDOC Policy 9.4) and assessing whether POs are meeting contact standards (MDOC Policy 9.4).

MDOC has a common case management platform so that information can be shared across the two correctional environments about client risk, need, case plan, and case management.

AREAS FOR IMPROVEMENT

- Policies and practices for the measurement and evaluation of probation officer performance should focus on the quality of case plans, not just the concrete measures related to the compliance with conditions.
- Provide data routinely to probation officers and supervisors that can be used to improve their case management practices. MDOC has a vast trove of data that could be used to deliver feedback to staff about their performance in moving clients forward in the process of positive behavior change, but it needs to be delivered, used in staff coaching, and integrated into accountability policies that measure staff performance.

Key takeaways from the probation policy and practice assessment

- MDOC supervision policy is strong and largely adheres to the principles of effective intervention.
- An examination of caseloads is needed.
- In rural areas, contact standards are difficult to accomplish due to the long distances for client or PO travel.
- MDOC has a robust Correctional Programming Department that has made significant investments in the adoption of evidence-based and effective principles of intervention, core correctional practices, and continuous quality improvement and fidelity processes. Core risk-reducing programming with an emphasis on cognitive behavioral interventions is in use institutionally in Maine statewide.
- There is a strong focus on case planning, through only for higher-risk people on probation.
- Incentives are not included on any graduated sanctions grid, nor is there formal policy indicating how, when, under what circumstances, and for whom they should be applied.
- Improved coordination is needed between probation officers in the field and institutional staff preparing people for release
- In many areas, community-based resources are limited, difficult to access, and difficult to assess for quality.
- Transportation is a serious limitation to access for people on probation.
- Policies and practices for the measurement, and evaluation of probation officer performance should focus on the quality of case plans, and not just the concrete measures related to the compliance with conditions.

Key Overall Takeaways

Volume

- Significant law enforcement is dedicated to VCRs
- Drug trafficking is the focus of most upper level felony arrest activity

Violence

- Upward trend in rural violent crime
- Decreasing arrest trend for domestic violence

Women

- Increase in volume and seriousness of crimes

Sentencing

- Use of straight probation is relatively rare
- Split sentences add longer periods of supervision

Race

- Disproportionality occurs at each step
- Disproportionality is more pronounced for more serious crimes and punishments

Supervision

- MDOC shows a strong foundation but room for improvement
- There are serious shortages of community programs and treatment

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Thank You

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