# Racial and Ethnic Patterns of Downward Departures from § 609.11 Mandatory Minimums

Minnesota sentencing data, 2016–2024

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# One statute, two very different mandatory minimums

## Track A: Weapon w/crime

A firearm possessed or used, or a non-firearm dangerous weapon used, during a listed offense.(Assault 2 dominates)

**≈ 5,000**

1 to 5-year minimums • subds. 4 & 5(a)

## Track B: Felon in possession (crime of violence based)

Possessing a gun or ammunition after a crime-of-violence conviction

**≈ 4,600**

5-year minimum • subd. 5(b) • felon-in-possession

*Sentenced felony cases, 2016–2024, MSGC monitoring data*

# Focus is on cases where the minimum is the deciding factor between prison and probation.

ABOVE THE LINE — guidelines already recommend prison

*the dispositional line*

BELOW THE LINE — guidelines recommend probation;
**only § 609.11 calls for prison**

"Binding" cases analyzed:

**2,312**

Track A

**1,956**

Track B

*Binding cases involve lower-history defendants by construction (scores 0–2 in Track B) — higher-history cases return on a later slide*

# Courts grant a downward departure in most cases where the 609.11 minimum would have caused someone to go to prison.

**67%**

of binding Track A (Weapon w/Crime) cases departed

**59%**

of binding Track B (Felon in Possess.) cases departed

- *Top departure reason: amenable to probation*
- *Most departures are unopposed or plea-negotiated.*

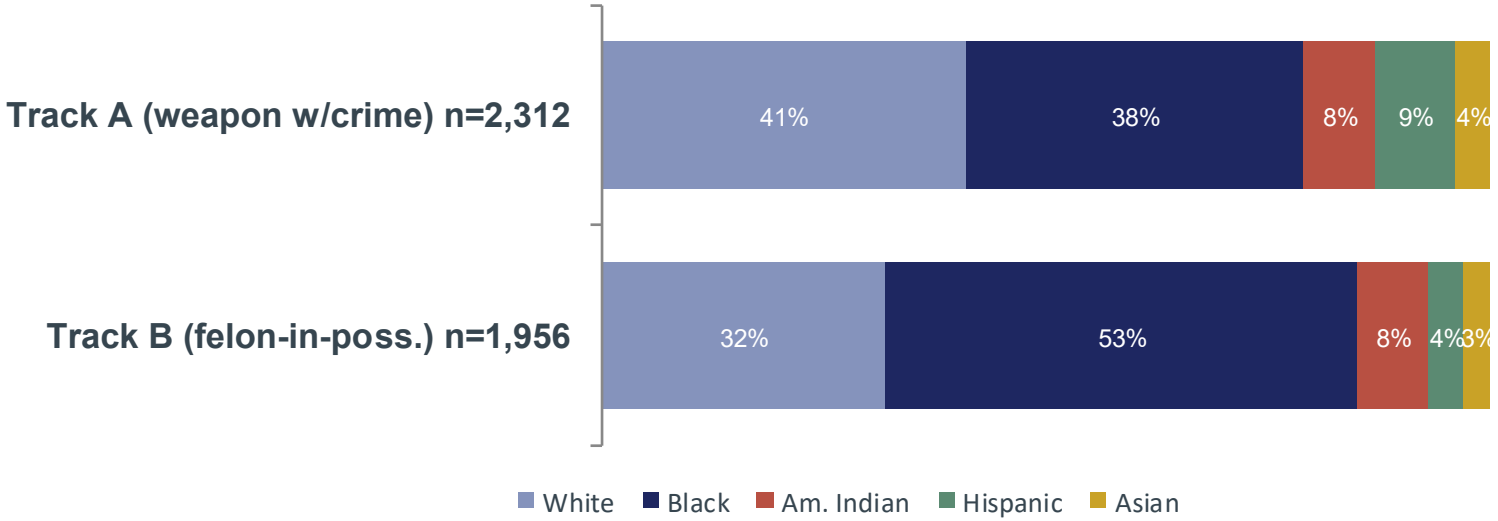
# When § 609.11 turns a Guidelines-probation case into a prison case, who receives relief from that mandatory minimum?

