

Nebraska Criminal Justice Reinvestment Working Group

Justice Reinvestment Data Presentation #1

August 10, 2021

Overview

- Working Group Objective
- The Case for the Justice Reinvestment Initiative (JRI)
- Iron Law of Prison Population Growth
- Admissions Trends
 - Nebraska Department of Correctional Services
 - Nebraska Administrative Office of the Courts and Probation
- Next Steps

Working Group Objective



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Purpose of JRI Working Group

State leadership has instructed the Working Group to:

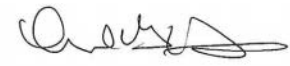
“use criminological research and our own criminal justice data to inform the development of comprehensive recidivism-reduction strategies and shift resources toward more cost-effective public safety strategies.”

Letter signed by:

- Governor Pete Ricketts
- Chief Justice Mike Heavican
- Speaker Mike Hilgers
- Chairman Steve Lathrop



Pete Ricketts
Governor



Mike Heavican
Chief Justice of the Nebraska Supreme Court



Mike Hilgers
Speaker, Nebraska Legislature



Steve Lathrop
Chair, Nebraska Legislature Judiciary Committee

Objective of JRI Working Group

The Working Group has 3 primary objectives:

1. Use data to identify what is driving Nebraska's correctional population and costs
2. Study research on proven best practices and consider examples from other states
3. Develop policy recommendations based on the assessed drivers that are suited to NE's unique needs and goals

Overall goal for Working Group is to make effective and efficient use of Nebraska's resources

The Case for JRI

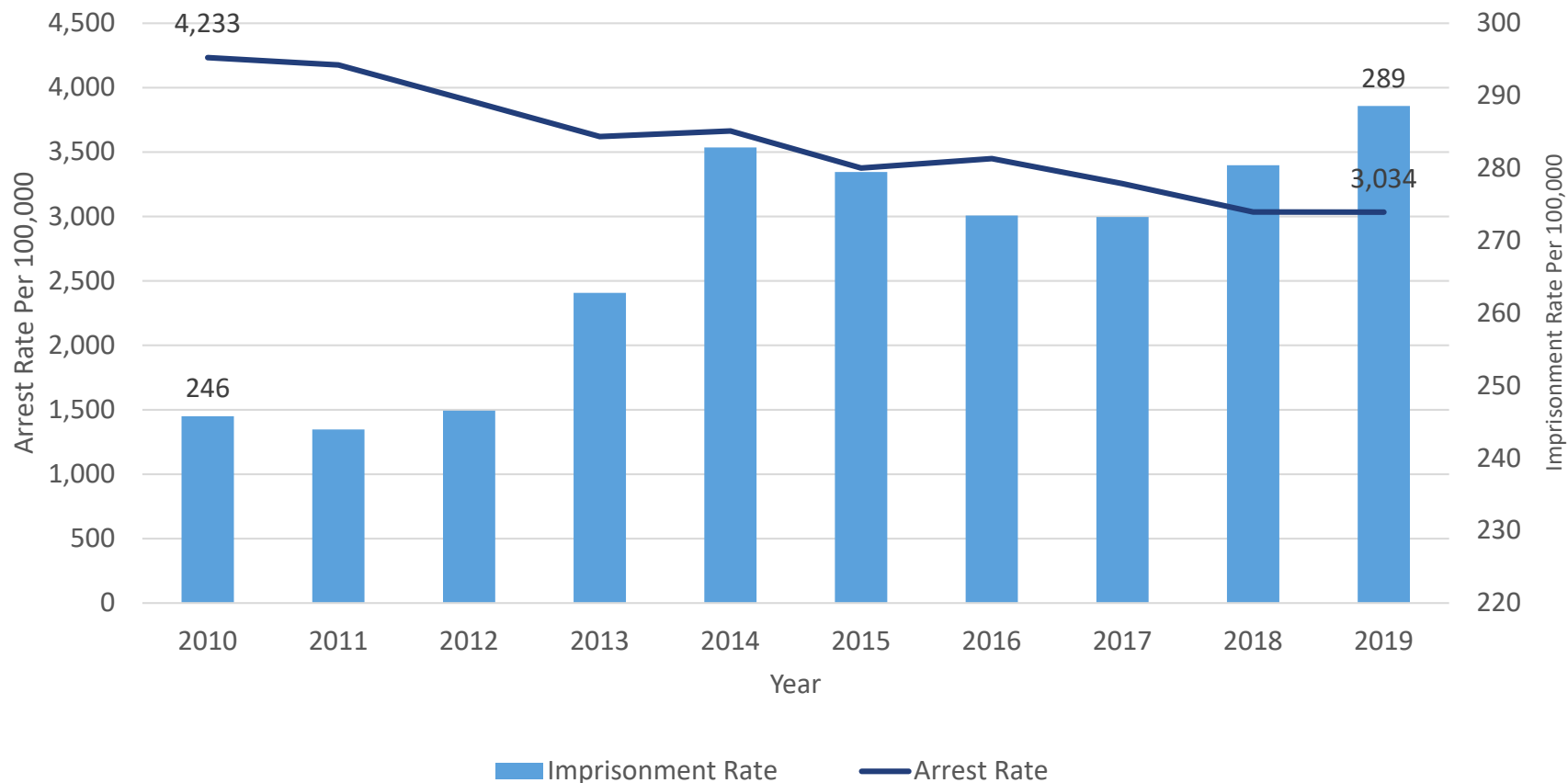


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While Arrest Rates Decrease, Imprisonment Rates Climb

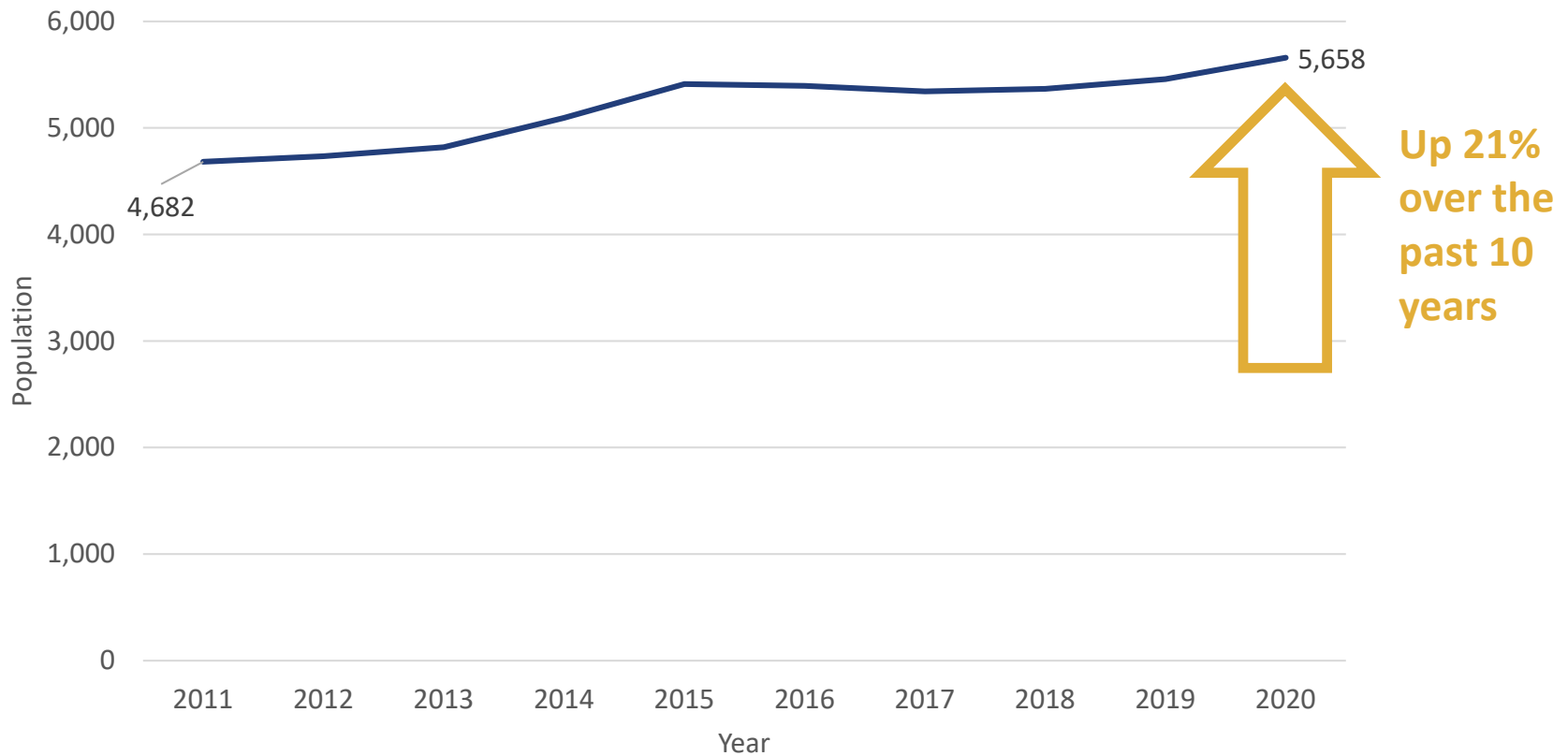
Arrest Rate vs. Imprisonment Rate, 2010 - 2019



*Sources: BJS and UCR

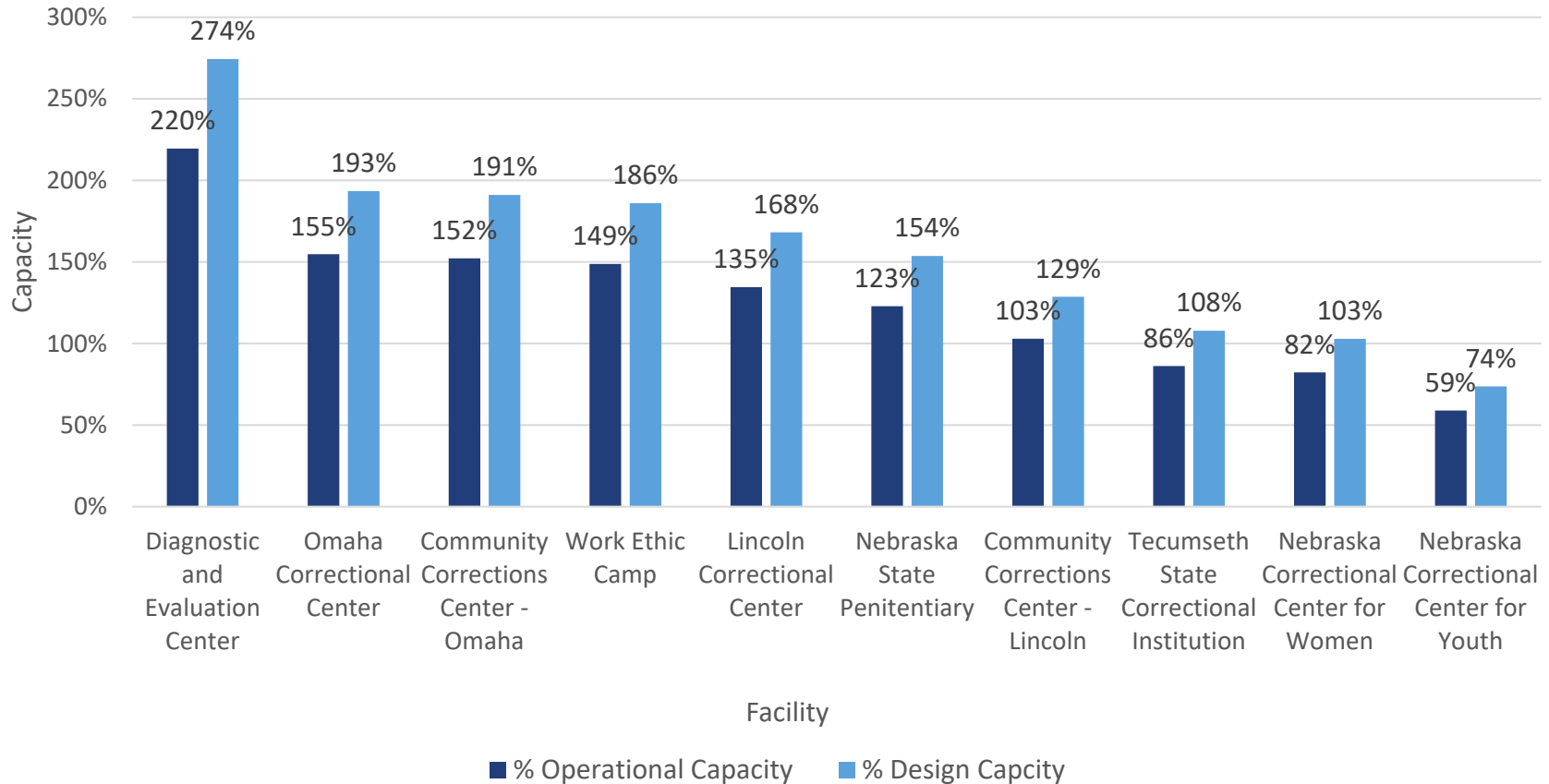
Nebraska's Prison Population is Growing

Nebraska Prison Population, 2011-2020



Nearly Every Facility Operating Above Design and Operational Capacity

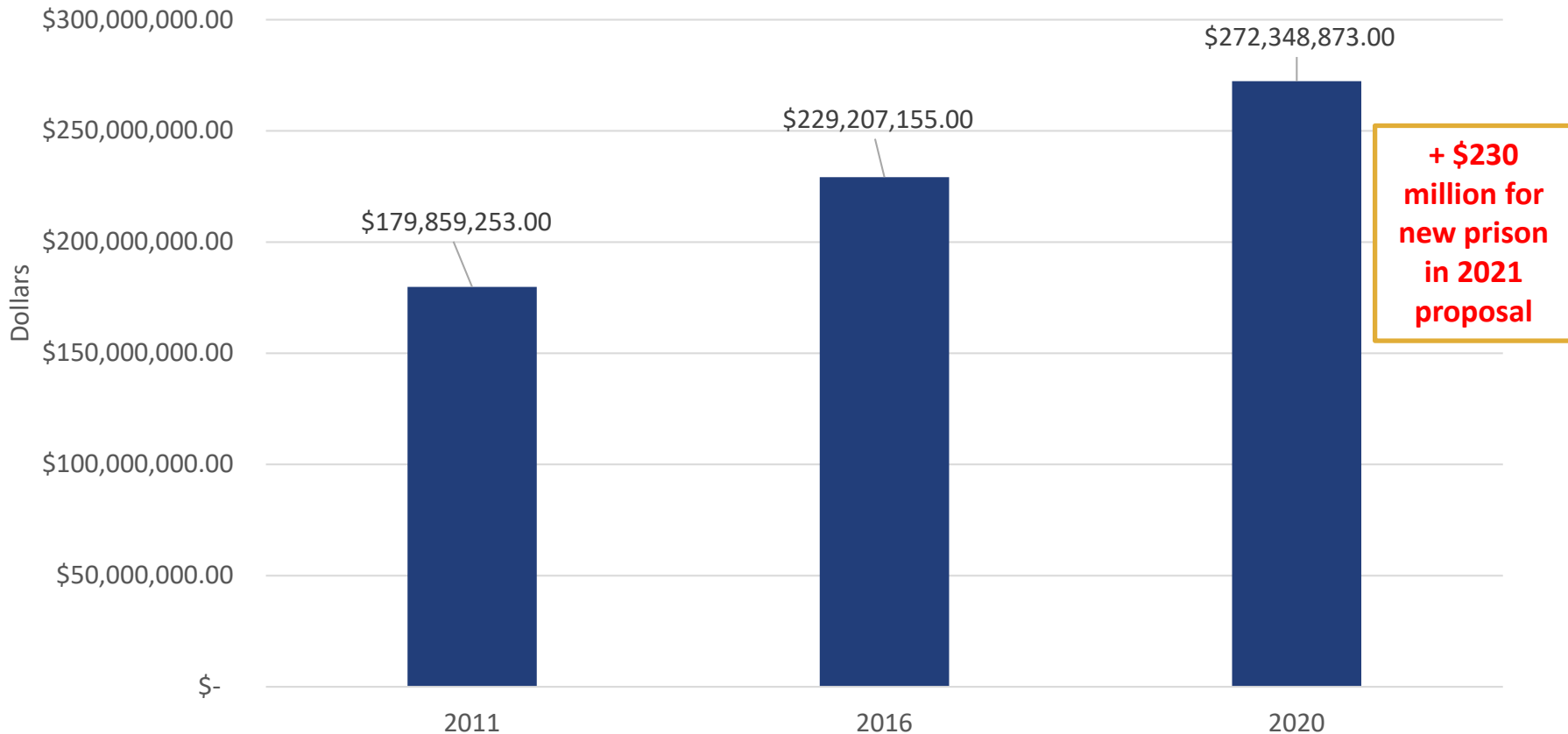
Operational and Design Capacity of NDCS Facilities*, Quarter 1 2021



*In addition, about 25 individuals committed to NDCS were housed in local jails.

Corrections Expenditures Grew 34% Since 2011

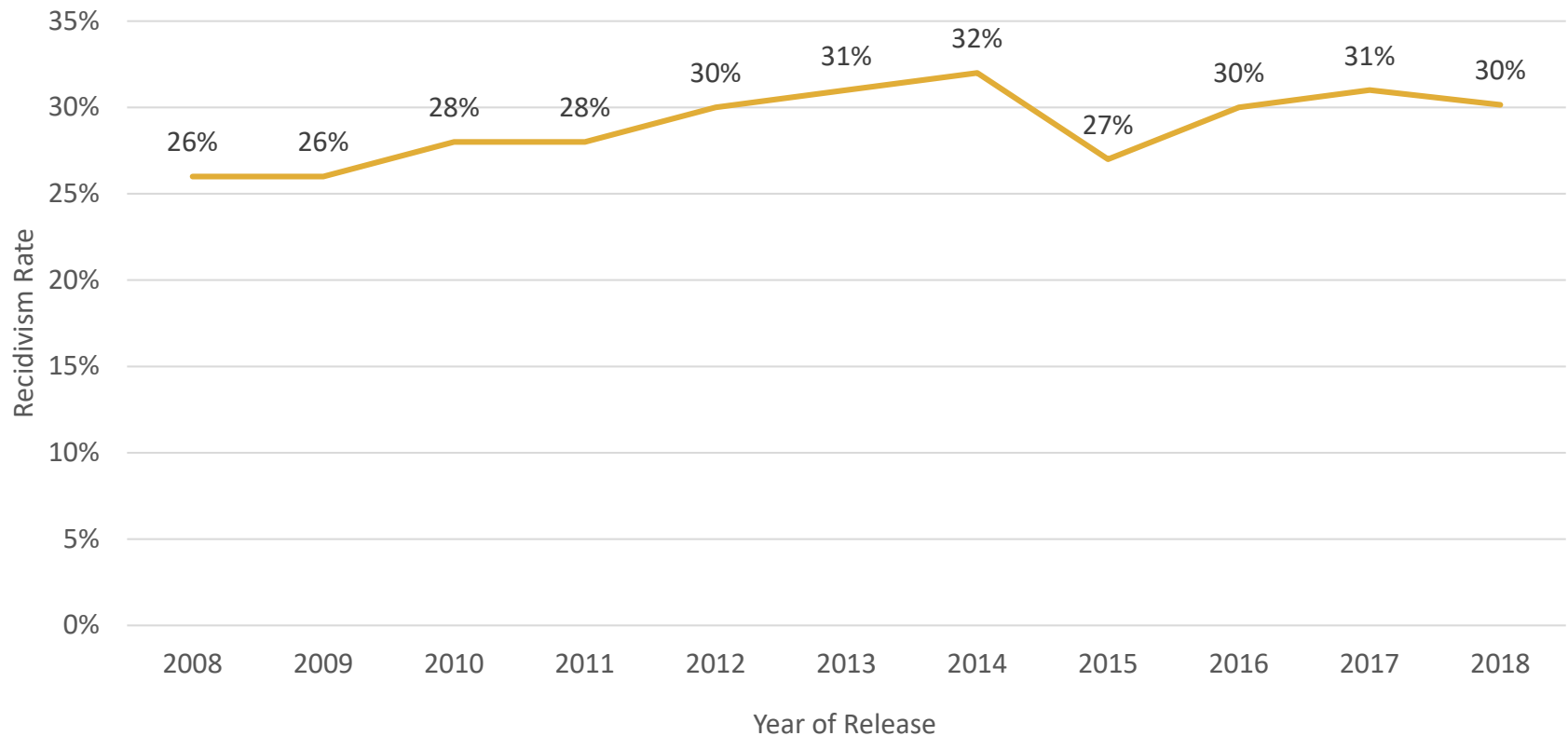
Corrections Expenditures as of June 30th 2011, 2016, and 2020



Note: Expenditures include general cash, federal, construction, and revolving funds
Source: NDCS Budget Reports for 2011, 2016, and 2020

Recidivism Rates Increased Over Time

Statewide Three-Year Return to NCDS Custody Rate,
2008-2018 Release Cohorts



Iron Law of Prison Population Growth



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Iron Law of Prison Population Growth

Admissions + Time Served
= Nebraska Department of
Correctional Services Population

Factors Influencing Admissions



Data Sources

- Summary-level data from
 - Nebraska Department of Correctional Services (NDCS)
 - All admissions to NDCS custody by calendar year 2011-2020
 - Annual population data submitted to National Corrections Reporting Program for 2011-2020
 - Nebraska Division of Parole Supervision
 - All Parole discharges by calendar year 2011-2020
 - Administrative Office of the Courts & Probation
 - All admissions to Probation custody by calendar year 2011-2020

Data Sources II

- Publicly available data from
 - U.S. Department of Justice, Bureau of Justice Statistics
 - Federal Bureau of Investigation, Uniform Crime Reporting Program
 - U.S. Census Bureau

Data Notes

- Unless stated otherwise, all data presented were analyzed by CJI in consultation with NE agencies
- Data presented here may not match agency reports due to different methodologies for analysis
 - This presentation examines trends in admissions cohorts
- Offense data is for the most serious offense, as reported by NDCS, related to the current admission
- NDCS initial admissions include probation revocations
- Judicial admissions are for district probation only

NDCS Admissions



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Who is Entering Prison?

