

OUTCOMES:
FIRST- AND SECOND-DEGREE
CONTROLLED SUBSTANCE OFFENDERS

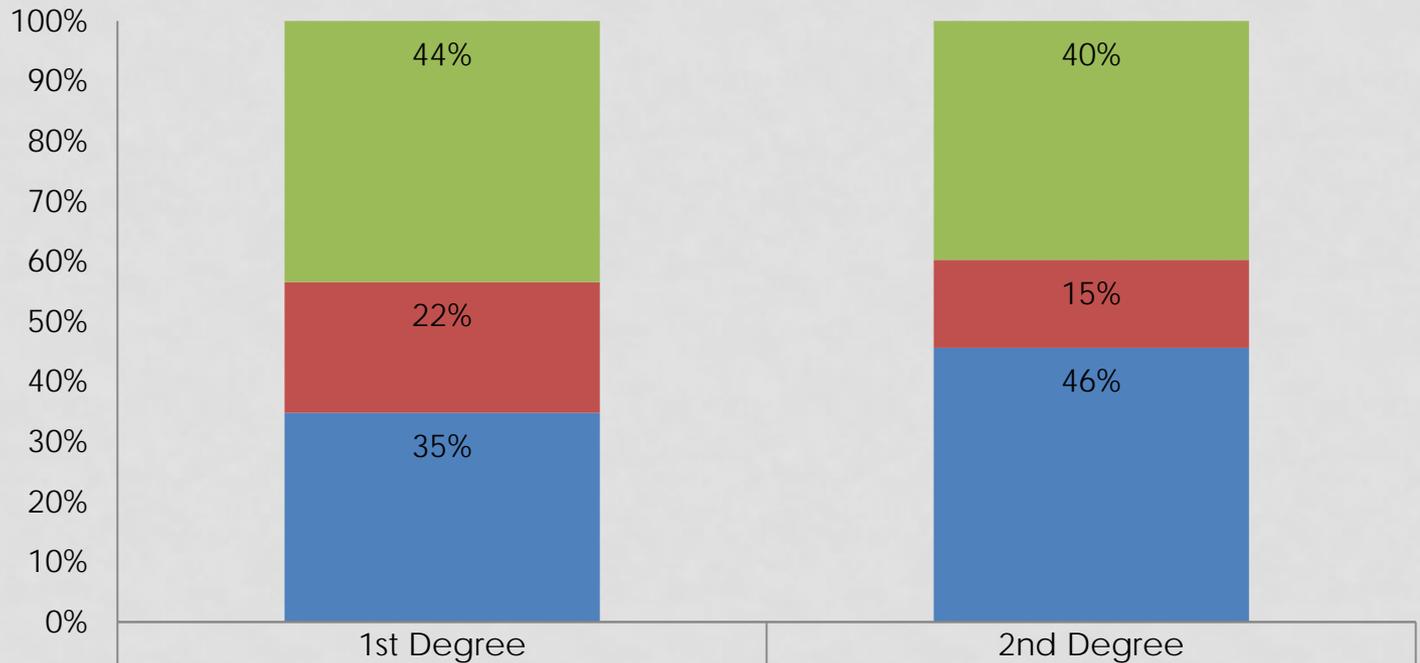
MINNESOTA SENTENCING GUIDELINES
COMMISSION MEETING

April 18, 2013

WHY ARE WE STUDYING OUTCOMES?

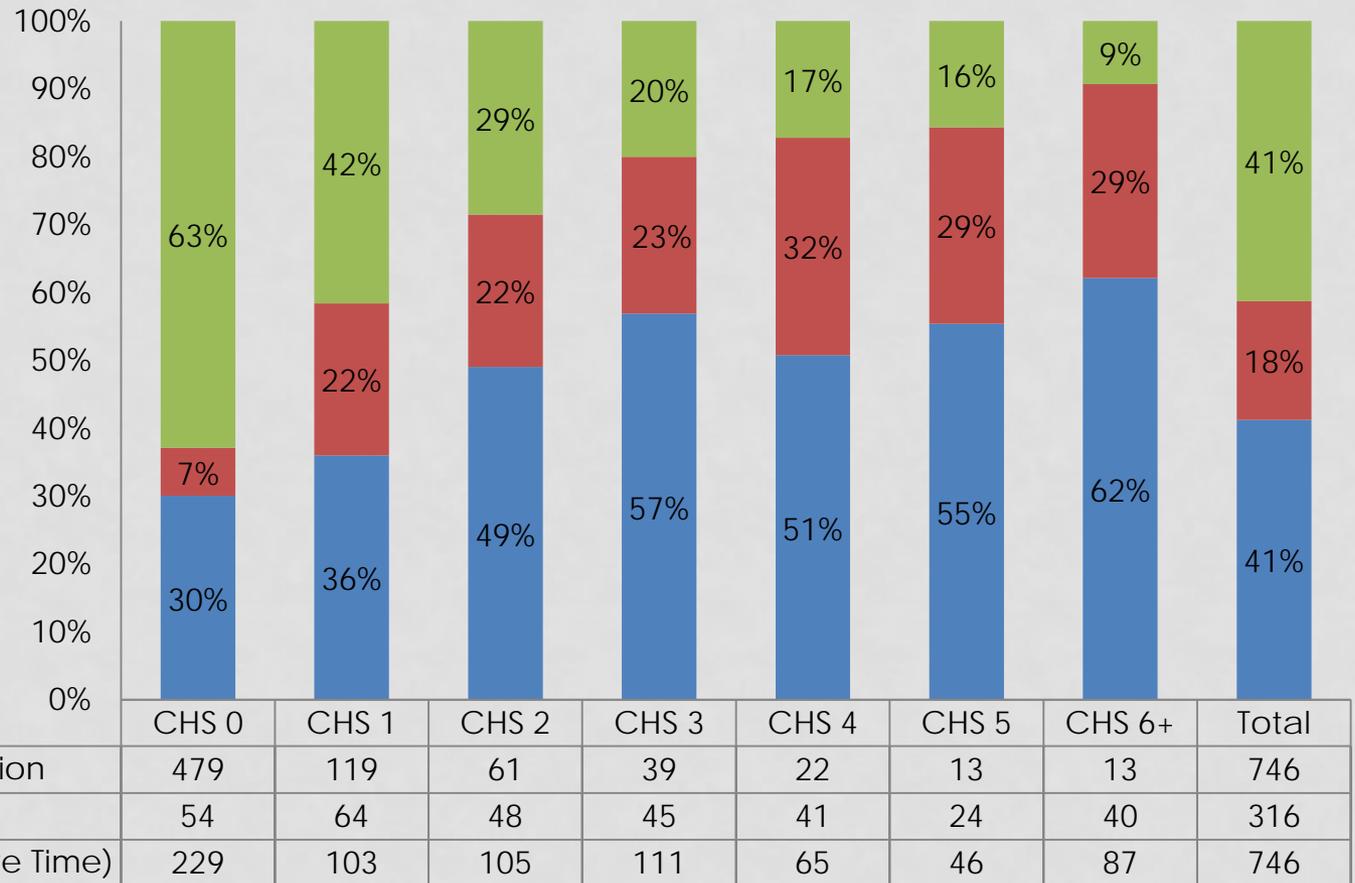
HIGH DEPARTURE RATES

DEPARTURE RATES OVER TIME: FIRST- AND SECOND-DEGREE DRUG OFFENDERS SENTENCED 2009-2011



| | 1st Degree | 2nd Degree |
|---------------------------------------|------------|------------|
| Mitigated Disposition | 316 | 430 |
| Presumptive Prison (Less Prison Time) | 158 | 158 |
| Presumptive Prison (Presumptive Time) | 253 | 493 |

DEPARTURE RATES BY CRIMINAL HISTORY SCORE (CHS): FIRST- AND SECOND-DEGREE OFFENDERS (2009-2011 COMBINED DATA)



WHO DID WE STUDY AND WHAT DID WE COMPARE?

PEOPLE CONVICTED OF CONTROLLED SUBSTANCE FIRST- OR SECOND-DEGREE

Probation (N=965)

Sentenced to Probation
Jan. 2007 to Dec. 2009
(Downward Departure)

Example: 10/1/2008
Stay of Execution for 48 Months

+ Local Confinement
(Up to 365 Days)

Example: 365 days of
local time as part of
probation sentence

= New Targeted Misd,
GM, Felony Conv. Within
3-Years?

Example: Track until
10/1/2011+
(2/3 of 365 days)=6/1/2012

Prison (N=1,224)

Released from Prison
Jan. 2007 to Dec. 2009
(Initial Commit)

Example: 10/1/2008
Released from Prison after
serving 48-Month sentence

= New Targeted Misd, GM,
Felony Conv. within 3-Years?

