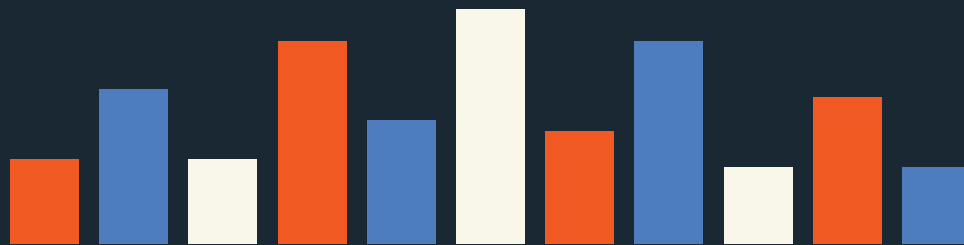




Philadelphia District
Attorney's Office



RACIAL INJUSTICE REPORT:

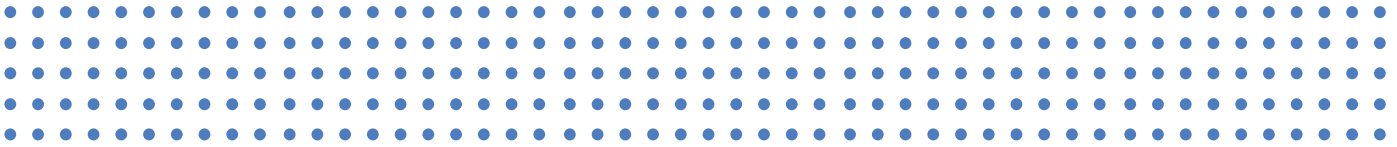
**DISPARITIES IN PHILADELPHIA'S
CRIMINAL COURTS FROM 2015-2022**

ISSUED BY THE PHILADELPHIA DISTRICT
ATTORNEY'S OFFICE | **JUNE 2023**



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Glossary

Bail: Bail defines the terms of release from law enforcement custody with the purpose of ensuring an accused person returns for their court dates. In Philadelphia, bail conditions are set by a Magistrate Judge shortly after arrest. A person may be released on their own recognizance (ROR), released on conditions, or required to post cash bail. Where cash bail is required, a person must generally post ten percent (10%) of the stated amount.

Charge: A charge is an accusation by the Commonwealth that a person has committed a crime. At the District Attorney’s Office, the Charging Unit is responsible for reviewing evidence and determining criminal charges.

Case: A civil or criminal proceeding stemming from one or more charges.

Courts: In Philadelphia, elected judges apply state and federal law to oversee the outcomes of cases. Criminal cases come first before the Municipal Court, with more serious cases proceeding to the Court of Common Pleas.

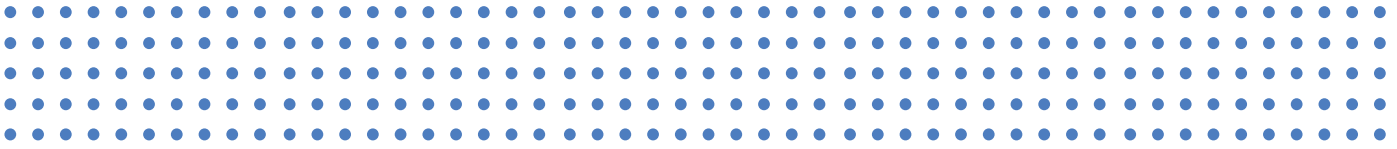
Defendant: A person accused of a crime in a criminal case.

Incarceration: The detention of a person in a jail or prison. In Pennsylvania, sentences to periods of incarceration include both a minimum and a maximum length. The maximum length is required to be at least twice as long as the minimum sentence (e.g., 1-2 years and 1-5 years are both allowed; 2-3 years is not allowed).

Pre-Trial Detention: The period after arrest when a person charged with criminal offenses is jailed prior to the beginning of their trial.

PWID: Possession of illegal drugs with the alleged intention to distribute them (known as a “possession with intent to distribute” or “PWID”) is a common criminal charge in Philadelphia courts.

Sentence: May refer to a term of imprisonment and/or a period of supervision; sentences may include other conditions such as restitution.



Notes on Language

Based on conversations with community partners and input from experts on inclusive language, this report uses the term “Latinx” to encompass individuals who identify within the Latino/a/e/x or Hispanic community.⁽¹⁾ This report also follows the Associated Press style of decapitalizing the term “white” in reference to a racial group.⁽²⁾ In referring to individuals labeled by police as “Asian” (a category that encompasses multiple races and dozens of ethnicities), we use the term “Asian American or Pacific Islander (AAPI).”⁽³⁾

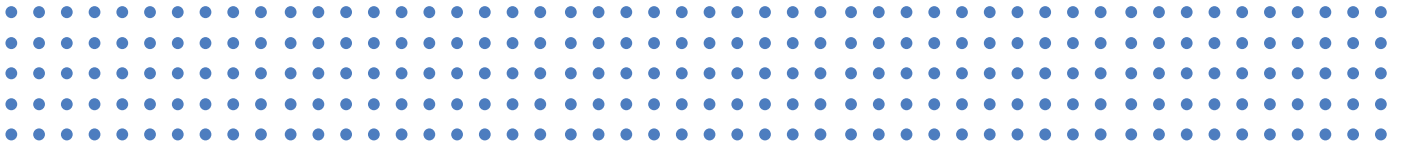
This report uses the term “criminal legal system” to refer to the systems responsible for adjudicating criminal cases. This report sometimes uses the term “criminal justice system” to describe more broadly the connected systems of policing, prosecution, and corrections. In recent years, advocates, scholars, and legal theorists have challenged the assumption that application of the law is always “just,” and have encouraged the use of more specific language to describe carceral practices.⁽⁴⁾

This report uses, at various points, the terms “disparity” and “disproportionality.” Disparity generally refers to a difference in outcomes or treatment, such as different average sentence lengths for different groups. Disproportionality refers, in this report, to an over- or under-representation of a group at a given point in the criminal legal process, relative to that group’s share of Philadelphia’s population. For example, Black Philadelphians made up around 38% of the City’s population from 2015–2022 but accounted for 69% of people arrested in the jurisdiction during that time, indicating this group is arrested at a disproportionate rate.

When disparities and disproportionalities appear in data, it may or may not indicate discrimination. “Discrimination” refers to differences in treatment based on race, gender, class, sexual orientation, or other basis. In looking for evidence of discrimination, analysts will often account for legal or “non-biased” factors that create differences in outcomes, such as charge severity. For example, defendants with more serious charges receive longer sentences, and certain racial groups are more likely to be charged with more serious offenses. When accounting for charge severity, treatment across racial groups may appear more equal. This distinction does not absolve the criminal legal system of bias; it is evidence that discrimination is rooted in social structures outside the justice system.

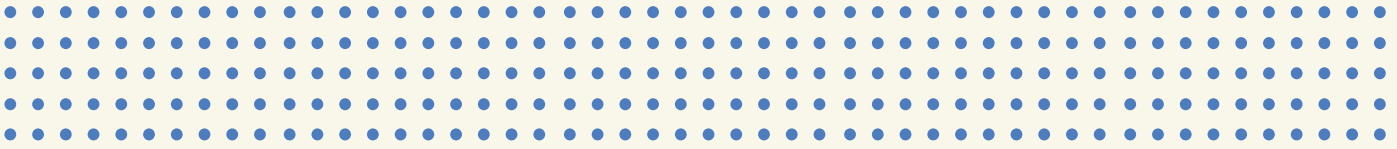


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1. Salinas, C., & Lozano, A. (2021). The history and evolution of the term Latinx. *Handbook of Latinos and education* (pp. 249-263). Routledge.
 2. AP News. (2020). Explaining AP style on Black and white. <https://apnews.com/article/archive-race-and-ethnicity-9105661462>
 3. Zhou, L. (2021, May 5). The inadequacy of the term “Asian American.” *Vox*. <https://www.vox.com/identities/22380197/asian-american-pacific-islander-aapi-heritage-anti-asian-hate-attacks>
 - 4a. Mayeux, S. (2018) The Idea of "The Criminal Justice System". *American Journal of Criminal Law*.
 - 4b. Bryant, E. (2021). Why We Say “Criminal Legal System,” Not “Criminal Justice System.” Vera Institute of Justice.



Key Takeaways

- Archival research conducted for this report demonstrated that racial disparities observed in Philadelphia’s criminal court system are rooted in severe historical injustices and wealth inequality. For over a century, Black Philadelphians have been overrepresented in arrests and criminal charges, relative to their representation in the City’s broader population. Disparities have not been resolved and in many cases have been worsened by federal, state, and local laws and policies.
- Combining publicly-available datasets reveals that markers of systemic disinvestment such as poverty, unemployment, litter, health problems, and eviction are concentrated in formerly red-lined neighborhoods where residents are predominantly Black and Latinx.
- From 2015 to 2022, Black defendants were charged at disproportionately higher rates relative to other groups in seven of the eight most common criminal charge categories.
- Even when accounting for prior criminal record and illegal firearm charges, Black and Latinx individuals who are convicted of aggravated assault or burglary are more likely to be sentenced to incarceration than white individuals convicted of the same crime.
- Latinx individuals convicted of possessing drugs with intent to distribute (PWID) are more likely to be sentenced to incarceration than Black or white defendants, even when they have no prior record or illegal firearm charges.
- While this administration’s policies have helped to reduce disparities in supervision and probationary sentences, large racial disproportionalities remain in Philadelphia’s court system.
- Justice agencies and social institutions must work together to fix the structural racism that creates disparities across systems.



Letter from DA Larry Krasner:

This report asks us to face the impact centuries of systemic racism and economic inequality in Philadelphia have had on our criminal legal justice system. It puts numbers to a problem. It is a starting point for all people of good will to think together and work together to defeat racism in criminal justice.

On the numbers, there are staggering disparities in outcomes by race that often connect to race discrimination and to economic inequality. The District Attorney is sworn to seek justice, which clearly requires fighting against racism. But the results of centuries of oppression cannot be understood much less undone by any single actor. In releasing this report, and the different outcomes it highlights, I am calling on all Philadelphians to try to understand these disparities, to determine their causes and effects, and to work together to fix them.

Unequal treatment of Black, brown, and impoverished Philadelphians can be seen in neighborhoods and schools throughout the city. Disparities in the criminal justice system begin in the crumbling infrastructure of our poorest neighborhoods and in our underfunded public schools. I take some comfort in the fact that, during this administration, the District Attorney's Office has made some progress in combatting racial disparities. These achievements include:

- Reducing wildly excessive incarceration and supervision of convicted Philadelphians who are mostly Black and brown. This administration has taken a variety of approaches to end the legal practices and processes that produce racial disparities and harm communities. In 2018 and 2019, this administration implemented our Ending Mass Supervision policies to reduce the unfair impact of long probation sentences across the board. In two years, those policies resulted in a significant reduction in the disparity.
- Greatly increasing victim services and resources for victims of serious crimes who are mostly Black and brown.
- Building a Conviction Integrity Unit and Appeals Unit that have overturned the convictions of dozens of wrongfully convicted and incarcerated people, nearly all of whom were Black and brown.
- Increasing community representation among DAO staff.

In the past decade, Philadelphia has made strides toward ending mass incarceration and mass supervision. Thanks to the combined efforts of justice agencies as well as funding and expertise from the MacArthur Safety and Justice Challenge, the City's prison population has fallen by half since 2015.⁽⁵⁾ The number of state prison cells occupied by Philadelphians has reduced as well. This means thousands fewer people, many of whom are Black and brown, in custody each year. These efforts are not enough to overcome centuries of racism, white supremacist violence, and discriminatory disinvestment in communities.

Across the U.S., Black people (particularly Black men and boys) as well as Latinx and Native American individuals continue to be killed through contact with law enforcement at higher rates than other groups.⁽⁶⁾ The protests of 2020 represented a massive, national rebuke of police brutality and mass incarceration, and they underscored an ugly truth: we are failing in our efforts to address systemic racism. The findings here show that Black Philadelphians are impacted differently at all stages: stops and arrests, charging, bail and pre-trial detention, case outcomes, sentencing and incarceration.

Part of the problem is that reducing disparate outcomes and reducing overall system impact does not necessarily reduce disproportionalities. In other cities that participate in the MacArthur Safety and Justice Challenge, efforts to reduce the total local prison population have been associated with worse disproportionalities for people of color. For example, in Philadelphia in July of 2015, there were 5,456 Black Philadelphians locked up, representing 67.5% of the prison population. At the end of 2022, there were 3,119 Black Philadelphians incarcerated, but they represented 72.5% of the prison population.⁽⁷⁾ This is especially disheartening, considering that from 2015-2022, Black Philadelphians made up nearly 40% of the City's overall population. The statistics highlight severe disproportionalities and signal that American society is fundamentally racist, including its criminal justice system.

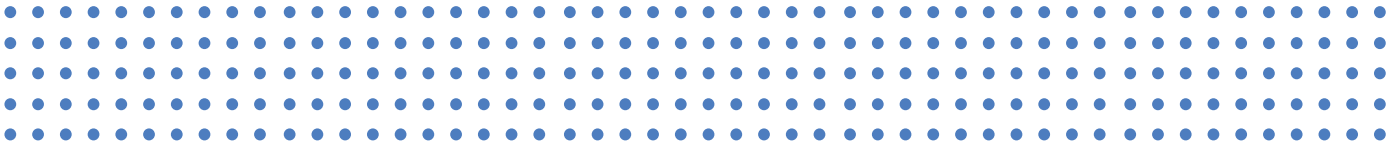
These issues of over-representation are due to structural racism, the vestiges of white supremacy that are baked into our country's legislative and law enforcement practices. While we can work to reduce disparities on the back end of the process, we must also look at the systemic factors that front-load the criminal legal system with disproportionalities. These factors include vast social problems such as neighborhood poverty, unemployment, shuttered schools, and insufficient public services. This report aims to explain some of the complex history that led us here, so that we can better understand the systemic changes to be made.

We wrote this report because we can't fix what we don't measure. The reform movement requires all of us to look critically at trends that disproportionately impact individuals across racial, ethnic, and cultural groups with a commitment to ensuring justice through evidence-based policy implementation and evaluation. Thanks to improvement in this office's data infrastructure and increased analytical capabilities through the DATA Lab, we are able to put numbers to the inequalities that show up in our work as public prosecutors.

Advancing racial justice is among the most important goals of the movement to reform the criminal legal system. Minimal progress has been made on this front, and it will take a massive, collaborative effort in society and among criminal justice actors to end the racist outcomes in the criminal justice system. Putting numbers to the problem are a first step.



Lawrence S. Krasner
District Attorney of Philadelphia



Acknowledgements

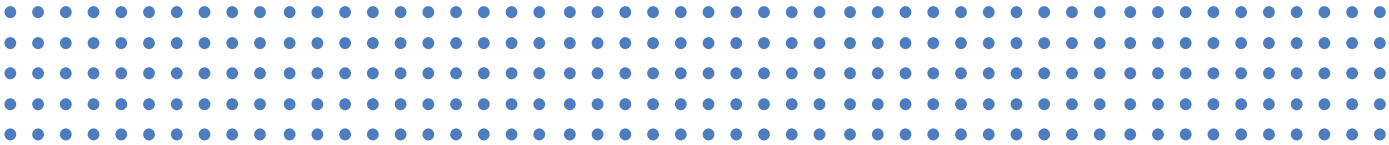
Many talented, insightful people guided and supported the development of this report. We would like to thank the following individuals and organizations for giving feedback and direction: Will Gonzales, Executive Director of Ceiba; Marcos Lomeli, Program Director of Ceiba; Julian Rios; other individuals who attended community sessions to discuss the report; the 57 Blocks Community Advisory Board; attorney Troy Wilson; attorney and ACLU of Pennsylvania board member Riley Ross; attorney Nia Holston, Abolitionist Law Center; attorney Reggie Shuford, North Carolina Justice Center; attorney and activist Michael Coard; Greg Srolestar, Senior Director of Research at Fair and Just Prosecution; Timothy Welbeck, Director of the Center for Anti-Racism at Temple University; Dr. Talitha Washington, Director of the Atlanta University Center (AUC) Data Science Initiative.

Many current and former staff members across the Philadelphia District Attorney's Office (DAO) contributed to this report, including: District Attorney Larry Krasner, First Assistant Judge Carolyn Temin, First Assistant Robert Listenbee, Reverend Gregory Holston, Mike Lee, Angel Flores, Amanda Hedrick, Liam Riley, Dana Bazelon, Nickisha Cox, Shawn Baldwin, Ian Courts, Deborah Watson Stokes, Ciara Sheerin, Alexa Cinque, Sean Mason, Michael Hollander, Tyler Tran, Sebastian Hoyos-Torres, Christian Smith, Yasmin-Ayala Johnson, Mikayla Smith, Mariel Delacruz, Wes Weaver, CJ Arayata, Tyrell Mann-Barnes, Dr. Oren Gur, and Kate Kelly.

We also acknowledge community advocates who spoke up for racial justice before, during, and after the 2020 George Floyd and Walter Wallace protests. These demonstrations, the largest civil rights protests in U.S. history, were an example of how communities hold the legal system accountable for death and injustice. We thank all those who continue to draw attention to the violence and unfairness done to Black people, and those of other marginalized identities, by the criminal legal system.

Suggested Citation

Philadelphia District Attorney's Office. (2023). Racial Injustice Report: Evaluating Racial Disparities in the Philadelphia Criminal Legal System.



About the Report

Racial inequalities are present in Philadelphia’s criminal legal system. As a law-enforcement agency, the Philadelphia District Attorney’s Office (DAO) has participated in, has perpetuated, and more recently has fought against racial injustice. In order to account for these harms and identify solutions, it is necessary to take stock of history and policy, and put numbers to disparities as they stand.

The report begins with a historical review, followed by a presentation of the data, and concludes with a discussion of future policy directions. The analysis, conducted by the District Attorney’s Transparency & Analytics (DATA) Lab Unit, encompasses over 290,000 cases charged from 2015–2022 and focuses on five main stages of a criminal case: 1) stop and arrest, 2) charging, 3) bail and pre-trial detention, 4) case outcomes, and 5) sentencing and incarceration.



Stop & Arrest



Charging



Bail & Pre-Trial
Detention



Case Outcomes



Sentencing &
Incarceration

The data revealed that, overall, the system is shrinking—far fewer people are arrested and incarcerated now than in 2015. This has resulted in thousands fewer Black and Latinx Philadelphians sent to jail and prison or sentenced to long, strict probation mandates. Furthermore, when accounting for the seriousness of charges and/or prior criminal record (two legal factors that influence the outcome of a case), we find that disparities between racial groups are often significantly diminished.

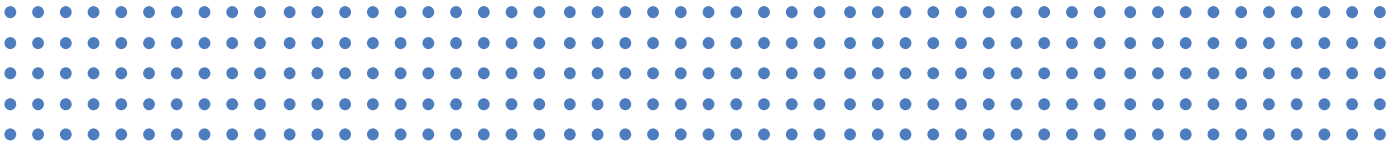
While these points are encouraging signs of progress, the data also showed that the system’s overall impact fell most heavily on Black and Latinx Philadelphians. During the study’s 8-year timeframe, Black Philadelphians were overrepresented at nearly every stage of the system compared to white and AAPI Philadelphians. Black Philadelphians were stopped and arrested at disproportionate rates, charged with more serious offenses, less frequently released pre-trial, and finally, when convicted, were more likely to be incarcerated. Additionally, in some charge categories, Latinx defendants experienced more punitive outcomes than their white and AAPI counterparts.

