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Creating a Path Forward to Reduce Racial Disparities in the Criminal Justice System in Allegheny County

Acknowledgments

Executive Summary

Project Objective and Methods

In 2015, at the request of Allegheny County Executive Rich Fitzgerald, the University of Pittsburgh's Institute of Politics (IOP) assembled a task force to identify strategies to improve the criminal justice system in Pennsylvania's Allegheny County. The task force's reports highlighted that Allegheny County's criminal justice system disproportionately involves the Black community, which also had been shown in several prior studies.[1] In particular, prior analyses conducted by local system professionals showed that Black individuals comprise 66% of the Allegheny County jail population despite comprising only 13% of county residents.[2] However, although these prior studies were able to document racial disparities at particular decision points within the Allegheny County criminal justice system, no study had conducted a systematic assessment of the size of racial disparities at all key junctures of the system. Furthermore, these studies did not identify the specific reasons for these racial disparities, which is a critical step in identifying policies that can potentially mitigate these disparities.

To address these gaps in understanding the extent of racial disparities in the Allegheny County criminal justice system and the reasons for these disparities, the IOP issued a request for proposals seeking research partners to conduct a study aimed at examining policies, practices, and outcomes at numerous decisionmaking points that could be contributing to racial disparities. The IOP emphasized that the research should consider systemic factors and organizational culture that may perpetuate or exacerbate disparities and how the successive stages of system involvement are interconnected. It should also include the perspectives of community members and people working in the Allegheny County criminal justice system.

This report, written by RAND Corporation and RTI International researchers, presents the results of that research. The research team used a mixed-methods approach to conduct this research, which integrated statistical analysis of administrative data for all key decision points in the criminal justice system (i.e., quantitative analysis) with analysis of interviews with 40 community members and 20 system professionals who work in the Allegheny County criminal justice system (i.e., qualitative analysis). There are four components to the mixed-methods approach that was used to conduct this study:

1. **Identification of the size of the racial disparity at each of the following stages of the Allegheny County criminal justice system: law enforcement, pretrial detention,**

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[1] The background section of Chapter 1 includes an in-depth discussion of these prior studies.

[2] Allegheny County Analytics (2021). *Jail Population Overview*. Retrieved from: https://analytics.alleghenycounty.us/2021/03/04/allegheny-county-jail-population-management-dashboards-2/

criminal court, and probation. Throughout this report, a *racial disparity* in a given outcome is defined as the average difference in that outcome between Black and White individuals, regardless of the reason for this difference. The starting sample consisted of Black and White residents of Allegheny County, and the analysis examined how these two groups flowed through successive stages of the criminal justice system.

2. **For every stage where a racial disparity was identified, in-depth analyses were conducted to identify the core drivers of the racial disparity.** Broadly speaking, racial disparities at a given decision point can arise in two ways: *racially disparate treatment*, whereby Black individuals are treated differently than otherwise similar White individuals precisely because they are Black; and *racially disparate impact*, in which a formal policy or informal discretion by system actors has different consequences by race because it takes into account characteristics that differ on average between Black and White individuals who enter that stage of the process. Although much of the prior literature in this area has focused only on the role of disparate treatment in explaining racial disparities, this study focuses on both factors. For most decision points, the analysis is able to identify the percentage of the racial disparity that is explained by racial differences in most of the characteristics taken into account by decisionmakers, and further identifies the specific explanatory power of *each* of the characteristics controlled for. This method of analysis allows for a more thorough understanding of what is driving racial disparities.

3. **Inclusion of extensive input from community members with lived experience and system professionals who work within the criminal justice system.** Prior racial disparity research has generally either taken a qualitative or quantitative approach, but it is important to develop insights based on both methods. Qualitative interviews deepen the understanding of the lived experiences of people affected by the system and how policies and practices can produce observed patterns. Feedback from community members and criminal justice system professionals also provided deeper insight into the quantitative results.

4. **Development of recommendations to reduce racial disparities that begin to address the root causes of the disparities**. The first three components of the study are designed to identify the specific decisionmaking points that exhibit disparities and what is driving each disparity. This identification allows recommendations to be tailored to the specific causes of the disparity.

Key Definitions:

Racial disparity refers to the average difference in an outcome (e.g., arrest) between Black and White individuals, regardless of the reason for this difference.

Disparate treatment refers to unequal behavior toward individuals or groups on the basis of race, intentionally or unintentionally.

Disparate impact refers to when a formal policy or informal discretion by system professionals has unequal consequences by race because it takes into account characteristics that differ by racial groups. Throughout the report, this is referred to as the "explained" disparity, as it represents the part of the racial disparity that is related to racial differences in characteristics that decisionmakers take into account and are controlled for in the analysis.

Unexplained disparity represents the part of the racial disparity that cannot be explained by racial differences in characteristics that are controlled for in the analysis. It can reflect either racial differences in factors that decisionmakers take into account that are not controlled for in the analysis, or it can reflect disparate treatment.

The remainder of this Executive Summary presents the quantitative and qualitative research findings, and then discusses the limitations of the study. The final section presents the recommendations the report makes regarding reducing racial disparities in the Allegheny County criminal justice system.

Quantitative Research Findings

Size of Racial Disparity Present at Each Stage of the Criminal Justice System

Table S.1 identifies the size of the racial disparity for the main outcomes examined at each of the key stages of the Allegheny County criminal justice system, where, as noted earlier, *a racial disparity* is defined as the raw difference in average outcomes between Black and White individuals at a given stage. The analysis uses data from the period of January 1, 2017, through December 31, 2019.

Table S.1. Examination of Racial Disparities at the Four Main Stages of the Criminal Justice System

Stage of Criminal Justice System	Main Outcome(s) Examined	White Individuals	Black Individuals
Law enforcement	Among those in the population, who has criminal charges filed against them?	1.5%	7.5%
Pretrial detention	Among those who have criminal charges filed against them, who serves pretrial detention?	16.2%	29.1%
Criminal court	Among those who have criminal charges filed against them, who is convicted of a felony?	5.4%	9.7%
	Among those who have criminal charges filed against them, who serves a confinement sentence?	7.9%	10.3%
Probation	Among those on probation, who has a detainer for a new charge filed against them?	5.5%	11.0%
	Among those on probation, who has their probation sentence revoked?	5.2%	7.2%

Table S.1 indicates there are racial disparities at each of the key stages of the Allegheny County criminal justice system. Among individuals who reside in Allegheny County, 7.5% of Black individuals have new criminal charges filed against them compared with 1.5% of White individuals, for a difference of 6 percentage points. Put another way, a randomly chosen Black individual in the county is five times as likely to be criminally charged as a randomly chosen White individual. Among individuals who have criminal charges filed against them, 29.1% of Black individuals serve at least some pretrial detention on these charges compared to 16.2% of White individuals. Among individuals who have criminal charges filed against them, 9.7% of Black individuals are convicted of a felony and 10.3% are sentenced to confinement, while the

corresponding percentages among White individuals are 5.4% for a felony conviction and 7.9% for a confinement sentence. Among those on probation, 11% of Black individuals were issued a detainer for a new charge and 7.2% have their probation sentence revoked, while the corresponding percentages among White individuals are 5.5% and 5.2 %, respectively.

These latter rows in Table S.1 should not be viewed in isolation. They build on the first row to create cumulative disparity in the system. This is strictly true for the pretrial and court rows, which show outcomes for people with criminal charges. Multiplying the percentage in the first row by the percentage in the second row shows that 2.4 out of every 1,000 White residents experience pretrial detention, while 21.8 out of every 1,000 Black residents experience pretrial detention. The cumulative impact of these two stages leads to almost ten times the number of individuals experiencing pretrial detention per capita for Black residents as for White residents. Multiplying rows 3 and 4 by row 1 shows similar population disparities following trials. Black residents are nine times as likely to be convicted of a felony and 6.5 times as likely to be convicted of a crime and incarcerated.

The remainder of this section provides a high-level summary of what the analyses indicate drive these racial disparities. For clarity, these findings are presented separately for each of the four main stages of the criminal justice system. An in-depth discussion of these findings is provided in Chapters 3 to 6 of the report.

Racial Disparities in Law Enforcement Outcomes

Analysis and Sample Notes

The analysis of law enforcement outcomes focused on all Black and White individuals who reside in Allegheny County. Black individuals comprise 12.9% of the county population, while White individuals make up 79.8% of the county population. The main outcome examined was who had a criminal charge filed against them between 2017 and 2019. During this time, 88,511 new charges were filed against Black and White individuals. There are 140 law enforcement agencies within Allegheny County. Although some of these data that these agencies collect— including information on new criminal charges being filed—is fed into a centralized data system and available through the county courts, the majority of the data that these agencies collect is not otherwise shared and must be obtained through separate data-use agreements. The research team was able to obtain de-identified data on 911 calls and the motor vehicle stops from the Pittsburgh Bureau of Police (PBP). However, the research team was only able to obtain this type of additional data from one of the 139 other law enforcement agencies in Allegheny County. Table S.1 presents the racial disparity for the county as a whole, but the rest of the law enforcement analyses examine the racial disparities present in the city of Pittsburgh separately from the racial disparities present in the suburban areas. The data from the county court system were sufficient to examine criminal charging disparities for each suburb—however, only the city

data provided the detailed information necessary for examining connections between specific policing practices and disparities.

Law Enforcement Results for the City of Pittsburgh

Within the city of Pittsburgh, 5.8% of Black residents are charged with a criminal offense each year, while 1.3% of White residents are charged. This finding represents a 4.5 percentage point racial disparity in the rate at which new criminal charges are filed. Analyses indicate that the neighborhoods in which individuals reside play an extremely important role in explaining this racial disparity:

- **91% of the racial disparity in the rate at which new criminal charges are filed in Pittsburgh occurs because the neighborhoods where Black individuals are more likely to reside in have higher charging rates for everyone.** For example, more than 85% of the residents of neighborhoods within Homewood and the Hill District are Black individuals, and these neighborhoods have some of the highest criminal charging rates within the city.
- **9% of the racial disparity in the rate at which new criminal charges are filed in Pittsburgh occurs because, within a given neighborhood, Black individuals are more likely to be charged with a crime than White individuals are.**

Neighborhoods within Pittsburgh where Black residents make up more than 60% of the population are defined as *Black neighborhoods* in this report. To better understand what is causing racial disparities in criminal charging rates within Pittsburgh, it is necessary to understand why charging rates are higher in Black neighborhoods relative to other neighborhoods. Two of the reasons why charging rates might be higher in Black neighborhoods are that (1) rates of criminal activity might be higher in Black neighborhoods and (2) policing strategies might be different in Black neighborhoods. The analyses indicate the following:

- **31% of the disparity in charging rates across neighborhoods can be explained by factors that proxy for (i.e., are predictive of) criminal activity (such as citizen calls for service and the median age, income, and average education level of residents in the neighborhood).** Violent crimes, such as homicide, which are reliably reported in all neighborhoods, occur more often in Black neighborhoods than in other neighborhoods. This is suggestive that part of the reason why Black neighborhoods have higher charging rates is because criminal activity in those neighborhoods is higher.
- **69% of the disparity in charging rates across neighborhoods cannot be explained by factors that proxy for criminal activity.** The variables included to proxy for criminal activity are unlikely to be a perfect measure of criminal activity, and thus it is possible that more of the disparity in neighborhood charging rates would be explained if additional measures were available. However, the fact that so much of the disparity in neighborhood charging rates is unexplained by these proxy factors indicates it is likely that differential policing strategies play some role in why charging rates are higher in Black neighborhoods. Explicit evidence that this is happening is provided below.

Policing strategies might be different in Black neighborhoods because these areas have higher crime rates than other neighborhoods (as measured by citizen calls for service), and policing strategies can often be different in areas that are identified as high-crime neighborhoods. In particular, law enforcement may initiate more interactions with residents in these areas through either motor vehicle or subject stops, because that will allow them to investigate whether these individuals are in the process of committing a criminal offense. Because certain offenses (such as drug offenses) are primarily detected by an officer-initiated action, when officers conduct relatively more of these actions in some neighborhoods it results in the residents of those neighborhoods being more likely to be caught when they are engaging in that activity. The analysis found several pieces of evidence that indicated that police initiate more encounters with citizens in Black neighborhoods, and that these additional police-initiated encounters led to more charges being filed against individuals who reside in those neighborhoods. These pieces of evidence include the following:

- **72% of the motor vehicle stops conducted in Black neighborhoods are low-priority stops, while 48% of the motor vehicle stops conducted in other neighborhoods are low-priority stops.** Such stops include violations related to expired registrations, expired inspections, issues related to emission inspections, broken headlights or taillights, tinted windows or objects hanging from the rearview mirror, offenses related to the display of the registration plate, failure to signal a lane change, and general equipment violations. These types of violations do not pose a significant risk to public safety and are said to be often used as pretext stops. The fact that a significantly higher fraction of motor vehicle stops in Black neighborhoods consist of these low-priority stops indicates that motor vehicle stops are disproportionately being used as pretext stops in Black neighborhoods.

- **Within Black neighborhoods, criminal charges were roughly equally likely to be initiated from a call for service as from a low-priority police-initiated action (30% versus 27%); within other neighborhoods, criminal charges were more than twice as likely to be initiated from a call for service than a low-priority police-initiated action (38% versus 17%).** Charges that arise out of a citizen call for service are often considered to be situations where law enforcement has little discretion about getting involved and filing charges, whereas charges that arise out of a low-priority police-initiated action (such as a low-priority motor vehicle or subject stop) are situations where law enforcement has a high amount of discretion about getting involved. The fact that, within Black neighborhoods, a relatively higher fraction of charges occur because of low-priority police-initiated actions indicates that Black neighborhoods have a higher fraction of interactions initiated with citizens for low-priority reasons than other neighborhoods do.

- **The biggest disparity in charging rates between Black neighborhoods and other neighborhoods occurs for offenses that are primarily discovered through police-initiated actions (e.g., marijuana possession). In contrast, the smallest disparity in charging rates between Black neighborhoods and other neighborhoods occurs for offenses that are primarily initiated through a citizen call for service (e.g., a robbery).** This finding indicates that one of the reasons that charging rates are higher in Black neighborhoods than other neighborhoods is because law enforcement officers

initiate more interactions in those neighborhoods, and those increased interactions result in certain offenses being enforced at a higher rate in those neighborhoods. Put another way, such offenses as marijuana possession could be similar across neighborhoods, but this offense is mainly discovered through a motor vehicle or subject stop.[3] Because law enforcement engages in these police-initiated activities at a higher rate in Black neighborhoods, individuals in those neighborhoods who possess marijuana are more likely to be caught.

Collectively, the results indicate that Black neighborhoods within Pittsburgh are policed in a different manner, potentially because of differential crime patterns, which brings a higher number of Black residents into contact with law enforcement and then results in those individuals being more likely to be caught for a given offense.

Law Enforcement Results for the Suburban Areas of Allegheny County

Within the 129 municipalities, townships, and boroughs outside the city of Pittsburgh, 7.9% of Black residents are charged with a criminal offense each year, while 1.5% of White residents are charged—this finding represents a racial disparity in the rate at which new criminal charges are filed of 6.4 percentage points. In contrast to the results found within the city of Pittsburgh, analyses indicate that the location where an individual resides does not play too much of a role in explaining this disparity:

- 15% of the racial disparity in the rate at which new criminal charges are filed in the suburban areas occurs because suburbs where Black individuals are more likely to reside in have higher charging rates for everyone.
- 85% of the racial disparity in the rate at which new criminal charges are filed in the suburban areas occurs because, within each suburb, Black individuals are more likely to be charged with a crime than White individuals are.

There are two main reasons why, within a given suburb, Black individuals might be charged with criminal offenses at a higher rate than White individuals: (1) Black and White individuals engage in criminal activity at different rates, and (2) law enforcement officers engage in disparate treatment against Black individuals. Because of the limited law enforcement data provided on incidents that occurred outside the city, only a limited analysis was able to be conducted to disentangle these two reasons. The results indicate the following:

- **The racial disparity in criminal charging rates between Black and White individuals is highest in suburbs where more White individuals reside, suggesting that disparate treatment could be a factor.** For example, within suburbs where Black residents make up at least 25% of the population, the charging rate for Black individuals is 5.9% and the

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[3] Many studies have shown that Black and White individuals use illicit drugs at similar rates. See, for example, Oetting, E. R., & Beauvais, F. (1990). Adolescent drug use: Findings of national and local surveys. Journal of Consulting and Clinical Psychology, 58(4), 385–394; and Vaughn, M.G., Salas-Wright, C.P., Alsolami, A.S. et al. Margin for error: examining racial and ethnic trends in adolescent risk propensity. Soc Psychiatry Psychiatr Epidemiol 56, 993–1002 (2021).

charging rate for White individuals is 2.6%. Within suburbs where Black individuals make up less than 10% of the population, the charging rate for Black individuals is 14% and the charging rate for White individuals is 1.2%. The fact that the racial disparity is highest in areas where more White individuals reside is suggestive that disparate treatment could be a factor, because preferences for disparate treatment are likely highest in predominantly White suburbs. However, the role of disparate treatment cannot be conclusively determined.

- **Identifying the potential role that disparate treatment might play in charging patterns within suburban areas requires more-detailed data on law enforcement actions.** In particular, being able to examine the action that initiated the charge would be extremely useful. For example, if the results indicated that, within areas where more White individuals reside, a higher percentage of charges filed against Black individuals originated from a police-initiated action than occurred within suburbs where more Black individuals reside, that would be suggestive that disparate treatment against Black individuals in White suburban areas might be a cause of the racial disparity. Furthermore, having data on motor vehicle stops would allow one to examine whether more low-priority and perhaps pretextual stops were made of Black individuals when they were in White suburbs than when they were in suburbs where more Black individuals reside.

Racial Disparities in Pretrial Detention Outcomes

Analysis and Sample Notes

The analysis of pretrial detention outcomes focused on all Black and White individuals who had new criminal charges filed by law enforcement between 2017 and 2019, but excludes individuals who were held in jail at least partially because of a probation detainer or for another reason besides a new charge (e.g., an external hold). Although the time individuals spend in jail on probation detainers (as well as the racial disparities in these outcomes) is an extremely important outcome to examine, it is not a function of pretrial processes, but rather is reflective of probation policies. For this reason, these cases were not included in the pretrial detention analysis, but are examined in the probation analysis.

After dropping cases involving detainers and external holds, the starting sample used for the pretrial detention analysis includes 66,321 cases—Black individuals make up 44% of this sample, and White individuals comprise 56%. For the analyses that focus on what happens at the preliminary arraignment and beyond, the analysis only includes cases where the preliminary arraignment occurred at the Pittsburgh Municipal Court (which happens 88% of the time).

Pretrial Detention Results

Table S.1 indicates that, among those who have charges filed against them, Black individuals are 13 percentage points more likely to serve pretrial detention. This racial disparity includes those who were in jail on probation detainers and external holds. As noted in the sample discussion above, the main analysis conducted at the pretrial detention stage dropped these cases. After excluding cases where the new charges filed triggered a probation detainer or other hold,

the results indicate that 26.3% of Black individuals serve at least some pretrial detention on their new charges, while 13.9% of White individuals do—this represents a 12.4 percentage point racial disparity at this stage. Table S.2 shows that this overall disparity is caused by racial disparities at every key substage of the pretrial detention process. The remainder of this section discusses the findings at each of these substages, including what factors cause the disparity at each of these substages.

Table S.2. Racial Disparities Present at the Substages of the Pretrial Detention Process

	White Individuals	Black Individuals
Among those charged with a crime, who is arrested (versus receives a summons)?	44%	62%
Among those arrested, who has a monetary bail or hold without bail determination?	43%	54%
Among those with a monetary bail, who is still in jail 60 days later?	15%	19%

Among those charged with a crime, Black individuals are 18 percentage points more likely than White individuals to be arrested versus receiving a summons. This gap reflects the racial disparity in the decision to arrest versus issue a summons. An individual who is arrested has to have a preliminary arraignment in front of either a Magisterial District Judge (MDJ) or a senior judge to determine their pretrial release conditions, while an individual who receives a summons is free to remain in the community while their case is adjudicated. The analysis indicates the following reasons why this racial disparity in the arrest versus summons decision occurs:

- **61% of the racial disparity in the arrest versus summons decision is caused by racial differences in the grade and type of offenses individuals are charged with.** The key guidance regarding whether an arrest versus a summons should be issued comes from the statewide policy that is laid out in Rules 509 and 519—these rules state that individuals must be arrested if they are charged with a felony (which occurs more frequently among Black individuals) and states that individuals should be issued a summons if they are charged with a misdemeanor driving under the influence (DUI) offense (which occurs more frequently among White individuals). Thus, one of the key reasons why Black individuals are more likely to be arrested (versus receive a summons) is that they are more likely than White individuals to be charged with crimes that statewide rules say merit an arrest.
- **14% of the racial disparity in the arrest versus summons decision is caused by racial differences in warrant status.** Black individuals are more likely to have an arrest warrant out for the charges in question than White individuals are. When a warrant for arrest has been issued, law enforcement must arrest the individual and have no discretion in the matter.
- **21% of the racial disparity in the arrest versus summons decision is caused by differential policing practices in the city of Pittsburgh versus the suburban areas.**

Rule 519 gives law enforcement officers discretion in the arrest versus summons decision when the charge is at the misdemeanor level. Among misdemeanor charges filed within the city of Pittsburgh, 61% of the cases resulted in an arrest, while 27% of the misdemeanor cases originating in the suburban areas resulted in an arrest. Thus, for a given misdemeanor case, officers with suburban law enforcement agencies are much less likely to arrest an individual than PBP officers are likely to do. Because Black individuals are disproportionately located in the city of Pittsburgh, this disparity results in them being more likely to be subject to these stricter arrest policies.

Among individuals who are arrested, Black individuals are 9 percentage points more likely to have a monetary bail set or a hold without bail determination at their preliminary arraignment. This gap reflects the racial disparity in the preliminary arraignment decision. When a monetary bail is set, it requires an individual to pay that amount before they can be released from jail. The alternative to a monetary bail or a hold without bail decision is that the judge (who is either an MDJ or a senior judge) can release the individual without making them pay anything. The analysis indicates the following reasons why this racial disparity in who receives a monetary bail or hold without bail determination occurs:

- **36% of the racial disparity in the preliminary arraignment decision is explained by racial differences in crime grade and type.** Among those arrested, Black individuals are more likely than White individuals to be charged with a felony and to be charged with a person or weapons offense. Judges are more likely to assign a monetary bail or issue a hold without bail determination for these cases.
- **37% of the disparity in the preliminary arraignment decision is explained by racial differences in criminal history.** Among those arrested, Black individuals are more likely than White individuals to have a more serious recorded criminal history, as measured by both the number of prior arrests and convictions and the severity of previous convictions. Judges are more likely to assign a monetary bail or issue a hold without bail determination for individuals with a more serious criminal history.
- **20% of the racial disparity in the preliminary arraignment decision is unexplained by the factors that were controlled for in the analysis.** This unexplained disparity can either reflect disparate treatment on the part of the judge or it could reflect potential racial differences in factors that judges take into consideration that were not able to be controlled because of the lack of data. System professionals noted the key variable not accounted for in the analysis was a measure of residential stability.

Among individuals who have a monetary bail set, Black individuals are 4 percentage points more likely to still be in jail 60 days after their preliminary arraignment because they cannot pay their bail. This gap reflects the racial disparity in who is in jail 60 days after the preliminary arraignment. The analysis indicates the following reasons why this racial disparity occurs:

- **39% of the racial disparity in who is in jail 60 days after their preliminary arraignment is explained by racial differences in the monetary bail level set by the judge.** The average bail set for White individuals is $11,569, while the average bail set for Black individuals is $17,093. The fact that Black individuals have a higher bail

amount indicates they will be less likely than White individuals to be able to pay their bail and be released from jail.

- **38% of the racial disparity in who is in jail 60 days after their preliminary arraignment is explained by racial differences in criminal history and the racial differences in the grade and type of the charges for which they were arrested.** Black individuals have more serious recorded criminal histories and are charged with crimes that are regarded as more serious than White individuals. This disparity indicates that Black individuals will be less likely than White individuals to have their bail level lowered at a bail review hearing, and it might also result in their case taking longer to adjudicate—both of these factors will result in a longer pretrial detention stay for Black individuals.

- **27% of the racial disparity in who is in jail 60 days after their preliminary arraignment is unexplained, and could reflect racial differences in ability to pay a given level of monetary bail.** An individual's ability to pay a given level of bail is an extremely important factor in how long their pretrial detention stay will be. The analyses conducted at this stage of the process cannot control for this factor, and thus the unexplained disparity could reflect racial differences in the ability to pay a given level of monetary bail. However, it is important to note that the level of the unexplained racial disparity is statistically insignificant.

Racial Disparities in Criminal Court Outcomes

Analysis and Sample Notes

The analysis of criminal court outcomes focused on Black and White individuals who had new criminal charges filed by law enforcement between 2017 and 2019. Some individuals had multiple criminal cases occurring at similar times, which often get adjudicated on the same day. This results in a situation in which the outcome of one case will not be independent from the outcomes of the other cases adjudicated at the same time. For this reason, the court analysis only includes the case that has the most serious sentence for individuals who have multiple court cases that are adjudicated on the same day; the analysis controls for the fact that these individuals had multiple cases that were adjudicated simultaneously.

The starting sample used for the criminal court analysis includes 76,100 cases—Black individuals comprise 46% of this sample and White individuals comprise 54% of the sample. Note that these data can still include multiple observations for one person, although these cases will have been adjudicated in different periods. The analysis examines many different substages of the criminal court process. For the analysis that focuses on criminal court outcomes (beyond the preliminary hearing), the analysis is only examining cases sent to standard Common Pleas court.[4]

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[4] Throughout this report, the term s*tandard Common Pleas court* refers to cases that are placed on the standard docket of the Common Pleas court.

Criminal Court Results

Table S.1 indicates that, among individuals with criminal charges filed, Black individuals are 4.3 percentage points more likely than White individuals to be convicted of a felony, and 2.4 percentage points more likely to be sentenced to confinement. Table S.3 shows that this overall disparity is caused by racial disparities at every key substage of the criminal court process. The remainder of this section discusses the findings at each of these substages, including what factors cause the disparity at each of these substages.

Table S.3. Racial Disparities Present at the Substages of the Criminal Court Process

	White Individuals	Black Individuals
Among those with charges filed, whose case is held for court on a felony charge?	12%	21%
Among those with charges held for court, whose case is adjudicated in standard Common Pleas court?	37%	60%
Among those with cases sent to standard Common Pleas court, who is convicted of a felony?	18%	28%
Among those convicted in standard Common Pleas court, who receives a confinement sentence?	27%	36%
Among those sentenced to confinement in standard Common Pleas court, what is their sentence?	7.7 months	13.1 months

Among those who have charges filed against them, Black individuals are 9 percentage points more likely to have their cases held for court on a felony charge at the preliminary hearing than White individuals. This gap reflects the racial disparity in who has their cases held for court on a felony charge. Cases that are held for court are determined to have probable cause and continue on in the criminal court adjudication process. The alternative is that they are disposed of at the lower court level (which typically only issues fines) or that the case is closed without a conviction. A case being held for court on a felony charge would be the most punitive outcome that could result from the preliminary hearing. The analysis indicates the following reasons why this racial disparity occurs:

- **The entire racial disparity in who has their case held for court on a felony charge is explained by racial differences in the crime grade of the initial charges filed.** Among those charged with a crime, Black individuals were more likely than White individuals to be charged with a felony at the time of initial filing. Note that it is not possible to say anything about whether it was appropriate to charge the initial crime at the level it was charged at; rather, all that can be concluded is that the fact that Black individuals have their cases charged at a higher level at the time of initial filing is what causes them to have their cases be more likely to be held for court on a felony charge.

Among those who have their charges held for court, Black individuals are 22 percentage points more likely to have their cases adjudicated in standard Common Pleas court. This gap

reflects the racial disparity in who has their cases adjudicated in standard Common Pleas court. Of the cases held for court, 11% are adjudicated through an Accelerated Rehabilitative Disposition (ARD), 9% are adjudicated with an Expedited Disposition Plea (EDP), 28% are adjudicated in Phoenix Court, 5% are adjudicated in a specialty court, and 47% are adjudicated in standard Common Pleas court. Although ARDs and Phoenix Court are considered to present more-lenient terms for a given offense—with ARD being the main diversion option in Allegheny County—the standard Common Pleas court issues the longest sentences of the various adjudication pathways. The analysis indicates the following reason why this racial disparity in adjudication pathway occurs:

- **89% of the racial disparity in which cases are adjudicated in standard Common Pleas court is explained by racial differences in characteristics used to determine eligibility for an ARD, EDP or Phoenix Court—these characteristics are primarily crime grade and type.** For ARDs, EDPs, and Phoenix Court, each has a specific eligibility criteria, and these options generally will not accept anyone who is charged with either a person or weapons offense. Because Black individuals are more likely than White individuals to be charged with persons and weapons offenses, this is one of the primary reasons their cases are sent to the most serious adjudicatory pathway. In contrast, DUI charges are commonly adjudicated either with an ARD or through Phoenix Court. Because White individuals are more likely than Black individuals to have a DUI charge, White individuals are less likely to have their cases sent to standard Common Pleas court.

- **11% of the racial disparity in which cases are adjudicated in standard Common Pleas court is unexplained, which should be investigated further to determine whether Black individuals are being unfairly excluded from receiving an ARD.** Among those held for court on a DUI charge, there are significant racial disparities in who receives an ARD. Of the DUI cases held for court, 46% of cases involving White individuals receive an ARD, while only 21% of cases involving Black individuals receive an ARD—after controlling for criminal history and the severity of the DUI charge, two-thirds of the disparity remains. Lower prevalence of an ARD for Black individuals could reflect racial differences in pending charges (which make an individual ineligible for an ARD but could not be controlled for in this analysis), prosecutors being less likely to offer an ARD to Black individuals, or it could reflect Black individuals being less likely to accept or be able to afford an ARD (which requires an upfront payment of $250).

Among those who have their cases sent to standard Common Pleas court, Black individuals are 10 percentage points more likely to be convicted of a felony than White individuals are. This gap reflects the racial disparity in who is convicted of a felony. The alternatives to being convicted of a felony are that the individual could have their case closed without a conviction, or they could be convicted of a summary or misdemeanor-level charge. The analysis indicates the following reasons why this racial disparity occurs:

- **87% of the racial disparity in who is convicted of a felony is explained by racial differences in the grade of charges that were held for court.** This indicates that the

core reason Black individuals are more likely than White individuals to be convicted of a felony is that they were more likely to have felony charges held for court.

- **7% of the racial disparity in who is convicted of a felony is explained by racial differences in recorded criminal history.**

Among those who are convicted in standard Common Pleas court, Black individuals are 9 percentage points more likely to be sentenced to confinement. This gap reflects the racial disparity in who receives a confinement sentence. A confinement sentence includes both a local (jail) sentence and a state (prison) sentence. Convicted individuals who do not receive a confinement sentence typically receive either a probation or electronic monitoring sentence. The analysis indicates the following reason why this racial disparity in confinement sentences occurs:

- **The full racial disparity in who receives a confinement sentence is explained by racial differences in the offense gravity score (OGS) and prior record score (PRS) of the most serious charge for which the individual was convicted.** The Pennsylvania Commission on Sentencing has issued sentencing guidelines that apply to all convictions for misdemeanor and felony offenses. The specific offense an individual is convicted of determines their OGS, and their prior criminal record is coded into their PRS. The sentencing guidelines provide the range of minimum sentence lengths that would be considered appropriate for a given OGS and PRS combination. The results found here indicate that the reason Black individuals are more likely to receive a confinement sentence than White individuals is because their higher OGS/PRS scores are more likely to place them in the section of the sentencing grid that recommends confinement.

Among those who are sentenced to confinement in standard Common Pleas court, Black individuals receive minimum sentences that are 5.4 months longer. This gap reflects the racial disparity in confinement length. The analysis indicates the following reason why this racial disparity occurs:

- **72% of the racial disparity in confinement length is explained by racial differences in the OGS and PRS of the most serious charge for which an individual was convicted.** Similar to the results regarding disparities in who receives a confinement sentence, the results found here indicate that the reason Black individuals receive longer confinement sentences than White individuals is because their higher OGS/PRS scores are more likely to place them in the section of the sentencing grid that recommends longer sentence lengths.
- **24% of the racial disparity in confinement length is explained by racial differences in the severity of the other (i.e., nondominant) charges the individual was convicted on.**

The results above indicate that, in every substage of the criminal court process, Black individuals are more likely than White individuals to receive the most punitive outcome. However, the results presented in Table S.4 also indicate that, at both the preliminary hearing

and in Standard Common Pleas court, Black individuals are more likely to have their cases closed without conviction than White individuals are.

Table S.4. Racial Disparities Present at the Substages of the Criminal Court Process

	White Individuals	Black Individuals
Among those with charges filed, who had their case closed without conviction at the preliminary hearing?	19%	27%
Among those with cases sent to standard Common Pleas court, who is not convicted on any charge?	17%	22%

It is difficult to determine precisely why Black individuals are more likely than White individuals to have their cases closed without conviction because there is no data recorded on why a case is closed. However, qualitative discussions with system professionals and community members indicated the following two factors can play a role:

- **The overcharging of Black individuals at the law enforcement stage might explain why cases against Black individuals are more likely to be closed without a conviction.** If similar standards of evidence were being used to file charges against Black and White individuals, one would expect that the percentage of cases that are closed without conviction at the court stage to be relatively equal for both racial groups. The fact that Black individuals are more likely to have their cases closed without conviction indicates they could have been overcharged at the time of initial filing. Note that although these results imply that the court is reversing some of this potential bias, it is not possible to determine whether they are fully reversing all of the bias, because it is possible that even more cases should have been dropped at the court stage.
- **Racial differences in victim participation might explain why cases against Black individuals are more likely to be closed without a conviction.** System professionals noted that person charges against Black defendants primarily involve Black victims. As cases will often be closed if victims do not participate, if Black victims were less likely to participate in court proceedings than White victims, that factor might explain why Black defendants are more likely to have their cases closed without a conviction.

Racial Disparities in Probation Outcomes

Analysis and Sample Notes

The analysis of probation outcomes focused on Black and White individuals who served a probation sentence that began between 2017 and 2019 and was scheduled to be completed by the end of 2019. The analysis includes individuals who were sentenced only to probation and individuals who served some or all of their probation sentences on electronic monitoring. The starting sample consisted of 9,285 individuals and tracked the events that occurred during each

individual's initial probation sentence, which is defined as the probation sentence laid out by the Common Pleas judge at the sentencing hearing. This is defined as the *initial probation sentence* to contrast it with the fact that some of these individuals may have their probation revoked, resulting in them being under supervision for a longer period than the initial sentence. Black individuals comprise 42% of this starting sample and White individuals comprise 58% of this sample.

Probation Results

Table S.1 indicates that, among individuals on probation, Black individuals are 2 percentage points more likely than White individuals to have their probation revoked, and are 5.5 percentage points more likely than White individuals to have a detainer for a new charge issued. Individuals who have their probation revoked will be resentenced on the convictions for which they were serving probation. A new charge detainer occurs when an individual on probation is detained in jail because that person was charged with a new offense and the Probation Department, or the Common Pleas judge who is overseeing the probation sentence, determines that the individual is a threat to community safety. Many individuals who receive a new charge detainer are held in jail until their new charges resolve and thus these detainers result in an average jail stay of 149 days. Note that jail stays on detainers are completely separate from jail stays that occur because of pretrial release conditions set at the preliminary arraignment (which were discussed in the pretrial detention results).

Although there is a racial disparity in revocation rates, the data currently collected are not sufficient to examine why this racial disparity occurs. Revocations can occur both because of new charges, but also because individuals are not following court-ordered conditions. There is no objective data that are collected regarding the extent to which individuals are following court-ordered conditions. Instead, the data only note when an individual has been cited for not following a condition. The data thus identify who was cited for violating a condition, but does not identify whether there were other individuals who violated their conditions who were not cited. The structure of this setup makes it extremely difficult to identify why Black individuals were more likely to have their sentences revoked.

The fact that Black individuals are 5.5 percentage points more likely than White individuals to receive a new charge detainer while on probation can be caused by two factors: (1) racial differences in who is charged with a new offense while on probation, and (2) racial differences in detainer rates for a given new charge. The results indicate the following:

- **25% of the racial disparity in who receives a new charge detainer is caused by racial differences in who has new charges filed.** Specifically, Black individuals on probation are 7 percentage points more likely to have a new charge filed against them while on probation than White individuals are, which contributes to them receiving new charge detainers at a higher rate.

- **75% of the racial disparity in new charge detainer rates is caused by racial differences in detainer rates for a new charge.** This result indicates that the vast majority of the disparity in who receives a detainer for a new charge occurs because, conditional on being charged with an offense while on probation, Black individuals are more likely than White individuals to be issued a detainer. The next set of results discusses why this happens.

Among individuals who have been charged with a new crime while on probation, Black individuals are 11 percentage points more likely to be issued a new charge detainer. This gap reflects the racial disparity in who receives a detainer among those charged with a new offense. The analysis indicates the following reasons why this racial disparity occurs:

- **37% of the racial disparity in who receives a detainer among those charged with a new offense is explained by the severity of the new charges filed.** Individuals are issued a detainer when they are considered to be a risk to public safety. System professionals noted that the primary candidates for detainers are those whose new arrest charges involve violent felonies. Because Black individuals were more likely to be charged with a violent felony while on probation than White individuals, this factor contributes to why Black individuals are more likely to receive a detainer among those charged with a new offense.
- **28% of the racial disparity in who receives a detainer among those charged with a new offense is explained by racial differences in supervision level, as well as racial differences in the crime grade and type of the conviction for which the individual is serving probation.** System professionals noted that these factors are taken into account when they are considering how much of a threat to community safety an individual might be. Because Black individuals are supervised on probation at a higher level than White individuals and are more likely to be serving probation for a violent felony conviction, these factors contribute to why they are more likely to receive a detainer among those charged with a new offense. One reason the use of these factors in detainer decisions might be problematic is that the supervision level of the individual is based almost entirely on the proxy score of the individual, which is a risk assessment that is constructed from only three factors. Given the sophistication of other risk assessments in use, it is not clear that this measure is actually doing a good job of measuring risk.[5]
- **38% of the racial disparity in who receives a detainer among those charged with a new offense is unexplained by the factors included in the analysis.** The key factors that were noted as affecting detainer decisions that were not controlled for were such factors as victim concerns, potential treatment needs, open warrants, willingness to engage with the probation officer, the individual's family situation (i.e., whether they are a caretaker or are the sole provider) and perceptions about their general stability with respect to housing, employment, and social networks. Although the unexplained disparity can reflect racial differences in these factors, it is important to note that several of these

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[5] The Probation Department will be phasing out the use of the proxy score on December 31, 2023, and replacing it with the Ohio Risk Assessment System.

omitted variables can themselves reflect prejudice on the part of the decisionmaker. The unexplained disparity can also reflect disparate treatment, whereby Black individuals with the same characteristics as White individuals are more likely to receive detainers. The level of discretion the Probation Department retains in making detainer decisions indicates this could be a factor.

Qualitative Research Findings

Qualitative Research Methods

In-depth, semistructured interviews were conducted with 40 Allegheny County community members and 20 system professionals working in the Allegheny County criminal justice system. The community member interviews prioritized speaking with Black individuals with direct lived experience (those who have the most intimate personal knowledge of the root causes of racial disparities). Community member interviews ranged in length from 30 to 60 minutes, and each community member was provided with $50 via electronic payment to compensate them for their participation in the study. System professionals were intentionally recruited from a wide variety of roles and levels of influence, from frontline staff to agency leaders, for a sense of the depth and reach of policies that are potentially influential on racial disparities. System professional interviews ranged in length from 45 to 165 minutes. All interviews were audio-recorded, and people's names and other identifying information were not attached to interview recordings or notes.

Interview Participant Characteristics

Among community members, 40% of interview participants were women and 60% were men, and about three-fourths (73%) of participants self-identified as Black or African American. Community members often had multiple forms of lived experience with the Allegheny County criminal justice system. Out of a total of 40 participants, 21 community members had experienced victimization in the form of loss of property, being assaulted or otherwise physically harmed by violence, or losing a loved one to violence, but only three of these participants identified themselves as victims (see Table S.5). In addition, 21 community member participants had experienced a family member or other loved one being accused or convicted of a crime, 25 had themselves been directly involved with the criminal justice system by being accused or convicted of a crime, and 16 considered themselves community advocates or organizers. Because of these multiple and intersecting experiences, the community member participants provided rich and insightful data from a variety of vantage points.

Table S.5. Community Member Experiences

Experience	Total Community Member Participants (n = 40)[a]
Experienced victimization[b]	21
Identified as a victim	3
Loved one/Family member	21
Accused/convicted of a crime	25
Advocate/Organizer	16

[a] Because many community members had multiple experiences, the total of column 2 exceeds 40.
[b] Defined as participant reporting in the interview that they had experienced loss of property, been assaulted or otherwise physically harmed by violence, and/or lost a loved one to violence.

Among system professionals, 45% of interview participants were women, 55% were men, and 45% self-identified as Black or African American; seven worked in law enforcement, nine worked for the court system (including judges, probation officers, and Pretrial Services), and four were prosecutors or defense attorneys.

Analysis of Qualitative Interview Data

Data from the qualitative interviews were analyzed using inductive analysis. Notes from interviews and research team meetings were used to develop two analytic memo documents, one for the community member data and one for the system professional data. These memos synthesized the issues and ideas that interview participants raised into analytic concepts. When data from all the interviews had been reviewed by the research team and documented in the analytic memos, the research team drew from the memos to develop five key themes that emerged from the combined qualitative datasets.

Key Themes From the Qualitative Analyses

Theme 1: Racial and Economic Segregation

Community members and system professionals from a wide range of backgrounds described Allegheny County as highly segregated by race and class, reflecting a long history of social and economic discrimination against Black residents. In particular, they noted that predominately Black neighborhoods have been systematically excluded from public and private resources, leading to concentrated poverty and crime.

Interview participants identified that one impact of this segregation is that Black residents—whether as people accused of crime, victimized by crime, family members, or system professionals living in Black neighborhoods—feel stereotyped in their dealings with the criminal

justice system and treated as if they are part of a single story rather than viewed as individuals with unique perspectives, needs, and challenges.

In addition, community members and system professionals frequently spoke directly to the idea that segregation and systemic discrimination has undermined safety in Black communities by sustaining racial gaps in opportunity that feed disparities in criminal behavior. When interview participants were asked for their perspectives on what might contribute to racial disparities in the criminal justice system, poverty and economic disparities were the most common responses offered.

Theme 2: Differential Treatment by System Professionals

Community members and system professionals described their direct experiences and observations of disparate treatment across neighborhoods by criminal justice authorities, commenting that people with virtually identical backgrounds except for race can experience vastly different justice in Allegheny County. Law enforcement and probation officers described departmental practices of using different approaches in different neighborhoods. Rather than promoting feelings of public safety and trust in criminal justice authorities, feeling constantly watched by the police and being frequently subjected to pretextual stops that they know could escalate to an arrest or worse erodes Black residents' goodwill toward law enforcement. Many Black participants described feeling that police automatically assumed they were perpetrators rather than considering them potential victims, witnesses, or even bystanders—for no other observable reason than being Black.

Theme 3: Cumulative Trauma Across the Lifespan and Need for Services

In their interviews, community members often talked about family members and friends they had lost to violence, overdose, or incarceration, and described how these pervasive losses affected entire households and neighborhoods. Notably, more than one-half of the community members interviewed described a direct experience of being harmed by crime, including experiences of being physically hurt or of losing a loved one to violence, although the majority of these people did not identify themselves as "victims of crime." Community members provided complex descriptions of the ways trauma was threaded throughout their and their fellow community members' interactions with the criminal justice system. Many people described trauma both as a *reason for* interactions with the system (because unresolved trauma led people to engage in substance use, violence, or other crimes), and as a *result of* these interactions (because they felt traumatized by being handcuffed, searched, and incarcerated). System professionals also identified the role of mental health, usually by pointing out that the criminal justice system is "ill-equipped" to handle these issues.

Theme 4: Structural Oppression and Legal Estrangement

Black community members described feeling overpoliced and overpunished while simultaneously being unprotected, unheard, and endangered by criminal justice professionals. Community members also often talked about not being able to disentangle the criminal justice system from the day-to-day experience of living in their neighborhoods. The sense that the criminal justice system as a whole was primarily destructive for Black communities often led people to voice hopelessness about possibilities for improvement or change. Importantly, some system professionals shared a similar sense of despair. Despite strong feelings of estrangement and pessimism, many community members and most system professionals did want to see change happen.

Theme 5: Belief that Individual Behavior Drives Racial Disparities

A small group of interview participants reported that they believed racial disparities in the local criminal justice system were entirely reflective of Black individuals behaving differently from White people. An even smaller proportion of study participants reported that they were unaware of racial disparities in the criminal justice system prior to participating in the research study. Notably, no system professionals endorsed this idea.

Synthesizing the Quantitative and Qualitative Findings

The quantitative analyses show that Black individuals in Allegheny County are overrepresented at each of the key stages of the criminal justice system: law enforcement, pretrial detention, criminal court, and probation. Both quantitative and qualitative findings point to various factors that may contribute to overinvolvement, disparate impact, and disparate treatment at each of these stages. In particular, the qualitative analyses help identify the systemic and structural reasons that have led to differences in characteristics across racial groups that are key inputs into risk factors that are considered in most criminal justice processes—these include racial differences in criminal history and severity of charges filed. For example, well-documented policies and attitudes that have produced racial disparities in health, education, housing, income and wealth have long played a role in generating differences in characteristics across racial groups, and many of these factors were brought up in community member interviews. The quantitative analyses then reveal how much these differences in characteristics contribute to racial disparities given the current policies in place and whether disparities arise for reasons beyond racial differences in characteristics that are traditionally taken into account. In this way, the results both highlight (1) the criminal justice system policies and practices that give rise to racial disparities and (2) the larger systemic and structural factors that are responsible. Although criminal justice system policy and practice changes have the potential to make important reductions in racial disparities, the broader influences of systemic and structural factors should not be ignored.

Study Limitations

Limitations of the Quantitative Research

One limitation of the quantitative analysis is that it relies on data from 2017 to 2019, and system professionals have noted that there have been some significant policy changes since that period. It was necessary to use this earlier period of data because the project began obtaining data in 2021 and, at that time, the desire was to obtain data on cases that had already finished the adjudication process and that would have only been minimally affected by the policy changes that were implemented to respond to the coronavirus disease 2019 pandemic (which were largely thought to be temporary policy changes). To avoid making recommendations that have already been addressed in policy changes the county has already made, the study team solicited feedback from system professionals on all new policies that have been implemented since 2019 that might affect the findings. This ensured that each of the recommendations made builds off the current policy situation.

A second limitation of the quantitative analysis is that the study team was not able to obtain data from almost any suburban law enforcement agency. Although the courts were able to provide important information on all criminal cases in the county, law enforcement data include more-detailed information that is helpful for understanding why racial differences in charging rates might occur. This limited the analysis that was able to be conducted at the law enforcement stage for incidents that originated outside Pittsburgh. However, these data issues did not affect any of the analyses conducted at the pretrial detention, criminal court, or probation stages.

A final limitation of the quantitative analyses is that decisionmakers often make determinations based on a wide variety of factors—while most of these factors are recorded in the data, not all of them are. This results in a situation where it is difficult to conclusively identify whether an unexplained racial disparity occurs because of disparate treatment or because there are racial differences in relevant factors that decisionmakers consider that could not be controlled for. Put another way, even if disparate treatment is occurring, the analyses will not be able to definitively identify this. This is a common issue in racial disparity research. This might lead to a tendency to assume disparate treatment is not occurring simply because the analyses cannot definitively identify it. To guard against this possibility, in situations where there was an unexplained disparity, recommendations were made that should limit the potential for disparate treatment to occur going forward. Where possible, recommendations were also made to collect additional data that will reduce the uncertainty regarding the source of unexplained racial disparities.

Limitations of the Qualitative Research

One potential limitation to the qualitative research component of this study is that the qualitative research team was not located in Allegheny County. This meant that these researchers were not familiar with the neighborhoods, organizations, or criminal justice institutions, policies,

or practices that community members and system professionals referenced in their interviews. As a result, the research team may have not asked follow-up questions or been aware of contextual details that researchers local to Allegheny County might have thought about. In interviews with system professionals, this limitation was mitigated by co-conducting the interviews with members of the quantitative research team, who reside in Allegheny County; members of the quantitative research team also brought local context factors to the attention of the qualitative research team in bi-monthly meetings.

Another potential limitation to the qualitative research is the low number of people who identified themselves as victims or who had experienced receiving victims' services. As shown in Table S.5 above, out of a total of 40 participants, 21 community members had experienced victimization in the form of loss of property, being assaulted or otherwise physically harmed by violence, or losing a loved one to violence, but only three of these participants identified themselves as victims. Importantly, this was the case even for people who had lost a loved one to violence. As a result, although data saturation was reached regarding experiences of being harmed through the 52% of the community member interviews that included narratives about the participants' direct experiences of victimization, there were too few people who self-identified as a victim or who received victims' services to reach data saturation in that specific category.

This limitation exists despite efforts by the research team to actively recruit people who identify as victims to participate in this study, including by contacting organizations that serve victims.[6] As noted above, the research team recognizes that the perspectives of people who did not choose to participate in this study are not represented in this analysis. The research team cannot say for certain why people approached for study participation chose not to participate. One possible reason people who primarily identify as victims of crimes might have declined to be interviewed is that they did not see their experiences as victims as relating to racial disparities in the criminal justice system. Anecdotal support of this idea is that one participant who did identify solely as a victim of crime stated that they had not thought about racial disparities in the criminal justice system prior to their interview.

Another potential reason people who identify as victims of crime might have chosen not to participate could be related to trust, and the stigma that can be attached to being victimized by crime. As described in Chapter 2, the qualitative research team was warmly received by many of the people contacted for study participation. These participants often talked about victimization experiences in their interviews but did not call themselves victims and had not experienced receiving victims' services. Sometimes they also expressed sentiments that speaking to people who do not live in Allegheny County was welcome because the interviewers were seen as being "outside" of the system. It is possible that people who primarily identify as victims did not feel similarly, and perhaps would have felt more comfortable speaking to people more closely

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[6] To protect the confidentiality of people and organizations who did not respond to these recruitment efforts, details are not provided about this proactive outreach.

connected to the system, or to Allegheny County. This could point to important opportunities for local researchers and agencies to bring in the perspectives of people who identify as victims.

Recommendations

This section presents the research team's recommendations in regard to the next steps that should be taken to mitigate racial disparities in the Allegheny County criminal justice system. The recommendations are organized by the set of findings that motivated them. Specifically, section headers note whether a recommendation was motivated by the quantitative or qualitative findings. For findings motivated by the quantitative results, further subheadings indicate the specific stage of analysis that motivated the recommendation. Note that the recommendations are not organized by who the likely party is to address the recommendation. Further details on these recommendation are provided in the conclusion sections of Chapters 3 to 7.

The recommendations made in this report include calls for better data collection, additional analyses, further discussions among relevant system professionals, and some explicit policy changes. Although enacting these policy changes would be expected to reduce racial disparities, it is possible that there could be offsetting public safety impacts. Furthermore, some reforms that intend to reduce disparities by reducing criminal justice involvement for Black individuals end up increasing racial disparities because they reduce criminal justice involvement for White individuals by an even greater amount.[7] For these reasons, the last recommendation—Recommendation 29—specifically notes that any new policy implemented should be evaluated to understand the impact on racial disparities, the impact on criminal justice involvement, and the impact on public safety.

Recommendations Based on Quantitative Findings

Recommendations Based on Law Enforcement Findings

Recommendation 1: The Pittsburgh Mayor and City Council and PBP leadership should consider other methods of policing within the city of Pittsburgh that do not rely on the use of pretext stops and other low-priority police-initiated interactions with residents.[8] The results indicate that the higher level of low-priority police-initiated interactions in Black

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[7] Klein, B., Ogbunugafor, C. B., Schafer, B. J., Bhadricha, Z., Kori, P., Sheldon, J., Kaza, N., Sharma, A., Wang, E. A., Eliassi-Rad, T., Scarpino, S. V., & Hinton, E. (2023). COVID-19 amplified racial disparities in the US criminal legal system. Nature, 617(7960), 344–350. https://doi.org/10.1038/s41586-023-05980-2; and McGhee, J., Rutecki,J. (2021) Fewer people in Cook County are being charged with crimes. Why are Black people making up a larger share of defendants? www.injusticewatch.org. December 1, 2021. https://www.injusticewatch.org/news/courts/2021/the-circuit-racial-disparities-explainer/

[8] For a review of alternative policing strategies, see Samuel Peterson and Shawn Bushway, "Law Enforcement Approaches for Reducing Gun Violence," in Rajeev Ramchand and Jessica Saunders, eds., *Contemporary Issues in Gun Policy: Essays from the RAND Gun Policy in America Project*, RAND Corporation, RR-A243-2, 2021, pp. 77–96. As of April 15, 2021: https://www.rand.org/pubs/research_reports/RRA243-2.html.

neighborhoods results in certain offenses (such as drug offenses) being enforced at a higher rate in Black neighborhoods. Furthermore, even when these low-priority actions do not result in criminal charges against an individual, these actions can still cause extensive harm to residents of these neighborhoods, including disruption of schedules, fines, embarrassment, and an erosion of respect for law enforcement. Law enforcement has noted that officers use these policing tactics to uncover weapons, and that the majority of shootings occur in the neighborhoods where they use these tactics. However, law enforcement was not sure whether this type of tactic actually reduces the number of shootings. Given the harm these policing strategies can have on residents, it is important to consider whether there are other strategies that can be used that have similar public safety impacts but are more amenable to the residents of these neighborhoods.[9] For example, One Northside is a community-policing initiative PBP is involved in that is run in certain neighborhoods.[10] System professionals felt this is successful, although the impact of any alternative strategy on community-police relations and on public safety should be monitored. System professionals noted that, if the PBP stopped enforcing the traffic rules that are commonly used in pretext stops, PBP could be in danger of losing accreditation.

Recommendation 2: The Pittsburgh Mayor and City Council and PBP leadership should consider having police issue citations for minor violations that are primarily discovered through low-priority police-initiated actions. The results for the city of Pittsburgh indicate that one reason that Black individuals have a higher charging rate for drug offenses is that they are more likely to be caught because of the disproportionate use of low-priority police-initiated actions with residents in Black neighborhoods. Policies should be considered that allow these violations to be handled with a citation, as opposed to a criminal charge. For example, as of 2016, the City of Pittsburgh Code of Ordinances decriminalized the possession of a small amount of marijuana so that it could be handled with a citation that carried a fine of $25. However, it has been reported that Black individuals are disproportionately still being charged criminally rather than cited. Legislation that decriminalizes other minor offenses—such as possession of drug paraphernalia—should be considered. Furthermore, when citations are an option (such as for marijuana), law enforcement should be encouraged to use that option rather than continuing to charge individuals with a criminal offense.[11]

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[9] As noted in Chapter 3, PBP temporarily reduced pretext stops, but then returned to this practice after concerns were raised about accreditation. The research team was not able to determine whether the temporary reduction in the use of pretext stops was offset by other police activities intended to increase public safety.

[10] http://onenorthsidepgh.org/how-we-serve/safety/

[11] There are two important arguments against this recommendation that must be considered. First, *net widening*, the phenomenon of increased enforcement activity when sanctions are reduced, is a possibility that should be anticipated and guarded against. Second, replacing arrests with citations and fines may reduce criminal justice involvement but carry a financial burden. Future monitoring and evaluation of any policy change should report on these issues and examine whether reductions in arrests justify any increase in enforcement or in citations.

Recommendation 3: The Allegheny County Executive should compare policing practices for suburbs that have relatively low racial disparities in criminal charging rates with suburbs that have relatively high racial disparities in criminal charging rates. The results indicate that, within the suburban areas, the level of racial disparity is much higher in suburbs with more White residents. Given that the current lack of centralized data inhibits the ability to do a more in-depth quantitative analysis, it would be useful to conduct some case studies in suburban areas that vary by the level of racial disparity. In particular, this work could document the policing practices in suburbs with low levels of racial disparity and disseminate those practices to other departments that serve areas with higher levels of racial disparity. These case studies should include an examination of the use of practices that appear to differ among city neighborhoods—specifically, where patrols usually occur, the use of pretext stops and other police-initiated actions, and the treatment of minor violations.

Recommendation 4: The Allegheny County Executive and the Mayor of Pittsburgh should work to increase transparency of policing practices and outcomes by improving data systems and by encouraging public reporting both by agencies and by independent evaluators. The present report has provided a snapshot of disparities in policing outcomes for Pittsburgh neighborhoods and suburban locations for the 2017–2019 period. It also provides some insight into PBP enforcement strategy from data made available regarding 911 calls dispatched to the PBP and motor vehicle stops made by the PBP. Regular public reporting of a similar fashion by each law enforcement agency would allow citizens to monitor law enforcement public servants.[12] To increase public confidence in these reports, changes should be made to state laws and local policies to require collection of crucial data and to permit data-sharing with independent evaluators. These changes include (1) revision of the Criminal History Record Information Act (CHRIA) so that deidentified law enforcement data can be shared with independent evaluators; (2) standardization of law enforcement agency data within the county to include important information about all police/citizen encounters, such as race of citizen, reason for encounter, location of encounter, and outcome of encounter; (3) sharing of law enforcement data within the county, perhaps through a shared information system, so that independent evaluators can do comparative analysis; and (4) revision of policy and content of the Allegheny County Emergency Services data system so that 911 call data can be linked to law enforcement and court data and shared with independent evaluators.

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[12] Public reporting of disparities always runs the risk that disparities will be interpreted by readers as evidence of innate or unmalleable racial differences in criminality rather than the result of historical inequities and current systemic pressures. Therefore, it is crucial that reports provide adequate context to prevent such misinterpretation. See Hetey, R. C., & Eberhardt, J. L. (2018). The Numbers Don't Speak for Themselves: Racial Disparities and the Persistence of Inequality in the Criminal Justice System. Current Directions in Psychological Science, 27(3), 183-187. https://doi.org/10.1177/0963721418763931.

Recommendations Based on Pretrial Detention Findings

Recommendation 5: The Supreme Court of Pennsylvania should modify the rules that provide instructions on how to make a decision on an arrest versus summons such that the default for a misdemeanor charge would be to issue a summons unless there is reason to believe that either victim safety or defendant safety is an issue or the individual cannot be identified. Currently, Rules 509 and 519 state that the default option for a second and third-degree misdemeanor, as well as for a DUI first-degree misdemeanor, is a summons; however, the rules do not have a default option when the charge is a non-DUI first-degree misdemeanor. This rule change would ensure that a summons would be the default for all misdemeanor charges. If a law enforcement officer elects to issue an arrest for a misdemeanor charge, they would have to identify whether they are doing this because of victim safety, defendant safety, or defendant identification issues. These policy changes should reduce the amount of discretion officers have in the arrest versus summons decision, and should also result in the PBP and suburban law enforcement agencies using similar practices at this decision point. As one driver of the arrest (versus summons) racial disparity is the fact that the PBP are much more likely to arrest an individual on a misdemeanor charge than a suburban law enforcement agency, this policy would be expected to reduce racial disparities at the arrest versus summons stage.

Recommendation 6: The Allegheny County Executive and the Pittsburgh Mayor should ensure that law enforcement document the reason when individuals are arrested for a misdemeanor charge (versus receiving a summons). Although officers have discretion in a decision to arrest versus summons for a misdemeanor charge, they are not required to report why they make a specific decision. To record this information, officers could use a drop-down menu that would specify the potential reasons why an individual might be arrested on a misdemeanor charge: Reasons could include a statute requirement (which is relevant for domestic violence offenses), victim safety, defendant safety, defendant identification issues, and any other reasons for which officers might elect to arrest an individual on a misdemeanor under current policy. Collecting this information would allow for a more refined analysis regarding what is driving racial disparities in the decision to arrest versus summons. In particular, having these data would shed more light on why the arrest practices of suburban law enforcement agencies are so different from the practices of the PBP.

Recommendation 7: The Allegheny County Executive and Pittsburgh Mayor should work to ensure that law enforcement officers are provided the technology such that they can fingerprint individuals out in the field. One of the reasons law enforcement officers will arrest an individual on a misdemeanor charge (versus issuing a summons) is because officers cannot identify an individual and thus they need to make an arrest so that the individual can be

fingerprinted at the jail. Although this technology can identify only individuals who have been previously fingerprinted, it would still lower the likelihood that an individual is arrested solely for identification issues. Given that system professionals indicated that identification issues were more likely to occur within the city (where incidents involving Black individuals are more likely to occur), such a policy as this could mitigate racial disparities at the arrest versus summons stage. To prevent a situation where law enforcement officers start fingerprinting all individuals they encounter, policies and procedures could ensure that officers could only fingerprint individuals after they made the decision to charge them with a crime.

Recommendation 8: The Allegheny County courts should race-blind the paperwork provided to judges at the preliminary arraignment. The findings indicated that some of the racial disparity present at the preliminary arraignment could potentially be caused by some of the judges overseeing the preliminary arraignment (which includes both MDJs and senior judges) engaging in disparate treatment against Black individuals. However, because judges make their decisions based on the information provided to them in the paperwork they receive before they meet the defendant at the preliminary arraignment, one potential remedy to prevent disparate treatment from occurring would be to race-blind the paperwork provided to the judge. In particular, the paperwork provided to the judge could still present full information on the risk assessment and the nature of the charges but would remove information on the individual's race and any information that might reveal race (including name, the location of the crime, and the individual's address). If there are legal issues with redacting any of these items, it is recommended that relevant parties advocate to change those legal requirements.

Recommendation 9: The Allegheny County courts should ensure that if judges decide to set a monetary bail at the preliminary arraignment, they will have to conduct an ability-to-pay hearing prior to setting the bail amount. The use of monetary bail was an important cause of racial disparities in pretrial detention outcomes, because Black individuals received higher monetary bails, and the results were also suggestive that they had a lower ability to pay a given bail level. Collectively, this aspect resulted in Black individuals serving longer pretrial detention stints than White individuals. Although it is mandated that judges carry out an ability-to-pay hearing prior to setting a monetary bail, in practice they do not do this and set bail based on charges and other perceived risk factors rather than based on ability to pay. If judges were to set a monetary bail that was in line with what an individual could pay, this would be expected to reduce racial disparities in the length of the pretrial detention stint. To avoid a situation where judges end up setting a monetary bail on everyone, it would be important to only conduct the ability to pay hearing once the judge has already decided they are going to require a monetary bail.

Recommendation 10: The Allegheny County courts should require the default decision at the preliminary arraignment to be a nonmonetary release when Pretrial Services recommends this; if judges want to go against these recommendations, they will need to document the reason why. Judges frequently require individuals to pay a monetary bail when the recommendation from Pretrial Services (which is based on the risk assessment instrument as well as other aggravating and mitigating factors) is a nonmonetary release. Ensuring that the default is that judges comply with the recommendation provided by Pretrial Services should decrease the usage of monetary bail. Given that the usage of monetary bail has a disproportionate negative impact on Black individuals, this would be expected to reduce racial disparities in pretrial detention outcomes. Note that this recommendation is not in contradiction to Rule 523, which lays out the criteria that judges are supposed to consider at preliminary arraignments and specifically notes that the information provided by the risk assessment should not be the only information considered. In situations in which other information outside the risk assessment, but within the parameters of Rule 523, results in the judge deciding to issue a monetary bail, the judge would still be free to set a monetary bail; the only difference is that this recommendation would require judges to specifically document why they decided to set a monetary bail in those specific cases (if the recommendation from Pretrial Services was for a nonmonetary release).

Recommendation 11: The Allegheny County courts should publicly report judge concurrence with the recommendation from Pretrial Services at regular intervals—these statistics could be presented for each judge overall and show how the results differ by race of defendant for each judge. This should increase transparency into judge decisionmaking and is likely to make judges more likely to concur with the recommendation from Pretrial Services.

Recommendation 12: Identify whether an offense involves domestic violence. Domestic violence offenses tend to be classified as either a simple assault or an aggravated assault. However, domestic violence offenses can often be handled differently than other offenses that fall in the simple or aggravated assault categories. For example, misdemeanor cases involving domestic violence must result in an arrest (versus a summons). Because this factor will affect how cases are handled in the process, it would be very useful to document which offenses involve domestic violence. Given that Pretrial Services recently began recording this information in the pretrial case management system for cases they make recommendations on, this coding might be happening in most cases already. However, this coding should eventually be done for all cases. The easiest way to identify cases that involve domestic violence would be to modify the state crime codes, although this coding could also happen at the local level.

Recommendations Based on Criminal Court Findings

Recommendation 13: The Supreme Court of Pennsylvania should conduct an in-depth study on how the sentencing guidelines are contributing to racial disparities in sentencing

decisions to determine whether it is possible to make further revisions to the guidelines that would reduce racial disparities. Among those convicted on a criminal charge, Black individuals on average have higher OGS/PRS values than White individuals, and this is why they are more likely to receive confinement sentences and why they receive longer confinement lengths. It is important to examine the sentencing guidelines to ensure that the penalty attached to higher OGS/PRS combinations is commensurate to the situation, as reducing the size of this penalty would reduce racial disparities. Although the sentencing guidelines have been recently revised—with the new guidelines scheduled to go into effect on January 1, 2024—increases in OGS and PRS are still met with sizeable increases in recommended sentences in the new guidelines, which indicates that the same issues related to racial disparities that were present under the old guidelines likely still will be relevant under the new guidelines. In this environment, analyzing the trade-offs associated with narrowing the sentence penalties would be very informative. Furthermore, it is important to examine whether offenses that are considered to be of a similar public safety risk have a similar OGS, because some system professionals indicated the new guidelines are disproportionately harsh on weapons offenses, which are offenses that Black individuals are more likely to be charged with.

Recommendation 14: The Allegheny County courts should collect data on plea deal terms and examine whether the terms that are being offered are commensurate to the public safety risk posed by individuals. Although plea deals play an extremely important role in determining case outcomes, they have not been discussed up until now because there are no data recorded on the terms of these deals. However, in the same way that it is recommended that the sentencing guidelines be reviewed, it is also important to identify how offered plea deals vary by case characteristics to ensure that the terms are commensurate to the situation. Analyses should also examine whether there are racial disparities in plea deal terms and identify why those disparities exist (i.e., is it because of racial differences in risk factors or are there unexplained disparities that could reflect disparate treatment?). In terms of collecting data on plea deal terms, given that the Phoenix Court offers relatively standard plea deals, system professionals noted that these terms could be made available. For cases adjudicated elsewhere, system professionals noted that the fluid, back-and-forth motion of plea deals that tend to happen in verbal conversations make them difficult to capture in data. However, both the prosecution and defense could each note down their first offer, and then also note down their last offer. Note that if a plea deal was executed, the last offer would be the case disposition. However, if the case went to trial, this last offer would be necessary to record.

Recommendation 15: The Pennsylvania State legislative and executive branches should consider whether it is possible to expand the eligibility criteria for ARDs; the required $250 entry fee for an ARD should be waived for those who have an inability to pay. ARDs are the main diversion option in Allegheny County, but this pathway predominantly ends up handling DUIs, which is a crime that disproportionately affects White individuals. As a result, Black individuals are much less likely to participate in this diversion option than White individuals. Given that the eligibility criteria for ARDs are primarily determined by state statute, it is important for state lawmakers to consider whether the criteria for ARDs can be expanded to allow for more offense types as well as whether some of the criminal history requirements could be relaxed. Further, many system professionals noted that the $250 fee that is required for individuals to enter the ARD program may disproportionately exclude Black individuals, and thus it is recommended that this fee be waived for those with an inability to pay in order to increase participation rates.

Recommendation 16: The Allegheny County courts should track and report on whom is offered an ARD, whether individuals decline the ARD option, and the reason for any declination. These data indicate only whether the case is adjudicated via an ARD, which means the individual both was offered this option and they accepted it. The results indicate that, among individuals who are likely to be eligible for an ARD, there are significant racial differences in whom has their case adjudicated via an ARD. To better parse out why this might occur, it would be useful to understand whether the difference is driven by racial differences in who is offered an ARD or by racial differences in who accepts an ARD. If the difference in ARD rates among eligible individuals is being driven by racial differences in declination, understanding the reason for the declination would provide useful information on how to increase participation.

Recommendation 17: System professionals within Allegheny County should consider the feasibility of developing diversion problem-solving courts that would handle offenses that are excluded from receiving ARDs. This option would include a problem-solving court for weapons offenses and one focused on emerging adults (age 25 and under).[13] Black individuals are more likely than White individuals to be charged with weapons and person offenses, and the way in which these cases are currently treated in the criminal court process is one reason why racial disparities in court outcomes occur. Expanding diversion options to include these types of cases could potentially allow more Black individuals to participate in diversion programming.

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[13] San Francisco's Young Adult Court provides a potential example of how an emerging adult court could be run—it offers diversion to individuals between the ages of 18-25, and prioritizes young adults charged with serious felony offenses. See Henderson-Frakes, Sengsouvanh Leshnick, and Hannah Diaz, "An Evaluation of San Francisco's Young Adult Court: Findings on Planning and Early Implementation," May 2017, available at: https://sf.courts.ca.gov/system/files?file=yac-interim-report_05252017.pdf

Recommendation 18: The Pennsylvania State legislative and executive branches should expand the Clean Slate Law such that when a conviction is sealed from public view, it is also no longer included in an individual's PRS. Racial differences in the PRS contribute to racial disparities in sentencing outcomes, and thus polices that reduce PRS differences will be helpful. As the biggest racial difference in criminal history occurs among felony convictions, this type of policy would be more impactful in reducing racial disparities if it were to allow certain (e.g., low-level) felony convictions to be removed from consideration in the PRS (as opposed to only allowing misdemeanor convictions to be ignored).