The legislation creating this task force directs it to examine mandatory minimum sentences for their impact on equity.

> ***"Equity & disparities: Does the policy reduce, perpetuate, or worsen disparities regarding those affected?"***
>
> — Evaluation Domain C, adopted by the task force (chair's memorandum, Jan. 21, 2026)

This analysis answers it for § 609.11's departure decisions: **are legally similar defendants equally likely to receive relief, by race and ethnicity?**

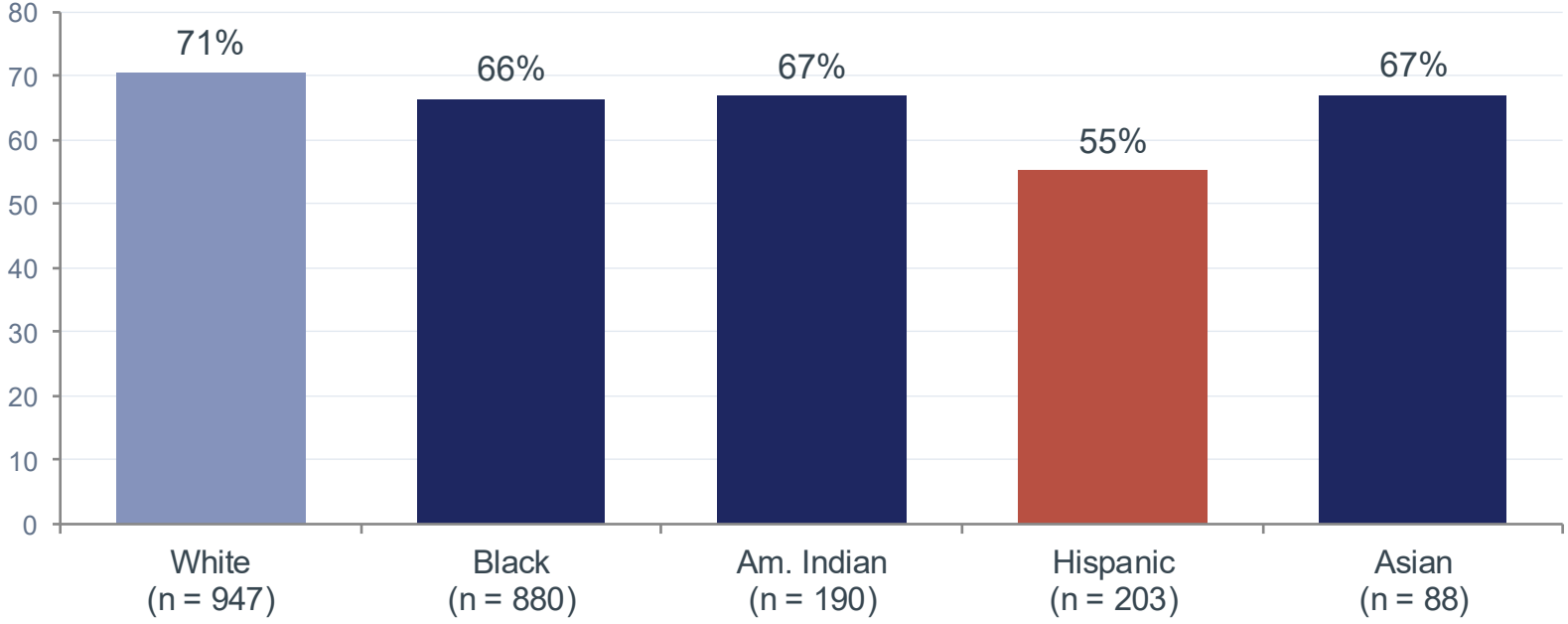
