

Boulder County District Attorney's Office Data Presentation

July 7, 2022

Welcome

INSTITUTE OF JUSTICE



Agenda

- Who is Reshaping Prosecution
- Our Role
- What is Racial Disparity
- Power of the Prosecutor
- Role of data
- Boulder County DAO Analysis
- National Solutions/Reforms
- Boulder DAO
- Q&A
- Closeout

About Vera

Vera Institute of Justice is a nonprofit criminal justice reform organization. We partner with government and civic leaders to produce ideas, analysis, and research that inspire change in the systems people rely upon for safety and justice.

Reshaping Prosecution



Akhi Johnson



Mona Sahaf



Lola Akinlade



Nicole Battle



Savannah Castaneda



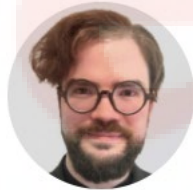
Sarah Darwiche



Seleeke Flingai



Izzy Gibson



Nicholas MacDonald



Meghan Nayak



Adureh Onyekwere



Jaclyn Quiles-Nohar



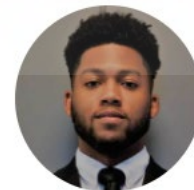
Stephen Roberts



Erin Ross



Maria Starzmann



Eric Sutton III



Andrew Taylor

Reshaping Prosecution is committed to



Shrinking the front end of
the system



Addressing systemic racial
disparities



Increasing accountability to
directly impacted
communities

Our role

- Facilitate conversations on mass incarceration, why it's problematic, and explore what a new system might look like
- Offer examples, resources, relationships from a national perspective of offices & communities organizing around prosecutor accountability
- Analyze office's data and consult with community to identify and implement reforms, as well as evaluate their impact

What is **Racial Disparity**?

What is **Racial Disparity**?

Racial disparity in the criminal justice system exists when the proportion of a racial or ethnic group within the control of the system is greater than the proportion of such groups in the general population.

Why do we see **Racial Disparities** in the criminal legal system?



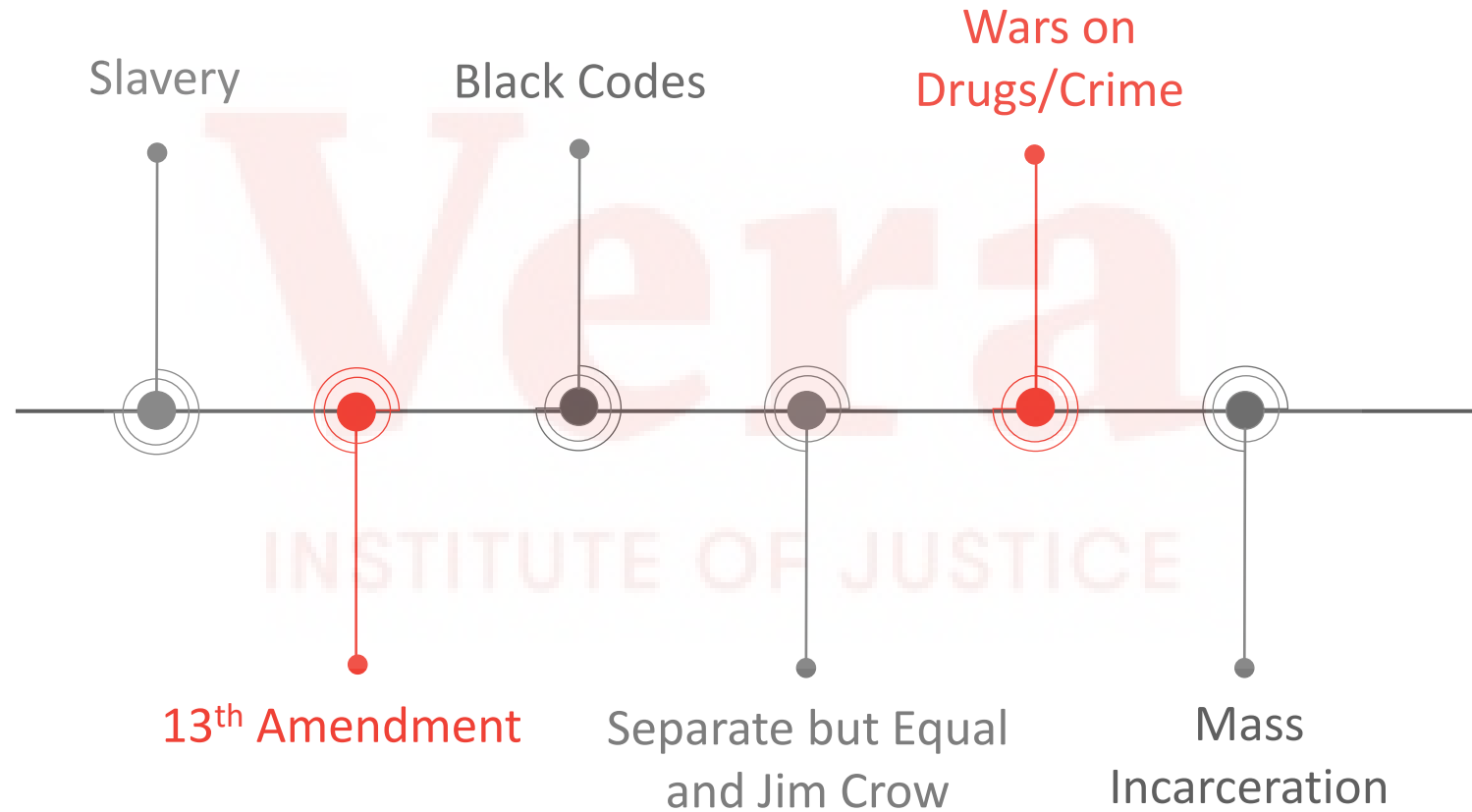
Racial disparities in the criminal justice system are no accident, but rather are rooted in a history of oppression and discriminatory decision making that have deliberately targeted Black people and helped create an inaccurate picture of crime that deceptively links them with criminality.

13th Amendment

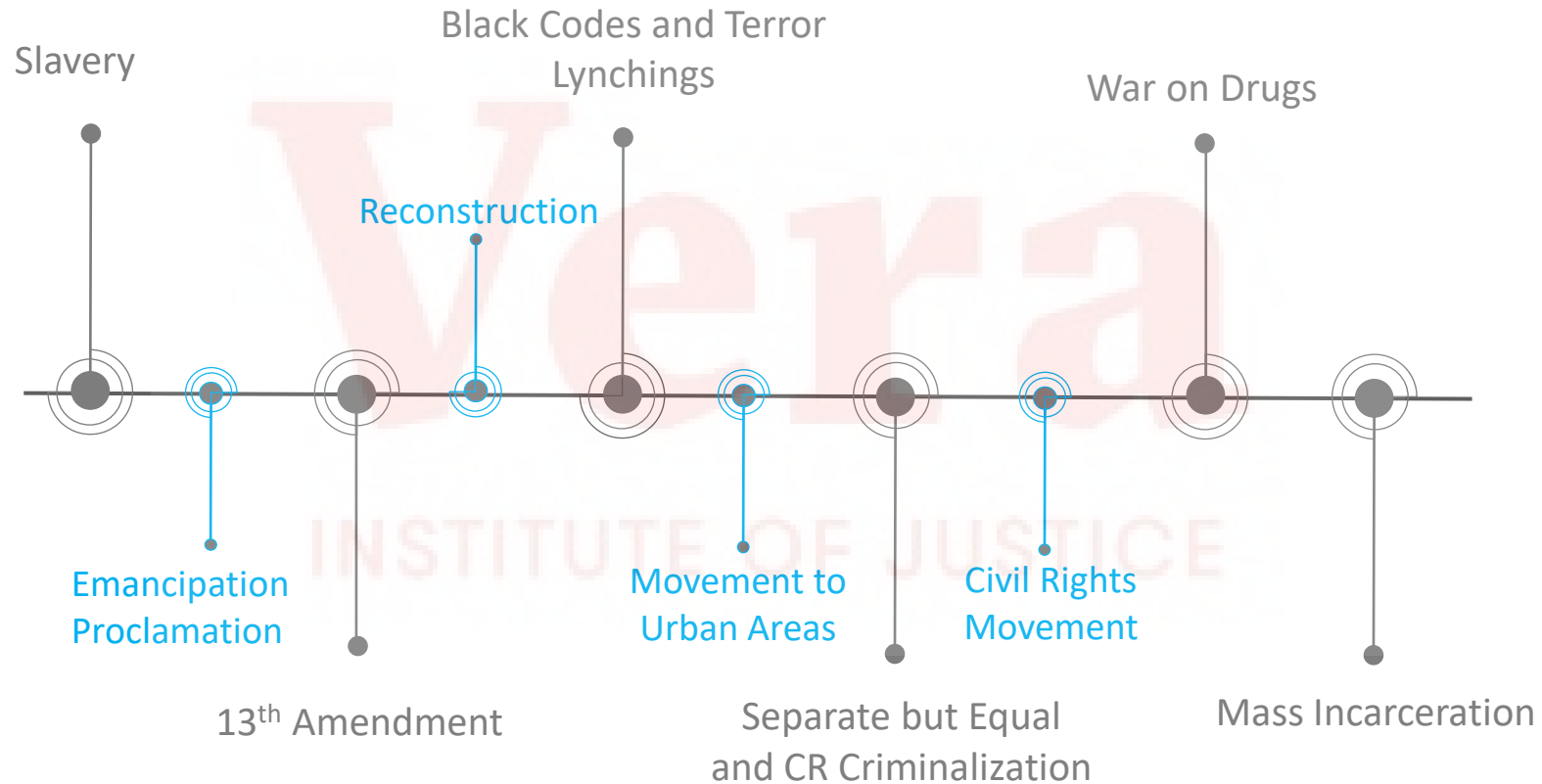
Neither slavery nor involuntary servitude, **except as a punishment for crime** whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

In lieu of slavery, incarceration has been and continues to be used as a weapon to control communities of color. Policies that stem from that system of control further exacerbate that impact (intentionally and unintentionally) leading to the racial disparities.

A lens for looking at history



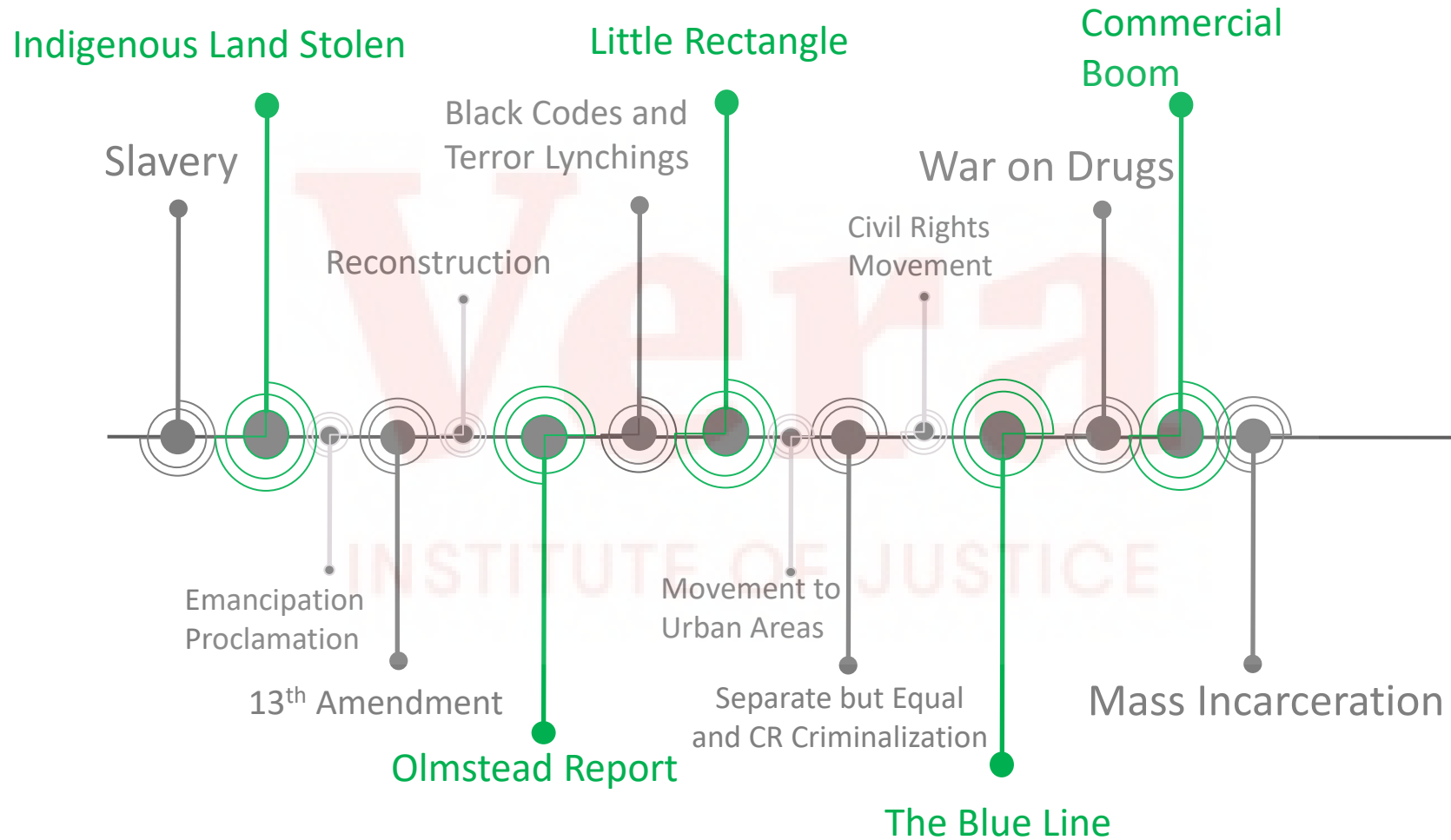
Action and reaction



We see this in the crack-cocaine sentencing disparity; the over policing of Black, Indigenous and Immigrant communities; the excessive criminal fines and fees imposed on defendants; and a bail system that relies on payment to secure one's freedom.

National Association of Criminal Defense Lawyers

Land Use in Boulder



An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System

By Elizabeth Hinton, Assistant Professor, Department of History and Department of African and African American Studies, Harvard University, LeShae Henderson, Special Assistant, Research, Vera Institute of Justice, and Cindy Reed, Senior Editor, Vera Institute of Justice

RESERVATION TO PRISON PIPELINE

Native Americans are the unseen victims of a broken US justice system

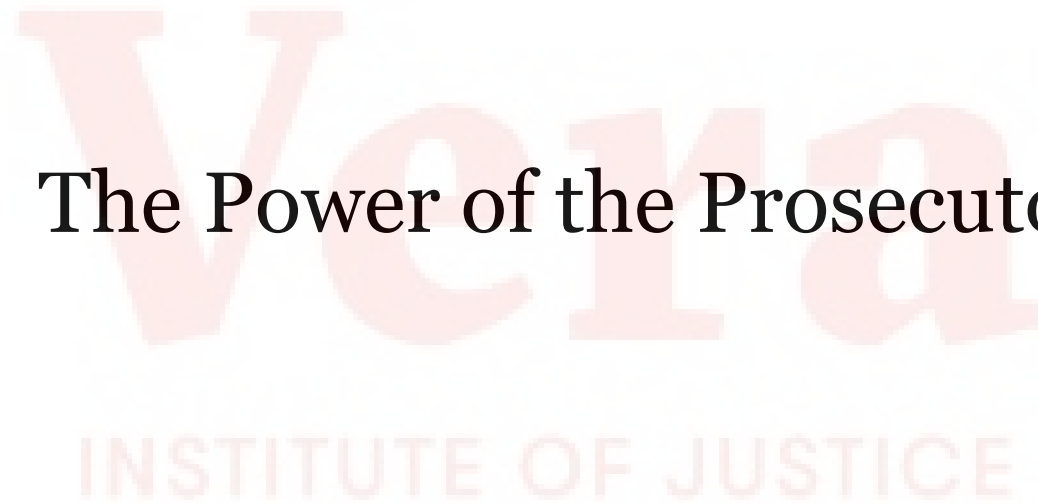


Sofia Espinoza Álvarez, Contributor
Director, Empower Global Foundation

Latinos In The U.S And The Road To Prison: A Historical Reminder

06/19/2017 05:52 am ET | Updated Jun 20, 2017

The Power of the Prosecutor



The prosecutor has more control over life, liberty, and reputation than any other person in America...[T]he citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility.

THE FEDERAL PROSECUTOR
BY ROBERT H JACKSON

We know that no local police force can strictly enforce the traffic laws, or it would arrest half the driving population on any given morning, What every prosecutor is practically required to do is to select the cases for prosecution and to select those in which the offense is the most flagrant, the public harm the greatest, and the proof the most certain.

If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants.

THE FEDERAL PROSECUTOR
BY ROBERT H JACKSON

Prosecutors and Legislators

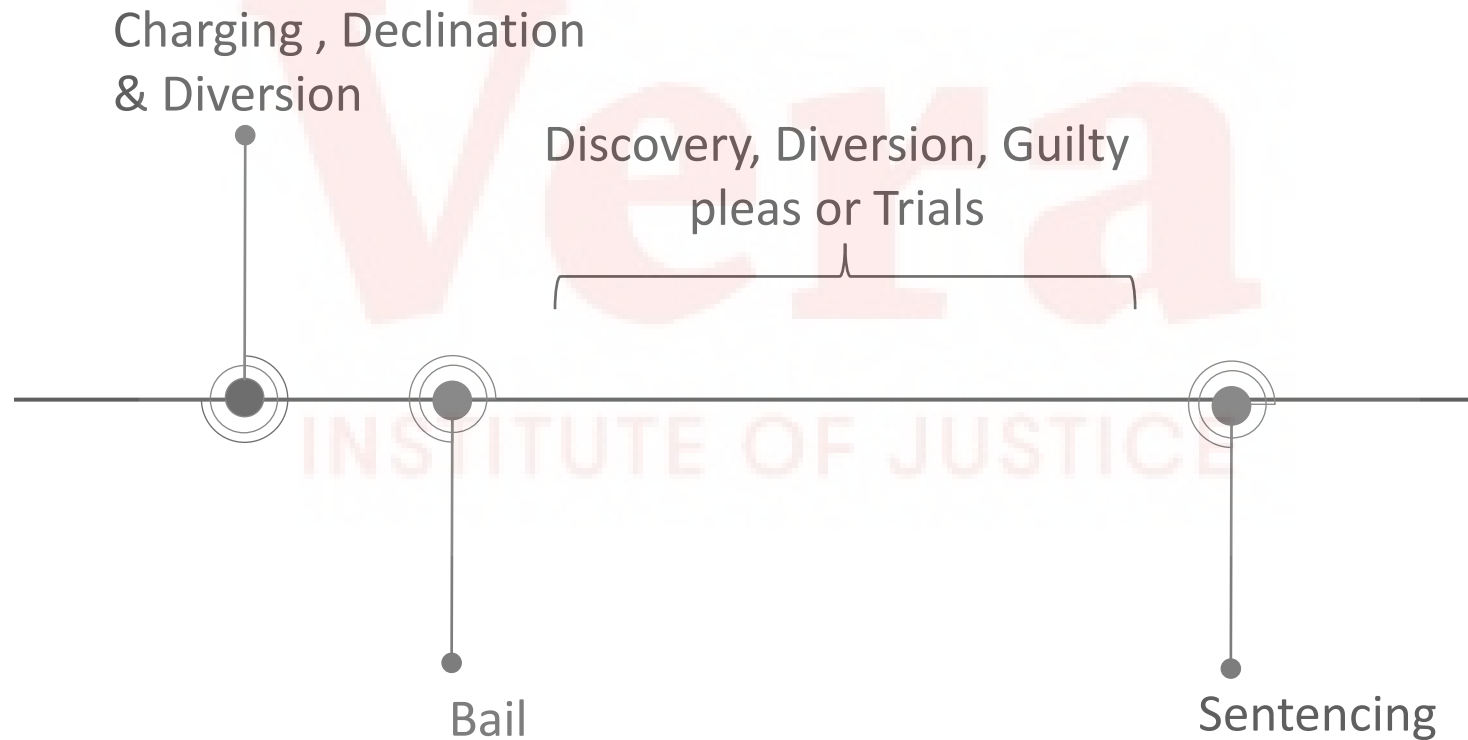
“When Colorado prosecutors lobbied, they were often successful. On average, the legislature only passed 59.5% of criminal justice bills that were introduced. When prosecutors lobbied in favor of a bill, the bill was significantly more likely to pass (79.7% pass rate); when they lobbied against a bill it was somewhat less likely to pass (48.4% pass rate).”