Recommendation 19: The Allegheny County courts should track the reasons why cases are closed without conviction. Understanding why cases are closed without conviction is crucial to identifying what the implications are for Black individuals being more likely than White individuals to have this event happen. At a minimum, a drop-down menu could be added to the case-management system with the following options for why a case is closed: the judge determined no probable cause, the prosecutor determined evidence not sufficient to move forward with the case, the case closed because a deal was worked out with the individual, or the case closed because the victim chose not to participate.

Recommendations Based on Probation Findings

Recommendation 20: The Allegheny County courts should base detainer decisions for new charges primarily on the severity of the new charges filed against the individual. The analysis indicates that the fact that the Probation Department considers other factors besides the severity of the new charges explains 47% of the racial disparity in who receives a detainer among those charged with a new offense while on probation. This racial disparity could thus be reduced if this other information was not taken into account. In conversations with probation staff, violent felonies were frequently brought up as an example of a new charge an individual should be detained on—the racial disparity in detainers for new charges would fall by 2.1 percentage points (from 5.5 to 3.4) if only those charged with a new violent felony offense were issued a detainer. To preserve some discretion, the Probation Department could institute a policy whereby the default decision would be to detain anyone arrested on a new violent felony offense and not detain anyone charged with any other type of offense. If the Probation Department wanted to make a different decision, staff would be required to clearly document why they felt the default decision was not appropriate in the particular case; statistics measuring the frequency of these deviations, separately by race, should be publicly reported at regular intervals.

Recommendation 21: The Allegheny County courts should eliminate the use of detainers for new charges and instead have the pretrial detention process determine whether individuals should be in jail. Note that all individuals who are arrested while on probation must go through the pretrial detention process, and thus (currently) to secure their release they have to meet the requirements imposed at the preliminary arraignment (e.g., paying a monetary bail), as well as avoid receiving a detainer. To understand the impact of eliminating the use of detainers, ideally one would want to identify how racial disparities in pretrial detention lengths for a new arrest would change if detainers were no longer possible. Although this cannot be identified, what can be examined is how much of the racial disparity in pretrial detention lengths is explained by racial differences in detainer rates. The results indicate that, among arrests for individuals on probation, 34% of the disparity in who is in jail for at least 30 days following their arrest can be explained by racial differences in detainer rates. This is suggestive that, if detainers were eliminated, racial disparities in pretrial detention lengths would fall. Note that this recommendation is an alternative to Recommendation 20, as both recommendations put forward proposals to reform the detainer process for individuals charged with new offenses.

Recommendation 22: The Allegheny County courts should conduct an impartial audit to better understand why racial disparities in probation revocation rates occur. The data that were provided for this study recorded whether an individual was cited for a violation; if the individual was cited with a violation, the data note all the court-ordered conditions for which the individual is out of compliance, which forms the justification for the revocation decision. However, these data do not allow examination of whether there are racial differences in whether individuals who commit the same violation are actually cited with a violation, and this factor was the principal reason the analysis conducted here could not examine why racial disparities in revocation rates occur. It is expected that there are records kept—likely by agencies outside probation—on restitution payments and on required programming and treatment completion. Furthermore, the courts have detailed information on all new offenses an individual is charged with while on probation. Obtaining this information from other agencies should allow one to reasonably identify the extent to which individuals on probation are in compliance with their conditions. One could then examine whether the racial difference in both citation and eventual revocation rates occurs because of racial differences in compliance, or because Black individuals are more likely to be cited for a violation given noncompliance.

Recommendation 23: The Allegheny County courts should record information on all factors that are being used in detainer decisions for all individuals for whom a detainer for a new charge decision is being made. Thirty-eight percent of the disparity in who receives a detainer for a new charge (conditional on being charged with a new offense) is unexplained. Some of that unexplained disparity could reflect disparate treatment, and some could reflect racial differences in other variables that probation takes into account but does not record in

administrative data. These factors include victim concerns, potential treatment needs, willingness to engage with their probation officer, the individual's family situation, as well as perceptions about their general stability with respect to housing, employment, and social networks. Information on these factors should be recorded for all individuals who are charged with a new offense while on probation that is serious enough to merit detainer consideration so that further analysis could parse out the role that disparate treatment is playing. Furthermore, these other factors that are being considered could be based on biased perceptions, and thus having this data will allow this issue to be examined, as well as identify how big of a role these factors are explaining in the disparity.

Recommendations Based on Qualitative Findings

Recommendation 24: Adopt a multi-systemic approach to reform. Although system professionals may think of criminal justice procedure in discrete stages, community members think of the criminal justice system as a web of experiences that clearly overlap other public systems. Thus, criminal justice interventions that focus on one decision point at a time may not adequately address root causes of racial disparities, which can originate in—or be exacerbated by—problems in other systems, such as education, housing, and health care. The qualitative data robustly support the need to mount a coordinated, large-scale effort to implement as many of the recommendations listed above as possible, so that the criminal justice system as a whole evolves, rather than changes happening in fragmented ways that diminish the impact that a collective effort could achieve. Implementing a full scope of recommendations will also have reverberations in other sectors; for example, changing probation detainer policies would help keep more people employed, housed, and available to parent their children. The qualitative data also robustly support undertaking a broad, intense initiative across multiple systems to solve for their collective influence on racial disparities in criminal justice outcomes.

Recommendation 25: Recognize the complex history of race relations in the United States as a root cause of modern-day racial disparities. Interview participants repeatedly emphasized that the criminal justice system does not exist in a social vacuum. Rather, they see it as being influenced by powerful cultural and historical forces that affect its fairness, such as a long history of race-based discrimination, oppression, and violence in the United States. Community members and system professionals stressed the importance of race-conscious policies that directly address racially disparate treatment as a root cause of disparities in addition to contextual factors like poverty.

Recommendation 26: Invest in unarmed, trauma-informed crisis intervention services. The qualitative data strongly support Allegheny County's ongoing efforts to launch and sustain programs aimed at providing people in need with diversion out of the criminal justice system

through case management, harm reduction, and other forms of trauma-informed crisis response, such as the Law Enforcement-Assisted Diversion program. Residents of predominately Black communities and system professionals see a clear need for alternatives to law enforcement responses for calls primarily concerning mental health, substance use, and lack of housing. Both community members and system professionals commonly observed that law enforcement officers patrol Black residents and Black communities more aggressively than White residents and White communities and noted that this factor leads to more instances of stops, searches, and arrests. Both groups also see that these practices have lasting effects on Black residents' safety, well-being, and trust in the criminal justice system. Models of alternative crisis intervention services are proliferating throughout the nation with strong success, and are frequently warmly welcomed by community members and their advocates.[14] These models often pair social workers or other trained mental health professionals with community outreach workers to respond to calls for assistance in nonviolent situations, including mental health crises and people in need of housing, substance use treatment, and case management services. Some programs include law enforcement in the alternative response team, and others do not. The aim of these programs is to improve public safety by de-escalating crises and providing tailored support to community members, with the idea that many 911 calls are prompted by mental health and social service needs. This model also helps reduce burden on law enforcement by decreasing demands on their time and keeping them available for situations involving violence or serious threats to physical safety.[15]

Recommendation 27: Prioritize prevention, not punishment. As the saying goes, "An ounce of prevention is worth a pound of cure." Both community members and system professionals issued an urgent call to address holistically such problems as gun violence and substance use in predominately Black communities and with compassion for people who are often trying to survive in the wake of devastating traumas while managing numerous unmet needs. As opposed to a tough-on-crime approach, which prioritizes punishment over rehabilitation, public health approaches to crime prevention focus on such factors as limiting access to firearms and addressing underlying structural drivers such as increasing access to mental health services, affordable housing (including supportive housing for people with mental health needs), and gainful employment.[16] These approaches can help engage community members who feel excluded by the law and its protections by acknowledging and addressing harmful societal

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[14] Coalition to Reimagine Public Safety, 2021. *Reimagining Public Safety in Pittsburgh and Allegheny County: A community vision for lasting health and safety.* Retrieved from: https://www.1hood.org/publicsafety

[15] *How to Talk about Public Safety Reform*, The Measure of Everyday Life podcast, available at: https://measureradio.libsyn.com/how-to-talk-about-public-safety-reform

[16] John Jay College Research Advisory Group on Preventing and Reducing Community Violence (2020). Reducing Violence Without Police: A Review of Research Evidence. New York, NY, Research and Evaluation Center, John Jay College of Criminal Justice, City University of New York.

conditions and reframing the concept of public safety as being inclusive of residents' mental, physical, economic, and social well-being.[17]

Recommendation 28: Draw on the expertise of local leaders and organizations. Allegheny County has a rich landscape of organizations focusing on issues related to racial justice, criminal legal system reform, and the health and safety of Black communities. Interviews with representatives from some of these organizations provided the research team with nuanced insights about various neighborhoods in Allegheny County, the history of race relations and of criminal justice reform efforts in the county, and the concrete steps that community members see as needed to feel protected and able to thrive. Analysis of the full qualitative dataset, including the system professionals' interviews, points to the work of these local experts as being central to the path forward in reducing racial disparities in the Allegheny County criminal justice system.

Overarching Recommendation

Although the recommendations proposed above were tailored to address the specific causes of racial disparities within the Allegheny County criminal justice system, new policies can often have unintended consequences or the underlying causes of racial disparities might change over time. Furthermore, some system professionals felt that some of the proposed recommendations might reduce public safety. To ensure that new policies are having the intended effect, as well as identify any possible trade-offs, this report makes one last recommendation:

Recommendation 29: The Allegheny County executive, the Pittsburgh Mayor, and all Allegheny County criminal justice agency leaders should ensure that, for any new policy implemented, an evaluation is conducted to understand the impact on racial disparities in relevant outcomes and the impact on public safety. Additionally, the evaluations should examine implementation fidelity and should ensure that they can identify the impacts of a specific policy, given that many policies might be implemented around the same period.

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[17] Johnson, L., Pelly, C., Ruhland, E., Bess, S., Dariotis, J. K. and Moore, J., Reclaiming Safety: Participatory Research, Community Perspectives, and Possibilities for Transformation, 18(2) Stanford Journal of Civil Rights and Civil Liberties 191 (2022)., Available at
SSRN: https://ssrn.com/abstract=3877542 or http://dx.doi.org/10.2139/ssrn.3877542 See also Bell, M. C. (2017). Police reform and the dismantling of legal estrangement. *The Yale Law Journal*, 2054-2150.

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Chapter 1. Introduction

Research Objectives

In 2015, at the request of Allegheny County Executive Rich Fitzgerald, the University of Pittsburgh's Institute of Politics (IOP) assembled a task force to identify strategies to improve the criminal justice system in Allegheny County. The task force's reports highlighted that Allegheny County's criminal justice system disproportionately involves the Black community, which also had been shown in several prior studies. In particular, prior analyses conducted by local system professionals showed that Black individuals comprise 66% of the Allegheny County jail population despite comprising only 13% of county residents.[18] However, although these prior studies were able to document racial disparities at particular decision points within the Allegheny County criminal justice system, no study had conducted a systematic assessment of the size of racial disparities at all key junctures of the system. Further, these studies did not identify the specific reasons for these racial disparities, which is a critical step to identifying policies that can potentially mitigate these disparities.

To address these gaps in understanding in the extent of racial disparities in the Allegheny County criminal justice system, as well as the reasons for these disparities, the IOP issued a Request for Proposals seeking research partners to conduct a study aimed at examining policies, practices, and outcomes at numerous decision-making points that potentially contribute to racial disparities. The IOP emphasized that the research should consider systemic factors and organizational culture that may perpetuate or exacerbate disparities as well as how the successive stages of system involvement are interconnected, and should include the perspectives of community members as well as people working in the Allegheny County criminal justice system. This report, led by the RAND Corporation and RTI International, presents the results of that research.

For this report, the RAND Corporation and RTI International conducted a two-year study to identify how and why Black individuals are overrepresented in Allegheny County's criminal justice system, with the following objectives:

1. Identify the size of the racial disparity at each of the following stages of the Allegheny County criminal justice system: law enforcement, pretrial detention, criminal court, and probation.
2. For stages that exhibit a racial disparity, identify what is driving the disparity.

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[18] Allegheny County Analytics (2021). *Jail Population Overview*. Retrieved from: https://analytics.alleghenycounty.us/2021/03/04/allegheny-county-jail-population-management-dashboards-2/

3. Gain an understanding of how community members and system professionals directly experience the Allegheny County criminal justice system and what connections they perceive between racial disparities and the system's policies and practices.
4. Identify potential solutions for improving racial equity from the perspectives of people who have direct experience with the Allegheny County criminal justice system.

To accomplish these objectives, the research team used a mixed-methods approach that integrates statistical analysis of administrative data with insights from interviews with community members and system professionals. These complementary methods (often referred to as "quantitative" and "qualitative" methods respectively) offer a more comprehensive view of racial disparities than either approach could alone. Collectively, they identify where to focus and they help vet whether potential solutions are practical and responsive to community needs. The RAND Corporation led the quantitative analysis (e.g., statistical analysis of administrative data) and RTI International led the qualitative analysis (e.g., conducting and analyzing interviews with local community members and system professionals).

Background

This study is not the first to examine racial disparities in the Allegheny County criminal justice system, and thus it is important to have an understanding of what prior research has found. Findings from prior research indicate the following:

- Black individuals comprise 66% of the county jail population despite comprising only 13% of county residents (Allegheny County Analytics, 2021).[19]
- Black individuals are up to five times more likely than White individuals to be arrested for criminal allegations in Pittsburgh (Allegheny County Department of Human Services, 2019).[20]
- Once arrested, Black individuals (across municipalities) are more likely to be detained in jail until their court cases are resolved (Allegheny County Analytics, 2023).[21]
- Black individuals are 12 percent more likely than White individuals to be issued monetary bail, which further increases their likelihood of being in jail until case resolution (ACLU Pennsylvania, 2019).[22]

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[19] Allegheny County Analytics (2021). *Jail Population Overview*. Retrieved from: https://analytics.alleghenycounty.us/2021/03/04/allegheny-county-jail-population-management-dashboards-2/; "Quick Facts: Allegheny County, Pennsylvania," accessed August 13, 2016, http://www.census.gov/quickfacts/table/ PST045215/42003.

[20] The Allegheny County Department of Human Services (December 2018). *Arrest Trends in the City of Pittsburgh, 2001–2015*. Retrieved from: https://www.alleghenycountyanalytics.us/wp-content/uploads/2019/04/18-ACDHS-10_Arrest-Trends_032019.pdf

[21] Allegheny County Analytics (February 21, 2023). Current Population Hold Types. Retrieved from:

[22] ACLU Pennsylvania (2019). *Punishing Poverty: Cash Bail in Allegheny County*. Retrieved from: https://www.aclupa.org/sites/default/files/field_documents/allegheny_county_report_final.pdf

- Jail sentences are more probable for Black individuals in Allegheny County, even compared with White individuals who had similar offenses (Allegheny County, 2021).[23]

Furthermore, prior research has indicated that racial disparities in Allegheny County are not isolated within the criminal justice system. Previous reports have documented that Black individuals in Allegheny County experience worse outcomes across a wide range of indicators, including poverty levels, occupational and residential segregation, infant and maternal mortality, high school graduation and college admissions rates, and unemployment.[24] Efforts to deepen the understanding of what produces racial disparities in the criminal justice system and recommendations for concrete steps to reduce and eventually eliminate them must therefore be centered in this context. In other words, progress in one system has the potential to reverberate across systems, leading to improvements in the safety and well-being of Black residents throughout the county.

Allegheny County and the city of Pittsburgh have implemented policy reforms to improve fairness and support evidence-based decisionmaking in the criminal justice system. These include recent reforms to align local policies with nationally recognized best practices—such as a ban on no-knock warrants in Pittsburgh,[25] improving availability of public defense at first court appearances,[26] and implementing problem-solving courts that target mental health and substance use challenges underlying criminal behavior.[27] However, racial disparities in Allegheny County's system persist despite local reforms (and despite declining crime and incarceration nationally.)[28] In some settings, Black-White disparities have even *increased* following recent policy changes (e.g., coronavirus disease 2019 (COVID-19) pandemic reforms that have reduced pretrial

[23] Lauer, A., Nordenberg, M., & Thieman, F. W. (2019). Criminal Justice in the 21st Century: Improving Incarceration Policies and Practices in Allegheny County (Fall 2019 Report); Allegheny County, Allegheny County Application for the MacArthur Foundation's Safety and Justice Challenge, (Allegheny County, Pennsylvania: Allegheny County, 2018), 4.

[24] Bangs, Ralph. (February 2021) *Pittsburgh's Deplorable Black Living Conditions.* Retrieved from: https://www.heinz.org/UserFiles/File/Pittsburgh's%20deplorable%20black%20conditions.pdf; City of Pittsburgh's Gender Equity Commission (2019). *Pittsburgh's Inequality Across Gender and Race*. Retrieved from: https://apps.pittsburghpa.gov/redtail/images/10645__Pittsburgh's_Inequality_Across_Gender_and_Race_JULY_2020.pdf

[25] https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=HORUCHPIPE_ART10POPIPO_S1001OCEXWAPR

[26] Anwar, Shamena, Shawn Bushway, and John Engberg. "The impact of defense counsel at bail hearings." *Science Advances* 9.18 (2023): eade3909.

[27] Petis, L. (2022). *Criminal Justice Reform Efforts and Rise in Crime: Spotlight on Allegheny County, Pa.* Retrieved from: https://www.rstreet.org/commentary/criminal-justice-reform-efforts-and-rise-crime-spotlight-on-allegheny-county-pa/

[28] https://bjs.ojp.gov/content/pub/pdf/p19.pdf

detention for White residents more than Black residents[29]). This persistence of racial disparities has underscored the need for the current study.

The next section identifies how this study expands past racial disparity research that has been conducted for the Allegheny County criminal justice system. In particular, the current study is able to examine racial disparities at a more complete set of decision points than prior research, and goes beyond just documenting disparities to examine why they occur, including integration of insights from community members with lived experience and system professionals. Note that the results found in the current study are not at odds with prior research in Allegheny County, but rather are able to provide more context and nuance to previous findings.

Approach to This Study

The research findings presented in this report come from analyses of interviews with Allegheny County community members and with system professionals working in the Allegheny County criminal justice system, as well as from analyses of administrative data that pertain to all key decision points in the Allegheny County criminal justice system. There are four components to the mixed-methods approach that was used to conduct this study, some of which are unique in comparison to the methods that have previously been used to examine racial disparities in the local criminal justice system:[30]

1. **Identification of the size of racial disparities at every critical decision point in the criminal justice system.** Although prior research has often focused on only one decision point at a time, it is extremely important to understand the size of racial disparities at every juncture of the system. Therefore, this study examines racial disparities at the four main stages of the criminal justice system: law enforcement, pretrial detention, criminal court, and probation. In addition, many of these stages themselves consist of several substages, and the analysis focuses on identifying the size of racial disparities at these substages as well. Throughout this report, a *racial disparity* in a given outcome is defined as the average difference in that outcome between Black and White individuals.

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[29] Urban, B. (2022). Examining the Impact of the COVID-19 Pandemic on Violent Crime in The City of Pittsburgh (Master's thesis, Duquesne University). Retrieved from https://dsc.duq.edu/etd/2075; The Allegheny County Department of Human Services (April 2021). *Allegheny County Jail Population Decreased During COVID-19 Without Increased Risk to Public Safety*. Retrieved from: https://analytics.alleghenycounty.us/2021/04/23/allegheny-county-jail-population-decreased-during-covid-19-without-increased-risk-to-public-safety/

[30] Many of the methods used in this study are unique not only in comparison to the studies conducted in Allegheny County but also in comparison to the broader set of studies that have examined criminal justice system disparities in other jurisdictions.

2. **For every stage (or substage) where a racial disparity is identified, in-depth analyses were conducted to identify the core drivers for the racial disparity.** Racial disparities at a given decision point can arise in two ways. The first way is *racially disparate treatment*, whereby Black individuals are treated differently than otherwise similar White people precisely because they are Black (i.e., racial discrimination). The second way is *racially disparate impact*, where a formal policy or informal discretion by system actors has different consequences by race because it takes into account characteristics that differ on average between Black and White people who enter that stage of the process. Although much of the prior literature in this area has focused only on the role of disparate treatment in explaining racial disparities, this study focuses on both factors [31] For most decision points, the analysis is able to identify the percentage of the racial disparity that is explained by racial differences in most of the characteristics taken into account by decisionmakers, and further identifies the specific explanatory power of *each* of the characteristics controlled for. This method of analysis allows for a more thorough understanding of what is driving racial disparities.

3. **Inclusion of extensive input from community members with lived experience and system professionals who work within the criminal justice system.** Prior racial disparity research has generally either taken a qualitative *or* quantitative approach, but it is important to develop insights based on both methods. Qualitative data (i.e., interviews and policy review) deepen understanding of how policies and practices can produce observed patterns as well as the lived experiences of people affected by the system. While the quantitative analyses can identify the role that various racialized experiences play in unequal outcomes across groups, qualitative work provides an understanding of how people think about and are affected by these experiences, as well as their observations about the challenges that exist to reducing racial disparities and their ideas for making the criminal justice system fairer and more equitable. Feedback from community members and criminal justice system professionals also provided deeper insights into the quantitative results.

> **Key Definitions:**
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> *Racial disparity* refers to the average difference in an outcome (e.g., arrest) between Black and White individuals, regardless of the reason for this difference.
>
> *Disparate treatment* refers to unequal behavior toward individuals or groups on the basis of race, intentionally or unintentionally.
>
> *Disparate impact* refers to when a formal policy or informal discretion by system professionals has unequal consequences by race because it takes into account characteristics that differ by racial groups. Throughout the report, this is referred to as the "explained" disparity, as it represents the part of the racial disparity that is related to racial differences in characteristics that decisionmakers take into account and are controlled for in the analysis.
>
> *Unexplained disparity* represents the part of the racial disparity that cannot be explained by racial differences in characteristics that are controlled for in the analysis. It can reflect either racial differences in factors that decisionmakers take into account that are not controlled for in the analysis, or it can reflect disparate treatment.

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[31] The bulk of criminological racial disparity research is focused on identifying racially disparate treatment, with rigorous controls for case characteristics that might differentiate whites from minorities—this research thus controls for the role of disparate impact, but does not focus on the factors that cause disparate impact.

4. **Develop recommendations to reduce racial disparities that begin to address root causes of the disparities.** The first three components of the study are designed to identify the specific decision points that exhibit disparities, as well as identify what is driving each disparity. This allows recommendations to be tailored to the specific causes of the disparity, which is the optimal way to address racial disparities both in terms of maximizing resources and minimizing additional harm. The recommendations were collaboratively developed with both community members and those who work within the criminal justice system to help ensure that the policies recommended address community member concerns and are feasible to implement.

Structure of the Report

This report is organized as follows:

- Chapter 2 provides a summary of the quantitative and qualitative methodology that was used to conduct this study.
- Chapters 3 through 6 focus on the results obtained from analyzing administrative data at the key decision points in the criminal justice system. Specifically, Chapter 3 focuses on racial disparities at the law enforcement stage, Chapter 4 focuses on racial disparities in pretrial detention outcomes, Chapter 5 focuses on racial disparities in criminal court outcomes, and Chapter 6 focuses on racial disparities in probation outcomes. Each chapter begins with a detailed discussion of the policies in place at that stage, and then presents information on the size of the racial disparity at that stage, and documents the factors that statistically explain each disparity. Each chapter concludes with a discussion of the policies that can potentially address the causes of the racial disparities that were identified.
- Chapter 7 presents the key themes from interviews about people's experiences living in Allegheny County and interacting with its criminal justice system as community members and/or system professionals. Specifically, this chapter focuses on what people had to say about race and racism, what life is like growing up and living as adults across different neighborhoods within Allegheny County, including trying to access resources in these neighborhoods, how these factors influence relationships between community members and law enforcement officers and other system professionals, and residents' views of the criminal justice system as a whole. Chapter 7 also concludes with a discussion of recommendations for moving forward on the path to reduce racial disparities in the Allegheny County criminal justice system.
- Chapter 8 summarizes the key conclusions and recommendations from the study, and notes the study limitations.

Chapter 2. Methodology

This chapter presents a detailed description of the mixed methods approach that was used to conduct this study. The quantitative and qualitative analyses, the methods of which are discussed in depth in this chapter, worked to identify the size and core causes of racial disparities in the Allegheny County criminal justice system. These initial findings were then reviewed with four groups: (1) System professionals working in law enforcement, pretrial detention, the criminal courts, and probation—one "small-group" meeting was held with each of these four groups; (2) The Interdepartmental Working Group (IDWG), which was a cross-departmental task force consisting of professionals in managerial positions in law enforcement, pretrial services, the district attorney's office, the public defender's office, and the jail, as well as both Magisterial District judges (MDJs) and Common Pleas judges;[32] (3) The Community Progress Panel (CPP), which consisted of community members who were tasked with bringing the community perspective to the research project; and (4) an advisory board of six researchers at RTI International with expertise in such areas as equity-centered research methods, safety and well-being for boys and men of color, violence prevention, organizational culture, and collaborative interventions with law enforcement officers. The RTI advisory board provided feedback on the mixed methods approach and the integration of the quantitative and qualitative results. The IDWG, CPP, and members of the small-group meetings provided extensive feedback to ensure that results were interpreted correctly and that important contextual and policy factors were accounted for; they also provided a deeper understanding of many of the results.

The recommendations the report makes on reducing disparities came about through a collaborative process between the research team, the IDWG, the CPP, and members of the small-group meetings. Based on the initial research findings of the core causes of racial disparities, the research team identified several policies to address those causes. The IDWG, CPP, and members of the small-group meetings also suggested many other recommendations during their review of the results. The IDWG and CPP provided feedback on all suggested recommendations, focusing on the feasibility of implementation, the potential receptivity of community members to the proposed changes, and the potential unintended consequences of these recommendations.

The remainder of this chapter discusses in detail the methods used for both the quantitative and qualitative analyses. Note that while the quantitative and qualitative approaches are

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[32] Involving a cross-departmental task force to review findings and help develop recommendations was a key recommendation made in the report by the Brennan Center for Justice on how to reduce disparities in the criminal justice system (Eaglin and Solomon, "Reducing Racial and Ethnic Disparities in Jails", 2015); many of the principles of the current study were modeled on the recommendations made in that report on how these studies should be conducted.

discussed separately, the quantitative analysis conducted was informed by the qualitative work, and vice versa.

Quantitative Methodology: Administrative Data Analysis

The quantitative analysis will address the following first two research objectives that were noted in the introduction:

1. Identify the size of the racial disparity at the following stages of the Allegheny County criminal justice system: the law enforcement stage, pretrial detention stage, criminal court stage, and probation stage.
2. Identify what is driving the disparity for stages that exhibit a racial disparity.

The section begins by presenting an overview of the data that was obtained, and then discusses in depth the methodology that was used to address these research objectives.

Data

Analyses examining racial disparities at the law enforcement stage, pretrial detention stage, and criminal court stage are using data on all criminal charges filed between January 1, 2017, and December 31, 2019.[33] The analyses examining racial disparities at the probation stage are focused on probation stints that began during the period of January 1, 2017, through December 31, 2019, and were completed by December 31, 2019. The study focuses on the 2017–2019 period because, at the time the project began in early 2021, it was determined that it would be optimal to have the most-recent data as possible, but that would have been largely unaffected by the changes the county made to case processing during the COVID-19 pandemic.

The remainder of this section provides an overview of the specific datasets that were used to conduct the quantitative analyses. Note that more-specific details on these data are provided in Chapters 3 to 6 and in Appendixes B to E. The discussion in Chapters 3 to 6 also highlight the specific pieces of information that would have been useful to have but is not in the data.

Data Provided by the County

- **Criminal court data:** Information includes the initial charges filed by law enforcement, the pathways through which the case was adjudicated as well as the outcome of the case, and information about the individual, such as their demographics and criminal history.
- **Pretrial detention data:** Information includes whether individuals were issued an arrest versus a summons, their risk assessment scores, the outcome of their preliminary arraignment, the length of their pretrial detention stint (if any), and whether they had a

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[33] Note that these criminal charges correspond to charges filed that are initially placed on the criminal docket. Many summary offenses are criminal offenses that are handled through the nontraffic docket, where typically the most serious sentence issued will be a fine. The criminal offenses that are initially placed on the nontraffic docket are not included here.

detainer or other external holds. These data can be matched to the criminal court data, which allows for identification of the charges filed.

- **Probation data:** Information includes information on the demographics of the individual, the length of the probation sentence, the crime they were convicted of, their criminal history and proxy score, their supervision level, all new offenses they were charged with on probation, and data on revocations and detainers issued.
- **911 communications data:** Information includes aggregate-level information from the Emergency Services Department on the number of calls to 911. These data were grouped according to the location of the call and the reason of the call.

Data Provided by Law Enforcement

- **Pittsburgh Bureau of Police (PBP) data:** Information includes information on motor vehicle stops, new criminal charges filed (including the location of the incident), and individual-level 911 call data on calls that were dispatched to PBP or made by PBP.

Other Data

- **U.S. Census Bureau American Community Survey data:** Information includes the number of individuals who reside in each location within Allegheny County in addition to their demographics and socioeconomic characteristics.
- **U.S. Census Bureau Longitudinal Employer-Household Dynamics data:** Information includes information on the number of workers by race in each location within Allegheny County.

Main Approach

This section lays out the approach to identifying both the size of the racial disparity at each of the four main criminal justice system stages and why the disparities occur. Table 2.1 explicitly notes the main outcome(s) being examined at each of the four stages of the criminal justice system, as well as the population this outcome is relevant for. The table also indicates the chapter where these results are presented. Identifying the size of the racial disparity at each of the four stages in Table 2.1 is straightforward, as it is just the difference in the outcome between the average Black and White individual.[34] For example, the racial disparity at the law enforcement stage is the difference between the percentage of Black residents who have charges filed against them and the percentage of White residents who have charges filed against them. As noted in Chapter 1, the term *disparity* refers to a raw difference in average outcomes at this stage and is not accounting for differences that occurred prior to this stage.

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[34] Throughout this report, the term *White individuals* refers to non-Hispanic White individuals. Hispanic individuals made up about 1% of the raw data and were dropped from the analyses because the scope of the project involved examining disparities between Black and White individuals.

Table 2.1. Main Outcomes Examined in Racial Disparity Analysis

Stage of Criminal Justice System	Main Outcome(s) Examined	Chapter Where Results Are Presented
Law enforcement	Among those in the population, who has new charges filed against them?	Chapter 3
Pretrial detention	Among those who have charges filed against them, who serves pretrial detention?	Chapter 4
Criminal court	Among those who have charges filed against them, who is convicted of a felony? Who serves a confinement sentence?	Chapter 5
Probation	Among those on probation, who has a detainer filed against them? Who has their probation sentence revoked?	Chapter 6

The analysis indicated that each of the outcomes shown in Table 2.1 exhibited a racial disparity. To identify why the disparity occurred, the following two steps were taken:

- If an outcome for a given stage in Table 2.1 was itself the process of multiple substages, the disparity was identified at each substage, because this provides an understanding of which part of the process drives the overall disparity. For example, the criminal court stage consists of multiple substages, including the preliminary hearing decision, the method of adjudication used for cases held for court, the conviction decision, and the sentencing decision. The analysis will thus identify the disparity that is present at each of these substages.
- For each substage outcome that exhibits a disparity, Oaxaca-Blinder decompositions[35] were conducted to identify why the disparity occurred. These decompositions used information on all characteristics that could affect the substage outcome that was recorded in the data. The results identify the specific amount of the disparity that is due to racial differences in the collective set of characteristics accounted for, as well as the amount that is unexplained by these factors. Furthermore, these decompositions identify the amount of the disparity that is due to racial differences in *each* of the characteristics accounted for, which is extremely helpful in understanding why disparities might occur at a given substage. Appendix A provides more technical details about the decomposition. An example of how to interpret these results is included in the discussion below.

To use the Oaxaca-Blinder framework requires both understanding the specific processes that are part of a given stage, as well as identifying all of the factors that could affect a particular decision point. To learn the requisite information about each process, interviews were conducted with criminal justice professionals that either oversaw these processes or carried out day-to-day

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[35] Oaxaca, Ronald. "Male-female wage differentials in urban labor markets." *International economic review* (1973): 693-709. See also: Blinder, Alan S. "Wage discrimination: reduced form and structural estimates." *Journal of Human resources* (1973): 436-455.

activities within them.[36] In addition, policy documents and previous criminal justice studies conducted in the county were also reviewed. Chapters 3 through 6 each include a detailed write-up of these processes—this background work was completed before the analysis began so that what was learned about the process informed the specific analysis that was conducted.

Interpreting the Decomposition Results

The results in Chapters 3 through 6 highlight the important results of the decomposition analysis, but for brevity they do not interpret all numbers presented. The discussion in this section walks through an example of how to interpret the decomposition results and is intended for readers who are interested in having a more in-depth understanding of the full set of results that are presented.

The example discussed here corresponds to a substage of the court process—the sentencing decision—which is formally presented in Figures 5.10 and 5.11 in Chapter 5. Analysis conducted at the court substage corresponding to sentencing indicates that, among individuals convicted in standard Common Pleas Court, 36% of Black individuals are sentenced to confinement, while 27% of White individuals are. These results indicate that Black individuals are 9 percentage points more likely to receive a confinement sentence than White individuals are—this gap reflects the raw racial disparity at this sentencing substage. Figure 2.1 presents the results from conducting the decomposition analysis at this substage (which is also presented as Figure 5.11 in Chapter 5), where the factors included in the analysis correspond to all of the factors that theoretically could affect the sentencing outcome that are observable in the data—this includes the offense gravity score (OGS) and prior record score (PRS) related to the most serious charge an individual is convicted of (which are inputs in the sentencing guidelines), the grade of the other charges the individual is convicted of, whether any of the charges carried a mandatory minimum, the age and gender of the individual, the Common Pleas judge who oversaw the case, and the year the case was filed in.

The red bar in Figure 2.1 indicates the explanatory power of all controls, and also indicates the percentage by which the disparity at this substage would narrow if Black and White individuals were similar with respect to all of the factors listed in Figure 2.1.[37] Put another way, the value here can be interpreted as the percentage of the disparity that is caused by existing racial differences in the included factors. Thus, the results indicate that 87.6% of the racial disparity in who receives a confinement sentence (among those convicted in standard Common Pleas court) is explained by racial differences in the factors listed in Figure 2.1. This is often referred to as the portion of the racial disparity that can be attributed to *disparate impact*, because it is the portion of the disparity that results from the average Black individual and

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[36] These interviews are discussed in more depth in the section describing the qualitative methodology.

[37] The term *similar* means that Black and White individuals would have the same average value for a given factor (or a set of factors).

average White individual being treated differently not because of their race, but because they have different average values for the characteristics that are taken into account in the process.

In contrast, the remaining 12.4% (100% – 87.6% = 12.4%) of the disparity is unexplained by racial differences in the included factors. This remaining disparity can either reflect the fact that there could be racial differences in important factors that are unobserved (and thus cannot be controlled for) or it could reflect *disparate treatment*, whereby Black individuals are treated differently than otherwise similar White people precisely because they are Black (i.e., racial discrimination). Note that the set of unobserved variables are the ones that were identified in the process description as being important, but for which no data were available. While it is not possible to identify how much of the remaining disparity is due to unobservable differences versus disparate treatment, an understanding of the importance of the unobserved variables will allow one to make a more qualitative conclusion as to the potential role of disparate treatment. Note that in this particular example, the unexplained disparity is not statistically significant, which thus indicates that the evidence that disparate treatment or unobserved variables play a role at this decision point is relatively weak.

Figure 2.1. Example of How Decomposition Results Will Be Displayed
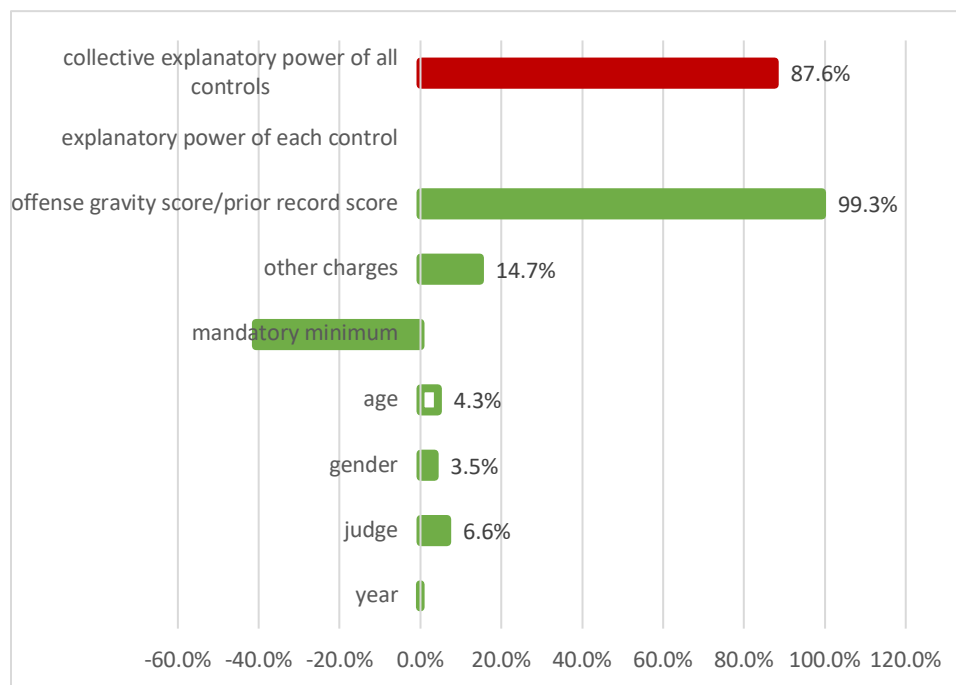
NOTE: These decomposition results explain racial disparities at the stage examining who receives a confinement sentence among those convicted in standard Common Pleas court. This is the same figure that is shown in Chapter 5 as Figure 5.11.

Although it is helpful to understand the collective explanatory power of the variables listed in Figure 2.1, it is arguably even more useful to understand how much each specific factor included

explains of the racial disparity. The key advantage of the decomposition framework is that it will identify the relative importance of each factor—these results are shown by the green bars in Figure 2.1. The values indicated by the green bars can be positive or negative. If a value is positive, it indicates that the corresponding factor is a risk factor in the process (i.e., a factor that plays a determinative role in the outcome), and that Black individuals are *more* likely to have that risk factor than White individuals are. Thus, if a factor is associated with a positive value, it indicates that racial differences in that factor explain why the disparity occurs. Furthermore, the percentage associated with that factor reveals how much the racial disparity would narrow by if Black and White individuals were similar with respect to that factor, but their values for the other factors remained unchanged. For example, for the bar corresponding to the OGS/PRS cell, the results indicate that the racial disparity in who is sentenced to confinement would fall by 99.3% if Black and White individuals had similar OGS and PRS values. This indicates that Black and White individuals differ with respect to their OGS and PRS, and that the racial disparity in confinement rates would essentially be eliminated if they were similar with respect to this factor. Thus, racial differences in OGS and PRS are a key reason why there are racial differences in confinement rates.

In contrast, if a green bar in Figure 2.1 has a negative value, it indicates that the corresponding factor is a risk factor in the process, but that Black individuals are *less* likely to have that risk factor than White individuals are. Consequently, if a factor is associated with a negative value, it indicates that racial differences in that factor do not explain why Black individuals have worse outcomes at this stage. In this situation, the percentage associated with the factor reveals how much the racial disparity in who receives a confinement sentence would widen by if Black and White individuals were similar with respect to that factor. For example, the factor "mandatory minimum" has a value of -41%. This result indicates that if Black and White individuals were similar with respect to the rate at which they have a mandatory minimum, the disparity in who receives a confinement sentence would widen by 41%. This occurs because White individuals are more likely to have a mandatory minimum tied to their conviction charge than Black individuals are, and the presence of a mandatory minimum increases the likelihood of receiving a confinement sentence.[38] Making Black and White individuals similar with respect to this characteristic would mean that one is decreasing the rate at which White individuals have a mandatory minimum, which would decrease their rate of receiving a confinement sentence—thus, this results in a widening of the disparity at this stage. Note that whenever a percentage associated with a factor is negative, it indicates that a particular risk factor is more prevalent among White individuals, and thus making Black and White individuals similar with respect to that factor will widen the disparity.

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[38] The main reason White individuals are more likely to receive a mandatory minimum than Black individuals is because, among individuals convicted of a crime, a higher fraction of White individuals than Black individuals are convicted of driving under the influence (DUI), which is a charge that often carries a mandatory minimum.

The discussion of the decomposition results in Chapters 3 through 6 generally focus on the factors that both explain 10% or more of the racial disparity and are statistically significant at the 10% level (which is represented as a solid green bar in Figure 2.1). If a factor is either statistically insignificant at the 10% level (which is represented as a hollow green bar in Figure 2.1), or is associated with a relatively small value (indicating the factor is not significant in a practical sense), it indicates the factor generally does not explain the racial disparity at this stage—this is either because the factor is not predictive of outcomes at this stage (once other factors have been controlled for), or because there are no racial differences in this factor.[39,40]

There are a few other notes on how to interpret the decomposition results shown in Figure 2.1. First, the green bars reveal how much the disparity would change by if Black and White individuals were similar with respect to that characteristic, but their values on the other risk characteristics remained the same. Thus, the decomposition values reveal the impact of one factor on the racial disparity, holding constant the impact of the other factors controlled for. Second, the percentage attached to the red bar is obtained by summing the positive and negative values attached to each of the green bars. As a result, the explanatory factor associated with a given factor might be more than the collective explanatory factor of all the variables. This is precisely what happens in Figure 2.1, because the disparity would essentially be eliminated if Black and White individuals were similar with respect to OGS/PRS. However, if you make them similar with respect to all variables (as shown in the red bar), you are also making them similar with respect to mandatory minimums (which widens the disparity), and thus the explanatory power decreases. Finally, it is possible for the percentage associated with the red and green bars to exceed 100%, although the results presented in this report never exceed 103%. If a percentage is in this range, it means that when you make Black and White individuals similar with respect to these factors, White individuals become slightly more likely to have the negative outcome than Black individuals are (i.e., the disparity flips). From a practical perspective, there is always some noise associated with these estimates, and thus a value of 103% is generally interpreted as saying that the entire disparity is explained by the included factors.

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[39] Note that *statistical significance*, as represented by a solid bar in the decomposition figures, occurs when an estimate is sufficiently precise that one can be 90% certain that the true value of the estimated quantity is not zero. On the other hand, *practical significance* is the term used to indicate the *size* of the estimate, rather than its *precision*. A decomposition estimate is referred to as being *practically significant* whenever it makes up at least 10% of the raw disparity. However, an estimate can be statistically significant, practically significant, both or neither, depending on both the size of the estimate and its precision.

[40] For simplicity, confidence intervals are not shown, but readers should be aware that there is some uncertainty around each of the percentage estimates shown in Figure 2.1. For example, the 95% confidence interval for the percentage of the disparity that is explained by OGS and PRS is [82.5%, 116.0%]; for the estimate on other charges, the 95% confidence interval is [7.3%, 22.1%]; and for the estimate on gender, the 95% confidence interval is [0.4%, 6.6%]. The impact of gender could potentially be very close to zero, which is why the interpretations tend to focus on estimates that explain 10% or more of the racial disparity.

Development of Recommendations

The analyses outlined above identified the size of the disparity at each of the four main stages of the criminal justice system (as well as the substages associated with them), and why these disparities occurred. The recommendations that were developed to reduce racial disparities were intended to address the specific reasons why disparities occurred. Because there was often a wide array of factors that were responsible for the disparity, the recommendations focused primarily on addressing disparate treatment (when there was evidence it could be occurring), as well on reducing the reliance on factors (i.e., characteristics) that were causing racial disparities but for which it was questionable as to whether these factors should be considered in the process. In this way, the recommendations are intended to address both the disparate impact and disparate treatment that are involved in these processes.

Qualitative Methodology: Interviews with Community Members and System Professionals

The qualitative research addressed the third and fourth objectives noted in Chapter 1:

3. Gain an understanding of how community members and system professionals directly experience the Allegheny County criminal justice system and what connections they perceive between racial disparities and the system's policies and practices.
4. Identify potential solutions for improving racial equity from the perspectives of people who have direct experience with the Allegheny County criminal justice system.

The qualitative methods were designed to consider the importance of hearing from individuals about their direct experiences, the dynamics that can make it challenging for them to speak candidly, and the reality that differential treatment based on race can be a sensitive and emotional topic.

Equity-Centered Research Approach

The qualitative research team approached this study from the standpoint of equity-centered research practices, which acknowledge that research itself has the potential to reproduce and legitimize inequities. Equity-centered researchers use many of the same rigorous methods as more-traditional researchers, but they do so with a heightened awareness of how power, bias, and exclusion can distort findings and, therefore, they actively work to understand and describe the limitations of available data, including the viewpoints of people with lived experience, and to reflect on how their own social positions might influence their perspectives on the research topic.[41] Providing clear explanations of how data were gathered and analyzed is an important

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[41] Venkateswaran, N., Feldman, J., Hawkins, S., Lewis, M. A., Armstrong-Brown, J., Comfort, M., Lowe, A., & Pineda, D. (2023). Bringing an equity-centered framework to research: Transforming the researcher, research

component of equity-centered research, because this brings transparency to the processes of requesting, obtaining, and interpreting various forms of data and any challenges encountered during the study. In a study of racial disparities, it is important to note that the research team conceives of race as socially constructed and not a risk factor in itself. That is to say, a society's norms about what makes groups of people distinct from each other and the ways that systems are set up around those norms often produce different outcomes across racial groups. This understanding directly informed how the qualitative research team approached data collection and analysis. For example, interview questions were asked in ways that encouraged participants to reflect on policies, practices, and community-level factors rather than focusing on individuals.

Recruitment of Interview Participants

Initial participants for qualitative interviews were recruited from the CPP and IDWG. For community member interviews, the research team first approached several members of the CPP recommended by the IOP. [42] At the end of these interviews and subsequent interviews, participants were asked to provide referrals to other individuals, including individuals who held different perspectives and who had had different experiences. Participants were also asked for referrals to local organizations focused on issues related to criminal justice in Allegheny County. In addition, the research team conducted an independent scan of local organizations to approach for research participation. For system professional interviews, the research team used a similar approach, beginning by approaching several members of the IDWG.[43]

> **Defining Interview Groups**
>
> Throughout this report, we use the label *community member* to refer to any study participant who has personal experience with being accused of a crime, convicted for a crime, or who has been a victim, a support person, a community advocate or organizer, or a combination of those exposures to the Allegheny County criminal justice system. We use *system professional* to describe any participant whose primary contact with the criminal justice system has been as an employee of a local agency, including law enforcement officers, probation officers, court officials, administrators, and service providers. However, we acknowledge that many system professionals are community members themselves.

The methodological approach of recruiting new research participants through their connection to other participants is called *snowball sampling* or *chain sampling*. This method is often used in studies of people who have experiences that may be stigmatized and who are distrustful of researchers, which makes it unlikely that they will respond to cold calls,

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content, and practice of research. RTI Press. RTI Press Occasional Paper No. OP-0085-2301
https://doi.org/10.3768/rtipress.2023.op.0085.2301

[42] To protect the confidentiality of research participants, the research team is not providing further details about the positions or roles of these CPP members.

[43] As with the CPP members, no further details about the IDWG members are provided to protect participant confidentiality.

recruitment flyers, or advertisements.[44] In addition, many qualitative studies use this method because qualitative research does not aim to produce generalizable results and it does not rely on probability or random samples for robustness or validity. Rather, qualitative researchers generate a strong sample by including participants who speak from different vantage points that are related to the study's research questions.[45] In this study, the researchers sought a diversity of perspectives across social identities (e.g., race, gender, socioeconomic background) among all participants. In addition, for community member participants, residential zip code and type of experience with the Allegheny County criminal justice system (e.g., being accused of or convicted of crime, a victim of crime, a support person, and/or working as an advocate or organizer) were considered when recruiting the sample. For system professional interviews, role (law enforcement, probation, court administrator, judicial officer, pretrial services, prosecutor, defense attorney) and years of service in the Allegheny County criminal justice system guided sample construction. Again, for both the community member and system professional interviews, the research team began by contacting members of the CPP and IDWG for "seed" interviews that initiated each snowball sample.

Potential participants were first contacted through an email message that introduced the study and the research team and offered a brief introductory call to provide more information and answer any questions. If people did not respond to the email or if they did not have an email address, a member of the research team attempted to reach them through other means, including phone calls, text messages, and social media direct messaging. Anyone who expressed not being interested was immediately dropped from the list; no efforts were made to persuade anyone to participate who did not want to do so. As a result, the qualitative data do not reflect the perspectives of community members or system professionals who did not want to participate in a study about racial disparities in the Allegheny County criminal justice system.

Individuals who wanted to participate in an interview were offered the option of a Zoom, FaceTime, or phone call. [46] Efforts were made to schedule interviews during times that were convenient for participants, including evenings and weekends. Reminders were sent in advance, and anyone who was not able to make an appointment was invited to reschedule their interview.

Throughout the recruitment process for community members and system professionals, the research team was attentive to **data saturation**, or "the point in data collection when no additional issues or insights are identified and data begin to repeat so that further data collection

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[44] TenHouten, W. D. (2017). Site sampling and snowball sampling-Methodology for accessing hard-to-reach populations. *Bulletin of Sociological Methodology/Bulletin de Méthodologie Sociologique*, *134*(1), 58-61.

[45] Lamont, M., & White, P. (2005, May). Workshop on interdisciplinary standards for systematic qualitative research. In *National Science Foundation Workshop*. https://scholar.harvard.edu/sites/scholar.harvard.edu/files/lamont/files/issqr_workshop_rpt.pdf

[46] Because of the ongoing COVID-19 pandemic and safety concerns for all involved, all qualitative data collection was conducted via videoconferencing, telephone, or other virtual technologies.

is redundant, signifying that an adequate sample size is reached."[47] The research team stopped recruitment for qualitative interviews once data saturation was reached (as described detail in the analysis section below).

Conducting of Qualitative Interviews

Interview guides were designed to obtain data about individuals' subjective experiences of the Allegheny County criminal justice system and other social factors that administrative data cannot capture, such as interpersonal and institutional barriers to public safety in Black communities. Interview questions aimed to gather information about how the criminal justice system operates, both procedurally and culturally, from the perspectives of system professionals, community advocates, people who have been harmed, people who have been accused or convicted of harming others, family members, and people belonging to two or more of those groups. Interviewers posed questions in ways intentionally designed to inspire people to contribute ideas, feel comfortable reflecting on how current practices could be posing barriers to racial equity, and build momentum for crafting solutions.

Community Member Interviews

The community member interviews prioritized speaking with Black individuals with direct lived experience, who have the most intimate personal knowledge of root causes of racial disparities. Interviews with community members were conducted one on one by three members of the research team with extensive qualitative research experience, including experience conducting interviews with people who have been incarcerated, people who have been victims of crime, and community advocates. Of note, all three of these researchers identify as Black, and the research team received feedback from many community members that this was meaningful and important to them. One community member asked during the recruitment process whether the interviewer would be Black or White, expressing that they did not want to be interviewed by someone who was White because they did not believe that White people could deeply understand their experiences and perspectives. Another community member noted during an interview that they felt freer to share painful experiences and honest reflections with a Black researcher because they did not have to worry about hurting a White researcher's feelings, stating, "Listen, if you were White I don't know if I'd be talking to you like this, because I am a rebel but I'm also humble and I don't like to hurt people." The equity-centered approach of having a majority-Black qualitative research team therefore strengthened the data from community member interviews by improving the likelihood that participants felt safe and comfortable speaking openly and providing details about their experiences.

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[47] Hennink M, Kaiser BN. Sample sizes for saturation in qualitative research: A systematic review of empirical tests. Soc Sci Med. 2022 Jan;292:114523. doi: 10.1016/j.socscimed.2021.114523. Epub 2021 Nov 2. PMID: 34785096.

Interview questions were designed to inquire in compassionate and culturally responsively ways about race and racism, acknowledging that discussion of these issues can bring up traumatic memories and difficult emotions. Interview questions also took into account that power structures can make it challenging for Black individuals and other marginalized groups to speak candidly about their experiences interacting with predominantly White system professionals, and the reality that Black voices are often excluded from policy conversations about how to improve public safety in their own communities. Community member interviews began with the invitation to "Please tell me about your experiences with the Allegheny County criminal justice system." Community members who identified as people with lived experience or their family members were asked follow-up questions about these experiences, including when they happened and whether they were ongoing, and how the experiences had affected other aspects of their lives. Community members who identified as advocates or organizers were asked, "What inspired you to get involved in organizing or activism related to criminal justice system reform?" After talking in-depth about people's experiences, interviewers asked:

> You might already know that the population of Allegheny County is less than 13% Black, but the population of the Allegheny County Jail is 66% Black. Another statistic is that in Pittsburgh, Black boys are 9 times more likely than White boys to be arrested, and Black girls are 11 times more likely than White girls to be arrested. From your perspective, what might contribute to these kinds of differences?

Interviewers again asked follow-up questions about participants' responses, including any insights community members drew from their lived experiences that indicated connections between racial disparities and policies and practices. After this section, interviewers asked community members for their recommendations to address any issues they had experienced or spoken about during the interview, as well as what they believed would be necessary to make sure those recommendations were successfully implemented in Allegheny County.

Community member interviews ranged in length from 30 to 60 minutes, and each community member was provided with $50 via electronic payment to compensate them for their participation in the study. All interviews were audio-recorded, and people's names and other identifying information were not attached to interview recordings or notes.

System Professional Interviews

System professionals were intentionally recruited from a wide range of roles and levels of influence, from front-line staff to agency leaders, for a sense of the depth and reach of policies that are potentially influential on racial disparities. Each interview with a system professional was co-conducted by two members of the research team. A quantitative researcher began by asking questions about the system professional's role and responsibilities, as well as policies and processes relevant to the system professional's work to understand how the Allegheny County

criminal justice system is designed to operate. Halfway through the interview, a qualitative researcher posed the same main question asked in the community member interviews:

> This project focuses specifically on the overrepresentation of Black people in the Allegheny County criminal justice system. For example, as you probably know already, the population of the county as a whole is less than 13% Black, but the population of the Allegheny County Jail is 66% Black. Also, among youth in Pittsburgh, Black boys are 9 times more likely than White boys to be arrested, and Black girls are 11 times more likely than White girls to be arrested. From your perspective, what might contribute to these kinds of differences?

Similar to the community member interviews, system professionals were asked to provide any insights they drew from their work experiences that indicated connections between racial disparities and policies and practices. After asking follow-up questions, the qualitative researcher asked: "There has been a lot of discussion over the last year about criminal justice systems and racial justice. What kinds of discussions, if any, have taken place in [system professional's department/agency]?" The final question in the interview was:

> At the end of this study, we will present recommendations for potential ways to reduce racial disparities in the Allegheny County criminal justice system. For our last question, we'd like to hear what you think is important for making those recommendations practical, useful, and achievable. In your experience, what are the best ways to help people feel engaged and excited about making changes in Allegheny County?

System professional interviews ranged in length from 45 to 165 minutes. All interviews were audio-recorded, and people's names and other identifying information were not attached to interview recordings or notes.

Interview Participant Characteristics

The final qualitative interview sample consisted of 40 community member participants and 20 system professional participants, for a total of 60 participants.[48] Among community members, 40% of interview participants were women, 60% were male, and about three-fourths (73%) of participants self-identified as Black or African American. At the time of their interviews, participants lived across Pittsburgh and surrounding municipalities. The most common zip codes were 15210 and 15208 (in the Mount Oliver and North Point Breeze neighborhoods respectively).

As noted above, community members often had multiple forms of lived experience of the Allegheny County criminal justice system. As shown in Table 2.2, out of a total of 40 participants, 21 community members had experienced victimization in the form of loss of

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[48] Some participants were interviewed more than once because, at the end of their first interview, they decided that they had more to say or wanted to provide an update to the research team about something they had discussed in their first interview.

property, being assaulted or otherwise physically harmed by violence, and/or losing a loved one to violence, but only three of these participants identified themselves as victims. In addition, 21 community member participants had experienced a family member or other loved one being accused or convicted of a crime, 25 had themselves been directly involved with the criminal justice system by accused or convicted of a crime, and 16 considered themselves community advocates or organizers. Because of these multiple and intersecting experiences, the community member participants provided rich and insightful data from a variety of vantagepoints.

Table 2.2. Community Member Experiences

Experience	Total Community Member Participants (n=40)[a]
Experienced victimization[b]	21
Identified as a victim	3
Loved one/Family member	21
Accused/convicted of a crime	25
Advocate/Organizer	16

[a] Because many community members had multiple experiences, the total of column 2 exceeds 40.
[b] Defined as participant reporting in the interview that they had experienced loss of property, been assaulted or otherwise physically harmed by violence, and/or lost a loved one to violence

Among system professionals, 45% of interview participants were women, 55% were male, and 45% self-identified as Black or African American; seven worked in law enforcement, nine worked for the court system (including judges, probation officers, and pretrial services), and four were prosecutors or defense attorneys.

Analysis of Qualitative Interview Data

Data from the qualitative interviews were analyzed using **inductive analysis**.[49] As interviews were conducted, the qualitative research team held biweekly meetings to review notes, transcripts, and recordings to identify emerging concepts and themes. The qualitative researchers also met with the quantitative researchers biweekly to integrate the analysis of the interviews and the administrative data. For example, at the beginning of each interview, community members were asked to self-identify their race, their direct lived experience with the criminal justice system (if any), and their home neighborhood. The full research team used this information to assess its recruitment reach for interviews, looking for gaps in perspectives that could be addressed by recruiting participants from certain areas or who had certain types of experiences.

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[49] Katz J. Analytic Induction. In: Smelser N, Baltes P, eds. *International Encyclopedia of the Social and Behavioral Sciences.* Oxford: Elsevier; 2001.

This process helped to identify some perspectives that were not well-represented initially, and the team attempted to fill those gaps by following up on specific participant referrals or reaching out to key organizations in Allegheny County. The research team also looked to the quantitative data for information about where racial disparities were clustered, and this knowledge informed recruitment of participants from those zip codes.

A key component of inductive analysis is that notes, transcripts, and recordings are reviewed soon after an interview is conducted, rather than waiting to begin analysis once all the interviews are finished. This helps alert researchers to topics or perspectives that they should explore in more detail in subsequent interviews. For example, if researchers are confused by one system professional's description of a certain process, they can ask clarifying questions about that process in a subsequent interview. Likewise, if an interview participant raises an issue that the researchers had not considered when designing the qualitative interview guide, questions about that issue can be added to the guide moving forward.

Analyzing interviews soon after they are conducted is also important for knowing when **data saturation** has been reached. As noted above, data saturation refers to the point at which the information collected through interviews becomes repetitive. Of course, every individual has a unique experience and expresses themselves in different ways, so this is not to say that interview participants are repeating the exact same stories or words. Rather, data saturation is an analytic concept indicating that no new information for research codes, topics, themes, or categories will be gained from conducting additional interviews. A systematic review of ways of testing for data saturation found that "most datasets reached saturation between 9 and 17 interviews, with a mean of 12-13 interviews, despite using different approaches to assessing saturation."[50] Similar results were found in one of the first studies to assess data saturation.[51] As noted above, data saturation was reached for this study and recruitment ended with 40 community member interviews and 20 system professional interviews.

Notes from interviews and from research team meetings were used to develop two analytic memo documents, one for the community member data and one for the system professional data. These memos synthesized the issues and ideas that interview participants raised into analytic concepts. For example, many community members talked about their experiences being frisked or arrested by the police when they were teenagers. Quotations and examples from the interviews related to this concept were included in the analytic memo in a section titled "Exposure in childhood: Interactions with the criminal justice system at a young age."

When data from all the interviews had been reviewed by the research team and documented in the analytic memos, the research team drew from the memos to develop five key themes that

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[50]Hennink M, Kaiser BN. (2022). Sample sizes for saturation in qualitative research: A systematic review of empirical tests. Soc Sci Med. Jan;292:114523. doi: 10.1016/j.socscimed.2021.114523. PMID: 34785096.

[51] Guest, G., Bunce, A., & Johnson, L. (2006). How many interviews are enough? An experiment with data saturation and variability. *Field methods*, *18*(1), 59-82.

emerged from the combined qualitative datasets: (1) racial and economic segregation, (2) differential treatment by system professionals, (3) cumulative trauma across the lifespan and need for services, (4) structural oppression and legal estrangement, and (5) belief that individual behavior drives racial disparities. A summary of the five qualitative themes and their endorsement across participant groups appears in Appendix A.

Chapter 3. Racial Disparities in Law Enforcement Outcomes

This chapter examines racial disparities in the rate at which individuals within Allegheny County were charged with a new crime in a given year. Using data on all new criminal charges filed between 2017 and 2019, as well as census data on county residents during that period, the analysis identified the charging rate for Black and White individuals for Allegheny County overall and separately for the city of Pittsburgh and its suburban areas. Additional census, county, and law enforcement data were then used to investigate why disparities might occur in criminal charging rates in both the city of Pittsburgh and suburban areas.

There are several important caveats to note about this analysis. First, identifying what is causing disparities in criminal charging rates is a notoriously difficult problem because one does not observe who engages in criminal activity but instead only who is charged with a crime. As a result, the analyses in this chapter cannot definitively identify all the reasons why disparities in criminal charging rates occur but rather can provide evidence that is suggestive of certain reasons. Second, having detailed data from law enforcement agencies is necessary to conduct informative analyses at this stage. Although the research team does have relatively detailed data for incidents that occurred within the city of Pittsburgh, it does not have detailed data for incidents that occurred within the suburban areas. As a result, a more-thorough analysis was able to be conducted for racial disparities that occur within the city of Pittsburgh. As issues related to data heavily informed the analysis conducted, the first two sections of this chapter (1) discuss the issues with collecting law enforcement data within the county, (2) identify the specific data used, and (3) detail the additional data that would have been useful.

Background on Law Enforcement

Law Enforcement Agencies Within Allegheny County

Figure 3.1 presents a map of Allegheny County, which consists of the city of Pittsburgh and the 129 townships, municipalities, boroughs and unincorporated Census Bureau–defined places that make up the suburbs of Pittsburgh. The city of Pittsburgh is divided into 90 neighborhoods, which are shown in Figure 3.2. The PBP is the main law enforcement agency that serves the city of Pittsburgh, while most of the townships, municipalities, and boroughs outside Pittsburgh each has its own law enforcement agency.[52] This results in Allegheny County having a total of 140

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[52] In addition to these municipal police departments, many institutions, such as universities, health systems, the transit authority, the housing authority, and Pittsburgh Public Schools have their own police departments. These departments also have the power to arrest individuals. In addition, some municipalities share a police department or have their public safety needs met by the county or state law enforcement agencies. The analyses will be based on the place of arrest, rather than the citing authority.

law enforcement agencies.[53] These agencies vary in size, from just a few officers, to several dozen personnel, through the approximately 900 officers in the PBP. Each of these law enforcement agencies collect its own data. Although some of these data—including information on new criminal charges being filed—are fed into a centralized county system managed by the courts, the majority of the data these agencies collect is not otherwise shared.

Figure 3.1. Map of Allegheny County Suburban Areas

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[53] https://www.countyoffice.org/pa-allegheny-county-police-department/

Figure 3.2. Map of Pittsburgh Neighborhoods
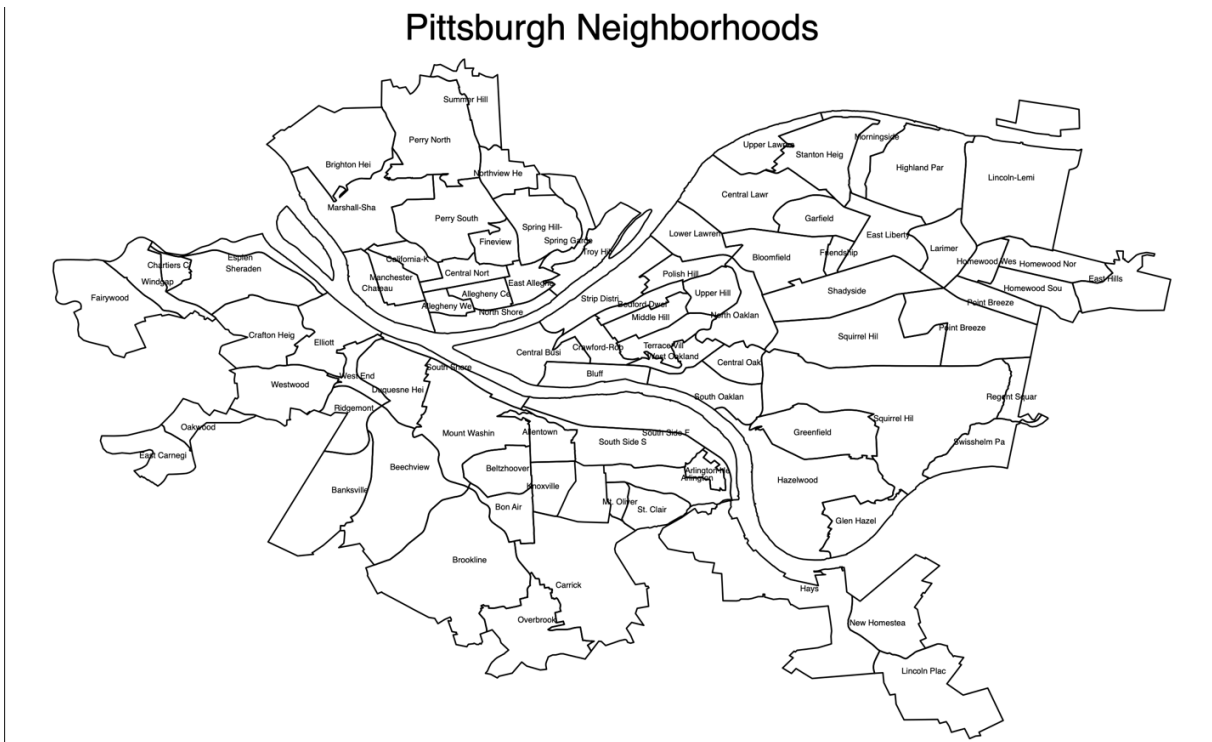
How Laws Are Enforced

There are three main ways law enforcement agencies enforce criminal laws. First, their service might be requested by a citizen 911 call for service who has either witnessed or been a victim of a criminal incident. Law enforcement officers will investigate the incident and, if they feel they are able to determine who was responsible, will file criminal charges against the individual(s). A classic example of this occurs with robbery charges, because typically law enforcement will not witness the event occurring while they are on patrol but rather will be called in to investigate after the incident has occurred. These situations do not afford officers much discretion regarding whether to respond because they will be forced to get involved once a citizen call for service is received.

A second way in which criminal laws are enforced is that officers might observe criminal activity while they are patrolling a specific area and will be obligated to respond. One such is a DUI, because this is an offense that officers might encounter during their patrol and that they would have to respond to. Note that, in general, although officers will be required to respond to a criminal incident they observe while on patrol, law enforcement agencies have discretion over the amount of time they spend patrolling specific locations within their jurisdictions. In particular, agencies are likely to spend more time patrolling areas they view as having higher crime rates or from which they receive more citizen calls for service.

The third main way in which law enforcement agencies enforce criminal laws is that, while they are on patrol, they initiate interactions with citizens that allow them to investigate whether the individual is currently committing a crime. Officers can initiate interactions with individuals through both motor vehicle stops and subject (i.e., nonmotorist) stops that provide them an opportunity to search the individual. A classic example of an offense that might result from an officer-initiated interaction occurs with drug-related offenses, as usually officers will not know for certain that an individual is in possession of illegal substances unless they search them. Law enforcement agencies are afforded significant discretion in the extent to which this strategy is used and, as will be discussed in detail in this chapter, the use of this strategy can vary among areas within the agency's jurisdiction. In particular, this strategy can be deployed in neighborhoods that are perceived to have higher crime rates or from which they receive more citizen calls for service. Individual officers also generally retain a lot of discretion as to the extent to which they engage in this policing strategy.

Filing of Charges

In most situations, police officers may use their own discretion of whether to file charges against an individual and which charges to file, pursuant to rules of the Allegheny County Criminal Division, especially 507.1-507.6. In some instances when law enforcement officers decide to file criminal charges, they will have to get the charges approved by the District Attorney's (DA's) office first. Rule 507.6 of the Allegheny County Criminal Court provides a list of felony offenses for which certain police agencies must get prior DA approval. Otherwise, charges are at the discretion of the charging officer and are not viewed by the DA until the preliminary hearing.

At the same time law enforcement officers make the decision to file charges, they will also need to decide whether to arrest the individual or release them on a summons. This decision, and the racial disparities that can result from it, are examined in Chapter 4.

