HB 4002 Race/Ethnicity Data Research Briefing

Oregon Criminal Justice Commission

11 June 2025

BACKGROUND

HB 4002 was passed by the legislature in the 2024 session and was effective April 1, 2024[1]. An accompanying budget bill, SB 5701, includes a budget note[2] directing the Oregon Criminal Justice Commission (CJC) to report the racial and ethnic impact of the law changes in HB 4002 to the Joint Committee on Addiction and Community Safety Response during the 2025 legislative session. To date, CJC has produced two publicly available data dashboards that display Possession of Controlled Substance (PCS) data trends[3] and information on Behavioral Health Deflection Programs[4].

POSSESSION OF CONTROLLED SUBSTANCES

HB 4002 reclassifies possession of user amounts of controlled substances (PCS) from a class E violation to an unranked misdemeanor, described as a Drug Enforcement Misdemeanor (DEM), effective September 1, 2024. The following section displays PCS race/ethnicity trends for arrests, cases filed, and deflection events.

PCS Arrests

Fingerprinted arrests for PCS offenses are available from the Law Enforcement Data System (LEDS). This includes fingerprinted arrests with at least one PCS charge; these arrests may also include other criminal charges. The arrest data does not indicate the quantity of the controlled substance; therefore, PCS offenses displayed include user amount, substantial quantity, and commercial drug offenses. CJC does not have data on citation in lieu of arrest events or officer-initiated deflection events with no charges filed.

[1] https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/HB4002/Enrolled
[2] https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureAnalysisDocument/82767
[3] https://public.tableau.com/app/profile/cjcdashboards/viz/PossessionofControlledSubstanceDashboard/LandingPage
[4] https://public.tableau.com/app/profile/cjcdashboards/viz/BehavioralHealthDeflectionProgramsDashboard/LandingPage

Table 1 displays PCS arrests from September 2024 to May 2025 by race/ethnicity[5] and whether other criminal charges were on the arrest event. For PCS only arrests, nearly 12 percent of arrests were for Latinx individuals, 5 percent for Black individuals, nearly 2 percent for Native individuals, and just under one percent for Asian/Pacific Islander individuals. For context, the same data for arrests with a PCS charge and other criminal charges is also displayed.

Table 1: Drug Possession Arrests - Sept 2024 to May 2025

Race/Ethnicity	PCS Only		PCS with Other Crime	
	N	Pct.	N	Pct.
Asian/PI	18	1%	88	2%
Black	103	5%	341	6%
Latinx	230	12%	924	16%
Native	36	2%	107	2%
Other/Unknown	14	1%	62	1%
White	1,558	80%	4,207	73%
Total	1,959	100%	5,729	100%

[5] The CJC has developed a racial correction algorithm based on Bayesian Improved Surname Geocoding (BISG), an approach that is widely used in studies and litigation evaluating mortgage and non-mortgage lending patterns, in academic research, and by financial institutions (see Elliott et al. 2009).
https://www.oregon.gov/cjc/CJC%20Document%20Library/RaceCorrectionTechDocFinal-8-6-18.pdf

Criminal Cases

Criminal cases filed with at least one charge for a PCS Drug Enforcement Misdemeanor (DEM) are available from the Odyssey Oregon e-court data maintained by the Oregon Judicial Department (OJD). These cases include those with only a DEM charge, as well as those with other criminal charges accompanying the DEM. Several counties that have implemented deflection programs have indicated that a criminal case filing will initiate deflection for an individual.

Table 2 below displays criminal cases filed from September 2024 to May 2025 by race/ethnicity and whether there were accompanying charges. The Other/Unknown category makes up a higher percentage of cases filed than arrests due in part to missing race/ethnicity and state identification numbers (SIDs) in the Odyssey data. CJC cross-references defendant demographic data with other data systems where possible. For cases filed with a DEM charge and no other criminal charges, 12 percent of cases filed were for Latinx individuals, nearly 5 percent for Black individuals, and just over one percent for Native and Asian/Pacific Islander individuals. For context, the data for cases with other criminal charges in addition to the DEM charge is also displayed.

