



Harris County Communities: A Call for True Collaboration

Restoring Community Trust
and Improving Public Safety





ACKNOWLEDGEMENTS

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The Texas Criminal Justice Coalition (TCJC) works with peers, policy-makers, practitioners, and community members to identify and promote smart justice policies that safely reduce the state's costly over-reliance on incarceration – creating stronger families, less taxpayer waste, and safer communities.

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INTRODUCTION

This report addresses the negative impact of the Harris County criminal justice system on black and brown communities. The data and analysis in this report paint a picture of Harris County that reveals some disturbing truths. First, Harris County's criminal justice system is committed to policies that racially target blacks and Hispanics. Second, these policies cannot be justified by public safety goals; on the contrary, they harm public safety. These harms reinforce negative stereotypes of minorities and negative attitudes toward police in these same communities.

There is a lot of pain and frustration resulting from racially targeted criminal justice policies in Harris County. In this shared outrage, there is also an opportunity for the black and Hispanic communities of Harris County to build stronger bonds and work together to make positive changes in local government and law enforcement – with county-wide benefits.



Executive Summary

“Crime Control” Efforts Target Black and Brown Communities

Harris County has dedicated substantial resources to “crime control” strategies that unfairly target the black and Hispanic communities.

Drug prosecution and African Americans: Harris County focuses much of its crime control resources on prosecuting drug crimes, particularly felony drug possession. Felony drug possession has been the number one felony charge in Harris County for each of the past 20 years.¹

National data on drug use and substance abuse rates shows that blacks and whites use drugs at similar rates.² Yet the focus on prosecuting felony drug possession offenses has had an extremely disproportionate impact on black communities. Despite the data showing similar rates of use and abuse, blacks and whites in Harris County are not evenly represented among those arrested and sentenced to prison or state jail for drug possession.

Racial profiling data from the Houston Police Department (HPD) shows that policing strategies that are more likely to result in low-level drug arrests are used more frequently on black motorists. Black motorists are four times more likely than white motorists to be subjected to a vehicle search without probable cause.³

While blacks make up about 19 percent of Harris County residents, they made up almost 50 percent of those arrested for felony drug possession between October 2011 and September 2012, and they comprise 65.8 percent of those being incarcerated by Harris County in state prisons or jails for felony drug possession.⁴

Immigration enforcement and Hispanics: Harris County has also dedicated significant resources to targeting unauthorized immigration through criminal justice policy. By using local jail resources for immigration enforcement, Harris County’s criminal justice system targets Hispanics and harms Hispanic communities.

Each person booked into the Harris County jail is screened for immigration status.⁵ If identified as a suspected deportable immigrant, he or she will almost always be transferred into the custody of immigration enforcement officers. Many of those taken into immigration custody have not been convicted of any crime; many others have been convicted of only a minor offense.⁶ This system has resulted in the disproportionate deportation of Hispanic immigrants, relative to their numbers in the population, and in the wrongful detention and deportation of legal U.S. residents and U.S. citizens.⁷

While booking through local jails can lead to deportation, peace officers interested in deporting immigrants can use their discretionary arrest authority to selectively arrest more Hispanics⁸ and make sure they are screened for immigration status.⁹ HPD racial profiling data indicates that traffic stops are more likely to lead to arrest for Hispanic drivers than for either black or white drivers. This may indicate the use of traffic enforcement to target Hispanic drivers for arrest on petty criminal violations in order to facilitate immigration screening through the booking process.

These immigration enforcement efforts disproportionately impact Harris County's Hispanic community as a whole because many Hispanic families in Harris County, as in the rest of the country, are made up of U.S. citizens, lawfully present immigrants, and unauthorized immigrants.

By spending criminal justice resources on deportations, Harris County is doing little to prevent crime and instead is diverting resources away from legitimate crime control and public safety.

Racially Targeted Policies Harm Black and Hispanic Communities, Undermine Law Enforcement, and Make Harris County Less Safe

Harris County's criminal justice policies damage the black and Hispanic communities that law enforcement has sworn to serve and protect.

Focusing resources on arresting, prosecuting, and incarcerating blacks for felony drug possession means that blacks in Harris County are much more likely to have felony criminal records than their white and Hispanic counterparts. A felony conviction, even without jail or prison time, carries with it a permanent stigma, excluding individuals from most well-paid jobs and almost all professions, barring them permanently from public housing and other public benefits, creating substantial barriers to receiving higher education, and leaving them without the resources to get help if they suffer from substance abuse. All the difficulties that accompany a felony conviction are therefore spread more widely and deeply over the black community than across other communities. The whole community suffers as so many individuals are unable to support their children and families, leading to instability for children, childrearing by grandparents and other relatives, and additional burdens carried by the community as a whole.

This over-enforcement of drug laws in the black community also reaffirms the stereotype that blacks are more likely to be criminals. In the case of drug laws, targeted enforcement is criminalizing blacks who use illicit drugs, while most whites using illicit drugs have no contact with the criminal justice system.

Targeted enforcement of drug laws also undermines public safety in black communities. The black community feels targeted by police for unfair treatment, which leads to a lack of trust in law enforcement. When the community does not trust the police, witnesses are less willing to share information the police need to solve serious crimes. And, at least some of those already labeled felons for life by the system and unable to find a good job in the legitimate economy turn to illegal activity to make a living.

By using criminal justice resources to deport Harris County residents, the well-being of the Hispanic community is systematically undermined. Parents and children are torn apart, families are left behind without financial support, mortgages go into default, and children are placed in the care of relatives or the foster care system.

Using jails as a deportation tool creates the impression that, if jail is the place to find immigrants, then immigrants—and by extension all Hispanics—must be criminals. This stereotype is reflected in the common use of the phrase “illegal immigrant,” to describe anyone suspected of being in the United States without authorization. In spite of the stereotypes, recent immigrants, both with and without permission to be in the United States, are much less likely to commit crimes or be incarcerated than their U.S. citizen counterparts.¹⁰

As with the prosecution of a disproportionate number of blacks for felony drug possession, the result of the focus on deportation causes a loss of trust among the immigrant community, the Hispanic community, and law enforcement. If the police are seen as deportation agents, fewer immigrants will come forward with information necessary to solve serious crimes. More broadly, Hispanics become skeptical of police motives in traffic stops and in setting other public safety priorities.

By creating a divide between law enforcement and the large immigrant community of Harris County, criminals who prey on immigrants are given free rein to expand their criminal activities.

Black and brown communities share similar concerns about racially targeted policies impacting tens of thousands of people within Harris County. Both communities are targeted based upon false racial and ethnic stereotypes. By working together to address these policies, blacks and Hispanics can build a stronger case for reform. These shared experiences can also bring the communities together with the understanding that racial targeting in drug enforcement and ethnic targeting in immigration enforcement are both examples of the same destructive pattern. Addressing both policies together makes it difficult to explain them away.

This report provides a detailed examination of how Harris County crime control policies operate in black and brown communities, how these policies are racially targeted, and what the impact of these policies is over time.

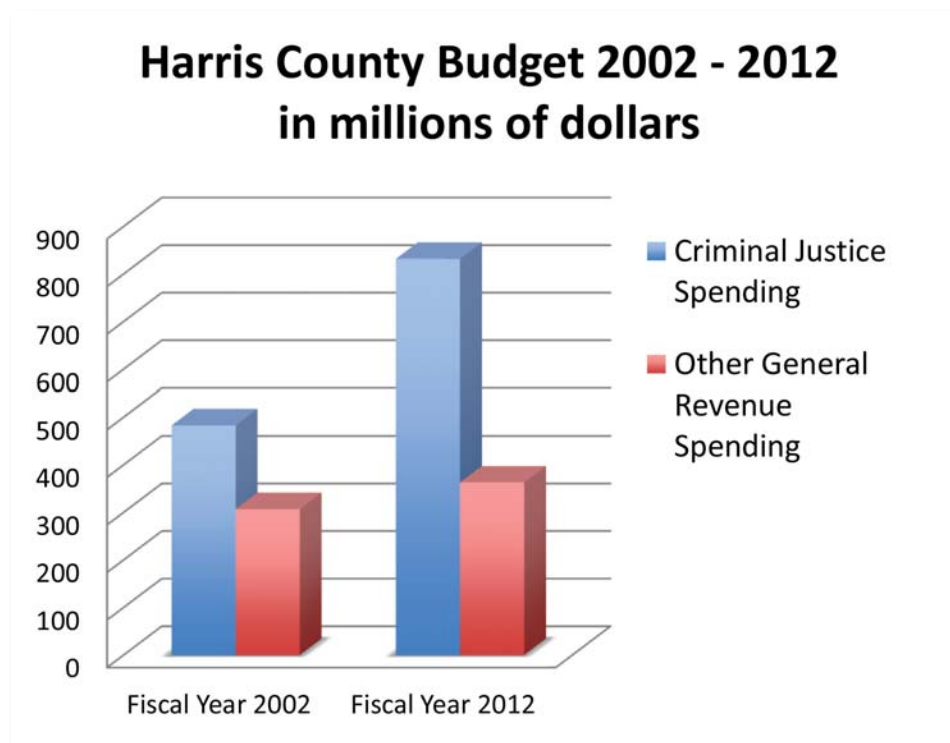


What's Wrong with Drug Law Enforcement in Harris County?

Drug law enforcement in Harris County cannot be seen as an effective crime control strategy. Predominantly black drug users have been targeted with increasingly aggressive levels of enforcement, unconnected to crime or drug use rates. A vicious cycle of arrest, incarceration, conviction, release, and re-arrest has created an underclass of thousands of Houstonites with multiple felony convictions—and the cause of their criminal activity is having a drug addiction. The Harris County Community Supervision and Corrections Department fails to identify those who need treatment or effectively provide treatment services.

