

Prison Misconduct and Race

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Purpose: Under the authority granted by RCW 72.01.090, the Washington State Department of Corrections has established procedures to identify and address misconduct of individuals under its jurisdiction. By request of the Office of Corrections Ombuds Director, this report assesses racial inequity or bias in charges of misconduct, disciplinary hearings and sanctions. Race differences in incarceration broadly, and misconduct specifically are well researched. Changing contexts of incarceration (e.g., population and staffing dynamics, policy change), however, present a need for ongoing process review to identify 1) strategies to effectively reduce misconduct, and 2) to address all instances of misconduct in a manner consistent with the Department's non-discrimination policy (DOC 100.500), and its mission to improve public safety by positively changing lives.

Methods

Data

Individual-level records from the Offender Management Network Information (OMNI) database were used and included all individuals incarcerated in a prison facility at any point between January 1, 2017 and December 31, 2019.

Misconduct The report includes all serious infractions (WAC 137-25-030) occurring in the study period. Individuals may receive multiple serious (major) or general (minor) infractions in one incident. For most analyses, infractions were grouped by incident and characterized as serious given at least one allegation of serious misconduct.

Individuals charged with misconduct may be found guilty on one charge while other charges from the same incident are reduced to a lesser charge, dismissed or cleared. Individuals with at least one guilty finding in a set of incident-grouped infractions were regarded as guilty. Individuals with at least one charge or one guilty finding in a month were recorded as being charged or guilty in that month. Charges were recorded by infraction date, and findings by hearing date.

Race and ethnicity Race and ethnicity are self-reported and grouped to include the following, in order of prevalence in the study population: White non-Hispanic, Black non-Hispanic, Hispanic, American Indian/Alaska Native, and Asian/Pacific Islander. Less than 1% of the population identified as Other or Unknown was excluded. As the racial majority across the study period and in each facility, White non-Hispanic individuals were the reference group for gauging other groups' relative probability of being charged or found guilty of misconduct.

Additional variables of interest measured at each month of the three-year study period included individuals' age, time served on their active jurisdiction, time since their most recent transfer, number of distinct inmate admissions prior to their active jurisdiction, security threat group (STG) affiliation, and indicators of moderate to high-level aggression, criminal attitudes, mental health and substance abuse need. STG status reflected the department's most recent awareness; criminogenic need reflected any instance of moderate-to high-level need over the study period as measured by the Washington ONE. Lastly, instances of misconduct were characterized by month and location to account for interdependence between observations.

Procedure

Charges. An overview of demographic and other study population characteristics provides a basic and preliminary description of 1) the relative probability of misconduct across race groups, and 2) the association between race and covariates of misconduct. More detailed description of the distribution of charges over race by month and facility follows with two measures of disproportionality: risk ratios and raw differential representation.

Risk Ratios. Risk ratios express the probability of being charged with misconduct in a group relative to the probability within the White non-Hispanic population. A value of 1 indicates no difference between groups. Values greater than 1 indicate higher risk within the given group, while values less than 1 indicate higher risk among White non-Hispanics.

Raw Differential Representation. Raw differential representation expresses disproportionality as the number of individuals in a group receiving infractions beyond a condition of equivalence. The measure estimates, in other words, the number of individuals who were infraacted but would not have been had there been no difference between groups.

Following the description of misconduct over time and across facilities, the extent to which race differences in receiving charges of misconduct are driven by disproportionality of covariates (i.e., a younger population with a higher level of need, or a greater proportion of STG affiliation) and variation in time and facility level factors is examined by comparing individuals in each group with a subset of matched White non-Hispanic individuals sharing similar traits and located in the same facility in the same month.

Finally, the examination of race differences in charges of misconduct concludes with an analysis of the association between race and specific infraction codes (e.g., 650: Rioting, 752: Positive Drug/Alcohol Test) attending to variation over time and between facilities.

Hearings. Race differences in charges leading to guilty finding were analyzed in the population of individuals charged with misconduct during the study period by modeling the relationship between a given infraction code and the probability of its leading to a guilty finding given an individuals' race and the facility where the hearing occurred.

Sanctions. Average sanction times imposed on individuals found guilty of misconduct during the study period were modeled as dependent on race conditional on individuals' STG involvement.

Summary

Race differences in serious misconduct among individuals incarcerated in Washington between 2017 and 2019 varied across groups, across facilities within the same group, and over time within the same group in the same facility.

Given that context, specific questions presented by the Office of Corrections Ombuds Director are addressed below:

When controlling for other factors, race differences were not found to affect people of color in general. Incarcerated individuals of color (persons not in White non-Hispanic category) were overrepresented during the study period in charges of misconduct and in factors associated with misconduct. The strength of the association between misconduct and other factors was such that race differences generally diminished when the chances of receiving infractions were compared in matched groups.

