

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date: September 21, 2020

Action Required: Report on Recommendations

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**Title: Report from the Study of Disproportionate Minority Contact in the Adult Criminal Justice System**

**Background:**

The City of Charlottesville has a longstanding interest in understanding the extent and causes of disproportionality and disparity in the adult criminal justice system. In 2015, the City Council received a comprehensive report on disproportionality in the juvenile justice system. Council and the City Manager asked staff to look for a way to conduct a similar study for the adult system. In early 2018, The Department of Human Services was awarded a \$100,000 grant from the Virginia Department of Criminal Justice Services to launch a study of disproportionate minority contact in the adult criminal justice system in the City of Charlottesville and Albemarle County. Council approved an additional \$55,400 appropriation from the Department of Human Services Fund Balance in support of the study in July 2019. The City contracted with MGT Consulting Group to conduct the first formal phase of the study. MGT Consultants presented the study report to Council on February 5, 2020.

*Data Findings:*

In considering the findings, it is important to understand the definitions of disproportionality and disparity. *Racial disproportionality* refers to one race being over- or under-represented compared to the racial makeup of the whole community. *Racial disparity* occurs when individuals in similar situations receive different outcomes based on race.

- a. The research found racial *disproportionality* at all points in the adult criminal justice system.

- b. The research did not find racial *disparity* at two critical points in the adult criminal justice system: the duration of actual time served for an offense and the duration of the sentence imposed (males only).
- c. The research did find racial *disparity* at five other points in the adult criminal justice system: seriousness of charges brought, number of companion charges brought, bail-bond/release decisions, length of stay awaiting trial, and guilty outcomes at trial.

*Recommendations:*

The recommendations are:

- A. Increase and support meaningful re-entry programs (5 strategies underway)
- B. Increase transparency of City and County police departments (3 strategies underway)
- C. Develop, encourage, and support special initiative programs (5 strategies underway)
- D. Increase diversity in law enforcement (2 strategies underway)
- E. Adopt programs that are alternatives to incarceration (3 strategies underway)
- F. Provide additional training opportunities for law enforcement and other actors in the criminal justice system (4 strategies underway)
- G. Review best practices from other communities addressing similar issues
- H. Increase access to data and increase data collection at each decision point in the criminal justice map
- I. Conduct additional research and build upon the findings and recommendations of this study

On February 5, 2020, Council requested a follow up presentation on next steps for this study process. On September 2, 2020, Council and staff received a formal response from The People's Coalition<sup>1</sup> with proposed action steps for all components of the adult criminal justice system. On September 9, 2020, Mayor Walker and Kaki Dimock met with representatives of The People's Coalition to discuss their expectations.

**Discussion:**

In considering next steps, there are multiple categories of activity for Council to consider, including:

- Whether, and how many resources would be required, to focus on solutions identified to respond to, repair and prevent existing inequities in the adult criminal justice system; and,
- Whether, and how many resources would be required, to focus on continued examination of the disproportionality and disparity in the adult criminal justice system to understand where and how decisions negatively impact African-Americans; and,
- How to engage the community in these processes.

Seven of MGT Consulting Group's recommendations are presented as responses to the study results and are designed to mitigate the system's impact on African-Americans. It is notable that

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<sup>1</sup> Per their Facebook page: *The People's Coalition organizes in the Charlottesville-Albemarle area in opposition to our unjust and racist criminal-legal system.*

this community has initiated many strategies in these areas already and equally notable that none are sufficient to respond to the concern area comprehensively and that none have been formally evaluated to understand their impact. At the Council meeting on February 5, 2020, Council and community members expressed frustration that these recommendations did not focus on *preventing* disproportionality or disparity. For some, that meant identifying individual bad actors in the adult criminal justice system and holding them accountable; for others, that meant taking steps to avoid initial police contact through a variety of community and individual supports.

MGT Consulting Group was limited in its ability to access and analyze data because data is collected and stored in different ways, governed by different authorities, and had significant variances in quality across the multiple system components. MGT recommended increasing data collection activities and data access governance across the system. Finding a way to easily access data on disproportionality and disparity is critical to understanding how and where the system responds to African-Americans differently, and, importantly, to measuring any impact of system changes meant to mitigate or repair these harms. Any comprehensive data collection and keeping method will require significant resources and complex authority and data-sharing agreements, including those across jurisdictional boundaries.

Finally, MGT Consulting Group recommended continued research on the disproportionality and disparity in the adult criminal justice system.

Staff and community partners within the criminal justice system considered MGT Consulting Group's recommendations, expectations identified by the People's Coalition, and priorities of the previously convened research and planning team to identify the extent of alignment between them. Attached is a table detailing these possible next steps with preliminary notes and roughly estimated costs attached to them for Council's consideration. There are no recommendations in opposition to each other among these three groups and a significant amount of alignment, particularly in the area of research priorities.

### **Alignment with City Council's Vision and Strategic Plan:**

The study of disproportionate minority contact in the adult criminal justice system is aligned with City strategic goals # 1.5 An inclusive community of self-sufficient residents – intentionally address issues of race and equity, and #2 a healthy and safe city.

### **Community Engagement:**

The research and planning team and task force included representatives from City of Charlottesville Department of Human Services, Office of Human Rights, Sheriff, Commonwealth's Attorney, and Police Department; Albemarle County Police Department, Social Services, Office of Equity, and Commonwealth's Attorney; Offender Aid and Restoration, Legal Aid Justice Center, Office of the Public Defender, University of Virginia, among others. MGT Consulting Group conducted 35 community stakeholder interviews in addition to five focus groups and four community engagement meetings. Recommendations from The People's Coalition are incorporated into recommended next steps.

### **Budgetary Impact:**

Many of the recommended activities involve policy decisions and internal data reviews which will not have a budgetary impact. Continued analysis of disproportionality and disparity in the adult criminal justice system will require additional investment. Estimated costs:

- Review of body cam footage and charging language by police officers with the highest disproportionality by an independent auditor: \$50,000 - \$100,000
- Examination of impact of quality and type of legal representation on disproportionality and disparate outcomes for African-Americans: \$50,000 - \$100,000
- File review to examine impact of judicial decision-making in bail and sentencing on disproportionality: \$25,000.
- Examination of impact of pre-trial detention of disproportionality: \$50,000-\$100,000

### **Recommendation:**

Using the attached table to understand alignment of recommended next steps between MGT Consulting Group, The People's Coalition and the previously convened research and planning team, staff recommend the following next steps:

Recommendations for process consideration:

- 1) Identify ways to intentionally engage the Charlottesville community in the direction, evaluation, and monitoring of action steps regarding disproportionality and disparity, ensuring that community participation is central and primary by authorizing community members with the power to meaningfully influence the process, and appointing a sufficient number of community members to exercise that influence.
- 2) Formally convene a Task Force to follow up on Council's interests and report out to Council on a regular basis.
- 3) Invest in and encourage all adult criminal justice components to improve quality of data collection activities and ensure ready access to local data to evaluate progress.

Recommendations for research consideration:

- 1) Make formal request to Virginia Department of Corrections to access probation data to understand the impact of probation discretion and decision-making on disproportionality and disparity. Invest in evaluation and analysis of the data, once received.
- 2) Make formal request of Virginia Supreme Court to access magistrate decision-making data. Invest in evaluation and analysis of the data, once received.
- 3) Evaluate available data from the Charlottesville Police Department to understand the presence and extent of disproportionality and existence of disparity in arrests. Arrest data should be separated by calls for services and officer-initiated actions to discover any differences in outcome; and arrests for alleged criminal activity should be distinct from arrests for violations of probation and show case matters.

- 4) Invest in an evaluation of the impact of the quality and type of legal representation on disproportionality and disparity in the adult criminal justice system. (\$50,000 - \$100,000)
- 5) Conduct file review to understand impact of judicial decision-making on bail and sentencing on disproportionality and disparity. (\$25,000)

**Alternatives:**

Council may decide to not to convene a formal task force. Council may decide not to invest in any further research activities. Council may decide not to direct staff to make formal data requests of the Virginia Supreme Court or the Virginia Department of Corrections.

**Attachments:**

*D.M.C. Next Steps Action/Alignment Table*

*Recommendations of The People's Coalition*

*City of Charlottesville and Albemarle County, VA Disproportionate Minority Study, Final Report, January 20, 2020*

Action Step	Recommended by	Authority over action	Cost	Notes
Improved data keeping	People's Coalition MGT Consultants Research Committee	ALL COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM		<b>This is very heavy lift.</b> A central data hub would be required, with one way pushes of data from multiple component players; data-sharing agreements among several different governing authorities.
Police data reviews: Identity officers with highest disproportionality in their arrests & monitor body cam footage & review all charging language	People's Coalition	Police department	\$50,000 - \$100,000	Would require dedicated social scientist or auditor to complete. In 2019, there were 7.5 arrests per day.
Establish improved guidelines for officers re: discretion over minor offenses and opportunities for service referrals	People's Coalition	Police department		Policy decision
Call for service analysis – who calls 911 for police intervention and why	Research Committee	Police department/communication center	Cost unclear	This would likely require outside support. Race of caller is not currently captured by E-911 system making analysis tricky and based on geocoding.
Review data on race for officer-initiated contact v. call for service	Research Committee MGT Consultants	Police department		This research could likely be accomplished police department staff and criminal justice planner.
Independent auditor for CRB	People's Coalition	City council	\$100,000	Policy decision with budget impact
CRB authority to review police records, call for testimony and exercise disciplinary authority	People's Coalition	City council		Policy decision
Make formal request for magistrate's data	People's Coalition MGT Consultants Research Committee	Supreme Court		Current statute is worded so that E-MAG system is not available to the public even with a FOIA request.
Monitor impact of decisions on practice by commonwealth's attorney's office (cash bail, reduction of charges, etc) to determine impact	People's Coalition MGT Consultants Research Committee	Commonwealth's Attorney	\$100,000	This would require new data collection system and process with unclear development costs. Current available data has 18 month lag time and does not allow for real-time monitoring of impact.

**Comparison of recommendations for next steps on DMC study, cost, authority, etc. 9-9-2020 – highlighted are areas of priority for People's Coalition.**

Monitor charging language, decisions, history by officers and provide feedback to police department	People's Coalition	Commonwealth's Attorney		This would likely require additional resources. Unclear whether this is part of CA's public charge.
Consider and discuss whether criminal history should be used in charging decisions for African-Americans given system failures	People's Coalition	Commonwealth's Attorney		Policy discussion & decision, previous history is incorporated into almost all actuarial decision-making tools and may be required by statute.
Examine the impact of the quality and type of legal representation provided to defendants on DMC	People's Coalition MGT Consultants Research Committee	Public Defender's Office	\$50,000-\$100,000	Ms. Dugger has agreed to file review activities. Sentencing and bail data available has 18 month lag time. May require formal request of Supreme Court.
Examine impact of judicial decision-making in bail and sentencing on DMC	People's Coalition MGT Consultants Research Committee	Supreme Court	\$25,000	
Examine the impact of probation discretion and decision-making in DMC	People's Coalition MGT Consultants Research Committee	Department of Corrections	Cost unclear	Will require formal request for access to data from DOC. May benefit from legislative support from Ms. Hudson.
Analyze arrest data without VOP and show cause	People's Coalition Research Committee	Police Department		Likely could be accomplished by PD auditor or data analyst with support from criminal justice planner.
Analyze assault of law enforcement officer charges by mental health diagnosis, race & gender	Commonwealth's Attorney, UVA Institute for Law, Psychiatry, and Public Policy ; Partner for Mental Health	Commonwealth's Attorney		Already underway
Examine pretrial detention	MGT Consultants People's Coalition Commonwealth's Attorney	Multiple System Components	\$100,000	Would likely require new data collection system

***Comparison of recommendations for next steps on DMC study, cost, authority, etc. 9-9-2020 – highlighted are areas of priority for People's Coalition.***

**STATEMENT FROM THE PEOPLE'S COALITION  
IN  
RESPONSE TO THE DISPROPORTIONATE MINORITY STUDY<sup>1</sup>**

**INTRODUCTION**

In January of this year MGT Management, a consultant team hired by the City of Charlottesville dropped what should have been a bombshell: scientific proof that the local criminal justice system discriminates against African-Americans to the point that you are more likely to be convicted of a serious crime simply because you are black. This extraordinary study, which many of us have urged for years, found that racism was rampant in the justice system from booking to disposition.

There seems no way out for the African-American swept up in the criminal justice system. The fact that African-Americans are given more serious and more charges than comparably situated Whites (Disproportionate Minority Study at 3-11 to 3-13)(hereafter “DMC Study”), means, in part, that they are more likely to be confined prior to trial. (DMC Study at 3-14). People who are confined before trial are more likely to be convicted, all other things being equal. (<https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>). Since African-Americans are more likely to be convicted in any event simply because of their race (DMC Study at 3-16), pretrial incarceration is a double whammy. The same is true for the fact that African-Americans are given more serious charges than comparably situated Whites. They are, therefore, more likely to be incarcerated prior to trial and subject to the same double whammy. If there are more serious *and* more charges, the likelihood of pre-trial incarceration increases and the double whammy becomes a triple whammy. Those with more serious and more charges are also likely to receive heavier sentences (DMC Study at 3-19), thus making the quadruple whammy. And the same problem exists with respect to someone’s prior record, a conviction obtained in a system that discriminates against Black people yet results in more likely pre-trial incarceration, more likely conviction and more likely to spend more time in jail or prison .

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<sup>1</sup>This memo does not address the issue of defunding the police, reallocating resources or reimagining public safety. It is focused only on the findings of the DMC Study of racism in the local criminal justice system(s).

One hundred and fifty years since the end of slavery, sixty six years since segregation was ruled unconstitutional, Black people still face the vestiges of hundreds of years of oppression. The promises of the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Amendments to the U.S. Constitution<sup>2</sup> have never been fulfilled. Mass incarceration, including the war on drugs, driven more by politics than public safety, has exacerbated the problem and unnecessarily destroyed the lives of people and their families and devastated communities of color.

The most common response to the study, among those in the criminal justice system, as well as the community, is that the study uncovered no surprises.<sup>3</sup> Indeed, “study after study over a period of decades have concluded that the race of the defendant influences outcomes at various point along the criminal justice continuum.” (DMC Study at 3-22). That too is extraordinary since we have been relying on that very system to produce justice, even putting “justice” in its name. What are we to do moving forward?

The DMC Study identified a number of areas where racism is most profound and most harmful. MGT was also frustrated by the lack of data from key agencies, most notably, the magistrates office and the probation department. Data from the institutions from which it was able to secure data, often wasn’t sufficient to make an analysis or draw conclusions. However, the researchers were able to compare similarly situated White and Black defendants in felony cases to draw significant and provable statistical conclusions.

#### **DATA KEEPING:**

It is obvious from the DMC Study that we need more and better data that can be organized and analyzed across agency lines. We believe that the initial monitoring of this data

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<sup>2</sup>The 13<sup>th</sup> Amendment outlawed slavery (except for those convicted of a crime), the 14<sup>th</sup> Amendment “guaranteed” the equal protection of the law and the 15<sup>th</sup> Amendment “guaranteed” the right to vote. Collectively these amendments promised equal citizenship to newly free people and an end to the “badges and indicia” of slavery.

<sup>3</sup>28 years ago, the Daily Progress published a six-part investigative series entitled “Disparate Justice,” that concluded that black men: (1) are arrested at a significantly higher rate than whites; (2) served an average of 746 more days in jail than white defendants; and (3) defendants with a court appointed lawyer served an average of 396 days longer than those with retained counsel. See <https://www.cvilletomorrow.org/specials/friendship-court/1992#>.

should be the responsibility of each of the agencies in the criminal justice system to see if it is contributing to the disparities we see in that system. This must be seen as part of their job. Metrics need to be established so that subjective impressions are eliminated and data can be trusted.

Agencies need to be transparent so that people can be confident in their practices. Whatever the agencies do (or claim to have done) will also have to be independently and comprehensively evaluated to determine their effectiveness.<sup>4</sup>

### **POLICE DEPARTMENT:**

According to the DMC Study, Black people in Charlottesville, when arrested, are likely to receive more charges and more serious charges than similarly situated Whites. (DMC Study at 3-11 to 3-13). We need to identify the source of this disparity.<sup>5</sup> The police department should monitor officers who have greatest racial disproportionality in their arrests and street encounters. That also means reviewing all body cams of those officers (something that is now done at random) and criminal charges to see if they are excessive. In this connection, the department needs to work with the commonwealth attorney to identify and monitor those officers who consistently file more serious or multiple charges against African-Americans than is appropriate.

The department needs to establish better guidelines for officers to decide whether and when to exercise their discretion not to arrest for minor offenses. Each month the department identifies encounters in which officers had probable cause to arrest but didn't arrest. This may be a positive development, but no explanation is given why these cases did not result in arrest. This practice should be institutionalized since allowing unfettered, and therefore subjective discretion

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<sup>4</sup>This includes diversionary programs, such as the drug court and the therapeutic docket. Many of us believe that these programs have a minimal effect on the issue of race discrimination and mass incarceration.

<sup>5</sup>It is not clear from the study how many of the charges studied were as a result of a direct indictment. That needs to be clarified. In addition, cases in which officers have no discretion (e.g. warrants for probation violations, failures to appear) should be eliminated in order to determine what role the discretion of the police plays in the disparities that were identified.

may lead to an increase in disproportionality.<sup>6</sup> A healthy program of giving warnings or referrals to social service agencies or dispute resolution community groups in lieu of arrest would be welcomed and would likely have a positive effect on disproportionality.

Police agencies have been part of the problem of racism in our country. That lesson was not lost on members of the African-American community and as a result there is a huge gap in trust and willingness to see the police as protectors of the community and not oppressors. Meetings about this gap have been held numerous times in the last decade. None resulted in change. Because of that, trust has been even further eroded and few believe that a truly just system can be achieved. It therefore behooves the police department to take action, take action now and be open and transparent about that action. Police often complain that they cannot get the cooperation from the community in solving crimes. The trust gap must be broken by the police before they can expect cooperation from the community.

According to the President's Task Force on Policing in the 21<sup>st</sup> Century, Recommendation 1.2 : "Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust." Chief Brackney appears to accept that: "To benefit both communities and police, the criminal justice system must acknowledge historical and institutional biases that target, alienate, and punish people of color and other vulnerable populations. *See Civil Rights, Law Enforcement Leaders Urge Police to Protect Public Health while Safeguarding Rights by The Leadership Conference on Civil and Human Rights May 18, 2020.* It is not enough to have a chief of police make these types of (important) statements: line and supervisory officers must share this view and be willing to change institutional culture for it to have an impact on policing.

The Civilian Review Board is a crucial component of monitoring misconduct by police officers, including discriminatory policing in individual cases. In addition, its mandate includes reviewing departmental policies and practices, with a focus on policing in minority communities. An independent auditor will greatly enhance the ability of the CRB to identify discriminatory

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<sup>6</sup>MGT was only able to study felony cases. Nationwide, disparities increase with minor offenses. See <https://www.aclu.org/press-releases/study-documents-extreme-racial-disparity-arrests-low-level-offenses>.

policing issues and to respond to them. Finally, the CRB must be a source that the community can be confident in, thereby increasing trust between the community and the police. As we have noted on other occasions, the CRB needs to be truly independent with the ability to obtain testimony and records and to have some measure of disciplinary authority.

#### **MAGISTRATE’S OFFICE:**

Magistrates make initial bail determinations and, since MGT found that similarly situated African-Americans are more likely than Whites to be held before trial, a study of the bail practices of the magistrate’s office is critical. (Remember that people held pretrial are more likely to be convicted and to receive harsher sentences.). Unfortunately we do not know what data is kept by the magistrate’s office or how it is organized. According to the Study, the lack of access to data in the magistrate’s office “hindered [] efforts at evaluating and presenting a clear picture of disparity and disproportionality in Charlottesville.” (DMC Study at 5-11).

The magistrate’s service is directly under the Supreme Court. A request for data access can be made to the Executive Secretary of the Magistrate’s Service but it is likely that permission will have to be sought from the Supreme Court. We suggest that a joint application be made including the city, its police department and its commonwealth attorney.

#### **COMMONWEALTH ATTORNEY:**

The Commonwealth Attorney may be the most powerful voice in the local criminal justice system. They are in a position to influence pretrial release decisions, to determine what felony charges will be presented to a grand jury or be downgraded to misdemeanors or not charging offenses with mandatory minimum sentences, to try the case and to influence the court at sentencing.

We are fortunate to have a commonwealth attorney who is supportive of efforts to end racial disparities. What is being done by him and the success of those efforts, however, must be analyzed and made available to the public. Charlottesville’s commonwealth attorney says that

he opposes cash bail<sup>6</sup>, his office regularly reduces felony charges to misdemeanors and eliminates overcharges. The commonwealth attorney's office must maintain a data base on these efforts to determine whether they are having a positive impact on disparity. This must also be transparent with the data available to the public as well as researchers. In addition, the commonwealth attorney must maintain data on which officers regularly file more serious charges and/or more charges against African-Americans than is appropriate. They should then work with the police department and the civilian review board to reverse that pattern.

The commonwealth attorney should also review a defendant's prior history with the system while taking account of the very findings of the DMC Study. Any prior record will be a factor in bail decisions, plea negotiations and at trial and may even prevent a defendant from testifying on his/her own behalf.<sup>7</sup> The prior record will also play a significant role in sentencing.<sup>8</sup>

Imagine someone who was convicted because of his/her race and is now facing further consequences from that unjust conviction should they ever return to court. We need an open discussion of whether it would be most appropriate to *not* use a prior record against African-American defendants due to the documented history of racial inequality and its continuing effect on Black defendants.<sup>9</sup>

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<sup>6</sup>According to the Study, bail no-bail decisions are "significantly" racially skewed. (DMC Study at 3-24). Ending cash bail, while a step in the right direction, does not end racial discrimination in the pretrial detention system.

<sup>7</sup>A defendant's prior record will often be used to undermine the testimony of the defendant.

<sup>8</sup>For example, the Study found that there was no disparity in sentencing African-American males although there was a significant disparity for women (DMC Study at 3-26). However, prior record and pretrial detention play a significant role in sentencing and in both race plays a significant role. Thus, it is inevitable that African-Americans will serve more time than their White counterparts. The Study finding appears to indicate that judges are not contributing to disparities in sentencing while not recognizing that Black defendants come before them already prejudiced by a prior record or pretrial detention, which will increase their sentencing guideline range and final sentence.

<sup>9</sup>Although generally opposed to "affirmative action" to redress old grievances, the Supreme Court has nonetheless upheld race-based action to redressing the present continuing manifestations of past discrimination. "The State certainly has a legitimate and substantial

## **PUBLIC DEFENDER AND ASSIGNED COUNSEL:**

Since African-Americans are disproportionately lower income, more will use the services of the public defender or an assigned counsel than White defendants. There is sense among many defendants, as well as the community in general, that public defenders work for the courts and that they are not “real” lawyers. It is certainly true that public defenders carry too many cases, are understaffed and are under paid. The Study noted that “having a negative impact is that public defenders caseload is ‘miserable,’ averaging 150 cases.” (DMC Study at 4-41). A study, such as that published in 1992 (*see fn. 2*), should be conducted to see whether there is any distinction in rates of conviction or sentencing between those represented by public defenders and those represented by assigned counsel and between both and retained counsel with a breakout by race. The DMC Study found that Black defendants are more likely to be convicted than their white counterparts and the role of defense counsel is a critical element in the trial process.

Unfortunately, there are no studies on whether those defendants (and those assigned counsel) are receiving comparable representation to those who are able to hire private counsel. Further, if you are more likely to be convicted or receive a heavier sentence when represented by court appointed counsel, what is causing that phenomena? Resources? Experience of counsel? Support services? This is something that should be monitored by the public defender’s office, but they will probably need additional staff for that purpose. In any event the community needs to know if their public defender’s office (and assigned counsel) provides quality representation that is equal to that provided by private counsel and, if not, to identify and rectify the obstacles.

Assigned counsel, with some exceptions, are paid a flat fee of \$120 for representing someone in a misdemeanor case and \$445 for a felony. Virginia Code § 19.2-163.

(Compensation of court-appointed counsel.) This is about 1/10th of what retained counsel

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interest in ameliorating, or eliminating where feasible, the disabling effects of identified discrimination." *University of California Regents v. Bakke*, 438 U.S. 265, 307 (1978), In *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 280 (1986), the Court continued to emphasize that the legitimate objective behind such affirmative action policies is to remedy "the present effects of past discrimination." Given the proof adduced by the Study, a race-based decision to reduce or eliminate the current effects of past discrimination is not only constitutional but required by the 14<sup>th</sup> Amendment’s guarantee of the equal protection of the law.

receive, and one of the lowest rates in the country. For contrast, assigned counsel in federal court receive \$152.00 an hour, up to \$3,400 for a misdemeanor and up to \$11, 800 for a felony. [https://www.uscourts.gov/rules-policies/judiciary-policies/cja-guidelines/chapter-2-ss-230-compensation-and-expenses#a230\\_20](https://www.uscourts.gov/rules-policies/judiciary-policies/cja-guidelines/chapter-2-ss-230-compensation-and-expenses#a230_20). How high do we value the right to counsel and justice? From what is paid to assigned counsel, one could easily conclude that Virginia does not value either. This is not a good recipe for the kind of representation people are entitled to and it does not incentivize to take assigned cases and to spend all the time necessary to prepare a vigorous defense. It may be that the city needs to further supplement our public defender's office. This is also a statewide issue and should be taken up by the legislature with the support of the city.

### **JUDICIARY:**

Judges play an essential role in bail decisions, ensuring a fair trial and sentencing. The researchers lacked sufficient data to examine the role of the judiciary in disproportionate bail and sentencing decisions. Some of the information may be gleaned from data in the clerk's office. Again, the data has to be complete, accurate and capable of analysis along with the other agencies of the criminal justice system. If the clerk cannot open their files due to confidential information, request may have to be made to the Supreme Court. As MGT noted, bail and sentencing decisions are affected by the seriousness of the offense and the prior record of the defendant both of which are skewed due to the past history of racism. As with the commonwealth attorney, judges should review a defendant's prior history with the justice system while taking account of the very findings of the Study. The right thing to do is to not take account of prior convictions obtained in a discriminatory system.

### **PROBATION AND PAROLE:**

38% of people in prison in Virginia were incarcerated for supervision (probation or parole) violations as of 2018. 51% of new prison admissions in 2016 were for supervision violations. *See* Council of State Governments Justice Center Study, available at <https://csgjusticecenter.org/publications/confined-costly/?state=VA#primary>. Obviously, this is a necessary area of study. Unfortunately, MGT was unable to get access to data on parole and probation violations. Parole and probation are controlled by the Department of Corrections and

the request, therefore, may be addressed to them. Since they may not comply, alternative pressure points include the state Public Safety Director, the Attorney General and elected officials. If and when access is allowed and there is sufficient data, we must make a thorough review of probation and parole records doing the same comparative analysis that was done by MGT. However, it is not clear that the probation and parole departments are keeping the kind of statistics in the form needed by researchers. As with other agencies, it must do so.

**MISCELLANEOUS:**

Education:

One of the extraordinary statistics in the Study relate to the level of education of those incarcerated. Most egregious is that of incarcerated African-American women: 79% did not finish high school compared with only 9.05% of the general population. (DMC Study at 3-5). Similar rates for white women, 75.2% did not graduate high school, strongly support an already recognized relationship between education and criminality and the overwhelming need to address the educational achievement of our community.<sup>10</sup> This should include a massive effort to provide education to incarcerated persons and those returning to civilian life.

Employment:

In Charlottesville, 69.58% of the incarcerated persons were in the labor force compared to 74.2% in the general population. Losing employment is a serious consequences of being locked up. It will also affect the households who have lost bread earners. The lack of employment is also a serious barrier to reentry. This is a strong argument to release as many people as possible pre-trial.

Trial Juries:

Although not studied as part of the Study, it is common knowledge that Black people are severely underrepresented in the jury pools for felony cases. This may have an affect on the outcome of such cases. We need to examine the reasons for that underrepresentation and make appropriate changes.

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<sup>10</sup>According to the Study, 59.18% of incarcerated African-Americans did not graduate high school, while 49.85% of white prisoners did not.

## CONCLUSION

The People's Coalition supports all of the recommendations of the DMC Study. They will, if acted on, make the system better. However, none of them directly impact the racial discrimination faced by African-Americans in our local criminal justice system. We offer our thoughts and suggestions of some steps that we believe are needed to be taken. The fact that serious reform has taken so long cries out for new ideas and new voices, especially those of the community being served.

According to the Study, "statements of disparity infer causality, and a causal agent -- for example a judge, a law, a policy, a guideline -- responsible for disparate outcomes."

Unfortunately, the DMC Study did not identify the causal agents for each of their findings of disparity. They did not identify a law or a policy or a guideline or custom responsible for disparate outcomes. We believe it is a combination of the three. We know that "risk assessment tools" are being used in making bail and sentencing determinations and they need to be vetted with a special eye on racial disparity. We also know that there appear to be people within the system making wrong decisions.

In each instance we study, we have to look back as well as forward. If Black people have been discriminated in the criminal justice system, and there is little doubt of that, they carry the disabilities of prior records, at which they were treated unfairly. Without dealing with this question we are likely to find ourselves back in the same place.

Of course, the city only has control over the police department but it can exert influence on other institutions like the commonwealth attorney. The city has to make a request to the Supreme Court to direct that magistrates maintain better data and that the data be open to the researchers. The city has to request, perhaps through the public safety director, to do the same with the parole and probation departments. The city also has influence over the city clerk and can request that data regarding felony cases be maintained in a certain way and also be made available to the researchers. Some of the preliminary work can be accomplished without funds, e.g. record keeping by the commonwealth attorney, reviews of line officers in the police department, contacting the city clerk, the Supreme Court, etc. Further research to identify (and

more importantly to correct) the specific causes of racial disparity is obviously needed as noted here and in the DMC Study. And the community should be active participants in determining whatever next steps are necessary and determining whether the fiscal impact of such plans matches community values.

Finally, we need a commitment from the agencies within the system (and perhaps a signed Memorandum of Understanding) that they recognize the problems identified in the Study and will work to eliminate them. However, as noted above, that acknowledgment and the mission to reduce disparity must be shared by all of those who work within the system. There may be various ways of measuring commitment to a mission, but without that commitment little can be accomplished. This is not a hunt for “racists,” or those with a particular political viewpoint, as some will claim, but when you work for an agency of government, the people have a right to expect that you share the mission of that agency and to act accordingly. Victims of discrimination care less about the state of mind of the actors than about the outcome of their conduct. *See Woods v. City of Greensboro*, 855 F.3d 639, 641 (4th Cir. 2017) (“many studies have shown that most people harbor implicit biases and even well-intentioned people unknowingly act on racist attitudes.”).

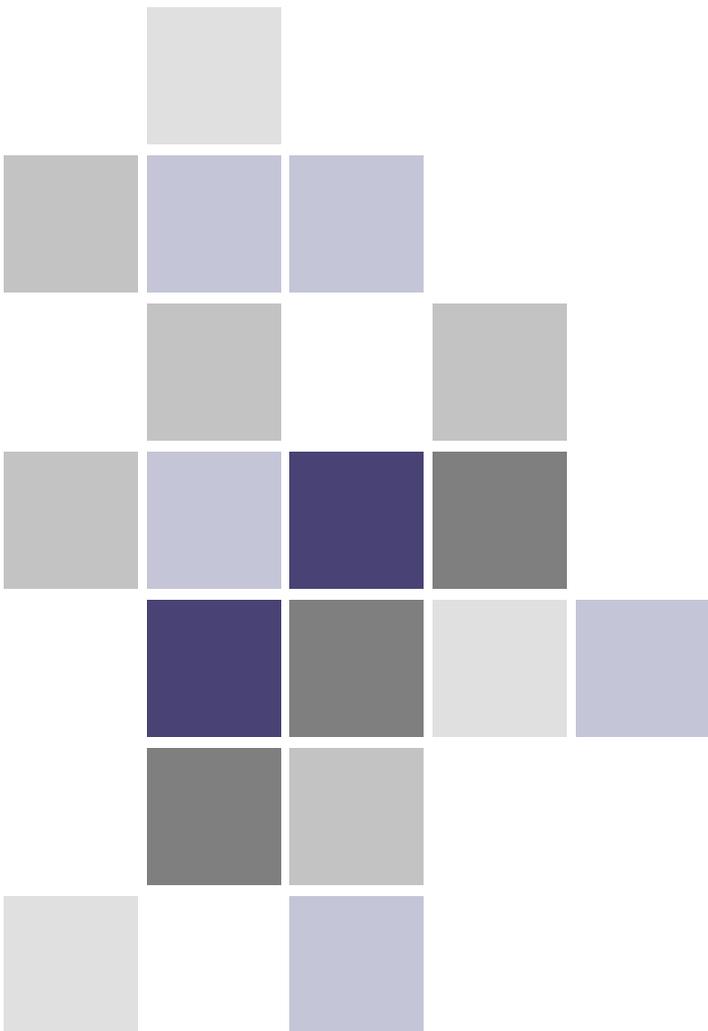


# CITY OF CHARLOTTESVILLE AND ALBEMARLE COUNTY, VA

## DISPROPORTIONATE MINORITY STUDY

**Final Report**

January 20, 2020



**CITY OF CHARLOTTESVILLE AND ALBEMARLE COUNTY, VA  
DISPROPORTIONATE MINORITY STUDY**

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EXECUTIVE SUMMARY

**Disproportionate Minority Study**

*City of Charlottesville and Albemarle County, VA*



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## EXECUTIVE SUMMARY

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Over the last several years, key participants in the criminal justice systems in City of Charlottesville and the County of Albemarle have expressed interest in analyzing data to better understand what factors may contribute to disproportionate minority contact with the criminal justice system. This joint discussion preceded the events of August 2017. Data shows that African-Americans are represented in the local criminal justice system at a rate higher than that reflected by their share of the overall population. This phenomena is common in localities across the United States. To date, no communities have endeavored to empirically and systemically examine available data to assess the degree to which this principle is effectuated in practice. Until now.

*Racial disproportionality* refers to one race being over- or under-represented compared to the racial makeup of the whole community, while *racial disparity* is when individuals in similar situations receive different outcomes based on race. With the support of a \$100,000 Byrne Justice Assistance Grant and additional City funding, the City and County contracted with the MGT Consulting to better understand disproportionality in the local criminal justice system, identify disparities that may exist, and seek solutions to any sources of disparity found. This groundbreaking study reflects a voluntary commitment among all parties to better assess the local criminal justice system.

The purpose of the study was to:

- ◆ Determine the extent of racial disproportionality in the local criminal justice system.
- ◆ Identify racial disproportionality and disparities.
- ◆ Analyze the reasons for any disproportionality or disparity.
- ◆ Map resources and gaps.
- ◆ Recommend policy and best practices to address disproportionality and disparity.
- ◆ Work with the City of Charlottesville and Albemarle County to develop a strategic plan to implement recommendations.

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## KEY CONCLUSIONS CONCERNING RACIAL DISPARITY

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For two individuals, African American and White, ***of similar background, with similar characteristics and circumstances***, who were booked at Albemarle Charlottesville Regional Jail from 2014 – 2016:

- ◆ There was disparity between the race of arrestees and the seriousness of the charge, with African American defendants having more serious charges leveled.
- ◆ There was disparity between the race of arrestees and the seriousness of the charge, with African American defendants having a larger number of total charges.
- ◆ There was disparity by race in the determination of whether an individual was held with or without bond, with African Americans more likely to be denied release.

- ◆ There was disparity in the length of time a defendant was held in jail prior to trial, with African American males' length of stay being double that of White American males; this disparity was NOT apparent for females.
- ◆ Race did NOT impact length of sentence for African American males when compared with white males sentenced in circuit court but sentences for African American women were nearly 213 days longer in duration, on average, than sentences for White American women.
- ◆ There was NOT a disparate relationship by race in the duration of the actual time served after sentencing.
- ◆ Regardless of race, males charged with more serious crimes accompanied by a record of prior charges and who spent more days in jail prior to sentencing received longer sentences.
- ◆ For males in general, for all categories of crime, neither the total number of charges associated with the most serious charge nor jurisdiction—City or County-- played a significant role in time-sentenced.
- ◆ For African American women, race, crime seriousness, total number of companion charges, a record of prior criminal charges and the time they had spent in jail prior to sentencing were all positively related to sentence duration outcomes.
- ◆ For African American males charged with drug-related crimes, race was not a significant influence on sentence time decisions but seriousness of offense, the total number of charges associated with the main drug crime charge and the individual's length of stay prior to sentencing were statistically-significant influences.