Data

An important component of the law enforcement analysis is an examination of which data were and were not available to the researchers, because data accessibility had a significant impact on the analyses that were ultimately able to be run. The analyses conducted in this chapter required combining data from county-level data sources and individual law enforcement agencies. As noted earlier, there are 140 law enforcement agencies within Allegheny County and they do not collect data in a centralized way. A separate data use agreement was required for every law enforcement agency. Because it would not have been possible to negotiate an agreement with every law enforcement agency, the decision was made to pursue obtaining data from the PBP and a representative sample of 26 suburban law enforcement agencies. Appendix B documents how these 26 agencies were selected. Outside these 26 agencies, the

research team also pursued data from the Northern Regional Police Department (NRPD) because its police chief was part of the IDWG for this project.

There were several obstacles encountered in attempting to get data from the PBP and the selected sample of 26 suburban law enforcement agencies. Pennsylvania, like most states, has statutory requirements that govern data-sharing. The Criminal History Record Information Act (CHRIA) of 1980 prohibits the sharing of "intelligence, investigative and treatment information," except with another criminal justice agency as necessary for that agency's duties.[54] Vagaries in the wording and interpretation of the statute have led to differences among police departments across the state about sharing data in ambiguous situations (e.g., a research project), and what the lines are between basic and investigatory information. Although the PBP ultimately agreed to provide necessary data, efforts to understand and comply with CHRIA delayed data-sharing between PBP and RAND for approximately two years. NRPD was also able to provide data. With respect to the other suburban agencies, none of these agencies agreed to provide data. Appendix B documents the effort that was put into trying to obtain data from these 26 agencies. The reasons many of these agencies gave for not providing data ranged from lack of technical expertise to lack of manpower to remaining concerns about CHRIA. Because data from only one suburban agency was obtained, and this agency represents an area that is not representative of the full suburban region, the project did not end up using the NRPD data.

The remainder of this section details the specific datasets that were obtained and identifies the key pieces of information that the research team did not have access to. The discussion at the end of this section notes the implications that these incomplete data will have on the analyses that can be conducted.

County-Level Data

- **Census data**: The U.S. Census Bureau's American Community Survey five-year average data (2015 to 2019) were used to identify the number, racial composition, and socio-economic characteristics of individuals who reside in each neighborhood within Pittsburgh, as well as in each of the suburban areas outside Pittsburgh. For each area, the data identified (1) the number of Black and White individuals who reside there and (2) the age distribution, average education level, and median income (all separately) by race.
- **Employment data:** The Census Bureau's Longitudinal Employer-Household Dynamics public-use data were used to identify the number of workers by race in each location (Pittsburgh neighborhood and suburb) in 2019. This information allowed the analysis to calculate the extent to which the location's residential population was augmented by people working in the location. It was also used to identify the subset of all workers in each location that was engaged in retail or in personal services industries, which was used as a proxy for the additional people coming to the location to shop or seek services.

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[54] Chapter 91 of the Crimes Code of Pennsylvania and Pennsylvania Consolidated Statutes Annotated, 18 Pa. C.S.A. 9101 et. seq.

- **Court data on new charges filed:** Data on all new criminal charges filed within the county were provided by the courts. The data included information on all charges that were tied to a given incident. For the purpose of this chapter, the analysis focused on the dominant (i.e., most serious) charge. The data include information on the municipality of the incident—specifically, the data identify whether the incident occurred within Pittsburgh, but the data do not provide information on the specific neighborhood within Pittsburgh the event happened. If the incident occurred outside Pittsburgh, the data provide information on the specific suburb in which the incident occurred. For each incident, the court data provide information on the eventual disposition of these charges.
- **911 communications data:** The county provided aggregate-level information from the Emergency Services Department on the number of citizen calls for service by location, grouped into 48 types of calls. These counts were aggregated into five groups: calls for police, calls for fire or Emergency Medical Services (EMS), calls for mental health or drug abuse issues, calls by police, and other. Calls by police occur when law enforcement officers decide to patrol a specific area or conduct a motor vehicle or subject stop. They will call in to 911 dispatch to document these actions. These data cannot be linked to the court data on charges filed, and thus that information cannot be used to identify what initial action (e.g., a citizen call for service or a law enforcement-initiated action) led to a criminal charge.
- **Motor vehicle citations:** The data system used by the county courts has a record of all citations for motor vehicle violations issued within the county. However, just as with the court data on new charges, the location data are broad. In particular, the data do not include information on the specific neighborhood within Pittsburgh a stop takes place. Furthermore, roughly one-half of the observations had missing data on motorist race. This occurs because law enforcement agencies enter information from the citation into the county court data system. However, a motorist's race is not a required field, and, while that detail appears on the citation (and likely will be in the data kept by the law enforcement agency), it often is not typed into the court system. As a result of not having detailed location and having missing data on motorist race, these data were not able to be used.

PBP Data

- **Motor vehicle warnings and citations:** PBP provided information on all written warnings and citations tied to motor vehicle stops, as well as motor vehicle stops that were conducted strictly as an investigatory stop. For each stop, the data indicated the specific neighborhood within Pittsburgh where the stop occurred, the race and gender of the motorist, the specific offense for which the motorist was cited or warned, whether the motorist was frisked, and whether weapons, contraband, or evidence were found. Not all motor vehicle stops are included in these data. Specifically, if a law enforcement officer finds a bigger violation (such as a drug charge) when conducting the stop, the officer often will elect to only issue a criminal charge for the serious violation and not write a citation for the traffic stop—therefore, there will be no record for this stop in the motor vehicle stop data.
- **New charges filed:** The PBP provided information on all new criminal charges it filed against individuals. Although most of this information was available from the court data

(noted above), the PBP data allowed identified the specific neighborhood within Pittsburgh in which the incident occurred.

- **911 communications data:** These data were similar to the 911 communications data provided by the county (described earlier), except PBP provided call-level data on calls that were dispatched to PBP or made by PBP. These data were used on their own, but the fact that they were individual-level data allowed for a merging with court data. As a result, for the incidents that occurred within Pittsburgh, the research team was able to identify which ones resulted from either a citizen call for service or a law enforcement-initiated call. Note that about one-third of the cases could not be merged because law enforcement does not always record the reason an interaction was initiated. Despite the fact that a significant amount of the data is missing, the information still allowed for useful analyses to be conducted.

Discussion

Although county-level data sources provide some information on all incidents that occur within the county, the data kept by law enforcement agencies allow for a much more detailed analysis. In particular, the data provided by the PBP allow one to identify the specific location where the incident occurred. The PBP data also identify whether the incident was initiated by a citizen call for service or a law enforcement action. The PBP also provided information on a wider set of motor vehicle stops and law enforcement–initiated actions that allow for a better understanding of what types of policing strategies are being used, and how this varies by location. In contrast, the research team did not observe this information for the vast majority of incidents that occurred outside Pittsburgh. As will be seen in the remainder of this chapter, the available data allowed a more extensive set of analyses investigating racial disparities in charging rates to be conducted within Pittsburgh but only allowed for a limited set of analyses for incidents occurring outside Pittsburgh.

Racial Disparities in Criminal Charge Filing Rate

Panel A of Figure 3.3 presents the racial disparity in the rate at which individuals within Allegheny County are charged with a crime. The rate for Black individuals was obtained by dividing the total number of charges filed within the county against Black individuals in a given year by the total number of Black individuals who reside in the county. Put another way, the rate is the percentage of Black individuals in the county charged with a crime in a given year. The rate for White individuals was obtained in an analogous manner. The results indicate that Black individuals within the county are charged with a new crime at a rate that is five times higher than the rate for White individuals.

The city of Pittsburgh and the suburban areas differ a lot in their size and racial composition. The suburban areas contain almost four times as many White residents as the city, although they have similar numbers of Black residents. The number of new criminal charges filed per year is about 2.6 times higher in the suburban areas than in the city. Table B.1 in Appendix B

documents how the city and suburban areas differ with respect to socio-economic characteristics, as well as calls for service. Because of the differences that exist between the city and suburban areas, Panel B of Figure 3.3 examines the disparity in the rate at which individuals are charged with a crime separately for those who live within Pittsburgh versus those who live in the townships, boroughs, or municipalities outside Pittsburgh (but within the county). Within Pittsburgh, Black individuals are 4.5 times as likely as White individuals to be charged with an offense, while Black individuals outside Pittsburgh are 5.3 times as likely as White individuals to be charged with an offense. Table B.2 in Appendix B shows how new charges filed for each crime type vary by racial groups within the city and in the suburbs.

The analysis by location in Panel B of Figure 3.3 excludes the Central Business District (i.e., Downtown) because it differs substantially from the remainder of Pittsburgh. This area draws a very large number of nonresidents for work, shopping, and entertainment every day, which means that the analyses primary measure of criminal cases per resident population is an outlier from the other areas of the city.[55] The analysis also excluded criminal cases that list the Pittsburgh Municipal Court (PMC) or the Allegheny County Jail as the filing address, because these cases do not reflect activity in the neighborhoods that contain the court or the jail. Going forward, all analyses examining racial disparities within Pittsburgh will drop these three locations.[56]

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55 Other Pittsburgh neighborhoods, such as those in Oakland and the South Side, also draw a large number of nonresidents each day for work, shopping and entertainment. However, these neighborhoods also have larger established residential populations, making each of them less of an outlier on the criminal cases-per-resident measure. Furthermore, as described below, the analysis will use measures of neighborhood employment and business type to account for nonresidential activity.
56 PMC, the jail and downtown collectively contain 8.4% of the criminal cases in this time period.

Figure 3.3. Racial Disparities in Criminal Charging Rates

a. Countywide Racial Disparities
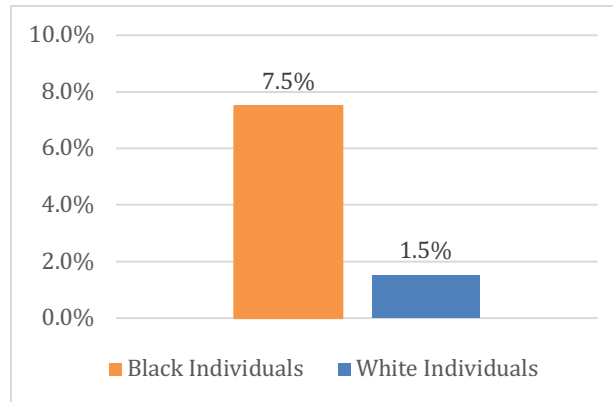
b. Racial Disparities Stratified by Within Versus Outside Pittsburgh
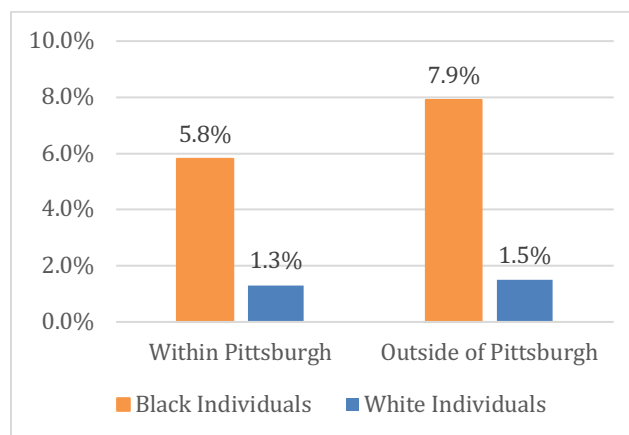
NOTE: Percentages represent the percentage of each racial group within a given geographic region that was charged with a crime in a given year between 2017 and 2019. Percentages were obtained by dividing the total number of charges filed for a specific category by the total number of residents that fell in that category, where categories are defined by racial group and location.

Although the average racial disparity in the suburbs is greater than that in the city, there is substantial variation in the level of racial disparity within both the city and the suburbs. Figure 3.4 shows the distribution of the racial disparity by neighborhood within the city and by suburb outside the city. The two red vertical lines show the average racial disparity in the city (the left line) and in the suburbs (the right line). There are many suburbs with a racial disparity less than the city average, just as there are many city neighborhoods with a racial disparity greater than the suburban average.

Figure 3.4. Distribution of Criminal Charge Racial Disparity within Pittsburgh and its Suburbs

Left of zero includes all negative disparities. Right of .15 includes all disparities greater than .15
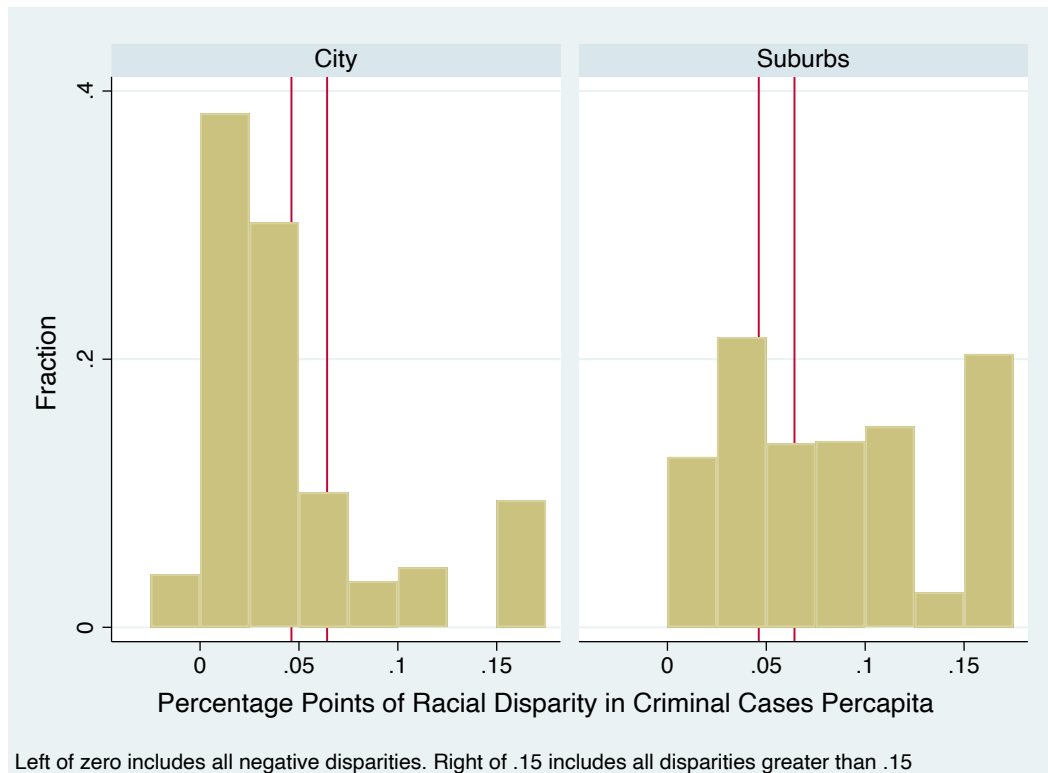
NOTE: Bars indicate fraction of population that live in neighborhood or suburb with indicated range of racial disparity in criminal charges per capita. The left vertical red line indicates the city average disparity (4.5 percentage points) and the right vertical red line indicates the suburban average disparity (6.4 percentage points).

The remainder of the chapter examines what might be causing these racial disparities in the rates at which new charges are filed. As noted earlier, detailed law enforcement data were available for the city of Pittsburgh, while such information was not available for most of the jurisdictions outside Pittsburgh. For this reason, the remainder of this chapter examines what might be causing this disparity separately for Pittsburgh versus the areas outside Pittsburgh because a more-thorough set of analyses can be conducted for the former. Note that the analysis plan initially follows the general framework laid out in Chapter 2, although it is necessary to expand on the framework presented there for several reasons: (1) In contrast to the later stages of the criminal justice process (e.g., pretrial detention, courts, and probation) where characteristics included in the analysis are measured at the individual level, most of the characteristics included in the law enforcement analysis are measured at the neighborhood (or suburb) level. This allows for some analysis which shows how racial differences in characteristics explain the disparity, but it is more limited than the analyses that are presented in future chapters. (2) The fact that individual-level information is not observed about the general population means that there will be a lot of unobservable factors that might explain racial disparities. Because of this, the analysis

conducted runs a lot of additional analyses to try and understand what might be driving some of the unobservable disparity.

What Factors Might Explain the Racial Disparity Within Pittsburgh?

The Role of Neighborhood

Figure 3.5 presents information on the percentage of Black individuals who reside within each Pittsburgh neighborhood. For simplicity, neighborhoods have been color-coded into four groups. The first group (shaded in orange) includes neighborhoods where Black residents comprise more than 60% of the population. These are referred to as *Black neighborhoods* throughout this chapter. The second group (beige) includes neighborhoods where Black residents comprise between 40% and 60% of the population, which are referred to as *integrated neighborhoods*. In the remainder of the neighborhoods, Black residents comprise less than 40% of the population. For the analyses conducted in this chapter, it is helpful to compare neighborhoods that have a high fraction of Black individuals with neighborhoods that have a high fraction of White individuals but are similar with respect to socioeconomic measures. For this reason, these remaining neighborhoods were divided into two groups. The neighborhoods that are shaded in light blue have a high fraction of White residents, but otherwise are relatively similar to the neighborhoods shaded in orange in terms of age, income, education, and amount of employment in the neighborhood. These are referred to as *White matched neighborhoods* throughout this chapter.[57] The neighborhoods that are shaded in dark blue have a high fraction of White residents, but differ quite significantly in socioeconomic measures from Black neighborhoods. Appendix B presents more details on how this matching strategy was implemented. Figure 3.5 indicates that there is a considerable amount of segregation in Pittsburgh. Although Black residents comprise about 23% of the city, Black residents comprise more than 80% of the population in many of the neighborhoods shaded in orange (see Figure 3.5). This segregation was commonly noted in the interviews conducted with system professionals.

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[57] The matched neighborhoods were selected based on a propensity score estimated using the variables in Table 3.1 as covariates.

Figure 3.5. Pittsburgh Neighborhoods by Race Category

Neighborhood Race Category

- white - matched
- white - not matched
- integrated
- Black
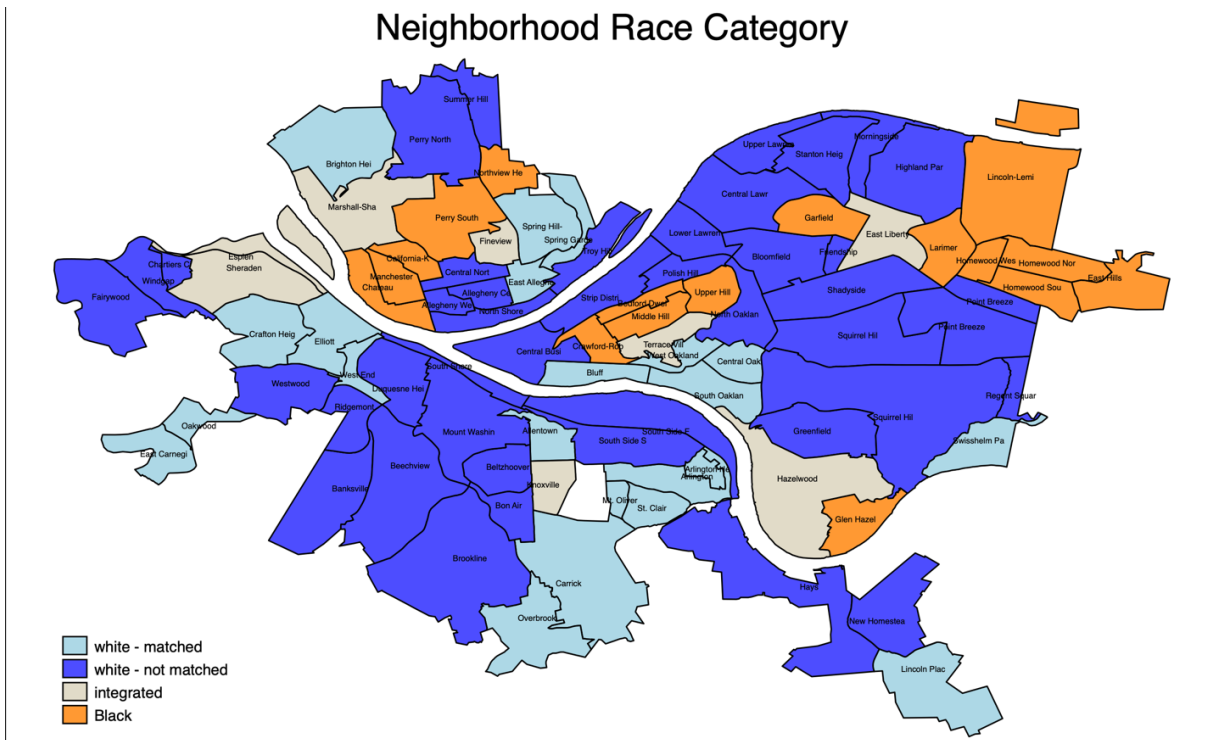
Figure 3.6 presents information on the rate at which charges are filed in each neighborhood within Pittsburgh. Note that these neighborhood rates are constructed by dividing the total number of charges filed for incidents occurring within a neighborhood by the total population of that neighborhood. Figure 3.6 indicates there are four areas (each made up of several neighborhoods) where charging rates are the highest. With the exception of the South Side, the remaining three areas are mainly composed of neighborhoods that Figure 3.5 identifies as Black neighborhoods. Thus, collectively, Figures 3.5 and 3.6 indicate that the neighborhoods where a majority of the resident population is made up of Black individuals are also the neighborhoods where charging rates are the highest.

Figure 3.6. Pittsburgh Neighborhood Annual Crime Rates

Criminal Cases per Capita
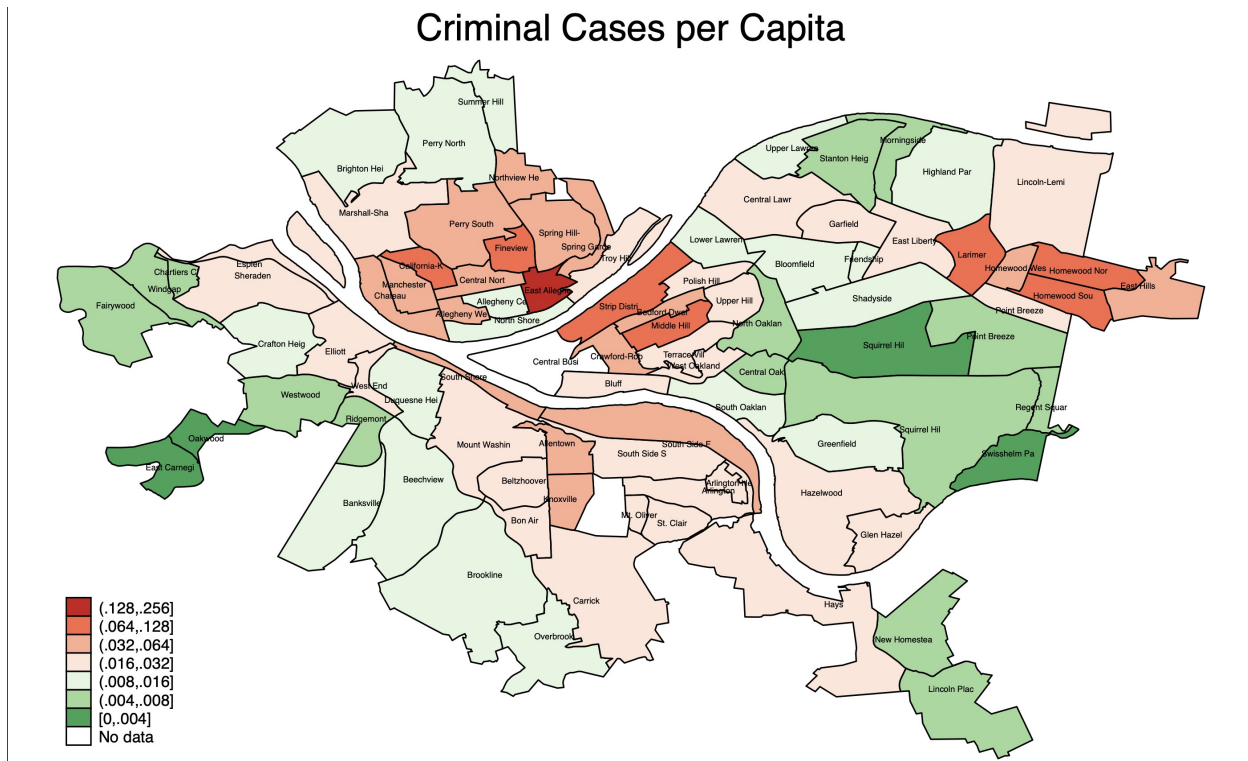
The fact that Figures 3.5 and 3.6 show a strong relationship between the racial composition of a neighborhood and the charging rate indicates that a useful first task is to understand the role that location plays in the charging rate disparity observed within Pittsburgh. Specifically, is the disparity within the city entirely explained by the fact that charging rates are highest in the areas where Black individuals reside, or are there also disparities in how Black and White residents within these neighborhoods have charges filed against them? Figure 3.7 examines this empirically—the results indicate that 91.2% of the racial disparity in charging rates results from Black and White individuals living in different neighborhoods (that have different charging rates), while only 8.8% of the disparity results from Black individuals being more likely than White individuals to be charged with an offense within the same neighborhood.

Figure 3.7. What Explains Why Black Individuals Are More Likely than White Individuals to Be Charged with a New Offense Within Pittsburgh?
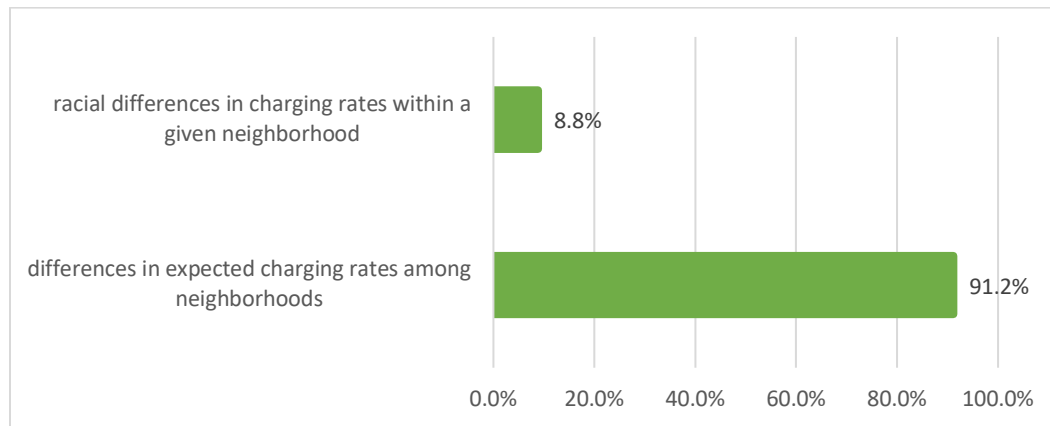
The fact that higher expected charging rates in Black neighborhoods is the primary explanatory factor for racial disparities in charging rates across the city indicates it is important to understand why neighborhood matters. There are two possible reasons why the neighborhood individuals live in might affect their likelihood of having charges filed against them. One hypothesis is that, because of previous systemic inequalities, crime rates are higher in Black neighborhoods. Thus, residents in Black neighborhoods might be more likely to have charges filed against them because they are more likely to live in neighborhoods that have long been marginalized and underresourced, leading to more-frequent "crimes of poverty." System professionals and community members commonly brought up this aspect in interviews and noted that predominantly Black neighborhoods have been systematically excluded from public and private resources, all of which lead to concentrated poverty and crime. In particular, it was noted that when people are stripped of social and economic opportunity, they may be more likely to turn to crime to have their basic needs met.

The other reason an individual's neighborhood can affect their likelihood of being charged with a crime is that policing strategies can often be different in areas that are identified to be high-crime neighborhoods. As alluded to earlier, law enforcement may spend more time patrolling neighborhoods that are perceived to be high crime. They may also initiate more interactions with individuals in these areas through either motor vehicle or subject stops that will allow officers to investigate whether these individuals are in the process of committing a criminal offense. As certain offenses (such as drug offenses) are primarily detected by an officer-initiated action, when officers conduct relatively more of these actions in some neighborhoods it results in the residents of those neighborhoods being more likely to be caught when they are engaging in that activity. Put another way, this policing strategy is likely to result in the

enforcement rate of certain offenses being higher in Black neighborhoods, and that might be another reason why the overall charging rate is higher in Black neighborhoods. This potential explanation, whereby enforcement is higher in Black neighborhoods, was also brought up in interviews with system professionals and community members. In particular, individuals interviewed discussed the fact that it was known that enforcement was higher in Black neighborhoods: "If there is somebody driving around in the projects who looks like a drug user, they are going to get stopped. As a young black kid, we knew not to drive through certain neighborhoods," and "If you're getting into something not good in one of our city neighborhoods, you're probably going to have contact with the police, where if it's one of the Whiter neighborhoods that's not going to happen." It is important to note that, although law enforcement agencies often refer to this type of policing strategy as *proactive policing*, residents often view this strategy as *overpolicing* because it results in them being subject to a police presence that individuals in other neighborhoods are not subject to.

To empirically determine why neighborhood matters, it is important to first identify the extent to which criminal activity might vary across neighborhoods. Although criminal activity is unobserved, the analysis is able to use data on a set of variables measured at the neighborhood level that are likely to be predictive of criminal activity within an area. These variables include neighborhood socio-economic characteristics including average age, income and education of the residents, the mix of commercial activity in the neighborhood and the number and type of calls for service (i.e., 911 calls) in the neighborhood. Commercial activity is measured by the number of people employed in the neighborhood relative to the number of residents and the type of economic activity represented by these employment counts. Calls for service are measured per capita and categorized by the type of service needed.

Table 3.1 shows how these measures vary across neighborhoods. The second column— "White Matched Neighborhoods"—are those represented in light blue in Figure 3.5, which were chosen to comprise a similar number of residents as the Black neighborhoods and (as nearly as possible) have similar average values of the characteristics listed in the table. The table also provides average values for all neighborhoods not labeled as Black neighborhoods. This includes the neighborhoods shaded in beige, light blue, and dark blue in Figure 3.5. The results indicate that Black neighborhoods have much lower average income and education levels than other neighborhoods, although the White matched neighborhoods are much more similar to Black neighborhoods on these measures. Black neighborhoods are less likely to have places of employment in them than other neighborhoods, although the jobs in Black neighborhoods are more likely to be personal service jobs and less likely to be retail jobs.[58]

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[58] The matched neighborhoods do not share these characteristics of the Black neighborhoods because the matching algorithm found that these characteristics were less important than other characteristics in distinguishing Black neighborhoods. Likewise, Black neighborhoods have more calls for service of all types than other neighborhoods, but the matching process only placed moderate emphasis on calls for service, leading to a set of neighborhoods that were only somewhat similar to Black neighborhoods on this characteristic.

Table 3.1. Neighborhood Differences in Characteristics that Proxy for Criminal Activity

Characteristic	Black Neighborhoods	White Matched Neighborhoods	All Neighborhoods Other Than Black Neighborhoods
Demographics			
Median age	39.3	36.5	36.9
Median income	$25,816	$27,821	$47,408
Years of education (12 = high school diploma)	12.9	13.1	14.9
Land Use			
Job ratio (jobs per resident)	0.496	1.293	0.783
Proportion of jobs that are personal service	0.749	0.628	0.584
Proportion of jobs that are retail	0.037	0.074	0.086
Calls for Service			
Calls for police service	0.336	0.216	0.158
Calls for other emergency services	0.612	0.433	0.329

NOTE: Demographic data are from the U.S. Census Bureau American Community Survey five-year average (2015–2019). Land use data are from U.S. Census Bureau Longitudinal Employer-Household Dynamics data (2019). Calls for service are from the Allegheny County Emergency Services (i.e., the 911 data system) in the 2017–2019 period. Black and White matched neighborhoods are as defined in Figure 3.5.

To better understand the extent to which different levels of observed criminal activity might explain the racial disparity in charging rates, Figure 3.8 examines how much of this racial disparity can be explained by Black individuals residing in neighborhoods that have higher predicted criminal activity (as measured by the characteristics shown in Table 3.1). The first bar, denoted in red, indicates the collective explanatory power of all of the characteristics. The results indicate that 28.6% of the racial disparity in charging rates across the city results from charging rates being higher in Black neighborhoods because the criminal activity there is likely higher (as measured by the proxy variables). The remainder of Figure 3.8 (denoted in green) examines how much each group of characteristics accounted for explain the racial disparity in charging rates, holding constant the contribution of the other characteristics. As explained in Chapter 2, the open green boxes represent explanatory risk factors that are not statistically significant and negative boxes represent risk factors that if they were equated between Black and White individuals would increase the racial disparity in criminal charges. The results indicate that virtually all of the disparity that is explained by these neighborhood characteristics is actually explained by citizen calls for service.

Given that Figure 3.7 indicates that 91.2% of the racial disparity in charging rates in Pittsburgh is due to racial differences in where individuals live, and Figure 3.8 indicates 28.6% of this disparity is explained by potential differences in the criminal activity in those neighborhoods, results in 62.6% of the disparity being associated with unexplained charging rate

differences across neighborhoods (91.2% – 28.6% = 62.6%). Put another way, 62.6% of the racial disparity in charging rates occurs because Black individuals live in neighborhoods where charging rates are higher for reasons other than the factors included in Table 3.1. This does not necessarily mean that 62.6% of the disparity is being caused by different policing strategies being used in Black neighborhoods. Although the analysis has included as many proxy variables as there is data on, these are unlikely to be a perfect measure picking up how criminal activity varies across areas. Thus, it is possible that if the research team had more accurate measures of criminal activity in each neighborhood, more of the disparity would be explained. However, the fact that so much of the disparity is still unexplained by the factors included in Table 3.1 indicates it is important to explore further whether differential policing strategies might play some role in the overall disparity. This is done in the next section which (1) provides explicit evidence that the policing strategy used in Black neighborhoods is different and (2) examines the extent to which this differential policing strategy results in expected charging rates being higher in Black neighborhoods.

Figure 3.8. What Neighborhood Factors Explain Why Expected Charging Rates Are Higher in Black Neighborhoods?
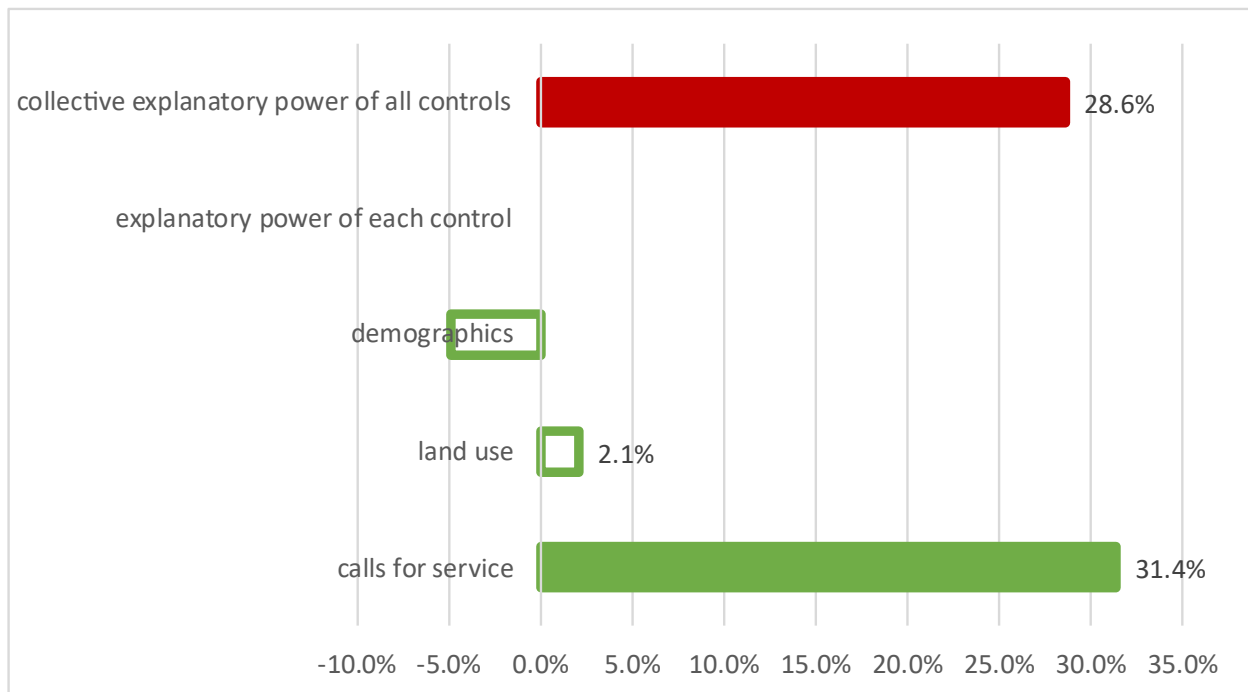
NOTE: Analyses include all criminal cases filed between 2017 and 2019, 911 communications data, and census data on neighborhood demographics, socioeconomic characteristics and employment. If a percentage is positive, the percentage reveals by how much the racial disparity in charging rates would narrow if Black neighborhoods and non-Black neighborhoods were similar with respect to that characteristic. If a percentage is negative, the percentage reveals by how much the racial disparity would widen. The following factors are statistically significant: calls for service. The unexplained disparity is also statistically significant.

Are Policing Strategies Different Across Neighborhoods?

As noted earlier, in areas that are perceived to be higher crime, law enforcement officers may engage in more police-initiated actions with individuals. This contact is traditionally initiated through either motor vehicle stops or subject stops. Although this strategy is likely to be used in all areas, the analyses in this section use data on motor vehicle stops and other police-initiated actions to examine the extent to which this strategy seems to be disproportionately used in Black neighborhoods.

Motor Vehicle Stop Analysis

There are two main reasons why law enforcement officers conduct motor vehicle stops. One reason is to increase traffic safety. The second reason for traffic stops, which was commonly noted in interviews with system professionals, is that these stops provide a way for officers to investigate whether the motorist is in the process of committing a criminal offense. For example, one system professional noted that in the class they took on the motor vehicle code, the instructor said, "This class is designed for you to f*** with people." When motor vehicle stops are used in this manner they are often referred to as *pretext stops*. In this section, the analysis uses the data that the PBP provided on motor vehicle stops to examine whether pretext stops are disproportionately occurring in Black neighborhoods.

To the extent that law enforcement officers policing a neighborhood are mainly conducting traffic stops to increase traffic safety, one would expect that the majority of the traffic stops conducted in the neighborhood involve serious traffic violations, such as running a red light or excessive speeding. These are often considered to be high-priority stops because these offenses immediately endanger people in the vicinity of the activity. However, to the extent that law enforcement officers are enforcing traffic laws to increase their contact with individuals and have a chance to investigate them further (i.e., they are conducting pretext stops), typically this will result in a significant fraction of their stops being low priority. A low-priority stop is one where officers can stop an individual if they want to, but one where they also commonly will ignore the violation because it does not pose a significant risk to public safety. Low-priority stops typically involve violations that are commonly broken by a large fraction of motorists. As noted by a system professional, "There are a lot of things in the vehicle code you can pull people over for: all of your equipment, air freshener, extra tint, damage to vehicle. A lot of us don't care about it, but some just want to pull people over and see if there are other things they can get into." This indicates that if one wants to examine whether the potential use of pretext stops varies by neighborhood, it is useful to examine how the percentage of traffic stops that are low priority vary across neighborhoods.

The first step in examining the relative use of high- versus low-priority stops requires classifying each traffic stop incident as either low or high priority. Many of the traffic stop incidents recorded in the PBP data involved multiple offenses. For each offense, the research team coded whether the offense was one that would have been observed by the law enforcement

officer before the decision to pull the motorist over was made, as these are the only offenses that reflect the actual reason for the stop. For example, an officer might pull a motorist over for a minor violation, but then during the course of the stop discover the motorist was driving on a suspended license. Although driving on a suspended license would be considered a serious offense (and therefore a high priority), the motorist was actually pulled over for a minor violation, and thus this should be considered a low-priority stop. Some of the most common offenses that were coded as being nonobservable were related to driver's license violations, possession of a controlled substance, possession of marijuana, possession of a firearm, no proof of insurance, receiving stolen property, restraint systems, and false identification to law enforcement.

For each offense that conceivably could have been observed by officers prior to their decision to pull a vehicle over, the research team coded whether the offense might be considered minor enough that a stop for that reason would be considered low priority. This set of low-priority offenses was identified using a few different sources. First, in 2022, Pittsburgh passed legislation that certain motor vehicle offenses should be considered secondary violations and essentially banned law enforcement officers from pulling over individuals for these violations.[59,60] Any offense that was related to one on this list was coded as low priority—this included offenses related to expired registrations, expired inspections, issues related to emission inspections, broken headlights or taillights, tinted windows or objects hanging from the rearview mirror, and offenses related to the display of the registration plate.[61] In addition to these offenses, offenses related to the failure to signal a lane change and general equipment violations were also included, as these are offenses that are commonly cited in the literature as being ones that have a lot of discretion.[62] Note that many of these offenses were the same ones that system professionals

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[59] Felton, Julia, "Pittsburgh bans traffic stops for minor violations," TribLIVE, December 28, 2021, available at: https://triblive.com/local/pittsburgh-bans-traffic-stops-for-minor-violations/

[60] It was recently noted that PBP are once again able to pull motorists over for these violations (see Felton, Julia, "Pittsburgh police resuming traffic stops for minor infractions," TribLIVE, January 13, 2023, available at:

https://triblive.com/local/pittsburgh-police-resuming-traffic-stops-for-minor-infractions/).

[61] Note that the set of offenses included is broader than what was in the legislation that Pittsburgh passed. Specifically, officers were told not to pull over individuals whose registration had expired within the previous 60 days, but the coding scheme used here is including all stops related to registration violations as discretionary because the data do not record how long the registration has been expired. However, the purpose of the coding scheme is to identify traffic stops that are tied to offenses that likely do not pose an immediate safety risk. From this perspective, whether someone's registration expired two months ago or six months ago may not matter that much.

[62] For example, these stops were noted as being minor violations in a recent Department of Justice report examining policing in Louisville (see U.S. Department of Justice, "Investigation of the Louisville Metro Police Department and Louisville Metro Government," March 8, 2023, available at: https://www.justice.gov/crt/case-document/file/1572951/download).

noted were commonly being used as pretext stops.[63] All of the remaining offenses were coded as being a high-priority stop.

Once the offenses had been coded using the above process, a stop incident (which could include multiple offenses) was classified as being either low or high priority. A stop incident was coded as being high priority if at least one of the observable reasons for a stop was high priority. If all of the observable reasons for a stop were low priority, then the stop incident was coded as low priority. Note that there were some stop incidents where none of the offenses listed were observable. This likely happened because the law enforcement officer pulled the motorist over for one reason, but then found a more serious violation that they cited the individual for and decided to not write a citation for the reason they were pulled over. As this indicates the reason they pulled the motorist over is likely to be minor (since they elected to not cite them for this violation), these stop incidents were also coded as low priority.[64] Finally, if the PBP had coded a stop incident as occurring as an investigatory stop only, that incident was coded as being low priority.

The first comparison in Figure 3.9 shows how the percentage of traffic stop incidents that are low priority varies by the racial composition of the neighborhood, where the groupings of Black and White matched neighborhoods were defined when describing Figure 3.5. The results indicate that 72% of traffic stops conducted in Black neighborhoods were initiated for low-priority reasons. In contrast, for both the White matched neighborhoods and all other neighborhoods besides the Black neighborhoods, less than 50% of the traffic stops were low priority. This indicates that traffic stops in Black neighborhoods are significantly more likely to be initiated for low-priority reasons. The second comparison in Figure 3.9 shows how the frisk rate varies by neighborhood, where this is defined as the percentage of traffic stops in a given neighborhood grouping that result in a frisk. The results indicate that traffic stops in Black neighborhoods are more likely to result in a frisk. This is to be expected as, overall, 11% of low-priority stops result in a frisk, while only 5% of high-priority stops result in a frisk. This result is consistent with the view that law enforcement conducts low-priority traffic stops to see whether they want to frisk an individual, so the fact that the fraction of stops that are low priority is higher in Black neighborhoods is also likely to result in the frisk rate being higher there.

The results presented in this section suggest that policing strategies are different across neighborhoods, because motor vehicle stops are disproportionately being used as likely pretext stops in Black neighborhoods. Although it is possible that the results found here stem from different behavior rather than different policing (i.e., drivers in Black neighborhoods are just more likely to commit these minor traffic offenses), this seems unlikely. System professional interviews explicitly noted that these types of stops are commonly used as pretext stops, which

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[63] It is important to note that for violations related to registration violations, the key discretionary behavior on the part of the officer is often whether they even check for the violation.

[64] These incidents comprise 6% of the sample of stop incidents.

indicates enforcement will be different by area. Furthermore, many of these traffic violations (such as an illegal lane change) are commonly committed by a large share of the population, and others (such as equipment violations) are likely income related. The fact that the percentage of low-priority stops is so much higher in Black neighborhoods than it is in the White matched neighborhoods strongly suggests these results stem at least partly from different enforcement rates of these minor offenses due to different policing strategies rather than income differences.[65]

Figure 3.9. Neighborhood Differences in Types of Motor Vehicle Stops Conducted
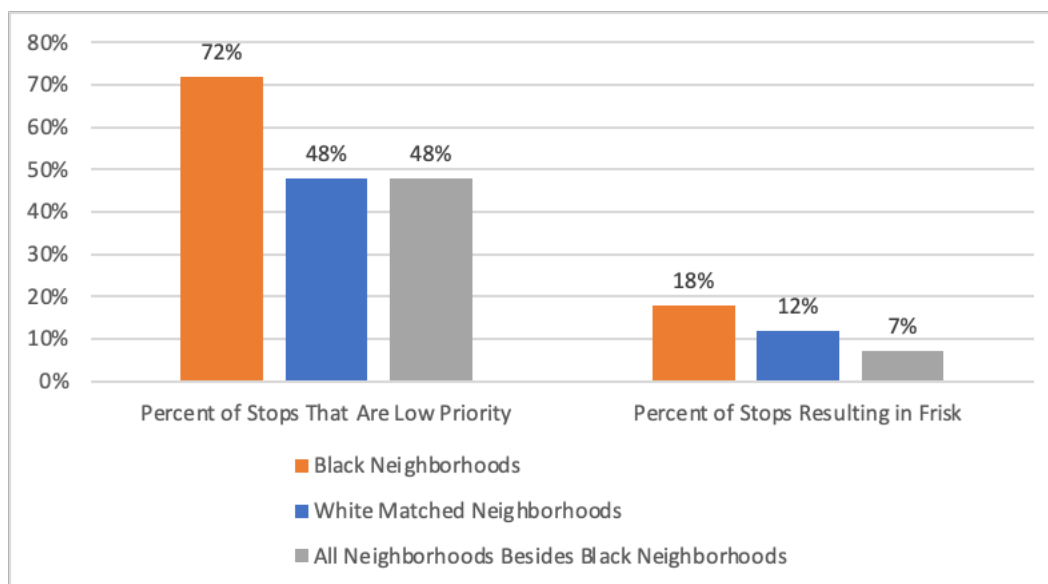
NOTE: Analyses conducted using data on motor vehicle stops done by the PBP from 2017 to 2019, which included 52,831 stops. Black and White matched neighborhoods are as defined in Figure 3.5.

Police-Initiated Actions

Motor vehicle stops are just one way that officers can initiate interactions with individuals. Law enforcement officers can also initiate contact with nonmotorists that they encounter through their patrol activities, and just as with motor vehicle stops, the reasons they initiate these encounters can be either low or high priority. Although the research team did not have access to the universe of police-initiated actions, the PBP provided information on calls that law enforcement officers made to 911 communications centers letting them know that they were either conducting a stop of an individual (or motor vehicle) or patrolling a specific area (that may subsequently lead to a stop of an individual or motor vehicle). Note that many of these calls will

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[65] One important caveat about these data is that not every motor vehicle stop is included. In particular, it was noted that in some instances where the stop resulted in serious charges against an individual, the law enforcement officer could elect to just file charges on the serious (nonmotor vehicle) charges, and ignore the motor vehicle violation. These stops would then not show up in these data. Although these missing stops should not have a big impact on the overall results shown in Figure 3.9, these stops are likely to significantly affect the percentage of frisks that were successful (because many of these successful frisks could have been removed from the sample). For this reason, the analysis did not examine the success rate of the frisks conducted.

not lead to a criminal charge. The data also (1) include the location where officers indicated their action was taking place and (2) record the reason officers provided for why they were initiating the action. Although there are some caveats to using these data (which will be discussed below), examining the percentage of recorded police-initiated actions in a given area that occurred for low-priority reasons can be useful in understanding whether policing strategies might vary by neighborhood.

The main caveat to using this data to examine discretionary behavior in police-initiated actions is that law enforcement officers do not call in all of their specific patrol decisions. This will be shown more explicitly in the next section, where it is shown that that a significant fraction of new criminal charges likely began through a police-initiated action that was not recorded in the data used. Although these 911 dispatch data provide useful information on some police-initiated actions, a significant number of police-initiated actions are not being recorded, and it is not clear what the low- versus high-priority mix would be among those actions.

Recorded police-initiated actions were coded as either being low or high priority based on the reason the law enforcement officer noted for why the patrol action was initiated, as well as the severity level it was coded. A call type was coded as low priority if the reason and severity level indicated the officer was initiating the action based on their own suspicion, but it was not necessarily a situation where officers would have to respond. The call reasons coded as low priority were those that were not in the highest severity category and that included the following reasons: "Park and Walk" (indicating they were going on foot patrol in a given area), "Subject Stop," "Suspicious Activity/Person/Vehicle," and "Traffic Stop." The remaining call reasons were coded as high priority, which included such reasons as an accident, disorderly person, fight, and pursuit by foot or vehicle.

Figure 3.10 shows how the percentage of recorded police-initiated actions that are low priority varies by neighborhood. The results indicate that, among recorded actions, a higher fraction of actions are initiated for low-priority reasons in Black neighborhoods. Specifically, within Black neighborhoods, 45% of recorded police-initiated actions occur for low-priority reasons, while this rate is 37% in the White matched neighborhoods. Note that if the policing strategy was similar in both areas, one might expect that the percentage of actions that are low priority would be lower in Black areas. If these areas have higher criminal activity rates, they should lead to relatively more high-priority police actions in those areas. The fact that there is actually a higher proportion of low-priority actions in these areas implies that law enforcement might be using a different policing strategy in these neighborhoods, and is consistent with what was found with the motor vehicle stop results. As noted earlier, a key caveat with these results is that many law enforcement-initiated actions are not recorded, and thus the true percentage of law enforcement-initiated actions could differ from these results.

Figure 3.10. Neighborhood Differences in Types of Police-initiated Actions
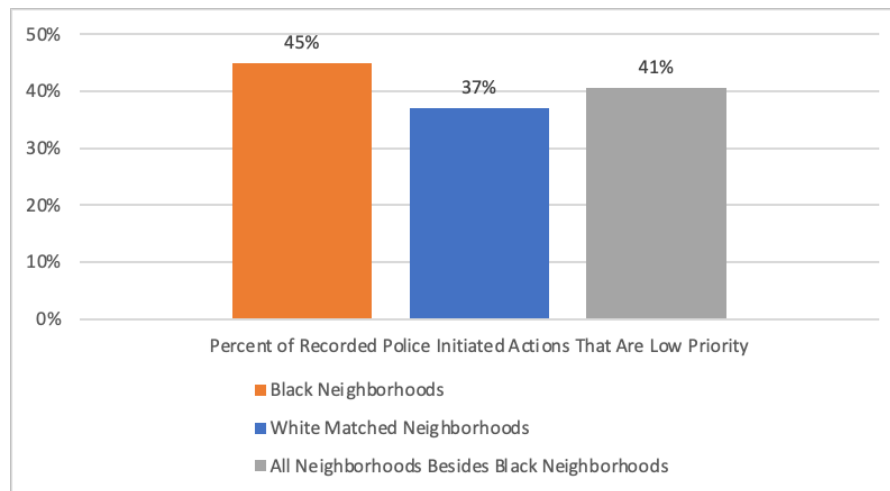
NOTE: Analyses conducted using 911 call data provided by the PBP on patrol actions initiated by law enforcement officers from 2017 to 2018, which included 78,553 calls. Black and White matched neighborhoods are as defined in Figure 3.5.

Source of Criminal Charges

The results above indicate that Black neighborhoods have a higher fraction of interactions initiated with citizens for low-priority reasons than other neighborhoods do. As criminal charges will result from both situations that law enforcement must get involved in, as well as situations in which they initiate interactions for low-priority reasons, one might expect that a higher fraction of criminal charges for individuals in Black neighborhoods will be generated from low-priority reasons than in other neighborhoods. In this section, the analysis explicitly examines whether this occurs.

For each criminal charge that was filed by the PBP during 2017 and 2018, the research team attempted to match the record to the data provided in the 911 call data to identify how the charge was initiated.[66] Note that the full 911 call data include both the police-initiated actions that law enforcement officers call in (discussed in detail in the previous section), as well as the calls for service from citizens. Calls to 911 that were initiated by law enforcement were classified into low- versus high-priority initiated actions in the same way that was discussed in the previous section. In addition to this, the data also indicates whether the criminal charge that occurred was the result of an open warrant for the individual, which would indicate that these were not charges initiated by the law enforcement officer. Thirty-two percent of the cases could not be matched to the 911 call data. As noted in the previous section, these are likely to be instances where law enforcement officers initiated an action but did not call it in. These unmatched cases are thus classified as unidentified law enforcement–initiated actions.

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[66] The 911 call dispatch data had an unusually low number of calls in 2019 that suggested problems with the data system, so the analysis only used data from 2017 and 2018.

Figure 3.11 indicates how the source of new criminal charges filed in 2017 and 2018 varies by neighborhood groupings within Pittsburgh. Criminal charges that result from a call for service, a law enforcement high-priority action, or a warrant are situations in which the law enforcement officer did not have much discretion in the initial involvement. In contrast, criminal charges that result from a law enforcement low-priority action are situations in which law enforcement officer had some discretion in the initial involvement. Neighborhoods are relatively similar with respect to the percentage of charges that result from an unidentified law enforcement-initiated action, a high-priority law enforcement–initiated action, and a warrant.

Figure 3.11. Neighborhood Differences in the Source of Criminal Charges
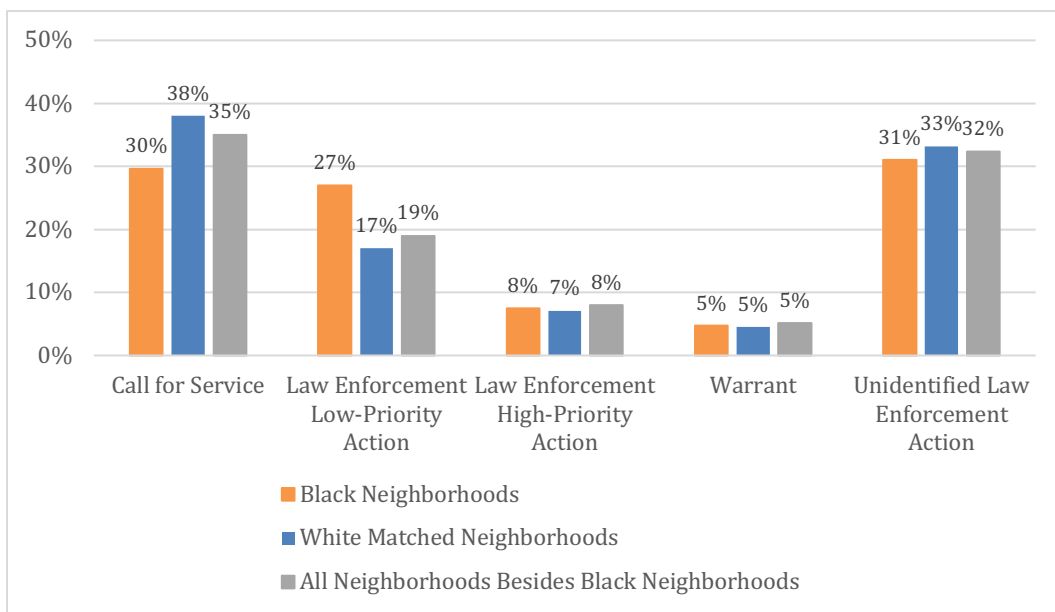
NOTE: Analyses constructed on criminal charges filed by PBP in 2017 and 2018 that could be matched to 911 call data, which includes 13,627 observations. Black and White matched neighborhoods are as defined in Figure 3.5.

However, Black neighborhoods are more likely than other neighborhoods to have a criminal charge arise out of a low-priority law enforcement action, and less likely to have a charge arise out of a call for service. In particular, charges that are filed in Black neighborhoods are almost equally likely to initiate from either a call for service or a low-priority law enforcement action (30% versus 27%). However, in the White matched neighborhoods, charges are more than twice as likely to originate from a call for service than from a low-priority law enforcement action (38% versus 17%). This is exactly the pattern of results one would expect based on the results previously shown. However, it is important to note that the source of the criminal charge is unknown in about one-third of the cases in each type of neighborhood. Although these cases are classified as law enforcement-initiated actions, understanding whether they were of a low or high priority is extremely important and has the potential to affect the current pattern of results.

Does the Difference in Policing Practices Across Neighborhoods Result in Racial Disparities in Filing Rates?

The results presented in the previous section indicate that neighborhoods in Pittsburgh where more Black individuals live seem to be policed differently than other neighborhoods. In particular, law enforcement initiates more citizen contact for more low-priority reasons in Black neighborhoods than they do in other neighborhoods. The next natural question to investigate is whether this difference in policing strategy might be responsible for the observed racial disparity in the rate at which new charges are filed. If law enforcement officers disproportionately initiating more citizen contact in Black neighborhoods was a cause of the racial disparity in the rate at which new charges were filed, one might expect that the crime types that these policing strategies target would exhibit the largest disparities across neighborhoods. Put another way, the crimes that officers are notified about by residents and that they have to respond to will be policed similarly across all neighborhoods. However, certain crimes are likely to be disproportionately enforced in Black neighborhoods because these are mainly discovered through police-initiated actions—thus, one might expect to see the largest racial disparities in charging rates for these crimes across neighborhoods.

To investigate this aspect, it is first important to identify which crime types are most likely to be discovered through police-initiated contact. In other words, what are the crimes that law enforcement can mainly enforce when they initiate a citizen interaction? Although it has been previously noted that drug offenses are likely to fit into this category, it is useful to empirically examine the full set of offenses that are most tied to police-initiated contact. Column 2 of Table 3.2 examines this for the set of crimes most prevalent in the data. Note that the data used to construct this column are the same data used to construct Figure 3.11. Column 2 in Table 3.2 reveals the percentage of charges filed for a specific crime that results from neither a call for service nor a warrant. Therefore, this is the percentage that results from a law enforcement–initiated action (which includes the low- and high-priority law enforcement action, as well as the unidentified actions, from Figure 3.11).

Table 3.2 highlights the rows in which the percentage of a charge not resulting from a call for service or warrant exceeds 75%, as these are the crime types that are most highly associated with a policing strategy that prioritizes law enforcement-initiated actions. For example, 94% of marijuana possession charges result from a law enforcement-initiated action—therefore, in areas where police rarely initiate interactions, one does not expect to see as many of these violations (regardless of the rate of marijuana possession).

Columns 3 and 4 of Table 3.2 present the number of charges of a given type that are filed per 1,000 residents in a given year in Black neighborhoods and in White matched neighborhoods. Note that the previous rates presented in Figures 3.3 and 3.6 were shown as percentages, which represent the number of charges per 100 individuals. However, because the analysis is examining rates within a specific charge type, some of these numbers are quite small, which is why the

results are presented in terms of rates per thousand. The last column shows how many times larger the rate is in Black neighborhoods relative to White matched neighborhoods.

The results generally indicate that the disparity across neighborhoods tends to be smallest for the crimes that are primarily enforced by law enforcement responding to a situation they are called to, while the largest disparities tend to occur among crime types that are primarily enforced by officers initiating a citizen interaction. For example, robbery is a crime type in which law enforcement has relatively little discretion over the enforcement, because 77% of the time, these charges arise through either a call for service or an existing warrant. One can see that individuals who reside in Black neighborhoods are about twice as likely as those who reside in White neighborhoods to be charged with a robbery. Because officers have so little discretion in these instances, this disparity across neighborhoods might reflect differences in the rate at which robberies are committed across the neighborhoods.

Table 3.2. Neighborhood Differences in Charging Rates for Specific Crimes

Offense	Charge not Resulting from Call for Service or Warrant (%)	Number of Cases per 1000 Residents		
		Black Neighborhoods	White Matched Neighborhoods	Black / White
All crimes	57.6	46.9	21.2	2.2
Aggravated assault (F)	36.0	2.7	1.4	1.9
Robbery (F)	22.9	1.1	0.54	2.0
Strangulation (F)	35.7	1.2	0.67	1.8
Burglary (F)	19.8	0.83	0.38	2.2
Trespassing (F)	47.0	0.43	0.41	1.0
Receiving stolen property/theft/retail theft (f)	41.1	2	0.8	2.5
Weapons (F)	79.0	2.6	0.77	3.4
Possession with intent to distribute (F)	84.6	4.1	1.2	3.4
Possession (M)	86.9	5	1.9	2.6
Possession of marijuana (M)	94.1	4.5	1.3	3.5
Use/possession of drug paraphernalia (M)	86.9	3	1.1	2.7
Simple assault (M)	43.6	6.7	3.7	1.8
Terroristic threats (M)	31.3	1.4	0.86	1.6

Offense	Charge not Resulting from Call for Service or Warrant (%)	Number of Cases per 1000 Residents		
		Black Neighborhoods	White Matched Neighborhoods	Black / White
Trespassing (M)	59.4	0.44	0.16	2.8
Receiving stolen property/theft/retail theft (M)	36.4	0.93	0.45	2.1
DUI (M)	67.3	1.6	1.3	1.2
Hit and run (M)	55.0	0.2	0.07	2.9
Disorderly conduct (M)	68.3	0.23	0.4	0.6
False identification to officer (M)	77.9	1.1	0.26	4.2
Resisting arrest (M)	73.8	0.43	0.24	1.8
Tamper with fabricate physical evidence (M)	91.5	0.89	0.19	4.7
Weapons (M)	71.0	0.26	0.12	2.2

NOTE: Columns 3 and 4 represent the number of individuals per thousand residents in a given neighborhood type that had a specific charge filed in a given year from 2017 to 2019. Rows highlighted in gray correspond to crime types that are predominately identified through law enforcement–initiated actions. F = felony charge; M = a misdemeanor charge.

In contrast, the disparity across Black and White neighborhoods for new marijuana charges is much larger than it is for robbery (3.5 versus 2). It is important to note that charging rates will be affected both by enforcement patterns and criminal activity. However, it does not seem likely that all of the higher disparity observed for marijuana offenses than for robbery offenses is because of differential criminal activity across neighborhoods. Previous literature has indicated that marijuana usage tends to be similar among Black and White individuals.[67] Thus, one might expect the actual marijuana possession rate to be more similar among Black and White neighborhoods than the commission of robberies are. The fact that the disparity is higher across neighborhoods for marijuana possession than it is for robbery indicates that this finding is likely happening at least, in part, because the enforcement of marijuana possession is higher in Black neighborhoods.[68]

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[67] See American Civil Liberties Union (ACLU), "The war on marijuana in Black and White," June 2013, available at: https://www.aclu.org/sites/default/files/field_document/1114413-mj-report-rfs-rel1.pdf.

[68] It is important to note that because offending behavior is not observed in the data, the quantitative analysis will not be able to definitively conclude that the disparity across neighborhoods in charging rates for marijuana offenses is at least partly driven by differences in policing practices (rather than being solely driven by differences in offending behavior). For this reason, the report states that this factor is likely part of the reason and then appeals to intuition and outside literature to provide support for this statement. It is also important to note that these results were briefed to local law enforcement agencies, and they did not dispute this interpretation of the results.

In a similar way, one can see that larger racial disparities exist among the other drug offenses, weapons offenses, as well as false identification to law enforcement officers and tampering with or fabricating physical evidence. Collectively, these results are suggestive that one potential cause of the racial disparity in charging rates observed within Pittsburgh is that some offenses are more likely to be revealed by police-initiated action in Black neighborhoods.

What Factors Might Explain the Racial Disparity in Suburban Communities?

Figure 3.3 indicated the disparity in charging rates between Black and White individuals is larger in suburban communities than within Pittsburgh. To understand what might be causing the disparity within suburban communities, this section begins by examining whether the overall disparity is driven by Black and White individuals being charged at different rates within a location, or whether it is driven by Black individuals being more likely to live in areas where charging rates are higher overall.

Figures 3.12 and 3.13 examine the relationship between location and charging rates descriptively, where Figure 3.12 shows how the racial composition varies by location while Figure 3.13 shows how charging rates vary by location. Similar to Figure 3.5, Figure 3.12 color-codes suburbs into four groups based on racial composition and socioeconomic statistics. However, the percentage of individuals who are Black is much lower in the suburbs than the city. To get meaningful groupings, the analysis in this section designates Black suburbs (shaded in orange) as those whose population is more than one-quarter Black residents (as opposed to the 60% threshold used for the designation in the city). The second group (beige) includes suburbs where Black residents comprise between 10% and 25% of the population, which are referred to here as *integrated suburbs*.[69]

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[69] Unlike the symmetric 40%/60% cutoffs that was used for the analysis in the city, the very asymmetric 10%/25% cutoffs in the suburbs are necessary to create groupings of reasonable size because of the existing reality that most Allegheny County suburbs are populated almost exclusively by White residents. The analysis continues to use the labels of *Black*, *integrated*, and *White* that were introduced in the analysis of the city but do not intend to imply that they represent the same lived experience as in the city.

Figure 3.12. Pittsburgh Suburbs by Race Category

Neighborhood Race Category

Legend:
- white - matched
- white - not matched
- integrated
- Black
- No data
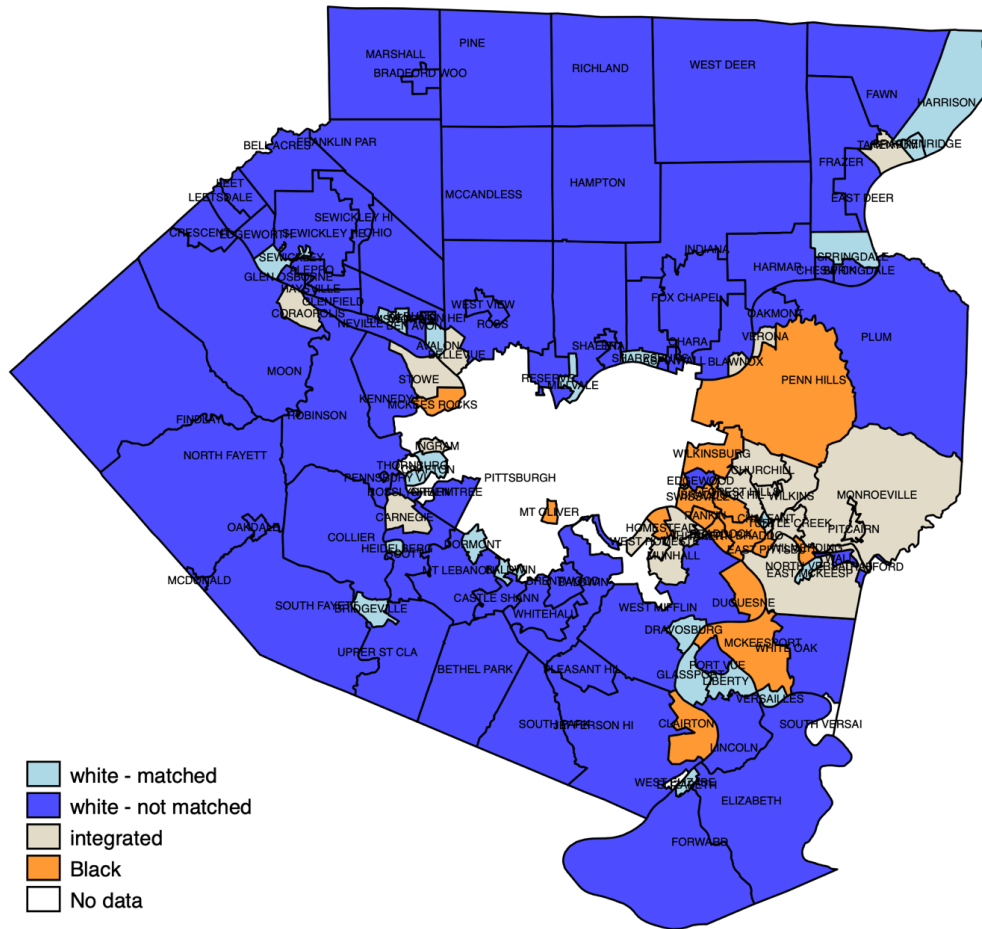
In the remainder of the suburbs, Black residents comprise less than 10% of the population. As before, these remaining suburbs are divided into two groups. The suburbs that are shaded in light blue have a high fraction of White residents, but otherwise are relatively similar to the suburbs shaded in orange in terms of age, income, education, and amount of employment in the suburb. These are referred to as *White matched suburbs* throughout this chapter. The suburbs that are shaded in dark blue have a high fraction of White residents, but these areas differ quite significantly in socioeconomic measures from Black suburbs. Figure 3.12 indicates that there is a considerable amount of segregation in the Pittsburgh suburbs. Although Black residents comprise about 7% of the suburban communities, they comprise more than 40% of the suburbs shaded in orange but less than 3% of the suburbs shaded in blue.

