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June 15, 2018 – SPAC Regular Meeting Materials

1. June 15, 2018 SPAC Regular Meeting Agenda **(Page 1)**

2. November 17, 2017 SPAC Regular Meeting Minutes Draft **(Pages 2-4)**

3. Misdemeanor Sentencing in Illinois: Trends and Analysis Report Draft **(Pages 5-26)**

Illinois Sentencing Policy Advisory Council (SPAC)
Regular Meeting

AGENDA

Friday, June 15, 2018
10:00 a.m. – 12:45 p.m.

300 W. Adams, Suite 200
Chicago, IL

CALL-IN NUMBER:
888-494-4032
Passcode: 7205356689#

==THERE IS NO VIDEO CONFERENCING FOR THIS MEETING==

10:00 – 10:15   **Welcome, Agenda Overview and Approval of Minutes**
Hon. Gino DiVito, SPAC Chairman

10:15 – 10:25   **Misdemeanor Sentencing in Illinois – A Legal Overview**
Peter Baroni, Leinenweber, Baroni & Defada, co-author with Gino DiVito of the Illinois Sentencing and Disposition Guide

10:25 – 10:45   **Data Analysis of Misdemeanor Arrests, Charges & Sentencing**
Kathy Saltmarsh, SPAC Executive Director
John Specker, SPAC Research Analyst

10:45 – 12:00   **The Practitioner Perspective on Misdemeanors**
Elizabeth Schroeder, Lake County Public Defender's Office
Lisa Aust, Kane County Probation Office

12:00 – 12:30   **Lunch – Session Roundup**
Kathy Saltmarsh, Executive Director
Michael Elliott, SPAC Intergovernmental Affairs & Communications Advisor

12:30 – 12:45   **New Business**
Next meeting scheduled for Friday, September21 at the ICJIA Office

12:45   **Adjourn**

Illinois Sentencing Policy Advisory Council
Regular Meeting Minutes
November 17th, 2017 10:00AM – 12:45PM

Location: Illinois Criminal Justice Information Authority
300 West Adams Street, Suite 200
Chicago, IL

Members Present – Stephen Baker, Kathryn Bocanegra, Jim Chadd (Michael Pelletier), Gino DiVito (Chairman), Craig Findley, Annie Fitzgerald, Michael Glick, John Maki, Margo McDermed, Marcia Meis, Micaela Smith (Marcus Evans), Alan Spellberg, Julian Thompson and Warren Wolfson (Vice Chair).

Members Present by Phone – Nicholas Kondelis and Stu Umholtz.

Members Absent – Jason Barickman, Stuart Palmer, Kwame Raoul (Vice Chair), Don Stemen, Gladyse Taylor and Kristen Ziman.

Non-Members Present – Mary Ann Dyar, Michael Elliott, Lily Gleicher, Bryant Jackson-Green, Madeleine Hamilin, Roger Franklin, Sharone Mitchell, Lynne Mock, Adriana Perez, Mark Powers, Kathy Saltmarsh, Laura Scherkenbach, Nate Inglis-Steinfeld, Michael Toomin and Paula Wolff.

Non-Members Present by Phone – Jennifer Paswater and David Risley.

Welcome and Introductions

Chairman DiVito called the twenty-eighth regular meeting of the Illinois Sentencing Policy Advisory Council to order at 10:10 a.m. Chairman DiVito gave the opening remarks, including a summary of the agenda and purpose of the meeting:

- At our last SPAC meeting, Rep. McDermed commented that we pay way too much attention to the back end of the system and not enough to the front end, thus the idea of doing a meeting on how reform efforts impact the exercise of police discretion. Given our mandate to look at the system as a whole and the allocation of resources, it is appropriate to talk about the law enforcement role as the gatekeeper to the system and the gulf between policy and practice that frequently exists.

- We invited Chief Kaminski of Park Ridge and Chief Tanksley, who retired from the Oak Park Police Department not too long ago, because both have taken innovative approaches to policing in their communities. However, Chief Tanksley was called into court and was not able to attend. Additionally, Champaign County Drug Court from Judge Jeffery Ford and Champaign County Sheriff's Deputy Shawn Hallett provided insight into law enforcement's duties with drug courts and how that county's courts have dealt with local budget cuts. Special thanks to Mary Ann Dyar for suggesting that we include this topic as it goes to the role law enforcement can play to help keep people out of the prison system via alternatives to incarceration.

<u>Vote: Approval of the meeting minutes from the September 15, 2017 SPAC meeting</u>

Margo McDermed moved to approve the minutes, seconded by Julian Thompson. The minutes from the September 15, 2017 SPAC meeting were approved by unanimous voice vote.

<u>Stakeholder Viewpoints; The Impact of Criminal Justice Reform on the Exercise of Police Discretion</u>

Moderator, Dr. Laura Kunard, has worked with many police agencies throughout Illinois in her past positions with CNA and at the University of Illinois' Institute of Government and Public Affairs where she served as the director of Center for Public Safety and Justice. Dr. Kunard currently serves as Deputy Inspector General for Public Safety within the Inspector General's Office in Chicago. She explained that the purpose of this panel was to start thinking about the relationship between policy reforms and practices on the exercise of police discretion. Dr. Kunard then turned the conversation over to the three panelists who shared their experiences with the Council.

Chief Kaminski shared his extensive background in community policing/problem solving, school and community relations, accreditation, media relations, enhanced 911, criminal and internal investigations, financial management, and labor relations. He also spoke about the need for more communication and involvement with policy makers earlier on in the process, rather than the usual practice of him and his colleges learning about potential policy changes, when they are already moving through the legislative process. Funding is another hurdle that he constantly has to deal with, but the best decision that was ever made in his current department was the hiring of a social worker. The hiring has helped give his officers a different perspective than many learn in training. He also believes that the role of the police officer has drastically changed over the years, and their duties have become more socially focused than police focused.

Judge Ford began with an overview of his drug court and the importance of having a sheriff's deputy involved, working in tandem together. Champaign County Drug Court functions by blending accendibility with treatment which, along with an effect, Judge-monitored court docket, strikes the proper balance between the need to protect the community and the need to improve public health. Offenders stay in drug court is typically 12-18 months. Throughout this time clients are afforded an intensive regimen of drug treatment, regular and random drug tests, and frequent appearances in court for the Judge and his team to review their progress. Clients are rewarded for doing well and sanctioned for not living up to their obligations.

