



Race and Prosecutions

2022 Update

A Report of the Santa Clara County
District Attorney's Office
Jeff Rosen, District Attorney



Shrinking the Pie

We have made hopeful progress in reducing the persistent problem of racial inequity in the criminal justice system by “shrinking the pie” of all of those charged.

In the last two years, my policies, coupled with the effects of the pandemic, have dramatically reduced the number of low-level criminal cases we file. At the same time, we have refocused our attention and resources toward violent crime. Our goal –as always– is to balance public safety with reform. The two are not mutually exclusive. In fact, they must go hand in hand. It is our goal to report on our ongoing efforts to reveal, study, and decrease the racial disproportionality in our criminal justice system. Some of those efforts result from systemic policy changes such as our pre-trial detention or release stance, our new narcotics project, and our collateral consequences policy. Other advances arise from special projects like expunging marijuana criminal records.

Racial inequalities in our system are complex and deeply problematic. But there is hope and there are solutions. One solution to over-incarceration is finding creative ways to increase treatment and community service and support on the front-end of a sentence so we can cut the use of incarceration on the back end. Part of that work began this year with my launch of a new unit in the DA’s Office, the Custody Alternatives and Mental Health Programs Team. As the name suggests, one of the primary goals of this new unit is finding alternatives to incarceration in order to enhance public safety, keep more people safely embedded in their community, improve rehabilitation, and consequently reduce the jail population. We will do this by offering people an opportunity to remain conviction free by participating in a multitude of diversion and deferred entry of judgement programs. The work of this team is to identify people early on who could benefit from these types of programs and do not need to be in custody to keep our community safe. This team demonstrates my office’s long-term commitment to seeking equitable justice within our county while always focusing on public safety.

Because there are racial disparities in every part of the criminal justice system, our substantial reduction in filings of misdemeanors has resulted in fewer Latino and African American community members being charged with these low-level crimes. Therefore, while the pie chart that shows the percentages by race and ethnicity of the people we prosecute has, unfortunately, remained largely unchanged in the years we have been studying this data, the pie has dramatically shrunk (see pie charts below). There are simply far fewer people of all races charged with low-level, non-violent crimes.

How did we do this, while protecting public safety?

We have now revamped our approach to drug offenses, with promising results. Since the end of 2019, we have been directing low-level offenders to drug treatment instead of prosecution. If a person has three or more of drug offenses in a year or presents a public safety risk, they are prosecuted.

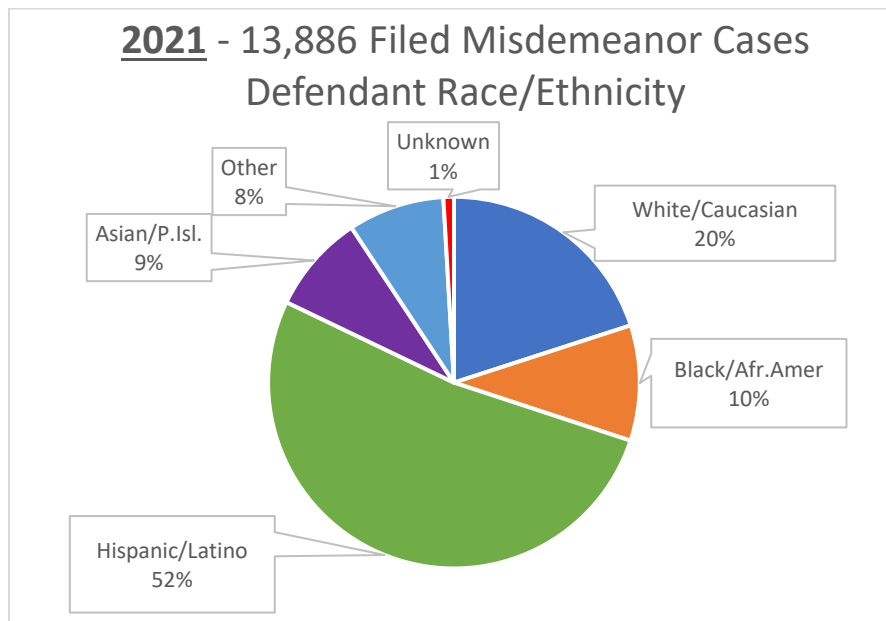
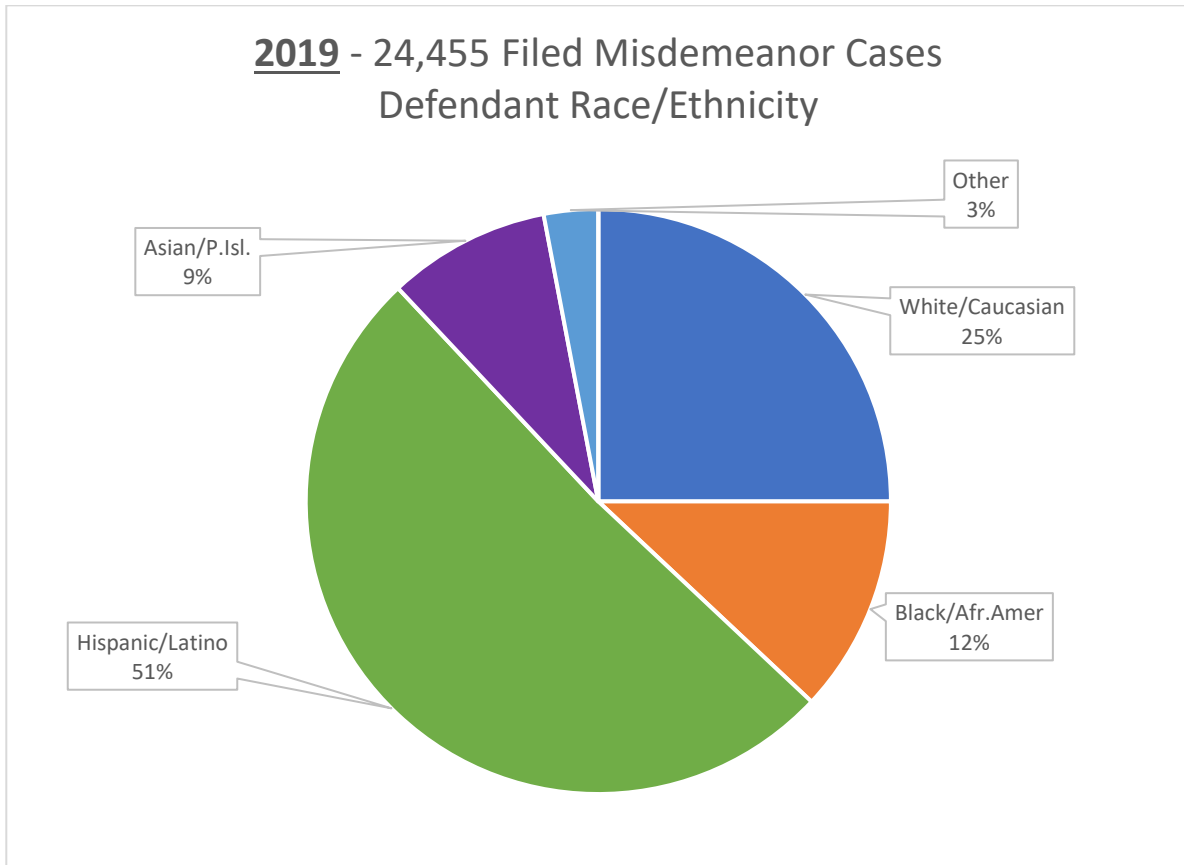
These and other changes resulted in a 43% drop in the number of misdemeanor cases my office filed from 2019 to 2021. With Latino and African Americans being disproportionately charged with crimes, this drop had the biggest impact on those groups.

Meanwhile, the statistics in this report show that we continue to take a serious approach to violence against our community, often with minority victims. Felony cases – the more serious cases where weapons have been used, victims injured, or homes burglarized to name a few examples -- have remained steady. In 2021, we filed 6,634 felony cases which is 5% fewer than the 6,981 felony cases we filed in 2019. Similarly, misdemeanor domestic violence offenses remained steady.

Looking at race and prosecutions also includes looking at who is working as a prosecutor. Since I first took office in 2011, the percentage of minority prosecutors in the DA's Office has increased from 26% to 40%, due to increased efforts to recruit attorneys to apply from all backgrounds. Similarly, 44% of the attorney supervisors and managers at the DA's Office are minorities.

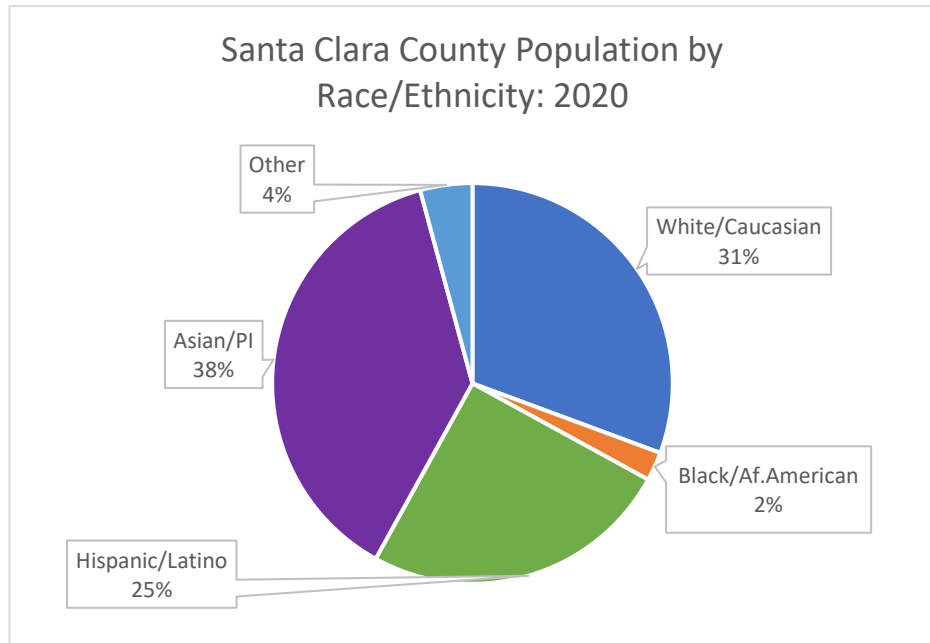
This report is a snapshot in time, not a report card. If it was, an assessment might be that our efforts are a work in progress. We are still planning new policies, new practices, brainstorming with people in and out of the system, scouring the state and the country for ideas. We are reaching out to our community to ensure their concerns and ideas are heard, and to ensure that they know that equality is just as important to us as it is them.

The Pie Has Shrunk with 10,000 Fewer Low-Level Offenses Filed in 2021 Compared to 2019

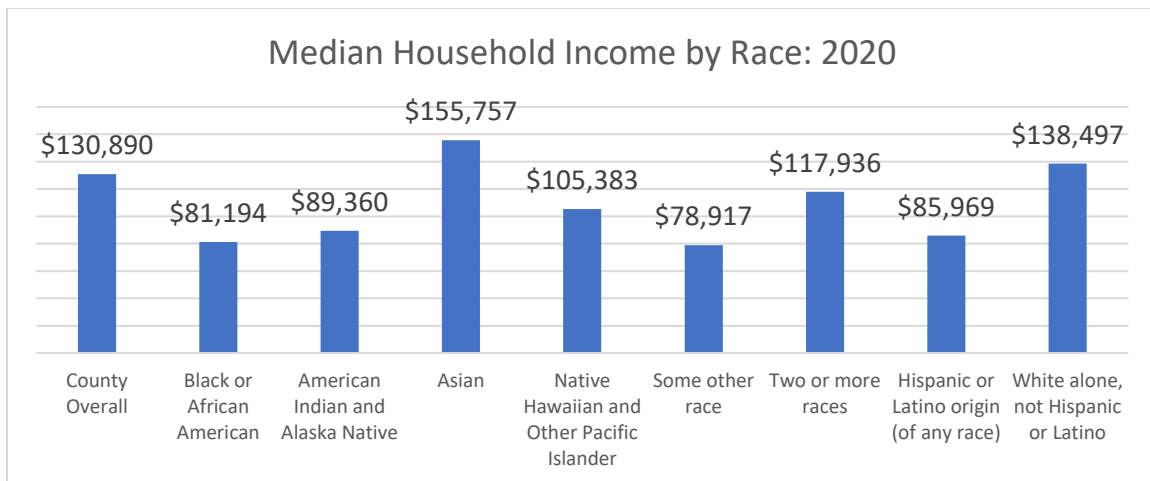


Demographics of Santa Clara County

Santa Clara County is the largest county in Northern California, with nearly 2 million residents. The County is racially and ethnically diverse, with nearly equal percentages of White/Caucasian, Hispanic/Latino and Asian/Pacific Islander residents. There is a very small Black/African American population. Santa Clara County overall has the highest median income of any California county.



There are large disparities in household income across racial groups in our County. White and Asian residents have a significantly higher median household income than Black/African American and Hispanic/Latino residents.

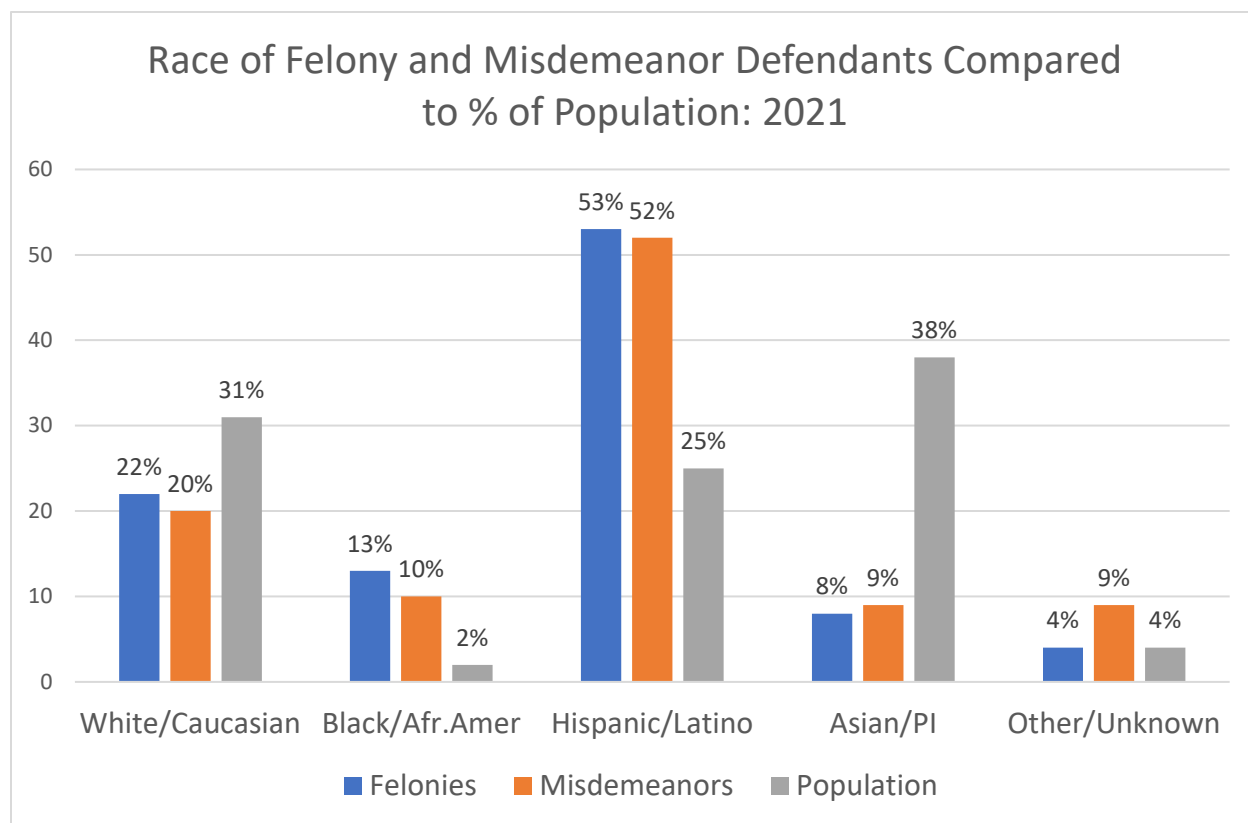


¹ US Census, ACS Demographic 5-Year Estimated Data Profiles 2020, DP05, located at: <http://data.census.gov>

² US Census, 2020 ACS 5-Year Estimates Subject Tables, Table S1903

Race of Prosecuted Defendants:

When examining the defendant population of Santa Clara County, racial disproportionality exists in the juvenile and adult populations. In this report, race is based on the defendant’s self-identification at booking or arrest. “Unknown” does not mean that a person does not know their racial or ethnic identification, but rather that that information was not entered into the electronic dataset. In 2021, as in the prior years of the Race and Prosecution report, the data revealed that the District Attorney’s Office prosecuted a higher percentage of Hispanic/Latino and Black/African American defendants compared to their representation in our community. We prosecuted a lower percentage of Asian/Pacific Islander and White/Caucasian defendants as compared to their percentage in the population.