Figure 3.13. Pittsburgh Suburban Annual Crime Rates

Criminal Cases per Capita (2017-2019)
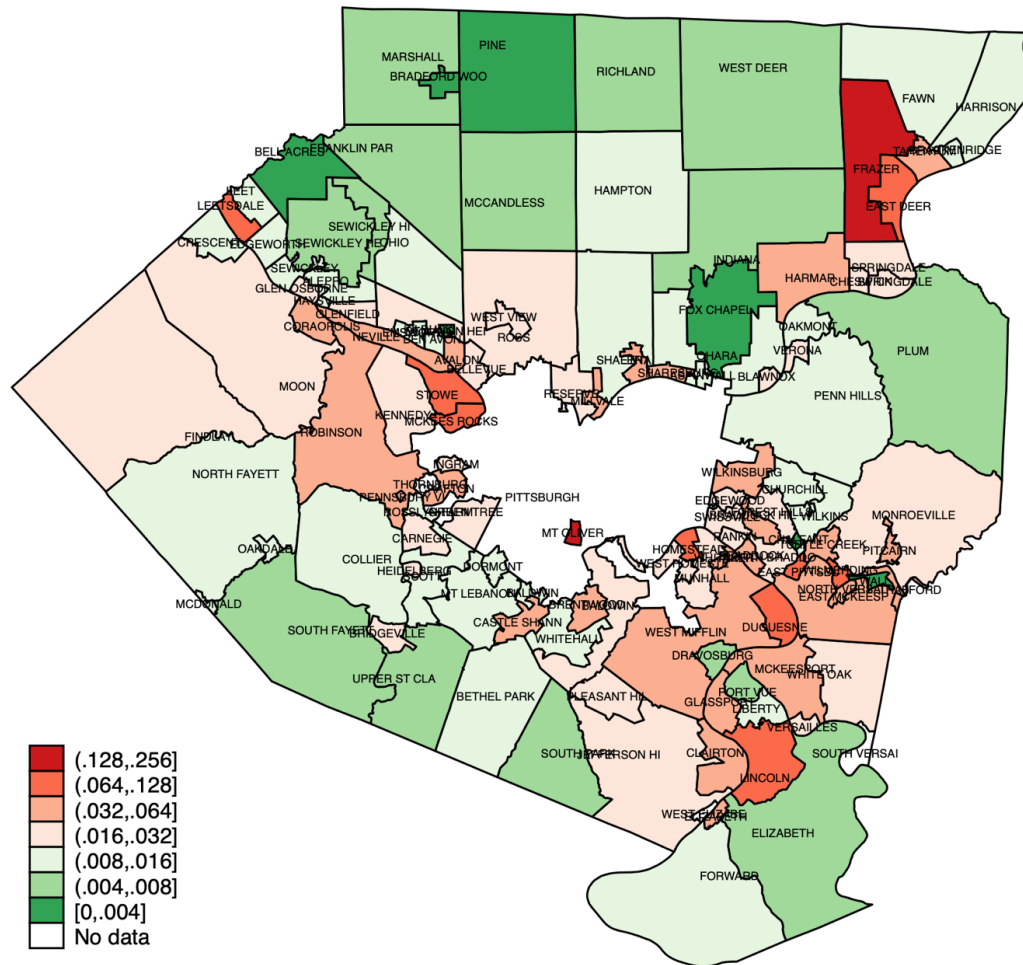
Collectively, Figures 3.12 and 3.13 indicate that there is some correlation between racial composition and charging rates, but that it is not nearly as great as the correlation that is present within the city (shown in Figures 3.5 and 3.6). In particular, there are many areas within the suburbs that indicate the opposite relationship—in the west and northeast portions of the county there are areas with very high charging rates and low percentages of Black residents, while Penn Hills in the west-central region of the county has a higher percentage of Black residents and a low charging rate.

To more concretely identify the role that location plays in the overall disparity observed in suburban areas, Figure 3.14 repeats the same exercise conducted in Figure 3.7 but does it for suburban areas instead of the city. The results indicate that, within suburban areas, 85% of the overall racial disparity in charging rates is driven by Black and White individuals who are in the same location being charged at different rates. This is quite different than what was found in the

city, as the results in Figure 3.7 indicated only 9% of the disparity was driven by different charging rates within the same location.

Figure 3.14. What Explains Why Black Individuals Are More Likely than White Individuals to Be Charged with a New Offense in the Pittsburgh Suburbs?
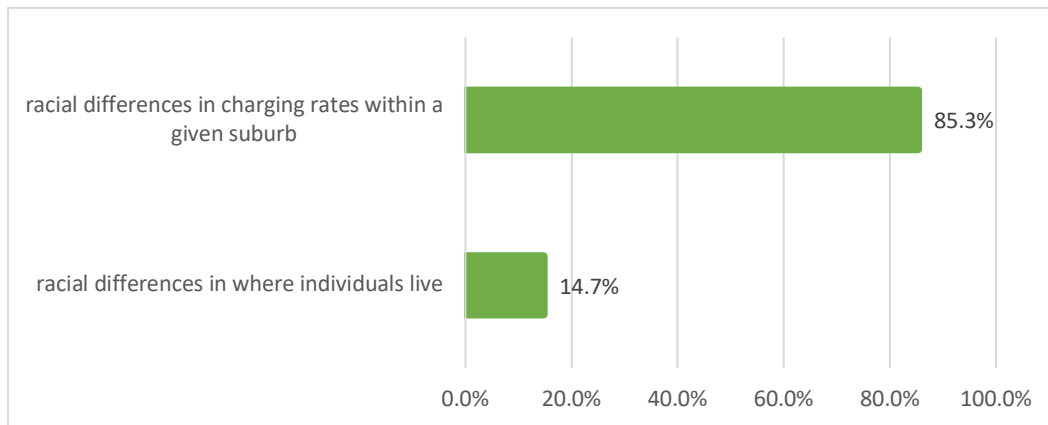
NOTE: Analyses use data on new charges filed between 2017 and 2019 for incidents that occurred in Pittsburgh suburbs and census data on who resided in Allegheny County. Analyses conducted using Oaxaca-Blinder decompositions in which the only control variable included is suburb indicator.

Because the source of the disparity in the suburbs is different than what was found for the city, the research team proceeded with a different analysis in the suburbs that is tailored to the patterns found. In particular, because the main source of the disparity is different charging rates for Black and White individuals within a location, the analysis examined whether this difference in charging rates depends on the location within the suburbs—that is, are there certain areas within the suburbs (defined by geography and racial composition) where the disparity in charging rates between Black and White individuals is higher than in other areas?

Suburban municipalities, boroughs, and townships were stratified in three ways to examine whether the racial disparity depends on the location of the suburb:

1. Figure 3.15 divides the suburban areas into four geographic regions using the three main rivers (Allegheny, Monongahela, and Ohio) and the Chartiers Creek, which conveniently divides the large area south of the Ohio and Monongahela in approximately two equal parts. The rivers that flow through Allegheny County historically have been impediments to mobility, leading to cultural differences among the county's suburban areas and indicating that it is important to examine if the racial disparity in charging rates varies across these four groupings.
2. Figure 3.16 divides the suburbs somewhat more finely into seven areas following the borders of the Allegheny Councils of Government.[70] Officials from each council meet on

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[70] See https://www.qvcog.org/allegheny-county-intercog-council.html for a map of the Councils of Government and a list of member suburbs of each Council. As shown on the map at this website, there are a few suburbs that are not members of any Council. For this analysis, each of those suburbs were included with its adjoining Council.

a regular basis to coordinate policy and action, which could lead to similar policing strategies within each council.

3. Figure 3.12 divides the suburban areas by their racial composition.

Figures 3.17, 3.18, and 3.19 show how racial disparities vary by the location specifications in Figures 3.15, 3.16, and 3.12, respectively. The results indicate that the overall disparity in the suburbs is strongest in White areas. This result drives both what is directly seen in Figure 3.19 but also likely explains the patterns in Figure 3.17 and 3.18. Specifically, Figure 3.17 indicates the disparity is the smallest in the eastern section, but this is also the section that has the highest fraction of Black individuals. Thus, collectively, the results indicate that the racial disparity in charging rates is lowest in suburban areas with the highest number of Black residents, and highest in the suburban areas with the highest number of White residents. This aspect is primarily driven by variation in the charging rate against Black individuals—while White individuals have similar charging rates in all areas, Black individuals have significantly higher charging rates in White areas than they do in Black areas.

Although the analysis cannot definitively determine why the disparity in charging rates is higher in White suburbs, the pattern of results found here is consistent with disparate treatment occurring. One possible explanation for this pattern is that in the suburbs, unlike the city, police departments in each location are locally controlled and more likely to be subject to the preferences of local residents. Suburbs with a relatively large proportion of Black individuals are less likely to tolerate policing practices that involve disparate treatment than suburbs with few Black residents. Another possible reason for this pattern of results that is consistent with system professional interviews is that the small jurisdictions of the suburbs means that officers have much more familiarity with local residents than in the city. In a White suburb, this effort might result in Black individuals being more likely to be stopped because they are not familiar and might also be less likely to be given a second chance if found in violation of a minor offense.

It is important to note, however, that this pattern of results could also be consistent with racial differences in criminal activity. Although one would not expect the criminal activity by Black individuals in White areas to be significantly higher than the criminal activity of Black individuals in Black areas, if a lot of Black individuals visited White suburban areas and some committed criminal activity in those areas, that could generate the pattern of results shown in Figure 3.19. In other words, because the baseline level of Black individuals residing in White areas is relatively low, if a reasonable amount of visiting Black individuals commit crimes in White areas, that will drive up the charging rate for Black individuals in White areas (because the denominator for these charging rates is the number of Black individuals who *reside* in White areas).

Figure 3.15. Allegheny County Quadrants

Quadrants

Legend:
- North
- East
- South
- West
- No data

Figure 3.16. Allegheny County Councils of Government

Councils of Government

Legend:
- Char-West
- South Hills Area
- Steel Rivers
- Turtle Creek Valley
- Allegheny Valley North
- North Hills
- Quaker Valley
- No data

Figure 3.17. Charging Rates by Race and Quadrant
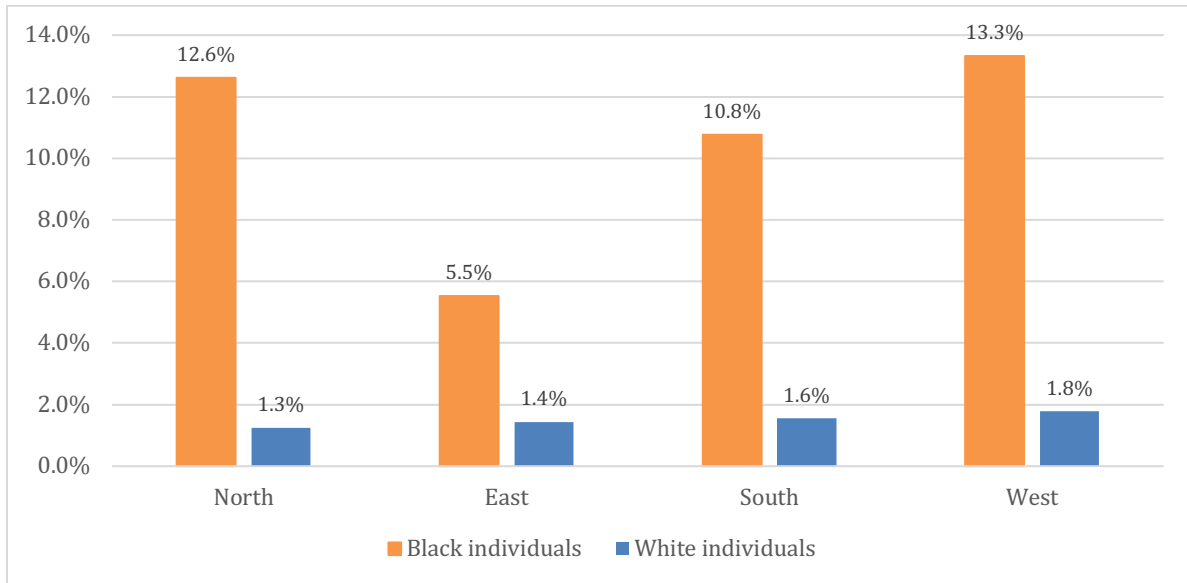
Figure 3.18. Charging Rates by Race and Council of Government Region
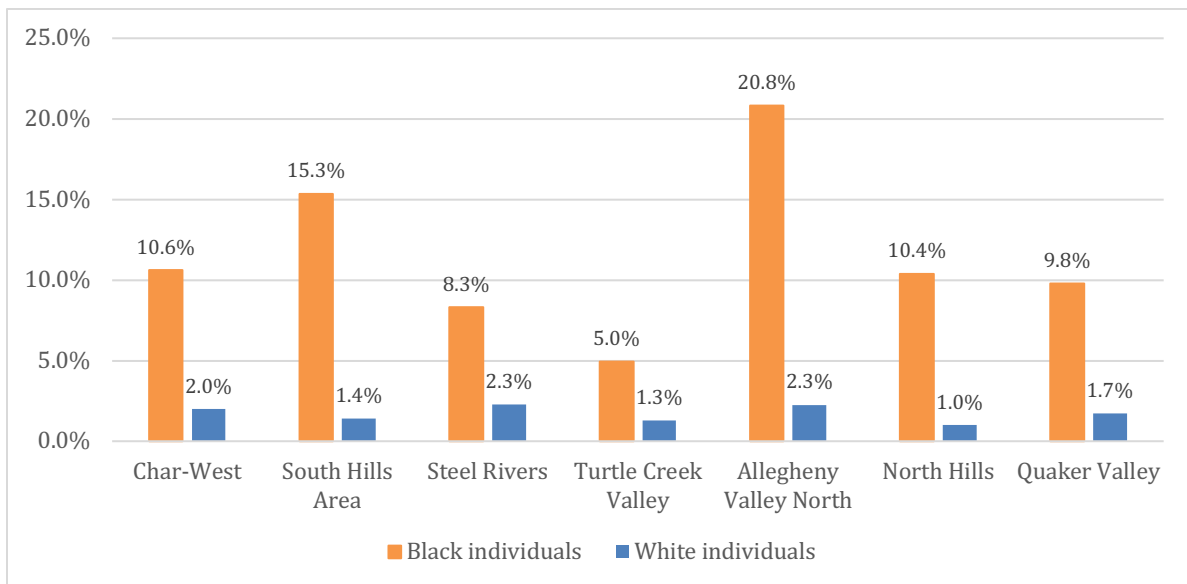
Figure 3.19. Charging Rates by Race and Suburban Racial Composition
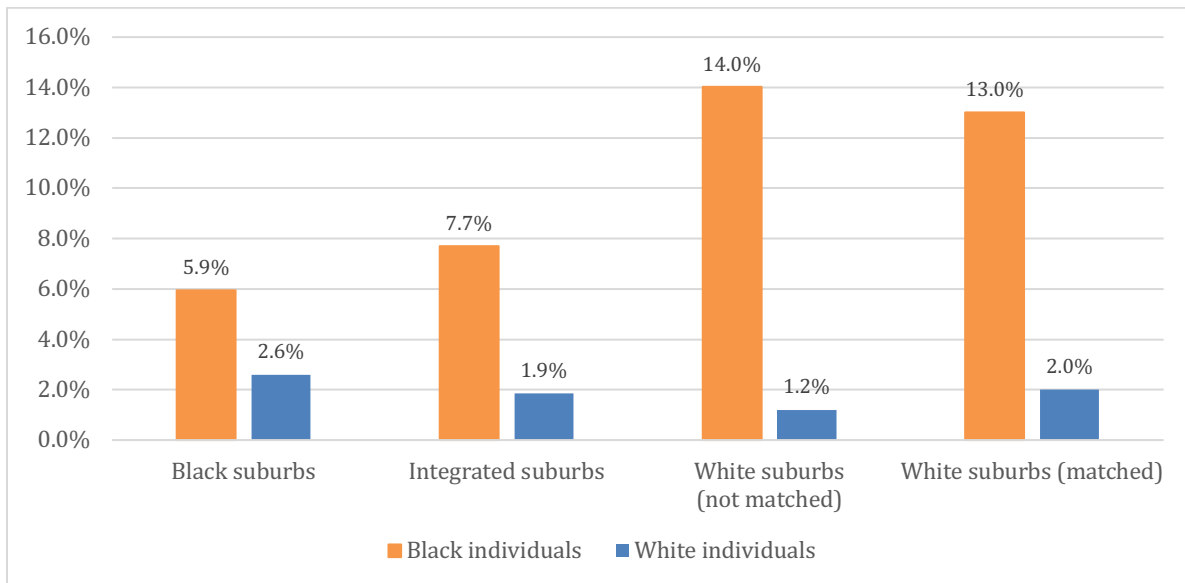
More-detailed data are needed to conduct further analysis regarding the potential role of disparate treatment in explaining why Black individuals' charging rates are so much higher in White areas than Black areas within the suburbs. In particular, being able to examine the source of the charges for Black individuals in Black areas versus White areas would be very helpful. If one were to find that, within White areas, a higher percentage of charges filed against Black individuals originated from a police-initiated action than occurred within Black areas, that would be suggestive that disparate treatment against Black individuals in White suburban areas might be a cause of the overall disparity. Furthermore, having data on motor vehicle stops would allow one to examine whether more low-priority and perhaps pretextual stops were made of Black individuals when they were in White suburbs than when in Black or integrated suburbs.

Conclusion

The results presented in this chapter indicate that Black individuals are charged with new crimes at a higher rate than White individuals both within the city of Pittsburgh and in the suburban areas, although detailed analyses suggest that the reasons for these disparities could be different. Within the city of Pittsburgh, the majority of the disparity is statistically explained by higher charging rates in areas where Black individuals are more likely to live. In the suburban areas, this disparity appears to be driven by Black and White individuals being charged at different rates within the same location, with the disparity being highest in White areas.

The results from the quantitative analysis presented in this chapter are consistent with the dominant themes that came from interviews conducted with system professionals and community members when they were asked about why racial disparities in charging rates might occur. An in-depth discussion of these interviews is presented in Chapter 7, which provides more

details on how long-standing systemic inequities can lead to racial differences in criminal activity, and also provides specific examples as to how disparate treatment in charging decisions can occur.

Although some of the disparity in both the city and suburban areas are likely driven by patterns of criminal activity driven by previous systemic inequities, the results indicate: (1) strong evidence that Black neighborhoods within Pittsburgh are policed in a different manner because of differential crime patterns, which results in individuals in those neighborhoods— which are predominantly Black individuals—being more likely to be caught for a given offense; and (2) suggestive evidence that disparate treatment plays a role in Black individuals having higher charging rates than White individuals within many predominantly White suburban areas. As noted in the introduction, the fact that criminal activity is unobserved makes it difficult to definitively identify the full set of reasons for the observed disparities. These findings should thus be viewed as providing evidence for some of the reasons why these disparities are occurring.

Given that the factors associated with racial disparities in the city and in the suburbs seem to be different, the recommendations to reduce racial disparities will also be different. Within the city of Pittsburgh, it is imperative that the PBP consider other methods of policing that do not rely as much on the use of pretext stops and other low-priority police-initiated interactions with residents. These policing tactics were shown to, at least partially, cause the racial disparity in charging rates. Furthermore, even when these low-priority actions do not result in criminal charges, the frequent interactions between residents and law enforcement, as well as the fines that come from low-level traffic citations, can still cause extensive harm to residents of these neighborhoods.[71] Given that law enforcement officers were not sure as to whether these policing tactics actually reduce crime, it is important to consider whether other policing strategies might have similar public safety impacts but reduce racial disparities.[72] For example, One Northside is a community-policing initiative in which PBP is involved and is run in certain neighborhoods.[73] System professionals felt this effort was successful, although the impact of any alternative strategy on community-police relations and on public safety should be monitored. System professionals noted that if the PBP stopped enforcing the traffic rules that are commonly used in pretext stops, officers could be in danger of losing accreditation.

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[71] Szeto, Elizabeth, "City efforts to address racial bias in traffic enforcement have reduced the number of stops, but disparities remain," Public Source, July 25, 2023, available at: https://www.publicsource.org/pittsburgh-police-traffic-stop-disparity-accountability-race/

[72] PBP temporarily reduced pretext stops during 2022, which is after the period covered by this analysis. Although an internal analysis by PBP indicated this reduction led to an increase in the racial disparity in stopped motorists, it would be important to examine the extent to which these results are causal or are confounded by other changes in enforcement practices that were occurring at the same time.

[73] http://onenorthsidepgh.org/how-we-serve/safety/

There are several minor drug-related crimes that primarily seem to be discovered through low-priority police-initiated actions. Because of current policing strategies, these low-level violations end up being enforced at a higher rate in Black neighborhoods within Pittsburgh. Policies should be considered that allow these violations to be handled with a citation, as opposed to a criminal charge. For example, as of 2016, the City of Pittsburgh Code of Ordinances decriminalized the possession of a small amount of marijuana so that it could be handled with a citation which carried a fine of $25. However, it has been reported that Black individuals are disproportionately still being charged criminally rather than cited.[74] Legislation that decriminalizes other minor offenses—such as possession of drug paraphernalia—should be considered. Furthermore, when citations are an option (such as for marijuana), law enforcement should be encouraged to use that option rather than continuing to charge individuals with a criminal offense. System professionals noted that many law enforcement agencies in suburban areas did not issue criminal charges for marijuana possession and other minor violations. Given that Black individuals are disproportionately charged with crimes for minor violations, such a policy as this one should reduce the rate at which Black individuals interact with the court system.

Within the suburban areas, the lack of detailed data made it difficult to identify why racial disparities were occurring. However, the results clearly indicated that some suburbs have relatively low racial disparities, while others have high racial disparities. It would be useful to conduct some case studies in suburban areas that document the policing practices in suburbs with low levels of racial disparity, and compare those with the practices of agencies that serve areas with higher levels of racial disparity.

In addition to the location-specific policy recommendations outlined above, there are also some county-wide recommendations that can be made. Law enforcement agencies throughout the county should be required to annually release public reports that indicate the racial disparity in charging decisions, the percentage of motor vehicle stops that are low-priority stops, and how new criminal charges were initiated. Within the city of Pittsburgh, this information should be shown for Black versus White individuals, but should also be shown by Black versus White neighborhoods. Within the suburban areas, these statistics could be shown by Black versus White individuals. Note that although the research team was able to provide these statistics for one point in time for the city of Pittsburgh, there is no information on what these statistics look like for the suburban areas as of the writing of this report. Having this information be released publicly would increase transparency within the community and allow informed conversations to occur between the community and law enforcement regarding the best way forward. Regular reporting of these statistics would also allow progress to be measured.

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[74] Worthy, Ariel, "Despite decriminalization, report finds Black Pittsburghers more likely to be charged for marijuana", WESA, May 24, 2022, available at: https://www.wesa.fm/politics-government/2022-05-24/despite-decriminalization-report-finds-black-pittsburghers-more-likely-to-be-charged-for-marijuana

Another critical countywide recommendation is that CHRIA needs to be reformed so that law enforcement data can be more freely shared. Changes should be considered that protect individual privacy while allowing for independent review of data. At the time of the writing of this report, CHRIA is written in a way that makes law enforcement agencies fear that they will get sued if they share their data. Efforts to understand and comply with CHRIA (1) delayed data-sharing between PBP and this project's research team for two years and (2) contributed to the difficulty in obtaining data from suburban law enforcement agencies. Policy changes should be put in place to allow for easier data-sharing with both county analysts and external research organizations to enable regular analysis by those outside law enforcement. Note that it is important to have external organizations be able to report on law enforcement statistics to increase credibility with the community.

In addition to allowing law enforcement data to be more easily shared, it is important to establish a procedure for obtaining Allegheny County Emergency Services data (i.e., 911 data) and linking such information to law enforcement and court data. The ability to link these datasets allows one to identify how each charge was initiated, which is important when conducting racial disparity analysis. Although the PBP was able to share its records of 911 calls that are dispatched to the agency, this information could not be obtained for the rest of the county, because ACES does not appear to have a process in place for responding to data-sharing requests. As a result, the analysis in this chapter could not identify how charges were initiated when the incidents occurred in suburban areas.

Finally, it is crucial to develop a countywide data system that centralizes important information on police-citizen encounters that is necessary for conducting racial disparity analysis. Even if a CHRIA reform made data-sharing easier, the current system requires analysts to obtain data separately from all 140 law enforcement agencies in the county. Law enforcement is currently required to enter certain information—such as details on new criminal charges filed—into a centralized countywide system. These agencies should also submit complete data on motor vehicle and subject stops, which includes the race of the motorist and the geocoded location of the stop. For each new criminal charge that is filed, the agency should be required to submit information on how the charge was initiated—that is, did it result from a motor vehicle stop, a subject stop, or a citizen call for service? If this reporting policy puts too high a burden on law enforcement agencies, an alternative option would be to have these agencies all use the same records management system, and then certain fields within the system could be automatically fed to a centralized county-wide system.[75] Over the past few years, Allegheny County has enlisted 30% to 40% of municipalities to use the centralized county Records Management System (RMS). If all municipalities within the county used this system, RMS would be a viable option for creating a centralized data system housing law enforcement data. It should be noted that,

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[75] Currently, there are three separate record management systems that are in use among the suburban law enforcement agencies.

because of the relatively low number of officers for most suburban agencies, additional resources will be required by the suburban law enforcement agencies to either report on their own disparity rates or to learn how to use new data collection instruments. Using these data along with professional judgment to determine what qualifies a department as an outlier on police practices and outcomes, including racial disparities in a variety of encounters, will guide departments and oversight agencies in determining what types of reforms should be explored.

Given that it is expected to take some time to amend CHRIA and establish county-wide sharing of law enforcement data, an interim analysis could build on the approach used during this project. Specifically, the same data-sharing agreements that were used with PBP and NRPD could be executed with a representative sample of suburban law enforcement agencies, which would allow more detailed analyses to be conducted for the suburban areas.

Chapter 4. Racial Disparities in Pretrial Detention Outcomes

This chapter examines racial disparities in who serves pretrial detention among those who are charged with a crime. For all analyses presented throughout this chapter, the starting sample consists of all Black and White individuals who had new criminal charges filed by law enforcement officers between 2017 and 2019, but the sample excludes individuals who were held in jail at least partially because of a probation detainer or for another reason besides a new charge (i.e., an external hold). Probation detainers and other holds require individuals to be in jail regardless of the pretrial release conditions assessed for their case. Although the time individuals spend in jail on probation detainers (as well as the racial disparities that exist in these outcomes) is an extremely important outcome to examine, it is not a function of pretrial processes, but rather is reflective of probation policies. For this reason, these cases are not considered in this chapter, but rather will be examined in Chapter 6, which focuses on probation outcomes. Note, however, that none of the central conclusions in this chapter are changed when the cases involving detainers and other external holds are included. After dropping cases involving detainers and external holds, the resulting sample being used for analysis in this chapter consists of 66,321 cases.[76] Black individuals comprise 44% of this sample, and White individuals make up 56% of the sample. Appendix C provides more details on the construction of the dataset.

The chapter begins by discussing how the pretrial detention process works, which illustrates the key decision points of the process (i.e., substages), identifies who the decisionmakers are, and highlights the information that decisionmakers are likely to take into account (and thus what needs to be controlled for in the analysis). Next, results are presented that indicate that cases involving Black individuals are almost twice as likely as cases involving White individuals to involve at least some pretrial detention. The remainder of the chapter presents analyses conducted at each of the key substages of the process, which are informative in identifying some of the factors that are causing this overall disparity in pretrial detention rates.

The Pretrial Detention Process

Figure 4.1 presents a process map of how the 66,321 cases represented in the starting sample move through the initial stages of the pretrial detention process. Once law enforcement officers make the decision to file criminal charges against the individual, officers will need to determine whether the individual will be arrested or will be released with a summons. Individuals who are

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[76] The starting sample also drops individuals who were in jail at the time that charges were filed, because their jail stints likely reflect previous charges. In total, 16,933 cases were dropped because of individuals having detainers or other holds, or being in jail when charges were filed—23% of cases involving Black individuals were dropped and 18% of cases involving White individuals were dropped.

released with a summons are free to remain in the community while their case is adjudicated, while those who are arrested will need to have a preliminary arraignment to determine their pretrial release status.[77]

In an on-view situation, whereby law enforcement is initiating charges against an individual without a warrant, the key guidance regarding whether an arrest versus a summons will be issued comes from Rule 519, which states that an individual must be arrested if the person is being charged with a felony or homicide, if the person is involved in a domestic violence incident, or is being charged with failure to comply with the registration requirements for sexual offenders.[78,79] The rule notes that an individual should be issued a summons if that person's most serious offense charge is less than a first-degree misdemeanor or is a first-degree misdemeanor DUI charge, unless law enforcement has reasonable grounds for believing that the individual will not show up to court (which would include situations where law enforcement cannot identify an individual) or poses a threat of physical harm to any other person or themselves. For any other offense—which includes non-DUI first-degree misdemeanor charges—law enforcement officers have discretion regarding whether to arrest the individual or release the person via summons. Thus, outside of felony charges and situations that involve either domestic violence or compliance issues with sexual offender registration requirements (where individuals must be arrested), law enforcement officers are provided some discretion over whether to issue a summons. Figure 4.1 indicates that 52% of cases in the starting sample result in an arrest, while a summons is issued in the remaining 48%.[80]

Individuals who are arrested will have their preliminary arraignment conducted by either an MDJ or a senior judge. For simplicity, this individual is referred to as a judge throughout this chapter, but it is important to note that this title is not referring to a Common Pleas judge in this chapter. The location of the preliminary arraignment will depend on where the incident occurred and when the preliminary arraignment will take place, as well as law enforcement and judge discretion in where individuals will be taken after arrest. Individuals who are arrested within the city of Pittsburgh, or who are arrested at a time such that their preliminary arraignment will have to be held outside normal business hours, will have their preliminary arraignment at the Pittsburgh Municipal Court (PMC).[81] Individuals who are arrested outside Pittsburgh during a

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[77] Allegheny County refers to *bail hearings* as "preliminary arraignments."

[78] See https://www.pacourts.us/assets/opinions/Supreme/out/435crim-attach.pdf.

[79] Although Rule 519 provides guidance to law enforcement officers on the decision to arrest versus issuing a summons, Rule 509 provides guidance to the issuing authority on this decision. The guidance in both rules is similar.

[80] Note that if there is a warrant out for an individual's arrest on the current charge they appear in the data for, the law enforcement officer who interacts with that individual must arrest that person. The individual can also have open warrants for probation violations or failures to appear on other charges, which may make law enforcement officers more likely to arrest that person on the current charge.

[81] Business hours are 8 am to 4 pm Monday through Friday.

time when their preliminary arraignment can be held during normal business hours are supposed to have their preliminary arraignment in the outlying Magisterial District Court that serves the area in which they were arrested, but they can also be taken to PMC if either the outlying MDJ or the arresting law enforcement officer decides they should have their preliminary arraignment there instead. System professionals noted that many of these individuals end up being taken to PMC because they need fingerprinting for identification; it was also noted that there is a tendency to take individuals charged with more-serious offenses to PMC. Furthermore, it was indicated that it would only be practical to take an individual to the outlying court if the person was arrested between a narrow time window, because otherwise the court would no longer be open by the time of the preliminary arraignment. Figure 4.1 indicates that 49% of cases that involved an arrest outside Pittsburgh during business hours ended up having preliminary arraignments at PMC, while the remaining 51% of cases had preliminary arraignments in one of the outlying courts.

The location of the individual's preliminary arraignment determines the risk assessment instrument that is used to inform decisions about whether an individual will be released from jail and under what conditions. Individuals who had their preliminary arraignments at PMC during this period had the same risk assessment instrument used, which was locally developed and validated within Allegheny County. This risk assessment instrument uses information on the individual to recommend that they either be released with no conditions, be released with nonmonetary conditions (such as periodically checking in with Pretrial Services by phone or in person), or not be released during the pretrial period. The specific information the risk assessment takes into account includes the individual's age at current and first arrest, criminal history, pending charges, charge type, previous failures to appear in court, education level, whether they have a driver's license, whether they are currently in school, and whether they are currently on either probation or pretrial release. Individuals in Pretrial Services who run the risk assessment can override its recommendation and code individuals into a different risk category if "aggravating or mitigating" circumstances are present.[82] For individuals who have their preliminary arraignment conducted in the outlying courts, the MDJ overseeing the hearing has discretion over whether to request the Public Safety Assessment (PSA) tool be run, which is a risk assessment tool developed by Arnold Ventures that has been widely adopted across the United States and is similar in practice to the local tool used at PMC. Figure 4.1 indicates that these MDJs only request the PSA tool be run 27% of the time, and elect to rely solely on current charge information the other 73% of the time.[83]

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[82] For example, Pretrial Services will sometimes override the risk assessment score in situations where the current charge is relatively serious but the risk assessment recommendation is that the individual be released with no conditions.

[83] The PSA was not fully implemented at some of the outlying courts until 2018, although this factor still does not change the fact that many MDJs chose not to request it be conducted when it was available.

Figure 4.1. Process Map of the Initial Stages of the Pretrial Detention Process

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                        ┌─────────────────────┐
                        │  66,321 cases with  │
                        │   criminal charges  │
                        └─────────────────────┘
                    ┌───────────┴──────────────┐
          ┌──────────────────┐      ┌──────────────────┐
          │     Summons      │      │      Arrest      │
          │ 48% [n = 31,921] │      │ 52% [n = 34,400] │
          └──────────────────┘      └──────────────────┘
                           ┌──────────────┴──────────────────┐
              ┌─────────────────────────┐        ┌─────────────────────────┐
              │    Incident outside     │        │ Incident in Pittsburgh or│
              │  Pittsburgh and prelim. │        │   prelim. arraignment    │
              │    arraignment during   │        │   during nonbusiness     │
              │     business hours      │        │         hours            │
              │    24% [n = 8,387]      │        │    76% [n = 26,013]      │
              └─────────────────────────┘        └─────────────────────────┘
              ┌──────────┴──────────────┐                    │
    ┌──────────────────┐   ┌──────────────────┐   ┌──────────────────┐
    │   Preliminary    │   │   Preliminary    │   │   Preliminary    │
    │  arraignment in  │   │ arraignment at PMC│  │ arraignment at PMC│
    │  outlying courts │   │ 49% [n = 4,146]  │   │ 100% [n = 26,013]│
    │ 51% [n = 4,241]  │   └──────────────────┘   └──────────────────┘
    └──────────────────┘           │                       │
   ┌──────────┴───────────┐        │                       │
┌──────────────┐ ┌──────────────┐ ┌──────────────┐ ┌──────────────┐
│No risk       │ │  PSA tool    │ │  Local risk  │ │  Local risk  │
│assessment    │ │              │ │assessment    │ │assessment    │
│73% [n = 3,113]│ │27% [n = 1,128]│ │tool          │ │tool          │
└──────────────┘ └──────────────┘ │100% [n = 4,146]│ │100% [n = 26,013]│
                                  └──────────────┘ └──────────────┘
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NOTE: The sample of 66,321 cases does not include cases where the new charges filed triggered a probation detainer or other hold.

All of the stage-specific analysis that looks at the preliminary arraignment stage and beyond will focus just on the set of individuals who have their preliminary arraignments at PMC. This decision was made because this subsample includes the vast majority of individuals and, because risk assessments vary by location, including the full sample here would require that separate analyses be done for each type of risk assessment conducted. Given that the two subsamples of cases where the preliminary arraignment was conducted in the outlying areas—those with the PSA done and those with no risk assessment done—were relatively small, as well as the fact that the racial disparity in preliminary arraignment outcomes at the outlying courts was similar to the disparity at PMC, indicated that the most fruitful way to conduct this analysis would be to focus on the cases that had their preliminary arraignments at PMC. Figure 4.2 presents a process map that shows how these 30,159 cases progressed from the preliminary arraignment to various stages of pretrial detention.

Figure 4.2. Process Map of the Latter Stages of the Pretrial Detention Process for Those Whose Preliminary Arraignment Occurred at PMC
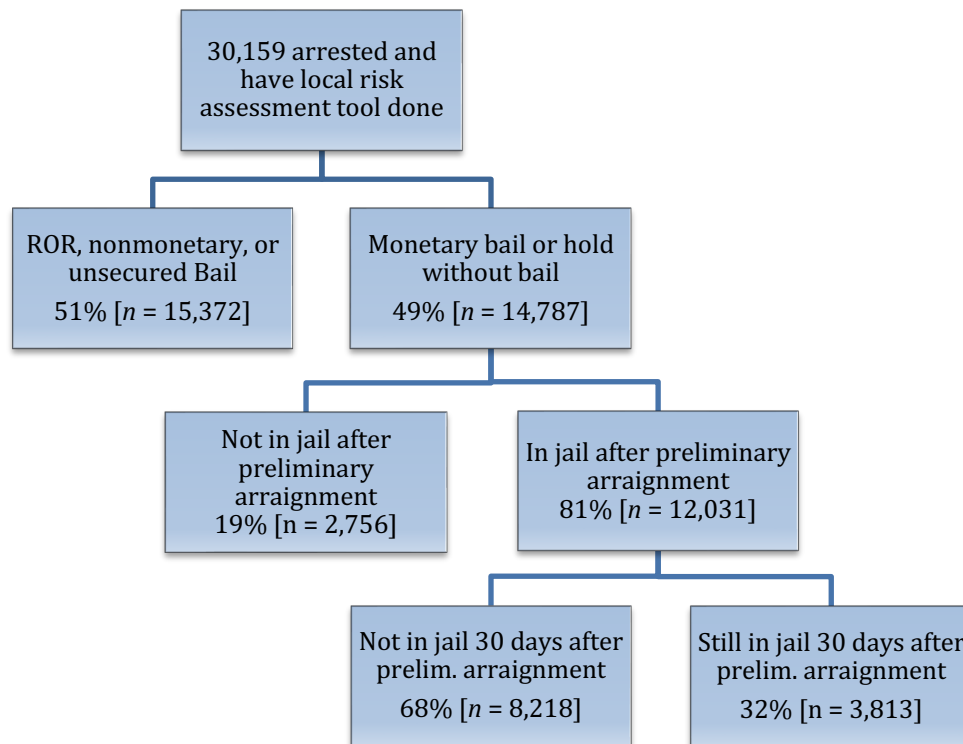
NOTE: The sample of 30,159 cases includes those whose preliminary arraignment occurred at PMC, but excludes cases where the new charges filed triggered a probation detainer or other hold. Prelim. = preliminary.

At the preliminary arraignment, judges determine whether the individual should be released without conditions, released with nonmonetary conditions, released conditional on paying a monetary bail, or is not eligible for release during the pretrial period (which is termed "hold without bail"). When making their decisions, judges are typically concerned with the public safety risk that the individual might pose and whether they think the individual will show up to future court hearings. Judges are required to consider the factors listed in Rule 523 when making this decision, which include the nature of the offense charged, the defendant's employment status, residence history, whether they are addicted to alcohol or drugs, whether they have any record of failures to appear at court hearings, and their prior criminal record.[84] Pretrial Services provides this information to judges, along with the recommendation from the risk assessment (which includes the overall assessment and the individual components) and the recommendation by Pretrial Services (which can override the risk assessment recommendation). Note that even though the recommendation from Pretrial Services would never recommend that judges set a monetary bail, judges are still allowed to set a monetary bail. Figure 4.2 indicates that 51% of

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[84] See
https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/234/chapter5/s523.html&d=reduce.

cases that have their preliminary arraignments at PMC result in the individual being released without having to pay a monetary bail—this amount includes cases in which the judge releases the individual with no conditions (i.e., released on recognizance), sets an unsecured bail, or releases the individual subject to supervisory conditions. The remaining 49% of cases in which the preliminary arraignment occurs at PMC involve the judge either setting a monetary bail or determining the individual involved should not be released during the pretrial period.

Among cases where the preliminary arraignment results in either a monetary bail or a hold without bail, Figure 4.2 indicates that 81% of cases involve individuals going to jail immediately following their preliminary arraignment. These individuals were likely admitted to jail either because the judge determined they could not be released, or they could not pay their monetary bail. In the remaining 19% of cases, individuals were able to immediately secure their release after their preliminary arraignment, presumably by being able to pay the monetary bail that was set.

The final node of Figure 4.2 indicates that 32% of those who were in jail immediately following their preliminary arraignment were still in jail 30 days later, while the remaining 68% had been released. There are several reasons individuals might have been released within the first 30 days of their preliminary arraignment. These reasons include the individual was able to come up with the money to pay monetary bail; a bail review hearing changed the individual's pretrial release conditions and made it easier to be released; or the individual's case may have been resolved (which includes situations in which the charges are dropped relatively quickly). For those who remain in jail 30 days later, this likely occurs because they still cannot pay their monetary bail or the judge issued a hold without bail decision.

Racial Disparities in Overall Pretrial Detention Outcomes

Table 4.1 examines whether there are racial disparities in pretrial detention outcomes. The first set of columns show these results for the main analysis sample of 66,231 cases, which excludes individuals where their new charge triggers a probation detainer or other hold. The first row examines the percentage of these cases involving Black and White individuals who serve any pretrial detention. Serving pretrial detention means the individual was arrested on their charge, had either a monetary bail set or hold without bail decision at the preliminary arraignment, and was booked into jail immediately following their preliminary arraignment. Among cases involving Black individuals, 26.3% of them serve at least some pretrial detention, while only 13.9% of cases involving White individuals involve pretrial detention.

The remaining rows in Table 4.1 are measured based on the initial pretrial detention stint. For example, the "In jail two weeks later" row measures the percentage of cases in the main analysis sample that involve individuals who were both in jail immediately following their preliminary

arraignment and *still* in jail on that initial stint two weeks later.[85] The subsequent comparisons examine whether individuals were still in jail on their initial pretrial detention stint 30, 60, and 90 days later, respectively. Collectively, the results in Table 4.1 indicate that there are significant racial disparities in pretrial detention outcomes among this main analysis sample—for every measure shown, cases involving Black individuals are about twice as likely to incur the negative outcome than cases involving White individuals.

Table 4.1. Racial Disparities in Pretrial Detention Outcomes

	Sample Excludes Probation Detainers and Other Holds		Sample Includes Probation Detainers and Other Holds	
	Cases Involving White Individuals	Cases Involving Black Individuals	Cases Involving White Individuals	Cases Involving Black Individuals
Any pretrial detention	13.9%	26.3%	16.2%	29.1%
In jail 2 weeks later	6.1%	12.4%	9.5%	17.8%
In jail 30 days later	3.9%	8.7%	7.3%	14.2%
In jail 60 days later	2.6%	6.5%	5.6%	11.8%
In jail 90 days later	2.1%	5.5%	4.9%	10.5%

NOTE: The first set of columns include all criminal cases filed between 2017 and 2019, but exclude cases where the new charges filed triggered a probation detainer or other hold (*n* = 66,231 cases). The last two columns include those cases (*n* = 83,254 cases).

The last two columns of Figure 4.1 present the results for the full sample of individuals who have charges filed against them, which includes those with detainers and other holds. Although the results shown in the first set of columns are the focus in this chapter, the results for the full sample are shown because tables presented in both the Executive Summary and Chapter 8 follow outcomes for all new criminal charges filed between 2017 and 2019. Because new charges that trigger detainers and other holds are part of this full sample, they are necessarily included in both Tables S.1 and 8.1. For completeness, these results are also shown here, although this sample is not examined further in this chapter. Note that, regardless of the sample used, Black individuals are about twice as likely to incur the pretrial detention outcome. The only real difference between the results is that the overall likelihood of pretrial detention declines (for both racial groups) when probation detainers and other holds are excluded.

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[85] If an individual was in jail immediately after the preliminary arraignment, but released and readmitted within the two week period following the initial preliminary arraignment, the individual would be coded as *not* being in jail two weeks later (because, at that time, the individual would be in jail on a new stint).

What Explains the Racial Disparity in Pretrial Detention Rates?

As shown in Figures 4.1 and 4.2, the pretrial detention process includes many decision points. To better understand what is driving the overall racial disparity in pretrial detention rates observed in Table 4.1, this section examines which of the decision points (i.e., substages) within the pretrial detention process exhibit racial disparities. For the decision points that do exhibit disparities, further analysis is conducted to better understand what factors might explain the disparity.

Many of the analyses presented in this section will examine the extent to which racial differences in characteristics taken into account by decisionmakers explain an existing disparity. To provide more insights on the impact that these factors might have in explaining disparities, this section first presents statistics regarding what these differences are. Results are then presented for the substage analysis. Note that all of the substage analysis follows the same format: the racial disparity at that particular decision point is shown first, and it is documented how much of the racial disparity is *collectively* explained by racial differences in the control variables included. The results then show how much *each* control variable explains of the substage disparity, as that will provide more intuition on the specific causes of the disparity. The methodology behind all of the analyses presented in the substage analysis is explained in detail in Chapter 2 and Appendix A, and thus the discussions in this chapter mainly focus on the interpretation of the results. Although the specific categories of control variables that were included in each of the analyses are noted, more detailed information on the exact controls are included in Appendix C.

Differences in Characteristics Between Black and White Individuals

Table 4.2 presents information on racial differences in relevant characteristics for the full sample of 66,231 cases. Table 4.3 presents information for the subsample of 30,159 individuals who had their preliminary arraignment at PMC and had the local risk assessment done. Table 4.3 includes several additional variables relative to Table 4.2, as these were variables that were explicitly collected when the risk assessment was conducted, but are not available for the full sample. Note that the way variables are presented in Tables 4.2 and 4.3 are not exactly how they are controlled for in the analyses, as many of these variables are coded into finer categories in the analysis. More details on the exact specifications run are provided in Appendix C.

The results in Tables 4.2 and 4.3 indicate that there are racial disparities in some of the key characteristics decisionmakers are likely to take into account when making release decisions. Specifically, Table 4.2 indicates that cases involving Black individuals are more likely than cases involving White individuals to present more serious criminal histories, as more than twice as many Black individuals than White individuals have a prior felony conviction (24.7% versus 12.1%). Table 4.2 also indicates Black individuals are more likely to have their dominant charge (i.e., their most serious charge) be a felony than White individuals are, and are more likely than

White individuals to be charged with a person or weapons offense.[86] Table 4.3 indicates a similar pattern of results but is also able to examine additional characteristics, which indicate that Black individuals are younger than White individuals at the time of their first arrest, but that there is no racial differences in terms of previous failures to appear. Table 4.3 also indicates that Black individuals are more likely than White individuals to receive a risk assessment recommendation from Pretrial Services that they should not be released, although it is important to note that this disparity in assessment occurs because they are more likely to have the factors that the assessment considers riskier (seen in the first panel of Table 4.3). The analysis presented in the remaining sections of this chapter will examine how much racial differences in these variables explain of the observed racial disparities in key decisions made in the pretrial detention process.

Table 4.2. Racial Differences in Characteristics for Full Sample

Characteristic	Cases Involving White Individuals	Cases Involving Black Individuals
Gender		
Female	32.9%	30.4%
Male	67.1%	69.6%
Age		
Less than 21	8.5%	15.9%
22–25	10.8%	15.9%
26–30	14.6%	18.3%
31–40	27.0%	21.7%
41–50	14.5%	12.1%
51+	13.5%	13.3%
Missing	11.3%	2.9%
Criminal history		
Any prior felony conviction	12.1%	24.7%
Any prior misdemeanor conviction	28.8%	33.5%
No prior felony or misdemeanor convictions	68.1%	57.9%
Crime grade		
F1 or H	4.0%	9.1%
F2	4.6%	8.8%

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[86] The data provided coded offenses into the crime type categories shown in Table 4.2. The one exception was that the analyses presented here grouped cases identified as motor vehicle cases into the "Other" category.

Characteristic	Cases Involving White Individuals	Cases Involving Black Individuals
F3	10.5%	12.8%
F	2.2%	5.2%
M1	13.4%	12.7%
M2	17.3%	21.0%
M3	8.1%	8.1%
M	39.0%	21.7%
S	0.8%	0.7%
Crime type		
DUI	20.1%	7.4%
Drugs	23.4%	20.4%
Person	22.6%	33.7%
Property	19.4%	21.3%
Public order	11.6%	11.6%
Weapons	1.9%	4.7%
Other	1.1%	1.0%
Warrant status		
Arrest warrant for current charge	15.1%	21.8%
Open warrant for another violation	2.7%	3.3%
Location of incident		
Within Pittsburgh	23.4%	41.0%
Outside Pittsburgh	76.6%	59.0%
Observations	37,153	29,168

NOTE: F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony; H = homicide; M = ungraded misdemeanor; M1 = first-degree misdemeanor; M2 = second-degree misdemeanor; M3 = third-degree misdemeanor; S = summary.

Table 4.3. Racial Differences in Characteristics for Preliminary Arraignments Occurring at PMC

Characteristic	Cases Involving White Individuals	Cases Involving Black Individuals
Risk assessment components		
Age (years)	36.1	33.4
Age at first arrest (years)	24.6	19.8
Number of prior arrests	7.3	10.0
Number of prior felony convictions	0.8	1.5
Number of prior misdemeanor convictions	2.0	2.3
Number of failures to appear	0.8	1.0
Number of pending charges	0.6	0.6
Currently on probation	17.5%	20.0%
Currently on pretrial release	30.4%	33.3%
DUI	3.2%	1.1%
Drugs	11.9%	12.1%
Person	42.7%	45.8%
Property	25.5%	22.4%
Public Order	14.1%	11.6%
Weapons	2.2%	6.7%
Other	0.4%	0.4%
Pretrial services risk assessment recommendation		
Pretrial recommendation of ROR	12.3%	6.1%
Pretrial recommendation of nonmonetary release	69.4%	66.7%
Pretrial recommendation of no release	18.4%	27.2%
Crime grade		
F1 or H	9.1%	14.6%
F2	10.0%	14.2%
F3	17.4%	17.4%
F	4.3%	8.3%
M1	15.1%	12.9%
M2	26.2%	22.4%

Characteristic	Cases Involving White Individuals	Cases Involving Black Individuals
M3	7.6%	5.6%
M	10.0%	4.4%
S	0.4%	0.3%
Observations	13,542	16,617

NOTE: F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony; H = homicide; M = ungraded misdemeanor; M1 = first-degree misdemeanor; M2 = second-degree misdemeanor; M3 = third-degree misdemeanor; S = summary.

Racial Disparities in the Arrest versus Summons Decision

Figure 4.3 examines the racial disparities that occur at the first stage of the pretrial detention process, where law enforcement is deciding whether an arrest or a summons will be issued. The results indicate that cases involving Black individuals are 18 percentage points more likely to result in an arrest than cases involving White individuals.

Figure 4.3. Racial Disparities in the Arrest Versus Summons Decision
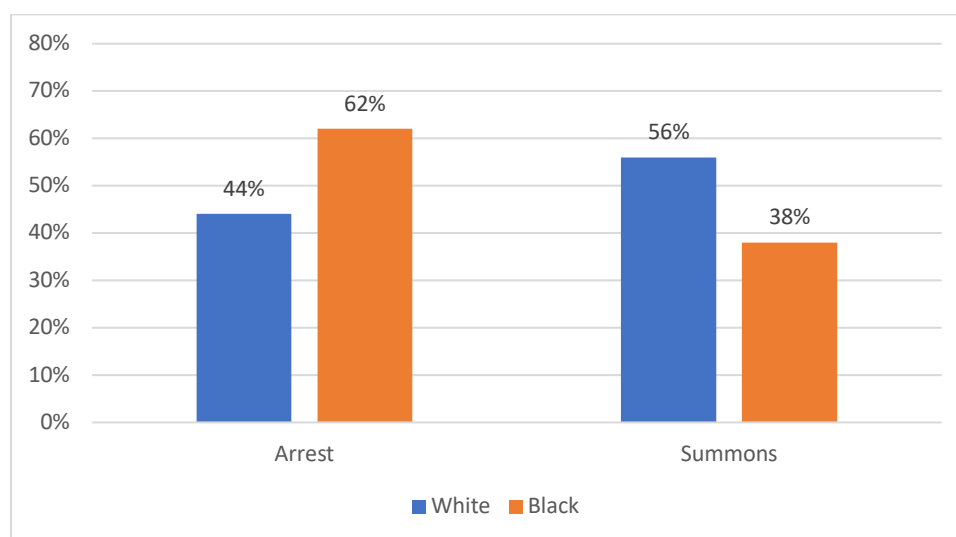
 NOTE: Analyses include all criminal cases filed between 2017 and 2019, but exclude cases in which the new charges filed triggered a probation detainer or other hold (*n* = 66,231 cases).

To better understand why Black individuals are more likely than White individuals to be arrested, Figure 4.4 examines how much of this disparity in being arrested (versus receiving a summons) can be explained by racial differences in gender, age, the type and grade of the initial charges filed, criminal history, whether there was an arrest warrant out for the individual on the current charge or whether there were other open warrants, the year the case was filed, and the location of the incident. For incidents that occur within Pittsburgh, the location variable accounts

for the specific neighborhood; for incidents that occur outside Pittsburgh, the location variable accounts for the specific township, borough, or municipality. The first bar, denoted in red, indicates the collective explanatory power of all of the controls. The results indicate that 95.9% of the racial disparity in arrest rates is explained, which means that, effectively, the entire racial disparity at this decision point can be explained by racial differences in the characteristics controlled for. Put another way, if Black and White individuals had been similar with respect to all of the included characteristics, the racial disparity would fall by 95.9%.

As the entire racial disparity in whether an individual is arrested (versus receiving a summons) is explained by the included controls, the next important step is to understand which specific factors explain the racial disparity. The remainder of Figure 4.4 (denoted in green) examines how much each control variable accounted for explains of the racial disparity, holding constant the contribution of the other factors being controlled for. Racial differences in crime grade explains 28.4% of the disparity, racial differences in type of crime explains 32.7% of the disparity, racial differences in the presence of warrants explains 13.7% of the disparity, and racial differences in the location of the incident explains 21.2% of the disparity.

Figure 4.4. What Factors Explain Why Black Individuals Are More Likely than White Individuals to Be Arrested (versus Receiving a Summons)?
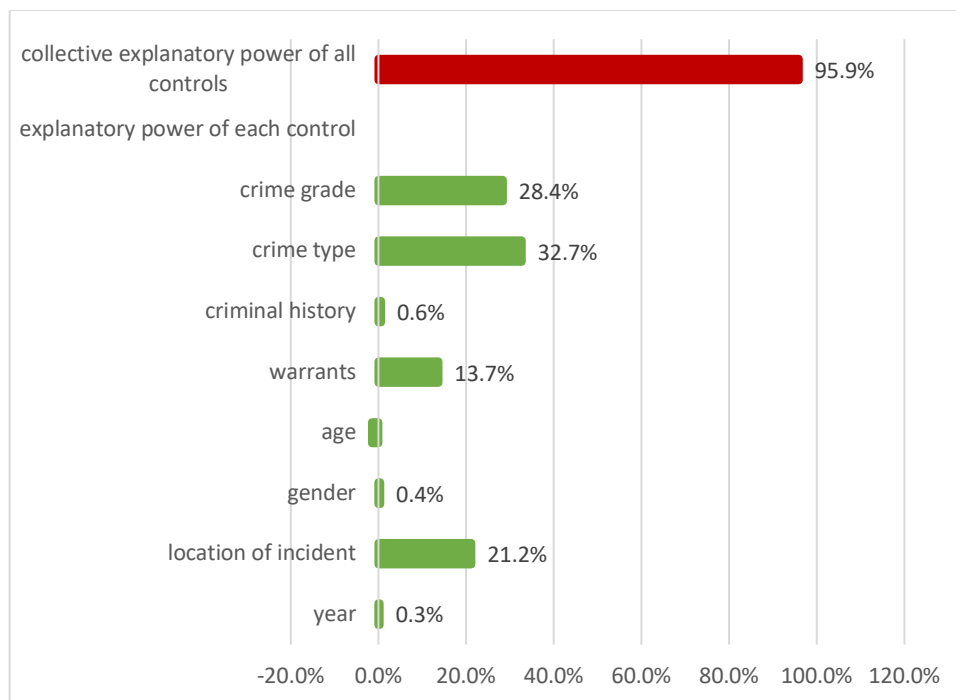
NOTE: Analyses include all criminal cases filed between 2017 and 2019, but exclude cases where the new charges filed triggered a probation detainer or other hold (n = 66,231 cases). If a percentage is positive, the percentage reveals how much the racial disparity in arrest rates (versus receiving a summons) would narrow if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: crime grade, crime type, warrants, age, gender, location, and year. The unexplained disparity is also statistically significant.

Although the racial disparity at this decision point is explained by racial differences in specific factors, it is important to examine whether these are legitimate factors that should be taken into account when the arrest versus summons decision is being made. The fact that crime grade and crime type explain a substantial amount of the disparity (61%) is to be expected given that Rule 519 is being used to determine the arrest decision. Specifically, Rule 519 says that those who are charged with a felony should be arrested, and Table 4.2 indicates that cases involving Black individuals are much more likely to be charged with a felony than cases involving White individuals (35.9% versus 21.3%). Rule 519 also says that individuals charged with a misdemeanor DUI should be issued a summons, and Table 4.2 indicates that cases involving White individuals are almost three times more likely to involve a DUI than cases involving Black individuals. Thus, one of the key reasons why Black individuals are more likely to be arrested is that they are more likely than White individuals to be charged with crimes that Rule 519 says merit an arrest.

The other key factor that explains the racial disparity in arrests is the location of the arrest, where the primary dimension of location that matters is whether the arrest takes place within Pittsburgh versus outside Pittsburgh. Table 4.2 indicates that Black individuals are more likely than White individuals to have their arrest occur within Pittsburgh, and further analysis indicates that 61% of misdemeanor cases occurring in Pittsburgh led to an arrest, while only 27% of misdemeanor cases occurring outside Pittsburgh led to an arrest. Given that Rule 519 allows for discretion in whether misdemeanor charges merit an arrest or a summons, the results presented here indicate that the policy to arrest versus summons policy is more lenient in areas outside Pittsburgh and that White individuals disproportionately benefit from this leniency because White individuals are more likely to be involved in incidents outside Pittsburgh. System professionals noted several reasons, including the following listed, why law enforcement officers who serve areas outside Pittsburgh might be less likely to arrest individuals than officers who serve Pittsburgh on the same charge:

1. Arrests require transporting individuals to the jail, and law enforcement officers who serve suburban areas may want to avoid this step, because some of the suburban areas are relatively far from the jail (which is located within Pittsburgh).
2. Even if suburban officers are willing to drive the individual to the jail, some suburban agencies only employ a few officers and may not have the manpower for an officer to drive the individual, and thus would opt for a summons in borderline cases.
3. Relative to officers who serve Pittsburgh, suburban officers tend to know individuals in the areas they serve better (because the regions they police are smaller), and thus might be less likely to arrest them (because one of the reasons individuals are arrested and brought to the jail is to definitively identify who they are).
4. It was explicitly noted by some system professionals that the policies in suburban areas are more lenient—both in the charges they file relative to the PBP and in their policy to arrest instead of issuing a summons.

Racial Disparities in Preliminary Arraignment Outcomes for Arrested Individuals Who Have Their Preliminary Arraignment at PMC

The analyses in this section are conducted on the subset of cases where an individual was arrested and had their preliminary arraignment conducted at PMC. As noted when discussing Figure 4.1, all of these individuals had a local risk assessment conducted, and Table 4.3 shows what the racial differences are in key components of the risk assessment.

Figure 4.5 examines racial disparities in preliminary arraignment outcomes and indicates that cases involving Black individuals are 11 percentage points more likely than cases involving White individuals to either have the judge set a monetary bail set or determine the individual is not eligible for pretrial release. From the defendant's perspective, this would be considered an unfavorable preliminary arraignment outcome.

Figure 4.5. Racial Disparities in Preliminary Arraignment Outcomes at PMC
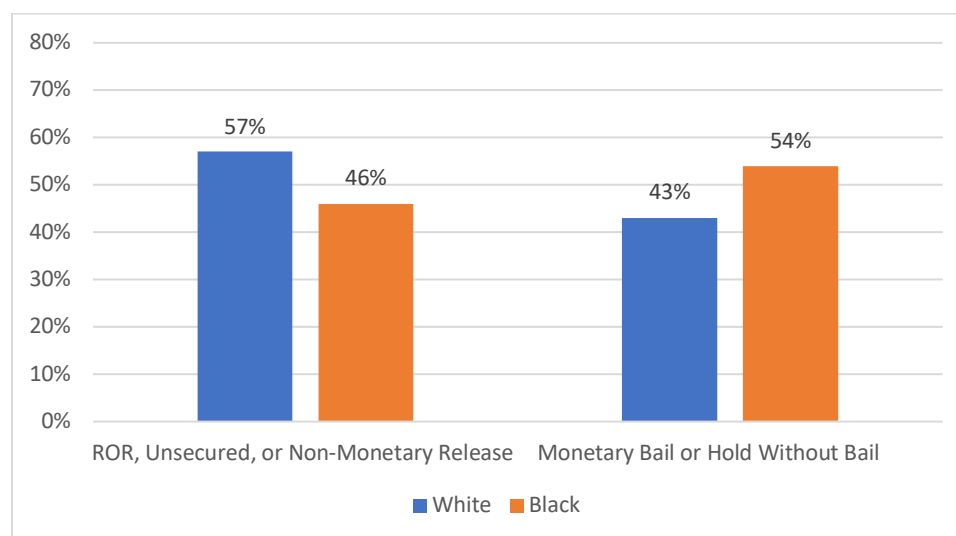
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that had a preliminary arraignment at PMC, but exclude cases where the new charges filed triggered a probation detainer or other hold (n = 30,159 cases).

Figure 4.6 examines how much of the racial disparity in receiving a monetary bail or hold without bail decision at the preliminary arraignment can be explained by racial differences in gender, age, crime grade and type, criminal history, other factors in the risk assessment (including education level, presence of pending charges, previous failures to appear, and whether the individual was currently on probation or pretrial release), warrants, location of arrest, judge, and the year the case was filed. The red bar indicates that 79.8% of this disparity is collectively explained by racial differences in these factors, while the remaining 20.2% of the disparity is unexplained.

The green bars in Figure 4.6 examine how much each of the specific factors accounted for explain of the racial disparity in preliminary arraignment outcomes. The results indicate that

racial differences in crime grade, crime type, and criminal history explain 27%, 9%, and 37% of the disparity, respectively. Table 4.3 indicates that Black individuals have a more serious criminal history, are more likely to be currently charged with a felony, and are more likely to be charged for either a person or weapons offense. The presence of each of these factors is likely to result in a judge being more likely to assign a monetary bail or determine the individual cannot be released during the pretrial period.

Figure 4.6 also indicates that 20.2% of the racial disparity at this stage is unexplained by racial differences in the factors accounted for. This unexplained disparity can either reflect disparate treatment or it could reflect potential racial differences in factors that judges take into consideration, but that are not accounted for in this analysis. Although the majority of factors that judges take into consideration have been controlled for, this analysis does not control for the individual's residence history, employment status, and whether they are addicted to either alcohol or drugs. In particular, system stakeholders noted that residential stability is an important factor—this includes where they live, how long they have lived there, and whether they have an alternate address. Unfortunately, data for these factors were not provided and thus could not be accounted for in this analysis.

Figure 4.6. What Factors Explain Why Black Individuals Are More Likely than White Individuals to Receive a Monetary Bail or Hold Without Bail Decision at the Preliminary Arraignment at PMC?
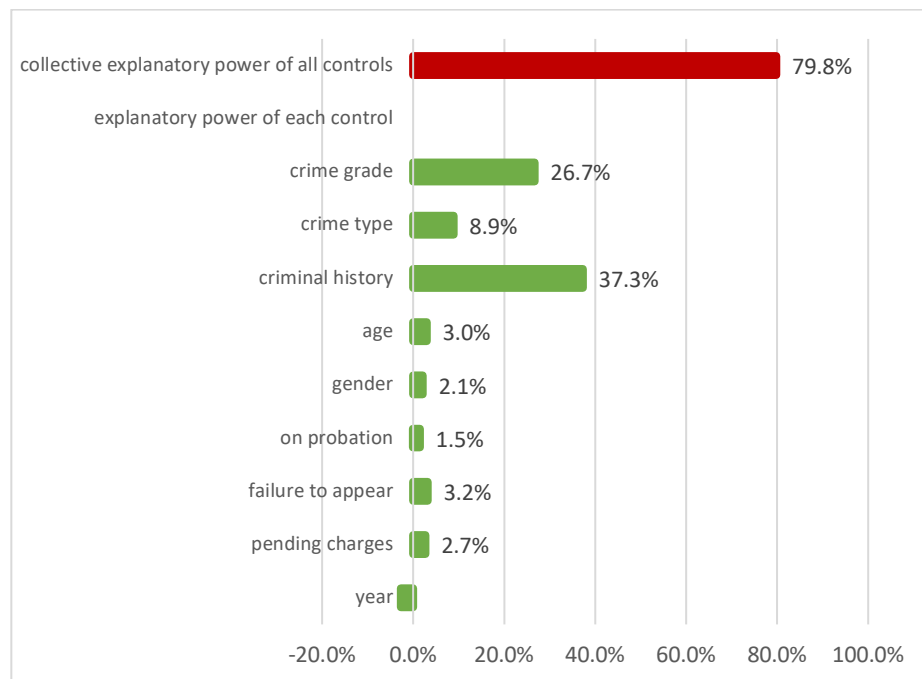
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that had a preliminary arraignment at PMC, but exclude cases where the new charges filed triggered a probation detainer or other hold (n = 30,159 cases). If a percentage is positive, the percentage reveals how much the racial disparity in receiving a monetary bail or hold without bail decision at the preliminary arraignment would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The control "other" corresponds to whether there were any aggravating or mitigating factors. All factors shown are statistically significant; the unexplained disparity is also statistically significant. The following additional factors were controlled for, but were not statistically significant (and thus not shown): education level, pending charges, judge, presence of warrants, and location.

Racial Disparities in the Monetary Bail Level Set Among Individuals Who Have Their Preliminary Arraignment at PMC

The analyses in this section investigate racial disparities in the level of monetary bail set, as well as the frequency of no-release decisions, among cases that receive a monetary bail or hold without bail decision at preliminary arraignments at PMC. The first row in Table 4.4 examines racial differences in the average level of bail among cases in which a monetary bail was set (i.e., cases involving a hold without bail decision were dropped). The remaining rows of Table 4.4 break up the outcome at the preliminary arraignment into the various levels of monetary bail and a no-release decision. The results indicate that cases involving White individuals are disproportionately represented at the lower bail levels, while cases involving Black individuals are disproportionately represented at the higher bail levels. Specifically, cases involving Black individuals are 8 percentage points more likely than cases involving White individuals to receive a monetary bail between $15,000 and $5,000,000. Thus, not only are Black individuals more

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likely than White individuals to receive a monetary bail or no-release decision (as shown in the previous section), but they are also receiving a higher monetary bail.

To examine the factors that might explain the disparity observed in Table 4.4, an indicator variable was defined that corresponds to whether a case had a monetary bail that was either $7,500 or higher or whether a case involved a no release determination—cases involving Black individuals are about 10 percentage points more likely to receive this outcome.[87] Figure 4.7 examines how much of this disparity is explained by racial differences in gender, age, crime grade and type, criminal history, other factors in the risk assessment, warrants, location of arrest, judge, and the year the case was filed. The red bar indicates that 81.0% of the disparity is collectively explained by racial differences in these factors.

The remainder of Figure 4.7 identifies how much each variable controlled for explains of the racial disparity in receiving a monetary bail of $7,500 or higher. Similar to the results seen in Figure 4.6, the majority of the disparity is explained by crime grade, crime type, and criminal history, which each explain 50%, 12%, and 21% of the disparity, respectively. Thus, the same factors that disadvantaged Black individuals in the determination of whether they should get a monetary bail also disadvantage them in the level of monetary bail that is set.

Figure 4.7 also indicates that 19% of the disparity in who receives a monetary bail that is $7,500 or higher is unexplained, although this unexplained disparity is not statistically significant. As discussed in the previous section, this unexplained disparity can either reflect disparate treatment by the judge, or it could reflect potential racial differences in relevant factors that could not be controlled for (such as residence stability).

Table 4.4. Racial Disparities in the Level of Monetary Bail Among Those Where the Preliminary Arraignment at PMC Resulted in a Monetary Bail or Hold Without Bail

	Cases Involving White Individuals	Cases Involving Black Individuals
Average bail	$11,569	$17,093
<$500	14.2%	10.2%
$500–$999	12.4%	10.4%
$1,000–$2,499	9.3%	8.0%
$2,500–$4,999	6.1%	4.8%
$5,000–$7,499	19.9%	18.8%
$7,500–$9,999	2.3%	2.3%
$10,000–$14,999	14.2%	14.7%

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[87] This cutoff of $7,500 was chosen because this is the bail level at which Black individuals become either equally likely or more likely than White individuals to receive that outcome (see Table 4.4).

	Cases Involving White Individuals	Cases Involving Black Individuals
$15,000–$5,000,000	18.8%	26.9%
No release	2.8%	4.0%

NOTE: Analyses include all criminal cases filed between 2017 and 2019 where the preliminary arraignment at PMC resulted in a monetary bail or hold without bail, but exclude cases where the new charges filed triggered a probation detainer or other hold (n = 14,787 cases).

