



# COUNTY-CITY BUILDING

## Criminal Justice Review of Policies & Practices

Presented to the Pierce County Council



# CRIMINAL JUSTICE

## Review of Policies and Practices

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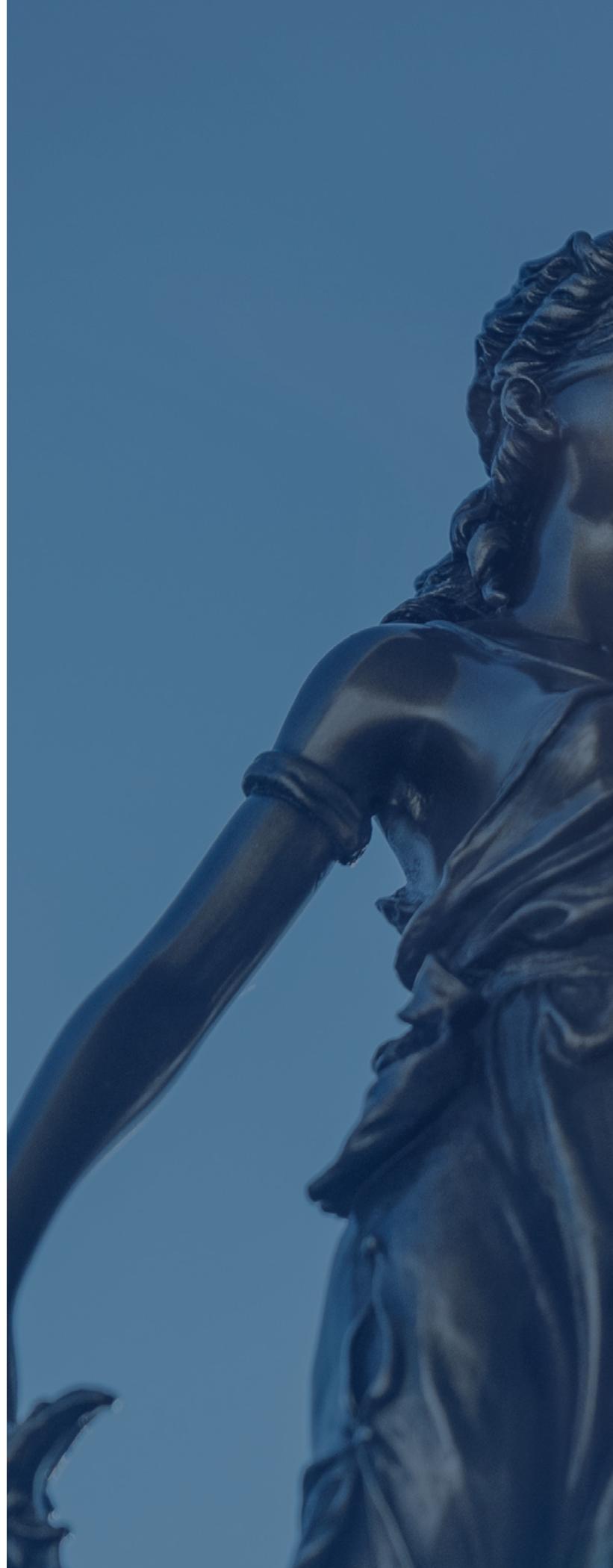
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### Work Group Members

Chad Arceneaux <i>Attorney</i>	Prosecuting Attorney
Diane Clarkson <i>Senior Deputy</i>	Prosecuting Attorney
Ashley Grant <i>Attorney</i>	Assigned Counsel
Dan Grimm <i>Deputy Executive</i>	Executive's Office
Jim Heishman <i>Bureau Chief - Patrol</i>	Sheriff
Patti Jackson-Kidder <i>Bureau Chief - Corrections</i>	Sheriff
Andrea Kelley <i>Social Services Manager</i>	Clerk of Superior Court
Sarah Colleen Sotomish <i>Senior Counsel</i>	Executive's Office

### Project Director

Joseph Evans <i>Attorney</i>	Assigned Counsel
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September 10, 2020

The Honorable Doug Richardson  
Chair, Pierce County Council

Dear Chair Richardson:

As directed by Resolution 2020-43, the following is an extensive but not exhaustive review of numerous Pierce County criminal justice policies and practices. The review was conducted by a work group of senior staff appointed by the Executive, Prosecuting Attorney, and Sheriff. Recommendations are included.

The review focuses on policies and practices that, according to numerous local and national organizations, result in the inequitable treatment of African Americans and all people of color. Time constraints have not allowed a review of the juvenile justice system, "Terry stops," and other matters. Additional data will be necessary to accurately assess the County's performance and progress.

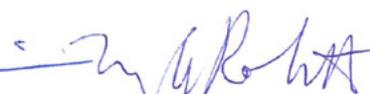
This report is not the end of our effort; it is only the beginning. The Courts, the Department of Economic Development, and the Prosecuting Attorney are preparing separate reports. Additional reports will follow.

We appreciate the members of the work group who conducted the review, and the support of Project Director Joseph Evans, an attorney at the Department of Assigned Counsel.

We also commend the Council resolution that will provide a structure for community engagement. As Sarah Colleen Sotomish, Executive Senior Counsel for Tribal Relations, said recently, "All of us in positions of responsibility must listen to the voices of those who have not been heard for too long, to the detriment of all."