Incarcerated people of color were generally not disproportionately found guilty given charges of serious misconduct. Charges typically led to guilty findings in each facility regardless of race and ethnicity. Taking variation across facilities into account, race differences in the probability of a guilty finding following charges of serious misconduct were generally inconclusive.

Incarcerated people of color found guilty of serious misconduct generally did not receive higher sanctions. Time imposed was found to be conditional on individuals' STG involvement; however, Hispanic and Asian and Pacific Islander individuals with no STG involvement sanctioned with segregation received one more day, on average, in restrictive housing compared to White individuals.

Recommendations. Race differences related to serious misconduct highlight a need for ongoing process exploration and monitoring to provide a rich and actionable understanding of the relationship between race and the Department's disciplinary process. Moving forward, obtaining currently unavailable data on race and ethnicity of staff and examining the relationship between staff composition and rates of misconduct would be helpful for monitoring for bias at the individual and facility level.

Results

Demographics:

Demographic characteristics of the study population and counts of individuals receiving allegations of serious and general misconduct in the study period are shown in Table 1.

Table 1. Demographic characteristics of study population.

	White	Black	Hispanic	American Indian/ Alaska Native	Asian/ Pacific Islander
<i>n</i> (%)	23,762 (61%)	6,187 (16%)	5,255 (14%)	2,046 (5%)	1,448 (4%)
Infractions					
<i>Serious</i>	8,749 (37%)	2,890 (47%)	2,348 (45%)	952 (47%)	601 (42%)
<i>General</i>	11,740 (49%)	3,686(60%)	2,842 (54%)	1,147 (56%)	795 (55%)
Age* (median years)	36.2	34.7	31.9	34.7	33.7
Gender					
<i>Male</i>	21,070 (89%)	5,817 (94%)	4,725 (90%)	1,753 (86%)	1,309 (90%)
<i>Female</i>	2,692 (11%)	370 (6%)	530 (10%)	293 (14%)	139 (10%)
Time Served*, (average months)	22.1	32.5	20.4	18.9	27.2
Admit History* (average)	2.3	2.5	2	2.4	1.9

* Based on individuals' first observation in the study period.

NOTE: Population percentages are from total population; other percentages are within group.

Table 1. Demographic characteristics of study population, continued.

Moderate to High Need					
<i>Aggression</i>	13,981 (59%)	4,814 (78%)	3,690 (70%)	1,383 (68%)	966 (67%)
<i>Criminal Attitude</i>	9,581 (40%)	2,464 (40%)	2,005 (38%)	973 (48%)	491 (34%)
<i>Mental Health</i>	6,484 (27%)	1,581 (26%)	872 (17%)	594 (29%)	231 (16%)
<i>Substance Abuse</i>	12,450 (52%)	2,554 (41%)	2,247 (43%)	1,207 (59%)	653 (45%)
Security Threat Group	2,801 (12%)	2,123 (34%)	2,455 (47%)	422 (21%)	323 (22%)

* Based on individuals' first observation in the study period.

NOTE: Population percentages are from total population; other percentages are within group.

Results related to race differences in charges of serious misconduct are presented by race and ethnicity in order of population size during the study period.

Black non-Hispanic: As shown in Table 1, the total population of Black individuals in the study period had a nearly 30% higher probability, relative to the White population, of being charged with serious misconduct. Black individuals' increased probability for moderate- to high-level aggression need was of similar magnitude. STG involvement, though, was three times greater in the Black population compared to the White population.

Relative risk of serious misconduct charges within the Black population varied across facilities and over time within the same facility (Figure 1).

Figure 1. Relative risk and proportion of Black and White non-Hispanic populations charged with serious misconduct by month and facility, 2017-2019



NOTE: Monthly proportions are individuals charged in a month as a share of monthly ADP. Relative risk reflects all individuals located in a facility at any time during the study period.

