



DCJS

Office of Probation and Correctional Alternatives

Impaired Driving Supervision Best Practices

Presented at the
NYS Probation Officers Association
Annual Conference
Niagara Falls, New York
August 7, 2014

Gary Govel, DCJS OPCA

Maureen McKeown CASAC, DCJS OPCA

NYS Division of Criminal Justice Services
Office of Probation and Correctional Alternatives

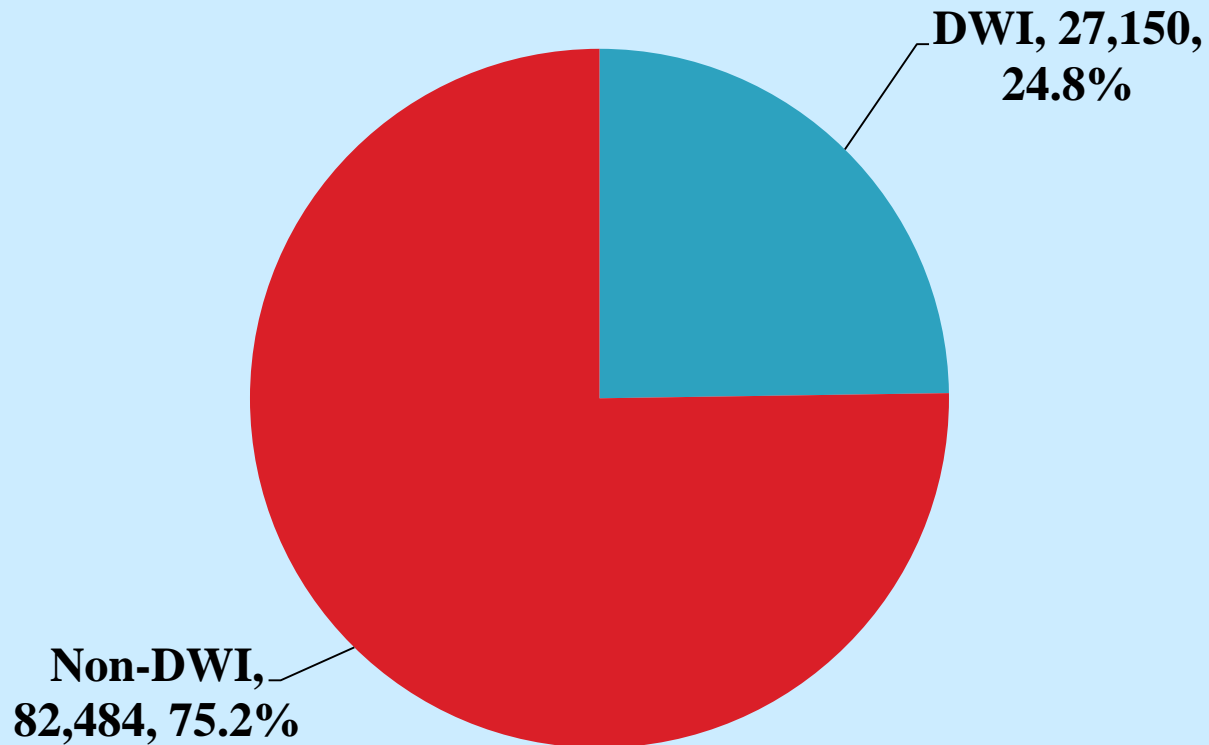
The Office Of Justice Research and Performance (OJRP)

DWI Probationer Statistics

- Data Source: The NYS DCJS OPCA Integrated Probation Registrant System (IPRS) and the DCJS Computerized Criminal History system.
- As of February 28, 2014 there were 27,150 probationers under supervision for a DWI/AUO conviction.

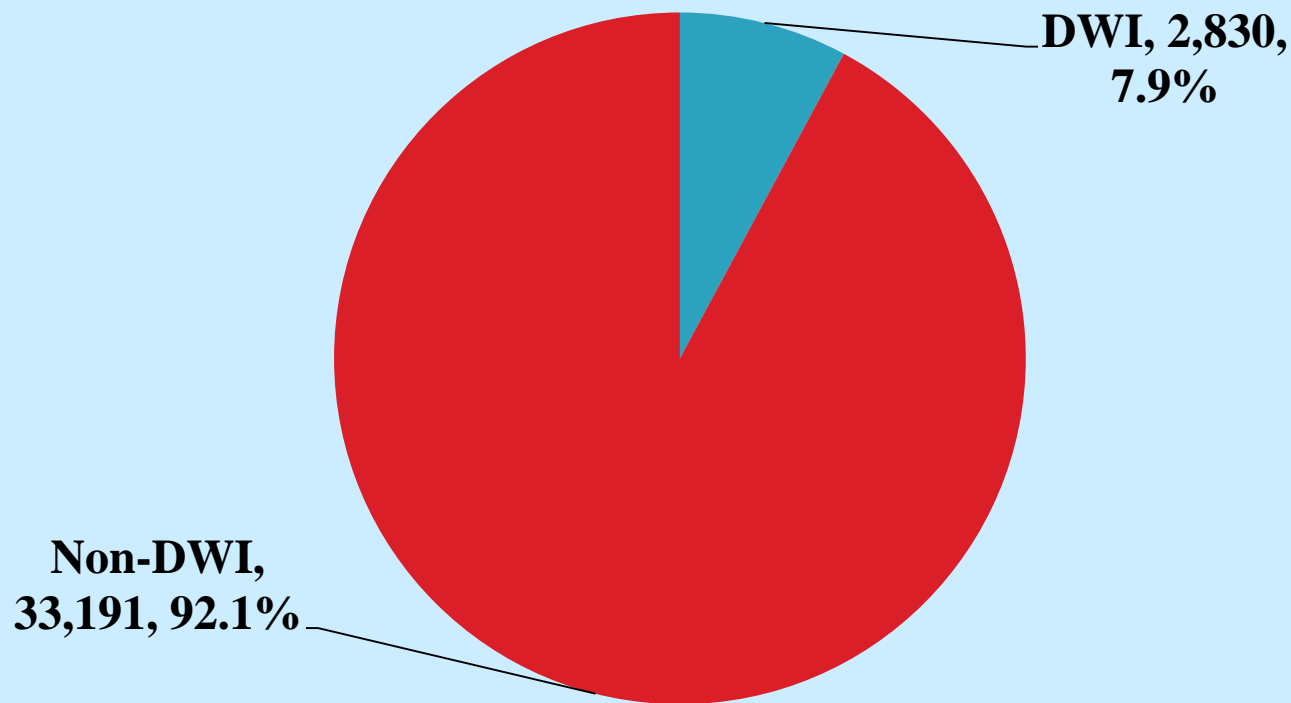
Statewide, 25% of Probationers on Probation on February 28, 2014 were DWI Cases