Sincerely,

  
Bruce Dammeier  
Executive

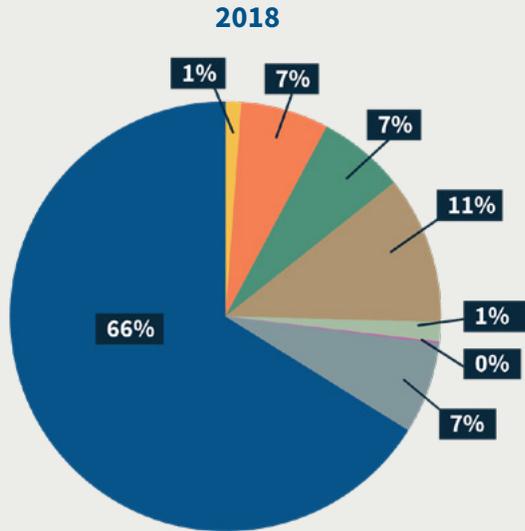
  
Mary Robnett  
Prosecuting Attorney

  
Paul Pastor  
Sheriff

# Pierce County

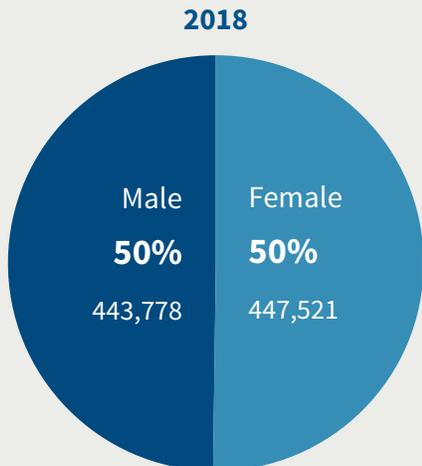
## Population Diversity

### Ethnicity



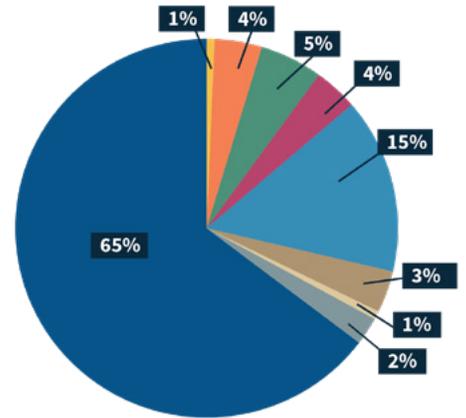
American Indian or Alaska Native	10,491
Asian	58,830
Black or African American	58,100
Hispanic	99,153
Native American or Pacific Islander	12,919
Other Race	1,292
Two or more races	61,216
White	589,298
<b>Total</b>	<b>891,299</b>

### Gender

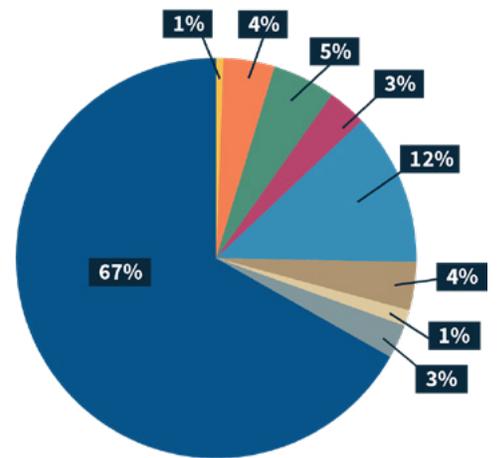


## Employee Diversity

2017 (4th Quarter)

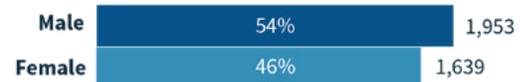


2020 (2nd Quarter)

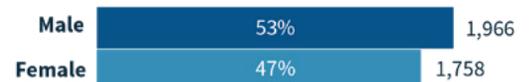


	2017	2020
American Indian or Alaska Native	24	22
Asian	144	154
Black or African American	191	190
Elected Not to Identify	133	117
Ethnicity Not Selected	538	460
Hispanic	128	145
Native American or Pacific Islander	26	48
Two or more races	85	101
White	2,323	2,488
<b>Total</b>	<b>3,592</b>	<b>3,725</b>

2017 (4th Quarter)



2020 (2nd Quarter)



# Sheriff's Department



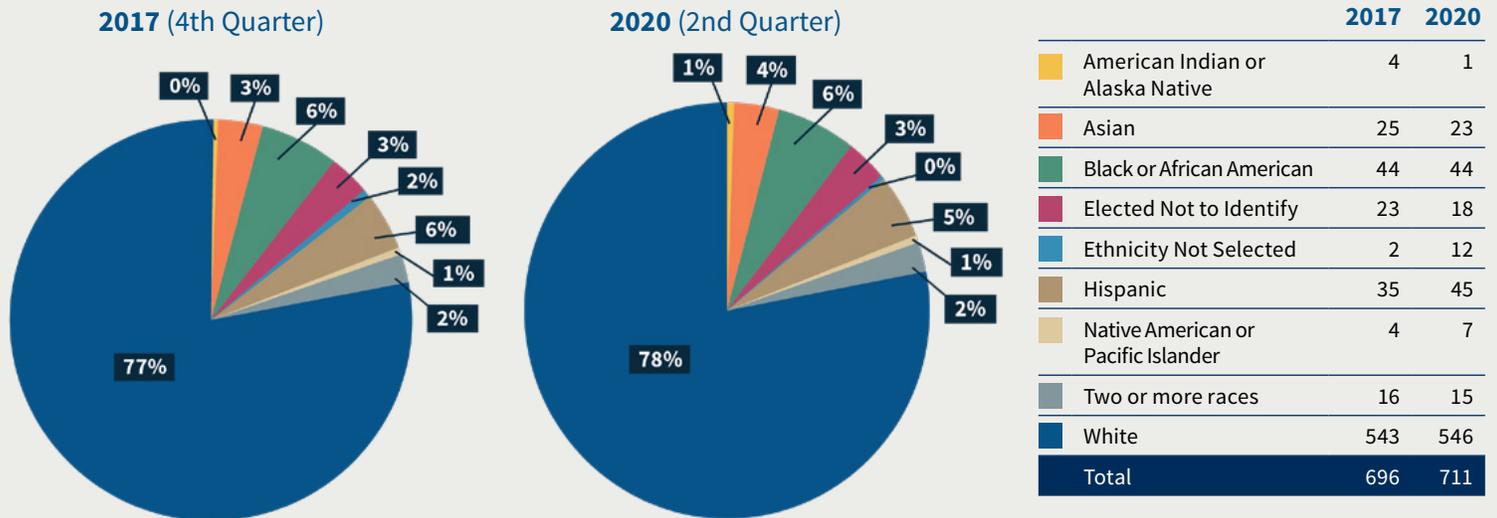
## About the Department

With a total staff of more than 700 employees and an annual budget of approximately \$148 million, the Sheriff's Department provides corrections services for more than 900,000 Pierce County residents and law enforcement services for more than 450,000 residents in unincorporated areas and several cities and towns. Approximately 330 deputies patrol more than 1800 square miles of land and nearly 6000 miles of public roadways. Approximately 280 corrections deputies maintain a safe and secure correctional facility.

## Diversity

The Department is committed to recruiting, hiring and retaining employees who live in and represent the communities they patrol. One deputy works full time as a recruiter and has received additional training in diversity, equity, and inclusion. The Department actively recruits at numerous community events, including the Puyallup Fair, County Fair, and Ethnic Fest at Wright Park, as well as several festivals and job fairs.

### Ethnicity



### Gender



## Recommendation

The Department should emphasize the recruitment of personnel who grew up in or have strong personal connections to Pierce County, with the goal of reflecting the diverse citizenry of Pierce County.

## Training

**Local and national organizations assert the lack of adequate training contributes to the inequitable treatment of African Americans and all people of color.**

All Department law enforcement personnel are required to complete training, either annually, bi-annually or within one year of promotion that includes, in part:

- ▶ Assessing mental health;
- ▶ Crisis intervention training;
- ▶ De-escalating conflict;
- ▶ Rendering aid;
- ▶ Explicit and implicit bias;
- ▶ Equity training for all supervisors;
- ▶ Defensive tactics and use of force;
- ▶ Legal updates.

