

# Federal Efforts in Examining Racial and Ethnic Disparities Among Victims of Violent Crime



U.S. COMMISSION ON CIVIL RIGHTS  
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BRIEFING  
REPORT



September 2024

## **U.S. COMMISSION ON CIVIL RIGHTS**

The U.S. Commission on Civil Rights is an independent, bipartisan agency established by Congress in 1957. It is directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices.
- Study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.
- Appraise federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin.
- Submit reports, findings, and recommendations to the President and Congress.
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### **U.S. Commission on Civil Rights**

1331 Pennsylvania Avenue, NW  
Washington, DC 20425

(202) 376-8128 voice

TTY Relay: 711

[www.usccr.gov](http://www.usccr.gov)

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<sup>1</sup> 42 U.S.C. §1975a.

# **Federal Efforts in Examining Racial and Ethnic Disparities among Victims of Violent Crime**

Briefing Before

The U.S. Commission on Civil Rights

Held in Washington, D.C.

Briefing Report

September 2024



## UNITED STATES COMMISSION ON CIVIL RIGHTS

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1331 Pennsylvania Ave., NW • Suite 1150 • Washington, DC 20425 [www.usccr.gov](http://www.usccr.gov)

### Letter of Transmittal

September 18, 2024

President Joseph R. Biden  
Vice President Kamala Harris  
Speaker of the House Mike Johnson  
President Pro Tempore of the Senate Patty Murray

Dear President Biden, Vice President Harris, Speaker Johnson, and President Pro Tempore Murray,

On behalf of the United States Commission on Civil Rights (“the Commission”), I am pleased to transmit our report entitled, **Federal Efforts in Examining Racial and Ethnic Disparities among Victims of Violent Crime**. The full report is available on the Commission's website at [www.usccr.gov](http://www.usccr.gov).

This report emerges from the Commission’s commitment to addressing the deep-seated inequities that persist within our criminal legal system, particularly as they impact underserved communities. The COVID-19 pandemic not only brought new challenges but magnified existing ones, making the need for this report all the more urgent.

Our investigation reveals that the disparities in crime victimization are not merely statistical anomalies but are driven by systemic issues that have been exacerbated by the pandemic. For instance, young, Black men continue to face a disproportionately high risk of homicide, a disparity that underscores the need for targeted interventions.

The report will show that crime tends to concentrate in “hot spots,” or areas where disadvantaged populations are overrepresented. The pandemic saw a surge in gun violence, including homicides, which disproportionately impacted persons of color residing in racially segregated neighborhoods. Although overall crime rates have begun to recede, the impact of these violent incidents continues to resonate within these communities.

Our report also highlights significant disparities in access to victim services. Some victims, particularly Black victims, may receive less compensation due to pervasive racial, ethnic, or gender stereotypes. These disparities are especially concerning in the administration of programs

like the federal Victims of Crime Act (VOCA) Fund, where biases can influence the allocation of resources.

To address these challenges, our report emphasizes the necessity of a holistic approach to our criminal legal system—one that not only enforces laws but also addresses the underlying factors contributing to crime. This includes early intervention and support for young people to prevent them from entering the criminal system later in life. It is also essential to challenge the narrative that victims must be deemed "innocent" to receive financial relief from social services and victim compensation programs.

Building trust between law enforcement and the communities they serve is crucial, particularly in over-policed neighborhoods. Our report shows that efforts to reduce crime in these areas must be coupled with initiatives to rebuild community trust. Additionally, enhancing victim services to be more trauma-informed, culturally, and linguistically specific could ensure that all victims receive the support they need.

Improving data collection on crime victimization is also critical. By capturing more granular data on race, ethnicity, sexuality, and gender, law enforcement agencies can gain a clearer understanding of the challenges faced by these communities and devise more effective strategies to address them.

While these observations and suggestions were not formally adopted by the majority of the Commission, they reflect important insights gained through our investigation into the disparities in crime victimization. The contents of this report provide a roadmap to create a more equitable and just society, where safety, equity, and dignity are not just aspirations but realities for everyone.

As we work to heal our communities, it is clear that this process requires more than just policy changes; it demands a commitment to understanding, empathy, and action. Behind each statistic is a human life, a family affected, and a community in pain. By addressing these challenges with compassion and determination, we can pave the way for a better post-pandemic society for all our communities.

We at the Commission are committed to continuing our work to ensure that all Americans receive the civil rights protections to which they are entitled.

For the Commission,

A handwritten signature in blue ink, appearing to read "Rochelle M. Garza", with a long, sweeping horizontal flourish extending to the right.

**Rochelle M. Garza**

Chair

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## Executive Summary

Crime victimization has wide-reaching consequences for victims, their families and friends, their communities, and society in general. The rate of violent crime victimization has decreased dramatically since its peak in the early 1990s,<sup>1</sup> providing the most relief to residents of disadvantaged neighborhoods who are most likely to experience violent crime.<sup>2</sup> However, the nation recently experienced an increase in serious forms of violence. In 2020, homicide rates were 30 percent higher than the previous year.<sup>3</sup> In the same period, aggravated assaults, including nonfatal shootings, also increased.<sup>4</sup> While violent victimization rates started to decrease again after the first two years of the COVID-19 pandemic,<sup>5</sup> violence remains a pressing concern for Americans.<sup>6</sup> This trend merits closer investigation given that it follows decades of sustained progress and disproportionately affects underserved communities.<sup>7</sup>

To gain an understanding of federal efforts to evaluate racial disparities in crime victimization, the Commission voted on July 21, 2023, to examine the U.S. Department of Justice’s data collection on violent crime victimization and what that data show about disparate impacts of violent victimization on minority communities. This report uses social science methodologies to synthesize reliable research and present quantitative evidence from federal sources about racial and ethnic disparities in violent crime victimization from 2017-2021. Because crime concentrates in small geographic areas,<sup>8</sup> the Commission also selected five jurisdictions to conduct a more in-depth analysis of trends and racial disparities in violent crime victimization over the study period.

In addition to relying on publicly available studies and data, the Commission held a public briefing on November 17, 2023, to receive written and oral testimony from academic and policy experts, former and current government officials, members of community advocacy groups, and violent

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<sup>1</sup> Exact estimates of crime rates depend on the data source. Data about crime victimization are discussed in Chapter 1 and estimates using various sources are shown in Chapter 2. Trends over time with FBI data are available at: Federal Bureau of Investigation Crime Data Explorer, <https://cde.ucr.cjis.gov/LATEST/webapp/#>.

<sup>2</sup> Michael Friedson and Patrick Sharkey, “Violence and Neighborhood Disadvantage after the Crime Decline,” *Annals of the American Academy of Political and Social Science*, 2015, vol. 660, no. 1, <https://journals.sagepub.com/doi/abs/10.1177/0002716215579825>.

<sup>3</sup> Richard Rosenfeld, Thomas Abt, and Ernesto Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update,” Council on Criminal Justice, Jan. 2021, [https://build.neoninspire.com/counciloncj/wp-content/uploads/sites/96/2021/07/Year-End-Crime-Update\\_Designed.pdf](https://build.neoninspire.com/counciloncj/wp-content/uploads/sites/96/2021/07/Year-End-Crime-Update_Designed.pdf).

<sup>4</sup> Ibid.

<sup>5</sup> Federal Bureau of Investigation, “FBI Releases 2022 Crime in the Nation Statistics,” Oct. 16, 2023, <https://www.fbi.gov/news/press-releases/fbi-releases-2022-crime-in-the-nation-statistics>. See also Jeff Asher, “The Murder Rate is Suddenly Falling,” *Atlantic*, Jun. 5, 2023, <https://www.theatlantic.com/ideas/archive/2023/06/us-murder-rate-decline-crime-statistics/674290/>.

<sup>6</sup> Ames Grawert and Noah Kim, “Myths and Realities: Understanding Recent Trends in Violent Crime,” Brennan Center for Justice, Jul. 12, 2022, <https://www.brennancenter.org/our-work/research-reports/myths-and-realities-understanding-recent-trends-violent-crime>.

<sup>7</sup> Christos A. Makridis and Robert VerBruggen, “Breaking Down the 2020 Homicide Spike,” Manhattan Institute, May 18, 2022, <https://manhattan.institute/article/breaking-down-the-2020-homicide-spike>.

<sup>8</sup> David Weisburd, “The Law of Crime Concentration and the Criminology of Place,” *Criminology*, 2015, vol. 53, no. 2, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9125.12070>.

crime victims (see Appendix B). The Commission also sent formal requests for information to the U.S. Department of Justice.

When considering all forms of violent crime, aggregated at the national level, there are no differences in the risk of victimization for White, Black, and Latino people.<sup>9</sup> There are, however, enduring racial differences in homicide rates. Black Americans have long been the group most likely to be killed by homicide.<sup>10</sup> Black Americans are 12 times as likely as White Americans to die by firearm homicide.<sup>11</sup> The risk of homicide is highest for young, Black men. According to the Center for Disease Control and Prevention, homicide is the leading cause of death for Black males ages 1-44.<sup>12</sup>

Racial disparities in homicide are especially pronounced in large, metropolitan areas, where violent crime rates are the highest.<sup>13</sup> The concentration of crime in large cities is a consistent pattern in crime trends over time.<sup>14</sup> Within cities, violent crime concentrates in certain neighborhoods, street segments, or blocks.<sup>15</sup> Ruth Abaya, Pediatric Emergency Medicine Physician and Senior Director for the Health Alliance for Violence Intervention, explains, “In many places throughout the country, community violence is concentrated, it’s cyclical, and it’s networked, creating cycles of harm and trauma that often impact multiple generations.”<sup>16</sup>

Hyperlocal crime concentration is not a new phenomenon. In their foundational study about the relationship between crime and place, influential U.S. criminologists Clifford R. Shaw and Henry D. McKay show that crime rates remain stable in neighborhoods over time even as the

<sup>9</sup> Alexandra Thompson and Susannah N. Tapp, “Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008–2021,” Bureau of Justice Statistics, Jul. 2023, <https://bjs.ojp.gov/violent-victimization-race-or-hispanic-origin-2008-2021>.

<sup>10</sup> Heather Warnken and Janet Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services? Findings from the National Crime Victimization Survey for Expanding our Reach,” Center for Victim Research, 2019, [vnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article\\_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf](http://vnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf).

<sup>11</sup> Alex R. Piquero, “Racial Inequality in Firearm Homicide Victimization—but not Other Types of US Violence,” *Cambridge Journal of Evidence-Based Policing*, 2024, vol. 8, no. 1, <https://link.springer.com/article/10.1007/s41887-023-00093-2>.

<sup>12</sup> Center for Disease Control and Prevention, “Leading Causes of Death – Males – Non-Hispanic Black – United States 2018,” <https://www.cdc.gov/minorityhealth/lcod/men/2018/nonhispanic-black/index.htm#all-ages>. See also James Mercy, Director, Division of Violence Prevention, Center for Disease Control and Prevention, Testimony, Racial Disparities in Violent Crime Victimization in the United States Briefing Before the U.S. Commission on Civil Rights, Washington, D.C., Nov. 17, 2023, (hereinafter cited as *Racial Disparities Briefing*) pp. 34-35.

<sup>13</sup> Rosenfeld, Abt, and Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update”; Alexandra Thompson and Susannah N. Tapp, “Criminal Victimization, 2021,” Bureau of Justice Statistics, Revised Jul. 5, 2023, <https://bjs.ojp.gov/content/pub/pdf/cv21.pdf>.

<sup>14</sup> National Center for Victims of Crime, “Urban and Rural Victimization,” Office for Victims of Crime, U.S. Dep’t of Justice, 2018, [https://ovc.ojp.gov/sites/g/files/xyckuh226/files/ncvrv2018/info\\_flyers/fact\\_sheets/2018NCVRW\\_UrbanRural\\_508\\_QC.pdf](https://ovc.ojp.gov/sites/g/files/xyckuh226/files/ncvrv2018/info_flyers/fact_sheets/2018NCVRW_UrbanRural_508_QC.pdf).

<sup>15</sup> Weisburd, “The Law of Crime Concentration and the Criminology of Place.”

<sup>16</sup> Abaya Testimony, *Racial Disparities Briefing*, p. 71.

demographic composition of residents change.<sup>17</sup> They argue that structural conditions, such as physical deterioration and high population turnover, create the conditions for crime.<sup>18</sup> This finding is critical for framing racial disparities in crime victimization because it shows that the structure of high-crime neighborhoods, not factors related to the race of their residents, allows crime to flourish.

Crime concentration in certain areas became associated with race because contemporary disadvantaged neighborhoods are predominately Black or Latino.<sup>19</sup> Outdated government policies that created intentional residential racial segregation have had long-lasting consequences for where Americans still live.<sup>20</sup> Ongoing racial segregation is associated with violent crime as the most segregated neighborhoods have elevated levels of violent crime.<sup>21</sup> Data show that violence in these racially segregated and socioeconomically disadvantaged neighborhoods drives racial disparities in one serious type of violent crime: homicide.<sup>22</sup> During the COVID-19 pandemic, as the overall crime rate fell,<sup>23</sup> murder rates rose because of an increase in gun homicides in disadvantaged neighborhoods.<sup>24</sup> A recent study demonstrates that the risk of firearm-related death or injury is more acute for young Black and Latino men who live in certain zip codes than for U.S. soldiers who were deployed to Iraq and Afghanistan.<sup>25</sup> Enduring racist narratives of crime<sup>26</sup> dismiss this violence as “Black-on-Black” without acknowledging that most crimes occur within racial groups

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<sup>17</sup> Clifford Robe Shaw and Henry Donald McKay, *Juvenile Delinquency and Urban Areas* (University of Chicago Press, 1942).

<sup>18</sup> Shaw and McKay, *Juvenile Delinquency and Urban Areas*.

<sup>19</sup> The word “ghetto” used to be acceptable shorthand for neighborhoods with predominately poor and Black residents. This word is now outmoded and can even be considered derogatory because it fails to capture neighborhood heterogeneity and relies on negative stereotypes about Black Americans. See Mario Luis Small, “Four Reasons to Abandon the Idea of ‘The Ghetto,’” *City & Community*, 2008, vol. 7, no. 4, [https://www.mariosmall.com/files/ugd/4a8452\\_2d5ecb91ae4741ee83c5e307a06c5d69.pdf](https://www.mariosmall.com/files/ugd/4a8452_2d5ecb91ae4741ee83c5e307a06c5d69.pdf).

<sup>20</sup> Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing, 2017).

<sup>21</sup> Lauren J. Krivo, Ruth D. Peterson, and Danielle C. Kuhl, “Segregation, Racial Structure, and Neighborhood Violent Crime,” *American Journal of Sociology*, 2009, vol. 114, no. 6, <https://www.journals.uchicago.edu/doi/abs/10.1086/597285>.

<sup>22</sup> Chaeyoung Cheon, Yuzhou Lin, David J. Harding, Wei Wang, and Dylan S. Small, “Neighborhood Racial Composition and Gun Homicides,” *JAMA Network Open*, 2020, vol. 3, no.11, <https://jamanetwork.com/journals/jamanetworkopen/article-abstract/2773288>.

<sup>23</sup> John H. Boman and Owen Gallupe, “Has COVID-19 Changed Crime? Crime Rates in the United States during the Pandemic,” *American Journal of Criminal Justice*, 2020, vol. 45, <https://link.springer.com/article/10.1007/s12103-020-09551-3>.

<sup>24</sup> Hanna Love and Tracy Hadden Loh, “The Geography of Crime in Four U.S. Cities: Perceptions and Reality,” Brookings Institution, Apr. 2, 2023, <https://www.brookings.edu/articles/the-geography-of-crime-in-four-u-s-cities-perceptions-and-reality/>. See also Violent Crime Working Group, “Saving Lives: Ten Essential Actions Cities Can Take to Reduce Violence Now,” Council on Criminal Justice, Jan. 2022, [counciloncj.org/wp-content/uploads/2022/01/VCWG-Final-Report.pdf](https://counciloncj.org/wp-content/uploads/2022/01/VCWG-Final-Report.pdf).

<sup>25</sup> Brandon del Pozo, Alex Knorre, Michael J. Mello, and Aaron Chalfin, “Comparing Risks of Firearm-Related Death and Injury Among Young Adult Males in Selected US Cities with Wartime Service in Iraq and Afghanistan,” *JAMA Network Open*, 2022, vol. 5, no. 12, <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2799859>.

<sup>26</sup> Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Harvard University Press, 2019).

(intra-racial).<sup>27</sup> Elliot Currie, professor of Criminology, Law and Society at the University of California Irvine, argues that America’s “peculiar indifference” to high rates of murder among young Black men “is not only socially destructive and economically wasteful but a profound moral default.”<sup>28</sup>

Homicides comprise a small share of all violent crimes; there are no racial disparities in the overall rate of violent crime victimization.<sup>29</sup> There are, however, other social and demographic correlates of victimization. One strong predictor of being a victim of a violent crime is having previously been a victim of crime.<sup>30</sup> Data suggest that victims of violent crime are four times as likely to experience repeat victimization.<sup>31</sup> Additionally, both income and age predict victimization. People living in households that earn the lowest incomes (i.e., less than \$25,000), are more likely to be victimized than their higher income counterparts.<sup>32</sup> Adolescents and young adults are also disproportionately likely to be victims of violent crime, regardless of geography.<sup>33</sup> The relationship between age and being involved in crime, as both an offender and a victim, is one of the most enduring patterns in crime.<sup>34</sup> There are no overall gender disparities in violent victimization.<sup>35</sup> There are, however, gender disparities in experiencing certain kinds of violence. Men are more likely than women to be homicide victims.<sup>36</sup> When women are murdered, however, they are five times more likely than men to be killed by an intimate partner.<sup>37</sup> Regardless of the severity of the crime, most victims of violent crime know the offender.<sup>38</sup>

Data show that an individual who commits a violent offense is statistically at a higher risk of becoming a victim of a later violent crime.<sup>39</sup> Violent crime victims are also more likely than others

<sup>27</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>28</sup> Elliott Currie, *A Peculiar Indifference: The Neglected Toll of Violence on Black America* (New York: Metropolitan Books, 2020).

<sup>29</sup> Thompson and Tapp, “Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008–2021.”

<sup>30</sup> Janet Lauritsen and Kenna Davis Quinet, “Repeat Victimization Among Adolescents and Young Adults,” *Journal of Quantitative Criminology*, 1995, vol. 11, no. 2, <https://link.springer.com/article/10.1007/BF02221121>; Deborah Weisel, “Analyzing Repeat Victimization,” Center for Problem Oriented Policing, 2005,

<https://portal.educoas.org/sites/default/files/nw/wg/docs/Analyzing-Repeat-Victimization.pdf>; Alliance for Safety and Justice, “Crime Survivors Speak: The First-Ever National Survey of Victims’ Views on Safety and Justice,”

<https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.

<sup>31</sup> Alliance for Safety and Justice, “Crime Survivors Speak.”

<sup>32</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>33</sup> Ibid. See also Warnken and Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services?”

<sup>34</sup> David P. Farrington, “Age and Crime,” *Crime and Justice*, 1986, vol. 7, <https://doi.org/10.1086/449114>.

<sup>35</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>36</sup> Federal Bureau of Investigation, “Crime Data Explorer,”

<https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.

<sup>37</sup> Erica L. Smith, “Female Murder Victims and the Victim-Offender Relationship, 2021,” Bureau of Justice Statistics, Dec. 2022, <https://bjs.ojp.gov/female-murder-victims-and-victim-offender-relationship-2021>.

<sup>38</sup> Erika Harrell, “Violent Victimization Committed by Strangers, 1993-2010,” Bureau of Justice Statistics, 2012, <https://bjs.ojp.gov/library/publications/violent-victimization-committed-strangers-1993-2010>.

<sup>39</sup> Caterina Roman, Courtney Harding, Hannah Klein, Leah Hamilton, and Josh Koehnlein, “The Victim-Offender Overlap: Examining Police and Service System Networks of Response among Violent Street Conflicts,” National Institute of Justice, U.S. Dep’t of Justice, Apr. 2020, <https://www.ojp.gov/pdffiles1/nij/grants/254626.pdf>.

to engage in violence.<sup>40</sup> Too often, however, this victim-offender overlap is ignored<sup>41</sup> because it complicates the false narrative of the “good victim/bad offender” dichotomy.<sup>42</sup> This dichotomy is problematic because it risks disregarding past experiences of victimization and trauma for people who have engaged in violence.<sup>43</sup> Studies also show that it is highly unlikely that these victims seek or receive any victim services.<sup>44</sup> For instance, one study shows that only 16 percent of crime victims who had been involved in the justice system as offenders report accessing programs such as victim compensation, victim advocate services from the police or district attorney, or help with legal proceedings.<sup>45</sup> The researchers argue that so few victims accessing services is a “potential harm to the short- and long-term health of offender-victims, and harm to the overall well-being of urban, minority communities.”<sup>46</sup>

The effects of violent crime extend beyond immediate physical pain and injury. There are long-term physical health correlates of violent victimization, including conditions such as heart disease,<sup>47</sup> cancer,<sup>48</sup> high blood pressure,<sup>49</sup> and premature mortality.<sup>50</sup> Violent crimes also have emotional and psychological consequences for those who are injured, which can include suffering from post-traumatic stress and other manifestations of trauma that negatively impact the victim’s quality of life.<sup>51</sup> The effects of violent crime can also extend beyond the victims to adversely affect

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<sup>40</sup> Jennifer N. Shaffer and R. Barry Ruback, “Violent Victimization as a Risk Factor for Violent Offending Among Juveniles,” Office of Juvenile Justice and Delinquency Prevention, Dec. 2002, <https://www.ojp.gov/pdffiles1/ojjdp/195737.pdf>.

<sup>41</sup> Mark T. Berg and Christopher J. Schreck, “The Meaning of the Victim-Offender Overlap for Criminological Theory and Crime Prevention Policy,” *Annual Review of Criminology*, 2022, vol. 5, <https://www.annualreviews.org/doi/abs/10.1146/annurev-criminol-030920-120724>. See also Wesley G. Jennings, Alex R. Piquero, and Jennifer M. Reingle, “On the Overlap Between Victimization and Offending: A Review of the Literature,” *Aggression and Violent Behavior*, 2021, vol. 17, no. 1, <https://www.sciencedirect.com/science/article/abs/pii/S1359178911000954>.

<sup>42</sup> Cynthia Godsoe, “The Victim/Offender Overlap and Criminal System Reform,” *Brook. L. Rev.*, 2021, vol. 87, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/brklr87&div=46&id=&page=>.

<sup>43</sup> Andrew Karmen, *Crime Victims: An Introduction to Victimology* (Boston: Cengage Learning, 2015).

<sup>44</sup> Roman, Harding, Klein, Hamilton, and Koehnlein, “The Victim-Offender Overlap”; Wesley G. Jennings, George E. Higgins, Richard Tewksbury, Angela R. Gover, and Alex R. Piquero, “A Longitudinal Assessment of the Victim-Offender Overlap,” *Journal of Interpersonal Violence*, 2010, vol. 25, no. 12, <https://doi.org/10.1177/0886260509354888>.

<sup>45</sup> Roman, Harding, Klein, Hamilton, and Koehnlein, “The Victim-Offender Overlap.”

<sup>46</sup> Ibid.

<sup>47</sup> Shakira F. Suglia, Katherine J. Sapra, and Karestan C. Koenen, “Violence and Cardiovascular Health: A Systematic Review,” *American Journal of Preventive Medicine*, 2015, vol. 48, no. 2, <https://www.sciencedirect.com/science/article/abs/pii/S0749379714005509>.

<sup>48</sup> Jennifer M. Reingle Gonzalez, Katelyn K. Jetelina, Stefany Olague, and Jordan G. Wondrack, “Violence Against Women Increases Cancer Diagnoses: Results from A Meta-Analytic Review,” *Preventive Medicine*, 2018, vol. 114, <https://www.sciencedirect.com/science/article/abs/pii/S0091743518302159>.

<sup>49</sup> Jodi L. Ford and Christopher R. Browning, “Effects of Exposure to Violence with a Weapon During Adolescence on Adult Hypertension,” *Annals of Epidemiology*, 2014, vol. 24, no. 3, <https://www.sciencedirect.com/science/article/abs/pii/S1047279713004705>.

<sup>50</sup> Frederick Rivara, Avanti Adhia, Vivian Lyons, Anne Massey, Brianna Mills, Erin Morgan, Maayan Simckes, and Ali Rowhani-Rahbar, “The Effects of Violence on Health,” *Health Affairs*, 2019, vol. 38, no. 10, <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2019.00480>.

<sup>51</sup> Ross Macmillan, “Violence and the Life Course: The Consequences of Victimization for Personal and Social Development,” *Annual Review of Sociology*, 2001, vol. 27, <http://www.jstor.org/stable/2678612>.

family members and entire communities.<sup>52</sup> Access to justice and rehabilitative services offers a vital opportunity to break the cycle of violence in communities.

A major impediment to exploring crime victimization rates is that many crimes, even violent crimes, are not known to law enforcement; therefore, official numbers collected by the FBI may underreport the prevalence of the issue.<sup>53</sup> For instance, in 2020, less than half (40 percent) of violent victimizations were reported to police.<sup>54</sup> Victims may choose not to report a crime to the police for a multitude of reasons, such as fear of reprisal or stigmatization, believing the police would not or could not do anything to help, or believing the crime was too personal to report.<sup>55</sup> Not reporting a crime has serious implications beyond public safety; data show that victims are more likely to receive services and access resources if they report an incident to law enforcement.<sup>56</sup>

Compensation and assistance programs are available to crime victims, but longstanding research shows that these programs are underutilized, mostly because victims are not aware of the programs and services available to them.<sup>57</sup> For instance, 2016 data from the National Crime Victimization Survey (NCVS) show that about 13 percent of violent crime survivors reported using victim services. For those who did not report the offense to police, only 5 percent reported utilizing services.<sup>58</sup> More recent data show that the vast majority of violent crime victims continue not to receive assistance from victim service agencies; in 2021 just 9 percent of victims received services.<sup>59</sup>

Not only are victim compensation programs underutilized, but there are also disparities between the types of victims who apply for these programs. Violent victimization is most likely to occur within the larger societal context of structural inequities and poverty that concentrate violence in the poorest areas of cities with the least access to supports and services.<sup>60</sup> Decades of research

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<sup>52</sup> Shani AL Buggs, Nicole D. Kravitz-Wirtz, and Julia J. Lund, “Social and Structural Determinants of Community Firearm Violence and Community Trauma,” *Annals of the American Academy of Political and Social Science*, 2022, vol. 704, no. 1, <https://doi.org/10.1177/00027162231173324>.

<sup>53</sup> Min Xie and Eric P. Baumer, “Crime Victims’ Decisions to Call the Police: Past Research and New Directions,” *Annual Review of Criminology*, 2019, vol. 2, <https://www.annualreviews.org/doi/abs/10.1146/annurev-criminol-011518-024748>.

<sup>54</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>55</sup> Ibid.

<sup>56</sup> Robert David, Kalani Johnson, Michael Lebron, and Susan Howley, “U.S. Law Enforcement’s Role in Victim Compensation Dissemination,” *International Review of Victimology*, 2020, vol. 27, no. 1, <https://journals.sagepub.com/doi/full/10.1177/0269758020945126>.

<sup>57</sup> Lisa Newmark, Judy Bonderman, Barbar Smith, and Blaine Liner, “The National Evaluation of State Victims of Crime Act Assistance and Compensation Programs: Trends and Strategies for the Future,” Urban Institute, Apr. 2003, <https://www.urban.org/sites/default/files/publication/59536/410924-The-National-Evaluation-of-State-Victims-of-Crime-Act-Assistance-and-Compensation-Programs-Trends-and-Strategies-for-the-Future-Full-Report-.PDF>; David, Johnson, Lebron, and Howley, “U.S. Law Enforcement’s Role in Victim Compensation Dissemination.”

<sup>58</sup> Warnken and Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services?”

<sup>59</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>60</sup> Buggs, Kravitz-Wirtz, and Lund, “Social and Structural Determinants of Community Firearm Violence and Community Trauma.”

shows that young men of color<sup>61</sup> who have been victims of crime often do not obtain victim program assistance.<sup>62</sup> Moreover, Black victims are underrepresented as victim compensation program applicants, even after controlling for crime type.<sup>63</sup> Victim service organizations have worked to develop supports and resources for some victims – such as domestic violence and sexual assault victims – by connecting survivors with financial assistance and legal services, as well as more specialized services such as therapy and shelters.<sup>64</sup> Data show, however, that there are several groups that have an elevated risk of victimization and yet are underserved by victim service organizations, such as immigrants; lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals; people with disabilities; and young men of color.<sup>65</sup> This lack of support not only hinders victims from receiving much-needed assistance but also suggests that social biases impact determinations of which victims are perceived as worthy of these vital services.<sup>66</sup>

In 2013, the Department of Justice’s Office for Victims of Crime released a report that identified the need to reach underserved victims. Entitled *Vision 21: Transforming Victim Services*, the report specifically identifies young men of color as struggling to be connected to services following a violent incident. It states:

The data on victimization of young male victims of color, including African Americans and Latinos, is especially troubling and is rarely an area of focus of many traditional victim service providers. There are few nonprofit victim-serving organizations that have the

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<sup>61</sup> Language to describe ethnoracial groups changes over time. At the writing of this report, “people of color” is a respectful and widely used term for non-White Americans. For more details, see Paul Starr, “The Re-Emergence of “People of Color”,” *Du Bois Review: Social Science Research on Race*, 2023, vol. 20, no. 1, <https://www.cambridge.org/core/journals/du-bois-review-social-science-research-on-race/article/reemergence-of-people-of-color/9BCBF3A1D4D4E851C03298A5ECC10BD5>.

<sup>62</sup> Danielle Sered, “Young Men of Color and the Other Side of Harm: Addressing Disparities in our Responses to Violence,” Vera Institute of Justice, Dec. 2014, <https://www.vera.org/downloads/publications/men-of-color-as-victims-of-violence-v3.pdf>.

<sup>63</sup> Jennifer Alvidrez, Martha Shumway, Alicia Boccellari, Jon Dean Green, Vanessa Kelly, and Gregory Merrill, “Reduction of State Victim Compensation Disparities in Disadvantaged Crime Victims Through Active Outreach and Assistance: A Randomized Trial,” *American Journal of Public Health*, vol. 98, no. 5, Mar. 2008, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2374813/#r1>; Lisa Newmark, “Crime Victims’ Needs and VOCA-Funded Services: Findings and Recommendations from Two National Studies,” National Institute of Justice, Mar. 2004, <https://www.ojp.gov/pdffiles1/nij/grants/214263.pdf>.

<sup>64</sup> Lisa De La Rue, Lilyana Ortega, and Gena Castro Rodriguez, “System-Based Victim Advocates Identify Resources and Barriers to Supporting Crime Victims,” *International Review of Victimology*, 2023, vol. 29, no. 1, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9837801/>.

<sup>65</sup> National Resource Center for Reaching Victims, “Helping Those Who Help Others: Key Findings From a Comprehensive Needs Assessment of the Crime Victims Fund,” Jun. 2020, [https://reachingvictims.org/wp-content/uploads/2020/06/ACCESS-2020\\_NRCRV\\_NEEDSREPORT\\_6\\_5\\_20.pdf](https://reachingvictims.org/wp-content/uploads/2020/06/ACCESS-2020_NRCRV_NEEDSREPORT_6_5_20.pdf).

<sup>66</sup> Karmen, *Crime Victims: An Introduction to Victimology*; Christina Mancini and Justin T. Pickett, “Reaping What They Sow? Victim-Offender Overlap Perceptions and Victim Blaming Attitudes,” *Victims & Offenders*, 2017, vol. 12, no. 3, <https://www.tandfonline.com/doi/abs/10.1080/15564886.2015.1093051>; Scott E. Sundby, “The Capital Jury and Empathy: The Problem of Worthy and Unworthy Victims,” *Cornell L. Rev.*, 2002, vol. 88, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/clqv88&div=19&id=&page=>; Avril Margaret Brandon, Erika Emandache, and Aleksandra Iwaniec, “Social Media, Newsworthiness, and Missing White Woman Syndrome: A Criminological Analysis,” *Social Sciences*, 2024, vol. 13, no. 1, <https://www.mdpi.com/2076-0760/13/1/44>.



resources and expertise to provide comprehensive, accessible services to male victims of any race or ethnicity who are physically or sexually assaulted or otherwise victimized, nor are many of these victims likely to access victim services available through law enforcement or prosecutorial agencies.

Understanding disparities in crime victimization and ensuring that victims of violent crimes receive equitable access to compensation and assistance services is essential to increasing public safety and reducing crime. Therefore, this report not only looks at disparities in crime victimization rates but also disparities among victims who utilize these services. This report does not draw conclusions about the causes of the increase in homicide and nonfatal gun violence during the period of this study. Instead, the focus of this report is on the broader context of violent victimization, how victimization is measured, and how the federal government responds to victims of violence.

This report is broken into three chapters. Chapter 1 provides a brief background to contextualize the question of racial disparities in crime victimization, explains the legal and constitutional frameworks undergirding federal efforts related to crime victims, and concludes with a discussion of how crime is measured by the federal government and other sources. Chapter 2 shows crime trends from 2017 to 2021 at a national level and for five jurisdictions using national databases and explores additional social trends that could relate to racial disparities in crime victimization. Chapter 3 concludes the report by providing an analysis of the federal, state, and local responses to violent crime victims.

# Chapter 1: Introduction

## Background on Crime Victimization

Racial disparities in violent victimization stem from neighborhood-level differences in exposure to violence.<sup>67</sup> Using crime data from almost ten thousand neighborhoods, researchers show that “[r]ace, place, and crime are inextricably linked.”<sup>68</sup> Therefore, understanding the importance of neighborhoods is critical for exploring racial disparities in crime victimization and the federal efforts to combat these disparities. Acknowledging the deep connections between violent crime and place,<sup>69</sup> and race and place,<sup>70</sup> can aid the federal government in preventing violent victimization that disproportionately impacts residents of underserved neighborhoods.<sup>71</sup>

At the Commission’s November 2023 briefing, while discussing the importance of focusing on neighborhoods to prevent racial disparities in violent crime victimization, Rafael Mangual, Manhattan Institute Fellow, testified:

Depriving these communities of necessary public safety resources, either intentionally through policy or by circumstance, should be thought of as a violation of [] civil rights and civil liberties. I can think of few things more cruel than to deny safety to those most in need, especially when we have the knowledge and skill sets to improve their lives.<sup>72</sup>

### *Crime, Neighborhoods, and Race*

More crimes occur in cities than in suburbs or rural areas.<sup>73</sup> Within cities, a small number of neighborhoods bear most of the violence.<sup>74</sup> In these neighborhoods, most crimes happen at even

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<sup>67</sup> Ruth D. Peterson and Lauren J. Krivo, *Divergent Social Worlds: Neighborhood Crime and The Racial-Spatial Divide* (New York: Russell Sage Foundation, 2010); Michael Friedson and Patrick Sharkey, “Violence and Neighborhood Disadvantage after the Crime Decline,” *Annals of the American Academy of Political and Social Science*, 2015, vol. 660, no. 1, <https://journals.sagepub.com/doi/abs/10.1177/0002716215579825>.

<sup>68</sup> Peterson and Krivo, *Divergent Social Worlds: Neighborhood Crime and The Racial-Spatial Divide*, p. 1.

<sup>69</sup> David Weisburd, Elizabeth R. Groff, and Sue-Ming Yang, *The Criminology of Place: Street Segments and Our Understanding of the Crime Problem* (Oxford University Press, 2012).

<sup>70</sup> Daniel T. Lichter, Brian C. Thiede, and Matthew M. Brooks, “Racial Diversity and Segregation: Comparing Principal Cities, Inner-Ring Suburbs, Outlying Suburbs, and the Suburban Fringe,” *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 2023, vol. 9, no. 1, <https://doi.org/10.7758/RSF.2023.9.1.02>.

<sup>71</sup> For an example of how the federal government understands and solves social issues at a neighborhood-level, see Executive Office of the President, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” Jan. 20, 2021, <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>.

<sup>72</sup> Mangual Testimony, *Racial Disparities Briefing*, p. 202.

<sup>73</sup> Alexandra Thompson and Susannah N. Tapp, “Criminal Victimization, 2021,” Bureau of Justice Statistics, Revised Jul. 5, 2023, <https://bjs.ojp.gov/content/pub/pdf/cv21.pdf>.

<sup>74</sup> Peterson and Krivo, *Divergent Social Worlds: Neighborhood Crime and The Racial-Spatial Divide*.

smaller units of geography, such as single blocks or street segments.<sup>75</sup> This pattern of crime being localized in very small areas is well-established by academic researchers and criminal justice practitioners. David Weisburd, Distinguished Professor of Criminology and Executive Director of the Center for Evidence-Based Crime Policy at George Mason University, calls this “the law of crime concentration.”<sup>76</sup> Law enforcement agencies also recognize the importance of place and often focus their efforts on these crime “hot spots” to attempt to reduce crime.<sup>77</sup> Similarly, community-based violence intervention programs work in small geographic areas to interrupt violence where it is most likely to occur.<sup>78</sup> Moreover, due to a high concentration of people who enter the criminal justice system from these small geographic areas, researchers have identified “million dollar blocks” because of the annual cost of incarcerating residents from single city blocks.<sup>79</sup>

Longstanding research shows that the concentration of crime in small areas is as old as urbanization.<sup>80</sup> In their foundational study about the relationship between crime and place, Shaw and McKay demonstrate that crime rates remain stable in neighborhoods over time even as the ethnoracial<sup>81</sup> demographics of residents change.<sup>82</sup> They argue that structural conditions, such as physical deterioration and high population turnover, create the conditions for crime.<sup>83</sup> This finding is critical for framing and understanding racial disparities in crime victimization because it shows that the structure of high-crime neighborhoods, not personal or community characteristics related to the race of their residents, allows crime to flourish. This also means that residents in these areas bear a disproportionate likelihood of becoming victims of violent crime.

Crime concentration in certain areas became associated with race because contemporary disadvantaged neighborhoods are predominately Black or Latino.<sup>84</sup> Outdated government policies that created intentional residential racial segregation have long-lasting consequences for where

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<sup>75</sup> David Weisburd, “The Law of Crime Concentration and the Criminology of Place,” *Criminology*, 2015, vol. 53, no. 2, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9125.12070>.

<sup>76</sup> Ibid.

<sup>77</sup> Anthony A. Braga, Andrew V. Papachristos, and David M. Hureau, “The Effects of Hot Spots Policing on Crime: An Updated Systematic Review and Meta-Analysis,” *Justice Quarterly*, 2014, vol. 31, no. 4, <https://www.tandfonline.com/doi/full/10.1080/07418825.2012.673632>.

<sup>78</sup> Jeffrey A. Butts, Caterina Gouvis Roman, Lindsay Bostwick, and Jeremy R. Porter, “Cure Violence: A Public Health Model to Reduce Gun Violence,” *Annual Review of Public Health*, 2015, no. 36, <https://www.annualreviews.org/doi/pdf/10.1146/annurev-publhealth-031914-122509>.

<sup>79</sup> Brett Story, “The Prison in The City: Tracking the Neoliberal Life of the “Million Dollar Block,”” *Theoretical Criminology*, 2016, vol. 20, no. 3, <https://doi.org/10.1177/1362480615625764>.

<sup>80</sup> Robert E. Park and Ernest W. Burgess, *The City* (University of Chicago Press, 2019 [1925]).

<sup>81</sup> The U.S. Census is the primary source of data about Americans’ race and ethnicity, which are two separate categories. The ethnicity question on the Census only asks respondents whether they are of Hispanic origin. Regardless of how they answer, they are then asked a question about their race. See Appendix A for more information.

<sup>82</sup> Clifford Robe Shaw and Henry Donald McKay, *Juvenile Delinquency and Urban Areas* (University of Chicago Press, 1942).

<sup>83</sup> Ibid.

<sup>84</sup> Peterson and Krivo, *Divergent Social Worlds: Neighborhood Crime and The Racial-Spatial Divide*.

Americans still reside.<sup>85</sup> Additionally, sociologists have found that White Americans have a low preference for living in racially integrated neighborhoods,<sup>86</sup> largely because of anti-Black stereotypes,<sup>87</sup> and landlords, realtors, and banks continue to discriminate against non-White residents.<sup>88</sup> As such, racial segregation in cities and between cities and suburbs is high.<sup>89</sup> The original Black-White color line identified by W.E.B. Du Bois as the “problem of the twentieth century”<sup>90</sup> continues to be the most salient;<sup>91</sup> more than half of urban, Black Americans live in neighborhoods with high- or hypersegregation.<sup>92</sup> This phenomenon is not limited to Black Americans. In the late twentieth century, immigration from Asian and Latin American countries brought massive demographic shifts to the U.S. population;<sup>93</sup> and while these groups are less segregated, their residential distance from White Americans is still considerable and increasing for Hispanic Americans.<sup>94</sup>

Enduring residential racial segregation matters for exploring racial disparities in violent crime victimization because of the strong connection between neighborhood resources and crime.<sup>95</sup> Due to a history of structural inequities, Black Americans have long had less access to capital than White Americans;<sup>96</sup> therefore, segregation concentrates poverty in Black neighborhoods.<sup>97</sup> Longstanding research shows that poor people with poor neighbors have worse outcomes than poor people with socioeconomically mixed neighbors on a host of social outcomes regardless of

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<sup>85</sup> Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing, 2017).

<sup>86</sup> Camille Z. Charles, “The Dynamics of Racial Residential Segregation,” *Annual Review of Sociology*, 2003, vol. 29, <https://doi.org/10.1146/annurev.soc.29.010202.100002>.

<sup>87</sup> Douglas S. Massey, “Residential Segregation is the Linchpin of Racial Stratification,” *City & Community*, 2016, vol. 15, no. 1, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6141205/?ref=athwart.org>.

<sup>88</sup> Vincent J. Roscigno, Diana L. Karafin, and Griff Tester, “The Complexities and Processes of Racial Housing Discrimination,” *Social Problems*, 2009, vol. 56, no. 1, <https://doi.org/10.1525/sp.2009.56.1.49>.

<sup>89</sup> Daniel T. Lichter, Domenico Parisi, and Michael C. Taquino, “Toward a New Macro-Segregation? Decomposing Segregation Within and Between Metropolitan Cities and Suburbs,” *American Sociological Review*, 2015, vol. 80, no. 4, <https://journals.sagepub.com/doi/abs/10.1177/0003122415588558>.

<sup>90</sup> W.E.B. Du Bois, *The Souls of Black Folk* (Boston: Bedford Books, 1997 [1903]).

<sup>91</sup> Lichter, Thiede, and Brooks, “Racial Diversity and Segregation: Comparing Principal Cities, Inner-Ring Suburbs, Outlying Suburbs, and the Suburban Fringe.”

<sup>92</sup> Douglas S. Massey and Jonathan Tannen, “A Research Note on Trends in Black Hypersegregation,” *Demography*, 2015, vol. 52, no. 3, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4886656/>.

<sup>93</sup> Jennifer Lee and Frank D. Bean, “Reinventing the Color Line: Immigration and America’s New Racial/Ethnic Divide,” *Social Forces*, 2007, vol. 86, no. 2, <https://doi.org/10.1093/sf/86.2.561>.

<sup>94</sup> Lichter, Thiede, and Brooks, “Racial Diversity and Segregation: Comparing Principal Cities, Inner-Ring Suburbs, Outlying Suburbs, and the Suburban Fringe.”

<sup>95</sup> Lauren J. Krivo, Ruth D. Peterson, and Danielle C. Kuhl, “Segregation, Racial Structure, and Neighborhood Violent Crime,” *American Journal of Sociology*, 2009, vol. 114, no. 6, <https://www.journals.uchicago.edu/doi/abs/10.1086/597285>.

<sup>96</sup> Melvin Oliver and Thomas Shapiro, *Black Wealth/White Wealth: A New Perspective on Racial Inequality* (New York: Routledge, 2013 [1995]); see also, Patrick Sharkey, *Stuck in Place: Urban Neighborhoods and The End of Progress Toward Racial Equality* (University of Chicago Press, 2013).

<sup>97</sup> Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and The Making of the Underclass* (Harvard University Press, 1993).

race.<sup>98</sup> The rates of concentrated poverty by race, however, remain stark. One in 13 poor White people live in neighborhoods with extreme poverty where at least 40 percent of residents live below the poverty line. One in 6 poor Latino people and one in 4 poor Black people live in neighborhoods with extreme poverty.<sup>99</sup>

Racially segregated neighborhoods with concentrated poverty face acute social and economic challenges. Both unemployment and underemployment rates are high in disadvantaged neighborhoods, as service sector jobs replaced the manufacturing base in cities that previously provided a living wage for workers with low educational attainment.<sup>100</sup> In the last decades of the twentieth century, working families followed jobs out of inner-city neighborhoods, leaving behind residents who have fewer opportunities to effectively participate in the economy and social institutions.<sup>101</sup>

Research shows that violence is a serious consequence of neighborhood-level isolation from social resources.<sup>102</sup> Predominately Black neighborhoods have the highest violent crime rates across cities.<sup>103</sup> Segregation is also associated with violent crime; neighborhoods with higher levels of ethnoracial segregation have higher levels of violent crime.<sup>104</sup> In one 2019 study, researchers find that racial segregation benefits White Americans, as higher levels of Black segregation increase the risk of homicide for Black Americans but decrease the risk of homicide for White Americans.<sup>105</sup> Violence in these racially segregated and socioeconomically disadvantaged

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<sup>98</sup> Patrick Sharkey and Jacob W. Faber. “Where, When, Why, and for Whom Do Residential Contexts Matter? Moving Away from The Dichotomous Understanding of Neighborhood Effects,” *Annual Review of Sociology*, 2014, vol. 40, <https://www.annualreviews.org/doi/full/10.1146/annurev-soc-071913-043350>.

<sup>99</sup> Paul A. Jargowsky, “The Architecture of Segregation: Civil Unrest, the Concentration of Poverty, and Public Policy,” Century Foundation, Aug. 9, 2015, <https://tcf.org/content/report/architecture-of-segregation/>.

<sup>100</sup> William Julius Wilson, *When Work Disappears: The World of the New Urban Poor* (New York: Vintage, 2011).

<sup>101</sup> Loic JD Wacquant and William Julius Wilson, “The Cost of Racial and Class Exclusion in the Inner City,” *Annals of the American Academy of Political and Social Science*, 1989, vol. 501, no. 1,

<https://doi.org/10.1177/0002716289501001001>; Elliott Currie, *A Peculiar Indifference: The Neglected Toll of Violence on Black America* (New York: Metropolitan Books, 2020); Lisa L. Miller, “The Invisible Black Victim: How American Federalism Perpetuates Racial Inequality in Criminal Justice,” *Law & Society Review*, 2010, vol. 44, no. 3-4, <https://doi.org/10.1111/j.1540-5893.2010.00423.x>; Vesla M. Weaver and Amy E. Lerman, “Political Consequences of the Carceral State,” *American Political Science Review*, 2010, vol. 104, no. 4, <https://www.cambridge.org/core/journals/american-political-science-review/article/abs/political-consequences-of-the-carceral-state/4E39A3AFDAB682A1D4DE53C57E38C019>.

<sup>102</sup> Robert J. Sampson and William Julius Wilson, “Toward a Theory of Race, Crime, and Urban Inequality,” In: *Race, Crime, and Justice* (New York: Routledge, 2013), pp. 177-189.

<sup>103</sup> Peterson and Krivo, *Divergent Social Worlds: Neighborhood Crime and The Racial-Spatial Divide*.

<sup>104</sup> Krivo, Peterson, and Kuhl, “Segregation, Racial Structure, and Neighborhood Violent Crime.”

<sup>105</sup> Michael T. Light and Julia T. Thomas, “Segregation and Violence Reconsidered: Do Whites Benefit from Residential Segregation?,” *American Sociological Review*, 2019, vol. 84, no. 4, <https://doi.org/10.1177/0003122419858731>; see also Douglas Massey, “Getting Away with Murder: Segregation and Violent Crime in Urban America,” *University of Pennsylvania Law Review*, 1995, vol. 143, no. 5, [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3563&context=penn\\_law\\_review](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3563&context=penn_law_review).

neighborhoods drive racial disparities in homicide.<sup>106</sup> As James Mercy, Director of the Division of Violence Prevention at the Center for Disease Control and Prevention (CDC), testified:

A disregard for the rights of communities of color is at the heart of community violence we bear witness to today. Historic disinvestment in communities of color, such as the discriminatory practice of redlining in the early 20th Century, has been shown to be directly related to current high rates of shooting incidents.<sup>107</sup>

Paul Butler, law professor at Georgetown University Law Center, agrees that structural causes of racial disparities in victimization stem from neighborhood conditions, positing that:

Two factors explain what’s going [on] in places like Chicago, Baltimore, Los Angeles— if you have high-poverty, segregated neighborhoods and easy access to guns, that’s a recipe for violence. The reason why white men don’t commit some street crimes at the same level as black men is about the privilege that they have, even as low-income white folks, to not live in these areas. So, if we look at the data, white poor people live in areas that are much closer to middle-class people than black poor people do.<sup>108</sup>

Butler’s point highlights the enduring relationship between racial segregation and crime over time. More than 70 years ago, Shaw and McKay made a similar point in their study of neighborhood-level crime in Chicago. The authors find that delinquency rates are higher for Black boys compared to White boys, but argue:

[I]t cannot be said that they are higher than rates for white boys in comparable areas, since it is impossible to reproduce in white communities the circumstances under which [Black] children live. Even if it were possible to parallel the low economic status and the inadequacy of institutions in the white community, it would not be possible to reproduce the effects of segregation and the barriers to upward mobility.<sup>109</sup>

In a recent neighborhood-level study of violent crime, researchers show that young men in zip codes with the highest violence rates in two of four cities in their study “had a notably higher risk of firearm-related death than U.S. military personnel who served during the wars in Afghanistan

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<sup>106</sup> Chaeyoung Cheon, Yuzhou Lin, David J. Harding, Wei Wang, and Dylan S. Small, “Neighborhood Racial Composition and Gun Homicides,” *JAMA Network Open* 3, 2020, vol. 11, <https://jamanetwork.com/journals/jamanetworkopen/article-abstract/2773288>.

<sup>107</sup> Mercy Testimony, *Racial Disparities Briefing*, pp. 71-72.

<sup>108</sup> Bill Moyers, “Michelle Alexander and Paul Butler Talking About ‘Chokehold: Policing Black Men,’” an event presented in conjunction with *The Legacy of Lynching: Confronting Racial Terror in America* by the Brooklyn Museum and the Equal Justice Institute, Oct. 16, 2017, <https://billmoyers.com/story/paul-butler-policing-blackmen/>.

<sup>109</sup> Shaw and McKay, *Juvenile Delinquency and Urban Areas*, p. 614.

and Iraq.”<sup>110</sup> In all four cities in their study, Black men had the highest risk of injury or death from gun violence.<sup>111</sup>

While violent crime is concentrated in poor, racially segregated neighborhoods, research also shows that most residents in those areas do not engage in crime or have lower levels of moral condemnation for crime than people living in wealthier neighborhoods.<sup>112</sup> They do, however, have much higher levels of exposure to violence either through direct victimization or witnessing violence during their life course.<sup>113</sup> For instance, approximately 10-22 percent of youth living in low-poverty households in neighborhoods with low disadvantage have been exposed to a gun homicide in the past year, compared to 62-80 percent of youth who live in high-poverty households in neighborhoods with high disadvantage.<sup>114</sup> This is significant because research shows that being a victim of violence decreases mental well-being, dampens educational attainment, and increases the risk of engaging in crime.<sup>115</sup> Moreover, even being exposed to violence without direct victimization has serious consequences.<sup>116</sup> Research shows that neighborhood homicides, even if not directly witnessed, negatively impact children’s behavior in the classroom,<sup>117</sup> standardized test

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<sup>110</sup> Brandon del Pozo, Alex Knorre, Michael J. Mello, and Aaron Chalfin, “Comparing Risks of Firearm-Related Death and Injury Among Young Adult Males in Selected US Cities with Wartime Service in Iraq and Afghanistan,” *JAMA Network Open*, 2022, vol. 5, no. 12,

<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2799859>, p. 1.

<sup>111</sup> *Ibid.*

<sup>112</sup> Robert J. Sampson and Dawn Jeglum Bartusch, “Legal Cynicism and (Subcultural?) Tolerance of Deviance: The Neighborhood Context of Racial Differences,” *Law and Society Review*, 1998, vol. 32, no. 4,

<https://doi.org/10.2307/827739>. See also, James Forman Jr., *Locking Up Our Own: Crime and Punishment in Black America*, (New York: Farrar, Straus and Giroux, 2017).

<sup>113</sup> Patrick Sharkey, “The Long Reach of Violence: A Broader Perspective on Data, Theory, and Evidence on the Prevalence and Consequences of Exposure to Violence,” *Annual Review of Criminology*, 2018, vol. 1, no. 1,

<https://doi.org/10.1146/annurev-criminol-032317-092316>.

<sup>114</sup> Nicole Kravitz-Wirtz, Angela Bruns, Amanda J. Aubel, Xiaoya Zhang, and Shani A. Buggs, “Inequities in Community Exposure to Deadly Gun Violence by Race/Ethnicity, Poverty, and Neighborhood Disadvantage Among Youth in Large US Cities,” *Journal of Urban Health*, 2022, vol. 99, no. 4,

<https://doi.org/10.1007/s11524-022-00656-0>.

<sup>115</sup> Ross Macmillan, “Violence and the Life Course: The Consequences of Victimization for Personal and Social Development,” *Annual Review of Sociology*, 2001, vol. 27, <http://www.jstor.org/stable/2678612>; see also Jeffrey B. Bingenheimer, Robert T. Brennan, and Felton J. Earls, “Firearm Violence Exposure and Serious Violent Behavior,” *Science*, 2005, vol. 308, no. 5726, <https://www.science.org/doi/abs/10.1126/science.1110096>.

<sup>116</sup> David Finkelhor, Heather A. Turner, Anne Shattuck, and Sherry L. Hamby, “Violence, Crime, and Abuse Exposure in a National Sample of Children and Youth: An Update,” *JAMA Pediatrics*, 2013, vol. 167, no. 7,

<https://jamanetwork.com/journals/jamapediatrics/article-abstract/1686983>.

<sup>117</sup> Patrick T. Sharkey, Nicole Tirado-Strayer, Andrew V. Papachristos, and C. Cybele Raver, “The Effect of Local Violence on Children’s Attention and Impulse Control,” *American Journal of Public Health*, 2012, vol. 102, no. 12, <https://doi.org/10.2105/AJPH.2012.300789>.

scores,<sup>118</sup> and cognitive performance.<sup>119</sup> Teens exposed to violence also have an increased risk of becoming parents early in the life course and dropping out of school.<sup>120</sup>

One important mechanism that explains high rates of violent victimization in disadvantaged neighborhoods is the relationship between police officers and community residents. Heather Warnken, Executive Director of the Center for Criminal Justice Reform at the University of Baltimore School of Law, explains:

In communities where violence is concentrated, the impact of this trauma combines with chronic disinvestments, lack of support services, and an over reliance on policing, prisons, and jails. These conditions often break down social trust and breed cynicism towards government.<sup>121</sup>

Police officers are most effective when community members voluntarily report crime and cooperate with investigations.<sup>122</sup> Steve Mulroy, Shelby County (Memphis) District Attorney and former Federal Prosecutor, believes that “community cooperation is the single most important thing that we can do to bend the curve on crime,” which he calls “the most pressing civil rights issue of our time.”<sup>123</sup> Members of the public are most likely to rely on the police when they view their authority as legitimate, which happens when officers make unbiased decisions and treat individuals with dignity.<sup>124</sup> However, residents of disadvantaged neighborhoods are disproportionately likely to view the police as part of a system that is “illegitimate, unresponsive, and ill equipped to ensure public safety.”<sup>125</sup> These feelings of distrust are correlated with “[l]ongstanding fractured relationships between police and many communities – particularly communities of color – and an overreliance on punitive enforcement, especially for minor transgressions, [which] has resulted in an adversarial dynamic.”<sup>126</sup>

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<sup>118</sup> Julia Burdick-Will, Jens Ludwig, Stephen W. Raudenbush, Robert J. Sampson, Lisa Sanbonmatsu, and Patrick Sharkey, “Converging Evidence for Neighborhood Effects on Children’s Test Scores: An Experimental, Quasi-Experimental, and Observational Comparison,” In *Whither Opportunity: Rising Inequality, Schools, and Children’s Life Chances*, edited by Greg J. Duncan and Richard J. Murnane, Russell Sage Foundation, 2011.

<sup>119</sup> Patrick Sharkey, “The Acute Effect of Local Homicides on Children’s Cognitive Performance,” *Proceedings of the National Academy of Sciences*, 2010, vol. 107, no. 26, <https://doi.org/10.1073/pnas.1000690107>.

<sup>120</sup> David J. Harding, “Collateral Consequences of Violence in Disadvantaged Neighborhoods,” *Social Forces*, 2009, vol. 88, no. 2, <https://doi.org/10.1353/sof.0.0281>.

<sup>121</sup> Warnken Testimony, *Racial Disparities Briefing*, p. 105.

<sup>122</sup> Tom R. Tyler, “Procedural Justice, Legitimacy, and the Effective Rule of Law,” *Crime and Justice*, 2003, vol. 30, <https://doi.org/10.1086/652233>.

<sup>123</sup> Mulroy Testimony, *Racial Disparities Briefing*, p. 50.

<sup>124</sup> Tyler, “Procedural Justice, Legitimacy, and the Effective Rule of Law.”

<sup>125</sup> David S. Kirk and Andrew V. Papachristos, “Cultural Mechanisms and the Persistence of Neighborhood Violence,” *American Journal of Sociology*, 2011, vol. 116, no. 4, <https://doi.org/10.1086/655754>; see also Sampson and Bartusch, “Legal Cynicism and (Subcultural?) Tolerance of Deviance.”

<sup>126</sup> Lindsey Price Jackson, “50 Years of Police Militarization Against Communities of Color,” Vera Institute of Justice, Apr. 23, 2018, <https://www.vera.org/blog/two-societies/50-years-of-police-militarization-againstcommunities-of-color>.



There is evidence that people of color in disadvantaged neighborhoods feel that police disregard community needs through both under-policing and over-policing.<sup>127</sup> Under-policing can occur when police departments are indifferent to violence in marginalized communities, creating a lack of meaningful police protection or the ability to rely on the police.<sup>128</sup> For instance, Lawanda Hawkins, whose only child was murdered in Los Angeles in 1995, believes that police failed to find her son’s killer because “[t]here was deep-rooted mistrust within the criminal justice system and the community, making it more difficult for law enforcement to solve Black and Brown murders in the ‘90s.”<sup>129</sup> She also feels her son was seen as an undeserving victim by police officers who stereotyped Black and Latino murder victims as gang members or drug dealers.<sup>130</sup> She testified that “[i]t is crucial to treat all victims with dignity and respect regardless of their background. To me, personally, these issues undermine the pursuit of justice and further erode trust in the criminal justice system.”<sup>131</sup>

Over-policing is the opposite side of the same coin. Over-policing happens when police practices disproportionately target people of color for pedestrian<sup>132</sup> and traffic stops,<sup>133</sup> which are perceived as an abuse of civil liberties without improving community safety.<sup>134</sup> Mona Sahaf, Director of the Reshaping Prosecution Initiative for the Vera Institute of Justice, testified about an example:

The harms associated with traffic stops are well documented and were acutely felt in Ramsey County, Minnesota, where Philando Castile was killed during his 49th traffic stop over a 13-year period. Law enforcement there knew these traffic stops drove racial disparities, [and] were destroying trust with communities that they need to deliver safety to and whose cooperation they needed to deliver safety throughout the county.<sup>135</sup>

Perceptions of under- and over-policing, which increase the risk of victimization by eroding trust in the police, are higher for Black and Latino than White Americans.<sup>136</sup> Donald Northcross, Founder and CEO of the National OK Program, has seen the impact of profound police mistrust in some Black communities. He says, “Black boys are the only people I know in the country that won’t pick up their phone and call the police if they have a legitimate threat made on their life.

<sup>127</sup> Hunter M. Boehme, Deanna Cann, and Deena A. Isom, “Citizens’ Perceptions of Over- and Under-Policing: A Look at Race, Ethnicity, and Community Characteristics,” *Crime & Delinquency*, 2022, vol. 68, no. 1, <https://journals.sagepub.com/doi/full/10.1177/0011128720974309>.

<sup>128</sup> Boehme, Cann, and Isom, “Citizens’ Perceptions of Over- and Under-Policing.”

<sup>129</sup> Hawkins Testimony, *Racial Disparities Briefing*, pp. 148-149.

<sup>130</sup> *Ibid.*, p. 150.

<sup>131</sup> *Ibid.*, p. 150.

<sup>132</sup> Andrew Gelman, Jeffrey Fagan, and Alex Kiss, “An Analysis of the New York City Police Department’s “Stop-And-Frisk” Policy in the Context of Claims of Racial Bias,” *Journal of the American Statistical Association*, 2007, vol. 102, no. 479, <https://www.tandfonline.com/doi/abs/10.1198/016214506000001040>.

<sup>133</sup> Frank R Baumgartner, Derek A. Epp, and Kelsey Shoub, *Suspect Citizens: What 20 Million Traffic Stops Tell Us About Policing and Race* (Cambridge University Press, 2018).

<sup>134</sup> National Academies of Sciences, Engineering, and Medicine, *Reducing Racial Inequality in Crime and Justice: Science, Practice, and Policy*, National Academies Press, 2023, <https://doi.org/10.17226/26705>.

<sup>135</sup> Sahaf Testimony, *Racial Disparities Briefing*, p. 220.

<sup>136</sup> Boehme, Cann, and Isom, “Citizens’ Perceptions of Over- and Under-Policing.”

They'll deal with it themselves."<sup>137</sup> Therefore, mistrust of law enforcement increases the likelihood of neighborhood violence and reduces public safety for all community members.

Low trust in the police on a neighborhood-level increases the risk of violent victimization for residents,<sup>138</sup> in part because it weakens trust and cohesion between neighbors.<sup>139</sup> The context of social distance from neighbors and police distrust leads some residents to rely on violence instead of the police to solve problems.<sup>140</sup> Retaliatory violence, or violence as retribution for violence, is a major driver of violent victimization.<sup>141</sup> Research shows that guns are the primary tool of this retaliation and that there is a relationship between low trust in the police and gun violence. For instance, one study from Chicago demonstrates that as police mistrust increases, gun ownership for protection among offenders in disadvantaged neighborhoods also increases.<sup>142</sup> Thomas Hogan, law professor and former Federal Prosecutor, warns:

[I]f you don't control every homicide and nonfatal shooting, you are buying more homicides and shootings because you are going to get into retaliatory violence. If you don't solve that first homicide, the street keeps score. And if law enforcement can't take care of that homicide or take that nonfatal shooter off the street, the street will. And then that one homicide turns into two, and that two turns into five, and that five turns into ten.<sup>143</sup>

Cycles of crime and subsequent incarceration in these neighborhoods further undermine social cohesion and stability, thus increasing the risk of crime victimization for primarily Black and Latino residents.<sup>144</sup> Since crime is concentrated in very small geographic areas, yet justice is administered at the state level, the political influence of poor people living in minority neighborhoods who are disproportionately likely to experience violence is limited.<sup>145</sup> Living in neighborhoods where "the criminal justice system is a primary site of civic education" diminishes

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<sup>137</sup> Northcross Testimony, *Racial Disparities Briefing*, pp. 80-81.

<sup>138</sup> Jeffrey D. Morenoff, Robert J. Sampson, and Stephen W. Raudenbush, "Neighborhood Inequality, Collective Efficacy, and the Spatial Dynamics of Urban Violence," *Criminology*, 2001, vol. 39, no. 3, [https://scholar.harvard.edu/sites/scholar.harvard.edu/files/sampson/files/2001.3\\_crim.pdf](https://scholar.harvard.edu/sites/scholar.harvard.edu/files/sampson/files/2001.3_crim.pdf).

<sup>139</sup> David S. Kirk and Mauri Matsuda, "Legal Cynicism, Collective Efficacy, and the Ecology of Arrest," *Criminology*, 2011, vol. 49, no. 2, <https://doi.org/10.1111/j.1745-9125.2011.00226.x>.

<sup>140</sup> David S. Kirk and Andrew V. Papachristos, "Cultural Mechanisms and the Persistence of Neighborhood Violence," *American Journal of Sociology*, 2011, vol. 116, no. 4, <https://doi.org/10.1086/655754>.

<sup>141</sup> Andrew V. Papachristos, "Murder by Structure: Dominance Relations and the Social Structure of Gang Homicide," *American Journal of Sociology*, 2009, vol. 115, no. 1, <https://www.journals.uchicago.edu/doi/abs/10.1086/597791>.

