SFDA DIVERSION DATA SUMMARY

May 2022

INTRODUCTION: DIVERSION IN SAN FRANCISCO

For more than 30 years, San Francisco has been at the forefront of criminal justice practice. In 1995, the San Francisco Superior Court launched Drug Court, the City's first collaborative justice court focused on addressing the underlying causes of criminal conduct.

Since then, the Superior Court has launched seven additional collaborative courts, in partnership with City agencies and nonprofit partners, including the District Attorney's Office, the Public Defender's Office, the Adult Probation Department, the Public Health Department, the San Francisco Pretrial Diversion Project, Felton Family Services Agency, and many others. These courts can involve diversion at varying points in the criminal process, including post-filing but prior to case adjudication, as well as following a conviction as a condition of supervision.

In 2012, then-DA George Gascon established the Neighborhood Courts program, the City's first primarily pre-filing, DA-led program to "divert" people into treatment rather than incarceration.

In recent years, the California State Legislature and Governor have institutionalized the right of many defendants to be "diverted" to court-supervised treatment and services in lieu of traditional case processing via a series of statutorily mandated diversion programs.

PURPOSE OF THIS PRESENTATION

Historically, the District Attorney's Office has not collected data on diversion, which is managed by the Superior Court's Collaborative Court Division and the San Francisco Pretrial Diversion Project. However, in the Fall of 2021, as part of the grant-funded Healing Justice Initiative, the SFDA sought and received funds to hire a full-time program analyst focused solely on diversion.

The first project undertaken with this funding has been an extensive effort to obtain programmatic data from diversion partners; match those data to SFDA data on arrests, prosecutions, and case resolutions; and provide the District Attorney's Office and the general public with more information on the diversion of criminal cases in San Francisco. It is with such information that we can improve accountability and public safety.

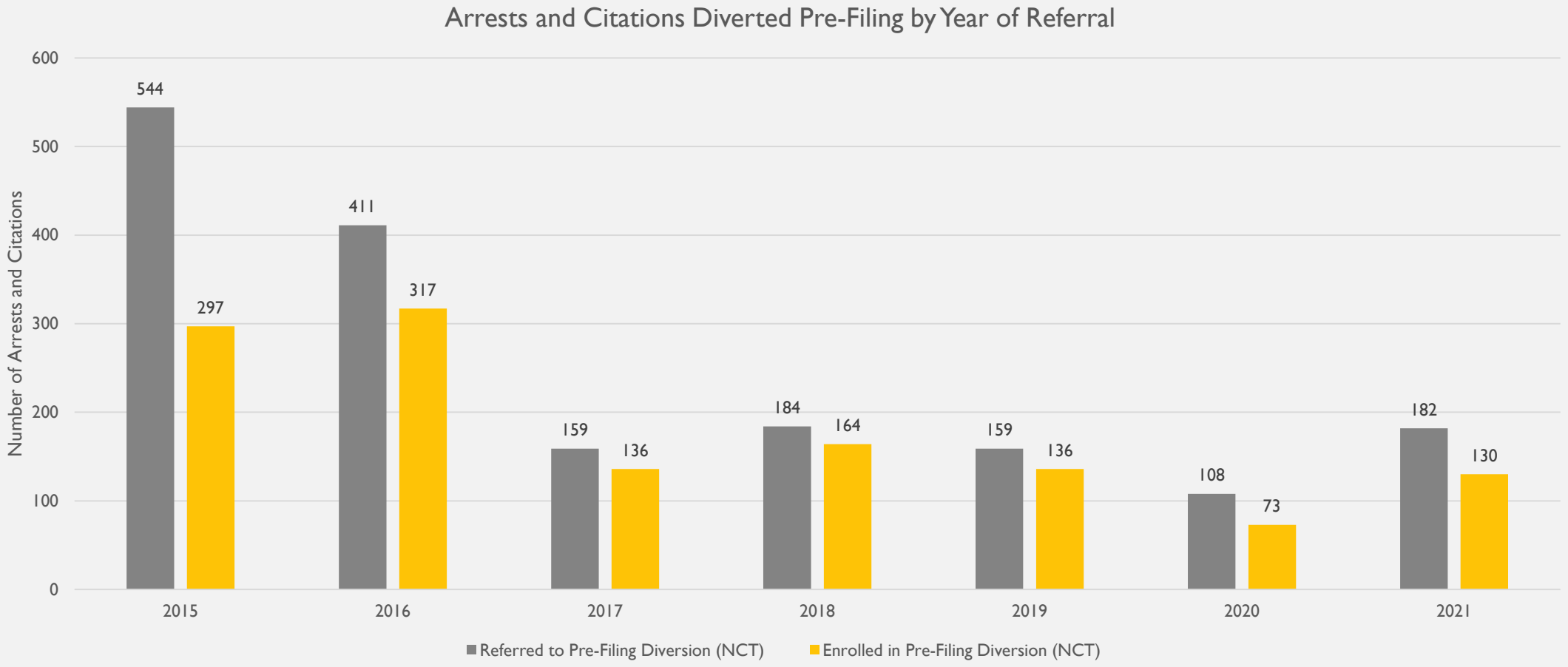
ABOUT THESE DATA

- The data compiled for this presentation come from the following sources:
  - SFDA Actions on Arrests Presented and Cases Prosecuted datasets from the District Attorney's Office Case Management System (DAMION)
  - Pretrial Diversion (PTD), Primary Caregiver Diversion (PCD), and Neighborhood Courts (NCT) program databases managed by the San Francisco Pretrial Diversion Project
  - Superior Court Collaborative Court Division program databases for Behavioral Health Court (BHC), Drug Court (DC), and Young Adult Court (YAC)
  - SFDA Diversion and Collaborative Courts Unit spreadsheet on Mental Health Diversion (MHD)
  - Court notes from the San Francisco Superior Court
- Methodology
  - The data for all programs was compiled, cleaned, and matched to SFDA prosecution data by Court Number and other identifiers to produce a variety of summary statistics. All statistics are presented at the *case level*, consistent with how the District Attorney's Office tracks our work. By contrast, many of the diversion and collaborative court programs track *episodes, people,* and/or *enrollments*.

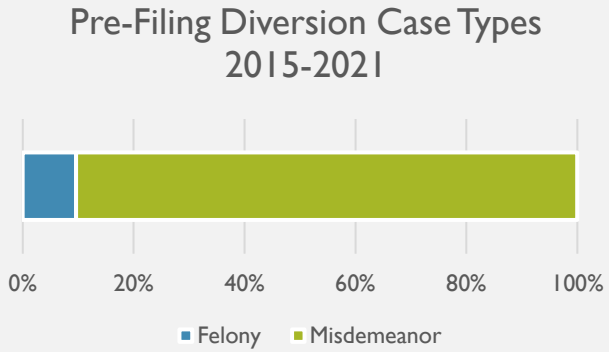
INTERPRETING THE DATA

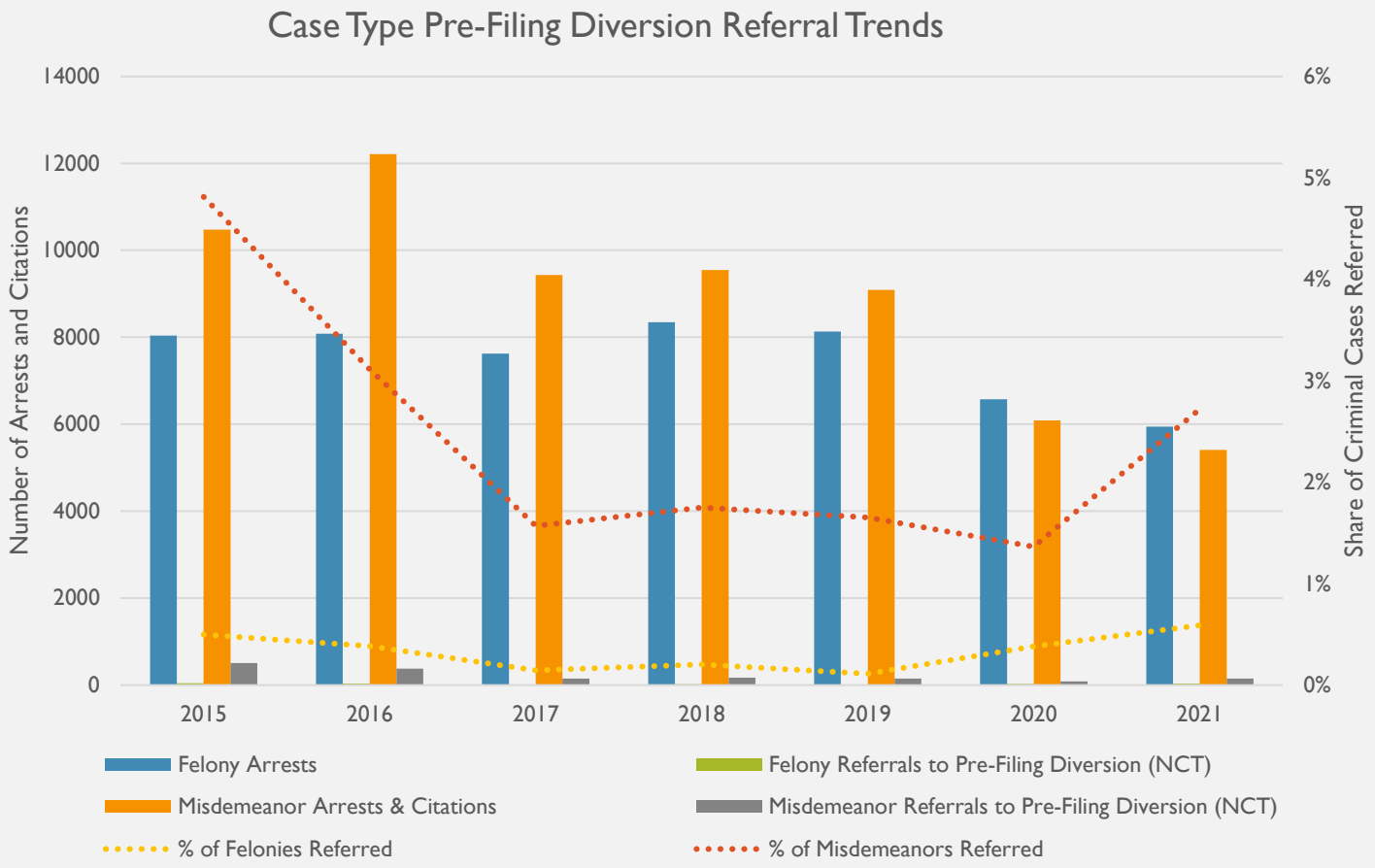
- Data Challenges and Interpretation of Statistics
  - There was considerable variation in the quality of data across sources, as well as the years for which data were available. For most programs, missing data made matching some cases to SFDA prosecution data impossible. This issue is reflected in the match rate provided for each program, which describes the share of program referrals that could be matched to SFDA prosecution data. Match rates approaching 100% suggest that the data will reflect true program trends. Lower match rates signify that some of the statistics presented will undercount true values and produce estimates of true rates and distributions. Match rates above 100% indicate that more than one case was connected to some Collaborative Court referral episodes, rendering associated statistics estimates as well.
  - Matching challenges, coupled with limited enrollment and completion data, resulted in significant discrepancies between Collaborative Court programmatic data on enrollment and completion and the rates of enrollment and completion observed in the matched data. As a result, this presentation does not visualize rates of enrollment or completion for Collaborative Court programs.
  - To construct the dataset used for this presentation, a variety of case identification and matching strategies were employed, including the use of keyword searches of court notes of the Superior Court. While these methods were applied strategically and with care, they carry some risk of misdetection. As a result, the inadvertent inclusion or exclusion of some cases into the dataset and corresponding analysis is likely.
- Definitions
  - Terminations: defendants can be terminated from collaborative courts or other diversion programs for a variety of reasons, including "self-terminations," which often occur when a defendant chooses to contest the charges he or she is facing.
  - Case outcomes: this presentation presents data on two different kinds of outcomes: diversion program outcomes and criminal case outcomes. "Diversion" can occur at various junctures in the criminal process, including pre-filing, post-filing but pre-adjudication, and post-conviction. As such, no causal relationship should be inferred between these outcomes.

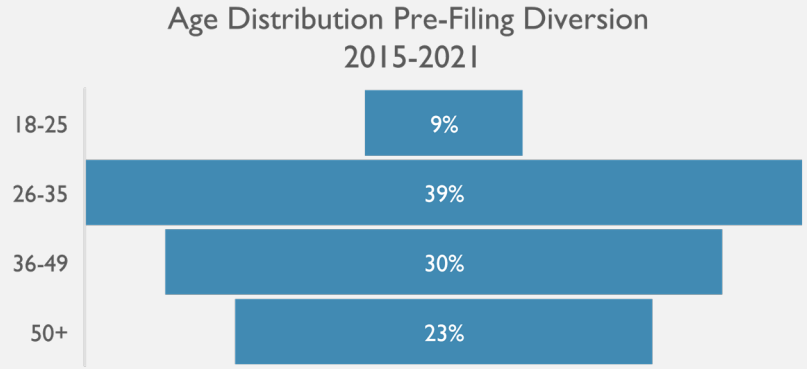
PRE-FILING DIVERSION REFERRAL & ENROLLMENTS TRENDS (NCT ONLY)

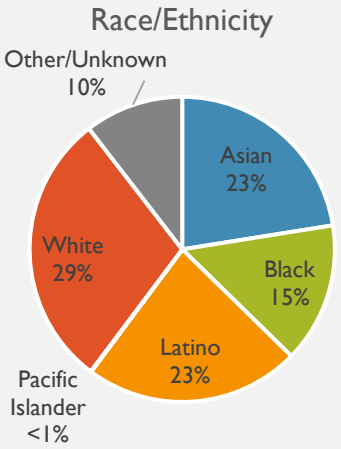


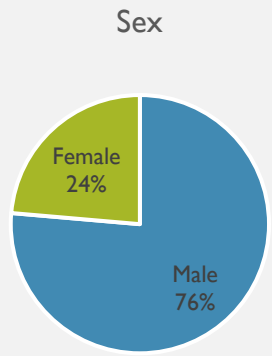
WHAT TYPES OF CASES ARE DIVERTED PRE-FILING?