- Admission type and administrative status
- Demographics
- Geographic patterns
- Offense patterns
 - Offense Type
 - Offense Class

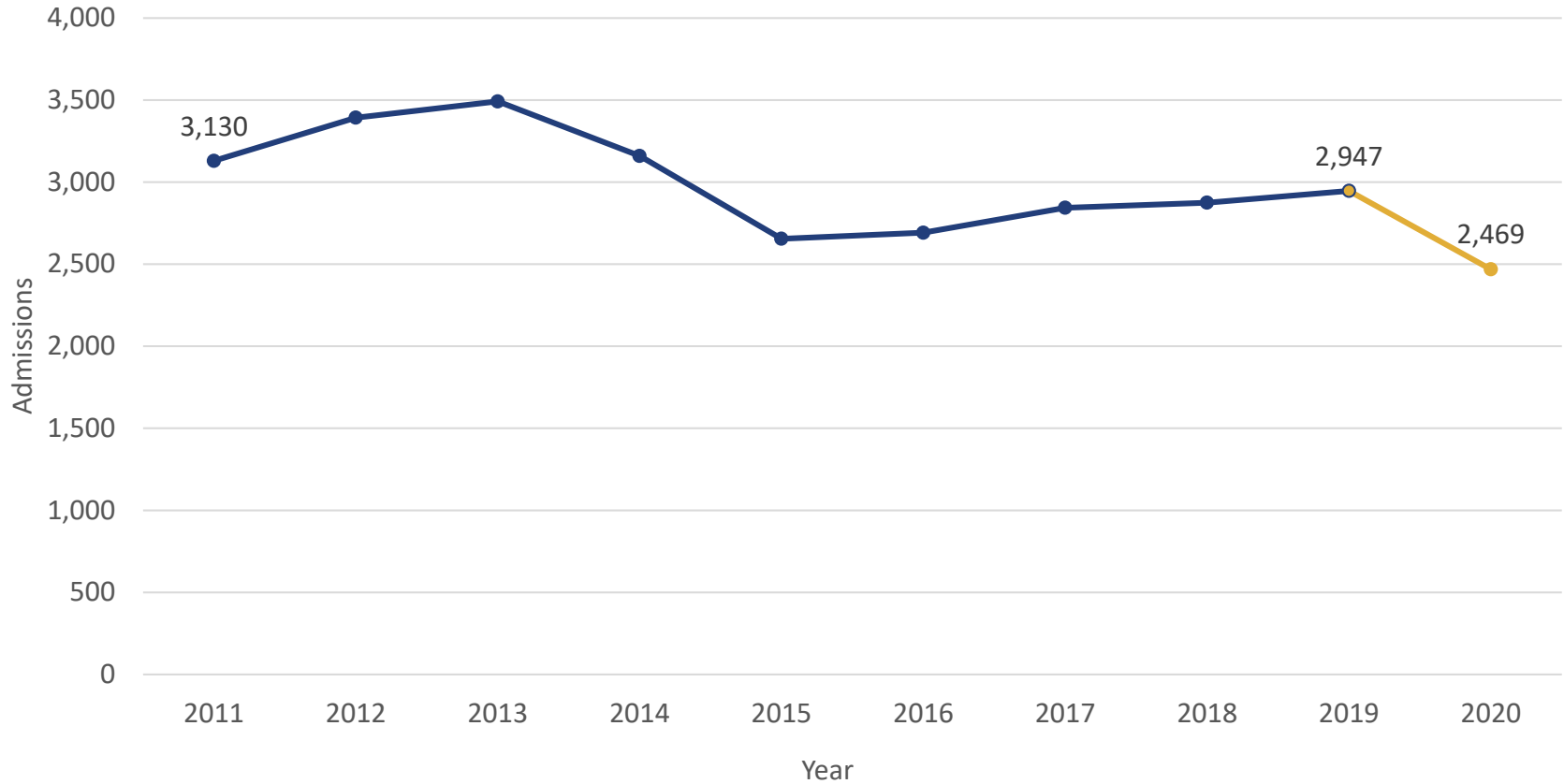
NDCS Admissions by Type and Administrative Status

Data Definition: Admission Type

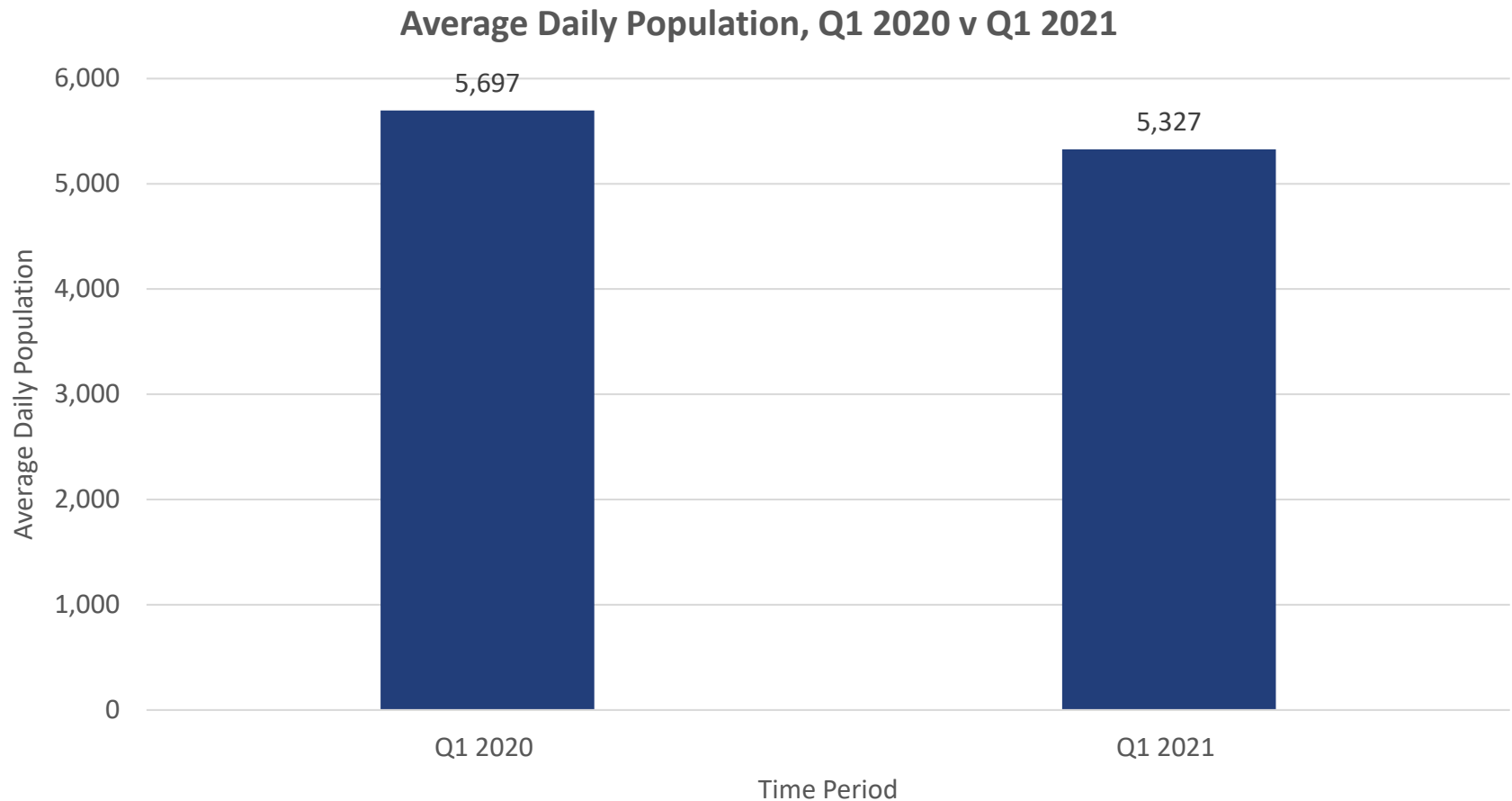
- Admission type
 - **Initial Admission:** An individual entering NDCS on a new sentence, including probation revocations
 - **Parole Violation:** An individual returning to NDCS as the result of a parole revocation
 - **Return from PRS:** An individual returning to NDCS as the result of a post-release supervision revocation
 - **Return from Escape:** An individual returning to NDCS after escaping

Total Admissions Down 21% Since 2011

Prison Admissions, 2011 - 2020

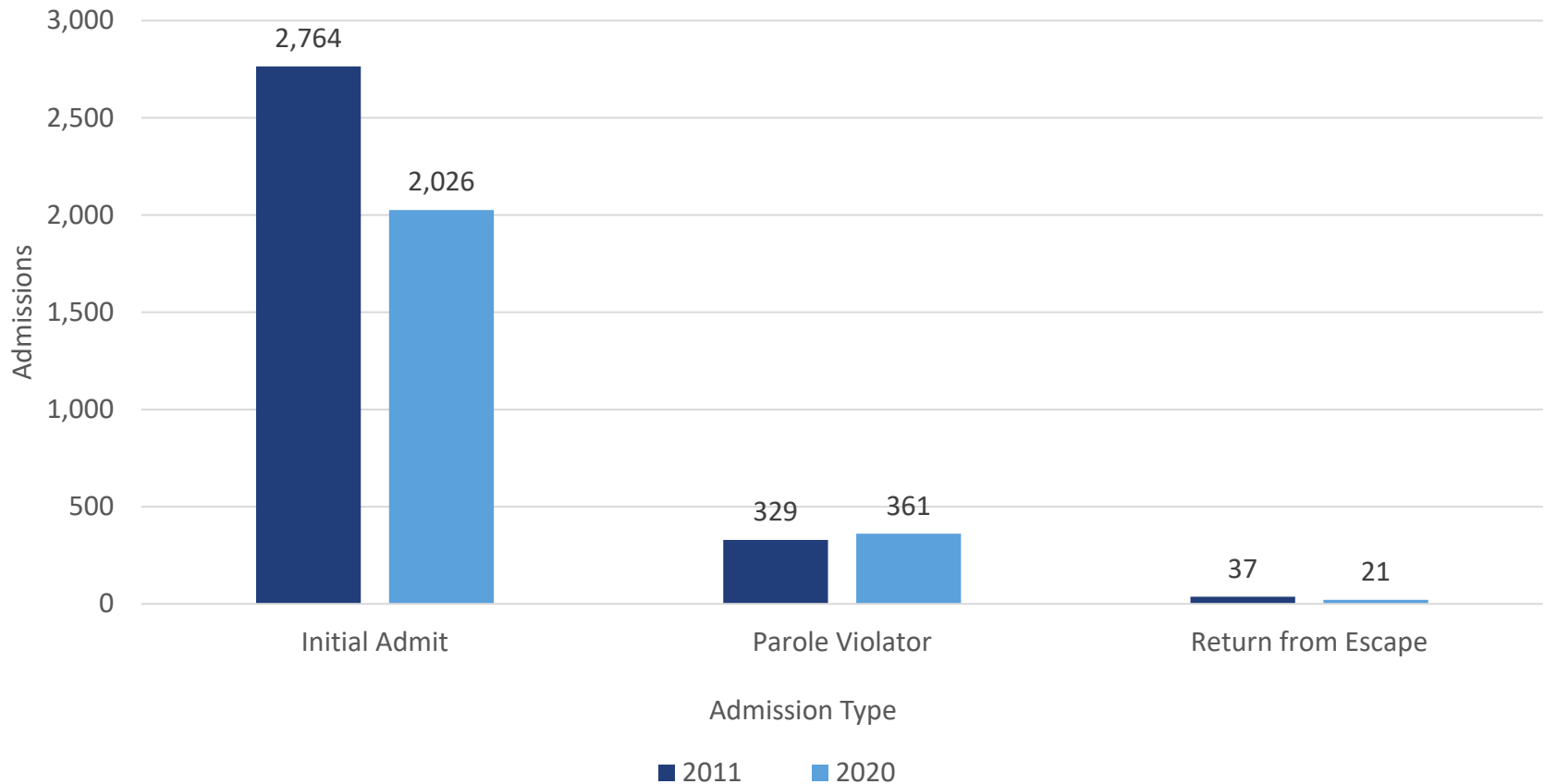


Average Daily Population Dropped Slightly During COVID-19



Despite Overall Decreases, Admissions of Parole Violations Increased

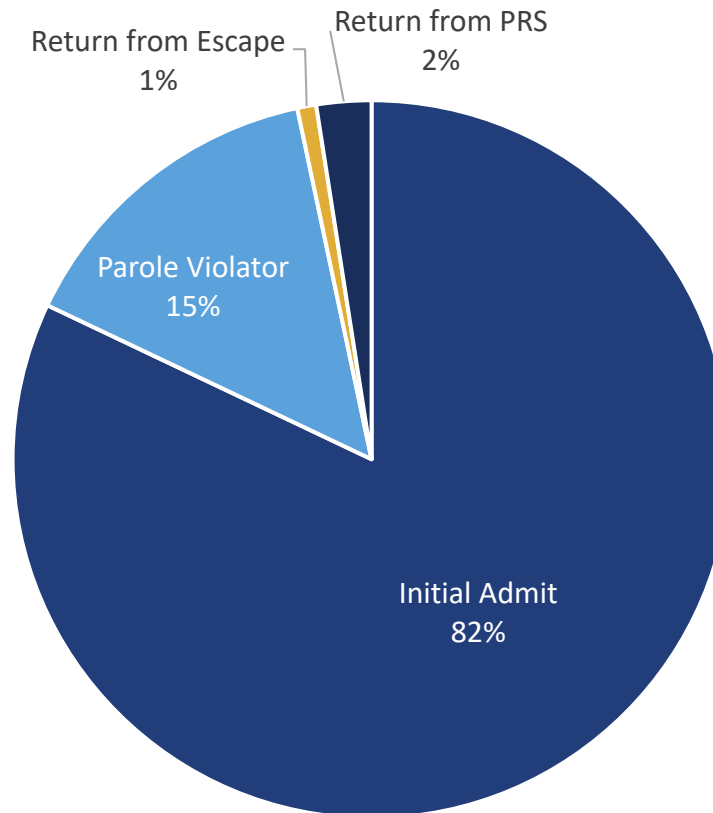
Admissions by Admission Type, 2011 & 2020



*Safekeepers are part of the initial admits figures; excludes return from PRS.

One in Six Admissions Comes From Parole or PRS Failures

Prison Admissions by Admission Type, 2020



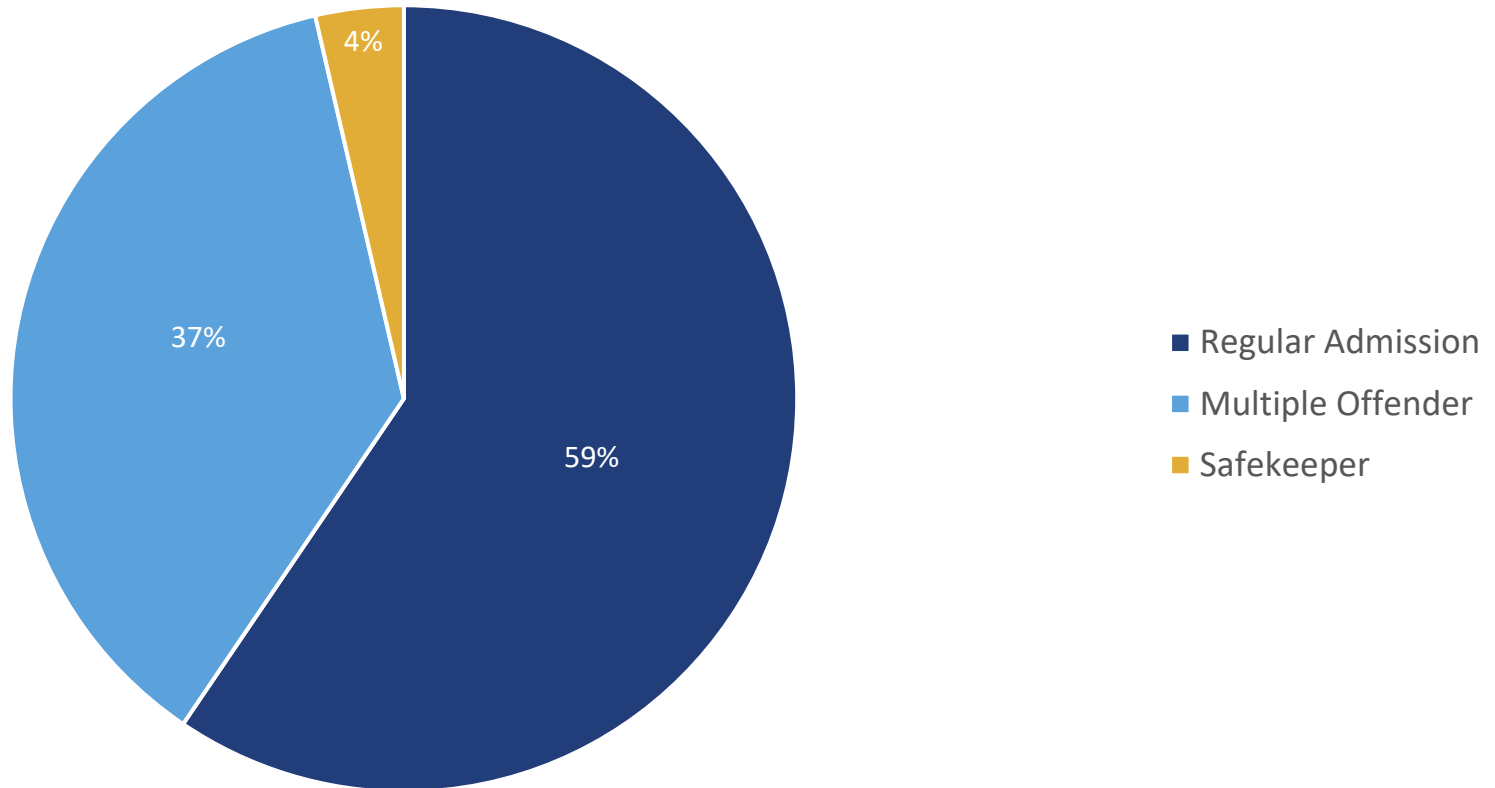
*Safekeepers included in the Initial Admit category of Admission Type.

Data Definitions: Administrative Status

- **Administrative Status**
 - **Regular Admission:** An individual who is serving their first sentence at NDCS
 - **Multiple Offender:** An individual who has served at least one prior sentence with NDCS prior to their current sentence
 - **Safekeeper:** An individual serving pretrial being temporarily housed at NDCS through an agreement with another jurisdiction

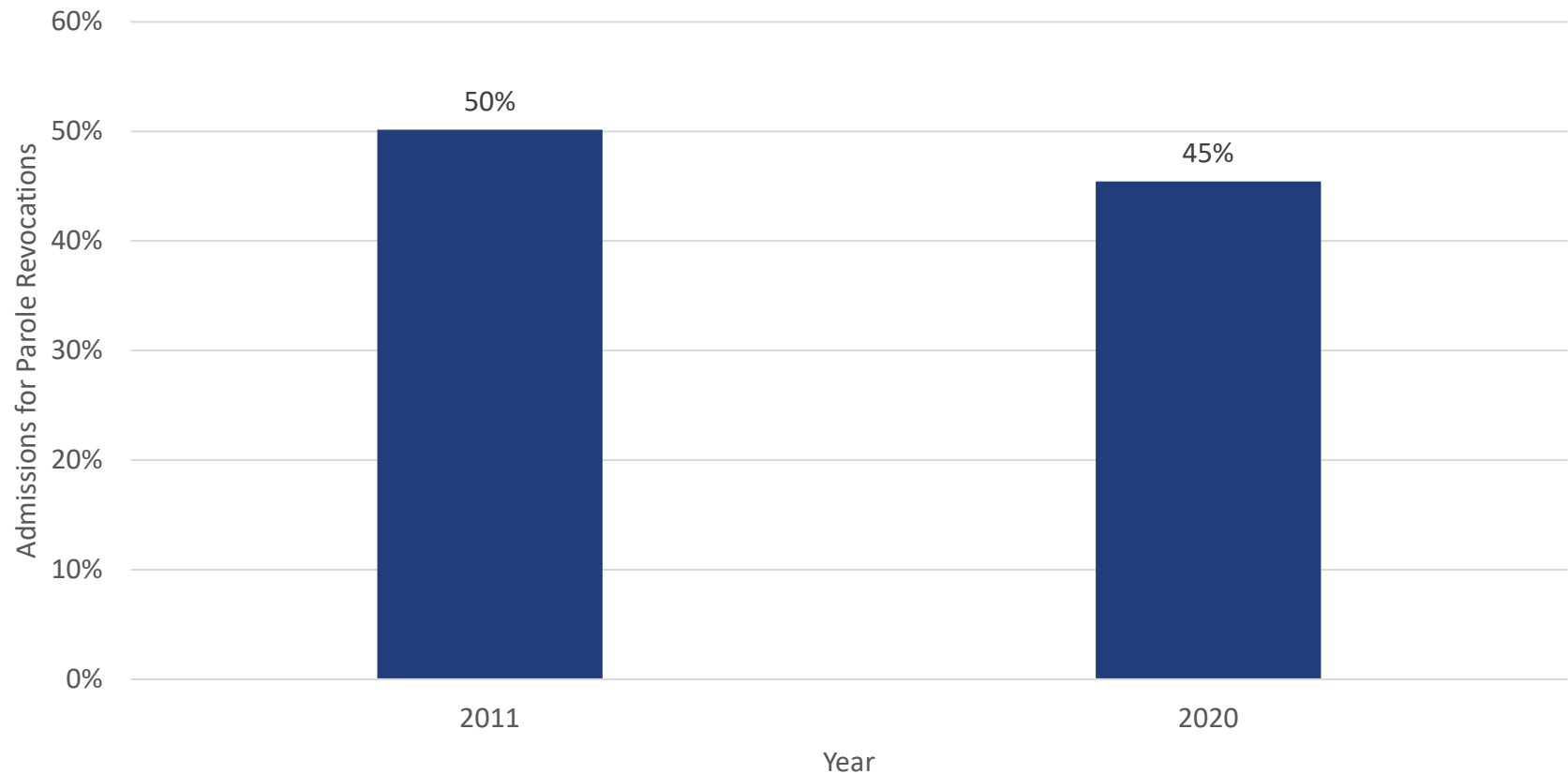
Nearly 60% of Admissions Have No Prior NDCS History

Admissions by Administrative Status, 2020



Half of Parole Revocation Admissions Have No Prior NDCS History

Parole Revocations with Previous NDCS Involvement**, 2011 & 2020



*Safekeepers excluded from analysis.

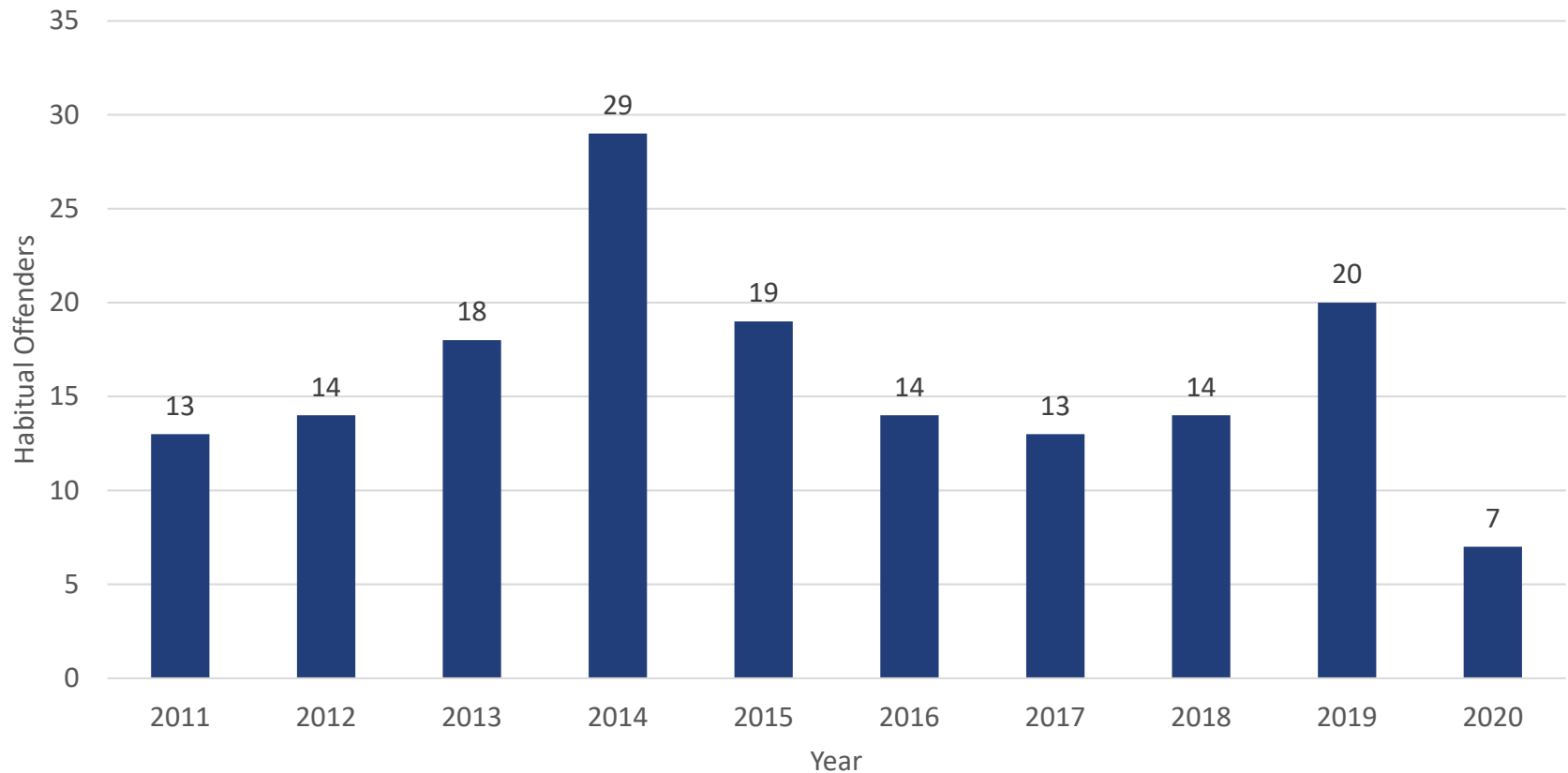
**These individuals' previous NDCS involvement occurred prior to the current sentence for which they have a parole revocation.