Analysis of Racial Disparity by Crime Type

In the appendix to this report, several commonly charged crimes are examined, revealing that racial disparity exists across multiple crime types. As we looked at crimes that are typically initiated by police contact (Under the Influence of Drugs [HS 11550], Driving while Intoxicated [VC 23152]) and compared to crimes that are typically called in by civilians (violent crimes), the numbers still reflected a disproportionately lower number of charged Asian/Pacific Islander defendants, varying percentages of White/Caucasian defendants, and a clear higher representation of Black and Latino defendants.

The crime category which mirrors the population the closest by race is “White Collar” Crime, meaning cases where the primary charge was a non-violent, often financial crime. In those cases, 30% of defendants were White, 9% Asian, and 35% Hispanic/Latino.

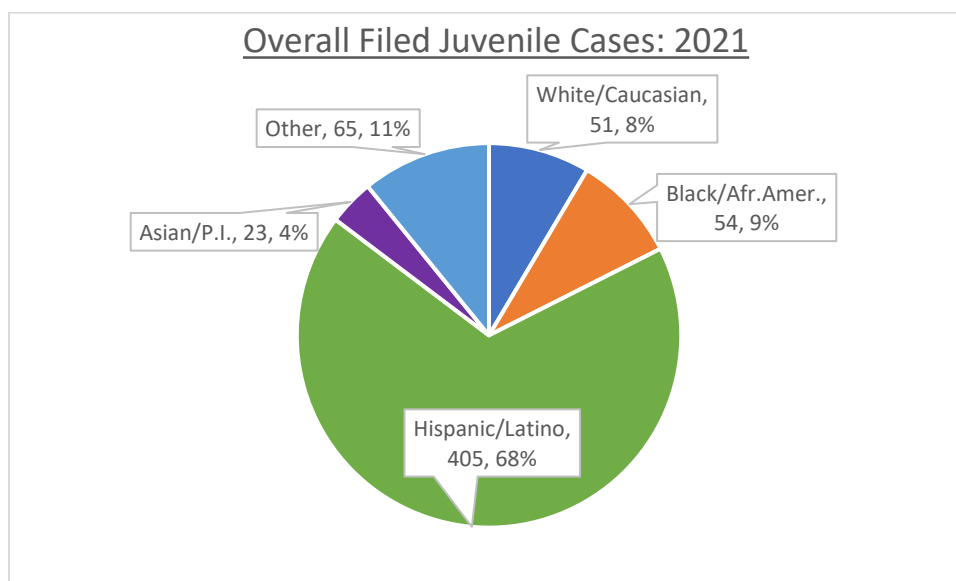
The greatest disproportionalities for Black/African American defendants were in robbery cases (22% of charged cases), felony assault (12% of charged cases), and second-degree burglary (13% of charged cases).

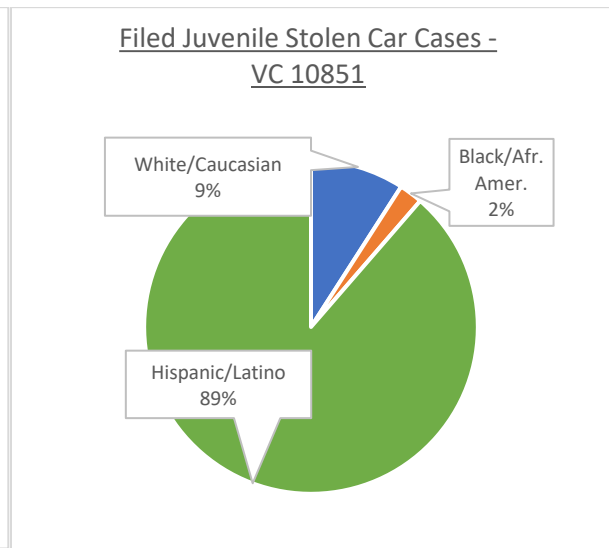
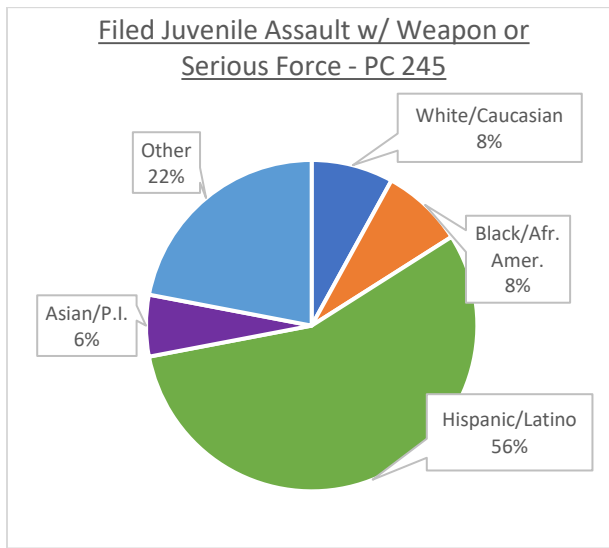
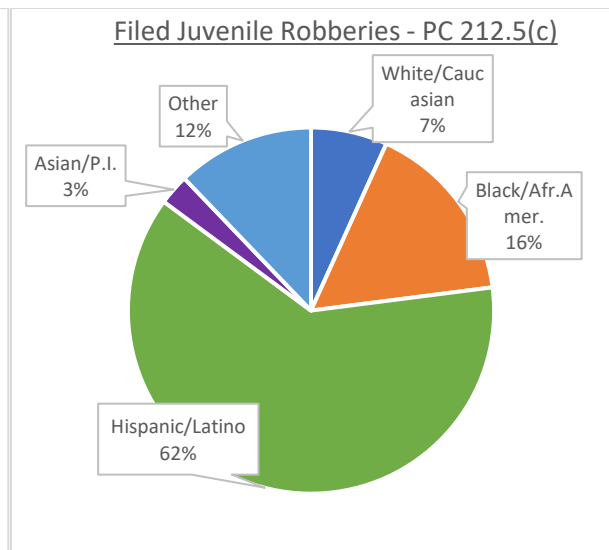
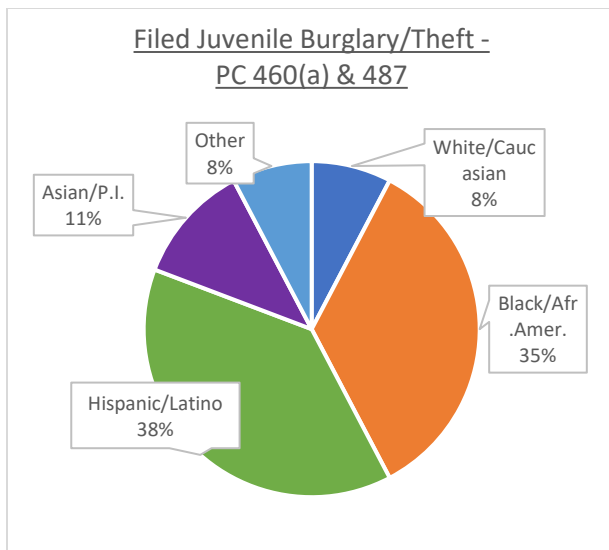
The greatest disproportionalities for Hispanic/Latino defendants were driving under the influence (63% of filed misdemeanor and 67% of filed felony cases), felony assault (61%), and felony domestic abuse (59% of charged cases).

Juvenile Race Data:

The District Attorney’s Office is committed to addressing racial inequity in the Juvenile system, including dedicating Community Prosecutors to directly work on a collaborative prevention strategy. These prosecutors work with the Juvenile Justice Commission, the Probation Department, the Juvenile Court and multiple community partners. The DA’s Office’s Parent Project is the county’s largest court-mandated Juvenile diversion program. The Santa Clara County District Attorney’s Office is committed to providing this highly effective and affordable program to parents. Since 2008, over 9,000 parents have graduated from the program. Classes are offered in English, Spanish, and Vietnamese. Starting from 2020, the Parent Project has launched virtual online classes. 44% of the participants in the Parent Project in 2022 are minorities. The South County Youth Task Force, which is a collaboration between the DA’s Office, the cities of Gilroy and Morgan Hill, and other partners, works throughout South County to address the effects on youth of violence and gang activity. There is still much work to be done.

The racial disparity in charged criminal cases is far more pronounced in juvenile court than in adult court. The data show a clear over-representation of Hispanic/Latino youth in the charged juvenile population. Hispanic/Latino youth were charged at a rate nearly double their representation in the community, while Black/African American youth were charged at a rate several times their percentage in the population. While much has been done in our County to reduce the number of juveniles charged with offenses, and to reduce the population at Juvenile Hall, racial disparities in those who are charged persist.





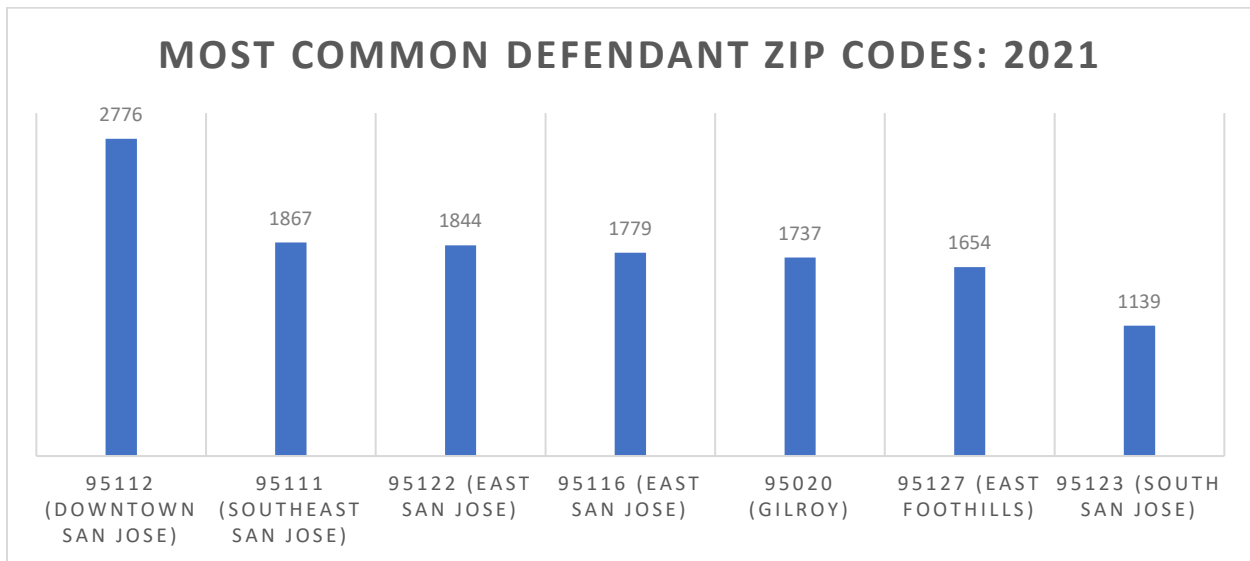
High school dropout rates are much higher for Black and Hispanic/Latino students in Santa Clara County compared to White/Caucasian or Asian/Pacific Islander students. We know school attendance and completion is very important, and that’s why we have a collaborative program with parents and schools to work to keep kids in school as part of our broader truancy efforts. In looking at the State of California’s data on graduation rates for a group of “cohorts”, meaning a group of students who attended high school at the same time, we can see these differences. The table below is from a Five-Year look at “cohort” students from Santa Clara County public schools, and shows their various outcomes, beyond just graduation.

Race / Ethnicity	Cohort Students	Regular HS Diploma Graduates	Cohort Graduation Rate	Graduates Meeting UC/CSU Requirements	Graduates Earning a Seal of Biliteracy	Graduates Earning a Golden State Seal Merit Diploma
African American	437	369	84.4%	160	29	55
American Indian or Alaska Native	45	35	77.8%	13	1	5
Asian	6,321	6,085	96.3%	4,669	1,792	3,314
Filipino	998	941	94.3%	482	85	256
Hispanic or Latino	8,452	6,670	78.9%	2,541	1,105	872
Pacific Islander	97	85	87.6%	37	5	18
White	4,052	3,755	92.7%	2,554	530	1,184
Two or More Races	894	848	94.9%	534	135	262
Not Reported	113	97	85.8%	56	15	28

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Zip Code Analysis

In both the adult and juvenile populations, there are five primary zip codes that represent the largest number of the criminally charged. In 2021, the adult and juvenile population’s top five zip codes of residence for individuals charged with a crime are shown in the chart below. We know our most vulnerable populations live in small geographic areas of our County, and that these areas are the same areas where crime victims are suffering. Understanding these communities helps us understand how to address crime and racial disparity.



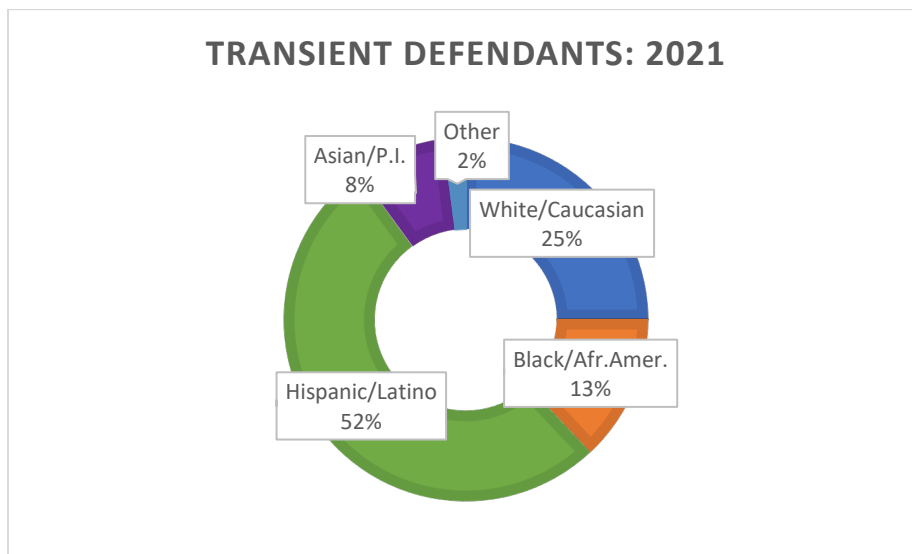
Crime Prevention

³ 2020-2021 Graduation Data provided by California Department of Education Data Reporting office
Data tool available at: <https://dq.cde.ca.gov/dataquest/>

The Community Prosecution Unit, which is focused on reducing youth crime, is specifically embedded in Gilroy, downtown San Jose, and East San Jose, working to understand the needs of the neighborhoods where most of our defendant population resides. Comprehensive work is done by Community Prosecutors, Investigators, Victim Advocates, and the Crime Strategies Unit, to develop crime prevention policies in those communities. Prevention efforts are an important part of the District Attorney’s role in addressing crime.