# Who the two minimums apply to




**76% of Black Track B cases are sentenced in Hennepin and Ramsey counties.**

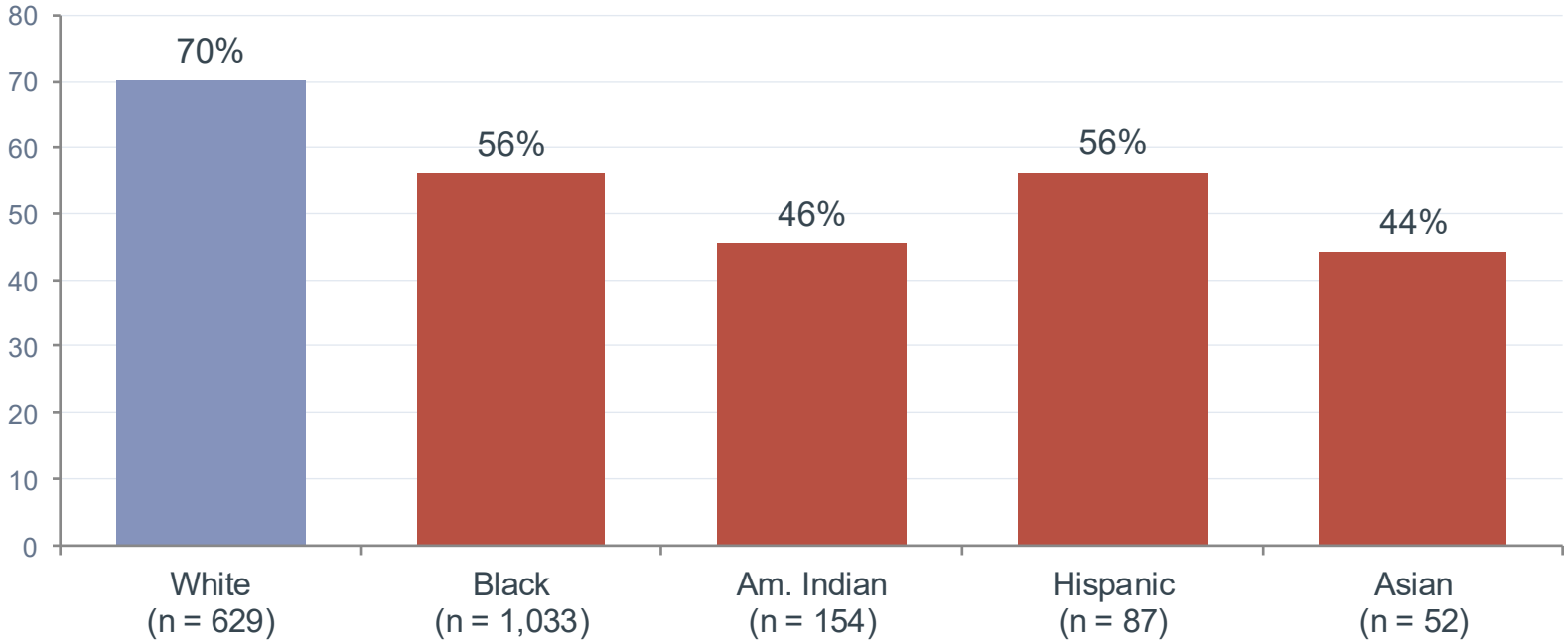
*Share of binding cases by race (percent)*

# Raw departure rates differ modestly in Track A (weapon w/crime)…




*Percent of binding Track A cases with downward departures, 2016–2024.*

# …and sharply in Track B (felon-in-possession)




*Percent of binding Track B cases with downward departures, 2016–2024.*

# From raw differences to like-with-like comparisons

## RAW

All cases compared as they come. Differences in departures may just reflect different types of cases.

