



Racial and Ethnic Impact Statement

Historical Data

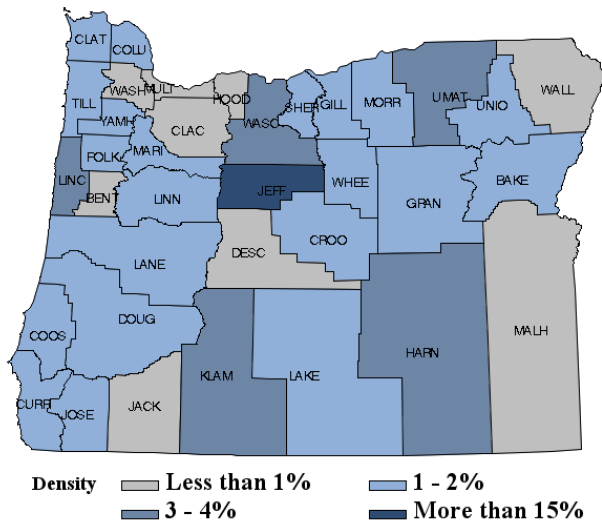
Criminal Justice Commission

Senate Bill 463 (2013) requires the Oregon Criminal Justice Commission to prepare a racial and ethnic impact statement that describes the effects of proposed legislation on the racial and ethnic composition of the criminal offender population or recipients of human services. To obtain a racial and ethnic impact statement, one member of the Legislative Assembly from each major political party must sign a written request. Oregon, along with all states in the nation, has an overrepresentation of minority groups in the criminal justice system. This report highlights Oregon specific data that displays this overrepresentation. This report does not attempt to explain why racial and ethnic disparity exists in the Oregon criminal justice system, but simply displays the extent of the disparity at different points within the system. Racial and ethnic impacts on decisions made in the criminal justice system are highly correlated with other factors such as geography, income, education, employment, health care, and a myriad of other factors; see appendix for details.

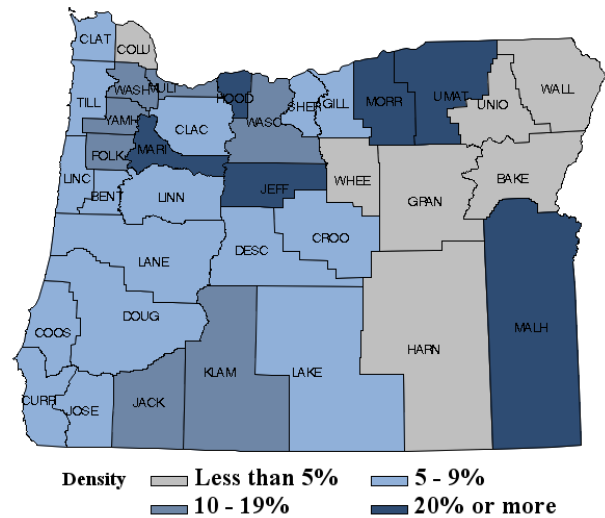
Oregon is less diverse than the nation as a whole, but minority groups in Oregon are growing at a faster pace than nationwide.¹ As of July 2013 Oregon's population was just above 3.9 million and the largest minority group in Oregon is the Hispanic population at 12.3% of all Oregonians. The next largest minority group in Oregon is the Asian/Pacific Islander population at 4.0% of the total population. African Americans comprise 1.8% of Oregon's total population. The majority of African Americans in the state reside in Multnomah County, with 60% of this minority group's population. Washington County contains nearly 15% of the state's African American population, with the remainder residing in the rest of the state. Native American/Alaska Natives make up 1.1% of Oregon's population. This group is concentrated in urban areas, as well as more sparsely populated rural counties that contain existing or planned Indian reservations. Female Oregonians comprised 50.6% of the total population as of July 2013.

¹ http://www.oregon.gov/DAS/OEA/docs/demographic/OR_pop_trend2012.pdf

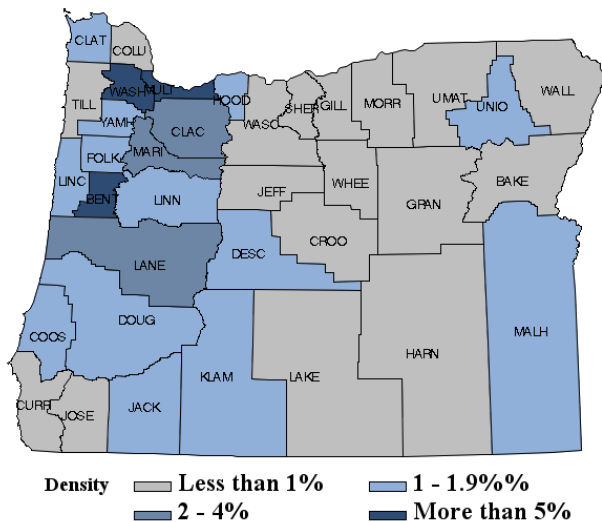
Native American/Alaska Native Population Density



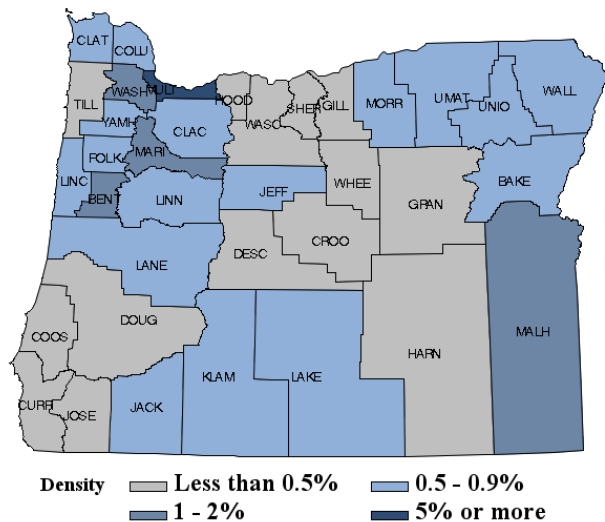
Hispanic Population Density



Asian/Pacific Islander Population Density



African American Population Density



Note: Due to differences in the relative size of racial and ethnic minorities, the scales on each map are different. Take care when making comparisons across racial/ethnic categories.

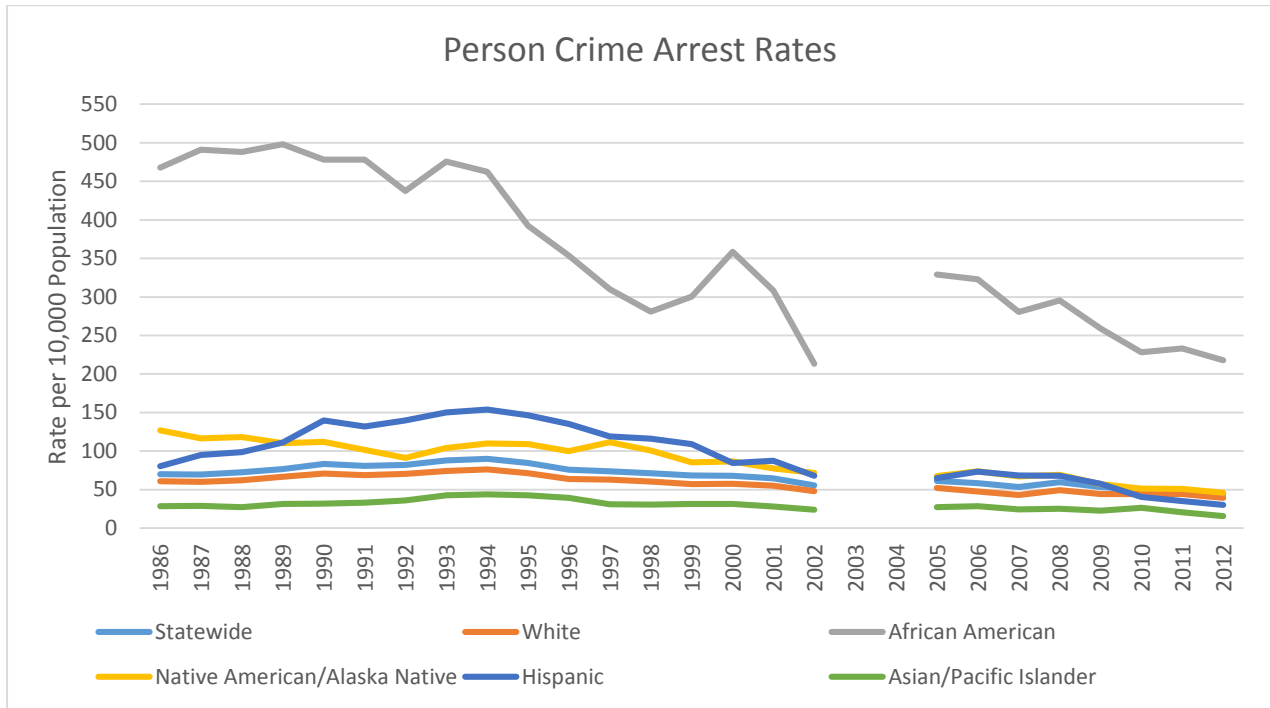
Arrest Rates

The first point of contact with the criminal justice system where race and ethnicity data is available is at arrest. Arrest data by race and ethnicity is available from the Oregon Uniform Crime Reports (OUCR) Program, which is a division within Oregon State Police. Section 6 of the Annual Crime Report provides arrest data by race and crime type². The Criminal Justice Commission (CJC) has compiled this data from 1986 to 2012, and calculated arrest rates for each crime type by race. The OUCR Program was temporarily closed in 2003 due to budget issues, and the data from 2003 and 2004 is highly skewed. Those years have been removed from the graphs below.