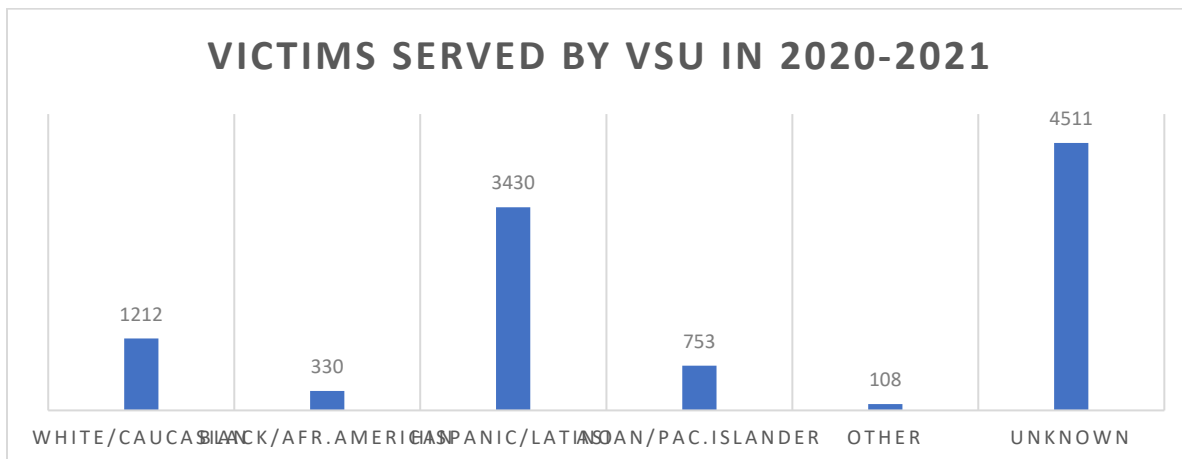
Homeless Defendants

One population that the District Attorney’s Office works to better understand is the unhoused population. Each year there are hundreds of cases referred for prosecution by police agencies where the suspect does not have a listed address, or expressly lists themselves as “transient”. In looking at the racial composition of unhoused defendants, we see similar racial disparity, meaning an over-representation of Black/ African American and Hispanic/Latino defendants.



VICTIM SERVICES UNIT

The Victim Services Unit at the District Attorney’s office provides support to crime victims in a multitude of ways, from financial to emotional support. Many victims did not provide their race/ethnicity at the time of receiving services (44% of the victims served were of “unknown” race). But of the known races served by VSU, the majority were Hispanic/Latino, followed by White/Caucasian victims.



Next Steps

Our work is unfinished. Racial disparities in income, in education, in the criminal justice system, and in so many parts of our society persist. While we have made great progress in reducing the number of people who are charged with low level crimes, the work in our office to make the criminal justice system fair for all continues.

We will continue to study this issue and to be transparent with the public about what is happening, and to also let the community know how specific policy changes affect what is happening.

More importantly, we will continue to work to make policies that “shrink the pie” and reduce disparities while keeping our community safe.

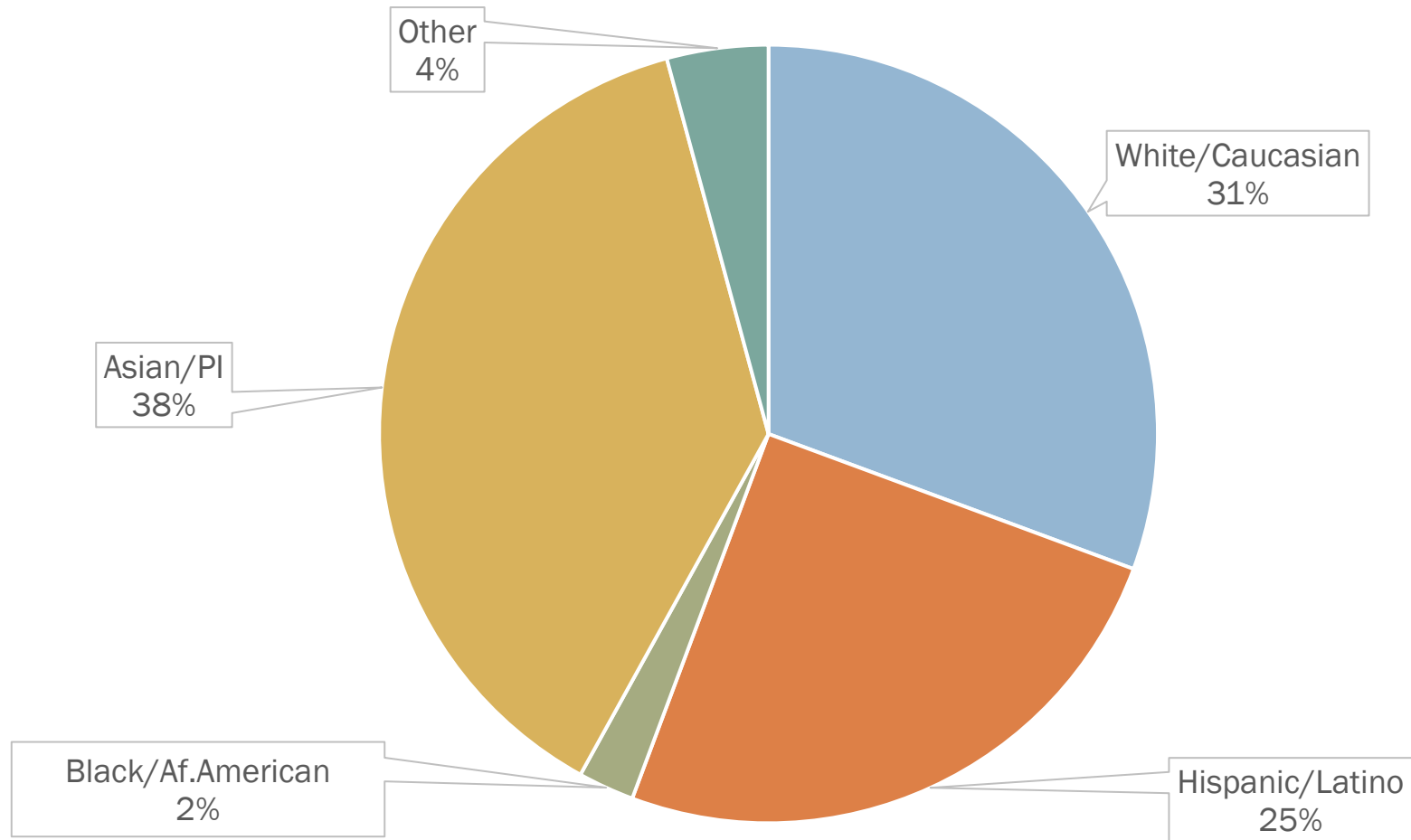
RACE AND PROSECUTIONS REPORT

2014-2021



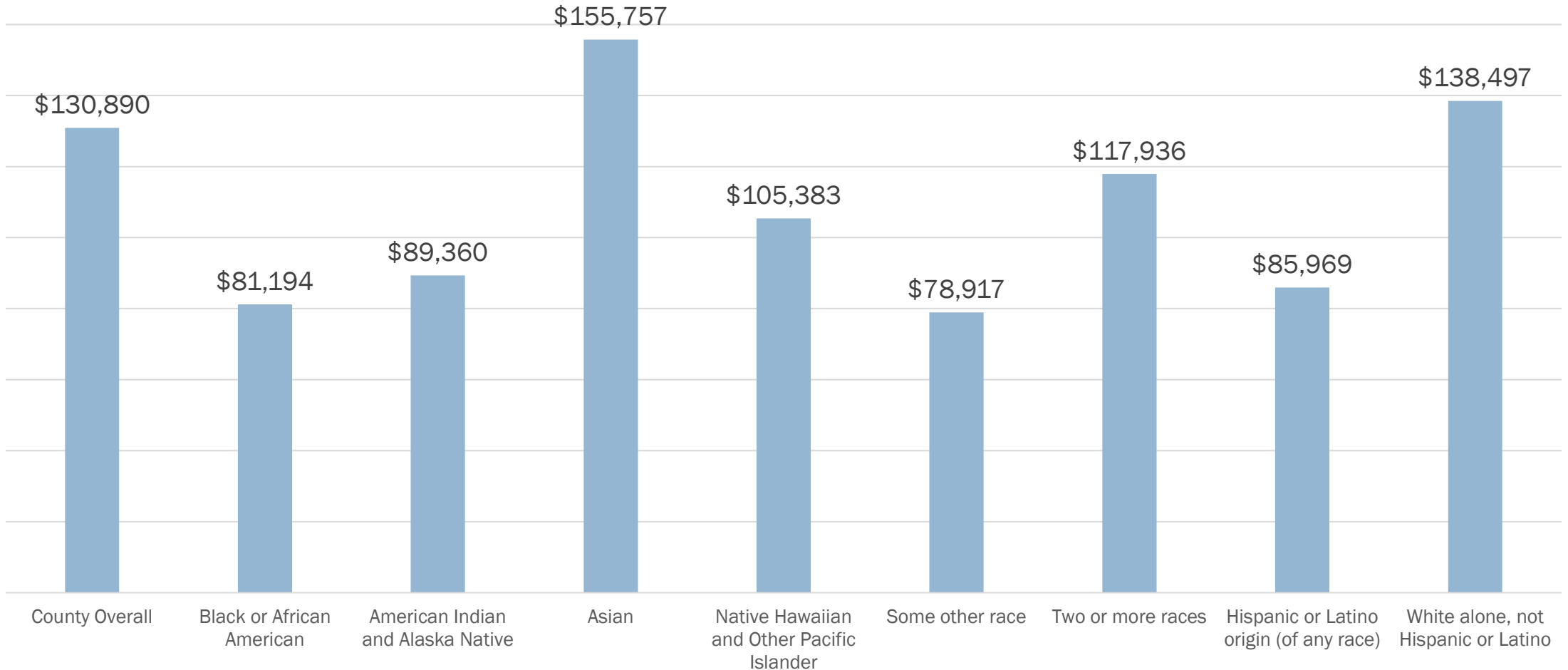
OFFICE OF THE
DISTRICT ATTORNEY

RACE OF SANTA CLARA COUNTY RESIDENTS: 2020



Source: US Census, ACS Demographic 5-Year Estimated Data Profiles 2020, DP05, located at: <http://data.census.gov>

MEDIAN HOUSEHOLD INCOME IN SANTA CLARA COUNTY: 2020



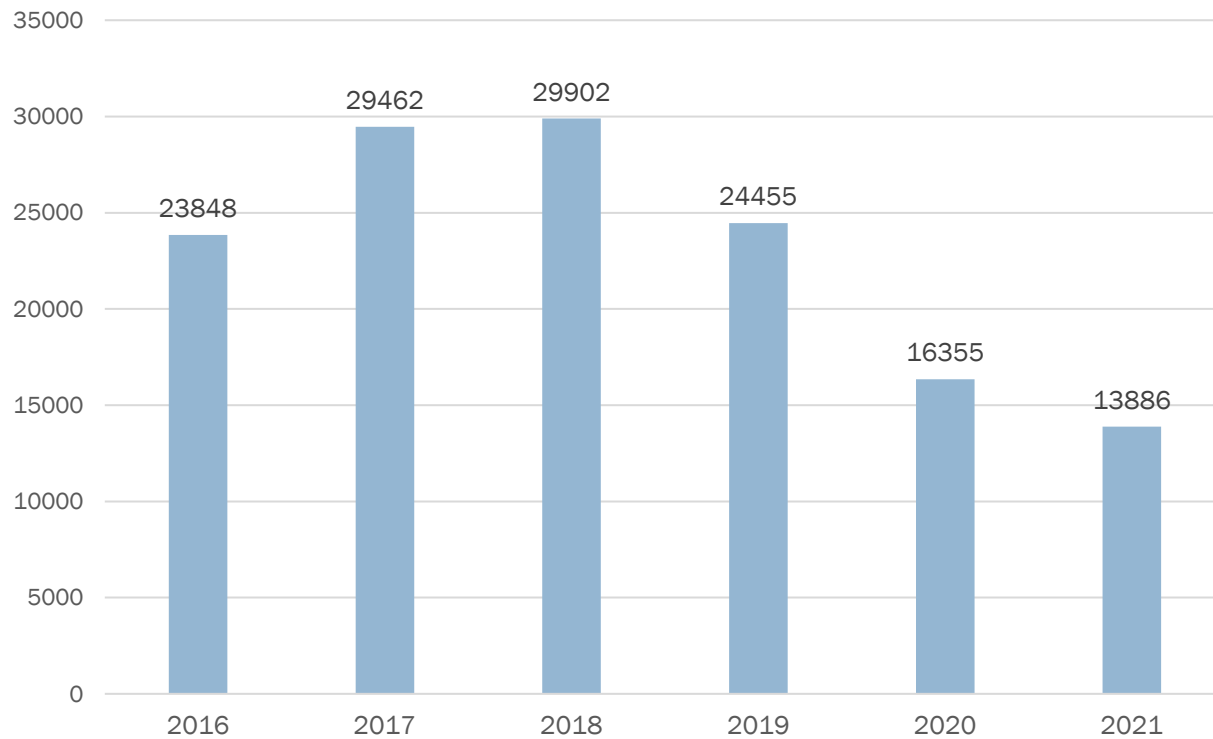
GRADUATION RATES AND DATA BY RACE: 2020-2021

<u>Race / Ethnicity</u>	<u>Cohort Students</u>	<u>Regular HS Diploma Graduates</u>	<u>Cohort Graduation Rate</u>	<u>Graduates Meeting UC/CSU Requirements</u>	<u>Graduates Earning a Seal of Biliteracy</u>	<u>Graduates Earning a Golden State Seal Merit Diploma</u>
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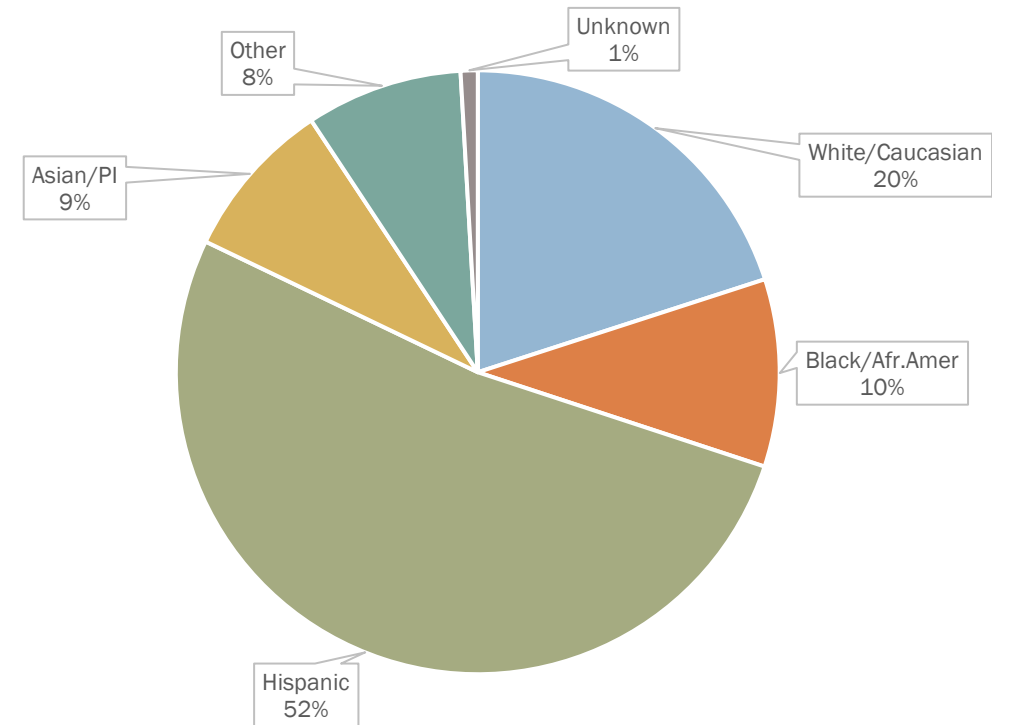
2020-2021 Graduation Data provided by California Department of Education Data Reporting office
 Data tool available at: <https://dq.cde.ca.gov/dataquest/>