<sup>142</sup> Michael Sierra-Arévalo, "Legal Cynicism and Protective Gun Ownership among Active Offenders in Chicago," *Cogent Social Sciences*, 2016, vol. 2, no. 1, <https://www.tandfonline.com/doi/full/10.1080/23311886.2016.1227293>.

<sup>143</sup> Hogan Testimony, *Racial Disparities Briefing*, pp. 58-59.

<sup>144</sup> Todd R. Clear, *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse* (Oxford University Press, 2009).

<sup>145</sup> Lisa L. Miller, "The Invisible Black Victim: How American Federalism Perpetuates Racial Inequality in Criminal Justice," *Law & Society Review*, 2010, vol. 44, no. 3-4, <https://doi.org/10.1111/j.1540-5893.2010.00423.x>; see also Currie, *A Peculiar Indifference: The Neglected Toll of Violence on Black America*.

residents' civic and political participation.<sup>146</sup> The Commission has repeatedly noted the negative consequences of political disempowerment in these neighborhoods.<sup>147</sup> Because “communities of color . . . often lack the political power and financial means”<sup>148</sup> to influence elected government officials and hold them accountable, legitimate concerns in these communities are not given the same consideration as those voiced by their more politically powerful neighbors.<sup>149</sup>

### *Crime Victims in the Public Narrative*

Violent crime is a major concern for Americans. This concern should be considered in light of the fact that violent crime has dropped considerably since its recorded peak in the early 1990s.<sup>150</sup> Despite this fact, public perception and fear of being a victim of violent crime have not followed the same trend.<sup>151</sup> A 2022 Gallup poll shows that 8 in 10 respondents worry about crime and violence a fair amount or a great deal.<sup>152</sup> For the majority of Americans, however, the fear of experiencing a violent crime may be outsized compared to the probability of becoming a victim of violence.<sup>153</sup> In 2021, approximately one percent of Americans over the age of 12 were victims of at least one violent crime.<sup>154</sup> The risk is even lower for most Americans because people under 25 and people with the lowest incomes have the highest chances of victimization, so people outside of those groups are even less likely to become a victim of violence.<sup>155</sup> Nevertheless, the perception of the risk of violent crime has material consequences for all Americans, including in the fair administration of justice.

<sup>146</sup> Weaver and Lerman, “Political Consequences of the Carceral State.”

<sup>147</sup> U.S. Commission on Civil Rights, *Public Education Funding Inequity in an Era of Increasing Concentration of Poverty and Resegregation*, 2018, <https://www.usccr.gov/files/pubs/2018/2018-01-10-Education-Inequity.pdf>, p. 33 [hereinafter *Public Education Funding Inequity*]; U.S. Commission on Civil Rights, *Environmental Justice: Examining the Environmental Protection Agency's Compliance and Enforcement of Title VI and Executive Order 12,89*, 2016, [https://www.usccr.gov/files/pubs/2016/Statutory\\_Enforcement\\_Report2016.pdf](https://www.usccr.gov/files/pubs/2016/Statutory_Enforcement_Report2016.pdf), p. 4 [hereinafter *Environmental Justice*] (“Racial minorities and low income communities are disproportionately affected by the siting of waste disposal facilities and often lack political and financial clout” to fight negative decisions or to seek redress). See also *Environmental Justice*, p. 6. (Industrial waste sites “that can negatively impact human health” are often situated in minority communities precisely “because they lack the political clout and resources” to fight back).

<sup>148</sup> *Public Education Funding Inequity*, p. 33.

<sup>149</sup> See e.g., Matthew Fogg, former Chief Deputy U.S. Marshal, written statement for the *Police Use of Force: An Examination of Modern Policing Practices* Briefing before the U.S. Commission on Civil Rights, April 20, 2015, p. 5. In his statements to the Commission at the briefing, Fogg alleged that police officers are reluctant to aggressively police White, politically empowered communities because they “knew legislators, judges and government officials,” and could “shut down” operations that risked officers losing “pay benefits such as overtime and asset seizures.” Ibid.

<sup>150</sup> Federal Bureau of Investigation, “Crime Data Explorer,” <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.

<sup>151</sup> John Gramlich, “What the Data Says (and Doesn't Say) about Crime in the United States,” Pew Research Center, 2020, <https://www.pewresearch.org/short-reads/2020/11/20/facts-about-crime-in-the-u-s/>.

<sup>152</sup> Megan Brenan, “Worry About Crime in U.S. at Highest Level Since 2016,” Gallup, April 7, 2022, <https://news.gallup.com/poll/391610/worry-crime-highest-level-2016.aspx>.

<sup>153</sup> Gramlich, “What the Data Says (and Doesn't Say) about Crime in the United States.”

<sup>154</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>155</sup> Ibid.

The media play a vital role in shaping ideas about crime because most people are not victims of crime but learn about crime through the media. Longstanding research has documented that the media do not neutrally reflect the realities of crime, due in part to the strong financial incentive to keep and capture audience attention; hence the adage, “if it bleeds, it leads.”<sup>156</sup> Therefore, the media’s focus on crime is often not related to the actual crime rate.<sup>157</sup> Researchers have shown that one major media distortion of crime is regarding its volume or frequency. While many events could be considered newsworthy, crime has been found to be the primary focus of the 24-hour news cycle.<sup>158</sup> In particular, violent crime receives the most coverage. Though violent crime is much less common than property crime,<sup>159</sup> studies estimate that 60-80 percent of all content on news websites, television news, and newspapers is about violent crime.<sup>160</sup> Additionally, the media emphasize the most sensational and least statistically common crimes.<sup>161</sup> For instance, homicides are the rarest violent crime,<sup>162</sup> yet account for the majority of local news coverage.<sup>163</sup>

The media’s focus on crime thus impacts how the public perceives crime.<sup>164</sup> Many Americans misunderstand the frequency of crime; research polls demonstrate a consistent belief that crime increases annually despite its substantial and near monotonic decrease since the 1990s (see Figure 1 below).<sup>165</sup> Headlines about upticks in crime, like the homicide rate during the COVID-19 pandemic, can lead to confusion about the nature of crime and the concentration of crime in certain areas. In a qualitative study of four large cities during the pandemic, researchers find that:

Hyperlocal crime data reveals a significant mismatch between residents’ perceived understanding of where crime occurs in their city versus its actual spatial distribution... Respondents’ overall perceptions of rising crime were not wholly unfounded, but they tended to reflect national and citywide crime rhetoric and sensationalized media

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<sup>156</sup> Jessica Grosholz and Charis E. Kubrin, “Crime in the News: How Crimes, Offenders and Victims are Portrayed in the Media,” *Journal of Criminal Justice and Popular Culture*, 2007, vol. 14, <https://static1.squarespace.com/static/5b0ee82df793927c77add8b6/t/5b9068970ebbe849fbdaaaca/1536190617193/5+Pollak+2007.pdf>.

<sup>157</sup> Luzi Shi, Yunmei Lu, and Justin T. Pickett, “The Public Salience of Crime, 1960–2014: Age–Period–Cohort and Time–Series Analyses,” *Criminology*, 2020, vol. 58, no. 3, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9125.12248>.

<sup>158</sup> Ray Surette, *Media, Crime, and Criminal Justice* (Boston: Cengage Learning, 2014).

<sup>159</sup> Alexandra Thompson and Susannah N. Tapp, “Criminal Victimization, 2022,” Sept. 2023, Bureau of Justice Statistics, <https://bjs.ojp.gov/document/cv22.pdf>.

<sup>160</sup> Michael O’Hear, “Violent Crime and Media Coverage in One City: A Statistical Snapshot,” *Marquette Law Review*, 2020, vol. 103, no. 3, <https://scholarship.law.marquette.edu/mulr/vol103/iss3/14/>; see also Paul Klite, Robert A. Bardwell, and Jason Salzman, “Local TV News: Getting Away with Murder,” *Harvard International Journal of Press/Politics*, 1997, vol. 2, no. 2, <https://doi.org/10.1177/1081180X97002002009>.

<sup>161</sup> Natasha A. Frost and Nickie D. Phillips, “Talking Heads: Crime Reporting on Cable News,” *Justice Quarterly*, 2011, vol. 28, no. 1, <https://doi.org/10.1080/07418820903173336>.

<sup>162</sup> Federal Bureau of Investigation, “Crime Data Explorer,” <https://cde.ucr.cjis.gov/LATEST/webapp/#>.

<sup>163</sup> O’Hear, “Violent Crime and Media Coverage in One City: A Statistical Snapshot.”

<sup>164</sup> Shi, Lu, and Pickett, “The Public Salience of Crime.”

<sup>165</sup> Gramlich, “What the Data Says (and Doesn’t Say) about Crime in the United States.”

coverage rather than an understanding of *where* and *how* crime actually occurs within their cities.<sup>166</sup>

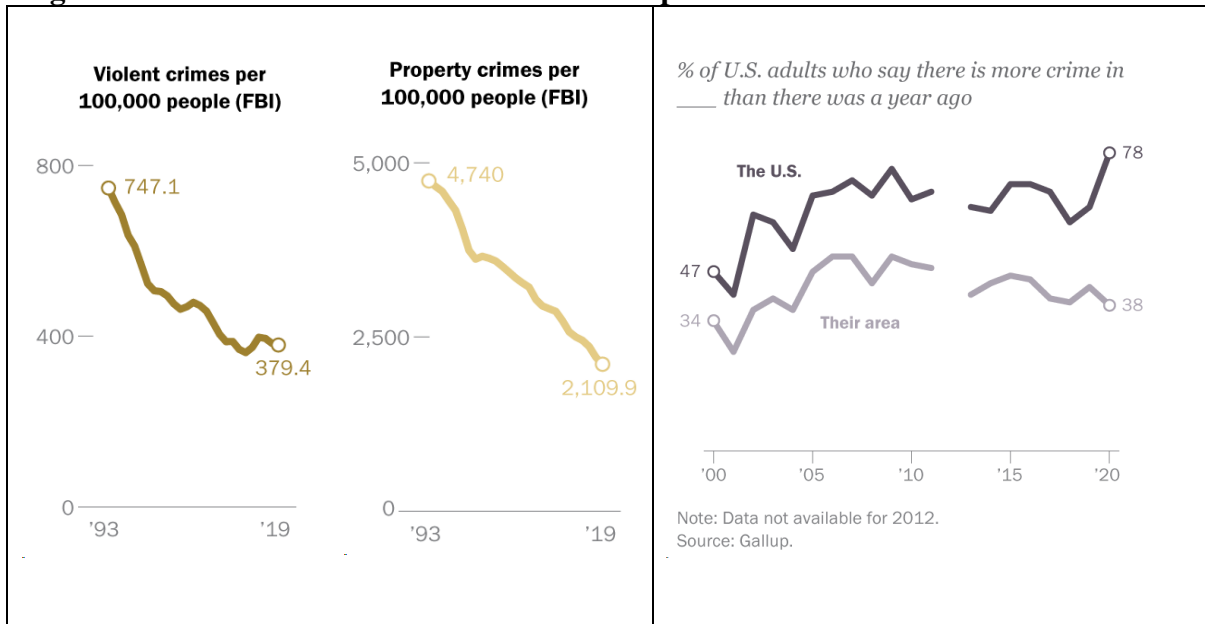
Consequently, extensive media coverage about violent crime can lead to an inaccurate understanding of violent crime trends.<sup>167</sup> Perceptions of crime matter because they impact policy; researchers find that the public's desire for punitive criminal justice policies depends on their perceptions of crime.<sup>168</sup>

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<sup>166</sup> Ibid.

<sup>167</sup> See e.g., Fola Akinnibi and Raedah Wahid, "Fear of Rampant Crime Is Derailing New York City's Recovery," Bloomberg, Jul. 29, 2022, <https://www.bloomberg.com/graphics/2022-is-nyc-safe-crime-stat-reality/>; see also Frost and Phillips, "Talking Heads: Crime Reporting on Cable News."

<sup>168</sup> Justin T. Pickett, "Public Opinion and Criminal Justice Policy: Theory and Research," *Annual Review of Criminology*, 2019, vol. 2, <https://doi.org/10.1146/annurev-criminol-011518-024826>; James D. Unnever and Francis T. Cullen, "The Social Sources of Americans' Punitiveness: A Test of Three Competing Models," *Criminology*, 2010, vol. 48, no. 1, <https://doi.org/10.1111/j.1745-9125.2010.00181.x>; Peter K Enns, "The Public's Increasing Punitiveness and Its Influence on Mass Incarceration In The United States," *American Journal of Political Science*, 2014, vol. 58, no. 4, <https://onlinelibrary.wiley.com/doi/abs/10.1111/ajps.12098>.

**Figure 1: Trends in U.S. Crime Rates vs. Perception of Crime Increases**

Source: Pew Research Center, 2020, <https://www.pewresearch.org/short-reads/2020/11/20/facts-about-crime-in-the-u-s/>.

Media coverage of crime can also distort the reality of crime victims. The media disproportionately features stories about victims who are very young or old, wealthy, or killed by strangers.<sup>169</sup> Stories of victimization often lack nuance so may reinforce the false dichotomy that people are either completely “innocent” or “evil,”<sup>170</sup> which obscures the reality that there is substantial overlap between criminal offenders and victims.<sup>171</sup>

Moreover, media depictions of crime victims are racialized. Black Americans are linked to criminality in the public consciousness.<sup>172</sup> White people are overrepresented as victims while Black and Latino people are underrepresented as crime victims and overrepresented as criminal offenders compared to their actual share in each category.<sup>173</sup> For other groups, such as Native

<sup>169</sup> Surette, *Media, Crime, and Criminal Justice*.

<sup>170</sup> Frost and Phillips, “Talking Heads: Crime Reporting on Cable News.”

<sup>171</sup> Wesley G. Jennings, George E. Higgins, Richard Tewksbury, Angela R. Gover, and Alex R. Piquero, “A Longitudinal Assessment of the Victim-Offender Overlap,” *Journal of Interpersonal Violence*, 2010, vol. 25, no. 12, <https://doi.org/10.1177/0886260509354888>; Mark T. Berg and Christopher J. Schreck, “The Meaning of the Victim-Offender Overlap for Criminological Theory and Crime Prevention Policy,” *Annual Review of Criminology*, 2022, vol. 5, <https://www.annualreviews.org/doi/abs/10.1146/annurev-criminol-030920-120724>; see also Caterina Roman, Courtney Harding, Hannah Klein, Leah Hamilton, and Josh Koehnlein, “The Victim-Offender Overlap: Examining Police and Service System Networks of Response among Violent Street Conflicts,” National Institute of Justice, U.S. Dep’t of Justice, Apr. 2020, <https://www.ojp.gov/pdffiles1/nij/grants/254626.pdf>.

<sup>172</sup> Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Harvard University Press, 2019).

<sup>173</sup> Travis L. Dixon and Daniel Linz, “Overrepresentation and Underrepresentation of African Americans and Latinos as Lawbreakers on Television News,” *Journal of Communication*, 2000, vol. 50, no. 2, <https://doi.org/10.1111/j.1460-2466.2000.tb02845.x>.

Americans, the dearth of media coverage keeps crime in their communities largely hidden and sends the message that these crimes are not worthy of attention.<sup>174</sup>

Violence against Black victims in disadvantaged communities rarely makes the news.<sup>175</sup> When Black victims are featured in the news, it is common for their conduct to be discussed in ways that make them seem culpable for their own victimization.<sup>176</sup> For instance, Nicole Nabors, a Navy veteran who was shot and paralyzed by the man who killed her cousin, provides a powerful example of how racialized perceptions of victimhood impact individuals. She believes that being a Black American affected how she was treated by some healthcare professionals during her time in the hospital after being shot. She testified:

I experienced prejudice and bias almost daily. Being a Black woman who suffered gunshot wounds meant I lived a particular lifestyle. Medical doctors would speak obscenities to me, saying things such as, “no more chilling with the homies,” or “it’s time for a lifestyle change.” “You’ve been gifted with your life despite your past decisions; now what are you going to do with it?” I would also hear nurses from the hallway say, “thugs get helped last,” ignoring my call light.<sup>177</sup>

Racist stereotypes about victims and offenders allow reporters to describe crime as “Black-on-Black” without using a similarly racialized descriptor for “White-on-White” crime that would highlight the truth that most violent crime occurs within racial groups (or intra-racial) for both Black and White Americans.<sup>178</sup> As John Lott, President of the Crime Prevention Research Center, points out: “People commit crimes primarily against people who are like themselves, both in terms of race and social/economic status.”<sup>179</sup> The exception is for Native Americans, where data show that violent victimization, including sexual violence, is more likely to be inter-racial.<sup>180</sup>

The media’s overrepresentation of Black and Latino people as offenders also reinforces the misperception that violent crime is an issue that is unique to communities of color.<sup>181</sup> Research

<sup>174</sup> See e.g., Jean Reith Schroedel and Roger J. Chin, “Whose Lives Matter: The Media’s Failure to Cover Police Use of Lethal Force Against Native Americans,” *Race and Justice*, 2020, vol. 10, no. 2, <https://journals.sagepub.com/doi/abs/10.1177/2153368717734614>; see also Christina Love, Survivor and Executive Director of Rural Alaska Integrated Services, Written statement for the Racial Disparities Briefing before the U.S. Comm’n on Civil Rights, Nov. 17, 2023 (hereinafter Love Statement); U.S. Comm’n on Civil Rights, *Broken Promises: Continues Federal Funding Shortfall for Native Americans*, Dec. 2018.

<sup>175</sup> Currie, *A Peculiar Indifference: The Neglected Toll of Violence on Black America*; see also Ferrell-Zabala Testimony, *Racial Disparities Briefing*, p. 93.

<sup>176</sup> Kristin Nicole Dukes and Sarah E. Gaither, “Black Racial Stereotypes and Victim Blaming: Implications for Media Coverage and Criminal Proceedings in Cases of Police Violence against Racial and Ethnic Minorities,” *Journal of Social Issues*, 2017, vol. 73, no. 4, <https://doi.org/10.1111/josi.12248>.

<sup>177</sup> Nabors Testimony, *Racial Disparities Briefing*, p. 135.

<sup>178</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>179</sup> Lott Testimony, *Racial Disparities Briefing*, pp. 189-190.

<sup>180</sup> National Academies of Sciences, Engineering, and Medicine, *Reducing Racial Inequality in Crime and Justice*.

<sup>181</sup> See e.g., Gary Younge, “About ‘Black-on-Black Crime,’” *The Nation*, Dec. 9, 2014, <https://www.thenation.com/article/about-black-black-crime/>.

shows that media representations of “Black and Latino suspects were also more often presented in a non-individualized way than whites—by being left unnamed—and were more likely to be shown as threatening—by being depicted in physical custody of police.”<sup>182</sup> These portrayals then have serious consequences on the American public’s perception of race, crime, and victimization. One study finds that:

White Americans overestimate the proportion of crime committed by people of color, and associate people of color with criminality. For example, white respondents in a 2010 survey overestimated the actual share of burglaries, illegal drug sales, and juvenile crime committed by African Americans by 20-30%. In addition, implicit bias research has uncovered widespread and deep-seated tendencies among whites—including criminal justice practitioners—to associate blacks and Latinos with criminality.<sup>183</sup>

This racialized portrayal of crime victimization influences the fair administration of justice. By fostering the perception that true crime victims are White, the media help create a feedback loop with the criminal justice system that disadvantages Black victims. White victims get more media coverage than Black victims, media coverage pressures the police to devote resources to solving those crimes, and police are then commended for solving crimes. Thus the practice of taking White victims more seriously than Black victims becomes institutionalized.<sup>184</sup> The media perpetuate stereotypes of Black Americans as criminal,<sup>185</sup> which could help explain why they are disproportionately punished at every stage in the criminal justice process,<sup>186</sup> as even unconscious stereotypes shape decisions.<sup>187</sup> James Mercy, Director of the Division of Violence Prevention at the CDC, argues that “this media coverage can perpetuate harmful narratives around race and violence.”<sup>188</sup> In fact, both racial animus and xenophobia have been found to be associated with public support of more punitive criminal justice policies.<sup>189</sup> Racial stereotypes of crime extend

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<sup>182</sup> Nazgol Ghandnoosh, “Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies,” Sentencing Project, 2014, <https://www.sentencingproject.org/wpcontent/uploads/2015/11/Race-and-Punishment.pdf>, pp. 22-23.

<sup>183</sup> Ibid.

<sup>184</sup> Cheryl L. Neely, “The Deserving vs. Undeserving Victim: Case Studies of Biased Media,” in *You're Dead—So What?: Media, Police, and the Invisibility of Black Women as Victims of Homicide*, Michigan State University Press 2015, <https://www.jstor.org/stable/10.14321/jj.5501045.7>.

<sup>185</sup> Ted Chiricos, Kelly Welch, and Marc Gertz, “Racial Typification of Crime and Support for Punitive Measures,” *Criminology*, 2004, vol. 42, no. 2, <https://doi.org/10.1111/j.1745-9125.2004.tb00523.x>.

<sup>186</sup> National Academies of Sciences, Engineering, and Medicine, *Reducing Racial Inequality in Crime and Justice*; Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006); see also Lawrence D. Bobo and Victor Thompson, “Unfair by Design: The War on Drugs, Race, and the Legitimacy of the Criminal Justice System,” *Social Research: An International Quarterly*, 2006, vol. 73, no. 2, <https://doi.org/10.1353/sor.2006.0010>.

<sup>187</sup> Sandra Graham and Brian S. Lowery, “Priming Unconscious Racial Stereotypes About Adolescent Offenders,” *Law and Human Behavior*, 2004, vol. 28, <https://doi.org/10.1023/B:LAHU.0000046430.65485.1f>.

<sup>188</sup> Mercy Written Testimony, *Racial Disparities Briefing*, p. 6.

<sup>189</sup> Unnever and Cullen, “The Social Sources of Americans’ Punitiveness: A Test of Three Competing Models”; Joseph O. Baker, David Cañarte, and L. Edward Day, “Race, Xenophobia, and Punitiveness Among the American Public,” *The Sociological Quarterly*, 2018, vol. 59, no. 3, <https://doi.org/10.1080/00380253.2018.1479202>.



beyond people to entire neighborhoods. In neighborhoods with the same risk of crime, those with a higher share of Black residents are perceived as more dangerous.<sup>190</sup> These racialized perceptions shape beliefs about culpability and can ultimately undermine the promise of racial equity in criminal justice processes.<sup>191</sup>

Popular narratives about widespread Black criminality disregard the structural and historical issues that formed racially segregated and socioeconomically depressed neighborhoods, as well as the social and economic factors that currently sustain them.<sup>192</sup> Adam Gelb, President and CEO of the Council on Criminal Justice, testified:

[M]ultiple data sources and homicide trends indicate that Black individuals experience far higher levels of offending and victimization. And it's also important to note that scholars have concluded that this is not due to any type of inherent factor but is largely explained by disproportionate exposure to a nexus of discriminatory historical, structural, and economic factors.<sup>193</sup>

While data show that some economically depressed and racially segregated Black neighborhoods have high rates of violent victimization, popular narratives of crime do not reflect how these concentrations of poverty developed; how this narrative results in incorrect ideas, beliefs, and stereotypes about Black people and Black criminality more broadly; or how these statistics are internalized by criminal justice officials.<sup>194</sup> As Angela Ferrell-Zabala, Executive Director of Moms Demand Action, testified:

[V]iolent crime does not happen in a vacuum. There are longstanding structural and systemic inequities in healthcare, education, housing, workforce development, and criminal justice that can drive violent crime.<sup>195</sup>

The federal government's obligation to address the issue of crime requires structural and institutional remedies. For instance, implementing federal policies and programs intended to help people move out of areas with concentrated poverty is one of the first steps to decrease crime rates and support victims of violent crimes.<sup>196</sup>

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<sup>190</sup> Lincoln Quillian and Devah Pager, "Black Neighbors, Higher Crime? The Role of Racial Stereotypes in Evaluations of Neighborhood Crime," *American Journal of Sociology*, 2001, vol. 107, no. 3, <https://doi.org/10.1086/338938>; see also Ted Chiricos, Ranee McEntire, and Marc Gertz, "Perceived Racial and Ethnic Composition of Neighborhood and Perceived Risk of Crime," *Social Problems*, 2001, vol. 48, no. 3, <https://doi.org/10.1525/sp.2001.48.3.322>.

<sup>191</sup> Dukes and Gaither, "Black Racial Stereotypes and Victim Blaming."

<sup>192</sup> Paul Butler, *Chokehold: Policing Black Men* (New York: The New Press, 2017).

<sup>193</sup> Gelb Testimony, *Racial Disparities Briefing*, p. 29.

<sup>194</sup> Moyers, "Michelle Alexander and Paul Butler Talking About 'Chokehold: Policing Black Men'."

<sup>195</sup> Ferrell-Zabala Testimony, *Racial Disparities Briefing*, p. 94.

<sup>196</sup> Butler, *Chokehold: Policing Black Men*; see also Jill Leovy, *Ghettoside: A True Story of Murder in America* (New York: Spiegel & Grau, 2015).

## *Violent Crime Victimization*

There are enduring patterns in victimization that help contextualize contemporary trends (shown in Chapter 2).<sup>197</sup> While the United States does not have more overall violence than peer nations,<sup>198</sup> the homicide rate is seven times higher than similar high-income countries.<sup>199</sup> The homicide rate in the U.S. is driven by firearm homicides, with a rate approximately 25 times higher than that of peer nations.<sup>200</sup> During the pandemic, murder rates rose because of an increase in gun homicides.<sup>201</sup>

There are several demographic factors that increase the likelihood of victimization. For instance, both income and age predict victimization. People living in households that earn the lowest incomes (i.e., less than \$25,000) are more likely to experience victimization than their more economically-advantaged counterparts.<sup>202</sup> Adolescents and young adults are also disproportionately more likely to be victims of violent crime than older adults.<sup>203</sup> The relationship between age and being involved in crime, as both an offender and a victim, is one of the most stable patterns in crime.<sup>204</sup> While there are no overall gender disparities in violent victimization,<sup>205</sup> there are gender disparities in experiencing different types of violence. Men are more likely than women to be homicide victims,<sup>206</sup> whereas women have a higher risk of experiencing violence from an intimate partner. Women are five times as likely to be murdered by an intimate partner compared to men.<sup>207</sup> The risk of being killed by an intimate partner is highest for Black women

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<sup>197</sup> See *infra* National Violent Crime Trends, 2017-2021 and Overview of Selected Jurisdictions sections (estimates in violent crime victimization for 2017-2021 at the national level using the two primary federal sources of crime statistics, as well as estimates from a sample of five jurisdictions).

<sup>198</sup> Erin Grinshteyn and David Hemenway, “Violent Death Rates in the US Compared to Those of the Other High-Income Countries,” *Preventative Medicine*, 2019, vol. 123, <https://doi.org/10.1016/j.ypmed.2019.02.026>.

<sup>199</sup> Ibid. See also David Garland, “The Current Crisis of American Criminal Justice: A Structural Analysis,” *Annual Review of Criminology*, 2023, vol. 6, <https://www.annualreviews.org/doi/pdf/10.1146/annurev-criminol-030722-035139>.

<sup>200</sup> Grinshteyn and Hemenway, “Violent Death Rates in the US Compared to Those of the Other High-Income Countries.”

<sup>201</sup> Alex R. Piquero, “Racial Inequality in Firearm Homicide Victimization—but not Other Types of US Violence,” *Cambridge Journal of Evidence-Based Policing*, 2024, vol. 8, no. 1, <https://link.springer.com/article/10.1007/s41887-023-00093-2>; Sharkey Testimony, *Racial Disparities Briefing*, p. 187.

<sup>202</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>203</sup> Ibid; see also Heather Warnken and Janet Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services? Findings from the National Crime Victimization Survey for Expanding our Reach,” Center for Victim Research, 2019, [vnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article\\_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf](vnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf).

<sup>204</sup> David P. Farrington, “Age and Crime,” *Crime and Justice*, 1986, vol. 7, <https://doi.org/10.1086/449114>.

<sup>205</sup> Thompson and Tapp, “Criminal Victimization, 2021.”

<sup>206</sup> Federal Bureau of Investigation, “Crime Data Explorer,” <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.

<sup>207</sup> Erica L. Smith, “Female Murder Victims and the Victim-Offender Relationship, 2021,” Bureau of Justice Statistics, Dec. 2022, <https://bjs.ojp.gov/female-murder-victims-and-victim-offender-relationship-2021>.

and Native American women.<sup>208</sup> Most victims of violent crime also know the offender, regardless of the severity of the crime.<sup>209</sup>

Nel-Sylvia Guzman, Deputy Director of Safe Sisters Circle, testified that the

data we have show that domestic violence is the number one health concern for Black women in America ... Although intimate partner violence can vary in how often it happens and how severe it is, violent forms of intimate partner violence, such as physical violence, sexual violence and rape, and intimate partner homicide, disproportionately affect Black women. []

And these statistics aren't just for cisgender women. Black transgender women account for a disproportionate amount of the victims of fatal violence against transgender and gender non-conforming people. Black women are overwhelmingly being subjected to violence, harm, and murder.<sup>210</sup>

The most critical demographic association with victimization for this report is race. When considering all forms of violent crime, aggregated at the national level, there are no racial disparities in who is more likely to be victimized between White, Black, or Hispanic people.<sup>211</sup> There are, however, enduring racial differences in the most serious form of violence; Black Americans have long been the group most likely to be homicide victims.<sup>212</sup> Firearm homicides, in particular, disproportionately impact Black Americans.<sup>213</sup>

Being a sexual and/or gender minority (SGM) also puts people at increased risk for violent victimization,<sup>214</sup> including through hate crimes against members of the LGBTQ+ community.<sup>215</sup>

<sup>208</sup> Emiko Petrosky, Janet M. Blair, Carter J. Betz, Katherine A. Fowler, Shane PD Jack, and Bridget H. Lyons, "Racial and Ethnic Differences in Homicides of Adult Women and the Role of Intimate Partner Violence—United States, 2003–2014," *Morbidity and Mortality Weekly Report*, 2017, vol. 66, no. 28, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5657947/>.

<sup>209</sup> Erika Harrell, "Violent Victimization Committed by Strangers, 1993–2010," Bureau of Justice Statistics, 2012, <https://bjs.ojp.gov/library/publications/violent-victimization-committed-strangers-1993-2010>.

<sup>210</sup> Guzman Testimony, *Racial Disparities Briefing*, p. 87.

<sup>211</sup> Alexandra Thompson and Susannah N. Tapp, "Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008–2021," Bureau of Justice Statistics, Jul. 2023, <https://bjs.ojp.gov/violent-victimization-race-or-hispanic-origin-2008-2021>.

<sup>212</sup> Warnken and Lauritsen, "Who Experiences Violent Victimization and Who Accesses Services?"; Patrick Sharkey and Michael Friedson, "The Impact of the Homicide Decline on Life Expectancy of African American Males," *Demography*, 2019, vol. 56, no. 2, <https://read.dukeupress.edu/demography/article-abstract/56/2/645/167974/The-Impact-of-the-Homicide-Decline-on-Life>.

<sup>213</sup> Piquero, "Racial Inequality in Firearm Homicide Victimization."

<sup>214</sup> Andrew R. Flores, Bianca DM Wilson, Lynn L. Langton, and Ilan H. Meyer, "Violent Victimization at the Intersections of Sexual Orientation, Gender Identity, and Race: National Crime Victimization Survey, 2017–2019," *Plos One*, 2023, vol. 18, no. 2, <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0281641>.

<sup>215</sup> Andrew R. Flores, Rebecca L. Stotzer, Ilan H. Meyer, and Lynn L. Langton, "Hate Crimes Against LGBT People: National Crime Victimization Survey, 2017–2019," *Plos One*, 2022, vol. 17, no. 12, <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0279363>.

Accurately capturing rates of violent victimization against SGMs is challenging because of small subgroup sizes and inadequate data collection measures of gender and sexuality.<sup>216</sup> In particular, homicides of transgender individuals may be undercounted because of how these deaths are recorded and reported, including through misgendering and deadnaming<sup>217</sup> them in police and media reports.<sup>218</sup> Audacia Ray, Director of Community Organizing and Public Advocacy for the Anti-Violence Project, explains:

Trans people don't often share their legal or deadnames even with close friends, so when they're reported as missing under their known name but documented by police or coroners under their deadnames, their loved ones don't know what happened to them.<sup>219</sup>

Despite measurement barriers to capturing crimes against SGMs, there is evidence that transgender people are victimized about four times as often as cisgender people.<sup>220</sup> Young Black and Latina transgender women are more likely to be murdered than their cisgender or White counterparts.<sup>221</sup> The Human Rights Campaign finds that, of the 22 recorded homicides of transgender people in 2018, 82 percent were women of color.<sup>222</sup> The American Medical Association named violence against transgender people, particularly fatal violence against transgender people of color, an epidemic at its annual meeting in 2019.<sup>223</sup>

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<sup>216</sup> Laurel Westbrook, "Violence Against Transgender People in the United States: Field Growth, Data Dilemmas, and Knowledge Gaps," *Sociology Compass*, 2022, vol. 16, <https://compass.onlinelibrary.wiley.com/doi/abs/10.1111/soc4.12983>.

<sup>217</sup> Deadnaming is the act of referring to a transgender or non-binary person by a name that was assigned to them at birth in cases where they have rejected those names. *See e.g.*, Samantha Martin, Joshua Katz, and Daragh McDermott, "Intersecting Identities: Gender and Sexual Diversity," in *Sexual Minorities and Mental Health*, eds. Joanna Semlyen and Poul Rohleder, Palgrave MacMillian, 2023.

<sup>218</sup> Natalee Seely, "Reporting on Transgender Victims of Homicide: Practices of Misgendering, Sourcing and Transparency," *Newspaper Research Journal*, 2021, vol. 42, no. 1, <https://journals.sagepub.com/doi/full/10.1177/0739532921989872>.

<sup>219</sup> Ray Testimony, *Racial Disparities Briefing*, p. 157.

<sup>220</sup> Andrew R. Flores, Ilan H. Meyer, Lynn Langton, and Jody L. Herman, "Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017–2018," *American Journal of Public Health*, 2021, vol. 111, no. 4, <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2020.306099>.

<sup>221</sup> Alexis Dinno, "Homicide Rates of Transgender Individuals in the United States: 2010–2014," *American Journal of Public Health*, 2017, vol. 107, no. 9, <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2017.303878>. *See also* Brendan Lantz, Lexi Faulkner, and Jack M. Mills, "A Descriptive Account of the Nature and Extent of Transgender Homicide in America, 2010 to 2021," *Journal of Interpersonal Violence*, 2023, 08862605231197139, <https://journals.sagepub.com/doi/abs/10.1177/08862605231197139>.

<sup>222</sup> Human Rights Campaign, "A National Epidemic: Fatal Anti-Transgender Violence in America in 2018," <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/AntiTransViolence-2018Report-Final.pdf>.

<sup>223</sup> American Medical Association, "AMA Adopts New Policies on First Day of Voting at 2019 Annual Meeting," Jun. 10, 2019, <https://www.ama-assn.org/press-center/press-releases/ama-adopts-new-policies-first-day-voting-2019-annual-meeting>.

People who have been accused or convicted of a crime are also disproportionately likely to be victims of violent crime.<sup>224</sup> Oftentimes the media present victims and offenders as two distinct groups, but the victim-offender overlap is one of the most long-lasting and consistent findings in crime research.<sup>225</sup> While this report is not focused on violent offenders, it is imperative to note this significant relationship to avoid reinforcing common misperceptions that some victims are “deserving” while others are “undeserving.”<sup>226</sup> Heather Warnken, Executive Director of the Center for Criminal Justice Reform, calls this “the false dichotomy between who we view as victims and perpetrators of harm.” She explains:

In addition to stark racial disparities in rates of incarceration that have made the U.S. an outlier across the world, a large body of research has confirmed the prevalence and severity of victimization before, during, and after incarceration. But lesser discussed are the explicit and implicit barriers created to being seen and served as victims after someone has touched the criminal or juvenile justice system, the extent to which we criminalize rather than heal victimization and trauma, and how much more expensive this is.<sup>227</sup>

Recognizing the victim-offender overlap is also useful for victim service providers to understand, as victims and offenders are often the same people; therefore, services tailored to just one group run the risk of missing their overlapping needs.<sup>228</sup> Christina Love, Survivor and Executive Director of Rural Alaska Integrated Services, provides a personal example of how service providers’ misperceptions about victims inadvertently undermined her recovery after she was violently victimized. She testified:

[W]hile I was in medical services and interacting with law enforcement and advocates, there continued to be a profound misunderstanding and misconception about who survivors are. People said things like if I hadn’t been addicted then I wouldn’t have been abused, or if I hadn’t been in that flophouse then those things would have never happened. And I believed them for a really long time. I believed that I was to blame for the harm that had happened to me, and I believed that it was my fault that I was addicted.<sup>229</sup>

The relationship between criminal offending and victimization is so salient because people who are disproportionately likely to be victims of violent crime share the same sociodemographic

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<sup>224</sup> Jennifer N. Shaffer and R. Barry Ruback, “Violent Victimization as a Risk Factor for Violent Offending Among Juveniles,” Office of Juvenile Justice and Delinquency Prevention, Dec. 2002, <https://www.ojp.gov/pdffiles1/ojdp/195737.pdf>.

<sup>225</sup> Mark T. Berg, Eric A. Stewart, Christopher J. Schreck, and Ronald L. Simons, “The Victim-Offender Overlap in Context: Examining the Role of Neighborhood Street Culture,” *Criminology*, 2012, vol. 50, no. 2, <https://doi.org/10.1111/j.1745-9125.2011.00265.x>.

<sup>226</sup> Stephanie Fohring, “Introduction to the Special Issue: Victim Identities and Hierarchies,” *International Review of Victimology*, 2018, vol. 24, no. 2, <https://doi.org/10.1177/0269758018755152>.

<sup>227</sup> Warnken Testimony, *Racial Disparities Briefing*, pp. 108-109.

<sup>228</sup> Jennings, Higgins, Tewksbury, Gover, and Piquero, “A Longitudinal Assessment of the Victim-Offender Overlap.” See also Roman, Harding, Klein, Hamilton, and Koehnlein, “The Victim-Offender Overlap.”

<sup>229</sup> Love Testimony, *Racial Disparities Briefing*, p. 167.

characteristics as people who are disproportionately likely to commit violent crime, namely adolescent males who are engaged in delinquent activity.<sup>230</sup> Moreover, the risk of committing and being a victim of violence are most pronounced in disadvantaged neighborhoods.<sup>231</sup> Data also show that people who have ever been a victim of crime have an elevated risk of being victimized multiple times.<sup>232</sup>

There is a two-way relationship between offending and victimization. People who experience violence have an increased risk of engaging in violence<sup>233</sup> and people who commit violence are more likely to become victims of violence.<sup>234</sup> A higher share of people accused or convicted of a crime experience childhood sexual or physical abuse compared to the general population.<sup>235</sup> Being a victim of violence in childhood is associated with a host of negative outcomes, including mental health issues and future interaction with the criminal justice system.<sup>236</sup> This can create a feedback loop as prisoners experience high rates of physical and sexual violence during incarceration spells.<sup>237</sup> Because the risk of sexual assault is so high in prisons, Congress passed the Prison Rape Elimination Act (2003) to detect and prevent its occurrence in all carceral facilities in all U.S. jurisdictions.<sup>238</sup> Prisoners are disproportionately more likely to have been exposed to violence or be a crime victim prior to their incarceration and likely to witness or experience more violence during their confinement.<sup>239</sup> Demetrius Molina, a formerly incarcerated person who was exposed to violence prior to his incarceration, testified about his experience in prison:

Avoiding conflict in an extremely violent and volatile place is nearly impossible. Violence is the only form of respect in a place that has daily fightings and stabbings. I witnessed gang

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<sup>230</sup> Janet L. Lauritsen, Robert J. Sampson, John H. Laub, “The Link Between Offending and Victimization Among Adolescents,” *Criminology*, 1991, vol. 29, no. 2, <https://doi.org/10.1111/j.1745-9125.1991.tb01067.x>.

<sup>231</sup> Berg, Stewart, Schreck, and Simons, “The Victim–Offender Overlap in Context.”

<sup>232</sup> Jillian J. Turanovic and Travis C. Pratt. ““Can’t Stop, Won’t Stop”: Self-Control, Risky Lifestyles, and Repeat Victimization,” *Journal of Quantitative Criminology*, 2014, vol. 30, <https://link.springer.com/article/10.1007/s10940-012-9188-4>. See also David Finkelhor, Richard K. Ormrod, and Heather A. Turner, “Polyvictimization and Trauma in a National Longitudinal Cohort,” *Development and Psychopathology*, 2007, vol. 19, no. 1, <https://www.cambridge.org/core/journals/development-and-psychopathology/article/abs/polyvictimization-and-trauma-in-a-national-longitudinal-cohort/3A067DFF8C45A87C9131F04F1D860C60>.

<sup>233</sup> Shaffer and Ruback, “Violent Victimization as a Risk Factor for Violent Offending Among Juveniles,” Office of Juvenile Justice and Delinquency Prevention, Dec. 2002, <https://www.ojp.gov/pdffiles1/ojdp/195737.pdf>. See also Mercy Testimony, *Racial Disparities Briefing*, p. 37.

<sup>234</sup> Berg, Stewart, Schreck, and Simons, “The Victim–Offender Overlap in Context.”

<sup>235</sup> Caroline Wolf Harlow, “Prior Abuse Reported by Inmates and Probationers,” Bureau of Justice Statistics, 1999, <https://bjs.ojp.gov/content/pub/pdf/parip.pdf>. See also Bruce Western, *Homeward: Life in the Year After Prison* (New York: Russell Sage Foundation, 2018).

<sup>236</sup> Macmillan, “Violence and the Life Course.”

<sup>237</sup> Nancy Wolff, Jing Shi, and Jane A. Siegel, “Patterns of Victimization Among Male and Female Inmates: Evidence of an Enduring Legacy,” *Violence and Victims*, 2009, vol. 24, no. 4, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3793850/>.

<sup>238</sup> Robert W. Dumond, “Confronting America’s Most Ignored Crime Problem: The Prison Rape Elimination Act of 2003,” *Journal of the American Academy of Psychiatry and the Law Online*, 2003, vol. 31, no. 3, [www.researchgate.net/profile/Robert-Dumond](http://www.researchgate.net/profile/Robert-Dumond).

<sup>239</sup> Harlow, “Prior Abuse Reported by Inmates and Probationers.”

wars, riots, violence from guards against incarcerated people. I was exposed to pepper spray, tear gas, and even live rounds being shot in the recreation yard. Incarceration is not the solution. Consider this: most incarcerated people will be returning to the same communities they were arrested in, now more prone to violence and facing many challenges of a person with a criminal background.<sup>240</sup>

## Federal Statutes and Regulations

### *Title VI of the Civil Rights Act*

Title VI mandates that programs that receive federal financial assistance cannot discriminate against individuals on the basis of race, color or national origin in the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them.<sup>241</sup> This statutory prohibition applies to intentional discrimination by any program or activity receiving financial assistance from any federal agency.<sup>242</sup> Under their statutory authority to “effectuate the [nondiscrimination] provisions” of Title VI, twenty-six federal agencies have issued regulations that prohibit both intentional discrimination and discrimination in procedures, criteria, or methods of administration that appear neutral, but have a discriminatory effect on individuals because of their race, color, or national origin.<sup>243</sup> Per the Health and Human Services website discussing Title VI, policies and practices that have such an effect must be eliminated unless a recipient can show that they were necessary to achieve a legitimate nondiscriminatory objective.<sup>244</sup> Even if there is such a reason, the practice cannot continue if there are alternatives that would achieve the same objectives, but that would be less discriminatory.<sup>245</sup> When necessary

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<sup>240</sup> Molina Testimony, *Racial Disparities Briefing*, p. 145.

<sup>241</sup> 42 U.S.C. § 2000d.

<sup>242</sup> *Alexander v. Sandoval*, 532 U.S. 275, 280 (2001); Title VI does not provide a cause of action for private plaintiffs to sue the federal government directly or to address an allegation that the government has failed to perform its Title VI responsibilities. See *Maloney v. Soc. Sec. Admin.*, 517 F.3d 70, 75-76 (2d Cir. 2008).

<sup>243</sup> See December 16, 2000, Federal Register joint notice of proposed rulemaking for over twenty federal agencies’ Title VI regulations, <https://www.federalregister.gov/documents/2000/12/06/00-29358/nondiscrimination-on-the-basis-of-race-color-or-national-origin-in-programs-or-activities-receiving>. DOJ’s CRD has compiled a website listing those federal agencies that have issued Title VI regulations, [https://www.justice.gov/crt/fcs/Agency\\_Regulations#4](https://www.justice.gov/crt/fcs/Agency_Regulations#4). One such example of a cabinet level agency’s Title VI regulations can be found here: *Civil Rights Requirements- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (“Title VI”)*, U.S. DEP’T OF HEALTH AND HUM. SERVICES, <https://www.hhs.gov/civil-rights/for-individuals/special-topics/needly-families/civil-rights-requirements/index.html> (last visited Oct. 24, 2023). See also 42 U.S.C. § 2000d; 28 C.F.R. § 42.104(b)(2); *Alexander v. Sandoval*, 532 U.S. 275, 278-279 (2001).

<sup>244</sup> *Civil Rights Requirements- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (“Title VI”)*, U.S. DEP’T OF HEALTH AND HUM. SERVICES, <https://www.hhs.gov/civil-rights/for-individuals/special-topics/needly-families/civil-rights-requirements/index.html> (last visited Oct. 24, 2023).

<sup>245</sup> *Ibid.*

to prevent discrimination based on national origin, persons with limited English proficiency must be afforded a meaningful opportunity to participate in programs that receive financial assistance.<sup>246</sup>

If a recipient of federal assistance is found to have engaged in discrimination and voluntary compliance cannot be achieved, the federal agency providing the assistance may take steps to enforce compliance, including by initiating fund termination proceedings or referring the matter to the Department of Justice for appropriate legal action.<sup>247</sup> Aggrieved individuals may file administrative complaints with the federal agency that provides funds to a recipient, or the individuals may file suit for appropriate relief in federal court.<sup>248</sup> Title VI itself prohibits intentional discrimination; however, as discussed below, most funding agencies have regulations implementing Title VI that prohibit recipient practices that have the effect of discrimination on the basis of race, color, or national origin.<sup>249</sup>

Federal courts have addressed situations in which an individual has a right to private action under Title VI. The Supreme Court stated in *Cannon v. Univ. of Chicago* that in cases of intentional discrimination an individual may bring a lawsuit under Title VI.<sup>250</sup> Title VI creates a private right of action, meaning private individuals can bring lawsuits under Title VI to obtain injunctive relief and damages, for intentional discrimination.<sup>251</sup> However, in *Alexander v. Sandoval*, the Supreme Court held that Title VI does not create a private right of action for discrimination that is not intentional, such as for disparate impact claims.<sup>252</sup> Thus, an individual cannot bring a private right of action under agencies' Title VI disparate impact regulations.<sup>253</sup> Additionally, Title VI does not provide a cause of action for private plaintiffs to sue the federal government directly or to address an allegation that the government has failed to perform its Title VI responsibilities.<sup>254</sup>

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<sup>246</sup> *Civil Rights Requirements- A. Title VI of the Civil Rights Act of 1964*, 42 U.S.C. 2000d et seq. ("Title VI"), U.S. DEP'T OF HEALTH AND HUM. SERVICES, <https://www.hhs.gov/civil-rights/for-individuals/special-topics/needyl-families/civil-rights-requirements/index.html> (last visited Oct. 24, 2023). See generally DOJ Title VI Legal Manual, pp. 63, 88, 105, and 129, <https://www.justice.gov/media/1121301/dl?inline>.

<sup>247</sup> Title VI of the Civil Rights Act of 1964, DEP'T OF JUST., <https://www.justice.gov/crt/fcs/TitleVI> (last visited Oct. 27, 2023).

<sup>248</sup> *Ibid.*

<sup>249</sup> *Ibid.*

<sup>250</sup> *Cannon v. Univ. of Chi.*, 441 U.S. 677, 696 (1979) (holding, *inter alia*, that individuals have a right to private action under Title IX, because it is modeled after Title VI which creates private remedy).

<sup>251</sup> *Id.*

<sup>252</sup> *Alexander v. Sandoval*, 532 U.S. 275, 279 (2001); see also *Students for Fair Admissions Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023) (Gorsuch, J. concurring) (arguing that the racial preferences at issue in the case violated Title VI as well as the Constitution).

<sup>253</sup> *Id.*

<sup>254</sup> See *Maloney v. Soc. Sec. Admin.*, 517 F.3d 70, 75-76 (2d Cir. 2008; see also *Cottrell v. Vilsack*, 915 F. Supp. 2d 81, 91 (D.D.C.) (finding a nondiscrimination provision in a federal funding statute does not apply to programs "that are conducted directly by a federal agency ....")



There are two important general considerations about Title VI regulations. First, federal agencies providing financial assistance must comply with Title VI statutory requirements.<sup>255</sup> Second, DOJ's Title VI regulations permit individual agencies to enforce appropriate enforcement procedures.<sup>256</sup>

Agencies enforce their various Title VI regulations to ensure non-discrimination in their federally assisted programs.<sup>257</sup> Generally, DOJ's Title VI regulations prohibit disparate treatment and disparate impact discrimination in DOJ's assisted programs.<sup>258</sup> Other federal agencies have disparate treatment and impact regulations similar to DOJ's rules.<sup>259</sup> As noted above, the Supreme Court has held, however, that there is no private right of action to enforce disparate-impact regulations promulgated under Title VI of the Civil Rights Act of 1964.<sup>260</sup> Rather, individual agencies enforce their own Title VI regulations.<sup>261</sup>

### *Victims of Crime Act of 1984*

The most important way the federal government aids victims of crime is by providing funds to individuals via the states that administer these funds. The Victims of Crime Act of 1984 (VOCA) established the Crime Victims Fund (Fund).<sup>262</sup> The Fund is financed by fines and penalties paid by persons convicted in federal cases—as opposed to tax dollars—which is then distributed as restitution to victims of crime.<sup>263</sup> The Fund includes deposits (or receipts) from federal criminal fines, forfeited bail bonds, penalties, and special assessments collected by U.S. Attorneys' Offices, federal courts, and the Federal Bureau of Prisons.<sup>264</sup> From 2000 to 2018, the amount of the annual cap varied from \$500 million to more than \$4 billion.<sup>265</sup> To stabilize the Fund, President Biden

<sup>255</sup> DOJ Title VI Legal Manual, p. 9, <https://www.justice.gov/media/1121301/dl?inline>.

<sup>256</sup> *Id.*

<sup>257</sup> See twenty-two agencies August 26, 2003, Joint Final Rulemaking amending various agencies' Title VI regulations, <https://www.federalregister.gov/documents/2003/08/26/03-21140/nondiscrimination-on-the-basis-of-race-color-or-national-origin-in-programs-or-activities-receiving>.

<sup>258</sup> 28 C.F.R. § 42.104; see also 28 C.F.R. § 42.104(b)(1) (noting that a recipient to which this subpart applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin deny an individual any disposition, service, financial aid, or benefit provided under the program); see also 28 C.F.R. § 42.104(b)(2) (noting that in determining program benefits, a recipient of federal funds may not use criteria or methods of administration which subject individuals to discrimination because of their race, color, or national origin, or **have the effect** of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.) (Emphasis added).

<sup>259</sup> For example, see Department of Education's guidance at <https://www2.ed.gov/about/offices/list/ocr/docs/hq43e4.html> and the Federal Highway Administration's guidance at <https://www.fhwa.dot.gov/civilrights/programs/docs/Title%20VI%20-%20Types%20of%20Discrimination.pdf>.

<sup>260</sup> *Alexander v. Sandoval*, 532 U.S. 275 (2001).

<sup>261</sup> See Department of Education guidance at <https://www2.ed.gov/about/offices/list/ocr/docs/hq43e4.html> (noting that “The Office for Civil Rights (OCR) in ED is responsible for enforcing Title VI as it applies to programs and activities funded by ED. OCR's responsibility to ensure that institutions that receive ED funds comply with Title VI is carried out through compliance enforcement. OCR has investigated and worked with state and local officials to resolve many kinds of civil rights problems, including the following, the failure of some school districts to provide equal educational opportunity for national origin minority students who have a limited proficiency in English.”)

<sup>262</sup> 34 U.S.C. Ch. 201; 34 U.S.C. § 20101.

<sup>263</sup> 34 U.S. Code § 20101(b).

<sup>264</sup> 34 U.S. Code § 20101(b).

<sup>265</sup> See Office of Victims of Crime's website, <https://ovc.ojp.gov/about/crime-victims-fund>.

signed the VOCA Fix to Sustain the Crime Victims Fund Act of 2021.<sup>266</sup> The VOCA Fix requires monetary penalties from federal deferred prosecution and non-prosecution agreements to go into the Fund. Under VOCA, no person shall be excluded from participation in, or denied benefits, on the ground of race, color, religion, national origin, handicap, or sex.<sup>267</sup> See Chapter 3 of this report for more detail regarding the Crime Victims Fund.

The Office for Victims of Crime (OVC) was established in 1988 through an amendment to VOCA and is charged by Congress to administer the Fund and assist victims in the immediate aftermath of crime and support them as they rebuild their lives.<sup>268</sup> OVC is one of the six programs housed under the Office of Justice Programs at DOJ. The Director of OVC provides an annual grant from the Fund to each state and eligible territory for the financial support of services to crime victims by eligible crime victim assistance programs.<sup>269</sup> Millions of dollars are invested annually in victim compensation and assistance in every U.S. state and territory, as well as for training, technical assistance, and other capacity-building programs designed to enhance service providers' ability to support victims of crime in communities across the nation.<sup>270</sup> Grants under this program are also subject to the government-wide grant rules, which include DOJ's disparate impact Title VI regulations.<sup>271</sup>

### *Mandatory Victims Restitution Act*

Most crimes are prosecuted by state authorities, but a small portion is prosecuted by the federal government. The Mandatory Victims Restitution Act of 1996 (MVRA) applies to federal criminal prosecutions. It requires a defendant to pay restitution to identifiable victims who have suffered either physical injuries or pecuniary losses as a result of federal criminal offenses.<sup>272</sup> Victims of federal violent crimes, crimes against property including fraud and deceit, crimes relating to consumer and medical products, and crimes where victims suffer physical injuries or pecuniary loss are entitled to restitution under the Act.<sup>273</sup> Victims is defined as “a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered,” or any person directly harmed because of the defendant’s conduct during a scheme,

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<sup>266</sup> See Office for Victims of Crime, “The VOCA Fix,” U.S. Dep’t of Justice, <https://ovc.ojp.gov/about/crime-victims-fund/voca-fix>.

<sup>267</sup> 34 U.S.C. § 20110(e).

<sup>268</sup> See Office of Victims of Crime, “About OVC,” Apr. 20, 2023, <https://ovc.ojp.gov/about>.

<sup>269</sup> See 28 C.F.R. § 94.101(a).

<sup>270</sup> See U.S. Dep’t of Justice, Office for Victims of Crime, <https://ovc.ojp.gov/about>.

<sup>271</sup> See 28 C.F.R. § 94.101(a).

<sup>272</sup> 18 U.S.C. §§ 3663A-3664. It is worth noting that the federal criminal law covers limited offenses; the vast amount of criminal law exists in the states and states have their own restitution statutes.

<sup>273</sup> 18 U.S.C. § 3663(c)(1)(A)(i)-(B); see also U.S. Dep’t of Justice, Mandatory Restitution Act of 1996, <https://www.justice.gov/sites/default/files/usao-az/legacy/2006/09/26/restitut.pdf>.

conspiracy, or pattern of criminal activity.<sup>274</sup> Money is considered to be property under MVRA.<sup>275</sup> MVRA requires defendants to “reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.”<sup>276</sup>

### *Crime Victims’ Rights Act of 2004*

The Crime Victims’ Rights Act, enacted in 2004, provides victims of crime with an enumerated list of rights.<sup>277</sup> These include the right:

- to be reasonably protected from the accused;
- to be given reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused;
- not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding;
- to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding;
- the reasonable right to confer with the attorney for the government in the case; to full and timely restitution as provided in law;
- to proceedings free from unreasonable delay; to be treated with fairness and with respect for the victim’s dignity and privacy;
- to be informed in a timely manner of any plea bargain or deferred prosecution agreement;
- to be informed of the rights under this section and the services described in section 503(c) of the Victims’ Rights and Restitution Act of 1990 (34 U.S.C. § 20141(c)) and
- to be provided contact information for the Office of the Victims’ Rights Ombudsman of the Department of Justice.<sup>278</sup>

Under the CVRA, a crime victim is a person who has been directly and proximately harmed (physically, emotionally, or financially) as a result of the commission of a federal offense or an offense in the District of Columbia.<sup>279</sup> Under the plain language of the statute, a party may qualify as a victim, even though they may not have been the target of the crime, as long as they suffer harm as a result of the crime's commission.<sup>280</sup> The CVRA requires the government to make “best efforts to see that crime victims are notified of, and accorded, the rights under the act 18 USC §

<sup>274</sup> 18 U.S.C. § 3663A(a)(2).

<sup>275</sup> *United States v. Razzouk*, 984 F.3d 181, 186 (2d Cir. 2020) (holding that the defendant would have to pay restitution to the employer whom he defrauded as the defendant’s bribery conduct was “an offense against property” under the MVRA because the defendant deprived the employer of a property interest in its funds).

<sup>276</sup> 18 U.S.C. §3663A(b)(4).

<sup>277</sup> 18 U.S.C. § 3771.

<sup>278</sup> *Id.*

<sup>279</sup> *Id.*

<sup>280</sup> *In re Stewart*, 552 F.3d at 1289.

3771(c)(1).”<sup>281</sup> Further, the CVRA applies to federal district courts and requires those courts to take up and decide any motion asserting a victim’s right.<sup>282</sup>

### *Constitutional Considerations*

Victims are protected under various parts of the existing Constitution and various Supreme Court rulings and state Constitutions. Various efforts have been made to expand these protections. In 1982, President Reagan’s Task Force on Victims of Crime *Final Report*<sup>283</sup> proposed augmenting the Sixth Amendment of the U.S. Constitution to provide that “the victim, in every criminal prosecution, shall have the right to be present and to be heard at all critical stages of judicial proceedings.”<sup>284</sup> In April of 1996, and again in the opening session of the new Congress in January of 1997, a Victims’ Rights Constitutional Amendment was introduced by Senators Jon Kyl (R-AZ) and Dianne Feinstein (D-CA) in the U.S. Senate and by Henry Hyde (R-IL) in the House of Representatives.<sup>285</sup> In June of 1996, President Clinton endorsed the concept of a federal constitutional amendment for crime victims’ rights in a special ceremony held at the White House.<sup>286</sup> The proposed federal Victims’ Rights Constitutional Amendment has seen several iterations.<sup>287</sup> The proposed amendment has not seen recent support or movement in Congress.

### *Related Federal Agencies*

There are numerous federal agencies that provide important support to, and various functions for, victims of crime and their families. This section provides a brief overview of some of these agencies and discusses their roles and responsibilities to victims of crime.

The Civil Rights Division (CRT) of the Department of Justice, created in 1957 by the enactment of the Civil Rights Act, works to uphold the civil and constitutional rights of all persons in the United States, particularly some of the most vulnerable members of society. CRT enforces federal statutes prohibiting discrimination on the basis of race, color, sex (including pregnancy, sexual orientation, and gender identity), disability, religion, familial status, national origin, and citizenship status.<sup>288</sup> The Criminal Section of the CRT was originally housed under the Criminal Division of DOJ but was moved to CRT when it was created by the Civil Rights Act of 1957. The Criminal Section prosecutes criminal violations, while the rest of the Division handles civil violations.<sup>289</sup> The CRT’s Federal Coordination and Compliance Section (FCS) implements Title VI of the Civil

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<sup>281</sup> *Id.*

<sup>282</sup> *Id.*

<sup>283</sup> *Victims’ Rights Constitutional Amendments*, OFF. FOR VICTIMS OF CRIME – ARCHIVES, [https://www.ncjrs.gov/ovc\\_archives/ncvrw/1999/amend.htm](https://www.ncjrs.gov/ovc_archives/ncvrw/1999/amend.htm) (last visited Oct. 27, 2023).

<sup>284</sup> *Ibid.*

<sup>285</sup> *Ibid.*

<sup>286</sup> *Ibid.*

<sup>287</sup> *Ibid.*

<sup>288</sup> See U.S. Dep’t of Justice, Civil Rights Division, <https://www.justice.gov/crt>.

<sup>289</sup> See U.S. Dep’t of Justice, Civil Rights Division, Criminal Section, <https://www.justice.gov/crt/criminal-section>.

Rights Act of 1964,<sup>290</sup> and related authorities that prohibit discrimination by recipients of federal financial assistance based on race, national origin (including language access<sup>291</sup>), sex (including sexual orientation and gender identity), and other bases. FCS plays a central role in enforcement, regulation, inter-agency coordination and oversight, and technical assistance. Additionally, FCS is responsible, under Executive Order 12250, for ensuring consistent and effective enforcement and implementation of Title VI and related federal funding statutes across more than two dozen agencies.<sup>292</sup> As a result, FCS often provides legal counsel, training, and review related to agency enforcement, regulatory, and sub-regulatory action.

Attorneys General (AGs) and Deputy Attorneys General play an important role in the fair administration of justice. Ninety-three United States Attorneys General and Deputy Attorneys General are charged with ensuring that laws are faithfully executed and enforced throughout the country. The President appoints a United States Attorney to each of the 94 federal districts (Guam and the Northern Mariana Islands are separate districts but share a United States Attorney). The United States Attorney is the chief federal law enforcement officer in their district and is also involved in civil litigation where the United States is a party.<sup>293</sup>

The Office of the Victims' Rights Ombudsman investigates complaints against DOJ employees who violate or fail to provide one or more of victims' rights established under CVRA, such as the right to be informed in a timely manner of court proceedings and any plea bargain or parole proceedings.<sup>294</sup> The Victims' Rights Ombudsman reviews the allegations in CVRA complaints; listens carefully and facilitates resolution of the claims; initiates an internal investigation (where appropriate); and renders a final decision. If the Ombudsman determines that a DOJ employee failed to provide a crime victim with one or more rights, the Ombudsman may require the employee to complete a course of training on victims' rights or may recommend appropriate discipline.<sup>295</sup>

The Federal Judiciary is also key to the fair administration of justice. In a federal court proceeding involving an offense against a crime victim, the court ensures that the crime victim is afforded the rights described under the CVRA.<sup>296</sup> Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The

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<sup>290</sup> 42 U.S.C. § 2000d, et seq; *see also* U.S. Dep't of Justice, Civil Rights Division, "Federal Coordination and Compliance Section," <https://www.justice.gov/crt/federal-coordination-and-compliance-section>.

<sup>291</sup> Executive Order 13116 requires agencies to ensure access to federal and federally funded programs for individuals who are limited English proficient.

<sup>292</sup> 28 C.F.R. § 41.

<sup>293</sup> *See* U.S. Dep't of Justice, Offices of the United States Attorneys, <https://www.justice.gov/usao>.

<sup>294</sup> 18 U.S. Code § 3771(a); *see also* Offices of the United States Attorneys, "Office of the Victims' Rights Ombud," <https://www.justice.gov/usao/office-victims-rights-ombuds>.

<sup>295</sup> *Ibid.*

<sup>296</sup> *See* 18 U.S.C. § 3771(b)(1).

reasons for any decision denying relief under this chapter shall be clearly stated on the record.<sup>297</sup> Therefore, aside from the primary role of administering justice under federal criminal statutes for victims of crime, the federal judiciary also plays a critical role to ensure and protect the rights afforded to victims of crime under the CVRA.

## Federal Crime Victimization Data

There is no perfect way to compile comprehensive and accurate data about crime. What is known about crime will always reflect what counts as crime and how those crimes are counted and reported. Therefore, most crime data are estimates regarding national trends each year. The federal government has two sources of official data to estimate the prevalence of crime and crime victimization: the Uniform Crime Reporting (UCR) system managed by the Federal Bureau of Investigation (FBI) and the National Crime Victimization Survey (NCVS) managed by the Bureau of Justice Statistics (BJS). These data collections yield different estimates of crime rates but can be used to provide a complementary picture of crime.<sup>298</sup>

### *Uniform Crime Reporting Program*

The FBI aggregates and reports national statistics about crimes that are known to law enforcement. To accomplish this task, the FBI relies on local, state, and tribal law enforcement agencies to collect data about crime in their own jurisdictions and share it with the FBI's UCR Program. Beginning in 1930, the FBI asked local law enforcement agencies to use the Summary Reporting System (SRS) to report their monthly crime data to the UCR.<sup>299</sup> This system of standardization included all known crimes in eight categories that are considered the most serious, Part I offenses, and all less serious crimes, Part II offenses, if they resulted in arrest.<sup>300</sup> For incidents that included more than one crime, UCR used the hierarchy rule for most Part I offenses, which means that only the most serious crime was counted. For instance, if a robbery led to a homicide, the robbery would not be included in the annual count of robberies because homicide is the more serious crime.