## ADJUSTED

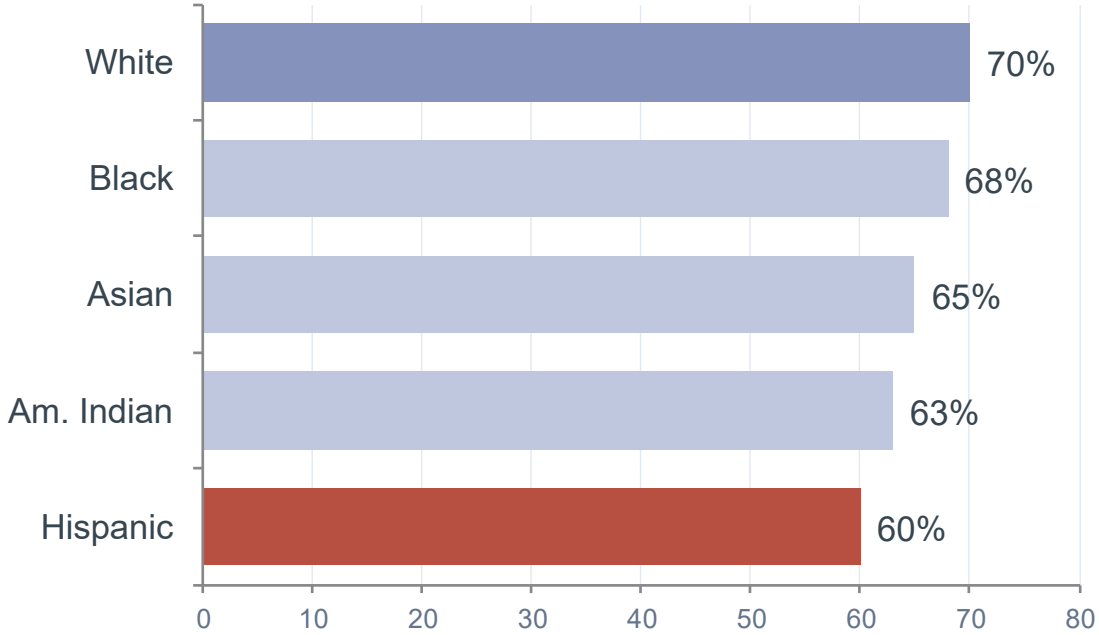
Like cases compared with like — defendants alike in every way the court record shows.

**Held equal:**

- Offense type
- criminal history
- county / district
- age
- sex
- plea vs. trial
- year
- repeat- weapon offense flag

**What survives adjustment is the disparity that observable case differences can’t explain.**

# Track A after adjustment: near-parity — one exception




Black, American Indian, and Asian gaps: **statistically indistinguishable from zero.**

Hispanic gap: **−probability of a departure is 10 percentage points lower, significant — and present in both tracks, every specification.**

*Track A, adjusted probability of a stay (%) — same scale as the Track B chart. Gray-blue bars are not statistically different from White.*