RACE OF DEFENDANTS IN FILED MISDEMEANORS

Filed Misdemeanor Cases: 2016 - 2021

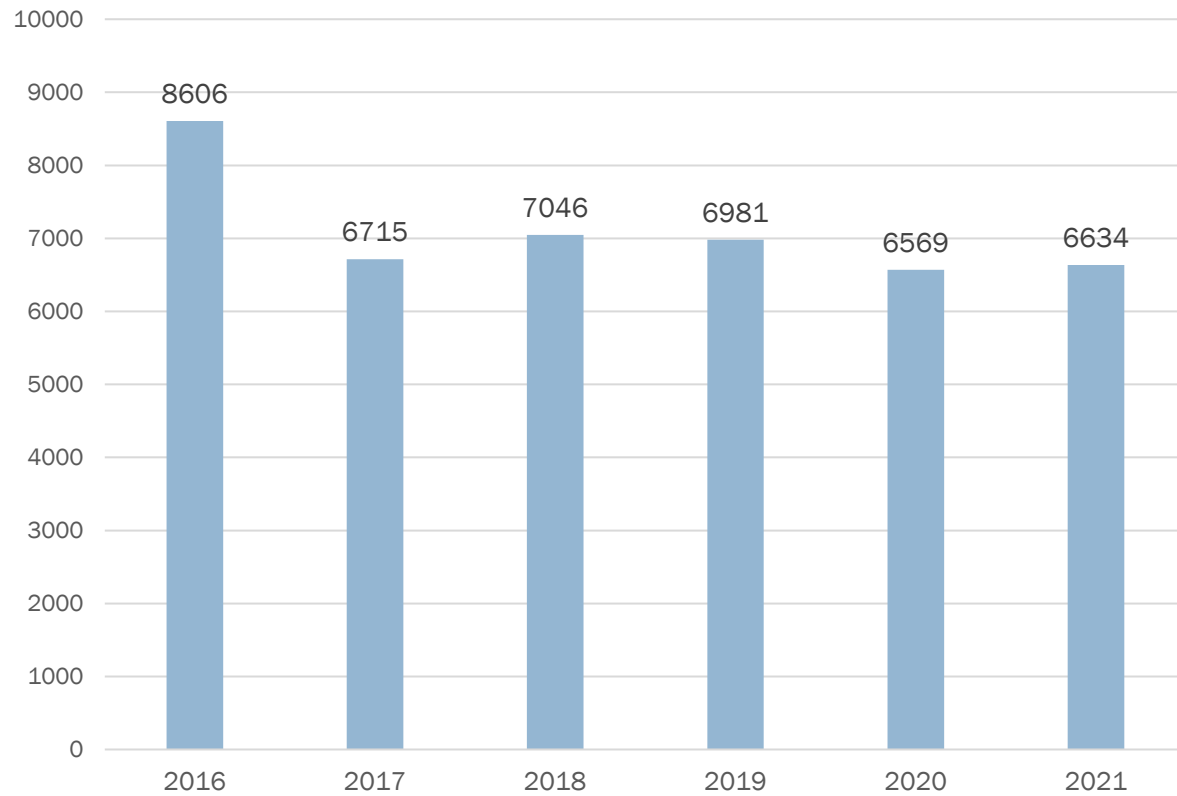


Issued Misdemeanor Cases 2021: Defendant Race/Ethnicity

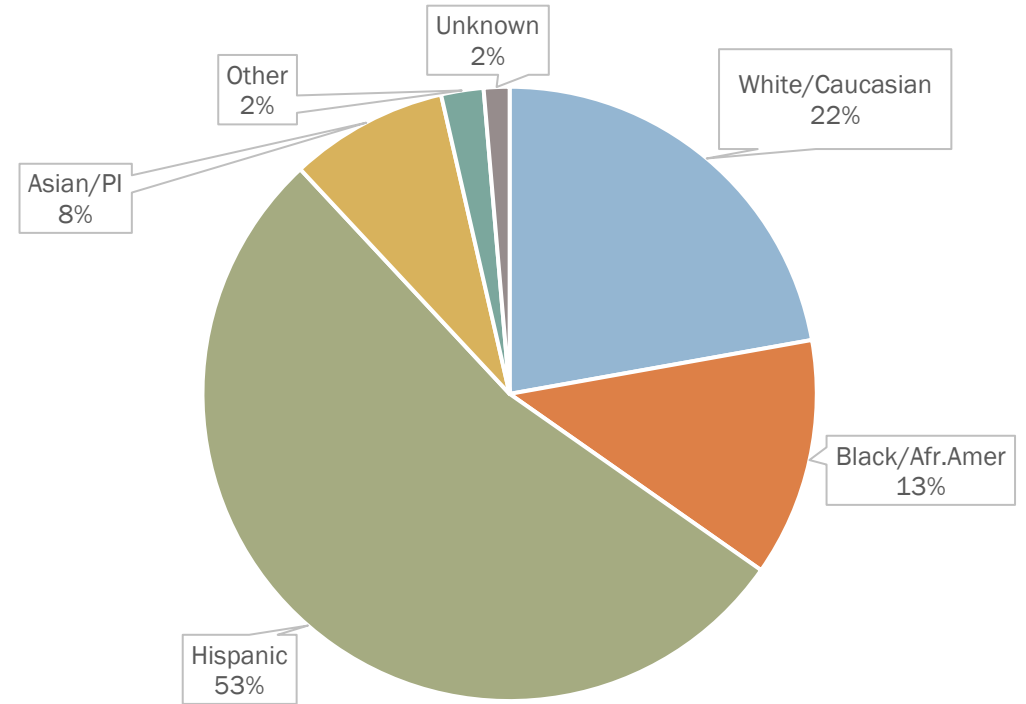


RACE OF DEFENDANTS IN FILED FELONIES

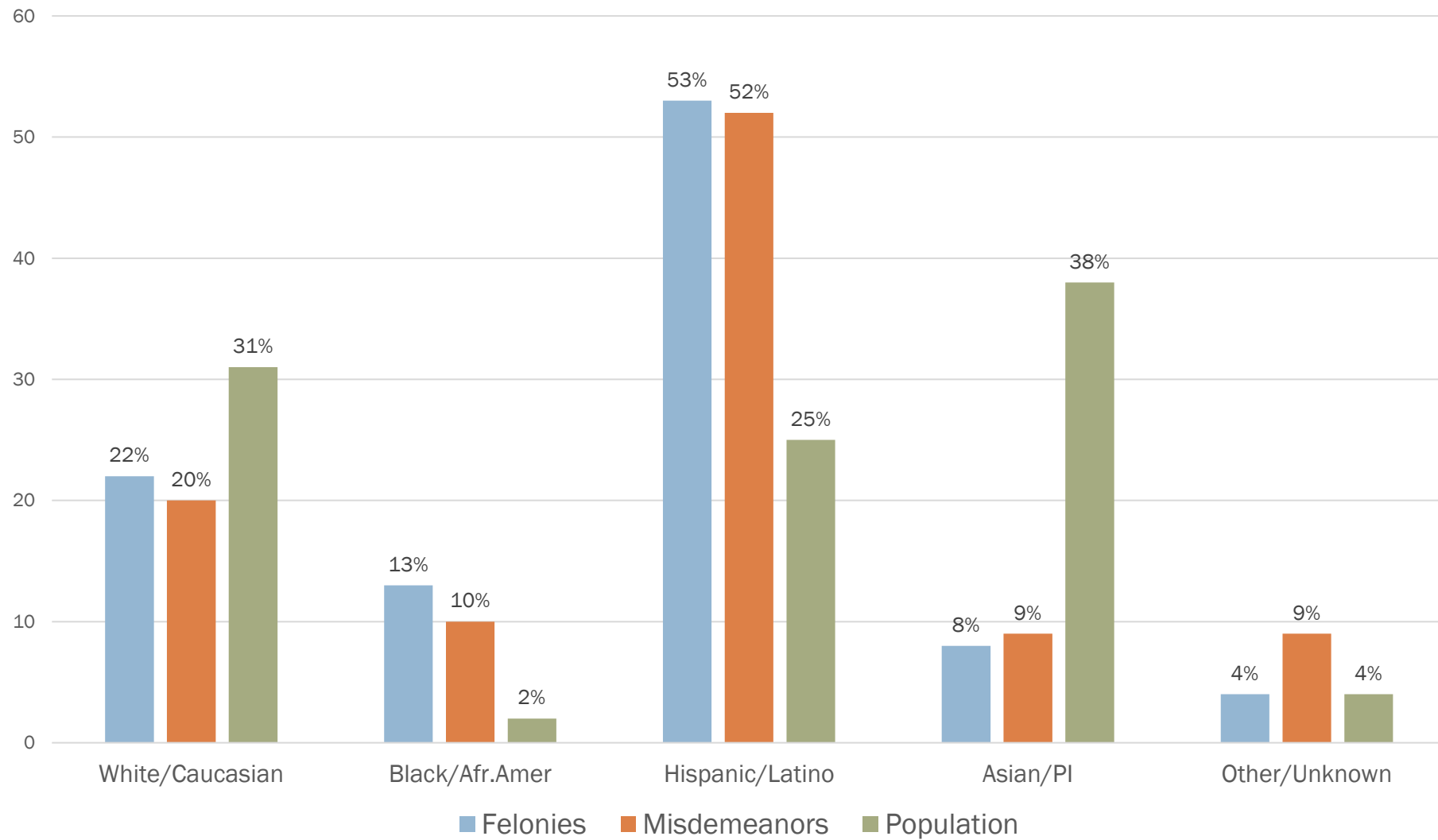
Filed Felony Cases: 2016 - 2021



Issued Felony Cases 2021: Defendant Race/Ethnicity



Race of Felony and Misdemeanor Defendants Compared to % of Population: 2021



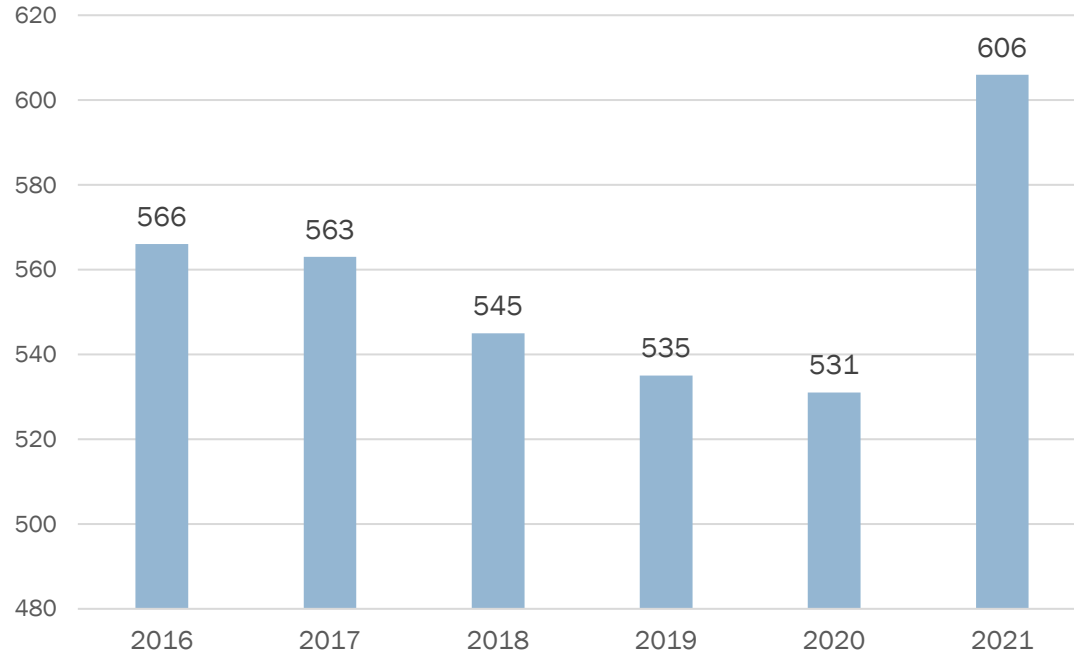


OFFICE OF THE DISTRICT ATTORNEY

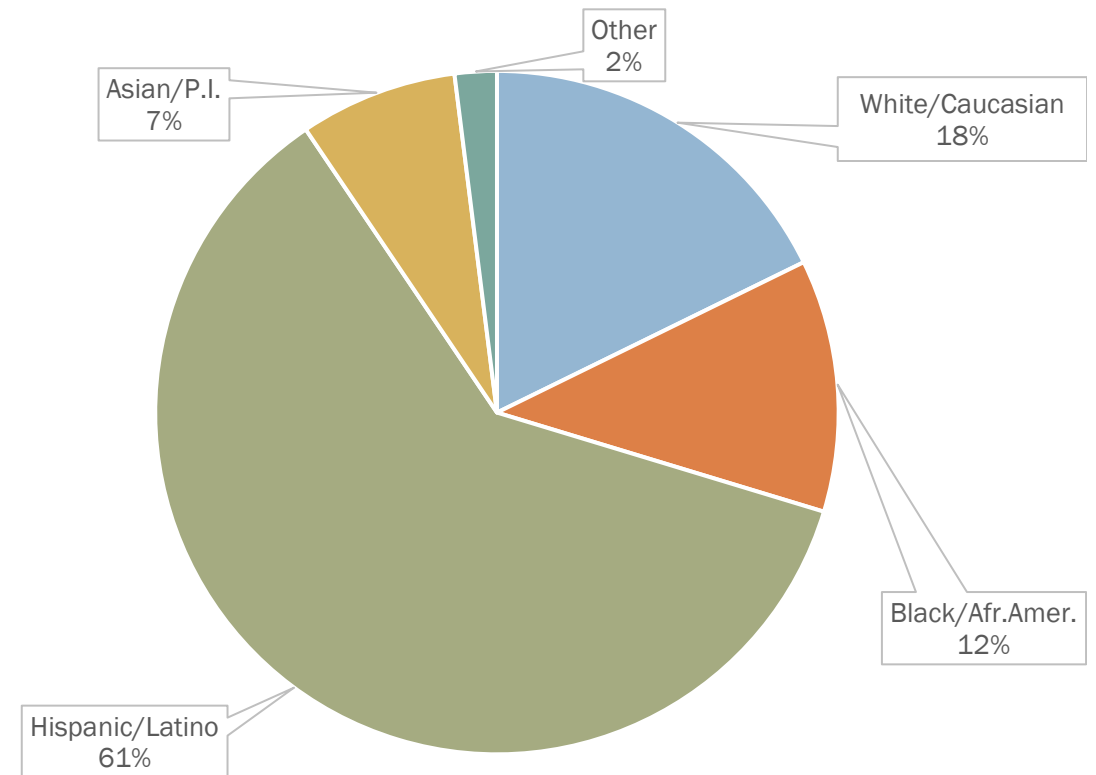
- The following slides address different crime types that the District Attorney's Office prosecutes and examines the race of the defendants prosecuted across different crime types.

