

May 2021

Reducing Policing's Footprint?

Racial Disparities and Arrest Trends After Misdemeanor Decriminalization
and Legalization in Denver and Philadelphia

Mary Fleck and Aaron Stagoff-Belfort

Introduction

A year ago, millions of people in the United States and around the world watched the cell-phone footage of Derek Chauvin killing George Floyd by kneeling on his neck for nine minutes and 29 seconds.¹ But while they watched in horror, for many the sense of dismay was not accompanied by disbelief: these tragic headlines have become all too familiar. At least 1,127 people were killed by police in 2020.² But the reason so many people, particularly people of color, come into contact with the police in the first place remains an underexamined feature of the systemic racism that is baked into American policing. Most of the interactions between police and the public relate to non-serious, non-violent issues, and can cause harm ranging from negative mental health consequences to diminished employment opportunities to death.³ For George Floyd it was a suspicious \$20 bill. Eric Garner was killed while being arrested for selling cigarettes. Daunte Wright was killed after he was stopped for driving with expired plates. Philando Castile was killed after he was pulled over because his brake lights were out. The list goes on.⁴

Their deaths are unequivocal proof of the failures of policing in America.

It's time for strategies that shrink the footprint of policing and reduce the disproportionate criminalization of marginalized communities, and Black communities in particular. Cities and other local jurisdictions are already pursuing some of these approaches, such as decriminalizing or legalizing low-level misdemeanor offenses, which drive most criminal enforcement in the United States. In this report, the Vera Institute of Justice (Vera) presents data from its [Arrest Trends](#) tool that describes how efforts to reduce arrests for low-level offenses in two cities—Philadelphia and Denver—have changed the scope of policing. (See “About Arrest Trends” on page 14.) These findings not only demonstrate the promise of misdemeanor decriminalization and legalization, but also illustrate the persistent problem of overpolicing Black communities.

The overpolicing of low-level offenses drives the country's high arrest rates

Data in Vera's Arrest Trends tool shows that, although the number of arrests made nationwide by law enforcement declined by about 23 percent from 2006 to 2018, police still make approximately one arrest every three seconds.⁵ Low-level offense categories like “disorderly conduct” and “drug abuse” make up about 80 percent of arrests, while serious violent and property crime charges (“Part I” crimes) make up less than 5 percent.⁶ Black

What are decriminalization and legalization?

U.S. law enforcement's excessive focus on misdemeanor policing and prosecution is counterproductive to public safety. One recent study demonstrated that criminal punishment for these offenses increases the likelihood that people will become involved in the criminal legal system in the future.⁹

Some communities have adopted at least one of two tactics that limit police officers' ability to make low-level arrests: decriminalization and legalization. Reducing the criminal enforcement tools police have at their disposal may also influence other areas of police practice. For example, research demonstrates that states that decriminalized or legalized cannabis saw significant drops in traffic stops and searches by police—many of which had been pretextual.¹⁰

Moreover, decriminalization and legalization may reduce incidents of police violence. Non-serious issues like driving with a broken taillight or selling loose cigarettes are overpoliced. In the worst cases, this overcriminalization has led to deaths, disproportionately of Black men, at the hands of police.¹¹

So what are these tools and how do they work?

> Decriminalization either removes an offense from the criminal code or establishes a policy of nonenforcement by police or prosecutors. Police officers can no longer make arrests for decriminalized conduct, limiting their ability to take people into custody—but they can still use their discretion to issue civil citations and summonses.

Decriminalization may also involve raising or modifying the threshold for what behaviors constitute criminal conduct (for example, increasing the amount that triggers an arrest for marijuana possession).

Because decriminalization reduces, but does not eliminate, discretion, it is possible that the practice can sustain or even amplify existing racial disparities in police enforcement. Decriminalization still results in entanglement with the criminal legal system and can lead to consequences like fines, fees, court appearances, community supervision, and the barriers to life opportunities that a criminal record can create.¹²

> Legalization goes further than decriminalization by discontinuing any legal sanctions against a particular action or behavior, ending the state's ability to regulate and punish it. Unlike decriminalization, police cannot respond to legalized behaviors with citations or summonses.

How police officers navigate decriminalization and legalization may have important implications for one of the policy's central purposes: to reduce racial disparities and the disproportionate harm policing causes to communities of color. It is critical to monitor who is still being policed—and for what—after decriminalization.

people bear the brunt of this overenforcement: they are arrested at a rate 2.38 times that of white people.⁷ Disparities in misdemeanor arrests cannot be explained by differences in individual behavior; for example, although Black people and white people use cannabis at approximately the same rate, Black people are more than 3.5 times as likely to be arrested for marijuana possession.⁸

Jurisdictions are getting on board with changes

In the past decade, several cities and states began the process of ending criminal penalties for a range of low-level misdemeanors, including marijuana possession, disorderly conduct, and sex work.¹³ This change has come about in a variety of ways. Community groups and grassroots organizations have applied pressure on government leaders; district attorneys have announced they will no longer prosecute certain crimes, resulting in de facto decriminalization; and state voters, legislatures, and city councils have passed new laws.¹⁴

Some efforts to reduce criminalization came in response to the COVID-19 pandemic and the nationwide protests spurred by Floyd's murder in the summer of 2020. In June 2020, for example, the Seattle City Council repealed two criminal loitering statutes related to drug sales and sex work, citing their addition to the Seattle Municipal Code as a function of the "War on Drugs" as well as their "disproportionate impact on communities of color."¹⁵ The November 2020 elections saw a wave of successful ballot initiatives, including Oregon's decriminalization of all drug possession.¹⁶ In January 2021, the Washtenaw County (Ann Arbor, MI) Prosecutor's Office announced that it would decline to prosecute sex work charges.¹⁷ In April 2021, Baltimore State's Attorney Marilyn Mosby announced her office would make permanent a policy to stop prosecuting minor drug possession, sex work, and traffic violation cases that had been enacted to slow the spread of COVID-19 in local jails.¹⁸ The Baltimore Police Department has issued a policy memo that requires officers to seek approval from a superior before arresting a person on these charges.¹⁹