Through a two-year grant provided by the Department of Justice, Champaign County Drug Court received funds to add a Deputy Sheriff to the Drug Court Team. The recent inclusion of law enforcement on the Drug Court Team has proven to be highly successful. By working the streets, law enforcement contributes a unique perspective that reaps many benefits that the court would not normally be privy too. The Sheriff's Office is a full team member, and his perspectives are not ignored. According to statistics developed by the NPC Research, having a member of law enforcement on the team was associated with a 57% higher graduation rate comparted to 46% for those that did not have law enforcement on their team. By adding law enforcement to the team, Judge Ford stated his belief that the county benefits from this cost-effective strategy by adding an active voice in problem-solving, as well as an increase in credibility and accountability. Judge Ford reported that the Champaign County Sheriff's Office and the Champaign County Drug Court were working together will continue to greatly reduce the revolving door of recidivism and make their community a safer place to live.

<u>Updates from SPAC Partners</u>

Adult Redeploy Illinois (ARI): ARI Program Director Mary Ann Dyar provided an update of funding, site statistics, and current site issues. Ms. Dyar said a second grant monitor will join ARI and that they are formalizing the contractual policy and project coordinator position. Ms. Dyar introduced new ARI intern Khyrah Simpson, a University of Chicago's School of Social Service Administration student who assisted with the Smart Decarceration Initiative 2nd National Conference, attended by ARI staff. ARI staff also attended the ICJIA Opioid Conference in early November 2017. Ms. Dyar reported on a survey about sites' use of pleas, fees, and fines and on efforts to inform sites about new legislation that expands criminal records sealing eligibility. She noted that Cabrini Green Legal Aid presented on the topic of records relief at the recent All-Sites Summit.

Illinois Criminal Justice Information Authority (ICJIA): Director John Maki spoke briefly about ICJIA's two most recent notices of funding opportunity, including one for community-based violence intervention (State) and one for victims of community violence (federal). He also said ICJIA was staffing two unfunded initiatives: the Sex Offenses and Sex Offender Registration Task Force and Criminal Justice Coordinating Councils.

New Business

Chairman DiVito announced the 2018 SPAC meeting dates will take place on the third Friday of June (15th), September (21st), and November (16th).

Adjournment

Craig Findley, moved to adjourn the twenty-eighth regular meeting of the Sentencing Policy Advisory Council, seconded by Alan Spellberg. The twenty-eighth regular meeting of the Sentencing Policy Advisory Council was adjourned at 1:05 p.m. by unanimous voice vote.

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Misdemeanor Sentencing: Trends and Analysis

June 15, 2018

Key Takeaways

- In 2017, misdemeanor arrests accounted for 71% of all arrests and 59% of all dispositions reported into the State's CHRI data system.
- 78% of people with reported misdemeanor dispositions never get convicted of a felony, but over half—52%—of convicted felons have prior misdemeanor dispositions.
- 92% of convictions are for Class A misdemeanors; driving under the influence was the most common offense.
- The average age at arrest was 33 years old.
- 45% of misdemeanants in our sample were rearrested and 24% are reconvicted within three years of the first disposition.
- 47% of guilty dispositions are pleas to a withheld judgment with supervision. This disposition results in charges being dismissed and no record of conviction.
- Criminal history was the most significant factor in the type of sentence imposed and the term of the sentence.
- Controlling for criminal histories, the differences between black and non-black case outcomes were not statistically significant.
- Gender was statistically significant after controlling for other demographic factors and criminal history: men were 27% less likely than women to receive withheld judgments.
- Almost two thirds (62%) of those sentenced to jail serve their sentence term in pretrial detention.

INTRODUCTION

Policy work in the criminal justice arena often focuses on felonies, with the more serious or notorious offenses getting the bulk of the attention. The volume of misdemeanor arrests and dispositions far outstrips felony offenses, yet we know little about this kind of offender or how they are sentenced. Over half of the people in State prisons have a history of misdemeanor arrests and one or more convictions. However, most people arrested or convicted of a misdemeanor do not go on to commit felonies. As with felonies, criminal history remains the most significant factor in determining the sentence imposed and the reader should bear in mind that many misdemeanors move into felony classifications based on second or subsequent offenses.

Misdemeanor offenses, by definition, cannot result in a prison sentence. The cases most often involve crimes such as driving under the influence, retail theft, simple battery, and domestic disputes. They are processed quickly, relative to felonies, but still require law enforcement, courts and lawyers, jails, and probation resources to resolve them. For most people who get arrested, this misdemeanor processing is their only experience with the criminal justice system.

This brief focuses on the offense characteristics, dispositions, criminal history, and demographics for 2017 arrests and dispositions and recidivism patterns for a 2014 group of misdemeanants. The brief is organized by the decision points in the system and includes demographic analysis based on race, gender, and geographic region.

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METHODOLOGY

The Illinois Sentencing Policy Advisory Council (SPAC) used two data sources for this brief; the Criminal History Record Information system (CHRI) and the annual reports of the Administrative Office of the Illinois Courts (AOIC). Unless otherwise indicated, SPAC produced all data and figures using CHRI data.

While there were some inconsistencies between the two datasets, SPAC attributes those to differences in data reporting processes: CHRI is an administrative dataset maintained for law enforcement and recordkeeping purposes, analyzed by SPAC for this brief and AOIC annual reports are a survey of court administrators for purposes of court administration. The overall consistency in the trends in both datasets supported SPAC's confidence in both of their validity and reliability for these purposes.

DEFINITIONS AND TERMS

- Misdemeanors are divided into three classes:
    - Class A: up to 1-year jail term, up to 2 years of probation, maximum fine of $2,500.
    - Class B: up to 6-months jail term, up to 2 years of probation, maximum fine of $1,500.
    - Class C: up to 30-days jail term, up to 2 years of probation, maximum fine of $1,500.
    - Illinois Criminal Identification Act (20 ILCS 2630/5) requires Misdemeanor A and Misdemeanor B to be reported into CHRI.
- **Guilty disposition -** For purposes of this brief, the term "guilty disposition" is used to describe cases in which there is either a withheld judgment, which results in a dismissal of charges with no record of conviction, or a judgment of conviction. Both types of cases could result in a sentence of supervision.
- **Withheld judgment with supervision** (730 ILCS 5/5-6-1 and 730 ILCS 5/5-1-21) is a "disposition of conditional and revocable release without probationary supervision, but under such conditions and reporting requirements as are imposed by the court, at the successful conclusion of which disposition the defendant is discharged and a judgment dismissing the charges is entered."
- **Conditional discharge** (730 ILCS 5/5-4.5-5 *et seq*. and 730 ILCS 5/5-1-4) a sentence of supervision with a judgment of conviction.
- Throughout the brief, race and gender are either self-identified or as indicated by the arresting law enforcement officer at the time of the arrest.
- Offense types are categorized by the Illinois Uniform Crime Reporting (IUCR) system, as defined by the Illinois State Police (ISP).
- Where percentages are shown in tables and figures, the totals may not equal 100% due to rounding.