Assault With a Deadly Weapon or By Force Likely to Cause Great Bodily Injury - Felonies PC 245(a)

Issued PC 245 Cases: 2016 - 2021



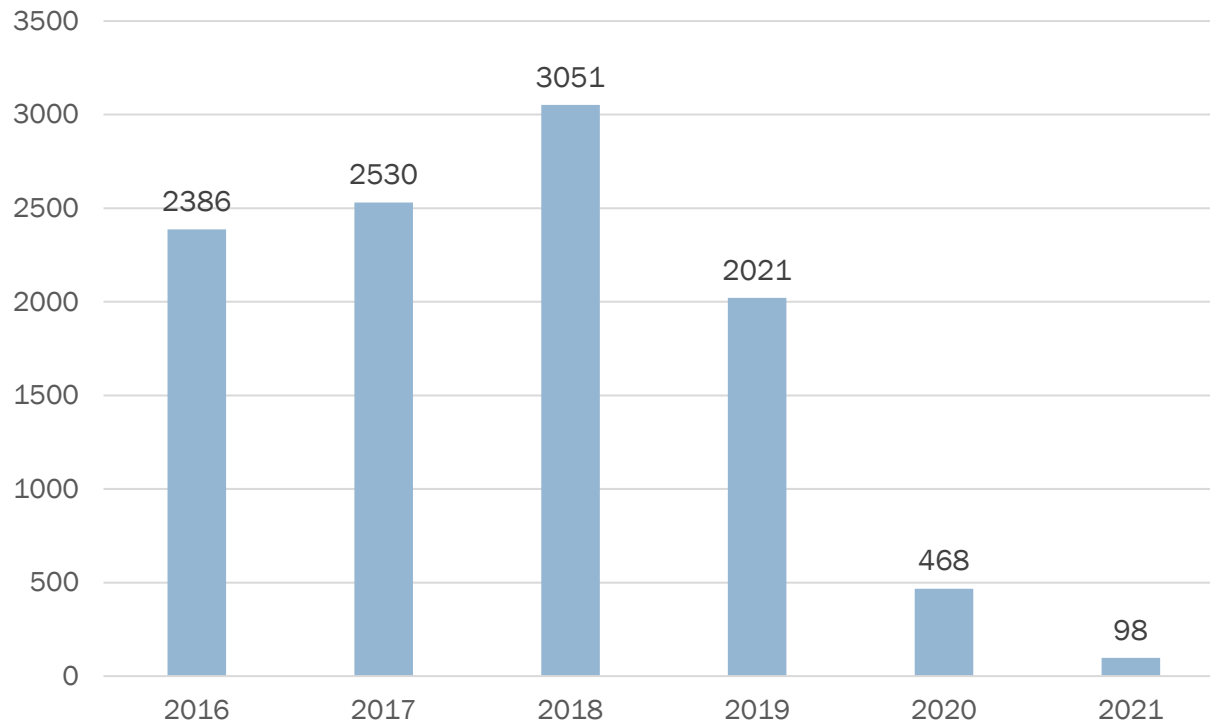
2021 Filed PC 245 Felonies: Race by Percentage



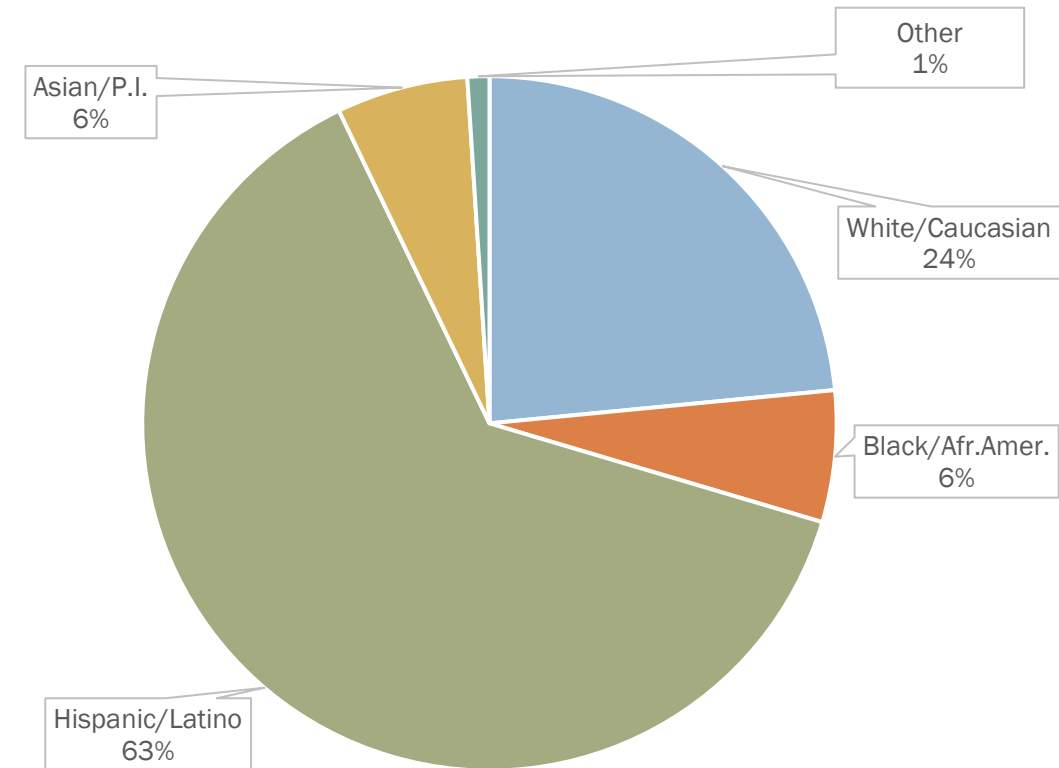
This information reflects the following: 245(a)(1), 245(a)(2), 245(a)(3) and 245(a)(4) PC

Drug Possession Misdemeanors; H&S 11377 (possession of methamphetamine)

Filed HS 11377(a) Cases: 2016 - 2021



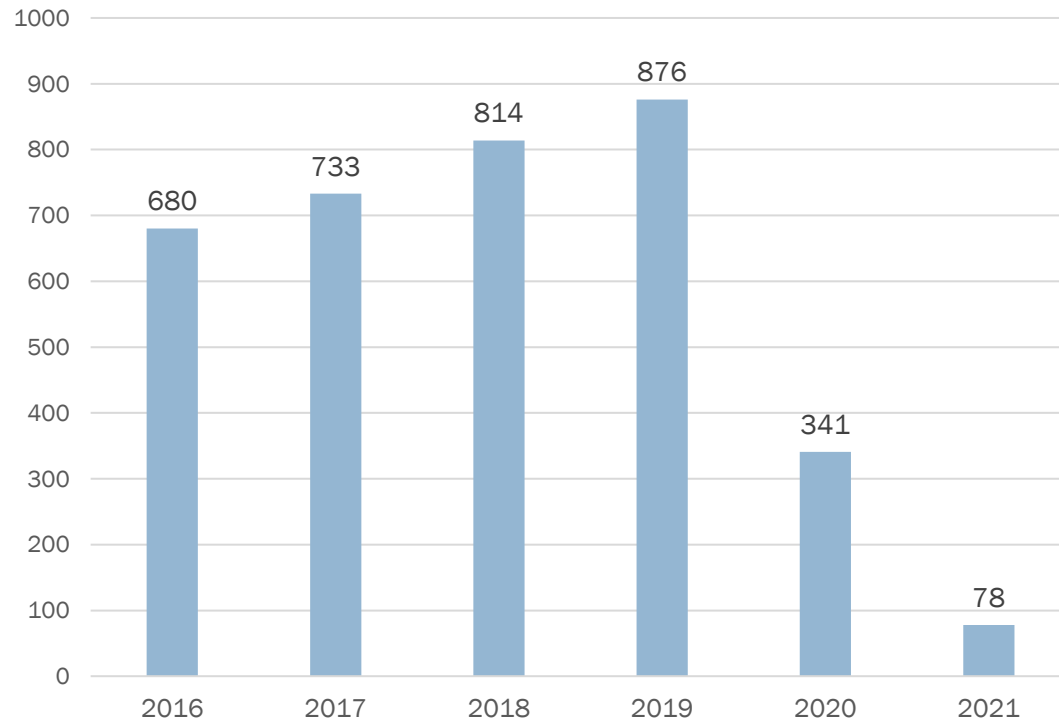
2021 Filed HS 13777 Misd: Race by Percentage



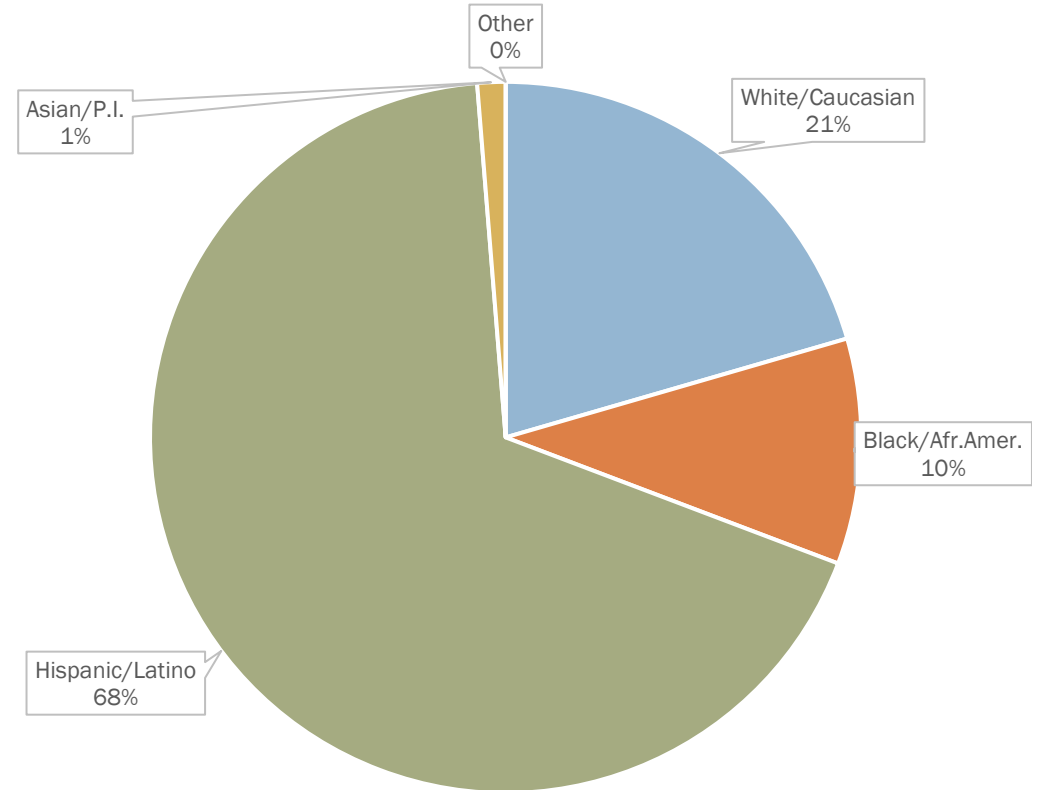
Note that after the passage of Proposition 47 in November of 2014, a violation of H&S 11377 could only be charged as a misdemeanor and not as a felony.

Misdemeanor Resisting Arrest PC 148(a)(1)

Filed PC 148(a)(1) Cases: 2016 - 2021

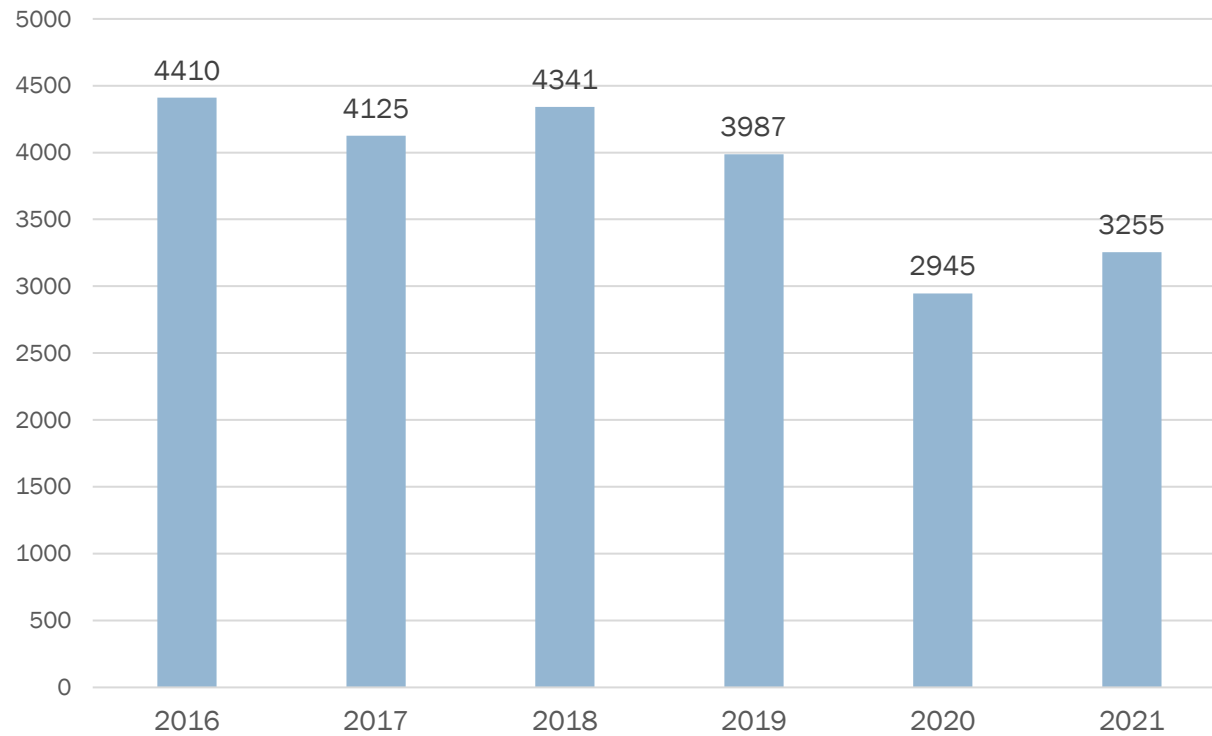


2021 Filed Misd. PC 148(a)(1): Race by Percentage

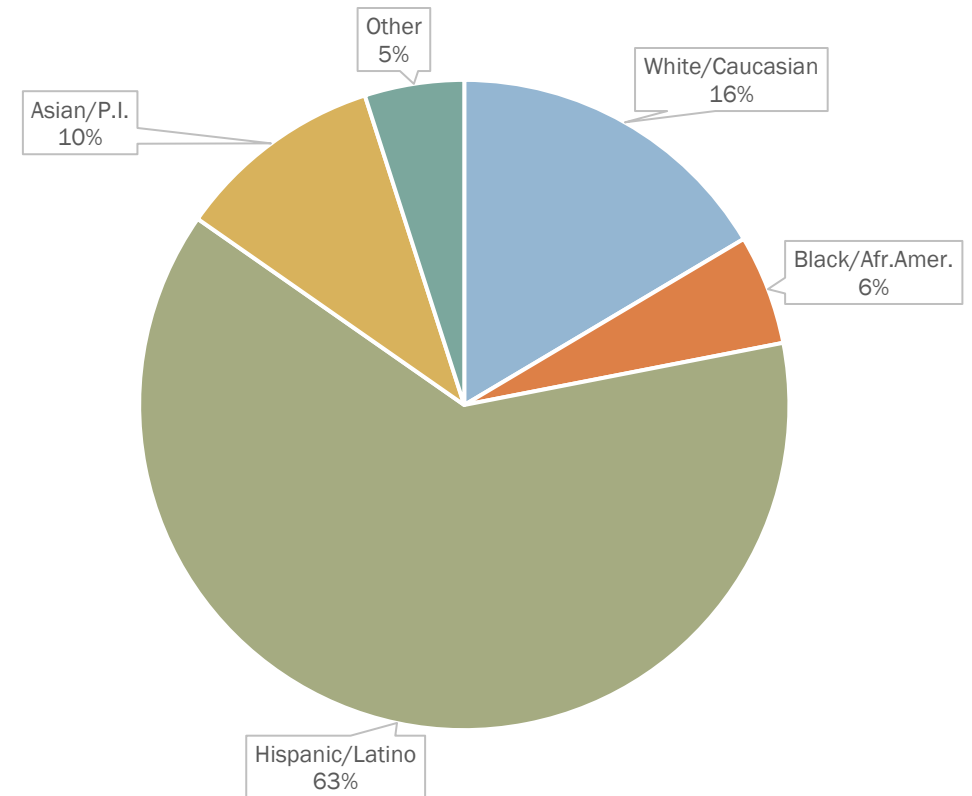


DUI Misdemeanors; Police Contact by Vehicle Stop VC 23152/23153

Filed DUI Misd. Cases: 2016 -2021



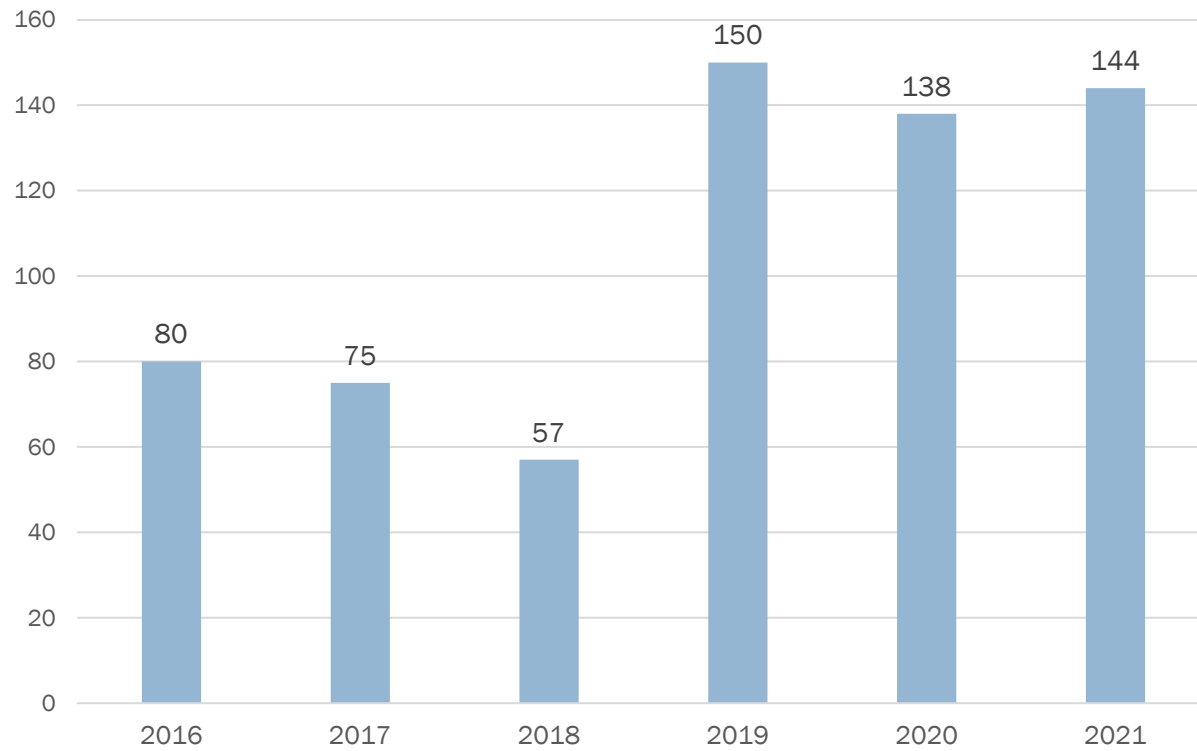
2021 Filed DUI Misdemeanors: Race by Percentage