All Department law enforcement personnel are trained in Pierce County policies and practices, state laws, federal laws and court rulings, and certified as peace officers by the state before they are allowed to work in the field as law enforcement deputies.

## Recommendation

The Department should:

- ▶ Maintain current training policies and practices;
- ▶ Encourage Councilmembers and community leaders to attend law enforcement training sessions, including sessions on the use of force and implicit bias;
- ▶ Include community leaders in the development of explicit and implicit bias training.

## Mental Health Diversion

**Local and national organizations assert a significant percentage of alleged offenders arrested by deputies for minor crimes have mental health problems.**

With funds derived from a 2015 lawsuit against the state for failure to provide timely competency evaluation and restoration services (Trueblood), the County has retained six MultiCare co-responders. The co-responders accompany deputies on calls when there is reason to believe an individual is experiencing mental distress.

In many instances, the individual is better served by community mental health professionals. The co-responder program does this through lower cost to the County than the criminal justice system or a local hospital emergency room.

Trueblood funds will terminate in 2021. The cost of maintaining access to five co-responders will be approximately \$800,000 per year (one co-responder is funded by the County). Each additional co-responder will cost approximately \$155,000 per year.

Supplemented in part by grant funds, the County is constructing a 16-bed Crisis Recovery Center in Parkland that will open in December.

## Recommendation

The Department should:

- ▶ Sustain the co-responder program;
- ▶ Add two co-responders in 2021, consistent with increasing caseload;
- ▶ Increase mental health facilities as necessary.

## Use of Force

**Local and national organizations assert law enforcement officers are too quick to use unnecessary force, including lethal chokeholds.**

The Department's Use of Force policy addresses all areas of concern identified by local and national organizations concerned about use of force standards, including:

- ▶ De-escalation;
- ▶ Use of force only to the extent justified by circumstances;
- ▶ Duty to intervene;
- ▶ Warning before shooting;
- ▶ Ban on shooting at moving vehicles;
- ▶ Ban on chokehold constriction of airways;
- ▶ Use of force reporting;
- ▶ Exhaust all alternatives before shooting.

Chokeholds that impede airways are considered "deadly force." The chokehold is only allowed when necessary to protect against the loss of life.

Department policy allows the use of a Vascular Neck Restraint (VNR) that constricts blood flow but does not impede the airway. VNRs have been applied 281 times out of 51,962 arrests from 2016 to 2019.

The hold was applied in .005% of Department arrests, with no recorded instance of damage to airways or vascular systems.

## Recommendation

- ▶ The Department should develop an education and outreach program for interested citizens in learning about the use of vascular neck restraints.



## Cameras

**Local and national organizations assert the lack of cameras impairs the ability to hold deputies accountable for illegal behavior.**

### Recommendation

Funds should be authorized to equip all law enforcement personnel and vehicles with cameras, with deputies being equipped with body cameras first.

- ▶ Personnel should be required to record all enforcement interactions with the public except as prohibited by law;
- ▶ Management of all law enforcement video records should be transferred to the state;
- ▶ The state should enact statutes to prevent profiteering and protect victims as well as potential victims.

Cameras will offer greater accountability for violations of County policies and practices by law enforcement personnel and protect them from unfounded allegations.

The cost of purchasing and installing body and vehicle cameras will be approximately \$2.9 million. The annual cost of maintaining cameras and responding to public records requests will be approximately \$2.35 million.

## Military Weapons & Equipment

**Local and national criminal justice reform advocates assert local law enforcement agencies are becoming similar to military forces with their use of military equipment and tactics.**

The Sheriff's Department purchases all firearms, vehicles, ballistic personal protection, and other equipment from civilian vendors. All Department weapons and equipment are used exclusively to fulfill public safety obligations.

The Department uses one U.S. Defense Department armored vehicle provided at no cost to the County. Use of

armored vehicles is limited to high-risk circumstances.

The Department does not maintain a civil unrest team. By policy and law, civil unrest training and tactics are excluded from public disclosure.

### Recommendation

- ▶ Maintain current policies and practices.

## "No-Knock" Search Warrants

**Local and national organizations assert "No-Knock" searches pose an unnecessary risk to occupants.**

A "no-knock" search warrant is permitted only when a supervisor approves the application and a judicial officer determines a standard "knock and announce" warrant would likely threaten officers with harm.

"No-knock" search warrants in Pierce County are rarely utilized. The last utilization was March 1, 2012.

### Recommendation

- ▶ Maintain current policies and practices.

## Independent Investigations

**Local and national organizations assert the lack of independent investigations fails to hold law enforcement officers accountable for criminal actions and breeds public cynicism.**

Prior to the 2018 enactment of Initiative 940, state law authorized local law enforcement agencies to conduct internal investigations of the use of deadly force.

As of January 2019, any investigation must be conducted independent of the department involved in the use of deadly force. Two members of any investigation team must be from the city or county where the deadly use of force occurred and must not be affiliated with law enforcement.

## Recommendation

The County should:

- ▶ Convene a panel to assess the implications of establishing an independent review board, as is used in other jurisdictions, for the use of deadly force.

## Bail

**The use of bail to avoid detention imposes an unfair burden on people of low income, disproportionately people of color.**

The Clerk of the Superior Court manages a pre-trial release program based on criteria such as current charges, criminal history and a risk assessment score that reduces the number of alleged offenders otherwise forced to rely on bail to avoid incarceration.

To date, 4,450 individuals have been released from custody due to the program, with no significant change in consequences to public safety or lack of accountability. Sixty-one percent of individuals who are released appear at all hearings as directed and 89% of all hearings were attended (17,653 of 19,807).

The program has been selected by Advancing Pretrial Policy & Research (APPR) as one of five jurisdictions nationwide to participate in a five-year study of pre-trial release programs. With funds from philanthropic grants, APPR is a consortium of organizations dedicated to promoting racial and economic justice by limiting bail and detention to individuals who pose a public safety risk.

### Recommendation

- ▶ The Council should monitor the pre-trial program to assure public safety is maintained while minimizing reliance on bail.

# Prosecuting Attorney

## About the Office

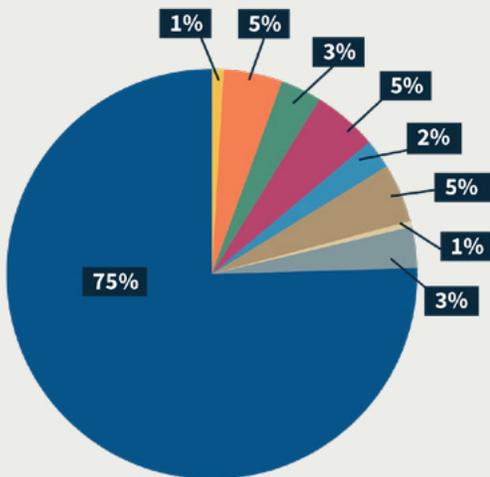
The Prosecuting Attorney Office's Criminal Division prosecutes felony cases in Pierce County, as well as misdemeanor cases from unincorporated areas. The Civil Division provides legal counsel to county departments and represents the County in litigation. The Family Support Division works to enforce child support and establish parentage.