Harris County Focuses on Criminal Justice and Crime Control

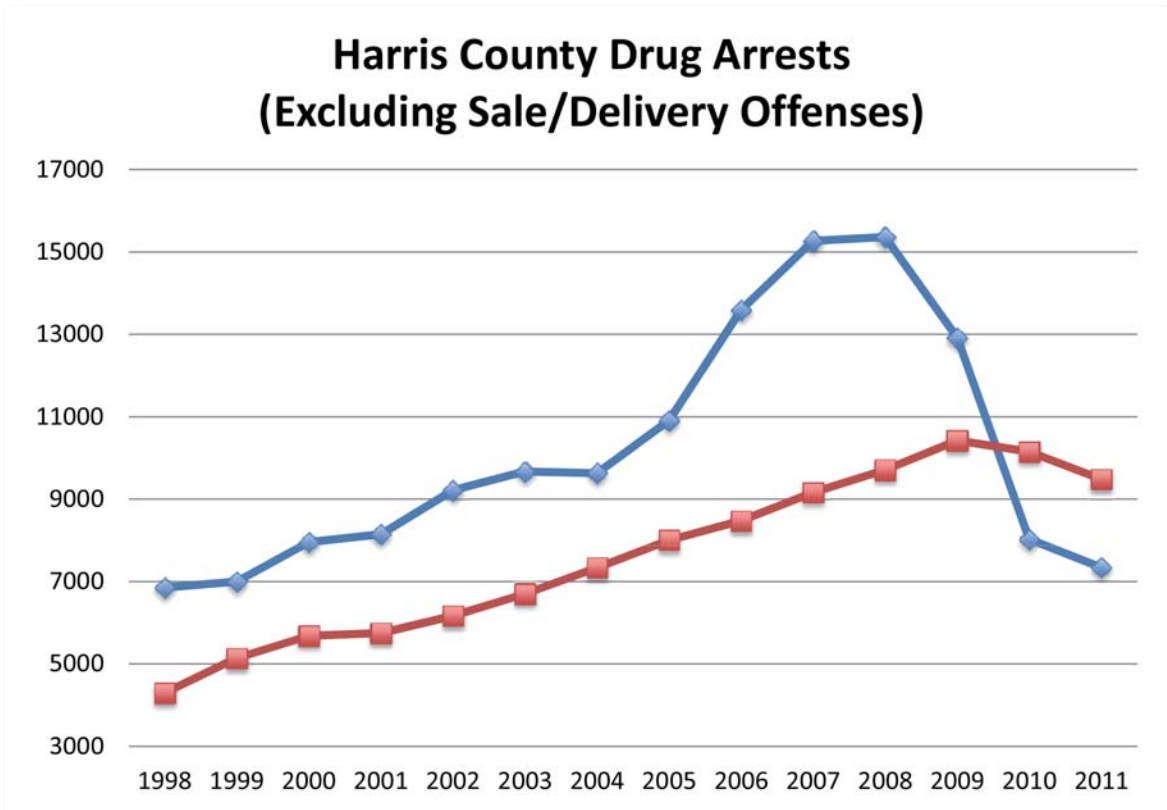
Harris County spends more than two-thirds of its total general revenue budget on its criminal justice system. While county spending on all other services has risen slowly, criminal justice spending has nearly doubled in the past ten years alone.



In fiscal year (FY) 2002, Harris County spent \$483 million on criminal justice and \$307 million on all other general revenue expenditures. In FY 2012, \$832 million was allocated for criminal justice and \$363 million to all other expenditures.¹¹ For FY 2013, approximately \$175 million is budgeted for operating the Harris County jail alone.¹² From 2002 to 2012, criminal justice spending grew from 61 to 70 percent of the total general revenue budget. By comparison, Travis County spends less than 50 percent of its general revenue budget on criminal justice.¹³

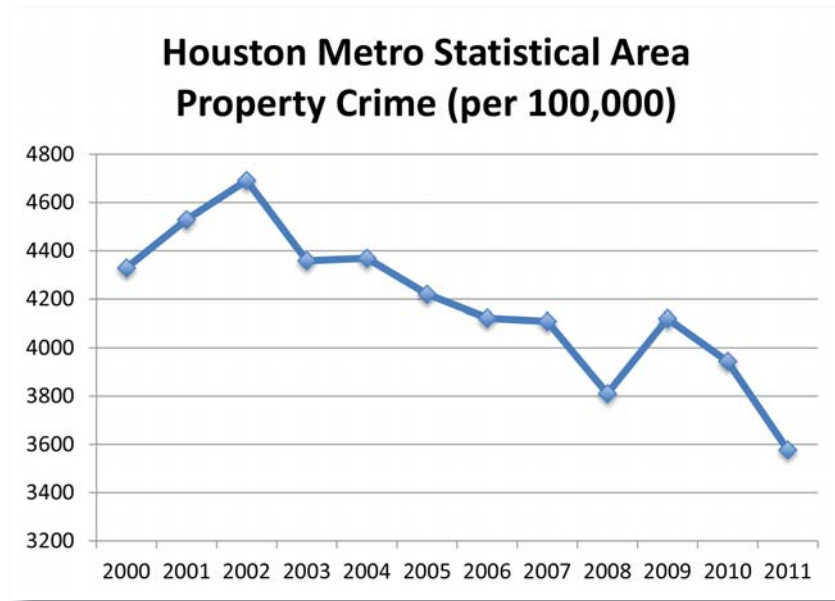
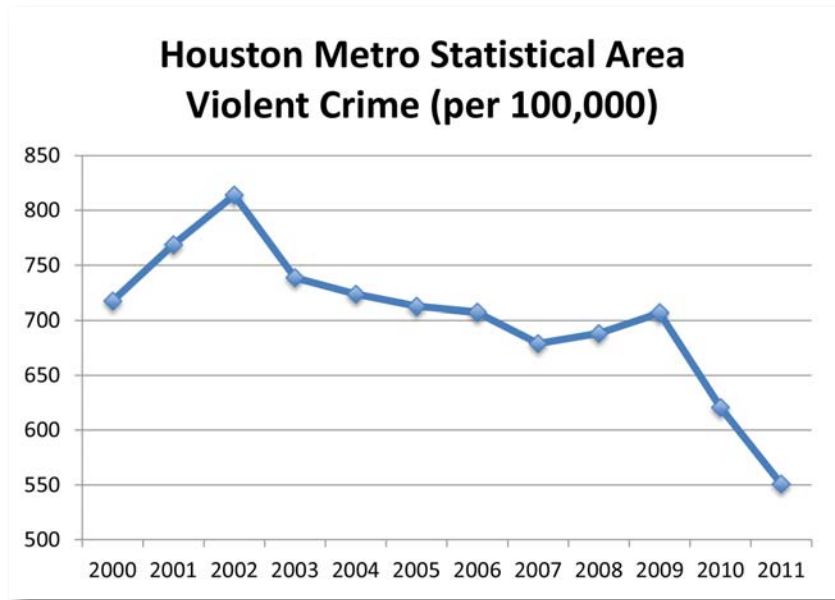
The Drug Enforcement Boom

Between 2000 and 2008, while Houston-area crime rates dropped and trends in drug use saw little change, drug possession arrests in Harris County skyrocketed.



In particular, arrests for felony drug possession leapt between 1999 and 2008. In 2008, Harris County Pretrial Services reported interviewing 15,363 individuals arrested on felony drug possession, accounting for 40 percent of all felony arrestees.¹⁴ This number was cut in half by the district attorney’s 2010 change in policy that ended the practice of charging individuals found with “trace” amounts of a controlled substance with felony drug possession.¹⁵ According to information on cases filed through Harris County District Attorney Intake, there were 13,798 cases filed for possession of less than a gram of a controlled substance in 2008 and only 5,996 filed in 2011.¹⁶ **The change in the trace case policy accounted for a drop of more than 7,800 felony drug possession cases between 2008 and 2011.**¹⁷

While enforcement of laws targeting drug users hit its peak in 2008 and then declined dramatically, crime in the Houston area steadily dropped.



Except for two peaks corresponding with economic downturns, Houston-area crime has been declining steadily over the past decade.¹⁸ Crime rates dropped dramatically after the change in prosecution policies cut the number of annual prosecutions for felony drug possession in half starting in 2010. This is consistent with research showing that increased law enforcement attention on low-level drug offenses not only results in fewer resources devoted to other types of offenses, but also leads to an increase in serious crimes.¹⁹

This is important because one of the arguments made in defense of the more aggressive trace case policy is that it operates to prevent other crimes, including robberies and burglaries. Individuals arrested with used crack pipes are, as the argument goes, likely to commit property crimes to feed their drug habit.²⁰ Locking them up for six months to a year for felony drug possession prevents these crimes. However, the property crime rate trends for the Houston area provide no support for this argument.

The spike in drug arrests between 1998 and 2008 is also inconsistent with trends in drug use behavior. Between 2002 and 2008, 7.9 to 8.3 percent of Americans reported recent use of drugs.²¹ And, between 2008 and 2011, reported drug use increased nationally.²²

Over-Enforcement of Drug Possession Laws in Black Communities

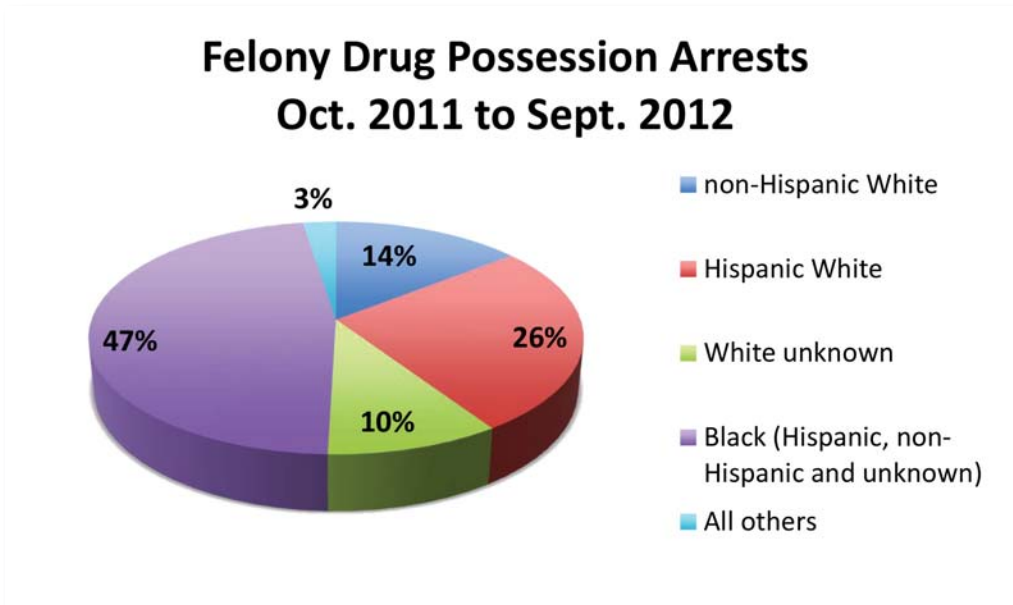
In spite of data indicating that blacks and whites use and abuse illegal drugs at comparable rates, Harris County has a pattern of enforcing drug possession laws differently in black communities than in white communities.