INSTITUTE OF JUSTICE

UNIC School of Law’s Prosecutors and Politics Project: Prosecutor Lobbying in the States, 2015-2018

The Power of Prosecutors

A prosecutor's decision making can be organized into



What is the burden of proof at trial?

The burden of proof is on the prosecution to prove each element of the crime charged beyond a reasonable doubt for a jury to convict.

What is the burden of proof at charging?

A prosecutor may ethically bring charges if that charge is supported by probable cause.

Rule 3.8, Colorado Rules of Professional Conduct

“[I]t is common for parties to be convicted of a different crime category from the one they were originally charged with, particularly in the case of violent charges. **Only 56 percent of [Colorado] cases in 2019 resulted in a conviction of the original charge.**”

INSTITUTE OF JUSTICE

Colorado Department of Public Safety, Division of Criminal Justice, Crime & Justice in Colorado / 2009-2019

How a **Case** Comes into the Office

Criminal Justice Terminology

Probable Cause: Probable Cause is a legal standard that there is sufficient reason based upon known facts that a crime has been committed by the person accused. Arrests, summons, and charges must be supported by probable cause for the case to move forward.

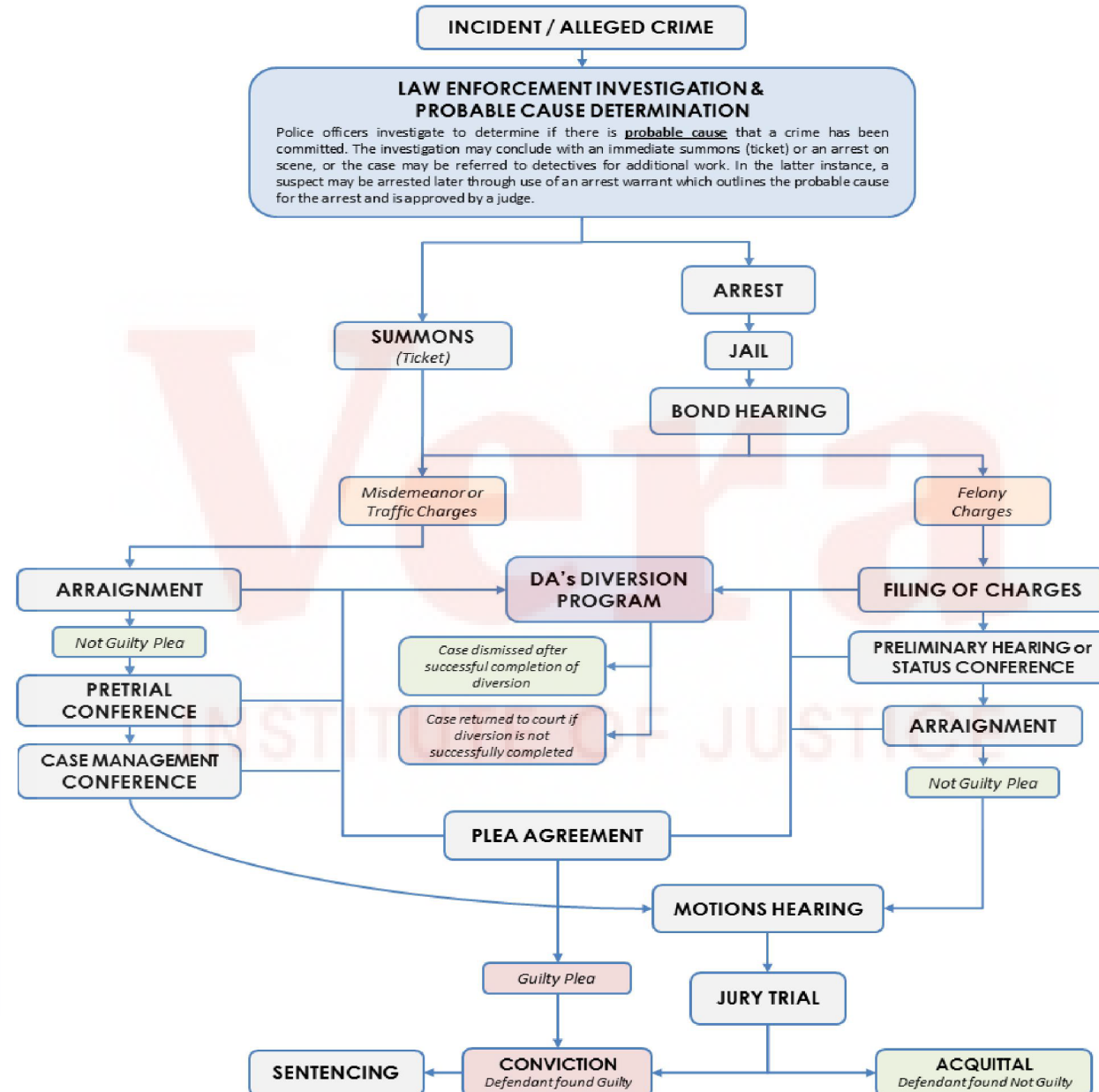
Arraignment: A hearing where the Defendant is informed of the charges they are facing. At arraignment, the Defendant may enter a plea of either "guilty" or "not guilty." Trial must typically take place within six (6) months after a "not guilty" plea.

Bail / Bond: Bail is set by the Court. Bail is a written promise signed by the Defendant, sometimes supported by collateral or supervision requirements, to ensure that the Defendant will appear in court at the scheduled date and time.

Diversion Program: The DA's Diversion Program provides an alternative to prosecution for eligible defendants who are taking responsibility for their offense. Diversion supervision matches services to needs and incorporates **restorative justice** to meet victims' needs and repair harm from the offense. After successful completion of diversion, the case is dismissed.

Motions Hearing: A Motions Hearing is held prior to trial to decide constitutional, legal, or evidentiary issues such as which evidence, if any, should be excluded.

ADULT Criminal Justice System



Jury Trial: Defendants may request a trial in most cases. At trial, the Prosecutor has the **Burden of Proof** and the Defendant is **presumed innocent** throughout the trial. This means that the Prosecutor must present evidence to prove each element of each offense **beyond a reasonable doubt** and a Defendant may present a defense, but does not have to. Jurors are members of the public. Jury trials are decided by juries of six (6) for misdemeanor charges and juries of twelve (12) for felonies. All jurors must unanimously agree in finding the Defendant **guilty** or **not guilty**. If the Defendant is found guilty, the sentence is decided by the judge.

Plea Offer: A Plea Offer is an offer from the Prosecutor to the Defendant to reach a **Plea Agreement**. A Plea Agreement is an agreement between the Defendant and the Prosecutor in which the Defendant agrees to give up their right to trial by pleading guilty to certain charge(s) in exchange for having more serious charges dismissed. In some cases, and with the consent of the parties and the Court, sentencing or a deferred judgement can be agreed to as part of the plea agreement.

The role of data

“We hear so often of the need for good data, of the need for proven programs...The way that you prove that a program is working or understand the scope of a problem is to measure it. **You can’t have a solution without measuring the scope of the problem.”**

Joshua Rovner,
The Sentencing Project

The role of data

Reshaping Prosecution is committed to



Shrinking the front end of
the system



Addressing systemic racial
disparities



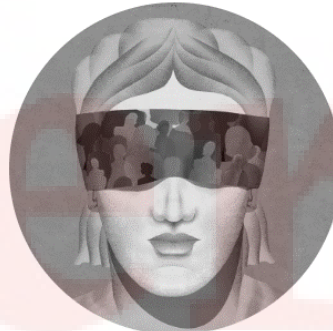
Increasing accountability to
directly impacted
communities

The role of data

Reshaping Prosecution is committed to



Shrinking the front end
of the system



Addressing systemic racial
disparities



Increasing accountability
to directly impacted
communities

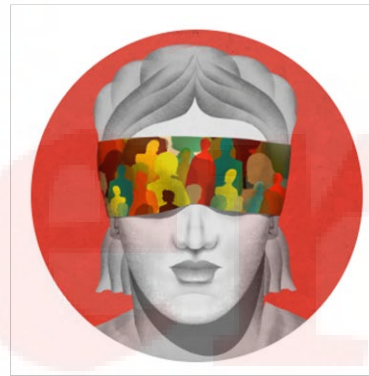
Using data to help contextualize the cumulative impact of a prosecutor's individual decisions during the life of a case within Boulder County.

The role of data

Reshaping Prosecution is committed to



Shrinking the front end
of the system



Addressing systemic racial
disparities



Increasing accountability
to directly impacted
communities

Using data to measure the racialized impacts of the prosecutorial system,
informing racially equitable policy change

The role of data

Reshaping Prosecution is committed to



Shrinking the front end
of the system



Addressing systemic racial
disparities



Increasing accountability
to directly impacted
communities

Explore the potential of public-facing data to increase the office's
accountability to the community.

Mass incarceration and racial disparities, in (data) context

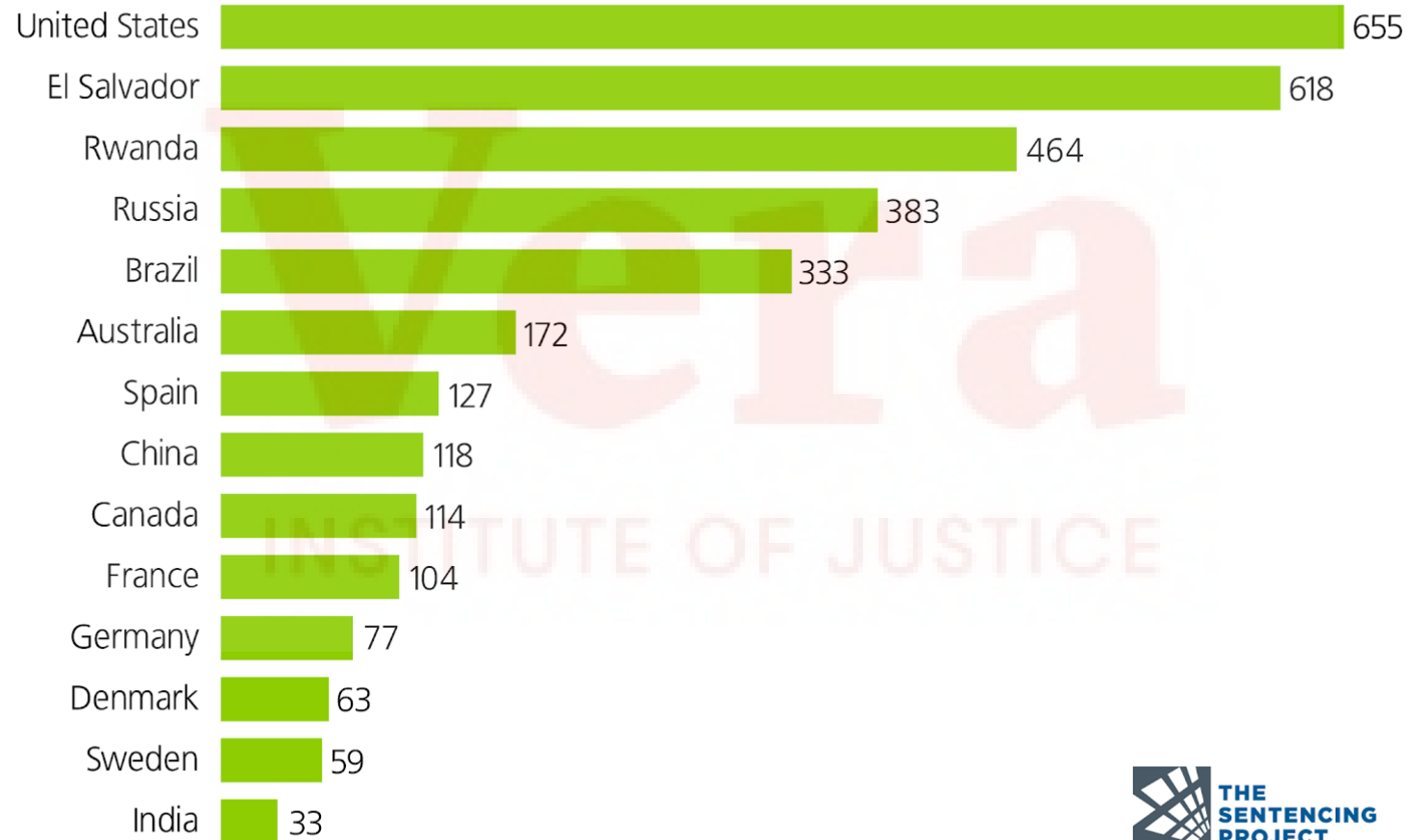
INSTITUTE OF JUSTICE

Driver vs. the car



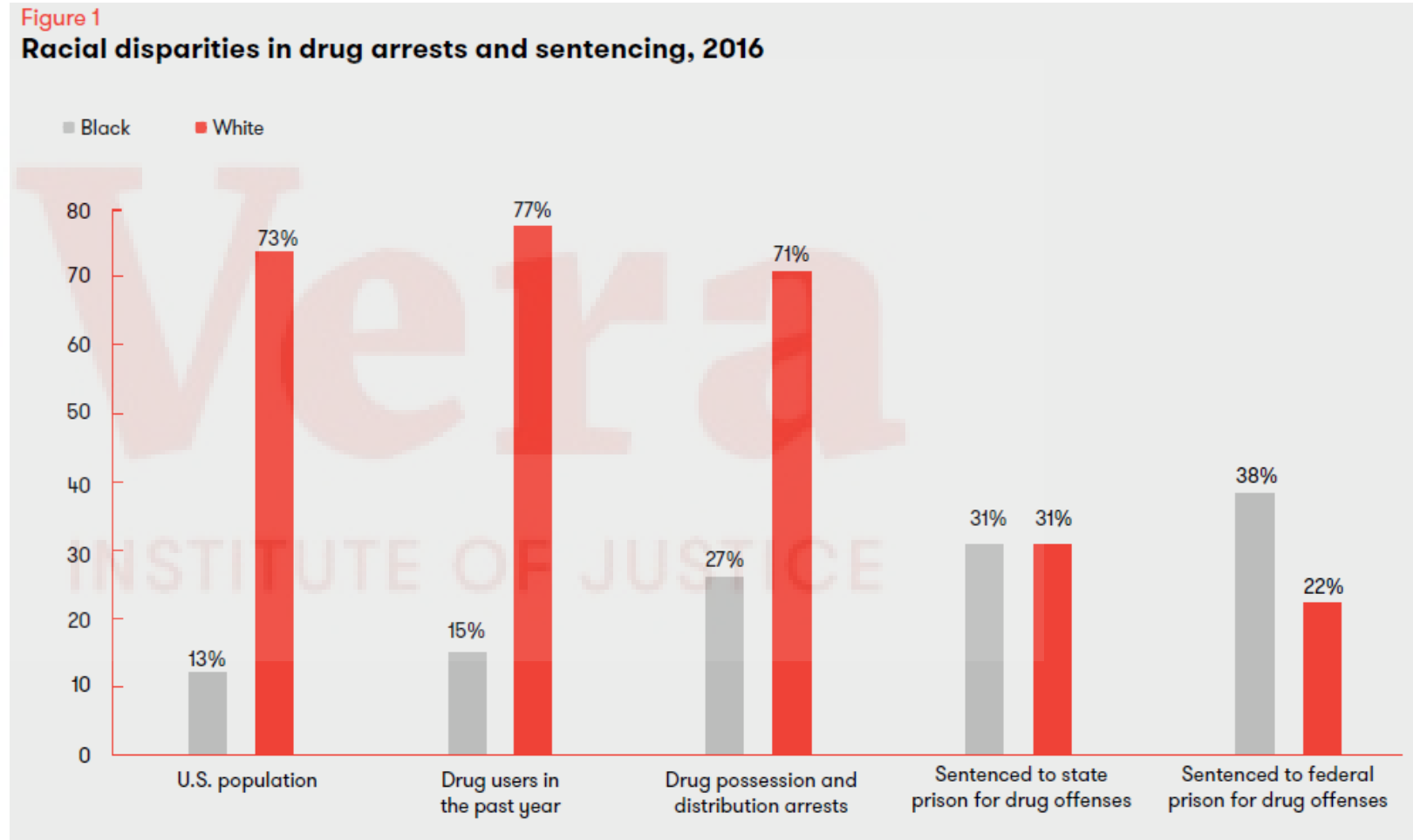
The United States is a world leader in mass incarceration

International Rates of Incarceration per 100,000



Policies through the criminal legal system – from policing to charging and sentencing – have contributed to racial disparities

Federal data on drug arrests and sentencing, 2016



But we must first face where this racialized system has gotten us

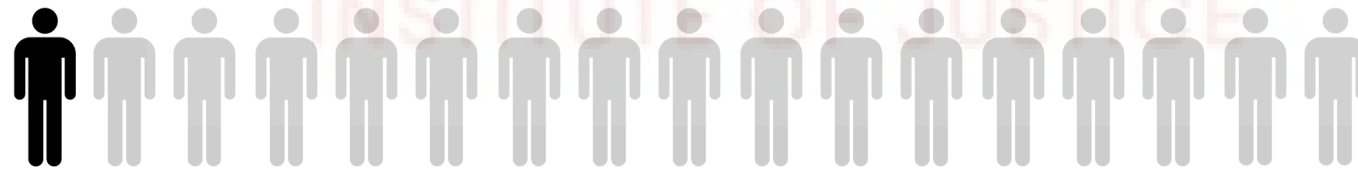
If the system in America continues as is:



one of every three black males,



one of every six Latino males,



and one of every 17 white males born in 2001 can expect to go to prison.