Example: Track until
10/1/2011

COMPARISONS AND RESEARCH QUESTIONS

Compare Probationers and Released Prisoners:

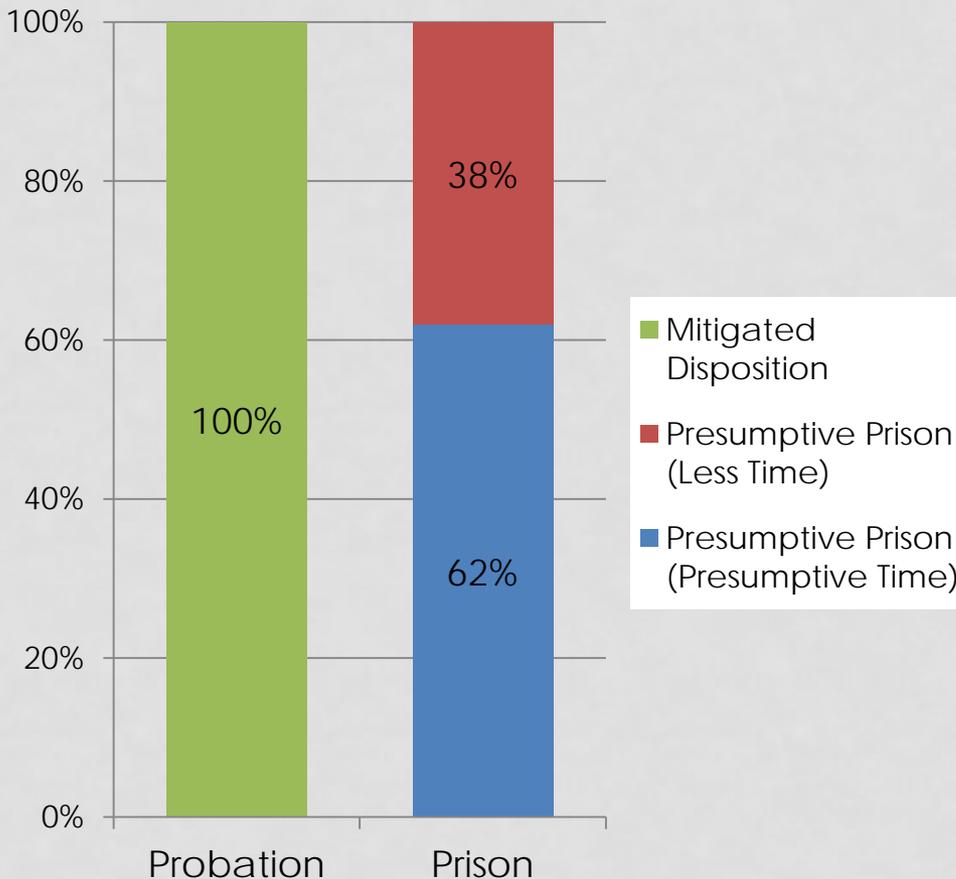
- Age
- Race
- Gender
- Region/District
- Criminal History
- LSI-R Score
- New Convictions
- Drug Type
- Sale vs. Possession

Questions we set out to answer:

1. Are first- and second-degree controlled substance offenders who are put on probation (given mitigated dispositional departures) different than those who receive prison?
2. How successful are first- and second-degree controlled substance offenders who receive probation compared to those who receive prison? (Success measured by reconviction rates and revocation rates.)

DEPARTURES – CASES IN STUDY: POSITION OF PROSECUTOR (AS CITED BY THE COURT)

Departure Rates



Plea Agreement Rate and Position of Prosecutor

- Probation (Dispositional)
 - 38% Plea Agreement
 - + 5% Prosecutor Recommend
 - + 10% Prosecutor Not Object
 - = 54% Combined
 - Prosecutor Objected – 15%
 - Unknown – 32%
- Prison (Durational)
 - 63% Plea Agreement
 - + 2% Prosecutor Agreed
 - + 3% Prosecutor Not Object
 - = 67% Combined
 - Prosecutor Objected – 5%
 - Unknown – 28%

DEPARTURES – CASES IN STUDY: MOST FREQUENTLY CITED REASONS FOR DEPARTURE

Mitigated Dispositions

- 71%- Amenable to Probation
- 59%-Amenable to Treatment
- 35%- Shows Remorse/Accepts Responsibility
- 14%-Recommended by Court Services
- 10%-Allow for long term supervision/compliance w conditions
- 6%-offender played minor or passive role

Mitigated Durations

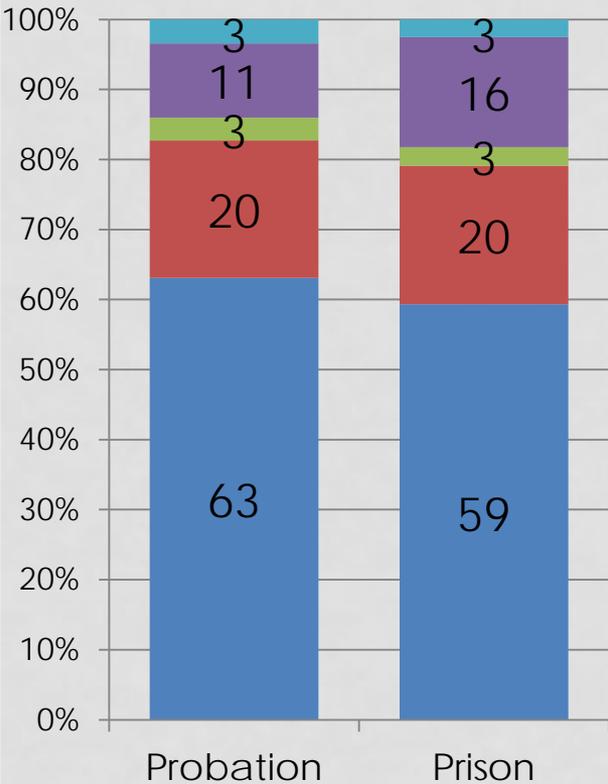
- 31%-Shows Remorse/Accepts Responsibility
- 10%-offender played minor or passive role
- 6%-Crime less onerous than usual
- 5%-Save Resources/Pled early/Judicial Efficiency

STUDYING DEMOGRAPHICS

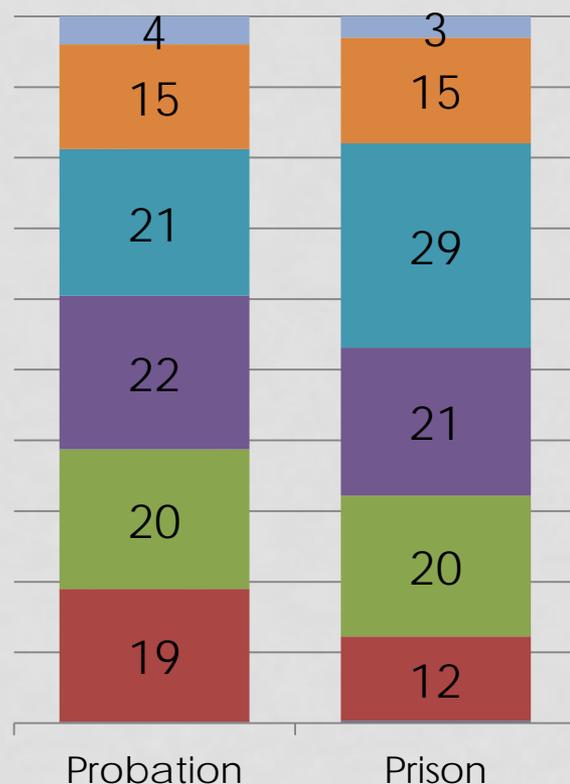
- Question 1:
 - Are first- and second-degree controlled substance offenders who are put on probation (given mitigated dispositional departures) different than those who receive prison?

DISTRIBUTION BY RACE & ETHNICITY, AGE, AND GENDER

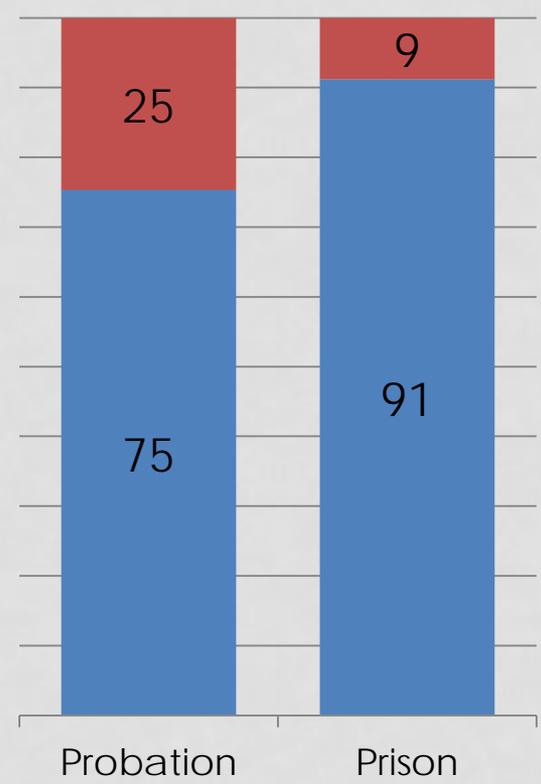
Race & Ethnicity



Age



Gender



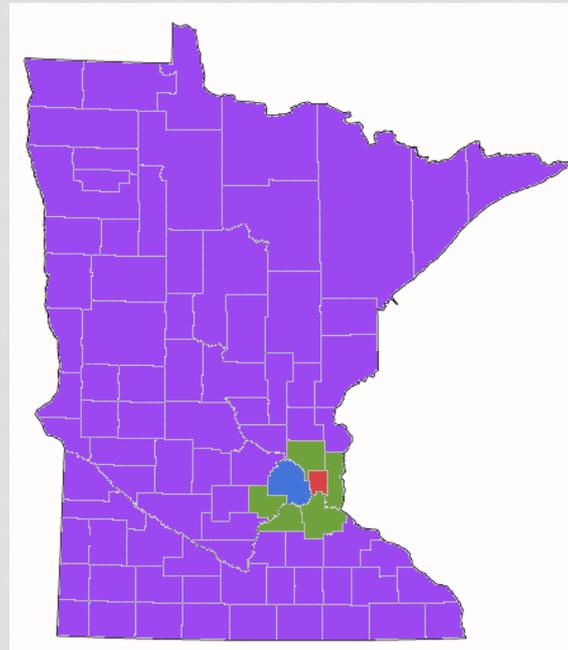
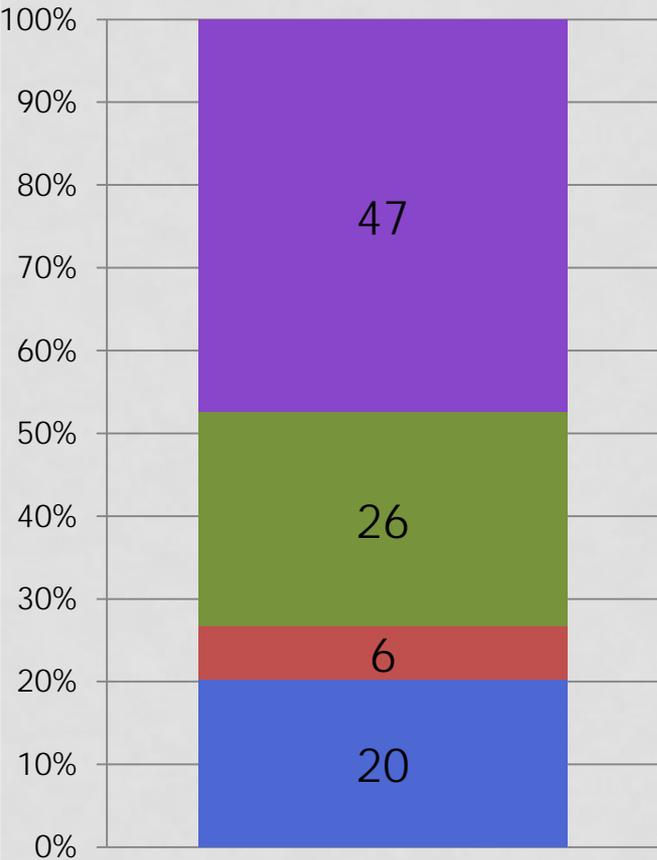
- White
- Black
- Am. Indian
- Hispanic
- Asian