Through 2019, the FBI published an annual report using these data, *Crime in the United States*, to disseminate statistics about the volume and rate of violent and property crimes aggregated at the national level and broken down by state.<sup>301</sup> These reports differentiate violent crime from property

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<sup>297</sup> See *Id.*

<sup>298</sup> Mark T. Berg and Janet L. Lauritsen, "Telling a Similar Story Twice? NCVS/UCR Convergence in Serious Violent Crime Rates in Rural, Suburban, and Urban Places (1973–2010)," *Journal of Quantitative Criminology*, 2016, vol. 32, <https://link.springer.com/article/10.1007/s10940-015-9254-9>.

<sup>299</sup> Jeffrey Fisher, "NIBRS: The Future of U.S. Crime Data," *Police Chief Magazine*, Oct. 2017, <https://www.theiacp.org/sites/default/files/all/n-o/NIBRSTheFutureofUSCrimeDataOct2017.pdf>.

<sup>300</sup> Federal Bureau of Investigation, "Uniform Crime Reporting Handbook," [https://ucr.fbi.gov/additional-ucr-publications/ucr\\_handbook.pdf](https://ucr.fbi.gov/additional-ucr-publications/ucr_handbook.pdf).

<sup>301</sup> Federal Bureau of Investigation, "UCR Publications," <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/publications>.

crime. Violent crime involves “force or threat of force,” including murder and nonnegligent manslaughter, rape, robbery, and aggravated assault.<sup>302</sup> The reports provide an annual snapshot as well as trends in crime over time. They also include clearance numbers,<sup>303</sup> demographic information about persons arrested, and police employee data.<sup>304</sup>

In 1985, BJS and the FBI produced a report calling for the development of a modern reporting system to address the limitations of SRS, which resulted in the National Incident-Based Reporting System (NIBRS).<sup>305</sup> NIBRS sought to improve the overall quantity and quality of crime data collected by law enforcement to capture more detailed information about each crime occurrence.<sup>306</sup> Because NIBRS asks law enforcement to collect and report more details about crime victims than was required for SRS, these official data should provide a more complete picture of crime victims known to law enforcement.

The transition from agencies reporting their crime statistics to the FBI using NIBRS instead of SRS was lengthy. The FBI first began collecting NIBRS data from some law enforcement agencies in 1991 while others continued to use SRS.<sup>307</sup> The Department of Justice announced the full transition to NIBRS in 2015 and invested over \$120 million to assist state and local agencies improve their crime data collection.<sup>308</sup> The UCR program transitioned to NIBRS-only data collection on January 1, 2021.<sup>309</sup> Law enforcement agencies that had not transitioned to NIBRS prior to the reporting deadline were not included in 2021 reported totals.<sup>310</sup> Because many agencies

<sup>302</sup> Federal Bureau of Investigation, “Crime in the United States, 2013,” [https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/violent-crime/violent-crime-topic-page/violentcrimemain\\_final](https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/violent-crime/violent-crime-topic-page/violentcrimemain_final).

<sup>303</sup> In the FBI’s Uniform Crime Reporting (UCR) Program, law enforcement agencies can clear, or “close,” offenses in one of two ways: by arrest or by exceptional means. An agency can clear an offense “exceptionally” if it has identified the offender, gathered enough evidence to support an arrest, make a charge, and turn over for prosecution, identified the offender’s location so the suspect could be taken into custody, and encountered a circumstance outside the control of law enforcement that prohibits the agency from arresting, charging, and prosecuting the offender. See Federal Bureau of Investigation, “Uniform Crime Report Crime in the United States, 2019: Offenses Cleared,” <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/clearances.pdf>.

<sup>304</sup> Federal Bureau of Investigation, “2019 Crime in the United States,” <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019>.

<sup>305</sup> Fisher, “NIBRS: The Future of U.S. Crime Data”; see also U.S. Bureau of Justice Statistics, *Blueprint for the Future of the Uniform Crime Reporting Program*, May 1985, <https://www.ojp.gov/pdffiles1/bjs/98348.pdf>.

<sup>306</sup> Federal Bureau of Investigation, “UCR Publications.”

<sup>307</sup> Federal Bureau of Investigation, “Effects of NIBRS on Crime Statistics,” <https://ucr.fbi.gov/nibrs/2012/resources/effects-of-nibrs-on-crime-statistics#:~:text=For%20example%2C%20an%20incident%20involving,highest%20offense%20on%20the%20hierarchy>.

<sup>308</sup> Department of Justice, “New and Better Crime Data for the Nation,” Oct. 5, 2022, <https://www.justice.gov/opa/blog/new-and-better-crime-data-nation>.

<sup>309</sup> Federal Bureau of Investigation, “National Incident-Based Reporting System (NIBRS),” <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/nibrs>.

<sup>310</sup> Department of Justice, “Associate Attorney General Vanita Gupta Issues Statement on 2021 FBI Hate Crimes in the United States Statistics,” Dec. 12, 2022, <https://www.justice.gov/opa/pr/associate-attorney-general-vanita-gupta-issues-statement-2021-fbi-hate-crimes-united-states>.

were slow to make the transition,<sup>311</sup> the 2021 national data are missing data from agencies that had previously reported to the UCR system. Table 1 shows the number of law enforcement agencies enrolled in the UCR Program, the total population represented by those agencies, and the percentage of agencies that reported using SRS or NIBRS. Over time more agencies reported using NIBRS, though the overall population covered by UCR data decreased closer to the deadline.

**Table 1: Law Enforcement Agencies and Population Covered for UCR Data, 2017-2021**

	Actively Enrolled in the Uniform Crime Reporting Program		Total Participants Submitting Data		Submitted via National Incident-Based Reporting System		Submitted via Summary Reporting System	
	Agencies	Population Covered	Agencies	% of UCR Population	Agencies	% of UCR Population	Agencies	% of UCR Population
2017	18,547	325,719,178	16,655	97.9%	6,998	32.4%	9,672	65.5%
2018	18,586	327,167,434	16,659	97.8%	7,283	35.8%	9,376	62.0%
2019	18,667	328,239,523	16,551	97.0%	8,497	44.7%	8,054	52.3%
2020	18,619	329,484,123	15,901	95.2%	9,880	53.9%	6,021	41.3%
2021	18,806	331,895,048	11,794	64.8%	11,794	64.8%	N/A	N/A

Source for 2017-2019 data: FBI, Uniform Crime Reports, <https://ucr.fbi.gov/nibrs/2017/tables/data-tables>.

Source for 2020 and 2021 data: FBI, Crime Data Explorer, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/downloads>.

Many of the nonreporting agencies in 2021 were from the largest jurisdictions. According to BJS, 62 of the 85 cities with a population of 250,000 or more reported NIBRS data as of August 2022.<sup>312</sup> The two largest agencies in the country – Los Angeles Police Department and New York City Police Department – have not submitted 2021 data to the NIBRS system as of November 2023.<sup>313</sup> The FBI and BJS generated national estimates using statistical estimation techniques designed to estimate for non-reporting agencies and account for missing or unknown information in a reported incident.<sup>314</sup>

### *National Crime Victimization Survey*

BJS serves as the nation’s chief source of data on criminal victimization. The main source for this information is the NCVS. Unlike UCR data, which require law enforcement to know about the crime, NCVS is a survey that directly asks people about their experiences with victimization in the prior six months, regardless of whether they reported it to the police. A primary reason that the

<sup>311</sup> Criminal Justice Statistics Interagency Working Group of The National Science and Technology Council, “Equity and Law Enforcement Data Collection, Use, and Transparency,” May 2023, <https://www.whitehouse.gov/wp-content/uploads/2023/05/NSTC-Equity-and-Law-Enforcement-Data.pdf>.

<sup>312</sup> Bureau of Justice Statistics, “NIBRS Estimation Summary,” Aug. 2022, <https://bjs.ojp.gov/content/pub/pdf/nibrses.pdf>.

<sup>313</sup> Federal Bureau of Investigation, “Crime Data Explorer,” <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/home>.

<sup>314</sup> Bureau of Justice Statistics, “NIBRS Estimation Summary.”



federal government began this survey is because of the substantial gap between victimization experienced and victimization reported to authorities,<sup>315</sup> which is called the “dark figure of crime.”<sup>316</sup> NCVS data are not perfect, for instance respondents might still underreport some crimes such as rape and sexual assault,<sup>317</sup> but it provides an idea of the scale of the dark figure of crime.

Each year, the U.S. Census Bureau distributes BJS’ NCVS to a nationally representative sample of about 240,000 persons in approximately 150,000 households.<sup>318</sup> The NCVS collects information from all household members who are at least 12 years old about their experiences of victimization in the prior six months regardless of whether the incidents were reported to the police.<sup>319</sup> Respondents are asked about their experiences of personal crimes, including rape or sexual assault, robbery, aggravated and simple assault, and personal larceny.<sup>320</sup> Because individuals are asked about their own experiences, NCVS data do not include fatal victimization. Respondents also share their experiences of household property crimes, such as burglary/trespassing, motor vehicle theft, and other types of theft.<sup>321</sup> For each incident of victimization, the NCVS collects information about the offender (e.g., age, race and Hispanic origin, sex, and victim-offender relationship), characteristics of the crime (e.g., time and place of occurrence, use of weapons, nature of the injury, and economic consequences), whether the crime was reported to police, reasons the crime was or was not reported, and the victim’s experiences with the criminal justice system.<sup>322</sup>

#### *Other Sources of Victimization Data*

The federal government collects additional data about crime victimization beyond its two main sources. The Centers for Disease Control and Prevention (CDC) collects vital statistics about people in the United States, including mortality data, through the National Vital Statistics System (NVSS). NVSS data include cause of death for all deaths in the U.S. Additionally, the CDC houses the National Violent Death Reporting System (NVDRS) to provide a publicly available dataset with all known information about violent deaths, which include both homicides and suicides.<sup>323</sup> The CDC also collects the National Intimate Partner and Sexual Violence Survey (NISVS) to

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<sup>315</sup> Stephanie Eckroth, “Historical Perspective on the National Crime Victimization Survey...50 Years of Data and Counting,” Bureau of Justice Statistics, Jul. 28, 2023, <https://bjs.ojp.gov/blogs/historical-perspective-national-crime-victimization-survey50-years-data-and-counting>.

<sup>316</sup> Min Xie and Eric P. Baumer, “Crime Victims’ Decisions to Call the Police: Past Research and New Directions,” *Annual Review of Criminology*, 2019, vol. 2, <https://www.annualreviews.org/doi/abs/10.1146/annurev-criminol-011518-024748>.

<sup>317</sup> Warnken and Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services?”

<sup>318</sup> Bureau of Justice Statistics, “National Crime Victimization Survey (NCVS),” <https://bjs.ojp.gov/data-collection/ncvs>.

<sup>319</sup> Ibid.

<sup>320</sup> Ibid.

<sup>321</sup> Ibid.

<sup>322</sup> Ibid.

<sup>323</sup> Center for Disease Control and Prevention, “National Violent Death Reporting System (NVDRS),” <https://www.cdc.gov/violenceprevention/datasources/nvdrs/index.html>.

measure the magnitude and impact of intimate partner violence, sexual violence, and stalking.<sup>324</sup> The Consumer Product Safety Commission collects data about consumer product-related injuries using the National Electronic Injury Surveillance System (NEISS), which is a survey based on a probability sample of hospital emergency departments.<sup>325</sup> Researchers can use NEISS data to estimate nonfatal injuries from firearm assaults.<sup>326</sup> The Office of Juvenile Justice and Delinquency Prevention at the DOJ funds the National Survey of Children's Exposure to Violence (NATSCEV) to collect data from a nationally representative sample about experiences, predictors, and consequences of childhood exposure to violence.<sup>327</sup>

State and local governments also collect crime data. Data on criminal incidents is captured at the local level by police departments and sheriff's offices, which in turn report numbers to their respective state agencies. States have their own version of UCR programs, which collect data from local agencies and submit to the national program administered by the FBI. Most states also make state-level crime data available via their respective criminal justice agencies, for example the Florida Department of Law Enforcement's Uniform Crime Reports Program,<sup>328</sup> the Nevada Uniform Crime Statistics Annual Reports,<sup>329</sup> or the Ohio Incident-Based Reporting System website.<sup>330</sup> These state-level reports most often provide crime counts, crime clearance, and trend comparisons. Federally, BJS supports the State Justice Statistics (SJS) Program, which is designed to maintain and enhance each state's capacity to address criminal justice issues through the collection and analysis of data.<sup>331</sup> The SJS Program provides limited funds to each state to coordinate statistical activities within the state, conduct research as needed to estimate the effects of legislative and policy changes, and serve a liaison role in assisting BJS to gather data from respondent agencies within their states.<sup>332</sup>

There are also many crime data collection efforts by non-governmental organizations that can inform the question of racial disparities in crime victimization. Some social science surveys, including Monitoring the Future and the National Longitudinal Study of Adolescent to Adult Health, ask people about their own involvement in crime. The National Neighborhood Crime

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<sup>324</sup> Center for Disease Control and Prevention, "NISVS Overview,"

<https://www.cdc.gov/violenceprevention/datasources/nisvs/overview.html>.

<sup>325</sup> United States Consumer Product Safety Commission, "National Electronic Injury Surveillance System (NEISS),"

<https://www.cpsc.gov/Research--Statistics/NEISS-Injury-Data>.

<sup>326</sup> Katherine A. Fowler, Linda L. Dahlberg, Tadesse Haileyesus, and Joseph L. Annet, "Firearm Injuries in the United States," *Preventive Medicine*, 2015, vol. 79, <https://doi.org/10.1016/j.ypmed.2015.06.002>.

<sup>327</sup> Office of Juvenile Justice and Delinquency Prevention, "National Survey of Children's Exposure to Violence,"

<https://ojjdp.ojp.gov/library/publications/national-survey-childrens-exposure-violence-natscev-i-final-report>.

<sup>328</sup> Florida Department of Law Enforcement, "Annual State Summary Crime Data Reports,"

<https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports>.

<sup>329</sup> Nevada State Police Records, Communications and Compliance Division, "Crime in Nevada,"

<https://rccd.nv.gov/About/UCR/Crime-In-Nevada/>.

<sup>330</sup> Ohio Office of Criminal Justice Services, Ohio Incident-Based Reporting System, "Crime in Ohio,"

<https://dpsoirbrspext.azurewebsites.net/>.

<sup>331</sup> Bureau of Justice Statistics, "State Justice Statistics Program," <https://bjs.ojp.gov/programs/state-justice-statistics-program>.

<sup>332</sup> Bureau of Justice Statistics, "State Justice Statistics Program."

Study (NNCS) links crime and sociodemographic data from census tracts to examine crime at a neighborhood level.<sup>333</sup> The Gun Violence Archive is an online dataset that is updated daily about incidents of gun violence.<sup>334</sup>

## Data Limitations

### *Measuring Crime*

UCR and NCVS data provide the best evidence about incidence and trends in violent crime victimization. Quantitative data, however, can never reflect purely objective facts because study designs and implementation require human decision-making. UCR data highlight the important, and often ignored, truth that how the FBI defines crimes affects its estimates about crime. For example, UCR reports about violent crime exclude simple assaults because they do not classify simple assault as a violent crime, even though simple assaults occur more frequently than crimes that are designated more serious.<sup>335</sup> For instance, in 2021, according to NCVS data, two out of three violent encounters were categorized as “less serious” simple assaults which means the victim suffered minor or no injuries.<sup>336</sup> These events may or may not appear in the official UCR crime reports because the decision to classify the incident as a simple or aggravated assault may not be clearly defined, which means one will be included in the official numbers and the other will not. Therefore, local policies and/or how a crime is categorized can influence crime numbers, regardless of any actual change in crime rates.<sup>337</sup>

Like laws, crime categories are not naturally occurring or inherent, they are written by people. The best recent illustration of the impact of crime definitions on crime incidence is when the FBI updated the definition of rape in 2011. This category used to be called “Forcible Rape” and is now referred to as “Legacy Rape.” Prior to 2011, forcible rape was defined as: “The carnal knowledge of a female forcibly and against her will.”<sup>338</sup> The revision reflects a more contemporary understanding of consent and gender. The FBI now defines rape as: “Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”<sup>339</sup> The predictable outcome after broadening the definition is that the official number of rapes increased. In 2013, when the revised definition went into effect, there were 82,109 rapes using the old definition, at a rate of 25.9 rapes for every

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<sup>333</sup> Krivo, Peterson, and Kuhl, “Segregation, Racial Structure, and Neighborhood Violent Crime.”

<sup>334</sup> Gun Violence Archive, “General Methodology,” <https://www.gunviolencearchive.org/methodology>.

<sup>335</sup> Federal Bureau of Investigation, “Crime Data Explorer: About the Data,”

<https://cde.ucr.cjis.gov/LATEST/webapp/#>; see also Leon Digard and Jacob Kang-Brown, “Yes, the New FBI Data is Poor Quality. But We’ve Always Needed Better,” Vera Institute, Oct. 12, 2022, <https://www.vera.org/news/yes-the-new-fbi-data-is-poor-quality-but-weve-always-needed-better>.

<sup>336</sup> Thompson and Tapp, “Criminal Victimization, 2021”; see also Bureau of Justice Statistics, “National Crime Victimization Survey Dashboard,” <https://ncvs.bjs.ojp.gov/terms>.

<sup>337</sup> Digard and Kang-Brown, “Yes, the New FBI Data is Poor Quality. But We’ve Always Needed Better.”

<sup>338</sup> Federal Bureau of Investigation, “Crime in the United States, 2013.”

<sup>339</sup> Ibid.

100,000 people. With the new definition in the same year, the numbers are considerably higher: 113,695 rapes at a rate of 35.9 per 100,000 people.<sup>340</sup> This does not mean that more rapes occurred, rather more rapes were officially counted under this expanded definition. This change further highlights that crime statistics reflect decisions about *what* counts as a crime and *how* a crime is counted.

One important limitation of UCR data is that it requires law enforcement to know about the crime. As such, homicides are the most reliable crime statistics because violent deaths typically involve multiple reporting systems, including the police.<sup>341</sup> At the Commission's briefing, John Paul Wright, professor in the School of Criminal Justice at the University of Cincinnati, testified that homicide data is among the most reliable because

we're pretty good at counting dead bodies. And after that, auto theft... Auto theft numbers are fairly accurate []. [When] someone steals your car, you have to turn it in for insurance... Where we see typically the most serious types of crimes, you have higher reporting. Generally speaking, when you start to move down that chain in property crime, you see less reporting. And oftentimes NCVS has shown this [] for many, many years.<sup>342</sup>

Though the dark figure of crime is definitionally unknowable, NCVS data show that most crimes are not reported to the police.<sup>343</sup> There are many reasons why people do not report victimization to law enforcement. When deciding whether to report a crime to the police, victims do a cost/benefit analysis.<sup>344</sup> The pros and cons of reporting a crime always depend on social context. People are unlikely to report when they believe they will not be taken seriously by the police, so crimes that are perceived as the most serious are reported most often.<sup>345</sup> For instance, victims have become increasingly likely to report sexual assault to police as cultural norms have shifted,<sup>346</sup> but sexual assault, including rape, is still underreported because victims are often blamed or mistrusted, even by criminal justice practitioners.<sup>347</sup> Intimate partner violence is also

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<sup>340</sup> Federal Bureau of Investigation, "Crime in the United States by Volume and Rate per 100,000 Inhabitants, 2000-2019," <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-1>.

<sup>341</sup> Wendy Regoeczi and Duren Banks, "The Nation's Two Measures of Homicide," Bureau of Justice Statistics, Jul. 2014, <https://bjs.ojp.gov/content/pub/pdf/ntmh.pdf>. See also Hogan Testimony, *Racial Disparities Briefing*, p. 24.

<sup>342</sup> Wright testimony, *Racial Disparities Briefing*, p. 225.

<sup>343</sup> Thompson and Tapp, "Criminal Victimization, 2021."

<sup>344</sup> Lee Ann Slocum, "The Effect of Prior Police Contact on Victimization Reporting: Results from the Police-Public Contact And National Crime Victimization Surveys," *Journal of Quantitative Criminology*, 2018, vol. 34, <https://link.springer.com/article/10.1007/s10940-017-9345-x>.

<sup>345</sup> Xie and Baumer, "Crime Victims' Decisions to Call the Police: Past Research and New Directions."

<sup>346</sup> Eric P. Baumer and Janet L. Lauritsen, "Reporting Crime to The Police, 1973-2005: A Multivariate Analysis of Long-Term Trends in the National Crime Survey (NCS) and National Crime Victimization Survey (NCVS)," *Criminology*, 2010, vol. 48, no. 1, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1745-9125.2010.00182.x>.

<sup>347</sup> Amy Grubb and Emily Turner, "Attribution of Blame in Rape Cases: A Review of the Impact of Rape Myth Acceptance, Gender Role Conformity and Substance Use on Victim Blaming," *Aggression and Violent Behavior*, 2012, vol. 17, no. 5, <https://www.sciencedirect.com/science/article/abs/pii/S135917891200064X>.

underreported, in part because survivors fear the police will discount their experiences or cannot provide lasting justice.<sup>348</sup>

Perceptions of law enforcement also shape whether someone is likely to report a crime. People are most likely to report to the police when they view the police as legitimate.<sup>349</sup> Studies show that both Black and White Americans believe that police officers treat White people better than Black people.<sup>350</sup> Data also show that Black and Latino people are less likely to trust the police than White people,<sup>351</sup> though paradoxically, this does not impact reporting behaviors at the aggregate. Black and Latino people have lower trust in the police than White people but are just as likely or more likely to report their victimization to the police.<sup>352</sup> However, negative interactions with the police have been shown to reduce the chances of an individual reporting a crime. Black people who have recently been stopped by the police or who have had an encounter that they believe was unjust are less likely than White people to report victimization to the police.<sup>353</sup> Publicized police violence against unarmed Black citizens also reduces police reporting in the immediate vicinity of the violence.<sup>354</sup> Similarly, when Latino residents fear that they or a loved one could be deported, they are less likely to report their victimization to the police.<sup>355</sup> Though Black women are more likely than White women to report intimate partner violence to the police,<sup>356</sup> Nel-Sylvia Guzman, Deputy Director of Safe Sisters Circle, explains how race can impact the decision to report intimate partner violence. She testified that, “due to America’s long history of systemic racism and over-policing, communities of color often do not trust the government or law enforcement agencies.”<sup>357</sup> Christina Love, Survivor and Executive Director of Rural Alaska Integrated Services, explains that in rural

<sup>348</sup> Charvonne N Holliday, Geoffrey Kahn, Roland J. Thorpe, Roma Shah, Zaynab Hameeduddin, and Michele R. Decker, “Racial/Ethnic Disparities in Police Reporting for Partner Violence in the National Crime Victimization Survey and Survivor-Led Interpretation,” *Journal of Racial and Ethnic Health Disparities*, 2020, vol. 7, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7231654/>. See also Guzman Testimony, *Racial Disparities Briefing*, pp. 88-89.

<sup>349</sup> Tom R. Tyler and Jeffrey Fagan, “Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities,” *Ohio St. J. Crim. L.*, 2008, vol. 6, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/osjcl6&div=11&id=&page=>.

<sup>350</sup> Drew Desilver, Michael Lipka, and Dalia Fahmy, “10 Things We Know About Race and Policing in the U.S.,” Pew Research Center, Jun. 3, 2020, <https://www.pewresearch.org/fact-tank/2020/06/03/10-things-we-know-about-race-and-policing-in-the-u-s/>.

<sup>351</sup> John Hagan, Carla Shedd, and Monique R. Payne, “Race, Ethnicity, and Youth Perceptions of Criminal Injustice,” *American Sociological Review*, 2005, vol. 70, no. 3, <https://journals.sagepub.com/doi/abs/10.1177/000312240507000302>.

<sup>352</sup> Slocum, “The Effect of Prior Police Contact on Victimization Reporting.”

<sup>353</sup> Ibid.

<sup>354</sup> Matthew Desmond, Andrew V. Papachristos, and David S. Kirk, “Police Violence and Citizen Crime Reporting in the Black Community,” *American Sociological Review*, 2016, vol. 81, no. 5, <https://journals.sagepub.com/doi/abs/10.1177/0003122416663494>.

<sup>355</sup> Cecilia Menjivar and Cynthia Bejarano, “Latino Immigrants’ Perceptions of Crime and Police Authorities in the United States: A Case Study from the Phoenix Metropolitan Area,” *Ethnic and Racial Studies*, 2004, vol. 27, no. 1, <https://www.tandfonline.com/doi/abs/10.1080/0141987032000147968>.

<sup>356</sup> Holliday, Kahn, Thorpe, Shah, Hameeduddin, and Decker, “Racial/Ethnic Disparities in Police Reporting for Partner Violence in the National Crime Victimization Survey and Survivor-Led Interpretation,” *Journal of Racial and Ethnic Health Disparities*, 2020, vol. 7, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7231654/>.

<sup>357</sup> Guzman Testimony, *Racial Disparities Briefing*, p. 90.

areas reporting crime may be even more challenging due to geographic isolation. The overall dearth of police officers, coupled with their inadequate training on how to respond to victims of domestic abuse or sexual assault, exacerbates mistrust felt by some Native American victims of violent crimes.<sup>358</sup> Taken together, mistrust in law enforcement often leads to underreporting which can have deleterious effects on overall public safety and for victims' access to services.

Race is not the only predictor of police mistrust. Teenagers and young adults have the most frequent and negative contact with the police as well as the lowest level of trust in the police.<sup>359</sup> A 2015 report from the Williams Institute finds high levels of police mistrust among people from the LGBTQ community who feel harassed and targeted by law enforcement.<sup>360</sup> There is a compounding impact of race and being a sexual and/or gender minority (SGM), as Black SGMs are less likely than their non-SGM counterparts to report victimization to the police.<sup>361</sup>

UCR data also reflect police activity, not just crime. Crimes that are considered the most serious – Part I crimes under the old SRS system and Group A crimes under NIBRS – must be reported if they are known to law enforcement. Crimes considered less serious are only reported to UCR if they result in arrest,<sup>362</sup> which relies on police officer discretion.<sup>363</sup> Officers tend to take crimes committed by strangers the most seriously, though they are statistically much less common than crimes with a known offender.<sup>364</sup>

NCVS data can address some, though not all, of UCR's data limitations by directly asking people about their experiences of victimization. The questions on the NCVS instrument, however, also reflect decisions about what counts as victimization. For example, the survey instrument primarily focuses on interpersonal crimes to parallel UCR's crime categories, which positions them as "real" victimization compared to being a victim of white collar crime.<sup>365</sup> NCVS estimates of crime come from interviews with people in households, which means that the victimization of people in institutional settings, such as prisons, and people who are not connected to a household are not

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<sup>358</sup> Love Statement, *Racial Disparities Briefing*, pp. 4-5.

<sup>359</sup> Rod K. Brunson and Jody Miller, "Young Black Men and Urban Policing in the United States," *British Journal of Criminology*, 2006, vol. 46, no. 4, <https://academic.oup.com/bjc/article-abstract/46/4/613/457918>.

<sup>360</sup> Chisty Mallory, Amira Hasenbush, and Brad Sears, "Discrimination and Harassment by Law Enforcement Officers in the LGBT Community," Williams Institute, Mar. 2015, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Discrimination-by-Law-Enforcement-Mar-2015.pdf>.

<sup>361</sup> Flores, Wilson, Langton, Meyer, "Violent Victimization at the Intersections of Sexual Orientation, Gender Identity, and Race."

<sup>362</sup> Federal Bureau of Investigations, "NIBRS Offense Codes," <https://ucr.fbi.gov/nibrs/2011/resources/nibrs-offense-codes>.

<sup>363</sup> Jessica Huff, "Understanding Police Decisions to Arrest: The Impact of Situational, Officer, and Neighborhood Characteristics on Police Discretion," *Journal of Criminal Justice*, 2021, vol. 75, <https://www.sciencedirect.com/science/article/abs/pii/S0047235221000490>.

<sup>364</sup> Carissa Byrne Hessick, "Violence between Lovers, Strangers, and Friends," *Wash. UL Rev.*, 2007, vol. 85, [lawreview-6708-hessick.pdf](http://www.washul.edu/lawreview/6708-hessick.pdf).

<sup>365</sup> Lynn A. Addington, "Current Issues in Victimization Research and the NCVS's Ability to Study Them," Bureau of Justice Statistics, Feb. 12, 2008, <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/addington.pdf>.

counted.<sup>366</sup> This leads to an undercount of crime for some of the most vulnerable populations, including older people in nursing homes, prisoners, and unhoused people.<sup>367</sup> While UCR data are intended to provide a census of all crimes known to law enforcement, NCVS uses statistical techniques to generalize from a representative sample to the population. Because of privacy issues inherent in that process, NCVS estimates have traditionally been restricted to the national level, but some studies use NCVS data to estimate victimization rates at state<sup>368</sup> and even sub-state levels.<sup>369</sup>

### *Measuring Race and Ethnicity*

To examine racial disparities in violent crime victimization, it is critical to acknowledge two truths about race that can seem paradoxical. First, racial boundaries are socially constructed and do not reflect biological differences between groups.<sup>370</sup> Second, social boundaries historically impacted legal rights and continue to affect access to resources and social outcomes.<sup>371</sup> Measuring race is critical for knowing how groups fare, including for civil rights protections.<sup>372</sup> Like race, ethnicity is a social construct based on the premise of shared ancestry.<sup>373</sup> While race is generally related to common physical characteristics and ethnicity is linked to shared language and culture,<sup>374</sup> there is substantial overlap and ambiguity between these two concepts.<sup>375</sup>

The United States Census Bureau is the federal agency tasked with collecting and disseminating demographic data about the population. Like race itself, racial categories are not naturally occurring.<sup>376</sup> Since the first census in 1790, the Census Bureau has revised how they measure race

<sup>366</sup> Rachel E. Morgan and Erica L. Smith, “The National Crime Victimization Survey and National Incident-Based Reporting System: A Complementary Picture of Crime in 2021,” Bureau of Justice Statistics, <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/nevsnibrsepc21.pdf>.

<sup>367</sup> Warnken and Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services?”

<sup>368</sup> Grace Kena and Rachel E. Morgan, “Criminal Victimization in the 22 Largest U.S. States, 2017-2019,” Bureau of Justice Statistics, Mar. 2023, [bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv22luss1719.pdf](https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv22luss1719.pdf).

<sup>369</sup> See e.g., Berg and Lauritsen, “Telling a Similar Story Twice? NCVS/UCR Convergence in Serious Violent Crime Rates in Rural, Suburban, and Urban Places (1973–2010)”; see also Kena and Morgan, “Criminal Victimization in the 22 Largest U.S. States, 2017-2019.”

<sup>370</sup> Deborah D. Ingram, Jennifer D. Parker, Nathaniel Schenker, James A. Weed, Brady E. Hamilton, Elizabeth Arias, and Jennifer H. Madans, “US Census 2000 Population with Bridged Race Categories,” Department of Health and Human Services, 2003, <https://stacks.cdc.gov/view/cdc/6490>.

<sup>371</sup> Michael Omi and Howard Winant, *Racial Formation in the United States* (New York: Routledge, 2014).

<sup>372</sup> United States Census Bureau, “Why We Ask Questions About Race,”

<https://www.census.gov/acs/www/about/why-we-ask-each-question/race/#:~:text=We%20ask%20a%20question%20about,policies%2C%20particularly%20for%20civil%20rights>.

<sup>373</sup> Clara E. Rodriguez, *Changing Race: Latinos, the Census, and the History of Ethnicity in the United States* (NYU Press, 2000).

<sup>374</sup> National Research Council (US) Panel on Race Ethnicity, and Health in Later Life, *Understanding Racial and Ethnic Differences in Health in Late Life: A Research Agenda*; Bulatao, R.A., Nb, A., Eds.; National Academies Press, 2004, <https://www.ncbi.nlm.nih.gov/books/NBK24684/>.

<sup>375</sup> Rodriguez, *Changing Race: Latinos, the Census, and the History of Ethnicity in the United States*.

<sup>376</sup> Carolyn A. Liebler, Sonya R. Porter, Leticia E. Fernandez, James M. Noon, and Sharon R. Ennis, “America’s Churning Races: Race and Ethnicity Response Changes Between Census 2000 and the 2010 Census,” *Demography*, 2017, vol. 54, no. 1, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5514561/>.

for every decennial census<sup>377</sup> to reflect Americans' evolving understanding of race and the country's demographic composition.<sup>378</sup> For the 1980 decennial census, the Census Bureau began adhering to the standards of measuring racial and ethnic categories created by the Office of Management and Budget (OMB).<sup>379</sup> In 1977, OMB issued Statistical Policy Directive No. 15 (SPD 15) to standardize how federal agencies collect data about race and ethnicity,<sup>380</sup> primarily to ensure the enforcement of civil rights laws.<sup>381</sup> SPD 15 was amended in 1997 to reflect population changes and evolving language about race and ethnicity.<sup>382</sup> What is most important for this report is that SPD 15 mandates federal agencies to measure ethnicity separately from race. The only ethnicity measure SPD 15 requires agencies to capture is whether someone is Hispanic or Latino.<sup>383</sup> The minimum race categories SPD 15 requires federal agencies to measure are: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White.<sup>384</sup>

Official mechanisms (e.g., Census) of asking about Hispanic origin separately from race does not work well for some contemporary Latinos.<sup>385</sup> Like other immigrant groups, Latinos go through a racialization process in the U.S., which makes many people in this group identify their race, not only their ethnicity, as Latino.<sup>386</sup> A Pew Research study shows that two thirds of people of Hispanic descent consider being Hispanic a race.<sup>387</sup> Counting being Hispanic as an ethnicity instead of a race can lead to incomplete information about the social status of Latinos, who now comprise the

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<sup>377</sup> Kimi Parker, Juliana Menasce Horowitz, Rich Morin, and Mark Hugo Lopez, "Chapter 1: Race and Multiracial Americans in the U.S. Census," Pew Research, Jun. 11, 2015, <https://www.pewresearch.org/social-trends/2015/06/11/chapter-1-race-and-multiracial-americans-in-the-u-s-census/>.

<sup>378</sup> Beverly M. Pratt, Lindsay Hixson, and Nicholas A. Jones, "Measuring Race and Ethnicity Across the Decades: 1790-2010," Census Bureau, Nov. 2, 2015, <https://www.census.gov/newsroom/blogs/random-samplings/2015/11/measuring-race-and-ethnicity-across-the-decades-1790-2010.html>. See also Kenneth Prewitt, "The Census Race Classification: Is it Doing its Job?," *Annals of the American Academy of Political and Social Science*, 2018, vol. 677, no. 1, <https://journals.sagepub.com/doi/abs/10.1177/0002716218756629>.

<sup>379</sup> United States Census Bureau, "Measuring Race and Ethnicity Across the Decades: 1790-2010."

<sup>380</sup> Revisions to OMB's Statistical Policy Directive No. 15, 89 Fed. Reg. 22182 (Mar. 29, 2024) <https://www.federalregister.gov/documents/2024/03/29/2024-06469/revisions-to-ombs-statistical-policy-directive-no-15-standards-for-maintaining-collecting-and#:~:text=The%20Goals%20of%20SPD%2015.collecting%20the%20data%20are%20consistent>.

<sup>381</sup> OMB Interagency Technical Working Group on Race and Ethnicity Standards, "History of Statistical Policy Directive No. 15," Revised Jan. 25, 2023, <https://spd15revision.gov/content/spd15revision/en/history.html>.

<sup>382</sup> Office of Management and Budget, "Standards for the Classification of Federal Data on Race and Ethnicity," Aug. 28, 1995, [https://obamawhitehouse.archives.gov/omb/fedreg\\_race-ethnicity](https://obamawhitehouse.archives.gov/omb/fedreg_race-ethnicity).

<sup>383</sup> Office of Management and Budget, "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity," Oct. 30, 1997, <https://www.govinfo.gov/content/pkg/FR-1997-10-30/pdf/97-28653.pdf>.

<sup>384</sup> Office of Management and Budget, "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity."

<sup>385</sup> Rodriguez, *Changing Race: Latinos, the Census, and the History of Ethnicity in the United States*.

<sup>386</sup> Ibid.

<sup>387</sup> Ana Gonzalez-Barrera and Mark Hugo Lopez, "Is Being Hispanic a Matter of Race, Ethnicity or Both?" Pew Research Center, June 15, 2015, <https://www.pewresearch.org/short-reads/2015/06/15/is-being-hispanic-a-matter-of-race-ethnicity-or-both/>.



largest minority group in the U.S.<sup>388</sup> For instance, a report from the Urban Institute shows that Latinos are undercounted in the criminal justice system because of inconsistent ethnicity measures between jurisdictions and/or practitioners failing to record ethnicity.<sup>389</sup>

The way that UCR and NCVS measure race and ethnicity impacts estimates of crime victimization by race. People are identified as both a race and an ethnicity for Census and UCR data. Therefore, it is possible that people who are White and Hispanic or Black and Hispanic are counted in the numerators and/or denominators for both the racial and ethnic group. The race/ethnicity data for NCVS is distinct from UCR data because their crime counts use combined ethnoracial groups: non-Hispanic White, non-Hispanic Black, a combined non-Hispanic Other group, and Hispanic of any race. The NCVS sample sizes for non-Hispanic racial groups that are non-White and non-Black (e.g., Asian, Native American) are too small to provide reliable estimates.<sup>390</sup>

Collecting and disseminating information about victim and offender demographics is critical to the project of understanding crime victimization as a civil rights issue. One critique of data collection efforts is that demographic categories are too broad. For instance, UCR data collected using NIBRS uses “Asian” as a race category without distinguishing between smaller Asian groups that have important differences in social outcomes, possibly including crime victimization.<sup>391</sup> Alex Piquero, professor and former BJS Director, argues that “the federal government plays a fundamental role in addressing civil rights issues within criminal justice. In order to document and address civil rights issues, there is a need for complete disaggregated data.”<sup>392</sup> Some advocates argue this data disaggregation should include sexual and gender identity, which are also important demographic characteristics that could expose disparities in the risk of victimization. Audacia Ray, Director of Community Organizing and Public Advocacy for the Anti-Violence Project, contends:

To get a more complete picture of the disproportionate impacts of violent crime on Black people, data must be collected in a way that reflects the multiple marginalization around race and sex and the categories have to be expanded to include sexual orientation as well as gender identity and presentation.<sup>393</sup>

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<sup>388</sup> D’Vera Cohn, “Census History: County Hispanics,” Pew Research Center, Mar. 3, 2010, <https://www.pewresearch.org/social-trends/2010/03/03/census-history-counting-hispanics-2/>.

<sup>389</sup> Sarah Eppler-Epstein, Annie Gurvis, and Ryan King, “The Alarming Lack of Data on Latinos in the Criminal Justice System,” Urban Institute, 2016, <https://apps.urban.org/features/latino-criminal-justice-data/>.

<sup>390</sup> Warnken and Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services?”

<sup>391</sup> Etcubañez Testimony, *Racial Disparities Briefing*, p. 255; Asian Americans Advancing Justice, Written Statement for the Racial Disparities Briefing before the U.S. Comm’n on Civil Rights, Nov. 17, 2023 (hereinafter API Statement).

<sup>392</sup> Piquero Testimony, *Racial Disparities Briefing*, p. 17.

<sup>393</sup> Ray Testimony, *Racial Disparities Briefing*, p. 158.

Both the UCR and NCVS data collection efforts are massive and carefully considered to be improved over time.<sup>394</sup> They both illuminate criminal victimization and provide substantial data regarding crime in the U.S. However, there is still no complete way to capture crime or know precisely how many crime victims there are each year. Despite the issues laid out above, these two official crime statistic databases are the best estimates of criminal victimization in the U.S. Nevertheless, it is important to interpret all numbers with caution.

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<sup>394</sup> Jennifer L. Truman and Heather Brotsos, “Update on the NCVS Instrument Redesign: Operational Pilot Test and Split Sample,” Bureau of Justice Statistics, Jun. 2023, <https://bjs.ojp.gov/document/uncvsiroptss.pdf>; Michael A. Christman and Alex Piquero, “New and Better Crime Data for the Nation,” Office of Public Affairs Blog Post, Oct. 5, 2022, <https://www.justice.gov/opa/blog/new-and-better-crime-data-nation>.

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## Chapter 2: Crime Trends 2017-2021

The Commission voted to investigate racial disparities in crime victimization because FBI data showed some types of violent crime increased during the COVID-19 pandemic. These increases were not for all crime types nor were they consistent across the years in this study. Specifically, gun violence and homicides increased in 2020 and 2021. These increases are important for investigating racial disparities in victimization because a confluence of systemic inequities concentrate homicides and gun violence in Black neighborhoods (see Chapter 1). Patrick Sharkey, William S Tod Professor of Sociology and Public Affairs at Princeton University, testified:

[S]o what we know is that in 2020 there was a huge increase in gun violence. And that was just gun violence exclusively. Since then, in 2021 it was high again. Last year [2022] we had a very sharp decline, one of the largest declines ever, year-to-year declines. And this year [2023], we're having an even larger decline.<sup>395</sup>

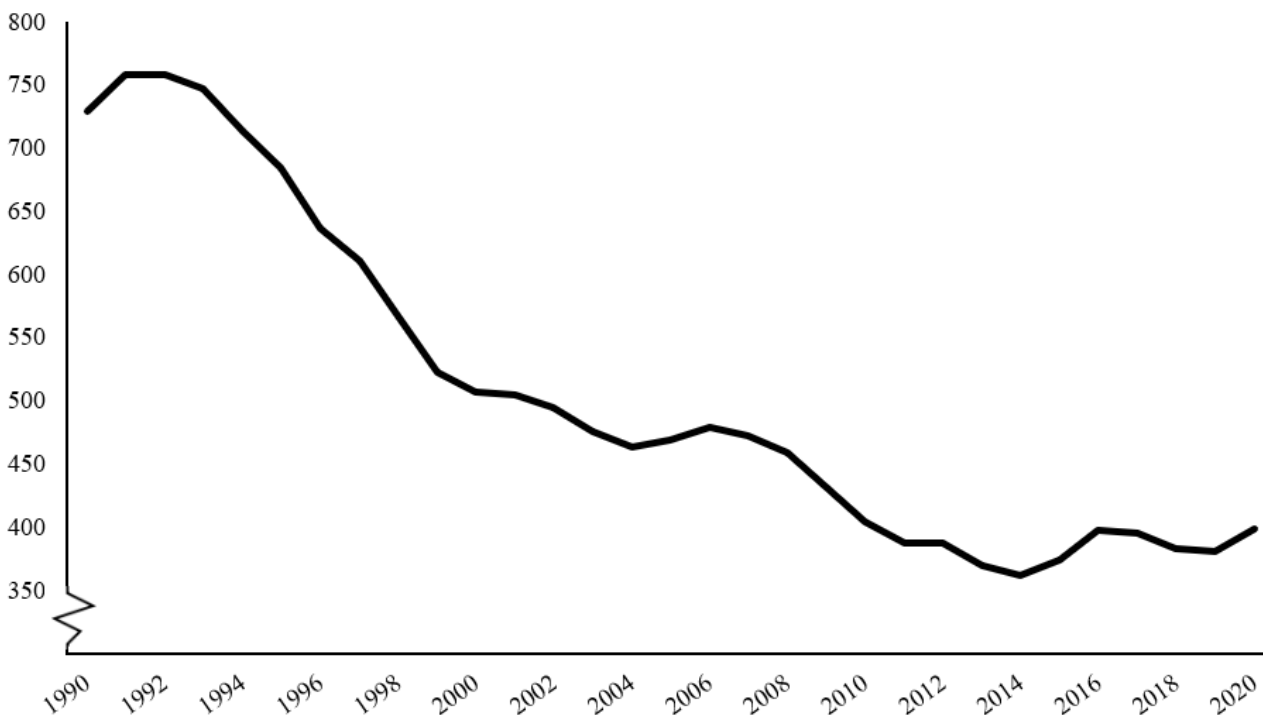
The increases in violence from 2020-2021 were unexpected because crime rates have trended downward for the past three decades with occasional upticks over that period. Figure 2 below shows the violent crime rate beyond the period of this study using UCR data to demonstrate the longer trend and the fluctuations in the crime rate over time. The year with the highest violent crime rate was 1991, when 758.2 violent crimes occurred for every 100,000 people. The year in this period with the lowest violent crime rate was 2014, when there were 361.6 violent crimes for every 100,000 people.

While the data show that the overall violent crime rate has been declining, these statistics do not diminish the significant impact of violence on the hardest hit communities. Angela Ferrell-Zabala, Executive Director of Moms Demand Action, explains that “we know that the numbers on their own can’t change how individuals, especially those from the most impacted Black and Brown communities, feel when it comes to crime, which is often unsafe, unheard, and unseen.”<sup>396</sup>

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<sup>395</sup> Sharkey Testimony, *Racial Disparities Briefing*, pp. 227-28.

<sup>396</sup> Ferrell-Zabala Testimony, *Racial Disparities Briefing*, p. 93.

**Figure 2: UCR Violent Crime Rate per 100,000 Residents, 1990-2020**

Note: The y-axis has been truncated to provide a more detailed look at the data.

Source: Federal Bureau of Investigation Crime Data Explorer, <https://cde.ucr.cjis.gov/LATEST/webapp/#>.

As discussed in Chapter 1, homicide is an important violent crime to highlight because it is a serious violent crime, as well as a critical crime for investigating racial disparities in violent crime victimization. Homicide is also the violent crime with the most reliable estimates because deaths, unlike some other crimes, are challenging to conceal as multiple systems are typically involved (e.g., police, doctors, coroners) and loved ones must file death certificates; therefore, homicides are captured through multiple databases such as UCR and the National Vital Statistics System.<sup>397</sup>

The homicide rate is shown in Figure 3 below for the same time period as the overall violent crime rate. Note that the numbers on the y-axis of Figure 3 are magnitudes smaller than those in Figure 2 (above) because homicide is the most statistically rare form of violent crime.<sup>398</sup> However, the downward trend mirrors that of violent crime overall. In 1991, also the year with the highest homicide rate, there were 9.8 homicides for every 100,000 people. By comparison, the lowest

<sup>397</sup> Wendy Regoeczi and Duren Banks, “The Nation’s Two Measures of Homicide,” Bureau of Justice Statistics, Jul. 2014, <https://bjs.ojp.gov/content/pub/pdf/ntmh.pdf>.

<sup>398</sup> Federal Bureau of Investigation Crime Data Explorer, <https://cde.ucr.cjis.gov/LATEST/webapp/#>.

homicide rate occurred in 2014, when there were 4.4 homicides for every 100,000 people.<sup>399</sup> Because of the serious racial disparities in the risk of homicide, researchers Sharkey and Friedson contend that “the drop in homicide represents a public health breakthrough for African American males.”<sup>400</sup> As Sharkey testified at the Commission’s briefing, the violent crime decrease had even broader effects: “[T]he drop in violence in the 1990s didn’t just save lives. It also improved academic performance. It narrowed racial gaps in achievement. It affected children’s cognitive development.”<sup>401</sup>

While increases in violent crime rates should always be taken seriously, it is important to situate fluctuations in the larger context of crime trends. Nationally, the rates witnessed in 2020 did not return the U.S. to the peak numbers in 1991. The rate of violent crimes per 100,000 people in 2020 was relatively flat, compared to the rate last seen a decade prior in 2010.<sup>402</sup> Despite these facts, the public has a right to be concerned and policymakers should develop empirically sound methods to address public safety issues. Regarding the peak of violent crime in the 1990s, Paul Pazen, Denver’s former Police Chief, argues that “[w]e shouldn’t use that benchmark and say that because we’re below the ‘90s that things are fine. As a matter of fact, crime shouldn’t be an issue in the United States at all.”<sup>403</sup> This is particularly true because people with the least societal advantage always bear a disproportionate share of increases in violence. Sharkey testified about the recent increase:

This is purely a rise in gun violence. Gun crime is the only form of crime that has risen since 2019. So just as the most disadvantaged communities benefitted the most when violence fell, those communities have experienced the greatest impact of the recent rise of violence.<sup>404</sup>

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<sup>399</sup> Ibid.

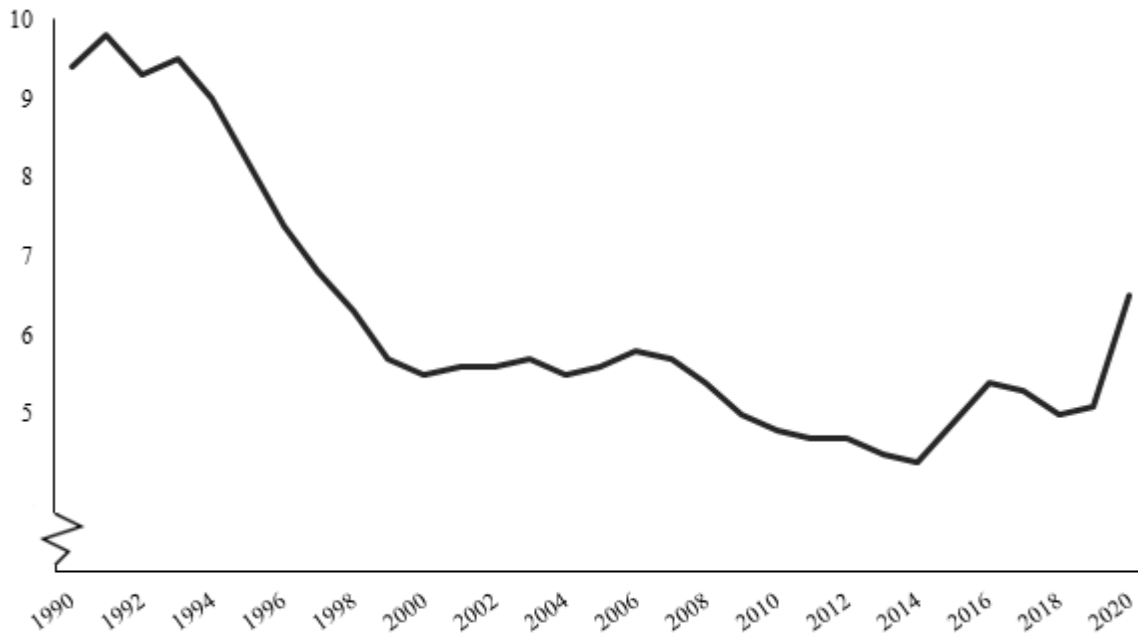
<sup>400</sup> Patrick Sharkey and Michael Friedson, “The Impact of the Homicide Decline on Life Expectancy of African American Males” *Demography*, 2019, vol. 56, no. 2, <https://read.dukeupress.edu/demography/article-abstract/56/2/645/167974/The-Impact-of-the-Homicide-Decline-on-Life>, p. 645.

<sup>401</sup> Sharkey Testimony, *Racial Disparities Briefing*, p. 185.

<sup>402</sup> Ames Grawert and Noah Kim, “Myths and Realities: Understanding Recent Trends in Violent Crime,” Brennan Center for Justice, Jul. 12, 2022, <https://www.brennancenter.org/our-work/research-reports/myths-and-realities-understanding-recent-trends-violent-crime>.

<sup>403</sup> Pazen Testimony, *Racial Disparities Briefing*, p. 41.

<sup>404</sup> Sharkey Testimony, *Racial Disparities Briefing*, p. 187.

**Figure 3: UCR Homicide Rate per 100,000 residents, 1990-2020**

Note: The y-axis has been truncated to provide a more detailed look at the data.

Source: Federal Bureau of Investigation Crime Data Explorer, <https://cde.ucr.cjis.gov/LATEST/webapp/#>.

Figures 2 and 3 demonstrate that crime rates fluctuate, so there are years with increases even during an overall trend of decreasing crime. This is one of the many reasons criminologists caution making assumptions or claims regarding crime rates based on data from one or two years.<sup>405</sup> For instance, the homicide rate declined in 2022,<sup>406</sup> but it is unclear if the downturn is part of a longer trend or itself an anomaly.

While the homicide rate increased from 2018-2021, crime increases are often presented without positioning them in the longer trend or interpreting the numbers, which can obscure the public's understanding of violent crime rates.<sup>407</sup> For instance, the FBI reported that the estimated number

<sup>405</sup> Grawert and Kim, "Myths and Realities: Understanding Recent Trends in Violent Crime"; John Gramlich, "What We Know About the Increase in U.S. Murders in 2020," Pew Research Center, Oct. 27, 2021, <https://www.pewresearch.org/short-reads/2021/10/27/what-we-know-about-the-increase-in-u-s-murders-in-2020/>; Weihua Li and James Lartey, "New Data Shows Violent Crime Is Up ... And Also Down," *Marshall Project*, Nov. 3, 2023, <https://www.themarshallproject.org/2023/11/03/violent-crime-property-data-nibrs-ucr-fbi-2022#:~:text=2022%20FBI%20crime%20statistics%20shows,year%2Dover%2Dyear%20trend.>

<sup>406</sup> Federal Bureau of Investigation, "FBI Releases 2022 Crime in the Nation Statistics," Oct. 16, 2023, <https://www.fbi.gov/news/press-releases/fbi-releases-2022-crime-in-the-nation-statistics>. See also Jeff Asher, "The Murder Rate is Suddenly Falling," *Atlantic*, Jun. 5, 2023, <https://www.theatlantic.com/ideas/archive/2023/06/us-murder-rate-decline-crime-statistics/674290/>.

<sup>407</sup> See *supra* notes 156-191 (discussing media's effects on public perceptions of crime).

of violent crimes increased in 2020 for the first time in four years.<sup>408</sup> In 2020, violent crime was up 5.6 percent from 2019.<sup>409</sup> Percent changes are useful for seeing trends over time, but can create an unclear picture of crime for average people who hear about crime in the news because they reference a base number that is often unstated. Moreover, large percent changes for rare events, (e.g., murder), are more common than large percent changes for more frequent events, (e.g., simple assault), which facilitates sensational headlines that do not provide a full picture. For instance, the number of homicides in Chula Vista, California increased by 150 percent in 2020, but that increase reflects six additional homicides because of the low base number of four homicides in 2019.<sup>410</sup> Percent changes can be useful for comparisons or trends over time but should always be interpreted cautiously in order to understand the magnitude of the human cost of victimization. See Chapter 1 of this report for a full discussion regarding data limitations and reliability.

Like percent changes, raw numbers of incidents are also an imperfect way to understand the problem of crime. While they can be useful for providing a snapshot of crime, they are not as informative as rates for making comparisons because they do not account for population size. Using the FBI's 2020 report that showed an increase in violent crime,<sup>411</sup> John Pfaff, a law professor at Fordham University, explains:

In absolute terms, the estimated 21,000 homicides in 2020 will be close to 1991's all-time high of 25,000. Framed like this, the current spike resembles the peak of a crime boom. But the U.S. population has grown by around 75 million people since 1991.<sup>412</sup>

Crime headlines in the media can lead to misunderstandings of crime trends because they often do not provide information about population sizes and demographic changes over time. For instance, Chicago is often presented as America's most dangerous city; and former government officials have claimed that it is "worse than Afghanistan."<sup>413</sup> While the most dangerous neighborhoods in Chicago have extremely high rates of gun violence,<sup>414</sup> city-level generalizations lack necessary context so can distort the actual statistics. The data show that in 2020, Chicago had the seventh

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<sup>408</sup> Federal Bureau of Investigation, "FBI Releases 2020 Crime Statistics," Sept. 28, 2021, <https://le.fbi.gov/cjis-division/cjis-link/fbi-releases-2020-crime-statistics>.

<sup>409</sup> Ibid.

<sup>410</sup> Richard Rosenfeld, Thomas Abt, and Ernesto Lopez, "Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update," Council on Criminal Justice, Jan. 2021, [https://build.neoninspire.com/counciloncj/wp-content/uploads/sites/96/2021/07/Year-End-Crime-Update\\_Designed.pdf](https://build.neoninspire.com/counciloncj/wp-content/uploads/sites/96/2021/07/Year-End-Crime-Update_Designed.pdf).

<sup>411</sup> Federal Bureau of Investigation, "FBI Releases 2020 Crime Statistics."

<sup>412</sup> John Pfaff, "Can Criminal Justice Reform Survive a Wave of Violent Crime?," *The New Republic*, Jun. 21, 2021, <https://newrepublic.com/article/162634/criminal-justice-reform-violent-crime>.

<sup>413</sup> Toni Monkovic and Jeff Asher, "Why People Misperceive Crime Trends (Chicago Is Not the Murder Capital)," *New York Times*, Updated Sept. 27, 2021, <https://www.nytimes.com/2021/06/16/upshot/murder-crime-trends-chicago.html>.

<sup>414</sup> Brandon del Pozo, Alex Knorre, Michael J. Mello, and Aaron Chalfin, "Comparing Risks of Firearm-Related Death and Injury Among Young Adult Males in Selected US Cities with Wartime Service in Iraq and Afghanistan," *JAMA Network Open*, 2022, vol. 5, no. 12, <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2799859>.



highest murder rate in the country, not the first, which is easy to misinterpret when the high raw number of homicides are presented without also explaining Chicago's large population.<sup>415</sup>

Due to the combination of crime statistics being presented in various ways, coupled with the fact that there is no perfect way to measure crime,<sup>416</sup> the task of presenting trends in violent crime victimization is not straightforward. Moreover, the COVID-19 pandemic impacted the criminal justice system and crime data collection, so current data might have reliability issues. John Paul Wright, professor in the School of Criminal Justice at the University of Cincinnati, testified:

The current picture of crime in America is complicated. And we have to be careful about extending too much credibility to crime estimates until we know more about the data generating process.<sup>417</sup>

The following sections provide violent crime trends using data collected by various federal agencies at the national level and for five selected jurisdictions for the period of this study.

## National Violent Crime Trends, 2017-2021

### *FBI*

The FBI provides crime data to the public in two main ways. The first is through its annual UCR Program reports, *Crime in the United States*; reports from 1995 through 2019 and are available online.<sup>418</sup> The second is through the Crime Data Explorer (CDE), which the FBI describes as the “digital front door” to the UCR data sets.<sup>419</sup> The CDE shows crime rates of specific crimes over time at state and national levels. Users can search for specific law enforcement agencies to see the raw numbers of crime by type over time. For jurisdictions that submitted their data to the UCR Program using NIBRS, the CDE shows additional information as either the total number or percentage of crimes by offender and victim demographics, location, relationship between victim and offender, weapon, and offense link to another offense. For FBI statistics in this report, we use data from the CDE unless otherwise noted.

The CDE is undeniably a critical tool for making timely crime data easily accessible to the public online.<sup>420</sup> Still, it is important to reemphasize that no data perfectly reflect crime (see Chapter 1 and Appendix A). Statistics on the CDE include all law enforcement agencies in the UCR Program. Law enforcement agencies, however, are not required to report to the FBI, so some numbers

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<sup>415</sup> Monkovic and Asher, “Why People Misperceive Crime Trends (Chicago Is Not the Murder Capital).”

<sup>416</sup> See *supra* Data Limitations section and Appendix A for more information.

<sup>417</sup> Wright Testimony, *Racial Disparities Briefing*, p. 198.

<sup>418</sup> Federal Bureau of Investigation, “UCR Publications,” <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/publications>.

<sup>419</sup> Federal Bureau of Investigation, “UCR Publications.”

<sup>420</sup> Jeffrey Fisher, “NIBRS: The Future of U.S. Crime Data,” *Police Chief Magazine*, Oct. 2017, <https://www.theiacp.org/sites/default/files/all/n-o/NIBRSTheFutureofUSCrimeDataOct2017.pdf>.

available on the CDE come directly from agencies while others are estimated at the state and national level using standard statistical procedures to account for missing agencies.<sup>421</sup> The type of data reported by different agencies varies depending on whether they reported using the old Summary Reporting System (SRS) or NIBRS, which was not required until 2021.

The CDE website is thorough and transparent about how the FBI collects and shares crime statistics. This includes the reminder that no single point estimate is inherently correct; methodologies of data collection and analysis have evolved over time, so some statistics on the website differ from those in UCR’s annual *Crime in the United States* reports.<sup>422</sup> Because some data come from the old SRS system, the CDE only counts the most serious offense.<sup>423</sup> We encourage readers to use the FBI’s statistics as the best estimate of trends in violent crime victimization known to law enforcement.

Table 2 shows each violent crime category as a rate for every 100,000 people for this report’s period. The most common violent crime in every year is aggravated assault, which the FBI defines as, “an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury,” typically with a weapon.<sup>424</sup> The least common violent crime every year is homicide.

**Table 2: Rate of UCR Victimization Rates for 100,000 Residents by Crime Type**

	2017	2018	2019	2020	2021
All Violent Crime	394.9	383.4	380.8	398.5	387.0
Aggravated Assault	249.2	248.2	250.4	279.7	272.2
Robbery	98.6	86.1	81.8	73.9	65.5
Rape	41.7	44.0	43.6	38.4	42.4
Homicide	5.3	5.0	5.1	6.5	6.8

Source: Federal Bureau of Investigation, Crime Data Explorer, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.

One impetus for the Commission undertaking this investigation was due to the rise in violent crime in 2020, which was driven by increases in aggravated assault and homicide.<sup>425</sup> There were 14,678 homicides in 2019 and 18,965 in 2020,<sup>426</sup> which is an increase of 29 percent.<sup>427</sup> There are few

<sup>421</sup> Federal Bureau of Investigation, “Crime Data Explorer: Methodologies Explain Potential Differences in UCR Data,” <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/about#faq>.

<sup>422</sup> Federal Bureau of Investigation, “Crime Data Explorer: Methodologies Explain Potential Differences in UCR Data.”

<sup>423</sup> Federal Bureau of Investigation, “Crime Data Explorer: About the Data,” <https://cde.ucr.cjis.gov/LATEST/webapp/#>.

<sup>424</sup> Federal Bureau of Investigation, “Crime in the United States, 2017, Aggravated Assault,” Uniform Crime Report, <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/aggravated-assault.pdf>.

<sup>425</sup> Federal Bureau of Investigation, “FBI Releases 2020 Crime Statistics.”

<sup>426</sup> Federal Bureau of Investigation, “Crime Data Explorer,” <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/shr>.

<sup>427</sup> Federal Bureau of Investigation, “The Transition to the National Incident-Based Reporting System (NIBRS): A Comparison of 2020 and 2021 NIBRS Estimates,” <https://perma.cc/LVL4-Z276>.

statistically significant differences in crime rates between 2020 and 2021.<sup>428</sup> In 2021, rape and homicide rates went up again, though the overall violent crime rate went down because there was a decrease in the robbery rate.<sup>429</sup>

Since this report examines how federal agencies address racial disparities in violent crime victimization, it first requires knowing if there are racial disparities in violent crime victimization. One main issue in determining if there are racial disparities across violent crime categories is that prior to the full transition to NIBRS in 2021, it was not possible to estimate crime rates by race at the national level for most crimes using the FBI's publicly available data (see Appendix A for more information). The full transition to NIBRS provides more information about the relationship between race and victimization because it asks agencies to collect and report details of both the offender's and the victim's social demographics for all personal crimes. While the data are not available for all violent crimes prior to the NIBRS transition, homicide data are distinct because even using the prior reporting system, agencies collected and shared more nuanced data about the victim and offender for homicides. Using data from the FBI's Expanded Homicide data collection and Census population estimates, we show estimated homicide rates by race/ethnicity for the period of this study in Table 3.<sup>430</sup> UCR data are presented separately for race and ethnicity, so Black and White are not mutually exclusive with Hispanic. For the most accurate estimates, corresponding categories from Census data are used. See Appendix A for additional information.

**Table 3: UCR Homicide Rate per 100,000 Residents by Victim Race/Ethnicity, 2017-2021**

	2017	2018	2019	2020	2021
Total	4.6	4.3	4.2	5.4	4.9
White	2.8	2.6	2.4	3.1	3.1
Black	19.0	17.8	17.8	24.0	23.2
Hispanic	4.0	3.6	3.6	4.8	3.1

Source for 2017-2020 data: FBI, "Expanded Homicide" Table 1; Census Bureau.

Source for 2021 data: FBI, Crime Data Explorer,

<https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.

As Table 3 shows above, the homicide rate increased in 2020 for the first time in four years; there were 4.2 homicides for every 100,000 people in 2019 and 5.4 homicides for every 100,000 people in 2020. The homicide rate increased for White, Black, and Latino Americans. The largest increase happened for Black Americans, who are at much higher risk of dying by homicide than members of any other racial group. In 2020, 24.0 of every 100,000 Black Americans were homicide victims compared to 3.1 of every 100,000 White Americans. Black Americans are approximately eight times as likely to be a homicide victim compared to their White counterparts. Rafael Mangual,

<sup>428</sup> Reporting using NIBRS was first required in 2021. Ibid.

<sup>429</sup> Federal Bureau of Investigation, "The Transition to the National Incident-Based Reporting System (NIBRS)."