ARRESTS, CHARGES, DISPOSITIONS, AND SENTENCES

In 2017, misdemeanors accounted for 71% of the arrests (Figure 1) and 59% of the dispositions in CHRI (Figure 2) in Illinois. Arrests for both types of offenses rose slightly from 2002 through 2007 then began a steady decline. The decline is more pronounced for misdemeanors in both aggregate number—over a 100,000 fewer arrests—and as a percentage of the peak—arrests down 38% from the peak in 2007.

Figure 1: Arrests Trends in Illinois 2002-2017

Arrest Trends in Illinois
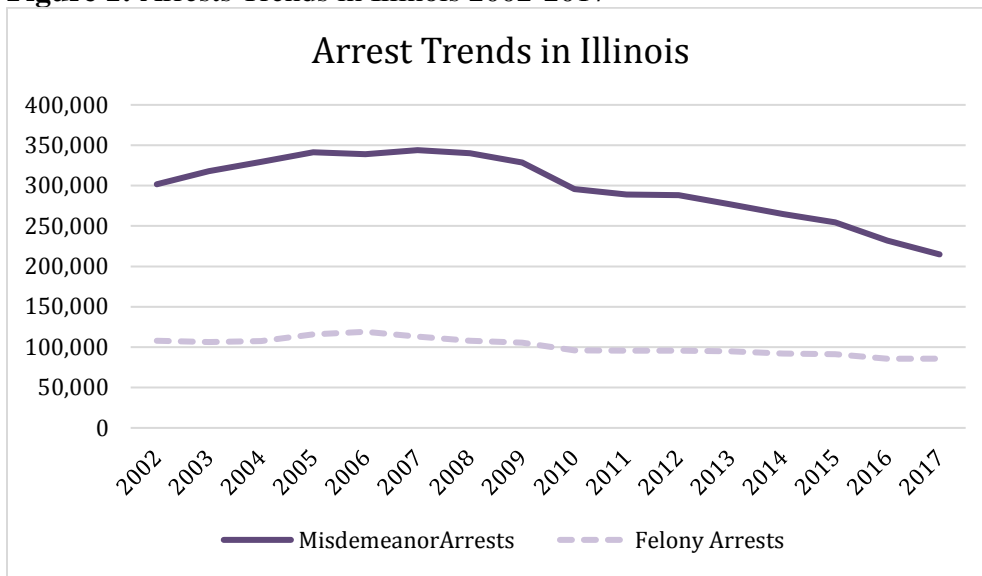
Figure 2: Disposition Trends Illinois 2002-2017

Dispositions Trends in Illinois
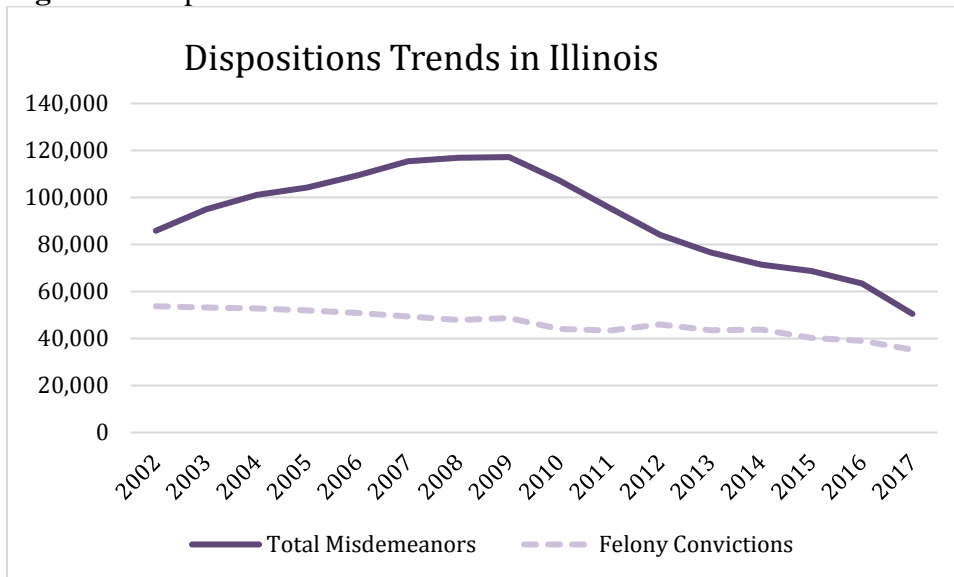
Overall, misdemeanor arrests and convictions in CHRI data increased from 2002 to 2007, likely due to improved data reporting. Misdemeanor arrests have decreased 38% from the peak of 343,969 arrests in 2007 to 214,841 in 2017. In 2007, a steady decrease in misdemeanor arrests, charges, and convictions begins to emerge. Misdemeanor charges decreased 55% and misdemeanor convictions decreased 60% from 2007 to 2017. The annual reports from the AOIC also show consistent declines in misdemeanor cases from 2002 until 2016, the last available year of court data.

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Figure 3: Misdemeanor Trends 2002-2016