Other efforts predate these more recent changes. In New York City, for instance, the Manhattan District Attorney's Office announced in 2017 that it would no longer criminally prosecute most theft of services charges for subway-related offenses, a Class A misdemeanor and the most common charge in Manhattan Criminal Court.²⁰ In 2012, Colorado and Washington became the first two states to legalize cannabis; the drug is now legal in 17 states, and decriminalized in 33 plus the District of Columbia.²¹

Emerging evidence shows that moves like these to limit the enforcement of low-level offenses do not result in more crime and can potentially even reduce it.²² In Boston, for example, one recent study found people's likelihood of future criminal legal system involvement fell after Suffolk County implemented a non-prosecution policy, with no apparent increase in local crime rates.²³

Two Case Studies: Denver and Philadelphia

This report explores the relationship between decriminalization and legalization, arrests, and racial disparities through case studies of two cities, Denver and Philadelphia.²⁴

- › Colorado legalized the retail sale and possession of up to one ounce of cannabis in December 2012, with the first retail sales starting in January 2014.²⁵
- › Starting in June 2014, Philadelphia took a number of steps to decriminalize marijuana possession and several other low-level offenses.²⁶

All department-level data for total arrest trend patterns and demographic characteristics in arrests are from data assembled for Vera's Arrest Trends tool, with one exception. Data on arrests for sex work in

Philadelphia comes from the [public data dashboard](#) available through the Philadelphia District Attorney's Office. (For the full sources and methodology, see "About Arrest Trends" on page 14.)

Vera found that in the case study cities, where there have been steep reductions in arrests for the relevant charges, both decriminalizing and legalizing low-level offenses may have reduced the scope of policing. But not everyone in a community gained equally: Black people were still arrested at disproportionately higher rates than white people for all offenses except sex work after the policy interventions. Disparities in disorderly conduct arrests even increased after decriminalization in Philadelphia. Decriminalization, which still gives police wide discretion to act, is not a panacea for reducing the disparate impact that biased policing has on communities of color.

- › In Denver, arrests made by the Denver Police Department (DPD) fell by 45 percent from 1998 to 2005 and less than 1 percent from 2014 to 2018.²⁷ The number of arrests for marijuana-related offenses decreased by 62 percent (496 arrests) from 2014 to 2018, while the overall number of arrests fell by less than 1 percent (168 arrests), as other offenses saw small increases.²⁸
- › In Philadelphia, the large decreases in arrests for several decriminalized low-level offenses coincided with reductions in overall arrest numbers that had been relatively flat for many years. Arrests made by the Philadelphia Police Department (PPD) fell by only 9 percent from 1998 to 2014, but then dropped by 46 percent from 2014 to 2018. Offenses that Philadelphia decriminalized represent 17 percent of the total decline in arrests since 2014.
- › Despite decriminalization and legalization, racial disparities in arrests for cannabis and other offenses persist. But in Denver, where cannabis was legalized, racial disparities in marijuana arrests have declined by 27 percent, even as disparities for all arrests have increased. Racial disparities in marijuana arrests have remained stagnant in Philadelphia, where only decriminalization occurred.
- › Racial disparities in disorderly conduct arrests in Philadelphia have increased since decriminalization.

Philadelphia

On October 20, 2014, the Philadelphia City Council decriminalized marijuana possession, downgrading possession of up to 30 grams of cannabis to a citation and a \$25 fine.²⁹ Councilman Jim Kenney, who would soon become mayor, estimated that the change would save the city \$4 million in police costs and \$3 million in court costs per year.³⁰ On December 5, 2016, the city also decriminalized disorderly conduct, including charges like obstruction of a highway, public drunkenness, and failure to disperse. The new policy instructed police officers to issue summary citations and code violation notices instead of making custodial arrests for these criminal infractions.³¹

Shortly after taking office in 2018, District Attorney Larry Krasner issued a memo instructing line prosecutors not to issue charges for minor marijuana possession or sex work.³² As of April 27, 2021, the Philadelphia District Attorney's Office had not convicted any person of marijuana possession in more than 200 days.³³