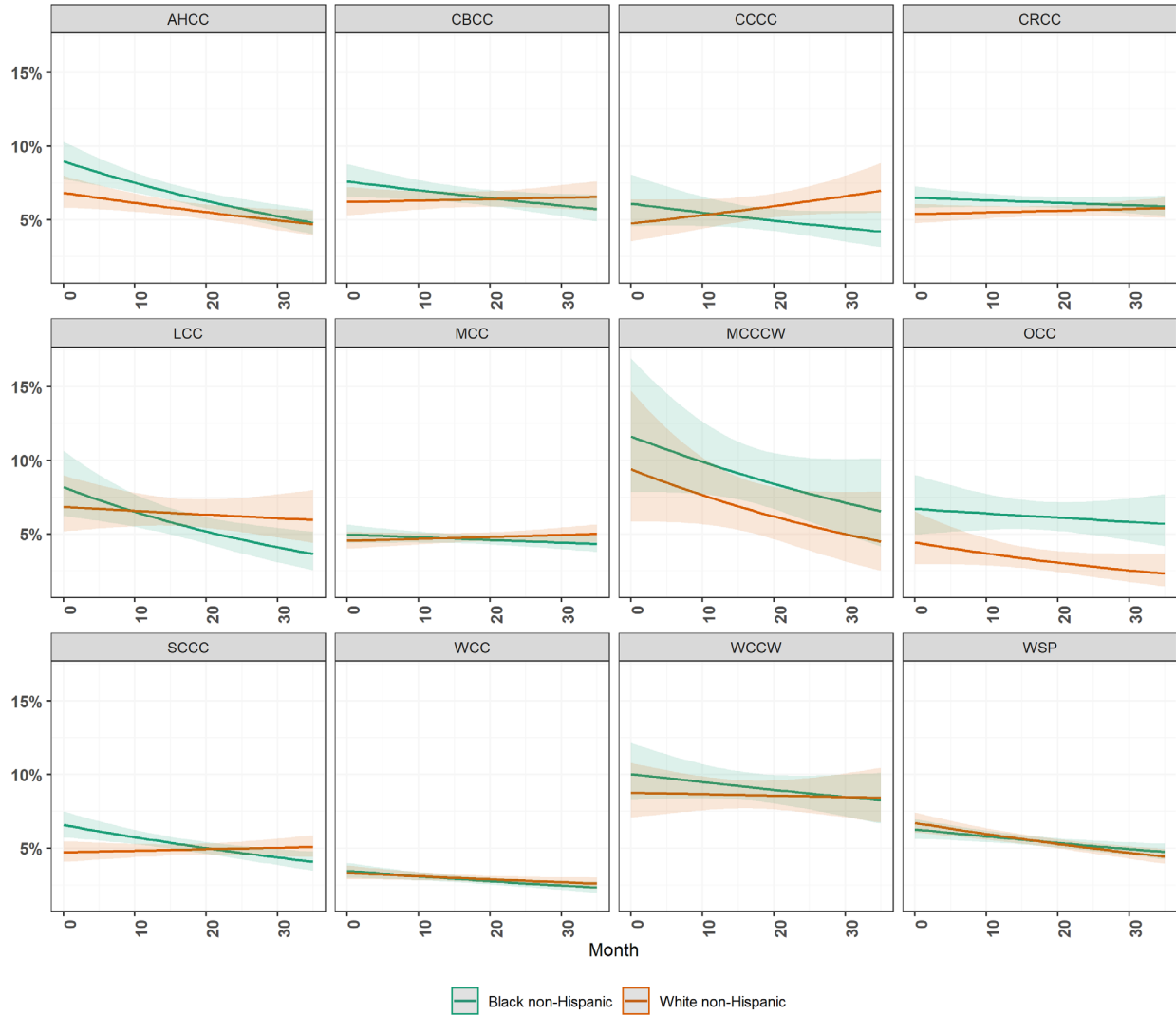
Estimated counts of individuals charged with serious misconduct but who would not have been if there were no difference in risk is presented in Figure 2.

Figure 2. Raw differential representation of Black relative to White non-Hispanic individuals charged with serious misconduct by month and facility, 2017-2019



In a population of Black and White individuals matched on covariates by month and facility, estimated probabilities of being charged with serious misconduct given age, admit history, time from most recent admission and most recent transfer, STG status, and aggression, criminal attitudes, substance abuse, and mental health need are shown in Figure 3. The marginal effect of race on the probability of being charged with serious misconduct is, by and large, diminished between matched groups.

Figure 3. Predicted probabilities of serious misconduct charges in Black and White populations matched on covariates, 2017-2019



NOTE: Lines indicate marginal effects of race with covariates held constant at their means. Non-overlapping intervals indicate high certainty of significant race differences; overlapping intervals do not indicate lack of significance but are inconclusive.

Hispanic: Compared to the White population, Hispanic individuals in the study period had a 22% higher probability of being charged with serious misconduct, and a nearly 20% increased probability for moderate- to high-level aggression need. The Hispanic population had the largest share across groups and a four times greater probability relative to the White population of STG involvement.

Figure 4. Relative risk and proportion of Hispanic and White non-Hispanic populations charged with serious misconduct by month and facility, 2017-2019



NOTE: Monthly proportions are individuals charged in a month as a share of monthly ADP. Relative risk reflects all individuals located in a facility at any time during the study period.