The HPD’s annual racial profiling analysis shows how drug enforcement singles out black residents. Yet in traffic stops, drugs are the number one form of contraband that law enforcement discovers across racial groups. In 2011, drugs were found in 73.4 percent of successful HPD searches (i.e., searches that were positive for some kind of contraband). In 2010, drugs were discovered in 90 percent of successful searches.²³

In 2011, black drivers were almost four times more likely to have their vehicles “consent searched” than white drivers. In a consent search, an officer does not have probable cause or other legal authority to search a vehicle, but police search the vehicle anyway by obtaining the permission of the driver. (Note: Many drivers do not realize they can refuse consent.) In 2011, 55 percent of all HPD consent searches were of vehicles with black drivers. Black drivers were almost four times more likely to be consent searched than white drivers according to HPD data.²⁴

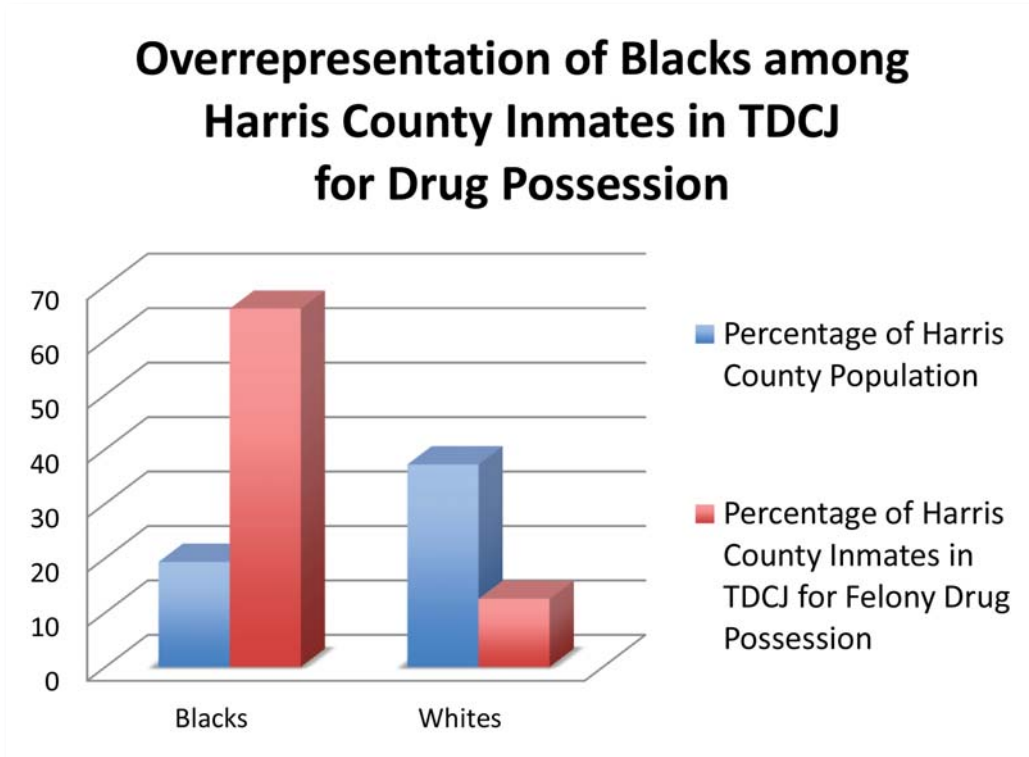
Unfortunately, HPD no longer maintains or reports data regarding stops of individuals on foot,²⁵ so a complete picture of how HPD interacts with community members both in vehicles and on foot cannot be created.

Recent Harris County arrest data shows that blacks are overrepresented among those arrested for felony drug possession.



Blacks make up about 19 percent of the Harris County population; they made up almost 50 percent of the arrestees for felony drug possession during FY 2012. In comparison, blacks made up 10.4 percent of arrestees for misdemeanor DWI for the same time period.²⁶ At least some of the time, dangerous driving behavior that threatens the safety of others leads to a DWI arrest. Drug possession arrests rarely are initiated because of behavior that threatens the safety of others.

Harris County also sentences blacks to state jail and prison time at several times the rate of whites for drug possession.



Blacks are 65.8 percent of those incarcerated by Harris County in state prisons or jails for felony drug possession.²⁷ Both the arrest rate and the incarceration rate in Harris County is inconsistent with national data showing that drug use and substance abuse rates for whites and blacks differ minimally. The 10-year average of national survey data on illicit drug use for individuals over age 12 shows recent drug use by blacks at 9.6 percent and whites at 8.5 percent. The same study reported substance abuse or dependence rates in 2011 were 8.2 percent for whites and 7.2 percent for blacks.²⁸

While whites are in fact more likely to have substance abuse problems, and therefore are more likely than occasional drug users to engage in frequent drug use and possession, whites make up only 12.5 percent of Texas Department of Criminal Justice (TDCJ) inmates incarcerated for felony drug possession in Harris County.

The Vicious Cycle of Drug Enforcement

Most people convicted and sentenced for felony drug possession in Harris County receive a sentence of incarceration and no drug treatment services.

Between 2009 and 2011, almost 40 percent of those convicted of felony drug possession were sentenced to the county jail, 21 percent were sentenced to state jail, and 13 percent were sentenced to prison. Overall, 74 percent of all those convicted of felony drug possession did jail or prison time.²⁹ And, although there is a lack of data regarding the racial breakdown of who is on probation or deferred adjudication for a drug possession offense, in 2009, blacks made up less than one-third of the total population on community supervision.³⁰

Because drug possession is considered a low-level felony, most of those sentenced to prison for drug possession have multiple felony convictions. Considering there have been more than 150,000 arrests for felony drug possession in the past 20 years, it is no surprise that many of Harris County's long-term black drug users have multiple drug-related convictions and may eventually be sentenced to prison time—even if they have never been found in possession of more than a personal-use amount of a drug.

Two-thirds of Harris County arrestees in 2011 had one or more prior offenses on their records. More than one-third of 2011 arrestees had three or more prior offenses.³¹ These numbers indicate that many of the same people are probably being arrested and convicted for drug possession again and again.

One contributing factor to the cycle of repeat drug convictions is the lack of meaningful drug assessment and treatment options provided through the Harris County criminal justice system. From 2009 to 2011, 4.4 percent of those convicted of felony drug possession were sentenced to substance abuse felony punishment through the Harris County Sheriff's Office. In 2011, 1,365 individuals, or 8.4 percent, of those sentenced to deferred adjudication or probation for any offense that year received treatment services through a Harris County Community Supervision and Corrections Department program.³²

According to its interim director, as of early December 2012, the Harris County Community Supervision and Corrections Department had no capacity to effectively assess the drug treatment needs of probationers. Department staff has been placing probationers in drug treatment programs arbitrarily, without proper training in how to assess drug treatment needs. In fall 2012, despite a massive need for drug treatment services for probationers convicted of both drug- and non-drug-related crimes, Harris County was not using all of its drug treatment slots. Instead, Dallas County was transferring some of its probationers to Harris County to use those available beds.³³

The Problem with Enforcing Immigration Laws Through Harris County Jails

Houston is an international city where hundreds of thousands of immigrants live, work, and contribute to the economy. While the Greater Houston Partnership—an economic development organization serving the greater Houston area—works to promote this image,³⁴ Harris County remains one of a short list of jurisdictions in the nation enrolled in the controversial federal 287(g) program,³⁵ making it easier for the jail to help immigration officials identify suspected, but not necessarily actual, deportable immigrants.

This tension is at the core of what is wrong with Harris County’s aggressive enforcement of immigration laws through jail facilities. A county that is 41.4 percent Hispanic³⁶ and is working to portray itself to the world as a center of international business and trade has put targets on the backs of those same Hispanic residents—in particular, the low-income workers who staff the rapidly expanding construction and service industries necessary for a fast-growing economy.

Immigration Enforcement Craze

Jails across the United States participate in federal programs that seek out suspected deportable immigrants and transfer them to immigration detention facilities for deportation. Many of these programs were deployed in Texas before being rolled out nationwide. In Houston, the relationship between the local criminal justice system and U.S. Immigration and Customs Enforcement (ICE) became a topic of heightened public concern in part as a result of 2006 and 2009 shootings of peace officers by unauthorized immigrants.³⁷ It was within this context that Harris County joined the federal 287(g) program.³⁸ Because Houston is a large city with a large immigrant population and near the U.S.-Mexico border, ICE located a massive immigration enforcement infrastructure in Houston. ICE’s Houston Field Office is one of the top-two busiest deportation departure points in the nation.

Two federal programs operate to screen people for unauthorized immigration status through local jails in Harris County—the 287(g) program and ICE’s Secure Communities. Harris County has participated in the 287(g) program since 2008.³⁹ Through it, Harris County Sheriff’s deputies are trained and authorized to perform immigration interviews. Harris County pays over \$1 million per year to participate in the program.⁴⁰ In addition to saving the federal government the cost of stationing ICE agents in the jail to perform in-person interviews, the program also ensures that in-person immigration screenings of arrestees occur around the clock. Previously, ICE accepted all detainers issued by Harris County Sheriff’s deputies; more recently, it has begun to reject some detainers based on federal immigration enforcement priorities.⁴¹

The federal Secure Communities program connects fingerprint data collected at booking to a federal immigration enforcement database. When fingerprints “pop” in the immigration database, they are reviewed remotely and ICE decides whether to issue a hold on the person suspected of being deportable.⁴² Once a hold is in place, the person is rarely released from jail except into immigration custody for detention in an immigration facility.