Active DWI Probationers as of February 28, 2014: New York State



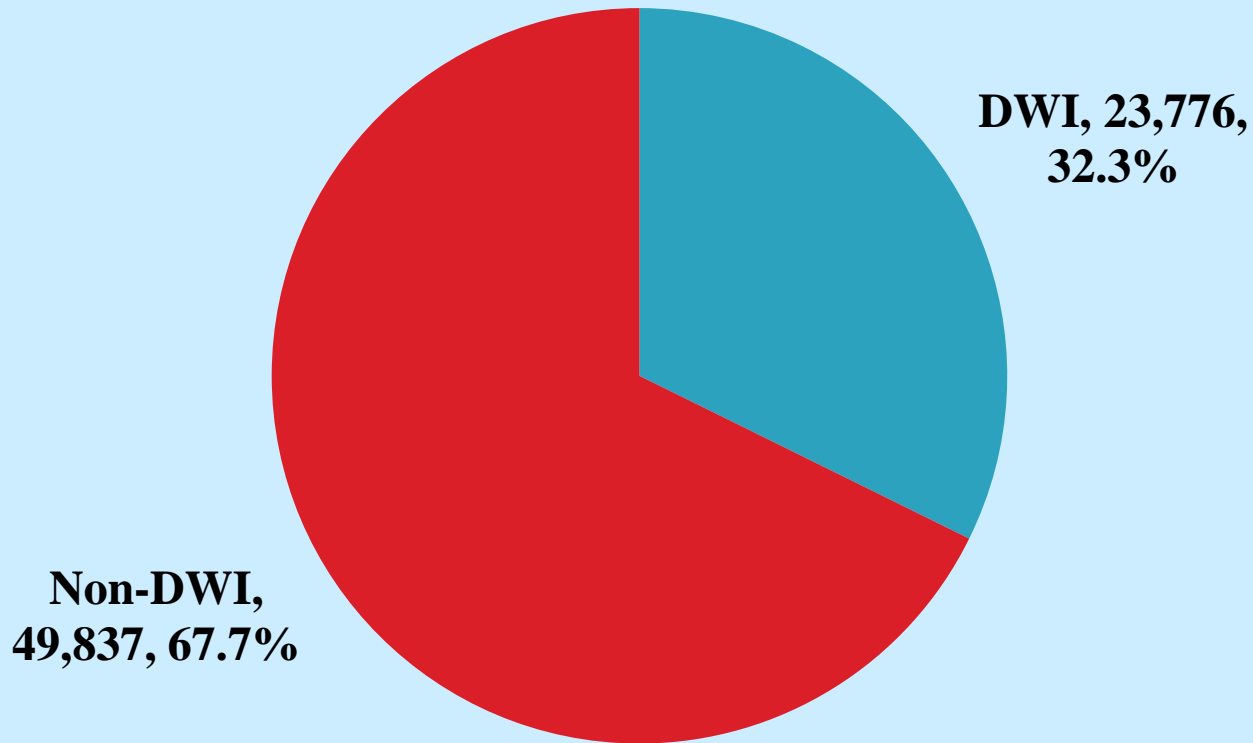
In NYC, only 8% Were DWI

**Active DWI Probationers as of February 28, 2014:
New York City**



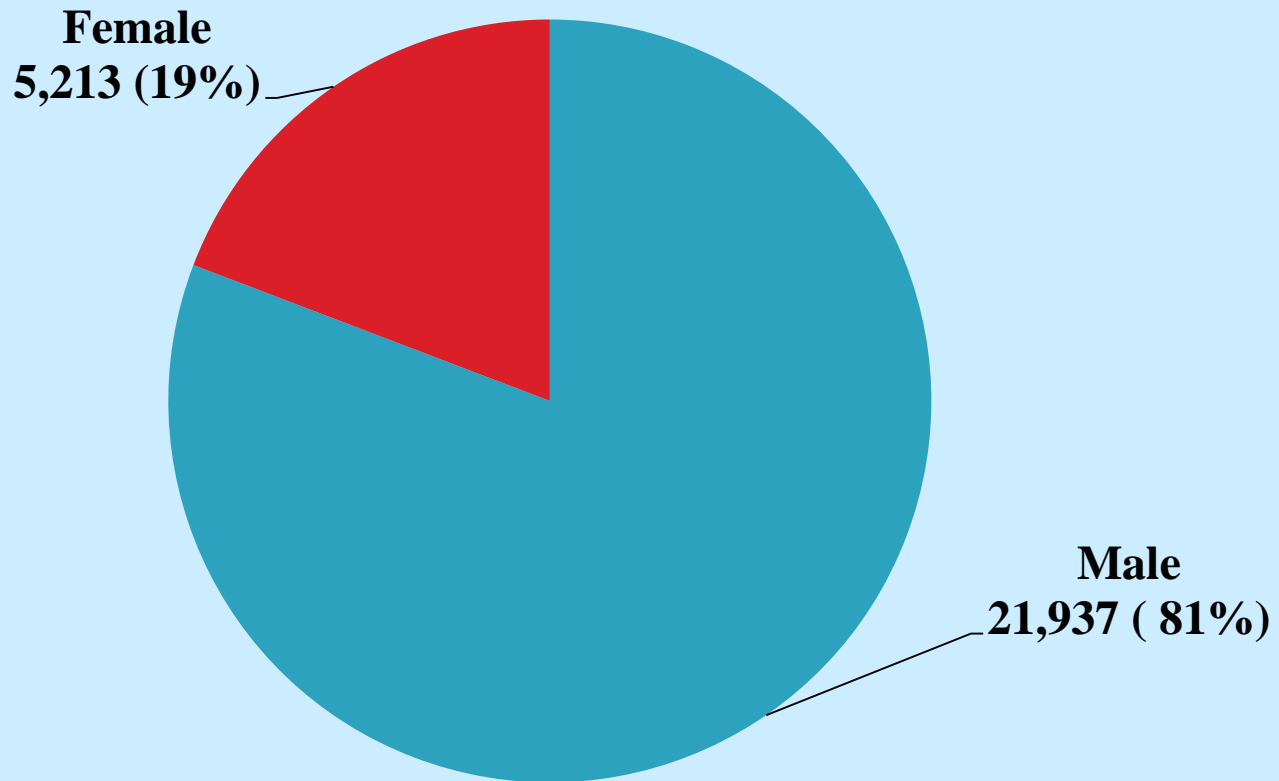
In the Rest of State, 32% Were DWI

**Active DWI Probationers as of February 28, 2014:
Non-NYC**



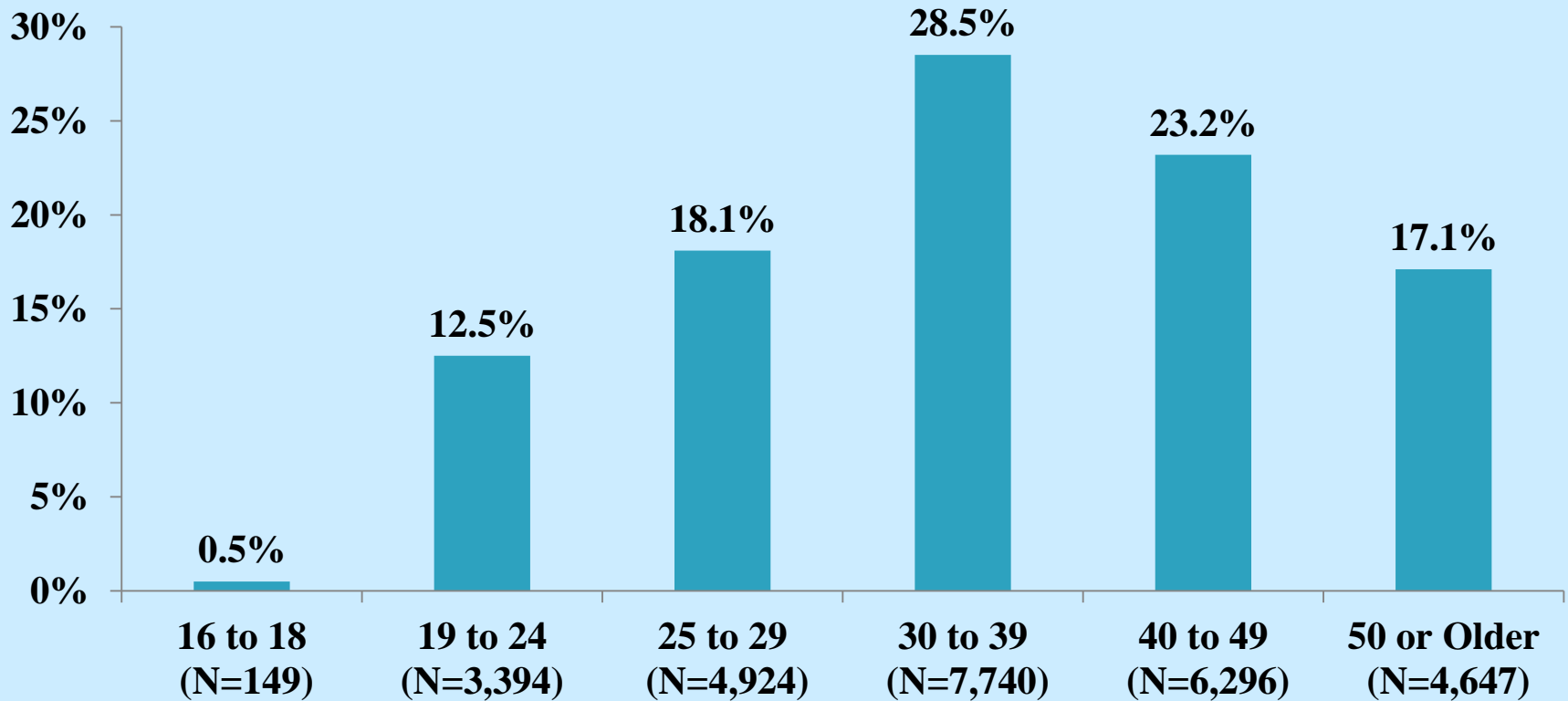
Statewide, 81% of DWI Probationers Were Male