# Track B is the cleanest comparison this data allows

1. **Same single offense**

   felon-in-possession — nothing else

2. **Same severity level**

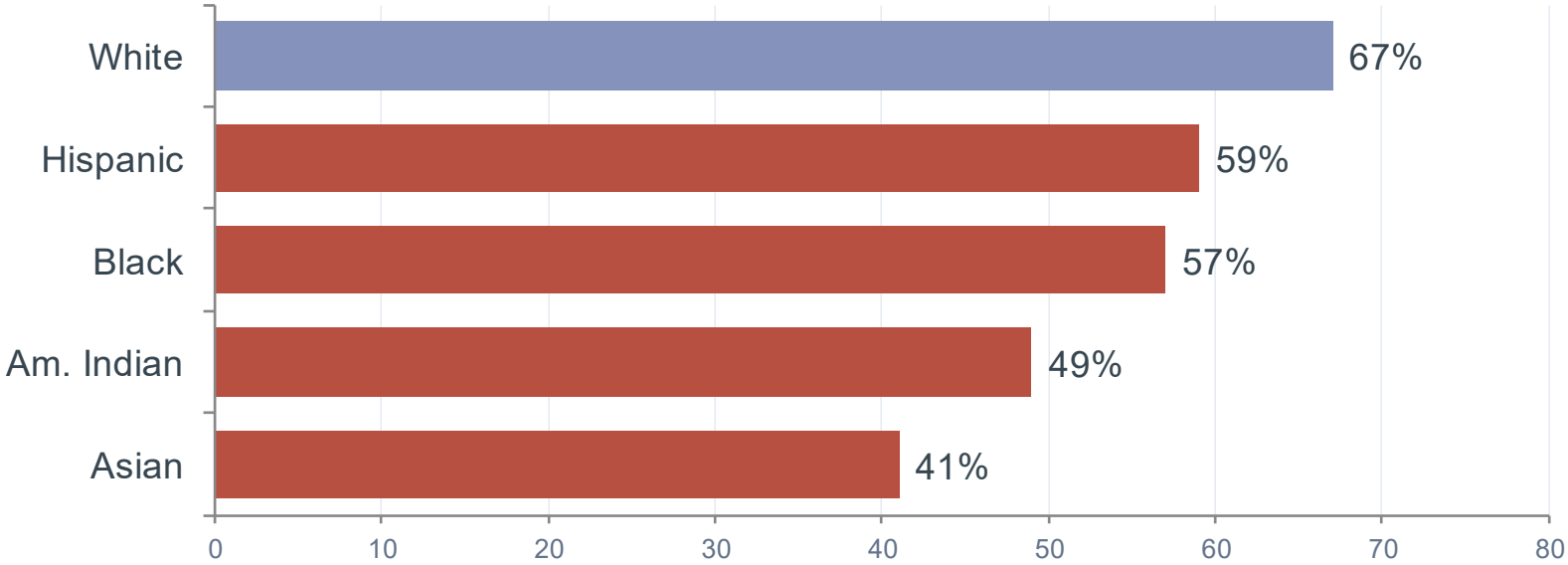
   every case sits at severity level 6 on the main grid

3. **Same low history range**

   scores 0–2 by construction — and CHS controlled

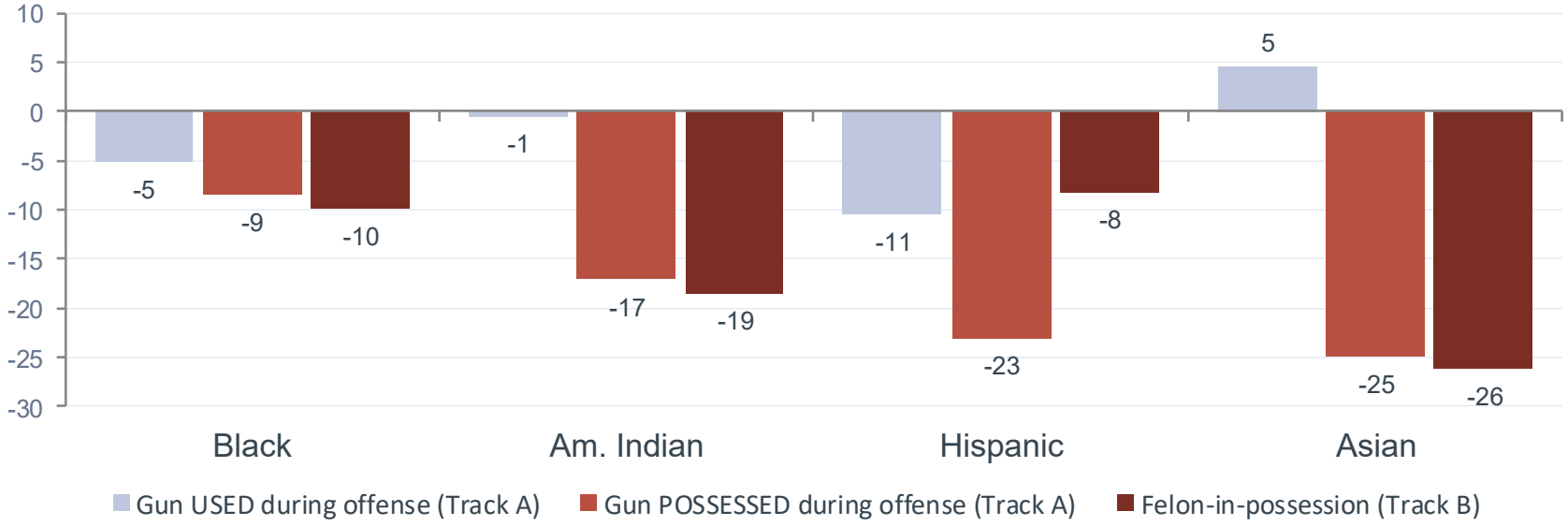
*The usual explanation — "different types offense or criminal history" — is less likely here by construction.*