The goal of this report is to assess contemporary racial disparities, provide historical context on why they came to exist, and identify actions that the DAO and other Philadelphia agencies should take to



advance racial justice. The racial justice protests of 2020, the largest recorded protests in U.S. history, underscored the biases that are baked into our public systems.⁽¹⁰⁾ In Philadelphia, as in other U.S. cities, these largely peaceful protests were met with militarized police response that violated constitutional rights and further traumatized marginalized communities.⁽¹¹⁾ The protests also highlighted the fact that racial inequalities observed in today's data are rooted in history. Centuries of enslavement, violence, segregation, discrimination, and biased legislation targeted most explicitly towards Black and Native Americans have created layers of inequality that continue to impact our society. Archival research revealed that Black Philadelphians were overrepresented in Philadelphia arrests over 100 years ago, signaling deep-seated problems in our city's justice system and the need for coordinated reform.

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5. First Judicial District of Pennsylvania Department of Research and Development. Philadelphia Prison Population Report: July 2015 – December 2022.
 6. GBD 2019 Police Violence US Subnational Collaborators. "Fatal police violence by race and state in the USA, 1980–2019: a network meta-regression." *The Lancet* 398, no. 10307 (2021): 1239–1255.
 7. Ibid.
 8. The New York Times (2020). Black Lives Matter May Be the Largest Movement in U.S. History.
 9. Griffin, J (2020). Philadelphia will pay \$9.25M to protesters over police use of tear gas and rubber bullets during 2020 unrest. *The Philadelphia Inquirer*.



Erasure in the Data

Before presenting any information or findings, it is essential to note that current and historical public data systems do not accurately capture the ethnic, cultural, and racial identities of all people in this country. The way data is captured (or not captured) can mask or “erase” differences between groups, which impairs our understanding of diverse society. The well-documented undercounting of Native American, Latinx, Asian American or Pacific Islander (AAPI), and Middle East or North African (MENA) people in the U.S. Census and other essential databases is historic and intentional.⁽¹⁰⁾ As the historical section of this report will document, certain people and groups in power in the U.S. sought (and continue to seek) to establish a white-supremacist state. To accomplish this, it is essential to undercount non-white individuals and resist data transparency so that statistics cannot be effectively used to advocate for the humanitarian, civil, and legal rights of marginalized groups.

All data is imperfect, but this is doubly true about data on the criminal legal system. Contrary to what is depicted in TV crime dramas, public legal systems and local police do not frequently invest in new software or forensic technology. In many jurisdictions, essential data are kept in case files, on paper, and never entered digitally. Most jurisdictions operate on systems that are limited and far out-of-date. In 2012, for example, the San Francisco Police Department updated their 1980s-era computer system that could only record four races: Black, white, Chinese, and other.⁽¹¹⁾ According to the data, people of Native American, Latinx, AAPI, and MENA identities simply did not get arrested, erasing these experiences.

Using past and current data, without attention to historical context and collection methods, can lead to dangerous assumptions and biased policy decisions that have negative consequences for invisibilized communities. Unfortunately, reports on racial injustice cannot be issued without incurring the collateral harm of erasure. The data in this report uses racial identifications made by police—it is unknown how accurate this data is, or how often arrested people were asked to self-identify. In Philadelphia, police record people they arrest as belonging to one of five racial categories (Black, white, Asian, Native American, and unknown) and can add a “Latino” flag to any of these races (see page 34). Given the limited available measures, this report collapses race and ethnicity into four categories for analysis: Black, white, Latinx, and AAPI. People of any race who the police flagged as “Latino” are included in the Latinx category.

This report combines available measures of race into 4 categories





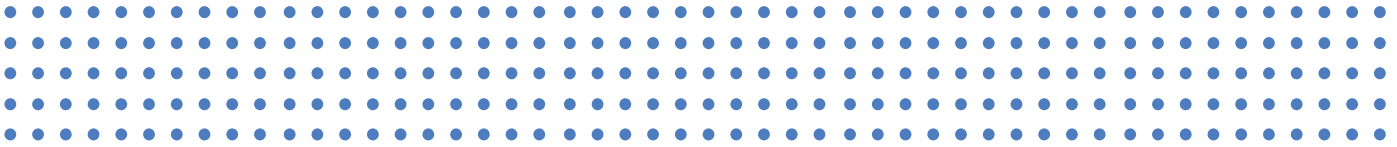
Choices in data analysis methodology can also result in instances of erasure. Due to relatively low numbers of people identified as AAPI by police, the category is not included in some of the graphs in this report. The nearly 300 people arrested between 2015 and 2022 who were identified as “Native American” or “Native American-Latino” are also missing from the following analysis, along with anyone of unknown race or ethnicity.

This report’s approach to race reflects the difficult ethical decisions associated with data analysis, and suggests a system-wide responsibility to improve data quality. The choices made in data collection and data entry have the potential to literally erase the ethnic and cultural identities of thousands of people. Masking these experiences can hinder advocates’ ability to attract needed reforms, culturally responsive programming, targeted funding, and community investment. This underscores the importance and urgency of a policy recommendation that appears later in this report: in order to advance racial justice and achieve more fairness in our work, prosecutors, judges, and prison officials must partner with communities to invest in more accurate and ethical data practices.

10a. Wang, H (2022). The U.S. census sees Middle Eastern and North African people as white. Many don't. National News, National Public Radio.

10b. Wang, H (2022). The 2020 census had big undercounts of Black people, Latinos and Native Americans. All Things Considered, National Public Radio.

11. Hudson, J (2012). The San Francisco Police Department Just Stopped Listing Asians as 'Chinese.' The Atlantic Magazine.



A City of Diversity & Disparity

Philadelphia is a city with rich history, vibrant neighborhoods, and one of the most diverse urban populations in the country. Home to some of the country’s most prominent luminaries, abolitionists, artists, and scholars, Philadelphia is also one of the country’s most residentially segregated cities.⁽¹²⁾ The high levels of housing segregation also correspond to markers of social disadvantage such as poverty, and these disadvantages are risk factors for criminal legal system involvement.

The Ben Franklin Bridge viewed from 10th & Race Streets in 1973.



Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.

The vestiges of past policies and social developments continue to affect the city’s neighborhoods and institutions today. Past policy actions grounded in racism, such as redlining, set neighborhoods on a long downward trajectory and continue to harm the futures of residents by putting them at higher risk of experiencing crime and violence. To understand how existing disparities came to exist, it is essential to examine national and local history.



Slavery & Segregation

American prosecution and policing systems emerged before Emancipation and were tasked in-part with enforcing the practice of slavery. Across the country, the criminal legal system has served as a cornerstone of structural racism, and a mechanism through which inequalities are created and sustained. Our city is no exception, and archival research helps explain the processes that have created disparities in Philadelphia.

During the United States' period of legalized slavery, early police forces patrolled for Black people who had escaped from their traffickers. When the Civil War ended and slavery was made illegal in 1865, states around the country passed laws designed to maintain white supremacy and continue control over the livelihoods of Black people and their movement through society. Bigoted lawmakers wrote and enacted the Black Codes and Jim Crow laws, which police and public prosecutors later enforced.⁽¹³⁾ This strategy of associating anti-Black laws with broader systems of public safety can be seen as creating a pathway to modern racial profiling.⁽¹⁴⁾

The effort to directly uphold elements of slavery through the criminal legal system is best illustrated by “convict leasing,” a practice in which Black people who were arrested and found guilty of minor crimes (such as “loitering”) could be “leased out” to perform forced, unpaid labor.⁽¹⁵⁾ The same people who were freed under the Emancipation Proclamation were re-enslaved through contact with the courts, convicted of breaking the discriminatory laws that targeted them.⁽¹⁶⁾

The local officials of Northern cities held many of the same racist, segregationist values as their southern counterparts. Though Philadelphia was home to many abolitionists and free Black luminaries, and was a prominent stop on the Underground Railroad, the city’s neighborhoods and social institutions remained highly segregated. Through racially and economically restrictive housing covenants and stringent voting requirements, Northern cities constrained the rights of Black people in an alternative form of Jim Crow.⁽¹⁷⁾

13. Wilson, T. B. (1965). *The Black Codes of the South*. University of Alabama Press. p.63-64

14. Harris, D (2020). Racial Profiling: Past, Present, and Future? The American Bar Association.

15. Bowman, B. & Forde, K (2017). Exploiting black labor after the abolition of slavery. *The Conversation* (US).

16. Douglas A. Blackmon, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (New York: Anchor, 2009)

17. Rothstein, R. (2017). *The color of law: A forgotten history of how our government segregated America*. Liveright Publishing.



The Great Migration(s)

Philadelphia's Black population grew throughout the late 1700s and 1800s, with Black communities taking root long before the Civil War.(18) After 1865, the end of chattel slavery further changed the social and legal landscape of the United States, prompting mass movement among certain populations. Fleeing decades of white-supremacist violence in the South post-Emancipation, and seeking opportunity in booming cities, more than six million Black Americans moved north between 1900 and 1970 in a period called the “Great Migration.”

Scholars note that the Great Migration happened in two waves, the first taking place in the early 1900s throughout World War I and the second taking place between 1940 and 1970.(19) Between 1900 and 1920, Philadelphia’s Black population grew from 63,000 to 134,000. Seeking a better life and social freedoms, these new families were met with violence and exclusion by white residents. In a particularly dark period, referred to as the Red Summer of 1919, white supremacist violence plagued northern cities, including Philadelphia.(20) Surveys showed the city to be so hostile to Black people that some considered moving back to the South.(21)

As in many American cities, policing was used to contain people of color who were perceived as “stealing” white jobs and “invading” white neighborhoods. These biases contributed to disproportionate incarceration rates for Black people in other Northern cities following the Great Migration.(22) Studies found that migrating to the North roughly doubled a Black person's chance of becoming incarcerated.(23) In 1924, Black Philadelphians were only 9% of the city's population but nearly 25% of all people arrested.(24)

Despite the violence and discrimination, Black Americans continued to move here and built vibrant communities throughout the city, particularly in North and West Philadelphia. Though Black workers were routinely discriminated against in the job market, some families thrived and established Philadelphia’s Black upper classes, building ornate mansions and staying close to their longstanding neighborhoods.

Over the same period, Philadelphia’s Puerto Rican, Filipino, Desi, and Vietnamese populations also took root and grew significantly, joining historic Chinese communities that had been established in the early 1800s.(25) These diverse groups of people living in Philadelphia were offered unequal opportunities, a fact at least partially reflected in the criminal justice system.

Despite being one of the most diverse cities in America, and a former stronghold of 1800s anti-slavery organizing, Philadelphia remains one of the most residentially segregated urban areas in the country.



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18. Finkenbine, R. E. (2003). *Sources of the african american past: Primary sources in american history*. Pearson College Division.
 19. Wilkerson, I. (2020). *The warmth of other suns: The epic story of America's great migration*. Penguin UK.
 20. Wolfman-Arent, A (2018). A 1918 'race war' and its ties to Philadelphia's present. WHY.
 21. Wolfinger, J (2013). African American Migration. *The Encyclopedia of Greater Philadelphia*.
 22. Muller, C (2013). Northward Migration and the Rise of Racial Disparity in American Incarceration, 1880–1950. *American Journal of Sociology*, Vol. 118, No. 2, pp. 281–326
 - 23a. Eriksson, K (2016). Moving North and Into Jail? The Great Migration and Black Incarceration.
 - 23b. Thompson, Anna J. (1926) A Survey of Crime among Negroes in Philadelphia. *Opportunity* 4 (July-September): 217-19, 251-54, 285-86.
 24. Saint, D., McCoy, C., Rowan, T., & Russ, V (2020). Black and Blue – Police Brutality Against Black People in Philadelphia: A timeline. *The Philadelphia Inquirer*.
 - 25a. Matza, M (2012). Artist to complete mural honoring Philadelphia's Filipino population. *Philadelphia Inquirer*.
 - 25b. Wilson, K (2015). Chinatown. *The Encyclopedia of Greater Philadelphia*.

Redlining & White Flight

Philadelphia continued to grow as the region's abundant agriculture, production, and wartime job vacancies attracted people of diverse ethnicities throughout the 1930s and 1940s. The Great Depression (1929-1939) dramatically affected the economies of the U.S.-controlled territory of Puerto Rico and the Southern states. This drew even more people to the industrial jobs available in Philadelphia, which was becoming a leader in production and manufacturing.(26)

This increasingly diverse population was often excluded from economic opportunities afforded to white people. One significant factor in this exclusion was "redlining," the process by which agencies such as the Federal Housing Administration (FHA) designated neighborhoods as "desirable" or "undesirable" based on racial demographics. This severely restricted the availability of mortgages and other economic benefits and, along with exploitative real estate practices that institutionalized housing segregation, created massive disinvestment in Black and other communities of color.(27)

The financial repression of redlining was reinforced with hiring bias on the job market, as well as local discretion in administering federal benefits (such as the G.I. Bill). While white veterans could use federal G.I. bill benefits to attend college and buy houses, these options were made unavailable to 1.2 million Black veterans.(28) The cumulative effect of policies rooted in racism was that Black families were prevented from building the same generational wealth on average as white families.(29)

These policies were passed and enforced due in part to the personal racism of individual residents. Unwilling to tolerate neighborhood diversification, wealthier white Philadelphians began self-segregating in the suburbs in a nationally observed movement known as "white flight." Many of the city's predominantly white neighborhoods vocally and violently resisted integration. When a Black family moved to the Kensington-Fishtown area in 1966, white residents rioted outside for several days.

White residents riot outside the home of a Black family that moved to Coral Street in the Kensington-Fishtown neighborhood in 1966.



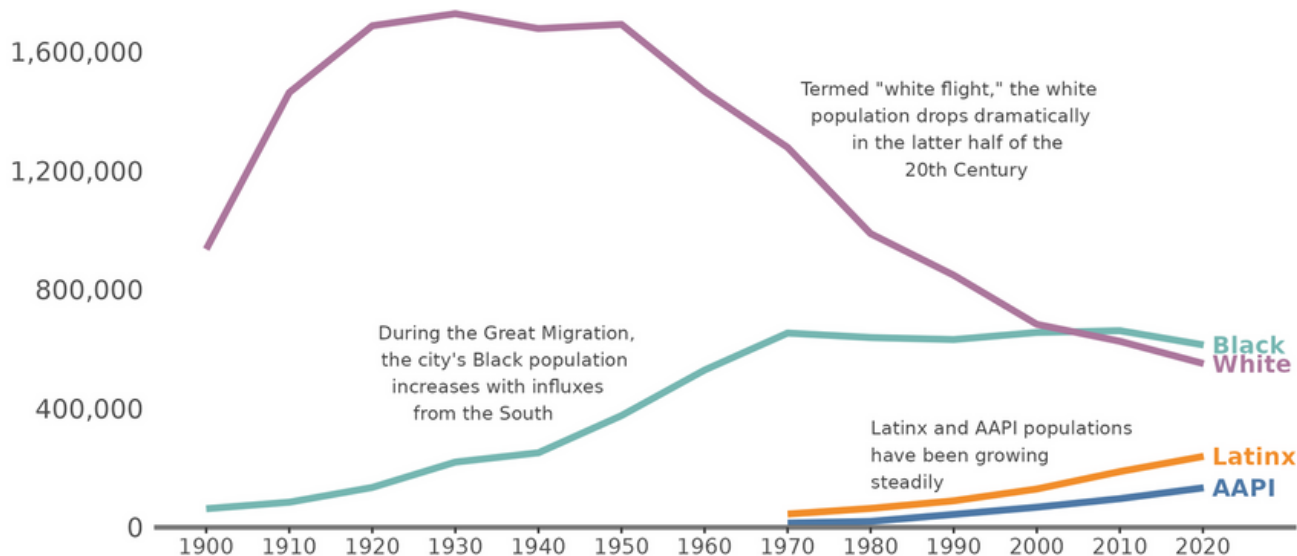
Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.

Between 1950 and 1990, nearly one million white people moved out of Philadelphia. White flight intensified the most between 1970 and 1980, when the city’s total population fell by more than 13%. However, some groups experienced growth; Philadelphia has a significant, historical Puerto Rican population, and these communities grew steadily from the 1970s onward.

As the city’s overall population shrank, the industrial and manufacturing jobs that had attracted people for over a century began to diminish. With an eroding tax base and declining industry, Philadelphia was left with fewer jobs, deflated labor unions, and divestment from the public services. All of these factors contribute significantly to housing stability and public safety, meaning that poorer communities with low employment and low union membership tend to experience more violence and crime.

1. City of Philadelphia population, by race (1900-2020)

See Appendix D for details on the growth of ethnicities included in Latinx and AAPI categories



Philadelphia’s Black, Latinx, and AAPI Populations grew in the 20th century, but the white population has been shrinking in size since 1950s. Source: U.S. Census Bureau, Decennial Census, 1900-2020. Census data obtained from IPUMS NHGIS, University of Minnesota, www.nhgis.org.

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The War on Drugs

Working-class people of all racial and ethnic backgrounds absorbed the impact from the severe decline of urban manufacturing. Neighborhoods with the most job loss quickly fell into physical disrepair and epidemics of addiction. As poor neighborhoods endured widespread problems related to drug use, federal and state officials responded with a set of punitive laws and policies that went well beyond serious trafficking and drug-related violence. In the height of this “War on Drugs” era, even cases of simple possession were relentlessly pursued.

Although the laws passed during the War on Drugs appeared to apply to all citizens, their impact fell most heavily on Black and Latinx Americans. Though most racial groups use illegal drugs at similar rates, Black and Latinx people were stereotyped and targeted by law enforcement, media outlets, entertainment culture, and the general public as drug-involved and violence-involved.⁽³⁰⁾ Top aides to former-President Nixon openly acknowledged that harsh drug laws and public fearmongering were explicitly intended to suppress demands for racial justice and economic equality. The War on Drugs, according to the Nixon aide, was a way to “disrupt those communities, [...] arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news.”⁽³¹⁾

Later, Presidents Reagan and Bush Sr. continued to endorse and fund the drug war. Federal agencies gave out funding for increased drug law enforcement, helping to militarize the police forces of even small jurisdictions. As policing practices intensified and became more violent, the creation of intentionally biased drug laws reinforced racial disparities. For example, the Anti-Drug Abuse Acts of 1986 and 1988 imposed harsher penalties for possession of rock-form cocaine than for powder cocaine, despite being chemically the exact same drug. This resulted in shorter sentences for white people, who tended to use powder cocaine, and very long sentences for people living in communities where solid-form cocaine (crack) was popular.

A cell in the basement of City Hall, where defendants were held before court prior to the construction of the Criminal Justice Center in 1994.



Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.

MOVE: Tragic Consequences of "Tough on Crime" Culture

The War on Drugs was a significant part of a larger "tough-on-crime" movement that directly and indirectly targeted communities of color. In the later part of the 20th century, jurisdictions across the U.S. funneled money to police departments both for drug enforcement and other crime response efforts. Law enforcement culture also shifted internally, conferring more power and discretion to police and prosecutors.

A traumatic example of how law enforcement was emboldened by the tough-on-crime movement is the 1985 fatal police bombing of MOVE headquarters in West Philadelphia. The reality of what happened is unthinkable: after years of escalating tensions with the group, including several high-profile, contentious arrests, police used a helicopter to place two bombs on top of the MOVE rowhouse. This action by police killed 11 people, including five children ages 8-13, and destroyed 60 homes in the resulting fire.

It was 35 years before the City issued a formal apology, and while years of litigation produced civil settlements to the lone adult survivor, Ramona Africa, and relatives of those killed, the surviving members of MOVE and the surrounding community have never received adequate compensation for the harm they endured.⁽³²⁾ Looking back, then-District Attorney of Philadelphia Ed Rendell said he regretted the way this office handled the prosecution and conviction of MOVE members, remarking, "they served for too much time."⁽³³⁾



Officials testify during the November 1985 hearings during a special commission's investigation of the police bombing of MOVE headquarters. Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.

