



WISCONSIN SENTENCING COMMISSION

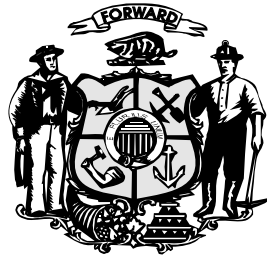
RACE & SENTENCING IN WISCONSIN:
**Sentence and Offender Characteristics
Across Five Criminal Offense Areas**

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RACE & SENTENCING IN WISCONSIN: **Sentence and Offender Characteristics Across Five Criminal Offense Areas**



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THE WISCONSIN SENTENCING COMMISSION

The Wisconsin Sentencing Commission is an independent, bipartisan agency composed of 21 members representing all three branches of government; prosecution and defense; criminal justice practitioners; and citizens, including a victims' rights representative. Its members are selected by the governor, the legislature, the attorney general, the courts, and the state bar association. Those members selected by the governor serve a three-year, renewable term. All other appointments are indeterminate and serve at the pleasure of their respective agencies.

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EXECUTIVE SUMMARY

The Wisconsin Sentencing Commission's enabling legislation instructs the Commission to “[s]tudy whether race is a basis for imposing sentences in criminal cases and submit a report and recommendations on this issue to the Governor, to each house of the legislature under § 13.172(2), and to the Supreme Court.”¹ In addition, Governor Jim Doyle has charged the Sentencing Commission with improving the current sentencing system to make it stronger and more consistent. Examining racial disparity in sentencing is an important piece of this work.²

In Wisconsin, sentencing judges must make sentencing decisions for a wide variety of cases – ranging from misdemeanors to the most serious felony offenses. Judges also confront a broad range of offenders – from first-time offenders to those with lengthy criminal records. As a result, it is difficult for judges always to make the appropriate sentencing decision that fits the circumstances of the crime and the offender and the needs of the public. Judges consult a variety of sources, including the prosecutor and defense attorney, as well as the Pre-Sentence Investigation report, to attempt to tailor the appropriate sentence for each offender.

In *State v. Gallion*, the Wisconsin Supreme Court declared the legal standard that judges must meet to ensure that their sentencing decisions are proper.³ In *Gallion*, the Supreme Court declared that judges must employ the sound exercise of discretion in sentencing decisions, considering facts in and derived from the record and a logical rationale based on proper legal standards. Once a judge has identified the appropriate sentencing objective, she or he may consider factors that are relevant to the sentencing decision such as prior offenses, nature of the crime, age, educational background, and employment history.

Cases like *Gallion* define legitimate sentencing factors that judges may consider. Judges may not consider illegitimate factors, such as race, in their sentencing decisions. However, race has always loomed large in discussions of sentencing and criminal justice policy. Even when race legally cannot be considered in sentencing decisions, is race a factor, either explicitly or implicitly?

This report provides background information about the role of race in sentencing decisions and the demographics of prison populations nationally, including a discussion of the existing empirical research on racial disparity at each stage in the criminal justice system. Then, this report explores information specific to Wisconsin, identifies numerous challenges associated with data collection, and proposes several recommendations.

The Wisconsin-specific data used in this report was mined from the Wisconsin Circuit Court Consolidated Court Automation Programs (CCAP) and merged with data from Wisconsin Department of Corrections (DOC) in an attempt to surface all available race and ethnicity information for individuals convicted and sentenced in Wisconsin. Information about race comes from the DOC. This data set encompasses offenses committed after January 31, 2003 and sentenced before October 1, 2006. The data set includes only sentencing information for the major conviction in each criminal case. Data in this report concerning prior convictions and prior prison sentences only include prior adult Wisconsin cases.

This report focuses on offender and sentence characteristics by race for five specific felony offenses in Wisconsin – *Sexual Assault of a Child*, *Sexual Assault*, *Robbery*, *Burglary*, and *Drug Trafficking*. The

¹ 2001 Wisconsin Act 199; Wis. Stat. § 973.30 (2003-04).

² Letter from Gov. Jim Doyle to Wisconsin Sentencing Commission, dated Nov. 21, 2003, available at <http://wsc.wi.gov/section.asp?linkid=3&locid=10> (follow link to “Governor’s Charge”).

³ *State v. Gallion*, 270 Wis. 2d 535, 678 N.W.2d 197 (2004).

report examines sentence length and disposition by severity level and by race for each offense. Advanced statistical regressions as well as further analysis by geographic region, criminal history, and drug type are included in the Appendices.

MAJOR FINDINGS

- Racial disparities, when present, were typically found in sentence types (prison or probation), not sentence lengths.
- Where disparities existed, a higher percentage of Black and Hispanic offenders received prison sentences (versus probation) than White offenders.
- The amount of racial disparity found in sentence types typically increased as offense severity decreased. For example, less severe offenses such as *3rd Degree Sexual Assault, Burglary, Robbery, and Drug Trafficking* showed greater levels of disparity than more severe offenses such as *1st & 2nd Degree Sexual Assault, 1st & 2nd Degree Sexual Assault of a Child, Armed Robbery, and Burglary Plus*.
- In *Drug Trafficking* cases, across the board, a higher percentage of Black offenders received prison sentences (versus probation) than White offenders. This disparity increased as offense seriousness decreased. The difference in percentage between White offenders who received probation versus other racial groups is particularly pronounced in Class D through Class H Felonies.
- Racial disparities were not typically found in sentence lengths. Amounts of time, when broken down by offense type and felony class, were largely stable and comparable across all racial categories. In some instances, White offenders received longer sentences. In other instances, Black and/or Hispanic offenders received longer sentences.

As shown in the findings of this report, racial disparities do exist within Wisconsin's sentencing system. Yet, the true causes of these disparities are often difficult to identify and measure. Disparities in sentencing are most likely due to the confluence of multiple issues, and are the result of institutionalized defects rather than malicious intent. Due to the fact that race is generally correlated with many legal sentencing factors permissible for judges to consider – criminal record, employment history, and educational opportunities – it becomes a challenging directive to sufficiently separate the effect of race over other interconnected factors. Ultimately, more and better data is required to improve the strength and meaning of the results.

To fully understand the issue of disproportionate minority representation in Wisconsin's criminal justice system, three steps are required: (1) the procedure for collecting data on offender race and ethnicity must be improved, with consistent racial-ethnic categories used across the state, (2) the state should attempt to collect better information on victim race, and (3) the State must examine the likelihood that disparate treatment occurs throughout the criminal justice process, including calls for police service, arrest, prosecution *and* sentencing, and collect data at each of these points. Until Wisconsin develops better data collection instruments for race and ethnicity, it will be virtually impossible to explore the full range of racial-ethnic disparity in the state's criminal justice system. More data and more study are needed to fully explore the role of race in sentencing and throughout the criminal justice process.

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INTRODUCTION

PURPOSE

The Wisconsin Sentencing Commission's enabling legislation instructs the Commission to “[s]tudy whether race is a basis for imposing sentences in criminal cases and submit a report and recommendations on this issue to the Governor, to each house of the legislature under § 13.172(2), and to the Supreme Court.”⁴

Governor Jim Doyle has charged the Sentencing Commission with improving the current sentencing system to make it stronger and more consistent. Examining racial disparity in sentencing is an important piece of this work.⁵

The Wisconsin Supreme Court declared in *State v. Gallion*, 270 Wis. 2d 535, 678 N.W.2d 197 (2004), that judges must employ the sound exercise of discretion in sentencing decisions, considering facts in and derived from the record and a logical rationale based on proper legal standards. Once a judge has identified the appropriate sentencing objective, she or he may consider factors, such as prior offenses; nature of the crime; and age, educational background, and employment history; that are relevant to the sentencing decision.⁶

This report provides background information about the role of race in sentencing decisions and the demographics of prison populations nationally, including a discussion of the existing empirical research on racial disparity at each stage in the criminal justice system. The report explores information specific to Wisconsin, identifies numerous challenges associated with data collection, and proposes several recommendations.

BACKGROUND

Comparing the Racial Composition of the General and Prison Populations: Nationally, minority groups, and especially African-Americans, typically comprise a larger percentage of the prison population than in the general population. This disparity in the racial composition of the prison population compared to the general population occurs in both state and federal prisons but varies by state and within states by jurisdiction.⁷

In an attempt to quantify the disparity level between the racial composition of the general and prison populations, researchers calculate a “Disparity Index.” The Disparity Index (“D”) gives the ratio of minority group incarceration (compared to minorities in the general population) to non-minority group incarceration (compared to non-minorities in the general population):

$$D = (I_{\min} / P_{\min}) \div (I_{\text{maj}} / P_{\text{maj}})$$

⁴ 2001 Wisconsin Act 199; Wis. Stat. § 973.30.

⁵ Letter from Gov. Jim Doyle to Wisconsin Sentencing Commission, dated Nov. 21, 2003, available at <http://wsc.wi.gov/section.asp?linkid=3&locid=10> (follow link to “Governor’s Charge”).

⁶ *State v. Gallion*, 270 Wis. 2d 535, 678 N.W.2d 197 (2004).

⁷ Lisa Mueller, Michael Connelly and Jim Pingel, *Race and Sentencing in Wisconsin: A Monograph Series — Report Number One: The State and National Landscape* (Madison, WI: Wisconsin Sentencing Commission, 2004), 4, available at <http://wsc.wi.gov/docview.asp?docid=1274>.

"I" represents the incarcerated population, and "P" represents the total population of the minority (*min*) and majority (*maj*) groups. Based on 2001 data, the Sentencing Project has calculated disparity ratios based on this formula for all fifty states and Washington, D.C.⁸ These ratios specifically compare Black and White incarceration rates. The District of Columbia (28.92) has the highest disparity ratio, while Hawaii (1.34) has the lowest. Wisconsin⁹ currently has the 6th highest ratio (11.59) while other Midwestern states, such as Minnesota (12.63), Iowa (11.63) and Illinois (7.53), are fourth, fifth and fifteenth, respectively. The national average is 6.04. In states like Arkansas, Alabama, Georgia, Mississippi and South Carolina, where Blacks represent greater percentages of the total state population, "D" never rises above 4.99 (South Carolina).¹⁰

In 2005, for purposes of its periodic census of state and federal correctional facilities, the U.S. Bureau of Justice Statistics reported that 40 percent of the 1.5 million inmates in federal and state correctional facilities were Black, compared to 35 percent White, 20 percent Hispanic, and approximately 6 percent other race or multi-racial.¹¹ In that same year, the U.S. Census Bureau estimated that Blacks comprised just 12 percent of the United States population, compared to Whites at 75 percent, and other or multi-racial at 14 percent.¹² Hispanics of any race comprised 15 percent of the U.S. population.¹³ Because the Census Bureau reports information about race (e.g., White or Black) and ethnicity (e.g., Hispanic or non-Hispanic) separately, the data from the Bureau of Justice Statistics regarding the prison population is not directly comparable to the general population data.

The United States Department of Justice estimates that approximately one-third of all Black men will spend time in state prisons in their lifetimes.¹⁴ Similarly, Pettit and Western have estimated that for Black men, the lifetime risk of imprisonment is nearly 29 percent, compared to 4.4 percent for White men.¹⁵

Possible Explanations: Researchers suggest two main reasons why minorities typically comprise a larger percentage of the prison population than the general population: differential involvement in criminal activity and disparate treatment throughout the criminal justice process. The criminal justice process includes arrest, prosecution, and sentencing. The first reason, differential involvement in criminal activity, implies that minorities commit more crimes, and more serious crimes, than Whites. The second reason, disparate treatment, suggests that institutional bias yields different outcomes for minority defendants on the whole. Researchers suggest that differential involvement in criminal activity may account for 40-80 percent of the racial disparity between the prison population and the general population, and that disparate treatment may account for the remaining 20-60 percent.¹⁶

⁸ *State Rates of Incarceration by Race* (Washington, DC: The Sentencing Project, 2004), available at <http://www.sentencingproject.org/PublicationDetails.aspx?PublicationID=391>.

⁹ A recent report indicated that Wisconsin also had among the highest rates nationally for juvenile incarceration of minorities. However, this report is based on only one day's worth of data from 2003 and from even older data sources. National Council on Crime and Delinquency, *And Justice for Some* (2007), available at http://www.nccd-crc.org/nccd/pubs/2007jan_justice_for_some.pdf. In Wisconsin, the Office of Justice Assistance collects data on juvenile arrests. For more information, see Office of Justice Assistance, *Preliminary Crimes and Arrests in Wisconsin 2005* (2006), 3, available at <http://oja.state.wi.us/docview.asp?docid=9157&locid=97>.

¹⁰ *State Rates of Incarceration by Race* (Washington, DC: The Sentencing Project, 2004), available at <http://www.sentencingproject.org/PublicationDetails.aspx?PublicationID=391>.

¹¹ Paige M. Harrison and Allen J. Beck, "Prisoners in 2005," *Bureau of Justice Statistics Bulletin* (Nov. 2006): 1, 8, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p05.pdf>.

¹² Detailed Tables, Race, U.S. Census Bureau, available at http://factfinder.census.gov/servlet/DTTable?_bm=y&-geo_id=01000US&-ds_name=ACS_2005_EST_G00_-redoLog=false&-mt_name=ACS_2005_EST_G2000_B02001.

¹³ Detailed Tables, Hispanic or Latino Origin by Specific Origin, U.S. Census Bureau, available at http://factfinder.census.gov/servlet/DTTable?_bm=y&-geo_id=01000US&-ds_name=ACS_2005_EST_G00_-redoLog=false&-mt_name=ACS_2005_EST_G2000_B03001.

¹⁴ Criminal Offenders Statistics, Bureau of Justice Statistics, available at <http://www.ojp.gov/bjs/crimoff.htm>.

¹⁵ Becky Pettit and Bruce Western, "Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration," *American Sociological Review* 69 (2004): 156.

¹⁶ Mueller et al., 1.

Differential Involvement: Researchers have found that arrest rates by race explain much of why minorities typically comprise a larger percentage of the prison population than the general population.¹⁷ However, arrest rates are a poor proxy for differential criminal involvement by race because arrest rates reflect reporting and policing efforts, not necessarily actual criminal activity. Because arrest rates are influenced by patrolling patterns and because the police focus on high-crime neighborhoods, which are disproportionately minority neighborhoods, arrest rates may overestimate Black and Hispanic involvement in crime.¹⁸ Victim surveys reveal that Blacks are disproportionately involved in major offenses, but these findings are buttressed by research linking crime in predominantly Black neighborhoods with joblessness, family disruption and neighborhood poverty.¹⁹ Furthermore, research on victim reporting rates indicates that victims are more likely to report violent crimes (48 percent report) than property crimes (36 percent).²⁰ This reporting gap may further undermine the reliability of arrest rates as a proxy for criminal activity.

Disparate Treatment: Sociologists link the disparate treatment of minorities by the criminal justice system to the widespread perception among criminal justice actors that Blacks, and particularly poor Blacks, are uniquely threatening.²¹ Sociologists posit that differential treatment is a response to a perceived “racial threat,”²² suggesting Blacks are more punitively policed, prosecuted and sentenced.²³

Although current research shows little evidence of overt, invidious discrimination, racial bias likely endures, sometimes through conscious ill-will, but more commonly through unconscious stereotyping.²⁴ A 2004 study of Florida inmates found that although race was not a significant factor in determining sentence length when legitimate factors such as offense severity and criminal history were included, whether an offender had predominantly Afrocentric facial features had a significant effect on sentence length over other factors. After controlling for legitimate sentencing factors such as offense severity and criminal history, White offenders with relatively high Afrocentric facial features on average received longer sentences than Whites with relatively low Afrocentric facial features. Similarly, Black offenders with relatively low Afrocentric facial features on average received shorter sentences than Blacks with similar crimes and criminal records but stronger Afrocentric facial features. Thus, while the study did not find evidence of discrimination in sentence determination based on overt racial categories, an offender’s appearance, particularly when an offender manifests strong Afrocentric facial features, does affect sentence length and reinforces traditional racial stereotypes above other factors.²⁵

Sentencing Structure: Unguided discretionary sentencing schemes also may have contributed to disparate treatment of minority offenders by the criminal justice system. In 1985, Petersilia and Turner found that unguided discretionary sentencing — standard practice until the 1970s, when many states and the federal government began using structured sentencing guidelines — often produced arbitrary punishment and inequitable treatment for certain offenders.²⁶ This criticism implies that unfettered discretion facilitates discrimination by race. In contrast, structured sentencing systems, perhaps with

¹⁷ Alfred Blumstein, “Racial Disproportionality of U.S. Prison Populations Revisited,” *University of Colorado Law Review* 64 (1993): 746.

¹⁸ Mueller et al., 13.

¹⁹ Pettit and Western, 152–53.

²⁰ Martin S. Greenberg and Scott R. Beach, “Property Crime Victims’ Decision to Notify the Police: Social, Cognitive, and Affective Determinants,” *Law and Human Behavior* 28 (2004): 177.

²¹ Pettit and Western, 153.

²² Ted Chiricos, Charles Crawford, and Gary Kleck, “Race, Racial Threat, and Sentencing of Habitual Offenders,” *Criminology* 36 (1998): 481-511.

²³ Pettit and Western, 152.

²⁴ Michael Tonry, “Racial Disproportion in U.S. Prisons,” *British Journal of Criminology* 34 (Special Issue, 1994): 108–09.

²⁵ William T. Pizzi, Irene V. Blair, and Charles M. Judd, “Discrimination in Sentencing on the Basis of Afrocentric Features,” *Michigan Journal of Race & Law* 10 (2004): 327-353.

²⁶ Joan Petersilia and Susan Turner, *Guideline-Based Justice: The Implications for Racial Minorities* (Santa Monica, CA: Rand Corporation, 1985), 3–5.

sentencing guidelines, should increase the probability that sentences will reflect only legal sentencing factors, such as offense severity, criminal history, risk of danger to public safety, and likelihood of recidivism.

However, researchers have found that race effects persist under structured sentencing systems, albeit indirectly. The effects of race on sentencing decisions rely on how race interacts and correlates with other legitimate factors (e.g., criminal record, bail status, and offense type) and illegitimate factors (e.g., gender, age, or type of attorney).²⁷ Moreover, even in the areas where sentencing guidelines have shown early success in reducing racial disparity, the success often fades. In Minnesota, for example, Stolzenberg and D'Allesio²⁸ reported that early reductions in the racial disparity between the prison population and the general population were substantially diminished from 1977-1989, when disparity levels ultimately approached pre-guidelines levels.²⁹ Studies have not been able to explain why the harsher treatment of some black offenders and less harsh treatment of other offenders, generally black, whose victims are also black, persists under structured sentencing regimes that diminish the exercise of discretion by individual judges.³⁰

The November 2004 report by the United States Sentencing Commission, "Fifteen Years of Guidelines Sentencing," evaluated the effectiveness of sentencing guidelines in meeting the objectives of the Sentencing Reform Act of 1984 ("SRA"). One of the primary goals of the SRA was to implement uniform sentencing practices across jurisdictions to eliminate extralegal disparities, including racial and ethnic disparities. This U.S. Sentencing Commission report concluded that the remaining disparities in sentencing were not attributable to the proclivities of individual judges. Instead, it was more likely a result of "sentencing rules" and charging practices that have "institutionalized" disparity. For example, many legitimate bases for distinguishing among defendants, such as prior criminal record, fewer educational opportunities, and erratic work history, are likely correlated with being Black, which also systematically disadvantages Black offenders. Despite the general effectiveness of the guidelines in regulating inter-jurisdictional sentencing, other influences, such as "mandatory minimums, plea bargaining, and substantial assistance departures" have reestablished and institutionalized disparity. This report concludes that these variables "have a greater adverse impact on Black offenders than did the factors taken into account by judges in the discretionary system . . . prior to guidelines implementation."³¹

Researchers have *not* found significant differences in sentencing patterns based upon the race or ethnicity of judges, suggesting that the lack of judicial discretion under determinate sentencing systems, coupled with specialized training and socialization, produces similar views among judges about cases and defendants, regardless of the judge's race or ethnicity.³²

Sentence Length vs. Outcome: In 1995, Chiricos and Crawford found that race has little effect on sentence length but that minorities on the whole are much more likely than whites to receive prison as opposed to probation. Thus, minority status is a large disadvantage for the initial "in/out" decision.³³

²⁷ Marjorie S. Zatz, "The Convergence of Race, Ethnicity, Gender, and Class on Court Decisionmaking: Looking Toward the 21st Century," *Policies, Processes, and Decisions of the Criminal Justice System* 3 (2000): 508.

²⁸ Lisa Stolzenberg and Stuart J. D'Allesio, "Sentencing and Unwarranted Disparity: An Empirical Assessment of the Long-Term Impact of Sentencing Guidelines in Minnesota," *Criminology* 32 (1994): 301-310.

²⁹ Kim S. Hunt and Michael Connelly, "Advisory Guidelines in the Post-*Blakely* Era," *Federal Sentencing Reporter* 17 (2005): 235.

³⁰ Tonry, 109.

³¹ United States Sentencing Commission, *Fifteen Years of Guidelines Sentencing: An Assessment of How Well the Federal Criminal Justice System is Achieving the Goals of Sentencing Reform* (Washington, DC: 2004), 83, 127, 131, 135, available at http://www.ussc.gov/15_year/15year.htm.

³² Zatz, 509.

³³ Theodore G. Chiricos and Charles Crawford, "Race and Imprisonment: A Contextual Assessment of the Evidence," in *Ethnicity, Race, and Crime: Perspectives Across Time and Place*, ed. Darnell Felix Hawkins (Albany, NY: SUNY Press, 1995), 297.

This finding is relatively common in the existing sentencing literature. Race has little or no effect on sentence length, but is a large determinant of whether an offender goes to prison or does not.³⁴

Prosecution and Earlier Stages: Sentencing is merely the final stage in the criminal justice process. The sentencing decision is the result of a series of events and decisions involving several different actors. Other events include police decisions about where to focus surveillance efforts and whom to arrest; prosecutors' decisions about whether and what to charge; attorneys' decisions about plea negotiations; and when cases do go to trial, the jury's decision about whether the evidence establishes guilt beyond a reasonable doubt.³⁵ Also, whether a victim reports a crime often affects whether the entire process even begins.

The role of prosecutors in determining whether the state will pursue individual defendants, and for which crimes, also has different implications for various racial groups. Small race and class effects may compound across multiple stages, and the resulting pattern is that white and middle-class defendants are more often filtered out at earlier decision points than poor defendants and defendants of color.³⁶ The empirical literature demonstrates clear race effects in lower level felonies, such as those that are serious but not particularly heinous.³⁷ These borderline cases allow prosecutors the greatest latitude in initial charging and plea bargaining. Accordingly, how prosecutors handle defendants' cases at early stages can carry substantial weight later in the process and at sentencing.³⁸

DATA

The availability of accurate, plentiful, and consistent data is essential to any analysis of a complicated and sensitive issue, such as the role of race in sentencing decisions. Why and how data are collected affects the type of analysis and the strength of conclusions that can be drawn from that analysis. In Wisconsin, data on offenders and sentences is collected for the purpose of case and offender management by the Wisconsin Court System and the Department of Corrections (DOC). Data are not collected to facilitate the type of analysis contained in this report. Still, because this data set is available, this analysis uses this data, subject to the following limitations:

General Limitations: The data in this report are limited by the amount and type of data available and collected in Wisconsin at all stages of the criminal justice system. The sentencing decision is likely influenced by all the events – from arrest to charging to conviction – leading up to it. To understand how race might affect the sentencing decision, one must also understand how race has influenced the events in the criminal justice system preceding it. Ideally, a report of this scope would rely upon data tracking offenders by race from the initial police call through investigation, arrest, the prosecutor's charging decision, plea negotiations, trial, conviction, and finally, sentencing. Data would include, not only the race of the offender, but the race of other actors, including the responding officers, victim, prosecutor, judge, and jurors, as well as whether the offender was assigned a public defender or retained private counsel. Beyond race, numerous socioeconomic factors may also contribute to differential involvement in crime and differential treatment by the criminal justice system. All of these data points, collected in a consistent and integrated system, would contribute to a fuller understanding of the role of race in sentencing decisions and throughout the criminal justice system.³⁹

³⁴ Stephen Demuth and Darrell Steffensmeier, "Ethnicity Effects on Sentencing Outcomes in Large Urban Courts: Comparisons Among White, Black, and Hispanic Defendants," *Social Science Quarterly* 85 (2004): 996-97.

³⁵ Zatz, 507.

³⁶ Zatz, 507.

³⁷ Zatz, 507.

³⁸ Zatz, 507.

³⁹ See Background Section, pp. 1-4, for more information.

Coordination: Currently, Wisconsin does not collect this data in a coordinated way conducive to analysis by race. First, many types of data simply are not collected by any agency. To date, no Wisconsin agency collects data concerning prosecutorial discretion and decision making during charging and plea negotiations. As an offender moves through the criminal justice system, the nature of the offense often changes between arrest and sentencing, as prosecutors drop and reduce charges. This complicates any analysis tracing specific offenses and offenders through the entire criminal justice process. Similarly, no Wisconsin agency reports data concerning the race of actors in the criminal justice system other than the offender, and in some cases, the victim. Finally, though other socioeconomic variables may interact with race to affect differential involvement in crime and differential treatment by the criminal justice system, no agency collects this information. Collecting this data for individual offenders would require resources unavailable to the Commission at this time.

Uniformity: Second, even when data are collected, the data cannot be linked in a meaningful way. For instance, even though the Office of Justice Assistance collects race data on crime and arrests, the OJA does not collect data by offender,⁴⁰ which means that this data cannot be linked to Commission and DOC data, which is compiled by case and by offender, respectively. Without the ability to connect these data sets, the Commission cannot use this data to draw conclusions about how the role of race in crime and arrest rates ultimately affects the role of race in sentencing decisions and the demographics of Wisconsin's prison population.

Compliance: Third, even when systems exist to capture data that contributes to our understanding of race in sentencing decisions, low compliance rates diminish the value of the information that is collected. For instance, the Commission collects data regarding the factors that influence a judge's sentencing decision for sentencing guideline offenses when judges submit sentencing worksheets. These worksheets, when submitted and fully and properly completed, contain information about factors, such as employment history and family support, that might influence a judge's sentencing decision. These factors are likely correlated to race and thus, might help explain the role race may or may not play in sentencing decisions. However, the Commission recently found that judges only submitted worksheets for 23% of the guideline offenses for which worksheets should have been submitted. Furthermore, worksheets were not submitted proportionately from all parts of the state, resulting in overrepresentation of Milwaukee County cases in the available data.⁴¹ Finally, even when judges do submit worksheets, the worksheets often are not filled out completely or correctly. As a result, the data collected by the Commission is less reliable, and our ability to use the available sentencing data to explain the role race may or may not play in sentencing decisions decreases significantly.

Accuracy: Fourth, even when race data are collected, the accuracy of race information varies substantially. There are basically two ways to capture race information: observation and self-reporting. Neither are consistently required at all stages of the criminal justice process, and both methods have flaws. Observation depends on the perception of the person recording the information. Self-reporting relies on an offender's willingness and ability to portray accurately his or her race and ethnicity.

Consistent use of the same categories that sufficiently capture the myriad distinctions of race and ethnicity throughout the criminal justice system is paramount, particularly concerning the category of Hispanic. Because Hispanic is an ethnicity, a Hispanic individual may be classified as any race, though the vast majority of Hispanic individuals are classified as white. The current methodology of the U.S. Census Bureau merges all individuals of Hispanic ethnicity, regardless of race, into the single category of Hispanic but reports these ethnicity figures separately from other race statistics. This methodology

⁴⁰ See, e.g., Crimes and Arrests, Office of Justice Assistance, available at <http://oja.state.wi.us/category.asp?linkcatid=1324&linkid=709&locid=97>.

⁴¹ Hy M. Matz, "Comparability between Cases for Which Worksheets are Submitted and those for Which Worksheets are not Submitted," *Snapshots of Information on Wisconsin Sentencing* 4 (May 2007): 1, available at <http://wsc.wi.gov/docview.asp?docid=11186>.

may have helped illuminate some racial/ethnic disparity issues, but it does not allow across the board comparisons of White (non-Hispanic), Black (non-Hispanic), and Hispanic (any race) racial/ethnic groups with U.S. Census data.⁴²

Finally, while consistent race categories may improve the accuracy of race data, those individuals who identify with more than one race/ethnicity but appear in the data as identifying with only one race, “Other,” or “Unknown” further decrease our ability to explain the role race may or may not play in sentencing decisions, until data collection systems can better process this information.

Wisconsin Data: The Wisconsin-specific data used in this report was mined from the Wisconsin Circuit Court Consolidated Court Automation Programs (CCAP) and merged with data from the Wisconsin Department of Corrections (DOC) in an attempt to surface all available race and ethnicity information for individuals convicted and sentenced in Wisconsin. Race information comes from the DOC. This data encompasses offenses committed after January 31, 2003 and sentenced before October 1, 2006.

The data in this report focuses on five specific offenses, *Sexual Assault of a Child*, *Sexual Assault*, *Robbery*, *Burglary*, and *Drug Trafficking*. These offenses were chosen because they cover a broad range of criminal activity (violent, nonviolent, property, and drug trafficking) and because they occur most frequently in the court system and offer meaningful sample sizes, detailed in the table below:

FIGURE 3: SAMPLE SIZES BY OFFENSE AND RACE

Offense	White*	Black*	Hispanic	Other*	TOTAL
<i>Sexual Assault of Child</i>	708	226	103	33	1,070
<i>Sexual Assault</i>	283	112	64	21	480
<i>Robbery/Armed Robbery</i>	432	905	123	44	1,504
<i>Burglary</i>	2213	676	167	154	3,210
<i>Drug Trafficking</i>	2742	4653	719	172	8,286

* Non-Hispanic

We have simplified the racial/ethnic groups to White (Non-Hispanic), Black (Non-Hispanic), Hispanic (any race), and Other Minority.⁴³ The category of Other combines American Indian and Asian/Pacific Islander. The numbers in each individual group for specific offenses were too small to comprise sufficient sample sizes. Where race information was unknown or unavailable, the data were excluded from this study.

Furthermore, we have simplified the data set to only include sentencing information for the major conviction in each criminal case. Thus, when an offender receives multiple convictions and/or sentences on different offenses from the same criminal case, we have included sentencing data for the major conviction only. For instance, if a drug offender was convicted of a Class C felony and a Class E felony for drug possession with intent to deliver, only the sentence for the Class C felony, the major conviction, would be included in this study. This results in a more manageable, but smaller and simpler data set.

⁴² Definition: Hispanic or Latino Origin, U.S. Census Bureau, available at https://ask.census.gov/cgi-bin/askcensus.cfg/php/enduser/std_adp.php?p_faqid=315&p_created=1078334778&p_sid=kbEM3Wyi&p_accessibility=0&p_redirect=&p_lva=&p_sp=cF9zcmNoPTEmcF9zb3J0X2J5PSZwX2dyaWRzb3J0PSZwX3Jvd19jbnQ9NTMmcF9wcm9kcz0mcF9jYXRzPSZwX3B2PSZwX2N2PSZwX3BhZ2U9MSZwX3NIYXJjaF90Zkh0PWhpc3BhbmJj&p_li=&p_topview=1. See also, e.g., Data Profile, 2005 American Community Survey, U.S. Census Bureau, available at http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=01000US&-ds_name=ACS_2005_EST_G00_&-_lang=en&-caller=geoselect&-format=.

⁴³ This is slightly different than the current methodology of the U.S. Census Bureau. See note 43 and accompanying text.

Data in this report concerning prior convictions and prior prison sentences only include prior adult Wisconsin cases. Data in this report do not include juvenile adjudications, even though the judge may have had access to this information at sentencing. Data do not include information on convictions from outside Wisconsin. Thus, in this data set, “first-time” offenders, with no prior Wisconsin adult convictions, may still have criminal records from out-of-state or from juvenile adjudications not available in this data set.

Throughout this report, average sentence lengths are reported as median sentence lengths. In addition, sentence “range” is the inter-quartile (25% - 75%) range. We have indicated where the sample size for a particular race group for a particular offense is less than 20. When sample size is small, conclusions about the data are less reliable because the sentences of a few offenders can skew the data for the entire group.

Sentence types have been reduced to either probation or prison. This “in/out” distinction is consistent with the current sentencing literature, which focuses on the discretionary decision to confine or not confine.⁴⁴ While a few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included due to small sample sizes that confuse the results without contributing to the overall analysis. Typically, less than 1% of cases in a particular category have a sentencing disposition other than probation or probation. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99% or 100%.

We have chosen to use simple, binary categories for criminal history breakdowns. For instance, an offender has either served a prior prison sentence or has not. An offender has either had a prior felony or has not. We have chosen these categories because they are simpler to understand, even though they fail to capture the wide range of offenders that may be in each category. For example, because the data set only includes Wisconsin adult convictions, offenders with no prior convictions may still have criminal records from out-of-state or from juvenile adjudications not available in this data set. Offenders with a prior conviction may have one or many prior misdemeanors and/or felonies. Even offenders with no prior prison sentences may range from having extensive juvenile or misdemeanor records to serving non-prison sentences or county jail sentences while on probation to being “first-time” offenders with no prior criminal activity of any type. Offenders with a prior prison sentence may have one or many prior prison sentences. Even offenders with no prior felony convictions may range from having extensive juvenile or misdemeanor records to being “first-time” offenders with no prior criminal activity of any type. Offenders with a prior felony may have one or many prior felonies. These wide variances in each category may account for much of the disparity in the prison/probation decision shown in the appendices.

We considered and tried more detailed breakdowns that would capture the differences apparent in each binary category. For instance, we divided offenders with 0 prior felonies, 1 prior felony, 2 prior felonies, and more than 3 prior felonies, into separate categories. However, the results were largely the same as the results from the binary categories. Because these more detailed breakdowns added complexity without additional explanatory power, we did not include them in the report. For more information about how additional prior convictions may affect sentencing decisions, see Appendix M.

The following sections of the report detail sentencing data for five specific offenses, *Sexual Assault of a Child*, *Sexual Assault*, *Robbery*, *Burglary*, and *Drug Trafficking*. Each section contains background information about the offense, an overview of the existing empirical literature, Wisconsin-specific information (where available), and references to the appropriate section of the Wisconsin Statutes. The

⁴⁴ See Background Section, pp. 1-4.

data show sentencing information, including offender characteristics, sentence length, and sentencing outcome, for all race groups by felony classification.

SEXUAL ASSAULT OF A CHILD

BACKGROUND

Children are inherently vulnerable to sexual advances by adults and older children. Consequently, they are the likeliest victims of sexual assault. Most researchers, practitioners, and advocates agree that national data about sex crimes against children is incomplete because these crimes are underreported. In fact, an estimated 86 percent of sexual assaults among victims 12 to 17 years old remain unreported.⁴⁵ The reasons why children do not disclose sexual assault are plentiful, but most revolve around fear of retribution by the offender, fear that reporting officials (parents, teachers, and law enforcement) will not believe their account, and a sense of shame and self-doubt.⁴⁶

Academics have developed a body of research documenting the role of race in the treatment of sexual assault charges against children. One of the earliest steps in the criminal justice system is reporting a crime to law enforcement officials. Some researchers have speculated about whether minority groups respond to sexual assault of children differently, such as whether they are as willing to involve formal authorities as Whites. A study comparing European-American and African-American women over a ten-year period revealed that European-American women disclosed childhood sexual abuse significantly less than African-American women.⁴⁷ More recently, researchers found that the three major racial/ethnic groups in the U.S. – Whites, Blacks, and Hispanics – do not differ significantly in their definitions of and willingness to report child sexual abuse to law enforcement agencies.⁴⁸ However, at the lowest levels of offense severity, Blacks and Hispanics are more likely than Whites to report these offenses.⁴⁹

Maxwell et al. reported that the criminal justice system tends to treat offenders in sexual assault, which are typically intra-racial crimes, where both the offender and victim are of the same race, more leniently than it does those convicted of other violent offenses, which are typically inter-racial crimes.⁵⁰ Their results suggested that the criminal justice system treats minorities more punitively when they are charged with violent crimes like assault, robbery, and murder, but it treats them less punitively when they face charges of sexual assault.⁵¹

Unfortunately, Maxwell et al.'s study lacked data about victim age and race – two variables that other studies examined. An early report by Bachman shows that Black offenders victimized 98 percent of Black sexual assault victims. Only 15 percent of White sexual assault victims reported that their assailant was Black.⁵² In another study, of those Black offenders serving time in a state prison for a

⁴⁵ Dean G. Kilpatrick et al., *Youth Victimization: Prevalence and Implications* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, 2003), ii, available at <http://www.ncjrs.gov/pdffiles1/nij/194972.pdf>.

⁴⁶ For more information about why many children do not disclose sexual abuse, see Nancy Faulkner, "Pandora's Box: The Secrecy of Child Sexual Abuse" (1996): 1-3, available at <http://www.prevent-abuse-now.com/pandora.htm>.

⁴⁷ Gail E. Wyatt et al., "The Prevalence and Circumstances of Child Sexual Abuse: Changes Across a Decade," *Child Abuse & Neglect* 23 (1999): 57.

⁴⁸ Walter Lowe et al., "Do American Cultures Differ in Their Definitions of Child Sexual Abuse?" *American Journal of Family Therapy* 33 (2005): 147.

⁴⁹ Lowe et al., 147.

⁵⁰ Christopher D. Maxwell et al., "The Impact of Race on the Adjudication of Sexual Assault and Other Violent Crimes," *Journal of Criminal Justice* 31 (2003): 525-527.

⁵¹ Maxwell et al., 533-535.

⁵² Ronet Bachman, *Violence Against Women: A National Crime Victimization Survey Report* (Washington, DC: Bureau of Justice Statistics, 1994), 6.

rape conviction, 68 percent committed the crime against a White victim while only 28 percent committed the crime against a Black victim.⁵³

In a recent study that takes account of both offender race and victim age and race, researchers found that mock jurors are more likely to hold a Black or Hispanic child responsible for his or her sexual abuse than a White child.⁵⁴ Further, jurors generally found cases involving victims and offenders of the same race to be more plausible; thus, in these cases, jurors assumed defendants were more culpable than other victim-defender race combinations.⁵⁵ In contrast to their hypothesis, however, Bottoms et al. did not find evidence that a defendant's race had a significant effect on the jury's decision.⁵⁶

Despite the underreporting of sexual assaults against children, victimization surveys and many law enforcement reports reveal consistent patterns of childhood and adolescent victimization. A nationwide survey reported by the National Institutes of Justice (NIJ) revealed that 1.8 million adolescents (ages 12 to 17) had been sexually assaulted at some point in their lives.⁵⁷ Using data from the National Incident-Based Reporting System (NIBRS), Snyder reports that the majority (66.9 percent) of all sexual assaults reported to law enforcement officials in the United States occur against persons who have not reached legal maturity, age 18 in most states.⁵⁸ In fact, young teenagers are especially susceptible to these crimes. The highest percentage of victims reported to law enforcement were fourteen years old.⁵⁹ Analysis of the five sexual assault offense categories reveals that almost half (45.8 percent) of all reported forcible rapes, 78.8 percent of all forcible sodomies, three-quarters (75.2 percent) of all sexual assaults with an object, and fully four-fifths (83.8 percent) of all forcible fondling offenses are committed against minors.⁶⁰

Nationally, research shows that people who sexually assault children are qualitatively different from other offenders. In a study that compared child sex abusers to non-sexual felony offenders in an urban Ohio jurisdiction, researchers presented the following findings:

[A]buse perpetrators were generally employed, had been married at some point in time, were mostly European American, were older than 30 years of age and, if involved in substance abuse, abused alcohol. In contrast, comparison perpetrators were more likely unemployed, mostly single, a member of a minority group, and younger than the abuse perpetrators. If they were involved in substance abuse, drugs were the most frequent abuse in the comparison cohort.⁶¹

Snyder's research on offender characteristics also reveals important demographic trends. The vast majority (96 percent) of offenders in child sexual assaults reported to law enforcement officials are male.⁶² Like Cullen et al., Snyder finds that offenders who sexually victimize children are more likely to be older. Three-quarters (76.8 percent) of all sexual assault offenders were adults; 28.4 percent of

⁵³ Lawrence A. Greenfeld, *Sex Offenses and Offenders* (Washington, DC: Bureau of Justice Statistics, 1997), 24, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/soo.pdf>.

⁵⁴ Bette L. Bottoms et al., "Effects of Victim and Defendant Race on Jurors' Decisions in Child Sexual Abuse Cases," *Journal of Applied Social Psychology* 34 (2004): 1, available at <http://www.ingentaconnect.com/content/bell/jasp/2004/00000034/00000001/art00001>.

⁵⁵ Bottoms et al., 1.

⁵⁶ Bottoms et al., 1.

⁵⁷ Kilpatrick et al., 1.

⁵⁸ Howard N. Snyder, *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics* (Washington, DC: Bureau of Justice Statistics, 2000), 2, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/saycrle.pdf>.

⁵⁹ Snyder, 2.

⁶⁰ Snyder, 2.

⁶¹ Bernard Cullen et al., "A Matched Cohort Comparison of a Criminal Justice System's Response to Child Sexual Abuse: A Profile of Perpetrators," *Child Abuse & Neglect* 24 (2000): 573.

⁶² Snyder, 8.

offenders were over age 34.⁶³ However, for some sexual assault offenses, juvenile offenders are common. For example, juvenile offenders committed nearly two-fifths (36.2 percent) of forcible sodomy offenses against juvenile victims compared to only 17 percent of forcible rape offenses and a quarter (23.2 percent) of all sexual assault offenses.⁶⁴

In Wisconsin, the Office of Justice Assistance reported that 77 percent of sexual assault victims in 2004 were juveniles.⁶⁵ Beyond this statistic, however, OJA does not publish further information about the race of offenders and victims of the crime of *Sexual Assault of a Child*. Instead, OJA reports information for both *Sexual Assault* and *Sexual Assault of a Child* combined. Thus, it is impossible to parse more specific race-related information about the crime of *Sexual Assault of a Child* from this data. Still, it is worth noting that OJA reported that 80 percent of all sexual assault victims – including both adult and child – were White, while 16 percent were Black, in Wisconsin in 2004.⁶⁶ OJA also found that 70 percent of all adult and child sexual assault offenders, as reported to law enforcement officials in Wisconsin in 2004, were White, while 23 percent of sexual assault offenders in Wisconsin were Black.⁶⁷

WISCONSIN STATUTES

In the State of Wisconsin, the criminal code divides child sexual assault into three different offenses. This division allows the State to identify and separate the nuances of the crime and place them into appropriate classification levels. Section 948.02 of Wisconsin Statutes describes *Sexual Assault of a Child* as:

(1) First Degree Sexual Assault of a Child. Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years is guilty of a Class B felony.

(2) Second Degree Sexual Assault of a Child. Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 16 years is guilty of a Class C felony.

(3) Failure to Act. A person responsible for the welfare of a child who has not attained the age of 16 years is guilty of a Class F felony if that person has knowledge that another person intends to have, is having or has had sexual intercourse or sexual contact with the child, is physically and emotionally capable of taking action which will prevent the intercourse or contact from taking place or being repeated, and fails to take that action, and the failure to act exposes the child to an unreasonable risk that intercourse or contact may occur between the child and the other person or facilitates the intercourse or contact that does occur between the child and the other person.

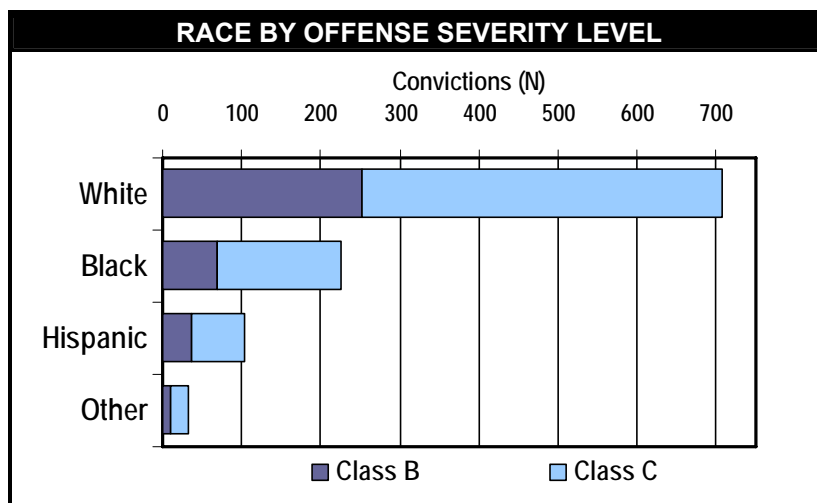
⁶³ Snyder, 8.

⁶⁴ Snyder, 8.

⁶⁵ Office of Justice Assistance, *Sexual Assaults in Wisconsin 2004* (2005): 12, available at <http://oja.state.wi.us/docview.asp?docid=8687&locid=97>.

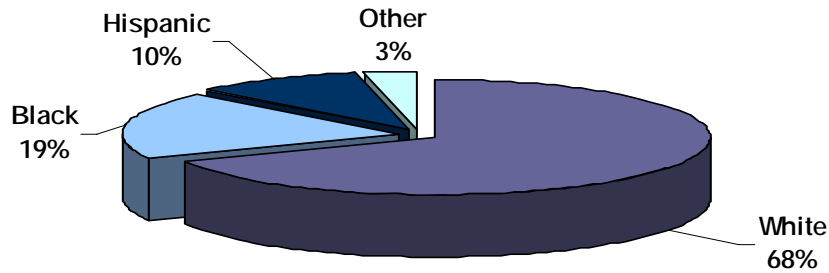
⁶⁶ Office of Justice Assistance, *Sexual Assaults in Wisconsin 2004* (2005): 17, available at <http://oja.state.wi.us/docview.asp?docid=8687&locid=97>. These figures include offenses with both adult and child victims.

⁶⁷ Office of Justice Assistance, *Sexual Assaults in Wisconsin 2004* (2005): 18, available at <http://oja.state.wi.us/docview.asp?docid=8687&locid=97>. These figures include offenses with both adult and child victims.



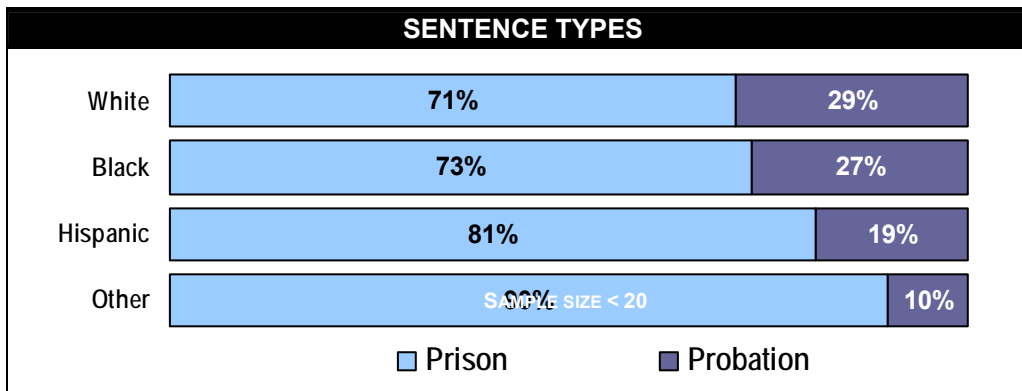
MAJOR FINDINGS

- White offenders commit the majority of child sexual assaults in Wisconsin, including both *First Degree* and *Second Degree Sexual Assault of a Child*.
- For all race groups, the majority of convictions are for *Second Degree Sexual Assault of a Child*.
- Virtually no racial disparities are found in sentence types (prison or probation) for *Sexual Assault of a Child*. This includes offenses in both severity levels (B and C).
- Similarly, little evidence of racial disparities is found in sentence lengths. Amount of time for confinement, extended supervision, and probation are largely stable across racial groups. In instances where amounts differ, this is primarily due to small sample sizes.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other [‡]	All
Average Age*	37 yrs old	29 yrs old	29 yrs old	28 yrs old	33 yrs old
Pct. Male / Female	100% / 0%	97% / 3%	100% / 0%	100% / 0%	99% / 1%
Pct. with Prior Felony	25%	37%	16%	30%	27%
Pct. with Prior Prison	11%	23%	8%	0%	13%

*Average = Median (50th percentile); [‡]Sample Size < 20.

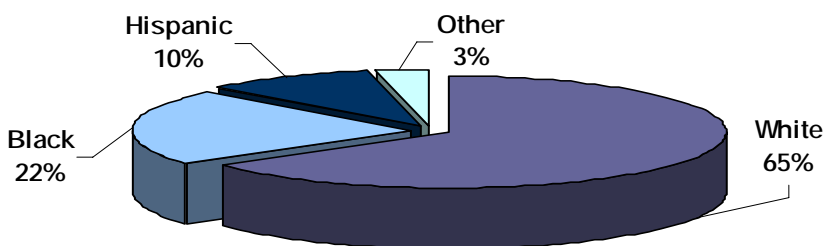


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other [‡]	All
Average*					
Confinement	8 yrs	10 yrs	6 yrs	9 yrs	8 yrs
Extended Supervision	10 yrs	10 yrs	6 yrs	10 yrs	10 yrs
Probation	10 yrs	4 yrs	7 yrs	12 yrs	8 yrs
Range**					
Confinement	4 – 15 yrs	4 – 15 yrs	4 – 9 yrs	8 – 12 yrs	4 – 14 yrs
Extended Supervision	7 – 15 yrs	5 – 10 yrs	5 – 10 yrs	10 – 15 yrs	6 – 13 yrs
Probation	6 – 10 yrs	3 – 6 yrs	5 – 12 yrs	12 – 12 yrs	5 – 10 yrs

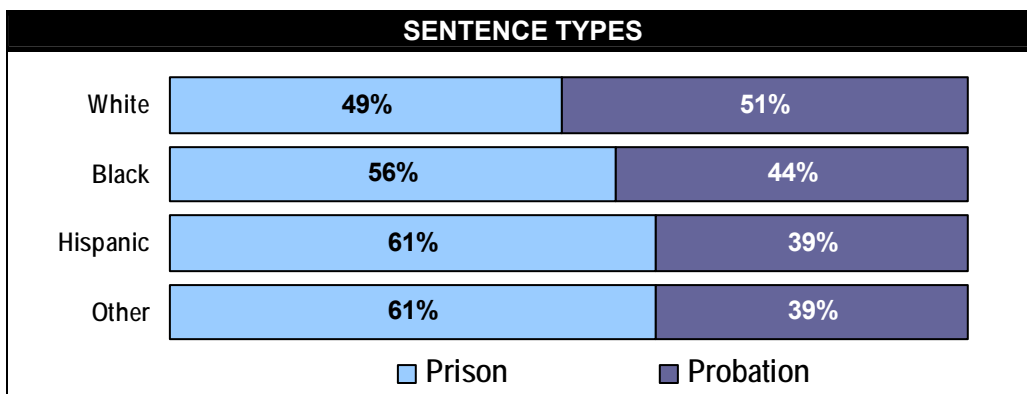
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other	All
Average Age*	23 yrs old	22 yrs old	23 yrs old	23 yrs old	23 yrs old
Pct. Male / Female	97% / 3%	99% / 1%	98% / 2%	100% / 0%	98% / 2%
Pct. with Prior Felony	29%	32%	24%	22%	29%
Pct. with Prior Prison	12%	17%	8%	22%	13%

*Average = Median (50th percentile); †Sample Size < 20.



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other	All
Average*					
Confinement	5 yrs	4 yrs	5 yrs	5 yrs	5 yrs
Extended Supervision	7 yrs	6 yrs	6 yrs	7 yrs	6 yrs
Probation	5 yrs	4 yrs	5 yrs	4 yrs	5 yrs
Range**					
Confinement	3 – 8 yrs	2 – 7 yrs	3 – 7.5 yrs	3 – 8 yrs	3 – 7 yrs
Extended Supervision	5 – 10 yrs	4 – 8.5 yrs	4 – 8 yrs	6 – 9 yrs	5 – 10 yrs
Probation	4 – 8 yrs	3 – 5 yrs	3 – 5 yrs	3 – 4 yrs	4 – 7 yrs

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

†Sample Size < 20.

SEXUAL ASSAULT

BACKGROUND

Sentences for sexual assault are typically more severe for White offenders than Black offenders. Sexual assault offenders are typically White, older than other violent offenders, and have shorter criminal records.⁶⁸

Research indicates that the race of the victim is often an important factor in explaining racial disparities in sentences for offenders convicted of sexual assault. Several studies have found that Black offenders who sexually assault Black victims receive the most lenient sentences. In contrast, Black offenders with White victims often receive the most severe sentences.⁶⁹

In their 2004 study on the effect of race and ethnicity on sentencing outcomes, Demuth and Steffensmeier grouped offenses in general categories: violent offenses (including rape, robbery, and assault), property offenses (including burglary, theft, and other property crimes), and drug offenses (including trafficking and other crimes).⁷⁰ This study found that for all violent crimes, including rape, the odds of incarceration for a Black or Hispanic offender were similar to the odds of incarceration for a White offender, controlling for other factors. However, this study did not provide any data specifically concerning sexual assault.⁷¹

In their 2003 study, Maxwell et al. found that Black sexual assault offenders were more likely to receive charge reductions than their White counterparts, while Hispanic and Asian offenders were less likely than Whites to receive a reduction in charge. Maxwell et al. also found that Hispanic and Asian defendants typically received much shorter sentences than similarly situated White sexual assault offenders. On the other hand, Black and White defendants, on the whole, received sentences of similar length. However, when all minority groups were compared to White sexual assault offenders, minorities typically received shorter prison sentences. This study hypothesized but did not substantiate that the “leniency” granted minority sexual assault offenders was due to law enforcement officials treating crimes against minority victims less severely. Maxwell et al. pointed to national victim surveys reporting that nearly all sexual assaults against Black victims are committed by Black offenders. In contrast, most Black sexual assault offenders in prison had White victims.⁷²

In Wisconsin, the Office of Justice Assistance compiles information about offenders and victims in sexual assault cases. However, OJA does not publish information specifically concerning the race of offenders and victims of the crime of *Sexual Assault*. Instead, OJA reports information for both *Sexual Assault* and *Sexual Assault of a Child* combined. Thus, it is impossible to parse more specific race-related information about the crime of *Sexual Assault* from this data. Still, it is worth noting that OJA reported that 80 percent of all sexual assault victims – including both adult and child – were White, while 16 percent were Black, in Wisconsin in 2004.⁷³ OJA also found that 70 percent of all adult and child sexual assault offenders, as reported to law enforcement officials in Wisconsin in 2004, were White, while 23 percent of sexual assault offenders in Wisconsin were Black.⁷⁴

⁶⁸ Maxwell et al., 529.

⁶⁹ Maxwell et al., 526.

⁷⁰ Demuth and Steffensmeier, 1003.

⁷¹ Demuth and Steffensmeier, 1006.

⁷² Maxwell et al., 533-34.

⁷³ Office of Justice Assistance, *Sexual Assaults in Wisconsin 2004* (2005): 17, available at <http://oja.state.wi.us/docview.asp?docid=8687&locid=97>. These figures include offenses with both adult and child victims.

⁷⁴ Office of Justice Assistance, *Sexual Assaults in Wisconsin 2004* (2005): 18, available at <http://oja.state.wi.us/docview.asp?docid=8687&locid=97>. These figures include offenses with both adult and child victims.

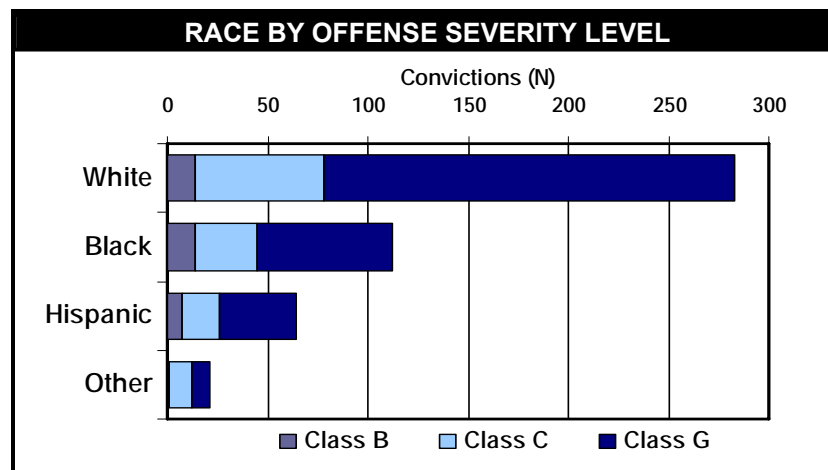
WISCONSIN STATUTES

In the State of Wisconsin, the criminal code divides *Sexual Assault* into three different felony offenses. This division allows the State to identify and separate the nuances of the crime and place them into appropriate classification levels. Section 940.225 of Wisconsin Statutes describes *Sexual Assault* as:

(1) First Degree Sexual Assault. Whoever has sexual contact or sexual intercourse with another person without consent **and:** causes pregnancy; or causes great bodily harm; or uses or threatens the use of a dangerous weapon; or is aided or abetted by one or more persons by use or threat of force or violence is guilty of a Class B felony.

(2) Second Degree Sexual Assault. Whoever has sexual contact or sexual intercourse with another person without consent **and:** uses or threatens to use force; or causes injury, illness, or disease; or knowingly targets a vulnerable victim (mentally deficient, under the influence, or unconscious); or is aided or abetted by one or more persons; or is an employee of a specified healthcare/treatment or detention facility is guilty of a Class C felony.

(3) Third Degree Sexual Assault. Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class G felony.

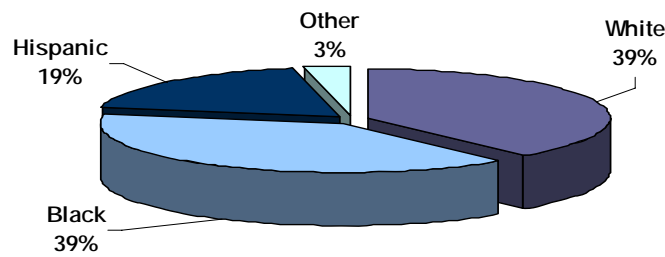


MAJOR FINDINGS

- White offenders commit the majority of *Sexual Assaults* in Wisconsin.
- For White, Black, and Hispanic offenders, there are far more convictions for *Third Degree Sexual Assault* than either *First* or *Second Degree Sexual Assault*.
- Virtually no racial disparity is found in the initial prison/probation sentencing decision for *First Degree Sexual Assault*. Yet this is not the case for the other two, less severe offenses. For *Second* and *Third Degree Sexual Assault*, disparities increase as severity levels decrease. Some

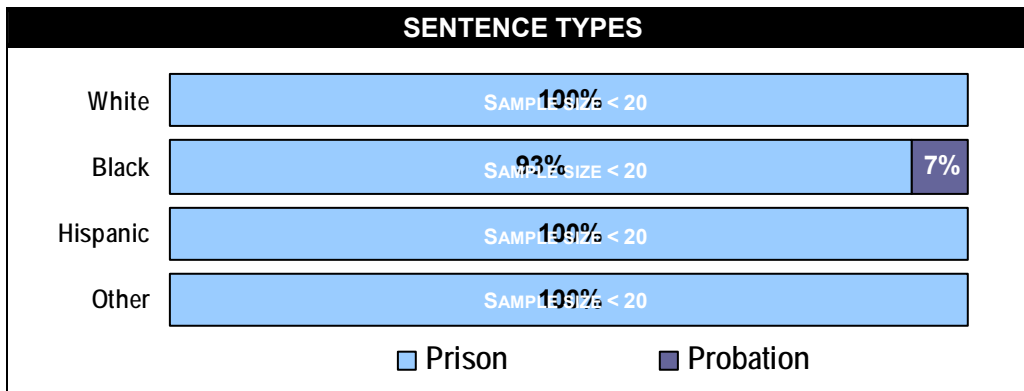
of these disparities can be explained by comparing offenders with similar criminal histories, but others cannot. See Appendices B, C, and D, for more information.

- At all severity levels for *Sexual Assault*, sentence lengths for confinement, extended supervision, and probation are largely stable across racial groups. Where there are large differences in sentence length, these differences are distorted by the small sample size available for *First Degree Sexual Assault*.



OFFENDER CHARACTERISTICS					
	White [‡]	Black [‡]	Hispanic [‡]	Other [‡]	All
Average Age*	26 yrs old	19 yrs old	24 yrs old	52 yrs old	22 yrs old
Pct. Male / Female	100% / 0%	100% / 0%	100% / 0%	100% / 0%	100% / 0%
Pct. with Prior Felony	36%	29%	14%	0%	28%
Pct. with Prior Prison	29%	21%	14%	0%	22%

*Average = Median (50th percentile); [‡]Sample Size < 20.

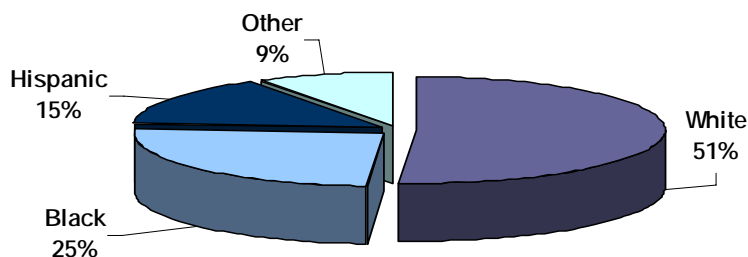


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White [‡]	Black [‡]	Hispanic [‡]	Other [‡]	All
Average*					
Confinement	13 yrs	20 yrs	10 yrs	7 yrs	15 yrs
Extended Supervision	10 yrs	10 yrs	10 yrs	10 yrs	10 yrs
Probation	n/a	10 yrs	n/a	n/a	10 yrs
Range**					
Confinement	10 – 20 yrs	13 – 20 yrs	7 – 35 yrs	7 – 7 yrs	10 – 25 yrs
Extended Supervision	10 – 12 yrs	10 – 12 yrs	6 – 20 yrs	10 – 10 yrs	10 – 12 yrs
Probation	n/a	10 – 10 yrs	n/a	n/a	10 – 10 yrs

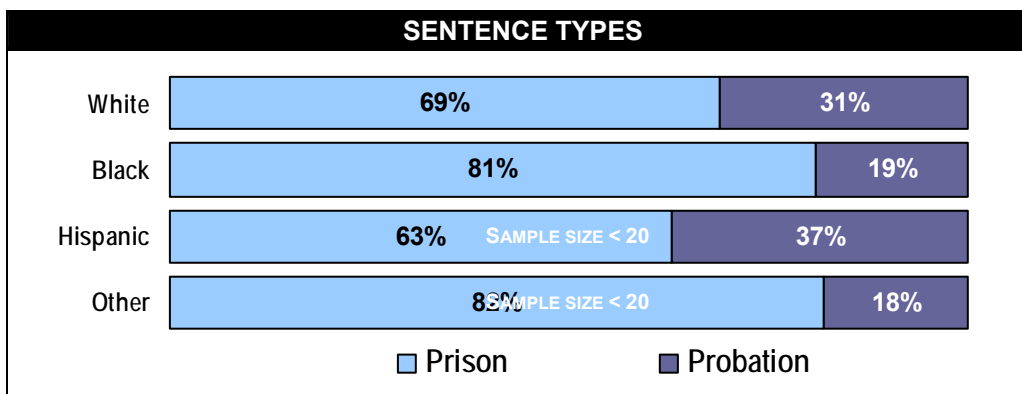
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic [‡]	Other [‡]	All
Average Age*	33 yrs old	32 yrs old	26 yrs old	28 yrs old	31 yrs old
Pct. Male / Female	98% / 2%	100% / 0%	100% / 0%	100% / 0%	99% / 1%
Pct. with Prior Felony	34%	61%	32%	55%	42%
Pct. with Prior Prison	23%	48%	26%	36%	31%

*Average = Median (50th percentile); [‡]Sample Size < 20.

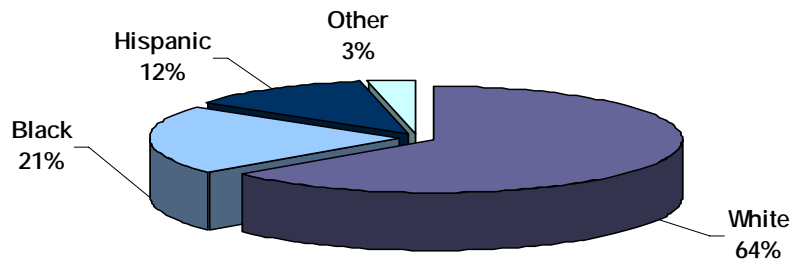


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic [‡]	Other [‡]	All
Average*					
Confinement	8 yrs	7 yrs	8 yrs	4 yrs	7 yrs
Extended Supervision	10 yrs	7.5 yrs	6 yrs	6 yrs	8 yrs
Probation	6 yrs	6.5 yrs	3 yrs	5.5 yrs	5 yrs
Range**					
Confinement	4 – 13 yrs	4 – 11 yrs	4.5 – 11 yrs	2 – 5.5 yrs	3 – 12 yrs
Extended Supervision	5 – 15 yrs	5 – 12.5 yrs	4 – 10 yrs	4 – 10 yrs	5 – 12.5 yrs
Probation	4 – 9 yrs	5 – 7 yrs	3 – 5 yrs	5 – 6 yrs	3 – 8 yrs

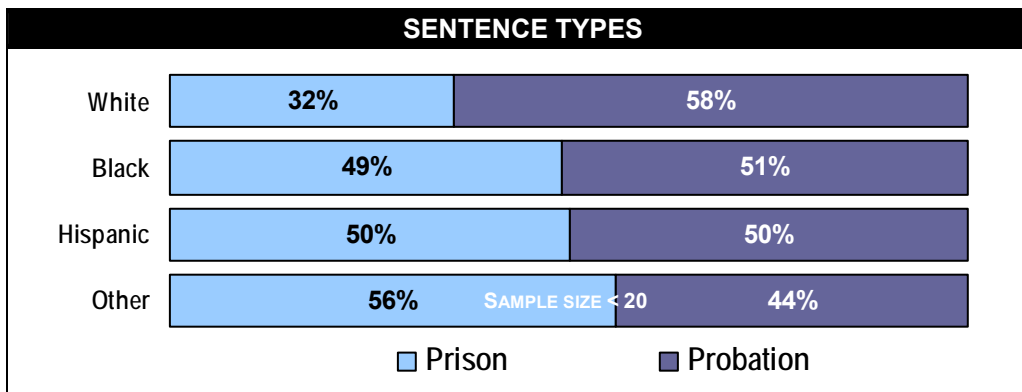
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other [‡]	All
Average Age*	22 yrs old	22 yrs old	26 yrs old	32 yrs old	22 yrs old
Pct. Male / Female	99% / 1%	100% / 0%	97% / 3%	100% / 0%	99% / 1%
Pct. with Prior Felony	26%	31%	8%	33%	25%
Pct. with Prior Prison	9%	28%	3%	22%	13%

*Average = Median (50th percentile); [‡]Sample Size < 20.



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other [‡]	All
Average*					
Confinement	3 yrs	3 yrs	3 yrs	2 yrs	3 yrs
Extended Supervision	4 yrs	4 yrs	4 yrs	3 yrs	4 yrs
Probation	5 yrs	3.5 yrs	4 yrs	5 yrs	4 yrs
Range**					
Confinement	2 – 4 yrs	2 – 5 yrs	2 – 4 yrs	1.5 – 2 yrs	2 – 4 yrs
Extended Supervision	3 – 5 yrs	3 – 5 yrs	2.5 – 5 yrs	2.5 – 3 yrs	3 – 5 yrs
Probation	4 – 5 yrs	3 – 4 yrs	3 – 5 yrs	4 – 5 yrs	3 – 5 yrs

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20.

ROBBERY / ARMED ROBBERY

BACKGROUND

Unfortunately, few, if any studies, have focused on the role of race in sentencing decisions for the crime of robbery. In studies where robbery has been included, researchers often group robbery with other violent offenses, such as homicide and rape. As a result, information specifically about the role of race in sentencing for robbery is difficult to parse from these studies.⁷⁵

Blumstein found that racial disparities in sentence lengths increased as offense severity decreased, where prosecutors, judges, and other criminal justice actors presumably had more discretion in the ultimate disposition of the case. According to Blumstein, even if racially differential treatment were eliminated during the processing of these less serious crimes, overall racial disparities in the prison population would still persist because of differential arrest rates for White and Black offenders.⁷⁶ Because robbery is generally considered a serious, violent offense, it follows that judicial actors would have less discretion to dispose of robbery cases and thus, minority representation would be proportionate to arrest rates. In 1991, Blumstein found that the racial mix of prisoners serving sentences for robbery was comparable to the racial distribution at arrest.⁷⁷

Another study of Pennsylvania inmates was consistent with Blumstein's finding that judicial actors exercised less discretion toward robbery offenders. In this study, Austin and Allen found that arrest rates accounted for 70 percent of the racial disparity among prison inmates convicted of robbery.⁷⁸

However, Maxwell et al. found that although minority offenders receive more lenient sentences for sexual assault than whites, minorities are punished more harshly for other violent crimes, and especially, for robbery. Maxwell et al. suggested but did not substantiate that because robbery, unlike sexual assault, is typically an inter-racial crime, minority offenders with White victims may receive harsher treatment by actors at all points in the criminal justice system.⁷⁹

In Wisconsin, the Office of Justice Assistance collects information on the total number of arrests for *Robbery* each year, statewide and by county. However, OJA does not report *Robbery* arrest rates by race.⁸⁰ No other Wisconsin-specific statistics regarding *Robbery* and race were found during the preparation of this report.

⁷⁵ Demuth and Steffensmeier, 1003, 1006.

⁷⁶ Jerome G. Miller, *Search and Destroy: African-American Males in the Criminal Justice System* (Cambridge: Cambridge University Press, 1996), 59.

⁷⁷ Blumstein, 746-51.

⁷⁸ Roy L. Austin and Mark D. Allen, "Racial Disparity in Arrest Rates as an Explanation of Racial Disparity in Commitment to Pennsylvania's Prisons," *Journal of Research in Crime and Delinquency* 37 (2000): 210.

⁷⁹ Maxwell et al., 533-34.