- <18
- 18-21
- 22-25
- 26-30
- 31-40
- 41-50

- Male
- Female

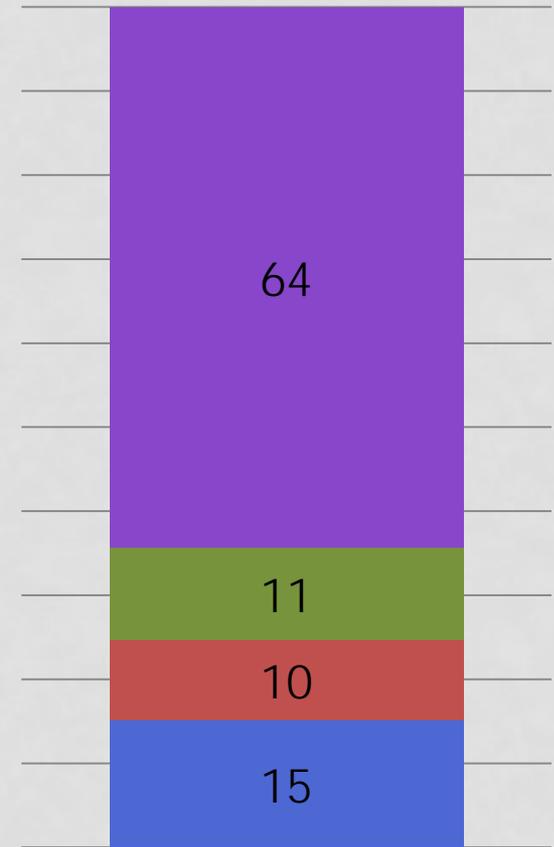
DISTRIBUTION BY REGION

Probation



- Hennepin
- Ramsey
- Other Metro
- Greater MN

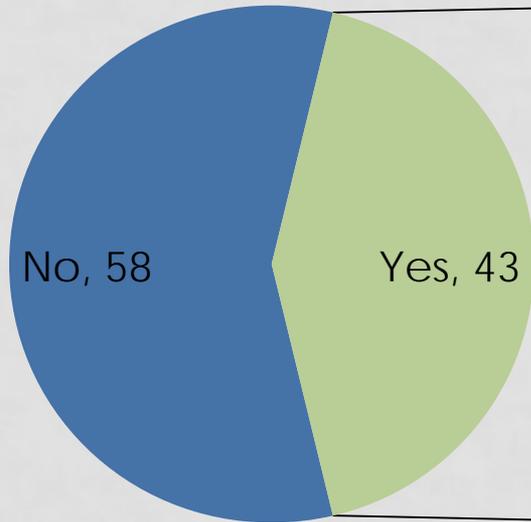
Prison



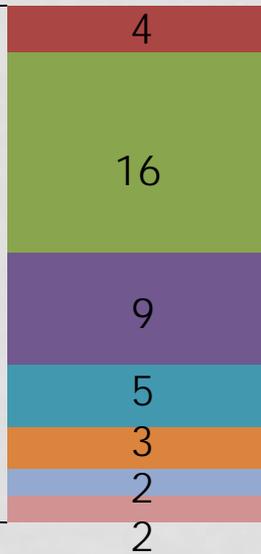
DISTRIBUTION BY CRIMINAL HISTORY SCORE (CHS) PERCENTAGE

Probation

Any Eligible Criminal History?

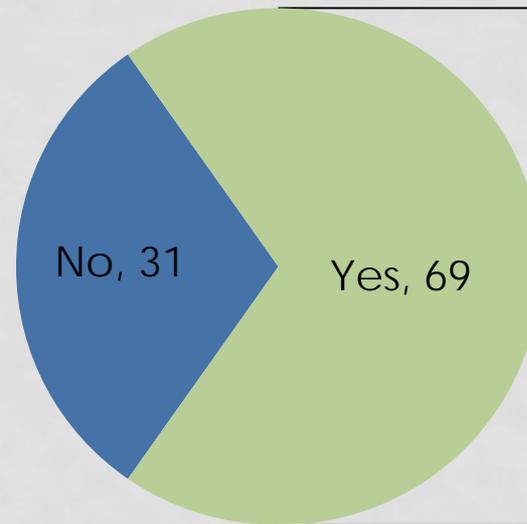


Criminal History Score

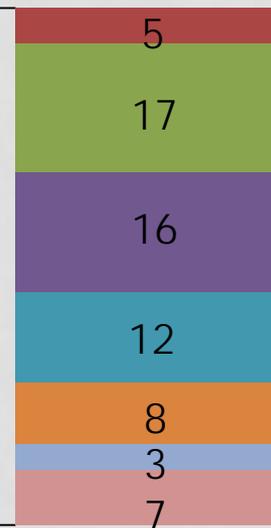


Prison

Any Eligible Criminal History?



Criminal History Score



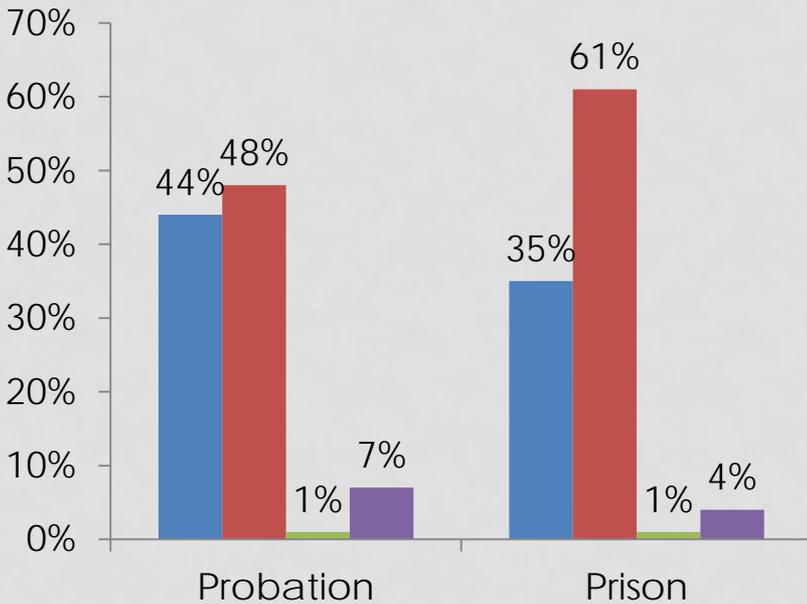
0.5 1 2 3 4 5 6+

DISTRIBUTION BY DRUG TYPE AND SALE VS. POSSESSION

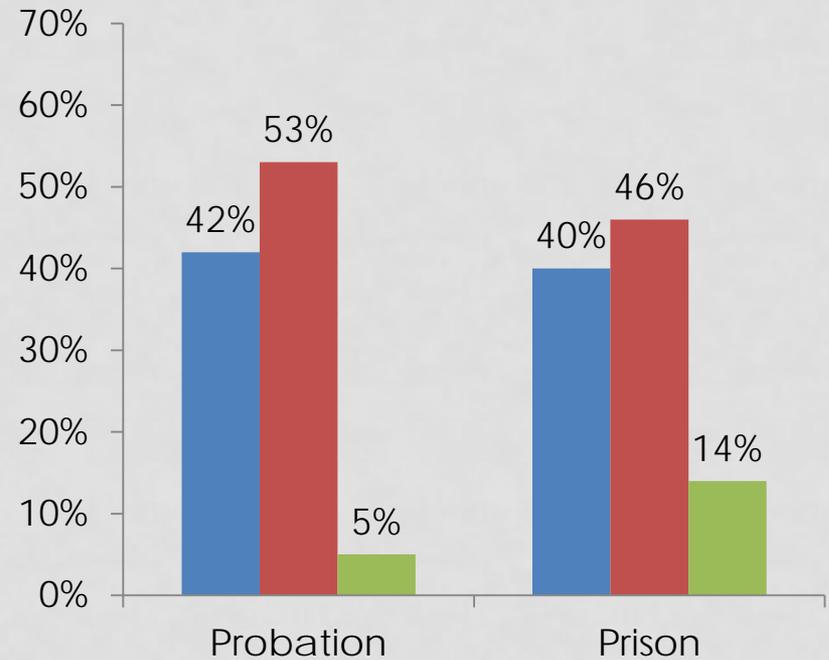
Drug Type

Sale vs. Possession

■ Cocaine ■ Meth ■ Marj. ■ Other/Unknown

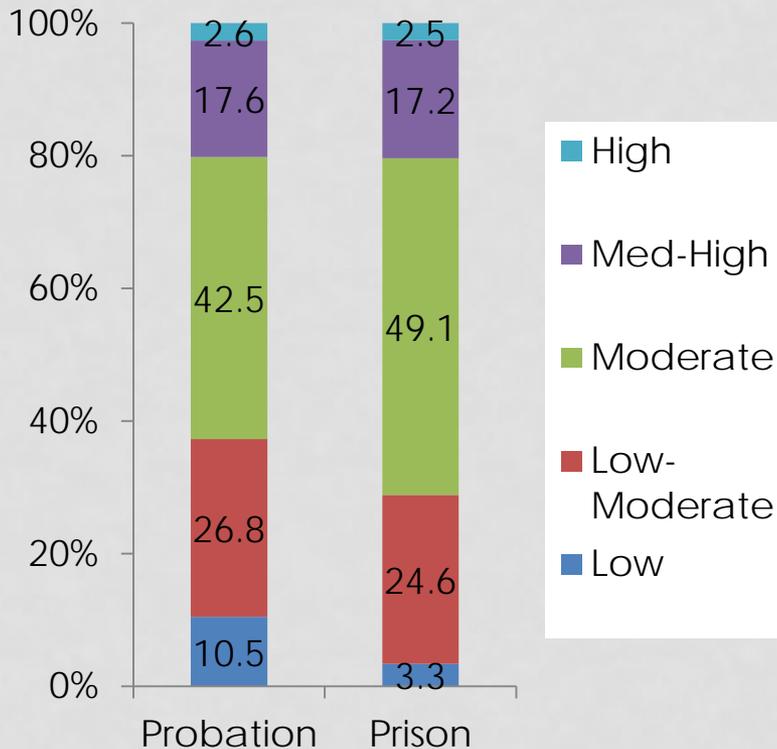


■ Sale ■ Possession ■ Manuf. Meth



DISTRIBUTION BY LSI-R SCORE AND LEVEL

Probation Avg.=26 "Moderate"
Prison=27 "Moderate"



