Using Your Data for Behavioral Health Diversion Workshop Manual

Appendices

Developed by
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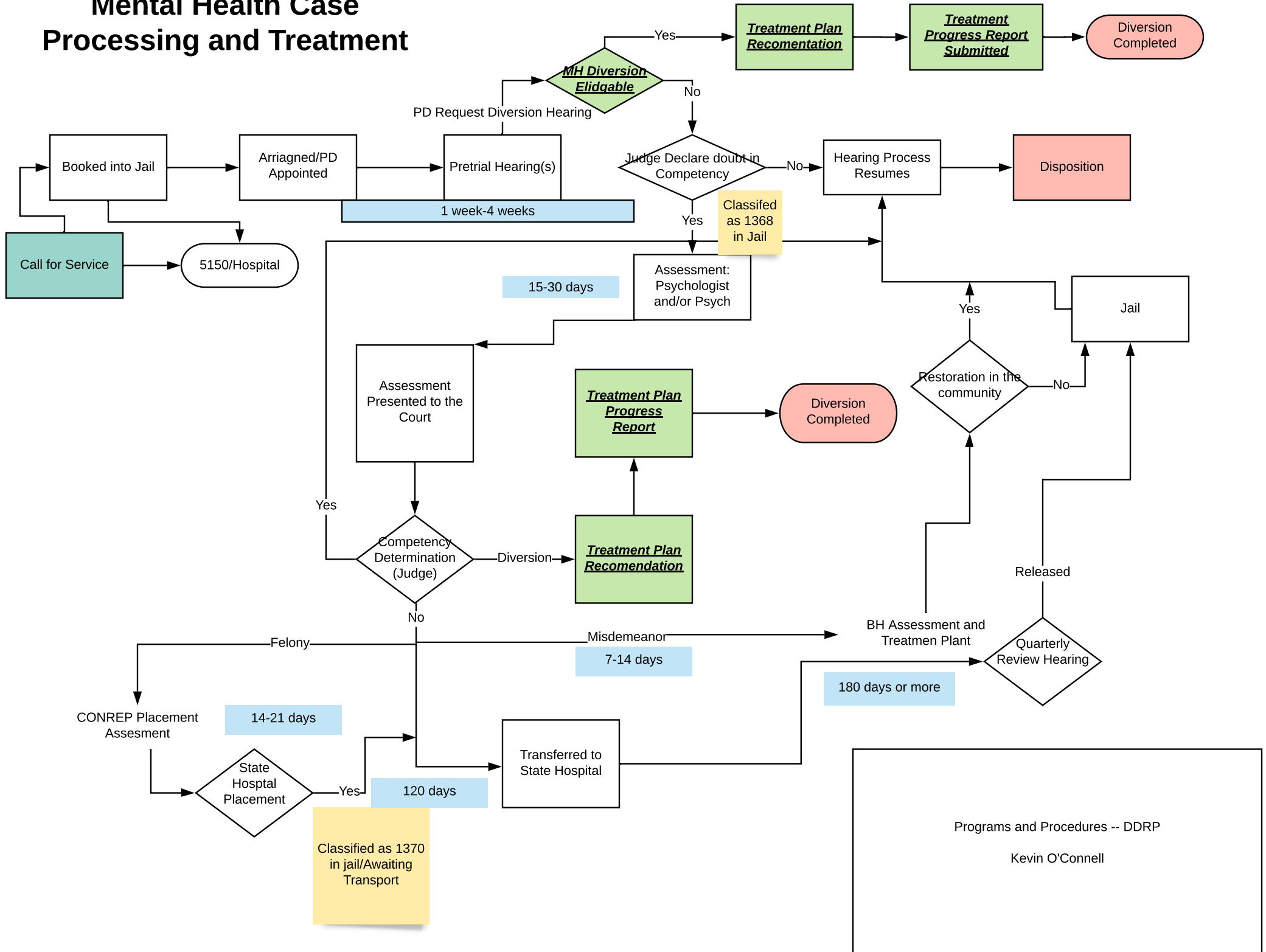*(Kevin@oconnellresearch.com)*

CSG Justice Center
THE COUNCIL OF STATE GOVERNMENTS

MHSOAC
Mental Health Services
Oversight & Accountability Commission

Using Your Data for Behavioral Health Diversion Workshop Series

Mental Health Case Processing and Treatment

Booked into Jail → Arriagned/PD Appointed → Pretrial Hearing(s)

1 week-4 weeks

Call for Service → 5150/Hospital

PD Request Diversion Hearing → **MH Diversion Elidgable**

Yes → **Treatment Plan Recomentation** → **Treatment Progress Report Submitted** → Diversion Completed

No → Judge Declare doubt in Competency

No → Hearing Process Resumes → Disposition

Yes → Assessment: Psychologist and/or Psych

Classifed as 1368 in Jail

15-30 days

Assessment Presented to the Court

Competency Determination (Judge) → Diversion → **Treatment Plan Recomendation** → **Treatment Plan Progress Report** → Diversion Completed

No

Felony → CONREP Placement Assesment → State Hosptal Placement

14-21 days

Misdemeanor → BH Assessment and Treatmen Plant

7-14 days

Yes → Transferred to State Hospital

120 days

Classified as 1370 in jail/Awaiting Transport

180 days or more → Quarterly Review Hearing

Restoration in the community

Yes → Jail

No → Jail

Released

Programs and Procedures -- DDRP

Kevin O'Connell

Person Information: Track Basic demographics for those referred for diversion

Unique Person ID	Last Name	First Name	Gender	Race/Ethnicity	Date of Birth	Zip Code
1			F	W	4/27/1983	
2			F	H	8/13/1999	
3			M	H	8/9/1991	
4			M	B	2/28/1997	
5			M	B	12/16/1980	
6			M	B	6/15/1979	
7			X	W	2/8/1961	
8			F	B	7/20/1980	
9			F	W	12/19/1964	
10			F	W	12/19/1983	

Referral Information: Track referrals to understand the processing and disposition, before acceptance
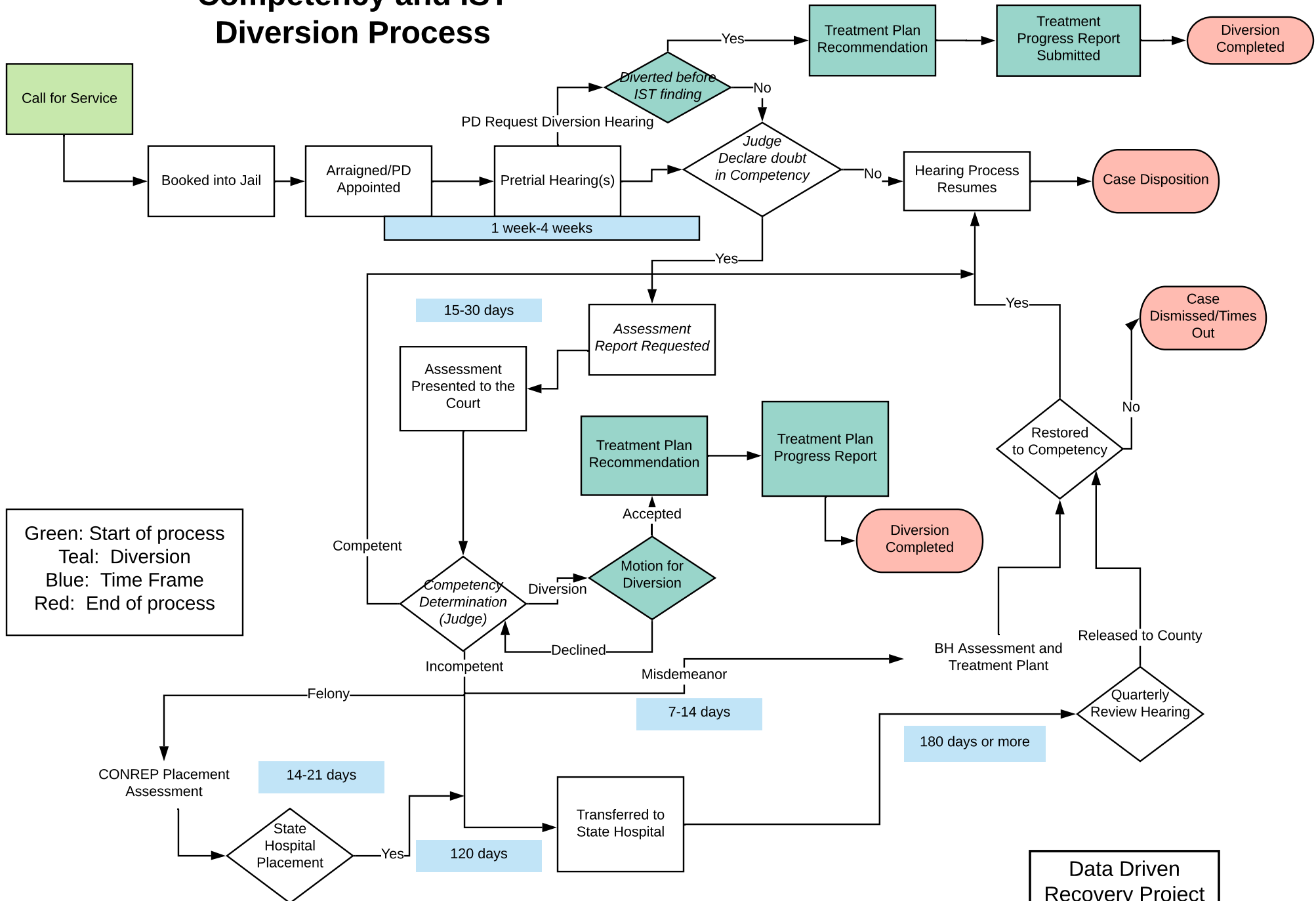
Unique Person ID	Case Status	Referral ID	Case Number(s)	Case Type	Offense Type	Referral Date	DA Contested	Decision Date	Referral Disposition
1	Withdrawn	601		Misdo	Drug Offenses	10/1/2018		2/1/2019	Self Decline
2	Withdrawn	602		Misdo	Assault and Battery	1/15/2019		7/9/2019	Self Decline
3	Denied	603		Felony	Rape	4/21/2017	Yes	11/28/2018	Declined
4	Denied	604		Misdo	Assault and Battery	10/9/2018		10/11/2019	Declined
5	Withdrawn	605		Misdo	Trespassing	9/27/2018		12/20/2018	Self Decline
6	Withdrawn	606		Misdo	Vandalism	12/26/2018		10/31/2019	Self Decline
7	Pending Refe	607		Misdo	Joy Riding	11/6/2018		7/30/2019	Declined
8	Withdrawn	608		Misdo	Assault and Battery	1/23/2019		4/4/2019	Self Decline
9	Discharge	609		Misdo	Assault and Battery	7/18/2018		12/10/2018	Accepted
3	Discharge	610		Misdo	Assault and Battery	6/30/2018		2/27/2019	Accepted

Program Entry and Exit Information: Track program entry and exits for those accepted into diversion

Referral ID	Program Enter Date	Program Exit Date	Exit Reason	Suspended Jail Time (days)	Care Type
609	8/18/2018	7/1/2019	Terminate	365	Private Insurance
610	9/20/2018	12/4/2019	Graduate	365	County BH

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Competency and IST Diversion Process

Call for Service

Booked into Jail → Arraigned/PD Appointed → Pretrial Hearing(s) → Judge Declare doubt in Competency

1 week-4 weeks

PD Request Diversion Hearing

Diverted before IST finding — Yes → Treatment Plan Recommendation → Treatment Progress Report Submitted → Diversion Completed

Diverted before IST finding — No → Judge Declare doubt in Competency

Judge Declare doubt in Competency — No → Hearing Process Resumes → Case Disposition

Judge Declare doubt in Competency — Yes → Assessment Report Requested

15-30 days

Assessment Report Requested → Assessment Presented to the Court → Competency Determination (Judge)

Competency Determination (Judge) — Competent → Hearing Process Resumes

Competency Determination (Judge) — Diversion → Motion for Diversion

Motion for Diversion — Accepted → Treatment Plan Recommendation → Treatment Plan Progress Report → Diversion Completed

Motion for Diversion — Declined → Competency Determination (Judge)

Competency Determination (Judge) — Incompetent

Incompetent — Felony → CONREP Placement Assessment

Incompetent — Misdemeanor → BH Assessment and Treatment Plant

7-14 days

CONREP Placement Assessment → State Hospital Placement

14-21 days

State Hospital Placement — Yes → Transferred to State Hospital

120 days

Transferred to State Hospital → Quarterly Review Hearing

180 days or more

BH Assessment and Treatment Plant → Quarterly Review Hearing

Quarterly Review Hearing → Restored to Competency

Released to County

Restored to Competency — Yes → Hearing Process Resumes

Restored to Competency — No → Case Dismissed/Times Out

Legend:
Green: Start of process
Teal: Diversion
Blue: Time Frame
Red: End of process

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June 2021

Field	Source
Jail Booking Number	Jail
Court Case Number	Jail/Court
Previous court actions/ statuses	DA
Previous Placement discussion	DA
Arraignment Date	DA
Declaration Date	DA
Hearing Type of Declaration	DA
Finding of competency Date	DA
Return to County date from placements	DA
Restored (Y/N)	DA
Case Disposition date	DA
Case Disposition type (Dismissed, Time Served, etc)	DA
Comments: What were sources of delay	DA
Comment: What are things in the case that caused delay that are under the control of the county	DA
Date start of 1368	DA or Jail
Date end of 1368	DA or Jail
Date start of 1370	DA or Jail
Date End of 1370	DA or Jail
Specialty Court	Probation
Probation Caseload type	Probation
Last Assessed Static Risk	Probation
Criminal History Notes	Probation
Violations/Probation Warrants	Probation
Other areas of risk/Note	Probation
Last PO Contact before booking	Probation
Assessment Completed Date	Behavioral Health
Assessment Determination	Behavioral Health
Assessment Diagnosis	Behavioral Health
Restoration start date (Misd)	Behavioral Health
Restoration Date	Behavioral Health
Comments	Behavioral Health
Other legal Statuses(Conservatorship, etc)	Behavioral Health
Homeless/Housing Encounter within 3 months	HHSA
Change in jail Housing/transportation status 1	Jail
Change in jail Housing/transportation status 2	Jail
Change in jail Housing/transportation status 3	Jail
Booking Reason	Jail
Top Booking Charge	Jail
# of past jail admissions	Jail
Jail booking date	Jail
Jail release date	Jail

Treatment Court Process
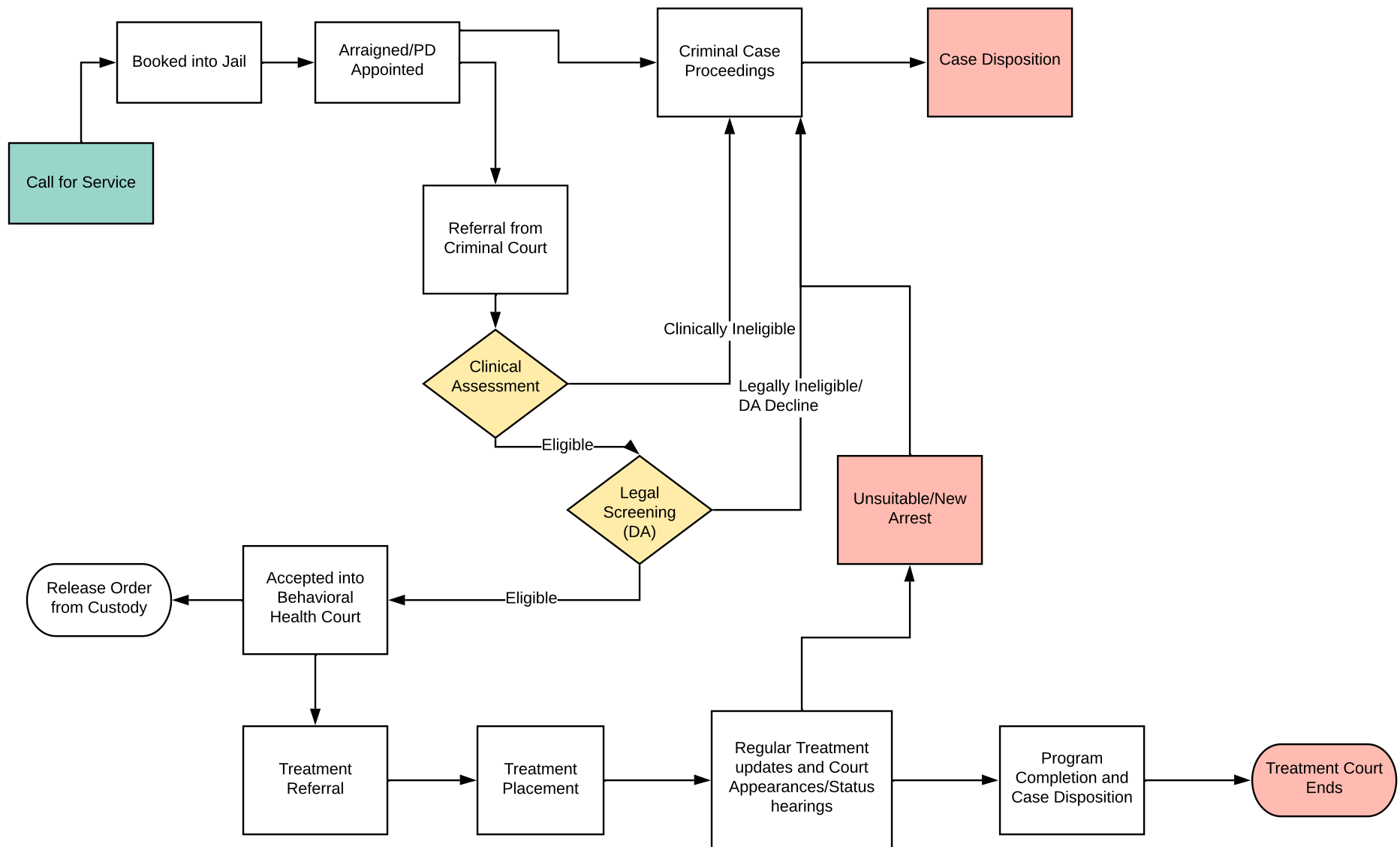
Legend
Green: Process Start
Yellow: Key Decision Point
Red: Process End

Data Driven Recovery Project
Kevin O'Connell
June 2021
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Mental Health Court Data Elements

Field	Description
Referral ID	Unique referral Number
Person ID	Person identifier
Gender	Gender
Race/Ethnicity	Race/Ethnicity
Age	Age as of referral
Colab Court Type	Used to indicate level of intensity if needed
Cases	Case Numbers
Status	Referral Status
Case Type	Level of Charges
Charges	Most Serious Charge
Referral Date	Date of Referral
Decision Date	Referral Dispostioin Date
Accepted/Declined	Accepted/Decline Reason
Admission Date	Program Admission Date
Exit Date	Program Exit
Exit Reason	Exit Reason
Susp Jail Time (days)	Amount of Jail time Suspended
Provider	BH Health Provider
Graduation Date	Graduation Date

Collaborative Court Types
High Intensity
Low Intensity

Referral Status
MH Assessment in Progress
Legal Assessment in Progress
Discharged
Active/admitted

Accepted/Declined Reason
No SMI
Not Suitable-Probation
Not a Yolo County Resident
Withdrawn
Accepted
Declined
No Insight/Motivation

Exit Reason
Justice Involvement
Lack of Engagement
Abscond
Case Transfer
Death/Illness
Other
Graduation

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6/17/2021

Welcome and Housekeeping

Welcome!

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The Council of State Governments Justice Center

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

Using Your Data for Behavioral Health Diversion

Cohort 1
Cohort 2
Project Counties
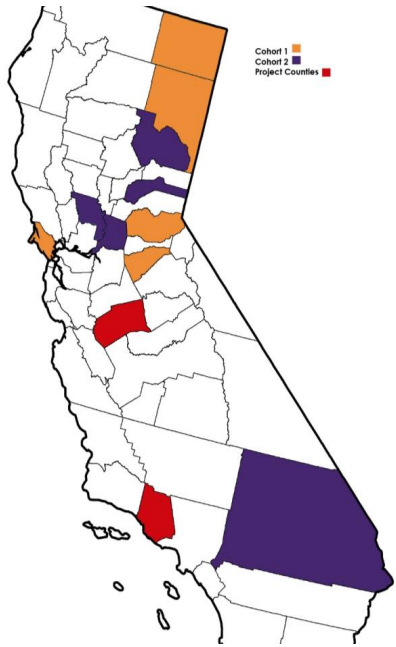
- Bring the lessons from **Data-Driven Recovery Project** to a broader audience

- In order to support local stakeholders to

  - Approach cross-system data linkage with a vision & tools

  - Use data to inform policymaking

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Using Your Data for Behavioral Health Diversion

May

				6		
				20		

June

				3		
				17		

- **Early Identification of People with Behavioral Health Needs**

- May 20: Mental Health Diversion Data

- June 3: Incompetency to Stand Trial Data

- June 17: Mental Health Courts/Collaborative Courts Data

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Today's Session

Learning Objectives

By the end of this session, participants will be able to:

1. Identify key policies that can emerge from simple jail analyses

2. Describe their goals for a county data strategy addressing people with behavioral health needs who become involved with the criminal justice system

3. Understand where to look for different types of data

Using jail data for identification of people with behavioral health needs

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Presentation Outline

- Basics of jail utilization

- Focus on a few clear metrics

- Examples of specific analysis

Using Jail Data for Identification of People with Behavioral Health Needs

DDRP brings a diverse group of counties together

Cohort 1
Cohort 2
Project Counties
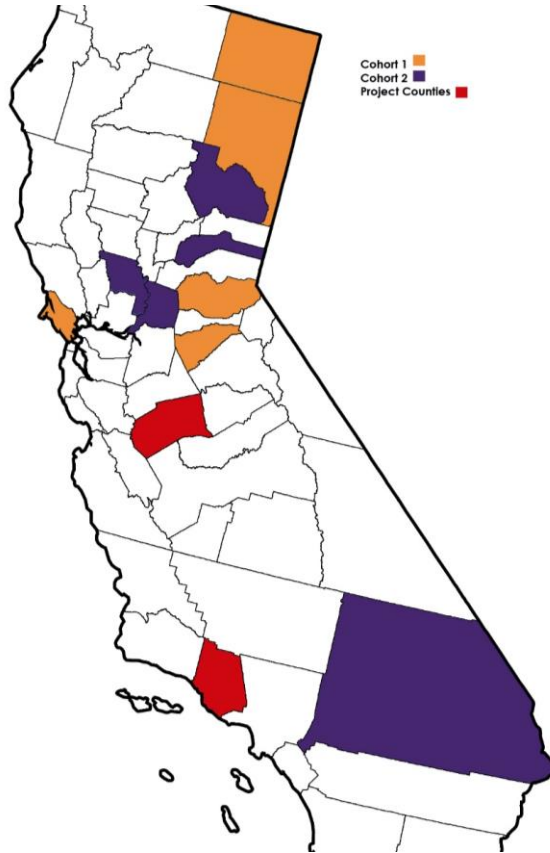
- 10 counties across 2 cohorts, as well as specialized projects using DDRP assistance

- Each county has their own local projects, priorities, and embedded technical assistance effort