The Prosecuting Attorney's office operates with an annual budget of 35.9 million dollars and employs 114 deputy prosecutors who are supported by 100 other staff, including legal assistants and victim advocates.

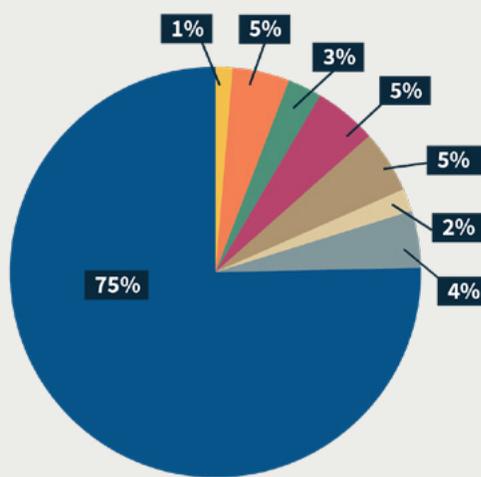
## Diversity

### Ethnicity

2017 (4th Quarter)



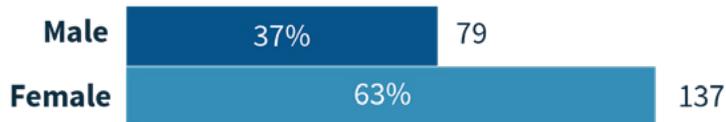
2020 (2nd Quarter)



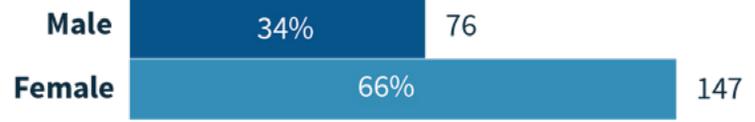
	2017	2020
American Indian or Alaska Native	2	3
Asian	10	10
Black or African American	7	6
Elected Not to Identify	11	11
Ethnicity Not Selected	5	0
Hispanic	10	11
Native American or Pacific Islander	1	4
Two or more races	7	10
White	163	168
<b>Total</b>	<b>216</b>	<b>223</b>

### Gender

2017 (4th Quarter)



2020 (2nd Quarter)



## Diversion

**Data indicates a disproportionate percentage of African Americans charged with minor offenses are denied access to criminal court alternatives.**

Individuals charged with certain crimes may be diverted to an alternative court (i.e., Drug Court, Mental Health Court, Veterans Treatment Court) that provides access to treatment programs with the prospect of charges being withdrawn or reduced, and custody time eliminated upon demonstrated compliance with Court requirements.

In conjunction with the Presiding Judge of the Superior Court, the Prosecuting Attorney will eliminate screening criteria such as gang affiliation and immigration status, assuring African Americans equitable access to Drug Court. The Prosecuting Attorney will also create a policy that allows a defense attorney who receives an initial rejection of their client to have it reviewed by an administrator within the Prosecuting Attorney's Office.

### Recommendation

- ▶ Endorse proposed policy changes.

## Legal Financial Obligations

**Local and national organizations assert that fines imposed on low income/indigent citizens create barriers to successful societal re-entry.**

Recent changes in statute and case law allow for waiver of certain fines and penalties due to indigency. Those fines and penalties tend to impose a disproportionately adverse effect on African Americans and other people of color.

The Prosecuting Attorney, Superior Court, District Court, Tacoma Municipal Court, and Department of Assigned Counsel have implemented a program offering the forgiveness of fines.

### Recommendation

- ▶ Maintain current policies and practices.



# Medical Examiner

## About the Office

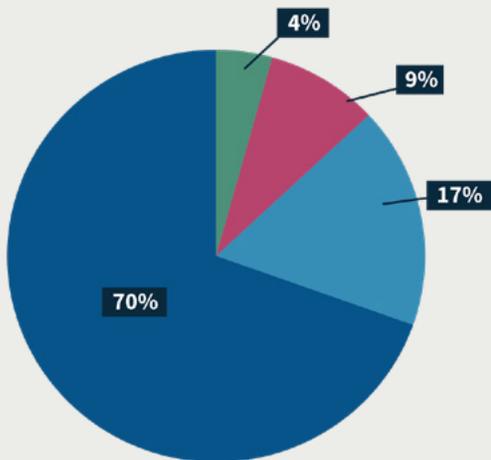
The Medical Examiner's Office conducts forensic death investigations and post-mortem examinations of individuals who die under circumstance that are sudden, unexpected, unnatural, violent, or suspicious. The office is independent of the Sheriff and Prosecuting Attorney and operates in accordance with state statutes. Three board-certified forensic pathologists direct a team of 20 employees with an annual budget of \$8.75 million. The office is accredited by the National Association of Medical Examiners.



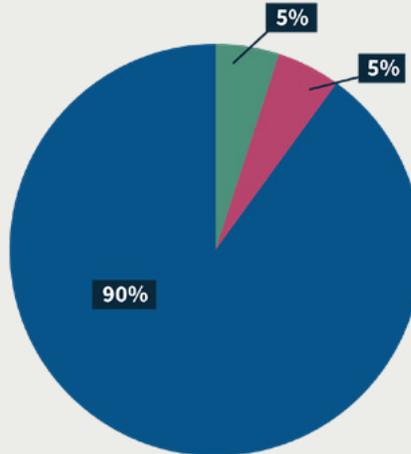
## Diversity

### Ethnicity

2017 (4th Quarter)



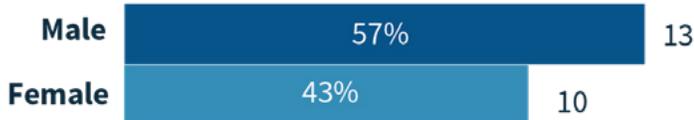
2020 (2nd Quarter)



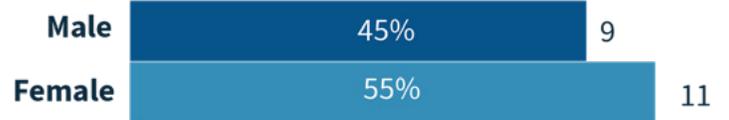
	2017	2020
Black or African American	1	1
Elected Not to Identify	2	1
Ethnicity Not Selected	4	0
White	16	18
<b>Total</b>	<b>23</b>	<b>20</b>

### Gender

2017 (4th Quarter)



2020 (2nd Quarter)



## Post-Mortem Examination

**The protocol for the release of information has been the source of confusion and criticism.**

The Chief Medical Examiner adopted a new protocol for the release of information, effective September 14. Following identification of a decedent, next of kin will be notified. The name will be released publicly within 48 hours upon request.