Data Definitions: Sentencing Terms

- **Habitual Offender:** A sentence enhancement that is applicable when an individual has been convicted of a felony at least twice prior (in Nebraska or any other state) and had been sentenced for terms no less than a year
- **Mandatory Minimum:** A sentence that requires an individual to serve every day of that minimum sentence and no shorter period of time

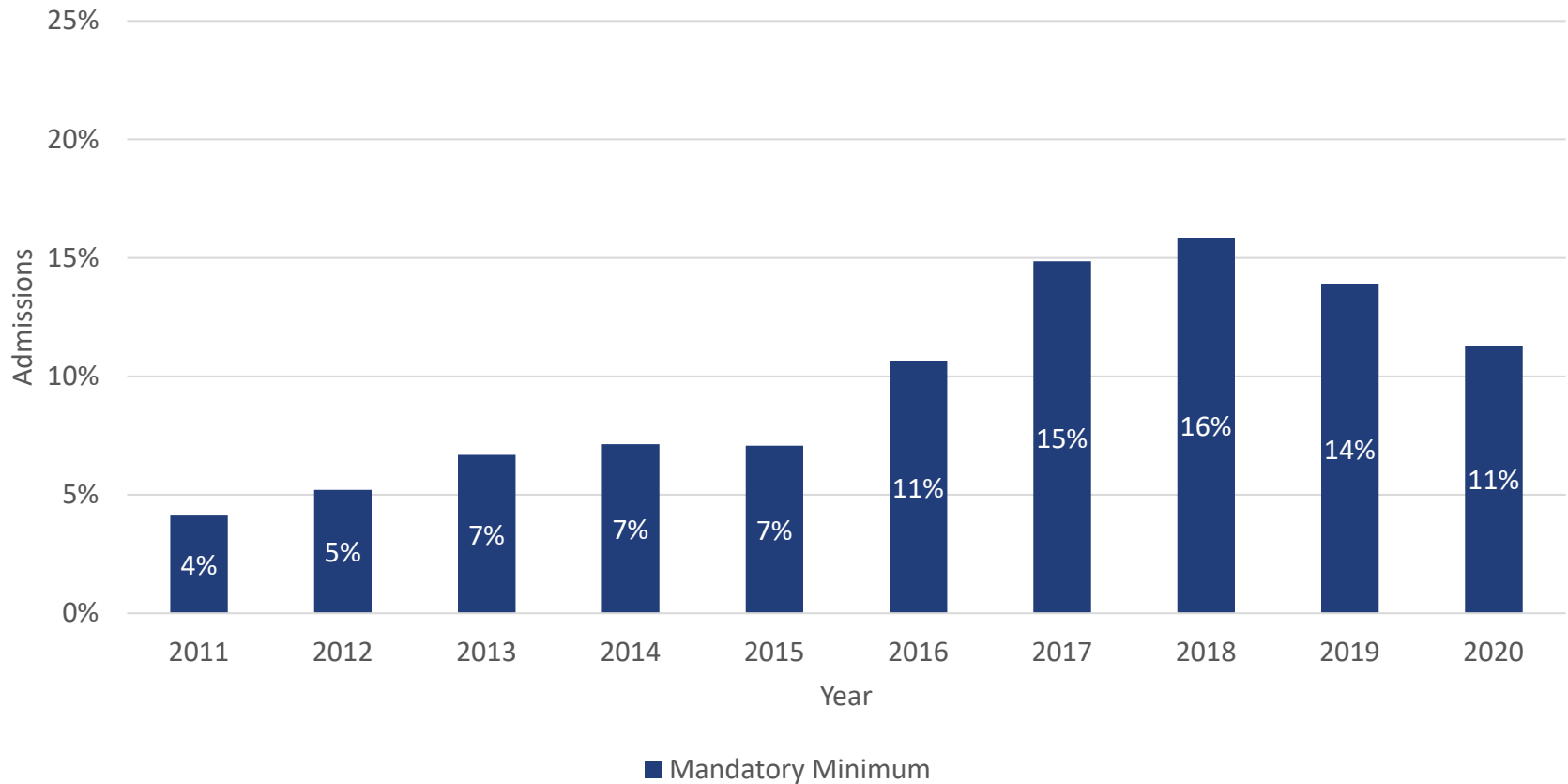
Habitual Offenders Account for Less Than 1% of Admissions Per Year

Total Number of Habitual Offenders, 2011-2020



Admissions With Mandatory Minimums Have More Than Doubled

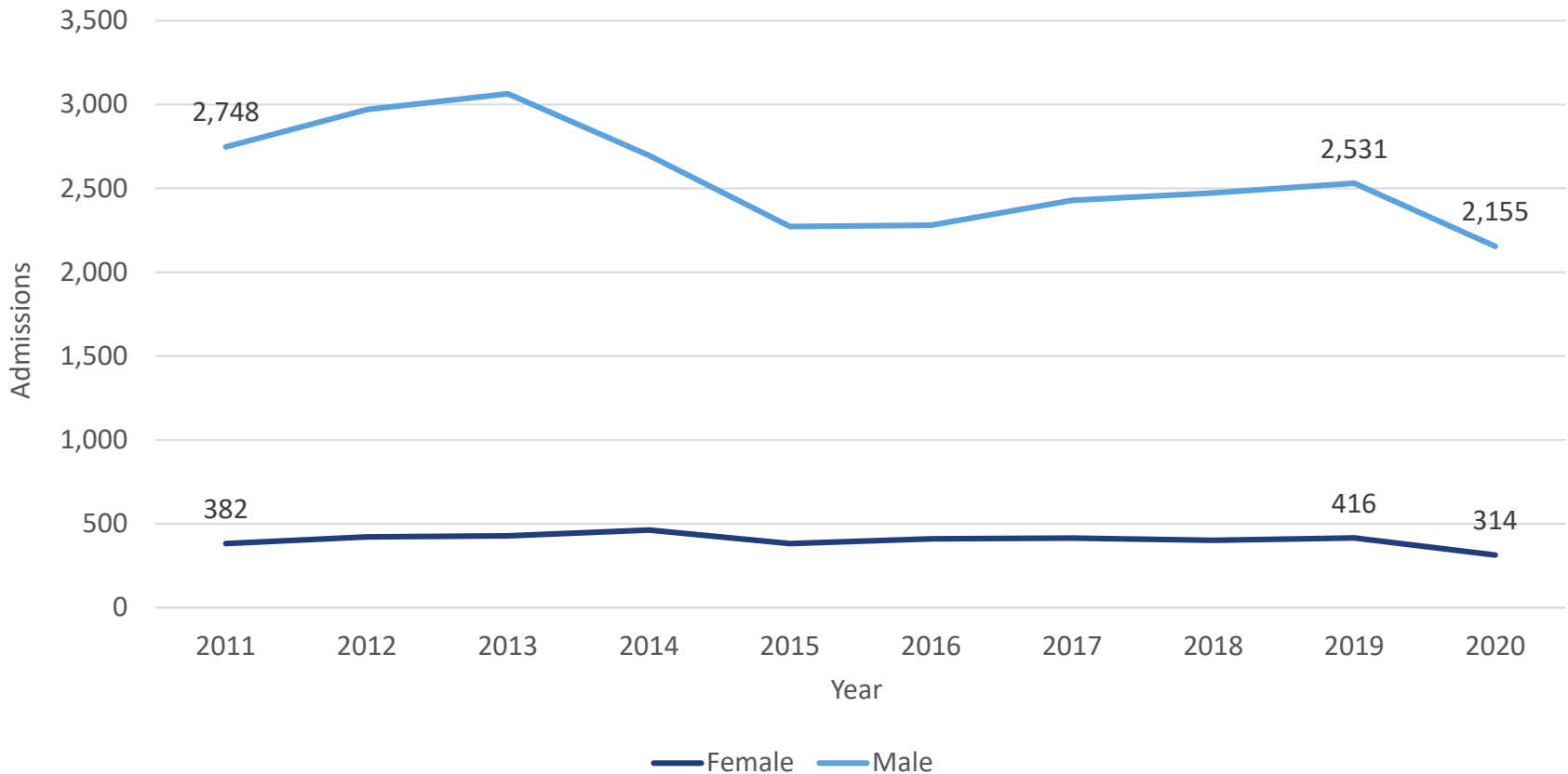
Percentage of Admissions with Mandatory Minimum Sentences, 2011 - 2020



NDCS Demographic Patterns

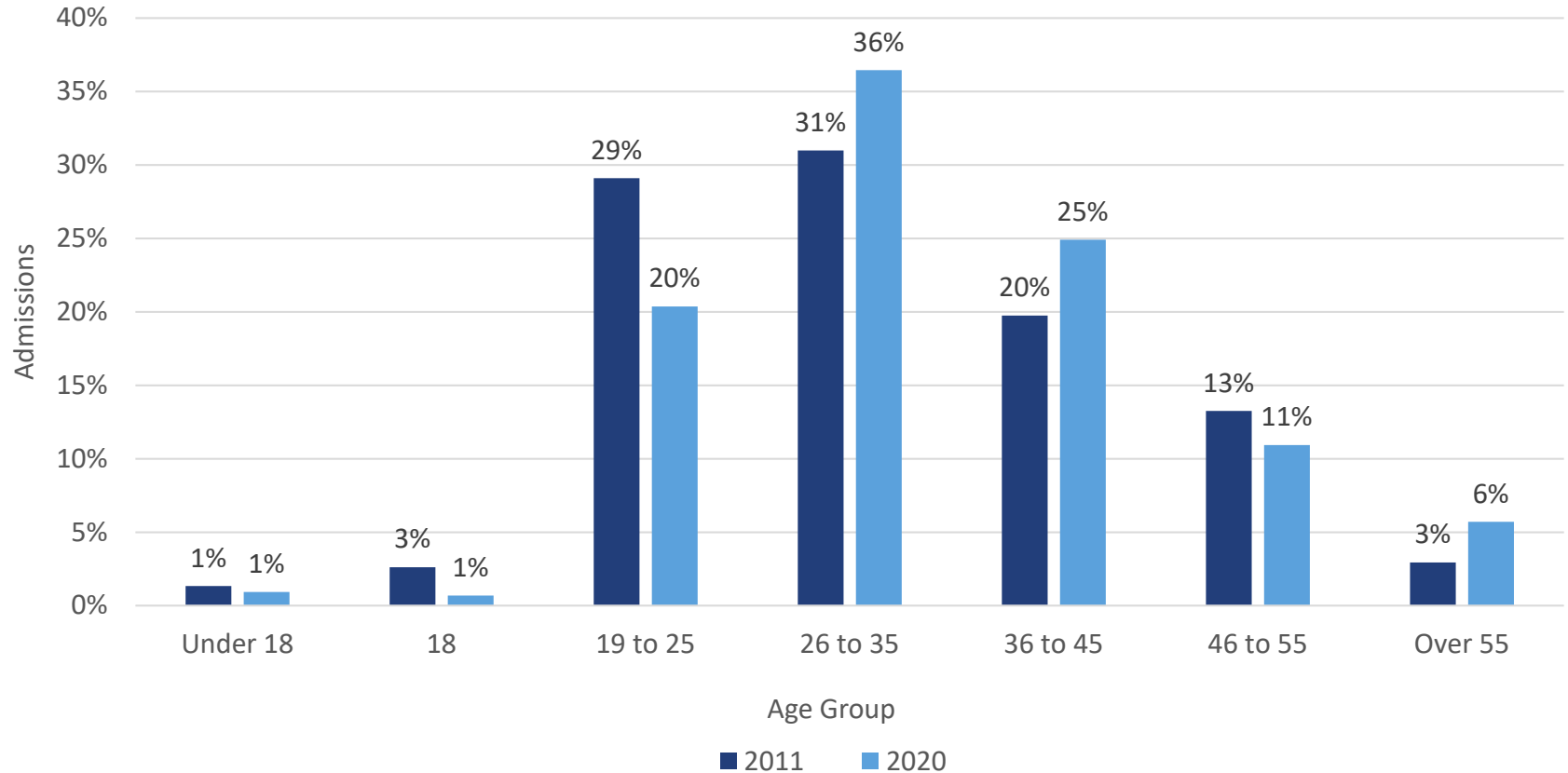
Male Admissions Down 22%; Female Admissions Down 18%

Prison Admissions by Gender, 2011 - 2020



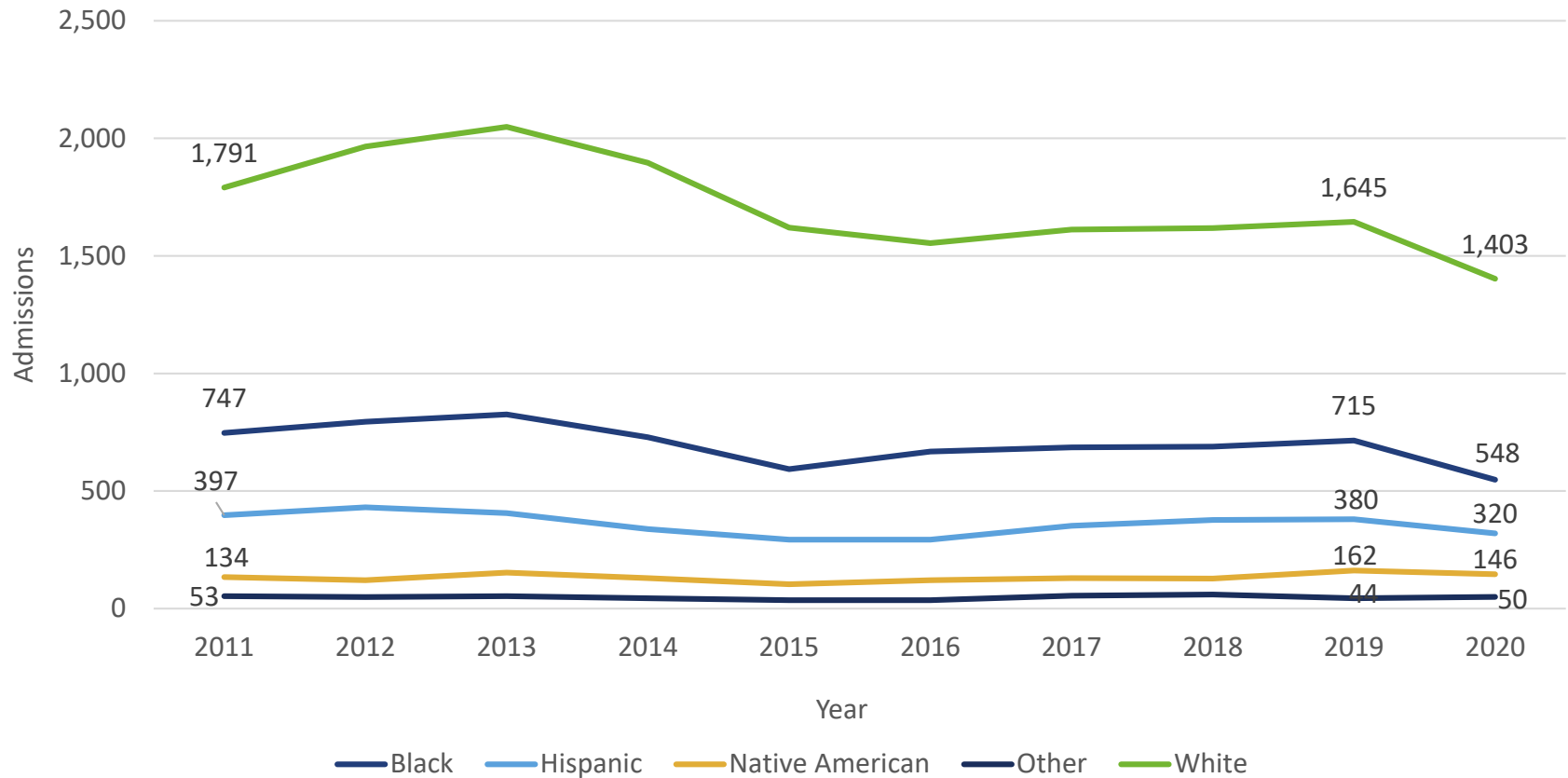
Most Admissions to NDCS Are 35 and Under But Average Age Increased

Admissions by Age Group, 2011 & 2020



Admissions for Native Americans Increased 9%; All Others Decreased

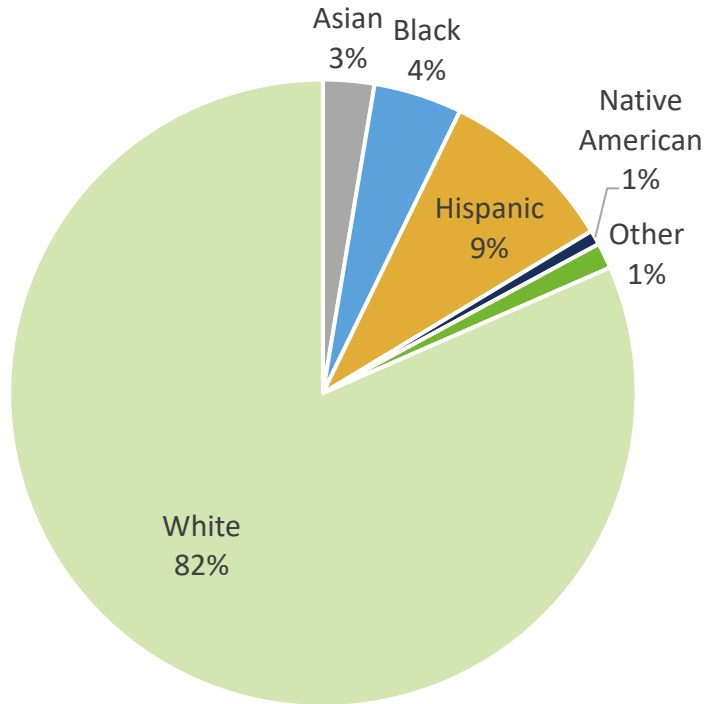
Prison Admissions by Race, 2011 - 2020



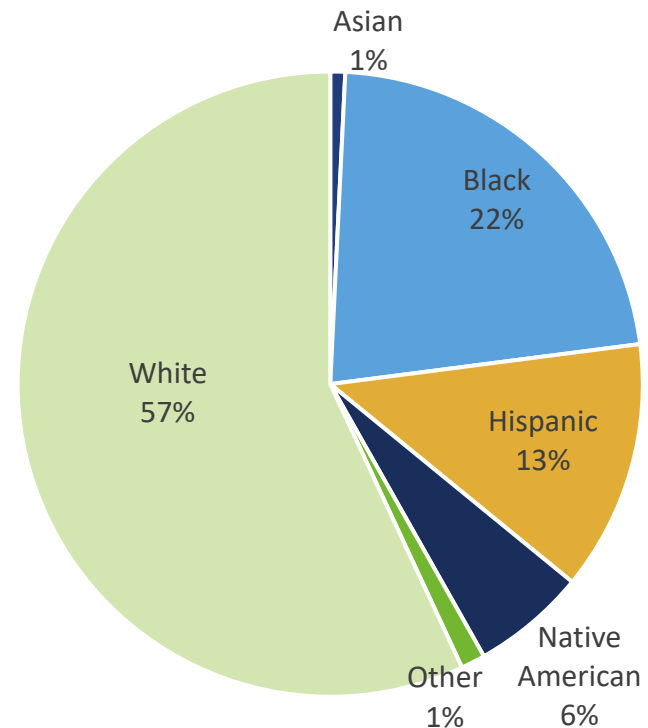
*Due to the small number of Asian, Hawaiian Islander, and Pacific Islander individuals in the dataset, they have been included in the Other category.

1 in 25 Nebraskans is Black, But 1 in 5 People Admitted to Prison is Black

NE Adult Population by Race,
2019



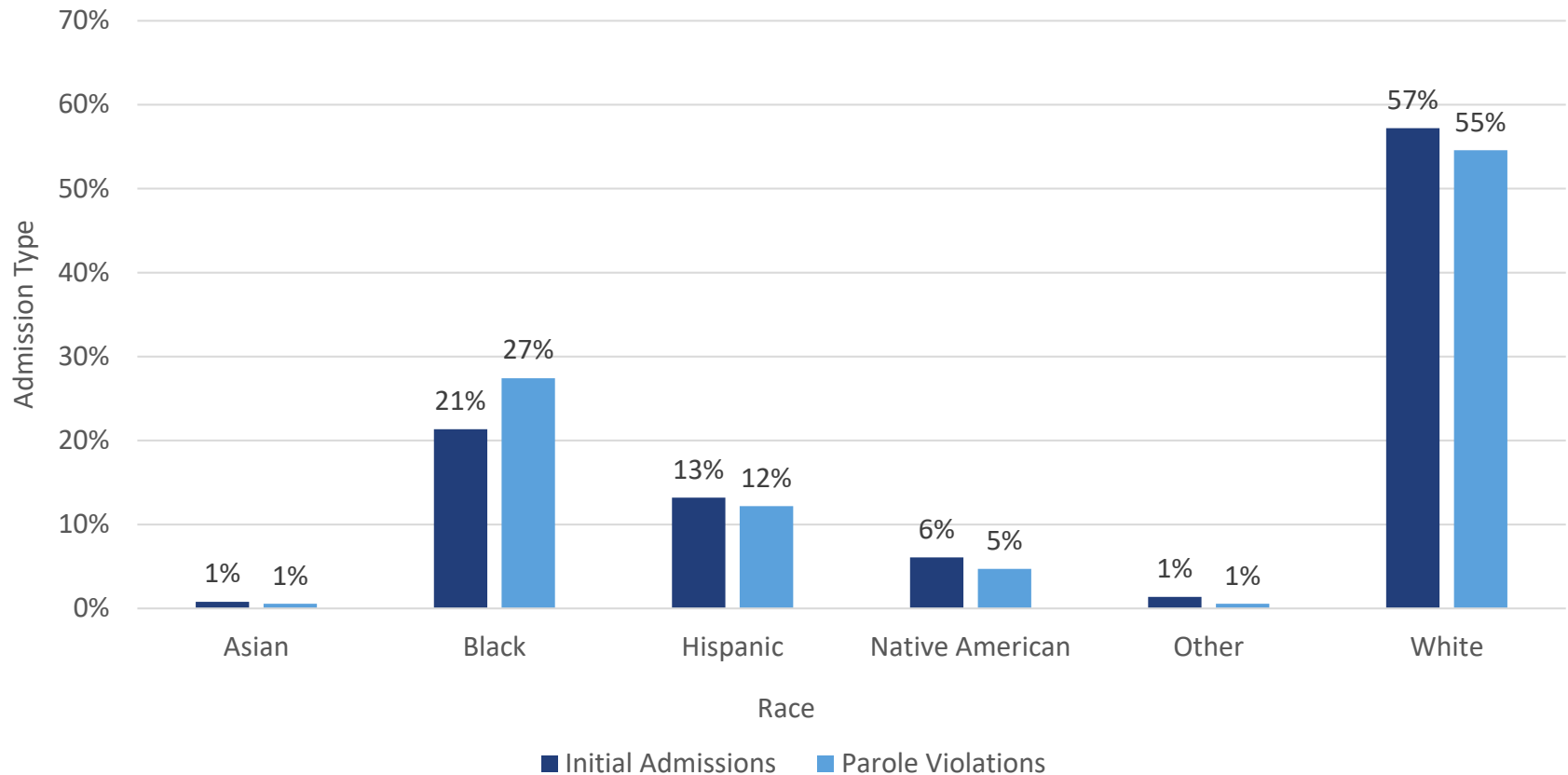
Admissions to NDCS by Race,
2020



*Due to the small number of Hawaiian Islander and Pacific Islander individuals in the dataset, they have been included in the Other category.

Black Individuals Overrepresented in Parole Violation Admissions

Distribution of Race by Initial Admissions v. Parole Revocation, 2020



Drug Crimes Are Top Offenses Across All Races

Top Offenses at Admission, 2020

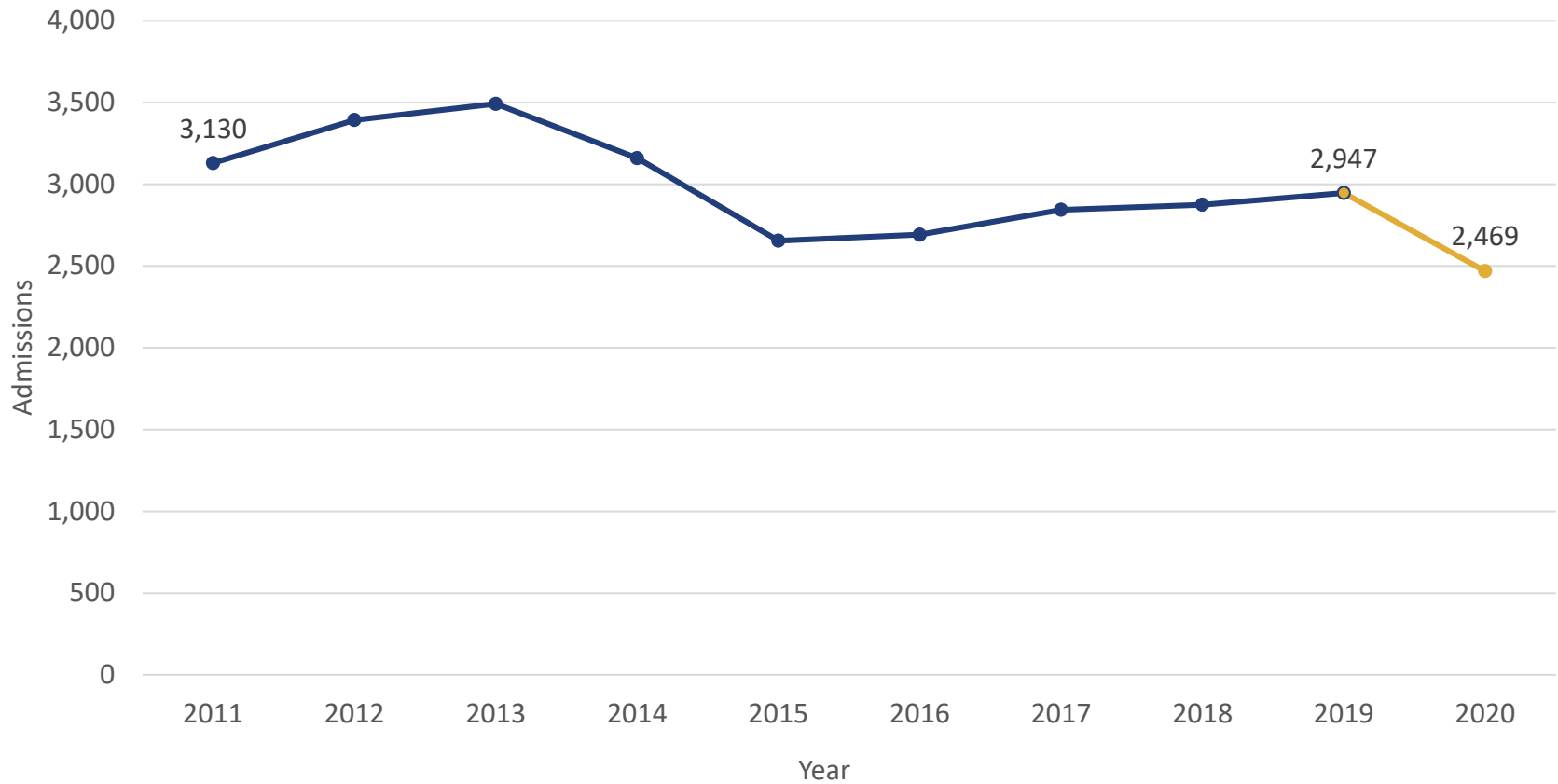
Black	Hispanic	Native American	White
Possession with Intent to Deliver or Distribute	Possession with Intent to Deliver or Distribute	Possession of a Controlled Substance (Except Marijuana)	Possession of a Controlled Substance (Except Marijuana)
Robbery	Possession of a Controlled Substance (Except Marijuana)	Terroristic Threats	Possession with Intent to Deliver or Distribute
Possession of a Controlled Substance (Except Marijuana)	Sexual Assault (1 st Degree)	Possession with Intent to Deliver or Distribute	Terroristic Threats

*Safekeepers excluded from analysis. Due to the small number of Asian and individuals identified as an Other race, they have also been excluded from this analysis.