Source: Bureau of Justice Statistics; The Sentencing Project

Example: Racial disparities in state prison rates – Colorado and Boulder County

Latinx/White Prison Incarceration Disparity, 2019

Racial disparity in state prison incarceration rates for Latinx and white U.S. residents in each state.

Rank	State	Latinx/White Disparity Ratio
	U.S. Average (2019)	1.3

Source: Bureau of Justice Statistics (2019); The Sentencing Project; Boulder County DAO Case Management System

Example: Racial disparities in state prison rates – Colorado and Boulder County

Latinx/White Prison Incarceration Disparity, 2019

Racial disparity in state prison incarceration rates for Latinx and white U.S. residents in each state.

Rank	State	Latinx/White Disparity Ratio
	U.S. Average (2019)	1.3

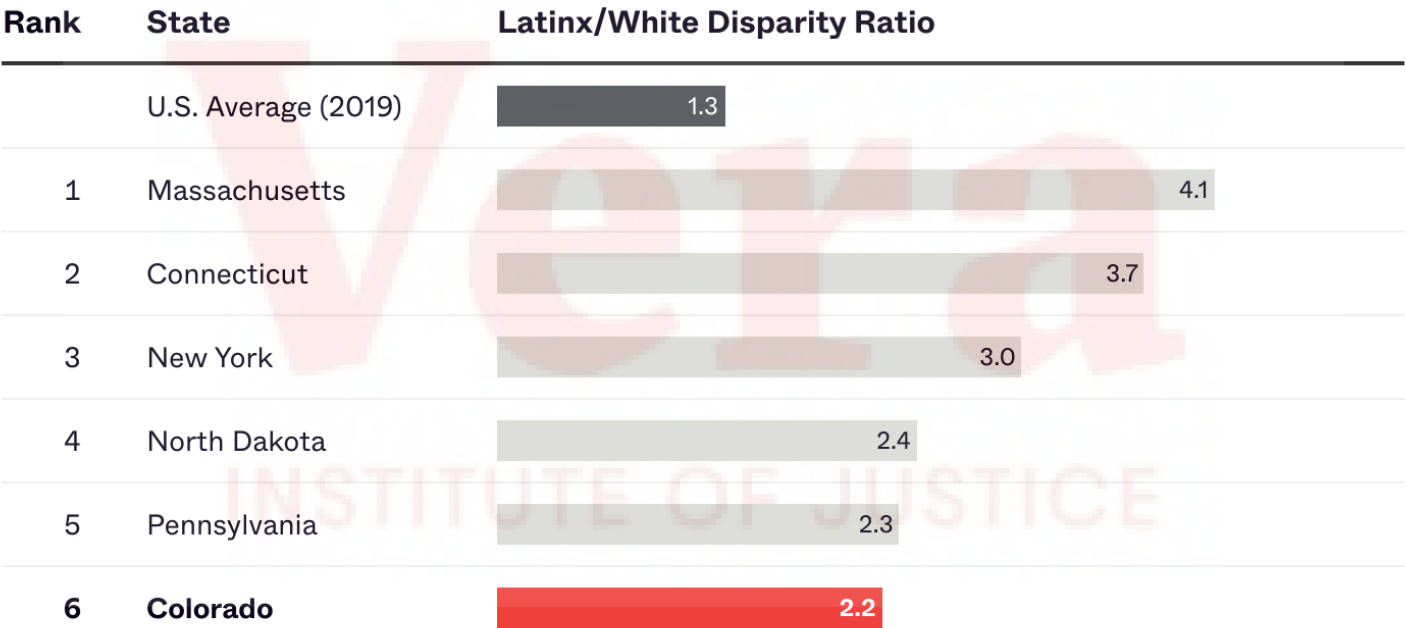
Question:
Is Colorado above or below the national average?

Source: Bureau of Justice Statistics (2019); The Sentencing Project; Boulder County DAO Case Management System

Example: Racial disparities in state prison rates – Colorado and Boulder County

Latinx/White Prison Incarceration Disparity, 2019

Racial disparity in state prison incarceration rates for Latinx and white U.S. residents in each state.

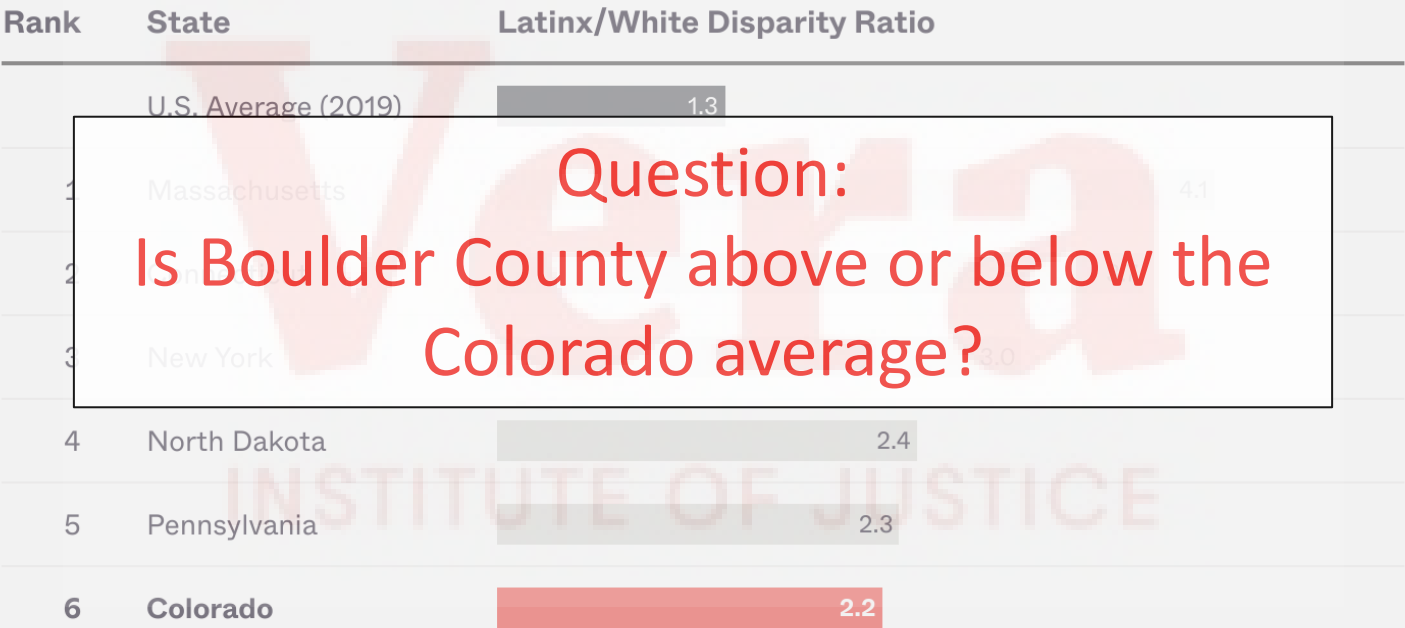


Source: Bureau of Justice Statistics (2019); The Sentencing Project; Boulder County DAO Case Management System

Example: Racial disparities in state prison rates – Colorado and Boulder County

Latinx/White Prison Incarceration Disparity, 2019

Racial disparity in state prison incarceration rates for Latinx and white U.S. residents in each state.

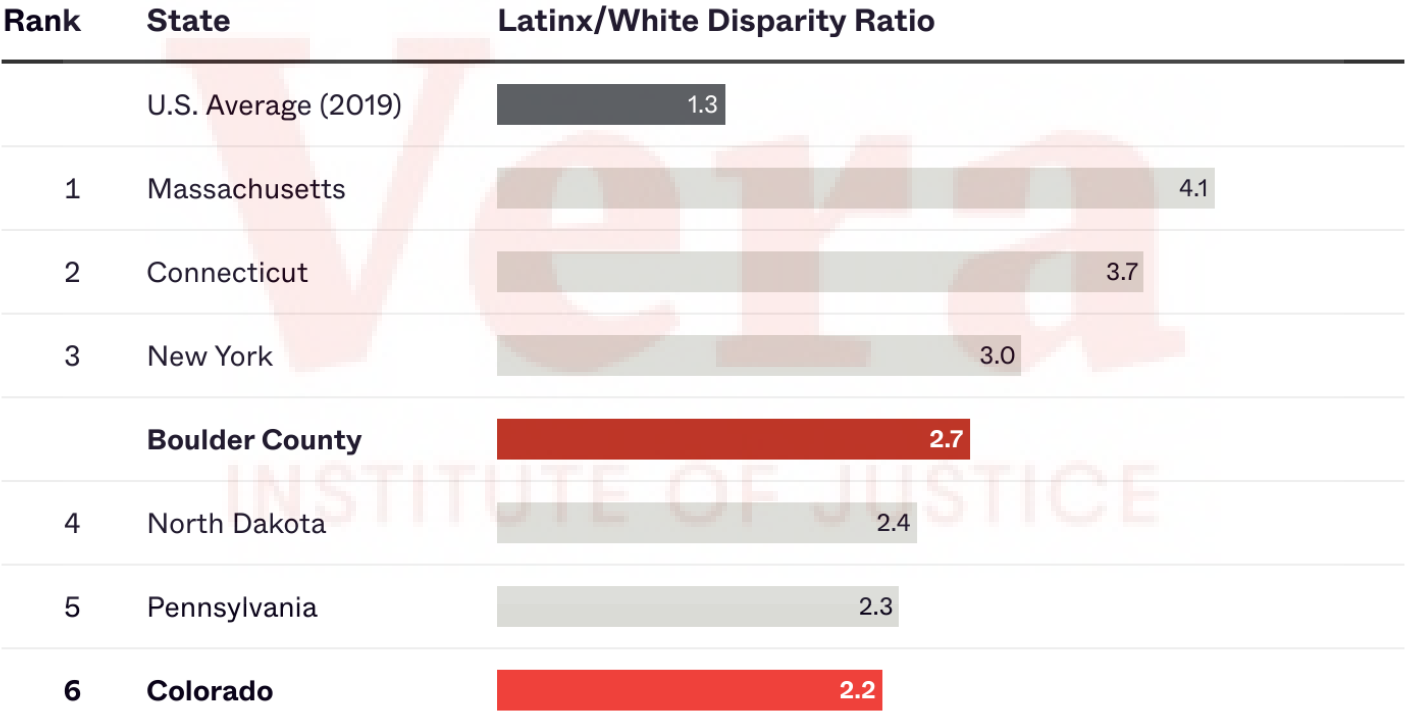


Source: Bureau of Justice Statistics (2019); The Sentencing Project; Boulder County DAO Case Management System

Example: Racial disparities in state prison rates – Colorado and Boulder County

Latinx/White Prison Incarceration Disparity, 2019

Racial disparity in state prison incarceration rates for Latinx and white U.S. residents in each state.



Source: Bureau of Justice Statistics (2019); The Sentencing Project; Boulder County DAO Case Management System

Data can help shine a light on the disparities and harms caused by the system –
a key step in bringing about change and addressing racial disparities.

Boulder County DAO Data Analysis

Data overview

- Data inclusive of all case types received by Boulder County DAO
 - Adults and juveniles
 - District and county courts
 - Felonies, misdemeanors, petty offenses and traffic offenses
- Final dataset includes 58,520 total cases (44,349 of which have accompanying charging data) between the years 2013 and 2019, involving 38,621 unique people accused of a crime
- Hispanic/Latinx ethnicity was determined using a statistical model based on the 2010 U.S. Census Surname List and Spanish Surname List

Key takeaways

- Racial disparities in case filings, convictions, and incarceration sentences are greatest for non-Hispanic Black residents, followed by Hispanic/Latinx residents
- Incarceration is most prevalent for Black, Hispanic/Latinx, and Native American convicted cases compared to non-Hispanic white cases
- Those experiencing homelessness make up a disproportionate share of cases within the Boulder County DAO caseload
- The rate at which cases involving Black people are referred to diversion is often much less than that of non-Hispanic white people
- Juvenile diversion disparities have shrunk since 2018, but adult diversion disparities have widened

Key takeaways

- Racial disparities in case filings, convictions, and incarceration sentences are greatest for non-Hispanic Black residents, followed by Hispanic/Latinx residents
- Incarceration is most prevalent for Black, Hispanic/Latinx, and Native American convicted cases compared to non-Hispanic white cases
- Those experiencing homelessness make up a disproportionate share of cases within the Boulder County DAO caseload
- The rate at which cases involving Black people are referred to diversion is often much less than that of non-Hispanic white people
- Juvenile diversion disparities have shrunk since 2018, but adult diversion disparities have widened

Key takeaways

- Racial disparities in case filings, convictions, and incarceration sentences are greatest for non-Hispanic Black residents, followed by Hispanic/Latinx residents
- Incarceration is most prevalent for Black, Hispanic/Latinx, and Native American convicted cases compared to non-Hispanic white cases
- Those experiencing homelessness make up a disproportionate share of cases within the Boulder County DAO caseload
- The rate at which cases involving Black people are referred to diversion is often much less than that of non-Hispanic white people
- Juvenile diversion disparities have shrunk since 2018, but adult diversion disparities have widened

Key takeaways

- Racial disparities in case filings, convictions, and incarceration sentences are greatest for non-Hispanic Black residents, followed by Hispanic/Latinx residents
- Incarceration is most prevalent for Black, Hispanic/Latinx, and Native American convicted cases compared to non-Hispanic white cases
- Those experiencing homelessness make up a disproportionate share of cases within the Boulder County DAO caseload
- The rate at which cases involving Black people are referred to diversion is often much less than that of non-Hispanic white people
- Juvenile diversion disparities have shrunk since 2018, but adult diversion disparities have widened

Key takeaways

- Racial disparities in case filings, convictions, and incarceration sentences are greatest for non-Hispanic Black residents, followed by Hispanic/Latinx residents
- Incarceration is most prevalent for Black, Hispanic/Latinx, and Native American convicted cases compared to non-Hispanic white cases
- Those experiencing homelessness make up a disproportionate share of cases within the Boulder County DAO caseload
- The rate at which cases involving Black people are referred to diversion is often much less than that of non-Hispanic white people
- Juvenile diversion disparities have shrunk since 2018, but adult diversion disparities have widened

General Case Demographics and Disparities

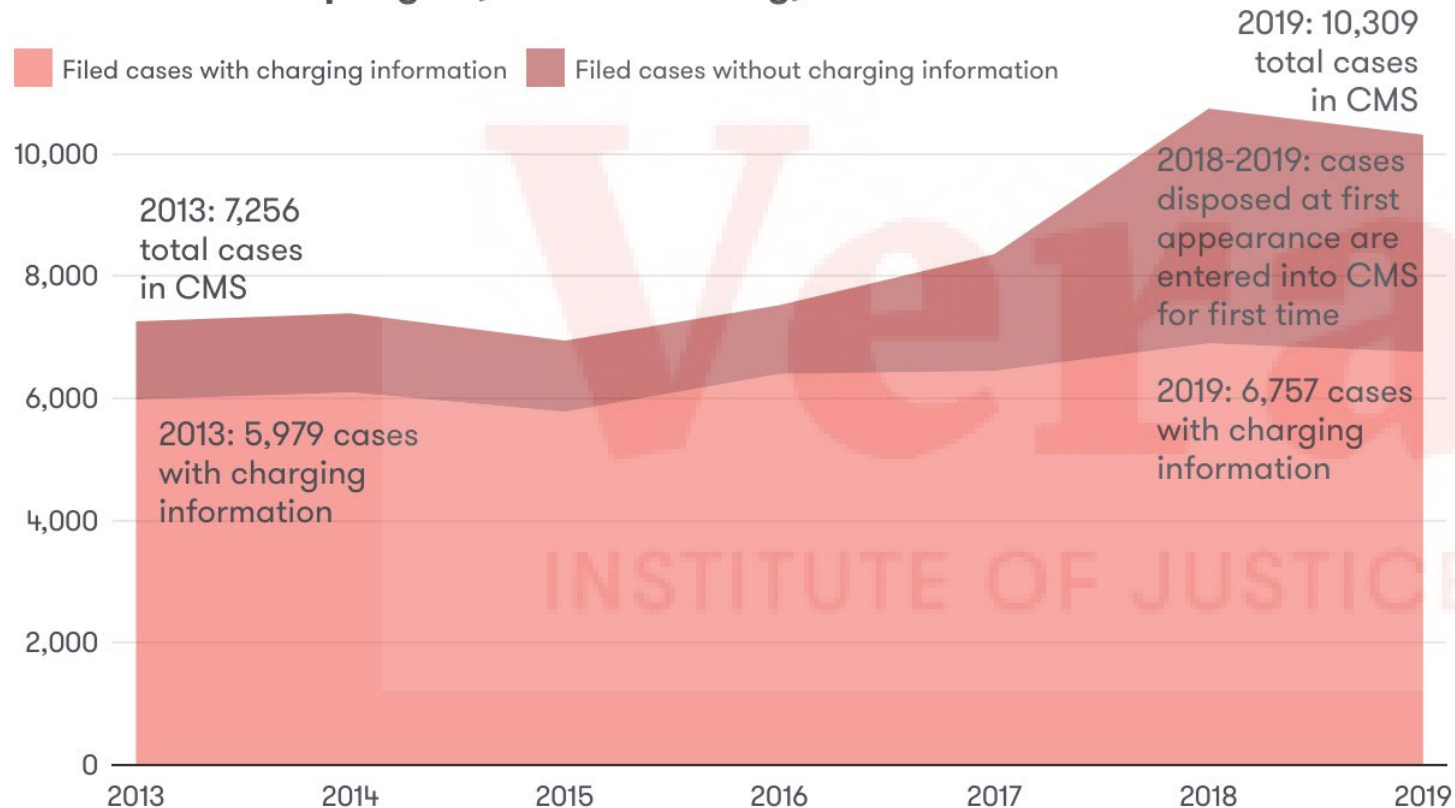
INSTITUTE OF JUSTICE

General case demographics and disparities findings

- Black youth and adults have a rate of case filing at least 4-5 times that of non-Hispanic white youth and adults – and this has remained consistent for nearly a decade
- This disparity balloons to 7.5 times when we focus specifically on adult district court cases
- The share of adult district court cases involving someone experiencing homelessness is 12.5 to 25 times the county population share of those experiencing homelessness.