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## **INCOMPLETE DATA PREVENTED ANALYSIS OF KEY DATA POINTS**

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For now, despite the absence of important information regarding police-suspect interactions, the data for this study nevertheless provided evidence that racial disparities in criminal justice outcomes for African American males particularly are present at various points along the Charlottesville/Albemarle criminal justice continuum. Furthermore, the decision-points at which disparity has been found in the Charlottesville/Albemarle County system mirror findings reported in our review of previous research: that is, that regardless of jurisdiction—municipal, state or federal—study after study over a period of decades have concluded that the race of the defendant influences outcomes at various point along the criminal justice continuum.

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## **RECOMMENDATIONS AND NEXT STEPS**

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- A. Increase and support meaningful re-entry programs
- B. Increase transparency of City and County Police Departments
- C. Maintain, develop, encourage and support special initiative programs
- D. Increase diversity in law enforcement
- E. Adopt programs that are alternatives to incarceration.

- F. Provide additional training opportunities
- G. Review best practices from other communities.
- H. Conduct additional research and build upon the findings and recommendations of this study.

CHAPTER I. INTRODUCTION

**Disproportionate Minority Study**

*City of Charlottesville and Albemarle County, VA*



## I.1 INTRODUCTION

---

MGT of America Consulting, LLC (MGT) is pleased to submit the **Disproportionate Minority Study (Study)** to the City of Charlottesville (City) and Albemarle County (County), Virginia. The purpose of this study was to:

- ◆ Determine the extent of racial disproportionality in the local criminal justice system
- ◆ Identify racial disproportionality and disparities.
- ◆ Analyze the reasons for any disproportionality or disparity.
- ◆ Map resources and gaps.
- ◆ Recommend policy and best practices to address disproportionality and disparity.
- ◆ Work with the City of Charlottesville and Albemarle County to develop a strategic plan to implement recommendations.

### CHAPTER SECTIONS



- 1.1 Introduction
- 1.2 Study Team
- 1.3 Background Study Context
- 1.4 Overview of Study Approach
- 1.5 Report Organization

In this report, we discuss disparity and disproportionality. These concepts are similar, but it is important to understand what each is referring to. While disproportionality refers to the state of being out of proportion, disparity refers to a state of being unequal.

Disproportionality: not proportionate; out of proportion, as in size or number.

Disproportionality for this study, then, is a finding that the ratio of a group of persons processed by the criminal justice system, as measured at a series of decision points, in Charlottesville/Albemarle County is not on proportion to their numbers in the local general population (i.e., the percentage of that groups presence in the criminal justice system is *higher* than their percentage of the general population).

Disparity: a lack of similarity or equality; inequality; difference.

Disparity, for this study, is a determination about whether a group of persons receive different treatment and/or different outcomes in the criminal justice system in Charlottesville/Albemarle County when variables other than race and gender (e.g., type of charge, criminal history, seriousness of violation) are held constant. Therefore, when other variables are all similar, if there remains a disparity between the treatment/outcome between groups, the inference is that these differences (disparity) are based solely on race or gender.

## I.2 STUDY TEAM

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The MGT team who conducted the City of Charlottesville and Albemarle County Disproportionate Minority Study is highly skilled and experienced in the disparity research study business. MGT staff has extensive social science research experience, particularly as it relates to disparity, diversity, and equity issues. The

experience of our team enables us to navigate the challenges, obstacles, and volatility associated with conducting a study such as this, which can derail even the most well-planned and executed study.

### **I.2.1 MGT PROJECT TEAM**

MGT is a Tallahassee-based research and management consulting firm. Since 1990, MGT has conducted over 215 disparity and disparity-related research studies. The team of experts who dedicated their time, attention, and expertise to this study include:

#### **Dr. Fred Seamon, Executive Vice President/Qualitative Researcher**

Dr. Seamon was responsible for ensuring the team had the necessary staff and resources to address the deliverables set forth in the scope of work. Dr. Seamon was also responsible for conducting interviews with the City of Charlottesville and Albemarle County officials and stakeholders. Dr. Seamon has over 30 years of consulting, research, and teaching experience. He has been conducting research related to access and equity since he was a graduate student. Dr. Seamon has been involved in over 100 of MGT's disparity and disparity-related research studies. His disparity study areas of expertise include qualitative research methods, community engagement, and outreach and policy analysis. He has extensive experience analyzing the structure, operations, and processes of public sector organizations and nonprofit agencies, and conducting research studies related to access, equity, and disparities in education, business, and human services. His consulting experience also includes workforce development, organizational development, program evaluation, program auditing, and performance management in workforce development, developmental disabilities, and community philanthropy.

#### **Mr. Reggie Smith, Vice President/Project Director**

Mr. Smith served as project director for this engagement. Mr. Smith is the leader of MGT's disparity research business unit and is nationally recognized for managing and directing disparity research studies. He plays a key role in developing, refining, and executing MGT's methodology and quality standards for conducting disparity research studies. Mr. Smith is a highly skilled project manager with the knowledge and skills necessary to manage the complexity of a disparity study. In addition to his disparity study experience, Mr. Smith has extensive experience providing consulting, training, and public relations services to private and public sector agencies, particularly in local government. Mr. Smith also specializes in managing and conducting re-engineering, operational assessments, organizational and performance reviews, and administrative technology projects for city, county, and state government agencies.

#### **Ms. Vernetta Mitchell, Disparity Services Manager/Qualitative Research Manager**

Ms. Mitchell led the qualitative research effort for this study. She has over 20 years of experience in minority business program development, public and private sector SBE and MWBE program administration, construction, and government procurement. She has successfully managed dozens of disparity studies since joining MGT, and has functional knowledge and expertise in project management, project scheduling, analytical reporting, facilitation, and public relations. Ms. Mitchell's

extensive experience in procurement, construction, and program administration has enabled Ms. Mitchell to use her expertise in the development and management of qualitative data collection that has led to more efficient analyses and reporting of business participation.

**Mr. Andres Bernal, Senior Consultant/Quantitative Data Manager**

Mr. Bernal was responsible for collecting and analyzing City and County’s data. He has extensive experience in the collection and analysis of large complex data and applying various statistical and mathematical computations to reach reliable and valid conclusions that are used to shape disparity research findings and recommendations. Mr. Bernal has a law degree and an impressive background in economic theories, including Microeconomic Theory, Macroeconomic Theory, Econometrics, Urban Economics, Experimental Economics, Human and Labor Resource Economics, and Regression Analysis.

**Ms. Kim Stewart, Senior Consultant/Qualitative Research & Analysis**

Ms. Kim Stewart prepared the qualitative analysis for this report. She has over 10 years of experience managing disparity studies from start to finish and has served as the lead researcher, identifying and preparing data for study evaluation. She has been a lead researcher or project manager on over 40 disparity-related studies and has been a repeat presenter at ACCA for project goal setting, and for contract data collection for disparity studies. She has a MS and BA, *summa cum laude*, from St. Edwards University School of Management and Business.

MGT SUBCONSULTANT

**Dr. Robert A. Conners, Disproportionate Minority Contact Expert**

Dr. Conners has more than three decades of experience working for and consulting with numerous public and private sector institutions and agencies in matters ranging from institutional research to diversity and inclusion. During the nineties, he served with Florida State University’s African American Studies faculty, conducting research in race conflict theory, race relations, and multicultural education and curriculum development. From 1991–1993, he served as lead researcher for the Florida Department of Juvenile Justice, supervising an OJJDP-sponsored study investigating sources of minority overrepresentation and disproportionate minority contact in Florida’s juvenile justice system. Throughout the nineties, he developed and implemented successful, grant-funded minority youth outreach programs aimed preventing entry into the criminal justice system. He remains an active member of several professional associations, including the Association for Conflict Resolution and the American Educational Research Association. Additional expertise and experience include program development, instructional design, website development, program evaluation, advanced statistical analysis, and survey/test design and analysis for a variety of topical venues. He also serves with the North Florida Regional Domestic Security Task Force as a consultant in bioterrorism response preparedness.

### **I.3 BACKGROUND STUDY CONTEXT**

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As stated in the Request for Proposals, Charlottesville City and Albemarle County incarcerate a disproportionate number of Black residents. This disproportionality has a negative impact on those incarcerated and contributes significantly to the cost of running the Albemarle/Charlottesville Regional Jail (ACRJ). It also places a strain on the criminal justice system and erodes trust among Black residents regarding the justice process. Community leaders have made a commitment to gain a greater understanding of disproportionate minority contact (DMC), its causes, and how a community can effectively respond once data is gathered and facts are known.

In July 2018, the City of Charlottesville and Albemarle County, VA contracted with MGT to conduct a Disproportionate Minority Study. MGT collected and analyzed data for the years of 2014 through 2016.

### **I.4 OVERVIEW OF STUDY APPROACH**

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MGT followed a carefully designed work plan that allowed study team members to fully analyze available data for years 2014 through 2016 (i.e., the study period). The sources of data analyzed for the Study included:

- ◆ Police;
- ◆ Jail;
- ◆ Courts; and
- ◆ Local probation;

The Disproportionate Minority Study analyzed data in these areas in order to identify and document, with particularity, whether statistical disparity exists. If statistical disparity exists, a comprehensive strategic plan will be developed to address the depth and breadth of disparity, and recommendations for improvement.

The work plan consisted of, but was not limited to, the following major tasks:

- ◆ Finalize the work plan.
- ◆ Update mapping for Charlottesville and Albemarle County.
- ◆ Collect, analyze, and track data for the study.
- ◆ Determine the rate of disparity.
- ◆ Validate findings with key stakeholders.
- ◆ Engage key stakeholder groups.
- ◆ Develop comprehensive strategic plan and report.

- ◆ Prepare and present draft and final reports for the study.

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## I.5 REPORT ORGANIZATION

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In addition to this introductory chapter, the Charlottesville and Albemarle County Disproportionate Minority Study report consists of:

<b>CHAPTER 2</b>	<b>THE ROLE OF RACE AND CRIMINAL JUSTICE: REVIEW OF RESEARCH FINDINGS, PRESENTATION OF STUDY METHODOLOGY AND PROCEDURES</b> Chapter 2 presents the research questions and methods, system mapping, data sources and methodology used for data analysis.
<b>CHAPTER 3</b>	<b>MAJOR FINDINGS OF A DISPARITY ANALYSIS OF RACE EFFECT ON CRIMINAL JUSTICE DECISIONS AND OUTCOMES IN ALBEMARLE COUNTY/CHARLOTTESVILLE, VA, 2014-2016</b> Chapter 3 provides findings from MGT’s analysis of police, court, probation and parole data, and interviews with stakeholders.
<b>CHAPTER 4</b>	<b>COMMUNITY PERCEPTIONS</b> Chapter 4 presents information collected from community forums, common themes and a summary of findings.
<b>CHAPTER 5</b>	<b>SUMMARY OF FINDINGS AND RECOMMENDATIONS</b> Chapter 5 provides the summary, recommendations and strategic planning based upon the analyses and conclusions presented in this study.
<b>APPENDICES</b>	The appendices contain supporting documentation and data. APPENDIX A: Albemarle County Charlottesville Criminal Justice Process Map APPENDIX B: OAR and Court Bond Decisions APPENDIX C: Community Outreach Plan APPENDIX D: Focus Group Guide APPENDIX E: Interview Guide APPENDIX F: Resources for Recommendations APPENDIX G: Bibliography

MGT recommends reading the Disproportionate Minority Study in its entirety to understand the basis for the summary and conclusions presented in **Chapter 5, Summary of Findings and Recommendations**.

CHAPTER 2. THE ROLE OF RACE AND  
CRIMINAL JUSTICE: REVIEW OF  
LITERATURE AND PRESENTATION OF  
STUDY METHODOLOGY AND  
PROCEDURES

**Disproportionate Minority Study**

*City of Charlottesville and Albemarle County, VA*



## 2.1 REVIEW OF RELEVANT LITERATURE AND METHODOLOGY

Racial disparities exist at every stage of the U.S. criminal justice system (Antonovics and Knight, 2009; Fryer, 2018; Starr and Rehavi, 2014; Anwar, Bayer, and Hjalmarsson, 2012; Abrams, Bertrand, and Mullainathan, 2012; McIntyre and Baradaran, 2013; Doerner and Demuth, 2010; Steffensmeier, Ulmer, and Kramer, 1998; Warren, Chiricos, and Bales, 2012; Farrell, Ward and Rousseau, 2009; King, Johnson and McGeever, 2010; Chiricos and Crawford, 1995; Crawford, Chiricos, and Kleck, 1998; Hester and Hartman, 2017). Among criminologists, that race and ethnicity affect one’s chances of going to prison is a well-established fact (e.g., Steffensmeier, Ulmer and Painter-Davis, 2009). Four decades ago, more than a decade before the War on Drugs, Blumstein (1982) reported that African American males in their twenties were 25 times more likely to be incarcerated than members of the general population. “On any given day, one can expect to find over three percent of that group in state prisons. In view of the relatively low likelihood of imprisonment generally (about one person per 800 of the total population is in a state prison on any day), finding as many as one person out of thirty-three from any demographic group in prison is strikingly high and represents a source of considerable concern” (Blumstein, 1982, p. 1281). In a seminal and extensive meta-analysis of race effects on incarceration, Chiricos and Crawford (1995, p.296) reported 38 studies generating 145 estimates of the race/incarceration relationship. Two-thirds found African Americans were more likely to receive harsher outcomes than white counterparts for crimes of similar seriousness and their race placed them at higher risk for incarceration 80 percent of the time, even when crime seriousness and prior record were controlled. They concluded that race had stronger and more consistent direct effects on incarceration decisions and, in the federal system, race, particularly, affected both the decision to incarcerate and sentence duration.

### CHAPTER SECTIONS



- 2.1 Review of Relevant Literature and Methodology
- 2.2 2.3 Sample/Population Data Sources for the Study
- 2.3 Variables for Analysis
- 2.4 Operationalizing System Variables
- 2.5 Using Multiple Regression Analysis to Assess Disparities in Criminal Justice Outcomes
- 2.6 Variable Specification, Transformation, Coding and “Cleaning”
- 2.7 Hypotheses and Analysis Procedure

### 2.1.1 IDENTIFYING VARIABLES FOR ANALYSIS

#### 2.1.1.1 CRIMINAL JUSTICE “SYSTEM” VARIABLES

Investigations of factors associated with criminal justice outcomes have identified several systemic variables. These are decision-points along the criminal justice continuum, having varying effects on ultimate, and interim, criminal justice outcomes. Although some decisions are guided strictly by legislated directives permitting little discretion on the part of judges and prosecutors, other decision-points permit a greater degree of discretion in determining criminal justice outcomes. Generally, following an arrest for a violation and subsequent booking, a hearing is conducted to consider charges and to determine the release or detention of a defendant, pending further legal action. The defendant may be released with a bond guarantee or on his/her personal recognizance or may be taken into custody without a bond or the prospect of release. In some criminal cases charges are considered to be so serious in nature they require a suspect to be detained in custody (referred to as a “presumptive hold”). A defendant may also be detained based on an evaluation of his/her risk for flight from the jurisdiction or because there is reason

to suspect he/she poses a threat to society. As a condition of release, a suspect may be referred to an offender aid or other diversion program. If the case proceeds to court, among other decisions, the prosecutor may reduce the number and severity of charges or reconsider release on bail, among possible decisions. And, of course, there are determinations of guilt or innocence and, for the guilty, determinations of punishment. Additional to the systemic factor is the consideration of the defendant's prior criminal history, if any. These are the legal and systemic variables pertaining to the crime event, per se, its nature and its severity and are decision-making points in which authorities can exercise varying degrees of personal discretion, with latitude in decision-making potentially susceptible to the influence of personal attitudes and beliefs.

The general question in a disparity study is "To what extent, if any, does the race of the suspect/defendant/offender play a role in determining criminal justice outcomes?" Under the U.S. Constitution, the processes and decisions made by authorities are supposed to be race-neutral. Based on research by Harris, et al, "At year-end 2005, African American inmates represented an estimated 40% of all state and federal prisoners, and Hispanics represented about 20% (Bureau of Justice Statistics 2006). These figures far exceed the African American proportion, 12.6%, and the Hispanic proportion, 14.4%, of the entire US population (National Center for Health Statistics 2005). In fact, in 2009, African Americans (577,200) outnumbered whites (465,500) in American prisons and, if incarcerations trends hold going forward, nearly one-third of African American males will be imprisoned at some point in their life, compared with 5% of white males (2009).

Although, studies prior to 2000 affirming disproportionality at almost every point along the criminal justice continuum were consistent in their findings that racial/ethnic minorities receive harsher outcomes than whites (Ulmer and Kramer 1996; Petersilia 1983; Spohn, Gruhl, and Welch, 1982; Zatz 1984). Klein, et al (1990) found no race effect and others found that African Americans were treated more leniently for some classes of crime than white offenders (Bernstein, Kelly, and Doyle 1977). Other studies found that race interacts with other variables and affects outcomes only in some types of cases (Spohn and Cederblom 1991), in some settings (Chiricos and Crawford 1995; Kleck 1981; Myers and Talarico 1986) and for some types of defendants (LaFree 1989; Nobiling, Spohn, and DeLone 1998; Peterson and Hagan 1984).

Given a growing and compelling body of more contemporary research supporting a race/decision-making relationship, researchers have turned their attention to investigations of the antecedent conditions, decisions and circumstances influencing disparate judicial outcomes (Chiricos & Crawford, 1995; Spohn, 2000; Zatz, 1987; Franklin, 2018; Franklin and Henry 2019; Ulmer, 2012). Compared to similarly-situated white Americans, African Americans are more likely to be searched for contraband (Antonovics and Knight, 2009), more likely to experience police force (Fryer 2018; Bazelon, 2019), more likely to be charged with a serious offense (Starr and Rehavi 2014; Bazelon, 2019), more likely to be convicted (Anwar, Bayer, and Hjalmarsson, 2012), and more likely to be incarcerated (Abrams, Bertrand, and Mullainathan 2012). Arnold, Dobbie and Yang (2018) found that bail judges were racially biased against African American defendants, with substantially more racial bias among both inexperienced and part-time judges, concluding that racial bias is driven by bail judges' reliance on inaccurate stereotypes that exaggerate the relative danger of releasing African American defendants. Decades earlier, LaFree (1985) and Lizotte (1978) had concluded that race influenced sentence severity indirectly through its effect on variables such

as bail status. Regarding the setting of bail amounts, African American defendants were more likely to be assigned monetary bail than white defendants and received almost \$10,000 in additional bail liability. McIntyre and Baradaran (2013) found that African American felony defendants in state courts were significantly more likely to be detained pre-trial compared to otherwise similar white defendants.

In general, harsher punishments and sentences were more likely for younger African American male offenders than others (Doerner and Demuth, 2010; Steffensmeier, Ulmer, and Kramer, 1998; Warren, Chiricos, and Bales, 2012); for cases adjudicated in jurisdictions with smaller minority populations (Farrell, Ward and Rousseau, 2009; King, Johnson and McGeever, 2010); for individuals hailing from the southeastern US (Chiricos and Crawford, 1995); for cases with lower offense severity (Crawford, Chiricos, and Kleck, 1998; Hester and Hartman, 2017); and, among offenders with extensive criminal histories (Spohn 2000). Frederick and Stemen (2012) state, “In a review of 24 studies of prosecutorial charging decisions and 19 studies of decisions by prosecutors to seek the death penalty, found that race clearly affected the decision to seek the death penalty. However, evidence on the role of race in charging was less clear; 15 of the 24 studies found no effect of race on charging decisions.” In discussing gaps in the literature on prosecutorial discretion under sentencing reforms more research was needed to explore whether race and other extralegal characteristics affect prosecutors’ decisions regarding the application of three strikes and other mandatory minimums, adding that few studies examine “outside” or contextual influences on prosecutorial decision-making—what criminologists refer to as “focal concerns” (Ulmer, Kurlychek & Kramer, 2007).

While much has been learned about the circumstances under which race and ethnicity influence discretionary judicial outcomes, Ulmer (2012) concluded that researchers had yet to thoroughly investigate the ancillary effects of legal systemic factors on outcomes relative to personal trait factors of defendants and specific criminal justice system decision-points with regard to race and ethnicity. A frequent refrain of researchers has underscored the need to refine key measures included in analyses—especially criminal history and offense severity—to account for their influence on case-processing outcomes when these variables were included in analyses (Blumstein, Cohen, Martin, and Tonry, 1983; Kleck, 1981; Klepper, Nagin, and Tierney, 1983; Chiricos and Crawford, 1995; Ulmer, 2012; Franklin, 2017; Franklin and Henry, 2019). In examinations of sentencing decisions, researchers found that the direct effects of race were significantly reduced in some studies and insignificant in others when criminal history and offense seriousness were included along with “extra-legal” variables such as age, gender, race, employment status and educational attainment (Hagan, 1973; Kleck, 1981) and even more pronounced in cases with lower offense severity (Crawford, Chiricos, and Kleck, 1998; Hester and Hartman, 2017) and among offenders with extensive criminal histories (Spohn, 2000).

### 2.1.1.2 “EXTRA-LEGAL” VARIABLES

In the review above it was noted that when so-called “extra-legal” variables— individual trait and status factors— were introduced into investigations of the effect of race on criminal justice outcomes, the general effect was to reduce the statistical impact of similarly-situated defendants’ race on criminal justice outcomes. In the current study, in addition to the effect of systemic variables, “extra-legal” variables to be analyzed include race, individuals’ employment status at booking, individuals’ educational attainment, age and sex.

## **EMPLOYMENT AND CRIME**

In studies of the relationship between employment and propensity for criminal behavior, more than two dozen empirical studies among a variety of adult and young adult populations consistently confirmed that labor market success in the form of employment, high wages, job stability, and occupational prestige generally tend to reduce criminal involvement (Crutchfield and Pitchford, 1997; Farrington, Gallagher, Morley, Ledger, and West, 1986; Good, Pirog-Good, and Sickles, 1986; Grogger, 1997; Hagan and McCarthy, 1997; Horney, Osgood, and Marshall, 1995; Sampson & Laub 2003; Laub and Sampson, 1993; Thornberry and Christenson, 1984; Uggen, 1999, 2000). Thornberry and Christenson (1984) found that chronic unemployment increased the number of arrests for crimes of similar seriousness comparing employed and unemployed individuals and increased as a function of economic disadvantage and race (unemployed African Americans had disproportionately higher numbers of arrests). Farrington et al. (1986) also found that rates of conviction were higher during periods of unemployment, moderated by low income, poor parental/child rearing history and parental history of criminal behavior. Findings suggested that among individuals most likely to commit crimes, employment may have the largest crime-preventive benefits when compared with persons at lower risk of criminal behavior.

Laub and Sampson (1993) found that job instability during the 17–25 age range was correlated with higher probability, frequency, and liability for arrest in late adolescence and early adulthood. Grogger (1997) reported that higher wages corresponded with a substantially lower probability of criminal participation and that the income gap between African American and White American wage earners accounted for about one quarter of the racial differential in crime participation. “The growth in market opportunities with age”, he observed, “is largely responsible for the concomitant decrease in crime” (p. 786). Uggen (1999) corroborated Grogger’s conclusion finding that work opportunity was associated with rates of arrest, especially for older offenders. In general, empirical studies confirm the expectation from a variety of theories that having a job reduces one’s propensity for criminal behavior. It also appears that having a good job—more stability, higher wages, better quality—is an even greater restraint on criminal behavior than having a bad job (e.g., Hagan & McCarthy, 1997; Uggen, 2000) and that the employment–crime benefit tends to be strongest among older individuals.

## **EDUCATION AND CRIME**

In 2012, the U.S. Census Bureau estimated the average annual income for individuals who fail to earn a high school diploma to be \$20,241 annually; \$10,000 less than for graduates and \$36,000 less than for a college graduate. Historically, the poverty rate for high school dropouts is twice as high as for college graduates, and their unemployment rate is roughly four percentage points higher than the national average for all Americans. Four-fifths, 80 percent, of today’s prison population in the United States did not earn a high school diploma.

Lack of education decreases individuals’ employment opportunities and is associated with local crime rates. In recent history, due to extensive automation in U.S. industrial and technological sectors, demand for an educated workforce has increased, decreasing opportunity for lesser educated individuals and propelling a disproportionate number toward illegal activities as sources of income. As with employment and age and their relationship to criminal behavior, the relationship between education and propensity for crime, based on decades of research, is established. That is, jail and prison populations in the U.S. are less educated than the general population of people who are not incarcerated. (U.S. Bureau of Labor

Statistics, 2016). Over the decades, findings have consistently supported an inverse relationship between high school graduation and the likelihood one will engage in criminal behavior. This trend is even more pronounced for some racial and ethnic minority groups. The problem is exacerbated by a history in which African American and Hispanic Americans, more so than white Americans, are less likely to have access to quality educational opportunities and are more likely to leave school earlier, experiencing disproportionately higher levels of incarceration (Lochner and Moretti, 2004)

Machin, Marie, and Vujić (2011) found that increased educational attainment reduces property crime and produces large social benefits over time. Franklin (2017) observed that high school graduates were significantly less likely to be sent to prison and received shorter sentences than similarly situated offenders who did not finish high school. He also observed that any “deleterious” impact of extra-legal factors such as race, ethnicity, age and sex on criminal justice outcomes are reduced as a result of higher levels of education.

Criminological theory has offered various explanations for the relationship between education and crime. Strain Theory holds that the problems of adjustment faced by youth in the school setting lead to poor performance and later criminality, emphasizing the role of class in the educational achievement of young people and its effect on self-esteem (Cohen 1955). Jarjoura (1996) suggested that lack of education creates an incongruence between the pressure to succeed and the ability to succeed, leading to unrealistic demands and emotional frustration predictive of criminal behavior. Social Control Theory suggests formal controls such as laws, law enforcement, government, and other groups place parameters around behavior but that the most powerful social control is family-of-origin. Hirschi (1969) explained how these macrosocial and microsocial controls work as formative bonds guiding individual development, the most important of which is attachment to parents. Another significant bond is attachment to school, which when weakened, leads some individuals to reject authority and education toward a greater susceptibility to criminal behavior.

In a review of state-level education policy and budgets, the Justice Policy Institute found that states with a greater financial commitment to education resulting in higher levels of per capita educational attainment tend to have lower violent crime rates and lower incarceration rates than the national average. Although crime rates have decreased in the U.S. generally in the past 30 years, States increasing investment in higher education have experienced a significantly greater decrease in violent crime when compared with other states. (FBI Uniform Crime Report, Crime in the United States, 2000-2005.) The American Economic Review (2016) predicted that a one-year increase in the populations’ average years of schooling completed reduces violent crime by almost one-third and motor vehicle theft by one-fifth. An Alliance for Excellent Education (2006) report estimates that a five percent increase in male high school graduation rates would produce an annual savings of almost \$5 billion in crime-related expenses. Lochner and Moretti (2004) proposed that “increasing the high school graduation rate in the United States... would have resulted in nearly 100,000 fewer crimes, providing an annual benefit valued at more than \$2 billion.

## **AGE AND CRIME**

One of the oldest and most widely accepted maxims in criminology, that involvement in crime diminishes with age, was first asserted more than 200 years ago by Belgian scientist Adolphe Quetelet, (Steffensmeier, Allan, Harer, & Streifel, 1989) and has been characterized as a “resilient empirical

regularity” (Brame & Piquero, 2003, p. 107) and “one of the brute facts of criminology” (Hirschi & Gottfredson, 1983, p. 552). The classic “age-crime curve” portrays crime rates rising in adolescence, peaking in the late teens and declining through adulthood (Hirschi and Gottfredson, 1983).

Three major theoretical traditions in criminology have explored age as it relates to propensity for criminal behavior. Strain Theory argues that adolescents and young adults experience higher levels of “status frustration” (i.e., strain)—ostensibly making them more susceptible to improving status through the spoils of crime-- but that it declines with entry into adulthood and legitimate employment (Agnew, 1985). Social Control Theory argues that social bonds are weakened during adolescence and early adulthood but tend to redevelop in adulthood as individuals accumulate conventional ties to jobs and begin to build their own families through marriage and parenthood (Sampson and Laub, 1995). Agnew (1985) suggested both formal and informal social controls vary by age, freeing or constraining an individual to violate social norms. As young people move into adulthood or anticipate entering it, most find their bonds to conventional society strengthening, with expanded access to work or further education and changing peer associations and lifestyle routines that diminish the opportunities for committing these offenses (Warr, 1993). Finally, Differential Association Theory assumes increasing involvement in crime during adolescence is due to association with delinquent peers. Warr (1993) found that more time spent with criminal peers increased criminal behavior and vice versa, concluding that the age–crime relationship may be at least partially explained by changes in peer associations. Stolzenberg and D’Alessio (2008) examined the implications of peer association concluding that criminal behavior during adolescence and early adulthood is largely a group phenomenon.

In general, the F.B.I.'s Uniform Crime Report Crime Index shows a long-term trend toward increasingly younger age-crime distributions, revealing that the highest age-specific arrest rate is younger than 25 for almost all crimes reported in the F.B.I.'s UCR program and that the median age is younger than thirty for most crimes. These findings were corroborated by Steffensmeier and Allan (1995) who concluded that physical strength, speed, prowess, stamina, and aggression play a role in the successful commission of many crimes.

## **GENDER AND CRIME**

In the United States, since the 1960s, women have accounted for roughly 20 percent of arrests annually for most crime categories (Steffensmeier and Streifel, 1991). In general, men exhibit much higher rates of criminal behavior and account for greater numbers of arrests than do women for all categories of crime (except prostitution). Within-gender comparisons indicate that both males and females have relatively lower rates of arrest for more serious crimes such as felony crimes against persons and property and higher rates of arrest for lesser crimes such as minor property crimes and public misbehavior involving alcohol and/or drugs. Although males are arrested at much higher rates than women generally, male and female arrest trends over time, across groups and geographic regions are similar. That is, decades or groups or regions that have high rates of male crime tend to also have high rates of female crime, and groups or regions that have low rates of male crime also have low rates of female crime. Similarly, states or cities or counties that have comparatively higher than average arrest rates for men also have higher arrest rates for women (Steffensmeier and Streifel, 1991). Both female offenders and male offenders tend to come from impoverished backgrounds marked by considerable disadvantage. However, women

who commit crime are somewhat more likely than men to have been abused physically, psychologically, or sexually, both in childhood and as adults.

Overall, women account for less than 15 percent of homicide and aggravated assault crimes and for less than 10 percent of the serious crimes of burglary and robbery. Aside from prostitution, female representation has been greatest for minor property crimes such as larceny-theft, fraud, forgery, and embezzlement, rising as high as 30 to 40 percent for some periods since the 1970's. Theft and fraud committed by women typically involve shoplifting (larceny-theft), "bad checks" (forgery or fraud), and welfare and credit fraud. Although there have been intervals in which female crime has increased faster than male crime for minor property crimes, (e.g., from 1960 and 1975, arrests doubled), the percentage of female arrests has declined for both homicide and prostitution (Steffensmeier, 1993). In general, women's acts of violence, compared to those of men, result in fewer injuries and less serious injuries and women's property crimes usually result in lesser loss and/or damage. To the extent that age differences between the sexes exist, the tendency is for somewhat lower peak ages of offending among females—apparently because of their earlier physical maturity and the likelihood that young adolescent females might date and associate with older delinquent male peers. But overall, female-to-male relative crime rates remain constant across the life span (Steffensmeier and Streifel, 1991).

In general, women are less likely than males to recidivate inasmuch as long-term careers in crime are very rare among women. Some pursue relatively brief careers (in relation to male criminal careers) in prostitution, drug offenses, or minor property crimes like shoplifting or check forging.

### **2.1.2 LITERATURE REVIEW SUMMARY**

Historical research indicates a long history of finding that race has an impact on the treatment and outcome of persons in the criminal justice system. Our review indicates that race is a factor in the decision to incarcerate as well as in the severity of the sentence.

To begin to craft the methodology that would be used for this study, we first identified decision points along the criminal justice continuum; these are the system variables we discovered in our literature review. The system variables include:

- ◆ Arrest
- ◆ Booking
- ◆ Hearing
- ◆ Release or detention
- ◆ Number of charges
- ◆ Severity of charges
- ◆ Bail
- ◆ Sentencing
- ◆ Severity of sentence

Our review also identified the “extra-legal” variables that are relevant to this study. These are the individual trait and status factors related to a person. The extra-legal variables identified for this study include:

- ◆ Employment
- ◆ Education
- ◆ Age
- ◆ Gender

Our literature researched informed the creation of the methodology for this study.

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## 2.2 SAMPLE/POPULATION DATA SOURCES FOR THE STUDY

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“Is the race of an individual charged with a criminal violation in Charlottesville or Albemarle County, VA, a factor in legal decisions and case dispositions?” The central question guiding this study explored whether or not African American individuals, during the three-year interval of this study, received harsher outcomes when compared with white individuals charged with similar crimes, with similar criminal history and similar demographic characteristics (i.e., age, sex, level of education and occupational status)? If so, racial disparity can be inferred.

The following sections describe the methodology for MGT’s investigation of race in criminal justice decisions and outcomes in the Albemarle County and Charlottesville, VA, jurisdiction.

Subjects for the study were individuals booked into the Albemarle-Charlottesville Regional Jail (ACRJ) from January 1, 2014, through December 31, 2016. Three sets of data were provided for the development of a project database:

- ◆ Albemarle-Charlottesville Regional Jail (ACRJ) Bookings Data containing records of individuals who were assigned “booking identification numbers”, typically following an arrest or a formal charge or a violation.
- ◆ Data provided by the Office of Offender Aid and Restoration (OAR) Pre-trial Services, containing records for those released on pre-trial supervision.
- ◆ Circuit Court and General District court records maintained by the Supreme Court of Virginia for each jurisdiction in the Commonwealth.

ACRJ bookings data contained 24 data fields and roughly 27,119 duplicated records representing 10,328 unique individuals who were assigned “booking identification numbers” during the study period. OAR Pre-trial data contained 76 data fields and roughly 1800 unduplicated records. Circuit court and General District Court data contained 77,000 unduplicated records and 55 and 47 data fields respectively. From these records, two master data set were created: One for creation of a “Data Dashboard”, an online tool reporting annual crime and arrest data and trends for the City of Charlottesville and Albemarle County,

VA, area; the second data set was constructed for statistical analyses of disparity in the criminal justice system from 2014 through 2016.

### 2.2.1 DATA FOR THE DATA DASHBOARD: SAMPLE/POPULATION

The Data Dashboard is an interactive tool that allows the end user the ability to visualize bookings, OAR Pretrial rates, and final court determinations based on demographics, crime categories, jurisdictions, and other variables. It utilizes data from three stages of the criminal justice process.

- ◆ Bookings data was obtained from the Albemarle County Jail. In the Dashboard a user can see the rates by which Males and Females are booked in Albemarle and Charlottesville throughout various options such as age, length of state, charge category, and felony/misdemeanor.
- ◆ OAR Pre-trial data was obtained from the OAR Jefferson Area Community Corrections. In the OAR Pretrial tab of the Dashboard a user can see the case rates for Males and Females in Albemarle and Charlottesville across charge severity, criminal history, convictions, recommendations, and court decisions.
- ◆ Supreme Court outcome data was obtained from the Supreme Court of Virginia. In the Court Outcomes tab of the Dashboard a user can see the case rates for Males and Females in Albemarle and Charlottesville across charge classifications, case conclusions, final disposition, and incarceration type.

Findings are presented in interactive tables in which a Relative Rate Index (RRI) is calculated for each of the decision and data points along the criminal justice system continuum in the Dashboard for information provided from the three data sets above. The Relative Rate Index enables comparisons among ethnic/gender groups, in this case, to determine if a group or groups is disproportionately represented at a given data/decision-point in the criminal justice process.