NDCS Geographic Patterns

Total Admissions Down 21%

Prison Admissions, 2011 - 2020



More than Half of All Admissions from Just Two Counties

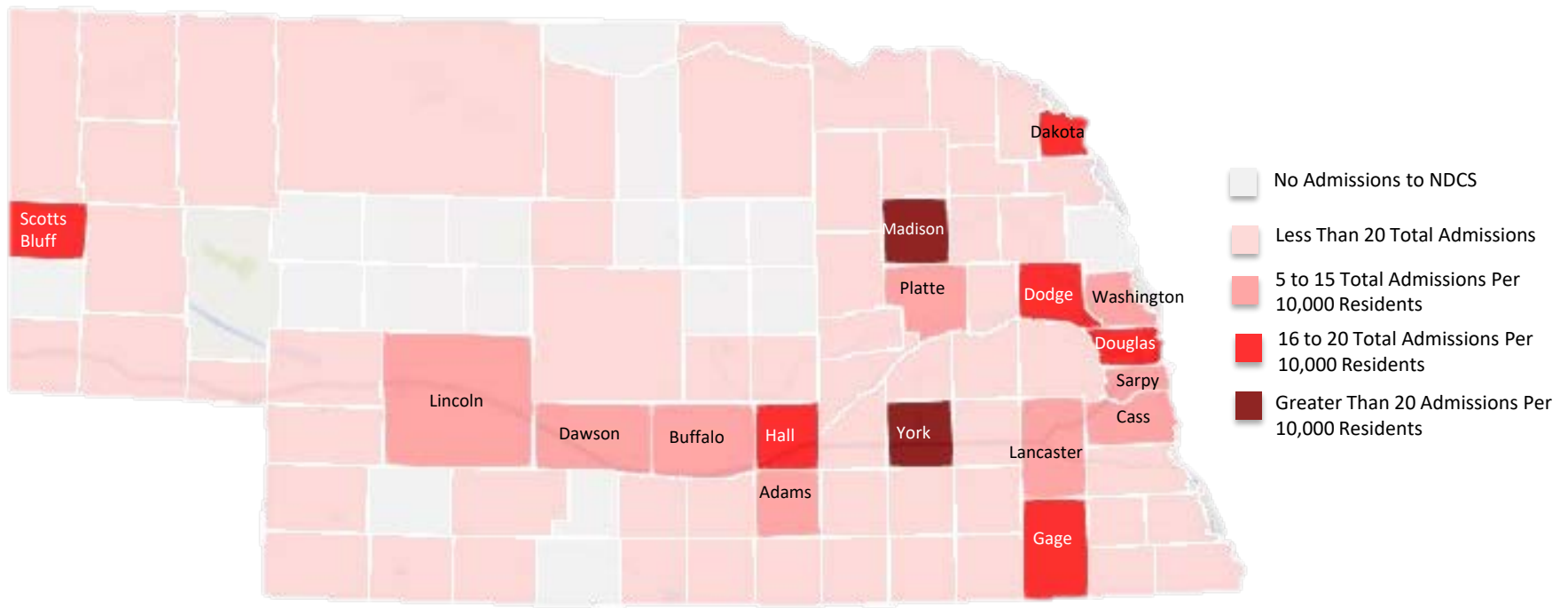
Counties with the Highest Number of Admissions, 2020

County	Total Number of Admissions	% of Statewide Admissions	% of Total Nebraska Population
Douglas	906	38%	30%
Lancaster	347	15%	17%
Madison	109	5%	2%
Sarpy	104	4%	10%
Hall	98	4%	3%
Buffalo	76	3%	3%
Dodge	64	3%	2%
Scotts Bluff	60	3%	2%
Platte	46	2%	2%
Dakota	40	2%	1%
Total	1,850	79%	72%

*Analysis limited to counties with at least 20 admissions to NDCS; safekeepers excluded from figures.

Madison County Has Highest Admission Rate Per 10,000 Residents

Total Admissions to NDCS Per 10,000 Residents



*Analysis limited to counties with at least 20 admissions to NDCS; safekeepers excluded from figures.

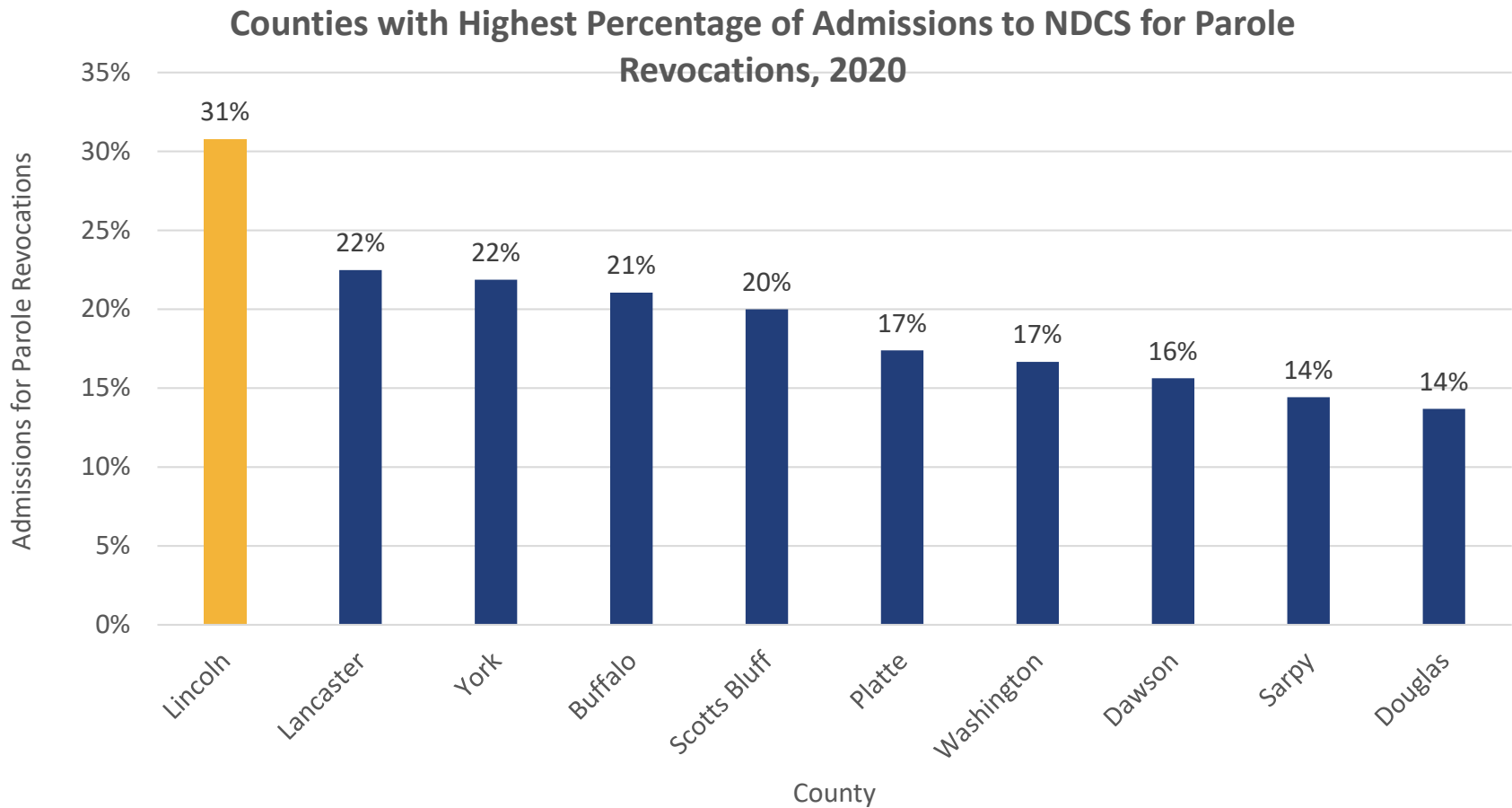
Madison County Has Highest Initial Admission Rate Per 10,000 Residents

Counties with the Highest Rate of Initial Admissions Per 10,000 Residents, 2020

County	Total Number of Initial Admissions	Rate Per 10,000 Residents
Madison	92	26.3
Dakota	36	17.9
York	22	16.2
Dodge	55	15.2
Gage	30	13.9
Hall	82	13.3
Scotts Bluff	46	13.1
Douglas	756	13.0
Dawson	26	11.2
Buffalo	56	11.1

*Analysis limited to counties with at least 20 admissions to NDCS; safekeepers excluded from figures.

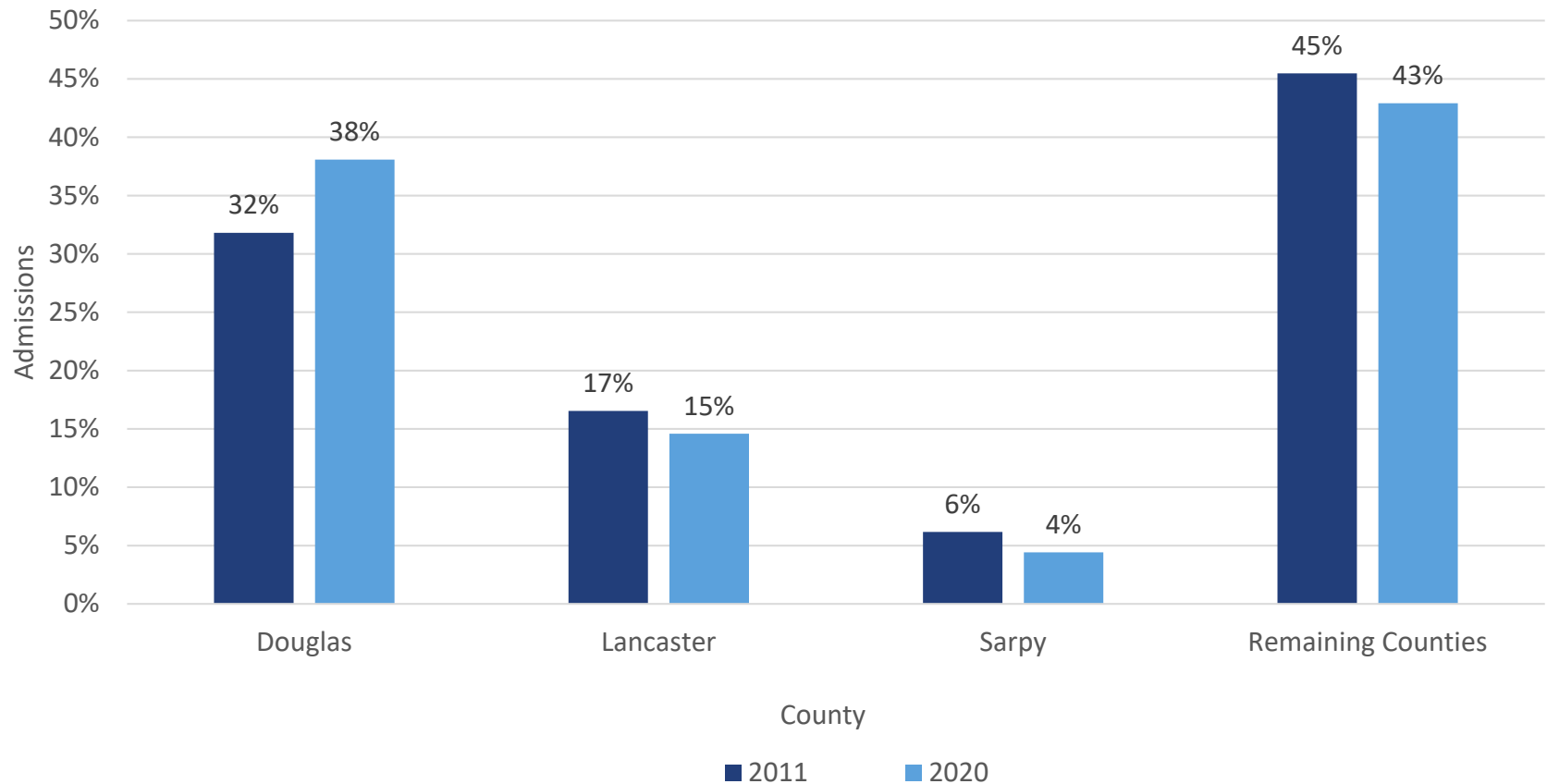
Lincoln Has Highest Percentage of Parole Revocation Admissions



*Analysis limited to counties with at least 20 admissions to NDCS; safekeepers excluded from figures.

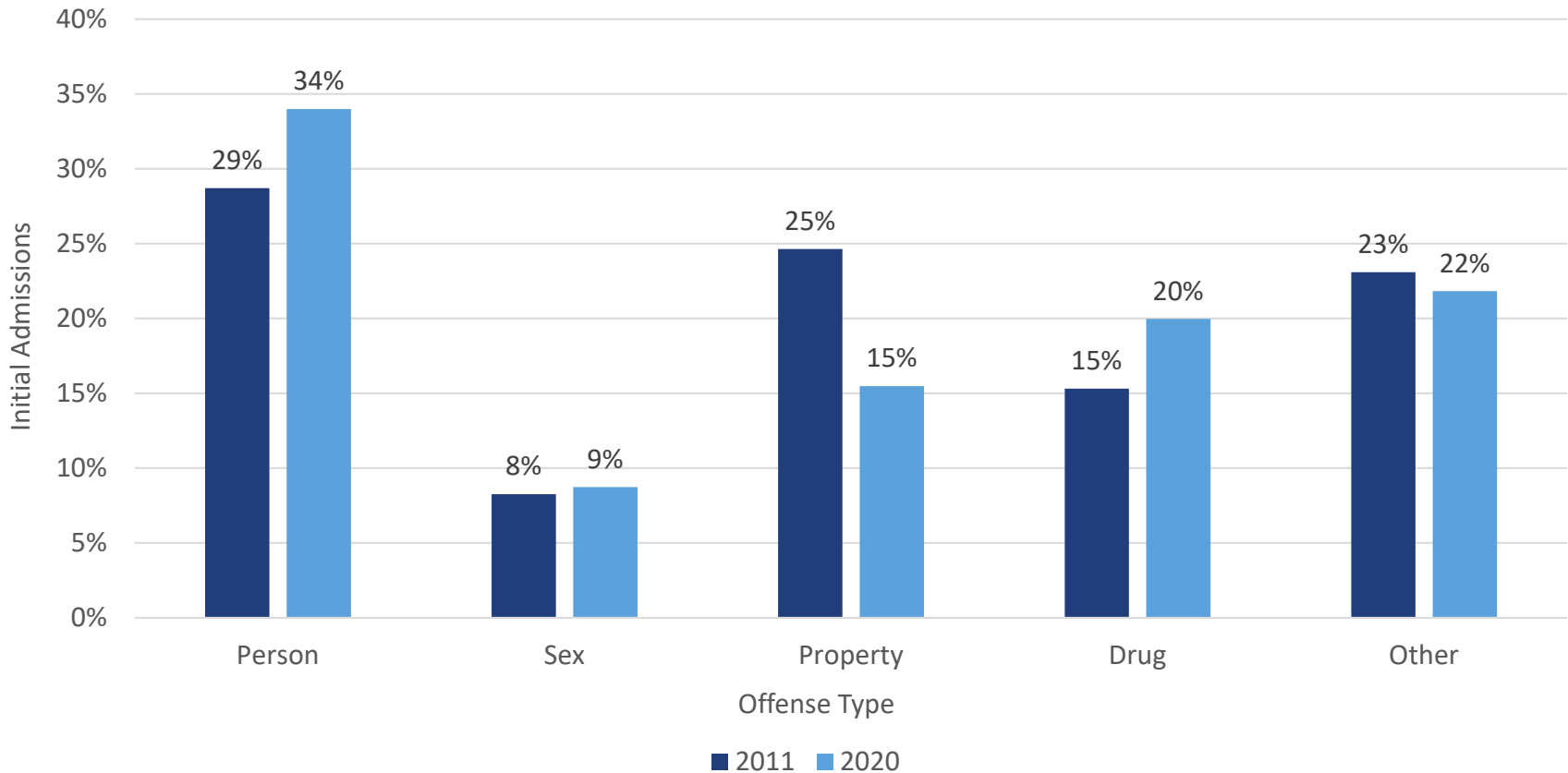
Despite State Decreases, Total Admissions Up from Douglas County

Prison Admissions by Region, 2011 & 2020



Douglas County Increase Driven by Growth in Drug and Person Offenses

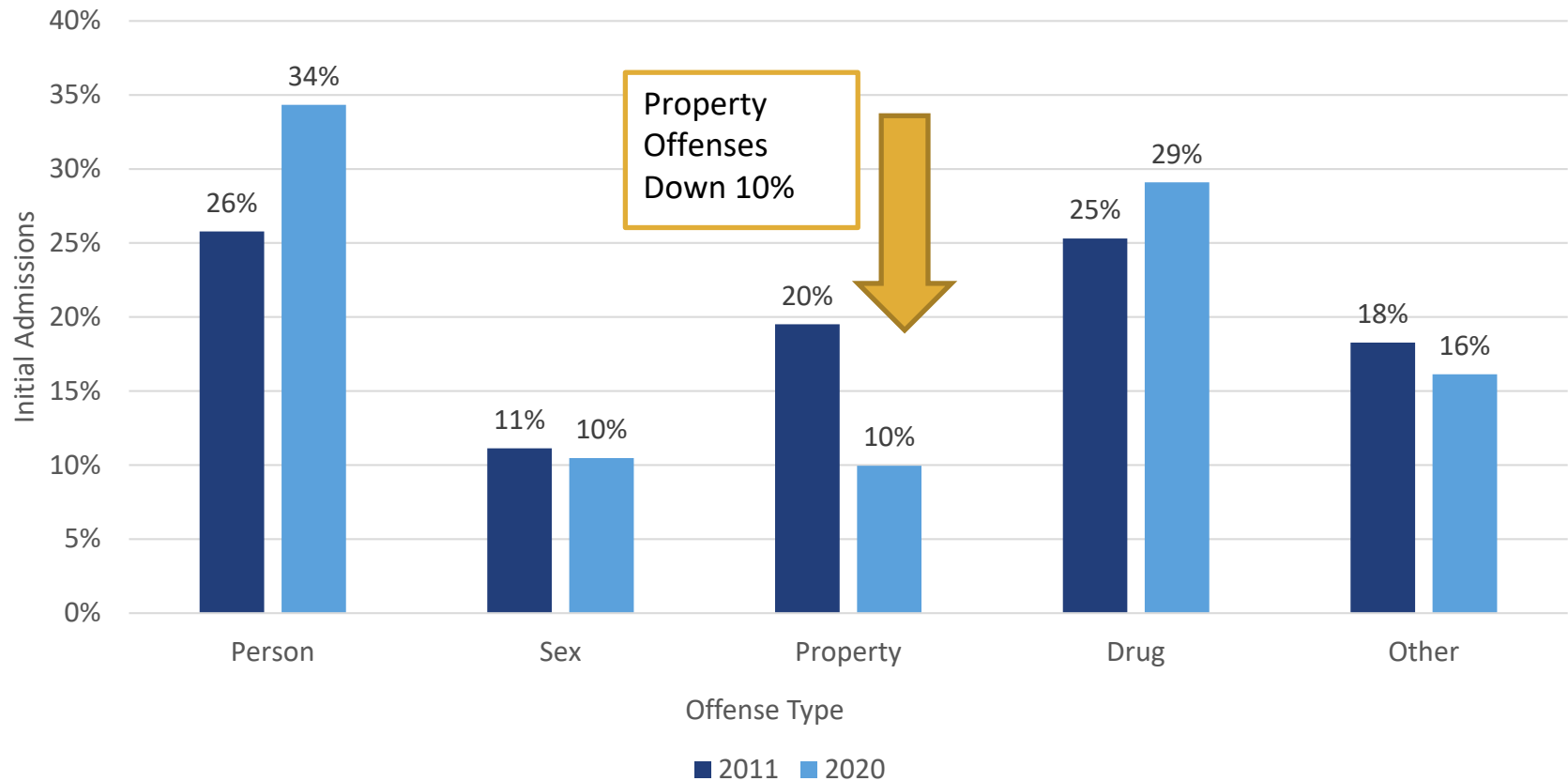
Initial Admissions by Offense Type – Douglas County Only, 2011 & 2020



*Safekeepers excluded from figures.

In Counties Other Than Douglas, Decrease Driven by Property Offenses

Initial Admissions by Offense Type (Excluding Douglas County) 2011 & 2020



*Safekeepers excluded from figures.

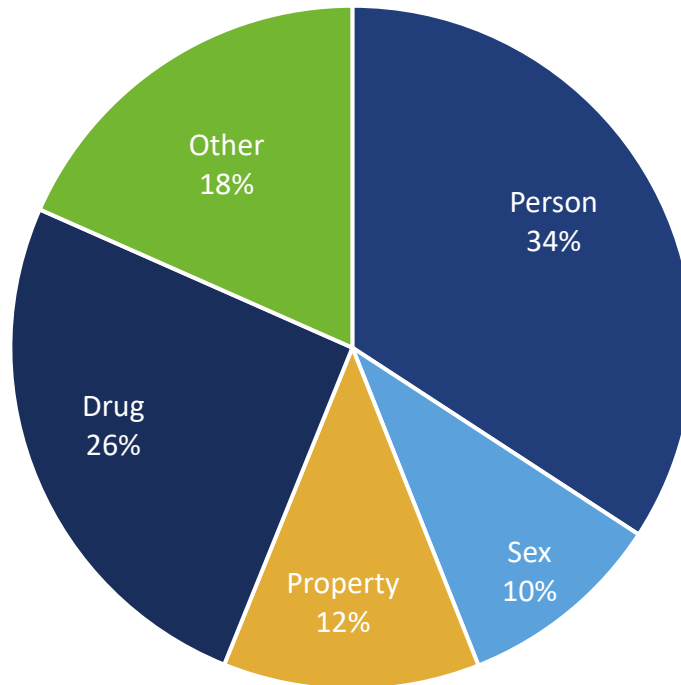
Key Takeaways

- Admissions have decreased 6% between 2011 and 2019
 - This is largely driven by a decrease in admissions of initial admits, whereas parole revocations are increasing
- Nearly 60% of individuals being admitted on a new offense had no prior NCDS involvement
- Admissions have increased for the Native population, and Black individuals are largely overrepresented in admissions
- While admissions decreased statewide, admissions increased in Douglas County, largely for person and drug offenses

Offense Patterns: Offense Type

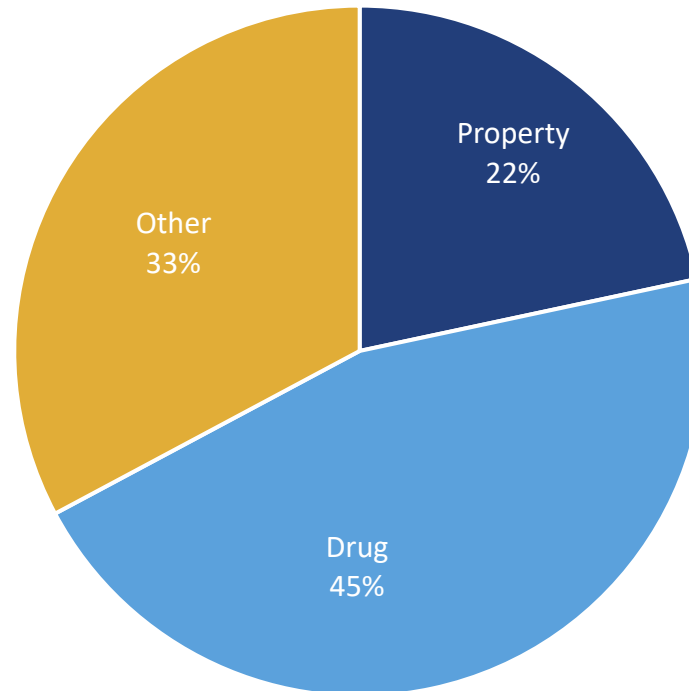
More Than Half of Initial Admissions Are For Non-Person/Non-Sex Offenses

Initial Admissions by Offense Category, 2020



Drug Offenses Account For Nearly Half of Non-Person/Non-Sex Offenses

Initial Admissions for Non-Person/Non-Sex Offenses by Offense Category, 2020



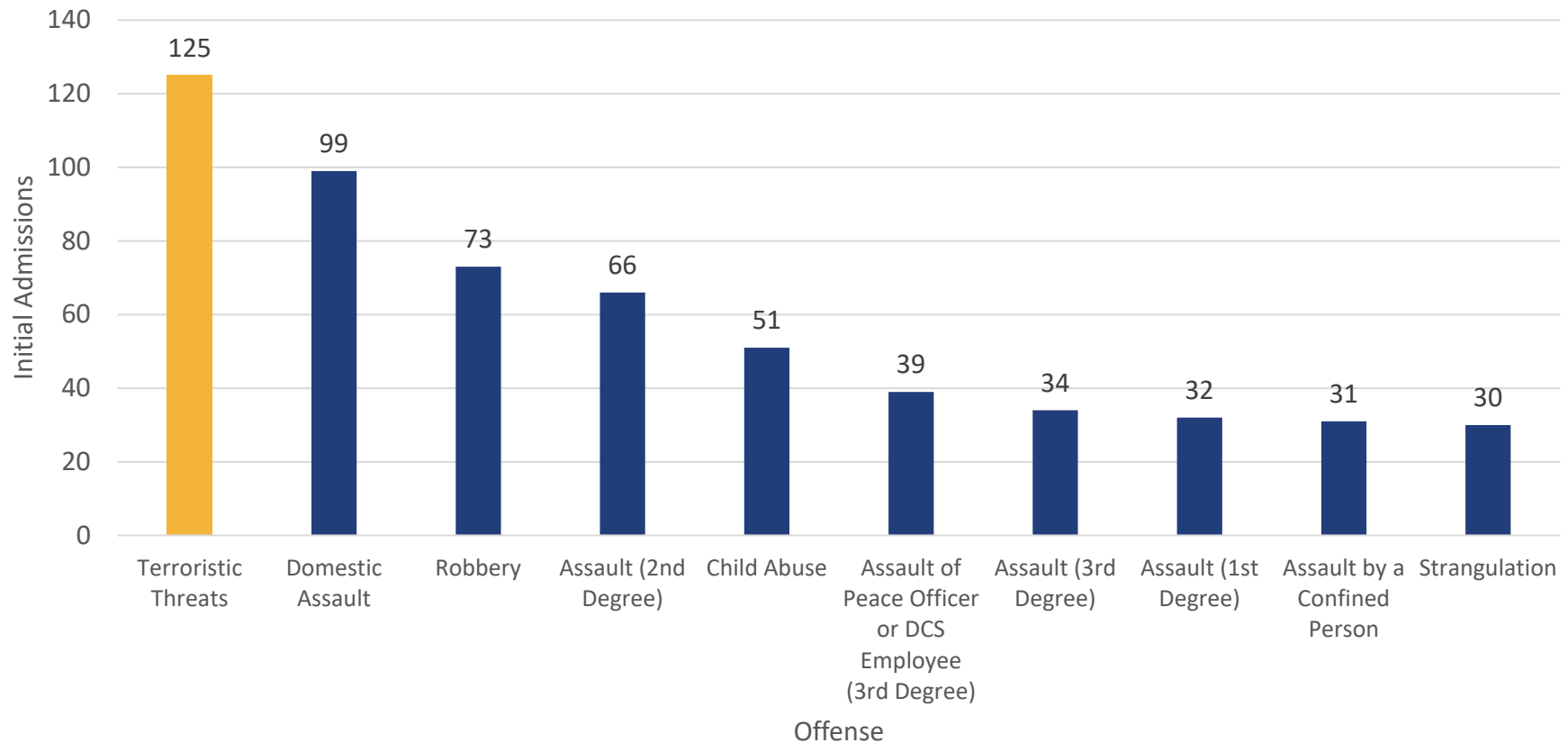
*Safekeepers excluded from figures.

