



EXCELLENCE  
& ADVANCEMENT  
FOUNDATION

# Racial Justice:

The Alarming Truth About Race In the  
Criminal Justice System

---

LEADERSHIP AUSTIN 2019  
ELIZABETH A. HENNEKE AND COURTNEY ROBINSON



Why is this white girl . . .

from rural Texas . . .

the daughter of a corrections officer . . .

married to a prosecutor . . .

talking about race in the criminal justice system?



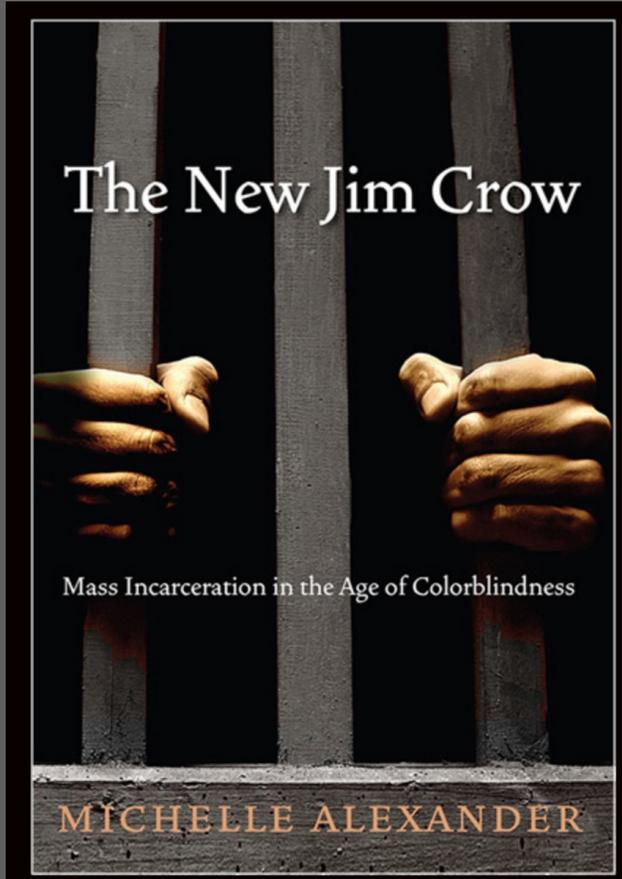
Talking about Criminal Justice is my responsibility...

Black Woman

Formerly Incarcerated Father

Narratives of Four Generations

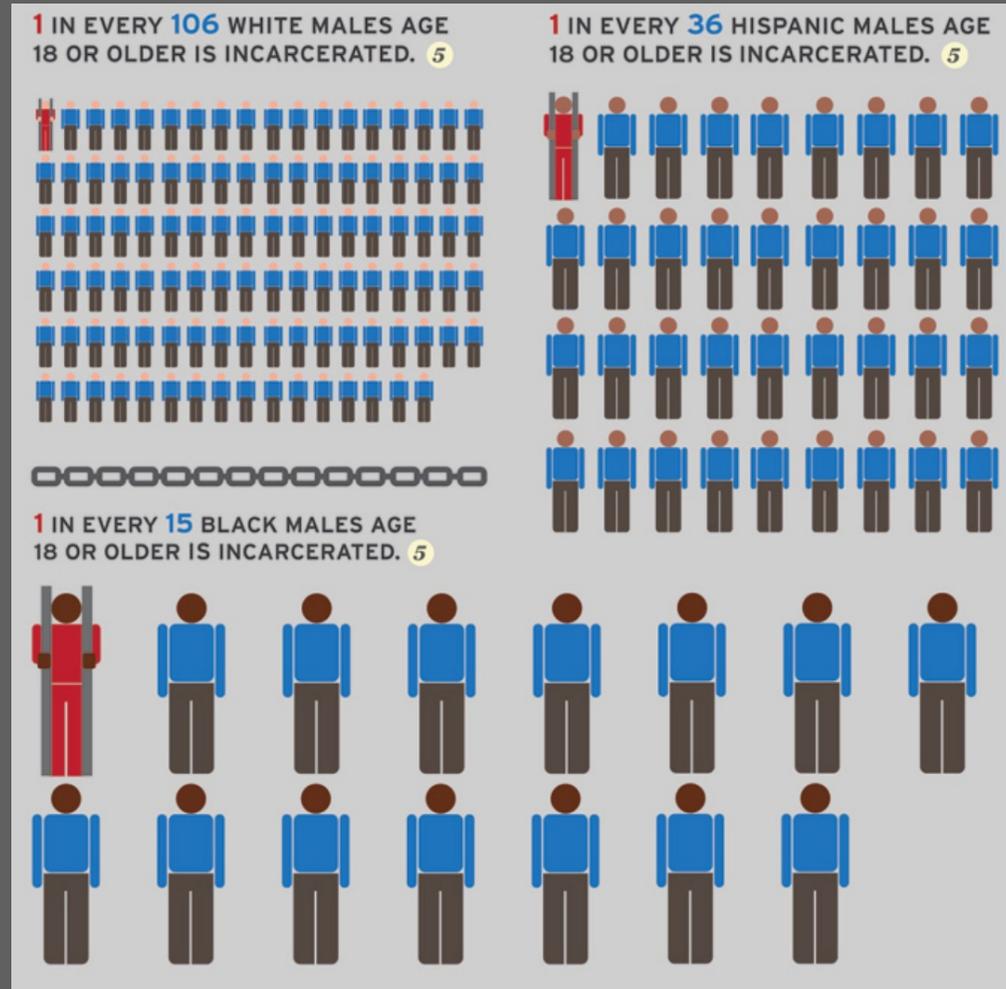
Raising Black Children



“QUITE BELATEDLY, I CAME TO SEE THAT MASS INCARCERATION IN THE UNITED STATES HAD, IN FACT, EMERGED AS A STUNNINGLY COMPREHENSIVE AND WELL-DISGUISED SYSTEM OF RACIALIZED SOCIAL CONTROL THAT FUNCTIONS IN A MANNER STRIKINGLY SIMILAR TO JIM CROW.”

