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**DATE:** February 15, 2024

**TO:** Public Safety and Justice Committee  
Public Safety, Finance, and Strategic Support Committee

**SUBJECT:** Individuals with Frequent Justice System Involvement

## **INTRODUCTION**

The Santa Clara County Public Defender's Office (PDO) provides legal representation to persons accused of crimes that are unable to afford counsel. We often represent persons from marginalized communities. Compared to the demographics of Santa Clara County as a whole, the PDO disproportionately represents persons of color, people that are unhoused or housing insecure, suffer mental health or substance use disorders, are poor, or some combination of those factors.

Countywide data from the Santa Clara County Public Defender Office's (PDO) case management system identified 70 clients with frequent justice system involvement, defined as clients who had 15 or more case referrals to the PDO during the 3-year period between November 2020 and October 2023. These 70 clients comprised 0.2% of the approximately 32,217 adult clients referred to the PDO during this period.

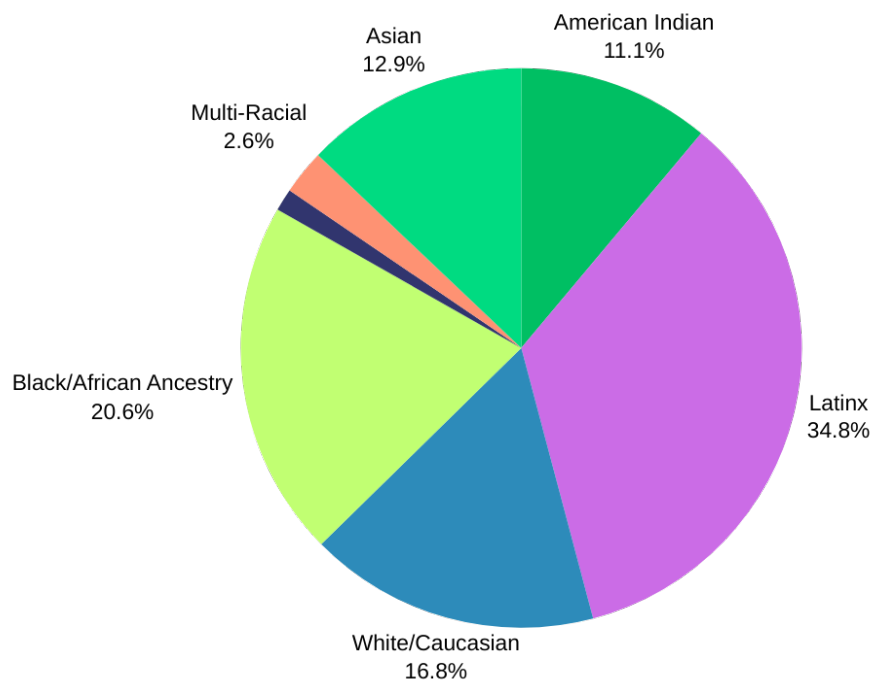
The PDO then evaluated each of those 70 people along demographic lines to understand if common characteristics or patterns emerged. The PDO also reviewed case type data for each of those 70 people, but it was not limited to the 3-year period. Instead, it reflects all PDO case referrals for individuals with frequent system involvement, without a year restriction. Analysis also reflects initial case type, while cases that begin as felonies often resolve for misdemeanors or infractions.

## **FINDINGS**

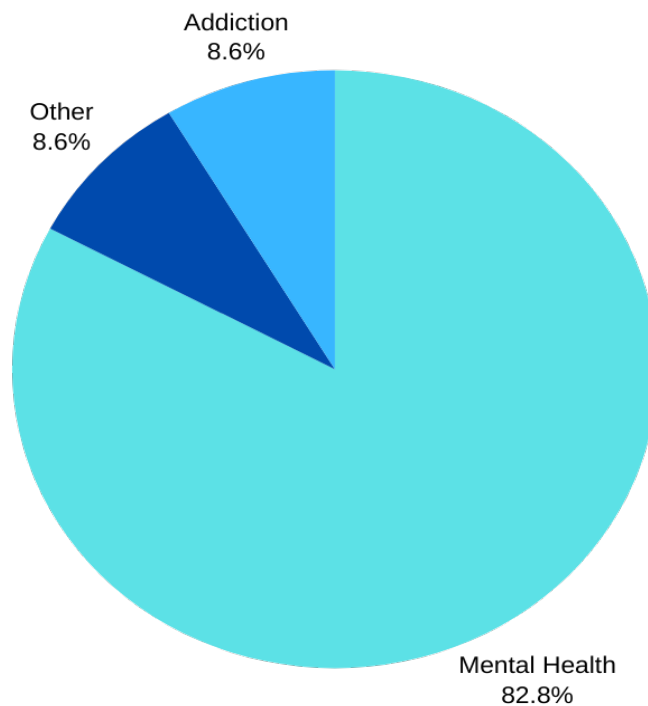
The following is a summary of the characteristics of those 70 clients:

1. **Race/Ethnicity:** 38.6% Latinx, 22.9% Black/African American; 18.6% White/Caucasian; 12.9% Asian; 2.9% Multi-racial; 2.9% American Indian. (Santa