All: Case filings in Boulder County have been steady for much of the seven years studied, with large increase in 2018-2019 due to case data entry shift

Total cases filed per year, Boulder County, 2013-2019

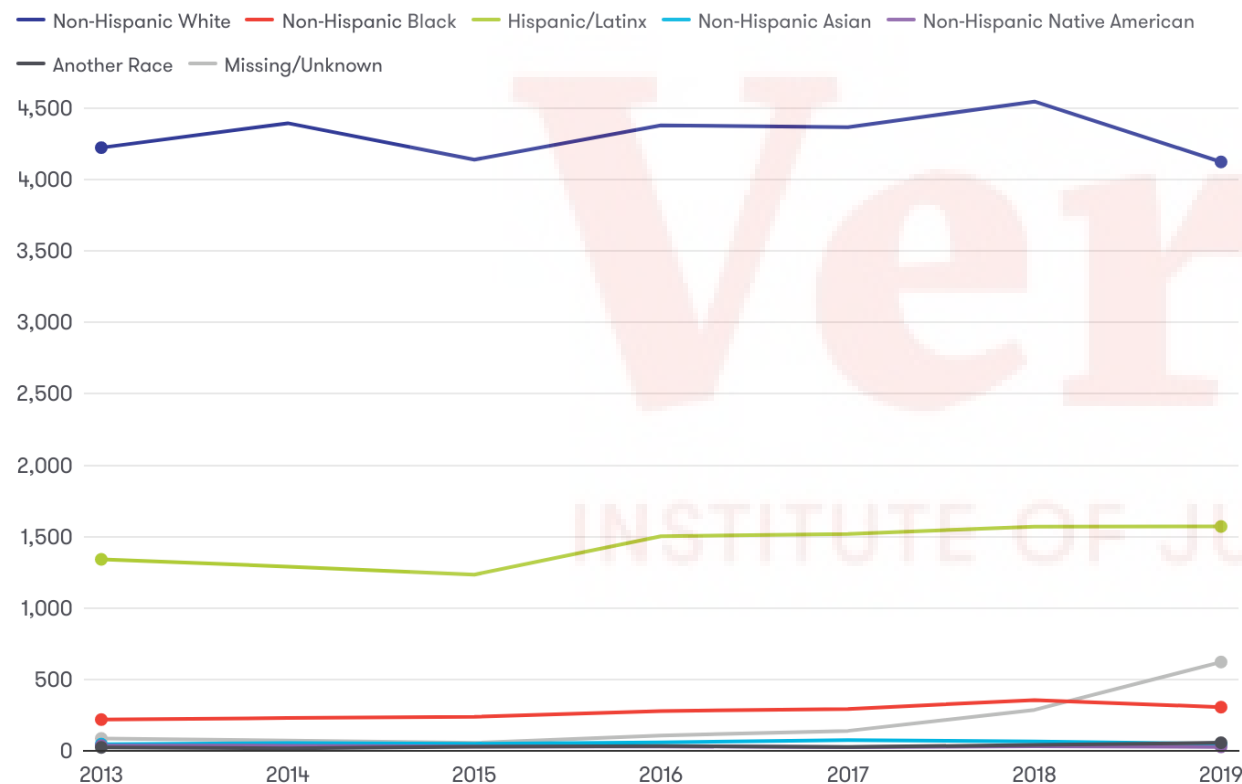


58,520 total cases between 2013 and 2019
44,349 cases with charging information

Source: Boulder County DAO Case Management System

All: Of the cases with charging information, the share of non-Hispanic white cases has decreased – increase in cases with Hispanic/Latinx, Black, and “missing” race

Total cases filed with charging information per year, by race/ethnicity, Boulder County, 2013-2019



Source: Boulder County DAO Case Management System

44,349 cases with charging information

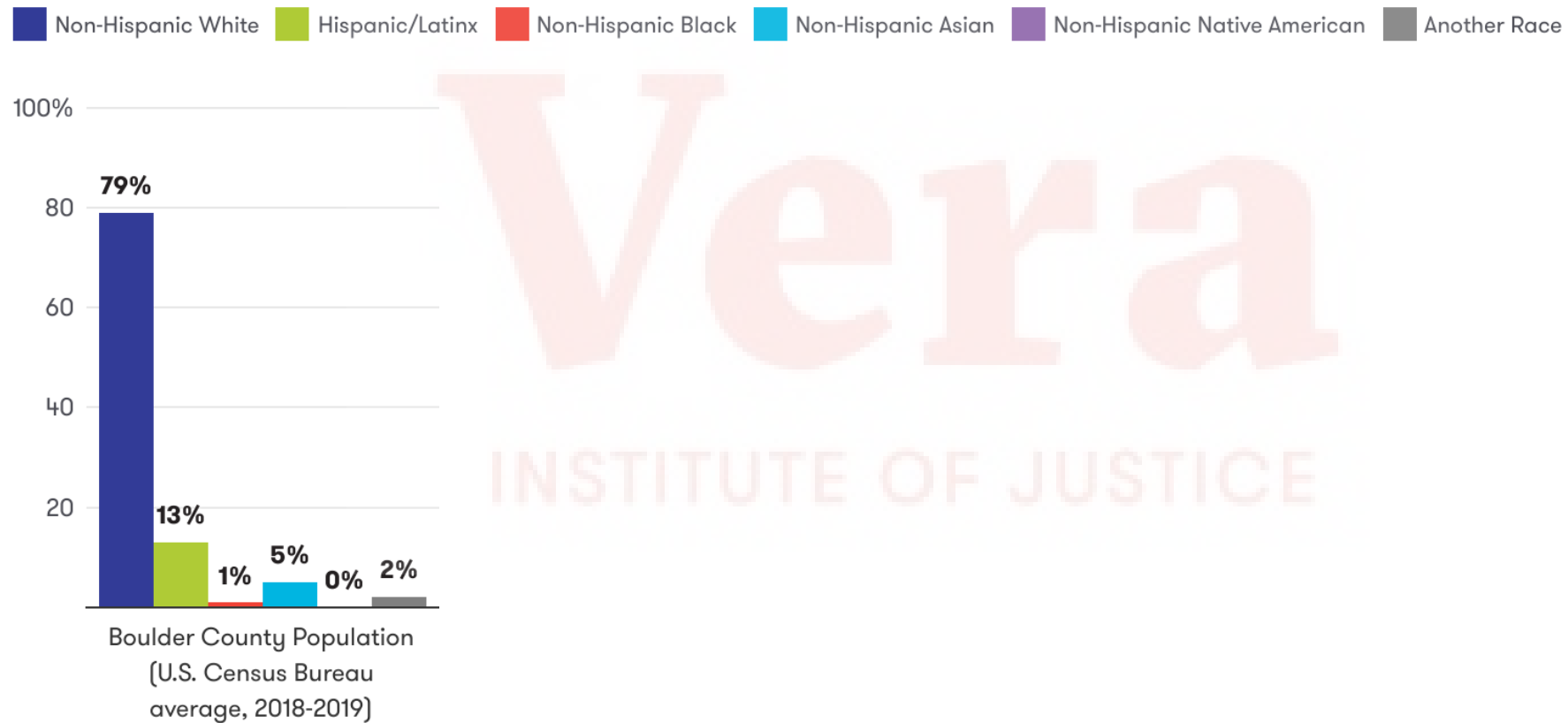
Percent change in filed cases with charging information, 2013 to 2019, by race/ethnicity, Boulder County

Defendant race/ethnicity	Cases filed, 2013	Cases filed, 2019	% change
Non-Hispanic White	4,224	4,124	-2%
Non-Hispanic Black	219	306	40%
Hispanic/Latinx	1,341	1,571	17%
Non-Hispanic Asian	47	49	4%
Non-Hispanic Native American	37	28	-24%
Another Race	24	57	138%
Missing/Unknown	87	622	615%

Source: Boulder County DAO Case Management System

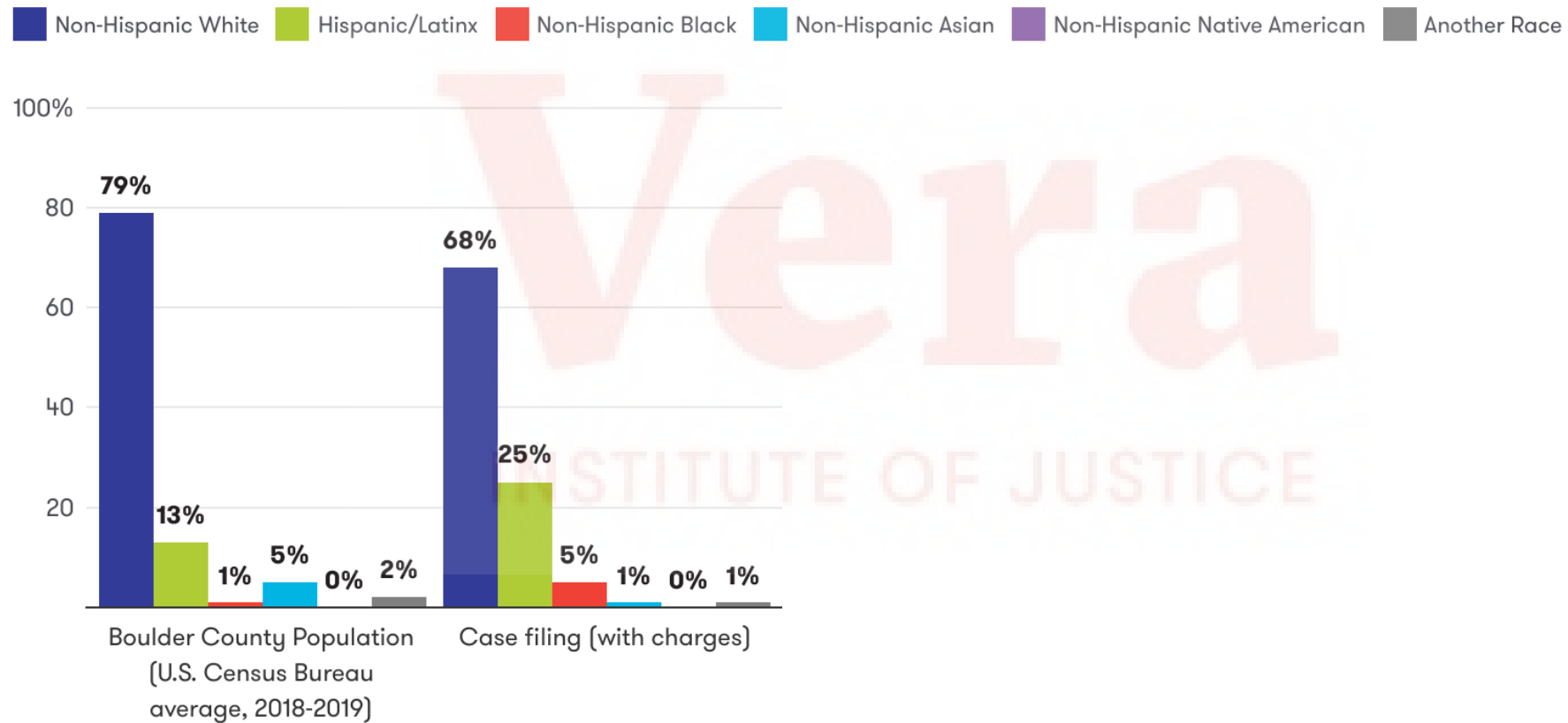
All: The demographics of the BCDAO caseload differs significantly from that of the general Boulder County population

Cases at each stage and county population by race and ethnicity, Boulder County, 2018-2019



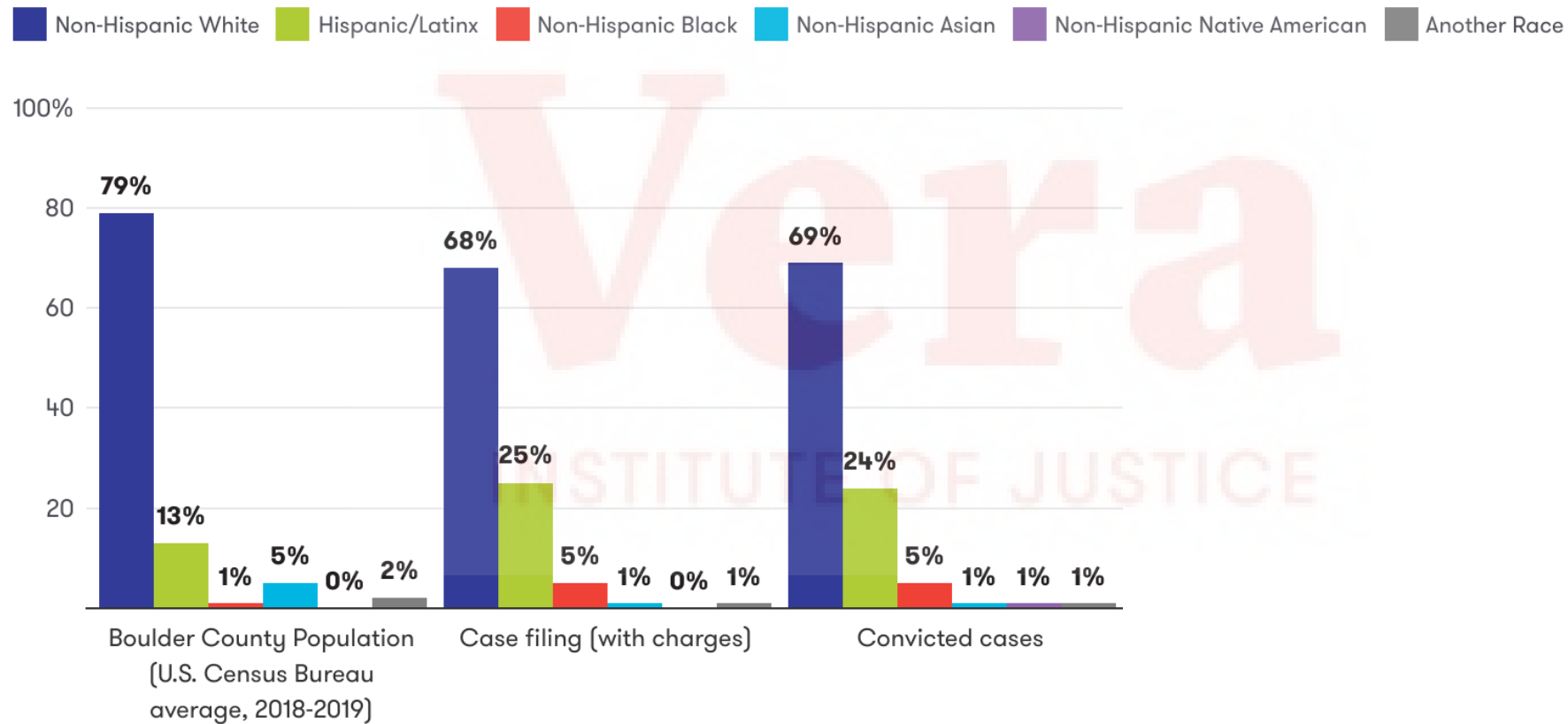
All: The demographics of the BCDAO caseload differs significantly from that of the general Boulder County population

Cases at each stage and county population by race and ethnicity, Boulder County, 2018-2019



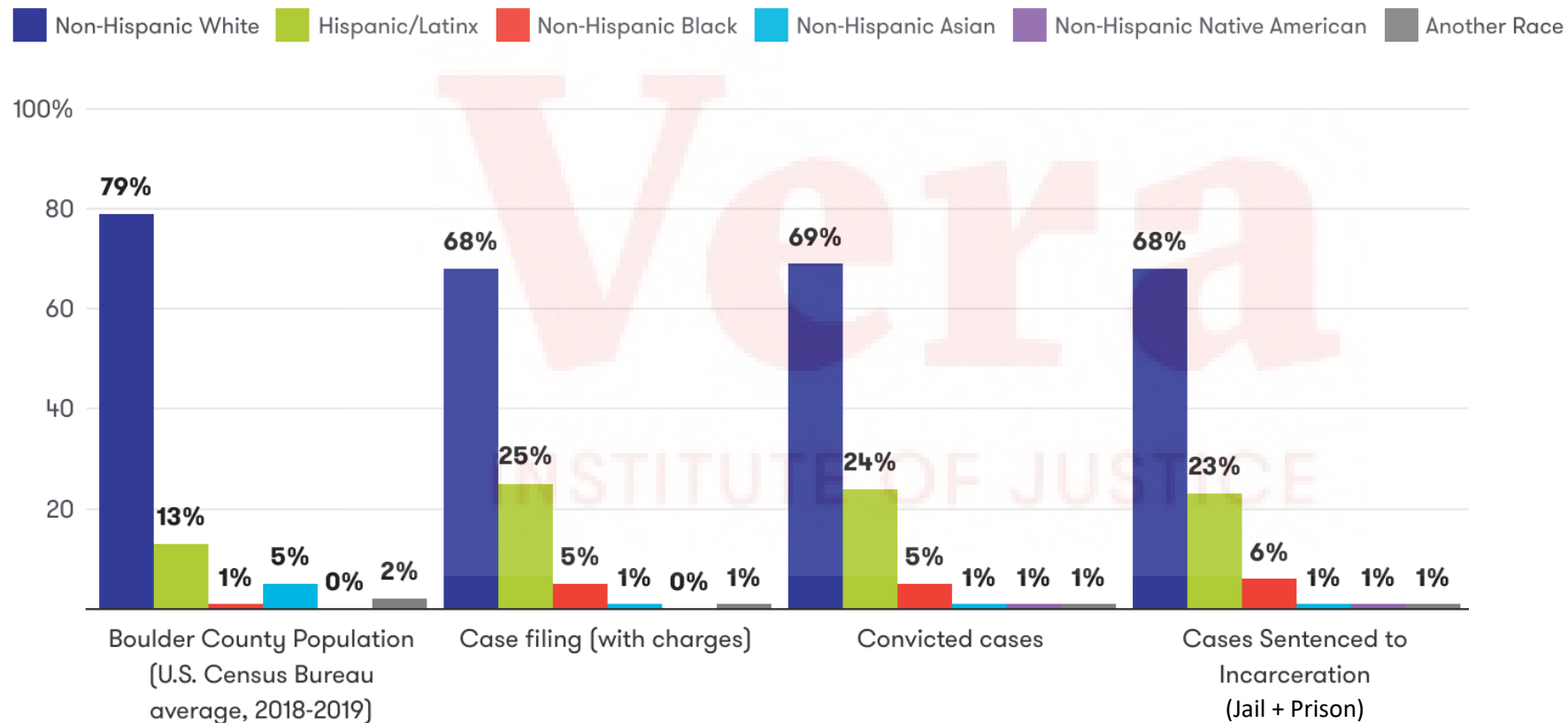
All: The demographics of the BCDAO caseload differs significantly from that of the general Boulder County population