Following completion of a post-mortem examination, next of kin and the Tacoma-Pierce County Health Department will be notified of the cause and manner of death. The information will be released publicly upon request.

A copy of the examination report will be conveyed to the family, the Prosecuting Attorney and Sheriff or Chief of an agency conducting an investigation upon request.

Next of kin will be exempt from fees for examination reports.

Reports will be standardized to minimize errors and protect against tampering, including consistent pagination and the signature of the assigned forensic pathologist on each page.

Proposed policies and practices include:

- ▶ Contracting with private laboratories for toxicology tests;
- ▶ Replacing obsolete equipment and renovating essential facilities (e.g., x-ray machine; body cooler).

It takes up to three months for the State Patrol Toxicology Lab to conduct tests. Private labs take about two weeks.

The cost of a new x-ray machine would be approximately \$1 million.

## Recommendation

- ▶ Maintain current and support proposed policies and practices.



# Assigned Counsel

## About the Department

The Department of Assigned Counsel (DAC) provides indigent felony and misdemeanor defense services to 90% of all adults and juvenile clients charged with crimes in Pierce County and multiple local municipal jurisdictions. Assigned Counsel operates with a staff of 80 attorneys and 20 support staff and an annual budget of 20 million dollars.

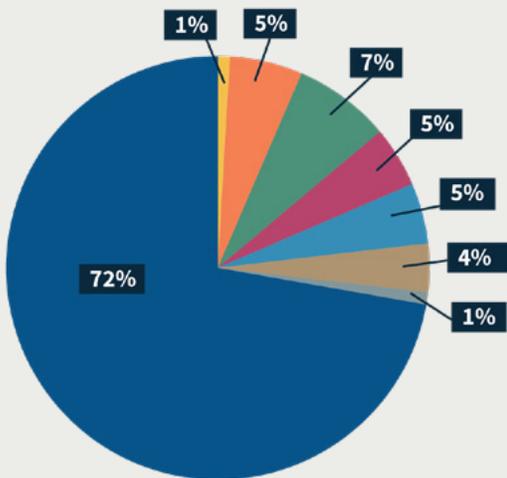
The DAC also provides representation to:

- All parents and children in dependency proceedings;
- Youth in truancy and “at risk” proceedings;
- Those facing civil contempt and involuntary commitment and commitment under the Sexually Violent Predator statute.

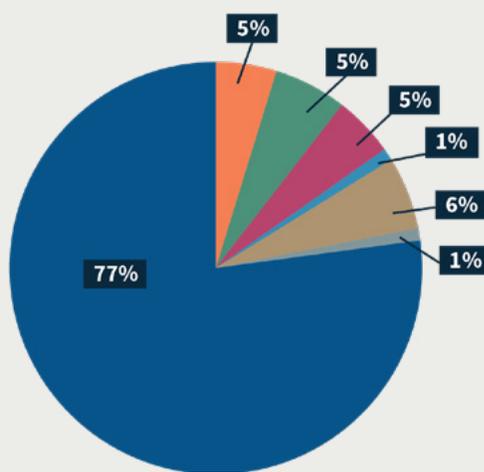
## Diversity

### Ethnicity

2017 (4th Quarter)



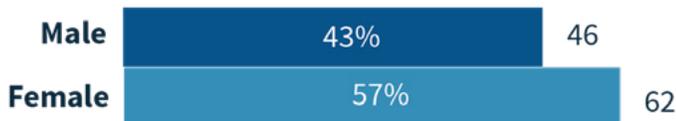
2020 (2nd Quarter)



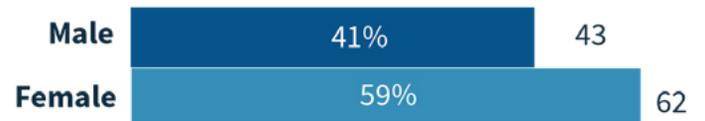
	2017	2020
American Indian or Alaska Native	1	0
Asian	6	5
Black or African American	8	6
Elected Not to Identify	5	5
Ethnicity Not Selected	5	1
Hispanic	4	6
Two or more races	1	1
White	78	81
<b>Total</b>	<b>108</b>	<b>105</b>

### Gender

2017 (4th Quarter)



2020 (2nd Quarter)



## Defense Services

**Historic practice has deprived indigent defendants of qualified legal representation, a disproportionate percentage of whom were African Americans and other people of color.**

Policies and practices include:

- ▶ Standards for caseloads;
- ▶ Supervision;
- ▶ Training;
- ▶ Support services;
- ▶ Reports of attorney activity;
- ▶ Monitoring qualifications of attorneys.

Key performance measures used to ensure compliance are:

1. Accountability for results, such as avoiding misconduct and findings of ineffective assistance of counsel.
2. Maximizing efforts to assist clients with behavioral health challenges and help divert them out of the criminal justice system and into appropriate community based services.
3. Developing and recruiting talented attorneys through training and active law school recruitment.

## Recommendation

- ▶ Maintain current policies and practices.