**RRI = “Number of individual events per race or ethnicity and gender for a given year” divided by “Total population for race/ethnicity and gender for a given year”**

- ◆ Number of African American males booked with a felony in Albemarle County in 2014 = 223
- ◆ Total population of black males in Albemarle County in 2014 = 4,051
- ◆  $RRI = 223/4051 = 0.05$

To calculate the Relative Rate Index, population by gender and race was downloaded from the American Community Survey 5-Year Data Profiles. American Community Survey population data separates Albemarle County, Virginia and Charlottesville, Virginia, which is an independent city. The Relative Rate Indices divide the count of individual events for a particular race/ethnicity group and gender by the total population for a race and gender.

### 2.2.2 DATA FOR DISPARITY ANALYSIS: PREPARING A MASTER DATABASE

The Data Dashboard provides a snapshot of racial disproportionality at each discrete stage of the criminal justice process. In the Dashboard, the Relative Rate Indices (RRIs) summarizing data by race tell us

whether there is relative parity or disproportionality by race at any given data point for specific categories of violation. From that information alone, however, we cannot make inferences as to the factors influencing decisions or rulings made at any point in the process continuum and how these decisions might influence subsequent decisions or rulings later in the process or, ultimately, judicial outcomes such as guilt/innocence or sentencing decisions. For instance, for two individuals of different race but with otherwise similar characteristics and histories who are charged with the same felony crime, is one more likely to be held without bond pending a court appearance and the other more likely to be released on his/her own recognizance? Do these decisions *statistically* impact or “bias” subsequent outcomes regarding guilt or innocence? Or how long one is sentenced to serve time in jail or prison? If so, and if the individuals’ race is the only apparent difference between them, we can postulate that the disparity in their outcomes can be attributed to race.

### **THE MASTER DATA SET: “CLEANING” DATA, CREATING A MASTER RECORD**

One of the major challenges of this project was to find a way to make data intended for record-keeping and administrative purposes amenable to researching disproportionality and disparity. The Albemarle County/Charlottesville Criminal Justice Process Map (Appendix A) is a visual representation of decision points and processes as an individual who has been charged and arrested moves through the criminal justice system. The process begins when an individual is charged with a crime/violation and booked. From booking to bond determination, detention or release, data is captured to chronicle these decisions and outcomes. After booking, if the individual is released to Pre-trial services, data in the separate, OAR Pre-trial Services data base captures subsequent decisions and outcomes influencing the individual’s eligibility for and/or assignment of OAR or other services. Finally, the Court data tells us how the individual’s case is processed or finally disposed—for example, whether he/she was found guilty and sentenced or found not guilty, or otherwise adjudicated. To transform a record-keeping data set into a research database capable of analyzing disproportionality and disparity, the first step was to combine the three disparate data sets—booking, OAR and court data—into one master record. This master data set would provide a chronicle of individual “stories” in the criminal justice system.

What do we mean by a master record? And why is it important/necessary? For two of the three data sets provided to MGT initially, many individual cases in those files contained multiple rows of data related to a single arrest event for the same individual. For instance, following an arrest for a burglary, an individual might also be charged with other crimes or violations in addition to a burglary charge, such as breaking and entering, trespassing, damage to property, etc. In the booking data, for an individual facing more than one charge related to the same arrest event, each charge generated its own, separate line of data for the same individual and arrest event. As a practical matter, this posed a problem for analysis inasmuch as the most parsimonious way to analyze data statistically required that data be reported in only one, single row of information for each individual. However, building our master data set from 77,000 lines of duplicated records, collapsing multiple records for the same arrest event manually was impractical in terms of time and resources.<sup>1</sup>

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<sup>1</sup> And even creating a machine-matching protocol that would list every charge associated with every arrest for a single individual for the period of the study, and all of the information associated with each charge, would yield a data file with potentially hundreds of columns of information for one record (e.g., in the booking data set, one individual was booked 69 times in the 36 month interval of the study!)

In constructing a master database combining all three original data bases such that duplicated records for each individual were condensed into one unique record, research decisions were made in consultation with knowledgeable research experts and data managers in Charlottesville/Albemarle County criminal justice system to create new variables from old and data elements were transformed into measurement tools without which the study could not have been conducted.

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## 2.3 VARIABLES FOR ANALYSIS

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From the three databases provided for this study-- in addition to criminal justice system data elements-- data included both personal and demographic information about such as defendant's age, education level, employment status, sex and, of course, race and ethnicity and. "System data" included:

- ◆ Charges associated with an arrest and booking (for a given arrest "event", more than one-third of the study sample were charged with more than one offense).
- ◆ An individual's prior criminal history.
- ◆ The jurisdiction of the offense (City of Charlottesville or Albemarle County).
- ◆ Bond decisions (released on own recognizance/released with bond versus secured bond/no bond).
- ◆ Charge/violation "offense category" (e.g., property, weapons, traffic, violence, drug, sex offense).
- ◆ "Length of stay" associated with an arrest (time/days spent in the Albemarle County/Charlottesville Regional Jail).
- ◆ A Virginia Criminal Code variable, prescribed in statute, providing a sentencing-time guideline for every state criminal code category (e.g., "Felonious Assault" – 5 years to 20 years).

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## 2.4 OPERATIONALIZING SYSTEM VARIABLES

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In a more perfect world, criminal justice decisions and outcomes are based solely on the characteristics of the crime: its nature; its seriousness or "harm to society"; whether multiple, other crimes were committed in the same crime event; as well as considerations such as the individual's prior criminal history, if any. That is, the "crime event" is the object of analysis—not considerations of race, gender and other individual characteristics of the offender. It was also the central construct around which our master database was organized. **Specifically, data related to the individual's "most serious" charge appearing in the booking data was linked with data related to that same charge in the OAR and Court data sets to create a master data record for each individual booked from 2014 through 2016.** In consultation with the study's project management team, several other enhancements were made to permit a more thorough consideration of the individual's record and history.

### 2.4.1 DETERMINING THE “MOST SERIOUS” CHARGE

For individuals appearing in the jail bookings data set, a research decision was made to choose the “most serious” charge for which an individual was booked as the focal point for analysis regarding arrest. Absent a quantitative scale measuring a crime’s “seriousness”, in relation to all other crimes, many studies of racial disproportionality in criminal justice outcomes have fallen back on the binary misdemeanor/felony categories in an attempt to measure relative seriousness of a crime. But the crudeness and imprecision of a simple “0/1” distinction to measure seriousness does not tell us how much more serious a felony assault may be than, say, a felony larceny, or vice versa.

In criminal law, a felony is a more serious category of crime than is a misdemeanor, usually carrying harsher punishments. But some may consider any crime that results in physical harm to a person, misdemeanor or not, to be more serious than many types of property crime, even in the felony category. Which crime is the more serious of the two is a judgment, based at least in part on a value that considers whether physical harm to persons is more egregious than loss of property or property damage. A more differentiated measure of seriousness would be a numerical, whole number ranking scale or an interval level scale where, say, a value of 1 might represent “not at all serious”, increasing in relative seriousness through an end-value of 20, representing a crime that is “extremely serious”. More than a simple two category seriousness “measure”, a scaled system of crime seriousness permits us to distinguish the “magnitude” of the difference between categories of crime and is, therefore, much more informative of the effect of a crime’s seriousness on criminal justice processing and decision-making.

A second, even more critical advantage of a ranking or interval level assessment of crime seriousness is that the same scale can be used to compare qualitatively different—even unrelated-- categories of crime. If a felony assault with a deadly weapon and a felony sex offense against a minor both receive a seriousness “score” of 17 on a 20-point scale, it can be asserted that although they are vastly different crimes in nature, their perceived “seriousness” or “harm” to individuals and to society is considered to be roughly the same. Fortunately, the Virginia Criminal Code provided a guide to the Commonwealth’s assessment of “crime seriousness” when it outlined “length of sentence” intervals associated with each category of crime. These categories are presented as sentence-term intervals—for example, “0 to 12 months”; “1 year to 5 years”; “5 years to 10 years”, and so on. The length of the sentence interval and its magnitude increase as a function of the Code’s assessment of the crime’s seriousness. From the Virginia Criminal Code, MGT determined the categories listed in the left column of **Table 2-1** below, ordered them by ascending length sentence/interval and assigned ascending ranking values (numbers) to each interval from 1, not at all serious, to 23 “most serious”.

TABLE 2-1. VIRGINIA CRIMINAL CODE SENTENCE INTERVAL CATEGORIES AND ASSOCIATED “SERIOUSNESS” RANKINGS

VCC Sentence Code	Rank Value
Fine	1
0-10DAYS	2
0-30DAYS	3
0-60DAYS	4
0-6MONTHS	5

VCC Sentence Code	Rank Value
0-12MONTHS	6
1MONTHS-1YEARS	7
30DAYS-12MONTHS	7
1YEARS-5YEARS (II)	8
3YEARS-3YEARS (II)	9
5YEARS-5YEARS (II)	10
1YEARS-10YEARS	11
1YEARS-10YEARS (II)	11
2YEARS-10YEARS	12
2YEARS-10YEARS (II)	12
1YEARS-20YEARS	13
1YEARS-20YEARS (II)	13
2YEARS-20YEARS	14
1YEARS-40YEARS	15
5YEARS-20YEARS (II)	16
5YEARS-30YEARS	17
5YEARS-30YEARS (II)	17
5YEARS-40YEARS	18
5YEARS-40YEARS (I)	18
5YEARS-Life	19
5YEARS-Life (I)	19
10YEARS-Life	20
20YEARS-Life	21
20YEARS-Life (I)	21
Life-Life (I)	22
Life-Death (I)	23

#### 2.4.2 USING THE “CRIME SERIOUSNESS RANKING SCALE” TO SELECT CASES FOR THE MASTER DATABASE

Ranks were assigned to each charge associated with an arrest. For individuals with more than one charge associated with the same arrest event (i.e., one line of data for each charge for that individual), only the data record associated with the most serious charge ranking was retained. Furthermore, for individuals with additional but earlier arrests appearing in the data set from 2014 through 2016, the latest arrest event during the study period was considered his/her master record and other records of previous arrest during the study period were deleted from the data set. Instead, two other variables—“total charges” and “prior charges”—were created to represent these elements (Described below).

### 2.4.3 “TOTAL CHARGES” VARIABLE

In our master data set constructed for disparity analyses, nearly two-thirds of individuals booked in the Albemarle County/Charlottesville Regional Jail were booked with only one charge (63.5%) and slightly fewer than one-third received 2 to 5 charges associated with an arrest event. Nearly 6 percent were booked on 6 or more charges related to a single arrest.

TABLE 2-2. FREQUENCY OF CHARGES PER INDIVIDUAL FOR A SINGLE ARREST EVENT

Charges	Frequency	Percent
1	3525	63.5
2	887	16.0
3	427	7.7
4	269	4.8
5	133	2.4
> 6	311	5.6
Total	5552	100.0

In the individual’s master record, a “total charges” variable was created representing the sum of the number of the charges accompanying the “most serious” charge plus the “most serious” charge itself. So, an individual whose latest arrest included an additional charge associated with a robbery assault using a handgun (“seriousness ranking” = 20) and a “breaking and entering” charge (seriousness ranking” = 11, the master record for that individual would record all of the system information related to the handgun assault and a “total charges” variable would sum the remaining two—but less serious-- charges as part of the same arrest event, generating the number “2” in the total charges column for that case,

### 2.4.4 PRIOR CRIMINAL HISTORY

A body of criminal justice research tells us that prior criminal history can influence sentencing outcomes for a subsequent crime for which guilt has been determined. The variable “prior criminal history” was operationalized as the sum count of all criminal charges for which the individual had been booked at the Albemarle Charlottesville Regional Jail prior to bookings associated with the most current arrest/booking event, from 2007 through 2016.

### 2.4.5 BOND DECISIONS

According to the Virginia Circuit Court Clerks Manual – Criminal (2019), Bail is a means of obtaining the release from jail of a person charged with an offense. It is, more precisely, an agreement between the accused and the state by which the accused guarantees his/her presence at trial and agrees to abide by certain other terms and conditions by a written promise. That promise may be guaranteed by a bond that may be unsecured or secured by cash or a solvent third party (surety). The terms and conditions of bail are set by a judicial officer before the initial court appearance and thereafter by the judge of the court in which the accused is to appear. Release on bail may be revoked for the breach of any term or condition, but the amount of such bond may be forfeited only if the accused fails to appear. The purpose of bail is

to provide a strong incentive for the accused to appear in court and to comply with other conditions of release while obviating the need for confinement in jail pending his/her trial” (Manual, 2019, p. 4-1).

In data provided for this study, a “bond type” data element recorded 4 categories related to bond decisions: Secured bond, surety bond, unsecured bond and release without bond. Individuals deemed to be little or no risk to flee the area pending hearings and who posed little or no threat to the community were released on their own recognizance (ROR), with no financial liability attached. Following previous studies (e.g., Franklin & Henry, 2019)), MGT reduced these four categories to two to increase their utility as a variable in statistical analysis: (1) Release (with or without bond), coded “0” and (2) “No Bond” (coded “1”), meaning that the defendant and/or the alleged crime was judged either discretionarily or by statutory presumptive hold to be too serious to merit release and/or he/she posed a flight risk.

#### **2.4.6 “LENGTH OF STAY” AND “SENTENCE TIME” VARIABLES**

“Length of Stay” was a data element in the bookings database that recorded time spent in the Albemarle-Charlottesville Regional Jail. Expressed in days, it was referenced to a defendant’s most serious charge, as were all other elements pertaining to the “most serious” charge in the master database.

For sentence length data, all dispositions other than Guilty and Sentence Revoked (the only dispositions that would produce a sentence) were eliminated, along with all concurrent sentences and any blank or missing data in the “Sentence Time” column, expressed otherwise as “sentence days”. To determine “Actual Sentence Time to Serve”, for cases in which sentences were suspended or reduced, these “suspended sentence days” were subtracted from the “sentence time/days” values.

#### **2.4.7 ASSIGNING DETAILED CHARGE CODES TO 6 GENERAL CHARGE CATEGORIES**

If the Crime Seriousness Ranking Scale offers the advantage of standardizing potentially very different crimes with reference to a common ranking scale measuring “crime seriousness”, it is still important to investigate disparity among different categories of crime to determine if there is a relationship between race/ethnicity and some particular categories but not others. The mass incarceration phenomenon popularized in Michelle Alexander’s *The New Jim Crow* traces much of the source of modern racial disproportionality in U.S. prisons to the advent of the so-called War on Drugs, declared by Congress and the Clinton Administration in the 1990s. Alexander noted that the main battle fronts in that “war” were poor African American communities across the nation dealing with the crack cocaine epidemic. The criminal justice response was to arrest and to incarcerate a disproportionately large population of African American men, in particular, who were in its midst. Consequently, we expect to see racial disproportionality with respect to drug category crimes, especially.

A second purpose for collapsing literally scores of criminal charge categories in the Virginia Criminal Code into just six general categories was to address a more practical research concern. With scores of criminal charge categories, regression equations with too many independent variables require increasingly larger sample sizes for a valid analysis. On the other hand, equations with fewer variables can use samples that are smaller in number but still representative of the populations from which they were drawn. Moreover, the larger the number of variables in an equation the greater the likelihood of missing data for one

variable or more, automatically excluding these cases from analysis, reducing the number of cases in the sample.<sup>2</sup>

For this set of analyses, felony charges adjudicated in Circuit Court were scrutinized one-by-one in a data set of more than 10,000 rows of data and assigned to one of the six more general categories of crime—drug, property, violent, sex offense, weapons offense/violation, and traffic. Cases were selected for which all data fields needed for a disparity analysis were populated. These categories accounted for all but 2.1 percent of charges, assigned to an “Other” category. These charges could not be categorized with accuracy or were otherwise undecipherable.

TABLE 2-3. FREQUENCY OF CHARGES FOR GENERAL CATEGORIES OF CRIME

DRUG VIOLATIONS					
Jurisdiction	African American Females	African American Males	White Females	White Males	Total
Charlottesville	18	208	13	75	314
Albemarle County	6	85	36	85	216
<b>Total</b>	24	293	49	160	530

PROPERTY VIOLATIONS					
Jurisdiction	African American Females	African American Males	White Females	White Males	Total
Charlottesville	51	159	46	123	379
Albemarle County	74	71	131	170	446
<b>Total</b>	125	230	177	293	825

VIOLENT VIOLATIONS					
Jurisdiction	African American Females	African American Males	White Females	White Males	Total
Charlottesville	24	185	19	95	323
Albemarle County	18	157	25	202	402
<b>Total</b>	42	342	44	297	725

SEX VIOLATIONS					
Jurisdiction	African American Females	African American Males	White Females	White Males	Total
Charlottesville	0	9	0	11	20
Albemarle County	0	4	0	11	15
<b>Total</b>	0	13	0	22	35

<sup>2</sup> Even with six larger categories of charge, sample sizes for regression analyses for cases having no missing data were insufficient in some categories (e.g., sex offenses) to draw valid conclusions. This was particularly true of female samples, with their much lower numbers in the criminal justice population.

WEAPONS VIOLATIONS					
Jurisdiction	African American Females	African American Males	White Females	White Males	Total
Charlottesville	2	29	2	11	44
Albemarle County	13	16	16	32	77
<b>Total</b>	15	45	18	43	121

TRAFFIC VIOLATIONS					
Jurisdiction	African American Females	African American Males	White Females	White Males	Total
Charlottesville	5	17	1	18	41
Albemarle County	0	20	8	88	116
<b>Total</b>	5	37	9	106	157

## 2.5 USING MULTIPLE REGRESSION ANALYSIS TO ASSESS DISPARITIES IN CRIMINAL JUSTICE OUTCOMES

Statistics employed to assess disparity included two regression procedures: linear regression and logistical regression. Regression estimates the statistical impact of a series of independent variables on an outcome variable, or the dependent variable. For example, at a bond hearing, the outcome may be a decision to release a defendant on his/her own recognizance with or without a bond, pending future hearings, or to hold him/her in custody with no bond and no opportunity for release prior to further adjudication. The value of the outcome decision—“0”, or “release” or “1”, “no release” (held in custody)-- is dependent on and determined by the statistical effect of independent variables on the release/no release bond decision, including the nature and seriousness of the crime one is charged with, the total number of charges associated with the arrest event, one’s prior criminal history, age, sex, race/ethnicity, education level and employment status. Regression permits us to parse out the statistical effect of these individual independent variables on criminal justice decisions, focusing in disparity analysis on the effect of race and ethnicity on those decisions. To the extent that discretionary decision points, such as the total number of charges associated with the arrest (if more than one) or bond decisions are statistically related to later decisions and outcomes, and one racial group tends to be given more charges when booked and/or held without bond more often than others, when all the other independent influences/characteristics (i.e., independent variables) in the equation are equivalent for the same crime(s), we can hypothesize that this disparate treatment is related, statistically, to group race differences.

Since cases were finally disposed with reference to the circuit court and general district court data, cases containing the most complete data records in all three data sets—bookings, OAR and court—were selected. And since disparity analyses employed multivariate statistics, a case would be included for analysis if and only if data were available for all variables in the equation. Dependent variables for the study were those elements in the data that recorded some form of decision by an authority in the system affecting an individual who was arrested and booked at the Albemarle-Charlottesville Regional Jail from

2014 through 2016. These included total number of criminal charges made against an individual associated with the latest booking/arrest event, bond decisions, defendant’s “length of stay” associated with their latest, most serious booking/arrest charge, sentencing decisions and outcomes, decisions to reduce the severity of the most serious charge or to suspend sentence. These variables were also employed variously in regression analyses as independent variables to assess the effect of justice system decisions on subsequent and ultimate outcomes, such as the effect of total number of charges associated with an arrest event and/or bond decisions on adjudications of guilt or innocence or final sentence issued by the courts. An example equation measuring independent variable effects on sentence outcomes (decisions) appears in **Exhibit 2-1** below:

**EXHIBIT 2-1. EXAMPLE**

$$\begin{aligned} & \text{Defendant's most serious crime +} \\ & \text{total number of charges accompanying most serious charge +} \\ & \text{total number of prior arrests or bookings (i.e., criminal} \\ & \text{history, if any) +} \\ & \text{Bond Decision +} \\ & \text{Jurisdiction of Most Serious Crime +} \\ & \text{Defendant's Age +} \\ & \text{Employment Status +} \\ & \text{Level of Education =} \\ & \text{Final Sentence (in Days)} \end{aligned}$$

Regression analysis can tell us not only which among these variables have statistically significant effect on sentence outcomes, it can also estimate the magnitude of that effect, telling us which variables have the greatest effect on sentencing decisions.

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## **2.6 VARIABLE SPECIFICATION, TRANSFORMATION, CODING AND “CLEANING”**

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In social science research, usually a researcher does not have access to the detailed information a police officer, magistrate or judge may have at his/her disposal. Typically, data systems are not designed to provide information about the subtleties, nuances and special circumstances that an official might be aware of in making criminal justice decisions. So, the researcher is left to define and sometimes transform data elements for analyses as best he or she can, realizing subtleties, nuance and special circumstances may be blurred or overlooked in the new definition or transformation. We have already defined an analog for “crime seriousness” and created a “total charges” variable to provide more information about an arrest event beyond its most serious charge. In the discussion of hypotheses guiding this study below, other transformations and redefinitions of data elements in the master data set were undertaken to make

them amenable to disparity analysis. Once all variables were identified and variable transformations completed, specific hypotheses were generated to guide the analysis.

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## 2.7 HYPOTHESES AND ANALYSIS PROCEDURE

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The general research question guiding this study as stated at the beginning of this chapter was “Is the race of an individual charged with a criminal violation in Charlottesville/Albemarle County, VA, a factor in legal decisions and case dispositions?” In our disparity analysis, research questions were reframed as statistical equations to be solved. These equations contained systemic variables related to a criminal charge and demographic variables describing selected characteristics of the defendant, such as race, age, occupation status and education level. Where samples were sufficient size to permit analysis, each analysis was re-run for six categories of crime: violent, property, traffic, sex offenses, weapons and drug-related to draw conclusions within more specific crime categories. Specific research questions generated from the general hypothesis are presented and discussed below.

***Question 1: For persons booked in Albemarle County/Charlottesville Regional Jail, was there a relationship between defendant’s race and relative seriousness of the primary charge made against the defendant?***

Following a crime event in which both a criminal suspect and a law enforcement officer are at the scene, obviously one of the earliest points of discretion is the law enforcement officer’s decision to arrest or to not arrest. None of the three data sets provided for this study captures information of events, actions/interactions and decisions leading up to an arrest decision. However, when a suspect is booked following an arrest and probable cause that a crime was committed has been determined, a prosecutor and a judicial officer may determine the nature, number and severity/seriousness of (a) charge(s) filed following an arrest. Hypothesis 1 explored the effect of systemic/demographic variables—the independent variables-- and their impact on the relative seriousness of the primary charge made against the defendant, the dependent variable. The equation is stated verbally in Exhibit I below. Additional specific hypotheses follow in **Exhibits 2-2** through **2-7** below.

EXHIBIT 2-2.

EQUATION 1: THE EFFECT OF “SYSTEMIC” AND DEMOGRAPHIC VARIABLES ON “TOTAL CHARGES AT BOOKING”

$$\begin{aligned} & \text{Total number of charges accompanying most serious charge} \\ & \text{Total number of prior arrests (i.e., criminal history, if any) +} \\ & \text{Jurisdiction of Most Serious Crime +} \\ & \textit{Defendant's Race} + \\ & \text{Defendant's Age +} \\ & \text{Employment Status +} \\ & \text{Level of Education =} \\ & \textbf{Seriousness of Primary Charge} \end{aligned}$$

***Question 2: For persons booked in Albemarle County/Charlottesville Regional Jail, was there a relationship between defendant's race and the total number of companion charges associated with the most serious arrest charge?***

EXHIBIT 2-3.

EQUATION 2: THE EFFECT OF “SYSTEMIC” AND DEMOGRAPHIC VARIABLES ON “TOTAL CHARGES AT BOOKING”

$$\begin{aligned} & \text{Defendant's most serious crime +} \\ & \text{total number of prior arrests (i.e., criminal history, if any) +} \\ & \text{Jurisdiction of Most Serious Crime +} \\ & \textit{Defendant's Race} + \\ & \text{Defendant's Age +} \\ & \text{Employment Status +} \\ & \text{Level of Education =} \\ & \textbf{Total number of charges accompanying} \\ & \textbf{most serious charge} \end{aligned}$$

**Question 3: For persons booked in Albemarle County/Charlottesville Regional Jail, pending further adjudication of a given case, was there a relationship between a defendant's race and bail-bond/release decisions and decisions to hold defendants in confinement without bond?**

EXHIBIT 2-4.

EQUATION 3: THE EFFECT OF "SYSTEMIC" AND DEMOGRAPHIC VARIABLES ON BOND DECISIONS

$$\begin{aligned} & \text{Defendant's most serious crime +} \\ & \text{total number of charges accompanying most serious charge +} \\ & \text{total number of prior arrests (i.e., criminal history, if any) +} \\ & \text{Jurisdiction of Most Serious Crime +} \\ & \textit{Defendant's Race +} \\ & \text{Defendant's Age +} \\ & \text{Employment Status +} \\ & \text{Level of Education =} \\ & \textbf{Bond decision} \end{aligned}$$

**Question 4: For persons booked in Albemarle County/Charlottesville Regional Jail, was there a relationship between a defendant's "Length of Stay" in Albemarle-Charlottesville Regional Jail and the defendant's race?**

EXHIBIT 2-5.

EQUATION 4: EFFECT OF "SYSTEMIC" AND DEMOGRAPHIC VARIABLES ON "LENGTH OF STAY" (ACRJ)

$$\begin{aligned} & \text{Defendant's most serious crime +} \\ & \text{total number of charges accompanying most serious charge +} \\ & \text{total number of prior arrests (i.e., criminal history, if any) +} \\ & \text{Bond decision +} \\ & \text{Jurisdiction of Most Serious Crime +} \\ & \textit{Defendant's Race +} \\ & \text{Defendant's Age +} \\ & \text{Employment Status +} \\ & \text{Level of Education =} \\ & \textbf{Length of Stay (ACRJ)} \end{aligned}$$

**Question 5: For persons booked in Albemarle County/Charlottesville Regional Jail, was there a relationship between a defendant's race and guilty vs. not-guilty case outcomes?**

EXHIBIT 2-6.

EQUATION 5: EFFECT OF "SYSTEMIC" AND DEMOGRAPHIC VARIABLES ON "GUILTY/NOT GUILTY" COURT OUTCOMES

Defendant's most serious crime +  
total number of charges accompanying most serious charge +  
total number of prior arrests (i.e., criminal history, if any) +  
Bond decision +  
Length of Stay (ACRJ) +  
Jurisdiction of Most Serious Crime +  
*Defendant's Race* +  
Defendant's Age +  
Employment Status +  
Level of Education =  
**Guilty/Not Guilty Verdict**

**Question 6. For individuals who were sentenced for a felony crime, was there a relationship between the defendant's race and the duration of their sentence?**

EXHIBIT 2-7.

EQUATION 6: EFFECT OF "SYSTEMIC" AND DEMOGRAPHIC VARIABLES ON DURATION OF SENTENCE

Defendant's most serious crime +  
total number of charges accompanying most serious charge +  
total number of prior arrests (i.e., criminal history, if any) +  
Bond decision +  
Length of Stay (ACRJ) +  
Jurisdiction of Most Serious Crime +  
*Defendant's Race* +  
Defendant's Age +  
Employment Status +  
Level of Education =  
**Duration of Sentence**

**Question 7. For individuals who were sentenced for a felony crime, was there a relationship between the defendant's race and the duration of their actual time-served?**

EXHIBIT 2-8.

EQUATION 6: EFFECT OF "SYSTEMIC" AND DEMOGRAPHIC VARIABLES ON DURATION OF SENTENCE

$$\begin{aligned} & \text{Defendant's most serious crime} + \\ & \text{total number of charges accompanying most serious charge} + \\ & \text{total number of prior arrests (i.e., criminal history, if any)} + \\ & \text{Bond decision} + \\ & \text{Length of Stay (ACRJ)} + \\ & \text{Jurisdiction of Most Serious Crime} + \\ & \textit{Defendant's Race} + \\ & \text{Defendant's Age} + \\ & \text{Employment Status} + \\ & \text{Level of Education} = \\ & \textbf{Actual Sentence Time Served} \end{aligned}$$

Results of findings in answer to these questions are reported in the next chapter.

CHAPTER 3. MAJOR FINDINGS OF A  
DISPARITY ANALYSIS OF RACE  
EFFECTS ON CRIMINAL JUSTICE  
DECISIONS AND OUTCOMES IN  
ALBEMARLE COUNTY/  
CHARLOTTESVILLE, VA, 2014-2016

**Disproportionate Minority Study**

*City of Charlottesville and Albemarle County, VA*



In an early nationwide review of factors influencing sentencing outcomes in criminal cases, the Panel on Sentencing Research declared that “disparity [in sentence outcomes] exists when ‘like cases’ with respect to case attributes—regardless of their legitimacy—are sentenced differently” (Blumstein et al. 1983, 72). Disproportionality, on the other hand, is an objective measurement comparing two or more things of different magnitude relative to one another. For example, nationwide, African Americans are incarcerated at a rate relative to their representation in the nation’s population that is disproportionate in comparison to incarcerated White Americans relative to their representation in the nation’s population. Disproportionality, therefore, is a mathematical comparison of two or more things, making no inference as to *why* they are different, or similar—only that, objectively, they are. In the case of racial disparities in prison sentencing outcomes, disparity is a statement about differences in treatment of two individuals-- who

are similar in every way but race--affecting different outcomes for individuals. Unlike statements of disproportionality, statements of disparity infer causality, and a causal agent—for example, a judge, a law, a policy, a guideline—responsible for disparate outcomes. The Panel also distinguished “discrimination” from “disparity” as “a difference in outcome that results from differential treatment based on illegitimate criteria [sic], such as race, gender, social class, or sexual orientation. With respect to sentencing, discrimination exists when some case or personal attribute that is objectionable (typically on moral or legal grounds) can be shown to be associated with sentence outcomes after all other relevant variables are adequately controlled” (Blumstein et al. 1983, p. 72). Discrimination often implies conscious intent and forethought. Disparate treatment may occur as a result of conscious intent or it may occur as an artifact of processes, rules, policies, guidelines and procedures in which there is no conscious intent to discriminate but which may nevertheless yield disproportionate results no different than if conscious discrimination were exerted to achieve the same disproportional outcome.

In 2018, MGT Consulting was contracted by the City of Charlottesville to address the question: “In Charlottesville/Albemarle County, VA, are there racial disparities in criminal justice decisions and outcomes?” One of the project tasks was to develop a Data Dashboard that would provide a mathematical snapshot comparison of individuals, based on race and gender, at each discrete stage of the Albemarle/Charlottesville criminal justice process. The purpose of the Dashboard was to assess relative disproportionality/parity among individuals of different races in terms of criminal justice outcomes at any given data point, using a metric called the Relative Rate Index (RRI). As a measure of disproportionality, however, RRIs would tell us nothing about what might “cause” a racially disproportionate outcome. For example, for decisions made to grant or to deny a bail bond to White and African American arrestees who had committed identical crimes, who had identical criminal histories and were the same in age, gender, educational status, employment status, and in other ways—why did one receive bail while the other was denied? One of the main tasks of this project was to use available data to design an investigation that would permit such an analysis. The analysis, described in the Methodology section of this report, explored the proposition/hypothesis that individuals’ personal characteristics, such as race and gender, might be associated with differential decision-making as they enter the criminal justice system at arrest and booking and are subject to decisions and rulings along the way, culminating in a final disposition. This section of the report is a summary of research findings from that investigation of racial disparity in criminal justice decision-making in Albemarle County and Charlottesville, VA. A presentation of the results of that

## CHAPTER SECTIONS



- 3.1 Demographic Context for the Study: A Comparison of Selected Characteristics of Charlottesville/Albemarle County, VA, Residents and Individuals Booked at ACRJ, 2014 Through 2016
- 3.2 Research Questions and Findings
- 3.3 Findings of Disparity at Discretionary Decision Points in the Albemarle County/Charlottesville, VA Criminal Justice System: Discussion
- 3.4 Conclusion

analyses is preceded by a brief demographic overview of the Charlottesville/Albemarle County region—as the economic, social, political and geographical context of this study. The chapter concludes with a discussion of findings with reference to previous research.

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### **3.1 DEMOGRAPHIC CONTEXT FOR THE STUDY: A COMPARISON OF SELECTED CHARACTERISTICS OF CHARLOTTESVILLE/ALBEMARLE COUNTY, VA, RESIDENTS AND INDIVIDUALS BOOKED AT ACRJ, 2014 THROUGH 2016**

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In the review of relevant research literature and the methodology in preparation for this study, criminal justice system variables and “extra-legal” variables used in the analysis were described with reference to their validity and application in previous criminal justice research. Findings related to “system variables” (e.g., charge decisions, bond decisions) are reported in the discussion of disparity outcomes in Section 3. Extra-legal variables included race, age, sex, employment status and educational attainment. **Figures 3-1 through 3-7** report characteristics and values for each of these variables for Albemarle County/Charlottesville residents, derived from the American Community Survey data provided by the U.S. Census Bureau and individuals booked in Albemarle County Regional Jail (ACRJ) from 2014 through 2016.

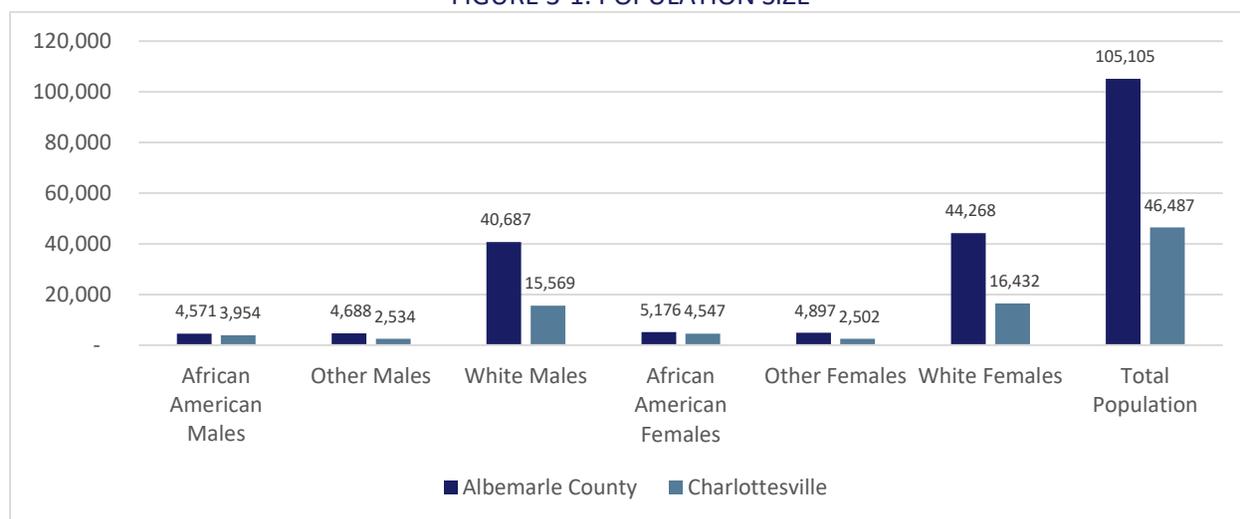
#### **3.1.1 POPULATIONS BY RACE AND GENDER**

**Figure 3-1** shows the population of Charlottesville in 2017 was estimated at 46,487. The population of Albemarle County, excluding Charlottesville residents, was estimated at 105,105. The population of African American males in Charlottesville was 3,954 and 4,571 in Albemarle County. The population of African American females was 4,547 in Charlottesville and 5,176 in Albemarle County. For the period of the study, 10,328 individuals were recorded at ACRJ for the database used in the disparity analysis<sup>3</sup>.

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<sup>3</sup> The database included bookings at ACRJ from January 1, 2014 through December 31, 2016. Cases that were not “resolved” or otherwise disposed of/concluded, or for which there were blank data elements were excluded from the data set used to calculate disparity. Furthermore, some cases booked in the later months of 2016 remained unresolved by December 31, 2016 and were, thus, excluded.

FIGURE 3-1. POPULATION SIZE

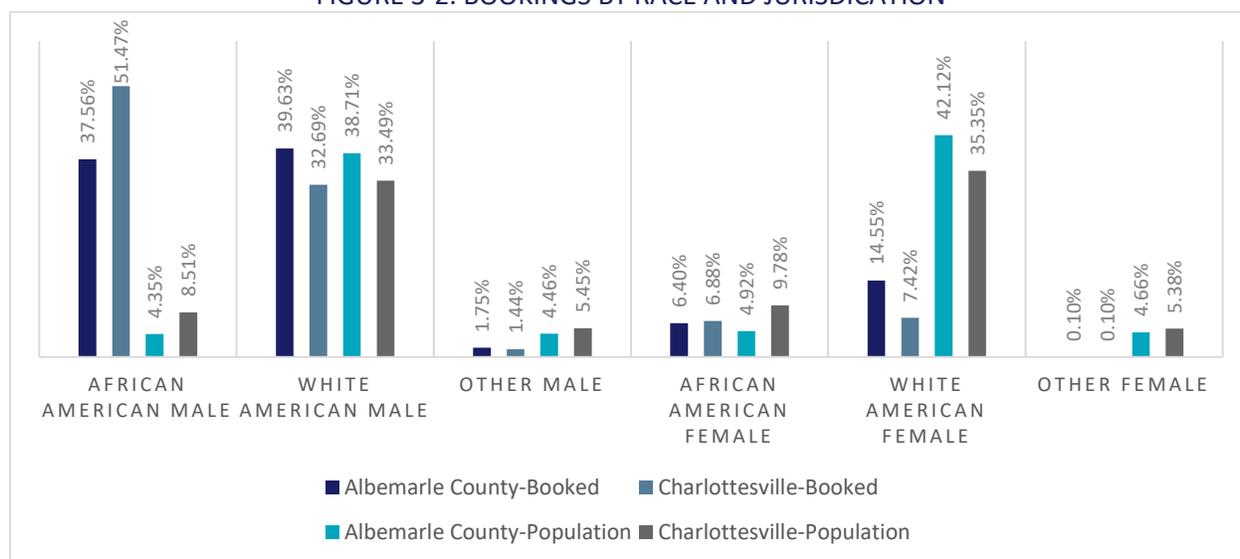


Source: Charlottesville/Albemarle County data and MGT.

**Figure 3-2** illustrates that, overall, African American males represented a larger portion of booked individuals than in the general population. African American males represented 51.47 percent of Charlottesville bookings and 37.56 percent of Albemarle County bookings. African American women represented 6.88 percent of Charlottesville bookings and 6.40 percent of Albemarle County bookings. White American males represented 32.69 percent of Charlottesville bookings and 39.63 percent of Albemarle County bookings and White American women represented 7.42 percent of Charlottesville bookings and 14.55 percent of Albemarle County bookings. Asian American and other ethnicities/races were combined into “Others.”<sup>4</sup> Other Males represented about 1.75 percent of the booking’s population for Albemarle County and 1.44 percent in Charlottesville. Other Females represented 0.10 percent for both Albemarle County and Charlottesville.

<sup>4</sup> Although comparisons by race and gender to the ACRJ population for each variable are also made, in our analyses of racial disparity at key decision points along the criminal justice system, findings are reported, by and large, for comparisons between White American males booked at ACRJ for the period of the study and African American males. Findings are also reported for White and African American women when samples were of sufficient size to permit a valid statistical analysis. Analyses for Hispanic Americans, Asian Americans and the smaller minority and ethnic groups could not be reported because their numbers in the ACRJ population for a statistical disparity analysis were insufficient to permit a valid analysis. Also, in the case of Hispanic Americans particularly, race/ethnicity data for the same individuals was coded so inconsistently across the three data sets (for example, as “Hispanic” in one of the three data sets and as “White” or “Black” in the other two) such that their ethnicity/race could not be ascertained with sufficient reliability to permit their inclusion in the analyses. Franklin and Henry (2019) point out that disparity analyses comparing groups other than African Americans to White Americans is uncommon in any case, acknowledging, nevertheless, that Hispanic Americans are also egregiously overrepresented in the criminal justice system.

FIGURE 3-2. BOOKINGS BY RACE AND JURISDICTION



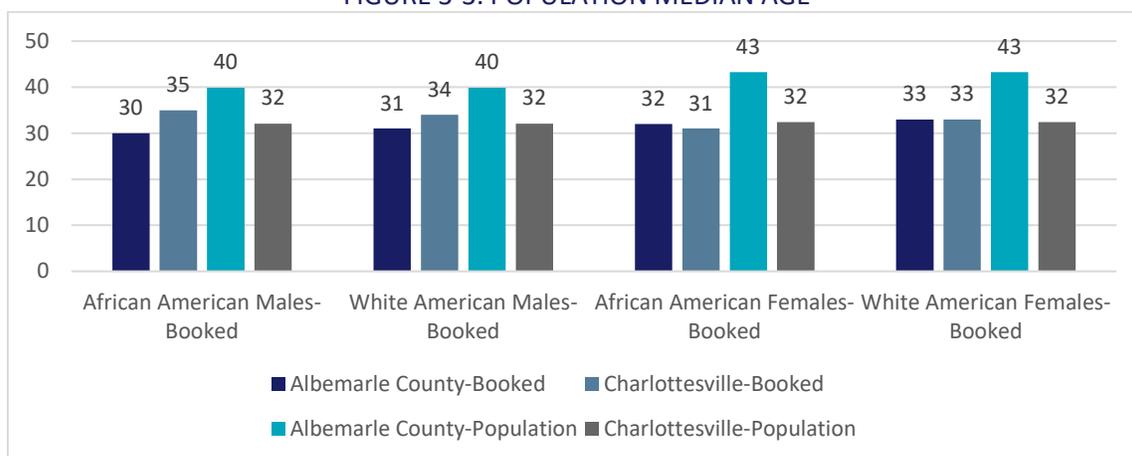
Source: Charlottesville/Albemarle County data and MGT.

### 3.1.2 AGE BY RACE AND GENDER

**Figure 3-3** shows that the median age for booked individuals was on average lower than that of the population. The median age of African American males in Albemarle County was 40 and 43 for African American females. The median age of African American males booked in the County was 30 and, for African American females, 32. The median age of White American males in Albemarle County was 40, and 43 for White American females. White American males booked in the County averaged 31 years of age and, for females, 33.

In Charlottesville, the median age for both African American males and females was 32. The median age for African American males booked in the City was 35 and for females, 33. The median age of White American males in the City was 40 and 43 for White American females. White American males booked in the City averaged 34 years of age and, for females, 33.

FIGURE 3-3. POPULATION MEDIAN AGE

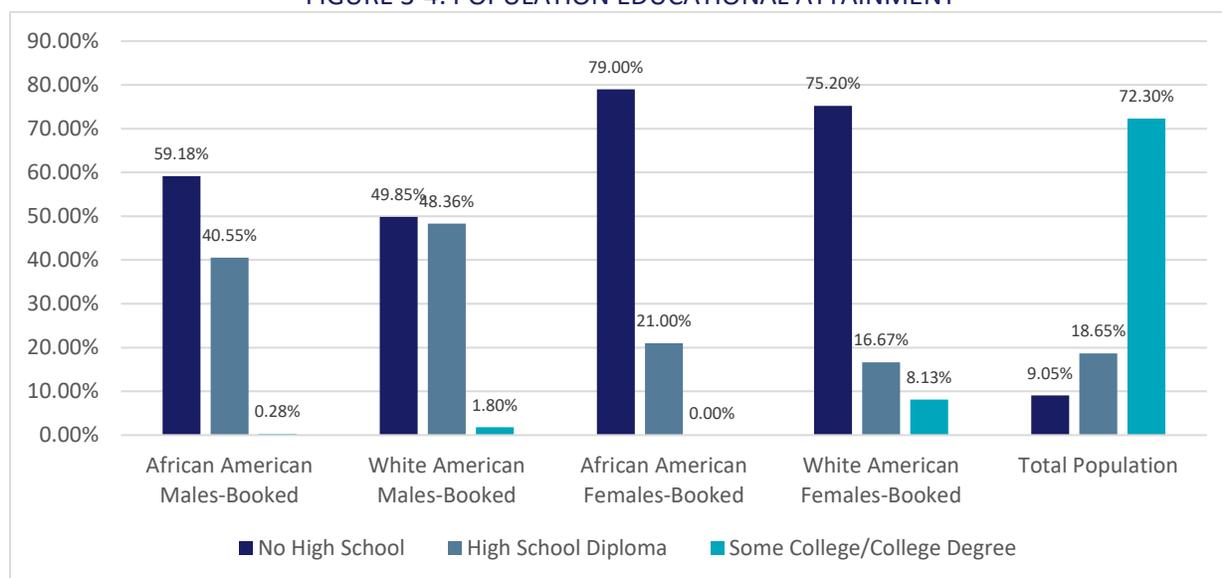


Source: Charlottesville/Albemarle County data and MGT.

### 3.1.3 EDUCATIONAL ATTAINMENT BY RACE AND GENDER

In the Charlottesville/Albemarle County region, U.S. Census data indicated that for the area 9.05 percent of adult residents did not complete high school, 18.65 percent earned high school diplomas and 72.30 percent attended college. In the ACRJ booking sample, illustrated in **Figure 3-4**, education attainment data was recorded for 4,518 of 10,328 individuals who were booked during the period of the study. For African American males, 59.18 percent did not graduate high school; for African American females, 79 percent did not graduate. 41.55 percent of African American males and 21 percent of African American females were high school graduates. Fewer than one percent of African American males and African American females attended college. For White American males in the booking's population, 49.85 percent did not graduate high school; for White American females, 75.20 percent did not graduate. Nearly half (48.36%) of White American males and 16.67 percent of White American females were high school graduates. Only 1.80 percent of White American males and 8.13 percent of White American females attended college.

FIGURE 3-4. POPULATION EDUCATIONAL ATTAINMENT

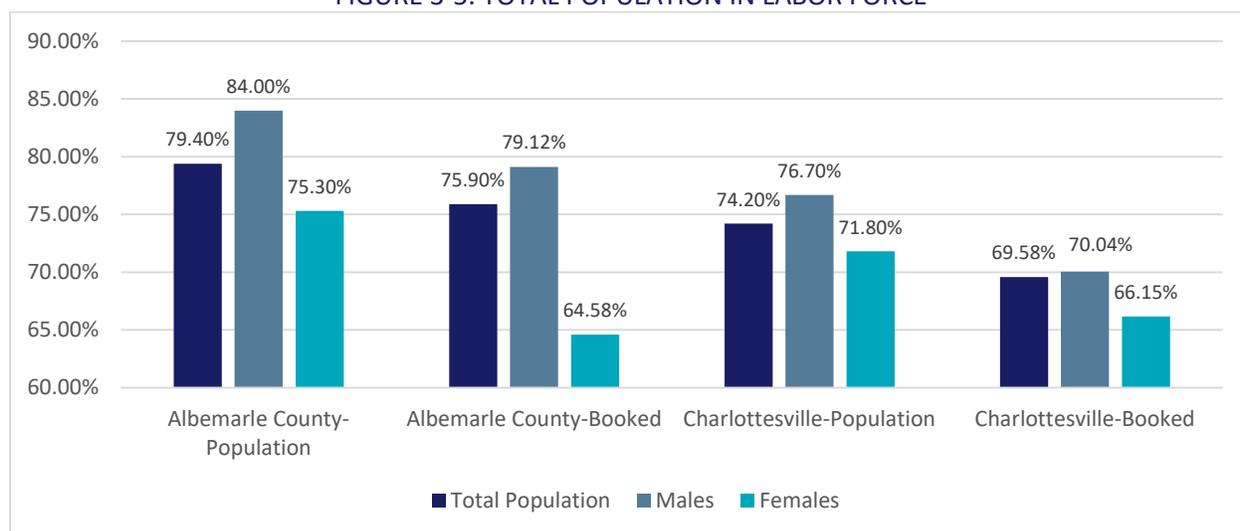


Source: Charlottesville/Albemarle County data and MGT.

### 3.1.4 LABOR FORCE EMPLOYMENT

In Albemarle County, 79.40 percent of the total population is in the labor force with 84.00 percent of males and 75.30 percent of females being in the labor force. In Charlottesville, 74.20 percent of the total population is in the labor force with 76.70 percent of males and 71.80 percent of females being in the labor force. Among those individuals booked, in Albemarle county 75.90 percent of the total population is in the labor force with 79.12 percent of males and 64.58 percent of females being in the labor force. For those booked in Charlottesville 69.58 percent of the total population is in the labor force with 70.04 percent of males and 66.15 percent of females being in the labor force.

FIGURE 3-5. TOTAL POPULATION IN LABOR FORCE



Source: Charlottesville/Albemarle County data and MGT.

## 3.2 RESEARCH QUESTIONS AND FINDINGS

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This section presents findings in response to seven research questions investigating racial disproportionality and disparity in criminal justice decisions and outcomes in Albemarle County and Charlottesville, VA. **Tables 3-1** through **3-4** help to show the disproportional differences between African Americans and their White American counterparts. The disproportionality found in these tables guide the disparity research questions found throughout this section. The findings within each question section will give the reader insight into whether or not there was disparate treatments of individuals due to race.

### ***“In Charlottesville/Albemarle County, VA, does race play a role in criminal justice decisions and outcomes?”***

The sample for this study was 10,348 individuals arrested and booked for law violations into the Albemarle-Charlottesville Regional Jail from January 1, 2014 through December 31, 2016. In this case, “racial disparity” refers to findings of statistically significant differences by race in regard to criminal justice decisions made by county and city law enforcement and legal and judicial authorities, as individuals were processed through the criminal justice continuum to final disposition of their cases. Data for this study were employed to examine seven decision points on the criminal justice continuum to determine if racial differences of individuals booked at ACRJ influenced decisions and outcomes:

1. Determination and assignment of the “most serious” charge associated with an individual’s most recent arrest event;
2. The total number of companion charges, if any, associated with the most recent arrest event;
3. Bail and bond decisions made by authorities (release with or without conditions versus no bond/no release);
4. Time spent in Albemarle-Charlottesville Regional Jail;
5. Adjudication decisions (e.g., guilty/not guilty);
6. “Time sentenced/time served” in prison/jail for felony convictions; and
7. “Time served” in incarceration for felony convictions.

Specific research questions were formulated addressing each decision-point. It should be noted that if there was no statistically significant race effect it was not shown as an exhibit. **Tables 3-1** through **3-4** report sample sizes, mean values, and standard deviations for variables considered in the analyses. These tables are referenced in the following sections in our discussion of these seven decision points. For the purpose of the results discussion the following statistical terms are defined as:

- ♦ **Mean:** average that is used to derive the central tendency of the data in question. It is determined by adding all the data points in a population and then dividing the total by the number of points.
- ♦ **Standard Deviation:** measures the dispersion of a dataset relative to its mean and is calculated as the square root of the variance.
- ♦ **Regression Coefficient:** estimates of the unknown population parameters that describe the relationship between a predictor variable and the response.

- ♦ **Statistical Significance:** expresses the probability that the result of a given experiment or study could have occurred purely by chance. MGT employs a 95% statistical significance. A 95% statistical significance is a range of values that are 95% certain to contain the true mean of the population.

TABLE 3-1. WHITE AMERICAN MALE DESCRIPTIVE VARIABLES

WHITE AMERICAN MALE						
	Charlottesville			Albemarle County		
	Mean	N	Std. Deviation	Mean	N	Std. Deviation
CRIME SERIOUSNESS RANK	5.12	1411	4.59	7.11	1611	3.92
TOTAL CHARGES	1.94	1576	2.99	1.97	1870	2.03
PRIORS	14.39	1599	34.57	3.66	1879	7.92
LENGTH OF STAY	25.23	1599	70.72	28.80	1879	73.33
AGE	36.83	1599	12.89	34.76	1879	12.39
INDIVIDUALS EMPLOYED		494			844	
HIGH SCHOOL AND ABOVE		193			319	
BOND AMOUNT BOOKING	\$763.82	633	1459.33	\$856.76	377	2482.80
BOND AMOUNT OAR	\$867.59	1575	2346.40	\$1316.47	1870	2973.43
BOND AMOUNT COURT	\$753.05	656	1440.42	\$953.37	386	2753.35
DAYS SENTENCED	601.57	1599	1192.90	623.46	1879	1327.82
DAYS SUSPENDED	461.08	1599	966.54	545.49	1879	1342.64
DAYS SERVED	140.49	1599	345.10	77.97	1879	626.63

Source: Charlottesville/Albemarle County data and MGT.

TABLE 3-2. AFRICAN AMERICAN MALE DESCRIPTIVE VARIABLES

AFRICAN AMERICAN MALE						
	Charlottesville			Albemarle County		
	Mean	N	Std. Deviation	Mean	N	Std. Deviation
CRIME SERIOUSNESS RANK	8.18	1449	5.86	8.74	822	4.88
TOTAL CHARGES	2.51	1780	4.16	2.26	1046	2.43
PRIORS	8.72	1789	9.59	4.47	1054	4.76
LENGTH OF STAY	50.49	1789	104.99	49.19	1054	108.10
AGE	36.87	1789	12.66	33.45	1054	11.54
INDIVIDUALS EMPLOYED		420			384	
HIGH SCHOOL AND ABOVE		316			227	
BOND AMOUNT BOOKING	\$886.03	1031	2254.09	\$890.22	358	1952.50
BOND AMOUNT OAR	\$1228.85	1780	3666.97	\$1101.05	1046	2442.37
BOND AMOUNT COURT	\$887.02	1040	2246.90	\$1000.55	366	2164.18
DAYS SENTENCED	949.86	1789	1433.47	868.32	1054	1474.70
DAYS SUSPENDED	785.95	1789	1192.46	678.53	1054	1229.34
DAYS SERVED	163.91	1789	499.14	189.79	1054	661.81

Source: Charlottesville/Albemarle County data and MGT.

TABLE 3-3. WHITE AMERICAN FEMALE DESCRIPTIVE VARIABLES<sup>5</sup>

WHITE AMERICAN FEMALE						
	Charlottesville			Albemarle County		
	Mean	N	Std. Deviation	Mean	N	Std. Deviation
CRIME SERIOUSNESS RANK	6.15	274	5.05	7.71	581	3.87
TOTAL CHARGES	2.02	312	2.42	2.16	652	3.01
PRIORS	7.79	312	10.28	2.66	655	2.41
LENGTH OF STAY	22.17	312	57.93	19.62	655	49.13
AGE	36.30	312	11.59	35.12	655	11.69
INDIVIDUALS EMPLOYED		91			223	
HIGH SCHOOL AND ABOVE		23			70	
BOND AMOUNT BOOKING	\$1250.00	148	2151.17	\$445.65	138	1073.38
BOND AMOUNT OAR	\$947.84	312	2223.08	\$992.33	652	1941.44
BOND AMOUNT COURT	\$1250.00	148	2151.17	\$528.37	141	1337.34
DAYS SENTENCED	583.03	312	796.81	628.15	655	1078.68
DAYS SUSPENDED	426.85	312	664.47	528.89	655	939.32
DAYS SERVED	156.18	312	251.46	99.26	655	206.77

Source: Charlottesville/Albemarle County data and MGT.

TABLE 3-4. AFRICAN AMERICAN FEMALE DESCRIPTIVE VARIABLES

AFRICAN AMERICAN FEMALE						
	Charlottesville			Albemarle County		
	Mean	N	Std. Deviation	Mean	N	Std. Deviation
CRIME SERIOUSNESS RANK	8.55	223	4.88	8.97	210	3.71
TOTAL CHARGES	1.88	278	1.85	3.24	240	5.98
PRIORS	5.30	278	5.54	3.85	240	3.13
LENGTH OF STAY	22.03	278	54.75	30.70	240	81.73
AGE	33.75	278	10.90	33.55	240	10.58
INDIVIDUALS EMPLOYED		81			87	
HIGH SCHOOL AND ABOVE		23			22	
BOND AMOUNT BOOKING	\$670.21	141	1584.33	\$750.00	62	1304.94
BOND AMOUNT OAR	\$1303.24	278	2439.36	\$770.83	240	1749.35
BOND AMOUNT COURT	\$670.21	141	1584.33	\$750.00	62	1304.94
DAYS SENTENCED	526.92	278	878.31	927.19	240	1427.70
DAYS SUSPENDED	435.47	278	785.95	737.63	240	1210.97
DAYS SERVED	91.45	278	176.44	189.56	240	475.51

Source: Charlottesville/Albemarle County data and MGT.

<sup>5</sup> For African American Females vs. White American Females disproportionality may be driven by the small sample sizes. It should be noted that the research questions presented in this chapter will help illustrate whether or not the disproportionality is caused by an individual's race or by any other factors.

### 3.2.1 SERIOUSNESS OF PRINCIPAL CRIMINAL CHARGE AND RACE

#### 1. Was there a relationship between race of the arrestee/defendant and the “seriousness” of the “most serious” violation with which he/she was charged?

TABLE 3-5. EFFECT OF RACE ON SERIOUSNESS OF OFFENSE BOOKED

AFRICAN AMERICAN MALES VS. WHITE AMERICAN MALES					
	UNSTANDARDIZED COEFFICIENTS		STANDARDIZED COEFFICIENTS	SIGNIFICANCE	MEANS
	B	Std. Error	Beta	Sig.	
African American Males	<b>0.44</b>	<b>0.03</b>	<b>0.24</b>	<b>0.00</b>	----
Individual's Priors	<b>0.01</b>	<b>0.00</b>	<b>0.10</b>	<b>0.00</b>	<b>3.43</b>
Total Charges	<b>0.10</b>	<b>0.01</b>	<b>0.27</b>	<b>0.00</b>	<b>2.15</b>
Jurisdiction	<b>0.26</b>	<b>0.03</b>	<b>0.15</b>	<b>0.00</b>	----
AFRICAN AMERICAN FEMALES VS. WHITE AMERICAN FEMALES					
	UNSTANDARDIZED COEFFICIENTS		STANDARDIZED COEFFICIENTS	SIGNIFICANCE	MEANS
	B	Std. Error	Beta	Sig.	
African American Females	<b>0.28</b>	<b>0.06</b>	<b>0.18</b>	<b>0.00</b>	----
Individual's Priors	0.01	0.01	0.06	0.13	2.47
Total Charges	<b>0.06</b>	<b>0.01</b>	<b>0.20</b>	<b>0.00</b>	<b>1.87</b>
Jurisdiction	<b>0.20</b>	<b>0.06</b>	<b>0.13</b>	<b>0.00</b>	----

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

Note: Bold indicates statistically significant at 95% confidence interval.

For two individuals, African American and White, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ♦ On a 23-point scale for ranking crimes, in order of “seriousness,” mean seriousness rank values ranged from 5.1 for White American males charged in Charlottesville to 7.1 for White American males charged in Albemarle County. For African American males charged in Charlottesville, mean seriousness values were 8.2 and 8.7 for those charged in Albemarle County (see **Table 3-1** and **3-2** in previous section).
- ♦ For African American women charged in Charlottesville, the mean seriousness rank value of their most serious charge was 8.6 compared with 6.1 for White American women; in Albemarle County, the mean seriousness rank value of the most serious charge for African American women was 9.0 compared with 7.7 for White American women (see **Table 3-3** and **3-4** in previous section)<sup>6</sup>.
- ♦ Crimes with which African American males were charged were nearly three points greater in “seriousness value” than crimes for which White males were charged (see **Table 3-6**: White Males – 6.18 points; African American Males – 8.90).
- ♦ Crimes with which African American women were charged were more than two points greater in “seriousness value” than crimes for which White women were charged (see **Table 3-6**: White Females – 7.21 points; African American Females – 9.23).

<sup>6</sup> Although small sample sizes were seen for African American Females vs. White American Females, statistically valid results were generated for this research question.

TABLE 3-6. PREDICTED SERIOUSNESS OF OFFENSE BOOKED  
AFRICAN AMERICANS VS. WHITE AMERICANS

	Actual White Mean	Percent for Being African American	Predicted Seriousness Rank for African American
Male	6.18	0.44	8.90
Female	7.21	0.28	9.23

- ◆ For African American women, total number of charges did not influence charge seriousness values but jurisdiction (Albemarle County) and prior criminal history did (see **Table 3-5**).
- ◆ Individuals with a prior criminal charge history, regardless of race, and who received more charges at booking tended to be charged with crimes of a more serious nature (**Table 3-5**).
- ◆ For all categories of crime combined, regardless of race, individuals charged with an Albemarle County violation were charged with more serious offenses, generally, than were individuals arrested in the City of Charlottesville (**Table 3-5**).
- ◆ Although seriousness of the main violation was significantly influenced by both the number of additional charges filed and prior criminal history for African American men, of the three variables influencing the seriousness assigned to the main charge, race was a more powerful influence than priors and number of charges, *combined* (see **Table 3-5**), .44 for Race.
- ◆ When the main charge associated with an individual’s arrest was categorized into one of six categories of violation—property, violent, weapons, sex offenses, drug-related and traffic—African American males charged in the “violent crimes” category tended to be charged with more serious violent offenses than were White males (see **Table 3-7**).<sup>7</sup>
- ◆ Differences in age, education level and employment status were tested but had no statistical impact on crime seriousness decisions for men or women (**Tables 3-1 through 3-4**)<sup>8</sup>.
- ◆ Employment data, on the other hand, was recorded for all but 599 booking events, and is a lot more complete.

TABLE 3-7. SERIOUSNESS OF OFFENSE BOOKED-MEANS

ETHNICITY		DRUG	PROPERTY	SEX	TRAFFIC	VIOLENCE	WEAPONS
WHITE AMERICAN MALE	Charlottesville	12.32	11.79	13.25	8.29	8.91	8.67
	Albemarle County	12.71	11.73	12.25	8.49	11.64	9.45
AFRICAN AMERICAN MALE	Charlottesville	14.86	11.41	13.00	8.13	13.88	13.09
	Albemarle County	13.58	11.62	16.00	8.64	13.86	11.00
WHITE AMERICAN FEMALE	Charlottesville	14.50	10.00	No Data	8.00	14.00	7.00
	Albemarle County	11.32	11.30	No Data	7.50	7.83	11.50
AFRICAN AMERICAN FEMALE	Charlottesville	14.80	11.15	No Data	8.50	13.00	No Data
	Albemarle County	12.75	11.17	No Data	No Data	No Data	11.25

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

<sup>7</sup> Of the six general offense categories—property, weapons, violence, sex offenses, drug-related and traffic— only crimes of violence were of sufficient sample size for males to permit a valid statistical analysis. For women in the study, sample sizes in the six categories were insufficient for an analysis of trends by category.

<sup>8</sup> For African American Females vs. White American Females, this could be due to small sample sizes.

### 3.2.1 TOTAL NUMBER OF CHARGES COMPANION TO “MOST SERIOUS” CHARGE AND RACE

#### 2. Was there a relationship between defendant’s race and the total number of companion charges associated with the most serious arrest charge?

TABLE 3-8. EFFECT OF RACE ON TOTAL CHARGES  
AFRICAN AMERICAN MALES VS. WHITE AMERICAN MALES

TOTAL CHARGES					
	UNSTANDARDIZED COEFFICIENTS		STANDARDIZED COEFFICIENTS	SIGNIFICANCE	MEANS
	B	Std. Error	Beta		
African American Males	<b>0.08</b>	<b>0.03</b>	<b>0.06</b>	<b>0.33</b>	
Crime Seriousness Rank	<b>0.06</b>	<b>0.00</b>	<b>0.42</b>	2.47	<b>7.74</b>
Individual's Priors	<b>0.01</b>	<b>0.00</b>	<b>0.08</b>	<b>1.87</b>	<b>3.43</b>
Jurisdiction	-0.04	0.02	-0.03	<b>0.66</b>	

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

Note: Bold indicates statistically significant at 95% confidence interval.

For two individuals, African American and White, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016 charged with crimes of similar seriousness:

- ♦ For African American males, race exerted a greater statistical influence in the assignment of total number of charges associated with an arrest than both seriousness of the violation and prior criminal history, combined (**Table 3-8**).
- ♦ African American males received roughly 8 percent more charges associated with the most serious charge than White males (**Table 3-9**).

TABLE 3-9. PREDICTED TOTAL CHARGES AFRICAN AMERICAN MALES VS. WHITE AMERICAN MALES

	Actual White American Mean	African American “Effect”	Predicted Total Charges Rank for African American
Male	1.96	0.08	2.12

- ♦ For Charlottesville violations, African American males received an average of 2.5 charges compared with 1.9 charges for White American men; in Albemarle County, African American males received an average of 2.3 charges compared with 2.0 charges for White American men (see **Tables 3-1** and **3-2** in the previous section).
- ♦ Race did not influence total number of charges for women charged with crimes, but women in general received more total charges who were also charged with more serious crimes and who had a record of prior criminal charges.
- ♦ When the main charge associated with an individual’s arrest was categorized into one of six categories of violation—property, violent, weapons, sex offenses, drug-related and traffic—

African Americans who were charged with violent crimes were more likely to receive additional charges than were White defendants charged with similarly serious violent crimes (Table 3-10).<sup>9</sup>

- ◆ Differences in jurisdiction, age, education level and employment status were tested but had no statistical impact on total number of charge decisions (Tables 3-1 through 3-4)<sup>10</sup>.

TABLE 3-10. TOTAL CHARGES MEANS

ETHNICITY		DRUG	PROPERTY	SEX	TRAFFIC	VIOLENCE	WEAPONS
WHITE AMERICAN MALE	Charlottesville	2.44	3.52	3.00	3.29	3.09	2.75
	Albemarle County	2.62	2.88	5.50	1.97	2.34	2.00
AFRICAN AMERICAN MALE	Charlottesville	3.05	4.15	4.67	2.13	3.82	3.50
	Albemarle County	2.98	3.45	2.00	2.33	4.16	2.40
WHITE AMERICAN FEMALE	Charlottesville	2.25	3.48		1.00	6.33	2.00
	Albemarle County	2.67	2.31		1.40	1.33	2.63
AFRICAN AMERICAN FEMALE	Charlottesville	2.00	2.08		1.00	2.54	2.00
	Albemarle County	2.00	2.55			2.50	1.25

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

### 3.2.2 BOND/NO BOND DECISIONS AND RACE

#### 3. Pending further adjudication of a given case, was there a relationship between a defendant's race and bail-bond/release decisions and decisions to hold defendants in confinement without bond?

TABLE 3-11. EFFECT OF RACE ON BOND DENIAL

AFRICAN AMERICAN MALES VS. WHITE AMERICAN MALES			
	Unstandardized Coefficients	Significance	Odds Ratio
	B	Sig.	Exp(B)
African American Males	<b>0.37</b>	<b>0.00</b>	<b>1.45</b>
Crime Seriousness Rank	<b>0.10</b>	<b>0.00</b>	<b>1.10</b>
Individual's Priors	<b>0.04</b>	<b>0.00</b>	<b>1.04</b>
Total Charges	<b>0.14</b>	<b>0.00</b>	<b>1.15</b>
Jurisdiction	<b>0.74</b>	<b>0.00</b>	<b>2.10</b>
AFRICAN AMERICAN FEMALES VS. WHITE AMERICAN FEMALES			
	Unstandardized Coefficients	Significance	Odds Ratio
	B	Sig.	Exp(B)
African American Females	<b>0.42</b>	<b>0.02</b>	<b>1.52</b>
Crime Seriousness Rank	<b>0.07</b>	<b>0.00</b>	<b>1.08</b>
Individual's Priors	<b>0.12</b>	<b>0.00</b>	<b>1.13</b>
Total Charges	0.02	0.57	1.02
Jurisdiction	<b>0.95</b>	<b>0.00</b>	<b>2.58</b>

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

Note: Bold indicates statistically significant at 95% confidence interval.

<sup>9</sup> Of the six general offense categories—property, weapons, violence, sex offenses, drug-related and traffic— only crimes of violence were of sufficient sample size for males to permit a valid statistical analysis. For women in the study, sample sizes in the six categories were insufficient for an analysis of trends by category.

<sup>10</sup> For African American Females vs. White American Females, this could be due to small sample sizes.

For two individuals, African American and White, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ♦ African Americans, male and female, were one-and-one-half times more likely to be denied release with or without a bond (pending further adjudication) than their White counterparts charged with crimes of similar seriousness, with a similar number of charges and similar prior history (see Odds Ratio in **Table 3-11** above).
- ♦ Although total number of charges filed and the individual’s history of prior charges significantly influenced bond decisions, for African American men, race had the greatest impact on bond denial decisions (**Table 3-11**, 1.45 odds ratio for race).
- ♦ Although seriousness of the crime and the individual’s history of prior charges significantly influenced bond decisions, for African American women, race had the greatest impact on bond denial decisions (**Table 3-11**, 1.52 odds ratio for race).
- ♦ Individuals charged with violations in Albemarle County, regardless of race, were more than twice as likely to be denied bond than individuals with violations in the City of Charlottesville (**Table 3-11**, 2.58 odds ratio for Jurisdiction).

### 3.2.3 “LENGTH OF STAY” IN ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL AND RACE

#### 4. Was there a relationship between a defendant’s “Length of Stay” in Albemarle-Charlottesville Regional Jail and the defendant’s race?

TABLE 3-12. EFFECT OF RACE ON LENGTH OF STAY  
AFRICAN AMERICAN MALES VS. WHITE AMERICAN MALES

	UNSTANDARDIZED COEFFICIENTS		STANDARDIZED COEFFICIENTS	SIGNIFICANCE	MEANS
	B	Std. Error	Beta	Sig.	
African American Males	<b>0.19</b>	<b>0.08</b>	<b>0.05</b>	<b>0.01</b>	
Crime Seriousness Rank	<b>0.16</b>	<b>0.01</b>	<b>0.39</b>	<b>0.00</b>	<b>8.85</b>
Individual's Priors	<b>0.03</b>	<b>0.01</b>	<b>0.10</b>	<b>0.00</b>	<b>3.92</b>
Total Charges	<b>0.25</b>	<b>0.01</b>	<b>0.34</b>	<b>0.00</b>	<b>2.46</b>
Jurisdiction	<b>0.16</b>	<b>0.08</b>	<b>0.04</b>	<b>0.03</b>	

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.  
Note: Bold indicates statistically significant at 95% confidence interval.

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ♦ For violations of similar seriousness, with similar criminal history and total number of charges, mean “length of stay” spent in the ACRJ facility for African Americans (Charlottesville, 50.5 days; Albemarle County, 49.2 days) was roughly double “length of stay” for White male arrestees (Charlottesville, 25.2 days; Albemarle County, 28.8 days). Twenty percent of this difference was

attributable to race differences<sup>11</sup>: That is, African American males spent roughly five days longer in jail, regardless of jurisdiction, than did White American males with similar attributes. (See **Tables 3-1** and **3-2** in previous section).

- ♦ African American males spent an average of 5.16 days longer (20%) in ACRJ (32.32 days) than did White American males (27.16 days, see **Table 3-13** below)

**TABLE 3-13. PREDICTED LENGTH OF STAY (LOS),  
AFRICAN AMERICAN MALES VS. WHITE AMERICAN MALES**

	White Mean (LOS)	African American “Effect”	Predicted Length of Stay Rank for African American
Male	27.16	0.19	32.32

- ♦ For African American males, the amount of time one spent in ACRJ was influenced most by the total number of charges associated with the crime, followed in order of magnitude of effect by race, jurisdiction and prior charges in one’s criminal background.
- ♦ For African American women, there was no “race effect” increasing the number of days spent in ACRJ—which was significantly increased for all women by the seriousness of the main charge, total number of associated charges and a record of prior charges.
- ♦ Regardless of race, males charged with a crime in Albemarle County were more likely to spend more time in jail than those arrested in Charlottesville for crimes of similar seriousness.
- ♦ Differences in age, education level and employment status were tested but had no statistical impact on time spent in jail (**Tables 3-1** through **3-4**)<sup>12</sup>.
- ♦ There were no statistically significant results for any of the tested variables when the main charge associated with an individual’s arrest was categorized into one of six categories of violation—property, violent, weapons, sex offenses, drug-related and traffic (**Table 3-14**).

**TABLE 3-14. LENGTH OF STAY-MEANS**

ETHNICITY		DRUG	PROPERTY	SEX	TRAFFIC	VIOLENCE	WEAPONS
WHITE AMERICAN MALE	Charlottesville	113.71	82.87	170.29	54.00	110.15	81.38
	Albemarle County	103.13	52.73	196.67	107.00	64.39	53.53
AFRICAN AMERICAN MALE	Charlottesville	156.56	124.35	130.67	50.00	171.78	152.57
	Albemarle County	195.42	100.55	431.00	91.08	156.04	145.90
WHITE AMERICAN FEMALE	Charlottesville	85.00	58.17		1.00	9.33	29.00
	Albemarle County	39.48	45.91		98.40	9.67	38.38
AFRICAN AMERICAN FEMALE	Charlottesville	46.13	30.63		52.33	69.92	0.00
	Albemarle County	11.75	77.29			86.50	53.50

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

<sup>11</sup> The remaining factors that influence the outcome are socioeconomic variables of which due to limitations in the data could not be ascertained.

<sup>12</sup> For African American Females vs. White American Females, this could be due to small sample sizes.

**5. Was there a relationship between a defendant’s race and guilty vs. not-guilty case outcomes?**

**TABLE 3-15. EFFECT OF RACE ON GUILTY DISPOSITION**

AFRICAN AMERICAN MALES VS. WHITE AMERICAN MALES			
	Unstandardized Coefficients	Significance	Odds Ratio
	B	Sig.	Exp(B)
African American Males	<b>0.31</b>	<b>0.01</b>	<b>1.36</b>
Crime Seriousness Rank	<b>0.03</b>	<b>0.01</b>	<b>1.03</b>
Individual's Priors	0.02	0.08	1.02
Total Charges	-0.03	0.18	0.97
Jurisdiction	<b>0.39</b>	<b>0.00</b>	<b>1.48</b>

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

Note: Bold indicates statistically significant at 95% confidence interval.

For two individuals, African American and White, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ◆ For crimes of similar seriousness, African American males were 31 percent more likely to be found guilty than were White individuals.
- ◆ For crimes of similar seriousness, for African American women race played no significant role in guilt or innocence outcomes.
- ◆ When guilty adjudications were compared for African American and White American males, race played a more significant role in guilty convictions than considerations of seriousness of the main violation while number of charges filed and one’s prior history of criminal charges were not statistically significant determinants (**Table 3-15**).
- ◆ Individuals charged with crimes of similar seriousness and characteristics, regardless of race, were nearly one-and-one-half times more likely to have been found guilty for crimes committed in Albemarle County than those who were found guilty of committing crimes in the City of Charlottesville (**Table 3-15**).

**3.2.4 SENTENCING OUTCOMES AND RACE**

The last two research questions examine the relationship between sentencing outcomes and race. **Table 3-16** below provides population counts for individuals participating in different categories of court proceedings in Charlottesville Circuit Court and Albemarle County Circuit Court for the period of the study. This table is followed by reports of findings in response to the two questions.

TABLE 3-16. COURT PROCEEDINGS

COURT PROCEEDING	CHARLOTTESVILLE CIRCUIT COURT			ALBEMARLE COUNTY CIRCUIT COURT		
	2014	2015	2016	2014	2015	2016
Hearings	849	801	964	1019	1102	1060
Sentencings	596	487	615	690	693	688
Felony Sentencings	273	235	281	385	443	387
Felony Probation Violations	253	185	258	204	139	147
Misdemeanor Sentencings	70	67	76	101	111	154
Violent Felony	50	53	64	29	48	40
Property Felony	104	76	66	192	213	189
Drug Felony	75	79	104	41	81	70
Traffic Felony	14	11	20	39	48	37
Sex Offense Felony	7	3	4	60	24	17
Weapon Felony	14	11	18	24	22	21
Other Felony	9	2	5	0	7	13
Avg Sentence Felony (days)	1899	2315	1850	2177	2250	2140
Avg Suspended Sentence Felony (days)	1552	1885	1504	1853	1923	1830
Felony Avg Time to Serve (days)	347	430	346	324	327	310
PV Avg Sentence Felony (days)	1921	2038	2061	*	*	*
PV Avg Suspended Sentence Felony (days)	1796	1814	1873	*	*	*
Probation Violation Avg Time to Serve (days)	125	224	189	*	*	*
Total Days Sentenced Felony	482540	511820	481115	814290	967545	789829
Total Days Suspended Felony	394260	416604	391046	693130	826929	675432
Total Days To Serve Felony	88280	95216	90069	121160	140616	114397
Total Days Sentenced Felony PV	443873	358790	457729	*	*	*
Total Days Suspended Felony PV	415091	319435	415984	*	*	*
Total Days To Serve Felony PV	28782	39355	41745	*	*	*
Missing Felony Sentencing Info	5	0	0	6	4	14
Missing PV Sentencing Info	13	0	7	78	47	113

Source: Courtesy Neal S. Goodloe, MPA, Criminal Justice Planner, Thomas Jefferson Area Community Criminal Justice Board.

**6. For individuals who were sentenced for a crime, was there a relationship between the defendant's race and the duration of their sentence?**

TABLE 3-17. EFFECTS OF RACE ON DAYS SENTENCED

AFRICAN AMERICAN MALE VS. WHITE AMERICAN MALE					
	UNSTANDARDIZED COEFFICIENTS		STANDARDIZED COEFFICIENTS	SIGNIFICANCE	MEANS
	B	Std. Error	Beta	Sig.	
African American Males	0.14	0.09	0.04	0.12	
Crime Seriousness Rank	<b>0.16</b>	<b>0.01</b>	<b>0.39</b>	<b>0.00</b>	<b>8.84</b>
Individual's Priors	<b>0.02</b>	<b>0.01</b>	<b>0.09</b>	<b>0.00</b>	<b>3.71</b>
Total Charges	0.03	0.02	0.04	0.15	2.33
Length of Stay	<b>0.01</b>	<b>0.00</b>	<b>0.33</b>	<b>0.00</b>	<b>65.69</b>
Jurisdiction	0.03	0.09	0.01	0.77	

AFRICAN AMERICAN FEMALE VS. WHITE AMERICAN FEMALE					
	UNSTANDARDIZED COEFFICIENTS		STANDARDIZED COEFFICIENTS	SIGNIFICANCE	MEANS
	B	Std. Error	Beta	Sig.	
African American Females	<b>0.33</b>	<b>0.13</b>	<b>0.09</b>	<b>0.02</b>	
Crime Seriousness Rank	<b>0.19</b>	<b>0.02</b>	<b>0.41</b>	<b>0.00</b>	8.51
Individual's Priors	<b>0.10</b>	<b>0.02</b>	<b>0.19</b>	<b>0.00</b>	2.53
Total Charges	<b>0.07</b>	<b>0.03</b>	<b>0.11</b>	<b>0.01</b>	1.91
Length of Stay	<b>0.01</b>	<b>0.00</b>	<b>0.27</b>	<b>0.00</b>	32.19
Jurisdiction	-0.04	0.15	-0.01	0.78	

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

Note: Bold indicates statistically significant at 95% confidence interval.

TABLE 3-18. PREDICTED DAYS SENTENCED  
AFRICAN AMERICAN FEMALES VS. WHITE AMERICAN FEMALES

	Actual White Mean	Percent for Being African American	Predicted Length of Stay Rank for African American
Female	613.59	0.33	816.07

For two individuals, African American and White, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ♦ Race did not impact length of sentence for African American males when compared with white males sentenced in circuit court (**Table 3-17**) but sentences for African American women were nearly 213 days longer in duration, on average, than sentences for White American women (**Table 3-18**).
- ♦ Regardless of race, males charged with more serious crimes accompanied by a record of prior charges and who spent more days in jail prior to sentencing received longer sentences.
- ♦ For males in general, for all categories of crime, neither the total number of charges associated with the most serious charge nor jurisdiction—City or County-- played a significant role in time-sentenced.
- ♦ For African American women, race, crime seriousness, total number of companion charges, a record of prior criminal charges and the time they had spent in jail prior to sentencing were all positively related to sentence duration outcomes (**Table 3-17**).
- ♦ For African American males charged with drug-related crimes, race was not a significant influence on sentence time decisions (**Table 3-19**) but seriousness of offense, the total number of charges associated with the main drug crime charge and the individual’s length of stay prior to sentencing were statistically-significant influences (**Table 3-17**).<sup>13</sup>

<sup>13</sup> Of the six general offense categories—property, weapons, violence, sex offenses, drug-related and traffic— for males, only drug-related crimes were of sufficient sample size to permit a valid statistical analysis. Sample sizes for women were insufficient to permit a valid statistical analysis in any category.

TABLE 3-19. DAYS SENTENCED-MEANS

ETHNICITY		DRUG	PROPERTY	SEX	TRAFFIC	VIOLENCE	WEAPONS
WHITE MALE	Charlottesville	2496.52	1720.27	828.00	1182.50	1501.50	1763.33
	Albemarle County	2299.83	1511.67	2920.00	1359.38	1220.76	1744.09
AFRICAN AMERICAN MALE	Charlottesville	2596.35	1700.02	1215.00	572.14	2745.45	1763.00
	Albemarle County	2848.28	1762.71	3650.00	1543.33	2304.74	1889.29
WHITE FEMALE	Charlottesville	1095.00	1085.29		360.00	1095.00	
	Albemarle County	1991.50	877.87		1040.00	785.00	1563.57
AFRICAN AMERICAN FEMALE	Charlottesville	1341.00	1108.22		1047.50	1424.38	
	Albemarle County	2372.50	1314.63		912.50		2281.25

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

**7. For individuals who were sentenced for a crime, was there a relationship between the defendant's race and the duration of their actual time-served?**

TABLE 3-20. EFFECT OF RACE ON DAYS SERVED

AFRICAN AMERICAN MALES VS. WHITE AMERICAN MALES					
	UNSTANDARDIZED COEFFICIENTS		STANDARDIZED COEFFICIENTS	SIGNIFICANCE	MEANS
	B	Std. Error	Beta	Sig.	
African American Males	0.04	0.11	0.01	0.74	
Crime Seriousness Rank	<b>0.15</b>	<b>0.01</b>	<b>0.33</b>	<b>0.00</b>	<b>9.23</b>
Individual's Priors	<b>0.03</b>	<b>0.01</b>	<b>0.11</b>	<b>0.00</b>	<b>4.02</b>
Total Charges	<b>0.16</b>	<b>0.03</b>	<b>0.18</b>	<b>0.00</b>	<b>2.34</b>
Length of Stay	<b>0.00</b>	<b>0.00</b>	<b>0.27</b>	<b>0.00</b>	<b>78.51</b>
Jurisdiction	<b>-0.30</b>	<b>0.12</b>	<b>-0.07</b>	<b>0.01</b>	
AFRICAN AMERICAN FEMALES VS. WHITE AMERICAN FEMALES					
	UNSTANDARDIZED COEFFICIENTS		STANDARDIZED COEFFICIENTS	SIGNIFICANCE	MEANS
	B	Std. Error	Beta	Sig.	
African American Females	0.11	0.17	0.03	0.53	
Crime Seriousness Rank	<b>0.16</b>	<b>0.02</b>	<b>0.32</b>	<b>0.00</b>	<b>8.75</b>
Individual's Priors	<b>0.12</b>	<b>0.03</b>	<b>0.23</b>	<b>0.00</b>	<b>2.79</b>
Total Charges	0.06	0.03	0.09	0.07	1.96
Length of Stay	<b>0.01</b>	<b>0.00</b>	<b>0.34</b>	<b>0.00</b>	<b>39.39</b>
Jurisdiction	-0.40	0.23	-0.08	0.08	

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

Note: Bold indicates statistically significant at 95% confidence interval.

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ♦ For males, factors increasing actual time served included crimes of a more serious nature, with a greater number of companion charges, a record of prior charges and a longer “length of stay” in jail prior to sentencing, all of which were statistically significant (**Table 3-20**).

- ♦ For crimes of similar seriousness, males with similar records convicted of crimes in Albemarle County tended to serve less actual time in incarceration than those convicted of crimes of similar seriousness and characteristics in the City of Charlottesville.
- ♦ Race was not a significant influence on sentence time served for property offense convictions (**Table 3-21**), but the total number of charges associated with the main property crime charge and the individual’s record of prior criminal charges were statistically significant influences.<sup>14</sup>

TABLE 3-21. EFFECT OF RACE ON DAYS SERVED

ETHNICITY		DRUG	PROPERTY	SEX	TRAFFIC	VIOLENCE	WEAPONS
WHITE MALE	Charlottesville	545.52	415.38	175.00	880.00	352.17	486.67
	Albemarle County	360.95	312.07	1290.00	312.97	302.37	400.00
AFRICAN AMERICAN MALE	Charlottesville	555.44	447.42	365.00	145.00	712.95	441.00
	Albemarle County	506.69	292.14	730.00	335.00	866.79	688.57
WHITE FEMALE	Charlottesville	125.00	264.00			7.00	
	Albemarle County	293.22	151.78		133.80	77.50	220.00
AFRICAN AMERICAN FEMALE	Charlottesville	156.00	142.50		375.00	109.50	
	Albemarle County		314.70				721.67

Source: Charlottesville/Albemarle County data and MGT, calculations using SPSS Statistics software.

### 3.3 FINDINGS OF DISPARITY AT DISCRETIONARY DECISION POINTS IN THE ALBEMARLE COUNTY/CHARLOTTESVILLE, VA CRIMINAL JUSTICE SYSTEM: DISCUSSION

In common criminal justice matters of law enforcement in a potential criminal case, discretion in official decision-making comes into play whenever police make choices to arrest, investigate, search, question, or to use force to control a potentially dangerous situation. A criminal case often begins with an investigation of a crime by law enforcement to gather evidence in support of an arrest. An investigation may require a search of a person or property to determine if there is there is a reasonable link between an individual and a crime—that is, “probable cause”. Once probable cause has been established, an individual may be taken into custody where a magistrate determines a charge or charges, considering the seriousness of an offense and supporting evidence. For more serious cases, a prosecutor may indict a suspect for cases involving crimes punishable by imprisonment. Depending on the seriousness of the offense determined in the charge phase, and any statutory requirements that may apply, an individual may be placed in custody prior to further hearing. One may be held without the prospect of release prior to a trial if the charges against them have been determined to be so serious in nature that they pose a risk to the public or to themselves (and some of these holds are “presumptive”, meaning that the Magistrate is required to detain the defendant based on Subsection B of Va. Code § 19.2-120) -- or if they are at risk for flight. In cases of lesser risk or seriousness, one may be released on their personal recognizance or with a bond guarantee of sufficient monetary value to ensure a defendant will show up for a trial. In determining how a defendant will plead, a defense attorney and prosecutor will sometimes negotiate for a charge or sentence reduction, usually in exchange for a guilty plea. In cases tried in court to adjudicate

<sup>14</sup> Of the six general offense categories, for males, only property crimes were of sufficient sample size to permit a valid statistical analysis. Sample sizes for women were insufficient to permit a valid statistical analysis in any category.

guilt before a judge or a jury, guilt must be established beyond a reasonable doubt for a conviction, or the person accused can be acquitted. In managing a case, judges use discretion when setting bail, dealing with plea bargains and motions, and, where mandatory sentencing regulations are not in play, in making sentencing decisions. If convicted, a defendant is sentenced with a fine, probation, incarceration and/or some form of community supervision. Most offenders sentenced to terms of incarceration do not serve the complete term and may be released before the expiration of their maximum sentences. The current study included data for a number of these discretionary decision-making points, including charge decisions, the number and seriousness of charges filed, bond decisions and adjudication/sentencing outcomes in felony cases, posing the question: “When discretion is applied, is race of the defendant one of the attributes of the decision?”

### 3.3.1 DATA GAPS, OMISSIONS AND STUDY VALIDITY

Criminal justice processing data for individuals booked in the Albemarle-Charlottesville Regional Jail from January 1, 2014 through December 31, 2016 was made available to this study for some but not all of these decision-making points along the continuum. Missing from this investigation, most notably, is information about the initial encounter between law enforcement and a suspect, from an initial call for service by police dispatch, or other means of initiating a police call for service. What led to a police officer’s decision to arrest a suspect? How did law enforcement decide to investigate an incident or scene or to search a premises or vehicle or to question a suspect? In instances in which a law enforcement officer felt the necessity to use force to restrain a suspect, were there factors other than those pertaining to the legality or illegality of an act or potential violation that led to the officer’s decision to use or not use force?

Given the national attention devoted to several “White-officer-on-Black-suspect” shooting cases, particularly, these are research questions germane to a criminal justice disparity study. Information related to an arrest and an arrest decision is reported in the booking process and some of this information is recorded into the system’s electronic data base. However, the nuances of thought, circumstance and all that goes into decision-making leading up to a decision to arrest are not recorded in any of these data sources-- which were designed not to serve the more stringent informational needs of pristine academic research but for local administrative and reporting purposes and record-keeping.

Does the absence of this important information otherwise invalidate a disparity study? If there is a statistical racial disparity in treatment/outcomes at any stage in the criminal process, the answer depends, in part, on how one defines what is and what is not “racism”. If a discriminatory action is accompanied by racial bias and racially discriminatory intent, then information provided for this study will not uncover these instances. Frankly, there is no known record of such information in any administrative data base. However, at key decision points along the criminal justice continuum we can determine if there are “statistical irregularities”. We can identify these decision points, measure the “degree of irregularity” and flag these points for further, detailed investigation—a task for a future study. Such a review may or may not uncover instances of conscious, racially motivated discrimination as described above-- what sociologist Joe Feagin (1986) referred to as “isolate discrimination”. But Feagin also allowed for what he referred to as “indirect institutional discrimination”. According to Feagin, these are laws, public policies and procedures—appearing race-neutral in their language and intended impact but which, nonetheless, have the effect of restricting one racial group more than others. Their effect is “institutional” because they are not necessarily the consciously biased actions or practices of individuals or an isolated group of individuals; rather they are codes and laws enforced by societal institutions such as the police and the

courts, making no racial distinctions in their application. And they are “indirect” because they have the effect of restricting the rights and privileges of a particular racial or ethnic group by targeting “certain” categories of crime—for example, in the so-called “War on Drugs”, crack cocaine violations-- without directly naming the group they are “intending” to target. According to Ulmer (2012), Alexander (2012) and others, mandatory minimum sentencing guidelines and “three-strikes-and-you’re-out” laws have reached their peak expression in the War on Drugs, reducing personal judicial and other legal discretion in favor of a national policy to “cleanse” the population of the denizens of a drug culture run amok. Whether disparities found at certain decision points in this study reflect examples of isolate discrimination and/or indirect institutional discrimination would be the subject of a second phase investigation.

For now, despite the absence of important information regarding police-suspect interactions, the data for this study nevertheless provided evidence that racial disparities in criminal justice outcomes for African American males particularly are present at various points along the Charlottesville/Albemarle criminal justice continuum. Furthermore, the decision-points at which disparity has been found in the Charlottesville/Albemarle County system mirror findings reported in our review of previous research: that is, that regardless of jurisdiction—municipal, state or federal—study after study over a period of decades have concluded that the race of the defendant influences outcomes at various point along the criminal justice continuum.

**Table 3-22** restates the research questions examined in this study and summarizes disparity conclusions from findings, followed by a more detailed discussion of results.

**TABLE 3-22. SUMMARY OF DISPARITY STUDY FINDINGS FOR ALBEMARLE COUNTY-CHARLOTTESVILLE – 2014 THROUGH 2016, RESEARCH QUESTIONS AND ANSWERS**

	RESEARCH QUESTIONS	EVIDENCE OF RACE-BASED DISPARITY?
1	Was there a relationship between race of the arrestee/defendant and the “seriousness” of the “most serious” violation with which he/she was charged?	Yes
2	Was there a relationship between defendant’s race and the total number of companion charges associated with the most serious arrest charge?	Yes
3	Pending further adjudication of a given case, was there a relationship between a defendant’s race and bail-bond/release decisions and decisions to hold defendants in confinement without bond?	Yes
4	Was there a relationship between a defendant’s “Length of Stay” in Albemarle-Charlottesville Regional Jail and the defendant’s race?	Yes
5	Was there a relationship between a defendant’s race and guilty vs. not guilty case outcomes?	Yes
6	For individuals who were sentenced for a crime, was there a relationship between the defendant’s race and the duration of their sentence?	Yes*
7	For individuals who were sentenced for a crime, was there a relationship between the defendant’s race and the duration of their actual time-served?	No

\*For African American females.

### 3.3.2 CHARGE DECISIONS AND DISPARITY

The first two hypotheses explored the effect of both systemic variables and demographic variables on the assignment of charges to subjects in our population. Findings for the investigation of the first hypothesis—

examining the relationship between race and the seriousness of assigned charges-- indicated that African American males tended to be charged with more serious crimes when booked than others in the cohort. In the study cohort, Relative Rate Indices for African Americans charged with two or more violent crimes during the study period were from five to eight times greater than for White Americans in the Charlottesville/Albemarle jurisdictions. This supports a general finding in the criminology literature over time (e.g., Bazelon, 2019, Starr and Rehavi, 2014) that African American males tend to be charged with more serious crimes than individuals in other demographic groups. Alexander (2012) contended that War on Drugs targeting policing in locales known for drug crime and activity led to a self-fulfilling prophecy that African American males in these communities would be arrested in greater numbers for drug and drug-related offenses, often involving the possession or use of firearms—both representing relatively more serious categories of crime—fueling the popular trope that African Americans commit more crime than others and crimes that are more violent in nature as well. While, objectively, African Americans may be associated with crimes of a more violent nature, the politicization of certain categories of crime characterized as “more” or “less” violent-- coupled with practices such as “carpet-policing” of targeted communities in search of particular categories of criminal behavior that are deemed “more violent in nature” – would logically inflate arrest numbers for more serious crimes in African American communities as well.

Some of these same observations also apply to the relationship between race and the number of charges associated with an arrest event, tested in the second hypothesis. When African American males were compared with White American males with similar criminal histories for crimes of similar seriousness, African American males were significantly more likely to receive a greater number of charges associated with the most serious crime. This echoes findings from the Court Statistics Project (2016) and several studies cited by Bazelon (2019) in her volume, *Charged*, which explored in detail the nature and number of charging decisions made at arrest by authorities. Commenting on the trend over two decades of growing prosecutorial power and influence in decisions that were formerly more the province of magistrates and judges, Keenan, Cooper, Lebowitz and Lerer (2011) cited the practice in some jurisdictions of “overstacking” charges against defendants. In instances in which the most serious charge against a defendant may be difficult to prove, to motivate a defendant to plead to a lesser charge or charges, Keenan et al (2011) reported instances of prosecutors who artificially inflate the number of charges in the hope of “pressuring” a defendant to plead guilty-- even if only to a lesser charge in a plea bargain for the purpose of obtaining a conviction. Bazelon reported that charge inflation is a common practice in an era which has witnessed prosecutors amassing “breathtaking power... more power than our system was designed for” (2019).

Reports from the research literature notwithstanding, it must be underscored that there was no evidence in our data of these practices in charging decisions discernible from the data provided for this study. However, in one community forum meeting with Charlottesville residents, a 32-year-old African American male who had served prison time recounted events surrounding his arrest and conviction on drug possession charges—for which he readily accepted both responsibility and guilt. He contended the prosecutor charged him with a more serious “possession with intent to distribute” charge and added several other charges to motivate him to accept guilt for lesser violations for which he contended he was not guilty—simply to assure a conviction. Although there is no way to corroborate this account from

available system information, such tactics have been widely reported in the criminal justice literature (e.g., Bazelon’s extensive review of prosecutorial discretion and power, 2019).

It must also be noted in the findings that the number of charges assigned in an arrest was also positively related to the seriousness of the main violation and the defendant’s criminal history: That is, individuals charged with more serious crimes and who had a prior criminal history were more likely to receive more charges. This is a logical expectation, given the nature of more serious crimes. However, when African American and White American male defendants with similar criminal histories were charged with crimes of similar seriousness, the defendants’ race had the greatest effect of all influential variables on the number of charges a defendant received. Given this “race effect”, a second-generation study would investigate the nature of proceedings in charging decisions to determine if there are influences—perhaps “extra-legal” elements-- of specific cases that are not collected in administrative data sets that might explain a racial bias in outcomes. In addition to race effects, this study did investigate effects of such extra-legal variables as age, sex, education attainment and employment status. But Miller (1958) also identified a category of extra-legal elements in criminal justice decision-making he referred to as “focal concerns”. In criminal justice decision-making, the term “focal concerns” has evolved to include specifically non-legal, extenuating circumstances or considerations specific to individuals who enter criminal justice decision-making (Johnson and Betsinger, 2009). In reaching sentencing decisions, for example, these may include authorities’ considerations of the health of the defendant, family hardship and other elements of family history. But, according to Bridges and Steen (1998) they may also include a decisionmaker’s susceptibility to negative racial stereotypes entering into criminal justice decisions. Although no such data was available to this study, the finding that African American males are more likely to be assigned a greater number of charges in an arrest event than similarly situated White American defendants for crimes of similar seriousness because of their race and gender begs a more detailed examination of the decisions and dynamics of specific cases at this stage.

### **3.3.3 BOND DECISIONS AND DISPARITY**

Having found that African American males were charged with more serious crimes and with a greater number of charges when booked, the third hypothesis/research question assessed the impact of these decisions, and other variables, on individuals’ eligibility for release following arrest with a bond/bail guarantee. DiPietro, Johnson and Kramer (2006) speculated that when charge decisions and crime seriousness were held constant, defendants’ race, in conjunction with “extra legal” factors, will impact bond decisions. Ideally, bond denial decisions are associated solely with the crime’s attributes-- seriousness of the crime and the number of associated charges and prior criminal history. In Charlottesville/Albemarle County, having already determined that race enters into the assignment of these attributes for a given crime, the third hypothesis explored the impact of these prior decisions and extra-legal variables on bond hearing decisions. Two categories of decision were examined: (1) Individuals who were released with or without a bond/bail guarantee and (2) individuals whose crime and/or prior criminal history were so serious in nature they were to be held in custody—without the prospect of release-- as a possible threat to society as a possible flight risk, or as statutorily mandated. Results indicated that African American men and women, when compared with similarly situated White counterparts, were significantly more likely to be denied bond and detained in custody, as a function of their race. This finding comports with earlier findings (e.g., Ulmer et al, 2016; Goldkamp and White, 2006) in which it was found generally that African Americans were denied bond more frequently than others for

similar crimes and when bail was set, they were also assessed significantly higher bail amounts.<sup>15</sup> Absent other indicators, Franklin and Henry (2019), Steffenmeister and DeMuth (2000), Ulmer (2012), Johnson and DiPietro (2012) and Spohn and Holleran (2000) report that bond decisions are disproportionately affected by decisionmakers' negative racial stereotypes of members of some groups. We emphasize that the finding in this analysis of a relationship between bond decisions and race is *not* based on any evidence that stereotyping or other forms of prejudice entered into bond decisions for the period of this study. However, that race does play a role in these decisions raises questions about the roles of “extra-legal” and “focal concerns” in decision making that call for further scrutiny. Finally, it should be noted that for those who were assigned bail as part of a bond agreement, an analysis to assess a race effect on bail dollar amounts revealed no significant difference in bail amounts by race for similarly situated individuals charged with crimes of similar seriousness and with similar criminal histories<sup>16</sup>. With regard to “bond-no bond” decisions, however, the most influential independent variable was jurisdiction of the decision—the City of Charlottesville compared with Albemarle County. A defendant in Albemarle County, regardless of race, was nearly twice as likely to be held without bond as a defendant in the City of Charlottesville charged with similar crimes and a similar number of charges, with similar criminal histories. Drilling further into the data to examine the nuances of decisions for different categories of crime was beyond the scope of this first generation study but findings of factors related to the seriousness of crimes committed by jurisdiction in response to the first hypothesis revealed individuals tended to be charged with more serious crimes in the Albemarle jurisdiction, which would predict a higher rate of bond denial decisions, regardless of race.

### 3.3.4 ADJUDICATIONS AND DISPARITY

As for determinations of guilt or innocence in the courts in response to the fifth research question/hypothesis of this study, again, race played a prominent role. Individuals' prior criminal history and the total number of associated charges did not influence adjudications of guilt or innocence, but race and jurisdiction did. That is, African American male defendants were more likely to be adjudicated as “guilty” than others who were similarly situated. And individuals with similar histories adjudicated in Albemarle County were more likely to receive guilty verdicts for crimes of similar seriousness than were individuals adjudicated in Charlottesville. The sample for this analysis were individuals who were adjudicated in circuit court and who had been charged with felony crimes only. Although Chircos and Crawford (1995), Ulmer (2012) and countless others have determined racial disparities in adjudications of guilt at every jurisdictional level, researchers who have explored court judgments in light of the “liberation hypothesis” introduced above tell us that racial disparities in adjudications of guilt/innocence are not as common with crimes of a more serious nature. Advocates of this position point to mandatory minimum sentencing requirements and sentencing guidelines, that tend to remove a certain amount of personal discretion in judgments of guilt or innocence, as a possible reason for this apparent lack of disparity in more serious crimes. Nevertheless, our findings indicate that race is a factor in case adjudications in Albemarle County and Charlottesville, suggesting a need for deeper scrutiny of cases, sentencing guidelines and “focal concerns”, beyond what is known from the data provided for this study.

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<sup>15</sup> In OAR database, OAR staff assessed risk factors and other information for individuals referred to OAR but risk assessment scores were statistically unrelated to final bond decisions and instances in which OAR staff differed in recommendations from ultimate bond decision outcomes revealed no racial disparities. Results for this analysis are reported in Appendix B.

<sup>16</sup> See Appendix B.

### 3.3.5 SENTENCING AND DISPARITY

If the preceding finding determined that race influenced felony adjudications of guilt or innocence for more serious crimes in Albemarle County and Charlottesville, examination of the sixth research question/hypothesis did not find a race effect on length of sentence handed down by judges for men but a race effect was found for women. The finding for males is supported by more contemporary reports of race/sentence duration relationships reflecting contemporary reliance on sentencing guidelines which tend to mute the influence of “focal concerns” and “extra-legal” factors that might enter into sentencing decisions (Franklin & Henry, 2019; Ulmer, 2012). That is, for males in the sample, although race seemed to influence guilty verdicts for African Americans, this disparity did not extend to sentence duration decisions for those adjudicated as guilty. Ulmer (2012) concluded that earlier research asserting sentencing disparities did not include some of the more refined measures employed in recent research, such as more detailed and articulated measures assessing the seriousness of crimes as was employed in this study. Instead, many early studies were tied to a simple binary stratification of a crime’s seriousness reflecting misdemeanor and the more serious felony category that were quite simply ineffective as measures of seriousness. Franklin and Henry (2019) observed that inclusion of measures of prior criminal history, the number of charges associated with an arrest, along with more refined measures of crime seriousness and reliance on sentencing guidelines, have had the effect, in more recent investigations, of reducing the statistical influence of race in sentencing decisions found in earlier research. Indeed, in the current study, when these more articulated measures of seriousness and criminal history were included- - indicating that, for comparisons among males, race was not a factor in felony sentence length decisions- -these two variables did influence length of sentence handed down by the judge, as would be expected in race-neutral proceedings.

On the other hand, if race played no role in sentencing decisions for males, it did have an impact on felony sentencing decisions for African American women when compared with similarly situated White American women with similar criminal histories, who were found guilty of crimes of similar seriousness. This result comports with findings from Spohn (2000). Chircos and Crawford (1995) and Ulmer (2012) who found that African American women, over time, were more likely to receive longer prison sentences than white American women for similar crimes. Alexander (2012) and others (e.g., Bazelon, 2019) implicate the race bias associated with the War on Drugs, during which the national female prison population increased nearly eight-fold (from 26,378 in 1980 to 225,060 in 2017; The Sentencing Project, 2017). In 2017, the imprisonment rate for African American women was double the rate for White American women: 92 per 100,000 for African American women compared with 49 per 100,000 for Caucasian women (Sentencing Project, 2017, pp. 2 – 3). Corroborating crime trends reported earlier in our review of current research, crimes committed by women tended to concentrate in the categories of property and drug-related crime, although inadequate sample sizes did not permit a disparity analysis within categories of crime to determine if there was a race effect in sentencing for different categories of crime. In any case, these findings call for a more detailed examination of the dynamics of sentencing decisions involving African American women to determine if there are systemic policies or individual biases in the sentencing process for women that differ, in some way, to their detriment.

Finally, it was observed in the introduction to this discussion that most individuals receiving prison sentences for their crimes usually do not serve the term of sentences handed down by the Court. The

seventh hypothesis/research question explored the impact of variables on actual time served by incarcerated individuals in the sample. Specific reasons for sentence adjustments were not included in court data beyond data related to the original charge(s) so when adjustments were made, no themes or patterns could be explored. However, in the statistical analysis examining this decision-making function, race of a convicted felon was ruled out as an influence on sentencing adjustments. Significant influences leading to sentence adjustments included attributes of the original crime—seriousness of the crime, number of companion charges, prior criminal history—and jurisdiction: That is, similarly situated individuals committing crimes of similar seriousness and similar number of companion charges with similar criminal histories charged in Albemarle County tended to served less actual time in prison than individuals charged and adjudicated in Charlottesville.

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### 3.4 CONCLUSION

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Following thirteen months of investigation, MGT has concluded that there were racial disparities in official decision-making effecting criminal justice decisions and outcomes unfavorably for African Americans booked into the Albemarle/Charlottesville Regional Jail from January 1, 2014 through December 31, 2016. It is noteworthy, based on findings of decades of criminological research findings in literally hundreds of investigations, that this probably makes Albemarle County and Charlottesville no different than any other jurisdiction in America in which there is a modicum of diversity in the local population. What does make these jurisdictions unique is that leadership has taken the initiative to investigate its criminal justice system and processes to determine where racial disparities might be found and, presumably, to address them. Nationwide, this was the first study of its kind undertaken by a municipal jurisdiction to investigate racial disparity in criminal justice and law enforcement. As with any undertaking first of-its-kind, there were many challenges to overcome for which there was no existing guidance or previous experience. Pioneering enterprises are always challenged with dead-ends, false-starts and do-overs and this experience was no different. In addition to patience, tireless support, expert advice, and dedication, city and county officials never hesitated to go above and beyond efforts normally provided by clients to bring this project to completion.

Every research study has its limitations. Acknowledging them so that the reader can decide how much confidence to place in the study's results is a professional obligation in an official report of findings. However, given findings of consistent disparity at discretionary decision-points in the Albemarle County-Charlottesville criminal justice system, despite limitations, we find almost mirror-consistency in our findings when compared with decades of research findings investigating the dynamics of single points of discretionary decision-making in criminal justice systems (e.g., bond decisions only, charging decisions only, sentencing decisions only), whether local, state or federal. Our approach was a comprehensive multi-point analysis that enabled an assessment of the cumulative effect of multiple single point decisions with a statistical race bias (e.g., total number of charges) on subsequent decisions (e.g., adjudications and sentencing). But even this more sophisticated analysis revealed race bias at “expected” decision points, given previous findings in research over a period of decades.

Nevertheless, if there have been limitations, they have been imposed by the nature and/or absence of certain data elements that would have enhanced the study, had the source data been designed for research purposes and not for administration, management, record-keeping and reporting purposes. For example, the jail data does not capture ethnicity. As such, the study ended up focusing largely on comparisons between African American and White American males, and to a lesser extent, African and White American females, because their samples sizes for most of the analyses were sufficiently large to permit a lengthy multivariate analysis. Numbers for Hispanic and Asian American populations were simply too few to meet sample size requirements for valid disparity analyses, with the additional problem that there was extensive inconsistency in identifying Hispanic Americans, in particular, as such. A similar problem was discovered for criminal charge data. Data entries for the same types of crime were incomplete or inconsistent. An attempt to examine disparity in probation violations-- recognized in criminological research as particularly onerous difficulty for African Americans having a revolving door impact on rates of African American recidivism-- was abandoned because of insufficient instances in the data to permit analysis and because without additional information regarding type and seriousness of the violation, a valid disparity analysis was not possible.