Michelle Alexander  
The New Jim Crow: Mass Incarceration in the Age of Colorblindness

# 7 Million people in America are under some form of correctional control.



# Racial Disparities

**1** in every **10** black men in his thirties is in **prison** or **jail** on any given day



# Blacks Commit Crime At Higher Rates . . . Or do they?

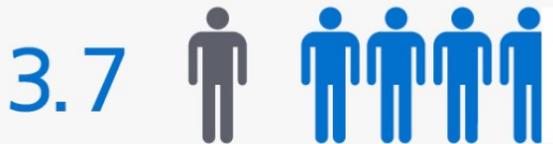
**Figure 10. Racial disparities in marijuana use in past month and marijuana possession arrests, 2010**

## Usage rates



Blacks used marijuana at 1.3 times the rate of whites.

## Arrest rates

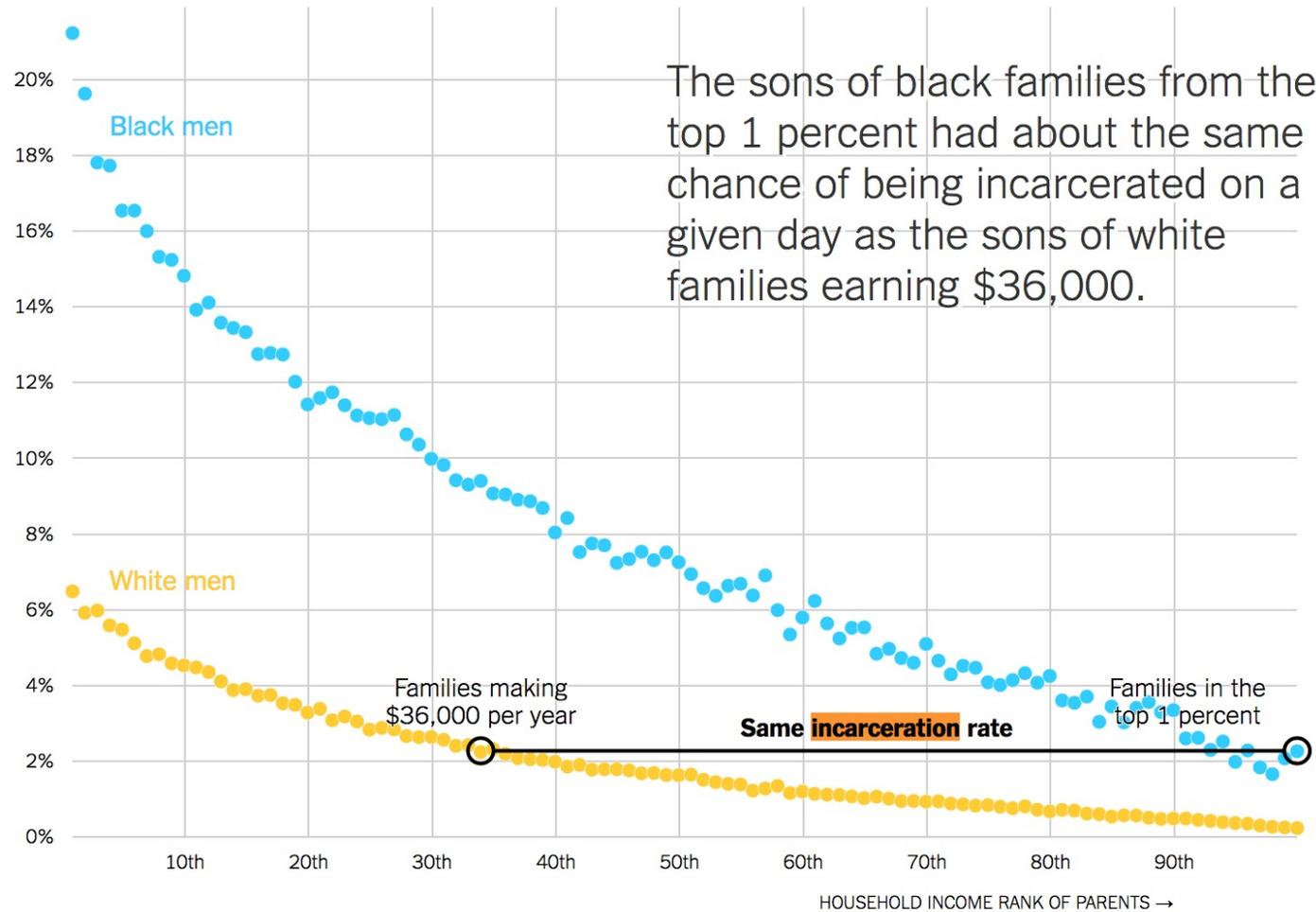


Blacks were arrested for marijuana possession at 3.7 times the rate of whites.

*Source: Edwards, E. Bunting, W. Garcia, L. (2013). [The War on Marijuana in Black and White](#). New York, NY: American Civil Liberties Union. (p. 47); U.S. Department of Health and Human Services (2011). [Results from the 2010 Survey on Drug Use and Health: Detailed Tables](#). (Tbl. 1.28B).*

Is race just a  
proxy for wealth?

### Share of the men incarcerated on April 1, 2010



EMILY BADGER, CLAIRE CAIN MILLER, ADAM PEARCE and KEVIN QUEALY,  
“Extensive Data Shows Punishing Reach of Racism for Black Boys” NYTimes (March 19, 2018)  
<https://www.nytimes.com/interactive/2018/03/19/upshot/race-class-white-and-black-men.html>.

# Wait?

If it's not about wealth or a propensity to commit more crime, why are there such disparities?