Although the Harris County jail reports that ICE takes custody of individuals with immigration holds almost immediately upon release, the placement of immigration holds on thousands of Harris County jail inmates lengthens their jail stays. When an arrestee has an ICE hold, regardless of factors indicating that he or she is a good candidate for pretrial release, the person becomes a high risk of noncompliance with pretrial supervision because upon release, he or she will be arrested by ICE and no longer available to appear in court.⁴³

To ensure that arrestees with ICE holds appear in court, they are routinely jailed until the resolution of the criminal charges against them—unlike 45.8 percent of all Harris County arrestees interviewed by Harris County Pretrial Services, who receive some form of pretrial release by the 15th of the month subsequent to their arrest.⁴⁴

Harris County was the first jurisdiction to participate in the federal Secure Communities program.⁴⁵ From the initiation of the program on October 27 2008, to August 30, 2012, 16,874 people were deported from the United States after being identified in a Harris County jail.⁴⁶

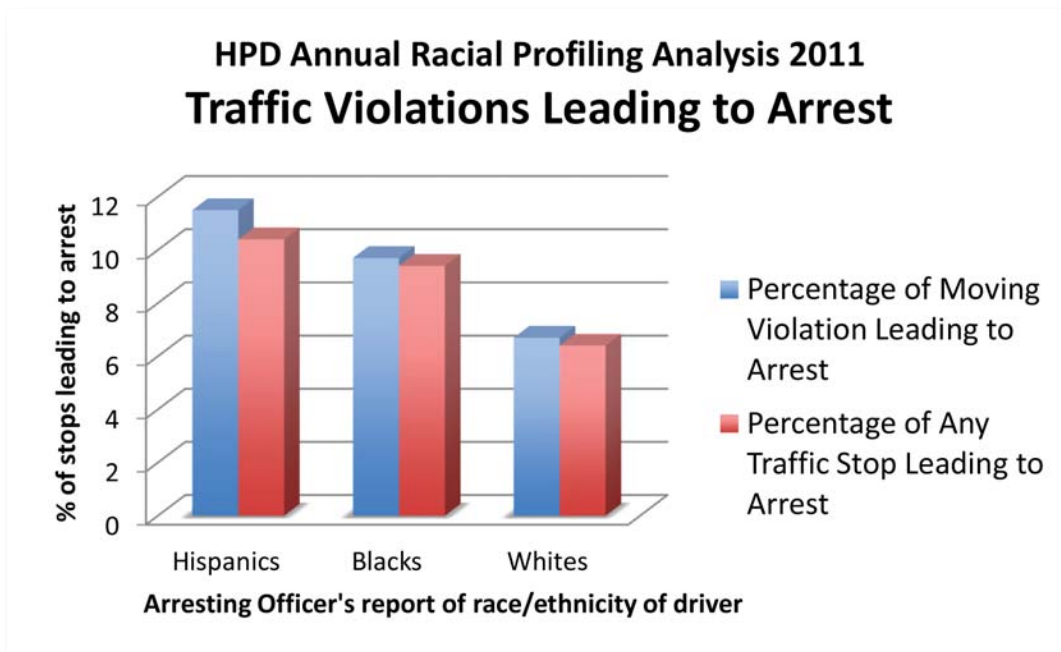
From 2008, when the program was piloted, through July 30, 2012, an additional 15,365 people were deported from the United States after being identified through the 287(g) program in Harris County.⁴⁷

The Houston ICE Field Office is one of the busiest in the nation. In 2012, Houston’s immigration courts held 12,697 deportation proceedings, more than one-fourth of all proceedings held in Texas. ICE operates two immigration detention facilities in the Houston area, the 1,000-bed Houston Processing Center and the 1,054-bed Polk County Adult Detention Facility. Both are privately operated prisons that have been identified by advocacy groups as two of the worst immigration detention facilities in the country.⁴⁸

Immigration Enforcement Encourages Racial Targeting

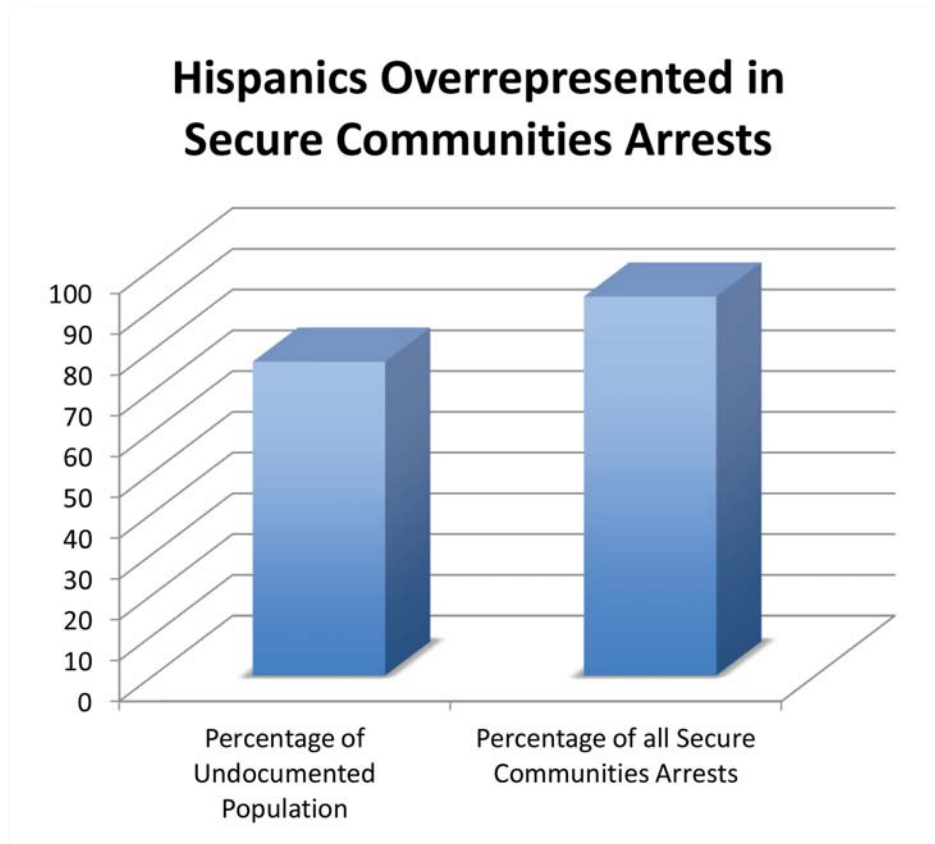
By making immigration enforcement a criminal justice priority, law enforcement is encouraged to target Hispanics based on an assumption that they are more likely to be in violation of immigration laws than other Harris County residents, including other racial and ethnic groups with large immigrant populations.

For 2011, HPD racial profiling data shows that Hispanics were more likely than both whites and blacks to be arrested as a result of a vehicle stop initiated because of a traffic law violation.⁴⁹



A much more detailed analysis of discretionary arrests by Harris County law enforcement would be necessary to prove that Harris County law enforcement is targeting Hispanics for arrests that are not being made when the driver is white or black; however, this data indicates an extra focus on arresting Hispanic drivers pulled over for traffic offenses by the HPD.

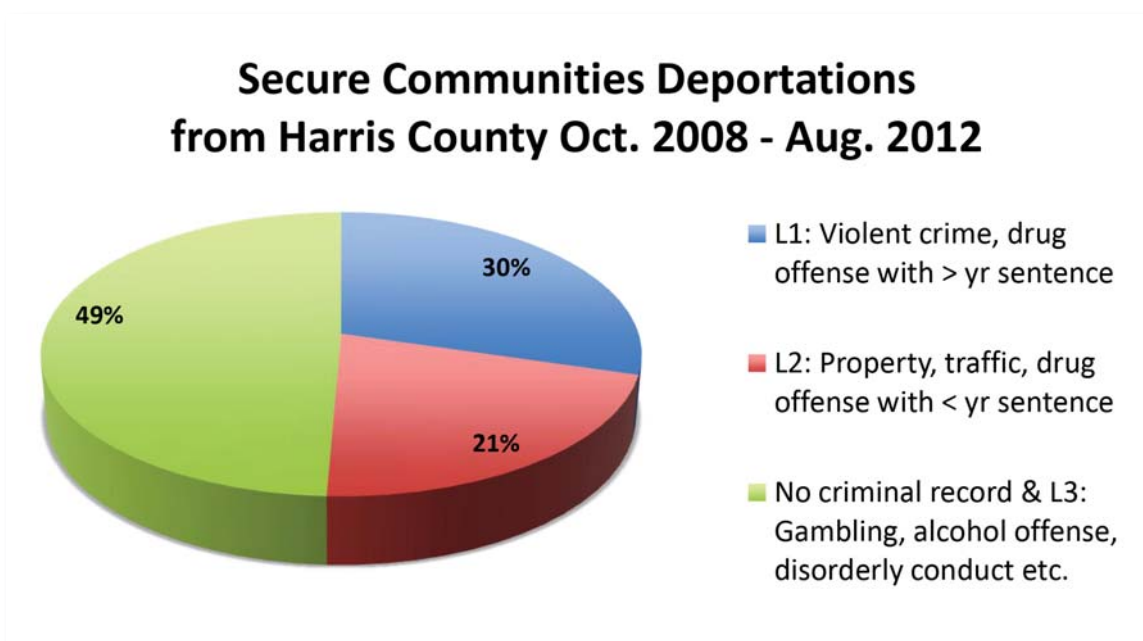
National research shows that the Secure Communities program has resulted in the disproportionate targeting of Hispanics. According to the Chief Justice Earl Warren Institute on Law and Social Policy at the University of California, Berkeley School of Law, Hispanics make up 93 percent of arrestees through Secure Communities, but only 77 percent of the unauthorized immigrant population of the United States.⁵⁰