Another limitation was that when race/ethnicity could be determined, valid sample sizes were reduced because of missing data in equations with as many as ten independent variables: That is, in a lengthy equation containing, say, ten variables, if only one data field for a variable of ten variables needed for an analysis was not populated (i.e., "blank" or missing), the entire case had to be excluded from the sample used in the analysis. A valid case would require that information for all ten data elements for a given individual be provided but populating all ten elements with data from up to three different agency data sets was a challenge.

Beyond limitations imposed by insufficient data or sample sizes, an unfortunate shortcoming of this study was our failed attempt to construct an estimate of individuals' socioeconomic and/or personal financial background. During the summer of 2018, in the first two face-to-face meetings for this project between city and county officials and the MGT project team-- at some point in conversation with literally every official with whom we met-- each expressed their belief, in one form or another, that the root cause of racial disproportionality in crime and incarceration was "socio-economic". In our review of the research literature for this study, we cited sources estimating that roughly 80 percent of America's incarcerated population dropped out of high school prior to graduation and that a near equivalent proportion were either chronically unemployed or underemployed at the time of arrest. Despite general agreement among criminologists and sociologists that socioeconomic disadvantage is, indeed, the major precursor to criminal behavior, modern criminological research continues to tinker around the edges of massive social problems such as mass incarceration and racism in the criminal justice system with investigations focusing on the attributes of crime, individual or group criminality and criminal justice outcomes. Instead, nearly every study generally ignores the "elephant in the room": Socio-economic inequality among the races that cannot be extricated from its historical link to the uncorrected economic, social and political disadvantages imposed on minority communities, by and large, by societal racism, past and present. For this study, our failure to incorporate this component into our analyses was not for lack of effort by either the City and County or MGT. In fact, an estimate of individuals' socio-economic status could have been constructed with reference to U.S. Census Bureau's Geographic Information System (GIS) but for one piece of vital information: home and residential addresses for individuals booked at ACRJ. None of the

three data bases used in this study contained defendants' address information and despite efforts by project staff, it was unobtainable. Using an individual's address, GIS is able to estimate individuals' financial status with reference to income and asset data reported to the Census Bureau by all individuals living within a census tract—such as a city block. The resulting variable—called a “proxy variable” because it estimates average financial status of everyone living within a prescribed tract and not for specific individuals, per se—provides a snapshot of the socioeconomic circumstances of an individual's neighborhood context. In the end, MGT attempted to use individuals' educational attainment and employment status data reported in the ACRJ bookings data base, but both data fields were extremely unreliable due to missing data and, in too many cases, indecipherable data entries.

It is said that Albert Einstein, the noted physicist, was once asked what he would do if he had one hour to save the world from impending destruction. His reply? “I would spend the first 55 minutes defining the problem. And the last five minutes saving the world”.

MGT has reported statistical evidence of racial disparities in criminal justice decision-making and outcomes accounting for a portion of the overrepresentation of African Americans in the Albemarle County-Charlottesville criminal justice system. We have identified disparities at specific decision “stages” along the local criminal justice processing continuum from booking to final case adjudication and disposition. According to scores of research studies exploring racial disproportionality in criminal justice systems in a variety of jurisdictions, our findings reveal that the Charlottesville-Albemarle jurisdiction is far from unique in this regard. Our findings have “flagged” specific decision points along the local criminal justice system continuum for deeper scrutiny to determine the dynamics and processes that might be at the root of these disparities. Based on those findings, we have made recommendations to address some of the issues uncovered in our investigation and in several meetings with authorities, inmates, neighborhood and community groups. We believe, however, that as the disparity decision points we have identified are being further researched and issues addressed, any effective remedy must also confront the overarching causal factor on which most scholars, criminal justice professionals and practitioners agree as the primary cause of minority overrepresentation in the criminal justice system—socioeconomic disadvantage as it relates to race. When the problem of racial disparity in criminal justice is viewed through this lens, the most effective remedies for socioeconomic disadvantage and criminality will likely not be found in the criminal justice system, per se, but in remedies that correct the economic crisis in minority communities that remains the disastrous economic legacy of historical racism we have yet to address as a society. As Einstein suggested, “defining the problem”, in this context, will likely require more dedication and effort than solving the “problem”, itself. It will undoubtedly require of many of us greater measures of courage, honesty and self-reflection than any American community has exhibited to date.

CHAPTER 4. COMMUNITY  
PERCEPTIONS

Disproportionate Minority Study – Local Criminal  
Justice System

*City of Charlottesville and Albemarle County, Virginia*



## 4.1 INTRODUCTION

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This chapter summarizes qualitative information we obtained regarding potential disproportionate representation of minorities in the criminal justice system in Charlottesville and Albemarle County. MGT sought to connect with and gather qualitative data from a variety of sources from all points in the system from arrest to incarceration to parole, and from a wide variety of individuals impacted by the criminal justice system.

Unlike conclusions derived from other types of analysis in this report, the conclusions derived from qualitative information are based on the lived experiences of those who shared comments regarding the local criminal justice system. Qualitative comments in this chapter detail the perceptions and opinions of individuals, and the evidentiary weight of these opinions depends on how much they are corroborated by statements of others and the quantitative data that has been compiled to substantiate these perceptions.

Qualitative information can bolster the quantitative analyses and serve to bring to life statistical data. Often statistical data is laced with terminology that is not typically used by the general populace. Additionally, in studies such as this, there is so much quantitative data to analyze and report on that it can feel overwhelming when reading through it all. Consequently, reading the methods and findings of quantitative data end up being such an intellectual experience that it begins to feel far removed from our personal, and emotional, lives.

That is why qualitative evidence is such an important part of studies like this. The collection of qualitative evidence includes anecdotes of people’s experiences; anecdotes – our stories – are what we feel, what we remember, and are also what inspire us to change. They are how we can begin to see from another’s perspective or begin to imagine another way of doing things- how we learn from one another and build a stronger community.

And when the qualitative evidence comports with the statistical data, findings are even more valid. Qualitative accounts of disparate treatment can help establish a compelling interest for a local government to evaluate processes, practices, and procedures which may contribute to disproportionality and/or disparate treatment.

This topic, disparity and disproportionality in our criminal justice system, is a crucial issue for communities across our nation to begin addressing. If disparity exists, it is no longer a system of “justice.” When this occurs, we are all at risk. The presence of unfair treatment in the criminal justice system negatively impacts the whole community in many ways; it impacts taxes and the use of public monies, education, unemployment, health, hunger, poverty and potentially creates more criminality.

CHAPTER SECTIONS	
◆◆◆	
4.1	Introduction
4.2	Methodology
4.3	Local Government Representative Responses
4.4	Inmate Responses
4.5	Community Member Responses

Justice Sotomayor, in her dissent in *Utah v. Strieff*, said, “...we must not pretend that the countless people who are routinely targeted by police are ‘isolated.’ They are the canaries in the coalmine whose deaths, civil and literal, warn us that no one can breathe in this atmosphere.”<sup>17</sup>

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## 4.2 METHODOLOGY

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MGT’s experience has shown that utilizing multiple methods of qualitative data collection provides more comprehensive information than methodologies using a single-pronged approach. For this reason, MGT used a combination of community meetings, focus groups, and interviews to collect qualitative information to identify issues and concerns related to the criminal justice system. We also worked to ensure that we captured information from a variety of people who are impacted by the criminal justice system, including law enforcement personnel; attorneys; City and County representatives; inmates; and community members. It is critical, with a complex and emotionally charged issue such as disparate treatment, that we elicit information from as many different perspectives as possible.

### 4.2.1 OUTREACH

MGT worked with representatives of the City and County to create a Disproportionate Minority Resource Group. This group was instrumental in discussing study methodology, approach, strategy, and community outreach for this study. MGT developed a Community Outreach Plan in order to keep the public informed about the study, gain feedback and receive input from the community on perceptions, experiences, and opinions and general feelings of disproportionality. A copy of the Community Outreach Plan is included as Appendix C. The group discussed various outreach methods to inform and encourage community involvement and engagement for the qualitative data collection activities and served to guide the City in its outreach efforts. All outreach for this portion of the study was conducted by the City and County. Outreach included communication methods for television, radio, printed and digital media, and direct contact with constituents.

### 4.2.2 FOCUS GROUPS

MGT coordinated with the City and County to conduct four focus groups with Albemarle –Charlottesville Regional Jail inmates, attorneys and public defenders, Charlottesville Police, and Albemarle County Police. Facilitated by MGT, the focus groups solicited information from these various groups regarding the criminal justice system. The Focus Group Guide, which lists questions posed to participants, is included in Appendix D. Some of the questions we asked in the focus groups were:

#### **Law Enforcement personnel (15)**

- ◆ What are your perceptions about law enforcement, the courts, etc. and whether blacks or other minorities are treated differently?

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<sup>17</sup> Bazelon, Emily. *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration*. Random House, New York, 2019, p. 295.

- ◆ When making a stop or arrest, do you have any discretion? If so, what factors influence how discretion is used?
- ◆ Are there differences in perception about law enforcement in minority and nonminority communities and neighborhoods?

#### **Attorneys (3)**

- ◆ What are your perceptions about law enforcement, the courts, etc. and whether blacks or other minorities are treated differently?
- ◆ Have you had any personal experiences or interactions with law enforcement, the courts, etc. where you feel minorities were treated unfairly because they were minorities?
- ◆ Do you believe judges should have more discretion in the disposition of cases in their jurisdiction? Or do you feel they should rely on sentencing guidelines?

#### **Inmates (12)**

- ◆ What are your perceptions about law enforcement, the courts, etc. and whether blacks or other minorities are treated differently?
- ◆ If you are stopped by law enforcement in this community what factors influence what happen next and how you are treated by law enforcement?
- ◆ If you are arrested in this community what are the most important factors that influence what happens after you are arrested?

### **4.2.3 INTERVIEWS**

MGT conducted interviews with City and County representatives and stakeholders. The Interview Guide is included as **Appendix E**. Some of the interview questions asked were:

- ◆ Do you believe that minorities and non-minorities are treated differently by law enforcement and the criminal justice system in Charlottesville/Albemarle County?
- ◆ Do you believe some segments in the community are more likely to believe there is disparate treatment of minorities in the local criminal justice system than others?
- ◆ In this community, are there certain factors external to the criminal justice system that contribute to the prevalence of disproportionality/disparsity in the criminal justice system?

### **4.2.4 COMMUNITY ENGAGEMENT MEETINGS**

We hosted four community meetings at various times and locations. Charlottesville and Albemarle County community members were invited to attend these community meetings. Prior to collecting qualitative comments, attendees were provided a presentation outlining the study's objectives and major work tasks. Following the presentation, conversation was open, and attendees provided comments that were captured by a court stenographer.

MGT hosted the following community engagement meetings:

**April 25, 2019 from 6:30-8:30 pm**

Jouett Middle Media Room  
210 Lambs Ln, Charlottesville

**April 26, 2019 from 5:30 – 7:30 pm**

Trinity Episcopal Church  
1118 Preston Ave, Charlottesville

**April 27, 2019 10:30 am – 12:30 pm**

Carver Recreation Center  
233 4th St. NE, Charlottesville

**April 27, 2019 from 3:00 – 5:00 pm**

Yancey School Community Center  
7625 Porters Rd, Esmont

The meetings were held in various parts of the City and County, and at different times to provide community members with options on when and where they could participate. In total, 34 members of the community attended the community engagement meetings. Attendees included African Americans, Caucasians, males, and females.

#### 4.2.5 SUMMARY REGARDING QUALITATIVE RESPONSES

In this chapter, we present qualitative evidence related to experiences with the criminal justice system in Charlottesville and Albemarle County. Please keep in mind, the information here is not presented as fact; the comments provided in this chapter are opinions and perceptions of the individuals who participated in the data collection events. We are very grateful to every person who was willing to contribute to this community conversation.

We identified several themes in the responses; many of them were consistent across groups and data collection methods. The table below provides an overview of the categories we identified and their presence in the discussions related to each group.

TABLE 4-1. RECORD OF RESPONSE CATEGORIES PER GROUP

CATEGORY	CITY & COUNTY REPRESENTATIVES	LAW ENFORCEMENT PERSONNEL	PROSECUTORS & DEFENSE ATTORNEYS	JAIL INMATES	COMMUNITY MEMBERS
Feelings of fear and hopelessness	✓		✓		
Perceptions related to disparate treatment	✓	✓	✓	✓	✓
Biased treatment experienced by the police		✓			✓

CATEGORY	CITY & COUNTY REPRESENTATIVES	LAW ENFORCEMENT PERSONNEL	PROSECUTORS & DEFENSE ATTORNEYS	JAIL INMATES	COMMUNITY MEMBERS
Perceived characteristics and culture of the criminal justice system	✓	✓	✓	✓	✓
Other community-wide factors impacting disparate treatment	✓	✓	✓		✓
Other forces within the community that impact community relations		✓			
Perceived needs, changes or actions that could have a positive impact	✓	✓	✓	✓	✓
Issues related to trust and a community that needs to heal	✓	✓			✓
Opinions related to this study	✓				✓
Hopes for the future	✓	✓	✓		

### 4.3 LOCAL GOVERNMENT REPRESENTATIVE RESPONSES

MGT conducted focus groups and interviews with representatives of the City and County. Individuals who participated in these events included administrative personnel, elected officials, the Mayor’s office, prosecutors and defense attorneys, both police departments, judges, and analysts.

Responses below are organized into several categories including:

- ◆ Feelings of fear and hopelessness;
- ◆ Perceptions related to disparate treatment;
- ◆ Biased treatment experienced by police;
- ◆ Perceived characteristics and culture of the criminal justice system;
- ◆ Other community-wide factors impacting disparate treatment;
- ◆ Other forces within the community that impact community relations;
- ◆ Perceived needs, changes or actions that could have a positive impact;
- ◆ Issues related to trust and a community that needs to heal;
- ◆ Opinions related to this study; and
- ◆ Hopes for the future.

### 4.3.1 LAW ENFORCEMENT PERSONNEL

#### Perceptions related to disparate treatment

Some officers remarked that they have seen similar cases handled differently, and in some instances were “taken aback by decisions.”

Insiders shared statements about their experiences witnessing unfair treatment.

*Well, in that entire thirty-seven years now [of working in the criminal justice system], I have seen racial inequity in criminal justice that has sickened me. It has made me feel sometimes ashamed to be a white person. It has given me a reason to get up every day and go to work, to try and make it a little bit better, even though you’re fighting an enormous, well-entrenched system...*

*One of the reasons why I left that line of work is because of the disparity and disproportionality that I witnessed, and the fact that my viewpoints were in the extreme minority of my coworkers and my supervisors... [I] saw this kind of thing every day, largely from inside the walls...once people are incarcerated and, in the probation and parole system...*

Many officers felt that the policing aspect of the system is fair with regard to minorities.

*So I feel, myself, that I don’t think it [disparate treatment] is as big of an issue. I don’t see it on the patrol level, the street level, I don’t see the difference.*

*I think, you know, at least in my experience, everyone’s treated pretty much the same whether we have discretion or not.*

*In the short time I’ve been here I know Albemarle County doesn’t play around with stuff like that, first of all. Cops being racist or any type of racial profiling. Not going to name any people but I’ve seen some people come and go pretty quick when it comes to stuff like that.*

*I’ve seen it quite fairly across the board and all the way up even to the felony stage.*

Officers were asked to rate their perception of how fair the system is based on a Likert scale with 1 being completely unfair/totally biased and 10 being completely fair/totally unbiased.

*Eight. Would be a strong eight.*

*Up close with an eight comfortably.*

*...I would even go so far as to say a nine.*

*Probably eight, nine.*

*If we’re talking in our jurisdiction, then I would weigh in at about a seven.*

*So, for Albemarle County I would give it about a seven.*

### **Biased treatment experienced by police**

When the discussion is about bias it is not uncommon for both sides to feel like they experience discriminatory treatment. These discussions can be difficult, but they are necessary for communities to grow beyond their current challenges.

Individuals in law enforcement feel that “...there is a loud anti-police group in the City...” that makes appearances mostly to “...yell and be loud.” The feeling is that these people hate the police.

Officers feel handicapped at times by the bias they feel from the community. They expressed that they need to be able to do their jobs without fear. However, the negative response they get from the community at times leaves them feeling as if there is nothing that they can do to meet the expectations of them. Some felt as if, “...sometimes [we] are called racist if [we] don’t get involved.”

They shared that often they no longer do proactive policing; they are aware that this may be misconstrued, and they don’t want to be called racist. In some cases, they have stopped going into the neighborhoods. They feel they get insulted when they are trying to do good.

*People talk about bias and that it’s a bad word. And it can be but we also, everybody has to realize they all have biases.*

*...when I drove through a neighborhood like I stopped to talk to a child and the parent came running out, don’t talk to the police.*

*I’ve been called some rough things on the streets and especially from my own people. Like as soon as they see me, are you Uncle Tom, this and that. They don’t even know me. They haven’t even had a chance to talk to me yet and I just get judged right off the bat.*

*They think like all cops are just racist or they’re this and that until they actually talk to me and they’re like, oh man you’re a cool cop.*

*I am Hispanic and, you know, [name omitted] said that, you know, he can relate to your culture. Even then just when you’re wearing the uniform, they think I’m a traitor automatically.*

*Just take a little bit of time to talk to somebody and get to know them as a person.*

### **Perceived characteristics and culture of the criminal justice system**

Officers feel that much of the system is so highly regulated that they cannot have an individual impact with regard to an arrestee.

*We’re guided by policy even when bringing a person to a magistrate with a charge. We have very little say in, free say I guess, to add any type of additional information to it.*

*...guidelines such as, you talked about bond hearing. That’s focused, that’s primarily based on their existing criminal history. We have no say into, you know, we can. No additional information can be added.*

*A lot of that now is all state guidelines. The magistrate will tell you that looking at a criminal history, it's all state guidelines. It's almost like a matrix. This offense and based on past offenses, whether those are checkmarks against you or what, equals this. And there's no say, there's no pleading. So for us, a lot of that, it's all laid out.*

*And once it gets to our commonwealth's attorney's office, the prosecutor, all of that decision making after that is out of our hands.*

Some officers shared information about experiences when they did try to pass on information such as how cooperative the arrestee was being, to impact a case.

*Even when they ask you it's kind of like, we're going to do this either way. We're just telling you.*

*Some of them don't even ask. I mean I've interjected it, stated it, while I'm reading the criminal complaint afterwards and I'll say, you know, they've been very cooperative with us and helpful, whatever, passing information, whatever the case is, and they'll just nod their head, okay. Like it means nothing to them.*

*...at least that's the perception that I get when I say it to some of the magistrates. They're just kind of like, all right. And, okay, still not going to make any difference to me or anything.*

Participants reported that the City police department has approximately 10 percent African American officers and that the County has approximately 6 percent African Americans of the force. Several participants did express that there needs to be more diversity in law enforcement.

Given the atmosphere and challenges to doing police work some felt it is incredible that people want to do law enforcement. They feel that choosing to serve as a police officer is more a calling than a job, "When people apply, it is because it is a job they want to do, it is not about how much money they will make."

#### **Other community-wide factors impacting disparate treatment**

Officers discussed the increased calls related to mental health issues. County individuals shared that they receive over 50 calls per month related to mental health issues.

Participants also shared that one factor that impacts an arrestee's experience is related to poverty - specifically whether they can afford an attorney or not.

They also feel that disparate treatment manifests in relation to geographic location as opposed to strictly race.

*And so someone may call and complain about something from the Old Trail area and it seems like depending on who it is or who they know, more effort is supposed to be put into addressing their complaint than in the complaints in the Mallside or Treesdale area, something like that.*

*...we had a retreat and it was in a more influential area. No one said anything at the time. I made mention of it. Like our next retreat are we going to have this somewhere like Mallside or somewhere? I mean, because people get wind of us having our meetings there, that's like we're too good to have them on Northside and those areas where we probably really should be seen. I think if we're seen in those areas, you know, who knows how we will connect as leaders of the agency, how we will connect with people in those apartment communities. And there may be something that will draw them to trusting the police more regardless of who it is that responds to a call in their neighborhoods.*

### **Other forces within the community that impact community relations**

A topic that surfaced in the discussions with law enforcement had to do with the challenge officers face in building relationships in communities where there is a strong influence by other actors in the community to discourage relationship building.

#### **Communities are influenced by gangs**

*...the police department doesn't do anything with immigration status or anything like that. But there is constantly false information being pushed out within that community that we are kicking in doors at two in the morning and dragging people out to have deported and we don't do that. And I think...that's solely because the illegal gang activity that it's in there is purposely setting, putting out false information so they can keep a stranglehold on that community.*

*We do a lot of outreach out there trying to bridge those gaps. But that's a constant battle. One minute...they're, you know, they like you and the next minute the same people are running from you or they're scared of you or they're cursing at you, throwing names, so something has to be going on, you know, to cause a flip flop like that. And a lot of it is that. It's more evil forces that we're trying to take, trying to deal with.*

*And I've heard from the kids, you know, my brother stated, stay away from you all. Although they show interest in us, they're too scared.*

*...But the people of the community are too scared to report it because they know that gang activity is there and that we're just going to automatically assume that they're illegal and we're going to take them.*

#### **Communities are influence by the media**

The media in the community is perceived by some in law enforcement to be perpetuating the negative opinions in the community about the police. Officers sometimes feel they are, "fighting a propaganda war" and that overwhelmingly in the media, "police are not presented as the good guys."

### **Perceived needs, changes or actions that could have a positive impact**

The police recognize that they need a stronger relationship with the community, that there is a need for a partnership between the department and the community. An opinion was shared about "geopolicing",

that officers should take ownership in areas they patrol. Additionally, it was shared that taking time to interact with individuals would be very helpful, “Take an extra 3 minutes to explain why [they were] pulled over.”

Some officers shared that there is a high value to attending events or organizations in the community such as Putt Putt golf, Boys & Girls Clubs, and soccer games.

Increased staffing was also mentioned as a need. In particular, it was noted that with increased staff, officers would be able to devote more time to training, reflection and learning new ways to perform their job.

Participants also shared that more information, more data would help everyone understand better the issue of disparate treatment in the criminal justice system. It was expressed that there is a need for data and for analysts, both crime analysts and investigative analysts, “Police departments without crime analysts are like a zombie without brains.”

#### **Issues related to trust and a community that needs to heal**

Officers recognize the rift in the community and acknowledge that members of the community are hurting and feel they have not been heard. There is a sense that this community is struggling for an identity.

#### **Hopes for the future**

The police hope that the legitimacy of their departments and work are restored within the community.

Many expressed that they hope for procedural justice.

There was also support for a warrant search and seizure process; and an end to “stop and frisk.”

### **4.3.2 ATTORNEYS**

Prosecutors, defense attorneys and public defenders participated in our events.

#### **Perceptions related to disparate treatment**

*...a lot of my clients are not interested in calling the police because they're afraid they're going to get hit with the charge because they were defending themselves [from] a white person. They're afraid they're going to call the police as a way to try and protect themselves in the community, and they're the ones that are going to get charged and the white people won't be.*

Opinions were shared that people of color are targeted and stopped for questioning.

*They are very unfairly targeted for driving offenses.*

*License plate tag light, brake light, yea, stuff that nobody else gets pulled over for.*

*I had one case where a woman got pulled over. She was moving. Her car was full of stuff and she got pulled over...After pulling out of the apartment she was moving out of and driving down the road, she got pulled over for going 37 in a 35. And her car got turned inside out.*

*So, in the known areas where there is high crime, a high drug distribution, that the suspicion would be just like that. You stop a person and you find evidence that you're looking for.*

### **Perceived characteristics and culture of the criminal justice system**

The perception among attorneys is that the County codes (ordinances) are more restrictive than the City codes.

Also having a negative impact on this issue is that the public defenders' caseload is "miserable," averaging 150 cases.

A view was expressed that there seems to be a "policy" that "if you can charge someone with something, then do it." This group shared a feeling that the County is, "unreasonable with charges", that they "pile up charges." Some shared the opinion that the courts are making more felons than necessary. There is a feeling that winning is valued over taking a human perspective.

It was brought up that some actions could be perpetuating criminality. Some feel that there is a tendency toward punitive probation. Opinions were that probation violations are a leading cause for arrests. Some feel when judges load up restriction it becomes very hard for individuals to comply.

Concerns were also raised about a perceived culture in police departments that provides incentives for arrests. This was an important topic covered by Alexander, who stated, "All of the financial incentives granted to law enforcement to arrest poor black and brown people for drug offenses must be revoked."<sup>18</sup> The DA in Brooklyn, Eric Gonzalez, also recognized there was a financial incentive for officers to make certain types of arrests. He initiated a program to send people who were arrested for small amounts of marijuana to treatment without charging them. As a result, "Arrests for marijuana were down by 60% - perhaps in part because the police knew that if the cases wouldn't be charged, they could no longer collect overtime while they waited for a prosecutor to screen them ('collars for dollars', it's called)."<sup>19</sup>

*Quantity of arrests but not quality of arrests.*

*And a lot of times, you know, promotions and awards and stuff are based on proactive policing tactics. They just, they call these generalizations. I'm likely to get a driving charge or a drunk charge or something at a traffic stop so they are going to be in these high crime areas and these people look to them like they could be committing some level of criminal offense.*

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<sup>18</sup> Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. The New Press, 2012, p. 232.

<sup>19</sup> Bazelon, Emily. *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration*. Random House, New York, 2019, p. 279.

*Like if you look at the police awards banquet and, you know, officer of the year for...you got an award every year for somebody who's got the most DUI arrests so there are some incidents at least.*

*I mean proactive towards what, right? So if we're talking about actually proactive policing we're getting dangerous drivers off the road because they are dangerously impaired or something and I don't have a problem with that, you know. But if we're talking about proactive policing because they want to get promoted to the local drug task force, kind of way or something, then they want to rack up drug arrests.*

### **Other community-wide factors impacting disparate treatment**

And, as is reported from other groups, there is the awareness that the issue of criminality does not operate in a vacuum – many societal issues are interwoven and impact each other: poverty, unemployment, education, mental health, etc. Participants felt that people struggling with poverty are “...treated very poorly.”

*So here it's poverty...And they're more likely to be committing a crime. So you have that same kind of target policing of people who just look poor and drive ratty cars and we make them more likely to not have a license or have drugs in their cars.*

### **Perceived needs, changes or actions that could have a positive impact**

This group feels police could use additional training, especially regarding how to deescalate a situation.

### **Hopes for the future**

Participants in this group shared the following hopes for the future of the criminal justice system specifically, and the Charlottesville community in general.

- ◆ That police stops are valid;
- ◆ That there is sensitivity in police department; and,
- ◆ The community experiences healing from old wounds.

## **4.3.3 CITY & COUNTY REPRESENTATIVES**

MGT met with key stakeholders to gather anecdotal data regarding perceptions and opinions related to disproportionality, disparate minority treatment, dispositions at various points along the law enforcement, legal, judicial and corrections continuum. Major causes and concerns impacting the legal and judicial disposition of minorities were discussed. Interviews were conducted with several representatives of the City and County including City and County officials, administrative and managerial personnel, analysts, judges, board members and data personnel.

### **Feelings of fear and hopelessness**

There was some consensus that it feels like the system is a revolving door: that the stages are arrest, court, incarceration, released, return to criminal justice system.

One participant stated, “I don’t want people to lose hope.”

### **Perceptions related to disparate treatment**

There was a general feeling that, “Minorities are treated different, we know that.”

One shared the opinion that the reasons for disproportionality are, “...first responders, police; then family dynamics, social setting, education, and economic factors.”

### **Perceived characteristics and culture of the criminal justice system**

This group communicated that the City police force was approximately 10 percent African American and the County police force was approximately 5.9 percent African American.

One statement made during one of the meetings was that, “Albemarle Police department only has 3 people of color on staff.”

It was shared in one event that wages are low for officers and that there was a feeling that, “All good minority officers were leaving for wages.”

Iterated by this group is that there is a need to stop the policy of “stop & frisk.”

It was acknowledged that there has been disciplinary action taken against officers who discriminate against offenders.

### **Other community-wide factors impacting disparate treatment**

Many individuals feel that poverty is a huge issue in the community and has a profound impact on criminality. It was stated that 90 percent of African American children are on the free/reduced lunch program.

Statements such as the following were noted in the interviews:

- ◆ The problem goes deeper than policing; it is an economic issue.
- ◆ There are large divisions in the community related to class, poverty and race.
- ◆ There is poverty and racial division in the community.
- ◆ Work with people, help them with a payment plan for fines and fees.
- ◆ Issues include transportation, housing, and poverty.

- ◆ Housing, economics; there is a division between wealthy and poor.
- ◆ Affordable housing is an issue.
- ◆ Disparity is driven, in part, by the way the community is developed, especially related to public housing.
- ◆ There are more poor families in the County than in the City.

*...when a black man or a black woman leaves the jail and is placed on probation, that their barriers to success on probation are a lot more severe in Charlottesville, Virginia, in terms of employment, in terms of housing, in terms of a lot of things that they face...I've seen it too many times as a practitioner to know that it's not real – I know it's real.*

Additionally, there is increased gang activity in the County resulting in more gang related calls. The opinion is that, “Gangs, guns and violence are big issues in the County.”

#### **Perceived needs, changes or actions that could have a positive impact**

Many shared a desire for more and better data related to the criminal justice system, with statements such as “...I am disappointed that the Albemarle Circuit Court data is so poor that it does not allow us to compare the City and County...” There were questions regarding instances of missing data – why is the data missing? Is it simply procedural or accidental, or is there a bias related to entering and maintaining data related to cases? In some areas, the data is, “too incomplete to make any decent judgments from.”

This group also expressed a need for a crime analyst and an investigative analyst.

Some participants shared the feeling that people who have been in jail should be able to return home and re-enter society successfully.

Also, individuals recognize that we all need to be mindful of our thoughts and actions. “When you stop a car, first thing you notice is how different are they from you? You must fight every day to change this mindset.”

#### **Issues related to trust and a community that needs to heal**

Some acknowledge that there is now a tendency to be defensive and that everyone needs to try and be more open.

#### **Opinions related to this study**

This group acknowledges that this study is looking into a complex and emotional issue, but that the community should be at a stage they can objectively receive the data.

They want the study to be received well and to have a positive impact on the community. One participant put it as, “Whatever we find, we fix it.”

### **Hopes for the future**

Hopes shared by this group included:

For kids to not assume they will be incarcerated.

That court decisions and sentencing are reviewed.

That the community creates a system that allows people to heal.

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## **4.4 INMATE RESPONSES**

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MGT hosted a focus group for inmates at the Albemarle-Charlottesville Regional Jail. There were approximately 20 male participants in this session. Every participant was a repeat offender; and approximately 20 percent had also served time in prison. The offenses that participants were charged with included assault, robbery, rape, gun/firearm violations, drugs and domestic violence.

We obtained responses in the following categories from this group:

- ◆ Perceptions related to disparate treatment;
- ◆ Perceived characteristics and culture of the criminal justice system; and,
- ◆ Perceived needs, changes or actions that could have a positive impact.

### **Perceptions related to disparate treatment**

Inmates shared their belief that they were targeted because they were a minority. One person felt that he was, “forced into a plea deal.” Participants felt the criminal justice system was corrupt. One shared that he was charged with assault and battery when he was actually the victim. Some members felt that they were not being listened to with comments such as, “There is no representation for a black male; the judge is not interested.”

One participant shared that the officer and the prosecutor involved in his case lied and because of this, he spent 4 months in jail. Then the charges were reduced to misdemeanors and he was released.

Many felt that traffic stops are used as a way to get more arrests and that African Americans are targeted for traffic stops.

### **Perceived characteristics and culture of the criminal justice system**

Inmates expressed the opinion that within the criminal justice system, there is a focus on increasing the severity of charges when possible. One individual said that he was arrested for gun possession, which was two misdemeanors, but these were charged up to state felony.

This population feels strongly that the culture of the criminal justice system is focused of getting as many charges as possible for each case. Some shared the sentiment, “All they want is their numbers.”

Traffic stops, in particular, are seen as simply the means by which officers get more arrests and the goal at a stop is to find and add as many charges as possible.

Opinions were also shared that probation restrictions are so strict and copious that it is very difficult to successfully serve out a probation. In fact, in this group, approximately half were arrested for probation violations.

The participants felt that the County was much more aggressive in these tactics than the City.

**Perceived needs, changes or actions that could have a positive impact**

There was discussion about the need for robust and accessible re-entry programs. Another issue brought up was that they system should stop providing bonuses for convictions.

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## **4.5 COMMUNITY MEMBER RESPONSES**

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Responses from the community meetings mirrored the categories noted in the previous sections.

Responses below are organized into several categories:

- ◆ Feelings of fear and hopelessness;
- ◆ Perceptions related to disparate treatment;
- ◆ Biased treatment experienced by police;
- ◆ Perceived characteristics and culture of the criminal justice system;
- ◆ Other community-wide factors impacting disparate treatment;
- ◆ Other forces within the community that impact community relations;
- ◆ Perceived needs, changes or actions that could have a positive impact;
- ◆ Issues related to trust and a community that needs to heal;
- ◆ Opinions related to this study; and,
- ◆ Hopes for the future.

**Feelings of fear and hopelessness**

There is a genuine sense of fear about disparate treatment by police in the Black community.

*I think this is kind of one of the situations where I just walked away because I didn't want to be the next Trayvon Martin or whatever. You just don't know.*

*What I hear more and more, especially from mothers and grandmothers, is an overwhelming sense of fear for their...children and grandchildren. If you have a young, black child...there's just a lot of fear surrounding it every day...you have to teach your child [things] that...a white child might not have to be taught.*

*I think it's really clear here that people don't show up to meetings like this...because of the fear factor in this town.*

*...the reason why you don't see a lot of former incarcerated folks here, because they don't feel like anything can change.*

*...so many of us believe, I'm raised in this 'hood and I'm going to die in the 'hood. I've been on this corner, I'm going to die on this corner. That's helplessness. That's not what they want. They feel they have nowhere to turn and nobody will listen.*

### **Perceptions related to disparate treatment**

This group had strong feelings that there is disparate treatment of minorities in the overall community and in the criminal justice system. Statements were noted such as, “White privilege is very prevalent” and, “Whites know that the color of their skin lets them say and do what they do.” One shared the sentiment that, “This is the most racist town I have lived in.” Additional comments such as, “Racism and white privilege is so blatant” and “Color and race is a major factor” were noted.

There was an opinion that, “White got probation; Black got time.” Participants felt that minorities get longer sentences. Also shared was the perception that the system operated such that for a white defendant, the reaction was “[we] don't want to ruin his life,” but that was not so for the black defendant.

*I mean, depending on the race, a black man, young man, case would be a lot higher or more years for something that would be less for a white person.*

*Recently, I called the police, myself, but I ended up getting arrested...The whole call went so wrong. And I felt like, Lord, I shouldn't have called the police.*

*If [the police] are so right that your officers did the...correct thing that night, then why won't you give us any information? My son was not even allowed to touch his police report. He still hasn't gotten his police report. Nothing...They refused everything to us.*

*But, like I said, [if] it was white on white, they wanted [them] to go to counseling, they offered this this. Black on black, jail.*

*[I am concerned] that when I'm going at night in a particular area, that I may be profiled...*

Community members also shared opinions that the police treat activists differently, and that activists and events that tend to focus of issues of discrimination receive far more scrutiny than other types of activists and events. They feel there is disparate treatment by police of race activists versus other types of activists that manifests as excessive surveillance and heavy police presence.

*...if there's something about race, when we're protesting about race, they're all over it.*

*They were visiting activists at their homes and places of work, specifically activists of color, asking, what [are] you going to do at the klan rally? Who are you with? Who are you hanging out with?*

*I mean, like, when the white high-school kids are protesting, you know, Earth Day, and you'll have an environmental day walk-out...[or] against gun violence... it's fine...With the black kids, with the BSU, Black Students Union, you know, from the high school...had their walk-out, the police were all over that...*

### **Biased treatment experienced by the police**

Some community members communicated that biased treatment can go both ways, “Overall, there is a lack of respect on both sides, police and community.”

### **Perceived characteristics and culture of the criminal justice system**

An opinion was expressed that there is still a “good ole boy” network operating in the entire City. An additional comment was that juries are not accurately reflecting the population; they are not a group of peers.

There is a perception that County officers are more aggressive. Further, that in the County, you, “don’t stand a chance, that judges are playing with your life.”