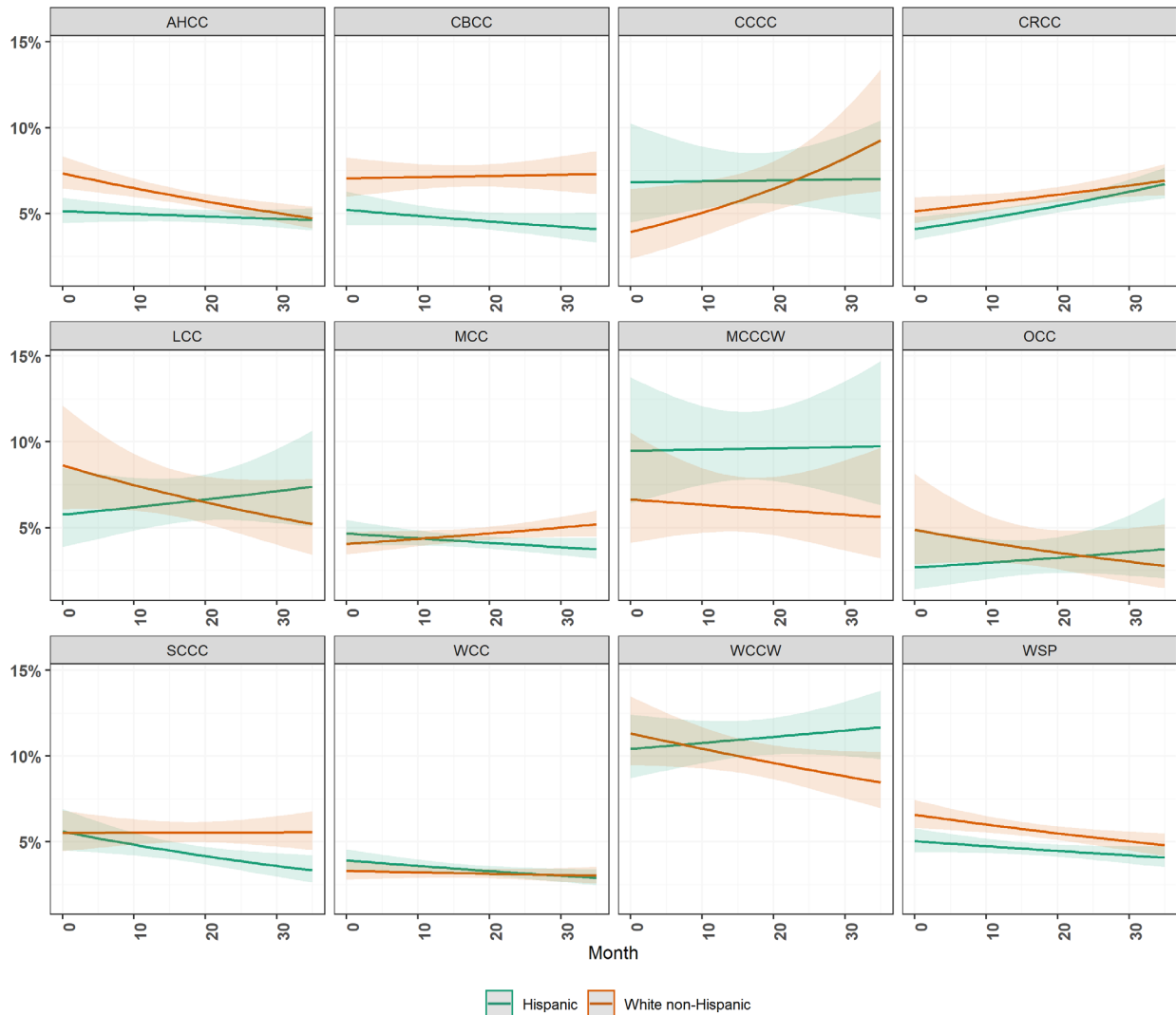
Two measures of disproportionality - relative risk and raw differential representation – are shown for charges of serious misconduct in the Hispanic population in Figures 4 and 5, respectively.

Figure 5. Raw differential representation of Hispanic relative to White non-Hispanic individuals charged with serious misconduct by month and facility, 2017-2019



The Hispanic population’s elevated relative risk of being charged with serious misconduct was, by and large, diminished when compared to a sample from the White population matched by age, admit history, time from most recent admission and most recent transfer, STG status, and aggression, criminal attitudes, substance abuse, and mental health need (Figure 6).

Figure 6. Predicted probabilities of serious misconduct charges in Hispanic and White populations matched on covariates, 2017-2019



NOTE: Lines indicate marginal effects of race with covariates held constant at their means. Non-overlapping intervals indicate high certainty of significant race differences; overlapping intervals do not indicate lack of significance but are inconclusive.

American Indian and Alaska Native: Compared to the White population, American Indian and Alaska Native individuals had nearly 30% higher probability of being charged with serious misconduct. American Indian and Alaska Native individuals had a higher probability of presenting moderate to high-level criminal thinking and substance abuse need, and a higher probability, of STG involvement relative to the White population (Figure 1.).

Figure 7. Relative risk and proportion of American Indian/Alaska Native and White non-Hispanic populations charged with serious misconduct by month and facility, 2017-2019



NOTE: Monthly proportions are individuals charged in a month as a share of monthly ADP. Relative risk reflects all individuals located in a facility at any time during the study period.