Misdemeanor Arrests, Charges, Dispositions

Legend: Misdemeanor Arrests — Misdemeanor Convictions - - - Misdemeanor Filings • • •
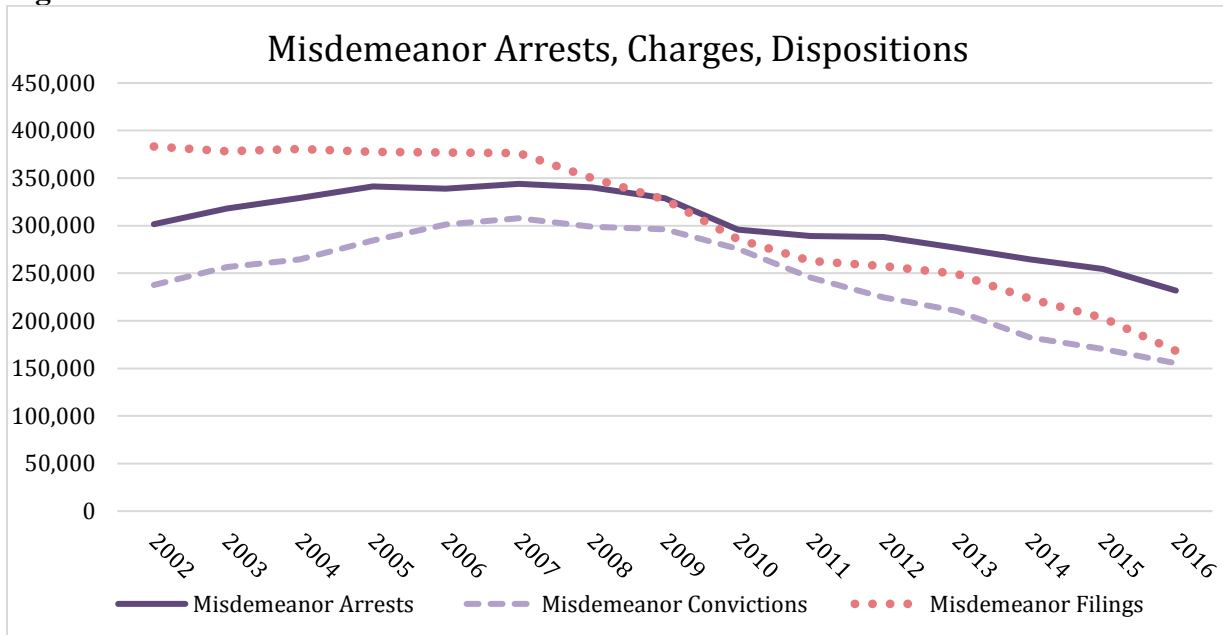
Source: SPAC analysis of CHRI data and AOIC annual statistical reports.

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ARRESTS

Offense Type

In 2017, most arrests that included misdemeanors were traffic-related, including traffic violations and driving under the influence. Domestic battery offenses were 15% of all misdemeanor arrests, while other battery and assault arrests comprised another 13% of the arrests. Property offenses, including retail theft, theft, and criminal damage, were 15% of the arrests, while drug and alcohol possession or sales offenses were 4% of the arrests.

Figure 4: Misdemeanor Arrest Offenses in 2017

Offense	Arrests	Percent
Traffic	31,465	19%
Domestic Battery	24,529	15%
Driving Under the Influence (DUI)	21,138	13%
Retail Theft	15,261	9%
Criminal Trespass	12,780	8%
Battery	12,182	7%
Other*	8,573	5%
Criminal Damage	4,916	3%
Theft	4,513	3%
Assault	3,101	2%
Aggravated Battery	3,099	2%
Resist, Obstruct, Disarm an Officer	3,023	2%
Aggravated Assault	2,548	2%
Possession of Cannabis	2,450	1%
Obstructing Justice	2,007	1%
Possession of Drug Equipment	1,830	1%
Reckless Conduct	1,634	1%
Illegal Liquor	1,524	1%
Mob Action	1,139	1%
Unlawful Use of a Weapon (UUW)	958	1%
All Other	6,993	4%
Total 2017 Misdemeanor Arrests	165,663	100%

* "Other" includes crimes that the Illinois Uniform Crime Reporting system classifies as Other Criminal Offenses, Other Disorderly Conduct Offenses, Other Sex Offenses, and Other Animal Citation Offenses.

Class of Offense

Approximately 75% of the 48,708, in 2017, cases analyzed began with misdemeanor arrests. Class A misdemeanors accounted for 72%, 34,862 of the 48,708 cases; Class B accounted for 3%, or 1,245 cases; and Class C misdemeanors accounted for 1%, or 725 cases.[1] Another 16% of misdemeanor dispositions began as felony arrests, with the most prevalent being Class 3 and 4 felonies.

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[1] CHRI mandates Class A and Class B misdemeanors be reported to the State's database. Many jurisdictions also report Class C and other offenses, although those are not required.

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Figure 5: Arrest Class for 2017 Misdemeanor Dispositions

Offense Class	Arrests	Percent
Class X	152	<1%
Class 1	469	1%
Class 2	1,324	3%
Class 3	2,038	4%
Class 4	3,940	8%
Class A	34,862	72%
Class B	1,245	3%
Class C	725	2%
Unknown	3,953	8%
Total	48,708	100%

CHARGING

Felony to Misdemeanor Reductions

SPAC analyzed the offense class and demographics of the 2017 cases that began as felony arrests and ended with misdemeanor dispositions. Of the 48,708 cases, 16% initially had a felony arrest charge, mostly Class 3 or 4, a small percentage of the more serious felony arrests also resulted in misdemeanor dispositions.[2] This downgrade in offense class is consistent with both the practice of making second or subsequent misdemeanors felonies and the practice of pleading felonies down to misdemeanors to more quickly resolve a case. Figure 6 below shows the originating offense class for misdemeanor dispositions.

Figure 6: Felony Arrest Class for Cases Disposed of as Misdemeanors in 2017

Arrest Class	Number of Cases	Percent
Class X	152	2%
Class 1	469	6%
Class 2	1,324	17%
Class 3	2,038	26%
Class 4	3,940	50%
Total	7,923	100%

Property cases and person offenses, including battery, assault, reckless conduct, and unlawful restraint among other crimes, account for the majority (59%) of the cases reduced from felonies to misdemeanors, followed by drug and driving while under the influence (DUI) offenses, with the lowest percentage of reductions for weapon (3%), which includes unlawful storage of weapons, unlawful use of a weapon (UUW), and FOID card violations, and sex offenses (1%).

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[2] The analysis used the identified offense classification as indicated in the administrative records. Attempted crimes, also known as inchoate offenses, result in a reduction in the offense classification which is often correctly recorded in the CHRI system. Data entry issues likely exist and were unable to be fully resolved for consistent analysis.

Figure 7: Felony to Misdemeanor Reductions by Offense Type in 2017

Offense type	Frequency	Percent
Property Offense	2,355	30%
Person Offense	2,302	29%
Drug Offense	931	12%
DUI	811	10%
Other Criminal Offense	795	10%
Traffic Offense	402	5%
Weapon Offense	256	3%
Sex Offense	49	1%
Registry Offense	22	<1%
Total	7,923	100%

DISPOSITION

Convictions and Withheld Judgments

For this brief, there were 25,992 misdemeanor convictions (53%), 20,685 withheld judgments (43%), and 2,031 withheld judgements that also received a conviction. Almost all were for Class A misdemeanors; 92% were convicted of Class A misdemeanor offenses, 6% were Class B misdemeanors, and 2% were Class C misdemeanors. The misdemeanor classes were similar for the withheld judgment dispositions.