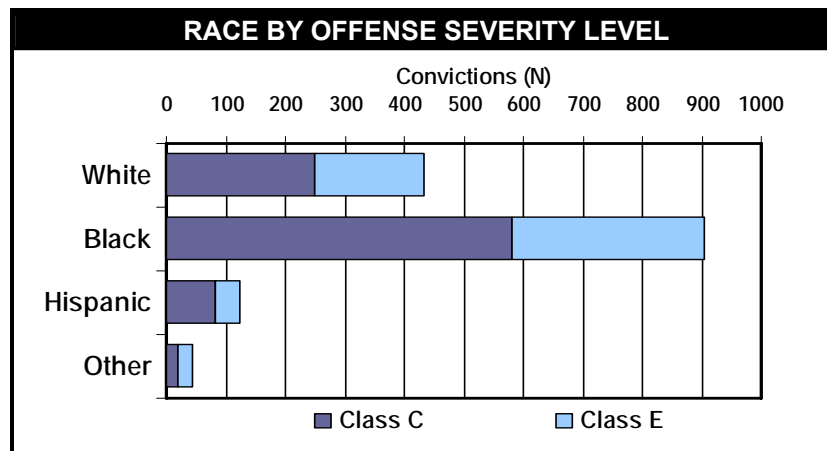
⁸⁰ See, e.g., Office of Justice Assistance, *Preliminary Crimes and Arrests in Wisconsin 2005* (2006): 3, available at <http://oja.state.wi.us/docview.asp?docid=9157&locid=97>; Office of Justice Assistance, *Robbery Offenses by County in Wisconsin in 2004*, available at <http://oja.state.wi.us/docview.asp?docid=3951&locid=97>.

WISCONSIN STATUTES

In the State of Wisconsin, the criminal code divides *Robbery* into two different felony offenses. This division allows the State to identify and separate the nuances of the crime and place them into appropriate classification levels. Section 943.32 of Wisconsin Statutes describes *Robbery* as:

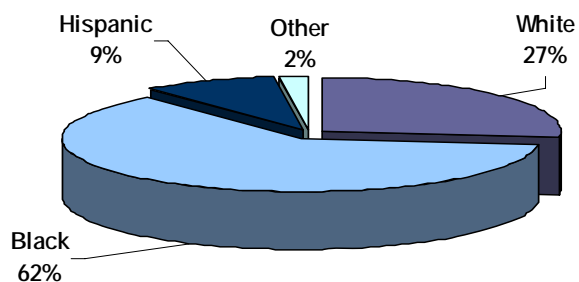
(1) *Robbery*. Whoever, with intent to steal, takes property from the person or presence of the owner by either threat or use of force is guilty of a Class E felony.

(2) *Armed Robbery*. Whoever, with intent to steal, takes property from the person or presence of the owner by either threat or use of force with a dangerous weapon is guilty of a Class C felony.



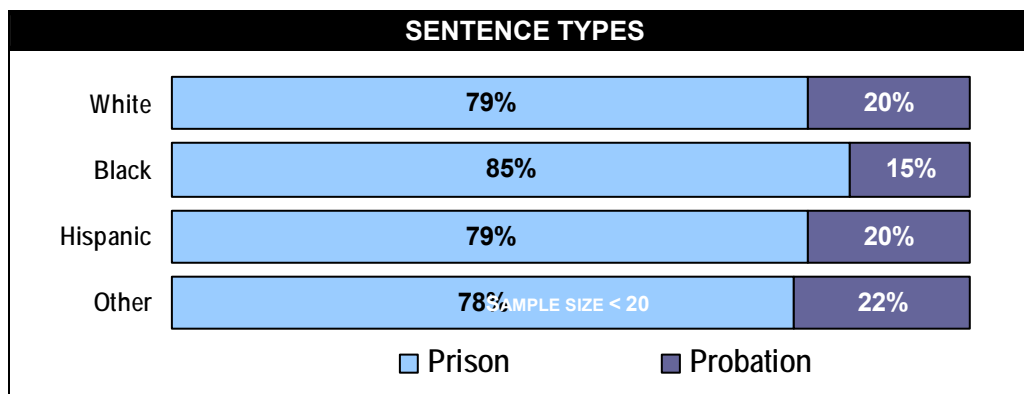
MAJOR FINDINGS

- Black offenders commit the majority of *Robbery* and *Armed Robbery* offenses in Wisconsin.
- For all race groups, there are more convictions for *Armed Robbery* than *Robbery*.
- For *Armed Robbery*, almost no racial disparity exists in the initial prison/probation sentencing decision.
- Conversely, racial disparities are found in the sentence types (prison or probation) given for the less severe offense of *Robbery*. Yet, this disparity is explained to a large extent when comparing offenders with similar criminal histories. See Appendices B, C, and D, for more information.
- For both *Robbery* and *Armed Robbery*, sentence lengths for confinement, extended supervision, and probation are largely stable across all racial groups.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other [†]	All
Average Age*	24 yrs old	21 yrs old	21 yrs old	21 yrs old	21 yrs old
Pct. Male / Female	86% / 14%	97% / 3%	90% / 10%	94% / 6%	94% / 6%
Pct. with Prior Felony	41%	41%	32%	22%	40%
Pct. with Prior Prison	26%	30%	20%	17%	28%

*Average = Median (50th percentile); [†]Sample Size < 20.

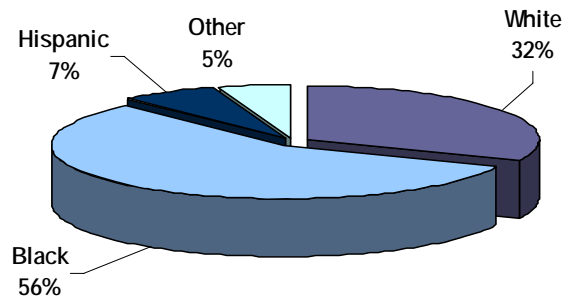


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other [†]	All
Average*					
Confinement	5 yrs	5 yrs	4 yrs	4 yrs	5 yrs
Extended Supervision	6 yrs	5 yrs	5 yrs	5.5 yrs	5 yrs
Probation	5 yrs	5 yrs	5 yrs	5.5 yrs	5 yrs
Range**					
Confinement	3 – 8 yrs	3 – 8 yrs	2.5 – 8 yrs	3 – 8 yrs	3 – 8 yrs
Extended Supervision	4 – 10 yrs	4 – 7 yrs	4 – 6 yrs	4 – 10 yrs	4 – 8 yrs
Probation	4 – 6 yrs	4 – 6 yrs	3 – 5.5 yrs	5 – 10.5 yrs	4 – 6 yrs

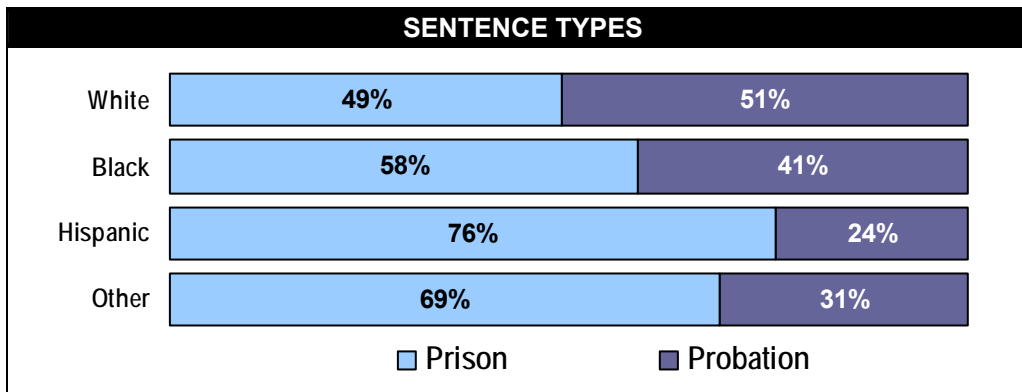
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[†]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other	All
Average Age*	22 yrs old	23 yrs old	23 yrs old	19 yrs old	22 yrs old
Pct. Male / Female	88%	91%	95%	85%	90%
Pct. with Prior Felony	33%	40%	37%	42%	38%
Pct. with Prior Prison	14%	30%	27%	19%	24%

*Average = Median (50th percentile); †Sample Size < 20.



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other	All
Average*					
Confinement	3 yrs	3 yrs	3 yrs	3.5 yrs	3 yrs
Extended Supervision	4 yrs	3 yrs	3 yrs	3 yrs	4 yrs
Probation	4 yrs	3.5 yrs	3 yrs	3.5 yrs	4 yrs
Range**					
Confinement	2 – 4 yrs	2 – 4 yrs	2 – 4 yrs	1.5 – 5 yrs	2 – 4 yrs
Extended Supervision	3 – 5 yrs	3 – 5 yrs	3 – 5 yrs	2.5 – 5 yrs	3 – 5 yrs
Probation	3 – 5 yrs	3 – 5 yrs	2 – 4 yrs	3 – 4 yrs	3 – 5 yrs

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

†Sample Size < 20.

BURGLARY

BACKGROUND

Burglary, a property crime, is generally regarded as a less serious crime than a violent offense like sexual assault or robbery. Because of this, criminal justice actors typically act with more discretion at each stage of the process. As a result, this increased discretion introduces additional disparity into the criminal justice process, and racial disparity in rates of imprisonment among burglary offenders is typically higher and less able to be explained by arrest rates than for more serious offenses.⁸¹

Like robbery, few, if any studies, have focused on the role of race in sentencing decisions for the crime of burglary. In studies where burglary has been included, researchers often group it with other property offenses, such as theft. As a result, information specifically about the role of race in sentencing decisions for burglary is difficult to parse from these studies.

In their 2000 study comparing racial disparity in arrest and imprisonment rates in Pennsylvania, Austin and Allen found that the percentage of the racial demographics of the prison population that could be explained by the racial distribution at arrest dropped significantly for less serious property offenses. While arrest rates by race could explain 70 percent of the racial disparity in prison for the violent crime of robbery, arrest rates could only explain 42 percent of the racial disparity in the prison population for burglary and 43 percent for theft.⁸²

In their 2004 study on the effect of race and ethnicity on sentencing outcomes, Demuth and Steffensmeier grouped offenses in general categories: violent offenses (including rape, robbery, and assault), property offenses (including burglary, theft, and other property crimes), and drug offenses (including trafficking and other crimes).⁸³ This study found that for all property crimes, including burglary, the odds of incarceration for a Black offender were 66 percent higher than for a White offender, controlling for other factors. A Hispanic offender's odds of incarceration were 44 percent higher than a similarly situated White offender. Although White offenders seemed to fare better than their Black and Hispanic counterparts regarding the initial "in/out" decision, this study found that the actual sentence lengths were comparable for similar offenders, regardless of the offender's race.⁸⁴

In Wisconsin, the Office of Justice Assistance collects information on the total number of arrests for *Burglary* each year, statewide and by county. However, OJA does not report *Burglary* arrest rates by race.⁸⁵ No other Wisconsin-specific statistics regarding *Burglary* and race were found during the preparation of this report.

WISCONSIN STATUTES

In the State of Wisconsin, the criminal code divides *Burglary* into two different felony offenses. This division allows the State to identify and separate the nuances of the crime and place them into appropriate classification levels. Section 943.32 of Wisconsin Statutes describes *Burglary* as:

⁸¹ Austin and Allen, 210, 215-16.

⁸² Austin and Allen, 210.

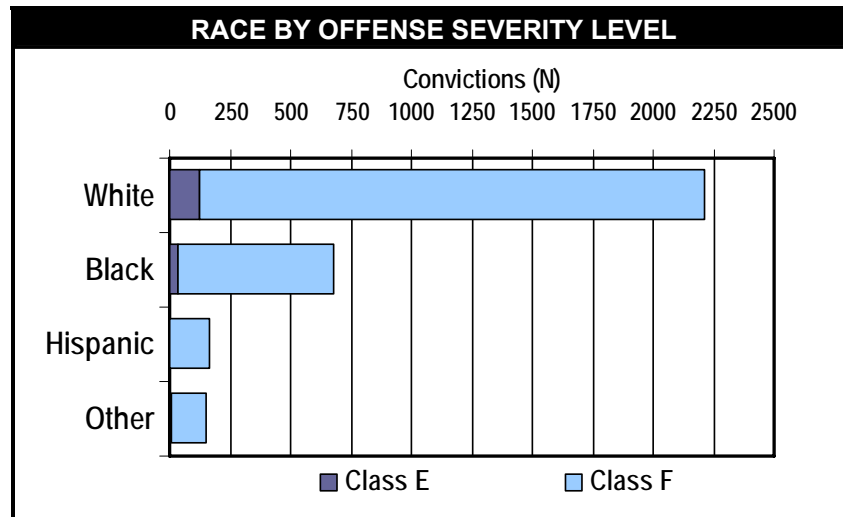
⁸³ Demuth and Steffensmeier, 1003.

⁸⁴ Demuth and Steffensmeier, 1006.

⁸⁵ See, e.g., Office of Justice Assistance, *Preliminary Crimes and Arrests in Wisconsin 2005* (2006): 3, available at <http://oja.state.wi.us/docview.asp?docid=9157&locid=97>; Office of Justice Assistance, *Burglary Offenses by County in Wisconsin in 2004*, available at <http://oja.state.wi.us/docview.asp?docid=3945&locid=97>.

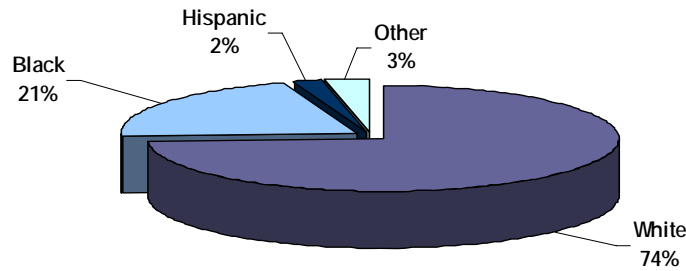
(1m) Burglary. Whoever intentionally enters a building, dwelling, or other structure – without the consent of the person in lawful possession – with the intent to steal or commit a felony in such place is guilty of a Class F felony.

(2) Burglary Plus. Whoever violates sub. (1m) **and:** is armed with a dangerous weapon; or uses an explosive device to open a depository; or commits a battery upon a person lawfully therein; or commits act while another person is lawfully present is guilty of a Class E felony.



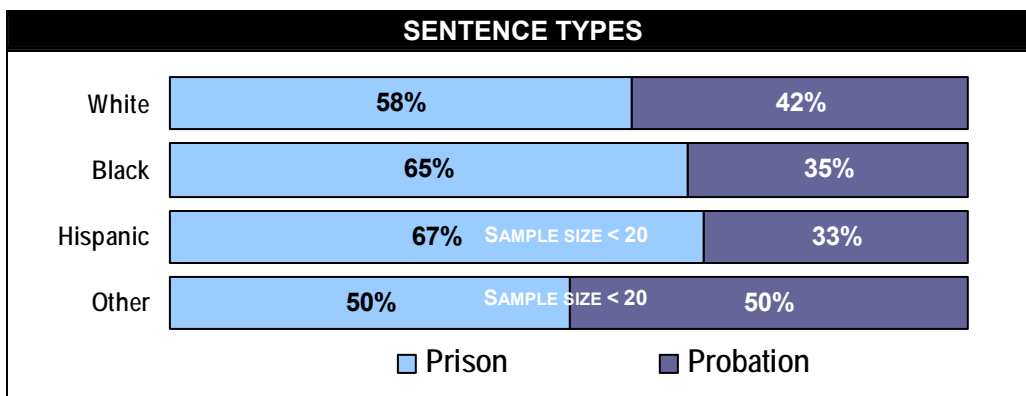
MAJOR FINDINGS

- White offenders commit the vast majority of *Burglary* offenses in Wisconsin.
- Compared to *Burglary*, *Burglary Plus* convictions account for very few of the convictions in this offense group.
- Racial disparities in the sentence types (prison or probation) given to offenders are more pronounced in *Burglary* than *Burglary Plus*. However, the majority of these disparities can be explained when comparing offenders with similar criminal histories. See Appendices B, C, and D, for more information.
- For both *Burglary* and *Burglary Plus*, sentence lengths for confinement, extended supervision, and probation are largely stable across all racial groups.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic [†]	Other [†]	All
Average Age*	21 yrs old	21 yrs old	25 yrs old	19 yrs old	21 yrs old
Pct. Male / Female	95% / 5%	97% / 3%	100% / 0%	100% / 0%	96% / 4%
Pct. with Prior Felony	41%	35%	67%	50%	41%
Pct. with Prior Prison	26%	26%	33%	33%	26%

*Average = Median (50th percentile); [†]Sample Size < 20.

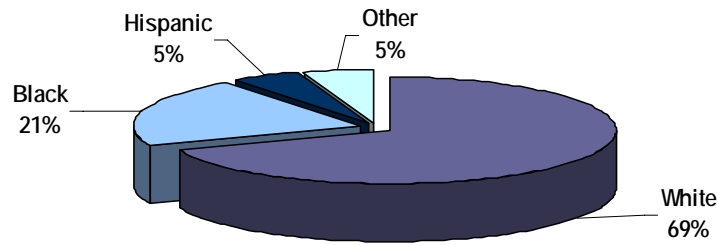


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic [†]	Other [†]	All
Average*					
Confinement	4 yrs	3 yrs	4.5 yrs	3 yrs	3.5 yrs
Extended Supervision	4 yrs	3.5 yrs	4.5 yrs	3 yrs	4 yrs
Probation	4 yrs	3.5 yrs	5 yrs	3 yrs	4 yrs
Range**					
Confinement	3 – 5 yrs	2 – 4 yrs	4 – 5 yrs	2.5 – 5 yrs	2.5 – 5 yrs
Extended Supervision	3 – 5 yrs	2 – 5 yrs	4 – 5 yrs	3 – 5 yrs	3 – 5 yrs
Probation	3 – 5.5 yrs	3 – 4.5 yrs	5 – 5 yrs	2 – 5 yrs	3 – 5 yrs

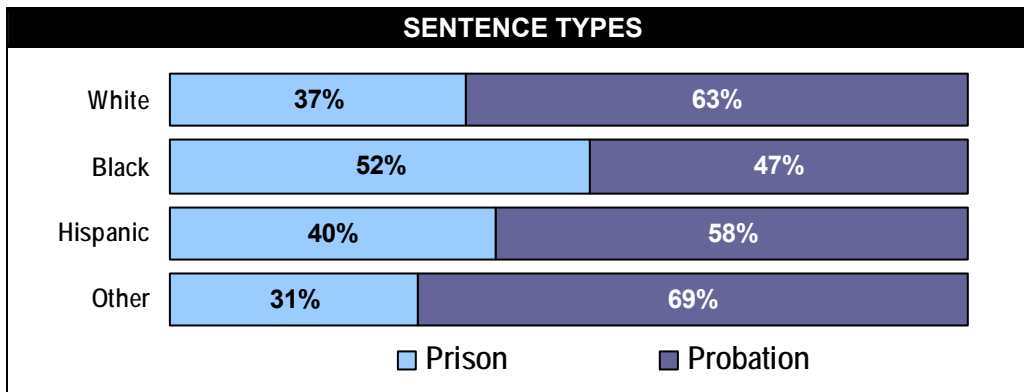
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[†]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other	All
Average Age*	21 yrs old	28 yrs old	23 yrs old	19 yrs old	21 yrs old
Pct. Male / Female	92% / 8%	96% / 4%	94% / 6%	93% / 7%	93% / 7%
Pct. with Prior Felony	47%	56%	41%	41%	48%
Pct. with Prior Prison	24%	41%	23%	15%	27%

*Average = Median (50th percentile); †Sample Size < 20.



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other	All
Average*					
Confinement	3 yrs	2.5 yrs	2 yrs	3 yrs	2.5 yrs
Extended Supervision	3 yrs	3 yrs	3 yrs	3 yrs	3 yrs
Probation	4 yrs	3 yrs	3 yrs	4 yrs	4 yrs
Range**					
Confinement	2 – 4 yrs	1.5 – 4 yrs	1.5 – 3.5 yr	2 – 4 yrs	2 – 4 yrs
Extended Supervision	3 – 5 yrs	2.5 – 4 yrs	2 – 4 yrs	1 – 4 yrs	2.5 – 5 yrs
Probation	3 – 5 yrs	3 – 4 yrs	3 – 4 yrs	3 – 5 yrs	3 – 5 yrs

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

†Sample Size < 20.

DRUG TRAFFICKING

BACKGROUND

In the existing literature regarding the role of race in sentencing decisions, the sentencing practices for drug offenses are the most commonly criticized. Many researchers specifically suggest that the “war on drugs” is responsible for sharp increases in the proportion of minorities in prisons in recent years. Discrimination based on race exists at each stage in the criminal justice system for drug-related crimes.⁸⁶ Researchers cite two key factors in the “war on drugs” that may account for sharp increases in the proportion of minorities in prison: 1) Crack cocaine users receive tougher sentences that keep them in prison longer; and 2) Arrest rates for drug offenses have climbed significantly, surpassing arrest rates for violent crimes.⁸⁷

In their 2004 study, Demuth and Steffensmeier included a breakdown by offense type – violent offenses (including rape, robbery, and assault), property offenses (including burglary, theft, and other property crimes), and drug offenses (including trafficking and other crimes).⁸⁸ This study found that for all drug crimes, the odds of incarceration for a Black offender were 59 percent higher than for a White offender, controlling for other factors. A Hispanic offender’s odds of incarceration for a drug crime were 53 percent higher than a similarly situated White offender.⁸⁹

In 1991, Blumstein found that while 58 percent of prison inmates with drug offenses were Black, Blacks only comprised 40 percent of those arrested for drug offenses. Because the increase in the overall prison population was due largely to the influx of drug offenders, the disparity between arrest and imprisonment rates for Blacks with drug offenses greatly contributed to the increased minority presence in prisons nationally.⁹⁰

In a 2000 study of Pennsylvania inmates, Austin and Allen examined the relationship between arrest rates and imprisonment rates to determine whether higher arrest rates for minorities explained the higher proportion of minorities in prison. For drug crimes, the study found that arrest rates could only explain 26 percent of the racial disparity among Pennsylvania inmates serving time for drug offenses. In contrast, this study found that arrest rates accounted for 70 percent of the racial disparity for robbery and 41 percent for burglary.⁹¹

For drug offenses, unlike other crimes, such as violent offenses, arrest rates are not necessarily a good proxy for rates of criminal participation.⁹² Arrest rates do not mirror rates of drug use. In a 2000-01 study, the U.S. Department of Health and Human Services Office of Applied Studies found that the percentages of Whites and Blacks who had used illicit drugs during the past month were basically the same, at 6.8 percent and 6.9 percent, respectively.⁹³ The percentage of Hispanics who had used illicit drugs during the past month was lower at 5.9 percent.⁹⁴ Drug arrest rates serve as a poor proxy for criminal participation because minorities are at greater risk for arrest than Whites. This is primarily due

⁸⁶ Miller, 83.

⁸⁷ See generally Miller.

⁸⁸ Demuth and Steffensmeier, 1003.

⁸⁹ Demuth and Steffensmeier, 1006.

⁹⁰ Blumstein, 751.

⁹¹ Austin and Allen, 210.

⁹² Austin and Allen, 210.

⁹³ Office of Applied Studies, U.S. Department of Health and Human Services, “2001 National Household Survey on Drug Abuse” (2001), available at <http://www.oas.samhsa.gov/nhsda/2k1nhsda/vol1/chapter2.htm>.

⁹⁴ Office of Applied Studies, U.S. Department of Health and Human Services, “2001 National Household Survey on Drug Abuse” (2001), available at http://drugabusestatistics.samhsa.gov/NHSDA/2k1NHSDA/vol2/appendix_1.htm#tableh.19.

to greater police presence in minority neighborhoods, covert racial profiling of drug couriers, and the prevalence of open street corner drug markets in predominantly Black neighborhoods.⁹⁵

To date, much of the existing literature has focused on how the sentences imposed for a particular type of drug have caused racial disparities in the prison population. If a particular type of drug has harsher penalties than other types of drugs *and* if a particular racial group comprises most of the users of that drug, then it follows that even a race-neutral application of the law will result in harsher penalties for that racial group and higher representation in the prison population.⁹⁶ At the federal level, the harshest criticism has been leveled at the sentencing differentials for powder versus crack cocaine. Because federal guidelines called for the same sentence for one gram of crack cocaine but 100 grams of powder cocaine and because Blacks were primarily using crack cocaine and Whites were using powder cocaine, a race-neutral application of the law resulted in many more Blacks receiving long prison sentences. Thus, the sentencing structure for each type of drug, depending on the correlation between race and choice of drug, can contribute to racial disparities in prison without additional differential treatment.⁹⁷

A 1996 study of racial effects on sentencing for drug offenses in California noted that differences in the penalties for different types of drugs could account for racial disparities, where a particular racial or ethnic group was more associated with the use of one type of drug. For instance, marijuana and methamphetamine users, who were typically White, were more likely to have their charges reduced to misdemeanors with shorter jail sentences, a discretionary mechanism built directly into the drug penalty structure. However, the law did not allow those charged with cocaine, crack, or heroin to receive anything less than a felony conviction and prison sentence.⁹⁸

In Wisconsin, the Office of Justice Assistance reported in 2004 that White offenders made up 73 percent of all those arrested for drug offenses. Blacks comprised 24 percent of arrestees for all drug offenses. By drug type, 54 percent of those arrested for cocaine or opium were Black, compared to the 45 percent who were White. In contrast, for marijuana, 83 percent of arrestees were White, compared to the 14 percent who were Black.⁹⁹

⁹⁵ Blumstein, 753.

⁹⁶ Carole Wolff Barnes and Rodney Kingsnorth, "Race, Drug, and Criminal Sentencing: Hidden Effects of the Criminal Law," *Journal of Criminal Justice* 24 (1996): 40.

⁹⁷ Paula Kautt and Cassia Spohn, "Crack-ing Down on Black Drug Offenders? Testing for Interactions Among Offenders' Race, Drug Type, and Sentencing Strategy in Federal Drug Sentences," *Justice Quarterly* 19 (2002): 6.

⁹⁸ Barnes and Kingsnorth, 41, 52.

⁹⁹ Office of Justice Assistance, *Drug Arrests in Wisconsin 2004*, (2006): 15, available at <http://oja.state.wi.us/docview.asp?docid=9163&locid=97>.

WISCONSIN STATUTES

In the State of Wisconsin, the criminal code divides *Drug Trafficking* into two different felony offenses. Yet, for felony classification purposes these separate offenses are treated equally. Section 961.41 of Wisconsin Statutes describes *Drug Trafficking* as:

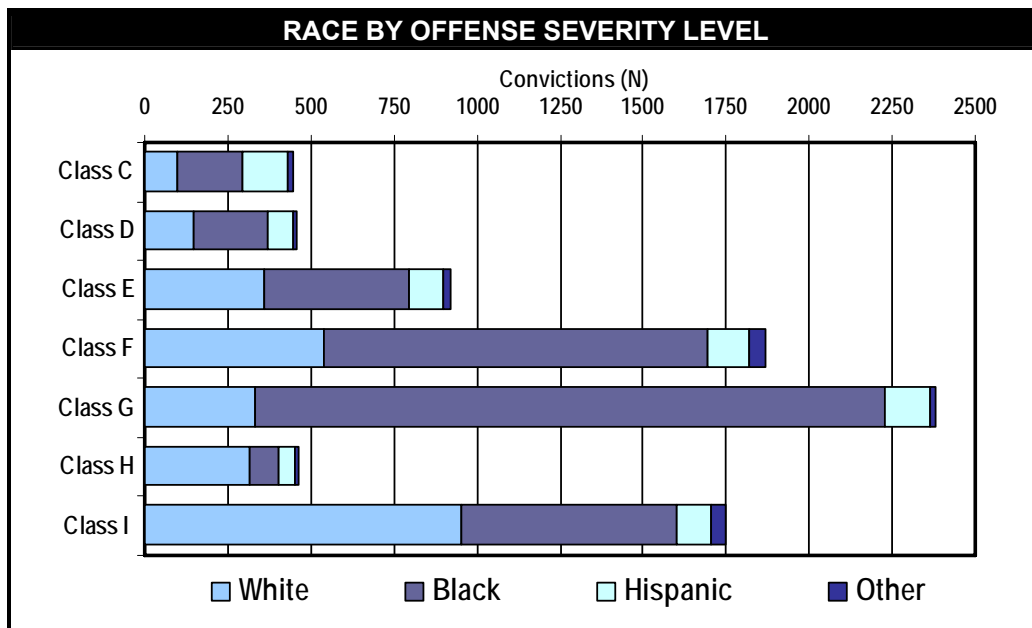
(1) Manufacture, Distribution, or Delivery. It is unlawful for any person to manufacture, distribute, or deliver a controlled substance or controlled substance analog. Any person who violates this subsection is subject to the penalties listed in the table below.

(1m) Possession with Intent to Manufacture, Distribute, or Deliver. It is unlawful for any person to possess, with the intent to manufacture, distribute, or deliver a controlled substance or controlled substance analog. Intent under this subsection may be demonstrated by evidence of the quantity, monetary value, paraphernalia, and activities or statements of the person in possession of the controlled substance. Any person who violates this subsection is subject to the penalties listed in the table below.

The felony classification of each offense depends on the quantity and drug type, ranging from *Class C* (most severe) to *Class I* (least severe). The table below provides a graphical depiction of felony classifications for each drug type, based on quantity.

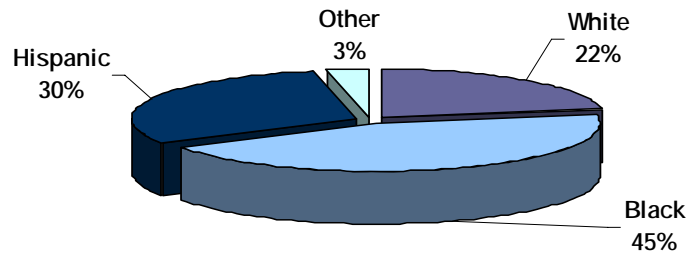
Other drug offenses, such as a *Second Possession* under § 961.41(3g)(c)-(g), are not included in this report, although conviction of this offense results in a Class H or Class I felony.

PENALTY RANGES FOR DRUG TRAFFICKING OFFENSES IN WISCONSIN									
Drug Type	FELONY CLASS								
	(Most Severe)								(Least Severe)
	A	B	C	D	E	F	G	H	I
Cocaine & Cocaine Base			> 40 grams	15-40 grams	5-15 grams	1-5 grams	≤ 1 grams		
Heroin			> 50 grams	10-50 grams	3-10 grams	≤ 3 grams			
Amphetamines			> 50 grams	10-50 grams	3-10 grams	≤ 3 grams			
LSD					> 5 grams	1-5 grams	≤ 1 gram		
THC					> 10,000 grams	2,500-10,000 grams	1000-2500 grams	200-1000 grams	≤ 200 grams



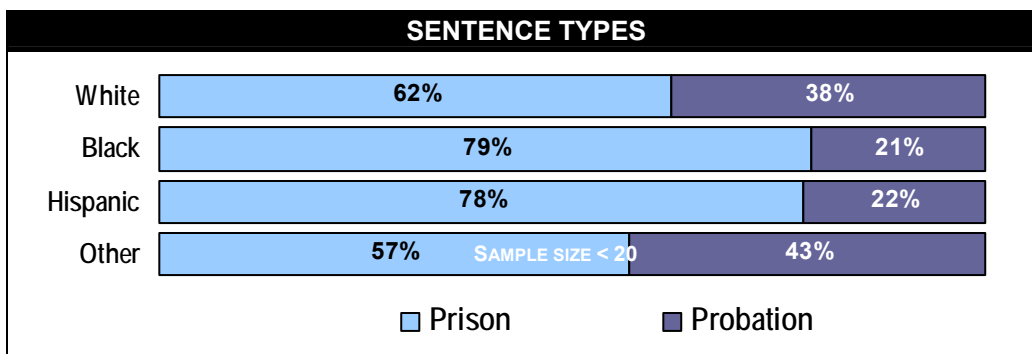
MAJOR FINDINGS

- In Wisconsin, the number of Black offenders convicted of *Drug Trafficking* is nearly double that of White offenders. This disparity is most pronounced in mid-level offenses – *Class E, F, and G*.
- At all severity levels, a larger percentage of Black offenders receive prison sentences than White offenders. This disparity increases as offense seriousness decreases. For example, the difference in percentage between White offenders who get probation versus other racial groups is particularly evident in *Class D, E, F, G, and H* felonies. Some of this disparity may be explained by comparing offenders with similar criminal histories, by drug type, and by region, however, some cannot. See Appendices B, C, D, E, F, G, H, I, J, K, and L for more information.
- At all severity levels, sentence lengths for confinement, extended supervision, and probation are largely stable across all racial groups.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other [†]	All
Average Age*	29 yrs old	28 yrs old	28 yrs old	29 yrs old	28 yrs old
Pct. Male / Female	85% / 15%	95% / 5%	92% / 8%	93% / 7%	92% / 8%
Pct. with Prior Felony	43%	55%	28%	43%	44%
Pct. with Prior Prison	20%	41%	21%	14%	30%

*Average = Median (50th percentile); [†]Sample Size < 20.

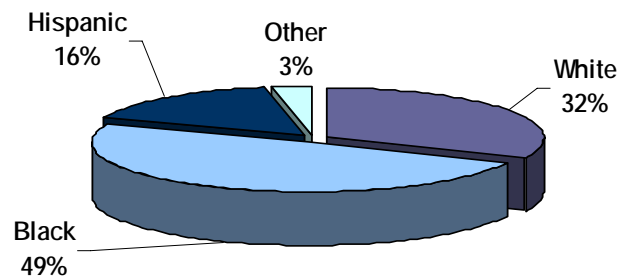


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other [†]	All
Average*					
Confinement	4 yrs	3 yrs	3.5 yrs	3 yrs	3.5 yrs
Extended Supervision	4.5 yrs	5 yrs	5 yrs	3.5 yrs	5 yrs
Probation	5 yrs	4 yrs	5 yrs	4 yrs	5 yrs
Range**					
Confinement	2.5 – 5 yrs	2.5 – 5 yrs	2 – 6 yrs	3 – 3 yrs	2 – 5 yrs
Extended Supervision	3 – 6 yrs	3 – 6 yrs	3.5 – 6 yrs	2.5 – 4.5 yr	3 – 6 yrs
Probation	4 – 6 yrs	3 – 5 yrs	4 – 6 yrs	3 – 6 yrs	4 – 5 yrs

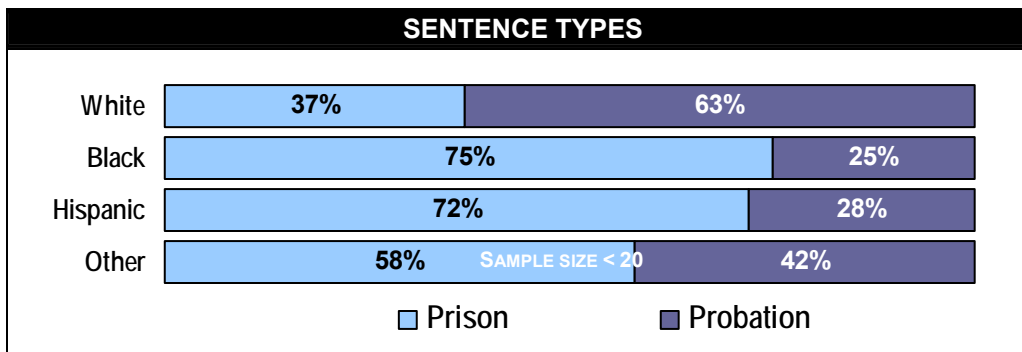
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[†]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other [‡]	All
Average Age*	25 yrs old	26 yrs old	28 yrs old	25 yrs old	26 yrs old
Pct. Male / Female	81% / 19%	92% / 8%	91% / 9%	75% / 25%	88% / 12%
Pct. with Prior Felony	31%	56%	19%	33%	41%
Pct. with Prior Prison	14%	38%	9%	17%	26%

*Average = Median (50th percentile); [‡]Sample Size < 20.

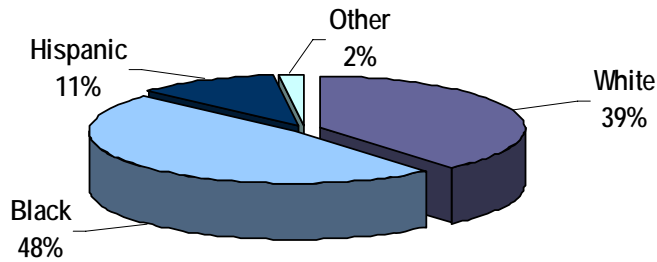


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other [‡]	All
Average*					
Confinement	2.5 yrs	2.5 yrs	2.5 yrs	4 yrs	2.5 yrs
Extended Supervision	4 yrs	4 yrs	3.5 yrs	4 yrs	4 yrs
Probation	4 yrs	4 yrs	5 yrs	4 yrs	4 yrs
Range**					
Confinement	1.5 – 4 yrs	2 – 3 yrs	1.5 – 4 yrs	1.5 – 4 yrs	2 – 3.5 yrs
Extended Supervision	2.5 – 5 yrs	3 – 5 yrs	3 – 4 yrs	4 – 5 yrs	3 – 5 yrs
Probation	3 – 5 yrs	3 – 5 yrs	4 – 5 yrs	4 – 6 yrs	3 – 5 yrs

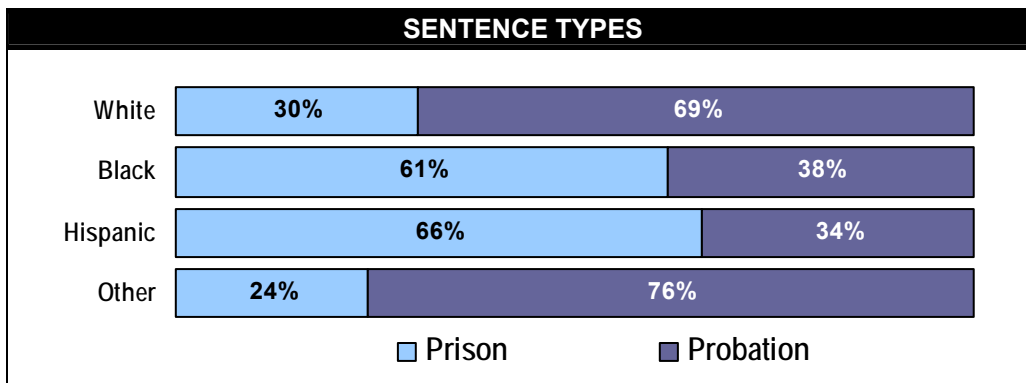
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other	All
Average Age*	28 yrs old	27 yrs old	26 yrs old	29 yrs old	27 yrs old
Pct. Male / Female	78% / 22%	92% / 8%	89% / 11%	67% / 33%	85% / 15%
Pct. with Prior Felony	38%	55%	42%	29%	46%
Pct. with Prior Prison	17%	35%	25%	10%	26%

*Average = Median (50th percentile); †Sample Size < 20.

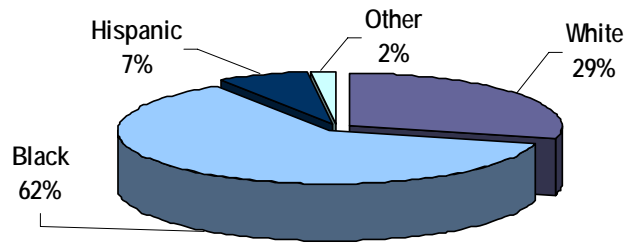


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other	All
Average*					
Confinement	2.5 yrs	2 yrs	3 yrs	1.5 yrs	2 yrs
Extended Supervision	3.5 yrs	3 yrs	3 yrs	2.5 yrs	3 yrs
Probation	4 yrs	3 yrs	4 yrs	3.5 yrs	3.5 yrs
Range**					
Confinement	2 – 3.5 yrs	1.5 – 3 yrs	2 – 4 yrs	1 – 2 yrs	1.5 – 3 yrs
Extended Supervision	2.5 – 5 yrs	2 – 4 yrs	3 – 4 yrs	2.5 – 3 yrs	2.5 – 4 yrs
Probation	3 – 5 yrs	3 – 4 yrs	3 – 5 yrs	3 – 4.5 yrs	3 – 5 yrs

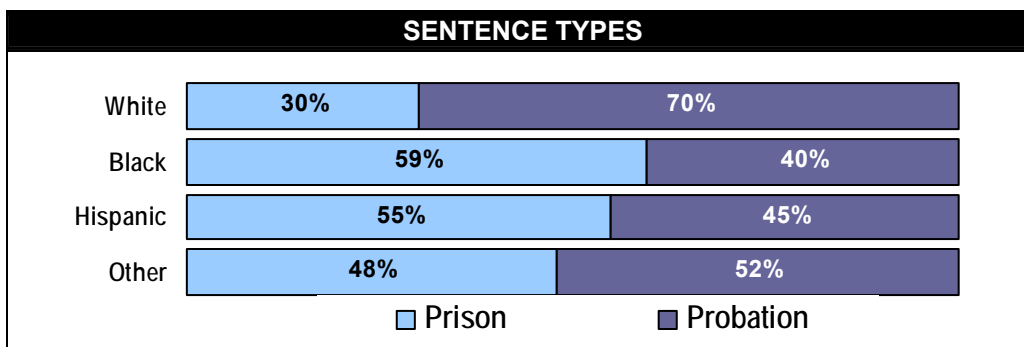
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

†Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other	All
Average Age*	27 yrs old	25 yrs old	26 yrs old	25 yrs old	25 yrs old
Pct. Male / Female	80% / 20%	92% / 8%	94% / 6%	81% / 19%	88% / 12%
Pct. with Prior Felony	34%	50%	32%	33%	44%
Pct. with Prior Prison	13%	32%	21%	15%	26%

*Average = Median (50th percentile); †Sample Size < 20.

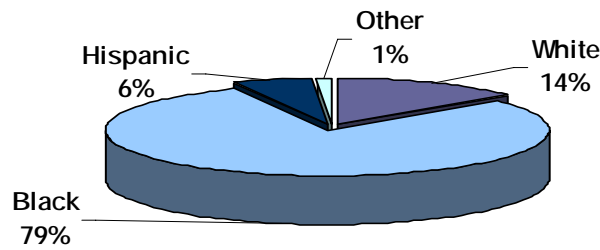


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other	All
Average*					
Confinement	2 yrs	2 yrs	2 yrs	2.5 yrs	2 yrs
Extended Supervision	3 yrs	3 yrs	3 yrs	3 yrs	3 yrs
Probation	4 yrs	3 yrs	3 yrs	3 yrs	3 yrs
Range**					
Confinement	1.5 – 3 yrs	1.5 – 2.5 yr	1.5 – 3 yrs	2 – 3 yrs	1.5 – 3 yrs
Extended Supervision	2 – 4 yrs	2 – 3.5 yrs	2 – 4 yrs	2 – 4 yrs	2 – 4 yrs
Probation	3 – 5 yrs	3 – 4 yrs	3 – 4 yrs	3 – 4.5 yrs	3 – 4 yrs

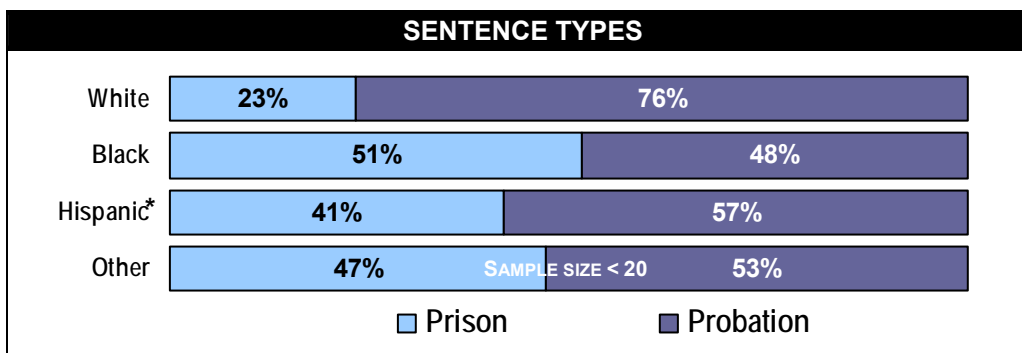
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

†Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other [‡]	All
Average Age*	29 yrs old	27 yrs old	28 yrs old	25 yrs old	27 yrs old
Pct. Male / Female	69% / 31%	86% / 14%	85% / 15%	88% / 12%	83% / 17%
Pct. with Prior Felony	32%	47%	37%	35%	45%
Pct. with Prior Prison	12%	32%	23%	18%	28%

*Average = Median (50th percentile); [‡]Sample Size < 20.

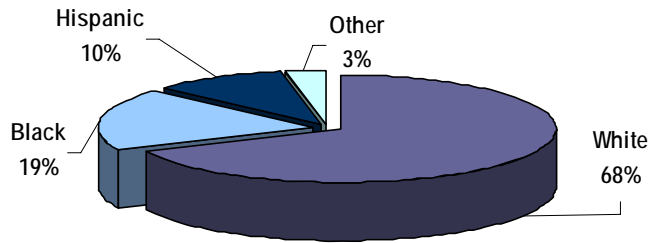


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other [‡]	All
Average*					
Confinement	1.5 yrs	1.5 yrs	1.5 yrs	1.5 yrs	1.5 yrs
Extended Supervision	2.5 yrs	2 yrs	2 yrs	2 yrs	2 yrs
Probation	3 yrs	3 yrs	3 yrs	3 yrs	3 yrs
Range**					
Confinement	1 – 2 yrs	1 – 2 yrs	1.5 – 2 yrs	1 – 2 yrs	1 – 2 yrs
Extended Supervision	2 – 3.5 yrs	2 – 3 yrs	2 – 3 yrs	1.5 – 2 yrs	2 – 3 yrs
Probation	3 – 4 yrs	3 – 3.5 yrs	3 – 4 yrs	3 – 3.5 yrs	3 – 4 yrs

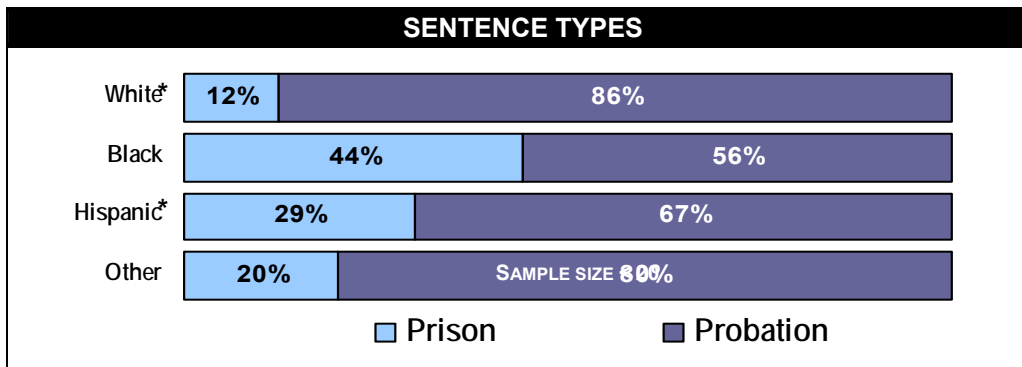
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other [‡]	All
Average Age*	24 yrs old	26 yrs old	25 yrs old	22 yrs old	25 yrs old
Pct. Male / Female	89% / 11%	87% / 13%	89% / 11%	93% / 7%	88% / 12%
Pct. with Prior Felony	29%	40%	22%	33%	31%
Pct. with Prior Prison	9%	26%	7%	13%	12%

*Average = Median (50th percentile); [‡]Sample Size < 20.

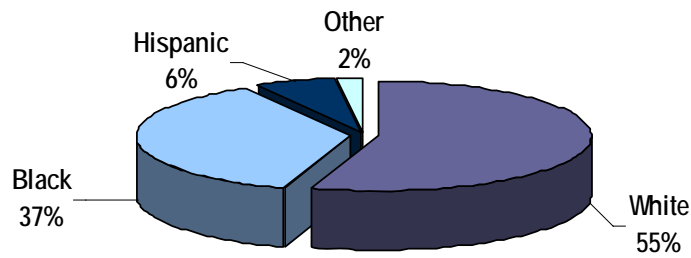


*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other [‡]	All
Average*					
Confinement	1.5 yrs	1.5 yrs	1.5 yrs	1.3 yrs	1.5 yrs
Extended Supervision	2.5 yrs	2.5 yrs	2 yrs	3 yrs	2.5 yrs
Probation	3 yrs	3 yrs	3 yrs	3 yrs	3 yrs
Range**					
Confinement	1 – 2 yrs	1 – 2 yrs	1 – 1.5 yrs	1 – 2.5 yrs	1 – 2 yrs
Extended Supervision	2 – 3 yrs	2 – 3 yrs	1 – 3 yrs	2 – 3.5 yrs	1.5 – 3 yrs
Probation	3 – 4 yrs	2 – 3 yrs	2.5 – 3 yrs	2.5 – 3 yrs	2.5 – 3 yrs

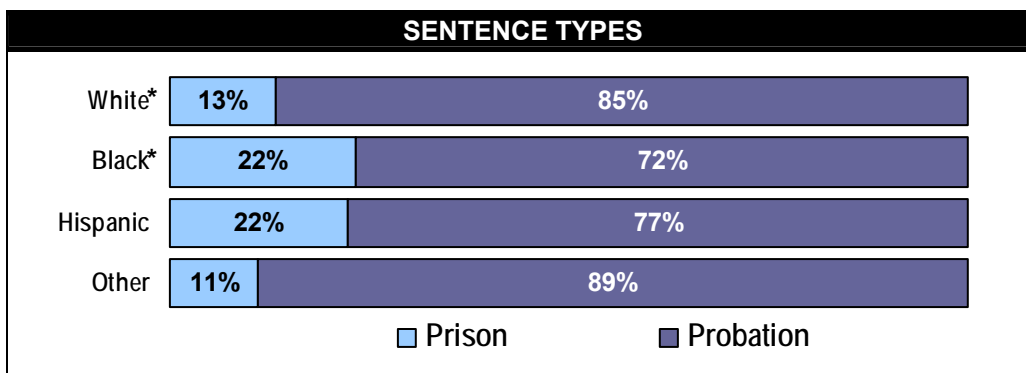
*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20.



OFFENDER CHARACTERISTICS					
	White	Black	Hispanic	Other	All
Average Age*	22 yrs old	23 yrs old	23 yrs old	24 yrs old	22 yrs old
Pct. Male / Female	89% / 11%	94% / 6%	92% / 8%	82% / 18%	91% / 9%
Pct. with Prior Felony	27%	37%	25%	38%	31%
Pct. with Prior Prison	8%	21%	8%	18%	13%

*Average = Median (50th percentile); †Sample Size < 20.



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS					
	White	Black	Hispanic	Other	All
Average*					
Confinement	1.5 yrs	1 yrs	1.5 yrs	1.5 yrs	1.5 yrs
Extended Supervision	2 yrs	2 yrs	2 yrs	1 yrs	2 yrs
Probation	3 yrs	2.5 yrs	3 yrs	3 yrs	3 yrs
Range**					
Confinement	1 – 1.5 yrs	1 – 1.5 yrs	1 – 1.5 yrs	1 – 1.5 yrs	1 – 1.5 yrs
Extended Supervision	1.5 – 2 yrs	1 – 2 yrs	1.5 – 2 yrs	1 – 1.5 yrs	1 – 2 yrs
Probation	2 – 3 yrs	2 – 3 yrs	2 – 3 yrs	2 – 3 yrs	2 – 3 yrs

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

†Sample Size < 20.

RECOMMENDATIONS

Improve Data Collection: More and better data regarding race and sentencing in Wisconsin is necessary before we can gain a better understanding of the role race may or may not play in sentencing decisions. Data on race should be collected at every stage of the criminal justice process including:

- Crime reporting by victims to police
- Arrest data
- Charging Decisions
- Plea Negotiations and Disposition
- Trials
- Convictions
- Sentencing

Race data on all actors, including the offender, victim, judge and lawyers, is imperative. Furthermore, because many crimes often go unreported, victimization surveys that attempt to pinpoint the actual crime level are also necessary.

For *Drug Trafficking* offenses, detailed information about racial preferences for particular drugs and about the structure of drug markets would also help increase understanding. Information about law enforcement patterns in drug markets would also help elucidate racial disparities in sentencing for *Drug Trafficking* offenders.

Consistent racial and ethnic categories should be used by all agencies at all points in the criminal justice process. This is particularly important regarding white and non-white Hispanics. Better data for Asian, Hmong, Native-American, and other ethnic groups with significant populations in Wisconsin is also necessary. Though numbers for these groups will likely remain low, a catch-all “other” race category is of little use without more specific information about these groups.

Consider Sentencing Decisions in Two Distinct Steps: Perhaps, if judges and advocates separate the prison versus probation decision from decisions about sentence length, judges will be better able to apply only the legal sentencing factors outlined in *Gallion* to decisions about sentencing disposition. Because sentence lengths do not exhibit the level of disparity by race in the initial prison versus probation decision, sentencing judges and advocates should focus on the sentencing decision as two distinct steps. First, judges should decide whether an offender should receive prison or probation. Second, judges should determine the length of the sentence. Sentencing guidelines and worksheets as well as training for lawyers and judges should reflect this bifurcated process.

Evaluate and Amend Penalties for Drug Trafficking Offenses: If drug preferences are correlated with race, then it is highly likely that even a race-neutral application of Wisconsin’s current *Drug Trafficking* penalties will have disparate racial effects because of the different penalties faced by offenders with small quantities of different drugs. Wisconsin’s current penalties for *Drug Trafficking* offenses mandate conviction of a Class G Felony for offenders with up to 1 gram of cocaine or cocaine base.¹⁰⁰ These offenders face exposure to up to 5 years in prison and 5 years on extended supervision.¹⁰¹ In contrast, an offender with up to 200 grams of THC would only face exposure to a Class I Felony, which carries a maximum penalty of 1 year and 6 months in prison and 2 years of extended supervision.¹⁰² In addition,

¹⁰⁰ Wis. Stat. § 961.41 (2003-04).

¹⁰¹ Wis. Stat. §§ 973.01(a)-(d) (2003-04).

¹⁰² Wis. Stat. §§ 973.01(a)-(d) (2003-04).

those convicted of Drug Trafficking offenses for cocaine face exposure to Class C through G Felonies, while offenders with THC only face exposure to Class E through I Felonies, depending on quantity. An offender with over 10,000 grams of THC is in the same felony class – Class E – as an offender with only 5-15 grams of cocaine. For an offender with THC to face the same exposure to prison as an offender with up to a gram of cocaine, he or she would have to have 1000 to 2500 grams of THC – at least 1000 times more.

Wisconsin should study whether a race-neutral application of its current drug policies results in a higher proportion of minorities in prison, due to a correlation between drug preferences and race. If so, Wisconsin should amend the penalty structure so that different penalties by drug type and quantity do not have disparate effects on minorities.

Support Current and Future Efforts to Reduce Racial Disparity Throughout the Criminal Justice System:

The Commission should support current and future efforts to address racial disparity in Wisconsin's prisons and throughout the criminal justice system. In particular, Governor Doyle created the Commission on Reducing Racial Disparity in Wisconsin's Criminal Justice System by executive order in March 2007. The Sentencing Commission should offer to share data, past reports, and other information that might support the efforts of the new commission and any other groups with similar objectives in the future.

Consider Policy Solutions Outside the Criminal Justice System: This reports notes that sentencing is one of the last stages for offenders in the criminal justice system and is often a product of the decisions and events preceding it, starting with the initial call to police. After this initial response, the decisions of police officers, prosecutors, judges, defense attorneys, and corrections officials affect the ultimate sentencing decision. Similarly, the criminal justice system as a whole interacts with and is shaped by larger social forces, including poverty and opportunities for education and employment. Thus, solutions that focus solely on the criminal justice system will be incomplete. Wisconsin should seek holistic policy solutions that address economic, educational, and social inequalities as well as disparities in sentencing practices and throughout the criminal justice system.

Alternatives to Confinement: In felony cases, especially in drug cases, consistent with current law, prosecutors, defense attorneys, and judges should give consideration to dispositions other than a prison sentence. Treatment-oriented courts and other dispositional options already operate in many Wisconsin counties (general information is available through the Director of State Court, <http://wicourts.gov/about/organization/programs/alternatives.htm>). To address the disparities documented in this report, practitioners should look for effective dispositions in individual cases and should work to promote public safety and reduce racial disparity in the justice system.

CONCLUSION

The purpose of this report is to study whether race plays a role in sentencing decisions in Wisconsin. Analysis of the available data reveals the following:

- Racial disparities, when present, were typically found in sentence types (prison or probation), not sentence lengths.
- Where disparities existed, a higher percentage of Black and Hispanic offenders received prison sentences (versus probation) than White offenders.
- The amount of racial disparity found in sentence types typically increased as offense severity decreased. For example, less severe offenses such as *3rd Degree Sexual Assault*, *Burglary*, *Robbery*, and *Drug Trafficking* showed greater levels of disparity than more severe offenses such as *1st & 2nd Degree Sexual Assault*, *1st & 2nd Degree Sexual Assault of a Child*, *Armed Robbery*, and *Burglary Plus*.
- In *Drug Trafficking* cases, across the board, a higher percentage of Black offenders received prison sentences (versus probation) than White offenders. This disparity increased as offense seriousness decreased. The difference in percentage between White offenders who received probation versus other racial groups is particularly pronounced in Class D through Class H Felonies.
- Racial disparities were not typically found in sentence lengths. Amounts of time, when broken down by offense type and felony class, were largely stable and comparable across all racial categories. In some instances, White offenders received longer sentences. In other instances, Black and/or Hispanic offenders received longer sentences.

As shown in the findings of this report, racial disparities do exist within Wisconsin's sentencing system. Yet, the true causes of these disparities are often difficult to identify and measure. Disparities in sentencing are most likely due to the confluence of multiple issues, and are the result of institutionalized defects rather than malicious intent. Due to the fact that race is generally correlated with many legal sentencing factors permissible for judges to consider – criminal record, employment history, and educational opportunities – it becomes a challenging directive to sufficiently separate the effect of race over other interconnected factors. Ultimately, more and better data is required to improve the strength and meaning of the results.

To fully understand the issue of disproportionate minority representation in Wisconsin's criminal justice system, three steps are required: (1) the procedure for collecting data on offender race and ethnicity must be improved, with consistent racial-ethnic categories used across the state, (2) the state should attempt to collect better information on victim race, and (3) the State must examine the likelihood that disparate treatment occurs throughout the criminal justice process, including calls for police service, arrest, prosecution *and* sentencing, and collect data at each of these points. Until Wisconsin develops better data collection instruments for race and ethnicity, it will be virtually impossible to explore the full range of racial-ethnic disparity in the state's criminal justice system. More data and more study are needed to fully explore the role of race in sentencing and throughout the criminal justice process.

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APPENDIX A

Sentence Types by Regions

Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 100%.

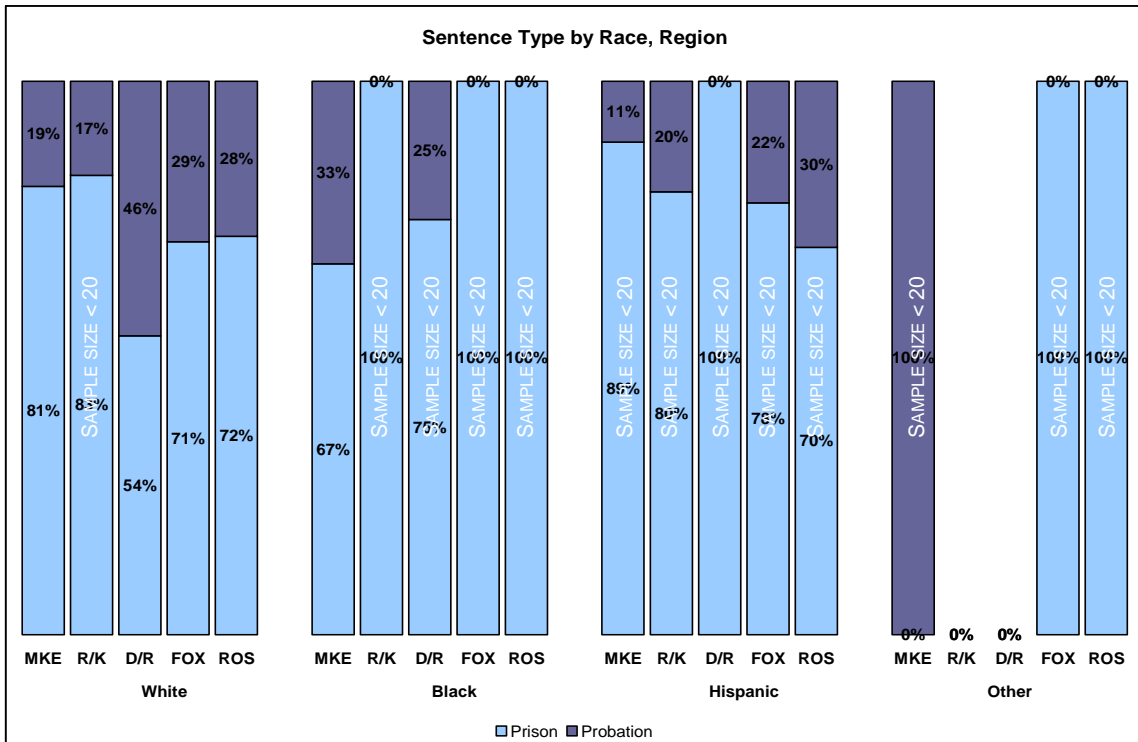
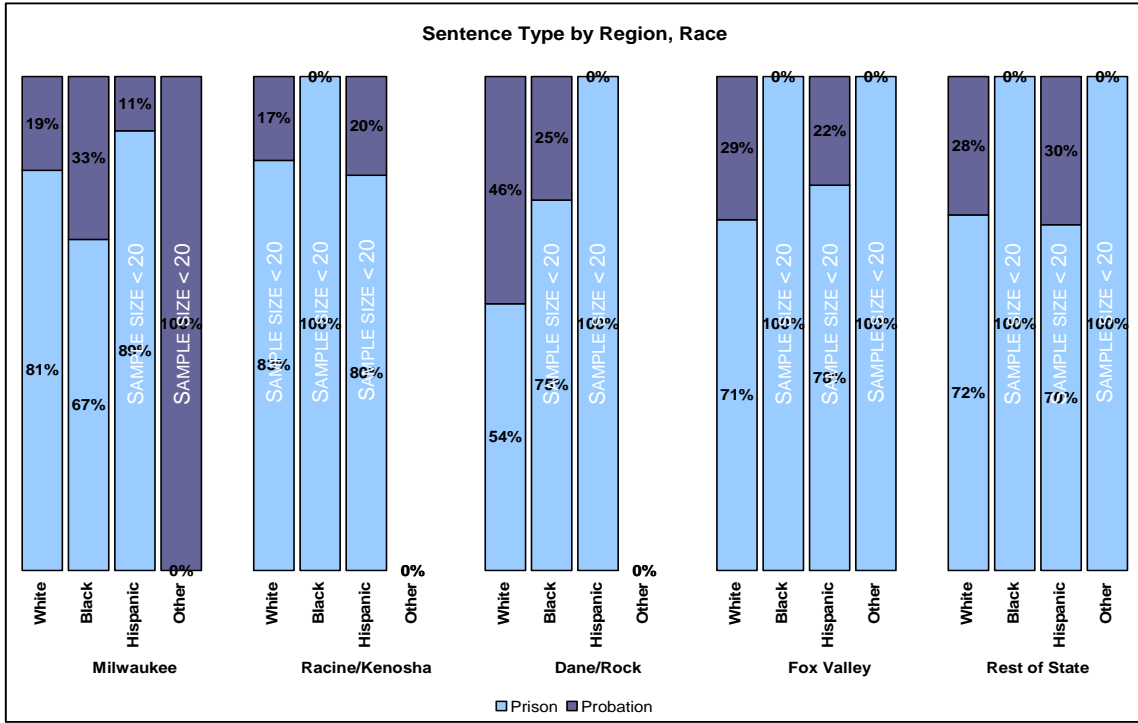
Consistent with the other information in this report, the data is first divided by offense group and then by severity level (felony class). The geographic regions are Milwaukee (MKE), Racine/Kenosha (R/K), Dane/Rock (D/R), Fox Valley (FOX), and the Rest of the State (ROS).

For each offense’s severity level, the first graph shows the percentages of offenders sentenced to either prison or probation, by geographic region, and then by race. This allows a visual comparison of racial disparity in the prison/probation decision for each of the five regions, across racial lines.

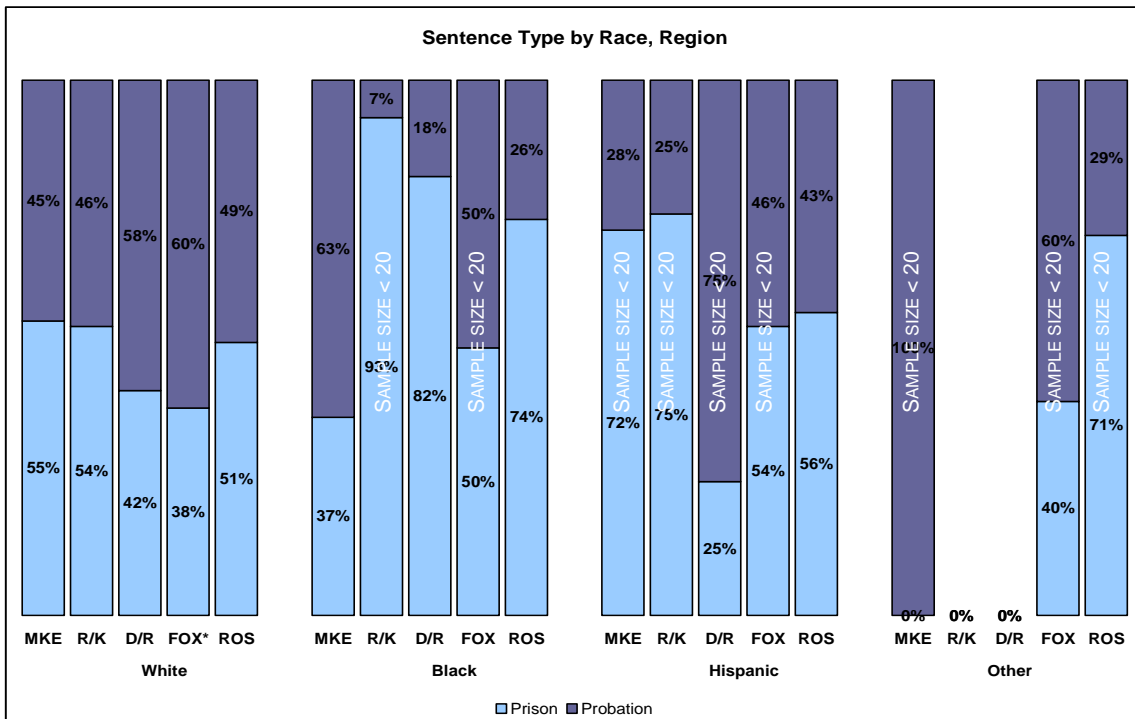
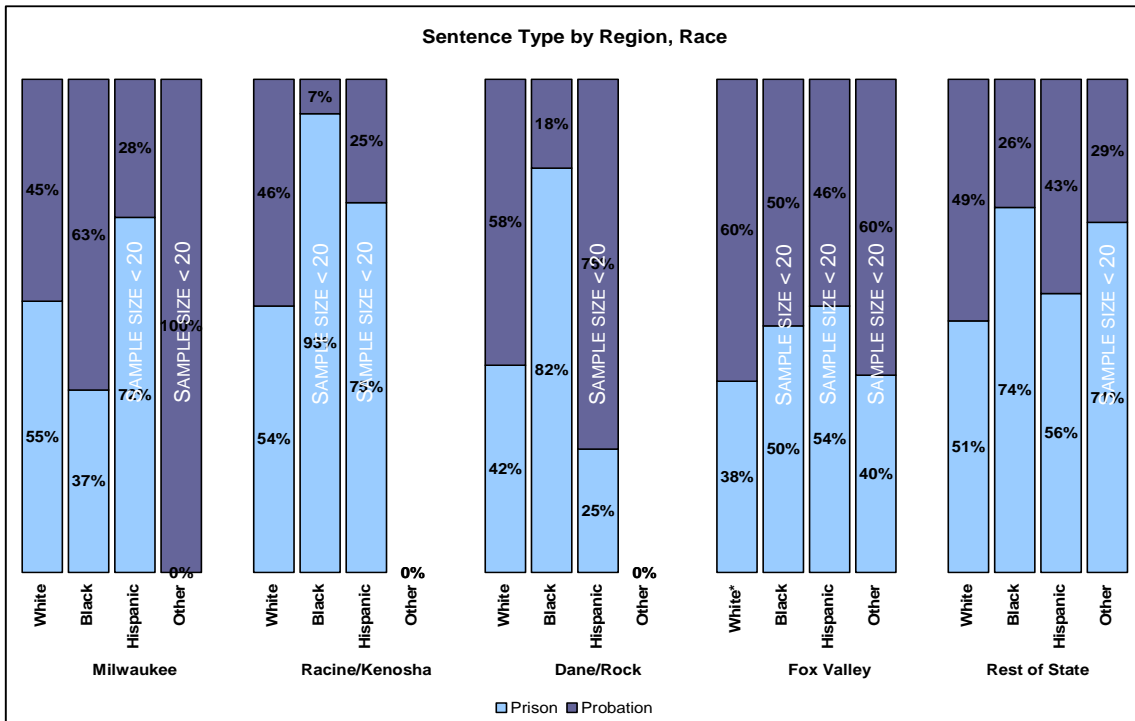
The second graph shows the same information, except that it is grouped first by race and then by region. This allows a visual comparison of racial disparity in the prison/probation decision for each racial group, compared across the five regions.