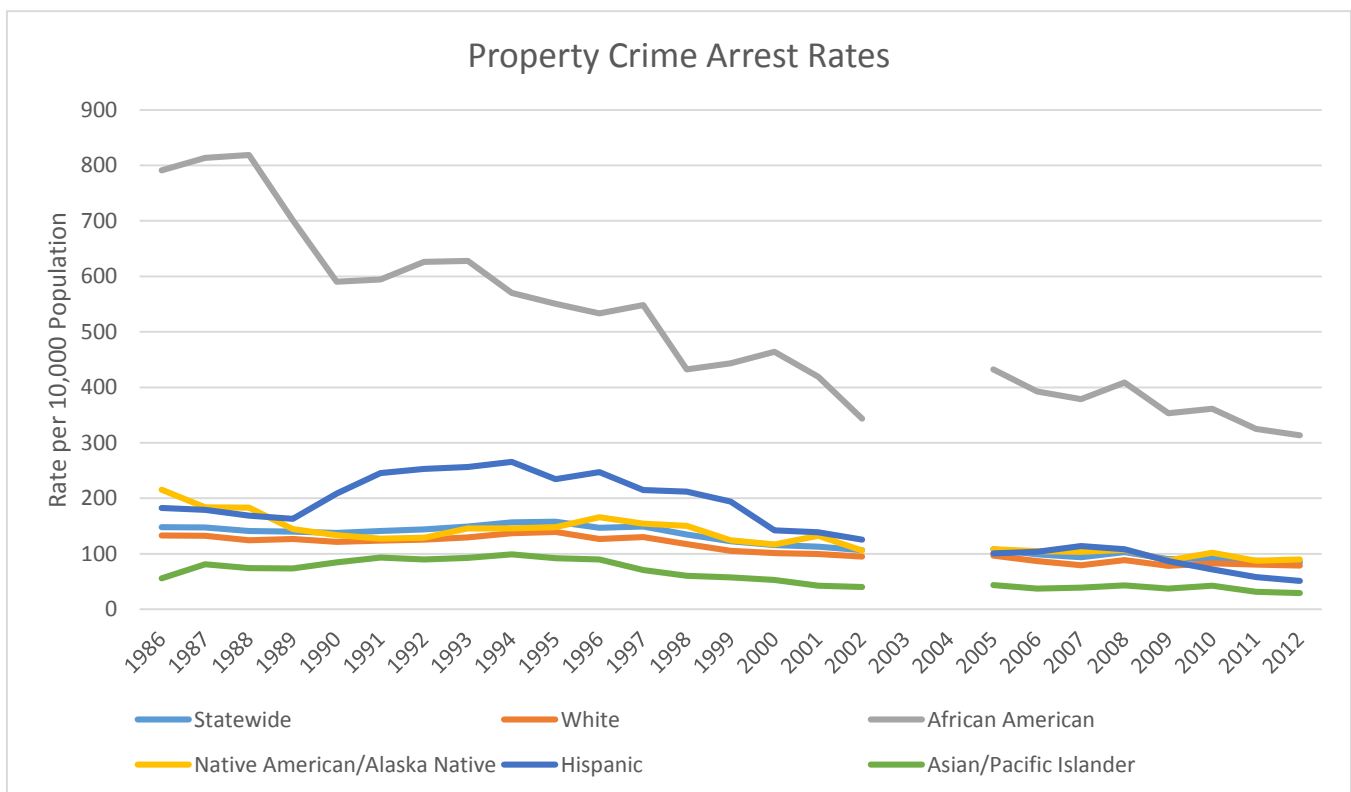
The graph below shows arrest rates by race for person crimes. The OUCR program defines person crimes as willful murder, negligent homicide, forcible rape, other sex crime, kidnapping, robbery, aggravated assault, and simple assault. In 1986

² http://www.oregon.gov/OSP/CJIS/pages/annual_reports.aspx

the statewide arrest rate for person crimes was 70 per 10,000 population. In 2012 the rate dropped to 44 per 10,000, which is a 37% drop. All racial and ethnic groups in Oregon have shown a drop in the person crime arrest rate from 1986 to 2012. In 2012 the person crime arrest rate for African Americans 490% higher than the statewide rate, Native American/Alaska Natives were 4% higher, Hispanics were 31.5% lower, and for the Asian/Pacific Islander population was 64.5% lower than the statewide rate.

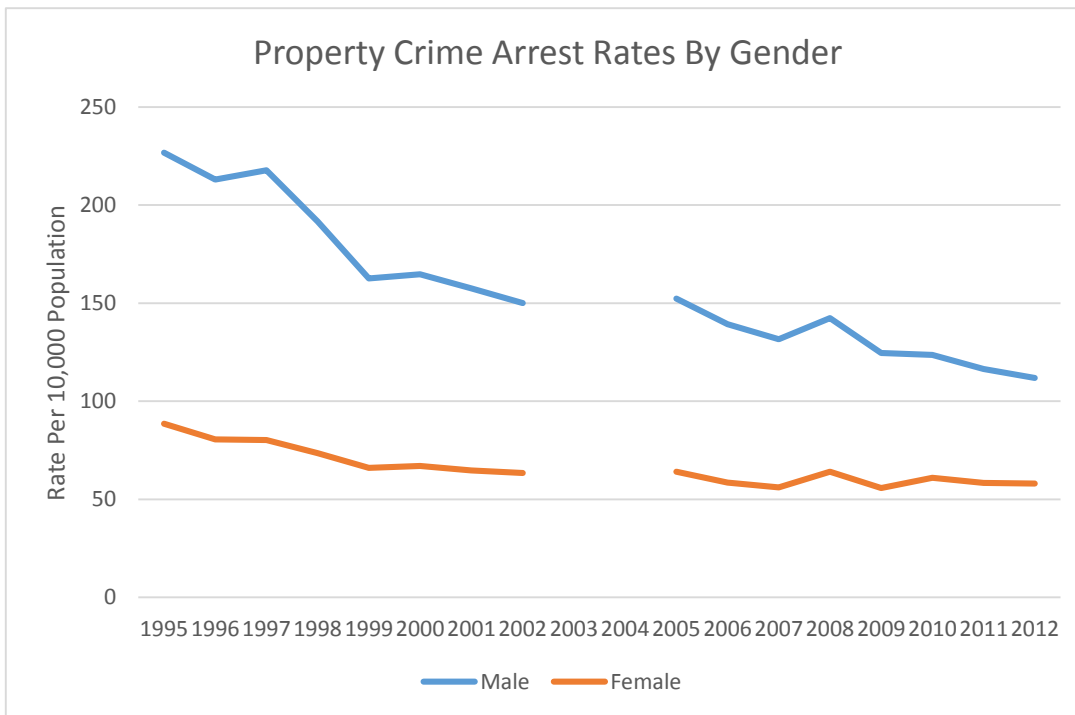
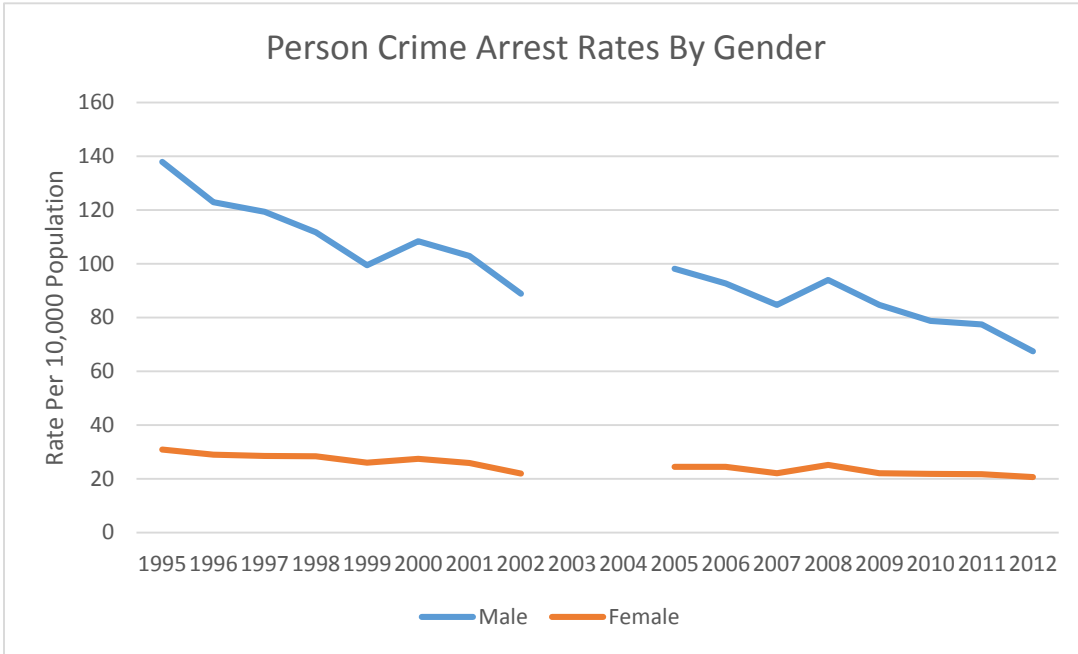


The graph below shows arrest rates by race for property crimes from 1986 to 2012. The OUCR Program defines property crimes as burglary, larceny, motor vehicle theft, arson, forgery/counterfeit, fraud, embezzlement, stolen property, and vandalism. The statewide property crime arrest rate dropped 42.6% from 1986 to 2012. The property crime arrest rate



in 2012 for African Americans was 370% higher than the statewide rate, Native American/Alaska Natives were 6% higher, Hispanics were nearly 40% lower, and for the Asian/Pacific Islander population was nearly 66% lower than the statewide rate.

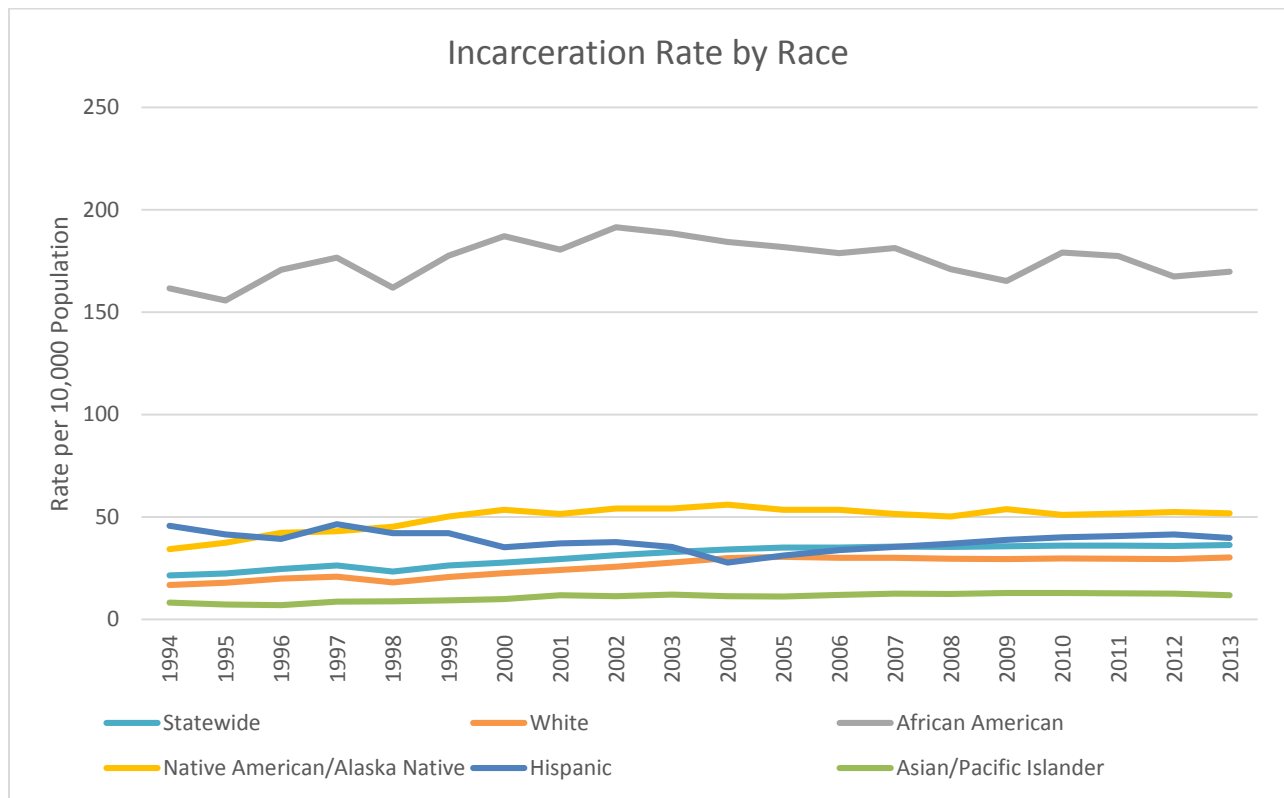
The graphs below show person and property crime arrest rates by gender from 1995 to 2012. The arrest rate for males for person crimes dropped 51%, while the person crime arrest rate for females dropped 33%. In the same time period the property crime arrest rate for males dropped nearly 51%, while the property crime arrest rate for females dropped 34%.