Finally, analysis of arrest data from implementation of a 24-hour-a-day screening program in the Irving, Texas, city jail found compelling evidence that such screenings tacitly encourage local police to arrest Hispanics for petty offenses.⁵¹ The report found that by reducing the administrative barriers to screening arrestees for immigration status, local law enforcement was encouraged to increase the number of arrests of Hispanics for traffic offenses and other Class C misdemeanors in order to screen those individuals for immigration status. It is also likely that this behavior led to many more traffic stops that inconvenienced and harassed Hispanic drivers, but did not result in an arrest due to the officer's assessment during the traffic stop that the driver was in fact a U.S. citizen.⁵²

Jail Screenings Use a Kitchen Knife to Perform Surgery

As a public safety program, immigration screenings at the Harris County jail cast an overly wide net. The Secure Communities and 287(g) programs claim to focus resources on serious, violent criminals who are a threat to public safety; in fact, however, almost 50 percent of the immigrants deported through Secure Communities from Harris County either had no criminal convictions or a conviction for a minor, nonviolent offense.⁵³



In response to years of intense pressure to address this gap between rhetoric and reality, ICE recently announced new guidance on the use of detainers, narrowing the circumstances under which detainers should be issued by ICE officials.⁵⁴ This announcement was met with much skepticism because previous policy changes have failed to stop the massive deportation of individuals—over 400,000 people per year nationwide.⁵⁵

These programs fail to achieve their goals in other ways. According to a national report on the program, 1.6 percent of those arrested by ICE through Secure Communities have been U.S. citizens.⁵⁶ Reports and ongoing litigation indicate that both U.S. citizens and lawful permanent residents have suffered extended jail detentions because of the difficulty in getting an improper ICE hold removed once in place.⁵⁷ Recently, Harris County made national news when a runaway teen who is a U.S. citizen successfully impersonated a Colombian national and was deported to Colombia by ICE.⁵⁸

Finally, the small population of criminal aliens who pose a very significant threat to public safety are frequently able to reenter the United States and continue their criminal activities here. It stands to reason that due to the high level of control exercised by Mexican criminal organizations over who and what crosses the U.S.-Mexico border at places other than ports of entry, individuals with cartel links are most likely to easily reenter the United States undetected.⁵⁹

Impact of Racially Targeted Policing

Racially Targeted Policing Tears Black and Brown Families Apart

The result of Harris County's over-enforcement of drug possession laws in the black community is stark. Thousands of mothers and fathers are torn from their households every year and incarcerated for periods ranging from several months in county jail to an average sentence of almost nine years in state prison.⁶⁰ While in jail or prison, they cannot maintain normal relationships with their children and families. Those with regular employment lose their jobs. While incarcerated, on probation, or parole, they lose the right to vote.

Even brief incarceration for drug possession is much more likely to undermine the life opportunities of a person than help "set them straight." The experience of being in jail or prison changes people, often for the worse. Incarceration of nonviolent offenders is often more, not less, likely to lead to more serious criminal involvement in the future.⁶¹

Once released, tens of thousands of mothers and fathers, now labeled as felons for life, face almost insurmountable hurdles to finding a job.⁶² Most employers reject convicted felons automatically, regardless of whether the individuals can show rehabilitation and regardless of the connection between the conviction and job duties.⁶³ Texas occupational licensing laws exclude drug felons from access to employment in professions as diverse as embalmer, water well driller, and vehicle inspector.⁶⁴ Many formerly incarcerated individuals are therefore not able to support their families and themselves, and their community suffers economically. Furthermore, the jobs that are available to convicted felons often do not pay enough to support a family.⁶⁵

Colleges and universities often deny enrollment to individuals with a felony criminal record.⁶⁶ If someone is convicted of drug possession while receiving federal student aid, aid eligibility is suspended until the person completes an acceptable drug rehabilitation program.⁶⁷ People with drug felonies are stripped of access to other sources of support, including public housing and food stamps.⁶⁸ All of these deprivations—access to quality jobs, education, public housing, and benefits—directly harm the formerly incarcerated person, black children, and other family members, and the economic well-being of the black community as a whole.

The economic and social impact of the long-term overrepresentation of black Texans in prison and jail cannot be overstated. In 2000, the incarceration rate for blacks was seven times higher than for whites.⁶⁹ At that time, one in four black men living in Texas were under some form of criminal justice supervision. By 2011, Texas' incarceration rate had decreased, yet blacks were still four times more likely to be incarcerated than whites.⁷⁰ The short- and long-term impact of this overrepresentation of blacks in the criminal justice system is nothing less than catastrophic.

Decades of over-incarceration have systematically undermined the resilience of black families. When parents are absent for extended periods and parents with substance abuse/dependency problems have little or no access to treatment, there is constant instability and uncertainty in the lives of their children. Grandparents and other relatives, as well as the foster care system, try to fill the gap, stretching the economic and personal resources of additional members of the community.

That many black neighborhoods in Houston have chronically high rates of poverty is not surprising. That poverty is increasingly entrenched with the displacement of men and women out of the community and into the criminal justice system. And, to add insult to injury, for most of Harris County's recent history, being unable to afford to hire your own attorney when facing criminal charges has resulted in either no representation at all or perfunctory representation by appointed defense counsel who are overburdened and unable to dedicate substantial time or resources to individual felony drug possession cases.⁷¹

For the immigrant communities of Harris County, and the larger Hispanic community to a lesser extent, the intensive use of jails to identify potentially deportable immigrants has had a similarly catastrophic impact on families and the strength and resilience of communities.

About half of the undocumented population living and working in the United States has resided here for more than ten years.⁷² These men and women often own homes and cars, have children who are U.S. citizens, and also earn steady incomes.⁷³ When a Hispanic man⁷⁴ is pulled over for a traffic stop and arrested because he lacks a driver's license, vehicle registration, or proof of insurance (all items either impossible or very difficult to acquire if you are undocumented), he is likely to end up in immigration detention and eventually deported. The family he leaves behind has lost its main breadwinner and must choose whether to try to remain in the United States or relocate to the father's native country. For the 39 percent of Secure Communities deportees with U.S. citizen spouses and children, this means forcing U.S. citizens to choose between remaining in their home country with their family living permanently divided or moving to a foreign country in order to keep their family together.⁷⁵

U.S. citizen and immigrant children are often left behind in the United States when a parent is deported, either in the care of relatives or friends, or, in some cases, in the custody of child protective services. For these children, the emotional and psychological harm caused by a parent's detention or deportation can be severe.⁷⁶

Businesses, often owned by Hispanic families, that provide goods and services to immigrant families lose income as deportations increase and some families voluntarily relocate after the deportation of one family member.

Racially Targeted Policing Affirms and Strengthens Harmful Stereotypes

By targeting black communities for low-level drug enforcement and Hispanics for immigration enforcement, Harris County crime control strategies both rely on and powerfully reaffirm racial stereotypes.

Low-level drug enforcement in black communities and immigration enforcement targeting Hispanics rely on stereotypes about blacks being drug dealers and Hispanics being illegal immigrants to justify racial targeting.

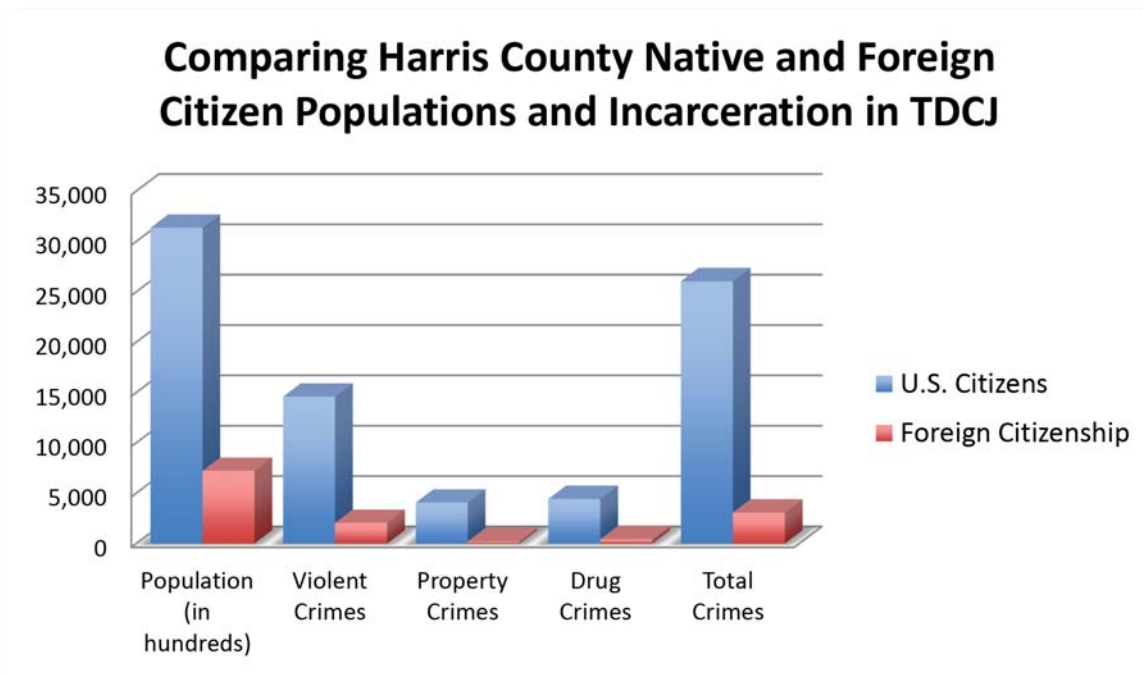
Harris County law enforcement unions relied on these biases and assumptions when they argued in defense of the harsher trace case policy. For example, the unions defended the pre-2009 trace case policy on the grounds that it was a tool to help get robbers and burglars off the streets.⁷⁷ Even assuming a handful of arrests made under the trace case policy were of individuals who had engaged in property crimes and had not been caught, there is no indication that removing individuals from the community for six months and

returning them without access to treatment, job training, or placement services does anything to prevent them from committing future crimes. All of the objective evidence, including Houston’s own property crime rate trends, indicates that the expanded trace case policy does nothing to decrease property crimes.

However, the idea that it is good policy to arrest people and charge them with a felony for possession of used drug paraphernalia to prevent property crimes does have the effect of affirming several stereotypes, including that the people who have been identified only by their conduct as drug users are actually chronic threats to the public order. This leap is made possible by underlying assumptions about the higher likelihood of criminality among the black community generally. The assumption that blacks are more likely to be criminals has been partly manufactured by Houston law enforcement patterns that systematically target blacks.