SEXUAL ASSAULT OF A CHILD

CLASS B FELONY

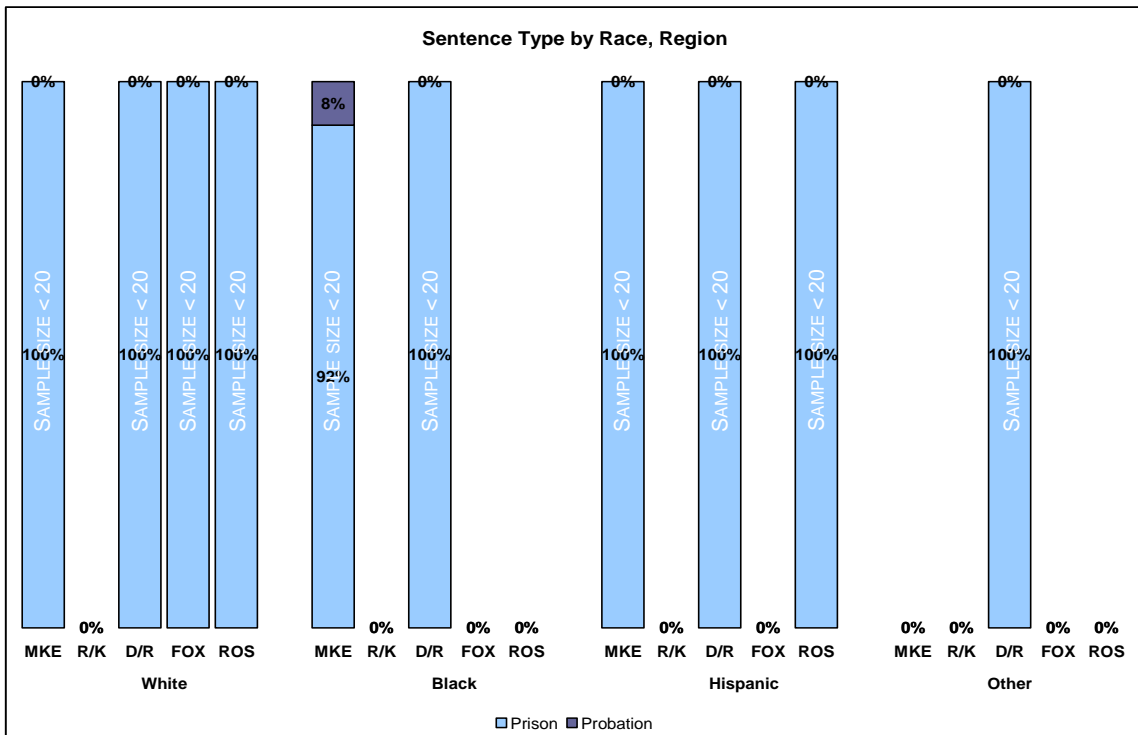
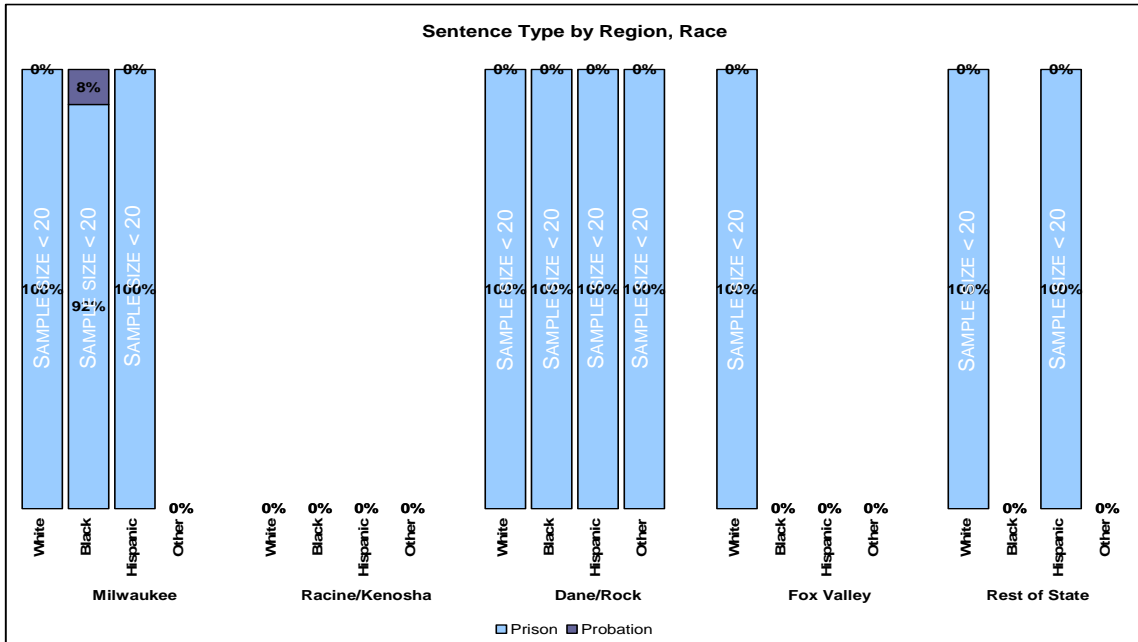


CLASS C FELONY

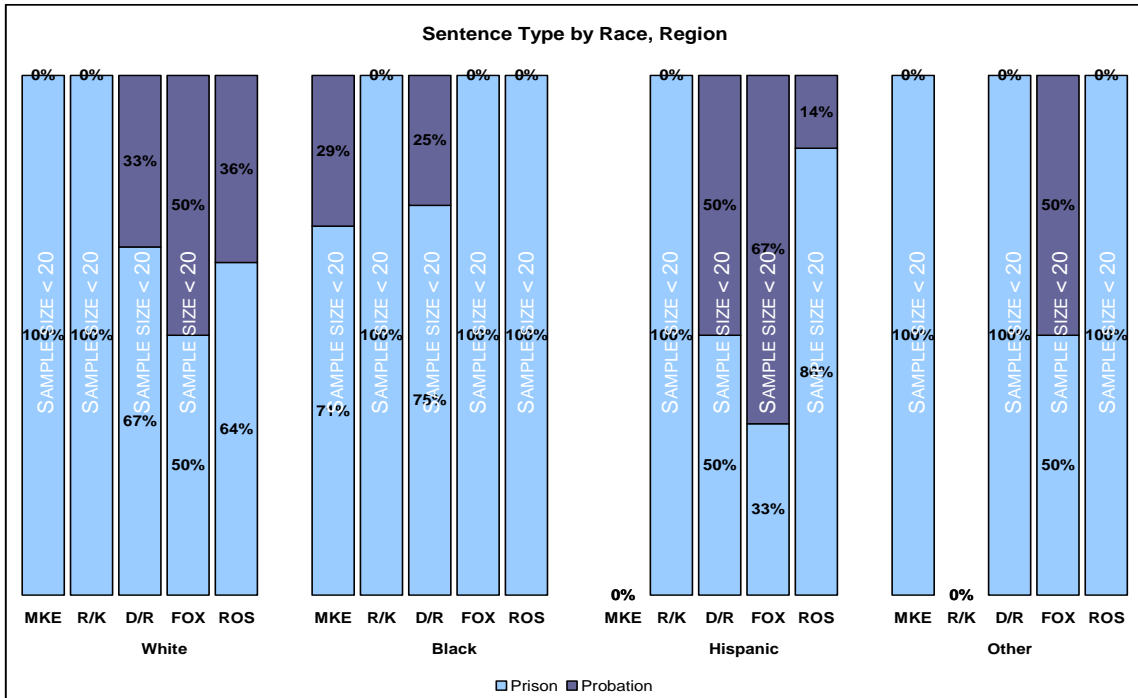
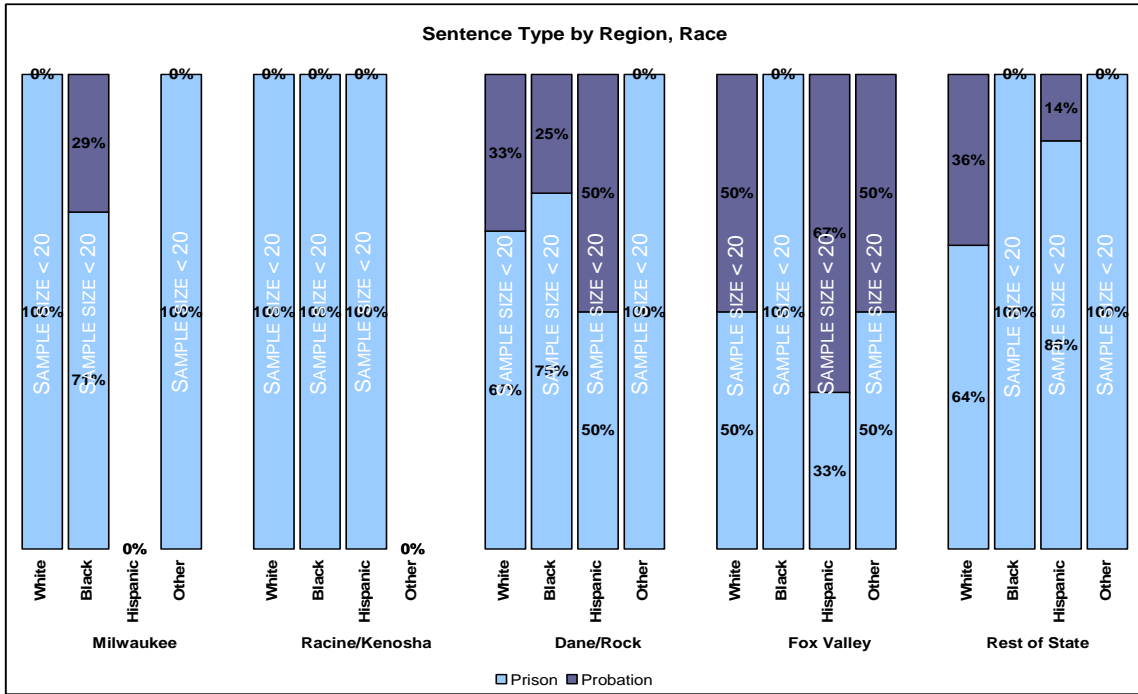


SEXUAL ASSAULT

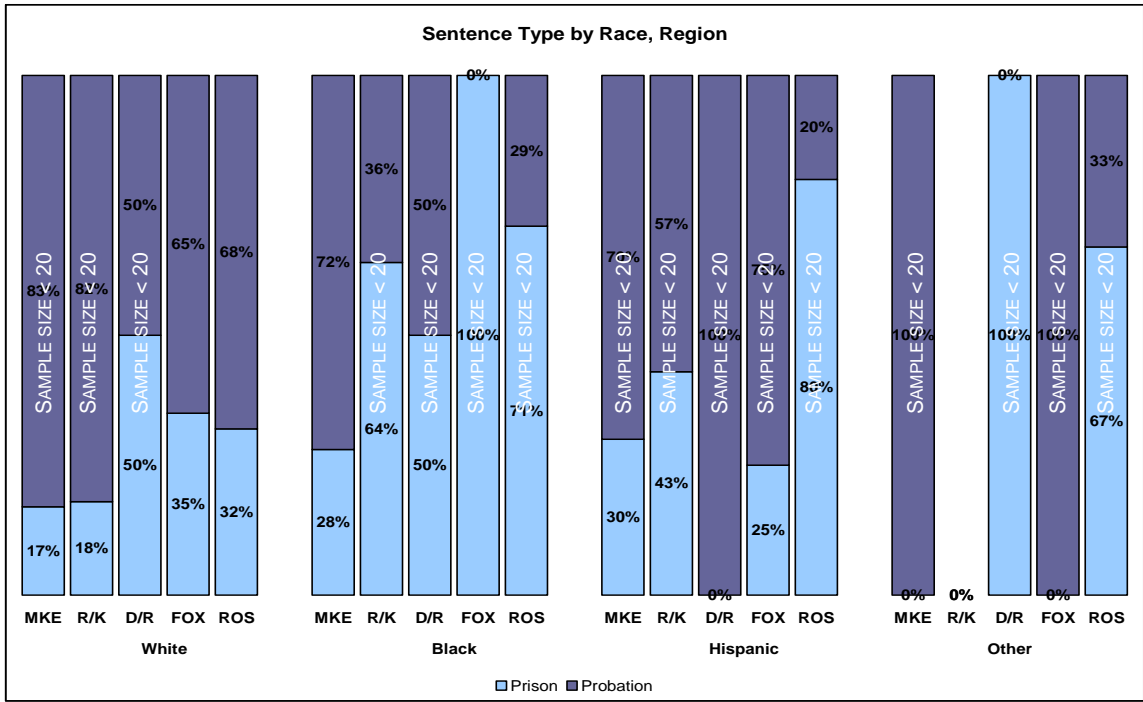
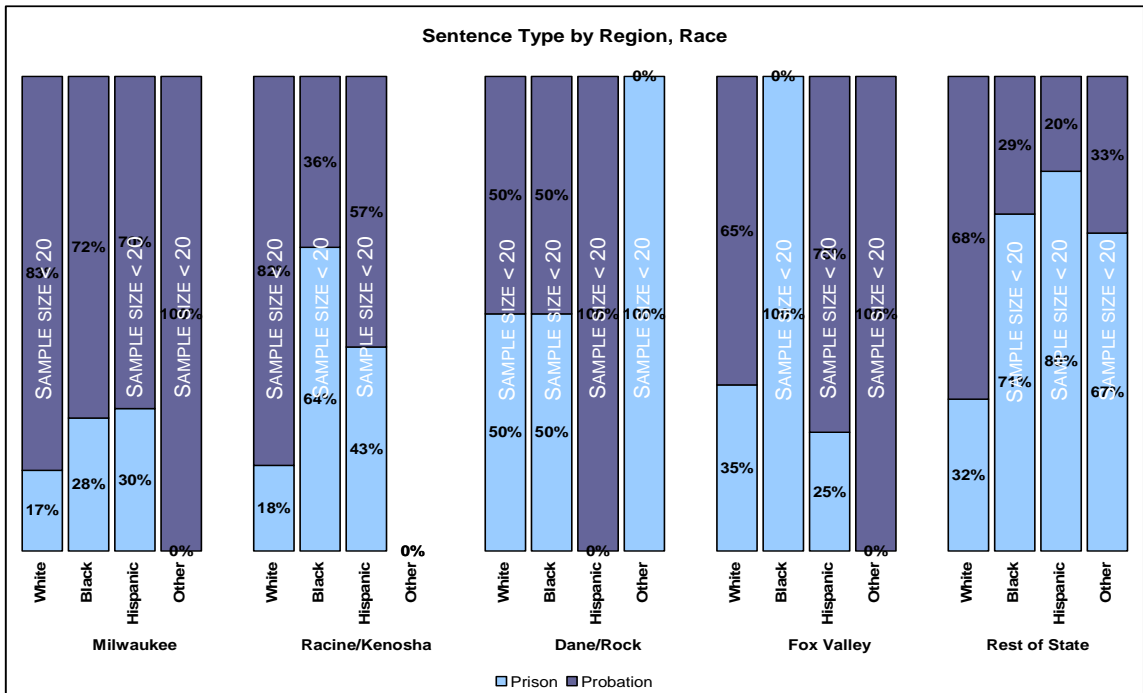
CLASS B FELONY



CLASS C FELONY

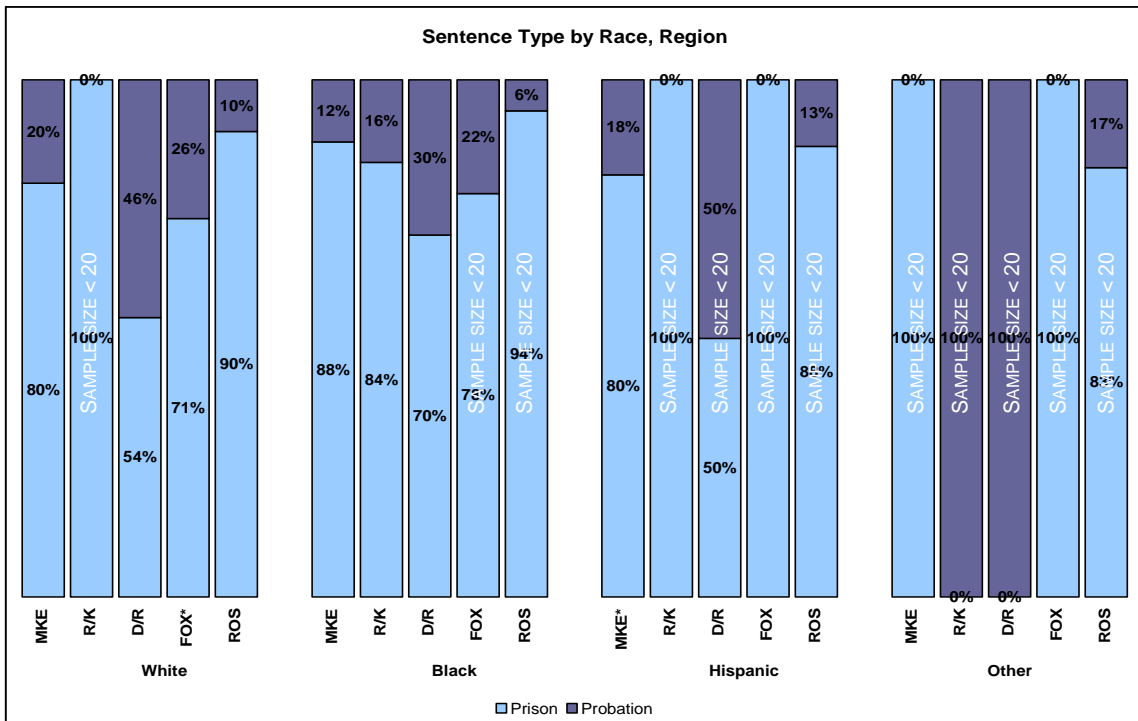
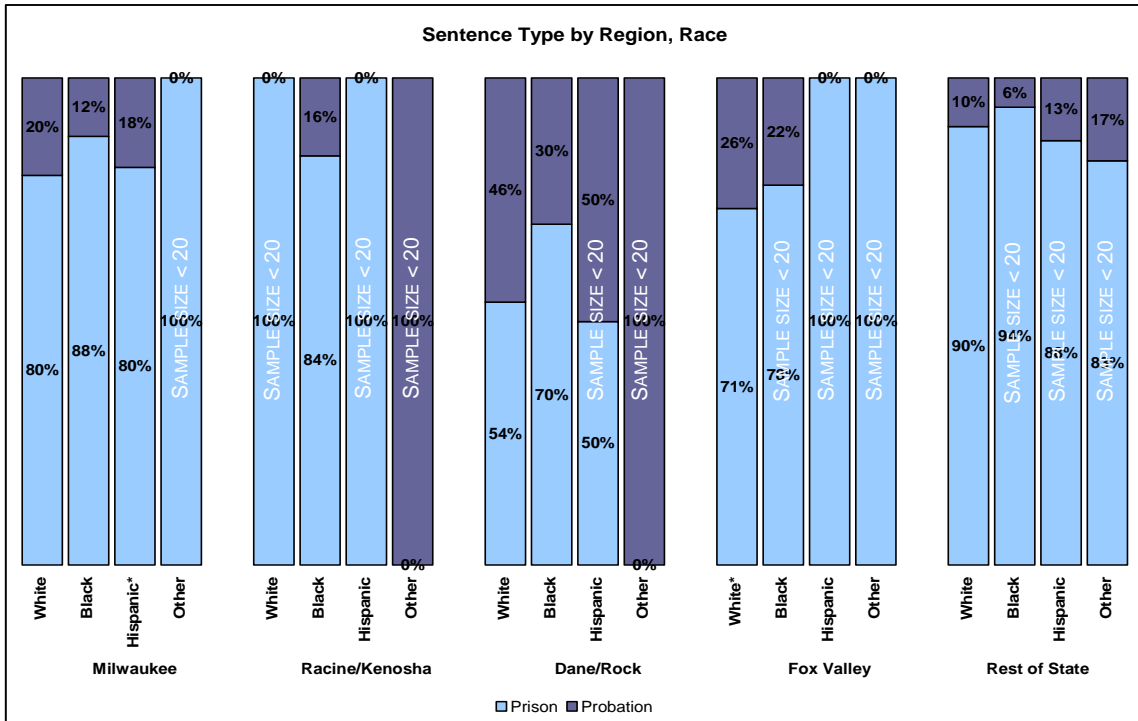


CLASS G FELONY

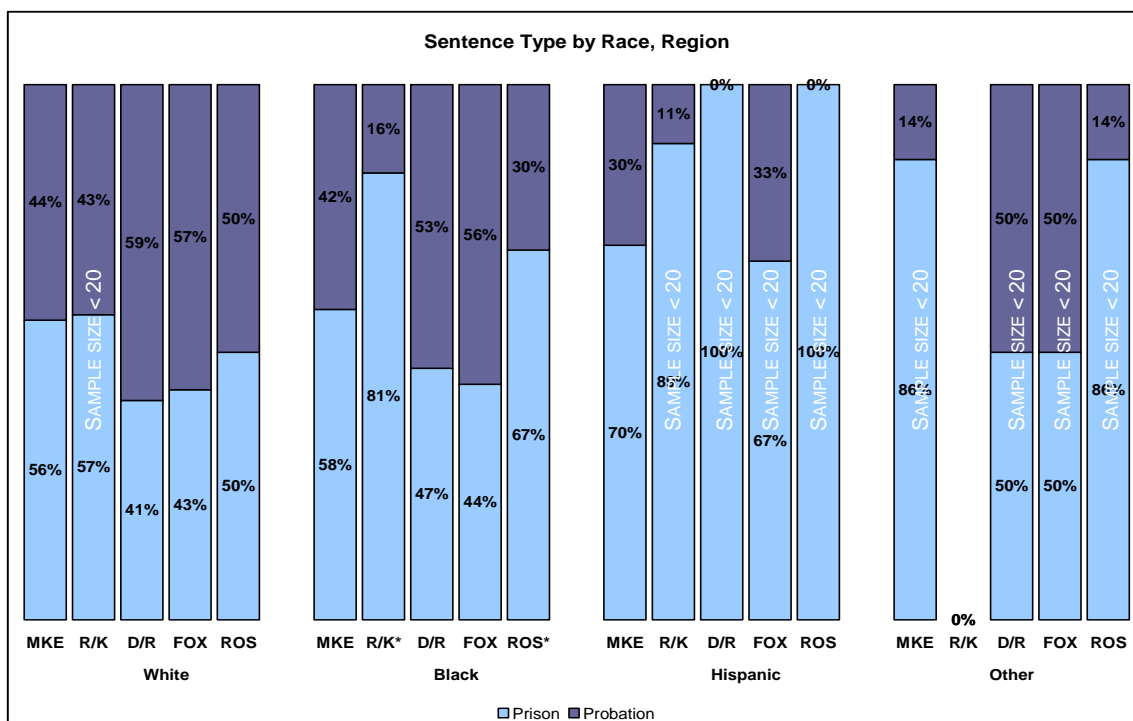
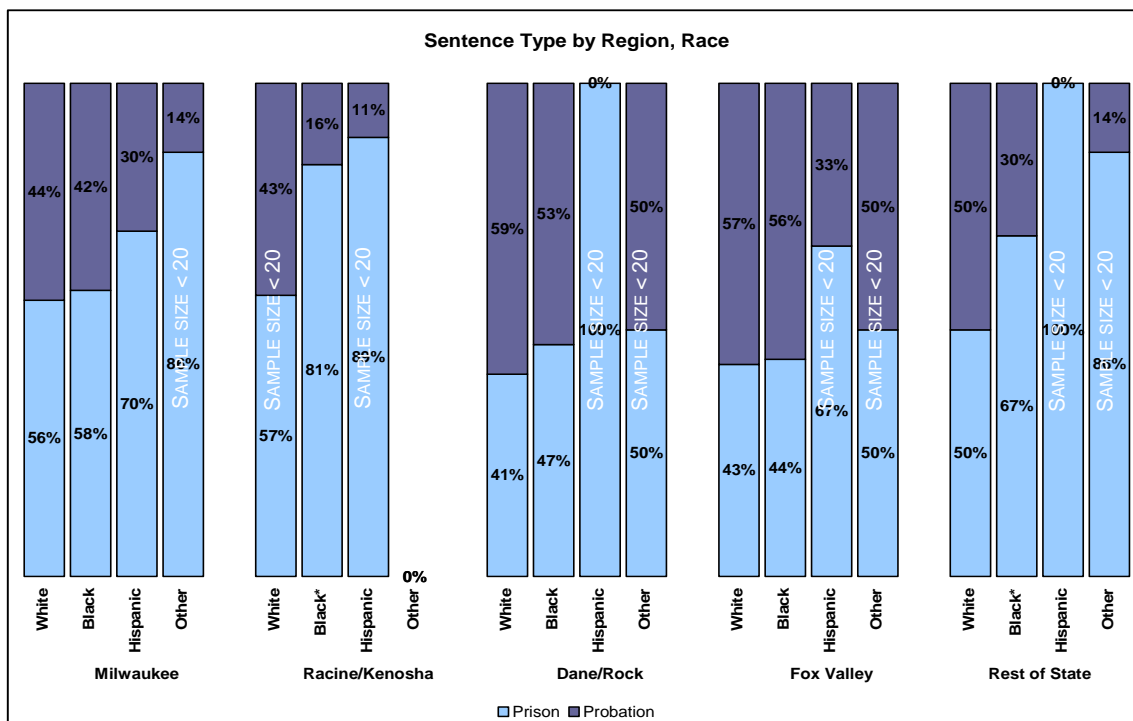


ROBBERY / ARMED ROBBERY

CLASS C FELONY

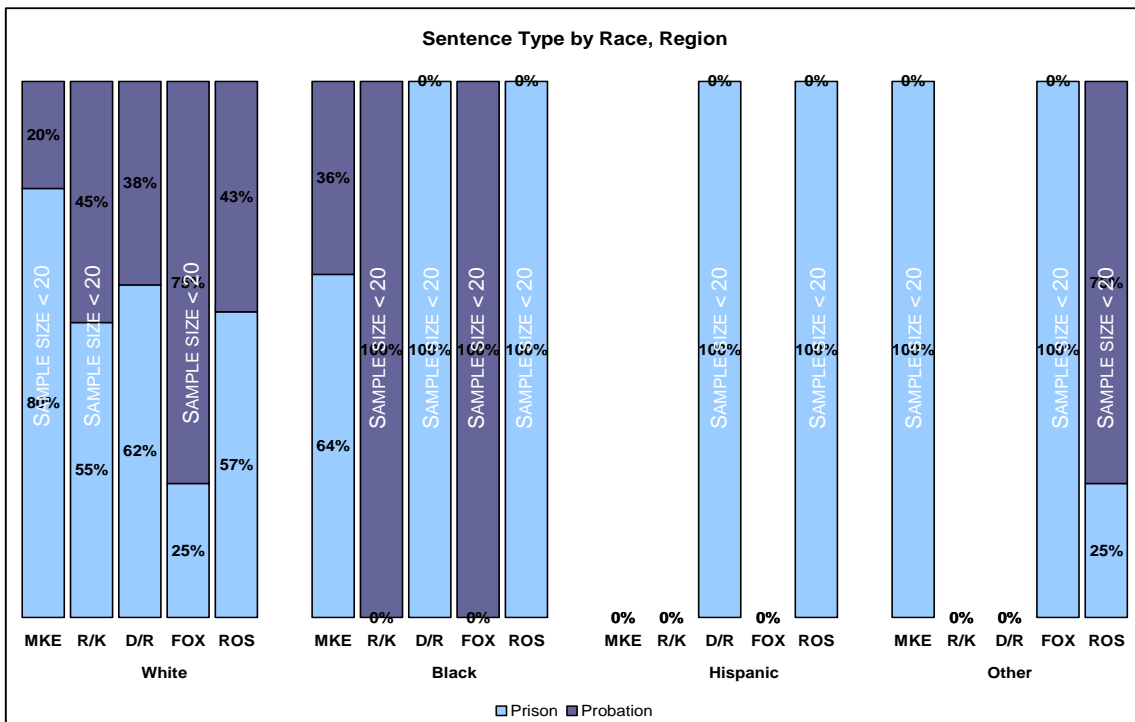
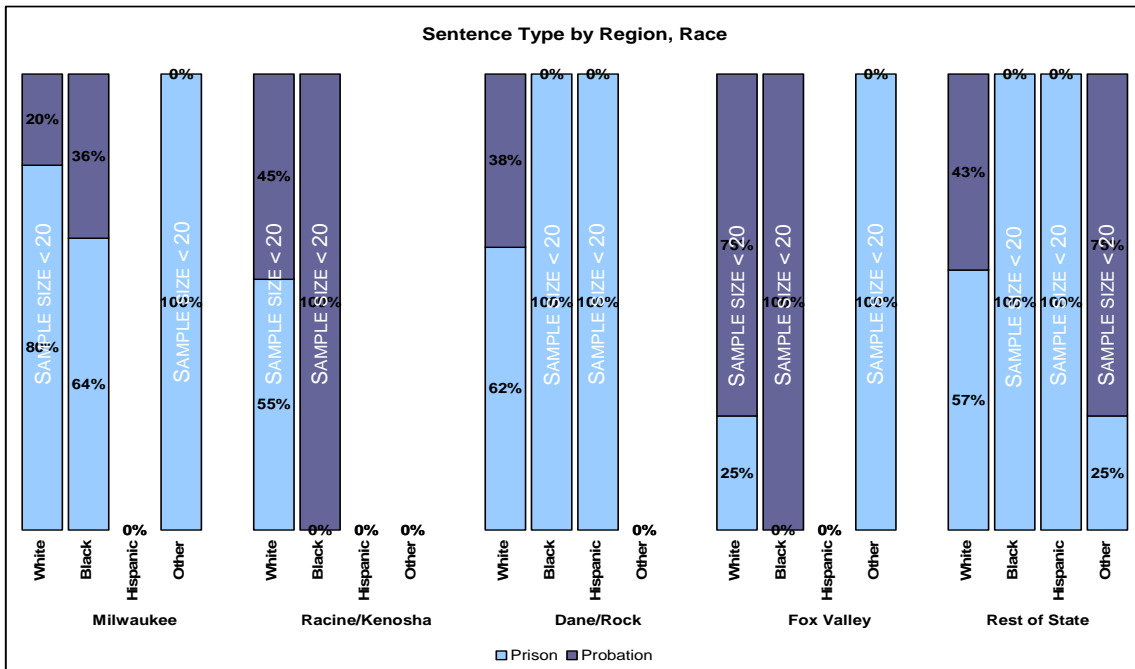


CLASS E FELONY

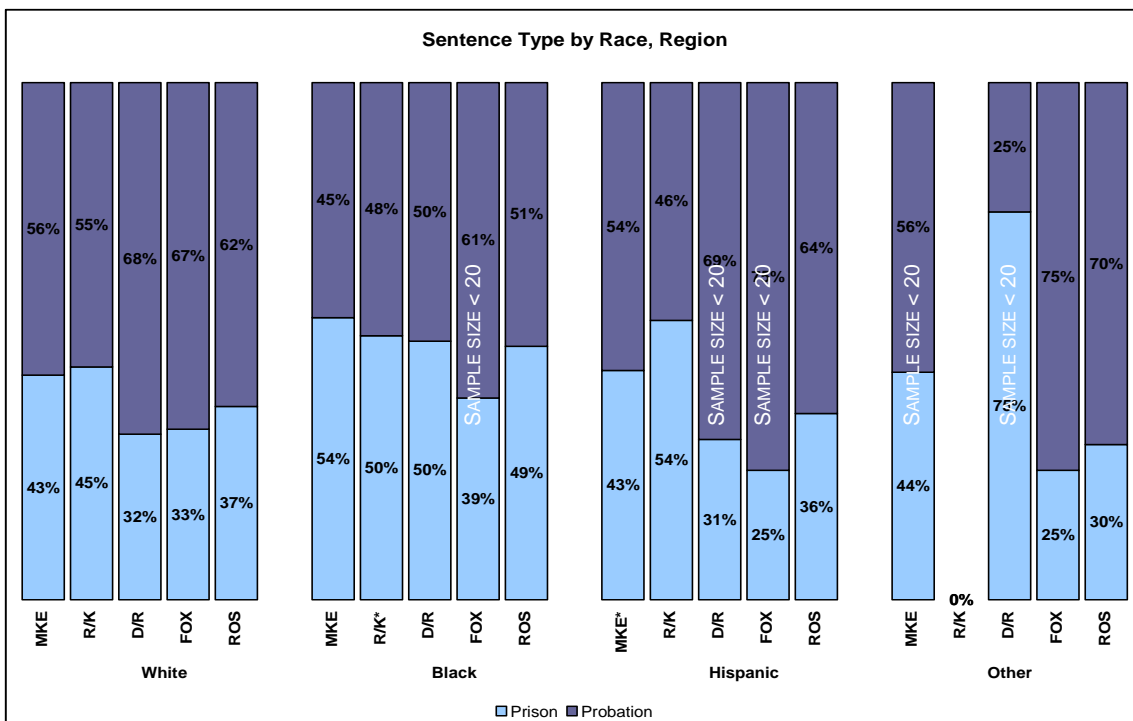
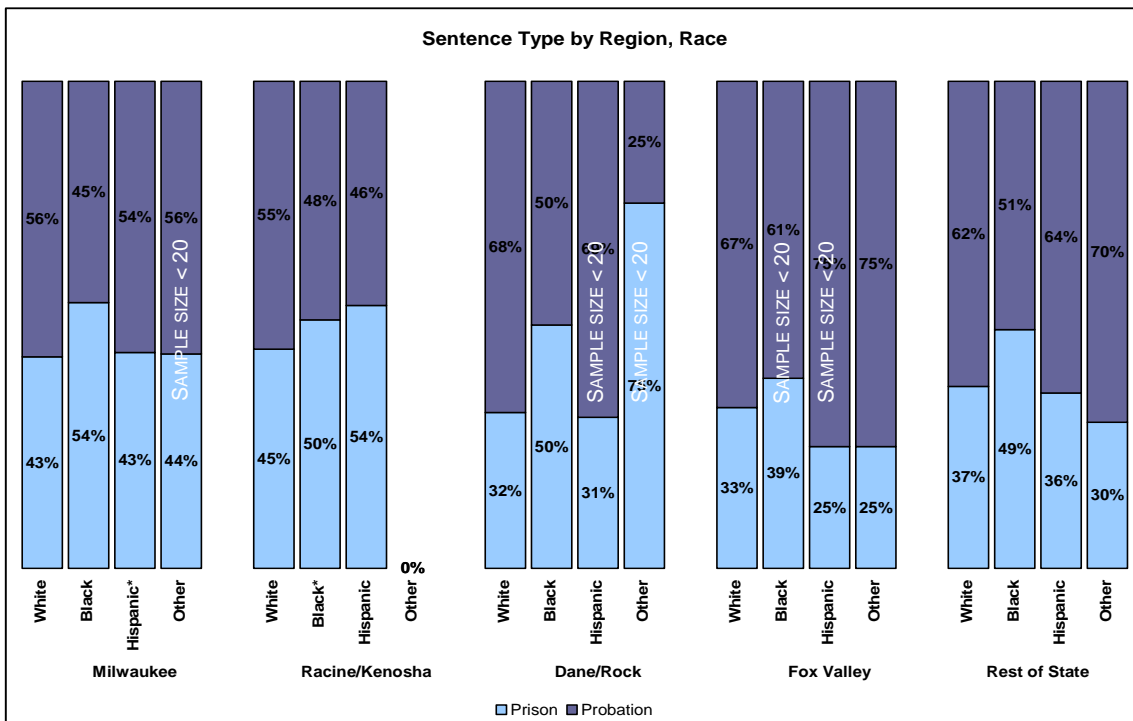


BURGLARY

CLASS E FELONY

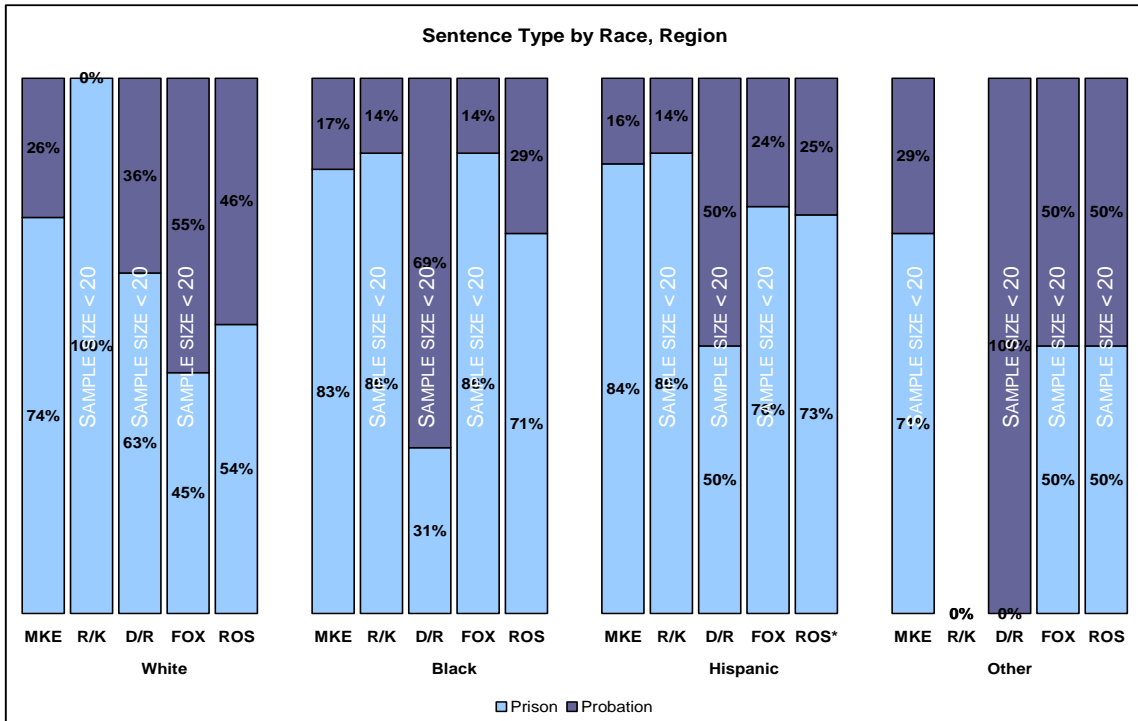
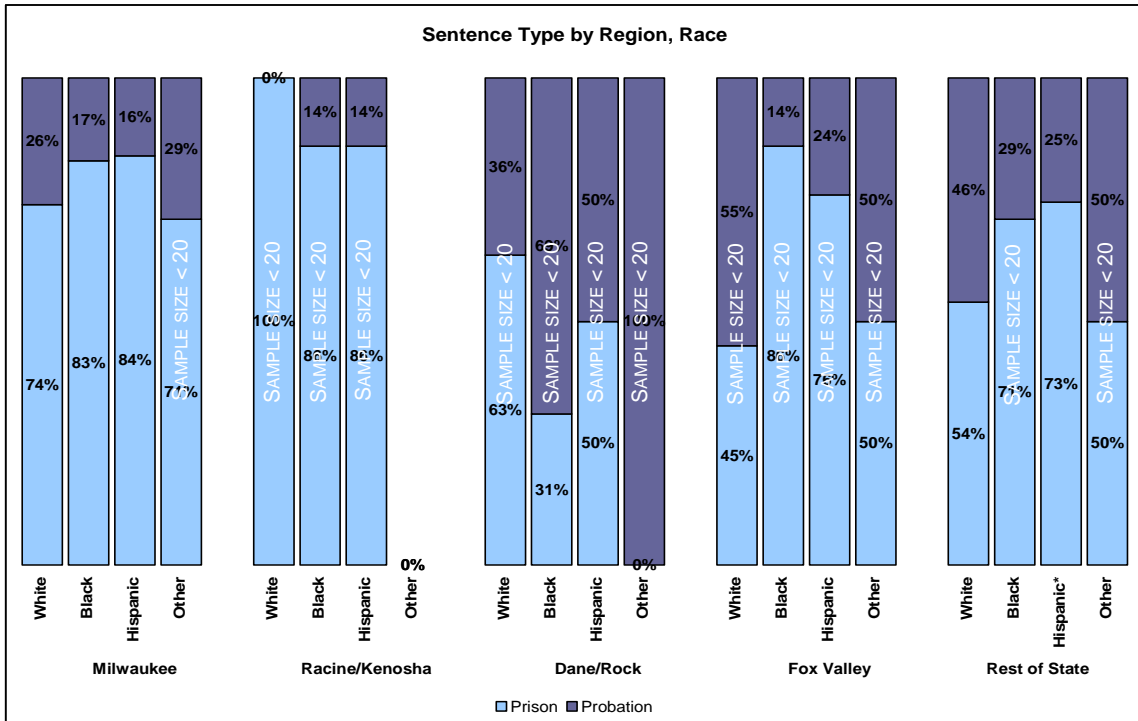


CLASS F FELONY

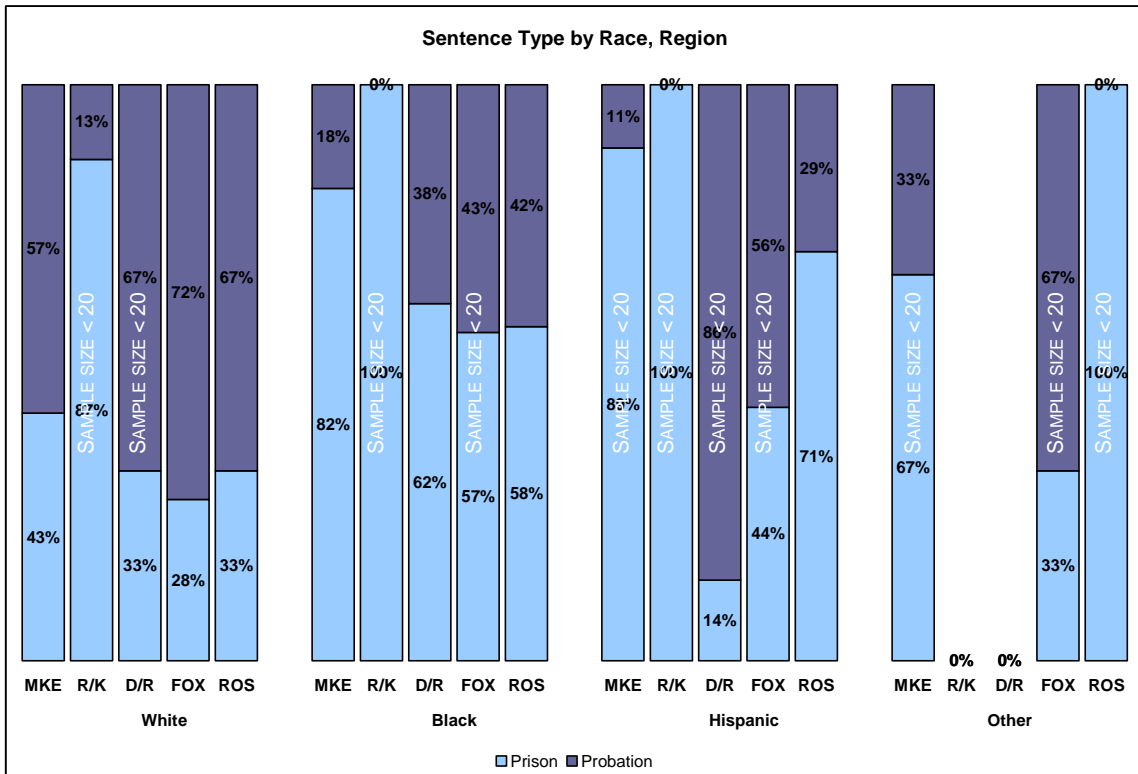
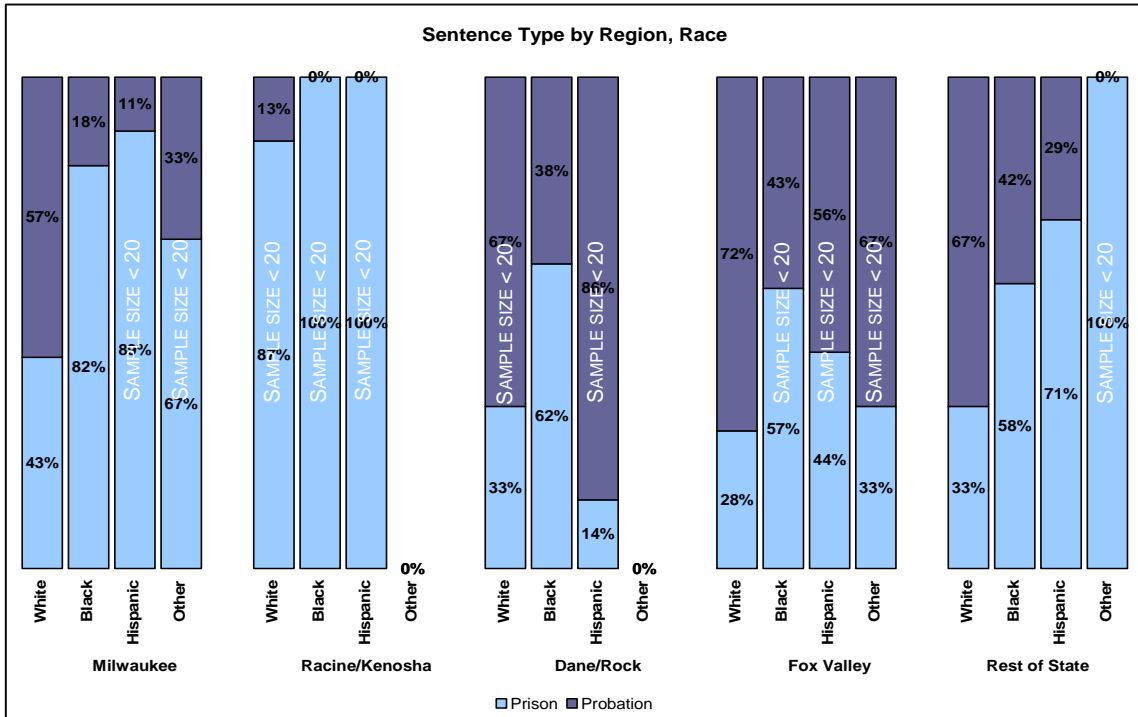


DRUGS

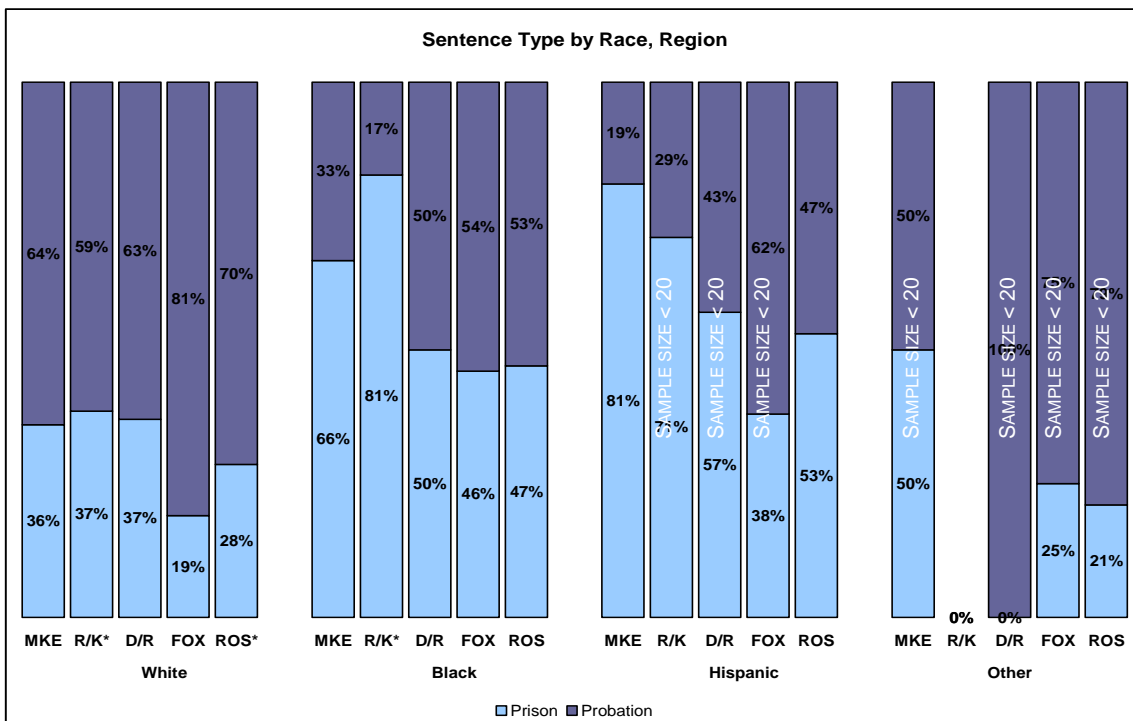
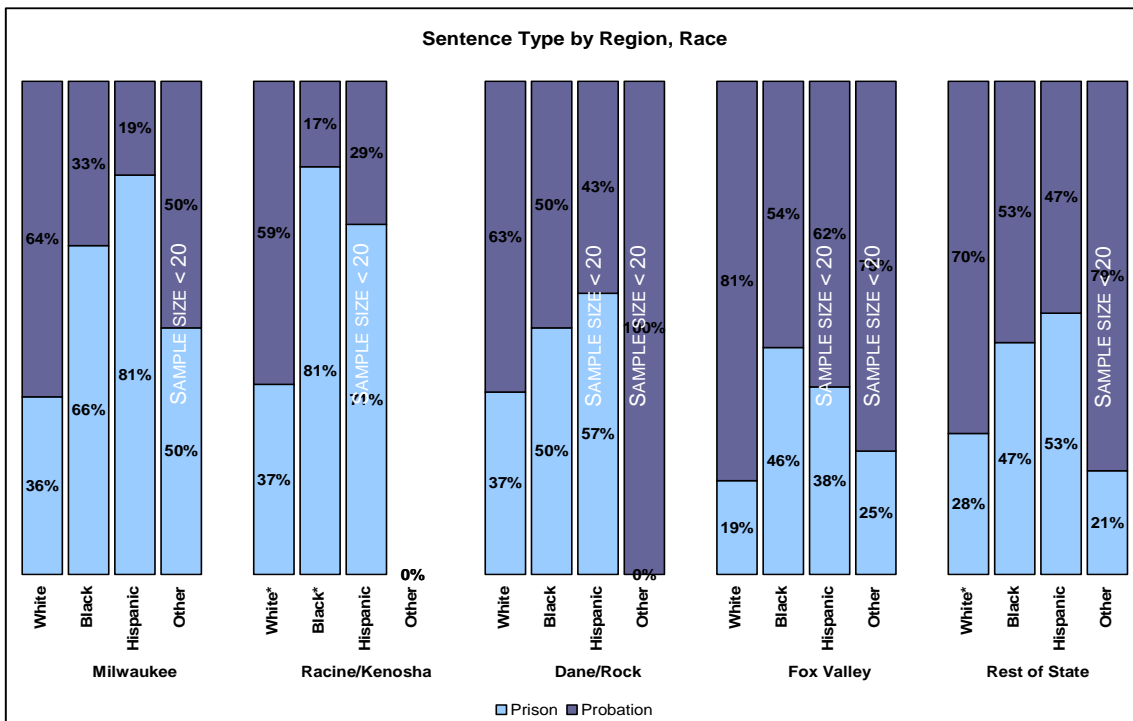
CLASS C FELONY



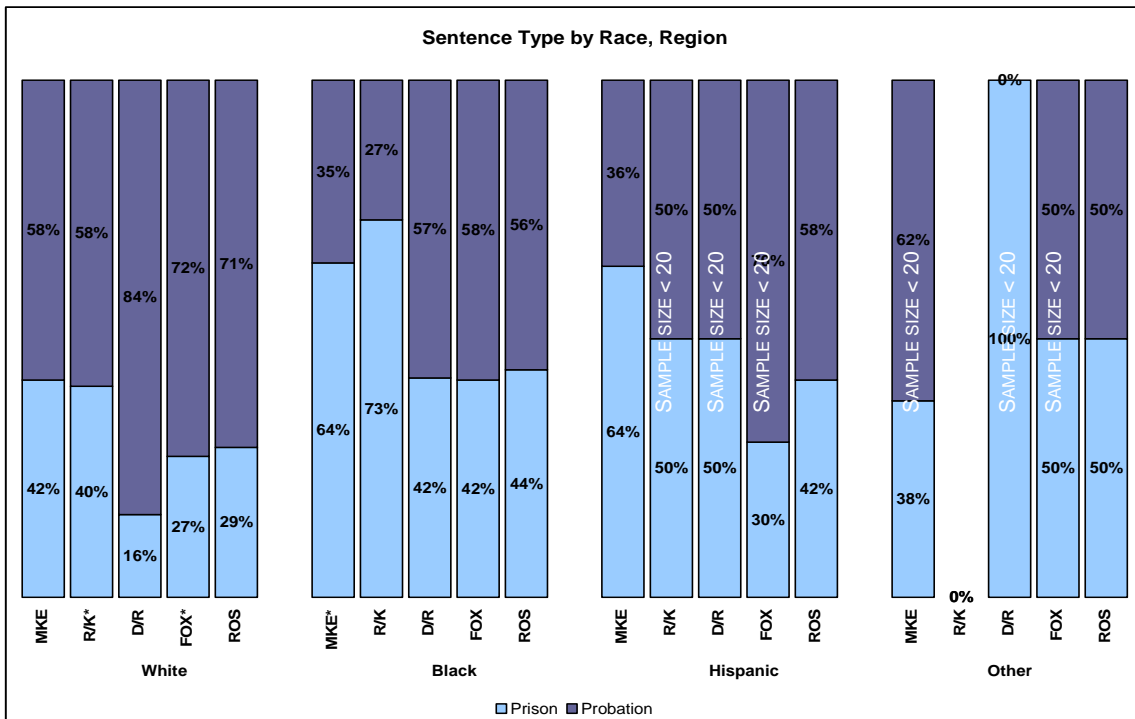
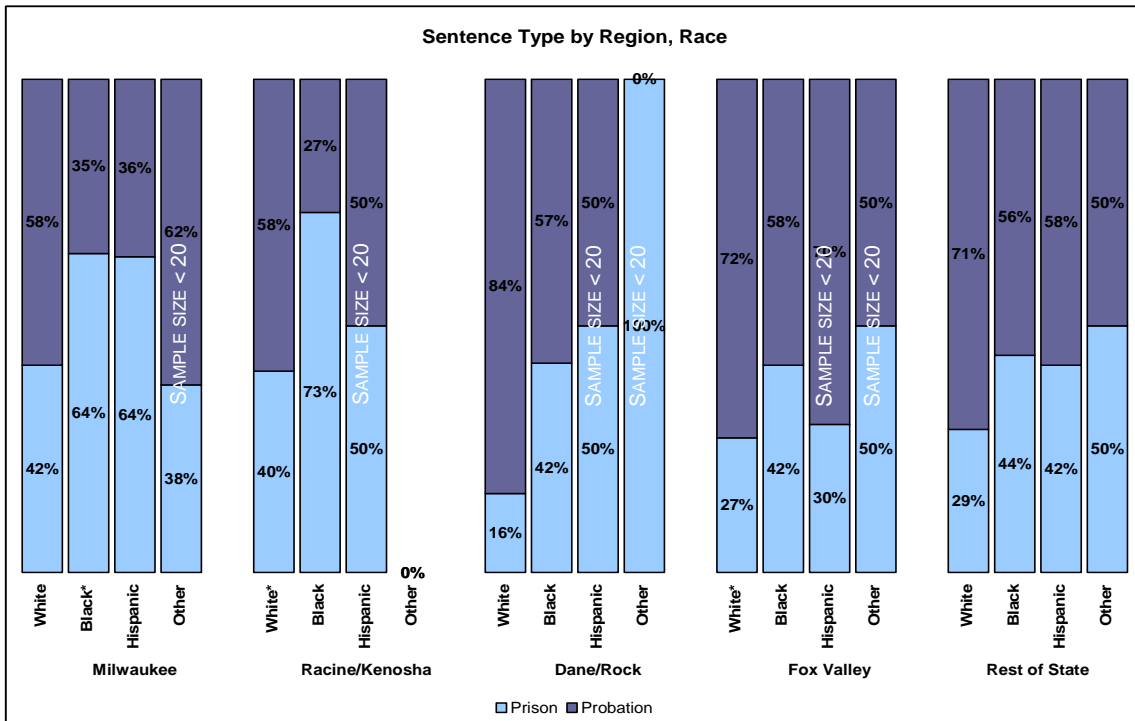
CLASS D FELONY



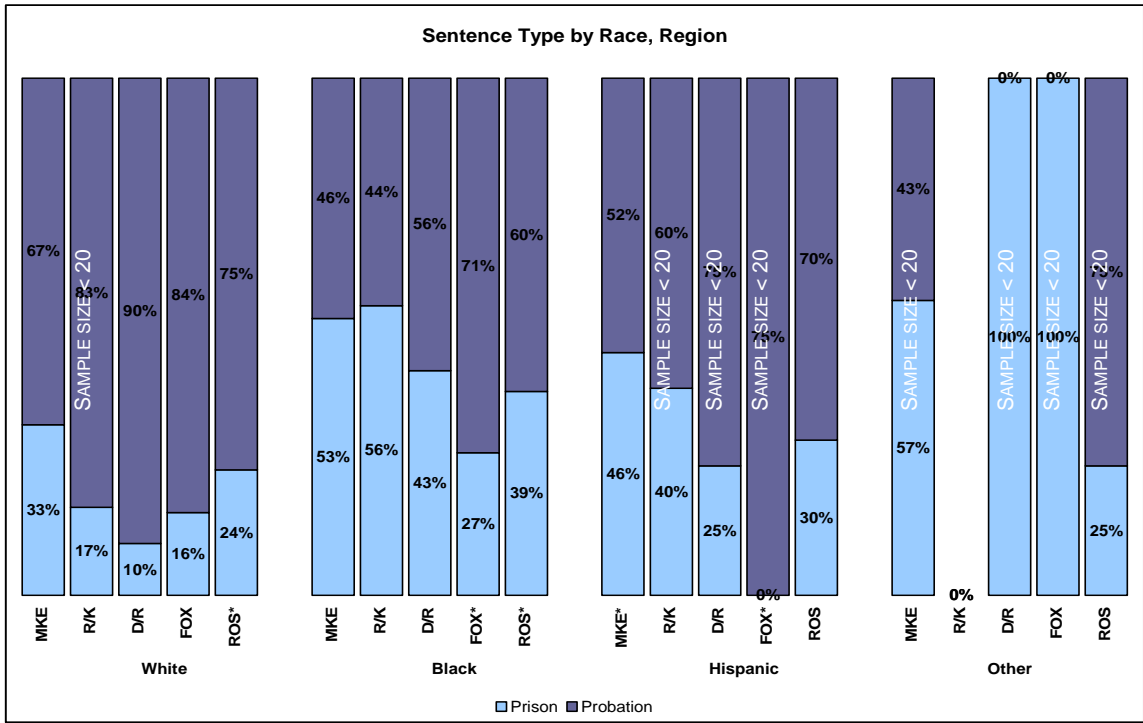
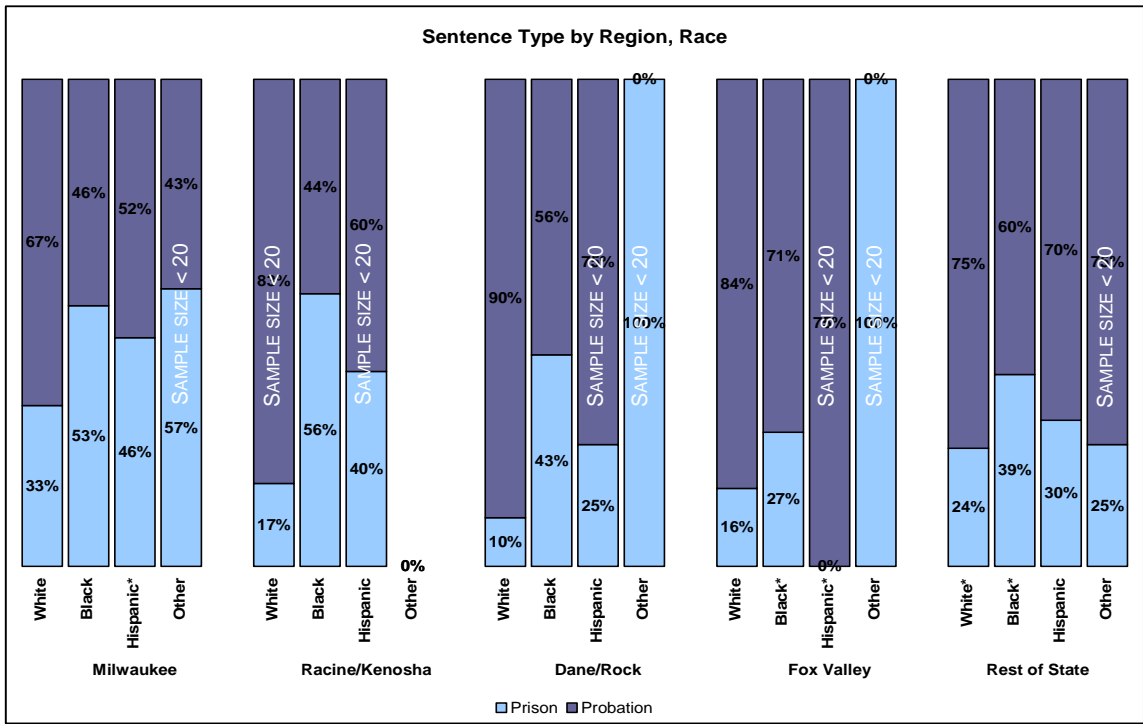
CLASS E FELONY



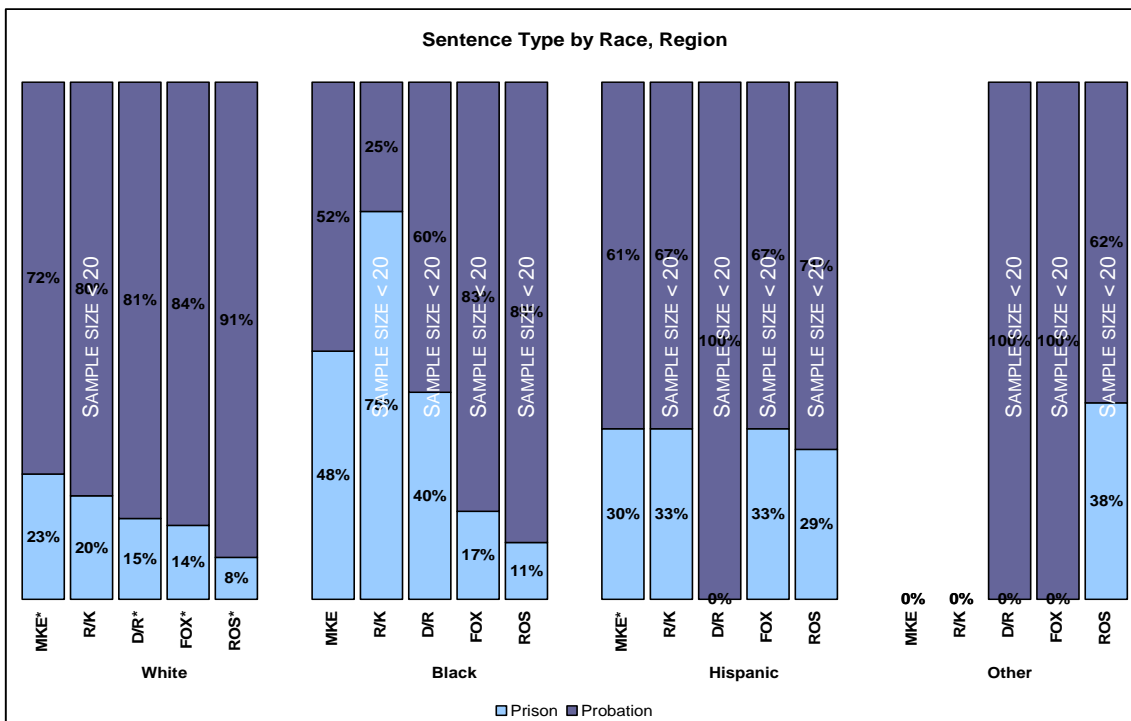
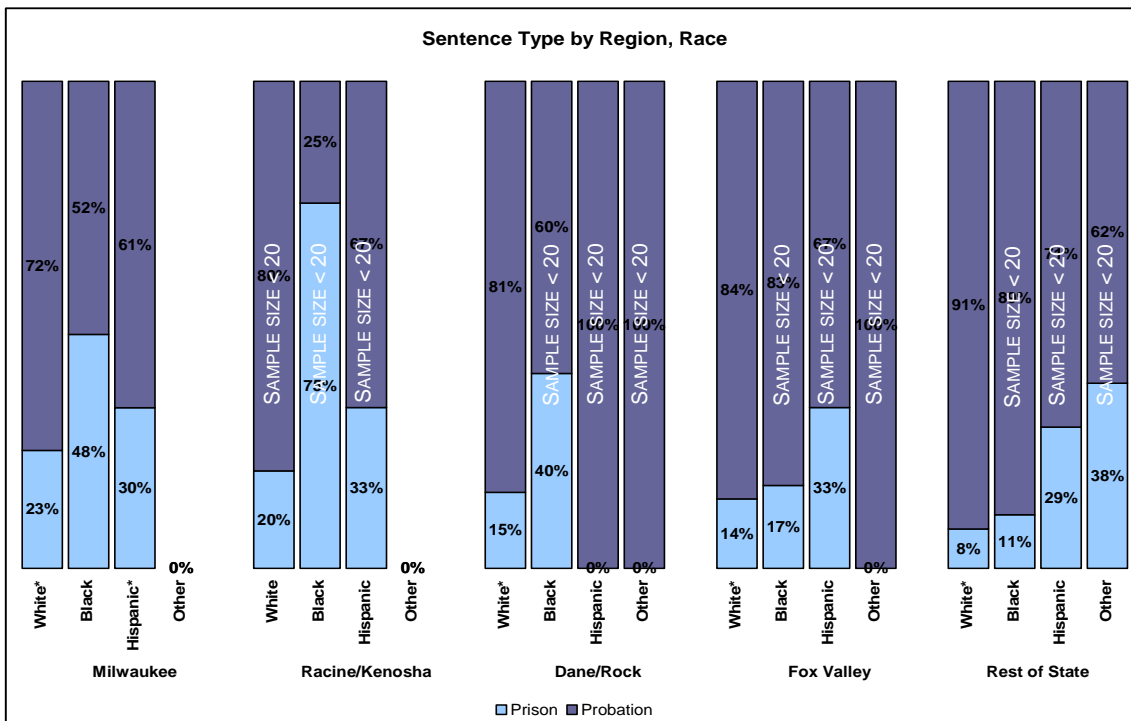
CLASS F FELONY



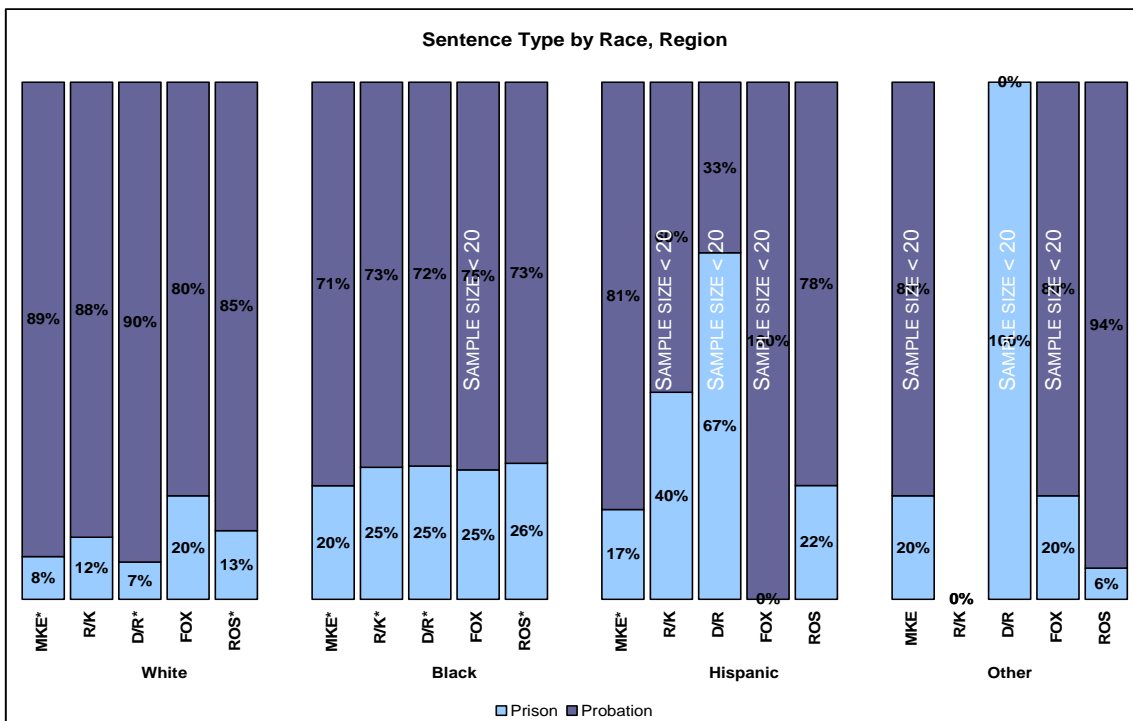
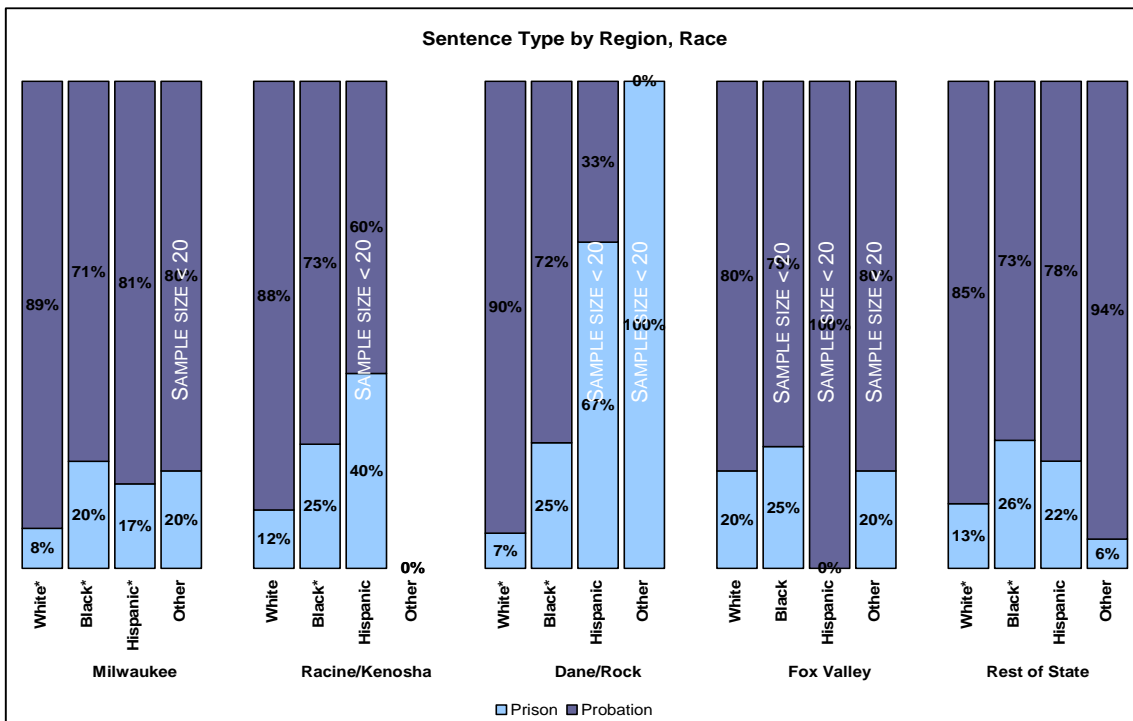
CLASS G FELONY



CLASS H FELONY



CLASS I FELONY



APPENDIX B

Sentence Types Prior Prison Sentence

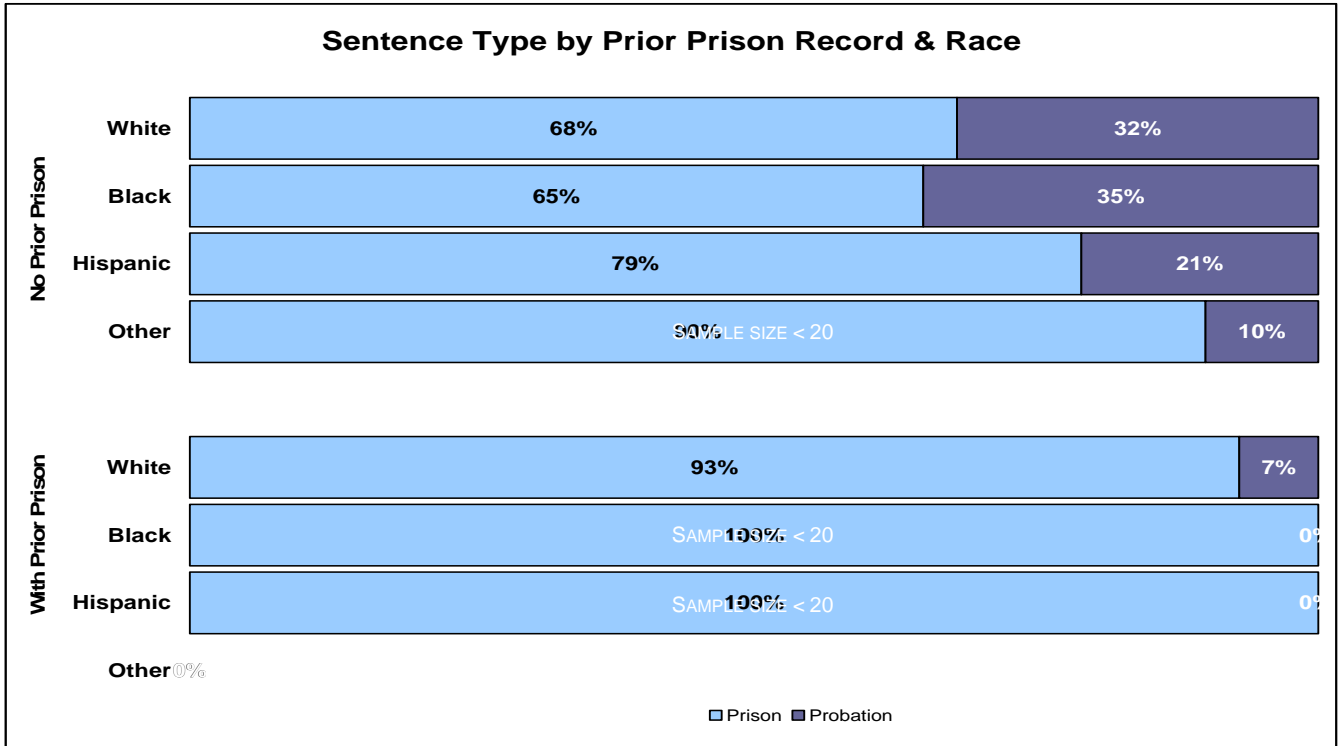
Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

Consistent with the other information in this report, the data is first divided by offense group and then by severity level (felony class). Then, the data is further divided among those offenders who have ever served a prior prison sentence and those who have not served a prior prison sentence. Even offenders with no prior prison sentences may range from having extensive juvenile or misdemeanor records to serving non-prison sentences or county jail sentences while on probation to being “first-time” offenders with no prior criminal activity of any type. Offenders with a prior prison sentence may have one or many prior prison sentences. These wide variances in each category may account for much of the disparity in the prison/probation decision shown in this section.