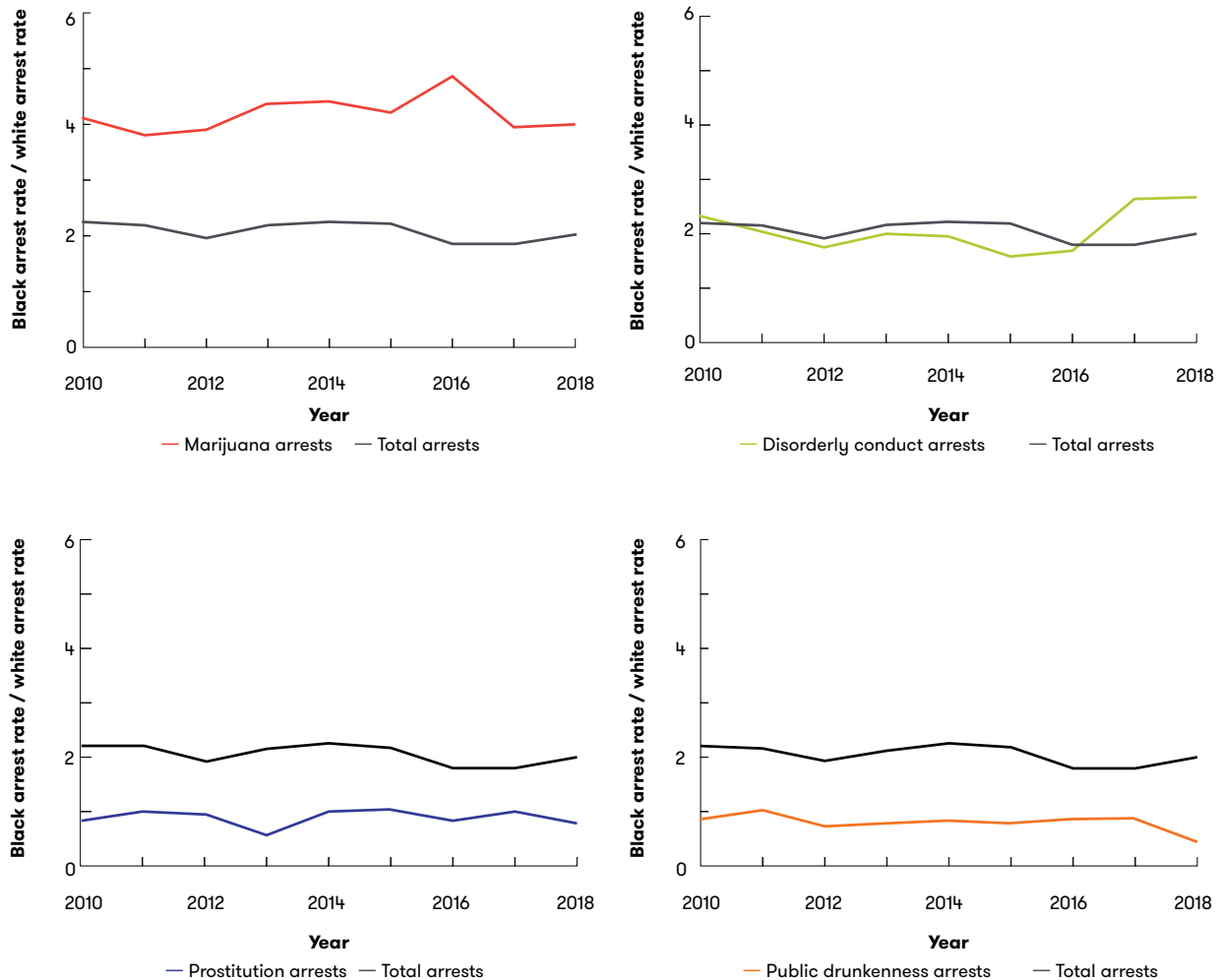
The decriminalization laws, coupled with Krasner's directives, impacted—but did not eliminate—enforcement in the city:

- › From 1980 to 2018, overall arrests made by PPD declined by 50 percent. However, this sizeable decrease in enforcement has mostly been realized in recent years. From 1980 to 2014, arrests made by PPD declined by only 9 percent.³⁴ Since 2014, when the city introduced decriminalization, arrests have fallen by 46 percent.
- › The offenses that the city decriminalized represent 17 percent of the total decline in arrests from 2014 to 2018.
- › In 2010, PPD made 14,458 arrests for marijuana, disorderly conduct, public drunkenness, and sex work-related offenses, 16 percent of all arrests in the city that year. By 2018, there were only 3,149 arrests for these offenses, a 78 percent decline, representing just 7 percent of all arrests made in 2018.
- › Arrests have declined by at least 40 percent for every decriminalized offense category in Philadelphia, with the steepest decreases in the years immediately following decriminalization.

Since 2013, marijuana arrests in Philadelphia have declined by 4,571, a 70 percent decrease. In 2013, the year before decriminalization was enacted, marijuana arrests accounted for 38 percent of all drug arrests. By 2018, that number had decreased to 16 percent.

- > Between 2015 and 2018, arrests for disorderly conduct and public drunkenness declined from 2,875 to 426, an 85 percent decrease. Between 2017 and 2019, arrests related to sex work declined by 40 percent.

Figure 1
Racial disparities in arrests in Philadelphia



Note: "Prostitution" is the formal designation of charges listed in the Uniform Crime Report, where this data originates. The remainder of the report refers to the category as sex work.

But despite decriminalization, racial disparities in arrests persist in Philadelphia. Figure 1 below shows the racial disparity in arrests across all offenses in Philadelphia from 2010 to 2018 compared to racial disparities for arrests related to offenses that have been decriminalized.

Racial disparities in arrests have remained relatively constant in Philadelphia over the last decade. Black people made up 66 percent of all arrests in 2018, while constituting about 42 percent of the population. At the same time, white people made up 33 percent of arrests, but 41 percent of the population. This translates to an arrest rate for Black people that is 1.98 times the arrest rate for white people. Since 2010, these figures have barely changed. White people made up about 3 percent more of the arrests in 2018 than they did in 2010, and Black people made up about 3 percent fewer arrests, decreasing the disparity from 2.2 to 1.98.

Racial disparities in arrests for the possession and sale of marijuana are even more stark than those for total arrests by the PPD. For these marijuana-related offenses, 80 percent of people arrested in 2018 were Black—almost twice their share of the population—despite evidence that Black people and white people use cannabis at roughly the same rate.³⁵ This figure has barely budged since 2010, prior to decriminalization, when it was 81 percent. Meanwhile, white people have consistently made up around 19 percent of arrests for marijuana-related offenses, resulting in an arrest rate for marijuana sale and possession that was 4.03 times higher for Black people than white people in 2018.³⁶

Disorderly conduct charges are in a class of offenses that are statutorily vague, and the broad discretion available in enforcing them has been historically used to target people of color and other marginalized people.³⁷ In recent years, racial disparities for disorderly conduct arrests in Philadelphia have increased. In 2018, 73 percent of people arrested for disorderly conduct were Black. This is an 11 percentage point increase from 2015 when 62 percent of disorderly conduct arrests were of Black people. The racial disparity in disorderly conduct arrests has historically roughly mirrored that of all arrests, but after decriminalization increased to an arrest rate for Black people that is 2.68 times that of white people.