- Small pot of money for each county to create or pilot an intervention and assess its efficacy

- Looking at regional efforts to coordinate and innovate

- No cost to the county, funded by the Mental Health Services Oversight and Accountability Commission

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Using jail data analysis to inform diversion

- Develop a systematic approach to looking at who comes in and who stays

- Create a common set of reasons for entry and exit and types of crimes at bookings

- Highlight populations that seem more at risk of jail recurrence and link clients with relevant human service data

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Build an overall data strategy

- Develop a framework for "data governance"

- Address concerns about sharing information with legal or technical entities

- Map out a flexible database structure

- Coordinate research requests and evaluations to get the most out of the merged data
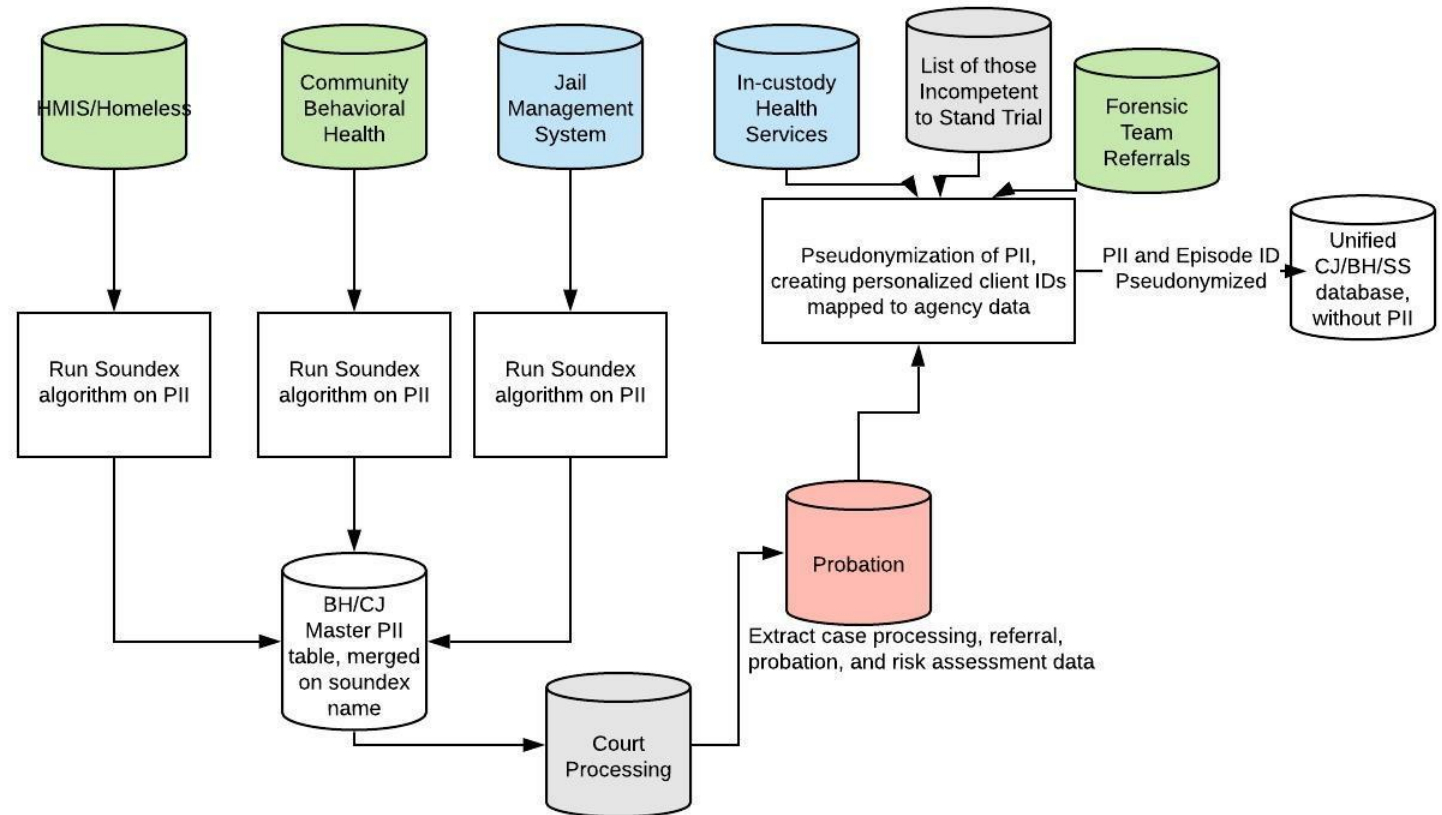
Use multiple viewpoints in and out of jail

- What kind of crimes do people come in on for new offenses?

- How often do people enter for non-new crimes like warrants, technical violations of probation, and various holds?

- How are people being released and to what kind of services?

- Who is coming back into jail, and for what reasons?
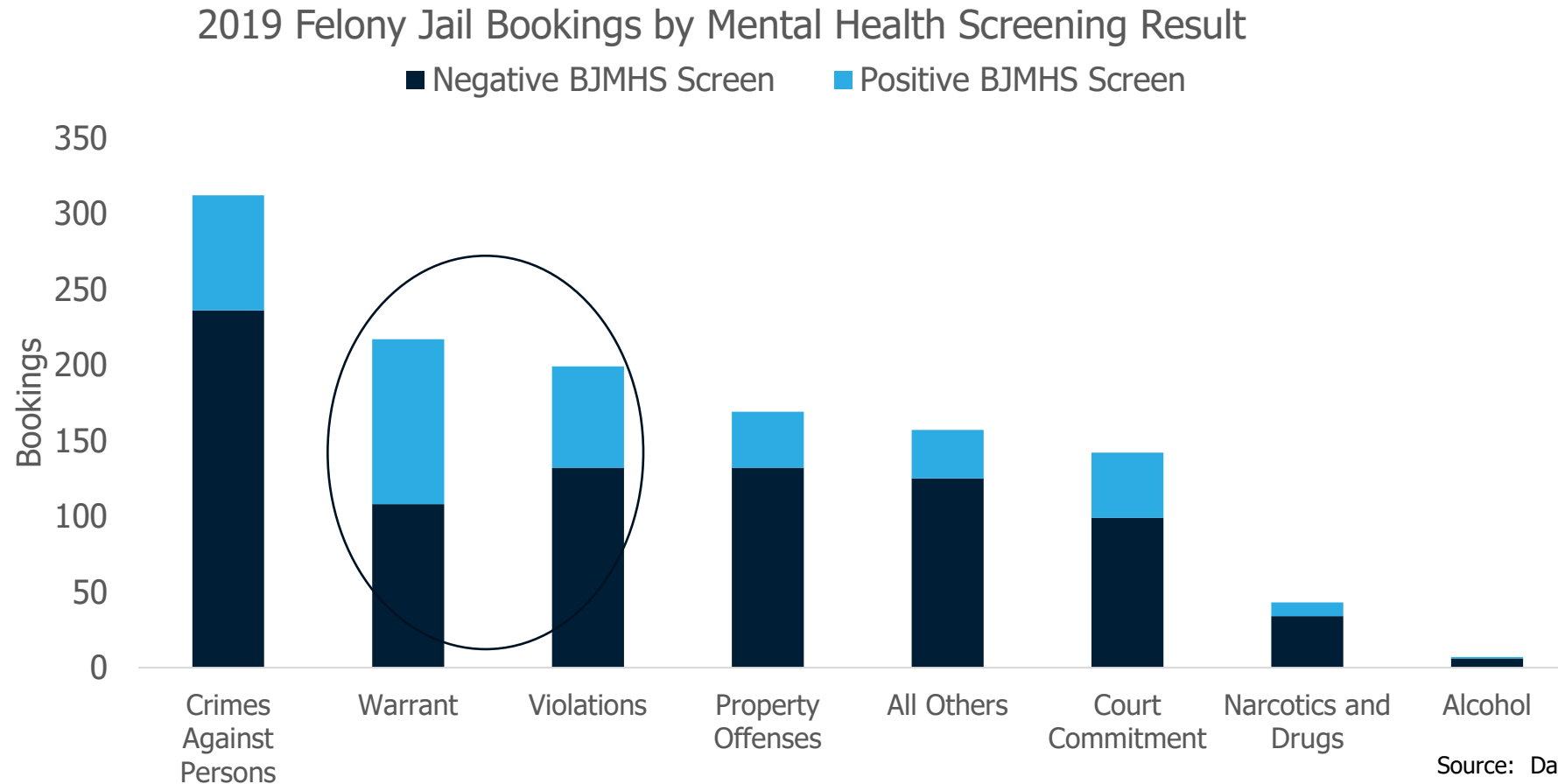
Look at diversion alternatives to avoid jail

2019 Jail Releases

5,120 Booked and Assessed in 2019
- 29% Screened Positive for MH needs

3,191 stayed 3 days or less
- 27% Screened Positive for MH needs

1,929 stayed 4 days or more
- 32% Screened Positive for MH needs
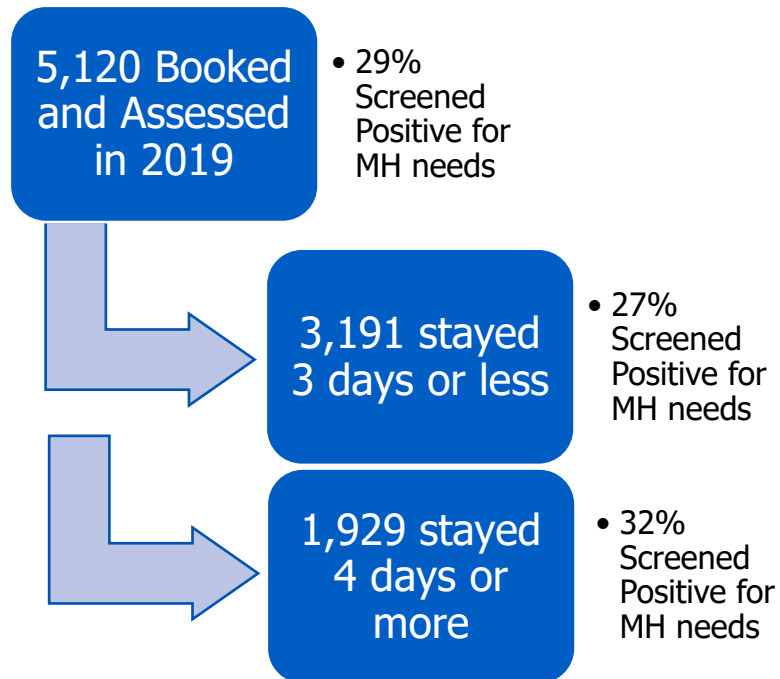
Disorderly Conduct/Alcohol
- On average, fifth booking into jail since 2016
- 22% had received MH services in custody
- 90% have no charges filed

Driving Under the Influence
- First booking into jail system since 2016 for most people
- 2% had received MH services
- 95% cited and released

Source: Data Driven Recovery Project

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Look at lengths of stay for options for reducing disparity, or understanding differences

Felony Jail Lengths of Stay, 2019 Releases

■ MH Client   ■ General Population
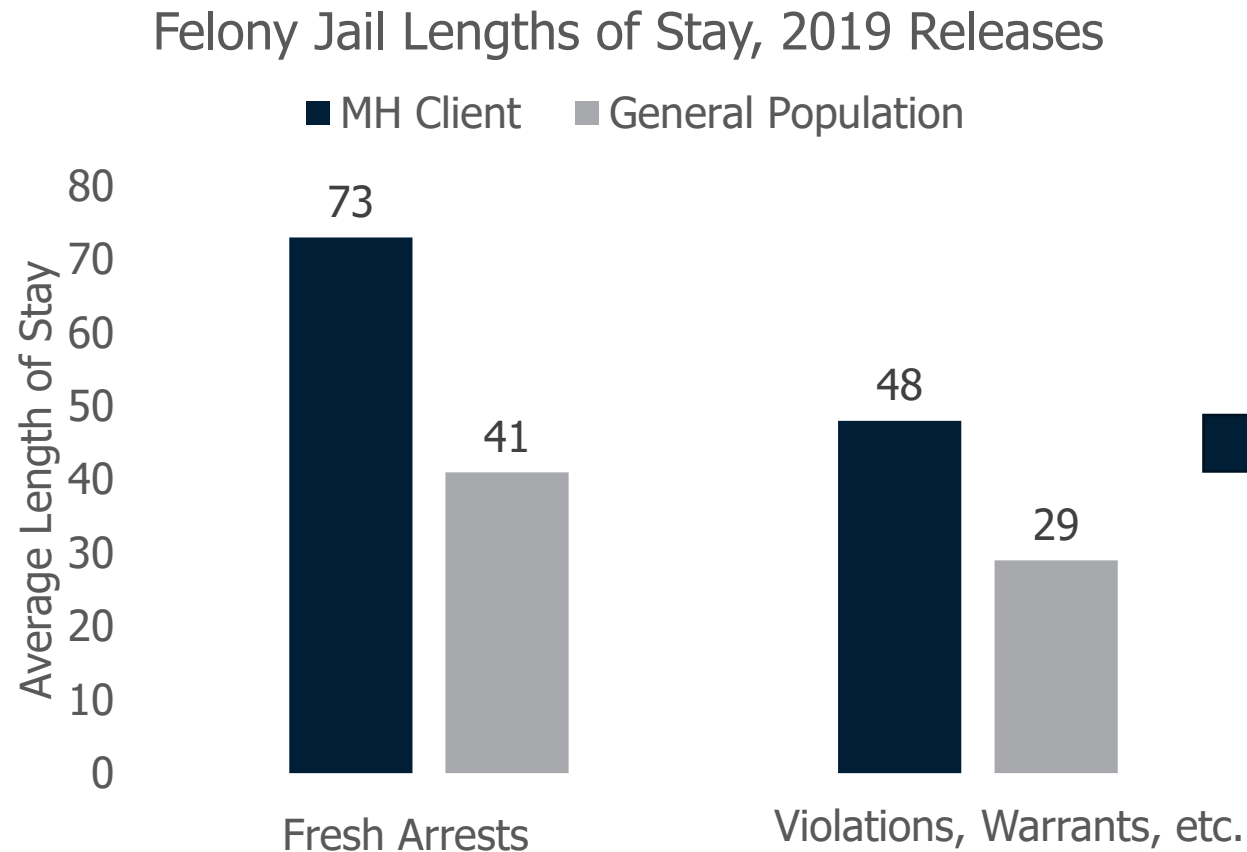
2019 Average Daily Population

	MH Clients	General Population
Felony	14%	79%
Misdemeanors	1%	6%
	15%	85%

N=3,109 Felony Releases

Source: Data Driven Recovery Project

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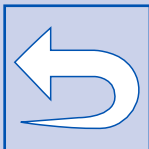
Unpack demographics to explore county-level differences and investigate disparity

		County Population	Non-MH Bookings	Custody MH Clients Only
Severity	% Felony		45%	60%
Sex	% Female	52%	22%	23%
Age	Median	31	35	37
Race	Black	3%	14%	16%
	Hispanic	32%	35%	29%
	White	46%	43%	49%

Source: Data Driven Recovery Project

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Create county baselines for key measures

		BJMHS: Positive Screen	BJMHS: Negative Screen
	Numbers of Total Bookings and Unique Individuals Identified as screening positive for MH needs in 2019	429 people 843 bookings	1,808 people 2,781 bookings
	Average length of stay in jail for people screening positive for MH needs in 2019	24 days	15 days
	3-year jail re-booking amounts for people screening positive for MH needs (2017 release cohort)	8 bookings	4 bookings

Source: Data Driven Recovery Project

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Create a strategy for looking at high utilizers

Justice Involvement
- jail bookings,
- case dispositions
- probation

Behavioral Health
- Crisis stabilization
- Psychiatric Hospital

Physical Health
- hospitals, including inpatient, emergency department visits, and ambulatory surgeries

Human Assistance
- Medi-Cal, CalFresh,
- CalWORKS, and General Relief
- Homelessness
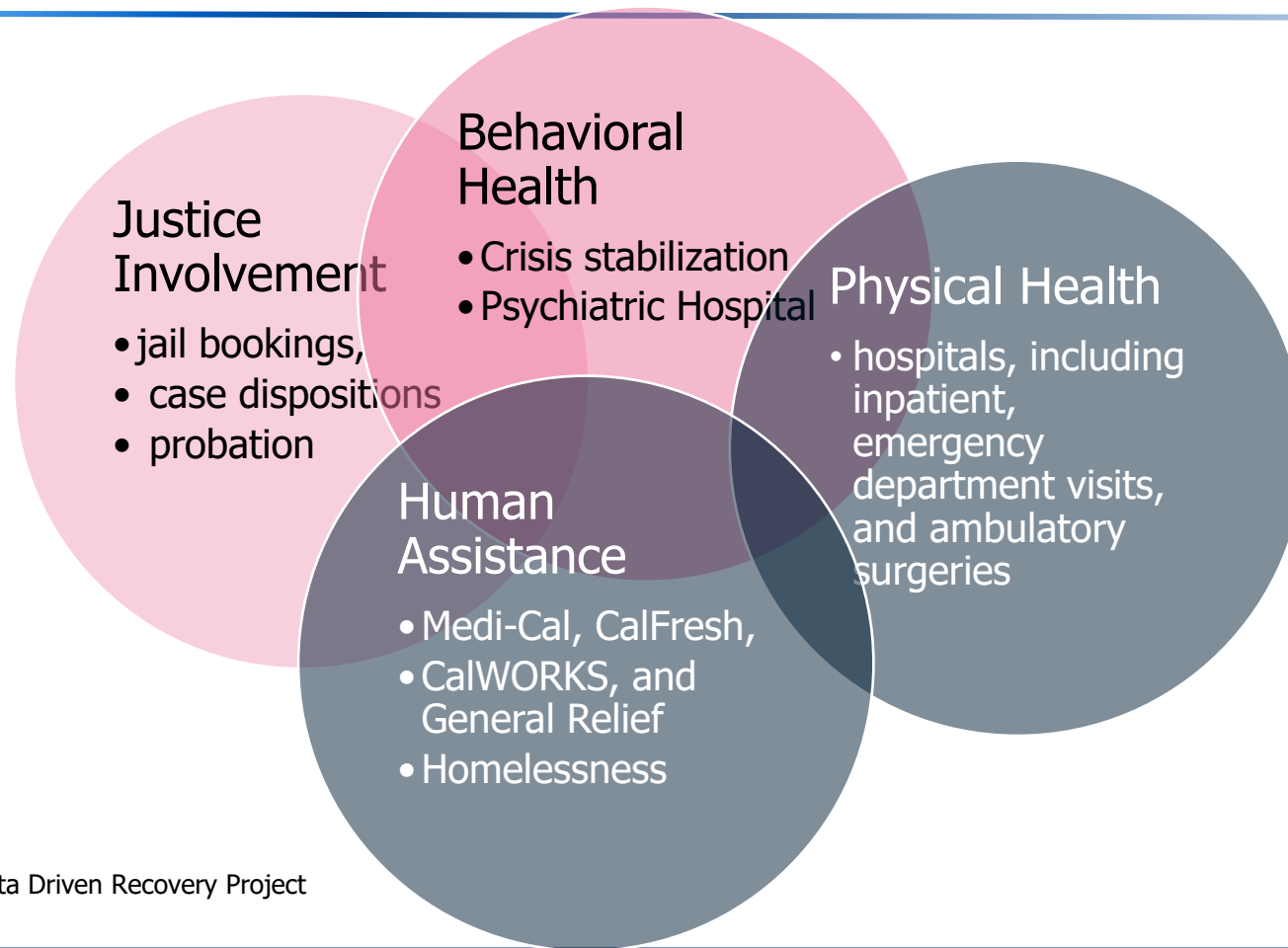
Source: Data Driven Recovery Project

Method
- Look for people in top 5 percent of admissions in each domain each year
- Identify people who are high utilizers over multiple years
- Develop strategies that are relevant within and between domains
- Identify time trends as people move into high utilization to work proactively

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Look for the 5 percent of people making up 20 percent of bookings to figure out alternatives

Number of People with Repeat Bookings, by 2019 Booking Total and BJMHS Screen

72% came in only once
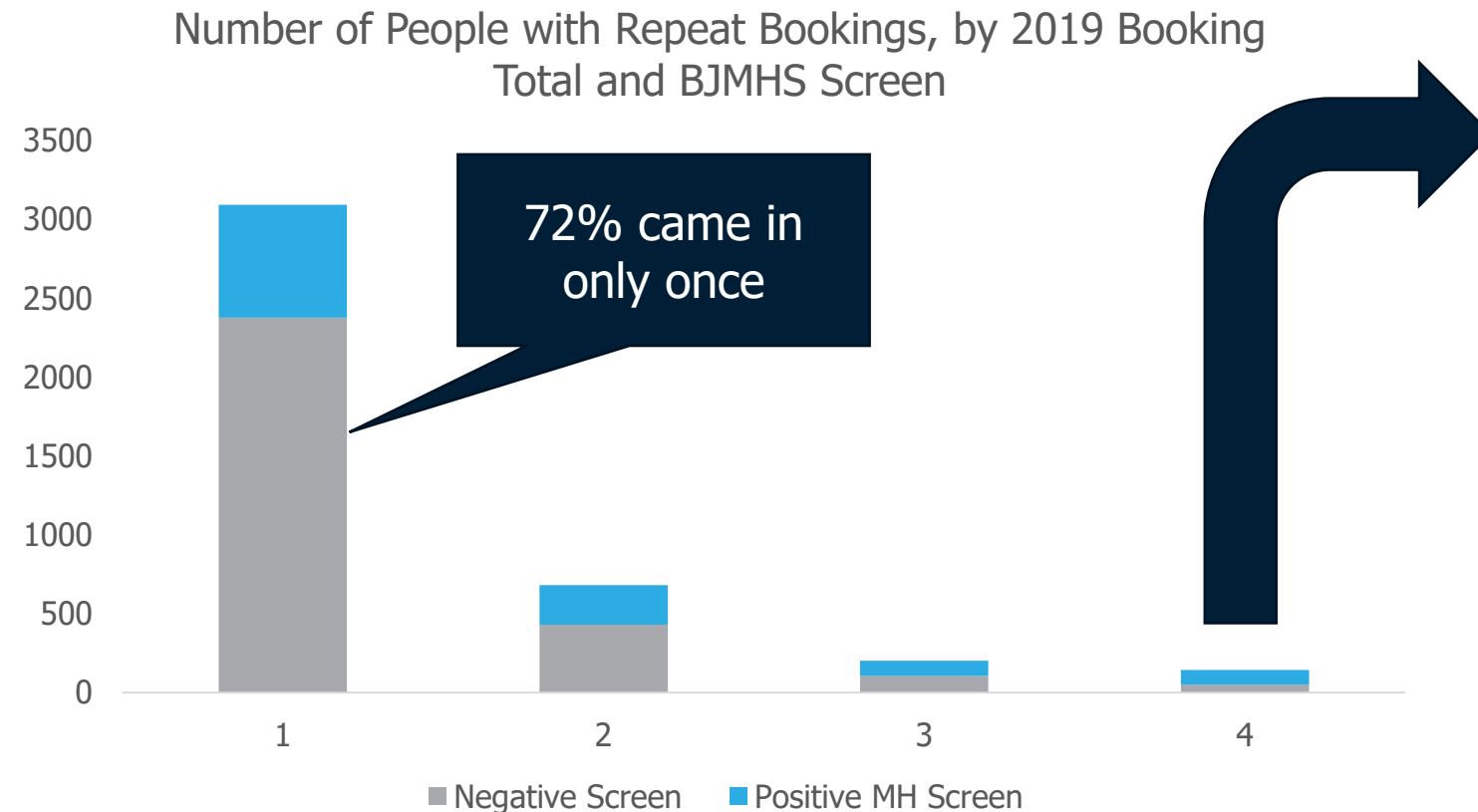
127 people came in more than 4 times, generating 747 bookings
- averaged 80 bed days in 2019
- 66% positive screen
- 2 were found incompetent to stand trial
- 5 have been high utilizers for 3 years straight