Mass Incarceration

The city of Philadelphia has played a unique role in the development of the American prison system. The Pennsylvania Prison Society was founded in Philadelphia in 1787 and for more than two centuries has advocated for the living conditions and civil rights of imprisoned people. Advocates and Quakers in the city pushed for a penitentiary model, a form of solitary confinement meant to allow a prisoner to reflect and repent. This approach was piloted at Eastern State Penitentiary (opened on Fairmount Avenue in 1832) and soon spread to other cities and states. Regrettably, this created the foundation for the widespread use of isolating, confining architecture in U.S. prisons, as well as a level of social deprivation that is now understood to be harmful and detrimental to rehabilitation.(34)

The Philadelphia Detention Center was built in 1963 to replace the 1830s-built Moyamensing Prison and is still in use today.



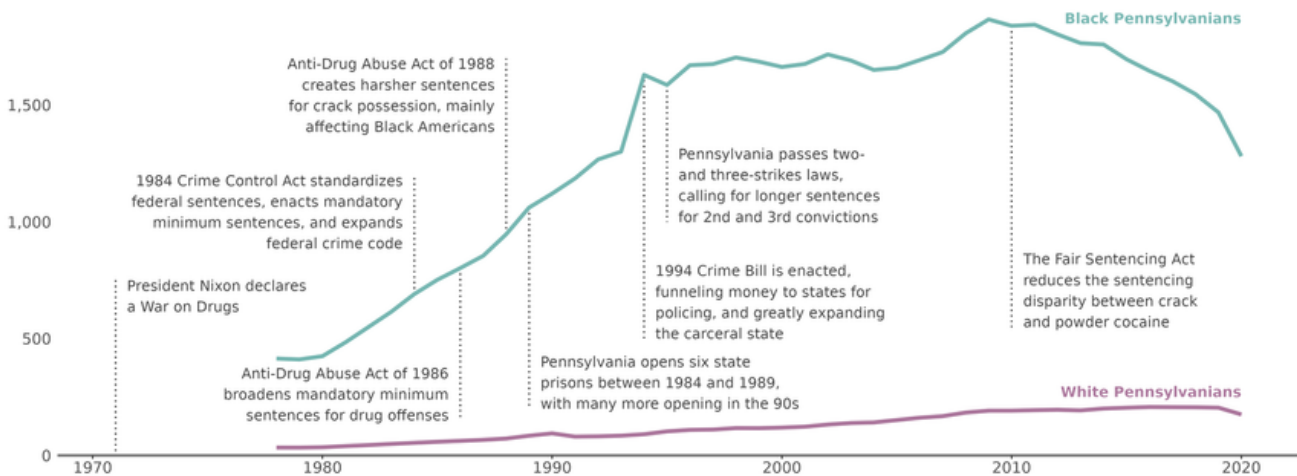
Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.

While Philadelphia played an early role in shaping national criminal justice practices, the city was later heavily influenced by national priorities. The War on Drugs, and other changes to criminal law, caused prison populations around the country to explode. Many states enacted mandatory minimum sentencing, adopted “three strikes” laws, and effectively ended early parole in the 1990s.(35) These changes contributed to an eightfold increase in U.S. prison populations between 1980 and 1997.(36) Pennsylvania followed the trend; state correctional populations more than tripled between 1980 and 1995.

The increase in incarceration rate for Black Pennsylvanians is staggering, and is evidence of both unacceptable social inequalities and biased law enforcement. As the state’s most populous and diverse city, Philadelphia contributes significantly to state prison populations and to the disparities within the state system. The home addresses of Philadelphia residents incarcerated in state prisons are heavily concentrated in Black and Latinx neighborhoods.(37)

2. Pennsylvania state prison population, by race (1970-2020)

The incarceration rate for Black residents skyrocketed under the “tough on crime” policies of the ‘80s and ‘90s, while the rate for white residents saw only a gradual and relatively minor increase



Source: Incarceration data: United States. Bureau of Justice Statistics. National Prisoner Statistics, [United States], 1978-2021. Inter-university Consortium for Political and Social Research [distributor], 2022-12-19. <https://doi.org/10.3886/ICPSR38555.v1>
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Targeting Children of Color

Punitive attitudes among the police, public, and legal system soon turned against young people. University of Pennsylvania professor John DiIulio spent much of the mid- to late-1990s warning the country about the “elementary school youngsters who pack guns instead of lunches” and children as young as eight years old “who have absolutely no respect for human life and no sense of the future.”⁽³⁸⁾ DiIulio’s infamous 1995 article, which featured Philadelphia’s then-District Attorney Lynne Abraham, launched the term “super predator” into the political and public lexicon where, through the media, it was used to stoke fear towards children of color.⁽³⁹⁾ In the following years, the use of juvenile incarceration and life-without-parole sentences for children increased dramatically.

As more and more children were incarcerated, the inequalities of the adult system were replicated in juvenile facilities through structural and personal bias. A 2014 psychological study showed that white, male members of law enforcement were likely to view Black children as older than they were, and less innocent than white counterparts.⁽⁴⁰⁾ These unfounded perceptions are routinely used to justify the detention and punishment of Black children.

The “super predator” period also furthered the development of the school-to-prison pipeline, a process by which behavioral infractions in schools are elevated to legal system involvement, judicial supervision, and sanctions. The increased presence of police in schools has disproportionately impacted Black girls, who are more likely to be arrested during school-based incidents.⁽⁴¹⁾ Being arrested at school damages healthy futures by pushing students away from the pro-social benefits of academic communities, into carceral institutions that create more risk of being continually arrested and incarcerated.

Pennsylvania’s own juvenile system has been the site of appalling harms. In one Luzerne County case, members of the judiciary were found guilty of accepting cash bribes in exchange for incarcerating children in for-profit placements,⁽⁴²⁾ while the state’s juvenile detention facilities harbor severe instances of neglect and abuse.⁽⁴³⁾ A 2021 report by Pennsylvania’s Juvenile Justice Task Force stated that across the state, Black youth (particularly boys) received the most punitive treatment compared to other groups.⁽⁴⁴⁾

Progress has been made in recent years to reform Philadelphia’s local juvenile justice system, but disparities are severe and persistent. An economic analysis by external research partners revealed that between 2017 and 2021, the number of youth involved in the juvenile system dropped 45%, with overall rates of arrest down and diversion up.⁽⁴⁵⁾ However, the report also found that in 2019, Black youth ages 10-19 were 41% of the population but 81% of youth arrested. A study conducted in partnership with the DAO Juvenile Justice Unit found severe disparities for girls arrested and charged as juveniles in 2019: 95% of them were Black and many of them were arrested at school.⁽⁴⁶⁾



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Disinvestment in Families & Communities

Biased and harm-inducing policies such as those described here can reverberate through society for decades, especially if left unacknowledged or unaddressed. Studies have linked historical racial segregation to modern patterns of violence,(47) a sobering finding given that Philadelphia has remained highly segregated throughout its history.(48) The impacts of mass incarceration, and the consequences of discriminatory practices, have multi-generational impacts: studies found that children with incarcerated parents are more likely to drop out of school, develop serious health issues,(49) and become incarcerated themselves than children whose parents are not incarcerated.(50) Of the estimated 30,000 children in Philadelphia have a parent who is incarcerated, the majority are children of color.(51)

It is an artifact of structural racism that high concentrations of poverty,(52) lack of access to quality education, housing insecurity, childhood lead exposure,(53) and other health disparities(54) are concentrated in neighborhoods of color. The figure on the following page shows the racial concentrations of Philadelphia neighborhoods, areas that were redlined in 1937, and areas where people who are arrested are recorded as living.(55) The figure also displays the concentrations of various markers of social disadvantage, such as poverty and lack of access to fresh food, education, jobs, health insurance, housing, and internet. The highest rates of these conditions are concentrated in neighborhoods where Black and Latinx people make up the majority of residents. Research shows that these social disadvantages are risk factors for arrest and continued legal system involvement, which helps further explain the disparate findings presented later in this report.(56)

A tract of homes was bulldozed to build low-income housing but sat undeveloped for 5 years in North Philadelphia

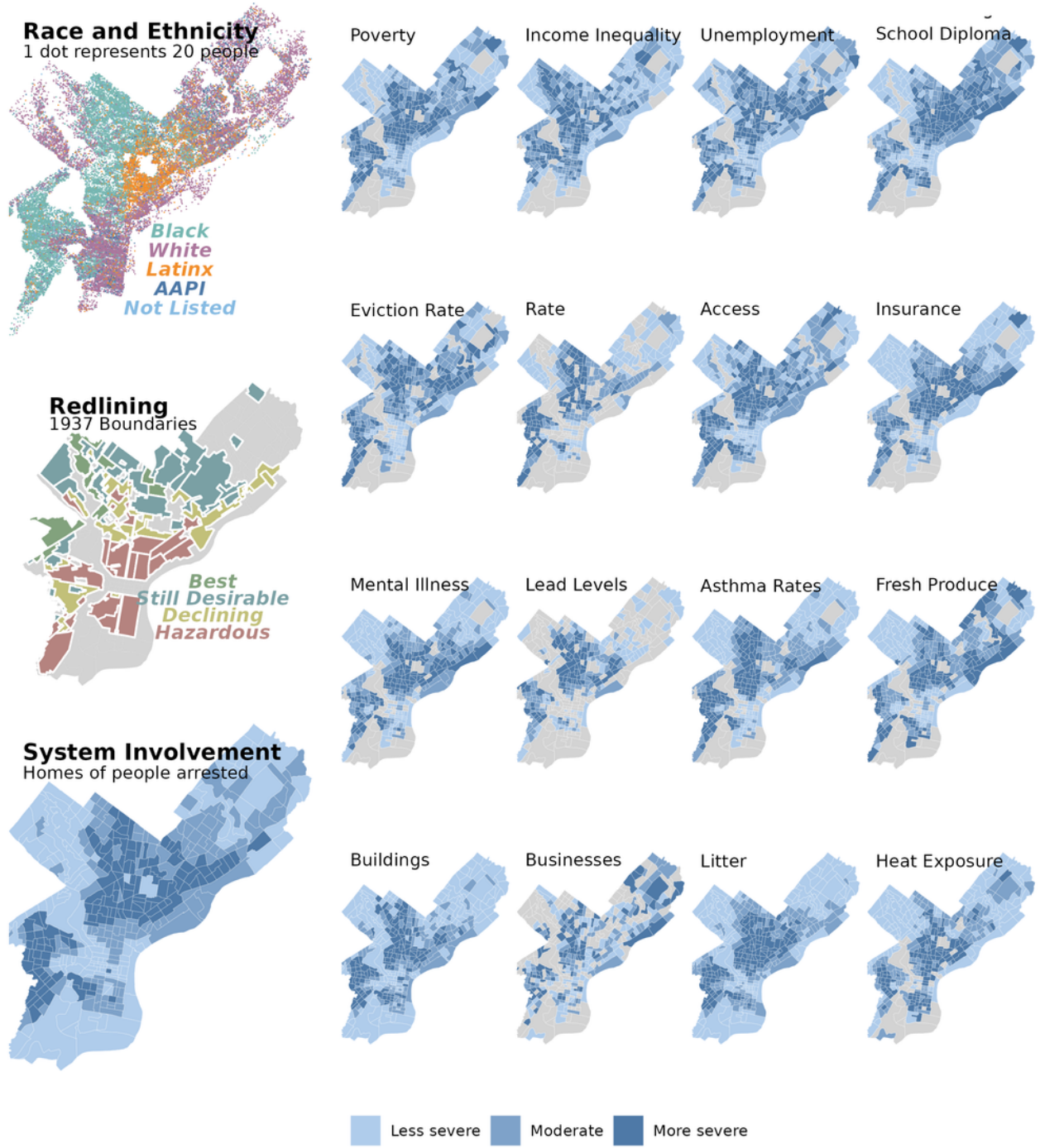


Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.



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Concentration of racial segregation, historical redlining, neighborhood disinvestment, and criminal legal system involvement



In each map, the three colors are distributed equally among the census tracts.
 Source: Income inequality, unemployment, HS diploma, poverty, homeownership, and internet access: U.S. Census Bureau (2020). 2016-2020 American Community Survey 5-year estimates
 Child lead levels, food access, litter, unsafe buildings: OpenDataPhilly
 Eviction Data: Estimating Eviction Prevalence across the United States. Princeton University Eviction Lab
 Asthma, mental health: 500 Cities Project, PLACES, Centers for Disease Control and Prevention
 Foreclosure: Department of Housing and Urban Development, Neighborhood Stabilization Program Data
 Redlining data: Robert K. Nelson and Edward L. Ayers, <https://dsl.richmond.edu/panorama/redlining>

Residents of Chinatown protest a hearing on highway construction that would destroy neighborhood landmarks.



Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.

Philadelphia's minority neighborhoods have had to fight to have their histories preserved and community needs recognized by the city. Philadelphia's Chinatown neighborhood, the oldest of its kind in the country, has repeatedly resisted destructive development that serves outside interests. The area is listed as an endangered historic site today, as residents continue to advocate for equitable development, language inclusivity, and culturally responsive social services.



Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.

Philadelphians of Puerto Rican and Latinx descent march to demand bilingual education opportunities.

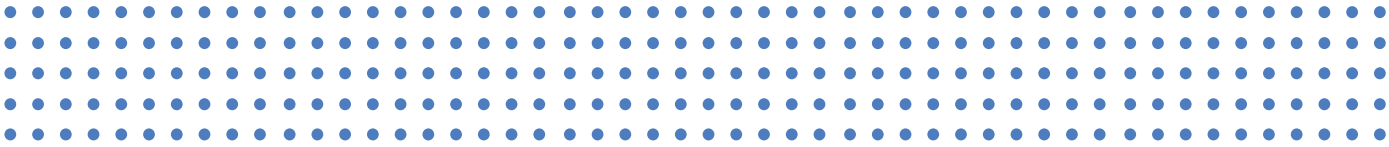
Safety from violence is an essential marker of individual health, and the current gun violence epidemic represents a public health crisis. This violence is distributed unequally throughout the city, particularly gun violence, which heavily burdens Black communities. Studies have demonstrated that Black males living in communities with higher rates of gun violence have lower life expectancies in comparison to their age-matched counterparts in areas with less violence.⁽⁵⁷⁾ Exposure to violence can lead to other negative outcomes, such as post-traumatic stress disorder (PTSD), acute stress, anxiety, depression, and poorer sleep quality.⁽⁵⁸⁾ Persistent racial segregation, cemented by past policies and discriminatory development, can be directly linked to the violence and health problems observed in Philadelphia's predominantly Black neighborhoods today. This continued disinvestment in equitable public health infrastructure will lead to reduced public safety and continued disparities in the legal system.

Members of the Young Great Society, a community group in the Mantua area in the 1970s-80s, paint and repair a neighbor's home.



Courtesy of the Special Collections Research Center. Temple University Libraries. Philadelphia, PA.

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About the Data

It is clear that historical and social determinants drive disparities in who is arrested, charged, convicted, and jailed. Without the historical and sociological context presented above, one could take these data findings and draw wrong conclusions. It is essential to note that while Black people are over-represented in Philadelphia’s pool of criminal defendants, they are also much more likely to be the victims of gun violence. While all communities feel the impact of the gun violence epidemic, increases in shootings since 2020 have almost exclusively impacted Black residents (see Appendix VII). Far more research and work is needed to adequately understand and eventually meet the needs of victims, who are very often people of color.

This section presents an overview of the criminal legal system, followed by a description of data methodology and important limitations.

Understanding the Criminal Legal System

The criminal legal process is complicated, and no two defendants or cases follow the same path. Throughout system involvement, individuals are in contact with the police, attorneys, court staff, judges, and sometimes juries. Not all individuals who work on criminal cases are lawyers or judges—paralegals, bail magistrates, police detectives, and others play a significant and essential role in court case processing.

Another important thing to understand about the criminal legal system is that data is collected in different ways by a variety of agencies. This report uses data compiled from police, courts, and internal DAO case files. Because the data systems of these agencies are different from each other, this makes it difficult to combine datasets. As such, it is necessary to code or “clean” data in a way that reduces nuance but can improve clarity.

The Criminal Legal Process, Simplified

The DAO’s role begins at charging; bail magistrates and judges also play significant roles





Major Stages of a Criminal Case

In order to simplify the criminal legal process while attempting to identify where disparities might be more or less severe, this analysis divides criminal cases into five segments or stages. It is important to note that not all criminal cases proceed in this manner, and that cases may be withdrawn or resolved at nearly any stage, for various legal reasons. For the purpose of this report, we are focusing on the following critical stages in Philadelphia’s courts process:



Stops & Arrests

The “input” to the criminal legal system is a stop by police. Some stops turn into arrests, where the police formally detain a person and request that the District Attorney’s office brings criminal charges.



Charging

After an arrest is made, the DAO decides whether to bring specific criminal charges against the individual.



Bail & Pre-trial Detention

Once a criminal case is started, a bail magistrate sets bail with input from the defendant and DAO. If cash bail is set, the defendant is held in custody until they are able to pay their bond or their case is completed.



Case Outcomes

A case’s outcome is the way a case is resolved. Some cases result in conviction, others in acquittal (found not guilty), and others are withdrawn or dismissed.



Sentencing & Incarceration

Upon conviction, the defendant is sentenced by a judge. A sentence can include a variety of requirements, but most sentences include supervision, incarceration, or both.

Methodology

We use data from the 2020 Decennial Census to establish the proportional populations of various racial groups in Philadelphia. The U.S. Census has a complicated history with race: a response of “Hispanic/Latinx” has been categorized as a race at times and an ethnicity at others.

4. City of Philadelphia population, by race (2020 U.S. Census)

Race	Population	Proportion
Black	613,835	38%
White	550,828	34%
Indigenous	2,596	0%
AAPI	132,408	8%
Native Hawaiian and Other Pacific Islander	579	0%
Latinx	238,277	15%
Multiple Races (non-Latinx)	53,855	3%

From the US Census Bureau, 2020 Decennial Census

This analysis relies on police and court data on adult criminal cases from January 2015 to December 2022. We set the unit of analysis as a “case,” defined here as the charge or set of charges stemming from an arrest. While the court may open multiple dockets against a defendant related to a single incident, we count this as one case. This analysis focuses on adult arrests and cases only and excludes cases adjudicated in the juvenile system, as well as cases in adult court involving defendants under 18 (called “direct-file juvenile” (DFJ) cases). Our data on stops has also been filtered to include only those recorded as 18 or over.

For many of the following analyses, proportional representation is calculated by comparing census population data of Philadelphia to criminal legal system data. If a certain racial group’s proportion in the criminal legal system is greater than its share of the city’s population, they are considered “over-represented.” If a group’s proportion of defendants in the criminal legal system is smaller than its share of the population, they are considered “under-represented.”

Our main dataset was filtered to ensure that all data contained racial information, but other data may be missing. For example, rows containing missing or likely incorrect ages are generally included in our counts of arrests and cases, but are removed when analyzing the age range in our sample.

Defining Race & Ethnicity

Determining the race of people involved in the justice system is not straightforward. For the purpose of this report, we use defendant race and ethnicity as perceived by police at the time of arrest. This presents several limitations. The pre-defined race and ethnicity categories in police data do not necessarily include the range of identities that Philadelphians hold. For example, “Asian” and “Latinx” likely do not capture the specificity with which people might identify themselves. Additionally, it is unknown whether police request or allow individuals to self-identify their race. Police may be unable to accurately identify people of multiple racial and ethnic backgrounds, who have a different race than the police officer, or people who appear racially ambiguous. In some instances, individuals arrested at multiple points in their lives are classified by the police as having different races or ethnicities at each arrest. In these situations, we use the race that police most frequently recorded for that individual.