5 of Top 10 Offenses at Admission Are Non-Person/Non-Sex

Offense	Percent of Initial Admissions 2020
Possession of a Controlled Substance (Except Marijuana)	13%
Possession with Intent to Deliver or Distribute	11%
Terroristic Threats	6%
Possession of a Deadly Weapon by a Prohibited Person	5%
Domestic Assault	5%
Burglary	5%
Robbery	4%
Driving While Intoxicated	4%
Assault (2 nd Degree)	3%
Sexual Assault (1 st Degree)	3%

Terroristic Threat Most Common Among Person Offenses

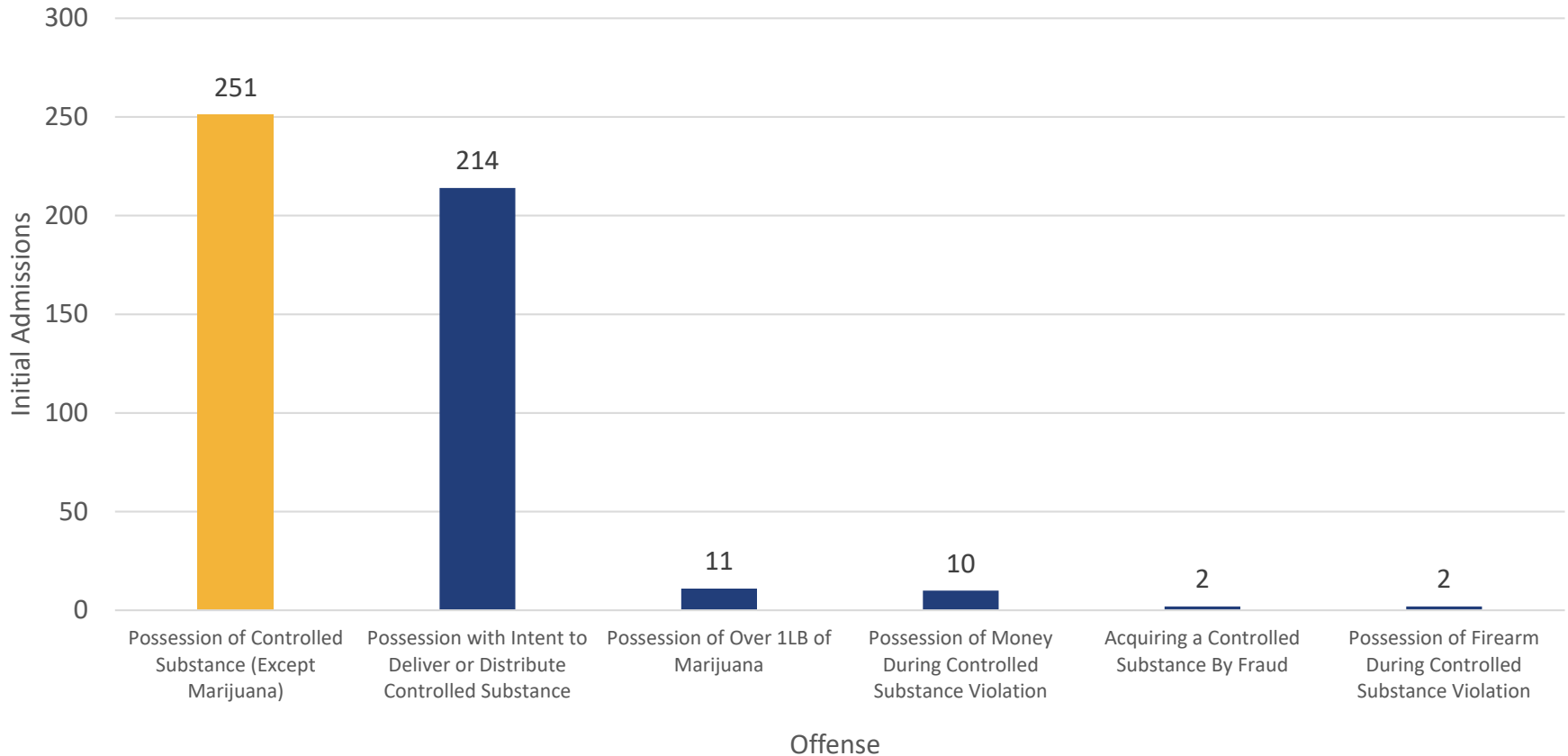
Initial Admissions for Person Offenses by Offense, 2020



*Safekeepers excluded from figures.

Possession of a Controlled Substance (Except Marijuana) Most Common Among Drug Offenses

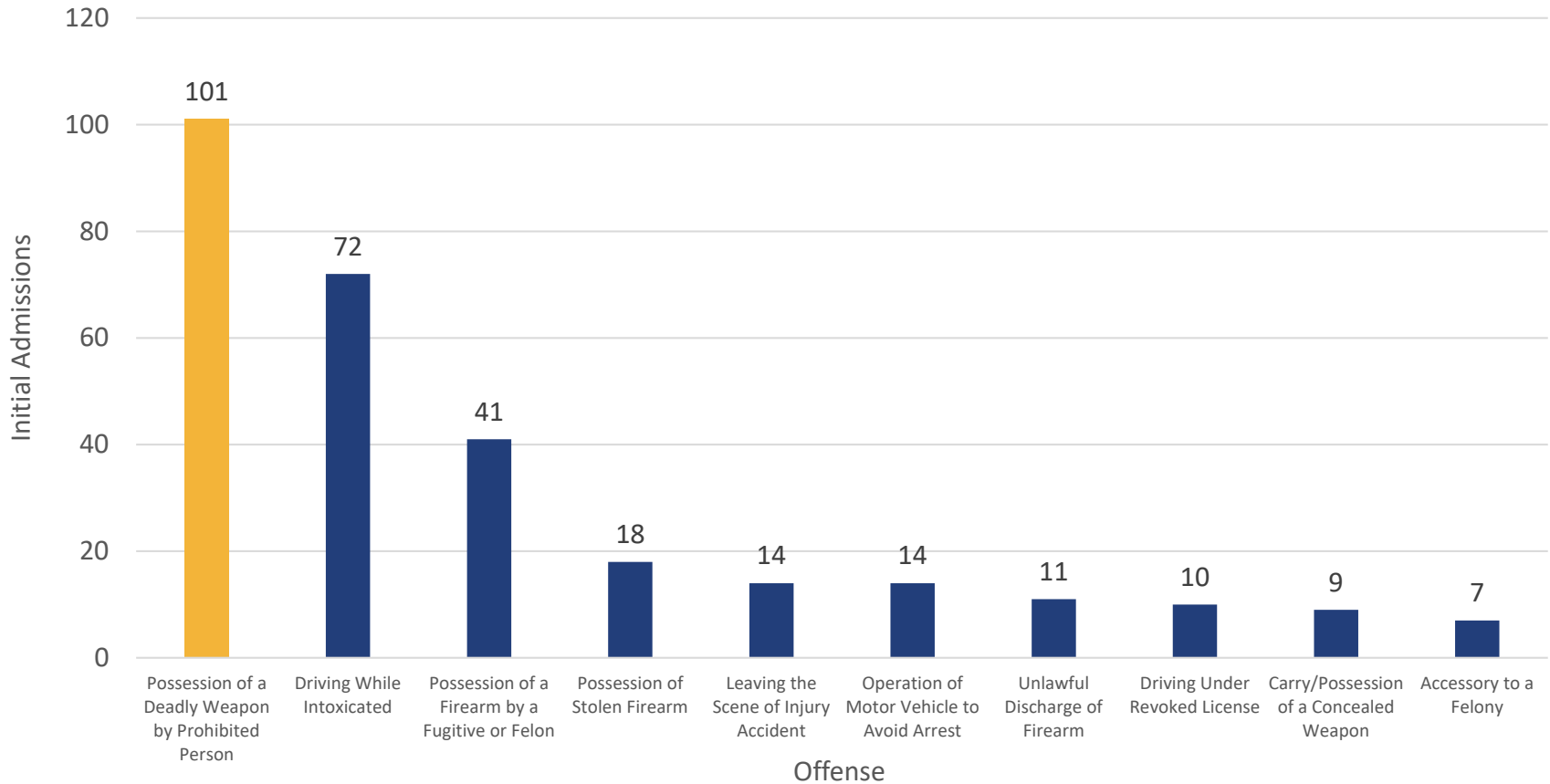
Initial Admissions for Drug Offenses by Offense, 2020



*Safekeepers excluded from figures.

Possession of a Deadly Weapon is Most Common Among Other Offenses

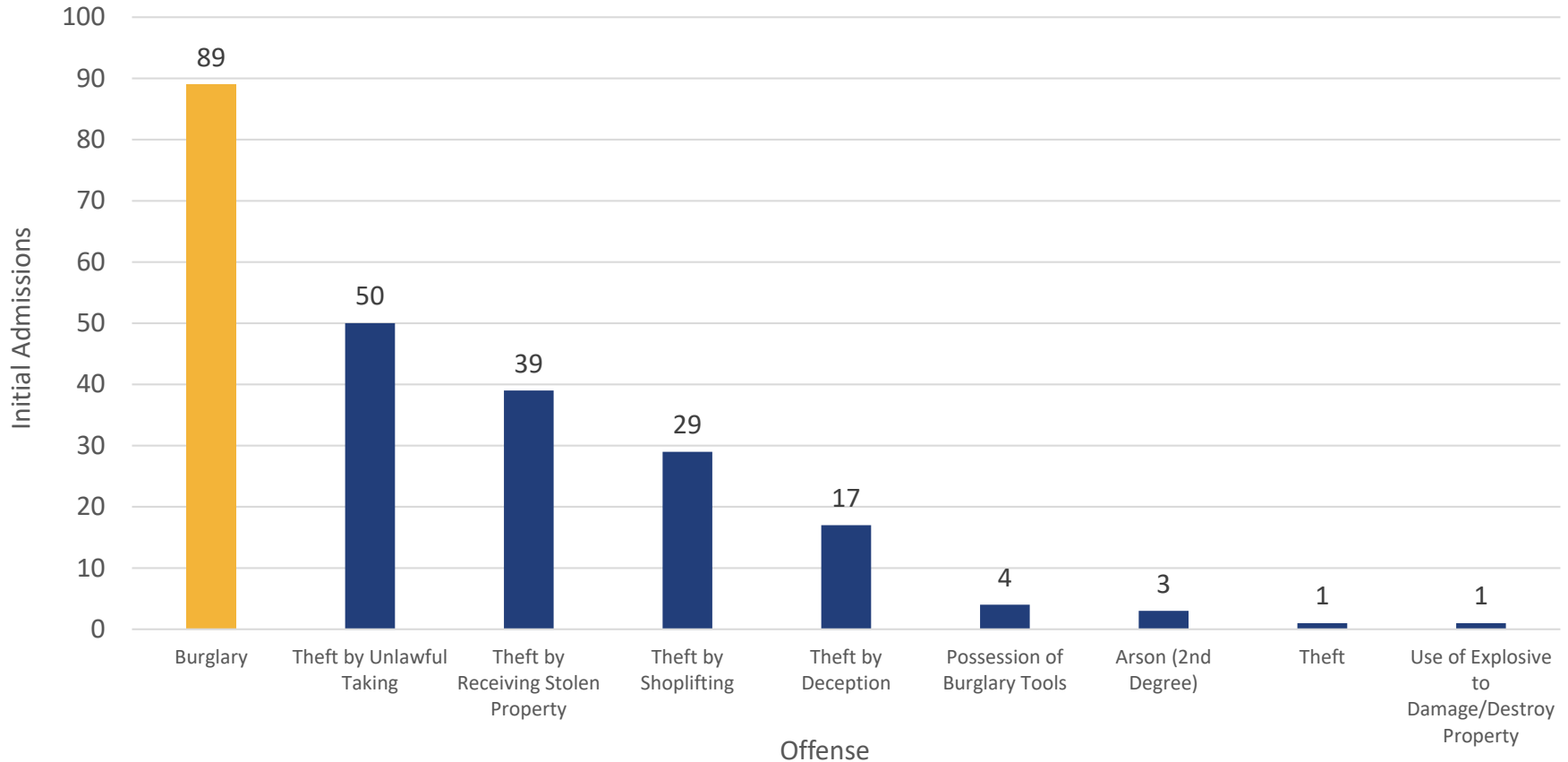
Initial Admissions for Other Offenses by Offense, 2020



*Safekeepers excluded from figures.

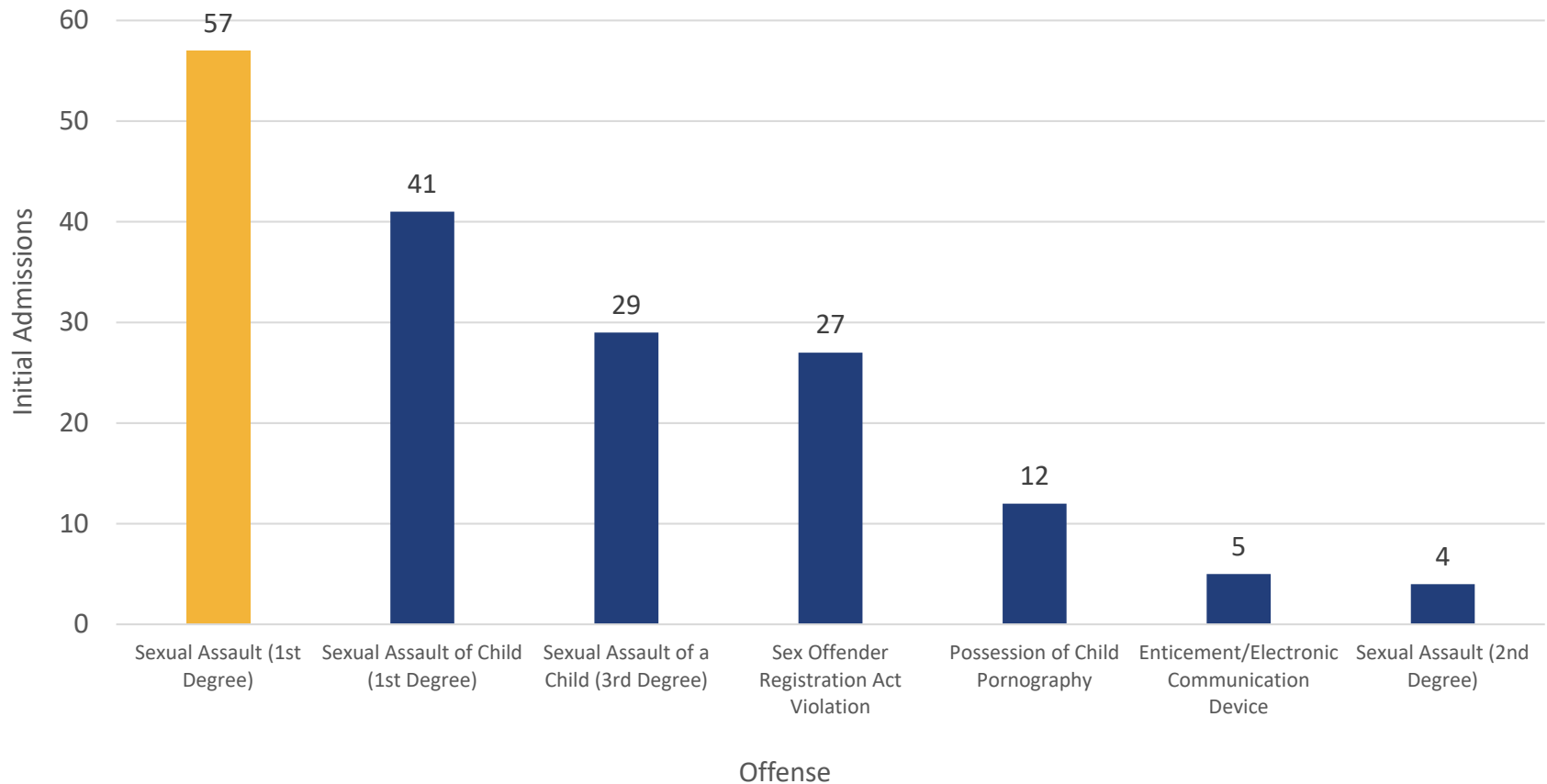
Burglary Most Common Among Property Offenses

Initial Admissions for Property Offenses by Offense, 2020



Sex Assault (1st Degree) Most Common Among Sex Offenses

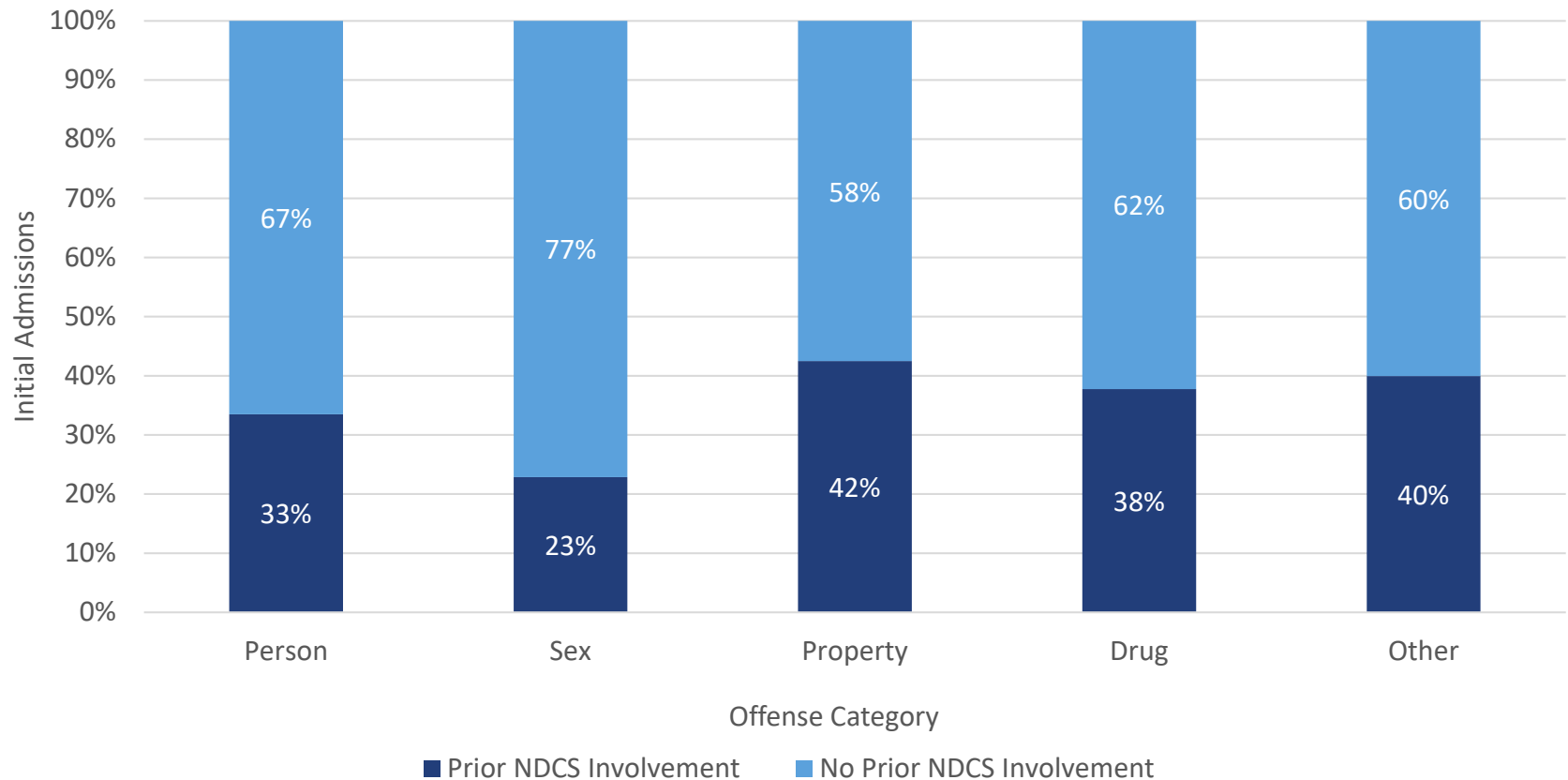
Initial Admissions for Sex Offenses by Offense, 2020



*Safekeepers excluded from figures.