Cases at each stage and county population by race and ethnicity, Boulder County, 2018-2019



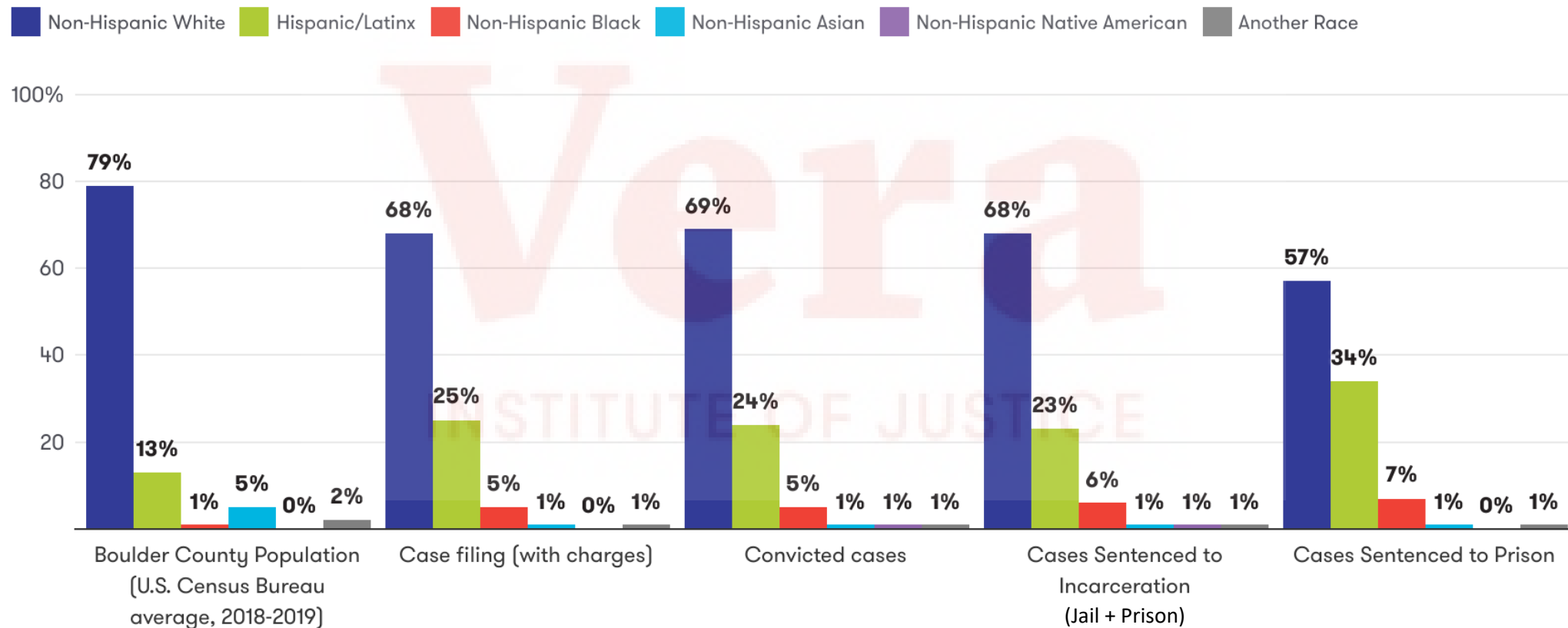
All: The demographics of the BCDAO caseload differs significantly from that of the general Boulder County population

Cases at each stage and county population by race and ethnicity, Boulder County, 2018-2019



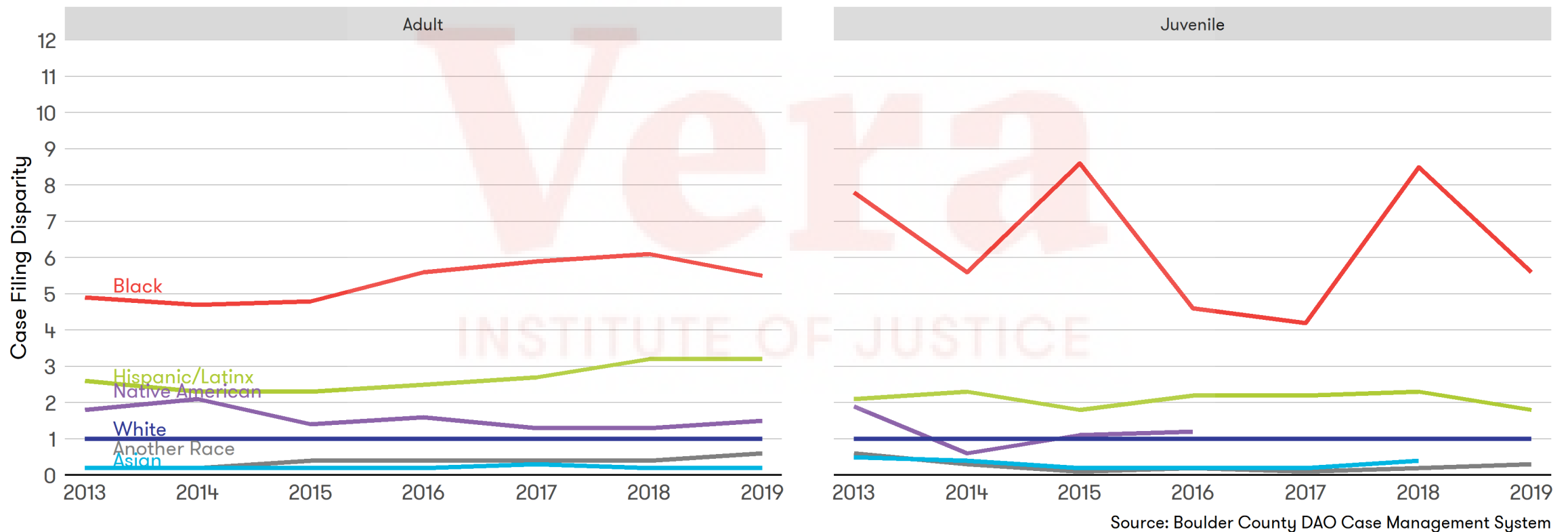
All: The demographics of the BCDAO caseload differs significantly from that of the general Boulder County population

Cases at each stage and county population by race and ethnicity, Boulder County, 2018-2019



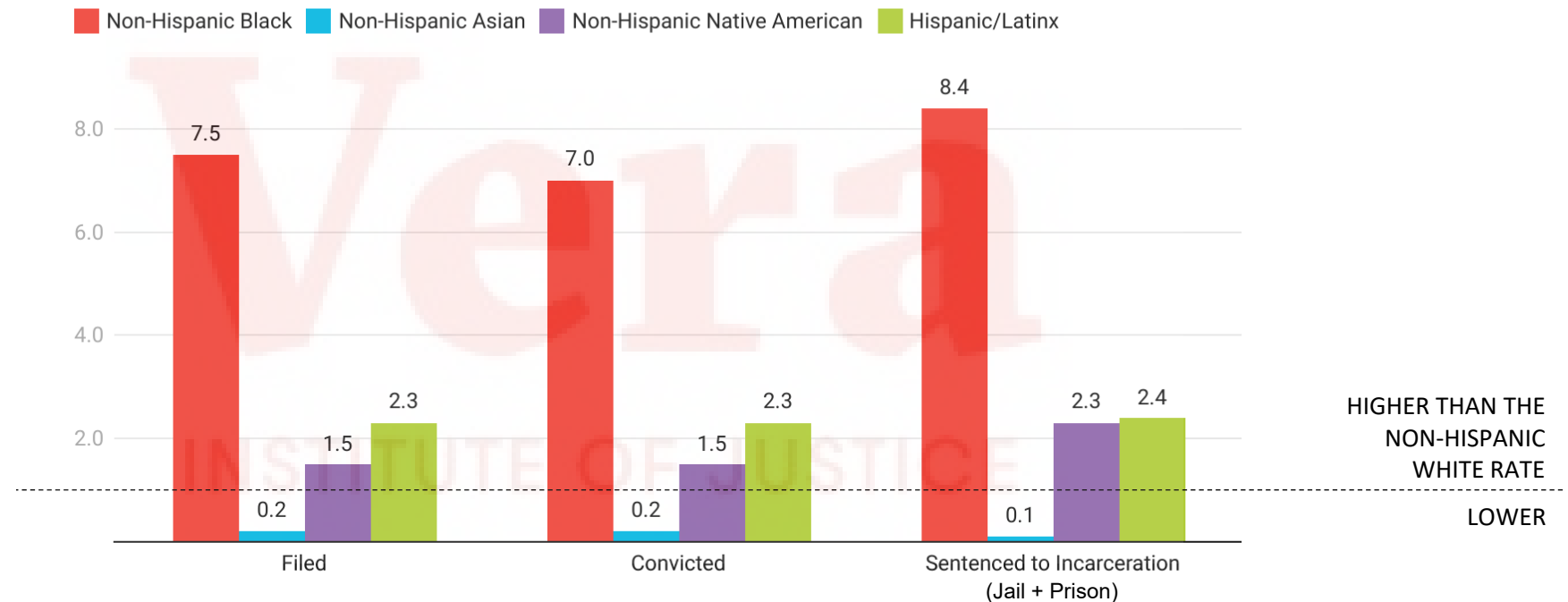
All: The case filing disparity in Boulder County shows that the Black-white disparity is consistently significant across age groups

Disparity in the rate of case filings compared to white residents, by race/ethnicity, Boulder County, 2013-2019,



Adults: For cases with referred felony charges, the racial disparities of the Boulder County system are both heightened and consistent across decision points

Average racial disparities in case filings, convictions, and incarceration sentences, 2018-2019



Calculated by comparing to the case filing/conviction/incarceration sentence population rate for Non-Hispanic white people to the same rate for a given race/ethnicity. For example, if the case filing rate for white people was 1,000 per 100,000 cases, this rate would be compared to the same calculation for another race/ethnicity. The ratio of the two would reveal the [insert race/ethnicity here]-white case filing (or conviction or incarceration sentence) disparity ratio.

Source: Boulder County District Attorney's Office • Created with Datawrapper

Adults: Those who are experiencing homelessness are disproportionately brought into the system

0.4% - 0.8%

The share of Boulder County's adult population who are experiencing homelessness between 2018 and 2020[†]

[†] Population counts of those experiencing homelessness were obtained from the Homeless Solutions for Boulder County reports on Boulder County in [2018](#) and [2020](#); 2,448 adults in 2018 were screened for HSBC services (0.8% of Boulder County population), and 1,170 adults in 2020 were screened (0.4% of Boulder County population).

Adults: Those who are experiencing homelessness are disproportionately brought into the system

0.4% - 0.8%

The share of Boulder County's adult population who are experiencing homelessness between 2018 and 2020

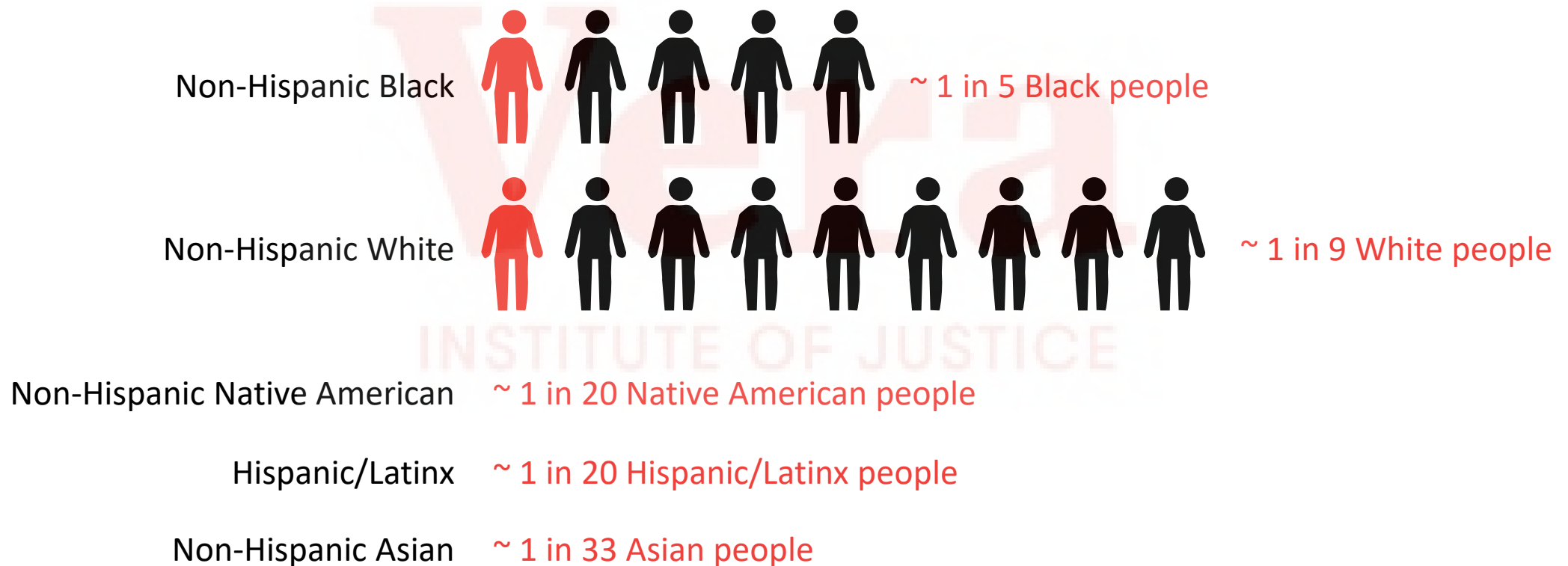
10%

of adult cases referred to the DA's office for felony charges between 2018 and 2019 in Boulder County where the person accused was experiencing homelessness*

** Homelessness in the dataset is defined as a person in the Boulder County DAO case management system having a home address listed either as "homeless," "transient," "shelter," or the address of one of Boulder County's homeless/emergency shelters. For all adult cases across both district and county court types, the share of cases in which the person accused was experiencing homelessness is closer to 7% of adult cases.*

Adults: The disproportionality is especially strong for Black people who are experiencing homelessness

Proportion of adult cases filed in Boulder County district court which the person accused is experiencing homelessness



Those experiencing homelessness are...

- more likely to have a drug charge (32% homeless vs. 28% non-homeless)
- less likely to have a VRA charge (27% vs. 35%)
- more likely to be convicted by guilty plea (81% vs. 72%)
- less likely to have their case dismissed (8% vs. 12%)
- more likely to receive an incarceration sentence (52% vs. 32%)
 - this is mostly due to jail sentencing (46% vs. 27%); prison sentencing likelihood is comparable (~6% for both those experiencing homelessness and those not)
- more likely to have credit for time served (9% vs. 6%)

Those experiencing homelessness are...

- more likely to have a drug charge (32% homeless vs. 28% non-homeless)
- less likely to have a VRA charge (27% vs. 35%)
- more likely to be convicted by guilty plea (81% vs. 72%)
- less likely to have their case dismissed (8% vs. 12%)
- more likely to receive an incarceration sentence (52% vs. 32%)
 - this is mostly due to jail sentencing (46% vs. 27%); prison sentencing likelihood is comparable (~6% for both those experiencing homelessness and those not)
- more likely to have credit for time served (9% vs. 6%)

Those experiencing homelessness are...

- more likely to have a drug charge (32% homeless vs. 28% non-homeless)
- less likely to have a VRA charge (27% vs. 35%)
- more likely to be convicted by guilty plea (81% vs. 72%)
- less likely to have their case dismissed (8% vs. 12%)
- more likely to receive an incarceration sentence (52% vs. 32%)
 - this is mostly due to jail sentencing (46% vs. 27%); prison sentencing likelihood is comparable (~6% for both those experiencing homelessness and those not)
- more likely to have credit for time served (9% vs. 6%)

Those experiencing homelessness are...

- more likely to have a drug charge (32% homeless vs. 28% non-homeless)
- less likely to have a VRA charge (27% vs. 35%)
- more likely to be convicted by guilty plea (81% vs. 72%)
- less likely to have their case dismissed (8% vs. 12%)
- more likely to receive an incarceration sentence (52% vs. 32%)
 - this is mostly due to jail sentencing (46% vs. 27%); prison sentencing likelihood is comparable (~6% for both those experiencing homelessness and those not)
- more likely to have credit for time served (9% vs. 6%)

Those experiencing homelessness are...

- more likely to have a drug charge (32% homeless vs. 28% non-homeless)
- less likely to have a VRA charge (27% vs. 35%)
- more likely to be convicted by guilty plea (81% vs. 72%)
- less likely to have their case dismissed (8% vs. 12%)
- more likely to receive an incarceration sentence (52% vs. 32%)
 - this is mostly due to jail sentencing (46% vs. 27%); prison sentencing likelihood is comparable (~6% for both those experiencing homelessness and those not)
- more likely to have credit for time served (9% vs. 6%)

Those experiencing homelessness are...

- more likely to have a drug charge (32% homeless vs. 28% non-homeless)
- less likely to have a VRA charge (27% vs. 35%)
- more likely to be convicted by guilty plea (81% vs. 72%)
- less likely to have their case dismissed (8% vs. 12%)
- more likely to receive an incarceration sentence (52% vs. 32%)
 - this is mostly due to jail sentencing (46% vs. 27%); prison sentencing likelihood is comparable (~6% for both those experiencing homelessness and those not)
- more likely to have credit for time served (9% vs. 6%)

Takeaways

- Black youth and adults have a rate of case filing at least 4-5 times that of non-Hispanic white youth and adults – and this has remained consistent for nearly a decade (2009-2019)
- This disparity balloons to 7.5 times when we focus specifically on adult district court cases
- The share of adult district court cases involving someone experiencing homelessness is 12.5 to 25 times the county population share of those experiencing homelessness.