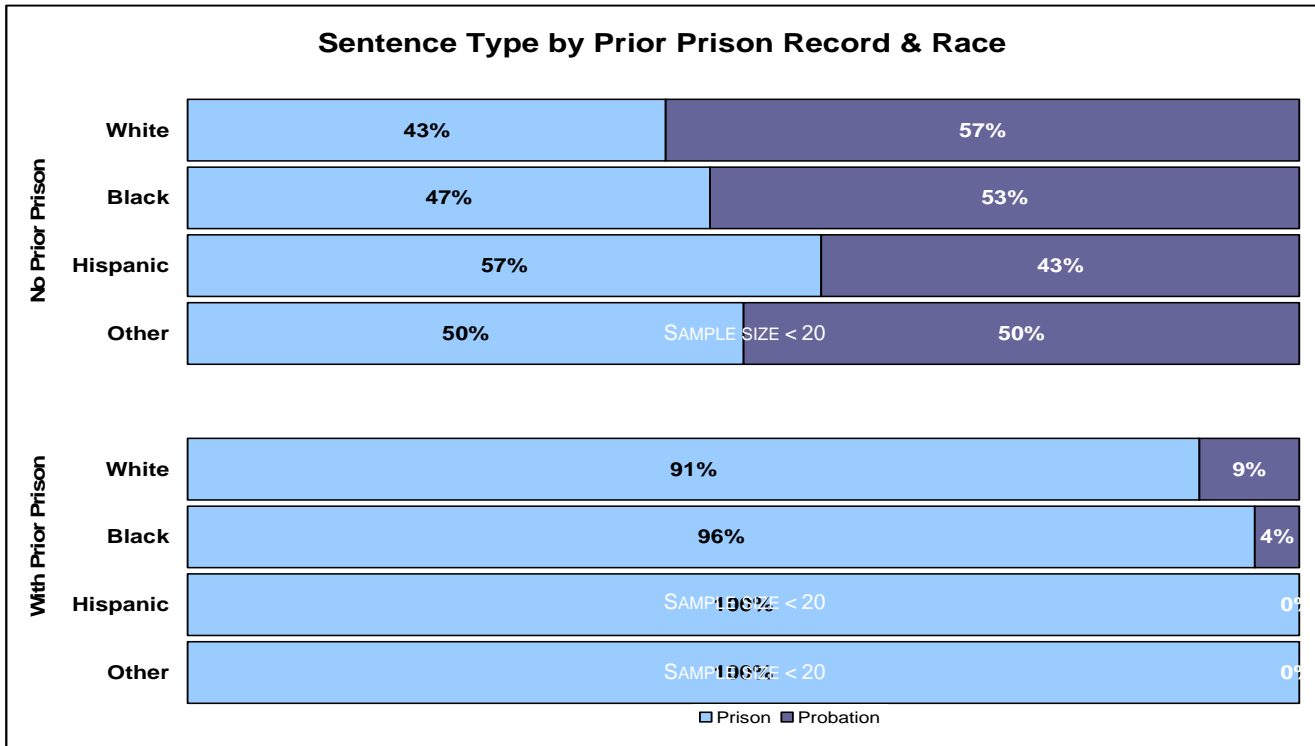
Each graph shows the percentages of offenders with prior prison sentences and of offenders without prior prison sentences sentenced to either prison or probation. This allows a visual comparison of racial disparity in the prison/probation decision for offenders with similar prison records, across racial lines.

SEXUAL ASSAULT OF A CHILD

CLASS B FELONY

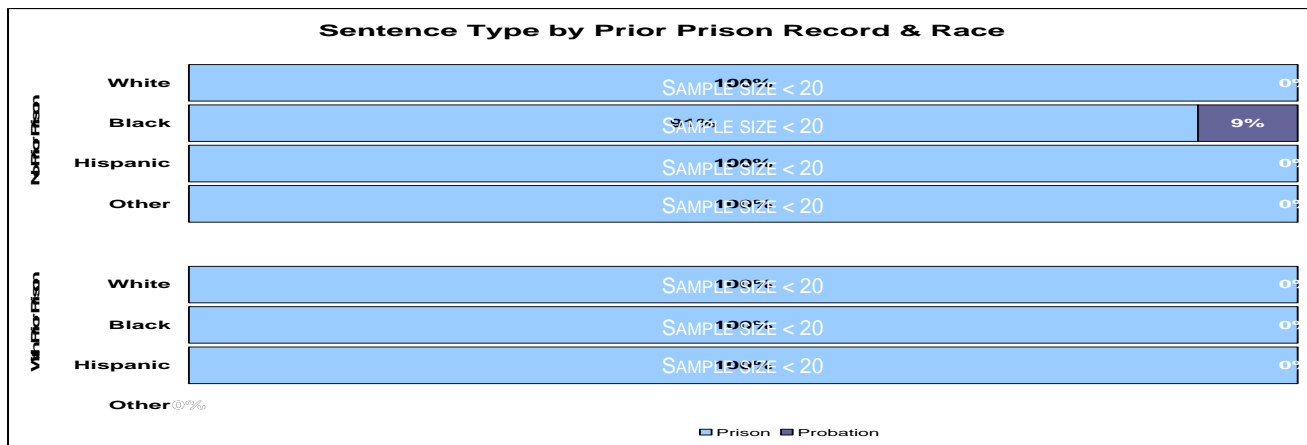


CLASS C FELONY

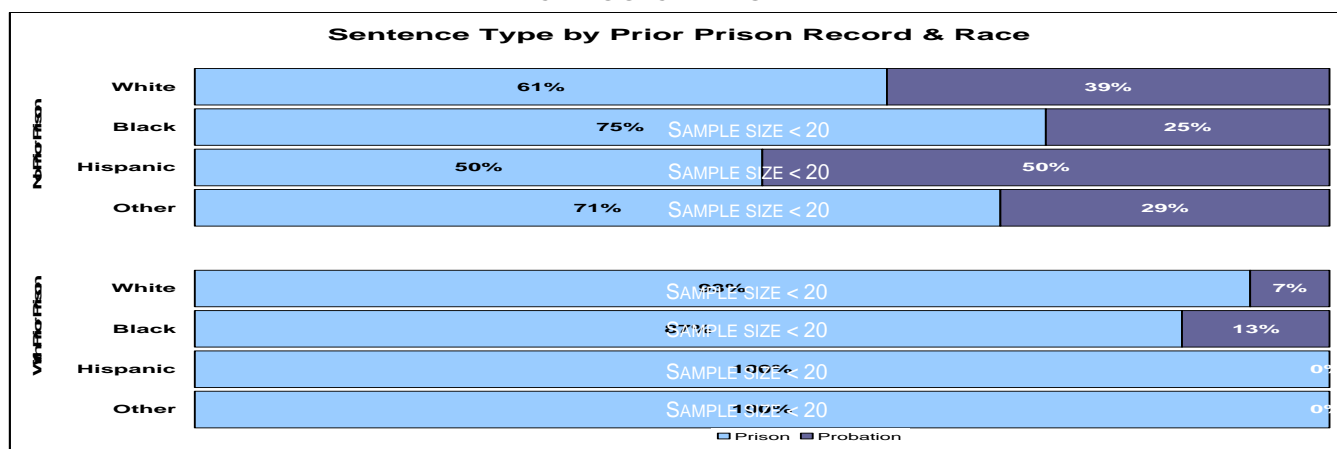


SEXUAL ASSAULT

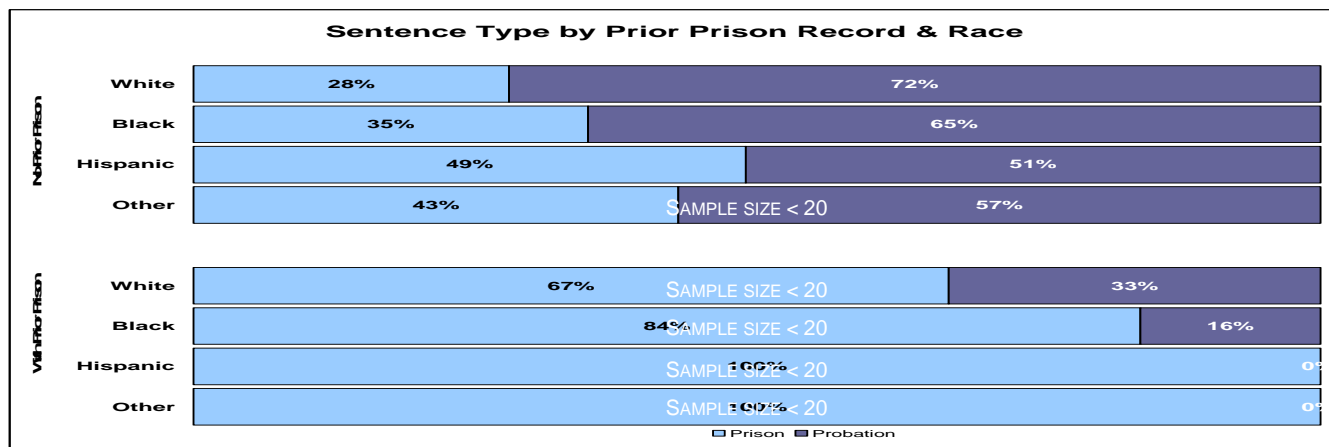
CLASS B FELONY



CLASS C FELONY

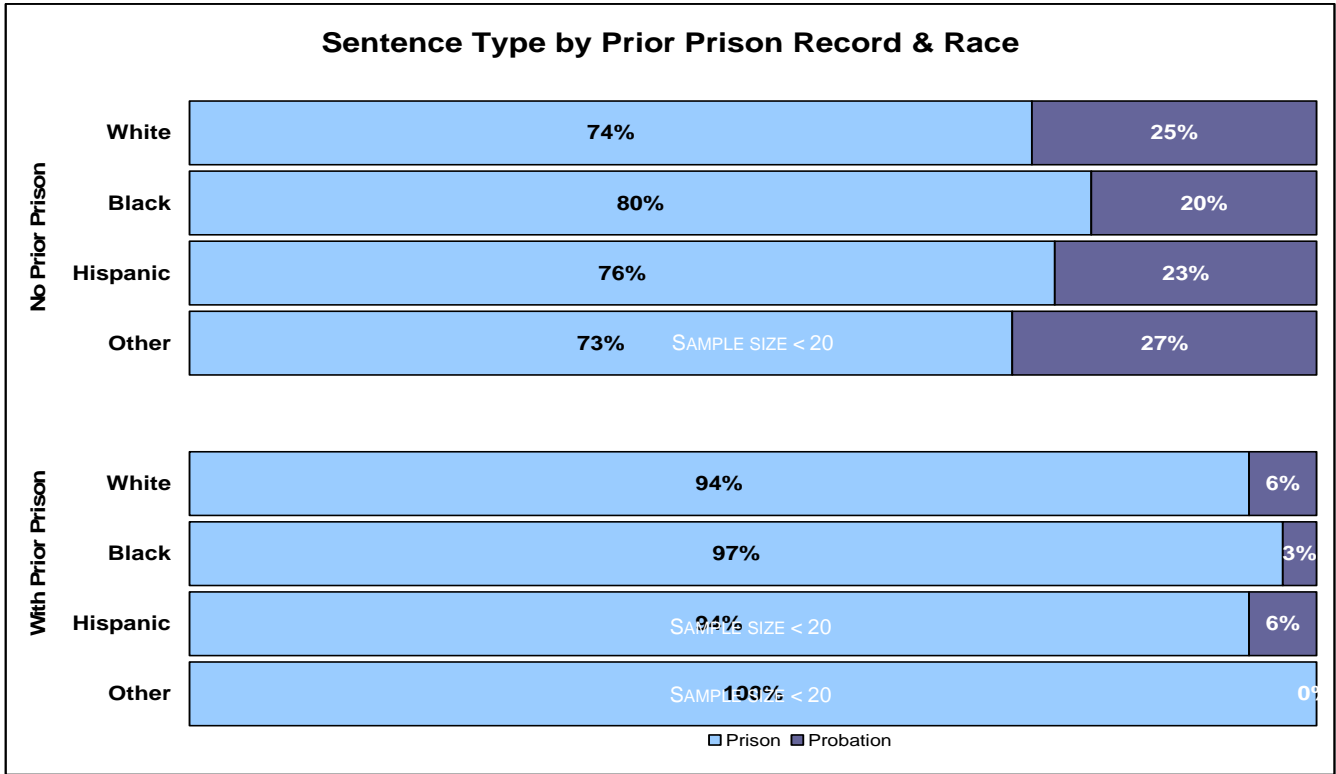


CLASS G FELONY

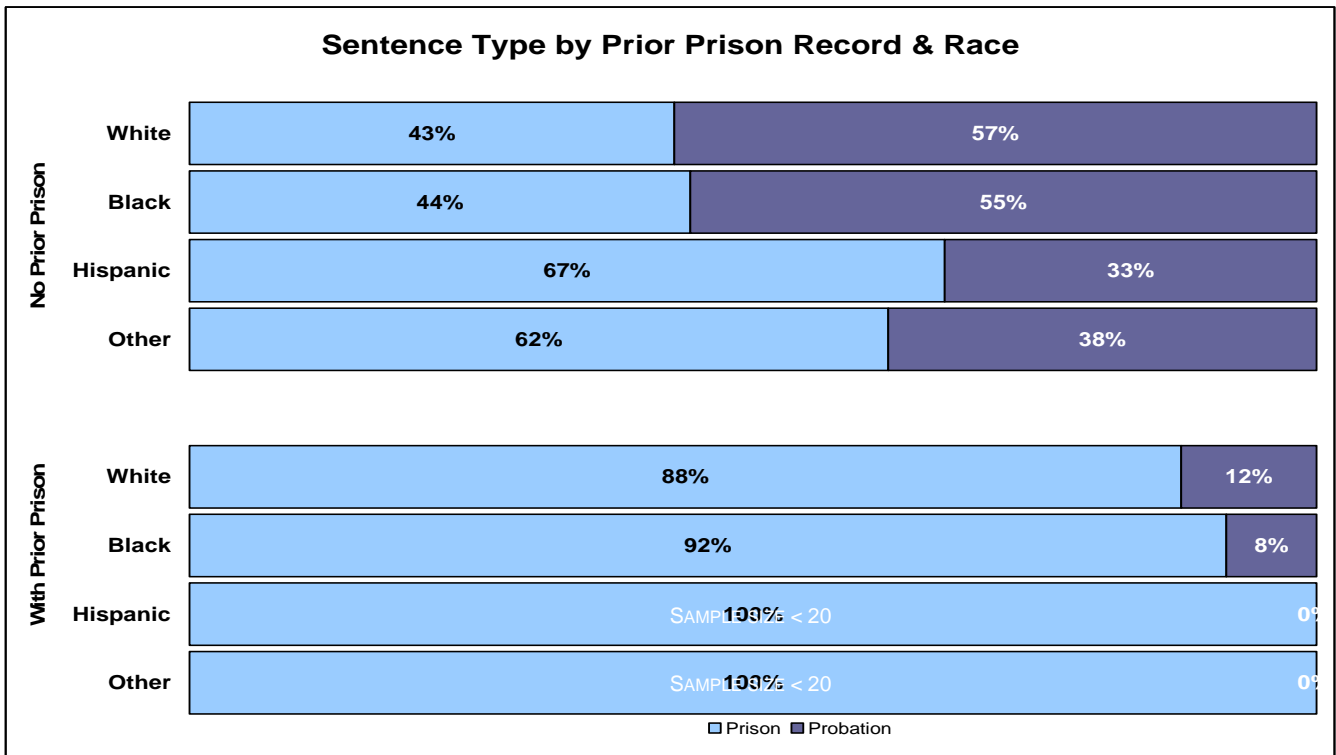


ROBBERY / ARMED ROBBERY

CLASS C FELONY

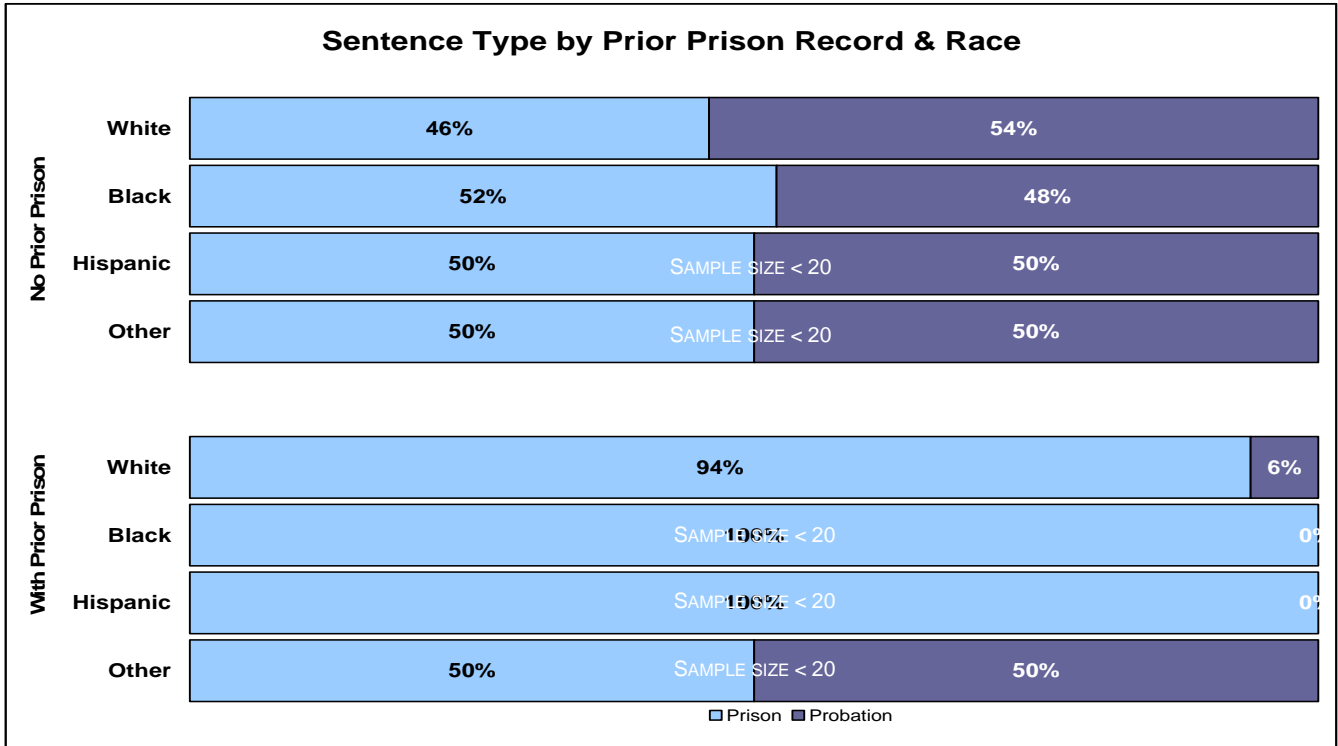


CLASS E FELONY

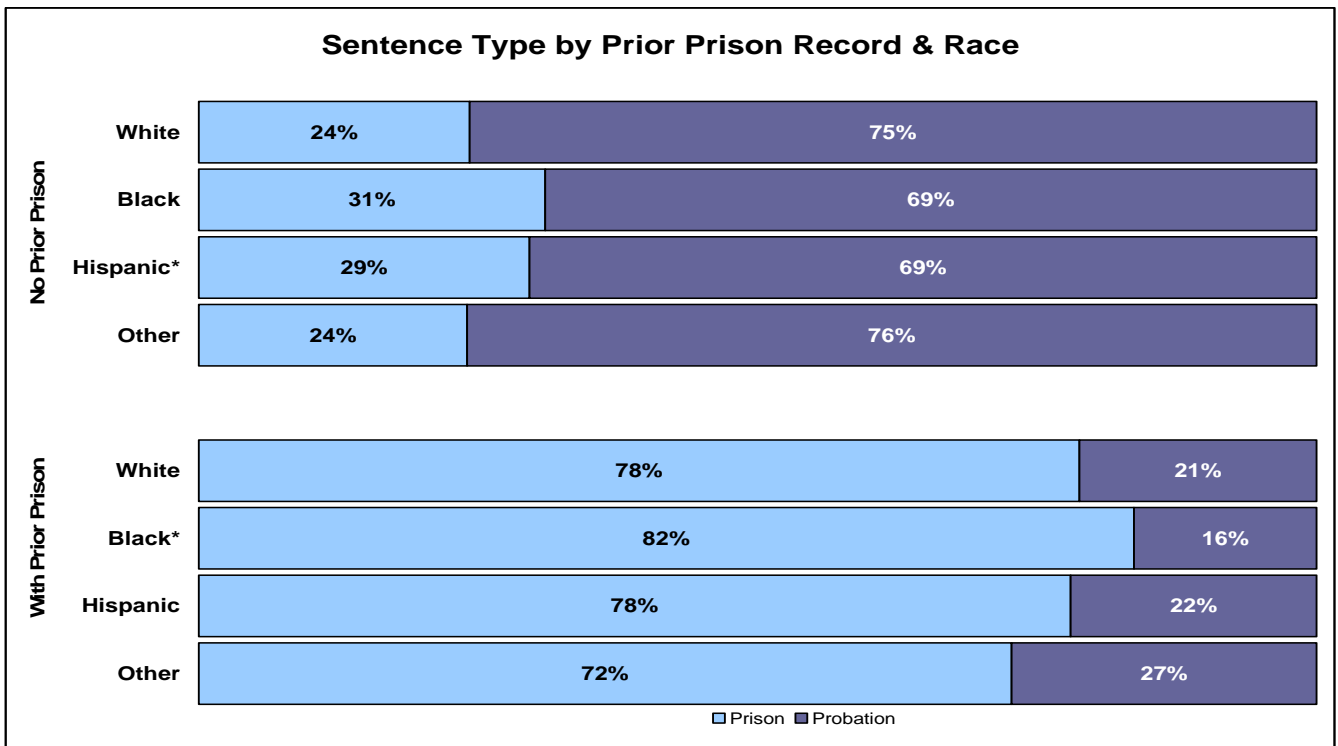


BURGLARY

CLASS E FELONY

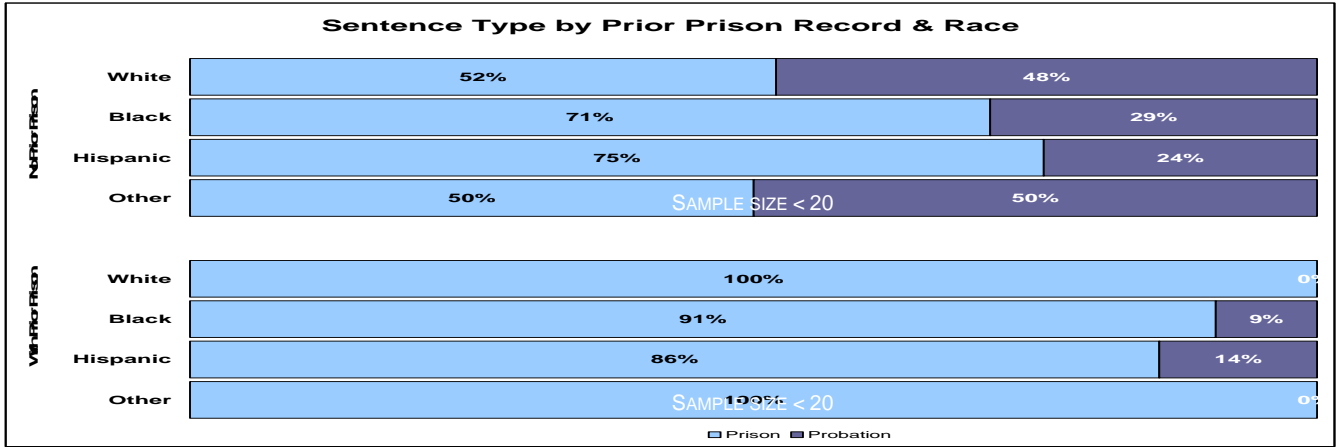


CLASS F FELONY

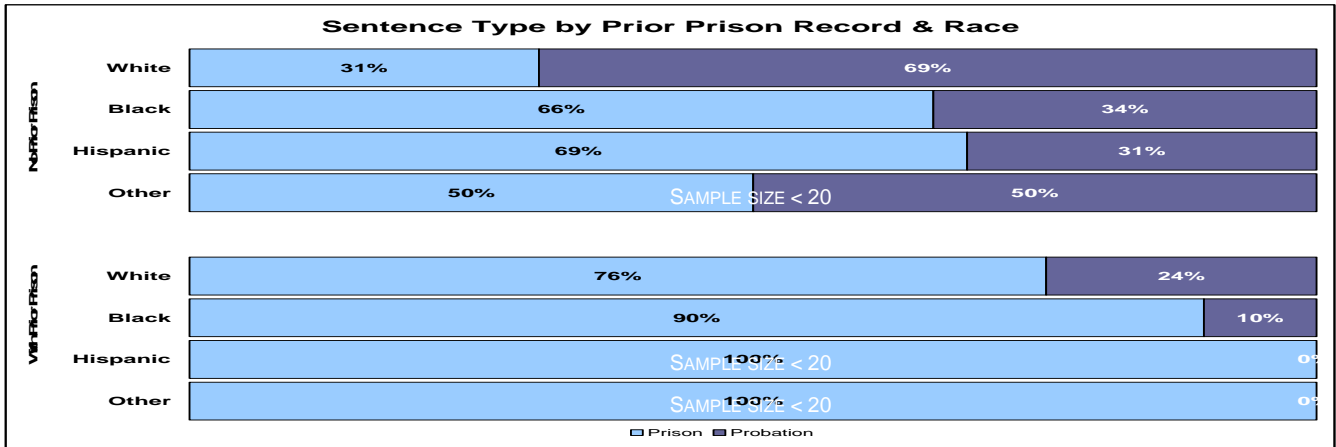


DRUG OFFENSES

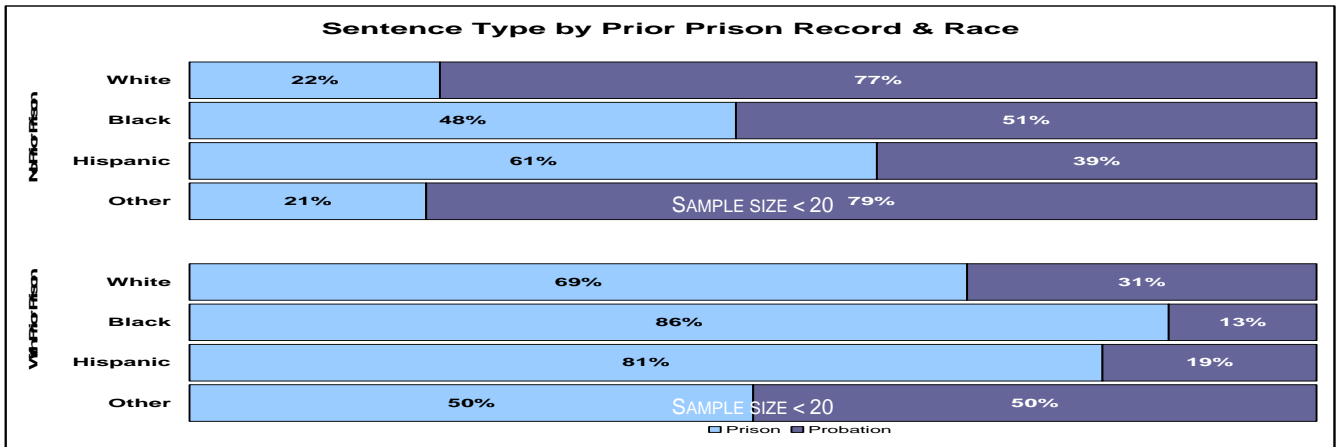
CLASS C FELONY



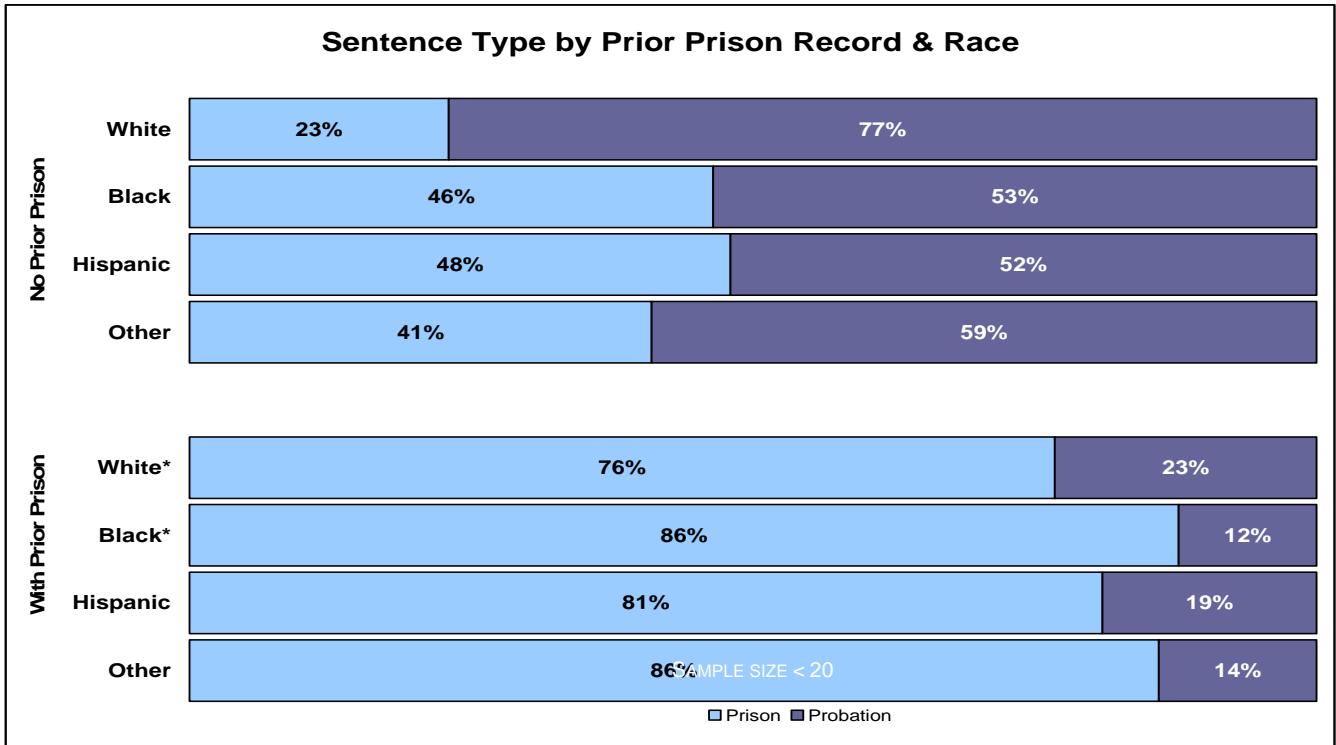
CLASS D FELONY



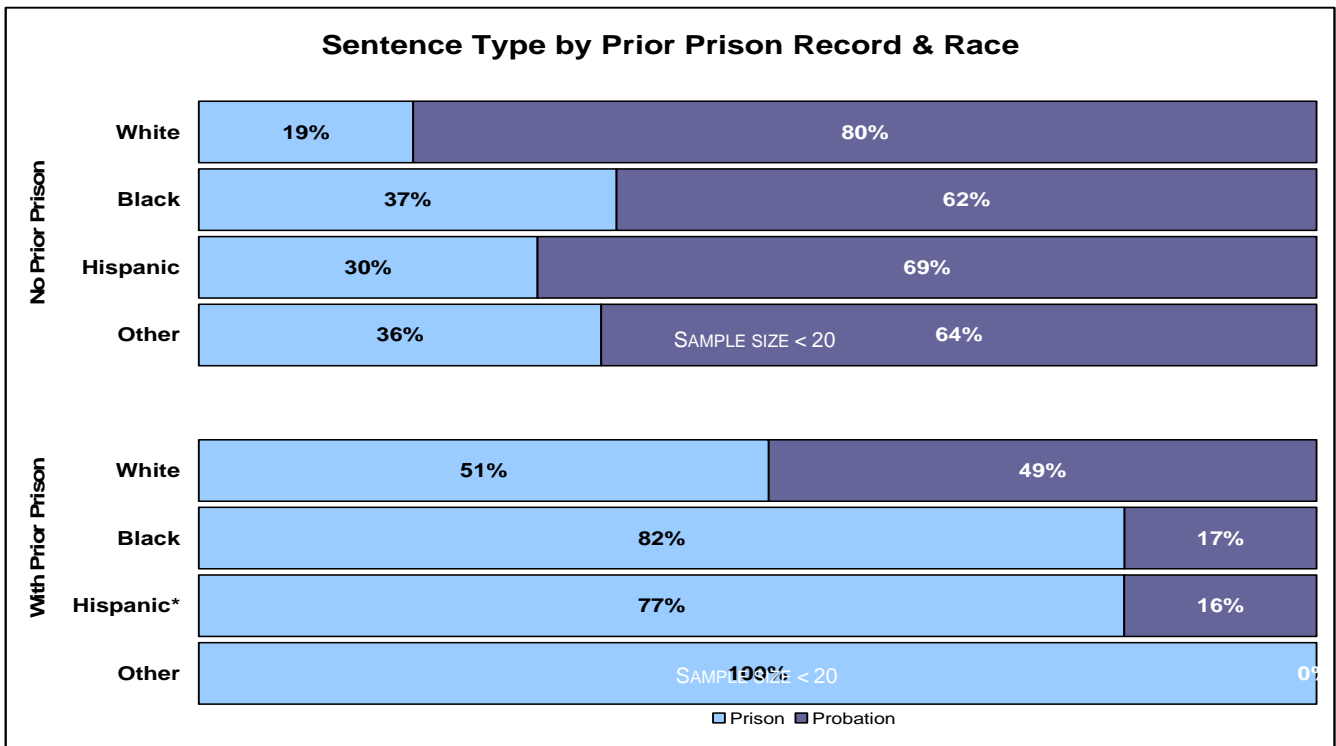
CLASS E FELONY



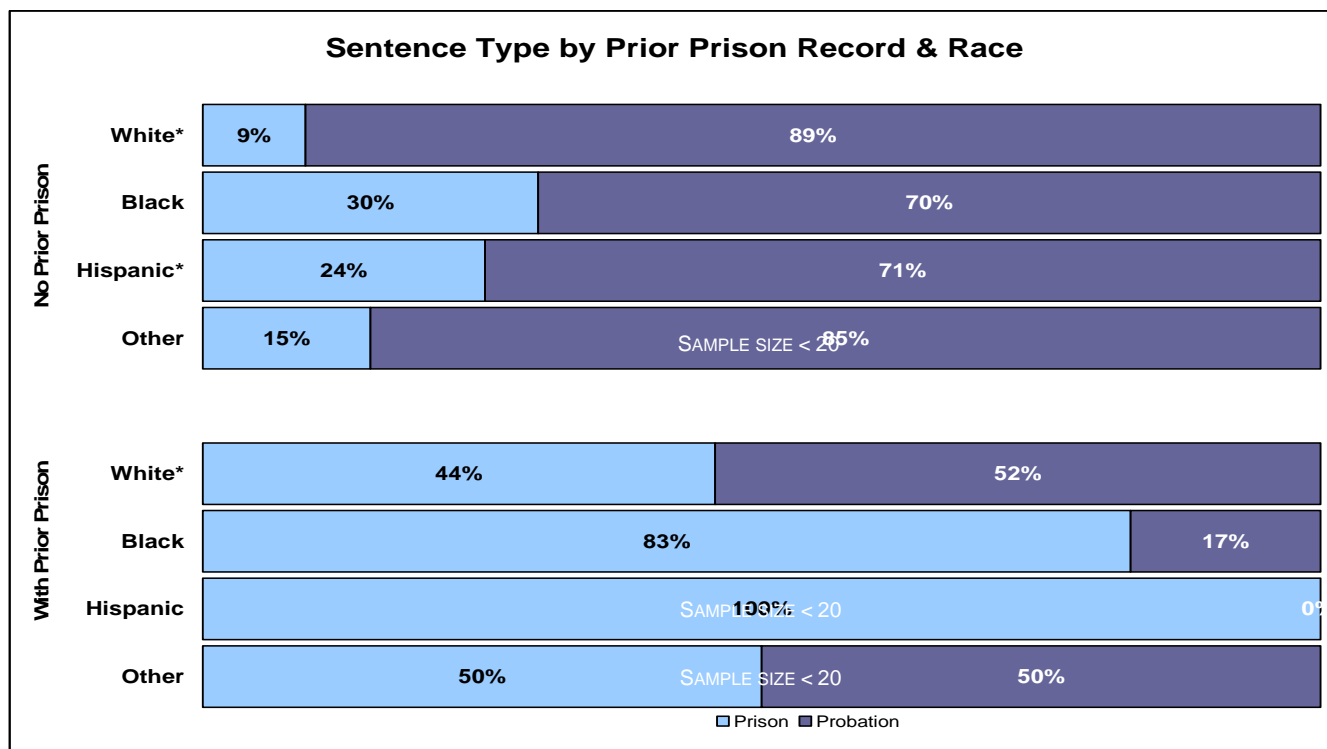
CLASS F FELONY



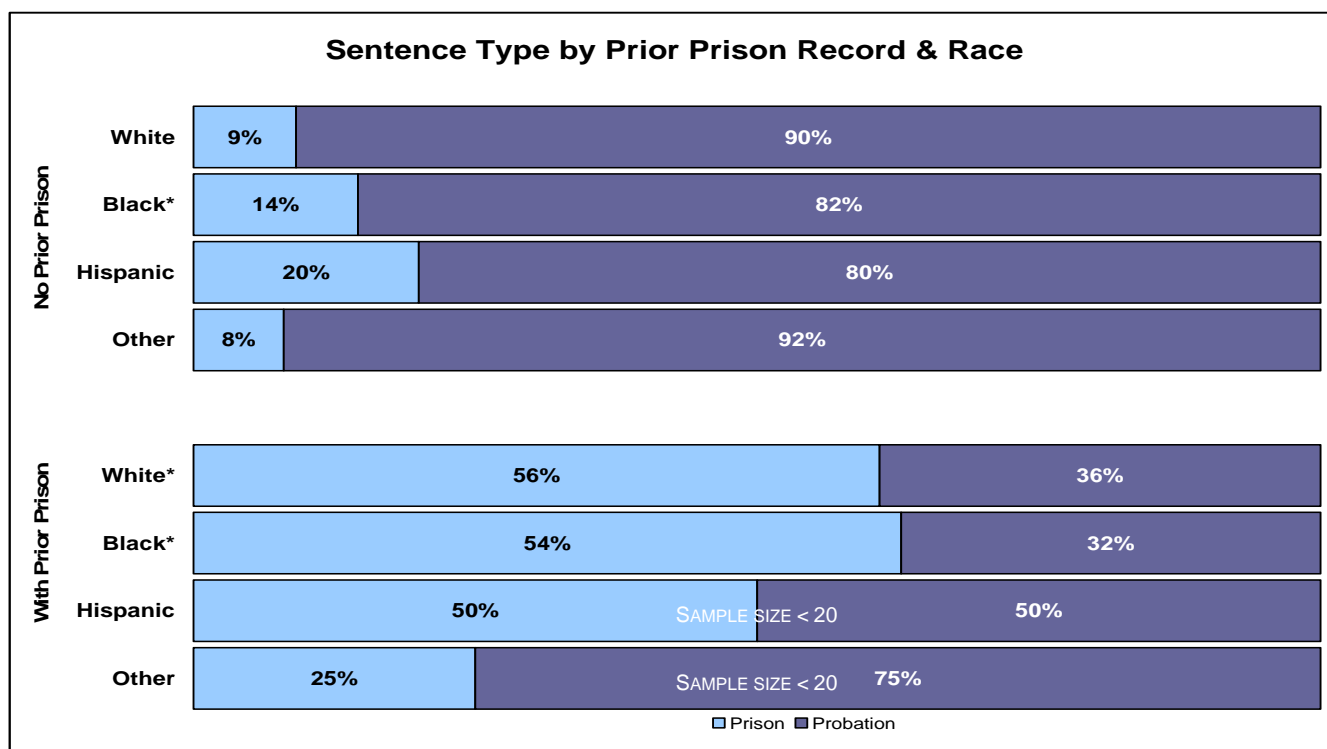
CLASS G FELONY



CLASS H FELONY



CLASS I FELONY



APPENDIX C

Sentence Types by Prior Conviction

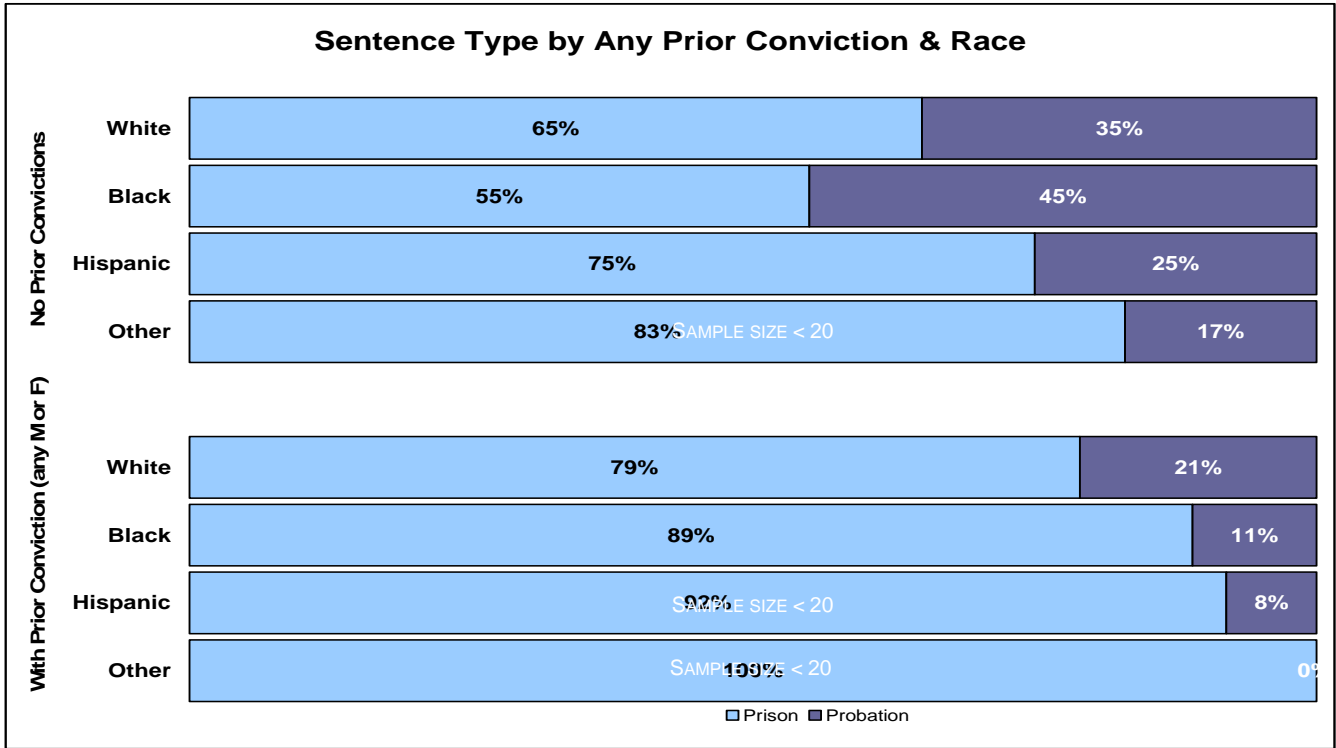
Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

Consistent with the other information in this report, the data is first divided by offense group and then by severity level (felony class). Then, the data is further divided among those offenders with any prior adult felony or misdemeanor convictions in Wisconsin and those offenders with no prior convictions of either type. Even those offenders with no prior convictions may still have criminal records from out-of-state or from juvenile adjudications not available in this data set. Offenders with a prior conviction may have one or many prior misdemeanors and/or felonies. These wide variances in each category may account for much of the disparity in the prison/probation decision shown in this section.

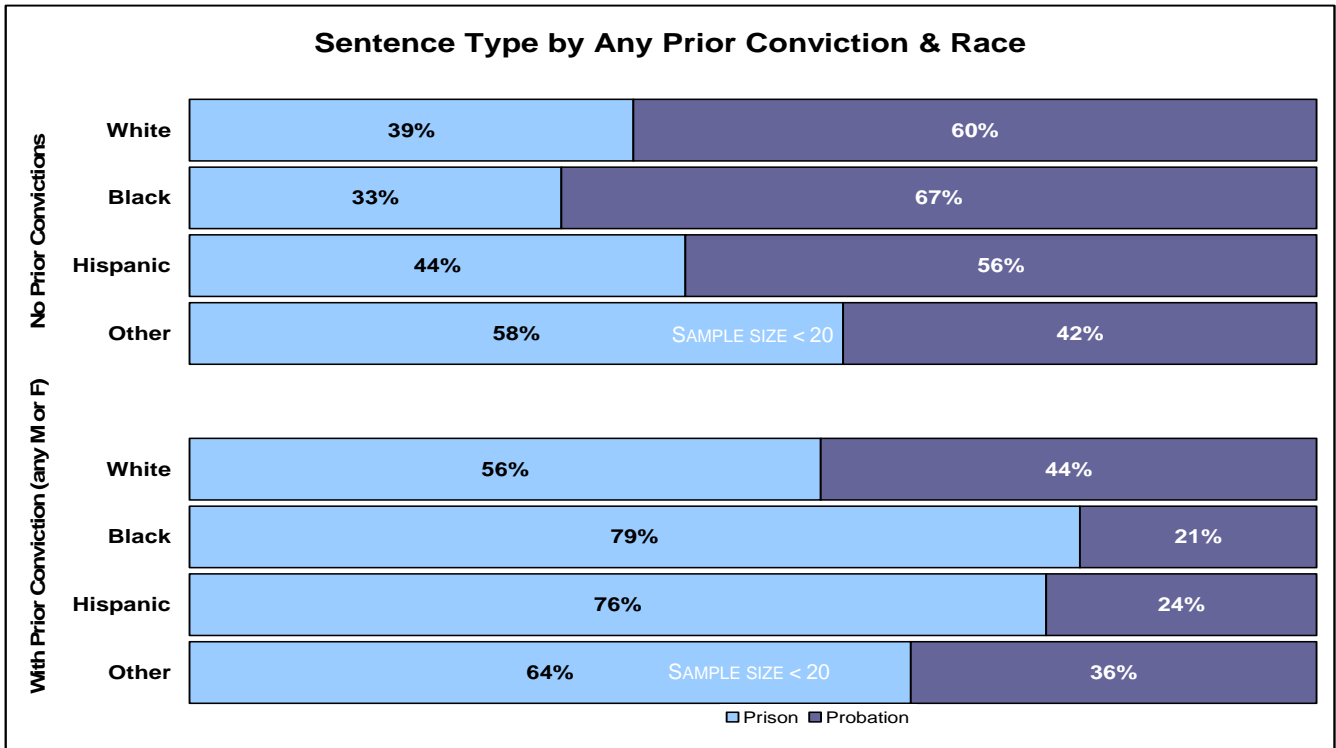
Each graph shows the percentages of offenders with prior felonies or misdemeanors and of offenders without prior convictions sentenced to either prison or probation. This allows a visual comparison of racial disparity in the prison/probation decision for offenders with similar criminal records, across racial lines.