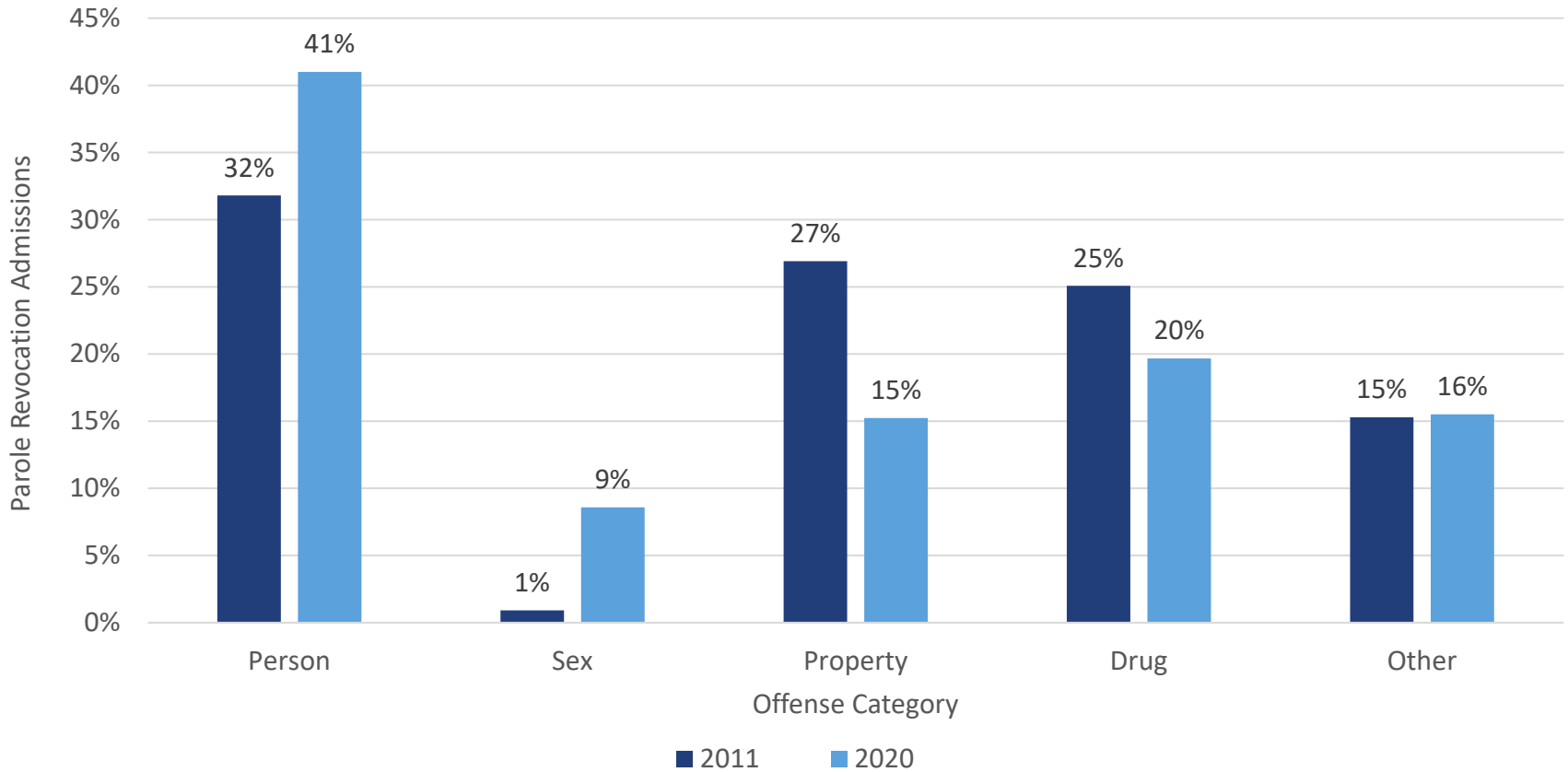
Majority of Admissions of Each Offense Type Had No NDCS History

Initial Admissions by Previous NDCS Involvement and Offense Category, 2020



Half of Parole Revocation Admissions From Individuals on Parole for Non-Person/Non-Sex Offenses

Original Offense of Parole Revocation Admissions, 2011 & 2020



Offense Patterns: Offense Class

Sentencing Ranges for Felonies

Offense Class	Sentence Range	Examples
Felony I	Death	Aggravated first degree murder
Felony IA	Life	First degree murder, kidnapping
Felony IB	20 years – Life	140+ grams possession*
Felony IC	5 years (mandatory) – 50 years	28-140 grams possession*
Felony ID	3 years (mandatory) – 50 years	10-28 grams possession*
Felony II	1 year – 50 years	Possession of a firearm while committing a felony, first degree sexual assault

Sentencing Ranges for Felonies

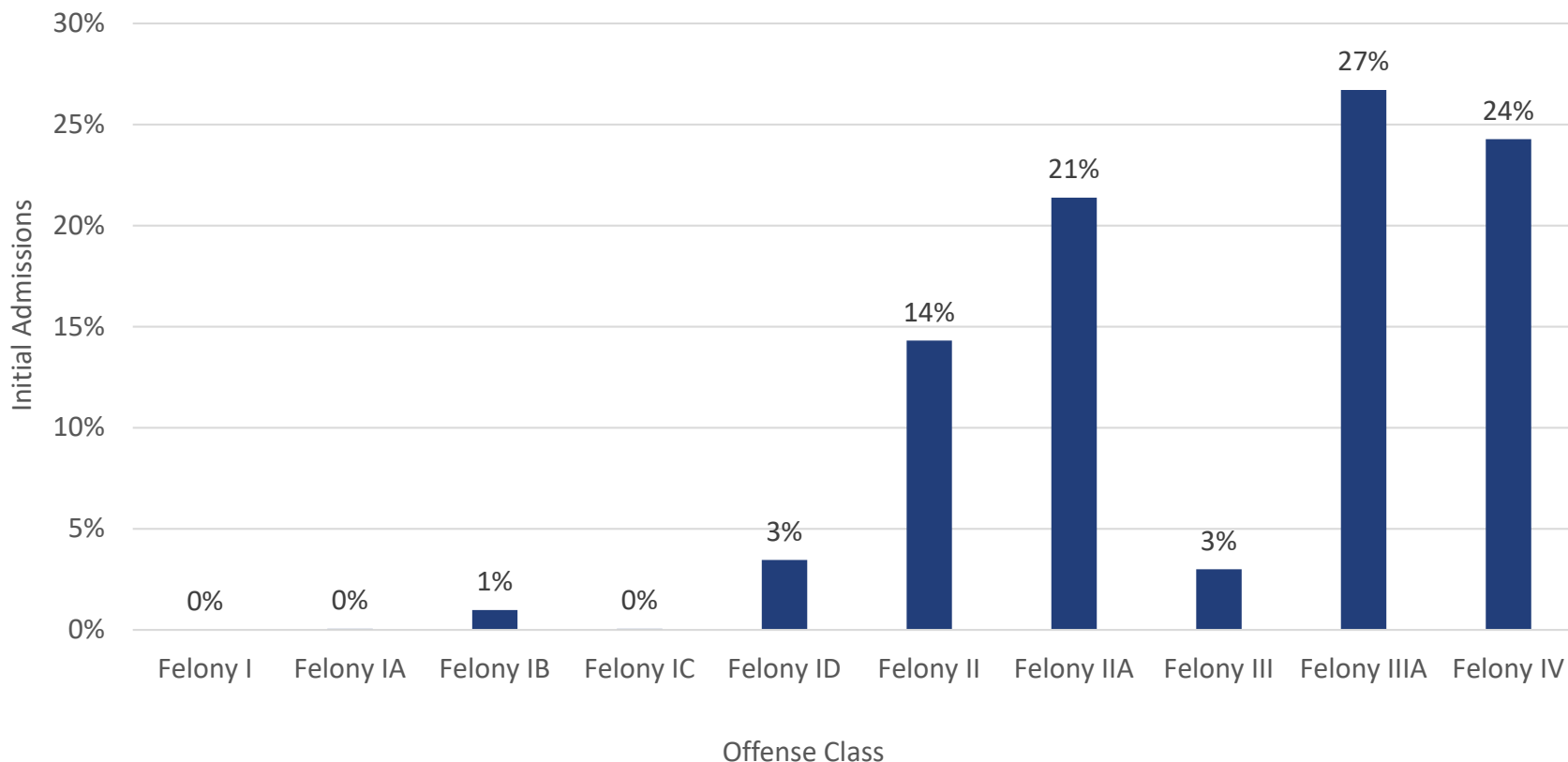
Offense Class	Sentence Range	Examples
Felony IIA	No min – 20 years	Burglary, Theft \$5000+
Felony III	No min – 4 years and/or \$25k fine	Possession of a deadly weapon (non-firearm) while committing a felony
Felony IIIA	No min – 3 years and/or \$10k fine	Schedule IV or V commercial drug offenses*
Felony IV	No min – 2 years and/or \$10k fine	Possession of a controlled substance (1lb or more for marijuana), Theft \$1500-5000

Note: Sentence ranges apply to all convictions from 8/30/15 onward.

*Commercial Drug Offenses include: manufacture, distribute, deliver, dispense, or possess with the intent to do any of those things.

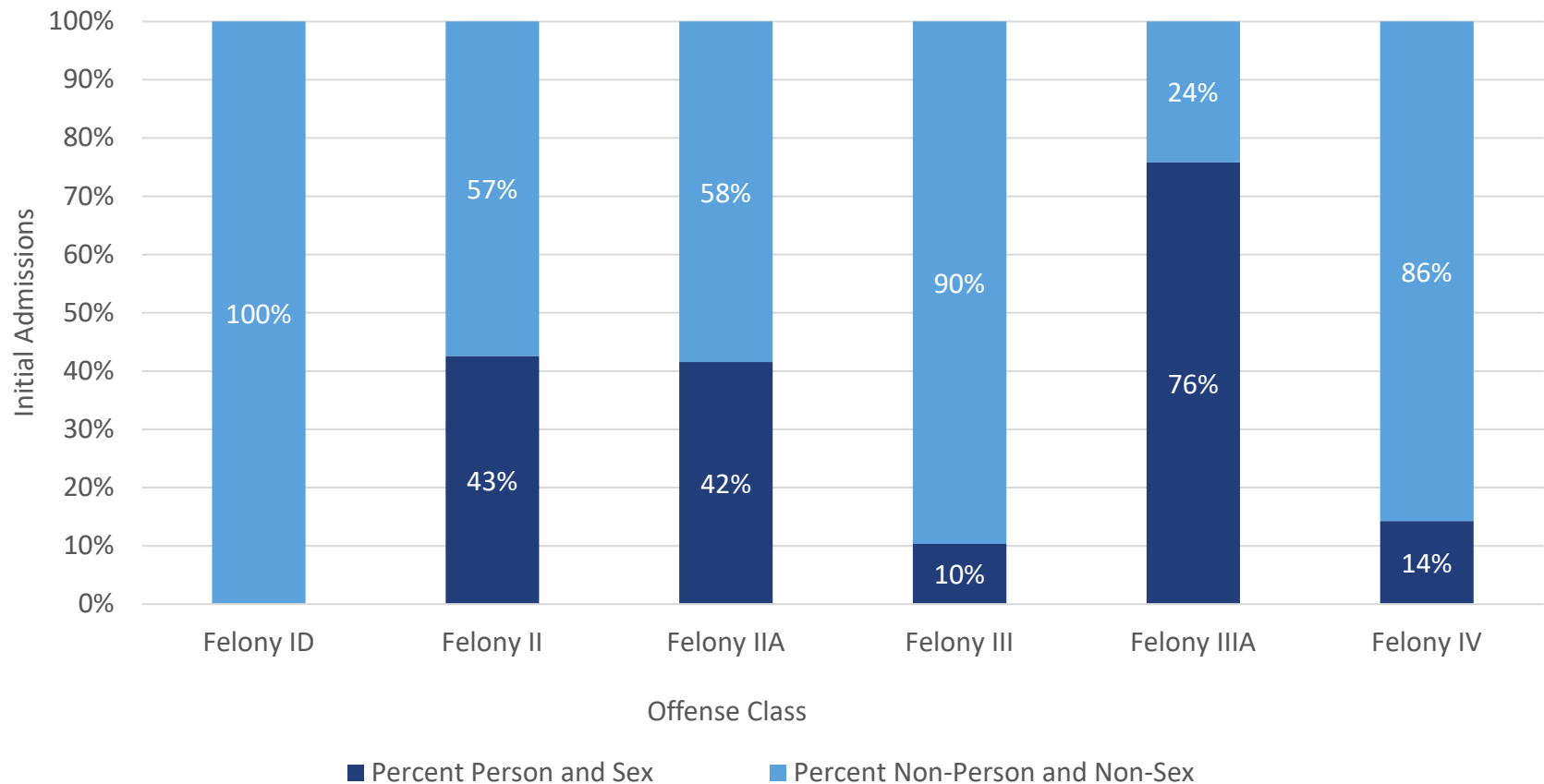
Over Half of Initial Admissions For Felony IIIA or IV Offenses

Initial Admissions by Felony Offense Class, 2020



Over 50% of Nearly All Offense Classes Are Non-Person and Non-Sex Offenses

Initial Admissions by Felony Offense Class and Offense Types, 2020



Possession of a Deadly Weapon Most Common Felony ID Offense

Offense	Percent of Felony ID, 2020
Possession of Deadly Weapon by a Prohibited Person	46%
Possession of Weapon by a Prohibited Person	22%
Possession with Intent to Deliver or Distribute	21%
Unlawful Discharge of a Firearm	6%
Possession of a Controlled Substance (Except Marijuana)	4%
Total	100%

*Safekeepers excluded from figures.

Possession with Intent to Deliver Most Common Felony II Offense

Offense	Percent of Felony II, 2020
Possession with Intent to Deliver or Distribute	34%
Possession of a Deadly Weapon by a Prohibited Person	11%
Robbery	11%
Sexual Assault (1st Degree)	11%
Sexual Assault of Child (1st Degree)	9%
Possession of Weapon by a Fugitive or Felon	8%
Assault (1st Degree)	5%
Possession of a Controlled Substance (Excluding Marijuana)	2%
Unlawful Discharge of a Firearm	2%
Use of a Firearm to Commit a Felony	1%
Total	93%

*Safekeepers excluded from figures.

Possession with Intent to Deliver Most Common Felony IIA Offense

Offense	Percent of Felony IIA, 2020
Possession with Intent to Deliver or Distribute	19%
Burglary	15%
Assault (2nd Degree)	10%
Robbery	10%
Sexual Assault (1st Degree)	6%
Driving While Intoxicated	6%
Assault (1st Degree)	4%
Theft by Receiving Stolen Property	4%
Possession of Receiving Stolen Firearm	3%
Theft by Unlawful Taking	3%
Total	80%

*Safekeepers excluded from figures.

Arson Most Common Felony III Offense

Offense**	Percent of Felony III, 2020
Arson (2nd Degree)	55%
Defacing a Firearm	7%
Escape	7%
Forgery (1st Degree)	5%
Fraudulent Insurance Act	5%
Leaving the Scene of Injury Accident	3%
Total	83%

*Safekeepers excluded from figures.

**Ten additional offenses accounted for 1 initial admission each.

Terroristic Threats Most Common Felony IIIA Offense

Offense	Percent of Felony IIIA, 2020
Terroristic Threats	21%
Domestic Assault	15%
Driving While Intoxicated	9%
Child Abuse	6%
Burglary	5%
Sexual Assault of a Child (3rd Degree)	5%
Assault of Police Officer/DCS Employee (3rd Degree)	5%
Possession with Intent to Deliver or Distribute	5%
Strangulation	5%
Assault (2nd Degree)	5%
Total	80%

*Safekeepers excluded from figures.

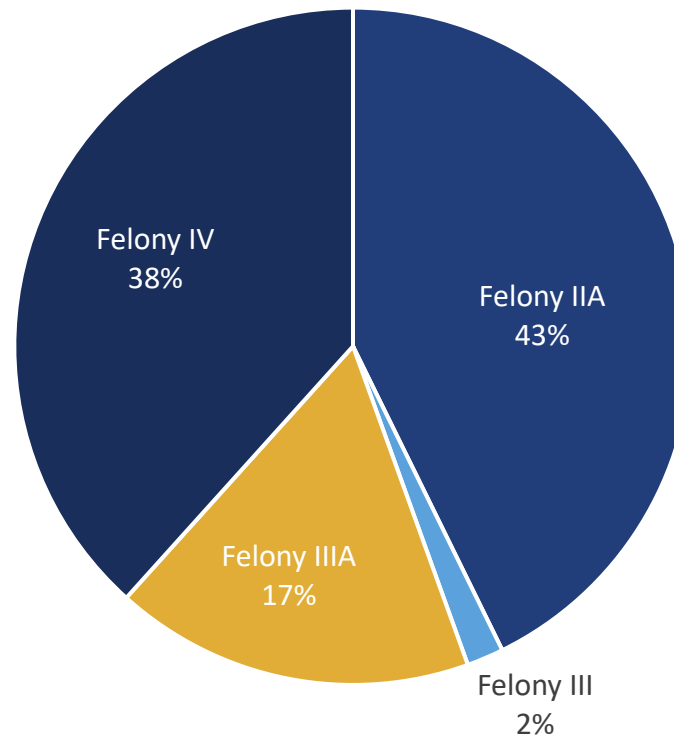
Possession of a Controlled Substance Most Common Felony IV Offense

Offense	Percent of Felony IV, 2020
Possession of a Controlled Substance (Except Marijuana)	50%
Theft by Unlawful Taking	6%
Theft by Shoplifting	6%
Terroristic Threats	4%
Theft by Receiving Stolen Property	4%
Operating a Motor Vehicle to Avoid Arrest	3%
Assault of a Peace Officer or NDCS Staff (3rd Degree)	3%
Possession of Over 1LB of Marijuana	2%
Possession of Money From Controlled Substance Violation	2%
Assault by a Confined Person	2%
Total	81%

*Safekeepers excluded from figures.

More Than One-Third of Property Offenses are Felony IV

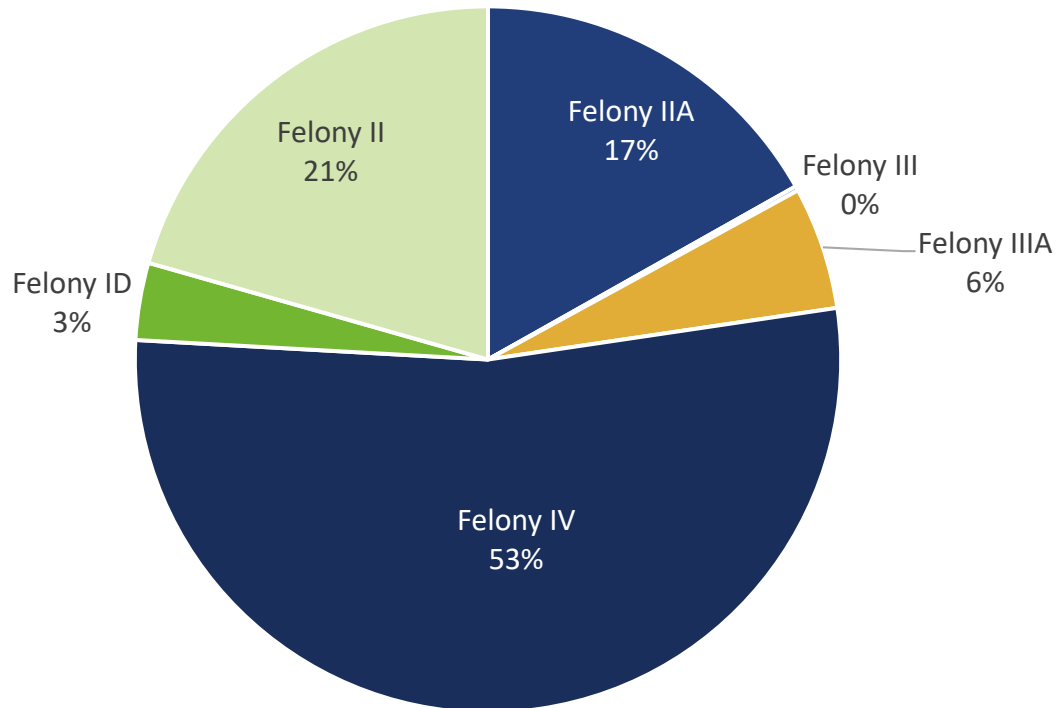
Distribution of Initial Admissions for Property Offenses by Offense Class, 2020



*Safekeepers and misdemeanors excluded from figures.

More Than Half of Drug Offenses are Felony IV

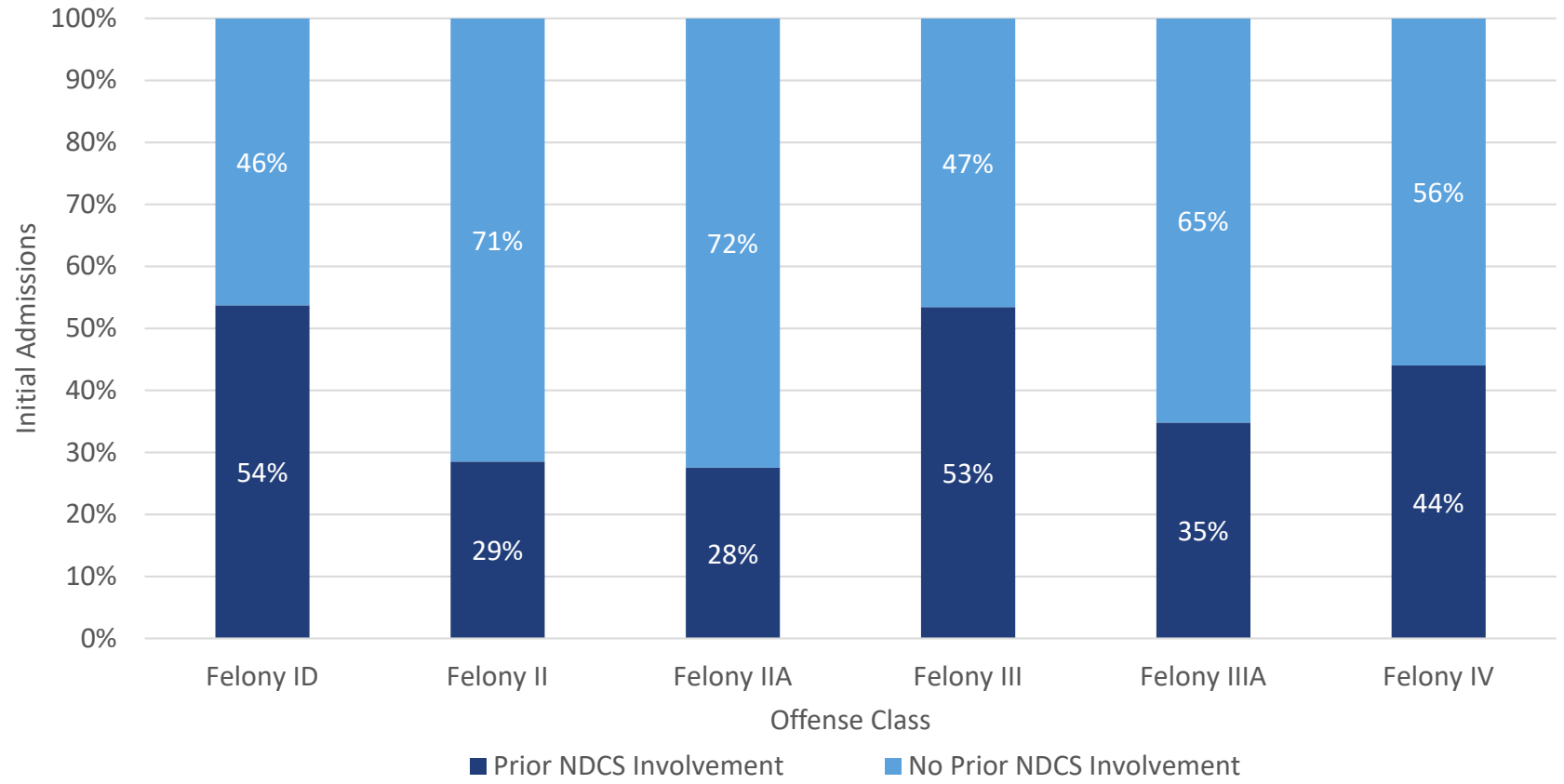
Distribution of Initial Admissions for Drug Offenses by Offense Class, 2020



*Safekeepers and misdemeanors excluded from figures.

More Than Half of Felony IV Admissions Had No Prior NDCS History

Initial Admissions by Offense Class and Prior NDCS Involvement, 2020



*Safekeepers excluded from figures.
**Excludes offense classes with less than 20 admissions in 2020.

Key Takeaways

- More than half of initial admissions are for non-person and non-sex offenses
 - 5 of the top 10 offenses at admission are non-person and non-sex offenses
- More than half of initial admissions are for the lowest two felony classes, felony IIIA and IV offenses
 - More than half of the felony IV initial admissions had no prior NDCS history

Probation Admissions



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Who is on Probation?