<sup>430</sup> Expanded Homicide data are not available for 2021 at the writing of this report, likely because of the transition to NIBRS in 2021. Homicide data for 2021 are from the Crime Data Explorer.

Manhattan Institute Fellow, testified that this increase in homicide “represents a total erasure of the progress made on that measure between 1991 and the mid-2010s [for Black men].”<sup>431</sup>

*CDC*

Another way to see the racial disparities in homicides is through CDC mortality data. The CDC compiles National Vital Statistics System data into tables of the top ten leading causes of death. Table 4 shows the percent of people in each demographic group that died by homicide and where homicide ranks for cause of death in that age group in 2018, the most recent year compiled by the CDC at the writing of this report.

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<sup>431</sup> Mangual Testimony, *Racial Disparities Briefing*, p. 210.

**Table 4: Homicide as a Leading Cause of Death in 2018 by Age, Race, and Sex, CDC**

	<b>Ages 1-19</b>	<b>Ages 20-44</b>	<b>All Ages</b>
<b>Males</b>			
Black	35.1% (#1)	26.1% (#1)	4.5% (#5)
American Indian or Alaska Native	16.0% (#3)	7.1% (#5)	2.3% (#9)
Native Hawaiian or Pacific Islander	14.3% (#1)*	8.9% (#4)	2.0% (#8)
Hispanic	4.8% (#2)	9.8% (#3)	2.2% (#10)
White	5.4% (#4)	2.8% (#5)	N/A
Asian	5.0% (#5)	4.0% (#7)	N/A
<b>Females</b>			
Black	15.1% (#2)	8.3% (#4)	N/A
American Indian or Alaska Native	3.3% (#6)	3.8% (#6)	N/A
Native Hawaiian or Pacific Islander	4.5% (#5)*	3.1% (#8)*	N/A
Hispanic	6.2% (#4)	4.9% (#5)	N/A
White	9.8% (#4)	2.3% (#6)	N/A
Asian	5.3% (#5)*	2.4% (#7)	N/A

Note: Hispanic is of any race; all other groups are non-Hispanic.

Note: Rank in parentheses.

\*Tied at rank with at least one other cause.

Source: Centers for Disease Control and Prevention, "Leading Causes of Death,"

<https://www.cdc.gov/minorityhealth/lcod/>.

Like UCR data, CDC data show substantial differences in the risk of dying by homicide by race/ethnicity, with important additional information about gender and age. The final column of Table 4 shows whether and where homicide ranks in the top ten leading causes of death for the race/gender group for all ages. In 2018, the most recent year with aggregated leading cause of death data at the writing of this report, homicide is one of the top ten causes of death for males who are Black, Native American, Native Hawaiian or Pacific Islander, and Hispanic of any race. Black males have the highest risk of being the victim of homicide; 4.5 percent of all Black males who died in 2018 died by homicide.

The CDC data also reveal an important truth about homicide risk by age. Most crimes are committed by young males and experienced by young males.<sup>432</sup> The data disaggregated by age and race/ethnicity show startling racial disparities. For White males in 2018, homicide was the fourth leading cause of death (5.4 percent) for those who died between 1-19 years of age, and the fifth leading cause of death (2.8 percent) for those who died between 20-44 years of age. For Black males, homicide was the number one leading cause of death in both age groups. Thirty five percent of Black males who died between ages 1-19 were homicide victims and 26 percent of Black males who died between ages 20-44 were homicide victims. The racial disparities are less pronounced, but still present, for females.<sup>433</sup> For Black females who died between ages 1-19 in 2018, 15 percent died by homicide compared to 10 percent of White females. There are no female ethnorracial groups where homicide was a top ten cause of death by combined age, shown in the final column of Table 4.

### NCVS

The National Crime Victimization Survey is the main source of federal data about violent crime victimization other than homicide. Because these data are collected in part to capture the dark figure of crime,<sup>434</sup> and have always included demographic information about crime victims, they reliably capture victimization incidents unknown to law enforcement, as well as racial disparities in victimization.

Like UCR data, NCVS data are presented to the public in two main forms. The first is through summary reports written by Bureau of Justice Statistics (BJS) statisticians. These include annual *Criminal Victimization* reports and reports using supplementary NCVS data.<sup>435</sup> BJS also maintains the NCVS Data Dashboard (N-DASH), which allows users to generate graphics and tables of NCVS data by crime type and victim demographics over time.<sup>436</sup> Victimization reports and the N-DASH website present NCVS data using victimization rates for every 1,000 people.<sup>437</sup> UCR data show rates for every 100,000 people because of the relative rarity of homicide. NCVS does not include homicide, so it is unnecessary to have such a large base for standardization. To facilitate a

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<sup>432</sup> Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006).

<sup>433</sup> Elliott Currie, *A Peculiar Indifference: The Neglected Toll of Violence on Black America* (New York: Metropolitan Books, 2020).

<sup>434</sup> Stephanie Eckroth, "Historical Perspective on the National Crime Victimization Survey...50 Years of Data and Counting," Bureau of Justice Statistics, Jul. 28, 2023, <https://bjs.ojp.gov/blogs/historical-perspective-national-crime-victimization-survey50-years-data-and-counting>.

<sup>435</sup> Erika Harrell, Rachel Morgan, Alexandra Thompson, Jennifer Truman, Susannah Tapp, Emilie Coen, "National Crime Victimization Survey (NCVS)," Bureau of Justice Statistics, <https://bjs.ojp.gov/data-collection/ncvs#publications-0>.

<sup>436</sup> Bureau of Justice Statistics, "National Crime Victimization Survey Data Dashboard (N-DASH)," <https://ncvs.bjs.ojp.gov/Home>.

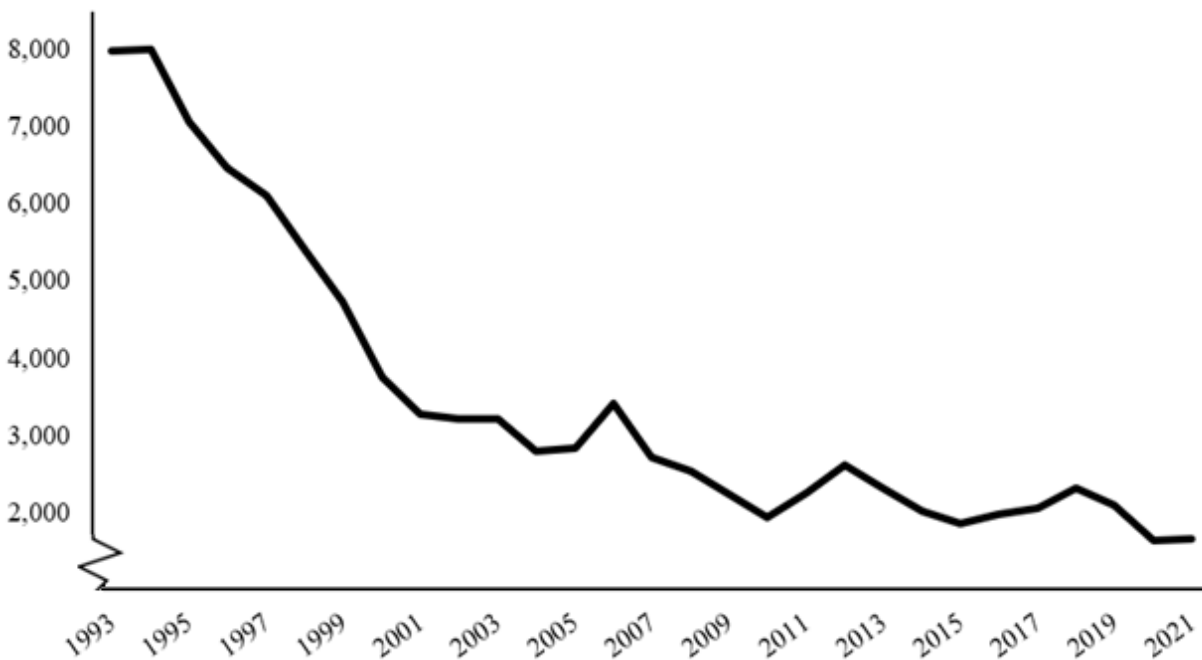
<sup>437</sup> Bureau of Justice Statistics, "NCVS Dashboard: Units of Measurement and Interpreting Dashboard Results," <https://ncvs.bjs.ojp.gov/methodology#unitdef>.

comparison of crime victimization rates between UCR and NCVS data, NCVS data are presented for every 100,000 people instead of using their practice of showing rates for every 1,000 people.

Figure 4 shows the longer trend in crime victimization using NCVS data. This should not be identical to Figure 2 as NCVS victimization estimates differ from UCR estimates because of reporting, crime measurement, and which crimes are included in the count of violent crimes. Still, these two figures are similar in the overall downward trend in violent crime victimization with occasional fluctuations. It is important to note, however, the difference in scale.

Violent crime victimization rates, shown on the y-axis of Figure 4, are approximately ten times as high as those shown in Figure 2 using UCR data. For instance, in 1995 the total violent crime rate was 684.5 per 100,000 according to UCR data and over ten times as high, at 7,068.1 per 100,000, according to NCVS data. There are two main reasons driving the difference in magnitude of violent crime victimization rates. First, NCVS data include victimizations that are not reported to police, so partially account for the dark figure of crime. Second, NCVS classifies simple assault as a violent crime whereas UCR data classify aggravated assault but not simple assault as a violent crime.

**Figure 4: NCVS Violent Crime Victimization Rate per 100,000 Residents, 1993-2021**



Note: The y-axis has been truncated to provide a more detailed look at the data.

Source: Bureau of Justice Statistics, Population counts (Person) table (12 and older), <https://bjs.ojp.gov/data-collection/ncvs#xj29kl>; NCVS, Number of violent victimizations, <https://ncvs.bjs.ojp.gov/multi-year-trends/characteristic>.

While UCR data find an increase in violent crime in 2020 (see Table 2 above), NCVS data show a decrease in violent crime victimization rates from 2018-2020 and an increase in 2021 (see Table

5 below). As Table 5 shows, simple assault is the most common form of violent crime victimization in each year. Estimates for rates of aggravated assault, robbery, and rape are typically higher using NCVS data compared to UCR data because they include crimes that are not known to law enforcement. For instance, the robbery rate was 60.9 per 100,000 in 2021 according to UCR data, but 2.7 times as high at 166.3 per 100,000 according to NCVS data. As discussed above, how a crime is defined matters, and since NCVS uses a more expansive definition of rape that includes sexual assault and attempted or threatened rape,<sup>438</sup> this broader definition partially explains the substantial difference in estimates of rapes per 100,000 people compared to estimates using UCR data.

**Table 5: NCVS Victimization Rates per 100,000 by Crime Type, 2017-2021**

	2017	2018	2019	2020	2021
<b>All Violent Crime</b>	2,059.9	2,319.3	2,099.7	1,639.1	1,647.0
Simple Assault	1,325.5	1,460.0	1,372.5	1,074.8	1,090.0
Aggravated Assault	364.5	384.3	368.2	292.1	274.5
Robbery	225.3	208.2	193.0	157.2	166.3
Rape/Sexual Assault	144.6	266.8	165.9	115.1	116.2

Sources: Bureau of Justice Statistics, Population counts (Person) table (12 and older): <https://bjs.ojp.gov/data-collection/ncvs#xj29kl>; NCVS, Number of violent victimizations <https://ncvs.bjs.ojp.gov/multi-year-trends/characteristic>.

Crime rate estimates using NCVS data are well-suited for exploring racial disparities in victimization for all violent crime categories other than homicide. As stated previously, NCVS data are based on surveys with people about their own victimization, therefore, the data only reflect nonfatal offenses. Table 6 shows NCVS violent victimization rates from 2017-2021 by race (see Appendix A for more information).

<sup>438</sup> Rachel E. Morgan and Erica L. Smith, “The National Crime Victimization Survey and National Incident-Based Reporting System: A Complementary Picture of Crime in 2021,” Bureau of Justice Statistics, <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/ncvsnibrscpc21.pdf>.



**Table 6: NCVS Victimization Rates per 100,000 by Race and Crime Type, 2017-2021**

	White	Black	Hispanic	Other
<b>All Violent Crime</b>				
2017	2,077.0	2,180.4	2,068.3	1,742.9
2018	2,471.8	2,038.3	1,856.6	2,525.9
2019	2,095.3	1,865.3	2,129.6	2,395.1
2020	1,621.8	1,753.8	1,588.7	1,702.6
2021	1,608.2	1,849.2	1,585.9	1,760.4
<b>Simple Assault</b>				
2017	1,391.7	1,392.6	1,121.6	1,139.1
2018	1,652.1	1,034.1	1,008.4	1,561.3
2019	1,444.8	1,164.5	1,108.2	1,671.2
2020	1,090.5	1,002.4	1,040.2	1,133.1
2021	1,071.7	1,074.3	1,048.8	1,321.3
<b>Aggravated Assault</b>				
2017	362.5	348.3	410.9	310.6
2018	379.8	493.3	362.8	307.3
2019	310.3	338.2	614.5	332.6
2020	285.5	376.6	314.3	177.4
2021	270.0	365.1	226.9	276.4
<b>Robbery</b>				
2017	197.7	246.0	355.8	142.6
2018	157.0	385.6	272.1	203.2
2019	150.0	280.9	269.4	225.5
2020	119.0	263.6	138.7	314.9
2021	157.0	214.7	207.1	82.7
<b>Rape/Sexual Assault</b>				
2017	125.1	193.4	180.1	150.6
2018	283.0	125.2	213.3	454.1
2019	190.2	81.7	137.5	165.7
2020	126.8	111.2	95.5	77.1
2021	109.6	195.0	103.1	80.0

Note: "Other" includes the racial categories of Asian, Native Hawaiian and Other Pacific Islander, American Indian and Alaska Native, and persons of two or more races.

Note: Hispanic is of any race; all other groups are non-Hispanic.

Source: Bureau of Justice Statistics, Population counts (Person) table (12 and older):

<https://bjs.ojp.gov/data-collection/ncvs#xj29kl>; NCVS, Number of violent victimizations

<https://ncvs.bjs.ojp.gov/multi-year-trends/characteristic>.

Table 6 shows that overall, there are no disparities in violent victimization rates by race. The rates of violence for each crime type are not identical across races, but at the aggregate there are no statistical or substantive differences between groups. While this report shows victimization rates

without tests of statistical significance, according to BJS' 2021 *Criminal Victimization* report, violent victimization incidents involving White, Black, and Latino victims were similar to their population percentages; only people of Asian, Native Hawaiian, or Other Pacific Island descent experienced a disproportionately low share of violent victimization.<sup>439</sup> A BJS report that tests for racial disparities in violent victimization at the national level confirms that there are no racial disparities between White, Black, and Latino Americans during the period of this study.<sup>440</sup> For individual crime types, both Black and Latino people had a statistically higher rate of robbery victimization compared to White people for the study's time period.<sup>441</sup> Simple assault was statistically higher for White people than Black and Hispanic people during the study period.<sup>442</sup> NCVS data do not capture homicide victimization, which has enduring and substantial disparities in the risk of victimization by race.<sup>443</sup>

### *COVID-19 Victimization Data*

The COVID-19 pandemic affected all arenas of social life, including crime victimization. The Council on Criminal Justice (CCJ) launched the National Commission on COVID-19 and Criminal Justice in July 2020, with a mission to assess the impact of the pandemic on the justice system.<sup>444</sup> They established a Violent Crime Working Group in July 2021 to continue their investigation and provide policy recommendations for the ongoing issue of violent crime.<sup>445</sup> Their resulting reports evaluate how the pandemic influenced crime trends in selected cities, population changes in state and federal prisons and jails, opioid use, and racial disparities in criminal justice and healthcare systems.

Using weekly online police department crime data from 25 cities, CCJ researchers show that property crimes and drug offenses decreased during the pandemic.<sup>446</sup> Robbery, which is counted as a violent crime in both UCR and NCVS data, exhibited a modest downward cyclical trend; the robbery rate during March to December of 2020 was 9.1 percent lower than during the same period the year before.<sup>447</sup> CCJ researchers argue that these decreases were a natural consequence of stay-at-home mandates and closed businesses. They explain:

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<sup>439</sup> Alexandra Thompson and Susannah N. Tapp, "Criminal Victimization, 2021," Bureau of Justice Statistics, Revised Jul. 5, 2023, <https://bjs.ojp.gov/content/pub/pdf/cv21.pdf>.

<sup>440</sup> Alexandra Thompson and Susannah N. Tapp, "Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008–2021," Bureau of Justice Statistics, Jul. 2023, <https://bjs.ojp.gov/violent-victimization-race-or-hispanic-origin-2008-2021>.

<sup>441</sup> Ibid.

<sup>442</sup> Ibid.

<sup>443</sup> Karen F. Parker and Patricia L. McCall, "Structural Conditions and Racial Homicide Patterns: A Look at the Multiple Disadvantages in Urban Areas," *Criminology*, 1999, vol. 37, no. 3, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1745-9125.1999.tb00493.x>.

<sup>444</sup> Rosenfeld, Abt, and Lopez, "Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update."

<sup>445</sup> Ibid.

<sup>446</sup> Ibid.

<sup>447</sup> Ibid.

Quarantines reduce residential burglaries – when residents are at home, opportunities for burglaries are foreclosed. When businesses are closed, there is no opportunity for larcenies such as shoplifting. Drug arrests fall when police prioritize away from drug enforcement activities, and when street-level drug-selling becomes more difficult because fewer people are out in public. Relatedly, residential burglaries and larcenies increased somewhat as quarantines were lifted and shops reopened during the summer.<sup>448</sup>

Quarantine orders also potentially impacted personal crimes. Domestic violence was a particular concern during the pandemic because it was a time of high stress and familial isolation.<sup>449</sup> CCJ researchers show that domestic violence increased sharply during the spring and summer of 2020 but then decreased to approximately the same level as 2019.<sup>450</sup> The authors caution that their results may not accurately reflect trends in domestic violence as they only use data from 12 cities and pandemic restrictions may have made reporting to the police difficult.<sup>451</sup> To better estimate the effect of pandemic-related restrictions on reported incidents of domestic violence, other researchers conducted a systematic review and meta-analysis of 18 empirical studies. Taken together, they find that most study estimates indicate an increase in domestic violence incidents during the pandemic, and that the effects were stronger when only U.S. studies were included in the analysis.<sup>452</sup>

Using crime data from police departments in 34 U.S. cities, CCJ researchers show that rates of aggravated assaults, including gun assaults, increased in the first year of the pandemic.<sup>453</sup> Their data on gun assaults are important because nonfatal gun violence is a source of racial disparity in violent victimization,<sup>454</sup> yet getting reliable estimates of nonfatal shootings is challenging using UCR data.<sup>455</sup> Mallory O’Brien, Associate Scientist at Johns Hopkins University, is part of an effort to collect better national data on nonfatal shootings. She testified:

When we are talking about violence, we can’t just focus on homicides. We really need to be able to look at non-fatal shootings because non-fatal shootings occur four times as often

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<sup>448</sup> Ibid.

<sup>449</sup> Alex R. Piquero, Wesley G. Jennings, Erin Jemison, Catherine Kaukinen, and Felicia Marie Knaul, “Domestic Violence During the COVID-19 Pandemic – Evidence from a Systematic Review and Meta-Analysis,” *Journal of Criminal Justice*, 2021, vol. 74, <https://doi.org/10.1016/j.jcrimjus.2021.101806>.

<sup>450</sup> There were 65 incidents of domestic violence per 100,000 people in January 2019 and 71 incidents of domestic violence per 100,000 people in January 2021. See Rosenfeld, Abt, and Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update.”

<sup>451</sup> Ibid.

<sup>452</sup> Piquero, Jennings, Jemison, Kaukinen, and Knaul, “Domestic Violence During the COVID-19 Pandemic.”

<sup>453</sup> Rosenfeld, Abt, and Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update.”

<sup>454</sup> Marissa Edmund, “Gun Violence Disproportionately and Overwhelmingly Hurts Communities of Color,” Center for American Progress, Jun. 30, 2022, <https://www.americanprogress.org/article/gun-violence-disproportionately-and-overwhelmingly-hurts-communities-of-color/>.

<sup>455</sup> Natalie Kroovand Hipple, “Towards a National Definition and Database for Nonfatal Shooting Incidents,” *Journal of Urban Health*, 2022, vol. 99, no. 3, <https://link.springer.com/article/10.1007/s11524-022-00638-2>. See also O’Brien Testimony, *Racial Disparities Briefing*, p. 203.

as homicides. So, if we really want to understand what's going on, we need to be able to look at the complete picture.<sup>456</sup>

Homicide data from January 2017 through the end of 2020 confirms prior research showing a cyclical pattern in homicide rates, with rates increasing during the warmer summer months and decreasing during the fall and winter.<sup>457</sup> After adjusting for seasonality and the longer-term trend, CCJ researchers show that there was a large, statistically significant increase in homicide rates in 2020.<sup>458</sup> The overall homicide rate was 30 percent higher in 2020 compared to 2019, which is a troubling increase, but the researchers find that “absolute rates of homicides remain well below historical highs.”<sup>459</sup> Homicide rates increased in most, but not all cities in their study.<sup>460</sup> The increase was not limited to larger cities, though across the sample the rates increased slightly more in larger cities compared to smaller cities.<sup>461</sup> Homicide increases were concentrated in the same disadvantaged neighborhoods of color that had high rates of violence prior to the pandemic.<sup>462</sup> CCJ researchers explain:

As might be expected, more disadvantaged cities – those with higher poverty and unemployment rates – experienced greater increases in homicide in 2020. Larger cities had modestly smaller increases in homicide, as did those with a larger share of residents between the ages of 18 and 24.<sup>463</sup>

One important dimension of increases in aggravated assault and homicide during the pandemic is the role of firearms. The CDC examined firearm deaths during the pandemic. They find that most homicides (79 percent) and suicides (53 percent) in the United States involved a firearm in 2020. These percentages are somewhat higher than during the preceding five years, when 73-75 percent of all homicides and 50-51 percent of all suicides involved firearms each year.<sup>464</sup> From 2019 to 2020, the overall firearm homicide rate increased 34.6 percent, from 4.6 to 6.1 for every 100,000 people. According to the CDC:

Multiple indicators (e.g., income inequality, unemployment, and housing and economic instability) are associated with risk for homicide and suicide. Youth firearm homicide and

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<sup>456</sup> O'Brien Testimony, *Racial Disparities Briefing*, p. 203.

<sup>457</sup> Rosenfeld, Abt, and Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update.”

<sup>458</sup> Ibid.

<sup>459</sup> Ibid.

<sup>460</sup> Homicide increased in 29 of the 34 cities (85%) in their sample. See Figure 11 of their report for percent changes in each city. Ibid.

<sup>461</sup> Ibid.

<sup>462</sup> Lois Beckett and Abené Clayton, “How Bad is the Rise in US Homicides? Factchecking the ‘Crime Wave’ Narrative Police are Pushing,” *Guardian*, Jun. 30, 2021, <https://www.theguardian.com/us-news/2021/jun/30/us-crime-rate-homicides-explained>.

<sup>463</sup> Rosenfeld, Abt, and Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update.”

<sup>464</sup> Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report (MMWR), “Vital Signs: Changes in Firearm Homicide and Suicide Rates – United States, 2019 – 2020,” May 13, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/mm7119e1.htm>.

suicide rates have been associated with poverty at the county level, and the percentage of youths living in conditions of household poverty is higher among racial and ethnic minority populations. The economic and social challenges associated with the COVID-19 pandemic could have exacerbated such risks.<sup>465</sup>

The authors stress that the reasons for increasing rates and widening inequities are “unclear and potentially complex.”<sup>466</sup> The impact of place, though, continues to be apparent. In 2020, counties with the highest poverty level had firearm homicide and suicide rates that were 4.5 and 1.3 times as high, respectively, as counties with the lowest poverty level.<sup>467</sup> A study conducted by the Brookings Institution examined gun homicides in four cities on a granular level; they find that the intersection of poverty, racial segregation, and systemic neighborhood disinvestment predict where high rates of gun homicides occur.<sup>468</sup> Understanding the correlates of homicide in the micro geographic areas where they are concentrated<sup>469</sup> can help illuminate solutions to the problem of racial disparities in homicide.

Firearm assaults that did not lead to the victim’s death also increased during the pandemic.<sup>470</sup> Nonfatal shootings that result in injury are approximately twice as common as fatal shootings.<sup>471</sup> Though they are more common, nonfatal shootings are given fewer police resources so are less likely to be solved.<sup>472</sup> These shootings are critical to address because they are medically expensive for individuals and the healthcare system more broadly,<sup>473</sup> have long-term psychological<sup>474</sup> and

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<sup>465</sup> Ibid.

<sup>466</sup> Ibid.

<sup>467</sup> Ibid.

<sup>468</sup> DW Rowlands and Hanna Love, “Mapping Gun Violence: A Closer Look at The Intersection Between Place and Gun Homicides in Four Cities,” Brookings Institution, Apr. 21, 2022, <https://www.brookings.edu/articles/mapping-gun-violence-a-closer-look-at-the-intersection-between-place-and-gun-homicides-in-four-cities/>.

<sup>469</sup> Ruth D. Peterson and Lauren J. Krivo, *Divergent Social Worlds: Neighborhood Crime and The Racial-Spatial Divide* (New York: Russell Sage Foundation, 2010); See *supra* Crimes, Neighborhoods, and Race section (discussion regarding the geographic concentration of crime).

<sup>470</sup> Rosenfeld, Abt, and Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update.”

<sup>471</sup> Katherine A. Fowler, Linda L. Dahlberg, Tadesse Haileyesus, and Joseph L. Annet, “Firearm Injuries in the United States,” *Preventive Medicine*, 2015, vol. 79, <https://doi.org/10.1016/j.ypmed.2015.06.002>; see also Wright Testimony, *Racial Disparities Briefing*, p. 199.

<sup>472</sup> Ted Alcorn, “One City’s Surprising Tactic to Reduce Gun Violence: Solving More Nonfatal Shootings,” *Marshall Project*, Oct. 30, 2023, <https://www.themarshallproject.org/2023/10/30/nonfatal-shootings-police-clearance-rates-denver>.

<sup>473</sup> Philip J. Cook, Jens Ludwig, and Adam M. Samaha, “Gun Control After Heller: Threats and Sideshows from a Social Welfare Perspective,” *UCLA L. Rev.*, 2008, vol. 56, [chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=13042&context=journal\\_articles](http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=13042&context=journal_articles). See also Jarone Lee, Sadeq A. Quraishi, Saurabha Bhatnagar, Ross D. Zafonte, and Peter T. Masiakos, “The Economic Cost of Firearm-Related Injuries in the United States from 2006 to 2010,” *Surgery*, 2014, vol. 155, no. 5, <https://www.sciencedirect.com/science/article/abs/pii/S0039606014000609>.

<sup>474</sup> Rose MC Kagawa, Veronica A. Pear, Kara E. Rudolph, Katherine M. Keyes, Magdalena Cerdá, and Garen J. Wintemute, “Distress Level and Daily Functioning Problems Attributed to Firearm Victimization: Sociodemographic-Specific Responses,” *Annals of Epidemiology*, 2020, vol. 41, <https://www.sciencedirect.com/science/article/abs/pii/S1047279719305666>.

physical consequences – including high rates of spinal cord injuries<sup>475</sup> – and can lead to retributive gun violence.<sup>476</sup> While UCR data are currently not designed for reliable estimates of nonfatal shootings,<sup>477</sup> some studies demonstrate that nonfatal gun violence is a source of racial disparity in violent victimization.<sup>478</sup> Data from emergency room visits are one way to know about racial disparities in gun violence. James Mercy, Director of the Division of Violence Prevention at the CDC, testified:

There are three features of these disparities worth noting. First, racial and ethnic disparity [is] greater for the more serious violent outcomes. That is, disparities are greatest for homicide followed by non-fatal injuries. Second, racial and ethnic disparities are greatest among male adolescent and young adults. And third, when rates of violence increase, racial and ethnic disparities in violence increase as well.<sup>479</sup>

The uptick in serious violence during this time happened during a pandemic that disrupted everyone's lives on countless measures. The COVID-19 pandemic caused unprecedented changes to businesses, social structures, education, and daily life. Therefore, it is not surprising that the overall trends of crime during this period also follow an unusual pattern. Typically, different crime types trend up or down together.<sup>480</sup> During the pandemic, however, property crimes, drug crimes, and robberies fell, while homicides, aggravated assaults, and gun assaults increased.<sup>481</sup> Because the crime increases during the pandemic were in the most serious forms of violent crime, it is important to situate them in broader trends to connect victims with the most useful services tailored to long-term recovery and to reduce racial disparities in homicide and nonfatal gun violence.

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<sup>475</sup> Dina Mahmassani, Rana Bachir, and Mazen El Sayed, "Patterns and Predictors of Firearm-Related Spinal Cord Injuries In Adult Trauma Patients," *Western Journal of Emergency Medicine*, 2021, vol. 22, no. 2, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7972377/>.

<sup>476</sup> Ted Alcorn, "One City's Surprising Tactic to Reduce Gun Violence: Solving More Nonfatal Shootings."

<sup>477</sup> Natalie Kroovand Hipple, "Towards a National Definition and Database for Nonfatal Shooting Incidents," *Journal of Urban Health*, 2022, vol. 99, no. 3, <https://link.springer.com/article/10.1007/s11524-022-00638-2>. See also O'Brien Testimony, *Racial Disparities Briefing*, p. 203.

<sup>478</sup> Edmund, "Gun Violence Disproportionately and Overwhelmingly Hurts Communities of Color"; Bindu Kalesan, Mrithyunjay A. Vyliparambil, Erin Bogue, Marcos D. Villarreal, Sowmya Vasani, Jeffrey Fagan, Charles J. DiMaggio, Steven Stylianou, Sandro Galea, and Firearm Injury Research Group, "Race and Ethnicity, Neighborhood Poverty and Pediatric Firearm Hospitalizations in the United States," *Annals of Epidemiology*, 2016, vol. 26, <https://www.sciencedirect.com/science/article/abs/pii/S1047279715004482>; del Pozo, Knorre, Mello, and Chalfin, "Comparing Risks of Firearm-Related Death and Injury Among Young Adult Males in Selected US Cities with Wartime Service in Iraq and Afghanistan."

<sup>479</sup> Mercy Testimony, *Racial Disparities Briefing*, pp. 36-37.

<sup>480</sup> Grawert and Kim, "Myths and Realities: Understanding Recent Trends in Violent Crime." See also David A. Graham, "America is Having Violence Wave, Not a Crime Wave," *Atlantic*, Sept. 29, 2021, <https://www.theatlantic.com/ideas/archive/2021/09/america-having-violence-wave-not-crime-wave/620234/>.

<sup>481</sup> Ernesto Lopez and Richard Rosenfeld, "Crime, Quarantine, and the US Coronavirus Pandemic," *Criminology & Public Policy*, 2021, vol. 20, no. 3, <https://onlinelibrary.wiley.com/doi/full/10.1111/1745-9133.12557>.

## Overview of Selected Jurisdictions

Since crime concentrates in small geographic areas (see Chapter 1),<sup>482</sup> the Commission selected five local jurisdictions to conduct a more in-depth analysis of trends and racial disparities in violent crime victimization over the study period. This report's primary purpose is to examine the extent to which the federal government can identify civil rights issues in violent crime victimization, so only cities that submitted their crime data to UCR using NIBRS through 2021 were eligible because the old summary reporting system did not capture victim demographics for nonfatal crimes. While NCVS data are well-suited for identifying racial disparities in nonfatal crime victimization at national levels, data are just becoming publicly available at substate levels because of concerns about participant privacy.<sup>483</sup> Therefore, jurisdiction-level data presented in this section are only from crimes known to the police, so are likely an undercount.

Of the cities that submitted their data using NIBRS, Denver, Houston, Memphis, Milwaukee, and Seattle were selected because they are geographically and demographically diverse. Table 7 shows the population size and ethnoracial composition of the selected cities.

**Table 7: Racial/Ethnic Demographics of Selected Jurisdictions, 2022**

	United States	Houston	Seattle	Denver	Memphis	Milwaukee
<b>Population</b>	333,287,557	2,302,878	749,256	713,252	621,056	563,305
<i>Race</i>						
White	75.5%	46.8%	64.9%	68.8%	27.1%	39.9%
Black	13.6%	22.6%	6.8%	9.0%	64.6%	39.4%
Asian	6.3%	6.8%	16.3%	3.6%	1.7%	4.5%
American Indian and Alaska Native	1.3%	0.5%	0.5%	0.8%	0.3%	0.6%
Native Hawaiian and Other Pacific Islander	0.3%	0.1%	0.2%	0.1%	0.0%	0.0%
Two or More Races	3.0%	10.8%	8.8%	9.9%	2.7%	7.6%
<i>Ethnicity</i>						
Hispanic/ Latino	19.1%	44.5%	7.2%	29.4%	7.7%	19.9%
Non-Hispanic White	58.9%	24.1%	62.2%	54.0%	24.3%	33.0%

Source: U.S. Census, "QuickFacts" <https://www.census.gov/quickfacts/> for: United States; Houston City, Texas; Seattle City, Washington; Denver City, Colorado; Memphis City, Tennessee; Milwaukee City, Wisconsin.

The purpose of closely examining select cities is to use each as a case study, not to compare cities to each other. All cities are unique. The FBI explicitly makes this point on the Crime Data Explorer

<sup>482</sup> David Weisburd, "The Law of Crime Concentration and the Criminology of Place," *Criminology*, 2015, vol. 53, no. 2, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9125.12070>.

<sup>483</sup> Bureau of Justice Statistics, "NCVS Subnational Estimates," <https://bjs.ojp.gov/subnational-estimates-program>.

(CDE) page. In the “About the Data” section, there is an “Avoid Rankings and Comparisons” bullet point that states, “[s]ince crime is a sociological phenomenon influenced by a variety of factors, the FBI discourages ranking locations or making comparisons as a way of measuring law enforcement effectiveness.”<sup>484</sup> Within that text, there is a hyperlink to a document about the proper use of UCR statistics that cautions:

Data users should not rank locales because there are many factors that cause the nature and type of crime to vary from place to place. UCR statistics include only jurisdictional population figures along with reported crime, clearance, or arrest data. Rankings ignore the uniqueness of each locale.<sup>485</sup>

Therefore, this section is intended to provide context in specific cities to flesh out what can seem paradoxical: there are not racial disparities in violent crime victimization at the aggregate, but there are racial disparities in the most serious types of violent crime in smaller geographic areas.

*Denver*

Denver, known as “The Mile High City,” is Colorado’s capital. Denver’s Black population is slightly lower than the national average (9.0 percent, 13.6 percent, respectively) while its Latino population is higher than the national average (29.4 percent, 19.1 percent, respectively). Denver’s violent crime victimization rates are shown below in Table 8. Denver had higher violent crime rates in all years compared to the overall rate in the U.S. (see Table 2). This is true for all selected jurisdictions in this report because cities have higher crime rates than suburban and rural areas<sup>486</sup> and national estimates include all geographical locations.

**Table 8: Denver Victimization Rate for 100,000 Residents by Crime Type, 2017-2021**

	2017	2018	2019	2020	2021
<b>All Violent Crime</b>	721.7	779.1	789.7	926.6	<b>1,010.0</b>
Aggravated Assault	398.8	462.3	483.5	615.9	<b>673.8</b>
Robbery	208.1	203.1	195.0	203.5	<b>217.6</b>
Rape	<b>106.6</b>	104.7	102.0	93.6	104.6
Homicide	8.2	9.1	9.2	13.5	<b>14.1</b>

Source: Federal Bureau of Investigation, Crime Data Explorer, Denver Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Denver City, Colorado from <https://data.census.gov/>. See Appendix A for more information.

<sup>484</sup> Federal Bureau of Investigation, “Crime Data Explorer,” <https://cde.ucr.cjis.gov/LATEST/webapp/#>.

<sup>485</sup> Federal Bureau of Investigation, “Uniform Crime Reporting Statistics: Their Proper Use,” <https://ucr.fbi.gov/ucr-statistics-their-proper-use>.

<sup>486</sup> Thompson and Tapp, “Criminal Victimization, 2021.” See also Heather Warnken and Janet Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services? Findings from the National Crime Victimization Survey for Expanding our Reach,” Center for Victim Research, 2019, [vnrnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article\\_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf](http://vnrnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf).



The total violent crime rate increased in Denver during the study period. The rate of victimization was higher in all categories of violent crime, other than rape, in 2021 compared to 2017. There was a marked increase in homicide and aggravated assault from 2019 to 2020. The rate of violent victimization increased for each violent crime type between 2020 and 2021.

There are not racial disparities in violent crime victimization at the national level when all violent crimes are included.<sup>487</sup> In Denver, however, the risk of violent victimization was not borne equally by all residents during the period of the study for most crimes. Table 9 shows the victimization rate for every 100,000 residents of Denver by race/ethnicity.<sup>488</sup>

**Table 9: Denver Victimization Rate per 100,000 Residents by Race and Crime Type, 2017-2021**

	White	Black	Hispanic	Native American	Asian
<b>All Violent Crime</b>					
2017	707.6	1,634.7	759.9	552.4	372.3
2018	754.2	1,794.4	805.4	643.1	387.7
2019	747.6	1,877.4	822.6	913.8	467.4
2020	930.7	2,208.5	965.9	630.6	467.7
2021	1,238.2	2,387.3	1,136.2	942.5	574.4
<b>Aggravated Assault</b>					
2017	371.5	1,097.6	431.2	309.9	132.7
2018	431.6	1,230.5	478.0	359.0	186.4
2019	448.2	1,319.0	528.2	544.0	214.8
2020	608.5	1,606.2	669.8	432.4	204.8
2021	815.2	1,754.2	798.7	494.4	306.1
<b>Robbery</b>					
2017	213.6	350.3	227.7	206.4	148.2
2018	210.8	322.4	225.8	149.1	224.3
2019	195.1	337.3	198.6	196.0	130.5
2020	213.9	374.2	207.7	220.3	90.1
2021	274.8	402.2	227.4	239.0	123.6
<b>Rape</b>					
2017	115.6	157.2	94.9	94.3	29.5
2018	105.6	200.9	93.6	59.8	37.3
2019	97.8	178.2	89.2	239.3	49.0
2020	97.3	171.9	75.7	108.1	38.7

<sup>487</sup> Thompson and Tapp, “Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008–2021.”

<sup>488</sup> Race-specific rates, instead of raw numbers of crimes, are shown for each jurisdiction to allow for comparison between racial groups because rates account for differences in population size. Still, these estimates should be read cautiously, not as an exact reflection of crime, but a reflection of publicly available data about crime that is known to law enforcement. Please see the Appendix A for additional information.

	<b>2021</b>	132.9	179.3	93.1	<b>309.0</b>	25.2
<b>Homicide</b>						
	<b>2017</b>	7.0	<b>29.6</b>	6.2	0.0	3.7
	<b>2018</b>	6.2	<b>40.5</b>	8.0	0.0	14.9
	<b>2019</b>	6.6	<b>43.0</b>	6.6	0.0	7.5
	<b>2020</b>	11.0	<b>56.3</b>	12.8	0.0	3.9
	<b>2021</b>	15.2	<b>51.7</b>	17.0	15.5	4.2

Note: Native American includes American Indian and Alaska Native.

Sources: Federal Bureau of Investigation, Crime Data Explorer, Denver Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Denver City, Colorado from <https://data.census.gov/>. See Appendix A for more information.

Latino residents of Denver experienced more overall violent victimization than White respondents in every year.<sup>489</sup> Latino residents did not experience a higher rate of victimization than White residents in all categories of crime, however. Latino residents had a lower rate of rape than White residents in all years.

Black residents had the highest rate of victimization in all categories of crime in Denver in most years. Black residents were over twice as likely to be victims of violent crime compared to White residents in 2017-2020. The crime categories with the largest racial disparities between Black and White residents are aggravated assault and homicide, which is consistent with national estimates showing that Black people, especially men, are the group most likely to be victims of homicide.<sup>490</sup> In the years of the study, Black residents in Denver were between 3.4 and 6.5 times as likely to be victims of homicide compared to their White counterparts.

In Denver, like other cities,<sup>491</sup> crimes are most likely to occur in a few neighborhoods. The Denver Police Department website includes an interactive crime map that shows where crimes, by NIBRS category, have recently occurred.<sup>492</sup> The map shows the raw count of crimes, not adjusted by neighborhood population. The Five Points neighborhood has the highest raw number of crimes at the time of this report. In Denver, violent crime is concentrated in downtown neighborhoods.<sup>493</sup>

<sup>489</sup> Hispanic and White are not mutually exclusive categories. See Appendix A for more information.

<sup>490</sup> Charles H. Hennekens, Joanna Drowos, and Robert S. Levine, “Mortality from Homicide Among Young Black Men: A New American Tragedy,” *The American Journal of Medicine*, 2013, vol. 126, no. 4, [https://www.amjmed.com/article/S0002-9343\(12\)00638-9/fulltext](https://www.amjmed.com/article/S0002-9343(12)00638-9/fulltext).

<sup>491</sup> Peterson and Krivo, *Divergent Social Worlds: Neighborhood Crime and The Racial-Spatial Divide*.

<sup>492</sup> Denver Police Department, “Crime Information: Crime Map,” <https://www.denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Police-Department/Crime-Information>.

<sup>493</sup> DJ Summers, “What are the Safest Neighborhoods in Denver?,” *Fox 31*, Jul. 20, 2022, <https://kdvr.com/news/data/what-are-the-safest-neighborhoods-in-denver/>.

Denver's police department has responded to violence in multiple ways. Toward the beginning of the period of this study, they added cameras to high-crime areas to deter and punish crime.<sup>494</sup> In 2020 they created a new unit, the Firearm Assault Shoot Team, to try to solve nonfatal shootings,<sup>495</sup> which are concentrated in a few high poverty neighborhoods.<sup>496</sup> Paul Pazen, Denver's former Police Chief, testified about the city's commitment to solving nonfatal shootings:

We have the highest clearance rate anywhere in the country on a nonfatal shooting, which is just as important as a fatal. The difference between a homicide and a nonfatal shooting is luck. And you can't continue the same old type of investigations on those cases or else you're going to have future homicides.<sup>497</sup>

### *Houston*

Houston is the largest city in Texas. Latino residents comprise a much higher share of Houston's population (44.5 percent) compared to the national average (19.1 percent). Similarly, 22.6 percent of Houston's population is Black compared to 13.6 percent at the national level (see Table 7).

Houston's rate of violent crime victimization, disaggregated by crime type, is shown in Table 10. Houston began submitting data to the FBI using NIBRS in 2018, so Table 10 shows violent crime victimization from 2018-2021. The overall violent crime rate in Houston rose substantially between 2018-2019,<sup>498</sup> which could reflect an increase in incidents and/or an increase in reporting because of the transition to NIBRS.<sup>499</sup> Rates of violent crime victimization increased for all categories, other than rape, between 2019 and 2020. Rates of aggravated assault and homicide were markedly higher at the end of the study period compared to 2019.

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<sup>494</sup> Christopher N. Osher, "Denver's Surveillance System Draws Praise, Concerns," *Denver Post*, Updated May 16, 2016, <https://www.denverpost.com/2010/06/05/denvers-surveillance-system-draws-praise-concerns/>.

<sup>495</sup> Alcorn, "One City's Surprising Tactic to Reduce Gun Violence: Solving More Nonfatal Shootings."

<sup>496</sup> Denver Public Health, "The Epidemiology of Firearm Injuries in Denver, Colorado," Aug. 29, 2017, [www.phidenverhealth.org/-/media/dph-files-and-docs/health-info-and-reports/dph-firearm-injury-report-20170829.pdf](http://www.phidenverhealth.org/-/media/dph-files-and-docs/health-info-and-reports/dph-firearm-injury-report-20170829.pdf).

<sup>497</sup> Pazen Testimony, *Racial Disparities Briefing*, p. 40.

<sup>498</sup> Federal Bureau of Investigation, Crime Data Explorer, Houston Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.

<sup>499</sup> See *supra* 305-314 (discussion regarding the NIBRS transition).

**Table 10: Houston Victimization Rate per 100,000 Residents by Crime Type, 2018-2021**

	2018	2019	2020	2021
<b>All Violent Crime</b>	618.7	1,091.6	1,336.5	1,319.7
Aggravated Assault	323.5	578.3	814.1	827.7
Robbery	253.8	444.1	449.2	414.1
Rape	34.1	57.3	56.0	57.7
Homicide	7.3	11.9	17.2	20.2

Source: Federal Bureau of Investigation, Crime Data Explorer, Houston Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Houston City, Texas from <https://data.census.gov/>. See Appendix A for more information.

As Table 11 below shows, the racial disparities in violent crime victimization in Houston are nuanced. Latino residents had slightly higher rates of victimization than White residents in 2018 and 2019 and White residents were slightly more likely to experience victimization in 2020. In 2021, there was a dramatic increase in victimization for White residents, making them more than twice as likely to experience victimization than their Latino counterparts. In 2021, Latino residents were about half as likely to be victims of aggravated assault, robbery, rape, and homicide than White residents of Houston.<sup>500</sup>

**Table 11: Houston Victimization Rate per 100,000 Residents by Race and Crime Type, 2018-2021**

	White	Black	Hispanic	Native American	Asian
<b>All Violent Crime</b>					
2018	564.4	1,240.0	589.1	173.2	428.3
2019	1,004.4	2,091.3	1,078.6	446.0	807.0
2020	1,293.3	2,650.6	1,182.2	561.7	795.1
2021	2,232.5	2,660.2	1,171.1	236.1	792.5
<b>Aggravated Assault</b>					
2018	243.0	811.0	256.6	34.6	112.8
2019	438.0	1,398.7	471.5	127.4	194.3
2020	685.9	1,909.3	618.6	224.7	267.5
2021	1,247.7	1,930.6	654.5	75.7	322.6
<b>Robbery</b>					
2018	280.2	349.3	296.1	138.5	301.3
2019	496.7	566.4	544.0	318.6	585.5
2020	533.7	592.1	505.0	337.0	513.1
2021	847.3	570.0	450.6	160.4	449.4
<b>Rape</b>					
2018	35.3	62.6	30.8	0.0	11.2
2019	61.6	95.5	55.0	0.0	21.2

<sup>500</sup> The categories of White and Hispanic are not mutually exclusive. See Appendix A for more information.

<b>2020</b>	60.6	<b>103.9</b>	46.7	0.0	12.0
<b>2021</b>	<b>110.7</b>	105.3	52.5	0.0	17.4
<b>Homicide</b>					
<b>2018</b>	6.0	<b>17.0</b>	5.6	0.0	3.0
<b>2019</b>	8.1	<b>30.7</b>	8.2	0.0	6.0
<b>2020</b>	13.0	<b>45.3</b>	12.0	0.0	2.5
<b>2021</b>	26.7	<b>54.3</b>	13.5	0.0	3.1

Source: Federal Bureau of Investigation, Crime Data Explorer, Houston Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Houston City, Texas from <https://data.census.gov/>. See Appendix A for more information.

Racial disparities are also nuanced for White and Black residents of Houston. In all years prior to the increase in violent crime victimization for White residents, Black residents were twice as likely to be victims of violent crime. The overall victimization rate for White residents in 2021 approached that of Black residents, and White residents were somewhat more likely to be victims of rape and substantially more likely to be victims of robbery than Black residents in 2021. The near convergence in victimization rates was not because of a decrease in the likelihood of Black victimization, but an increase in the likelihood of White victimization (see Table 11). Even with this increase for White residents, the racial disparity in the risk of homicide remained, with Black residents being 2-3.8 times more likely to be a victim of homicide than White residents in all years of the study.

Like other cities, violent crime, particularly homicide, is clustered in certain neighborhoods in Houston.<sup>501</sup> The Crime Map on the Houston Police Department website, which is hosted by LexisNexis,<sup>502</sup> shows the neighborhoods with the most crime occurrences. Real estate websites<sup>503</sup> and online forums<sup>504</sup> reveal which neighborhoods are perceived as dangerous, such as Sunnyside.<sup>505</sup> Media portrayals of crime remain high even as violent crime has started to decrease in Houston.<sup>506</sup>

<sup>501</sup> ABC13, "Neighborhood Safety Tracker," *ABC13 Eyewitness News*, Updated Oct. 31, 2023, [Houston Neighborhood Safety Tracker - ABC13 Houston](#).

<sup>502</sup> Houston Police Department, "Community Crime Map Hosted by LexisNexis.Com," [https://www.houstontx.gov/police/cs/Community\\_Crime\\_Map\\_hosted\\_by\\_LexisNexis.htm](https://www.houstontx.gov/police/cs/Community_Crime_Map_hosted_by_LexisNexis.htm).

<sup>503</sup> See e.g., Property Club Team, "9 Safest Neighborhoods in Houston," Property Club, Jul. 8, 2023, <https://propertyclub.nyc/article/safest-neighborhoods-in-houston>.

<sup>504</sup> Reddit, [https://www.reddit.com/r/houston/comments/12ugw5q/safe\\_areas\\_to\\_live\\_in\\_houston/?rdt=44071](https://www.reddit.com/r/houston/comments/12ugw5q/safe_areas_to_live_in_houston/?rdt=44071).

<sup>505</sup> Robert Stanton, "Two Houston Neighborhoods Called Most Dangerous in U.S.," *Houston Chronicle*, Updated Feb. 2, 2018, <https://www.chron.com/business/real-estate/article/Two-Houston-neighborhoods-called-most-dangerous-4476367.php>.

<sup>506</sup> Juan A. Lozano, "Is Crime up or Down? In Houston, Concerns Are Hard to Allay," *Associated Press*, October 22, 2022, <https://www.usnews.com/news/politics/articles/2022-10-22/is-crime-up-or-down-in-houston-concerns-are-hard-to-allay>.

*Memphis*

Memphis is the second largest city in Tennessee. Like other cities in the South, Memphis has a higher share of Black residents than the national average. At the aggregate, 13.6 percent of Americans are Black, compared to 64.6 percent of people who live in Memphis (see Table 7).

Table 12 shows rates of violent crime victimization in Memphis from 2017-2021. Rates of violent crime victimization decreased from 2017-2019 and increased in 2020 and 2021. Both aggravated assault and homicide increased steadily in the period of the study. The homicide rate was 48 percent higher in 2020 compared to 2019. Conversely, the rate of rape victimization decreased steadily over the study period.

**Table 12: Memphis Victimization Rate per 100,000 Residents by Crime Type, 2017-2021**

	2017	2018	2019	2020	2021
All Violent Crime	2,194.0	2,104.3	2,014.6	2,461.5	2,614.6
Aggravated Assault	1,377.6	1,399.4	1,443.7	1,956.2	2,108.2
Robbery	692.7	594.2	464.9	396.2	391.8
Rape	95.5	81.8	76.2	64.7	65.9
Homicide	28.2	28.9	29.8	44.4	48.7

Source: Federal Bureau of Investigation, Crime Data Explorer, Memphis Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Memphis City, Tennessee from <https://data.census.gov>. See Appendix A for more information.

Overall rates of violent crime victimization were higher for Latino residents than White residents in all study years in Memphis (see Table 13 below). From 2017-2020, robbery was the crime with the most consistent racial disparity between White and Latino residents. Latino residents were also more likely to be victims of homicide than their White counterparts in 2018-2020.

Racial disparities between White and Black residents of Memphis are pronounced. Black residents are 1.7-2.2 times more likely to be victims of violent crime at the aggregate than White residents in all years of the study. However, White residents were more likely to be victims of robbery in all years. There was a notable jump in homicide victimization for Black residents in 2020. In 2020, Black residents were 4.5 times as likely to be victims of homicide compared to their White counterparts.

Native American residents also have much higher rates of violent crime victimization than their White counterparts in Memphis. Less than 1 percent of Memphis’ population is Native American (see Table 7), which is why standardized rates are illuminating. The rate of overall violent victimization was 2.4-3.9 times higher for Native American compared to White residents of Memphis in the period of the study. Because of the small population size of Native Americans in Memphis, however, estimates are less stable over time than for groups with higher numbers. For instance, the substantial jump from a rate of 0.0 rapes per 100,000 Native American residents in

2017 to 315.5 rapes per 100,000 Native American residents in 2018 happened because zero rapes of Native American residents of Memphis were known to law enforcement in 2017 compared to three rapes of Native American residents of Memphis that were known to law enforcement in 2018.

**Table 13: Memphis Victimization Rate per 100,000 Residents by Race and Crime Type, 2017-2021**

	White	Black	Hispanic	Native American	Asian
<b>All Violent Crime</b>					
2017	1,566.4	2,680.5	2,371.9	3,979.0	1,306.1
2018	1,466.6	2,527.0	2,281.5	5,678.2	1,266.9
2019	1,191.0	2,588.1	1,706.3	4,387.0	811.0
2020	1,416.2	3,175.2	2,250.7	3,536.5	758.1
2021	1,839.8	3,365.1	2,174.6	4,355.9	1,089.1
<b>Aggravated Assault</b>					
2017	579.7	1,882.1	597.4	1,651.7	401.9
2018	615.7	1,851.1	669.1	1,156.7	378.0
2019	596.5	1,990.7	669.3	1,799.8	302.3
2020	831.3	2,657.6	1,123.3	2,332.6	427.0
2021	1,126.3	2,861.7	1,103.1	2,548.7	589.5
<b>Robbery</b>					
2017	903.7	644.3	1,709.0	2,177.2	840.3
2018	758.3	548.8	1,521.0	4,206.1	858.2
2019	530.7	462.0	959.0	2,587.2	442.4
2020	510.5	381.4	1,043.9	1,128.7	313.7
2021	622.5	358.8	995.0	1,668.2	479.6
<b>Rape</b>					
2017	67.7	117.8	49.6	0.0	45.7
2018	77.8	90.0	64.7	315.5	10.2
2019	51.6	94.6	57.9	0.0	44.2
2020	60.6	73.7	60.5	0.0	8.7
2021	67.9	77.5	50.3	46.3	10.0
<b>Homicide</b>					
2017	15.2	36.4	15.9	150.2	18.3
2018	14.7	37.1	26.8	0.0	20.4
2019	12.1	40.7	20.0	0.0	22.1
2020	13.8	62.5	23.0	75.2	8.7
2021	23.1	67.2	26.1	92.7	10.0

Source: Federal Bureau of Investigation, Crime Data Explorer, Memphis Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Memphis City, Tennessee from <https://data.census.gov/>. See Appendix A for more information.

The Memphis Police Department has a public safety crime map on their data hub with several different ways to view crime.<sup>507</sup> Like other jurisdictions, crime is clustered in a few neighborhoods, primarily around the downtown area. This violent crime concentration means that residents of these Memphis neighborhoods have inconsistent relationships with law enforcement. Steve Mulroy, Shelby County (Memphis) District Attorney and former Federal Prosecutor, testified about different patterns of policing by neighborhood in Memphis, which are being investigated by DOJ:

It's not paradoxical to conclude that minority neighborhoods are both over-policed and under-policed. Racial profiling occurs for non-public-safety-related minor offenses, but at the same time those neighborhoods don't get the kind of intensive investigations and crime prevention strategies that the higher crime rates clearly would call for.<sup>508</sup>

In 2018, the Memphis Police Department partnered with the Public Safety Institute at the University of Memphis to investigate a community-based Neighborhood Safety Initiative (NSI) in certain geographic areas<sup>509</sup> and analyze how hot spot policing impacted crime in these neighborhoods.<sup>510</sup> This collaboration highlights that police partnerships with communities increase community safety.<sup>511</sup>

### *Milwaukee*

Milwaukee is the largest city in Wisconsin and the fifth largest city in the Midwest.<sup>512</sup> Milwaukee's share of Black residents is higher than the national average (39.4 percent and 13.6 percent, respectively) and the share of White residents is lower than the national average (39.9 percent and 75.5 percent, respectively; see Table 7). Table 14 shows the rate of violent crime in Milwaukee from 2017-2021. The rate of violent crime victimization increased from 2019 to 2020 and from 2020 to 2021. The homicide rate increased sharply in 2020, almost doubling from the rate in the prior year.

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<sup>507</sup> Memphis Data Hub, "Memphis Public Safety," <https://data.memphistn.gov/>.

<sup>508</sup> Mulroy Testimony, *Racial Disparities Briefing*, pp. 46-47.

<sup>509</sup> James Helms and Angela Madden, "Assessment of Neighborhood Safety Initiative in Designated Geographic Areas of Memphis," Public Safety Institute, 2019, [www.memphis.edu/psi/documents/psi-neighborhood-safety-initiative-assessment.pdf](http://www.memphis.edu/psi/documents/psi-neighborhood-safety-initiative-assessment.pdf).

<sup>510</sup> Ibid.

<sup>511</sup> See e.g., Jeffrey A. Butts, Caterina Gouvis Roman, Lindsay Bostwick, and Jeremy R. Porter, "Cure Violence: A Public Health Model to Reduce Gun Violence," *Annual Review of Public Health*, 2015, no. 36, <https://www.annualreviews.org/doi/pdf/10.1146/annurev-publhealth-031914-122509>.

<sup>512</sup> "The Largest Cities in the Midwest," WorldAtlas, <https://www.worldatlas.com/articles/the-largest-cities-in-the-midwest.html>.



**Table 14: Milwaukee Victimization Rate per 100,000 Residents by Crime Type, 2017-2021**

	2017	2018	2019	2020	2021
<b>All Violent Crime</b>	1,701.0	1,499.8	1,403.4	1,647.7	<b>1,713.8</b>
Aggravated Assault	1,024.4	944.8	938.4	1,170.0	<b>1,223.7</b>
Robbery	<b>583.5</b>	449.5	370.9	372.1	377.6
Rape	73.1	<b>88.7</b>	77.6	73.6	78.2
Homicide	20.0	16.9	16.4	32.1	<b>34.3</b>

Source: Federal Bureau of Investigation, Crime Data Explorer, Milwaukee Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Milwaukee City, Wisconsin from <https://data.census.gov/>. See Appendix A for more information.

As with other cities in this report, Black residents were more likely to experience violent victimization compared to their White counterparts in Milwaukee (see Table 15 below). Black residents had higher victimization rates than White residents across all categories in all years. The violent crimes with the most pronounced racial disparities are aggravated assault and homicide. In 2021, Black residents were almost ten times as likely as White residents to be victims of homicide.

The violent crime victimization rate was 1.7 times higher for Native American residents than White residents of Milwaukee in 2021. Like all jurisdictions in this report, fewer than 1 percent of Milwaukee's population is Native American (see Table 7), which means that estimates are less stable over time compared to racial groups with higher numbers. The homicide rate for Native American residents of Milwaukee was 0 per 100,000 in all years except for 2021, when it increased substantially to 63.6 per 100,000. In 2021, two Native American residents of Milwaukee died by homicide.

**Table 15: Milwaukee Victimization Rate per 100,000 Residents by Race and Crime Type, 2017-2021**

	White	Black	Hispanic	Native American	Asian
<b>All Violent Crime</b>					
2017	1,203.7	2,907.8	1,094.8	1,404.3	632.0
2018	1,053.4	2,676.8	915.9	944.4	454.5
2019	882.0	2,532.6	880.5	769.1	616.3
2020	998.8	3,068.4	945.6	1,169.0	612.8
2021	1,271.0	3,140.5	942.6	2,099.9	508.1
<b>Aggravated Assault</b>					
2017	579.5	1,929.2	569.4	783.8	283.0
2018	533.3	1,851.2	518.9	419.7	164.5
2019	477.0	1,844.7	538.6	395.5	274.4
2020	553.8	2,363.3	582.7	821.5	315.6
2021	754.3	2,393.9	626.4	1,177.2	278.1
<b>Robbery</b>					
2017	550.9	825.8	460.4	489.9	341.2
2018	435.9	647.9	328.7	454.7	266.4
2019	335.8	529.6	270.6	263.7	310.2
2020	367.6	523.3	279.6	284.4	260.5
2021	415.6	554.5	243.4	731.8	215.1
<b>Rape</b>					
2017	66.0	109.7	58.9	130.6	7.8
2018	75.9	142.6	60.9	70.0	23.5
2019	61.7	124.4	59.9	109.9	31.8
2020	61.8	117.4	62.5	63.2	25.7
2021	93.0	113.1	62.4	127.3	11.1
<b>Homicide</b>					
2017	7.3	43.0	6.2	0.0	0.0
2018	8.2	35.1	7.5	0.0	0.0
2019	7.6	34.0	11.5	0.0	0.0
2020	15.7	64.4	20.8	0.0	11.0
2021	8.0	79.0	10.4	63.6	3.7

Source: Federal Bureau of Investigation, Crime Data Explorer, Milwaukee Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Milwaukee City, Wisconsin from <https://data.census.gov/>. See Appendix A for more information.

The Milwaukee Police Department website hosts an interactive map that shows the number of crimes by type in the neighborhood where they happened.<sup>513</sup> As with other jurisdictions, high poverty neighborhoods near the central city have the highest crime rates.<sup>514</sup> These neighborhoods are hot spots for Milwaukee police because of their disproportionate share of crime, mainly nonfatal shootings and homicides.<sup>515</sup> Mallory O’Brien, Associate Scientist at Johns Hopkins University, found “staggering” racial disparities in her research on gun violence in Milwaukee. She testified that the gun homicide rate for men between the ages of 15-34 was 17.7 times higher for Black men (252 per 100,000) than White men (14.2 per 100,000).<sup>516</sup> The racial disparity is even more pronounced for nonfatal shootings, which are 32.5 times higher for Black than White men aged 15-34. The nonfatal shooting rate for young Black men was 1,235 per 100,000 compared to 38 per 100,000 for young White men.<sup>517</sup>

### Seattle

Seattle is the largest city in Washington state, located in the Pacific Northwest. Seattle is the only jurisdiction in this report with a slightly higher share of non-Hispanic White residents compared to the nation (62.2, 58.9 percent, respectively; see Table 7). It also has a substantially lower share of Black residents – 6.8 percent of people living in Seattle are Black compared to 13.6 percent in the U.S. In Seattle, the rate of violent crime victimization increased sharply in 2021, which was driven by an increase in aggravated assaults and robberies (see Table 16).

**Table 16: Seattle Victimization Rate per 100,000 Residents by Crime Type, 2017-2021**

	2017	2018	2019	2020	2021
<b>All Violent Crime</b>	637.9	712.9	678.7	686.4	<b>831.9</b>
Aggravated Assault	376.5	414.7	401.4	409.8	<b>520.6</b>
Robbery	222.3	254.8	218.4	227.3	<b>263.4</b>
Rape	35.7	40.1	<b>55.1</b>	42.2	42.4
Homicide	3.3	3.4	3.8	<b>7.0</b>	5.5

Source: Federal Bureau of Investigation, Crime Data Explorer, Seattle Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Seattle City, Washington from <https://data.census.gov/>. See Appendix A for more information.

<sup>513</sup> Milwaukee Police Department, “Crime Maps & Statistics,” <https://city.milwaukee.gov/police/Information-Services/Crime-Maps-and-Statistics>.

<sup>514</sup> Scott W. Hegerty, “Crime, Housing Tenure, and Economic Deprivation: Evidence from Milwaukee, Wisconsin.” *Journal of Urban Affairs*, 2017, vol. 39, no. 8, <https://doi.org/10.1080/07352166.2017.1305815>.

<sup>515</sup> Kristin Pierce, “Milwaukee Police Identify Crime Hot Spots” *WISN12*, Jun. 11, 2022, <https://www.wisn.com/article/milwaukee-police-identify-crime-hot-spots/40258143>; Ryan Burke, “MPD Will Increase Patrol in Dozens of Neighborhoods This Summer,” *Spectrum News*, Jul. 5, 2023, <https://spectrumnews1.com/wi/milwaukee/news/2023/07/05/operation-summer-guardian-2023-mpd>.

<sup>516</sup> O’Brien Testimony, *Racial Disparities Briefing*, p. 204.

<sup>517</sup> *Ibid.*, pp. 204-205.

Table 17 below shows violent crime victimization rates in Seattle by race/ethnicity. There are marked racial disparities in victimization rates between Black and White residents of Seattle.<sup>518</sup> Black residents were over four times as likely as White residents to be crime victims in 2020 and 2021. In 2021, Black residents were 26 times as likely to be homicide victims compared to White residents.

The victimization rates of Native American residents of Seattle are much closer to those of Black residents than White residents. The rate of overall violent victimization was 2.5-5 times higher for Native American compared to White residents of Seattle in the study period. Native Americans in Seattle experienced a higher violent crime rate in all categories other than homicide in all years. Like other jurisdictions in this study, Native Americans comprise a small share of the population (less than 1 percent), so the standardized rate estimates depend on low raw numbers of crime. For instance, the highest rate for a single crime for Native Americans of 1,665.4 aggravated assaults for every 100,000 residents in 2018 reflects 67 incidents.

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<sup>518</sup> Victim ethnicity is shown in Table 17 but the estimates are not reliable as “unknown” was the largest share of victim ethnicity for almost all crime categories and years that the Seattle Police Department reported to NIBRS.