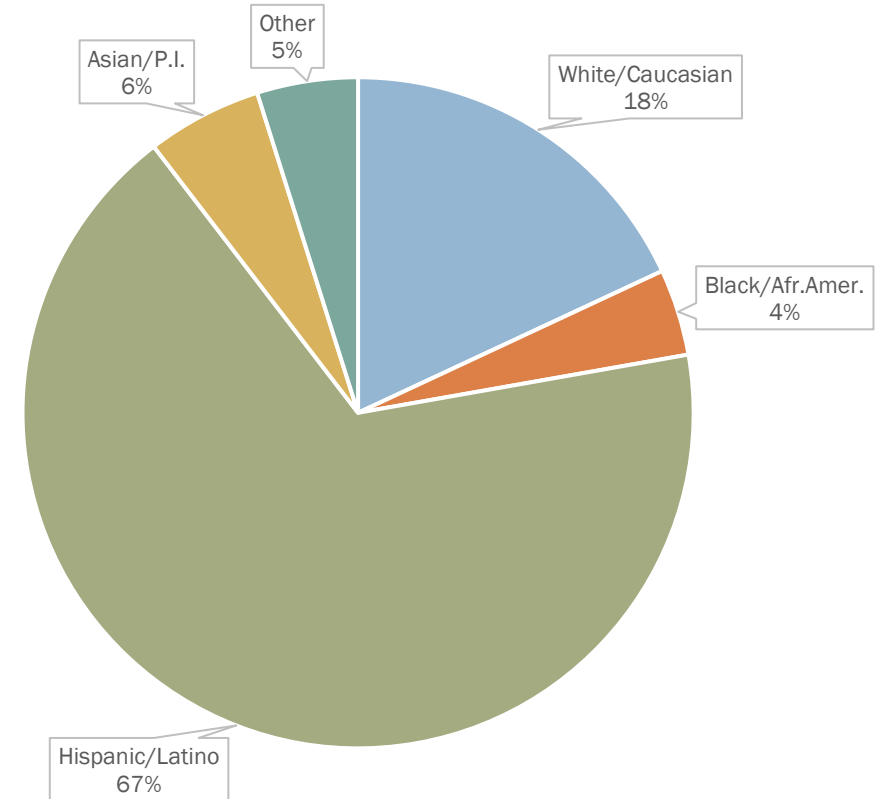
This information reflects the following: 23152(a), 23152(b), 23153(a), 23153/23566(a), 23152(c), 23152(e) and 23152(f)

DUI Felonies VC 23152/23153

Filed DUI Felony Cases: 2016 - 2021



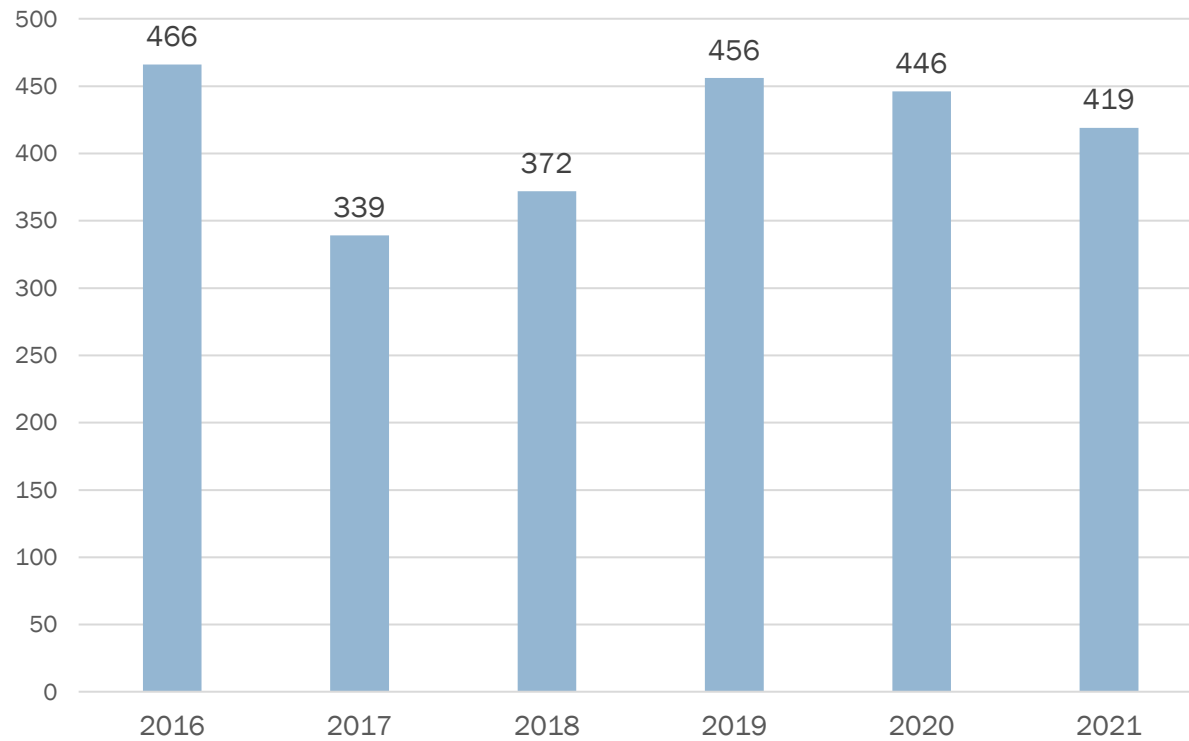
2021 Filed DUI Felonies: Race by Percentage



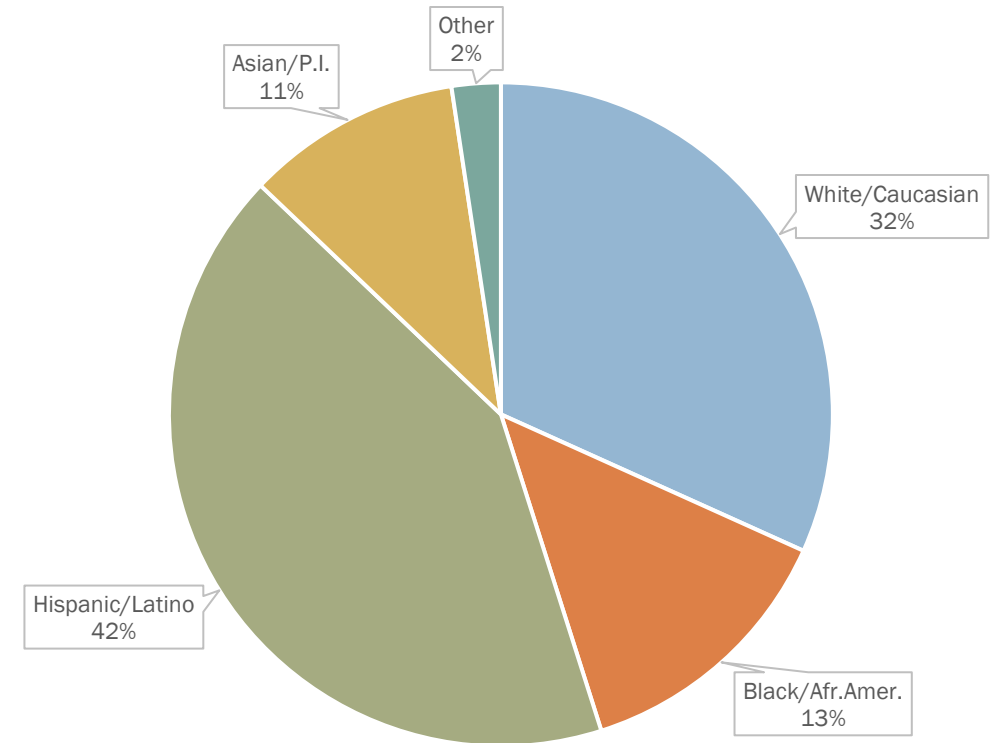
This information reflects the following: 23152/23550(a), 23152/23550.5(a)

Second-Degree Burglaries (commercial & auto burglary) PC 460(b)

Filed PC 460(b) Cases: 2016 - 2021

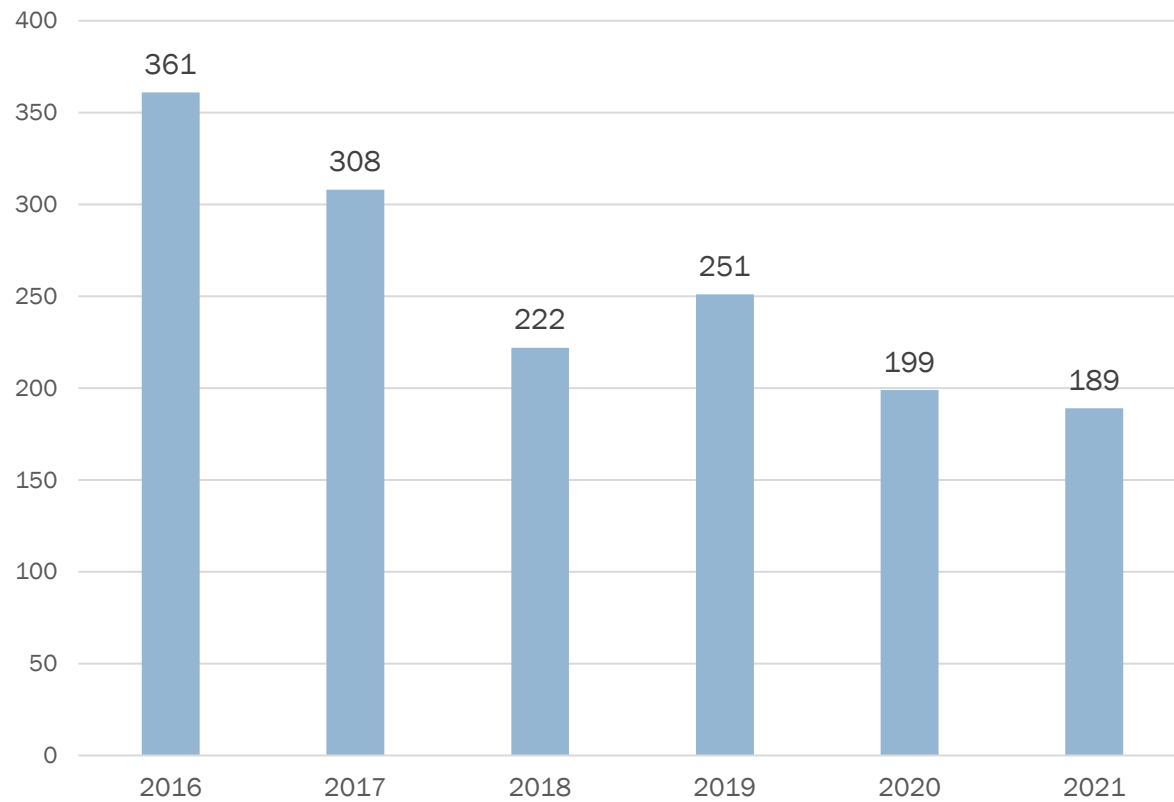


2021 Filed 2nd Degree Burglary: Race by Percentage

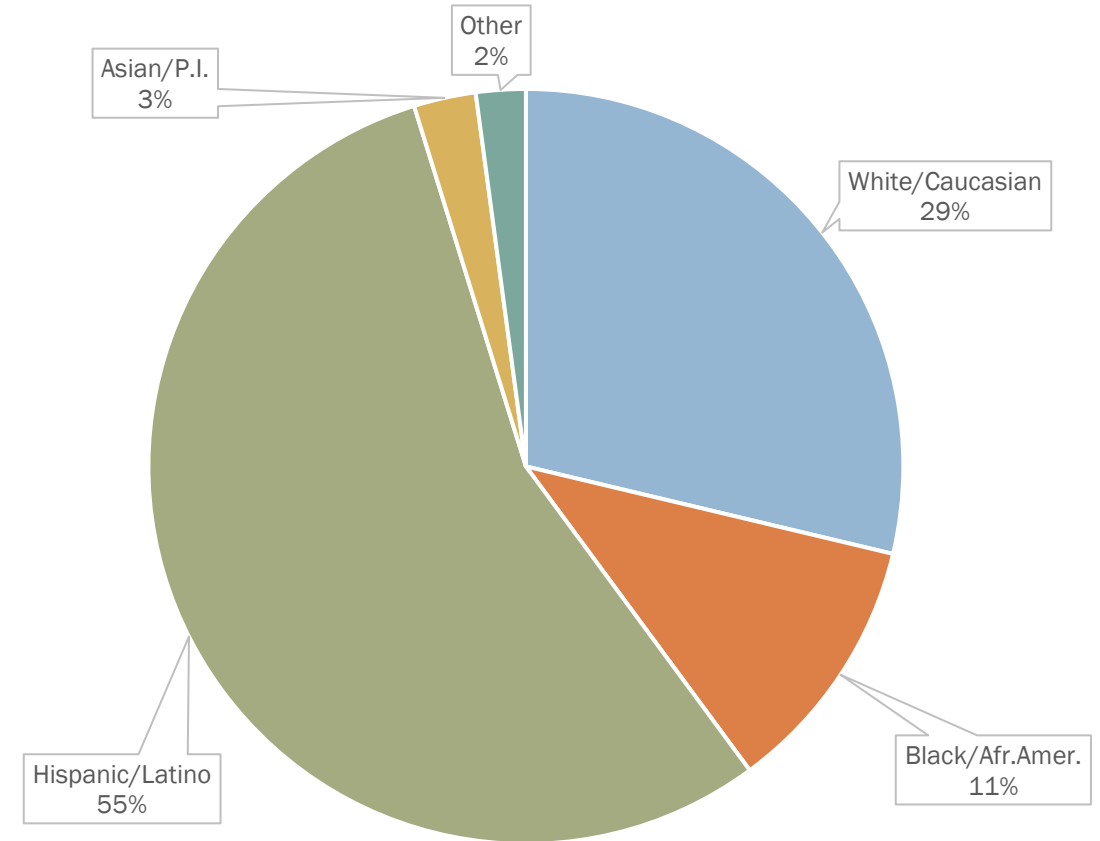


Residential Burglaries PC 460(a)