Charging, Pleas, and Sentencing

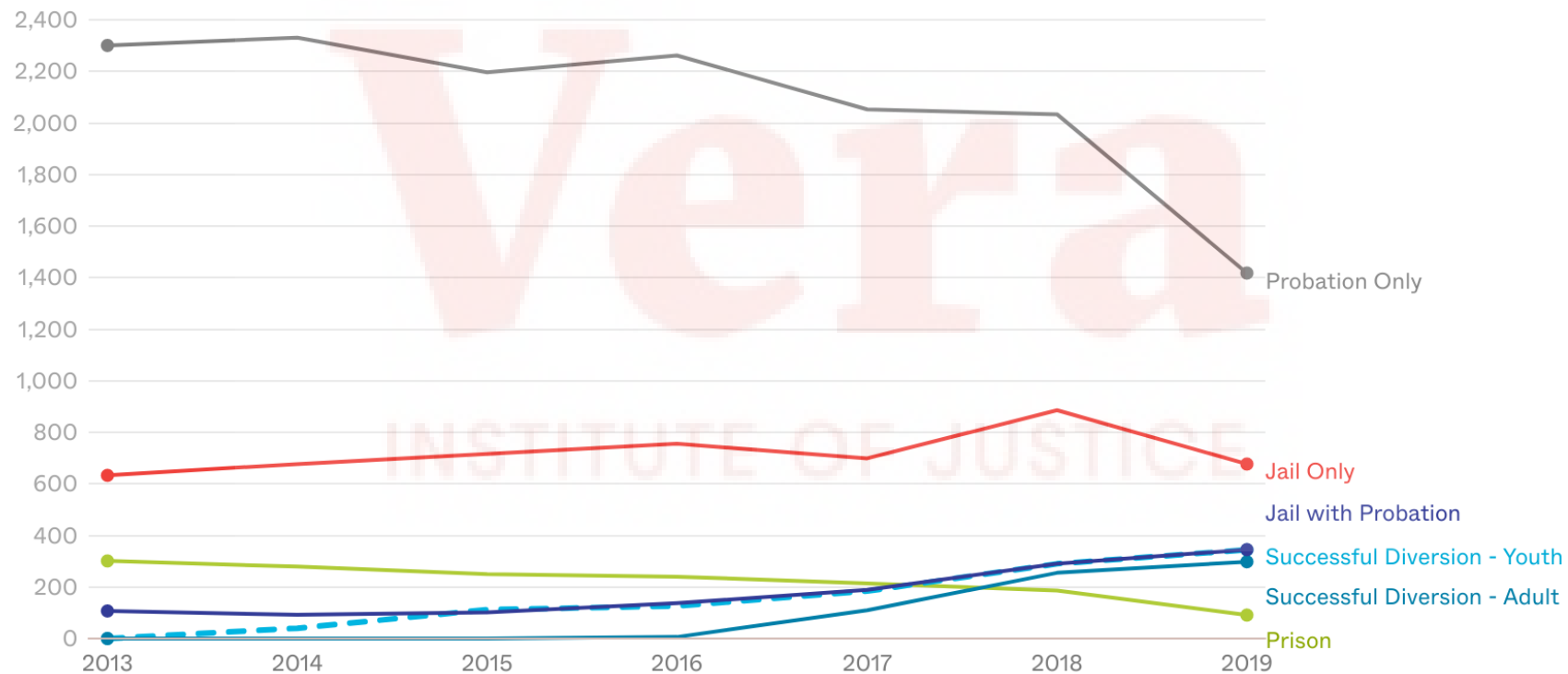
INSTITUTE OF JUSTICE

Charging, pleas, and sentencing findings

- Probation-only sentences and prison sentences decreased while successful diversion and jail with probation became more prevalent
- Black and Hispanic/Latinx people are disproportionately sentenced to prison, while non-Hispanic white people are disproportionately sentenced to probation only outcomes
- Most of the top lead charges in cases filed in adult district court are common across race and ethnicity

Prison admissions from Boulder County have steadily decreased since 2013

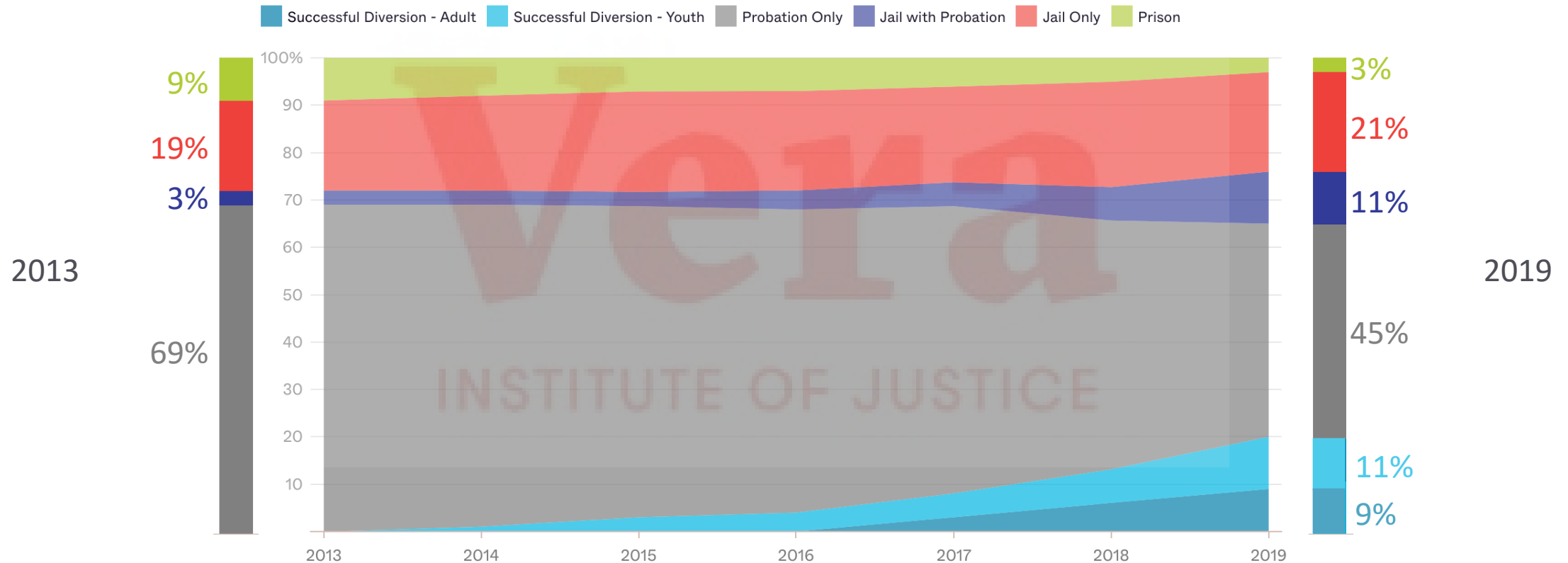
Total cases sentenced to incarceration, probation, or successfully diverted per year, by type, Boulder County, 2013-2019



Source: Boulder County DAO Case Management System

Probation only sentences and prison sentences decreased while successful diversion and jail with probation became more prevalent

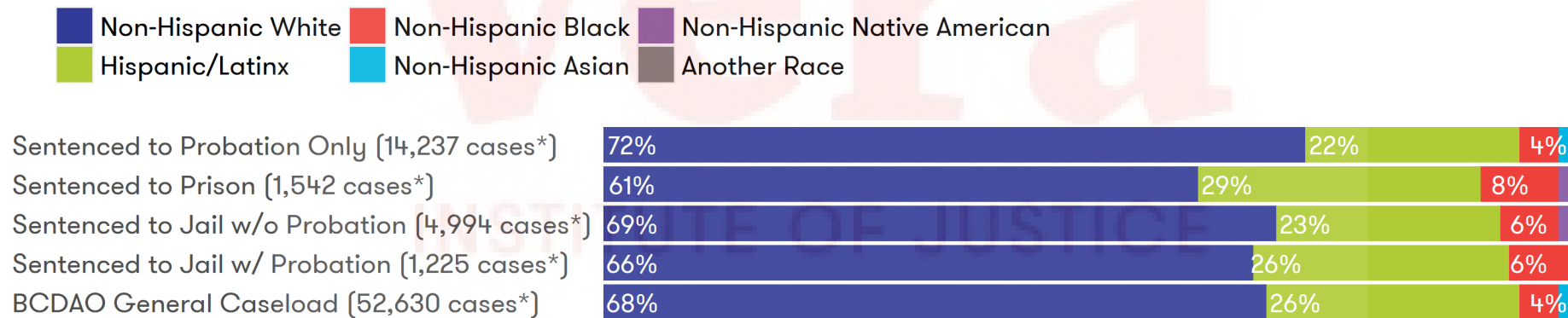
Cases sentenced to incarceration, probation, or successfully diverted per year, by type, Boulder County, 2013-2019



Source: Boulder County DAO Case Management System

When it comes to sentencing outcomes, cases with non-Hispanic white people are overly represented in probation, less so in prison

Demographics of cases sentenced to incarceration or probation only compared to all cases, by race/ethnicity, Boulder County, 2013-2019

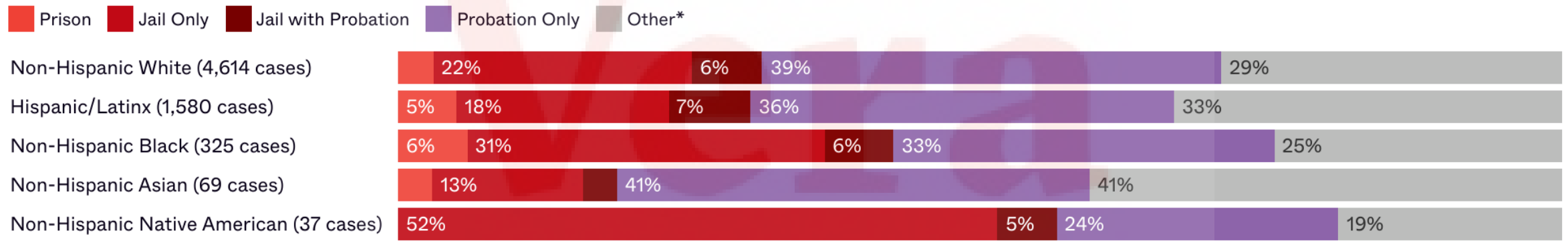


Source: Boulder County DAO
*Cases with race/ethnicity data only

From 2013 to 2019,
One in 12 people sentenced to prison in Boulder
County was Black,
despite Black people only making up one in 25
cases in the county's overall caseload

Incarceration sentences are most prevalent for cases involving Native American and Black people, and Black people have highest share that go to prison

Sentences of convicted cases, by race/ethnicity, Boulder County, 2018-2019

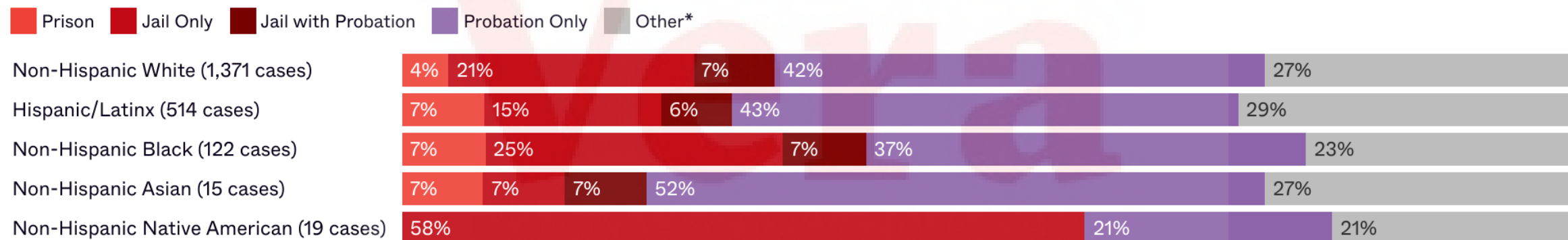


*“Other” case outcomes are defined as fine/fees/restitution, surveillance (e.g., electronic monitoring), deferred outcomes, etc. that don’t also include a prison or jail sentence.

Source: Source: Boulder County DAO Case Management System

A greater share of cases with Black and Latinx people are sentenced to prison for VRA cases than cases with white defendants; Black people are most incarcerated

Sentences of convicted VRA cases, by race/ethnicity, Boulder County, 2018-2019

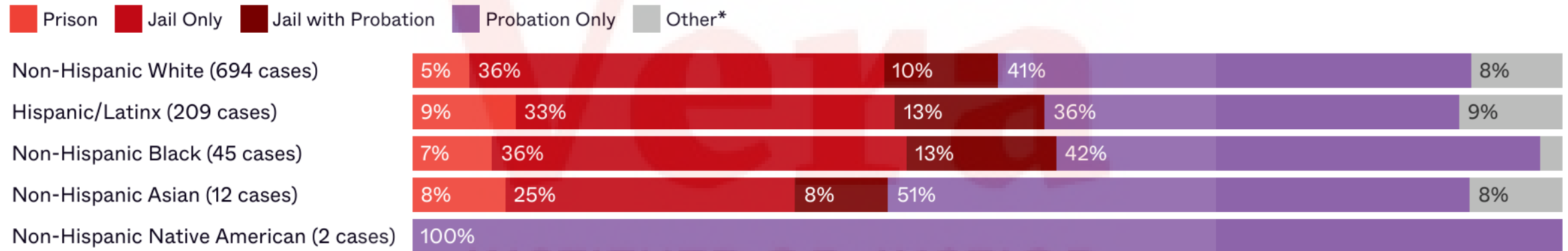


*“Other” case outcomes are defined as fine/fees/restitution, surveillance (e.g., electronic monitoring), deferred outcomes, etc. that don’t also include a prison or jail sentence.

Source: Source: Boulder County DAO Case Management System

Black and Latinx people are sentenced to incarceration for drug cases more than white defendants

Sentences of convicted drug cases, by race/ethnicity, Boulder County, 2018-2019



*“Other” case outcomes are defined as fine/fees/restitution, surveillance (e.g., electronic monitoring), deferred outcomes, etc. that don’t also include a prison or jail sentence.

Source: Source: Boulder County DAO Case Management System

What did charging for filed cases in adult district court look like between 2018 and 2019?

- “Controlled Sub-Poss Sch 1/2/FL/KT/CT” was the most common lead charge for cases filed in adult district court between 2018 and 2019 for every racial/ethnic group (between 11-19% of lead charges) except for Native Americans
 - Legislation in 2020 reduced the charge severity of this offense from a felony to a misdemeanor
- “ID Theft-Uses Info to Obtain” and “Felony Menacing – Real/Stimulated Weapon” are in the top 5 most common lead charges for every racial/ethnic group besides Native Americans (not in top 10, and 8th most common, respectively)
- Burglary 2 (of either Dwelling or Building) accounted for a total of...
 - 10.3% of lead charges for Black adult defendants,
 - 5.9% of white adult defendants,
 - 4.3% of Native American adult defendants,
 - 3.3% of Hispanic/Latinx adult defendants,
 - and were not in the top 10 for Asian adult defendants.

What did charging for filed cases in adult district court look like between 2018 and 2019?

- “Controlled Sub-Poss Sch 1/2/FL/KT/CT” was the most common lead charge for cases filed in adult district court between 2018 and 2019 for every racial/ethnic group (between 11-19% of lead charges) except for Native Americans
 - Legislation in 2020 reduced the charge severity of this offense from a felony to a misdemeanor
- “ID Theft-Uses Info to Obtain” and “Felony Menacing – Real/Stimulated Weapon” are in the top 5 most common lead charges for every racial/ethnic group besides Native Americans (not in top 10, and 8th most common, respectively)
- Burglary 2 (of either Dwelling or Building) accounted for a total of...
 - 10.3% of lead charges for Black adult defendants,
 - 5.9% of white adult defendants,
 - 4.3% of Native American adult defendants,
 - 3.3% of Hispanic/Latinx adult defendants,
 - and were not in the top 10 for Asian adult defendants.

What did charging for filed cases in adult district court look like between 2018 and 2019?

- “Controlled Sub-Poss Sch 1/2/FL/KT/CT” was the most common lead charge for cases filed in adult district court between 2018 and 2019 for every racial/ethnic group (between 11-19% of lead charges) except for Native Americans
 - Legislation in 2020 reduced the charge severity of this offense from a felony to a misdemeanor
- “ID Theft-Uses Info to Obtain” and “Felony Menacing – Real/Stimulated Weapon” are in the top 5 most common lead charges for every racial/ethnic group besides Native Americans (not in top 10, and 8th most common, respectively)
- Burglary 2 (of either Dwelling or Building) accounted for a total of...
 - 10.3% of lead charges for Black adult defendants,
 - 5.9% of white adult defendants,
 - 4.3% of Native American adult defendants,
 - 3.3% of Hispanic/Latinx adult defendants,
 - and were not in the top 10 for Asian adult defendants.

Snapshot of recent legislative changes

- “Controlled Sub-Poss Sch 1/2/FL/KT/CT”: Legislation in 2020 reduced the charge severity of this offense from a felony to a misdemeanor
- “ID Theft-Uses Info to Obtain”: SB21-271 makes this an M2
- “Felony Menacing”: “Deadly weapon” has been more specifically defined as a “firearm, knife, bludgeon, simulated firearm, knife, or bludgeon” and is an F5 and “placing, or attempting to place, a person in fear of imminent serious bodily injury” without a deadly weapon is an M1.
- Burglary 2 is more clearly defined.
 - F3: dwelling or theft of controlled substance, firearms, or ammunition
 - F4: “building or occupied structure”
 - M2: Added Subsection (c) person knowingly violated a written notice by a retailer (given upon trespass) or an order by a court of lawful jurisdiction specifically restraining a person from entering a particular retail location during hours which the retail store is open to the public.