**Table 17: Seattle Victimization Rate for 100,000 Residents by Race and Crime Type, 2017-2021.**

	White	Black	Hispanic	Native American	Asian
<b>All Violent Crime</b>					
2017	521.1	2,036.8	236.5	2,601.5	351.4
2018	579.9	2,346.9	242.5	2,187.4	392.3
2019	536.7	1,974.8	518.2	1,328.6	339.4
2020	494.0	2,155.4	488.9	1,812.7	288.6
2021	621.1	2,863.2	803.2	1,899.4	361.5
<b>Aggravated Assault</b>					
2017	301.0	1,436.6	130.7	1,526.2	143.0
2018	332.4	1,575.8	138.9	1,665.4	163.3
2019	312.6	1,360.0	292.1	840.2	139.0
2020	294.6	1,505.7	282.4	1,233.6	101.7
2021	388.0	1,961.3	504.3	1,524.9	179.1
<b>Robbery</b>					
2017	183.6	480.2	91.3	763.1	197.9
2018	208.2	632.7	85.2	323.1	210.0
2019	170.3	464.7	190.1	234.5	180.5
2020	159.7	498.7	166.8	402.8	170.4
2021	196.6	703.4	254.9	240.8	167.9
<b>Rape</b>					
2017	34.9	92.0	12.4	312.2	9.6
2018	37.1	118.6	11.1	174.0	16.4
2019	52.0	121.5	32.0	254.0	18.4
2020	34.8	103.2	28.4	176.2	14.1
2021	34.5	146.7	38.5	107.0	12.0
<b>Homicide</b>					
2017	1.6	28.0	2.1	0.0	0.9
2018	2.2	19.8	7.4	24.9	2.6
2019	1.8	28.6	4.0	0.0	1.6
2020	4.9	47.8	11.4	0.0	2.5
2021	2.0	51.8	5.5	26.8	2.4

Source: Federal Bureau of Investigation, Crime Data Explorer, Seattle Police Department, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend> for raw numbers of crime and Census Tables B02001 and B03003 for Seattle City, Washington from <https://data.census.gov/>. See Appendix A for more information.

Like other jurisdictions, crime is concentrated in some Seattle neighborhoods, namely central parts of the city. The Seattle Police Department website has a map showing offenses by type nested within neighborhoods.<sup>519</sup> The police department partnered with Seattle University to create a Micro-Community Policing Plan in recognition that each micro-community has different public safety needs based on very different crime rates.<sup>520</sup>

Though these five sample jurisdictions are not representative of the whole nation, they illuminate important patterns of crime. First, a disproportionate share of violent crime happens in densely populated areas so cities tend to have higher rates of violence than the nation as a whole.<sup>521</sup> Second, violent crime is not distributed evenly throughout cities, but is consistently concentrated in high-poverty neighborhoods or even smaller geographic areas, like city blocks.<sup>522</sup> Third, most cities experienced an overall increase in violent crime victimization over the period of the study, particularly during the anomalous years of the COVID-19 pandemic. Finally, there are enduring racial disparities in the most serious form of victimization, with Black city residents having the highest chances of being a homicide victim.

## Additional Social Trends, 2017-2021

The notable increases in homicide and nonfatal gun violence during the pandemic caused understandable public concern.<sup>523</sup> Many media outlets wrestled to explain the increase in homicide rates. The most empirically sound articles cannot offer a single explanation because changes in rates of violent crime victimization never occur in a vacuum and there is no single cause of variations in crime rates.<sup>524</sup> Fluctuations in crime correlate with other social trends, and correlations should not be mistaken for causation; it is important to explore co-occurring trends to ensure resources are directed to those most impacted by violent crimes. It is easy to ignore the overlapping social phenomena that are associated with crime and responses to crime in hopes that a single, clear cause can be identified and subsequently solved. However, the truth is much more

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<sup>519</sup> Seattle Police Department, “Crime Dashboard,” <https://www.seattle.gov/police/information-and-data/data/crime-dashboard>.

<sup>520</sup> Seattle Police Department, “Micro-Community Policing Plans,” <https://www.seattle.gov/police/information-and-data/data/mcpp-about>.

<sup>521</sup> National Center for Victims of Crime, “Urban and Rural Victimization,” Office for Victims of Crime, U.S. Dep’t of Justice, 2018, [https://ovc.ojp.gov/sites/g/files/xyckuh226/files/ncvrw2018/info\\_flyers/fact\\_sheets/2018NCVRW\\_UrbanRural\\_508\\_OC.pdf](https://ovc.ojp.gov/sites/g/files/xyckuh226/files/ncvrw2018/info_flyers/fact_sheets/2018NCVRW_UrbanRural_508_OC.pdf).

<sup>522</sup> Peterson and Krivo, *Divergent Social Worlds: Neighborhood Crime and The Racial-Spatial Divide*; Weisburd, “The Law of Crime Concentration and the Criminology of Place.” See also *supra* notes 84-126 (discussion on crime and neighborhoods).

<sup>523</sup> Richard Rosenfeld and Ernesto Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2021 Year-End Update,” Council on Criminal Justice, Jan. 2022, <https://counciloncj.org/crime-trends-year-end-2021-update/>.

<sup>524</sup> See e.g., German Lopez, “The Rise in Murders in the US, Explained,” *Vox*, Updated Dec. 2, 2020, <https://www.vox.com/2020/8/3/21334149/murders-crime-shootings-protests-riots-trump-biden>.

complex and nuanced. The FBI recognizes this complexity and cautions users of the CDE page that:

It's important to consider the various factors that lead to crime activity and crime reporting in a community before interpreting the data. Without these considerations the available data can be deceiving. Factors to consider include population size and density, economic conditions, employment rates, prosecutorial, judicial, and correctional policies, administrative and investigate emphases of law enforcement, citizens' attitudes toward crime and policing, and the effective strength of the police force.<sup>525</sup>

The later years of this study were a time of particularly intense social strain. In 2020, the first pandemic in a century resulted in a dramatic increase in the death rate,<sup>526</sup> virtual schooling,<sup>527</sup> closed businesses,<sup>528</sup> and a maelstrom of economic uncertainties.<sup>529</sup> The social contexts discussed in this section are not intended to provide causal links to crime trends during this report's study period. It is important, however, to understand that crime victimization is always complex, and that the concurrent unprecedented experiences during this time undoubtedly relate to crime, and by extension, victimization.

#### *Immediate Impacts of the COVID-19 Pandemic*

In March 2020, the World Health Organization characterized COVID-19 as a global pandemic.<sup>530</sup> In the United States, persons of Asian descent immediately began being scapegoated as the cause of the virus and endured increasing incidents of anti-Asian bias, including violent hate crimes.<sup>531</sup> In light of the violence against Asian communities, the Commission conducted an investigation on the federal response to anti-Asian racism in the United States during the pandemic.<sup>532</sup>

<sup>525</sup> Federal Bureau of Investigations, "Crime Data Explorer," <https://cde.ucr.cjis.gov/LATEST/webapp/#>.

<sup>526</sup> Shannon Sabo and Sandra Johnson, "Pandemic Disrupted Historical Mortality Patterns, Caused Largest Jump in Deaths in 100 Years," United States Census, Mar. 24, 2022, <https://www.census.gov/library/stories/2022/03/united-states-deaths-spiked-as-covid-19-continued.html>.

<sup>527</sup> See e.g., Cathy Li and Farah Lalani, "The COVID-19 Pandemic Has Changed Education Forever. This is How," World Economic Forum, Apr. 29, 2020, <https://www.weforum.org/agenda/2020/04/coronavirus-education-global-covid19-online-digital-learning/>.

<sup>528</sup> See e.g., Ryan Decker and John Haltiwanger, "Business Entry and Exit in the COVID-19 Pandemic: A Preliminary Look at Official Data," Federal Reserve, May 6, 2022, <https://www.federalreserve.gov/econres/notes/feds-notes/business-entry-and-exit-in-the-covid-19-pandemic-a-preliminary-look-at-official-data-20220506.html>.

<sup>529</sup> See e.g., Saud Asaad Al-Thaqeb, Barrak Ghanim Algharabali, and Khaled Tareq Alabdulghafour, "The Pandemic and Economic Policy Uncertainty," *International Journal of Finance & Economics*, 2022, vol. 27, no. 3, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7675497/>.

<sup>530</sup> World Health Organization, "Coronavirus Disease (COVID-19) Pandemic," <https://www.who.int/europe/emergencies/situations/covid-19>.

<sup>531</sup> See U.S. Commission on Civil Rights, *The Federal Response to Anti-Asian Racism in the United States*, Sept. 26, 2023, <https://www.usccr.gov/files/2023-10/fy-2023-se-report.pdf>.

<sup>532</sup> Ibid.

Crime is intrinsically linked to economic wellbeing and societal stability;<sup>533</sup> the COVID-19 pandemic undermined both. Between March 1 and May 31, 2020, 42 state governors issued mandatory stay-at-home orders in the U.S.<sup>534</sup> By March 30, 2020, all but one U.S. public school district had closed, “representing the first-ever nearly synchronous nationwide closure of public K-12 schools in the US.”<sup>535</sup> The decision to close schools to help slow the spread of a highly contagious disease had the unintended consequence of negatively impacting student wellbeing and learning. Researchers examining modes of learning and test score data from 12 states show large reductions in test scores in spring 2021 compared to previous years; the test score declines were significantly larger in districts that offered less access to in-person schooling.<sup>536</sup> Additionally, among districts with a larger share of Black and Latino students, districts with less in-person schooling experienced a greater decline in test scores than those with more in-person schooling.<sup>537</sup> This loss of schooling could have long-term consequences on crime victimization because of the strong connection between educational attainment and crime.<sup>538</sup>

The pandemic also immediately impacted the economy. According to the Bureau of Labor Statistics, the longest employment recovery and expansion in U.S. history abruptly ended in spring of 2020 due to the COVID-19 pandemic and the efforts to contain it.<sup>539</sup> The Current Employment Statistics (CES) survey demonstrates that nonfarm payroll employment in the United States declined by 9.4 million in 2020, the largest calendar-year decline in the history of the CES employment series.<sup>540</sup> While job losses were widespread, they were greatest in industries that involved people coming in close contact with each other – such as the leisure and hospitality industry – which suffered the greatest job losses, but every major industry lost jobs over the year.<sup>541</sup>

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<sup>533</sup> Steven F. Messner, Helmut Thome, and Richard Rosenfeld, “Institutions, Anomie, and Violent Crime: Clarifying and Elaborating Institutional-Anomie Theory,” *International Journal of Conflict and Violence*, 2008, vol. 2, no. 2, <https://doi.org/10.4119/ijcv-2763>.

<sup>534</sup> Centers for Disease Control and Prevention, “Timing of State and Territorial COVID-19 Stay-at-Home Orders and Changes in Population Movement – United States, March 1-May 31, 2020,” Sept. 4, 2020, <https://www.cdc.gov/mmwr/volumes/69/wr/mm6935a2.htm>.

<sup>535</sup> Nicole Zviedrite, Jeffrey D. Hodis, Ferdous Jahan, Hongjiang Gao, and Amra Uzicanin, “Covid-19 Associated School Closures and Related Efforts to Sustain Education and Subsidized Meal Programs, United States, February 18-June 30, 2020,” *PLoS One*, 2021, vol. 16, no. 9, <https://doi.org/10.1371/journal.pone.0248925>.

<sup>536</sup> Clare Halloran, Rebecca Jack, James C. Okun, and Emily Oster, “Pandemic Schooling Mode and Student Test Scores: Evidence from the US States,” *National Bureau of Economic Research*, Working Paper <https://www.nber.org/papers/w29497>.

<sup>537</sup> Ibid.

<sup>538</sup> Lance Lochner, “Education, Work, and Crime: A Human Capital Approach,” *International Economic Review*, 2004, vol. 45, no. 3, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.0020-6598.2004.00288.x>.

<sup>539</sup> Bureau of Labor Statistics, “COVID-19 Ends Longest Employment Recovery and Expansion in CES history, Causing Unprecedented Job Losses in 2020,” Jun. 2021, <https://www.bls.gov/opub/mlr/2021/article/covid-19-ends-longest-employment-expansion-in-ces-history.htm>.

<sup>540</sup> Bureau of Labor Statistics, “COVID-19 Ends Longest Employment Recovery and Expansion in CES history.”

<sup>541</sup> Ibid.



Ben Bernanke, former chair of the Federal Reserve, called the pandemic-led recession “more unequal...than usual. The sectors most deeply affected by Covid disproportionately employ women, minorities and lower-income workers.”<sup>542</sup> Latino Americans saw the steepest initial employment losses, and the pandemic recession took its greatest toll on young people.<sup>543</sup> Twenty percent of all Americans ages 20 to 24 lost employment in the early months of the pandemic, and those ages 25 to 34 recovered only 43 percent of lost employment by the end of September 2020.<sup>544</sup> Black and Latino workers make up a disproportionate share of the workforce in the industries most affected by the pandemic, including leisure and hospitality, government, education, and health services.<sup>545</sup> About 24 percent of those working in leisure and hospitality are Latino, and women are the majority of workers in these industries (53 percent), as well as education and health services (77 percent).<sup>546</sup> By the end of 2021, even after substantial strides were made in combating the COVID-19 pandemic, the labor market still had not fully recovered.<sup>547</sup> Economic stability is linked to violent crime,<sup>548</sup> so pandemic-era economic strain, particularly for racial minorities, could have a long-term impacts on racial disparities in crime victimization.

### *Policing*

Policing is innately linked to crime victimization as law enforcement agencies are charged by the state to prevent and respond to crime. In the period of this study, law enforcement agencies faced the combined stressors of policing during a pandemic and civil unrest that was explicitly in response to critiques of the police.

Police departments across the U.S. had to adapt their tactics and policies to quickly respond to the pandemic. Most law enforcement agencies changed their daily practices, such as through increased cleaning, wearing personal protective equipment (PPE), and developing procedures for taking persons with COVID-19 symptoms into custody.<sup>549</sup> Police officers also had to alter how they policed communities through official changes in policy and/or changes in practice. For example, police departments reduced in-person community-engagement events and car patrols.<sup>550</sup> They also

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<sup>542</sup> Heather Long, Andrew Van Dam, Alyssa Fowers, and Leslie Shapiro, “The COVID-19 Recession is the Most Unequal in Modern U.S. History,” *Washington Post*, Sept. 30, 2020,

<https://www.washingtonpost.com/graphics/2020/business/coronavirus-recession-equality/>.

<sup>543</sup> *Ibid.*

<sup>544</sup> *Ibid.*

<sup>545</sup> Department of Health and Human Services, “COVID-19 and Economic Opportunity: Inequities in the Employment Crisis,” Apr. 2021, [https://aspe.hhs.gov/sites/default/files/migrated\\_legacy\\_files/199901/covid-economic-equity-brief.pdf](https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/199901/covid-economic-equity-brief.pdf).

<sup>546</sup> *Ibid.*

<sup>547</sup> Bureau of Labor Statistics, “U.S. Labor Market Shows Improvement in 2021, but the COVID-19 Pandemic Continues to Weigh on the Economy,” Jun. 2022, <https://www.bls.gov/opub/mlr/2022/article/us-labor-market-shows-improvement-in-2021-but-the-covid-19-pandemic-continues-to-weigh-on-the-economy.htm>.

<sup>548</sup> Messner, Thome, and Rosenfeld, “Institutions, Anomie, and Violent Crime.”

<sup>549</sup> Sean E. Goodison, “Local Police Departments Personnel, 2020,” Bureau of Justice Statistics, Nov. 2022, <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/lpdp20.pdf>.

<sup>550</sup> *Ibid.*

reduced investigations and arrests for less serious offenses.<sup>551</sup> Changes in policing directly affected victims because law enforcement agencies reduced the provision of or referral to victim services.<sup>552</sup>

It is hard to overstate the stress that police officers faced in their charge to continue enforcing community safety while putting their physical health at risk during the pandemic. Criminologists studying police stress and resiliency during the pandemic highlight that this time introduced novel stressors to policing, such as having to enforce new social distancing policies as those very stay-at-home orders were being legally challenged.<sup>553</sup> Officers also faced PPE shortages, which was an acute issue because patrolling and service call responses require in-person contact. In adapting their practices to protect their own health and ensure that enough officers remained healthy for community safety, officers risked creating “cognitive dissonance” with the public’s expectations of police officer interactions and duties.<sup>554</sup> Researchers argue that “the daily exposure to stress, safety protocols, and social distancing policies may have limited [police officers’] capacity to engage in positive coping strategies.”<sup>555</sup>

In the early months of the pandemic there was also a racial flashpoint that led to social unrest. On May 25, 2020, an unarmed Black man was murdered by a police officer in Minneapolis. The cellphone video footage of George Floyd dying as a police officer kneeled on his neck was shared widely, leading to thousands of protests against police brutality and racial bias in policing.<sup>556</sup> While most protests were peaceful, some became violent.<sup>557</sup> Officer aggression and use of force during some protests further undermined trust when police officers were perceived as antagonistic instead of protective of communities they were charged with serving.<sup>558</sup> The protests following George Floyd’s death were widespread, but not unique in that protests for racial equity have a long history of being criminalized as violent.<sup>559</sup> George Floyd’s murder and its aftermath had substantial negative health impacts on Americans, particularly Black Americans.<sup>560</sup> Public scrutiny of police

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<sup>551</sup> Ibid.

<sup>552</sup> Ibid.

<sup>553</sup> John Stogner, Bryan Lee Miller, and Kyle McLean, “Police Stress, Mental Health, and Resilience During the Covid-19 Pandemic,” *Am J Crim Justice*, 2020, vol. 25, no. 4, <https://doi.org/10.1007%2Fs12103-020-09548-y>.

<sup>554</sup> Ibid.

<sup>555</sup> Ibid.

<sup>556</sup> Johannes C. Eichstaedt, Garrick T. Sherman, Giorgi Salvatore, and Sharath Chandra Guntuku, “The Emotional and Mental Health Impact of the Murder of George Floyd on the US Population,” *Proceedings of the National Academy of Sciences*, 2021, vol. 118, no. 39, <https://doi.org/10.1073/pnas.2109139118>.

<sup>557</sup> Derrick Bryson Taylor, “George Floyd Protests: A Timeline,” *New York Times*, Nov. 5, 2021, <https://www.nytimes.com/article/george-floyd-protests-timeline.html>.

<sup>558</sup> Kim Barker, Mike Baker, and Ali Watkins, “In City After City, Police Mishandled Black Lives Matter Protests,” *New York Times*, Mar. 20, 2021, [www.gooriweb.org/news/2000s/2021/march/nyt20mar2021.pdf](http://www.gooriweb.org/news/2000s/2021/march/nyt20mar2021.pdf).

<sup>559</sup> Vesla M. Weaver, “Frontlash: Race and the Development of Punitive Crime Policy,” *Studies in American Political Development*, 2007, vol. 21, no. 2, <https://doi.org/10.1017/S0898588X07000211>.

<sup>560</sup> Eichstaedt, Sherman, Salvatore, and Guntuku, “The Emotional and Mental Health Impact of the Murder of George Floyd on the US Population.”

officers also impacted officer wellbeing.<sup>561</sup> Voluntary officer resignations increased substantially following the summer of 2020.<sup>562</sup>

John Paul Wright, professor in the School of Criminal Justice at the University of Cincinnati, testified about the combined stressors of the pandemic and protests on policing:

As if COVID wasn't enough, the political reaction to the George Floyd protests had consequential effects on the police and the administration of justice. De-policing, especially in minority neighborhoods, became widespread. Proactive policing – already at very low levels owing to COVID – all but ceased. The effect of the defund movement, coupled with the rise in protests, was nothing short of remarkable. Police across the country retired or resigned in numbers never before witnessed.<sup>563</sup>

There was a notable homicide rate increase around the time of the protests in June 2020.<sup>564</sup> While the homicide rate had already started increasing in 2019, prior to the protests,<sup>565</sup> the substantial increase in the homicide rate during this time caused some people to link the protests to violence. To better understand this possible link, academic literature has explored two main pathways. The first is the concept of de-policing,<sup>566</sup> which happens when there are fewer police available or police officers are less proactive in their duties because they fear stigma and/or potential legal liability after a negative interaction with the public becomes well known and criticized.<sup>567</sup> Researchers tested the theory that de-policing explains changes in crime following the death of another unarmed Black man in police custody. Following Michael Brown's death in Ferguson, Missouri in 2016, some argued that the resulting protests led to a higher violent crime rate.<sup>568</sup> Rhetoric about the "Ferguson Effect" was widespread but not empirically sound.<sup>569</sup> Using data from 53 large cities, researchers show that arrest rates, which they use as a proxy for policing, are not related to homicide rates.<sup>570</sup>

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<sup>561</sup> Scott M. Mourtgos, Ian T. Adams, and Justin Nix, "Elevated Police Turnover Following the Summer of George Floyd Protests: A Synthetic Control Study," *Criminology & Public Policy*, 2022, vol. 21, no. 1, <https://doi.org/10.1111/1745-9133.12556>.

<sup>562</sup> Ibid.

<sup>563</sup> Wright Testimony, *Racial Disparities Briefing*, pp. 197-198.

<sup>564</sup> Lopez and Rosenfeld, "Crime, Quarantine, and the US Coronavirus Pandemic."

<sup>565</sup> Richard Rosenfeld and Ernesto Lopez, "Pandemic, Social Unrest, and Crime in U.S. Cities: March 2021 Update," Council on Criminal Justice, Jan. 2021, [https://counciloncj.org/wp-content/uploads/2021/11/Pandemic\\_Social\\_Unrest\\_and\\_Crime\\_in\\_US\\_Cities\\_-\\_March\\_2021\\_Update.pdf](https://counciloncj.org/wp-content/uploads/2021/11/Pandemic_Social_Unrest_and_Crime_in_US_Cities_-_March_2021_Update.pdf).

<sup>566</sup> Richard Rosenfeld and Ernesto Lopez, "Pandemic, Social Unrest, and Crime in U.S. Cities," Council on Criminal Justice, Jul. 2020, <https://build.neoninspire.com/counciloncj/wp-content/uploads/sites/96/2021/07/Impact-Report-Crime.pdf>.

<sup>567</sup> Ibid.

<sup>568</sup> David C. Pyrooz, Scott H. Decker, Scott E. Wolfe, and John A. Shjarback, "Was There a Ferguson Effect on Crime Rates in Large US Cities?," *Journal of Criminal Justice*, 2016, vol. 46, <https://doi.org/10.1016/j.jcrimjus.2016.01.001>.

<sup>569</sup> Richard Rosenfeld and Joel Wallman, "Did De-Policing Cause the Increase in Homicide Rates?," *Criminology & Public Policy*, 2019, vol. 18, no. 1, <https://doi.org/10.1111/1745-9133.12414>.

<sup>570</sup> Ibid; see also Pyrooz, Decker, Wolfe, and Shjarback, "Was There a Ferguson Effect on Crime Rates?"

The second possible explanation for the link between protests against police violence and upticks in community violence is that police become delegitimized in the eyes of citizens to the point that residents of disadvantaged communities do not rely on them to provide public safety.<sup>571</sup> As the Commission's 2018 report on policing shows, disparate treatment (perceived or actual) by law enforcement can lead to widespread distrust of the police. This distrust can result in making the public less safe and crime harder to combat because community members may be less likely to cooperate with police or reach out to police for protection or assistance.<sup>572</sup>

Community safety is a relationship that must be jointly supported and sustained by residents and police officers, so the theory is that areas become less safe when residents do not trust the police.<sup>573</sup> There is some evidence to support this theory. Desmond and colleagues show that a widely publicized beating of a Black man in Milwaukee led to fewer calls for police assistance in Milwaukee, especially in predominately Black neighborhoods.<sup>574</sup> The study shows that when trust is fraught or broken, civic engagement (e.g., calling 911, aiding in investigations) decreases, which negatively affects public safety. At the Commission's briefing, Demetrius Molina, a survivor of neighborhood violence, testified:

Now most of you may question why I chose not to cooperate with the authorities when someone tried to kill me. Well, the answer is simple and has everything to do with the strained relationship between law enforcement and people from inner city communities. People from these communities do not look at police officers as people who are really there to protect and serve. With over-policing, police discrimination, and police brutality being real threats to minorities, the police are feared and perceived as the enemy. Furthermore, there is culturally a negative stigma associated with cooperating with law enforcement.<sup>575</sup>

Police turnover was an issue prior to the pandemic and social unrest,<sup>576</sup> but became worse during this time.<sup>577</sup> Police turnover harms both police departments and communities as institutional knowledge is lost and new officers are typically new to an area or policing.<sup>578</sup> In May 2021, the

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<sup>571</sup> Rosenfeld and Lopez, "Pandemic, Social Unrest, and Crime in U.S. Cities."

<sup>572</sup> U.S. Commission on Civil Rights, *Police Use of Force: An Examination of Modern Policing Practices*, Nov. 2018, <https://www.usccr.gov/files/pubs/2018/11-15-Police-Force.pdf>.

<sup>573</sup> Daniel K. Pryce and Randy Gainey, "Race Differences in Public Satisfaction and Trust in the Local Police in the Context of George Floyd Protests: An Analysis of Residents' Experiences and Attitudes," *Criminal Justice Studies*, 2022, vol. 35, no. 1, <https://doi.org/10.1080/1478601X.2021.1981891>.

<sup>574</sup> Matthew Desmond, Andrew V. Papachristos, and David S. Kirk, "Police Violence and Citizen Crime Reporting in the Black Community," *American Sociological Review*, 2016, vol. 81, no. 5, <https://journals.sagepub.com/doi/abs/10.1177/0003122416663494>.

<sup>575</sup> Molina Testimony, *Racial Disparities Briefing*, pp. 142-43.

<sup>576</sup> Police Executive Research Forum, "The Work Force Crisis, and What Police Agencies are Doing About It," Police Executive Research Foundation, 2019, <https://www.policeforum.org/assets/WorkforceCrisis.pdf>.

<sup>577</sup> Ibid.

<sup>578</sup> Mourtgos, Adams, and Nix, "Elevated Police Turnover Following the Summer of George Floyd Protests."

Police Executive Research Forum<sup>579</sup> conducted a staffing survey of 194 member agencies, 27 percent of which are large agencies.<sup>580</sup> The survey compared the number of officers who were hired, resigned, or retired during the 12-month period of April 1, 2020-March 31, 2021 to the same numbers in the previous year.<sup>581</sup> Among the responding agencies, fewer new officers were hired, and resignations and retirements increased in 2020-21. The reduction in hiring was relatively modest, with a 5 percent overall decrease in the hiring rate, which was driven by larger departments experiencing dramatic reductions.<sup>582</sup> Increases in resignations were more substantial: agencies reported an overall 18 percent increase in the resignation rate in 2020-21.<sup>583</sup> Increases in retirements were the largest category: among all responding police departments, there was a 45 percent increase in the retirement rate. In small departments, a small number of retirements means a high percent increase in the retirement rate, but even in the largest agencies with 500 or more officers, the retirement rate increased by 27 percent.<sup>584</sup>

### *Criminal Justice Reforms*

As with all social institutions, criminal justice institutions evolve with society. The criminal justice system experienced substantial changes during the period of this study that could relate to trends in violent crime victimization. While a full discussion of criminal justice reforms is outside the purview of this report, these reforms are important for exploring racial disparities in victimization because the criminal justice system might not only mirror disparities, but also magnify them.<sup>585</sup>

Incarceration is often posited as the main solution to reduce crime and protect victims of crime.<sup>586</sup> Academic literature and longitudinal crime data do not seem to support these assertions,<sup>587</sup> however, so incarceration has become one focus of criminal justice reform in recent decades. Donald Northcross founded the National OK Program to address the threat of homicide for young Black males. He testified about needing to create a strategy “other than just depending on law

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<sup>579</sup> The Police Executive Research Forum (PERF) is an independent research organization that focuses on critical issues in policing. PERF is a membership organization of police officials, academics, federal government leaders, and others with an interest in policing and criminal justice. See Police Executive Research Forum, “About Us,” <https://www.policeforum.org/about-us>.

<sup>580</sup> Police Executive Research Forum, “Survey on Police Workforce Trends,” Jun. 11, 2021, <https://www.policeforum.org/workforcesurveyjune2021>.

<sup>581</sup> Ibid.

<sup>582</sup> Ibid.

<sup>583</sup> Ibid.

<sup>584</sup> Ibid.

<sup>585</sup> Gelb Testimony, *Racial Disparities Briefing*, pp. 29-30.

<sup>586</sup> See e.g., Rafael Mangual, “Hardening the System: Three Commonsense Measures to Help Keep Crime at Bay,” Manhattan Institute, Nov. 2, 2023, <https://manhattan.institute/article/hardening-the-system-three-commonsense-measures-to-help-keep-crime-at-bay>.

<sup>587</sup> Jeremy Travis, Bruce Western, and F. Stevens Redburn, “The Growth of Incarceration in The United States: Exploring Causes And Consequences,” National Research Council of the National Academies, 2014, [https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1026&context=ji\\_pubs](https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1026&context=ji_pubs); David J Harding, Jeffrey D. Morenoff, Anh P. Nguyen, and Shawn D. Bushway, “Short-And Long-Term Effects of Imprisonment on Future Felony Convictions and Prison Admissions,” *Proceedings of the National Academy of Sciences*, 2017, vol. 114, no. 42, <https://www.pnas.org/doi/abs/10.1073/pnas.1701544114>.

enforcement, other than depending on just incarceration. We know that that doesn't solve the problem by itself."<sup>588</sup>

It is well documented that the United States is a historical and international outlier in incarceration practices; in 2012 approximately 5 percent of the world's population lived in the United States, yet 25 percent of the world's prisoners lived in U.S. penal institutions.<sup>589</sup> As discussed previously, the overall crime rate has been decreasing since its spike the early 1990s, but it is challenging to tease out precisely how much of that decrease resulted from high rates of incarceration.<sup>590</sup> Many studies, however, conclude that there is only a modest effect of incarceration on crime rates.<sup>591</sup> Moreover, incarceration can also have the opposite of its intended effect and actually decrease public safety<sup>592</sup> by destabilizing communities and undermining the ability of neighborhood residents to work together to increase safety.<sup>593</sup> Incarceration also exposes prisoners to violence and other people who engage in crime, so can generate more crime (criminogenic).<sup>594</sup> Mona Sahaf, Director of the Reshaping Prosecution Initiative for the Vera Institute of Justice, points out that having such a high incarceration rate is "not making us safer. If it was, we would be the safest." She testified:

These tools are not working for us. And research has shown that increased incarceration has only minimal impacts on crime rates and that those impacts are primarily on property crime, not violent crime. Additionally, the criminogenic impacts of incarceration are very well documented. In other words, incarceration is associated with increasing rates of crime. For example, for people charged with felony offenses, each additional year of incarceration can increase the likelihood of their future contact with the system by four to seven percentage points and reduce their chances of employment, which we know creates stability and helps reduce crime by 3.6 percentage points.<sup>595</sup>

Incarceration can also undermine public safety by eroding Black Americans' trust in the fairness of the criminal legal system.<sup>596</sup> As previously discussed, Black Americans have the highest risk of

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<sup>588</sup> Northcross Testimony, *Racial Disparities Briefing*, p. 77.

<sup>589</sup> Travis, Western, and Redburn, "The Growth of Incarceration in The United States."

<sup>590</sup> Ibid.

<sup>591</sup> Ibid.

<sup>592</sup> Harding, Morenoff, Nguyen, and Bushway, "Short-And Long-Term Effects of Imprisonment."

<sup>593</sup> Todd R. Clear, *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse* (Oxford University Press, 2009).

<sup>594</sup> Gerald G. Gaes and Scott D. Camp, "Unintended Consequences: Experimental Evidence for the Criminogenic Effect of Prison Security Level Placement on Post-Release Recidivism," *Journal of Experimental Criminology*, 2009, vol. 5, <https://link.springer.com/article/10.1007/s11292-009-9070-z>.

<sup>595</sup> Sahaf Testimony, *Racial Disparities Briefing*, p. 218.

<sup>596</sup> Nazgol Ghandnoosh, "Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies," The Sentencing Project, 2014, <https://www.sentencingproject.org/reports/race-and-punishment-racial-perceptions-of-crime-and-support-for-punitive-policies/>.

being victims of some of the most serious violent crimes, such as homicide,<sup>597</sup> and high rates of mistrust in the criminal justice system<sup>598</sup> because they are overrepresented at every stage of the criminal justice process.<sup>599</sup> Therefore, the liberal use of incarceration as a punishment has been criticized as a means of race and class stratification because prisoners are disproportionately likely to be Black or Latino men with low educational attainment.<sup>600</sup> Because of this link, Tashica Hilliard – the widow of Glenn Hilliard, a Deputy Sheriff who was murdered while on duty – wonders if her husband’s killer would have been treated differently by the system if he were not White. She testified:

Unfortunately, throughout my career I noticed that young Black males with the same circumstances were often labeled as violent, or drug dealers. It’s unfortunate to say, but after finding out about the suspect’s identity and history, I had to wonder if the state’s attorney in Baltimore decided that this was a poor young White kid who clearly did violent actions but somehow deserved multiple chances to actually prove he was violent. I thought that if this had been a young Black male, would the sentence have been the same or would the kid have still been sitting in prison and my husband may still be alive today?<sup>601</sup>

Some studies also show that victims of violent crime have a low preference for incarceration of their offenders.<sup>602</sup> For instance, the Alliance for Safety and Justice shows that victims of violent crimes “overwhelmingly prefer criminal justice approaches that prioritize rehabilitation over punishment and strongly prefer investments in crime prevention and treatment to more spending on prisons and jails.”<sup>603</sup> Their survey is innovative because it exclusively uses victims as respondents, which is rare. Figure 5 below shows the incarceration related preferences of 800 people who reported victimization in the decade prior to the 2016 study.

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<sup>597</sup> Alex R. Piquero, “Racial Inequality in Firearm Homicide Victimization—but not Other Types of US Violence,” *Cambridge Journal of Evidence-Based Policing*, 2024, vol. 8, no. 1,

<https://link.springer.com/article/10.1007/s41887-023-00093-2>; Warnken and Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services?”

<sup>598</sup> Robert J. Sampson and Dawn Jeglum Bartusch, “Legal Cynicism and (Subcultural?) Tolerance of Deviance: The Neighborhood Context of Racial Differences,” *Law and Society Review*, 1998, vol. 32, no. 4, <https://doi.org/10.2307/827739>.

<sup>599</sup> National Academies of Sciences, Engineering, and Medicine, *Reducing Racial Inequality in Crime and Justice: Science, Practice, and Policy*, National Academies Press, 2023, <https://doi.org/10.17226/26705>.

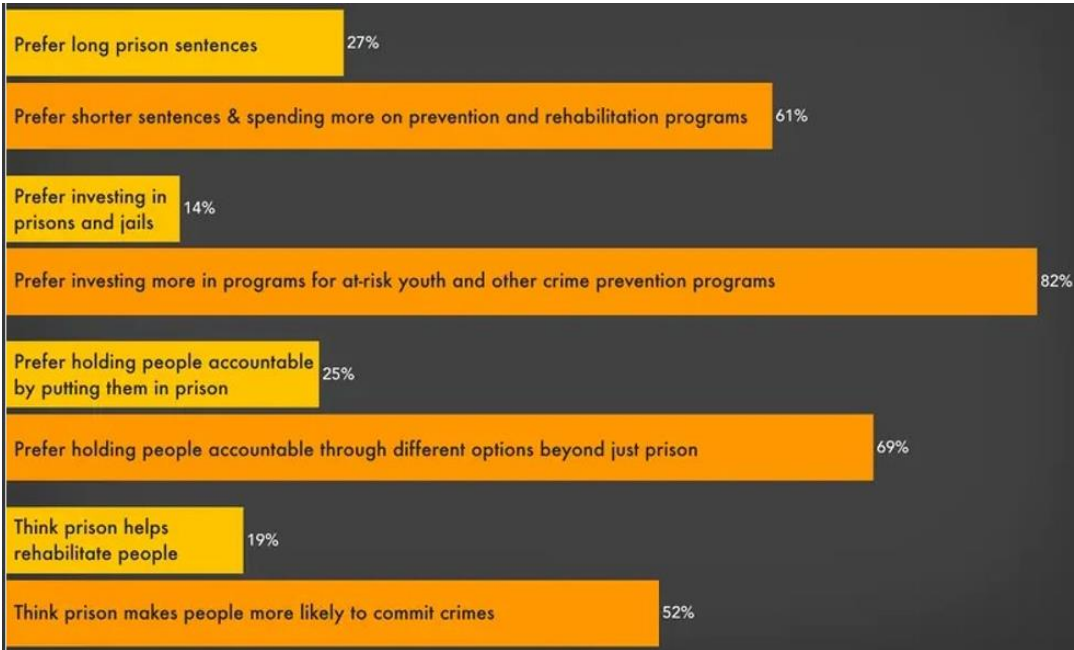
<sup>600</sup> Western, *Punishment and Inequality in America*.

<sup>601</sup> Hilliard Testimony, *Racial Disparities Briefing*, pp. 164-165.

<sup>602</sup> Danielle Sered, *Until We Reckon: Violence, Mass Incarceration, and a Road to Repair* (New York: New Press, 2019); Alliance for Safety and Justice, “Toward Shared Safety,” Sept. 2020, <https://wesharesafety.us/wp-content/themes/shared-safety/assets/downloads/NatlSafetyGaps-09142020.pdf>; Pew Charitable Trusts, “Victims’ Voices for Reform,” Aug. 2015, [https://www.pewtrusts.org/~media/Assets/2015/08/Victims\\_Voices\\_Reform\\_QA.pdf](https://www.pewtrusts.org/~media/Assets/2015/08/Victims_Voices_Reform_QA.pdf).

<sup>603</sup> Alliance for Safety and Justice, “Crime Survivors Speak: The First-Ever National Survey of Victims’ Views on Safety and Justice,” <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.

**Figure 5: Crime Victim Preferences and Beliefs**



Source: Alliance for Safety and Justice, “Crime Survivors Speak: The First-Ever National Survey of Victims’ Views on Safety and Justice,” 2016; Alexi Jones, “Reforms without Results: Why States Should Stop Excluding Violent Offenses from Criminal Justice Reforms,” Prison Policy Initiative, April 2020, <https://www.prisonpolicy.org/reports/violence.html>.

Alice Hamblett, Senior Policy Manager at Common Justice, discusses the misperception that victims want incarceration. She testified:

When it comes to meeting survivors’ needs, another myth prevails: That the criminal justice system, especially incarceration, is a survivor-centered way to facilitate healing. But most survivors do not seek support via the criminal justice system. In fact, according to the Bureau of Justice statistics, roughly only 40 percent of victims of violence report their harm to police. And those who do report their harm to the police too often find their voices drowned out by the mechanics of the system. Instead of being asked what they want, what they need, their primary options to achieve justice are a victim impact statement and the incarceration of the person who hurt them.<sup>604</sup>

Common Justice offers a restorative justice model “that gives participants the power and opportunity to collectively identify and address impacts, needs, and obligations, in order to heal and make things as right as possible.”<sup>605</sup> Hamblett calls this process “accountability and healing, without incarceration.”<sup>606</sup> She testified:

<sup>604</sup> Hamblett Testimony, *Racial Disparities Briefing*, p. 100.

<sup>605</sup> Common Justice, “The Common Justice Model,” [https://www.commonjustice.org/our\\_work](https://www.commonjustice.org/our_work).

<sup>606</sup> Hamblett Testimony, *Racial Disparities Briefing*, pp. 100-101.



Ninety percent of the survivors we approach with the option to use our restorative justice model to resolve their case choose it. Why? Because they want safety. For themselves, and for others. And if incarceration worked to secure their safety, they would know by now. When we subscribe to and promote these false narratives, we erase and we criminalize victims of color.<sup>607</sup>

While incarceration remains the primary punishment for violent crime, there is evidence that restorative justice models are being used more widely. For instance, DOJ’s announcement that it will fund programs aimed at advancing racial equity in the criminal justice system names restorative justice as a pathway.<sup>608</sup> The federal government also includes the language of restorative justice in the COVID-19 Hate Crimes Act of 2021, which stipulates that, “in the case of an individual convicted of a hate crime offense and placed on supervised release, the bill allows a court to order that the individual participate in educational classes or community service as a condition of supervised release.”<sup>609</sup>

Like incarceration, criminal justice reforms in policing have also been linked to violent crime. For example, some contend that police making fewer arrests for misdemeanor crimes leads to an influx of crime.<sup>610</sup> Rafael Mangual, Manhattan Institute Fellow, maintains that less policing causes crime. He testified that “there is good reason to suspect that this loss in safety is at least partly driven by a shift in policing and criminal justice policy that can best be characterized as generally lowering the transaction cost of committing a crime and raising the transaction cost of enforcing the law.”<sup>611</sup>

The argument that less policing and/or less punitive policing leads to increases in crime has not been substantiated in the empirical literature.<sup>612</sup> Moreover, it is unclear how much policing has changed as there is mixed evidence about the nature and scale of recent police reform.<sup>613</sup> Many states have passed police reform legislation relating to use of force, duty to intervene, and

<sup>607</sup> Ibid., p. 101.

<sup>608</sup> Department of Justice, “Justice Department Will Award \$57 Million to Support Justice System Reforms and Racial Equity,” Sept. 28, 2022, <https://www.justice.gov/opa/pr/justice-department-will-award-57-million-support-justice-system-reforms-and-racial-equity>.

<sup>609</sup> S.937 - COVID-19 Hate Crimes Act, <https://www.congress.gov/bill/117th-congress/senate-bill/937>.

<sup>610</sup> See e.g., Charles Murray, “The Collapse of Broken Windows Policing in New York City, Los Angeles, and Washington, DC, 2013–22,” *AEI*, Jul. 21, 2023, <https://www.aei.org/research-products/working-paper/the-collapse-of-broken-windows-policing-in-new-york-city-los-angeles-and-washington-dc-2013-22/>. For a longer discussion of research on the effectiveness of “broken windows policing,” see Center for Evidence-Based Crime Policy, “Broken Windows Policing,” <https://cebcp.org/evidence-based-policing/what-works-in-policing/research-evidence-review/broken-windows-policing/>.

<sup>611</sup> Mangual Testimony, *Racial Disparities Briefing*, p. 209.

<sup>612</sup> Pyrooz, Decker, Wolfe, and Shjarback, “Was There a Ferguson Effect on Crime Rates?”; Rosenfeld and Wallman, “Did De-Policing Cause the Increase in Homicide Rates?”

<sup>613</sup> Jamiles Lartey, “Three Years After George Floyd’s Murder, Police Reforms are Slow-Paced,” *Marshall Project*, Jun. 2023, <https://www.themarshallproject.org/2023/06/03/george-floyd-police-reform#:~:text=States%20have%20passed%20hundreds%20of,of%20police%20remains%20roughly%20unchanged>

accountability,<sup>614</sup> but early evidence from Minneapolis, where George Floyd was murdered, demonstrates that there has been no decrease in use of force incidents since that time.<sup>615</sup> Some public calls for police reform included “defunding” the police to reallocate resources to other social service agencies.<sup>616</sup> But as Patrick Sharkey, William S Tod Professor of Sociology and Public Affairs at Princeton University, testified, “there’s been no defunding of the police.”<sup>617</sup> While some police department budgets were reduced in the aftermath of Floyd’s murder, overall police funding has not decreased long-term following protests, even in jurisdictions that initially cut funds.<sup>618</sup> While some cities that reduced their law enforcement numbers and/or budgets saw an increase in crime, other cities did not.<sup>619</sup> There may be correlations between crime increases and de-policing during this time in some cities, but causal links have not been established by empirical studies.<sup>620</sup> Moreover, as this report has discussed, crime trends reflect a myriad of social factors; therefore, police reforms are potentially just one of these factors.

One motivation for calls for police reform is that criminal justice practitioners have become the “most frequent, visible, and direct contact with government”<sup>621</sup> for residents of disadvantaged neighborhoods. Police officers have increasingly taken on social support roles outside of their criminal justice-oriented training, such as responding to people with severe mental illness.<sup>622</sup> This can be viewed as a disservice to community members who need social services and to police officers, who are not trained as social workers.<sup>623</sup>

<sup>614</sup> Ram Subramanian and Leily Arzy, “State Policing Reforms Since George Floyd’s Murder,” Brennan Center, May 21, 2021, <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder>.

<sup>615</sup> Wendy M. Koslicki, “Criticism Does Not Constrain: Testing for Evidence of De-Policing Following the Murder of George Floyd,” *Policing: An International Journal*, 2022, vol. 45, no. 4, <https://www.emerald.com/insight/content/doi/10.1108/PIJPSM-08-2021-0114/full/html>.

<sup>616</sup> Jennifer E. Cobbina-Dungy and Delores Jones-Brown, “Too Much Policing: Why Calls are Made to Defund the Police,” *Punishment & Society*, 2023, vol. 25, no. 1, <https://journals.sagepub.com/doi/abs/10.1177/14624745211045652>. See also Rayshawn Ray, “What Does ‘Defund the Police’ Mean and Does it Have Merit?,” Brookings Institution, Jun. 19, 2020, <https://www.brookings.edu/articles/what-does-defund-the-police-mean-and-does-it-have-merit/>.

<sup>617</sup> Sharkey Testimony, *Racial Disparities Briefing*, p. 229.

<sup>618</sup> Tate Fegley and Ilia Murtazashvili, “From Defunding to Refunding Police: Institutions and the Persistence of Policing Budgets,” *Public Choice*, 2023, vol. 196, <https://link.springer.com/article/10.1007/s11127-023-01063-y>. See also Fola Akinnibi, Sarah Holder, and Christopher Cannon, “Cities Say They Want to Defund the Police. Their Budgets Say Otherwise,” *Bloomberg*, Jan. 12, 2021, <https://www.bloomberg.com/graphics/2021-city-budget-police-funding/>.

<sup>619</sup> Fegley and Murtazashvili, “From Defunding to Refunding Police.”

<sup>620</sup> See e.g., Grawert and Kim, “Myths and Realities: Understanding Recent Trends in Violent Crime”

<sup>621</sup> Vesla M. Weaver and Amy E. Lerman, “Political Consequences of the Carceral State,” *American Political Science Review*, 2010, vol. 104, no. 4, <https://www.cambridge.org/core/journals/american-political-science-review/article/abs/political-consequences-of-the-carceral-state/4E39A3AFDAB682A1D4DE53C57E38C019>, p. 2.

<sup>622</sup> Jennifer D. Wood and Amy C. Watson, “Improving Police Interventions during Mental Health-Related Encounters: Past, Present and Future,” *Policing and Society*, 2017, vol. 27, no. 3, <https://www.tandfonline.com/doi/abs/10.1080/10439463.2016.1219734>.

<sup>623</sup> Hogan Testimony, *Racial Disparities Briefing*, p. 63; see also U.S. Commission on Civil Rights, *Police Use of Force: An Examination of Modern Policing Practices*.

Calls for police reform are also motivated by the well-established social fact that people living in economically disadvantaged and racially segregated neighborhoods do not feel adequately protected by the police.<sup>624</sup> For instance, when discussing his decision to turn to violence as a young teenager instead of calling the police to report a stolen bike, Demetrius Molina, a survivor of neighborhood violence, questions:

But why would I call the police when they took my father away? Why would I call the police when I never considered them people who protected me? Why would I call them when I was taught not to trust the police because they tended to bring more trouble into my neighborhood than solve?<sup>625</sup>

Donald Northcross founded a mentorship organization, the OK Program, with police officers as a critical component of the “life support system”<sup>626</sup> for Black boys and young men knowing both the promise and danger of officers in Black communities. In explaining how carefully his organization selects officers, he testified, “Being a police officer for 20 years, I know that you can get the wrong police officer – even if he’s Black – in our community, and he can cause more harm than good.”<sup>627</sup>

Police departments can affect perceptions of their legitimacy by responding to community input.<sup>628</sup> John Paul Wright, professor in the School of Criminal Justice at the University of Cincinnati, provided an example about a policing tactic that alienated community members. He testified, “[T]here used to be a unit called the Vortex, and it was like a strike team. And it was effective, but it also generated a lot of community backlash.”<sup>629</sup> Instead, Professor Wright argues that policing can more precisely target individuals than neighborhoods. He testified:

[P]olice allocation of resources – and this is what [] focus deterrence literature tells us – that you don’t have to flood an area with blue ... that you can be highly selective, that you can use various types of crime analytics and street-level and operational-level intelligence to selectively arrest and hopefully incapacitate people that are driving crime in those areas.<sup>630</sup>

Another critical component of police efficacy is working in concert with stakeholders outside of law enforcement. The National Crime Gun Intelligence Center Initiative is an example of a

<sup>624</sup> National Academies of Sciences, Engineering, and Medicine, *Reducing Racial Inequality in Crime and Justice*. See also David S. Kirk and Andrew V. Papachristos, “Cultural Mechanisms and the Persistence of Neighborhood Violence,” *American Journal of Sociology*, 2011, vol. 116, no. 4, <https://doi.org/10.1086/655754>.

<sup>625</sup> Molina Testimony, *Racial Disparities Briefing*, p. 141.

<sup>626</sup> OK Program, “A National Plan to Reduce Violent Crime,” <https://okprogram.org/about/#life-support-system>.

<sup>627</sup> Northcross Testimony, *Racial Disparities Briefing*, p. 80.

<sup>628</sup> Lorraine Mazerolle, Sarah Bennett, Jacqueline Davis, Elise Sargeant, and Matthew Manning, “Procedural Justice and Police Legitimacy: A Systematic Review of the Research Evidence,” *Journal of Experimental Criminology*, 2013, vol. 9, <https://link.springer.com/article/10.1007/s11292-013-9175-2>.

<sup>629</sup> Wright Testimony, *Racial Disparities Briefing*, p. 224.

<sup>630</sup> *Ibid.*, p. 223.

collaborative effort to prevent violence.<sup>631</sup> Professor Wright works with the Gun Crime Intelligence Center in Cincinnati. He testified that this initiative receives “widespread support in large part also because it brings in community members. And we have social workers on staff, and we work with violence interrupters.”<sup>632</sup>

Another solution to low levels of police officer trust in Black communities is to rely on organizations outside of policing to address violence and social issues that are associated with violence.<sup>633</sup> For instance, gun violence is treated as a public health issue by hospital-based violence intervention programs. Ruth Abaya, Pediatric Emergency Medicine Physician and Senior Director for the Health Alliance for Violence Intervention, testified that:

Investing in programs that specifically address violence that disproportionately impacts minority communities is an important way to make a difference in these inequities. Models such as hospital-based violence intervention programs, [] that rely on credible messengers, or people with known lived experience from communities affected, who have been violently injured themselves in many instances to support patients who have been violently injured from the hospital or trauma center all the way to the community where trauma informed comprehensive care helps these individuals find healing.<sup>634</sup>

Some community organizations argue that moving away from a model that relies exclusively on law enforcement could lead to better outcomes for victims. For instance, Audacia Ray, Director of Community Organizing and Public Advocacy for the Anti-Violence Project, testified:

Because of the mistrust and the fear that many Black and multiply marginalized people have towards law enforcement, community-based reporting can assist in collecting more accurate data that reflects not just who feels comfortable reporting to the police, but more expansively who’s actually experiencing violence.<sup>635</sup>

Reforms in prosecution practices have also been connected to changes in crime. Some scholars assert that intentionally less punitive prosecutors cause crime to increase in their jurisdictions. For instance, Thomas Hogan, law professor and former Federal Prosecutor, finds a significant relationship between de-prosecution for felony and misdemeanor cases in Philadelphia’s District Attorney’s Office and an increase in homicides from 2015-2019.<sup>636</sup> Other studies do not find a relationship between prosecutorial reforms and violent crime, however. For example, researchers

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<sup>631</sup> Crime Gun Intelligence Centers, “CGIC Concept,” <https://crimegunintelcenters.org/cgic-concept/>.

<sup>632</sup> Wright Testimony, *Racial Disparities Briefing*, p. 224.

<sup>633</sup> John Jay College Research Advisory Group on Preventing and Reducing Community Violence (Ed.), “Reducing Violence Without Police: A Review of Research Evidence,” Research and Evaluation Center, John Jay College of Criminal Justice, 2020, <https://johnjayrec.nyc/2020/11/09/av2020/>.

<sup>634</sup> Abaya Testimony, *Racial Disparities Briefing*, p. 73.

<sup>635</sup> Ray Testimony, *Racial Disparities Briefing*, p. 158.

<sup>636</sup> Thomas P. Hogan, “De-Prosecution and Death, A Synthetic Control Analysis of the Impact of De-Prosecution on Homicides,” *Criminology & Public Policy*, 2022, vol. 21, no. 3, <https://doi.org/10.1111/1745-9133.12597>.

from George Mason University use variation in the timing of when progressive prosecutors took office in 35 jurisdictions and find no significant effect of prosecutorial reforms on local crime rates.<sup>637</sup> A separate analysis by John Pfaff of Fordham University finds that murders increased by almost equal rates in cities with and without progressive prosecutors.<sup>638</sup> As Richard Rosenfeld, a criminologist at University of Missouri-St. Louis, explains, “[w]hen you see [the crime rate in] nearly every city go up like we did in 2020, it’s really difficult under those conditions to attribute the increase to any particular policy in any particular city.”<sup>639</sup> Importantly, a key factor that has not changed over time is that Black men are the most likely to be victims of murder,<sup>640</sup> including by the police.<sup>641</sup>

Criminal justice reform is not a new phenomenon. Rafael Mangual, Manhattan Institute Fellow, testified, “Over the last 10 to 20 years, the country has seen federal and state sentencing reforms, bail reforms, discovery reforms, de-criminalization efforts aimed at drugs and theft offenses, [and] successful litigation efforts targeting police practices or incarceration.”<sup>642</sup>

The COVID-19 pandemic accelerated some dimensions of criminal justice reform. For instance, during the pandemic, many police departments reduced their arrests<sup>643</sup> and prosecutors rolled back prosecutions of low-level offenses.<sup>644</sup> Admissions to prison were reduced in most states and some prisoners were released.<sup>645</sup> John Paul Wright, professor in the School of Criminal Justice at the University of Cincinnati, says that the pandemic and social protests led to “uncharted territory” in criminology. He testified:

The drawdown of the justice system was widespread and clearly impacted the data generating processes used to estimate the volume and distribution of crime. For example, many police agencies instructed the public to avoid calling them unless the situation was dire. Meaning many crimes were not reported, [and therefore] not counted. Many courts suspended or

<sup>637</sup> Amanda Agan, Jennifer L. Doleac, and Anna Harvey, “Prosecutorial Reform and Local Crime Rates,” *Law and Economics Center at George Mason University Scalia Law School Research Paper*, 2021, vol. 22, no. 11, <https://ssrn.com/abstract=3952764>.

<sup>638</sup> “Are Progressive Prosecutors to Blame for an American Homicide Wave?,” *The Economist*, Feb. 19, 2022, <https://www.economist.com/graphic-detail/2022/02/19/are-progressive-prosecutors-to-blame-for-an-american-homicide-wave>.

<sup>639</sup> Marisa Lago, “Violent Crime Soared During the Pandemic. But Does the Political Debate Reflect the Data?” *KQED*, Mar. 2, 2022, <https://www.kqed.org/news/11906253/violent-crime-soared-during-the-pandemic-but-does-the-political-debate-reflect-the-data>.

<sup>640</sup> *Ibid.*

<sup>641</sup> Frank Edwards, Hedwig Lee, and Michael Esposito, “Risk of Being Killed by Police Use of Force in the United States by Age, Race-Ethnicity, and Sex,” *Proceedings of the National Academy of Sciences*, 2019, vol. 116, no. 34, <https://doi.org/10.1073/pnas.1821204116>.

<sup>642</sup> Mangual Testimony, *Racial Disparities Briefing*, p. 212.

<sup>643</sup> Goodison, “Local Police Departments Personnel, 2020.”

<sup>644</sup> Chad Flanders and Stephen Galoob, “Progressive Prosecution in a Pandemic,” *J. Crim. L. & Criminology*, 2020, vol. 110, no. 4, <https://scholarlycommons.law.northwestern.edu/jclc/vol110/iss4/1>.

<sup>645</sup> Ann Carson, Melissa Nadel, and Gerry Gaes, “Impact of COVID-19 on State and Federal Prisons, March 2020-February 2021,” Bureau of Justice Statistics, Aug. 2022, <https://bjs.ojp.gov/content/pub/pdf/icsfp2021.pdf>.

scaled back operations, which reduced the flow of alleged offenders through the system. Probation offices stopped home and work verifications [ ] all but eliminating revocations due to technical violations and additional crimes. Many jails stopped admitting inmates or admitted only those accused of the most serious of crimes.<sup>646</sup>

The pandemic also forced local nonprofits, which can play a key role in public safety,<sup>647</sup> to limit their services, including community violence intervention programs.<sup>648</sup> Each of these changes could affect crime and by extension, crime victims. None of these factors can fully explain the crime fluctuations during this study's period because there is not one single cause of crime, and all these systems are interrelated.

### *Firearms*

Violent crime victimization in the United States is undoubtedly connected to gun violence. As this report has shown, much of the violent crime increase from 2019-2021 stemmed from gun-related injuries and homicides.<sup>649</sup> In 2020, the majority of homicides (78.9 percent) and suicides (52.9 percent) involved a firearm.<sup>650</sup> Given that the United States is an outlier in both gun ownership and homicide,<sup>651</sup> in an effort to reduce the usage of guns in illegal activity, Congress established the National Instant Criminal Background Check System (NICS) as a result of the Brady Handgun Violence Prevention Act of 1993 (Brady Act).<sup>652</sup> The Brady Act requires a national namecheck system for federal firearms licensees (FFL).<sup>653</sup>

There are several social factors that correlate with higher gun sales. For example, gun sales often spike after terrorist attacks and calls for stricter gun-buying laws.<sup>654</sup> There was also an increase in the number of background checks in 2020, shown in Figure 6. In 2021, the number of background checks decreased slightly but remained much higher than in the years preceding the pandemic. An

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<sup>646</sup> Wright Testimony, *Racial Disparities Briefing*, pp. 196-197.

<sup>647</sup> Drawing on a panel of 264 cities spanning over two decades, researchers estimated that every additional 10 organizations focusing on crime and community life in a city with 100,000 or more residents led to a 9 percent reduction in the murder rate, a 6 percent reduction in the violent crime rate, and a 4 percent reduction in the property crime rate. See Patrick Sharkey, Gerard Torrats-Espinosa, and Delaram Takyar, "Community and the Crime Decline: The Causal Effect of Local Nonprofits on Violent Crime," *American Sociological Review*, 2017, vol. 82, no. 6, <https://doi.org/10.1177/0003122417736289>.

<sup>648</sup> Grawert and Kim, "Myths and Realities: Understanding Recent Trends in Violent Crime."

<sup>649</sup> See *supra* notes 464-479 (discussion on crime trends and data).

<sup>650</sup> Centers for Disease Control and Prevention, "Vital Signs: Changes in Firearm Homicide and Suicide Rates – United States, 2019-2020," May 13, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/mm7119e1.htm>.

<sup>651</sup> Michael Siegel, Craig S. Ross, and Charles King III, "The Relationship Between Gun Ownership and Firearm Homicide Rates in the United States, 1981-2010," *American Journal of Public Health*, 2013, vol. 103, no. 11, <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2013.301409>.

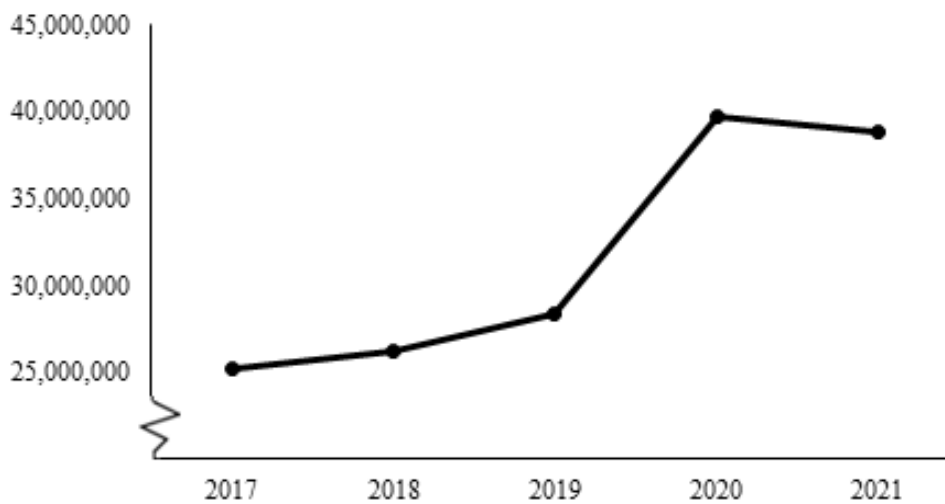
<sup>652</sup> Federal Bureau of Investigation, "About NICS," <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/nics/about-nics>.

<sup>653</sup> *Ibid.*

<sup>654</sup> Gregor Aisch and Josh Keller, "What Happens After Calls for New Gun Restrictions? Sales Go Up," *New York Times*, Jun. 13, 2016, <https://www.nytimes.com/interactive/2015/12/10/us/gun-sales-terrorism-obama-restrictions.html>.

estimated 2.9 percent of U.S. adults (7.5 million) became new gun owners from January 1, 2019 to April 26, 2021, and the majority (5.4 million) had previously lived in homes without guns.<sup>655</sup> The spike in background checks in 2020 might be attributed to the idea of guns as a commodity, similar to other household essentials.<sup>656</sup> Timothy Lytton, a law professor at Georgia State University, surmised that “[p]eople are nervous that there’s a certain amount of civil disorder that might come if huge numbers of people are sick and a huge number of institutions are not operating normally... They may have an anxiety about protecting themselves if the organs of state are starting to erode.”<sup>657</sup>

**Figure 6: NICS Background Checks, 2017-2021**



Note: The y-axis has been truncated to provide a more detailed look at the data.

Source: Federal Bureau of Investigation, NICS Firearm Background Checks Month/Year, [https://www.fbi.gov/file-repository/nics\\_firearm\\_checks\\_-\\_month\\_year.pdf](https://www.fbi.gov/file-repository/nics_firearm_checks_-_month_year.pdf).

There is a relationship between state-level increases in firearm purchasing and domestic firearm violence.<sup>658</sup> In 2020, firearm injuries became the leading cause of death among children and

<sup>655</sup> Matthew Miller, Wilson Zhang, and Deborah Azrael, “Firearm Purchasing During the Covid-19 Pandemic: Results from the 2021 National Firearms Survey,” *Annals of Internal Medicine*, 2021, vol. 175, no. 2, <https://doi.org/10.7326/m21-3423>.

<sup>656</sup> Keith Collins and David Yaffe-Bellany, “About 2 Million Guns Were Sold in the U.S. as Virus Fears Spread,” *New York Times*, Apr. 1, 2020, <https://www.nytimes.com/interactive/2020/04/01/business/coronavirus-gun-sales.html>.

<sup>657</sup> Ibid.

<sup>658</sup> Julia P. Schleimer, Christopher D. McCort, Aaron B. Shev, et al., “Firearm Purchasing and Firearm Violence During the Coronavirus Pandemic in the United States: A Cross-Sectional Study,” *Injury Epidemiology*, 2021, vol. 8, <https://doi.org/10.1186/s40621-021-00339-5>.

adolescents in the U.S.;<sup>659</sup> they remained the leading cause of death in 2021.<sup>660</sup> In a study using 2021 CDC data, researchers separately tested mortality causes of children and adolescents by age group (0-4, 5-9, 10-14, 15-19).<sup>661</sup> While firearm-related homicides were higher for the two adolescent groups (i.e., 10-14 and 15-19) than the child groups, (i.e., 0-4 and 5-9), they find that firearm-related homicides increased for all age subgroups.<sup>662</sup> They also demonstrate considerable racial disparities: the firearm homicide rate was 11 times higher for Black children compared with White children (16.3 vs. 1.5 per 100,000).<sup>663</sup> From 2020 to 2021, there was a 12.4 percent increase in the firearm homicide rate among Black children (14.5-16.3 per 100,000; see Figure 7).<sup>664</sup> Across the United States, higher poverty levels are correlated with higher firearm death rates.<sup>665</sup>

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<sup>659</sup> Jason E. Goldstick, Rebecca M. Cunningham, and Patrick M. Carter, “Current Causes of Death in Children and Adolescents in the United States,” *New England Journal of Medicine*, 2022, vol. 386, no. 20, <https://doi.org/10.1056/NEJMc2201761>.

<sup>660</sup> Bailey K. Roberts, Colleen P. Nofi Emma Cornell, Sandeep Kapoor, Laura Harrison, Chethan Sathya, “Trends and Disparities in Firearm Deaths Among Children,” *Pediatrics*, 2023, vol. 152, no. 3, <https://doi.org/10.1542/peds.2023-061296>.

<sup>661</sup> Ibid.