Active DWI Probationers as of February 28, 2014: Gender



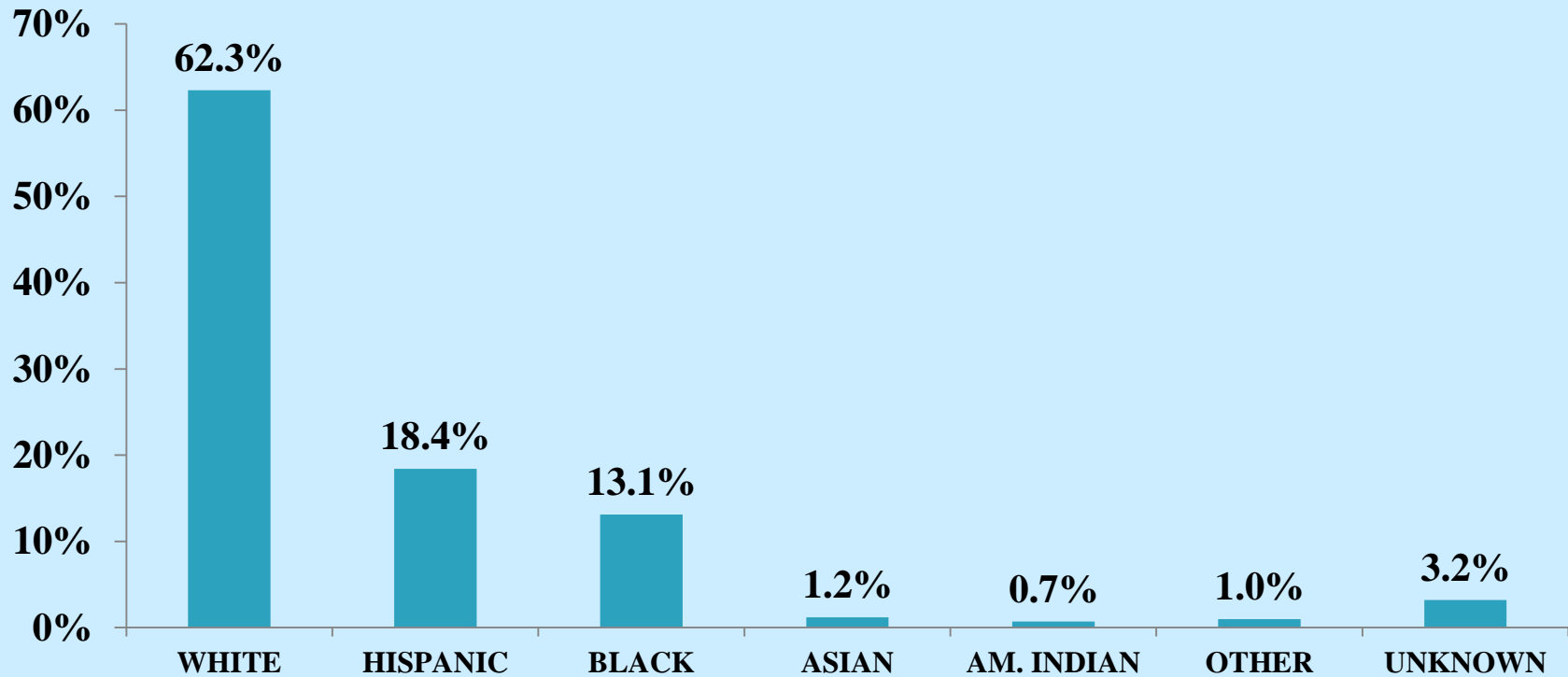
40% of DWI Probationers Were 40 Years or Older

Active DWI Probationers: Age When Placed on Probation



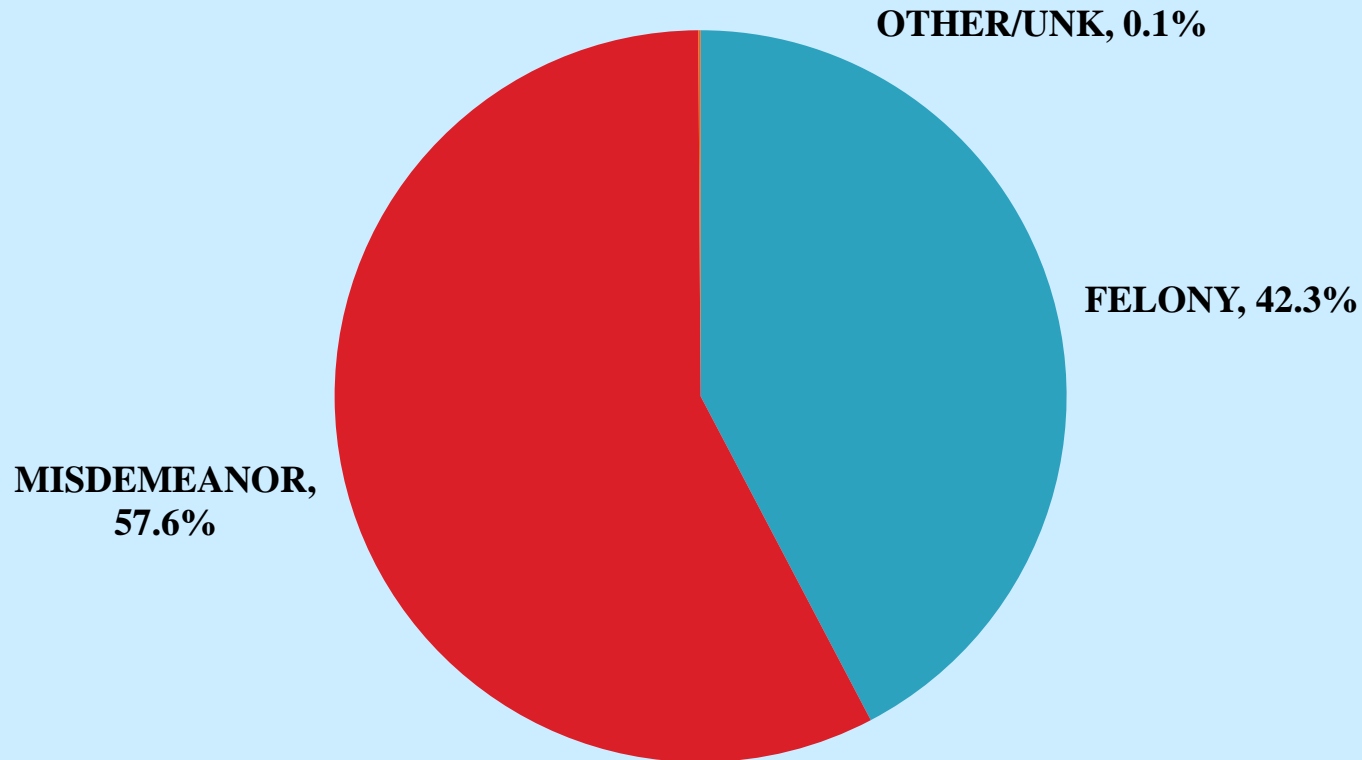
Distribution of DWI Probationers by Race

Active DWI Probationers: Race



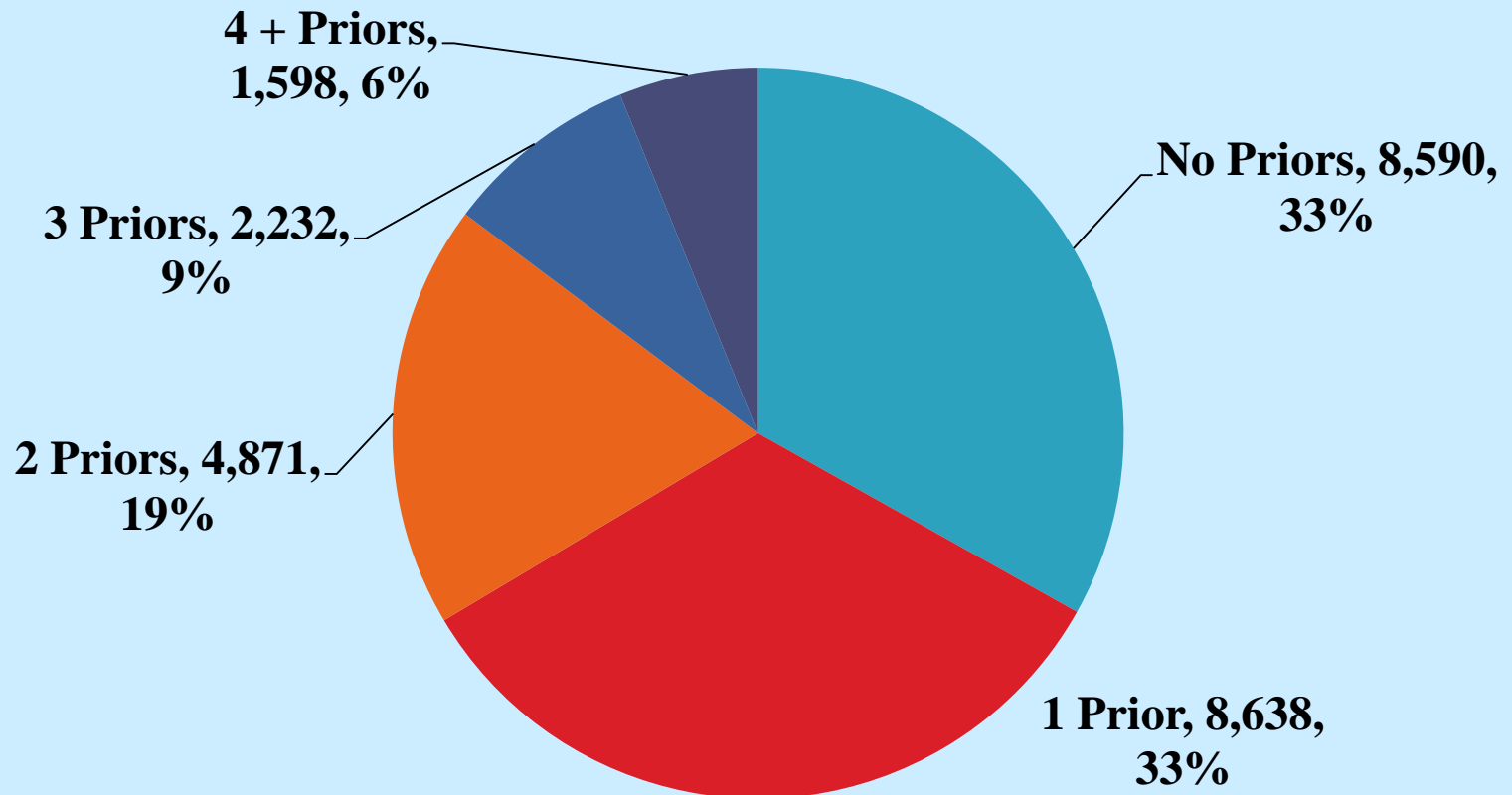
58% of DWI Probationers Were Convicted of a Misdemeanor