Filed PC 460(a) Cases: 2016 - 2021

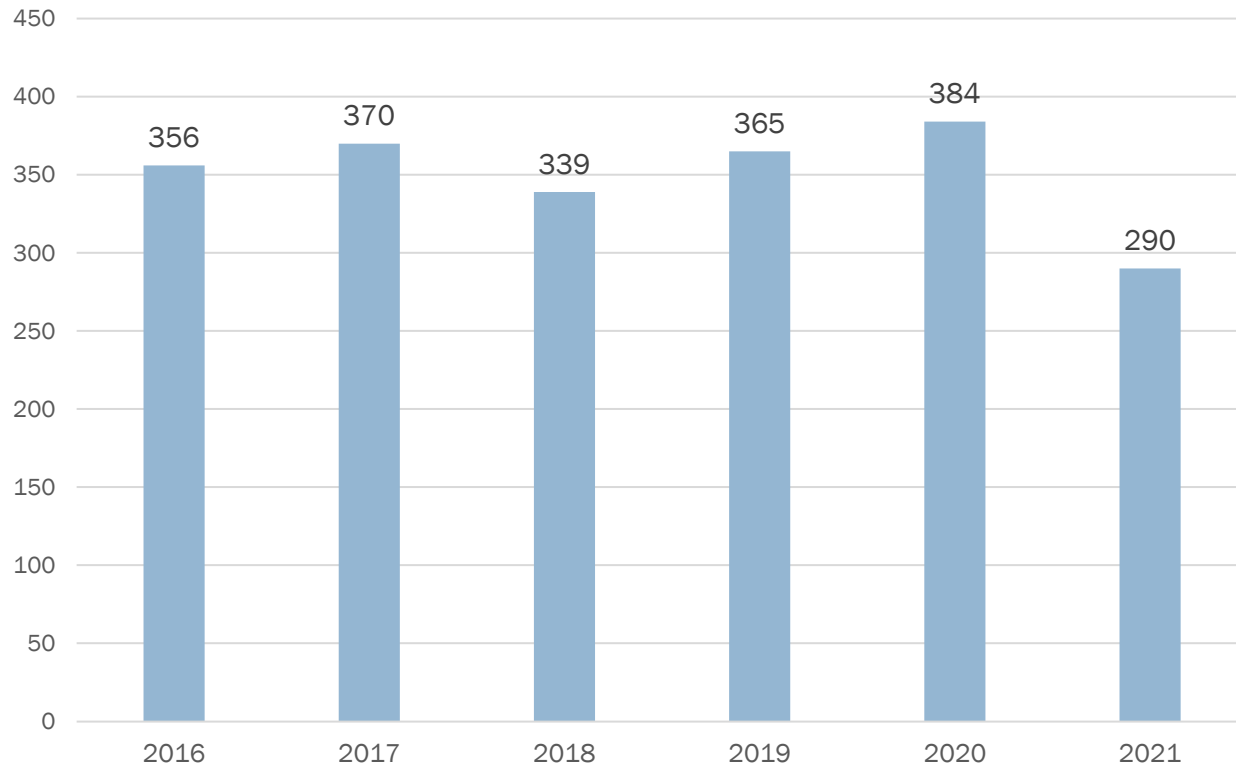


2021 Filed Residential Burglaries: Race by Percentage

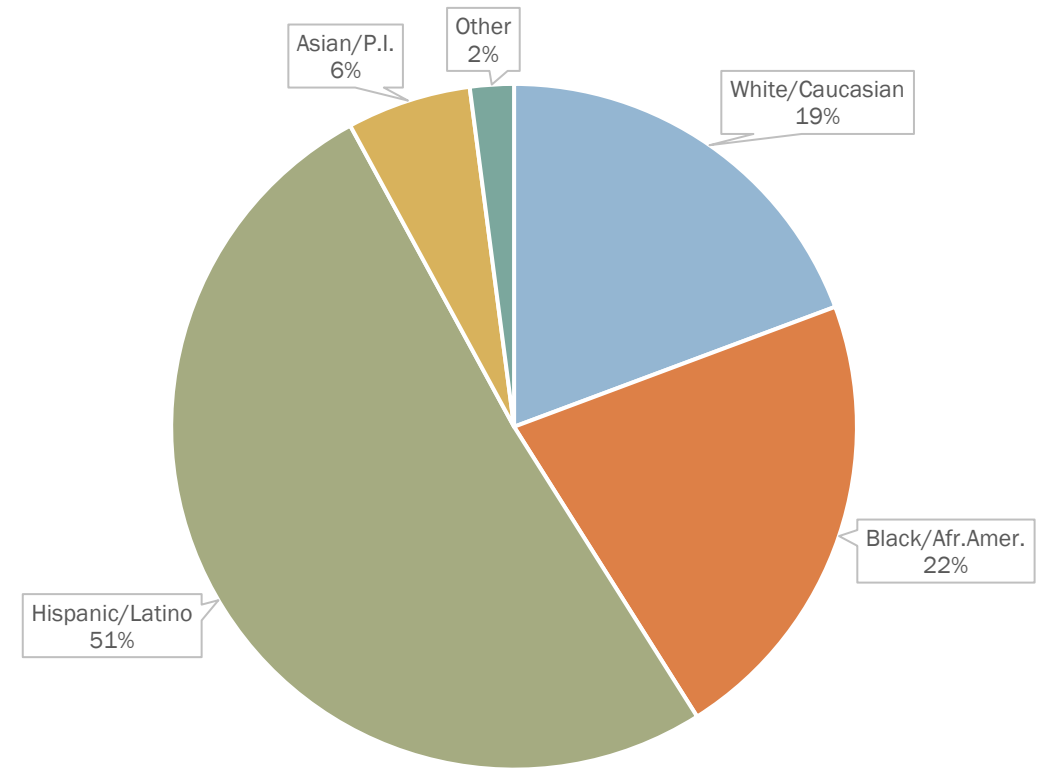


Robbery PC 211

Filed Robbery Cases: 2016 - 2021



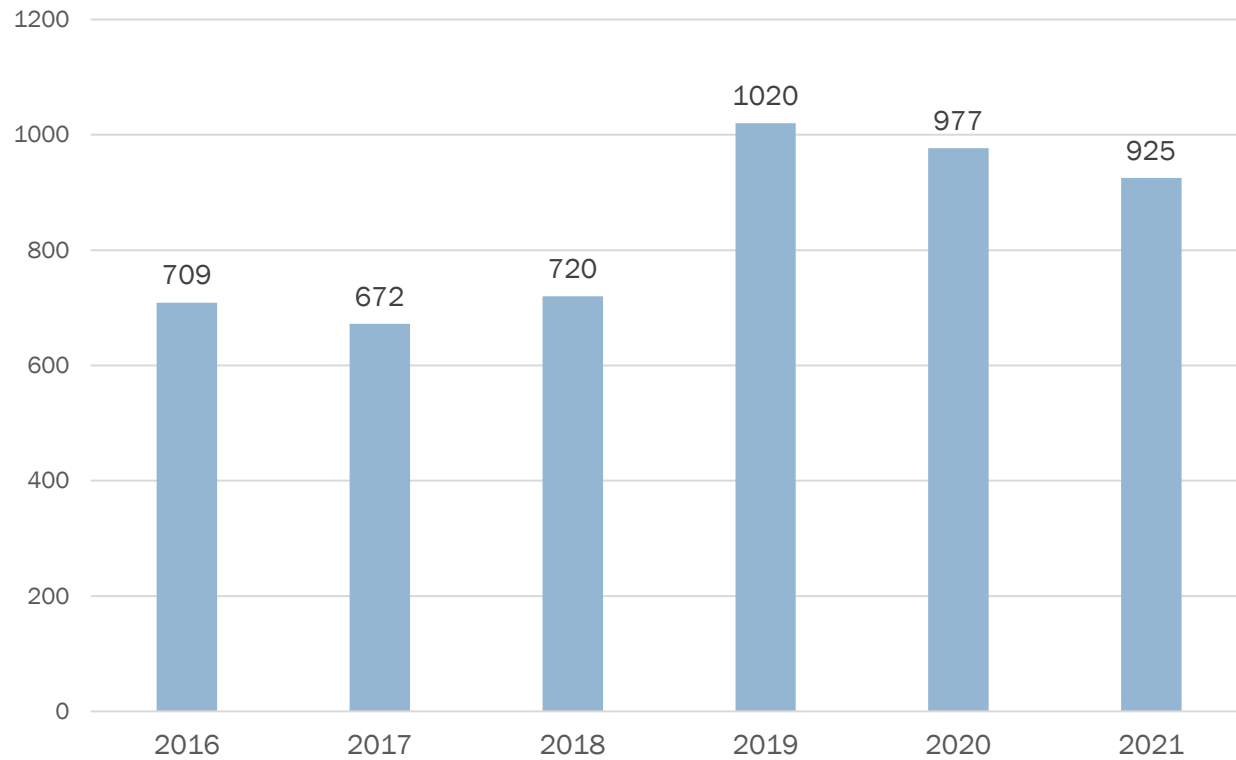
2021 Filed Robberies: Race by Percentage



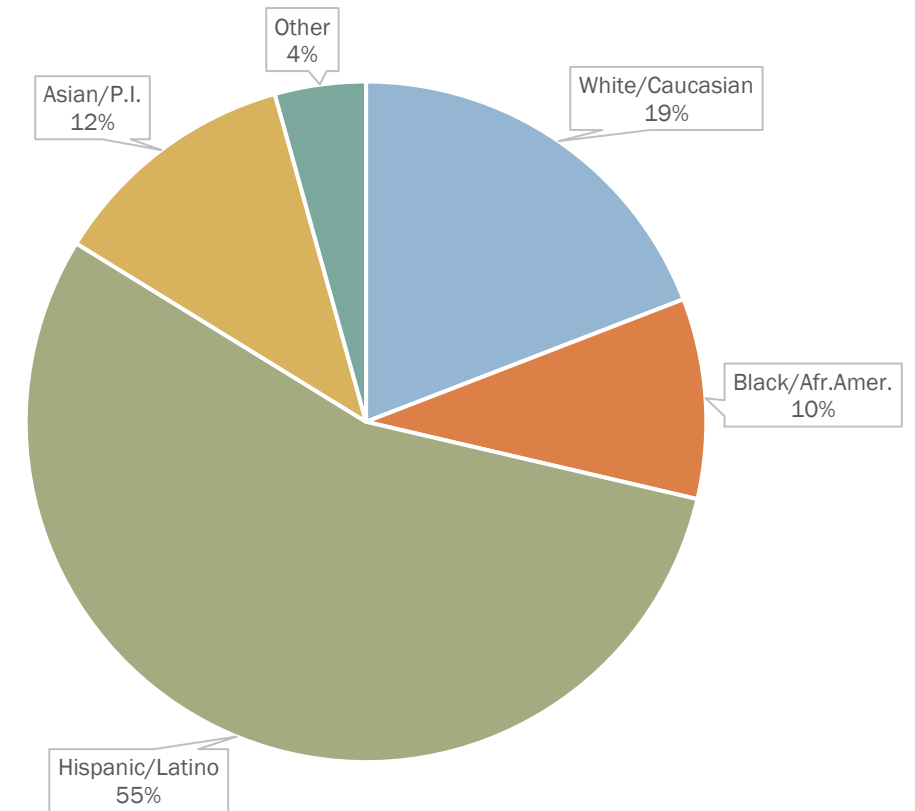
This information reflects the following: 211-212.5(a), 211-232.5(b), 211-212.5(c) and 211-213(a)(1)(A)

Misdemeanor Battery on a Spouse/Cohabitant PC 243(e)