Jail screening programs create a logical link in people’s minds between jails (where criminals go) and deportation (what happens to unauthorized immigrants). This strengthens the stereotype that immigrants are more likely to break the law and, in some general way, are more dangerous. In spite of public perception to the contrary, recent immigrants are substantially less likely than their U.S. citizen counterparts to commit serious and violent crimes.⁷⁸

Harris County’s foreign nationals go to prison or state jail for violent crimes at a rate of 2.849 per 100,000 residents. U.S. citizens are incarcerated in TDCJ facilities for violent crimes at a rate of 4.653 per 100,000 residents, or 1.6 times higher than the rate of incarceration for foreign nationals.⁷⁹ This statistic likely overstates the criminality of foreign-born Houstonites, because naturalized U.S. citizens are included in the category with native-born citizens, and immigrants are more likely to receive jail and prison time for the same crime as U.S. citizens, due to the decreased likelihood that they will receive probation in Harris County.⁸⁰



Racially Targeted Policing Makes Neighborhoods Less Safe

All Harris County communities deserve to be safe and well policed. Residents of Harris County’s black and brown neighborhoods have a right to expect law enforcement to be a partner in helping to make their neighborhoods safer and therefore more prosperous and healthy. It is impossible to achieve these goals when residents fear police and distrust the criminal justice system. Racially targeted law enforcement strategies create and reaffirm this distrust and fear.

The gap in trust between Houston’s black and brown communities and law enforcement is deep and longstanding. Not only have low-level drug crimes been over-enforced for decades in black neighborhoods, but several other enforcement patterns and incidents have contributed to the overall sense that law enforcement holds Houston’s black and brown communities in total disregard—particularly the people who live in Houston’s poorest black and Hispanic neighborhoods.⁸¹ This general distrust of the criminal justice system by blacks is even reflected in local polling data. Fifty-nine percent of blacks in the Houston area believe the criminal justice system is biased against them.⁸²

Harris County law enforcement, particularly Houston police, is perceived as engaging in excessive force with impunity, mainly toward black and Hispanic victims. Many look to the 1977 murder of 23-year-old Vietnam veteran, Jose Campos Torres, drowned by Houston police officers while under arrest for disorderly conduct, as emblematic of Houston’s police abuse problems. The sentencing of the two officers involved to probation for negligent homicide led to riots.⁸³

- In March 2005, new Houston Police Chief Harold Hurtt made addressing excessive force claims a top agenda item in response to the 2003 shooting deaths of two unarmed Hispanic teens, Eli Escobar II and Jose Vargas Jr.⁸⁴
 - The officer who fatally shot 14-year-old Eli Escobar II was convicted of criminally negligent homicide⁸⁵ and Escobar’s family received a \$1.5 million settlement from the City of Houston that included policy changes intended to prevent the accidental discharge of a weapon.⁸⁶
 - The officer, who fatally shot Jose Vargas Jr. when his gun discharged through the driver’s side window as Mr. Vargas attempted to drive away, was fired and later reinstated by the decision of a civil service arbitrator.⁸⁷
- In 2006, Houston Texans football player, Fred Weary, was shocked with a Taser during a traffic stop that led to his arrest for resisting arrest. The charge was dropped due to lack of probable cause. Mr. Weary sued the police department in 2007, alleging, among other things, that HPD disproportionately uses Tasers against black and Hispanic civilians.⁸⁸ He subsequently dropped the lawsuit, citing the city’s efforts to study the use of Tasers by HPD officers.⁸⁹
- In 2006, Harris County Sheriff’s deputies used a Taser during the arrest of Kenneth Eagleton, a disoriented, black, long-haul trucker. Mr. Eagleton died in the hospital two and a half days later and his family filed an unsuccessful wrongful death suit, which was dismissed in 2010.⁹⁰
- In 2010, four Houston police officers were charged with official oppression in the beating of Chad Holley, an unarmed, unresisting, black teenager. The beating was caught on videotape. The first officer to go to trial was acquitted by an all-white jury in 2012.⁹¹ Of the seven additional officers fired in connection with the beating, two have been reinstated.⁹²

- In February 2011, on the heels of the Chad Holley beating, a 2008 video of an unarmed and unresisting black man being beaten by Houston police officers in the waiting area of a local hospital was made public.⁹³
- In December 2012, HPD announced a U.S. Department of Justice investigation of six officer-involved shootings or other allegations of excessive force against unarmed civilians between 2010 and 2012, including the Chad Holley case.⁹⁴ Other cases under investigation include:
 - The September 2012 shooting death of Brian Claunch, a wheelchair bound, mentally ill, amputee;
 - The July 2012 fatal shooting of assault suspect, Rufino Lara, described by two witnesses as having his hands in the air when he was shot;
 - The January 2012 beating of Annika Lewis as she tried to record with her cell phone the arrest of her husband, Sebastian Prevot, for failing to pull over during a traffic stop (both black). Two officers were disciplined for not using sound judgment but were not relieved of duty;
 - The October 2011 beating of Anthony Childress (black) during his arrest for cocaine possession, which resulted in no officer discipline; and
 - The July 2011 punching of a black, 16-year-old robbery suspect, after he had been arrested and was in handcuffs, by an officer who was subsequently fired by HPD. The incident became public because it was captured by a television crew filming from a helicopter.⁹⁵
- Several other recent incidents have involved Harris County jail, including an assault on a seriously ill inmate (also black), who died the next day.⁹⁶

Within this history of broken trust was the implementation of the relatively recent policy of using the Harris County jail and other local booking operations as tools of immigration enforcement. By ensuring that everyone who is booked will be screened for immigration status, there are several unintended but predictable consequences. Unauthorized immigrants are cut off from law enforcement and become much less likely to report crimes—even when they have been victimized themselves. And, because unauthorized immigrants often live in families with lawfully present immigrants and U.S. citizens, those other family members are also cut off from the police out of fear that an unauthorized immigrant family member might be deported. In heavily immigrant communities, this creates a giant pool of easy targets for criminals. Because many in immigrant communities will not report crimes to law enforcement, criminals target these neighborhoods with relative security that they will not be caught.

There are other perverse outcomes of this system. Crimes like domestic violence are dramatically underreported in the immigrant community. Wanted criminals, including U.S. citizens, can also find anonymity hiding among the unauthorized immigrant population.

In short, the more local police are associated with immigration enforcement in the minds of immigrant communities, the less able police are to provide public safety in these communities. And, because criminals do not follow rules, individuals preying on immigrant communities will inevitably prey on other Houstonites as well.

It is essential for local police to take affirmative steps to bridge the gap. According to police data, the five Houston zip codes with the largest number of unsolved murders between 2009 and 2011⁹⁷ are all neighborhoods that are either majority Hispanic or majority black. And in four of five of these areas, HPD's clearance rate, the rate of arrest or solving a murder, is much lower than the nationwide average clearance rate for similar-sized cities.⁹⁸ For example, 77036 includes the Sharpstown, Alief, and Westwood neighborhoods and has a population that is 55 percent Hispanic, 17.8 percent black, 14.4 percent Asian, and 10.6 percent white. From 2009 to 2011, there were 41 homicides in this area and fewer than half of those cases have been cleared by law enforcement.⁹⁹ Solving homicides is a top priority for any law enforcement organization. Improved trust and better communication with black and Hispanic communities in Houston could improve HPD's success rate in solving homicides and other serious crimes.

A community cannot fire its police department. With all of these good reasons to hold HPD and other Harris County law enforcement at arm's length, the only way to improve public safety in black and Hispanic neighborhoods is a commitment to engage with the police on community safety and to demand a true partnership from the police in order to strengthen and improve public safety.

This true partnership is possible only if law enforcement is willing to meet the communities half way, to engage in a conversation about what the communities need to improve safety, and to work together for positive change. There is little the community can do if police are unwilling to come to the table—except point it out and continue to demand that law enforcement and the criminal justice system live up to their promise of serving all communities in Harris County.

Working Together For Justice

The black and Hispanic communities of Harris County are in this together. Faced with similar policies systematically undermining the well-being of their communities, both communities will need to challenge the inertia of the behemoth Harris County criminal justice system. Standing alone, the problems of one community are more likely to be viewed in isolation and not seen as part of a larger and more serious pattern. By working together, communities will make these important issues harder to ignore. Standing together, the concerns of both communities are more likely to be taken seriously.

Racially targeted criminal justice policies in Harris County will not be easy to change. The persuasive power of the black and Hispanic communities standing together is necessary to address the racial targeting of their people (and the damaging outcomes) and to make change possible.

Moving Forward

- **See No Evil**—From the HPD to the Harris County jail to the Harris County criminal courts, there is a systematic failure to collect, analyze, and assess data that will provide insight into the patterns of racial targeting in criminal justice. For starters, the community must ask:
 - Harris County jail to track ethnicity. **Currently, booking information does not distinguish between non-Hispanic and Hispanic whites. This means that the data over-represents the white jail population by including all Hispanic whites in that number.**
 - HPD to collect racial profiling data for stops on foot or bicycle. **HPD’s system for collecting racial profiling data was designed to collect data from foot stops; HPD should use it. This data should be included to the same degree of detail as the traffic stop data in the annually produced racial profiling reports.**
 - Harris County district and county courts to provide racial and ethnic breakdowns within offense categories (DWI, misdemeanor drug possession, felony drug possession, etc.), from arrest through pretrial detention decisions, plea deals, and final outcomes, so disparities throughout the system can be identified and addressed. **Harris County could then identify whether non-objective factors are influencing decisions about bond, drug treatment placement, and sentencing. Every point in the system where discretion is exercised creates an opportunity for bias to impact decision making. By not looking at these decision-making points, the system profoundly disregards the concerns for fairness of black and Hispanic Harris County residents.**
- **Hear No Evil**—HPD, Harris County Sheriff’s Office, Harris County District Attorney’s office, and Harris County criminal court judges must listen to the concerns of black and Hispanic community members about the perception of the Harris County criminal justice system. **Even if law enforcement, prosecutors, and judges do not agree with the black and brown communities’ criticisms regarding drug and immigration enforcement or use of force, it is an essential part of their job to address the loss of trust in law enforcement and skepticism toward the criminal justice system.**
- **Speak No Evil**—Arresting people in possession of used crack pipes does not prevent burglary or robbery. **After former district attorney, Pat Lykos, changed the trace case policy, property crimes in Harris County fell to their lowest level in 11 years. And, it is probable that the overwhelming focus on arresting and prosecuting low-level drug possession crimes has led to the diversion of law enforcement resources from other important public safety goals, including DWI enforcement, and solving violent crimes and serious property crimes.¹⁰⁰**

Similarly, it is important for Harris County leaders to stop buying into the idea that unauthorized immigration status has any correlation with who is a “dangerous criminal.” Many counties throughout the United States have chosen a different path, and rather than demonizing their immigrant population, they have chosen to work with federal immigration enforcement on deporting only those individuals who actually pose a serious criminal threat based on the same standards used by the criminal justice system to assess the risk level of all arrestees.