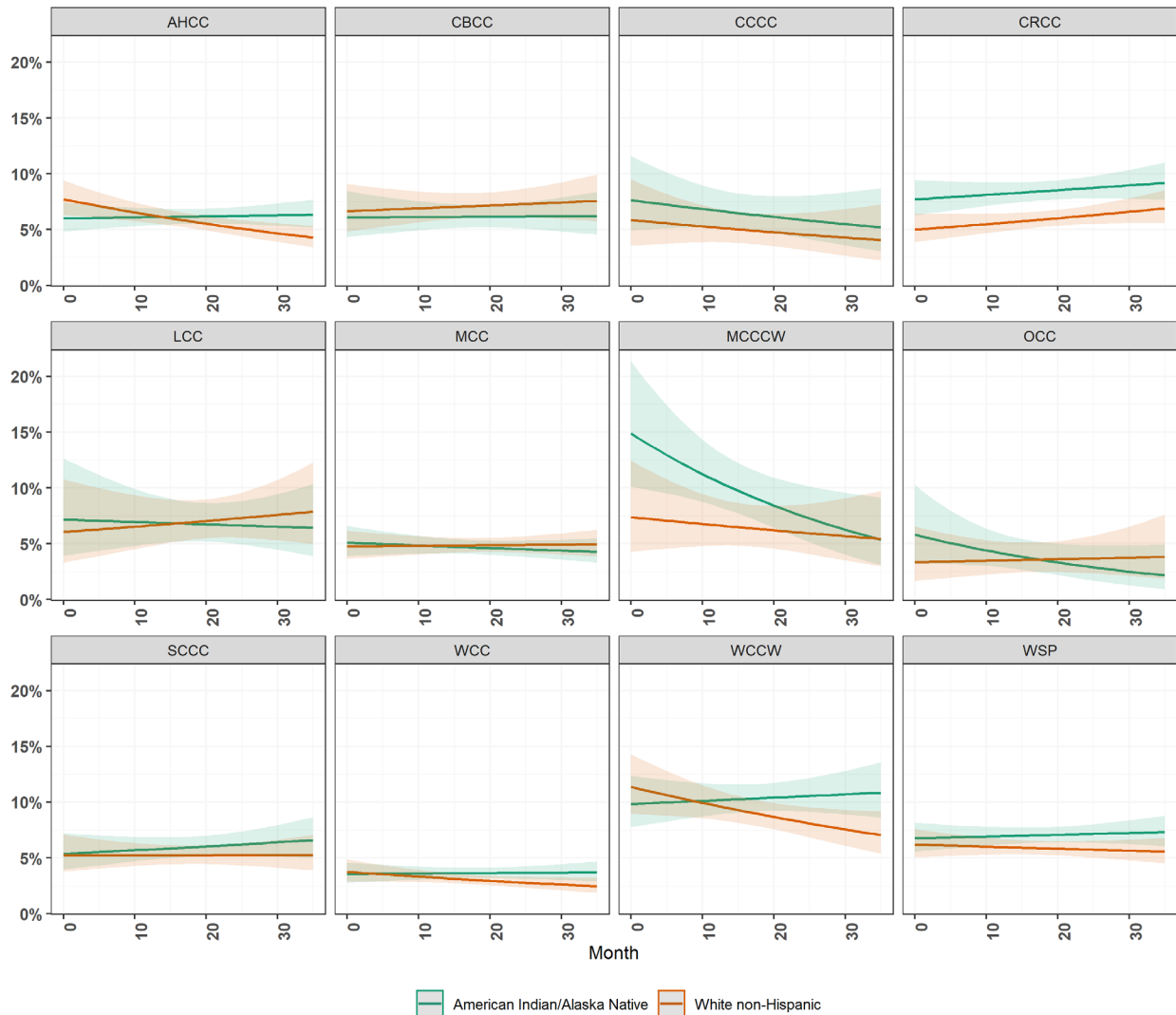
Relative risk and raw differential representation are shown for charges of serious misconduct in the American Indian and Alaska Native population in Figures 7 and 8, respectively.

Figure 8. Raw differential representation of American Indian and Alaska Native relative to White non-Hispanic individuals charged with serious misconduct by month and facility, 2017-2019



Estimated probabilities of being charged with serious misconduct in a population of American Indian and Alaska Native and White individuals matched on covariates and month and facility are shown in Figure 9.

Figure 9. Predicted probabilities of serious misconduct charges in American Indian and Alaska Native and White populations matched on covariates, 2017-2019



NOTE: Lines indicate marginal effects of race with covariates held constant at their means. Non-overlapping intervals indicate high certainty of significant race differences; overlapping intervals do not indicate lack of significance but are inconclusive.

Asian and Pacific Islander: Asian and Pacific Islander individuals' 14% higher probability of being charged with serious misconduct relative to White individuals was the lowest across groups (Table 1). As shown in Figure 10, to the extent that risk of being charged with serious misconduct was elevated within the Asian and Pacific Islander population, it tended to be sporadic over the study period.