Sex work and public drunkenness were the only two arrest categories analyzed in this report for which there were no substantial racial disparities. In 2018, 31 percent of people arrested for public drunkenness

were Black and 66 percent were white, whereas 42 percent of those arrested for sex work were Black and 52 percent were white. For both offenses, this translates to a ratio of arrest rates that is at or below one arrest of a Black person for every arrest of a white person.

Denver

In December 2012, the Colorado General Assembly enacted Amendment 64, which legalized the retail sale and possession of up to one ounce of cannabis in the state.³⁸ In January 2014, the first dispensaries opened in Denver.³⁹

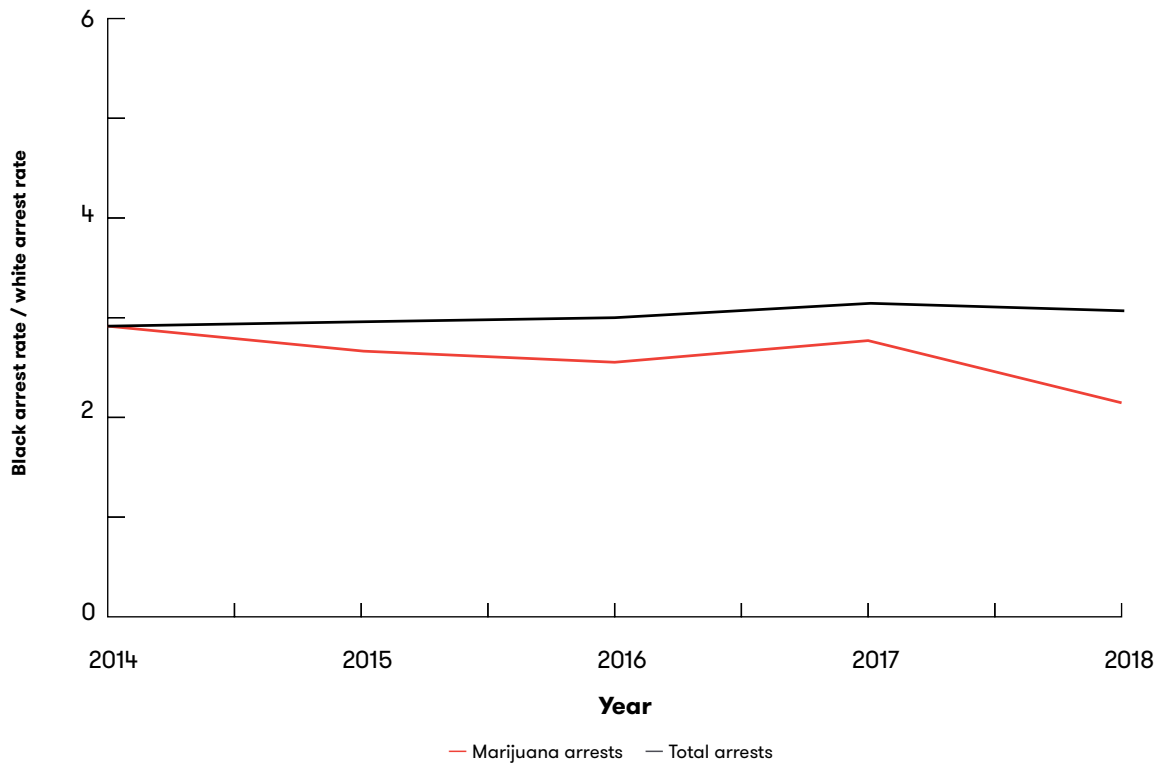
Notable outcomes:

- › Similar to Philadelphia, in the past two decades, enforcement by DPD has decreased substantially. Overall arrests by DPD declined by 45 percent from 1998 to 2005, and by less than 1 percent from 2014 to 2018.
- › Predictably, after legalization, DPD's enforcement of low-level marijuana offenses sharply declined. There was a spike in arrests for marijuana offenses in 2015. However, the overall trend still shows a massive decrease in enforcement. Arrests for marijuana offenses were 62 percent lower in 2018 than they were in 2014, falling from 796 to just 300.⁴⁰
- › According to official data collected by the Uniform Crime Reporting program, arrests for marijuana possession or sale made up 2.54 percent of all arrests in Denver in 2014, 3.46 percent in 2015, and only 0.96 percent of all arrests in 2018. Though they may appear to be small percentages, these changes in arrests for cannabis-related offenses represent 96 percent of the decline in arrests from 2015 to 2018.

After legalization, clear patterns emerged in who was being arrested for marijuana possession in Denver and how cannabis-related arrests compared to overall arrest patterns in the city. Figure 2 below shows the racial disparity in arrests across all offenses in Denver from 2014 to 2018 compared to the racial disparity for cannabis-related arrests.

Figure 2

Racial disparities in arrests for marijuana offenses in Denver



In Denver, where cannabis was legalized, racial disparities for possession and sale of marijuana declined from 2014 to 2018 and were lower than for total arrests, although they still persisted. The opposite was true in Philadelphia.

Black people represented 26 percent of all arrests in Denver in 2018, despite making up only 9 percent of the population. White people made up 71 percent of arrests but 77 percent of the population. In 2018, the arrest rate for all offenses was 3.05 times higher for Black people than for white people. This disparity is greater than it was in 2014, when Black people were arrested at a rate 2.89 times higher than white people.