# Disproportionate Minority Contact

- ❖ **2011 DOJ Investigation of Ferguson:** Data collected by the Ferguson Police Department from 2012 to 2014 shows that African Americans account for 85% of vehicle stops, 90% of citations, and 93% of arrests made by FPD officers, despite comprising only 67% of Ferguson's population. African Americans are more than twice as likely as white drivers to be searched during vehicle stops even after controlling for non-race based variables such as the reason the vehicle stop was initiated, but are found in possession of contraband 26% less often than white drivers, suggesting officers are impermissibly considering race as a factor when determining whether to search. African Americans are more likely to be cited and arrested following a stop regardless of why the stop was initiated and are more likely to receive multiple citations during a single incident.
- ❖ **2013 Federal District Court Ruling:** Between January 2004 and June 2012, the New York City conducted 4.4 million stops. Eighty-eight percent of those stops resulted in no further action, and 83 percent of the stopped population were black or Hispanic, despite the fact that those minority groups, together, made up just over half of the city's overall population.

# Where does it start?

- 1969** The State of Texas creates the Texas Education Code. Subchapter I, entitled “Discipline; Law & Order,” allowing school districts to suspend “incorrigible” students and bring proceedings in juvenile court against students “who persistently violate the reasonable rules and regulations of the school.”
- 1995** Chapter 37 of the Texas Education Code: Discretionary Discipline-Law designed for serious offenses