N=4,119 unique people

Source: Data Driven Recovery Project

Legend: ■ Negative Screen ■ Positive MH Screen

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Look across systems of care for better coordination

1,100 people received homeless services in 2019 (HMIS)

2019 Jail Booking/Admission
200 (17%)

2019 Behavioral Health Service
360 (35%)

Source: Data Driven Recovery Project

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Look at differences in service utilization in the community

Services Received, 2019 by Involvement

% Received Service Type

	Jail Booking	Not Justice Involved
Emergency Shelter	53%	29%
Homeless Prevention	0%	9%
PH - Rapid Re-Housing	8%	30%
Services Only	19%	16%

Source: Data Driven Recovery Project

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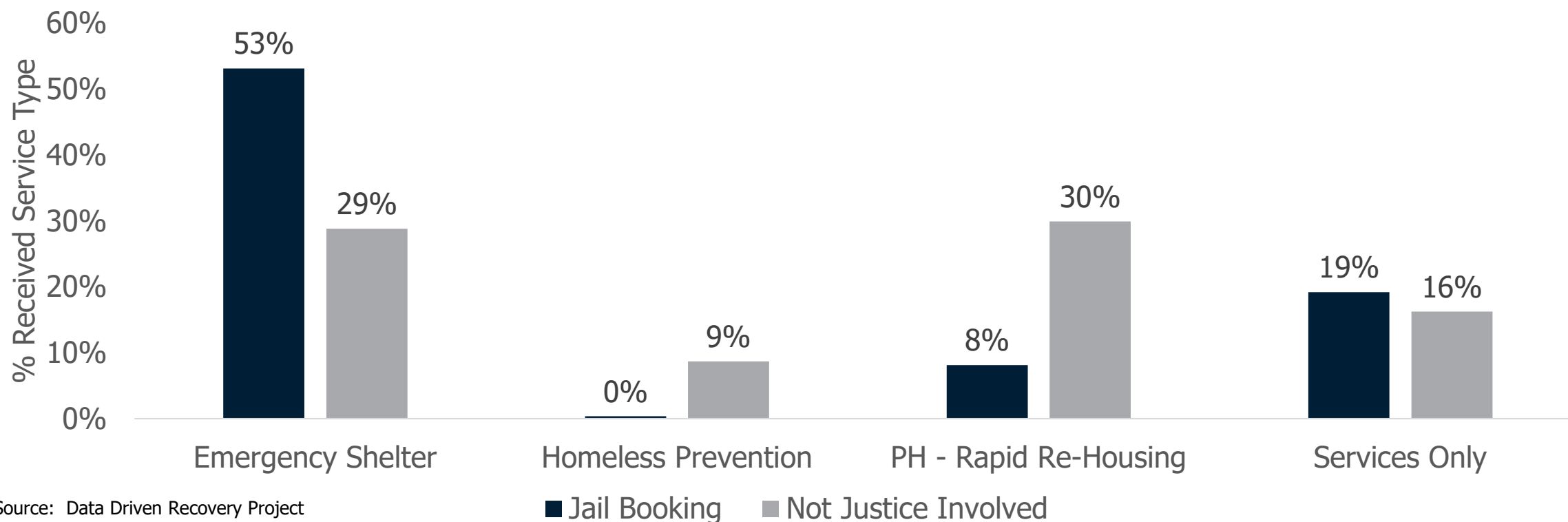
Using jail data to estimate medium term impacts of diversion

Felony IST Diversion Caseload Impact

— Avoided Jail Beds   — Avoided State Hospital Beds   — Program Slots
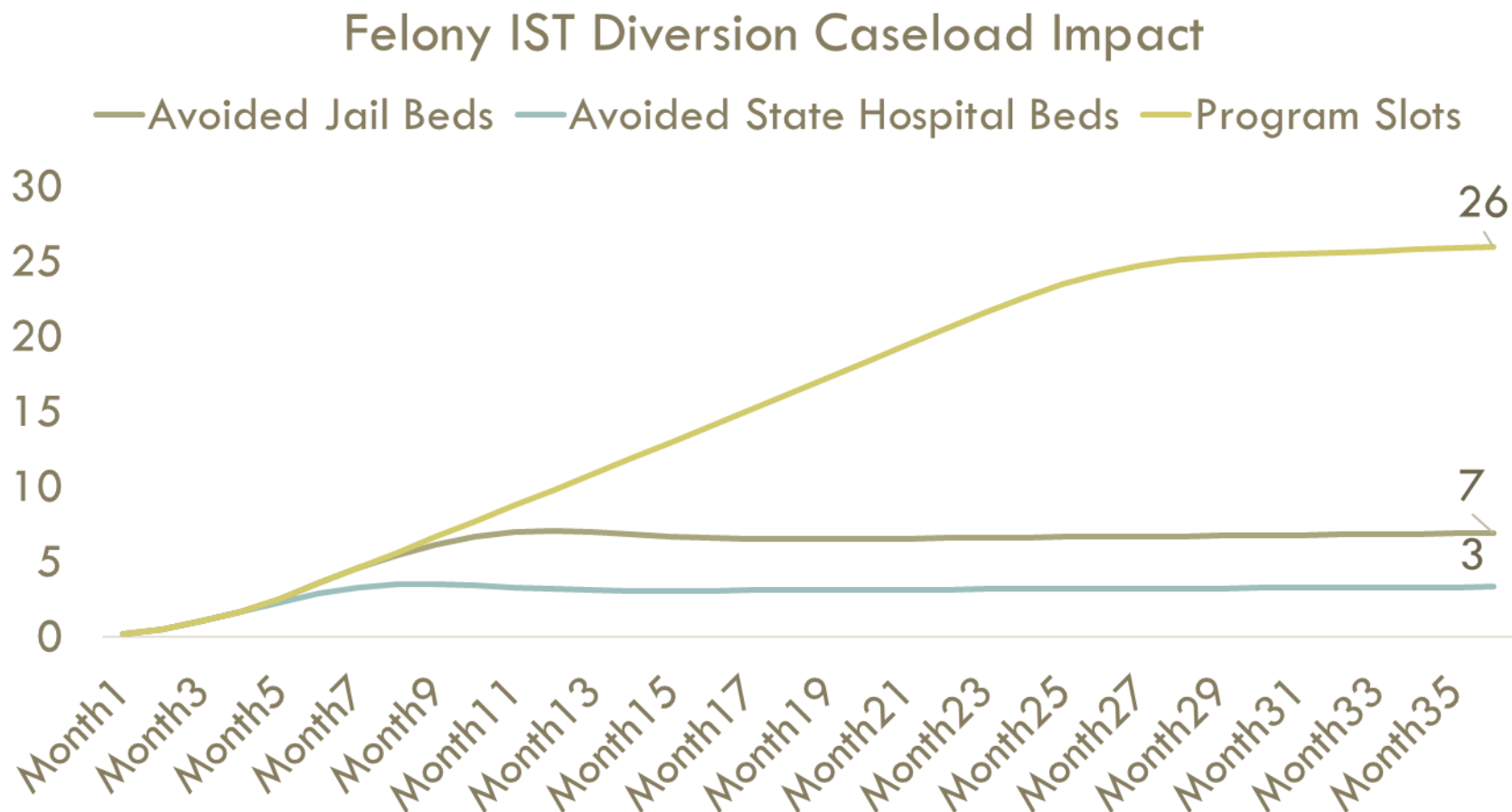
Assuming the following:

- ✓ 5 IST diversion referrals a month
- ✓ 20% acceptance rate
- ✓ 18 months on diversion
- ✓ 230-day jail stay avoided
- ✓ 120-day stay at DSH avoided

Source: Data Driven Recovery Project

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Build a dashboard that lets others explore

Source: Data Driven Recovery Project

Discussion

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5 minute stretch

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Building a Data Strategy

Using Jail Data for Identification of People with Behavioral Health Needs

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Focus on San Luis Obispo

Jessie Yates

Using Jail Data for Identification of People with Behavioral Health Needs

Breakout

Using Jail Data for Identification of People with Behavioral Health Needs

Report Out

Using Jail Data for Identification of People with Behavioral Health Needs

Resources

Thank You!

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For more information please contact Katie Herman at kherman@csg.org

Welcome and Housekeeping

Session Overview

Using Jail Data to Understand Diversion Options

- May 6, 2021

Court-Based Mental Health Diversion

- May 20, 2021

Competency Process and IST Diversion

- June 3, 2021

Mental Health Treatment Courts

- June 17, 2021

Session Schedule

1. Developing a diversion process flow

2. Breakout groups

3. Using data to understand court-based mental health diversion

4. Implementing mental health diversion

5. Developing a data strategy for court-based MH diversion

6. Breakout groups

7. Review resources

Learning Objectives

- Develop a diversion process flow

- Describe data analyses that can inform diversion policy and practice

- Leverage existing resources to inform the development of a local data strategy to analyze data relevant for mental health diversion

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Diversion is an off-ramp from criminal justice to the community
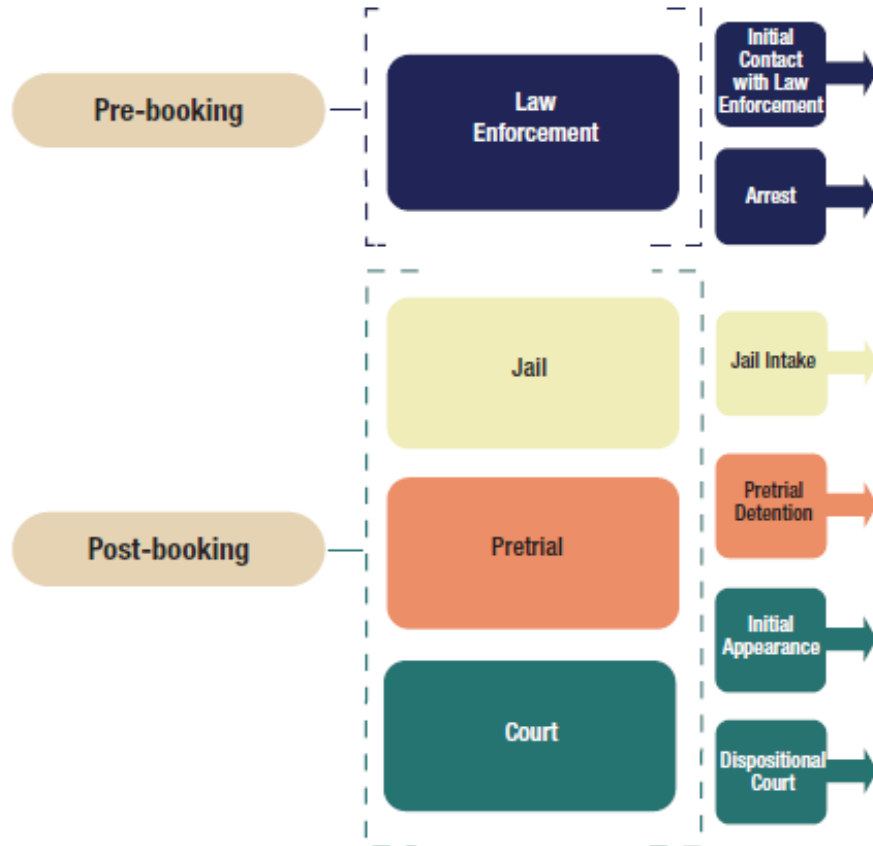
This Photo by Unknown Author is licensed under CC BY-NC-ND

Sequential Intercept Model
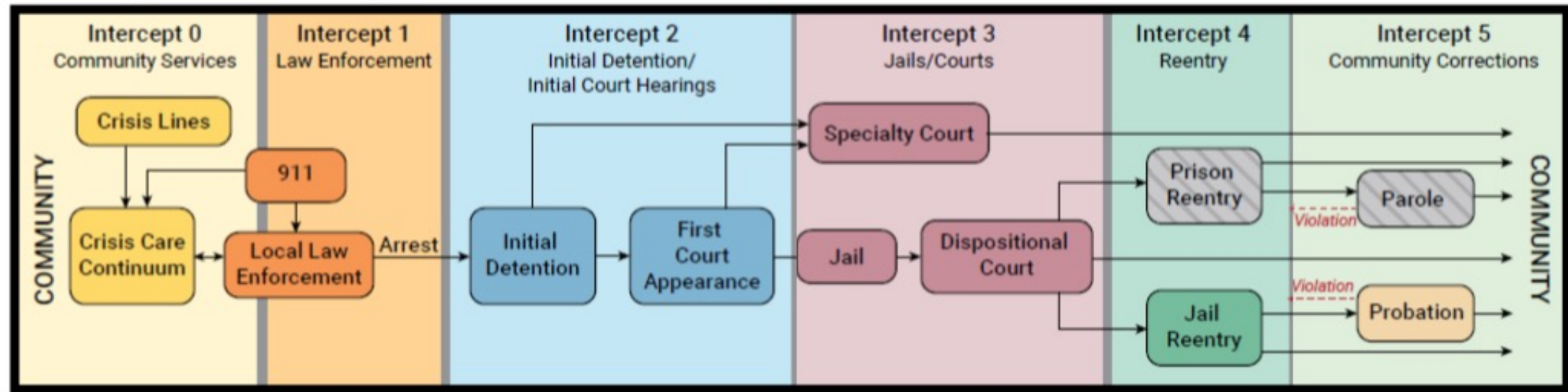
WE ARE HERE

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Using Data to Go from System to Program Level

Eligibility

Referrals

Referral Dispositions

Program Entry

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How many people are appropriate for diversion in your county?

Individuals in LA County Jail Mental Health Population, June 2019
Total = 5,544
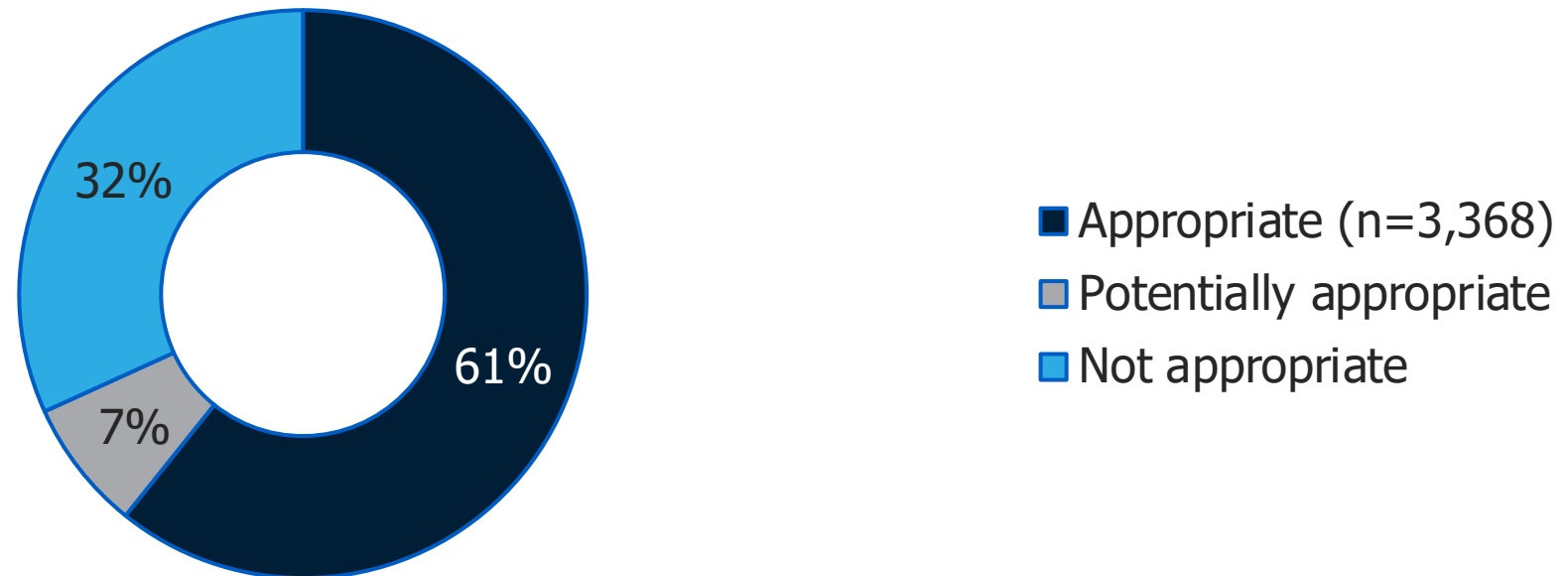
- Appropriate (n=3,368)
- Potentially appropriate
- Not appropriate

S.B. Holliday et al, "Estimating the Size of the Los Angeles County Jail Mental Health Population Appropriate for Release into Community Services," RAND, Jan. 2020, https://www.rand.org/pubs/research_reports/RR4328.html

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Process Mapping 101 for Court-Based MH Diversion

- People are at the heart of any process
- Systems maps make work visible across:
  - Court
  - Attorneys
  - Behavioral Health
  - Defendants
- Process mapping can drive process improvement

Voice of the Customer

"When will the MH assessment be completed?" —Judge

"How do I know the defendant is completing their treatment plan?" —District Attorney

"I want know what happens next in the MH diversion process" —Family member of a defendant

"When will my diversion petition be ruled on after I submit it?" —Defense Attorney
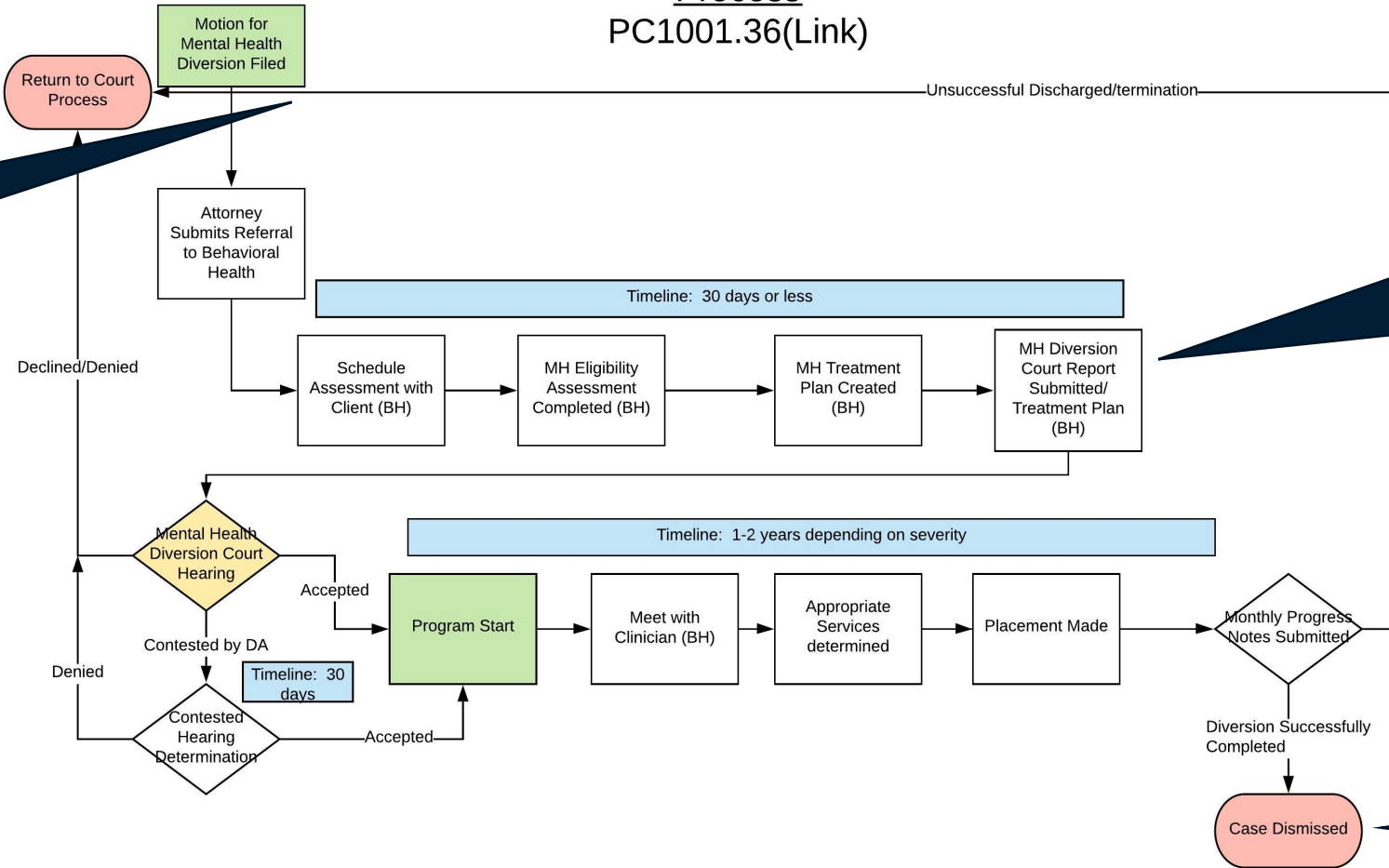
Three Metrics for MH Diversion Referral

- *Referral Clearance Rate*
  - New Referrals divided by Referral Dispositions
  - Helps indicate whether referrals are growing in comparison to those disposed
- *Age of Pending Referrals (days)*
  - Average days since referral for pending MH diversion petitions
  - Helps to see if the time it takes to complete referral decisions is changing over time
- *Time to Disposition (Days)*
  - Average (or median) time to a referral being disposed
  - Helps to see if the time to referral disposition is growing

Breakout

Court-Based Mental Health Diversion Data

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Breakout Questions

- What kind of goals have you determined for court-based MH diversion in your county?

- Have you been able to create a process flow for mental health diversion in your county?

- Does it differ from the one Kevin showed? If so, how?