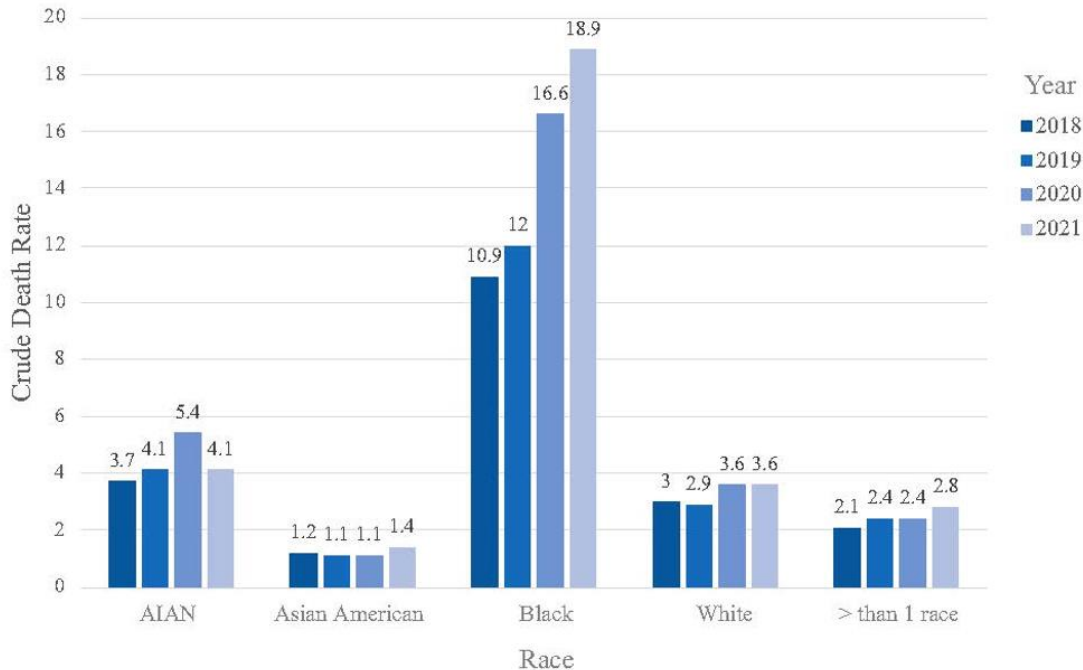
<sup>662</sup> Ibid.

<sup>663</sup> Ibid.

<sup>664</sup> Ibid.

<sup>665</sup> Ibid.



**Figure 7: Pediatric Firearm Mortality by Race, 2018-2021**

Source: Bailey K. Roberts, Colleen P. Nofi Emma Cornell, Sandeep Kapoor, Laura Harrison, Chethan Sathya, "Trends and Disparities in Firearm Deaths Among Children," *Pediatrics*, 2023, vol. 152, no. 3, <https://doi.org/10.1542/peds.2023-061296>.

An increase in firearm injuries affected groups beyond children in the period of the study. From 2019 to 2020, the *overall* firearm homicide rate increased 34.6 percent; the largest increases occurred among Black males ages 10-44 and American Indian/Alaska Native males ages 25-44.<sup>666</sup> Rates of firearm homicide were lowest and increased least at the lowest poverty level and were higher and showed larger increases at higher poverty levels.<sup>667</sup>

Homicides are not the only concern relating to changes in firearm ownership. Suicides account for the majority of U.S. gun deaths.<sup>668</sup> More than half of suicides in the U.S. are committed by

<sup>666</sup> Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report (MMWR), "Vital Signs: Changes in Firearm Homicide and Suicide Rates – United States, 2019 - 2020," May 13, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/mm7119e1.htm>.

<sup>667</sup> Ibid.

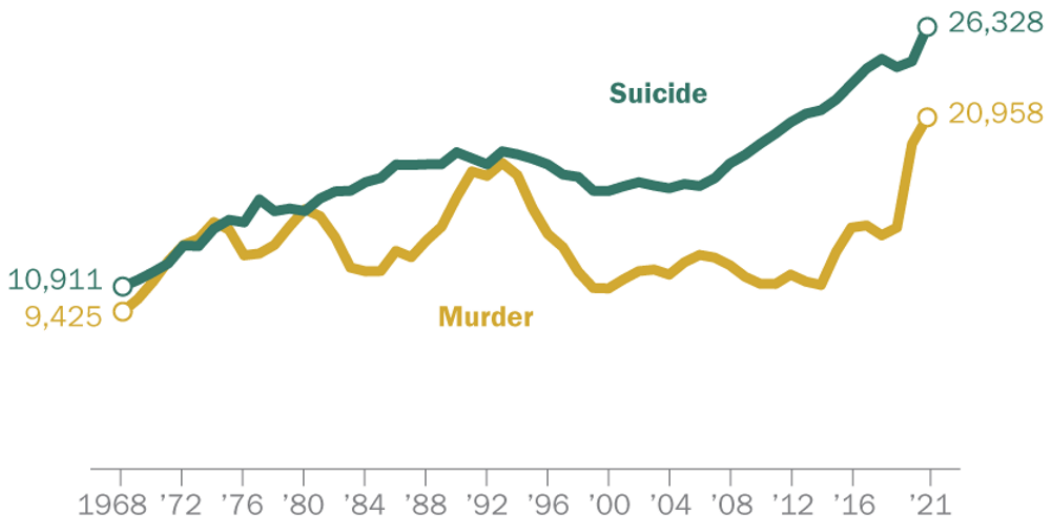
<sup>668</sup> Drew Desilver, "Suicides Account for Most Gun Deaths," Pew Research Center, May 24, 2013, <https://www.pewresearch.org/short-reads/2013/05/24/suicides-account-for-most-gun-deaths/>.

firearms.<sup>669</sup> James Mercy, Director of the Division of Violence Prevention at the CDC, argues that having a gun in the home increases the risk of homicide and suicide. He testified:

[T]he involvement of a firearm in an act of violence dramatically increases the likelihood of a severe outcome, of a homicide. So, the involvement of firearms really exacerbates the health impact of these events. [T]he more lethal a weapon that’s used in an event, the more likely the outcome is to result in severe injury or death.<sup>670</sup>

The firearm suicide rate among persons aged 10 years and older increased 8.3 percent from 2020 to 2021.<sup>671</sup> The overall U.S. firearm homicide and firearm suicide rates in 2021 were the highest documented since 1993 and 1990, respectively.<sup>672</sup> Figure 8 shows the trend in gun suicides and gun murders.

**Figure 8: Gun Suicides and Gun Murders, 1968-2021**



Source: Pew Research Center, “U.S. Saw Record Numbers of Gun Suicides and Gun Murders in 2021,” Apr. 24, 2023, [https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/ft\\_23-04-20\\_gundeathsupdate\\_2/](https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/ft_23-04-20_gundeathsupdate_2/).

<sup>669</sup> The NVSS Mortality Data for 2021 indicates that all suicides accounted for 14.5 deaths per 100,000, and firearm suicides accounted for 7.9 deaths per 100,000. See Centers for Disease Control and Prevention, “Suicide and Self Inflicted Injury,” <https://www.cdc.gov/nchs/fastats/suicide.htm>.

<sup>670</sup> Mercy Testimony, *Racial Disparities Briefing*, p. 55.

<sup>671</sup> Centers for Disease Control and Prevention, “Increases in Firearm Homicide and Suicide Rates – United States, 2020-2021,” Oct. 7, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a4-H.pdf>.

<sup>672</sup> Ibid.

Gun ownership rights and restrictions are controversial. Adam Gelb, President and CEO of the Council on Criminal Justice, explains that there is strong gun advocacy on both sides. In addition to advocacy seeking stronger gun controls, particularly for assault rifles, he testified:

We also have a lot of advocacy around saying people are unsafe in their communities so of course they're carrying guns and we shouldn't actually arrest them for carrying guns because we should actually understand why they're doing that. And it's a government failure that is causing that gun carrying. So, we shouldn't fail them and then arrest them for having failed them for carrying guns.<sup>673</sup>

John Lott, President of the Crime Prevention Research Center, believes that guns are necessary for safety. He testified that one way to reduce crime is “by letting victims be able to go and protect themselves with guns.”<sup>674</sup> Paul Pazen, Denver's former Police Chief, agrees that people purchase guns when they do not feel safe, but thinks this can inadvertently contribute to violence. He testified:

And so when people buy guns, like this, often times they don't properly secure their guns. And these guns are stolen in burglaries, they're stolen in cars. Or when they steal the whole car and the gun is left inside, [then] that gun ends up on the street. So, it perpetuates this cycle.<sup>675</sup>

Angela Ferrell-Zabala, Executive Director of Moms Demand Action, agrees that guns have the potential to be used by people who might engage in crime. She says, “Often, the guns are used in crimes and end up in the hands of individuals with dangerous histories due to loopholes in the background check system, or rogue dealers who sell guns to straw purchasers, and firearms traffickers.”<sup>676</sup>

While gun ownership laws may remain controversial, crimes involving firearms drove the increase in violence during the pandemic.<sup>677</sup> Patrick Sharkey, William S Tod Professor of Sociology and Public Affairs at Princeton University and author of a book about the decline in violence prior to its recent uptick,<sup>678</sup> testified that guns are fundamental to crime trends in the U.S. He testified:

It is not possible to build a lasting sustained peace through mass incarceration, through aggressive policing, through intensive surveillance targeted toward low-income communities

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<sup>673</sup> Gelb Testimony, *Racial Disparities Briefing*, pp. 55-56.

<sup>674</sup> Lott Testimony, *Racial Disparities Briefing*, p. 190.

<sup>675</sup> Pazen Testimony, *Racial Disparities Briefing*, pp. 52-53.

<sup>676</sup> Ferrell-Zabal Testimony, *Racial Disparities Briefing*, p. 94.

<sup>677</sup> Piquero, “Racial Inequality in Firearm Homicide Victimization.”

<sup>678</sup> Patrick Sharkey, *Uneasy Peace: The Great Crime Decline, the Renewal of City Life, and the Next War on Violence* (New York: WW Norton & Company, 2018).

of color. It is not possible to build a lasting peace when an unregulated supply of guns circulates through communities.<sup>679</sup>

### *Mental Health and Substance Use Issues*

The COVID-19 pandemic profoundly impacted public mental health and overall wellbeing. Like changes to the economy, criminal justice reforms, and trends in firearm ownership, diminishing mental wellbeing was a co-occurring social trend during the pandemic that could relate to violent crime victimization. While there is a relationship between substance use and crime, people with mental illness are more likely to be violent crime victims than violent crime offenders.<sup>680</sup>

One way to measure society-level wellbeing is through suicide rates. Data from the CDC's National Center for Health Statistics indicates that the number and rate of suicides in the United States increased 4 percent in 2021 after two consecutive years of decline.<sup>681</sup> Figure 9 shows the suicide rate steadily increased between 2000 and 2018, decreased from 2018 to 2020, and increased again in 2021.<sup>682</sup> From 2020 to 2021, suicide rates increased significantly for Black and White women and for Black, White, and American Indian or Alaska Native men.<sup>683</sup> For Asian/Pacific Islanders who died between 15-24 in 2019, suicide was the leading cause of death.<sup>684</sup> Suicide rates are highest for American Indian or Alaska Native men followed by White men.<sup>685</sup>

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<sup>679</sup> Sharkey Testimony, *Racial Disparities Briefing*, p. 186.

<sup>680</sup> Heather Stuart, "Violence and Mental Illness: An Overview," *World Psychiatry*, 2003, vol. 2, no. 2, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1525086/>.

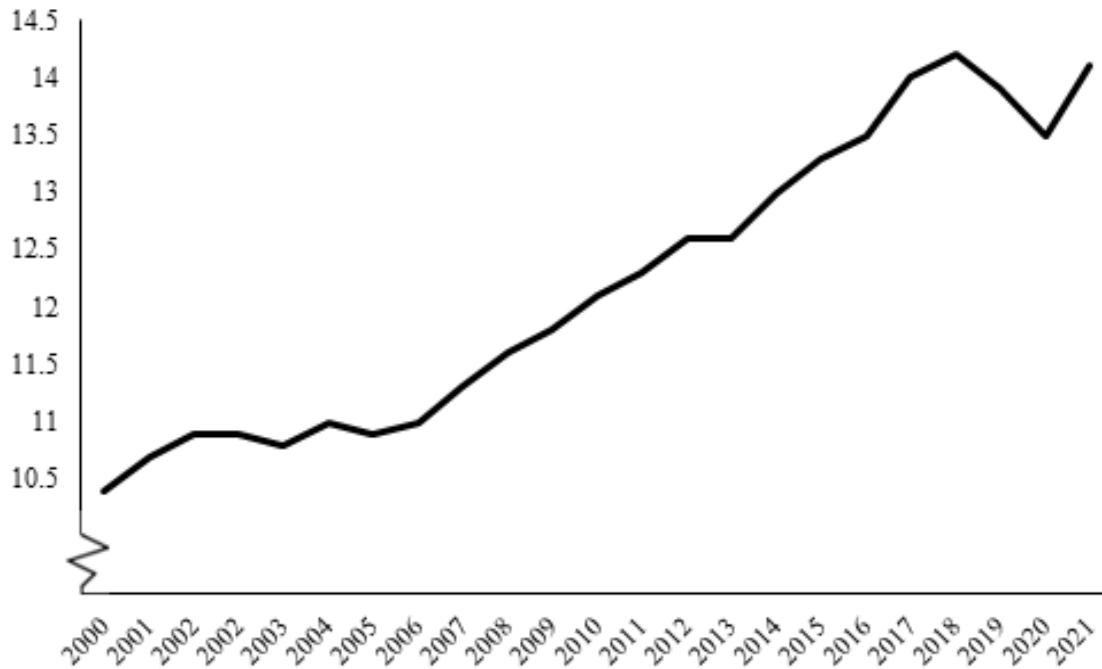
<sup>681</sup> Center for Disease Control and Prevention, National Center for Health Statistics, "Suicide Mortality in the United States, 2001-2021," Apr. 2023, <https://www.cdc.gov/nchs/products/databriefs/db464.htm>.

<sup>682</sup> Center for Disease Control and Prevention, "Suicide Data and Statistics," <https://www.cdc.gov/suicide/suicide-data-statistics.html>.

<sup>683</sup> Center for Disease Control and Prevention, "Suicide Mortality in the United States, 2001-2021."

<sup>684</sup> U.S. Department of Health and Human Services, "Mental and Behavioral Health – Asian Americans," Office of Minority Health, <https://minorityhealth.hhs.gov/mental-and-behavioral-health-asian-americans#:~:text=Suicide%20was%20the%20leading%20cause,15%20to%2024%2C%20in%202019.&text=Asian%20American%20males%2C%20in%20grades,white%20male%20students%2C%20in%202019.>

<sup>685</sup> Center for Disease Control and Prevention, "Disparities in Suicide," <https://www.cdc.gov/suicide/facts/disparities-in-suicide.html#:~:text=Older%20Adults&text=Men%20aged%2075%20and%20older,compared%20to%20other%20age%20groups.>

**Figure 9: Suicide Rates (per 100,000), 2000-2021**

Note: The y-axis has been truncated to provide a more detailed look at the data.

Source: Center for Disease Control and Prevention, "Suicide Data and Statistics,"

<https://www.cdc.gov/suicide/suicide-data-statistics.html>.

Another way to measure mental wellbeing is through substance abuse. According to the National Institute on Drug Abuse (NIDA), substance use and drug overdoses have increased in the United States since the COVID-19 pandemic was declared a national emergency in March 2020.<sup>686</sup> NIDA finds that the number of positive tests for fentanyl, cocaine, heroin, and methamphetamine increased during the pandemic compared to previous years.<sup>687</sup> Additionally, studies suggest many people increased their use of alcohol and cannabis (marijuana), especially people with clinical anxiety and depression and those experiencing COVID-19-related stress.<sup>688</sup>

Research has pointed to a relationship between the opioid epidemic and violent crime. A longitudinal county-level study shows a positive association over time between homicide and opioid-related deaths.<sup>689</sup> Around 2014, illicit fentanyl overdose deaths began to rise, pointing to a transition to synthetic – and illegal – opioid markets. Criminologists attribute the transition to a

<sup>686</sup> National Institute on Drug Abuse, "COVID-19 & Substance Use," <https://nida.nih.gov/research-topics/comorbidity/covid-19-substance-use>.

<sup>687</sup> Ibid.

<sup>688</sup> Ibid.

<sup>689</sup> Richard Rosenfeld, Randolph Roth, and Joel Wallman, "Homicide and the Opioid Epidemic: A Longitudinal Analysis," *Homicide Studies*, 2023, vol. 27, no. 3, <https://doi.org/10.1177/10887679211054418>.

potential rise in murders since illegal drug markets are associated with increasing levels of violence.<sup>690</sup>

Christina Love, Survivor and Executive Director of Rural Alaska Integrated Services, points out how addiction and violence are connected. She testified:

[W]e can't talk about domestic violence and sexual assault without talking about incarceration and homelessness and substance use. A big part of my job is to normalize the ways that people survive and to place the blame where it belongs. Mental health and substance use are natural reactions to violence; it's the violence that is not the natural thing.<sup>691</sup>

As this chapter has shown, homicide and aggravated assault rates increased during the emergency phase of the COVID-19 pandemic, after which some states started experiencing a downward trend in violent crime rates. There are many social phenomena that correlate with these increases. More research is needed to fully understand the relationship between societal factors and the local, state, and federal responses to crime trends during the pandemic. While this chapter presents crime data and provides simultaneous social trends during these years, it is important to look beyond the statistics and remember the human cost of violent crime on individuals, families, and entire communities. Therefore, the final chapter, Chapter 3, moves to a discussion about the government's role in providing victims of violent crime services and support following these incidents.

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<sup>690</sup> German Lopez, "Why the Opioid Epidemic May Have Fueled America's Murder Spike," *Vox*, Feb. 6, 2018, <https://www.vox.com/policy-and-politics/2018/2/6/16934054/opioid-epidemic-murder-violent-crime>.

<sup>691</sup> Love Testimony, *Racial Disparities Briefing*, pp. 166-167.

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## Chapter 3: Federal, State, and Local Responses to Current Violent Crime and Victimization

The position of victims in the criminal justice system has changed dramatically since the beginning of the Victims' Right Movement (VRM). Rising crime in the 1960s underscored how small of a role victims play in a system where the state, not individual victims, are the wronged party in criminal cases.<sup>692</sup> In particular, female victims felt alienated from a system that did not treat sexual assault or domestic violence as serious crimes, which brought women's movements and the VRM together.<sup>693</sup> Though women's advocacy was critical in the VRM, such as through groups like Mothers Against Drunk Driving,<sup>694</sup> the VRM was a bipartisan project.<sup>695</sup> During his time in office, President Reagan described victims of crime as the "forgotten persons of our criminal justice system."<sup>696</sup> Advocacy helped spawn a series of legislative changes (see Chapter 1) aimed at victim participation, notification, and compensation.<sup>697</sup> Now, the federal government and all states have victims' rights statutes, and most states have constitutional provisions protecting victims' rights.<sup>698</sup> Victims have the right to discuss the case with prosecutors, to provide victim impact statements at sentencing and/or parole, to receive notice of a change in the offender's security status or release.<sup>699</sup> In one notable example that would not have been feasible before the VRM, the judge in the sexual assault case against former Olympic gymnastics coach, Larry Nassar, allowed 156 women to make victim impact statements during sentencing explicitly to give the victims a voice.<sup>700</sup>

An important outgrowth of the victims' rights movement was the establishment of victim restitution and compensation programs.<sup>701</sup> The VRM resulted in the creation of many local, state, and federal programs that are designed to assist survivors of violent crime and their families. Victims' rights and services vary between states because they depend on state laws and available resources. Many victim service organizations have established collaborations with law enforcement agencies which could lead to more trust between officers and community members and build safer communities.

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<sup>692</sup> Marlene Young and John Stein, "The History of the Crime Victims' Movement in the United States," Office for Victims of Crime, 2004, [https://www.ncjrs.gov/ovc\\_archives/nevrw/2005/pdf/historyofcrime.pdf](https://www.ncjrs.gov/ovc_archives/nevrw/2005/pdf/historyofcrime.pdf).

<sup>693</sup> Ibid.

<sup>694</sup> Ibid.

<sup>695</sup> Jill Lepore, "The Rise of the Victims'-Rights Movement," *New Yorker*, May 14, 2018, <https://www.newyorker.com/magazine/2018/05/21/the-rise-of-the-victims-rights-movement>.

<sup>696</sup> David L. Roland, "Progress in the Victim Reform Movement: No Longer the Forgotten Victim," *Pepp. L. Rev.*, 1989, vol. 17, [digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1691&context=plr](https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1691&context=plr).

<sup>697</sup> Ibid.

<sup>698</sup> Andrew Nash, "Victims by Definition," *Wash. UL Rev.*, 2007, vol. 85, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/walq85&div=41&id=&page=>.

<sup>699</sup> Ibid.

<sup>700</sup> Lepore, "The Rise of the Victims'-Rights Movement."

<sup>701</sup> Young and Stein, "The History of the Crime Victims' Movement in the United States."



Violent crime victimization profoundly affects individuals, their families, and communities. Crime victims not only have to deal with the physiological, psychological, and emotional effects of their victimization, they also often bear high financial costs as a result.<sup>702</sup> It is estimated that violent crime victimization costs victims over \$17 billion annually due to medical costs, lost wages, and property damage. Additionally, there are also intangible costs to victims due to reduced quality of life, pain, and suffering that is estimated to equal approximately \$330 billion.<sup>703</sup> It is also estimated that victims and their families pay around \$44 billion in out-of-pocket costs.<sup>704</sup> While it is impossible to put a dollar figure on the cost of someone's life, victims and their families are often left without assistance to help offset the costs following a violent crime.

Victim service providers can alleviate some of those financial burdens and connect victims with services for emotional healing. Additionally, victim service providers can positively impact the administration of justice. Data suggest that violent victimization survivors who seek victim services are more likely to have an arrest made in their case and have contact from a judge or prosecutor compared to victims who do not seek services.<sup>705</sup> Moreover, victims who seek services may be more inclined to take additional steps to advance the case, and receiving assistance could help move cases through the justice system.<sup>706</sup> Overall, victim services are beneficial to victims financially, in providing non-financial resources, and in navigating criminal justice processes.<sup>707</sup>

One barrier to providing services and assistance to victims is that many do not feel comfortable reporting a crime to law enforcement. Data from the Department of Justice's (DOJ) Bureau of Justice Statistics (BJS) show that less than half of all violent crimes are reported to the police.<sup>708</sup> Building trust between police and community members is essential because it aids the police's investigation process, connects victims to services and information, and increases public safety.<sup>709</sup> Additionally, research suggests that one way to build trust is by dedicating police resources to

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<sup>702</sup> See e.g., Rochelle Hanson, Genelle Sawyer, Angela Begle, and Grace Hubel, "The Impact of Crime Victimization on Quality of Life," *Journal of Trauma and Stress*, 2010, vol. 23, no. 2,

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2910433/>; National Council for Behavioral Health, "How to Manage Trauma," <https://www.thenationalcouncil.org/wp-content/uploads/2022/08/Trauma-infographic.pdf?dof=375atetbd56>; Bureau of Justice Statistics, "Cost of Crime," U.S. Dep't of Justice, <https://bjs.ojp.gov/costs-crime>.

<sup>703</sup> See e.g., Ted Miller, Mark Cohen, and Brian Wiersema, "Victim Costs and Consequences: A New Look," National Institute of Justice, Jan. 1996, <https://www.ojp.gov/pdffiles/victcost.pdf>.

<sup>704</sup> Ibid.

<sup>705</sup> Lynn Langton, "Use of Victim Service Agencies by Victims of Serious Violent Crime, 1993-2009," Bureau of Justice Statistics, U.S. Dep't of Justice, Aug. 2011, <https://bjs.ojp.gov/content/pub/pdf/uvsavsvc9309.pdf>, p.4.

<sup>706</sup> Ibid.

<sup>707</sup> U.S. Dep't of Justice, "Assistance and Resources for Victims," <https://www.justice.gov/enrd/environmental-crime-victim-assistance/assistance-and-resources-victims>.

<sup>708</sup> Alexandra Thompson and Susannah N. Tapp, "Criminal Victimization, 2021," Bureau of Justice Statistics, Revised Jul. 5, 2023, <https://bjs.ojp.gov/content/pub/pdf/cv21.pdf>.

<sup>709</sup> Community Oriented Policing Services, "Building Trust Between the Police and the Citizens They Serve," Dep't of Justice, <https://portal.cops.usdoj.gov/resourcecenter/RIC/Publications/cops-w0724-pub.pdf>; National Academies of Sciences, Engineering, and Medicine, "Police Training to Promote the Rule of Law and Protect the Population," 2022, <https://nap.nationalacademies.org/catalog/26467/police-training-to-promote-the-rule-of-law-and-protect-the-population>.

victims.<sup>710</sup> However, only 13 percent of law enforcement agencies report having a specialized victim assistance unit with full- or part-time personnel, and only 12 percent have a dedicated victim assistance personnel on staff.<sup>711</sup> Recognizing the need to have more specialized victim units, the Office for Victims of Crime (OVC) at DOJ introduced funding for FYs 2019 and 2020 for law enforcement agencies to develop or enhance programs that connect victims and their families to services.<sup>712</sup>

Empirical research over the past decade has started to pay more attention to the role of trauma and its effects on survivors of violent crime. The Department of Health and Human Services (HHS) defines trauma as “an event, series of events, or set of circumstances experienced by an individual that is physically or emotionally harmful or life-threatening and that has lasting adverse effects on the individuals’ functioning and mental, physical, social, emotional, or spiritual well-being.”<sup>713</sup> Retired Denver Police Chief Paul Pazen testified that “there is continued research that points to trauma as being the greatest indicator of future violence. When young people are exposed to violence, when they’re victims of violence or they see violence take place in their neighborhoods, there is a higher propensity or higher likelihood that future violence will occur.”<sup>714</sup>

Trauma can result from childhood abuse or neglect; witnessing acts of violence; physical, emotional, or sexual abuse; or cultural, intergenerational, and historical trauma,<sup>715</sup> and when an individual is overwhelmed by events or circumstances in their lives and responds through intense fear, horror, and helplessness. Trauma can affect everyone differently and therefore may manifest in different ways. For instance:

The impact of trauma can be subtle, insidious, or outright destructive. How an event affects an individual depends on many factors, including characteristics of the individual, the type and characteristics of the event(s), developmental processes, the meaning of the trauma, and sociocultural factors.<sup>716</sup>

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<sup>710</sup> Community Oriented Policing Services, “Building Trust Between the Police and the Citizens They Serve”; Office for Victims of Crime, “OVC FY 2020 Law Enforcement-Based Victim Specialist Program,” Feb. 19, 2020, <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/OVC-2020-17556.pdf>.

<sup>711</sup> Elizabeth J. Davis and Sean E. Goodison, “Law Enforcement Management and Administrative Statistics,” 2020, <https://bjs.ojp.gov/data-collection/law-enforcement-management-and-administrative-statistics-lemas#publications-0>.

<sup>712</sup> Office for Victims of Crime, “OVC FY 2020 Law Enforcement-Based Victim Specialist Program.”

<sup>713</sup> Substance Abuse and Mental Health Services Administration, “SAMHSA’s Concept of Trauma and Guidance for a Trauma-Informed Approach,” Dep’t of Health and Human Services, Jul. 2014, <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4884.pdf>.

<sup>714</sup> Pazen Testimony, *Racial Disparities Briefing*, p. 44.

<sup>715</sup> National Council for Behavioral Health, “How to Manage Trauma.”

<sup>716</sup> Substance Abuse and Mental Health Services Administration, “Treatment Improvement Protocol (TIP) Series,” Dep’t of Health and Human Services, 2014, no. 57, <https://www.ncbi.nlm.nih.gov/books/NBK207191/>.

Since police officers are usually the first representative of the criminal justice system a victim encounters, research suggests that these interactions should reflect a trauma-informed approach.<sup>717</sup> Law enforcement officers, however, may wrongly dismiss accounts of survivors or treat victims inappropriately because they lack the training and understanding to recognize trauma or how a victim may react to trauma.<sup>718</sup> This may re-traumatize victims and lead to an ineffective investigation. Lieutenant Mike Schentrup, Criminal Investigation Commander of the Gainesville Police Department, describes a victim interview of a sexual assault survivor this way:

The inconsistent statements and lack of core details should be expected. These are not signs of deception—these are biological reactions to trauma. In fact, suspects are usually much more believable because they are not suffering the effects of trauma and can weave a convincing account of their own blamelessness. I learned I should also accept that most victims will delay reporting due to feelings of shame and embarrassment. Needless to say, my current squad of special victims’ unit detectives have been well schooled in this area, and they are second to none at helping survivors of sexual assault.<sup>719</sup>

In 2018, the International Association of Chiefs of Police developed the “RISC” – Respect, Information, Safety, and Choice – response strategy, which they recommend using whenever possible. This strategy includes “treating people with respect, providing information and increased communication, avoiding triggering and aggressive styles of communication, promoting safety as the overall goal of intervention, and providing the victim with choices, even if small, whenever feasible.”<sup>720</sup> They explained that trauma cannot be ignored:

A trauma-informed agency is composed of people who realize and understand how trauma impacts communities and individuals who interact with the criminal justice system. It responds to victims by fully integrating knowledge about trauma into its policies, procedures, and practices, proactively avoiding re-traumatization...[I]ndividuals vary greatly in their different reactions to trauma, depending on their prior history of trauma and victimization, support systems, history of mental illness or substance use, and previous interactions with law enforcement. These factors may include the immediate effects of adrenaline under stress after engaging a “fight or flight” response, which may impact

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<sup>717</sup> See e.g., Altovise Love-Craighead, “Building Trust Through Trauma-Informed Policing,” Vera Institute of Justice, Mar. 20, 2015, <https://www.vera.org/news/police-perspectives/building-trust-through-trauma-informed-policing>.

<sup>718</sup> Office on Violence Against Women, “The Importance of Understanding Trauma-Informed Care and Self-Care for Victim Service Providers,” Dep’t of Justice, Jul. 30, 2014, <https://www.ncbi.nlm.nih.gov/books/NBK207191/>.

<sup>719</sup> Mike Schentrup, “Confessions of a Major Case Detective,” End Violence Against Women International, 2017, <https://advancedpoliceconcepts.com/confessions-of-a-major-case-detective/>.

<sup>720</sup> Ibid.

attention and concentration, the ability to recall details of an event accurately, and avoidance of inappropriate behavior in interpersonal interactions.<sup>721</sup>

Similarly, Ruth Abaya, Pediatric Emergency Medicine Physician and Senior Director for the Health Alliance for Violence Intervention, testified that the

relationship between communities and public safety officials, or law enforcement, has profound implications for how public safety is achieved as a partnership... In trauma bays, in resuscitation rooms throughout the country the rights of patients are challenged when the line between law enforcement and medical care is crossed and patients are left unsure of who they can trust. These encounters erode the trust that enables effective violence intervention. To create true safety, it's crucial to invest in trauma-informed and equity-focused interventions that seek to transform, rather than criminalize, to lift up rather than push to the side communities of color. [Thereby] [e]nsuring that their rights are protected in every setting.<sup>722</sup>

As discussed in Chapter 1, crime is experienced at the local, neighborhood level. However, the federal government has an essential role in ensuring that victims of violent crimes uniformly receive the support and services they need to recover regardless of where in the United States their crime occurs. This chapter will explore the federal, state, and local initiatives – such as policies, programs, and funding – aimed at addressing violent crime victimization disparities.

## Federal Priorities

In 2021, Attorney General Garland announced that DOJ will adopt four principles to reduce violent crime.<sup>723</sup> These principles are:

1. Build trust and earn legitimacy. Meaningful law enforcement engagement with, and accountability to, the community are essential underpinnings of any effective strategy to address violent crime, as well as important ends in themselves. Accordingly, building trust and earning legitimacy within our communities is the foundation on which the strategy is built.
2. Invest in prevention and intervention programs. Violent crime is not a problem that can be solved by law enforcement alone. Accordingly, the Department must invest in community-based violence prevention and intervention programs that work to keep violence from happening before it occurs.

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<sup>721</sup> International Association of Chiefs of Police, “Response to Victims of Crime,” Aug. 2018, <https://www.theiacp.org/sites/default/files/2018-08/VictimsBinder2018.pdf>.

<sup>722</sup> Abaya Testimony, *Racial Disparities Briefing*, pp. 72-73.

<sup>723</sup> Office of Public Affairs, “Attorney General Merrick B. Garland Announces New Effort to Reduce Violent Crime,” Dep’t of Justice, May 26, 2021, <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-new-effort-reduce-violent-crime>.

3. Target enforcement efforts and priorities. The Department is most effective when it focuses its limited enforcement resources on identifying, investigating, and prosecuting the most significant drivers of gun violence and other violent crime.
4. Measure results. Because the fundamental goal of this work is to reduce the level of violence in our communities, not to increase the number of arrests or prosecutions as if they were ends in themselves—we must measure the results of our efforts on these grounds.<sup>724</sup>

The strategy directs each U.S. Attorney’s Office to work with local, state, Tribal, and community partners to establish an immediate plan to address the increase in violent crime rates that usually occur during the summer.<sup>725</sup> It also directs all U.S. Attorneys to update their Project Safe Neighborhood programs to align with the above principles to ensure local safety.<sup>726</sup>

The Justice Department also provides significant funding to local and state agencies to address crime. In 2020, the Office of Justice Programs (OJP) awarded \$458 million in grant funding to support local, state, and Tribal law enforcement to fight and prevent violent crime.<sup>727</sup> This funded 1,094 grants totaling more than \$369 million to curb violent crime.<sup>728</sup> OJP’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) awarded more than \$10 million across 24 jurisdictions to intervene in youth gang activity. OJP’s National Institute of Justice (NIJ) awarded \$7.3 million to fund research and evaluation on the prevention and reduction of violent crime. OJP’s BJS also provided more than \$69 million to increase the quality and accessibility of records within the National Instant Background Check System.<sup>729</sup>

## Crime Victim Grant Programs

The Office for Victims of Crime (OVC) is one of the six program offices in OJP; it is the central office responsible for assisting victims of violent crimes. According to OVC’s website, the office’s role is to assist crime victims and provide leadership regarding policies and practices to promote justice and healing for all victims of crime.<sup>730</sup> OVC also provides technical assistance to law enforcement<sup>731</sup> and administers the Crime Victims Fund (Fund), which is paid through fines and

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<sup>724</sup> Ibid.

<sup>725</sup> Ibid.

<sup>726</sup> Office of Public Affairs, “Attorney General Merrick B. Garland Announces New Effort to Reduce Violent Crime.”

<sup>727</sup> Bureau of Justice Assistance, “Department of Justice Awards More Than \$458 Million to Fight Violent Crime,” U.S. Dep’t of Justice, Nov. 2, 2020, <https://bja.ojp.gov/news/departments-justice-awards-more-458-million-fight-violent-crime>.

<sup>728</sup> Ibid.

<sup>729</sup> Ibid.

<sup>730</sup> Office of Victims of Crime, “About OVC,” U.S. Dep’t of Justice, <https://ovc.ojp.gov/about>.

<sup>731</sup> 34 U.S.C. § 20103.

penalties by convicted federal offenders (including all offenses), and through private gifts and donations.<sup>732</sup>

### *Crime Victims Fund*

OVC and the Fund were established with the passage of the Victims of Crime Act (VOCA) in 1984, which was amended in 1988.<sup>733</sup> VOCA mandates that funds go towards specific programs, such as the Children’s Justice Act, U.S. Attorney’s Victim Witness Coordinators, FBI’s Victim Specialists, or the Federal Victim Notification System. Since the passage of VOCA, more than 32,000 laws on behalf of crime victims have been enacted at the local, state, and federal level. These include additional constitutional protections for victims in at least 35 states and robust statutory protections in all 50 states and the District of Columbia.<sup>734</sup>

With the remaining funds, OVC distributes money to states through two different programs to partner with community members and assist victims of crime: the victim compensation formula grant program and the victim assistance formula grant program.<sup>735</sup> Both of these grants receive 47.5 percent of the Fund’s remaining annual balance; however, victim assistance grants may also receive additional leftover funds. Both programs will be discussed in detail below. The remaining five percent of the leftover balance is then used for OVC discretionary grants.<sup>736</sup>

As of August 2023, the Fund’s balance was \$879 million.<sup>737</sup> Over the past decades, the amount of money provided by the Fund has fluctuated, depending upon how forcefully an administration prosecuted crimes that involved monetary payments, typically white-collar crime. For example, from 2000 to 2018, the annual amount varied from \$500 million to over \$4 billion. In 2021, Congress passed, and President Biden signed, the bipartisan VOCA Fix to Sustain the Crime Victims Fund or “VOCA Fix” Act, to respond to these fluctuations and to expand access to aid for

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<sup>732</sup> Office for Victims of Crime, “Crime Victims Fund,” U.S. Dep’t of Justice, Office of Justice Programs, <https://www.ovc.gov/about/victimsfund.html>.

<sup>733</sup> Victims of Crime Act, P.L. 98-473 (1984).

<sup>734</sup> International Association of Chiefs of Police (IACP), *Model Policy for Response to Victims of Crime*, 2010, <http://www.theiacp.org/model-policy/wp-content/uploads/sites/6/2017/08/VictimsPolicy.pdf>; National Crime Victim Law Institute, “Victims’ Rights by State,” 2013, <https://law.lclark.edu/live/news/23544-victims-rights-law-by-state>.

<sup>735</sup> The annual grant amount is based on 75 percent (previously 60 percent) of each state’s compensation payments from the previous two years and is set by statute. See Booz Allen Hamilton, *Victims of Crime Act: Victim Compensation Formula Grant Program, Fiscal Year 2017, Data Analysis Report*, Office for Victims of Crime, Office of Justice Programs, U.S. Dep’t of Justice, [https://ojp.gov/ovc/grants/vocanpr\\_vc17\\_508.pdf](https://ojp.gov/ovc/grants/vocanpr_vc17_508.pdf) (hereinafter cited as Booz Allen Hamilton, *Victim Compensation FY 2017*), p.1.

<sup>736</sup> Congressional Research Service, “The Crime Victims Fund: Federal Support for Victims of Crime,” Updated Apr. 2, 2020, <https://crsreports.congress.gov/product/pdf/R/R42672>.

<sup>737</sup> Office for Victims of Crime, “Overview: Types of Funding,” U.S. Dep’t of Justice, Sept. 26, 2023, <https://ovc.ojp.gov/funding/types-of-funding>.

crime victims.<sup>738</sup> The bipartisan legislation is intended to make long-term changes to preserve VOCA funding and provide immediate support to states to prevent programming cuts.<sup>739</sup>

Among other provisions, this law:

1. Expands the funds deposited into the Fund to include not only final judgments after a trial, but also revenues collected from deferred prosecution and non-prosecution agreements;
2. Increases the percentage – from 60 percent to 75 percent – of state compensation payments to crime victims in the prior fiscal year used to calculate formula grants for state individual victim compensation programs;
3. Clarifies that states may waive a requirement that requires victim cooperation with law enforcement in cases of vulnerable victims;
4. Provides the Attorney General with the authority to provide no-cost extensions to all VOCA award recipients; and
5. Allows or requires states to waive matching requirements for Crime Victims Fund grant funds under certain circumstances.<sup>740</sup>

#### *Victim Compensation for Individuals*

Victim compensation grants are awarded to states to help fund state-run victim compensation programs. All 50 states, the District of Columbia, the U.S. Virgin Islands, Guam, and Puerto Rico have these programs. Historically, OVC awarded each state 60 percent of the total amount that the state paid (from the state's budget) to victims from the prior fiscal year. In 2021, the VOCA Fix Act added funding sources and also made changes to determine how funds were distributed.<sup>741</sup> One significant change included increasing the percentage of each state's compensation payments to victims from 60 percent to 75 percent. This means that the annual grant is now based upon 75 percent of each state's compensation payment from two years prior to the grant year.<sup>742</sup>

States are eligible to receive these funds if the state meets certain VOCA requirements:

1. Promotes victim cooperation with requests of law enforcement;
2. Certifies that grants received will not be used to supplant state funds;
3. Ensures that non-resident victims receive compensation awards on the same basis as victims residing within the state;

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<sup>738</sup> VOCA Fix to Sustain the Crime Victims Fund Act, P.L. 117-27, 117th Congress (2021-2022), <https://www.congress.gov/bill/117th-congress/house-bill/1652/all-actions?overview=closed#tabs>.

<sup>739</sup> *Id.*

<sup>740</sup> *Id.*; see also Victims of Crime Act (VOCA) Administrators, "Laws & Policies," Office for Victims of Crime, Jun. 23, 2023,

<https://ovc.ojp.gov/program/victims-crime-act-voca-administrators/laws-policies#:~:text=This%20federal%20law%2C%20passed%20by,those%20affected%20by%20violent%20crimes.>

<sup>741</sup> VOCA Fix to Sustain the Crime Victims Fund Act of 2021, P.L. 117-27, 117<sup>th</sup> Congress (2021-2022).

<sup>742</sup> 34 U.S.C. §20101(a).

4. Ensures that compensation provided to victims of federal crimes is given on the same basis as compensation given to victims of state crimes; and
5. Provides compensation to residents of the state who are victims of crimes occurring outside the state.<sup>743</sup>

These funds can be used to reimburse victims for medical costs, mental health counseling, lost wages, funeral or burial expenses, and some forms of property loss.<sup>744</sup> Medical and dental expenses often account for a large portion of the compensation expenses each year. For instance, in FY 2019, medical/dental expenses were the largest expense type paid with 36 percent of the funds used.<sup>745</sup> Compensation funds are different than restitution; the latter is a court mandated payment made by the offender to cover expenses incurred by the victim.<sup>746</sup>

For individuals to receive compensation, states typically require victims to file a police report within a specified time frame, which can vary widely from state to state. Some argue that this mandate leaves some victims without compensation, since data show that more than half of victims of domestic violence and victims of violent crimes do not report the crime to the police (approximately 51 percent, 54 percent, respectively).<sup>747</sup> Survivors who are not eligible for compensation grants, however, are still eligible to receive victim assistance services since they do not require a police report. Moreover, the 2021 VOCA Fix Act provides that states may waive reporting requirements.

Heather Warnken, Executive Director of the Center for Criminal Justice Reform, testified that:

Victim compensation [] is one of the nation's dedicated resources for helping victims, providing financial assistance for expenses incurred as the result of being a victim of crime. These expenses, such as medical and mental health needs, funeral and burial, and lost wages, are not borne equally. A large body of evidence demonstrates profound racial

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<sup>743</sup> 34 U.S.C. §20101(b). Under VOCA victim compensation grant guidelines, for residents victimized outside their own state “[a] state must provide compensation to state residents who are victims of crimes occurring outside the state if the crimes would be compensable crimes had they occurred inside that state and the crimes (1) occurred in a state without an eligible VOCA crime victim compensation program, or (2) in cases of terrorism, occurred outside the territorial jurisdiction of the United States. The state must make these awards according to the same criteria used to make awards to those who are victimized while in the state.” For nonresidents of a state, “the state, in making awards for compensable crimes occurring within the state, must make compensation awards to nonresidents of the state on the basis of the same criteria used to make awards to victims who are residents of the state.” See U.S. Department of Justice, “Victims of Crime Act Victim Compensation Program,” 66 Federal Register 27162, May 16, 2001; see also Congressional Research Service, “The Crime Victims Fund.”

<sup>744</sup> Congressional Research Service, “The Crime Victims Fund.”

<sup>745</sup> Booz Allen Hamilton, *Victims of Crime Act: Victim Compensation Formula Grant Program, Fiscal Year 2019, Data Analysis Report*, Office for Victims of Crime, Office of Justice Programs, U.S. Dep’t of Justice, <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/fy-2019-voca-compensation-performance-report.pdf> (hereinafter cited as Booz Allen Hamilton, *Victim Compensation FY 2019*), p. 9.

<sup>746</sup> See e.g., U.S. Attorney’s Office, “Understanding Restitution,” Apr. 17, 2015, <https://www.justice.gov/usao-ndga/victim-witness-assistance/understanding-restitution>.

<sup>747</sup> Thompson and Tapp, “Criminal Victimization, 2021.”



disparities in risk for violent victimization and its impacts, with low-income communities of color bearing the brunt of these costs. []

Compensation programs give government agencies a different way to respond to victimization outside of the criminal-legal framework of arrest, prosecution, and incarceration. And in doing so, they provide the opportunity for government agencies and community-based organizations to build trusting relationships that are needed to interrupt cycles of violence and solve crime. So, in other words, this is not just about the healing and dignity of victims. This is about public safety. By assisting with these destabilizing expenses, compensation helps reduce the risk of future victimization, and the long-term costs of violence to the state.<sup>748</sup>

Table 18 (below) shows the number and characteristics of people who applied for compensation from 2017-2020. Most applicants in this period were primary victims who directly suffered harm.<sup>749</sup> Of those who reported their gender, most were women in every year. About half of applicants were between the ages of 25-59, which is congruent to BJS data that show most survivors of violent crime are in this age range.<sup>750</sup> In every year, approximately one quarter of applicants were Black, one quarter were Latino, and 40 percent were White. This is an overrepresentation of Black and Latino victims, who comprise 13 and 15 percent of violent crime victims (respectively) according to BJS victimization data, and an underrepresentation of White victims, who are 64 percent of violent crime victims.<sup>751</sup>

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<sup>748</sup> Warnken Testimony, *Racial Disparities Briefing*, pp. 105-106.

<sup>749</sup> Booz Allen Hamilton, *Victim Compensation FY 2017*.

<sup>750</sup> Jennifer Truman and Rachel Morgan, "Criminal Victimization, 2016," Bureau of Justice Statistics, U.S. Dep't of Justice, [https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv16\\_old.pdf](https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv16_old.pdf).

<sup>751</sup> Ibid.

**Table 18: Demographic Characteristics of Compensation Applicants (2017-2020)**

	2017	2018	2019	2020
Individual Applicants	258,848	278,973	223,702	239,688
Applications by Primary Victims	82%	81%	82%	82%
Age: 25-59	49%	50%	50%	50%
Gender: Female	60%	61%	64%	64%
Race/Ethnicity				
White	40%	40%	39%	38%
Black	26%	25%	26%	27%
Latino	26%	26%	26%	26%
Other Races	8%	2%	2%	2%
American Indian or Alaska Native	--	2%	2%	2%
Asian	--	2%	2%	2%
Multiple Races	--	2%	2%	3%
Native Hawaiian/Other Pacific Islander	--	1%	1%	<1%

Source: Booz Allen Hamilton, *Victims of Crime Act: Victim Compensation Formula Grant Program, Fiscal Year 2017, 2018, 2019, 2020 Data Analysis Report*, Office for Victims of Crime, Office of Justice Programs, U.S. Dep't of Justice.

Note: 2017 data was not reported for American Indian or Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, or individuals of multiple races.

Note: Not all respondents reported their demographic characteristics:

Share that self-reported age: 86% in 2017, 82% in 2018, 95% in 2019, 97% in 2020.

Share that self-reported gender: 92% in 2017, 99% in 2018, 99% in 2019, 98% in 2020.

Share that self-reported race/ethnicity: 71% in 2017, 95% in 2018, 85% in 2019, 85% in 2020.

Each year, grantees received applications for compensation and for Sexual Assault Forensic Examinations (SAFEs).<sup>752</sup> Table 19 below shows the number of applications, the share approved, and the leading reasons that they denied applications.

For FY 2017, several grantees noted a considerable increase in the number of applications from FY 2016; specifically, an increase in the number of sexual assault and child sexual abuse applications. Some grantees posited that this increase in applications was correlated to targeted outreach or additional victim services that included advocates engaging and supporting victims throughout the application process.<sup>753</sup> In 2018, seventeen grantees reported an increase of compensation applications over FY 2017. The most common reason given for this increase was due to “increased training and awareness about the compensation program, expanded eligibility

<sup>752</sup> For those grantees who maintain a separate application process for these victims.

<sup>753</sup> Booz Allen Hamilton, *Victim Compensation FY 2017*.

due to state policy changes, and an increased amount of VOCA Victim Assistance grant funding received.”<sup>754</sup> An increase in victim assistance funds equates to more victim services available and a greater awareness of compensation programs. For instance, in FY 2018, victim service organizations reported a 62 percent increase in the number of victims who were aided in completing compensation applications over the previous year.<sup>755</sup> In FY 2019, as in FY 2018, 15 grantees reported an increase in applications, and many attributed this increase to victims’ ability to submit their applications electronically and increased outreach efforts. Additionally, there was an 8 percent increase in the number of victim service organizations who received VOCA assistance funding over FY 2018, which helped to support more victims completing applications.<sup>756</sup>

The COVID-19 pandemic affected applications in FY 2020. Grantees received fewer applications than the previous year and the lowest number of total applications in this study’s time frame. Grantees reported that the pandemic caused many challenges, such as in conducting outreach, providing in-person assistance, having to temporarily close, the lack of volunteers, decreased funding, and new pandemic-related costs.<sup>757</sup> Beyond pandemic-related changes, some grantees reported that changes to state laws, initiatives, or policies affected the number of applications they received and were able to process. For instance, some reported that extending the timeframe for reporting a crime to law enforcement, expanding the definition of family, and extending eligibility to victims of female genital mutilation changed past decision-making processes.<sup>758</sup>

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<sup>754</sup> Booz Allen Hamilton, *Victims of Crime Act: Victim Compensation Formula Grant Program, Fiscal Year 2018, Data Analysis Report*, Office for Victims of Crime, Office of Justice Programs, U.S. Dep’t of Justice, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/victims-crime-act-victim-assistance-formula-grant-program-fiscal-1> (hereinafter cited as Booz Allen Hamilton, *Victim Compensation FY 2018*), p. 3.

<sup>755</sup> *Ibid.*, p. 3.

<sup>756</sup> Booz Allen Hamilton, *Victim Compensation FY 2019*.

<sup>757</sup> Booz Allen Hamilton, *Victims of Crime Act: Victim Compensation Formula Grant Program, Fiscal Year 2020, Data Analysis Report*, Office for Victims of Crime, Office of Justice Programs, U.S. Dep’t of Justice, <https://ovc.ojp.gov/program/victims-crime-act-voca-administrators/performance-reports/fy-2020-voca-compensation-performance-report.pdf> (hereinafter cited as Booz Allen Hamilton, *Victim Compensation FY 2020*), p.

4.

<sup>758</sup> *Ibid.*, p. 5.

**Table 19: Grantee Applications, Approvals, and Denials (2017-2020)**

	2017	2018	2019	2020
Total Applications	294,990	313,356	312,0131	280,351
Compensation Applications	223,948	238,134	235,926	206,300
SAFE Applications	71,042	75,222	76,105	74,051
Applications Approved	77%	78%	76%	73%
Top Reasons for Denial				
Incomplete Information	24%	24%	26%	27%
Ineligible Application	22%	20%	20%	21%
Ineligible Crime	22%	19%	18%	17%

Source: Booz Allen Hamilton, *Victims of Crime Act: Victim Compensation Formula Grant Program, Fiscal Year 2017, 2018, 2019, 2020 Data Analysis Report*, Office for Victims of Crime, Office of Justice Programs, U.S. Dep't of Justice.

Note: 217,208 applications were determined to be approved or denied in 2017.

For each year in the study period, approximately three fourths of all applications were approved (see Table 19 above). As with total applications, the percentage of approvals was lowest in FY 2020. The most common reasons for denying an application were because the application had incomplete information, the application was ineligible, or the crime was ineligible.

The total compensation and claims paid are shown in Table 20 below. The most substantial increase in funding was an 11 percent increase from 2017 to 2018. There was then a decrease in compensation funds available in FY 2019. This decrease was due to the drop in the amount and frequency of court levied fines and collections. According to a 2019 OVC performance report, “in some jurisdictions this occurred as part of legislative changes or other mechanisms included within broader state and local criminal justice reform. Several grantees also expressed concern about the uncertainty of grant funds available in the future.”<sup>759</sup> The most substantial decrease was in 2020, when grantees distributed 9.5 percent less in compensation funds compared to FY 2019. FY 2020 compensation funding represented an over \$37 million decrease from FY 2019 and an over \$46 million decrease from FY 2018; it was the lowest amount paid in this study’s time frame.

<sup>759</sup> Booz Allen Hamilton, *Victim Compensation FY 2019*, p. 7.

**Table 20: Compensation Claims by Crime and Expense Type (2017-2020)**

	2017	2018	2019	2020
Total Paid Claims	250,583	243,281	235,314	218,090
Total Compensation	\$367,525,175	\$407,854,151	\$399,558,500	\$361,677,837
Compensation by Crime Type				
Assault	46%	33%	33%	31%
Child Sexual Abuse	10%	29%	28%	28%
Sexual Assault	10%	19%	20%	21%
Homicide	19%	8%	8%	9%
Compensation by Expense Type				
Medical/Dental	37%	35%	36%	35%
Funeral/Burial	16%	15%	15%	17%
Economic Support	13%	14%	15%	14%
Sexual Assault Forensic Examinations	13%	14%	14%	15%

Source: Booz Allen Hamilton, *Victims of Crime Act: Victim Compensation Formula Grant Program, Fiscal Year 2017, 2018, 2019, 2020 Data Analysis Report*, Office for Victims of Crime, Office of Justice Programs, U.S. Dep't of Justice.

Table 20 also shows the share of funds that were distributed to applicants by the four most common crime types. In all years, compensation grantees reported that assault was the most common crime type relating to victimization applications. The largest increase from 2017 to 2018 was among victims of mass violence. There were 2,925 mass violence compensation claims, which was seven times the number of claims from FY 2017. This increase was likely due to a high number of victims in the 2017 mass shooting in Las Vegas.<sup>760</sup> FY 2020 saw a decrease of compensation claims paid compared to the previous year. This number represented the lowest number across this study's time frame and represented a 7 percent decrease in the number of claims and a 4 percent decrease in the total amount paid from FY 2019. The four crime types (i.e., assault, child sexual abuse, sexual assault, and homicide) remained consistent from previous years and have remained the top claim types paid by this program since FY 2015.<sup>761</sup>

Funds were paid for a variety of expenses related to victimization (see Table 20 above). In every year of the study, the largest share of funds was used for medical/dental expenses. These expenses were most commonly related to victims of assault, robbery, vehicular crimes, and DUIs. The next most common expense was for funerals and burials, which is associated with homicide claims. The other two most common expenses in every year are economic support (i.e., education benefits,

<sup>760</sup> Andrew Blankstein, Pete Williams, Rachel Elbaum, and Elizabeth Chuck, "Las Vegas Shooting: 59 Killed and More than 500 Hurt Near Mandalay Bay," *NBC News*, Oct. 2, 2017, <https://www.nbcnews.com/storyline/las-vegas-shooting/las-vegas-police-investigating-shooting-mandalay-bay-n806461>.

<sup>761</sup> Booz Allen Hamilton, *Victim Compensation FY 2020*, p. 5.

lost wages, and other related financial losses) and Sexual Assault Forensic Examinations (SAFE).<sup>762</sup>

### *Victim Assistance Grants to State and Local Entities*

The Crime Victims Fund not only supports individual compensation, but also provides formula grants to states and localities to help administer state- and community-led victim service institutions.<sup>763</sup> These funds can be used to provide victim services such as crisis counseling, temporary housing, and criminal justice advocacy support.<sup>764</sup> Funding also may go to community organizations and/or states to raise awareness concerning victims' issues, help in compliance with victims' rights laws, and offer training and technical assistance to victim assistance professionals.<sup>765</sup> VOCA-funded services are reported in five main categories and individuals may receive multiple services and/or the same service multiple times through their work with a service provider.<sup>766</sup> These categories include: criminal and civil justice system assistance, information and referrals, emotional support or safety services, personal advocacy and accompaniment, and shelter and housing.

From the funds available, each state receives a base amount of \$500,000.<sup>767</sup> The remaining funds are distributed to each state, based on the state's population in relation to all other states.<sup>768</sup> VOCA mandates that states prioritize providing assistance grants to the following groups: 1) underserved populations of victims of violent crime, 2) victims of child abuse, 3) victims of sexual assault, 4) victims of spousal abuse.<sup>769</sup>

Since the authorization of the Fund, two types of caps have affected the balance and the distribution of money to victims and state and local organizations: 1) a financial cap on the amount that can be deposited into the Fund and 2) the amount that the Fund could obligate.<sup>770</sup> According to OVC:

When the Fund was authorized in 1984, a cap was placed on how much could be deposited into it for the first 8 years. During that time, the annual cap varied from \$100 million to \$150 million. The lifting of the cap in 1993 allowed for the deposit of all criminal fines,

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<sup>762</sup> Booz Allen Hamilton, *Victim Compensation FY 2017*, p. 7.

<sup>763</sup> Congressional Research Service, "The Crime Victims Fund."

<sup>764</sup> Ibid.

<sup>765</sup> Booz Allen Hamilton, *Victim Compensation FY 2019*, p. 9.

<sup>766</sup> Booz Allen Hamilton, *Victim Compensation FY 2020*.

<sup>767</sup> Northern Mariana Islands, Guam, and American Samoa are eligible to receive a base amount of \$200,000. The Republic of Palau's share is determined by the Compact of Free Association between the U.S. and the Republic of Palau.

<sup>768</sup> Office for Victims of Crime, "FY 2007-FY 2023 State Victim Assistance Formula Allocations," Apr. 30, 2023, <https://ovc.ojp.gov/about/crime-victims-fund/state-victim-assistance-allocations.pdf>.

<sup>769</sup> States have flexibility in determining the populations of underserved victims in their respective states. See Congressional Research Service, "The Crime Victims Fund"; see also 34 U.S.C. §20103(a).

<sup>770</sup> Office for Victims of Crime, "Crime Victims Fund."

special assessments, and forfeited bail bonds to support crime victim programmatic activities.<sup>771</sup>

Since FY 2000, there have been significant fluctuations in the amounts deposited into the Fund, which depends upon the amount of money received by the federal government in penalties and fines recouped from individuals and corporate offenders. For instance, from FY 2013 to 2014, the amount of funds collected grew by over 140 percent, but then decreased by approximately 26 percent the next year. This decrease was subsequently followed by another almost 44 percent decrease and then a 443 percent decrease by FY 2017.<sup>772</sup>

Due to these fluctuations, Congress placed an obligation cap on the available funds for distribution starting in FY 2000. These caps were “intended to maintain the Fund as a stable source of support for future victim services.”<sup>773</sup> These annual caps are important since they can directly impact the allocation process. For instance, data show that state victim assistance grant allocations fluctuate similarly to the obligation cap which could impact the number of victims and victim services a state is able to support (see Figure 10 below).<sup>774</sup>

During this study’s time frame, the Fund’s balance decreased from approximately \$13 billion in 2017 to about \$2 billion in 2021, which is the lowest end-of-year balance over the past decade (see Figure 10 below).<sup>775</sup>

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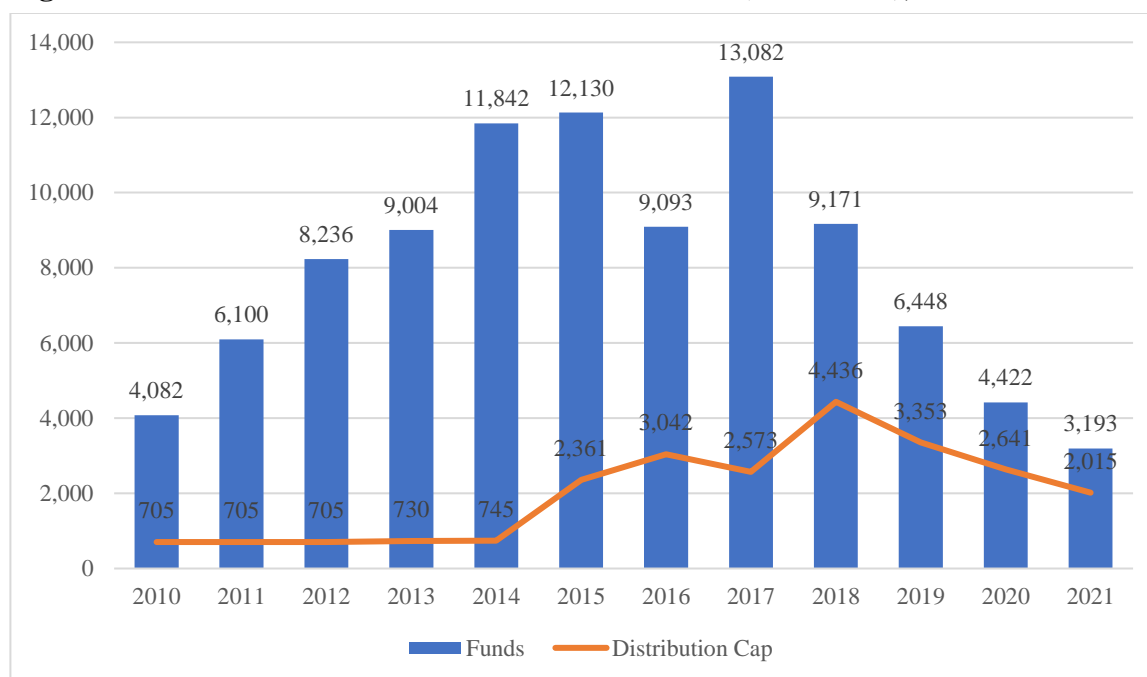
<sup>771</sup> Ibid.

<sup>772</sup> Ibid.

<sup>773</sup> Ibid.

<sup>774</sup> Office for Victims of Crime, “FY 2007-FY 2023 State Victim Assistance Formula Allocations.”

<sup>775</sup> Office for Victims of Crime, “FY 2007-FY 2024 Crime Victims Fund End of Year Balance (\$ millions),” <https://ovc.ojp.gov/about/crime-victims-fund/fy-2007-2024-cvf-balance.pdf>.

**Figure 10: Crime Victims Fund End of Year Balance (in millions), 2017-2022**

Source: Office for Victims of Crime, “FY 2007- FY 2022 Crime Victims Fund End of Year Balance (\$ millions), as of November 30, 2023.”

The sizable decrease of the Fund was largely due to a decrease in the criminal fines collected from financial fraud and other white-collar crimes cases prosecuted by the DOJ.<sup>776</sup> Some of the decrease between 2017 through 2021 may reflect the Justice Department prioritizing the prosecution of violent crimes over financial crimes which have substantially much smaller fines than white collar crimes.<sup>777</sup>

Due to the decrease in federal resources for the Fund, some victim support organizations have struggled to provide services victims need after a crime.<sup>778</sup> Despite fluctuations, however, OVC reports that the number of victims served, the number of subgrants awarded, and the number of subgrantee organizations funded have remained relatively constant since 2015. In FY 2021, subgrantees served 10.1 million victims, which include new and returning individuals (see Figures 11 and 12 below).<sup>779</sup>

<sup>776</sup> Congressional Research Service, “The Crime Victims Fund.”

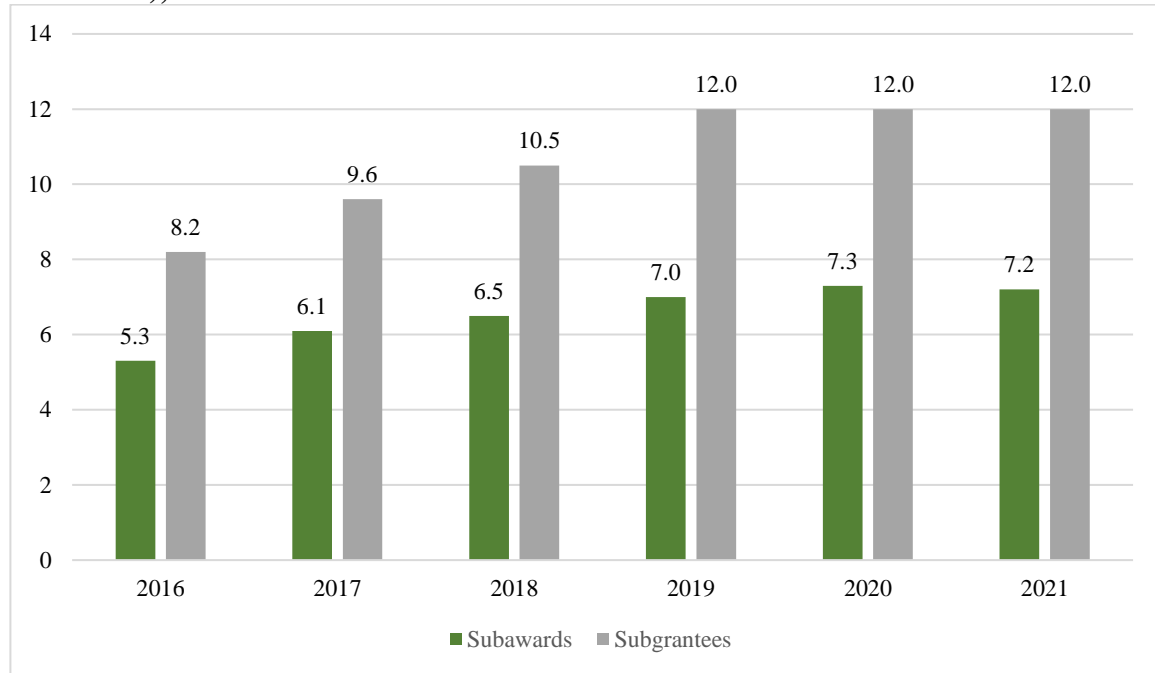
<sup>777</sup> Ibid; Office of Victims of Crime, “Memorandum for all Federal Prosecutors: Commitment to Targeting Violent Crime,” U.S. Dep’t of Justice, Office of Justice Programs, Mar. 8, 2017, <https://www.justice.gov/opa/press-release/file/946771/download>.