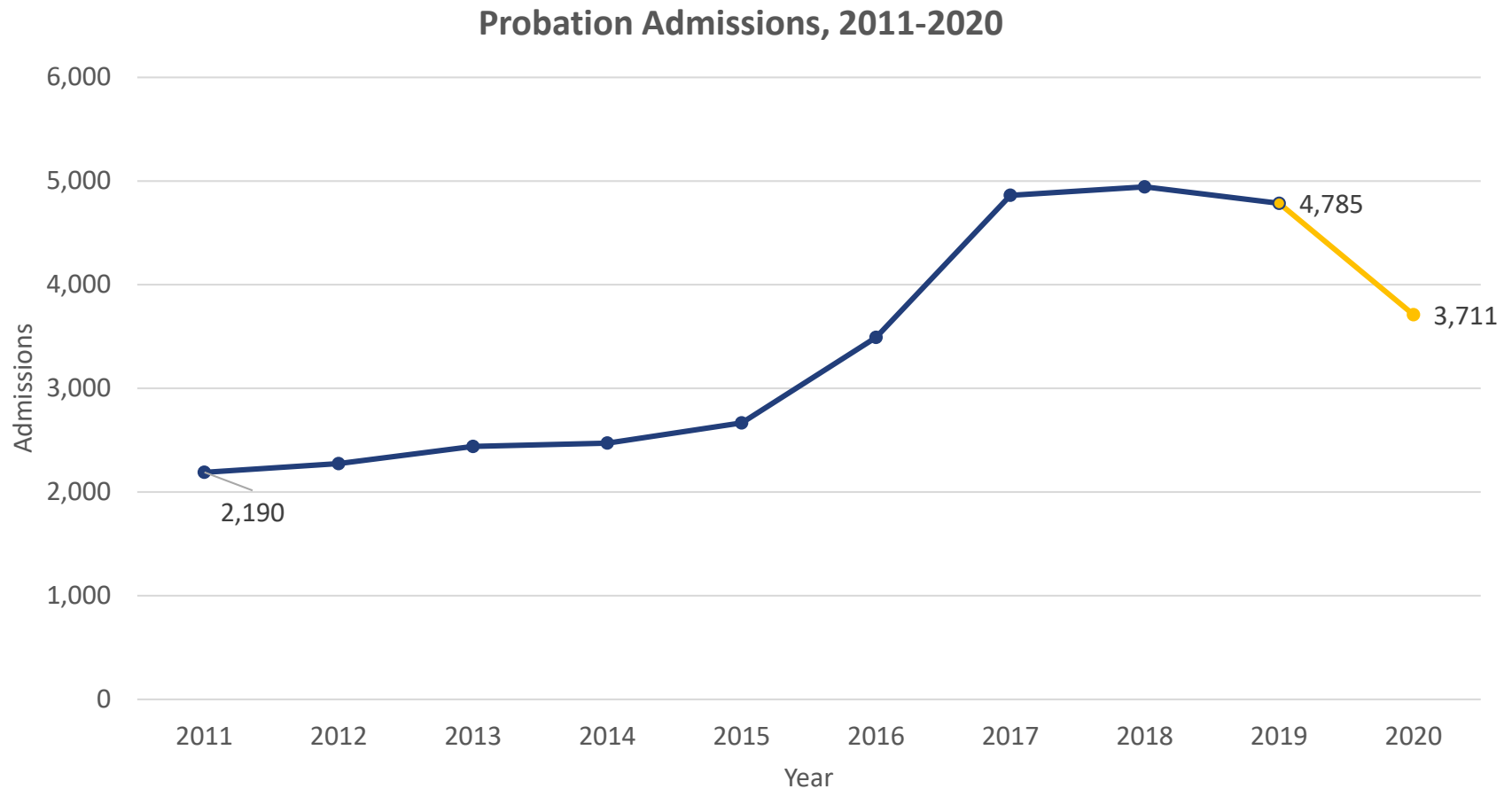
- Admission type
- Demographics
- Geographic patterns
- Offense patterns
 - Offense Class

Admission Type

Data Definitions: Probation Types

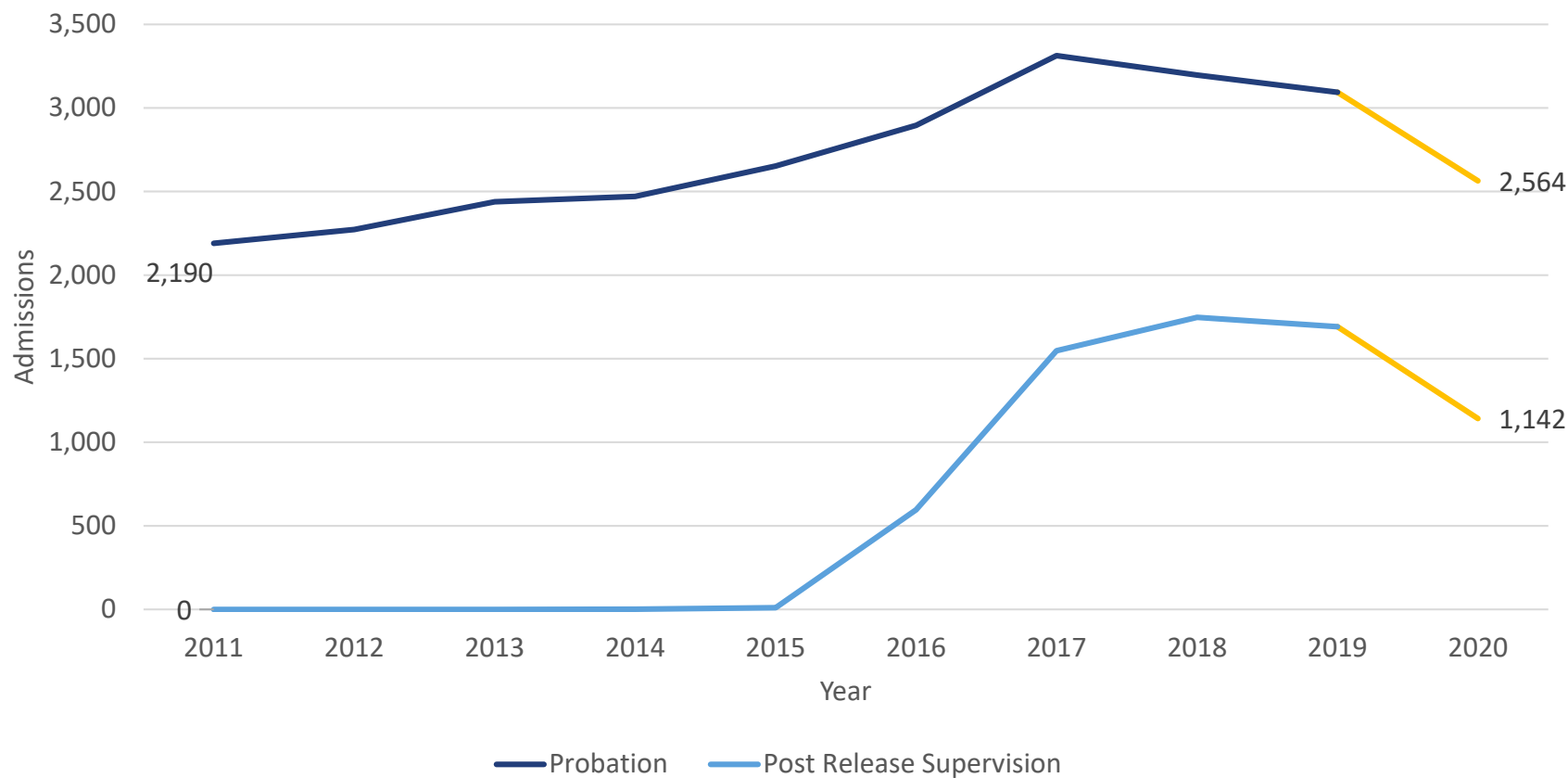
- **Traditional Probation:** adult, district-level probation
- **Post-Release Supervision:** a community-based supervision sentence occurring after release from jail or an NDCS facility for Class III, IIIA, and IV felonies

Probation Admissions Up 70% Between 2011 and 2020



Nearly 2/3 of 2020 Admissions to Traditional Probation

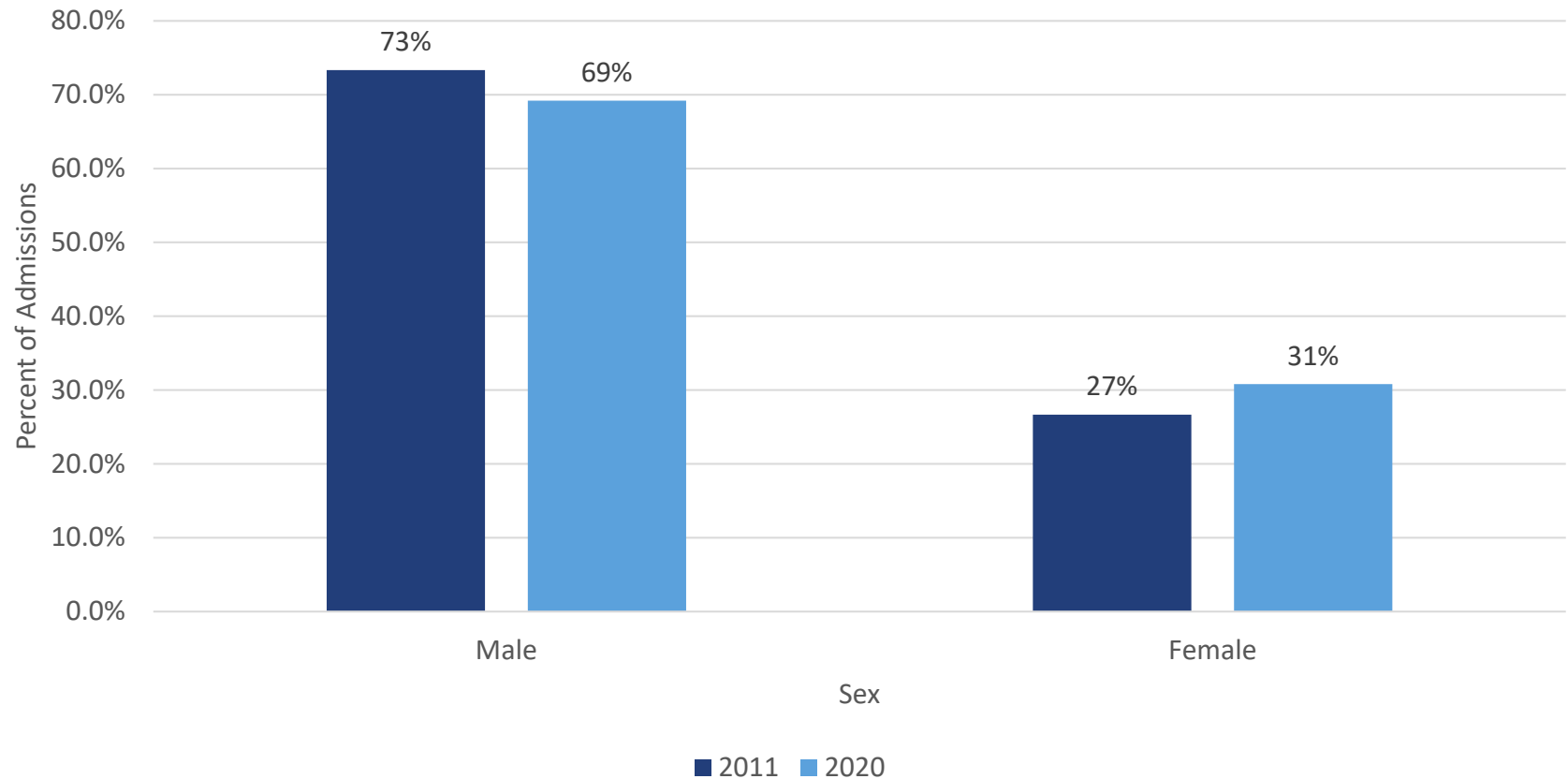
District Probation Admissions by Probation Type, 2011-2020



Probation Demographics

Female Admissions to Probation Increased Over Time

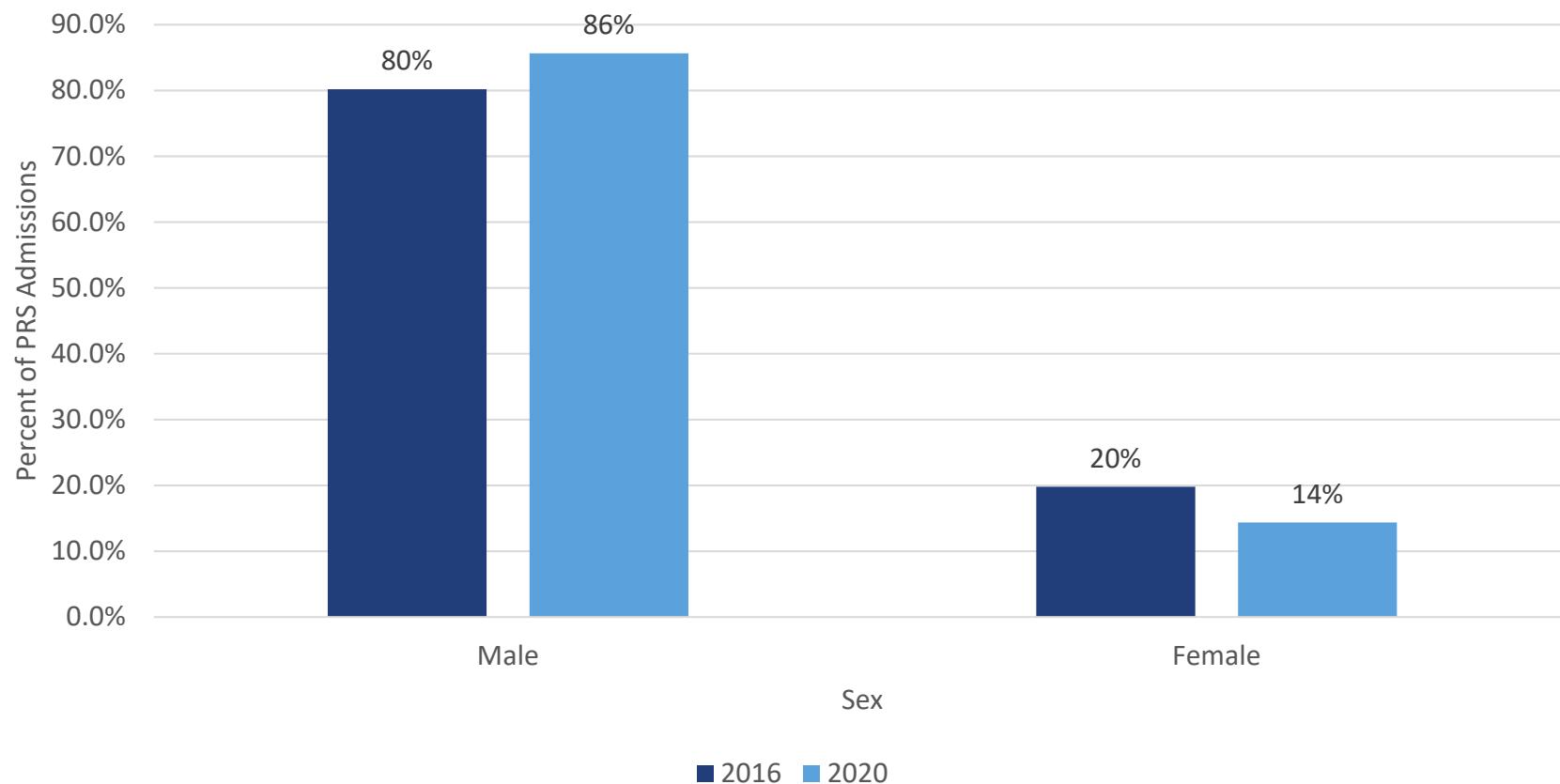
Distribution of District Probation Admissions by Sex, 2011 & 2020



* District probation excludes post-release supervision.

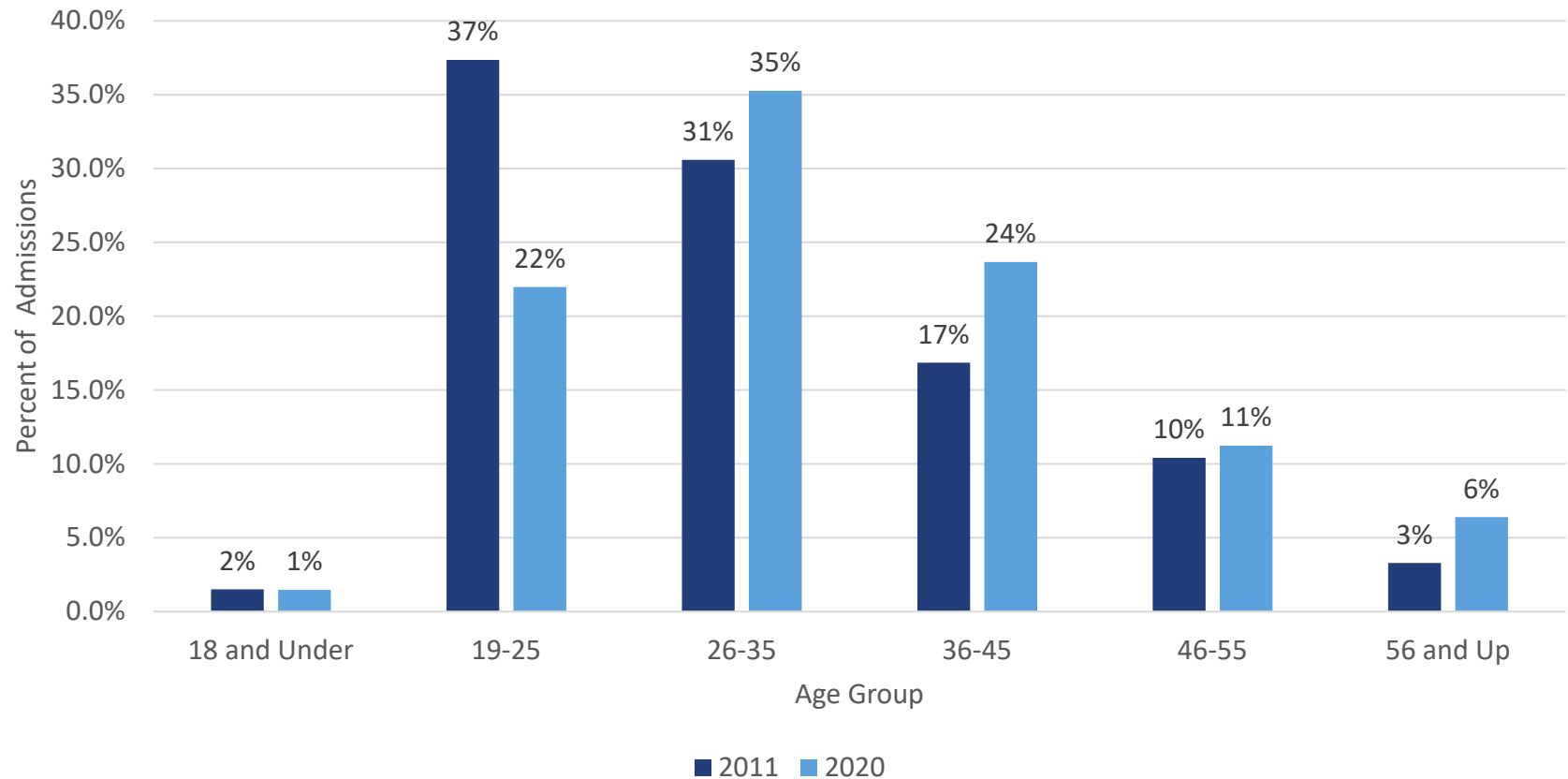
Post-Release Supervision Population Overwhelmingly Male

Distribution of Post-Release Supervision Admissions by Sex, 2016 & 2020



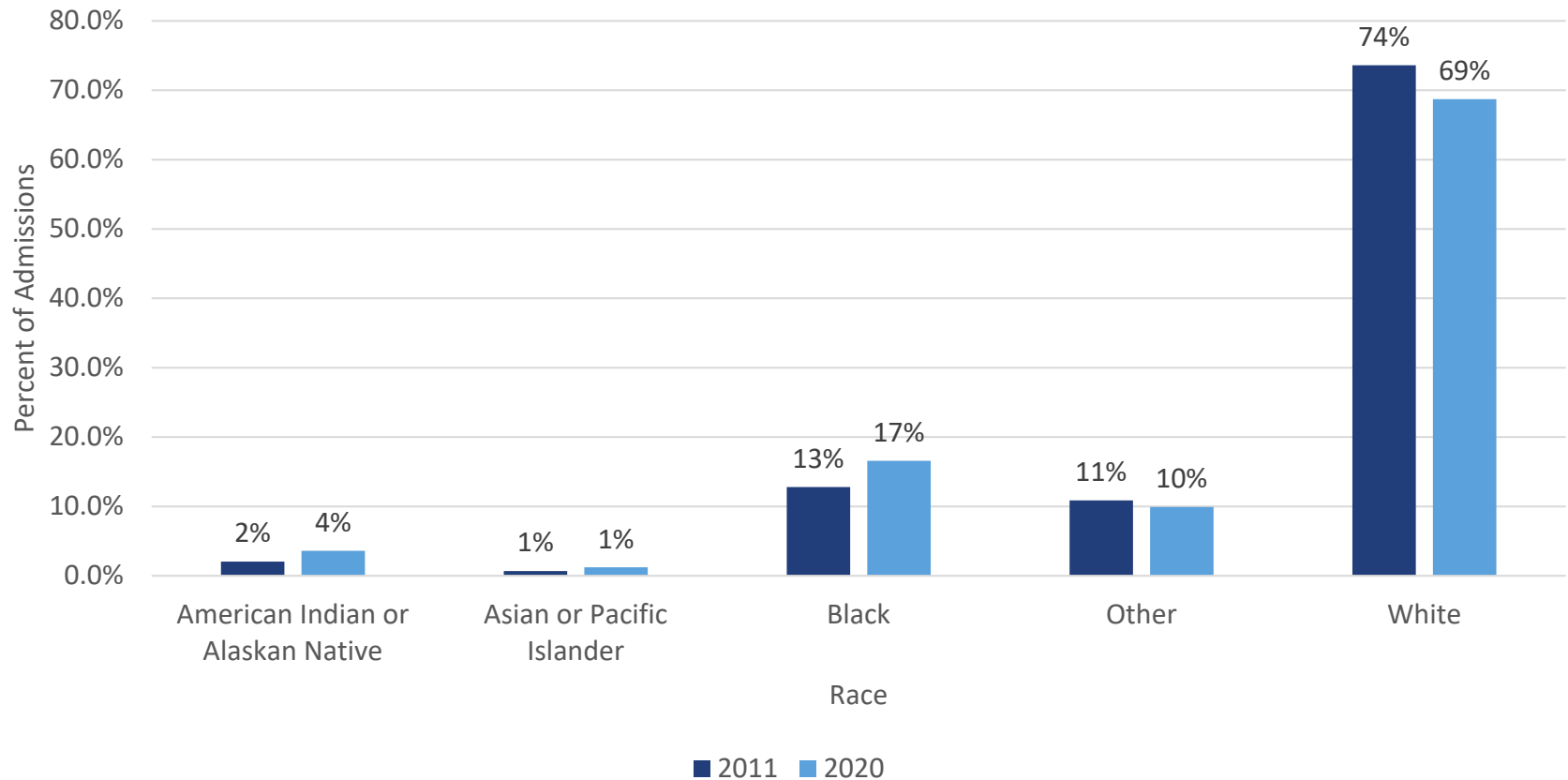
Probation Admissions Decrease for Young Adults

Distribution of District Probation Admissions by Age, 2011 & 2020



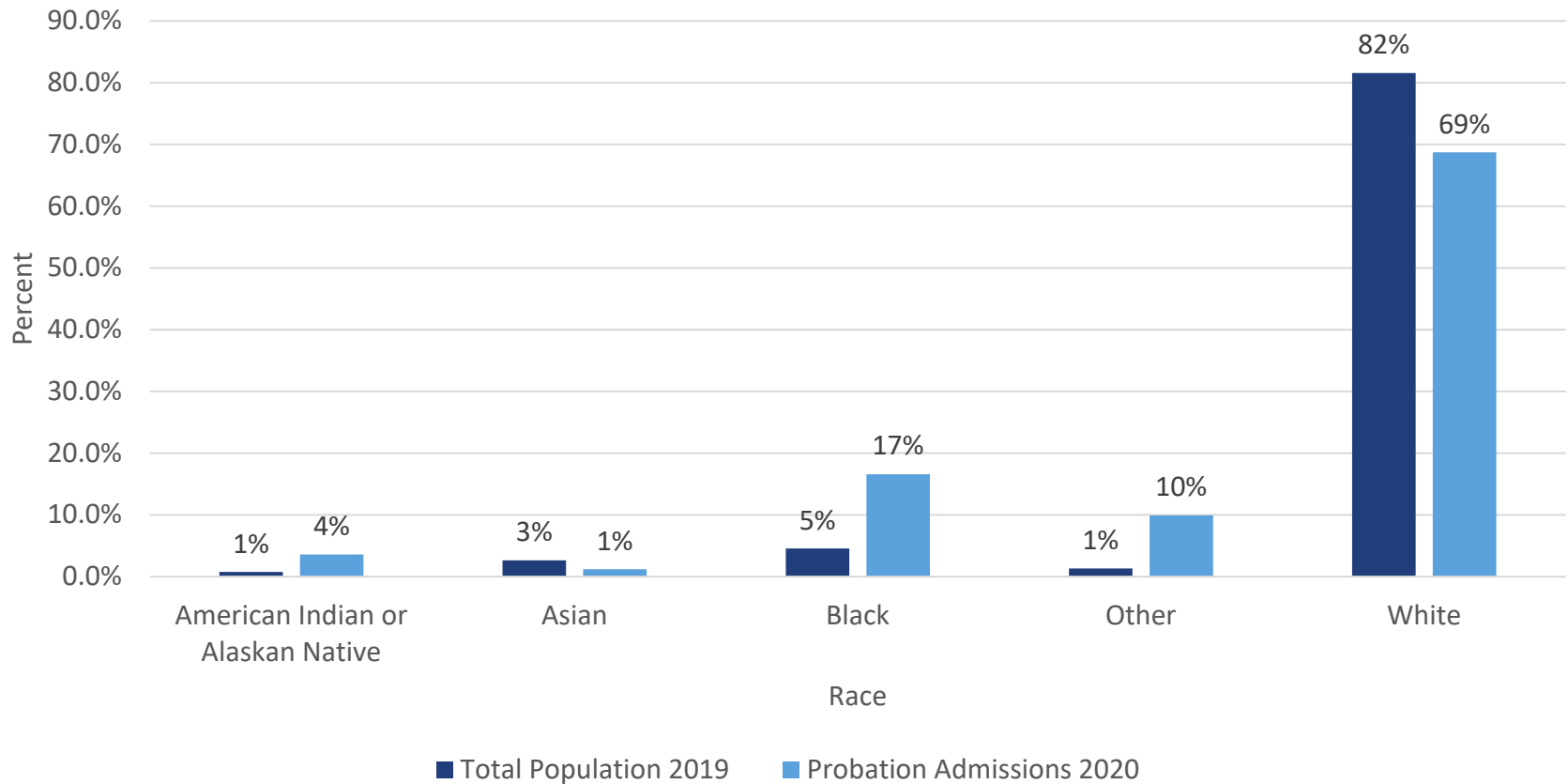
Minority Admissions to Probation Increases Over Time