This analysis collapses available measures of race and ethnicity into a single category. If an individual is labeled Latinx by police, we call them Latinx, regardless of whether they are categorized as Asian-Latinx, Black-Latinx, white-Latinx, etc. The main reason for this is that Latinx individuals are likely undercounted for reasons previously discussed. See Appendix X to view police racial categories and the way they are grouped for these analyses.

There are significant limitations to collapsing the data categories in this way, including obscuring the experience of people with multiple identities. Literature and lived experience suggest that phenotypically darker-skinned people who are also Latinx are categorized primarily as Black. By including people of this experience in the Latinx-only category, we are potentially missing the insight that Latinx individuals of different races follow significantly different trends.

5. Stops, arrests, & charges, by race (2015-2022)

Racial Category	Police Stops	Arrests	Cases Charged
AAPI	51,888	3,622	3,010
Black	1,653,312	210,749	171,133
Latinx	231,375	52,777	45,603
Native American	7,075	221	186
Unknown	27,819	534	483
White	424,914	73,884	58,632
Total	2396383	341,787	279,047

Source: DAO analysis of Philadelphia Police and criminal court data, 2015-2022

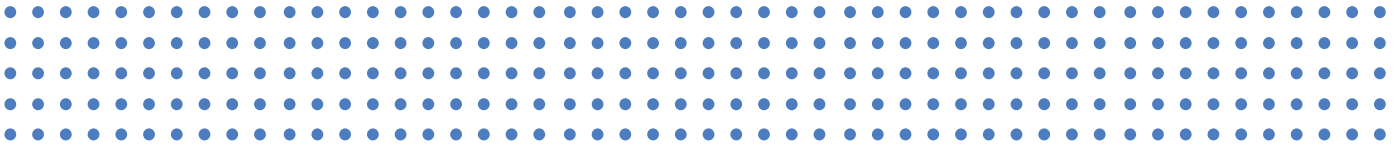
For most of the analysis, we focus on Black, white, Latinx, and AAPI defendants. Because few Native American defendants were recorded, it is difficult to draw any clear conclusions; for some parts of the analysis, we also excluded AAPI defendants for the same reason. Additionally, there were about 400 people from 2015 to 2022 where the defendant’s race was unknown and they were not flagged by police as Latinx. We excluded these cases from most of our analyses.

6. Total individuals and total arrests, by race (2015-2022)

In each racial category, numbers of arrests are higher than the number of people because some individuals have been arrested multiple times

Racial Category	Number of Arrests	Number of People
Black	210,749	96,853
White	73,884	36,428
White-Latino	48,888	21,494
AAPI	3,622	2,354
Black-Latino	3,249	1,981
Unknown-Latino	605	479
Unknown	534	416
Native American	221	182
AAPI-Latino	29	23
Native American-Latino	6	6

Source: DAO analysis of Philadelphia Police and criminal court data, 2015-2022



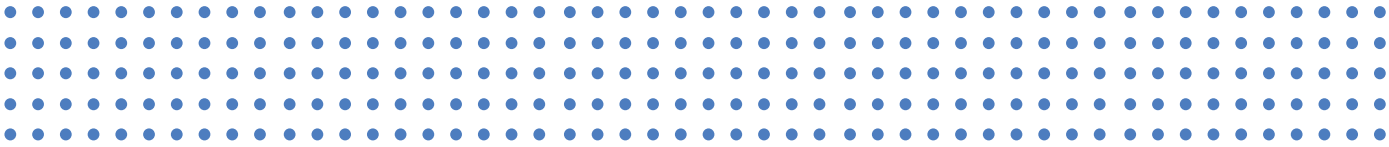
Findings

The following sections present the findings of our analysis of Philadelphia's criminal court data from 2015-2022. While viewing the graphs in the following sections, one should consider the impact of the COVID-19 pandemic on police practices and Philadelphia's court operations. Since March 2020, the COVID-19 pandemic has impacted every social institution in some capacity and the criminal legal system is no exception. Large declines in stops and arrests created overall system shrinkage, but disruptions to court procedures produced large backlogs. While criminal legal proceedings in Philadelphia (at the time of this writing in 2023) have come closer to resembling pre-COVID procedures, future research is needed to fully determine the long-term impact of this time period. See additional data and analysis on the DATA Lab Dashboard COVID-19 page: https://data.philadao.com/COVID19_Report.html

Resisting Stereotypes & Bias

Before examining the findings of this report, it is important to address the issue of racist stereotypes and biases that influence the way data is interpreted. Some will wrongly claim that one group's overrepresentation in the legal system is evidence that the group commits more crimes on average, compared to other groups. This simply is not supported by research.⁽⁵⁹⁾ Numerous studies have found no significant differences in patterns of criminal behavior by race (though white individuals tend to self-report higher rates of offending than other groups). Instead, evidence shows that racially stratified social conditions such as poverty are strong determinants of system involvement, as well as law enforcement practices that target marginalized groups, particularly Black Americans, and select them into the system at disproportionate rates.⁽⁶⁰⁾ As such, it is important to consider the historical context that has led to current practices and see disproportionalities for what they are: evidence of structural racism and bias in our society and legal institutions.

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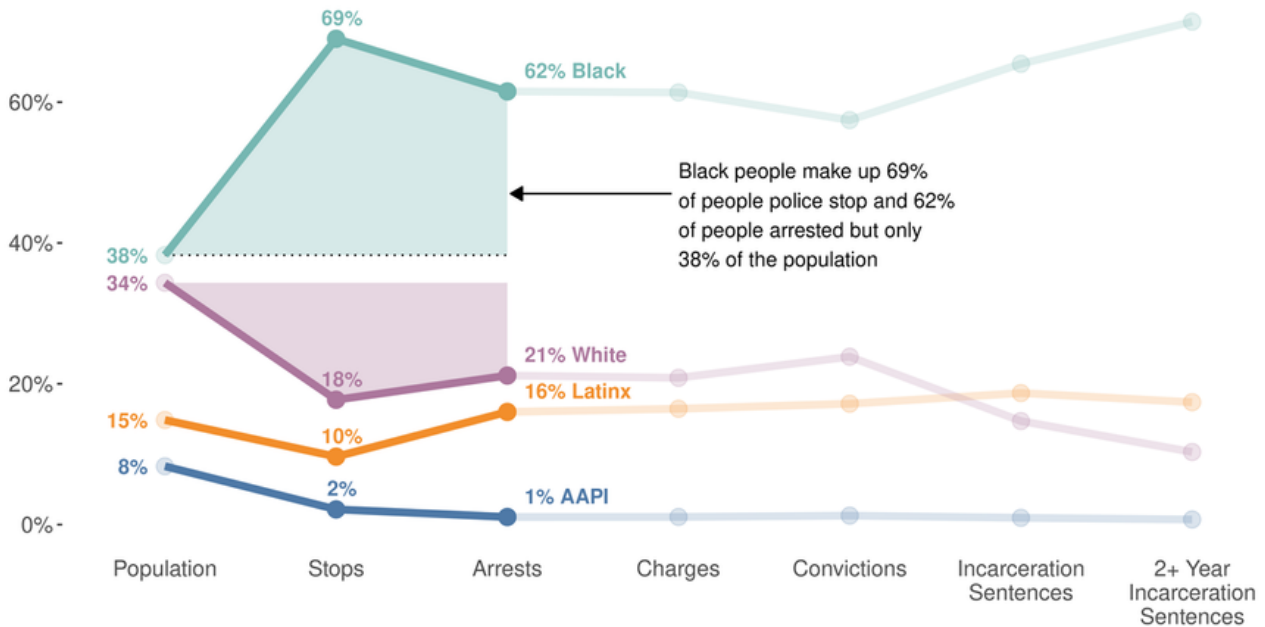
I. Stops & Arrests

A police stop is the most common first stage in an individual’s involvement with the criminal legal system. Some arrests are not preceded by a stop, but may occur after an investigation by the police or for an outstanding warrant. Police may stop a person when they have a reasonable suspicion that the person is committing or has committed a criminal offense and may question the person stopped in order to identify them. This initial investigative stop is known as the stop part of “stop-and-frisk.” If the police have probable cause to believe the person committed a crime, they can arrest the person.

As seen in the figure below, Black individuals account for 69% of police stops and 62% of individuals arrested. In contrast, white people accounted for only 18% of police stops and 21% of arrests, despite the fact that Black and white people make up similar shares of the city's population. Latinx and AAPI individuals appear slightly underrepresented in police stops relative to their respective populations, but may account for an outsized share of total arrests.

Phase I: Stops & Arrests

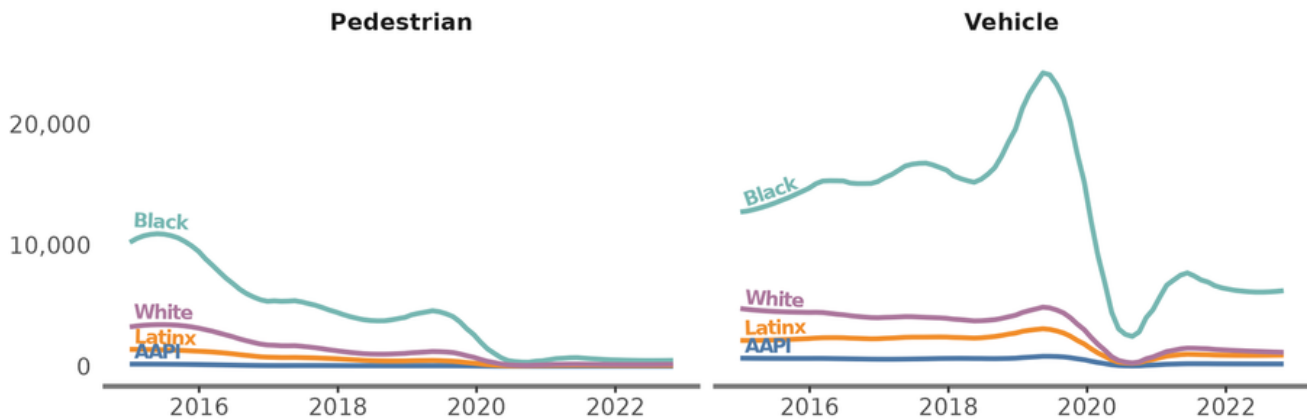
Graph shows the proportions of groups in Philadelphia’s overall population compared to percentages observed at different stages in the legal system



Source: DAO Analysis of Philadelphia Police and criminal court data, 2015-2022
U.S. Census Bureau, 2020 Decennial Census.

8. Pedestrian & vehicle stops by police, by race

While disparities in pedestrian stops have decreased, disparities in vehicle stops persist



While the number of pedestrian stops has fallen since 2015, the number of vehicle stops has risen. Source: Philadelphia Police Vehicle & Pedestrian Investigations, 2015-2022. U.S. Census Bureau, 2020 Decennial Census.

During a stop, an officer may briefly frisk (pat-down) an individual for weapons. This is the frisk part of “stop-and-frisk.” If during the frisk the officer plainly feels an object that is immediately apparent to him as contraband (such as a gun), they may conduct a more involved search. If that search reveals an illegal object or material, the officer can confiscate that material and arrest the person.

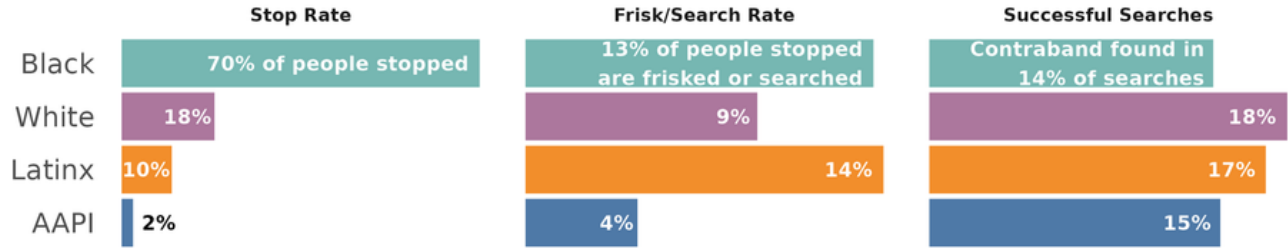
Stop-and-frisk practices, though constitutionally legal when conducted with adequate grounds for reasonable suspicion, have been criticized around the U.S. for being used in a racially biased manner. The Philadelphia Police Department (PPD), which uses stop-and-frisk, settled a 2011 lawsuit brought by the American Civil Liberties Union of Pennsylvania and local attorneys over policing practices targeting Black Philadelphians. The settlement, known as the Bailey agreement, alleged that police officers were stopping Black people for reasons that did not meet the legal requirements of reasonable suspicion. The Bailey agreement stipulates that the PPD make data on police stops publicly available, and in the decade since the agreement, racial disparities in police stops of pedestrians have decreased dramatically. However, worsening disparities in vehicle stops during this time period raise concerns that discriminatory enforcement is being shifted to other practices rather than eliminated.⁽⁶¹⁾

Of those stopped by police, Latinx and Black people are frisked and searched 1.5 times more frequently than white people and three times more frequently than AAPI people. Despite the low rate of searches of white and AAPI people, police are most likely to find contraband when searching white people and least likely to find it when searching Black people. This difference may signal racial bias in who the police choose to search, and the effect of even brief contact with police can have significant negative effects on individuals and communities.

61. Melamed, S. (2021, March 2). A leaked memo suggests Philly Police use vehicle stops to get around stop-and-frisk reform. <https://www.inquirer.com/news/philadelphia-police-stop-and-frisk-racial-disparities-vehicle-20210302.html>

9. Stops, searches, and contraband found, by race

Black Philadelphians are the most likely to get stopped and searched but least likely to be found with illegal contraband

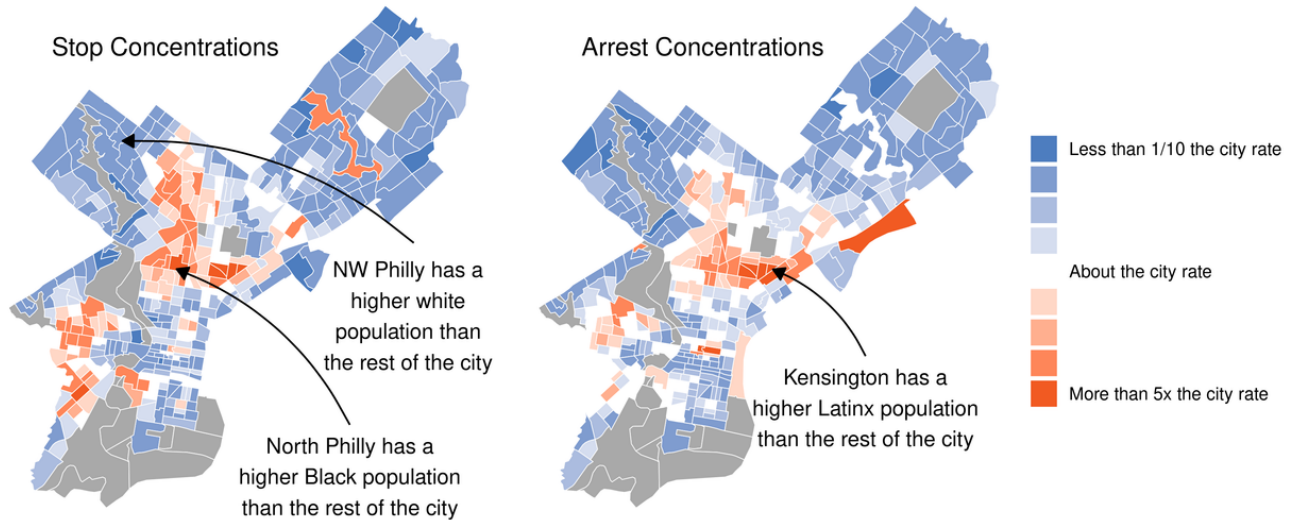


Source: Philadelphia Police Vehicle & Pedestrian Investigations, 2015-2022. U.S. Census Bureau, 2020 Decennial Census.

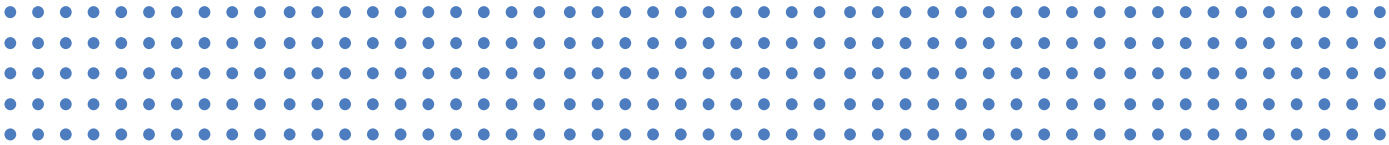
From 2015 through 2022, police stop-and-frisk activity in Philadelphia was concentrated in predominantly Black and Latinx neighborhoods, where both stops and arrests are 3-to-5 times more common than overall citywide rate. Regardless of the racial and ethnic makeup of the neighborhood, Black people are stopped and arrested at a rate higher than their relative proportion of the population in 95% of Philadelphia’s census tracts.

10. Police stops & arrests, by census tract

Police stops and arrests are concentrated in predominately Black and Latinx neighborhoods



Each map shows a comparison of stop/arrest rates in each census tract to overall city rates. Dark gray areas represent tracts with missing data or fewer than 100 residents. Source: Philadelphia Police Vehicle & Pedestrian Investigations, 2015-2022. U.S. Census Bureau, 2020 Decennial Census.



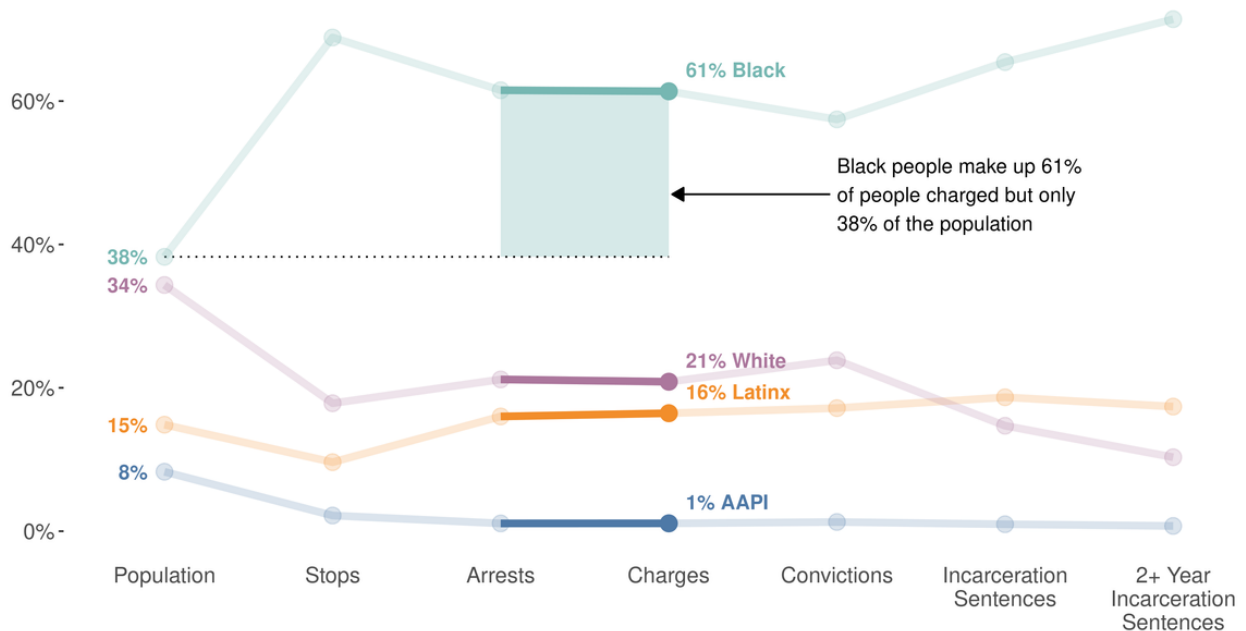
II. Charging

In Philadelphia, although the police arrest a person, it is up to the District Attorney’s Office whether to charge the person with a criminal offense. In other jurisdictions in Pennsylvania and through the United States, it is more common for the police to directly charge a person rather than first passing evidence to the prosecutor and allowing the prosecutor to charge. In Philadelphia, the police can directly charge people with summary offenses, which are less serious than misdemeanors. The DAO’s decisions to charge and which criminal codes to charge are based on legal requirements and the evidence gathered by the police during their investigation; if the DAO declines to criminally charge the person, they are immediately released.