# School Discipline

87% Discretionary-Code of Conduct

6% School Fight

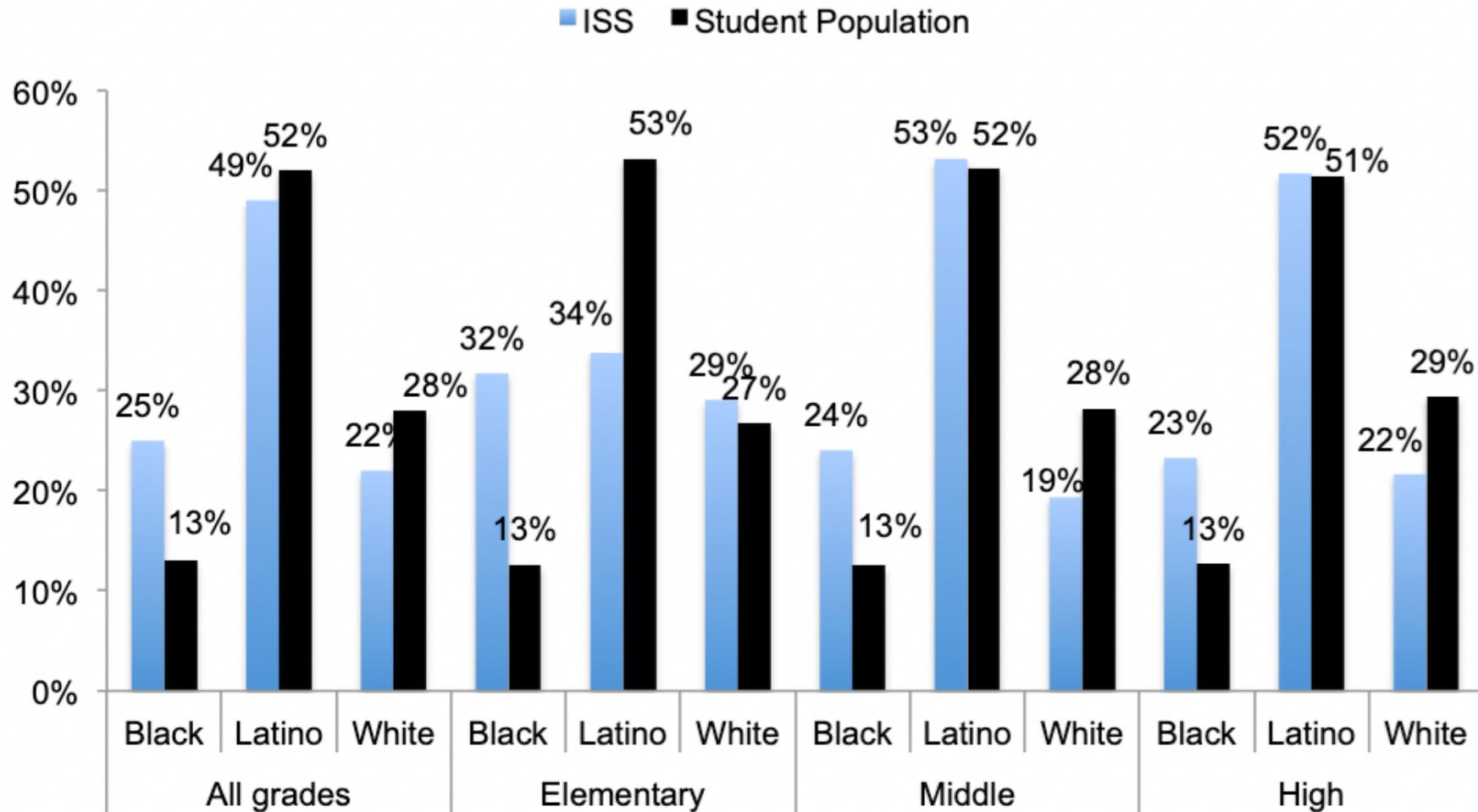
3% Controlled Substance

1% Tobacco

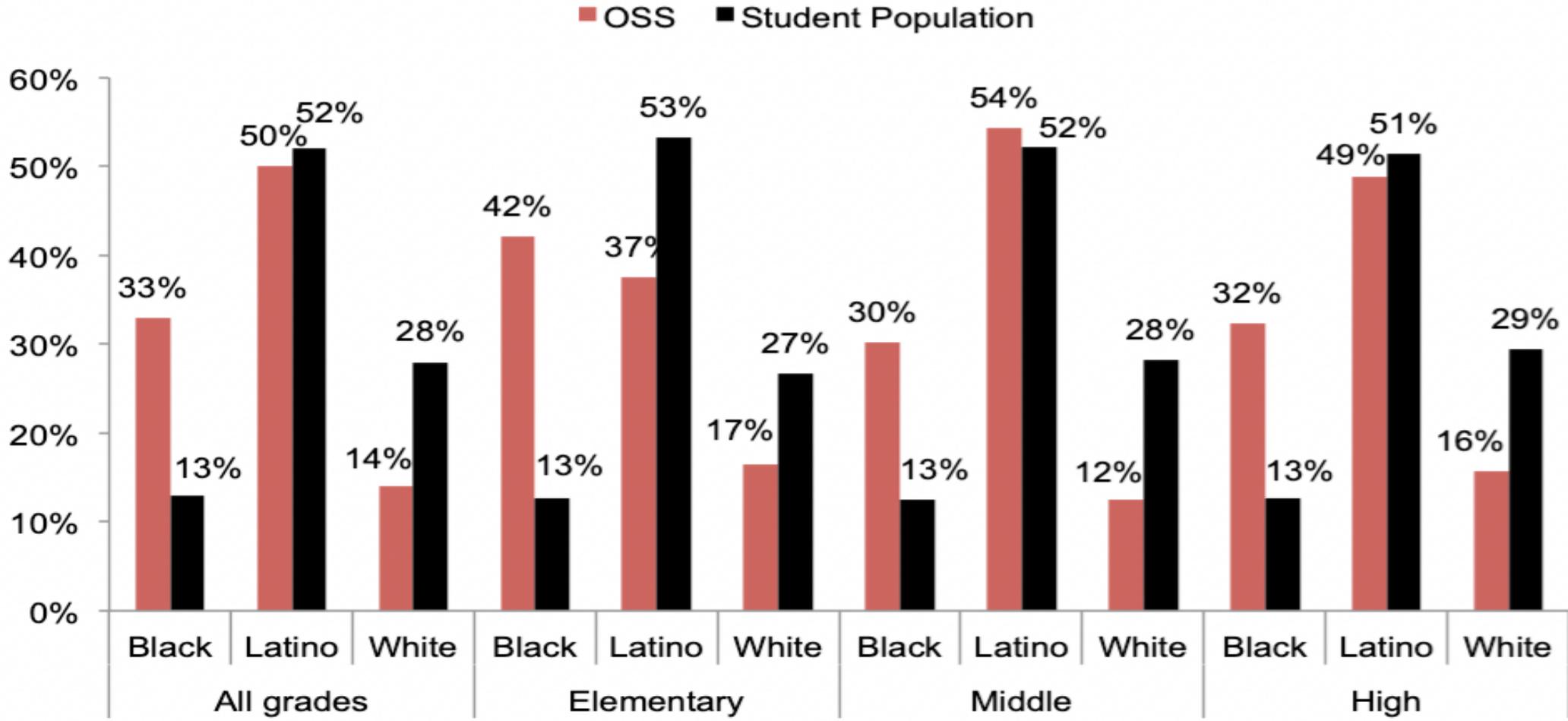
1% Assault

\*Texas Education Agency/Texas Appleseed

### ISS Actions by Grade Level and Race/Ethnicity (2017-18)



### OSS Actions by Grade Level and Race/Ethnicity (2017-18)



# Shadow Discipline

Unreported out of school suspensions-parent pick up

Silent Lunches

Exclusion from recess

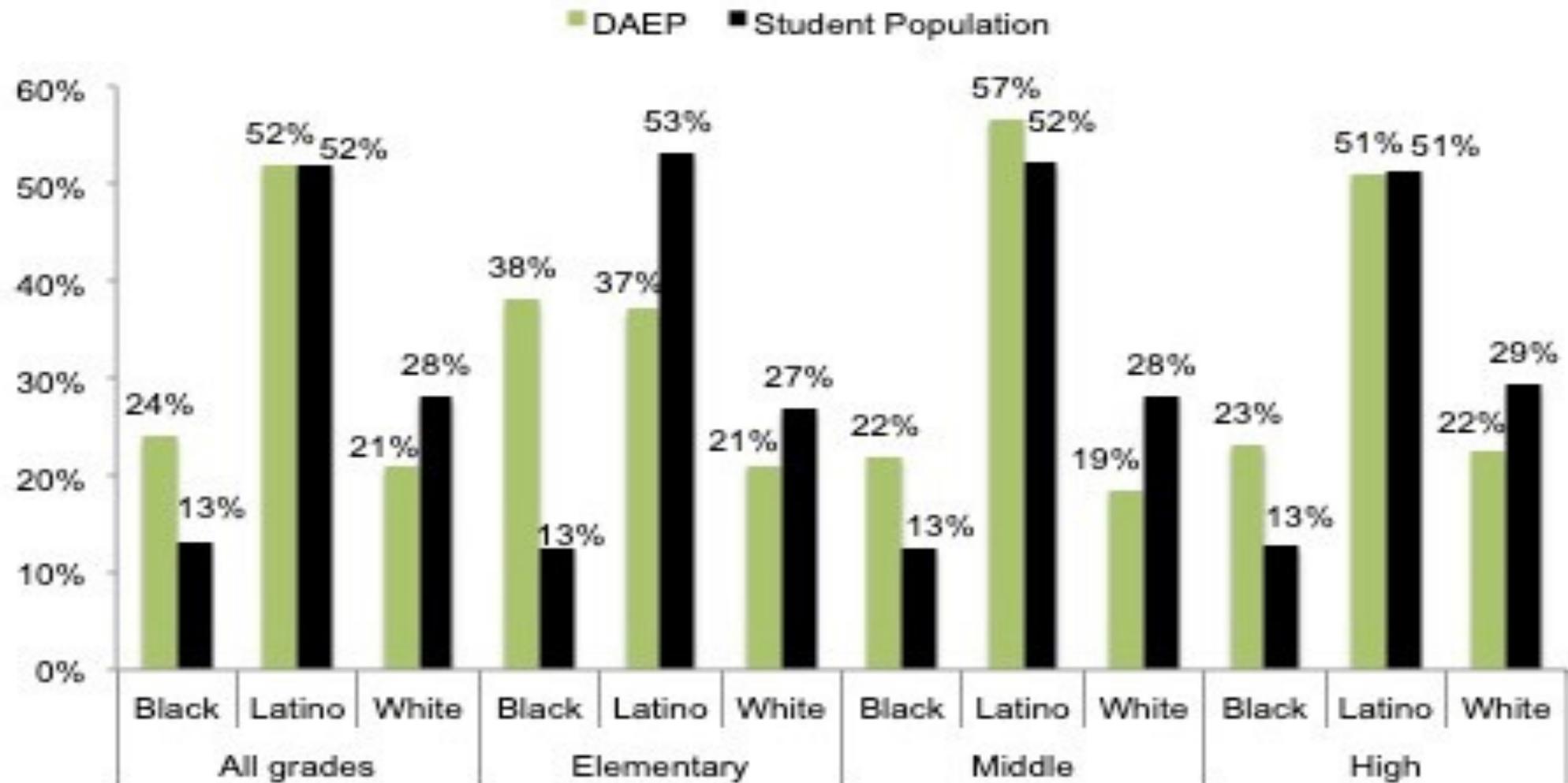
Standing outside the classroom

After school detention

Taking away school activities

Moving student to a different classroom

## DAEP Actions by Grade Level and Race/Ethnicity (2017-18)



<https://www.texasappleseed.org/sites/default/files/SchoolDisciplineinTexas-new.pdf>

What does this look like in  
Travis County?



Center For  
**POLICING EQUITY**

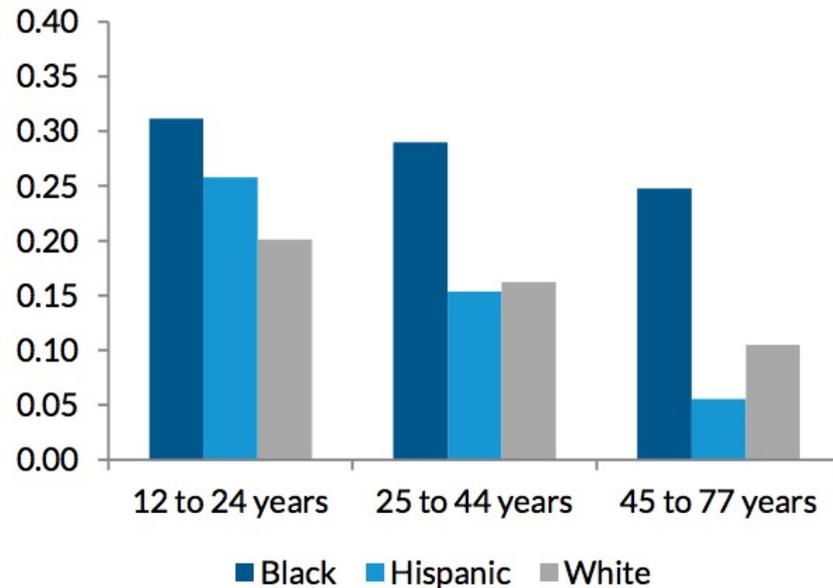
# The Science of Policing Equity

**Measuring Fairness in the Austin Police Department**

# Racial Disparities in Decision to Stop & Search

FIGURE 9

Probability of Vehicle Search by Age and Race or Ethnicity, 2015



**Source:** Logistic regression model predicting vehicle search, among 7,870 APD vehicle stops ending in arrest in 2015.

**Note:** Model included drivers' race, age, gender, whether race was known before the stop, and interactions between race and age and between age and gender.

# In Austin, More Likely To Be Arrested If Black

FIGURE 5

Per Capita Stops Resulting in a Citation by Race or Ethnicity, 2015

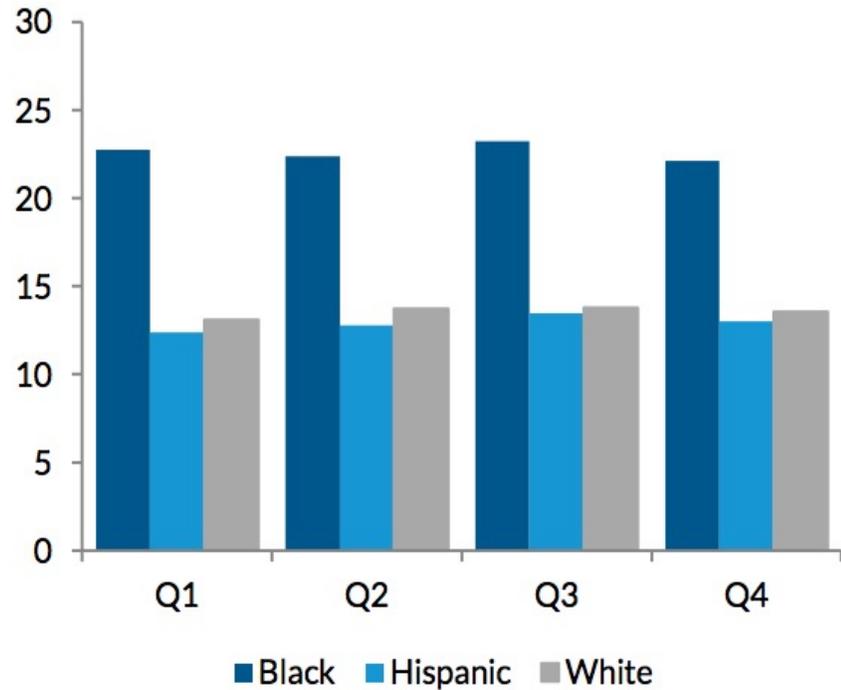
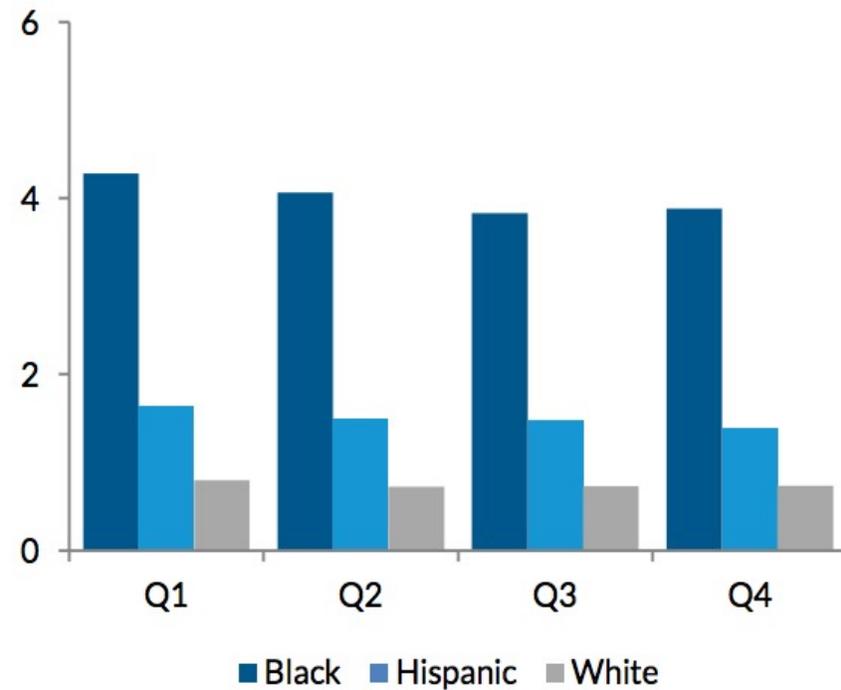


FIGURE 6

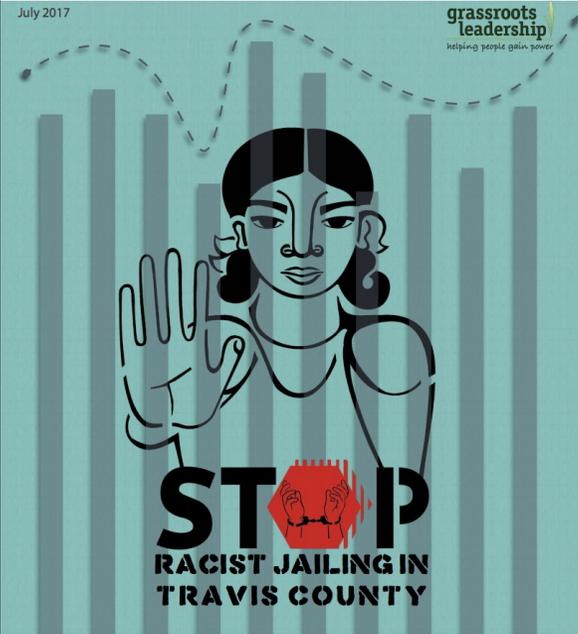
Per Capita Stops Resulting in an Arrest by Race or Ethnicity, 2015