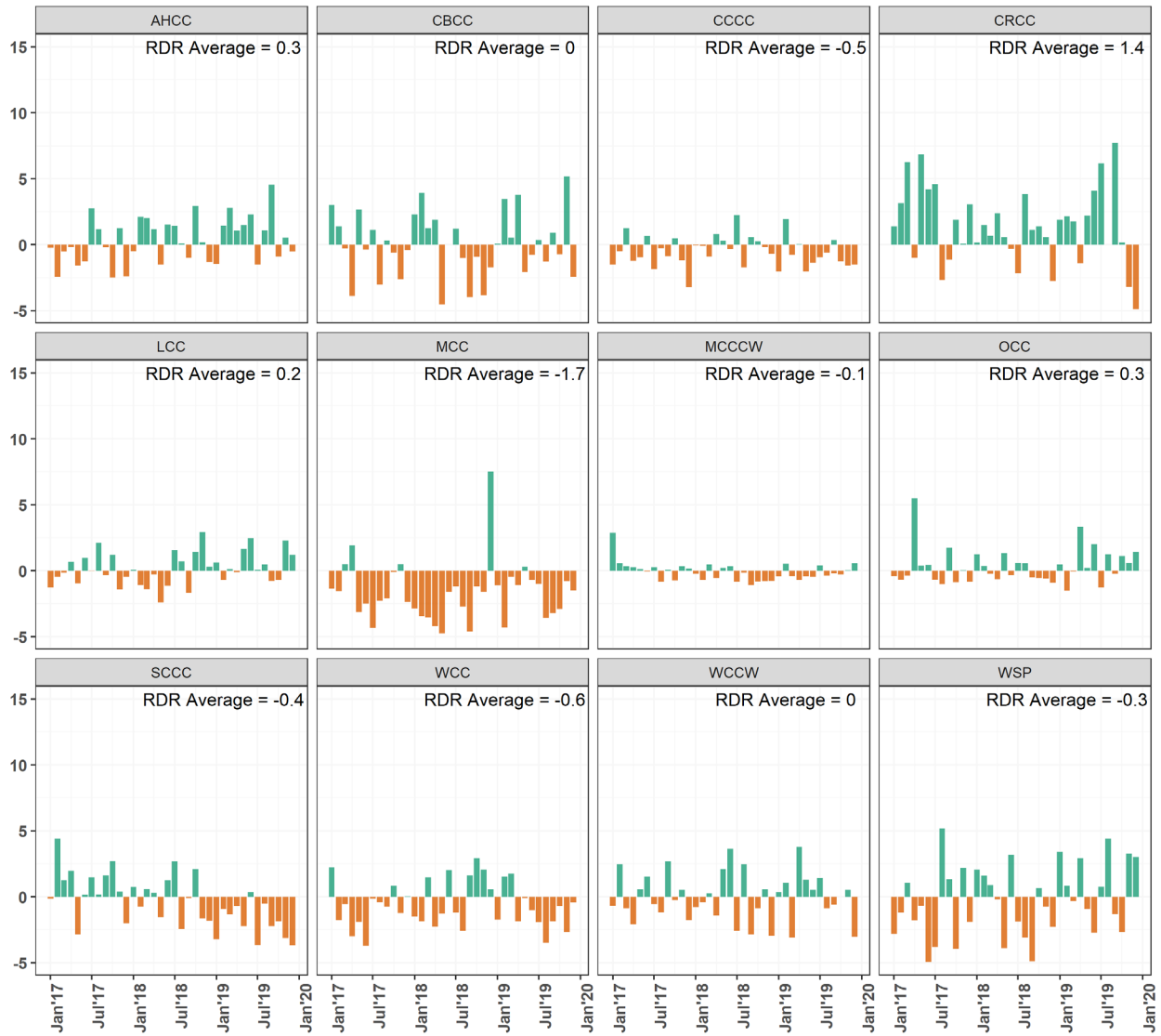
Figure 10. Relative risk and proportion of Asian and Pacific Islander and White non-Hispanic populations charged with serious misconduct by month and facility, 2017-2019



NOTE: Monthly proportions are individuals charged in a month as a share of monthly ADP. Relative risk reflects all individuals located in a facility at any time during the study period.