<sup>778</sup> See e.g., Center for Domestic Peace, “Understanding VOCA Cuts,” <https://www.cdpxcountync.org/understanding-voca-cuts/#:~:text=Over%20the%20last%20few%20years,which%20most%20victim%20services%20rely>.

<sup>779</sup> Office for Victims of Crime, “FY 2007-FY 2023 State Victim Assistance Formula Allocations.”

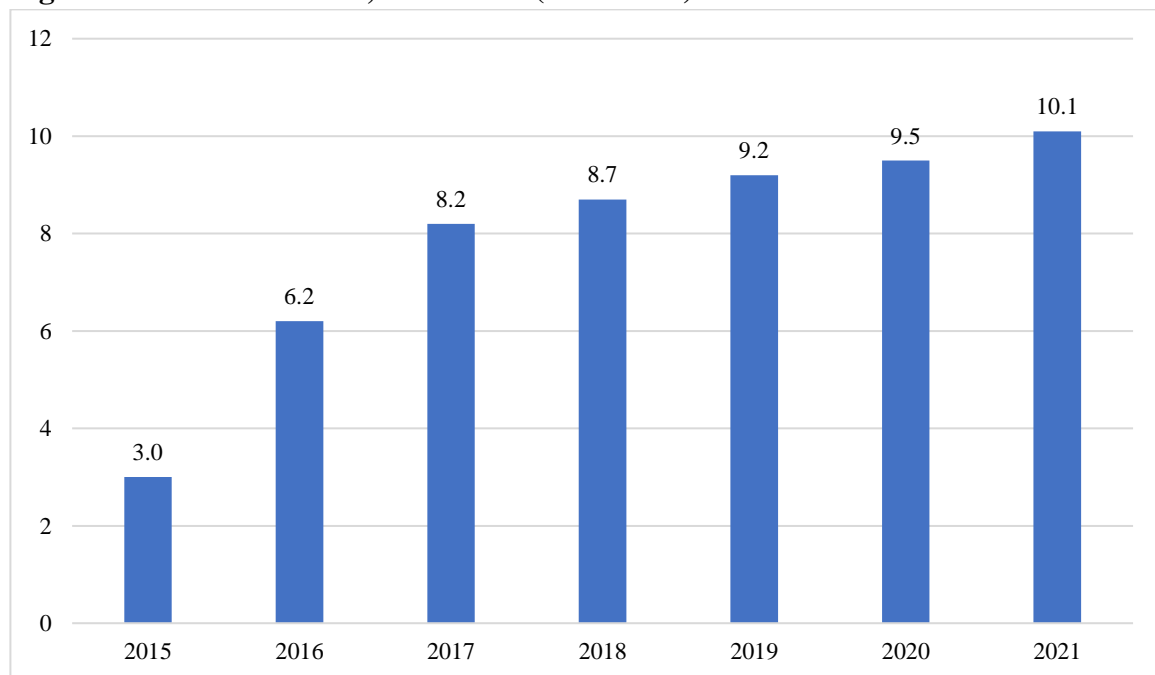


**Figure 11: VOCA Victim Assistance Subawards and Subgrantee Organizations (in thousands), 2016-2021**



Source: Office for Victims of Crime, FY 2007- FY 2023 State Victim Assistance Formula Allocations.

**Figure 12: Victims Served, in millions (2015-2021)**



Source: Office for Victims of Crime, FY 2007- FY 2023 State Victim Assistance Formula Allocations.

Billions of dollars are allocated to the Victim Assistance Formula Grant Program annually (see Table 21 below). Unlike the victim compensation grant program, the victim assistance program did not experience a decrease in funding in FY 2020.<sup>780</sup> In each year of the study period, the program funded 56 grantees. The number of crime victims assisted for the first time increased in FY 2018<sup>781</sup> and FY 2019,<sup>782</sup> then decreased in FY 2020.<sup>783</sup> Violent crime assistance service providers reported an increase of 13 percent in FY 2018 compared to FY 2017, which may suggest that more victims sought services following a violent crime incident.<sup>784</sup> In FY 2018, the total number of victims increased overall, which is congruent with data from the National Crime Victimization Survey (NCVS) showing that from 2015 to 2018, violent crime victimization increased by 28 percent.<sup>785</sup> In FY 2019, the number of violent crime victimizations reported by service providers increased by 13.6 percent from the previous year.<sup>786</sup>

Reported violent crime victimizations<sup>787</sup> increased by 3 percent in FY 2020 compared to 2019.<sup>788</sup> The COVID-19 pandemic provided numerous challenges for service providers in FY 2020. Some of these concerns stemmed from the general inability to provide criminal justice assistance during the height of the pandemic; specifically stay-in-place orders, curfew restrictions, and court closures caused significant problems delivering victim services. The pandemic had a direct impact on victim service providers, leading to a 28 percent decrease in referrals to services, providing supports and resources, as well as providing child or dependent care assistance.<sup>789</sup> There was also a 27 percent decrease in providing information about the criminal justice process and a 26 percent decrease in transportation assistance.<sup>790</sup>

State agencies also expressed concerns about “victims of domestic violence being trapped with their perpetrators, increasing unemployment rates, and the negative effects on individuals’ (both employees’ and victims’) mental health.”<sup>791</sup> Additionally, state agencies reported the “inability to provide services to underserved or marginalized communities and [expressed] disappointment in having to turn victims away due to a decrease in availability of service providers.”<sup>792</sup> The pandemic also posed an additional barrier for victims with limited English proficiency due to a lack of interpreters and a lack of culturally sensitive services which undermined victims’ trust that their

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<sup>780</sup> Booz Allen Hamilton, *Victim Compensation FY 2020*, p. 1.

<sup>781</sup> Booz Allen Hamilton, *Victim Compensation FY 2018*, p. 1.

<sup>782</sup> Booz Allen Hamilton, *Victim Compensation FY 2019*, p. 1.

<sup>783</sup> Booz Allen Hamilton, *Victim Compensation FY 2020*, p. 1.

<sup>784</sup> Booz Allen Hamilton, *Victim Compensation FY 2018*.

<sup>785</sup> *Ibid.*, p. 1.

<sup>786</sup> Booz Allen Hamilton, *Victim Compensation FY 2019*.

<sup>787</sup> This victimization category includes adult physical assault and sexual assault, adults sexually assaulted as children, children sexual abuse or assault, domestic and family violence, mass violence, robbery, survivors of homicide, and terrorism. See Booz Allen Hamilton, *Victim Compensation FY 2020*.

<sup>788</sup> *Ibid.*

<sup>789</sup> *Ibid.*

<sup>790</sup> *Ibid.*

<sup>791</sup> *Ibid.*, p. 8.

<sup>792</sup> *Ibid.*

needs or situation would be understood. Considering these concerns, some state agencies reported that they were working to increase their ability to serve individuals with limited English or who were non-English speaking. Some state agencies also reported expanding their culturally appropriate services for various communities in their respective states.<sup>793</sup>

Across the study's time frame,<sup>794</sup> the demographic characteristics of victims who applied for assistance remained consistent (see Table 21 below). The majority of victims are within the 25-59 age range. Women represent approximately 70 percent of victims and men approximately 29 percent. In every year, a small share of victims are reported as "other" gender (e.g., transgender, non-binary, gender non-conforming, intersex, and gender fluid).<sup>795</sup> Slightly over half of victims are White, over 20 percent are Black, and approximately 18 percent are Latino. These numbers differ somewhat from the FY 2016 NCVS data, which show that 62 percent of violent crime victims in FY 2016 were White, 13 percent were Black, and 17 percent were Latino.<sup>796</sup>

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<sup>793</sup> Ibid.

<sup>794</sup> As of the writing of this report, FY 2021 numbers were not available.

<sup>795</sup> Booz Allen Hamilton, *Victim Compensation FY 2017*.

<sup>796</sup> Ibid.

**Table 21: Demographic Characteristics of Assistance Applicants (2017-2020)**

	2017	2018	2019	2020
<b>Allocation to VOCA</b>	> \$1.8 billion	> \$3.3 billion	> \$3.3 billion	> \$3.8 billion
<b>Grantees Funded</b>	56	56	56	56
<b>New Victims Served</b>	5,088,858	6,306,646	7,029,181	5,469,889
<b>Crime Victim Demographics</b>				
Age: 25-59	54%	53%	54%	54%
Gender				
Female	71%	70.5%	70%	70%
Male	28%	29%	29.6%	29%
Other	0.5%	0.5%	0.4%	0.2%
Race/Ethnicity				
White	53%	52%	52%	51%
Black	22%	21%	22%	21%
Latino	18%	18%	18%	19%
Asian	2%	2%	2%	2%
Multiple Races	2%	2%	2%	3%
American Indian or Alaska Native	1%	2%	2%	2%
Native Hawaiian/Other Pacific Islander	1%	1%	1%	<1%
Other Races	1%	2%	1%	2%

Source: Booz Allen Hamilton, Victims of Crime Act: Victim Assistance Formula Grant Program Fiscal Year 2017, 2018, 2019, 2020, Data Analysis Report, Office for Victims of Crime, Office of Justice Programs, U.S. Dep't of Justice.

Note: Not all respondents reported their demographic characteristics:

Share that self-reported age: 71% in 2017, 66% in 2018, 65% in 2019, 74% in 2020.

Share that self-reported gender: 78% in 2017, 71% in 2018, 70% in 2019, 83% in 2020.

Share that self-reported race/ethnicity: 69% in 2017, 64% in 2018, 63% in 2019, 74% in 2020.

Table 22 (below) shows the types of crimes that victims experienced. The types of victimization reported by victim assistance service providers remained consistent across the study period. Over 40 percent of victimizations every year are for domestic and/or family violence. The second most common type of victimization is for adult abuse/assault. The largest percent changes in crimes over time are for statistically rare crimes, such as hate crimes and mass violence. In FY 2018, hate crimes had the largest increase from the previous year (62 percent), followed by mass violence (49 percent), human trafficking (48 percent), and child abuse/assault (38 percent). In FY 2020, mass violence increased (145 percent), followed by human trafficking (15 percent), kidnapping (6

percent), and hate crimes (3 percent).<sup>797</sup> Despite these increases, however, the number of victims who experience these types of crimes remains low in comparison to other types of victimization.

It is not uncommon for victims to experience multiple victimization types. Victim services organizations reported that 22 percent of the total victims served experienced multiple victimization types in FY 2017, which was an increase of 56 percent from FY 2016.<sup>798</sup> The share that experienced multiple victimization types increased by 67 percent in FY 2018,<sup>799</sup> then decreased by 24 percent in FY 2019<sup>800</sup> and 9 percent in FY 2020.<sup>801</sup>

**Table 22: Percentages of Types of Victimitizations Reported to OVC (2017-2020)**

	2017	2018	2019	2020
Domestic and/or Family Violence	43%	42%	40%	40%
Adult Abuse/Assault	14%	13%	14%	14%
Adult Sexual Assault/Stalking	11%	11%	11%	11%
Child Abuse/Assault	10%	12%	13%	12%
Child Sexual Abuse/Assault	10%	10%	10%	10%
Property/Financial Crimes	7%	6%	6%	6%
Vehicular Crimes	3%	2%	2.5%	2%
Robbery	3%	2%	2%	2%
Human Trafficking	0.5%	0.7%	0.7%	1%
Kidnapping	0.3%	0.4%	0.3%	<1%
Mass Violence	0.2%	0.3%	0.3%	1%
Hate Crime	0.1%	0.2%	0.2%	<1%

Note: Percentages total more than 100 percent due to rounding.

Source: Booz Allen Hamilton, *Victims of Crime Act: Victim Assistance Formula Grant Program Fiscal Year 2017, 2018, 2019, 2020, Data Analysis Report*, Office for Victims of Crime, Office of Justice Programs, U.S. Dep't of Justice.

### *Children's Justice Act Program*

Another grant program funded through the Fund is the Children's Justice Act Program. The Child Abuse Prevention and Treatment Act (CAPTA), enacted on January 31, 1974, established this grant program.<sup>802</sup> CAPTA has been amended and reauthorized over the past several decades; it was most recently amended on January 7, 2019, by the Victims of Child Abuse Reauthorization Act of 2018.<sup>803</sup> After Congress establishes the Fund's cap, this program receives \$10 million plus 50

<sup>797</sup> Booz Allen Hamilton, *Victim Compensation FY 2020*.

<sup>798</sup> Booz Allen Hamilton, *Victim Compensation FY 2017*, p. 4.

<sup>799</sup> Booz Allen Hamilton, *Victim Compensation FY 2018*.

<sup>800</sup> Booz Allen Hamilton, *Victim Compensation FY 2019*.

<sup>801</sup> Booz Allen Hamilton, *Victim Compensation FY 2020*.

<sup>802</sup> P.L. 93-247 (1974).

<sup>803</sup> P.L. 115-424; *see also* CAPTA Reauthorization Act of 2010 (P.L. 111-320).

percent of the previous year's deposits over \$324 million, with a maximum amount of \$20 million.<sup>804</sup>

This money funds state child abuse prevention efforts, investigations, and prosecution of child abuse and neglect cases, particularly child sexual abuse and exploitation. Funds also can be used to investigate child fatality cases where abuse or neglect is suspected.<sup>805</sup> The Fund provides \$50,000 per state, plus an additional amount based upon the population of children under 18 years old in the respective jurisdiction. To receive funds, states and territories must apply for the funds and meet certain eligibility requirements, such as the establishment of a Task Force specifically focused on children's justice.<sup>806</sup> Similar to other Fund grant programs, money is made available through fines and fees collected from individuals convicted of federal crimes. OVC is responsible for administering the funds that are awarded to the Administration on Children, Youth and Families (ACYF) at the Department of Health and Human Services (HHS).<sup>807</sup> ACYF is responsible for managing the state distribution, whereas OVC is responsible for distributing the allocated funds to Tribal communities.<sup>808</sup> Since 2000, \$17 million of the Fund's Children's Justice Act monies have been made available to all 50 states, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.<sup>809</sup> Table 23 below shows annual funding allocations for grants from 2017 to 2021.

**Table 23: Crime Victim Funding (2017-2021) (in millions)**

Allocation Type	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
State Allocation (ACYF)	\$17.00	\$15.97 <sup>a</sup>	\$15.97 <sup>a</sup>	\$17.00	\$17.00
Tribal Allocation (OVC)	\$2.95 <sup>b</sup>	\$3.00	\$3.00	\$3.00	\$3.00

Source: U.S. Dep't of Justice, Office of Legislative Affairs

HHS had carryover funding from the previous fiscal year, therefore did not need the full allocation of funds for these fiscal years.

According to OVC, the awards did not cover the full \$3 million in FY 2017 since applications came with lower cost proposals.

### *U.S. Attorneys' Offices*

OVC also provides annual funding to support victim services in federal courts and prosecutors' offices, such as victim-witness coordinators for the 93 U.S. Attorneys' Offices and 12 victim-

<sup>804</sup> Office for Victims of Crime, "Overview: Types of Funding," U.S. Dep't of Justice, Sept. 26, 2023, <https://ovc.ojp.gov/funding/types-of-funding>.

<sup>805</sup> Children's Bureau, "Children's Justice Act," Office of the Administration for Children and Families, U.S. Health and Human Services, Jul. 3, 2023, <https://www.acf.hhs.gov/cb/grant-funding/childrens-justice-act>.

<sup>806</sup> P.L. 115-424.

<sup>807</sup> Children's Bureau, "Children's Justice Act."

<sup>808</sup> Congressional Research Services, "The Child Abuse Prevention and Treatment Act (CAPTA): Background, Programs, and Funding," Nov. 4, 2009, [https://www.everycrsreport.com/files/20091104\\_R40899\\_52b107ff31f0e25899fbc35212a7435e09a9a385.pdf](https://www.everycrsreport.com/files/20091104_R40899_52b107ff31f0e25899fbc35212a7435e09a9a385.pdf).

<sup>809</sup> Children's Bureau, "Children's Justice Act."

witness coordinators serving Indian Country.<sup>810</sup> These coordinators provide assistance to victims and witnesses of serious crimes during criminal proceedings and advise them of their rights. For instance, they help with victim impact statements, share information on court proceedings and case status, accompany victims and witnesses to court, provide language interpretation services, and assist with lodging and referrals to medical agencies and other social services.<sup>811</sup>

**Table 24: Annual Allocation and Full-Time Employees for U.S. Attorney’s Office Victim-Witness Coordinators, 2016-2020 (in millions)**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Allocation to USAO	\$29.38	\$19.86	\$27.77	\$26.00	\$25.71
Number of FTEs	213	180	181	193	192

Source: Congressional Research Service, “The Crime Victims Fund: Federal Support for Victims of Crime,” Apr. 2, 2020.

### *Federal Bureau of Investigation*

In addition to the victim witness coordinators, OVC provides funding to victim specialists for the 56 FBI field offices.<sup>812</sup> As of April 2022, there were 255 full time personnel; since the program’s inception in 2001 it has provided services to over 2 million victims.<sup>813</sup>

These specialists assist victims of federal crimes and provide information on the case throughout the investigation and court proceedings process. These services can include crisis intervention, identifying emergency needs, making referrals to service providers, offering emotional support, and sharing information on the criminal justice process as well as a victim’s legal rights and protections.<sup>814</sup>

From FY 2016 to FY 2017 (the first year in this study’s time frame), the Victim Program’s funding from OVC decreased by \$3.34 million, but then steadily increased each subsequent year. During the study period, the amount of funding grew by approximately \$20 million (see Table 25 below).<sup>815</sup>

<sup>810</sup> 34 U.S.C. §20101(d)(3).

<sup>811</sup> U.S. Attorney’s Office, “Victim Witness Assistance Unit,” Sept. 25, 2023, <https://www.justice.gov/usao-dc/victim-witness-assistance-unit-0>.

<sup>812</sup> 34 U.S.C. §20101(d)(3).

<sup>813</sup> Federal Bureau of Investigation, “FBI Victim Specialists Provide a Lifeline to Crime Victims,” Apr. 25, 2022, <https://www.fbi.gov/contact-us/field-offices/springfield/news/press-releases/fbi-victim-specialists-provide-a-lifeline-to-crime-victims>.

<sup>814</sup> Federal Bureau of Investigation, “FBI Victim Services,” 2018, [fbi-victim-services-brochure-2018%20\(2\).pdf](https://www.fbi.gov/contact-us/field-offices/springfield/news/press-releases/fbi-victim-services-brochure-2018%20(2).pdf).

<sup>815</sup> Congressional Research Service, “The Crime Victims Fund.”

**Table 25: Annual Allocation and Full-Time Employees for FBI Victim Witness Specialists, in Millions (2016-2020) (in millions)**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Allocation to FBI	\$17.29	\$13.95	\$28.11	\$29.34	\$34.00
Number of FTEs	192	203	227	186	206

Source: Congressional Research Service, “The Crime Victims Fund: Federal Support for Victims of Crime,” Apr. 2, 2020.

Under the Crime Victims’ Rights Act, survivors of crime are to be notified of major case events related to federal offenders (e.g., release or detention status).<sup>816</sup> As such, OVC also provides annual funding from the Fund to support the Victim Notification System (VNS). This program is jointly run by the FBI, Executive Office of the U.S. Attorney’s Office, OVC, and the Federal Bureau of Prisons.<sup>817</sup> From 2017-2020, funding for the VNS decreased from \$7.45 million in FY 2017 to \$5.44 million in FY 2020.<sup>818</sup>

The FBI also has its own Victim Assistance Program which “informs, supports, and assists victims in navigating the aftermath of crime and the criminal justice process with dignity and resilience.”<sup>819</sup> The Program is responsible for ensuring that victims of crimes investigated by the FBI are given the opportunity to receive services and notification as required by federal law and the Attorney General Guidelines on Victim and Witness Assistance. Services provided include crisis intervention, emergency travel assistance, and local referrals for counseling, housing, and other services. The Division has provided services to more than 2 million victims since its inception in 2001.<sup>820</sup>

### *Discretionary Funds*

After the mandated programs outlined above receive the allocated funds, the remaining 5 percent of the Fund’s annual balance can be used for “discretionary grants.” These grants can be used for:

- 1) Demonstration projects, program evaluation, compliance efforts, and training and technical assistance services to crime victim assistance programs;
- 2) Financial support of services to victims of federal crime; and,
- 3) Nonprofit victim service organizations and coalitions to improve outreach and services to victims of crime.<sup>821</sup>

<sup>816</sup> Crime Victims’ Rights Act (CVRA), 18 U.S.C. § 3771.

<sup>817</sup> 34 U.S.C. §20101(d)(3).

<sup>818</sup> Note, in FY 2017 the VNS had an additional \$3 million allocated specifically to upgrade, enhance, and operate the system. See Congressional Research Service, “The Crime Victims Fund.”

<sup>819</sup> Federal Bureau of Investigation, “Victim Services,” <https://www.fbi.gov/how-we-can-help-you/victim-services>.

<sup>820</sup> Ibid.

<sup>821</sup> 34 U.S.C. §20103(c).



These funds can be awarded to states, local governments, Tribal communities, individuals, educational institutions, and private nonprofit organizations.<sup>822</sup> Up to 50 percent of the discretionary grants can be used to support and enhance services to federal crime victims through support for Tribal grants and positions at federal agencies such as the Bureau of Indian Affairs, Department of Defense, and the National Park Service.<sup>823</sup> Table 26 below shows the annual allocation for discretionary grants over this study's time frame.<sup>824</sup>

**Table 26: Funds for CVF Discretionary Grants (in millions)**

	FY 2017	FY 2018	FY 2019	FY 2020
Allocations for Discretionary Grants	\$103.80	\$178.84	\$125.90	\$94.85

Source: Congressional Research Services, "The Crime Victims Fund: Federal Support for Victims of Crime," Apr. 2020.

Discretionary grants also fund services to support survivors of sexual assault. The Survivors' Bill of Rights Act of 2016<sup>825</sup> requires that OVC distribute funds to U.S. Attorneys and the FBI for victim and witness assistance. Additionally, the Act authorizes OVC to distribute discretionary grants to develop sexual assault survivors' rights and policies and to disseminate written notices of rights and policies to medical centers, hospitals, forensic examiners, sexual assault service providers, law enforcement agencies, and other state entities who support these survivors.<sup>826</sup>

The Fund may also be used to assist survivors of terrorist attacks and mass violence incidents. These funds are made available through the Antiterrorism Emergency Reserve that was established to meet the needs of these survivors.<sup>827</sup> These funds are distributed to states and local jurisdictions where an incident has occurred to provide victim assistance and compensation. Over the past several years, OVC has distributed grant funds from the Antiterrorism Emergency Reserve following several incidents of mass violence, such as the 2017 Las Vegas shooting. For instance, in 2019, OVC awarded \$16.7 million to the Nevada Department of Health and Human Services and \$8.4 million to the California Victim Compensation and Government Claims Board to support survivors of that attack.<sup>828</sup>

The federal government also provides funds to aid states' victim assistance and compensation programs outside of the annual VOCA grants. In December 2021, DOJ awarded approximately

<sup>822</sup> Office for Victims of Crime, "Discretionary Grants," May 4, 2020, <https://ovc.ojp.gov/funding/types-of-funding/discretionary-grants>.

<sup>823</sup> Ibid.

<sup>824</sup> As of the writing of this report, FY 2021 amounts were not available.

<sup>825</sup> P.L. 114-236.

<sup>826</sup> Congressional Research Service, "The Crime Victims Fund."

<sup>827</sup> P.L. 104-132, Title II, Subtitle C.

<sup>828</sup> Congressional Research Service, "The Crime Victims Fund," p. 14.

\$444 million to support violence intervention efforts.<sup>829</sup> The majority of this funding was made through Office of Justice Program’s BJA, OJJDP, and NIJ.

### *Barriers to Accessing Victim Services*

Historically, many survivors of violent crimes did not receive assistance or services following the incident. NCVS data show that from 1993 to 2009, an average of 9 percent of survivors of serious violent crimes (e.g., rape or other sexual assault, robbery, or aggravated assault) received assistance from a victim service agency.<sup>830</sup> More recent data show that a vast majority of violent crime victims do not seek assistance following an incident. According to 2016 NCVS data, about 13 percent of survivors of violent crimes report using victim services. Moreover, for those who do not report the offense to police, only 5 percent report utilizing services.<sup>831</sup> Comparatively, in 2021, victims received assistance from victim service agencies in 9 percent of violent victimizations, which was an increase from 2020 (6 percent). From 2020 to 2021, there were no statistically significant differences in the proportion of other types of victimization where assistance was received.<sup>832</sup>

A victim’s sociodemographic characteristics are related to their chances of receiving services. A higher percentage of women receive assistance for being a victim of serious violent crime (15 percent), intimate partner violence (23 percent), and from suffering an injury during the offense (15 percent). For men, 6 percent who experienced a serious violent crime, 8 percent of victims of crimes by a stranger, acquaintance, or relative, and 7 percent who were injured during the offense received assistance from a victim service agency.<sup>833</sup> Overall, women survivors made up two thirds of the victims who received assistance from a victim service agency.<sup>834</sup>

Age is also correlated with access to victim services. The percentage of survivors who received assistance from an agency for a serious violent crime was greater among those 35 or older (12 percent) compared to those 18-34 (9 percent).<sup>835</sup> Among survivors of serious violent crimes, multiracial survivors were the most likely to receive assistance from a victim service agency (17 percent), followed by White survivors (11 percent), Black survivors (9 percent), and Latino survivors (6 percent).<sup>836</sup> Geography is also related to accessing victim services. Survivors of violent crimes who lived in rural areas received more assistance compared to survivors living in urban areas (12 percent, 8 percent, respectively). Among Black, Latino, and White survivors there

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<sup>829</sup> Office of Public Affairs, “Justice Department Awards Nearly \$444 Million to Support Violence Intervention Efforts,” Dep’t of Justice, Dec. 23, 2021, <https://www.justice.gov/opa/pr/justice-department-awards-nearly-444-million-support-violence-intervention-efforts>.

<sup>830</sup> Langton, “Use of Victim Service Agencies by Victims of Serious Violent Crime, 1993-2009.”

<sup>831</sup> Rachel E. Morgan and Grace Kena, “Crime Victimization, 2016: Revised,” Bureau of Justice Statistics, 2018, <https://bjs.ojp.gov/content/pub/pdf/cv16.pdf>.

<sup>832</sup> Langton, “Use of Victim Service Agencies by Victims of Serious Violent Crime, 1993-2009.”

<sup>833</sup> Ibid.

<sup>834</sup> Ibid., p. 5.

<sup>835</sup> Ibid.

<sup>836</sup> Ibid.

was no measurable differences in the percentage of those receiving services based on geographical location (i.e., urban, suburban, rural).<sup>837</sup>

While the number of violent crime survivors who seek assistance following an incident is low, data suggest that it may be lowest for survivors from marginalized communities. Previous studies find that not only are victim compensation programs underutilized, but that not all types of victims are equally likely to apply for these programs. The research suggests that younger, male, and racial/ethnic minority victims are underrepresented among applicants compared to other victims.<sup>838</sup> Regardless of racial or ethnic background, data show that sexual assault is overrepresented, compared to physical assault claims which are underrepresented.<sup>839</sup> Moreover, Black victims, in particular, are underrepresented as applicants, even after controlling for crime type.<sup>840</sup> By comparison, White victims are overrepresented among applicants among all crime types except homicide. The rate of applicants from Latino victims are disproportionately high for homicide, but disproportionately low for physical assault and robbery.<sup>841</sup>

Ruth Abaya, Pediatric Emergency Medicine Physician and Senior Director for the Health Alliance for Violence Intervention, testified that:

It's known that survivors of violence [who are] young male, Black and Brown, are disproportionately underrepresented victim compensation applicants relative to the proportion of crimes committed against them. [This disparity] is driven by a range of factors including a lack of knowledge about these benefits, barriers to completion of the application process, and hesitations about engaging with law enforcement. At times these forms of compensation are contingent upon a subjective assessment of cooperation. Making this process clear and equitable can improve access for all victims and address these disparities.<sup>842</sup>

In a 2020 qualitative study conducted by the National Resource Center for Reaching Victims (NRC) with victim service providers, about 63 percent of respondents indicated that their program

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<sup>837</sup> Ibid.

<sup>838</sup> Lisa Newmark, "Crime Victims' Needs and VOCA-Funded Services: Findings and Recommendations from Two National Studies," National Institute of Justice, Mar. 2004, <https://www.ojp.gov/pdffiles1/nij/grants/214263.pdf>; Lisa Newmark, Judy Bonderman, Barbara Smith, and Blaine Liner, "The National Evaluation of State Victims of Crime Act Assistance and Compensation Programs: Trends and Strategies for the Future," Urban Institute, Apr. 2003, <https://www.urban.org/sites/default/files/publication/59536/410924-The-National-Evaluation-of-State-Victims-of-Crime-Act-Assistance-and-Compensation-Programs-Trends-and-Strategies-for-the-Future-Full-Report-PDF>; Danielle Sered, "Young Men of Color and the Other Side of Harm: Addressing Disparities in our Responses to Violence," Vera Institute of Justice, Dec. 2014, <https://www.vera.org/downloads/publications/men-of-color-as-victims-of-violence-v3.pdf>.

<sup>839</sup> Newmark, Bonderman, Smith, and Liner, "The National Evaluation of State Victims of Crime Act Assistance and Compensation Programs."

<sup>840</sup> Ibid.; Newmark, "Crime Victims' Needs and VOCA-Funded Services."

<sup>841</sup> Newmark, Bonderman, Smith, and Liner, "The National Evaluation of State Victims of Crime Act Assistance and Compensation Programs."

<sup>842</sup> Abaya Testimony, *Racial Disparities Briefing*, p. 76.

or organization identified underserved victims from certain communities.<sup>843</sup> The top five underserved communities identified in the study were: immigrants and refugees; people with limited English proficiency; people with disabilities; lesbian, gay, bisexual, and transgender people; people with disabilities; and people of color.

One respondent states:

While our county is fairly homogenous, we know that we are not serving as many people of color, people with disabilities, the LGBTQ community, elderly, as we would like ... We know that there are many stigmas and prejudices for different minority populations; we attempt to alleviate those, but we could always learn more to do better.<sup>844</sup>

Survivors of different crime types had different utilization of victim services. For instance, victim service providers reported that some of the underserved communities were victims of human trafficking, domestic violence, elder abuse, and children who witness violence.<sup>845</sup>

Deputy Director for Safe Sisters Circle, Nel-Sylvia Guzman, testified:

We have a large percentage of women who are victims of a violent crime, and there is a lack of recovery support... Although female victims of serious violence are more likely to ask for assistance when the violence is perpetrated by an intimate partner, about 1 in 10 survivors will have their needs met when requesting services from a domestic violence program. And this only reflects those that ask. Black women face compounding barriers to safety, to asking for help, and then when they ask for the help, to receiving the help.<sup>846</sup>

Data suggest that victims are more likely to receive direct assistance from service providers when they report the incident to law enforcement.<sup>847</sup> As discussed previously, however, victims may not be willing to file an official report which could hinder their access to services.

The underreporting of crimes by some victims may be due to fear of interacting with the criminal justice system, especially for survivors from historically marginalized communities. Immigrant survivors, deaf survivors, or survivors with limited English proficiency may fear miscommunication and cultural misunderstandings. For instance, as the Commission found in its 2023 report on anti-Asian hate crimes, the lack of language access can be a significant barrier for victims accessing critical services or being willing or able to call for help from law enforcement

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<sup>843</sup> National Resource Center for Reaching Victims, "Helping Those Who Help Others: Key Findings from a Comprehensive Needs Assessment of the Crime Victims Fund," Jun. 2020, [https://reachingvictims.org/wp-content/uploads/2020/06/ACCESS-2020\\_NRCRV\\_NEEDSREPORT\\_6\\_5\\_20.pdf](https://reachingvictims.org/wp-content/uploads/2020/06/ACCESS-2020_NRCRV_NEEDSREPORT_6_5_20.pdf).

<sup>844</sup> Ibid., p. 9.

<sup>845</sup> Ibid., p. 10.

<sup>846</sup> Guzman Testimony, *Racial Disparities Briefing*, p. 88.

<sup>847</sup> See e.g., Lynn Langton, "Use of Victim Service Agencies by Victims of Serious Violent Crime, 1993-2009."

or serve as a witness.<sup>848</sup> Children or young people who witness violence may fear not being believed. Older adults may fear losing their independence due to mandatory reporting requirements that could jeopardize their living situation. LGBTQ survivors and men of color may fear being perceived as somehow “bringing their victimization upon themselves.”<sup>849</sup>

In a 2015 survey conducted by the National Domestic Violence Hotline (NDVH), 70 percent of respondents who chose not to contact law enforcement stated they did not report due to fear that “calling the police would make things worse” and 80 percent of those who had not previously called the police reported being “somewhat or extremely afraid” to call police in the future.<sup>850</sup> Additionally, 59 percent reported that they were afraid the police would not believe them or do nothing to help, and 17 percent were “afraid that the police would be violent or would threaten to arrest or actually arrest them.”<sup>851</sup> Guzman contends that survivors of intimate partner violence may not seek help because “many of the victim services related to intimate partner violence are tied to the criminal justice system. So, [] many survivors are required to have to choose between involving law enforcement, or getting the support that they need. And many survivors, regardless of race, [] choose not to report to the police.”<sup>852</sup>

Victim service providers suggest that many crime victims do not seek assistance due to negative past experiences with criminal justice systems and institutions (e.g., law enforcement, child and family services, adult protective services).<sup>853</sup> For instance, the 2015 NDVH survey shows that 43 percent of victims who called the police stated that the police discriminated against them. Of those who reported discrimination, over half stated it was due to them “not being a ‘perfect’ victim” based on social markers such as income, reputation, disability, or sexual identity; 22 percent reported discrimination on the basis of their race, ethnicity, or immigration status.<sup>854</sup> Similarly, a 2018 report by the National Coalition of Anti-Violence Programs finds that 55 percent of LGBTQ survivors of hate violence and 47 percent of LGBTQ survivors of intimate partner violence reported that law enforcement behaved indifferently towards their report of a crime.<sup>855</sup> Moreover, 20 percent of LGBTQ survivors of hate violence and 11 percent of LGBTQ survivors of intimate

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<sup>848</sup> See U.S. Commission on Civil Rights, *The Federal Response to Anti-Asian Racism in the United States*, Sept. 26, 2023, <https://www.usccr.gov/files/2023-10/fy-2023-se-report.pdf>.

<sup>849</sup> National Resource Center for Reaching Victims, “Helping Those Who Help Others,” p. 11.

<sup>850</sup> TK Logan and Rob (Roberta) Valente, “Who Will Help Me? Domestic Violence Survivors Speak Out About Law Enforcement Responses,” National Domestic Violence Hotline,” 2015, <https://www.thehotline.org/wp-content/uploads/media/2020/09/NDVH-2015-Law-Enforcement-Survey-Report-2.pdf>.

<sup>851</sup> *Ibid.*

<sup>852</sup> Guzman Testimony, *Racial Disparities Briefing*, pp. 88-89.

<sup>853</sup> National Resource Center for Reaching Victims, “Helping Those Who Help Others.”

<sup>854</sup> *Ibid.*

<sup>855</sup> Beverly Tillery, Audacia Ray, Eliel Cruz, and Emily Waters, “Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Hate and Intimate Partner Violence in 2017,” National Coalition of Anti-Violence Programs, 2018, <https://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf>.

partner violence reported that law enforcement was hostile towards them when they reported a crime.<sup>856</sup>

These past negative experiences can then deter survivors from seeking victim assistance. One respondent in the 2020 NRC study explains:

[One] issue is a lack of trust, and that lack of trust is completely rational because most of my clients have had lengthy interactions with systems that say they're there to help, but they don't – or in some cases, they make their lives worse. [Obtaining] high quality services is a barrier. Our clients encounter a revolving door of underpaid professionals and are very often being seen by students who are overseen by professionals ... Most of the people doing this work look nothing like our clients. Most of our clients are poor people who are black, and most of our therapists are white.<sup>857</sup>

Guzman explains that having culturally diverse assistance providers is key to reducing barriers to victims. She testified that providing culturally specific services from an individual from the same community as the service provider “creates a comfortable environment where trust is established; where the client’s culture is taken into context when developing solutions or strategies to address their problems. It’s also where we support those who fall through the cracks in the mainstream systems.”<sup>858</sup>

Similarly, an attorney who works with victims to provide civil-legal assistance summed up the mistrust survivors with a history of incarceration often experience, stating, “[w]e’re a mostly white agency, and governmental. Many people hurt/harmed by crime will never feel comfortable approaching us for help.”<sup>859</sup> The NRC study suggests that the “lack of cultural, linguistic, and racial diversity among mainstream providers may help explain why outreach and engagement efforts often fall flat. In other words, people of color and people from culturally specific communities are not often working in mainstream victim service programs.”<sup>860</sup>

Christina Love, Survivor and Executive Director for Rural Alaska Integrated Services, testified that, in order to reduce disparities in access to services, there needs to be a “paradigm shift that would restore power to communities and people who have been directly impacted at every single level. So, hiring people with lived experience [and] bringing people in with lived experience ... so then we get rid of that false dichotomy of who is committing crime.”<sup>861</sup>

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<sup>856</sup> Ibid.

<sup>857</sup> National Resource Center for Reaching Victims, “Helping Those Who Help Others,” p. 13.

<sup>858</sup> Guzman Testimony, *Racial Disparities Briefing*, p. 88.

<sup>859</sup> National Resource Center for Reaching Victims, “Helping Those Who Help Others,” p. 13.

<sup>860</sup> Ibid., p. 16.

<sup>861</sup> Love Testimony, *Racial Disparities Briefing*, p. 178.

Victim service providers also explain that survivors may not seek assistance due to multiple barriers to access, which has led to systemic inequities in providing victim services. These barriers can include physical barriers such as:

- lack of transportation to services,
- lack of service provider options for those in rural areas, or
- lack of accessible services for survivors with disabilities.

Other barriers may include linguistic and/or cultural barriers, such as:

- lack of bilingual and bicultural staff,
- lack of interpreters,
- lack of culturally responsive services and shelters, and
- lack of cultural understanding of “victimhood.”

Lastly, attitudinal and programmatic barriers may pose a significant hurdle for some survivors. For instance:

- the perception that men of color and survivors with a history of incarceration are viewed as “perpetrators of violence” and offenders and not also “victims of violence;”
- lack of age-appropriate services for young survivors;
- lack of services that feel welcoming and accessible for transgender and gender-diverse people;
- false belief that survivors with a disability lack credibility due to their disability; and
- the onerous and often difficult applications for victim compensation which makes it hard for many victims to apply to access the fund.<sup>862</sup>

Furthermore, some community members and grassroots organizations who assist victims may utilize nontraditional methods to provide assistance, such as “engaging young men of color in barbershops, on basketball courts, or in community centers.” Advocates state that “meeting young men in their communities and talking with them informally without using a lot of clinical language helped the young men be more open to ‘services.’”<sup>863</sup> Similarly, advocates working with indigenous communities emphasized that “the tradition of storytelling rooted in shared culture may not sound like a formal ‘victim service’ but is an effective way to promote trust and healing.” While these nontraditional methods have been successful, these groups and organizations are not often considered “providers” by grant-making agencies, which severely limits their financial resources.<sup>864</sup>

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<sup>862</sup> National Resource Center for Reaching Victims, “Helping Those Who Help Others,” pp. 20-22.

<sup>863</sup> Ibid.

<sup>864</sup> Ibid.

Audacia Ray, Director of Community Organizing and Public Advocacy for the Anti-Violence Project, also testified that to reduce disparities, communities “need the investment of the federal government and we also need support for our communities. Because our communities know what we need and we know how to get there and we must be treated as experts, not just on our own lives.”<sup>865</sup>

### *Barriers to Accessing Compensation Funds*

Longstanding research shows that one main impediment to victims receiving compensation is the lack of knowledge that these programs exist and how to access them.<sup>866</sup> Data also suggest that, like overall victim services, there are racial and ethnic disparities in which victims receive compensation funds. A report by the Alliance for Safety and Justice shows that over four million Americans are a victim of a violent crime each year; however, only about 5 percent of victims had their compensation application approved in 2019.<sup>867</sup> Moreover, that same year, only 11 percent of violent crime victims received assistance from a victim service agency due to access issues.<sup>868</sup> The report finds that:

While people from all walks of life are impacted by crime and violence, its effects are concentrated and unequal. Bureaucratic processes and unfair eligibility regulations currently exclude too many people harmed by violent crime from accessing victim services in their time of need. These processes have a disproportionate impact on communities of color: despite being more than twice as likely to be victimized in violent incidents, people of color and other marginalized survivors face barriers in law, policy, and practice that make it even harder to receive help.<sup>869</sup>

Heather Warnken, Executive Director of the Center for Criminal Justice Reform, testified that:

A growing body of research demonstrates that Black and Brown victims, in particular those living in low-income communities, are least likely to be seen and served as victims of crime. Despite these higher rates of violent victimization, compensation programs disproportionately deny and/or alienate applicants of color, especially Black men and youth impacted by gun and other forms of community violence. There are a range of problems undermining program effectiveness, including a paradoxical reliance on reimbursement,

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<sup>865</sup> Ray Testimony, *Racial Disparities Briefing*, p. 180.

<sup>866</sup> Alvidrez, Shumway, Boccellari, Green, Kelly, and Merrill, “Reduction of State Victim Compensation Disparities.”

<sup>867</sup> Alliance for Safety and Justice, “Creating a Model Victims’ Compensation Policy,” Jun. 2022, <https://allianceforsafetyandjustice.org/wp-content/uploads/2022/06/CSSJ-Creating-a-Model-Victims-Compensation-Policy.pdf>.

<sup>868</sup> Ibid.

<sup>869</sup> Ibid., p. 2.

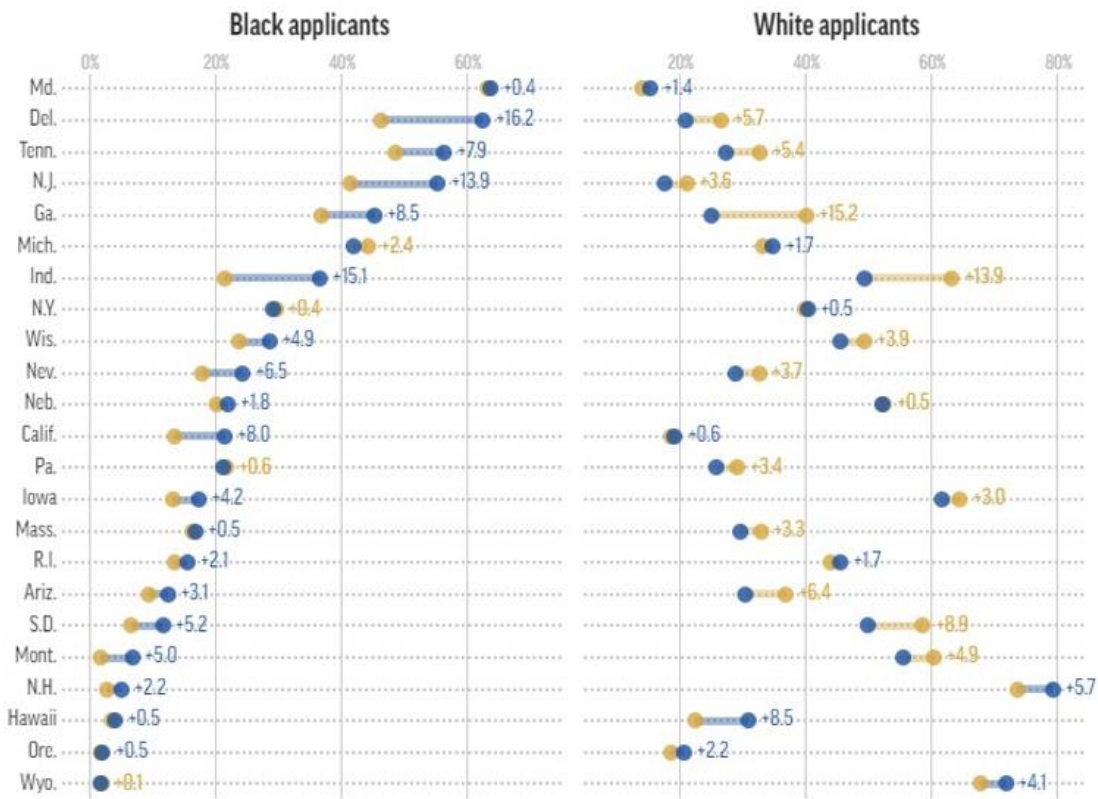


requiring victims to pay up front the cost of compensable expenses even though the program is intended for people who lack such resources.<sup>870</sup>

Investigative journalists for the Associated Press (AP) find that from 2018 to 2021, Black victims were disproportionately denied compensation funds in 19 out of 23 states that provided racial data on victim demographics (see Figure 13 below).<sup>871</sup> Indiana, Georgia, and South Dakota were nearly twice as likely to deny Black applicants compared to White applicants, which equates to millions of dollars in aid that Black individuals and families were denied. In Delaware, Black applicants made up less than half of applicants but accounted for more than 63 percent of denials.

**Figure 13: Black Victims’ Denial Claims**

The charts below show the percentage point difference between the share of victims compensation **claims** and the share of victims compensation claim **denials** for Black and white applicants in the 23 states that provided racial data to The Associated Press.



Note: The AP asked for data from 2018 through 2021, and while the majority of states that shared racial data were able to provide data for that timeframe, there were a few states that provided fewer years because of updates to record keeping systems making some years unavailable.

Source: Applications from the U.S. Officer for Victims of Crime. Denials data provided by state compensation programs.

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<sup>870</sup> Warnken Testimony, *Racial Disparities Briefing*, pp. 106-107.

<sup>871</sup> Claudia Lauer and Mike Catalini, “Takeaways from AP Report on Racial Disparities in States’ Victim Compensation Programs,” *AP News*, May 17, 2023, <https://apnews.com/article/victims-compensation-crime-racial-disparity-00ff7bfa3f3263c3e2fef025450b8411>.

As discussed previously, applicants can be denied compensation for numerous administrative reasons such as an incomplete application or an ineligible crime, but applicants can also be denied for more subjective reasons such as “contributory misconduct,” which is a broad term that means the victim contributed to their own victimization. This “may involve actual criminal activity, or it may be some other action or negligence that resulted in the injury.”<sup>872</sup> An AP investigation finds that White families were more likely to be denied for administrative reasons, whereas Black applicants were almost three times more likely to be denied for subjective reasons, such as their behavior before or after a crime.<sup>873</sup> Because Black Americans are overrepresented in the criminal justice system, Black crime victims are disproportionately likely to be denied victim compensation for a prior conviction, even if that conviction was decades in the past and wholly unrelated to their current victimization.<sup>874</sup>

According to the OVC programmatic handbook, “evaluating contributory misconduct is one of the most difficult and important issues facing compensation programs.”<sup>875</sup> The handbook lays out several concerns regarding the lack of definition of what “contributory misconduct” means and how it is evaluated. For instance, the handbook states:

All state compensation statutes intend that awards should either be denied or reduced when victims, through their own misconduct, have contributed to their injuries or deaths. Yet these statutes generally fail to define clearly “misconduct” or “contribution.” This has permitted wide discretion on the part of compensation boards in their decision making.<sup>876</sup>

Several states seem to authorize only denial, [] while others speak only of reduction. Wisconsin, for example, provides that “No award may be ordered” if the victim engaged in “contributory misconduct,” and Ohio’s law says that its commissioners “shall deny a claim ... if it is determined there was contributory misconduct.” [However,] [p]recise definitions of contributory misconduct are usually absent from these statutes. Laws in Kansas, North Carolina, and Ohio, for example, authorize denial and/or reduction on the basis of “contributory misconduct” without elaborating on what that might mean. Laws in Michigan, Florida, and Virginia speak of conduct that “contributed to the infliction” of injury or death, again without further definition.

The distinction between these two kinds of definitions may be important... in one court’s interpretation, a claim could be denied more easily if the standard is contributory

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<sup>872</sup> National Association of Crime Victim Compensation Boards, “Program Handbook,” Office for Victims of Crime, U.S. Dep’t of Justice, Sept. 28, 1994, <https://www.ojp.gov/pdffiles1/Digitization/150304NCJRS.pdf>, p. II-4.

<sup>873</sup> Claudia Lauer and Mike Catalini, “Every State Offers Victim Compensation. For the Longs and Other Black Families, it Often Isn’t Fair,” *AP News*, May 17, 2023, <https://apnews.com/article/crime-victims-compensation-racial-bias-58908169e0ee05d4389c57f975eae49b>.

<sup>874</sup> Lauren N. Hancock, “Another Collateral Consequence: Kicking the Victim When She’s Down,” *Wash. & Lee L. Rev.*, 2020, vol. 77, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/waslee77&div=35&id=&page=>.

<sup>875</sup> National Association of Crime Victim Compensation Boards, “Program Handbook,” p. II-4.

<sup>876</sup> *Ibid.*, p. VI-1.

misconduct than if the standard is contribution to the infliction or injury. In other words, a victim might be engaged in contributory misconduct, but still might not have contributed to the infliction of his injury. Depending on which standard is being used, the claim could either be rejected or paid.<sup>877</sup>

Additionally, the criterion that a victim must cooperate with an investigation could pose a barrier for those who are afraid of retribution for talking to law enforcement or for individuals who are affected by the crime, but do not possess information related to it. In a 2022 report by Common Justice, researchers explain that:

Victims and survivors may be considered uncooperative because they cannot or do not want to share the name of the person who harmed them or because they are undergoing extreme stress at the time of questioning and cannot produce answers that are satisfactory to police officers. What constitutes “cooperation” is largely within the discretion of the officers. This means that [] law enforcement plays an outsize role in determining whether a victim or survivor receives compensation.<sup>878</sup>

Additionally, as discussed hereafter, the requirement to cooperate with law enforcement to be eligible for compensation is not mandated by federal statute. VOCA requires that state programs promote “victim cooperation with the reasonable requests of law enforcement,” but does not state that victims must cooperate with law enforcement to be eligible for compensation.<sup>879</sup> Recognizing the potential burden that police interaction may place on victims, the 2021 VOCA Fix Act clarified that state victim compensation programs do not need to promote victim cooperation with law enforcement when “such cooperation may be impacted due to a victim’s age, physical condition, psychological state, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim’s wellbeing.”<sup>880</sup>

Other barriers that may lead to racial disparities in victim compensation are how victims are perceived by service providers. Alice Hamblett, Senior Policy Manager at Common Justice, testified that:

In the United States, there is a dominant perception that victims of violence who are worthy of support, of sympathy, of services, are White. The image of an innocent White woman is upheld as the prototypical victim. Meanwhile, Black and Brown people who are violently victimized are criminalized, ignored, and even blamed for their own harm.<sup>881</sup>

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<sup>877</sup> *Ibid.*, p. VI-2.

<sup>878</sup> Alice Hamblett, Jessica Persaud, Tahirih Anthony, Ina Kelleher, and Kira Shepherd, “Eliminating Barriers to Healing: An Examination of Victim Compensation in New York State,” Common Justice, 2022, <https://resources.commonjustice.org/eliminating-barriers-to-healing>.

<sup>879</sup> Victim of Crimes Act, 34 USC § 20102 (2021), [www.law.cornell.edu/uscode/text/34/20102](http://www.law.cornell.edu/uscode/text/34/20102).

<sup>880</sup> *Id.*

<sup>881</sup> Hamblett Testimony, *Racial Disparities Briefing*, p. 99.

Similarly, Heather Warnken, Executive Director of the Center for Criminal Justice Reform, testified to the Commission that disparities in compensation services are due to a combination of factors, such as:

Unreasonable attempts to promote victim cooperation and reporting to law enforcement [] [which] is especially unjust for victims who may fear or distrust the police. Blaming the victim by operating on a flawed model of only supporting ‘innocent’ victims, leading to determinations of worthiness that are too often influenced by race and other discriminatory factors, and a harmful reliance on criminal justice system fines and fees to fund these benefits.<sup>882</sup>

An investigation of New York State’s Office of Victim Services (OVS) from January 2018 to December 2020 shows that only 5,276 of the 213,000 people who reported being victims of assault applied for victim compensation.<sup>883</sup> Of those who applied, after controlling for gender, age, crime type, year of crime and region, Black, Latinx, and American Indian/Alaska Native (AIAN) victims were less likely to be awarded compensation than White victims.<sup>884</sup> Specifically, Black people were 17.5 percent less likely, Latinx people were 16.3 percent less likely, and AIAN people were 43 percent less likely to be awarded victim compensation compared to White people. Additionally, applications for victim compensation were less prevalent for assaults against victims of color compared with White victims. Specifically, applications for compensation among all assaults in NYC between 2018-2020 were 37 percent less likely for Black victims, 27 percent less likely for Latinx victims, 25 percent less likely for Asian/Pacific Islander victims, and 57 percent less likely for AIAN victims compared to White victims of assault.

Given these findings, New York State Senator Zellnor Myrie sponsored the Fair Access to Victim Compensation Act, which was signed into law in December 2023. This law (1) removes the mandatory law enforcement reporting requirement; (2) provides alternative forms of evidence that would show a qualifying crime had been committed; and (3) provides confidentiality of certain records.<sup>885</sup> Supporters of the bill argued that removing the mandatory reporting requirement could help address racial disparities in compensation approvals “because many Black and Brown people are less likely to report crimes to law enforcement.”<sup>886</sup> Myrie stated that:

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<sup>882</sup> Warnken Testimony, *Racial Disparities Briefing*, p. 107.

<sup>883</sup> Shantel Destra, “Report Finds Racial Disparities in NY Victim Compensation,” *City & State New York*, Mar. 22, 2023, <https://www.cityandstateny.com/policy/2023/03/report-finds-racial-disparities-ny-victim-compensation/384306/>.

<sup>884</sup> Common Justice, “Background and Statement on Common Justice Data,” [https://assets.nationbuilder.com/commonjustice/pages/73/attachments/original/1676576638/Background\\_and\\_Statement\\_on\\_Common\\_Justice\\_Data.pdf?1676576638](https://assets.nationbuilder.com/commonjustice/pages/73/attachments/original/1676576638/Background_and_Statement_on_Common_Justice_Data.pdf?1676576638).

<sup>885</sup> S.B. S214A, Fair Access to Victim Compensation, New York State 2023-2024 Legislative Session, <https://www.nysenate.gov/legislation/bills/2023/S214/amendment/A>.

<sup>886</sup> Shantel Destra, “Report Finds Racial Disparities in NY Victim Compensation.”

Victim compensation is a critical tool for healing, supporting impacted people and breaking the cycle of violence and despair – but too many deserving victims are denied this compensation. We need to stand with victims and break down the barriers standing between them and funds that can help meet their needs after an act of violence.<sup>887</sup>

Some states have also started to change their laws regarding victim compensation to reduce racial disparities. For instance, in Pennsylvania, applicants no longer can be denied financial assistance for funeral costs or counseling services based upon a homicide victim’s behavior.<sup>888</sup> In other states, such as in New Jersey, law enforcement have changed the language used in reports to describe interactions with victims which has led to fewer denials for “failure to cooperate;” and in Illinois, employees are being trained on ways that unconscious biases impact their decisions.<sup>889</sup>

Additional changes to some state compensation funds include no longer automatically denying victim compensation to individuals with felony convictions. For instance, a survivor in Ohio was denied compensation after a mass shooting where his father was murdered because his father had an almost 10-year-old felony conviction.<sup>890</sup> Ohio’s victim compensation program stated that victims of violent crime and their families could be denied compensation if they were suspected of committing certain felonies, even if they were not convicted, or if they had been convicted of a felony in the past 10 years.<sup>891</sup> In 2021 Ohio removed restrictions to ensure that family members of homicide victims cannot be denied compensation based on prior convictions or allegations regarding the victim’s actions.<sup>892</sup>

Several states still disqualify applicants and/or their families from compensation funds based on criminal records.<sup>893</sup> In Florida, victims and their families cannot access compensation funds if they were convicted of a prior felony, regardless of when that conviction happened.<sup>894</sup> In an investigation of the state’s compensation programs, researchers show that in 2015 and 2016, Black victims made up about 30 percent of applicants who reported race, yet were 61 percent of

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<sup>887</sup> Ibid.

<sup>888</sup> 37 Pa. Code Chapter 411 Crime Victims Compensation.

<sup>889</sup> Lauer and Catalini, “Every State Offers Victim Compensation. For the Longs and Other Black Families, it Often Isn’t Fair.”

<sup>890</sup> Ibid.; *see also* Alliance for Safety and Justice, “Creating a Model Victims’ Compensation Policy.”

<sup>891</sup> S.B. 36, 135th Leg., (Oh. 2022), <https://www.legislature.ohio.gov/legislation/134/sb36>.

<sup>892</sup> *Id.*

<sup>893</sup> For example, Arkansas: lifetime ban if victim was convicted of a felony that resulted in injury to, or death of, a person; Florida: lifetime ban if one conviction of a “forcible” felony, including burglary, or multiple convictions that qualify as violent or “habitual” under state law; Louisiana: 3 year ban for one felony conviction; people under any kind of correctional supervision, e.g., jail, prison, probation or parole (except for sex crimes); Mississippi: 5 year ban for people under any correctional supervision for a felony conviction; North Carolina: three year ban for any major felony conviction, ranging from selling drugs in a school zone to murder; Rhode Island: 5 year ban for any violent felony conviction. *See* Alysia Santo, “The Victims Who Don’t Count,” *Marshall Project*, Sept. 13, 2018, <https://www.themarshallproject.org/2018/09/13/the-victims-who-don-t-count>.

<sup>894</sup> Office of the Attorney General, “Are You the Victim of a Crime?” Bureau of Victim Compensation, <https://www.myfloridalegal.com/sites/default/files/BVCVictimCompensationBrochure%5B1%5D.pdf>.

applicants who were denied aid for having a criminal record.<sup>895</sup> Similarly in Louisiana, since the 1990s, the state's Crime Victim Reparations Board (Board) has banned victims from accessing compensation funds for five years if they have a felony conviction or were under correctional supervision. The Chair of the Board states that this ban was "set up to assist true innocent victims of crime. Innocent meaning not just at that very moment, but what's the history of that particular person."<sup>896</sup> A review of 91 applicants who were denied compensation solely on the basis of a criminal record from 2015 to 2017 show that almost 80 percent were Black victims of crime or their families. The majority of the victims were under 35 years old and were homicide victims.<sup>897</sup> In an effort to reduce racial disparities, Louisiana's Board subsequently reduced the compensation ban from five years to three years after a felony.<sup>898</sup>

Warnken testified:

Too often, residents impacted by violence, especially those who are poor or have ever touched the system previously, are more likely to be criminalized rather than seen as human beings deserving of dignity and support.

Even surviving loved ones of homicide victims, witnesses at crime scenes, people fighting for their lives in hospital beds, all experience additional trauma, rights violations, coercion, misinformation, barriers to existing services, in the course of investigations and beyond.

Now these dynamics don't just fail victims in their most difficult moments. They profoundly worsen the relationship between the community and police, and the system as a whole. They undermine law enforcement's own investigative goals. They miss opportunities to interrupt cycles of harm.<sup>899</sup>

Other states have also reduced barriers in the application process, such as moving to an online application, expanding deadlines to either apply or report a crime, removing mandatory police reporting criteria, and increasing funds available to victims or the compensation program (see Table 27 below).

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<sup>895</sup> Santo, "The Victims Who Don't Count."

<sup>896</sup> Ibid.

<sup>897</sup> Ibid.

<sup>898</sup> Ibid.

<sup>899</sup> Warnken Testimony, *Racial Disparities Briefing*, p. 109.

**Table 27: Categories of Passed State Reforms to Compensation Programs (2020-2022)**

	Money	Police	Administrative	Loosens Restrictions	People Covered	Expenses Covered	Time
<b>Arizona</b>	X						
<b>California</b>	X		X	X		X	
<b>Colorado</b>	X						
<b>Connecticut</b>		X					
<b>Delaware</b>	X		X	X	X		X
<b>DC</b>	X	X	X		X	X	
<b>Indiana</b>		X			X	X	
<b>Illinois</b>	X	X	X	X	X		X
<b>Kansas</b>	X				X	X	X
<b>Kentucky</b>			X				
<b>Louisiana</b>	X	X	X	X		X	
<b>Maryland</b>			X				
<b>Michigan</b>	X		X		X	X	X
<b>Montana</b>	X					X	
<b>Nebraska</b>			X				X
<b>New Hampshire</b>	X			X			X
<b>New Jersey</b>	X			X	X		
<b>New York</b>	X				X		
<b>North Carolina</b>	X		X				
<b>Ohio</b>	X			X	X		
<b>Oklahoma</b>		X					
<b>Pennsylvania</b>		X	X	X		X	X
<b>Tennessee</b>							X
<b>Texas</b>		X					
<b>Utah</b>		X					
<b>Vermont</b>					X		
<b>Virginia</b>		X			X		
<b>Washington</b>						X	X
<b>West Virginia</b>	X				X	X	

Money: Increasing Funds available to victims or compensation program.

Police: Changes to police cooperation or police reporting requirements

Administrative: Putting applications online, streamlining the process or changes to staffing or privacy rules.

Loosens Restrictions: Updates policies on restrictions like removing denials for having a felony record or having drugs in their system.

People Covered: Expands eligibility coverage, e.g., to caregivers, expands family members covered or adds domestic partners, adds victim experience such as new crimes.

Expenses Covered: Expands what the program would pay for, like adding lock replacements or crime scene cleanup.

Time: Expands deadlines either to apply or to report a crime.

Source: Claudia Lauer and Mike Catalini, “Victims of Violent Crime Drive Legislative Change to State Programs, Pushing Against Barriers to Aid,” *AP News*, May 31, 2023.

Some changes are also happening on the federal level. Pursuant to the 2021 VOCA Fix Act, OVC released a memo to state compensation programs recommending states add exceptions to their mandatory police cooperation requirements. The memo states:

The OVC VOCA Victim Compensation Grant Guidelines (Compensation Guidelines), 66 Fed. Reg. 27158, have long encouraged and provided substantial flexibility to [state programs] to consider the impact of any barriers, such as “age, psychological, cultural, and linguistic” and other barriers that “may affect the victim’s ability to cooperate with law enforcement.” Under section IV.B.3 of the Guidelines, [state programs] “maintain the authority and discretion to establish their own standards for victim cooperation with the reasonable requests of law enforcement.”

OVC has historically understood that [state programs] have much discretion to interpret and apply the provision requiring them to promote victim cooperation with the reasonable requests of law enforcement, and provided some examples of [state programs’] eligibility criteria that would serve to show promotion of cooperation. However, neither VOCA nor the Compensation Guidelines provided much guidance or direction as to how [state programs] should address reasonable barriers to a victim’s cooperation. The VOCA Fix resolves any ambiguity that [state programs] may have perceived regarding their ability to allow for exceptions to this requirement. It provides clear language and criteria that [state programs] may consider justifying an exception to the promotion of victim cooperation with the reasonable requests of law enforcement requirement.<sup>900</sup>

On February 5, 2024, OVC announced proposed rules to State Victim Compensation programs to remove barriers to these programs.<sup>901</sup> The new rule retains much of the current guidelines. However, there are several notable changes, such as streamlining the policies and definitions regarding who may be considered a victim; amending the requirement that states promote victim cooperation with law enforcement; removing considerations of a victim’s or survivor’s immigration status, criminal history, or alleged contributory conduct in claim determinations.

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<sup>900</sup> Office for Victims of Crime, “OVC Bulletin: VOCA Fix Exception RE: VOCA Compensation Eligibility Requirements to Promote Cooperation with Law Enforcement,” Sept. 20, 2021, <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/ovc-compensation-bulletin-9.20.21.pdf>.

<sup>901</sup> Victims of Crime Act (VOCA) Victim Compensation Grant Program, 89 Fed. Reg. 24,7639 (Feb. 5, 2024) (to be codified at 28 CFR Part 94).