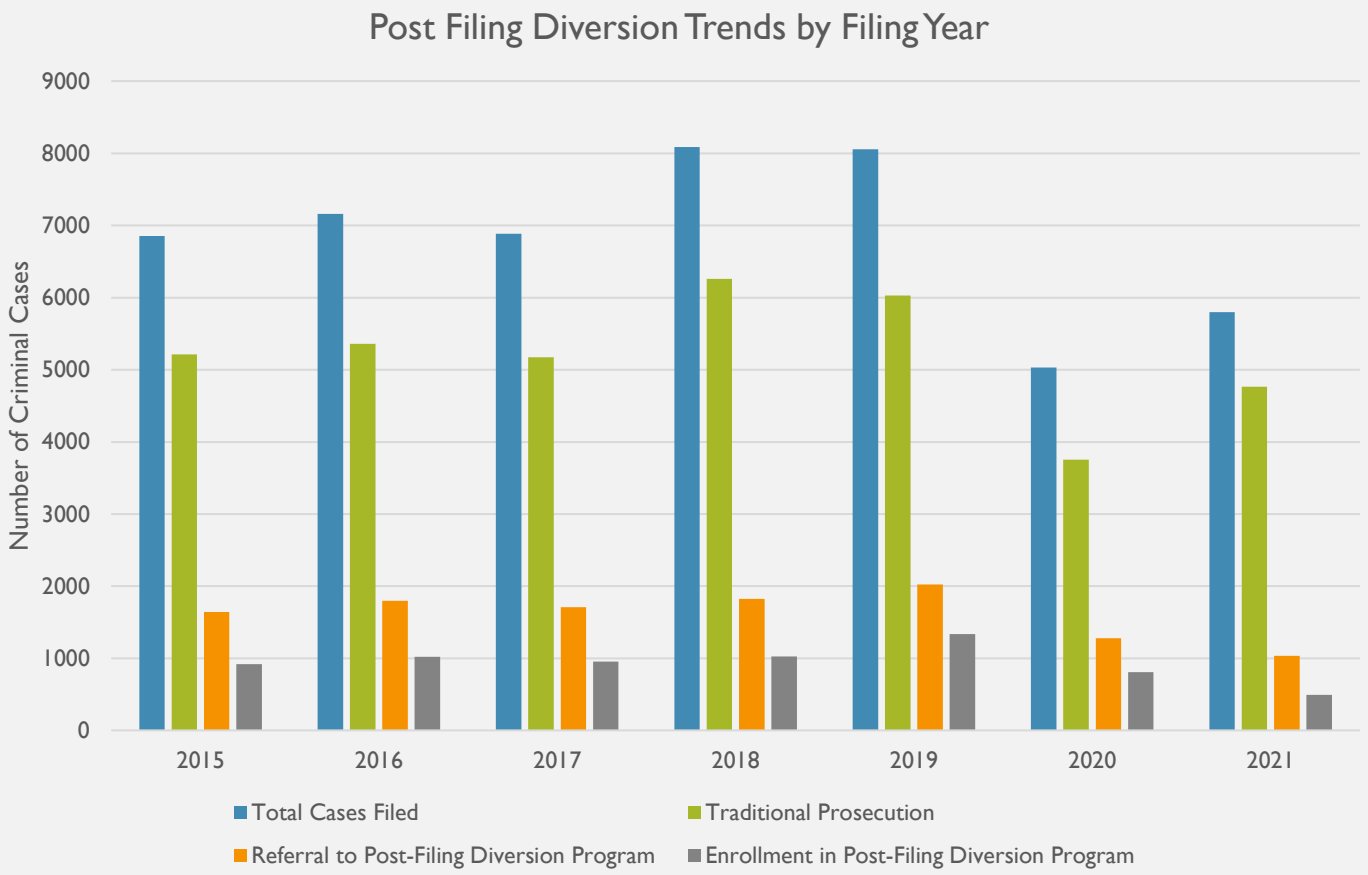


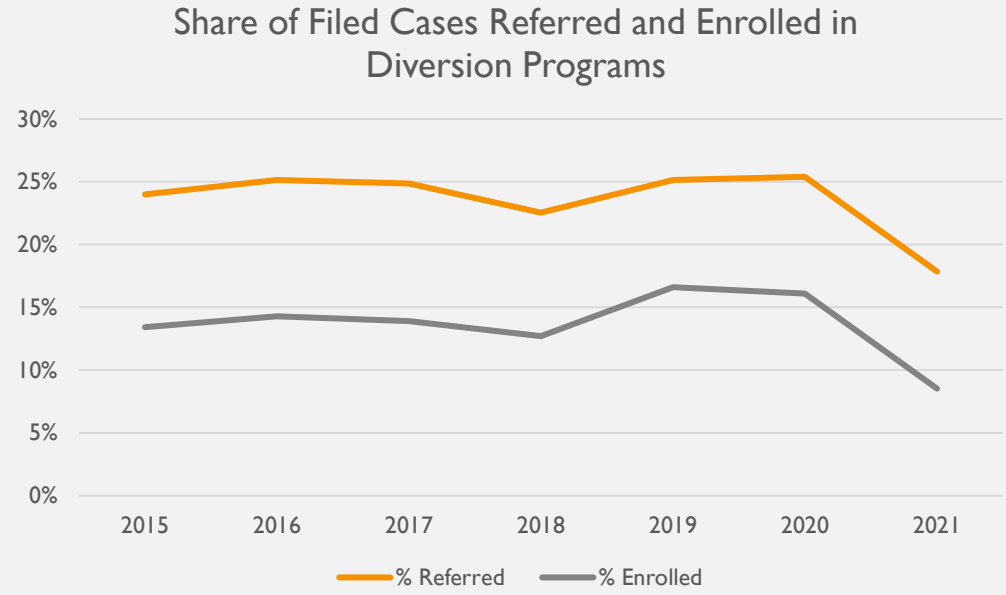






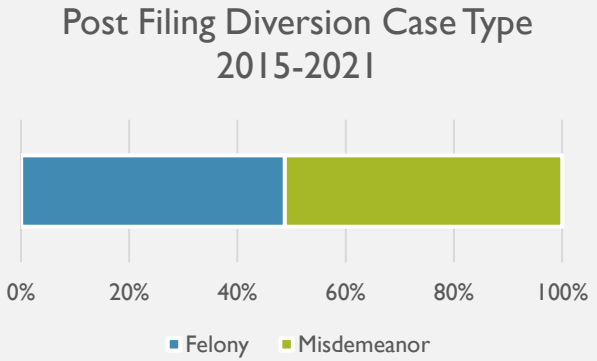
PROSECUTION AND POST-FILING DIVERSION

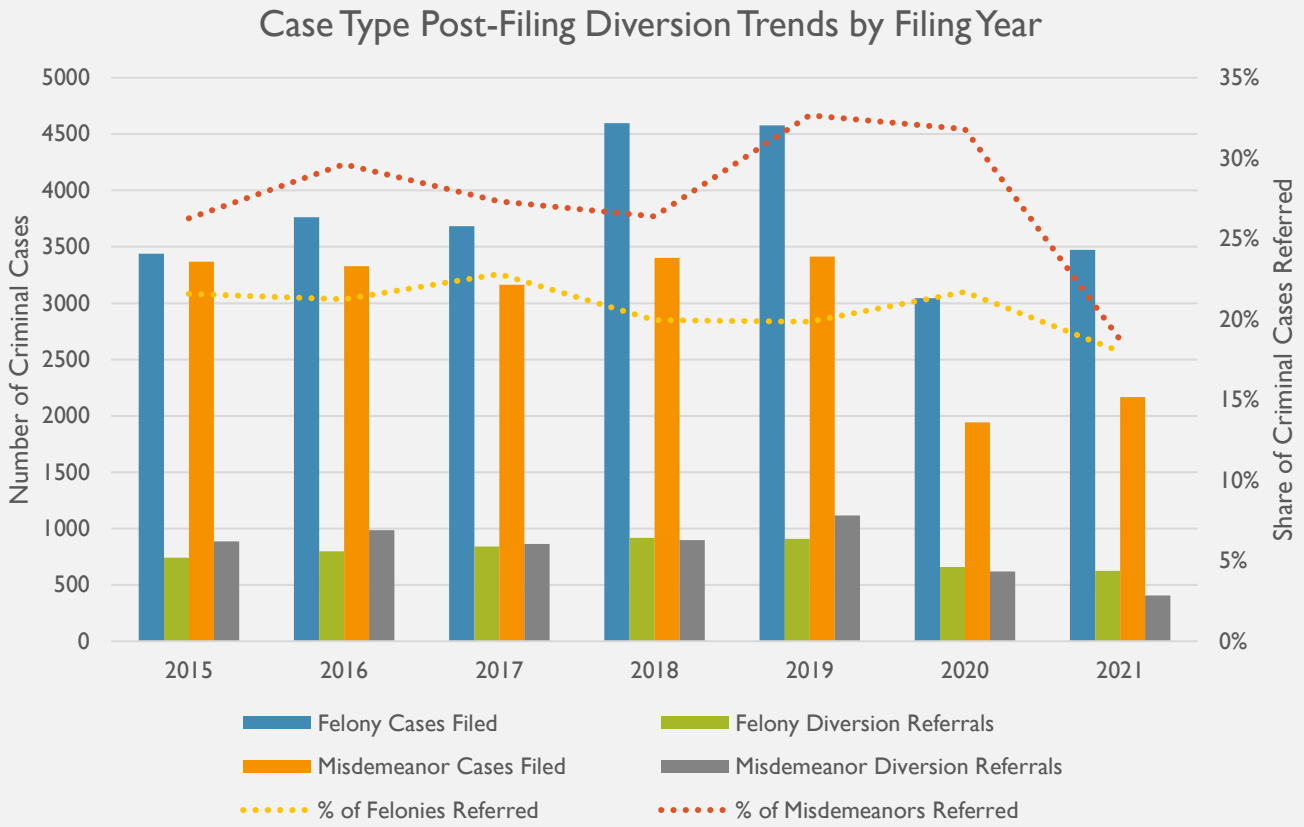


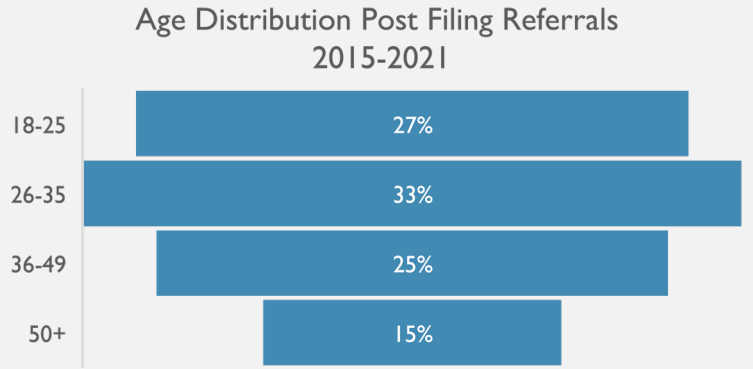


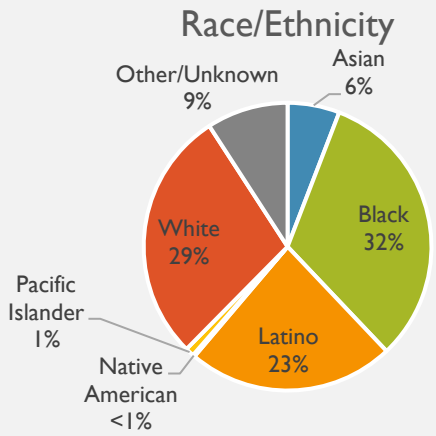
Note: Total referrals to and enrollments in Post-Filing Diversion, as well as the share of filed cases that these cases represent, are based upon the number of criminal cases that could be matched to SFDA prosecution data. As a result of variation in match rates across programs, these aggregate figures may be understating or overstating the total number and share of criminal cases referred to and enrolled in Post-Filing Diversion per filing year.

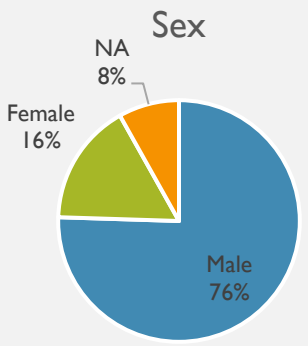
WHAT TYPES OF CASES ARE DIVERTED POST-FILING?











Note: Total referrals to and enrollments in Post-Filing Diversion, as well as the share of filed felony or misdemeanor cases that these cases represent, are based upon the number of criminal cases that could be matched to SFDA prosecution data. As a result of variation in match rates across programs, these aggregate figures may be understating or overstating the total number and share of criminal cases referred to and enrolled in Post-Filing Diversion per filing year.

SFDA INITIATED PROGRAMS

This section presents data on the District Attorney's Office's primary SFDA-initiated adult diversion program, the Neighborhood Courts program (NCT).

Data on program referrals, enrollments, and completions tracked by the San Francisco Pretrial Diversion Project.

NEIGHBORHOOD COURTS

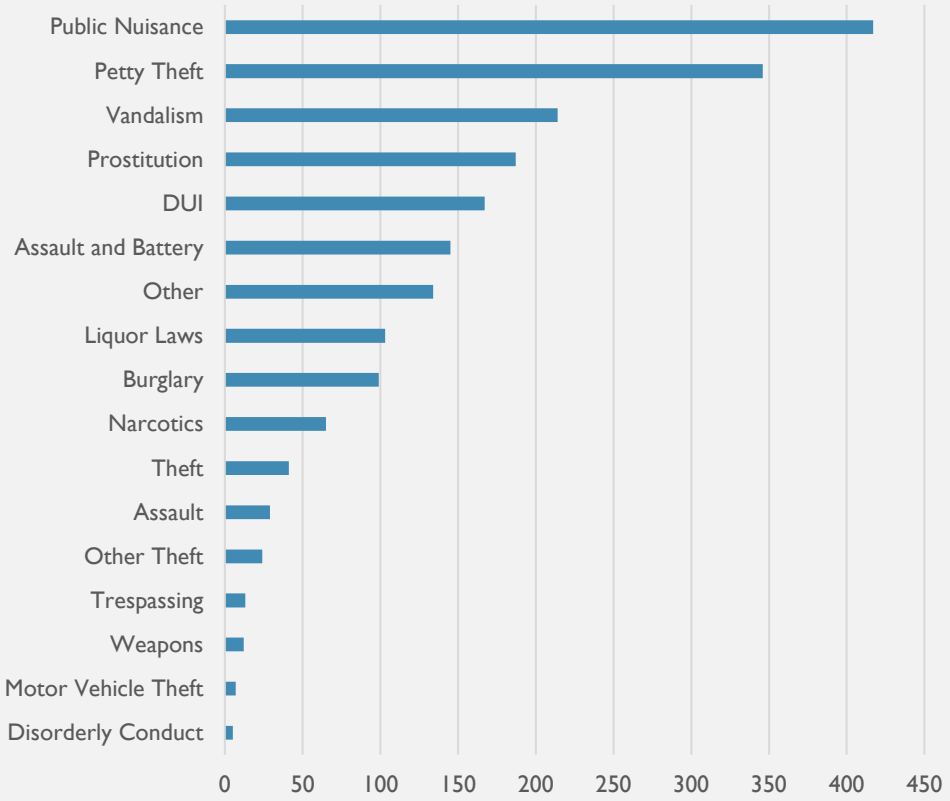
- Begun in 2012 by San Francisco District Attorney George Gascon
- Used for misdemeanors and select felonies with agreement of parties
- Restorative Justice Approach: residents who live and work in the area hear the case and create a plan to have the participant address the harms caused to the community and any victim, if applicable
- When the participant completes the directives, the SFDA discharges or dismisses the case on the recommendation of the Neighborhood Court Adjudicators
- Model since replicated elsewhere including Santa Cruz, Solano, and Yolo counties

Datasets	- NCT Program Data managed by SF Pretrial Diversion Project - SFDA Prosecution Data
Case Match Rate	80%: 2,008 of 2484 NCT referrals were matched to criminal cases in SFDA data.
Total Cases Represented	2,008 Arrests and Citations
Years of data	Cases Referred to NCT 2015-2021
Data Challenges	• The universe of cases described in this presentation accounts for 80% of the cases referred to NCT from 2011-2021 • As a result, all raw totals represent undercounts and distributions represent estimates

2,008 CRIMINAL CASES REFERRED TO NCT

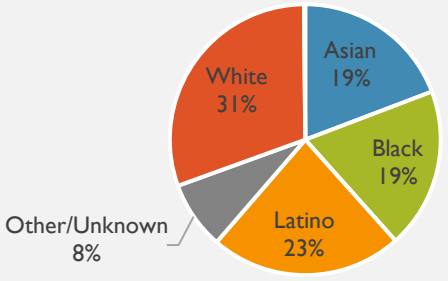
2015-2021

NCT Referrals by Booked Crime Type 2015-2021

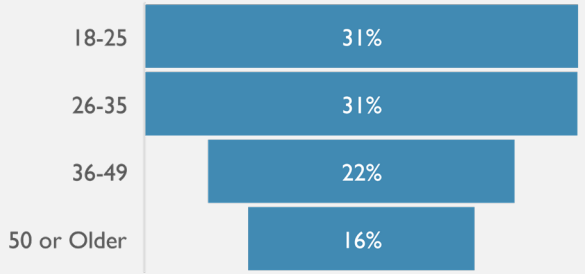


Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than five observations in the sample.

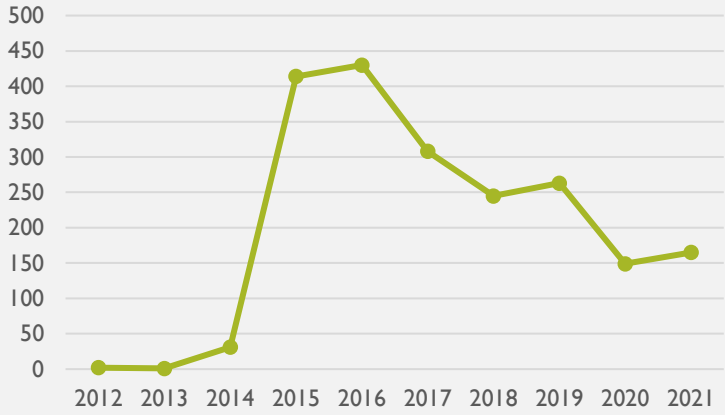
Race/Ethnicity



Age Groups

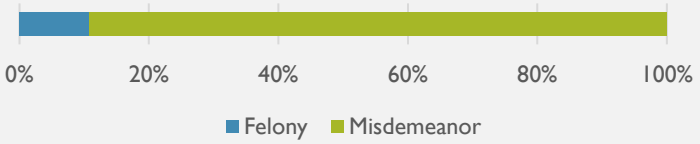


NCT Referrals by Arrest Year

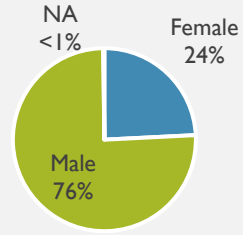


Note: NCT data was restricted to exclude referrals prior to 2015, As this graph shows, some criminal cases based on arrests that occurred prior to 2015 were referred to the program in 2015 and thereafter.