In this report, we present breakdowns by race on the eight most commonly charged offenses. From 2015 to 2022, the eight most common offenses charged by the DAO were: drug possession with intent to distribute (PWID); aggravated assault; drug possession; driving under the influence (DUI); burglary; robbery; theft; and simple assault. Drug charges comprised 47% of all charges during this time period.

Phase II: Charging

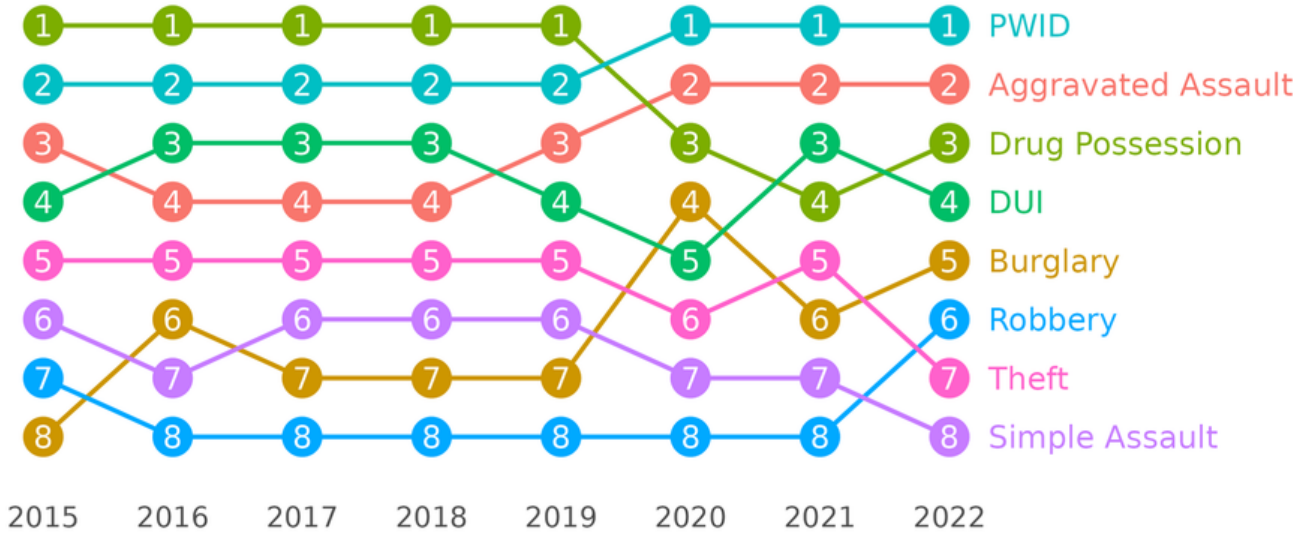
Racial disparities at charging closely reflect disparities observed at arrest



Source: DAO Analysis of Philadelphia Police and criminal court data, 2015-2022
U.S. Census Bureau, 2020 Decennial Census.

12. Ranking of most commonly charged offenses (2015-2022)

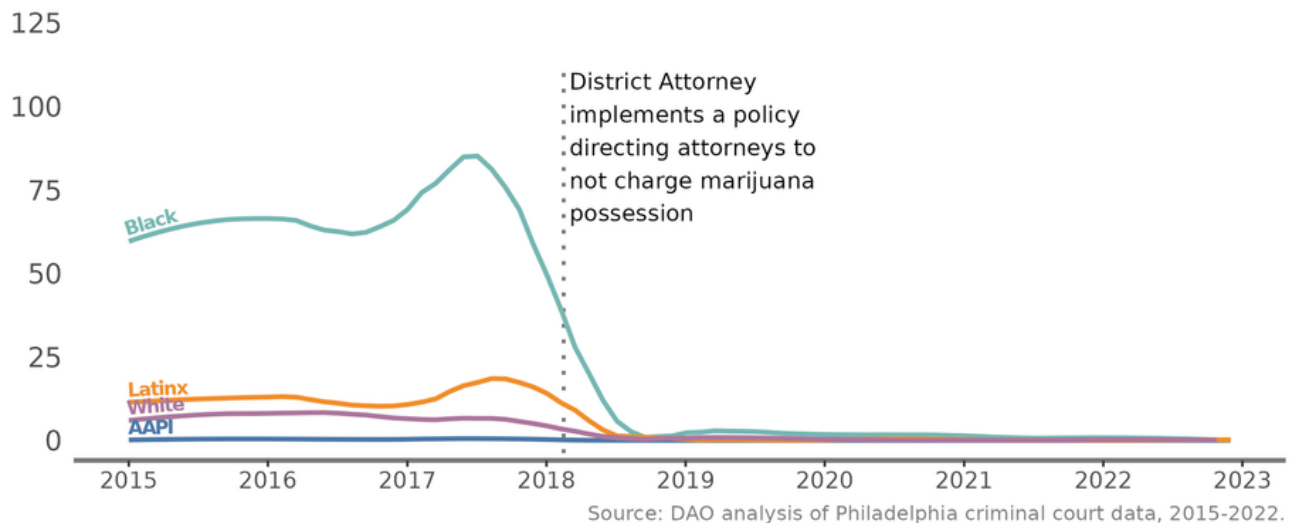
Drug charges comprised nearly half of all criminal charges during this time period



The eight most common offense types were not consistently frequent from 2015 to 2022. For example, in 2018 the Krasner administration made it a policy not to charge simple possession of marijuana as a stand-alone charge. While individuals are still charged with driving under the influence of marijuana and possessing marijuana with intent to sell it, this policy significantly reduced the number of minor possession cases filed against Black and Latinx individuals.

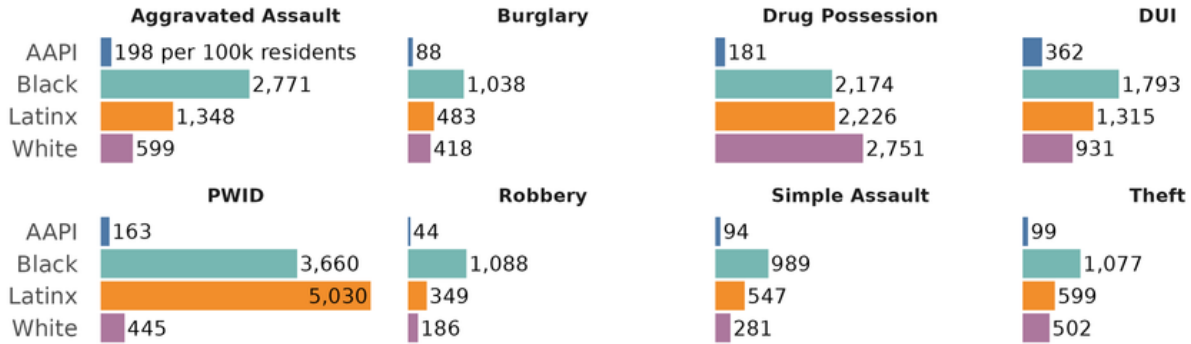
13. Marijuana-only drug possession charges per month, by race

A 2018 policy to decline minor, marijuana-only drug possession charges virtually ended the previously-wide racial disproportionalities among defendants in these cases



14. Charge rates per 100,000 residents, by charge type and race

Black Philadelphians are arrested and charged at a higher rate than other groups for six of the eight most commonly charged criminal offenses



Compares the total number of people of each race charged from 2015-2022 to the population of each racial group in the 2020 decennial census. Source: U.S. Census Bureau, Decennial Census, 1900-2020. DAO analysis of Philadelphia criminal court data, 2015-2022.

Racial disparities in criminal charging vary depending on the alleged crime. For most of the eight most common offenses, Black Philadelphians are arrested and charged at a higher rate than AAPI, Latinx, and white Philadelphians. The two exceptions are drug possession, for which white people are charged at the highest rate, and drug possession with intent to distribute (PWID), where Latinx people are charged at the highest rate.

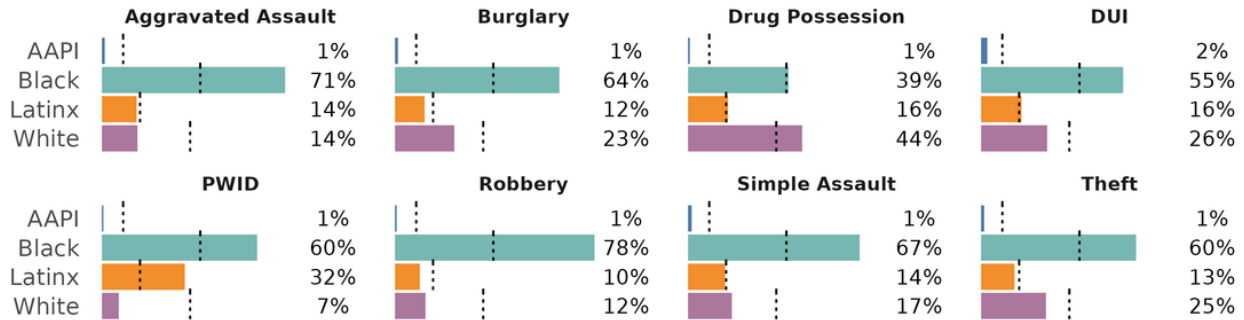
Among the largest disparities in the system are in arrest and charge rates for PWID. Although white people are generally under-represented in total cases charged relative to their share of the population, they are over-represented in charges for drug possession and severely under-represented in PWID charges. In contrast, Latinx people are far over-represented in these charges, making up 15% of Philadelphia’s population but 33% of people charged with PWID.

Furthermore, Latinx Philadelphians are arrested and charged with PWID at 12 times the rate of white Philadelphians and 31 times the rate of AAPI Philadelphians. Black Philadelphians are arrested and charged with PWID at almost 9 times the rate of white Philadelphians and 23 times the rate of AAPI Philadelphians.

People identified as Latinx by police are arrested and charged for drug possession with intent to distribute (PWID) at a rate that is 12 times higher than people police identified as white.

15. Proportion of criminal charges, by charge type and race

Dotted lines represent a group's share of the city population; bars show the share of charges

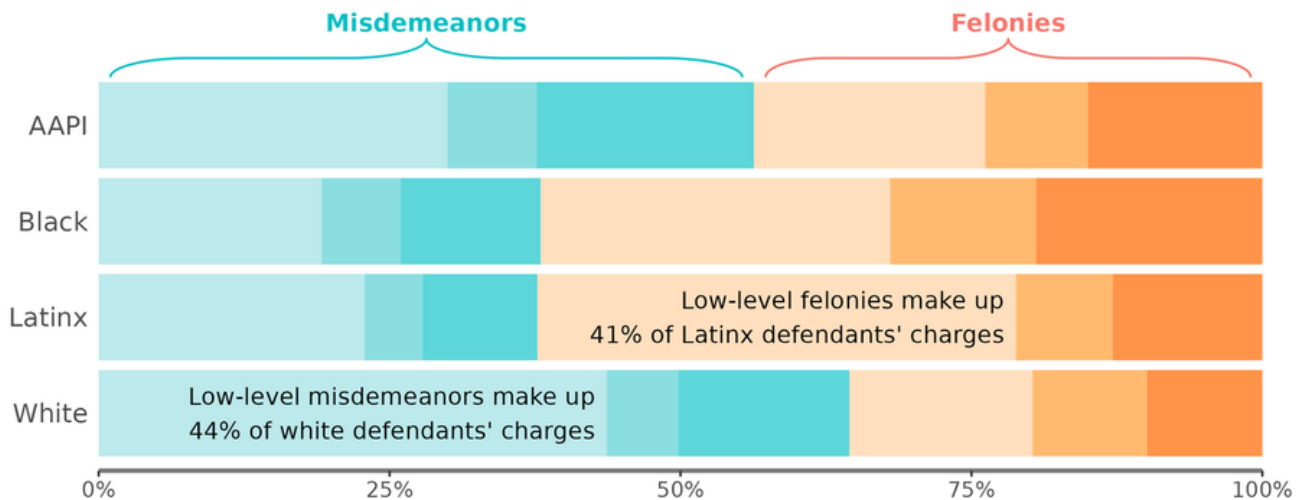


Dotted lines represent the overall population.
Source: DAO analysis of Philadelphia criminal court data, 2015-2022.
U.S. Census Bureau, 2020 Decennial Census.

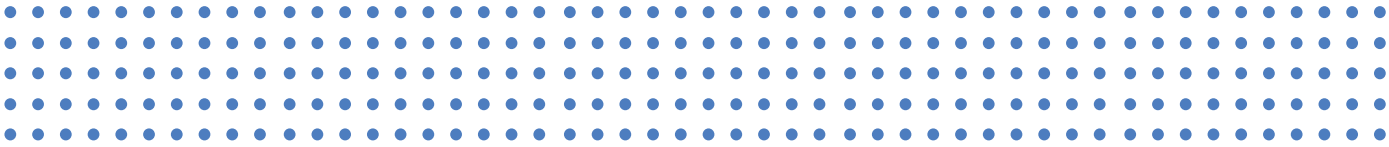
What an individual is charged with is almost as important as the fact that they are charged in the first place: the perceived seriousness of an alleged crime impacts every other phase of the criminal legal system, including bail, eligibility for diversion, and sentencing. As the graphic below shows, white people are more likely to be charged with low-level misdemeanors than other racial groups. This means that they are also more likely to have charges that may be eligible for diversion, call for supervision rather than jail time, or result in shorter carceral sentences. Over the study period, AAPI, Latinx, or Black individuals were more likely to be charged with a felony than a white person. Black individuals were most likely to be charged with serious felonies, putting them at higher risk of incarceration and ineligibility for diversion programs.

16. Distribution of charge type and severity, by race

Darker shades represent misdemeanor or felony charges that are legally considered more serious



Source: DAO analysis of Philadelphia criminal court data, 2015-2022.



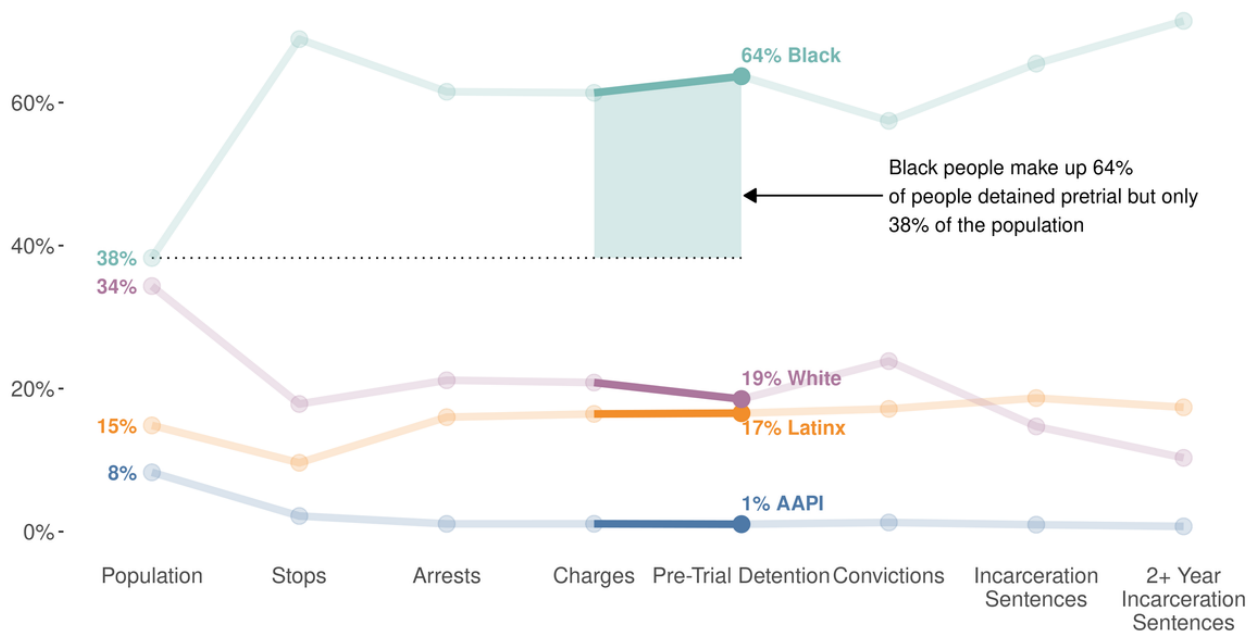
III. Bail & Pre-Trial Detention

Immediately after being charged, a bail magistrate sets bail for the defendant. The bail magistrate hears from representatives of the District Attorney and defendant and determines what bail conditions to set based on the seriousness of the pending charges, the potential risk the defendant poses to the community, and the defendant’s risk of flight prior to trial. Common bail types include cash bail, which requires the defendant to pay a set amount to be released pending trial, and released on recognizance, or ROR, which allows the person to be released pending trial without paying any bail. Generally, a person who is assessed cash bail must pay 10% of the assessed amount in order to be released.

In addition to taking away a person’s liberty, being detained pretrial may have negative effects for the defendant. One study showed that low-risk defendants who are detained pretrial were more likely to be sentenced to jail and prison and received significantly longer sentences than their similarly situated non-detained counterparts.⁽⁶³⁾ As seen in the figure below, Black individuals make up 38% of Philadelphia’s population but account for 64% of individuals detained pretrial.

Phase III: Bail & Pre-Trial Detention

Black Philadelphians make up the majority of people detained pre-trial



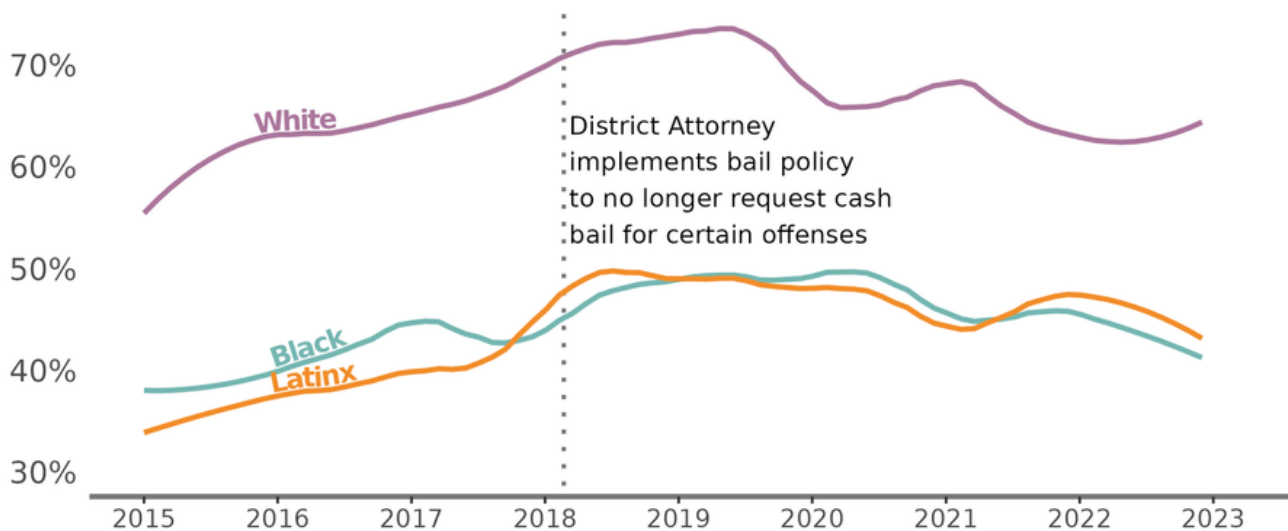
Source: DAO Analysis of Philadelphia Police and criminal court data, 2015-2022
U.S. Census Bureau, 2020 Decennial Census.