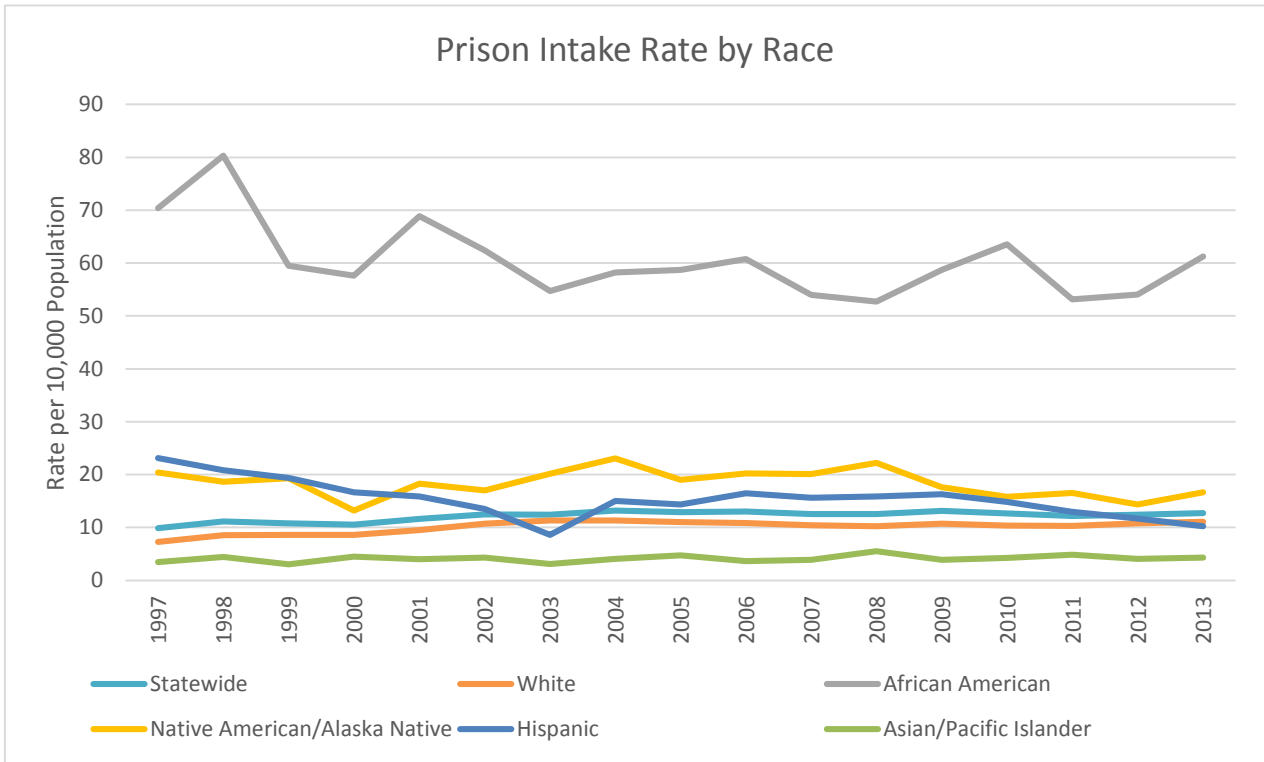
Prison Incarceration and Intake Rates

Oregon's prison population both historically and currently shows an overrepresentation of Oregon's minority groups. The CJC has compiled both prison population and prison intake data by race from the Department of Corrections. The graphs below show both incarceration rates and prison intake rates, and do not include local county jail populations. The prison population has steadily risen from 1994 to 2013, and thus the overall incarceration rate has continued to increase. Total intakes have also shown an upward trend, and the graph below shows intake rates from 1997 to 2013.

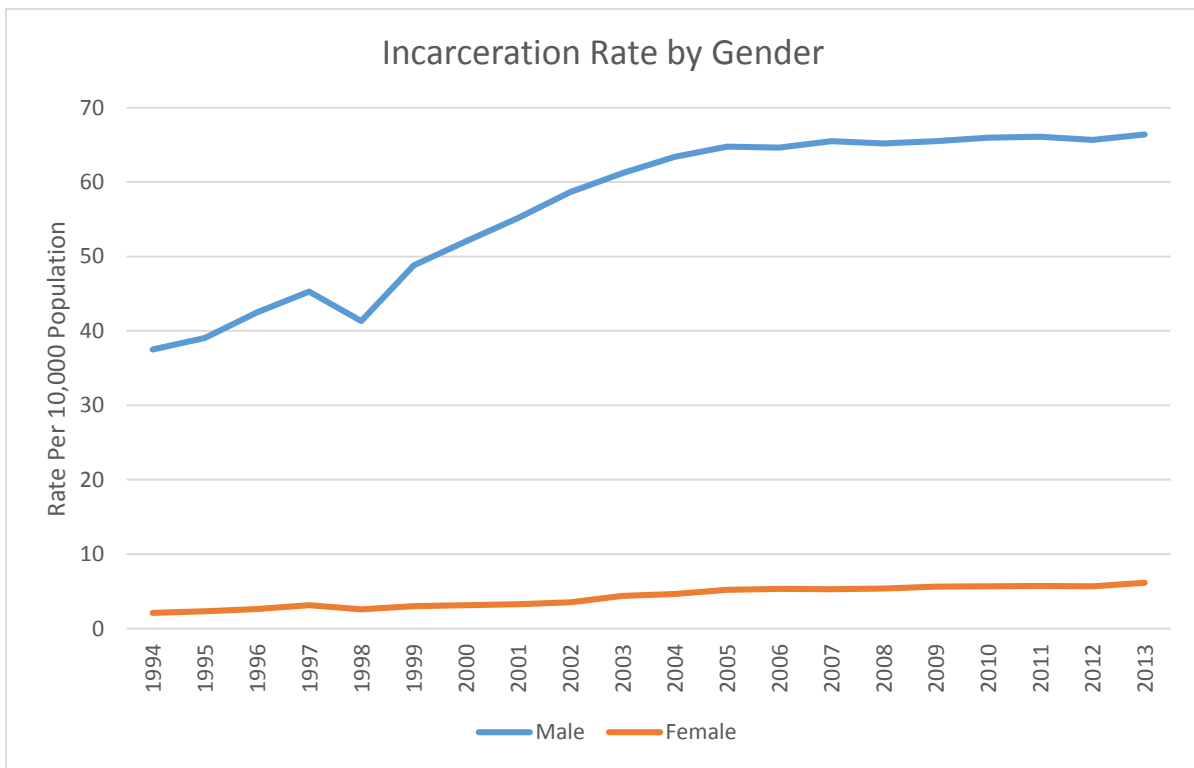
The incarceration rate shows a proportion of the state population that is incarcerated at a Department of Corrections facility. In 1994 the incarceration rate was 21.5 people per 10,000 population. In 2013 the incarceration rate was 36.3 per 10,000 population, which is a 69% increase in the state incarceration rate. The incarceration rate for African Americans in 2013 was 470% higher than the statewide rate, Native American/Alaska Natives were 42.5% higher than the statewide rate, while the Hispanic population incarceration rate was 9.4% higher. The incarceration rate for the Asian/Pacific Islander population was 67.5% lower than the statewide rate in 2013.

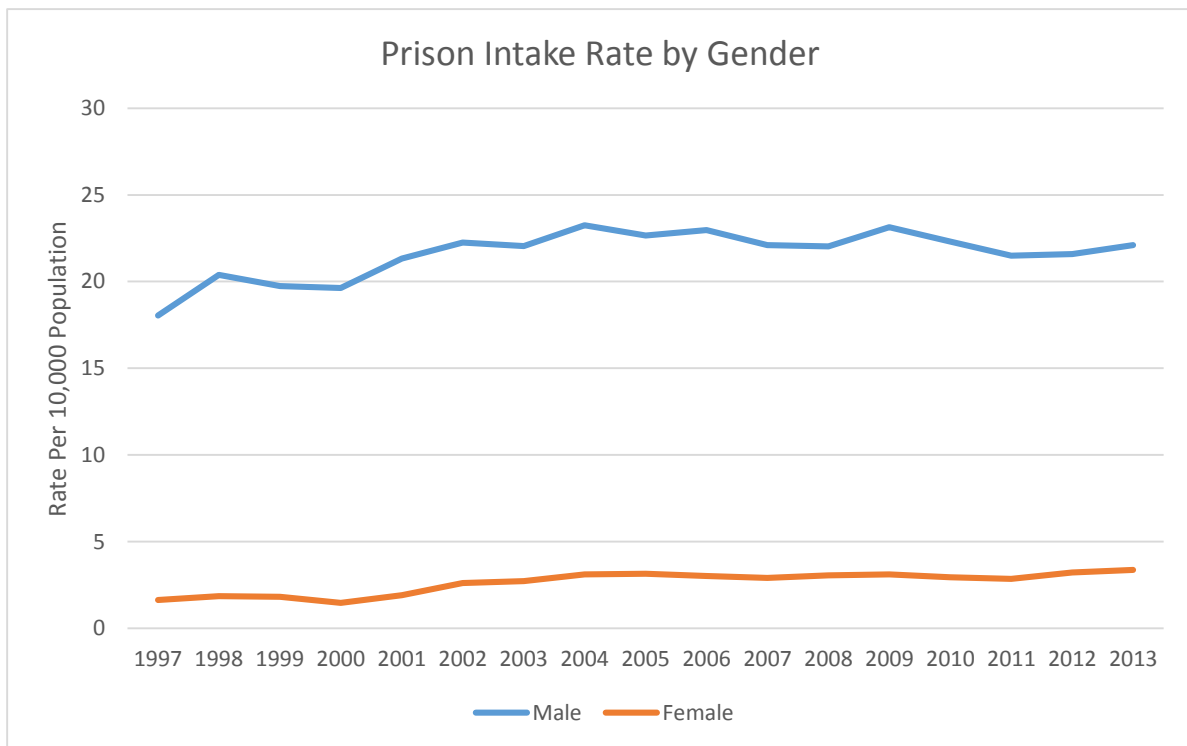


The prison intake rate shows the proportion of Oregon's population that was admitted to a Department of Corrections facility in that year. The incarceration rates shown above are dependent on the length of stay of each inmate, and for that reason can take much longer to show any changing trends in prison admissions. The prison intake rate is not dependent on the length of stay, and will help to show changing trends in prison admissions. The statewide prison intake rate increased 29.4% from 1997 to 2013. The prison admission rate for African Americans in 2013 was 480% higher than the statewide rate, while Native American/Alaska Natives were 30% higher than the statewide rate. For the Hispanic population, the prison admission rate was nearly 20% lower than the statewide rate, while the Asian/Pacific Islander population had a prison admission rate that was 66% lower than the statewide rate.