NCT Referrals by Case Type 2015-2021



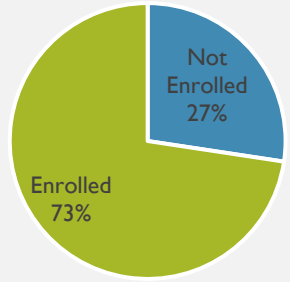
Sex



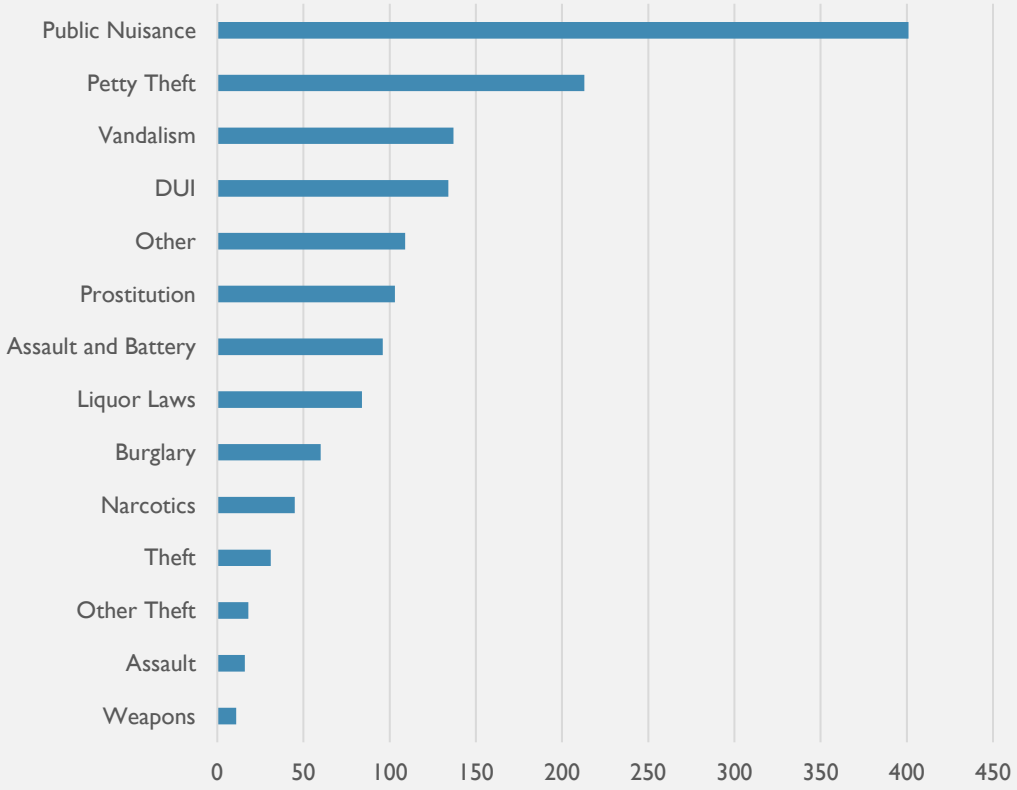
1,458 CRIMINAL CASES ENROLLED IN NCT

2015-2021

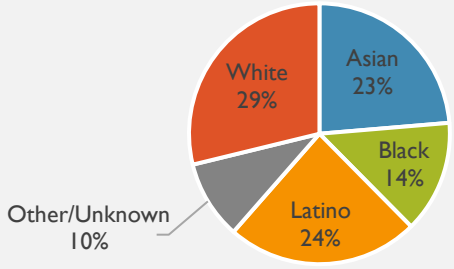
Referrals Accepted



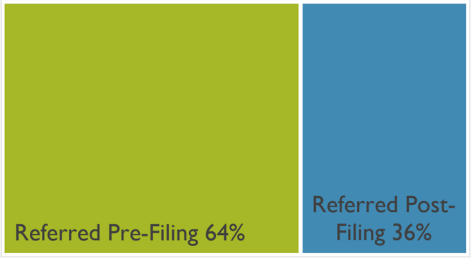
NCT Enrollments by Booked Crime Type 2015-2021



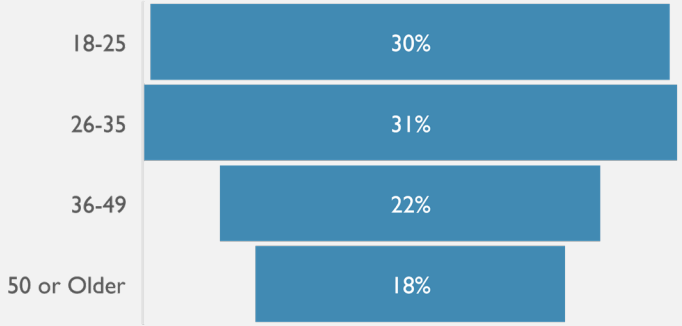
Race/Ethnicity



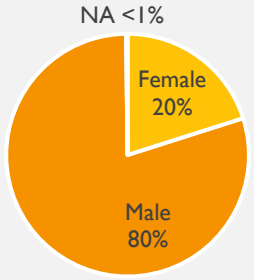
Filing Status of Enrolled Cases



Age Groups



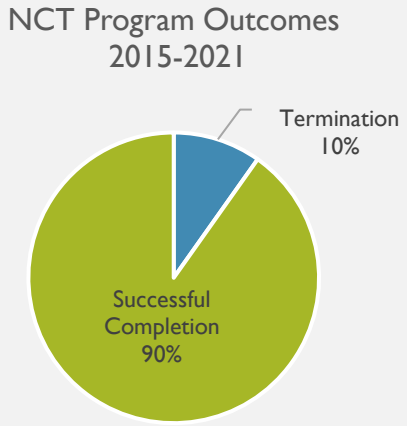
Sex

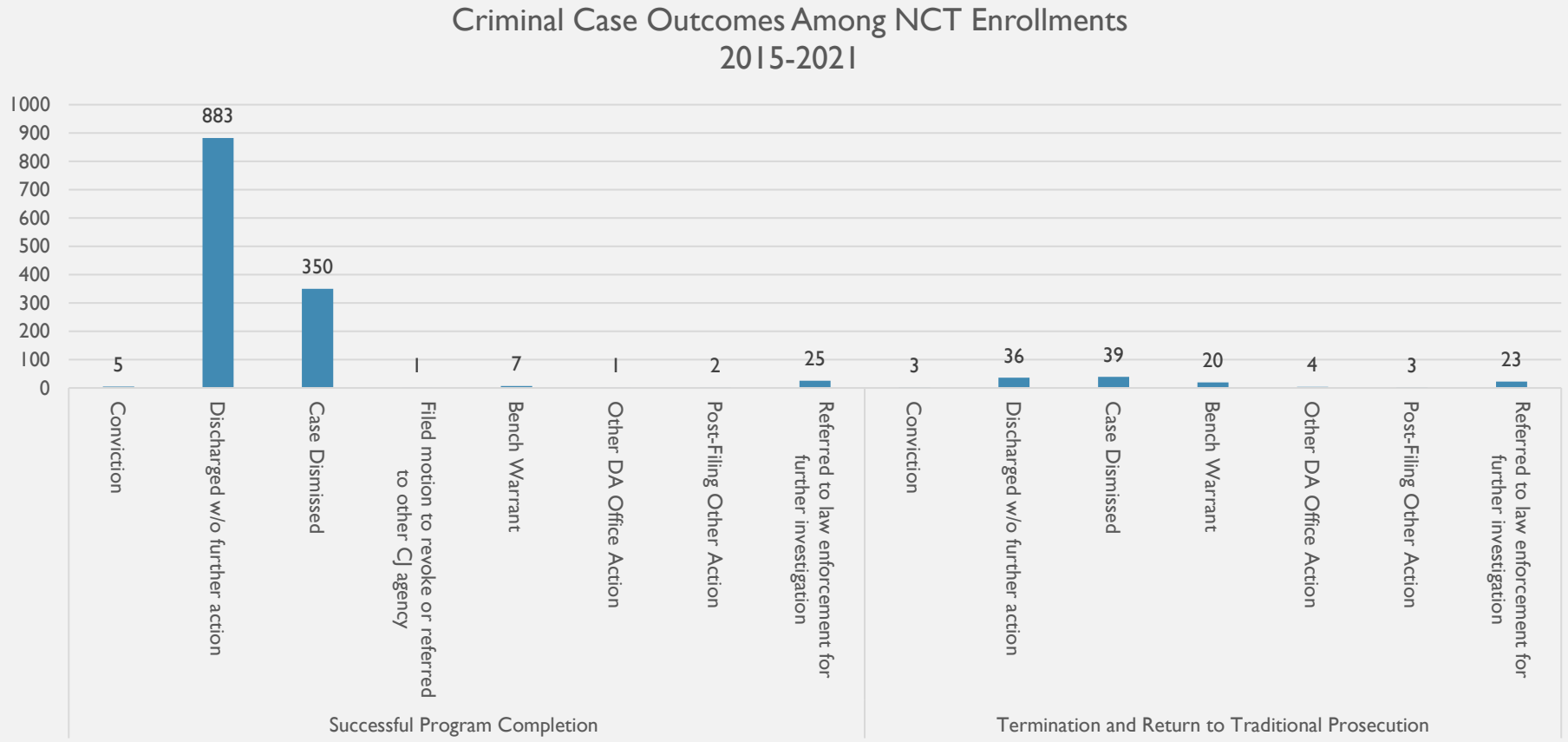


Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than five observations in the sample.

1,437 CRIMINAL CASES HAD A NCT COMPLETION OR TERMINATION

2015-2021





STATUTORY DIVERSION PROGRAMS

This section provides data on diversion programs established by the California State Legislature.

Data on Mental Health Diversion managed by SFDA Diversion and Collaborative Courts Unit. Data on Primary Caregiver Diversion and Pretrial Diversion managed by San Francisco Pretrial Diversion Project.

MENTAL HEALTH DIVERSION

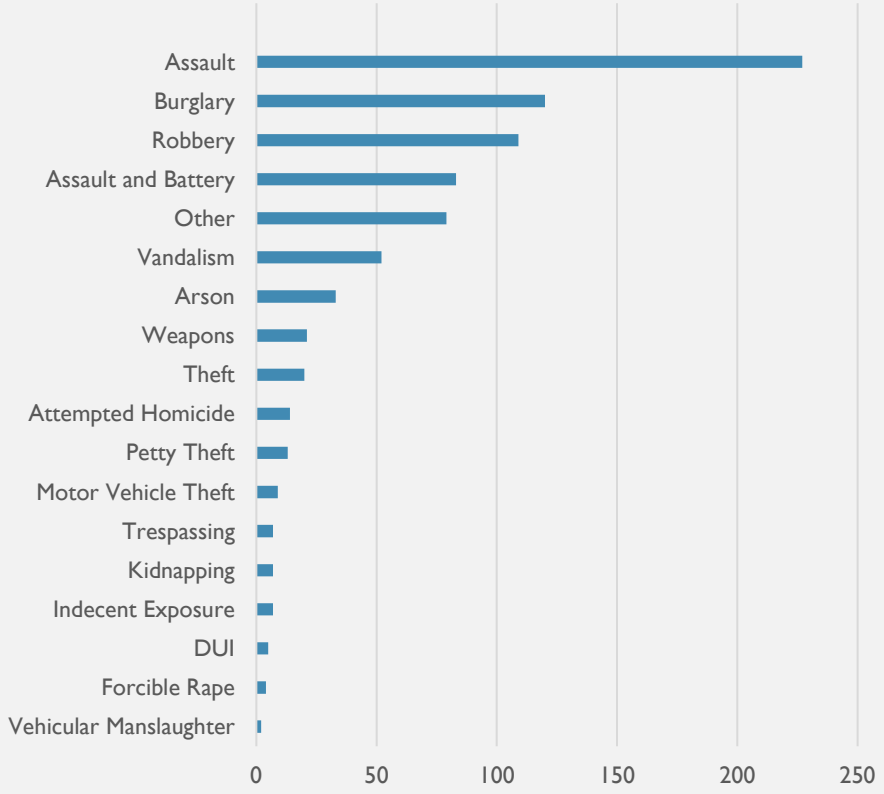
- Penal Code section 1001.36 went into effect in 2018
- Authorizes the Court to grant pretrial diversion to defendants with diagnosed mental health disorders
- Defendants participate in a mental health program for up to two years instead of prosecution in criminal court
- Law requires the Court to hear from mental health professional in making the determination that the person's symptoms can be treated
- Court can reinstate criminal proceedings if person is not complying with treatment or violates the law while in MHD
- Law covers misdemeanors and felonies, but certain violent felonies and sex offenses are excluded

Datasets	- SFDA Collaborative Courts Unit Data - SFDA Prosecution Data
Case Match Rate	96%: 812 of 841 MHD referrals matched to criminal cases in SFDA data
Total Cases Represented	812 Criminal Cases
Years of Data	Cases Referred to MHD 2018-2021
Data Challenges	• While matching referrals was highly successful for this program, enrollment and completion information was limited • As a result, some enrollments into MHD were excluded and data on enrollments and completions display undercounts and estimates of true rates and distributions

812 CASES REFERRED FOR A COURT-ORDERED MHD ASSESSMENT

2018-2021

MHD Referrals by Filed Crime Type 2018-2021



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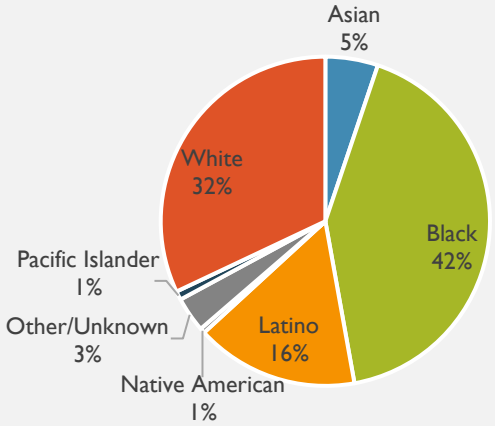
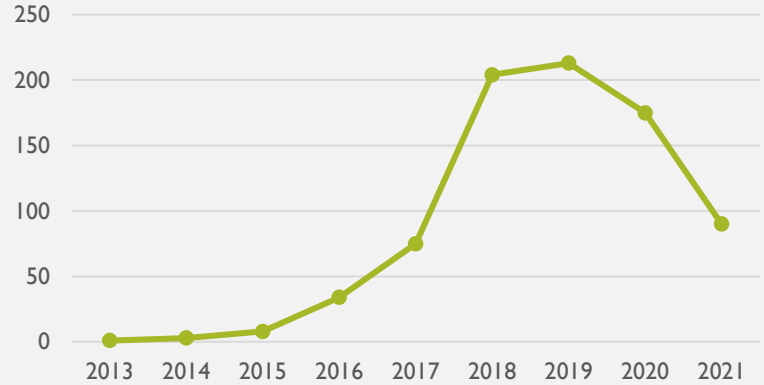
Race/Ethnicity

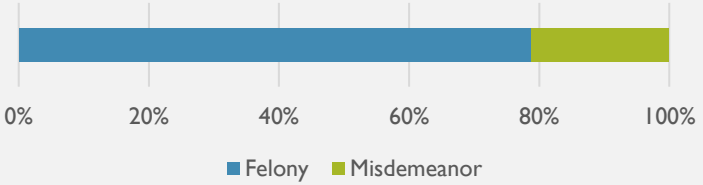


MHD Referrals by Arrest Year

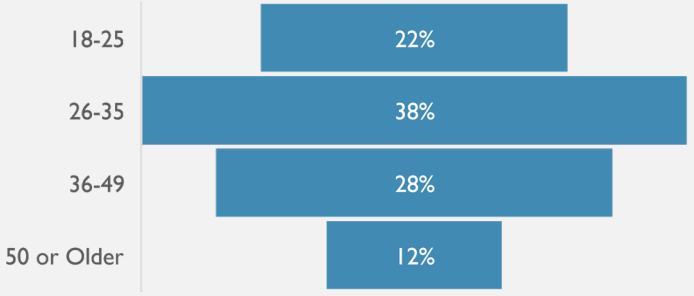


Note: MHD began accepting referrals in 2018, As this graph shows, some criminal cases based on arrests that occurred prior to 2018 were referred to the program once it was established.

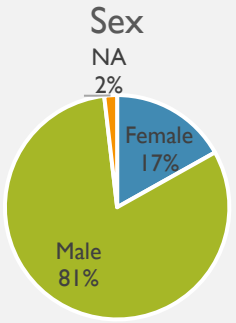
MHD Referrals by Case Type 2018-2021



Age Groups



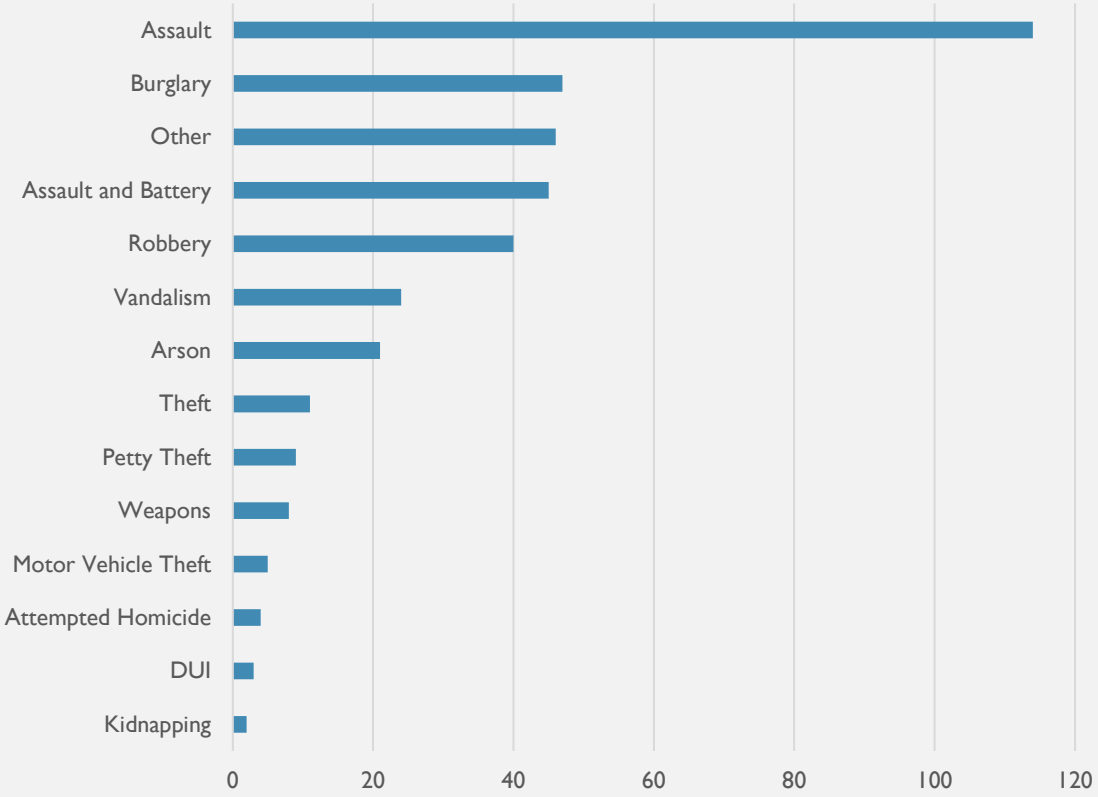
Sex



379 CASES APPROVED BY COURT AND ENROLLED IN MHD

2018-2021

MHD Enrollments by Filed Crime Type 2018-2021



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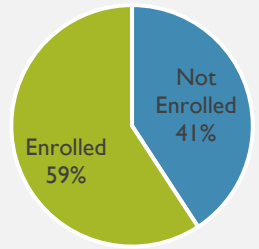
Referrals Accepted