Active DWI Probationers: Top Conviction Category Class



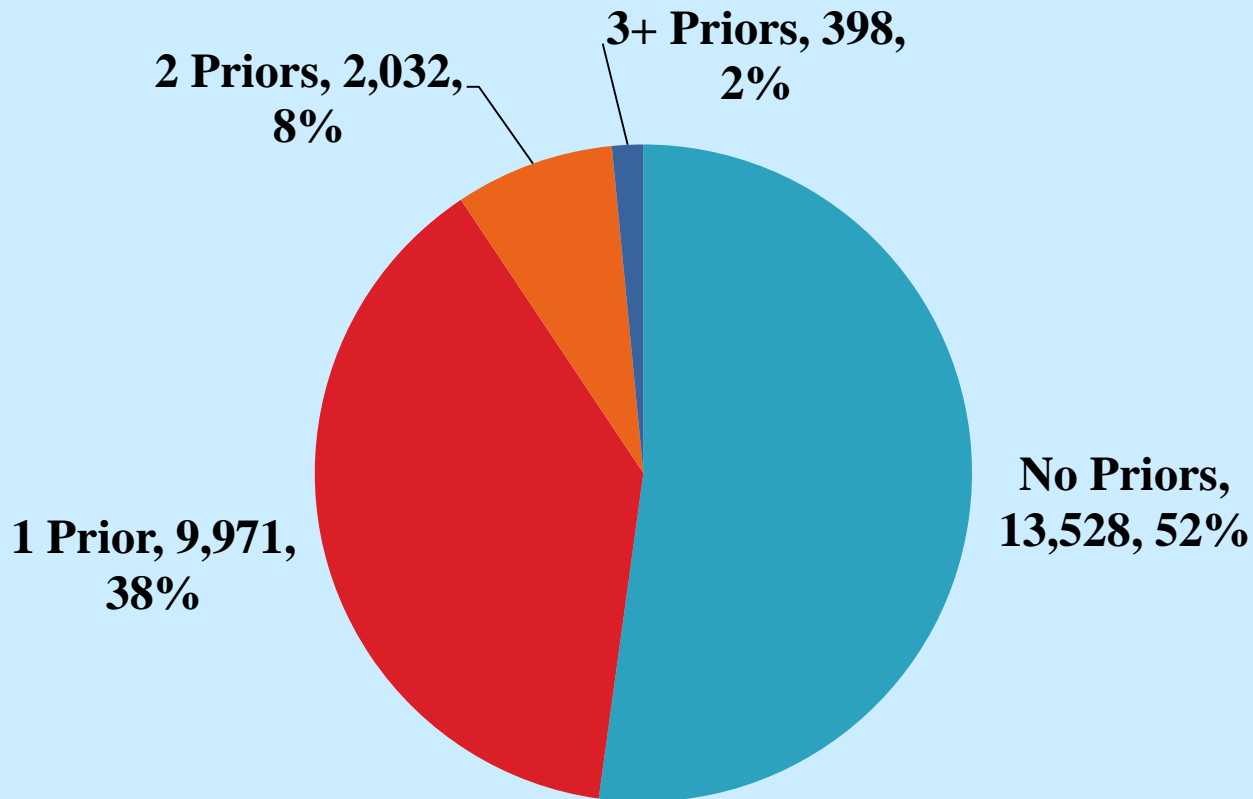
Two-thirds Had at Least One Prior DWI Arrest

Number of Prior DWI Arrests for Active DWI Probationers (includes all levels of VTL 1192) as of February 28, 2014



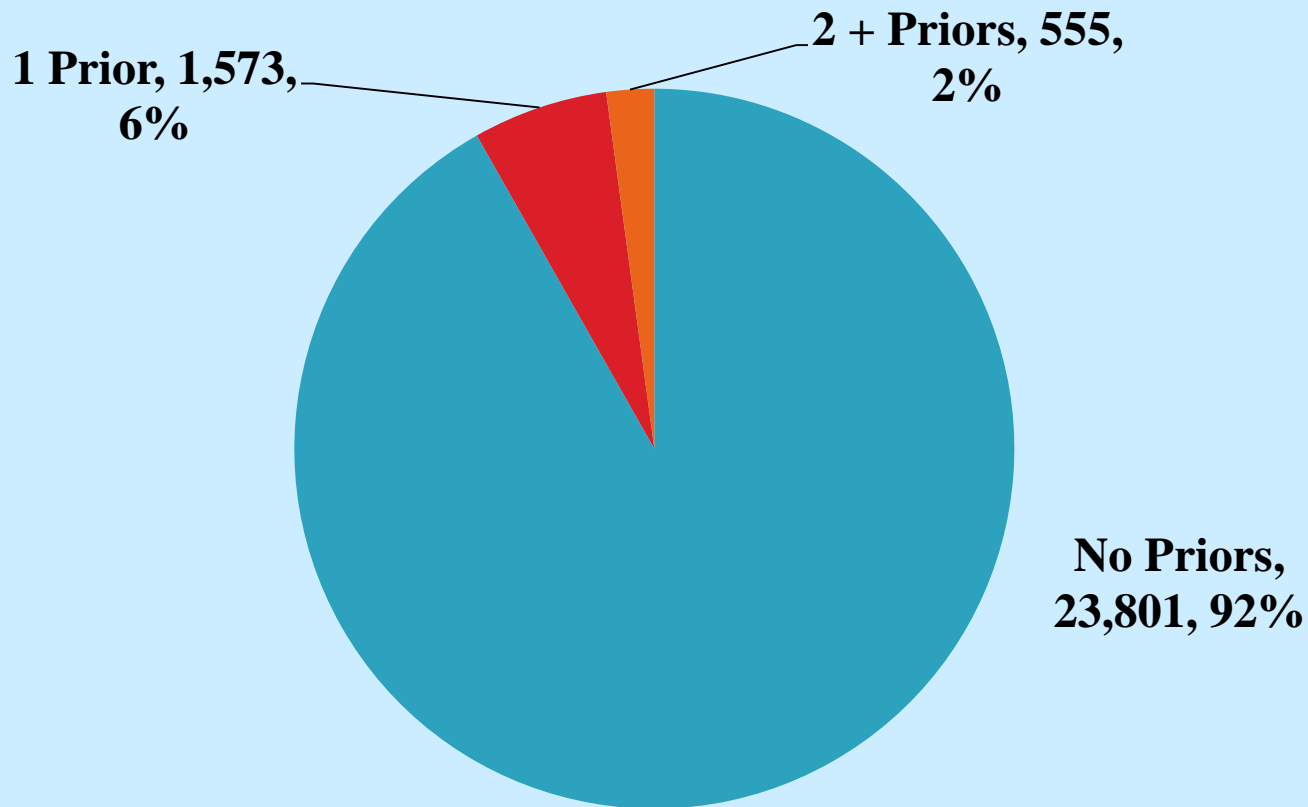
Almost half of DWI Probationers Had at Least One Prior DWI Misdemeanor Conviction

Prior DWI Convictions (included all levels of VTL 1192) for Active DWI Probationers as of February 28, 2014



8 % of DWI Probationers Had at Least One Prior DWI Felony Conviction

Prior DWI Convictions (included all levels of VTL 1192) for Active DWI Probationers as of February 28, 2014



Of Those Active on Probation for a DWI, 4% Were on Probation for a D/Felony DWI Conviction

- 1,076 (about 4%) of active DWI probationers were on probation for a D felony DWI.
- 96% (1,037 of the 1,076 of D/Felony DWI probationers) had at least one prior D, or E DWI felony, or Unclassified Misdemeanor DWI Conviction.
- The number of prior D, or E DWI felony or Unclassified misdemeanor DWI convictions ranged from 0 to 9.