The graphs below show both the incarceration rate and prison intake rate by gender. From 1994 to 2013 the incarceration rate for males increased 77%, while the incarceration rate for females increased 193%, or nearly tripled. From 1997 to 2013 the prison intake rate for males increased nearly 23%, while the prison intake for females increased 104%, or doubled.





Overrepresentation of minority groups is present in many points of Oregon’s criminal justice system. In general, African Americans show the highest rate of overrepresentation. Over time the magnitude of this overrepresentation has dropped, however minority populations continue to show higher rates of involvement with the criminal justice system than the state as a whole.

Appendix

Further Resources: A large body of analysis and research has been conducted on the racial and ethnic disparities in the criminal justice system. The Sentencing Project has compiled a race and justice clearinghouse, which contains over 500 books, articles, and reports on racial and ethnic disparity in the criminal justice system³. The Sentencing Project also released a report in 2007 that compared state rates of incarceration by race and ethnicity⁴. The National Council on Crime and Delinquency released a report in 2009 that compares state rates of several different types of involvement within the criminal justice system by race and ethnicity⁵. In depth research has also been done for Oregon specifically, and one example is an analysis of disproportionate minority contact within Oregon’s juvenile justice system⁶. The Urban Institute released a report of an in depth look at racial disparity in Multnomah County’s probation revocations in April 2014⁷.

³ <http://www.sentencingproject.org/clearinghouse/>

⁴ http://www.sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf

⁵ http://nccdglobal.org/sites/default/files/publication_pdf/created-equal.pdf

⁶ <http://www.oregon.gov/oia/dmcs/2012/OregonDMCReport2012FINAL.pdf>

⁷ <http://www.urban.org/UploadedPDF/413175-Responding-to-Racial-Disparities-in-Multnomah-County-Probation-Revocations.pdf>

Racial and Ethnic Impact Statement

Child Welfare Data

African American and Native American children are overrepresented in many states across the nation, including Oregon. In 2009 the Child Welfare Equity Task Force was established (*Executive Order 09-02 and Senate Bill 630*) to identify and analyze the causes of disproportionality in Oregon's child welfare system. One of the key findings of the task force report showed about 20 percent of all children in foster care during the study period were children of color, despite the fact that children of color made up only 11 percent of Oregon's general child population¹. Since that time, the Department of Human Services (DHS) has continued to identify strategies to reduce disproportionality and disparities in Oregon.

Foster Care

The 2013 Child Welfare Data book provides data specific to Oregon's foster care population². During FFY 2013, 12,113 children spent at least one day in foster care. Below is a race comparison for Oregon children to children served in foster care.

Race	% of Oregon's children*	% of children served in foster care
African American	3.3%	7.0%
Asian/Pacific Islander	5.1%	1.2%
Caucasian	68.8%	68.6%
Hispanic (any race)	21.2%	16.4%
Native American	1.6%	4.5%
Unknown/Not Recorded	n/a	2.2%

*2012 Easy Access to Juvenile Populations: 1990-2012 Online

This shows that children of color, in particular African American and Native American children are in foster care at higher rates than other children. Native American children were over 2.5 times more likely and African American children 2 times more likely to be represented in Oregon's foster care population than represented in Oregon's general population.

Entries/Exits

The number of children entering foster care during FFY 2013 declined by 9.9 percent from the FFY 2012 level. The number of children leaving foster care has increased by 5.4 percent in the same time period.

¹ <http://www.oregon.gov/dhs/children/docs/tf-report.pdf>

² <http://www.oregon.gov/dhs/abuse/docs/2013%20Data%20Book.pdf>

	Entries	Exits
2009	4557	4674
2010	4736	4213
2011	4398	4112
2012	4140	3615
2013	3730	3810

When the number of exits is greater than the number of entries in a year a state will see a reduction in their overall foster care population. Though Oregon has seen a reduction in the foster care population both African American and Native American children continue to be overrepresented, with a slight increase in foster care population from FFY 2012 to FFY 2013.

Race	SFY 2011	FFY 2012	FFY 2013
African American	8.2%	6.8%	7.0%
Asian/Pacific Islander	1.6%	1.1%	1.2%
Caucasian	64.4%	66.5%	68.6%
Hispanic (any race)	14.4%	14.8%	16.4%
Native American	5.9%	3.8%	4.5%
Unknown/Not Recorded	5.5%	7.0%	2.2%

Data Analysis

By examining data – by race and ethnicity- Oregon will be able to examine patterns which can impact disproportionality and disparities. One example is the race comparison of children in Oregon to children with an in home case (*excluding trial home visits*).

Race	% of Oregon's children*	% of Children Served In Home
African American	3.3%	7.3%
Asian/Pacific Islander	5.1%	0.8%
Caucasian	68.8%	61.8%
Hispanic (any race)	21.2%	17.0%
Native American	1.6%	3.7%
Unknown/Not Recorded	n/a	9.5%

*2012 Easy Access to Juvenile Populations: 1990-2012 Online

In FFY 2013 African American and Native American children totaled only 11% of the in home case population. Monitoring such data will assist Oregon in planning and identifying systemic barriers to reducing disproportionality.



Racial and Ethnic Impact Statement

Criminal Justice Commission

House Bill 2904

House Bill 2904 expands the circumstances under which the court may order youth held or placed in pre-adjudication detention. The bill also changes the factors the court must consider when determining whether release of youth in detention is appropriate. A racial and ethnic impact statement has been requested for this bill.

Senate Bill 463 (2013) directs the Oregon Criminal Justice Commission (CJC) to prepare racial and ethnic impact statements as requested that describe the effects of proposed legislation on the racial and ethnic composition of the criminal offender population and recipients of human services. The criminal offender population is defined as all persons who are convicted of a crime or adjudicated for an act that, if committed by an adult, would constitute a crime. Recipients of human services are defined as all persons who are found to be within the jurisdiction of the juvenile court under ORS 419B.100 or who receive child welfare services described in ORS 418.005.

House Bill 2904 would impact youth held or placed in pre-adjudicatory detention. The Oregon Youth Authority (OYA) has prepared a document to summarize the racial and ethnic composition of youth in the Oregon juvenile justice system historically (attached). The CJC has analyzed the youth detention population specifically. Table 1 displays 2013 detention admissions for pre-adjudicatory new law violations that are non-mandatory minimum crimes. Compared to the Oregon general population ages 10 to 17, White and Asian youth are underrepresented in this specific detention admission population. The rate of admissions of Hispanic youth is similar to the general Hispanic youth population, while Native American and African American youth are overrepresented in this population. The last column in the table displays the average length of stay in days across the racial groups. Asian youth have the shortest length of stay of just over 8 days. White and Hispanic youth are just over 9 days, while Native American and African American youth are at 10.6 and 10.8 days on average.

Table 1 – Youth Detained for Current Detainable Offenses

	Oregon Population Age 10-17 ¹	2013 Pre Adjudicatory New Law Violation Non-Mandatory Minimum Detention Admissions		
	Population Age 10-17 %	Detention Admission Counts ²	Detention Admission %	Average Length of Stay (Days)
African American	3.0%	105	8.0%	10.8
Asian	5.0%	15	1.1%	8.1
White	70.0%	797	61.1%	9.2
Hispanic	20.0%	263	20.2%	9.5
Native American	2.0%	48	3.7%	10.6
Other/Unreported		77	5.9%	7.1
Total	100.0%	1305	100.0%	9.3

House Bill 2904 expands the specific list of crimes for which a youth may be held in detention. The bill adds these specific criteria: a person Class A misdemeanor as defined in the rules of the Oregon Criminal Justice Commission; stalking as defined in OR 163.732; a violation of the court’s stalking protective order under ORS 163.750; and any offense involving a weapon, as defined in ORS 166.360, or the threatened use of a weapon. The CJC compiled a specific list of crimes which fit one of these criteria and the most common occurring crimes were Menacing (ORS 163.190) and Resisting Arrest (ORS 162.315; see appendix). From JJIS (Juvenile Justice Information System) referral and detention data, the CJC estimated the percentage of youth detained when referred with a current detention eligible crime. The JJIS referral data lists the most serious ORS for each referral, this analysis may miss certain referrals with a more serious ORS that is not detention eligible. Referral data from 2009 to 2013 shows that in total, about 33% of referrals are held in pre-adjudicatory detention. This varies by the racial and ethnic group, with over 42% of Native American youth held in pre-adjudicatory detention and 27% of African American youth held in pre-adjudicatory detention. This should be interpreted with caution due to small counts in some of the racial and ethnic groups. The crimes that are currently eligible for pre-adjudicatory detention are more serious than the additional crimes listed in HB 2904. Since the additional detention eligible crimes are not as serious or severe, it’s not clear that the same percentage of referrals would be detained. To account for the less serious or severe nature of the additional crimes, another estimate of the percentage detained is included and is half the rate of the current percentage of detained youth.

¹ OYA Quick Facts July 2014

http://www.oregon.gov/oia/docs/QuickFacts_July2014.pdf

² JJIS Data & Evaluation Reports, Detention, Admission Reasons & Length of Stay, 2013

http://www.oregon.gov/oia/reports/jjis/2013/2013_Detention.pdf

Table 2

HB 2904 Additional Detainable Offenses 2009 - 2013			
	All Referrals for Additional Detainable Offenses	Percentage Detained Estimate	Percentage Detained Estimate at 50%*
African American	214	27.5%	13.8%
Asian	30	29.0%	14.5%
White	1831	33.8%	16.9%
Hispanic	444	35.4%	17.7%
Native American	70	42.0%	21.0%
Other/Unreported	155	30.2%	15.1%
Total	2744	33.5%	16.8%

*To account for the less serious or severe nature of the additional detainable offenses, an additional estimate of the percentage detained is included and is half the rate of the current percentage of detained youth.

Also from JJIS data, CJC compiled the number of referrals for crimes that would be eligible for pre-adjudicatory detention under HB 2904. This was multiplied by the estimated percentage of youth that would be detained to show the estimated number of additional youth detained as shown in tables 3 and 4. Over a 5 year period an estimated additional 919 youth would be held in pre-adjudicatory detention; an average of 184 youth per year. At the 50% estimate, an estimated 460 youth would be held in pre-adjudicatory detention; an average of 92 youth per year. The last column shows the percentage of each racial and ethnic group in the estimate.