SEXUAL ASSAULT OF A CHILD

CLASS B FELONY

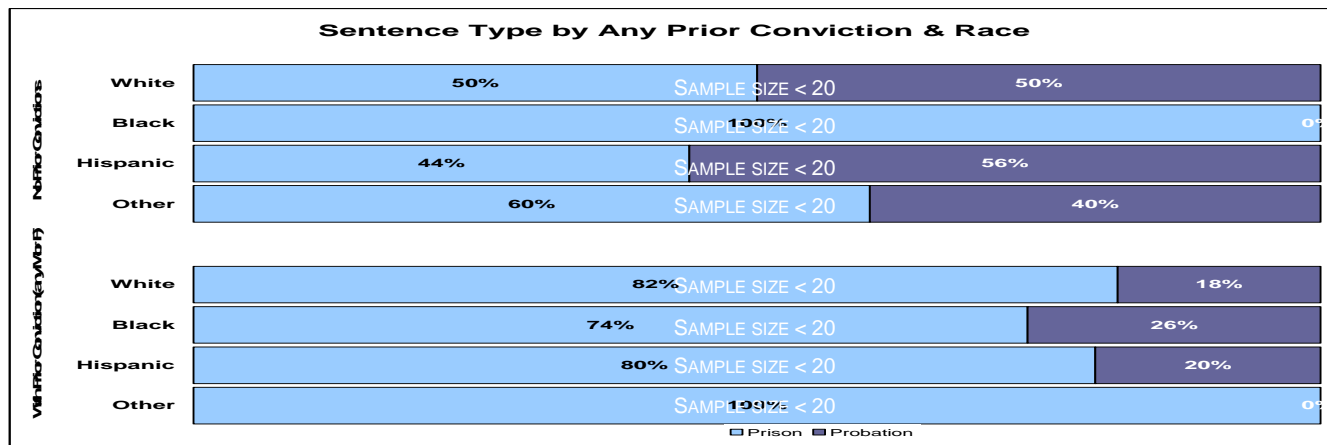


CLASS C FELONY

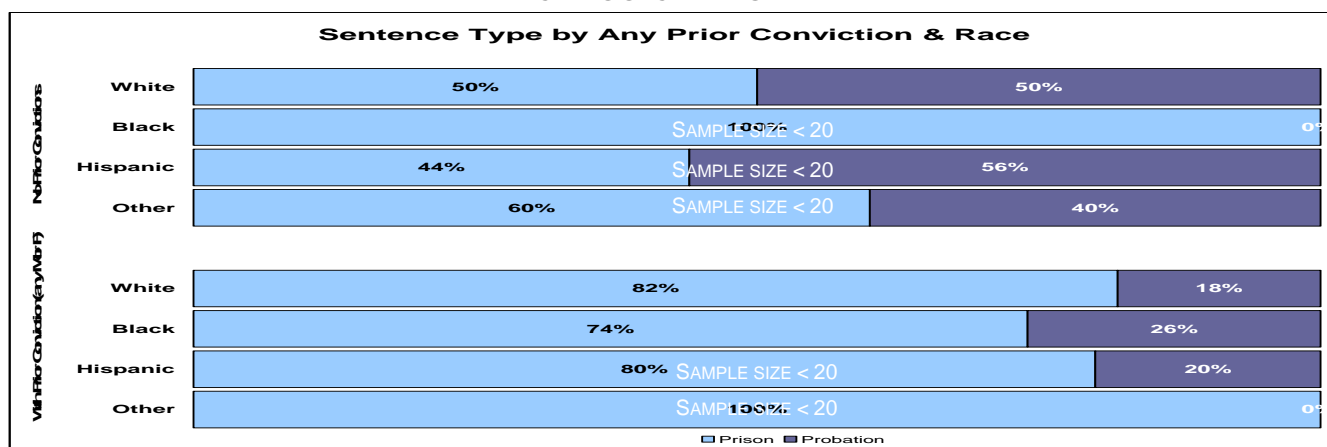


SEXUAL ASSAULT

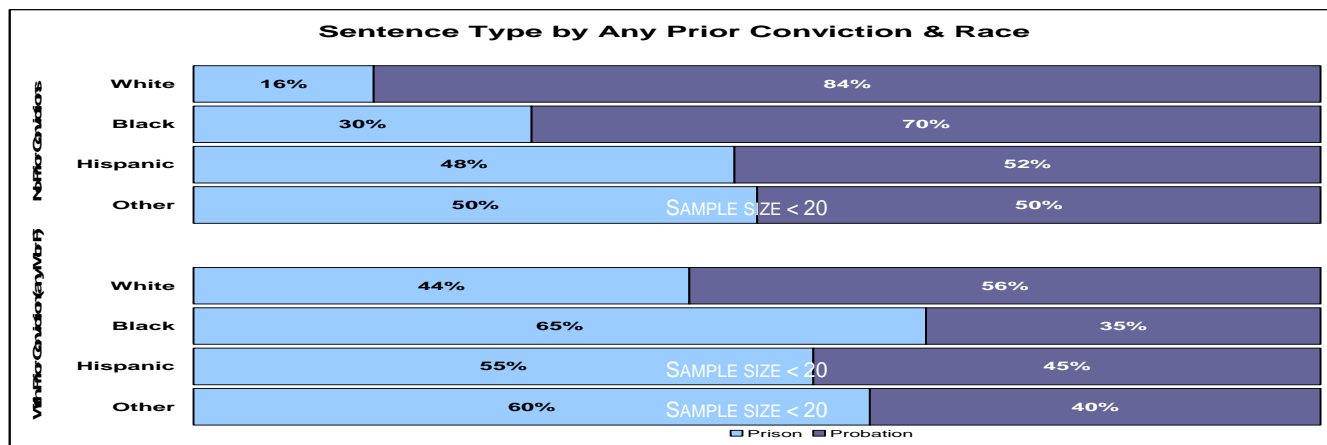
CLASS B FELONY



CLASS C FELONY

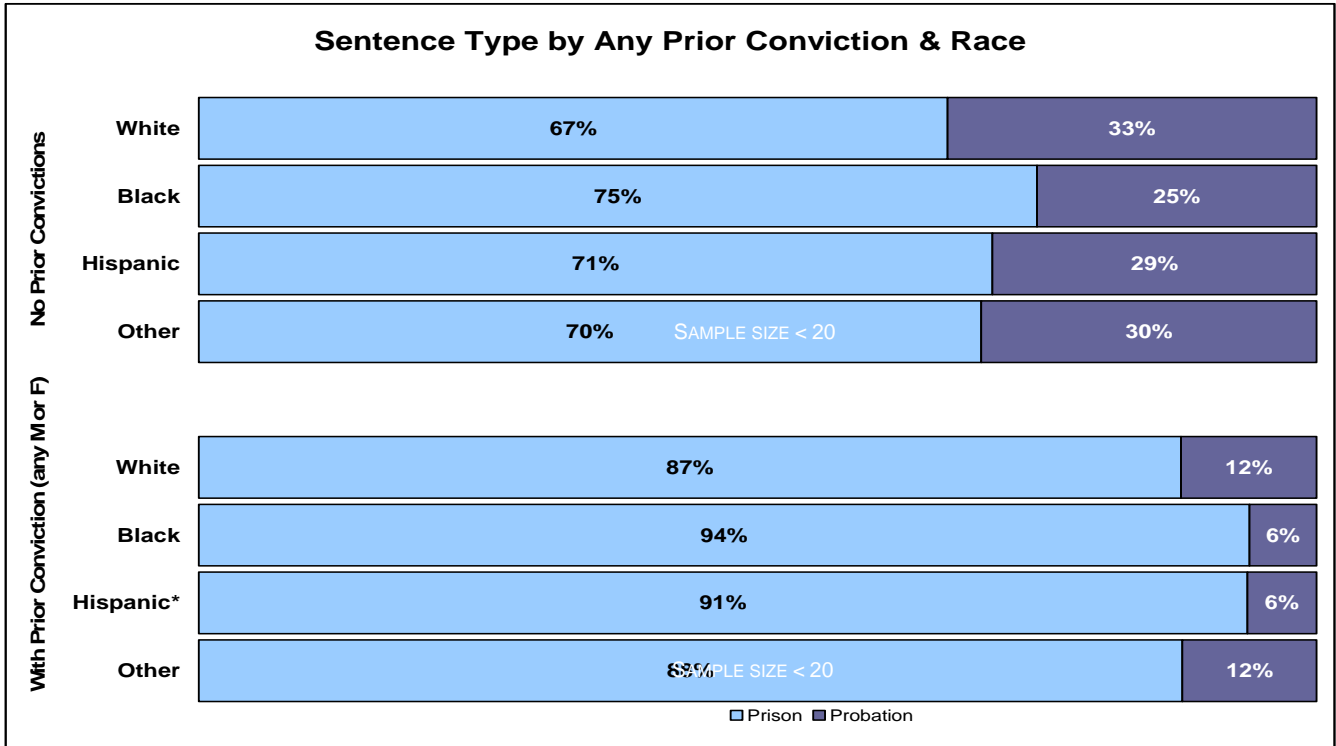


CLASS G FELONY

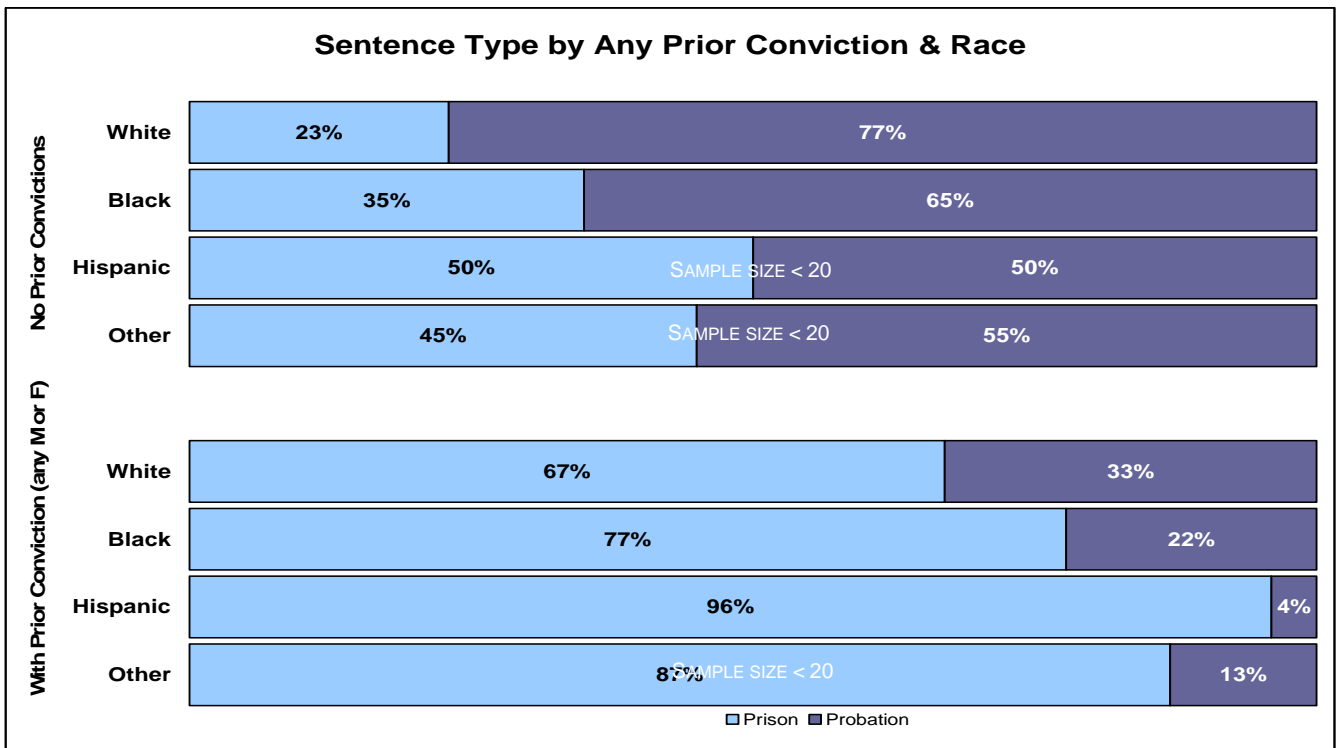


ROBBERY / ARMED ROBBERY

CLASS C FELONY

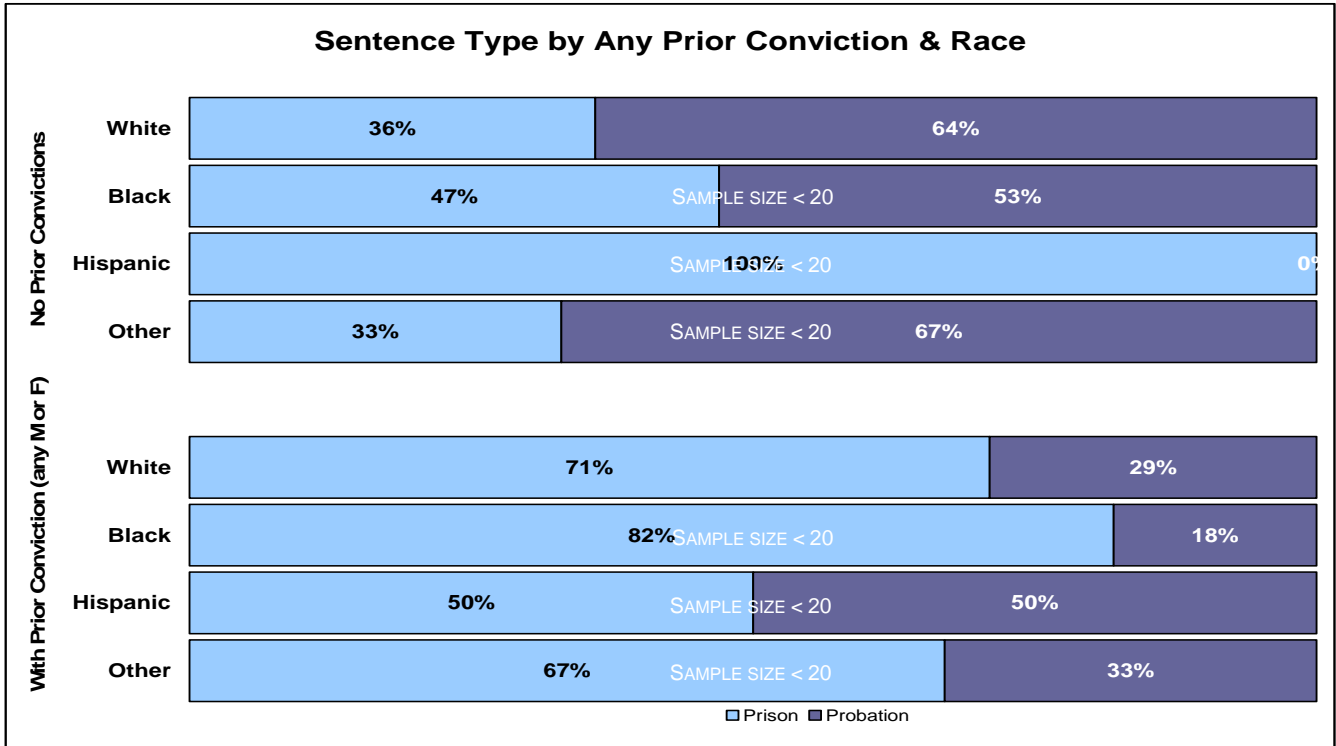


CLASS E FELONY

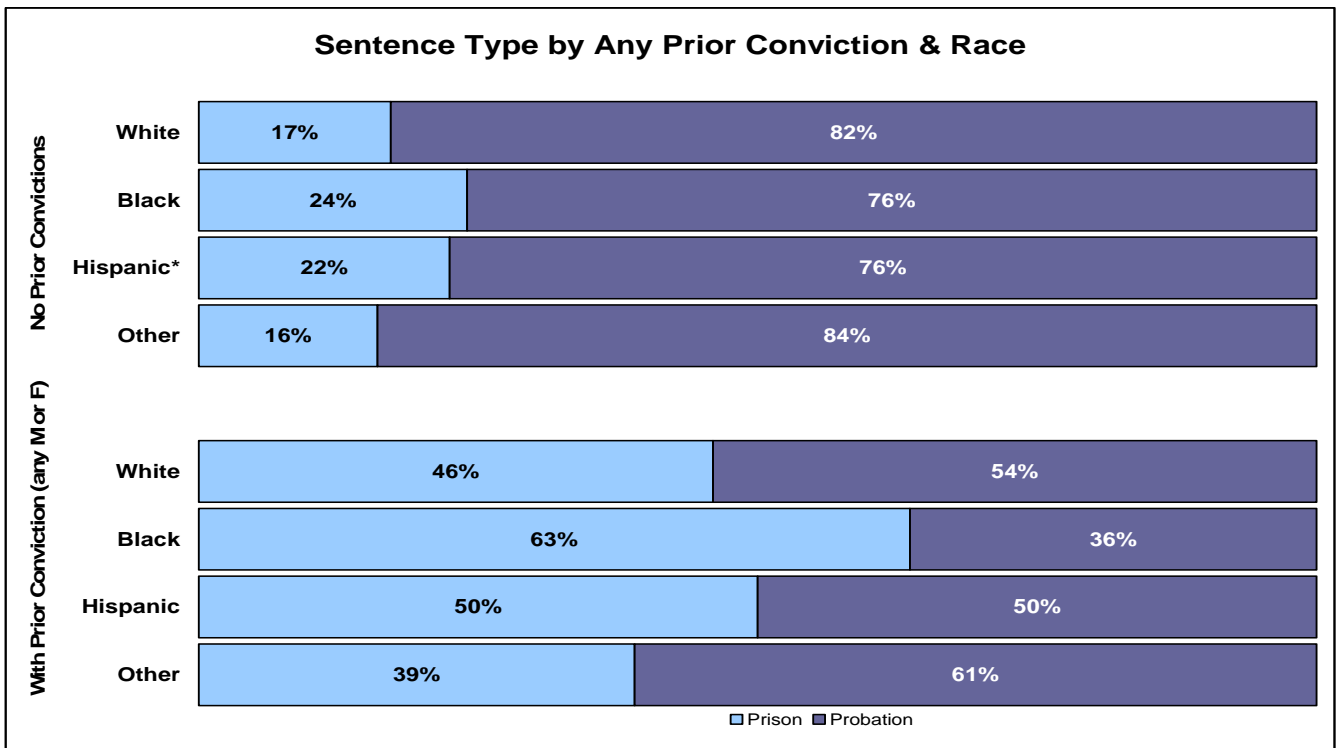


BURGLARY

CLASS E FELONY

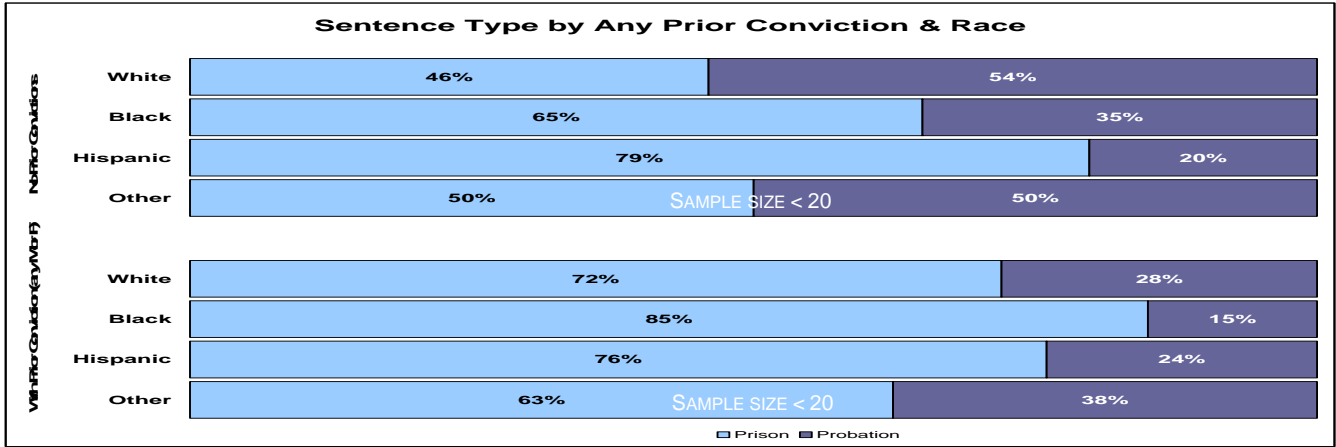


CLASS F FELONY

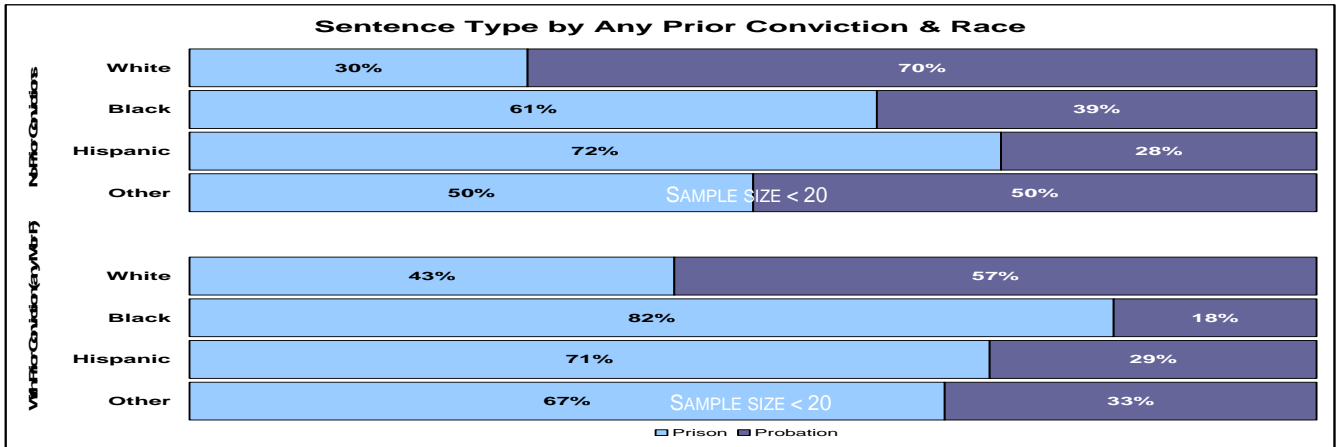


DRUG TRAFFICKING

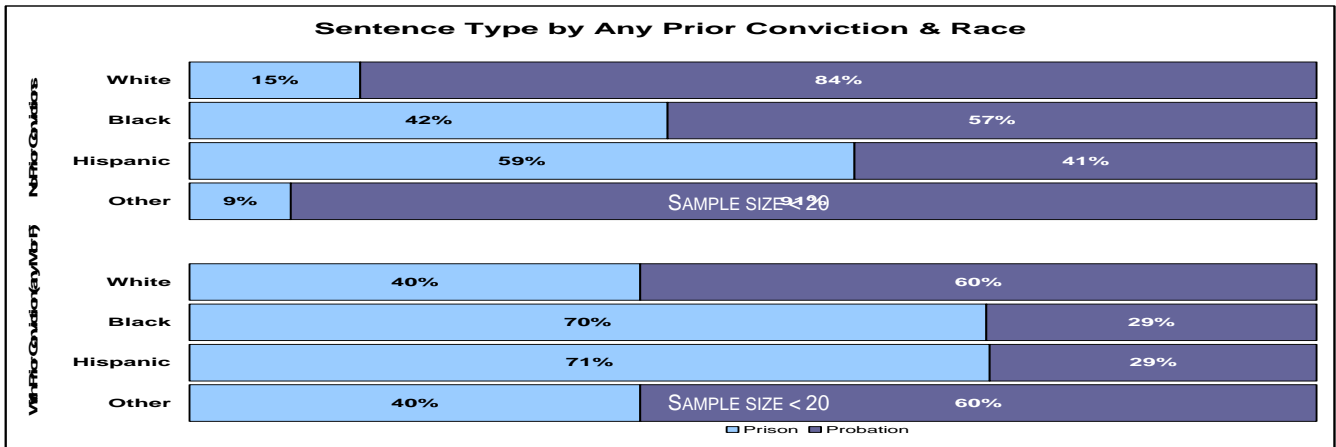
CLASS C FELONY



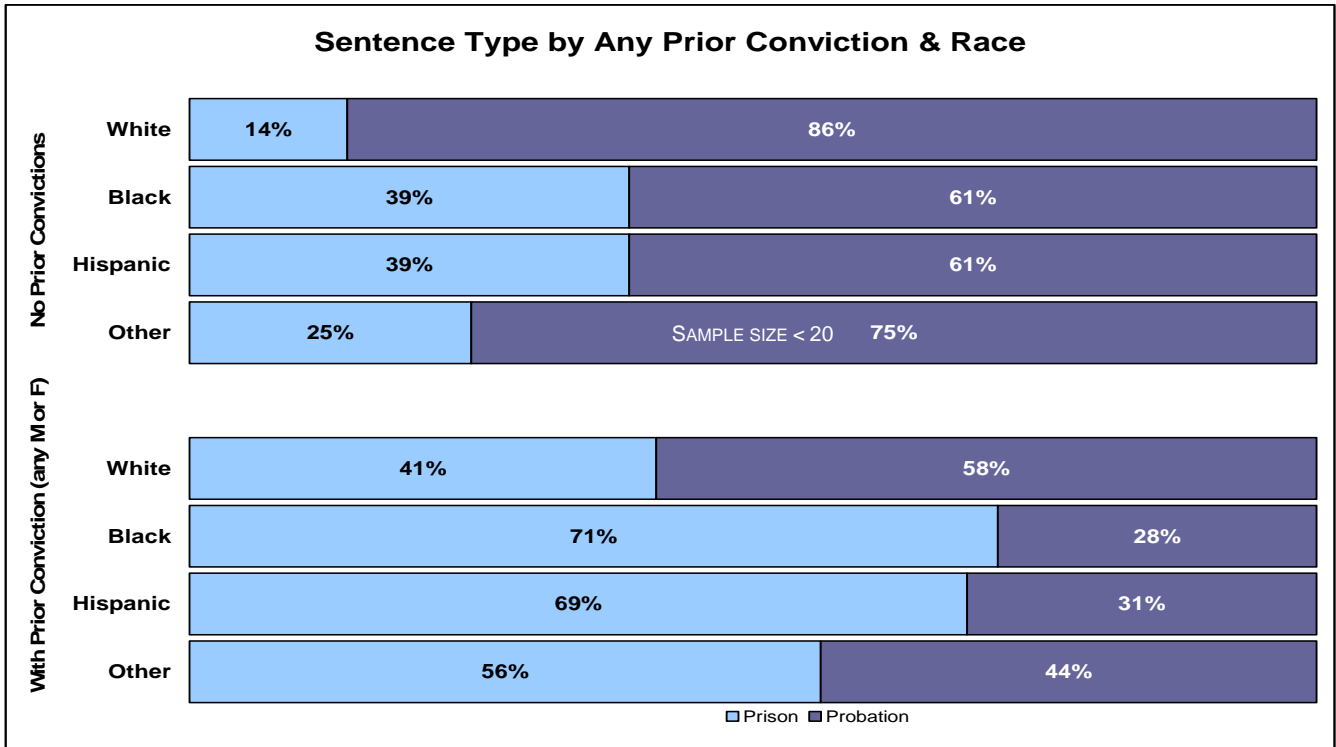
CLASS D FELONY



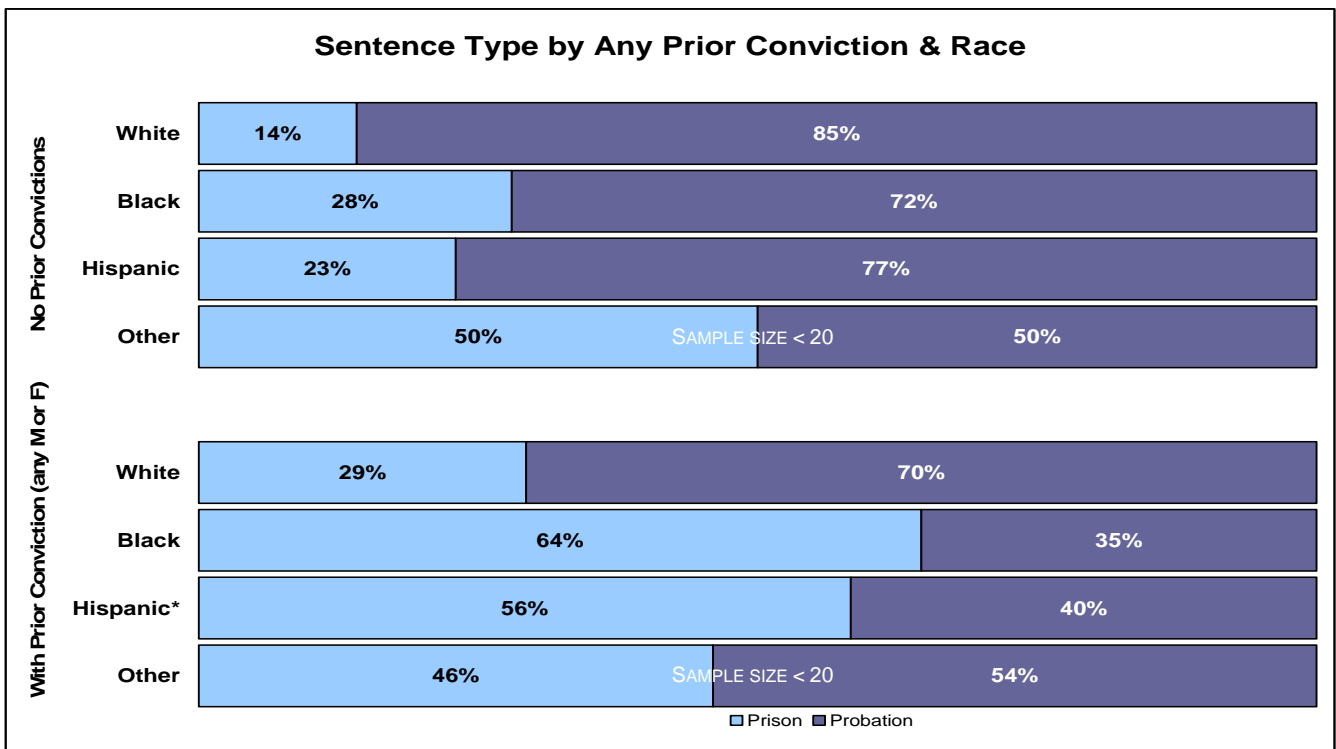
CLASS E FELONY



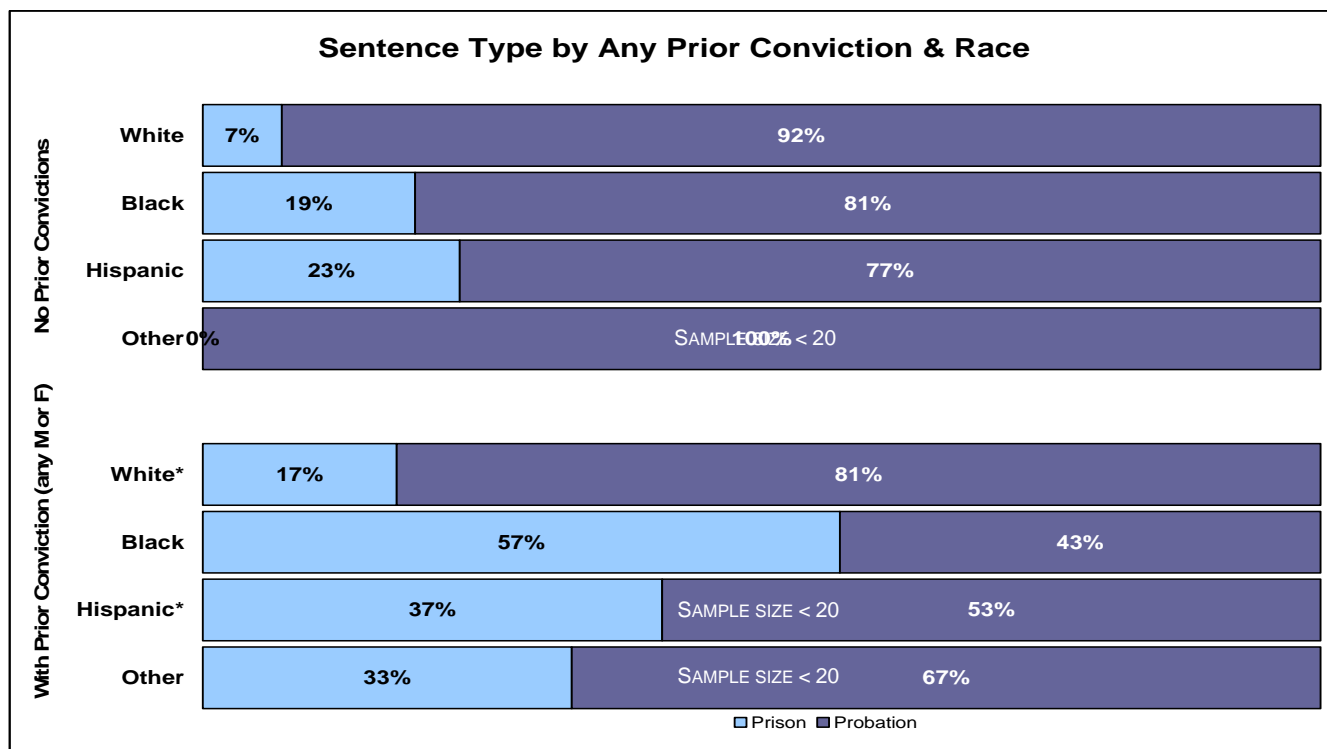
CLASS F FELONY



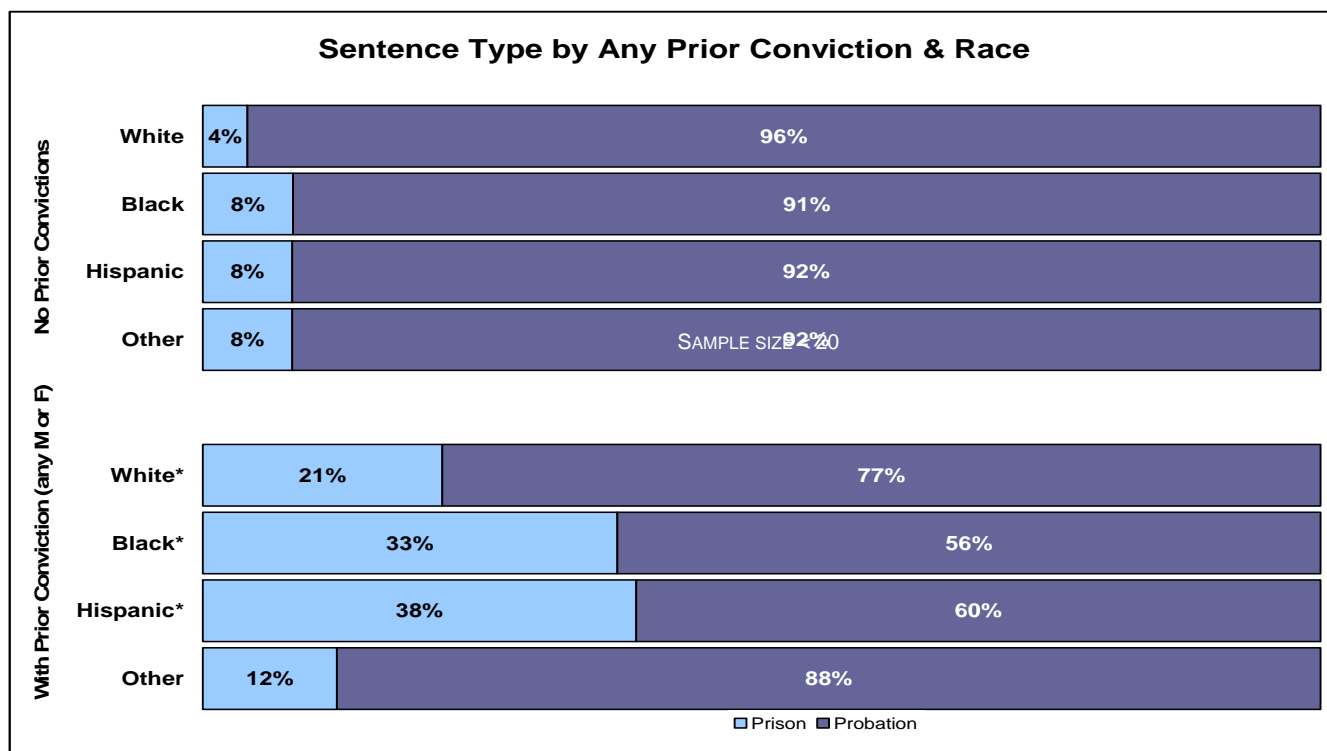
CLASS G FELONY



CLASS H FELONY



CLASS I FELONY



APPENDIX D

Sentence Types by Race & Prior Felony

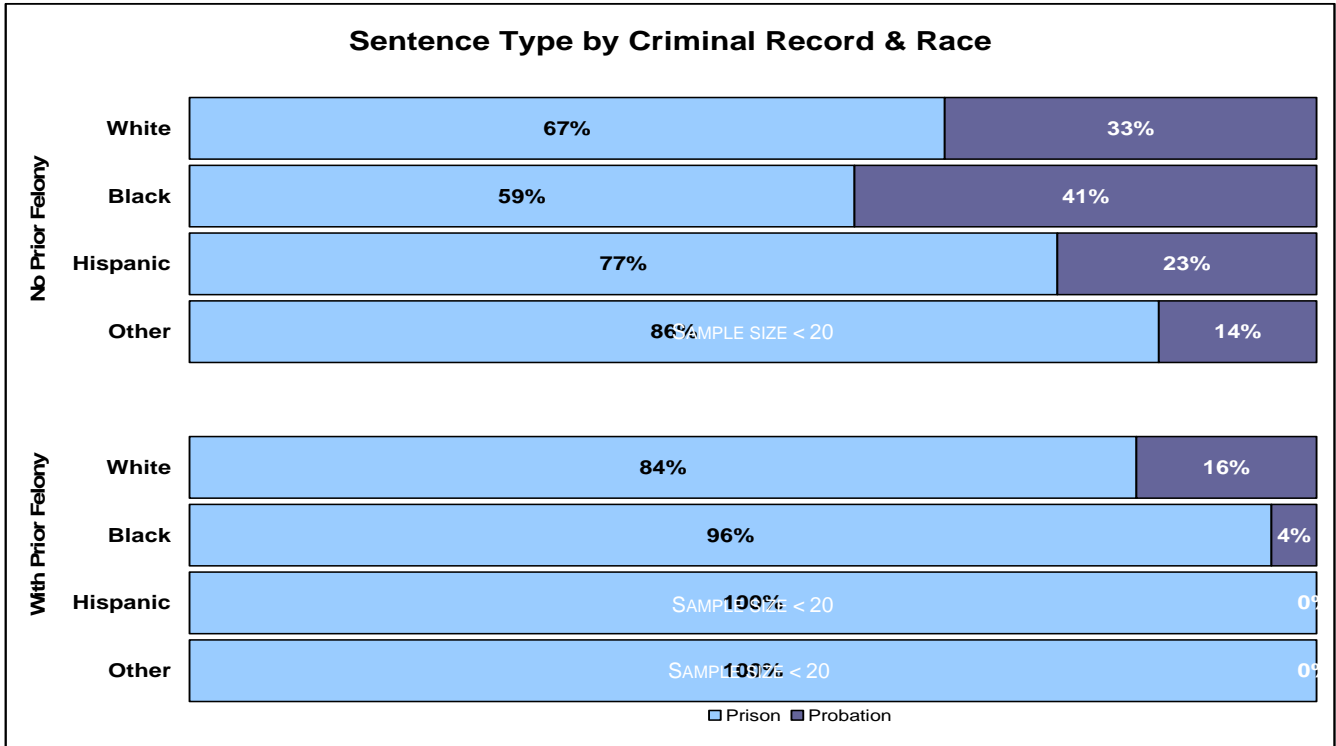
Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

Consistent with the other information in this report, the data is first divided by offense group and then by severity level (felony class). Then, the data is further divided among those offenders with a prior Wisconsin adult felony conviction and those offenders with no prior Wisconsin adult felony convictions. Even offenders with no prior felony convictions may range from having extensive juvenile or misdemeanor records to being “first-time” offenders with no prior criminal activity of any type. Offenders with a prior felony may have one or many prior felonies. These wide variances in each category may account for much of the disparity in the prison/probation decision in the graphs in this section.

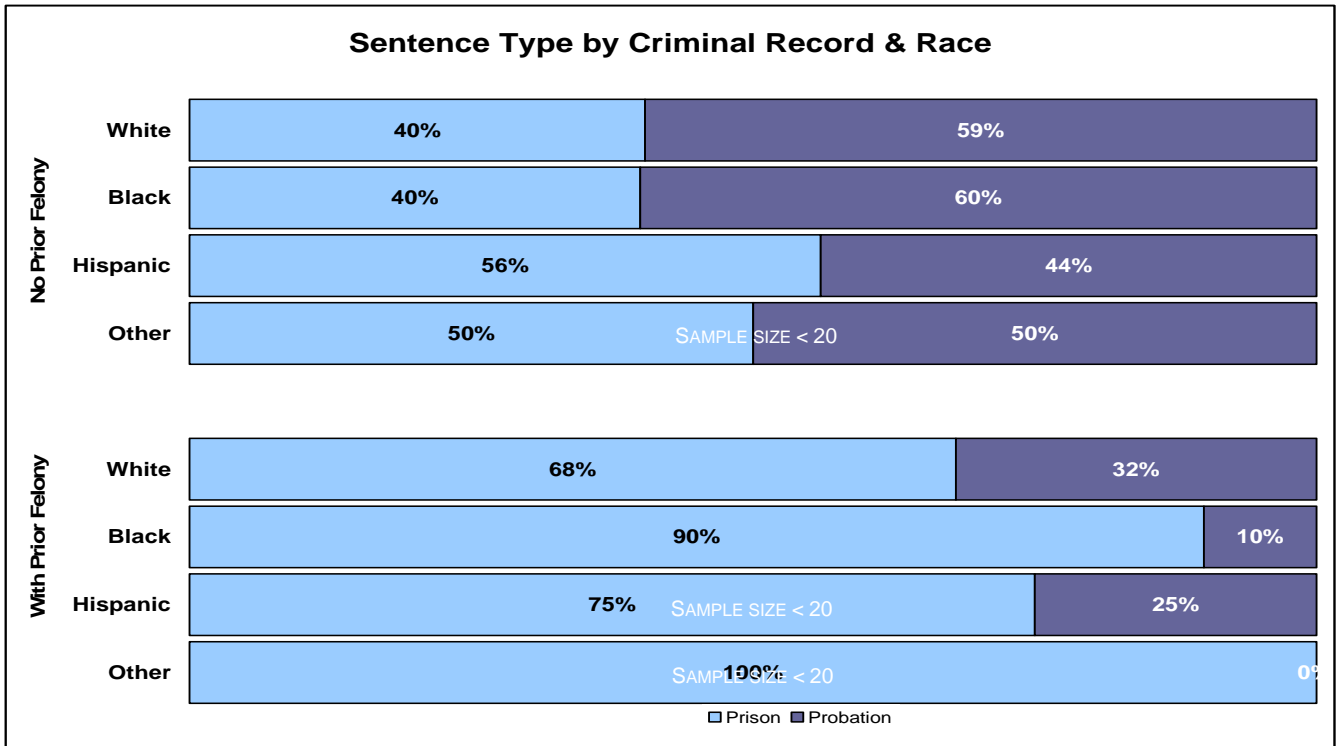
Each graph shows the percentages of offenders with prior felonies and of offenders without prior felonies sentenced to either prison or probation. This allows a visual comparison of racial disparity in the prison/probation decision for offenders with similar criminal records, across racial lines.

SEXUAL ASSAULT OF A CHILD

CLASS B FELONY

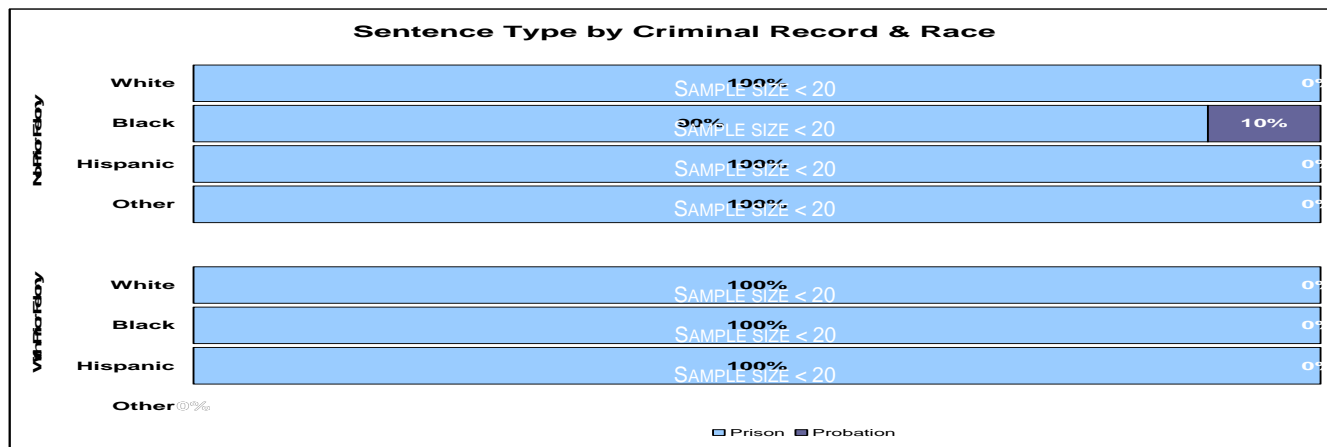


CLASS C FELONY

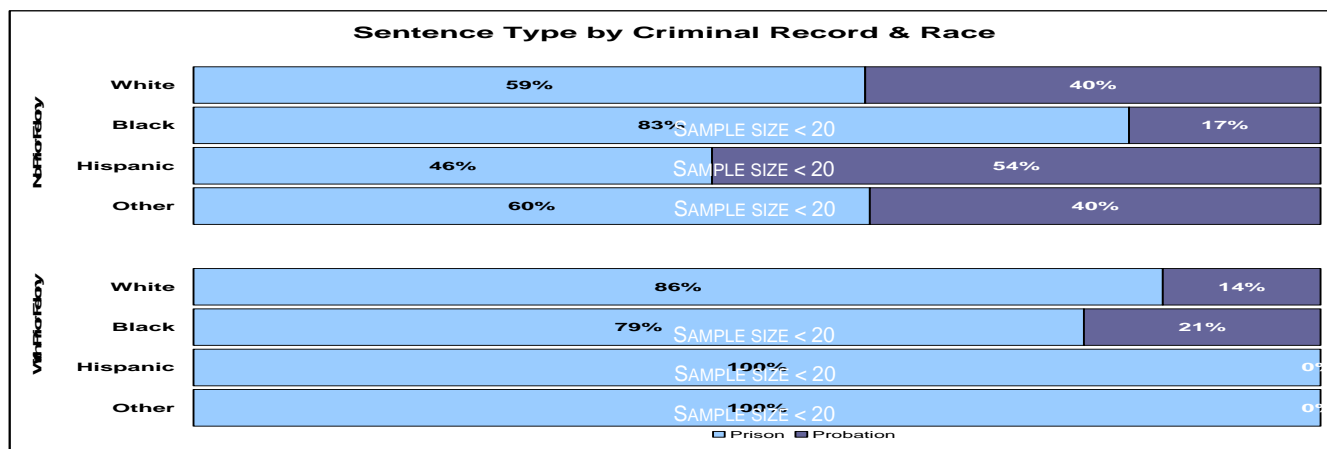


SEXUAL ASSAULT

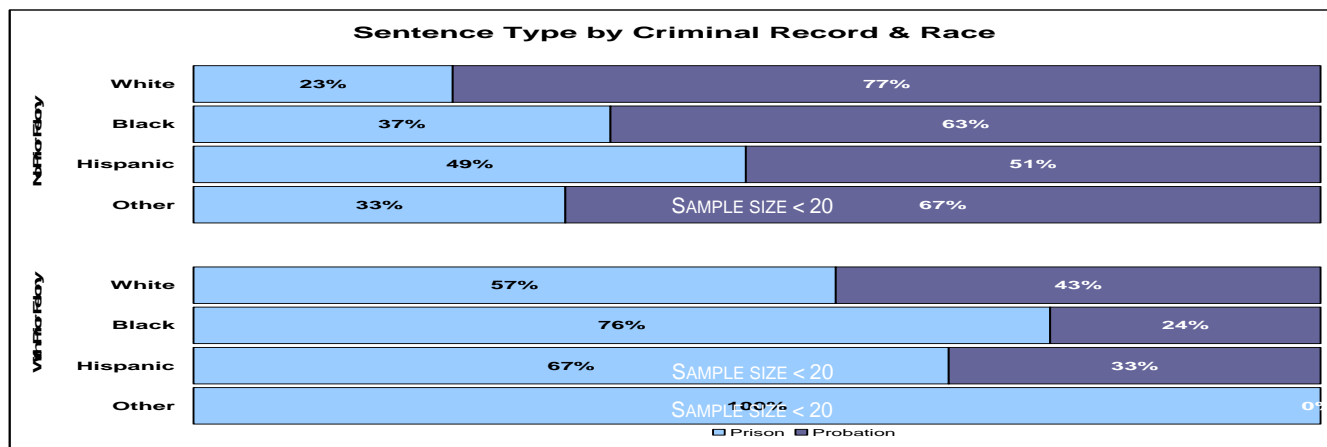
CLASS B FELONY



CLASS C FELONY

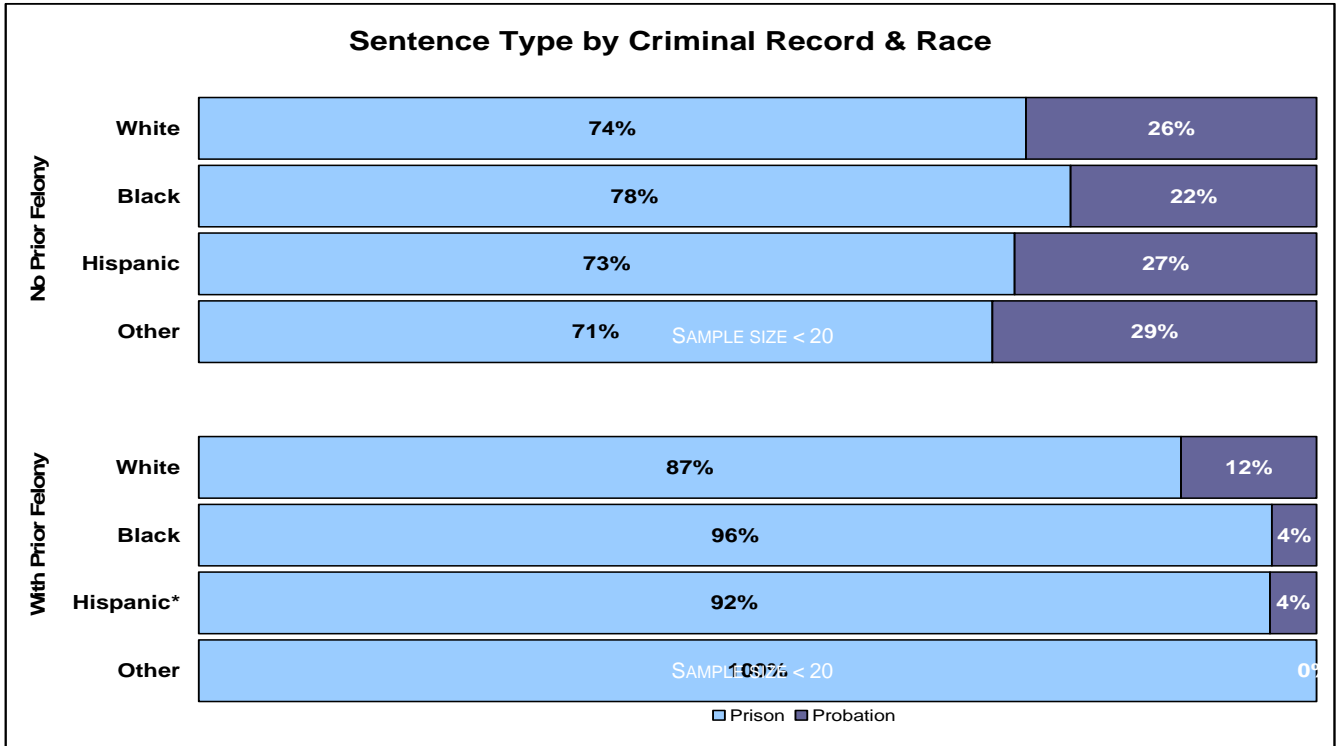


CLASS G FELONY

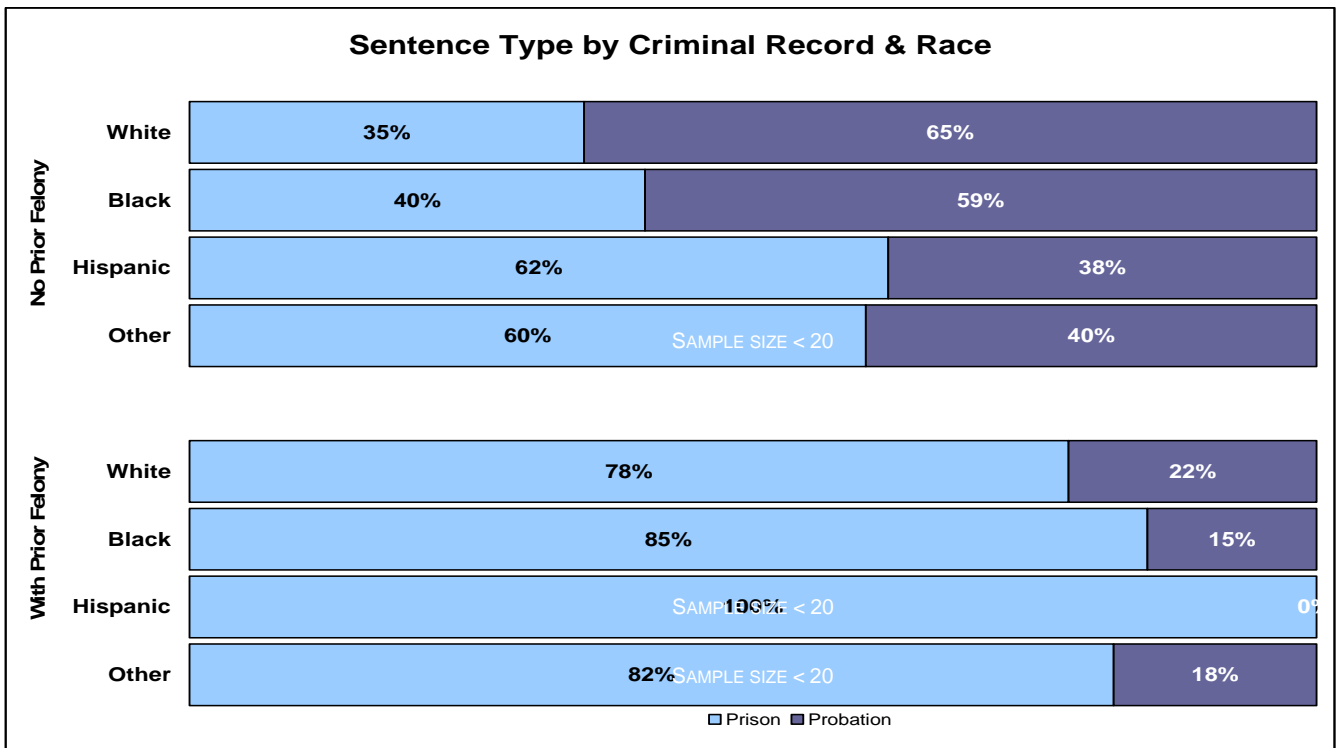


ROBBERY / ARMED ROBBERY

CLASS C FELONY

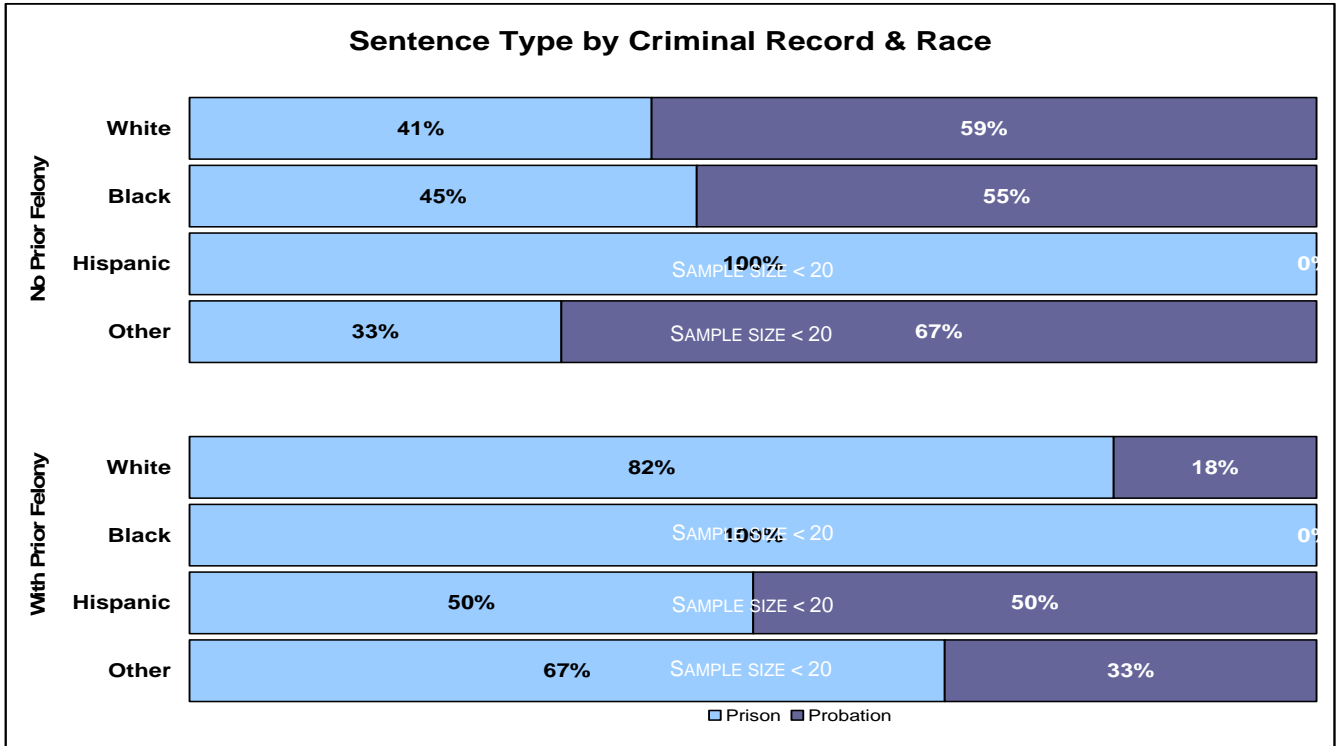


CLASS E FELONY

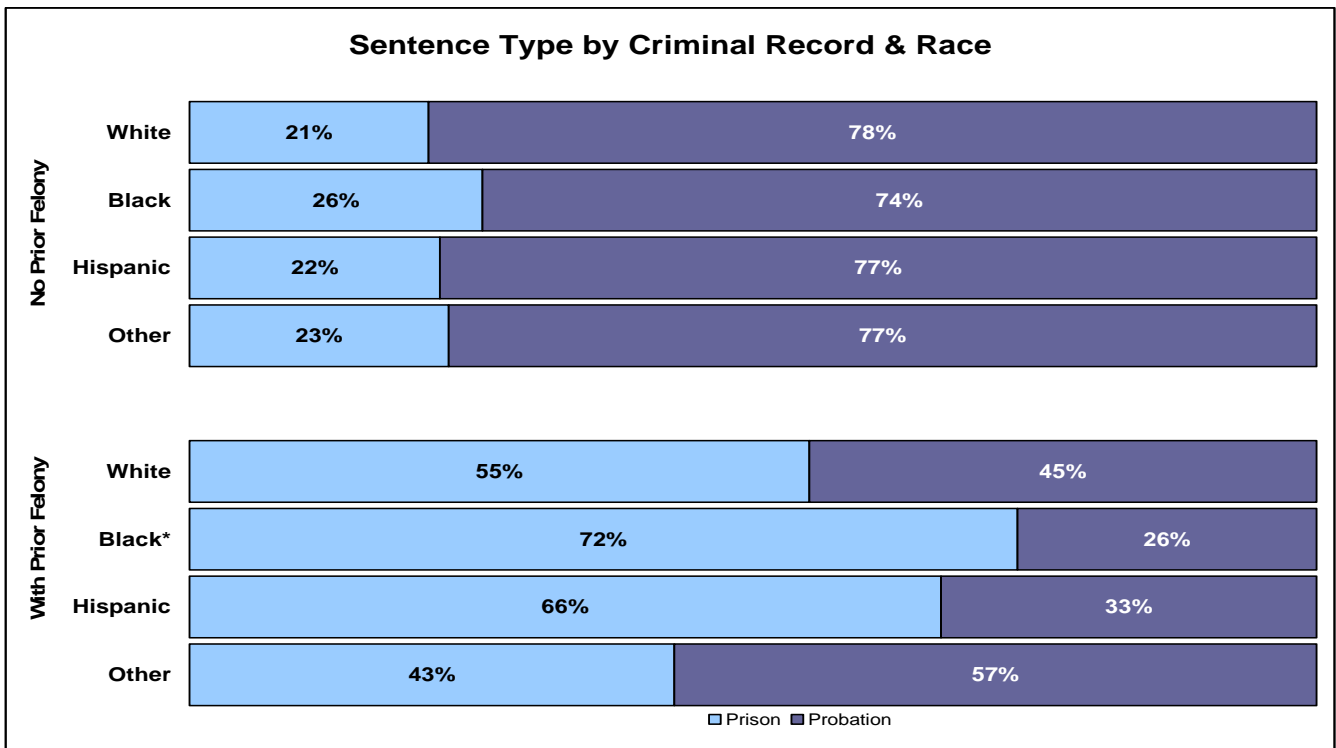


BURGLARY

CLASS E FELONY

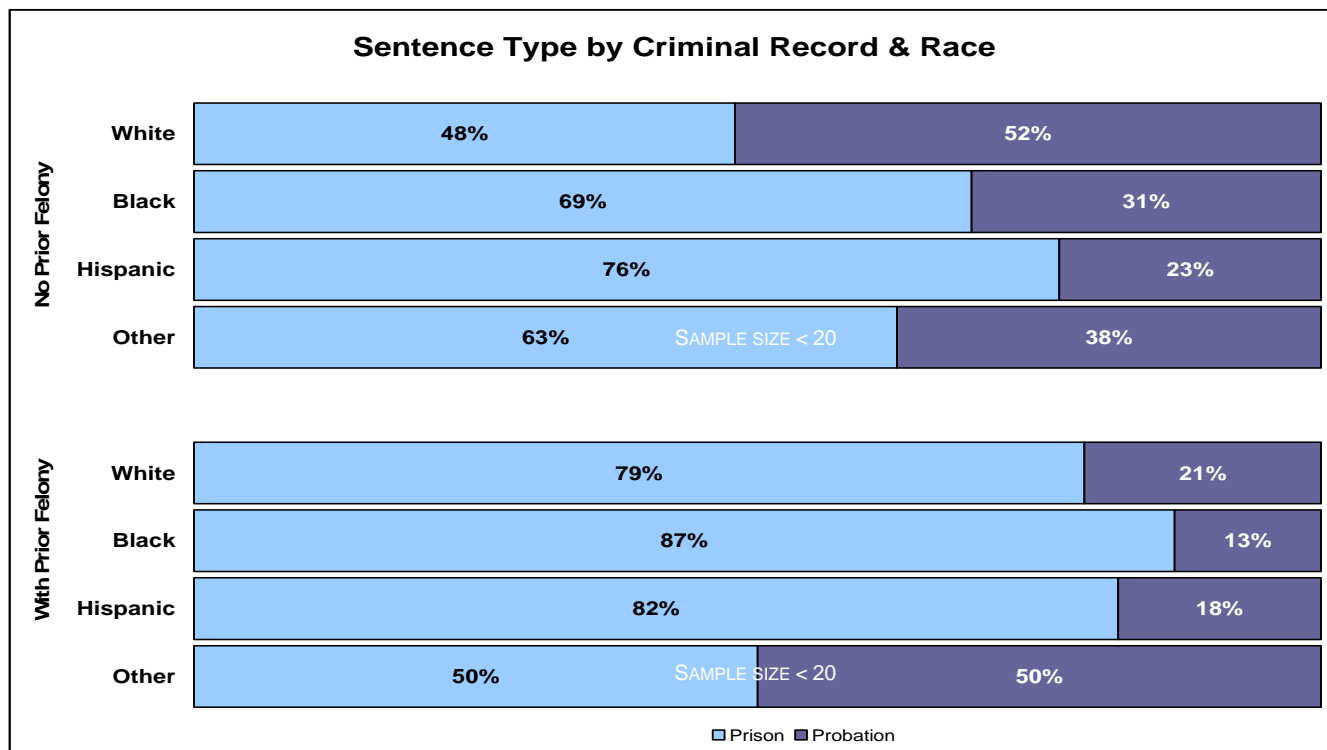


CLASS F FELONY

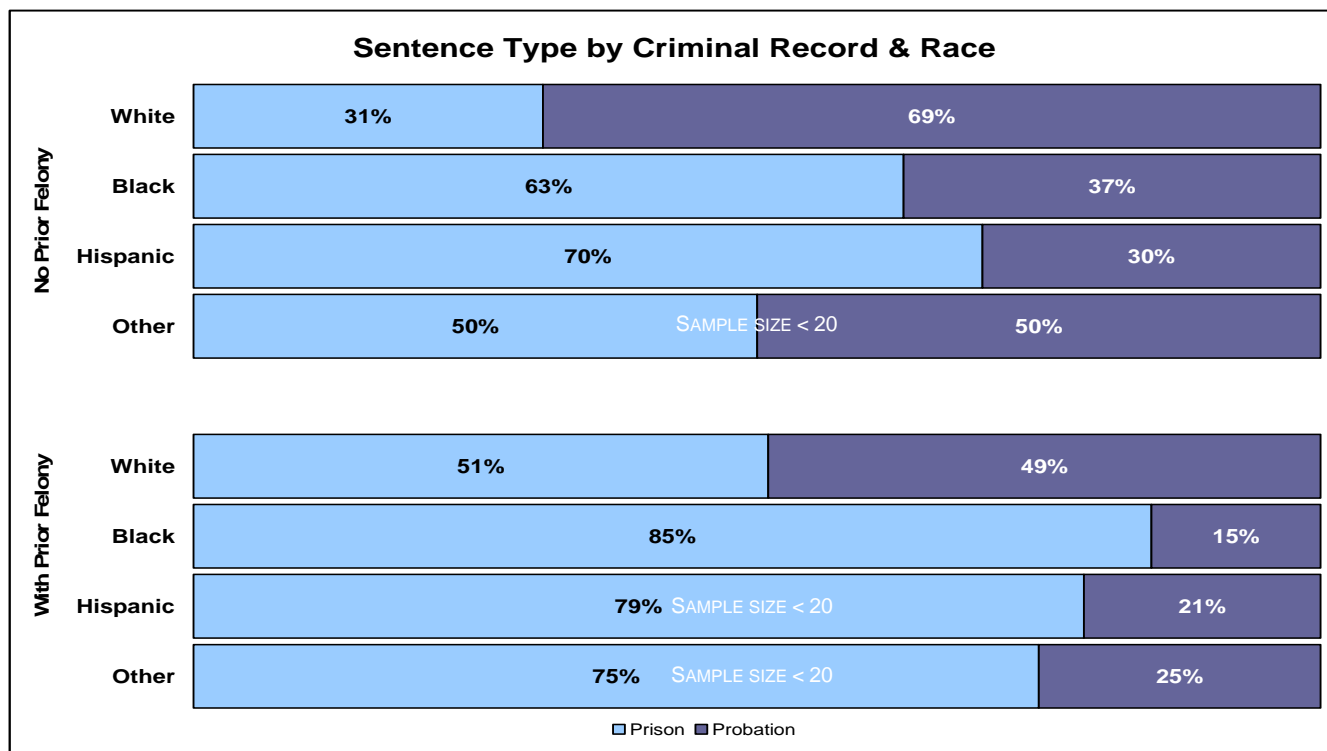


DRUG TRAFFICKING

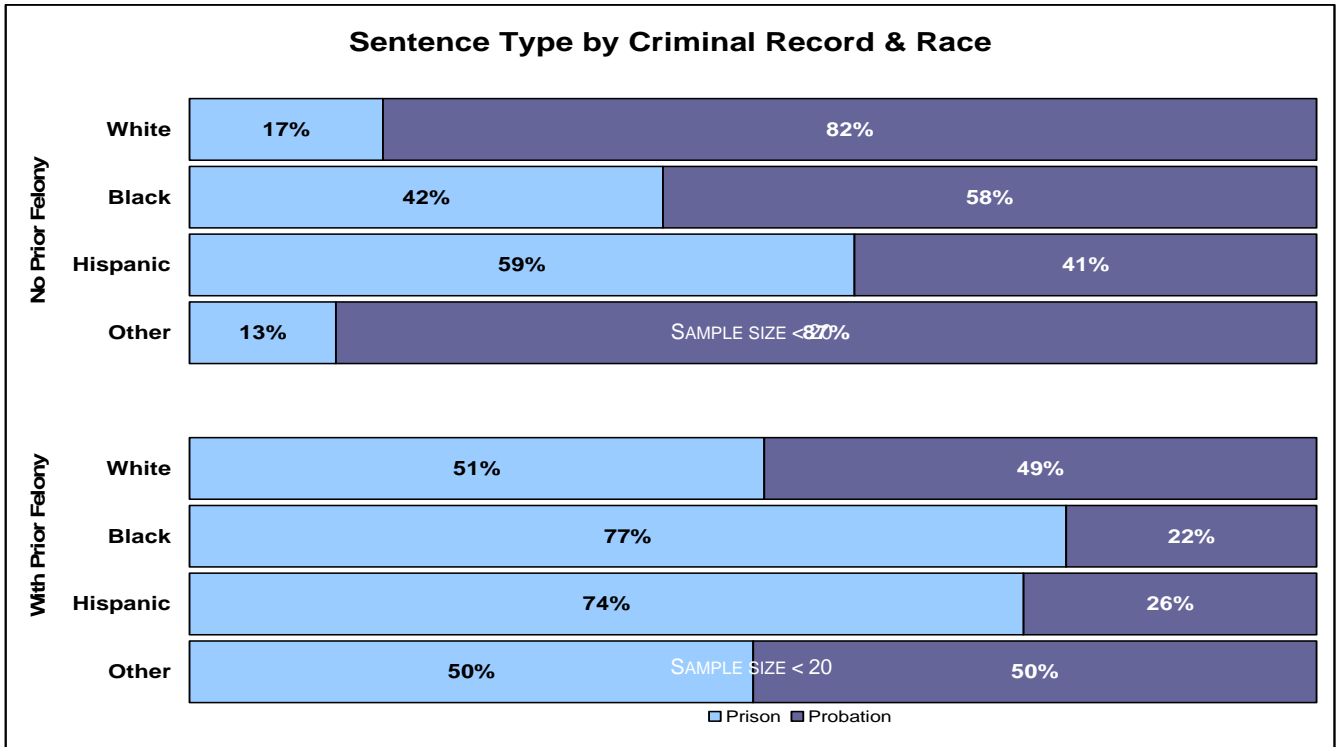
CLASS C FELONY



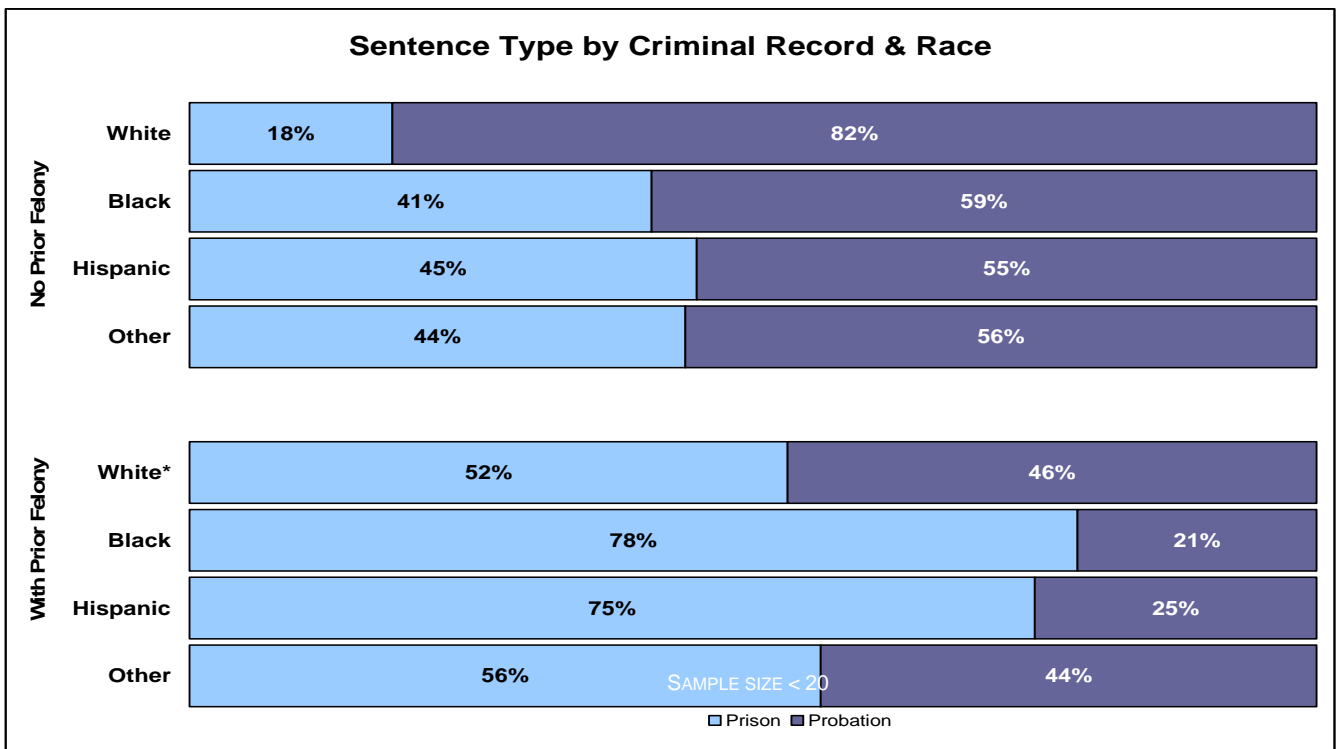
CLASS D FELONY



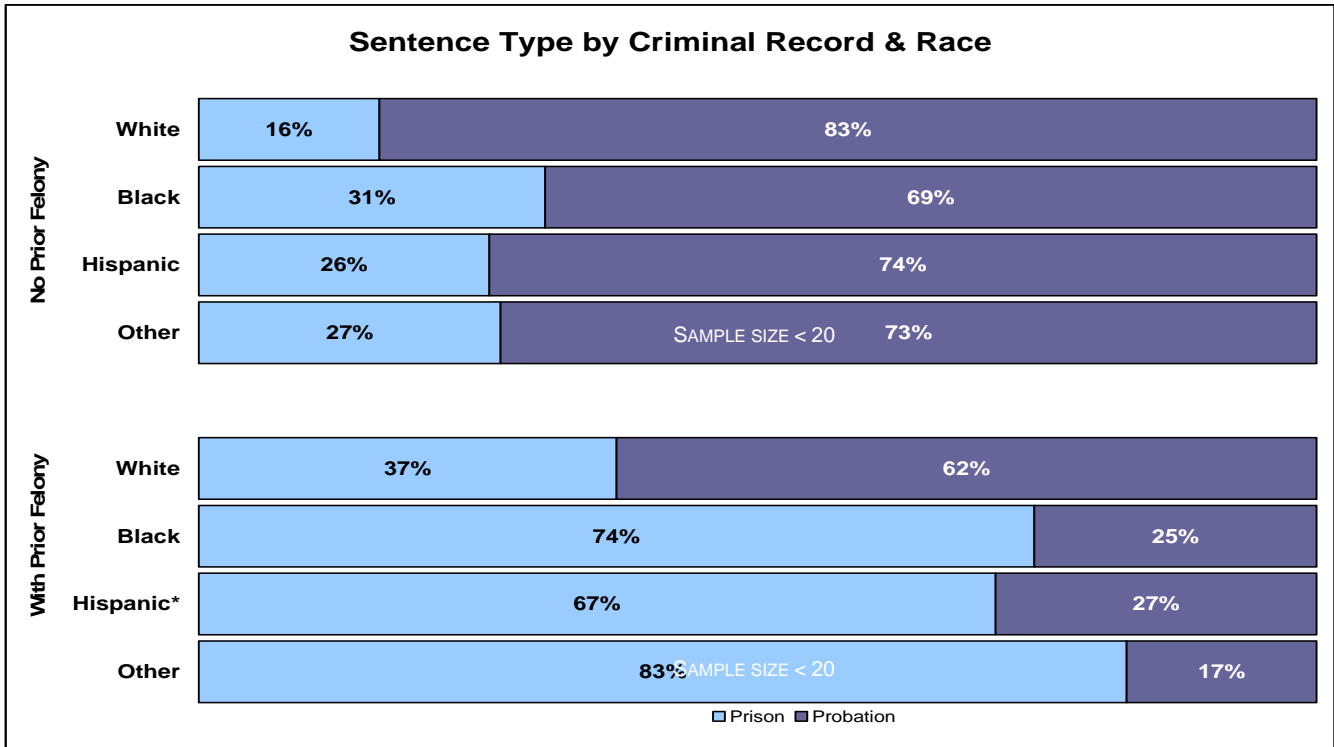
CLASS E FELONY



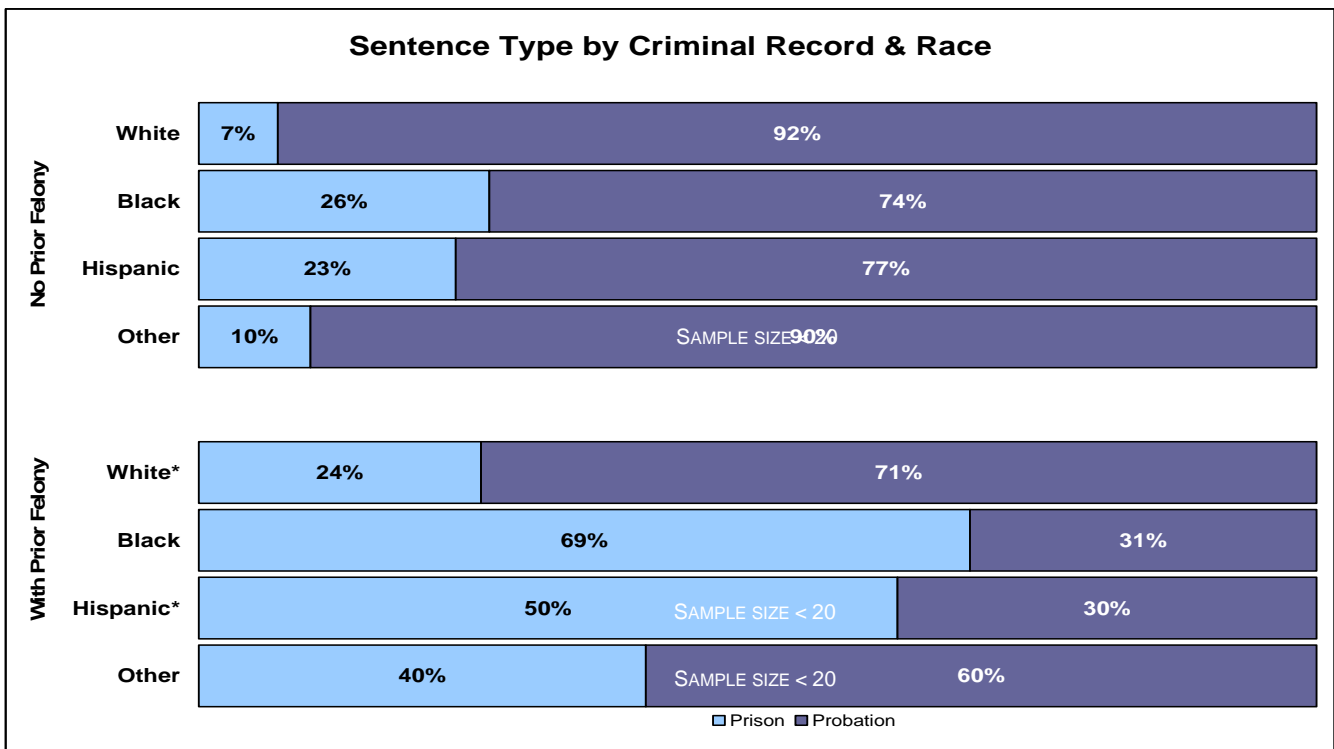
CLASS F FELONY



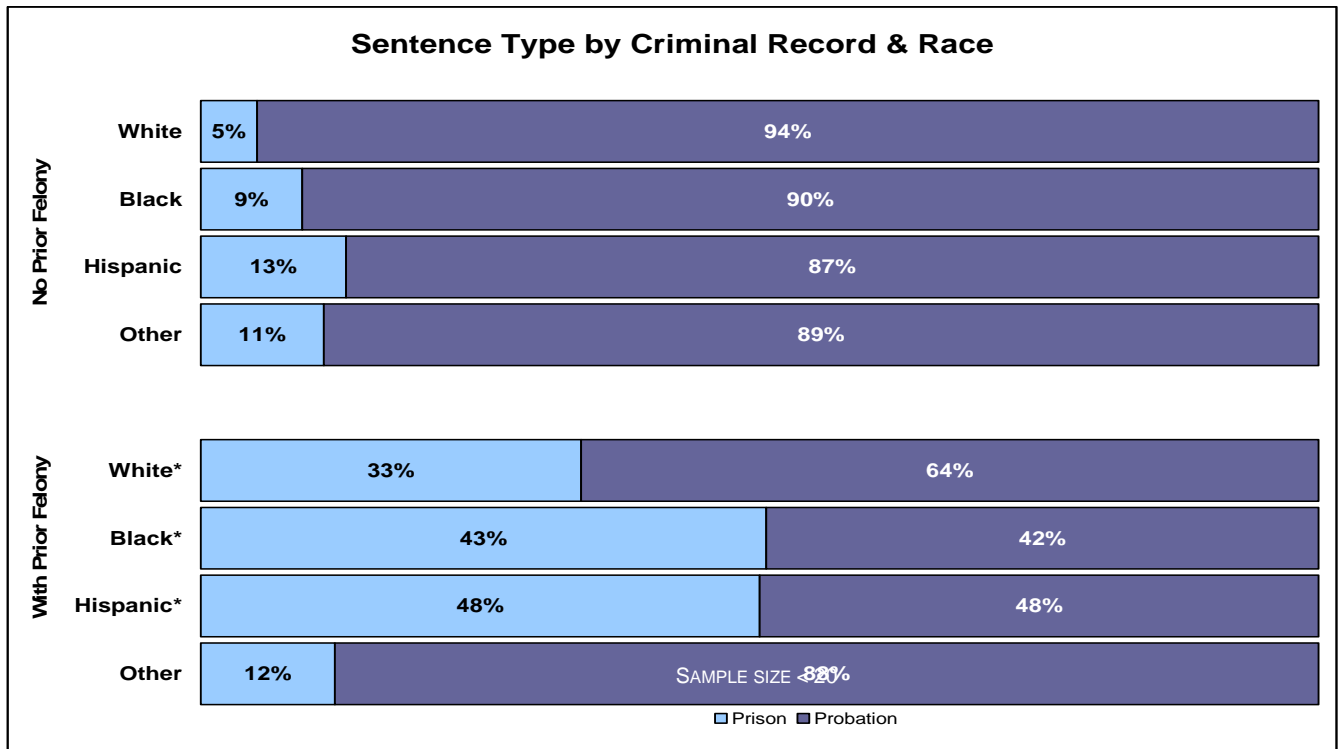
CLASS G FELONY



CLASS H FELONY



CLASS I FELONY



APPENDIX E

Sentence Types by Drug Type

Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

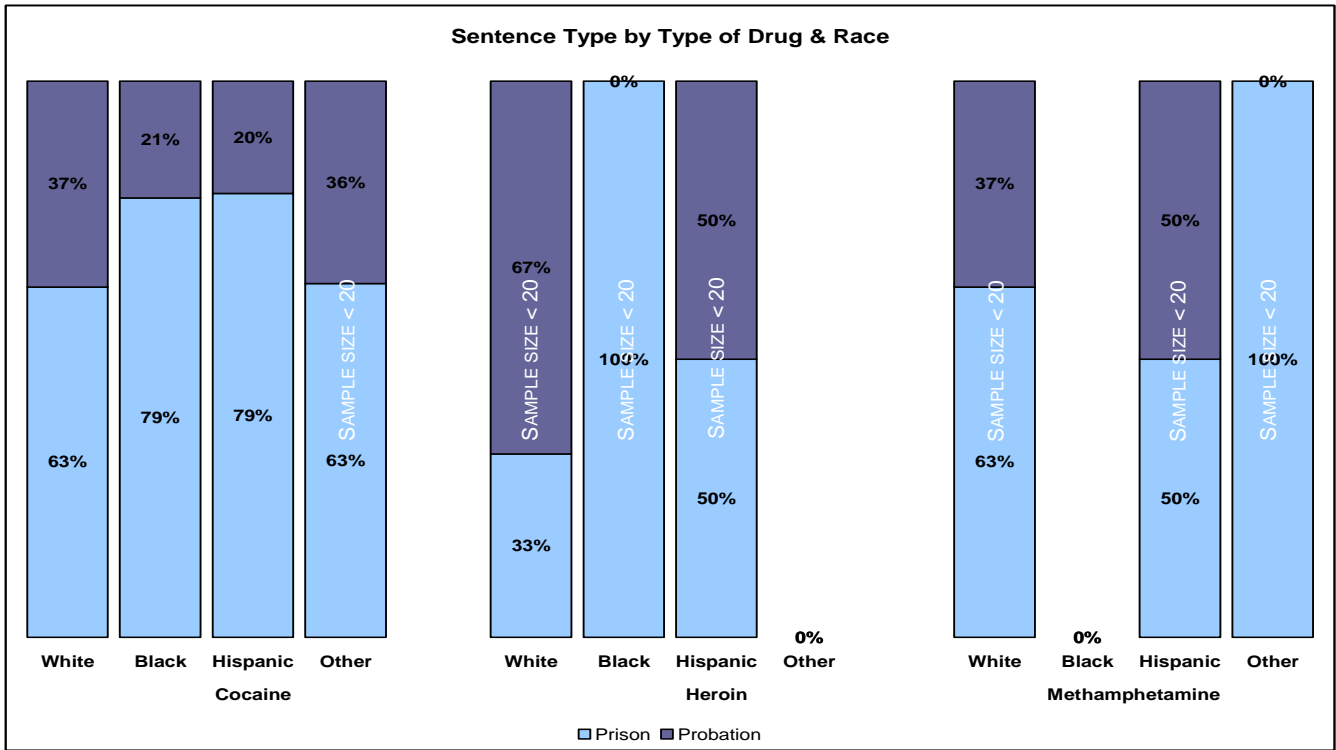
Consistent with the other information in this report, the data is divided by severity level (felony class). Only *Drug Trafficking* offenses are included in this section. Then, the data is further divided by the type of drug involved: Cocaine or Cocaine-base, Heroin, Methamphetamine, LSD, and THC. *Drug Trafficking* offenses involving “other” types of drug have been excluded due to small sample sizes.

Each graph shows the percentages of offenders sentenced to either prison or probation by race, by the type of drug involved. This allows a visual comparison of racial disparity in the prison/probation decision for offenders convicted for the same type of drug, across racial lines.

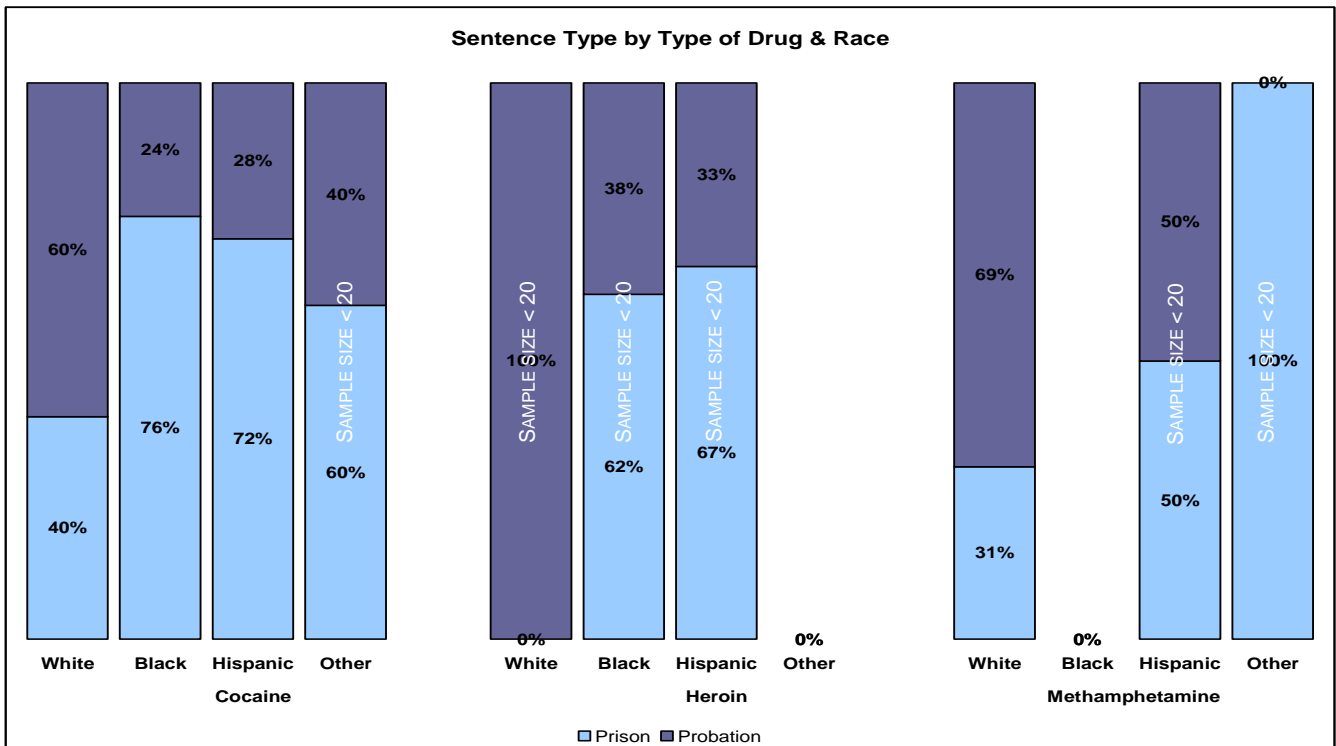
Where a particular drug type does not face exposure to penalties of a particular felony class, it has been excluded. For instance, only offenses involving Cocaine, Heroin, and Methamphetamine face exposure for conviction of a C Felony. LSD and THC do not face exposure for a C Felony and have been excluded from this graph. Conversely, for H and I Felonies, THC is the only type of drug included in the graph.