Of Those on Probation for D/Felony DWI Conviction:

- 988 of the 1,076 (about 92%) had at least one prior unclassified misdemeanor DWI conviction.
- 546 of the 1,076 (51%) had a least one prior E felony DWI conviction.
- 138 of the 1,076 (13%) had a least one prior D felony DWI conviction.

Definition & Data Source

Drug-Related Crashes

Definition:

- ❖ *Contributing factors of “drugs (illegal)” or “prescription medication”*
- ❖ *Ticket issued for 1192.4 or .4a*
- ❖ *Positive drug result in AIS drug table*

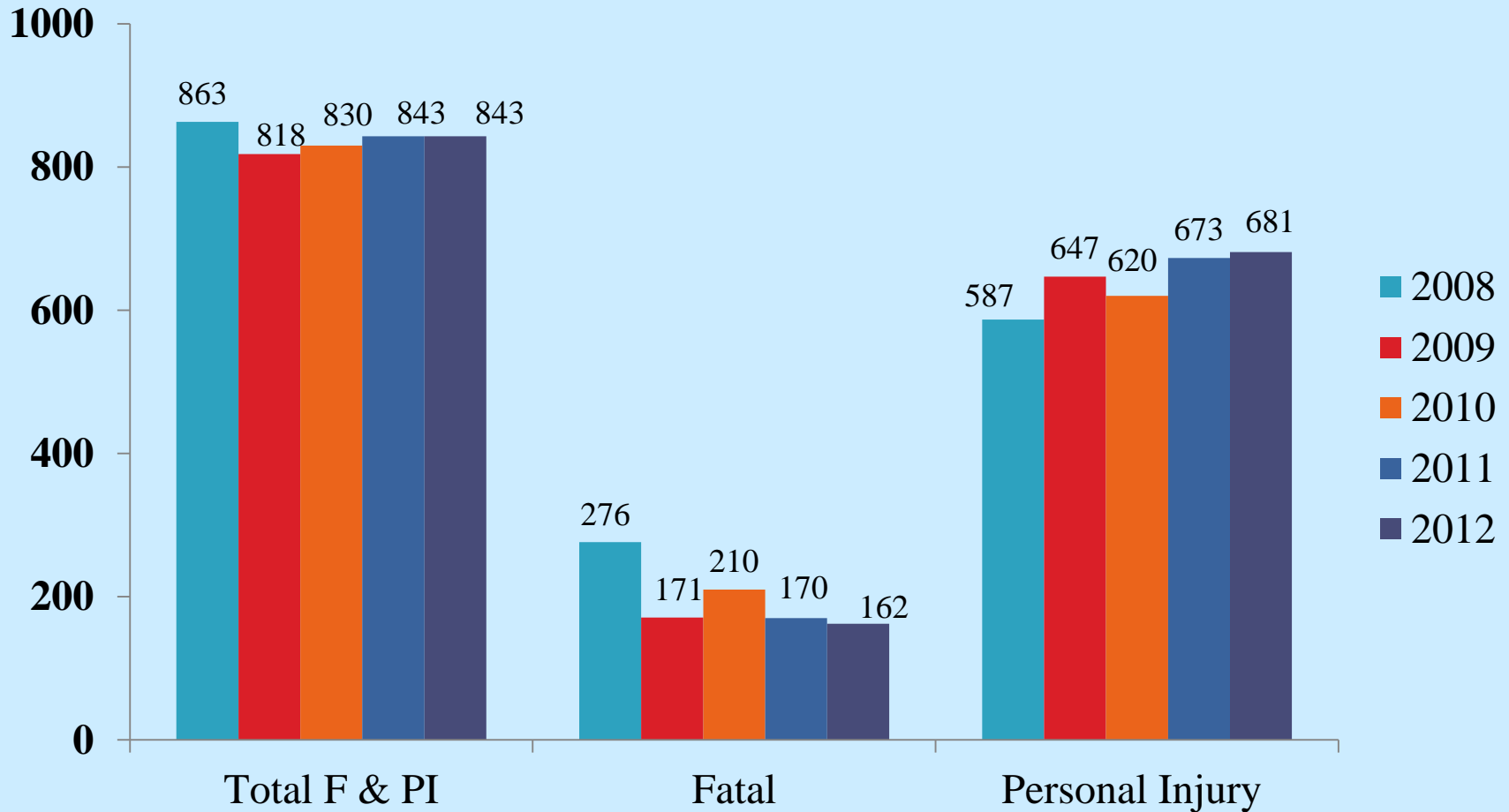
Data Source: *NYS DMV AIS*

Data Provided by the Institute for Traffic Safety Management and Research (ITSMR)

NYS Fatal & Personal Injury Police-Reported Crashes

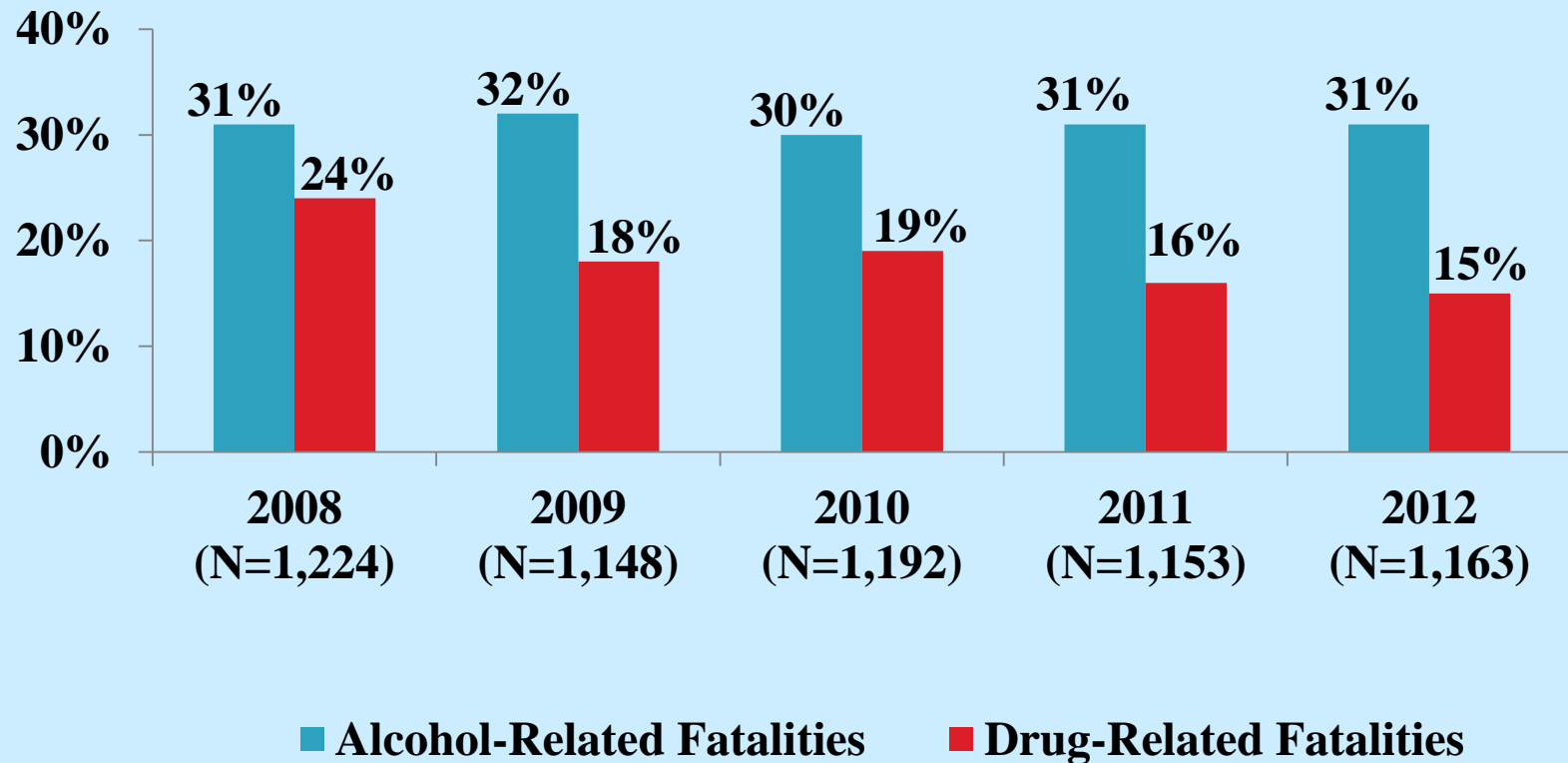
	2008	2009	2010	2011	2012
Statewide Total	122,573	121,419	122,181	117,652	114,000
Alcohol-Related	5,130	5,005	4,772	4,628	4,796
Drug-Related	863	818	830	843	843
	%	%	%	%	%
Alcohol-Related	4.2%	4.1%	3.9%	3.9%	4.2%
Drug-Related	0.7%	0.7%	0.7%	0.7%	0.7%