Table 3 – Additional Detainable Offenses using Percentage Detained Estimate from Historical Data

HB 2904 Additional Detainable Offenses 2009 - 2013				
	All Referrals for Additional Detainable Offenses	Percentage Detained Estimate	Estimated Number of Additional Detained Youth	Percentage of Additional Detained Youth
African American	214	27.5%	59	6.4%
Asian	30	29.0%	9	0.9%
White	1831	33.8%	619	67.3%
Hispanic	444	35.4%	157	17.1%
Native American	70	42.0%	29	3.2%
Other/Unreported	155	30.2%	47	5.1%
Total	2744	33.5%	919	100.0%

Table 4– Additional Detainable Offenses using 50% of Percentage Detained Estimate from Historical Data

HB 2904 Additional Detainable Offenses 2009 - 2013				
	All Referrals for Additional Detainable Offenses	Percentage Detained Estimate at 50%	Estimated Number of Additional Detained Youth	Percentage of Additional Detained Youth
African American	214	13.8%	29	6.4%
Asian	30	14.5%	4	0.9%
White	1831	16.9%	309	67.3%
Hispanic	444	17.7%	79	17.1%
Native American	70	21.0%	15	3.2%
Other/Unreported	155	15.1%	23	5.1%
Total	2744	16.8%	460	100.0%

HB 2904 also changes criteria that are to be considered for release of youth from pre-adjudicatory detention (HB 2904 Section 1 (2)(a-d)). This change could have a racial and ethnic impact on the youth detention population, however there is currently not a way to measure this impact. The changes in the bill could impact release decisions made by a judge, but data is not currently available to estimate the magnitude of this possible change or to estimate the change in the racial and ethnic composition of the population.

The racial and ethnic composition of the estimated additional detention admissions are shown in Table 5 below. African American and Native American youth in the additional detention admissions are over-represented compared to the general population ages 10-17. Hispanic and White youth are slightly under-represented, and Asian youth are under-represented compared to the general population ages 10-17. Due to the over-representation of African American and Native American youth, this bill is estimated to have a disproportionate impact on the detention admissions for these specific minority groups.

Table 5

	Oregon Population Age 10-17 Percentage	Percentage of Additional Detained Youth under HB 2904
African American	3%	6.4%
Asian	5%	0.9%
White	70%	67.3%
Hispanic	20%	17.1%
Native American	2%	3.2%
Other/Unreported		5.1%
Total	100%	100.0%

Appendix

List of Crimes Eligible for Detention under HB 2904		
ORS Number	ORS Sub	ORS Description
162315		Resist Arrest
163187		Strangulation
163190		Menacing
163195		Recklessly Endanger Another
163200		Criminal Mistreatment 2*
163212		Unlawful ESG, T Gas, Mace 2
163454		Custodial Sexual Misconduct 2*
163476		Unlawfully Being in a Location Where Children Regularly Congregate*
163545		Child Neglect 2*
163575	2	Endanger Welfare of Minor/Mis
163687		Encouraging Child Sex Abuse 3
163700		Invasion of Personal Privacy
163709		Point Lazer Light at Officer
163732	2A	Stalking - Misdemeanor
163750	2A	Vio Ct Stalking Ord - Mis
165572		Interfering with Making a Report
166065	4	Harassment Touch Intimate Part
166155		Intimidation 2
166385	2	Mis Possession of a Hoax Destructive Device*
167054		Furnishing Sexually Explicit Material to a Child*
167320		Animal Abuse I
475986	1D	Unlawful Administration of a Controlled Substance*
609990	3A	Maintaining Dangerous Dog*
813010		DUII
162185	X	Attempt Supplying Contraband*
163213	X	Attempt Unlawful ESG, T Gas, Mace 1*
163263	X	Attempt Subjecting Another Person to Involuntary Servitude 2*
163676	X	Attempt Encouraging Child Sex Abuse 2*
163689	X	Attempt Poss Materials Depicitng Sex Explicit Conduct of a Child 2*
166165	X	Attempt Intimidation 1*
167012	X	Attempt Promoting Prostitution*
167057	X	Attempt Luring a Minor*
167320	X	Attempt Animal Abuse 1*
475910	1cX	Attempt Unlawful Administration of a Controlled Substance*

* No cases found in 2013 JJIS Referral Data



Racial and Ethnic Impact Statement

Criminal Justice Commission

House Bill 2905

House Bill 2905 requires judges to specify a date before which for youth sentenced to OYA close custody may not be released; in other words, a minimum sentence length. A racial and ethnic impact statement has been requested for this bill.

Senate Bill 463 (2013) directs the Oregon Criminal Justice Commission (CJC) to prepare racial and ethnic impact statements as requested that describes the effects of proposed legislation on the racial and ethnic composition of the criminal offender population and recipients of human services. The criminal offender population is defined as all persons who are convicted of a crime or adjudicated for an act that, if committed by an adult, would constitute a crime. Recipients of human services are defined as all persons who are found to be within the jurisdiction of the juvenile court under ORS 419B.100 or who receive child welfare services described in ORS 418.005.

House Bill 2905 would have an indeterminate impact on the racial/ethnic composition of youth held or placed in close custody. The Oregon Youth Authority (OYA) has prepared a document to summarize the racial and ethnic composition of youth in the Oregon juvenile justice system historically (attached). For this bill, the CJC has analyzed length of stay in OYA close custody by race. In addition to providing that data, we provide an explanation of how release decisions are currently made in OYA and the possible ways this bill could impact the racial/ethnic composition of the youth close custody population.

Table 1. Oregon youth population and close custody youth population, by race

	Oregon population age 10-17	Close Custody Youth - Juvenile*
African American	3.0%	9.0%
Asian	5.0%	1.8%
White	70.0%	60.5%
Hispanic	20.0%	22.8%
Native American	2.0%	5.1%
Other/Unreported		0.9%

Source: OYA Quick Facts July 2014. *This includes public safety reserve youth.

http://www.oregon.gov/oia/docs/QuickFacts_July2014.pdf

Compared to the general population of Oregon youth, African American, Native American, and Hispanic youth are overrepresented in the OYA close custody population. White and Asian youth are underrepresented.

Table 2. Youth Released from OYA Close Custody, 2008-2014

Race/Ethnicity	Non Sex Offenders				Sex Offenders			
	N	Mean LOS in Days Prior to Release	Minimum*	Maximum	N	Mean LOS in Days Prior to Release	Minimum*	Maximum
African American	351	280	0	2031	31	584	110	1893
Asian	46	228	11	557	10	369	45	1269
Hispanic	738	279	0	1667	103	482	0	3156
Native American	146	269	0	1964	44	523	49	4373
Other/Unknown	13	224	39	572	6	461	30	1061
White	1557	264	0	4157	570	561	0	4451
Grand Total	2851	270			764	546		

Note: This data only includes juveniles, not youth committed to DOC. *Some youth are released the same day they arrive because OYA determines the youth's needs would be better served in another institution, such as a mental health facility. This shows up as a release in OYA data because they are no longer in an OYA close custody facility, but they are not released to the community.

For non sex offenders in the period from 2008 to 2014, African American and Hispanic youth had higher than average lengths of stay. Asian youth and youth of Other/Unknown race had lower than average lengths of stay. The length of sentence for White and Native American youth was close to the overall average.

Sex offenders are reported separately because they serve significantly longer sentences. For this population, African American youth had the highest average lengths of stay. White and Native American youth were close to the overall average length of stay, with White youth slightly higher and Native American youth slightly lower. Hispanic youth, youth of Other/Unknown race, and Asian youth had lower than average lengths of stay.

The minimum lengths of stay in this table represent youth who were released to other institutions, rather than back to the community. The data used to create this table doesn't indicate the reason for discharge so it is not possible to exclude these cases without significant additional work.

Current procedure

Release decisions are made by a multidisciplinary team (MDT) consisting of the youth's probation and parole officer and treatment providers, along with the youth and their family. During their stay in close custody, the MDT meets quarterly to assess the youth's progress. They consider behavioral stability, potential community risk, educational or vocational engagement, mental health and other medical considerations, crime severity, and community sensitivity. When the MDT agrees that a youth is ready for parole, they make the recommendation to the superintendent or camp director of their institution. This decision is informed by the transition placement destination; for example, they would have higher expectations for a youth returning home than a youth transitioning to a residential program. The superintendent or camp director considers the MDT's recommendation and makes the decision to authorize or deny parole at that time.

This bill requires judges to specify a minimum release date. OYA would not have the authority to release a youth prior to that date. Currently, some youth are released from OYA close custody in a matter of days. Generally in these cases, OYA

has determined that a youth is outside of their capacity to manage, and they are released to another institution such as a mental health facility.

If judges set minimum stays that are shorter than OYA would have released the youth, it would have no impact on the racial/ethnic composition in terms of sentence length because there would be no change in the way release decisions are made. If judges set minimum stays that are longer than OYA would have released the youth, it could increase or decrease racial disparities in sentence length, depending on the pattern of sentencing by race.

Conclusion

In effect, this bill would establish a new practice of requiring judges to set a minimum sentence length for youth committed to OYA close custody. Since judges currently don't set sentence lengths for youth committed to OYA close custody, data on judicial patterns of sentence length by race/ethnicity doesn't exist for this population. Thus, the CJC cannot estimate the impact this will have on the racial/ethnic patterns in sentence length. Therefore, we deem this bill to have an indeterminate impact.



Racial and Ethnic Impact Statement

Criminal Justice Commission

House Bill 2906

House Bill 2906 modifies the definition of “scientifically based research” with respect to evidence-based programs. A racial and ethnic impact statement has been requested for this bill.

Senate Bill 463 (2013) directs the Oregon Criminal Justice Commission (CJC) to prepare racial and ethnic impact statements as requested that describes the effects of proposed legislation on the racial and ethnic composition of the criminal offender population and recipients of human services. The criminal offender population is defined as all persons who are convicted of a crime or adjudicated for an act that, if committed by an adult, would constitute a crime. Recipients of human services are defined as all persons who are found to be within the jurisdiction of the juvenile court under ORS 419B.100 or who receive child welfare services described in ORS 418.005.

House Bill 2906 changes the definition of scientifically based research with respect to evidence-based programs. This bill is not expected to change sentence lengths, add new crimes, or alter penalties for currently existing crimes. Therefore, we estimate it will have **no impact** on the racial and ethnic composition of the criminal offender population or recipients of human services.



Racial and Ethnic Impact Statement

Criminal Justice Commission

House Bill 2907

House Bill 2907 establishes a definition of “recidivism” for purposes of tracking and compiling data regarding recidivism of youth and youth offenders. A racial and ethnic impact statement has been requested for this bill.

Senate Bill 463 (2013) directs the Oregon Criminal Justice Commission (CJC) to prepare racial and ethnic impact statements as requested that describes the effects of proposed legislation on the racial and ethnic composition of the criminal offender population and recipients of human services. The criminal offender population is defined as all persons who are convicted of a crime or adjudicated for an act that, if committed by an adult, would constitute a crime. Recipients of human services are defined as all persons who are found to be within the jurisdiction of the juvenile court under ORS 419B.100 or who receive child welfare services described in ORS 418.005.