DRUG TRAFFICKING

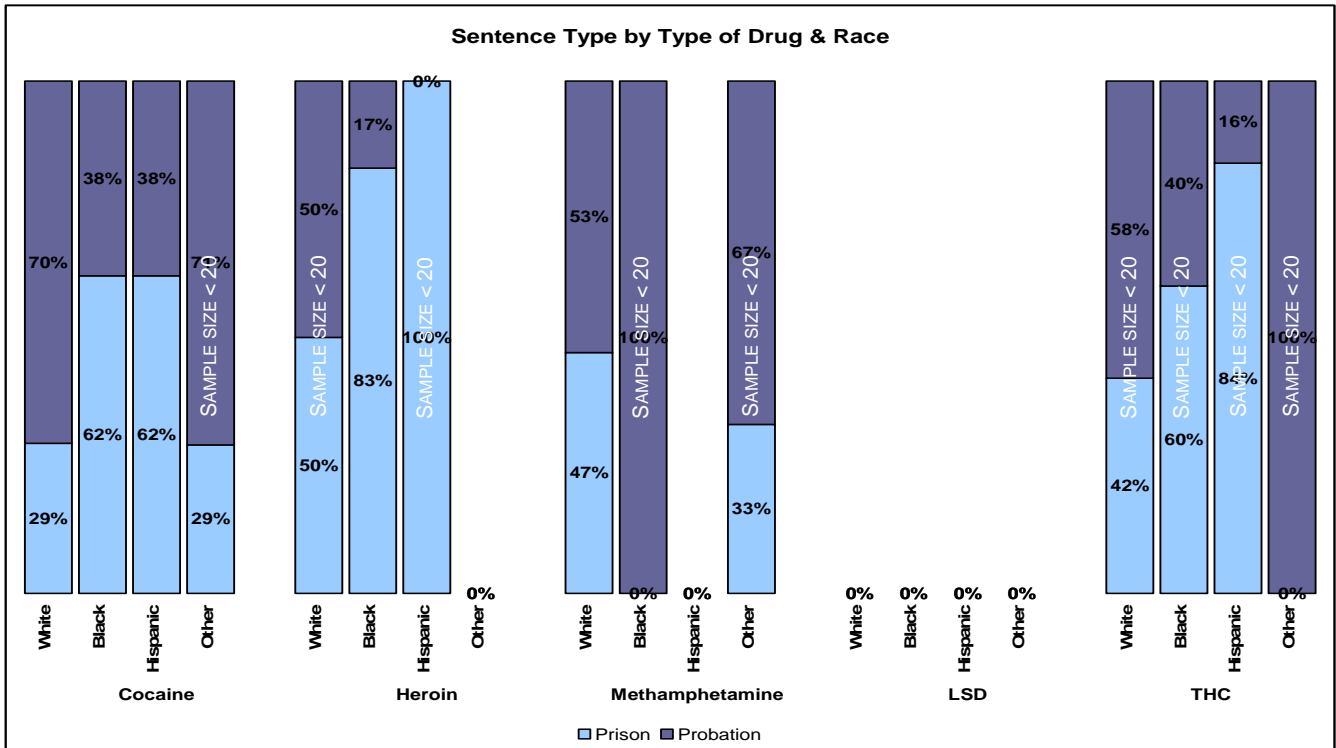
CLASS C FELONY



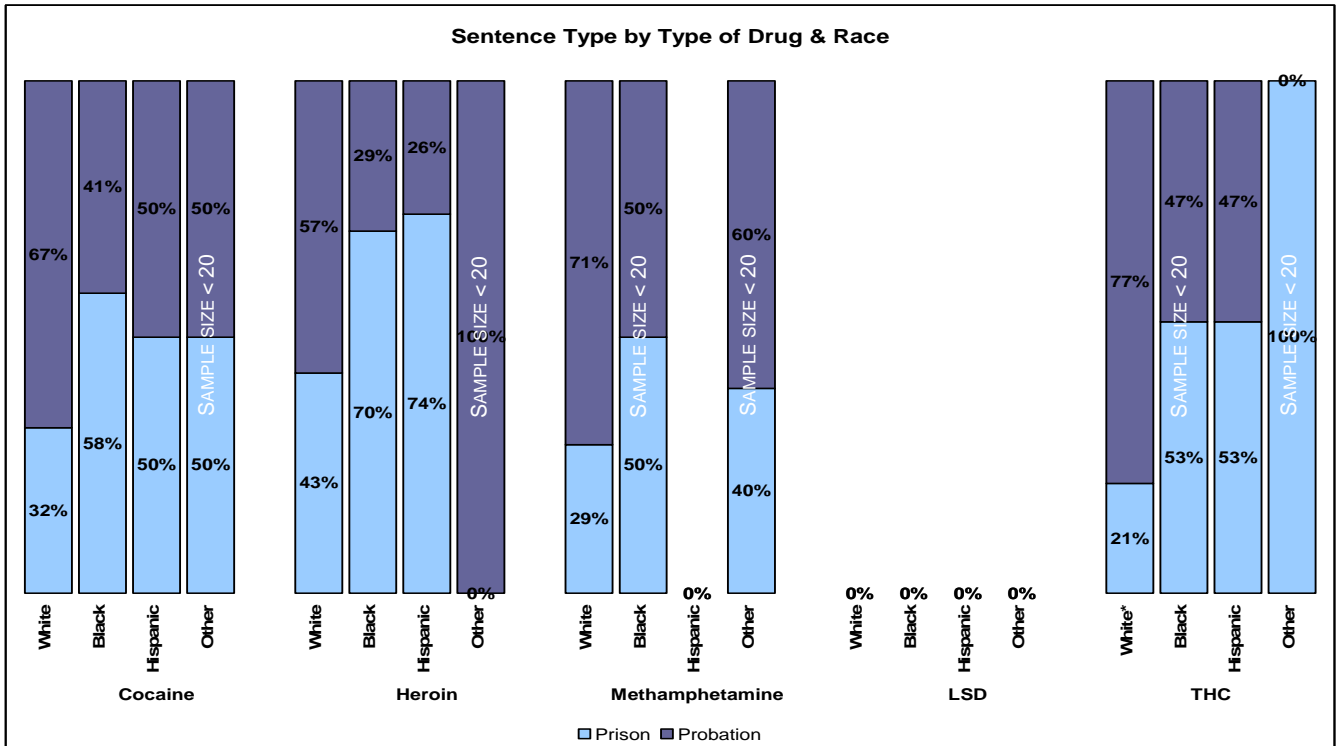
CLASS D FELONY



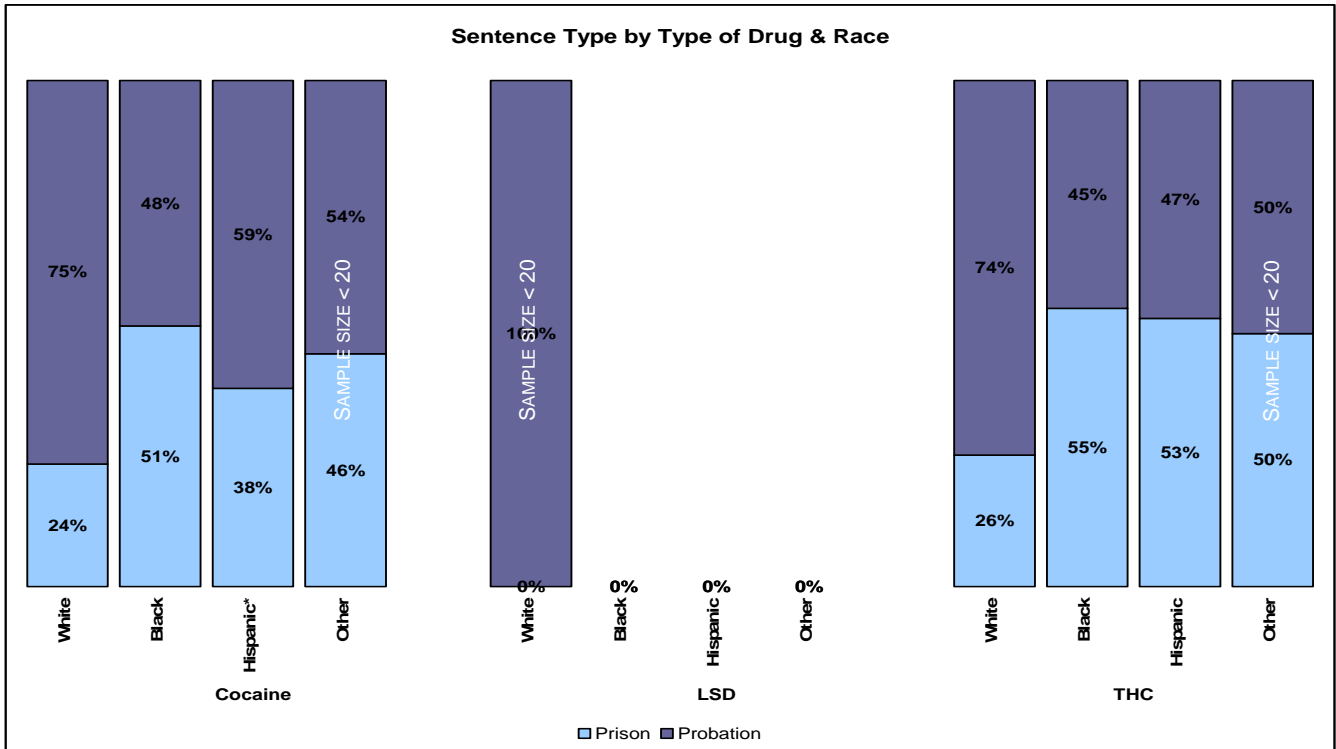
CLASS E FELONY



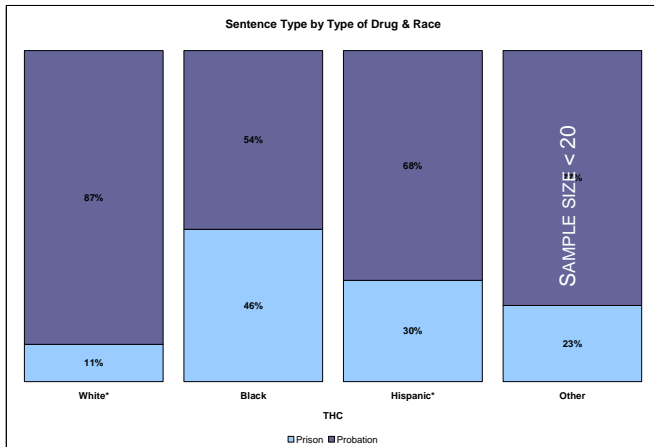
CLASS F FELONY



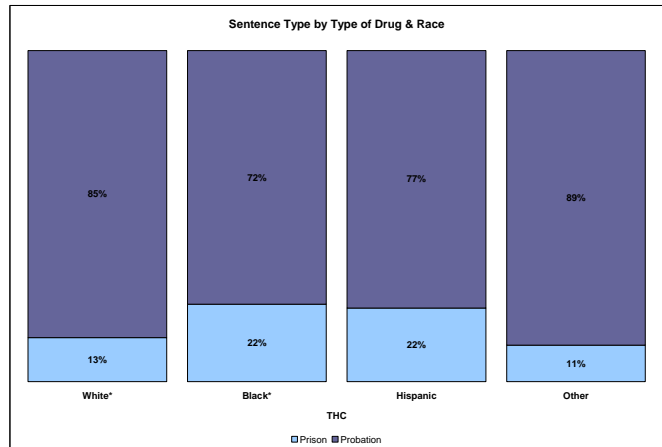
CLASS G FELONY



CLASS H FELONY



CLASS I FELONY



APPENDIX F

Drug Trafficking Case Characteristics: Milwaukee Compared to Rest of State

Only *Drug Trafficking* offenses are included in this section. Consistent with the other information in this report, the data is divided by severity level (felony class). In this section, offenders are divided again between Milwaukee County cases and all other cases from the rest of the state (including Racine/Kenosha, Dane/Rock, Fox Valley, and the Rest of the State divisions used in Appendix A).

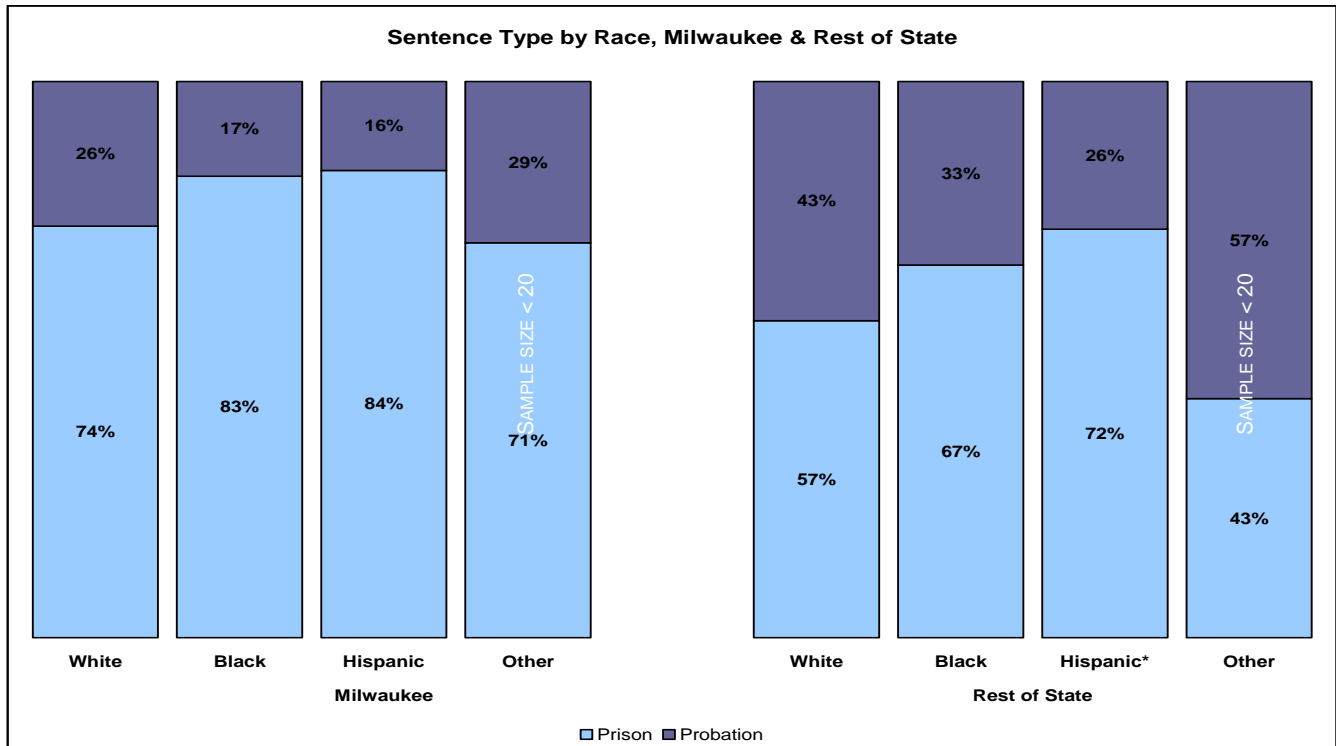
The tables and graphs in this section show offender and sentence characteristics for *Drug Trafficking* cases, by felony class, comparing Milwaukee cases to cases from the rest of the state. In the tables, this symbol (“+”) indicates where sample size is less than 20.

The graphs show the percentages of offenders sentenced to either prison or probation by race, for each felony class, comparing Milwaukee and the rest of the state. This allows a visual comparison of racial disparity in the prison/probation decision for offenders across racial lines, for Milwaukee and the rest of the state. Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

SAMPLE SIZE BY SEVERITY LEVEL, RACE & REGION (Milwaukee & Rest of State)										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE	ROS	MKE	ROS
C Felony	27	72	149	48	62	72	7	7	245	199
D Felony	28	117	143	84	18	56	3	9	192	266
E Felony	55	302	246	194	47	56	2	19	350	571
F Felony	60	477	646	511	74	52	13	35	793	1075
G Felony	73	260	1573	321	101	36	7	10	1754	627
H Felony	39	277	61	28	23	22	0	15	123	342
I Felony	64	891	395	254	53	47	5	40	517	1232

OFFENDER CHARACTERISTICS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average Age*	29	28	29	26	28	28	31	24	29	28
Pct. Male / Female	89/11	83/17	97/3	92/8	90/10	93/7	100/0	86/14	94/6	89/11
Pct. with Prior Felony	37%	46%	62%	35%	24%	32%	29%	57%	49%	39%
Pct. with Prior Prison	22%	19%	47%	23%	17%	24%	14%	14%	36%	22%

*Average = Median (50th percentile); [‡]Sample Size < 20



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

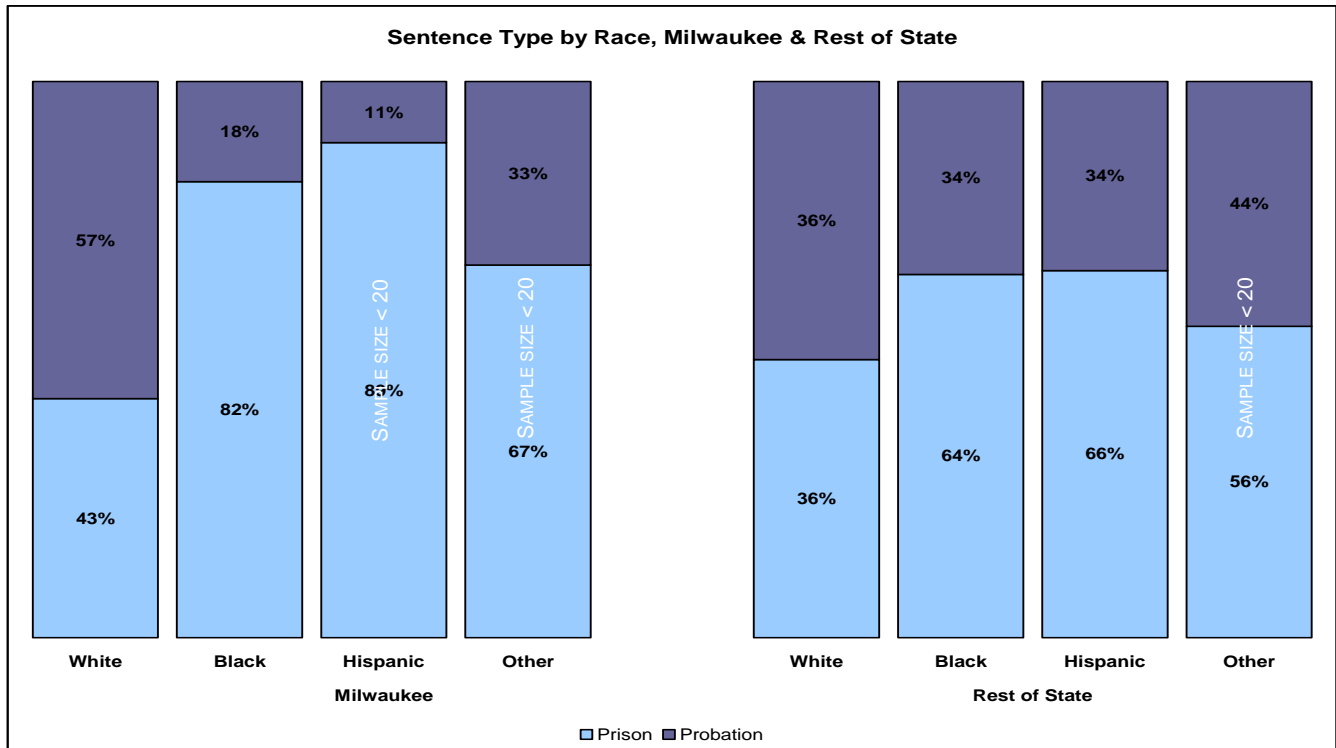
SENTENCE LENGTHS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average*										
Confinement	4	4	3.5	3	3	4	3	3	3	4
Extended Supervision	4.5	4.5	5	3	4	5	4	3	5	4
Probation	4	5	4	5	4	5	3	6	4	5
Range**										
Confinement	2-5	3-5	2.5-5	2-4	2-5	2.5-6	3-3	3-20	2-5	2.5-5
Extended Supervision	3-5	3-6	3-6	3-6	3-6	4-6	3-4	0-5	3-6	3-6
Probation	3-4	5-6	3-5	4-6	4-6	4-5.5	3-3	4-8	3-5	5-6

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20.

OFFENDER CHARACTERISTICS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE [‡]	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average Age*	25	25	27	25	28	28	25	24	27	26
Pct. Male / Female	86/14	79/21	93/7	90/10	83/17	93/7	100/0	67/33	91/9	85/15
Pct. with Prior Felony	21%	33%	54%	58%	28%	16%	33%	33%	46%	38%
Pct. with Prior Prison	7%	16%	41%	33%	17%	7%	0%	22%	33%	20%

*Average = Median (50th percentile); [‡]Sample Size < 20



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

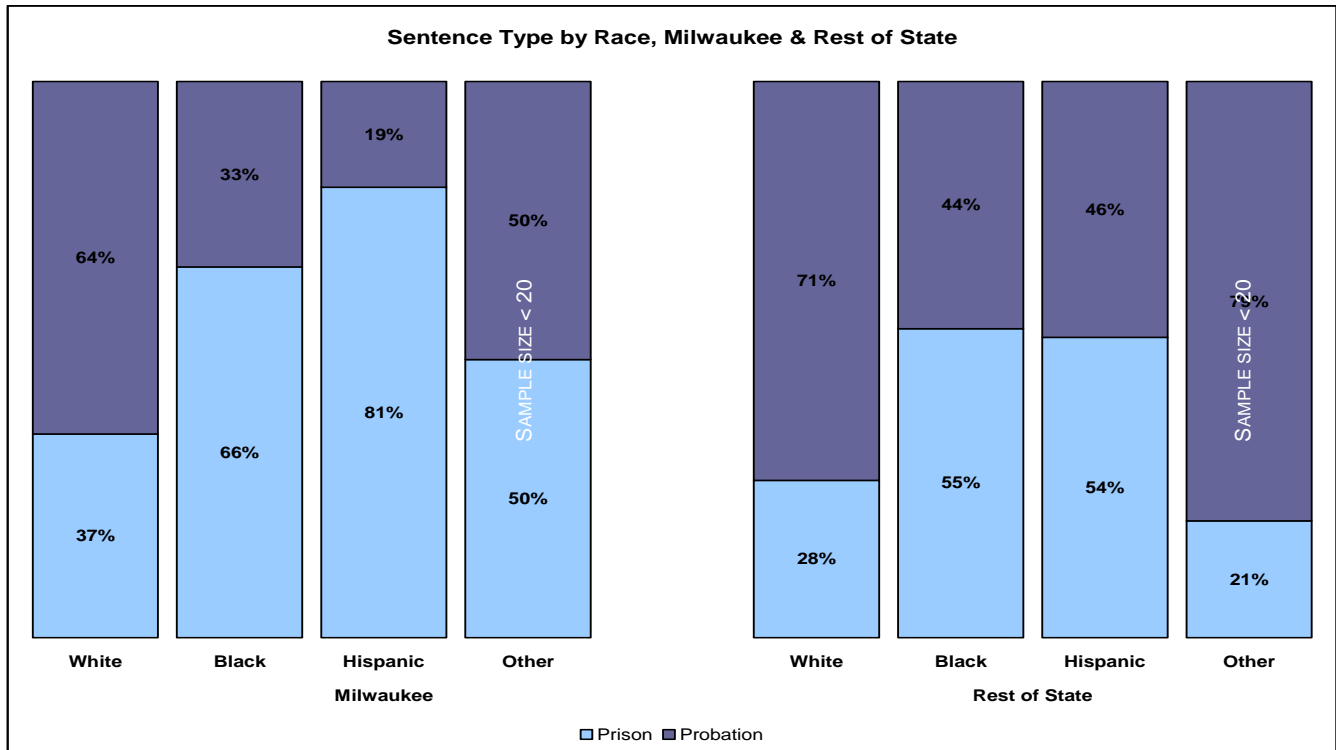
SENTENCE LENGTHS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE [‡]	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average*										
Confinement	2	3	2.5	2.5	2.5	3	3	4	2.5	3
Extended Supervision	3	4	3	4.5	3.3	3.5	3	5	3	4
Probation	5	3	3	5	4	5	4	5	3	5
Range**										
Confinement	1-3	2-4	2-3	2-3.5	2-3	2-4	1.5-4	2-4	1.5-3	2-4
Extended Supervision	2-5	2.5-5	2.5-5	3-6	2.5-4	3-5	1.5-4	4-5	2.5-5	3-5
Probation	3-6	3-4	3-4	4-7	3-5	4-5	4-4	4-7	3-4	4-6

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20

OFFENDER CHARACTERISTICS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average Age*	27	28	27	26	28	25	31	29	27	27
Pct. Male / Female	76/24	78/22	93/7	90/10	89/11	89/11	50/50	68/32	89/11	83/17
Pct. with Prior Felony	27%	39%	54%	57%	45%	40%	50%	26%	48%	45%
Pct. with Prior Prison	22%	16%	36%	32%	36%	16%	50%	5%	34%	21%

*Average = Median (50th percentile); [‡]Sample Size < 20



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

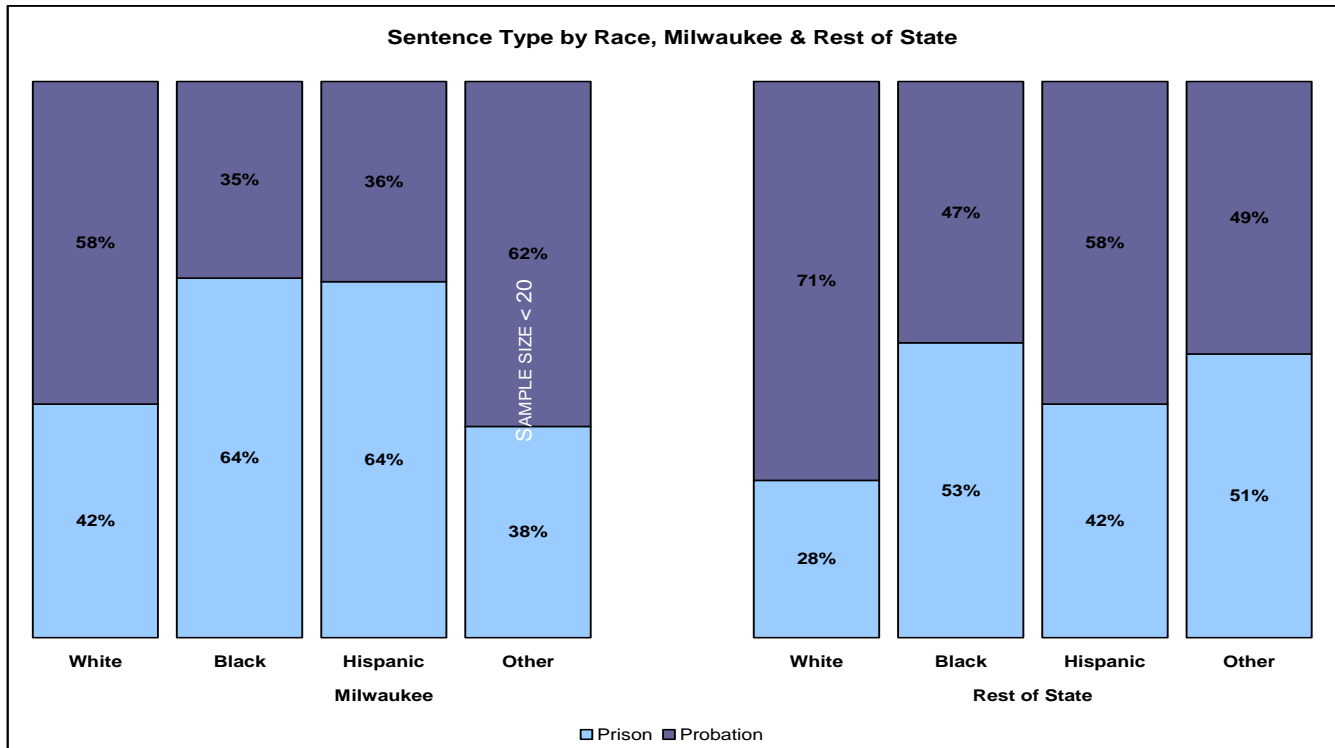
SENTENCE LENGTHS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average*										
Confinement	2	2.5	2	2	2.5	3	1.3	2	2	2.5
Extended Supervision	2.3	2.5	3	3	3	3.7	1.6	2.7	3	3
Probation	3	4	3	4	3	4.5	3	4	3	4
Range**										
Confinement	1.5-3	2-4	2-3	1.5-3	1.5-4	2-4	1.3-1.3	1-2.5	1.6-3	1.5-3
Extended Supervision	1.7-4.5	3-5	2-4	2.5-4	2.5-5	3-4	1.6-1.6	2.5-3	2-4	3-4
Probation	2-4	3-5	3-4	3-5	3-3.3	3-5	3-3	3-5	3-4	3-5

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20

OFFENDER CHARACTERISTICS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS	MKE	ROS
Average Age*	27	27	25	25	26	27	23	26	25	26
Pct. Male / Female	85/15	79/21	93/7	90/10	95/5	94/6	77/23	83/17	92/8	85/15
Pct. with Prior Felony	22%	36%	51%	48%	32%	31%	31%	34%	47%	41%
Pct. with Prior Prison	13%	13%	36%	28%	24%	15%	8%	17%	33%	20%

*Average = Median (50th percentile); [‡]Sample Size < 20



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

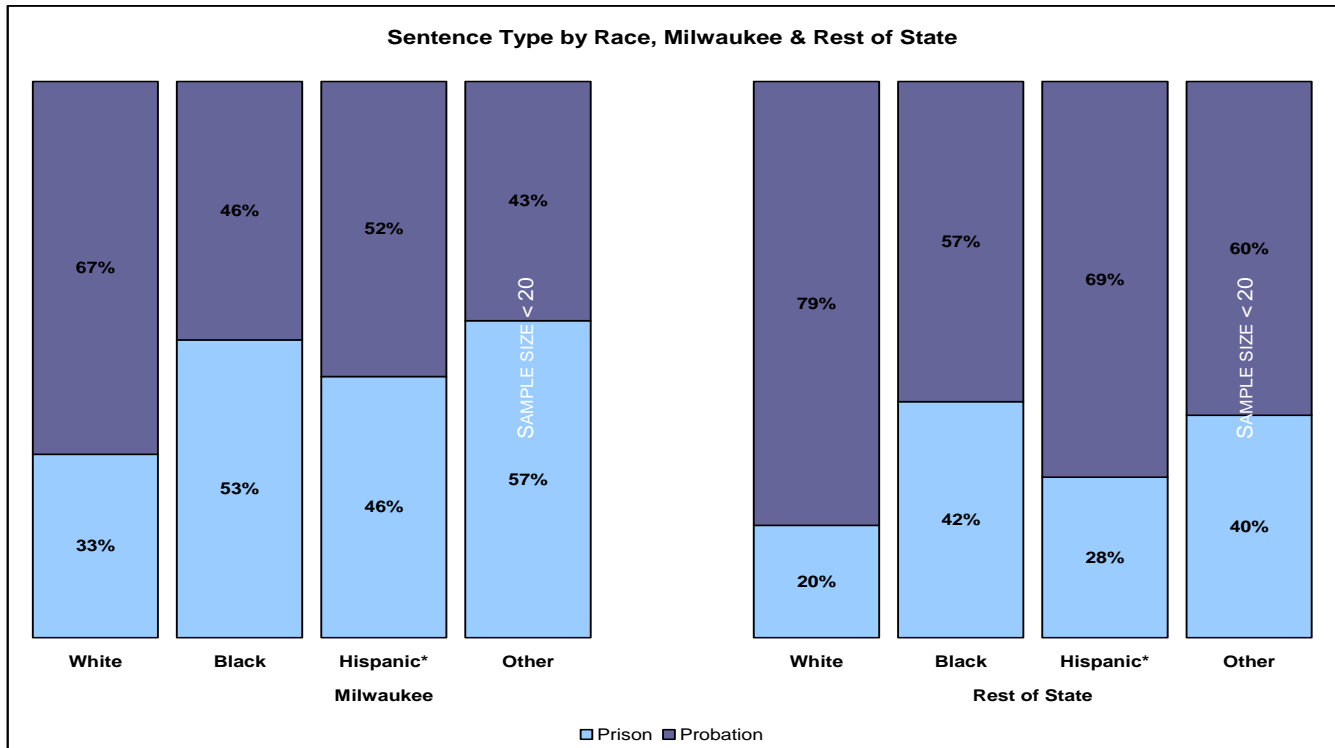
SENTENCE LENGTHS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS	MKE	ROS
Average*										
Confinement	2	2	2	2	2	3	2	2.5	2	2
Extended Supervision	2.5	3	2.5	3	3	3.5	3	3.3	2.5	3
Probation	3	4	3	4	3	4	3	4	3	4
Range**										
Confinement	1-2.5	1.5-3	1.5-2.5	1.5-3	1.5-2.5	2-6	2-3	2-3	1.5-2.5	1.5-3
Extended Supervision	2-3	2.5-4.5	2-3.5	2-4	2-4	2-4.6	2.5-4	2-4	2-3.5	2-4
Probation	3-4	3-5	3-4	3-5	3-3	3-4	2.5-3	3-4	3-3.5	3-5

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20

OFFENDER CHARACTERISTICS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average Age*	30	29	27	26	28	29	26	25	27	27
Pct. Male / Female	67/33	70/30	87/13	83/17	87/13	81/19	100/0	80/20	86/14	77/23
Pct. with Prior Felony	27%	34%	47%	48%	36%	42%	29%	40%	46%	41%
Pct. with Prior Prison	15%	12%	33%	25%	21%	28%	29%	10%	32%	19%

*Average = Median (50th percentile); [‡]Sample Size < 20



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

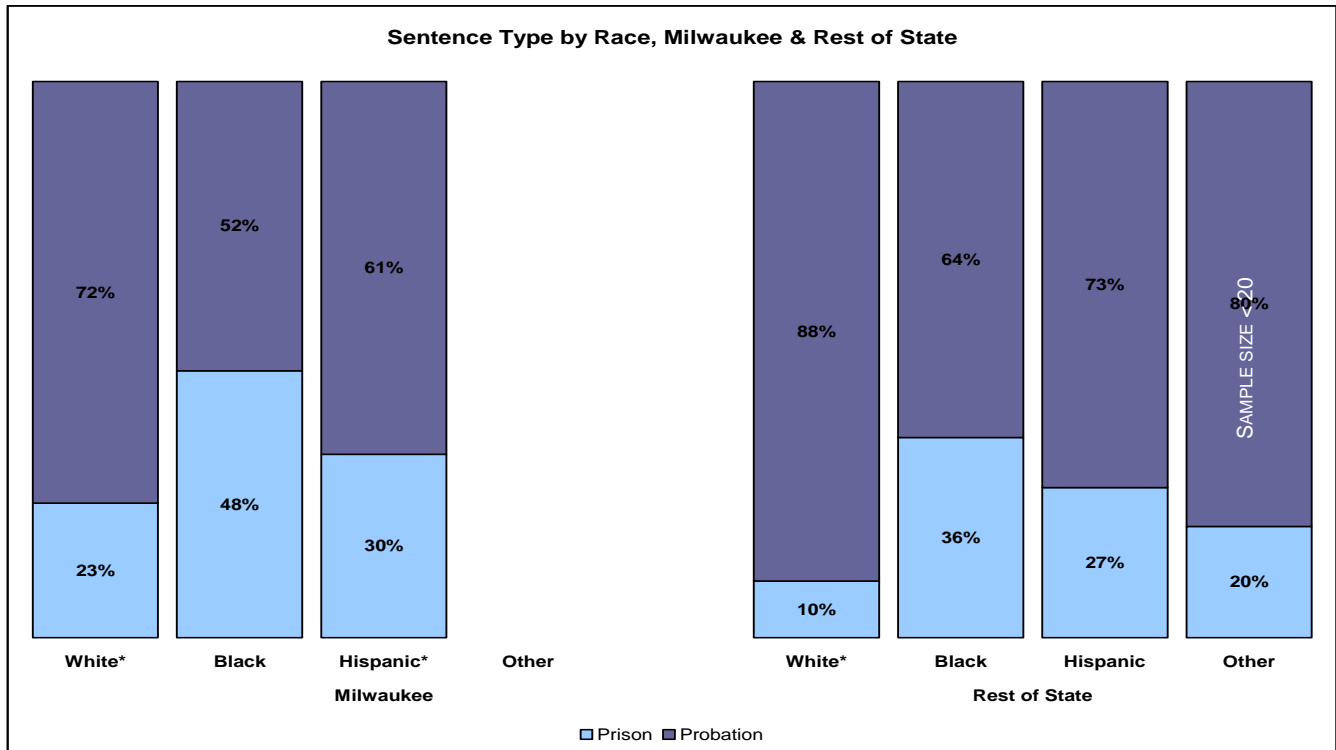
SENTENCE LENGTHS											
	White		Black		Hispanic		Other		All		
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS [‡]	MKE	ROS	
Average*											
Confinement	1	2	1.5	2	1.5	2	1	1.5	1.5	2	
Extended Supervision	2	3	2	3	2	2.5	2	1.5	2	3	
Probation	3	3	3	3	3	4	3.5	3	3	3	
Range**											
Confinement	1-1.5	1.5-3	1-2	1.5-2.5	1-2	1.5-3	1-2	1-2	1-2	1.5-3	
Extended Supervision	2-2.5	2-4	2-3	2-4	2-3	1.5-4	2-2.2	1-2	2-3	2-4	
Probation	2.5-3	3-4	2.5-3	3-4.5	3-3	3-5	3-4	2-3	2.5-3	3-5	

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20

OFFENDER CHARACTERISTICS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average Age*	24	25	26	25	25	25	-	22	25	24
Pct. Male / Female	90/10	88/12	87/13	86/14	91/9	86/14	-	93/7	89/11	88/12
Pct. with Prior Felony	28%	29%	41%	39%	30%	14%	-	33%	35%	29%
Pct. with Prior Prison	13%	8%	30%	18%	9%	5%	-	13%	20%	9%

*Average = Median (50th percentile); [‡]Sample Size < 20



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

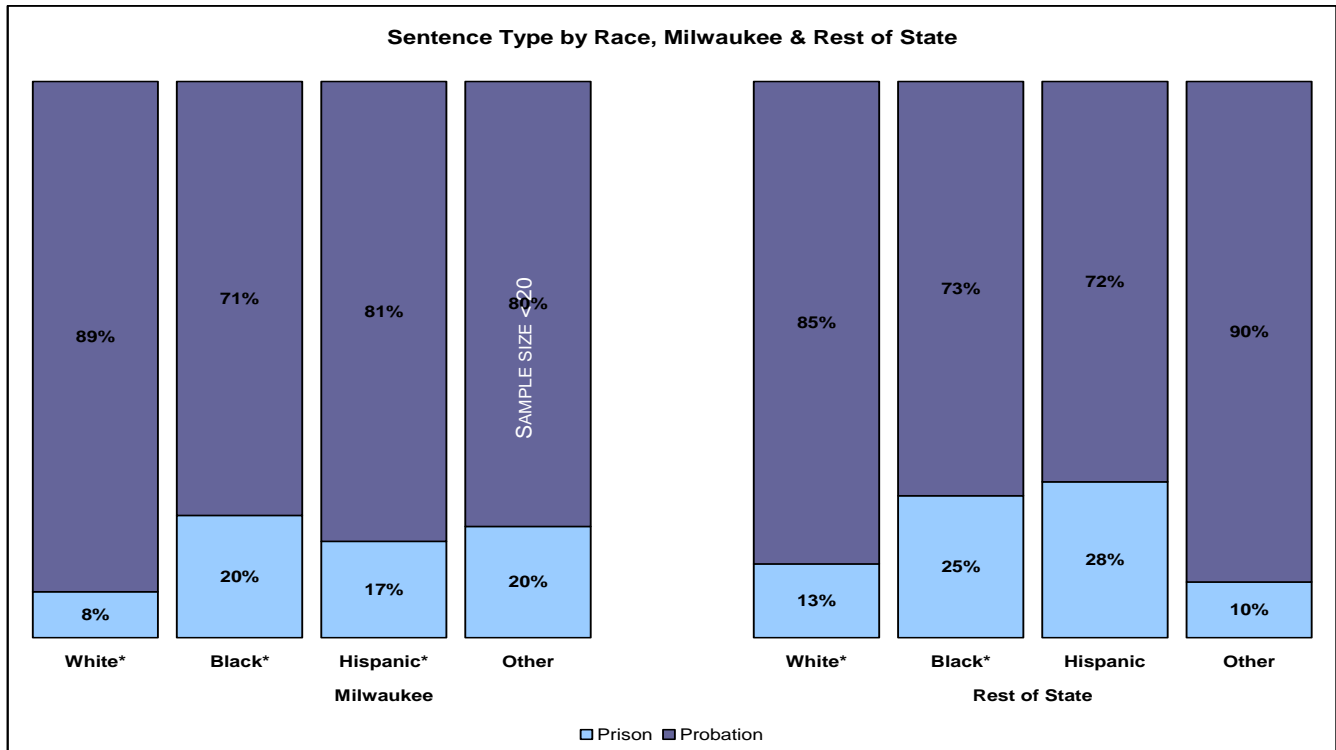
SENTENCE LENGTHS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS [‡]	MKE	ROS
Average*										
Confinement	1.5	1.5	1.5	1.5	1	1.5	-	1.3	1.5	1.5
Extended Supervision	1.5	2.5	2.8	2.2	1.5	2.2	-	3	2	2.5
Probation	2.75	3	3	3	3	3	-	3	3	3
Range**										
Confinement	1-2	1-2	1-2	1-1.5	1-1.5	1-2	-	1-2.5	1-2	1-2
Extended Supervision	1-3	2-3	2-3	1.5-3	1-3	1-3	-	2-3.5	1.5-3	2-3
Probation	2.5-3	3-4	2-3	2.5-3	2-3	3-3.25	-	2.5-3	2-3	3-4

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20

OFFENDER CHARACTERISTICS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS	MKE	ROS
Average Age*	20	22	23	23	21	23	20	25	22	22
Pct. Male / Female	89/11	89/11	94/6	93/7	89/11	96/4	100/0	80/20	93/7	90/10
Pct. with Prior Felony	20%	28%	37%	38%	21%	30%	20%	40%	33%	30%
Pct. with Prior Prison	3%	8%	22%	18%	8%	9%	20%	18%	18%	11%

*Average = Median (50th percentile); [‡]Sample Size < 20



*Percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1%.

SENTENCE LENGTHS										
	White		Black		Hispanic		Other		All	
	MKE	ROS	MKE	ROS	MKE	ROS	MKE [‡]	ROS	MKE	ROS
Average*										
Confinement	1	1.5	1	1	1	1.5	1.5	1.3	1	1.5
Extended Supervision	2	2	2	1.7	2	2	1.5	0.6	2	2
Probation	2.5	3	2.5	3	2.5	3	3	3	2.5	3
Range**										
Confinement	1-1	1-1.5	1-1.5	1-1.5	1-1.5	1-1.5	1.5-1.5	1-3.3	1-1.5	1-1.5
Extended Supervision	2-2	1.5-2	1-2	1-2	1.6-2	1.5-2	1.5-1.5	0.1-1.5	1-2	1-2
Probation	2-3	2-3	2-3	2-3	2-3	2-3	2.75-3	2-3	2-3	2-3

*Average = Median (50th percentile); **Range = Inter-Quartile (25th & 75th percentiles).

[‡]Sample Size < 20

APPENDIX G

Sentence Types by Prior Prison Sentence: Milwaukee Compared to Rest of State

The graphs in this section show a breakdown of sentence type for *Drug Trafficking* offenses by race and by whether the offender has served a prior prison sentence, comparing Milwaukee to the rest of the state.

Only *Drug Trafficking* offenses are included in this section. Consistent with the other information in this report, the data is divided by severity level (felony class). Then, offenders are divided by whether they have served a prior prison sentence or not. Even offenders with no prior prison sentences may range from having extensive juvenile or misdemeanor records to serving non-prison sentences or county jail sentences while on probation to being “first-time” offenders with no prior criminal activity of any type. Offenders with a prior prison sentence may have one or many prior prison sentences. These wide variances in each category may account for much of the disparity in the prison/probation decision shown in this section.

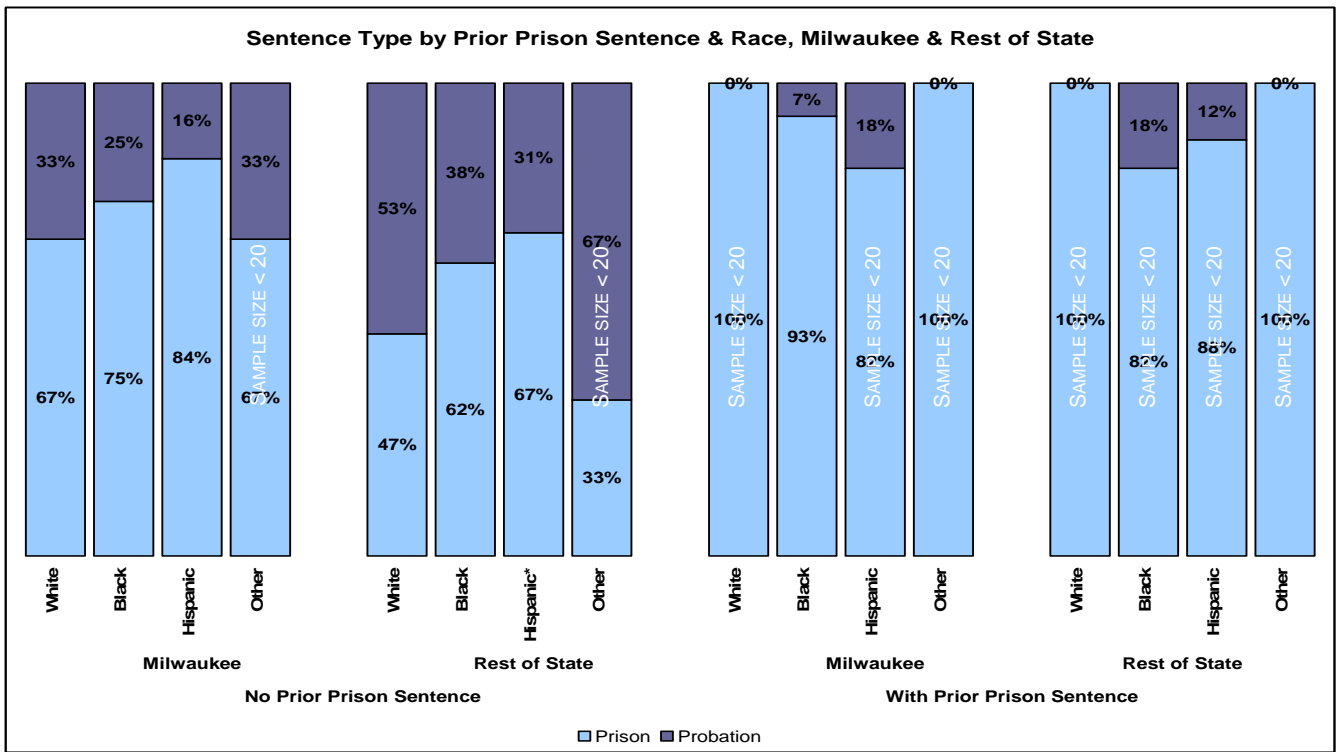
In this section, offenders are divided again between Milwaukee County cases and all other cases from the rest of the state (including Racine/Kenosha, Dane/Rock, Fox Valley, and the Rest of the State divisions used in Appendix A).

Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“**”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

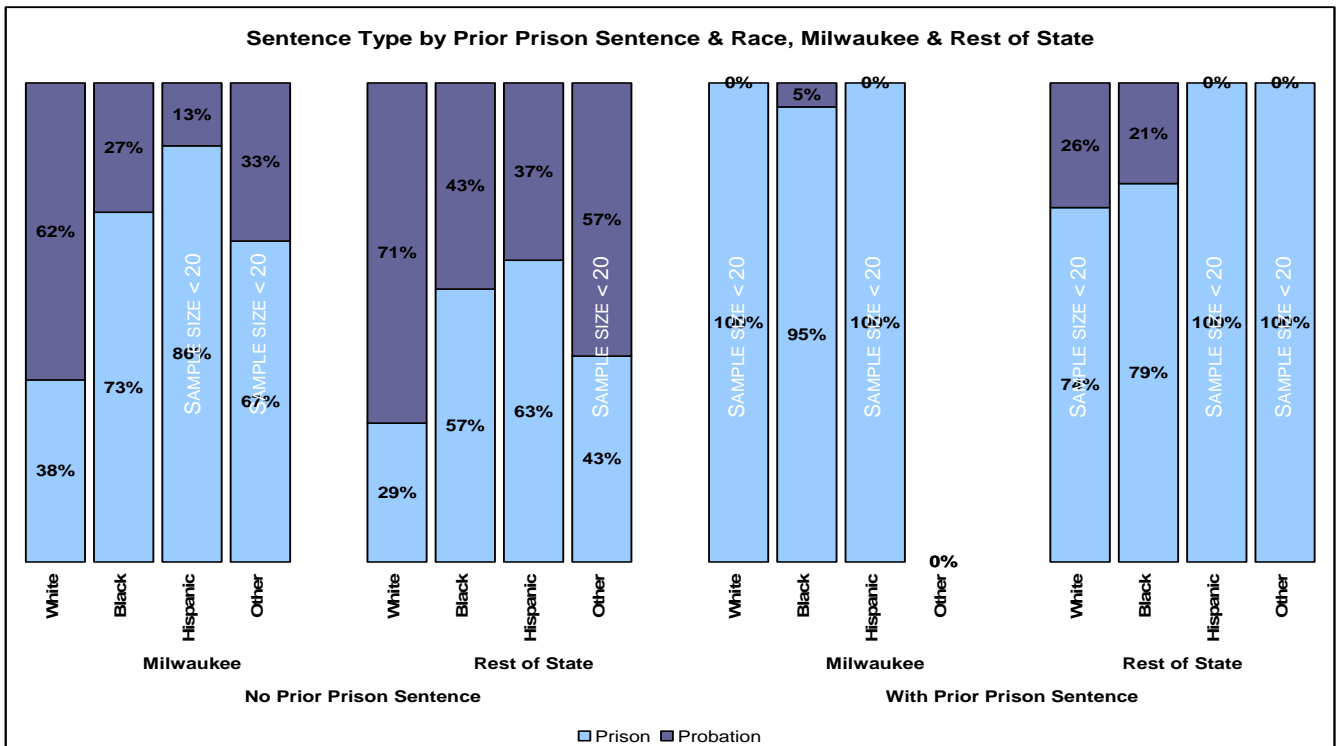
Each graph shows the percentages of offenders sentenced to either prison or probation by race, by prior prison record, comparing Milwaukee and the rest of the state. This allows a visual comparison of racial disparity in the prison/probation decision for offenders with comparable prison records, across racial lines, for Milwaukee and the rest of the state.

DRUG OFFENSES

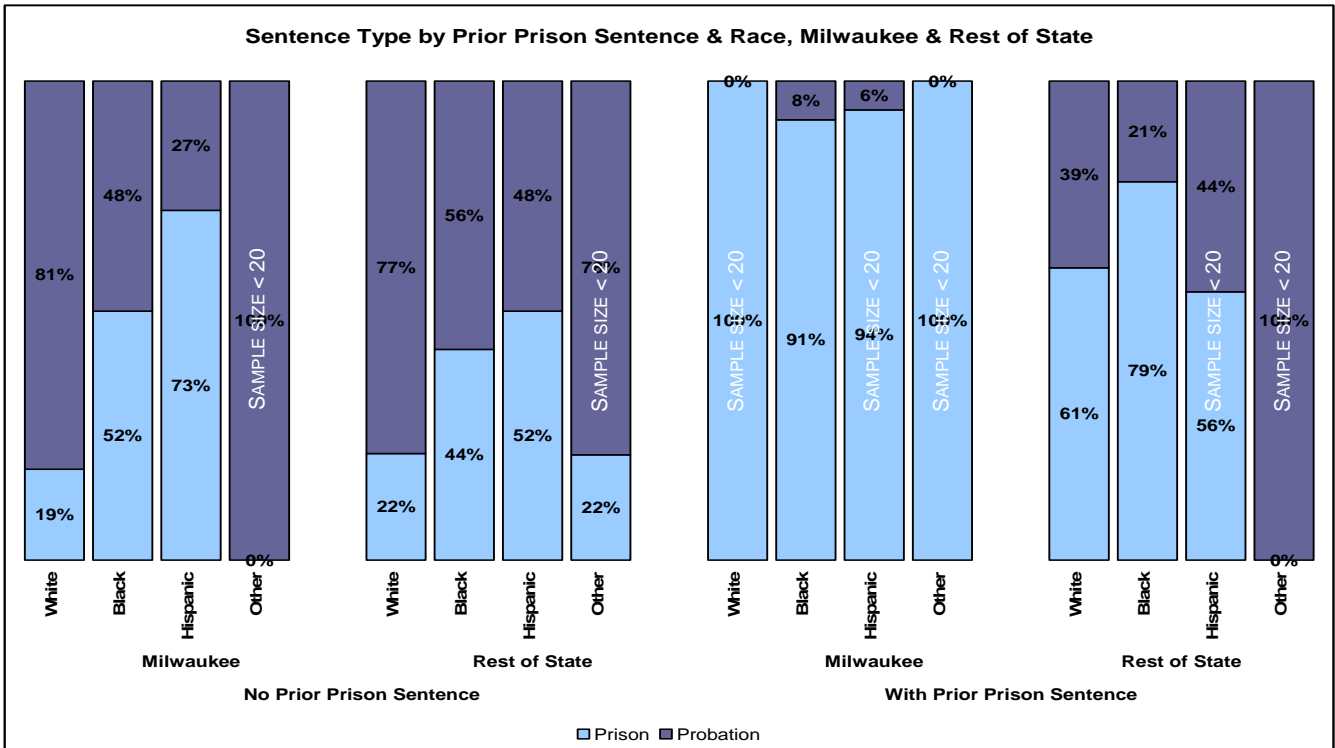
CLASS C FELONY



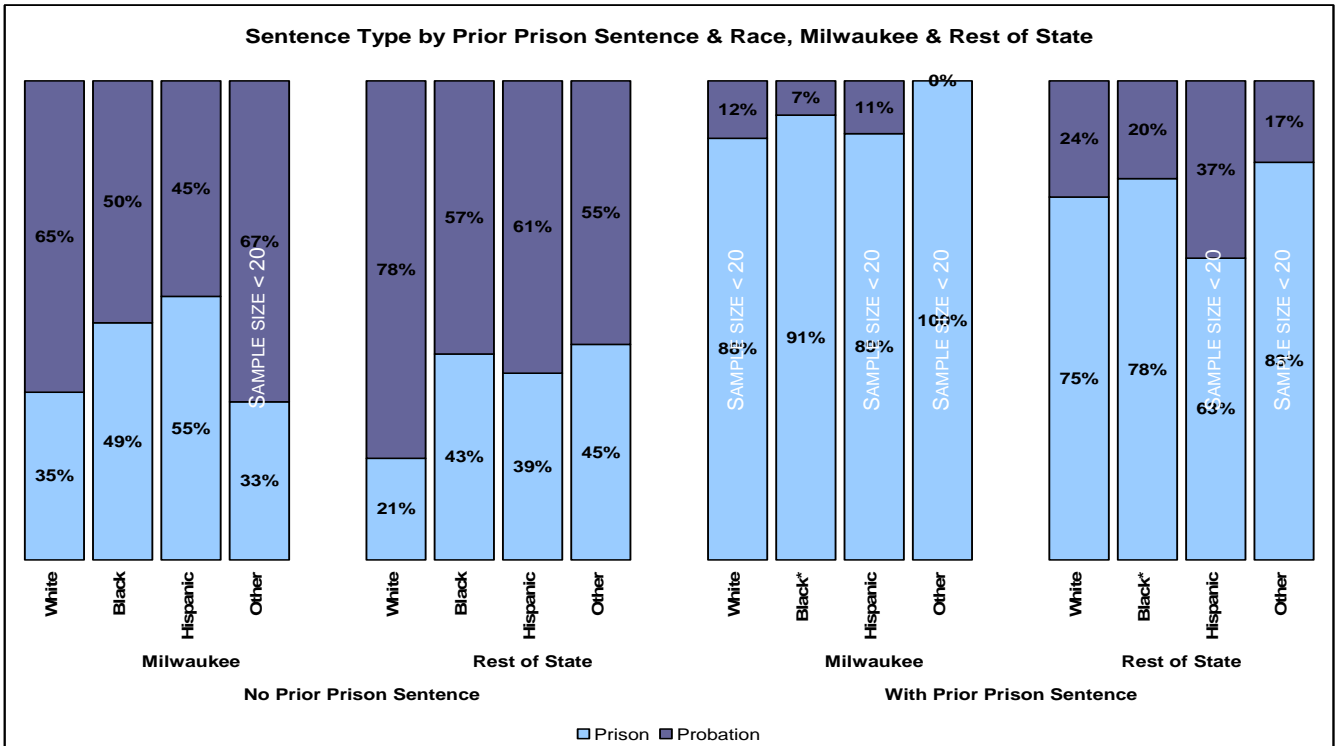
CLASS D FELONY



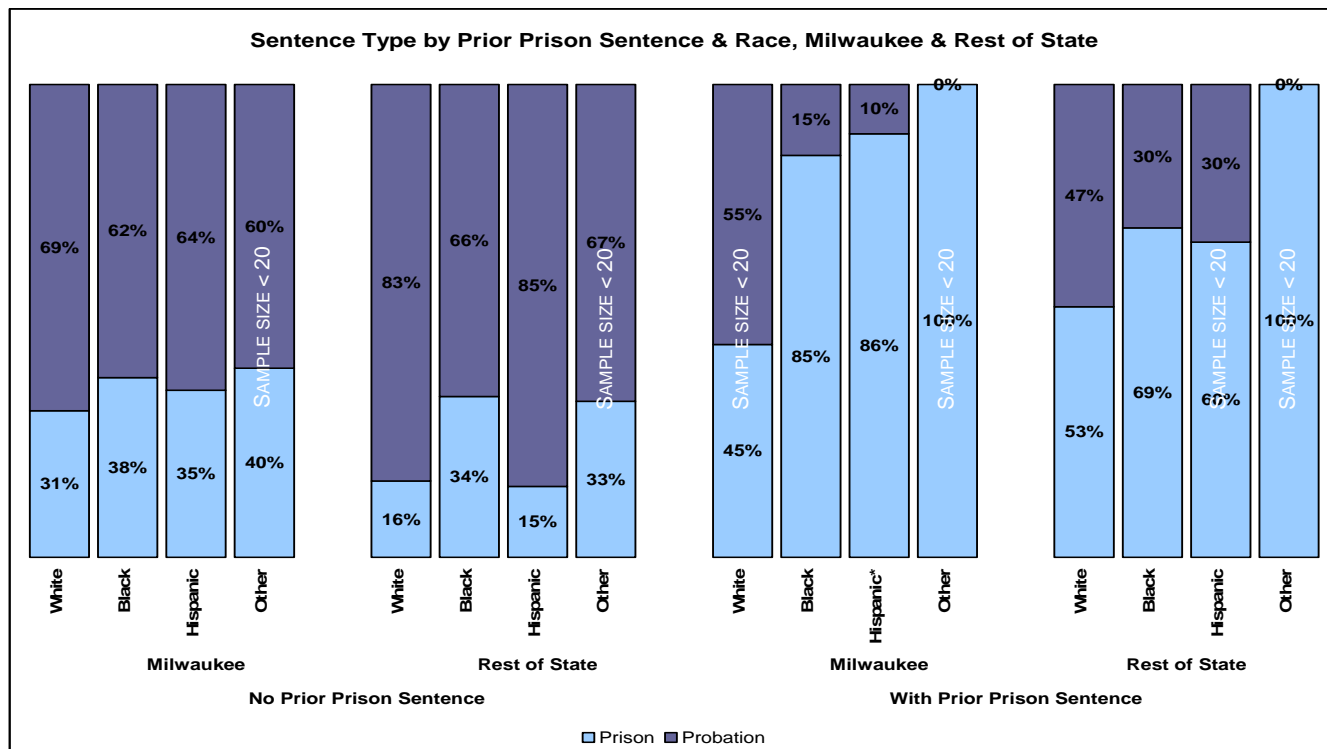
CLASS E FELONY



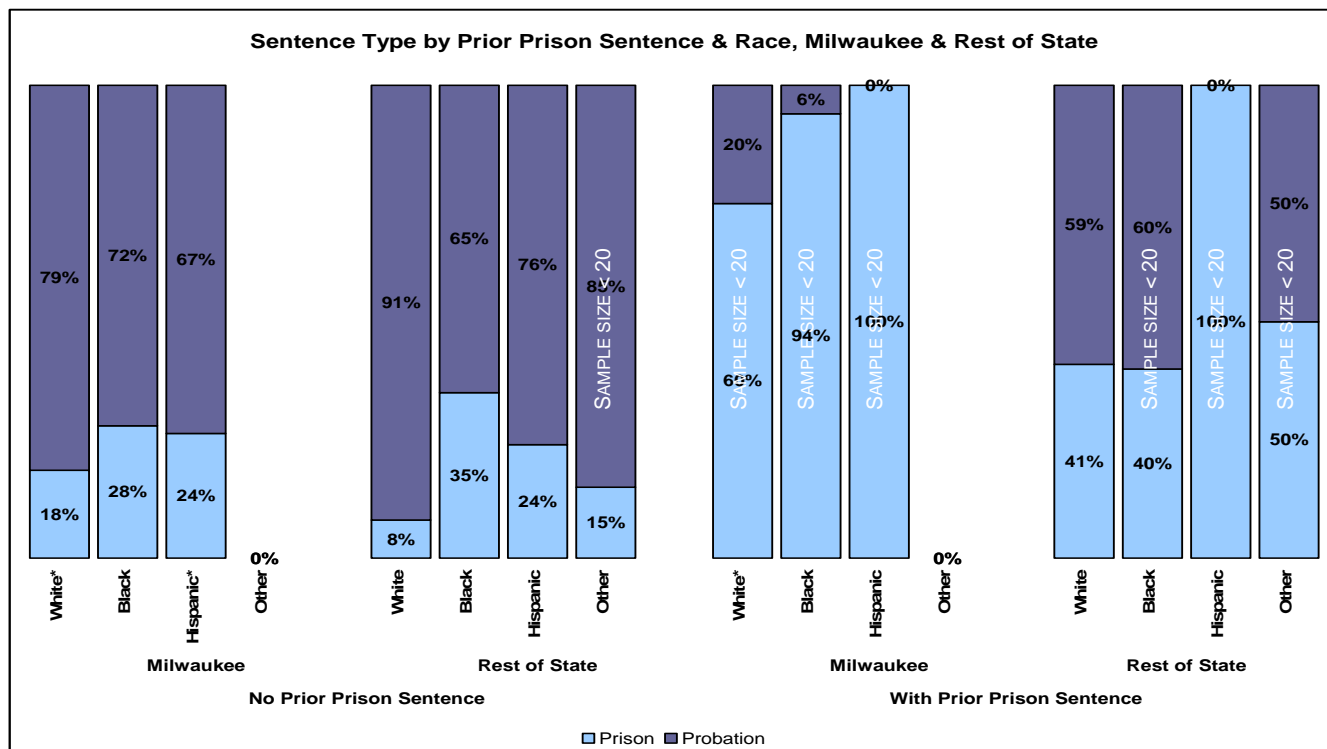
CLASS F FELONY



CLASS G FELONY

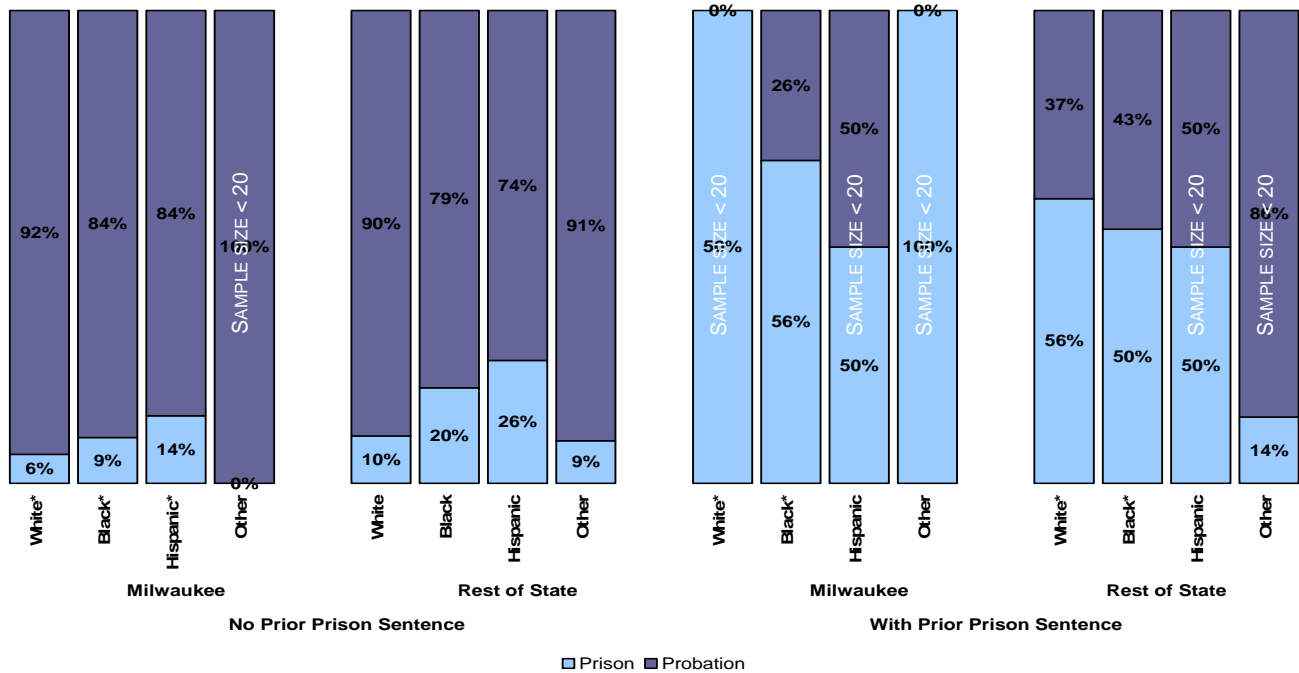


CLASS H FELONY



CLASS I FELONY

Sentence Type by Prior Prison Sentence & Race, Milwaukee & Rest of State



APPENDIX H

Sentence Types by Prior Conviction: Milwaukee Compared to Rest of State

The graphs in this section show a breakdown of sentence type for *Drug Trafficking* offenses by race and by whether the offender has any prior adult felony or misdemeanor convictions in Wisconsin, comparing Milwaukee to the rest of the state.

Only *Drug Trafficking* offenses are included in this section. Consistent with the other information in this report, the data is divided by severity level (felony class). Then, offenders are divided by whether or not they have any prior adult felony or misdemeanor convictions in Wisconsin. Even those offenders with no prior convictions may still have criminal records from out-of-state or from juvenile adjudications not available in this data set. Offenders with a prior conviction may have one or many prior misdemeanors and/or felonies. These wide variances in each category may account for much of the disparity in the prison/probation decision shown in this section.

In this section, offenders are divided again between Milwaukee County cases and all other cases from the rest of the state (including Racine/Kenosha, Dane/Rock, Fox Valley, and the Rest of the State divisions used in Appendix A).

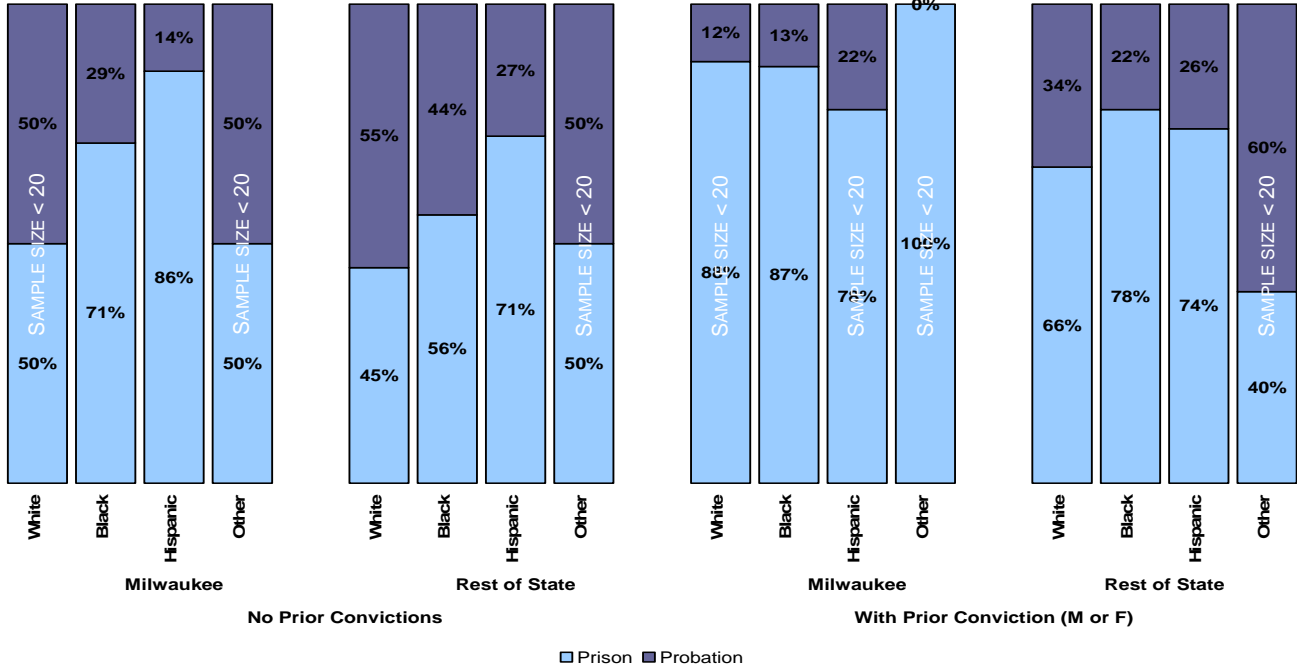
Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“**”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

Each graph shows the percentages of offenders sentenced to either prison or probation by race, by prior convictions, comparing Milwaukee and the rest of the state. This allows a visual comparison of racial disparity in the prison/probation decision for offenders with comparable criminal records, across racial lines, for Milwaukee and the rest of the state.