Additionally, the new rule proposes to clarify the definition of “medical expenses” and “mental health counseling and care” to allow states more flexibility in the costs that programs may cover.<sup>902</sup>

As this report has shown, a significant barrier for some victims is that many states require victims to not only report a crime to law enforcement but also cooperate with police throughout the investigation process. OVC’s new rule seeks to clarify that VOCA eligibility requires that states

promote victim cooperation with the reasonable requests of law enforcement, to emphasize that the requirement applies – by statute – to *States*, not victims. Although States have discretion in addressing the requirement, the proposal would clarify that they are *not* required to impose an evidentiary burden on victims to do so and expressly encourages States to avoid doing so.<sup>903</sup>

Additionally, two more significant barriers for victims are due to states denying them and/or their family compensation due to past criminal history and a victim’s alleged contributory conduct. This proposed rule will prohibit states from

denying claims based on criminal history. Certain populations may be more likely to have criminal history due to unjustified disparate treatment in the criminal justice system or due to criminal conduct induced through force, fraud, or coercion, such as unlawful acts that traffickers compelled their victims to commit, and this can result in unjustifiably disproportionate denial of claims for those populations.<sup>904</sup>

The rule will also add a provision

generally prohibiting States from considering a victim’s alleged contributory conduct in determining compensation claims, except in specific exceptional claims and where a State has a publicly available written policy regarding consideration of this factor. This change is intended to increase objectiveness and consistency in contributory conduct reviews and to address inconsistent attribution of “contributory conduct” to victims, which attribution may later preclude these victims from receiving compensation.<sup>905</sup>

## State Compensation Programs

Although most crime occurs at the local level, the federal government provides substantial help to states through the Fund and other victim assistance funds to help offset some of the financial costs caused by violent crimes. Research suggests that many states have annual surpluses in unspent federal funds for victims of violent crimes and the number of claims received is not an accurate

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<sup>902</sup> *Id.*

<sup>903</sup> *Id.*, p. 7642 (emphasis in original).

<sup>904</sup> *Id.*

<sup>905</sup> *Id.*

reflection of the number of eligible victims. This may be due, at least in part, to victims and their families not knowing about these government programs and resources.<sup>906</sup> Other studies suggest that victims do not access these funds due to the lack of assistance with the application process. For instance, in one Maryland study, researchers find that fewer than one third of respondents knew of victim compensation programs before the survey. Moreover, of those who applied, a majority stated that they did not receive assistance with their application or received assistance only from someone they knew rather than a trained professional.<sup>907</sup> At the Commission's briefing, Nicole Nabors, a Navy veteran who was shot and paralyzed by the man who killed her cousin, testified to both of these issues, stating victims "are not told about crime victim services, which is a federally funded service ... [I]n New York State [the victim compensation program] will pay for anything dealing with your injury. A lot of people don't have that knowledge, or they're not provided with a social worker to help fill out that information."<sup>908</sup>

All states have laws related to crime victims and create their own crime victim compensation programs. In this report we focus on five jurisdictions in Colorado, Tennessee, Texas, Wisconsin, and Washington. We present information about the states' compensation programs in which each of the selected cities from Chapter 2 are embedded below.

### *Colorado*

The 1993 Colorado Victim Rights Act (VRA) provides that crime victims should be treated with fairness, respect, and dignity.<sup>909</sup> The VRA urges that victims are informed of critical stages of the criminal justice process and that they may be present for, and heard, at certain stages as well.<sup>910</sup> Covered crimes include felonies, violent misdemeanors, and crimes against witnesses.<sup>911</sup> Crime victims in Colorado are given rights comparable to the rights established in the federal Crime Victim Rights Act.<sup>912</sup>

Colorado is one of only two states with a decentralized compensation program, which means that each of the state's 22 judicial districts maintains its own program.<sup>913</sup> Victims apply for compensation in the district where the crime occurred, and the program may grant individuals or

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<sup>906</sup> Alvidrez, Shumway, Boccellari, Green, Kelly, and Merrill, "Reduction of State Victim Compensation Disparities."

<sup>907</sup> Lisa Newmark and Megan Schaffer, "Crime Victims Compensation in Maryland: Accomplishments and Strategies for the Future," Urban Institute, May 2003, <https://www.urban.org/sites/default/files/publication/59316/410799-Crime-Victims-Compensation-in-Maryland.PDF>.

<sup>908</sup> Nabors Testimony, *Racial Disparities Briefing*, p. 175.

<sup>909</sup> Colorado Revised Statutes Section 24-4.1-301-304; see also Colorado Division of Criminal Justice, "Crime Victim Rights Act (VRA)," <https://dcj.colorado.gov/dcj-offices/victims-programs/crime-victim-rights-act-vra>.

<sup>910</sup> Colorado Division of Criminal Justice, "Crime Victim Rights Act (VRA)."

<sup>911</sup> Colorado Crime Victim Rights, Feb. 2016, [https://cdpsdocs.state.co.us/ovp/VRA/Crime\\_Victims\\_Rights\\_English22016.pdf](https://cdpsdocs.state.co.us/ovp/VRA/Crime_Victims_Rights_English22016.pdf).

<sup>912</sup> 18 U.S. Code § 3771.

<sup>913</sup> Colorado Crime Victim Compensation, *2017 Federal Fiscal Year Program Report*, Colorado Department of Public Safety, Mar. 2019, <https://dcj.colorado.gov/dcj-offices/victims-programs/crime-victim-compensation>.

their families a maximum of \$30,000 if district funds allow.<sup>914</sup> Primary funding for the local district's compensation programs comes through state court fines and fees, traffic offenses, restitution payments, as well as federal funds distributed by the state. The state's program requires that victims and/or their families apply for all other sources of compensation available prior to receiving state funds; thus, these programs are seen as the "payer of last resort."<sup>915</sup>

Eligible applicants<sup>916</sup> must meet the below requirements:

- Have been the victim of an eligible crime, which occurred on or after July 1, 1982;
- Have reported the crime, or the crime was reported, to law enforcement within 72 hours;
- Have an out-of-pocket financial loss directly related to the reported crime;
- Filed for crime victim compensation assistance within one year of the crime; (within six months for eligible property crimes);
- Demonstrate cooperation with the law enforcement investigation and prosecution of the case;
- Injury and/or death was not substantially attributable to the victim's involvement in a wrongful act and/or substantially provocative at the time of the crime.<sup>917</sup>

Table 28 below shows details of Colorado's Crime Victim Compensation (CCVC) funds and disbursements over the study period. In FY 2017, the state's compensation fund paid 18 percent more in tangible financial losses to victims of crime in Colorado compared to FY 2016.<sup>918</sup> Since the state's program is decentralized, these funds are distributed to all 22 districts through a non-competitive application and award process. Colorado is ranked eighth in the total amount of compensation funds, despite being 21<sup>st</sup> in state population. This means that Colorado's compensation program awarded more funds to victims than 42 other states in the U.S. in FY 2017.<sup>919</sup> As discussed previously, state programs received federal funds from OVC by calculating 60 percent of the total allowable state funds spent from the prior two federal fiscal years at that time. This means that Colorado's FY 2017 grant award was calculated based upon the total state expenditures in FY 2015.

The state awarded almost two million dollars less, or a decrease of 10 percent, to victims of crime in FY 2018.<sup>920</sup> There was also a decrease of 20 percent in FY 2019.<sup>921</sup> These annual decreases are significant because data show that Colorado does not generate enough revenue to sufficiently pay

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<sup>914</sup> These funds are to compensate victims for out-of-pocket funds that were not covered by insurance or other collateral sources.

<sup>915</sup> Colorado Crime Victim Compensation, *2017 Federal Fiscal Year Program Report*.

<sup>916</sup> Compensable crimes include, but are not limited to: assault, child abuse, robbery, arson, homicide, DWI/DUI, terrorism, other violent crimes including some vehicular crimes, sexual assault, stalking, and kidnapping. *Ibid*, p.13.

<sup>917</sup> *Ibid*.

<sup>918</sup> *Ibid*.

<sup>919</sup> Colorado Crime Victim Compensation, *2017 Federal Fiscal Year Program Report*, p. 13.

<sup>920</sup> *Ibid*, p. 13.

<sup>921</sup> *Ibid*, p. 13.

for all compensation fund expenditures each fiscal year. On average, state revenue can fund about 70 percent of the financial losses paid by the program.<sup>922</sup>

In keeping with national trends, the COVID-19 pandemic affected CCVC funds. The state had an 11.2 percent decrease in collections in FY 2020 compared to FY 2019, likely due to fewer court fees and collection activities during the pandemic.<sup>923</sup> Eleven districts experienced decreases between 10 percent and 35 percent, with only three districts not experiencing a decline. Since awards are based on funds two years prior, that means in FY 2022, Colorado was awarded significantly less in federal grant money from OVC.<sup>924</sup> In FY 2021, state funding for victim services decreased again.<sup>925</sup> During that fiscal year, Colorado moved from being 8<sup>th</sup> in the total amount of compensation funds dispersed to 6<sup>th</sup> despite being the 22<sup>nd</sup> most populous state (21<sup>st</sup> most populous previously).<sup>926</sup> This means that the local district compensation programs assisted more victims in FY 2021 than 44 other states. Since FY 2019, primary funding sources have declined at a rate of 17 percent each year, and over the past decade, local compensation programs have received an average of 24 percent or about three million more in requests than funds available each fiscal year.<sup>927</sup>

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<sup>922</sup> Ibid., p. 16.

<sup>923</sup> Ibid., p. 3.

<sup>924</sup> Ibid.

<sup>925</sup> CO Annual State Performance Report, Victim Assistance Formula Grant Program, Oct. 1, 2020- Sept. 30, 2021, Office for Victims of Crime, <https://ovc.ojp.gov/states/va-fy-2021-colorado-annual-report.pdf>.

<sup>926</sup> Colorado Crime Victim Compensation, *2021 Federal Fiscal Year Program Report*, Colorado Department of Public Safety, Sept. 2022, <https://cdpsdocs.state.co.us/dcj/DCJ%20External%20Website/OVP/2021%20CVC%20Annual%20Report.pdf>.

<sup>927</sup> Ibid., p. 2.

**Table 28: Colorado Crime Victimization Compensation (2017-2021)**

	2017	2018	2019	2020	2021
CVC Program Total State Expenditures	\$17,161,083	\$15,301,237	\$12,294,873	\$11,058,981	\$10,448,475
Number of CVC Claims Paid	8,418	8,405	7,350	6,211	7,975
Crime Type Expenditures					
Assault	39%	41%	42%	42%	37%
Child Abuse	20%	20%	18%	18%	16%
Homicide	14%	13%	15%	15%	19%
Vehicular Crimes	15%	14%	14%	14%	17%
Sexual Assault/Stalking	7%	6%	6%	6%	5%
Service Type Expenditures					
Mental Health	36%	36%	36%	35%	32%
Medical/Dental	31%	32%	32%	34%	33%
Economic Support	13%	13%	13%	14%	11%
Funeral/Burial	13%	13%	13%	14%	20%
Awardee Demographics					
Female	--	--	--	60%	57%
Age: 25-59	--	--	--	46%	45%
Race/Ethnicity					
White	--	--	--	47%	45%
Latino	--	--	--	20%	20%
Black	--	--	--	6%	6%

Source: Colorado Crime Victim Compensation, 2017, 2018, 2019, 2020, 2021 *Federal Fiscal Year Program Report*, Colorado Department of Public Safety.

As at the national level, assault claims made up the highest percentage of payments in every year in Colorado during the period of this report (see Table 28 above). Child abuse was typically the second most common crime type for which victims received compensation, followed by homicide and vehicular crimes. Approximately one third of victims received payments for mental health services and medical/dental payments.

In FY 2020, there was an overall increase in compensation expenditures compared to the previous year, despite less funding being available. This was largely due to the increased number of applications for funeral/burial expenses in FY 2020 compared to 2019, and these payments are often larger than other assistance categories (e.g., mental health, repair/replace doors and locks). Other categories such as mental health claims were down largely due to the lack of available counselors and/or therapists. Applicants seeking compensation for crimes such as domestic violence, sexual assault, child abuse, and child sexual abuse were also down because survivors

could not safely report due to COVID restrictions, and fewer applications were received overall since victim advocates were not able to aid victims in filing applications.<sup>928</sup>

Individuals who were victims of domestic and/or family violence accounted for the highest number of victims served in FYs 2020<sup>929</sup> and 2021.<sup>930</sup> Of individuals who self-reported a special classification,<sup>931</sup> those with limited English proficiency were the highest number of individuals served in both fiscal years.<sup>932</sup> Prior to FY 2020, Colorado did not make applicants' demographic information publicly available. In FYs 2020 and 2021, most recipients of victim compensation were White, followed by Black victims, and Latino victims (see Table 28 above). Most claimants were women and approximately half of claimants were between the ages of 25 and 59.

### *Texas*

The Texas Constitution, Article 1, § 30, provides certain rights to victims of crime that are similar to those provided under the federal Crime Victims' Rights Act (CVRA).<sup>933</sup> These rights include, but are not limited to, the right to protection, information, notification, to be heard, to participate in the criminal justice system, and to seek financial remedies.<sup>934</sup>

The Attorney General of Texas administers the state's Crime Victim's Compensation Program.<sup>935</sup> The program serves two primary goals: 1) to encourage greater victim participation in the apprehension and prosecution of criminals and 2) to reimburse innocent victims for certain costs related to the crime.<sup>936</sup> Victims and claimants can apply for compensation; total compensation in the state of Texas is limited to \$50,000 per claimant.<sup>937</sup>

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<sup>928</sup> Ibid., p. 4.

<sup>929</sup> CO Annual State Performance Report, Victim Assistance Formula Grant Program, Oct. 1, 2019- Sept. 30, 2020.

<sup>930</sup> Colorado Crime Victim Compensation, *2020 Federal Fiscal Year Program Report*, Colorado Department of Public Safety, May 2021, <https://cdpsdocs.state.co.us/dcj/DCJ%20External%20Website/OVP/2020%20CVC%20Annual%20Report.pdf>, p. 17.

<sup>931</sup> Special Classification of Individuals include deaf/hard of hearing, homeless, immigrants/refugees/asylum seekers, LGBTQ, veterans, victims with disabilities: cognitive/physical/mental, victims with limited English proficiency, or "other;" Ibid.

<sup>932</sup> Ibid.

<sup>933</sup> Tex. Const. art. 1, § 30; 18 U.S.C. § 3771.

<sup>934</sup> See Texas Department of Criminal Justice, "Victim Services Division," [https://www.tdcj.texas.gov/documents/Texas\\_Crime\\_Victim\\_Rights\\_English.pdf](https://www.tdcj.texas.gov/documents/Texas_Crime_Victim_Rights_English.pdf).

<sup>935</sup> See Attorney General of Texas, "Eligibility for Crime Victims' Compensation," <https://www.texasattorneygeneral.gov/crime-victims/crime-victims-compensation-program/eligibility-crime-victims-compensation-program>.

<sup>936</sup> Ibid.

<sup>937</sup> Ibid.

There are two forms of compensation available to victims in Texas: 1) crime victims' compensation and 2) emergency medical care compensation – sexual assault exam.<sup>938</sup> To be eligible for the Crime Victims' Compensation (TCVC) program, a person must:

- Be a U.S. resident who becomes a victim of crime in Texas, or a Texas resident who becomes a victim of crime in another country without a compensation program;
- Report the crime to a law enforcement agency within a reasonable period of time, but not so late as to interfere with or hamper the investigation and prosecution of the crime;
- File the application within three years of the date of the crime.<sup>939</sup>

Additionally, for an individual to qualify, a person must be:

- An innocent victim of crime who suffers substantial threat of physical and/or emotional harm or death;
- A dependent of a victim;
- An authorized individual acting on behalf of a victim;
- An intervenor who goes to the aid of a victim or peace officer;
- A person who legally assumes the obligations or voluntarily pays certain expenses related to the crime on behalf of the victim;
- Immediate family or household members related by blood or marriage who require counseling as a result of the crime; or
- A peace officer, firefighter or individual who has a duty to protect the public and who is injured in a crime.<sup>940</sup>

The maximum total compensation is \$50,000; however, availability of funds may be limited or unavailable depending upon the laws in effect at the time of the crime.<sup>941</sup> Similar to many states, the TCVC program will only cover certain costs related to a crime:

- Medical, hospital, physical therapy or nursing care expenses related to the crime;
- Psychiatric care or counseling;
- One-time relocation assistance for victims of family violence, stalking or human trafficking;

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<sup>938</sup> In the state of Texas, victims can apply for compensation for only the emergency medical care they received during a sexual assault exam at a hospital after August 31, 2015. Victims are not compensated for any other crime-related medical costs, such as follow-up medical care, mental health care, or lost wages. Ibid.

<sup>939</sup> Crime Victims' Compensation, [https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/20066\\_CVC\\_gen\\_info\\_broch\\_content\\_accessible.pdf](https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/20066_CVC_gen_info_broch_content_accessible.pdf).

<sup>940</sup> Ibid.

<sup>941</sup> Texas Attorney General, "Costs Covered by the Crime Victims' Compensation Program," <https://www.texasattorneygeneral.gov/crime-victims/crime-victims-compensation-program/costs-covered-crime-victims-compensation-program>.

- One-time relocation assistance for victims of sexual assault, if the crime occurred in their place of residence;
- Loss of support;
- Loss of earnings;
- Travel expenses for crime-related travel;
- Funeral and burial expenses;
- Care of a child or dependent;
- Crime scene clean-up;
- Items seized by law enforcement;
- Attorney fees.<sup>942</sup>

The state's fund is a combination of revenue collected by the state through criminal court costs, fines and fees, VOCA grant funds, as well as donations, parolee supervision fees, restitution costs, offender inmate telephone revenue, and subrogation.<sup>943</sup>

Details of Texas' CVC program are shown in Table 29 below. The TCVC program budget increased in FY 2018<sup>944</sup> and decreased by \$3.2 million in FY 2019.<sup>945</sup> As with other states, the COVID-19 pandemic caused a serious disruption to state-run services and a decrease in compensation funds for victims of crime in Texas. In FY 2020, the CVC fund decreased by \$23.9 million compared to the prior year.<sup>946</sup> During FY 2021, the state's CVC program also experienced a decrease in revenue due to the COVID-19 pandemic, particularly in lost court costs. As such, the state legislature appropriated over \$101.5 million to the fund for the next two years as a part of the America Rescue Plan.<sup>947</sup> In FY 2021, the CVC fund decreased by \$2.7 million.<sup>948</sup>

Between FY 2017 and FY 2018, the program received about the same number of applications as the previous year (see Table 29 below), but awarded about three million more dollars to victims.<sup>949</sup> In FY 2019, the program received more applications than the previous year, which could be due to

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<sup>942</sup> Texas Attorney General, "Inspire a Difference: Crime Victim Services, Annual Report 2017," Dec. 8, 2017, <https://www.oag.state.tx.us/sites/default/files/files/divisions/crime-victims/Crime%20Victim%20Services%20-%20Annual%20Report%202017.pdf>.

<sup>943</sup> Ibid.

<sup>944</sup> Texas Attorney General, "Empowering the Future: Crime Victim Services, Annual Report 2018," Dec. 7, 2018, <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/Crime%20Victim%20Services%20-%20Annual%20Report%202018.pdf>, p. 11.

<sup>945</sup> Texas Attorney General, *Crime Victims Services 2019 Annual Report*, Dec. 9, 2019, <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/Crime-Victim-Services-Annual-Report2019.pdf>.

<sup>946</sup> Texas Attorney General, *Crime Victims Services 2020 Annual Report*, Dec. 9, 2020, [https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/CVS\\_ANNUAL\\_REPORT\\_2020.pdf](https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/CVS_ANNUAL_REPORT_2020.pdf).

<sup>947</sup> Texas Attorney General, *Crime Victims Services 2021 Annual Report*, Dec. 9, 2021, <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/Crime-Victim-Services-Annual-Report-2021-edited.pdf>.

<sup>948</sup> Ibid., p. 11.

<sup>949</sup> Texas Attorney General, "Empowering the Future: Crime Victim Services, Annual Report 2018," p. 5.



the increase in mass casualty victims in 2019.<sup>950</sup> In FY 2020, the first year of the pandemic, the program received more applications than the previous year, but awarded about \$4 million less than the prior year.<sup>951</sup>

Applicants to the TCVC program include individual crime victims and their families, plus law enforcement agencies seeking reimbursement for sexual assault exams (SAE).<sup>952</sup> Approximately one third of applications in every year were from law enforcement agencies (see Table 29 below). Overall, more than three fourths of applications were approved every year. The state's report claims that part of the program's success is due to TCVC expanding the application process to include a web portal that allowed victims to apply online, aiding the program's staff in streamlining the approval/denial process.<sup>953</sup> The approval rate of reviewed applications<sup>954</sup> of agencies is much higher (about 96 percent) compared to crime victims (38-48 percent). In FY 2021 the number of SAE applications increased, possibly because the Texas legislature passed several bills regarding law enforcement and sexual assault exams. For instance:

- HB 1172 mandated that law enforcement request a sexual assault exam if the assault was reported within 120 hours;<sup>955</sup>
- HB 2462 and HB 2706 made changes regarding sexual assault exams and the reimbursement process;<sup>956</sup>
- HB 2462 mandated that law enforcement request a sexual assault exam for a minor regardless of when assault is reported;<sup>957</sup>
- HB 2706: Sexual Assault Forensic Exam (SAFE) ready programs became eligible for SAE reimbursement;<sup>958</sup>
- SB 957: Office of the Attorney General (OAG) may not deny or reduce award based upon interactions with law enforcement at crime scene or hospital unless OAG finds that the claimant or victim interactions at the crime scene or hospital failed or refused to substantially cooperate with the law enforcement agency. The change to the law was already part of the CVC's internal policies.<sup>959</sup>

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<sup>950</sup> Ibid.

<sup>951</sup> Ibid., p. 11.

<sup>952</sup> Crime Victim Services, *Annual Report 2017*, Dec. 8, 2017, <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/Crime%20Victim%20Services%20-%20Annual%20Report%202017.pdf>, p. 15.

<sup>953</sup> Crime Victim Services, *Annual Report 2017*.

<sup>954</sup> The total number of applications approved or denied may not equal the number of received applications because some applications received in prior years were approved or denied in the subsequent year. Texas Attorney General, *Crime Victims Services 2020 Annual Report*.

<sup>955</sup> H.B. 1172, 87d Leg, Reg. Sess. (Tex. 2021).

<sup>956</sup> H.B. 2462, 87d Leg, Reg. Sess. (Tex. 2021); H.B. 2706, 87d Leg, Reg. Sess. (Tex. 2021).

<sup>957</sup> H.B. 2462, 87d Leg, Reg. Sess. (Tex. 2021).

<sup>958</sup> H.B. 2706, 87d Leg, Reg. Sess. (Tex. 2021).

<sup>959</sup> S.B.957, 87d Leg, Reg. Sess. (Tex. 2021); Ibid., p. 9.

**Table 29: Texas Crime Victimization Compensation Program (2017-2021)**

	2017	2018	2019	2020	2021
<b>CVC State Expenditures</b>	\$100,351,355	\$118,754,091	\$115,556,710	\$91,625,742	\$88,878,931
Distributed to Victims	\$64,211,125	\$67,466,307	\$71,978,367	\$68,056,966	\$71,398,988
<b>Total Applications</b>	34,813	34,706	34,429	38,051	40,091
Crime Victims	24,306	24,465	25,363	24,403	25,629
Law Enforcement SAE	10,507	10,241	9,066	13,648	14,462
<b>Applications Approved</b>	78.9%	79.6%	78.1%	77.8%	77.8%
Crime Victims Approved	45.3%	47.5%	47.2%	44.6%	38.1%
SAE Reimbursements Approved	98.8%	99.7%	99.5%	96.1%	99.2%
<b>Mean Victim Compensation</b>	\$5,239	\$5,184	\$5,470	\$5,433	\$6,155
<b>Mean SAE Reimbursement</b>	\$628	\$691	\$735	\$745	\$755
<b>Applicant Demographics</b>					
Female	63.6%	66.2%	67.7%	66.2%	64.9%
Age 18-29	28.4%	28.6%	29.5%	30.6%	30.7%
Age 30-44	29.6%	29.8%	31.0%	32.6%	33.9%
<i>Approvals by Gender</i>					
Female	37.8%	40.0%	40.3%	38.5%	32.6%
Male	58.4%	63.2%	61.7%	56.5%	50.0%
<i>Awardee Demographics</i>					
Female	53.1%	55.1%	57.8%	57.2%	53.9%
Age 18-29	35.2%	32.6%	34.4%	32.6%	34.7%
Age 30-44	37.7%	38.4%	37.6%	38.6%	37.3%
<b>Crime Type Expenditures</b>					
Assault	61.2%	57.1%	57.4%	54.5%	57.3%
Homicide	10.6%	12.7%	9.8%	12.5%	14.3%
Robbery	9.6%	8.1%	8.4%	7.8%	6.1%
Failure to Stop/Render Aid	6.0%	7.9%	9.2%	8.4%	7.1%
<b>Service Type Expenditures</b>					
Medical/Dental	66.6%	61.9%	64.0%	57.0%	55.8%
Funeral Expenses	9.1%	10.6%	9.5%	10.7%	12.8%
Loss of Wages	6.0%	7.8%	8.7%	9.2%	8.3%

Source: Texas Crime Victim Services Annual Report, 2017, 2018, 2019, 2020, 2021, Texas Attorney General.

The demographic breakdown of applicants shows that victims between the ages of 18-29 and 30-44 applied for and received the majority of victim compensation in Texas in all years of the study (see Table 29 above). Women were approximately two thirds of applicants in all years, meaning they comprised approximately twice the applicants for compensation every year compared to men. Despite this gender disparity in applications, women received just over half of approvals every year, meaning that a higher share of male applicants were consistently approved for compensation.<sup>960</sup> All applicants had a lower chance of receiving compensation in FY 2021 compared to prior years, but the gender pattern persists, with 32.6 percent of female applicants receiving compensation compared to 50 percent of male applicants.<sup>961</sup>

The racial/ethnic background of applicants to the TCVC program are not publicly available. However, according to data submitted to OVC for FY 2020, Latino victims accounted for the highest share of applicants (35.1 percent), followed by White victims (23.4 percent), Black victims (22.7 percent), victims who did not report their race (13.5 percent), “some other race” victims (3 percent), and Asian victims (1.2 percent). American Indian/Alaskan Native victims and Native Hawaiian or Other Pacific Islander victims were less than one percent of the applicants.<sup>962</sup> OVC data from FY 2021 show that Latino victims continued to account for the highest number of applicants (35.4 percent). However, more Black victims (25.4 percent) submitted claims than White victims (23.5 percent) compared to the prior year. There were no other significant shifts in the number of claims from other racial/ethnic groups.<sup>963</sup>

Most victims with approved applications were compensated for the crime of assault or aggravated assault (see Table 29 above). The share of expenditures for families of homicide victims was highest in FY 2021. In Texas, medical and dental expenses include mental health counseling.<sup>964</sup> In every year, most compensation payments were for medical/dental care for victims. The next most common compensation was for funeral expenses, followed by lost wages.

### *Tennessee*

Section 35 of the Tennessee Constitution contains a Victim Bill of Rights that provides victims of crime the right to be informed of canceled/rescheduled hearings, defendant bail hearings, case dismissal, pardon, recapture, release from a mental institution, and transfer to a different correctional complex if the new complex has a lower security designation.<sup>965</sup>

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<sup>960</sup> *Ibid.*, p. 23.

<sup>961</sup> Texas Attorney General, *Crime Victims Services 2021 Annual Report*, Dec. 9, 2021, p. 23.

<sup>962</sup> Office of the Attorney General, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2019-September 30, 2020,” Office for Victims of Crime, <https://ovc.ojp.gov/states/vc-fy-2020-texas-annual-report.pdf>.

<sup>963</sup> Office of the Attorney General, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2020-September 30, 2021,” Office for Victims of Crime, <https://ovc.ojp.gov/states/vc-fy-2021-texas-annual-report.pdf>.

<sup>964</sup> Texas Attorney General, *Crime Victims Services 2020 Annual Report*.

<sup>965</sup> Tenn. Const. art. I, § 35.

The Tennessee Criminal Injuries Compensation Fund was established to financially assist victims of violent crime that results in personal injury.<sup>966</sup> In the case of death, dependent relatives may be eligible for compensation. Victims and claimants may be reimbursed for medical expenses, loss of wages, and other unforeseen costs related to the crime.<sup>967</sup>

According to the State of Tennessee's Department of the Treasury, over \$350 million has been paid to victims of crime since 1982. To be eligible for compensation individuals can be:

- applying on their own behalf;
- a dependent of the deceased victim;
- an administrator of the victim's estate;
- someone who was injured while trying to prevent a crime or apprehend a criminal;
- a relative responsible for funeral or burial costs;
- a victim's child who witnessed domestic violence against the parent and received counseling;
- a homicide victim's relative who received counseling;
- a sibling or parent of a victim of child sexual abuse who received counseling as a result.<sup>968</sup>

To receive compensation:

- the victim must report the crime to law enforcement within 48 hours (unless the victim is a minor or there is a good reason);
- the crime must have occurred in the state;
- the victim's actions cannot have contributed to the crime;
- the victim/claimant must fully cooperate with the police and efforts to prosecute;
- a claim must be filed within two years of the crime, unless good cause can be established for not doing so;
- there must be an eligible expense.<sup>969</sup>

The statute allows applicants to receive up to \$32,000 per claim.<sup>970</sup>

Tennessee's victim compensation program, known as the Criminal Injuries Compensation (CIC) program, includes applications from victims as well as applications for reimbursement from law enforcement and/or health care facilities that perform sexual assault forensic exams (SAFE).<sup>971</sup> In

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<sup>966</sup> Tenn. Code § 40-24-107 (2021). See Tennessee Department of the Treasury, "Criminal Injuries Compensation," <https://treasury.tn.gov/Services/Claims-and-Risk-Management/Criminal-Injuries-Compensation>.

<sup>967</sup> Ibid.

<sup>968</sup> Tennessee Department of the Treasury, "Criminal Injuries Compensation."

<sup>969</sup> Ibid.

<sup>970</sup> Ibid.

<sup>971</sup> Tenn. Code § 29-13-108 (2021). Tennessee Department of Treasury, *2017 Annual Report*, p. 7, [https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2017\\_Treasurer\\_Report.pdf](https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2017_Treasurer_Report.pdf).

FY 2017, the total distributed awards amounted to \$11.7 million (see Table 30 below).<sup>972</sup> The total amount CIC paid increased in FY 2018<sup>973</sup> and then returned to \$11.8 million the following year, where it remained in FY 2020.<sup>974</sup> In FY 2020, \$9.6 million of the total expenditures went to victims and their families and \$2.2 million was paid to reimburse SAFE facilities.<sup>975</sup> The total CIC expenditure decreased to \$8.4 million in FY 2021. Of that total, \$6.5 million was awarded to victims and \$1.9 million was awarded for reimbursement claims.<sup>976</sup>

In FY 2019, OVC awarded Memphis a grant for the Law Enforcement-Based Victim Specialist Program, which is meant to “develop or enhance and sustain crime victim specialist programs within law enforcement agencies and better coordinate services to victims to more quickly and effectively serve the victim assistance and compensation needs of all crime victims and inform them of their rights as crime victims.”<sup>977</sup> The total funding of the award, \$770,861, was given to the Memphis Police Department (MPD) – in partnership with the Shelby County Crime Victims and Rape Crisis Center (CVRCC) and the University of Memphis’ Department of Criminology and Criminal Justice – to create a victim specialist team to help connect victims of serious crime to resources. The MPD is responsible for creating a team that specializes in victim services and is trained in how to connect victims to the appropriate services and agencies throughout the investigation process. CVRCC, which is one of the main sources of victim assistance in Shelby County, will also help connect victims to services. The team is set to initially focus on homicide victims’ families including witnesses, family members, and other loved ones affected. Over time, the team will further expand their services to other victims of serious crime.<sup>978</sup>

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<sup>972</sup> Ibid.

<sup>973</sup> Ibid., p. 12.

<sup>974</sup> Ibid., p. 11.

<sup>975</sup> Ibid.

<sup>976</sup> Ibid., p. 11.

<sup>977</sup> Office for Victims of Crime, “Memphis FY19 Law Enforcement-Based Victim Specialist Program (LE VSP), Sept. 28, 2019, <https://ovc.ojp.gov/funding/awards/2019-v3-gx-0137>.

<sup>978</sup> Ibid.

**Table 30: Tennessee Criminal Injuries Compensation Program (2017-2021)**

	2017	2018	2019	2020	2021
CIC State Expenditure	\$11.7 million	\$12.3 million	\$11.8 million	\$11.8 million	\$8.4 million
Claims Filed	4,843	5,370	5,170	4,857	5,831
Applications Approved	--	80.7%	77.1%	70.1%	34.0%
Applicant Demographics					
Male	--	--	--	54.4%	51.8%
Age: 25-59	--	--	--	53.8%	60.1%
Race/Ethnicity					
Black	--	--	--	49.9%	56.5%
White	--	--	--	34.5%	31.4%
Latino	--	--	--	10.0%	7.7%
Multiple Races	--	--	--	3.8%	2.8%

Source: Tennessee Department of Treasury, *2017, 2018, 2019, 2020, 2021 Annual Report*.

Source: OVC Victim Compensation Formula Grant Program, 2020 and 2021.

Note: Number of applications approved not publicly available for 2017.

Note: Applications approved are for victims' claims only in 2020 and 2021.

The number of applicants to the CIC program ranged from approximately 4,800 to 5,800 in the period of this study (see Table 30 above). The annual report from Tennessee's Department of Treasury began showing the share of applications in each category in 2020. Of the total applications in FY 2020, there were almost equal numbers submitted by victims and their families (2,452) and reimbursement from law enforcement and/or health care facilities for sexual assault forensic exams (SAFE) (2,405).<sup>979</sup> In FY 2021, 62 percent of applications were filed by victims and their families, and the remaining 38 percent were for SAFE reimbursements.

Data submitted to OVC show the demographic characteristics of victim applicants to CIC beginning in 2020 (see Table 30 above). Of victims who reported their race/ethnicity,<sup>980</sup> Black victims of crime made up the highest number of applicants in FYs 2020<sup>981</sup> and 2021<sup>982</sup> (49.9

<sup>979</sup> Tennessee Department of the Treasury, *2020 Annual Report*,

[https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2020\\_Treasurer\\_Report.pdf](https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2020_Treasurer_Report.pdf), p. 11.

<sup>980</sup> Note: A total of 2,221 applicants reported race/ethnicity in FY 2020, 160 did not disclose. See Tennessee Treasury Department, "Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2019-September 30, 2020," Office for Victims of Crime, <https://ovc.ojp.gov/states/vc-fy-2020-tennessee-annual-report.pdf>. In FY 2021, a total of 3,027 applicants reported race/ethnicity, 343 did not disclose. See Tennessee Treasury Department, "Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2020-September 30, 2021," Office for Victims of Crime, <https://ovc.ojp.gov/states/vc-fy-2021-tennessee-annual-report.pdf>.

<sup>981</sup> Tennessee Treasury Department, "Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2019-September 30, 2020."

<sup>982</sup> Tennessee Treasury Department, "Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2020-September 30, 2021."

percent and 56.5 percent, respectively). The next largest group of applicants were White victims, followed by Latino victims, and victims of multiple races. Asian victims, Native Hawaiian/Other Pacific Islander victims, American Indian/Alaska Native victims, and victims of “some other race” comprised fewer than one percent of applicants in FYs 2020 and 2021. Unlike other states, for applicants who reported sex,<sup>983</sup> a slight majority were men in both years. Most applicants were between the ages of 25-59.

In 2018, the first year with publicly available data about the approval rate of applicants, approximately 81 percent of applications were approved.<sup>984</sup> In the following year, a lower share (77 percent) of claims were approved.<sup>985</sup> In FY 2020, the approval rate for victim applications decreased again to 70 percent.<sup>986</sup> The state does not publicly release denial justifications, however OVC data show that for FYs 2020 and 2021, the highest number of denials were for those that were “administratively closed” but do not provide additional details (see Table 31 below). The CIC approved a substantially smaller share of victim applications in FY 2021, at just 34 percent (see Table 30 above).<sup>987</sup>

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<sup>983</sup> Note: A total of 2,237 applicants reported sex, 144 did not disclose and 1 was not tracked in FY 2020. See Tennessee Treasury Department, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2019-September 30, 2020.” In FY 2021, a total of 3,236 applicants reported sex, 134 did not disclose. See Tennessee Treasury Department, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2020-September 30, 2021.”

<sup>984</sup> Tennessee Department of the Treasury, *2018 Annual Report*, [https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2018\\_Treasurer\\_Report.pdf](https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2018_Treasurer_Report.pdf), p. 12.

<sup>985</sup> Tennessee Department of the Treasury, *2019 Annual Report*, [https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2019\\_Annual\\_Report.pdf](https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2019_Annual_Report.pdf), p. 11.

<sup>986</sup> Tennessee Department of the Treasury, *2020 Annual Report*, p. 11.

<sup>987</sup> Tennessee Department of the Treasury, *2021 Annual Report*, <https://treasury.tn.gov/Portals/0/Documents/Annual%20Reports/Treasurer%20Reports/2021%20Annual%20Report.pdf>, p. 11.

**Table 31: Number of State Compensation Denials by Reason, Tennessee**

	2020	2021
Application not filed within time limit	40	34
Failure to report to police	6	9
Failure to cooperate with law enforcement, victim/witness coordinator, and/or other official required by program	131	91
Incomplete information	190	141
Contributory misconduct	172	119
Ineligible crime	128	48
Ineligible application	134	78
Other: Administratively closed	594	1,670

2020 Source: Tennessee Treasury Department, "Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2019-September 30, 2020," Office for Victims of Crime.

2021 Source: Tennessee Treasury Department, "Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2020-September 30, 2021," Office for Victims of Crime.

A relevant question for this report is whether race is associated with victim compensation approval. State data collected by the Associated Press show that Black applicants in Tennessee from 2018 through 2021 were disproportionately denied compensation.<sup>988</sup> During that time, the state received a total of 7,828 applications, of which, Black applicants accounted for 48.4 percent. During these years Tennessee reported 1,828 denials, of which 56.3 percent were of Black applicants. This means that Black applicants made up a larger percentage of the total denials pool than of the applications pool (56.3 vs 48.4 percent). This is also true for applicants in the "not reported" racial group. By comparison, White victims accounted for 33.1 percent of total applications, yet only 27.7 percent of denials; and Latino victims represented 8.5 percent of all applications, and 6.1 percent of denials (see Table 32 below).<sup>989</sup> Data also suggest that the racial gap has widened. For instance, in 2021, Black victims constituted 50 percent of applicants yet made up 60 percent of denials.<sup>990</sup>

<sup>988</sup> Associated Press, "LOCALIZE IT: Victims Comp Programs Reveal Broad Disparities," May 17, 2023, <https://www.independent.co.uk/news/black-ap-data-new-jersey-editors-b2340650.html>.

<sup>989</sup> Ibid.

<sup>990</sup> Stacy Jacobson, "AP Study: TN Victim Funding Denied Disproportionately for Black Applicants," *WREG*, May 18, 2023, <https://wreg.com/news/investigations/ap-study-tn-victim-funding-denied-disproportionately-for-black-applicants/>.



**Table 32: Victim Compensation Denials by Race, Tennessee, 2018-2021**

	<b>Applications</b>	<b>% of Applications</b>	<b>Denials</b>	<b>% of Denials</b>	<b>Behavioral Denials</b>	<b>% of Behavioral Denials</b>
Black	3,788	48.5%	1,029	56.3%	560	63.6%
Latino	662	8.5%	111	6.1%	47	5.3%
White	2,589	33.1%	506	27.7%	185	21.0%
Not Reported	446	5.7%	113	6.2%	66	7.5%
Other POC	343	4.4%	69	3.8%	22	2.5%
<b>Total</b>	<b>7,828</b>		<b>1,828</b>		<b>880</b>	

\*Other POC=Asian, Native American/American Indian/Alaska Native, Multiple Races, Native Hawaiian/Pacific Islander, and Other.

Source: Associated Press, “LOCALIZE IT: Victims Comp Programs Reveal Broad Disparities,” May 17, 2023.

The Associated Press study finds that Black applicants in Tennessee were disproportionately denied based on “behavioral reasons,” which could include “contributing to the crime and not cooperating with police.”<sup>991</sup> Black applicants were often denied for subjective “behavioral” reasons, like contributory misconduct, which can be vague and poorly defined. In the state of Tennessee, for fiscal years 2018 through 2021, there were a total of 880 total denials due to “behavioral reasons;” of those, 63.4 percent belong to Black applicants.<sup>992</sup> Because Black applicants only make up 48.5 percent of the applicant pool, their behavior reason denial share is 15.3 percentage points higher than the number of claims made by Black victims. The percentage of Black applicants who were denied for these reasons made up a larger percentage of the behavioral denials pool than of the overall denials pool.<sup>993</sup> By comparison, 21.0 percent of White applicants and 5.3 percent of Latino applicants were denied for behavioral reasons.

Victim service providers explain that some of the denials are related to the application process being challenging and overly burdensome for some victims. Community advocates argue that “it is a program that should help victims and victims have to work really hard to get the benefits that program should be providing them.”<sup>994</sup> For instance, applicants must provide detailed documents that include itemized receipts for crime-related expenses, birth certificates, and pay stubs. Tina Gray, who works with the Shelby County Crime Victims and Rape Crisis Center, explains, “let’s say the father of someone’s child was murdered. They would have to submit the documentation

<sup>991</sup> Evan Mealins, “Black Crime Victims Denied Compensation More Often in Tennessee,” *Tennessean*, May 17, 2023, <https://www.tennessean.com/story/news/crime/2023/05/17/tennessee-among-us-states-that-often-deny-black-victims-compensation/70201455007/>.

<sup>992</sup> Associated Press, “LOCALIZE IT: Victims Comp Programs Reveal Broad Disparities.”

<sup>993</sup> Ibid.

<sup>994</sup> Ibid.

showing paternity, loss of support, how he financially supported them. You have to have documentation and unfortunately, [] it is hard to have a paper trail with cash.”<sup>995</sup>

Some victim advocates posit that there may be more denials of Black applicants because some do not feel comfortable interacting with law enforcement, “so they don’t even get to the point where they would be able to get a police report,” which is mandatory within 48 hours in Tennessee to be able to make a claim. Moreover, the forms for CIC must be filled out by law enforcement or prosecutors, who must confirm that a report was filed and answer subjective questions about the victim’s behavior and if they cooperated fully with the investigation. As discussed previously, these subjective questions can lead to higher rates of denials for compensation because evaluators may not understand trauma-informed behavior and/or have implicit biases against Black applicants. Advocates argue that “[t]his system ... it’s just making it more complicated. I think having a victim’s advocate would be helpful.”<sup>996</sup>

### *Washington*

Like other states, Washington provides statutory crime victims’ rights.<sup>997</sup> The rights covered in this statute are similar to those found in the federal CVRA.<sup>998</sup> Section 7.69A of the statute covers the rights of child victims of crime.<sup>999</sup> The Washington State Constitution, Article I, Section 35 covers additional rights and processes regarding crime victims.<sup>1000</sup>

The Washington State Department of Labor and Industries is responsible for managing the state’s Crime Victim Claims Program (CVCP). This program may pay for medical/dental treatment, medication, mental health treatment, grief counseling, and funeral expenses. Depending on each individual situation, the program may offer up to \$190,000 in compensation per claim.<sup>1001</sup> To be eligible for CVCP, an individual must be:

- A victim injured in a violent crime in Washington State; or
- Survivors of a homicide victim; or
- Washington residents injured by an act of terrorism in a foreign country.

Individuals are not eligible for compensation if they were:

- Injured while participating in a felony;
- Injured while confined in jail, prison, or institutionalized;
- An individual who incited, provoked, or consented to the crime;

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<sup>995</sup> Ibid.

<sup>996</sup> Jacobson, “AP Study: TN Victim Funding Denied Disproportionately for Black Applicants.”

<sup>997</sup> Wash. Rev. Code § 7.69.010 (1985).

<sup>998</sup> 18 U.S.C. § 3771.

<sup>999</sup> Wash. Rev. Code § 7.69A (1992).

<sup>1000</sup> Wash. Const. art. 1 § 35.

<sup>1001</sup> *Id.*

- An individual who is unwilling to provide reasonable cooperation to law enforcement;<sup>1002</sup>
- Convicted of a felony within five years prior to the criminal act where the felony was a violent offense.<sup>1003</sup>

To receive compensation, a victim or their family member must:

- Notify law enforcement of the crime within one year or within one year of when a report could have reasonably been made.
- CVCP must receive the application:
  - Within two years of reporting the crime to law enforcement;
  - Within two years of an individual's 18<sup>th</sup> birthday if they were a minor at the time of the crime;
  - Within five years of reporting the crime to law enforcement with good cause.

As with the previous states, this fund is meant to be a “last resort,” therefore victims and/or their families are required to first use the available funds from all other public and private insurance and if an individual receives an insurance settlement or proceeds from a lawsuit, then funds must be reimbursed.<sup>1004</sup> In 2015, Washington's CVCP maximum limit increased from \$50,000 to \$190,000, which is substantially higher than the other four states in this study's investigation.<sup>1005</sup>

In FY 2017, Washington's CVCP program received 5,438 new applications and received a total of \$3,147,750 from federal OVC awards. OVC data show that the state's victim compensation program received the lowest number of new applications in FY 2021, the same year the program had the highest amount of funds during this study's time frame (see Table 33 below).

The agency reported to OVC that claims received from April 2020-March 2021 were 24 percent lower than the prior year due to the COVID-19 pandemic; however, the fourth quarter was 15 percent higher than the previous five quarters. The decrease in applications occurred across all crime types beside homicide, which remained steady the next five quarters, then had an increase of 50 percent in the last quarter.<sup>1006</sup>

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<sup>1002</sup> Western District of Washington, “Washington State Crime Victim Compensation Program,” United States Attorney's Office, Jul. 21, 2023, <https://www.justice.gov/usao-wdwa/washington-state-crime-victim-compensation-program>.

<sup>1003</sup> Maty Brimmer, “Crime Victims Compensation Program Overview,” Washington State Crime Victim's Compensation Program, [https://www.wcsap.org/sites/default/files/uploads/webinars/CVC\\_Program\\_Overview/CVC08\\_09\\_16Overview.pdf](https://www.wcsap.org/sites/default/files/uploads/webinars/CVC_Program_Overview/CVC08_09_16Overview.pdf).

<sup>1004</sup> Ibid.

<sup>1005</sup> Washington State Department of Labor & Industries, “Crime Victim Claims,” <https://lni.wa.gov/claims/crime-victim-claims/who-can-file-and-what-is-covered>.

<sup>1006</sup> Washington State Department of Labor & Industries, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2020-September 30, 2021,” Office for Victims of Crime, Feb. 11, 2022, <https://ovc.ojp.gov/states/vc-fy-2021-washington-annual-report.pdf>.

**Table 33: Washington State Crime Victimization Compensation Program (2017-2021)**

	2017	2018	2019	2020	2021
VOCA Compensation	\$3,147,750	\$1,590,000	\$1,454,000	\$5,485,000	\$9,769,000
New Applications	5,438	5,723	5,340	5,131	4,345
Applications Approved	70.1%	71.6%	71.9%	61.0%	69.3%
<b>Applicant Demographics:</b>					
Female	59.4%	60.5%	61.4%	58.6%	59.6%
Age: 25-59	48.6%	51.2%	52.3%	53.6%	54.2%
<b>Race/Ethnicity</b>					
Black	8.8%	8.6%	9.1%	14.4%	11.8%
White	60.9%	57.7%	56.4%	51.5%	50.4%
Latino	15.4%	15.8%	16.2%	17.5%	16.0%
Some Other Race	7.1%	9.9%	9.6%	9.1%	10.9%

Source: WA Annual State Performance Report, Victim Assistance Formula Grant Program, 2017, 2018, 2019, 2020, 2021; OVC Victim Compensation Formula Grant Program, 2020 and 2021.

In all study years, the majority of applicants who reported their race were White (see Table 33 above). The next largest group was Latino victims, followed by Black victims, and victims identified as “some other race.”<sup>1007</sup> Consistent with most other states in this study, women had a higher number of applications compared to men.<sup>1008</sup> About half of applicants are between the ages of 25-59.<sup>1009</sup>

<sup>1007</sup> Of the total number of applicants in FY 2017 (5,438), 3,580 did not report their race or ethnicity. Washington State Department of Labor & Industries, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2016-September 30, 2017,” Office for Victims of Crime [on file]. FY 2018: Of the total applicants (5,695), 840 did not report their race or ethnicity. FY 2019: Of the total applicants (5,340), 772 did not report their race or ethnicity. FY 2020: Of the total applicants (5,131), 696 did not report their race or ethnicity. FY 2021: Of the total applicants (4,345), 651 did not report their race or ethnicity.

<sup>1008</sup> FY 2017: Of the total applicants (5,438), 81 did not report their sex and 4 were not tracked. FY 2018: Of the total applicants (5,695), 70 did not report their sex and 4 were not tracked. FY 2019: Of the total applicants (5,340), 61 did not report their sex. FY 2020: Of the total applicants (5,131), 178 did not report their sex. FY 2021: Of the total applicants (4,345), 62 did not report their sex.

<sup>1009</sup> FY 2017: All applicants (5,438) reported their age. FY 2018: Of the total applicants (5,695), 268 did not report their age. FY 2019: Of the total applicants (5,340), 321 did not report their age. FY 2020: Of the total applicants (5,131), 330 did not report age. FY 2021: Of the total applicants (4,345), 227 did not report age.

The program approved just over 70 percent of the applications that it reviewed in FYs 2017,<sup>1010</sup> 2018,<sup>1011</sup> and 2019.<sup>1012</sup> The approval rate decreased to 61 percent in FY 2020<sup>1013</sup> before returning to 70 percent in FY 2021.<sup>1014</sup> Of those who were denied, most were denied due to their claims being for an “ineligible crime” in all years in the study (see Table 34 below).<sup>1015</sup>

**Table 34: Number of State Compensation Denials by Reason, Washington**

	2017	2018	2019	2020	2021
Application not filed within time limit	15	34	31	32	27
Failure to report to police	458	485	364	455	399
Failure to cooperate with law enforcement, victim/witness coordinator, and/or other official required by program	65	64	25	46	36
Incomplete information	56	67	0	0	0
Contributory misconduct	147	153	144	155	135
Ineligible crime	656	748	634	948	648
Ineligible application	190	157	221	497	167

Source: Washington State Department of Labor & Industries, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, [2017, 2018, 2019, 2020, 2021],” Office for Victims of Crime.

Outside of the state-run program, the Seattle City Council created and funded a pilot for its own Victim Compensation Fund in FY 2021.<sup>1016</sup> The Council states that the program was created to “explore compensating some victims of crime for their losses and to conduct outreach and long-

<sup>1010</sup> The number of approvals and denials may not add up to the total number of new applications received due to prior fiscal year applications being approved and/or denied during this fiscal year. Washington State Department of Labor & Industries, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2016-September 30, 2017.”

<sup>1011</sup> Washington State Department of Labor & Industries, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2017-September 30, 2018,” Office for Victims of Crime [on file].

<sup>1012</sup> Washington State Department of Labor & Industries, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2018-September 30, 2019,” Office for Victims of Crime [on file].

<sup>1013</sup> Washington State Department of Labor & Industries, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, Oct. 1, 2019- Sept. 30, 2020, Office for Victims of Crime, <https://ovc.ojp.gov/states/va-fy-2020-washington-annual-report.pdf>.

<sup>1014</sup> Washington State Department of Labor & Industries, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, Oct. 1, 2020- Sept. 30, 2021.”

<sup>1015</sup> Ibid.

<sup>1016</sup> Seattle City Council, “2021 Annual Report of the Seattle City Council,” <https://www.seattle.gov/council/issues/past-issues/2021-annual-report>.

term planning for a broader restitution and restorative justice strategy.”<sup>1017</sup> For the first year, the pilot program received \$250,000.<sup>1018</sup>

Regarding the state’s victim assistance program, in FY 2017, the state received over \$41 million from federal OVC VOCA awards.<sup>1019</sup> Funding for this program was highest in FY 2018, and it declined notably in the time of the COVID-19 pandemic. Compared to FY 2019, VOCA awarded Washington \$13 million less in federal funds in FY 2020<sup>1020</sup> and \$14 million less than in FY 2021.<sup>1021</sup> In the annual performance report to OVC, the state reported that the victim assistance program witnessed a decrease in applications since 2010 but leveled off in 2016 and since started to increase.<sup>1022</sup> Starting in July 2017, the program witnessed a sharp increase, which they attribute to an increase in fees paid to victim service providers. Starting in 2018, the state decreased the fees and, as a result, saw a small decrease in the number of applications from 2017. However, the new fees are still higher than the fees paid prior to July 2017.

The states’ victim assistance program from FY 2020 and FY 2021 provides detailed information about victims served. In both years, individuals who were victims of domestic and/or family violence accounted for the highest number of victims served. Of those who self-reported a special classification (e.g., deaf/hard of hearing, LGBTQ, immigrants/refugees/asylum seekers, veterans, LEP), individuals who self-reported a disability (i.e., cognitive, physical, or mental) were the highest number of individuals served.<sup>1023</sup>

### *Wisconsin*

Wisconsin’s victim compensation program began in 1975, when the legislature declared that the “state has a moral responsibility to aid innocent victims of violent crime.”<sup>1024</sup> Under Chapter 344, Laws of 1975, the legislature enacted a law compensating crime victims up to \$10,000 for an injury

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<sup>1017</sup> Ibid.

<sup>1018</sup> City of Seattle, Washington, “2022 Adopted Budget,” [https://www.seattle.gov/documents/departments/financedepartment/22adoptedbudget/2022\\_adopted\\_budget\\_book.pdf](https://www.seattle.gov/documents/departments/financedepartment/22adoptedbudget/2022_adopted_budget_book.pdf).

<sup>1019</sup> WA Annual State Performance Report, “Victim Assistance Formula Grant Program, Oct. 1, 2019- Sept. 30, 2020,” Office for Victims of Crime, <https://ovc.ojp.gov/states/va-fy-2020-washington-annual-report.pdf>.

<sup>1020</sup> Ibid.

<sup>1021</sup> WA Annual State Performance Report, “Victim Assistance Formula Grant Program, Oct. 1, 2020- Sept. 30, 2021,” Office for Victims of Crime, <https://ovc.ojp.gov/states/va-fy-2020-washington-annual-report.pdf>.

<sup>1022</sup> WA Annual State Performance Report, “Victim Assistance Formula Grant Program, Oct. 1, 2017-Sept. 30, 2018.”

<sup>1023</sup> WA Annual State Performance Report, “Victim Assistance Formula Grant Program, Oct. 1, 2019- Sept. 30, 2020” and WA Annual State Performance Report, “Victim Assistance Formula Grant Program, Oct. 1, 2020- Sept. 30, 2021.”

<sup>1024</sup> Wis. Stat. § 949.001 (1979) <https://docs.legis.wisconsin.gov/statutes/statutes/949>.

or death.<sup>1025</sup> Wisconsin provides crime victims with rights to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity; and that the rights extended to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.<sup>1026</sup> In 2020, Wisconsin amended its Constitution to add additional rights for crime victims commonly referred to as “Marsy’s Law for Wisconsin.”<sup>1027</sup> The amendment gained its name from the California Victim’s Bill of Rights Act of 2008, known as Marsy’s Law.<sup>1028</sup> The amendment updated the rights afforded to victims and ensured broader rights throughout the criminal and juvenile justice processes.

Wisconsin offers a Crime Victims Compensation (WCV) Program through the Wisconsin Department of Justice. WCV helps pay for unreimbursed eligible expenses that result from the crime.<sup>1029</sup> The program is available for individuals who have been identified as a victim of crime and meet certain criteria to be eligible, such as not contributing to the crime and timely reporting. The State of Wisconsin pays up to \$40,000 in compensation for qualifying expenses, including but not limited to medical expenses, lost wages, and funeral expenses.<sup>1030</sup>

Under this program, an individual may be eligible for compensation if they are considered:

- An innocent victim who suffers injury from a compensable crime as identified by law;
- A dependent or family member of an innocent victim who has been killed as a result of a compensable crime;
- A person who is injured while aiding a crime victim or helping a police officer;
- A person who suffers a reaction from the homicide of a family or household member;
- A person injured in a car accident caused by an intoxicated driver, who was:
  - A pedestrian or passenger in the other car;
  - A child passenger in the offender’s car;

<sup>1025</sup> Wis. Stat. § 344.01 (1975); Sarah Wynn, “Crime Victim and Witness Services,” Wisconsin Legislative Financial Bureau, Jan. 2021, [https://docs.legis.wisconsin.gov/misc/lfb/informational\\_papers/january\\_2021/0061\\_crime\\_victim\\_and\\_witness\\_informational\\_paper\\_61.pdf](https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2021/0061_crime_victim_and_witness_informational_paper_61.pdf).

<sup>1026</sup> Wis. Stat. § 950.01 (1979); *see also* Jillian Slaight, “Constitutional Amendment Relating to Crime Victims’ Rights,” Mar. 2020, vo. 5, no. 1, [https://docs.legis.wisconsin.gov/misc/lrb/reading\\_the\\_constitution/crime\\_victims\\_rights\\_amendment\\_5\\_1.pdf](https://docs.legis.wisconsin.gov/misc/lrb/reading_the_constitution/crime_victims_rights_amendment_5_1.pdf).

<sup>1027</sup> *See* Wisconsin 2019 Enrolled Joint Resolution 3, § 1, also known as Marsy’s Law for Wisconsin; *see also* Marsy’s Law for Wisconsin, <https://www.equalrightsforwi.com/>.

<sup>1028</sup> Cal. Const. art. 1 § 28(b) (amended 2008); *see also* State of California Department of Justice, “Victims’ Bill of Rights,” [https://oag.ca.gov/victimservices/content/bill\\_of\\_rights](https://oag.ca.gov/victimservices/content/bill_of_rights).

<sup>1029</sup> Wisconsin Department of Justice, “Crime Victim Compensation Program,” <https://www.doj.state.wi.us/ocvs/compensation/crime-victim-compensation-program-compensation-your-financial-losses>.

<sup>1030</sup> *Ibid.*

- Unaware that the driver was under the influence of alcohol or an illegal drug.<sup>1031</sup>

Additionally, to be eligible:

- The victim's conduct must not have caused or contributed to the victim's death or injury;
- The victim must not have committed a crime that led to the injury or death;
- The crime must be reported to law enforcement within five days of the crime or within five days of when the crime could reasonably have been reported. This time limit may be waived, in the interest of justice;
- The victim must cooperate with law enforcement officials in their investigation and prosecution of the crime;
- The applicant must file a claim within one year of the date of the crime. This time limit may be waived, in the interest of justice;
- Adults who were the victim of a crime as a child may apply;
- If the victim is listed on the statewide child support lien docket, certain requirements must be met in order to become eligible;
- The applicant must cooperate with the Wisconsin Department of Justice by supplying requested information in a timely manner.<sup>1032</sup>

Wisconsin was awarded money for victim compensation and assistance from the federal VOCA grant in all years of this study (see Table 35 below).<sup>1033</sup> In FY 2018, Wisconsin received a VOCA grant of over \$60 million, which is the largest amount in the period of this study. Wisconsin received their smallest VOCA grant of almost \$21 million in FY 2021.<sup>1034</sup> Most of Wisconsin's VOCA grant was allocated for victim assistance every year.<sup>1035</sup> While VOCA grant funding decreased after FY 2018, the total amount paid to victims was consistently around \$4 million annually, with the highest average payment of \$4,092 in FY 2021.

Wisconsin state data submitted to OVC show the demographic characteristics of applicants beginning in FY 2020 (see Table 35 below). In FYs 2020 and 2021, most victims were White. The

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<sup>1031</sup> Wisconsin Department of Justice, "Crime Victim Compensation Program – Compensation for Your Financial Losses," <https://www.doj.state.wi.us/ocvs/compensation/crime-victim-compensation-program-compensation-your-financial-losses>.

<sup>1032</sup> Ibid.

<sup>1033</sup> Sarah Wynn, "Crime Victim and Witness Services," Wisconsin Legislative Financial Bureau, Jan. 2019, [https://docs.legis.wisconsin.gov/misc/lfb/informational\\_papers/january\\_2019/0059\\_crime\\_victim\\_and\\_witness\\_services\\_informational\\_paper\\_59.pdf](https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2019/0059_crime_victim_and_witness_services_informational_paper_59.pdf). See also Sarah Wynn, "Crime Victim and Witness Services," Wisconsin Legislative Financial Bureau, Jan. 2021, [https://docs.legis.wisconsin.gov/misc/lfb/informational\\_papers/january\\_2021/0061\\_crime\\_victim\\_and\\_witness\\_informational\\_paper\\_61.pdf](https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2021/0061_crime_victim_and_witness_informational_paper_61.pdf).

<sup>1034</sup> Sarah Wynn, "Crime Victim and Witness Services," Wisconsin Legislative Financial Bureau, Jan. 2023, [https://docs.legis.wisconsin.gov/misc/lfb/informational\\_papers/january\\_2023/0064\\_crime\\_victim\\_and\\_witness\\_services\\_informational\\_paper\\_64.pdf](https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2023/0064_crime_victim_and_witness_services_informational_paper_64.pdf).

<sup>1035</sup> Wynn, "Crime Victim and Witness Services," Wisconsin Legislative Financial Bureau, Jan. 2019.



next largest group was Black victims, followed by Latino victims, and victims of multiple races.<sup>1036</sup> Consistent with most other states in this study, the majority of applicants were women.<sup>1037</sup> Victims between the ages of 25-59 made up the majority of claims.<sup>1038</sup> OVC data also demonstrate that individuals who were victims of domestic and/or family violence accounted for the highest number of victims served in FYs 2020 and 2021. Of individuals who self-reported a special classification (e.g., deaf/hard of hearing, LGBTQ, immigrants/refugees/asylum seekers, veterans, LEP), individuals who self-reported a disability (i.e., cognitive, physical, or mental) were the highest number of individuals served in both fiscal years.<sup>1039</sup>

**Table 35: Wisconsin Crime Victims Compensation Program (2017-2021)**

	2017	2018	2019	2020	2021
VOCA Grant Amount	\$34,542,000	\$60,554,500	\$41,467,700	\$30,629,500	\$20,739,383
Victim Compensation	\$1,881,000	\$1,986,000	\$1,848,000	\$1,335,000	\$2,481,000
Victim Assistance	\$32,661,000	\$58,568,500	\$39,619,700	\$29,294,500	\$18,258,383
Compensation Paid to Victims	\$4,033,600	\$4,281,100	\$3,928,900	\$3,902,100	\$3,995,300
Average Claim Paid	\$2,870	\$3,412	\$3,523	\$4,065	\$4,092
<b>Applicant Demographics</b>					
Female	--	--	--	65.3%	63.0%
Age: 25-59	--	--	--	55.8%	59.0%
<b>Race/Ethnicity</b>					
Black	--	--	--	25.3%	26.4%
White	--	--	--	53.6%	51.8%
Latino	--	--	--	12.2%	11.3%
Multiple Races	--	--	--	5.7%	6.1%

Source: Sarah Wynn, "Crime Victim and Witness Services," Wisconsin Legislative Financial Bureau, 2019, 2021, and 2023.

Source: OVC Victim Compensation Formula Grant Program, 2020 and 2021.

Wisconsin denied more victim applications in FY 2021 than FY 2020. The program denied 303 of 1,494 applications in FY 2020, mostly due to the claim being for an "ineligible crime" (see Table

<sup>1036</sup> In FY 2020, of the 2,051 total applicants, 136 did not report their race or ethnicity. Wisconsin Department of Justice, "Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2019-September 30, 2020," Office for Victims of Crime, Nov. 4, 2020, <https://ovc.ojp.gov/states/vc-fy-2020-wisconsin-annual-report.pdf>. In FY 2021, 207 of the 2,071 applicants did not report their race or ethnicity. WI Annual State Performance Report, "Victim Assistance Formula Grant Program, Oct. 1, 2020- Sept. 30, 2021," Office for Victims of Crime, <https://ovc.ojp.gov/states/va-fy-2021-wisconsin-annual-report.pdf>.

<sup>1037</sup> In FY 2020, 9 of the 2,051 applicants did not report their sex and 4 were not tracked. In FY 2021, 311 of the 2,071 applicants did not report age. Ibid.

<sup>1038</sup> 222 of 2,051 applicants did not report age in FY 2020 and 311 of 2,071 did not report age in FY 2021. Ibid.

<sup>1039</sup> WI Annual State Performance Report, "Victim Assistance Formula Grant Program, Oct. 1, 2019- Sept. 30, 2020," Office for Victims of Crime, <https://ovc.ojp.gov/states/va-fy-2020-wisconsin-annual-report.pdf> and WI Annual State Performance Report, "Victim Assistance Formula Grant Program, