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

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## Executive Summary

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# Executive Summary

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## 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.<sup>1</sup> 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.<sup>2</sup> 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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<sup>1</sup> The background section of Chapter 1 includes an in-depth discussion of these prior studies.

<sup>2</sup> 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.<sup>3</sup> 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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<sup>3</sup> 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.<sup>4</sup>

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<sup>4</sup> Throughout this report, the term *standard 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.<sup>5</sup>
- **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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<sup>5</sup> 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**

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

<sup>a</sup> Because many community members had multiple experiences, the total of column 2 exceeds 40.

<sup>b</sup> 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.<sup>6</sup> 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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<sup>6</sup> 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.<sup>7</sup> 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.**<sup>8</sup> The results indicate that the higher level of low-priority police-initiated interactions in Black

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<sup>7</sup> Klein, B., Ogbunugafor, C. B., Schafer, B. J., Bhadracha, 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](http://www.injusticewatch.org). December 1, 2021. <https://www.injusticewatch.org/news/courts/2021/the-circuit-racial-disparities-explainer/>

<sup>8</sup> 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](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.<sup>9</sup> For example, One Northside is a community-policing initiative PBP is involved in that is run in certain neighborhoods.<sup>10</sup> 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.<sup>11</sup>

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<sup>9</sup> 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.

<sup>10</sup> <http://onenorthsidepgh.org/how-we-serve/safety/>

<sup>11</sup> 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.<sup>12</sup> 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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<sup>12</sup> 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).<sup>13</sup>** 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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<sup>13</sup> 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](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 policies 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.<sup>14</sup> 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.<sup>15</sup>

**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.<sup>16</sup> 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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<sup>14</sup> 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>

<sup>15</sup> *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>

<sup>16</sup> 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.<sup>17</sup>

**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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<sup>17</sup> 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.