Level of Service Inventory-Revised (LSI-R) Scores and Levels

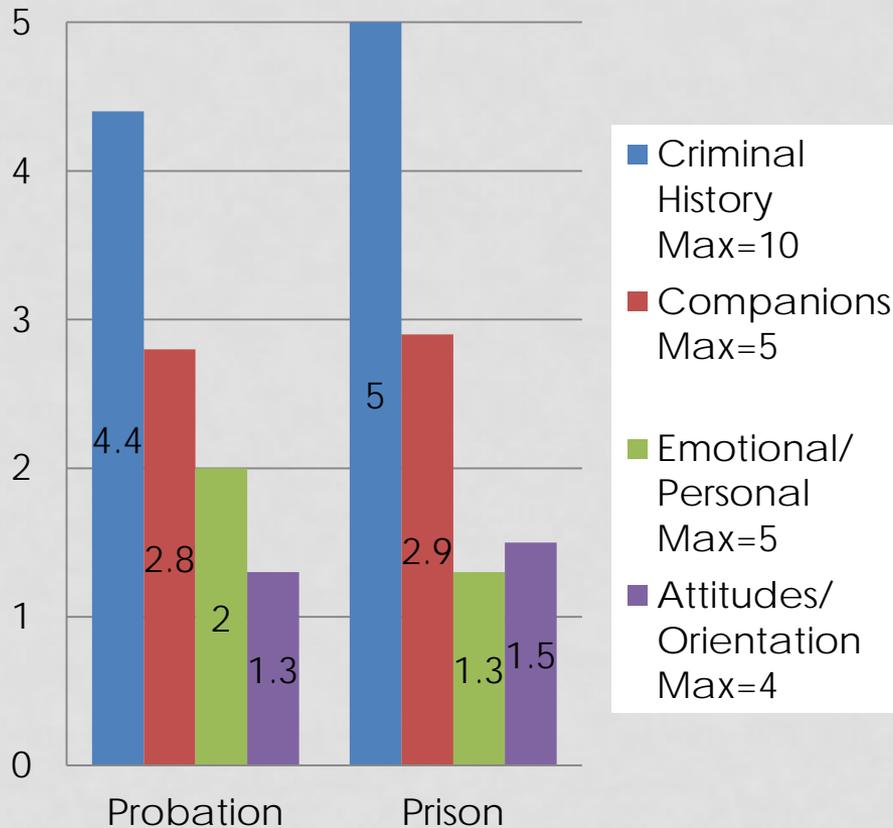
- **5 Levels:**

- Low = 0-13;
- Low-Moderate = 14-23;
- Moderate = 24-33;
- Medium-High = 34-40; and
- High = 41-54.

- **54 Questions & 10 Domains:**

- Criminal History, Education/Employment, Financial, Family/Marital, Accommodations, Leisure/Recreation, Companions, Alcohol/Drug Problems, Emotional/Personal, Attitudes/Orientation

COMPARING AVERAGE LSI-R DOMAIN SCORES "THE BIG FOUR"

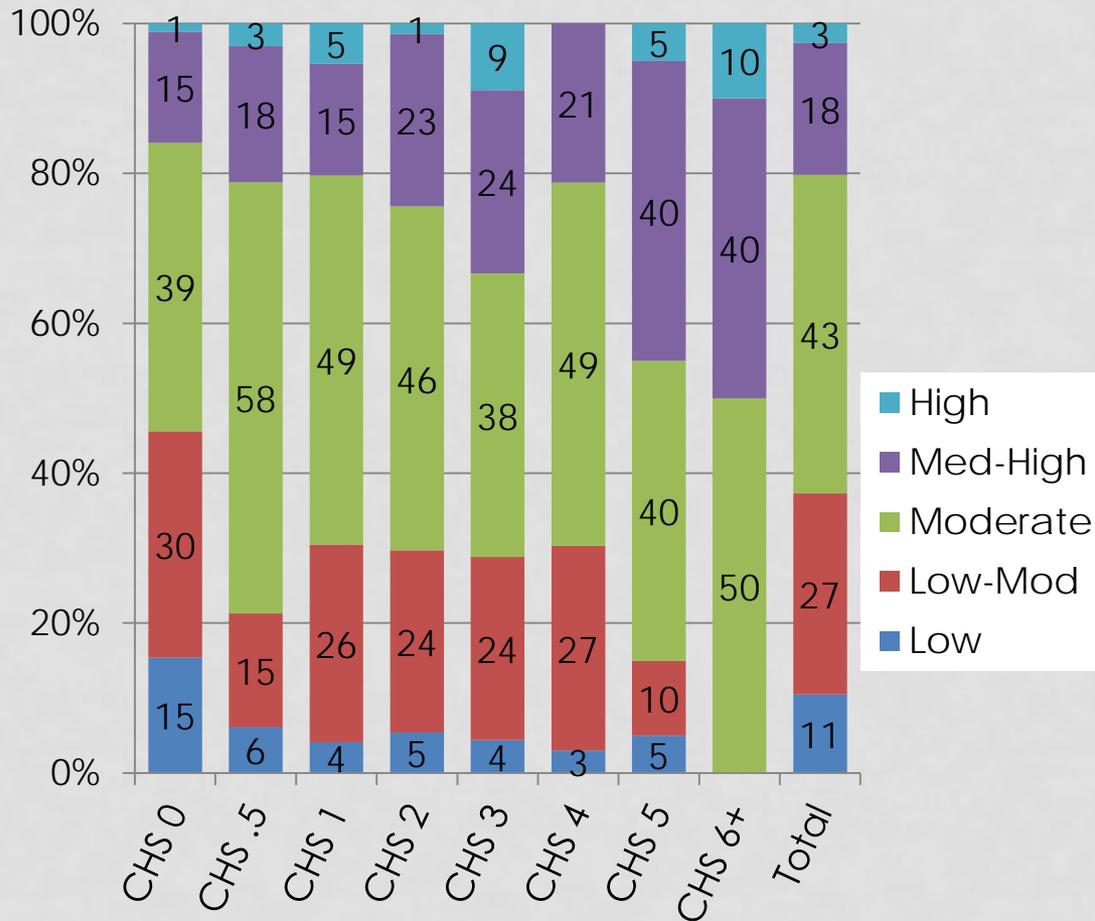


- 10 Domains:
 - **Criminal History***
 - Education/Employment
 - Financial
 - Family/Marital
 - Accommodations
 - Leisure/Recreation
 - **Companions***
 - Alcohol/Drug Problems
 - **Emotional/Personal***
 - **Attitudes/Orientation***

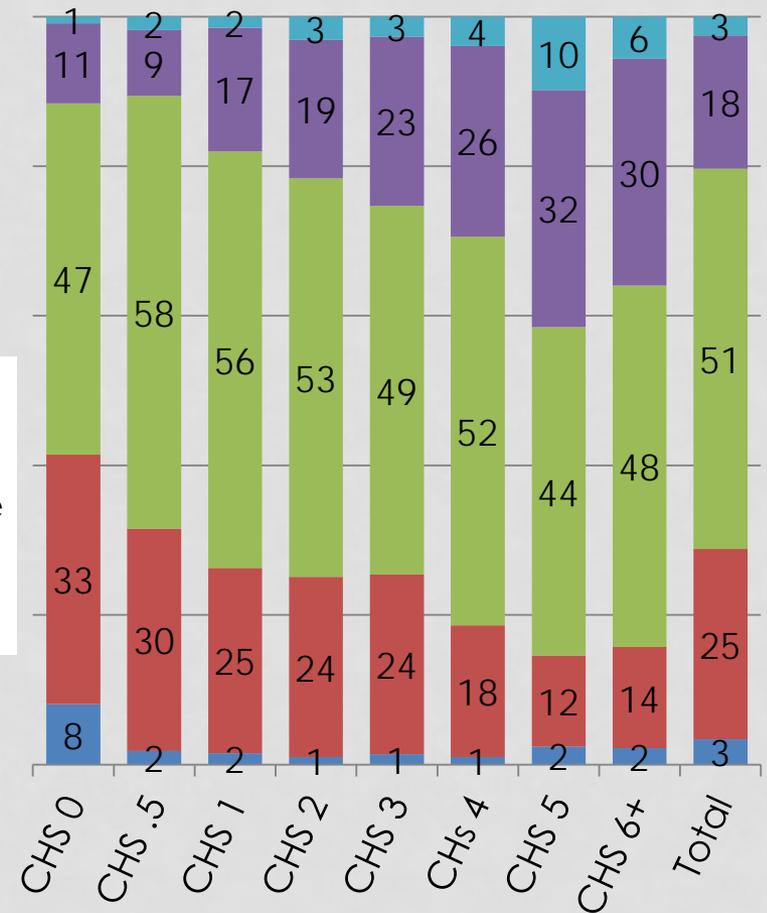
* "The Big Four" are considered highly predictive of risk.