Figure 8: Misdemeanor Dispositions by Classification in 2017

Classification	Number of Convictions	Percent of Convictions	Number of Withheld Judgments	Percent of Withheld Judgments
Class A Misdemeanor	23,792	92%	18,727	91%
Class B Misdemeanor	1,473	6%	1,111	5%
Class C Misdemeanor	727	2%	847	4%
Total	25,992	100%	20,685	100%

Offense Type

The most common misdemeanor offenses were for DUI offenses, followed by offenses against people (person) and property offenses. Weapon and sex offenses make up a very small percentage of the total number of 2017 misdemeanor dispositions.

Withheld judgments comprise a large percentage of DUI and other driving offense types. Registry offenses occur the least often but are more likely to result in a conviction compared to the other offense types. About 75% of person offenses and about 70% of weapons offenses result in a conviction.

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Figure 9: Misdemeanor Dispositions by Offenses in 2017

Offense Type	Percent of Total Offense Type		Total Number	Percent of Total Cases
	Conviction	Withheld Judgment		
DUI	29%	71%	11,410	23%
Person Offense	74%	26%	11,036	23%
Property Offense	59%	41%	10,268	21%
Traffic Offense	49%	51%	7,917	16%
Other Criminal Offense	54%	46%	5,023	10%
Drug Offense	59%	41%	2,308	5%
Weapon Offense	71%	29%	445	1%
Sex Offense	64%	36%	253	1%
Registry Offense	*90%**	*10%**	*--**	*<1%**
Total	25,992	22,716	48,708	100%
Percent	53%	42%	100%	

* Too few cases to report; rounded results shown.

SENTENCING

Misdemeanor sentencing can involve one or a combination of:
   (1) Supervision/conditional discharge, a conditional and revocable release without supervision;
   (2) Probation, release under the supervision of a probation officer;
   (3) Jail, incarceration in local facilities for up to 365 days for a Class A misdemeanor; and
   (4) Other sanctions, including community service, restitution, fines, and other conditions set by the sentencing judge.

For this brief, SPAC reviewed the first three types of sentences—supervision/conditional discharge, probation, and jail—regardless of when the sentence was imposed relative to discharge of the sentence. One case can have multiple sentences imposed. For example, a case may begin as a conditional discharge with a community service and restitution component but if conditions are violated the defendant could be resentenced to probation or jail.

The type of sentence imposed are shown below in Figure 10. Most cases (53%) received a sentence to supervision or a conditional discharge, including all the withheld judgment dispositions and some convictions.

Figure 10: Misdemeanor Sentences Imposed in 2017

Sanction Imposed	Number of Sentences	Percent
Conditional Discharge	25,686	53%
Jail and Other	10,105	21%
Jail Only	5,329	11%
Probation Only	3,147	7%
Other	2,262	4%
Missing	2,179	4%
Total	48,708	100%

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Supervision and conditional discharge place similar requirements on the defendant and neither require monitoring or reporting to a probation officer.[3] The court may impose conditions such as drug treatment or anger management classes that must be satisfied for the sentence to be discharged.

Sentences for both withheld judgements and convictions vary (Figure 11). Of those convicted, 21% received a conditional discharge, 19% jail terms, 17% received jail terms plus conditional discharge, and 11% received a sentence of probation. One quarter of misdemeanor convictions (13%) received a sentence of jail and probation.

Of withheld judgment dispositions, 93% of cases result in supervision sentences, with fines or other sentences accounting for 4% of the sentences imposed. The remaining 4% received some combination of supervision, probation, and jail.

Figure 11: Misdemeanor Sentences and Disposition Types in 2017

Sanction Imposed	Misdemeanor Conviction	Misdemeanor Withheld Judgement	Withheld judgement and Conviction	Total	Percent
Cond Discharge/ Supervision	21%	92%	63%	25,686	53%
Jail and Additional Sanction	35%	2%	29%	10,105	21%
Jail	20%	0%	1%	5,329	11%
Probation	11%	1%	5%	3,147	6%
Other	6%	4%	2%	2,262	5%
Missing	8%	0%	0%	2,179	4%
Total	25,992	20,685	2,031	48,708	100%
Percent	53%	42%	4%	100%	

Sentence Term

For most misdemeanors, the sentence can include fines, community supervision for up to 2 years if sentenced to probation, and/or under 1 year in jail for a Class A misdemeanor. Class B and C misdemeanors have shorter jail terms—180 or 30 days, respectively—and lower maximum fines.

The mean and median sentence terms are generally consistent across offense types and by race. For most cases, misdemeanor conditional discharge/supervision sentences are one year, probation is 1.5 years and jail terms are usually 30 days, although the averages (means) are higher because of some cases receiving longer sentences. Weapon and sex offenses had the longest median jail sentences, both above 50 days, while most of the other offense types received closer to a 30-day jail sentence. Weapon, sex, and registry offenses, have the highest median credit time served while most other offenses are in the single digit number of days for credit time served.

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[3] **Withheld judgment with supervision** (730 ILCS 5/5-6-1 and 730 ILCS 5/5-1-21) is a "disposition of conditional and revocable release without probationary supervision, but under such conditions and reporting requirements as are imposed by the court, at the successful conclusion of which disposition the defendant is discharged and a judgment dismissing the charges is entered," while **conditional discharge** (730 ILCS 5/5-4.5-5 *et seq.* and 730 ILCS 5/5-1-4) is supervision but without the option of dismissing the judgment.

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Figure 12: Misdemeanor Sentence Lengths and Offense Types in 2017

Offense Type	Conditional Discharge/Supervision			Probation			Jail			Credit Time Served (Pretrial Jail)		
	Mean	Median	Cases	Mean	Median	Cases	Mean	Median	Cases	Mean	Median	Cases
Person N=11,067	451	**360**	6,115	526	**540**	2,827	81	**30**	4,933	33	**8**	3,786
Property N=10,306	401	**360**	6,780	484	**360**	1,244	83	**30**	3,215	36	**7**	2,546
Weapon N=453	434	**360**	227	578	**720**	160	91	**58**	90	75	**13**	128
Sex Offense N=253	440	**360**	155	514	**540**	71	119	**60**	85	116	**16**	58
Drug Offense N=2,288	421	**360**	1,372	485	**540**	396	58	**30**	686	33	**8**	567
Registry Offense N=48	527	**540**	27	468	**450**	12	77	**41**	20	21	**13**	10
DUI N=11,529	495	**360**	9,318	577	**637**	1,608	57	**30**	2,036	18	**2**	1,042
Traffic N=7,949	367	**360**	4,934	490	**360**	213	53	**26**	1,544	20	**4**	705
Other N=5,041	432	**360**	3,502	499	**540**	689	99	**20**	1,340	19	**5**	928

RECIDIVISM ANALYSIS

Rearrests

SPAC examined recidivism (arrests and convictions over three years) for misdemeanor convictions and withheld judgments from 2014. Less than half (45%) of the individuals were rearrested within three years. Less than a quarter (24%) had a reconviction in the three-year follow-up period. Most of the recidivism that occurred happened within one year of the original disposition.