NYS Drug-Related F & PI Crashes



Total Fatalities

Percent Alcohol-Related vs. Drug-Related



Metrics--DWI Convictions in New York State

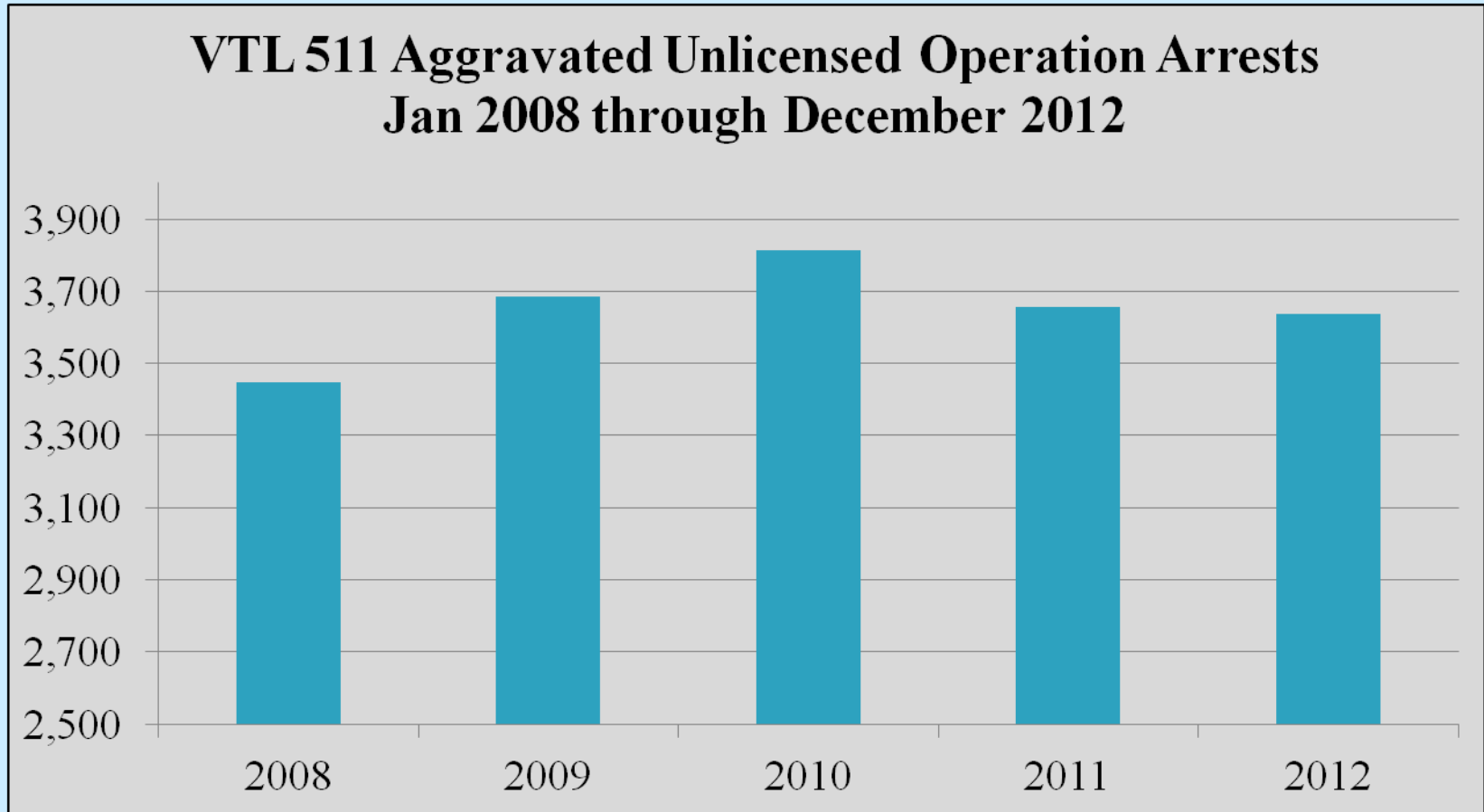
VTL Section 1192 Felony & Misdemeanor

Year	Felonies	Misdemeanors	Total
2010	4,385	22,043	26,428
2011	4,571	19,091	23,662
2012	4,023	18,115	22,138
2013	3,897	17,842	21,739

Leandra's Law Sentences
 Aggravated DWI with Child Cases
 December 18, 2009-May 21, 2014
Sentences:

Prison	113 (4.1%)
Local Jail	220 (7.9%)
Time Served	21 (0.8%)
Jail & Probation	550 (19.9%)
Probation	1261 (45.5%)
Fine	523 (18.9%)
Conditional Discharge	77 (2.8%)
Unconditional Discharge	4 (0.1%)
TOTAL SENTENCES	2,769 (100%)

Unlicensed Operators Will Continue To Drive.....



Probation Practitioner Guidance for the Management of the DWI Offender

- Draft Document out for Review:
 - Focus Group Attendees
 - Council of Probation Administrators
 - Traffic Injury Research Foundation
 - Probation Team of NYS Advisory Council on Impaired Driving
- Provides Guidance and Resources for use by the field from Pre-Trial – Probation Supervision stages
- Will be distributed to the field in coming months following final review and edit

How are DWI Offenders Managed in Your Department?

– Pre-Trial

– Pre-Sentence Investigation

– Probation Supervision

- Specialized Caseloads?
- Specialized Units?

DWI Supervision Technology

- Ignition Interlock Devices (IID)
- Transdermal Alcohol Monitors (SCRAM)
- Home and Portable Breath Units
- Roadside Stop
- Risk and Need Assessments

Ignition Interlock Devices- Alternative Uses

- IIDs can be used to breathalyze a probationer upon direction of PO.
- IIDs with GPS and real time reporting can be used to locate probationers and track movements.
- IIDs can help reinforce sobriety for those probationers in treatment

Transdermal Alcohol Monitors



- TAM units consist of a bracelet continuously worn by a probationer and a base unit that reports data to the parent company
- TAM bracelets cannot be removed by the probationer and have tampering detection built in

Transdermal Alcohol Monitors in Monitoring

- TAM bracelets use a sensor to test sweat on the skin of the wearer for traces of alcohol.
- The tests occur frequently through out the day (usually every 30 minutes or so) and are uploaded at night to the base station.
- TAM bracelets can be used to monitor those probationers who have not installed an IID.
- Some bracelets also provide GPS tracking.

Home and Portable Breath Testing



Alternatives Alcohol Testing

- Alcohol monitoring can be done via a home or portable breath unit that does not require the probationer to own a vehicle.
- Portable breath testing can provide many of the benefits of IID's such as GPS tracking and instant results of probationer BAC.

Roadside Stop Uses in DWI Supervision

- Reports of VIN# for probationer's car being involved in an event may prove the vehicle is being driven or has not been taken off the road.
- Reports of probationer's drivers license or name being run when probationer is not supposed to drive
- Reports of probationer's license or name being run in an outside county with no travel permit being issued.

Risk and Need Assessments

- Criminogenic Risk Factors:
 - COMPAS
- Alcohol or Substance Abuse:
 - TCU
- DWI:
 - RIASI
 - Newest tool APPA developed Impaired Driving Assessment (IDA)
 - Others

Risk and Need Assessment Factors

- Cost
- Time to administer and score
- Reading level/comprehension of probationer
- Type of test (computer based vs paper and pencil)
- Predictive validity

Treatment

- Developing good relationships with treatment providers results in:
 - Shared drug testing
 - Shared information
 - Increased graduated sanction options
 - Increased surveillance options

DMV License Revocations

- Mandatory sanctions periods for alcohol related offenses are set in section 1193 of the Vehicle and Traffic (V & T) Law.
- Mandatory sanction times are (6) six months, (12) twelve months, (18) eighteen months.
- If there are 3 or 4 alcohol/drugged driving offenses in 25 years on the driving record without a Serious Driving Offense (SDO) an additional administrative sanction time of 5 years is imposed.
 - (SDO=fatal crash, driving related Penal Law conviction, conviction of two or more violations for which five or more points are assessed on the violator's driving record, twenty or more points from any violations)
- A record review cannot be done over the phone with a Driver Improvement Examiner

Violation Points

VIOLATION	POINTS
Speeding	
1 to 10	3
11 to 20	4
21 to 30	6
31 to 40	8
Over 40	11
Reckless Driving	5
Failed to stop for school bus	5
Improper cell phone use	5
Use of portable electronic device (“texting”)	5
Followed too closely (tailgating)	4
Inadequate brakes (private car)	4
Inadequate brakes (employer’s vehicle)	2