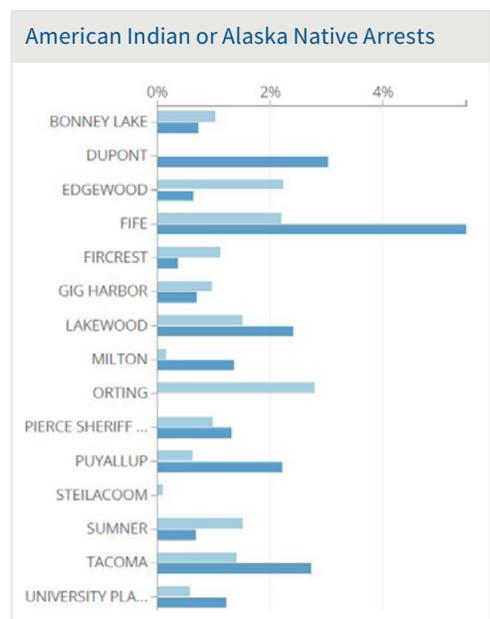
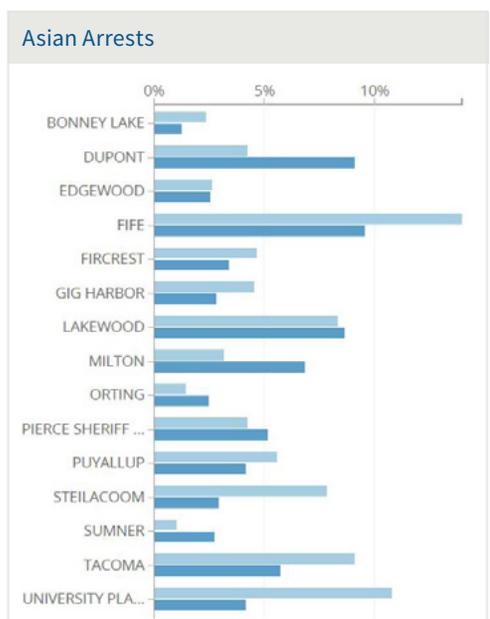
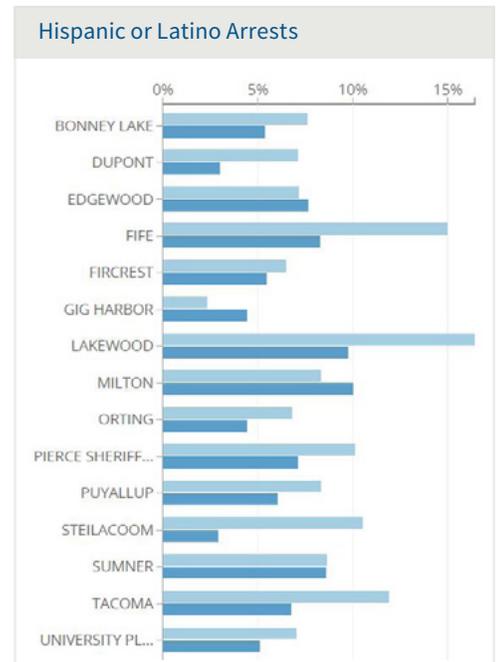
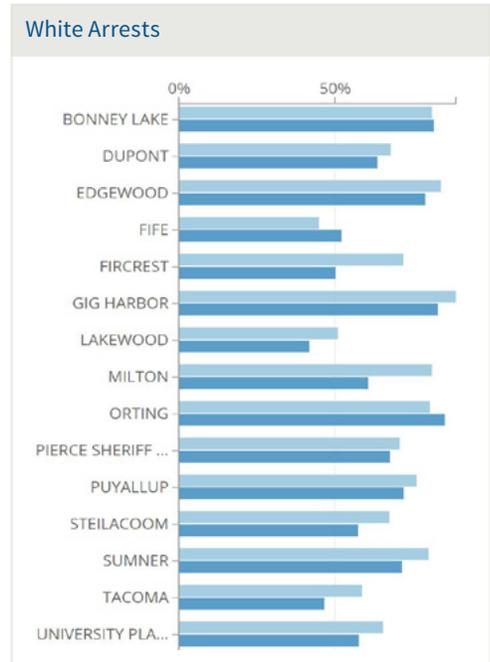
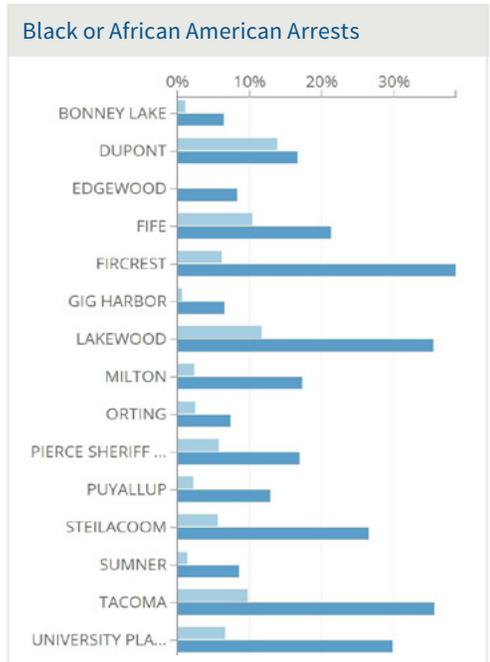
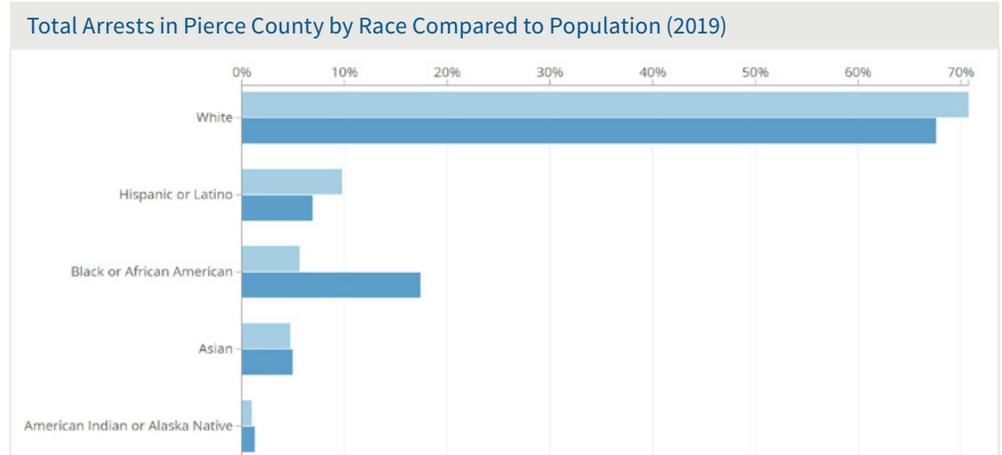
# Appendix Criminal Justice Dashboard

## Public Safety



## 2019 Arrests

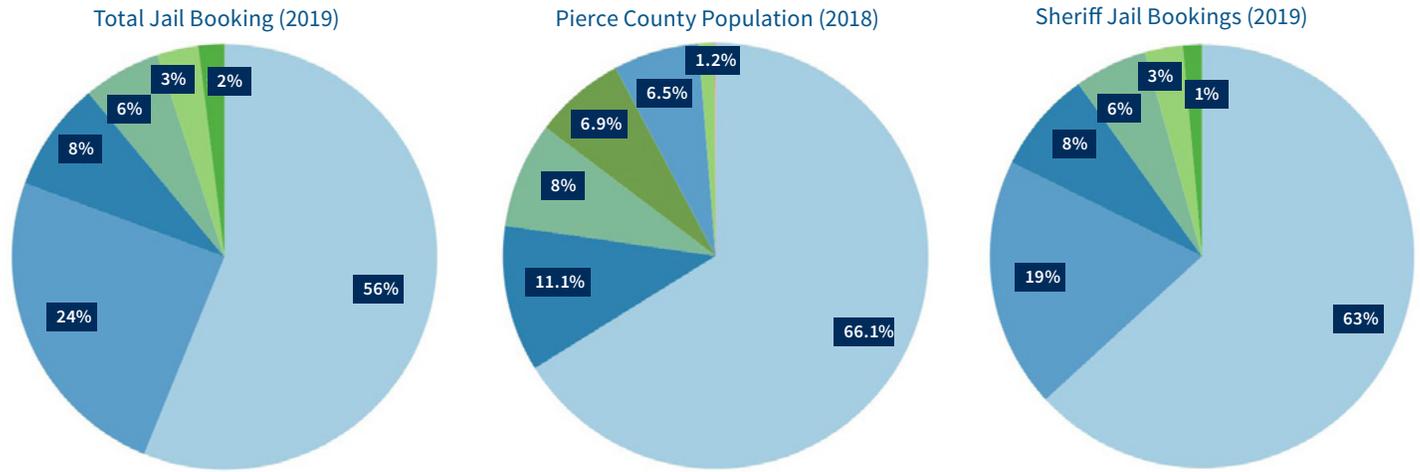
Legend ■ Percent of Population ■ Percent of Arrests