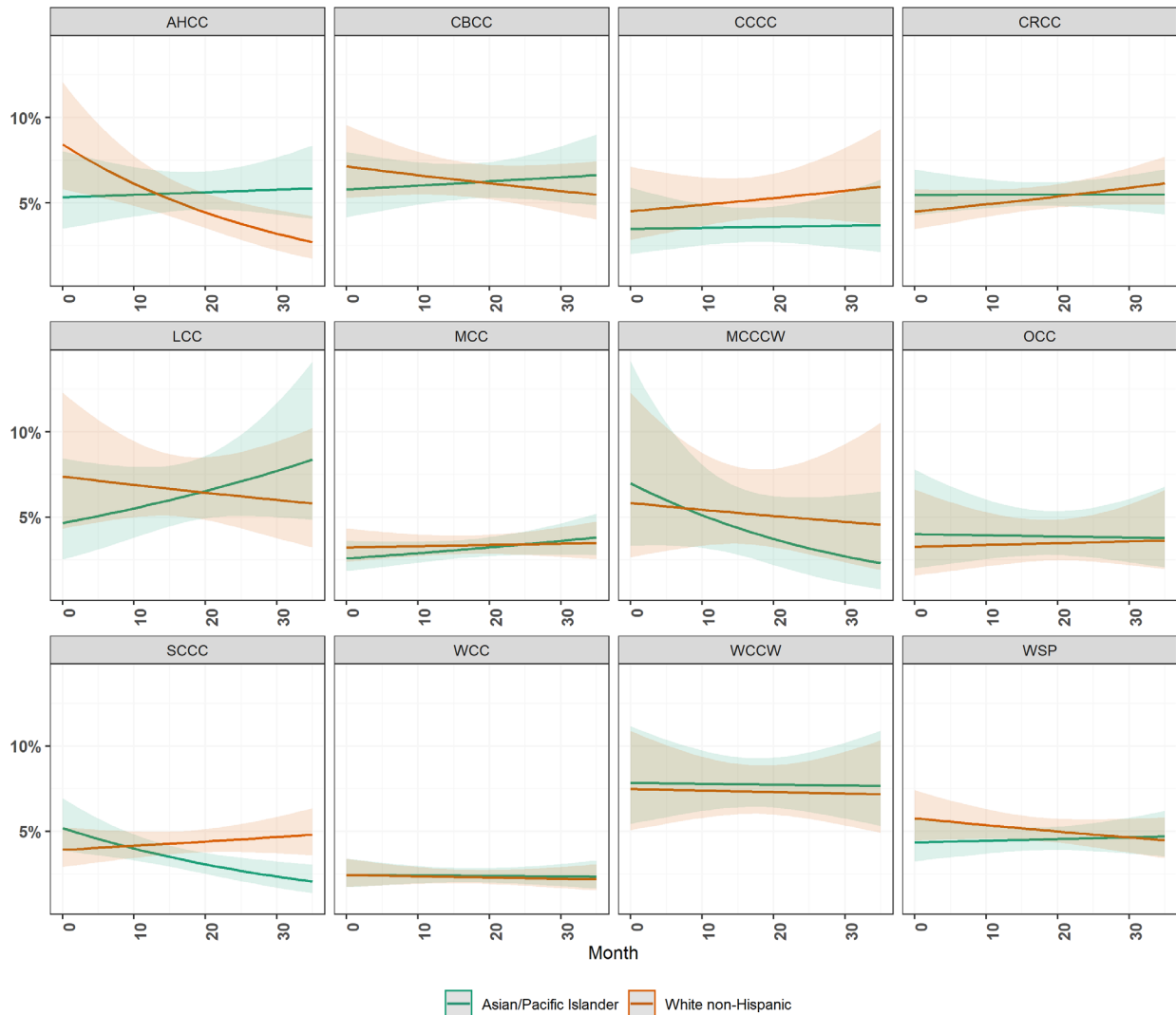
Estimated counts of Asian and Pacific Islander individuals who would not have been charged with serious misconduct if the group's probability of being infringed was equivalent to that of the White population is shown in Figure 11.

Figure 11. Raw differential representation of Asian and Pacific Islander relative to White non-Hispanic individuals charged with serious misconduct by month and facility, 2017-2019



As shown in Figure 12, given a population of Asian and Pacific Islander and White individuals matched on covariates of misconduct, the marginal effect of race on the probability of being charged with serious misconduct is inconclusive.

Figure 12. Predicted probabilities of serious misconduct charges in American Indian and Alaska Native and White populations matched on covariates, 2017-2019