Distribution of District Probation Admissions by Race, 2011 & 2020



Black and Native Populations Very Overrepresented in Probation Admissions

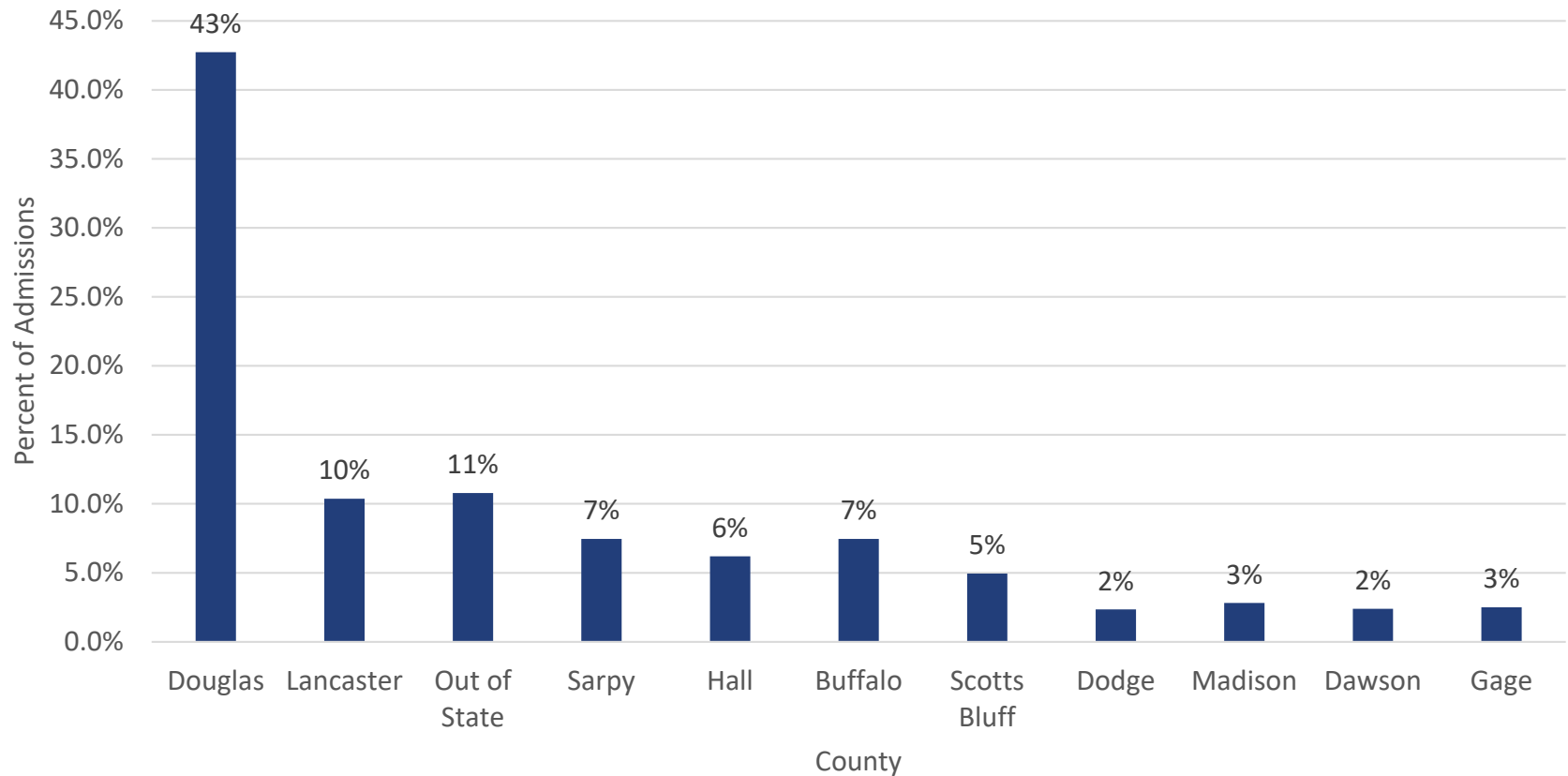
Racial Distribution of District Probation v. General Populations, 2019/2020



Probation Geographic Patterns

Probation Admissions Driven by Douglas County

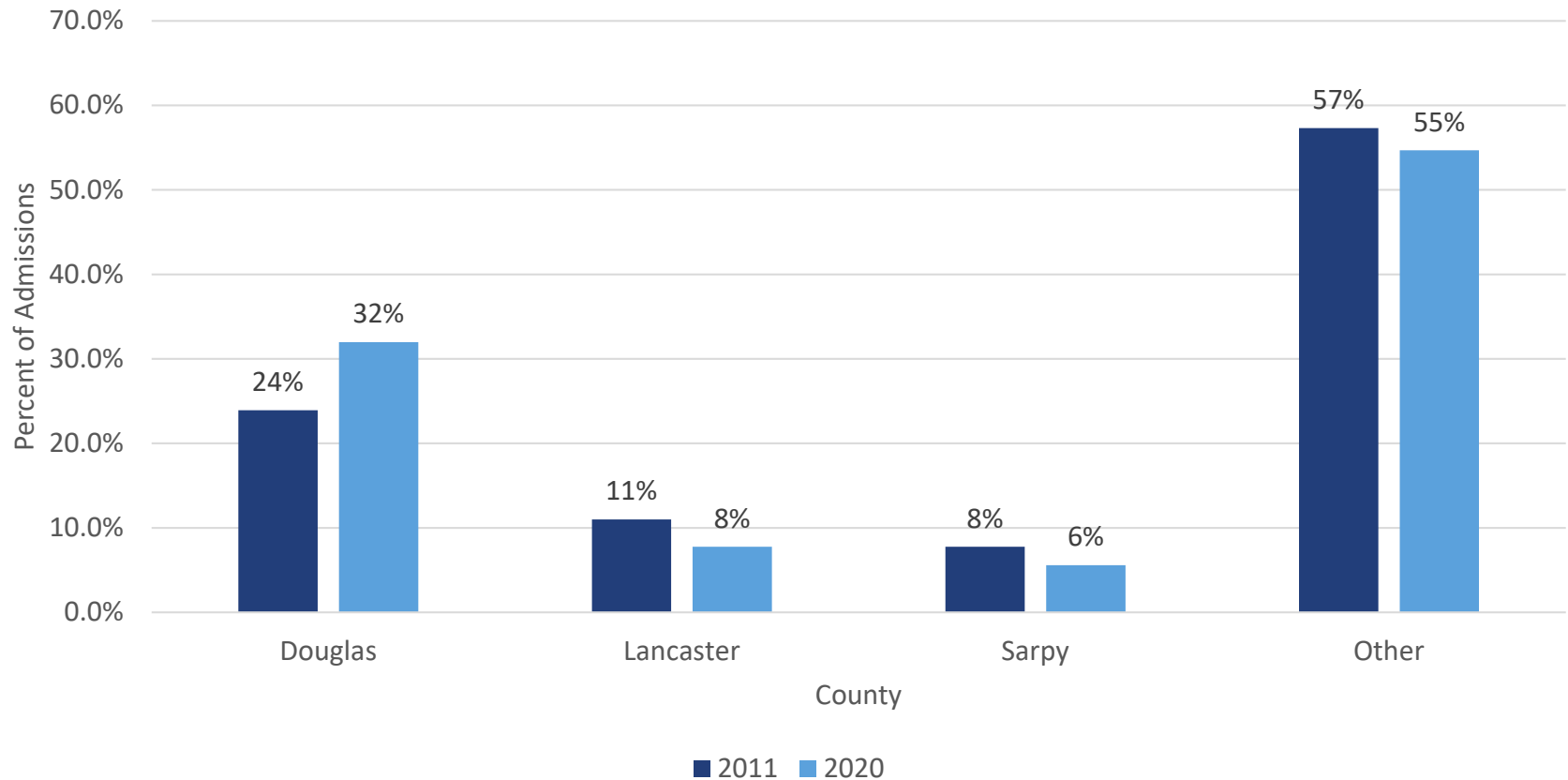
Distribution of District Probation Admissions in the Largest Counties*, 2020



*Largest counties are determined by those with the largest probation (district probation plus PRS) populations, not the largest overall populations.

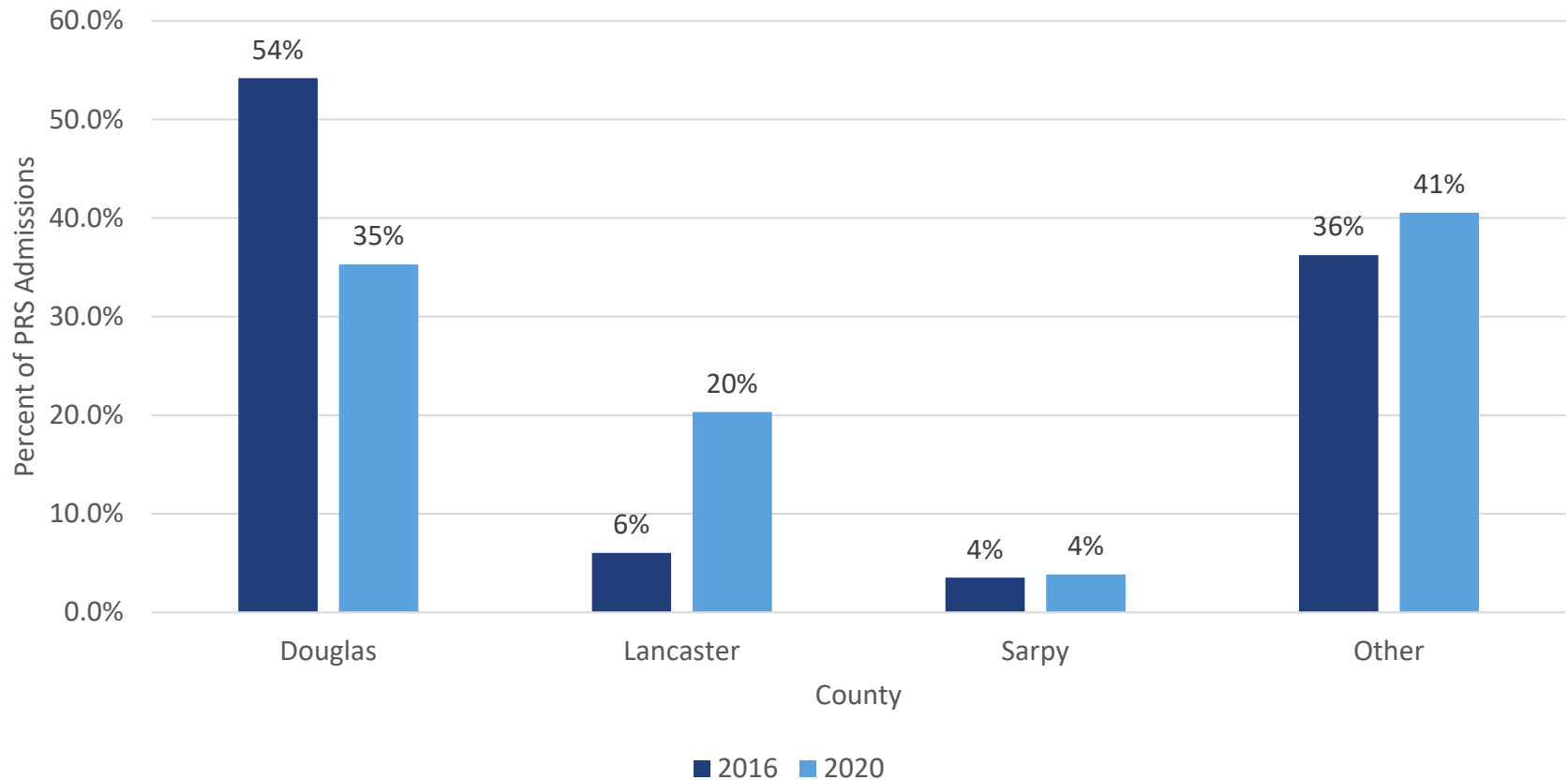
Douglas County Represents Growing Share of Probation Admissions

Distribution of District Probation Admissions by County, 2011 & 2020



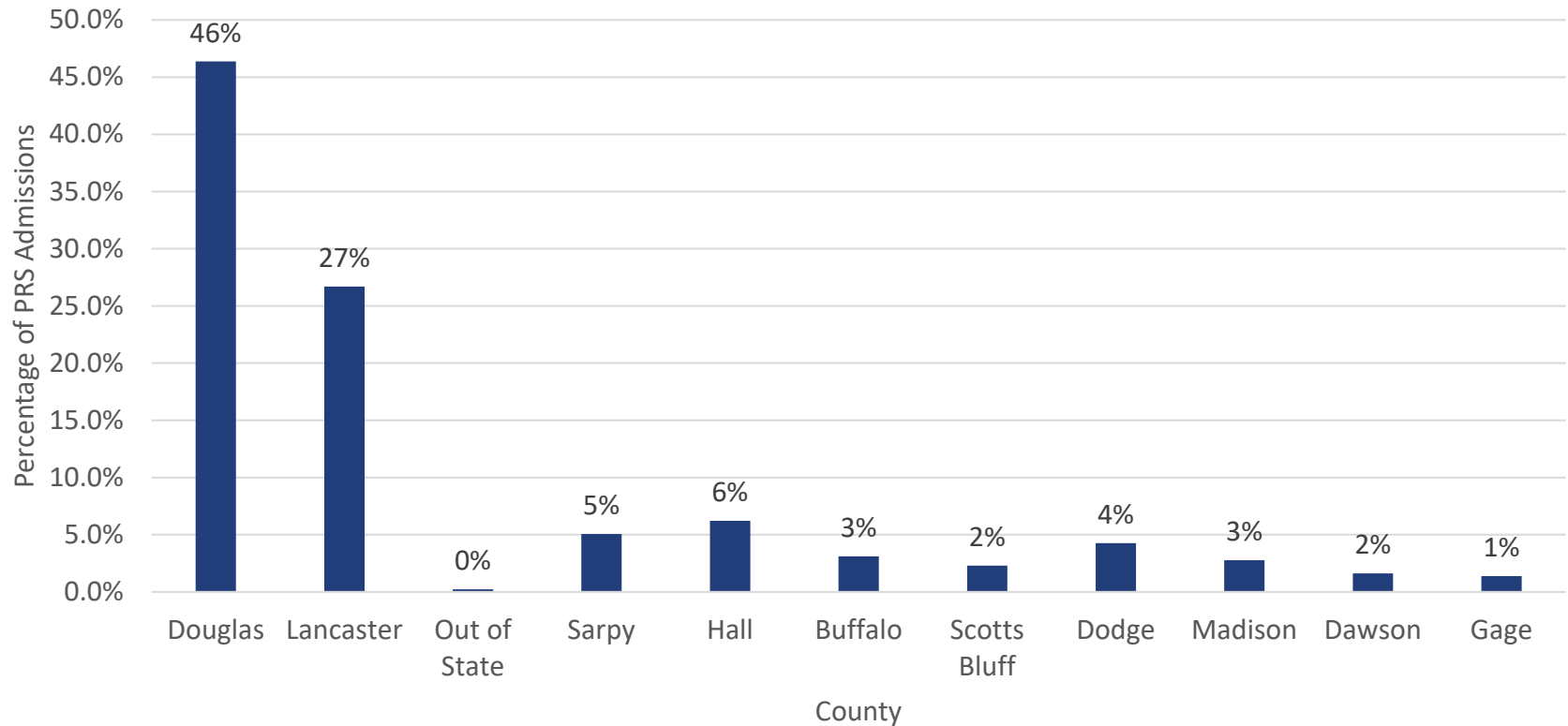
Lancaster County's PRS Admissions Six Times Larger in 2020 than 2016

Distribution of Post-Release Supervision Admissions by County, 2016 & 2020



Douglas and Lancaster Account for Over 50% of PRS Admissions

Distribution of Post-Release Supervision Admissions in the Largest Counties*, 2020

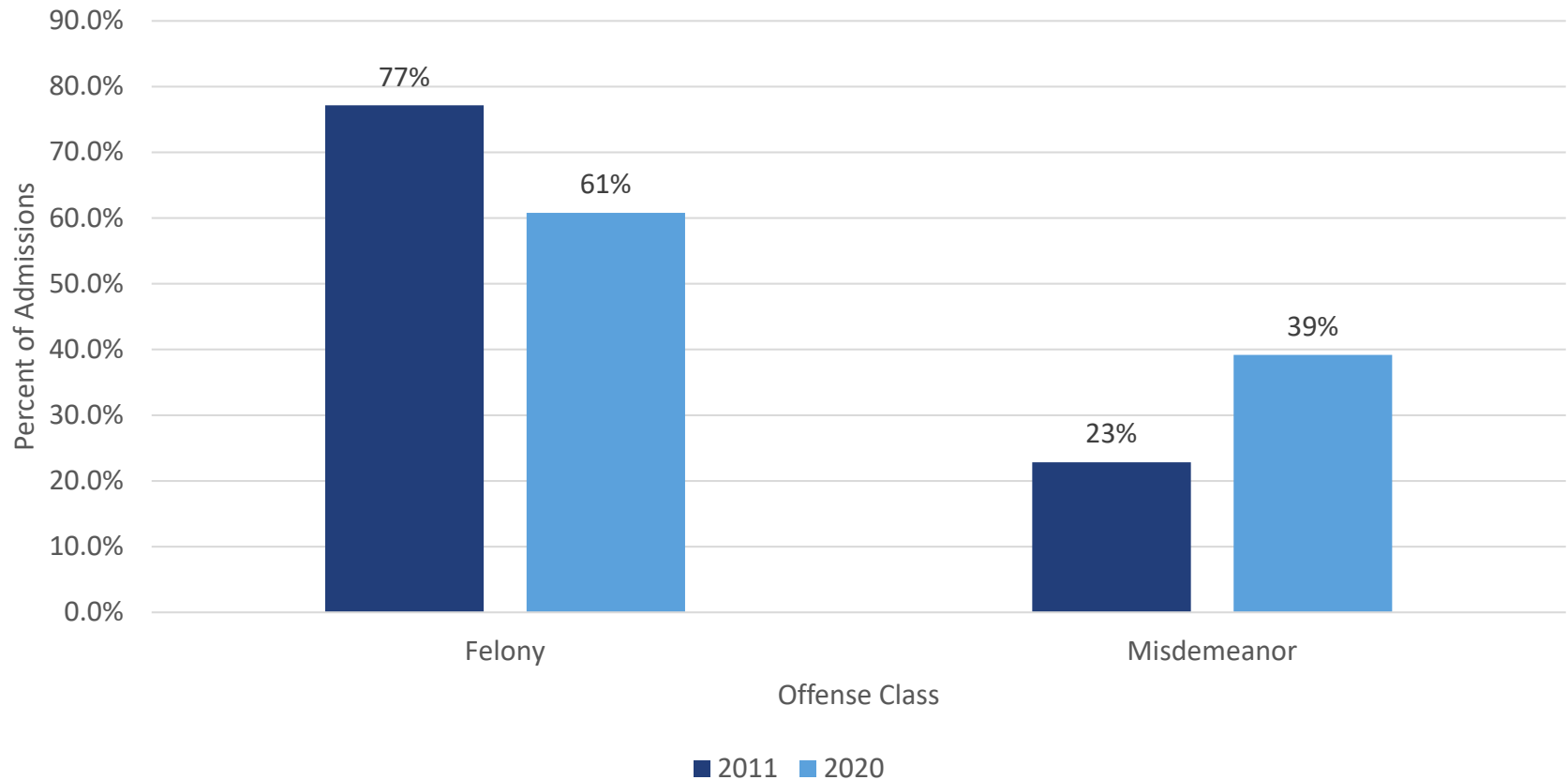


*Largest counties are determined by those with the largest probation (district probation plus PRS) populations, not the largest overall populations.

Offense Patterns: Offense Class

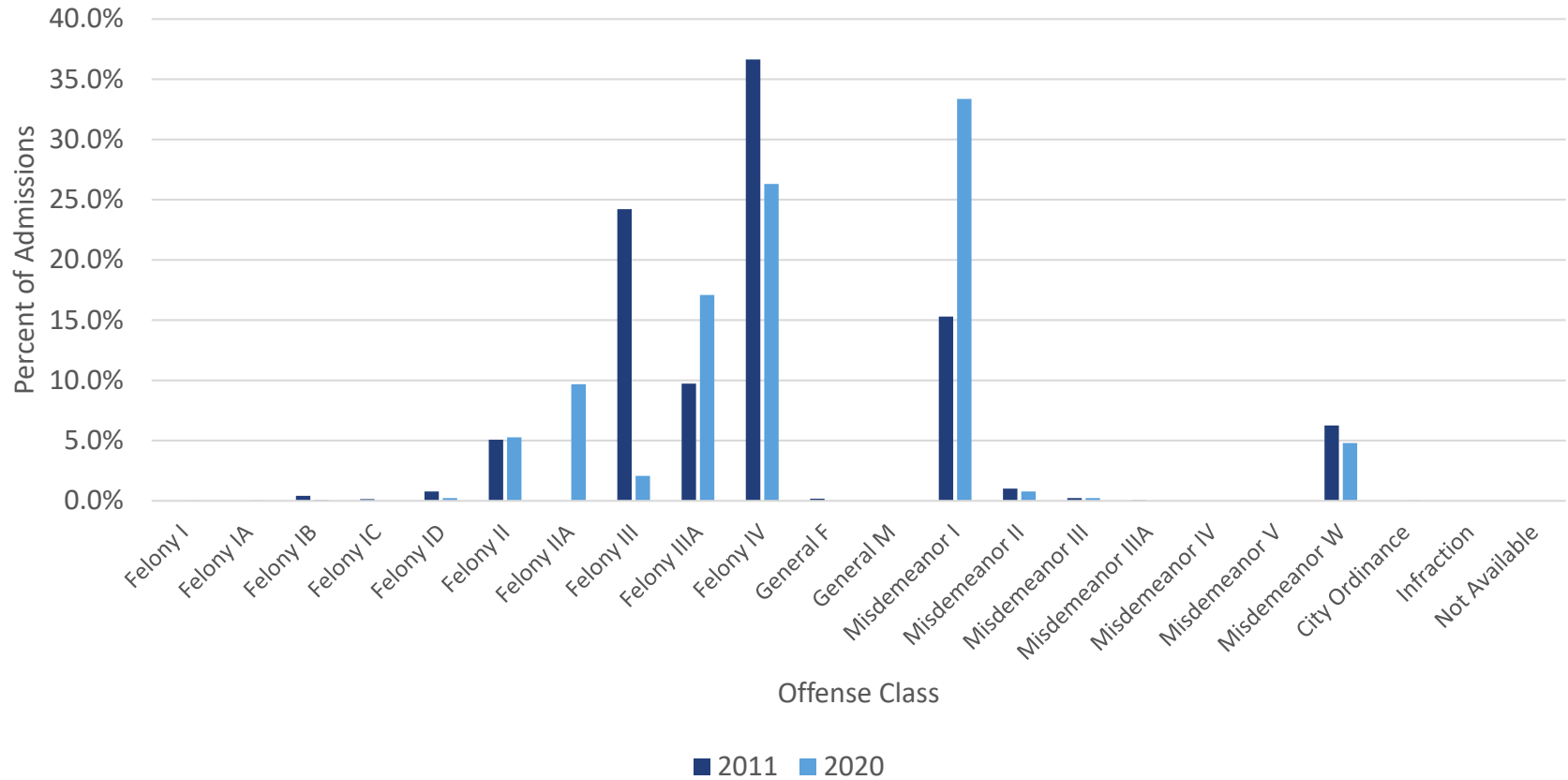
Felonies Represent Decreasing Share of Probation Admissions

Distribution of District Probation Admissions by Offense Class, 2011 & 2020



Admissions for Felony II and IV Convictions Decreasing

Distribution of District Probation Admissions by Offense Class, 2011 & 2020



Key Takeaways

- Probation admissions are up 70% between 2011 and 2020
- Black and Native populations are significantly overrepresented nearly four times in probation admissions cohort
- Probation admissions are largely driven by Douglas County, with Douglas County representing a growing share of the admissions compared to other counties

Next Steps



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Next Steps

- Next meeting: Early September
 - Sentencing, time served, release, parole and reentry practices
- Roundtables: September and October
 - Law Enforcement
 - Victims/Advocates/Survivors
 - CJ-Impacted People
 - Behavioral Health Providers
- Subgroup Meetings: October and November
 - Admissions
 - Length of Stay/Release
 - Community Supervision
- Final Meeting: December

Questions/Contact

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Disclaimer

This project was supported by Grant No. 2019-ZB-BX-K003 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this presentation are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.