**Legend** White Black Hispanic Asian/Pacific Islander American Indian/Alaskan Two or more races Unknown

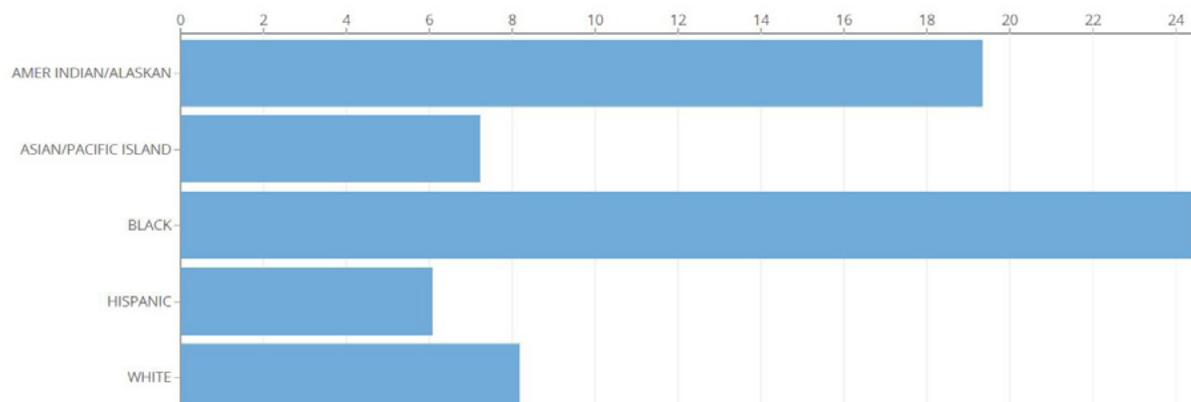
### Jail Bookings Compared to Population



### Historical Trend of Racial and Ethnic Composition of Sheriff Jail Bookings



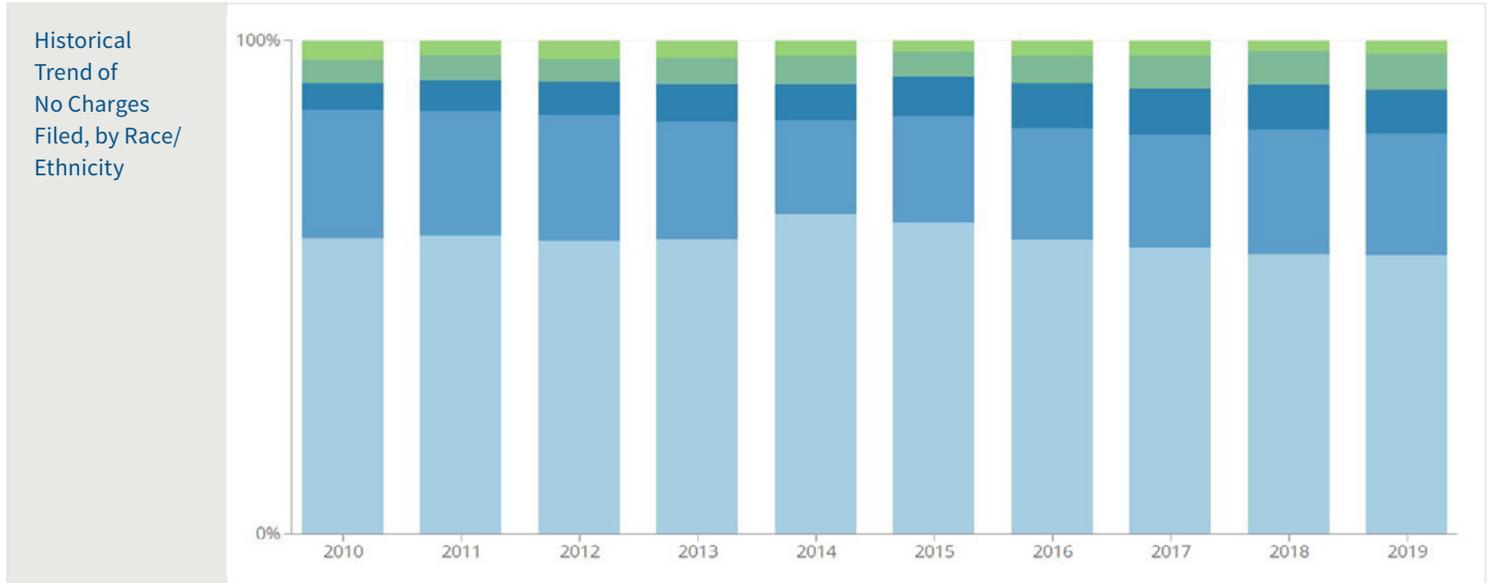
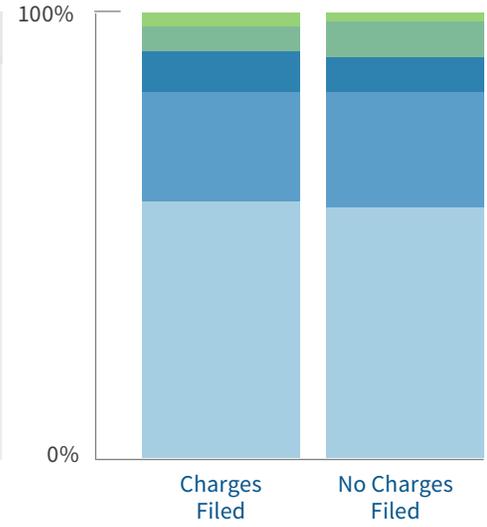
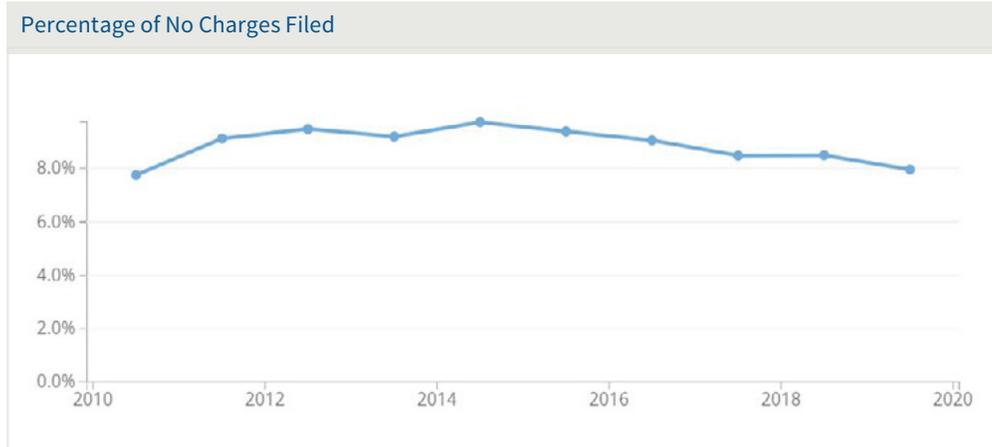
### Rate of Sheriff Jail Bookings by Race/Ethnicity (2019) Per 1,000 population