House Bill 2907 establishes a definition of recidivism of youth offenders for tracking and reporting purposes. The bill defines three measures of recidivism, and removes language that would allow the Oregon Youth Authority (OYA) to adopt one or more definitions of recidivism that are designed to address outcomes including, but not limited to, community safety and rehabilitation. Currently OYA uses risk assessment tools to inform placement decisions.¹ These tools are designed to predict the likelihood a youth will recidivate based on current definitions. The recidivism definition change in HB 2907 would cause OYA to change their current risk assessment tools to predict a different recidivism measure. To the extent that the change in risk assessment tools would impact placement decisions, there is a possibility of an impact on the youth criminal offender population, and also possibly an impact on the racial and ethnic composition of the population. The risk assessment tools would need to be recalibrated to reflect the new definition of recidivism, and it’s not known to what extent this would impact the racial and ethnic composition of the population. Thus, the CJC estimates the impact of this bill on racial/ethnic disparity in the juvenile justice population as indeterminate.

¹ <http://www.oregon.gov/oia/pages/research/jjriskoverview.aspx>



IP 44 Racial and Ethnic Impact Statement

Supplemental Document

Oregon Criminal Justice Commission

5 August 2020

Background

The Oregon Criminal Justice Commission (CJC) received a written request from a member of the Legislative Assembly from each major political party requesting a racial and ethnic impact statement pursuant to ORS 137.685 for a state measure that is related to crime and likely to have an effect on the criminal justice system. This request concerns ballot initiative IP 44¹.

This statement describes the racial and ethnic impact to the criminal offender population in detail and is intended to supplement the short racial and ethnic impact statement in the voter pamphlet. Relevant to the creation of the data estimates reported below, IP 44 would change possession of controlled substances (PCS) offenses to criminal violations, except where an individual possesses a substantial quantity of drugs, which would be a misdemeanor, or is convicted of a commercial drug offense, which would be a felony (please see Sections 11 through 22 of the initiative).

Table 1. Proposed Changes in IP 44 to Possession of Controlled Substances (PCS) compared to Current Law

Current Law	IP 44
Felony	Felony
<ul style="list-style-type: none"> Subject has a prior felony conviction Subject has two or more misdemeanor convictions for PCS Subject possesses a substantial quantity of controlled substances Subject is convicted of a commercial drug offense 	<ul style="list-style-type: none"> Subject is convicted of a commercial drug offense
Misdemeanor	Misdemeanor
<ul style="list-style-type: none"> All other non-felony PCS 	<ul style="list-style-type: none"> Subject possesses a substantial quantity of controlled substances
Violation	Violation
	<ul style="list-style-type: none"> All other non-felony and non-misdemeanor PCS

IP 44 changes the sentencing for unlawful PCS statutes. As shown in Table 1, under current law, PCS convictions are misdemeanors, except in certain circumstances in which they are felonies, including when

¹ <http://oregonvotes.org/irr/2020/044text.pdf>

the subject has a prior felony conviction, has two or more prior PCS convictions, possesses a substantial quantity, or is convicted of a commercial drug offense. IP 44 changes PCS convictions to violations except in certain circumstances including when the subject possesses a substantial quantity, which is a misdemeanor, or is convicted of a commercial drug offense, which is a felony.

As discussed in greater detail below, the methodology and data sources used for this statement mirror previous analyses regarding possession of controlled substances conducted by the CJC. House Bill 2355 (2017) required CJC to study the effect of the reduction in possession penalties on the criminal justice system and the composition of convicted offenders². CJC used data from the Department of Corrections (DOC) that includes felony and misdemeanor convictions for drug possession, as well as data from the Law Enforcement Data Systems (LEDS) database, which contains data on all fingerprinted arrests in the state, to compile that report.

Methods and Analysis

Racial and ethnic disparities can exist at any and all steps of the criminal justice process. For this analysis, the CJC focuses on convictions, sentence type and length, and arrests. It is possible, however, that inequities exist in police stops, jail bookings, bail, pretrial detention, or other areas, but the CJC lacks sufficient or appropriate data to examine those stages of the process. Similarly, while the CJC is required by statute to include an estimate of the racial/ethnic makeup of crime victims, data concerning victims of individuals convicted of drug possession are not available.

Current Convictions for PCS

CJC queried misdemeanor and felony convictions for PCS in 2019 where PCS was the most serious or only conviction.³ Following this definition, in 2019 there were 2,139 misdemeanor PCS convictions and 1,918 felony PCS convictions. Table 2 displays the counts and percentage breakdown by race and ethnicity. Compared to Census estimates for race and ethnicity within Oregon, Black and Native American Oregonians were overrepresented in convictions relative to their populations, while Hispanic and Asian Oregonians were underrepresented.

Table 2. Convictions for Possession of Controlled Substances in 2019

Race/Ethnicity	Misdemeanor		Felony		Total		Census
	Count	Pct.	Count	Pct.	Count	Pct.	Pct.
Asian	16	0.7%	19	1.0%	35	0.9%	5.1%
Black	120	5.6%	69	3.6%	189	4.7%	1.9%
Hispanic	238	11.1%	198	10.3%	436	10.7%	13.3%
Native American	27	1.3%	25	1.3%	52	1.3%	1.1%
White	1,733	81.0%	1,603	83.6%	3,336	82.2%	75.2%
Total ⁴	2,139		1,918		4,057		

² <https://www.oregon.gov/cjc/CJC%20Document%20Library/2019PCSReport.pdf>

³ While PCS charges often accompany other felony charges, the CJC restricts the analysis to instances where PCS was the only or most serious charge because it is in those cases that CJC can best estimate the effects that IP 44 could have on the offender population. It is possible that in cases where PCS charges co-occur with other felonies, such as property or other statutory crimes, that sentencing outcomes could be different should IP 44 go into effect. However, these cases will likely result in a criminal conviction due to the determining factor of the other, more serious felonies.

⁴ In a small number of instances, race is not known, which leads to the total being higher than the sum of the racial categories reported in this table.

CJC examined 2019 PCS convictions by the type of sentence an individual received as well as sentence length. Table 3 reports sentence type and sentence length by race. Overall, probation sentence lengths were between 16.5 and almost 21 months in duration, while local jail stays ranged from 15 to almost 45 days. For sentence type, the share of each racial group across the different outcomes was relatively consistent, suggesting that different racial groups were no more or less likely to receive a probation or jail sentence relative to other groups. For sentence length, small differences were detected by racial group, although only differences in felony probation sentence length were found to be statistically significant. As such, the data contained in Tables 2 and 3 suggest that the primary source of inequality by race and ethnicity in 2019 regarding sentencing for PCS was among convictions overall, given that both Black and Native American Oregonians were convicted at rates higher than their share of the Census population would predict.

Table 3. Average Sentence Length in Months by Sentence Type in 2019

<i>Community Supervision</i>	Misd. Probation		Felony Probation†	
	Count	Avg. LOS	Count	Avg. LOS
Asian	16	18.4	11	16.5
Black	120	17.3	49	19.0
Hispanic	238	18.0	145	20.8
Native American	27	18.9	15	18.0
White	1,733	17.9	1,169	19.5
Total ⁴	2,139		1,393	

<i>Local Control Sentences</i>	First Sentence		Revocation	
	Count	Avg. LOS	Count	Avg. LOS
Asian	8	0.5	5	0.8
Black	20	0.6	23	0.9
Hispanic	53	0.8	74	1.5
Native American	10	0.9	21	1.3
White	434	0.7	720	1.3
Total ⁴	525	0.7	844	1.3

† Difference between groups is statistically significant as assessed by F-statistic following an analysis of variance.

Estimated Changes to PCS Conviction Population

If IP 44 passes, convictions for commercial drug offenses would remain felonies. To identify commercial drug PCS offenders in 2019, CJC assumes that current felony drug PCS convictions showing a crime category 6 or higher on the sentencing guidelines grid would remain felonies. Of the total 1,918 felony convictions in 2019, five

Table 4. Estimated Convictions if IP 44 Passes

Race/Ethnicity	Misd.	Felony	Total	% Chg
Asian	5	1	6	-82.9%
Black	9	3	12	-93.7%
Hispanic	40	19	59	-86.5%
Native American	1	2	3	-94.2%
White	219	77	296	-91.1%
Total ⁴	276	102	378	-90.7%

percent, or 102 total convictions, would be estimated to remain felonies under IP 44. A breakdown by race/ethnicity for these felonies is reported in the third column of Table 4. CJC assumes that 14 percent of felony PCS convictions, which amounts to 276, were for possession of a substantial quantity of narcotics, which under IP 44 would be misdemeanors. To arrive at this estimation, CJC identified the felony convictions in 2019 that were not commercial drug offenses but also were not convictions for individuals

with either a felony record or a criminal history containing two or more prior PCS convictions. A breakdown by race/ethnicity for these misdemeanors is reported in the second column of Table 4. Finally, all remaining convictions under IP 44 would be violations and would not be supervised or included in the DOC population.

Comparing Tables 3 and 4 provides an initial understanding of the magnitude of the change that could be ushered in by the passage of IP 44. As shown in column five of Table 4, in total CJC estimates that convictions for PCS would be reduced by 3,679, or 90.7 percent. When broken down by race, the reduction in convictions overall ranges from 82.9 percent for Asian Oregonians to approximately 94 percent for Black and Native American Oregonians.

To further evaluate the racial and ethnic impact of this sentencing change, CJC employed a disproportionality metric known as the Raw Differential Representation, or RDR.⁵ The RDR represents the reduction in convictions that would be required to reach parity with white individuals given population differences across different races/ethnicities. A positive RDR indicates a racial/ethnic group is overrepresented in the system compared to white individuals, whereas a negative RDR indicates a racial/ethnic group is underrepresented compared to white individuals. The goal, when assessing the RDR, is for each racial/ethnic group to be as close to the white “baseline” as possible, as this would indicate that the group is neither underrepresented nor overrepresented compared to the white group.