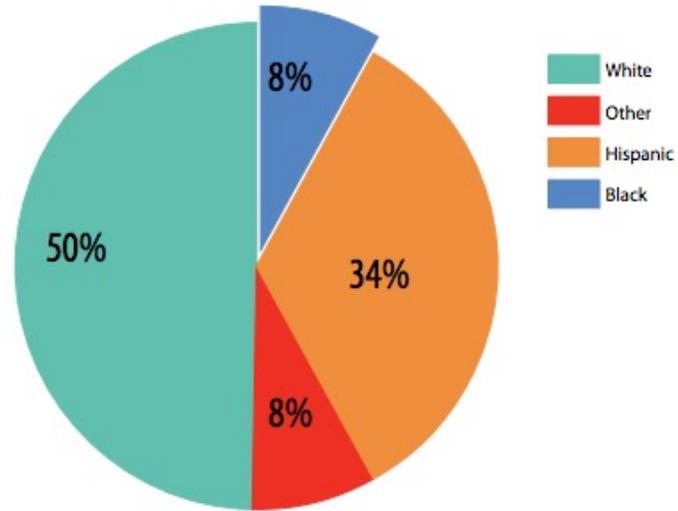
# Grassroots Leadership Report

## TRAVIS COUNTY JAIL IN 2015:

Data points to racism and longer confinement of African Americans

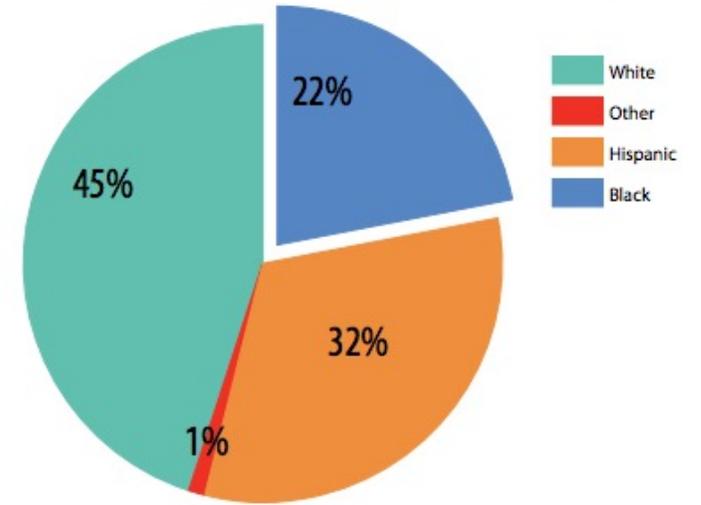


## 2015 Travis County Population



Source: The County Information Program,  
Texas Association of Counties

## 2015 Travis County Jail Bookings\*



Source: Community Advancement  
Network

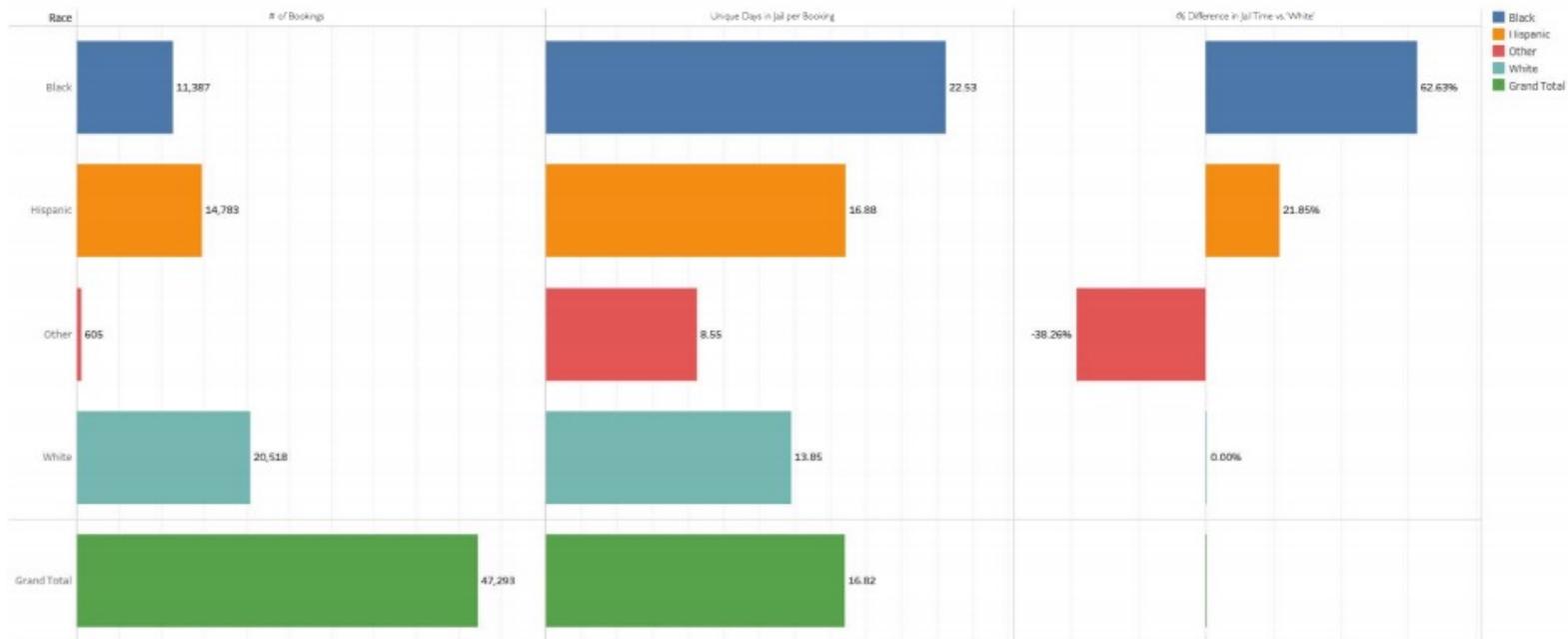
\*Unique Individuals

# Overall Jail Time By Race: Grassroots Leadership

**Figure 1** below provides counts for all bookings in 2015 by race and establishes that those documented as Black and Hispanic by Travis County in 2015 spent significantly more unique days in jail on average per booking.

*Note: # of Bookings, Unique Days in Jail per Booking and % Difference in Jail Time vs. 'White' for each Race. Color shows details about Race. # of Bookings counts each unique Booking # with a Release Date. Unique Days in Jail per Booking calculates the average number of unique days spent in jail per unique Booking # by subtracting the associated Booking Date from the Release Date. Bookings without a Release Date are excluded from this calculation. % Difference in Jail Time vs. 'White' calculates the percentage difference in the average Unique Days in Jail per Booking for each Race vs. the average for Whites.*

**Figure 1. 2015 Jail Time Average By Race**





The **Travis District Attorney**, with support from other Travis County officials, was interested in reviewing the disposition patterns for defendants charged with State Jail Felony (from here on referred as SJF) drug possession cases (from here on referred as SJF-DP). **The particular emphasis was to review if there were unwarranted racial effects in the disposition of these cases based on a comprehensive data analysis.**

[https://media.kxan.com/nxs-kxantv-media-us-east-1/document\\_dev/2018/04/17/Council%20of%20State%20Governments%20report\\_1524023932879\\_40057439\\_ver1.0.pdf](https://media.kxan.com/nxs-kxantv-media-us-east-1/document_dev/2018/04/17/Council%20of%20State%20Governments%20report_1524023932879_40057439_ver1.0.pdf)