- **Do No Evil**—Arresting people for possession of miniscule amounts of cocaine is an inappropriate law enforcement priority. Houston police prefer to arrest people for felony trace cases because it is an easy felony arrest and increases arrest statistics to help draw federal money for overtime. While Houston police deserve to be fairly compensated for their challenging and sometimes dangerous work, enforcement priorities should be driven by public safety goals. **HPD needs to better manage its resources and align those resources with effective public safety goals.**

Returning to the old trace case policy will not be made fair simply with a *promise* of more drug treatment.¹⁰¹ Harris County's newly elected district attorney has promised to return to the old trace case policy, which can be anticipated to increase drug possession arrests by at least 7,000 per year. Harris County has around 1,500 drug treatment slots available per year for all probationers with drug treatment needs. **The black and Hispanic communities should demand that expanded access to effective drug assessment and treatment services be fully implemented first.** Then the county should assess the effectiveness of expanded drug treatment and how well the Harris County Community Supervision and Corrections Department is doing at placing people appropriately for drug treatment. Responsible implementation and assessment of this drug treatment system are likely to take at least two years. And even once it is implemented, it is unlikely that the county will dedicate the necessary resources to this effort to make drug treatment available for all 15,000+ individuals charged with felony drug possession each year in Harris County.

Addressing the injustices of Harris County's focus on low-level drug enforcement and the use of Harris County jails as immigration screening tools will not be easy. These policies developed over time in response to local political needs and deeply held assumptions about the black and Hispanic communities. Harris County's black and brown communities deserve better than to be political footballs in a system that is ostensibly committed to their public safety. This is a call to reenergize these conversations and focus the frustration of black and Hispanic communities on two of the most damaging injustices they face.

Appendix A: Drug Possession Offense Codes and Descriptions for Report

Defendants and Drug Possession Cases Disposed

Offenses included in the report: *Defendants with Drug Possession Cases Disposed*

Offense Code-Description

520450-POSS ANABOLIC STEROID	350338-POSS CS OXYCODONE	358055-POSS CS PG3>1G DRUG FREE ZONE
559904-POSS CS PG 1 <1G	350339-POSS CS MORPHINE	358056-POSS CS PG3>28G DRUG FREE ZONE
559905-POSS CS PG 1 1 - 4 GRAMS	350411-POSS LSD	359901-POSS GP 1 CS- LT 28 G
559906-POSS CS PG 1 4G - 200G	350420-ATTEMPT TO POSSES CONTROL SUBS	359902-POSS GP 1 CS- 28 - 399 G
559907-POSS CS PG 1 200-400GR	350421-POSS METHAMPHETAMINE	359903-POSS GP 1 CS- 400 G OR MORE
559908-POSS CS PG 2 <1GRAM	350431-POSS Mescaline	359904-POSS GP 2 CS- LT 28 G
559909-POSS CS PG 2 1-4 GRAMS	351201-POSSESS HEROIN	359905-POSS GP 2 CS- 28 - 399 G
559910-POSS CS PG 2 4G - 400G	352201-POSSESS OPIUM	359906-POSS GP 2 CS- 400 G OR MORE
559912-POSS CS PG 3 28-200 GRAMS	353201-POSSESS COCAINE	359908-POSS GP 3 CS- 200-399 G
559913-POSS CS PG 3 200-400 GRAMS	353210-POSS COCAINE LT 28G-CRACK	359909-POSS GP 3 CS- 400 G OR MORE
559915-POSS CS PG 4 28-200 GRAMS	353211-POSS COCAINE LT 28G-NON-CRACK	359911-POSS GP 4 CS- 200 - 399 G
559916-POSS CS PG 4 200-400 GRAMS	353212-POSS COCAINE 28-LT200G CRACK	359912-POSS GP 4 CS- 400 G OR MORE
559939-POSS CS PG1 1-4 GRAMS	353213-POSS COC 28-LT200G-NON-CRACK	359927-POSS CS PG1<1G DRUG FREE ZONE
559944-POSS CS PG 1 4G - 200G	353214-POSS COCAINE 200-LT400G CRACK	359928-POSS CS PG2<1 G DRUG FREE ZONE
559945-POSS CS PG 1 <1G	353215-POSS COC 200-LT400G NON CRACK	359929-POSS CS PG3<28G DRUG FREE ZONE
559947-ATT POSS CS PG4>=28G <200 GRAM	353216-POSS COCAINE 400G OR M/CRACK	359934-POSS CS PG1A <20 ABUSE UNITS L
559949-ATT POSS CS PG 3 28-200 GRAMS	353217-POSS COC 400G OR M/NON-CRACK	359935-POSS CS PG1A 20-79 ABUSE UNITS
559955-POSS CS PG 4 OVER 400 GRAMS	353218-POSS COC 28-LT 400G	359936-POSS CS PG1A >=80 ABUSE UNITS
559965-ATT POSS PG 1 1-4 GRAMS	354201-POSSESS HASHISH	359937-POSS CS PG1A 4000-7999 AU'S LS
559970-POSS CS PG 4 28-200 GRAMS	354211-POSSESS METHADONE	359938-POSS CS PG1A >=8000 ABUSE UNIT
350003-CONTROLLED SUBSTANCE	356040-POSS C.S.ANALOG PG2< 1G SCHOOL	359999-DANGEROUS DRUGS
350011-PROH SUBSTANCE CORRECT FACILIT	356218-POSS MARIJ 4 OZ. - 5 LBS.	360050-POSS CS PG1 <1 GRAM
350030-POSS CS ANAL. PG1A >=8000 AU'S	356219-POSS MARIJ 5 - 50 LBS.	360055-POSS DANG DRUG - FREE SCHOOL Z
350048-PROH SUBSTANCE CORRECT FACILIT	356220-POSS MARIJ 50-2000 LBS.	400207-AGG POSS OF CONTROLLED SUBS
350049-ATT POSS PROH SUB CORRECT FACI	356224-POSS MARIJ>5LBS DRUG FREE ZONE	
350068-ATT POSS PROH SUB CORR FACILIT	356225-ATTEMPT TO POSS MARIHUANA	
350080-POSS PG 1 OVER 400 GRAMS	358053-POSS CS PG1>1G DRUG FREE ZONE	
350337-POSS CS Mescaline	358054-POSS CS PG2>1G DRUG FREE ZONE	

Offenses excluded from the report: *Defendants with Drug Possession Cases Disposed*

Offense Code-Description

559943-UNL INT/KNOW P/CS PG1 4-200G
559971-MAN DEL CS ANALOGUE PG 1 >=1G<
350099-DANGEROUS DRUGS DELIVERY
360005-POSS CONT SUBT W/I TO DELIV
360006-POSS CONT SUBT W/I TO DEL 28-1
360020-ATT POSS CS PG1 W/INT DEL=>400

Based on the local JIMS code for the Drug Possession Offense Category

Endnotes

¹ Harris County Pretrial Services Annual Reports, Incoming Population, Defendants Interviewed, Charging Category, 1992–2011. “Felony drug possession” is a charging category that groups together a large list of drug possession offenses, including possession of less than one gram of cocaine, heroin, methamphetamine, oxycodone, or hydrocodone. See *Appendix A: Drug Possession Offense Codes and Descriptions for Report* for a complete list of felony drug possession charges; Appendix A derived from information request from the Office of Senator Rodney Ellis, provided by the Harris County Office of Criminal Justice Coordination, p. 16, on file with author.

² *Infra* Note 28.

³ See report section titled *Over-Enforcement of Drug Possession Laws in Black Communities*.

⁴ See *Appendix A: Drug Possession Offense Codes and Descriptions for Report*.

⁵ Interview with Craig Ferrell, former deputy director, Houston Police Department (HPD). This is also true for individuals booked at one of HPD’s short-term lockups.

⁶ “Secure Communities Monthly Statistics through August 31, 2012, IDENT/IAFIS Interoperability,” U.S. Immigration and Customs Enforcement, p. 45, http://www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2012-to-date.pdf.

⁷ Douglas Stanglin, “Runaway Dallas teen mistakenly deported to Columbia,” *USA Today*, January 5, 2012, <http://content.usatoday.com/communities/ondeadline/post/2012/01/runaway-dallas-teen-mistakenly-deported-to-colombia/1#.UMiodUIWtUI>. See also, Aarti Kohli, Peter L. Markowitz, and Lisa Chavez, “Secure Communities by the Numbers: An Analysis of Demographics and Due Process,” Chief Justice Earl Warren Institute on Law and Social Policy, University of California, Berkeley School of Law, October 2011, p. 4; and “Suit against immigration detainees to go forward,” *Fox News Latino*, December 4, 2012, <http://latino.foxnews.com/latino/news/2012/12/04/suit-against-immigration-detainers-to-go-forward/>.

⁸ Law enforcement in Texas has discretion to make arrests for most Class C misdemeanors, including all traffic offenses except for speeding.

⁹ Trevor Gardner II and Aarti Kohli, “The C.A.P. Effect: Racial Profiling in the ICE Criminal Alien Program,” Chief Justice Earl Warren Institute on Law and Social Policy, University of California, Berkeley School of Law, September 2009, pp. 2–3.

¹⁰ Rubén G. Rumbaut and Walter A. Ewing, “The Myth of Immigrant Criminality,” May 23, 2007, http://borderbattles.ssrc.org/Rumbault_Ewing/printable.html.