In 2014, 26 percent of people arrested for marijuana offenses were Black. By 2018, this had decreased to 19 percent. In 2014, Black people were arrested for marijuana-related crimes 2.88 times more often than white people; by 2018, that disparity had fallen to 2.11. Racial disparities in arrests for cannabis-related crimes are now lower than for overall arrests.⁴¹ Though still deeply disproportionate, according to a 2018 analysis by the American Civil Liberties Union, as of 2018 Colorado had the lowest rate of racial disparities in marijuana possession arrests in the country.⁴²

Conclusion

Growing public awareness of the numerous killings of Black people by law enforcement has led to a year-long national reckoning and a legitimacy crisis for policing.⁴³ The staggering number of people killed by police and the circumstances under which they originally came into contact with police have spotlighted systemic injustices in everyday law enforcement practices and sparked demands for action. As grassroots activists, including the Black Lives Matter movement, call for the defunding or abolition of police, they have also pushed for misdemeanor decriminalization and legalization as one important prong of a framework to help shrink the scope of policing and reduce criminal legal system contact.⁴⁴

Misdemeanor arrests drive most criminal legal system contact across the country, so reducing arrests for low-level criminal offenses is one essential shift in public safety practice for jurisdictions that hope to narrow policing's footprint. It's clear from experiences in Denver, where criminal enforcement has declined significantly over the last 20 years, and in Philadelphia, where arrests have been cut nearly in half in just five years, that ceasing enforcement of even one or two low-level misdemeanors may play a significant role in the considerable reduction in arrests.

But even after decriminalization, racial disparities in policing have persisted. In Philadelphia, police continue to disproportionately arrest Black people. In fact, racial disparities for disorderly conduct actually increased after decriminalization, and disparities in cannabis enforcement have barely decreased and are still higher than for arrests overall.

The results of Vera's analysis are preliminary and geographically limited, but they contribute to an emerging literature on the so-called "dark side" of decriminalization, in which some scholars have argued that decriminalization "preserves many of the punitive features and collateral consequences" of criminalization mainly through the imposition of fines and fees and increased carceral supervision.⁴⁵ Vera's findings suggest that, even as the scope of the criminal legal system is narrowed through

decriminalization, it still perpetuates the same disproportionate harm to communities of color.

Legalization, in contrast, eliminates both officer discretion and some of the punitive aspects of decriminalization. In Denver, racial disparities in marijuana arrests declined 27 percent in four years and are now lower than racial disparities for arrests overall, although they persist.

To be effective and just, decriminalization efforts must center and prioritize eliminating the persistent racial disparities in misdemeanor enforcement stemming from the biased use of police discretion against people of color. Where broad discretion is granted to police, racial disparities will persist.⁴⁶

About Arrest Trends: Methods and data

To create Arrest Trends, Vera researchers located, cleaned, restructured, merged, and aggregated arrest data from eight major data series, including the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program.⁴⁷

City-level racial demographic characteristics in this report are from the U.S. Census Bureau's American Community Survey five-year estimates.⁴⁸ This source provided the data for all figures except for the Denver population in 2000, which referenced the decennial census. The population numbers for Black people throughout this report are given in the census as "Black or African American alone" and the population numbers for white people are given as "white alone" (a purely racial—not ethnic—designation, which includes both Latinx and non-Latinx people).

Vera calculated racial disparity figures in this brief by dividing the arrest rate (number of arrests divided by population) for a city's Black residents by the arrest rate for a city's white residents for a given year.

Data on arrests for sex work in Philadelphia comes from the public data dashboard available through the Philadelphia District Attorney's Office.⁴⁹

The Arrest Trends tool displays drug arrests in aggregate. Data on marijuana sale and possession used in this report, and other data on offenses by drug type, is available upon request. To access this data, please email Arresttrends@vera.org.

Through communication with the Denver Police Department, Vera researchers learned that the DPD changed data

practices in 2013. Per DPD guidance, the researchers did not compare arrest data from before and after the time of that change. Communication with DPD also indicated that data Denver reported to the UCR from 2006 to 2012 was likely not a full report. Therefore, that time period was not included in this analysis.

A note on offense categories and the Uniform Crime Reporting Program

Public drunkenness is one social behavior that is listed in Philadelphia's statute for disorderly conduct. However, arrest data reported through the UCR to the FBI breaks disorderly conduct and drunkenness into separate categories. Thus, for the purpose of this analysis of arrests, these two offense categories are counted separately. For this reason, there are limitations on comparing how disorderly conduct and public drunkenness arrests are affected by the PPD directive to effectively decriminalize both offenses.

Disorderly conduct arrests reported to the UCR do include failure to disperse and obstructing public highway offenses.

Finally, the arrest figures that the UCR publishes only include the most serious offense charged for that arrest. For example, the disorderly conduct arrests displayed in the figures in this brief reflect the arrests in Philadelphia where disorderly conduct was the most serious offense with which a person was charged. It is likely that there were arrests made in the city where a person charged with a more serious offense was also charged with disorderly conduct, but these separate charges would not be disaggregated and reported to the UCR.

Acknowledgements

The authors would like to thank our colleagues Daniela Gilbert, Frankie Wunschel, and Leah Pope, whose valuable contributions helped shape this analysis. We are also grateful to Elle Teshima, Nazish Dholakia, Léon Digard, Jim Parsons, and Cindy Reed for their review and comments and to Maris Mapolski and Elizabeth Crooks for editorial support. Thank you to Gloria Mendoza for design.

This report was made possible with the support of Vera's Capital Campaign, the Microsoft Corporation and the Microsoft Cities Team, and the Charles Koch Foundation.

Credits

© 2021 Vera Institute of Justice. All rights reserved.