Figure 13: Recidivism Rates at 1 and 3 Years for 2014 Misdemeanants

Outcome	Arrest		Conviction	
Time Period	One Year	Three Years	One Year	Three Years
Recidivism Rate	28%	45%	17%	24%

Individuals who were rearrested within the three-year period had more prior arrests and convictions in their criminal histories than those that did not recidivate. Individuals who were not rearrested during the follow-up period had an average of 2.8 prior arrests (median: 1), while

individuals who were rearrested had an average of 7.1 prior arrests (median: 4) on their records. For those rearrested and reconvicted during the follow-up period, they had an average of 8.3 prior arrests (median: 5).

Recidivism and Original Offense Type

Individuals with misdemeanor dispositions for DUI, traffic, and other offenses (including, disorderly conduct, obstructing justice, and neglect of a child) generally had lower rearrest recidivism rates than other types of offenses. For example, those adjudicated for DUI offenses had a three-year rearrest rate of under 30% while those adjudicated for person or property offenses had a rearrest rate of about 50%. Figure 14 below shows the percent of individuals that got rearrested by the offense type of the original misdemeanor conviction.

Figure 14: Rearrest Recidivism Rates at 3 Years by Offense Type

	Not Arrested	Arrested	Total
DUI	71%	29%	15,195
Person Offense	48%	52%	14,120
Property Offense	45%	55%	13,908
Traffic Offense	56%	44%	8,172
Drug Offense	50%	50%	8,025
Other Criminal Offense	56%	44%	7,441
Sex Offense	48%	52%	503
Weapon Offense	49%	51%	304
Register Offense	48%	52%	62
Total Misdemeanor Average	55%	45%	67,730

Recidivism and Original Disposition Type

Only 34% of the individuals who had a withheld judgment disposition were rearrested within three years while 55% of individuals who were convicted of a misdemeanor offense were rearrested within the same period.

Figure 15: Rearrest Recidivism Rates at 3 Years by Disposition Type

Original Case Disposition	Not Arrested	Arrested	Total
Withheld Judgment	66%	34%	30,151
Conviction	46%	55%	37,579

The same trend is apparent when looking at reconvictions by original disposition type. Only 14% of the individuals who received withheld judgments had an additional conviction within three years compared to 31% of the individuals who were convicted of their misdemeanor offense.

Figure 16: Reconviction Recidivism Rates at 3 Years by Disposition Type

Original Case Disposition	Not Reconvicted	Reconvicted	Total
Withheld Judgment	86%	14%	30,151
Conviction	69%	31%	37,579

Individuals who were convicted on the 2014 misdemeanor disposition were more likely to recidivate. The recidivism events (rearrest and reconviction) were more often for more serious offense classes, including felonies, than those individuals who recidivated after receiving a withheld judgment.

Recidivism Event Type

Individuals who were rearrested within three years were most often rearrested for another misdemeanor offense (61%). Class 4 felonies account for 11% of the rearrests. More serious offenses including Class 1 and higher account for less than 5% of all total arrests.

Figure 17: Rearrest Recidivism at 3 Years and Rearrest Offense Class

Offense Class	Number of Individuals	Percent
Murder	21	0.1%
Class X	429	1%
Class 1	684	2%
Class 2	1,160	4%
Class 3	1,517	5%
Class 4	3,328	11%
Misdemeanor	18,810	61%
Unknown	4,764	16%
Total Rearrested	30,715	45%*
No Rearrest	37,015	65%*
Total	67,730	100%*

* Percent of total 2014 misdemeanants.

Convictions mirror arrests with more than 60% of the reconvictions being for misdemeanor offenses. Class 1 and higher reconvictions account for less than 1% of the total cases. Overall, only 8% of all misdemeanants had any felony conviction within three years of their 2014 disposition.

Figure 18: Reconviction Recidivism at 3 Years and Reconviction Offense Class

Conviction Class	Number of Individuals	Percent
Murder and Class X	123	1%
Class 1	404	3%
Class 2	1,089	7%
Class 3	1,262	8%
Class 4	2,811	18%
Misdemeanor	9,888	62%
Unknown	384	1%
Total Reconvicted	15,961	24%*
No Reconviction	51,769	76%*
Total	67,730	100%*

* Percent of total 2014 misdemeanants.

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DEMOGRAPHICS

There are distinct demographic differences in how cases are charged and resolved. Region, race, and gender play out differently in misdemeanor cases than in felonies and the demographic differences do not reflect the State's population. On average, the people arrested and convicted of misdemeanors are in their thirties. Criminal history influences misdemeanor outcomes, however when controlling for criminal history gender is statistically significant but race is not. These differences raise many of the same questions about consistency and fairness that arise for felonies.

Figure 19 below shows the region and race demographics from the 2016 American Community, provided by the U.S. Census Bureau's American Fact Finder:

Figure 19: Population of Illinois, Race and Region in 2016

	Cook	Collar	Urban	Rural	Total	Percent
White	57%	78%	80%	92%	9,270,907	72%
Black	24%	6%	13%	4%	1,837,612	14%
Other	19%	15%	7%	4%	1,743,165	14%
Total	5,227,575	3,152,480	2,314,098	2,157,531	12,851,684	100%
Percent	41%	25%	18%	17%	100%	

Arrests by Region

Cook and DuPage counties have the highest number of convictions and withheld judgments. Within Cook County, the majority of the 4,388 misdemeanor cases originate from a suburban jurisdiction 57% while 43% originate from the City of Chicago in 2017.

Figure 20: Misdemeanors Convictions and County in 2017

County	Convictions	Percent
Cook	4,388	9%
DuPage	4,204	9%
Lake	2,865	6%
Will	2,387	5%
McLean	2,003	4%
Winnebago	1,826	4%
Madison	1,723	4%
Sangamon	1,556	3%
McHenry	1,466	3%
Peoria	1,458	3%
Other	24,832	51%
Total	48,708	100%

Charges by Region

The AOIC publishes misdemeanor filings and disposals by county. The disposals by county differ from the CHRI dispositions: according to the AOIC, as of 2016 Cook County still accounts for more than half Illinois' new filed and disposed misdemeanor cases in 2016. Because of the high portion of dismissals of the Cook County misdemeanor arrests and charges, Cook has a small percent of the State's misdemeanor dispositions.