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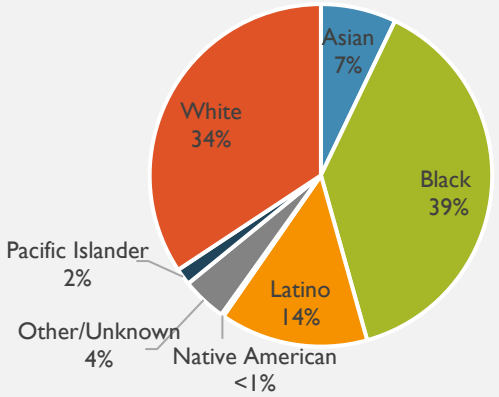

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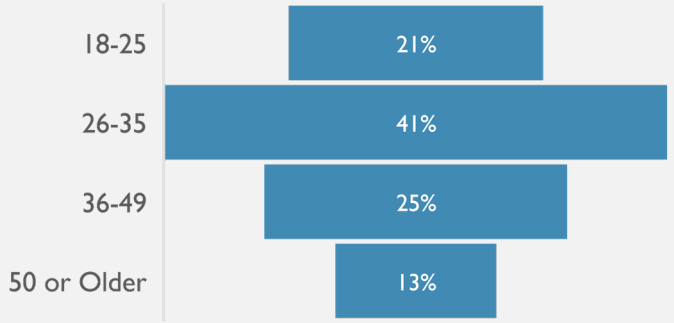
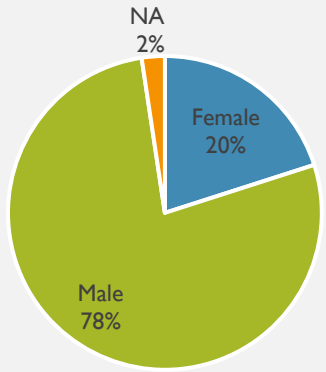


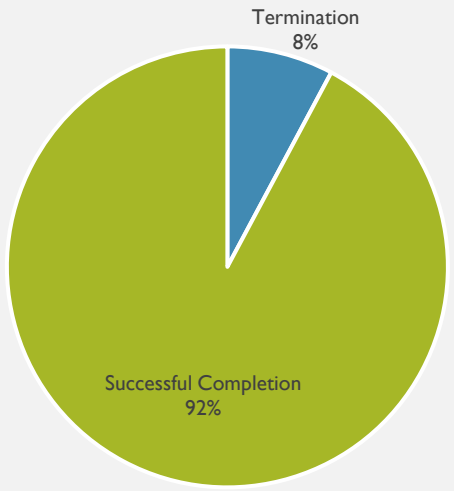
Sex



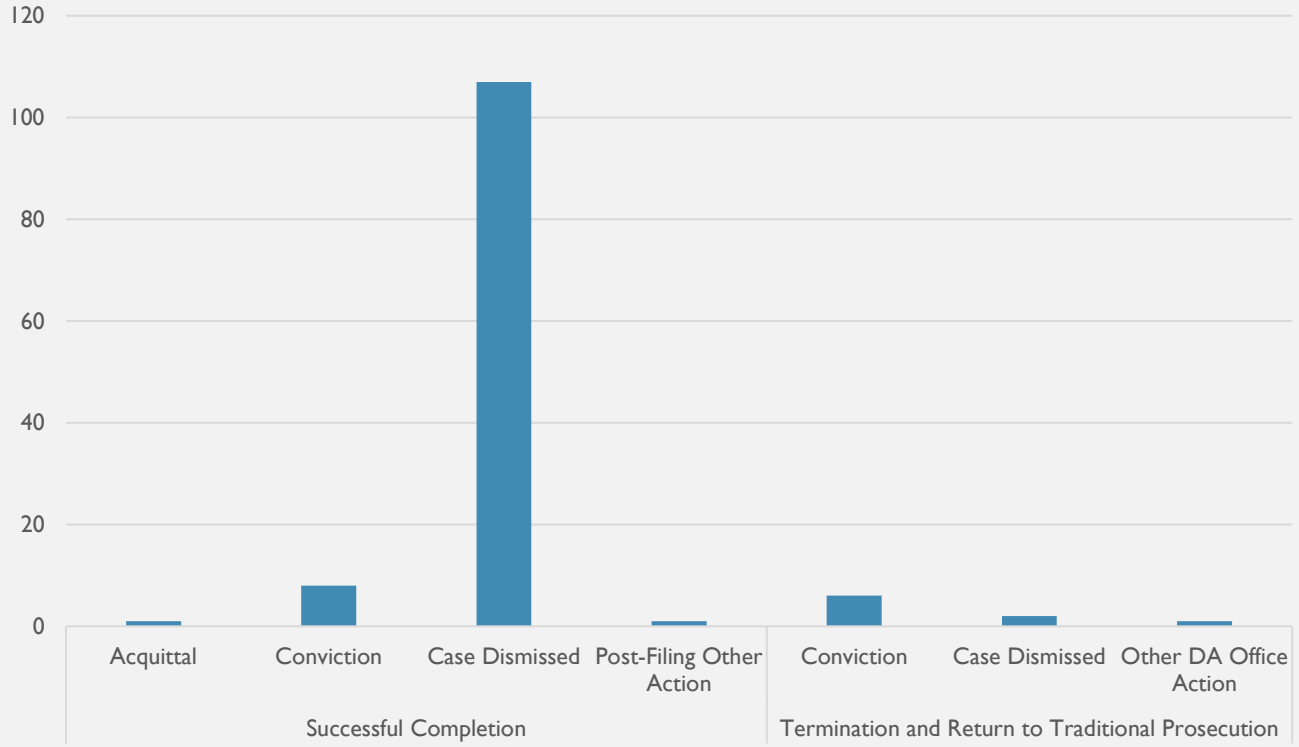
128 CASES WITH COURT APPROVED COMPLETIONS OR TERMINATIONS

2018-2021

MHD Program Outcomes
2018-2021



Criminal Case Outcomes Among MHD Enrollments
2018-2021



PRIMARY CAREGIVER DIVERSION

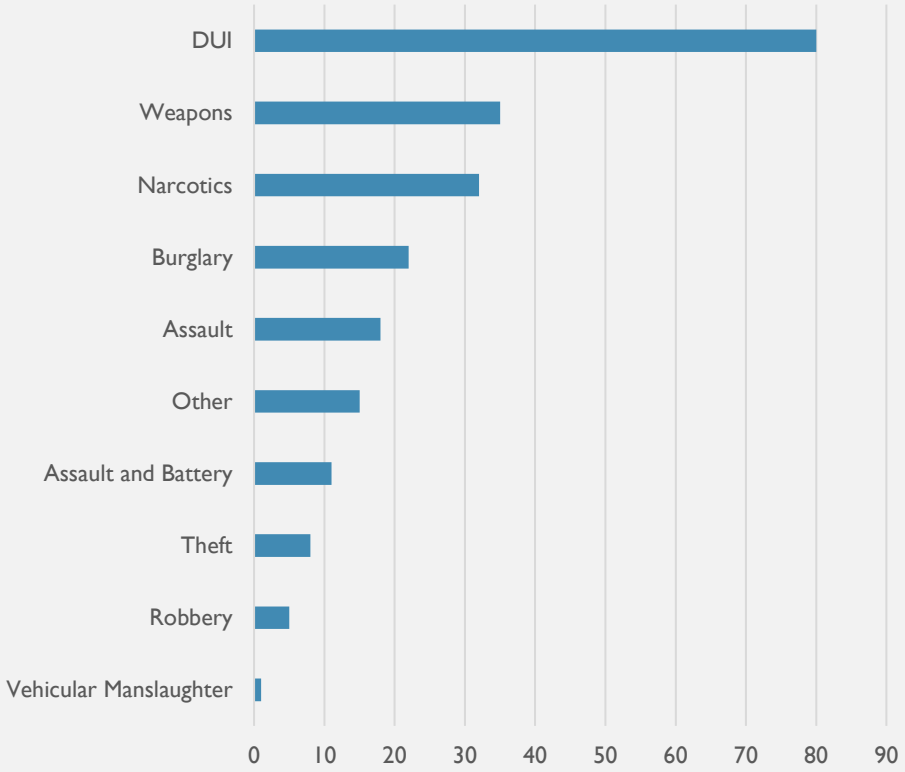
- Penal Code section 1001.83 went into effect January 1, 2020
- Attempts to reduce the negative effect of parental incarceration on families and children,
- Authorizes the presiding judge of the Superior Court, in consultation with the prosecutor's office and public defender, to create a pretrial diversion program for defendants who are primary caregivers of a child under 18
- Eligible defendants may be charged with misdemeanors or nonserious, nonviolent felonies
- Court imposes requirements for diversion; if person does not comply, criminal proceedings are reinstated

Datasets	- PCD Program Data managed by SF Pretrial Diversion Project - SFDA Prosecution Data
Case Match Rate	99%: 227 of 229 PCD referrals matched to criminal cases in SFDA Data
Total Cases Represented	227 Criminal Cases
Years of Data	Cases Referred to PCD 2020-2021
Data Challenges	• No significant challenges • High match rate for referrals and enrollments allows for a high level of confidence in both raw totals and distributions presented

227 CRIMINAL CASES REFERRED TO PCD

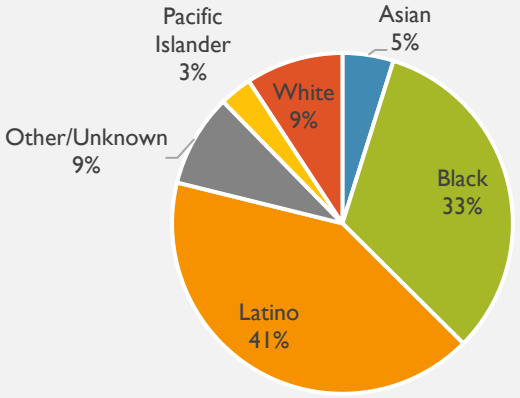
2020-2021

PCD Referrals by Filed Crime Type 2020-2021

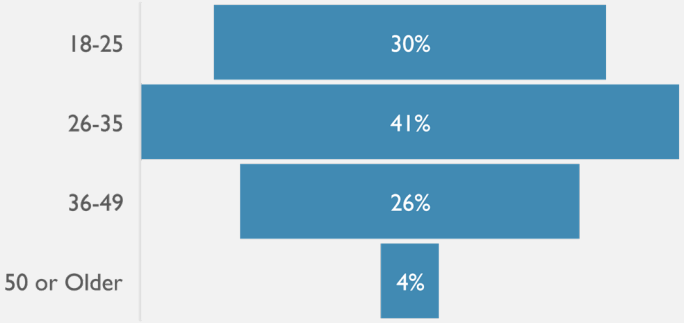


Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than five observations in the sample.

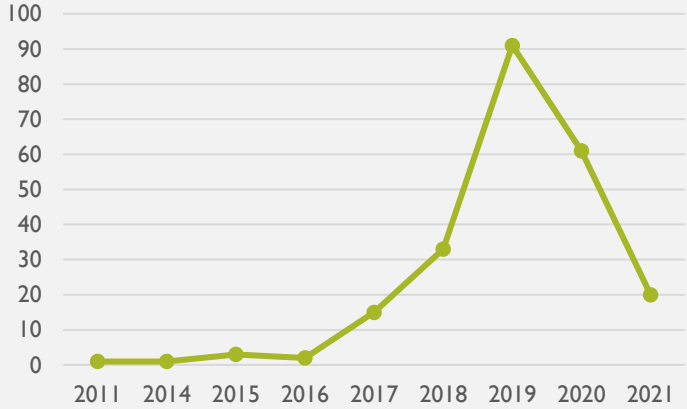
Race/Ethnicity



Age Groups

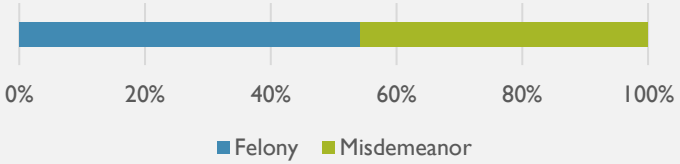


PCD Referrals by Arrest Year

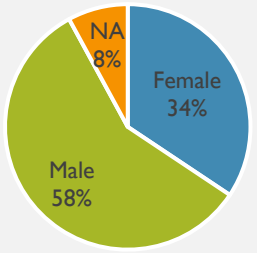


Note: PCD began accepting referrals in 2020. As this graph shows, some criminal cases based on arrests that occurred prior to 2020 were referred to the program once it was established.

PCD Referrals by Case Type 2020-2021



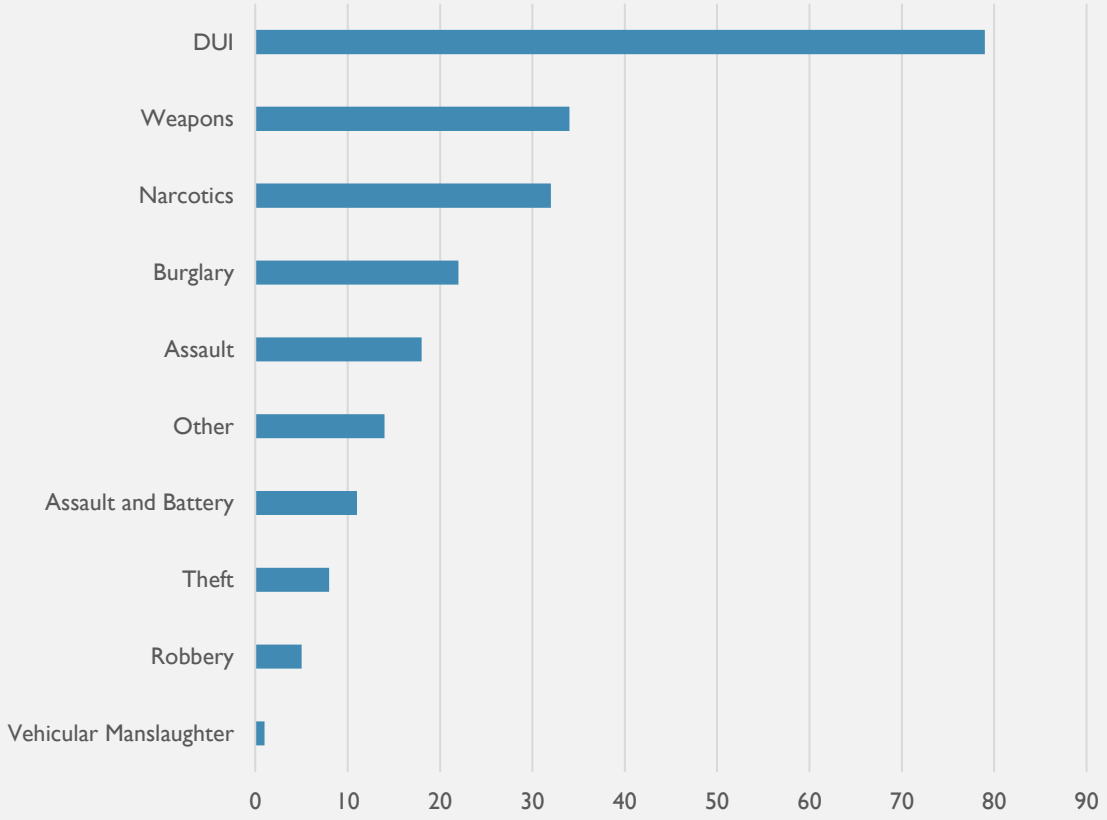
Sex



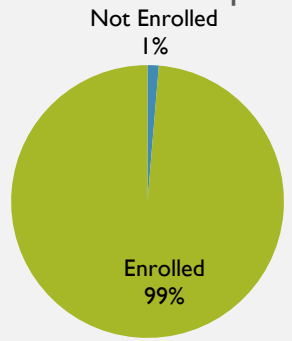
224 CASES APPROVED BY COURT AND ENROLLED IN PCD

2020-2021

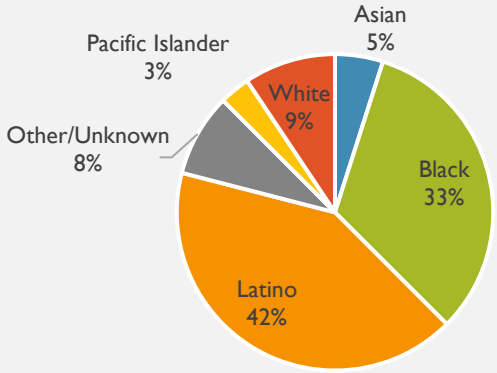
PCD Enrollments by Filed Crime Type 2020-2021



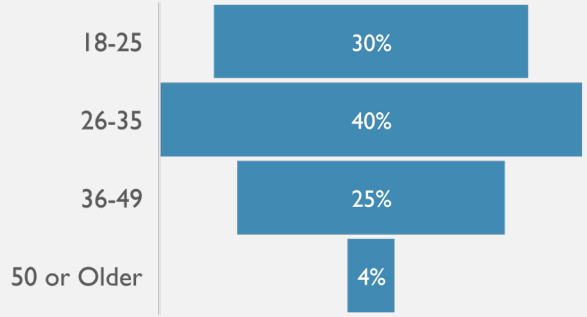
Referrals Accepted



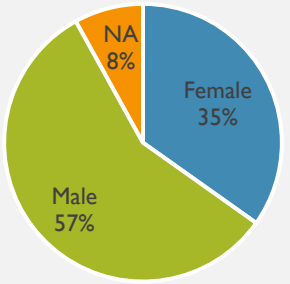
Race/Ethnicity



Age Groups



Sex

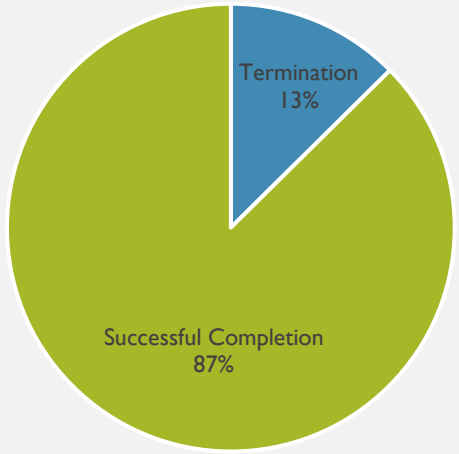


Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than five observations in the sample.