LSI-R LEVEL BY CRIMINAL HISTORY SCORE

Probation



Prison



WHAT DID WE LEARN FROM THE DEMOGRAPHICS?

- Question 1:
 - Are first- and second-degree controlled substance offenders who are put on probation (given mitigated dispositional departures) different than those who receive prison?
- Answers – The 2 groups are only slightly different:
 - More probationers than prisoners had CHS of less than 2 (78% vs. 64%).
 - More prisoners than probationers were from Greater MN (64% vs. 47%).
 - Probationers were more likely to be a “Low” or “Low-Moderate” on the LSI-R Scale. (37% vs. 28%).

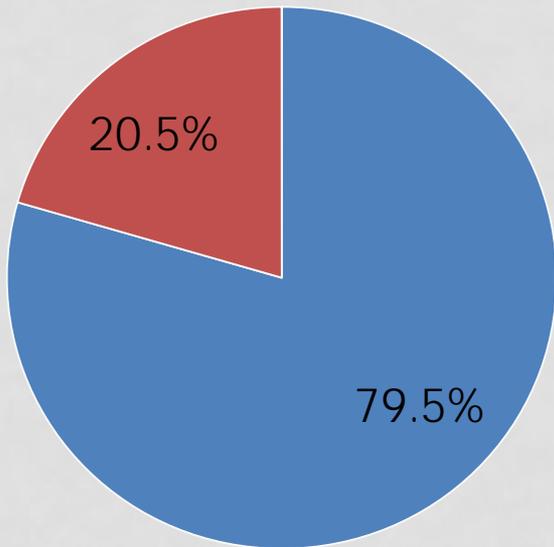
STUDYING NEW CONVICTIONS AND REVOCATIONS

- Question 2:
 - How successful are first- and second-degree controlled substance offenders who receive probation compared to those who receive prison? (Success measured by reconviction rates and revocation rates.)

NEW CONVICTION RATES

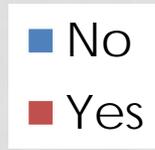
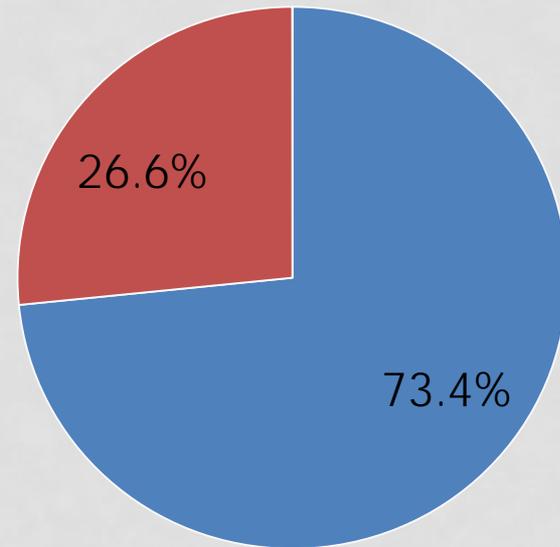
Probation

New Conviction



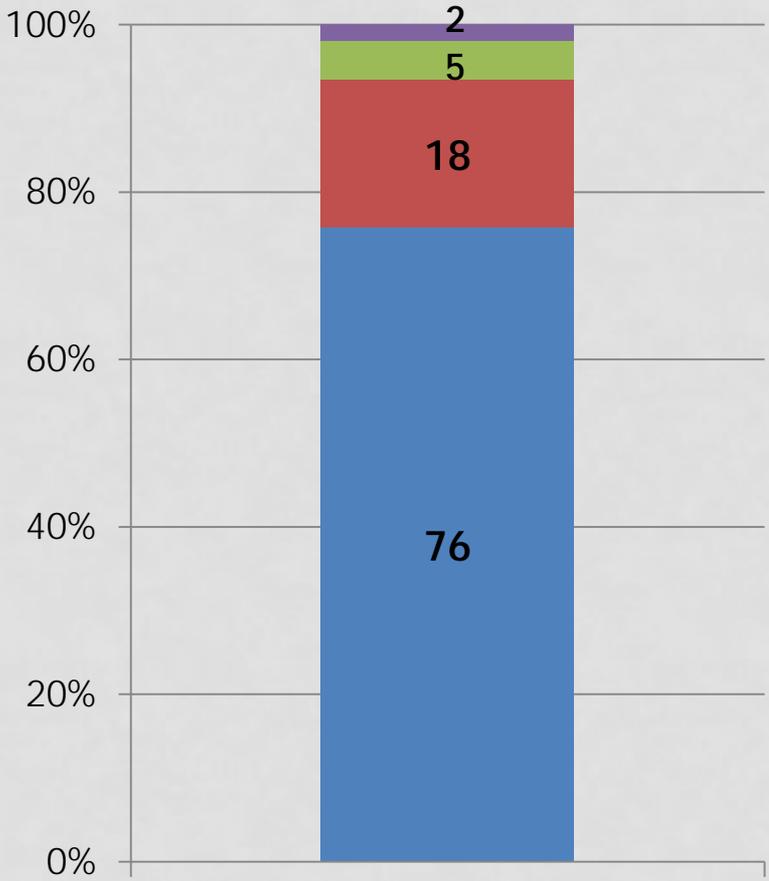
Prison

New Conviction

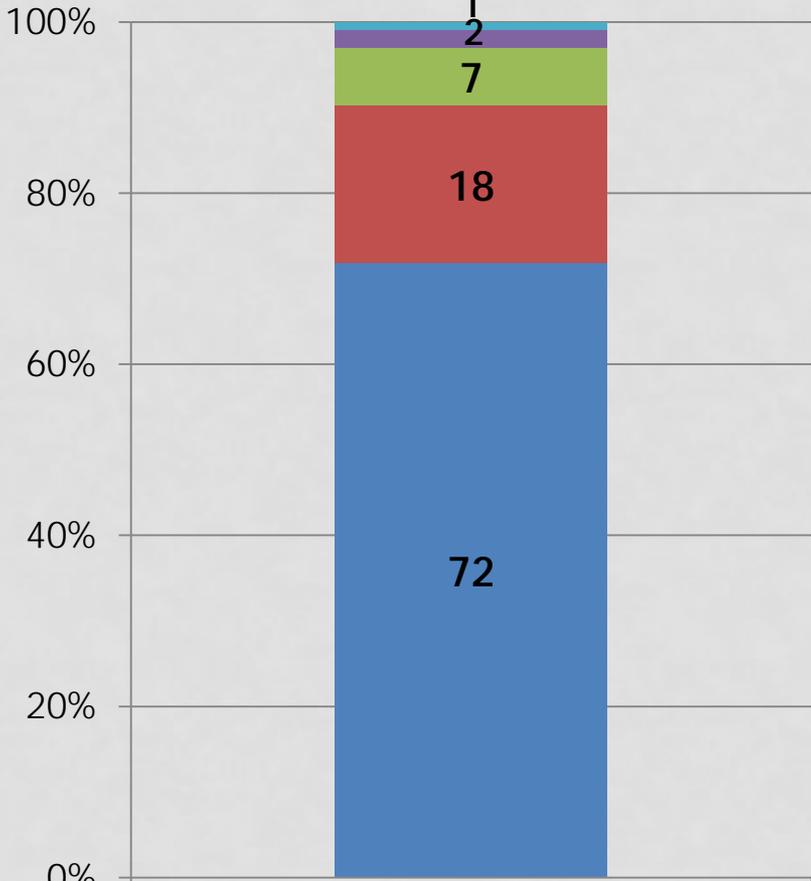


NUMBER OF NEW CONVICTIONS (OFFENDERS W/ NEW CONVICTION ONLY)