Participants did express that there is a sense that the City is shifting toward giving individuals opportunities to straighten out their legal issues. Judges in the City were making an effort to work with individuals to help them out, i.e. offering payment plans for court fees and fines, therapeutic docket, etc.

This group felt, as others expressed, that there are not enough minorities on the police forces. This group saw a disparity in police departments regarding minority officers, saying that there are, “not enough black police and sheriffs.”

Community members felt that intimidation by the police was deliberate:

*But again, this was the treatment [by the police], like don't you dare hold us accountable, you know.*

*But I'd like to say, the announcement [you just] said, that police were not welcome or people wouldn't come. The [outreach publication] did not say that. I could not talk any of my neighbors into coming. They felt they would be harassed if they came here.*

*People are not going to come because they were concerned that there would be officers here and they didn't want to speak their truth in front of them.*

*That's why you can't get the people mostly affected by these things to come and talk about it, because they come -- in the past, they would come and talk about it, and guess what, police cars are coming by the house, once an hour, every night or, you know, asking questions every time they walk down the street.*

Other comments related to perceived culture in the criminal justice system:

*It's like pulling teeth trying to get data from the...police...about arrest...data, this sort of thing.*

*What I'm saying is that these public defenders do not even represent their clients...they're not even coming to the jails...*

*If the officers are rewarded for making busts like that (illegal search, entrapment, etc.), then they will continue to make busts like that.*

### **Other community-wide factors impacting disparate treatment**

It was acknowledged that the inability to get work creates repeat offenders. Community members also felt that issues related to disparate treatment start very early in our lives; one participant shared “Disparity begins in elementary school.”

*I think it's part of a bigger, cultural idea of...Charlottesville...There's such stark contrast between wealth in our community where there are rich, white people and there are poor, black people, and there's very few in between or on the other sides.*

*One of the issues is mental illness or -- because people who tend to use substance abuse - use alcohol or drugs, self-medicate with alcohol and drugs when maybe they need counseling and so forth. And a lot of that stuff, it has a lot to do with homelessness.*

*There are a lot of people out there mentally ill, probably eighty percent of them that need help and don't know how to get help, and they're using alcohol and other things to try to self-medicate because they don't know how to go up...*

*You know, if you think about people where there's a lot of crime, there's a lot of poverty.*

*That's another area, too, cash available. I mean, the ability to find the resources to pay your bail. If you can't pay, the next thing you know, you've lost your job.*

*Even kids, it has a negative effect on them, and that plays a role in the way that you grow up...again, making society a little bit better for kids, because a broken kid becomes a broken adult. And then that person hurts somebody else.*

*...that's also a problem when it comes to sentencing folks...if an officer see me in West Haven versus seeing me on University Avenue, he's not going to pay attention to me on University Avenue...[and I'm] a suspect in West Haven.*

*They [Stay Out of Drug Areas (SODA) zones] were discontinued in fact, but I think his point is well-taken, that they weren't necessarily discontinued in practice.*

*I just feel like if it was a white woman in a different neighborhood, because I live in [omitted] it would have been handled totally different.*

**Perceived needs, changes or actions that could have a positive impact**

*We need to start talking about solutions...it's got to be more than protesting on the street and then going home...this is something you got to deal with day in and day out. It is the nuance, the details, the stuff that is boring, the going to the PTA, the going to the whatever, the changing the system, it is us.*

Community members want to see the police interacting within their neighborhoods.

*...I think that Albemarle County has tried to implement programming where officers become invested in their communities. They become more like the old beat cop...kind of know your officer in your community and you build relationships. And relationships, to me, is very important in making change.*

*I don't know how often [police officers] circulate through the schools...*

*In the community? Have them come through and circle it. They have a satellite here, which they come in randomly to use...*

*But they've got to come in the community, circulate...They need to respond to our events.*

Community members feel there is a need for increased character and competency in the criminal justice system. Perhaps a need to create criteria that everyone has to meet and consider starting with a strong mission statement.

*We need somebody outside of the Charlottesville Police Department to come and handle this police department because they're not going to do this job. They're not going to investigate their own.*

*So transparency...So right now Charlottesville is working on – they passed a resolution to have a civilian review board...[there's] some resistance from the police department.*

Echoed from other groups, there is a need for better standards, training, and leadership.

This group wants the personnel in the courts and police departments to more accurately reflect the general population.

*But if you go into a courtroom, it looks pretty darn white to me most of the time...So I would...like to see programming that encourages...children of color, that they can become a judge. They can become an attorney. They can be a bailiff. They can be in the courtroom and make an impact of their communities.*

*[In my work] I do encounter the police departments, both the City and the County...I feel like there's not a good reflection of diversity within the departments....it's primarily white officers...that's been a downfall in our system for many, many years.*

*Hiring more African American police officers would be a start.*

They expressed the belief that there should be a review into how promotions are given within police departments.

And below are a variety of other comments and suggestions from the community.

*...I think the fatherhood initiative programs, my experience has been that it seems like there are more white men that are reached out to in terms of keeping that dialogue open with their children...I feel very strongly that ...programs that help encourage those kind of relationships are very, very important.*

*Neighborhood watch. I even think we tried to do that. They didn't follow through on that. We did that for a while (Neighborhood Watch). Then they had a police station set up. All of a sudden, they closed that down.*

*But the point I wanted to make about it is, one of the things that has been useful in building some trust is having video cams and so on, the body cams or dash cams, but this particular officer never turns his video on until after he's done the search.*

*And mentors are hard to come by. That's a very important area where a lot...of young men, adolescents through young adulthood, would profit from...If you can build that trust and allow these young men to go outside and be mentors, it would be a major, major positive thing for them. Mentoring could help the justice system in getting these young men established.*

#### **Issues related to trust and a community that needs to heal**

And going back to the events in 2017:

*...go back to 2017...Then those fateful days where police didn't do anything. That's a heck of a blow to any semblance of trust between the community and police department.*

#### **Opinions related to this study**

*I'd love to see the County do something with your data, but hopefully, at least it will be something.*

*...see, what also is disturbing is that I don't see a lot of people like me here today.*

And, importantly:

*But my fear is, [the Study is] going to be something that's going to be shelved. They're going to do a little bit and say we did a lot.*

## 4.6 CONCLUSION

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The Charlottesville community is struggling with the perceived divide between law enforcement and community members. Both “sides” clearly want to heal and repair the relationship. What is clear from evaluating the qualitative evidence is that this data comports with our quantitative findings and the conclusion in **Chapter 3** – that the disproportionality of minority representation in the criminal justice system in Charlottesville and Albemarle County is impacted by many different factors in the overall society. Participants in these events noted potential causal factors that include poverty, housing, location, education, unemployment, mental health issues and transportation needs. Participants throughout the community are clear that this problem is part of a bigger issue, one that involves the culture of the whole Charlottesville/Albemarle community. Before real change can begin, the community must realize, “The first and arguably most important point is that criminal justice reform efforts – standing alone – are futile.”<sup>20</sup> Alexander also states, “In order to make this point, we need to talk about race openly and honestly. We must stop debating crime policy as though it were purely about crime.”<sup>21</sup>

The degree of change takes significant energy, work and attention, summarized by a participant:

*...it's got to be more than protesting on the street and then going home...this is something you got to deal with day in and day out. It is the nuance, the details, the stuff that is boring, the going to the PTA, the going to the whatever, the changing the system, **it is us.***

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<sup>20</sup> Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. The New Press, 2012, p. 230.

<sup>21</sup> Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. The New Press, 2012, p. 238.

CHAPTER 5. SUMMARY OF FINDINGS  
AND RECOMMENDATIONS

**Disproportionate Minority Study**

*City of Charlottesville and Albemarle County, VA*



## 5.1 INTRODUCTION

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MGT of America Consulting, LLC (MGT) was contracted in 2018 to conduct a **Disproportionate Minority Study (Study)** for the City of Charlottesville (City) and Albemarle County (County), Virginia. The purpose of this study was to determine the extent of racial disproportionality in the local criminal justice system; identify racial disproportionality and disparities; analyze the reasons for any disproportionality or disparity; map resources and gaps; recommend policy and best practices to address disproportionality and disparity; and to work with the City of Charlottesville and Albemarle County to develop a strategic plan to implement recommendations.

CHAPTER SECTIONS

◆◆◆

- 5.1 Introduction
- 5.2 Summary of Findings
- 5.3 Recommendations

The details of the study are presented in **Chapters 2 through 4** of this report. This chapter provides a summary of findings and recommendations to address the results of MGT’s analysis of racial disproportionality in criminal justice decision-making in Charlottesville and Albemarle County, VA.

## 5.2 SUMMARY OF FINDINGS

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The findings we present in this section provide summaries of, or are based on, work presented in detail in the previous chapters. The quantitative data reveals racial disparities at official decision-making points affecting criminal justice decisions and outcomes for African Americans booked into the Albemarle/Charlottesville Regional Jail (ACRJ) from January 1, 2014, through December 31, 2016. Disparities were identified at specific decision points along the local criminal justice processing continuum from booking to final case adjudication and disposition. The findings provide a synopsis of our quantitative data collection and analysis. These findings indicate that there is disproportionality in the percentage of African Americans in the criminal justice system, all along the continuum, in Charlottesville and Albemarle County. Information gathered for qualitative analysis supports this conclusion and indicates that members throughout the community, as well as law enforcement personnel all along the continuum, see a need for this to be remedied. Based on our research, Charlottesville and Albemarle County jurisdictions are far from unique in this regard.

A note regarding findings: The quantitative analyses were quite detailed, and each topic of inquiry created its own unique results; however, there is a cumulative effect that is not obvious in the individual reporting. For example, when the analysis states, “For African American males charged with drug-related crime, race was not a significant influence on sentence time decisions but seriousness of offense, the total number of charges associated with the main drug crime charge and the individual’s length of stay prior to sentencing were statistically significant influences” it is important to recognize that even though in this isolated analysis of one variable race had no insular impact, that seriousness of offense, the total number of charges, the individual’s length of stay pre-trial were all documented to have been impacted by race.

**FINDING A:** There is a Relationship Between the Race of the Arrestee/Defendant and the Seriousness of the Violation with Which He or She Was Charged (Chapter 3, Section 3.2.1.1.)

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ◆ On a 23-point scale for ranking seriousness of crimes, mean seriousness rank values ranged from 5.1 for White American males charged in Charlottesville to 7.1 for White American males charged in Albemarle County. For African American males charged in Charlottesville, mean seriousness values were 8.2 and 8.7 for those charged in Albemarle.
- ◆ On a 23-point scale for ranking seriousness of crimes, mean seriousness rank values ranged from 6.1 for White American women charged in Charlottesville to 7.7 for White American women charged in Albemarle County. For African American women charged in Charlottesville, mean seriousness values were 8.6 and 9.0 for those charged in Albemarle County.
- ◆ Crimes with which African American males were charged were nearly three points greater in “seriousness value” than crimes for which White American males were charged.
- ◆ Crimes with which African American women were charged were more than two points greater in “seriousness value” than crimes for which White American women were charged.
- ◆ When the main charge associated with an individual’s arrest was categorized into one of six categories of violation—property, violent, weapons, sex offenses, drug-related and traffic—African American males charged in the “violent crimes” category tended to be charged with more serious violent offenses than were White American males.<sup>22</sup>
- ◆ Differences in age, education level and employment status had no statistically significant impact on crime seriousness decisions.

**FINDING B:** There is a Relationship Between the Defendant’s Race and the Total Number of Companion Charges Associated with the Most Serious Arrest Charge (Chapter 3, Section 3.2.1.2.)

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016 charged with crimes of similar seriousness:

- ◆ For African American males, race exerted a greater statistical influence in the assignment of total number of charges associated with an arrest than both seriousness of the violation and prior criminal history, combined.
- ◆ African American males received roughly 8 percent more charges associated with the most serious charge than White American males.

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<sup>22</sup> Of the six general offense categories—property, weapons, violence, sex offenses, drug-related and traffic— only crimes of violence were of sufficient sample size for males to permit a valid statistical analysis. For women in the study, sample sizes in the six categories were insufficient for an analysis of trends by category.

- ◆ For Charlottesville violations, African American males received an average of 2.5 additional charges compared with 1.9 additional charges for White American men; in Albemarle County, African American males received an average of 2.3 additional charges compared with 2.0 additional charges for White American men.
- ◆ Race did not influence total number of charges for women charged with crimes.
- ◆ When the main charge associated with an individual's arrest was categorized into one of six categories of violation—property, violent, weapons, sex offenses, drug-related and traffic—African Americans who were charged with violent crimes were more likely to receive additional charges than were White American defendants charged with similarly serious violent crimes.<sup>23</sup>
- ◆ Differences in jurisdiction, age, education level and employment status had no statistical impact on total number of charge decisions.

**FINDING C:** Pending Further Adjudication of a Given Case, There Was a Relationship Between a Defendant's Race and Bail-Bond/Release Decisions and Decisions to Hold Defendants in Confinement Without Bond (Chapter 3, Section 3.2.2.3.)

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ◆ African Americans, male and female, were one-and-one-half times more likely to be denied release with or without bond decisions (pending further adjudication) than their White American counterparts charged with crimes of similar seriousness, with a similar number of charges and similar prior history.
- ◆ Although total number of charges filed and the individual's history of prior charges significantly influenced bond decisions, for African American men, race had the greatest impact on bond denial decisions.
- ◆ Although seriousness of the crime and the individual's history of prior charges significantly influenced bond decisions, for African American women, race had the greatest impact on bond denial decisions.
- ◆ Individuals charged with violations in Albemarle County, regardless of race, were more than twice as likely to be denied bond than individuals from the City of Charlottesville.

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<sup>23</sup> Of the six general offense categories—property, weapons, violence, sex offenses, drug-related and traffic— only crimes of violence were of sufficient sample size for males to permit a valid statistical analysis. For women in the study, sample sizes in the six categories were insufficient for an analysis of trends by category.

**FINDING D:** There is a Relationship Between a Defendant's Length of Stay in Albemarle-Charlottesville Regional Jail and the Defendant's Race (Chapter 3, Section 3.2.3.4.)

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014-2016:

- ◆ For violations of similar seriousness, with similar criminal history and total number of charges, mean length of stay in the ACRJ facility for African Americans (Charlottesville, 50.5 days; Albemarle County, 49.2 days) was roughly double length of stay for White American male arrestees (Charlottesville, 25.2 days; Albemarle County, 28.8 days). Twenty percent of this difference was attributable to race differences: that is, African American males spent roughly five days longer in jail, regardless of jurisdiction, than did White American males with similar attributes.
- ◆ For African American males, the amount of time one spent in ACRJ was influenced most by the total number of charges associated with the crime, followed in order of magnitude of effect by race, jurisdiction and prior charges in one's criminal background.
- ◆ For African American women, there was no isolated "race effect" increasing the number of days spent in ACRJ. However, the length of stay was significantly increased by the seriousness of the main charge.
- ◆ Regardless of race, males charged with a crime in Albemarle County were more likely to spend more time in jail than those arrested in Charlottesville for crimes of similar seriousness.
- ◆ Differences in age, education level and employment status had no statistical impact on time spent in jail.

**FINDING E:** There Was a Relationship Between a Defendant's Race and Guilty Vs. Not-Guilty Case Outcomes (Chapter 3, Section 3.2.3.5.)

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014-2016:

- ◆ For crimes of similar seriousness, African American males were 31 percent more likely to be found guilty than were White American individuals.
- ◆ For crimes of similar seriousness, for African American women, race played no significant role in guilt or innocence outcomes.
- ◆ When guilty adjudications were compared for African American and White American males, race played a more significant role in guilty convictions than considerations of seriousness of the main violation, number of charges filed and one's prior history of criminal charges, which were also statistically significant determinants.
- ◆ Individuals charged with crimes of similar seriousness and characteristics, regardless of race, were nearly one-and-one-half times more likely to have been found guilty for crimes committed in

Albemarle County than those who were found guilty of committing crimes in the City of Charlottesville.

**FINDING F:** For Female Individuals Who Were Sentenced for a Felony Crime, There Was a Relationship Between the Defendant’s Race and the Duration of Their Sentence (Chapter 3, Section 3.2.4.6.)

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ♦ For African American women, race, crime seriousness, total number of companion charges, a record of prior criminal charges and the time they had spent in jail prior to sentencing were all positively related to felony sentence duration outcomes.
- ♦ For African American males charged with drug-related felony crimes, race was not a significant influence on sentence time decisions but seriousness of offense, the total number of charges associated with the main drug crime charge and the individual’s length of stay prior to sentencing were statistically significant influences.<sup>24</sup>
- ♦ Race did not impact length of felony sentence for African American males when compared with White American males sentenced in circuit court but sentences for African American women were nearly 213 days longer in duration, on average, than sentences for White American women.
- ♦ Regardless of race, males charged with more serious felony crimes accompanied by a record of prior charges and who spent more days in jail prior to sentencing received longer sentences.
- ♦ For males in general, for all categories of felony crime, neither the total number of charges associated with the most serious charge nor jurisdiction—City or County-- played a significant role in time-sentenced.

**FINDING G:** For Individuals Who Were Sentenced for a Felony Crime, There Was Not a Relationship Between the Defendant’s Race and the Duration of Their Actual Time Served (Chapter 3, Section 3.2.4.7.)

For two individuals, African American and White American, of similar background, with similar characteristics and circumstances, who were booked at ACRJ from 2014 – 2016:

- ♦ For males, factors increasing actual time served on a felony conviction included crimes of a more serious nature, with a greater number of companion charges, a record of prior charges and a longer length of stay in jail prior to sentencing, all of which were statistically significant.

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<sup>24</sup> Of the six general offense categories—property, weapons, violence, sex offenses, drug-related and traffic— for males, only drug-related crimes were of sufficient sample size to permit a valid statistical analysis. Sample sizes for women were insufficient to permit a valid statistical analysis in any category.

- ◆ For crimes of similar seriousness, individuals with similar records convicted of felony crimes in Albemarle County tended to serve less actual time in incarceration than those convicted of felony crimes of similar seriousness and characteristics in the City of Charlottesville.
- ◆ Race was not a significant influence on sentence time served for felony property offense convictions, but the total number of charges associated with the main property crime charge and the individual's record of prior criminal charges were statistically significant influences.<sup>25</sup>

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### 5.3 RECOMMENDATIONS

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As stated earlier in this report, the City of Charlottesville and Albemarle County incarcerate a disproportionate number of Black residents. This disproportionality contributes significantly to the cost of running the Albemarle/Charlottesville Regional Jail (ACRJ). It also places a strain on the criminal justice system and erodes trust among Black residents regarding the justice process. Most important, damaged law enforcement community relations make it more difficult for officers to execute their most critical responsibility to protect public safety. Repairing poor relations between police and communities of color is a significant challenge which is compounded by enduring systemic factors related to poverty, housing, education, unemployment, and behavioral health. MGT has culled and crafted recommendations from our research and analysis for this study including the literature review and qualitative data collection. The recommendations that follow will position the City of Charlottesville and Albemarle County to shift from current dynamics to more positive community engagement premised on greater community-police collaborative problem solving. In the section below we provide general information for the recommendations; we also include for this chapter Appendix F which contains a list of resources related to each recommendation for the City and County's further research and review. Note, however, that MGT is not advocating for any particular program or initiative identified in the Appendix; we are simply providing a pathway for further research.

#### RECOMMENDATION A: INCREASE AND SUPPORT MEANINGFUL RE-ENTRY PROGRAMS

Meaningful ex-offender reentry programs are crucial to reducing or eliminating recidivism. Programs should assist ex-offenders with housing, education and job training so those labeled as "criminals" can realistically obtain higher-paying jobs and viable, rewarding career paths.

Charlottesville and Albemarle County have existing programs to help with some re-entry issues for offenders. Programs that are currently operating are:

- ◆ **The Charlottesville-Albemarle Reentry Council** - the mission is to create lasting solutions and opportunities for people returning from prisons and jails to thrive. Strategies include data analysis, smooth transitions, and multidisciplinary case planning and management.

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<sup>25</sup> Of the six general offense categories, for males, only property crimes were of sufficient sample size to permit a valid statistical analysis. Sample sizes for women were insufficient to permit a valid statistical analysis in any category.

- ♦ **Healthy Transitions** - assists individuals newly released from jail or prison who have a mental illness and are in need of continued psychiatric and medication support. In addition, case management is provided to assist with the transition back to the community.
- ♦ **Coming Home to Work** - a partnership between the City of Charlottesville and OAR which uses wage supplements to reduce barriers to employment.
- ♦ **Home to Hope** - provides voluntary peer support to returning City residents with mental health, substance abuse and/or other reentry needs.
- ♦ **Offender Aid and Restoration (OAR) Reentry Program** - provides a range of programming, both at the regional jail and in the community, to support successful reentry. Programming includes both recidivism-reducing and community stabilization strategies to improve reentry outcomes.

Charlottesville issued a resolution in 2010 to be the “City of Second Chances” for offenders. To meet this resolution, we recommend continued and increased support for each of the programs currently operating in the area.

We also recommend conducting research or a focused survey/interview type instrument to gather information on each of these entities. It would be very beneficial to conduct research to inventory exactly what services are offered by each program, number of persons served, result of this service, outreach methods and frequency, and identify any gaps in service for ex-offenders. In general, produce a type of report card that identifies exactly what each group is doing, their success, and other issues that need to be addressed for this population.

## RECOMMENDATION B: INCREASE TRANSPARENCY OF CITY AND COUNTY POLICE DEPARTMENTS

The City and County should develop policies that will increase the transparency related to the police departments.

There are some activities in place that help with transparency.

- ♦ **The Charlottesville Police Department** releases arrest data including race on a daily basis (at <https://opendata.charlottesville.org/datasets/arrests/data> ) and monthly investigative detention data including race (<https://www.charlottesville.org/departments-and-services/departments-h-z/police-department/crime-statistics>). The Department will publish all policies and procedures online by January 1, 2020.
- ♦ **The Albemarle Police Department** provides real time information on police activity through its Crime View application.
- ♦ Charlottesville City Council is in the process of developing and funding an independent Police Civilian Review Board.

Community members shared a frustration at not being able to obtain documents related to their charges and arrests from police departments, so perhaps there could be work done to clarify the procedures for processing charges and make those policies abundantly clear to officers and to the public. The City’s move toward establishing a Civilian Review Board (CRB) was mentioned at two community meetings. The

participants very much want the CRB to be established and functioning. One comment indicated that there is a perception that this process is slow to non-existent because the police department is resistant to it:

*So transparency. Before, I talked about how we can't change the system. Right? So right now, Charlottesville is working on -- they passed a resolution to have a civilian review board. Right? So if you look at it now, it's some resistance from the from the police department.*

We strongly recommend that the City move forward on establishing a fully functioning, independent Civilian Review Board. The community is paying attention and places a good deal of value on this project.

Another step to consider would be to disclose past police misconduct. The vast majority of police officers serving the public are exemplary officers, serving their community in a very difficult job. However, when an officer is not appropriately performing the job that the public entrusts to him, negative consequences directly related to the officer's actions can result for an arrestee's experience in the criminal justice system. Bazelon discusses this in *Charged* (p. 292-284). She also discusses the efforts of the Philadelphia and Texas district attorneys to institute a practice of documenting officers who had a history of being an unreliable witness, civil rights violations, using excessive force, biased behavior, lying on duty, or giving false testimony (p. 283).

## RECOMMENDATION C: DEVELOP, ENCOURAGE AND SUPPORT SPECIAL INITIATIVE PROGRAMS

The City and County should develop, encourage and support special initiative programs which will help build trust, hope and new leaders in the community.

Our report, and the preponderance of evidence nationally, show clearly that criminality does not operate in a vacuum; it is impacted and increased when poverty and homelessness are high, and education and employment are low. Therefore, the City and County could consider a wide range of programs that would have a positive impact on community members and ultimately serve to decrease criminality.

- ◆ Mentor programs – Finding and developing mentors for young men and women, adolescents through young adulthood. Overall, mentoring programs, whether initiated within the schools, or in the broader community and related to jobs, continued education, or simple companionship and support have a positive impact on both the mentor and the mentee. In particular, community members mentioned a desire for a mentoring program that exposed youth to the various jobs within the criminal justice system in Charlottesville/Albemarle, where they could meet and talk to judges, attorneys, bailiffs, police officers, etc. and learn about the system, the different jobs and what it took to secure that kind of employment.
- ◆ Fatherhood initiative programs – these types of programs are growing. Proponents claim that the absence of a father figure in a child's life have negative consequences related to a wide variety of decision making and impulse control.
- ◆ Increased Police interaction with the community - Officers and the community shared the desire for increased interaction and relationship building between the police and the community. There

are many options available to achieve this. The City and Albemarle County could consider creating a Community Affairs department(s) or programs that would work to place officers out in the community more. This department or program could work with the community and the non-profits and maintain a calendar of important events and work with officers to ensure officers attend and support events that are important to the community, such as in the schools, at food drives, National Night Outs, or sports events. Community oriented police services would encourage officers to become invested in the communities that they serve.

There are some initiatives currently operating in the area, including:

**Mentoring for Youth** - provided by several local organizations, including Big Brothers/Big Sisters, 100 Black Men, 100 Black Women, the Alliance for Black Male Achievement. The Alliance also provides some mentoring for young black adults.

**Fatherhood** – services are focused on ex-offenders and is available through the Real Dads program at Ready Kids.

**The Charlottesville Police Department** - provides community outreach activities including Cops for Kids, and Ice Cream with a Cop.

**The Albemarle Police Department** - offered 439 outreach activities last year, including the Chief’s Advisory Council, Putt-Putt, Bowling, and Cookies with a Cop, and Citizens Police Academy,

**Partner for Mental Health** provides mental health navigation services for inmates at the regional jail and upon their release back into the community.

We recommend further research or a focused survey/interview type instrument to gather information on each of these initiatives. It would be good to clarify exactly what services are being offered, outreach methods and frequency, community participation numbers, and the perception or awareness of the community about these initiatives with a goal to increase participation in these important activities.

#### RECOMMENDATION D: INCREASE DIVERSITY IN LAW ENFORCEMENT

The City and County should adopt more aggressive measures to increase diversity in law enforcement. Law enforcement staff should reflect the communities that they serve. This is a fundamental piece for building trust with the community.

The City and County do make some efforts toward this:

**The Charlottesville Police Department** actively recruits minority applicants and has African American, Asian, and Latinx officers.

**The Albemarle Police Department** reports strong efforts in this arena including a diverse recruiting team of sworn officers and civilian staff. They focus on Historically Black Colleges and Universities, as well as local institutions of higher education.

We recommend evaluating the current efforts success over time of both of these practices. We also suggest research what, if any, stronger or more focused efforts toward diversity in hiring are available to the City and County.

### RECOMMENDATION E: ADOPT PROGRAMS THAT ARE ALTERNATIVES TO INCARCERATION

Alternatives to incarceration are called diversions. A diversion program is designed to enable an offender to effect rehabilitation without incurring a criminal record. Proponents claim that increasing the use of diversions lessens the cost and burden on the criminal justice system while also decreasing recidivism and increasing the success of the offender within the community.

The status of current diversion program in the area are:

**Charlottesville Albemarle Adult Drug Treatment Court** - an alternative to incarceration available to non-violent, substance dependent felony offenders in the City of Charlottesville and Albemarle County. The program provides intensive supervision and outpatient substance abuse treatment along with intensive judicial oversight to produce outcomes of reduced recidivism and reduced substance use among program participants and graduates.

**The Albemarle Charlottesville Therapeutic Docket** - a diversion program for those for whom a serious mental illness played a significant part in the crime they committed. It is only open to those charged with misdemeanor offenses.

**Family Treatment Court** - a voluntary diversion program for men and women struggling with substance use issues that ultimately affect their ability to provide safety and stability for their children.

We recommend a thorough evaluation of the success of these programs and determining what is working and what isn't, potentially, working well with these programs. From that investigation, there may emerge a need to other or more robust diversion programs.

### RECOMMENDATION F: PROVIDE ADDITIONAL TRAINING OPPORTUNITIES FOR LAW ENFORCEMENT STAFF AND OTHER ACTORS IN THE CRIMINAL JUSTICE SYSTEM

Based on interviews and input from the community and law enforcement personnel, law enforcement staff could benefit from additional training opportunities related to de-escalation of situations, behavioral health issues that impact or cause problems that involve the police, and diversity and sensitivity. Training related to diversity would also be valuable for the other offices involved in the criminal justice system including judges, magistrates and attorneys.

Currently the Charlottesville Police Department and The Albemarle Police Department require training for all sworn officers in constitutional law, fair and impartial policing, and implicit/explicit bias, and Strategies for Youth.

We recommend additional training from professionals on the following topics:

- ◆ Implicit bias.
- ◆ Mental/Behavioral health issues faced by offenders.
- ◆ De-escalation techniques.

### RECOMMENDATION G: REVIEW BEST PRACTICES FROM OTHER MUNICIPALITIES ADDRESSING SIMILAR ISSUES

Conduct a review of other municipalities addressing similar issues related to race and the local criminal justice system. For example, meet/talk with police chiefs, sheriffs, prosecutors, and community groups from other communities facing similar issues to determine firsthand what they are doing and what's been effective. Then determine best practices that may be applicable or transferrable to Charlottesville and Albemarle County.

### RECOMMENDATION H: INCREASE ACCESS TO DATA AND INCREASE DATA COLLECTED AT EACH DECISION POINT IN THE CRIMINAL JUSTICE MAP

Kim Foxx, the State's Attorney for Cook County, Illinois, manages the nation's second largest prosecutor's office. She has made creating and accessing data a priority in her work. As she pointed out in *Charged*, "You can't fix what you can't measure" (p. 279).

Relevant to this study, the lack of access to magistrate's data and 911 calls for service data hindered our efforts at evaluating and presenting a clear picture of disparity and disproportionality in Charlottesville and Albemarle County.

Further restrictions to our analysis were due to a lack of accurate race and ethnicity data for all data sets currently being utilized by the jurisdictions. We strongly recommend that this data begin to be collected immediately and accurately.

As stated in **Recommendation C**, evidence is overwhelming nationally that lack of employment and lack of education tend to increase criminality. We recommend the City and County begin to collect data regarding these variables for individuals in the local criminal justice system.

### RECOMMENDATION I: CONDUCT ADDITIONAL RESEARCH AND BUILD UPON THE FINDINGS AND RECOMMENDATIONS OF THIS STUDY

As discussed earlier in this report, there are factors which limited the reach and scope of the analyses, findings, and conclusions of this study. Absence of important data or information was one of those factors. Obtaining access to Magistrate's data would allow the analysis of whether there's disparate treatment of individuals at this point in the criminal justice continuum. Exploration of disproportionality in probation violations would also be useful. Additional research could also include trauma and criminality, the linkages between race and trauma, why disparate treatment of individuals occurs once they are in the system, what happens during the initial encounter between law enforcement and a suspect, what led a police officer to arrest a suspect, search a vehicle, and other variables. It would benefit the City and

County to pursue additional research related to the recommendations, too. A more thorough evaluation of programs and initiatives, and any controversy or success achieved would enable a more focused approach to implementing change.