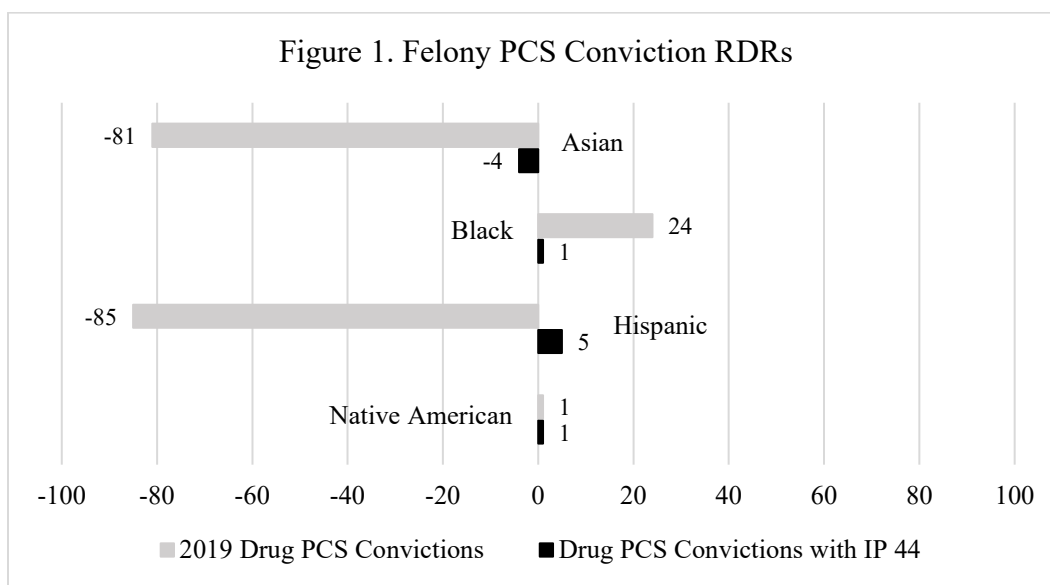
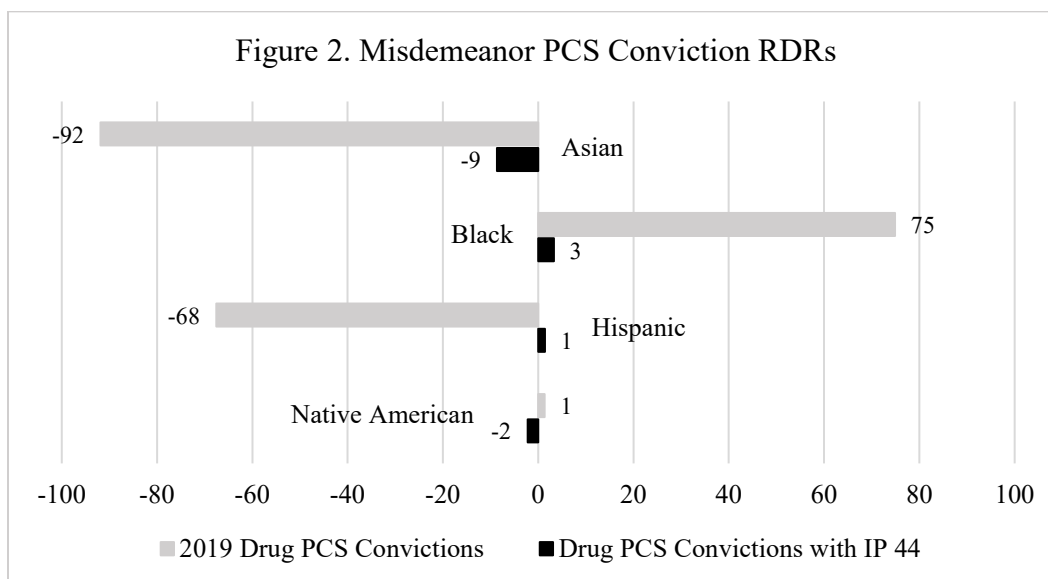


Figure 1 displays the RDRs for 2019 felony convictions as well as the estimated felony convictions under IP 44. For 2019 felony convictions, there would need to be 24 fewer convictions for Black individuals to reach parity with white individuals. Under the estimated impact of IP 44, that RDR drops to one. Asian individuals are underrepresented compared to white individuals in 2019 convictions and would continue to be underrepresented if IP 44 were to pass, though to a lesser extent. 2019 felony convictions for Hispanic individuals show a negative RDR, indicating that 85 additional Hispanic individuals would need to be convicted to achieve parity with white individuals. Under the estimated impact of IP 44, Hispanic individuals would instead be overrepresented by five. The RDR for Native American Oregonians is the same under 2019 convictions and under the estimated impact of IP 44. The RDR analysis indicates that the estimated impact of IP 44 would be a decrease in overrepresentation of Black individuals in felony

⁵ <https://www.oregon.gov/cjc/CJC%20Document%20Library/2019PCSReport.pdf>

convictions. In general, Figure 1 shows that RDRs are closer to zero with the impact of IP 44, indicating an overall decrease in disparity.

Figure 2 displays the RDRs for 2019 misdemeanor convictions and the estimated misdemeanor convictions under IP 44. For 2019 misdemeanor convictions, there would need to be 75 fewer convictions for Black individuals to reach parity with white individuals. Under the estimated impact of IP 44, that RDR drops to three. The RDR for 2019 misdemeanor convictions indicates that Asian and Hispanic individuals are both underrepresented in convictions compared to white individuals, and that remains true under IP 44 for Asian individuals. One fewer Hispanic individual would need to be convicted of a misdemeanor under IP 44 in order to reach parity with white individuals. Native American individuals were moderately overrepresented in 2019 convictions (by one), and under the estimated impact of IP 44 would be moderately underrepresented compared to white individuals (by two). The RDR analysis indicates that IP 44 would decrease overrepresentation of Black and Native American Oregonians in misdemeanor convictions compared to the white baseline.



PCS Arrests

Beyond convictions, arrests can also have a significant negative impact on the lives of individuals. In 2019, 8,513 arrests were logged in LEDS where PCS was the most serious offense. The CJC examined a subset of those arrests, which included all arrests for PCS where the possession charge was the most serious offense *except* for those cases where there was a co-occurring arrest for violations of ORS 813.010 Driving While Under the Influence of Intoxicants, 164.245 Trespassing in the Second Degree, 164.045 Theft in the Second Degree, or 164.043 Theft in the Third Degree. The CJC excluded those arrests because it is likely that an arrest for the companion charges would still occur even if the individual would no longer be taken into custody for possessing narcotics. Table 5 provides a breakdown of these data by race/ethnicity.

Table 5. Arrests for PCS in 2019

Race/Ethnicity	Count	Pct.
Asian	59	0.9%
Black	422	6.3%
Hispanic	542	8.0%
Native American	84	1.3%
White	5,619	83.4%
Total	6,726	

Unlike the conviction data discussed previously, LEDS does not provide the same level of detail that the CJC would require to estimate which arrests would most likely not occur following the passage of IP 44. For example, the CJC does not have data specifying which arrests were for different quantities or amounts of narcotics. Similarly, CJC lacks data indicating whether an individual may be eligible to be charged with a commercial drug offense at the time of arrest. To estimate the possible effect of IP 44, therefore, the CJC relied on the percentage reductions, by race, that were estimated for PCS convictions. This means that, following the reductions described above in Table 4, the CJC modeled what the racial breakdown of PCS arrests would look like if there was a reduction of 82.9 percent for Asian individuals, 93.7 percent reduction for Black individuals, 86.5 percent reduction for Hispanic individuals, 94.2 percent reduction for Native American individuals, and a 91.1 percent reduction for white individuals. Table 6 reports the racial breakdown under this scenario. In total, as shown in Tables 5 and 6, arrests for PCS are estimated to fall from 6,726 to 615, a reduction of approximately 91 percent.

Table 6. Estimated Arrests for PCS if IP 44 Passes

Race/Ethnicity	Count	Pct.
Asian	10	1.6%
Black	27	4.3%
Hispanic	73	11.9%
Native American	5	0.8%
White	500	81.3%
Total	615	

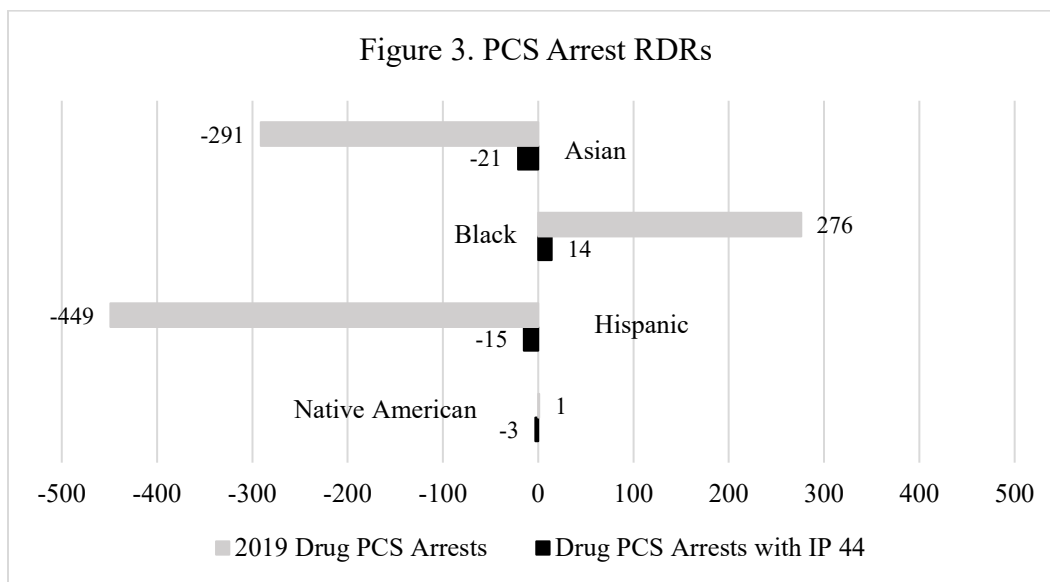


Figure 3 reports the raw differential representation metric for arrests following the possible passage of IP 44. Similar to convictions, disparities are estimated to fall substantially for arrests. Most notably, the disparity in arrests of Black Oregonians for PCS are estimated to fall from 276 per year to 14. For Native American Oregonians, it is estimated that previous trends of overrepresentation could flip from being currently overrepresented in arrests for PCS, to being underrepresented.

Conclusion

Overall, if IP 44 were to pass, the Oregon Criminal Justice Commission estimates that approximately 1,800 fewer Oregonians per year would be convicted of felony PCS and nearly 1,900 fewer Oregonians per year would be convicted of misdemeanor PCS. Prior research suggests this drop in convictions will

result in fewer collateral consequences stemming from criminal justice system involvement (Ewald and Uggen, 2012)⁶, which include the reduced ability to find employment, reduced access to housing, restrictions on the receipt of student loans, inability to obtain professional licensure, and others.

The CJC estimates that IP 44 will likely lead to significant reductions in racial/ethnic disparities in both convictions and arrests. The RDRs for felony and misdemeanor convictions are estimated to be closer to zero with the impact of IP 44. For Black individuals, the RDR drops to one for misdemeanor convictions and three for felony convictions. For Hispanic individuals, the RDR changes from an underrepresentation in convictions, to a value of one for misdemeanor convictions and five for felony convictions. The RDR for Native American Oregonians is unchanged for felony convictions at one, and drops to negative two for misdemeanor convictions. As the RDRs trend to zero, this indicates a decrease in disparity for individuals convicted of misdemeanor and felony PCS.

Similarly, it is estimated that disparities in arrests for PCS would fall as well. If arrests follow the same trends as were estimated for convictions, then the overall number of PCS arrests would fall from just over 6,700 to 615. In this case, the significant overrepresentation of Black Oregonians as measured by the RDR among those arrested for PCS would fall substantially, being reduced by nearly 95 percent. In addition, Native American Oregonians would go from being overrepresented, to underrepresented compared to white individuals.

⁶ Ewald, A., and Uggen, C. 2012. "The Collateral Effects of Imprisonment on Prisoners, Their Families, and Communities." In J. Petersilia & K. Reitz (Eds.), *The Oxford Handbook on Sentencing and Corrections* (pp. 83-103). New York, NY: Oxford University Press.

Measure 110

Racial & Ethnic Impact Statement

The Oregon Criminal Justice Commission (CJC) received a written request from a member of the Legislative Assembly from each major political party requesting a racial and ethnic impact statement pursuant to ORS 137.685 for a state measure that is related to crime and likely to have an effect on the criminal justice system.