Violation Points

VIOLATION	POINTS
Failed to yield right-of-way	3
Disobeying traffic control signal, STOP sign or YIELD sign	3
Railroad crossing violation	3
Improper passing, changing lane unsafely	3
Driving left of center, or in wrong direction	3
Leaving scene of property damage incident or the injury of a domestic animal	3
Child safety restraint violation	3
Any other moving violation	2

Contact Info For DMV

- DMV Driver Improvement Unit
 - M – F 8:30 a.m. – 12:00 p.m.
- (518) 474-0774
- Only 19 Driver Improvement Examiners are available to respond to phone calls and review relicensing applications.
- Call to discuss:
 - specific driver records for which you have a permissible use for requesting information
 - court ordered ignition interlock restrictions (A4)
 - DMV administrative ignition interlock restrictions (A2)

DMV Data Sources

- LENS:
 - Abstract at registration, then ongoing notification of license events and tickets
- Dial-In:
 - Registration and Title Information
- Compass:
 - Registration and Title Information
- Justice Portal:
 - Registration and Title Information, out of state and Canada info, registration by address or business

Full /Lifetime Abstract

- A copy of a lifetime driving history record (greater than 4 years) must be requested through the DMV Freedom of Information Office (FOIL)
 - Complete a Freedom of Information Law Request, form MV-15F available from dmv.ny.gov or write a letter that describes the records that you seek(Full/Lifetime abstract). Include your mailing address so that the FOIL office may respond by mail.
 - Mail form or letter to: Records Access Officer
New York State Department of Motor Vehicles
FOIL Office
6 Empire State Plaza Room 222
Albany, NY 12228
- Unless exempt, there is \$10 fee for this abstract. Government agencies and Public officers are exempt. See form MV-15F for the complete list of exempt organizations.
- FOIL will send an acknowledgment of your request within (5) five days of receipt. Within (20) twenty business days of the acknowledgement letter, the requested record will be sent, or in the event that the record cannot be provided within the 20 business day timeframe, the FOIL office will provide written confirmation of the timeframe for when the record can be provided.

Full/Lifetime Abstract

- Organizations exempt from paying the search and copy fees may submit a FOIL request by e-mail.
 - Make sure that your e-mail is not blocked or protected and that you can receive e-mail from the domain dmv.ny.gov
 - Complete form MV-15F and attach the form to an e-mail and send to FOIL@dmv.state.ny.us include in your e-mail the type of record you are requesting (Full/Lifetime abstract), your name and mailing address.
 - DO NOT submit a request by e-mail if you are not from an exempt organization.

Court Ordered “Orders and Conditions” of Probation Supervision

Orders and Conditions of Probation Supervision frame the authority of probation in supervising the DWI Offender:

- Abstinence from alcoholic beverages or any products containing alcohol
- Participate in treatment for alcohol or other drugs
- Comply with all drug and alcohol screenings
- Do Not own or operate any vehicles without an IID installed
- Maintain or obtain gainful employment
- Comply with all curfews or restrictions imposed by the court including participation in Victim Impact Panels
- Comply with probation in the use of technology in supervision, such as GPS, electronic monitoring, and transdermal alcohol monitoring
- Comply with Probation in seeking relicensure

Graduated Responses

- Probation Departments often utilize graduated responses to hold offenders accountable and change probationer behavior.
- Sanctions to address Non-Compliance
 - Increased reporting days and frequency of alcohol/drug testing
 - Use of monitoring technology including alcohol monitoring devices, and GPS
 - Curfew or home confinement
 - Administrative Hearings
 - Recommendation for Judicial Reprimand
 - Filing of Violation of Probation (i.e., requesting extension of IID term)
- Positive Incentives or Rewards for Compliance
 - Verbal and Written Recognition of Compliance/Success in Treatment, Supervision
 - Decreased reporting days
 - Approval of travel permits
 - Approval to apply for relicensure
 - Consideration for early discharge for satisfying all conditions

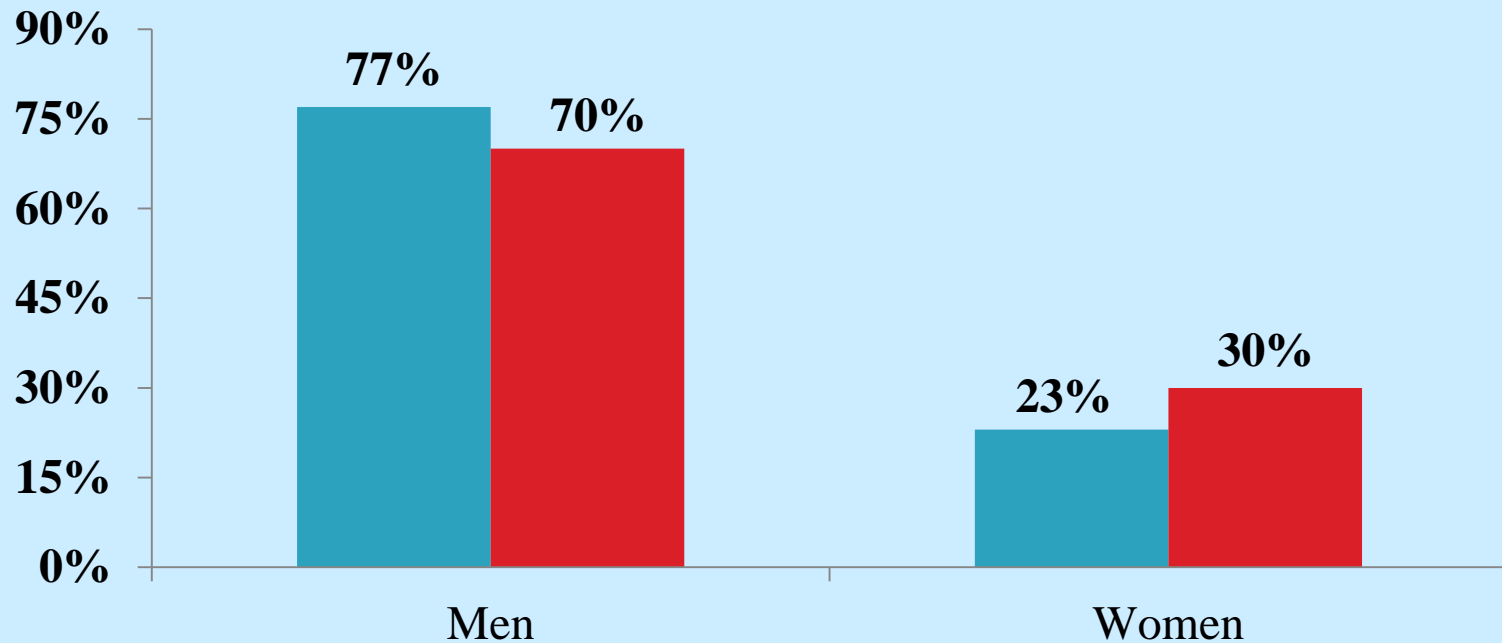
Swift and Certain Programs

- South Dakota 24/7 model
 - Breath, urine blood or sweat testing a minimum of twice daily
 - Immediate arrest for positive tests
 - Increasing schedule of incarceration for positive tests

DWI Accountability Courts

- All superior courts in New York have a DWI accountability court
- Increased training for presiding judges
- Not a treatment court model

Drivers in F & PI Crashes by Gender 2008 - 2012



■ Alcohol-Involved Drivers (22,479) ■ Drug-Involved Drivers (3,869)

Female Impaired Drivers

- In 2012 23% of arrests for DWI in New York State were women. This number has steadily grown over the last five years.
- Women were responsible for 24.3% of alcohol related crashes in 2012. This number has also steadily grown over the last 5 years.
- As of December 31, 2013 5,211 women were being supervised by probation for DWI offenses.
- Of the 1,877 Female DWI cases closed as of 12-31-13 (for the year 2013):
 - 720 (38.3%) reached maximum expiration
 - 765 (40.7%) were discharged early
 - 230 (12.2%) were revoked on a technical violation
 - 40 (2.1%) were revoked due to new conviction

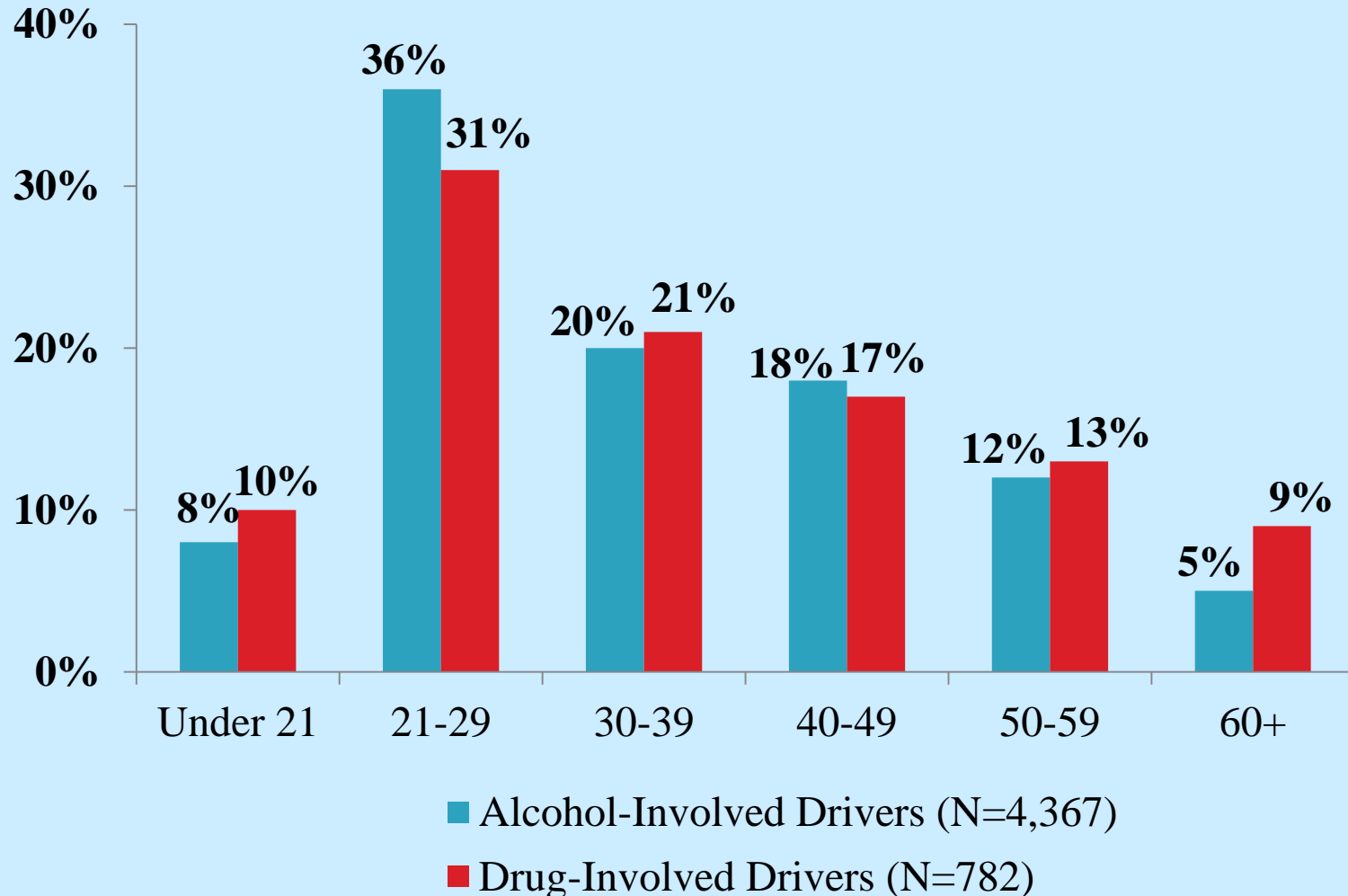
Female Offender Supervision

- Anniversaries can trigger relapses.
- Accountability, intensive monitoring, and support are particularly important.
- Provision of information about process can ease anxiety.
- Avoid judgments; focus on the individual.
- Be sensitive during home visits.
- Build self-esteem and motivation through positive feedback and incentives.

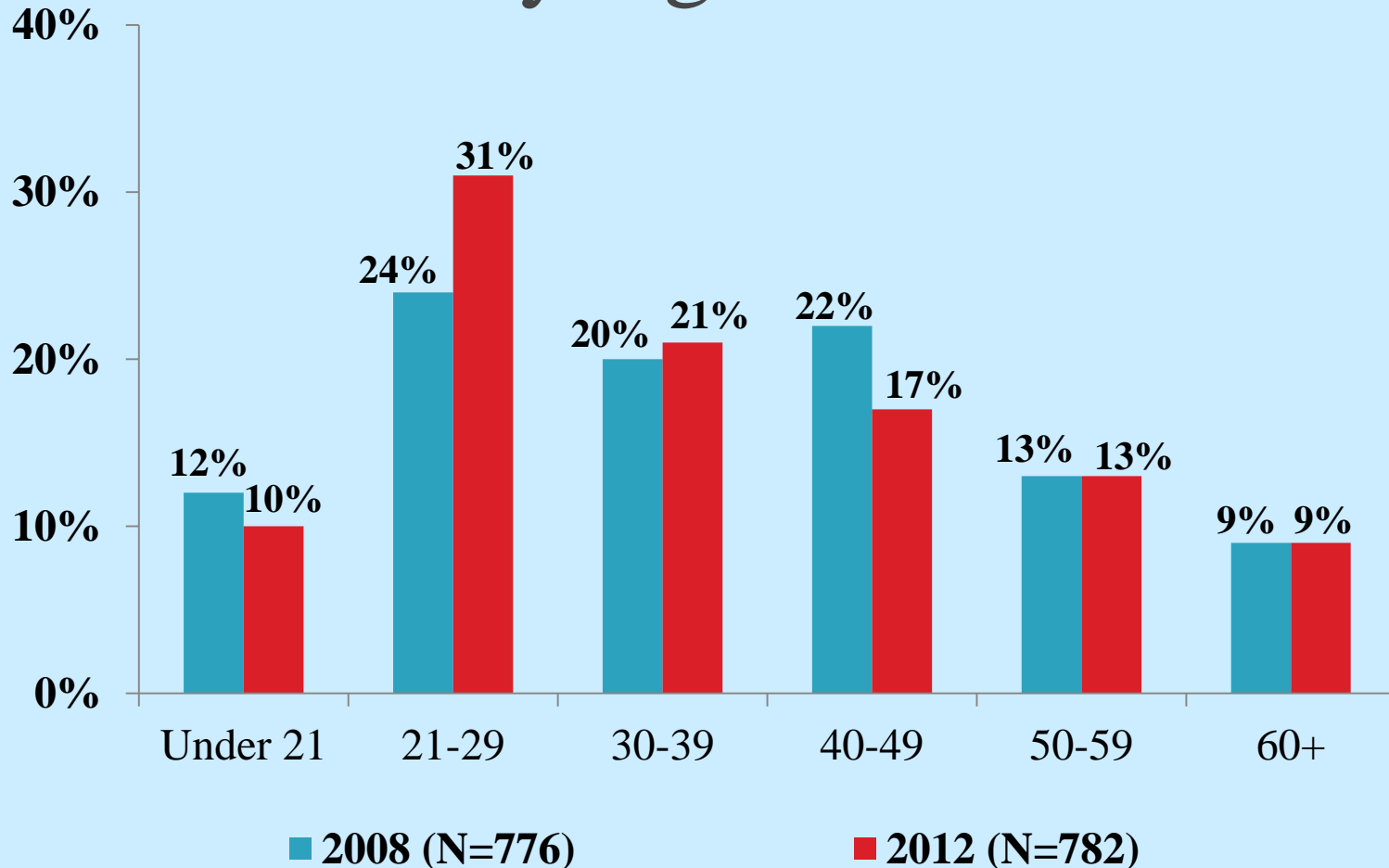
Female Offender Supervision

- Provide clear information about conditions and requirements at outset.
- Provide guidance and assistance to help offenders manage life issues.
- Recognize individual value and progress.
- Be honest and follow through in interactions.
- Work with offenders to achieve a good balance of how time is scheduled/filled.
- Consider flexibility in scheduling appointments.

Drivers in F & PI Crashes by Age 2012



Drivers in Drug-Related F & PI Crashes by Age: 2008 vs. 2012



Adolescent Impaired Drivers

- Treatment:
 - Get an evaluation early to determine severity of substance problem
 - Adolescent specific treatment and groups
- Communication with: family, treatment provider, child protective services and schools
- Juveniles should have specialized conditions of probation that limit access to both alcohol and vehicles. These conditions may include the following:
 - No driving, even where a valid license in place, without a parent or guardian in the vehicle
 - Participation in a Driver's Education or other driving course
 - No use of alcohol or other substances
 - Strict curfew

OPCA Training Initiatives

- December 2013 DMV Data Access
- February 2014 Female DWI Offender
- June 2014 DMV Relicensing
- Date TBD 2014 Supervision of IID Non-Installers

All trainings are recorded and uploaded to IJP under Resources > Probation > Training

Resources

- GTSC <http://www.safeny.ny.gov/>
- TIRF <http://tirf.ca/index.php>
- ITSMR <http://www.itsmr.org/index.html>
- AAA Foundation <https://www.aaafoundation.org/>
- NYS DMV <http://dmv.ny.gov/about-dmv/statistical-summaries>
- APPA DWI Supervision Guide
 - <http://www.appa-net.org/eweb/docs/appa/pubs/DWI.pdf>

Maureen McKeown
Division of Criminal Justice Services
Office of Probation and Correctional Alternatives
(518) 485-9941
maureen.mckeown@dcjs.ny.gov