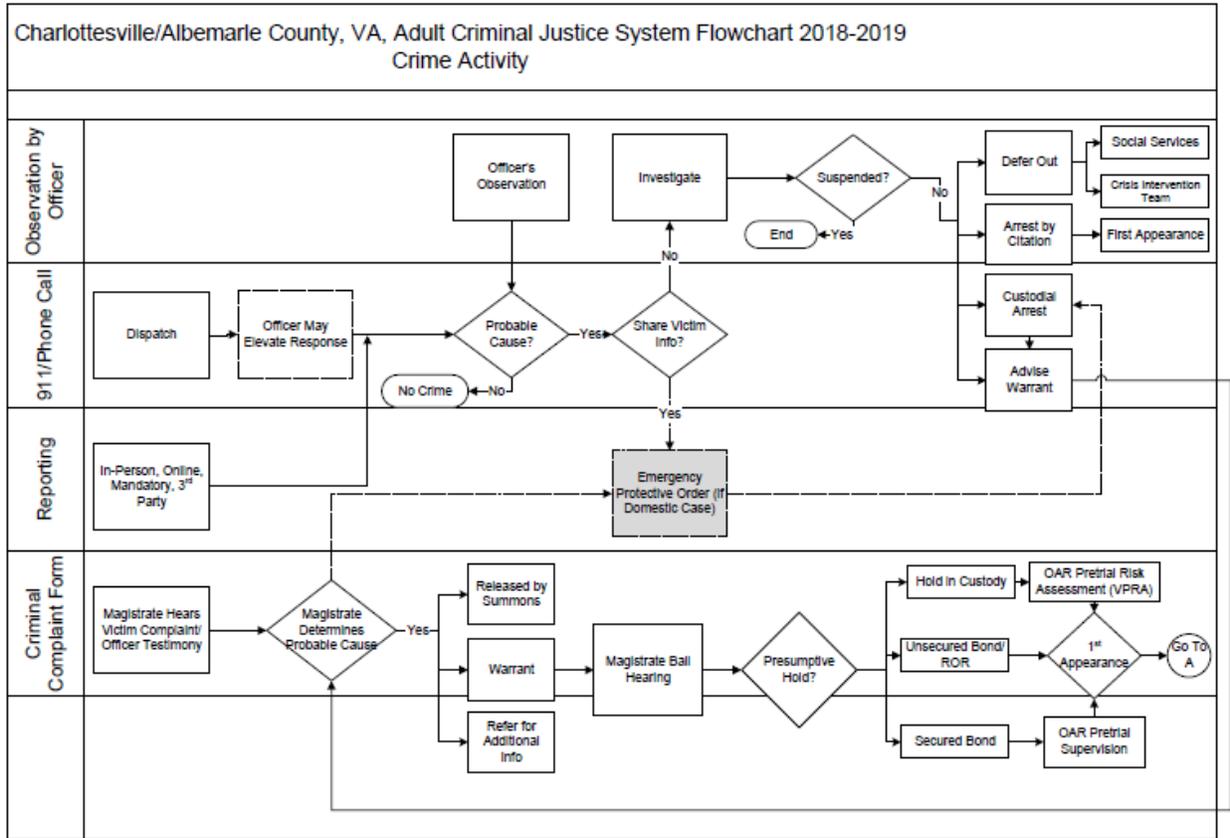
APPENDICES

Disproportionate Minority Study

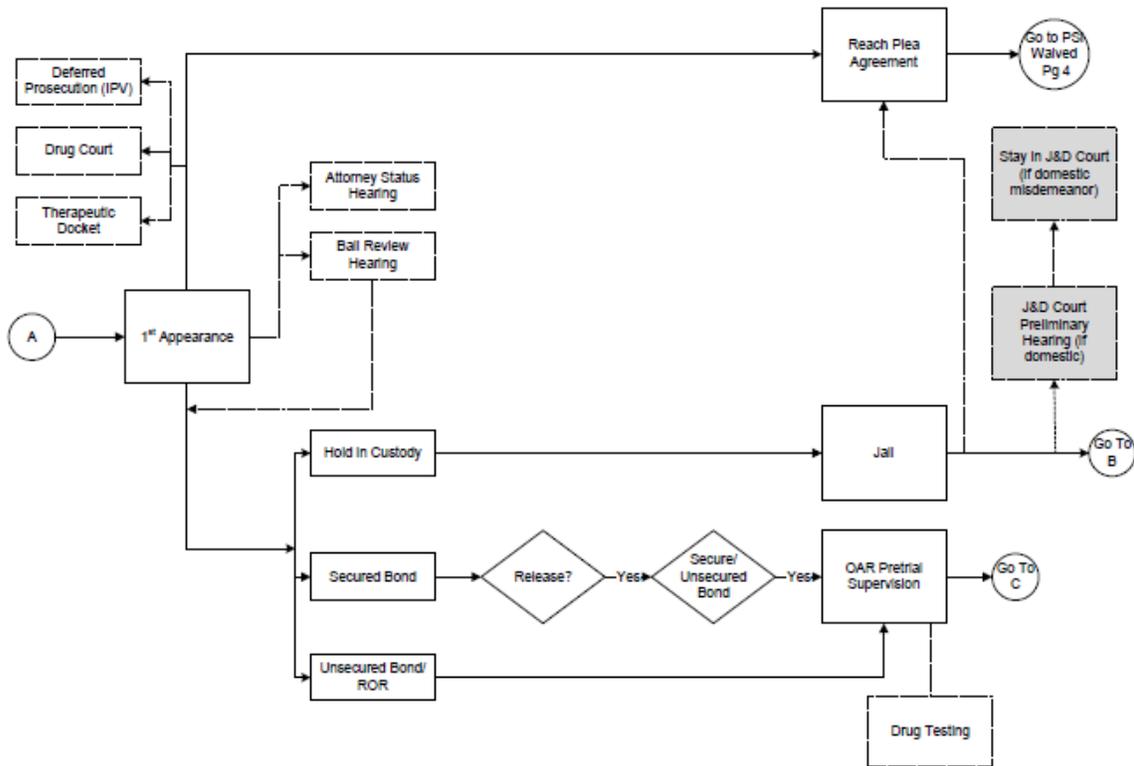
*City of Charlottesville and Albemarle County, VA*

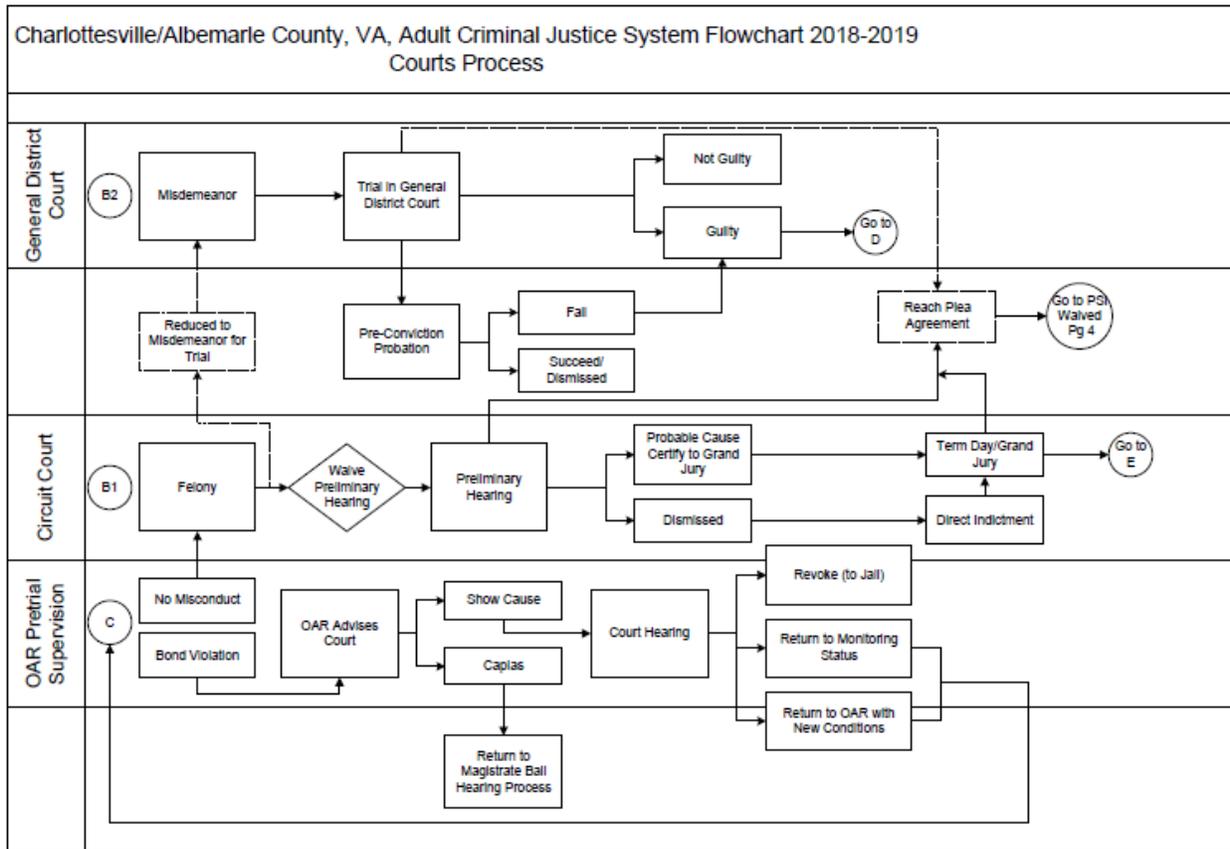


## APPENDIX A: ALBEMARLE COUNTY-CHARLOTTESVILLE CRIMINAL JUSTICE PROCESS MAPS



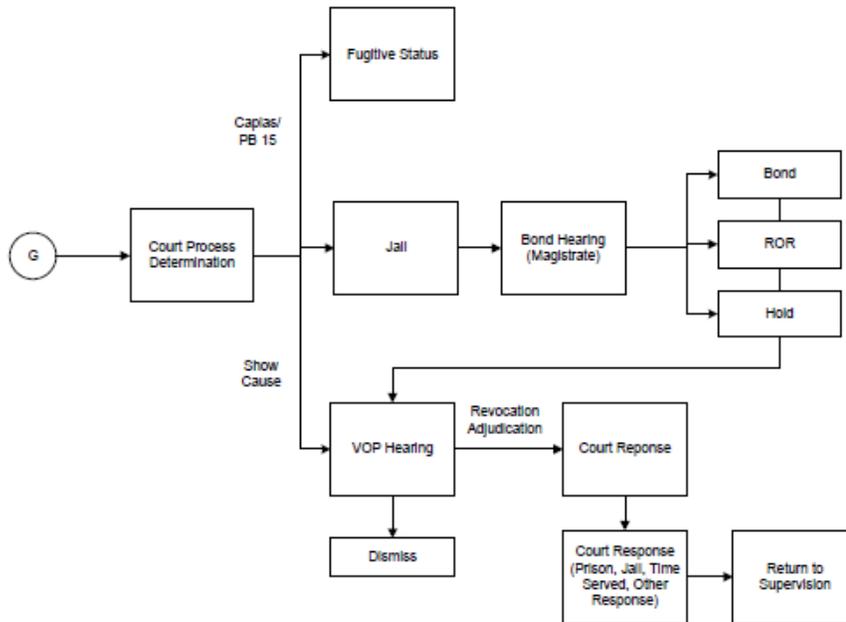
Charlottesville/Albemarle County, VA, Adult Criminal Justice System Flowchart 2018-2019  
Courts Process







Charlottesville/Albemarle County, VA, Adult Criminal Justice System Flowchart 2018-2019  
Courts Process



## APPENDIX B: OAR AND COURT BOND DECISIONS

TABLE B-1: OAR BOND DECISIONS

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	7.00	0.06		112.80	0.00
African American Male	0.01	0.05	0.00	0.13	0.89
Crime Seriousness Rank	0.08	0.01	0.45	14.35	0.00
Individual's Priors	0.00	0.00	0.01	0.21	0.84
Total Charges	0.08	0.02	0.15	5.03	0.00
Jurisdiction	0.08	0.04	0.05	1.75	0.08

TABLE B-2: COURT BOND DECISIONS

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	7.37	0.14		50.86	0.00
African American Male	0.14	0.10	0.10	1.47	0.14
Crime Seriousness Rank	0.07	0.01	0.46	6.76	0.00
Individual's Priors	-0.02	0.01	-0.17	-2.52	0.01
Total Charges	0.01	0.03	0.02	0.28	0.78
Jurisdiction	0.10	0.10	0.06	0.97	0.33

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## APPENDIX C: COMMUNITY OUTREACH PLAN

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### BACKGROUND

In July 2018, MGT Consulting Group (MGT) introduced the Disproportionate Minority Study – Local Criminal Justice System (Study) project plan to determine the extent of racial disproportionality and analyze the reasons for any disproportionality or disparity. The Study will evaluate collect and analyze criminal justice data and determine the extent there may be racial disproportionality and whether there is disparity because of the disproportionality.

### PLAN OVERVIEW

The purpose of this Community Outreach Plan is to keep the public—particularly, interested stakeholders, both internal and external—informed about the Study, gain feedback and receive input from the community on perceptions, experiences, and general feelings of disproportionality. Also, to help develop an understanding of the depth and breadth of disparity, identify areas for improvement, and best practices to address areas for improvement. It is important to the success of the study to maximize participation and reduce rumors in the collection of anecdotal information. To have good communications, it is vital to:

- ◆ Identify targeted audience and stakeholders for input and potential recommendations.
- ◆ Use communication methods that adequately disseminate information.
- ◆ Conduct interviews, focus groups, and community meetings with city and county stakeholders.
- ◆ Keep the broader community informed.

### OBJECTIVES

The objectives of this Community Outreach Plan are to:

- ◆ Provide information on actions that may be taken to facilitate the dissemination of information about the project.
- ◆ Keep stakeholders informed about the project, how it is being conducted, and provide information about opportunities for them to participate.
- ◆ Encourage stakeholders to participate in the Study by attending events, sharing anecdotes, responding to requests for interviews, and participating in focus groups.
- ◆ Inform the City and County of the protocol that MGT will use in gathering qualitative and anecdotal data as part of the Study.

### TARGET MARKET

The Community Outreach Plan is designed to reach residents in the City and County who are impacted by the local criminal justice system. Outreach also includes community associations, professional organizations, religious institutions, support centers, and community stakeholders that provide re-entry programs, workforce development.

### TARGET CONTACT DEMOGRAPHICS

The demographics of stakeholders will include ex-offenders, residents, victims, witnesses, jail staff, trial attorneys, police, etc.

### BROADER COMMUNITY COLLABORATION

The broader community to include, but not limited to community advocates, homeowner/resident associations, religious organizations, and public assistance organizations. To maximize the outreach effort, MGT will work with the City and County to distribute all public notices to request their assistance in disseminating pertinent meeting and Study information.

### COMMUNICATION METHODS

The following section contains a communication strategy for contacting and informing the community and stakeholders. The strategy recommends:

- ◆ Communication channels that will facilitate the broad dissemination of information about the study.
- ◆ Messaging for each target audience.
- ◆ Materials to be developed.
- ◆ Next steps for strategy implementation.

MGT will aid the City and County in drafting materials related to the strategies that the City and County desires to implement, and the City and County will have final approval of all written materials. As outlined in in **Table C-4** of this plan, the City and County and MGT will have defined responsibilities on the implementation of this plan.

### COMMUNICATION CHANNELS

**1. PERSONAL OUTREACH TO COMMUNITY AND STAKEHOLDER ORGANIZATIONS:** Contact key representatives of community organizations and stakeholders via phone to provide details about the Study, ask that they share this information with their members, parishioners, clients through their standard communication channels, e.g., social media, events calendars, and newsletters. Send personal follow-up e-mails:

- a. **To contacts who were not able to be reached via phone:** Provide details about the study and explain the request to disseminate information. Sending this message will increase the likelihood a contact will return the call and agree to share information.
- b. **To contacts reached via phone and who agree to share information with members:** Thank the contact for agreeing to share information with members, provide background notice, and confirm channels where the organization will share information, and/or next steps.

Create content that is ready for stakeholders and organizations to share on their social media sites, e.g., “Does the local criminal justice system appear to target minority citizens? If so, the City and County needs your input in a Disproportionate Minority Contact Study to discuss strategies on how to reduce disproportionate minority contact. The first community meeting is on (DATE). See the  for more information.”

2. **E-MAIL BLAST:** Use e-mail to distribute customized messages to community associations, professional organizations, and community stakeholders who support the community announcing the project and upcoming events related to the study.
3. **SOCIAL MEDIA:** Use social media sites, e.g., Facebook, Twitter, LinkedIn, Instagram, and NextDoor, to share notices and other relevant information about the Study. Create a hashtag such as #Chltvlcriminaljustice to use in Facebook and Twitter posts.
4. **NEWSPAPERS AND NEWSLETTERS:** Place cost-free ads in newspapers and newsletters to include minority print and online media, send a letter to the editors discussing the Study, and ask newspapers that they publish news stories about the Study. News stories might include interviews with community leaders or stakeholders about their participation in the study.

The following table recommends newspapers where ads and editorial letters might be submitted that reach target audiences in the City and County, as well as the regional area.

TABLE C-1: AREA NEWSPAPERS

<i>The Daily Progress</i>
<i>Cville Weekly</i>
<i>Crozet Gazette</i>
<i>Richmond Times Dispatch</i>
<i>Cavalier Daily</i>

5. **TELEVISION:** Contact local and public access television stations and request their assistance in disseminating information about the Study, forthcoming community meetings, and other opportunities for public input by:
  - a. Placing public service announcements (PSA).
  - b. Developing news stories about the study.

The following table suggests specific stations that might be contacted.

TABLE C-2: TELEVISION OUTLETS

WVIR
CBS19
Charlottesville PEG-TV
WTVR
WHTJ
WHSV
Charlottesville TV10

6. **RADIO:** Contact local and public access radio stations and request their assistance in disseminating information about the Study, to include stations with predominately minority listeners about the forthcoming community engagement meetings, and other opportunities for public input by:
  - a. Placing public service announcements.

- b. Developing news stories about the study.

**Table C-3** suggests specific stations within 20 miles of Charlottesville that might be contacted.

**TABLE C-3: RADIO STATIONS**

Call Letters	Station	Genre
WVTW	88.5	Public Radio
WVTU	89.3	Public Radio
WVTW	89.7	Public Radio
WTJU	91.1	Public Radio
WNRN	91.9	Variety
WXRK	92.3	Variety
WCVL	92.7	Country
W291AN(WKTR-AM)	93.7	Religious
W231AD(WHTE)	94.1	Top 40
WPVC	94.7	talk
WQMZ	95.1	Adult Contemporary
W240AF (WYFJ)	95.9	Religious
W242CL(WTTX)	96.3	Gospel Music
W285EF(WKAV-AM)	96.7	Christian Contemporary
W246DD (WVTW)	97.1	Public Radio
WWWV	97.5	Classic Rock
WREN	97.9	Oldies
WCYK	99.7	Country
WXTJ	100.1	College (UVA)
WVAI	101.3	Hip Hop
WHTE	101.9	Top 40
WZGN	102.3	Classic Hits
W275CL (WVAX-AM)	102.9	Sports
WMRY	103.5	Public
WCNR	106.1	Adult Album Alternative
WCHV	107.5	News/Talk

- 7. INFLUENCERS AND AMBASSADORS:** Identify influential community leaders and ask them to provide testimonials about participation in the Study that can be incorporated into materials about the study. Also, approach community leaders who are critical of the City and County's study and ask for their help recruiting participants to be engaged in the community outreach events. This may:
- Improve their perceptions of the City and County's efforts.
  - Increase the likelihood they will speak favorably about the City and County's Study publicly and encourage followers to participate.
- 8. PRESS RELEASE SERVICE:** Distribute press releases through a press release service, to connect with targeted media, stakeholders, social networks, and community at-large.

## MATERIALS

Create materials that incorporate the targeted messages to provide information about and/or notification of the Study. Materials could include:

1. **Printed collateral/marketing materials:** Create brochures, flyers, and/or postcards.
2. **E-mail:** Create letters for:
  - a. Community associations, professional organizations, and stakeholders announcing the Study and upcoming community engagement events related to the Study and inviting them to participate.
  - b. Community resources, workforce programs, and community stakeholders that work with ex-offenders, provide back-to-work programs, etc., asking that they share information or community meeting notices with their contacts.
3. **Press releases.**
4. **Social media:** Create informative and engaging content (e.g., status updates, blog updates) that can be shared by community associations, professional organizations, stakeholders, and state and local government offices to share on their own social media sites.
5. **Print advertisements.**

## NEXT STEPS

To facilitate implementation of the plan and ensure outreach efforts are successful, the MGT Study Team recommends the following tasks:

1. **Communication Channels and Roles:** Review proposed communication channels in [Table 4](#), identify and approve channels to be implemented, and define who will be responsible for carrying out the action items.
2. **Communication Calendar:** Create a comprehensive communication calendar to plan all outreach efforts. A calendar will:
  - a. Provide clear deadlines for outreach to target audiences around key study milestones, e.g., community engagement meetings.
  - b. Maximize the use of each communication channel and coordinate the timing of each.
3. **Metrics:** Evaluate the performance and success of all outreach efforts throughout the study period and make adjustments to the communication plan as necessary. Collecting this information will benefit the City and County by:
  - a. Identifying which contacts are engaged in the Study efforts and which are not, making it easier to see where additional outreach is needed to encourage engagement.
  - b. Demonstrating the City and County's efforts to communicate information to as many businesses as possible to ensure maximum participation.

The following table describes actions required for the implementation of each communication channel, responsible parties, and the creation of a communication calendar. MGT will draft written content for the

press releases, TV, radio, emails, etc. for the City and County's review, edits, and approval before distribution to the public.

TABLE 4: COMMUNICATION CHANNELS

ACTION	RESPONSIBLE	Completion Date
<b>COMMUNICATION CHANNELS</b>		
<b>Social Media</b>		
<input type="checkbox"/> Post announcements about the meetings on the City/County's social media sites.	City/County/MGT	March 18, 2019
<input type="checkbox"/> Create a hashtag, such as #Chltv/criminaljustice, and use in Facebook and Twitter posts.	City/County	March 18, 2019
<b>Newspaper and Newsletters</b>		
<input type="checkbox"/> Contact newspapers where the City/County would like to place free advertisements.	City/County	March 12, 2019
<input type="checkbox"/> Confirm newspapers where ads will be placed.	City/County	March 12, 2019
<input type="checkbox"/> Draft and finalize ads.	City/County/MGT	March 15, 2019
<input type="checkbox"/> Distribute ads to newspapers.	City/County	March 18, 2019
<b>News Stories</b>		
<input type="checkbox"/> Draft and finalize news stories.	City/County/MGT	March 15, 2019
<input type="checkbox"/> Identify contacts and send news stories to newspapers.	MGT	March 18, 2019
<b>Television</b>		
<input type="checkbox"/> Create meeting announcements.	City/County/MGT	March 15, 2019
<input type="checkbox"/> Send announcements to local television stations.	City/County/MGT	March 18, 2019
<input type="checkbox"/> Follow up with television stations to make sure they have received PSAs, provide more background about the Study, and find out if they are willing to share the announcements and are interested in producing a news story about the study.	MGT	March 20, 2019
<input type="checkbox"/> Collaborate with the City/County on all television appearances.	MGT	TBD
<b>Radio</b>		
<input type="checkbox"/> Create meeting announcements.	City/County/MGT	March 15, 2019
<input type="checkbox"/> Send Announcements to radio stations where the City/County them to be aired.	MGT	March 18, 2019
<input type="checkbox"/> Follow up with radio stations to make sure they have received announcements, provide more background about the Study, and find out if they are willing to share announcements and are interested in producing a news story about the study.	MGT	March 20, 2019
<input type="checkbox"/> Collaborate with City/County on all radio appearances.	MGT	TBD
<b>Press Releases</b>		
<input type="checkbox"/> Draft and finalize press release(s).	City/County/MGT	March 15, 2019
<input type="checkbox"/> Distribute press release(s) to press release service, newspapers, and trade journals.	City/County	March 18, 2019
<b>Personal Outreach to Stakeholder Organizations</b>		
<input type="checkbox"/> Call key stakeholder organizations and ask them to share information about the Study with members.	MGT	March 18, 2019
<input type="checkbox"/> Send follow-up e-mail(s) to stakeholder organizations with information about the Study.	MGT	March 21, 2019
<input type="checkbox"/> Create content that is ready for stakeholder organizations to share on their social media sites.	MGT	March 21, 2019

## ANECDOTAL INPUT

### COMMUNITY ENGAGEMENT MEETINGS, INTERVIEWS, AND FOCUS GROUPS

As outlined in MGT's work plan, MGT will use multiple methods to solicit information, opinions, and perceptions from individuals, community leaders, ex-offenders, residents, and stakeholder groups as part of the Study. A discussion of each method follows:

1. **COMMUNITY ENGAGEMENT MEETINGS:** MGT will facilitate five community meetings designed to receive comments from stakeholders and the community-at-large regarding policy changes, recommendations, and strategic plans to reduce disproportionate contact. During the community meetings, MGT will facilitate the meetings and present an overview of the study objectives, work tasks, and timeline to complete the study and address questions from participants. These meetings will include the use of Teletown Halls. Teletown Halls provide a virtual option for participation that allows disabled, elderly and rural residents to listen in and provide feedback remotely. This service comes with Web Registration so that registrants can be called at the time of the meeting and simply answer to join. Additionally, we can add a Web Simulcast that allows participants to join through a web browser. The City and County will:
  - ◆ Identify the locations for each meeting and schedule the dates of meetings.
  - ◆ Arrange for an Americans with Disability Act (ADA) compliant venue and the necessary logistics to hold the meeting.
  - ◆ Advertise the community engagement meetings using desired communication methods discussed.
3. **IN-DEPTH INTERVIEWS:** MGT will work with the City and County to identify stakeholders to be interviewed. A total of 25 in-depth business interviews will be completed. An interview guide will be developed to ensure continuity of questioning.
4. **FOCUS GROUPS:** MGT will conduct five focus groups with community stakeholders and project committee members. MGT will facilitate the meetings and present an overview of the study objectives, work tasks, and timeline to complete the study and address questions from participants. The City and County will:
  - ◆ Identify the locations for each focus group and schedule the dates of meetings.
  - ◆ Arrange for an Americans with Disability Act (ADA) compliant venue and the necessary logistics to hold the meeting.

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## APPENDIX D: FOCUS GROUP GUIDE

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### City of Charlottesville/Albemarle County Focus Group Guide

Hello and thank you for coming to this focus group to provide input that will be used as a part of a study of disproportionate minority contact in the local criminal justice system for City of Charlottesville and Albemarle County.

My name is \_\_\_\_\_ with MGT Consulting. We have been asked to gather opinions, perceptions, and input about experiences with the criminal justice system.

We are very glad that you are all here and appreciate you taking time to participate in this meeting.

We are going to be taking notes throughout the session. In addition, we would like to record this session if there are no objections.

#### **The Process**

**The recordings and notes of these focus groups will only be summarized by me as part of the qualitative data collection. Individual names will not be identified nor will remarks or comments be attributed to a specific individual. Once all of the focus groups are completed, the results will be aggregated and incorporated with other data from the study. These findings will be used in developing strategic initiatives for the City and County to address any disproportionality or disparity. We hope that everyone feels free to participate and to add as much insight as possible. We have ample time, so feel free to contribute to the discussion as we go along.**

#### **A. Welcome and brief background about the purpose of focus groups (see above).**

- Introductions – have each participant state:
  - Name
  - Status as an inmate, ex-offender, victim, resident, jail staff, etc.,
  - Ask about current charge(s), if applicable.

Be sure to note ethnicity and gender.

## **B. Key Points to Discuss**

- This is an open discussion and invite all to participate. Goal is to have everyone participate in the discussion.
- Encourage participants to express thoughts and opinions freely.

## **C. Facilitation Logistics**

- Facilitators: The facilitator has primary responsibility for working with the group to solicit responses to questions.
- Facilitation Time: Approximately 90 minutes.
- Major Issues will be recorded by tape recorder (if there are no objections), personal notes, and flipchart pages.
- Date, Time, and Location:

## **A. Materials Needed:**

- a) Flip Chart or Easel Paper
- b) Focus Group Guide (attached)
- c) List of Participants (sign-in sheet to be provided)
- d) Markers
- e) Audio Recorder

## **D. Scope**

Establish Scope: Spend a few minutes setting the context including what we're doing and why we're interested in getting their input.

### **Discussion Questions**

#### **Inmates and Ex-offenders**

1. What are your perceptions about law enforcement, the courts, etc. and whether blacks or other minorities are treated differently?
2. On a scale of 1 to 10, with 1 being completely unfair/completely bias and 10 being completely fair/completely unbiased, how would you rate the overall fairness of the system in dealing with blacks and other minorities who have been arrested?
3. Have you had any personal experiences or interactions with law enforcement, the courts, etc. and were you treated fairly?

4. Have your relatives or close friends had personal experiences with law enforcement, the courts, etc., and do you think they were treated fairly?
5. Assume 2 individuals are arrested for the same misdemeanor offense, it's the first offense for both, both are employed full-time, both have strong family ties in the community, etc.—the only difference is one individual is white and other is black – at what point in the criminal justice continuum do you feel they are more likely to be treated differently from arrest to court and adjudication? (*Ask a similar question based on felony arrest*).
6. Have you been arrested more than 2 times as an adult and/or as a juvenile?
7. How long have you been in jail?
  - a. Have you served time in prison?
8. Have you been to court on current charges or have an impending court date?
  - a. Do you have an attorney or are you using the Public Defender?
9. Do you feel that you were treated any differently because you were black (*from arrest to whatever point they are now in the process*)?
10. If you are stopped by law enforcement in this community what factors influence what happens next and how you are treated by law enforcement?
11. If you are arrested in this community what are the most important factors that influence what happens after you are arrested?
12. Let's assume that we are meeting 5 years from now—what would you like to be true about the criminal justice system in this community that's not true today?

### Law Enforcement

1. What are your perceptions about law enforcement, the courts, etc. and whether blacks or other minorities are treated differently. If so, how so?
2. On a scale of 1 to 10, with 1 being completely unfair/completely biased and 10 being completely fair/completely unbiased, how would you rate the overall fairness of the system in dealing with blacks and other minorities who have been arrested?
3. Have you had personal experiences with minorities where the event was viewed as improper action?
4. Assume 2 individuals are arrested for the same misdemeanor offense, it's the first offense for both, both are employed full-time, both have strong family ties in the community, etc.—the only difference is one individual is white and other is black – at what point in the criminal justice continuum do you feel they are more likely to be treated differently from arrest to court and adjudication. (*Ask a similar question based on felony arrest*).
5. When making a stop or arrest, do you have any discretion? If so, what factors influence how discretion is used?
6. Are there differences in perception about law enforcement in minority and nonminority communities and neighborhoods? If so, what are the differences, and what accounts for those differences.
7. Let's assume that we are meeting 5 years from now—what would you like to be true about the criminal justice system in this community that's not true today?

### Attorneys/Public Defenders

1. What are your perceptions about law enforcement, the courts, etc. and whether blacks or other minorities are treated differently. If so, how so?
2. On a scale of 1 to 10, with 1 being completely unfair/completely biased and 10 being completely fair/completely unbiased, how would you rate the overall fairness of the system in dealing with blacks and other minorities who have been arrested?
3. Have you had any personal experiences or interactions with law enforcement, the courts, etc. and where you feel minorities were treated unfairly because they were minorities?

4. Assume 2 individuals are arrested for the same misdemeanor offense, it's the first offense for both, both are employed full-time, both have strong family ties in the community, etc.—the only difference is one individual is white and other is black – at what point in the criminal justice continuum do you feel they are more likely to be treated differently from arrest to court and adjudication. *(Ask a similar question based on felony arrest).*
5. Do you believe judges should have more discretion in their adjudication of cases in their jurisdiction? Or do you feel they should rely on sentencing guidelines?
6. Let's assume that we are meeting 5 years from now—what would you like to be true about the criminal justice system in this community that's not true today?

**APPENDIX E: INTERVIEW GUIDE**

\_\_\_\_\_  
Interviewer

\_\_\_\_\_  
Date

Hello, my name is \_\_\_\_\_ and I’m with MGT Consulting. We have been retained by the City of Charlottesville (City) – Albemarle County (County), Virginia to determine if racial minority and non-minority individuals are treated differently in terms of legal and judicial treatment and outcomes in the City and County legal systems. If there is disproportionate treatment, we have been asked to explore the reasons and contributing factors. If our findings indicate racial disparities in treatment and outcomes, we’ll provide policy recommendations and best practices to address this problem and we will develop a plan to implement recommendations.

\_\_\_\_\_  
Name of Interviewee

\_\_\_\_\_  
Agency/Department/Division

\_\_\_\_\_  
Current Title

\_\_\_\_\_  
Contact Information

1. Do you believe that minorities and non-minorities are treated differently by law enforcement and the criminal justice system in Charlottesville/Albemarle County? If yes, where along the criminal justice continuum are the major points of disproportionate treatment? (Example: arrest decisions? Bail decisions? Etc.). Why do you believe this? If no, why do you believe this?
2. Do you believe some segments in the community are more likely to believe there is disparate treatment of minorities in the local criminal justice system than others? If so, please describe these segments. Do you think their concerns are valid? Why or why not?
3. In this community, if you believe there are different perceptions/viewpoints about the extent or prevalence of disproportionality/disparity the criminal justice system, what do you think contributes to these different viewpoints?
4. In this community, are there certain factors external to the criminal justice system that contribute to the prevalence of disproportionality/disparity in the criminal justice system? (Example: Different employment/unemployment rates for majority and minority groups).
5. If you believe there is majority/minority disproportionality/disparity in treatment and outcomes, do you know of current programs or policies to address this problem? Have they

been effective or ineffective? Why? Where are the biggest gaps in resources?

6. If you believe disparate treatment of minorities is a valid issue, in regard to the future what strategies/solutions should be considered? What are the two or three most critical priorities that should be addressed in order to reduce/minimize disproportionality/disparity?
7. Is there anyone else you think would be helpful for MGT to speak to regarding disproportionality/disparity in the criminal justice system? Also, is there data, documentation, information you feel we should review as part of our research?

On behalf of the City of Charlottesville and Albemarle County, we thank you for your participation. If you have any questions or need more information about this study, please contact Reggie Smith at 850-386-3191 or [rsmith@mgtconsulting.com](mailto:rsmith@mgtconsulting.com).

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## **APPENDIX F: RESOURCES RELATED TO RECOMMENDATIONS**

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### **RECOMMENDATION A: INCREASE AND SUPPORT MEANINGFUL REENTRY PROGRAMS**

What Makes a Reentry Program Successful?

<https://www.charleskochinstitute.org/issue-areas/criminal-justice-policing-reform/reentry-programs/>

Four Elements of a Successful Reentry Programs for Inmates

<https://www.socialsolutions.com/blog/4-elements-of-successful-reentry-programs-for-inmates/>

Prisoner Reentry Programs: Ensuring Safe and Successful Return to the Community

<https://obamawhitehouse.archives.gov/blog/2011/11/30/prisoner-reentry-programs-ensuring-safe-and-successful-return-community>

### **RECOMMENDATION B: INCREASE TRANSPARENCY OF CITY AND COUNTY POLICE DEPARTMENTS**

Improving Police Effectiveness and Transparency: National Information Needs on Law Enforcement.

<https://www.bjs.gov/content/pub/pdf/Forst.pdf>

National Police Accountability Project

<https://www.nlg-npap.org/>

Addressing Police Misconduct

<https://www.justice.gov/crt/addressing-police-misconduct>

Program Aims to Stop Police Misconduct

[https://www.sheppardmullin.com/media/article/1659\\_Times%20Picayune\\_Program%20aims%20to%20stop%20misconduct%206.14.17.pdf](https://www.sheppardmullin.com/media/article/1659_Times%20Picayune_Program%20aims%20to%20stop%20misconduct%206.14.17.pdf)

### **RECOMMENDATION C: DEVELOP, ENCOURAGE AND SUPPORT SPECIAL INITIATIVE PROGRAMS**

#### **Mentoring**

Mentoring Best Practices: Effectiveness of Juvenile Mentoring Programs on Recidivism

<https://www.ncjrs.gov/pdffiles1/oijdp/grants/251378.pdf>

Meaningful Mentoring

<https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2016/08/mm.pdf>

How Former Offenders Can Make Great Mentors

<http://theconversation.com/knife-crime-how-former-offenders-can-make-great-mentors-for-at-risk-teens-105880>

Mentoring for Youth Who Have Been Arrested or Incarcerated

<https://nationalmentoringresourcecenter.org/index.php/30-topic-areas/173-mentoring-for-youth-who-have-been-arrested-or-incarcerated.html>

Mentoring Resources

<https://www.ncjrs.gov/mentoringresources/>

### **Fatherhood Initiatives**

The effect of father absence and father alternatives on female and male rates of violence

<https://www.ncjrs.gov/pdffiles1/nij/grants/206316.pdf>

Fatherhood.org

<https://www.fatherhood.org/about-us>

Ten Key Findings

<https://www.urban.org/research/publication/ten-key-findings-responsible-fatherhood-initiatives>

### **Police interaction with the community**

The Office of Community Oriented Policing Services (COPS) is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.

<https://cops.usdoj.gov/>

An Evaluation of Community Oriented Policing Programs

<https://www.ncjrs.gov/pdffiles1/Digitization/161458NCJRS.pdf>

Practices in Modern Policing: Police-Youth Engagement

[https://www.theiacp.org/sites/default/files/2018-09/e121613800\\_Police-Youth-Engage-Modern-Policing\\_v9\\_NoCOPS\\_508.pdf](https://www.theiacp.org/sites/default/files/2018-09/e121613800_Police-Youth-Engage-Modern-Policing_v9_NoCOPS_508.pdf)

Police departments use creative approaches to build public trust

<http://www.westerncity.com/article/police-departments-use-creative-approaches-build-public-trust>

## **RECOMMENDATION D: INCREASE DIVERSITY IN LAW ENFORCEMENT**

Creating a Multicultural Law Enforcement Agency: An Intentional Policy

<https://www.policechiefmagazine.org/creating-a-multicultural-law-enforcement-agency/>

Police officers explain why diversity in law enforcement matters

<https://www.rasmussen.edu/degrees/justice-studies/blog/diversity-in-law-enforcement/>

Advancing Diversity in Law Enforcement

<https://www.justice.gov/crt/case-document/file/900761/download>

### **RECOMMENDATION E: ADOPT PROGRAMS THAT ARE ALTERNATIVES TO INCARCERATION**

A National Survey of Criminal Justice Diversion Programs and Initiatives

[http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report\\_web.pdf](http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf)

Diversion and first-offender programs give defendants a way to avoid criminal convictions.

<https://www.nolo.com/legal-encyclopedia/diversion-programs.html>

Diversion programs are cheaper and more effective than incarceration.

<https://www.aclu.org/blog/smart-justice/diversion-programs-are-cheaper-and-more-effective-incarceration-prosecutors>

### **RECOMMENDATION F: PROVIDE ADDITIONAL TRAINING OPPORTUNITIES FOR LAW ENFORCEMENT STAFF**

A practical overview of de-escalation skills in law enforcement: helping individuals in crisis while reducing police liability and injury.

<https://www.tandfonline.com/doi/abs/10.1080/15332581003785421?journalCode=wpcn20>

Verbal De-Escalation Training for Police

<https://www.crisisprevention.com/Blog/March-2019/De-Escalation-Training-for-Police>

Managing implicit bias for law enforcement

<https://www.adl.org/who-we-are/our-organization/signature-programs/law-enforcement-training/implicit-bias>

Cultural diversity and cultural competency for law enforcement

<https://www.policechiefmagazine.org/cultural-diversity-and-competency/>

### **RECOMMENDATION G: REVIEW BEST PRACTICES FROM OTHER MUNICIPALITIES ADDRESSING SIMILAR ISSUES**

Reducing Racial Disparity in the Criminal Justice System: A Manual for Practitioners and Policymakers

<https://www.sentencingproject.org/wp-content/uploads/2016/01/Reducing-Racial-Disparity-in-the-Criminal-Justice-System-A-Manual-for-Practitioners-and-Policymakers.pdf>

Case Studies of Nine Jurisdictions that Reduced Disproportionate Minority Contact in their Juvenile Justice Systems

<https://www.ncjrs.gov/pdffiles1/ojdp/grants/250301.pdf>

Reducing Jail Populations by Addressing Racial Disparity in the Criminal Justice System; prepared for the National Association of Counties

<https://www.sentencingproject.org/wp-content/uploads/2016/01/Reducing-Jail-Populations-by-Addressing-Racial-Disparity-in-the-Criminal-Justice-System.pdf>

Incorporating Racial Equity into Criminal Justice Reform

<http://www.safetyandjusticechallenge.org/wp-content/uploads/2015/05/incorporating-racial-equity-into-criminal-justice-reform.pdf>

How Judges Can Reduce Racial Disparities in the Criminal-Justice System

[https://scholar.harvard.edu/files/alixwinter/files/clair\\_winter\\_courtreview\\_2018.pdf](https://scholar.harvard.edu/files/alixwinter/files/clair_winter_courtreview_2018.pdf)

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