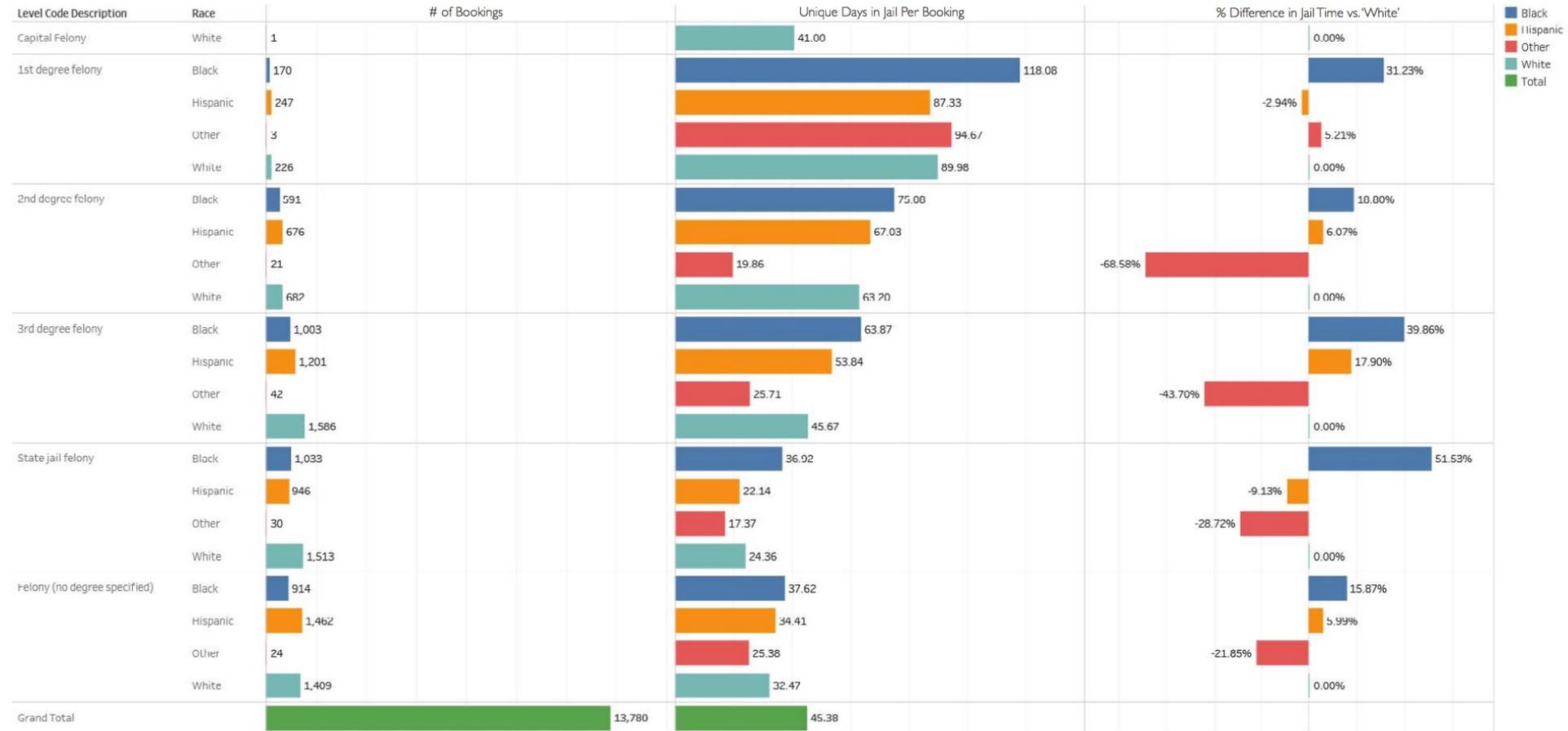
# Confirms Racial Disproportionality

In relation of the general Travis County population as counted in the 2016 US Census, African Americans are overrepresented in the jail bookings, with **8% of the Travis County population being African Americans compared to 24% of the jail bookings.**

- ❖ B/AA and H/L in the 2016 study population of SJF-DP cases disposed had substantially higher numbers of prior arrests at disposition than Whites
  - ❖ Note the report looked at arrests only not prior convictions . . .
- ❖ B/AA and H/L have higher two-year recidivism rates than Whites regardless of how the case was disposed
  - ❖ The overall two-year recidivism rate for cases disposed in 2014 was 51% and the one-year recidivism rate for cases disposed in 2015 was 39%.
  - ❖ B/AA sentenced to community supervision time had a two-year recidivism rate of 57% compared to 39% for H/L and 41% for White
  - ❖ B/AA disposed to jail time had a two-year recidivism rate of 68% compared to 58% for H/L and 50% for White
  - ❖ B/AA with cases dismissed had a two-year recidivism rate of 53% compared to 49% for H/L and 29% for White

**THIS IS WHAT WE WOULD EXPECT FOR POPULATIONS THAT HAVE HAD LONGER PRETRIAL DETENTION . . .**

**Figure 7. 2015 Jail Time Average by Race for Bookings with Felony Lead Charge Level Code**



Blacks charged with state jail felonies as their lead charge spend on average **51.53%** longer in jail than whites.

# Pre Trial Detention Increases Likelihood of Recidivism

Low-risk defendants who were detained for **31 days** or more before they had their day in court offended

**74 percent more** frequently before trial than those detained for just one day.

In Travis County, Blacks spend an average **36 days** in jail for a state jail felony.

<https://www.arnoldventures.org/work/pretrial-justice>

# BUT THE REPORT MAKES ONE STARTLING FINDING

SJF-DP defendants with hired counsel, at all charge levels, had a lower percentage of guilty dispositions

For example, 48% of those with only a SJF-DP charge with hired counsel were found guilty compared to 80% with those with appointed counsel

# Discussion Questions

- ❖ Does mass incarceration function as a mechanism of racialized social control in the United States today? If so, how?
- ❖ Does the criminal justice system perpetuate exclusions?
- ❖ What do we mean by justice? Innocent v. Guilty? Equality of Opportunity? Public Safety?
- ❖ Are we providing sufficient supports to communities of color?
- ❖ Should we prioritize recovery over punishment? Where does public safety fit in?
- ❖ How can you use your resources and influence to make real change?

“Finally, I’ve come to believe that the true measure of our commitment to justice, the character of our society, our commitment to the rule of law, fairness, and equality cannot be measured by how we treat the rich, the powerful, the privileged, and the respected among us. The true measure of our character is how we treat the poor, the disfavored, the accused, the incarcerated, and the condemned.”

— Bryan Stevenson, *Just Mercy: A Story of Justice and Redemption*

For additional  
information  
contact:

Elizabeth A. Henneke, JD  
Executive Director  
Lone Star Justice Alliance  
1411 West Ave. Ste. 200  
Austin, TX 78701  
[ehenneke@lsja.org](mailto:ehenneke@lsja.org)

Courtney Robinson  
Excellence and Advancement  
Foundation  
@DrCRobinson  
[www.BreakThePipeline.org](http://www.BreakThePipeline.org)  
CRobinson@BreakThePipeline.org