Criminal Justice System Changes Examined by Race/Ethnicity

The initiative changes several criminal sentencing laws regulating the possession of controlled substances (PCS). Relevant to the creation of the data estimates reported below, Measure 110 would change PCS convictions to criminal violations, except where an individual possesses a substantial quantity of drugs, which would be a misdemeanor, or is convicted of a commercial drug offense, which would be a felony.

A conviction for simple possession of controlled substances results in either probation or a short term sentence in a local jail in Oregon. The CJC examined the type of sentence individuals received for PCS in 2019 (probation versus jail) as well as sentence lengths by race/ethnicity and found few differences. The primary source of racial/ethnic disparities is in the rate at which individuals of different races/ethnicities were convicted of PCS. Currently, Black and Native American Oregonians are overrepresented compared to their Census populations.

Convictions in 2019 for PCS

Race/Ethnicity	Misd.	Felony	Total	Pct.
Asian	16	19	35	0.9%
Black	120	69	189	4.7%
Hispanic	238	198	436	10.7%
Native American	27	25	52	1.3%
Unknown	5	4	9	0.2%
White	1,733	1,603	3,336	82.2%
Total	2,139	1,918	4,057	100.0%

CJC estimates that if Measure 110 were to pass, a substantial reduction in the number of felony and misdemeanor convictions for PCS would follow. The total number of convictions for PCS would fall from 4,057 to 378, a nearly 91% reduction. This reduction would also be substantial for all racial groups, ranging from 82.9% for Asian Oregonians to approximately 94% for Native American and Black Oregonians. This means that approximately 1,800 fewer Oregonians per year are estimated to be convicted of felony PCS and nearly 1,900 fewer convicted of misdemeanor PCS. Prior academic research suggests this drop in convictions will result in fewer collateral consequences stemming from criminal justice system involvement, which include difficulties in finding employment, loss of access to student loans for education, difficulties in obtaining housing, restrictions on professional licensing, and others.

Estimated Convictions for PCS if Measure 110 were to Pass

Race/Ethnicity	Misd.	Felony	Total	% Chg
Asian	5	1	6	-82.9%
Black	9	3	12	-93.7%
Hispanic	40	19	59	-86.5%
Native American	1	2	3	-94.2%
Unknown	2	0	2	-77.8%
White	219	77	296	-91.1%
Total	276	102	378	-90.7%

The changes proposed by Measure 110 would also lead to a reduction in racial disparities for PCS convictions at both the misdemeanor and felony levels. Using a disparity metric called the Raw Differential Representation (RDR), CJC estimates that racial disparities for misdemeanor and felony PCS convictions will be narrowed substantially if Measure 110 passes.

The CJC also estimates that arrests for PCS would fall substantially. Using the estimated reduction in convictions as a guide, CJC estimates that PCS arrests would fall from 6,726 to 615. Currently, Black Oregonians are substantially overrepresented in PCS arrests compared to white Oregonians. Should Measure 110 pass, it is estimated that this disparity would fall by nearly 95% according to the RDR.

Other disparities can exist at different stages of the criminal justice process, including inequities in police stops, jail bookings, bail, pretrial detention, prosecutorial decisions, and others. The CJC lacks sufficient or appropriate data in each of these areas and therefore cannot provide estimates for these other stages. Similarly, while the CJC is required by statute to include an estimate of the racial/ethnic makeup of crime victims, data concerning victims of individuals convicted of drug possession are not available.



Racial and Ethnic Impact Statement

Victim Data

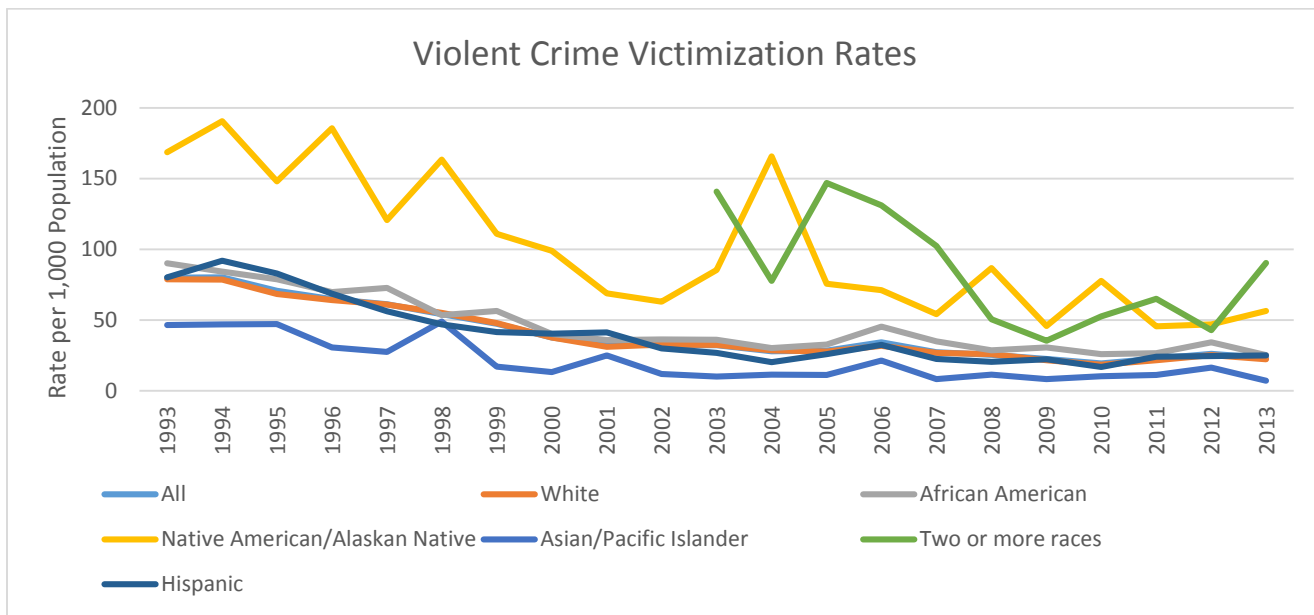
Criminal Justice Commission

Senate Bill 463 (2013) requires the Oregon Criminal Justice Commission to prepare a racial and ethnic impact statement that describes the effects of proposed legislation on the racial and ethnic composition of crime victims. To obtain a racial and ethnic impact statement, one member of the Legislative Assembly from each major political party must sign a written request. This report does not attempt to explain why racial and ethnic disparity exists in crime victimization, but simply displays the extent of the disparity.

Victim Population

Oregon does not currently have reliable data on crime victims by race and ethnicity. Some Oregon jurisdictions participate in NIBRS, a national effort to keep detailed quality records on crimes which include data on the race and ethnicity of crime victims. However, since most of the agencies covering large urban areas do not participate in NIBRS, the data is not representative of the state and cannot be used for victim racial impact statements. The FBI will require that all jurisdictions report NIBRS data by 2017.

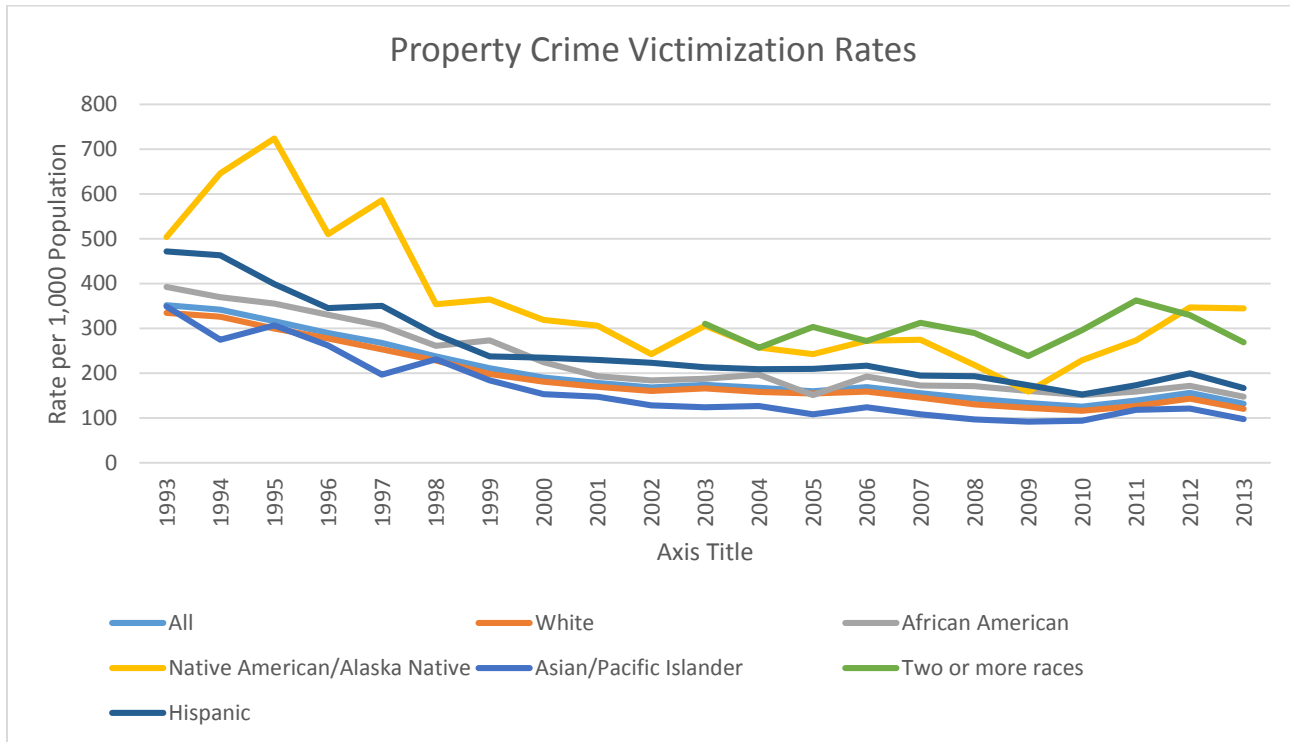
Violent victimization rates by race and crime. This is the number of victims of violent crime per 1000 members of the general population.¹ This includes serious violent victimization, rape/sexual assault, robbery, aggravated assault, simple assault, and personal theft/larceny.



Native Americans and those reporting two or more races consistently report the highest levels of violent crime victimization. Asians consistently report the lowest levels of violent crime victimization. Overall, violent crime victimization rates have fallen over the last 20 years. For violent person crimes, victimization rates are highest for simple assault. They are lowest for personal theft/larceny.

¹ Bureau of Justice Statistics. Generated using the NCVS Victimization Analysis Tool at www.bjs.gov.

Property victimization rates by race and crime. This is the number of victims of property crime per 1000 members of the general population.² This includes household burglary, motor vehicle theft, and other theft.



Two racial categories consistently report the highest victimization rates across crime types: Native Americans and those reporting two or more races. The only exception is the crime of motor vehicle theft, for which Hispanics have the highest victimization rate, followed by those reporting two or more races. The rate of property crimes is driven primarily by property theft.

Overall, the rate of victimization is higher for property crimes than for violent crimes. Rates for both violent and property crimes have decreased over the last 20 years.

² Bureau of Justice Statistics. Generated using the NCVS Victimization Analysis Tool at www.bjs.gov.