Probation



Prison

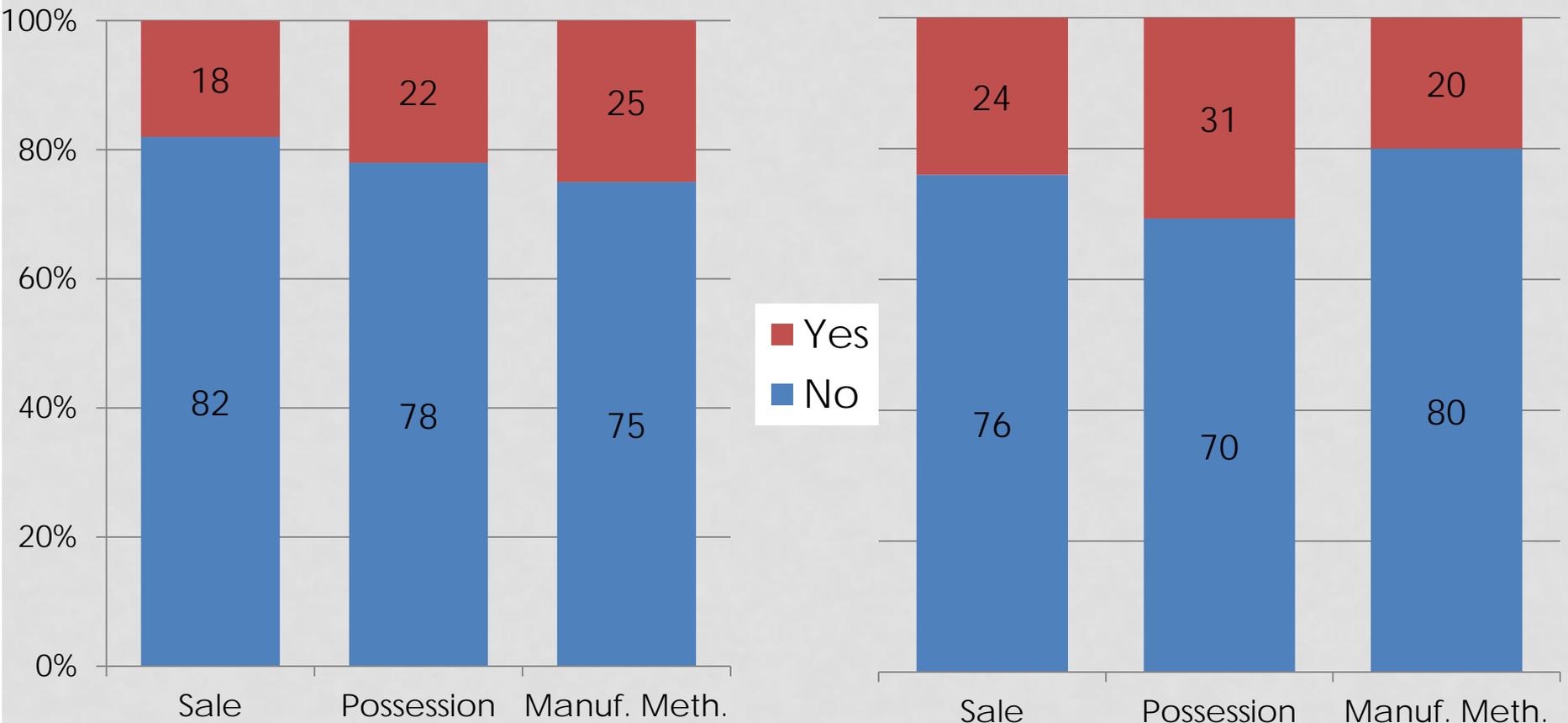


- Five
- Four
- Three
- Two
- One

NEW CONVICTION RATES BY SALE VS. POSSESSION

Probation

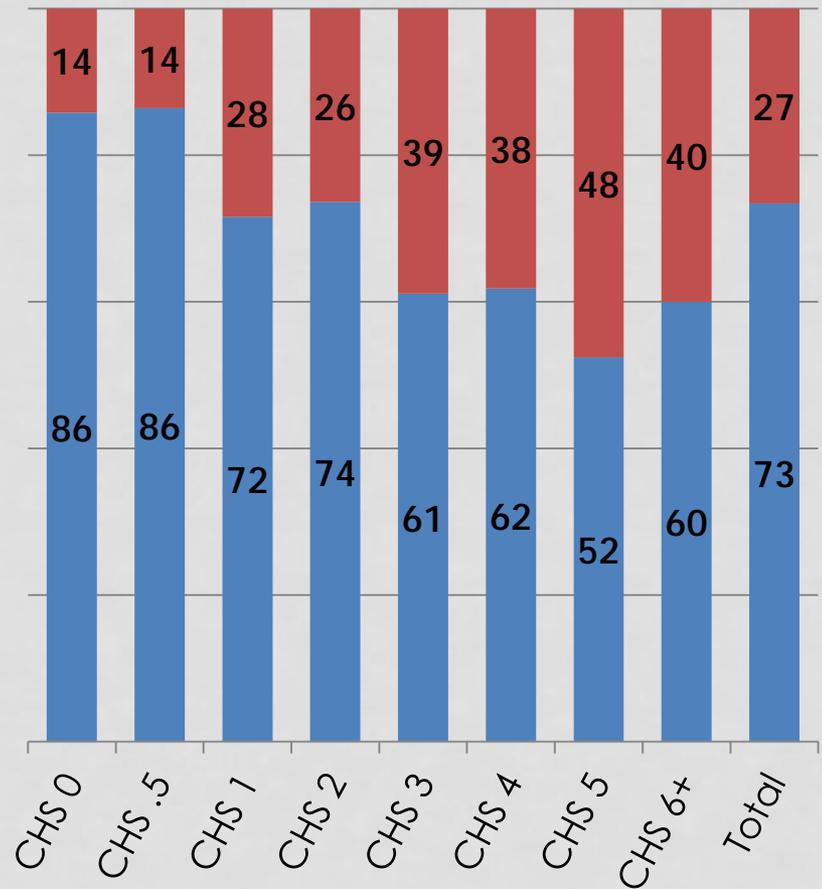
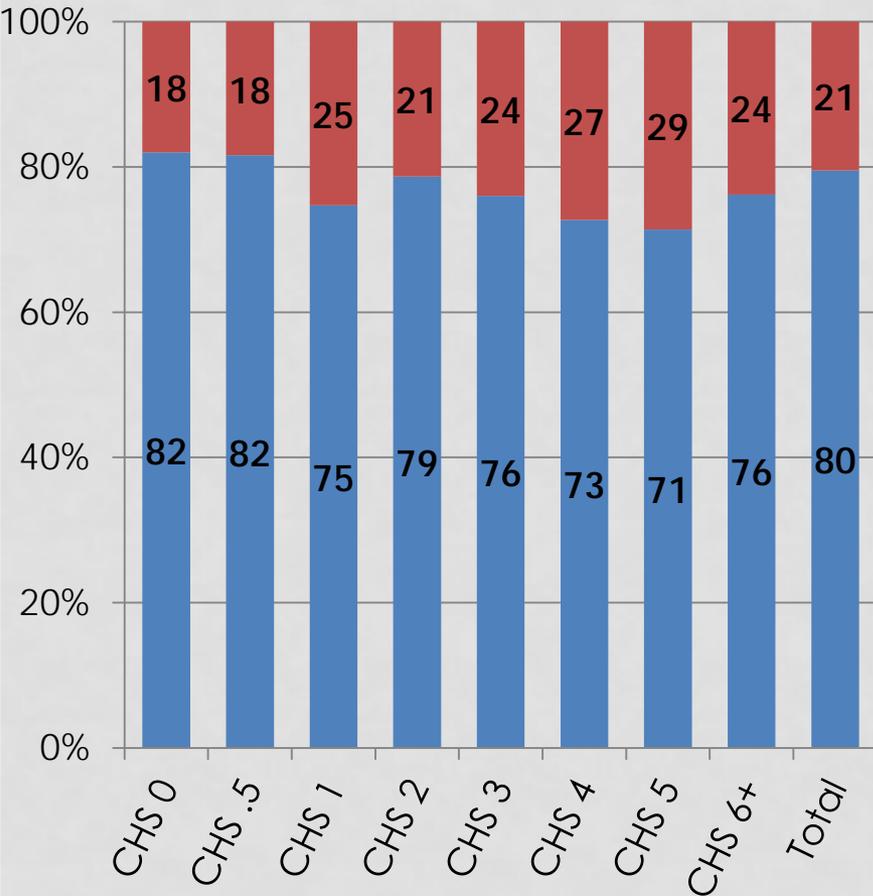
Prison



NEW CONVICTION RATES BY CRIMINAL HISTORY SCORE

Probation

Prison

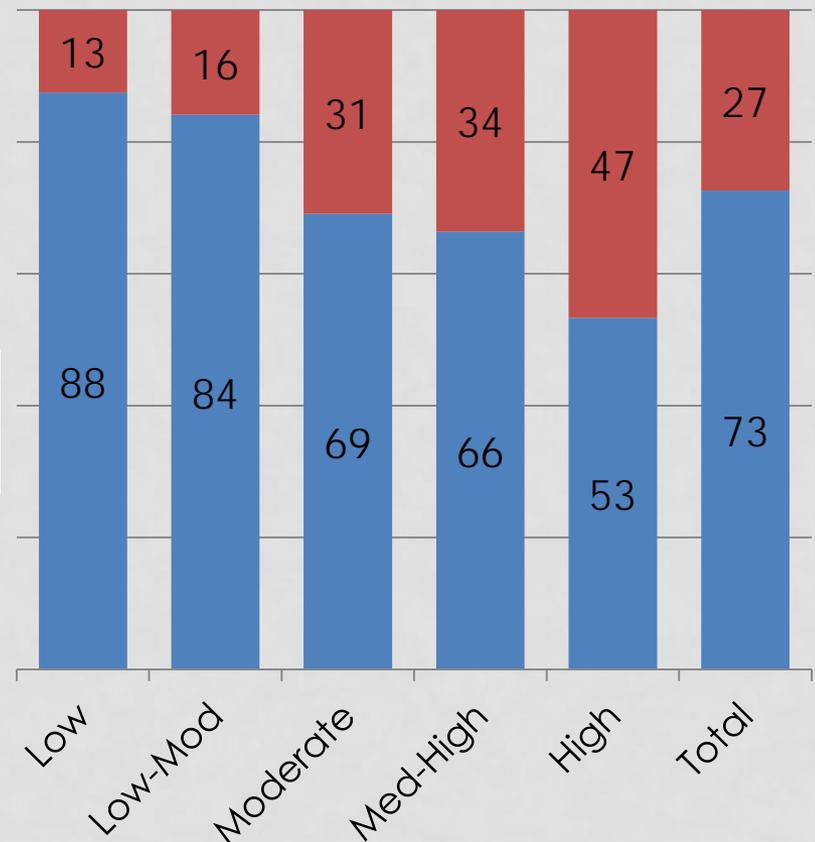
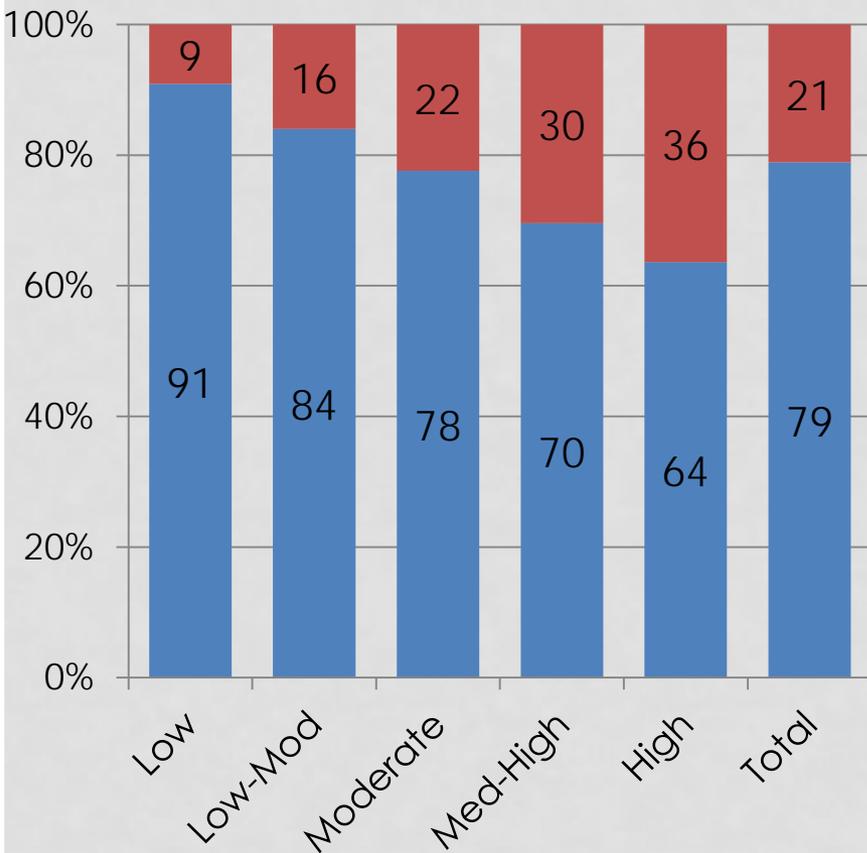


Yes
No

NEW CONVICTION RATES BY LSI-R LEVEL

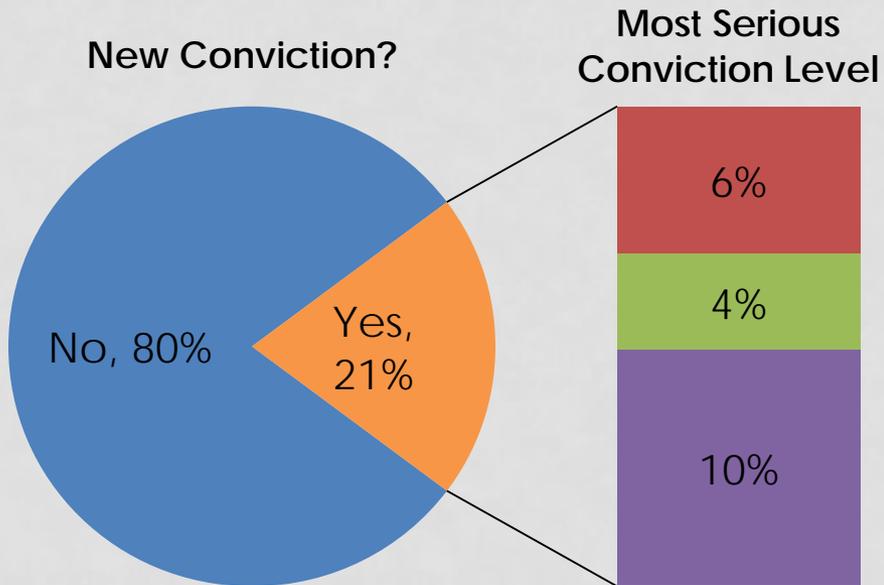
Probation

Prison

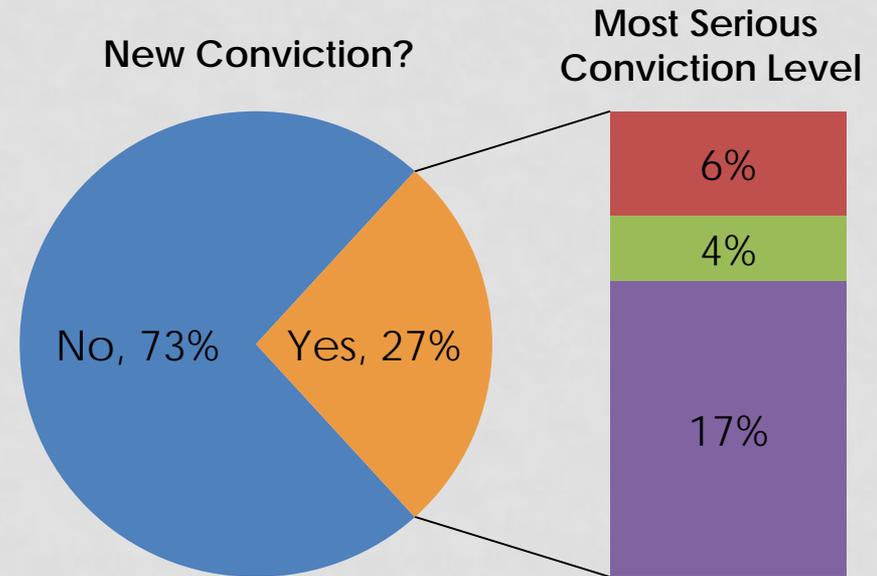


NEW CONVICTIONS BY MOST SERIOUS OFFENSE LEVEL

Probation



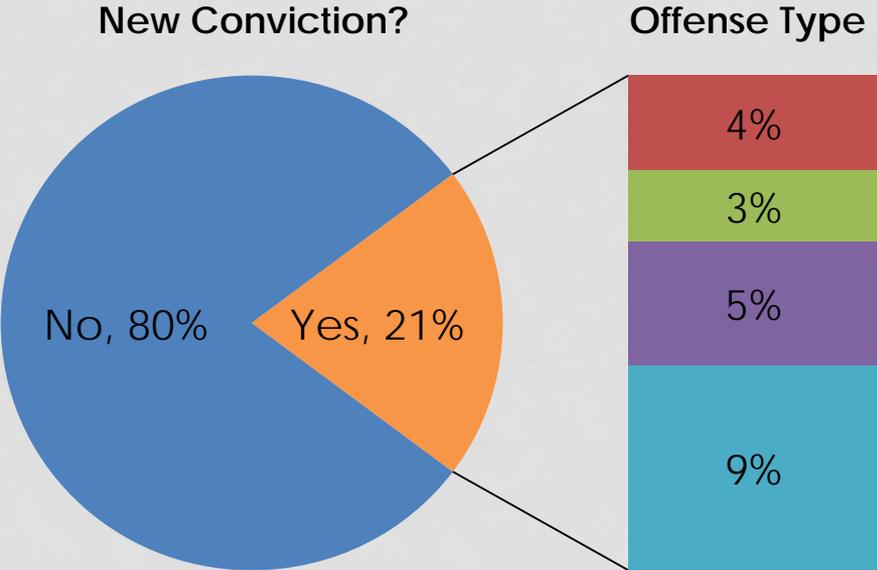
Prison



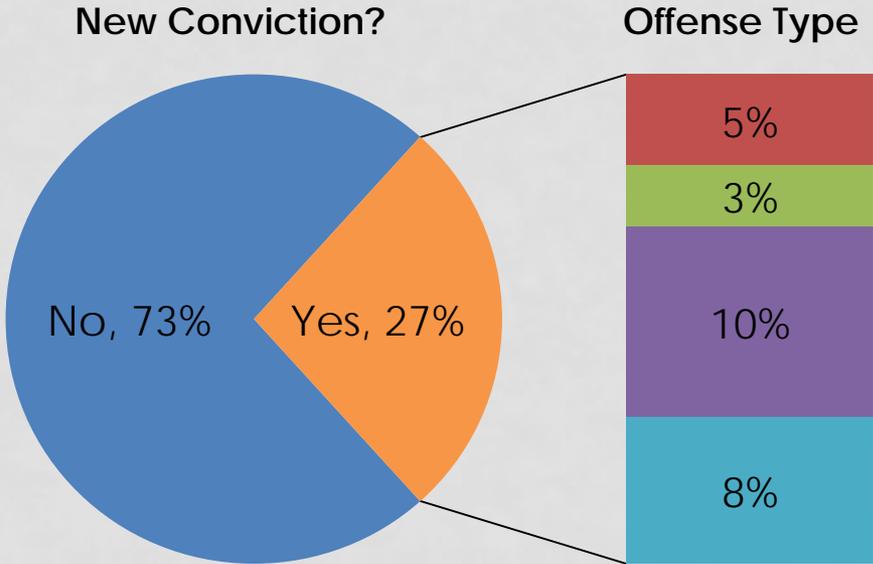
■ Target. Misd. ■ GM ■ Felony

NEW CONVICTIONS BY MOST SERIOUS OFFENSE TYPE

Probation



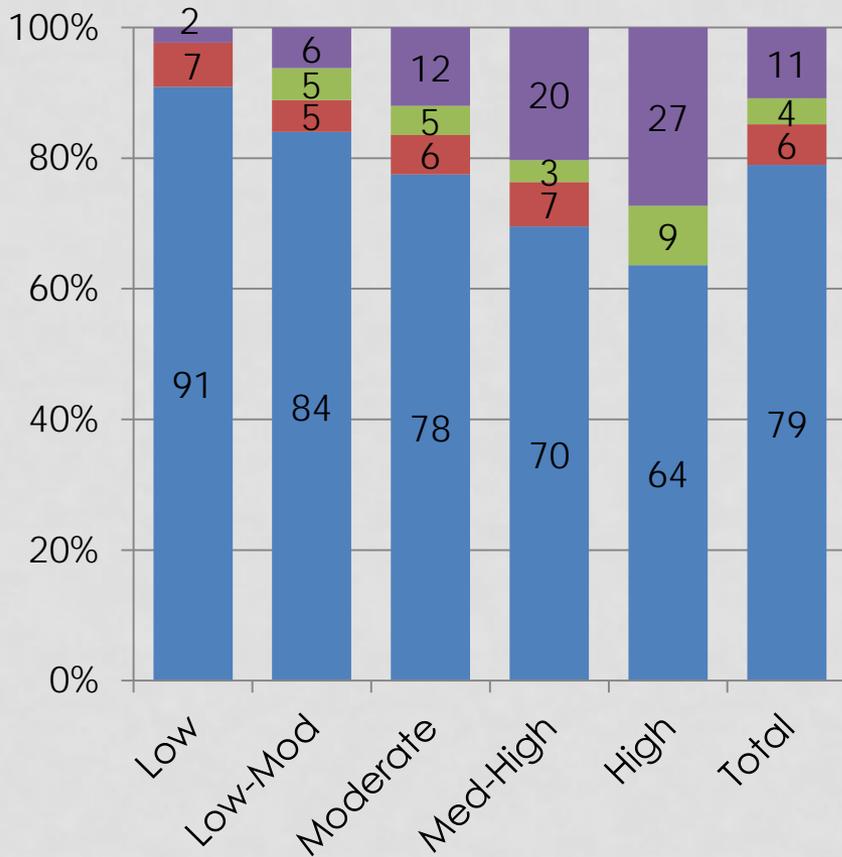
Prison



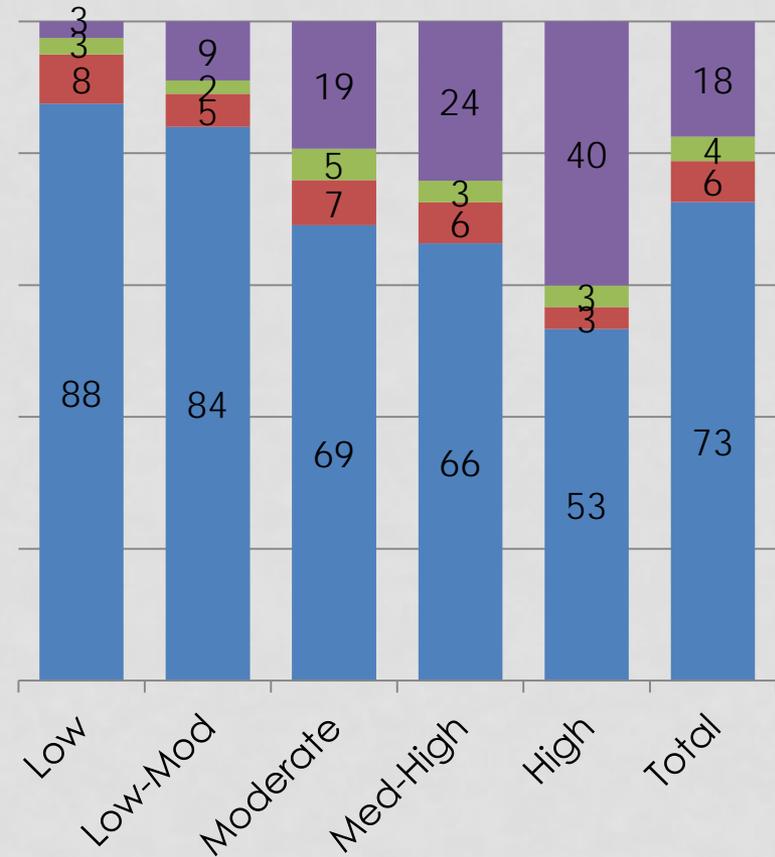
■ Person
 ■ Property
 ■ Drug
 ■ Other

MOST SERIOUS NEW CONVICTION LEVEL BY LSI-R LEVEL

Probation

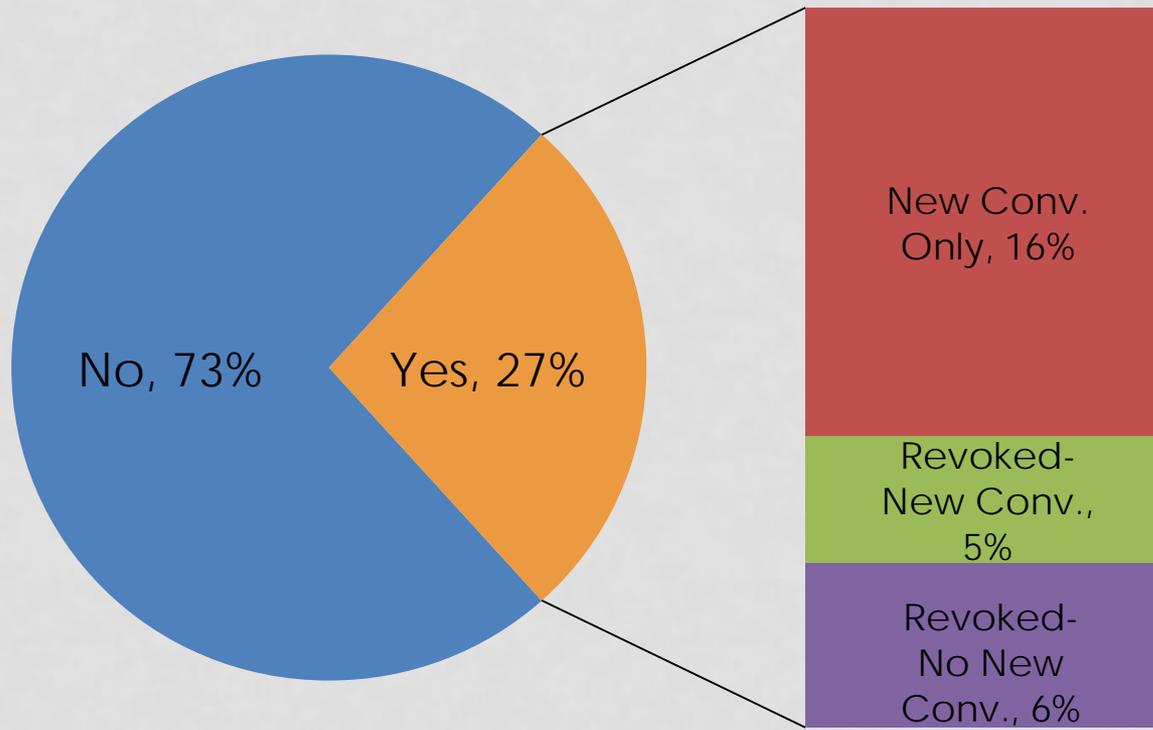


Prison



PROBATIONERS ONLY: HOW MANY WERE REVOKED OR HAD A NEW CONVICTION?

Probationers Revoked
or New Conviction?

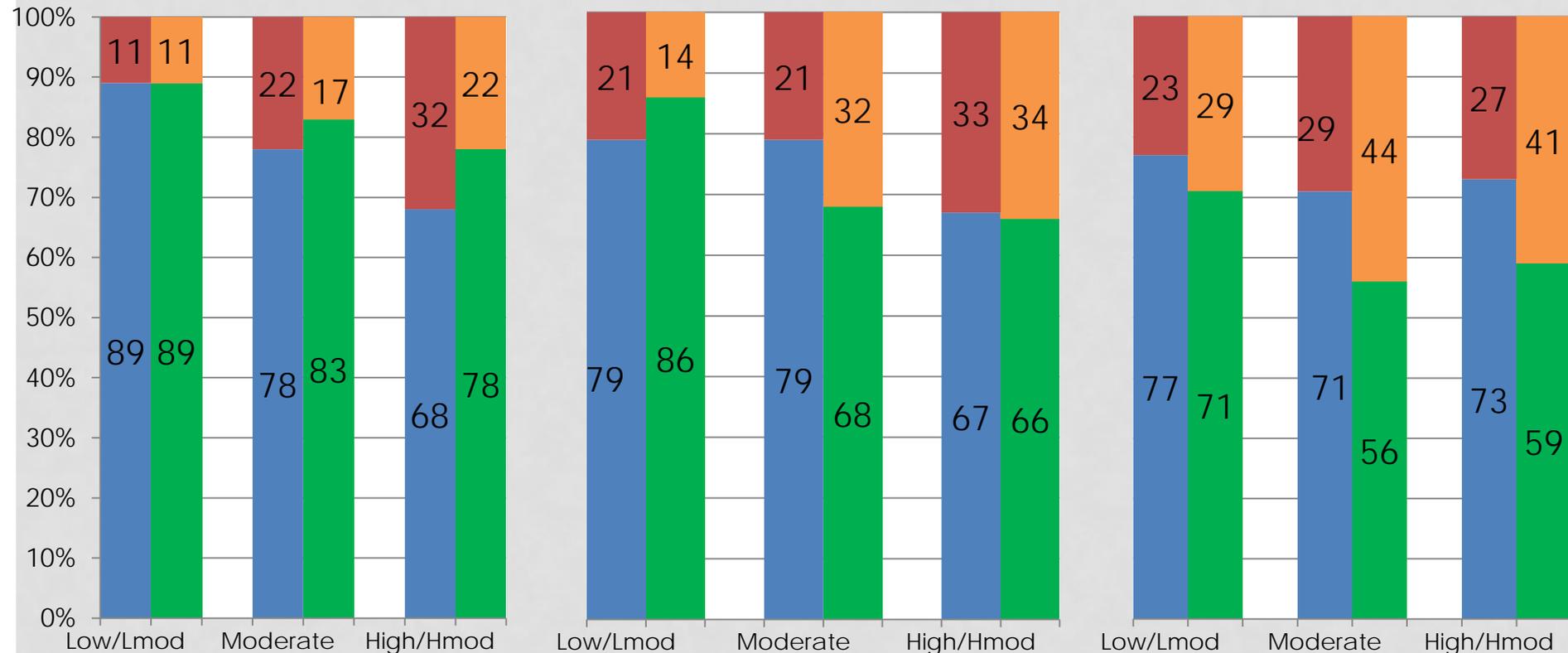


NEW CONVICTION RATES BY CRIMINAL HISTORY & LSI-R LEVEL

CHS 0-0.5

CHS 1-2

CHS 3-6



Probation: ■ No Conviction ■ New Conviction
 Prison: ■ No Conviction ■ New Conviction

WHAT DID WE LEARN FROM NEW CONVICTIONS AND REVOCATIONS?

- Question 2:
 - How successful are first- and second-degree controlled substance offenders who receive probation compared to those who receive prison? (Success measured by reconviction rates and revocation rates.)
- Answers:
 - The majority of both groups have no new conviction.
 - The new conviction rate for probationers is lower than for prisoners (21% vs. 27%).
 - When new convictions and revocations are combined as a measure, 27% of probationers were not successful.

WHAT DID WE LEARN FROM NEW CONVICTIONS AND REVOCATIONS?

- Answers (Cont.):
 - For both groups, new conviction rates increase as CHS increase and as LSI-R Level increases.
 - Within CHS, new conviction rates increase as LSI-R Level increases. This is more pronounced for prisoners.