Figure 4.7. What Factors Explain Why Black Individuals Are More Likely than White Individuals to Receive a Monetary Bail That Is $7,500 or Higher?
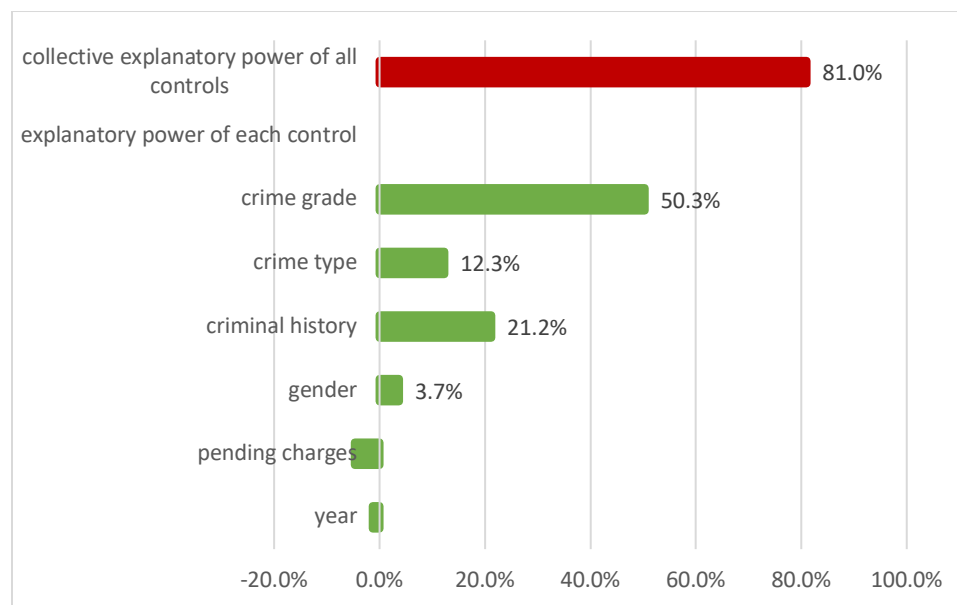
NOTE: Analyses include all criminal cases filed between 2017 and 2019 where the preliminary arraignment at PMC resulted in a monetary bail or hold without bail, but exclude cases where the new charges filed triggered a probation detainer or other hold (n = 14,787 cases). If a percentage is positive, the percentage reveals how much the racial disparity in receiving a monetary bail that is $7,500 or higher would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. All factors shown are statistically significant; the unexplained disparity is not statistically significant. The following additional factors were controlled for but were not statistically significant (and thus not shown): education level, age, aggravating/mitigating factors, failures to appear, on pretrial release, judge, presence of warrants, and location.

Racial Disparities in the Length of Pretrial Detention Stays Among Individuals Who Have a Monetary Bail Set at PMC

The analyses in this section examine whether there are racial disparities in the length of pretrial detention stays among cases where the judge assigned a monetary bail. Because the analysis in this section is intended to focus on whether there might be racial differences in the ability to pay the assigned bail on the current case, individuals who received a hold without bail determination from the judge at the preliminary arraignment were dropped.

Table 4.5 examines the racial disparity in the length of the initial pretrial detention stint among the sample defined above. The outcome in the first row corresponds to whether the individual served any pretrial detention associated with the current case. Each of the subsequent rows builds off this initial pretrial detention stint, such that the outcome measuring whether they are in jail 90 days later corresponds to being in jail immediately after their preliminary arraignment and still being in jail on that same stint 90 days later. The results indicate that there are no racial disparities against Black individuals in terms of who is in jail immediately after their preliminary arraignment, as cases involving Black individuals are actually about 1 percentage point less likely to be in jail. However, as one examines further periods, racial disparities arise. In particular, Black individuals are almost 4 percentage points more likely to be in jail 60 days after their preliminary arraignment than White individuals are.

Figure 4.8 examines the extent to which the disparity in who is in jail 60 days after the preliminary arraignment is explained by gender, age, the bail level set, crime grade and type, criminal history, year, and whether the individual has any pending charges or was on pretrial release at the time of their preliminary arraignment. The red bar indicates that 74% of the racial disparity in this outcome is collectively explained by racial differences in these characteristics.

Table 4.5. Racial Differences in the Length of Pretrial Detention Stays Among Those With a Monetary Bail Set at PMC

	Cases Involving White Individuals	Cases Involving Black Individuals
Any pretrial detention	81.4%	80.5%
In jail 2 weeks later	35.8%	36.6%
In jail 30 days later	22.4%	25.5%
In jail 60 days later	14.7%	18.5%
In jail 90 days later	11.9%	15.5%

NOTE: Analyses include all criminal cases filed between 2017 and 2019 where a monetary bail was set at PMC, but exclude cases where the new charges filed triggered a probation detainer or other hold (n = 14,266 cases).

Figure 4.8. What Factors Explain Why Black Individuals Are More Likely than White Individuals to Serve Pretrial Detention Stints that Are 60 Days or Longer Among Those with a Monetary Bail?
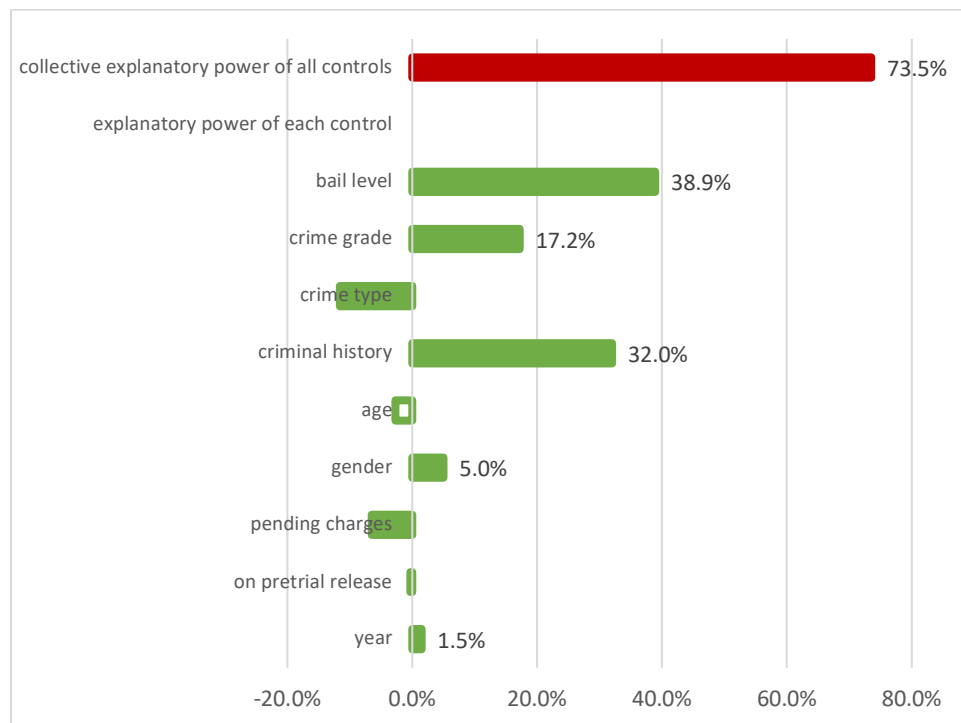
NOTE: Analyses include all criminal cases filed between 2017 and 2019 where a monetary bail was set at PMC, but exclude cases where the new charges filed triggered a probation detainer or other hold (n = 14,266 cases). If a percentage is positive, the percentage reveals how much the racial disparity in serving a pretrial detention stint that is 60 days or more would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: bail level, crime grade, crime type, criminal history, gender, and the presence of pending charges. The unexplained disparity is statistically insignificant.

The remainder of Figure 4.8 identifies how much each variable controlled for explains of the racial disparity in who is in jail 60 days after the preliminary arraignment. The largest fraction of the disparity is explained by racial differences in the bail level, which accounts for 39% of the racial disparity. Thus, the fact that Black individuals are assigned a higher monetary bail (as was shown in Table 4.4), is a key factor in explaining why they are more likely than White individuals to serve at least 60 days of pretrial detention. About 37.6% of the disparity in the length of the pretrial detention stay is explained collectively by racial differences in crime grade and type and criminal history (17.2% – 11.6% +32.0%). The fact that Black individuals have more serious recorded criminal histories and are charged with more serious crimes might make them less likely than White individuals to have their bail level lowered at a bail review hearing and might also result in their cases taking longer to adjudicate; this reasoning potentially explains almost two-fifths of the racial disparity in who is still in jail 60 days later.

Finally, about one-quarter of the disparity at this stage is unexplained, although this unexplained disparity is not statistically significant.[88] Note that the ability to pay a given level of monetary bail is a very important determinant of the length of the pretrial detention stint that cannot be explicitly controlled for in this analysis. It is thus possible that this unexplained difference reflects the fact that there are racial disparities in the ability to pay a given level of monetary bail. Thus, in addition to staying in jail longer because they have a higher bail level to pay, Black individuals might also be staying in jail longer than White individuals because they have more difficulty paying a given level of bail.

Conclusion

Table 4.6 summarizes the key substage results presented in this chapter, which found that Black individuals have worse outcomes than White individuals at every substage of the pretrial detention process. Specifically, Black individuals are more likely than White individuals to be arrested (versus receiving a summons); conditional on arrest, they are more likely to receive either a monetary bail or hold without bail decision at the preliminary arraignment; and conditional on receiving a monetary bail, they are more likely to be in jail 60 days after the preliminary arraignment. The cumulative consequence of these substage findings is that it results in Black individuals who are charged with a criminal offense being almost twice as likely to serve at least some pretrial detention than White individuals are.

Table 4.6. Summary of Pretrial Detention Substage Results

	White Individuals	Black Individuals
Among those charged with a crime, who is arrested?	44%	62%
Among those arrested, who has a monetary bail or hold without bail determination?	43%	54%
Among those with a monetary bail, who is still in jail 60 days later?	15%	19%

The analyses in this chapter also illuminate some reasons why these disparities exist, which is crucial in determining what solutions might work best to mitigate disparities in the pretrial detention process. Racial differences in the severity of charges filed against individuals, as well as differences in documented criminal history, play an important explanatory role in each of the substage disparities; other such factors as differential enforcement of a given policy, as well as

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[88] Note that while this report does not generally discuss results that are statistically insignificant, this is generally because the results that are statistically significant are also very small in magnitude. Given that the magnitude on the unexplained disparity here is relatively large, the result is noted, although it is also explicitly noted that this result is statistically insignificant.

potential disparate treatment and racial differences in ability to pay a given monetary bail, may also matter. Because there were so many distinct factors identified to play a role in causing racial disparities in pretrial detention outcomes, the discussion below focuses on addressing the causes of the disparity that are a result of processes that are perceived to be either unfair or arbitrary by a wide swath of system professionals and community members.

Rule 519 was shown to play an important role in explaining racial disparities in terms of who was arrested (versus receiving a summons). Although public safety concerns require arrest decisions to take into account the severity of the initial charge, there are two facets of Rule 519 that drive disparities that can be considered unfair. First, Rule 519 allows officers to have some discretion among those charged with misdemeanor offenses, and areas outside the city of Pittsburgh are more likely to issue summons in these cases. Because White individuals are more likely to be from these outlying areas, they benefit more from this discretion. At a minimum, Rule 519 should be enforced similarly across Allegheny County. Second, Rule 519 essentially allows a specific carve-out for first-degree misdemeanor DUI offenses, which is a crime disproportionately committed by White individuals. System professionals noted this seemed somewhat arbitrary as DUIs are dangerous offenses and thus it is not clear why they should be treated differently than other first-degree misdemeanors.

Discussions with system professionals identified several potential modifications to the arrest versus summons decision point that could reduce racial disparities. First, the Supreme Court could modify the rules that provide instructions on how the arrest versus summons decision is to be made such that the default for a misdemeanor charge would be to issue a summons unless either victim or defendant safety is an issue or the individual cannot be identified.[89] If an officer elects to issue an arrest for the misdemeanor charge, they would need to identify whether they are doing this because of victim safety, defendant safety, or defendant identification issues. This should reduce the amount of discretion officers use in the arrest versus summons decision, and should also result in these decisions being more similar within the city versus outside the city.[90] System professionals noted that one difficulty with implementing this policy is that it would require changes to the statewide case management system, which are often very slow to occur. In the absence of implementing new statewide changes, at the very least officers could be provided with education on the specific situations in which they should arrest an individual (versus issue a summons), because system professionals noted officers may be using invalid criteria to arrest individuals.

An additional policy that could be implemented that would reduce the number of arrests would be to provide officers with the technology to fingerprint individuals out in the field. This

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[89] This includes Rule 509 and Rule 519 but may also include others.

[90] Note that this policy would not eliminate the role of discretion, because system professionals stressed the importance of retaining some discretion. However, instituting a default decision that requires additional effort from which to deviate should reduce the role of discretion.

effort would allow officers to identify anyone who had been previously fingerprinted. This technology should lower the likelihood that officers would have to arrest someone solely for identification purposes. Given that system professionals indicated that identification issues were more likely to occur within the city (where incidents involving Black individuals are more likely to occur), a policy such as this could mitigate racial disparities at the arrest versus summons stage. Some system professionals noted that this technology could lead to a situation where law enforcement officers might just fingerprint anyone they encountered. To prevent this from occurring, one could require that law enforcement officers make the decision to charge an individual for an offense before they fingerprint them.

Another problematic factor that could be driving racial disparities in pretrial detention outcomes is that the judges that oversee the preliminary arraignment could be engaging in disparate treatment. Although the analyses could not definitively determine whether disparate treatment was occurring, it would still be useful to enact policies that would help ensure that disparate treatment could not occur. Because judges make their decisions based on the information provided to them in the paperwork they receive before the preliminary arraignment, one potential remedy to alleviate this issue of disparate treatment would be to race-blind the paperwork that is provided to the judge. In particular, the paperwork provided to the judge could still present full information on the risk assessment and the nature of the charges but would remove information on the individual's race and information that might reveal race (including name, the location of the crime, and the individual's address). If there are legal issues with redacting any of these items—in particular those that appear in the criminal complaint—relevant parties should advocate to change those legal requirements. System professionals noted that one drawback to this policy is that it would likely lengthen the period between the arrest and the preliminary arraignment (because it is a time-intensive task to remove this information), which is a period in which individuals are being held at the jail. However, if additional resources were provided, it is possible this process modification could be carried out without substantially delaying the time of the preliminary arraignment.

The use of monetary bail was also an important cause of racial disparities, as Black individuals received higher monetary bails, and the results were also suggestive that Black individuals might have a lower ability to pay a given bail level. Collectively, these factors resulted in Black individuals serving longer pretrial detention stints than White individuals. Therefore, policies that reduce or eliminate the usage of monetary bail, or mitigate the negative impacts of it, should be helpful. With respect to the latter, system professionals noted that even though it is mandated that judges carry out an ability-to-pay hearing prior to setting a monetary bail, they do not do this step in practice, and instead set bail based on charges and other perceived risk factors rather than based on an individual's ability to pay. Thus, one policy that could be implemented here would be to require that, if judges decided they were going to set a monetary bail, they would need to conduct an ability-to-pay hearing before setting the bail amount to ensure that the monetary bail that was set was in line with what an individual can pay.

Note that this policy recommends only conducting an ability-to-pay hearing if a judge has already decided to set a monetary bail. Some system professionals noted that if ability-to-pay hearings were conducted for everyone, such a policy might result in judges deciding to set a monetary bail on everyone. Such a policy would likely reduce the disparity in the bail levels set and pretrial detention that was served because of an inability to pay a monetary bail. Although this type of policy could result in an increase in the time it takes to have the preliminary arraignment, this issue could be mitigated if more resources were devoted to conducting preliminary arraignments.

Another potential remedy at this juncture of the process would be to reduce the judge's likelihood of setting a monetary bail. Importantly, while the recommendation from Pretrial Services never recommends that judges set a monetary bail, judges frequently require individuals to pay a monetary bail. Reforms that work to increase judge concurrence with the recommendations from Pretrial Services—so that they release all individuals where Pretrial Services recommends either ROR or nonmonetary release—could thus help reduce racial disparities. Some potential ways to encourage concurrence include requiring the default decision at the preliminary arraignment to be a nonmonetary release when Pretrial Services recommends this decision; if judges want to go against the recommendation, they will need to document the reason why. Statistics on judge concurrence with the recommendation from Pretrial Services could also be publicly reported at regular intervals to further encourage concurrence. These statistics could be presented for each judge overall, as well as show how the results differ by race of defendant for each judge. Reforms that work to reduce the reliance on monetary bail would be in line with a widespread movement away from monetary bail that has gained momentum in hundreds of jurisdictions around the nation.[91]

Finally, there are a couple instances where the analysis could have gone further if additional data were collected. Specifically, the additional data that would be useful for future iterations of this analysis include the following:

- **For individuals who are arrested for a misdemeanor charge, document the reason why.** Although officers have discretion in this decision, they are not required to report why they make a specific decision. To record this information, officers could use a drop-down menu that allows for the following reasons for an individual to be arrested on a misdemeanor charge: statute requirement (which is relevant for domestic violence offenses and compliance with sex offender registration requirements), victim safety, defendant safety, defendant identification issues, and other allowances that law enforcement can consider when making this decision. These factors would allow for a more refined analysis regarding what is driving racial disparities at the arrest versus summons decision. In particular, having these data would shed more light on why the arrest practices of suburban law enforcement agencies are so different from the practices of the PBP.

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[91] https://advancingpretrial.org/appr-in-the-news/

- **Identify whether an offense involves domestic violence.** Domestic violence offenses tend to be classified as either a simple assault or an aggravated assault. However, domestic violence offenses can often be handled differently than other offenses that fall in the simple or aggravated assault categories. This was specifically seen in the policy regarding the arrest versus summons decision, and may also be relevant at other stages of the criminal justice system (both in how the cases are handled in court, as well as whether they will generate a probation detainer). It would thus be very helpful to document which offenses involve domestic violence. Given that Pretrial Services recently began recording this information in the pretrial case management system for cases they make recommendations on, this coding might be happening in most cases already. However, this coding should eventually be done for all cases.

Chapter 5. Racial Disparities in Criminal Court Outcomes

This chapter examines racial disparities in the court process among those who are charged with a criminal offense by law enforcement. For all analyses presented in this chapter, the initial sample begins with all criminal cases that were filed against Black and White individuals between 2017 and 2019. This is the same initial sample that was used in Chapter 4 (which presented pretrial detention outcomes), although subsequent inclusion criteria for the court analysis are different. Although the sample used in Chapter 4 removed individuals whose new charges resulted in a probation detainer, that step was not necessary here. However, interview participants noted that some individuals had multiple criminal cases occurring at similar times, which often get adjudicated on the same day. This factor results in a situation in which the outcome of one case will not be independent from the outcomes of the other cases adjudicated at the same time. For this reason, the court analysis presented in this chapter only includes the case that has the most serious sentence when an individual has multiple court cases that are adjudicated on the same day; the analysis will control for the fact that the individual had multiple cases that were adjudicated simultaneously. This restriction removed 5,514 cases from the analysis, resulting in a sample of 76,100 cases, although none of the central conclusions in this chapter are changed when the full set of cases are included. Note that this data can still include multiple observations for one person, although these cases will have been adjudicated in different periods. Many of the analyses presented in this chapter will work with various subsets of this sample. Black individuals comprise 46% of this sample, and White individuals make up 54% of the sample. Appendix D provides more details on the construction of this dataset.

The chapter begins by discussing the criminal court process, which identifies the key decision points of the process, identifies who the decisionmakers are, and highlights what policies are used in the adjudication process. The latter is especially important to understand, as policies can play a critical role in the development of racial disparities. Next, results are presented on the overall racial disparities in the court process for the full sample of individuals, which show that Black individuals are more likely than White individuals to be convicted of a felony and to receive a confinement sentence. To better understand why these overall racial disparities occur, a stage-by-stage analysis is then conducted to identify the specific substages of the court process that exhibit racial disparities and the reasons these substage disparities exist. Finally, a replication of analyses that have been conducted by system professionals within Allegheny County to examine disparities at the sentencing stage is shown, followed by a discussion of how these findings fit in with the larger set of results regarding what is causing racial disparities at the court stage.

The Criminal Court Process

Figure 5.1 presents a process map of how the individuals represented in the starting sample of 76,100 cases move through the criminal court process. Individuals who have criminal charges filed will have a preliminary hearing that is typically held about two weeks after the initial charges are filed. The preliminary hearing provides an opportunity for prosecutors to change the charges that are filed against an individual. If they change a misdemeanor or felony charge to a summary charge, this will usually result in the case being adjudicated in a magisterial district court. Figure 5.1 refers to these courts as "lower" courts, because typically the only punishment that is assessed to individuals in these courts is a fine.[92] Figure 5.1 indicates that, from the starting sample of all cases with criminal charges filed, 31% of these cases have their charges downgraded by prosecutors such that they are disposed of in lower court.

Another outcome that can occur at the preliminary hearing is that the charges against an individual can be dropped, which happens for a variety of reasons. Prosecutors can engage in plea deal discussions with defendants at the preliminary hearing stage, and sometimes will elect to withdraw charges if the individual completes programming or some other conditions. Charges may also be withdrawn because prosecutors do not feel there is enough evidence to pursue the charge (which could happen if a victim either does not appear or refuses to cooperate), or can be dismissed if the MDJ determines there is no probable cause for the charge. Figure 5.1 collectively refers to all of these instances as a case being closed without conviction, which happens 24% of the time. Some system professionals stressed that this should not be referred to simply as cases where the charges were dropped, because that terminology can connote that there was not enough evidence in these cases, when instead they often involve charges that were only dropped because the individual agreed to complete programming. Unfortunately, the data provided do not identify when plea deals are involved in charges being dropped.

The remaining 45% of cases at the preliminary hearing stage are held for court, which means that both the MDJ and prosecutors view that these cases should continue to be adjudicated in the criminal court process.[93] Note that the charges held for court are not necessarily the same as the initial charges filed at arrest, as prosecutors could have changed them. As detailed in Figure 5.1, there are a variety of pathways in which cases held for court can be adjudicated. For each pathway, statistics are presented on the case outcomes. For those who are convicted of at least one charge, summary statistics are also presented on the type of punishment received. The adjudication pathway options are ordered in Figure 5.1 such that the perceived severity of the

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[92] Technically, depending on the offense the individual is charged with, the MDJ could issue a sentence of up to 90 days in jail, or could sentence an individual to electronic monitoring or probation with restrictive conditions. However, in practice, these other punishment options are rarely issued at lower courts.

[93] The data that were provided to the research team did not allow for the outcomes of individuals who had their cases adjudicated in a lower court to be followed. Thus, once the preliminary hearing stage is reached, the analysis only follows outcomes for the cases that are held for court.

punishment increases as one goes from left to right. Below more details are presented on each of the adjudication pathways cases can take.

Eleven percent of cases held for court are handled with an Accelerated Rehabilitative Disposition (ARD), which requires the individual to successfully complete a probation sentence as well programming in exchange for having their charges expunged. This pathway is considered to be diversion. The District Attorney's office determines who qualifies for an ARD and has a written set of criteria which outlines who is not eligible for an ARD. The majority of the criteria for an ARD are determined by state statute. Individuals with certain charges will not qualify for an ARD—these cases include those charged with homicide, sex offenses, robbery, burglary, aggravated assault, and most drug offenses. Furthermore, regardless of charge type, individuals cannot have had a misdemeanor or felony conviction or ARD disposition within the past ten years, cannot have outstanding fines on traffic or other court cases, cannot be on probation or have pending charges, and their arrest history will also be considered. Among the cases adjudicated with an ARD, 87% of these cases involved a DUI charge, 3% involved a person charge, 3% involved a property charge, and 5% involved a public order charge. Ninety-eight percent of individuals with an ARD successfully completed the conditions and had their charges expunged, while 1% ended up receiving a conviction.

Nine percent of cases held for court are adjudicated with an Expedited Disposition Plea (EDP). Prosecutors only offer this option to individuals with certain misdemeanor and nonviolent felony charges, and will also take into account the individual's criminal history.[94] For individuals who qualify, prosecutors will present the terms of a plea deal at the preliminary hearing; if the individual accepts the deal, the case can be disposed of that same day. Among the cases adjudicated with an EDP, 57% involved a drug charge, 28% involved a property charge and 13% involved a public order offense. Figure 5.1 indicates that most individuals who accept EDPs receive probation sentences, although a few receive either confinement or electronic monitoring.

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[94] EDPs are only offered to defendants that have their preliminary hearing at PMC, which means the alleged criminal incident occurred within the city of Pittsburgh. In 2013, only 58% of those offered EDPs accepted them (Allegheny County Analytics, From Postponements to Efficiency, 2015). The data provided include only information on whether the individual accepted the EDP offer.

Figure 5.1. Process Map of the Criminal Court Adjudication Process

All Criminal Cases
[*n* = 76,100]

Disposed of at Lower Court
31% [*n* = 23,521]

Held for Court
45% [*n* = 34,569]

Case Closed without Conviction
24% [*n* = 18,010]

ARD
11% [*n* = 3,895]

EDP
9% [*n* = 3,036]

Phoenix Court
28% [*n* = 9,804]

Specialty Court
5% [*n* = 1,669]

Standard Common Pleas Court
47% [*n* = 16,165]

ARD
98%

Dismissal
1%

Conviction
1%

No Conviction
0.1%

Conviction
99.9%

No Conviction
5%

Conviction
95%

No Conviction
14%

Conviction
86%

No Conviction
21%

Conviction
79%

Conf: 6%
EM: 2%
Prob: 92%
None: 0.5%

Conf: 26%
EM: 20%
Prob: 47%
None: 7%

Conf: 26%
EM: 27%
Prob: 46%
None: 1%

Conf: 30%
EM: 7%
Prob: 59%
None: 4%

NOTES: Analysis includes all criminal cases filed between 2017 and 2019; in instances where an individual has multiple cases being adjudicated simultaneously, only the case with the most serious punishment is retained. ARD = Accelerated Rehabilitative Disposition; EDP = Expedited Disposition Plea; Conf = confinement; EM = electronic monitoring; Prob = probation.

Twenty-eight percent of cases held for court are adjudicated in the Phoenix Court. The Phoenix Court mainly accepts certain DUI, drug, and property cases, and will not accept cases where victims are involved; the District Attorney's office determines which cases are adjudicated in Phoenix Court.[95] The Phoenix Court will often handle cases where the individual was offered but did not accept an ARD or EDP offer, and will also accept some cases that do not qualify for an ARD or EDP. For example, if an individual has two DUIs within a ten-year period, the first DUI could be handled with an ARD but the second would be handled in the Phoenix Court. Further, the EDP option is only available at PMC, and thus many cases that would have been offered an EDP had they been at PMC are instead sent to Phoenix Court when they occur in the suburban areas. The Phoenix Court places an emphasis on handling cases quickly. At the first hearing in the Phoenix Court, prosecutors will present a plea offer. If the individual accepts the plea offer, the total case disposition time can be as short as two months.[96] Prosecutors generally have standard plea deals they offer, where the terms will vary by the specific charges and the individual's criminal history. If individuals do not accept the plea offer, the case will go to trial, which happened about 2% of the time. As shown in Figure 5.1, 95% of cases heard in the Phoenix Court resulted in a conviction on at least one charge for the individual. Almost half of the individuals convicted received a probation sentence, while 26% received confinement sentences and 20% received electronic monitoring sentences.

Five percent of cases held for court are adjudicated through the county's seven specialty (or problem-solving) courts, including courts for veterans, individuals with mental health issues, people charged with sex offenses, people involved with sex work, as well as courts that handle drug, DUI, and domestic violence cases. These courts work to address the underlying reasons that people engage in criminal behaviors and usually involve the individual meeting frequently with the Common Pleas judge overseeing the court over a one-to-two year period. Cases that are adjudicated in these specialty courts are typically more serious than those adjudicated in the Phoenix Court. Continuing with the DUI example discussed above, while an individual's second DUI could be adjudicated in the Phoenix Court, their third DUI might go to the DUI specialty court. Prosecutors play a significant role in determining who gets admitted to these courts, although there are also other factors that ultimately determine admission (such as results from a mental health exam). The majority of these courts offer a standard plea deal, whereby the individual pleads guilty, and then serves a lower confinement sentence than they might have received in the standard Common Pleas court, but will have to satisfy many additional programming requirements. The exception to this set-up are the specialty courts for people charged with sex offenses and domestic violence cases, as individuals in those specialty courts

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[95] System professionals noted that crimes involving victims cannot be adjudicated in Phoenix Court, because this court is supposed to have an expedited docket and the required victim notification and gathering of restitution information cannot be accomplished within the filing timeframes.

[96] Allegheny County Analytics, "From Postponements to Efficiency: Expedited Case Disposition in Allegheny County Criminal Court," April 2015.

do not automatically plead guilty, but rather have their case adjudicated in those courts. This is why the conviction rate for the specialty courts is not 100% but rather is 86%.

The remaining 47% of cases held for court are adjudicated in the standard Common Pleas court.[97] The cases that are adjudicated in this pathway are ones that either did not qualify, were not offered, or rejected offers, for the other four pathways, and thus these tend to be the more serious cases. The vast majority of person and weapon crimes that are held for court are adjudicated via this route. Only 7% of these cases are adjudicated with a trial (either jury or Common Pleas judge), and thus the majority of the convictions occur through plea deals. Note that although about 20% of cases end with no convictions on any charges, only a few of these individuals are acquitted through a trial process; the vast majority of these cases with no convictions involve prosecutors dropping the charges. Plea deals at this stage take one of two forms: in the first option prosecutors and defense attorneys will agree on the charges the individual will plead guilty to but will let the Common Pleas judge determine the sentence, whereas the second option will involve both the charges and the final sentence being agreed to in advance. Common Pleas judges must approve of the plea deal terms. Of those convicted on at least one charge in the Common Pleas court, 30% are sentenced to a period of confinement, while 59% receive probation only.

The Pennsylvania Commission on Sentencing has sentencing guidelines that apply to all convictions for misdemeanor and felony offenses.[98] Each offense carries an OGS, which ranges from 1 to 14 (with 14 being the most serious). The individual's prior criminal record (which includes their juvenile record) is coded into that person's PRS, which ranges from 1- to 5 but also includes two additional (more serious) categories for repeat felony offenders and repeat violent felony offenders. If a Common Pleas judge is going to sentence an individual to confinement they must specify both a minimum and maximum sentence, where the maximum sentence is at least twice the minimum. The sentencing guidelines provide the range of minimum sentence lengths that would be considered appropriate for a given OGS/PRS combination. The Common Pleas judge is allowed to issue a sentence outside these guidelines, but will have to provide a written reason for their deviation. For individuals who are convicted of multiple offenses, the guidelines apply to each offense. However, Common Pleas judges that issue separate sentences for each conviction will usually allow these sentences to be served concurrently, or they will elect to not issue a punishment on some of the charges. Once a case is held for court, the OGS and PRS will be computed so that prosecutors and defense attorneys have the sentencing guidelines in mind when they are working out the plea deal terms.

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[97] Throughout this report, the term *standard Common Pleas court* refers to cases that are placed on the standard docket of the Common Pleas court.

[98] This description of the sentencing guidelines refers to the 7th edition, which is the version that was in place for the years of data that are being analyzed.

Confinement sentences can be served in either the Allegheny County jail or state prison. If an individual is issued a maximum confinement sentence that is less than two years, the sentence will be served in the Allegheny County jail. If the maximum sentence is between two and five years, the Common Pleas judge will determine whether the sentence is served in the jail or in state prison. Maximum sentences that exceed five years must be served in the state prison.[99]

Finally, it is important to note that the charges against an individual can change throughout the court process. It was noted earlier that the charges held for court at the end of the preliminary hearing stage will often be different than the arrest charges. The charges the individual is convicted on (if any) can also be quite different than the charges that were held for court, as often plea deal terms will result in the individual being convicted on a less serious charge. The racial disparity analysis presented in this chapter will thus not only examine how cases progress through the system and what sentences are received, but will also examine how charges change at critical junctures of the court process.

Racial Disparities in Overall Criminal Court Outcomes

This section examines the extent to which racial disparities exist in the overall court process—that is, conditional on having criminal charges filed by law enforcement officers, are there racial disparities in the final outcomes of these cases? Figure 5.2 examines how racial disparities change from the beginning of the court process to the end of the court process. Specifically, Figure 5.2a shows the racial disparity in the severity of the dominant charge at the time charges are filed, while Figure 5.2b shows what the disparity is in the severity of the dominant charge individuals are convicted of. These analyses use the full starting sample of 76,100 observations.[100]

The results in Figure 5.2b indicate that cases involving Black individuals are twice as likely as cases involving White individuals to result in a felony conviction. Specifically, although 10% of cases involving Black individuals result in a felony conviction, 5% of cases involving White individuals result in a felony conviction. However, at least some of this difference in conviction severity might be driven by the fact that Black individuals are significantly more likely to be charged with a felony at the time of initial filing (shown in Figure 5.2a). The analyses presented later in this chapter will examine whether the racial difference in felony conviction rates is driven by the racial difference in initial charges filed, or whether other factors contribute to this disparity. Figure 5.2 also indicates that there is significant attrition in the court process, as

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[99] If the sentence is served in the jail, the Common Pleas judge has discretion over when to release the individual (once they have served their minimum sentence). If the sentence is served in a state prison, the Pennsylvania Parole Board determines when the individual will be released (once their minimum sentence is served).

[100] Cases that are disposed of at lower court will either result in a conviction on a summary-level charge, or will result in no conviction. Because the results for these cases are not observed, the outcomes of no conviction and a conviction for a summary-level charge are merged.

roughly two-thirds of those initially charged with a criminal violation ultimately either have their charges dropped or are convicted of a noncriminal (summary) charge.

Figure 5.3 examines the racial disparity present at the court stage from a different angle—instead of examining differences in the type of convictions, this figure examines disparities in the type of sentence received for the full starting sample. The results indicate that cases involving Black individuals are more likely than cases involving White individuals to result in confinement, while the reverse pattern occurs for electronic monitoring and probation sentences. Roughly two-thirds of these cases result in no punishment, which is to be expected as Figure 5.2 indicated a large fraction of individuals were not convicted of a criminal offense.[101]

Figure 5.2. Racial Disparities in Initial Filing and Conviction Charges
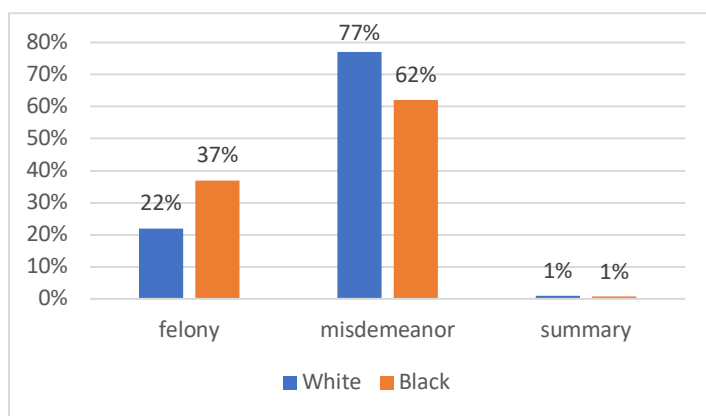
a. Charges at Initial Filing
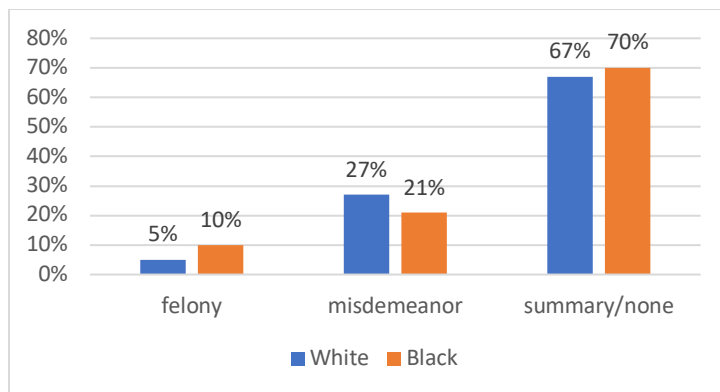
b. Conviction Charges

NOTE: Analysis includes all criminal cases filed between 2017 and 2019; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (*n* = 76,100).

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[101] Note that some of the individuals who are classified as having no punishment could have been assessed a fine.

Collectively, the results in this section identify two key findings with respect to racial disparities at the court stage. First, Black individuals are more likely than White individuals to have their cases result in the worst outcomes—they are more likely to be convicted of a felony and they are more likely to receive a sentence involving confinement. However, the second result of note is that Black individuals are more likely than White individuals to either be convicted of a summary charge or no charge at all, and they are more likely to receive no punishment. The analyses presented in the rest of this chapter will work to explain why these findings occur.

Figure 5.3. Racial Disparities in Type of Sentence Received
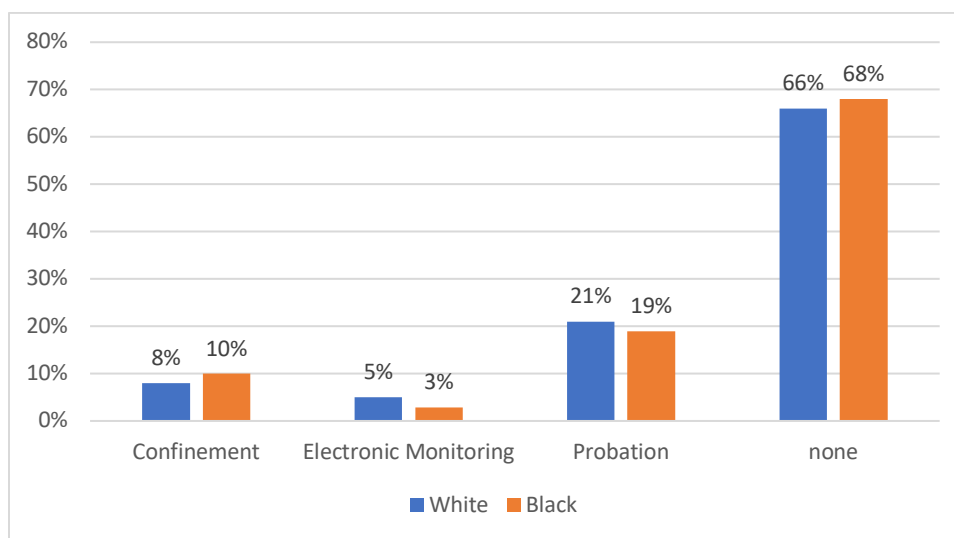
NOTE: Analysis includes all criminal cases filed between 2017 and 2019; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (n = 76,100).

What Explains the Racial Disparities in Criminal Court Outcomes?

Figure 5.1 indicates the criminal court process includes many decision points. To examine what is driving the overall racial disparity in felony conviction rates and sentences received documented above, this section will identify the specific decision points (or substages) of the criminal court process that exhibit racial disparities. For the decision points that do exhibit disparities, the analysis will examine what factors might explain the disparity. Many of the analyses presented in this section will examine the extent to which racial differences in characteristics taken into account by decisionmakers explain an existing disparity. These differences in gender, age, criminal history, crime grade, and crime type were shown in Table 4.2, so for simplicity they are not repeated here.

The substage analyses presented below all follow the same format: the racial disparity at that particular decision point is presented first, and then it is documented how much of that racial disparity is *collectively* explained by racial differences in the control variables included. The

analysis then examines how much *each* control variable explains of the substage disparity, as that will provide more intuition on the specific causes of the disparity. The methodology behind all of the analyses presented in the substage analysis is explained in detail in Chapter 2 and Appendix A, and thus the discussions in this chapter mainly focus on the interpretation of the results. Although the specific categories of control variables that were included in each of the analyses is noted, more detailed information on the exact controls are included in Appendix D.

Racial Disparities in Preliminary Hearing Outcomes

Figure 5.4 examines the racial disparities that occur at the preliminary hearing stage of the court process; the analysis uses the full starting sample of 76,100 cases. The results indicate two key findings: (1) cases involving Black individuals are about 9 percentage points more likely than cases involving White individuals to be held for court on a felony charge; and (2) cases involving Black individuals are about 8 percentage points more likely to be closed without a conviction. Thus, at this juncture, cases involving Black individuals are more likely than cases involving White individuals to end with a felony conviction, but Black individuals are also more likely than White individuals to have their cases closed without a conviction. This pattern of results is similar to what was found for the overall court process (see Figures 5.2 and 5.3).

Figure 5.4. Racial Disparities in Preliminary Hearing Outcomes
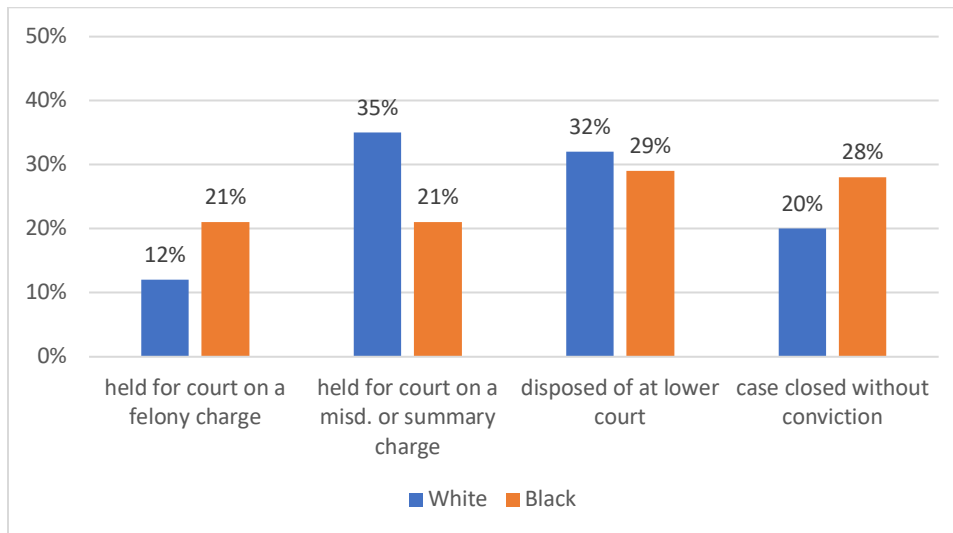
NOTE: Analysis includes all criminal cases filed between 2017 and 2019; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (*n* = 76,100).

To better understand why Black individuals are more likely to receive the worst outcomes at the preliminary hearing stage, Figure 5.5 examines how much of the disparity in cases being held for court on a felony charge can be explained by racial differences in gender, age, the type and grade of the initial charges filed, criminal history, the location of the incident, and the year the

case was filed. The first bar, denoted in red, indicates the collective explanatory power of all of the controls. The results indicate that the entire racial disparity at this decision point can be explained by racial differences in the characteristics controlled for.

As the entire racial disparity in whether a case is held for court on a felony charge is completely explained by the variables controlled for, it is important to examine which specific variables explain the disparity. The remainder of Figure 5.5 (denoted in green) examines how

**Figure 5.5. What Factors Explain Why Black Individuals are More Likely than White Individuals to Have Their Cases Held for Court on a Felony Charge?**
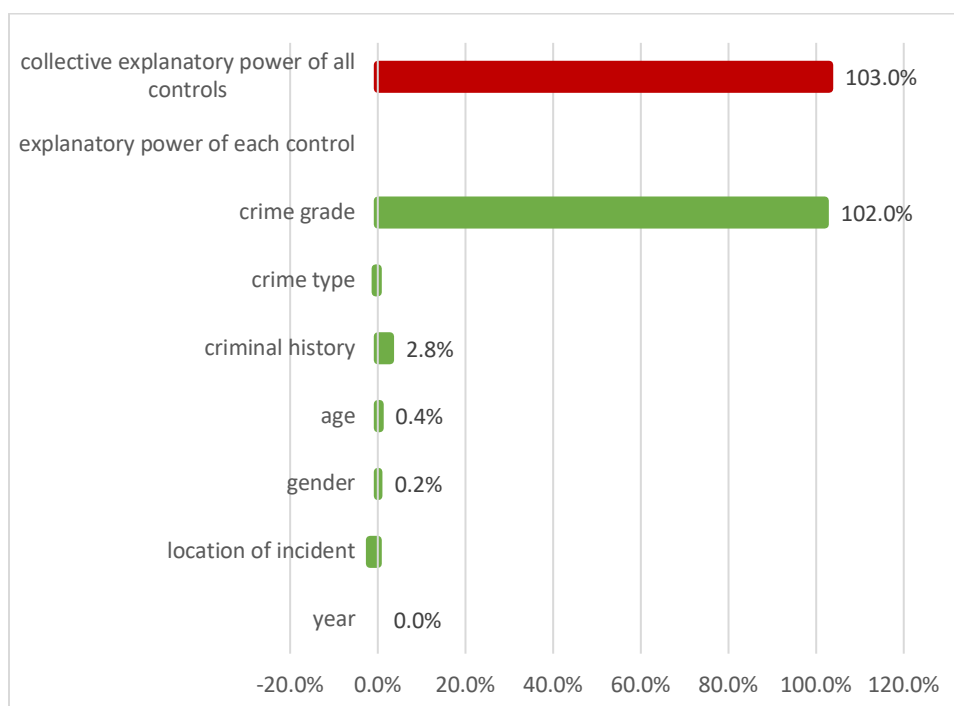
NOTE: Analysis includes all criminal cases filed between 2017 and 2019; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (*n* = 76,100). If a percentage is positive, the percentage reveals how much the racial disparity in cases held for court on a felony charge would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: crime grade, criminal history, age, and gender.

much each control variable accounted for explains of the racial disparity, holding constant the contributions of the other factors being controlled for. The results indicate that racial differences in the grade of charges at initial filing completely explains the racial disparity in whether a case is held for court on a felony charge. Thus, the reason that cases involving Black individuals are more likely to be held for court on a felony charge is because they had more serious charges at the time of initial filing. Note that it is not possible to say anything about whether it was appropriate to charge the initial crime at the level it was charged at; rather, all that can be concluded is that the fact that Black individuals have their case charged at a higher level at the

time of initial filing is what causes them to have their case be more likely to be held for court on a felony charge.

Table 5.1. How the Percentage of Cases Being Closed without Conviction at the Preliminary Hearing Stage Varies by Race and Crime Type

Crime Type	Percentage of Cases Closed Without Conviction for . . .	
	White Individuals	Black Individuals
DUI	3.0%	4.3%
Drug offense	9.5%	9.1%
Person offense	43.5%	53.7%
Property offense	23.1%	27.4%
Public order offense	14.2%	13.0%
Weapons offense	24.5%	17.3%

NOTE: Analysis includes all criminal cases filed between 2017 and 2019; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (*n* = 76,100)

To better understand why Black individuals might be more likely to have their cases closed without receiving a conviction than White individuals, Table 5.1 examines how the percentages for this event vary by both racial group and crime type. The results indicate that this pattern of results primarily happens for person offenses, which both reflect the highest level of cases being closed without conviction, as well as the highest racial disparity. The fact that this event most commonly happens for person offenses indicates that one of the reasons Black individuals are more likely to have their case closed without a conviction at the preliminary hearing stage is because they are more likely than White individuals to be charged with a person offense (see Table 4.2).[102] System professionals noted two reasons why cases involving person charges are more likely to close without conviction: (1) These cases are often offered plea deals at the preliminary hearing stage whereby the case will be dropped if the individual completes certain conditions (which often involves programming); and (2) These cases rely on victim participation to move forward, and victims frequently do not want to cooperate.

The results in Table 5.1 indicate that Black individuals being more likely to be charged with a person offense cannot be the only reason that Black individuals are more likely to have their case closed without conviction because, conditional on being charged with a person offense, Black individuals are still more likely to have their case closed without conviction. Stakeholders

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[102] Decomposition analysis indicates that racial differences in crime type explains 44% of why Black individuals are more likely to have their case closed without conviction at the preliminary hearing stage.

noted that one reason for this could be that person cases involving Black defendants mainly involve Black victims, while person cases involving White defendants mainly involve White victims. If Black victims were more likely than White victims to not participate in court proceedings, this could explain the result found in Table 5.1. Another possibility that might explain these findings is that law enforcement uses a lower standard of evidence to file person cases against Black individuals, so one would expect more cases against them to be dropped at the preliminary hearing stage. Unfortunately, there is no data detailing why cases are closed without conviction and it is thus difficult to parse out the exact reason for this disparity.

Racial Disparities in the Adjudication Pathway for Cases Held for Court

Once cases are held for court, the next important decision in the court process that can significantly affect the eventual outcome is the specific pathway the case gets adjudicated in. Figure 5.6 shows there are significant racial disparities in the adjudication pathway of cases held for court. Specifically, cases involving White individuals are much more likely than cases involving Black individuals to be adjudicated with an ARD or through the Phoenix Court. Cases involving Black individuals are much more likely than cases involving White individuals to be adjudicated through the standard Common Pleas court.

Because the cases that are adjudicated in standard Common Pleas court tend to receive the most serious punishments, it is important to examine why cases involving Black individuals are more likely to be sent there. The red bar in Figure 5.7 indicates that 89% of this disparity is collectively explained by racial differences in the grade and type of charges held for court, criminal history, gender, location of incident, and year of filing. The green bars, which show the explanatory power of each control factor, indicate it is mainly racial differences in the severity and type of charges held for court that causes more cases involving Black individuals to be sent to the standard Common Pleas court. For example, Black individuals are less likely than White individuals to be charged with DUIs, and DUIs tend to be adjudicated in either the ARD or Phoenix Court pathway. On the other hand, Black individuals are more likely to have their cases held for court on a weapons or person charge, which are primarily sent to the standard Common Pleas court. Thus, one of the primary reasons why Black individuals are more likely to have their case adjudicated in the standard Common Pleas court is that their cases are less likely to qualify for the other adjudicatory pathways. This includes both misdemeanors and felonies.

Figure 5.6. Racial Disparities in the Adjudicatory Pathway of Cases Held for Court
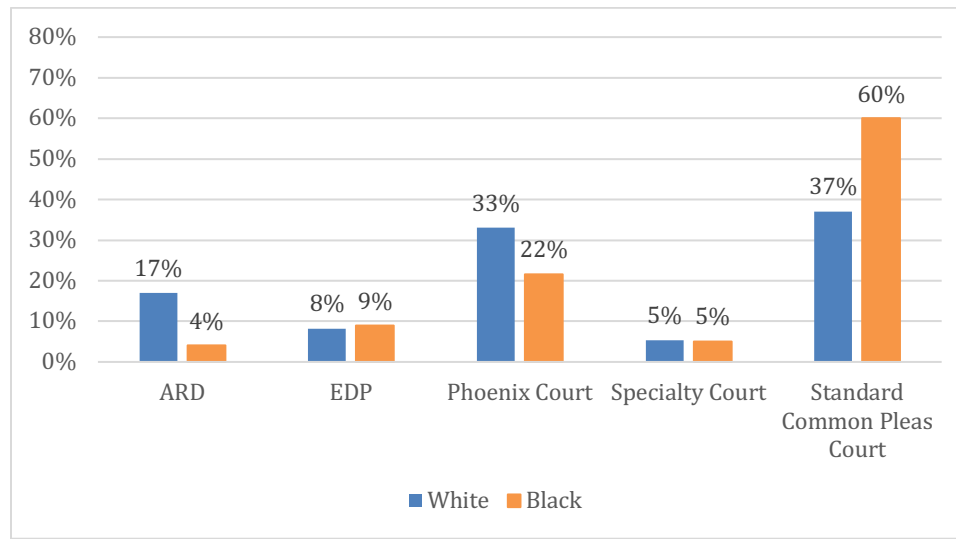
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that are held for court; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (n = 34,569).

Figure 5.7. What Factors Explain Why Black Individuals Are More Likely than White Individuals to Have Their Cases Adjudicated in the Standard Common Pleas Court?
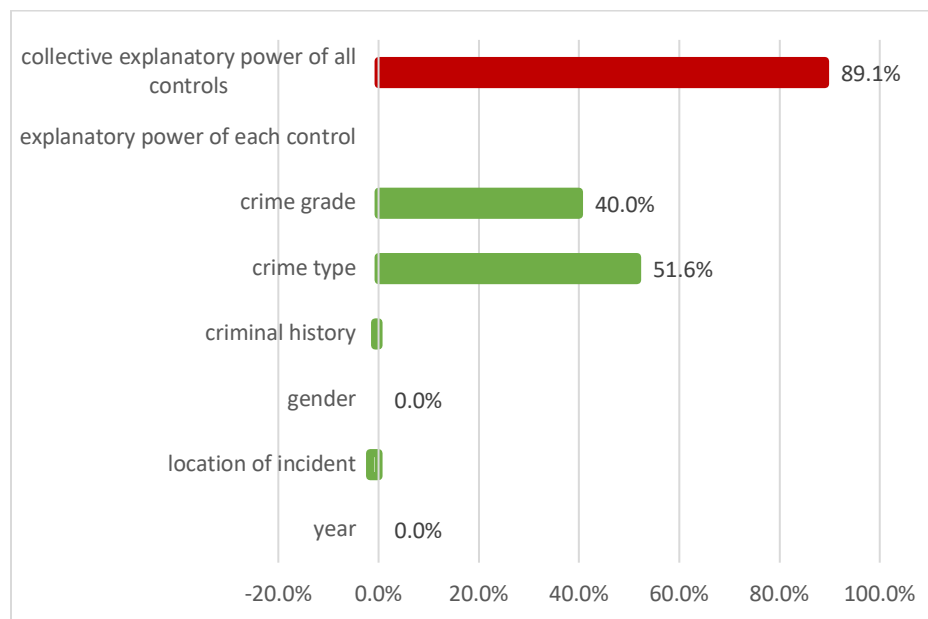
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that are held for court; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (n = 34,569). If a percentage is positive, the percentage reveals how much the racial disparity in cases sent to the standard Common Pleas court would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: crime grade, crime type, and location. The unexplained disparity is also statistically significant.

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However, it is important to note that the red bar in Figure 5.7 indicates that 11% of the racial disparity in cases being sent to standard Common Pleas court is unexplained by the control variables included, and thus it is also possible that some cases involving Black individuals are unfairly excluded from some of the other (more lenient) pathways.[103] In particular, given that ARDs operate as the primary diversion option in Allegheny County, it is important to examine why there are racial disparities in who has their case adjudicated with an ARD. The fact that ARDs are primarily used for DUIs is one reason why this racial disparity exists. However, even when just focusing on DUI charges, significant racial disparities still exist. Of the DUI cases held for court, 46% of cases involving White individuals receive an ARD, while only 21% of cases involving Black individuals receive an ARD. Only 36% of this disparity in receiving an ARD is explained by racial differences in criminal history and the specific severity of the DUI charge.[104] Thus, about two-thirds of the disparity in receiving an ARD is completely unexplained by the control variables. The analysis conducted here cannot control for pending charges, which is a factor that makes individuals ineligible for an ARD. The unexplained disparity could thus reflect racial differences in pending charges; however, it could also occur because Black individuals were less likely to be offered an ARD, or because they were less likely to accept or be able to afford an ARD, which, as system professionals noted, requires an upfront payment of $250. Unfortunately, the data provided does not allow one to distinguish between these possibilities.

Racial Disparities in Conviction Rates for Cases Adjudicated in Standard Common Pleas Court

The remainder of the analyses presented in this chapter focus on racial disparities in the case and sentencing outcomes for cases adjudicated in the standard Common Pleas court. The analyses focus on these cases because Figure 5.1 indicates that the standard Common Pleas court adjudicates the largest fraction of cases as well as the ones that have the most serious outcomes, and there is the most variation in outcomes for this pathway (and thus more of an opportunity for racial disparities to be present).

Figure 5.8 examines racial disparities in outcomes among the cases adjudicated in the standard Common Pleas court. Although cases involving Black individuals are more likely to end in a felony conviction than cases involving White individuals, they are also more likely to end without conviction than White individuals' cases.

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[103] While ARDs are the main diversion option offered, and a variety of system professionals noted that the terms offered in Phoenix Court are reasonable, some system professionals disputed the notion that EDPs would be considered lenient. However, even if the terms offered in an EDP are similar to what individuals might receive in another pathway, these cases are disposed of very quickly, which can lower pretrial detention stays.

[104] If the analysis was restricted to DUI cases held for court where the individual had no prior criminal convictions, the results indicate that 57% of White individuals receive an ARD while 37% of Black individuals receive an ARD. Thus, prior criminal convictions can explain some of the disparity, but clearly cannot explain all of it.

Figure 5.9 examines how much of the racial disparity in felony conviction rates (shown in Figure 5.8) can be explained by racial differences in the grade and type of charges held for court, criminal history, gender, age, location of incident, Common Pleas judge, and the year the case was filed. The red bar indicates that 93% of this disparity is collectively explained by these factors, while the green bars indicate that the specific factors that explain the disparity is primarily the grade of the crimes held for court, although criminal history plays a small explanatory role. Although 7% of the racial disparity in felony conviction rates is unexplained by the variables controlled for, this difference was statistically insignificant. Thus, overall, the results indicate that cases involving Black individuals are more likely than cases involving White individuals to result in a felony conviction because they were more likely to have felony charges held for court.

Figure 5.8. Racial Disparities in Conviction Rates for Cases Adjudicated in Standard Common Pleas Court
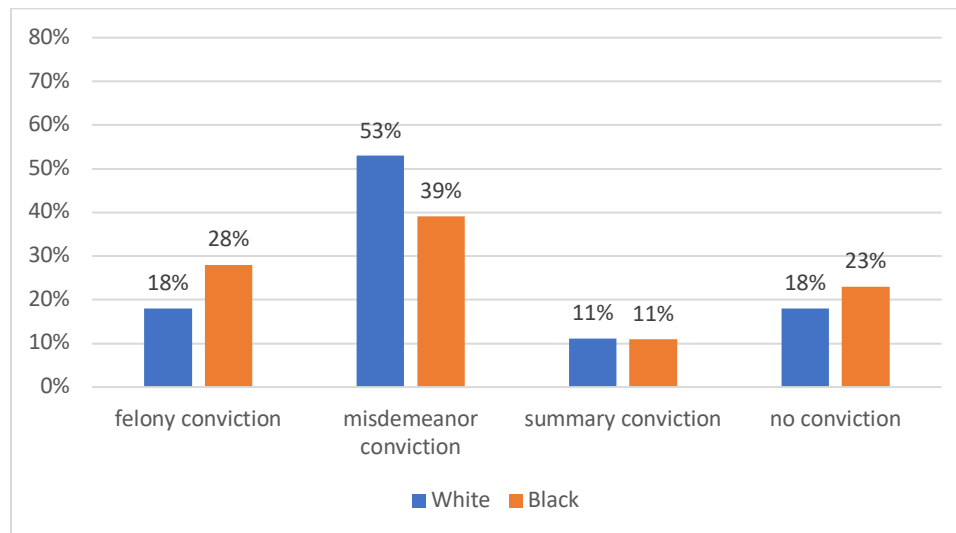
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that are adjudicated in standard Common Pleas court; in instances where an individual has multiple cases being adjudicated simultaneously, only the case with the most serious punishment is retained (n = 16,166).

As Figure 5.8 also indicated that cases involving Black individuals were 5 percentage points more likely to be closed without a conviction at this stage, Table 5.2 examines whether the disparity in cases with no conviction varies by offense type. Although Table 5.1 indicates that the disparity in cases being closed at the preliminary hearing stage was mainly present among person offenses, Table 5.2 indicates that, at the Common Pleas stage, this disparity occurs across several categories of offenses. Although system professionals noted that a common reason that cases could be closed without a conviction at this stage is because victims may not want to participate, the results in Table 5.2 indicate this is not the only factor, as many of the offense types that show a disparity do not involve victims. This indicates that potentially this pattern of

results appears because the strength of evidence in some of the cases against Black individuals may be lower, and thus that too many cases for Black individuals were held for court at the preliminary hearing stage. In particular, system professionals also noted that cases can be dropped at this level if it is determined that the individual was illegally searched. If these illegal searches happened more often to Black individuals than White individuals, this might explain why Black individuals were more likely than White individuals to have their drug and weapons cases closed.

Figure 5.9. What Factors Explain Why Black Individuals in the Standard Common Pleas Court Are More Likely than White Individuals to Be Convicted of a Felony?
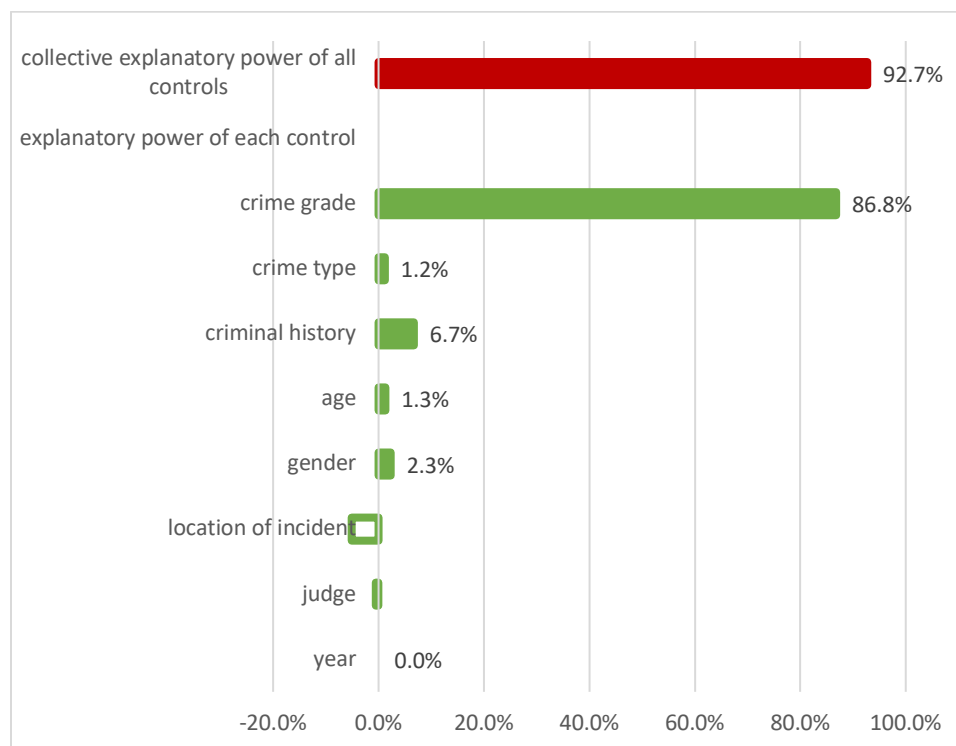
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that are adjudicated in standard Common Pleas court; in instances where an individual has multiple cases being adjudicated simultaneously, only the case with the most serious punishment is retained (n = 16,166). If a percentage is positive, the percentage reveals how much the racial disparity in felony conviction rates would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: crime grade, criminal history, gender, and Common Pleas judge.

Table 5.2. How the Percentage of Cases Being Closed without Conviction in Standard Common Pleas Court Varies by Race and Crime Type

Crime Type	Percentage of Cases Closed Without Conviction for . . .	
	White Individuals	Black Individuals
DUI	9.4%	9.9%
Drug offense	13.9%	17.4%
Person offense	22.1%	28.8%
Property offense	20.8%	23.4%
Public order offense	11.2%	11.1%
Weapons offense	21.4%	29.1%

NOTE: Analyses include all criminal cases filed between 2017 and 2019 that are adjudicated in standard Common Pleas court; in instances where an individual has multiple cases being adjudicated simultaneously, only the case with the most serious punishment is retained (n = 16,166).

Racial Disparities in Punishment Type for Convictions in Standard Common Pleas Court

The analyses in this section investigate racial disparities in the type of punishment received for those who are convicted on at least one charge in the standard Common Pleas court. Conducting this analysis requires merging in data on individuals' PRS and OGS from the Pennsylvania Commission on Sentencing, as these two factors form the basis for the sentencing guideline recommendations for each individual and are thus likely to be key determinants of whether an individual receives a confinement sentence. The analysis in this section is thus conducted on the 8,501 cases that involved a conviction in standard Common Pleas court and that also appear in the Pennsylvania Commission on Sentencing data.[105]

Figure 5.10 examines the racial disparities in the type of sentences convicted individuals receive. The results indicate that cases involving Black individuals are more likely than cases involving White individuals to result in confinement (both state and local), while the reverse pattern is true for electronic monitoring and probation sentences. The type of confinement (state versus local) is primarily determined by the individual's maximum sentence, although Common Pleas judges have discretion on what type of confinement to use for individuals who have a maximum sentence between two and five years. However, among the individuals who receive a maximum sentence in this range, 85% of White individuals are sentenced to state confinement and 88% of Black individuals are sentenced to state confinement. Thus, the racial disparities that

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[105] There was some attrition of the sample that occurred when the data obtained from Allegheny County were merged with the Pennsylvania Commission on Sentencing data. The reasons for this attrition are discussed in Appendix D.

occur in the type of confinement is primarily being driven by sentence length. Therefore, this section focuses on the disparity that occurs in confinement rates overall (since both state and local confinement exhibit racial disparities); racial disparities in sentence lengths is investigated in the next section.

Figure 5.10. Racial Disparities in Type of Sentence Received Among Individuals Convicted in Standard Common Pleas Court
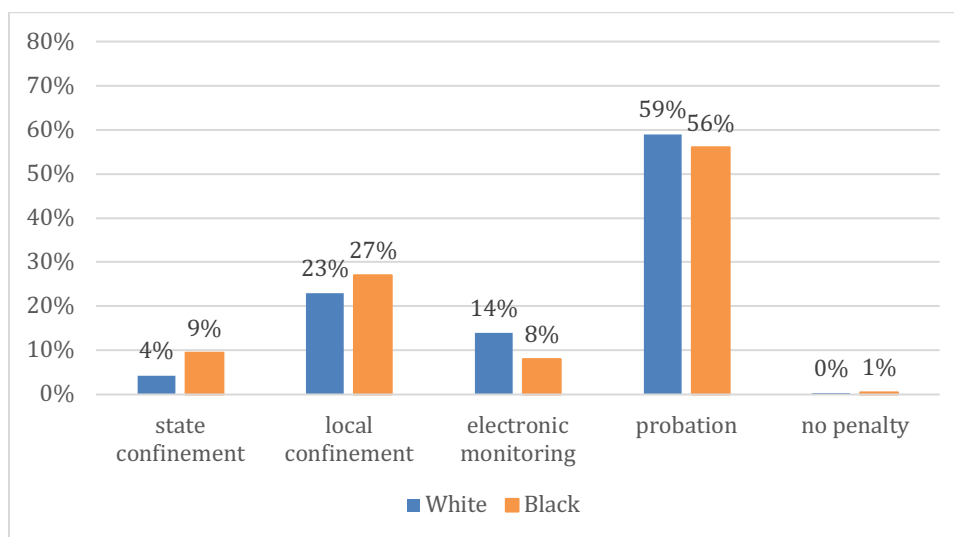
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that resulted in convictions in standard Common Pleas court and that could be merged to the Pennsylvania Commission on Sentencing data; in instances where an individual has multiple cases being adjudicated simultaneously, only the case with the most serious punishment is retained (*n* = 7,320).

Figure 5.11 examines how much of the racial disparity in confinement rates is explained by racial differences in the OGS/PRS combination for the dominant conviction charge (which determines the recommended sentence), the grade of other (nondominant) conviction charges, whether a mandatory minimum was present on a convicted charge, age, gender, Common Pleas judge, and year of filing. The red bar indicates that racial differences in these controls collectively explain 87.6% of racial disparity; the green bars indicate that the OGS/PRS combination is the primary driver among the controls. Thus, the results indicate that, among convicted cases, Black individuals are more likely to receive a confinement sentence, but that occurs because they have a higher OGS/PRS combination. Put another way, cases involving Black individuals carry a higher recommended sentence, and that seems to be why they are more likely to receive confinement sentences than cases involving White individuals.[106]

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[106] Figure 5.11 indicates that the presence of a mandatory minimum has a negative explanatory power on the racial disparity in receiving a confinement sentence, which indicates that if Black and White individuals had similar rates of having a mandatory minimum sentence, the racial disparity in confinement rates would actually increase. This

Figure 5.11. What Factors Explain Why Black Individuals Convicted in the Standard Common Pleas Court Are More Likely than White Individuals to be Sentenced to Confinement?

NOTE: Analyses include all criminal cases filed between 2017 and 2019 that resulted in convictions in standard Common Pleas court and that could be merged to the Pennsylvania Commission on Sentencing data; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (n = 7,320). If a percentage is positive, the percentage reveals how much the racial disparity in confinement rates would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: OGS/PRS cell, other charges, mandatory minimum, gender, and Common Pleas judge.

*Racial Disparities in Sentence Lengths for Convictions in the Standard Common Pleas Court*

The analyses in this section investigate racial disparities in the lengths of punishments received for those who are convicted on at least one charge in the standard Common Pleas court. Figure 5.12 examines racial differences in sentence lengths separately for those who were sentenced to confinement, electronic monitoring, and probation. Note that although those sentenced to electronic monitoring and probation receive one sentence length, those sentenced to confinement receive both a maximum and minimum. All of the analyses focus on the minimum sentence received. Among those who are sentenced to confinement, Black individuals receive a

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result occurs because mandatory minimums are predictive of receiving confinement, but White individuals are actually more likely to carry mandatory minimums (due to their higher incidence of DUI convictions). However, the positive explanatory power of the other factors in Figure 5.11 more than offset this, which is why collectively the red bar indicates the disparity would narrow by 95% if Black and White individuals were similar with respect to all of the characteristics controlled for.

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minimum sentence that is 5.4 months longer than White individuals do. Black individuals also receive electronic monitoring sentences that are about 2.6 months longer than White individuals, although there are no real racial disparities in the lengths of probation sentences received.