¹¹ “Criminal Justice Process Overview,” Harris County Office of Criminal Justice Coordination, p. 10, presented to the Harris County Criminal Justice Coordinating Council, September 12, 2012.

¹² Alan Bernstein, communication director, Harris County Sheriff’s Office, e-mail to author, December 5, 2012.

¹³ Travis County Budget-in-Brief, Fiscal Year 2013, pp. 9, 10, http://www.co.travis.tx.us/planning_budget/FY13/FY13_BudgetInBrief.pdf. Travis County’s Fiscal Year 2013 budget dedicates 52.6 percent of general revenue to corrections and rehabilitation, the justice system, and public safety. By subtracting some of the explicitly civil budget items from the justice system budget (including the civil district courts and probate courts), the percentage for these three sections of the budget is about 47 percent of general revenue.

¹⁴ Harris County Pretrial Services, <http://www.harriscountytexas.gov/Pretrial/statistics.aspx>, provides the most accessible data on arrest trends in its annual report. Since Pretrial Services only interviews 80 to 85 percent of Harris County arrestees, its arrest numbers do not reflect the total arrestees for each felony offense category. The numbers are a reliable sample size for assessing trends.

¹⁵ Brian Rogers, “Crack policy puts Harris County DA at odds with police,” *Houston Chronicle*, December 5, 2011, <http://www.chron.com/news/houston-texas/article/District-Attorney-and-police-divided-on-crack-2346724.php>. In 2010, then incoming district attorney, Pat Lykos, changed the long-standing policy of prosecuting “trace” cases, where a person is in possession of a used pipe or other drug paraphernalia containing potential drug residue, as felonies. Trace cases alone made up about 15 percent of the total felony case docket for Harris County before 2010.

¹⁶ Appendix A: Drug Possession Offense Codes and Descriptions for Report. Possession of less than a gram of a controlled substance is a subset of the offenses included within the larger category of drug possession offenses charged as felonies.

¹⁷ “Report to the Harris County Criminal Justice Council Relative to Certain District Attorney’s Office Initiatives,” Harris County District Attorney’s Office, December 2012, on file with author.

¹⁸ Graphs compiled from FBI Uniform Crime Reports, Table 6 in Crime Statistics data from 2000 to 2011, <http://www.fbi.gov/about-us/cjis/ucr/ucr>.

¹⁹ “A 25-Year Quagmire: The War on Drugs and Its Impact on American Society,” The Sentencing Project, Sept. 2007, p. 5.

²⁰ Brian Rogers, “Crack policy puts Harris County DA at odds with police,” *Houston Chronicle*, December 5, 2011, <http://www.chron.com/news/houston-texas/article/District-Attorney-and-police-divided-on-crack-2346724.php>.

²¹ These statistics are for people who reported any drug use within a month of being polled for the National Survey on Drug Use and Health.

²² Figure 2.2 “Past Month Use of Selected Illicit Drugs among Persons Aged 12 or Older: 2002–2011,” Substance Abuse and Mental Health Services Administration (NSDUH), *Results from the 2011 National Survey on Drug Use and Health: Summary of National Findings*, NSDUH Series H-44, HHS Publication No. (SMA) 12-4713. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2012. This increase appears attributable to marijuana use, with use of all other illicit drugs dropping slightly over the period.

²³ City of Houston, Houston Police Department, Annual Racial Profiling Analysis 2011, February 2012, p. 13.

²⁴ City of Houston, Houston Police Department, Annual Racial Profiling Analysis 2011, February 2012, Appendix, Table B4. It is interesting to note that the HPD report’s executive summary states that the analysis “provides no evidence that officers of the Houston Police Department engage in racial profiling.”

²⁵ According to former deputy director, Craig Ferrell, HPD has the capacity to track racial profiling data for foot stops using the same data tool currently used to track racial profiling in vehicle stops. However, the Houston Police Department does not track foot stops at this time.

²⁶ “Drug Charges by Race-Ethnicity” for arrestees from October 2011 to September 2012, Harris County Pretrial Services, on file with author.

²⁷ Texas Department of Criminal Justice, open records response, 2011 general statistics for inmates from Harris County, on file with author. See Appendix A for a list of all offenses designated as drug possession offenses. See also, “April 12, 2011 Harris County Jail Bookings and Releases Demographic Summary,” provided by the Harris County Office of Criminal Justice Coordination, on file with author. Although complete data on how the Harris County criminal justice system operates—from who is in jail and why, to who gets what sentence for what crime—seems beyond the capacity of the system to produce, there is still more data showing racial disparities throughout the system. Blacks make up more than 50 percent of the Harris County jail population on any given day; “Harris County Community Supervision and Corrections Department, February 2009,” provided by the Harris County Office of Criminal Justice Coordination, on file with author. Yet blacks make up only 32.7 percent of the population of people on either felony or misdemeanor community supervision.

²⁸ *Results from the 2011 National Survey on Drug Use and Health: Summary of National Findings*, Abuse and Mental Health Services Administration, NSDUH Series H-44, HHS Publication No. (SMA) 12-4713. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2012, Figure 2.11: Past Month Illicit Drug Use among Persons Aged 12 or Older, by Race/Ethnicity, 2002–2011 and Section 7: Substance Dependence, Abuse, and Treatment by Race/Ethnicity.

²⁹ Information request from the Office of Senator Rodney Ellis, provided by the Harris County Office of Criminal Justice Coordination, p. 13, on file with author.

³⁰ “Harris County Community Supervision and Corrections Department, February 2009,” provided by the Harris County Office of Criminal Justice Coordination, on file with author.

³¹ Harris County Pretrial Services 2011 Annual Report, p. 2.

³² “Criminal Justice Process Overview,” Harris County Office of Criminal Justice Coordination, presented to the Harris County Criminal Justice Coordinating Council, September 12, 2012, p. 32.

³³ Helen Harbert, interim director, Harris County Community Supervision and Corrections Department, e-mail to author, December 20, 2012.

³⁴ Greater Houston Partnership, <https://www.houston.org/international-business/index.html>.

³⁵ The current 287(g) agreement between U.S. Immigration and Customs Enforcement and the Harris County Sheriff’s Office can be accessed in the ICE FOIA Library, under “287(g) – Memorandums of Agreement/ Understanding,” <http://www.ice.gov/foia/library/index.htm#50>.

³⁶ U.S. Census Bureau, Harris County Quick Facts, 2011, <http://quickfacts.census.gov/qfd/states/48/48201.html>.

³⁷ Susan Carroll and Renee C. Lee, “Houston mayor rips handling of immigrant who shot cop,” *Houston Chronicle*, March 10, 1999, <http://www.chron.com/news/houston-texas/article/Houston-mayor-rips-handling-of-immigrant-who-shot-1728792.php>.

³⁸ Leslie Berestein Rojas, “A phase-out for 287(g) immigration enforcement partnerships,” 89.3 KPCC, Southern California Public Radio, December 27, 2012, <http://www.scp.org/blogs/multiamerican/2012/12/27/11741/gradual-phase-out-287g-immigration-enforcement-pro/>. The 287(g) program is currently under review by the federal government and may be phased out in favor of Secure Communities and jail screenings performed directly by ICE Agents.

³⁹ Susan Carroll and Mike Morris, “Sheriff’s Office, immigration officials negotiate jail screening program,” *Houston Chronicle*, October 14, 2012, <http://www.chron.com/default/article/Sheriff-s-Office-immigration-officials-negotiate-3948240.php>.

⁴⁰ Susan Carroll and Mike Morris, “Sheriff’s Office, immigration officials negotiate jail screening program,” *Houston Chronicle*, October 14, 2012, <http://www.chron.com/default/article/Sheriff-s-Office-immigration-officials-negotiate-3948240.php>.

⁴¹ Alan Bernstein, communications director, Harris County Sheriff’s Office, December 19, 2012, phone interview regarding operation of 287(g) program.

⁴² “Secure Communities: A Fact Sheet,” American Immigration Council, Immigration Policy Center, November 29, 2011, <http://www.immigrationpolicy.org/just-facts/secure-communities-fact-sheet>.

⁴³ Harris County Pretrial Services 2011 Annual Report, p. 4, <http://www.harriscountytexas.gov/CmpDocuments/59/Annual%20Reports/2011%20Annual%20Report-0410.pdf>.

⁴⁴ Harris County Pretrial Services 2011 Annual Report, p. 8, <http://www.harriscountytexas.gov/CmpDocuments/59/Annual%20Reports/2011%20Annual%20Report-0410.pdf>.

⁴⁵ “Harris County Sheriff’s Office first of several sites in the nation to receive full interoperability technology to help identify criminal aliens. Departments of Homeland Security and Justice providing more identity information to local officers about non U.S. citizen criminal arrests,” ICE News Release, October 28, 2008, <http://www.ice.gov/news/releases/0810/081029houston.htm>.

⁴⁶ “Secure Communities Monthly Statistics through August 31, 2012, IDENT/IAFIS Interoperability,” U.S. Immigration and Customs Enforcement, p. 45, www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2012-to-date.pdf
http://www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2012-to-date.pdf.

⁴⁷ Susan Carroll and Mike Morris “Sheriff’s Office, immigration officials negotiate jail screening program,” *Houston Chronicle*, October 14, 2012, <http://www.chron.com/default/article/Sheriff-s-Office-immigration-officials-negotiate-3948240.php>. Alan Bernstein, communications director, Harris County Sheriff’s Office, December 19, 2012, phone interview regarding operation of 287(g) program. According to Mr. Bernstein, when an individual is identified as a suspected deportable immigrant through 287(g) and Secure Communities, their removal is counted only in Secure Communities statistics.

⁴⁸ Nick Swartsell, “Immigration Detention Facilities Inhumane, Study Claims,” the *Texas Tribune*, November 15, 2012, <http://www.texastribune.org/immigration-in-texas/immigration/immigrant-detention-facilities-inhumane-study-clai/>.

⁴⁹ City of Houston, Houston Police Department, Annual Racial Profiling Analysis 2011, February 2012, Appendix, Table B3: Stop Reason and Disposition by Race.

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