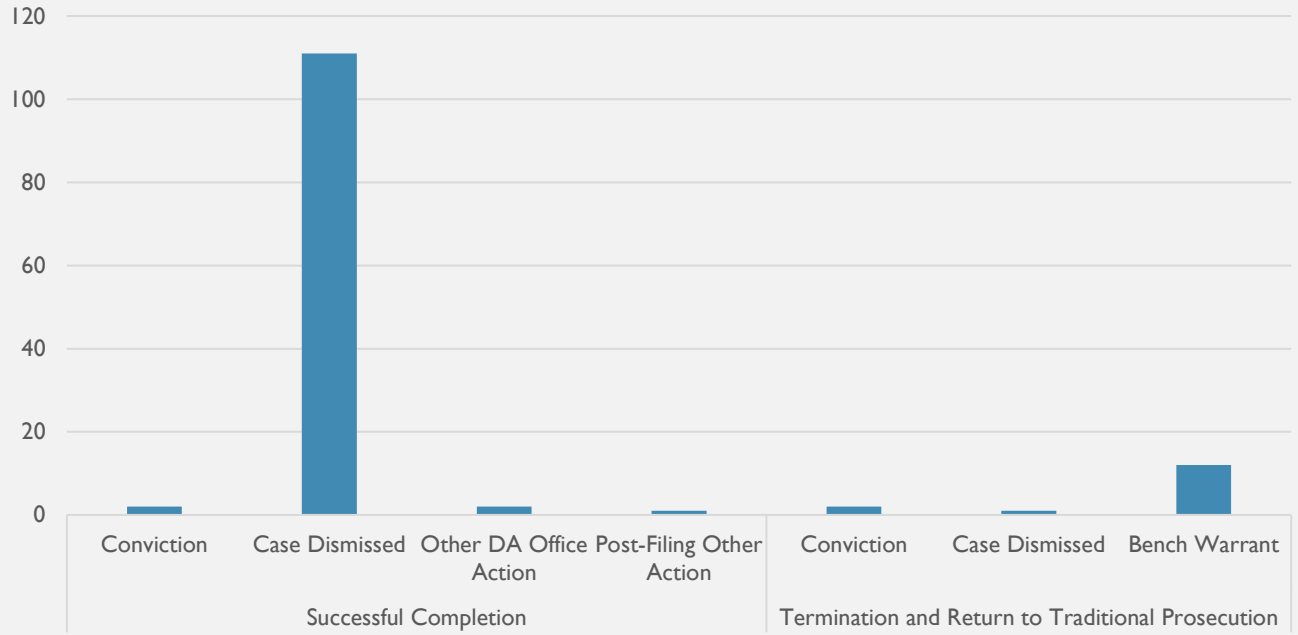
135 CASES WITH COURT APPROVED COMPLETIONS OR TERMINATIONS

2020-2021

PCD Program Outcomes
2020-2021



Criminal Case Outcomes Among PCD Enrollments
2020-2021



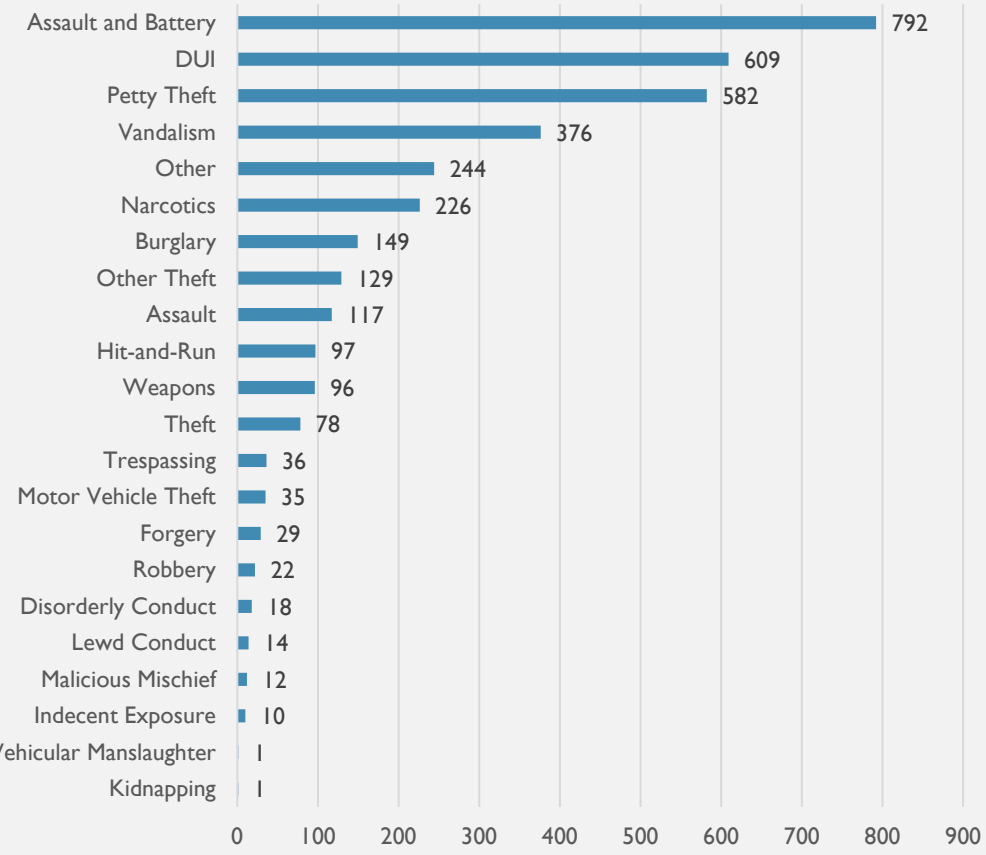
PRETRIAL DIVERSION

- Penal Code section 1001.7 has long granted courts authority to divert defendants charged with certain misdemeanor offenses
- As of Jan 2021, Penal Code section 1001.95 grants courts authority to divert people charged with all misdemeanors with limited exceptions (crimes that would require sex registration, abandonment/neglect of children, domestic violence, stalking/harassing crimes)
- In SF, the court uses its authority to divert a limited number of felony defendants to this program
- Person can be diverted for up to 2 years with court mandated terms and conditions,
- If a defendant does not comply with diversion terms , the court can end the diversion and reinstate criminal proceedings

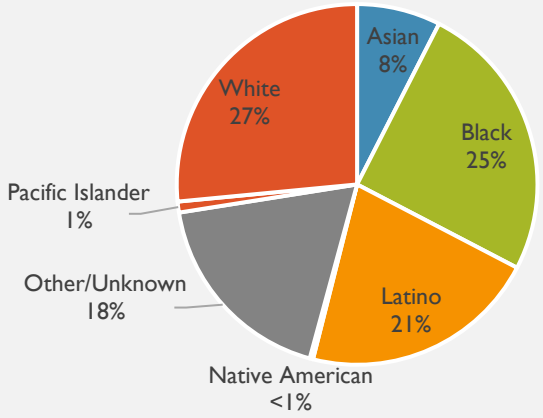
Datasets	- PTD Program Data managed by SF Pretrial Diversion Project - SFDA Prosecution Data
Case Match Rate	95%: 3,673 of 3,882 PTD referrals matched to criminal cases in SFDA Data
Total Cases Represented	3,673 Criminal Cases
Years of Data	Cases Referred to PTD 2011-2021
Data Challenges	• No significant challenges • High match rate for referrals and enrollments allows for a high level of confidence in both raw totals and distributions presented

3,673 CASES REFERRED TO PTD
2011-2021

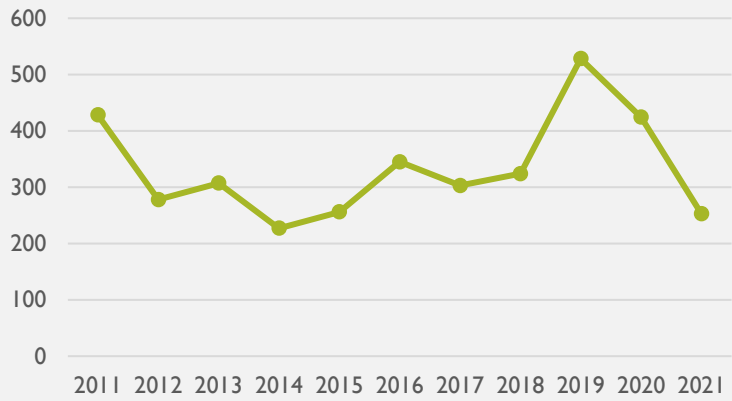
PTD Referrals by Filed Crime Type 2011-2021



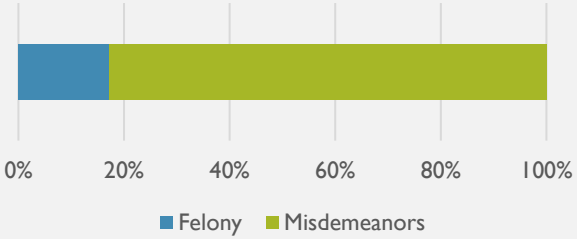
Race/Ethnicity



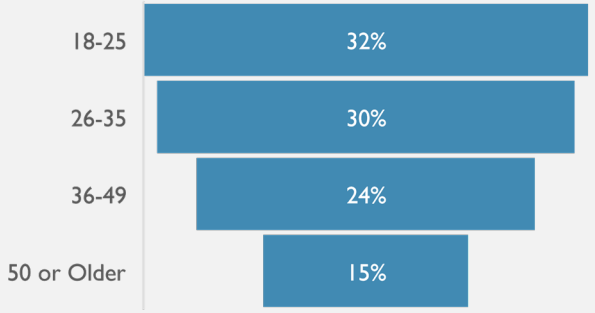
PTD Referrals by Arrest Year



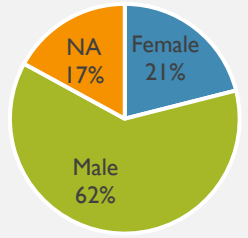
PTD Referrals by Case Type 2011-2021



Age Groups



Sex

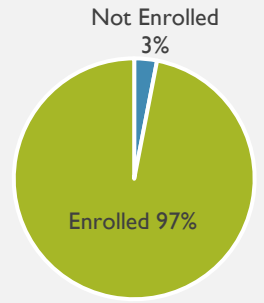


Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than ten observations in the sample.

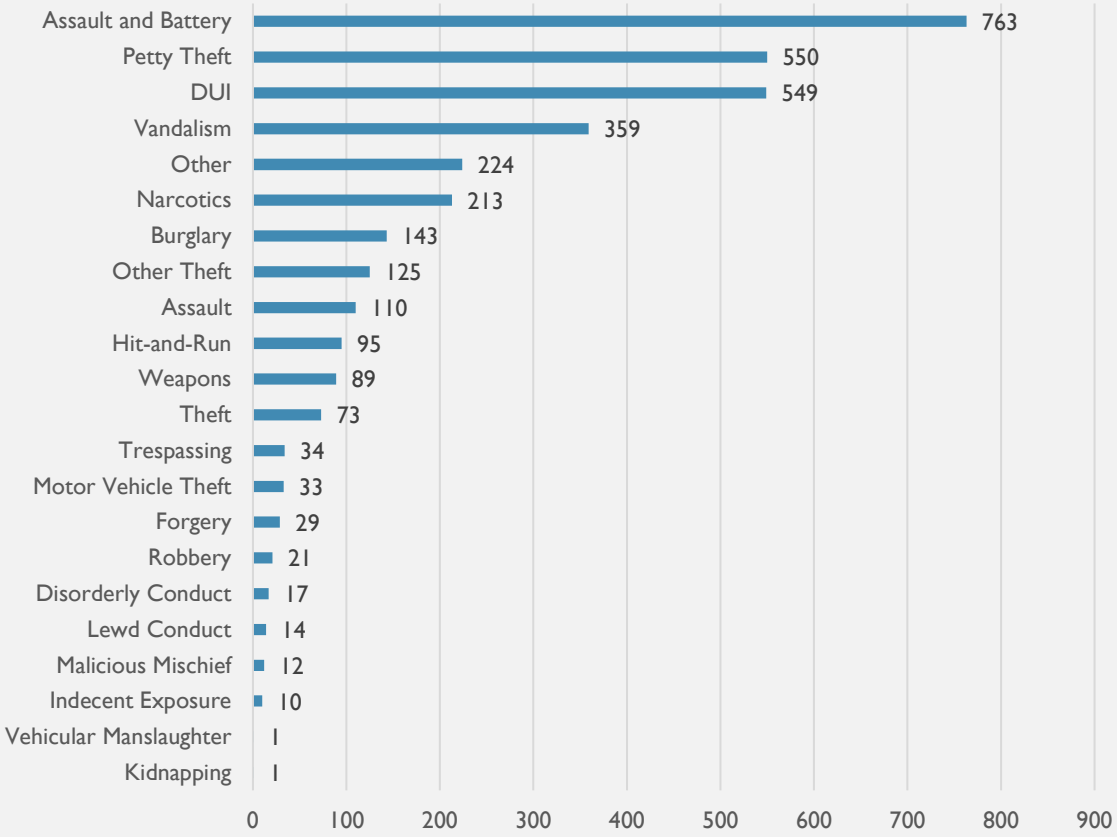
3,465 CASES APPROVED BY COURT AND ENROLLED IN PTD

2011-2021

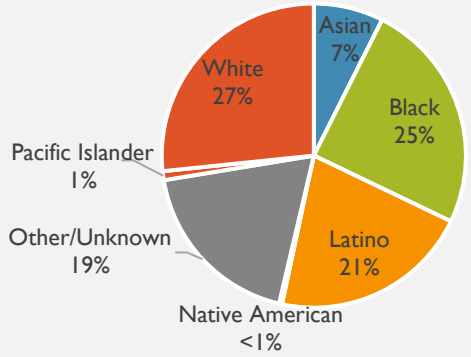
Referrals Accepted



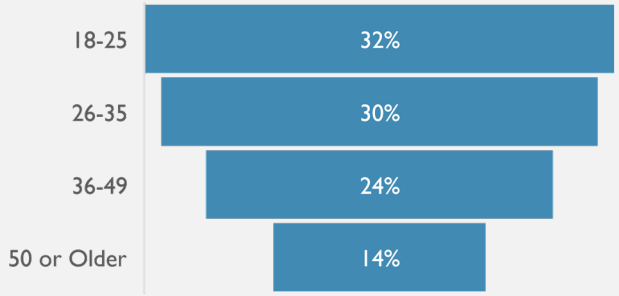
PTD Enrollments by Filed Crime Type 2011-2021



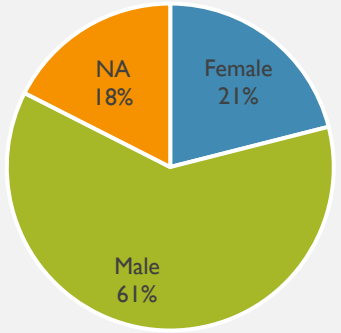
Race/Ethnicity



Age Groups



Sex



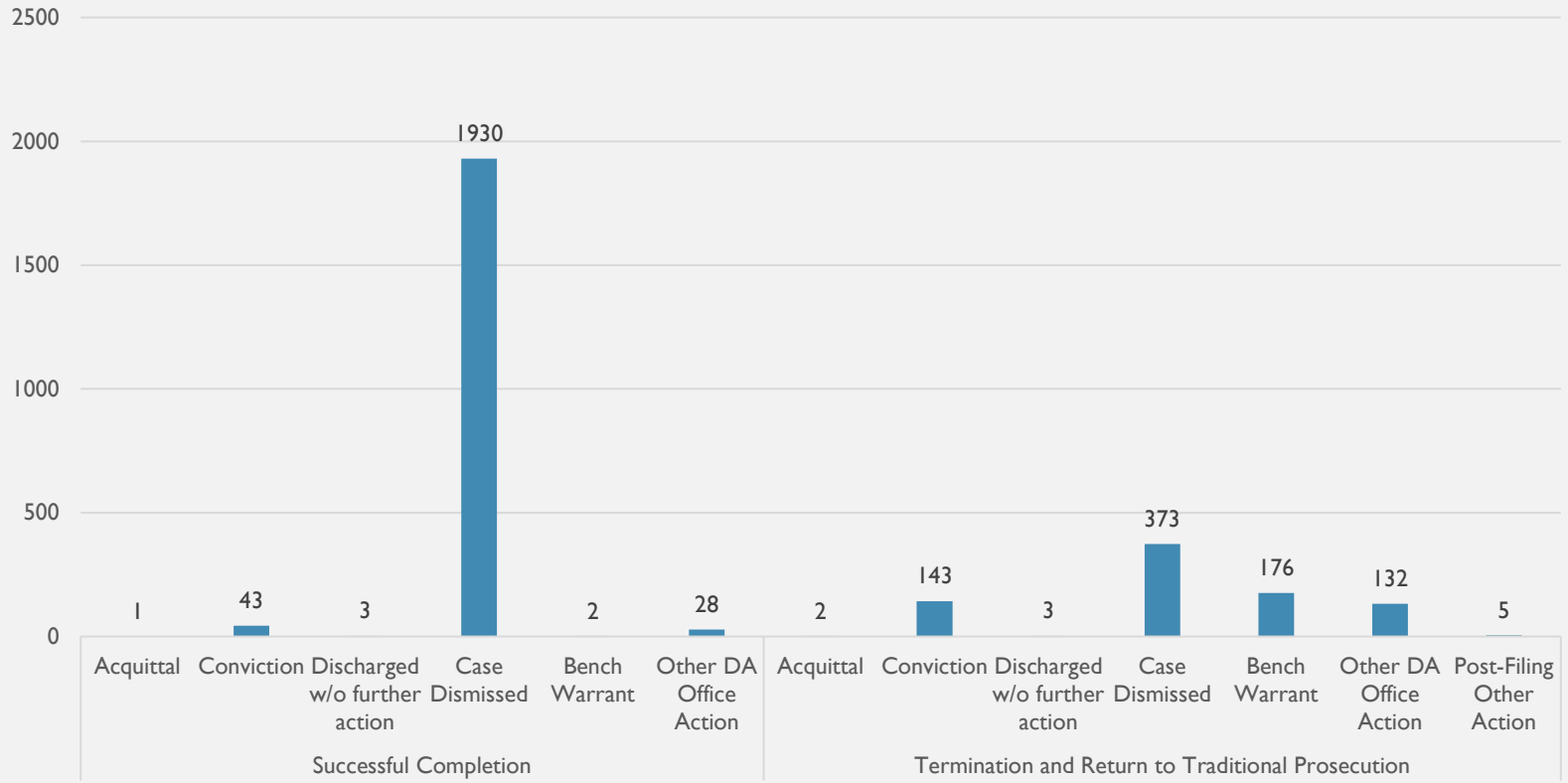
Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than ten observations in the sample.