Figure 5.12. Racial Disparities in Sentence Length Received for Each Sentence Type Among Individuals Convicted in Standard Common Pleas Court
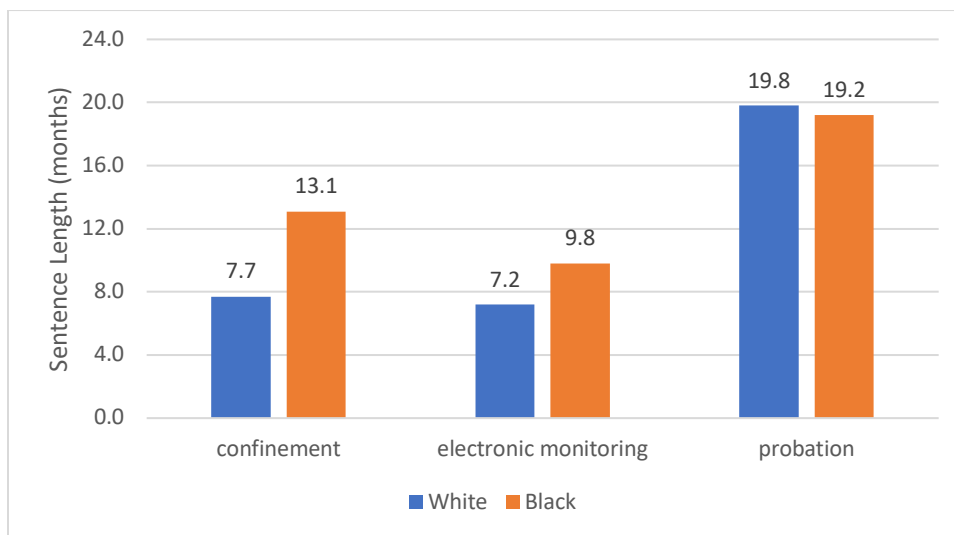
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that resulted in a given sentence type in standard Common Pleas court and that could be merged to the Pennsylvania Commission on Sentencing data; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained. For confinement, the minimum sentence length is presented.

Figure 5.13 focuses on the set of individuals sentenced to confinement and examines how much of the racial disparity in the minimum sentence length can be explained by racial differences in the OGS/PRS combination for the dominant conviction charge (which determines the recommended sentence), the grade of other (nondominant) conviction charges, whether a mandatory minimum was present on a convicted charge, age, gender, Common Pleas judge, and year of filing.[107] The results indicate that the entire disparity is essentially explained by the OGS/PRS combination of the dominant charge, as well as the grades of the nondominant other charges. Thus, as was found above in the results examining disparities in who gets confinement, the primary reason why Black individuals get longer sentences is because their case characteristics result in the Sentencing Guidelines recommending a higher sentence.

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[107] The analysis focuses on racial differences in confinement sentences, rather than electronic monitoring sentences, because the greatest disparities occur among confinement sentences, and this is the most severe outcome.

Figure 5.13. What Factors Explain Why Black Individuals Sentenced to Confinement in the Standard Common Pleas Court Receive Longer Sentences than White Individuals?
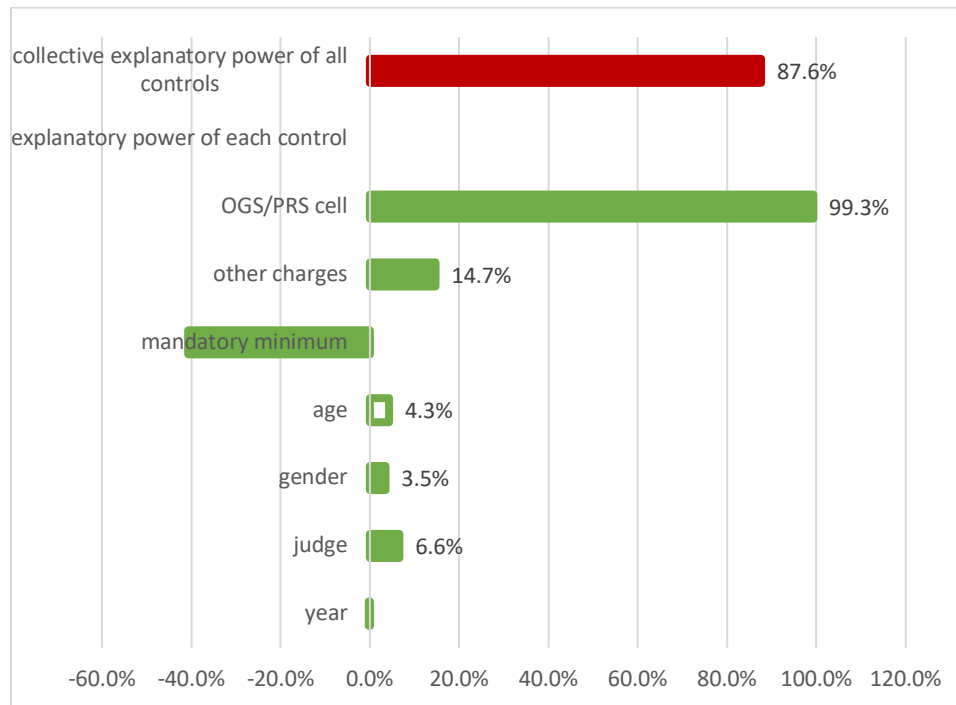

NOTE: Analyses include all criminal cases filed between 2017 and 2019 that resulted in a confinement sentence in standard Common Pleas court and that could be merged to the Pennsylvania Commission on Sentencing data; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (*n* = 2,315 cases). If a percentage is positive, the percentage reveals how much the racial disparity in the length of the minimum confinement sentence would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: OGS/PRS cell and other charges.

An Alternative Way to Examine Disparities: Do Sentences Received Conform with the Sentencing Guidelines?

Some system professionals within Allegheny County have previously examined racial disparities in the court process by examining disparities in how assigned sentences compare with the sentence length recommended by the guidelines. In particular, those analyses focused on individuals who were convicted of a criminal charge and examined racial disparities in the percentage of cases where the assigned sentence is below the recommended sentence. Those analyses indicated that Black individuals are significantly more likely to receive a sentence that is below the recommended guidelines than White individuals are, and this finding was interpreted as evidence that Black individuals are sentenced more leniently than White individuals at the court stage.

The analyses conducted in the current study and presented in the sections above—which examined disparities in both sentence type and sentence length—are a more complete way of

examining racial disparities at the sentencing stage because they capture both whether individuals serve confinement and for how long, rather than simply whether their assigned sentence falls below the guidelines. However, for completeness, this section presents a similar disparity analysis to those conducted in the past to provide more nuance on these findings.

Figure 5.14 examines racial disparities in how an individual's minimum sentence compares with the recommended range for the minimum sentence set out by the sentencing guidelines. This analysis was conducted on the set of cases that received a conviction in standard Common Pleas court, and that could be matched to the Pennsylvania Commission on Sentencing data. The results from this analysis are similar to what stakeholders had previously found—specifically, cases involving Black individuals were more likely than cases involving White individuals to receive a minimum sentence that was either below the standard range or within the mitigated range, whereas the reverse pattern was true with respect to receiving a sentence that was within the standard recommended range.

Figure 5.14. Racial Disparities in How Confinement Sentences Conform to the Sentencing Guidelines Among Individuals Convicted in Standard Common Pleas Court
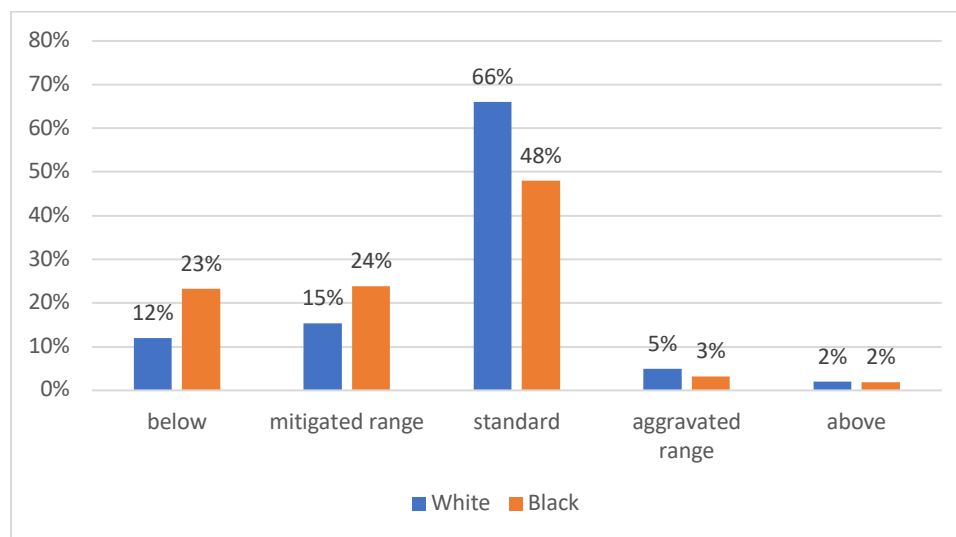
NOTE: Analyses include all criminal cases filed between 2017 and 2019 that resulted in convictions in standard Common Pleas court and that could be merged to the Pennsylvania Commission on Sentencing data; in instances where an individual has multiple cases being adjudicated simultaenously, only the case with the most serious punishment is retained (*n* = 7,320).

To better understand why Black individuals are more likely than White individuals to receive a sentence that is either below the guidelines or within the mitigated range, Figure 5.15 examines how much of this disparity can be explained by racial differences in the OGS/PRS combination

Figure 5.15. What Factors Explain Why Black Individuals Are More Likely than White Individuals to Receive Confinement Sentences that Are Either Below the Sentencing Guidelines or Within the Mitigated Range?
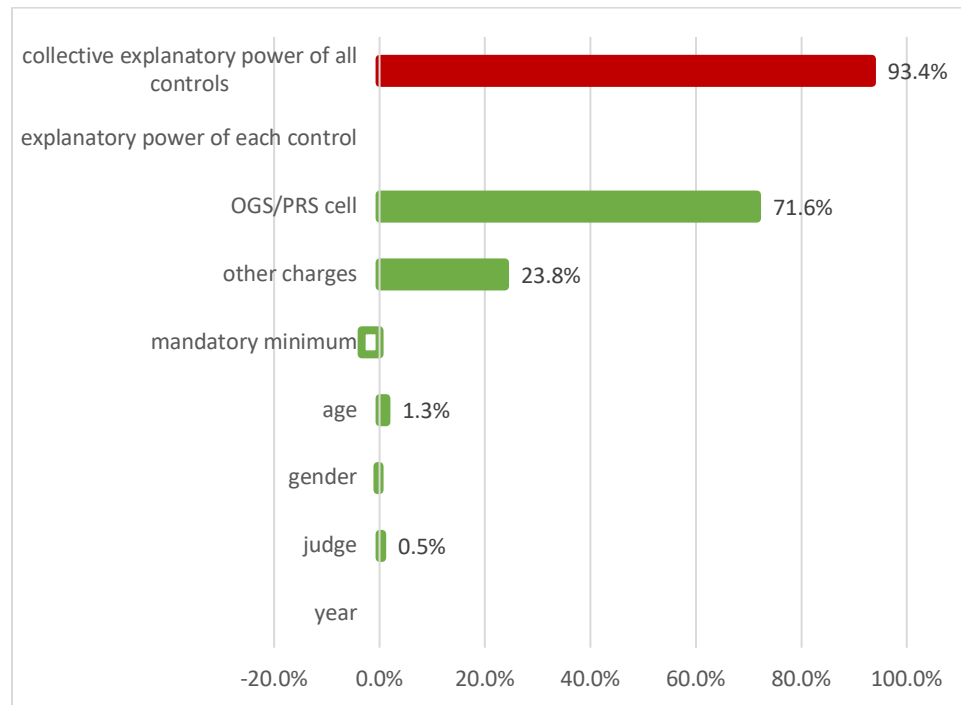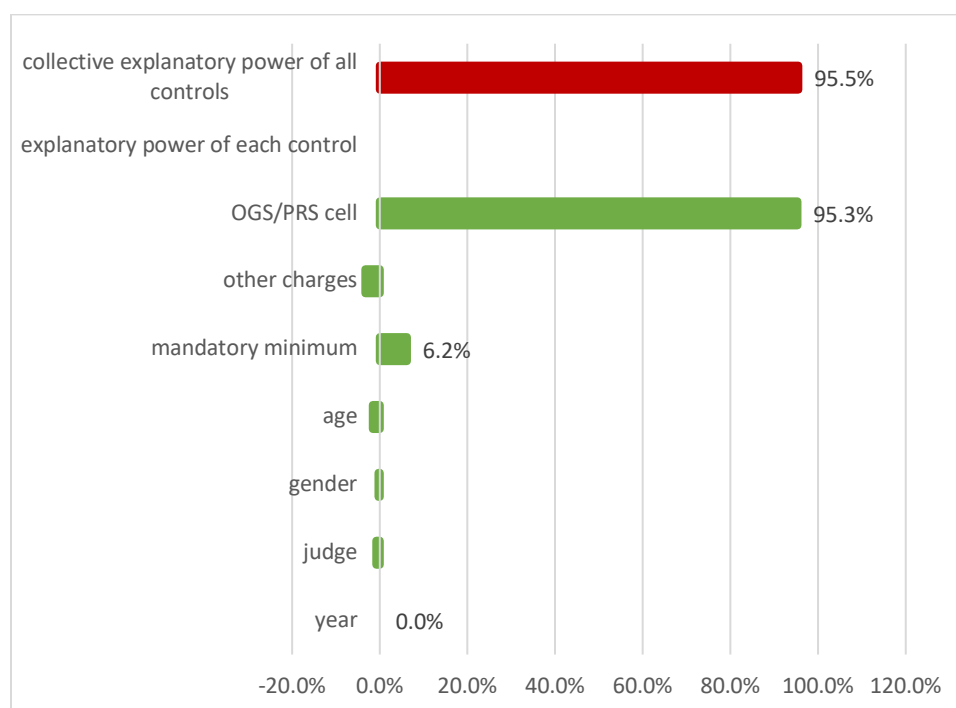

NOTE: Analyses include all criminal cases filed between 2017 and 2019 that resulted in convictions in standard Common Pleas court and that could be merged to the Pennsylvania Commission on Sentencing data; in instances where an individual has multiple cases being adjudicated simultaneously, only the case with the most serious punishment is retained (n = 7,320).If a percentage is positive, the percentage reveals how much the racial disparity in receiving a sentence that is either below the guidelines or in the mitigated range would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: OGS/PRS cell, other charges, mandatory minimum, and age. The unexplained disparity is significant.

for the dominant conviction charge (which determines the recommended sentence), the grade of other (nondominant) conviction charges, whether a mandatory minimum was present on a convicted charge, age, gender, Common Pleas judge, and year of filing. The results indicate that almost all of this disparity is explained, and it is primarily explained by the specific OGS-PRS combination for the individual's dominant conviction charge. To understand how this can explain the disparity, it is important to consider the structure of the sentencing grid. Individuals who have low OGS and PRS values are in a section of the grid where the recommended sentence is 0 months, and it is thus not possible to assign those individuals with a sentence that is below the standard range. However, for individuals who have higher OGS and PRS values, they will fall in a section of the sentencing grid that can have significant recommended minimum sentences, and, therefore, there is room for an assigned sentence to fall below the minimum. Black individuals are more likely to have higher OGS/PRS combinations, and thus it is easier for them to receive a sentence that falls below the recommended range; on the other hand, White

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individuals tend to have lower OGS/PRS combinations and thus it is much harder for them to receive a sentence that falls below the recommended range. Thus, the reason Black individuals might appear to be getting a more lenient treatment here is because of where they fall in the sentencing grid. This fact pattern indicates that the real question should be as follows: Conditional on being in the *same* OGS/PRS cell of the sentencing grid, are there racial disparities in who receives a sentence that is below the guidelines? The results from Figure 5.15 indicate that, once disparities within a cell are examined, the results indicate that Black and White individuals are almost equally likely to receive a sentence that falls either below the recommended range or in the mitigated range.[108]

Collectively, the results presented above indicate that, once the proper set of covariates are controlled for, there are no remaining racial disparities present at the sentencing stage of the court process. This is exactly the same conclusion that the main analyses in this chapter came to. Note that this does not mean that there are no disparities that occur at the sentencing stage, just that they are primarily caused by racial differences in the specific cell of the sentencing grid a case falls into (i.e., the OGS/PRS combination).

Conclusion

There are two main conclusions that result from the stage-by-stage analysis of racial disparities in the court process that was conducted in this chapter. As the conclusions have different policy implications, they are discussed separately below.

The first conclusion is that Black individuals are more likely than White individuals to receive the most punitive outcome at every stage of the court process. Table 5.3 summarizes the key substage results corresponding to these outcomes that was presented in this chapter, which found that Black individuals were more likely than White individuals to have their charges held for court on a felony charge, more likely to have their case adjudicated in standard Common Pleas court, more likely to be convicted of a felony, more likely to receive a confinement sentence, and more likely to receive a longer confinement sentence.

The fact that Black individuals end up with more punitive outcomes in the criminal court process is primarily explained by the fact that, at the time of initial filing, they are charged with higher-grade crimes on average than White individuals, as well as charged with crime types that are viewed to be more serious (person and weapons). These factors, combined with the way the court-processes work to transform these initial charges to a final outcome, result in Black individuals receiving more punitive outcomes at the court stage than White individuals do. This

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[108] Note that racial differences in the presence of a mandatory minimum also explains 5% of why Black individuals are more likely to receive a sentence that is below the recommended guidelines. This primarily occurs because White individuals are more likely to have sentences that carry a mandatory minimum (due to the fact they are more likely to be convicted of a DUI), and mandatory minimums usually inhibit the ability to assign a sentence that is below the recommended range.

means that the policies that are currently in place at the court stage can have an important impact on the resulting racial disparities, and it is thus important to consider whether case characteristics are being treated in a way that is commensurate with their risk to public safety. For example, among those convicted on a criminal charge, Black individuals on average have a higher OGS/PRS than White individuals, and this is why they are assigned longer sentence lengths. However, it is important to examine the sentencing guidelines to ensure that the penalty attached to higher OGS/PRS combinations is commensurate to the situation, as reducing the size of this penalty would reduce racial disparities. Although the sentencing guidelines have been revised, they will not take effect until January 1, 2024, and thus the impact that these new guidelines will have on racial disparities at the sentencing stage will not be known for some time. However, given that increases in the OGS and PRS values are still met with sizable increases in recommended sentences, the new guidelines indicate that the same issue that was relevant under the old guidelines is likely to still be relevant under the new guidelines. Furthermore, the new guidelines seem to assign a higher OGS for weapons offenses than for other offenses that might be deemed just as dangerous, which will disproportionately affect Black individuals (who are more likely to be charged with a weapons offense).[109] Given these potential issues, it would be useful to conduct an in-depth study on how the sentencing guidelines are contributing to racial disparities to determine whether it is possible to make further revisions.

Table 5.3. Substage Racial Disparities that Result in Black Individuals Moving Deeper Into the Criminal Court Process

	Cases Involving White Individuals	Cases Involving Black Individuals
Among those with charges filed, whose case is held for court on a felony charge?	12%	21%
Among those with charges held for court, whose case is adjudicated in standard Common Pleas court?	37%	60%
Among those with cases sent to standard Common Pleas court, who is convicted of a felony?	18%	28%
Among those convicted in standard Common Pleas court, who receives a confinement sentence?	27%	36%
Among those sentenced to confinement in standard Common Pleas court, what is their sentence?	7.7 months	13.1 months

The sentencing guidelines are just one example of an important policy that should be examined at the court stage; plea deals also play an extremely important role in the court process,

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[109] For example, carrying a firearm when you are a person not to possess one is assigned an OGS of between 15 and 18, while involuntary manslaughter is assigned an OGS of 10, possessing a weapon of mass destruction is assigned an OGS of 10, and burglary with a person present is assigned an OGS of 13 (see https://pcs.la.psu.edu/guidelines-statutes/sentencing/comprehensive-review-of-sentencing-guidelines/).

but there is no visibility on the terms that are offered. It would thus be important to collect data on plea deal terms (which is discussed in more detail at the end of this chapter) and examine whether the terms that are being offered are commensurate with the public safety risk posed by individuals. It would also be important to examine whether there are racial disparities in plea deal terms and identify why those disparities exist—that is, is it because of racial differences in risk factors or are there unexplained disparities that could reflect disparate treatment?

Currently, ARDs are the main diversion option in Allegheny County, but this pathway predominantly ends up handling DUIs, which is a crime that disproportionately affects White individuals. As a result, Black individuals are much less likely to have their case adjudicated through this pathway than White individuals. Given that eligibility criteria for ARDs is primarily determined by state statute, it is important for state lawmakers to consider whether the criteria for ARDs can be expanded to allow for more offense types as well as relax some of the criminal history criteria. Further, many system professionals noted that the $250 fee that is required for individuals to enter the ARD program may disproportionately exclude Black individuals, and thus it was recommended that this fee be waived.

In addition to the above recommendations, system professionals also suggested a couple additional policies. Although state lawmakers control the criteria for ARDs, the county can develop other diversion programs that could potentially handle weapons and persons offenses, which are crimes that Black individuals are disproportionately charged with and that typically are required to be adjudicated in standard Common Pleas court. System professionals indicated interest in considering the feasibility of developing a problem-solving court for weapons offenses[110], as well as a court that would focus on emerging adults (typically defined as age 25 and younger).[111] Given that individuals aged 25 and younger are much more likely to be Black than White individuals, a court for emerging adults could potentially have an important impact on reducing racial disparities. Proponents of these courts noted they needed to operate as diversion programs, rather than courts which require individuals to plead guilty to a charge upon entry. San Francisco's Young Adult Court provides a potential example of how an emerging adult court could be run—it offers diversion to individuals between 18 and 25 years old and prioritizes young adults charged with serious felony offenses.[112]

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[110] Development Services Group, Inc. 2010. "Gun Court." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. https://www.ojjdp.gov/mpg/litreviews/Gun_Court.pdf

[111] Stein, Jillian, Katie Bodenlos, Armando Yanez, Johanna Lacoe, and Jillian Berk. Detour to opportunity: A guide on young adult diversion from the criminal justice system. Submitted to the U.S. Department of Labor. Washington, DC: Mathematica Policy Research, August 2017. There are different types of gun courts in operation, including (1) those that focus on providing diversion for first-time juvenile offenders and (2) those that focus on instituting expedited and harsh punishments for adults. Proponents of these policies in the county were in favor of the first type.

[112] See Henderson-Frakes, Sengsouvanh Leshnick, and Hannah Diaz, "An Evaluation of San Francisco's Young Adult Court: Findings on Planning and Early Implementation," May 2017, available at: https://sf.courts.ca.gov/system/files?file=yac-interim-report_05252017.pdf

The Clean Slate law in Pennsylvania allows summary and most misdemeanor convictions to be sealed from public view after ten years have passed since the most recent conviction.[113] However, these convictions are still used to calculate an individual's PRS; system professionals suggested that this policy could be expanded such that if the record was sealed, it would no longer count toward the PRS. The results in this chapter indicated racial differences in the PRS did contribute to racial disparities in sentencing outcomes, and thus policies that reduce PRS differences will be helpful. However, the degree to which this will happen depends on how felony convictions are handled. Table 4.2 indicates the biggest difference in criminal history is with respect to the presence of prior felony convictions, which implies that policies that allow certain (e.g., low-level) previous felony convictions to be removed from consideration in the PRS might be more impactful in reducing racial disparities in court outcomes.[114]

The second conclusion from the results presented in this chapter is that, at certain substages of the court process, Black individuals are more likely than White individuals to have their cases closed without conviction. Table 5.4 summarizes the results relevant to this that were shown in this chapter—the results show that Black individuals are more likely to have their cases closed without a conviction at both the preliminary hearing stage and among the cases that are adjudicated in the standard Common Pleas court. The implications of this conclusion depend on precisely why this pattern of results is present. Unfortunately, it is not possible to definitively determine why this pattern of results is present because information is not kept on the reasons that cases are closed without a conviction. The results indicate that racial differences in victim participation may play a role; however, the results are also suggestive that too many Black individuals were likely having charges filed against them. Put another way, if similar standards of evidence were being used to file charges against Black and White individuals, one generally might expect that the percentage of cases that are dropped at the court stage to be relatively equal for both racial groups. The fact that Black individuals are more likely to have their cases closed without conviction implies they might have been overcharged at the time of initial filing. Although these results imply that the court is reversing some of this potential bias, it is not possible to determine whether they are fully reversing all of the bias, because it is possible that even more cases should have been dropped at the court stage. Furthermore, the fact that these cases are getting disproportionately closed at the standard Common Pleas court level indicates that the system professionals handling these cases at the lower court might have allowed a case to move on that the higher court did not feel was suitable.

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[113] See https://mycleanslatepa.com/sealing/.

[114] The research team was not provided with information as to the current number of cases that have been sealed, so it is not possible to ascertain how much this recommendation might reduce disparities by. A useful first step would be for the county data analysts to examine how many people in each racial group might be affected by this recommendation, and how this might vary by the criminal history criteria that is included.

Table 5.4. Substage Racial Disparities Where Black Individuals have Better Outcomes than White Individuals

	Cases Involving White Individuals	Cases Involving Black Individuals
Among those with charges filed, who had their case closed without conviction at the preliminary hearing?	19%	27%
Among those with cases sent to standard Common Pleas court, who is not convicted on any charge?	17%	22%

Finally, throughout this chapter, several instances emerged in which the most-recent collected data did not allow for the most-optimal and complete analysis. The additional data that will be useful to have for future iterations of this analysis include the following:

- **Identify why cases are closed without conviction.** As noted earlier, understanding why cases are closed without conviction is crucial to identifying what the implications are for Black individuals being more likely than White individuals to have this event happen. At a minimum, a drop-down menu could be added to the case-management system with the following options for why a case is closed: Judge determined no probable cause, prosecutor determined evidence not sufficient to move forward with the case, case closed because deal worked out with individual, or case closed because victim would not participate.

- **Ability to track plea deal terms.** Nothing is known about the various plea deal terms that are proffered by both the defense and the prosecution. As noted earlier, it would be useful to understand the inherent penalties these plea deals attach to various characteristics that are correlated with race, including charge type and severity, and criminal history. Given that the Phoenix Court offers relatively standard plea deals, system professionals noted that these terms could be made available. For other adjudication pathways, system professionals noted that the fluid, back-and-forth motion of these plea deals that tend to happen in verbal conversations make them difficult to capture in data. However, both the prosecution and defense could each note down their first offer and their last offer. Note that if a plea deal was executed, the last offer would be the case disposition. However, if the case went to trial, this last offer would be necessary to record.

- **Ability to track who is offered an ARD and the reasons an individual turns down an ARD.** The data indicate only whether the case is adjudicated via an ARD, which means the individual both was offered and accepted this option. The results indicate there are racial differences in who receives an ARD. To better parse out why this might occur, it would be useful to understand whether the difference is driven by racial differences in who is offered an ARD or by racial differences in who accepts an ARD. If the difference is being driven by who accepts an ARD, having information on the declination reason would be useful to understand why there are racial differences in declination rates.

Chapter 6. Racial Disparities in Probation Outcomes

This chapter examines racial disparities in detainers (temporary holds in jail) and revocations (resentencing) among those serving probation. For all analyses presented throughout this chapter, the starting sample consists of all Black and White individuals who served a probation sentence that began between 2017 and 2019, and was scheduled to be completed by the end of 2019.[115] The analysis includes individuals who were sentenced only to probation and individuals who served some or all of their probation sentences on electronic monitoring. The starting sample includes 9,285 individuals and tracks the events that occur during each individual's initial probation sentence, which is defined as the probation sentence laid out by the judge at the sentencing hearing. This probation sentence is defined as the initial probation sentence to contrast it with the fact that some of these individuals may have their probation revoked, resulting in them being under supervision for a longer period than this initial sentence. Black individuals comprise 42% of this starting sample and White individuals comprise 58%. Appendix E provides more details on the construction of this dataset.

The chapter begins by discussing the way the probation process is designed to operate according to official policies, detailing how it is determined which unit will supervise individuals and what is required of them, as well as how revocation and detainer decisions are made. Results from the quantitative analyses are then presented that indicate that Black individuals on probation are twice as likely as White individuals on probation to be issued a detainer for a new charge. The remainder of the chapter examines why this disparity in detainer rates for new charges might be occurring.

The Probation Process

The terms of an individual's probation sentence are determined by both the court and the Probation Department. The court will decide the length of the probation sentence and many of the conditions the individual must satisfy while on probation, although these terms are commonly determined during plea negotiations between the prosecutor and defense attorneys. All individuals on probation are required to obey local, state, and federal laws; not possess a firearm; pay restitution, fines, costs, and supervision fees (if required); not travel outside the state without permission, not use or possess any controlled substances; and be subject to random drug

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[115] Although this naturally skews the analysis toward only including those with shorter probation stints, almost 90% of individuals sentenced to probation are sentenced to a term of two years or less. Earlier iterations of this analysis included individuals who had a probation stint begin between 2010 and 2019, and end by 2019. The central results found with that sample are markedly similar to the results presented here. This chapter elected to focus on stints between 2017 and 2019 primarily because stakeholders preferred that the analysis reflect a more recent period.

and alcohol testing.[116] In addition to those general requirements, the court can also levy additional conditions, such as: attending meetings or programs; completing community service; having a drug and alcohol evaluation; having a mental health evaluation; regular drug testing; and having no contact with a victim in the case.

Figure 6.1 presents information on the specific type of probation supervision individuals in the starting sample were assigned to. For some individuals, the type of probation supervision they are assigned to is determined by their court sentence—this includes those serving their probation sentence though one of the seven specialty courts, as well as those who were sentenced to at least some period of electronic monitoring. Many of the specialty courts (which were described in more detail in Chapter 5) allow individuals with qualifying charges the option to avoid jail time in exchange for pleading guilty and receiving a predetermined probation sentence that is typically very treatment based, and usually longer than the jail time they would have served. Each specialty court has a specific set of probation officers assigned to monitor the individuals within that court; court participants will also have regular check-ins with the Common Pleas judge overseeing the court. About 3% of the sample served their probation sentence through one of these courts.

Figure 6.1. The Supervision Level of Individuals on Probation
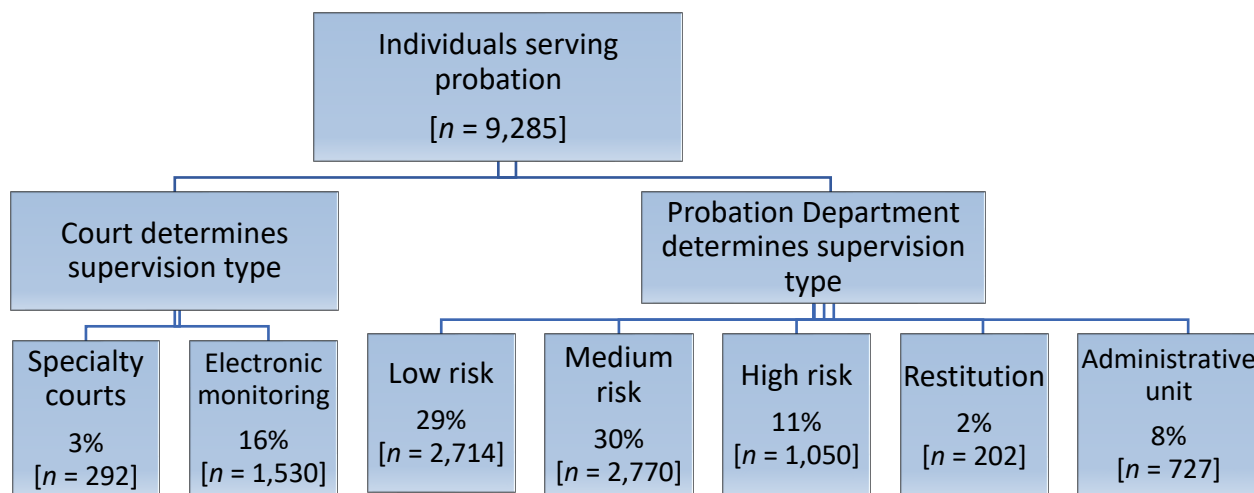
NOTE: Analyses include probation sentences that began between 2017 and 2019, and were scheduled to be completed by 2019 (*n* = 9,285 individuals).

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[116] https://www.alleghenycourts.us/criminal/departments/adult-probation/rules-of-probation/

About 16% of the probation sample are assigned a period of electronic monitoring as part of their probation sentence. Electronic monitoring, which is synonymous with house arrest, allows individuals to only leave their house to go to work, treatment, church, and other similar necessities. The Probation Department has a designated unit of officers who monitor individuals assigned to electronic monitoring. These officers typically check in with the individuals they are monitoring weekly, and are automatically notified whenever the individual leaves their house without authorization. A significant fraction of individuals in this category are only required to serve part of their probation sentence on electronic monitoring.[117] Once they transition off, the Probation Department will determine the level of supervision they receive for the remainder of their sentence. This process is discussed in more detail below.

For the individuals who are not assigned to either a specialty court or electronic monitoring, the Probation Department will determine their supervision level at the time of probation intake.[118] To assist with this step, the Probation Department computes a proxy score for each individual at intake. The proxy score is based on a calculation of the individual's risk with respect to three factors, each of which has a point range: (1) the current age of the individual is scored on a scale of 0 to 2; (2) the age at first arrest is scored on a scale of 1 to 3; and (3) the number of prior arrests is scored on a scale of 1 to 3. These three scores are then summed; each individual's score will be an integer from 2 to 8. Individuals with proxy scores of 2, 3, or 4 are considered low risk, while those with a proxy score of 5 or 6 are considered medium-risk, and those with a proxy score of 7 or 8 are considered high risk.[119]

Individuals with a proxy score that classifies them as low risk are monitored by the low-risk unit within the Probation Department. Figure 6.1 indicates these individuals as 29% of the sample. Probation officers within this unit typically visit with these individuals at the beginning of their sentences but do not check in with them after that unless issues arise. There is very little in-person supervision of these individuals. These individuals are typically monitored to make sure they are completing their court-ordered conditions, but they are otherwise left alone.

Individuals whose proxy score categorizes them as medium risk are each assigned to one of five field offices based on where they live within the county. Individuals categorized as high risk are assigned to these same field offices, although they are monitored by special high-risk probation officers who work within each field office. Figure 6.1 indicates that individuals on medium-risk supervision and high-risk supervision comprise 30% and 11% of the sample, respectively. Probation officers typically check in with individuals categorized as medium risk once a month, and check in with individuals categorized as high risk once or twice a month.

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[117] For individuals who are assigned at least some electronic monitoring, about one-quarter of their total probation sentence is spent on electronic monitoring.

[118] Sometimes this assignment takes place slightly after intake.

[119] The proxy score risk calculation worksheet is available in Appendix D of Cissner, Amanda, Ashmini Kerodal, and Karen Otis, "The Allegheny County Mental Health Court Evaluation: Process and Impact Findings", Center for Court Innovation, December 2018.

These visits are conducted in person and typically occur at the individual's home. During the visits, the probation officer checks on whether the individual is following both that person's court-ordered conditions and probation case plan, which is discussed below.

All individuals categorized as medium or high risk are administered the Level of Service Inventory-Revised (LSI-R), which is an instrument that identifies an individual's criminogenic risk factors. The individual's assigned probation officer will work with the individual to develop a case plan to address these factors. The case plans and court-ordered conditions often involve participating in programs that can be accessed at the community resource centers run by the Probation Department.

Two percent of individuals on probation are supervised within a unit that only monitors restitution payments. These individuals are generally considered to be low risk. The remaining 8% of individuals are monitored through what is referred to here as administrative units within the Probation Department. Individuals in this group were assessed to need specific programming and treatment options often related to alcohol, domestic violence, or mental health. These individuals were not admitted to the specialty courts but do still receive more specialized supervision.

As discussed above, individuals on probation are subject to various conditions. People are instructed that if they satisfy all of these conditions for the sentence period assigned by the court, they will successfully complete probation. However, many individuals are cited with violating the conditions of their probation sentences; the process for adjudicating these violations is outlined in detail below.

Probation Violations and the Revocation Process

Figure 6.2 outlines the process that occurs once the Probation Department cites an individual with a violation. The two main reasons why an individual might be cited with violating their probation include being charged with committing a new crime, or not following their court-ordered conditions, which often include completing programming, treatment, community service and/or paying restitution.[120] Although the general process is the same regardless of the alleged violation, the timing of the various hearings will depend on whether the alleged violation occurs because of a new crime charge or a violation of their conditions. The discussion below thus walks through the process first for those cited for violating their conditions, and then notes how the process is different for those charged with a new crime.

If a probation officer determines that an alleged noncompliance with a probation condition warrants citing an individual for a violation, they will discuss the situation with their supervisor,

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[120] The Probation Department noted that it rarely violates individuals if the only transgression is not following the case plan that was developed for an individual based off that person's LSI-R score. Individuals also are not supposed to be violated if they cannot pay court costs or fees, although they will be cited for a violation if they cannot pay restitution. (Note that the term *violate* refers to being "cited for a violation." This is conventional terminology in the field.)

who will make the final decision on whether to cite the individual. This decision will depend on whether the Common Pleas judge who originally sentenced the individual to probation (who will also be responsible for handling any alleged probation violations) expressed any preferences on what types of infractions should lead to a violation. If the Common Pleas judge has not specified how they want a given violation handled, whether or not an individual is cited for a violation because of a given infraction will be left up to the probation officer and their supervisor. Each supervisor oversees a different office, and thus practices can vary by office. Some supervisors may want to violate an individual after missing one restitution payment, while supervisors at other offices will only cite an individual with a violation after they have missed six payments.

Figure 6.2: Process to Resolve Alleged Probation Violations
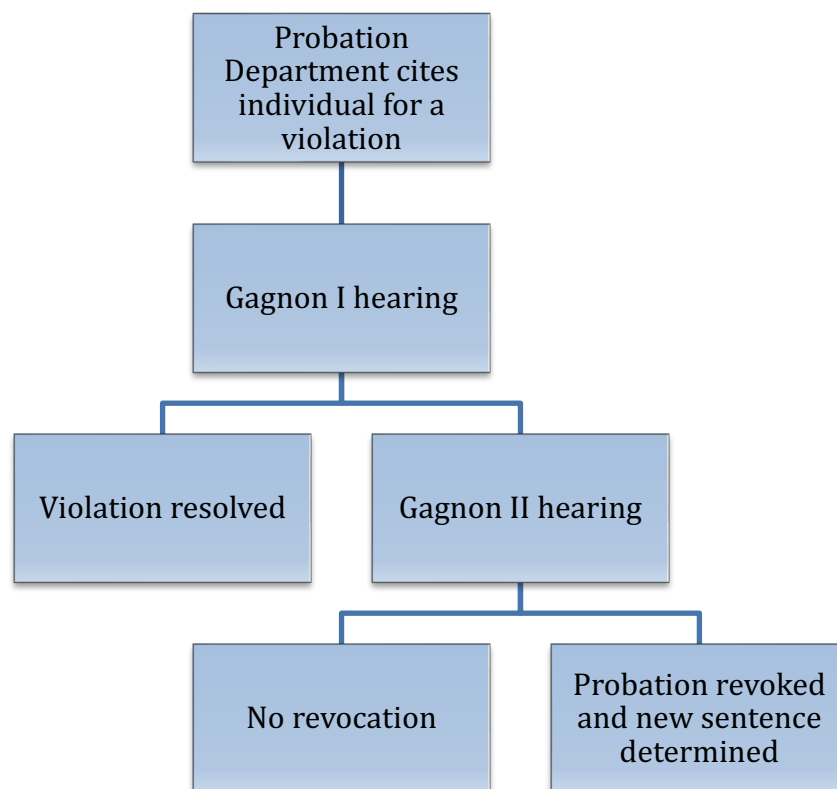
If the Probation Department makes the decision to cite an individual for a violation, a Gagnon I hearing is scheduled.[121] The Gagnon I hearing typically takes place in an office in the courthouse in front of a hearing officer, who is a manager in the Probation Department.[122] This

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[121] A Gagnon I hearing is a probable cause hearing by a probation or hearing officer. A Gagnon II hearing is a fact-finding hearing by a Common Pleas judge. See https://www.parole.pa.gov/Parole%20101/PD/Pages/E---H-Definitions.aspx

[122] If a detainer has been issued, the Gagnon I hearing will occur in the jail. Detainers will be discussed in the next section.

hearing is often thought of as an opportunity to reengage with offenders who are not complying with their probation sentence. During the hearing the individual will be made aware of what they are being cited for, as well as what the disposition plan will be. The Gagnon II hearing, which is a hearing in front of the Common Pleas judge where an official revocation decision will be made, can either be scheduled right away, or the scheduling of the Gagnon II hearing can be delayed for 90 days, which will give the individual an opportunity to come back into compliance with the conditions of their sentence. If they continue to not comply, the Gagnon II hearing will be scheduled. If they do comply, the Gagnon II will not be scheduled, and the individual will not be penalized.

The Gagnon II hearing takes place in front of the Common Pleas judge who originally sentenced the individual to probation. A representative from the public defender's office will also attend the hearing. An individual from the Probation Department's court liaison unit will represent the department at the hearing. Although the probation officer does not attend the hearing, they do write up a report which discusses the violation, and make a recommendation as to whether they think the probation sentence should be revoked and what the new sentence should be. Although the Probation Department noted that Common Pleas judges will mostly take into account the probation officer report when deciding on whether to revoke the individual's probation sentence, they can take into account other information about the defendant, such as their criminal history. If the Common Pleas judge makes the decision to revoke the original sentence, they will need to decide on a new sentence. Options include adding conditions onto the original sentence, sentencing the individual to jail time, or issuing a new probation sentence. If the Common Pleas judge sentences the individual to jail time, the sentencing guidelines will apply (see Chapter 5 for more details on the role of the guidelines in sentencing decisions). The only constraint on a new sentence is that it must be within the confines of the sentencing guidelines. Individuals do not get credit for any of the probation sentence they have already completed, so the Common Pleas judge can sentence them up to the maximum allowed for by the guidelines.

Note that the probation office yields significant discretion over when to cite an individual for a violation once they observe noncompliance with probation conditions. For example, if the individual is not completing programming but it is still early in their sentence, the probation officer often will continue to work with the individual to satisfy these conditions before they cite them for a violation. The Probation Department may wait until closer to the end of the original probation sentence to cite an individual for a violation so that the eventual Gagnon II hearing will encompass the entirety of what the individual did or did not do during their supervision period. In qualitative interviews, numerous system professionals acknowledged that probation officers are given a high degree of discretion when making decisions about probation violations, and noted that this was intentional and generally viewed as positive. As one system professional observed: "The probation officer has a lot of discretion as to what they feel the offender would need to continue to be successful on supervision. . . . We like to give the officers that discretion."

When an individual is charged with a new crime while they are on probation, the severity of the charge will determine whether the Probation Department will cite an individual for a violation. In particular, probation will not cite individuals for a violation if they are only charged with a summary-level offense. In situations where a new charge does lead them to be cited for a probation violation, the Gagnon II hearing is typically not scheduled until the new charges are resolved. Ideally, the Common Pleas judge who is handling the new charges will also be the same judge who is overseeing the Gagnon II hearing. The policy is that the Gagnon II hearing should be scheduled back to back with the sentencing decision on the new charge such that the individual learns the decision on both cases at the same time. However, system professionals noted that this does not happen much in practice and there can often be a few months in between when the new charges are adjudicated and when the Gagnon II hearing occurs. If individuals are in jail on a detainer during this period (discussed in detail below), this time lag can result in them spending additional time in jail.

Probation Detainers

Certain probation violations will trigger detainers, whereby an individual is held in jail until at least the Gagnon I hearing. The primary way in which individuals are issued a detainer occurs when they are arrested on new charges. [123] The detainer process in this setting is thus discussed first, and then this discussion is extended to the other ways in which detainers can be issued at the end of this section.

The Probation Department is informed any time an individual on probation is arrested on new charges, as a conviction would constitute a violation of their current probation sentence. Once the Probation Department is informed of the new charges (which occurs shortly after arrest), they will need to decide whether to detain the individual. Figure 6.3 walks through what this process entails. The individual's probation officer will make the initial decision on whether to detain the individual, although any decision to detain will have to be approved by their supervisor. This decision to detain is based on whether they perceive the individual would be a threat to community safety if they remained out of jail while their new charge is adjudicated and a violation hearing is held.

If the individual is detained, the Gagnon I hearing must occur within one week. At the Gagnon I hearing, which occurs in the jail, the hearing officer will decide on whether the detainer can be lifted, or whether it needs to remain in place until the Gagnon II hearing. In this situation, the Gagnon II hearing will typically not be scheduled until the new charges have been resolved, which could be one year later. At the Gagnon II hearing, the detainer will be lifted, and the Common Pleas judge will need to make a decision on whether the individual's probation sentence will be revoked and what the new sentence will be.

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[123] Note that this detainer decision is separate from the preliminary arraignment process for this new charge.

Figure 6.3. Detainer Process When New Charges Are Filed

Individual charged with new crime while on probation

No detainer issued

Detainer issued

Gagnon I hearing occurs in jail

Detainer lifted

Remain detained (often until new charges resolved)
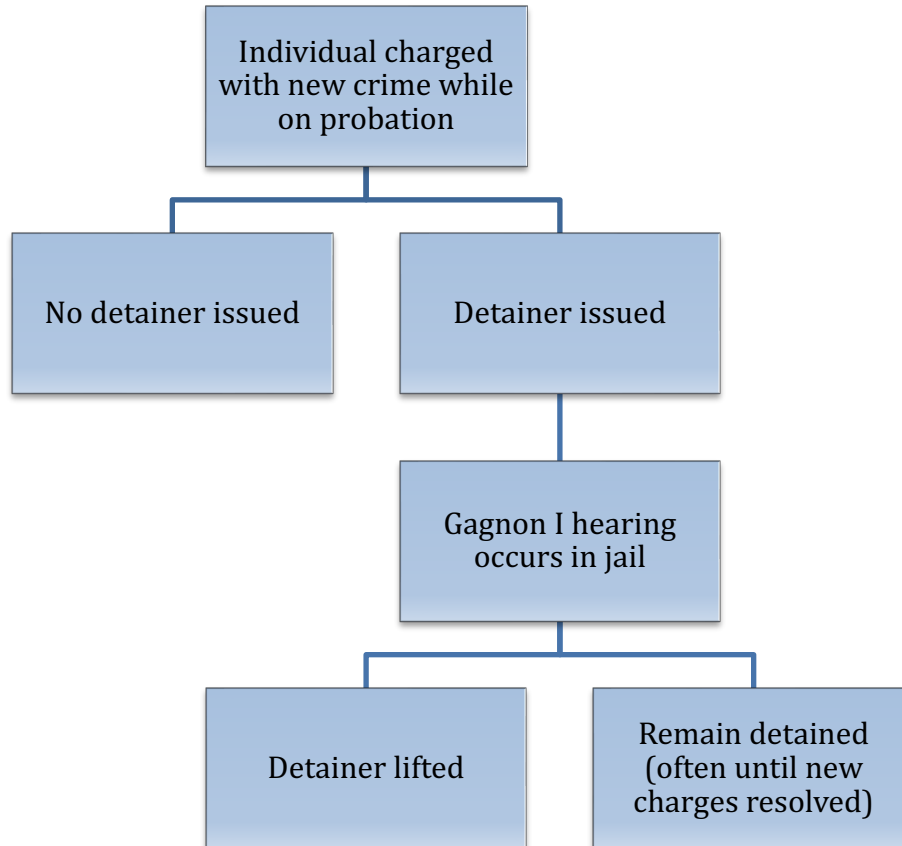
Although many individuals are detained until their new charges are resolved, there are several ways in which a detainer might be lifted at the Gagnon I hearing. If the defense attorney can argue that the new charges are likely to be pled down to something less serious, the hearing officer may make the decision to lift the detainer. For example, when the new crime is a DUI, the individual might be offered the chance to go to treatment in lieu of being detained. It is also possible that the detainer may be lifted and the individual will be put on house arrest instead.

A variety of factors are considered at both the initial detention decision, and the subsequent Gagnon I hearing, when determining whether an individual who is charged with a new crime is likely to be a risk to public safety. Probation staff noted that the primary candidates for detainers are those whose new arrest charges involve violent felonies, although they can (and do) detain on other types of charges.[124] Beyond the severity of the new charge, probation staff and hearing officers will also take into account what they consider to be the individual's general risk level, which involves considering their criminal history and their supervision level. They will also take into account whether the individual has generally been in compliance with their probation

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[124] For example, some view the crime possession with intent to distribute as one that involves violence, while others view it as one that does not affect community safety.

sentence up until that point, victim concerns, number of pending cases, potential treatment needs, whether they had open warrants, willingness to engage with their probation officer, whether they are a caretaker for their child or are the sole provider for their family, and their stability, which probation staff defined as whether they have a place to live, a job, and someone to help them. Finally, in certain situations the Common Pleas judge will have expressed preferences that will cause a detainer to be issued. For example, if an individual is a participant of the DUI court, a new DUI charge will lead to an automatic detainer. Further, some Common Pleas judges will want to be asked permission before someone is detained. The official detainer policy is to detain individuals who are perceived to be a threat to public safety, but there are no cut-and-dry rules for the specific factors that precisely define when this occurs. Therefore, probation staff have a reasonable amount of discretion when making detainer decisions.

There are two other main ways in which an individual can be issued a detainer beyond being charged with a new crime. If the probation officer cannot get in touch with the individual, a warrant may be put out for that person's arrest. Upon arrest, the individual will automatically be detained. Probation staff noted that, depending on the circumstances, they typically try to lift the detainers in these situations at the Gagnon I hearing. For example, if the individual changed addresses, the staff would verify the new address and lift the detainer. Or if the individual lost housing, staff would try to help the individual find housing and lift the detainer. Another reason for which individuals can be detained is if they do not pass a required drug or alcohol test. These individuals often are offered treatment options at the Gagnon I hearing, which would allow the detainer to be lifted. Probation staff noted that no one should be detained for not paying court costs, fines, or restitution.

Racial Disparities in Probation Outcomes

Table 6.1 examines whether there are racial disparities in the two key probation outcomes—detainer rates and revocation rates—using the full sample of 9,285 individuals. The outcomes correspond to whether the event in question happened during the individual's initial probation sentence, which is defined as the time that the court sentenced them to serve for probation at that person's sentencing hearing. The first row of Table 6.1 examines racial disparities in probation revocation rates. The results indicate that 7.2% of Black individuals on probation have their initial probation sentence revoked, while 5.2% of White individuals do.

The remaining rows of Table 6.1 focus on detainer outcomes. The first detainer outcome considered—"Any detainer issued"—indicates Black individuals are more likely than White individuals to receive a detainer (for any reason) while on probation. In particular, 14.9% of Black individuals are detained at least once while serving their initial probation sentence, as compared with 9.6% of White individuals. The next three rows of Table 6.1 examine which types of detainers drive this racial disparity. There are no practically large racial disparities in detainers issued for failures to appear or for other reasons (which primarily reflects detainers for

not passing drug and alcohol tests). Instead, the overall racial disparity in detainer rate is being driven by the racial disparity in who is issued a detainer for a new charge, as Black individuals receive these types of detainers at twice the rate that White individuals do.

Table 6.1. Racial Disparities in Probation Outcomes

	White Individuals	Black Individuals
Revocation outcomes		
Probation sentence revoked	5.2%	7.2%
Detainer outcomes		
Any detainer issued	9.6%	14.9%
Detainer issued for new charges	5.5%	11.0%
Detainer issued for failure to appear	1.3%	1.4%
Detainer issued for other reason	3.8%	3.5%
Average days per detainer for new charge (if at least one issued)	126.8	165.1
Average days per detainer for failure to appear or other reason (if at least one issued)	73.3	69.6

NOTE: Analyses include probation sentences that began between 2017 and 2019, and were scheduled to be completed by 2019 (n = 9,285 individuals).

The last two rows of Table 6.1 examine how long the average detainer of a given type is for Black and White individuals. Among those serving a detainer for a new charge, Black individuals serve almost 40 more days. Furthermore, the general level is also quite high, as each instance of a new crime detainer results in a Black individual serving more than five months in jail on the detainer on average. In contrast, the time spent in jail for the other types of detainers is about half relative to a new crime detainer, and there are no racial disparities that disadvantage Black individuals for these other types of detainers.

Overall, the results in Table 6.1 indicate that being issued a detainer for a new charge is the outcome that exhibits the largest racial disparity. This disparity is also likely to have a significant impact on individuals as the average new crime detainer results in a substantial time spent in jail. For these reasons, the remainder of the analysis in this chapter focuses on explaining what is driving the disparity in new charge detainer rates. Although the disparity in revocation rates is significant, and the outcome of a revocation can have an important impact on individuals, the data that is currently collected does not allow for a thorough analysis of what is causing the disparity in revocations. Revocations can occur both because of new charges, but also because individuals are not following court-ordered conditions. There is no objective data that is collected regarding the extent to which individuals are following court-ordered conditions.

Instead, the data only notes when an individual has been cited for not following a condition. The data thus identify who was cited for violating a condition, but does not identify whether there were other individuals who violated their conditions that were not charged. The structure of this set-up makes it extremely difficult to identify why Black individuals were more likely to have their sentence revoked, and thus the analyses presented in this chapter did not investigate disparities in the revocation outcome. If more objective data had been provided on the extent to which individuals were following their conditions, a more in-depth examination of what might be causing disparities in revocation rates could have been conducted.

What Explains the Racial Disparity in Detainer Rates for New Charges?

The earlier discussion of the detainer process indicates there are many factors that are considered when detainer decisions are made. Racial disparities in detainer rates for new charges can occur because there are racial differences in these characteristics, or because individuals with the same characteristics are being treated differently. To provide more context on the impact that racial differences in characteristics might have in explaining the new charge disparity rate, this section first presents statistics regarding what these differences are. Next, results from analyses are presented which identify both the collective role racial differences in characteristics play, as well as how much each individual characteristic explains of the racial disparity. The methodology behind all of the analyses presented in this section is explained in detail in Chapter 2 and Appendix A, and thus the discussions in this chapter mainly focus on the interpretations of the results. In Appendix E additional details are presented on why the specific analytic strategy used here was chosen; the appendix also presents more detailed information on the exact control variables accounted for in the analyses.

Differences in Characteristics Between Black and White Individuals

Tables 6.2 and 6.3 present information on the racial differences in characteristics for the full sample of 9,285 individuals. Table 6.2 includes characteristics that are determined before the start of the individual's probation sentence, while Table 6.3 focuses on characteristics that are determined at the time of probation intake or later. Information on how these variables were constructed is available in Appendix E.

Collectively, Tables 6.2 and 6.3 indicate that Black individuals on probation are more likely than White individuals on probation to be charged with a new offense, and the severity of this new charge is higher. Black individuals also have histories of being charged with and convicted of crimes that are often considered more serious, and they have higher proxy scores, which results in them being more likely to be supervised by high-risk probation officers. The analysis presented in the remaining sections of this chapter will examine how much these racial differences explain the disparity in new charge detainer rates.

Table 6.2. Racial Differences in Characteristics Prior to Starting Probation Sentence

	White Individuals	Black Individuals
Gender		
Female	32.5%	26.6%
Male	67.5%	73.4%
Age		
18–21	4.2%	12.4%
22–25	11.3%	16.7%
26–30	18.8%	19.0%
31–40	34.5%	23.4%
41–50	16.5%	14.2%
51+	14.7%	14.4%
Criminal history		
Any prior homicide or F1 charge	4.5%	5.9%
Any prior F2 charge	4.3%	7.0%
Any prior F3 or F charge	17.2%	28.0%
Any prior misdemeanor charge	54.8%	48.6%
Any prior summary charge	9.5%	8.9%
Crime grade of dominant charge serving probation for		
Felony	6.7%	12.1%
Misdemeanor	84.0%	73.8%
Summary	9.3%	14.1%
Crime type of dominant charge serving probation for		
DUI	21.3%	12.8%
Drugs	35.9%	27.4%
Person	9.6%	14.5%
Property	17.8%	23.1%
Public Order	13.3%	17.2%
Weapons	0.9%	3.6%
Other	1.2%	1.3%
Length of probation sentence		
0–6 months	42.9%	41.3%
>6 months–1 year	34.2%	35.6%
>1 year–2 years	22.5%	22.9%

	White Individuals	Black Individuals
>2 years–3 years	0.4%	0.2%
On multiple probation sentences		
Yes	13.7%	10.1%
No	86.3%	89.9%
Conditions levied by court		
Meetings, programs, and/or community service	27.5%	21.3%
Costs, fines, and/or restitution	13.3%	15.7%
Drug and alcohol evaluation	57.8%	35.8%
Mental health evaluation	4.7%	5.6%
No contact with victim	21.4%	29.5%
Drug testing	3.6%	5.2%

NOTE: Analyses include probation sentences that began between 2017 and 2019, and were scheduled to be completed by 2019 (n = 9,285 individuals). F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony.

Table 6.3. Racial Differences in Characteristics After Probation Intake

	White Individuals	Black Individuals
Proxy score		
Low	45.3%	25.6%
Medium	43.3%	51.7%
High	11.5%	22.7%
Supervision		
Specialty courts	3.5%	2.7%
Special section within unit	7.6%	8.2%
Restitution	2.3%	2.1%
Low-risk compliance	31.7%	25.9%
Medium-risk	26.8%	34.1%
High-risk	8.1%	15.8%
Electronic monitoring	20.2%	11.3%
New charges filed while on probation		
Any charge	28.0%	35.0%
Any felony or misdemeanor charge	22.7%	30.0%

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	White Individuals	Black Individuals
Any homicide or F1 charge	1.5%	4.0%
Any F2 charge	1.9%	4.1%
Any F3 or F charge	6.2%	9.8%
Any misdemeanor charge	17.8%	19.1%
Any summary charge	9.5%	10.1%
Any violent felony charge	1.7%	5.1%
Any violent misdemeanor charge	3.1%	6.2%
Any weapons charge	0.3%	1.5%
Among those with new charges filed on probation		
Gagnon hearing prior to most serious arrest	9.8%	10.2%

NOTE: Analyses include probation sentences that began between 2017 and 2019, and were scheduled to be completed by 2019 (n = 9,285 individuals). F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony.

Racial Disparities in Who Has New Charges Filed While on Probation

In order for an individual to be detained for a new charge, it must be the case that new charges were filed against them during their probation sentence. Thus, there are essentially two factors that can cause the disparity in who is levied a detainer for a new charge: (1) there are racial differences in who has new charges filed against them while on probation; and (2) there are racial differences in who is issued a detainer conditional on having new charges filed against them. A first order question is to identify the relative role these two factors explain of the disparity in who is issued a detainer on a new charge.

Figure 6.4 indicates that 25% of the disparity in who receives at least one new charge detainer while on probation is explained by racial differences in who has new charges filed while on probation. Although this analysis explains the role of this factor, it does not necessarily mean that this racial difference in new charges filed reflects legitimate differences in criminal activity between White and Black individuals. In other words, not everyone who engages in criminal activity has charges filed against them, and not everyone who has charges filed against them has engaged in criminal activity. The results in Chapter 3 went into depth regarding why there might be disparities in the rate at which new charges are filed; the discussions presented there are also relevant here.

Figure 6.4. What Explains Why Black Individuals on Probation Are More Likely than White Individuals to Receive Detainers for New Charges?
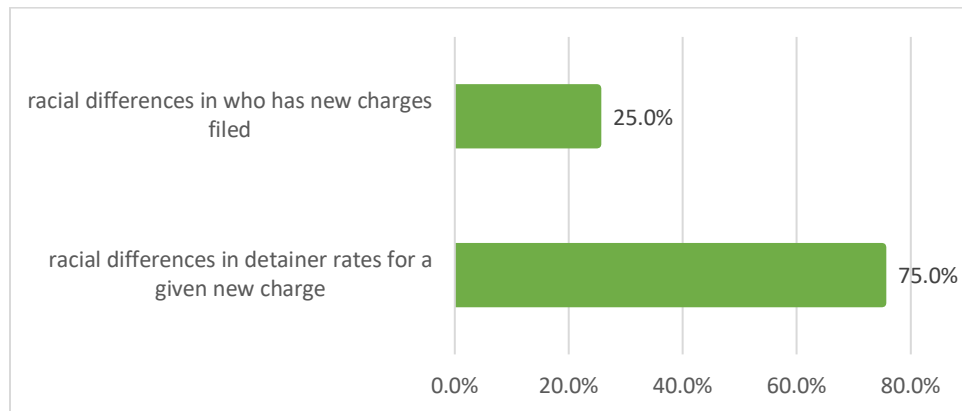
NOTE: Analyses include probation sentences that began between 2017 and 2019, and were scheduled to be completed by 2019 (*n* = 9,285 individuals). Analyses conducted using Oaxaca-Blinder decompositions where the only control variable included is whether new any new charges were filed during the probation sentence.

Although the rate at which new charges are filed is a significant explanatory factor in new charge detainer rates, 75% of the disparity in this outcome is caused by the fact that Black and White individuals who have charges filed against them while on probation are issued detainers at different rates. The next section will examine in detail what might be driving this disparity.

Racial Disparities in New Charge Detainer Rates Among Individuals Who Are Charged With a New Crime While on Probation

The analyses in this section are conducted on the subset of 2,873 individuals who had at least one new charge filed against them while they were on probation. Figure 6.5 indicates that, among this sample, 31% of Black individuals received at least one detainer for a new charge while on probation, while only 20% of White individuals did.

Figure 6.5. Racial Disparities in New Charge Detainer Rates Among Individuals Who Have New Charges Filed Against Them on Probation
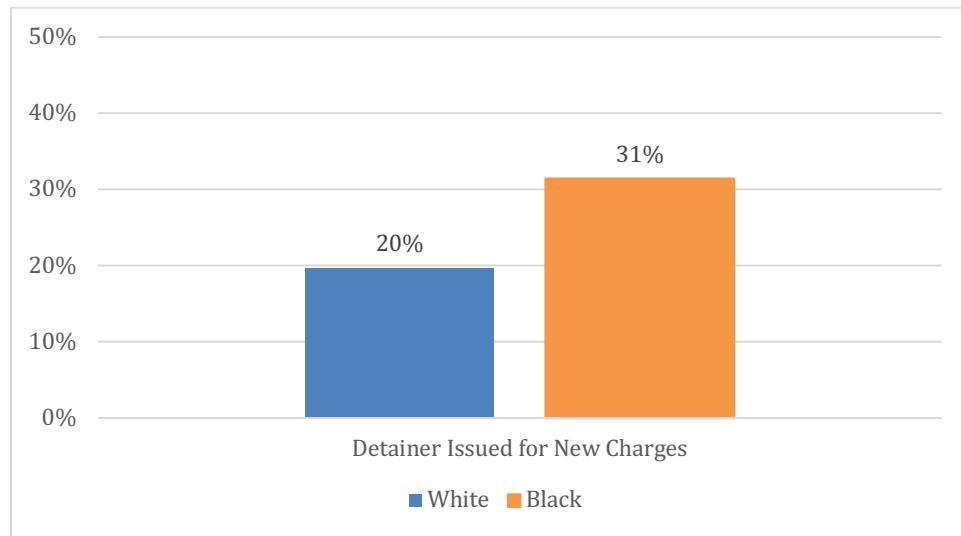
NOTE: Analyses include individuals on probation that had at least one new charge filed during their initial probation sentence (*n* = 2,873 individuals).

Figure 6.6 examines how much of the detainer rate difference among those charged with a new crime can be explained by racial differences in the severity (grade and type) of new charges filed, whether they had a Gagnon hearing prior to new charges being filed (indicating they had previous compliance issues), were serving multiple probation sentences concurrently, the crime grade/type they were serving probation for, their supervision level, criminal history, age, gender, Common Pleas judge, and year the probation sentence started. These were all factors that the Probation Department indicated were considered when detainer decisions for new charges were made.[125] The red bar in Figure 6.6 indicates that 62% of the racial disparity in new charge detainer rates (among those charged with a new crime on probation) is explained by racial differences in these characteristics.

The remainder of Figure 6.6 identifies how much of the racial disparity at this stage is explained by each characteristic. The largest fraction of the disparity is explained by racial differences in the severity of the new charges that are filed against the individual while they are on probation—this accounts for 37% of the disparity. Thirteen percent of the disparity is explained by racial differences in the crime grade and type for which they are serving probation, and 15% of the disparity is explained by racial differences in the supervision level individuals are on. Both of these factors—conviction type and supervision level—likely affect how much of a public safety risk probation officers perceive the individual to be, regardless of the severity of

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[125] The proxy score is not controlled for here because the Probation Department stated that the proxy score is mainly used to determine the supervision level, and it is the supervision level that is considered when detainer decisions are made. However, the results do not change if the proxy score is included.

the new charges filed. Thus, more than one-half of the disparity in who receives a detainer among those with new charges filed is explained by both racial differences in the severity of the new charge, as well as variables that are perceived by system professionals as proxies for the general risk level of the individual.

Figure 6.6. What Factors Explain Why Black Individuals With New Charges Filed on Probation Are More Likely than White Individuals to be Issued Detainers for New Charges?
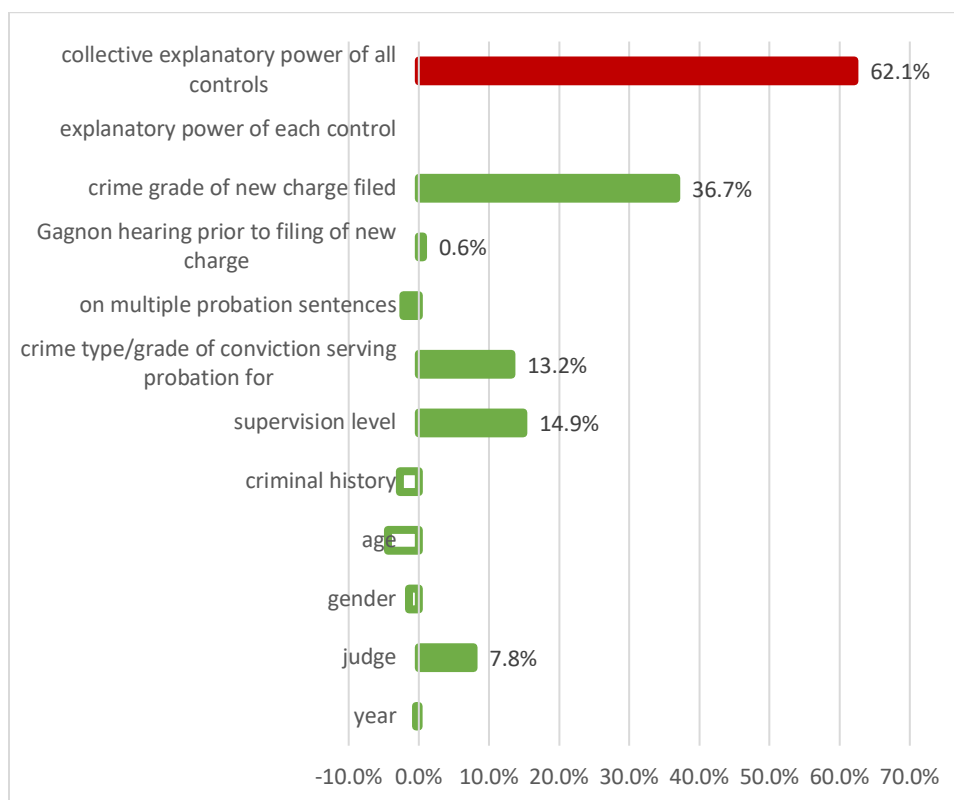
NOTE: Analyses include individuals on probation that had at least one new charge filed during their initial probation sentence (*n* = 2,873 individuals). If a percentage is positive, the percentage reveals how much the racial disparity in new charge detainer rates would narrow by if Black and White individuals were similar with respect to that characteristic. If a percentage is negative, the percentage reveals how much the racial disparity would widen. The following factors are statistically significant: crime grade of new charge, being on multiple probation sentences, crime type/grade of conviction serving probation sentence for, supervision level, and Common Pleas judge. The unexplained disparity is also statistically significant.

Finally, the results in Figure 6.6 indicate that 38% of the racial disparity at this stage is unexplained by the factors included in the analyses. The key factors that were noted as affecting detainer decisions that were not controlled for were factors such as victim concerns, potential treatment needs, open warrants, willingness to engage with the probation officer, the individual's family situation (i.e., whether they are a caretaker or are the sole provider), as well as perceptions about their general stability with respect to housing, employment, and social networks. These

factors were not controlled for because the data provided did not have information on this. Although the unexplained disparity can reflect racial differences in these factors, it is important to note that several of these omitted variables can themselves reflect prejudice on the part of the decisionmaker. For example, although it is possible that some of the unexplained disparity might be explained by probation staff perceiving Black individuals to come from more unstable situations, these perception differences could be biased. The unexplained disparity can also reflect disparate treatment, whereby Black individuals with the same characteristics as White individuals are more likely to receive detainers. The Probation Department's level of discretion in making detainer decisions indicates that this aspect could be a factor. Without more-detailed data on the factors noted, one cannot definitively determine the role of disparate treatment.

Conclusion

The results in this chapter indicate that, among individuals on probation, the largest racial disparity is in who receives a detainer for a new charge. Black individuals receive these detainers at twice the rate of White individuals. As the average detainer for a new charge results in a jail stay of 149 days, this disparity has a substantial impact on Black individuals.

The analyses in this chapter illuminate the reasons why racial disparities in new charge detainers occur. About 53% of the disparity is explained by Black individuals having new charges filed at a higher rate and, conditional on having new charges filed, the charges being more severe than what White individuals are charged with.[126] The remainder of the disparity occurs because the Probation Department takes into account other factors besides the severity of the new charge when determining whether the individual is a risk to public safety. One reason this aspect might be problematic is that some of the variables that are used to determine risk may not be accurate measures. In particular, the supervision level of the individual—which plays an important role in the determination of how much of a public safety risk the individual is likely to be—is based almost entirely on the proxy score of the individual, which is a risk assessment that is constructed from only three factors. Given the sophistication of other risk assessments currently in use, it is not clear that this measure is actually doing a good job of measuring risk, and this analysis indicates that it is generating significant racial disparities in detainer rates. Allegheny County Probation Department is aware of these issues and will be discontinuing the use of the proxy score on December 31, 2023, It will instead use the Ohio Risk Assessment System, which has been more rigorously validated and does not rely solely on criminal history.

Another reason it might be problematic that the Probation Department can take into account other factors besides just the severity of the new charge is that this ability affords a substantial amount of discretion to the Probation Department staff. The results indicate that 38% of the

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[126] Note that this percentage was obtained in the following way using estimates from Figure 6.4 and Figure 6.6: .25 + (.75 * .367) = 53%.

disparity in who receives a detainer among those charged with a new offense is unexplained, and this unexplained disparity could reflect either racial differences in uncontrolled for factors or it could reflect disparate treatment. To better distinguish between these possibilities, data on all factors considered in the detainer decision should be collected on all individuals for whom a detainer for a new charge is being considered (which likely includes all individuals who are charged with an offense on probation that is of a certain severity level or higher). Given that there are currently many factors that probation considers that are not currently recorded in the case management system—including victim concerns, potential treatment needs, and willingness to engage with their probation officer—having this additional information recorded should be very useful to better understand the potential role of disparate treatment in detainer decisions.

Based on the information presented in this chapter, one potential way to reduce racial disparities in detainers for new charges would be to primarily base detainer decisions for new charges on the severity of the new charges filed. As noted above, the fact that the Probation Department considers other factors besides the severity of the new charges explains 47% of the disparity at this stage—the disparity could thus be reduced if this other information was not taken into account. For example, in conversations with probation staff, violent felonies were frequently brought up as an example of a new charge an individual should be detained on. The results in Table 6.3 indicate the racial disparity would fall by 2.1 percentage points (from 5.5% to 3.4%) if only those charged with a new violent felony offense were issued a detainer. To preserve some discretion, the Probation Department could institute a policy whereby the default decision would be to detain anyone arrested on a new violent felony offense, and to not detain anyone charged with any other type of offense. If the Probation Department wanted to make a different decision, it would be required to clearly document why they felt the default decision was not appropriate in the particular case.

Another potential policy that has been suggested is eliminating the use of detainers, and instead having the pretrial detention process determine whether these individuals should be in jail. Note that all individuals who are arrested while on probation must go through the pretrial detention process—therefore, to secure their release, individuals have to meet the requirements imposed at the preliminary arraignment (e.g., paying a monetary bail) and avoid receiving a detainer. To understand the impact of eliminating the use of detainers, ideally one would want to identify how racial disparities in pretrial detention lengths for a new arrest would change if detainers were no longer possible.[127] Although this cannot be identified, what can be examined is how much of the racial disparity in pretrial detention lengths is explained by racial differences in detainer rates. The results indicate that, among arrests for individuals on probation, 34% of the

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[127] Note that the definition of pretrial detention length is somewhat different in this context than it was in Chapter 4, because the sample being examined is different. In Chapter 4, individuals who had probation detainers were dropped, and thus these detention stints were not part of their calculated pretrial detention lengths. However, because this chapter is explicitly examining individuals who receive detainers, the length of their pretrial detentions will include time spent on a detainer.

disparity in who is in jail for at least 30 days following their arrest can be explained by racial differences in detainer rates.[128] This is suggestive that, if detainers were eliminated, racial disparities in pretrial detention lengths might fall.[129]

Finally, the analyses in this chapter were not able to examine why racial disparities in probation revocation rates occur because no data were provided on the extent to which individuals were complying with court-ordered conditions. Rather, the data provided only recorded this information for individuals for which probation officers had already decided to cite for a violation, and thus it was not possible to determine whether the racial disparity in revocation rates occurs because of racial differences in compliance with conditions, or because Black individuals were more likely to be cited for a violation conditional on noncompliance. Although objective data on the extent to which required court-ordered conditions were being followed was not provided for this study, it is expected that other agencies do record information on these factors. In particular, it is likely that other agencies record information on restitution payments, as well as required programming and treatment completion. Furthermore, the courts have detailed information on all new offenses an individual is charged with while on probation. Future analyses should obtain this data, as it would allow one to identify the extent to which each individual is in compliance with their conditions. One could then examine whether the racial difference in both citation and eventual revocation rates occurs because of racial differences in compliance, or because Black individuals are more likely to be cited for a violation given noncompliance.

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[128] This was identified using the set-up from Chapter 4 (which focused on the pretrial detention process), except individuals who had detainers issued were not dropped. Using this expanded sample, individuals who had their preliminary arraignment at PMC and who were on probation at the time were selected. Oaxaca-Blinder decompositions were conducted to identify how much of the racial disparity in who was in jail for at least 30 days following a preliminary arraignment was explained by racial differences in detainer rates and in the outcome of the preliminary arraignment.

[129] Note that the impact of eliminating detainers cannot be definitively determined because preliminary arraignment decisions might change if the potential of a detainer was no longer possible. Further, the penalty assessed to a probation violation might also be different if the individual served no time on a detainer, as this jail time will sometimes count toward the punishment that might be levied if the individual's probation sentence is revoked.

Chapter 7. Key Qualitative Themes

This chapter presents the five key themes that emerged through analysis of the combined qualitative datasets encompassing the 60 interviews conducted for this study (40 with community members and 20 with system professionals): racial and economic segregation; differential treatment by system professionals; cumulative trauma across the lifespan and need for services; structural oppression and legal estrangement; and belief that individual behavior drives racial disparities. Unlike the previous chapters, which discussed specific decisions points in the Allegheny County criminal justice system, these themes focus on participants' comments about the criminal justice system as a whole and its overlap with related systems, such as public health and education. Although policies and practices typically operate at a specific decision point, and much knowledge is gained from analyzing administrative data collected at those points, humans thread their experiences together. For community members, being on probation does not happen in isolation, but rather is contextualized by the circumstances of their arrest, their pretrial and court experiences, the neighborhood they reside in, the resources they have access to, and many other factors that have influenced their lives. System professionals may focus their work on one decision point, but that work is affected by what happened before their encounter with an individual, what they think the best course of action going forward will be, what they know about and hear from colleagues working at other decision points, as well as factors such as the areas they live in and the kind of society they want to contribute to building. The five key themes therefore preserve the richness of the interview participants' full experiences, exploring the issues they raised about the psychological, economic, practical, and intergenerational factors they saw as contributing to and resulting from racial disparities in the Allegheny County criminal justice system.

On a similar note, although this study focused on administrative data concerning adults, interview participants often spoke about children's and teenagers' experiences with the Allegheny County criminal justice system. Just as people thread their experiences together across decision points, they also see threads across the different stages of their lives. It is important to clarify that the quantitative analyses presented in Chapters 3-6 did not include data from juveniles, all interview participants were aged 18 or older, and none of the qualitative interview questions specifically focused on youth's experiences. However, qualitative data referring to children, adolescents, and young adults are included in this chapter because early contact with the criminal justice system was central to many community members' and system professionals' assessments of both what is contributing to racial disparities and what is needed to reduce them.

Theme 1: Racial and Economic Segregation

Community members and system professionals from a wide range of backgrounds described Allegheny County as highly segregated by race and class, reflecting a long history of social and economic discrimination against Black residents. In particular, they noted that predominately Black neighborhoods have been systematically excluded from public and private resources, leading to concentrated poverty and crime.

In interviews, both community members and system professionals described deep racial and economic segregation as a pressing and multi-systemic problem that reverberates across Allegheny County systems from public safety to public health. Many participants traced this stratification to the nation's history of racism against Black individuals, naming Pittsburgh's roots in the steel industry and the lasting socioeconomic effects on descendants of Black steelworkers long after the industry collapsed in the 1970s. Black elders recalled generations of Black communities being excluded from gainful employment, housing, medical treatment, school funding, and public safety, with one participant lamenting, "There is just an inherent disregard for Black people in this region." Similarly, one system professional stated bluntly, "In general, I just feel as though Pittsburgh is a very racist city."

Interview participants identified that one impact of this modern-day segregation is that Black residents— whether as people accused of crime, victimized by crime, family members, or system professionals living in Black neighborhoods—feel stereotyped in their dealings with the criminal justice system and treated as if they are part of a single story rather than viewed as individuals with unique perspectives, needs, and challenges. One system professional called out the detrimental effects of such stereotyping: "If you're not looking at people as people, if you're looking at them as inherently dangerous—almost like, they're really some type of other, either subhuman or superhuman, then you're not going to tap into whatever humanity those people actually have." Other system professionals also noted specific ways that this surrounding context of segregation and institutional racism influences interactions and processes within the criminal justice system. One system professional noted, "The whole system is problematic, in my opinion, every inch of it is problematic . . . I think every Black attorney has been mistaken for a defendant at least once." Another system professional commented on the consequences of residential segregation, observing that "You can put a thousand Black people in jail and give them $50,000 straight bond recommendations on retail thefts and it will not change the average White person's mindset or day-to-day, because they don't interact with Black people."

As highlighted in Chapter 3 (which focuses on law enforcement), residents of Black neighborhoods might be more likely to have charges filed against them because those neighborhoods have suffered from a lack of investment in resources to help people meet their basic needs and thereby avoid what can be referred to as "crimes of poverty." In interviews, community members and system professionals frequently spoke directly to the idea that

segregation and systemic discrimination have undermined safety in Black communities by sustaining racial gaps in opportunity that feed disparities in criminal behavior. **When interview participants were asked for their perspectives on what might contribute to racial disparities in the criminal justice system, poverty and economic disparities were the most common responses offered.** It was widely recognized by participants that people of any race who are stripped of social and economic opportunity are more likely to turn illegal means of obtaining the money and goods they need as a last resort to take care of themselves and their families. As one community member said:

> When all of the community supports don't support people, people lose faith in the system... People drop out of school; people engage in activities that will allow them to make money and make a living. And when this happens, from one generation to the next, we normalize crimes of poverty as a way of existing. We normalize poverty and [inter]generational poverty and some of the other pieces that go along with it. . . . It's how folks live, it's how we have to get by.

Similarly, several system professionals commented on the need to invest in communities as a strategy to reduce racial disparities, with one participant explaining, "At its heart, it's a socioeconomic issue, [a] history of racial discrimination and segregation." When asked what could be contributing to racial disparities, another system professional responded, "Literally everything," ranging from healthcare, education, transportation, and housing. This participant summed up these statements by saying, "By the time people get to the justice system, there has been so much injustice already."

Theme 2: Differential Treatment by System Professionals

Racial and economic segregation directly connect to criminal justice system policies and practices. Interview participants described how Allegheny County feels fractured, as though each neighborhood has its own justice system. Community members and system professionals described their direct experiences and observations of disparate treatment across neighborhoods by criminal justice authorities, commenting that people with virtually identical backgrounds except for race can experience vastly different justice in Allegheny County.

As presented through the quantitative findings in Chapter 3, Black neighborhoods are often flagged as "dangerous" or "hot spot" areas and are policed and supervised more heavily, which brings more community members into contact with law enforcement officers. In interviews, community members and system professionals spoke to these practices, describing how interactions between law enforcement and neighborhood residents are frequently negative and fraught with tension, which sows distrust and resentment. They noted that negative interactions can also escalate to arrests, even when the original reason for police contact does not indicate lawbreaking. As explained in Chapter 6, these arrests can then drive high scores on risk assessments, which in turn result in higher levels of probation supervision. **Interview**

participants spoke at length about how intensive policing and heavy supervision can therefore set off a chain reaction that perpetuates and intensifies racial disparities at multiple levels of the criminal justice system.

Interview participants noted that neighborhood profiling further divides the county into "good" and "bad" neighborhoods," which, according to some system professionals, can be self-fulfilling labels in front-end processes like investigations and arrests. Some system professionals described more "aggressive" or "proactive" patrolling by police in predominantly Black communities, attributing this behavior to higher rates of crime in Black communities. System professionals rarely characterized proactive patrolling as targeting or overpolicing Black individuals, as it is often received by community members. However, a small group of system professionals described attempts to shift law enforcement culture away from heavy patrolling in Black neighborhoods, noting that these efforts were limited in scope. For example, one participant described how law enforcement and probation are inherently "numbers-driven" systems in which the more arrests an officer makes, the more likely they are to get promoted or otherwise rewarded for being arrest-focused. Where being "tough on crime" has been a top priority, some professionals are advocating for fairer and more sustainable ways to uphold public safety, wanting to focus instead on root causes of criminal behavior such mental health challenges, including substance use. However, aside from a handful of Black neighborhoods with pilot programs funded by the city of Pittsburgh, system professionals describe these cultural shifts as theoretical and quickly losing traction given considerable pushback from system leaders. From participants' perspectives, there has not been a strong vision from local agencies about what else makes good law enforcement besides maximizing arrests, and thus more work needs to be done to identify and support practices that optimize safety while ensuring equal justice—rather than a "tough on crime" attitude at all costs.

In interviews, law enforcement and probation officers described departmental practices of using different approaches in different neighborhoods. In some predominately Black neighborhoods known for having high rates of violent crime, strategies might include heavy surveillance, more frequent searches, or more expansive investigations. One system professional observed:

> If you're getting into something not good in one of our city neighborhoods or our Mon Valley neighborhood as a juvenile, you're probably going to have contact with the police. Where if it's [in] one of the Whiter neighborhoods, that's not going to happen.

Multiple system professionals specifically linked strategies of concentrated policing in Black neighborhoods to law enforcement's differential treatment of Black and White adolescents. For example, one system professional explained that if a White youth is stopped in Hampton for possession of a controlled substance, "he will undoubtedly be taken to the police station, his parents will be called, and there will be diversion at that point – no charges will be filed. And if charges are filed, it will be done by summons. That Black kid who gets arrested for possession of

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a controlled substance in Homewood, he's going to jail because you want to search his car, you want to search his backpack, you want to see if there are more warrants or charges." Another system professional commented on the routine nature of differential treatment, noting that "Most police officers wouldn't even recognize that they're letting a White boy go for something that they take a Black boy into custody for in the juvenile system or as an adult." Many system professionals were keenly aware of how disparities in arresting juveniles could have an impact years later. In one system professional's words, "Forgiving minor crimes for White kids and not Black kids makes a big difference for the rest of their lives. . . . You don't get to start here and go forward – your past always seems to be held against you if you're not White."

When discussing disparate treatment, system professionals frequently raised the issue of discretion. Regarding law enforcement, one participant stated "It is all discretionary [whether to arrest or issue a summons]… But nine times out of ten, if it's a Black person and it's a misdemeanor they'll just bring them to jail, and if it's a White person they'll just get a summons." Another system professional discussed their observations of judges who issue detainers in instances when the interview participant would not have made the same decision. This participant expressed the frustration that holding someone in jail on what they perceived to be an unnecessary detainer is "such an enormous waste of resources, and it destroys lives. And you can't get people to understand that." A different system professional commented that because judges are permitted a high degree of discretion, "a lot of racism in probation would come from an individual" actor.

Other system professionals brought up these differences in relation to the discretion permitted to probation officers (addressed in Chapter 6). In interviews, numerous system professionals acknowledged that probation officers are given a high degree of discretion when making decisions about probation violations, and noted that this was intentional and generally viewed as positive. As one system professional observed, "The probation officer has a lot of discretion as to what they feel the offender would need to continue to be successful on supervision. . . . We like to give the officers that discretion." However, another system professional perceived discretion as opening possibilities for dramatic differences in probation supervision:

> You have some [teams] that, when they go out to supervise an individual, they're presenting in a way where they look like a SWAT team, and some [teams] where they're just plain clothes and it all depends on that [team], the people they're supervising, how they want to conduct their business… I can definitely say policies are different everywhere.

As noted in Chapter 3, system professionals emphasized in interviews that more proactive policing and supervision in certain areas are not intended to target Black communities. Rather, predominately Black neighborhoods often have higher baseline rates of crime and therefore are considered to require enhanced strategies. "Hot spot" policing is not unique to Allegheny County but is common across the country. It is a well-studied public safety strategy, the logic being that

areas with higher rates of documented crime need more surveillance, searches, and investigations to deter that crime. Racial disparities in arrest and other outcomes are thought to be unavoidable collateral consequences in high crime areas—in other words, *responses* to higher activity that are agnostic of race rather than *drivers* of higher criminal activity or racial disparities. Importantly, "hot spot" policing has shown mixed results in the research literature. Some studies demonstrate small but significant crime-reduction effects;[130] but nearly every study, including those showing no effects on crime, show worse effects on racial disparities (e.g., in discretionary searches during traffic stops),[131] such as more engrained surveillance of Black individuals, including innocent bystanders.

Many interview participants described as common knowledge that Black individuals are more likely than White people to be accused of crime regardless of their actual behavior or personal context. Black participants described feeling that police automatically assumed they were perpetrators rather than considering them potential victims, witnesses, or even bystanders— for no other observable reason than being Black. Black community members and multiple system professionals reported observing Black and White individuals engaging in similar nonviolent behavior, from speeding on the highway to recreational drug use, with consistently harsher treatment of Black individuals in those scenarios. One community member shared, "When you're Black, you're poor, so they automatically the assume that if you're standing on the corner you're selling drugs. But you might be waiting on the bus." He went on to explain that when he gets pulled over in a traffic stop, police invariably ask to search his vehicle—however, from his perspective, "They tell White people to have a good day." Another community member noted, "If you live in Homewood, Wilkinsburg or on the Hill, they are high-crime areas. If you live there, you're going to be looked at as guilty. If a White person lives in the area, they aren't asked if they've done any crimes or witnessed any. They automatically assume White people don't have anything to do with it." Similarly, several Black men described instinctually shrinking themselves in police encounters, fearing that their height or weight or even facial hair might evoke officers' racial stereotypes about Black men being especially "violent," "dangerous," or "unpredictable." One participant described that during a minor traffic stop he felt like he was targeted and pulled over for having tinted windows in a high-crime area. He was felt compelled to roll all of his windows down, turn on the car's interior lights, and put his hands on the steering wheel for his safety.

System professionals provided confirmatory examples of these men's experiences. One system professional spoke to the point noted in Chapter 3 that law enforcement officers have

[130] Braga, A. A., Turchan, B. S., Papachristos, A. V., & Hureau, D. M. (2019). Hot spots policing and crime reduction: An update of an ongoing systematic review and meta-analysis. *Journal of experimental criminology, 15*(3), 289-311.

[131] Roh, S., & Robinson, M. (2009). A geographic approach to racial profiling: The microanalysis and macroanalysis of racial disparity in traffic stops. *Police quarterly, 12*(2), 137-169.

discretion to make a traffic stop for such issues as air fresheners hanging from the rearview mirror or extra tint on a vehicle's windows; this participant specifically identified traffic codes as potentially contributing to racial disparities in arrests. Another system professional explained how discretion could be used in the application of a policy concerning operating a vehicle without a license and noted that they had observed this policy being used by detectives to target Black individuals thought to be possible suspects for other crimes. And another system professional responded to the question about what might be driving racial disparities by speaking to the difference in law enforcement practices according to neighborhood:

> A lot of it comes to systemic racism, I'll just say it. You know, Black individuals are more likely to be arrested just because of the bias that occurred. You're a Black man, you're on the corner, and there's a high level of drug activity because the law enforcement are just more engrained to kind of gravitate toward that activity but the same activity could be going on in a White neighborhood as well but [law enforcement is] more concentrated in the Black neighborhoods, I feel.

Community members also spoke about observing disparate treatment related to illegal substances, specifically mentioning disparate charging for drug-related offenses as classic examples of Black and White people being treated differently for the same criminal allegations, which has been demonstrated in the research literature.[132] One Black community member explained that for years, when he would get arrested with any amount of drugs (including "just a bag of marijuana for my own use"), he would be charged with a felony with "intent to deliver." Conversely, he had witnessed police apprehending White acquaintances in possession of more serious drugs like heroin who were rarely accused of intent to deliver, instead receiving a misdemeanor charge or being sent to a diversion program for rehabilitation. He concisely summed up these experiences: "White guy, simple possession. Black guy, felony." Other participants with criminal charges for drug offenses talked about how the White peers they knew who were selling drugs never served time in prison, in their view because predominately White neighborhoods were not heavily surveilled and investigated. In one community member's words, "If you're out on the street there's an assumption that you're no good. But it can be your neighborhood and you can be just walking to the store. In affluent neighborhoods, guys sell drugs—but people don't see that as an issue because they don't expect it. They don't expect this in Mount Lebanon or Fox Chapel. . . . So, if you live in a hot spot you're looked at as either buying or selling. Guilty by association." [133]

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[132] Kovera, M. B. (2019). Racial disparities in the criminal justice system: Prevalence, causes, and a search for solutions. Journal of Social Issues, 75(4), 1139-1164.; Mitchell, O., & Caudy, M. S. (2015). Examining racial disparities in drug arrests. Justice Quarterly, 32(2), 288-313.

[133] In their analysis of racial disparities in arrests for marijuana possession, Ramchand et al. (2006) found that Black people were more likely to purchase marijuana in outdoor settings, and to make purchases from a stranger whereas White people were more likely to purchase marijuana in private settings from someone they know. In their argument, these factors make Black people more vulnerable to arrest since their purchases are more easily observed

Again, system professionals provided confirmatory examples of these experiences from their own perspectives. One system professional explained that Black individuals would be more likely to be searched for drugs and more likely to have lower-level behavior escalate into felony charges: "[An] 18-year-old White kid who buys heroin in the Northside then goes backs to the suburbs and sells it is less likely to go to jail than the 18-year-old Black boy 'from the projects' that sold it to him." Relatedly, some White community members observed police targeting Black individuals in predominately White communities, including in such environments as schools, shelters, and even grocery stores. Such actions were noted to affect the public discourse about crime: As one White participant shared about their White family members and neighbors, "If they see a Black person they're kind to them, not rude. But, at the same time, they do blame them for the increase in crime in our communities."

As described in the next theme on trauma, intensified policing and surveillance practices have daily salience and resonance in Black community life across Allegheny County. **Rather than promoting feelings of public safety and trust in criminal justice authorities, feeling constantly watched by the police and being frequently subjected to pretextual stops that they know could escalate to an arrest or worse erodes Black residents' goodwill toward law enforcement.** One community member who had had innumerable negative experiences stated flatly that more community-focused practices could not overcome the damage that had been done:

> That's why I don't believe in community and police relations because I don't think it works. I think police are horrible. I think they're part of the problem. And I don't care how many doughnuts you eat with them, they'll still kill you, and they'll still arrest you, depending on the situation.

Finally, the approach of *community policing* was provided by a few system professionals as an example of a pathway to maintaining a focused police presence in neighborhoods with high crime rates without setting up an adversarial dynamic between law enforcement and community members. Those who spoke about community policing described it as focusing heavily on developing relationships with local community members, actively working to de-escalate issues so that they did not erupt into major events, and working with community members resolve minor incidents without arresting people. One system professional who was familiar with this approach provided the example of the theft of packages from people's porches or front steps. This participant explained that if a child or teenager took a package, the community member usually did not want to press charges, but they did want their package back and to know that the juvenile's parent was holding them accountable for their action. From this participant's perspective, a community police officer could help facilitate this outcome, which they felt would

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by law enforcement. See Ramchand, R., et al. (2006). "Racial differences in marijuana-users' risk of arrest in the United States." Drug and Alcohol Dependence **84**(3): 264-272.

be beneficial to all of the parties involved, including the officer: "People call the police because of bad times. I don't want to be part of the bad time, but I want to make that time a little bit better if I can."

Theme 3: Cumulative Trauma Across the Lifespan and Need for Services

The repercussions of living in segregated, heavily policed, and underresourced communities affect Black individuals throughout all phases of their lives. In their interviews, community members often talked about family members and friends they had lost to violence, overdose, or incarceration, and described how these pervasive losses affected entire households and neighborhoods. Notably, more than one-half of community members interviewed described a direct experience of being harmed by crime, including experiences of being physically hurt or of losing a loved one to violence, although the majority of these people did not identify themselves as "victims of crime" because they had not been acknowledged as victims by the criminal justice system and had never received grief counseling or other resources.

Although the public discourse often focuses on Black individuals as perpetrators of crime, it is critical to center the evidence that they have a high prevalence of being *harmed* by violence and crime. As the Allegheny County Department of Human Services reports, "Violence is heavily concentrated in just a small number of higher-need communities and overwhelmingly cuts short the lives of young Black men," who make up 6% of county residents but 66% of homicide victims.[134] Losing a loved one to violence can cause symptoms of post-traumatic stress, and research has identified specific mental health needs for people living in chronically violent and traumatizing environments in which there is no "post" to this stress.[135] Many other forms of harm are not captured by statistics, such as the pain of losing a loved one to violence,[136] the physical and emotional repercussions of being seriously injured by violence,[137] and the trauma of living in environments that are unsafe and underresourced.[138] These issues encourage

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[134] The Allegheny County Department of Human Services (July 2022). *Homicides in Allegheny County and the City of Pittsburgh, 2016 through 2021.* Retrieved from: https://analytics.alleghenycounty.us/wp-content/uploads/2022/07/22-ACDHS-05-Homicide_2016-2021_v5.pdf

[135] Smith, J. R., & Patton, D. U. (2016). Posttraumatic stress symptoms in context: Examining trauma responses to violent exposures and homicide death among Black males in urban neighborhoods. *American journal of orthopsychiatry*, *86*(2), 212.

[136] Nakajima, Satomi, Ito Masaya, Shirai Akemi, & Konishi Takako. "Complicated grief in those bereaved by violent death: the effects of post-traumatic stress disorder on complicated grief." *Dialogues in clinical neuroscience* (2022).

[137] Ralph, L. (2014). *Renegade Dreams: Living Through Injury in Gangland Chicago.* University of Chicago Press.

[138] Jackson, D. B., Posick, C., & Vaughn, M. G. "New evidence of the nexus between neighborhood violence, perceptions of danger, and child health." *Health Affairs* 38, no. 5 (2019): 746-754.

examining harm within a broad framework that acknowledges the interconnectedness of people who are most often harmed by systems, neighborhoods, and other individuals.

The education system was frequently identified by interview participants as being related to racial disparities in the criminal justice system. Schools can be primary settings for institutional racism and disparate treatment, and many Black community members identified key moments in childhood when they became aware of these issues. The experience of being perceived as being different and being treated differently from White people therefore began at a young age for Black community members, and these experiences were repeated and reinforced as they became adults.

Research has demonstrated that Black children are frequently perceived by White adults as being older than they are, and as being more troublesome, disruptive, and threatening than White children of similar ages exhibiting similar behaviors.[139] A system professional succinctly identified this issue: "The misconception in minority and Black neighborhoods is that these kids are dangerous, instead of looking at them as kids." Many community members described personal experiences along these lines, and Black men in particular talked about teachers and other authorities labeling them as being a "problem child" or someone who "fit the description" of a criminal suspect early in their lives. Multiple people also talked about how being stopped and frisked by law enforcement in their youth felt traumatizing. For example, one participant recounted that when he was 13 years old, he and his friends were walking home from football practice when they were stopped by the police, who told them that after 8pm a group of five or more young men were considered a gang. Another participant described being handcuffed in early adolescence when he was out with his friends and had a ski mask in his pocket, which the police believed indicated that he was the suspect in a robbery. "Dealing with stuff like that has been traumatizing," he said, thinking back over his lifetime of similar experiences.

A community member who had studied social work noted that when Black children respond to these types of stressful events in ways that are developmentally appropriate, White teachers who are not familiar with urban environments often misperceive these responses as "overly aggressive" and call the police. This person also observed that Black children frequently receive citations or truancy charges for reasons that are beyond their control, such as playing in the streets while waiting for buses when store owners will not let them inside of their shops or missing school because of homelessness or the need to work. This perspective was also voiced by system professionals, such as one participant who provided an extensive passage on why children might not attend school for socioeconomic reasons:

> I think in Allegheny County we do a grossly inadequate job of providing
> resources to individuals who are first touched in the system. If you have a

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[139] Goff, P. A., Jackson, M. C., Di Leone, B. A. L., Culotta, C. M., & DiTomasso, N. A. (2014). The essence of innocence: consequences of dehumanizing Black children. *Journal of personality and social psychology*, *106*(4), 526. See also *Just Addressing Judicial Biases Against Teenagers of Color*, Just Science podcast, available at https://forensicrti.org/just-science-podcast/

truancy problem with the child, why does that end up in juvenile court? Why don't we have better programs to address that? Why is the child being truant? Are they not going to school because there are people at the school that they don't want to be involved with? Are there other problems going on at school? Are they afraid to leave the house because a parent or family members, someone is abusive to their younger siblings? We see that happen, and this is why the older child is not going to school—because they feel like they should stay home [to protect their siblings].

Repeated exposures to such traumatic events as losing loved ones, living in poverty, and experiencing interpersonal and systemic racism may manifest as physical and mental health issues over time.[140] When resources are not available to address these needs, or when further racism is encountered in treatment settings, these health issues may intensify.

For some community members, the loss of loved ones or experiences being harmed motivated them to become involved in advocacy and prevention work as ways to help and heal others. Overwhelmingly, these participants described wanting to pursue advocacy or community organizing because of their intimate awareness that they and others in their communities were not being recognized as needing or being deserving of services, and their beliefs that culturally responsive service models that address complex and ongoing trauma needed to be developed. Notably, the programs and organizations run by these local leaders were separate from the formal channels of victims' services, and did not use that terminology in describing their focus.

When explaining the need for services and resources that are tailored to the specific needs of Black individuals in Allegheny County, community advocates and organizers provided powerful examples of how trauma reverberates throughout communities. For example, one person noted a need to include a nutritionist in their community support group because many mothers become unable to eat in the wake of losing their children to violence. Other community members described how the emotional pain stemming from living under conditions of chronic poverty and grief can contribute to mental health struggles. Participants spoke frequently of the prevalence of undiagnosed and untreated mental health issues, including substance use, among Black community members. They described how these challenges, combined with a lack of stable housing, access to public transportation, or gainful employment opportunities, interfered with people's ability to attend probation check-ins or comply with court-ordered conditions and sometimes led them to engage in criminal behaviors. In community members' experiences, rather than receiving recognition of their struggles and support to connect to the services they needed, they were more likely to be charged with a probation violation or a new crime. One person narrated how as a child they lost a parent to incarceration, a sibling to a traffic accident, and a friend to violence; they saw these traumas as the root of their involvement in criminal activities, as there was "so much grief inside the household" that they always wanted to be away

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[140] Geronimus, Arline T. (2023) *Weathering: The Extraordinary Stress of Ordinary Life in an Unjust Society.* Hachette Book Group.

from home "to get away from that grief." For this person, avoiding being at home and trying to process their own grief without resources or support resulted in them spending most of their time out and about, unsupervised by their remaining parent, and without structured activities to keep them busy, which set the stage for them to become involved with people who were engaging in illegal activities.

Multiple system professionals also talked about how people living in underresourced communities experience high levels of victimization, housing instability, unmet basic needs, and other difficult life events. Although they described clear connections between these challenges and mental health issues, they did not tend to identify these life events as "traumatic" or to speak about community-level trauma in the way that many community members did. Nonetheless, as described above, they recognized the toll that such events took on people, identified these challenges as potential drivers of criminal behavior, and expressed a high need for investment in support services in underresourced communities.

Serious unmet needs can be underlying causes for people to come into contact with law enforcement, or for interactions with law enforcement to escalate, which then compound people's trauma as they undergo arrest, pretrial detention, and other distressing experiences.

Community members provided complex descriptions of the ways trauma was threaded throughout their and their fellow community members' interactions with the criminal justice system. Many people described trauma both as a *reason for* interactions (because unresolved trauma led people to engage in substance use, violence, or other crimes), and as a *result of* these interactions (because they felt traumatized by being handcuffed, searched, and incarcerated). As one participant explained:

> My friends who have lost loved ones in elementary school or middle school, these are the ones that are more violent. . . . And they're not violent people . . . They have some of the largest hearts, but they are the quickest to resort to violence. And I really think it's because of the trauma, and what they've experienced in their lives.

This person also described their extreme distress over being strip-searched at a detention center as a juvenile, and the lasting impact that had on them: "I felt like I was being molested. . . . That was devastating for me." Another community member observed that many children in Allegheny County have been traumatized by high exposure to the "disease of violence," but they are rarely considered or offered support as victims of untreated trauma, which leads to their involvement with law enforcement: "when you didn't treat it, you criminalized it." Black community members described feeling a painful helplessness in watching their loved ones go through the system without proper treatment for drug addiction or mental health challenges, aware of how racial stereotypes and disparate treatment by judges, probation officers, or service providers can make an already tough situation worse.

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System professionals also identified the role of mental health, usually by pointing out that the criminal justice system is "ill-equipped" to handle these issues. As one participant noted, "We're not the experts on [mental health . . . but] we feel like we're forced into that," and that, because of the closure of treatment facilities, "The county jail has really become the *de facto* mental health hospital." This person also stated that, "You've got criminals, and you've got criminal behavior," clarifying that behavior can be related to underlying substance use and mental health issues, which, if treated, would change the criminal behavior.

Notably, several community members specifically described feeling traumatized by their experiences with the Allegheny County jail. One person noted a civil suit concerning the use of segregation and conditions of deprivation and abuse, which resonated with their experience of incarceration: "They shoot with rubber bullets, pepper spray, using Seg [solitary confinement, now banned in Allegheny County] to break you." Another person observed changes over time, saying that in earlier years jail staff treated people with compassion, but "the way they treat you now, they treat you like dogs. Like a number." Similarly, another participant lamented, "it just continues to be a torture chamber for anyone who goes to jail." This parent of someone who had been in jail explained that their child had had surgery while incarcerated and instead of being housed on the medical floor, they were moved to Segregation, where their leg became infected, an event that was extremely traumatizing for both of them.

Theme 4: Structural Oppression and Legal Estrangement

Black community members expressed feeling that the criminal justice system is not a series of disconnected "decision points," but a vast network of interconnected people and experiences with roots in systemic racial oppression. They described feeling over-policed and over-punished while simultaneously being unprotected, unheard, and endangered by criminal justice professionals.

As noted at the beginning of this chapter, community members in this study did not describe the criminal justice system as a sequence of objective procedural steps. Rather, their narratives overwhelmingly communicated feelings of being oppressed and harmed by the entire system. When community members did make distinctions within the system, they focused on differential treatment of Black individuals and White individuals—so instead of perceiving one system with multiple decision points, they experienced two separate systems. In one community member's words, "The whole system is so draining and kills so many people's spirit . . . They're all working together against Black people. . . . There's two different systems. There's a system for White people and a system for Black people."[141]

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[141] Notably, community members expressed these types of feelings about their treatment by the criminal justice system across a range of experiences: being harmed by crime or as a family member of someone harmed by crime; being arrested, incarcerated, and/or harmed by police; being a family member of someone who was arrested, incarcerated, and/or harmed by police; and being an advocate for any of these groups of people.

Community members also often talked about not being able to disentangle the criminal justice system from the day-to-day experience of living in their neighborhoods. People described their communities as being reminiscent of prisons, marked by metal detectors, security barriers, and surveillance cameras. Similar to the examples community members provided of feeling like the criminal justice system always regarded them as a potential threat rather than someone who was in need of services, interview participants portrayed their neighborhoods as environments in which they were regarded with suspicion. Rather than welcoming public spaces, community members felt surrounded by *no loitering* signs, more law enforcement officers than civilians, and other signals of being under watch. These factors contributed to people's sense of being hemmed in and oppressed by the criminal justice system in ways that didn't track to decision points, but rather saturated the fabric of daily life. One community member put it this way: "I just feel like we've been behind the eight-ball so long with being mistreated, being under-spoken, being not looked at favorably, but being looked at as a hindrance." Another person lamented, "From the very beginning the system was not made for us. We're already centuries in the hole. And that's so hard to overcome." Or, as one elder observed, "They walk us right into it [the criminal justice system] from birth."

The sense that the criminal justice system as a whole was primarily destructive for Black communities often led people to voice hopelessness about possibilities for improvement or change. As one community member stated: "I have really no trust in the system in the way it is, and I don't think it can ever be fixed. . . . You can't fix a system that was meant to control, capture, and destroy us [Black people]. How do you fix that?" Another individual believed that reducing racial disparities had "not been a priority because it deals with Black people." Importantly, some system professionals shared a similar sense of despair. One system professional declared:

> I almost wish you could just throw it [the system] all away and start over! I know that's impossible. But there is just a great deal of disparity in the criminal justice system that has just been snowballing for years and years. It needs to stop, but I don't know how to do it.

These expressions of frustration and disillusionment are not unique to Allegheny County. The concept of "legal estrangement" has been developed to refer to this widespread phenomenon. Legal estrangement "reflects the intuition among many people in poor communities of color that the law operates to exclude them from society" and that they are vulnerable to the punitive functions of government agencies while being excluded from protective benefits they might offer."[142] In Allegheny County, community members emphasized that their histories of exclusion, racism, and the long-term effects of these conditions are typically left out of public conversations about racial disparities, including those facilitated by city and county officials. One participant added with frustration, "If you can't talk about it, you

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[142] Bell, M. C. (2017). Police reform and the dismantling of legal estrangement. *The Yale Law Journal*, 2054-2150.

can't address it." Another person summarized this silence by saying, "Do I have a good rapport with justice system? No, they don't communicate with you."

Despite strong feelings of estrangement and pessimism, many community members did want to see change happen. Ideas about how this would be possible varied. One advocate who was well-versed in criminal justice policies believed that the main problem was that system professionals were not following the existing policies, and posited that a key step of enacting change would be to implement policies as they are written:

> They already have every policy in place that would make it equal for everybody. There's a whole Constitution and a whole set of bylaws. All they've got to do is follow them! Apply what is already written fairly. . . . People are writing up all these polices and all these changes, but if nobody's reading them and nobody's following them, what difference does it make?

Other community members were highly critical of existing policies, calling them "By Any Means Necessary policies" designed to incarcerated Black people or attributing racial disparities in the criminal justice system to "institutional racist policies that don't have checks and balances that allow [racial disparities] to persist." One community member expressed that in order for the criminal justice system to change, White people would need to be willing to give up power and stop "profiting off the criminalization of Black bodies." Another person declared that "The system is biased. The system is harsh. The system is corrupt. The greatest opportunity to change the system is not to get caught up in the system."

System professionals spoke to this theme from a different vantagepoint. They did not endorse the idea that the criminal justice system was deliberately designed to exclude Black people and people living in poverty, but they did understand that community members came to this perspective based on the encounters they had had with criminal justice authorities and the experiences they had had with the system. In discussions of policies that could be changed to reduce racial disparities (discussed in Chapters 3 to 6), some system professionals did identify that racism might be a reason that the policies had not already been changed. As one system professional put it when asked why a specific policy was still in place, "I would say that it's a systemic, racist reason that [policy makers] don't understand, or are not willing to do the deep dive to understand, [as to] how this policy has an impact."

Theme 5: Belief that Individual Behavior Drives Racial Disparities

A small group of interview participants reported that they believed racial disparities in the local criminal justice system were due to shortcomings among Black people.

Qualitative researchers look for "disconfirming themes" in data as a way to make sure they are including people with a variety of perspectives in the study.[143] As noted in Chapter 2, the

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[143] Creswell, J. W., & Miller, D. L. (2000). Determining validity in qualitative inquiry. *Theory into practice*, *39*(3), 124-130.

research team did not attempt to persuade anyone who did not want to participate in this study to do so, and as a result the data collected do not represent the views of people who did not want to be interviewed about racial disparities in the Allegheny County criminal justice system. It is possible that people who did not want to participate hold views that disconfirm the four themes discussed above in this chapter.

The main disconfirming theme that arose from the interview data that were collected was the perspective that racial disparities are entirely reflective of Black individuals behaving differently from White people. Community members and system professionals who held this perspective frequently endorsed stereotypes about Black people and attributed racial disparities in the local criminal justice system to ideas such as higher crime rates in Black communities being due to Black family composition (e.g., a higher proportion of "single-parent homes") or due to Black cultural dynamics (e.g., popularity of hip hop music). Notably, however, elsewhere in their interviews the majority of these participants described experiences or observations connecting to the other themes presented in this chapter, especially theme 1 (Racial and Economic Segregation) and theme 3 (Cumulative Trauma Across the Lifespan and Need for Services). They therefore acknowledged structural issues such as the under-resourcing of neighborhoods or the need for more services in certain communities, but from their perspectives, racial disparities were driven solely by individual behavior.

An even smaller proportion of study participants reported that they were unaware of racial disparities in the criminal justice system prior to participating in the research study. Notably, no system professionals endorsed this idea.

Two community members said during their interview that this was the first time they had heard that there were racial disparities in the Allegheny County criminal justice system. Again, it is important to remember that people who were not aware of these disparities may not have been interested in participating in the study. Among the two people who first learned about these disparities due to study participation, neither contested the statistics used in the interview guide to orient people to the content of the interviews or presented a belief that racial disparities did not exist. Rather, they stated that they had not thought about this before.

It is also important to note that all twenty of the system professionals who were interviewed indicated that they had already been aware of the racial disparities in the Allegheny County criminal justice system prior to study recruitment.

Conclusion

Chapters 3 to 6 provide conclusions supported by quantitative data that have policy implications for specific decision points. The qualitative themes presented in this chapter support more global recommendations about strategies to change the criminal justice system in ways that will improve fairness and increase safety for residents of Allegheny County. As one system professional noted, to successfully make a difference in reducing racial disparities, "We have to

fix [the criminal justice system] at the front, the middle and the end." Advancing these recommendations in meaningful ways will require partnerships between multiple criminal justice system agencies and community members with a range of experiences, including people who have been accused or convicted of crimes, people who have been victims of crime, people living in neighborhoods that are heavily policed, and advocates and organizers. It also will require dedicated work to establish relationships in which people with varying perspectives feel safe and comfortable sharing their experiences and viewpoints. For example, the qualitative data in this chapter demonstrate that system professionals can hold different views on what policies exist and how those policies are implemented. Those who work directly with community members and observe first-hand how traffic stops, arrests, probation visits, or other interactions are conducted may feel uncomfortable talking with their colleagues who do not directly interact with the community about how policies and procedures are implemented on the ground. Similarly, it is clear that community members and system professionals can have very different perspectives on the same interaction. Change is not possible without fostering open and honest dialogue that promotes the expression of a diversity of perspectives and safety from retaliation.

This report could serve as an entry point to that dialogue. Productive conversations can be generated by sharing research with groups of people and inviting them to ask questions, discuss their reactions, and brainstorm the implications of specific findings. These discussions can be key to making changes that will reduce racial disparities in the criminal justice system. Psychologists who studied how statistics about racial disparities can paradoxically cause people to become less supportive of policy changes to reduce those disparities recommend engaging people in conversations that contextualize study results, help them challenge their assumptions about what statistics indicate, and highlight the role of institutional and structural factors that contribute to perpetuating inequities.[144] The qualitative themes elaborated in this chapter provide this type of context for the quantitative findings presented in Chapters 3 to 6, including a strong focus on the systemic issues that profoundly shape daily life for Black residents of Allegheny County. It is important to foster conversations about this report's findings in ways that connect the quantitative and qualitative research and support people in understanding how the report recommendations would contribute to a fairer and more equitable criminal justice system.

It is worth noting that none of the recommendations from the qualitative research focus on providing unconscious or implicit bias trainings for system professionals. When asked in interviews what would make recommendations practical, useful, and achievable, multiple system professionals specifically said that they did not recommend individual-level interventions for people working in the Allegheny County criminal justice system and explicitly stated that they thought implicit bias trainings would be unproductive. One system professional put it this way,

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[144] Hetey, R. C. and J. L. Eberhardt (2018). "The Numbers Don't Speak for Themselves: Racial Disparities and the Persistence of Inequality in the Criminal Justice System." Current Directions in Psychological Science **27**(3): 183-187.

"I don't think you can have any impact with an honest discussion about race because people will never believe that they're racist." The following recommendations take this advice and other ideas and guidance offered by community members and system professionals into account, which as a whole focused on holistic and systemic changes.

Adopt a multisystemic approach to reform. As noted throughout this chapter, although system professionals may think of criminal justice procedure in discrete stages, community members experience the criminal justice system as a web of experiences that clearly overlap other public systems. Thus, criminal justice interventions that focus on one decision point at a time may not adequately address root causes of racial disparities, which can originate in—or be exacerbated by—problems in other systems such as education, housing, and health care. To be clear, implementing the specific, focused recommendations provided in Chapters 3 to 6 will contribute greatly to making the Allegheny County criminal justice system fairer and more equitable. The qualitative data robustly support the need to mount a coordinated, large-scale effort to implement as many of those recommendations as possible, so that the criminal justice system as a whole evolves, rather than changes happening in fragmented ways that diminish the impact that a collective effort could achieve. Implementing those recommendations will have reverberations in other sectors; for example, changing probation detainer policies would help keep more people employed, housed, and available to parent their children. The qualitative data also robustly support undertaking a broad, intense initiative across multiple systems to solve for their collective influence on racial disparities in criminal justice outcomes.

Recognize the complex history of race relations in the United States as a root cause of modern-day racial disparities. Interview participants repeatedly emphasized that the criminal justice system does not exist in a social vacuum. Rather, they see the criminal justice system as being influenced by powerful cultural and historical forces that affect its fairness, such as a long history of race-based discrimination, oppression, and violence in the United States. Community members and system professionals stressed the importance of race-conscious policies that directly address racially disparate treatment as a root cause of disparities in addition to contextual factors, such as poverty.

Invest in unarmed, trauma-informed crisis intervention services. The qualitative data strongly support Allegheny County's ongoing efforts to launch and sustain programs, such as the Law Enforcement-Assisted Diversion program, that are aimed at providing people in need with diversion out of the criminal justice system through case management, harm reduction, and other forms of trauma-informed crisis response. Residents of predominately Black communities and system professionals see a clear need for alternatives to law enforcement responses for calls primarily concerning mental health, substance use, and lack of housing. Both community members and system professionals commonly observed that law enforcement officers patrol Black people and Black communities more aggressively than White communities and noted that this practice leads to more instances of stops, searches, and arrests. Both groups also see that these practices have lasting effects on Black residents' safety, well-being, and trust in the

criminal justice system. Models of alternative crisis intervention services are proliferating throughout the United States with strong success, and they are frequently warmly welcomed by community members and their advocates[145] These models often pair social workers or other trained mental health professionals with community outreach workers to respond to calls for assistance in nonviolent situations, including mental health crises and people in need of housing, substance use treatment, and case management services. Some programs include law enforcement in the alternative response team, and others do not. The aim of these programs is to improve public safety by de-escalating crises and providing tailored support to community members, with the idea that many 911 calls are prompted by mental health and social service needs. This model also helps reduce the burden on law enforcement by decreasing demands on their time and keeping them available for situations involving violence or serious threats to physical safety.[146]

Prioritize prevention, not punishment. As the saying goes, "An ounce of prevention is worth a pound of cure." Both community members and system professionals issued an urgent call to address problems such as gun violence and substance use in predominately Black communities holistically and with compassion for people who are often trying to survive in the wake of devastating traumas while managing numerous unmet needs. As opposed to a tough-on-crime approach, which prioritizes punishment over rehabilitation, public health approaches to crime prevention focus on factors like limiting access to firearms and on underlying structural drivers like increasing access to culturally responsive, high-quality mental health services, affordable housing (including supportive housing for people with mental health needs), and gainful employment. These approaches can help engage community members who feel excluded by the law and its protections by acknowledging and addressing harmful societal conditions and reframing the concept of public safety as being inclusive of residents' mental, physical, economic, and social well-being.[147]

Draw on the expertise of local leaders and organizations. Allegheny County has a rich landscape of organizations focusing on issues related to racial justice, criminal legal system reform, and the health and safety of Black communities. Interviews with representatives from some of these organizations provided the research team with nuanced insights about various neighborhoods in Allegheny County, the history of race relations and of criminal justice reform

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[145] Coalition to Reimagine Public Safety, 2021. *Reimagining Public Safety in Pittsburgh and Allegheny County: A community vision for lasting health and safety.* Retrieved from: https://www.1hood.org/publicsafety

[146] *How to Talk about Public Safety Reform*, The Measure of Everyday Life podcast, available at: https://measureradio.libsyn.com/how-to-talk-about-public-safety-reform

[147] Johnson, L., Pelly, C., Ruhland, E., Bess, S., Dariotis, J. K. and Moore, J., Reclaiming Safety: Participatory Research, Community Perspectives, and Possibilities for Transformation, 18(2) Stanford Journal of Civil Rights and Civil Liberties 191 (2022)., Available at
SSRN: https://ssrn.com/abstract=3877542 or http://dx.doi.org/10.2139/ssrn.3877542 See also Bell, M. C. (2017). Police reform and the dismantling of legal estrangement. *The Yale Law Journal*, 2054-2150.

efforts in the county, and the concrete steps that community members see as needed to feel protected and able to thrive. Analysis of the full qualitative dataset, including the system professionals' interviews, points to the work of these local experts as being central to the path forward in reducing racial disparities in the Allegheny County criminal justice system.

Chapter 8. Conclusion and Recommendations

Summary of Key Quantitative Findings

The analyses presented in this report show there are racial disparities present at four main stages of the Allegheny County criminal justice system: law enforcement, pretrial detention, criminal court, and probation. Table 8.1—which is based off results presented in Chapters 3 through 6—shows precisely how large these disparities are. The remainder of this section provides a high-level summary of what the quantitative analyses indicate drive these racial disparities.

Table 8.1. Summary of Racial Disparities Present at Four Main Stages of Criminal Justice System

Stage of Criminal Justice System	Main Outcome(s) Examined	White Individuals	Black Individuals
Law enforcement	Among those who reside in the county, who has new charges filed against them?	1.5%	7.5%
Pretrial detention	Among those who have charges filed against them, who serves pretrial detention?	16.2%	29.1%
Criminal court	Among those who have charges filed against them, who is convicted of a felony?	5.4%	9.7%
	Among those who have charges filed against them, who serves a confinement sentence?	7.9%	10.3%
Probation	Among those on probation, who has a detainer for a new charge filed against them?	5.5%	11.0%
	Among those on probation, who has their probation sentence revoked?	5.2%	7.2%

The racial disparity in law enforcement outcomes—which reflects racial disparities in the rate at which residents are charged with crimes—was present in both the city of Pittsburgh and the suburban areas, although the reasons driving these disparities are different. Within the city, there is strong evidence that one reason charging rates for Black individuals are higher is because Black neighborhoods are policed in a different manner than White neighborhoods. This results in individuals in those neighborhoods—which are predominantly Black individuals—being more

likely to be caught for a given offense. Within the suburbs, the results suggest that the racial disparity is driven by Black individuals being charged with crimes at a higher rate than White individuals within the same location. Because of the lack of detailed law enforcement data from suburban law enforcement agencies, it is difficult to determine what drives this disparity within a given suburban location. However, the racial disparity is largest in the predominantly White suburban areas, which is suggestive that disparate treatment could play a role.

Racial disparities in pretrial detention outcomes—which resulted in Black individuals being almost twice as likely as White individuals to serve pretrial detention on criminal charges—were driven by several factors. Black individuals were more likely to be charged with offenses that were perceived to be more serious (by both statutes and judges), which partially explains why Black individuals were more likely than White individuals to be arrested (versus receiving a summons) and to have a monetary bail set at the preliminary arraignment. However, the results also indicated the racial disparity in the arrest versus summons decision was partly driven by the fact that the PBP has stricter arrest policies than suburban law enforcement agencies, which disproportionately hurts Black individuals (who reside in the city at a higher rate than White individuals). Some of the racial disparity at the preliminary arraignment was unexplained, which could be due to either disparate treatment on the part of judges or because there were potential racial differences in relevant factors (such as residence stability) for which the analysis was unable to control.

Racial disparities in overall criminal court outcomes reflect racial disparities that are present at every stage of the court process. These racial disparities are primarily explained by the fact that, at the time of initial filing, Black individuals are charged with higher-grade crimes on average than White individuals, and they are charged with crime types that are viewed to be more serious (person and weapons). These factors, combined with the way the court processes work to transform these initial charges to a final outcome, result in Black individuals receiving more punitive outcomes at the court stage than White individuals do. The one stage of the court process where there was an unexplained racial disparity was with respect to who had their cases adjudicated through an ARD, which is considered to be Allegheny County's main diversion option. This unexplained racial disparity could reflect racial differences in pending charges, disparate treatment in who is offered an ARD, or racial differences in who accepts an ARD.

The largest racial disparities present at the probation stage correspond to who received a detainer for a new charge—the results indicate Black individuals on probation receive these detainers at twice the rate of White individuals. Racial differences in the rate and type of new charges filed, as well as the perceived risk level of the individual (measured by the person's supervision level and the severity of the crime for which they are serving probation), play an important explanatory role in why this disparity occurs. However, a significant fraction of the racial disparity is unexplained and could either reflect disparate treatment or racial differences in factors that affect detainer decisions but were not able to be controlled for.

Summary of Key Qualitative Findings

The analysis of the qualitative data yielded five key themes. The first—racial and economic segregation—focuses on data from community members and system professionals about how racial segregation in Allegheny County has led to a concentration of poverty in Black neighborhoods and a dire need for investment in education, public health, housing, and other resources. Interview participants identified that segregation and systemic discrimination have undermined safety in Black communities by sustaining racial gaps in opportunity that increase criminal behavior. Furthermore, community members and system professionals provided accounts of their own experiences with different policing strategies in Black and White neighborhoods and with Black and White individuals receiving disparate treatment from law enforcement officers.

The second key theme (differential treatment by system professionals) consists of observations from community members and system professionals about how intensive policing and heavy surveillance set off a chain reaction that perpetuates and intensifies racial disparities at multiple levels of the criminal justice system. Interview participants specifically identified that the differential treatment of Black and White adolescents with regard to arrest and charging contributed to racial disparities in documented criminal histories that affect people throughout their adult lives. Community members and system professionals also emphasized their perspectives that the tendency for criminal justice authorities to perceive Black people as more "dangerous" or "unpredictable" than White people contributed to racial disparities in arrests, charging, and detention.

The third key theme (cumulative trauma across the lifespan and need for services) addresses community members and system professionals' observations about the links between the consequences of racial segregation on concentrated poverty and the dire need for resources to treat mental health issues, including substance use, that increase criminal behavior. Community members noted that repeated exposures to such traumatic events as losing loved ones, living in poverty, and experiencing interpersonal and systemic racism may manifest as physical and mental health issues over time. System professionals also talked about how people living in underresourced communities experience high levels of victimization, housing instability, unmet basic needs, and other difficult life events that take a considerable toll. Community members and system professionals identified these challenges as potential drivers of criminal behavior and expressed a high need for investment in support services in underresourced communities.

The fourth key theme (structural oppression and legal estrangement) provides important insights as to the impact that disparate treatment has on Black community members, who described feeling over-policed and over-punished while simultaneously being unprotected, unheard, and endangered by criminal justice professionals. Community members also often talked about not being able to disentangle the criminal justice system from the day-to-day experience of living in their neighborhoods. Their sense that the criminal justice system as a

whole is primarily destructive for Black communities often led people to voice hopelessness about possibilities for improvement or change. Notably, some system professionals shared a similar sense of pessimism.

The final key theme (belief that individual behavior drives racial disparities) was a disconfirming theme that was noted as a way of making sure that people with varying perspectives were included in the study. This theme encompasses the observations of a small number of community members and system professionals who expressed the perspective that racial disparities are entirely reflective of Black people behaving differently from White people. Notably, however, elsewhere in their interviews the majority of these participants described experiences or observations connecting to the other themes, and therefore acknowledged structural issues such as the under-resourcing of neighborhoods or the need for more services in certain communities. In addition, two community members stated that their interview was the first time they had heard that there were racial disparities in the Allegheny County criminal justice system. All of the system professionals who were interviewed indicated that they had already been aware of the racial disparities in the Allegheny County criminal justice system prior to study recruitment.

Synthesizing the Quantitative and Qualitative Findings

The quantitative analyses show that Black individuals in Allegheny County are overrepresented at each of the key stages of the criminal justice system: law enforcement, pretrial detention, criminal court, and probation. Both quantitative and qualitative findings point to various factors that may contribute to overinvolvement, disparate impact, and disparate treatment at each of these stages. In particular, the qualitative analyses help identify the systemic and structural reasons that have led to differences in characteristics across racial groups that are key inputs into risk factors that are considered in most criminal justice processes—these include racial differences in criminal history and severity of charges filed. For example, well-documented policies and attitudes that have produced racial disparities in health, education, housing, income and wealth have long played a role in generating differences in characteristics across racial groups, and many of these factors were brought up in community member interviews. The quantitative analyses then reveal how much these differences in characteristics contribute to racial disparities given the current policies in place and whether disparities arise for reasons beyond racial differences in characteristics that are traditionally taken into account. In this way, the results both highlight (1) the criminal justice system policies and practices that give rise to racial disparities and (2) the larger systemic and structural factors that are responsible. Although criminal justice system policy and practice changes have the potential to make important reductions in racial disparities, the broader influences of systemic and structural factors should not be ignored.

Study Limitations

Limitations of the Quantitative Research

One limitation of the quantitative analysis is that it relies on data from the 2017–2019 period and system professionals have noted that there have been some significant policy changes since then. It was necessary to use this earlier period of data because the project began obtaining data in 2021 and, at that time, the desire was to obtain data on cases that had already finished the adjudication process and that would have only been minimally affected by the policy changes that were implemented to respond to the COVID-19 pandemic (which were largely thought to be temporary policy changes). To avoid making recommendations that have already been addressed in policy changes the county has already made, the study team solicited feedback from system professionals on all new policies that have been implemented since 2019 that might affect the findings. This ensured that each of the recommendations made builds off the current policy situation.

A second limitation of the quantitative analysis is that the study team was not able to obtain data from almost any suburban law enforcement agency. While the courts were able to provide important information on all criminal cases in the county, law enforcement data includes more-detailed information that is helpful for understanding why racial differences in charging rates might occur. This limited the analysis that was able to be conducted at the law enforcement stage for incidents that originated outside Pittsburgh. However, these data issues did not affect any of the analyses conducted at the pretrial detention, criminal court, or probation stages.

A final limitation of the quantitative analyses is that decisionmakers often make determinations based on a wide variety of factors—while most of these factors are recorded in the data, not all of them are. This results in a situation where it is difficult to conclusively identify whether an unexplained racial disparity occurs because of disparate treatment or because there are racial differences in relevant factors that decisionmakers consider that could not be controlled for. Put another way, even if disparate treatment is occurring, the analyses will not be able to definitively identify this. This is a common issue in racial disparity research. This might lead to a tendency to assume disparate treatment is not occurring simply because the analyses cannot definitively identify it. To guard against this possibility, in situations where there was an unexplained disparity, recommendations were made that should limit the potential for disparate treatment to occur going forward. Where possible, recommendations were also made to collect additional data that will reduce the uncertainty regarding the source of unexplained racial disparities.

Limitations of the Qualitative Research

One potential limitation to the qualitative research component of this study is that the qualitative research team was not located in Allegheny County. This meant that these researchers were not familiar with the neighborhoods, organizations, or criminal justice institutions, policies,

or practices that community members and system professionals referenced in their interviews. As a result, the research team may have not asked follow-up questions or been aware of contextual details that researchers local to Allegheny County might have thought about. In interviews with system professionals, this limitation was mitigated by co-conducting the interviews with members of the quantitative research team, who reside in Allegheny County; members of the quantitative research team also brought local context factors to the attention of the qualitative research team in bi-monthly meetings.

Another potential limitation to the qualitative research is the low number of people who identified themselves as victims or who had experienced receiving victims' services. As shown in Table 2.2, out of a total of 40 participants, 21 community members had experienced victimization in the form of loss of property, being assaulted or otherwise physically harmed by violence, or losing a loved one to violence, but only three of these participants identified themselves as victims. Importantly, this was the case even for people who had lost a loved one to violence. As a result, although data saturation was reached regarding experiences of being harmed through the 52% of the community member interviews that included narratives about the participants' direct experiences of victimization, there were too few people who self-identified as a victim or who received victims' services to reach data saturation in that specific category.

This limitation exists despite efforts by the research team to actively recruit people who identify as victims to participate in this study, including by contacting organizations that serve victims.[148] As noted above, the research team recognizes that the perspectives of people who did not choose to participate in this study are not represented in this analysis. The research team cannot say for certain why people approached for study participation chose not to participate. One possible reason people who primarily identify as victims of crimes might have declined to be interviewed is that they did not see their experiences as victims as relating to racial disparities in the criminal justice system. Anecdotal support of this idea is that one participant who did identify solely as a victim of crime stated that they had not thought about racial disparities in the criminal justice system prior to their interview.

Another potential reason people who identify as victims of crime might have chosen not to participate could be related to trust, and the stigma that can be attached to being victimized by crime. As described in Chapter 2, the qualitative research team was warmly received by many of the people contacted for study participation. These participants often talked about victimization experiences in their interviews but did not call themselves victims and had not experienced receiving victims' services. Sometimes they also expressed sentiments that speaking to people who do not live in Allegheny County was welcome because the interviewers were seen as being "outside" of the system. It is possible that people who primarily identify as victims did not feel similarly, and perhaps would have felt more comfortable speaking to people more closely

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[148] To protect the confidentiality of people and organizations who did not respond to these recruitment efforts, details are not provided about this proactive outreach.

connected to the system, or to Allegheny County. This could point to important opportunities for local researchers and agencies to bring in the perspectives of people who identify as victims.

Recommendations

This section presents the recommendations the research team is making regarding the next steps that should be taken to mitigate racial disparities in the Allegheny County criminal justice system. The recommendations are organized by the set of findings that motivated them. Specifically, section headers note whether a recommendation was motivated by the quantitative versus qualitative findings. For findings motivated by the quantitative results, further subheadings indicate the specific stage of analysis that motivated the recommendation. Note that the recommendations are not organized by who the likely party is to address the recommendation. Further details on these recommendation are provided in the conclusion sections of Chapters 3 to 7.

The recommendations made in this report include calls for better data collection, additional analyses, further discussions among relevant system professionals, and some explicit policy changes. Although enacting these policy changes would be expected to reduce racial disparities, it is possible that there could be offsetting public safety impacts. Furthermore, some reforms that intend to reduce criminal disparities by reducing criminal justice involvement for Black individuals end up increasing racial disparities because they reduce criminal justice involvement for White individuals by an even greater amount.[149] For these reasons, the last recommendation—Recommendation 29—specifically notes that any new policy implemented should be evaluated to understand the impact on racial disparities, the impact on criminal justice involvement, and the impact on public safety.

Recommendations Based on Quantitative Findings

Recommendations Based on Law Enforcement Findings

Recommendation 1: The Pittsburgh Mayor and City Council and PBP leadership should consider other methods of policing within the city of Pittsburgh that do not rely on the use of pretext stops and other low-priority police-initiated interactions with residents.[150] The

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[149] Klein, B., Ogbunugafor, C. B., Schafer, B. J., Bhadricha, Z., Kori, P., Sheldon, J., Kaza, N., Sharma, A., Wang, E. A., Eliassi-Rad, T., Scarpino, S. V., & Hinton, E. (2023). COVID-19 amplified racial disparities in the US criminal legal system. Nature, 617(7960), 344–350. https://doi.org/10.1038/s41586-023-05980-2; and McGhee, J., Rutecki,J. (2021) Fewer people in Cook County are being charged with crimes. Why are Black people making up a larger share of defendants? www.injusticewatch.org. December 1, 2021. https://www.injusticewatch.org/news/courts/2021/the-circuit-racial-disparities-explainer/

[150] For a review of alternative policing strategies, see Samuel Peterson and Shawn Bushway, "Law Enforcement Approaches for Reducing Gun Violence," in Rajeev Ramchand and Jessica Saunders, eds., *Contemporary Issues in Gun Policy: Essays from the RAND Gun Policy in America Project*, RAND Corporation, RR-A243-2, 2021, pp. 77–96. As of April 15, 2021: https://www.rand.org/pubs/research_reports/RRA243-2.html.

results indicate that the higher level of low-priority police-initiated interactions in Black neighborhoods results in certain offenses (such as drug offenses) being enforced at a higher rate in Black neighborhoods. Furthermore, even when these low-priority actions do not result in criminal charges against an individual, these actions can still cause extensive harm to residents of these neighborhoods including disruption of schedules, fines, embarrassment, and an erosion of respect for law enforcement. Law enforcement has noted that officers use these policing tactics to uncover weapons, and that the majority of shootings occur in the neighborhoods where they use these tactics. However, law enforcement was not sure whether this type of tactic actually reduces the number of shootings. Given the harm these policing strategies can have on residents, it is important to consider whether there are other strategies that can be used that have similar public safety impacts, but are more amenable to the residents of these neighborhoods.[151] For example, One Northside is a community-policing initiative PBP is involved in that is run in certain neighborhoods.[152] System professionals felt this is successful, although the impact of any alternative strategy on community-police relations and on public safety should be monitored. System professionals noted that if the PBP stopped enforcing the traffic rules that are commonly used in pretext stops, PBP could be in danger of losing accreditation.

Recommendation 2: The Pittsburgh Mayor and City Council and PBP leadership should consider having police issue citations for minor violations that are primarily discovered through low-priority police-initiated actions. The results for the city of Pittsburgh indicate that one reason that Black individuals have a higher charging rate for drug offenses is that they are more likely to be caught because of the disproportionate use of low-priority police-initiated actions with residents in Black neighborhoods. Policies should be considered that allow these violations to be handled with a citation, as opposed to a criminal charge. For example, as of 2016, the City of Pittsburgh Code of Ordinances decriminalized the possession of a small amount of marijuana so that it could be handled with a citation that carried a fine of $25. However, it has been reported that Black individuals are disproportionately still being charged criminally rather than cited. Legislation that decriminalizes other minor offenses—such as possession of drug paraphernalia—should be considered. Further, when citations are an option (such as for marijuana), law enforcement should be encouraged to use that option rather than continuing to charge individuals with a criminal offense.

Recommendation 3: The Allegheny County Executive should compare policing practices for suburbs that have relatively low racial disparities in criminal charging rates with

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[151] As noted in Chapter 3, PBP temporarily reduced pretext stops, but then returned to this practice after concerns were raised about accreditation. The research team was not able to determine whether the temporary reduction in the use of pretext stops was offset by other police activities intended to increase public safety.

[152] http://onenorthsidepgh.org/how-we-serve/safety/

suburbs that have relatively high racial disparities in criminal charging rates. The results indicate that, within the suburban areas, the level of racial disparity is much higher in suburbs with more White residents. Given that the current lack of centralized data inhibits the ability to do a more in-depth quantitative analysis, it would be useful to conduct some case studies in suburban areas that vary by the level of racial disparity. In particular, this work could document the policing practices in suburbs with low levels of racial disparity and disseminate those practices to other departments that serve areas with higher levels of racial disparity. These case studies should include an examination of the use of practices that appear to differ among city neighborhoods—specifically, where patrols usually occur, the use of pretext stops and other police-initiated actions, and the treatment of minor violations.

Recommendation 4: The Allegheny County Executive and the Mayor of Pittsburgh should work to increase transparency of policing practices and outcomes by improving data systems and by encouraging public reporting both by agencies and by independent evaluators. The present report has provided a snapshot of disparities in policing outcomes for Pittsburgh neighborhoods and suburban locations for the 2017–2019 period. It also provides some insight into PBP enforcement strategy from data made available regarding 911 calls dispatched to the PBP and motor vehicle stops made by the PBP. Regular public reporting of a similar fashion by each law enforcement agency would allow citizens to monitor their law enforcement public servants. To increase public confidence in these reports, changes should be made to state laws and local policies to require collection of crucial data and to permit data-sharing with independent evaluators. These changes include (1) revision of the CHRIA so that deidentified law enforcement data can be shared with independent evaluators; (2) standardization of law enforcement agency data within the county to include important information about all police/citizen encounters, such as race of citizen, reason for encounter, location of encounter, and outcome of encounter; (3) sharing of law enforcement data within the county, perhaps through a shared information system, so that independent evaluators can do comparative analysis; and (4) revision of policy and content of the ACES data system so that 911 call data can be linked to law enforcement and court data and shared with independent evaluators.

Recommendations Based on Pretrial Detention Findings

Recommendation 5: The Supreme Court of Pennsylvania should modify the rules that provide instructions on how the arrest versus summons decision is to be made such that the default for a misdemeanor charge would be to issue a summons unless there is reason to believe that either victim safety or defendant safety is an issue, or the individual cannot be identified. Currently, Rules 509 and 519 state that the default option for a second- and third-degree misdemeanor, as well as for a DUI first-degree misdemeanor, is a summons; however, the rules do not have a default option when the charge is a non-DUI first-degree misdemeanor. This

rule change would ensure that a summons would be the default for all misdemeanor charges. If a law enforcement officer elects to issue an arrest for a misdemeanor charge, the officer would have to identify whether the arrest is being done because of victim safety, defendant safety, or defendant identification issues. These policy changes should reduce the amount of discretion officers have in the arrest versus summons decision, and should also result in the PBP and suburban law enforcement agencies using similar practices at this decision point. As one driver of the arrest (versus summons) racial disparity is the fact that PBP officers are much more likely to arrest an individual on a misdemeanor charge than officers with a suburban law enforcement agency, this policy would be expected to reduce racial disparities at the arrest versus summons stage.