The Vera Institute of Justice is powered by hundreds of advocates, researchers, and activists working to transform the criminal legal and immigration systems until they're fair for all. Founded in 1961 to advocate for alternatives to money bail in New York City, Vera is now a national organization that partners with impacted communities and government leaders for change. We develop just, antiracist solutions so that money doesn't determine freedom; fewer people are in jails, prisons, and immigration detention; and everyone is treated with dignity. Vera's headquarters is in Brooklyn, New York, with offices in Washington, DC, New Orleans, and Los Angeles.

For more information, contact Daniela Gilbert, director, Redefining Public Safety, at dgilbert@vera.org.

Endnotes

- 1 Eric Levenson, “Former Officer Knelt on George Floyd for 9 Minutes and 29 Seconds—not the Infamous 8:46,” CNN, March 30, 2021, <https://perma.cc/X7M4-53FC>.
- 2 Samuel Sinangwe, Allie Monck, Mary Hammond, et al., “2020 Police Violence Report,” database (New York: WeTheProtesters), <https://policeviolencereport.org/> (archived at <https://perma.cc/7KPK-PUR3>).
- 3 See for example Naomi F. Sugie and Kristin Turney, “Beyond Incarceration: Criminal Justice Contact and Mental Health,” *American Sociological Review* 82, no. 4 (2017), 719–743, <https://perma.cc/4N84-Z7PY>; Amanda Geller, Jeffrey Fagan, Tom Tyler, and Bruce G. Link, “Aggressive Policing and the Mental Health of Young Urban Men,” *American Journal of Public Health* 104, no. 12 (2014), 2321–2327, <https://perma.cc/WL46-YAFD>; Giza Lopes, Marvin D. Krohn, Alan J. Lizotte, et al., “Labeling and Cumulative Disadvantage: The Impact of Formal Police Intervention on Life Chances and Crime During Emerging Adulthood,” *Crime & Delinquency* 58, no. 3 (2012), 456–488, https://www.researchgate.net/publication/254080819_Labeling_and_Cumulative_Disadvantage_The_Impact_of_Formal_Police_Intervention_on_Life_Chances_and_Crime_During_Emerging_Adulthood; and Christopher Uggen, Mike Vuolo, Sarah Lageson, et al., “The Edge Of Stigma: An Experimental Audit Of The Effects Of Low Level Criminal Records On Employment,” *Criminology* 52, no. 4 (2014), 627–654, <https://perma.cc/UA5U-RMTZ>.
- 4 See for example BBC Staff, “George Floyd: Timeline of Black Deaths and Protests,” BBC, updated April 22, 2021, <https://perma.cc/TM5Y-5BPJ>.
- 5 From estimated 2018 values in: Federal Bureau of Investigation, “2018 Crime in the United States,” Table 29 Data Declaration, <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-29/table-29.xls/@@template-layout-view?override-view=-data-declaration>.
- 6 Part I crimes are those designated by the FBI as the most serious offenses. These include criminal homicide, forcible rape, robbery, and aggravated assault (violent crimes), and breaking and entering, larceny, motor vehicle theft, and arson (property crimes). See Federal Bureau of Investigation, Summary Reporting System User Manual (Washington, DC: FBI, 2013), 20–21, <https://perma.cc/K95M-DP5Y>.
- 7 Statistics in this paragraph use data from Vera’s Arrest Trends tool, which provides reported arrest totals through 2018.
- 8 Ezekiel Edwards, Emily Greytak, Brooke Madubuonwu, et al., *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform* (New York: American Civil Liberties Union (ACLU), 2020), 29, <https://perma.cc/QPJ2-YU62>.
- 9 Amanda Y. Agan, Jennifer L. Doleac, and Anna Harvey, “Misdemeanor Prosecution,” (Cambridge, MA: National Bureau of Economic Research, 2021), <https://perma.cc/W2AS-DH49>; and Alexandra Natapoff, *Punishment Without Crime: How Our Massive Misdemeanor System Traps the Innocent and Makes America More Unequal* (New York: Basic Books, 2018).
- 10 Emma Pierson, Camelia Simoiu, Jan Overgoor, et al., “A Large-Scale Analysis Of Racial Disparities In Police Stops Across the United States,” *Nature Human Behavior* 4 (2020), 736–745, <https://perma.cc/X43G-SLBQ>. A pretextual stop occurs when a police officer pulls someone over ostensibly for a minor violation but with the actual objective to look for evidence of a different crime. See Jamila Hodge and Akhi Johnson, “Ending Pretextual Stops is an Important Step towards Racial Justice,” Vera Institute of Justice, December 18, 2020, <https://perma.cc/6HN8-HTQU>.
- 11 Black Lives Matter, “Decriminalization,” #DefundThePolice, September 20, 2020, <https://perma.cc/J6BN-BK94>; *Ending Police Violence: What Do Defund and Divest Mean?* (New York: Vera Insti-