Takeaways

- Probation-only sentences and prison sentences decreased while successful diversion and jail with probation became more prevalent
- Black and Hispanic/Latinx people are disproportionately sentenced to prison, while non-Hispanic white people are disproportionately sentenced to probation only outcomes
- Most of the top lead charges in cases filed in adult district court are common across race and ethnicity

Diversion

Diversion findings

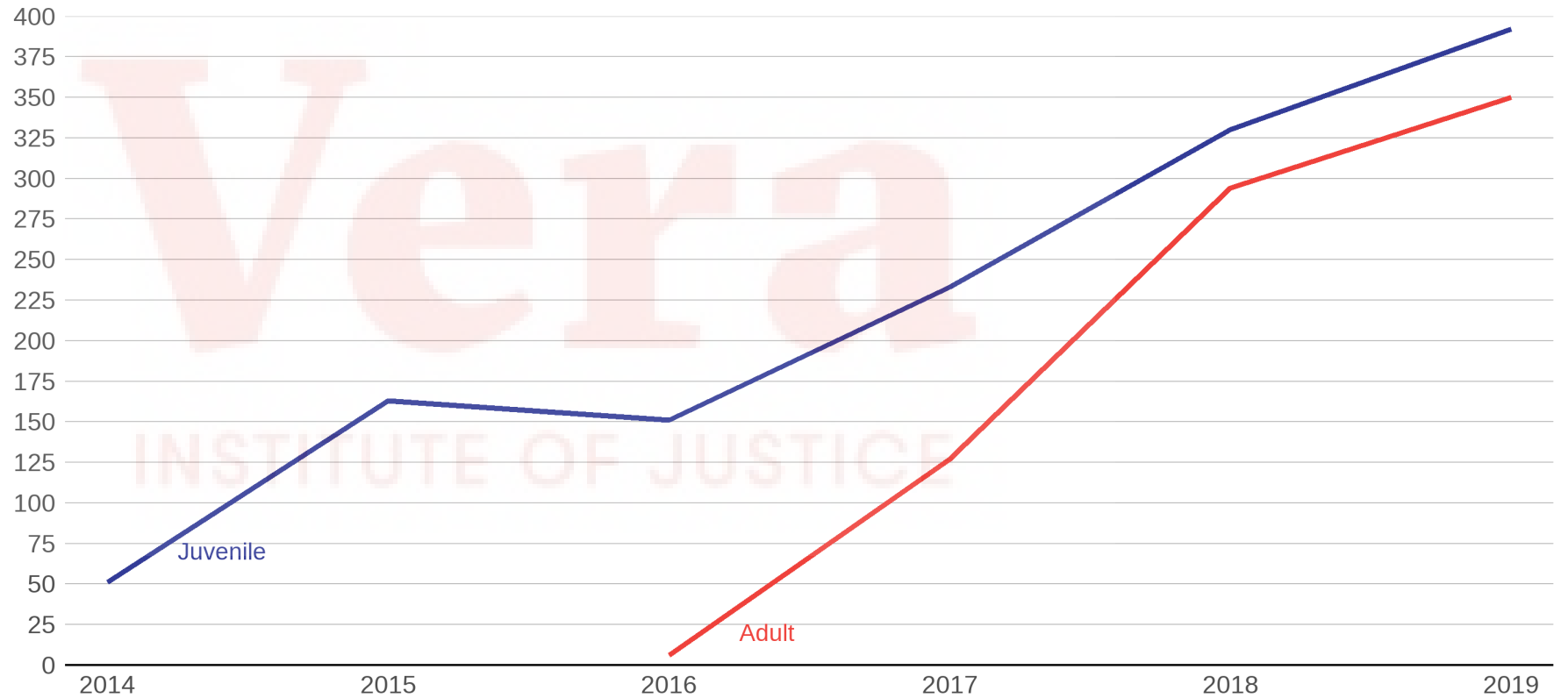
- Youth disparities in referral have decreased for Black youth and nearly disappeared for Latinx youth
- Adult disparities in diversion referral have increased
- Differences in contact with the system across race/ethnicity – and how those differences factor into diversion referrals for adults – is worth further exploration

Adult diversion cases are catching up to juvenile diversion year-to-year numbers

Number of cases diverted,
by age category, Boulder County,
2013-2019



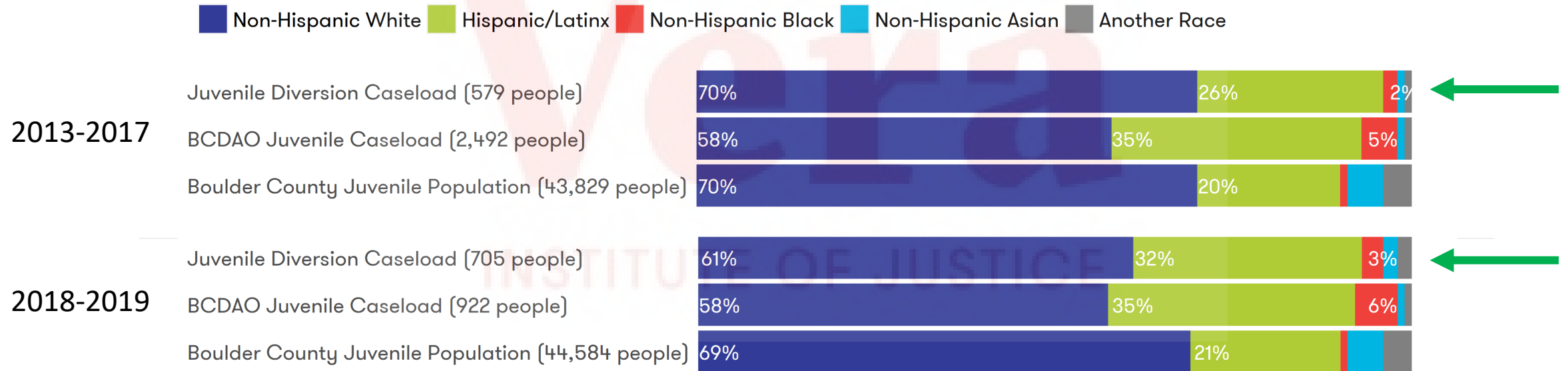
Total diverted cases per year, by age category, Boulder County, 2013-2019



Source: Boulder County DAO

Since 2018, the demographics of juvenile diversion are increasingly mirroring that of the overall juvenile caseload

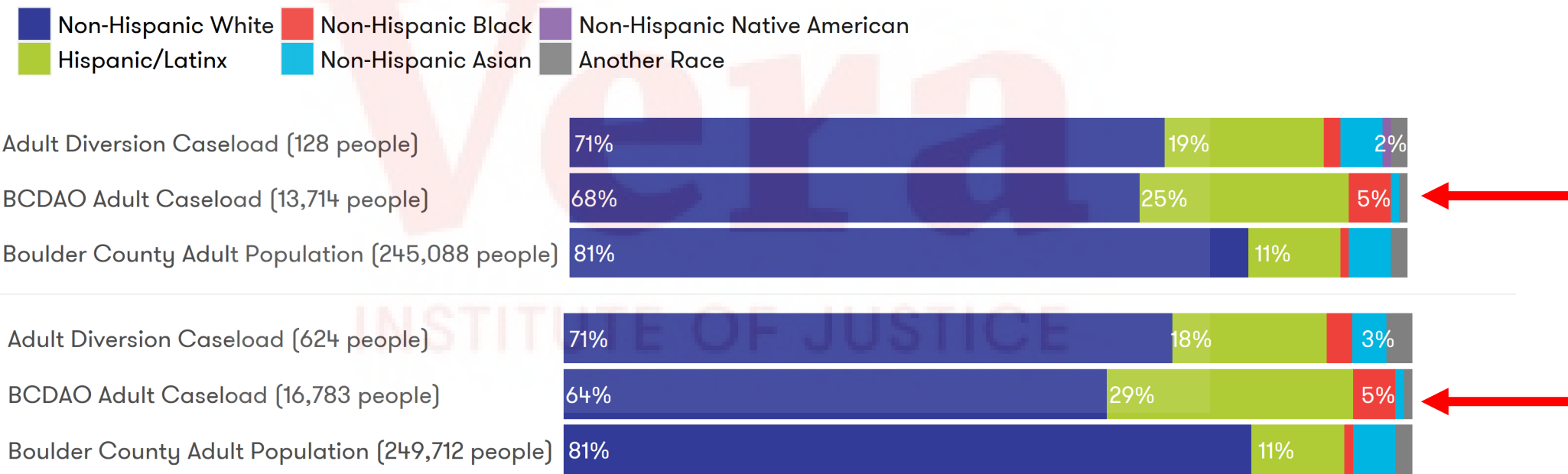
Demographics of juvenile diversion cases compared to all cases, by race/ethnicity, Boulder County



Source: Boulder County DAO

While the demographics of adult diversion have remained stable, it hasn't kept pace with the increasing share of Latinx cases

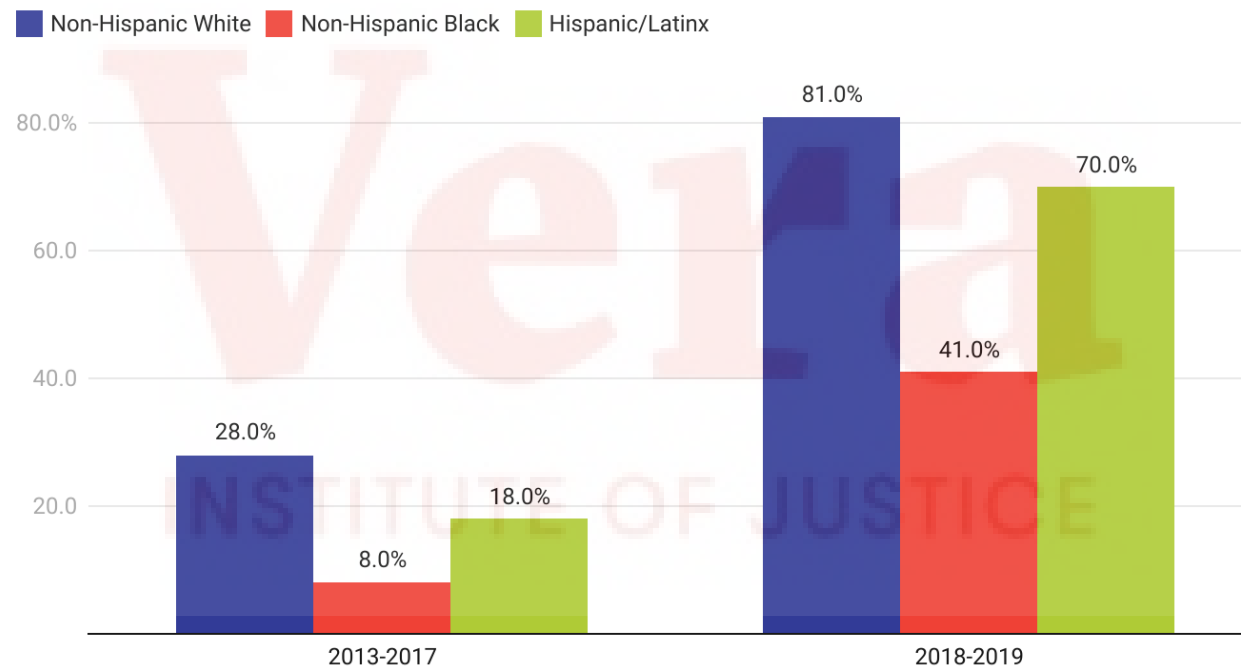
Demographics of adult diversion cases compared to all cases by race/ethnicity, Boulder County



Source: Boulder County DAO

A smaller share of cases involving Black and Latinx youth are sent to juvenile diversion, but diversion has become much more prevalent across race/ethnicity

Share of juvenile cases referred to diversion, by race/ethnicity, Boulder County

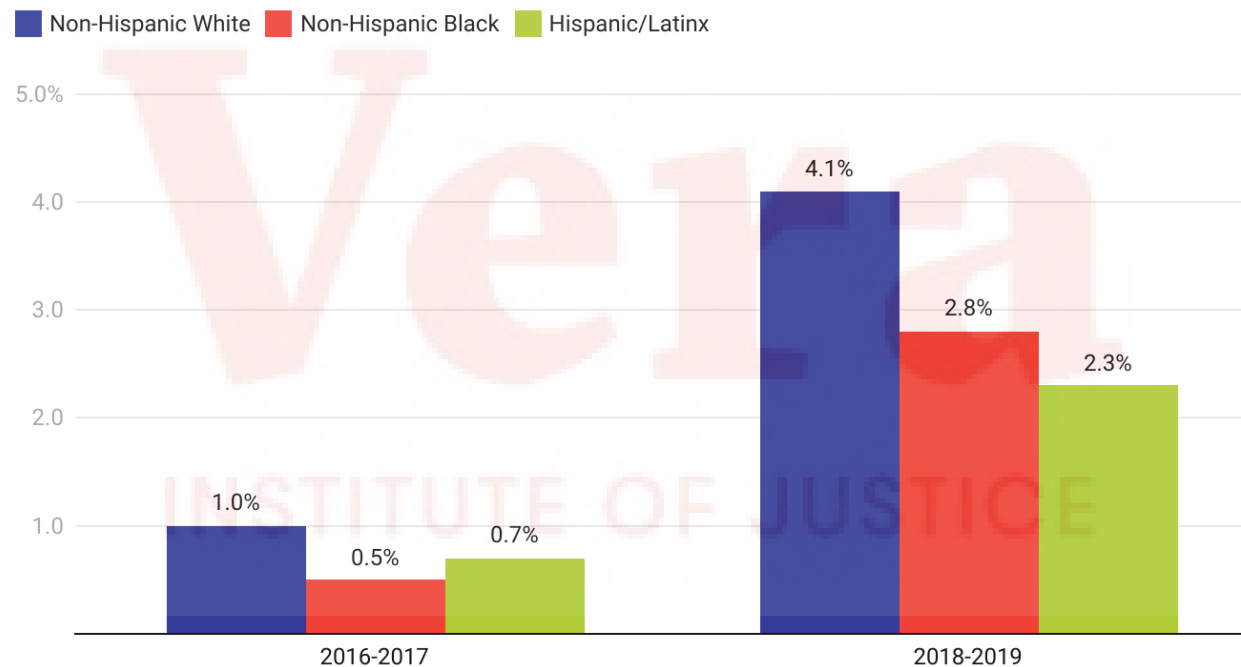


The percentage of total cases for a given race/ethnicity and age that were referred to diversion (regardless of whether those cases were accepted/declined or successful/unsuccessful).

Source: Boulder County District Attorney's Office • Created with Datawrapper

Adult diversion is making up a larger share of outcomes for adult cases, but generally, Black and Latinx adults receive diversion at lower levels

Share of adult cases referred to diversion, by race/ethnicity, Boulder County



The percentage of total cases for a given race/ethnicity and age that were referred to diversion (regardless of whether those cases were accepted/declined or successful/unsuccessful).

Source: Boulder County District Attorney's Office • Created with Datawrapper

Native American and Black adults are more likely to have had multiple cases come through the office, with 27-32% having had multiple case files in the CMS

Number of cases per adult found in the data, by race/ethnicity, Boulder County, 2013-2019



Interpretation guide: "77% of non-Hispanic white people in the database have only one case record in the CMS between 2013 and 2019. 12% of non-Hispanic white people have 2 case records in the CMS."

Source: Source: Boulder County DAO Case Management System

Takeaways

- Adult disparities in diversion referral have increased while youth disparities in referral have decreased for Black youth and nearly disappeared for Latinx youth
- Differences in contact with the system across race/ethnicity – and how those differences factor into diversion referrals for adults – is worth further exploration

Conclusions

Vera
INSTITUTE OF JUSTICE

Conclusions

- Substantial racial disparities can be found in case filings, sentencing outcomes, and adult diversion referral

Black youth and adults have a case filing rate at least **4-5 times** that of non-Hispanic white youth and adults

From 2013 to 2019,
one in 12 people sentenced to prison in Boulder County was Black,
despite Black people only making up one in 25 cases in the county's overall caseload

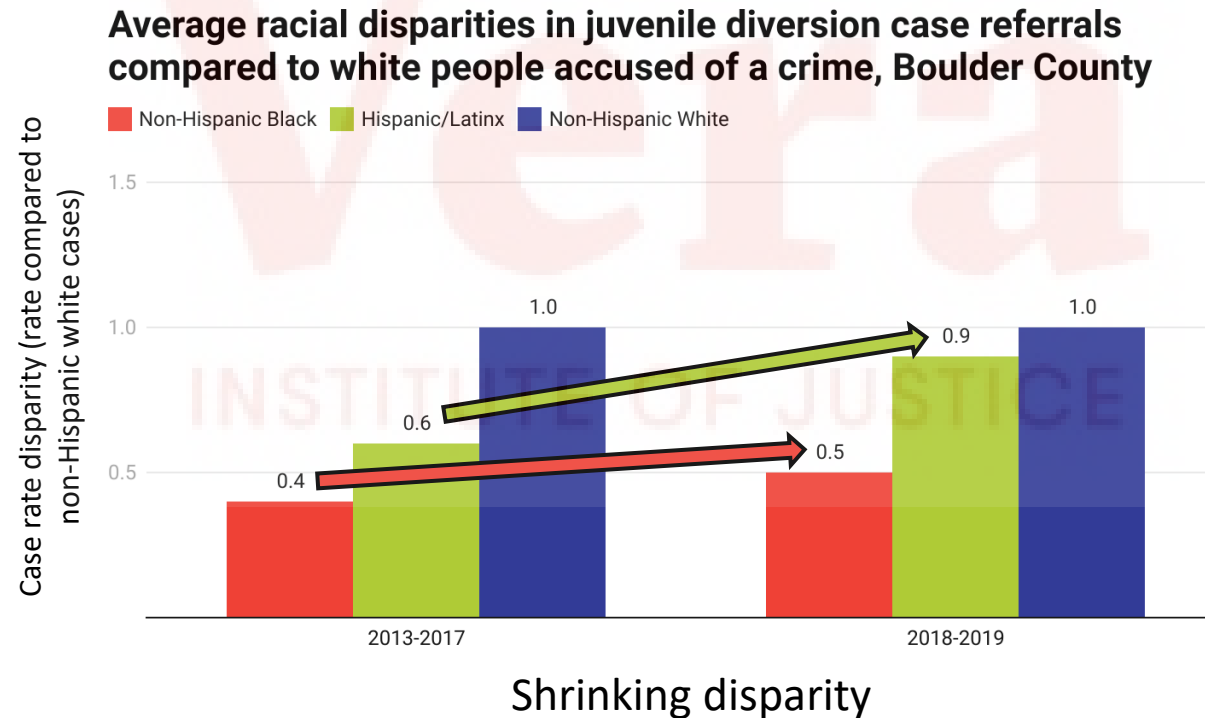
Conclusions

- Those experiencing homelessness are disproportionately brought into the system, and their outcomes once in the system are, on average, worse than those not experiencing homelessness

The share of adult district court cases involving someone experiencing homelessness is **12.5 to 25 times** the county population share of homeless people