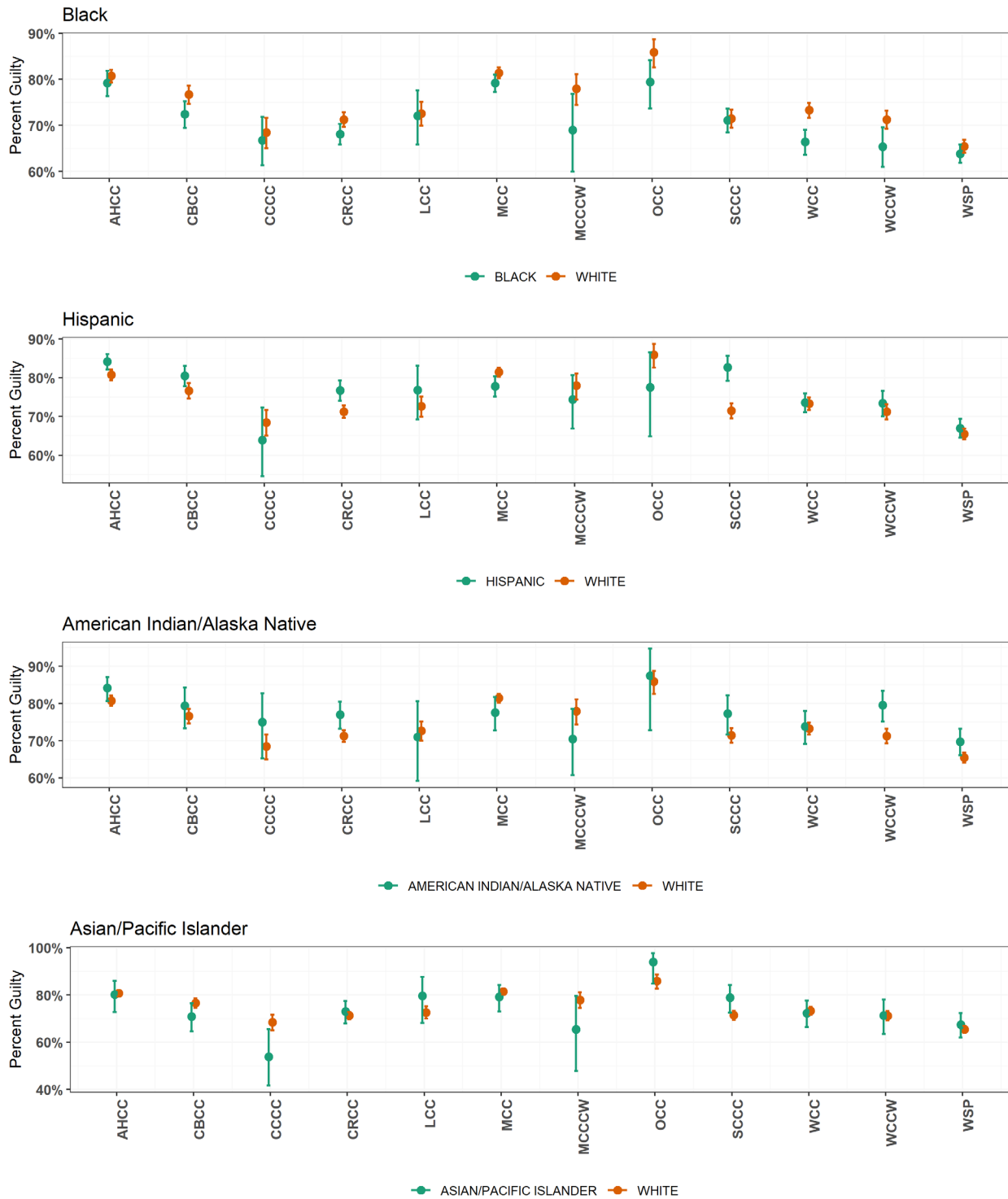


NOTE: Lines indicate marginal effects of race with covariates held constant at their means. Non-overlapping intervals indicate high certainty of significant race differences; overlapping intervals do not indicate lack of significance but are inconclusive.

Hearings

Given a charge of serious misconduct, the probability of being found guilty by race and facility is shown in Figure 13. Black individuals had a lower probability of charges leading to a guilty finding across all facilities, relative to White individuals.

Figure 13. Probability of guilty finding among individuals charged with serious misconduct by race and facility, 2017-2019.



NOTE: Non- overlapping intervals indicate high certainty of significant race differences; overlapping intervals do not indicate lack of significance but are inconclusive.

Sanctions

Counts of individuals receiving sanctions and average sanction time imposed on the frequent sanctions in the study period are shown in Table 2.

Models relating average time imposed to race conditional on STG status found that race was not a significant predictor of sanction time. Segregation time within the Hispanic and Asian and Pacific Islander populations was an exception; in both groups, individuals not involved in an STG spent an additional day in restrictive housing, on average, compared to White individuals.

Table 2. Sanction frequency and average time imposed on serious misconduct, 2017-2019.

	White	Black	Hispanic	American Indian/ Alaska Native	Asian/ Pacific Islander
Segregation					
Frequency	9,162	3,442	2,418	1,006	612
Time Imposed (average days)	13.9	13.9	16.7	14.0	14.7
Loss of Good Conduct Time					
Frequency	8,548	3,179	2,233	977	567
Time Imposed (average days)	33.1	33.9	41.6	33.6	35.0
Loss of Privileges					
Frequency	6,714	2,294	1,816	763	429
Time Imposed (average days)	31.8	30.0	37.9	29.4	31.0
Confinement to Cell/Room					
Frequency	5,229	1,714	1,500	585	362
Time Imposed (average days)	15.6	14.5	17.2	16.1	15.6