White individuals are more often released without having to pay cash bail than Black and Latinx individuals. Even after the DAO made significant policy changes to reduce the use of cash bail policy in 2018, the figure below shows that there was only a minor decrease in racial disparities in terms of who was released without paying cash bail. This may be due to the fact that, as seen in previous figures, Black and Latinx individuals are more likely on average to be charged with felony offenses.

Here in Philadelphia, researchers found that keeping defendants in pretrial custody can act as a coercive factor when it comes to considering plea offers. Previously detained individuals who were interviewed felt that “being held in jail for months made them want to do anything to get released.”⁽⁶⁴⁾

18. Percent of arraignments with no cash bail set, by race

White defendants are more likely to be released pre-trial without being required to pay cash bail



Due to relatively low numbers of people identified as AAPI by police, the category is not included in this graph. This graph does not control for charge severity, prior record score, or illegal gun charge. Source: DAO analysis of Philadelphia criminal court data, 2015-2022.

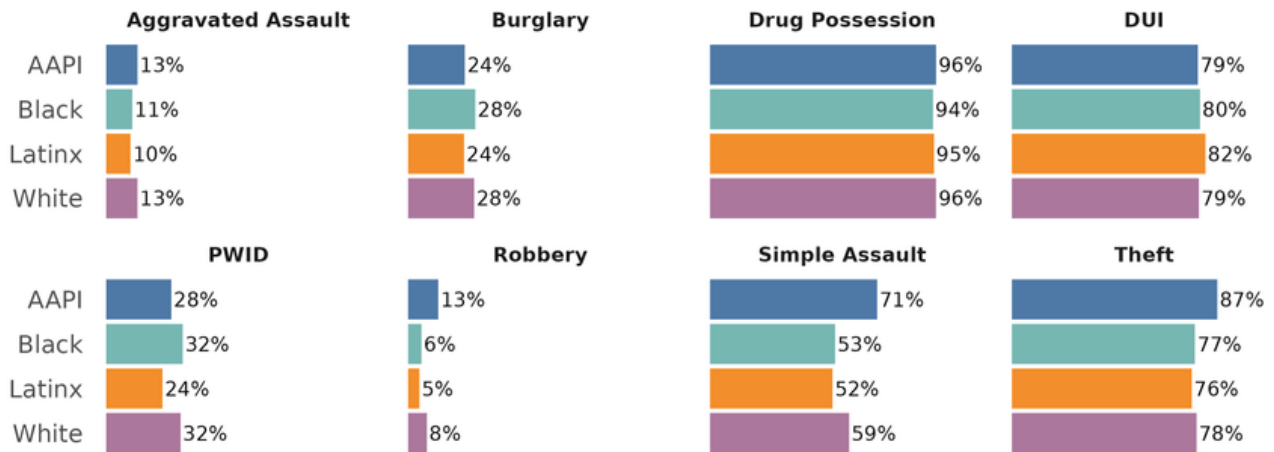
63. Lowenkamp, C. VanNostrand, M., & Holsinger, A. (2013) Investigating the Impact of Pretrial Detention on Sentencing Outcomes, Laura and John Arnold Foundation.

64. Matei, A. et al (2022). An Exploration of Prosecutorial Discretion in Plea Bargaining in Philadelphia. The Urban Institute.

The graph below displays the release rate across racial groups for the eight most commonly charged offenses during the study period. When accounting for offense type, release rates are similar for different races. However, Black and Latinx individuals were less likely to be released without cash bail for simple assault charges than were white and AAPI individuals accused of the same offense. Prior criminal records may play a role in release rate differences.

19. Percent of non-cash bail releases, by charge type and race

Initial "release rate" is similar across racial groups when broken down by offense type, although with some exceptions



Source: DAO analysis of Philadelphia criminal court data, 2015-2022.



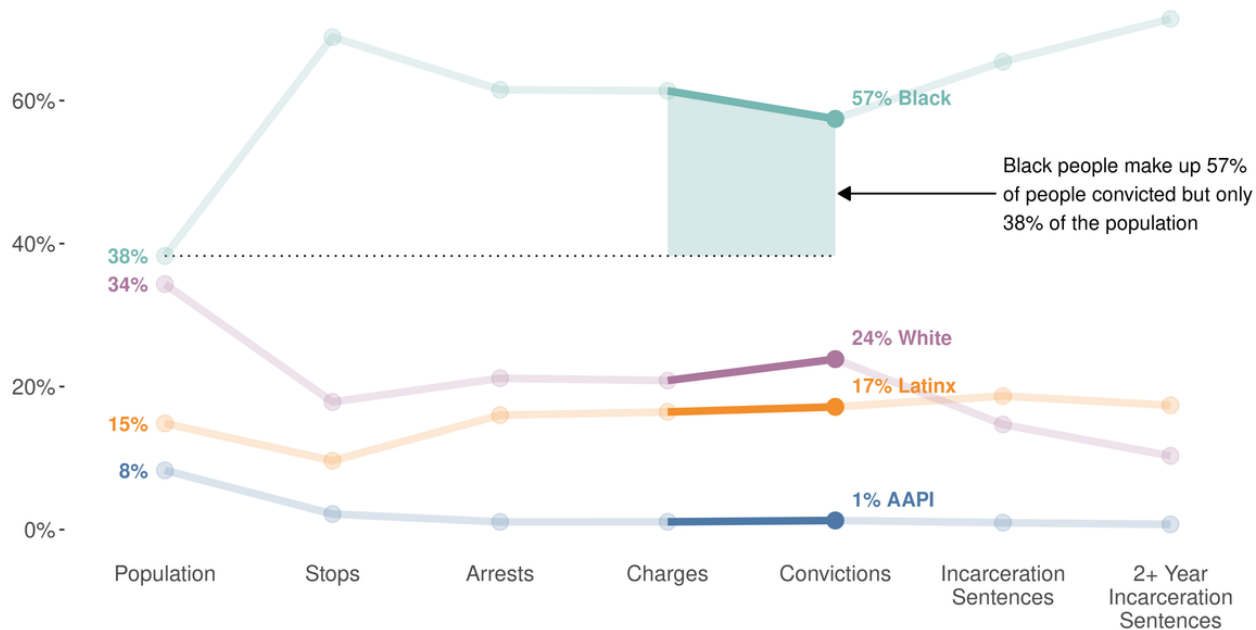
IV. Case Outcomes

The outcome (or disposition) of a case is the way in which it is resolved in court. Once the DAO charges a case, there are several potential outcomes, not all of which are detailed in this report:

- **Diversion:** Eligible cases may be diverted from the typical process of conviction, incarceration, and supervision. Diverted individuals often complete specialized programs (for example, drug treatment court) that help to address underlying needs. The goal of diversion is to provide rehabilitation and hold people accountable to their actions, rather than to punish them.
- **Dismissal:** A case may be dismissed when a judge believes, prior to trial, that there is not enough evidence to support the charges brought.
- **Guilty Plea:** Instead of proceeding to trial, an accused person may choose to admit guilt. Often, the defendant negotiates a sentence with the DAO, although some defendants plead guilty for the judge to determine their sentence. Sentences in guilty pleas generally include incarceration and/or supervision.
- **Guilty Verdict:** When a case goes to trial, a judge or jury may convict the defendant, finding them guilty of one or more of the crimes charged. After a guilty verdict, the sentence is determined by a judge and generally includes incarceration and/or probation.
- **Not Guilty/Acquittal:** When a case goes to trial and the jury or judge finds the defendant not guilty, the case is closed in state court, and the defendant released.
- **Withdrawal:** The DAO may withdraw a case when it does not believe it can or should prosecute that case. Cases are withdrawn for a variety of reasons including witnesses failing to appear, court decisions to suppress improperly obtained evidence, or a belief that the person is not guilty or the prosecution is otherwise unjust. Cases withdrawn at the preliminary stage are called "nolle prosequere."
- **Withdrawn in the Interest of Justice (WIJ):** There are times when withdrawing a case can better serve the goals of the criminal legal system than continuing to prosecute a case. An example is when formal diversion programs are unavailable, but a person is engaged in rehabilitation.
- **Exonerated/Won on Appeal:** A person can be exonerated if they were convicted of a crime and, following a re-examination of the evidence in the case, was either declared factually innocent or relieved of the consequences of a conviction by a government actor with authority to do so. Charges may be dismissed by a court with the support of a prosecutor, or won by the defendant on appeal.

Phase IV: Case Outcomes & Convictions

Racial disproportionalities in convictions are slightly less pronounced than those at charging



Source: DAO Analysis of Philadelphia Police and criminal court data, 2015-2022
U.S. Census Bureau, 2020 Decennial Census.

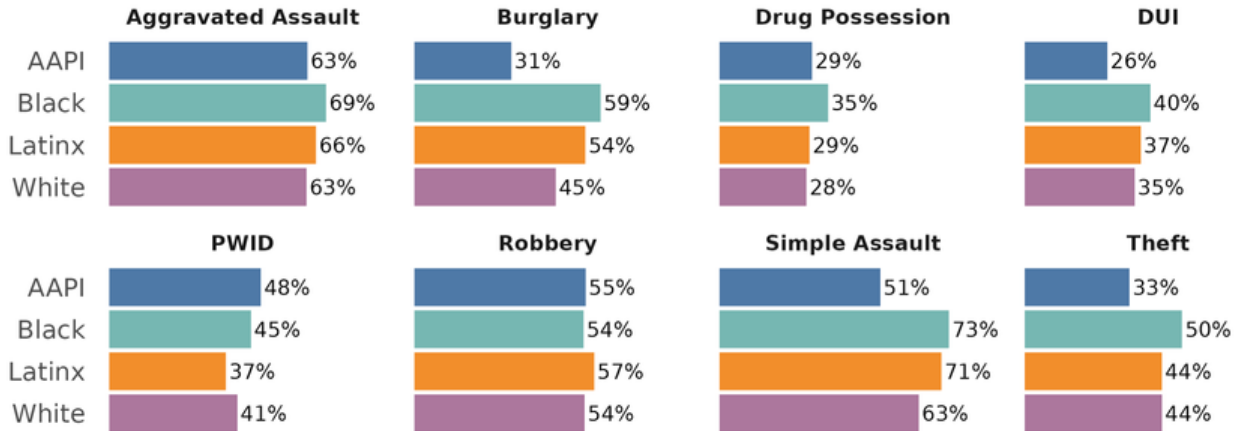
Convictions are the result of a guilty plea or a guilty verdict (the vast majority of cases are resolved through plea bargaining or guilty plea).⁽⁶⁵⁾ As the figure above shows, only 24% of people convicted are white, while 57% are Black. In contrast, Latinx and AAPI people are convicted at rates similar to or lower than their share of the population.

Compared to other racial groups, white individuals are among the least likely to have their cases dismissed, withdrawn, or acquitted, while Black individuals are the most likely. For Black defendants, 49% of cases are dismissed, withdrawn, or acquitted, compared to 41% of cases with Latinx defendants, 37% for white defendants, and 35% for AAPI defendants.

These differences appear across case types. Cases may be dismissed, withdrawn, or end in acquittal for a variety of reasons including the defendant's innocence, lack of evidence, or the failure of a victim, witness, or arresting police officer to appear. Past studies have shown that conscious or unconscious racial bias in policing may also result in cases that are more likely to be withdrawn for lack of evidence.⁽⁶⁶⁾ It is also possible that systemic disadvantages such as poverty and unemployment, issues which are particularly concentrated in communities of color, may prevent witnesses and victims from maintaining involvement in lengthy criminal case proceedings. At this time, there is not reliable data on the specific reasons why a case might be dismissed, withdrawn, or acquitted.

21. Dismissal, withdrawal, acquittal rates, by charge type and race

For most of the common charge types, white and AAPI defendants are among the least likely on average to have their cases dismissed, withdrawn, or acquitted (found not-guilty)



Cases may be dismissed by a judge, withdrawn by prosecutors, or defendants may be determined not guilty (acquitted). Further data on reasons for dismissals/withdrawals is not available. Source: DAO analysis of Philadelphia criminal court data, 2015-2022.

Need for Further Research: Diversion

Diverting cases away from traditional conviction and sentencing processes, whether through a formal diversion program or through discretionary justice decisions by prosecutors, is an essential tool for reducing mass incarceration. Diversion of less-serious criminal cases reduces the harms associated with prosecution, incarceration, and criminal records. Diversion can also connect people to programs that address underlying causes of legal system involvement, such as substance abuse or mental health.

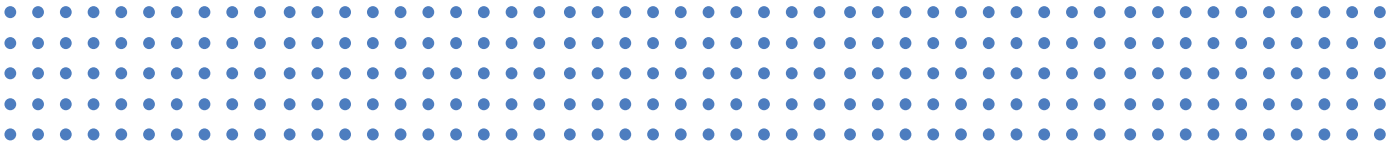
Diversion programs are usually established by agreements between judges, prosecutors, public defense agencies, and sometimes health programs or community organizations. Philadelphia’s court system features multiple diversion programs, some of which are newer than others. The Accelerated Misdemeanor Program (AMP) was founded in 2010 and uses traditional methods of rehabilitation. Other programs, such as Drug Treatment Court and DUI Treatment Court, connect defendants to services that specialize in overcoming problematic substance use (see Appendix C for more examples of Philadelphia diversion programs).

65. Metcalfe, C. & Chiricos, T (2017). Race, Plea, and Charge Reduction: An Assessment of Racial Disparities in the Plea Process, *Justice Quarterly*, 35:2, 223-253.
66. Tomik, A. & Hakes, J. (2004) Case Dismissed: Police Discretion and Racial Differences in Dismissals of Felony Charges.

It is unclear what role diversion plays in mitigating racial disparities. Many diversion programs focus on low-level offending and have strict eligibility requirements, excluding people with severe charges and some prior criminal records. Since white Philadelphians are arrested at rates lower than their share of the population, they are less likely to acquire long criminal records, and are more likely to be charged with misdemeanor offenses. Because of this, they may benefit from diversion efforts more than other groups. Fines and fees associated with some diversion programs can also act as a barrier to program participation and compliance. The burden of court fines may fall more heavily on Philadelphia’s communities of color, from whom equal economic opportunity has been largely withheld.

22. Most common criminal case types diverted by DAO (2015-2022)

Offense Category	AAPI	Black	Latinx	White
Drug Possession	99	4,295	1,603	5,517
DUI	176	2,014	655	1,339
Possessing Instruments of Crime	12	236	51	100
Possession of Marijuana	13	1,780	417	191
Prostitution	132	635	153	315
PWID	18	713	234	112
Retail Theft	69	1,467	255	839
Simple Assault	28	469	145	216
Theft	30	768	132	330
Unlawful Acts Relative to Liquor	3	185	154	18
Total	580 (2%)	12,562 (48%)	3,799 (15%)	8,977 (35%)



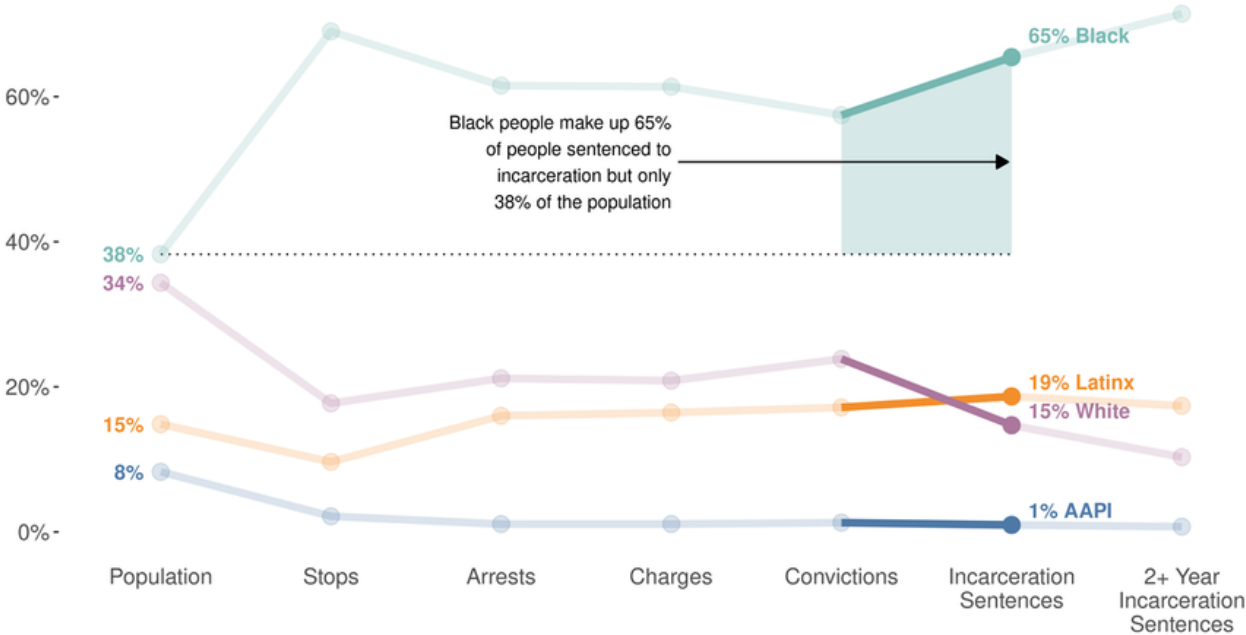
V. Sentencing & Incarceration

A “sentence” is the set of conditions imposed on the defendant by the court when a person is found guilty, pleads guilty, or enters a diversion program. Most frequently, sentences involve a combination of probation, incarceration, and financial obligations (fines and costs), but may include other conditions such as community service or entrance in a treatment program.

Judges are generally responsible for setting a sentence using Pennsylvania state sentencing guidelines to determine incarceration or supervision length. The sentencing guidelines are based on the seriousness of the current offense (offense gravity score) and the defendant’s past criminal history (prior record score), though judges may depart from the recommendations. In the case of a guilty plea, defense counsel and an Assistant District Attorney may negotiate a sentence that a judge later considers for approval.

Phase V: Sentencing & Incarceration

Black Philadelphians make up a larger portion of sentences that include incarceration, likely due to average differences in charge severity



Source: DAO Analysis of Philadelphia Police and criminal court data, 2015-2022
U.S. Census Bureau, 2020 Decennial Census.

White people make up 35% of Philadelphia's population but only 15% of people sentenced to jail or prison

Population



People incarcerated

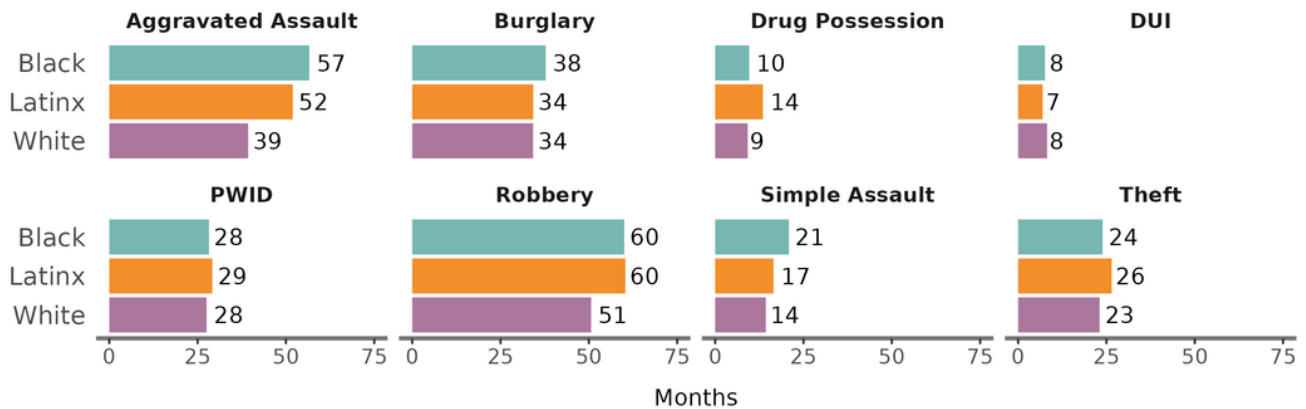


Disparities in sentencing are more pronounced than at any other stage of the criminal legal system. Black people represent 65% of people sentenced to incarceration and 71% of people sentenced to two or more years, despite representing fewer than 60% of those convicted. Notably, the disproportionalities in incarceration rates are larger than those at both stops and arrests.