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Using Data to Understand Court-Based Mental Health Diversion

May 20, 2021 | Kevin O'Connell, Data Driven Recovery Project (DDRP)

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Estimating Eligibility

Creating a useful eligibility estimate for court-based mental health diversion depends on:

- Screening and assessment to identify clients early
- Charging practices
- Attorney familiarity with MH diversion when considering petitions

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Using Data to Go from System to Program Level

Eligibility

Referrals

Referral Dispositions

Program Entry

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Estimating Eligibility for Those Going Through the Court Process

Annual Estimated Eligibility and Acceptance Rate for MH Defendants

Source: Data Driven Recovery Project
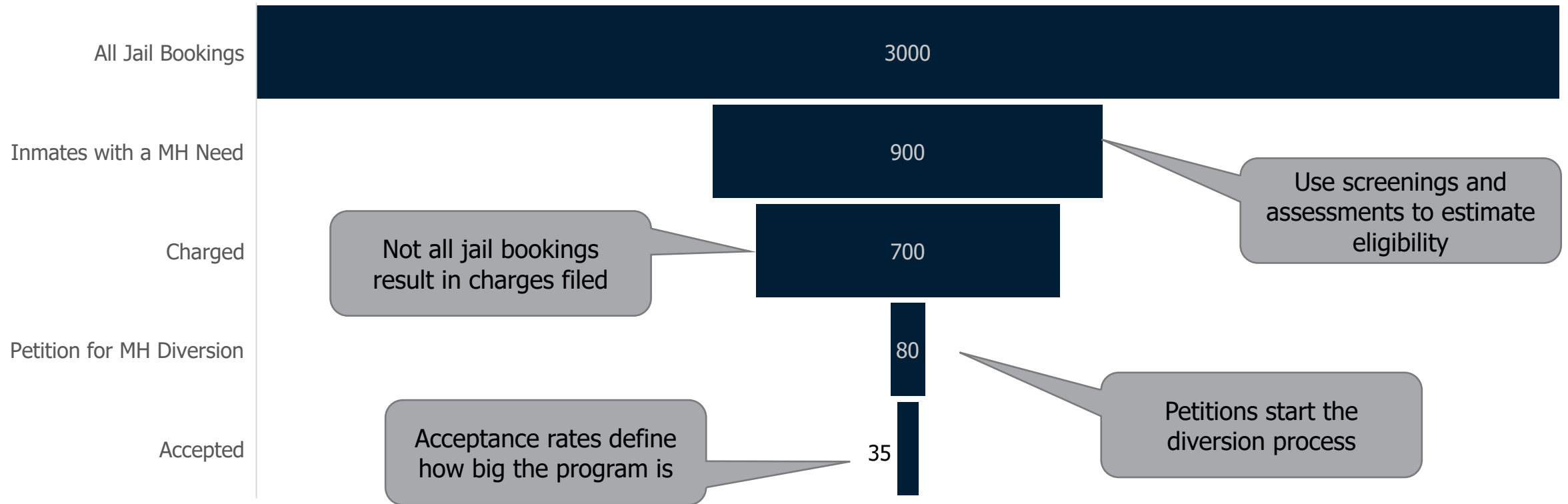
Disaggregate referrals to better understand client characteristics

Population Comparison Across Stages, by Race
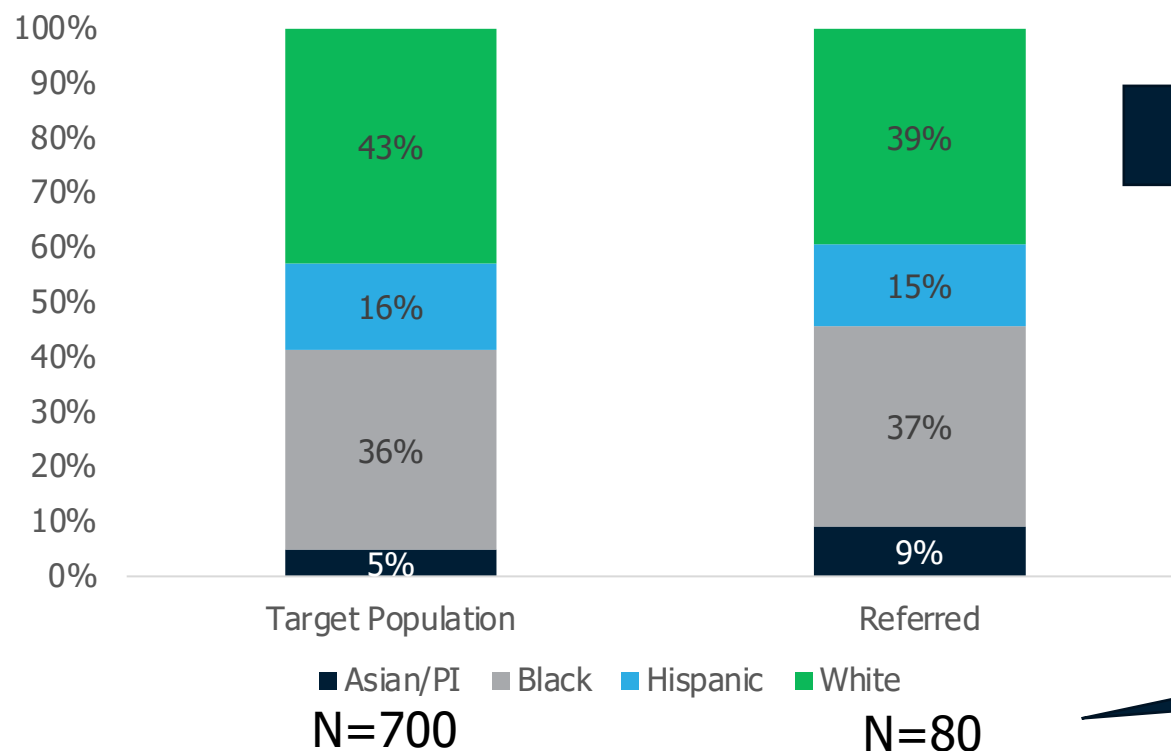
- Gender
- Felony and misdemeanors
- Age
- Static risk factors to recidivate
- High utilizer status
- Homelessness

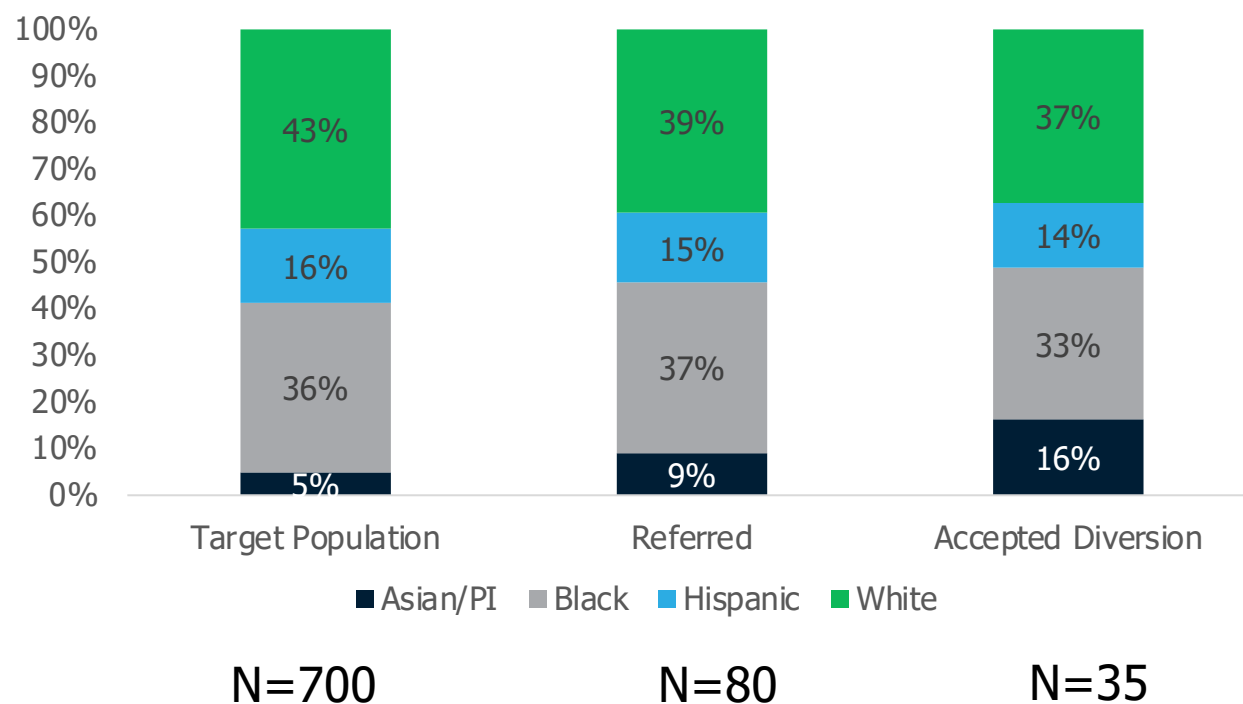Small numbers may limit statistical significance but worth looking deeper

N=700   N=80

Legend: Asian/PI, Black, Hispanic, White

Target Population: Asian/PI 5%, Black 36%, Hispanic 16%, White 43%
Referred: Asian/PI 9%, Black 37%, Hispanic 15%, White 39%

Source: Data Driven Recovery Project

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Referral Dispositions

- Referral decisions offered a key insight into who is diverted

- Time to Disposition:
  - Uncontested: 91 days
  - Contested: 150 days

MH Diversion Acceptance/Declination Reason, by Case Type

Felony (N=39): Accepted 35%, Declined 30%, Self Decline 35%
Misdemeanor (N=201): Accepted 30%, Declined, Self Decline 60%

■ Accepted ■ Declined ■ Self Decline

Source: Data Driven Recovery Project

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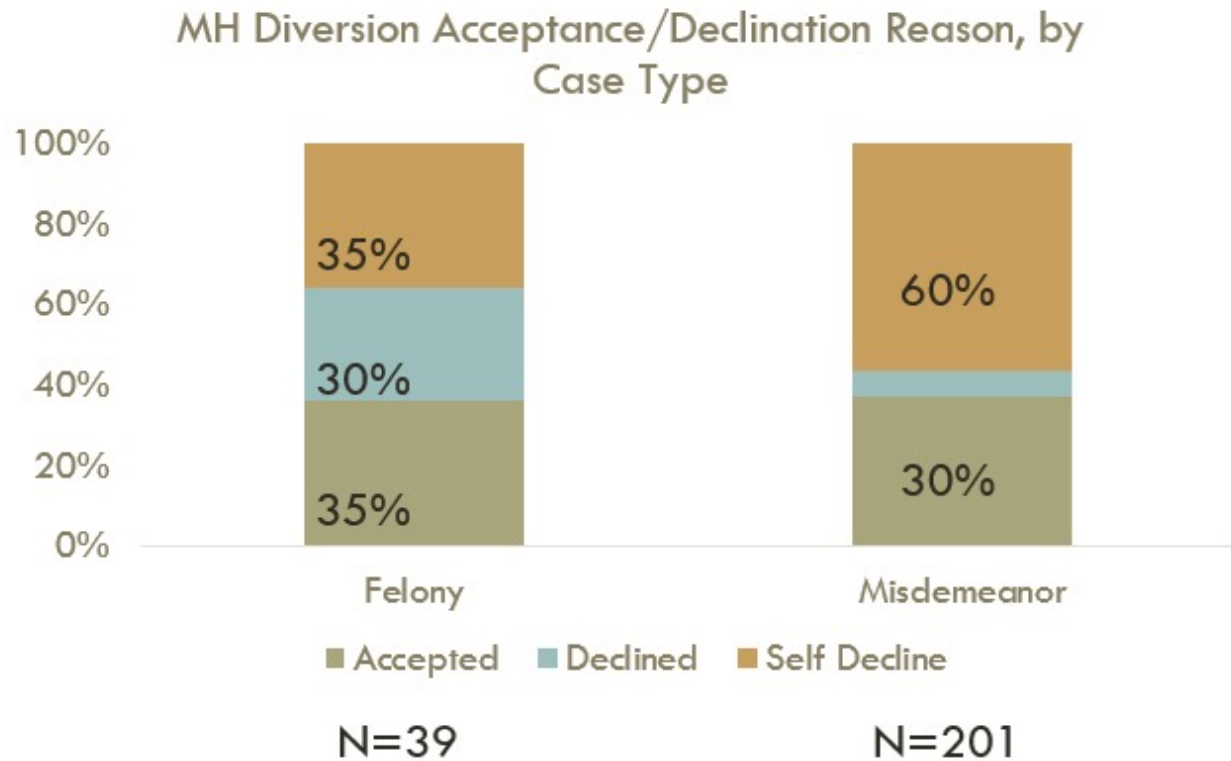
How do our demographics look for those accepted?

Accepted MHD Population Comparison Across Stages, by Race

Target Population — N=700
- Asian/PI: 5%
- Black: 36%
- Hispanic: 16%
- White: 43%

Referred — N=80
- Asian/PI: 9%
- Black: 37%
- Hispanic: 15%
- White: 39%

Accepted Diversion — N=35
- Asian/PI: 16%
- Black: 33%
- Hispanic: 14%
- White: 37%

Legend: ■ Asian/PI ■ Black ■ Hispanic ■ White

Previous year jail impact for diverted people

- 180 jail entries
- 4,000 total bed days
- 70% misdemeanor bookings
- 5th jail booking on average since 2018

Source: Data Driven Recovery Project

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Process metrics give a sense of efficiency as well as any pending backlogs

- Clearance rates give a sense of whether pending caseloads are growing

- Points to assessing why referrals are increasing or dispositions are delayed
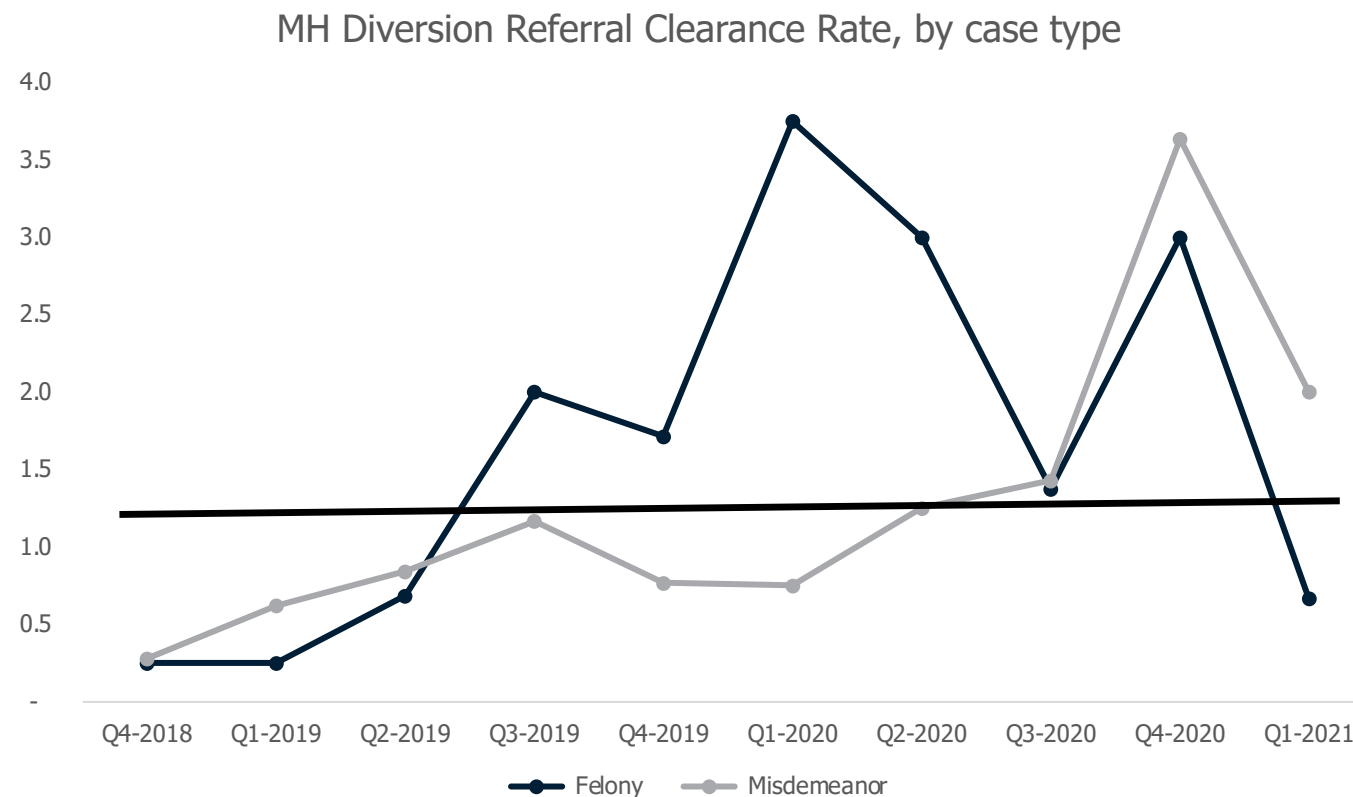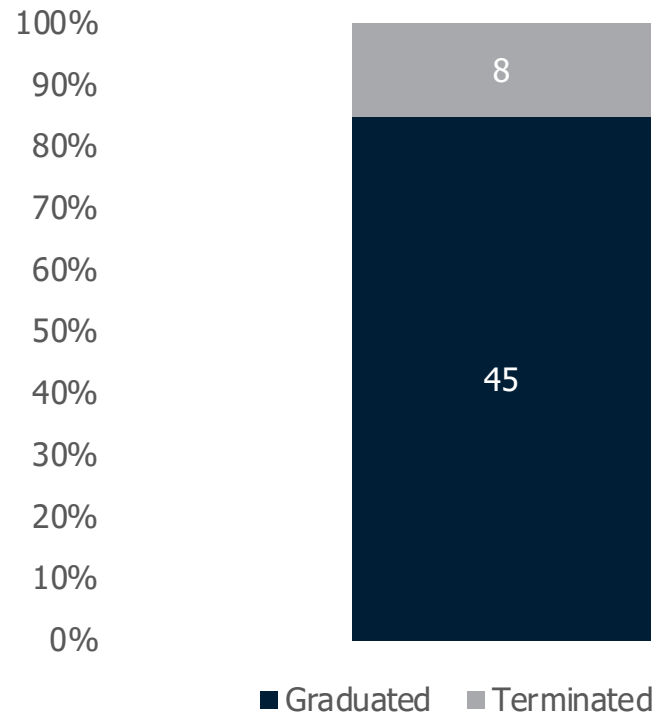
MH Diversion Referral Clearance Rate, by case type

Felony   Misdemeanor

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Measuring Returns to Custody

- Develop a cohort of people referred and accepted into the program, then track for uniform amount of time

- Need a strong research design to assess causal differences, as many sources of bias

Jail Re-Booking Rate, by Referral Disposition

Percent of Cohort with a new jail entry

68%

34%

Month from Program Acceptance/Decline

—●— Accepted   —●— Self-Declined

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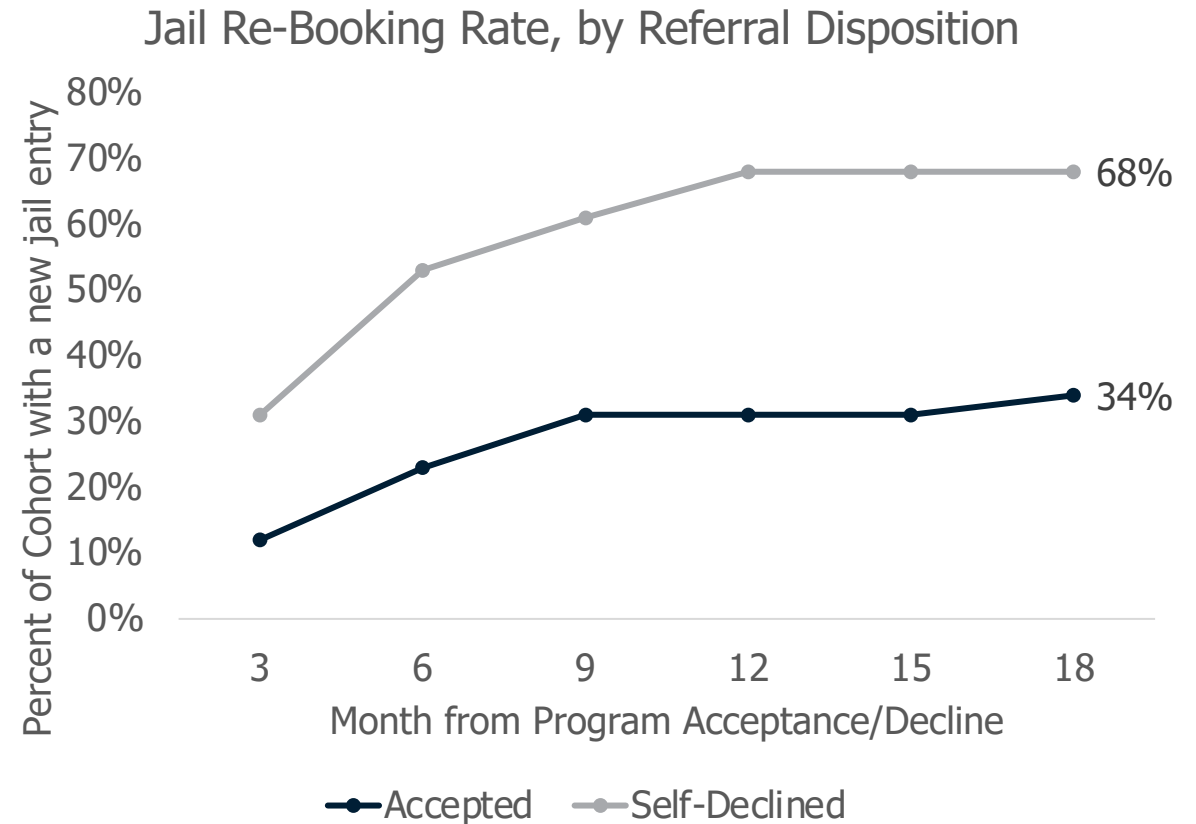
Projecting Caseloads and Impacts of Diversion

- Court-based mental health diversion is new in many counties, so the impacts are still materializing
- Based on some assumptions, estimates can focus on
  - Increases in referrals/acceptances
  - Treatment caseloads and ongoing program costs
  - Jail bed avoidance
  - Psychiatric hospital bed avoidance

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Projecting the Impacts of MH Diversion

Misdemeanor Diversion Caseload Impact
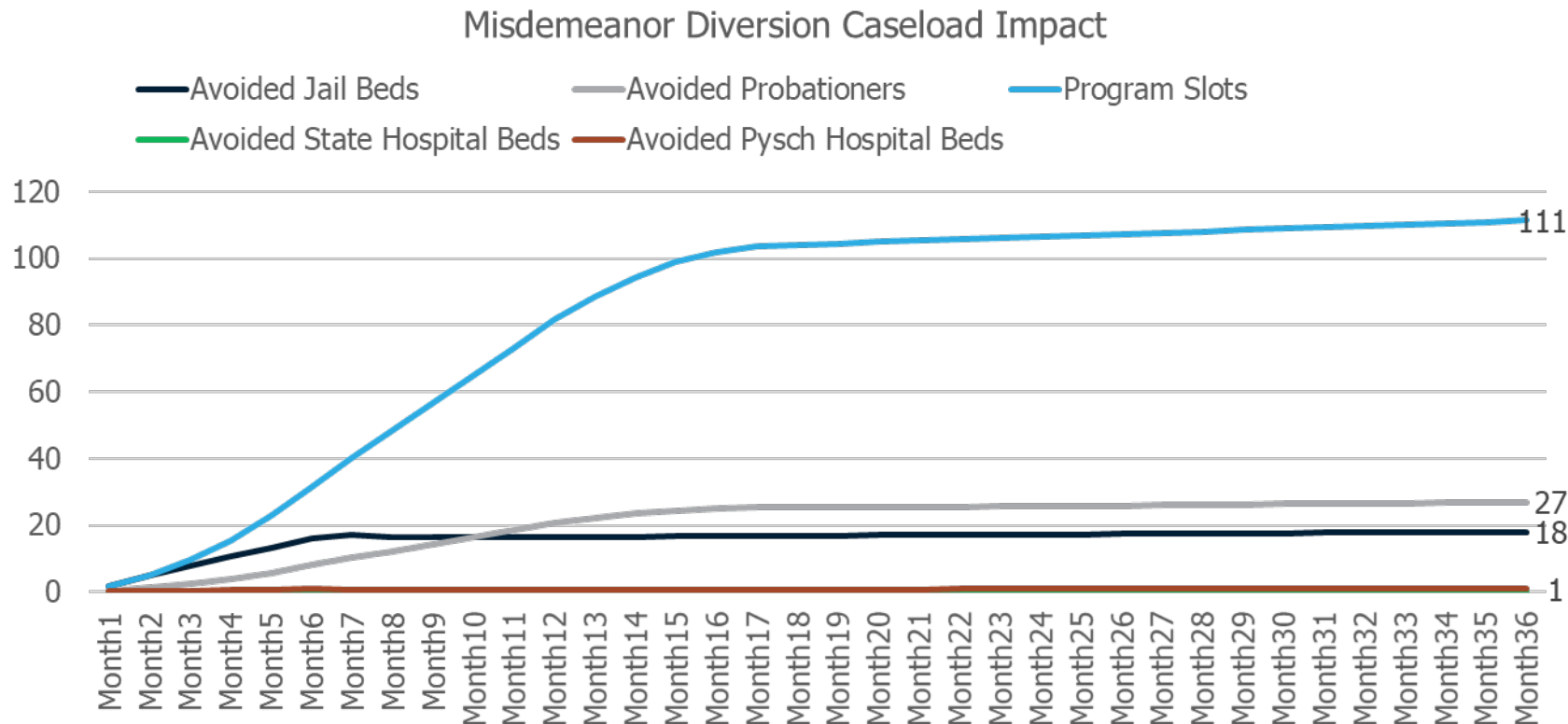
Assumes:

- 10 referrals
- 40% acceptance
- 1 year of diversion
- 20% failure rate
- 60-day jail stay avoided
- 1 year on probation

How can these be useful?