Conclusions

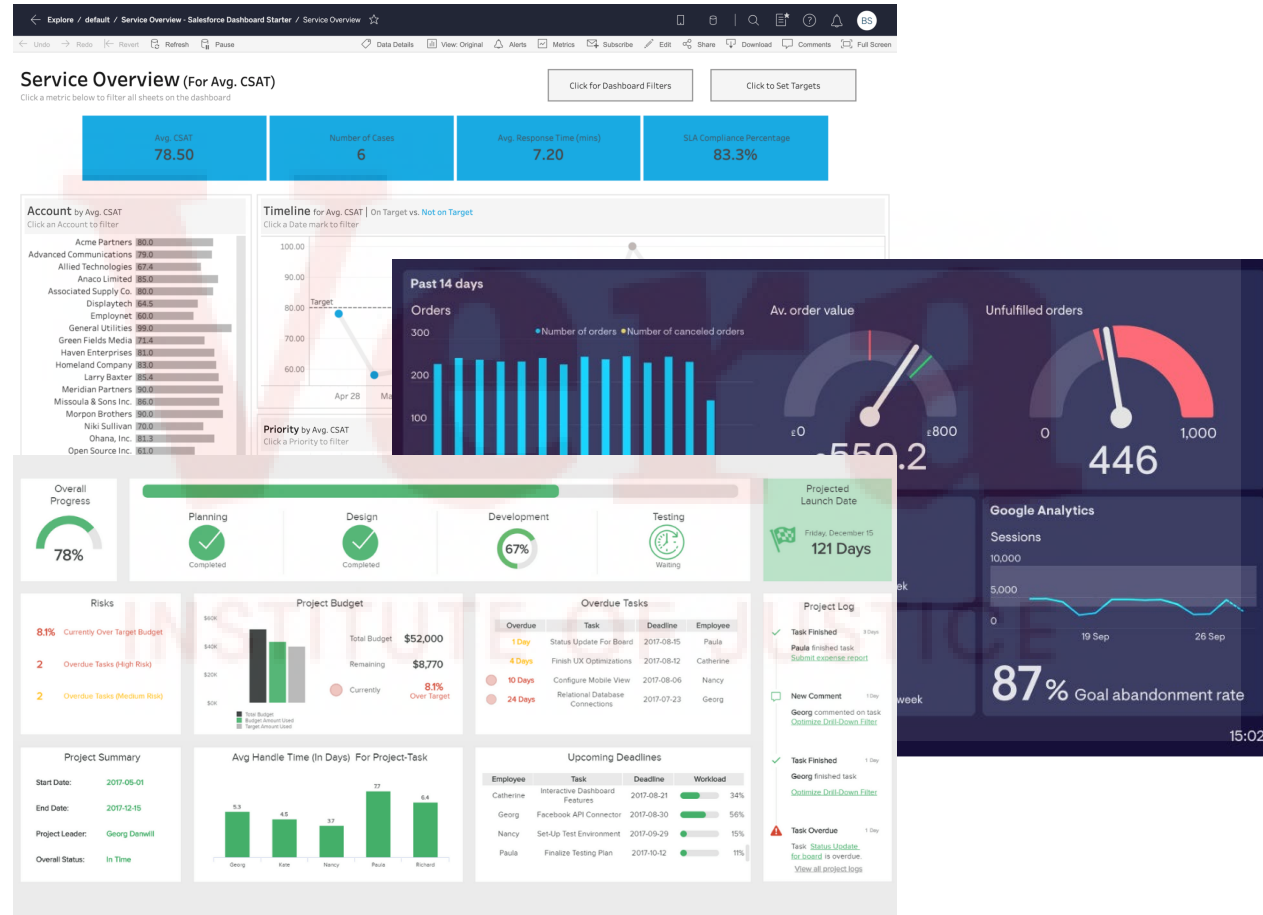
- Shrinking of disparities in juvenile diversion referral suggests that policy steps within office control can directly target racial inequities




National Reform Landscape

INSTITUTE OF JUSTICE

Some forms of data may inadvertently increase the "empathy gap"



Open data gives a more transparent, disaggregated view of the people in the data

 **COOK COUNTY GOVERNMENT** | OPEN DATA

Search

[Data Home](#) [Cook County Website](#) [Contact Us](#) [Sign In](#)

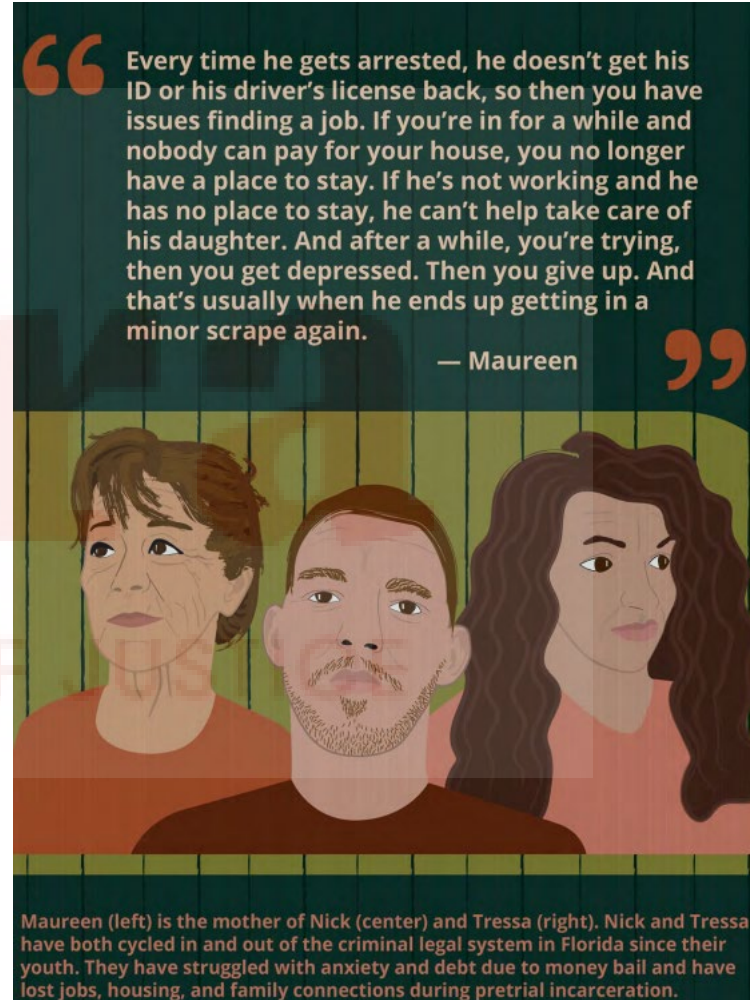
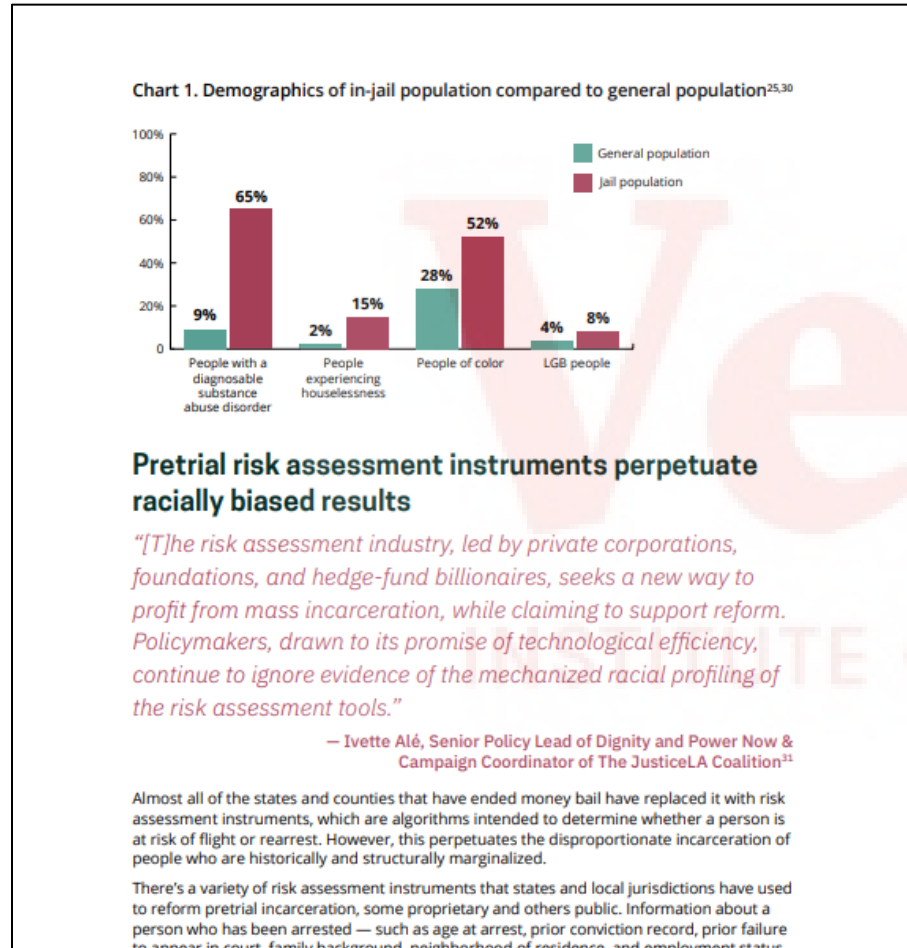
[Return to Grid View](#)

# CASE_ID case id	# CASE_PARTICIPANT_ID case participant id	RECEIVED_DATE received date	OFFENSE_CATEGORY offense category	PRIMARY_CHARGE_FLAG primary charge	# CHARGE_ID charge id
123,687,096,003	726,349,489,296	2013 Jun 09 12:00:00 AM	Aggravated DUI	True	555,439,048,433
123,687,186,464	726,350,563,707	2013 Aug 21 12:00:00 AM	Narcotics	True	555,249,567,063
123,687,231,695	726,350,921,844	2013 Aug 21 12:00:00 AM	Narcotics	True	556,594,592,586
123,687,231,695	727,551,755,091	2013 Aug 21 12:00:00 AM	Narcotics	True	556,594,592,586
123,687,276,925	726,351,279,981	2013 Aug 21 12:00:00 AM	Narcotics	True	555,249,492,140
123,687,322,156	726,351,638,118	2013 Aug 21 12:00:00 AM	Narcotics	False	555,251,664,920
123,687,322,156	726,351,727,652	2013 Aug 21 12:00:00 AM	Narcotics	True	555,251,589,996
123,687,367,386	726,351,996,254	2013 Aug 21 12:00:00 AM	Retail Theft	True	555,253,088,465
123,687,412,617	726,352,533,460	2013 Aug 21 12:00:00 AM	Aggravated DUI	False	555,407,505,666
123,687,412,617	726,352,533,460	2013 Aug 21 12:00:00 AM	Aggravated DUI	False	555,407,880,284
123,687,412,617	726,352,533,460	2013 Aug 21 12:00:00 AM	Aggravated DUI	False	555,408,105,054
123,687,412,617	726,352,533,460	2013 Aug 21 12:00:00 AM	Aggravated DUI	False	555,408,254,901
123,687,412,617	726,352,533,460	2013 Aug 21 12:00:00 AM	Aggravated DUI	False	555,408,404,748

[1](#) of 2661

Showing rows 1-100 of 266042

Data, when led by equitable goals and values, can help shine a light on stories, problems, and solutions



Suffolk County declination policy

What Happened When Boston Stopped Prosecuting Nonviolent Crimes



Jamila Hodge
Former Project Director



Seleeke Flingai
Research Associate



Suffolk County District Attorney Rachael Rollins

Suffolk County declination policy

“Most commonly driven by poverty, substance use disorder, mental health issues, trauma histories, housing or food insecurities...”

- ✓ Trespassing
- ✓ Shoplifting
- ✓ Larceny under \$250
- ✓ Disorderly conduct
- ✓ Disturbing the peace
- ✓ Receiving stolen property
- ✓ Resisting arrest
- ✓ Minor driving offenses (driving with suspended/revoked license)
- ✓ Breaking and entering (if to seek refuge/sleep and no damage)
- ✓ Wanton or malicious destruction of property
- ✓ Threats (except DV)
- ✓ Minor in possession of alcohol
- ✓ Drug possession (and intent to distribute)

Study of policy shows benefits of declination

Key findings

For the two years after the arraignment of a case, where the only key difference was the lenience of the screening prosecutor, non-prosecution reduced the rates at which people:

- were subsequently charged with any new criminal complaint by 58 percent;
- were subsequently charged with violent offenses by 64 percent;
- were subsequently charged with disorderly conduct or property offenses by 91 percent;
- were subsequently charged with motor vehicle offenses by 63 percent;
- obtained a criminal record by 69 percent.

Did not increase the number of related nonviolent misdemeanor crimes reported by the Boston Police Department.

Arlington County Community-Based Felony Diversion Program



As part of the Vera Motion for Justice Initiative, Commonwealth Attorney Parisa Dehghani-Tafti partnered with community organization OAR Arlington (Offender Aid and Restoration) to implement an adult felony diversion program:

- ✓ Pre-Plea
- ✓ Larceny, Robbery, and Burglary
- ✓ Does not exclude based on a person's criminal history
- ✓ Is based within the community through OAR
 - ✓ They offer wraparound services and individual therapy to program participants

Nationally, momentum is growing for limiting non-public safety traffic stops



Philly bill to ban minor traffic stops will be reintroduced after months of negotiations



By Aaron Moselle · June 24, 2021

MPRnews

Minneapolis police cut back on pretextual traffic stops in effort to reduce racial profiling

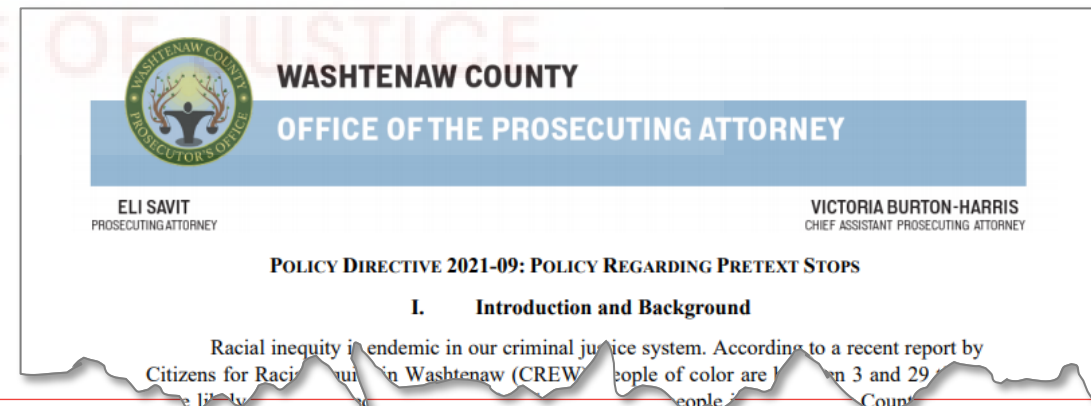
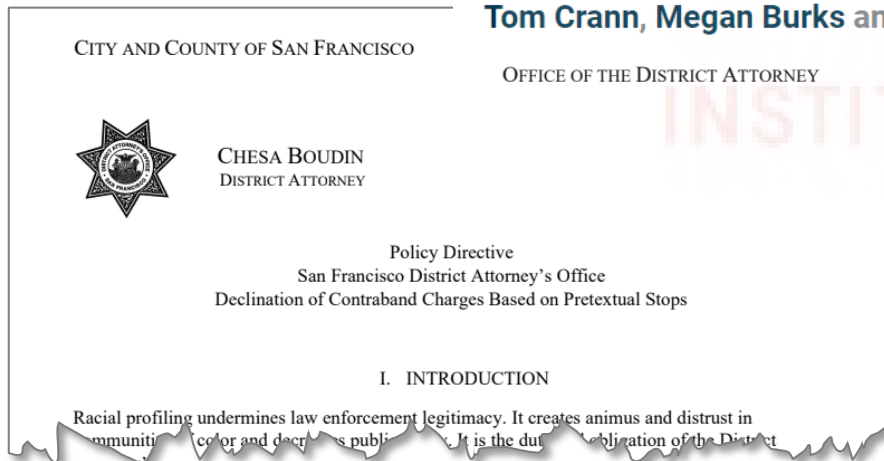
Tom Crann, Megan Burks and Alex Cheng August 17, 2021 6:23 p.m.



MICHIGAN

Lansing Police Department will no longer stop motorists for secondary traffic violations

Posted: Jul 1, 2020 / 03:31 PM EDT / Updated: Jul 2, 2020 / 10:53 AM EDT



Stanford study documents racial profiling in traffic stops

The screenshot shows the Stanford Law Review (SLR) website interface. At the top is a dark navigation bar with the SLR logo and links for About, SLR Print, SLR Online, Symposia, Submissions, Mastheads, and Contact. A search icon and the word 'SEARCH' are on the right. Below the navigation bar, a red banner contains the text 'Volume 73, Issue 3' on the left, 'March 2021' in the center, and 'Page 637' on the right. The main content area has a large red background with the word 'VOLUME' in large, faint letters. The article title 'An Empirical Assessment of Pretextual Stops and Racial Profiling' is centered in white serif font. Below the title, the authors 'Stephen Rushin & Griffin Edwards *' are listed. A small social media bar with Twitter, Facebook, and a share icon is positioned below the authors. At the bottom of the red banner, the words 'INSTITUTE OF JUSTICE' are visible in large, faint letters. Below the red banner, a white box contains a summary of the article.

Volume 73, Issue 3

March 2021

Page 637

Article

An Empirical Assessment of Pretextual Stops and Racial Profiling

Stephen Rushin & Griffin Edwards *

[Twitter](#) [Facebook](#) [Share](#)

INSTITUTE OF JUSTICE

This Article empirically illustrates that legal doctrines permitting police officers to engage in pretextual traffic stops may contribute to an increase in racial profiling. In 1996, the U.S. Supreme

Stanford study documents racial profiling in traffic stops



- Study of 100 million traffic stops found significant racial disparities
- Disparities disappear when stops focus on safety
- “Vast majority” don’t result in evidence recovery: 95% - 99%

Across the country, the research on police stops are clear

- Many police stops are racially biased.
 - Black and Latinx drivers are disproportionately targeted and more likely to be searched than white drivers despite lower or comparable contraband “hit rates”
- Non-public safety stops drive racial disparities.
 - When researchers compared “must stop” public safety stops vs. non-public safety stops, they found that most of the racial disparities in stops were attributable to non-public safety stops
- Communities aren’t made safer by non-public safety stops
 - Drugs or weapons are rarely found, and little evidence shows that these stops reduce crime
 - Physical and psychological harms to targeted communities; Community mistrust and reduced confidence in law enforcement





Boulder DA's Office Policy and Reform Efforts

- Expansion of Adult Diversion
 - *Harm Reduction Approach*
 - *Have included many violent crimes successfully*
 - *Recognized leader across the state and nationally*
- Juvenile Diversion
 - *For years now we have diverted more kids than we prosecute*
 - *As of 2022, now all juveniles are screened for diversion per statute (the only exception is F1s and F2s)*
- Mental Health Diversion
Implementation & Continued Expansion
- Drug Diversion Program (prior to de-felonization of drug possession)
- Driver's License Diversion Program
- PPI & Data Dashboard
- Conviction Integrity unit
- Bias & Hate Crimes Initiative
- Workplace Sexual Misconduct Task Force
- Implicit Bias Training for Staff
- Immigration Policy
- Diversity, Equity, and Inclusion Policy
- Moving on from MJ Policy
- Fresh Start Warrant Forgiveness Policy

Important Colorado Legislative Changes



- 2020 De-Felonization of most drug possession
- 2020 Bond Reform
- 2022 Misdemeanor Sentencing Reform
 - DA Dougherty is Co-Chair of the CCJJ Sentencing Reform Task Force
 - Misdemeanor changes
 - Max sentence is 364 days (significant for immigration consequences and puts us in line with other states)
 - 2 levels versus 3 levels
 - Importantly, these changes address many of the Top 10 Charges identified by Vera's Data Analysis
 - Menacing, Criminal Impersonation, Burglary, Criminal Trespass, Burglary Tools, ID Theft, Motor Vehicle Theft, Violation of Bail Bonds
 - Note, the #1 felony charge was drug possession, which moved to a drug misdemeanor in March 2020
 - The task force is currently looking at felony sentencing grid and felony charges

MOTUS THEATER

Moving Stories that Move Us Forward

Vera

Q&A

INSTITUTE OF JUSTICE

Thank you

INSTITUTE OF JUSTICE