2,927 CASES WITH COURT APPROVED COMPLETIONS OR TERMINATIONS

2011-2021

PTD Program Outcomes
2011-2021

Criminal Case Outcomes Among PTD Enrollments
2011-2021



COLLABORATIVE COURTS

This sections presents case-level data on San Francisco Superior Court established Collaborative Court programs.

Data on Collaborative Court referrals and enrollments tracked by Superior Court's Collaborative Court Division, which tracks data based on *episodes or individuals*. The following slides present data based on *criminal cases*, as tracked by the District Attorney's Office.

YOUNG ADULT COURT

- Established in 2015 for eligible young adults, ages 18-24
- Program design based on brain-science research regarding young adult development
- Interventions focus on education, employment, counseling, and peer mentorship
- Led by Superior Court, in partnership with District Attorney's Office; Public Defender's Office; Department of Public Health; Adult Probation Department; Department of Children, Youth and Their Families; Police Department; and Felton Family Service Agency

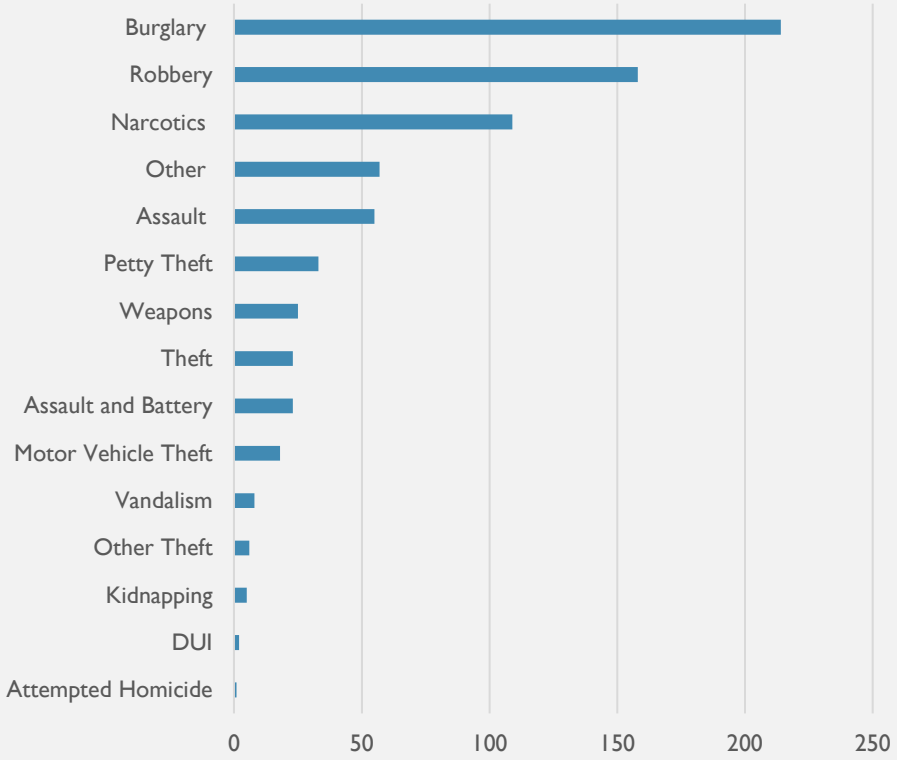
Datasets	- Collaborative Courts Database - SFDA Prosecution Data - San Francisco Superior Court Notes
Case Match Rate	121%: 608 YAC referrals matched to 737 criminal cases in SFDA data
Total Cases Represented	737 Criminal Cases
Years of Data	Cases Referred to YAC 2015-2021
Data Challenges	• Data entry on court numbers in the Collaborative Court database was imperfect. A keyword search of court notes of the San Francisco Superior Court was used to identify missing cases and fill in gaps • As a result, some program enrollment and outcome data could not be matched, leading to a likely undercount of enrollments and completions and the exclusion of some cases from this analysis • Additionally, the use of keyword searches of court notes may have resulted in the inadvertent inclusion or exclusion of unrelated criminal cases

*A higher number of criminal cases may be identified as being referred to a program than there are referrals in the Collaborative Court database for a variety of reasons. It is possible that some cases referred to a program for an eligibility determination were not captured by the database. Additionally, one referral episode in the Collaborative Court database might account for several criminal cases.

737 CASES REFERRED FOR A COURT-ORDERED YAC ASSESSMENT

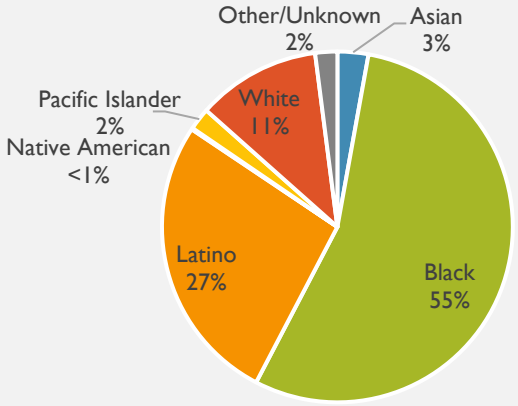
2015-2021

YAC Referrals by Filed Crime Type 2015-2021

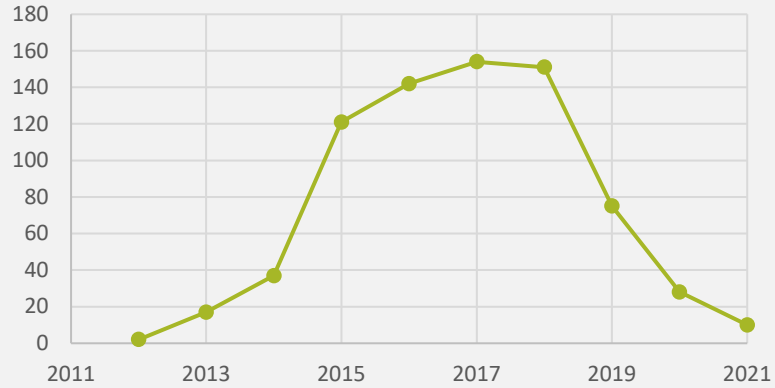


Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than five observations in the sample.

Race/Ethnicity

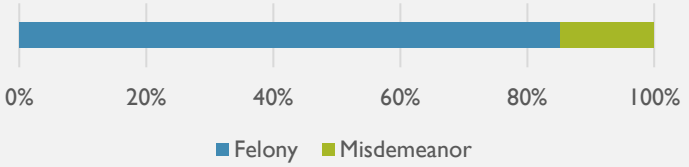


Referrals to YAC by Arrest Year

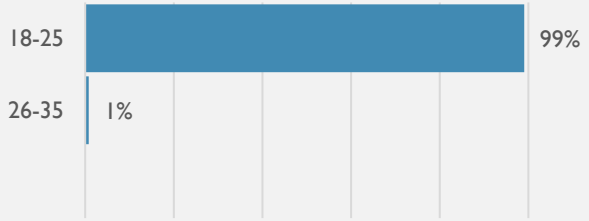


Note: YAC began accepting referrals in 2015, As this graph shows, some criminal cases based on arrests that occurred prior to 2015 were referred to the program once it was established.

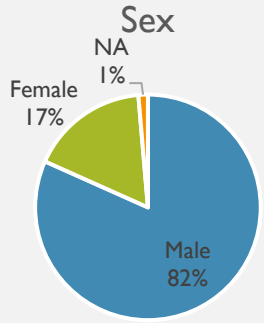
YAC Referrals by Case Type 2015-2021



Age Groups

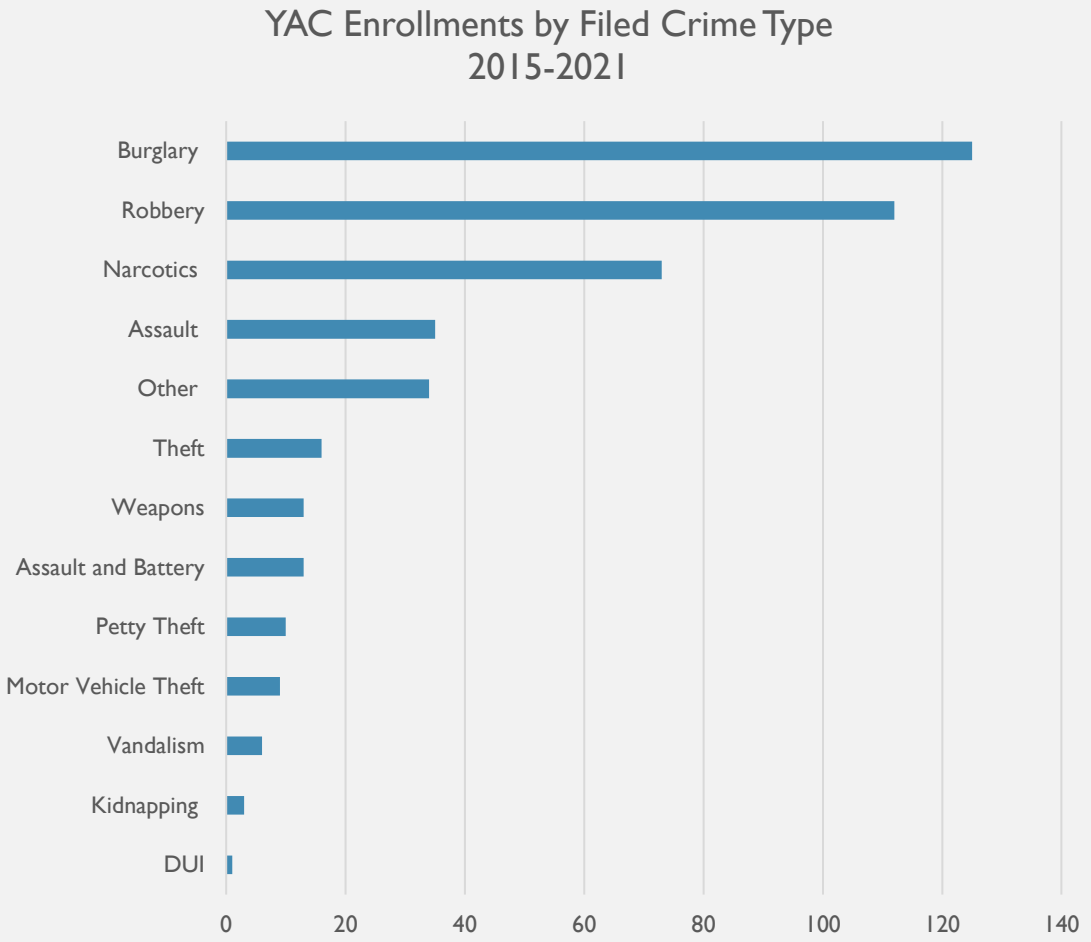


Sex

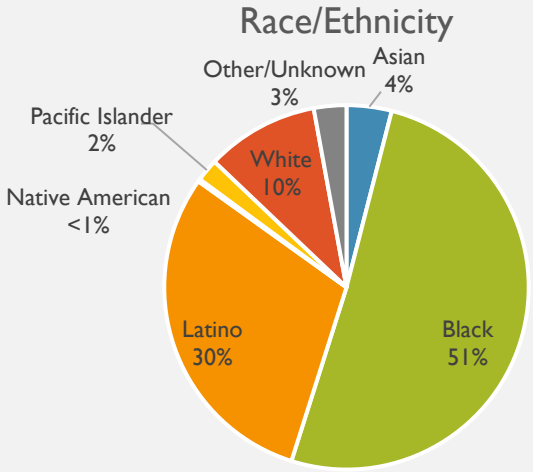


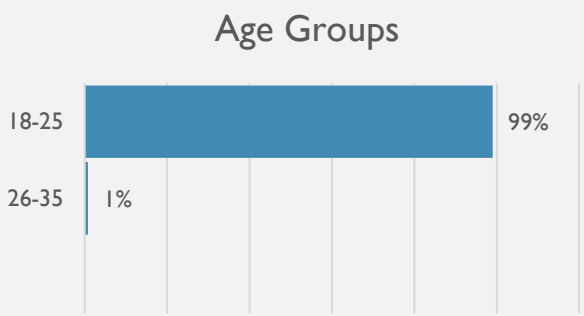
450 CASES APPROVED BY COURT AND ENROLLED IN YAC

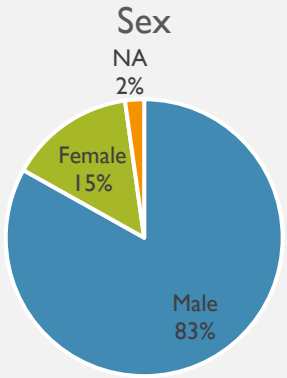
2015-2021



Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than five observations in the sample.

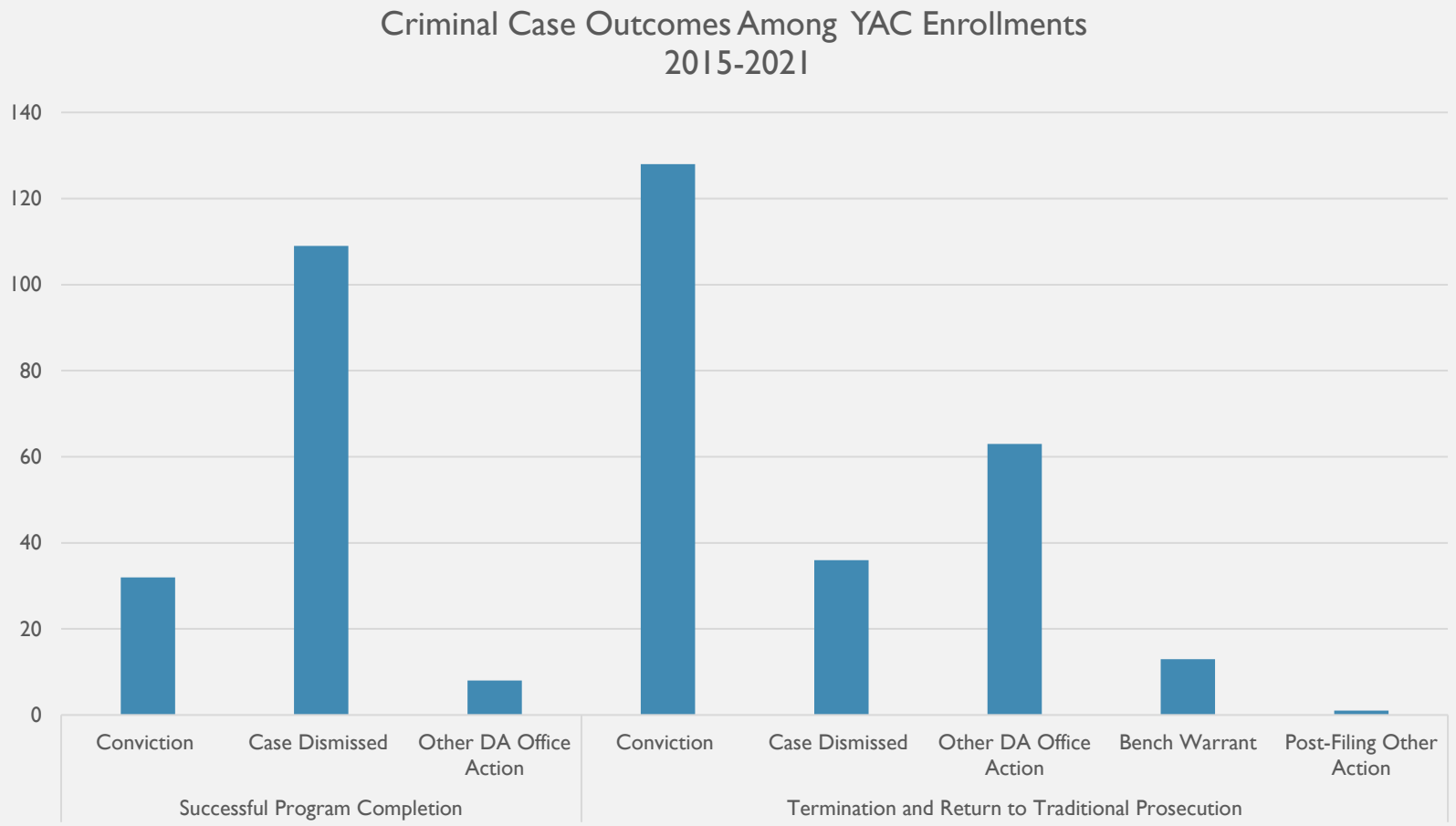






398 CASES WITH COURT APPROVED COMPLETIONS OR TERMINATIONS

2015-2021



DRUG COURT

- Established in 1995
- Participation can occur before a plea or as a condition of probation
- Provides an intensive supervision case management for individuals with substantial substance abuse problems
- Treatment is monitored by the Court
- Clients attend regular judicial status hearings and undergo randomized urinalysis testing, counseling, and ancillary services including mental health treatment, vocational/education services, anger management counseling, and supportive housing
- When a participant successfully completes Drug Court (10-24 months), probation is terminated, or charges may be dismissed.