# Among legally similar defendants, the racial gaps remain for Track B




*Track B, adjusted probability of a stay (%). Every gap is statistically significant under the most conservative test — and holds when all arguably non-departable cases are excluded. Asian group is only 52 cases and concentrated in 2 districts (Hennepin and district 5.)*

# Exploratory Analysis: The gaps in departure rates concentrate where the gun was possessed, not used

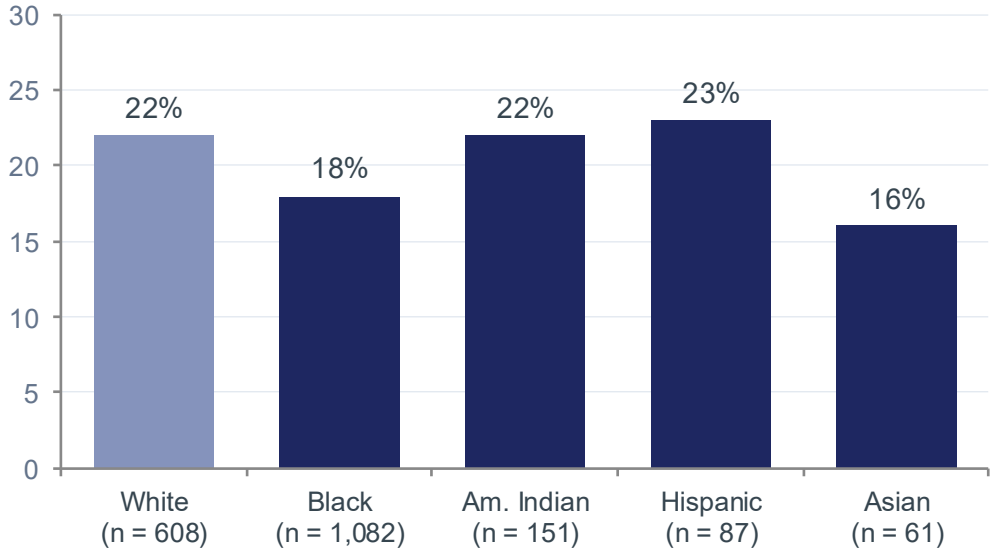



*Adjusted departure-rate gap vs. White defendants, in percentage points (0 = parity with White). Track A possession cells are small for the smaller groups (20–27 cases) — an exploratory pattern, consistent across all four groups.*