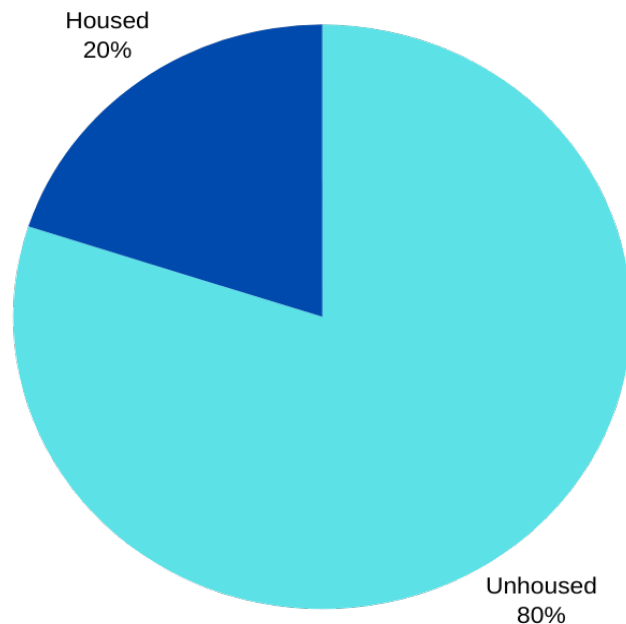
Clara County census data reports that 2.33% of County residents are Black/African American.)



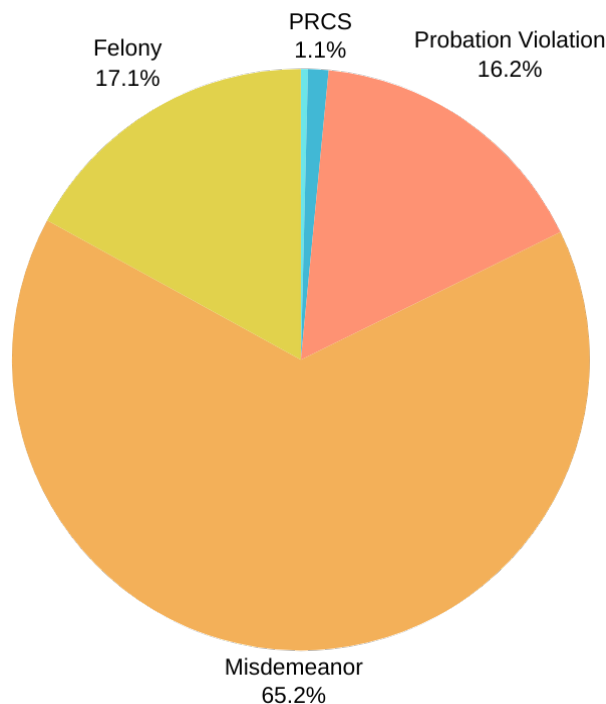
2. **Mental Health/Substance Use Disorder:** 91.4% have documented mental health issues, substance abuse disorders, or both.



3. **Housing Status:** 80% are unhoused or housing insecure, 20% are housed.



4. **Case Types:** We reviewed all recorded cases for the same 70 persons by case type. This data is not limited by the last three years. Instead, it reflects all high need client dockets with available PDO data, without a year restriction. In the chart below, a case is designated a “Misdemeanor” if the charges in the docket are exclusively misdemeanor charges. A case is designated a “Felony” if at least one count in the docket is a felony. “Probation Violation” refers to misdemeanor or felony grants of probation. The light blue refers to Lanterman Petris Short (LPS) act matters—LPS act cases are mental health civil conservatorships; there were 11 LPS cases total.



5. The three most common charges brought against this population in the last 10 years were:
- Misdemeanor Petty Theft (Penal Code Section 484-488)
  - Misdemeanor Possession of Drug Paraphernalia (Health and Safety Code Section 11364)
  - Misdemeanor Trespass (Penal Code Section 602)

## CONCLUSION:

The data show that Public Defender high need clients suffer from serious systemic problems—unhoused or housing insecure, mental illness, and substance use disorders. The overwhelming majority commit low-level offenses.

Homelessness, mental illness, and substance use disorders are long standing and difficult problems that are not easily remedied. Continued incarceration does not address these underlying problems, nor does it make the community safer. Instead, continued incarceration further destabilizes this population and exacerbates their underlying issues. Confronting these problems requires us to make sound policy decisions based on data. For this population, we should do what is proven to work—consistent engagement/intervention, programming, and robust services.

As an example, Santa Clara County recently implemented Assisted Outpatient Treatment (AOT) or Laura's Law to work with its most mentally ill and treatment resistant residents. The County's AOT program provides consistent engagement/intervention and supportive services. Although AOT is new to the County, the initial results are promising. From Supervisor Simitian's website,

“During the first year of the program (February 2022 through February 2023), the County’s Behavioral Health Services Department received 252 inquiries about services and 65 individuals met eligibility criteria and were referred to AOT. Most program referrals came from family members and behavioral health providers. Santa Clara County’s AOT program shows higher effectiveness in getting individuals into voluntary treatment, with only three percent of total referrals requiring court-ordered treatment, compared to a statewide average of 20 percent.”

Applying those same principles, consistent engagement, and supportive services, is the right policy to confront the underlying issues that impact this high need population.