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Charges – Felony to Misdemeanor Reductions and Race

The frequency of downgrades from felony-to-misdemeanor classification differs by race. Of the 7,923 cases that began as felony arrests and resulted in a misdemeanor conviction or withheld judgment, white defendants accounted for 55% of the cases while black defendants accounted for 37%. Analysis of each racial group showed that 14% of the cases with white defendants and 21% of black defendants began with felony arrests (fourth column in Figure 21 below).

Figure 21: Felony to Misdemeanor Reductions by Race in 2017

	Total Misdemeanor Dispositions	Felony Arrests Reduced to Misdemeanors	Percent of Total Misdemeanors Reduced	Within Race, Percent Reduced
White	30,318	4,329	55%	14%
Black	13,894	2,918	37%	21%
Other	4,496	676	9%	15%
Total	48,708	7,923	100%	

It is not possible to identify the reasons for these differences, however every case disposition can be influenced by the charges filed and the available evidence with which to prosecute, as well as the system's interest in resolving cases quickly.

Case Disposition and Race & Region

There were 25,992 convictions and 20,685 withheld judgments dispositions in 2017. Rural areas had the largest number of misdemeanor convictions and withheld judgments across the State (36%), compared to 30% from urban counties, 25% from collar counties, and 9% from Cook County.

Figure 22: Misdemeanor Dispositions by Race & Region in 2017

	Cook	Collar	Urban	Rural	Total	Percent
White	24%	55%	57%	81%	30,318	62%
Black	60%	26%	37%	15%	13,894	29%
Other	16%	19%	6%	4%	4,496	9%
Total	4,388	12,254	14,483	17,583	48,708	100%
Percent	9%	25%	30%	36%	100%	

Most defendants from Cook County were black, comprising 60% of Cook misdemeanor cases, while white defendants were the majority of misdemeanor cases for the rest of the State.

Black defendants had the highest percentage of convictions compared to withheld judgments: 59% of black defendants had a conviction, while 52% of white defendants were convicted, and 44% of individuals from other races were convicted. This difference is largely driven by different criminal histories; controlling for criminal histories, the differences between black and white case outcomes were not statistically significant.

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Figure 23: Misdemeanor Dispositions by Region in 2017

Region	Misdemeanor Conviction	Misdemeanor Withheld Judgment	Withheld Judgment and Conviction	Total	Percent
Cook	57%	39%	4%	4,388	9%
Collar	45%	49%	6%	12,254	25%
Urban	55%	42%	3%	14,483	30%
Rural	57%	39%	4%	17,583	36%
Total	25,992	20,685	2,031	48,708	100%
Percent	53%	43%	4%	100%	

A small number of cases, 2,031, had both a conviction and a withheld judgment, likely indicating that the defendant was originally sentenced to conditional supervision, violated the conditions imposed, and got resentenced on a judgment of conviction.

Case Disposition and Age & Criminal History

The average age of an individual with a misdemeanor disposition in 2017 was 32.5 (median: 29). Looking at the group as a whole, 27% had no prior arrests and 53% had no more than 2 prior arrests. Those who had prior arrests were infrequently convicted.

Figure 24: Misdemeanor Defendants' Age and Criminal History in 2017

	Mean	Median
Arrest Age	32.5	29
Prior Arrests	5.1	2
Prior Convictions	1.5	0

When examining criminal history by disposition type, people who received a misdemeanor conviction had a higher number of prior arrests than those individuals that received a withheld judgement.

- Of people convicted of misdemeanors:
  - An average of 7.4 prior arrests (median: 4) and 2.2 convictions (median: 1).
  - 12% had never been arrested before and 38% had no prior convictions.
- Of people who received withheld judgments:
  - An average of 2.3 arrests (median: 1) and 75% had 2 or fewer prior arrests.
  - 44% had never been arrested before and 77% had no prior convictions, which resulted in the average of prior convictions being less than 1.

Black defendants had an average age of 30.6 (median: 27), compared to an average age of 33.6 (median: 31) for white defendants. When examining criminal histories, black defendants had more system involvement: an average of 8 prior arrests (median: 4) compared to 4 prior arrests (median: 2) for white defendants. Black defendants also had an average of 2.2 prior convictions (median: 1), while white defendants had an average of 1.3 prior convictions (median: 0).

In broad terms, black defendants had twice the number of prior arrests and convictions as white defendants, which likely explains the differences in conviction percentage between races. This

description *does not* explain how differences are driven by policing practices or other broader social and economic factors that affect criminal justice system involvement by black defendants.

Case Disposition and Race & Gender
Race and gender differences are evident across the board in misdemeanor cases. White defendants account for 62% of the misdemeanor dispositions, black defendants account for 29%, and other races account for the remaining 9% of cases. Males account for 71% of the defendants but are less likely to get withheld judgments than are females. These demographics are different from felony defendants in terms of gender—females are a smaller percent of felony defendants—and in terms of race—misdemeanor defendants have a higher proportion of white defendants compared to felony cases.

Figure 25: Misdemeanor Dispositions by Race & Gender in 2017

	Male	Female	Total	Percent
White	21,093	9,223	30,318	62%
Black	9,771	4,122	13,894	29%
Other	3,468	1,022	4,496	9%
Total	34,332	14,367	48,708	100%
Percent	71%	29%	100%	

Case Disposition and Gender & Criminal History
Male defendants had a higher percentage of convictions (57%) than female defendants (44%). Females received withheld judgments in 52% of the cases compared to males who received withheld judgments in 39% of the cases. Males and females were nearly identical in terms of average age at arrest, approximately 33 years old (median: 29).

Figure 26: Misdemeanor Dispositions by Gender in 2017

	Conviction	Withheld Judgment	Both Withheld Judgment and Conviction	Total
Male	57%	39%	4%	34,332
Female	44%	52%	4%	14,367
Total	25,992	20,685	2,031	48,708
Percent	53%	42%	4%	100%

Males had a more extensive criminal history than females, males had an average of 5.8 prior arrests (median: 3), while females had an average of 3.1 prior arrests (median: 1). Males had more prior convictions as well: an average of 1.8 prior convictions (median: 0), while females had an average of 0.8 (median: 0). Gender was statistically significant after controlling for age, race, county, and prior arrests; males were 27% less likely to receive a withheld judgment than females.

Sentencing and Race
The types of sentences imposed on misdemeanor defendants differed by race but, once imposed, were consistent across races. For example, black people sentenced for misdemeanors received conditional discharge or supervision in 61% of the sentences, whereas white and other defendants received such sentences in about 69% of cases.