# Appendix Criminal Justice Dashboard

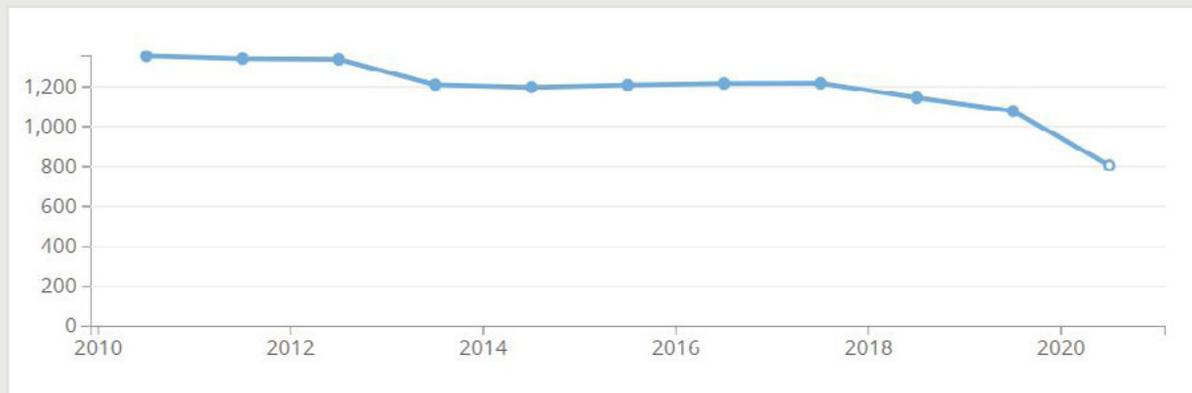
## Booking Outcomes

Legend    White    Black    Hispanic    Asian/Pacific Islander    American Indian/Alaskan



## Pierce County Jail Population

Historical Trend of Average Daily Population



**Average Daily Population**

**805**

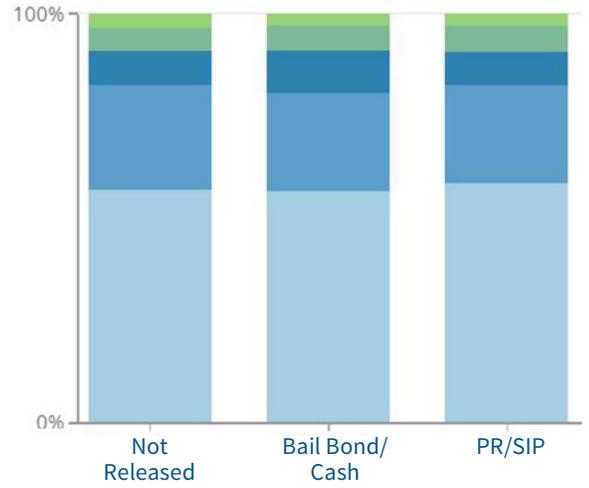
1/1/2020 - 9/1/2020



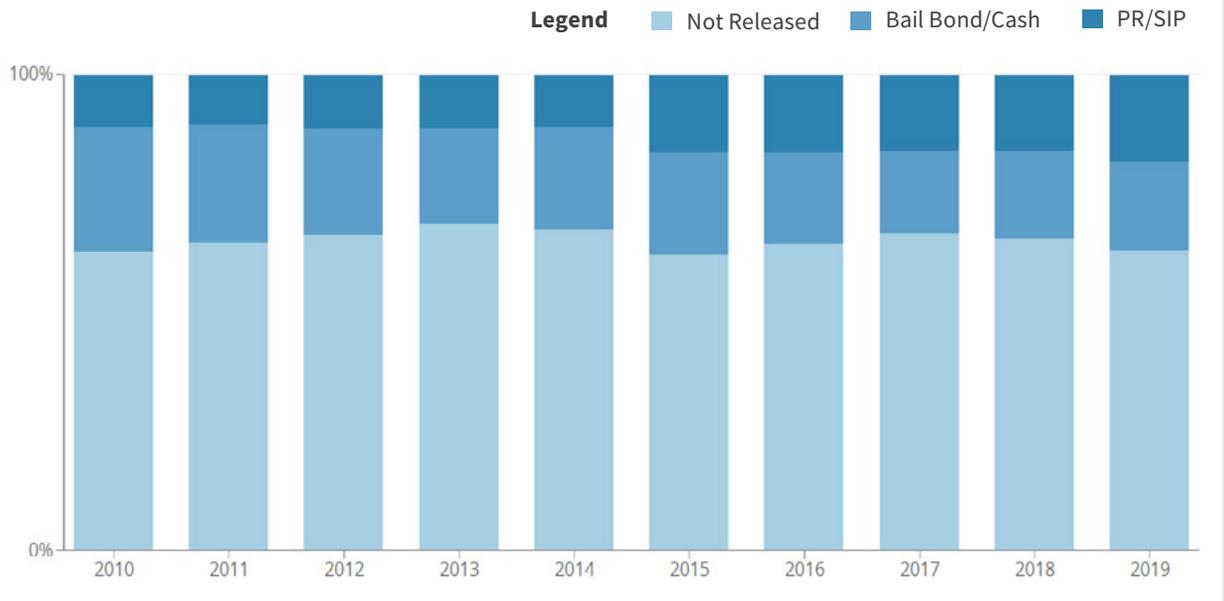
## Arraignment Outcomes

Legend White Black Hispanic Asian/Pacific Islander American Indian/Alaskan

Percentage of PR/SIP



Historical Trend of Arraignment Outcomes by Charge Category



## Jail Population Compared to Pretrial Services Caseload

Average Daily Jail Population and Pretrial Services Caseload Trend

Legend Jail Average Daily Pop. Pretrial Average Daily Caseload





**Pierce County Criminal Justice Review**

Sheriff | Prosecuting Attorney | Medical Examiner | Assigned Counsel



Pierce County