In addition to representing a greater proportion, Black defendants also see a higher absolute number of carceral sentences. As seen in the figure below, Black defendants receive the longest sentences on average, while white defendants receive the shortest. Sentence lengths for AAPI and Latinx individuals' range between the two. The seriousness and circumstances of a convicted offense has the greatest impact on sentence length, though prior record can play a role.

24. Average carceral sentence length, by charge type and race

On average, white defendants tend to receive shorter sentences than Black and Latinx defendants



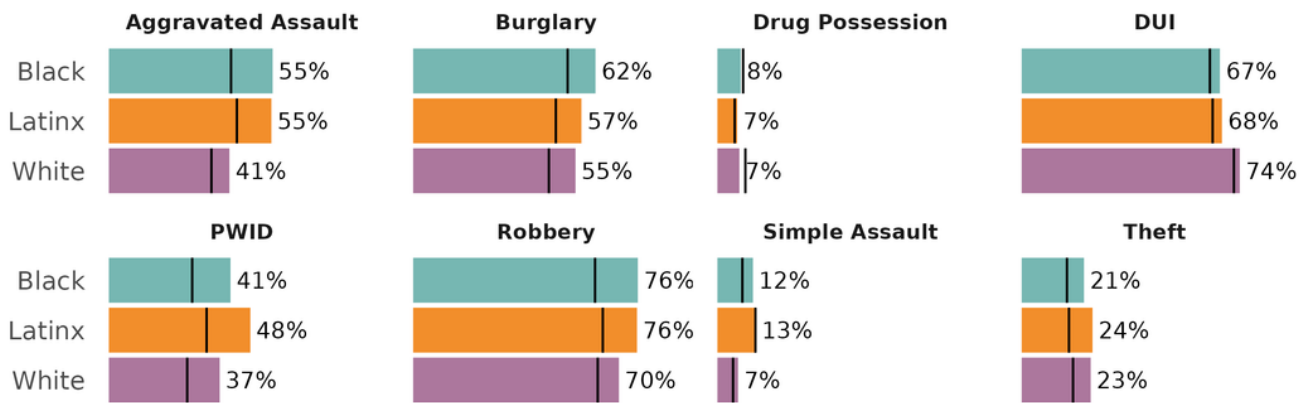
AAPI defendants are not shown because relatively low numbers of sentences show inconsistent trends. This analysis does not account for differences in charge severity or prior record. Rates depict original sentences only; sentences for violations and revocations excluded. Source: DAO analysis of Philadelphia criminal court data, 2015-2022.



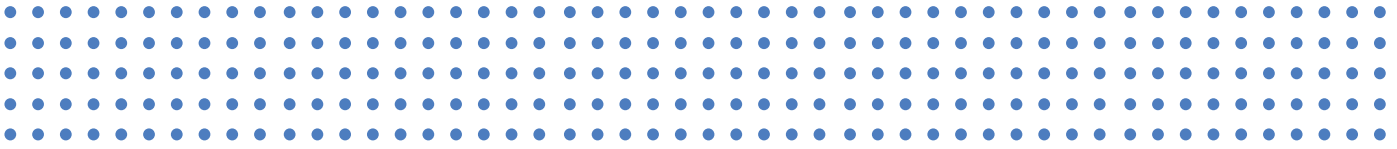
Much of the difference in sentence lengths is driven by the seriousness of the convicted crime. However, there are persistent racial disparities when looking at individual offense categories. Black defendants convicted of burglary, were more likely to receive carceral sentences than white and Latinx defendants, even when accounting for prior convictions and illegal firearm charges. Latinx defendants convicted of PWID charges are also incarcerated at a higher rate, even when they have no serious prior convictions or illegal firearms charges.

25. Proportion of sentences that include incarceration in jail or prison, by charge type and race

Solid black lines show proportions for defendants without prior convictions or illegal firearm charges



AAPL defendants are not shown because relatively low numbers of sentences show inconsistent trends. Rates depict original sentences only; sentences for violations and revocations excluded. Source: DAO analysis of Philadelphia criminal court data, 2015-2022.



Future Areas of Research

While disparities in Philadelphia’s criminal courts tend to diminish or disappear when controlling for prior record and illegal gun charges, it is clear that the burden of the system falls most heavily on Black and Latinx defendants. Though this report provides a broad overview of disparities as they stand, there are key omissions that should be addressed in future work.

First, this report does not include information on Philadelphia’s juvenile justice system. Data on juveniles is protected, and public access to quality data on the juvenile justice system remains a significant gap. For example, the statewide dashboard available through Juvenile Court Judges Commission does not provide data on race at the county-level.

Second, this report is limited to originally sentenced cases, and does not adequately touch on the harms and racial disparities evident in probation and community supervision. The DAO’s 2021 report “Ending Mass Supervision: Evaluating Reforms” Other downstream impacts of criminal-legal involvement, including collateral consequences such as licensing restriction and voter disenfranchisement, are another way in which racial inequalities reverberate across other social systems. Future analyses should go further in exploring these aspects of disparity.

Third, the long-term impact of system changes that happened during the COVID-19 pandemic on racial disparities is yet unknown. Philadelphia justice agencies made coordinated efforts to shrink the system and reduce the spread of the coronavirus, but structural factors and biases may have caused these interventions to be applied unevenly, or to benefit certain groups over others. Mass incarceration also contributes to disparities in health outcomes, and the intersection of the coronavirus pandemic with the criminal legal system should be an aspect of future studies.

Fourth, this report does not contain a year-to-year comparison of disparities, nor an impact evaluation of recent policies. Researchers at the University of Pennsylvania with full access to DAO data are currently conducting an independent evaluation of racial disparities in charging and sentencing, to be published later this year. Future reports should include year-over-year analyses in order to track changes in disproportionalities following policy changes.

Much more work needs to be done to ensure communities of color, who have unique and varied experiences with the justice system, are fairly counted in the data and equitably considered in the solutions.



Future Policy Directions

The disparities observed in Philadelphia’s criminal courts took centuries to develop yet must be addressed with diligence and urgency. This section details policy approaches, supported by the research literature, that civic agencies should explore collectively and individually.

Implementing impactful reform to end racial disparities is complicated for at least two reasons. First, isolated actions or singularly focused policy approaches often fail to resolve deeply engrained disparities. In recent years, efforts to reduce Philadelphia’s jail population in the interest of justice have resulted in fewer people of color held in facilities overall; however, there are now greater proportions of people of color held in facilities due to disparate patterns of arrests and distribution of charge types (see page 42). These findings underscore the difficulty in determining what success or progress looks like for efforts to achieve racial justice—is success measured by proportional representation, or fewer total people of color impacted overall? These questions are necessary for all actors across the criminal legal system to address in order to improve the justice delivery process.

A second complication is that it is tempting for individual justice agencies to absolve themselves of responsibility for change by claiming that the problems are created elsewhere and simply inherited. To avoid this, all agencies must become interested in the root causes of disparity and must commit individually and collectively to ending racial injustice in the criminal legal system.

Despite these significant challenges to implementing reform, there are a variety of policy avenues that should be explored in order to advance racial justice, only a few of which are described here.

#1. Invest in Neighborhoods & Community Organizations

The safest, healthiest neighborhoods are those with low residential turnover and well-maintained houses, lighting, and green space. The processes that drive crime and system involvement are closely linked to the racially stratified conditions of poverty, poor public health, and social disadvantage, all of which have an impact on the physical environment of a community.

Residents have long identified poor street lighting and environmental crimes like illegal dumping as factors that make a neighborhood less safe. Simple interventions that provide the resources for people to maintain their homes, revitalize blighted properties, green vacant lots, improve lighting, end illegal dumping, and create community gardens, have been shown to help reduce gun violence nearby.⁽⁶⁷⁾ Furthermore, these interventions improved neighborhood walkability, tree coverage, and communal outdoor space, all of which promote community health.



Based in part on the literature demonstrating community safety benefits of home maintenance, the Pennsylvania state legislature passed the 2022 Whole Home Repairs Act, providing \$125 million in funding to homeowners. This enables residents to make needed repairs, revitalize their property, and stay in their homes and neighborhoods longer. This act and other policies that prioritize residents and families over landlords and developers are essential elements to preventing violence and crime.

Well-resourced community organizations and community-based efforts also play an important role in preventing and addressing violence. These groups are experts on their neighborhoods, and intimately know the needs, resources, and possibilities. Recognizing the essential benefits of partnering with these groups, the City of Philadelphia has made strides to increase their support of their work through the Anti-Violence Community Expansion Grant Program. While the prioritization of small, hyperlocal groups is commendable, City departments and funding administrators must work closely with organizations to build and supplement their organizational capacity. Grant administration is complicated and community groups should be supported to do the type of work they do best.

#2. Embrace a Broad Restorative Justice Approach

Restorative justice programs are oriented around healing and repair for victims, the community, and the person who committed the harm. Evaluations of these programs have shown higher levels of victim satisfaction, lower rates of re-offending, and significant cost savings as compared to traditional prosecution.⁽⁶⁸⁾ When hundreds of people were arrested for situation-specific offenses during the 2020 racial justice protests, this office and community partners helped develop a restorative justice program to resolve many of the criminal cases. Nearly two years later, people who completed the program had a lower rearrest rate than comparably situated defendants who were traditionally convicted and sentenced to incarceration. See https://data.philadao.com/2020_Civil_Unrest.html.

Despite the promising evidence to support restorative justice, the approach has not been widely embraced in Philadelphia or most U.S. jurisdictions. Existing restorative justice efforts tend to be small and targeted to specific types or situations of criminal offending, with narrow defendant eligibility restricting widespread participation. This is due in part to the fact that restorative justice requires a somewhat “slower,” more involved form of justice that is community-centered and highly intentional. These programs also require a high degree of nuance and cooperation among community groups, victims, defendants, prosecutors, defense attorneys, courts, and other actors.

However, to realize the societal benefits of restorative justice, we must take a broader approach and find ways to implement tenets of the practice at the highest-volume points of the system.⁽⁶⁹⁾ Reducing investment in retributive practices will allow more resources to be spent identifying and meeting the needs of victims, defendants, and the community, which should be the foremost goal of the system.



#3. Improve Data Collection, Sharing, and Use

As detailed in this report, the limited quality of available data makes it difficult to understand and analyze racial disparities in the system. Many criminal legal agencies record data on software and hardware systems that do not “talk” to one another, preventing the sharing of data throughout the entire process of a criminal case. When data is not properly collected or systematically shared, it is more challenging to implement comprehensive data-driven reform. While Philadelphia has relatively robust and integrated data systems among its criminal justice partners (as compared to other U.S. jurisdictions), much further effort is needed to address major gaps and problems.

Data accuracy is crucial for informing policy decisions and implementing effective interventions, particularly in relation to reducing racial disparities. Key demographic variables, if not collected thoughtfully and intentionally, can mask or obscure the experiences of entire groups of people. For this reason, data scientists and researchers must partner closely with communities to fully understand what data signifies, what context is lacking, and what future data systems must be designed to adequately capture the diversity of identities and experiences. As this report explains, the U.S. Census uses more numerous and nuanced racial and ethnic categories than the systems used by the Philadelphia police and courts, making representative comparisons difficult. While taking cues from their local community, law enforcement agencies should consider aligning their demographic data collection more closely to census measures, and should allow system-involved individuals to self-identify for enhanced data accuracy.

#4. Acknowledge & Address Structural Racism

This report aims to shed light on the ways that macro-level historical developments and policies can influence individual defendants and cases on the micro-level. One of the most powerful steps an agency can take towards racial justice is to acknowledge and analyze the ways that a legacy of structural and societal racism is influencing their work. Only after this acknowledgment can steps be taken to address the harms.

State-level actions can have a profound benefit to this effect. The California Racial Justice Act of 2020 allows a person convicted of a crime to challenge racial bias in their case using a greater variety of evidence than was previously possible. Under the 1987 U.S. Supreme Court case *McClesky v. Kemp*, defendants could not bring an appeal alleging racial bias in their case using evidence of broad racial disproportionalities and disparities in the jurisdiction under which they were convicted. Instead, defendants had to prove intentional racial discrimination by an actor or set of actors involved in their case. Under the new California law, defendants in that state can use statistical disparities in charging, convictions, and sentencing to challenge the terms of their conviction. This further underscores the need for justice agencies to provide the public with transparent data and analytical resources, so that the information may be used to advocate for racial justice at a variety of levels.



#5. Re-Assess Risk Assessment

The criminal legal system, at every stage of the system, is supposed to increase public safety. To accomplish this, law enforcement actors use a variety of statutory guidelines and predictive algorithms to assess the “risk” associated with a person who has been arrested. As with other elements of the legal system, the actuarial instruments and sentencing matrices created to assess a defendant’s risk to society are designed with economic, racial, and cultural bias baked into them.⁽⁷⁰⁾

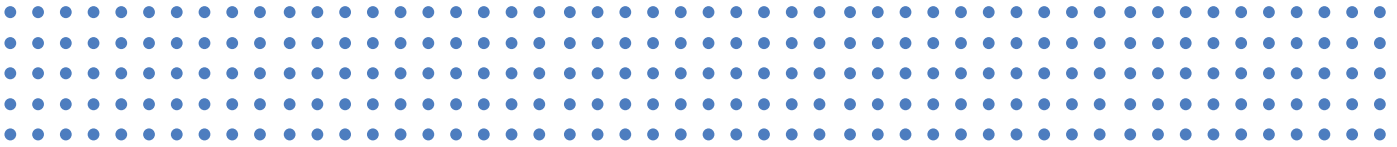
A person’s prior criminal record is one of the most influential pieces of information used to assess their risk to the community and is used at every stage of a criminal case, from bail to parole. However, even something as seemingly neutral and official as a criminal record can be tinged with bias. A person may have lived in a community that was over-policed and therefore was arrested more often, or may have been unjustly convicted. A prior record can prevent a person from being released from jail pre-trial, can exclude them from diversion eligibility, or can trigger sentencing enhancements such as longer incarceration.

The state of Pennsylvania remains an outlier in assigning high rates of cash bail across jurisdictions, particularly for Black and Latinx Pennsylvanians.⁽⁷¹⁾ The ability to pay monetary bail does not determine whether someone is a risk to commit further crimes. This practice automatically penalizes poor people, who are disproportionately Black, and causes them to be imprisoned in racially disparate ways. Major jurisdictions that have eliminated cash bail have seen substantial social and financial benefits, but meaningful action must be taken at the state level to end the deeply unjust practice.

As of this writing, the Pennsylvania Commission on Sentencing is reviewing new guidelines that change the way a person’s “prior record score” (PRS) and “offense gravity score” (OGS) are calculated, which will change the impact these pieces of information have on sentencing lengths. The considered changes would place more focus on the most serious offenses while lessening the impact for someone with a more minor criminal record, allowing some prior charges to expire if the defendant has been law-abiding for a certain period. Statute changes like this are welcome and necessary, but sentencing is just one decision point at which risk assessment measures are used without attunement to how biases influence them.



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 68. Sered, D. (2019). *Until we reckon: Violence, mass incarceration, and a road to repair*. The New Press.
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 71. ACLU of Pennsylvania. (2021). *Broken Rules: How Pennsylvania Courts Use Cash Bail to Incarcerate People Before Trial*. https://www.aclupa.org/broken_rules_report

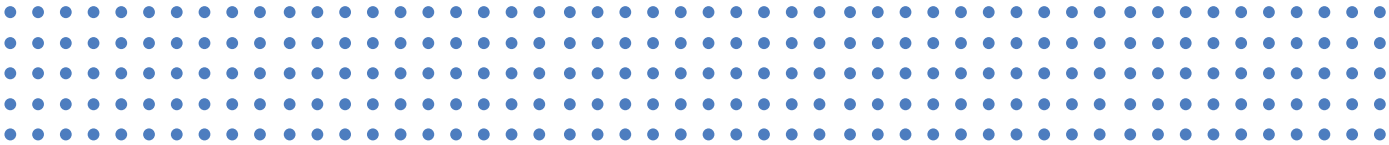


Conclusion

This data-driven report on the racial disparities in Philadelphia’s legal system is long overdue. While there is some emerging evidence of progress, it is clear that far more work is required to eliminate racial disparities in the criminal legal system. Data has the potential to inform system operation and can be used as a tool to advance racial justice in our work, but far more needs to be done to collect, share, analyze, and act upon quality data. At each touchpoint throughout the system, from arrest to sentencing, all legal actors should be made aware of the magnitude of existing disparities and should work to understand their role in creating and ending them.

These efforts will require multi-agency mobilization, ongoing evaluation, and collective action in partnership with local community groups. Law enforcement, prosecutors, public defenders, and the judiciary must share data and solutions with the united goal of ending entrenched disparities and addressing historical and current social factors that create injustice. Data should be made publicly available and easy to understand to ensure that the community is well informed of the ongoing influence that the legal system has on their welfare. This would also guarantee Philadelphians whose lives have been negatively impacted by the legal system the opportunity to provide their invaluable input. Through sustained attention to racial justice and consistent efforts to further equality, we can begin to repair a long history of discrimination and bias within Philadelphia’s criminal legal system.

Philadelphia's justice agencies, community organizations, neighborhood groups, legal practitioners, and social advocates must come together and co-create solutions if we are to end racial disparities in the court system.



Appendix A

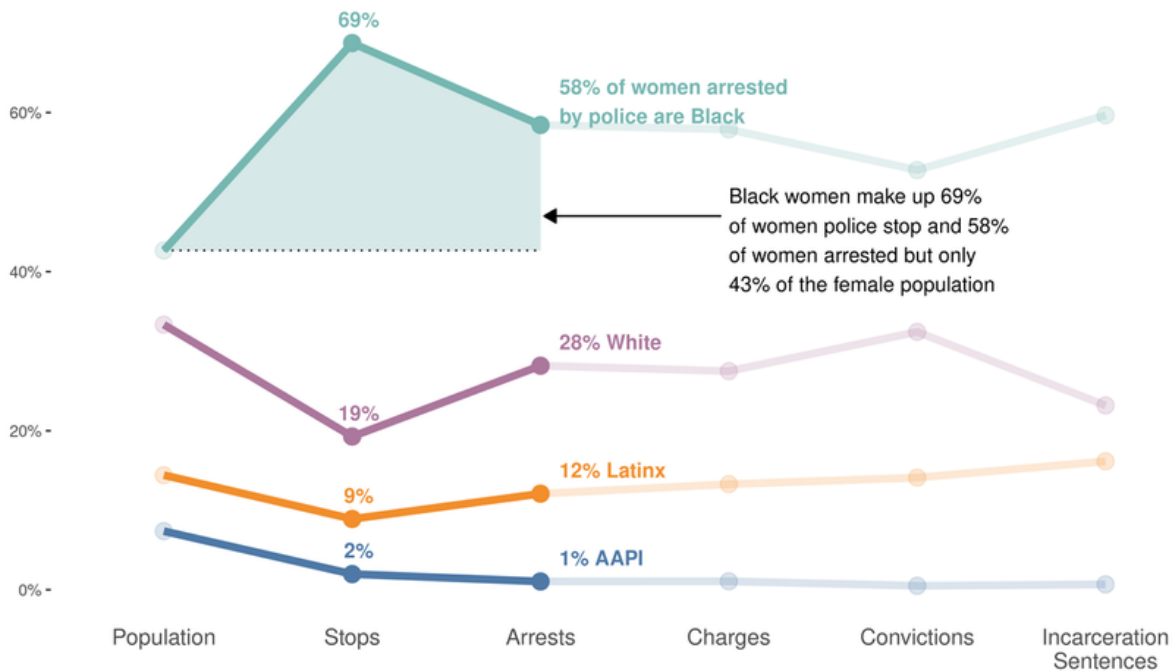
Data on Sample Gender

Most defendants in Philadelphia’s criminal legal system are men: women make up 27% of people stopped by police, 20% of people arrested, 19% of people charged, 16% of people convicted, and 10% of people sentenced to incarceration. Because of this, most of the results presented throughout these reports are more reflective of men than women.