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Figure 27: Misdemeanor Sentence Terms (Days) by Race in 2017

	White			Black			Other		
	Mean	**Median**	Cases*	Mean	**Median**	Cases*	Mean	**Median**	Cases*
Conditional Discharge/ Supervision	449	**360**	69%	414	**360**	61%	417	**360**	69%
Probation	537	**540**	15%	506	**540**	14%	501	**540**	14%
Jail	84	**30**	27%	63	**30**	34%	63	**30**	20%
Credit Time Served	31	**6**	18%	31	**7**	27%	34	**4.5**	13%
Total			30,318			13,894			4,496

* Note: the percentages are based on the total sentences imposed, including cases where multiple sentences are imposed on one defendant. This differs from Figure 10, which counts each defendant once in each sentence type.

DATA SELECTION AND ISSUES

SPAC analyzed CHRI data on misdemeanor cases with dispositions reported in 2017 were selected from CHRI data maintained by the Illinois Criminal Justice Information Authority (ICJIA). Each case selected met the following criteria:

- Cases were selected by unique document control numbers (DCN). DCNs may have multiple charges, or counts, but will have only one person per DCN.
- The most severe initial conviction or withheld judgment class was A, B, or C. Cases that had both a misdemeanor conviction and a felony withheld judgment were included if the two dispositions occurred on the same day or the felony was after the misdemeanor.
- All juvenile records were excluded.
- Some cases had additional dispositions in a different year but at least one misdemeanor conviction or withheld judgment occurring in 2017.
- 48,708 cases met these criteria.
- SPAC compared the results with data from the AOIC annual statistical reports. While the totals were not directly comparable, the similar trends give confidence in the overall reporting from both CHRI and AOIC, especially in the most recent years.
- For the recidivism analysis, the same criteria were applied to data from calendar year 2014 so that rearrests and reconvictions could be counted for a three-year follow-up period. Recidivism timing was based on the rearrest date. A reconviction was counted as a recidivism event if the arrest date for that conviction was within three years of the 2014 disposition.

STATISTICAL CLASSIFICATION AND ANALYSIS

SPAC used a statistical technique to identify and classify misdemeanors into understandable groups of similar cases. The technique, latent class analysis, creates classes based demographics, criminal history, the type of disposition, and recidivism.[4] Latent class analysis minimizes differences within each of the three groups as much as possible, allowing policymakers to view these three groups as representative of how misdemeanors differ across the studied factors.

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[4] Latent Class Analysis was performed using the *poLCA* package in R. The class structure was selected based on the best fitting model using the Bayesian Information Criterion statistic. A detailed description of the technique, mathematical calculations, and the package can be found at https://www.jstatsoft.org/article/view/v042i10.

The groups are not empirically observed, rather they are typologies that represent clusters of similar-type cases. Three groups identified and classified through this statistical approach: **Group 1** has low-risk offenders, generally older, less system involvement, and not from Cook County, and a low recidivism rate; **Group 2** has high-risk offenders, who were young when they first entered the criminal justice system and then with multiple offenses and high recidivism rates; **Group 3** is the in-between group. Statistically, the groups are as follows:

1. **Group 1**, 52% of the misdemeanor cases:
    a. Individuals who were first arrested after their 19th birthday, with almost no prior felony or misdemeanor arrests or convictions.
    b. Predominately not from Cook County, mostly not black, and mostly male.
    c. Individuals in this group who recidivate were most likely plead to a withheld judgment disposition, if anything; 74% have no further arrests within three years of the conviction.
    d. Rearrest recidivism rate is 26% over three years.
2. **Group 2**, 18% of the misdemeanor cases:
    a. Individuals who frequently had a first arrest before their 19th birthday, with many prior arrests for felonies and/or misdemeanors, as well as many prior convictions.
    b. Predominately not from Cook County and mostly male; about half of this group is black.
    c. Individuals in this group who recidivate were most likely to be convicted of a misdemeanor; 24% have no further arrests within three years of the conviction. Over a third will have more than 3 rearrests within three years.
    d. Rearrest recidivism rate is 76% over three years.
3. **Group 3**, 30% of the misdemeanor cases:
    a. Almost all of these individuals were first arrested before their 25th birthday, with few prior felony or misdemeanor arrests but some prior convictions for both felonies or misdemeanors.
    b. Predominately male from outside Cook County, not African-American.[5]
    c. Individuals in this group who recidivate were most likely to be convicted of a misdemeanor; 43% have no further arrests within three years of the conviction.
    d. Rearrest recidivism rate is 57% over three years.

Group 1 individuals were highly likely to receive a withheld judgment compared to Group 2 individuals, which were nearly the opposite in criminal histories and recidivism. As with statistical risk assessment tools, criminal history is correlated with the type of disposition, sentence, and recidivism rates. In summary, about half of all cases had very little criminal justice system involvement and under twenty percent had extensive criminal justice system involvement.

Figure 28 on the following page lists the three typologies identified by the statistical technique.

Figure 28: Latent Class Analysis of Misdemeanor Convictions and Withheld Judgments in 2014

		Group 1	Group 2	Group 3
Percent of cases		**52%**	**18%**	**30%**
Disposition Type	Convicted	31%	91%	73%
	Withheld Judgement & Supervision	69%	9%	27%
Sex	Female	36%	13%	24%
	Male	64%	87%	76%
Race	Non-Black	81%	49%	69%
	Black	19%	51%	32%
Cook	Non-Cook	88%	78%	86%
	Cook	12%	23%	14%
Age at First Arrest	Under 19	18%	71%	52%
	19-24	39%	22%	31%
	25 or older	43%	7%	17%
Prior Misdemeanor Arrests	0-2 misdemeanor arrests	98%	11%	56%
	3-4 misdemeanor arrests	2%	17%	29%
	5-6 misdemeanor arrests	0%	19%	11%
	7+ misdemeanor arrests	0%	53%	5%
Prior Felony Arrests	0-1 felony arrests	100%	23%	80%
	2 felony arrests	0%	17%	15%
	3 felony arrests	0%	15%	4%
	4+ felony arrests	0%	45%	2%
Prior Convictions	0-1 convictions	92%	2%	30%
	2 convictions	8%	5%	36%
	3 convictions	0%	10%	22%
	4+ convictions	0%	84%	12%
Recidivism Arrests Within 3 Years	No rearrests	74%	24%	43%
	1 rearrest	17%	22%	23%
	2 rearrests	5%	16%	14%
	3+ rearrests	5%	38%	20%

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