- tute of Justice, 2020), <https://perma.cc/L943-L74V>; Christopher Ingraham, “Marijuana Really Can Be Deadly, But Not In The Way You Probably Expect,” *Washington Post*, October 7, 2016, <https://www.washingtonpost.com/news/wonk/wp/2016/09/28/marijuana-really-can-be-deadly-but-not-in-the-way-you-probably-expect/>; Billy Binion, “Overcriminalization Killed Daunte Wright,” *Reason*, April 12, 2021, <https://perma.cc/U6AZ-DZLD>.
- 12 Conviction of a crime, even a misdemeanor, carries with it consequences that can last a lifetime and prevent people from accessing employment, housing, voting, licensing opportunities, education, and other rights and benefits. See National Reentry Resource Center, “National Inventory of Collateral Consequences of Conviction,” database (Washington, DC: National Reentry Resource Center), <https://niccc.nationalreentryresourcecenter.org/>.
 - 13 See for example Oregon Measure 110 (2020) (approved by voters November 3, 2020), <https://perma.cc/P6SD-X8PZ>; Virginia HB 256 (2020) (signed by governor March 8, 2020), <https://perma.cc/Z8JW-XFM7>; and Carter Sherman, “Manhattan Is Moving to Decriminalize Sex Work. Kind Of.,” *Vice*, April 21, 2021, <https://www.vice.com/en/article/akgz9e/manhattan-is-moving-to-decriminalize-sex-work-kind-of>.
 - 14 Jordan Blair Woods, “Decriminalization, Police Authority, and Routine Traffic Stops,” *UCLA Law Review* 62 (2015), 672–759, <https://perma.cc/9P9E-UTCP>.
 - 15 Seattle Municipal Code §§ 12A.10.010 and 12A.20.050; Seattle Council Bill 119807(2020) (codified at Ordinance 126098), <https://perma.cc/N8JL-5BYF>; and Seattle Council Bill 119808 (codified at Ordinance 126099) (2020), <https://perma.cc/YE5L-QS6M>. See also “City Council Repeals Problematic Law to Reduce Disproportionate Impact on Communities of Color,” Council Connection, June 22, 2020, <https://perma.cc/AD8R-VAFA>; Asha Venkataraman, “Summary and Fiscal Note,” <http://seattle.legistar.com/View.ashx?M=F&ID=8609474&GUID=66703BB8-185E-4A34-95BF-28ED9C41E294>; and Sydney Brownstone, “Seattle City Council Votes to Repeal Loitering Laws, But Groups Say Much More Is Needed,” *Seattle Times*, June 23, 2020, <https://perma.cc/9GMS-MHLB>.
 - 16 Oregon Measure 110 (2020). See also Matt Sutton, “Drug Decriminalization in Oregon Officially Begins Today,” press release (New York: Drug Policy Alliance, 2021), <https://perma.cc/8NAB-EU7G>; and Marijuana Policy Project, “Cannabis Policy in the U.S.,” database (Washington, DC: Marijuana Policy Project), <https://www.mpp.org/policy/>.
 - 17 Washtenaw County Office of the Prosecuting Attorney, “Policy Directive 2021-08: Policy Regarding Sex Work,” January 14, 2021, <https://perma.cc/5DET-ZGLY>.
 - 18 Joshua Vaughn, “The Pandemic Prompted Marilyn Mosby to Stop Prosecuting Low-Level Crimes. Will Other D.A.s Follow?” *The Appeal*, April 12, 2021, <https://perma.cc/TE8R-THNL>.
 - 19 Memorandum to Members of the Baltimore Police Department from Michael Sullivan, Deputy Commissioner of Operations, re: Continued Modified Enforcement Procedures, dated April 9, 2020 [sic] and distributed April 9, 2021, <https://perma.cc/4EXW-XJYL>.
 - 20 Manhattan District Attorney’s Office, “District Attorney Vance to End Criminal Prosecution of Approximately 20,000 Low-Level, Non-Violent Misdemeanors per Year,” press release (New York: Manhattan District Attorney’s Office, June 30, 2017), <https://perma.cc/3BUY-72K9>.
 - 21 Marijuana Policy Project, “Cannabis Policy in the U.S.”
 - 22 Jamila Hodge and Seleeke Flingai, “What Happened When Boston Stopped Prosecuting Nonviolent Crimes,” Vera Institute of Justice, April 2, 2021, <https://perma.cc/R668-M3NZ>.
 - 23 Agan, Doleac, and Harvey, “Misdemeanor Prosecution,” 2021, 35–36 and 80–81.

- 24 Throughout this report, decriminalization of cannabis-related crimes refers to UCR classified crimes for sale and possession of marijuana.
- 25 Colorado Amendment 64 (2012), <https://perma.cc/6FJ5-7GF2>. The implementation of Amendment 64, which altered the Colorado Constitution, required a flurry of legislation. See Colorado SB 13-283 (Enacted); HB 13-1317 (Enacted); HB 13-1318 (Enacted); SB 13-241 (Enacted); SCR 13-003 (Deemed Lost); HJR 13-1022 (Deemed Lost); HB 13-1114 (Postponed Indefinitely); and HB 13-1325 (Enacted). For a summary of the implementation process see *Amendment 64 Implementation* (Denver, CO: State of Colorado, 2013), <https://perma.cc/M2F6-KFGH>.
- 26 Philadelphia City Council Bill no. 140001-A (2014), archived in Dan McQuade, “Philadelphia City Council Votes to Decriminalize Marijuana,” *Philadelphia Magazine*, June 19, 2014, <https://perma.cc/6PTF-ZD3W>. For other steps taken in Philadelphia, see Dan McQuade, “Mayor Nutter Signs Marijuana Decriminalization Bill,” *Philadelphia Magazine*, October 1, 2014, <https://perma.cc/43GV-V42Q>.
- 27 Due to both the underreporting of data to UCR from 2006–2012 and Denver Police Department data practice changes in 2013, Vera researchers omitted the years 2006–2013 from this analysis and refrained from comparing data from before 2013 to data after 2013. See Methodology section on page 14 for more detail on these limitations.
- 28 In 2014, Denver reported 796 arrests for marijuana sale and possession and 300 in 2018. In 2014, Denver saw 31,287 arrests across all type of offenses, and 31,119 in 2018.
- 29 Philadelphia City Council Bill no. 140001-A (2014).
- 30 Anna Orso, “Pot in Philly: 5 Takeaways Since Pot Was Decriminalized Here,” *Billy Penn*, February 3, 2015, <https://perma.cc/U9FU-MPY8>.
- 31 Philadelphia Police Department Directive 12.10 (December 5, 2016), <https://perma.cc/S2JM-SGWE>.
- 32 A copy of this untitled policy memo was published by *The Intercept*. See “Philadelphia DA Larry Krasner’s Revolutionary Memo,” *The Intercept*, March 20, 2018, <https://perma.cc/4CAE-WJE7>.
- 33 Philadelphia District Attorney’s Office, “Public Data Dashboard,” database (Philadelphia, PA: Philadelphia District Attorney’s Office), accessed April 27, 2020, https://data.philadao.com/Case_Outcomes_Report.html.
- 34 Vera Institute of Justice, “Arrest Trends: Philadelphia Police Department Arrests,” database (New York: Vera Institute of Justice), <https://arresttrends.vera.org/arrests?location=22110&estimated=0&start=1980&year=2014#bar-chart>.
- 35 Dayna Bowen Matthew and Richard Reeves, “Trump Won White Voters, But Serious Inequities Remain For Black Americans,” *Brookings Institution*, January, 13, 2017, <https://perma.cc/5WFC-PKEY>.
- 36 In 2018, people of other races made up approximately 1 percent of arrests; this has not varied significantly since 2010.
- 37 See for example Risa Goluboff, “The Forgotten Law That Gave Police Nearly Unlimited Power,” *Time*, February 1, 2016, <https://perma.cc/2ZE5-ZY48>; Jamelia Morgan, “Rethinking Disorderly Conduct,” *California Law Review* 109 (forthcoming 2021), <https://ssrn.com/abstract=3552620>; Rachel Moran, “Doing Away With Disorderly Conduct,” *Boston College Law Review* 63, no. 1, (forthcoming 2022), <https://ssrn.com/abstract=3807607>; and Risa Goluboff, *Vagrancy Nation: Police Power, Constitutional Change, and the Making of the 1960’s* (New York: Oxford University Press, 2016).
- 38 Colorado Amendment 64 (2012).
- 39 Jack Healy, “Up Early and in Line for a Marijuana Milestone in Colorado,” *New York Times*, January 1, 2014, <https://www.nytimes.com/2014/01/02/us/colorado-stores-throw-open-their-doors-to-pot-buyers.html>.