Recommendation 6: The Allegheny County Executive and the Pittsburgh Mayor should ensure that law enforcement document the reason why when individuals are arrested for a misdemeanor charge (versus receiving a summons). Although officers have discretion in the arrest versus summons decision for a misdemeanor charge, they are not required to report why they make a specific decision. To record this information, officers could use a drop-down menu that would specify the potential reasons why an individual might be arrested on a misdemeanor charge: Reasons could include a statute requirement (which is relevant for domestic violence offenses), victim safety, defendant safety, defendant identification issues, and any other reasons for which officers might elect to arrest an individual on a misdemeanor under current policy. Collecting this information would allow for a more refined analysis regarding what is driving racial disparities at the arrest versus summons decision. In particular, having these data would shed more light on why the arrest practices of suburban law enforcement agencies are so different from the practices of the PBP.

Recommendation 7: The Allegheny County Executive and Pittsburgh Mayor should work to ensure that law enforcement officers are provided the technology such that they can fingerprint individuals out in the field. One of the reasons law enforcement officers will arrest an individual on a misdemeanor charge (versus issuing a summons) is because they cannot identify individuals and thus need to arrest them so that they can be fingerprinted at the jail. Although this technology can only identify only individuals who have been previously fingerprinted, it would still lower the likelihood that an individual is arrested solely for identification issues. Given that system professionals indicated that identification issues were more likely to occur within the city (where incidents involving Black individuals are more likely to occur), a policy such as this could mitigate racial disparities at the arrest versus summons stage. To prevent a situation in which law enforcement officers start fingerprinting all individuals they encounter, policies and procedures could ensure that officers could fingerprint only individuals after officers make the decision to charge them with a crime.

Recommendation 8: The Allegheny County courts should race-blind the paperwork provided to judges at the preliminary arraignment. The findings indicated that some of the racial disparity present at the preliminary arraignment could potentially be caused by some of the judges overseeing the preliminary arraignment (which includes both MDJs and senior judges) engaging in disparate treatment against Black individuals. However, because judges make their decisions based on the information provided to them in the paperwork they receive before they meet the defendant at the preliminary arraignment, one potential remedy to prevent disparate treatment from occurring would be to race-blind the paperwork that is provided. In particular, the paperwork provided to the judge could still present full information on the risk assessment and the nature of the charges but would remove information on the individual's race and information that might reveal race (including name, the location of the crime, and the individual's address). If there are legal issues with redacting any of these items, it is recommended that relevant parties advocate to change those legal requirements.

Recommendation 9: The Allegheny County courts should ensure that if judges decide to set a monetary bail at the preliminary arraignment, they will have to conduct an ability-to-pay hearing prior to setting the bail amount. The use of monetary bail was an important cause of racial disparities in pretrial detention outcomes, because Black individuals received higher monetary bails, and the results were also suggestive that Black individuals had a lower ability to pay a given bail level. Collectively, these factors resulted in Black individuals serving longer pretrial detention stints than White individuals. Although it is mandated that judges carry out an ability-to-pay hearing prior to setting a monetary bail, in practice they do not do this and set bail based on charges and other perceived risk factors rather than based on ability to pay. If judges were to set a monetary bail that was in line with what an individual could pay, this policy would be expected to reduce racial disparities in the length of the pretrial detention stint. To avoid a situation in which judges end up setting a monetary bail on everyone, it would be important to only conduct an ability-to-pay hearing once the judge has already decided they are going to require a monetary bail.

Recommendation 10: The Allegheny County courts should require the default decision at the preliminary arraignment to be a nonmonetary release when Pretrial Services recommends this; if judges want to go against these recommendations, they will need to document the reason why. Judges frequently require individuals to pay a monetary bail when the recommendation from Pretrial Services (which is based on the risk assessment instrument as well as other aggravating and mitigating factors) is a nonmonetary release. Ensuring that the default is that judges comply with the recommendation provided by Pretrial Services should decrease the usage of monetary bail. Given that the usage of monetary bail has a disproportionate negative impact on Black individuals, this would be expected to reduce racial disparities in pretrial detention outcomes. Note that this recommendation is not in contradiction to Rule 523,

which lays out the criteria that judges are supposed to consider at preliminary arraignments and specifically notes that the information provided by the risk assessment should not be the only information considered. In situations in which other information outside the risk assessment, but within the parameters of Rule 523, results in the judge deciding to issue a monetary bail, the judge would still be free to set a monetary bail; the only difference is that this recommendation would require judges to specifically document why they decided to set a monetary bail in those specific cases (if the recommendation from Pretrial Services was for a nonmonetary release).

Recommendation 11: The Allegheny County courts should publicly report judge concurrence with the recommendation from Pretrial Services at regular intervals—these statistics could be presented for each judge overall and show how the results differ by race of defendant for each judge. This should increase transparency into judge decisionmaking and is likely to make judges more likely to concur with the recommendation from Pretrial Services.

Recommendation 12: Identify whether an offense involves domestic violence. Domestic violence offenses tend to be classified as either a simple assault or an aggravated assault. However, domestic violence offenses can often be handled differently than other offenses that fall in the simple or aggravated assault categories. For example, misdemeanor cases involving domestic violence must result in an arrest (versus a summons). Because this factor will affect how cases are handled in the process, it would be very useful to document which offenses involve domestic violence. Given that Pretrial Services recently began recording this information in the pretrial case management system for cases on which they make recommendations, this coding might be happening already in most cases. However, this coding should eventually be done for all cases. The easiest way to identify cases that involve domestic violence would be to modify the state crime codes, although this coding could also happen at the local level.

Recommendations Based on Criminal Court Findings

Recommendation 13: The Supreme Court of Pennsylvania should conduct an in-depth study on how the sentencing guidelines are contributing to racial disparities in sentencing decisions to determine whether it is possible to make further revisions to the guidelines that would reduce racial disparities. Among those convicted on a criminal charge, Black individuals on average have higher OGS/PRS values than White individuals, and this is why they are more likely to receive confinement sentences and why they receive longer confinement lengths. It is important to examine the sentencing guidelines to ensure that the penalty attached to higher OGS/PRS combinations is commensurate to the situation, as reducing the size of this penalty would reduce racial disparities. Although the sentencing guidelines have been recently revised—with the new guidelines scheduled to go into effect on January 1, 2024—increases in OGS and PRS values are still met with sizable increases in recommended sentences in the new

guidelines, which indicates that the same issues related to racial disparities that were present under the old guidelines likely still will be relevant under the new guidelines. In this environment, analyzing the trade-offs associated with narrowing the sentence penalties would be very informative. Furthermore, it is important to examine whether offenses that are considered to be of a similar public safety risk have a similar OGS, as some system professionals indicated the new guidelines are disproportionately harsh on weapons offenses, which are offenses that Black individuals are more likely to be charged with.

Recommendation 14: The Allegheny County courts should collect data on plea deal terms and examine whether the terms that are being offered are commensurate to the public safety risk posed by individuals. Although plea deals play an extremely important role in determining case outcomes, they have not been discussed up until now because there are no data recorded on the terms of these deals. However, in the same way that it is recommended that the sentencing guidelines be reviewed, it is also important to identify how offered plea deals vary by case characteristics to ensure that the terms are commensurate to the situation. Analyses should also examine whether there are racial disparities in plea deal terms and identify why those disparities exist—i.e., is it because of racial differences in risk factors or are there unexplained disparities that could reflect disparate treatment? In terms of collecting data on plea deal terms, given that the Phoenix Court offers relatively standard plea deals, system professionals noted that these terms could be made available. For cases adjudicated elsewhere, system professionals noted that the fluid, back-and-forth motion of plea deals that tend to happen in verbal conversations make them difficult to capture in data. However, both the prosecution and defense could each note down their first offer, and then also note down their last offer. Note that if a plea deal was executed, the last offer would be the case disposition. However, if the case went to trial, this last offer would be necessary to record.

Recommendation 15: The Pennsylvania State legislative and executive branches should consider whether it is possible to expand the eligibility criteria for ARDs; the required $250 entry fee for an ARD should be waived for those who have an inability to pay. At the time of the writing of this report, ARDs are the main diversion option in Allegheny County, but this pathway predominantly ends up handling DUIs, which is a crime that disproportionately affects White individuals. As a result, Black individuals are much less likely to participate in this diversion option than White individuals. Given that the eligibility criteria for ARDs are primarily determined by state statute, it is important for state lawmakers to consider whether the criteria for ARDs can be expanded to allow for more offense types and whether some of the criminal history requirements could be relaxed. Furthermore, many system professionals noted that the $250 fee that is required for individuals to enter the ARD program may disproportionately exclude Black individuals, and thus it is recommended that this fee be waived for those with an inability to pay in order to increase participation rates.

Recommendation 16: The Allegheny County courts should track and report on who is offered an ARD, whether individuals decline the ARD option, and the reason for any declination. The data indicate only whether the case is adjudicated via an ARD, which means the individual both was offered and accepted this option. The results indicate that, among individuals who are likely to be eligible for an ARD, there are significant racial differences in who has their case adjudicated via an ARD. To better parse out why this might occur, it would be useful to understand whether the difference is driven by racial differences in who is offered an ARD or by racial differences in who accepts an ARD. If the difference in ARD rates among eligible individuals is being driven by racial differences in declination, understanding the reason for the declination would provide useful information on how to increase participation.

Recommendation 17: System professionals within Allegheny County should consider the feasibility of developing diversion problem-solving courts that would handle offenses that are currently excluded from receiving ARDs—this includes a problem-solving court for weapons offenses and a problem-solving court focused on emerging adults (ages 25 and younger). Black individuals are more likely than White individuals to be charged with weapons and person offenses, and the way in which these cases are currently treated in the criminal court process is one reason why racial disparities in court outcomes occur. Expanding diversion options to include these types of cases could potentially allow more Black individuals to participate in diversion programming.

Recommendation 18: The Pennsylvania State legislative and executive branches should expand the Clean Slate Law such that, when a conviction is sealed from public view, it is also no longer included in an individual's PRS. Racial differences in the PRS contribute to racial disparities in sentencing outcomes, and thus polices that reduce PRS differences will be helpful. As the biggest racial difference in criminal history occurs among felony convictions, this type of policy would be more impactful in reducing racial disparities if it were to allow certain (e.g., low-level) felony convictions to be removed from consideration in the PRS (as opposed to only allowing misdemeanor convictions to be ignored).

Recommendation 19: The Allegheny County courts should track the reasons why cases are closed without conviction. Understanding why cases are closed without conviction is crucial to identifying what the implications are for Black individuals being more likely than White individuals to have this event happen. At a minimum, a drop-down menu could be added to the case-management system with the following options for why a case is closed: judge determined no probable cause, prosecutor determined evidence not sufficient to move forward with the case, case closed because deal worked out with individual, or case closed because victim chose not to participate.

Recommendation 20: The Allegheny County courts should base detainer decisions for new charges primarily on the severity of the new charges filed against the individual. The analysis indicates that the fact that the Probation Department considers other factors besides the severity of the new charges explains 47% of the racial disparity in who receives a detainer among those charged with a new offense while on probation. This racial disparity could thus be reduced if this other information was not taken into account. In conversations with Probation Department staff, violent felonies were frequently brought up as an example of a new charge on which an individual should be detained—the racial disparity in detainers for new charges would fall by 2.1 percentage points (from 5.5 to 3.4) if only those charged with a new violent felony offense were issued a detainer. To preserve some discretion, the Probation Department could institute a policy whereby the default decision would be to detain anyone arrested on a new violent felony offense and not detain anyone charged with any other type of offense. If the Probation Department wanted to make a different decision, it would be required to clearly document why it felt the default decision was not appropriate in the particular case; statistics measuring the frequency of these deviations, separately by race, should be publicly reported at regular intervals.

Recommendation 21: The Allegheny County courts should eliminate the use of detainers for new charges and instead have the pretrial detention process determine whether individuals should be in jail. Note that all individuals who are arrested while on probation must go through the pretrial detention process. Therefore, as of the writing of this report, to secure their release, individuals have to meet the requirements imposed at the preliminary arraignment (e.g., paying a monetary bail) and avoid receiving a detainer. To understand the impact of eliminating the use of detainers, ideally one would want to identify how racial disparities in pretrial detention lengths for a new arrest would change if detainers were no longer possible. Although this aspect cannot be identified, what can be examined is how much of the racial disparity in pretrial detention lengths is explained by racial differences in detainer rates. The results indicate that, among arrests for individuals on probation, 34% of the disparity in who is in jail for at least 30 days following their arrests can be explained by racial differences in detainer rates. This finding is suggestive that, if detainers were eliminated, racial disparities in pretrial detention lengths would fall. Note that this recommendation is an alternative to Recommendation 20, as both recommendations put forward proposals to reform the detainer process for individuals charged with new offenses.

Recommendation 22: The Allegheny County courts should conduct an impartial audit to better understand why racial disparities in probation revocation rates occur. The data provided for this study recorded whether an individual was cited for a violation; if the individual was cited with a violation, the data noted all the court-ordered conditions the individual is out of

compliance with, which forms the justification of the revocation decision. However, these data do not allow one to examine whether there are racial differences in whether individuals who commit the same violation are actually cited with a violation, and this factor was the principal reason the analysis conducted here could not examine why racial disparities in revocation rates occur. It is expected that there are records kept—likely by agencies outside the Probation Department—on restitution payments, required programming, and treatment completion. Furthermore, the courts have detailed information on all new offenses an individual is charged with while on probation. Obtaining this information from other agencies should allow one to reasonably identify the extent to which individuals on probation are in compliance with their conditions. One could then examine whether the racial difference in both citation and eventual revocation rates occurs because of racial differences in compliance, or because Black individuals are more likely to be cited for a violation given noncompliance.

Recommendation 23: The Allegheny County courts should record information on all factors that are being used in detainer decisions for all individuals for whom a detainer for a new charge decision is being made. Thirty-eight percent of the disparity in who receives a detainer for a new charge (conditional on being charged with a new offense) is unexplained. Some of that unexplained disparity could reflect disparate treatment, and some could reflect racial differences in other variables that probation takes into account but does not record in administrative data. These factors include victim concerns, potential treatment needs, willingness to engage with their probation officer, the individual's family situation, as well as perceptions about their general stability with respect to housing, employment, and social networks. Information on these factors should be recorded for all individuals who are charged with a new offense while on probation that is serious enough to merit detainer consideration so that further analysis could parse out the role that disparate treatment is playing. Further, these other factors that are being considered could be based on biased perceptions, and thus having this data will allow this issue to be examined, as well as identify how big of a role these factors are explaining in the disparity.

Recommendations Based on Qualitative Findings

Recommendation 24: Adopt a multi-systemic approach to reform. Although system professionals may think of criminal justice procedure in discrete stages, community members think of the criminal justice system as a web of experiences that clearly overlap other public systems. Thus, criminal justice interventions that focus on one "decision point" at a time may not adequately address **root causes** of racial disparities, which can originate in—or be exacerbated by—problems in other systems such as education, housing, and healthcare. The qualitative data robustly support the need to mount a coordinated, large-scale effort to implement as many of the recommendations listed above as possible, so that the criminal justice system as a whole evolves,

rather than changes happening in fragmented ways that diminish the impact that a collective effort could achieve. Implementing a full scope of recommendations will have reverberations in other sectors as well; for example, changing probation detainer policies would help keep more people employed, housed, and available to parent their children. The qualitative data also robustly support undertaking a broad, intense initiative across multiple systems to solve for their collective influence on racial disparities in criminal justice outcomes.

Recommendation 25: Recognize the complex history of race relations in the United States as a root cause of modern-day racial disparities. Interview participants repeatedly emphasized that the criminal justice system does not exist in a social vacuum. Rather, they see it as being influenced by powerful cultural and historical forces that that impact its fairness, such as a long history of race-based discrimination, oppression, and violence in the United States. Community members and system professionals stressed the importance of race-conscious policies that directly address racially disparate treatment as a root cause of disparities in addition to contextual factors like poverty.

Recommendation 26: Invest in unarmed, trauma-informed crisis intervention services. The qualitative data strongly support Allegheny County's ongoing efforts to launch and sustain programs aimed at providing people in need with diversion out of the criminal justice system through case management, harm reduction, and other forms of trauma-informed crisis response, such as the Law Enforcement-Assisted Diversion program. Residents of predominately Black communities and system professionals see a clear need for alternatives to law enforcement responses for calls primarily concerning mental health, substance use, and lack of housing. Both community members and system professionals commonly observed that law enforcement officers patrol Black residents and Black communities more aggressively than White residents and White communities and noted that this practice leads to more instances of stops, searches, and arrests. Both groups also see that these practices have lasting impacts on Black residents' safety, well-being, and trust in the criminal justice system. Models of alternative crisis intervention services are proliferating throughout the nation with strong success, and are frequently warmly welcomed by community members and their advocates. These models often pair social workers or other trained mental health professionals with community outreach workers to respond to calls for assistance in nonviolent situations, including mental health crises and people in need of housing, substance use treatment, and case management services. Some programs include law enforcement in the alternative response team, and others do not. The aim of these programs is to improve public safety by de-escalating crises and providing tailored support to community members, with the idea that many 911 calls are prompted by mental health and social service needs. This model also helps reduce the burden on law enforcement by decreasing demands on officers' time and keeping them available for situations involving violence or serious threats to physical safety.

Recommendation 27: Prioritize prevention, not punishment. As the saying goes, "An ounce of prevention is worth a pound of cure." Both community members and system professionals issued an urgent call to address problems such as gun violence and substance use in predominately Black communities holistically and with compassion for people who are often trying to survive in the wake of devastating traumas while managing numerous unmet needs. As opposed to the approach of being tough on crime, which prioritizes punishment over rehabilitation, public health approaches to crime prevention focus on such factors as limiting access to firearms and on such underlying structural drivers as increasing access to mental health services, affordable housing (including supportive housing for people with mental health needs), and gainful employment. These approaches can help engage community members who feel excluded by the law and its protections by acknowledging and addressing harmful societal conditions and reframing the concept of public safety as being inclusive of residents' mental, physical, economic, and social well-being.

Recommendation 28: Draw on the expertise of local leaders and organizations. Allegheny County has a rich landscape of organizations focusing on issues related to racial justice, criminal legal system reform, and the health and safety of Black communities. Interviews with representatives from some of these organizations provided the research team with nuanced insights about various neighborhoods in Allegheny County, the history of race relations and of criminal justice reform efforts in the county, and the concrete steps that community members see as needed to feel protected and able to thrive. Analysis of the full qualitative dataset, including the system professionals' interviews, points to the work of these local experts as being central to the path forward in reducing racial disparities in the Allegheny County criminal justice system.

Overarching Recommendation

Although the recommendations proposed above were tailored to address the specific causes of racial disparities within the Allegheny County criminal justice system, new policies can often have unintended consequences or the underlying causes of racial disparities might change over time. Furthermore, some system professionals felt that some of the proposed recommendations might reduce public safety. To ensure that new policies are having the intended effect, as well as identify any possible trade-offs, this report makes one last recommendation:

Recommendation 29: The Allegheny County Executive and the Pittsburgh Mayor should ensure that, for any new policy implemented, an evaluation is conducted to understand the impact on racial disparities in relevant outcomes and the impact on public safety. Additionally, the evaluations should examine implementation fidelity and should ensure the impacts of a specific policy can be identified, given that many policies might be implemented around the same period.

Appendix A. Supplementary Material for Chapter 2

Oaxaca-Blinder Decomposition Methodology

For each substage where a racial disparity was present, Oaxaca-Blinder decompositions were used to identify why the disparity occurred. This decomposition is a regression-based technique which divides the racial disparity in a given substage outcome between Black and White individuals into an explained and unexplained portion:[153]

$$\overline{Outcome_B} - \overline{Outcome_W} = (\overline{X_B} - \overline{X_W})\beta_W + \overline{X_B}(\beta_B - \beta_W) \qquad [1]$$

For a given outcome, $\overline{X_B}$ and $\overline{X_W}$ represent the average values of nonrace factors (i.e., characteristics) that were controlled for in the decomposition analysis for that outcome. These are the factors that are noted in the display of the decomposition results, and are also detailed in Appendices B through E. The coefficients β_B and β_W represent the coefficients one would obtain on those covariates if the outcome was regressed on those covariates separately for Black and White individuals. The coefficients β_B and β_W essentially reveal how much of a risk factor a given characteristic is for Black and White individuals, respectively.

The first term in specification [1] represents the explained portion of the disparity, as it reflects the proportion of the racial disparity in a given outcome that results from Black and White individuals having different characteristics. Specifically, this term identifies how much higher the likelihood of the punitive outcome would have been for White individuals if they had the same characteristics (on average) as Black individuals. The second term in specification [1] represents the unexplained portion of the disparity, because it represents how much of the disparity results from a given characteristic having a different risk impact on outcomes for Black and White individuals. As noted throughout the presentation of these estimates, if covariates omitted from the regressions are not correlated with race or with those that are included in a way that differs by race, then this second term can be interpreted as disparate treatment. However, care should be taken to reflect on what factors remain unmeasured and consider whether this condition is likely to be met.

For each characteristic controlled for in the decomposition analysis, the value of the first term for that factor (i.e., the explained disparity) was divided by the full racial disparity between Black and White individuals at that stage. This identifies the percentage of the racial disparity in that outcome that can be explained by racial differences in that factor. These percentages are presented in the figures showing the decomposition results.

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[153] Jann, Ben. "A Stata implementation of the Blinder-Oaxaca decomposition." *Stata journal* 8.4 (2008): 453-479.

Table A.1. Endorsement of Qualitative Themes Across Interview Participant Groups

Key Interview Theme	Community Members	Law Enforcement	Probation	Court Administration, Judicial Officers	Pretrial Services	Prosecutors, District Attorneys	Public Defense	Example Quotation
Theme 1: Racial and economic segregation	☑	☑	☑	☑	☑	☑	☑	"When we intentionally create communities of poverty, then we disenfranchise them, under-educate them, we take away all the pieces that folks need to survive . . . People are always going to try to survive."
Theme 2: Differential treatment by system professionals	☑	☑	☑	☑		☑	☑	"Most police officers wouldn't even recognize that they're letting a White boy go for something that they take a Black boy in the custody for in the juvenile system or as an adult."
Theme 3: Cumulative trauma across the lifespan and need for services	☑	☑	☑	☑	☑	☑	☑	"I average at least like 10 close people . . . people I consider friends that are murdered [per] year."
Theme 4: Structural oppression and legal estrangement	☑	☑		☑	☑	☑		"The system is biased. The system is harsh. The system is corrupt. The greatest opportunity to change the system is not to get caught up in the system."
Theme 5: Belief that individual behavior drives racial disparities	☑			☑				"It's so unfortunate I've never thought about these things. I recognize that's a privileged thing to say."

Appendix B. Supplementary Materials for Chapter 3

This appendix provides more details regarding the analysis conducted in Chapter 3, which focused on racial disparities at the criminal charging stage. The appendix first describes how the data used in the various analyses were constructed, and then details how the White matched neighborhoods were identified. Next, the recruitment strategy that was used to obtain data from suburban law enforcement agencies is documented. The last section includes additional tables that provide more insight into the differences between the city and suburban areas within the county.

Data Construction

Constructing Charging Rates in a Given Area

Many of the analyses in Chapter 3 require identifying the charging rate in a given area, where the area is sometimes the full county, sometimes within versus outside Pittsburgh, and sometimes within a given neighborhood within Pittsburgh, or municipality, township or borough outside Pittsburgh. Details are provided below, on how each of these rates was constructed.

Constructing the county wide rates required information on both the population of individuals within the county, as well as the number of new charges that were filed within the county. The number of new charges filed was identified using, the same data that was used to conduct the analyses in both Chapters 4 and 5, which is data that was provided by the county on all cases (88,511 in total) involving criminal charges against either Black or White individuals who had a file date between 2017 and 2019. These data are organized at the incident (i.e., case) level, such that there can be multiple charges associated with a given incident. To identify the countywide charging rates for Black and White individuals (shown in Figure 3.3), the analysis divides the total number of charges against Black and White individuals in a given year by the total population of Black and White individuals, respectively, that reside within the county.

To construct the rates within Pittsburgh versus outside Pittsburgh, the analysis used the location data that was provided by the county to identify where the charge originated. To identify the charging rates within Pittsburgh, the analysis divided the total number of incidents for Black and White individuals within Pittsburgh in a given year by the number of Black and White individuals who reside in Pittsburgh. An analogous measure was constructed for the suburban areas.

To construct the charging rates within a given Pittsburgh neighborhood, the data the PBP provided on the detailed location of an incident was merged to the file on charges the county provided (described earlier). To identify the charging rate in a given neighborhood, the number

of charges filed that originated from an incident in that neighborhood was divided by the number of residents in that neighborhood.

The way charging rates are constructed and interpreted implicitly assumes that the only individuals who are charged with criminal activity in a given area are actually residents of that area. Note that it is possible that criminal activity could be committed in an area by an individual who does not reside in that area. Ideally, to identify the charging rate for a given area, one would observe the total number of people who spend time in a given area and the relative amount of time they spend in that area. That would allow the research team to identify the true percentage of people who spend time in a given area who are at risk of being charged with a crime. However, with the exception of certain areas where lots of outsiders come into the area (such as the South Side), the proxy of charging rates used here is expected to be a reasonable reflection of how charging rates vary across locations.

Motor Vehicle Stop Analysis

Figure 3.9 was constructed with the PBP-provided data on motor vehicle stops. These data were structured such that they were at the incident level, in which a given incident could be associated with multiple warnings or citations. Only motor vehicle stops that were conducted on Black and White motorists between 2017 and 2019 were included in the analysis. A total of 5,712 observations were dropped because there was no information on the location of the stop.

As detailed in Chapter 3, each offense associated with a stop incident was coded into either a high- or low-priority stop. This required hand coding hundreds of offenses. Because of the time intensiveness of this task, any offense that appeared four times or less in the data was not hand-coded. This step resulted in 158 stop incidents having at least one offense associated with it that was not coded as either discretionary or mandatory. These observations thus had to be dropped. The resulting data included 52,831 stop incidents, which was used to construct Figure 3.9.

The data indicated whether a frisk was conducted. However, for some stop incidents, the data indicated that evidence was found although no frisk was conducted. As evidence would likely only be found if a frisk was conducted, all cases in which evidence was found were coded as having a frisk conducted.

Police-Initiated Actions

The identification of police-initiated actions obtained from the 911 call data provided by the PBP used the "on-view" field in the PBP data system. In this context, *on-view* indicates that the record reflects an action that was initiated by a PBP officer rather than a call placed to 911 from the community.

We used the "priority" field and the "call_type_final" field in the PBP 911 data to determine whether a call was low or high priority. Priority values range from zero to five, with zero corresponding to high-priority events. A police action was deemed low priority if the call type was categorized as "Park and Walk" (indicating officers were going on foot patrol in a given

area), "Subject Stop," "Suspicious Activity/Person/Vehicle," or "Traffic Stop," and the call was not of the highest-priority level.

The analysis of PBP-provided 911 data is limited to 2017 and 2018. The data contained 157,908 calls for 2017 and 155,246 calls for 2018 but only 36,456 calls for 2019, which the research team interpreted as a problem with the 2019 data and, therefore, did not use that year's data.

Source of Criminal Charges

Figure 3.11 was constructed using the file described earlier that matched the court-provided data on criminal charges with the PBP-provided location data. This file was then merged to the 911 call data provided by the PBP to identify the origin of the criminal charge (i.e., was it a citizen call for service or a police-initiated action?). If an incident could not be matched to the PBP data, it was assumed to have originated from an unidentified law enforcement action. Although this file was constructed for all new criminal charges filed between 2017 and 2019, the 911 dispatch data had oddly low counts for 2019—therefore, the analysis only used data for 2017 and 2018.

Selection of White Matched Neighborhoods

Comparing charging rates in neighborhoods with a large percentage of Black residents (which are referred to as *Black neighborhoods*) with other neighborhoods in Pittsburgh reflects not only law enforcement differences related to the racial composition of the residents, but also differences related to socio-economic characteristics that are associated with race. Therefore, the analysis identified a set of matched neighborhoods that are similar to Black neighborhoods using propensity scores.[154] A logit model was estimated of the probability that a neighborhood is a Black neighborhood as a function of the average age, income and education of the neighborhood, and of the number of jobs located in the neighborhood per resident using all neighborhoods in the city. The predicted probability (i.e., the propensity score) for White neighborhoods was then calculated and these neighborhoods were then ranked by their propensity score. The research team went down the list of White neighborhoods until it had a cumulative population of White neighborhoods approximately equal to the total population of the Black neighborhoods. This effort provided a group of White matched neighborhoods, with the remaining White neighborhoods left as the White unmatched neighborhoods.

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[154] Rosenbaum, Paul R. and Donald B. Rubin, "The central role of the propensity score in observational studies for causal effects", Biometrika, Volume 70, Issue 1, April 1983, Pages 41–55, https://doi.org/10.1093/biomet/70.1.41

Recruitment Strategy for Data Provision from Suburban Law Enforcement Agencies

The original plan used to identify suburban law enforcement agencies from which to request data was to identify a manageable number of municipalities that reflected the range of racial disparity in the rates of arrest across the county. The ratio of arrests of Black individuals/Black population and arrests of White individuals/White population was calculated for all municipalities in the county. The ratio of this measure (which reflects the disparity) was then calculated for each municipality. A set of 14 municipalities of a reasonable size (populations more than 10,000 people) that covered the range of the calculated disparity (some low, some medium, some high) were then selected to contact for possible participation.

A second strategy was also pursued to possibly increase the yield of participating departments. The research team decided to approach departments that were currently providing data to the county's centralized RMS; the RMS staff provided the names of these municipalities. The logic behind this group selection process was that a municipality that had already provided data to RMS would have minimal burden to provide data. The RMS staff could pull the relevant data fields and compile the datasets, and the chief and/or municipal officials would then simply have to approve the data use agreement and the transferred datasets. Only two of the municipalities identified with this method were also members of the set identified with the first method. In total, these two strategies resulted in 26 law enforcement agencies.

The overall approach to obtain data from the selected law enforcement agencies involved several steps. First, a brief description of the study was sent to them, along with a statement of endorsement signed by Scott Schubert (who was the PBP chief at the time), John Sicilia (chief of the NRPD, which had already agreed to provide data), and Fred Thieman (former U.S Attorney for Western Pennsylvania). These letters were followed up by emails and phone calls from Ed Mulvey (Allegheny County criminal justice coordinator) to the chiefs, asking for an in-person meeting about study participation. Seventeen agencies agreed to meet—these meetings focused on the goals of the study, issues of concern to the chiefs, and the requests that would be made of their departments. Mulvey and Thieman continued communications with the chiefs who expressed interest to guide them through the subsequent steps of obtaining data use agreements and the appropriate approvals from other municipal officials. Although discussions with some of these agencies are still ongoing, many indicated they could not provide data because their solicitors were not comfortable with the agreement or they could not expend the resources necessary to obtain the approval. Thus, at the time that analyses for this study were conducted, none of these 26 agencies had provided data.

Additional Tables Documenting Differences Between the City of Pittsburgh and Suburban Areas

This section presents additional tables that provide more summary information on the differences between the city of Pittsburgh and the suburban areas. Table B.1 compares these regions based on a variety of socioeconomic and calls-for-service characteristics, while Table B.2 shows how new charges filed for each crime type vary by racial groups within the city and in the suburbs.

Table B.1. Comparison of City and Suburban Areas

Characteristic	City	Suburbs
Black		
Median age	36.7	34.1
Years of education	13.0	13.7
Median income	$26,175	$35,419
Workers per resident	0.52	0.44
White		
Median age	37.3	46.3
Years of education	15.2	14.0
Median income	$53,534	$70,112
Workers per resident	1.13	0.50
Total workers per resident	0.97	0.49
Retail workers per resident	0.04	0.07
Personal service workers per resident	0.47	0.18
911 calls per capita		
Police	0.18	0.12
EMS/fire	0.23	0.14
Mental health/drug abuse	0.02	0.01
Other	0.11	0.10
Police-initiated actions	0.20	0.13

Table B.2. Criminal Charges by Type, Race and Location

Offense	Charging Rates in the City of Pittsburgh				Charging Rates in the Suburbs of Pittsburgh			
	Black & White Individuals	Black	White	Black/White	Black & White Individuals	Black	White	Black/White
All criminal charges	2.290	5.420	1.195	4.537	2.118	7.943	1.458	5.448
F: Aggravated assault	1.366	3.691	0.552	6.689	0.787	4.149	0.406	10.227
F: Robbery	0.591	1.852	0.150	12.330	0.205	1.283	0.082	15.570
F: Strangulation	0.495	1.364	0.191	7.154	0.131	0.735	0.062	11.834
F: Burglary	0.431	1.012	0.228	4.444	0.346	1.292	0.239	5.414
F: Trespassing	0.342	0.649	0.235	2.765	0.189	0.820	0.117	7.008
F: Receiving stolen property/retail theft/theft	1.094	2.967	0.439	6.763	1.589	6.584	1.023	6.437
F: Weapons	0.863	3.068	0.091	33.672	0.515	3.371	0.191	17.672
F: Drugs	1.418	4.269	0.420	10.162	0.676	4.030	0.296	13.632
All Felonies	6.601	18.872	2.305	8.188	4.436	22.264	2.415	9.219
M: Intentional possession of a controlled substance by person not registered	2.119	3.155	1.757	1.796	1.511	3.125	1.328	2.352
M: Possession of Marijuana	1.748	5.142	0.560	9.179	1.450	6.399	0.889	7.201
M: Use/possession of drug paraphernalia	1.205	1.997	0.928	2.152	0.799	1.301	0.742	1.754
M: Simple assault	3.210	7.889	1.573	5.017	2.207	9.995	1.324	7.549
M: Terroristic threats	0.803	2.007	0.381	5.262	0.600	2.864	0.344	8.337
M: Trespassing	0.348	0.887	0.159	5.594	0.184	0.838	0.110	7.641
M: Receiving stolen property/retail theft/theft	0.763	1.748	0.418	4.176	1.612	5.915	1.125	5.260
M: DUI	1.412	2.149	1.154	1.862	3.459	7.361	3.017	2.440
M: Hit and run	0.116	0.178	0.094	1.887	0.253	0.731	0.199	3.682

Offense	Charging Rates in the City of Pittsburgh				Charging Rates in the Suburbs of Pittsburgh			
	Black & White Individuals	Black	White	Black/White	Black & White Individuals	Black	White	Black/White
M: Disorderly conduct	0.306	0.447	0.256	1.743	0.158	0.632	0.104	6.079
M: False identification to law enforcement	0.408	1.005	0.199	5.049	0.292	1.599	0.144	11.095
M: Resisting arrest	0.300	0.630	0.184	3.426	0.195	0.892	0.116	7.685
M: Tamper with/fabricate physical evidence	0.315	0.689	0.184	3.748	0.194	0.542	0.155	3.507
M: Weapons	0.137	0.315	0.074	4.245	0.105	0.361	0.076	4.749
All Misdemeanors	13.190	28.239	7.922	3.565	13.019	42.555	9.671	4.400

NOTES: The first row presents charging rates in rates per hundred, while the remaining rows present charging rates in rates per thousand. F = felony; M = misdemeanor.

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Appendix C. Supplementary Materials for Chapter 4

This appendix provides more details regarding the analysis conducted in Chapter 4, which focused on racial disparities in pretrial detention outcomes. First, the construction of the data is described, and then the specific control variables that were included in each of the specifications run in Chapter 4 are discussed.

Data Construction

The county provided data on all cases (88,511 in total) involving criminal charges against either Black or White individuals who had a file date between 2017 and 2019. The data is organized at the incident (i.e., case) level, such that there can be multiple charges associated with a given incident. The same individual may appear in the data multiple times, and potentially could have multiple incidents being handled at the same preliminary arraignment, although each incident will receive a separate disposition. The discussion below describes how the pathway that each case takes through the pretrial detention process was identified, discusses how some of the key control variables were constructed, and notes the sample drops that were made. Note that because each case corresponds to what happens to an individual for a given incident, these data are discussed in terms of both individuals and cases.

To identify the pathway each case takes in the pretrial detention process required first identifying whether the incident resulted in an arrest or summons. This was done using information on the first decision that was made with respect to issuing an arrest versus a summons. Note that, for some cases, there can be multiple arrest versus summons decisions that occur at different time points of the case. Specifically, some individuals might first receive a summons, but later be arrested for the same charge because they failed to appear on their summons. Because the analysis is focused on the decision the law enforcement officer makes during their first encounter with the individual, only the first decision was used.

For the subset of cases that resulted in an arrest, data on both the outcome of the preliminary arraignment and the information on the risk assessment that was conducted were merged. Many cases (3,226) were dropped because the data indicated an individual was arrested but there was no record of a preliminary arraignment. From a process standpoint, it is important to know where the individual had their preliminary arraignment conducted, although the data does not explicitly code this and it thus needs to be inferred from other available information. To determine where an individual's preliminary arraignment might have occurred, information on the location of the arrest and the time of the individual's preliminary arraignment was used. If the individual was arrested within Pittsburgh, or their preliminary arraignment occurred outside business hours, their preliminary arraignment should have occurred at PMC, and they should have had the local

risk assessment done. Among this grouping, 802 cases were dropped because there was no record of a local risk assessment being done. Individuals arrested outside Pittsburgh who had their preliminary arraignment during business hours could have had their preliminary arraignment in the outlying magisterial district courts, although these individuals are also often taken to PMC. Information on the risk assessment conducted was used to determine where they ended up going. If an individual had the local risk assessment tool done, they were coded as having their preliminary arraignment at PMC. If they either had no risk assessment done, or they had the PSA done, they were coded as having their preliminary arraignment conducted in the outlying courts.

For the set of cases in which individuals had a preliminary arraignment and received either a monetary bail or a no-release decision at their preliminary arraignment, jail booking data were merged to determine information on pretrial detention. If the individual was in jail at any time between their preliminary arraignment and three days after that person's preliminary arraignment, they were coded as being in jail immediately after the preliminary arraignment. The length of this jail stint is used to code various outcomes regarding how long the individual remains in jail after the preliminary arraignment. If there is no jail stay consistent with the timeframe of their preliminary arraignment, the individual is coded as not serving any pretrial detention.

In terms of how the outcome and control variables were constructed, most of these were constructed directly from the data provided, and so for simplicity the discussion below focuses on the variables that were more complicated to construct. With respect to constructing variables measuring crime type and grade, the data did not explicitly identify the set of charges law enforcement filed at the time of the incident, but rather identified all charges associated with a given incident up through the time of the preliminary hearing. As some of these charges may have been added by prosecutors at the time of the preliminary hearing, information on when the charge was created was used to identify the initial set of charges. Specifically, the earliest charge creation date associated with an incident was identified, and then only the set of charges that were created on that date were selected—this set of charges was coded as the initial set filed by law enforcement. The grade of the charge was used to identify the dominant charge. If two charges had the same grade, crime type was used to identify the dominant charge, with person and weapons charges being considered the most serious. The remaining charges were summarized by coding the number of charges corresponding to each grade.1,229 cases where information on crime grade was missing were dropped, as this was a crucial control in the analysis.

The criminal history for the full sample was constructed using the data provided on all criminal convictions for that individual that occurred prior to the filing of the new charge. However, because Allegheny County's case management system changed around 2006, many of the dispositions of cases that ended prior to 2006 are coded as a "migrated disposition" in the current system, which does not allow one to identify whether they resulted in a conviction or not.

These data were used to construct variables regarding whether the individual had any prior misdemeanor and felony convictions, but it is likely that measures based on this data are missing some individuals' previous convictions. More-accurate criminal history information is observed on the set of individuals who have a risk assessment done, because information on age at first arrest, prior arrests, and prior misdemeanor and felony convictions is used to calculate the risk score. Thus, for analyses that only use individuals who had a risk assessment done, the more-accurate criminal history variables included in the risk assessment are used. However, when analyses are conducted with the full sample, it is necessary to use the less accurate measure of criminal history.

To identify the location of the incident, information provided by both the county was combined with information provided by the PBP. The county data provided information on whether the incident took place within Pittsburgh or, if the incident was outside Pittsburgh, the specific township, borough, or municipality where it took place. To identify the specific neighborhood within Pittsburgh where the incident took place, data from the PBP were merged, which included more-detailed location data for cases handled within Pittsburgh. The resulting incident location variable includes 177 categories—if the incident took place within Pittsburgh the categories correspond to neighborhoods, whereas if the arrest took place outside Pittsburgh the categories correspond to the township, borough, or municipality. There is also a category included for cases in which the specific location of arrest is not observed (which is about 10% of all incidents).

Several of the analyses use the level of monetary bail set as either an outcome variable or a control variable. When assigning a monetary bail, judges can determine that the individual only needs to pay 10% of the amount to be released. If judges use this 10% option, the level of bail that the individual needs to pay is calculated as being 10% of the assessed amount. If judges do not use this 10% option, the level of bail the individual needs to pay will be the assessed amount.

Finally, the discussions with stakeholders indicated that, because Chapter 4 is focusing on racial disparities that arise through pretrial policies, one should not include individuals who are likely to be serving pretrial detention because their new charges resulted in probation detainers. Individuals who receive probation detainers will often ask for a monetary bail on the new set of charges, because it allows the time they serve on their probation detainer to count as time-served toward whatever sentence they might receive for their new charges. Furthermore, the length of time they serve during the pretrial period is likely most reflective of probation policies, rather than pretrial policies. For these reasons, the analyses in Chapter 4 dropped all cases where the new charges triggered a probation detainer. For similar reasons, cases were also dropped if there were other detention holds placed on the individual, or if the individual was in jail already at the time new charges were filed.[155] In total, this resulted in dropping 16,993 cases.

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[155] Other detention holds include the following categories: county sentenced, external detainer, and family court.

Throughout this section several necessary sample drops were noted. Collectively, these drops result in a starting sample for the analysis of 66,321 cases. Many of the analyses work with subsets of this starting sample, which is described in more detail below.

Control Variables Included in Analysis

The usefulness of the various analyses presented in Chapter 4 depends on the specific control variables included in the models. For succinctness, the main chapter mentioned the core variable groupings that were controlled for in each analysis, but did not provide details on the exact way each of those variables were measured. For greater clarity, Tables C.1 to C.3 document the exact set of control variables included. The tables are organized by the specific substage of the pretrial detention process being examined.

For Tables C.1 to C.3, the first column denotes the characteristic being measured—this corresponds to the factors listed in Figures 4.4, 4.6, 4.7, and 4.8. The second column indicates how a given characteristic is measured. Each bullet point corresponds to a particular factor and documents the various mutually exclusive values the factor can take on. If a characteristic includes multiple bullet points, that indicates several factors were used to measure that characteristic. All of the control variables that were included in the analysis were included both because information was available on that factor, and because the description of the processes—as well as direct stakeholder input—indicated these factors could affect the decisions made at a given stage.

Table C.1 presents information on the control variables used in the analysis presented in Figure 4.4. Note that because this analysis is conducted using the full sample, it is necessary to use the noisier measure of criminal history (see earlier discussion). The crime type controls account for both the type of crime the dominant charge is and whether any of the charges associated with an incident involve a weapons offense. The latter measure was added because stakeholders noted that decisionmakers often associate a high-risk level with anyone charged with a weapons offense, regardless of whether the weapons charge ends up being the dominant charge. With respect to the location controls used, the analysis in Figure 4.4 used the full set of 177 location indicator variables noted in Table C.1. However, because the results indicated that location explained the same amount of the disparity when it was coded as only being in Pittsburgh versus being outside Pittsburgh, it was concluded that the primary dimension on which location matters is whether the incident occurred within or outside Pittsburgh.

Table C.1. Control Variables Included in Analysis Examining Racial Disparities in the Decision of Arrest Versus Summons

Characteristic	Options Included
Gender	Male or female
Age	18–21, 22–25, 26–30, 31–40, 41–50, 51 or older, or age missing
Crime grade of charges at initial filing	• Dominant charge is a H, F1, F2, F3, F, M1, M2, M3, M, or summary charge • Indicator for whether there are remaining F1 or H charges. • Indicator for whether there are remaining F2 charges. • Indicator for whether there are remaining F3 charges. • Indicator for whether there are remaining F charges. • Indicator for whether there are remaining misdemeanor charges (of any grade). • Indicator for whether there are remaining summary charges.
Crime type of charges at initial filing	• Dominant charge is a DUI, drug, person, property, public order, weapon, or other charge. • Indicator for whether any of the charges for a given incident involve a weapons offense
Criminal history	• Indicator for prior F1 or H convictions • Indicator for prior F2 convictions • Indicator for prior F3 convictions • Indicator for prior F convictions • Indicator for prior M1 convictions • Indicator for prior M2 convictions • Indicator for prior M3 convictions • Indicator for prior M convictions • Indicator for prior summary convictions
Warrants	• Indicator for whether there was an arrest warrant for the charge the individual was arrested for • Indicator for whether there were open warrants (for failures to appear or probation violations on previous cases) at the time the individual was charged for the current offense
Location of incident	Indicator for neighborhood within Pittsburgh, or municipality, township, or borough outside Pittsburgh (177 location options included)
Year case was filed	2017, 2018, or 2019

NOTE: F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony; H = homicide; M = ungraded misdemeanor; M1 = first-degree misdemeanor; M2 = second-degree misdemeanor; M3 = third-degree misdemeanor.

Table C.2 presents information on the control variables used to construct the analyses in Figure 4.6 and 4.7. All of the individuals included in the analysis at this stage had the local risk assessment done; information on the components of the risk score are reflected in the following variable groupings: crime type, criminal history, education, pending charges, failures to appear, pretrial release, probation, and other. Criminal history is now measured in a different way than in Table C.1, as the more accurate measure that is available for those who had the local risk assessment done (see earlier discussion) can now be used. The individual components of the risk score were controlled for, rather than just controlling for the overall composite risk level, because using information on the components can identify what specific facets of the risk

assessment may be responsible for racial disparities.[156] Note that the specific way each factor is measured in Table C.2 is based on how points are assessed for those variables in the risk assessment. For example, the number of points assessed for the number of prior felony convictions is different for 0, 1, 2, and 3 or more convictions, and thus the analysis includes indicators for which specific category of prior felony convictions an individual fell into.

Table C.3 presents the control variables that were used to construct the analysis in Figure 4.8. As the sample used to conduct these analyses was intentionally limited to those who were likely to be in jail solely because they could not pay the monetary bail associated with the focal incident, only controls that could affect the likelihood of an individual in this situation being able to secure their release were included. This results in a more limited set of controls being used than at earlier stages. Bail level was included because the higher the bail level set, the less likely an individual will be able to pay it. Controls for pending charges and pretrial release were included because individuals who have other outstanding charges may have a harder time securing their release (since they may have to pay a monetary bail on other charges as well). Controls for crime grade, crime type, and criminal history were included because these can affect the likelihood an individual will have their bail level downgraded at a bail review hearing, and will also impact the expediency in which their case is adjudicated. Age and gender may potentially also measure the impacts of these factors, although they may also pick up differences in ability to pay a given monetary bail level.

Table C.2. Control Variables For Analysis Examining Preliminary Arraignment Racial Disparities

Characteristic	Options Included
Gender	Male or female
Age	18–21, 22–25, 26–30, 31–40, 41–50, 51 or older, or age missing
Crime grade of charges at initial filing	• Dominant charge is a H, F1, F2, F3, F (ungraded felony), M1, M2, M3, M (ungraded misdemeanor), or summary charge • Indicator for whether there are remaining F1 or H charges. • Indicator for whether there are remaining F2 charges. • Indicator for whether there are remaining F3 charges. • Indicator for whether there are remaining F charges. • Indicator for whether there are remaining misdemeanor charges (of any grade). • Indicator for whether there are remaining summary charges.
Crime type of charges at initial filing	• Dominant charge is a DUI, drug, person, property, public order, weapon, or other charge. • Indicator for whether any of the charges for a given incident involve a weapons offense

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[156] Although Pretrial Services can override the recommendation of the risk assessment tool, the results indicate that there are no racial disparities in the decision to override once the controls in Table C.2 have been accounted for.

Characteristic	Options Included
Criminal history	• Number of prior arrests is 0, 1–4, 5–9, or 10 or more • Number of prior felony convictions is 0, 1, 2, or 3 or more • Number of prior misdemeanor convictions is 0, 1, 2, or 3 or more • Age at first arrest was 16 or younger, 17 to 25, or 26 and older
Education	• Education level is 10 years or less; 11 years, 12 years, 13 years or more • Indicator for whether individual is currently in school
Pending charges	• Number of pending charges is 0, 1, 2 or more
Failure to appear	• Prior FTA(s) is 0, 1, 2, or more
Pretrial release	• Indicator for whether individual was on pretrial release (for another incident) at time of bail hearing
Probation	• Indicator for whether an individual was on probation at time of bail hearing
Other	• Indicator for whether individual has an out-of-state driver's license • Indicator for whether aggravating factors are present • Indicator for whether mitigating factors are present
Warrants	• Indicator for whether there was a warrant for the charge for which the individual was arrested • Indicator for whether there were open warrants (for failures to appear or probation violations in previous cases) at the time the individual was arrested for the current offense
Location of incident	• Indicator for neighborhood within Pittsburgh, municipality, township, or borough outside of Pittsburgh (177 location options included)
Judge	Indicator for judge who presided over bail hearing (62 judge options included)
Year case was filed	2017, 2018, or 2019

NOTE: F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony; H = homicide; M = ungraded misdemeanor; M1 = first-degree misdemeanor; M2 = second-degree misdemeanor; M3 = third-degree misdemeanor.

Table C.3. Control Variables Included in Analysis Examining Racial Disparities in Length of Pretrial Detention Stint

Characteristic	Options Included
Gender	Male or female
Age	18–21, 22–25, 26–30, 31–40, 41–50, 51 or older, or age missing
Crime grade of charges at initial filing	• Dominant charge is a H, F1, F2, F3, F, M1, M2, M3, M, or summary charge • Indicator for whether there are remaining F1 or H charges. • Indicator for whether there are remaining F2 charges. • Indicator for whether there are remaining F3 charges. • Indicator for whether there are remaining F charges. • Indicator for whether there are remaining misdemeanor charges (of any grade). • Indicator for whether there are remaining summary charges.
Crime type of charges at initial filing	• Dominant charge is a DUI, drug, person, property, public order, weapon, or other charge • Indicator for whether any of the charges for a given incident involve a weapons offense
Criminal history	• Number of prior arrests is 0, 1–4, 5-9, or 10 or more • Number of prior felony convictions is 0, 1, 2, or 3 or more • Number of prior misdemeanor convictions is 0, 1, 2, or 3 or more • Age at first arrest is 16 and younger, 17–25, or 26 and older
Pending charges	Number of pending charges is 0, 1, or 2 or more
Pretrial release	Indicator for whether individual was on pretrial release (for another incident) at time of preliminary arraignment
Bail level	Bail level is less than $500, $500–$999, $1,000–$2,499, $2,500–$4,999, $5,000–$7,499, $7,500–$9,999, $10,000–$14,999, $15,000–$5,000,000, or no release
Year case was filed	2017, 2018, or 2019

NOTE: F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony; H = homicide; M = ungraded misdemeanor; M1 = first-degree misdemeanor; M2 = second-degree misdemeanor; M3 = third-degree misdemeanor.

Appendix D. Supplementary Materials for Chapter 5

This appendix discusses how the data used for the analyses in Chapter 5 was constructed, and also details the specific control variables accounted for in each analysis.

Data Construction

The starting sample for the court analysis is the same starting sample that was used for the pretrial detention analysis—specifically, the sample includes 88,511 cases involving criminal charges against either Black or White individuals who had a file date between 2017 and 2019. These data are organized at the incident (i.e., case) level, such that there can be multiple charges associated with a given incident. The same individual may appear in the data multiple times. The specific sample drops that were made for each analysis presented in Chapter 5 and how the key variables were constructed are detailed below.

Although the pretrial detention and court analysis both begin with the same starting sample, the analysis at the court stage required making different sample drops than were made at the pretrial detention stage. For both sets of analyses, cases were dropped in which the data were inconsistent with what is known about the process. As the processes being examined at these two stages are different, the drops that were necessary to make were also different. For the court analysis, the following drops were made:

- 1,323 cases were dropped because the outcome at the preliminary hearing stage was missing
- 1,181 cases were dropped because information on the charges that were initially filed were missing
- 117 cases were dropped because the case was listed as being held for court, but the individual had no charges listed
- 3,691 cases were dropped because the case was being listed as being held for court, but the case outcome is not observed (which could happen if the case still has not finished)
- 19 cases were dropped because the case was not held for court, but information on these individuals is observed at the Common Pleas court
- 27 cases held for court were dropped because it was either not clear where their case was adjudicated or the case was subsequently moved to a different pathway
- 539 cases were dropped because the individual was convicted of a charge but the grade of that charge could not be identified
- 5,514 cases were dropped because they belonged to an individual who had another case being adjudicated on the same day that resulted in a more serious punishment.

After making these drops, the resulting sample included 76,100 cases. This sample, as well as various subsamples constructed from it, is used for the majority of the analysis in Chapter 5.

Appendix C described how the set of charges that were present at the time of initial filing were identified. For the court analysis, the set of charges that were present at the end of the preliminary hearing were also coded. These are the charges that were either held for court, or were sent to a lower court. For cases that were held for court, the set of charges the individual was convicted on (if any) were also coded. The criminal history measure and the measure for the location of the incident were constructed exactly as described in Appendix C.

For cases that were held for court, measures were constructed which identified whether the individual was convicted and, if they were convicted, what their sentence was. Individuals were coded as being convicted if there was a guilty verdict on at least one of their charges. Some individuals who were convicted may have received multiple types of sentences, such as receiving both a confinement sentence and a probation sentence. For simplicity, only their dominant sentence type was coded, where confinement was considered the most serious, electronic monitoring the next most serious, and probation was considered the least serious. If an individual received the same dominant sentence type for multiple charges, information on whether the sentence was supposed to be served consecutively or concurrently was used to identify the full sentence length that was to be served for the dominant sentence type. For confinement sentences, both the minimum and the maximum assigned sentences were coded.

The above described data were used for the majority of the analysis in Chapter 5. However, once the analysis was restricted to the set of individuals who were convicted in standard Common Pleas court and examined racial disparities in confinement outcomes, it became necessary to merge in information on the individual's OGS and PRS, because these are crucial factors in sentencing decisions. Data on OGS and PRS are only available in the Pennsylvania Commission on Sentencing data, and thus it was necessary to merge these data with the data that the county provided. To begin the merge, information on the 12,826 cases that resulted in a conviction in standard Common Pleas court was used. A match was only found for 7,320 cases and thus the remaining cases were dropped from the analysis. Thirty percent of the cases where no match was found occurred because the individual was convicted on a summary level charge, and those charges are not reported in the Commission on Sentencing data. Most of the remaining cases where no match was observed occurred because the Commission on Sentencing data provided only ran through 2019, but these cases finished after that and were thus not present in that data. Although a significant fraction of cases are lost at this point, the racial disparities in whether the individual received confinement is relatively similar across both the full set of 12,826 cases and the merged sample of 7,320 cases.

For the analyses that required using data that contained OGS and PRS values, two additional controls were constructed. The combination of both the OGS and PRS will determine the

minimum sentence length range that is recommended by the sentencing guidelines.[157] It is thus important to control for the specific OGS and PRS combination, and so indicator variables were created to control for each of these combinations that was present in the data. A control for whether the charge the individual was convicted on carried a mandatory minimum was also constructed.

Control Variables Included in Analysis

Chapter 5 mentions the core variable groupings that were controlled for in each analysis, but (for succinctness) did not provide details on the exact way each of those variables were measured. For greater clarity, this section documents the exact control variables that were used.

Table D.1 presents the controls that were used to construct Figure 5.5, which examined racial disparities in preliminary hearing outcomes. The first column denotes the characteristic being measured—this corresponds to the factors being listed in Figure 5.5. The second column of Table D.1 indicates how a given characteristic is measured. Each bullet point corresponds to a particular factor and documents the various mutually exclusive values the factor can take on. If a characteristic includes multiple bullet points, that indicates several factors were used to measure that characteristic. All of the control variables that were included in the analysis were included because (1) information on that factor was available in the data and (2) the description of the processes—as well as direct stakeholder input—indicated these factors could affect the decisions made.

The analyses in Figure 5.7 examine racial disparities in the specific pathway cases held for court take. The controls used at this stage are the same as what was used in Table D.1, except now the summary measures of the charges at initial filing are replaced with summary measures of the charges held for court at the preliminary hearing. Age cannot be controlled for at this stage because this value is missing for almost everyone that receives an ARD (which is likely a result of their case being expunged).

The analyses in Figure 5.9 examine racial disparities in the outcomes for cases that are adjudicated in standard Common Pleas court. The controls used here are the same as were used to construct Figure 5.7, except now controls for the specific Common Pleas judge who handled the case are included, and the age control is added back in.

Table D.2 presents the set of controls that were used in Figures 6.12, 6.14, and 6.16, which examine racial disparities in sentencing outcomes. As noted earlier, it is important at this stage to add in controls for an individual's specific OGS/PRS combination on their dominant conviction charge, as well as whether the charge carries a mandatory minimum. Because these controls already incorporate offense grade, type, and criminal history, those explicit controls are dropped.

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[157] Note that some cases involve multiple convictions, and thus there can be different OGS/PRS combinations for the same case. In this situation, the OGS/PRS combination associated with the most serious sentence received was selected, so that only one combination was attached to each case.

However, controls for the specific grades of the other (nondominant) charges the individual is convicted of are included.

Table D.1. Control Variables Included in Analysis Examining Racial Disparities in Preliminary Hearing Outcomes

Characteristic	Options Included
Gender	Male or female
Age	18–21, 22–25, 26–30, 31–40, 41–50, 51 or older, or age missing
Crime grade of charges at initial filing	- Dominant charge is a H, F1, F2, F3, F (ungraded felony), M1, M2, M3, M (ungraded misdemeanor), or summary charge - Indicator for whether there are remaining F1 or H charges. - Indicator for whether there are remaining F2 charges. - Indicator for whether there are remaining F3 charges. - Indicator for whether there are remaining F charges. - Indicator for whether there are remaining misdemeanor charges (of any grade). - Indicator for whether there are remaining summary charges. - Indicator for whether the individual had additional cases that were adjudicated on the same day (but were dropped from the analysis).
Crime type of charges at initial filing	- Dominant charge is a DUI, drug, person, property, public order, weapon, or other charge - Indicator for whether any of the charges for a given incident involve a weapons offense
Criminal history	- Indicator for prior F1 or H convictions - Indicator for prior F2 convictions - Indicator for prior F3 convictions - Indicator for prior F convictions - Indicator for prior M1 convictions - Indicator for prior M2 convictions - Indicator for prior M3 convictions - Indicator for prior M convictions - Indicator for prior summary convictions
Location of arrest	Indicator for neighborhood within Pittsburgh, or municipality, township, or borough outside Pittsburgh (177 location options included)
Year case was filed	2017, 2018, or 2019

NOTE: F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony; H = homicide; M = ungraded misdemeanor; M1 = first-degree misdemeanor; M2 = second-degree misdemeanor; M3 = third-degree misdemeanor.

Table D.2. Control Variables Included in Analysis Examining Racial Disparities in Sentencing Outcomes

Characteristic	Options Included
Gender	Male or female
Age	18–21, 22–25, 26–30, 31–40, 41–50, 51 or older, or age missing
OGS/PRS combination for dominant conviction charge	Indicator for each OGS/PRS combination (74 options included)
Crime grade of other (nondominant) conviction charges	• Indicator for whether there are remaining F1 or H convictions. • Indicator for whether there are remaining F2 convictions. • Indicator for whether there are remaining F3 convictions. • Indicator for whether there are remaining F convictions. • Indicator for whether there are remaining misdemeanor convictions (of any grade). • Indicator for whether there are remaining summary convictions. • Indicator for whether the individual had additional cases that were adjudicated on the same day (but were dropped from the analysis).
Presence of mandatory minimum	Indicator for whether dominant charge convicted of carried a mandatory minimum.
Judge	Indicator for judge who presided over Common Pleas case (18 judge options included)
Year case was filed	2017, 2018, or 2019

NOTE: F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony; H = homicide.

Appendix E. Supplementary Materials for Chapter 6

This appendix provides more details regarding the analysis conducted in Chapter 6, which focused on racial disparities in the probation process. The method by which the data were constructed is described first, followed by a discussion of the analytic specifications used in Chapter 6. At the end of the appendix, the specific control variables that were used to estimate Figure 6.6 are discussed.

Data Construction

The data received from the county included information on all probation sentences served by White or Black individuals who did not involve jail time in the initial court-ordered sentence.[158] To ensure the results reflect a relatively recent period, probation stints that started on January 1, 2017, or later and were supposed to be completed by December 31, 2019, were selected. Some individuals were serving multiple probation sentences concurrently for different OTNs. Observations were dropped when the probation sentence was either (1) duplicative of an existing probation sentence for that individual who was already included in the data or (2) a subset of an existing probation sentence that was already included in the data. However, for these individuals, a flag is included which notes that they were serving multiple probation sentences at the same time, because probation staff indicated this is a risk factor they take into account when making decisions.

Once the above restrictions were made, several other necessary data drops were made to arrive at the initial starting sample used in the analysis in Chapter 6. Specifically, 15 observations were dropped where the probation sentence was less than 30 days, six observations were dropped because the supervision level was missing, and 805 observations were dropped because the probation intake date and the probation sentence start date were off by more than 90 days. The county noted that some of the date data can be somewhat inaccurate. Because of the importance of being able to correctly identify the start and end date of the probation sentence (to match in new crimes that occur during that time), observations were dropped when it was deemed likely that the data had inaccurate sentence dates. Finally, 63 observations were dropped because an individual was listed as being detained for a new crime, but the case filing data did

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[158] As noted in Chapter 6, the probation sentences in the data include individuals who served all of their sentences on community supervision and some individuals who served at least some of their sentences on electronic monitoring. The analysis did not include those who were sentenced to both jail and probation time, because it was difficult to identify upfront the time spent under supervision (i.e., they could be let out of jail early, meaning that extra jail time was spent on probation). Furthermore, the dates available in the data made it difficult to identify the amount of time the individuals actually spent on probation.

not identify them as being charged with a new crime during this period. The resulting sample—which is referred to as the initial starting sample in Chapter 6—has 9,285 observations.

Throughout the analysis, it is examined what happens to the individual (in terms of revocations and detainers) during their initial court-ordered probation sentence. This is defined as the length of their probation sentence, and it is coded based on the initial start and end date listed in the data when the probation sentence starts. Thus, if an individual has their sentence revoked, they may end up serving a sentence that is much longer than this initial sentence, but the analysis does not consider what happens in that extended time period.

Construction of Key Variables

Many of the outcome and control variables used in the analysis were easy to construct from the data provided. For simplicity, in this section only the variables that were more difficult to construct are discussed.

The criminal history measure used in the analysis is constructed based on the convictions that occurred before the individual was sentenced for the current crime they are serving probation for. As was previously noted in Appendix C, the county's data for convictions prior to 2006 is not that good, and thus this measure will undercount convictions.

To identify the proxy score for an individual at the time closest to that person's probation intake date, data on an individual's score (an integer between 2 and 8) and the date on which the score was calculated were used. Some individuals in the probation sample had no proxy score listed, and many individuals had multiple scores listed, although typically these were associated with different dates. If multiple scores were listed as being calculated on the same date, the research team selected the highest proxy score associated with a given date. For individuals who had many proxy scores listed, the proxy score that was calculated on a date that was closest in absolute value to the start date of their probation sentence was selected. Although the proxy score was supposed to be calculated around the time of intake, many individuals in the sample were associated with a proxy score that was calculated on a date somewhat far away from their probation start date.

To identify the supervision unit an individual was assigned to, it was necessary to combine data from several sources provided by the county. The county provided information on whether those in the probation sample had ever participated in a specialty court, and noted the dates of participation. If the individual had a date of participation that was between 30 days before their probation sentence start date to 90 days after their probation start date, the individual was coded as participating in a specialty court, and that became their supervision unit. Among the remaining sample, all individuals who served at least part of their probation sentences on electronic monitoring were identified and their supervision units were coded as such. The supervision unit for the remainder of the individuals in the sample was identified based off the regional center to which they were assigned. Many individuals were assigned to multiple centers during their time on probation, and often many of these assignments were dated on the same day or within a

couple days of each other. If the individual's initial assignment was the same as their last assignment, that region was coded as their supervision unit. However, if those differed, the region they were assigned to 30 days after the start of their probation date was used. Individuals who were assigned to a regional supervision unit included both medium-risk and high-risk individuals. If an individual assigned to these regional supervision units had a proxy score that was either 7 or 8, they were coded as being supervised by high-risk probation officers.

To identify new charges filed while the individual was serving their initial probation sentence, information the county provided on all new charges (both nontraffic citations and criminal charges) that were filed between the initial start and end date of the individual's probation sentence was used. If there were multiple charges filed on the same day (either under the same OTN or different OTNs), the dominant charge filed on that day was selected. Note that some individuals had multiple dates during their probation stint where charges were filed, and thus the severity of the new charges presented in Table 6.3 are not mutually exclusive categories. For example, an individual might have had both new F2 and F3 charges, as these could have been filed on different dates during their probation stint and been part of separate incidents.

To identify individuals who might have been considered to be out-of-compliance with their probation conditions at the time they were arrested for a new charge, it was identified whether a prior Gagnon I or II hearing had occurred at the time charges were filed for their most serious new charge while on probation. The research design examines whether an individual gets at least one detainer for a new charge while on probation, and this outcome is based on events that happen during the individual's probation stint. If an individual receives at least one new charge detainer while on probation, it is most likely to occur as a result of the individual's most serious charge. For this reason, whether they had any noncompliance issues (measured by Gagnon I and II hearings) was measured prior to the date this most serious charge was filed.

To determine whether individuals were issued detainers during their probation sentences, all detainers that were levied while individuals were on probation were identified. The data noted the reason that the detainer was issued, and that information was used to identify whether the detainer was issued for a new charge, a failure to appear, or for another reason (which is categorized as "other").

Notes on Research Design Specification

The structure of the analysis conducted in Chapter 6 was chosen because it was best suited to the constraints that were present in the data. Specifically, the analysis examines racial disparities in detainer rates by examining how detainers levied during the full probation sentence could be explained by the new charges filed during this period. An alternative specification would have been to just select the new charges filed, and then examine for each new charge whether a detainer was levied. There are two reasons the analysis did not use this alternative specification:

- These data were not clean enough to identify which charge a specific detainer corresponded to, as it requires matching on exact dates, and some of the dates presented in this data seemed fuzzy.
- The specification used identified the question that was most informative about disparities incurred while on probation, because it allows one to identify the percentage of individuals of each racial group who received a detainer on probation. In contrast, if the analysis just focused on the percentage of arrests of individuals on probation that led to detainers, that information would not be informative about the average experience of an individual on probation.

Control Variables Included in Analysis

Table E.1 presents more details on the variables controlled for in the analysis presented in Figure 6.6. The first column of Table E.1 denotes the characteristic being measured, which corresponds to the factors listed in Figure 6.6. The second column indicates how a given characteristic is measured. Each bullet point corresponds to a particular factor and documents the various mutually exclusive values the factor can take on. If a characteristic includes multiple bullet points, that indicates several factors were used to measure that characteristic. All control variables that were included in the analysis were included both because data was available on that factor and because the process description—as well as direct stakeholder input—indicated that these factors could affect the decisions made at that stage.

Table E.1. Control Variables Included in Analysis Examining Issuance of New Crime Detainers Among those Charged With a New Crime on Probation

Characteristic	Options Included
Gender	Male or female
Age	18–21, 22–25, 26–30, 31–40, 41–50, 51 or older, or age missing
Crime grade of new charges filed while on probation	- Indicator for whether F1 or H charge. - Indicator for whether F2 charge. - Indicator for whether F3 or F charge. - Indicator for whether misdemeanor charge. - Indicator for whether summary charge. - Indicator for whether violent felony charge. - Indicator for whether violent misdemeanor charge. - Indicator for whether weapons charge.
Gagnon hearing prior to new charge being filed	Indicator for whether a Gagnon hearing occurred before the file date of the most serious charge that was filed while the individual was on probation.
On multiple probation sentences	Indicator for whether the individual was serving multiple probation sentences concurrently.
Crime grade and type of dominant charge serving probation for	- Dominant conviction charge is a felony, misdemeanor, summary, or is missing. - Dominant charge is a DUI, drug, person, property, public order, weapon, or other charge.

Characteristic	Options Included
Supervision level while on probation	Supervised within a specialty court, a special division within a probation office, restitution, low-risk compliance, medium-risk, high-risk, or electronic monitoring.
Criminal history prior to conviction serving probation for	• Indicator for prior F1 or H convictions. • Indicator for prior F2 convictions. • Indicator for prior F3 or F convictions. • Indicator for prior misdemeanor convictions. • Indicator for prior summary convictions.
Judge	Indicator for Common Pleas judge who oversaw probation sentence (17 judge options included)
Year case was filed	2017, 2018, or 2019

NOTE: F = ungraded felony; F1 = first-degree felony; F2 = second-degree felony; F3 = third-degree felony; H = homicide.

Abbreviations

ARD	Accelerated Rehabilitative Disposition
CHRIA	Criminal History Record Information Act
COVID-19	coronavirus disease 2019
CPP	Community Progress Panel
DUI	driving under the influence
EDP	Expedited Disposition Plea
IDWG	Interdepartmental Working Group
IOP	Institute of Politics
MDJ	Magisterial District judge
NRPD	Northern Regional Police Department
OGS	offense gravity score
PBP	Pittsburgh Bureau of Police
PMC	Pittsburgh Municipal Court
PRS	prior record score
RMS	Records Management System