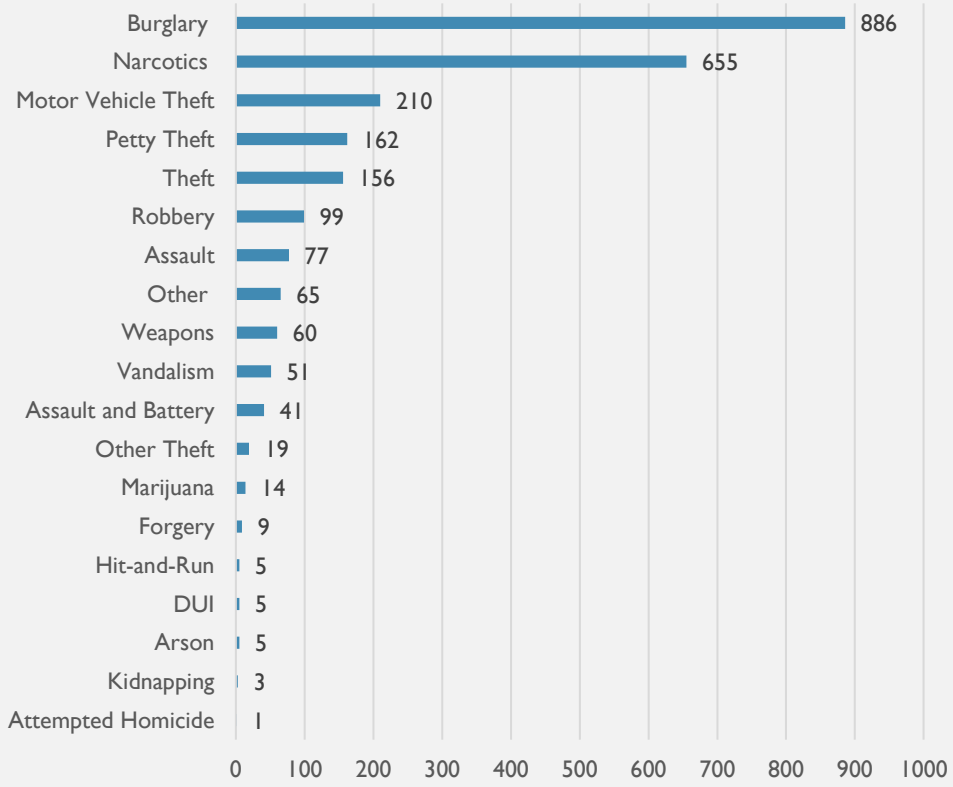
Datasets	- Collaborative Courts Database - SFDA Prosecution Data - San Francisco Superior Court Notes
Case Match Rate	121%: 2,085 DC referrals matched to 2,523 criminal cases in SFDA data
Total Cases Represented	2,523 Criminal Cases
Years of Data	Cases Referred to DC 2011-2021
Data Challenges	• Data entry on court numbers in the Collaborative Court database was imperfect. A keyword search of court notes of the San Francisco Superior Court was used to identify missing cases and fill in gaps • As a result, some program enrollment and outcome data could not be matched, leading to a likely undercount of enrollments and completions and the exclusion of some cases from this analysis • Additionally, the use of keyword searches of court notes may have resulted in the inadvertent inclusion or exclusion of unrelated criminal cases

*A higher number of criminal cases may be identified as being referred to a program than there are referrals in the Collaborative Court database for a variety of reasons. It is possible that some cases referred to a program for an eligibility determination were not captured by the database. Additionally, one referral episode in the Collaborative Court database might account for several criminal cases.

2,523 CASES WERE REFERRED FOR A COURT-ORDERED DC ASSESSMENT

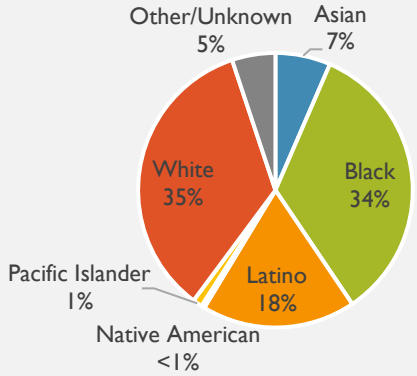
2011-2021

DC Referrals by Filed Crime Type 2011-2021

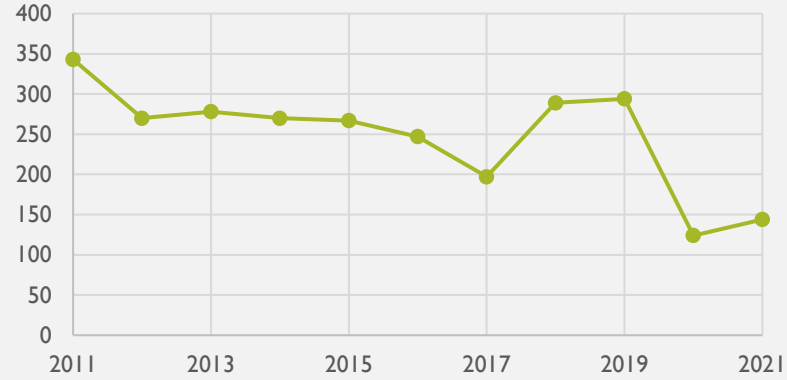


Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than five observations in the sample.

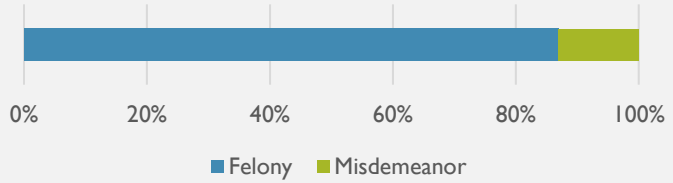
Race/Ethnicity



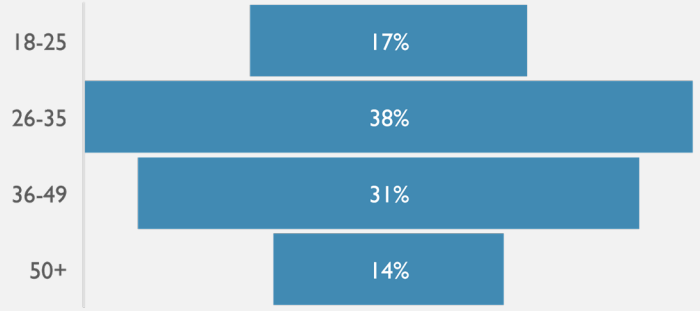
DC Referrals by Arrest Year



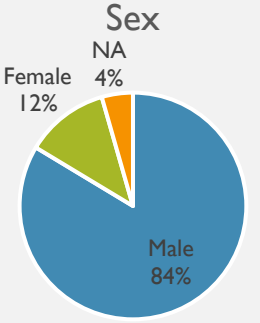
DC Referrals by Case Type 2011-2021



Age Groups

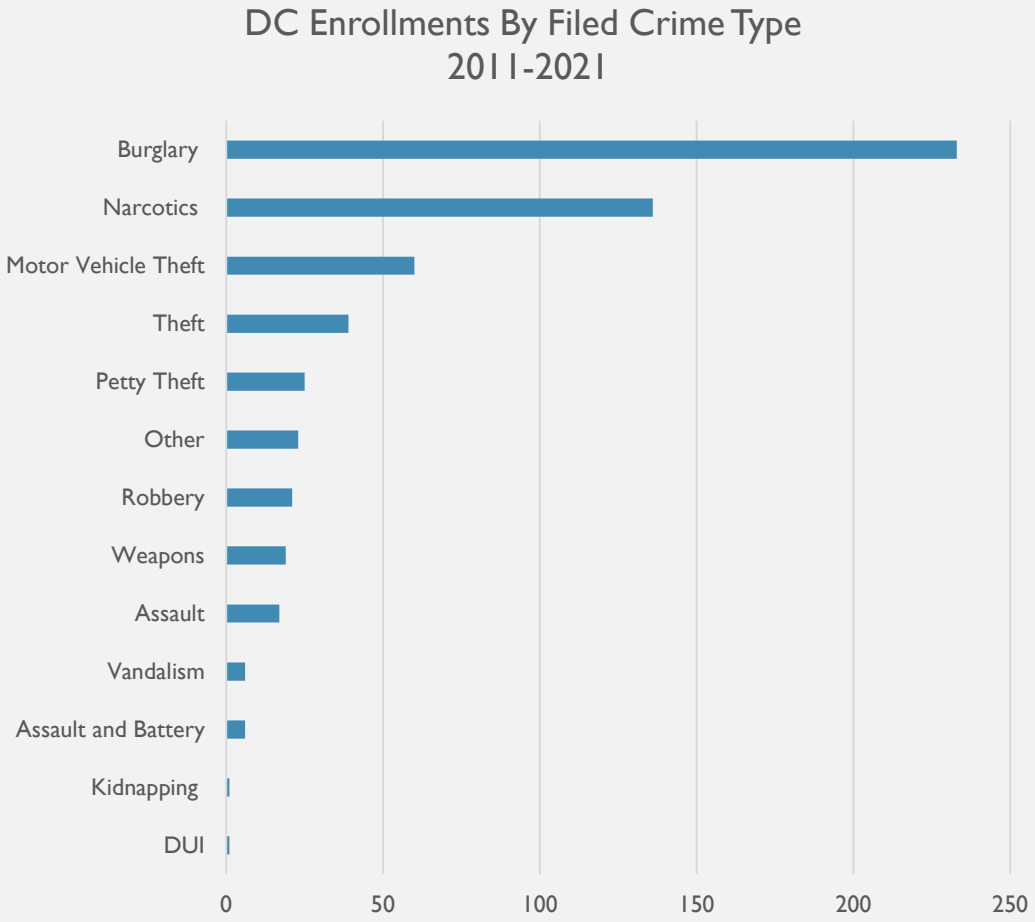


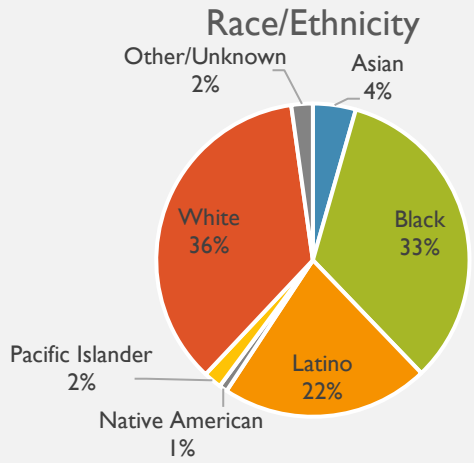
Sex

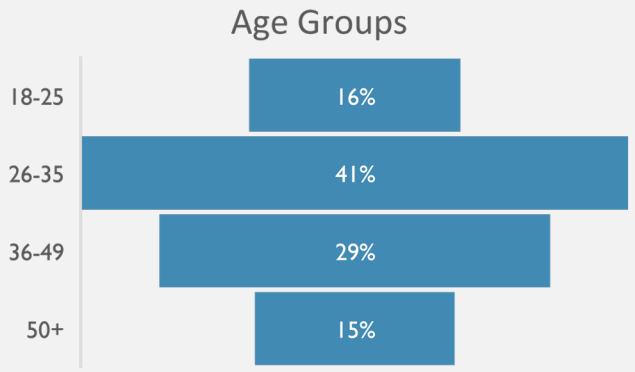


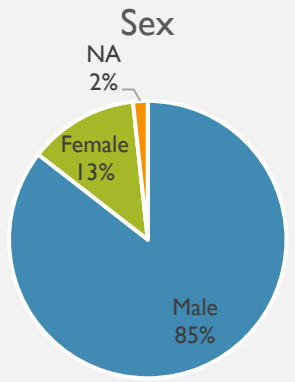
587 CASES APPROVED BY COURT AND ENROLLED IN DC

2011-2021





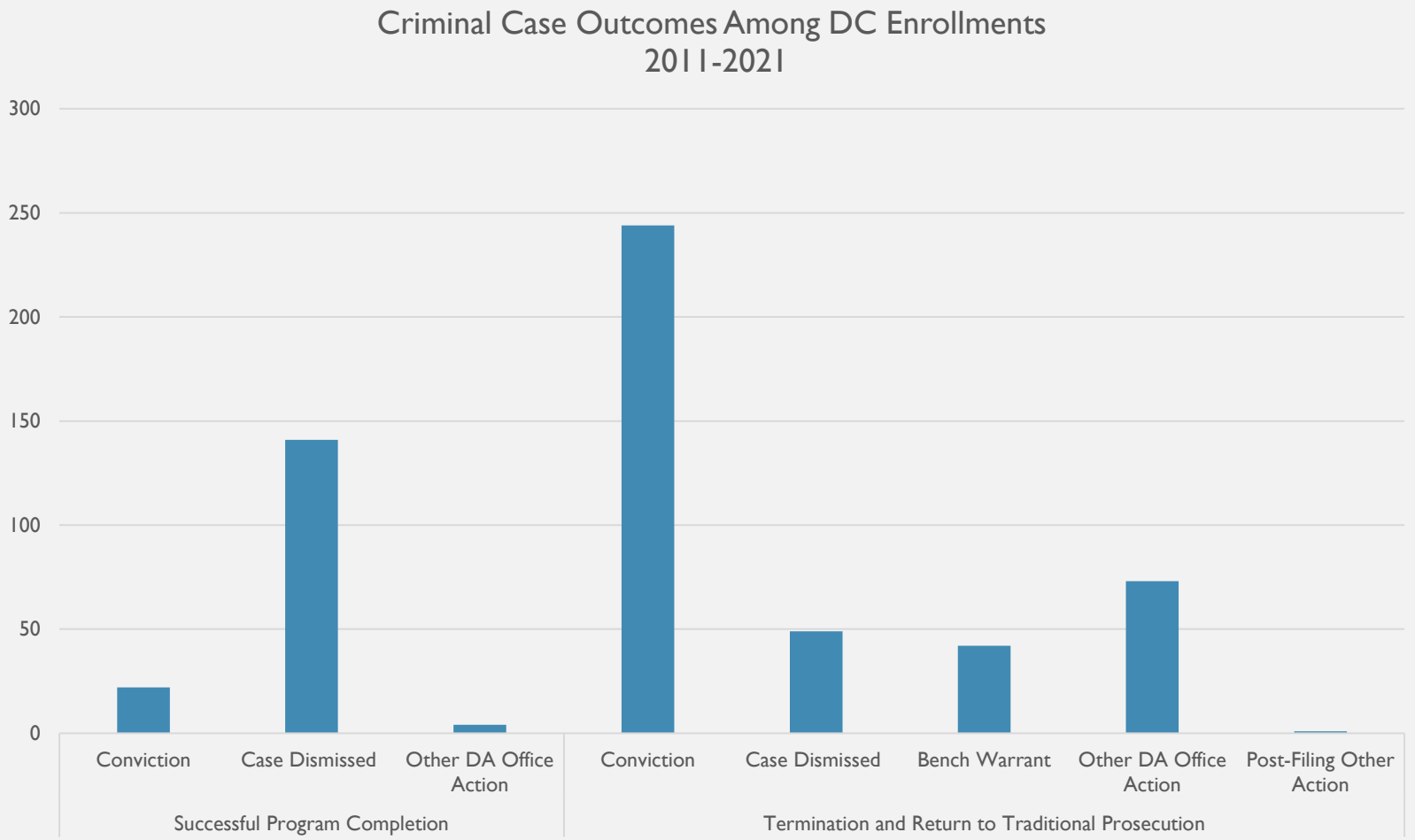




Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than five observations in the sample.