- 40 Voters passed Amendment 64 to legalize cannabis in November 2012. Recreational use was officially legalized in December 2012, 13 months before the beginning of the reporting period, although retail sales did not begin until 2014. Therefore, the actual decline in arrests following decriminalization is likely greater than the 62 percent documented here.
- 41 DPD did not report complete arrest data to the FBI between 2006 and 2013. These limitations prevent further analysis on enforcement in years before the legalization of cannabis and demonstrate the need to limit “missingness” in policing data and improve transparency.
- 42 American Civil Liberties Union, “Extreme Racial Disparities Persist in Marijuana Arrests: Colorado,” <https://perma.cc/HMD5-BJKP>.
- 43 Alice Speri, Alleen Brown, and Mara Hvistendahl, “The George Floyd Killing in Minneapolis Exposes the Failures of Police Reform,” *The Intercept*, May 29, 2020, <https://perma.cc/2UHD-9NVT>.
- 44 Defund The Police, “About,” Black Lives Matter, June 19, 2020, <https://perma.cc/NKU6-2TE2>; Letter to Nancy Pelosi and Steny Hoyer re “Marijuana Opportunity Reinvestment and Expungement (MORE) Act” from The Leadership Conference on Civil and Human Rights, August 13, 2020, <https://perma.cc/584V-T5XX>; Color of Change, “Hundreds Of Activists And Community Leaders Descend On Albany With Thousands Of Petition Signatures Calling On Senate To Pass Legislation That Would End 50,000+ Annual Costly, Unlawful And Racially Biased Arrests,” press release (New York: Color of Change, June 11, 2012), <https://perma.cc/GK42-CCL6>.
- 45 See for example Michelle Alexander, “The Newest Jim Crow,” *New York Times*, November 8, 2018, <https://www.nytimes.com/2018/11/08/opinion/sunday/criminal-justice-reforms-race-technology.html>. In fact, the expansion of the misdemeanor and civil offense list raises concerns about the lower burden of proof, lack of access to legal counsel, and informal nature of these proceedings. See Alexandra Natapoff, “Misdemeanor Decriminalization,” *Vanderbilt Law Review* 68, no. 4 (2015), 1055-1116, <https://ssrn.com/abstract=2494414>. And the mere fact that an offense is fine-only is not a safeguard against arrest or jail. See e.g. *Florence v. Board of Chosen Freeholders*, 132 S. Ct. 1510 (2012).
- 46 Radley Balko, “There’s Overwhelming Evidence That the Criminal Justice System Is Racist. Here’s the Proof,” *Washington Post*, June 10, 2020, <https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/#Policing>; and Pierson, Simoiu, Overgoor, et al., “Racial Disparities In Police Stops,” 2020.
- 47 Vera Institute of Justice, “Arrest Trends: Data Sources & Methodology,” <https://perma.cc/VCP7-C9TM>.
- 48 United States Census Bureau, “American Community Survey: Data Profiles,” database (Washington, DC: United States Census Bureau), <https://www.census.gov/acs/www/data/data-tables-and-tools/data-profiles/>.
- 49 Philadelphia District Attorney’s Office, “Public Data Dashboard,” database (Philadelphia, PA: Philadelphia District Attorney’s Office), https://data.philadao.com/Case_Outcomes_Report.html.

Vera Institute of Justice
34 35th Street, 4-2A
Brooklyn, NY 11232
T 212 334 1300
F 212 941 9407

Washington DC Office
1111 14th Street, Suite 920
Washington, DC 20005
T 202 465 8900
F 202 408 1972

New Orleans Office
1307 Oretha Castle
Haley Blvd., Suite 203
New Orleans, LA 70113
T 504 312 4516

California Office
634 S Spring Street, #300A
Los Angeles, CA 90014
T 213 416 0058
F 213 416 0075