Filed Misd. 243(e) Cases: 2016 - 2021

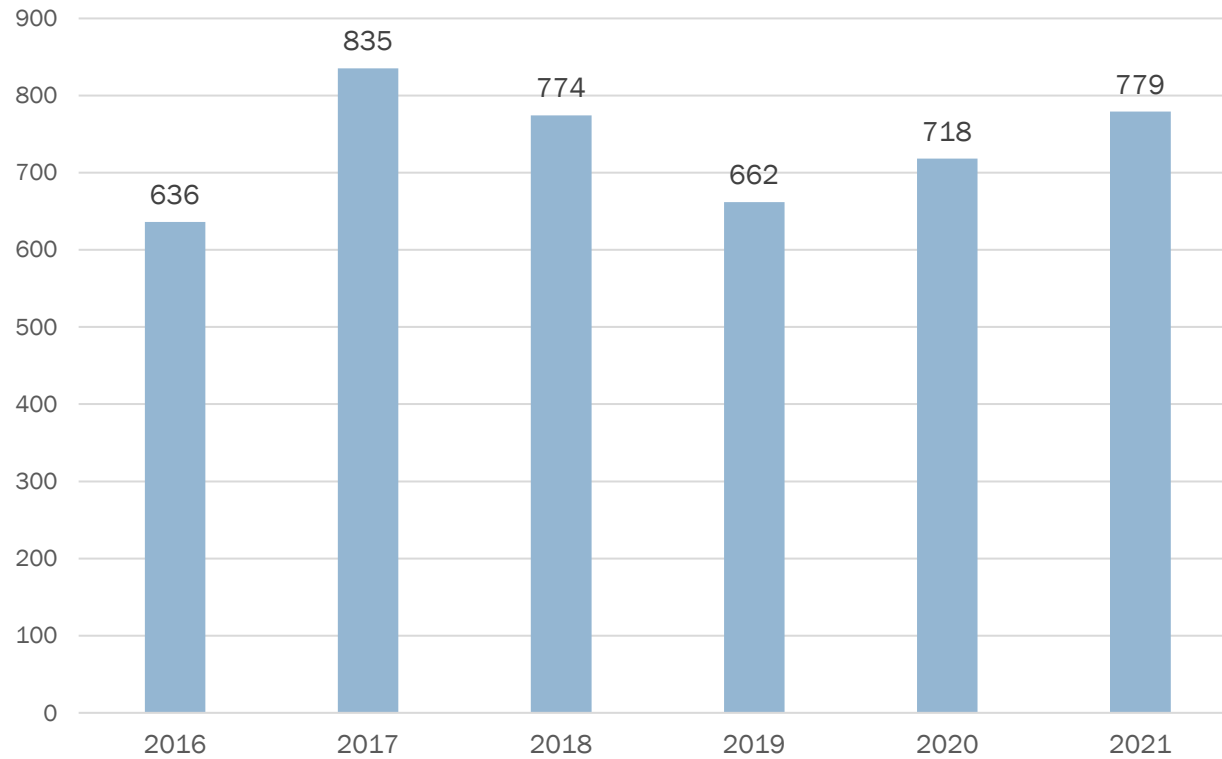


2021 Filed Misd. 243(e): Race by Percentage

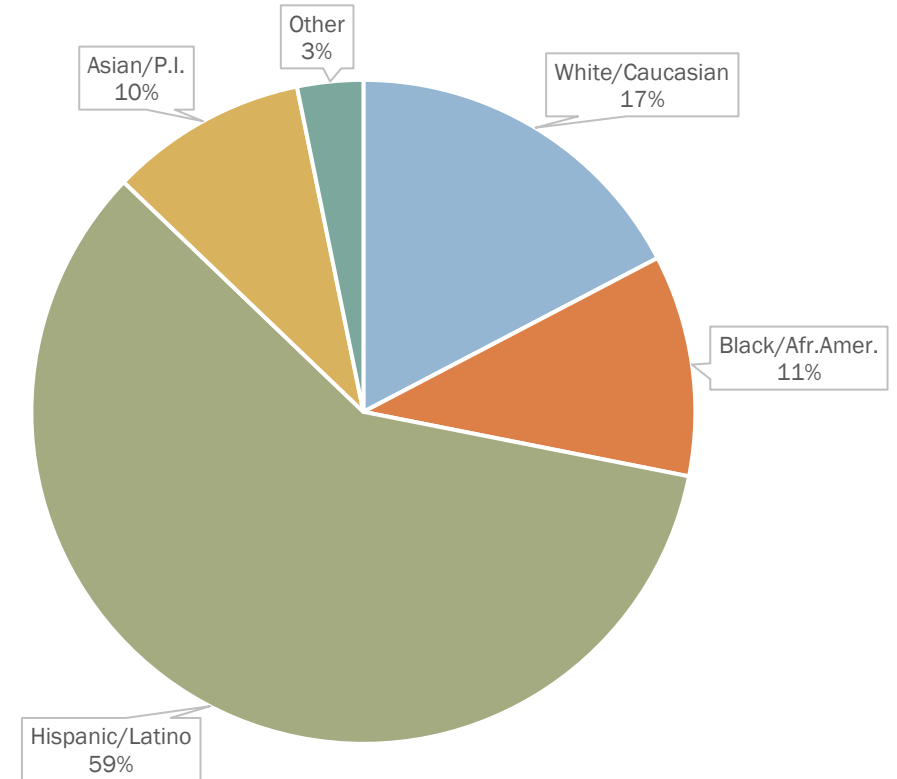


Corporal Injury on a Spouse PC 273.5

Filed PC 273.5 Cases: 2016 - 2021



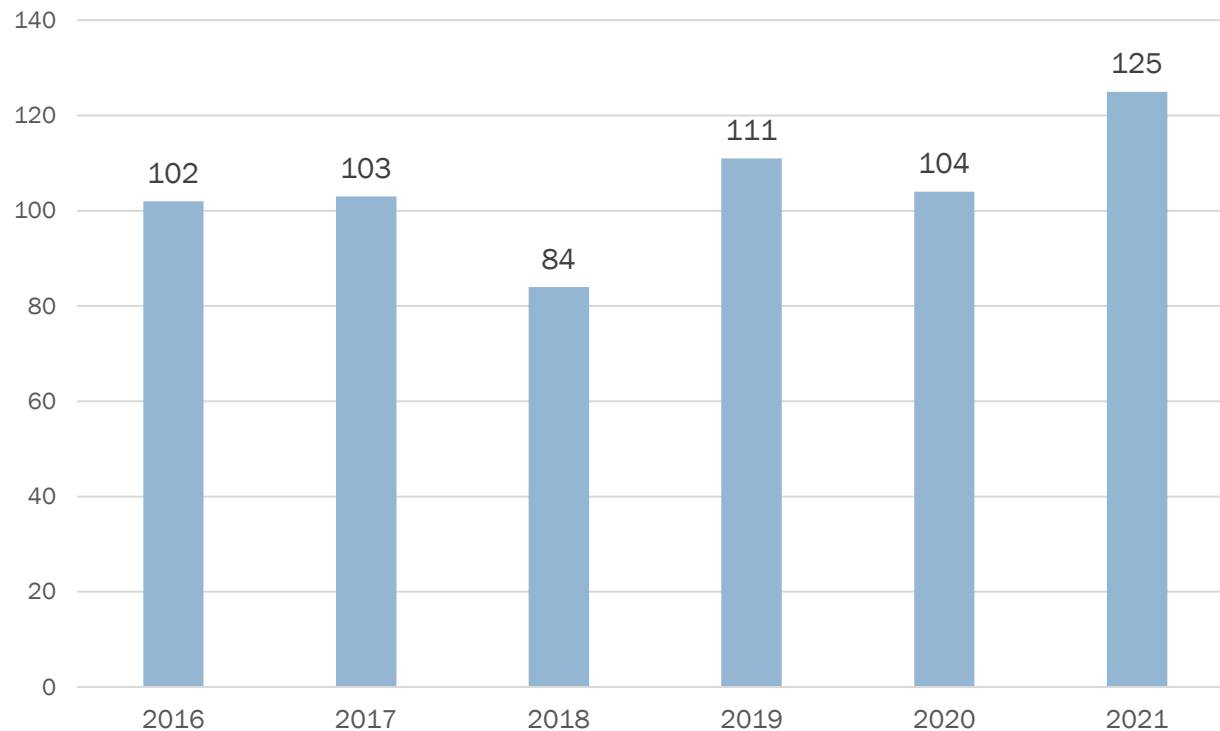
2021 Filed Felony 273.5: Race by Percentage



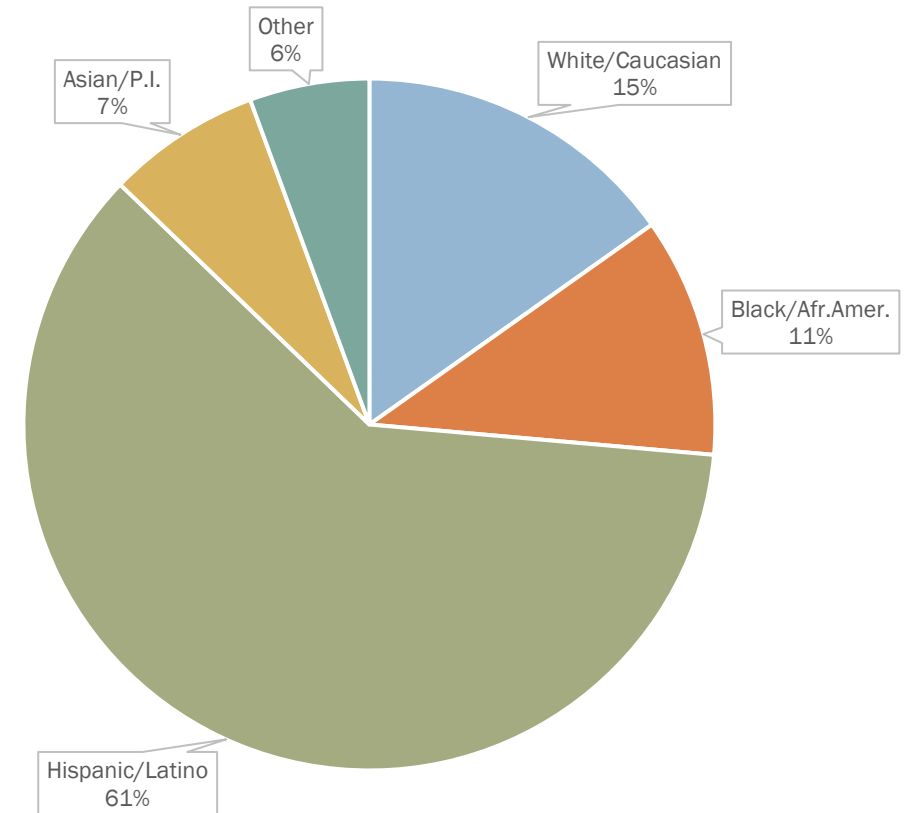
This information reflects the following: Misd & Felony level of 273.5(a), 273.5(e)(1), 273.5(f)(1), 273.5(f)(2) and 273.5(e)(2)

Homicide & Attempted Murder PC 187

Filed Murder & Attempted Murder Cases:
2016 - 2021



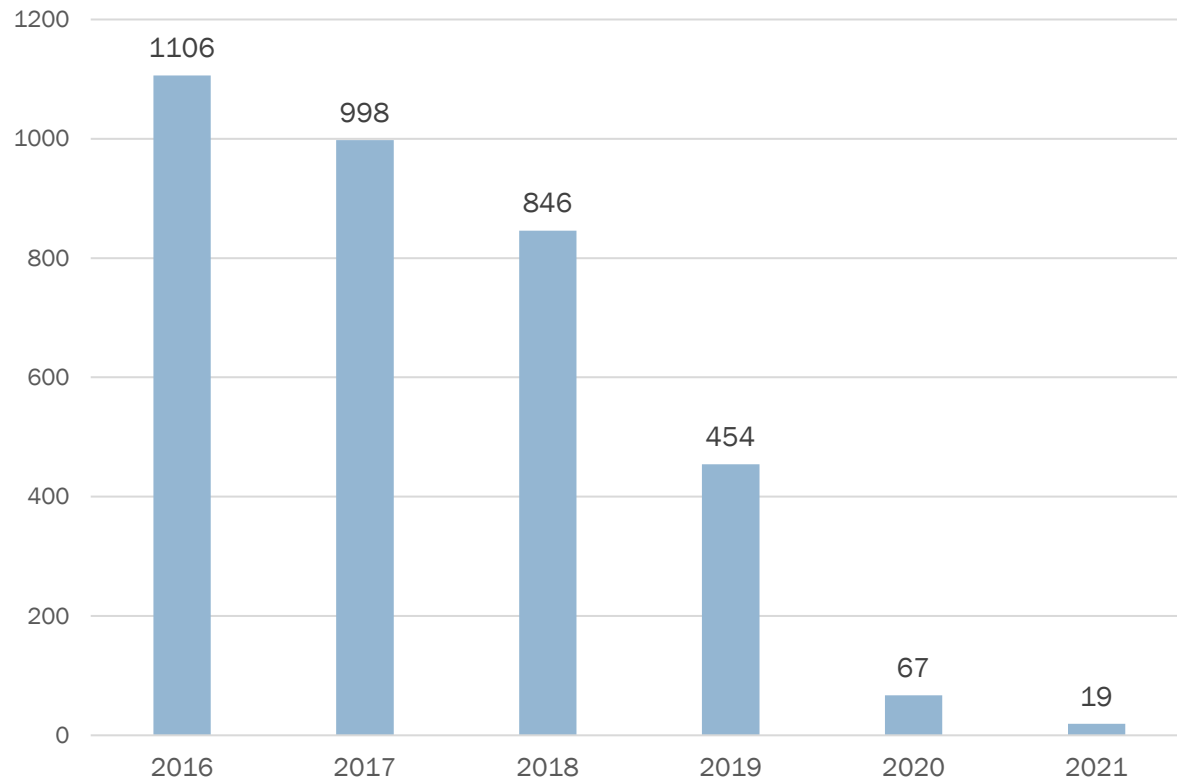
2021 Filed Murder & Att. Murder: Race by Percentage



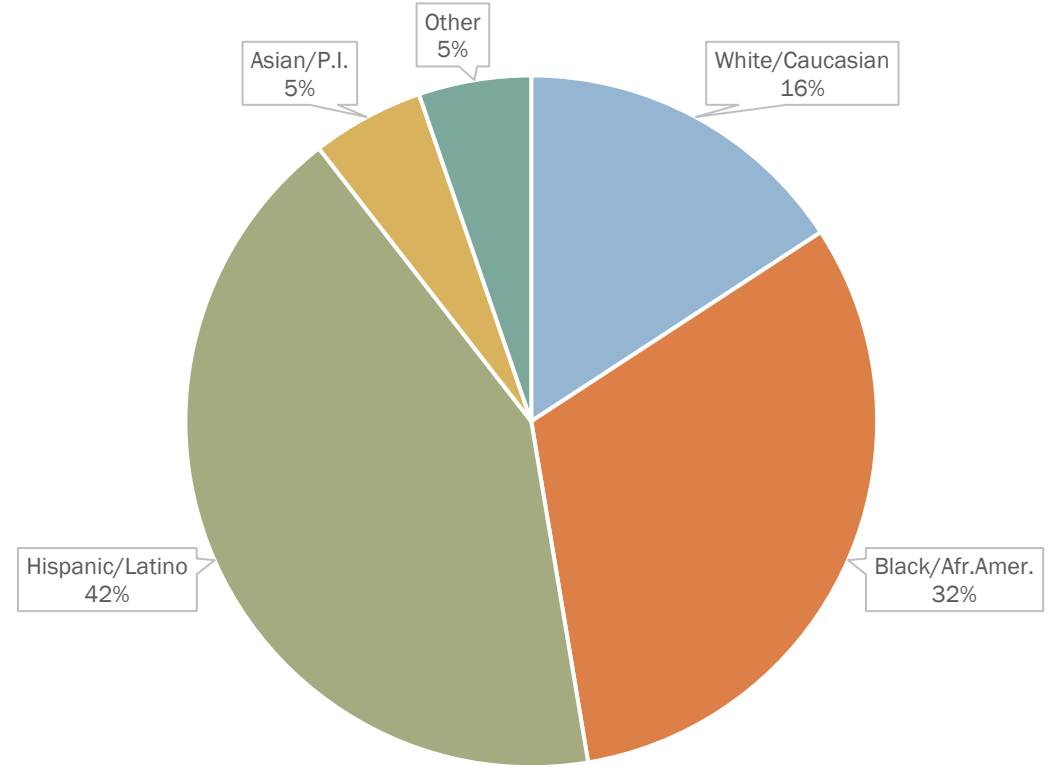
It should be noted that when two or more people are involved in a killing then this data reflects each of those charged, even though there may be only one homicide victim. This information reflects the following: 187, 664(a) 187 and 664(e) 187 PC.

HS 11550 Misdemeanor Under the Influence of Controlled Substance [Police Contact Often Face To Face]

Filed HS 11550 Cases: 2016 - 2021



2021 Filed Misd. 11550: Race by Percentage

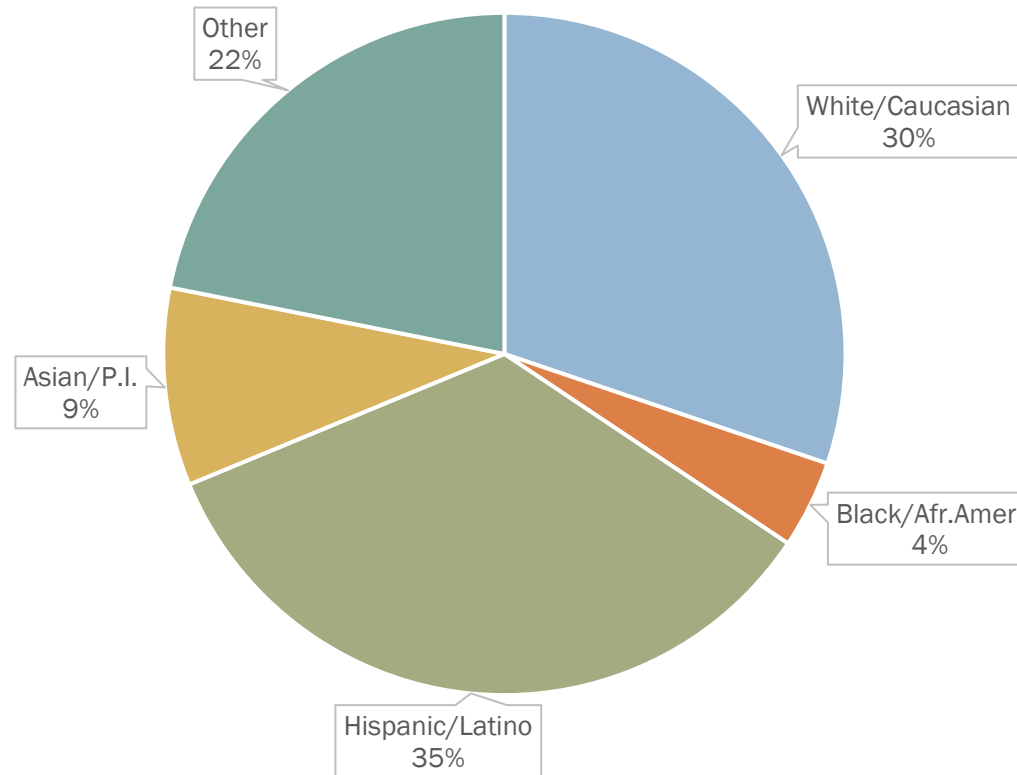


This information reflects the following: 11550(a)(1) and 11550(e)

White Collar Crime: 2018

[Insurance Fraud, Workers Comp. Fraud, Elder Abuse]

2021 White Collar Crime: Race by Percentage





OFFICE OF THE DISTRICT ATTORNEY

- The following slide addresses the racial breakdown of victims of violent crime assisted by the District Attorney's Office Victim Services Unit in 2015. It should be noted that there was a dramatic increase in victims served in the second half of 2015 after VSU moved in-house to the District Attorney's Office.

2020-2021 Victims of Crimes assisted by DA Victim Services Unit (where victim stated race at intake interview)