587 CASES WITH COURT APPROVED COMPLETIONS OR TERMINATIONS

2011-2021



BEHAVIORAL HEALTH COURT

- Created in 2002 to provide services to defendants with co-occurring mental health and substance use disorders
- Court-determined eligibility is based on three criteria: 1) diagnosis of Axis I mental health disorder; 2) gravity of the criminal charges; and 3) suitability and amenability to treatment in the community mental health system
- Mental health providers provide intensive case management to the clients with a focus on the person's diagnosis and psychosocial needs
- Person may be in custody during time at BHC
- If the person does not comply with treatment, the person is returned to traditional court proceedings

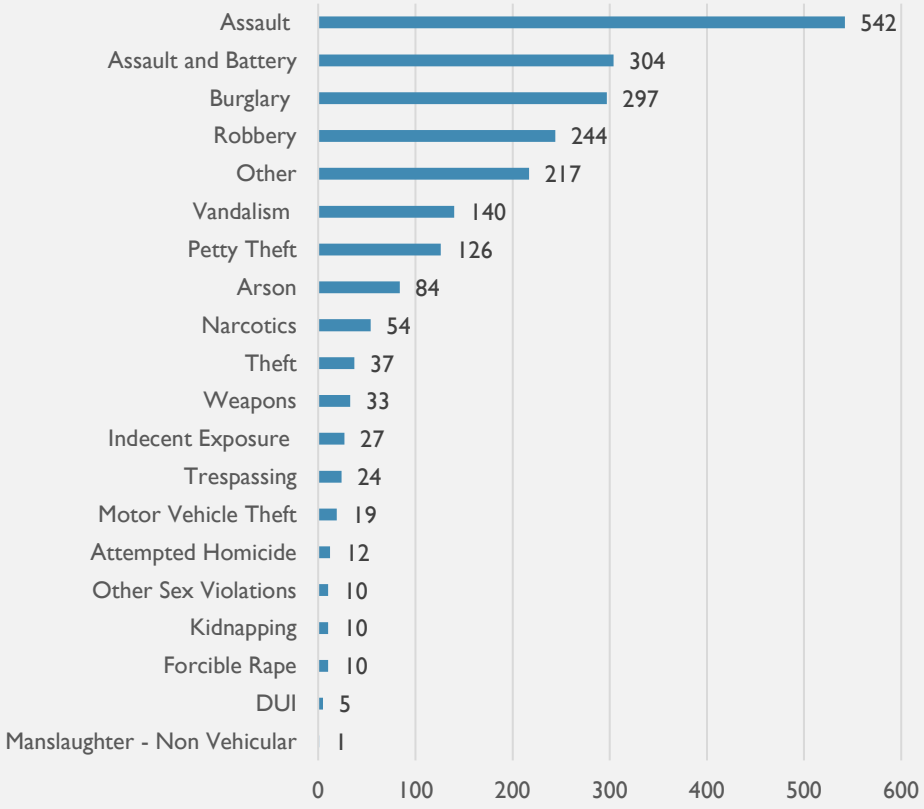
Datasets	- Collaborative Courts Database - SFDA Prosecution Data - San Francisco Superior Court Notes
Case Match Rate	110%: 1,983 BHC referrals matched to 2,196 criminal cases in SFDA data
Total Cases Represented	2,196 Criminal Cases
Years of Data	Cases Referred to DC 2011-2021
Data Challenges	• Data entry on court numbers in the Collaborative Court database was imperfect. A keyword search of court notes of the San Francisco Superior Court was used to identify missing cases and fill in gaps. • As a result, some program enrollment and outcome data could not be matched, leading to a likely undercount of enrollments and completions and the exclusion of some cases from this analysis • Additionally, the use of keyword searches of court notes may have resulted in the inadvertent inclusion or exclusion of unrelated criminal cases

*A higher number of criminal cases may be identified as being referred to a program than there are referrals in the Collaborative Court database for a variety of reasons. It is possible that some cases referred to a program for an eligibility determination were not captured by the database. Additionally, one referral episode in the Collaborative Court database might account for several criminal cases.

2,196 CASES REFERRED FOR COURT-ORDERED BHC ASSESSMENT

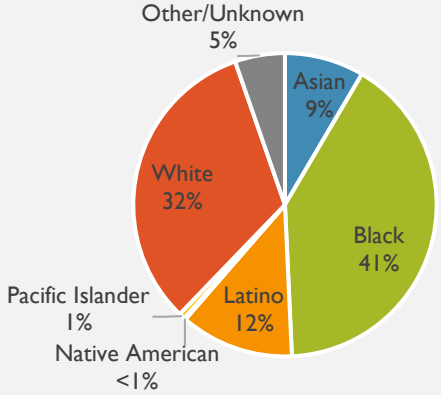
2011-2021

BHC Referrals by Filed Crime Type 2011-2021

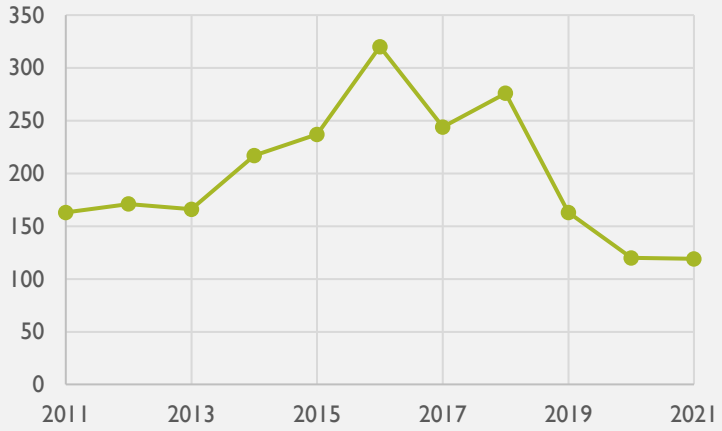


Note: The "Other" category is derived from SFDA prosecution datasets and consists of a wide range of less common low-level offenses. Additionally, for the purposes of this graph, it captures cases with no available crime type data, as well as non-serious, non-violent crime types with fewer than ten observations in the sample.

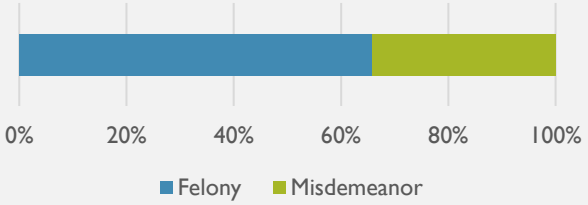
Race/Ethnicity



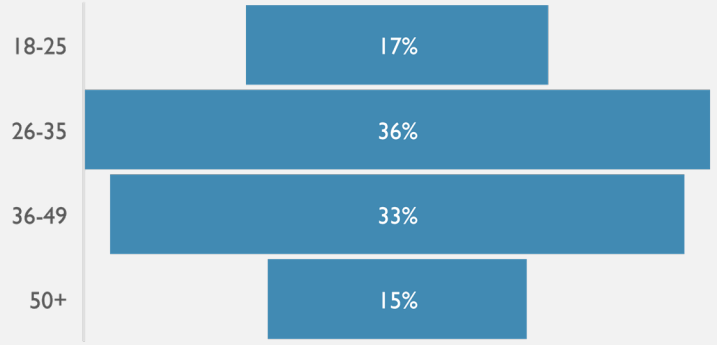
BHC Referrals By Arrest Year



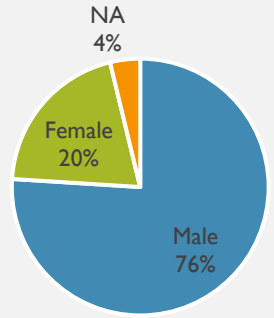
BHC Referrals By Case Type 2011-2021



Age Groups

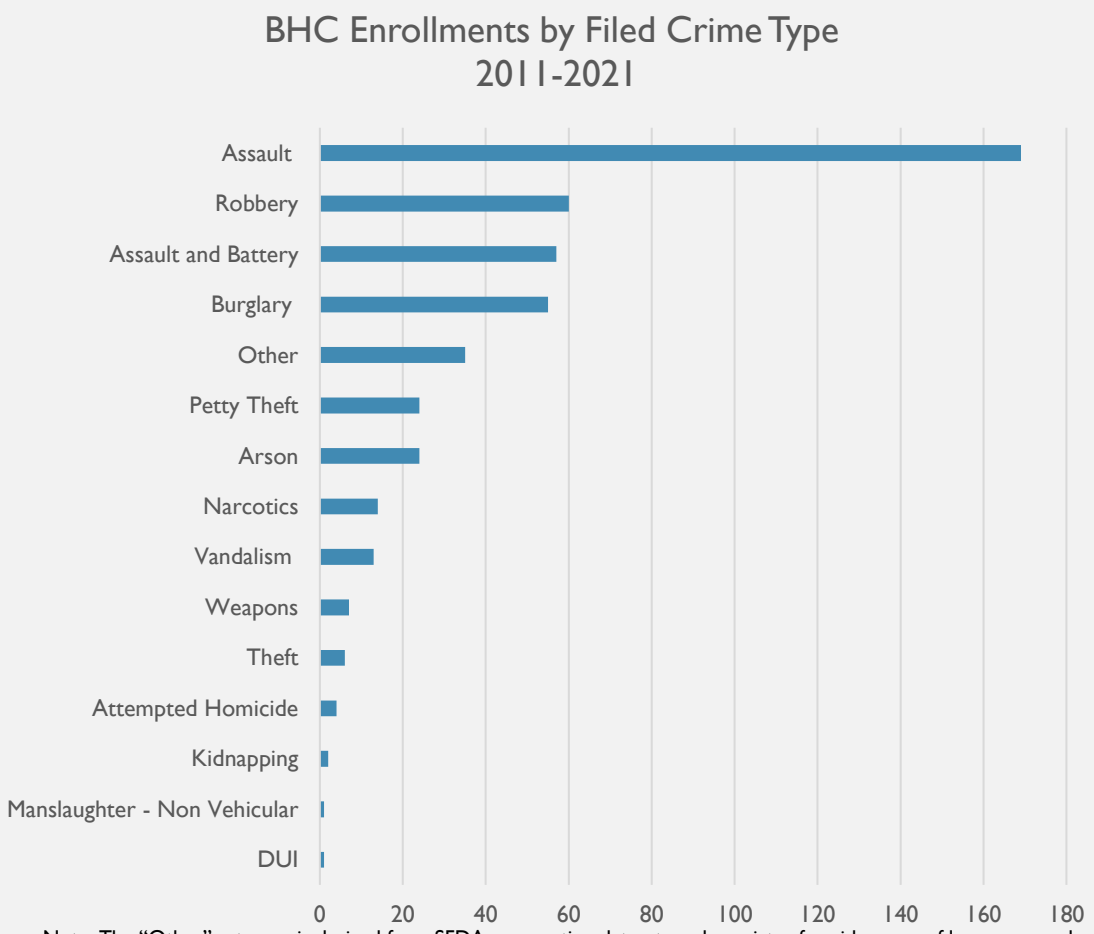


Sex



472 CASES APPROVED BY COURT AND ENROLLED IN BHC

2011-2021



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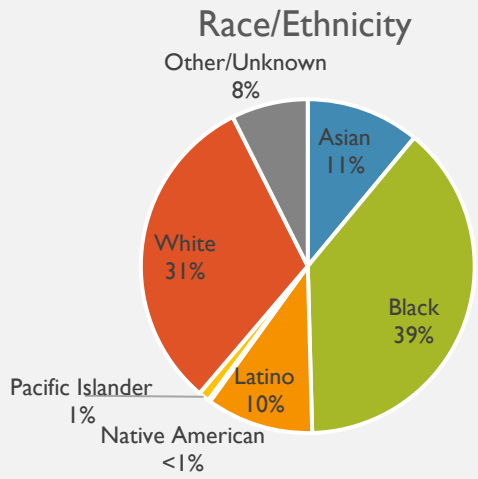
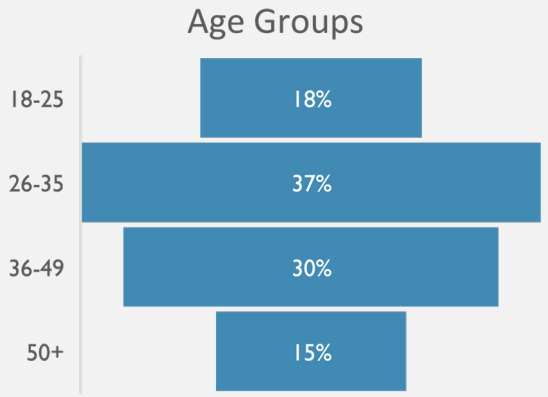
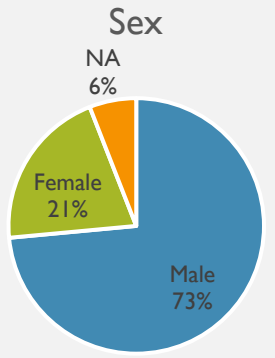
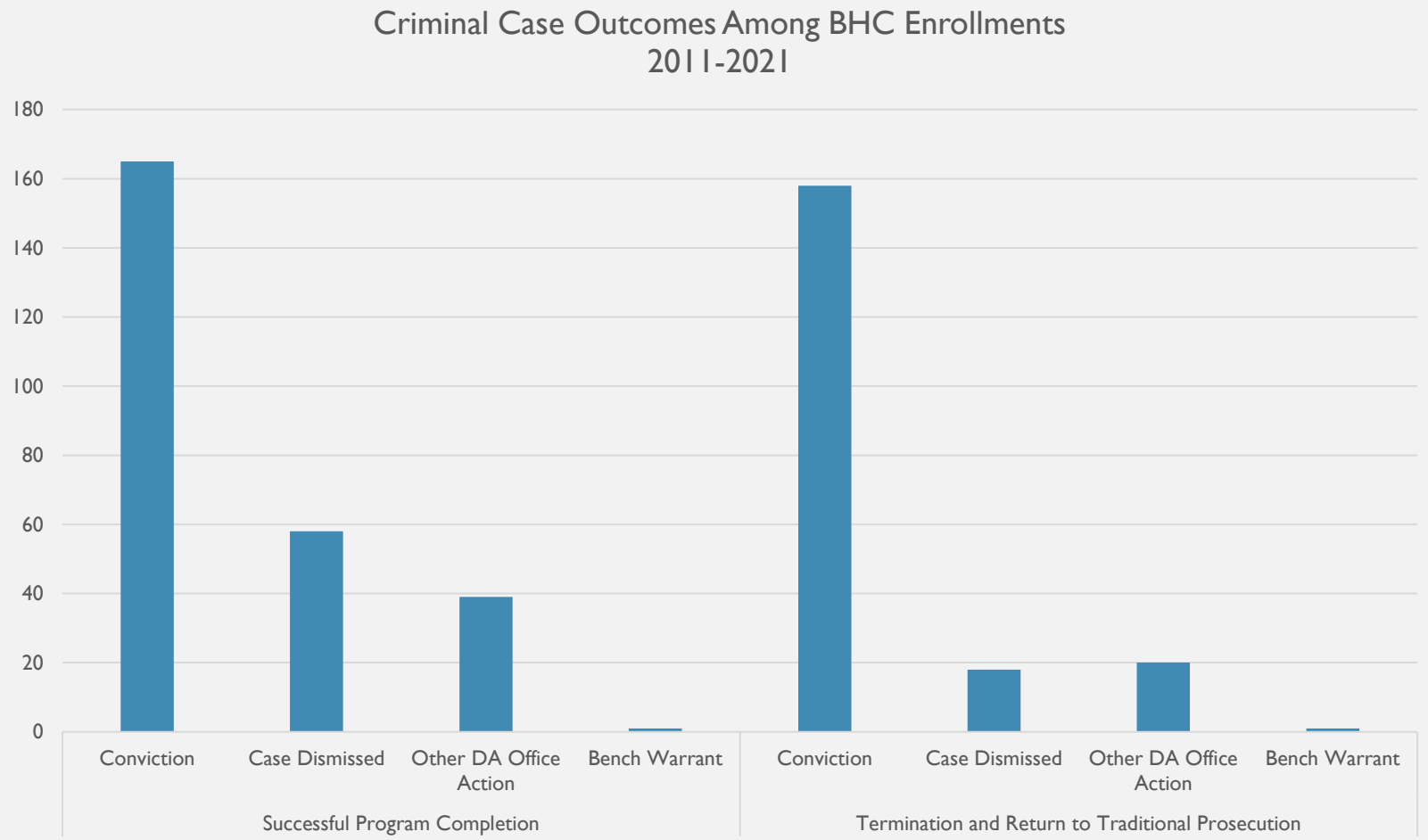






472 CASES WITH COURT APPROVED COMPLETIONS OR TERMINATIONS

2011-2021



CONCLUSIONS

- Almost all diversion in San Francisco occurs after a case is filed
  - The vast majority of diversion in San Francisco occurs via the Collaborative Courts, followed by state-mandated statutory diversion programs. Approximately 18-25% of criminal cases filed by the District Attorney's Office are referred to a court-approved diversion program.
  - Pre-filing diversion referrals to NCT took place in less than 1% of felony arrests and less than 5% of misdemeanor arrests and citations from 2015-2021
- Better data collection is needed to make definitive claims about diversion trends, program enrollment and completion, and diversion program and legal outcomes
  - The District Attorney's Office's new case management system, forthcoming in mid-2022, will address this issue by capturing diversion program referrals, enrollments, and completions. In addition, better data on participant background, such as housing status, will shed light on factors that facilitate and inhibit successful outcomes.