# The disparity is mainly about whether prison is given — not how long

**≈20%**

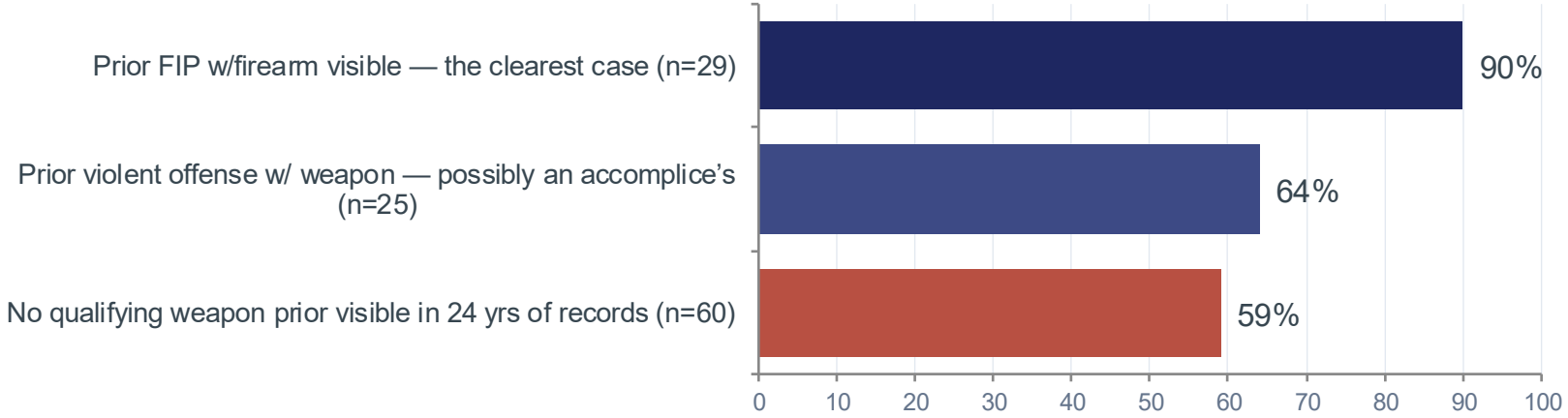
of FIP prison sentences fall below the 60-month floor




**Durational gaps of 0–6 points — a fraction of the 10–26-point dispositional gaps. Median sentence: exactly 60 months for every group.**

*Above-the-line FIP prison sentences (n = 1,990): adjusted probability of a sentence below the 5-year statutory floor, same covariates as the dispositional models. Black (−4.2) and Asian (−6.2) contrasts significant under conventional clustered tests; Am. Indian and Hispanic null.*

# Hard mandatories do not always hold for subsequent weapons cases.




*Share of cases where the five-year minimum was imposed. FIP cases flagged as subsequent weapon offenses (n = 114) — a prior weapon offense on top of the disqualifying conviction all FIP defendants have.*

**Even the clearest hard-minimum group sees departures (3 of 29) — and the data can't verify the rest:** the weapons flag counts ammo-only priors that don't qualify, and who actually held the weapon is not recorded in the sentencing data.

**In process of getting the State Court Administrator's records, which will be able to answer this question.**

# Three main conclusions:

1. Departures from § 609.11 mandatory minimum are relatively common.

2. Racial disparities in those departures are real: concentrated in the felon-in-possession minimum, in gun *possession* cases across both tracks, and are most relevant for dispositional departure decisions.

3. The hard mandatory minimum are not always binding.

# What could explain these racial gaps in who receives a departure?

## Consistent with the data and prior research

### Differential treatment

similar defendants assessed differently — by courts and by the parties who negotiate most of these departures

### Unevenly distributed circumstances

the things that support an “amenability” finding — work, housing, treatment access — are themselves unequally distributed

### Decisions upstream of conviction

charging and plea choices shape who reaches sentencing — this analysis starts at conviction

## What we have not shown

### Individual discrimination

group-level patterns cannot be read onto any judge or prosecutor

# Does § 609.11 worsen disparities?
# Yes - in practice.

1. **The mandatory minimum creates the prison default**

   in binding cases, the guidelines recommend probation — only § 609.11 calls for prison

2. **Departure discretion determines who avoids it**

   possibly operating through amenability-to-probation assessments — the data cannot say how

3. **That relief is not distributed evenly by race and ethnicity**

   even among legally similar defendants — concentrated in gun-possession cases