DRUG TRAFFICKING

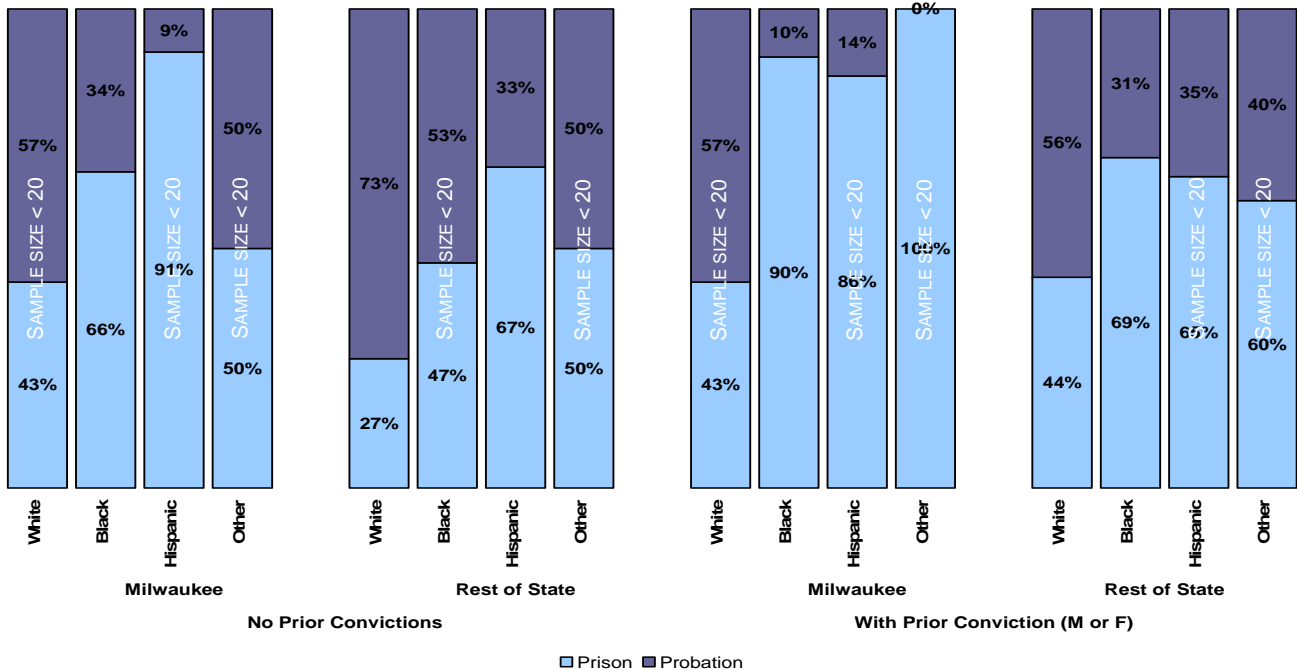
CLASS C FELONY

Sentence Type by Any Prior Conviction (M or F) & Race, Milwaukee & Rest of State

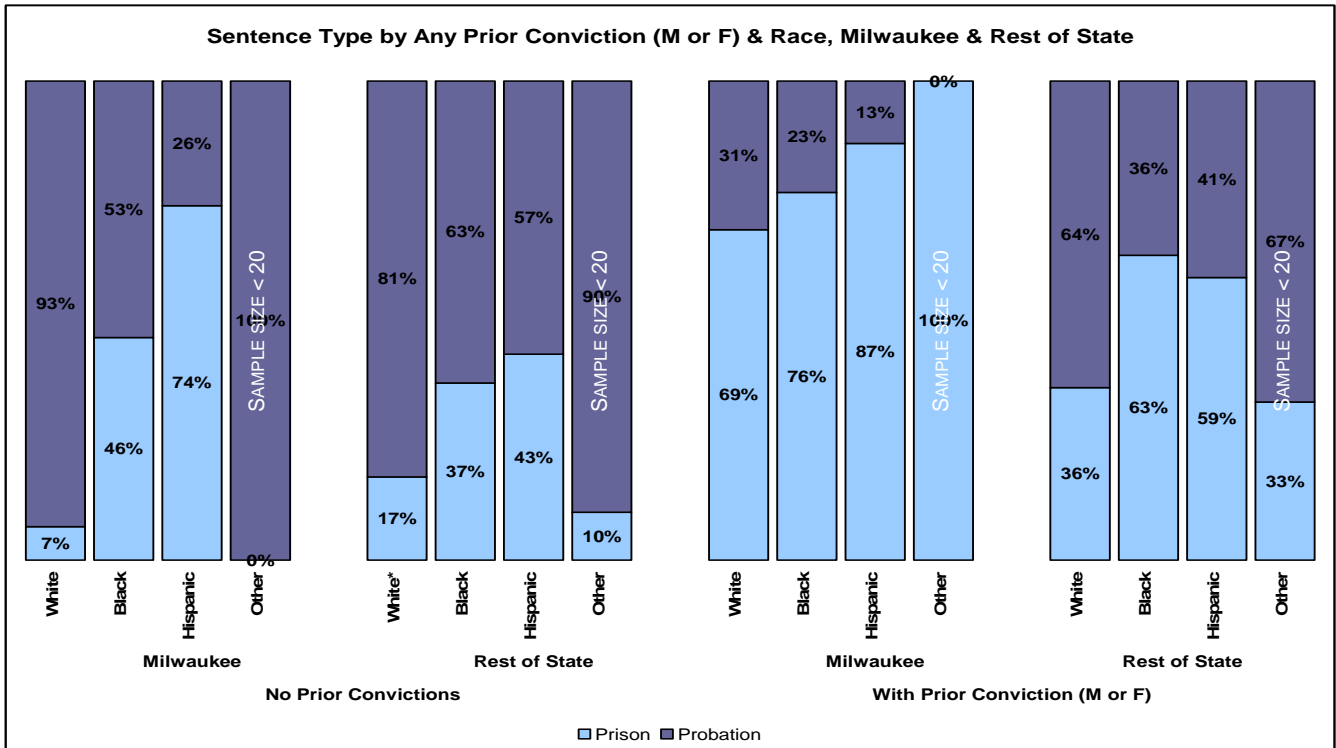


CLASS D FELONY

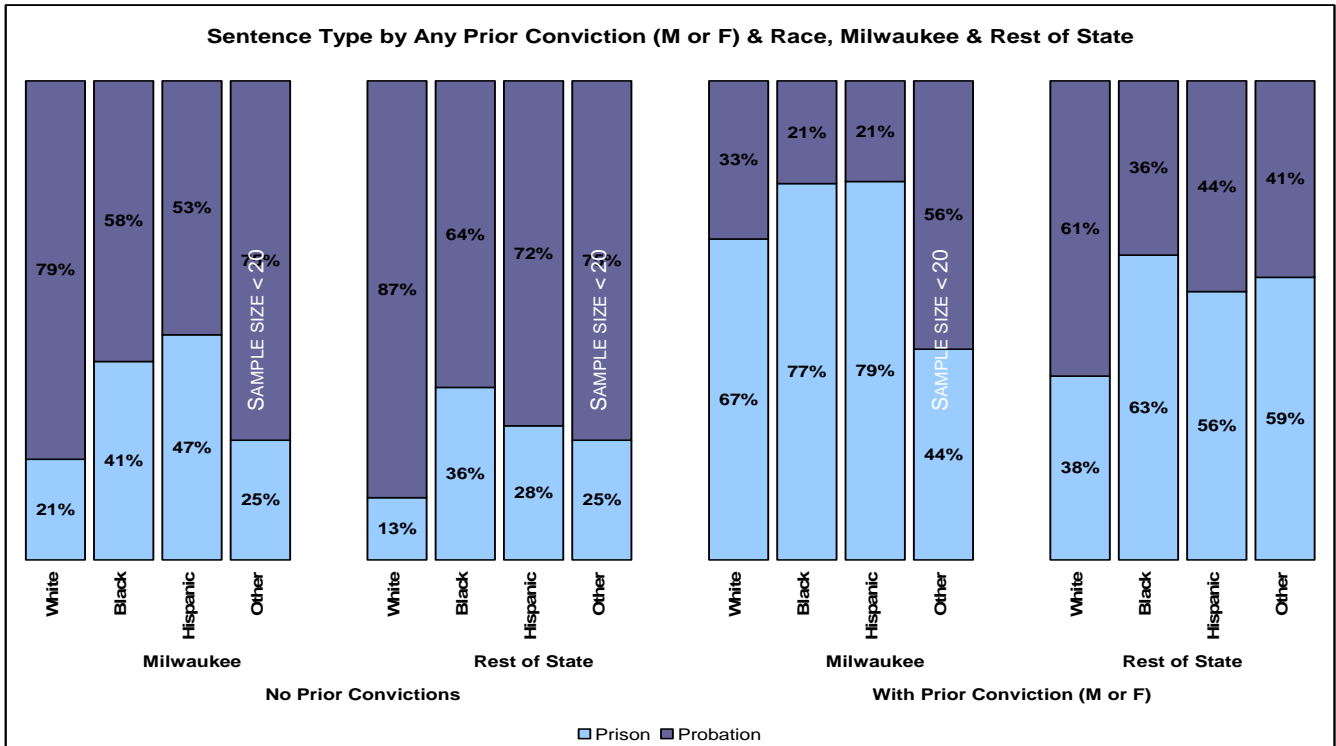
Sentence Type by Any Prior Conviction (M or F) & Race, Milwaukee & Rest of State



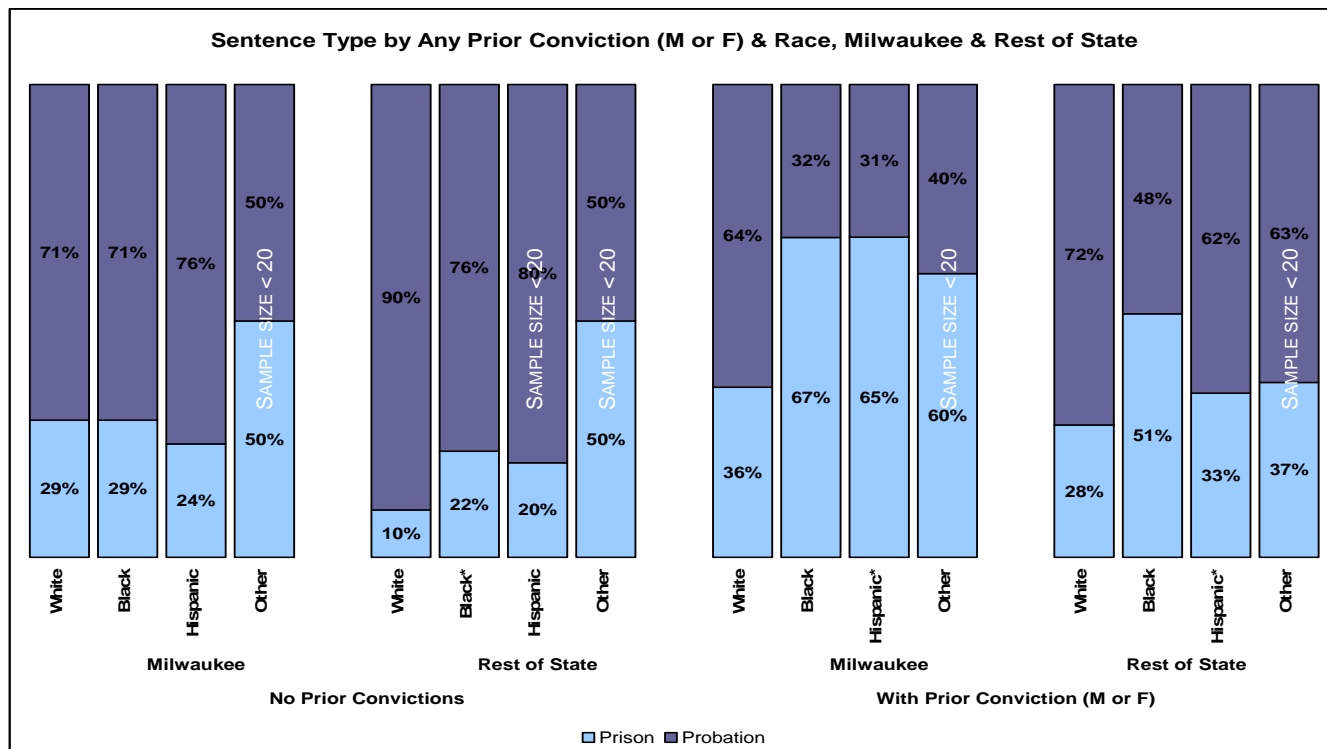
CLASS E FELONY



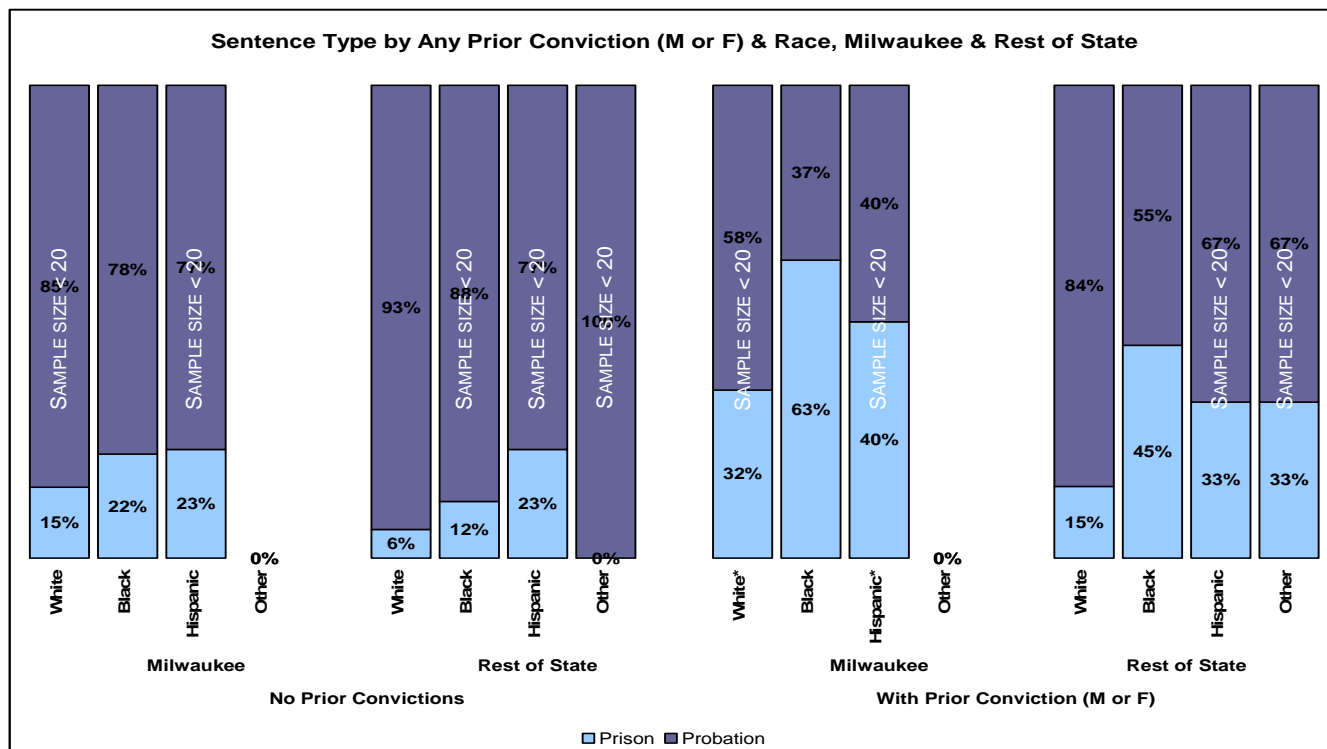
CLASS F FELONY



CLASS G FELONY

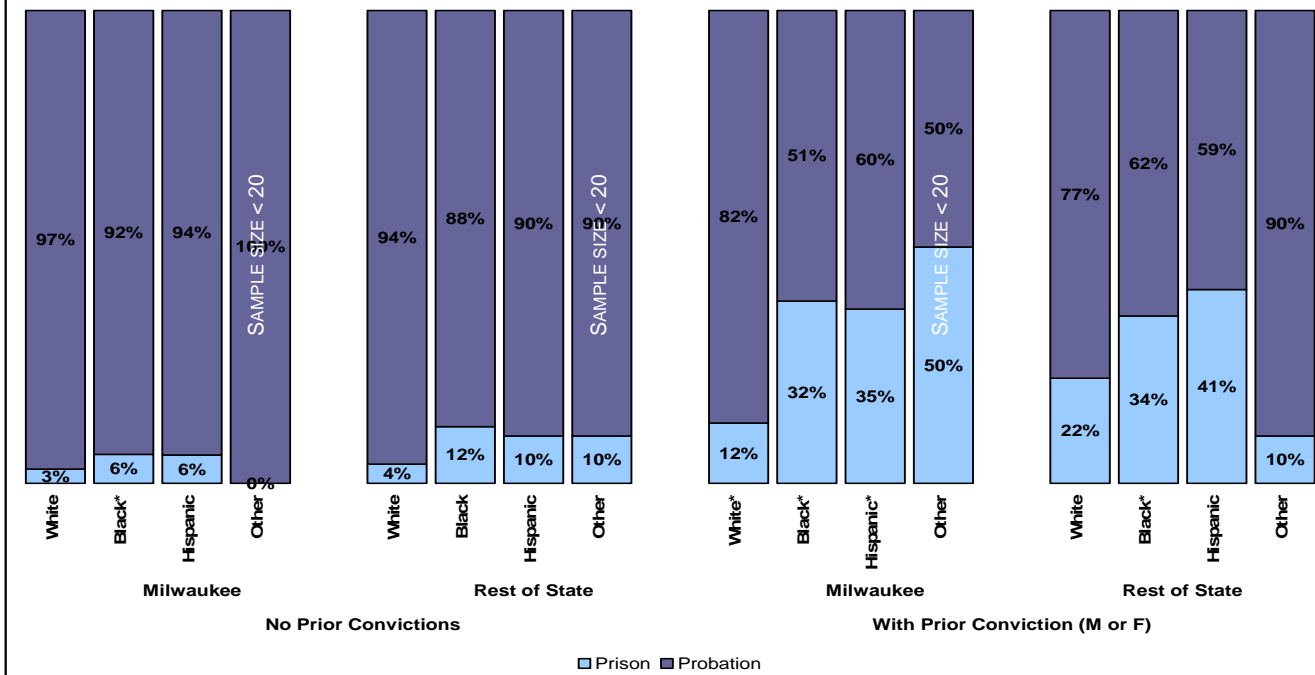


CLASS H FELONY



CLASS I FELONY

Sentence Type by Any Prior Conviction (M or F) & Race, Milwaukee & Rest of State



APPENDIX I

Sentence Types by Prior Felony: Milwaukee Compared to Rest of State

The graphs in this section show a breakdown of sentence type for *Drug Trafficking* offenses by race and by whether the offender has any prior adult felony convictions in Wisconsin, comparing Milwaukee to the rest of the state.

Only *Drug Trafficking* are included in this section. Consistent with the other information in this report, the data is divided by severity level (felony class). Then, offenders are divided by whether or not they have a prior Wisconsin adult felony conviction. Even offenders with no prior felony convictions may range from having extensive juvenile or misdemeanor records to being “first-time” offenders with no prior criminal activity of any type. Offenders with a prior felony may have one or many prior felonies. These wide variances in each category may account for much of the disparity in the prison/probation decision in the graphs in this section.

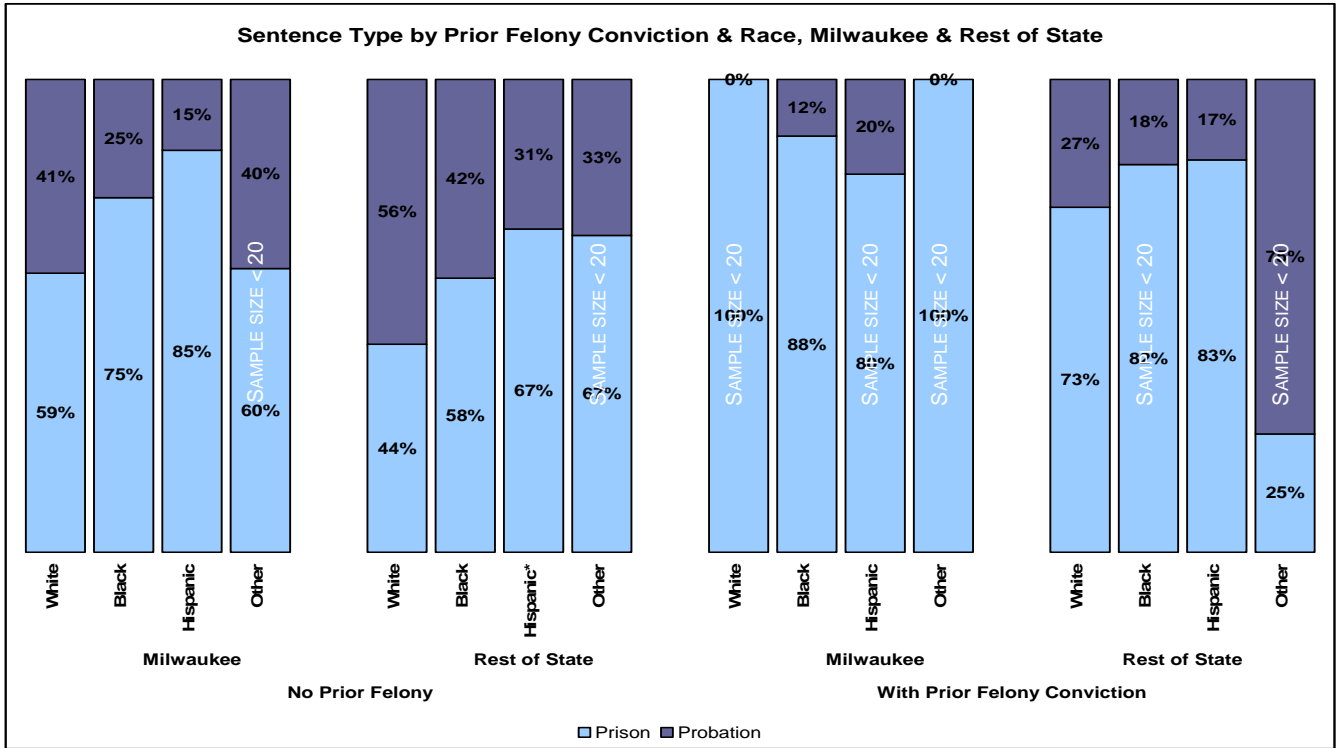
In this section, offenders are divided again between Milwaukee County cases and all other cases from the rest of the state (including the Racine/Kenosha, Dane/Rock, Fox Valley, and the Rest of the State divisions used earlier in this report).

Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“**”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

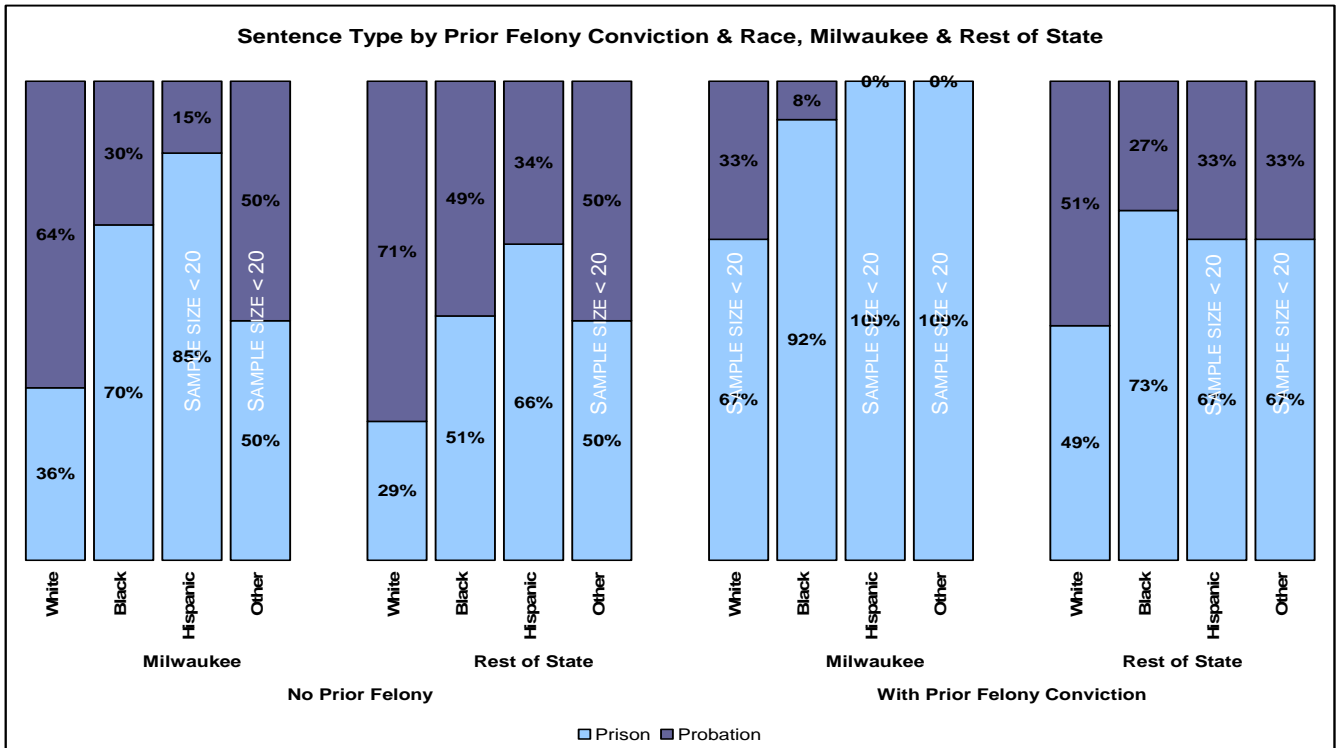
Each graph shows the percentages of offenders sentenced to either prison or probation by race, by prior adult Wisconsin felony convictions, comparing Milwaukee to the rest of the state. This allows a visual comparison of racial disparity in the prison/probation decision for offenders with comparable criminal histories, across racial lines, for Milwaukee and the rest of the state.

DRUG OFFENSES

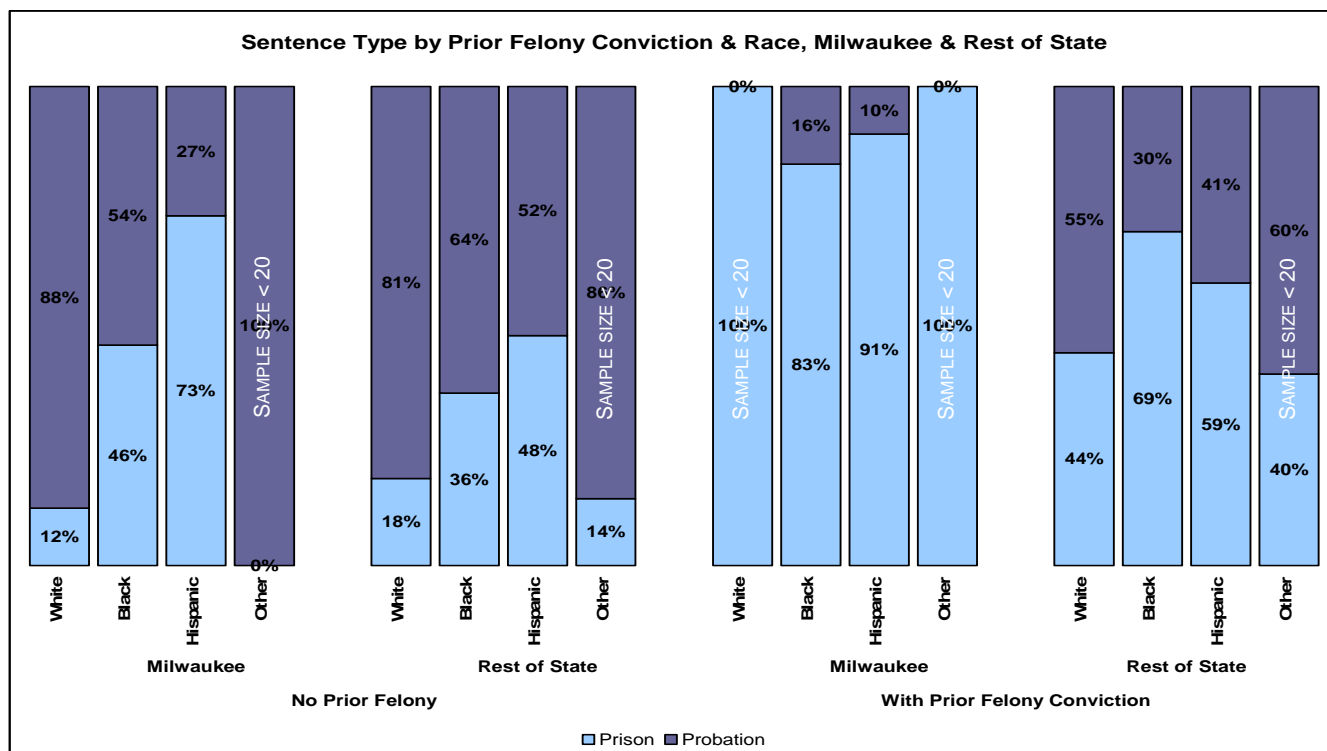
CLASS C FELONY



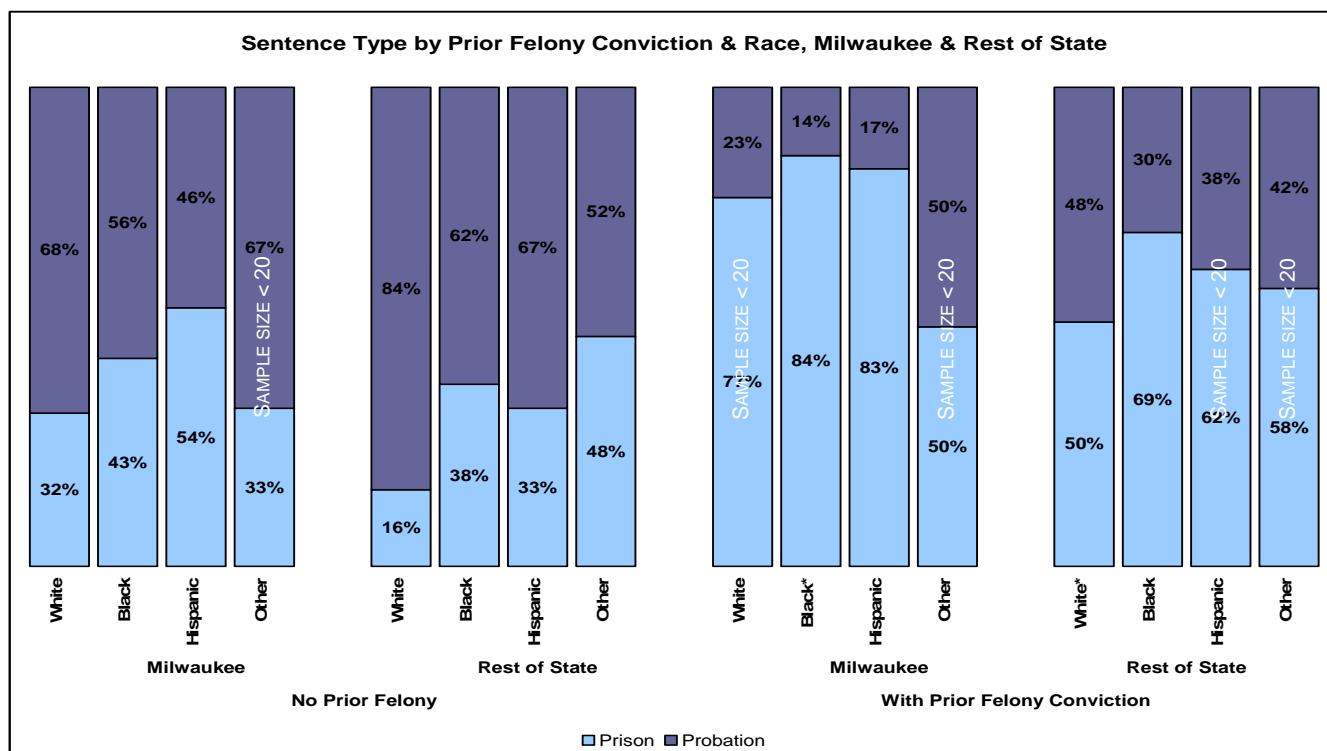
CLASS D FELONY



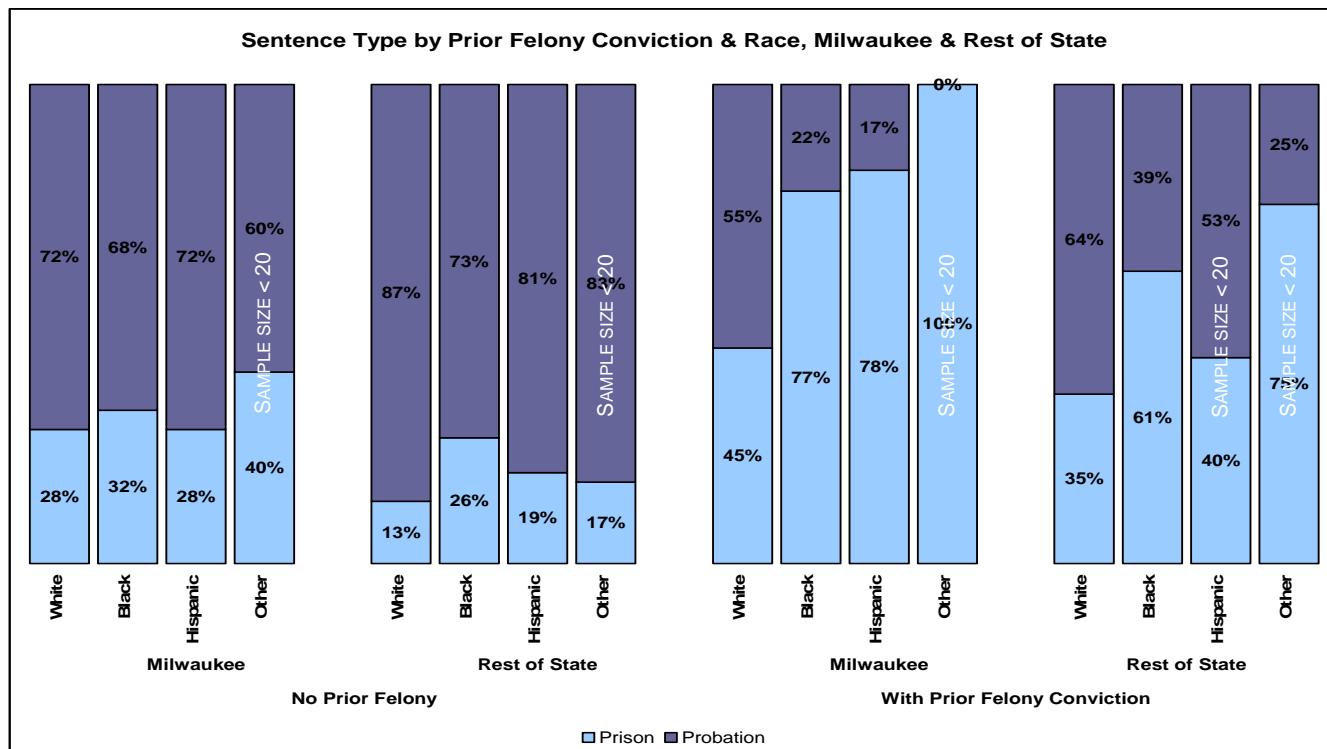
CLASS E FELONY



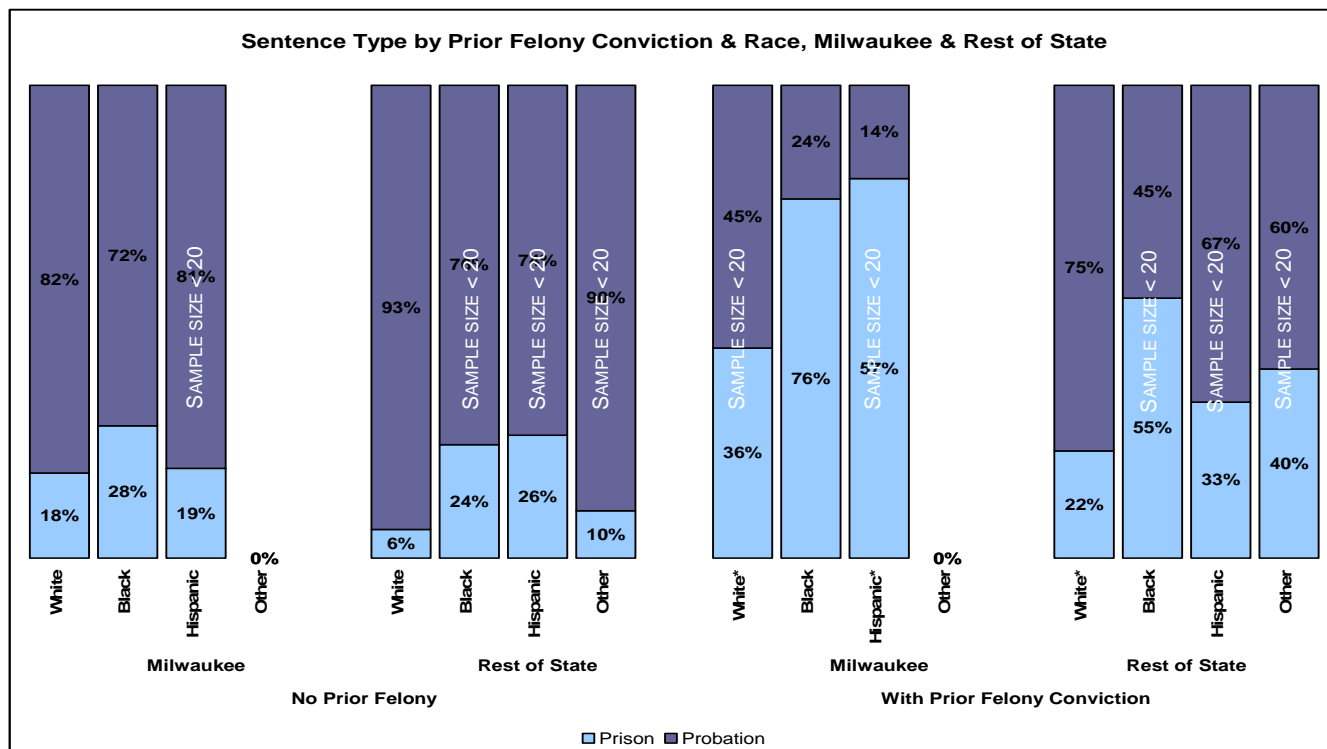
CLASS F FELONY



CLASS G FELONY

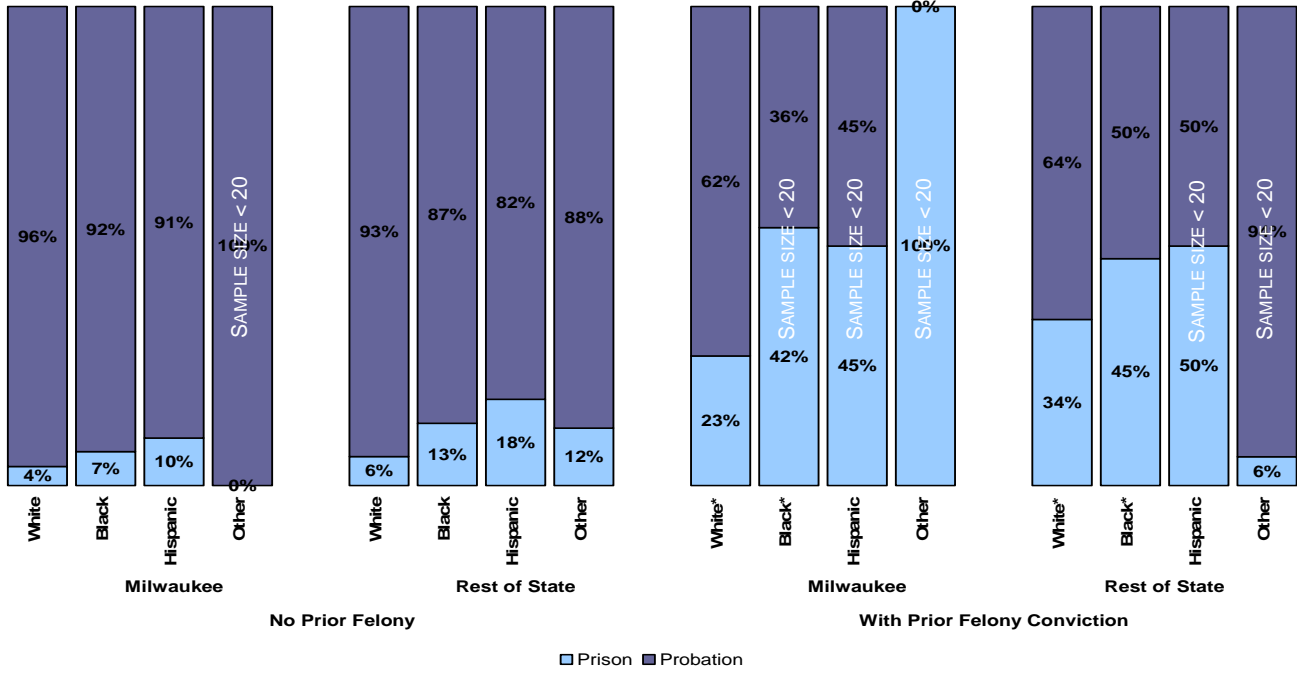


CLASS H FELONY



CLASS I FELONY

Sentence Type by Prior Felony Conviction & Race, Milwaukee & Rest of State



APPENDIX J

Sentence Types by Drug Type: Milwaukee Compared to Rest of State:

The graphs in this section show breakdowns of sentence type for *Drug Trafficking* offenses by race and by drug type, comparing Milwaukee with the rest of the state.

Only *Drug Trafficking* offenses for cocaine/cocaine base and THC are included in this section. Where a particular drug type does not face exposure to penalties of a certain felony class, this has been excluded. For instance, the graphs reflect that Cocaine offenses face exposure for conviction of a C Felony through G Felony and THC offenses face exposure for an E Felony through I Felony.

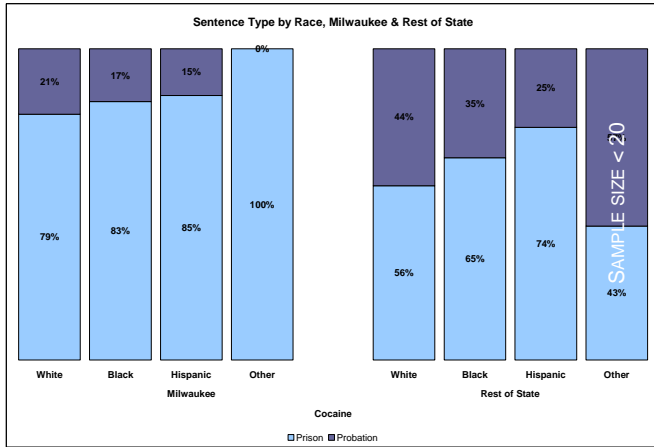
Consistent with the other information in this report, the data is divided by severity level (felony class). Then, offenders are divided again between Milwaukee County cases and all other cases from the rest of the state (including the Racine/Kenosha, Dane/Rock, Fox Valley, and the Rest of the State divisions used earlier in this report).

Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

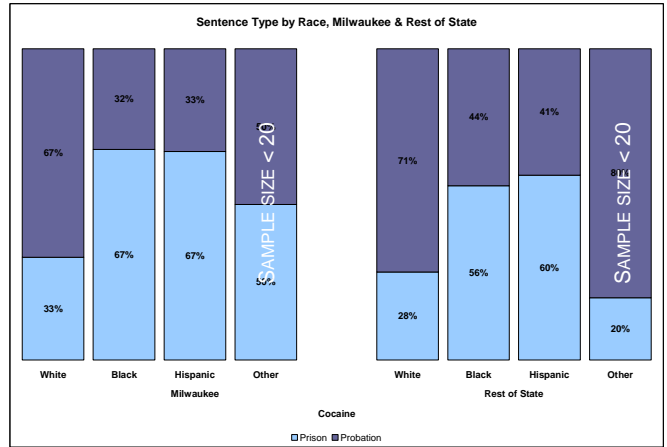
Each graph shows the percentages of offenders sentenced to either prison or probation by race, by drug type, comparing Milwaukee compared to the rest of the state. This allows a visual comparison of racial disparity in the prison/probation decision for offenders with the same type of drug, across racial lines, for Milwaukee compared to the rest of the state.

COCAINE & COCAINE BASE

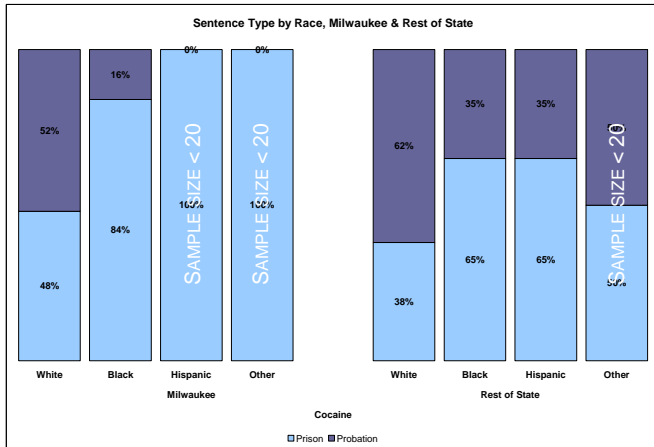
CLASS C FELONY



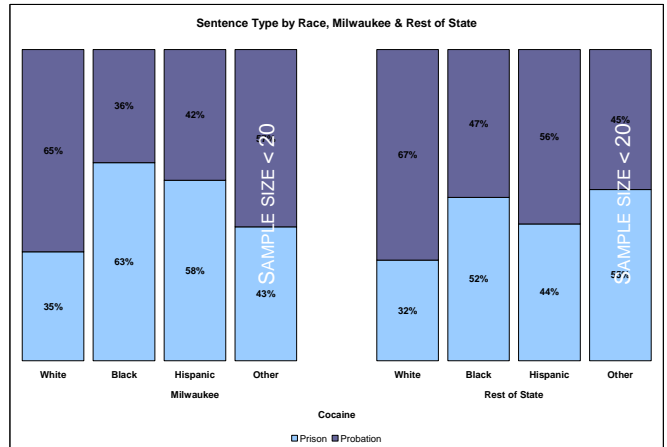
CLASS E FELONY



CLASS D FELONY



CLASS F FELONY

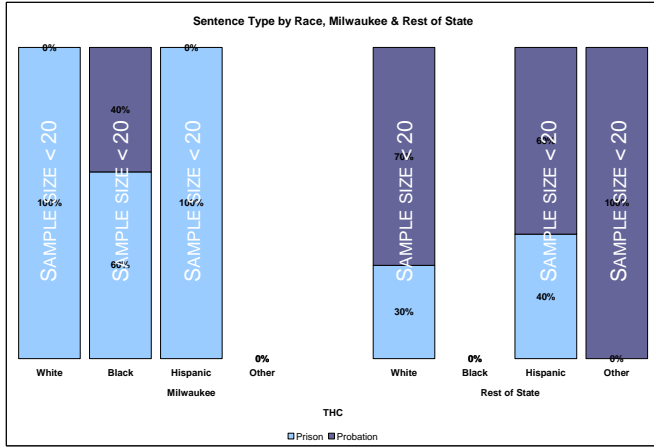


CLASS G FELONY

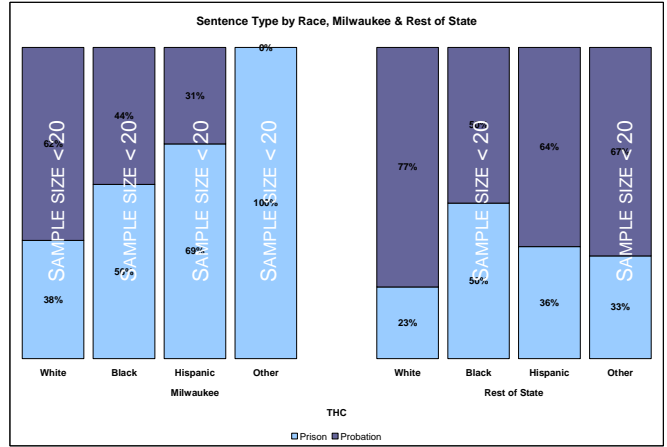


THC

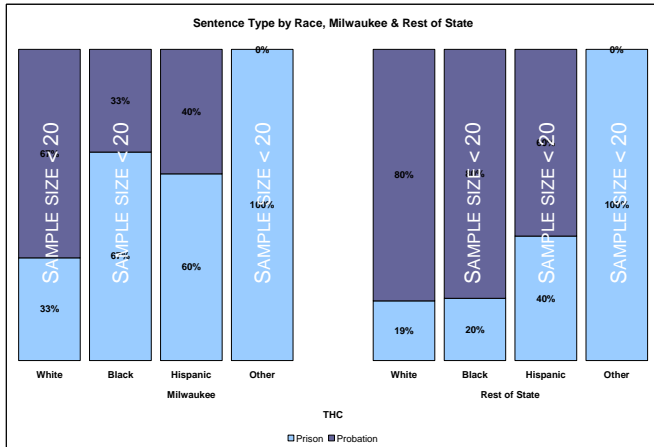
CLASS E FELONY



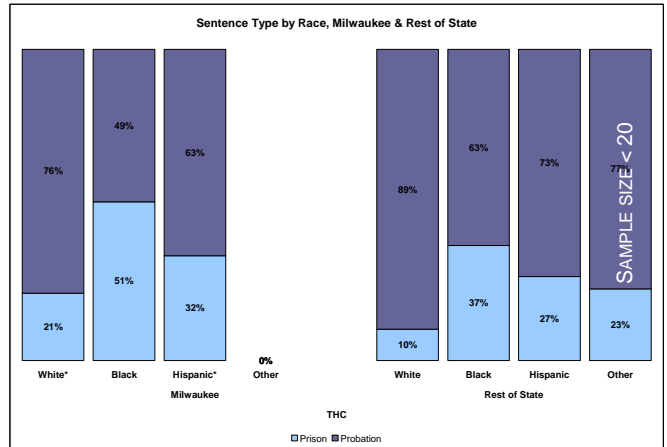
CLASS G FELONY



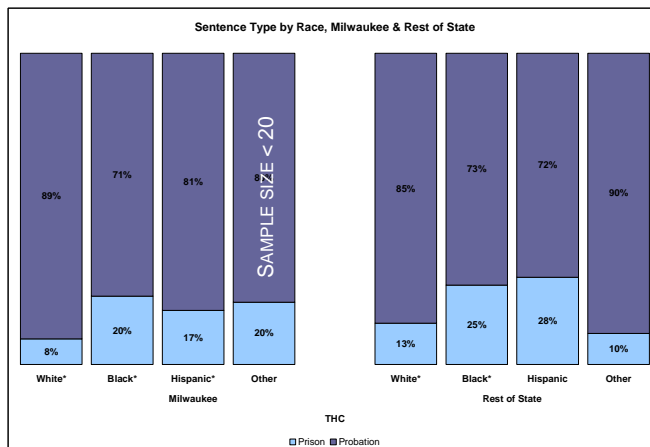
CLASS F FELONY



CLASS H FELONY



CLASS I FELONY



APPENDIX K

Sentence Types by Drug Type for Offenders with Similar Criminal Histories for Milwaukee and Rest of State

The graphs in this section show a breakdown of sentence type for Cocaine and THC *Drug Trafficking* offenses by race, for offenders with similar criminal histories in Milwaukee and the rest of the state.

Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

Only *Drug Trafficking* offenses for cocaine/cocaine base and THC are included in this section. Consistent with the other information in this report, the data is divided by severity level (felony class). Then, offenders are divided again between Milwaukee County cases and all other cases from the rest of the state (including the Racine/Kenosha, Dane/Rock, Fox Valley, and the Rest of the State divisions used earlier in this report).

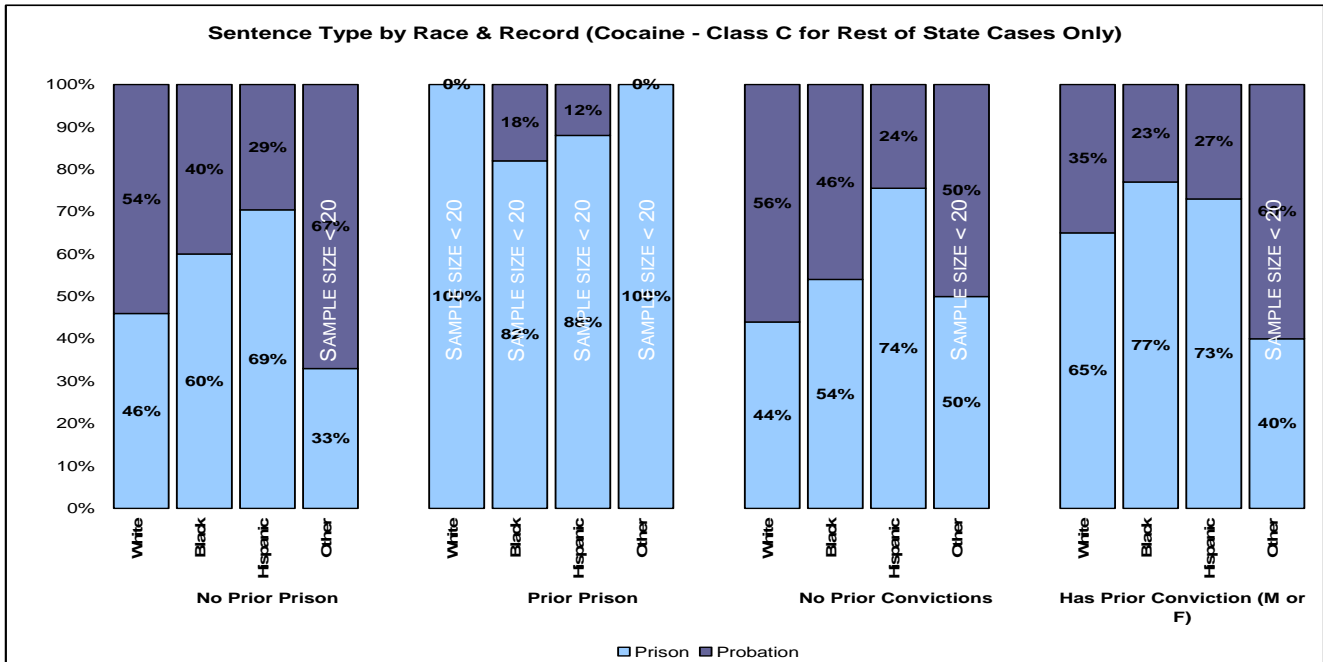
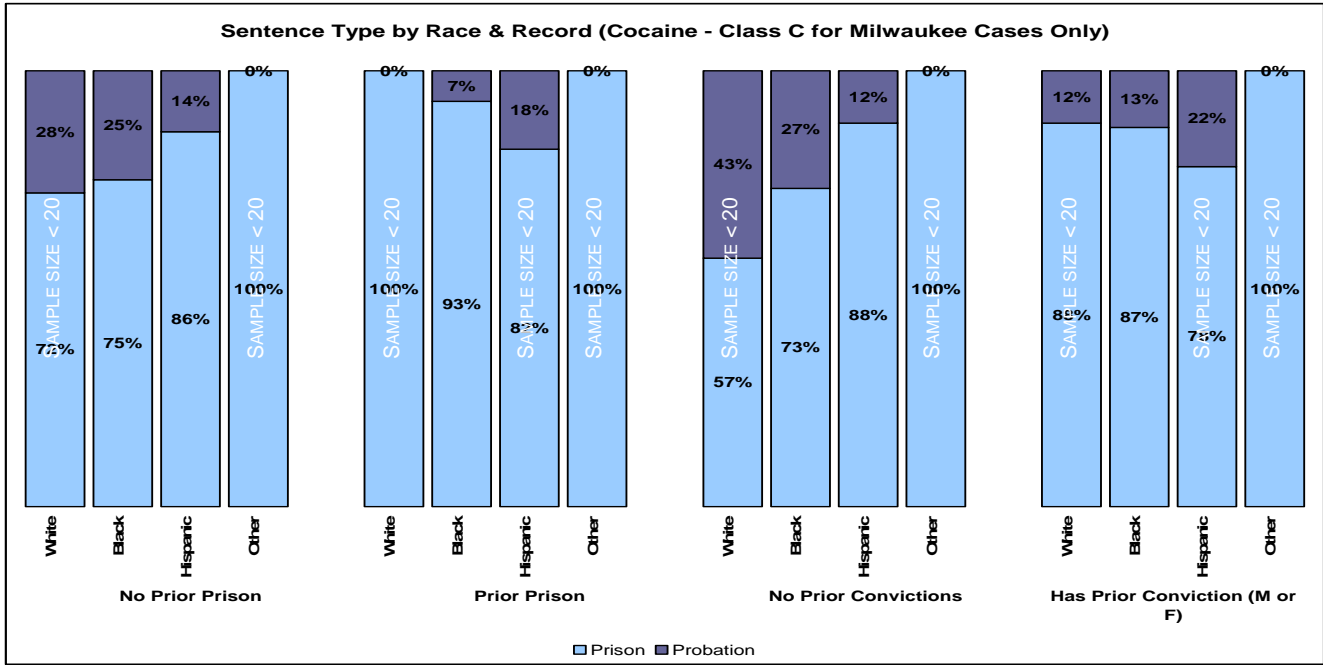
In the two left-most columns in each graph, the data is divided among those offenders who have ever served a prior prison sentence and those who have not served a prior prison sentence. Even offenders with no prior prison sentences may range from having extensive juvenile or misdemeanor records to serving non-prison sentences or county jail sentences while on probation to being “first-time” offenders with no prior criminal activity of any type. Offenders with a prior prison sentence may have one or many prior prison sentences. These wide variances in each category may account for much of the disparity in the prison/probation decision shown in this section.

Then, in the two right-most columns of each graph, the same data is instead divided among those offenders with any prior adult felony or misdemeanor convictions in Wisconsin and those offenders with no prior convictions of either type. Even those offenders with no prior convictions may still have criminal records from out-of-state or from juvenile adjudications not available in this data set. Offenders with a prior conviction may have one or many prior misdemeanors and/or felonies. These wide variances in each category may account for much of the disparity in the prison/probation decision shown in this section.

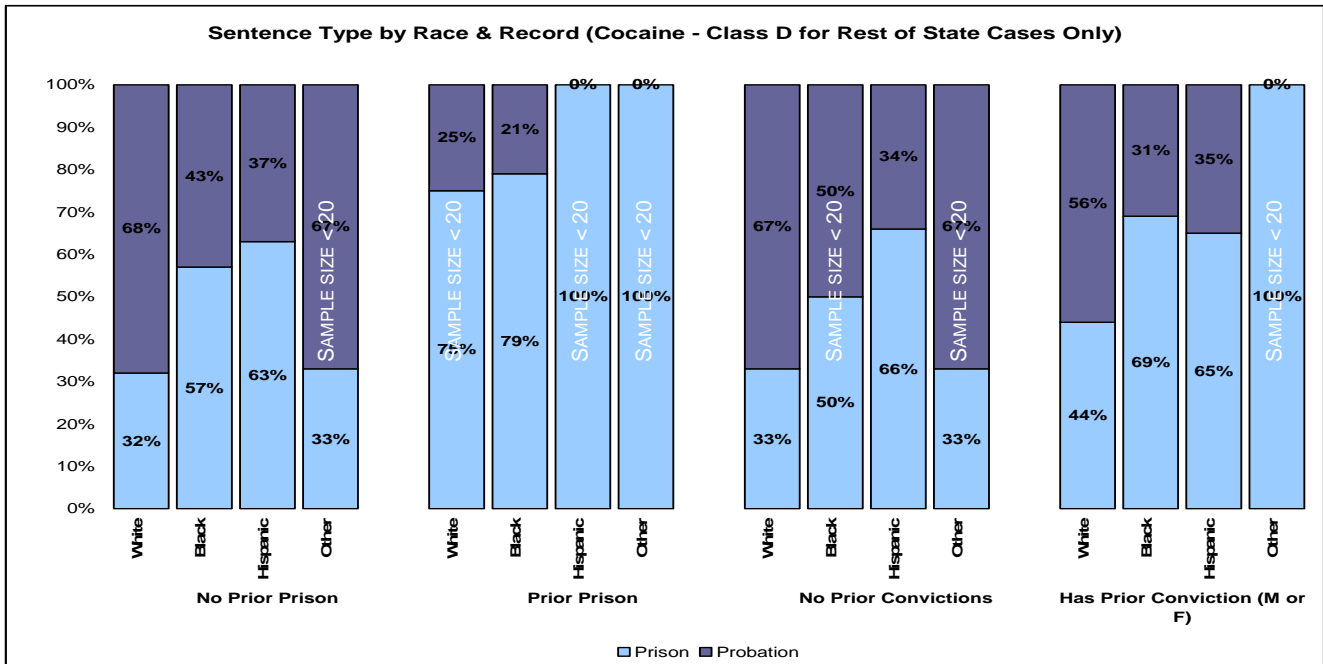
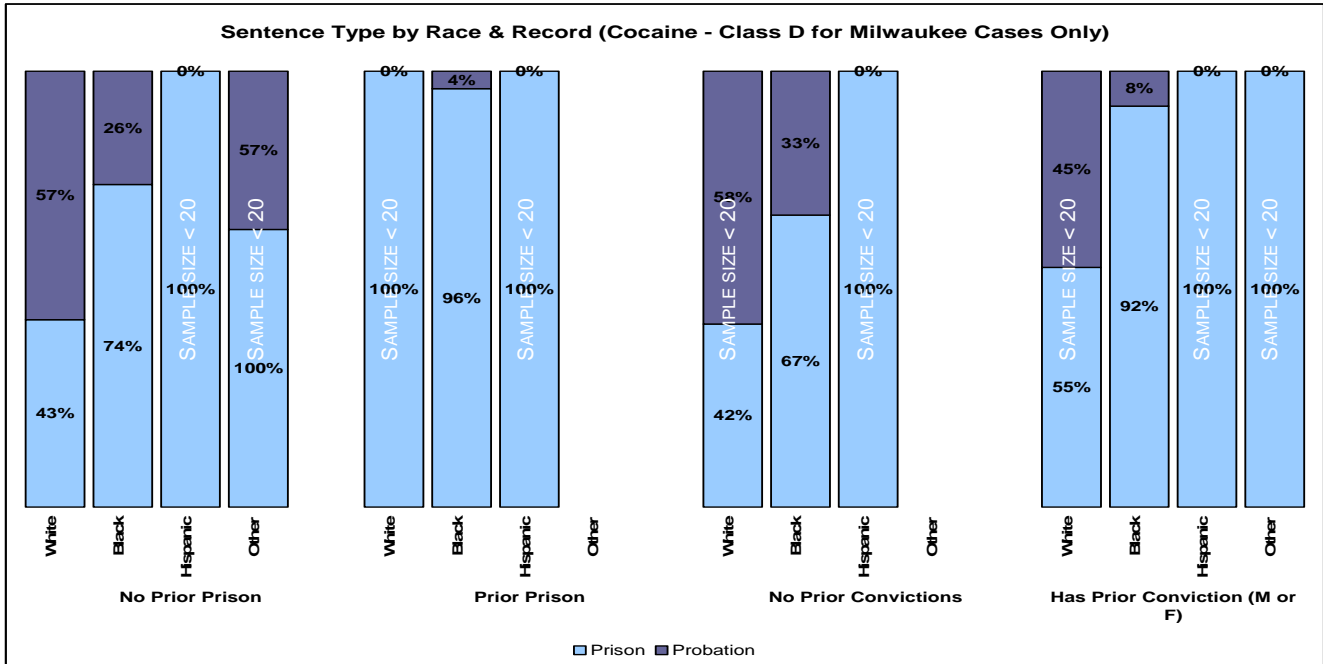
Each graph shows the percentages of offenders with similar criminal histories sentenced to either prison or probation by race, across each felony class, for the same type of drug, in the same region (Milwaukee or the rest of the state). This allows a visual comparison of racial disparity in the prison/probation decision for offenders with similar criminal histories with the same type of drug, at the same, across racial lines, for Milwaukee and the rest of the state.