- Create targets for cases diverted
- Collaboratively assess resources at full implementation
  - Adjust caseloads based on timing of caseloads
  - Value avoidance in multiple operational areas
  - Forecast impact of increasing or decreasing diversion
- Estimate cost and budget impacts over the medium term
  - Use operating costs to estimate marginal impacts

Looking at Cost Avoidance

Mental Health Diversion Cost Estimates

Legend: Avoided Jail Costs ■ Avoided Probation Costs ■ Avoided Psych Hopsital Costs ■ Program Costs —
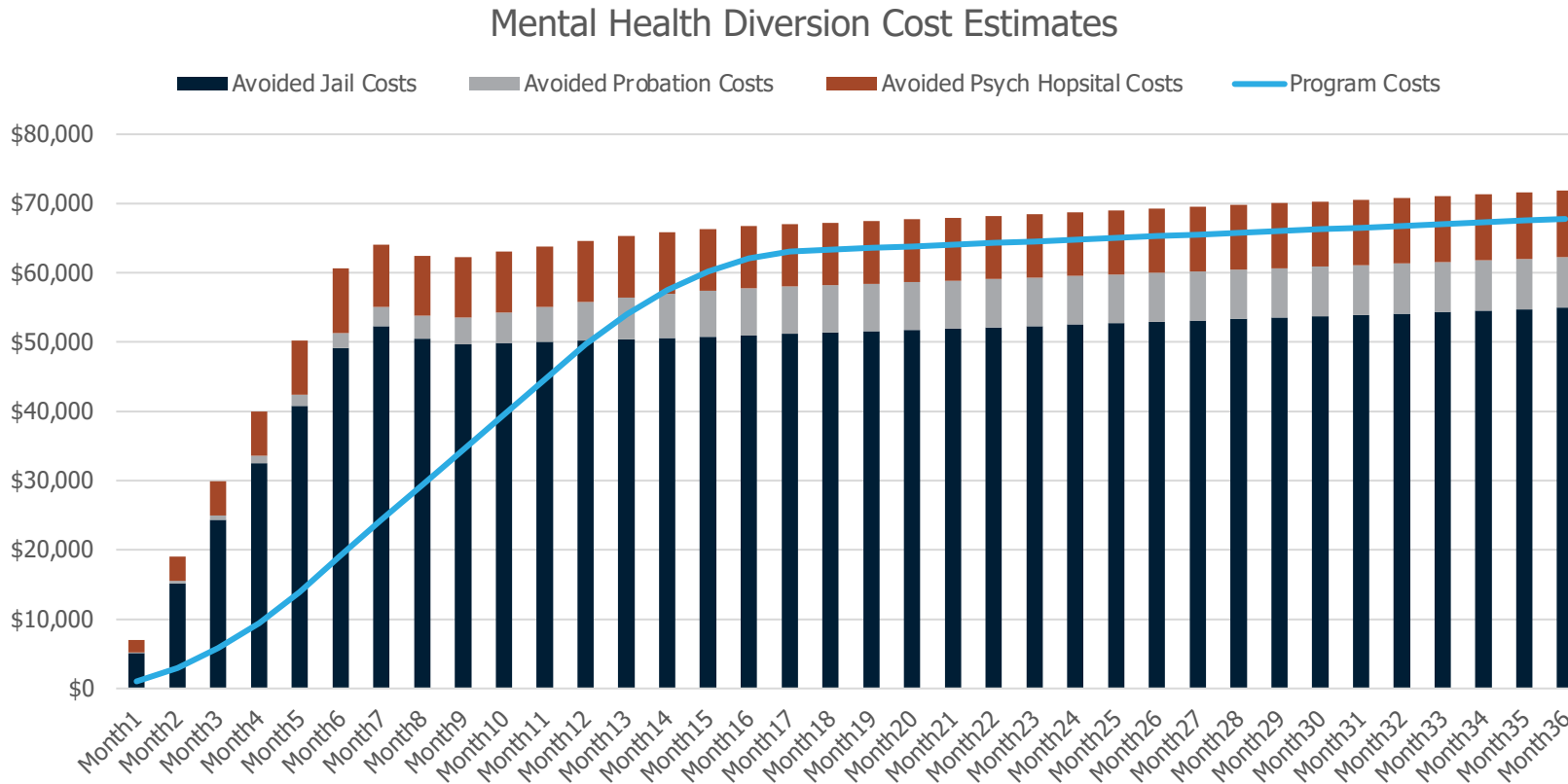
- At full implementation, the program costs $68,000 a month to operate (treatment + court costs)
- As more people are diverted successfully, the cost avoidances increase, which can be broken out by:
  - County
  - State
  - Federal

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Implementing MH Diversion

Tara Ames, Siskiyou County

Todd Schirmer, Marin County

Developing a Data Strategy for Court-Based MH Diversion

Kevin O'Connell

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What are the analysis goals for MH diversion?

- Did the program "work" based on goals of:
  - Increased days in treatment
  - Reduced jail stays
  - Reduced hospitalizations
- But we know we need to control for bias:
  - Low-risk clients more likely to be accepted
  - Clients reluctant to engage in treatment may decline
  - Criminogenic and responsivity factors (e.g., homelessness)

What kind of data do we need?

- MH diversion program data

- Behavioral health assessment data

- Jail booking and release

- Behavioral health episode history

How do we tie it all together?

- Create a translation table of clients
- Develop normalized tables of events:
  - Referrals to MHD
  - People
  - Jail Bookings
  - MH Assessments or services
- Merge event-level data as needed to answer questions

Diversion Data Fields: 1

Unique Person ID	Last Name	First Name	Gender	Race/Ethnicity	Date of Birth	Zip Code
1			F	W	4/27/1983	
2			F	H	8/13/1999	
3			M	H	8/9/1991	

People

Unique Person ID	Case Status	Referral ID	Case Number(s)	Case Type	Offense Type	Referral Date	DA Contested	Decision Date	Referral Disposition
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4	Denied	604		Misdo	Assault and Battery	10/9/2018		10/11/2019	Declined

Referrals

Referral ID	Program Enter Date	Program Exit Date	Exit Reason	Suspended Jail Time (days)	Care Type
609	8/18/2018	7/1/2019	Terminate	365	Private Insurance
610	9/20/2018	12/4/2019	Graduate	365	County BH

Diversion Acceptances

Data from Other Databases

- Based on a shared ID from the diversion database, link to:
  - Jail booking and release
  - HMIS/Homelessness
  - Community Treatment

*See materials from Session 1

Breakout

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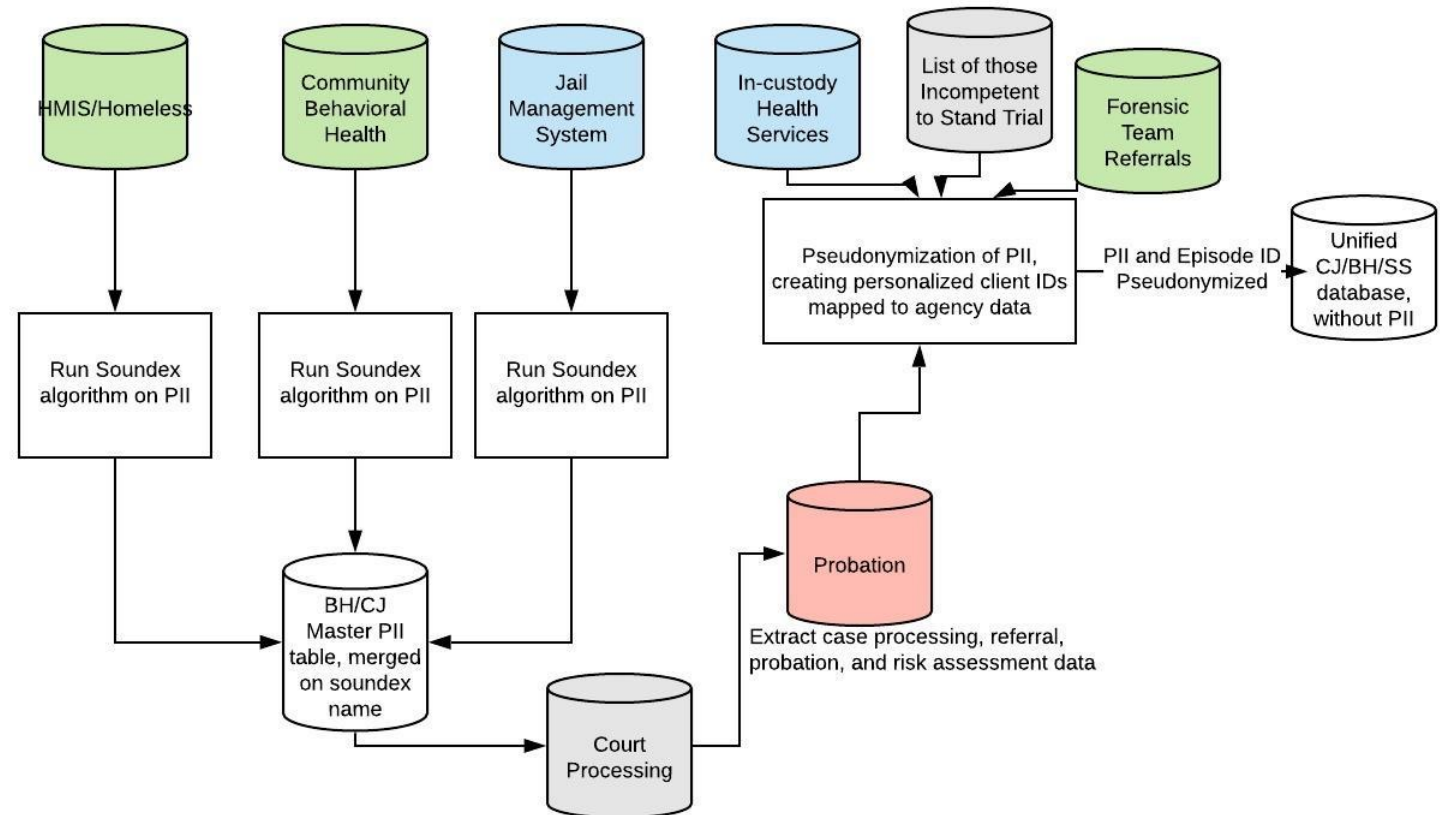
Breakout Questions

- What are the goals for mental health diversion in your county?

- How does diversion fit into your county's data strategy?

- What data would you need to answer the sort of questions you have?

- Who might be involved in developing this matched dataset?

Resources

FY2021 Justice and Mental Health Collaboration Program Solicitation Released

- BJA provides leadership and assistance to local criminal justice programs that improve and reinforce the nation's criminal justice system. BJA's goals are to reduce and prevent crime, violence, and drug abuse and to improve the way in which the criminal justice system functions. In order to achieve such goals, BJA programs illustrate the coordination and cooperation of local, state, and federal governments. BJA works closely with programs that bolster law enforcement operations, expand drug courts, and provide benefits to safety officers.

- Grants.gov Deadline: June 22, 2021, 11:59 p.m. ET

- Application JustGrants Deadline: July 6, 2021, 11:59 p.m. ET

- https://bja.ojp.gov/funding/opportunities/o-bja-2021-95004

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For more information, please contact Katie Herman at kherman@csg.org

Using Your Data for Behavioral Health Diversion Workshop Series

Session 3: Competency and IST Data

June 3, 2021 | Kevin O'Connell, Data Driven Recovery Project (DDRP)

Session Agenda

- Welcome

- Competency to Stand Trial Basics

- What Is "Risk of IST?"

- Case Vignettes Discussion

- IST Process Mapping and Rethinking IST

- Breakouts

- Using Data to Understand IST

- Program Development for IST Populations

- Review Resources

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Learning Objectives

- Discuss clinical and other needs for people who are likely to become involved in the competency process

- Describe considerations in developing felony and misdemeanor diversion programs for this population

- Identify strategies for reducing time to resolve cases for people who become involved in the competency process

"It has long been accepted that a person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to a trial."

—Drope v. Missouri, 420 U.S. 162, 171 (1975)

"He had an evaluation each time after he was declared incompetent, but there were always issues… he would go back to the county jail. He never came home…never sent to the hospital for treatment. Just continually, court date set, declared incompetent, see a counselor or doctor, go back to court, he's still incompetent, and just repeatedly over and over, over a period of three years."

—Anonymous father of a man who experienced the competency process firsthand
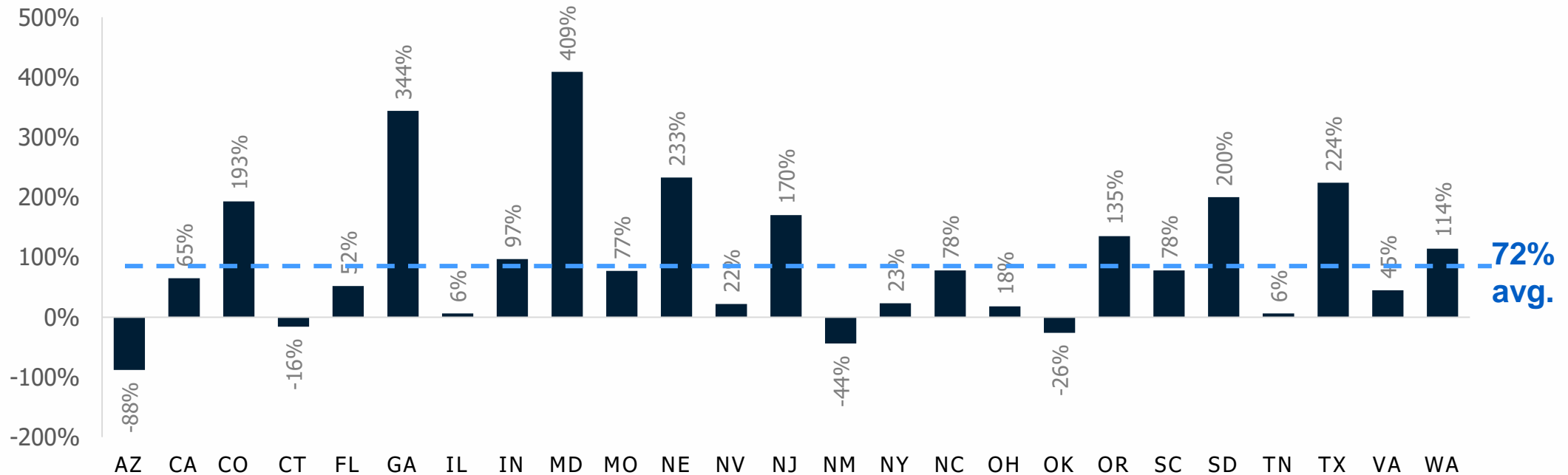
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"Revolving" doors at court, jail, and hospital

Competency Evaluation

Competency Restoration

Case Disposition

Pretrial detention

Court

State Hospital

Outpatient Options
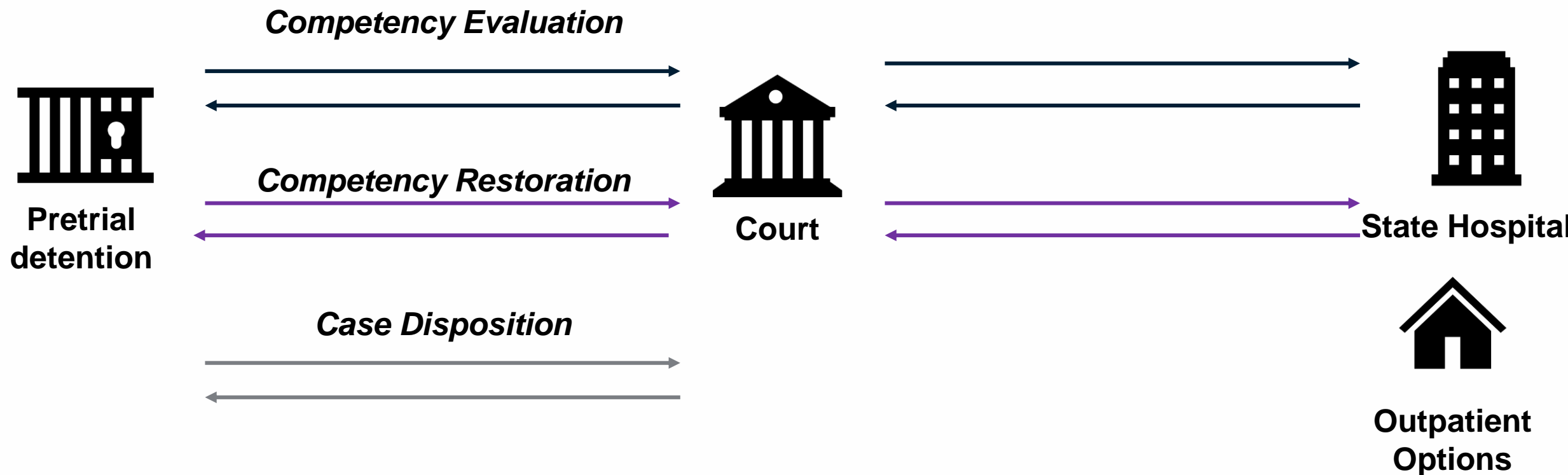
Many states report significant incompetent to stand trial (IST) growth in state hospitals

Percentage Change in Inpatient IST Population, 1999–2014
Based on 26 States with Numerical Data for 1999, 2005, and 2014

Bar chart showing percentage change by state with a 72% average line:
AZ: -88%, CA: 65%, CO: 193%, CT: -16%, FL: 52%, GA: 344%, IL: 6%, IN: 97%, MD: 409%, MO: 77%, NE: 233%, NV: 22%, NJ: 170%, NM: -44%, NY: 23%, NC: 78%, OH: 18%, OK: -26%, OR: 135%, SC: 78%, SD: 200%, TN: 6%, TX: 224%, VA: 45%, WA: 114%

72% avg.

UT had a percentage change of 1129% for 1999–2014

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Parts of the Competency Elephant

Due process

Clinical considerations with location relevance (jail, community, hospital)

Civil commitment standards

State vs. local responsibilities and costs

Time limits (**Trueblood**, **Jackson**)

Involuntary medication

Photo Source: https://commons.wikimedia.org/wiki/File:African_bush_elephant_in_San_Diego_Zoo.jpg

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What is "risk for IST?"

Questions to consider:

- Are there certain charges that make you consider IST?
- What clinical indicators would you consider when thinking about declaring doubt about a person's competency?
- What questions would you ask a client during a first interview to assess if you'd need to consider ordering a competency evaluation?
- Others?

Case Vignettes—Michael

Michael was a 22-year-old homeless, single, unemployed African American man arrested in San Francisco in 2019 and charged with felony assault. According to the arrest complaint, Michael was standing on a sidewalk downtown yelling delusional comments about ISIS and other related issues. A passerby approached Michael to try to deescalate him, which agitated him, and he punched the complainant in the face. Michael had three prior convictions for misdemeanor petit larceny and riding the bus without payment. He had been enrolled in outpatient mental health treatment at a local clinic prior his arrest and was mostly compliant with his weekly appointments. He was diagnosed with schizophrenia and was prescribed an oral antipsychotic medication, which he was inconsistently compliant with. He was was experiencing homelessness and was living on the street at the time of his arrest and supported himself primarily by panhandling. He had a history of marijuana and alcohol use and tested positive for both at the time of his admission to jail following his arrest. Michael presented as agitated and delusional at his arraignment and subsequent court hearings, but he was not physically aggressive or threatening. He was able to express a commitment to reengage in mental health treatment and continue to take his prescribed medications if released.

Case Vignettes—Steve

Steve was a 50-year-old White, single, unemployed man arrested in Humboldt County and charged with felony burglary after allegedly breaking into multiple homes in the middle of the night and stealing electronics. He had been couch surfing with different acquaintances prior to his arrest. He had 20 prior convictions for drug possession, assault, petit larceny, and burglary. Steve reported an extensive drug use history and a diagnosis of bipolar disorder. He reported using K2 and meth daily in the weeks leading up to his arrest, and he tested positive for both substances at the time of his arrest. He reported attending multiple inpatient rehabs and outpatient MICA programs in the past. During his arraignment, Steve presented as very agitated and psychotic. He was yelling loudly and responding to internal stimuli, and it was very difficult for him to stay on topic while his defense attorney attempted to interview him prior to his arraignment.

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George was a 40-year-old African American, single, homeless, unemployed man arrested in Alameda and charged with arson after allegedly starting a fire in an abandoned construction site. He had a limited treatment history prior to his arrest and was experiencing homelessness and living on the street. He had one prior conviction for petit larceny. Records indicated he had a long history of psychiatric hospitalizations and had been diagnosed with schizophrenia. He had no history of substance use. Prior to his arraignment he presented with multiple negative symptoms. He did not make eye contact and was very guarded, withdrawn, and disoriented. His speech was disorganized. He was unable to discuss his treatment history with his defense attorney in a meaningful way, and his explanation of the circumstances of his arrest was very disorganized.

10 Strategies toward a Vision for:

- Robust community-based treatments and supports that are viable alternatives to incarceration
- Opportunities for dismissal and diversion
- Limited use of CST
- Improved quality, equity, and efficiency of remaining CST system

Just and Well: Rethinking How States Approach Competency to Stand Trial

October 2020
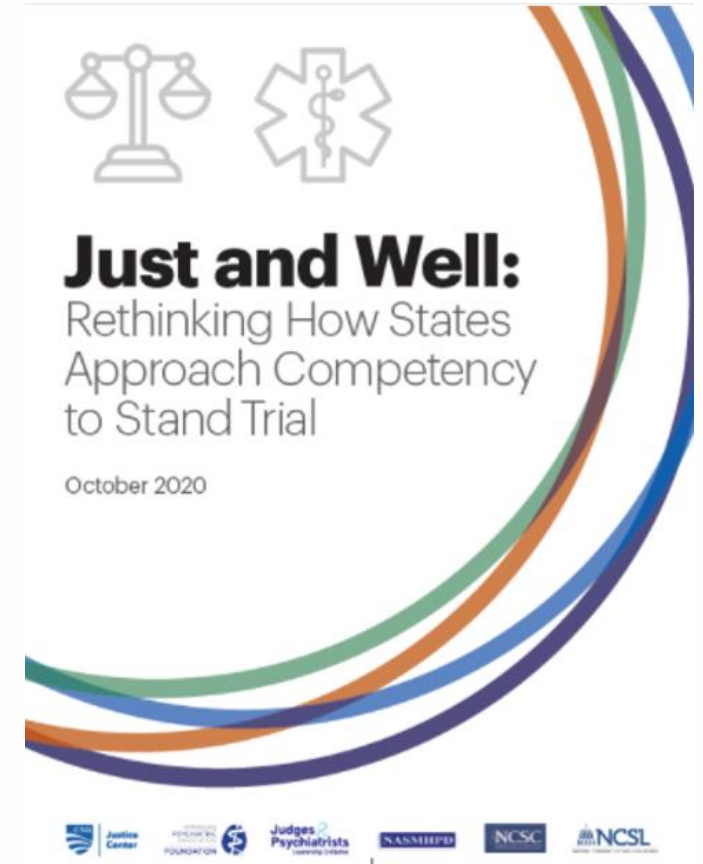
Process Mapping 101 for Competency

- People are at the heart of any process
- Systems maps make work visible across:
  - Court
  - Attorneys
  - Behavioral Health
  - Defendants
- Process mapping can drive process improvement

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Voice of the Customer

"When will the MH assessment be completed?" —Judge

"How do I know the defendant is completing their treatment plan?" —District Attorney

"I want know what happens next in the competency process." —Family member of a defendant

"When will my IST diversion petition be ruled on after I submit it?" —Defense Attorney
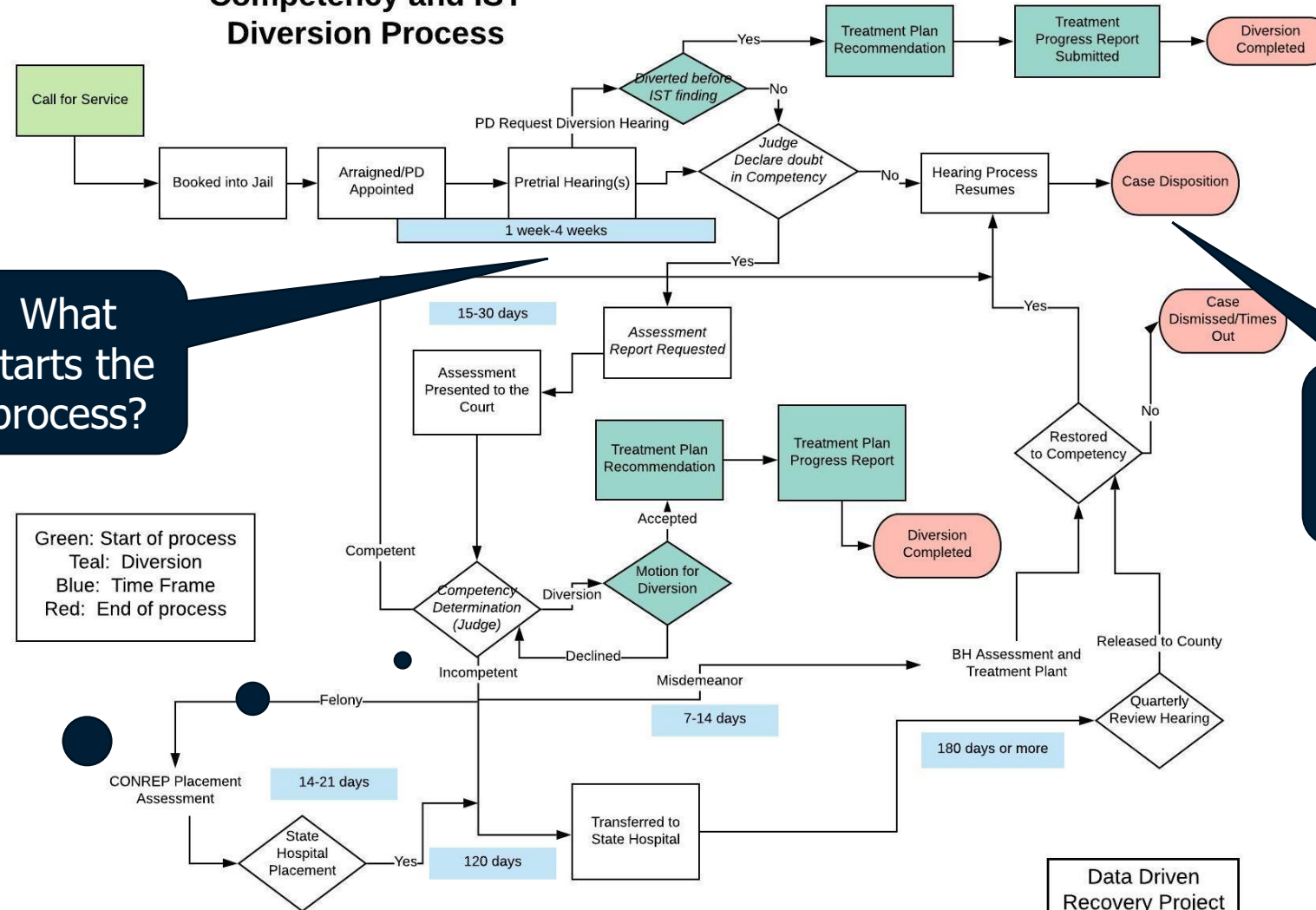
Four Metrics for Competency Processing

- *Doubt of Competency Rate*
  - Number of 1368 motions per 1,000 case filings, by case severity
  - Helps estimate the relative number of times a doubt in competency is raised
- *Age of Pending 1368 Motions (days)*
  - Average days (or median) since request for competent findings made
  - Helps to see if petitions are being assessed and calendared in a timely way
- *Time to Disposition (Days)*
  - Average (or median) time to a finding on the competency motion
  - Helps to see if the time to referral disposition is growing
- *Incompetency Finding Rate*
  - Number of cases where defendant is found incompetent divided by 1368 motions, by case severity
  - Helps understand how often someone is found incompetent relative to 1368 motions

What does the research say about people assessed for competency?

- Review of 68 studies of competency to stand trial efforts found:
  - 30% of those assessed were found IST
  - Wide range of assessment tools
- Common factors that put people at higher risk of IST include:
  - Psychotic diagnosis (8x)
  - Unmarried (3x)
  - Unemployed (2x)
- Less predictive: crimes of violence, race, education level, gender

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What do profiles of IST clients reveal?

Of the people found IST in 2019 in a select county:

- 40% misdemeanors

- Average length of stay in jail of 356 days for felonies and 90 days for misdemeanors

- Psychosis, schizophrenia, and bipolar made up the majority of diagnosis

- 90% had previous touch points with County Behavioral Health, mainly crisis care

- 8th jail booking on average, with 9 having 10 or more jail entries since 2015

- 50% had a recent homeless service (within 1 year)

Multiyear Trend of People Found IST Over Five Years

People Found Incompetent To Stand Trial, by Case Severity
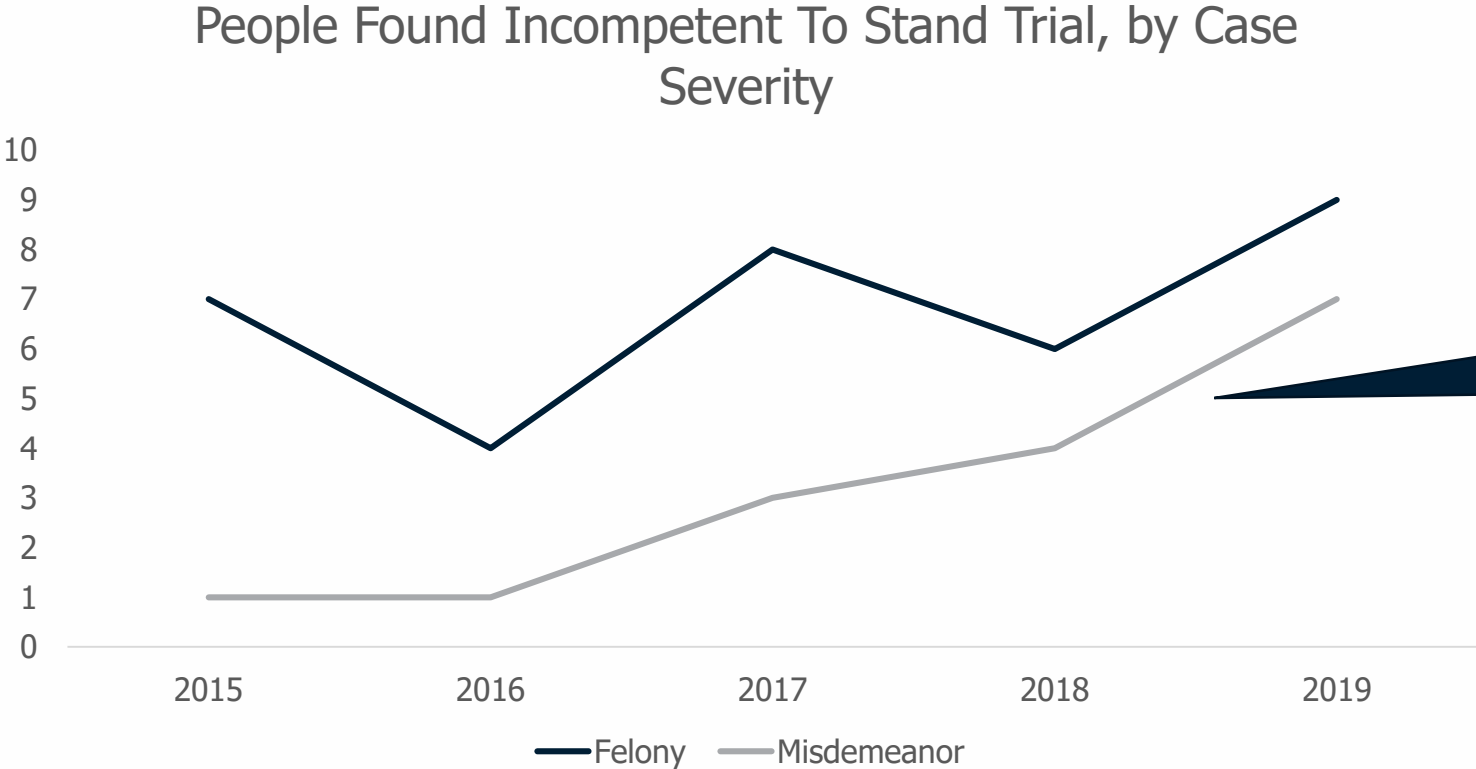
Counties have a growing number of misdemeanor IST filings, which is an opportunity to look at mostly local practices

Source: Data Driven Recovery Project

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Time from Jail Admission to Declaration of Doubt (PC 1368)

Median days:
- 45 days for felonies
- 10 days for misdemeanors

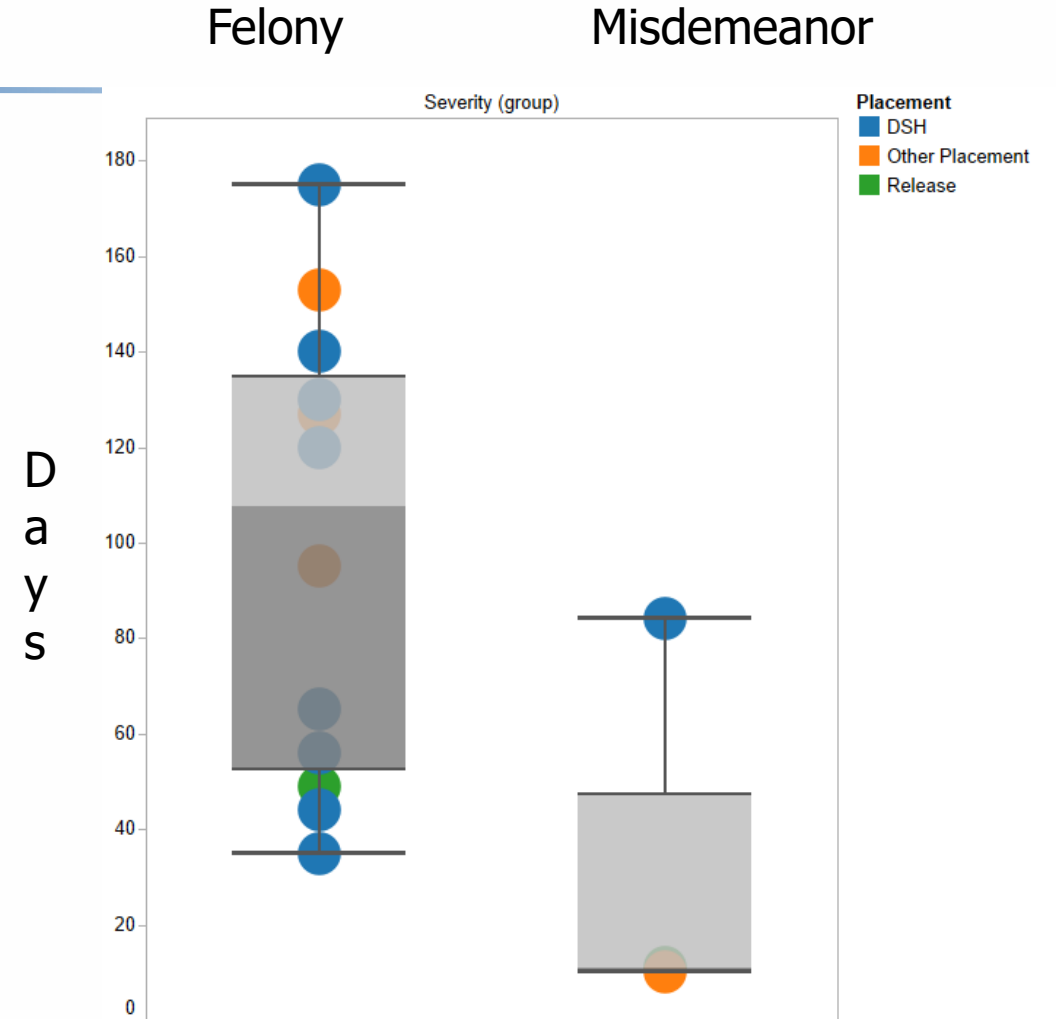What explains the variation in the time it takes to declare a doubt of competency
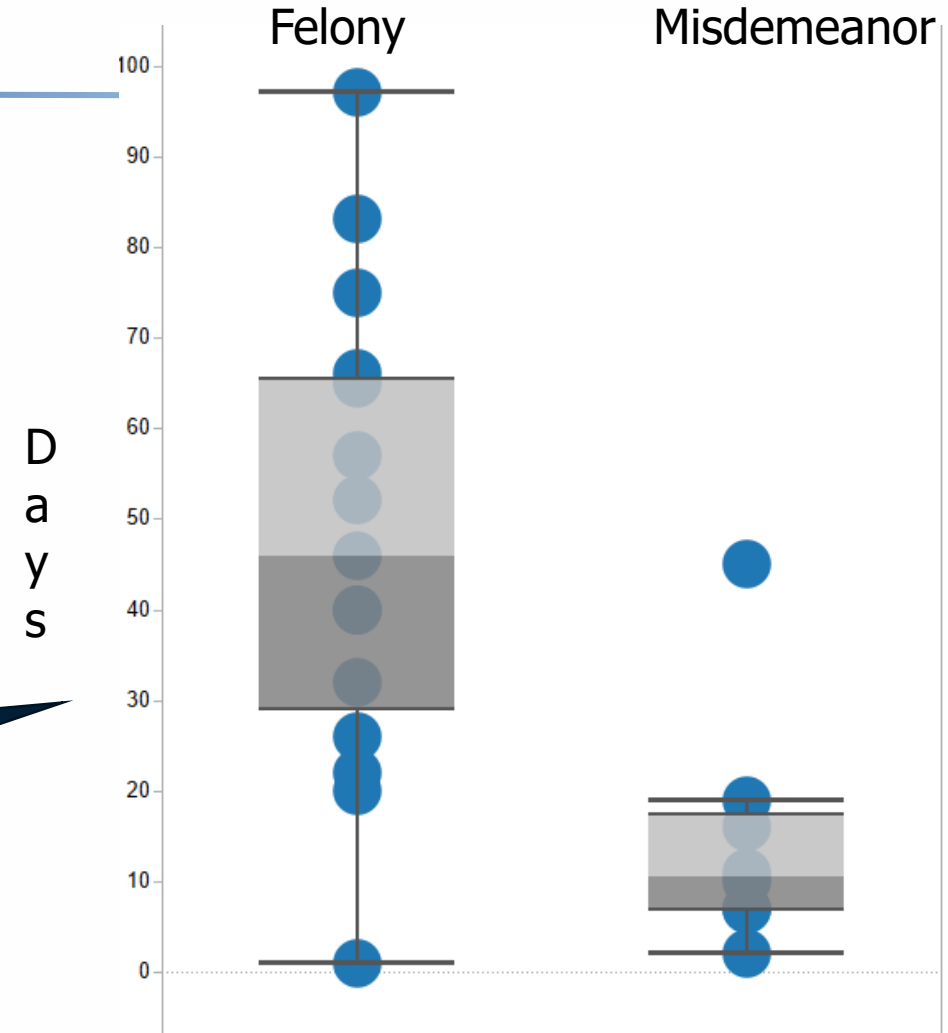
Time from IST Determination (PC1370) to Placement
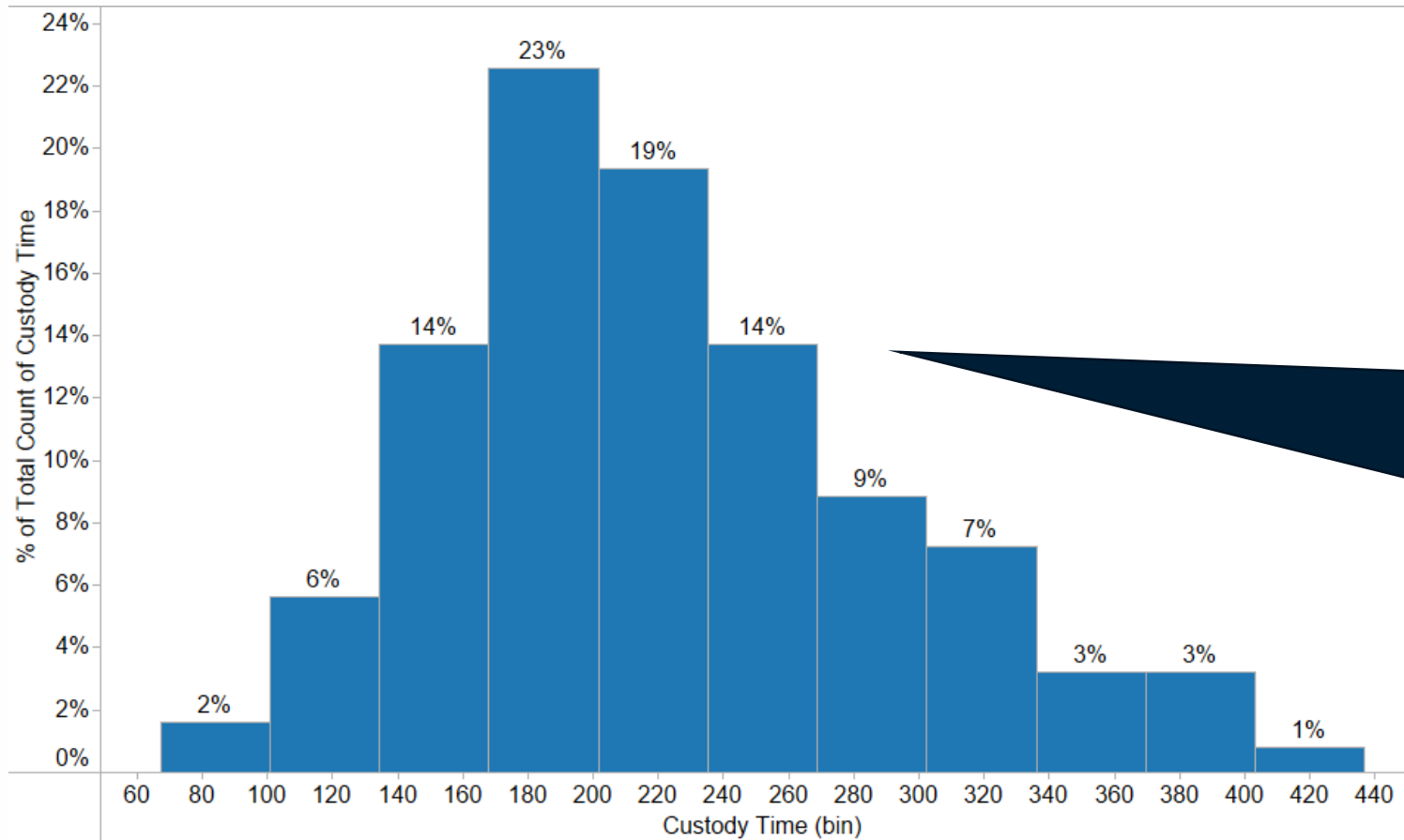
Felony   Misdemeanor

Median days

- 83 days for felonies

- 15 days for misdemeanors

Placements can vary, as not all felonies go to DSH.

Source: Data Driven Recovery Project

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Total Custody Time for Those Found IST (Excluding Time at a Placement)

Spend more than 6 months in jail custody awaiting case disposition

Adding in an average of 120 days for restoration, the average case takes 1.5 years to resolve itself with some ending in conservatorships
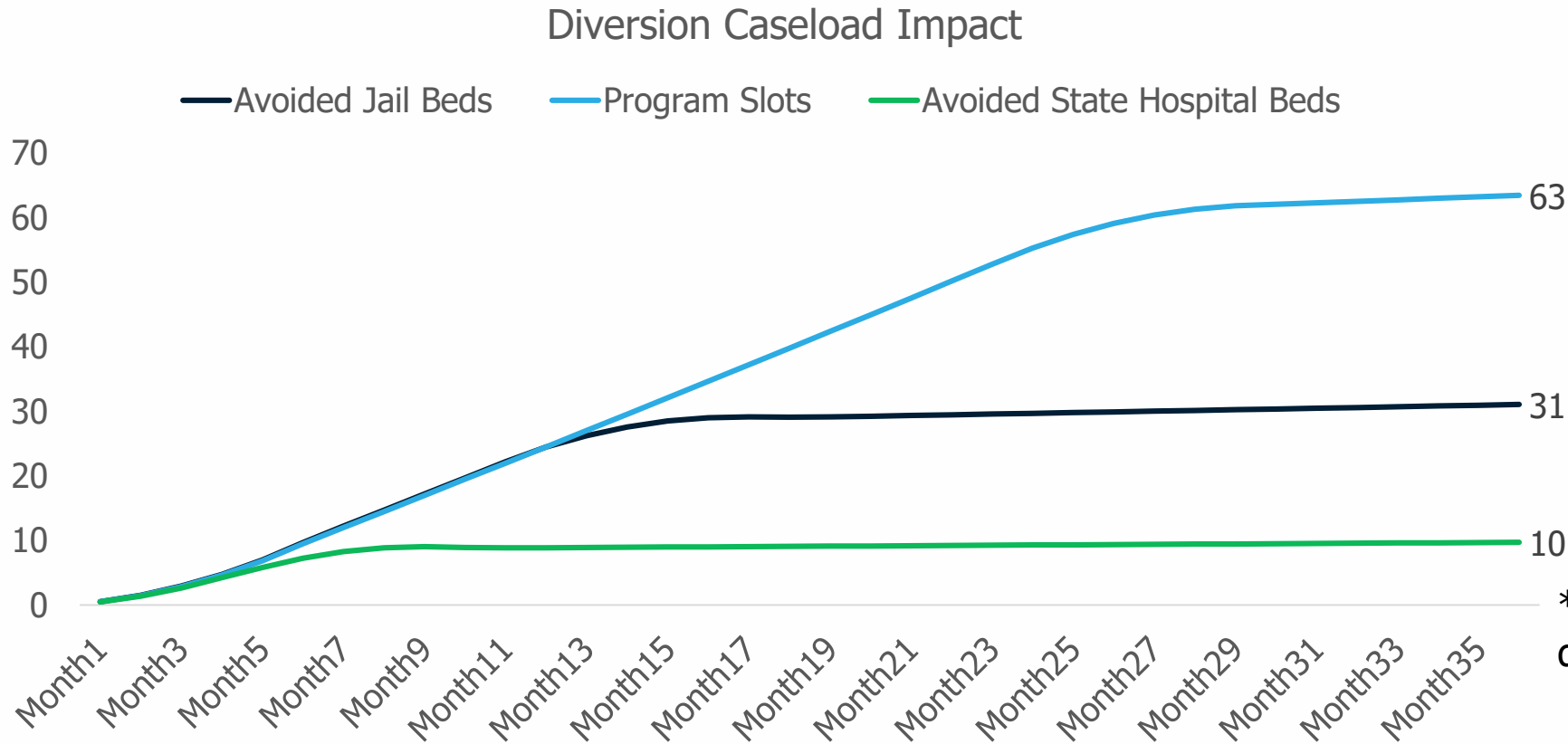
Source: Data Driven Recovery Project

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Projecting Caseloads and Impacts of Diversion

- IST diversion is new in many counties, so the impacts are still materializing
- Based on some assumptions, estimates can focus on
  - Increases in referrals/acceptances
  - Treatment caseloads and ongoing program costs
  - Jail bed avoidance
  - Psychiatric hospital bed avoidance

Estimating Three-Year Impacts of Felony IST Diversion

Diversion Caseload Impact

— Avoided Jail Beds — Program Slots — Avoided State Hospital Beds

Assuming the following:

- ✓ 3 IST diversion referrals a month
- ✓ 24 months on diversion
- ✓ 350-day jail stay avoided
- ✓ 120-day stay at DSH

* Estimated impacts. This is for discussion only.

Source: Data Driven Recovery Project

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How can these metrics be useful?

- Create targets for cases diverted based on DSH contracts
- Collaboratively assess resources at full implementation
  - Adjust caseloads based on timing of caseloads
  - Forecast impact of increasing or decreasing diversion
- Estimate cost and budget impacts over the medium term
  - Use operating costs to estimate marginal impacts

Breakouts

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Developing a Data Strategy for Felony IST Diversion

Kevin O'Connell

What are the analysis goals for MH diversion?

- Did the program "work" based on these goals:
  - Increased days in treatment
  - Reduced jail stays
  - Reduced hospitalizations
  - Reduced state hospital utilization
- But we know we need to control for bias:
  - Low-risk clients more likely to be accepted
  - Clients reluctant to engage in treatment may decline
  - Criminogenic and responsivity factors (e.g., homelessness)

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What kind of data do we need?

- Competency processing data
- Diversion program data
- Behavioral health assessment data
- Jail booking and release
- Behavioral health episode history

How do we tie it all together?

- Create a translation table of clients
- Develop normalized tables of events:
  - Motions for competency assessment and case trajectory
  - Jail bookings
  - MH assessments or services
- Merge event-level data as needed to answer questions

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IST Data Fields

Unique Person ID	Last Name	First Name	Gender	Race/Ethnicity	Date of Birth	Zip Code
1			F	W	4/27/1983	
2			F	H	8/13/1999	
3			M	H	8/9/1991	

People

Case Information
Jail Booking Number
Court Case Number
Previous Placement discussion
Include in IST Analysis (Y/N)
Arraignment Date
Declaration Date
Hearing Type of Declaration
Finding of competency Date
Return to County date from placements
Restored (Y/N)
Case Disposition date
Case Disposition type (Dismissed, Time Served, etc)
Comment: What are things in the case that caused delay that are under the control of the county

Assessment
Assessment Completed Date
Assessment Determination
Assessment Diagnosis
Restoration start date (Misd)
Restoration Date
Comments
Other legal Statuses(Conservatorship, etc)

Diversion Data Fields

People

Unique Person ID	Last Name	First Name	Gender	Race/Ethnicity	Date of Birth	Zip Code
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Referrals

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Diversion Acceptances

Referral ID	Program Enter Date	Program Exit Date	Exit Reason	Suspended Jail Time (days)	Care Type
609	8/18/2018	7/1/2019	Terminate	365	Private Insurance
610	9/20/2018	12/4/2019	Graduate	365	County BH

*DSH also has reporting requirements if you are a contractee for their F IST diversion program.
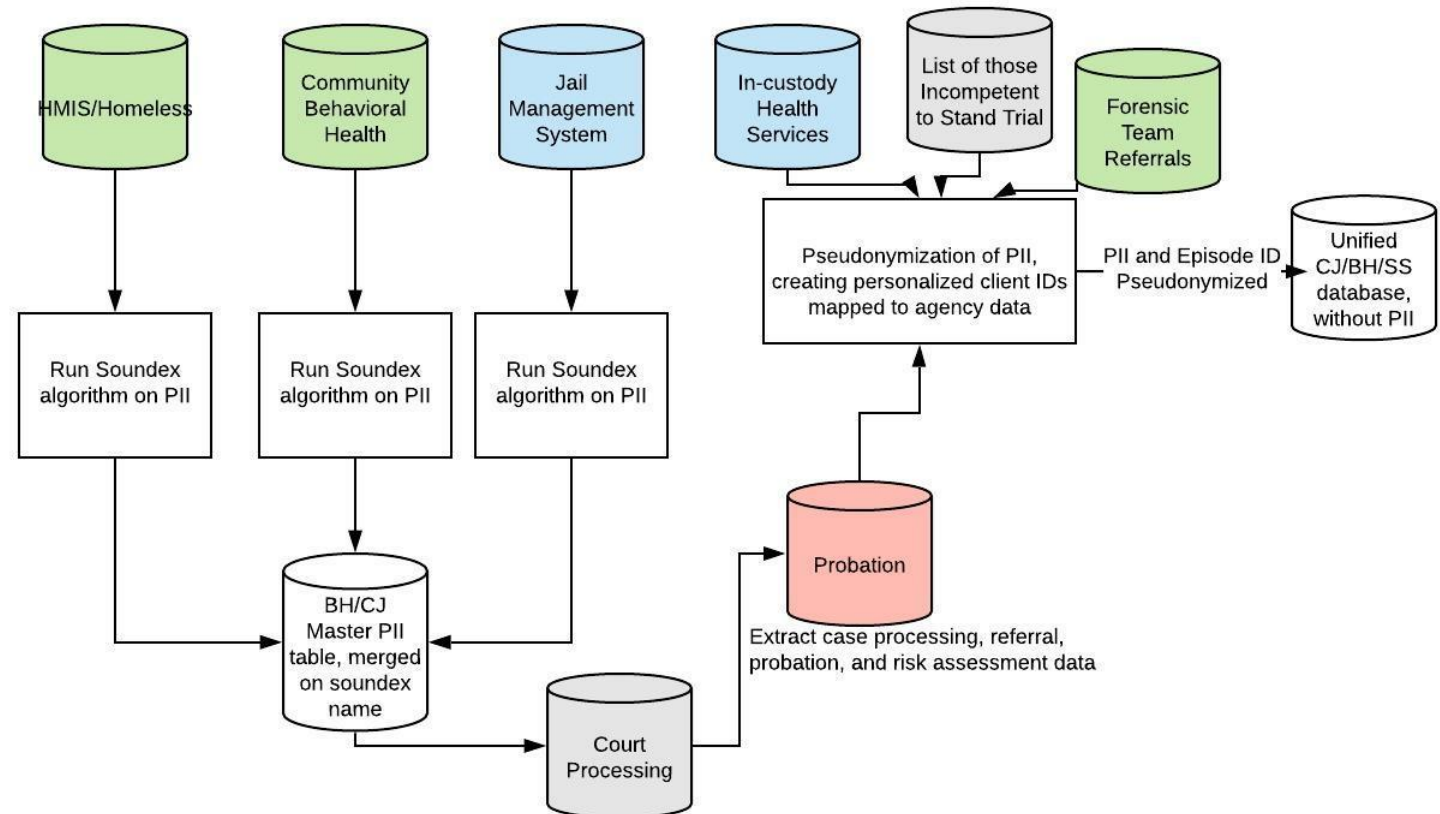
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Data from Other Databases

Based on a shared ID from the diversion database, link to:

- Jail booking and release
- HMIS/homelessness
- Community treatment

*See materials from Session 1

Source: Data Driven Recovery Project

Program Development for IST Populations

Tiffanie Synott, Sacramento County Public Defender

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Resources

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Welcome and Housekeeping

Session Overview

Using Jail Data to Understand Diversion Options

- May 6, 2021

Court-Based Mental Health Diversion

- May 20, 2021

Competency Process and IST Diversion

- June 3, 2021

Mental Health Treatment Courts

- June 17, 2021

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I. Welcome and Housekeeping

II. Panel Discussion: Who is appropriate for collaborative courts?

III. Breakout Groups and Report-In

IV. Mental Health Court Data Overview

V. Bringing it all together

VI. Breakout Groups and Report-In

VII. Review of Resources

VIII. Satisfaction Survey and Wrap Up

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Learning Objectives

- Discuss clinical and legal considerations when determining eligibility and appropriateness for collaborative courts

- Learn how to build and execute a data strategy in your jurisdiction

- Identify concrete action steps to take going forward to improve diversion processes for this population

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Diversion is an off-ramp from criminal justice to the community
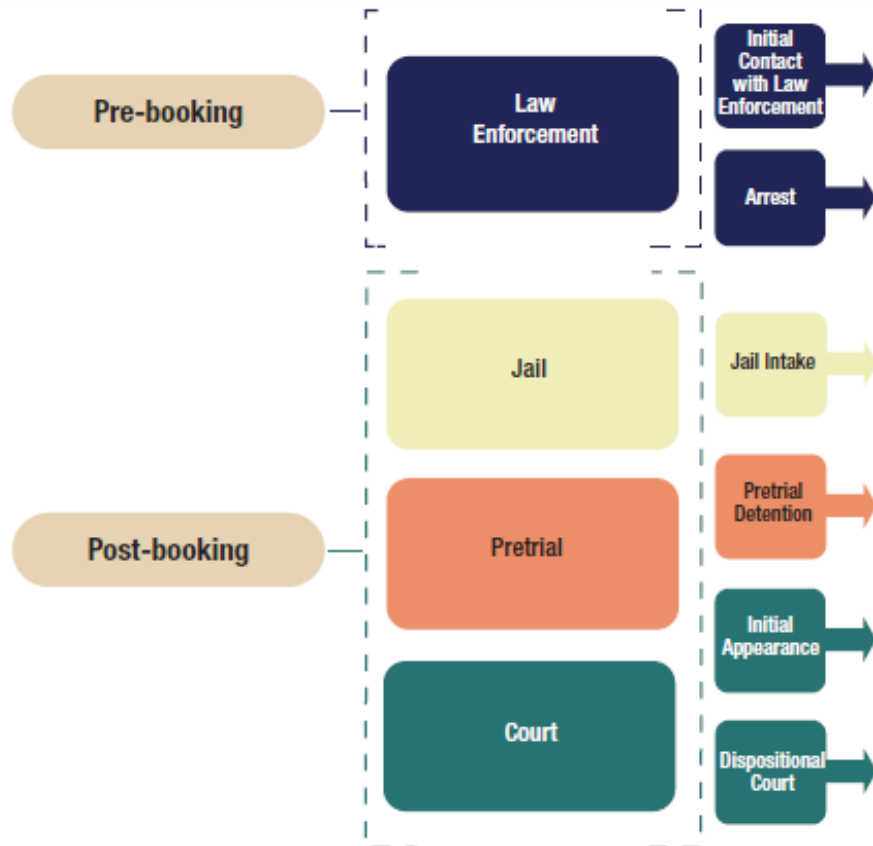
This Photo by Unknown Author is licensed under CC BY-NC-ND

Who is appropriate for collaborative courts?

- Neil Besse, *Office of the Primary Public Defender San Diego*

- Matthew Dix, *San Diego County District Attorney's Office*

- Breawna Lane, *Telecare Corporation San Diego*

- Stephanie Tanaka, *Plumas County District Attorney's Office*

Case Vignettes—Michael

Michael was a 22-year-old homeless, single, unemployed African American man arrested in San Francisco in 2019 and charged with felony assault. According to the arrest complaint, Michael was standing on a sidewalk downtown yelling delusional comments about ISIS and other related issues. A passerby approached Michael to try to deescalate him, which agitated him, and he punched the complainant in the face. Michael had three prior convictions for misdemeanor petit larceny and riding the bus without payment. He had been enrolled in outpatient mental health treatment at a local clinic prior his arrest and was mostly compliant with his weekly appointments. He was diagnosed with schizophrenia and was prescribed an oral antipsychotic medication, which he was inconsistently compliant with. He was was experiencing homelessness and was living on the street at the time of his arrest and supported himself primarily by panhandling. He had a history of marijuana and alcohol use and tested positive for both at the time of his admission to jail following his arrest. Michael presented as agitated and delusional at his arraignment and subsequent court hearings, but he was not physically aggressive or threatening. He was able to express a commitment to reengage in mental health treatment and continue to take his prescribed medications if released.

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George was a 40-year-old African American, single, homeless, unemployed man arrested in Alameda and charged with arson after allegedly starting a fire in an abandoned construction site. He had a limited treatment history prior to his arrest and was experiencing homelessness and living on the street. He had one prior conviction for petit larceny. Records indicated he had a long history of psychiatric hospitalizations and had been diagnosed with schizophrenia. He had no history of substance use. Prior to his arraignment he presented with multiple negative symptoms. He did not make eye contact and was very guarded, withdrawn, and disoriented. His speech was disorganized. He was unable to discuss his treatment history with his defense attorney in a meaningful way, and his explanation of the circumstances of his arrest was very disorganized.

Breakout Groups
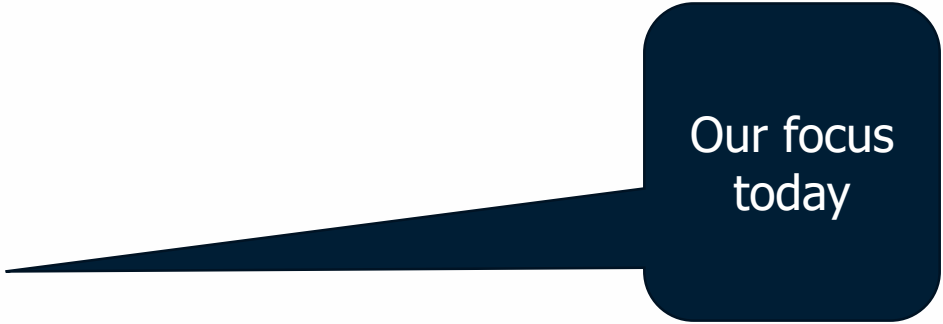
Adult Collaborative Court Examples

- Community/Homeless Courts

- Drug Courts

- DUI Courts

- Mental Health Courts

- Reentry Courts

- Veterans Courts

- And so many more!

Our focus today

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What is a Mental Health Court?

- Treatment-oriented, problem-solving court supervision that divert mentally ill offenders away from the criminal justice system/jail and into *court-mandated*, community-based treatment programs.

- Collaborative between Court, District Attorney's office, Probation Department, Office of the Public Defender, Behavioral Health Services, and community-based providers.

Who are Mental Health Courts designed for?

- Participation in the court process and treatment is voluntary, but usually contingent upon a plea of guilty.

- The eligibility criteria varies but generally includes:

  - Individuals diagnosed with a severe mental illness,

  - individuals with a variety of offenses, including misdemeanor and felony charges.

Mental Health Court program components

- Mental health assessments and individualized treatment plans

- Intensive probation supervision and court monitoring

- Drug testing as well as treatment plan/medication adherence monitoring in the court

- Graduated rewards and sanctions often used incentivize compliance, and address negative behavior

- Program graduation can include charge dismissal/reduction as well as waiving of suspended jail time

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Process Mapping 101 for Mental Health Courts

- People are at the heart of any process
- Systems maps make work visible across:
  - Court
  - Attorneys
  - Behavioral Health
  - Defendants
  - Probation
- Process mapping can drive process improvement
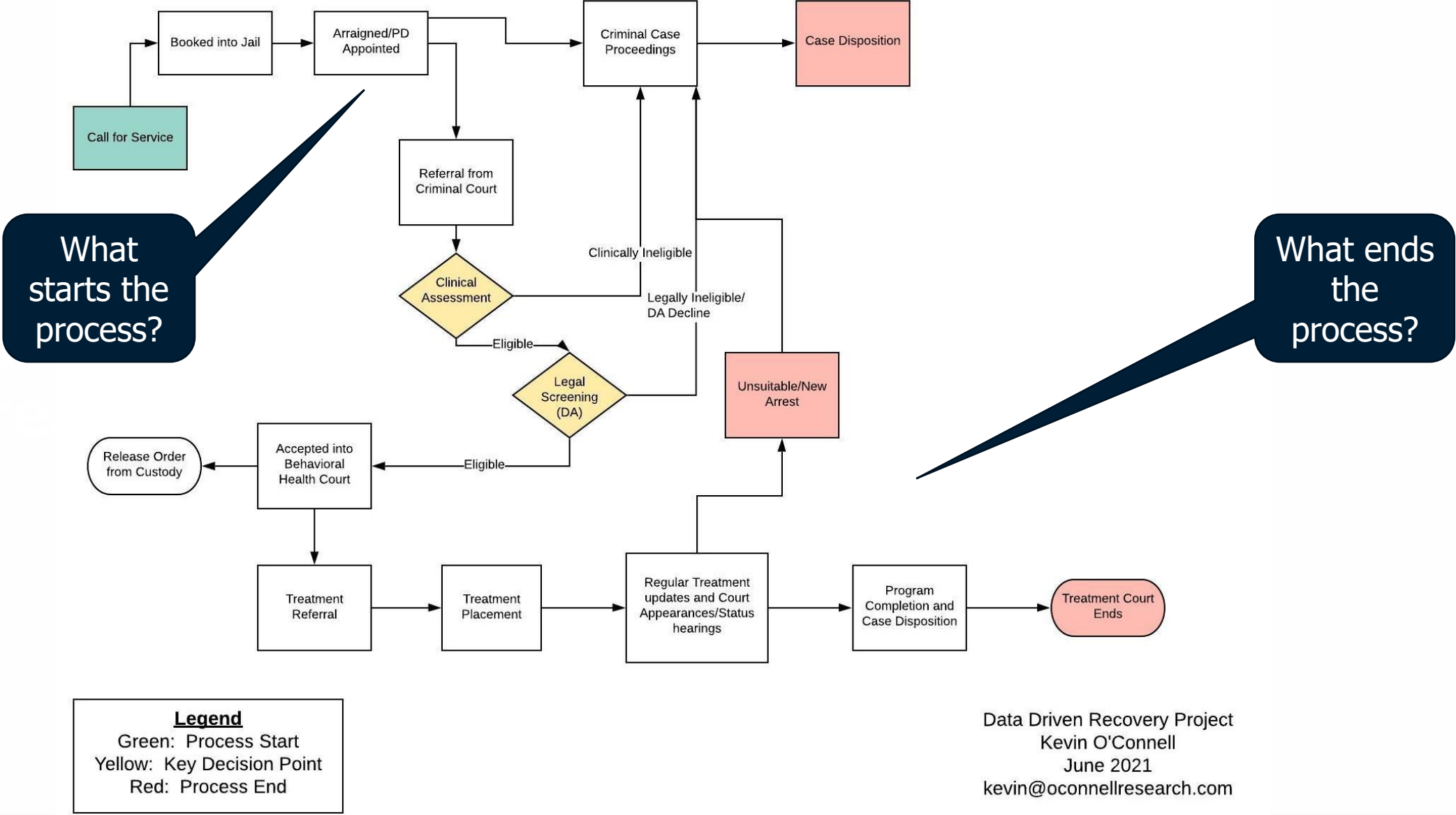
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Voice of the Customer

"When will the MH assessment be completed?" —Judge

"How do I know the defendant is sticking with their treatment plan?" —District Attorney

"When will my son start treatment"—Family member of a client

"When will my client know if they are admitted into the program?" —Defense Attorney

Mental Health Court Process

Legend
Green: Process Start
Yellow: Key Decision Point
Red: Process End

Data Driven Recovery Project
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Four Metrics for the Mental Health Court Process

- *MH Court Referral Rate*
  - Number of referrals per 1,000 criminal case filings, by case severity
  - Helps estimate the relative number of times referrals to MH Court are occurring
- *Age of Pending MH Court Referrals(days)*
  - Average days (or median) since referral to MH Court was made
  - Helps to see if referrals are being assessed and calendared in a timely way
- *Time to Disposition of MH Court Referrals (Days)*
  - Average (or median) time from referral to admission
  - Helps to see if the time to referral disposition is growing and where backlogs exist
- *MH Court Acceptance Rate*
  - Number of cases where defendant accepted into the court program
  - Helps understand how referrals are being disposed, either as acceptances or declinations

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Using data for Mental Health Court

What kind of data do we need?

- MH Court Referral and Program Data

- Jail booking and Release

- Behavioral Health Treatment Episode History

- Probation Assessment and Supervision Data

Mental Health Court Fields

Person ID	Gender	R/E	Age at Enter
99755	M	B	30
64536	M	W	37
57565	M	W	46
34667	F	B	25

People

Referral ID	Cases	Charges	Case Type	Status	Referral Date	Colab Court Type	Referral Decision Date	Accepted/Declined
1	F123456	PC 273. A(A)	Felony	Discharge	1/1/2018	High Intensity	1/8/2018	Accepted
2	M54536	PC 647(A)	Misdo	Discharge	1/23/2018	High Intensity	2/2/2018	Accepted

Referrals

Referral ID	Admission Date	Exit Date	Exit Reason	Susp Jail Time (days)	Provider	Graduation Date
1	1/16/2018	2/27/2019	Graduate	1095	Private	2/26/2019
2	4/25/2018	6/12/2020	Graduate	120	DBH	6/20/2020

Court Acceptances

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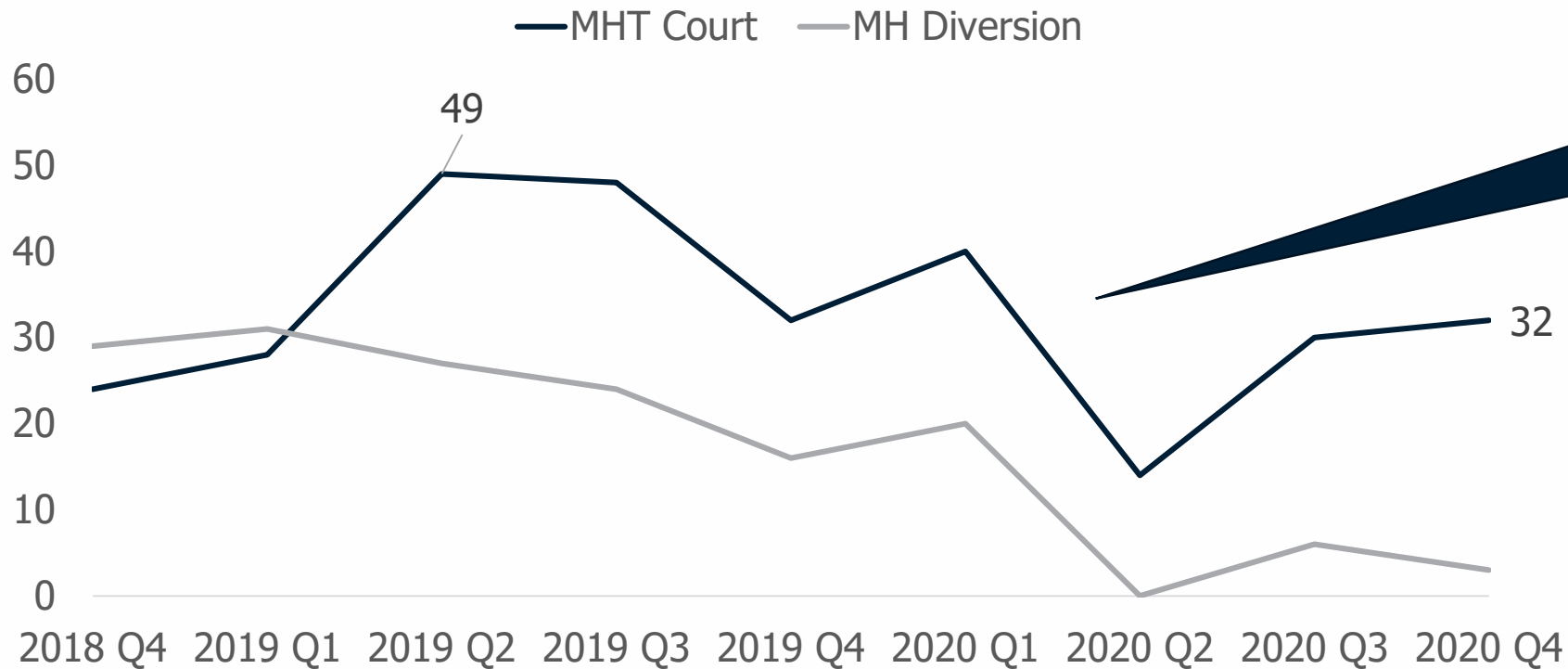
Use referrals to understand differences in dispositions

- 65 Referrals for MHTC in 2020
  - 80% Felony Cases
- 75% Male
- 40% Black, 32% White, 20% Hispanic
- Median Age of 32

What explains some of the changes in suitability

Referral Disposition Reasons, by Year

Legend:
- Accepted
- Declined
- Withdrawn
- Not Suitable-Probation
- No Insight/Motivation

2019 N=55

2020 N=65
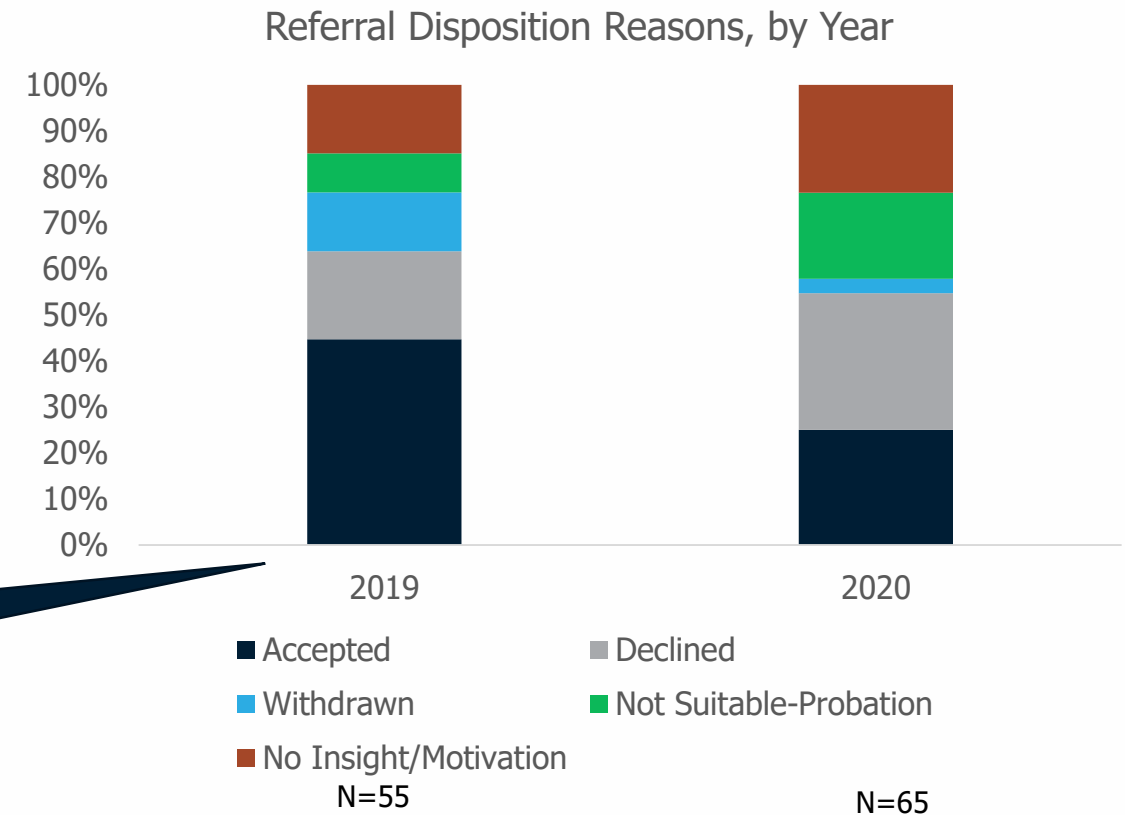
Looking at program acceptances as a group shows the opportunity of MH court

➢Year before MH Court Admission
  ➢Averaged 50 days in jail
  ➢FSP clients averaged 90 days per jail stay
  ➢7th booking on average since 2017
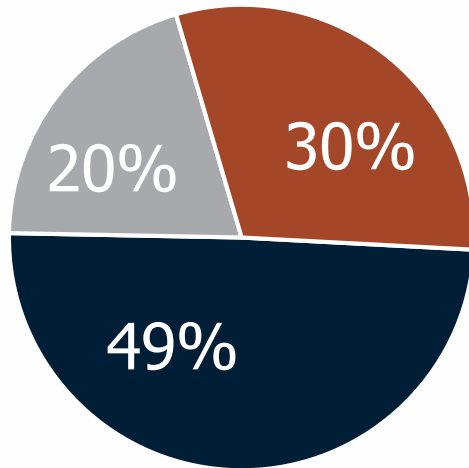 ➢Top 3 booking types were crimes against people, warrants, and property crimes

➢ Averaged Suspended Jail time-320 days

Align probation supervision to risk to reoffend and addressing criminogenic needs

Static Risk Assessments of MH Court Admissions (2019)
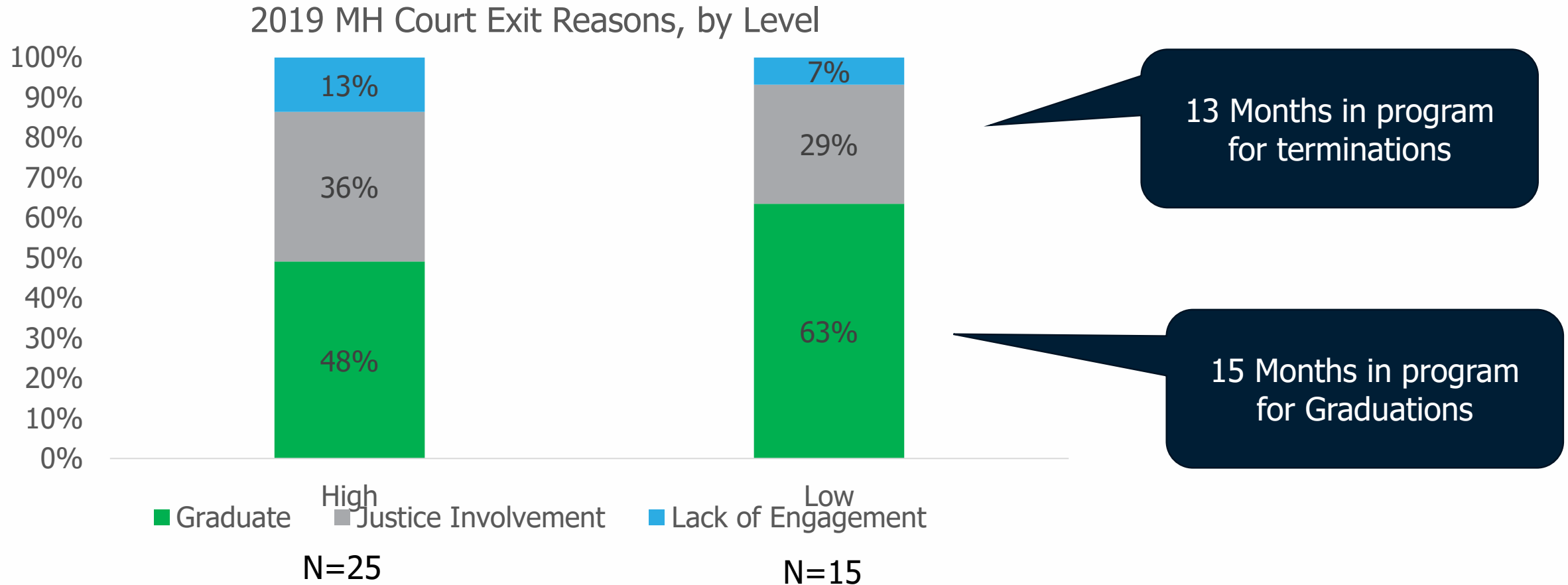
■ High ■ Low ■ Moderate

30%

20%

49%

80% Moderate and High Static Risk

N=55 LS-CMI Assessments

Need	% with a High Need in
Employment	25%
Alcohol and Substance Abuse	24%
Emotional Factors & Social Adequacy	19%
Peer Relationships	10%
Abuse History	7%
Basic Living Needs	5%
Criminal Orientation	3%
Family Needs	3%

Source: Data Driven Recovery Project

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Program completion rates vary based

2019 MH Court Exit Reasons, by Level

13 Months in program for terminations

15 Months in program for Graduations

Legend: ■ Graduate ■ Justice Involvement ■ Lack of Engagement

High: N=25
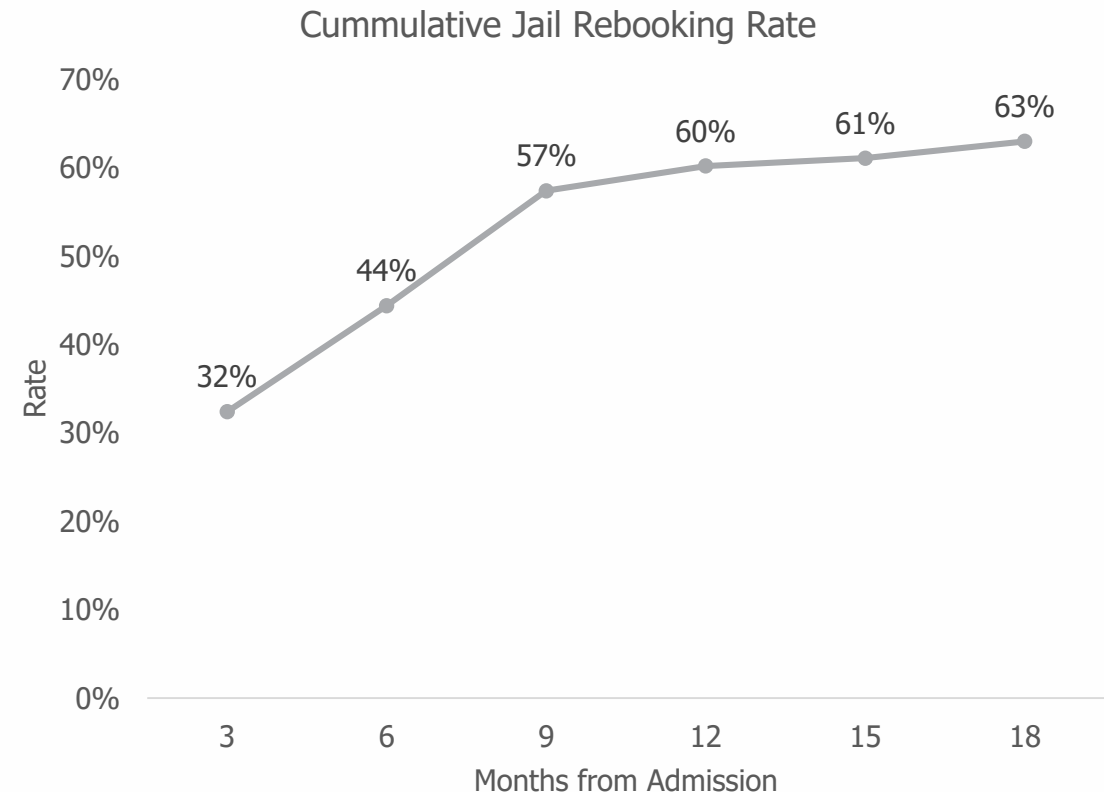Low: N=15

Measuring returns to custody for MH Court

- Develop a cohort of people referred and accepted into the program, then track for uniform amount of time

- Most jail bookings during the MH Court program were related to warrants and court sanctions, which tie into court oversight.

Cummulative Jail Rebooking Rate

Mental Health Courts Data   Source: Data Driven Recovery Project

Projecting caseloads and impacts of MH Court

- Collaboratively assess resources at full implementation
- Based on some assumptions, estimates can focus on
  - Increases in referrals/acceptances
  - Treatment caseloads and ongoing program costs
  - Jail bed avoidance
 - Psychiatric hospital bed avoidance

How can these metrics be useful?

- Collaboratively assess resources at full implementation
  - Adjust caseloads based on timing of caseloads
  - Forecast impact of increasing or decreasing diversion
- Estimate cost and budget impacts over the medium term
  - Use operating costs to estimate marginal impacts

Forecasting caseloads for MH Treatment Court
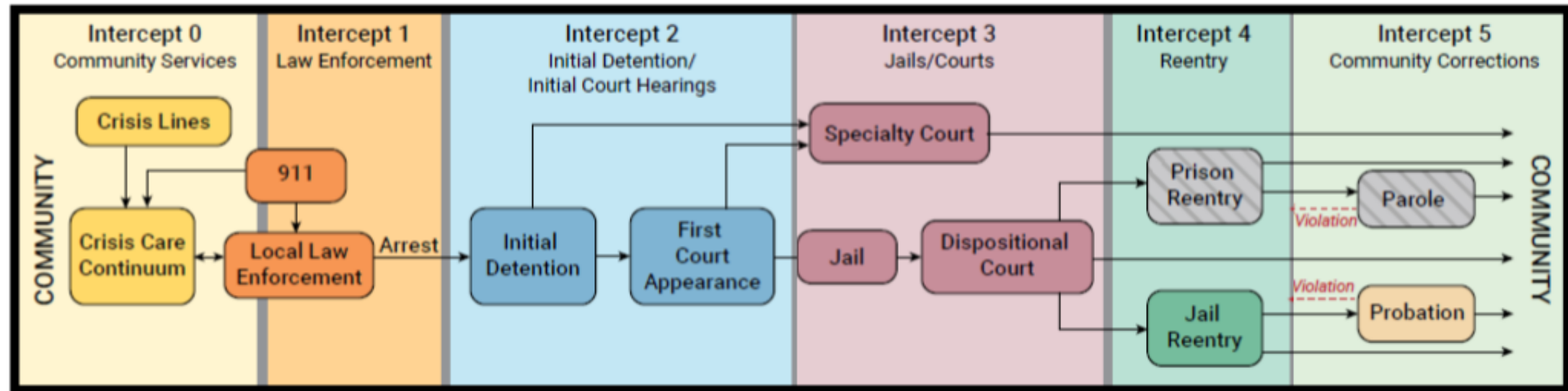
Mental Health Court Caseload Impact

— Avoided Jail Beds — Program Slots — Avoided State Hospital Beds

214

128

5
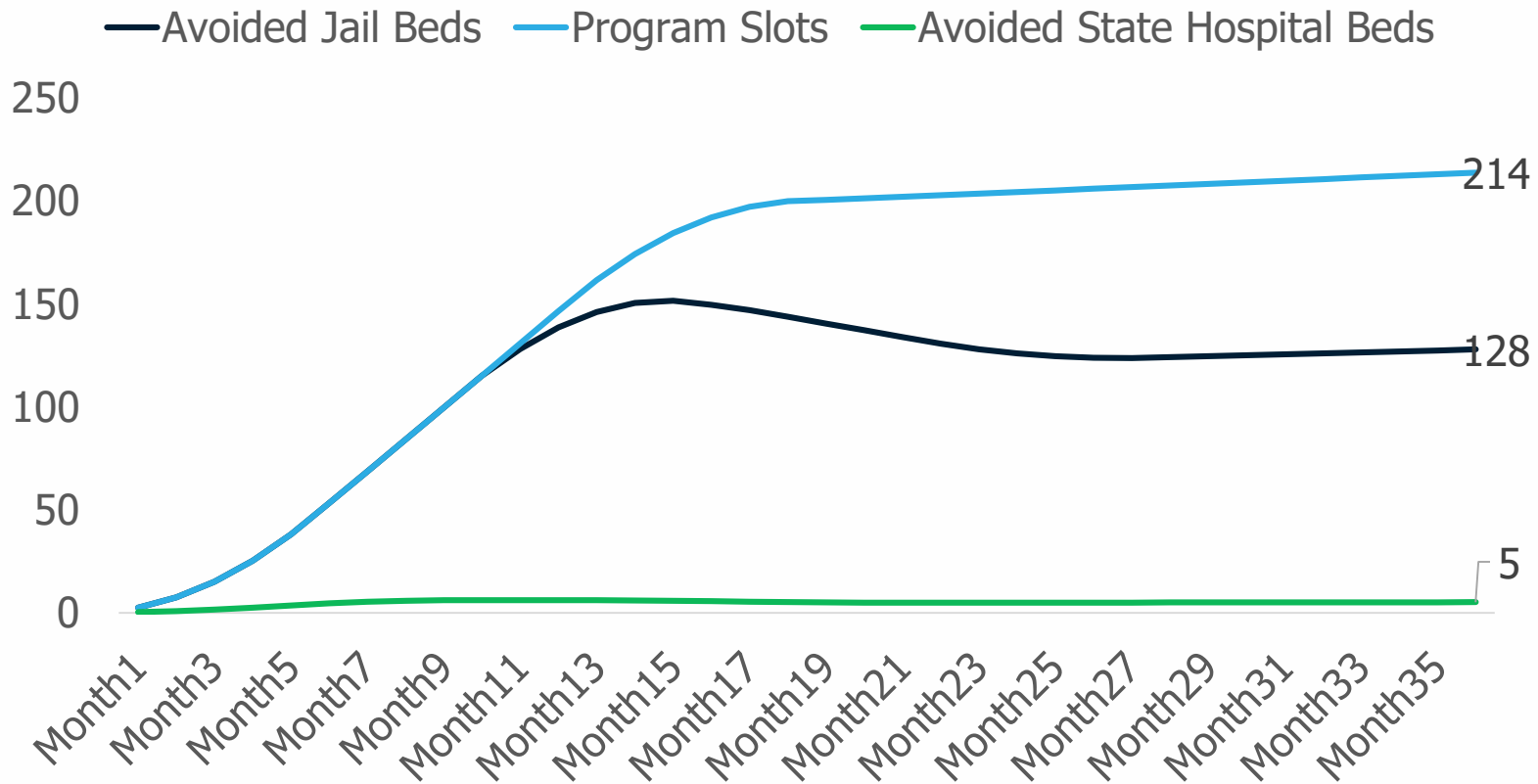
Assuming the following:

✓ 12 Acceptances a month
✓ 13 months in MHTC, with a 25% case termination rate
✓ 320-day jail stay avoided

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Bringing it all Together

Sequential Intercept Model

WE ARE HERE

A progression of opportunities to identify and address behavioral health needs

Screening & Assessment in the jail

Eligibility for Mental Health Diversion

Evaluation of Competency to Stand Trial

Collaborative Courts

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Building and executing a data strategy

- Identifying key stakeholders and the owners of key datasets

- Developing a data strategy

- Using an approach for matching data across systems, including use of a unique identifier

- Identifying and conducting analyses

- Discussing findings with stakeholders to inform policy decisions

Breakout Groups

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Resources

Satisfaction Survey

Mental Health Courts Data

FY2021 Justice and Mental Health Collaboration Program Solicitation Released

- **BJA provides leadership and assistance to local criminal justice programs that improve and reinforce the nation's criminal justice system. BJA's goals are to reduce and prevent crime, violence, and drug abuse and to improve the way in which the criminal justice system functions. In order to achieve such goals, BJA programs illustrate the coordination and cooperation of local, state, and federal governments. BJA works closely with programs that bolster law enforcement operations, expand drug courts, and provide benefits to safety officers.**

- **Grants.gov Deadline: June 22, 2021, 11:59 p.m. ET**

- **Application JustGrants Deadline: July 6, 2021, 11:59 p.m. ET**

- https://bja.ojp.gov/funding/opportunities/o-bja-2021-95004

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