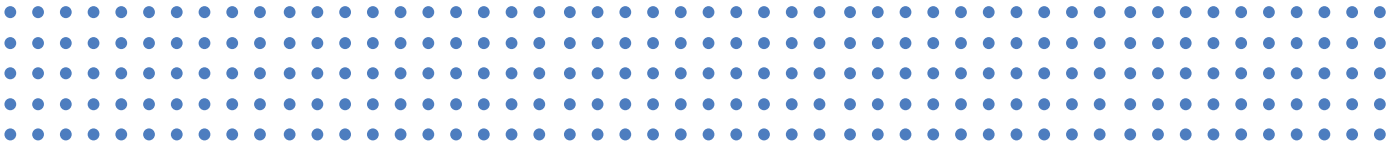
The police data on defendant sex only includes female and male categories and does not capture the full spectrum of gender and sexual identity.

Similar to trends for the general population, the racial and ethnic breakdown for women in the criminal legal system shows large disproportionality. Despite comprising only 43% of the female population of the city, Black women make up 69% of women stopped by police and 58% of women arrested.

26. Racial disparities for women in the criminal legal system



Source: DAO Analysis of Philadelphia Police and criminal court data, 2015-2022 U.S. Census Bureau (2020), 2016-2020 American Community Survey 5-year estimates.



Appendix B

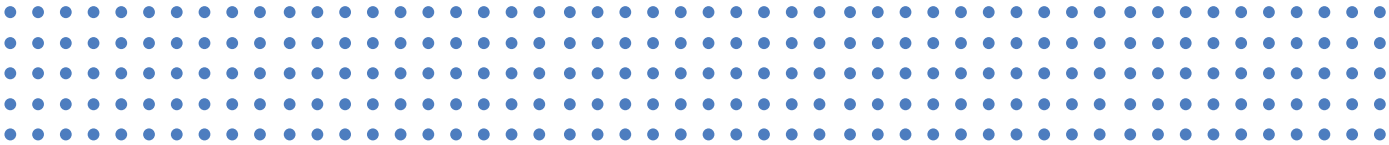
Data on Sample Age

Because the majority of criminal defendants are young adults, most results presented throughout these reports are reflective of a younger demographic. The dataset used in this analysis filters out defendants who are 18 or over at the time of incident. Because of probable errors in data entry for dates of birth, people who were recorded as age 100 or older are also filtered out. Average defendant ages were fairly similar across racial categories, ranging from around 34 to 37 years old. Median ages for white, Latinx, and Black defendants ranged in the low 30s, signaling large numbers of individuals in their 20s in the sample.

27. Sample age descriptives, by race

Race	People	Median Age	Mean Age	Youngest	Oldest
AAPI	2,353	35	37	18	80
Black	96,742	32	35	18	92
Latinx	23,957	32	34	18	99
Native American	182	31	35	18	99
Unknown	412	32	35	18	77
White	36,416	34	36	18	91

Source: DAO analysis of Philadelphia Police and criminal court data, 2015-2022



Appendix C

Diversion programs

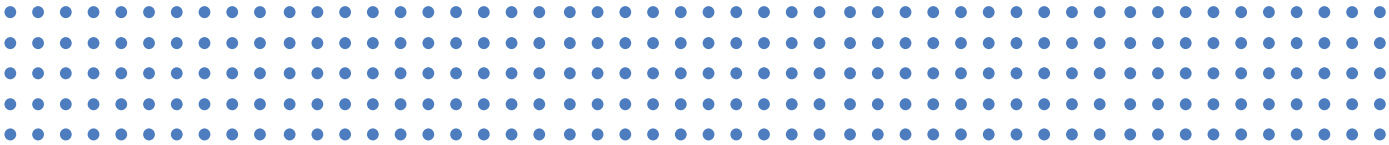
Diversion programs vary given that they are tailored to defendants’ specific circumstances. An individual’s entry into one of these programs is dependent on their current charges, past records, as well as their socioeconomic, psychological, and medical needs. Depending on the program, defendants who receive diversion may have their case held in “abeyance” while they complete treatments for crises such as mental health or substance use, or while they make amends in ways that do not involve conviction and incarceration.

Types of Diversion Programs in Philadelphia

For a complete list of diversion programs, visit the DAO website:

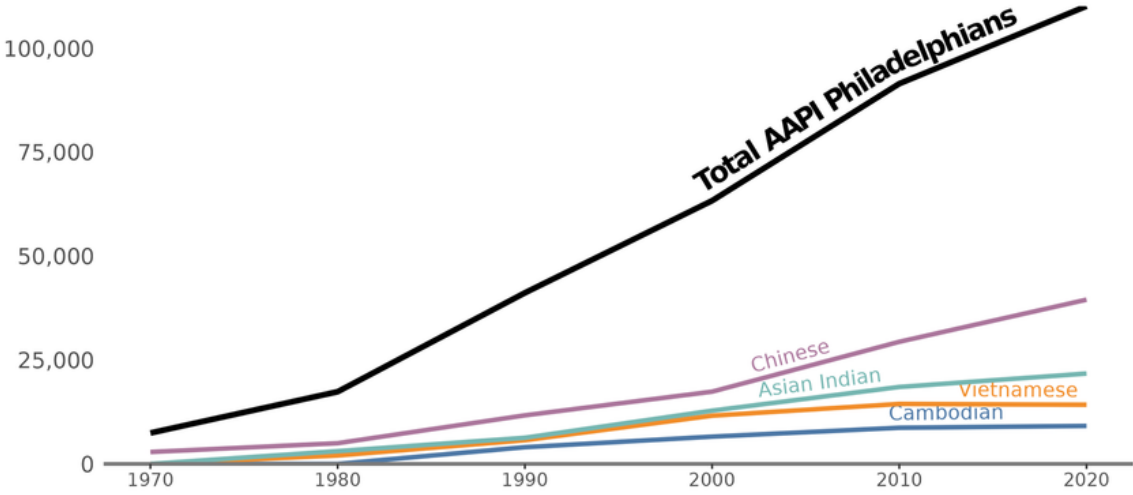
<https://phillyda.org/adult-diversion-and-alternatives-to-incarceration-initiatives/>

Diversion Programs	Felony-only Programs	Specialized Programs
<ul style="list-style-type: none">• Accelerated Misdemeanor Programs (AMP)• Accelerated Rehabilitative Disposition (ARD)• Domestic Violence Diversion• Drug Treatment Court• DUI Treatment Court• Intermediate Punishment• Summary Diversion Program	<ul style="list-style-type: none">• Accelerated Felony Disposition (AFD)• The Choice is Yours (TCY)	<ul style="list-style-type: none">• Mental Health Court• Veterans Court• Restorative Justice• Youth Aid Panels• New Leash on Life• Emerging Adult Unit Center for Carceral Communities



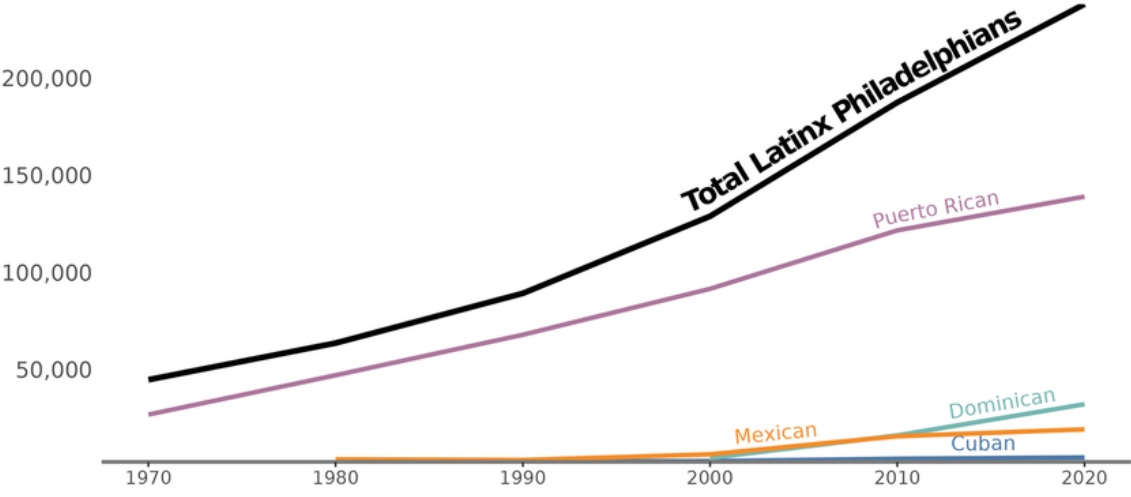
Appendix D

28. AAPI population of Philadelphia (1970-2020)

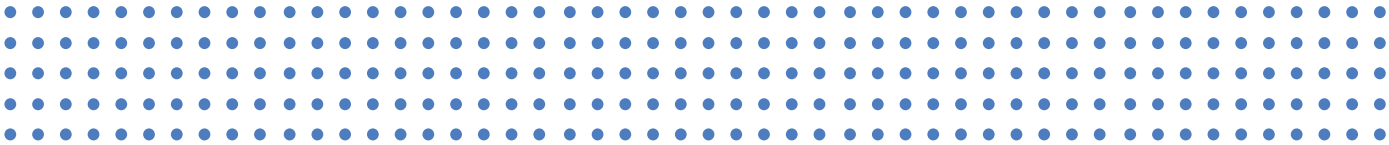


Only the top 4 subgroups are shown. Some subgroups did not have population data available for certain years based on data source.
Sources: U.S. Census Bureau. Sample-Based Population Data with Race/Ethnicity Breakdown(1970).
U.S. Census Bureau. STF1 (1980-1990).
U.S. Census Bureau. Decennial Census of Population and Housing Data (2000-2020).
U.S. Census Bureau. American Community Survey (2020).

29. Latinx population of Philadelphia (1970-2020)

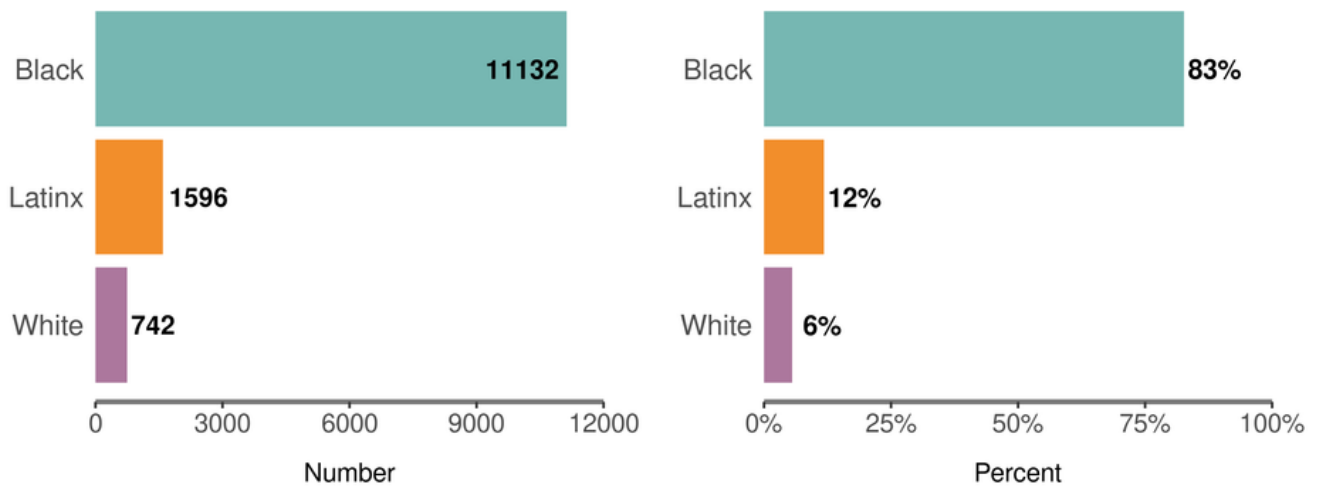


Only the top 4 subgroups are shown. Some subgroups did not have population data available for certain years based on data source.
Sources: U.S. Census Bureau. Sample-Based Population Data with Race/Ethnicity Breakdown(1970).
U.S. Census Bureau. STF1 (1980-1990).
U.S. Census Bureau. Decennial Census of Population and Housing Data (2000-2020).
U.S. Census Bureau. American Community Survey (2020).



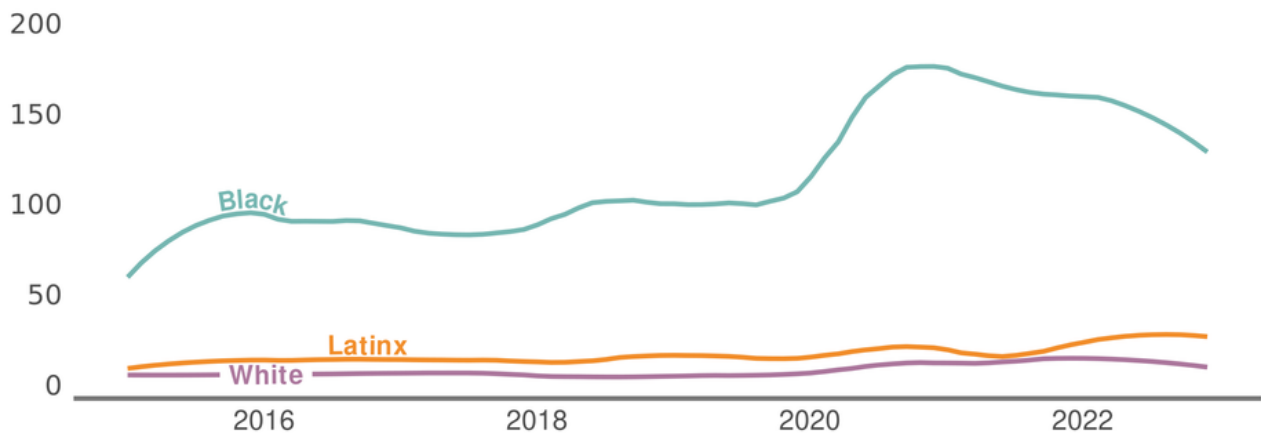
Appendix E

30. Total number and proportion of shooting victims, by race

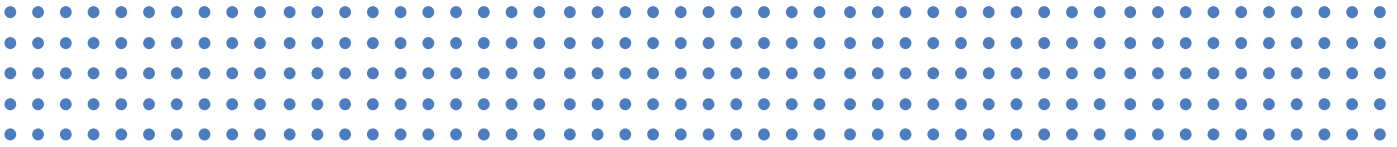


Due to relatively low numbers of victims identified as AAPI by police, the category is not included in this graph.
Source: DAO Analysis of Philadelphia Police data, 2015-2022.

31. Total monthly shooting victims, by race (2015-2022)



Due to relatively low numbers of victims identified as AAPI by police, the category is not included in this graph.
Source: DAO Analysis of Philadelphia Police data, 2015-2022.



Appendix F

Limitations & Considerations

Data sources are mixed and origins are sometimes unknown

- While DAO staff enter essential information into the office’s internal case management system, much of the data used in this report comes from automated feeds that are shared between criminal legal system partners, such as the Philadelphia Police Department and the First Judicial District (the Philadelphia court system). However, the exact source of each data field is unknown; for example, whether a particular field comes from a structured form or whether it is hand-entered. It is likely that some data is incorrect or missing. For example, a birth date of “1/1/1900” is technically a valid entry but likely factually incorrect. We attempt to rectify as many data errors as possible. Due to the large volume of data used for this analysis, it is unlikely that the occasional unresolved data errors would significantly affect the results of this analysis.

Defendant race and ethnicity is not self-reported

- The race or ethnicity recorded may not necessarily match defendants’ actual race, or their self-identification because race and ethnicity are reported by police within automated data feeds (see above). Additionally, the way race is measured in the census is different than the way police and courts categorize race, which presents complications for analysis. We attempt to identify where data may mismatch and have made challenging methodological decisions about merging various data sources for the purposes of this report.

Analyses are limited to what we can report

- As with any analysis, we can only measure the variables for which data has been recorded. This report would greatly benefit from explorations into a large variety of different external factors contributing to racial injustice within the criminal legal system such as economic, education, or population health data. However, because we are limited to the information recorded within the criminal legal system, we are unable to account for such complexities at this time. Future work will seek to incorporate non-legal system data in order to provide even greater context and nuanced understanding of this deeply complex problem.

The impact of sentencing guidelines is not part of this analysis

- We do not include or control for any data around Prior Record Score, Offense Gravity Score, or any other law enforcement algorithms that directly affect charging and sentencing decisions. The many case variables necessary to recreate these scores are not available. A more rigorous statistical treatment of many of these analyses, conducted by research partners at the University of Pennsylvania, is forthcoming.



Criminal legal data is incomplete and often biased

- Crime data can only be recorded when incidents are reported and an arrest is made. Many offenses, such as drug possession and illegal gun possession, are almost entirely reported by police through the course of an arrest. As a result, the reporting of some crimes are systematically and necessarily tied to police behavior. While many people may be in possession of drugs or illegal weapons, only instances where someone is arrested will it be reported as having happened at all. Thus, the data is incomplete as we do not know how often certain crimes actually happen or who commits them, and our knowledge and report reflects upstream police enforcement decisions.

This report considers cases on the “lead charge” level

- The most serious offense a person is charged with in a case is called the lead charge. The lead charge of a case at the time of charging/case open is not always the same charge that a defendant may be convicted and sentenced for when the case is disposed. This can happen because of insufficiency of evidence to proceed on the original lead charge or because plea negotiations lead to a downgrade, perhaps to avoid the collateral consequences of a felony conviction. However, due to data limitations and the complexities of following a case from open to close, for this report, we use the lead charge at case open (including grade and offense category) when we examine case dispositions and sentencing.

Adult cases only

- Because juvenile cases follow a significantly different process than adult criminal cases, they could not be reasonably included in our analysis. Using a variety of methods, this analysis excludes anyone under 18 and over 100 from our main datasets, including stops, arrests, and cases. However, many of these methods rely on age at incident, which can be erroneous if a birthdate was entered incorrectly.

Positionality

- The Philadelphia District Attorney’s Office has perpetuated many of the harms described in this report. This institutional history and the office’s position as a government actor within the criminal legal system gives us access to important data and the ability to transparently release it, however, we are limited in other ways. As we work to release more data publicly, we encourage community members to conduct their own explorations and evaluations of the criminal legal system and the effects of various actions and policies as we work to build a safer, fairer, and more just Philadelphia.

Further limitations

- For further limitations about our data, please see <https://data.philadao.com/limitations.html>.