COCAINE & COCAINE BASE

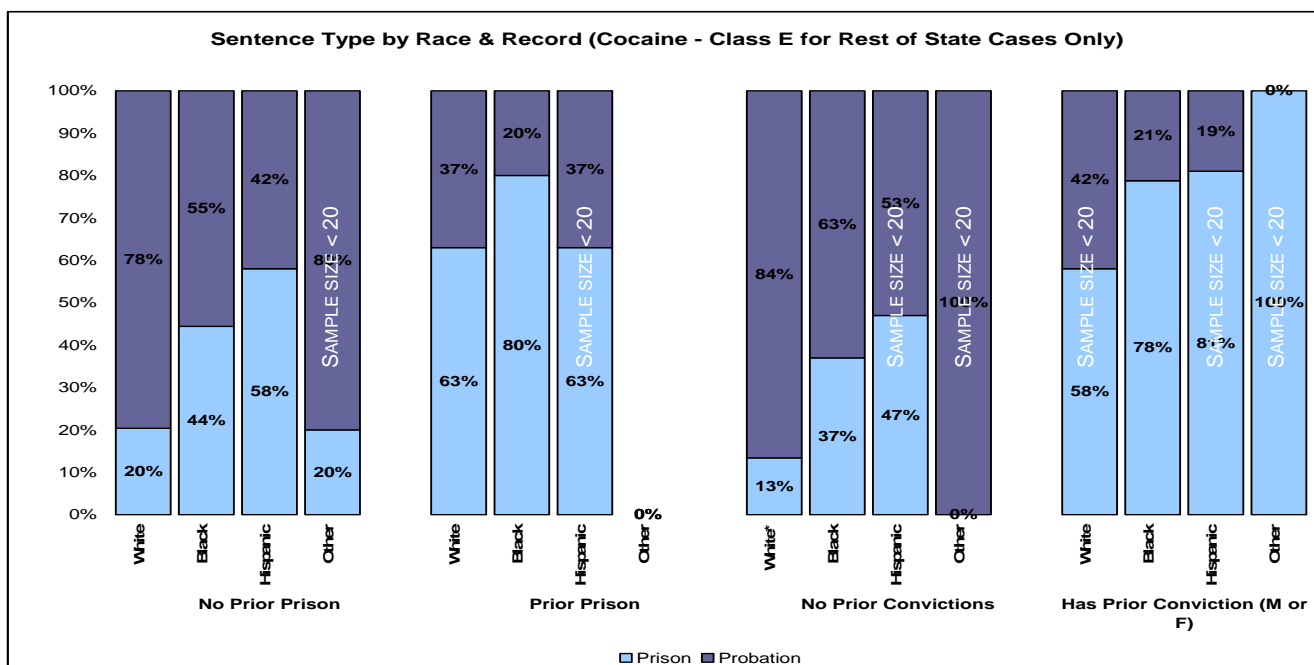
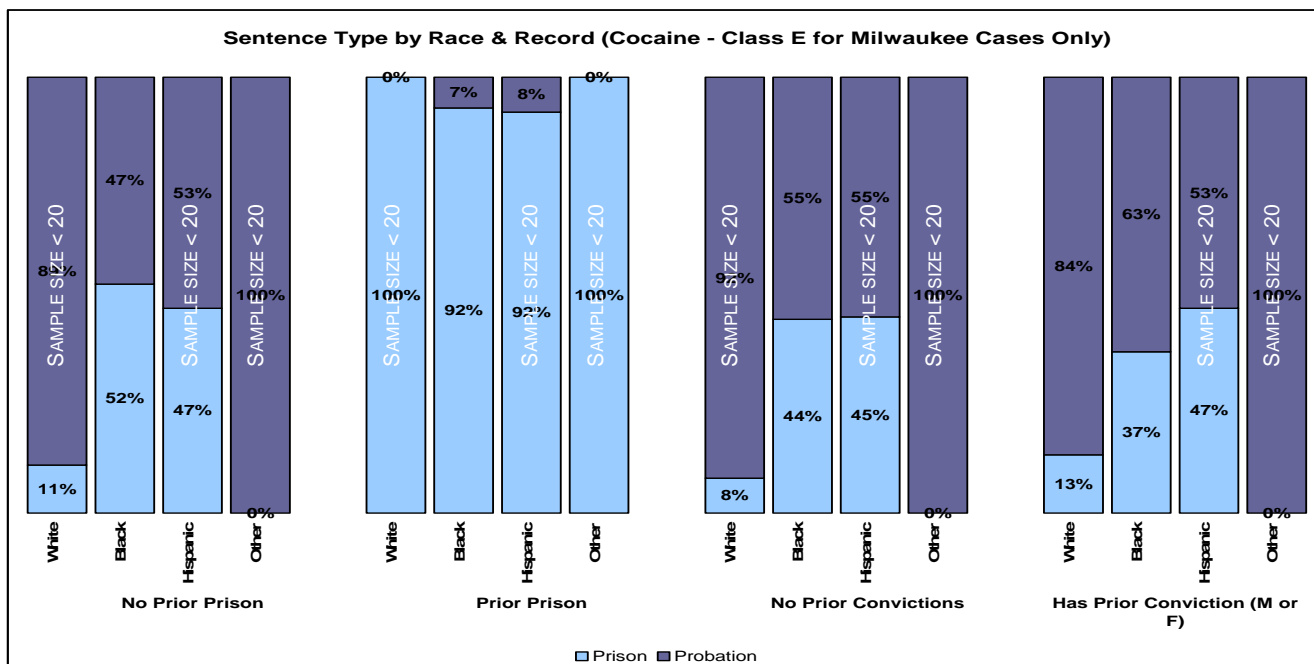
CLASS C FELONY



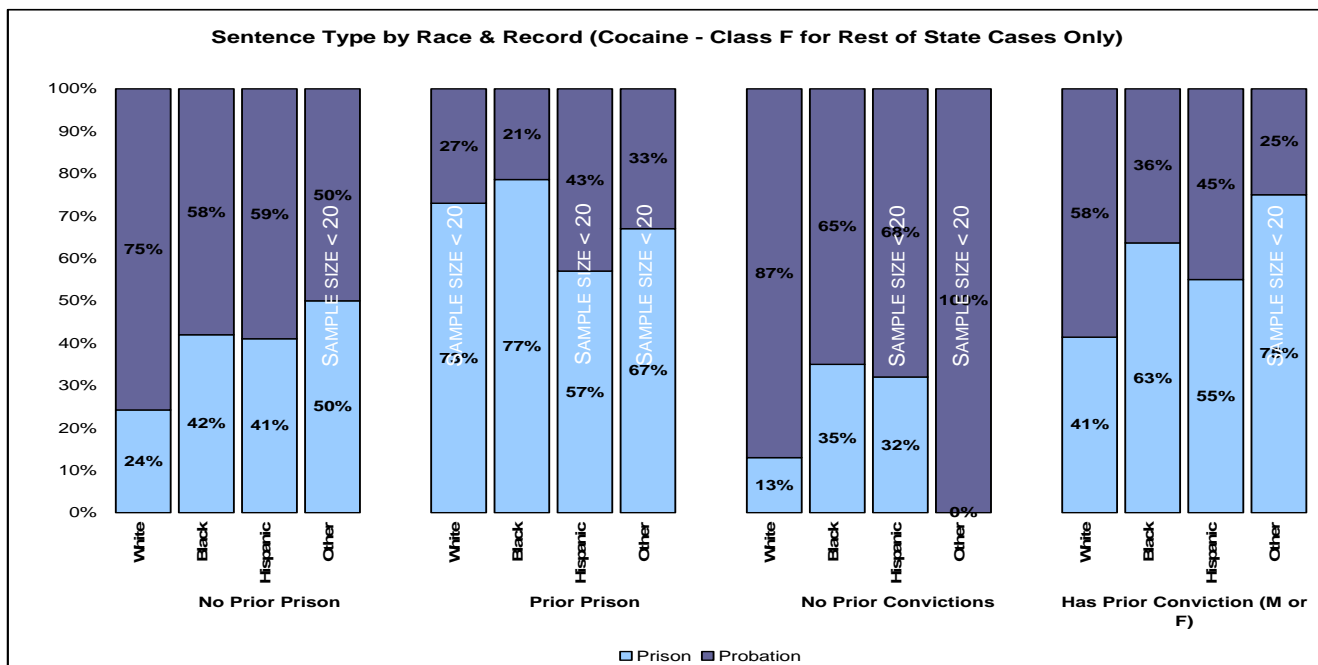
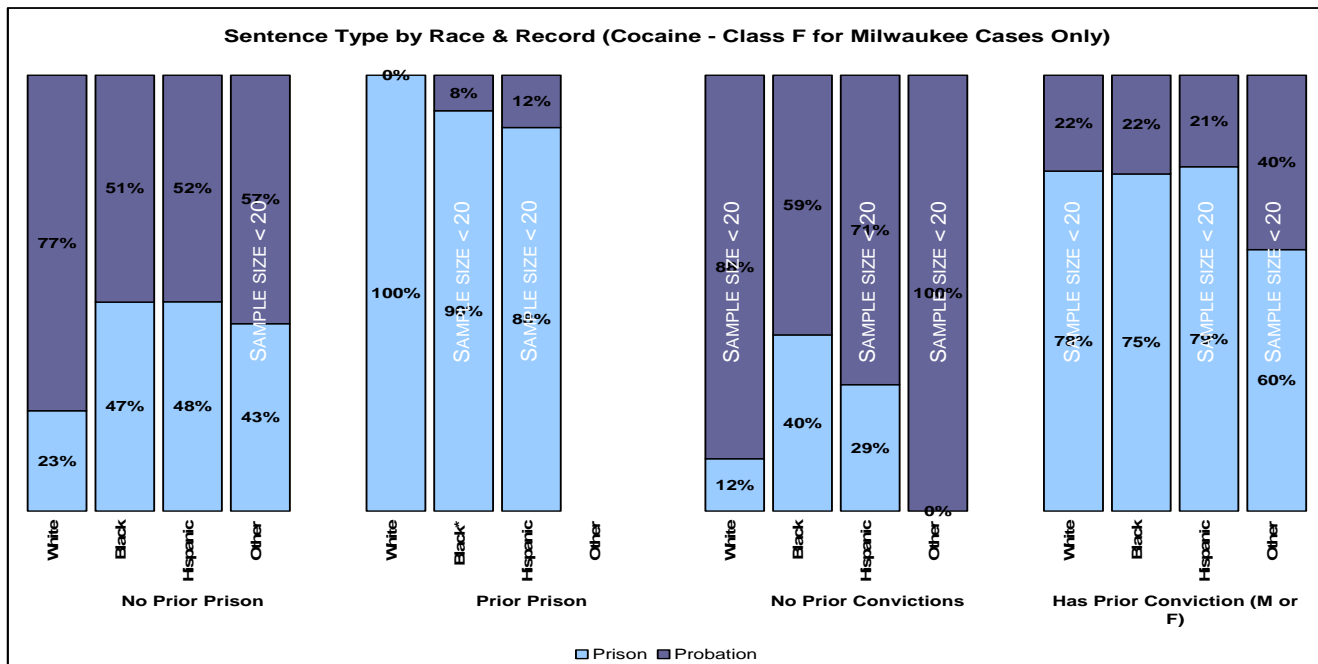
CLASS D FELONY



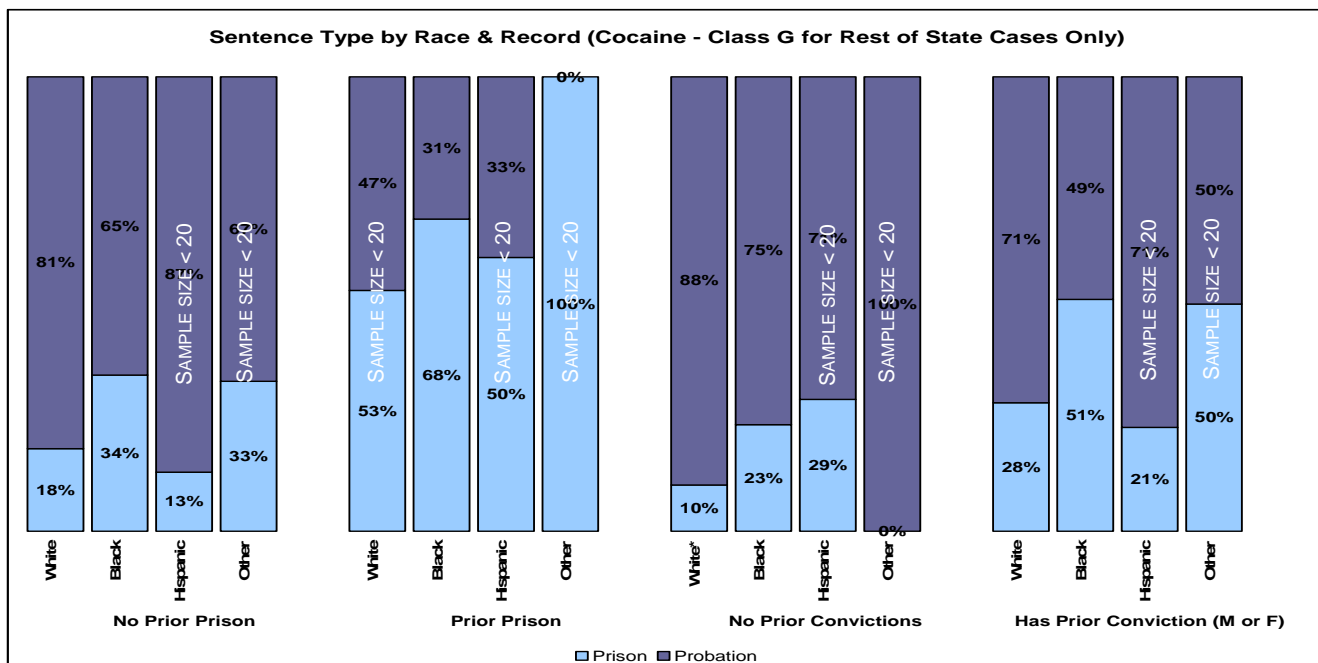
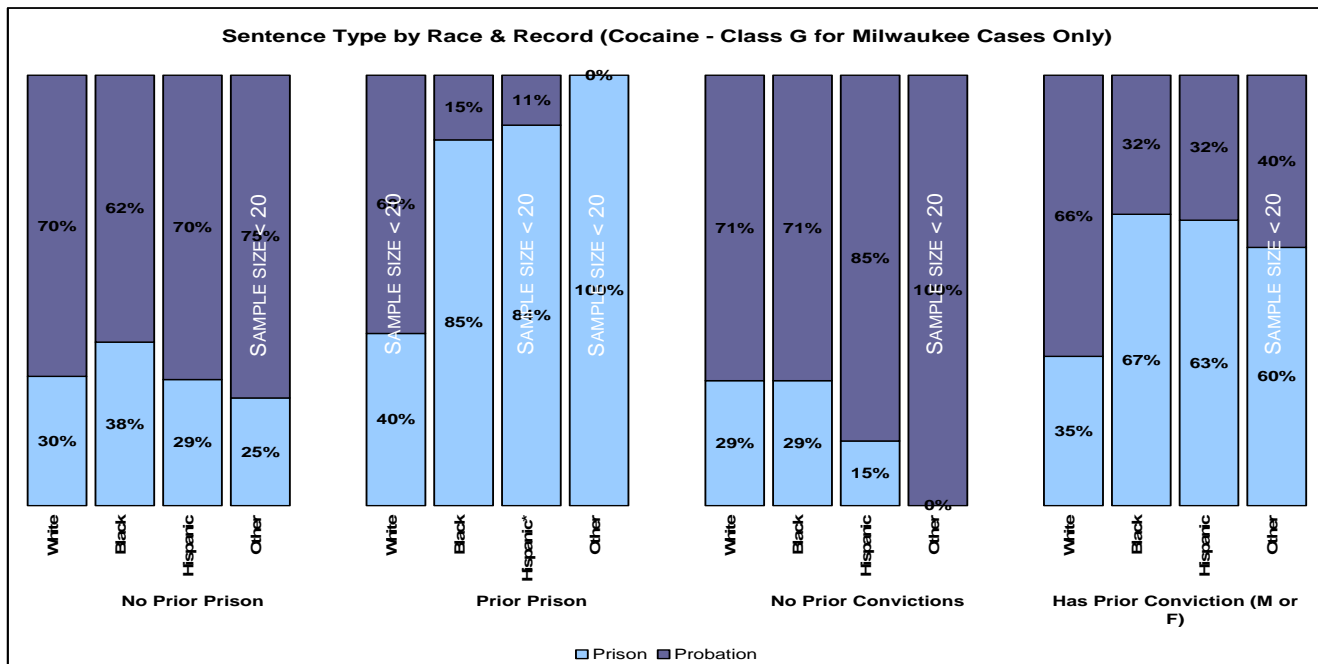
CLASS E FELONY



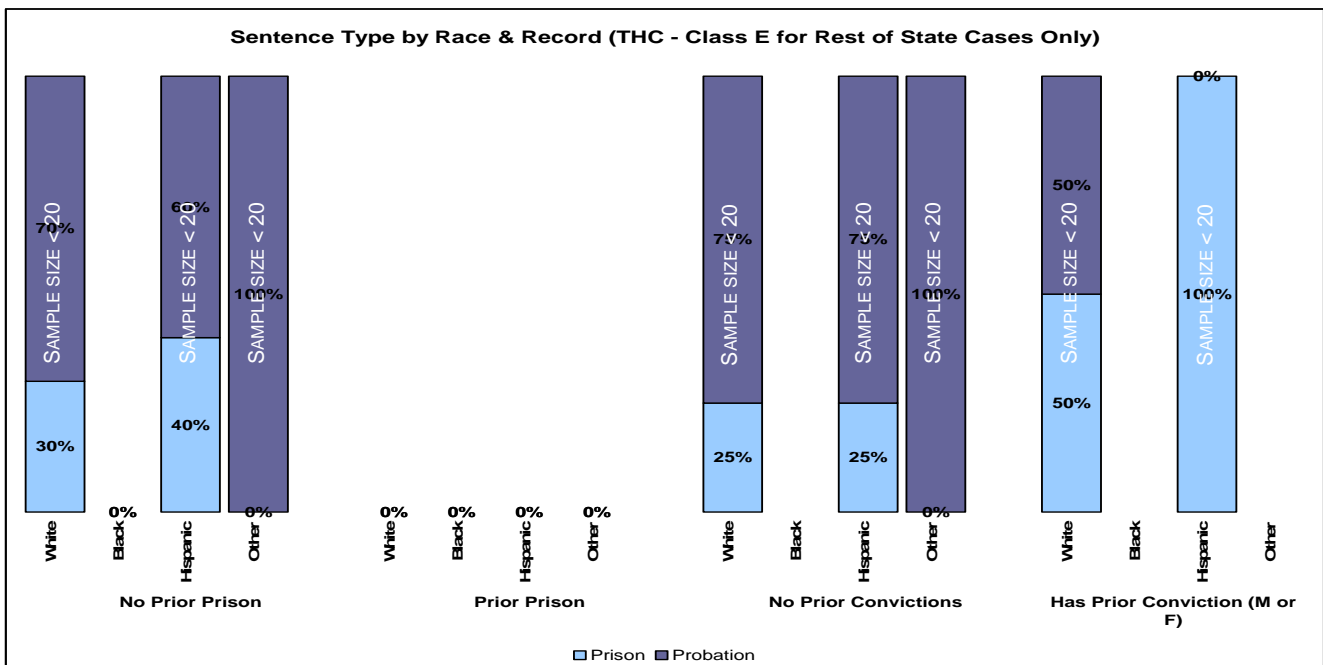
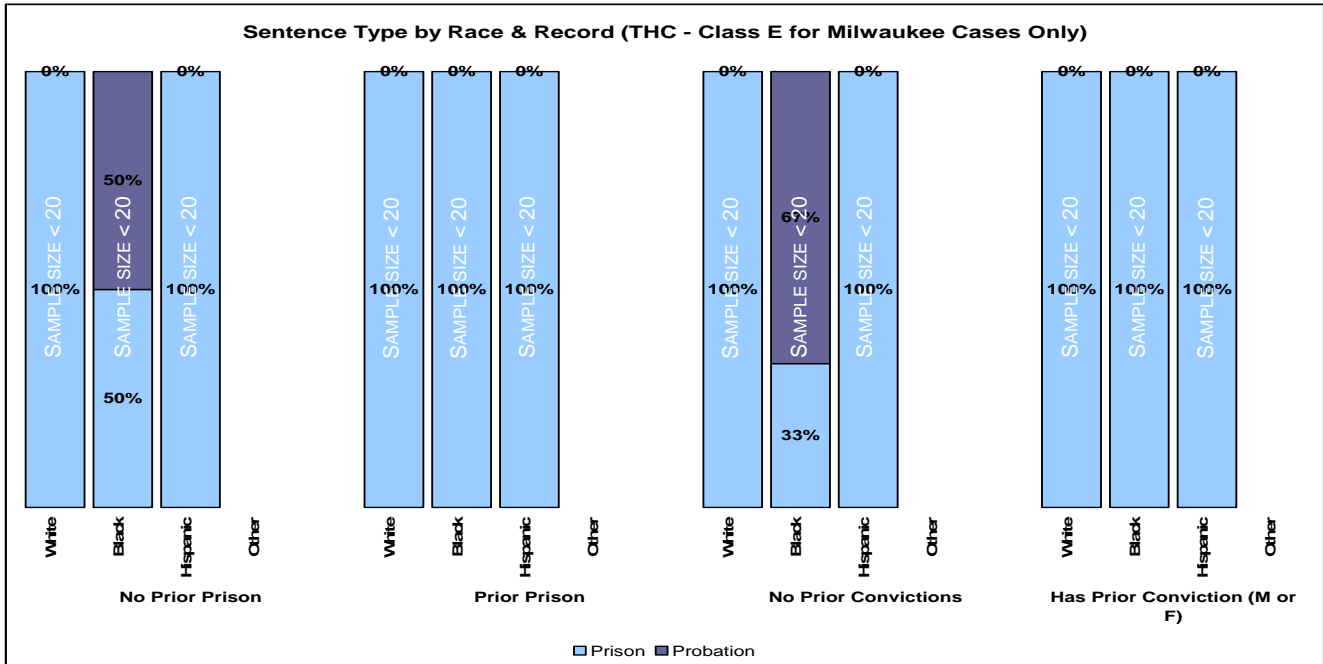
CLASS F FELONY



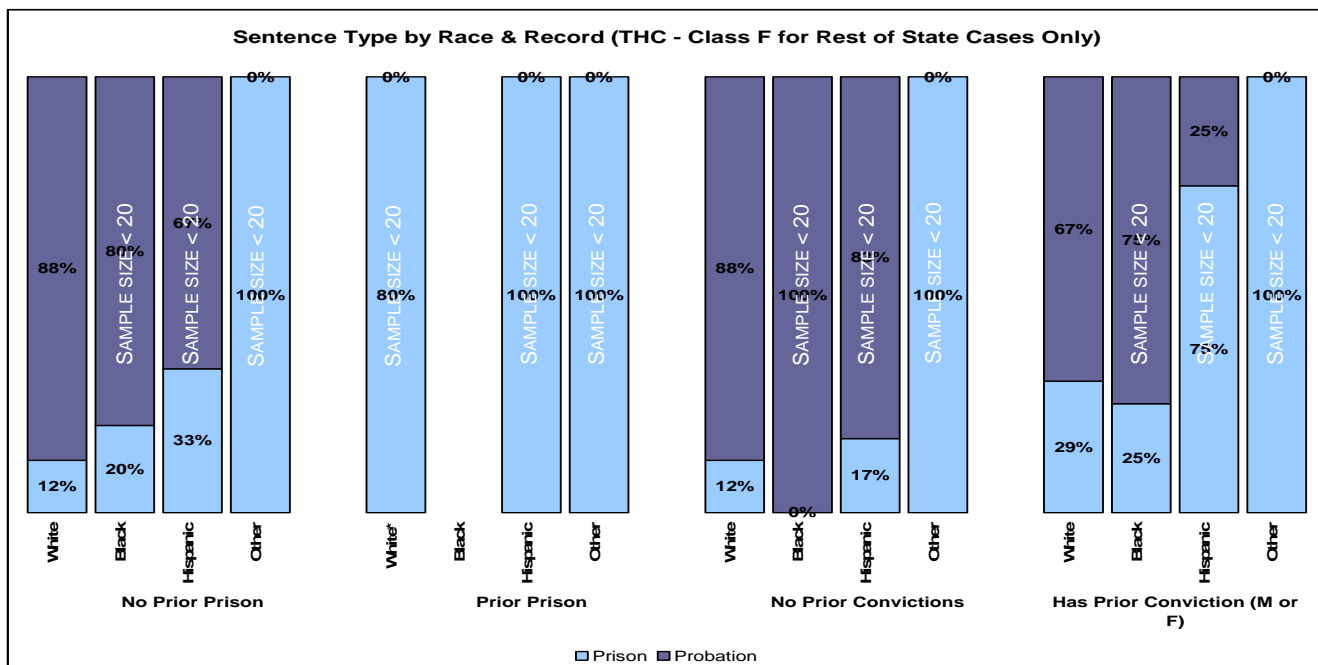
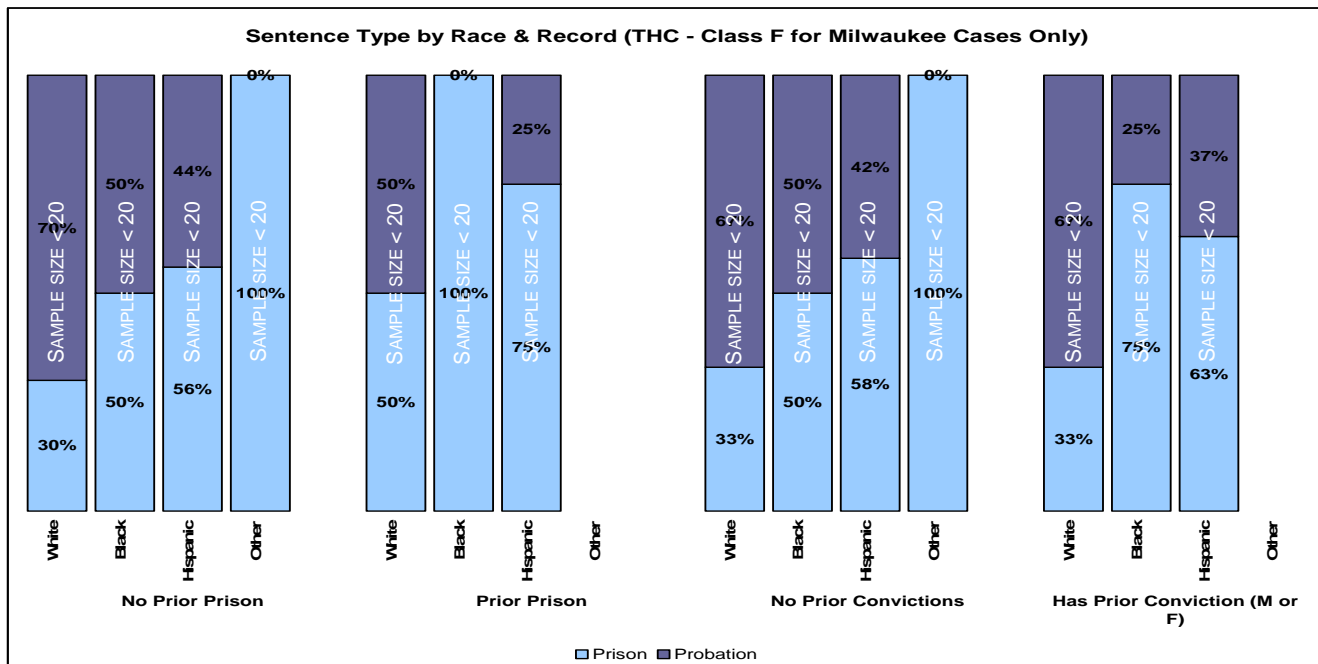
CLASS G FELONY



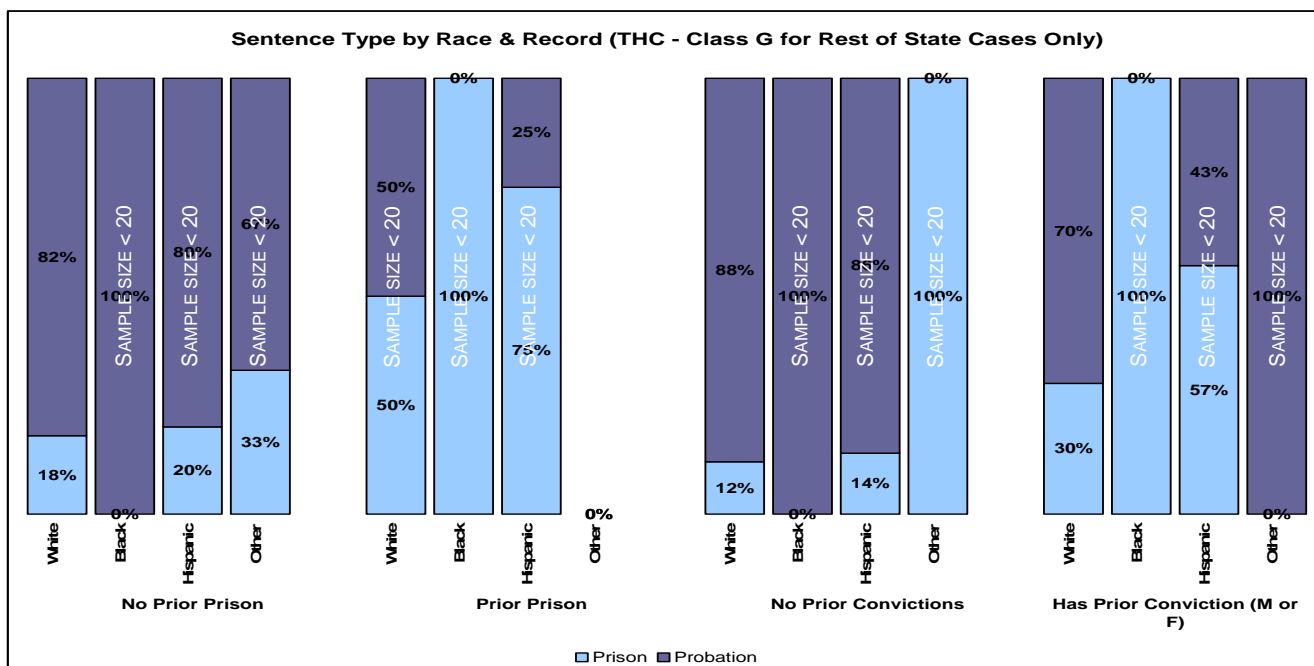
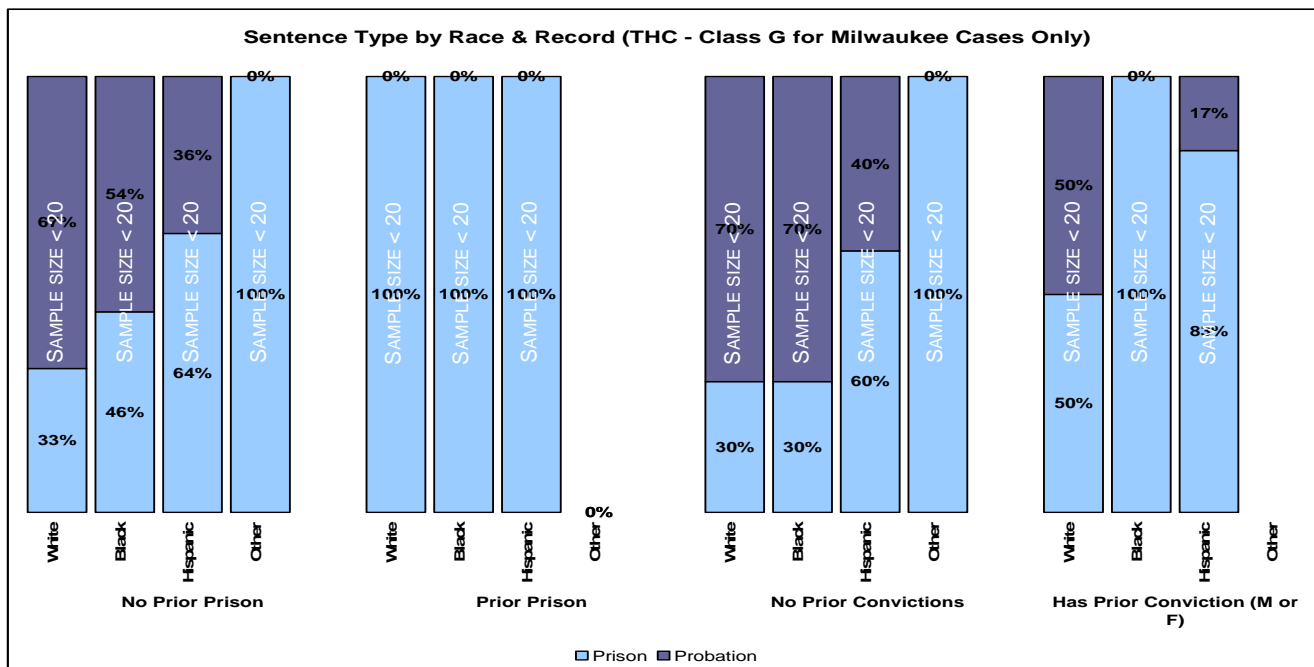
CLASS E FELONY



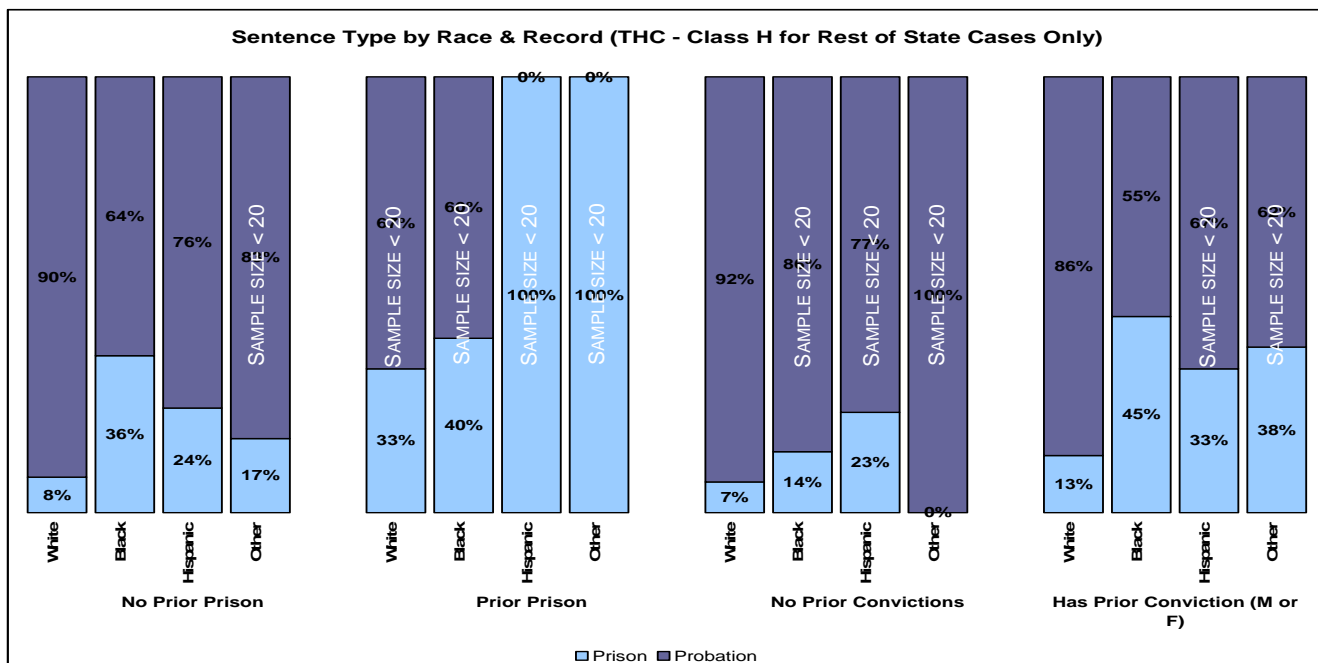
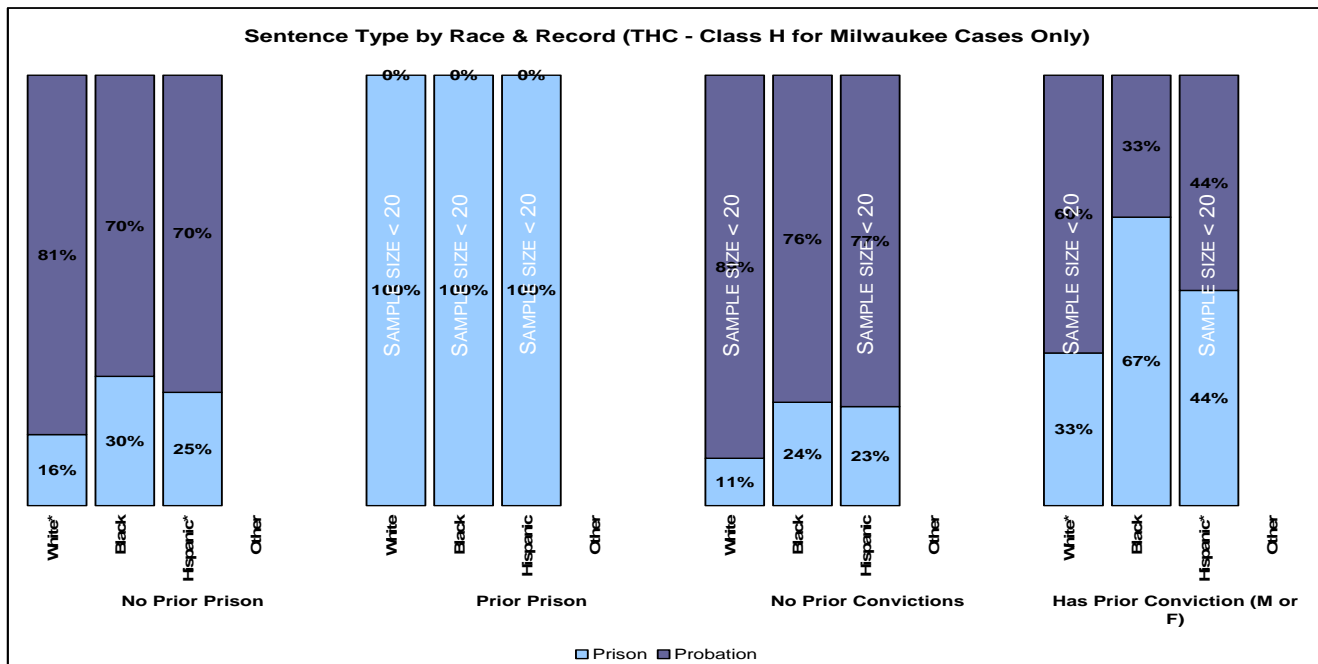
CLASS F FELONY



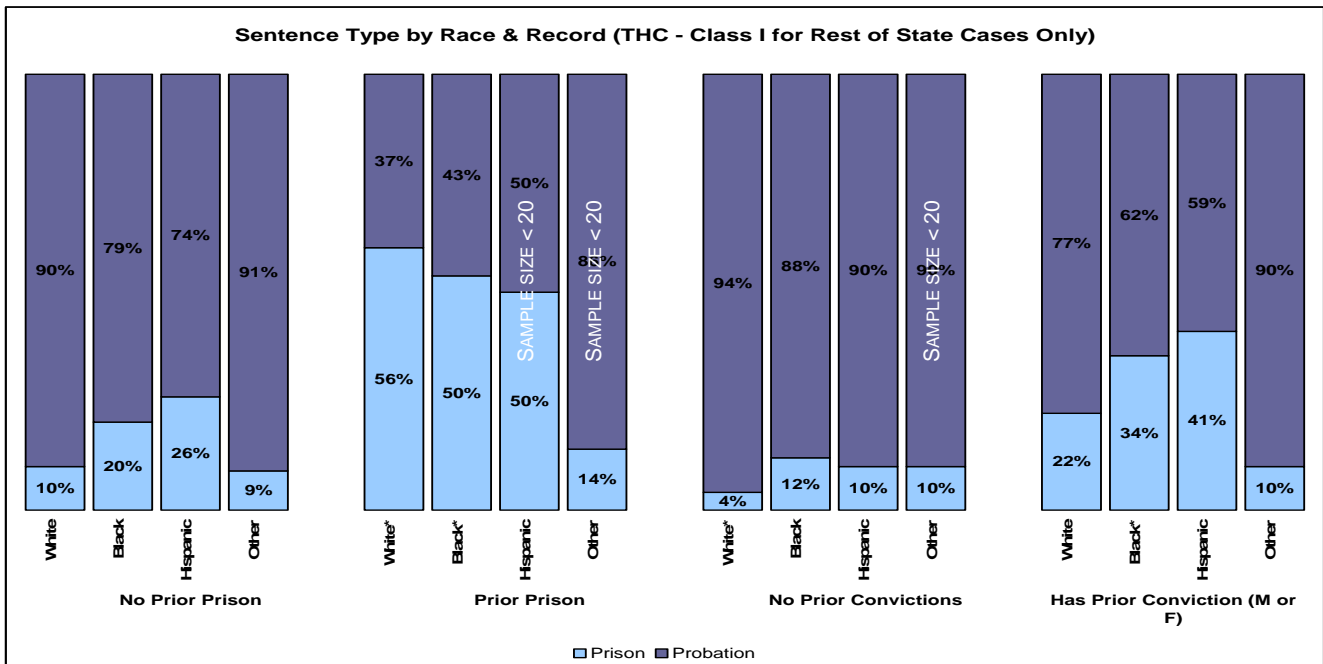
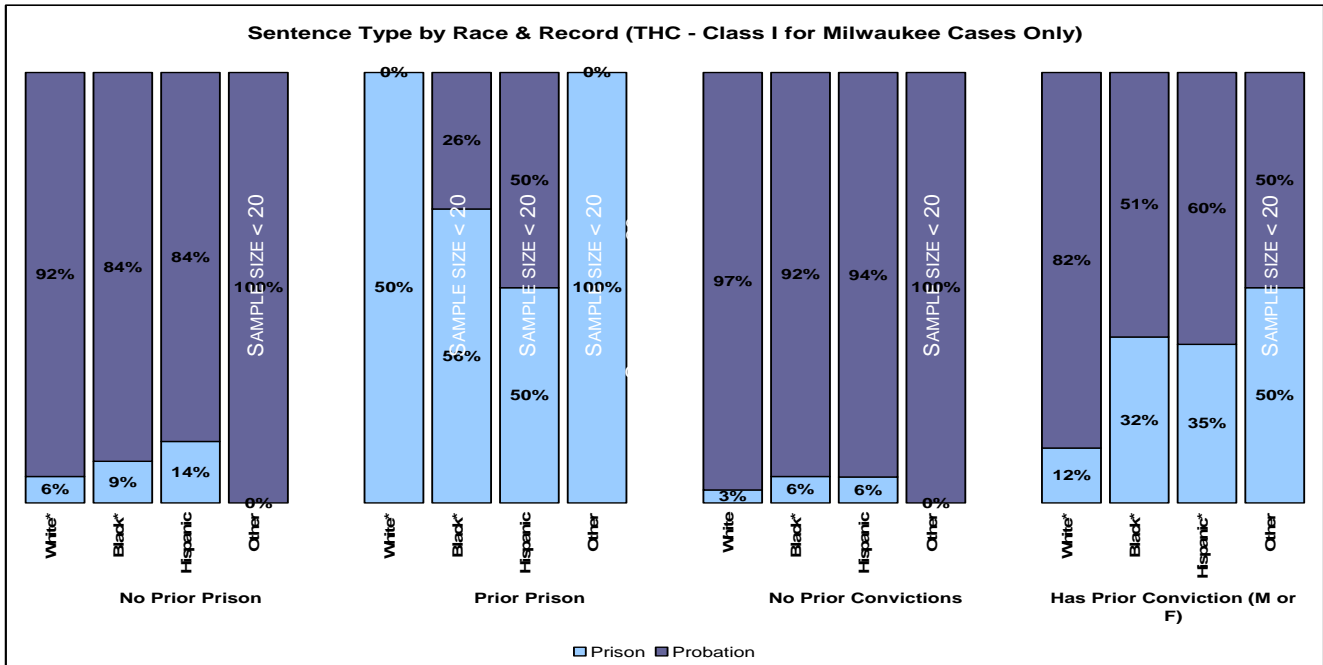
CLASS G FELONY



CLASS H FELONY



CLASS I FELONY



APPENDIX L

Sentence Types Across Felony Classes by Drug Type for Offenders with No Prior Convictions for Milwaukee and Rest of State

The graphs in this section show a breakdown of sentence type for Cocaine and THC *Drug Trafficking* offenses by race, for offenders with no prior convictions, in Milwaukee and the rest of the state. Each graph contains breakdowns for each felony classification level.

Sentence type is either probation or prison. While very few offenders in each category do receive straight jail sentences or other sentencing dispositions, these have not been included. This is due to very small sample sizes that confuse the results without contributing to the overall analysis. An asterisk (“*”) indicates where the percentage of offenders receiving straight jail sentences or other sentencing dispositions is greater than 1% and where the percentages of those sentenced to prison or probation equal less than 99 or 100 %.

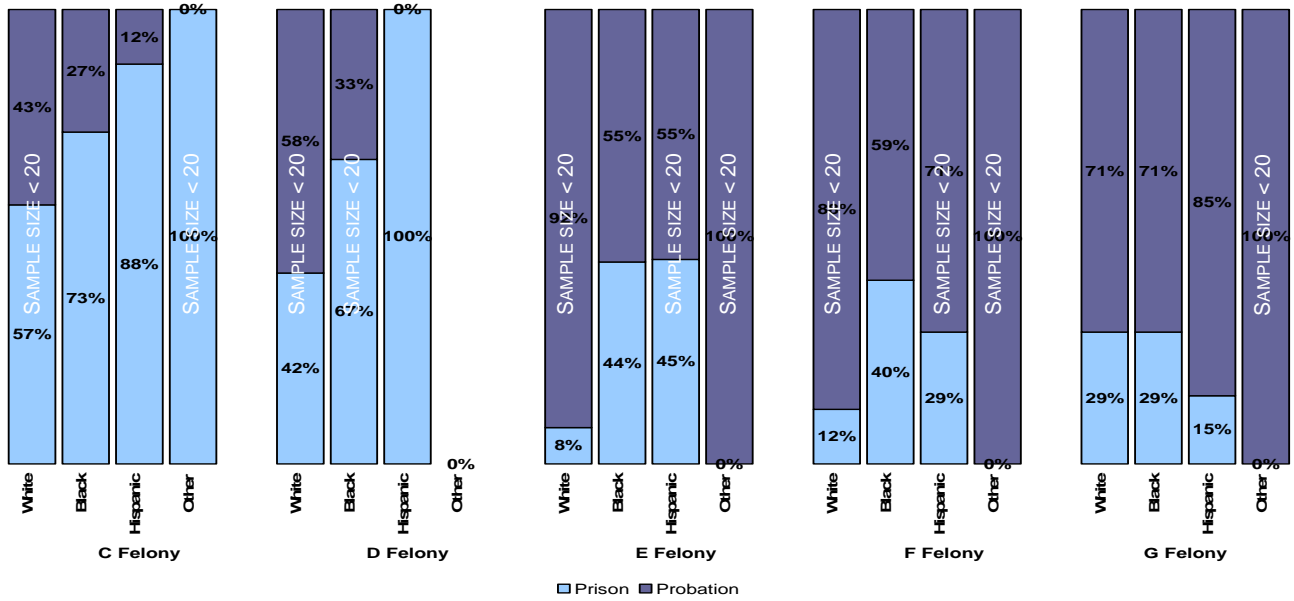
Only offenders with no prior convictions are included in this section. Even those offenders with no prior convictions may still have criminal records from out-of-state or from juvenile adjudications not available in this data set. Offenders with a prior conviction may have one or many prior misdemeanors and/or felonies. These wide variances in each category may account for much of the disparity in the prison/probation decision shown in this section.

Only *Drug Trafficking* offenses for cocaine/cocaine base and THC are included in this section. Consistent with the other information in this report, the data is divided by severity level (felony class). Then, offenders are divided again between Milwaukee County cases and all other cases from the rest of the state (including the Racine/Kenosha, Dane/Rock, Fox Valley, and the Rest of the State divisions used earlier in this report).

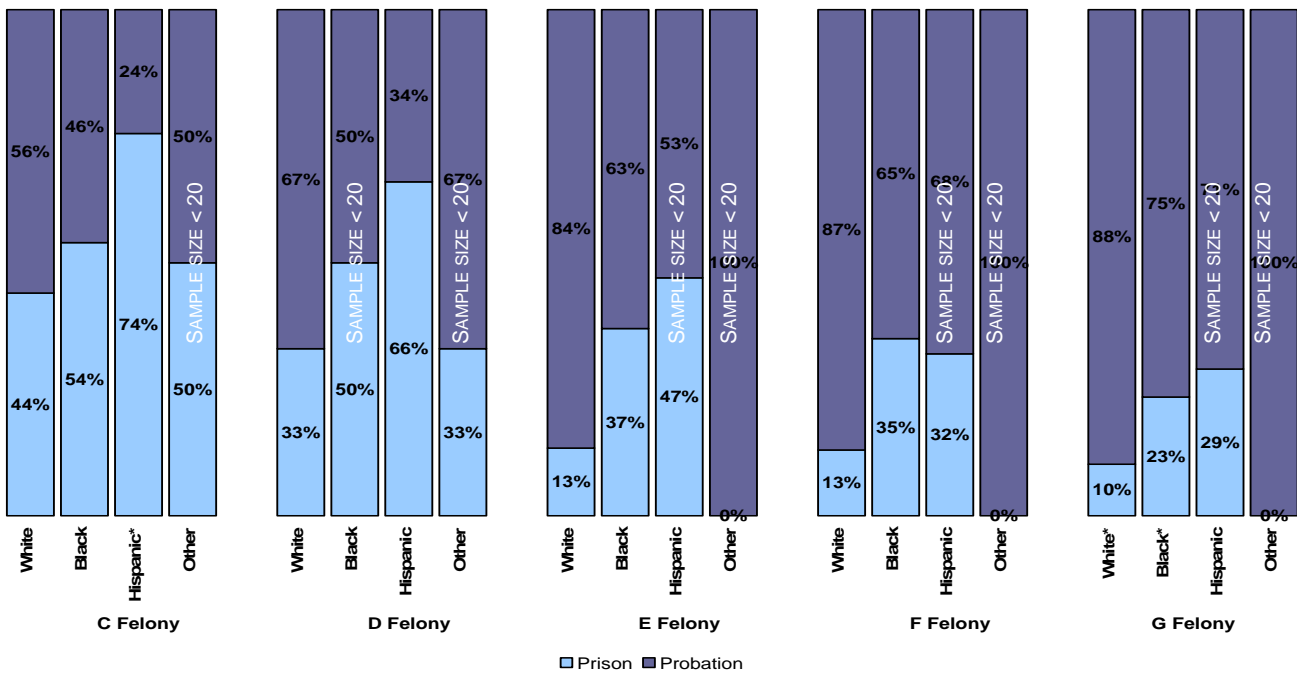
Each graph shows the percentages of offenders with no prior convictions sentenced to either prison or probation by race, across each felony class, for the same type of drug, in the same region (Milwaukee or the rest of the state). This allows a visual comparison of racial disparity in the prison/probation decision for offenders with no prior convictions with the same type of drug, at all severity levels, across racial lines, for Milwaukee and the rest of the state.

COCAINE & COCAINE BASE

Sentence Type by Race: Milwaukee Offenders with No Prior M or F Convictions (Cocaine)

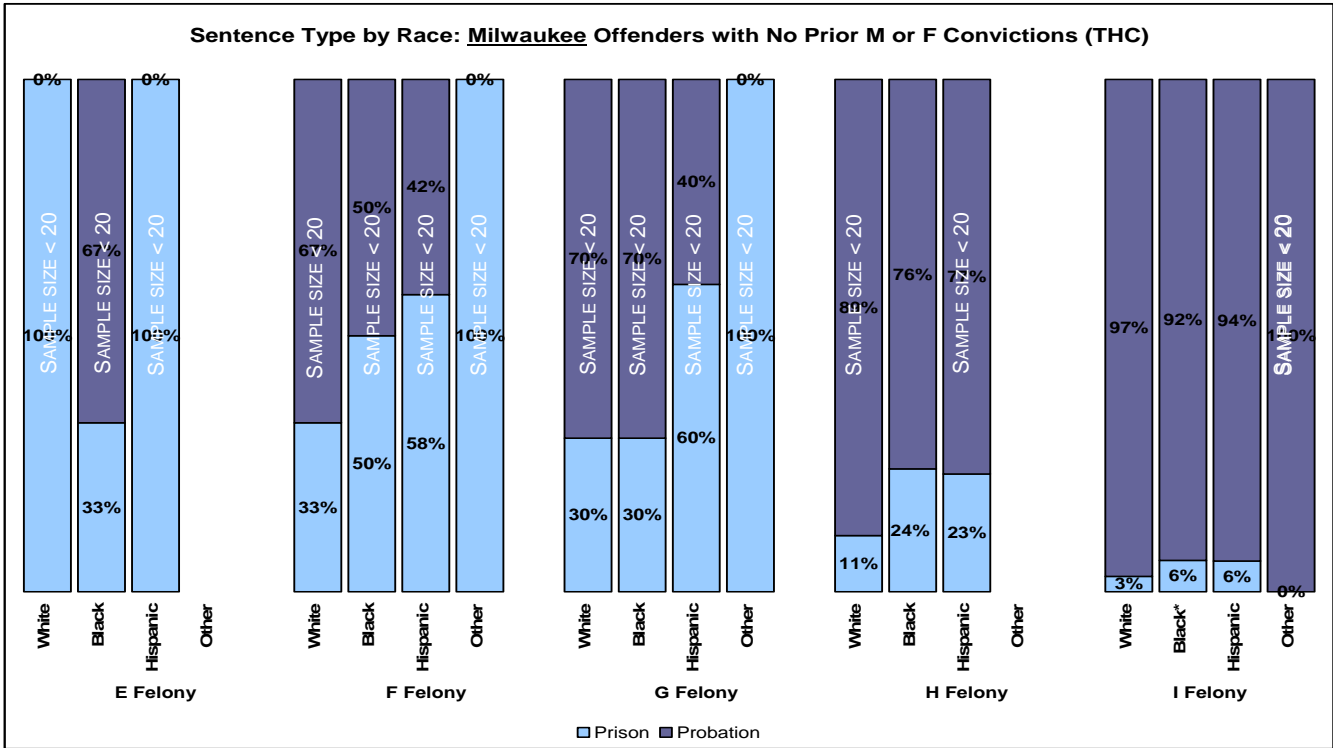


Sentence Type by Race: Rest-of-State Offenders with No Prior M or F Convictions (Cocaine)

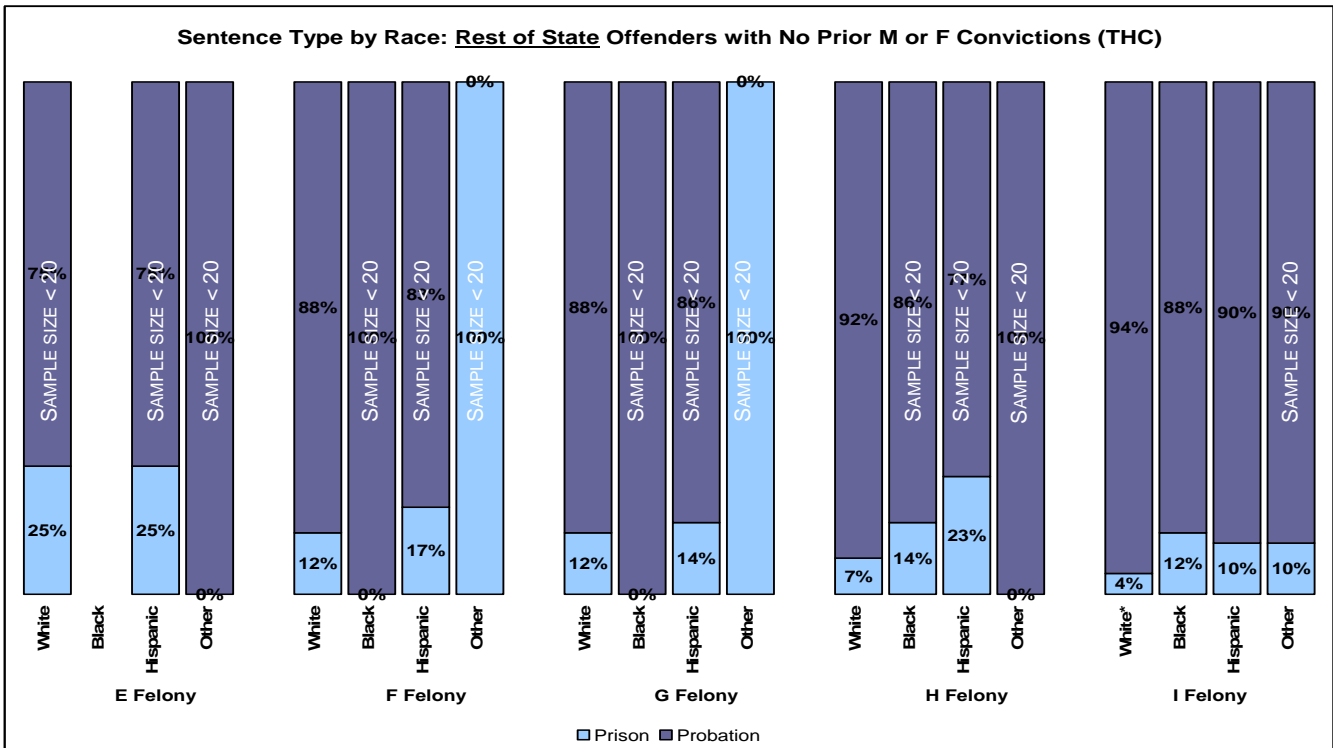


THC

Sentence Type by Race: Milwaukee Offenders with No Prior M or F Convictions (THC)



Sentence Type by Race: Rest of State Offenders with No Prior M or F Convictions (THC)



APPENDIX M

Advanced Statistics

Introduction: The findings in this report show that sentence lengths are largely the same across racial groups but that disparity among racial groups often exists in the initial “in/out” prison/probation decision, especially for *Drug Trafficking* and other lower level offenses. The more detailed breakdowns in Appendices A – L that allow comparisons of offenders with similar criminal histories, by region, and by drug type, help but do not fully explain these disparities. In an attempt to explain more fully the possible effect of race and other factors on sentencing decisions, we utilized more sophisticated statistical modeling techniques, using the same data in the rest of the report.

About Logistic Regression Models: A logistic regression is a more powerful statistical tool than the descriptive statistics applied in this report and in Appendices A – L. A logistic regression produces an “odds ratio” that predicts the likelihood of one group to attain a particular binary status, relative to a baseline or comparison group, while also controlling for a variety of other factors. In this case, our logistic regression model predicts the likelihood of whether or not an offender will receive a prison sentence compared to a baseline group, controlling for a variety of factors.

Dependent Variable: In this regression model, we predict the effect of several factors on whether an offender achieves one of two statuses: a prison sentence (initial confinement) or any other sentencing disposition (probation, “straight” jail time, or other disposition). By using sentence type as the dependent variable, the model can predict the extent to which an offender’s sentence type can be successfully predicted by examining other independent variables.

Independent Variables: We examined and controlled for the effect several broad factors had on the likelihood of whether or not an offender receives an initial prison sentence: Prior Felonies, Prior Misdemeanors, Number of Convictions in Case, Type and Severity of Offense, Gender, Age, Race, Region, and Drug Type (where appropriate). By using these characteristics as the independent variables, we can gauge the relative impact each characteristic has on predicting whether or not an offender goes to prison.

One important aspect of this statistical model is that for each variable included, the model describes whether that variable increases or decreases the odds that an offender receives prison. While extremely valuable, the odds ratio coefficients can sometimes be difficult to understand because each variable’s odds ratio is derived relative to a baseline variable. For instance, in the category of Prior Felony, offenders with zero prior felonies serve as the baseline category to which we compare offenders with one prior felony, those with two prior felonies, and those with three or more prior felonies. Although statistically any group within a characteristic could have been used as the baseline group, this model mostly utilizes those categories for which the offender is least likely to receive prison as its baselines. See Table 1 for a list of all baseline and comparison categories.

Models: We used several regression models, including All Offenses, Non-Drug Offenses, *Drug Trafficking* Offenses, and *Drug Trafficking* Offenses separated by Class E, F, and G felonies. We found statistically significant results with each model. However, the predictive ability of each model decreased as sample size decreased. Furthermore, the models for *Drug Trafficking* Offenses separated by Class E, F, and G felonies did not yield meaningful results regarding the effect drug type has on the prison/probation decision; these results have not been included.

Interpreting Results: A logistic regression reports an odds ratio for each comparison category relative to the baseline category. In this model, the likelihood of receiving a prison sentence for all offenders in the baseline category is 1, and the difference between the odds ratio for the comparison category and the baseline category shows the relative likelihood, compared to the baseline group, of receiving a prison sentence for offenders in the comparison category, controlling for the other factors in the model. For instance, in the All Offenses model, the odds ratio for offenders convicted of *Armed Robbery* (C Felony) is 29.45. Compared to an odds ratio of 1 for offenders convicted of *Drug Trafficking* (I Felony),

this odds ratio means that offenders convicted of *Armed Robbery* (C Felony) are 29 times more likely to receive a prison sentence than those for offenders convicted of *Drug Trafficking* (I Felony).

The “z” score indicates the relative power of a particular category, within a particular regression model, to predict the likelihood of whether an offender receives a prison sentence. Positive z scores indicate that a factor has a statistically significant effect on the dependent variable. Relatively higher z scores indicate increasing levels of certainty regarding that variable’s effect on the dependent variable. For instance, in the All Offenses model, offenders convicted of *Armed Robbery* (C Felony) have a z score of 28.16, while Black offenders have a z score of 9.5. Both have positive z scores, which mean that both factors have a statistically significant effect on the decision to send an offender to prison. However, the relative impact of an offender’s *Armed Robbery* conviction (C Felony) is much higher than that of race, or whether an offender is Black.

The “P > z” value indicates whether the odds ratios reported are statistically significant, or whether they can be reported with an acceptable degree of confidence. For this report, we have used a 95% confidence level. Thus, any “P > z” value greater than 0.05 indicates that we cannot confidently rely on the odds ratio reported for that factor.

The results of each model are always relative to and specific to the other factors included in that particular model. Therefore, it is not appropriate to compare the results of one model to another.

Summary of Findings: In every regression model we used, criminal record and offense type and severity were the most powerful predictors of whether or not an offender would receive a prison sentence, relative to other factors. Gender, age, race, and region were also statistically significant predictors in some but not all of the regression models we used. However, in each model, these factors were generally relatively less predictive than criminal record and offense type and severity.

Main Findings:

- ❖ **For all offenses, criminal record and offense type and severity were the most powerful predictors of whether or not an offender receives a prison sentence, relative to other factors:**
 - Compared to offenders with no prior felonies, offenders with one prior felony were 3 times more likely to receive a prison sentence.
 - Compared to offenders with no prior felonies, offenders with two prior felonies were 6 times more likely to receive a prison sentence.
 - Compared to offenders with no prior felonies, offenders with three or more prior felonies were 8 times more likely to receive a prison sentence.
 - Compared to offenders convicted of a Class I *Drug Trafficking* Felony (the least severe offense included in this report), offenders with more severe offenses were more likely to receive prison sentences, as follows:

Offense (Felony Class)	Likelihood of Receiving Prison, relative to Drug Trafficking (I)
Sexual Assault-Child (B)	26 times more likely to receive a prison sentence
Sexual Assault-Child (C)	9 times more likely to receive a prison sentence
Sexual Assault (B)	190 times more likely to receive a prison sentence
Sexual Assault (C)	16 times more likely to receive a prison sentence
Sexual Assault (G)	4 times more likely to receive a prison sentence
Armed Robbery (C)	29 times more likely to receive a prison sentence
Robbery (E)	8 times more likely to receive a prison sentence
Burglary Plus (E)	9 times more likely to receive a prison sentence
Burglary (F)	3 times more likely to receive a prison sentence
Drug Trafficking (C)	13 times more likely to receive a prison sentence
Drug Trafficking (D)	9 times more likely to receive a prison sentence
Drug Trafficking (E)	4 times more likely to receive a prison sentence
Drug Trafficking (F)	4 times more likely to receive a prison sentence
Drug Trafficking (G)	3 times more likely to receive a prison sentence
Drug Trafficking (H)	1.4 times more likely to receive a prison sentence

(See Table 2 for full results from this regression model.)

- ❖ **For all offenses, gender, age, race, and region were also statistically significant predictors, but these factors were generally relatively less predictive than criminal record and offense type and severity.**
 - Men were almost 3 times more likely than women likely to receive a prison sentence.
 - Compared to offenders 18-22 years old, older offenders were slightly more likely to receive a prison sentence, while offenders under 18 (but sentenced as adults) were slightly less likely to receive a prison sentence.
 - Compared to White offenders, Black offenders were 1.7 times more likely to receive a prison sentence, controlling for other factors.
 - Compared to White offenders, Hispanic offenders were almost twice as likely to receive a prison sentence, controlling for other factors.
 - Compared to White offenders, minority offenders of any other race (Other, not Black or Hispanic) were 1.4 times more likely to receive a prison sentence.
 - Compared to the Fox Valley region, offenders from the Milwaukee region were more than twice as likely to receive a prison sentence.
 - Compared to the Fox Valley region, offenders from the Racine/Kenosha region were three times as likely to receive a prison sentence.
 - Compared to the Fox Valley region, offenders from the rest of the state were slightly more likely to receive a prison sentence.

(See Table 2 for full results from this regression model.)

- ❖ **When drug offenses were removed from the model, criminal record and offense type and severity were still the most powerful predictors of whether or not an offender receives a prison sentence, relative to other factors. Gender, age, race, and region were also statistically significant predictors, but these factors were generally relatively less predictive than criminal record and offense type and severity.**
 - In the non-drug offenses model, Black offenders were 1.5 times more likely than White offenders to receive a prison sentence.
 - In the non-drug offenses model, Hispanic offenders were 1.7 times more likely than White offenders to receive a prison sentence.

(See Table 3 for full results from this regression model.)

- ❖ **When only drug offenses were included in the model, criminal record and offense type and severity were still the most powerful predictors of whether or not an offender receives a prison sentence, relative to other factors. Gender, age, race, and region were also statistically significant predictors, but these factors were generally relatively less predictive than criminal record and offense type and severity.**
 - In the drug offenses only model, Black offenders were almost twice as likely as White offenders to receive a prison sentence.
 - In the drug offenses only model, Hispanic offenders were almost 2.5 times more likely than White offenders to receive a prison sentence.
 - In the drug offenses only model, minority offenders of any other race (Other, not Black or Hispanic) were 1.5 times more likely to receive a prison sentence than White offenders.

(See Table 4 for full results from this regression model.)

Table 1 – Baseline and Comparison Categories

General Category	Specific Categories	Compared To (Baseline Category)
Prior Felony	1 Prior Felony 2 Prior Felonies >3 Prior Felonies	No Prior Felonies
Prior Misdemeanor	1 Prior Misdemeanor 2 Prior Misdemeanors >3 Prior Misdemeanors	No Prior Misdemeanors
Number of Convictions in Case	2-3 Case Convictions 4-5 Case Convictions >6 Case Convictions	1 Case Conviction
Offense (Felony Class)	Sexual Assault-Child (B) Sexual Assault-Child (C) Sexual Assault (B) Sexual Assault (C) Sexual Assault (G) Robbery (C) Robbery (E) Burglary (E) Burglary (F) Drug Trafficking (C) Drug Trafficking (D) Drug Trafficking (E) Drug Trafficking (F) Drug Trafficking (G) Drug Trafficking (H)	Drug Trafficking (I) or Burglary (F)
Gender	Male	Female
Age	<18 yrs. 23-29 yrs. 30-39 yrs. >39 yrs.	18-22 yrs.
Race	Black Hispanic Other	White
Region	Dane/Rock Milwaukee County Racine/Kenosha Rest of State	Fox Valley

Table 2 – Logistic Regression Model for All Offenses

This regression model includes data for all offenses included in this report and controls for criminal record, case convictions, offense type and severity, gender, age, race, and region.

Number of Observations = 14545

Pseudo R-Squared = 0.2534

	Baseline Category	Comparison Category	Odds Ratio	z	P > z
Criminal Record	No Prior Felony	Prior Felony (1)	3.35	23.84	0.000
		Prior Felonies (2)	5.73	24.36	0.000
		Prior Felonies (>3)	7.93	26.20	0.000
	No Prior Misdemeanor	Prior Misdemeanor (1)	1.16	2.95	0.003
		Prior Misdemeanor (2)	1.31	3.80	0.000
		Prior Misdemeanor (>3)	1.58	6.32	0.000
Case	1 Case Conviction	Case Convictions (2-3)	2.20	16.15	0.000
		Case Convictions (4-5)	3.00	9.34	0.000
		Case Convictions (>6)	4.49	8.71	0.000
Offense Type and Severity	Drug Trafficking (I)	Sexual Assault-Child (B)	25.87	21.96	0.000
		Sexual Assault-Child (C)	8.75	19.57	0.000
		Sexual Assault (B)	190.63	5.10	0.000
		Sexual Assault (C)	16.25	11.95	0.000
		Sexual Assault (G)	4.44	10.19	0.000
		Armed Robbery (C)	29.50	28.16	0.000
		Robbery (E)	7.62	16.89	0.000
		Burglary Plus (E)	9.21	11.55	0.000
		Burglary (F)	3.00	13.02	0.000
		Drug Trafficking (C)	13.08	18.08	0.000
		Drug Trafficking (D)	8.85	16.66	0.000
		Drug Trafficking (E)	4.16	13.60	0.000
		Drug Trafficking (F)	4.30	16.38	0.000
		Drug Trafficking (G)	3.32	13.70	0.000
		Drug Trafficking (H)	1.43	2.44	0.015
Sex	Female	Male	2.63	12.69	0.000
Age	18-22 yrs.	<18 yrs.	0.66	-4.29	0.000
		23-29 yrs.	1.34	5.55	0.000
		30-39 yrs.	1.31	4.49	0.000
		>39 yrs.	1.13	1.91	0.057
Race	White	Black	1.71	9.50	0.000
		Hispanic	1.95	8.35	0.000
		Other Minority	1.37	2.68	0.007
Region	Fox Valley	Dane/Rock	0.89	-1.19	0.235
		Milwaukee	2.20	9.6	0.000
		Racine/Kenosha	2.98	10.68	0.000
		Rest of State	1.32	3.64	0.000

Odds Ratios in Bold Italic typefaces are statistically significant at a 95% confidence level.

Table 3 – Logistic Regression Model for Non-Drug Offenses

This regression model includes data for only non-drug offenses included in this report and controls for criminal record, case convictions, offense type and severity, gender, age, race, and region.

Number of Observations = 6259 Pseudo R-Squared = 0.2498

	Baseline Category	Comparison Category	Odds Ratio	z	P > z
Criminal Record	No Prior Felony	Prior Felony (1)	2.85	12.98	0.000
		Prior Felonies (2)	5.24	14.63	0.000
		Prior Felonies (>3)	9.05	18.44	0.000
	No Prior Misdemeanor	Prior Misdemeanor (1)	1.19	2.24	0.025
		Prior Misdemeanor (2)	1.25	2.10	0.035
		Prior Misdemeanor (>3)	1.94	6.31	0.000
Case	1 Case Conviction	Case Convictions (2-3)	2.48	12.32	0.000
		Case Convictions (4-5)	3.27	7.73	0.000
		Case Convictions (>6)	4.53	7.63	0.000
Offense Type and Severity	Burglary (F)	Sexual Assault-Child (B)	7.70	14.50	0.000
		Sexual Assault-Child (C)	2.92	10.94	0.000
		Sexual Assault (B)	67.10	4.10	0.000
		Sexual Assault (C)	5.03	7.09	0.000
		Sexual Assault (G)	1.47	2.81	0.005
		Armed Robbery (C)	12.88	22.38	0.000
		Robbery (E)	3.14	10.21	0.000
		Burglary Plus (E)	3.21	6.32	0.000
Sex	Female	Male	2.72	6.91	0.000
Age	18-22 yrs.	<18 yrs.	0.69	-3.26	0.001
		23-29 yrs.	1.42	4.22	0.000
		30-39 yrs.	1.52	4.48	0.000
		>39 yrs.	1.88	6.06	0.000
Race	White	Black	1.47	4.44	0.000
		Hispanic	1.65	4.05	0.000
		Other Minority	1.27	1.57	0.115
Region	Fox Valley	Dane/Rock	0.74	-2.22	0.026
		Milwaukee	1.49	3.14	0.002
		Racine/Kenosha	2.63	6.16	0.000
		Rest of State	1.32	2.57	0.010

Odds Ratios in Bold Italic typefaces are statistically significant at a 95% confidence level.

Table 4 – Logistic Regression Model for Drug Trafficking Offenses

This regression model includes data for only *Drug Trafficking* offenses included in this report and controls for criminal record, case convictions, offense type and severity, gender, age, race, and region.

Number of Observations = 8286 Pseudo R-Squared = 0.2592

	Baseline Category	Comparison Category	Odds Ratio	Z	P > z
Criminal Record	No Prior Felony	Prior Felony (1)	3.77	20.09	0.000
		Prior Felonies (2)	6.17	19.34	0.000
		Prior Felonies (>3)	6.84	17.95	0.000
	No Prior Misdemeanor	Prior Misdemeanor (1)	1.18	2.41	0.016
		Prior Misdemeanor (2)	1.44	3.73	0.000
		Prior Misdemeanor (>3)	1.34	2.86	0.004
Case	1 Case Conviction	Case Convictions (2-3)	2.01	10.51	0.000
		Case Convictions (4-5)	2.81	5.51	0.000
		Case Convictions (>6)	5.32	4.63	0.000
Offense Type and Severity	Drug Trafficking (I)	Drug Trafficking (C)	12.93	17.63	0.000
		Drug Trafficking (D)	8.93	16.46	0.000
		Drug Trafficking (E)	4.27	13.61	0.000
		Drug Trafficking (F)	4.25	16.03	0.000
		Drug Trafficking (G)	3.04	12.39	0.000
		Drug Trafficking (H)	1.52	2.80	0.005
Sex	Female	Male	2.51	10.17	0.000
Age	18-22 yrs.	<18 yrs.	0.718	-1.73	0.084
		23-29 yrs.	1.23	2.98	0.003
		30-39 yrs.	1.19	2.17	0.030
		>39 yrs.	0.861	-1.70	0.088
Race	White	Black	1.96	8.66	0.000
		Hispanic	2.43	8.37	0.000
		Other Minority	1.52	2.16	0.031
Region	Fox Valley	Dane/Rock	1.02	0.16	0.869
		Milwaukee	2.74	8.91	0.000
		Racine/Kenosha	3.39	8.77	0.000
		Rest of State	1.29	2.23	0.026

Odds Ratios in Bold Italic typefaces are statistically significant at a 95% confidence level.