Table 2: Cases Filed with DEM Charge - Sept 2024 to May 2025

Race/Ethnicity	PCS Only		PCS with Other Crime	
	N	Pct.	N	Pct.
Asian/PI	36	1%	27	1%
Black	123	5%	141	6%
Latinx	328	12%	359	15%
Native	39	1%	40	2%
Other/Unknown	149	6%	149	6%
White	1,989	75%	1,692	70%
Total	2,664	100%	2,408	100%

Deflection Referrals

Since September 1, 2024, 28 counties have implemented Behavioral Health Deflection (BHD) programs. BHD programs are collaborations between law enforcement agencies and behavioral health entities designed to create community-based pathways to treatment and recovery for people with a substance use disorder, other behavioral health disorders, or co-occurring disorders[6].

From September 2024 to April 2025, 1,180 individuals have been referred to deflection programs. **Table 3** below displays the referral data by race/ethnicity. The Unknown category is a higher percentage than the other criminal justice measures displayed in this briefing, due in part to the nature of referrals, as grantees are expected to collect and enter the information once the individual is engaged in the program. Deflection referrals show nearly 6 percent for Latinx individuals, nearly 4 percent for Black individuals, and 3 percent for Native and Multiple Race individuals.

Table 3: Deflection Referrals - Sept 2024 to April 2025

Race/Ethnicity	N	Pct.
Asian/PI	9	1%
Black	43	4%
Latinx	69	6%
Native	38	3%
Multiple	38	3%
Other	22	2%
Unknown	149	13%
White	812	69%
Total	1,180	100.0%

The CJC has contracted with the Deflection Implementation Technical Assistance Team at Oregon Health and Science University, led by Dr. Dan Hoover, for program-facing technical assistance (TA) offerings relating to implementation of deflection work. TA services include 1:1 meetings, single webinars, and a deflection ECHO learning collaborative. The TA augmented CJC's efforts to mitigate racial and ethnic disparities encountered as part of the recriminalization in HB 4002. Twenty-six programs have attended at least one webinar, while 20 programs have engaged in a longer-term deflection ECHO thus far.

One early implementation TA webinar focused on deflection program eligibility and strategies local programs could employ to increase the number of incoming eligible participants or reduce the number of excluded potential participants. These efforts coincided with the widening of local program eligibility criteria in some cases, offering more opportunities for deflection away from the criminal legal system. Another recent and notable implementation TA session focused on culturally specific services and their role in deflection. Culturally specific services and

[6] https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/HB4002/Enrolled

programming can help recruit and retain participants identifying as one or more minority racial or ethnic group(s). Further, recent technical assistance offerings have related to adapting drug enforcement strategies; including both the role of peers and other allied health professionals in the warm hand off process to get potential participants into programming, and the role of deflection among search, seizure, and other law enforcement processes.

DELIVERY OF CONTROLLED SUBSTANCES

The law changes in HB 4002 made several changes to delivery of controlled substances statutes effective April 1, 2024. Section 24 modifies drug delivery to include "possession with the intent to transfer" cases known as the Boyd fix. Section 25 modifies drug delivery sentences to include enhancements for offenses that occur at or within a certain distance from a treatment facility, temporary residence shelter, or public park. At this time, CJC is unable to distinguish delivery offense arrests impacted by the changes in HB 4002. The following data shows summary level information of arrests for drug delivery offenses from April 2024 to April 2025.

Table 4 displays delivery arrests by race/ethnicity. The arrest data is from LEDS and has the same limitations described previously. From April 2024 to April 2025, 18 percent of arrests are for Latinx individuals. Black individuals account for nearly 9 percent of arrests, and Asian/Pacific Islander and Native individuals account for 2 percent of arrests.

Table 4: Drug Delivery Arrests - April 2024 to April 2025

Race/Ethnicity	N	Pct.
Asian/PI	12	2%
Black	57	9%
Latinx	120	18%
Native	13	2%
Other/Unknown	8	1%
White	446	68%
Total	656	100%

The data presented here represent the first nine months of Oregon's new drug enforcement laws and the behavioral health programs created to support the goal of deflection from criminal justice involvement. While it is too early to fully quantify the impacts of these changes on individuals and communities, CJC will continue to analyze race/ethnicity trends for deflection programs and the law changes in HB 4002.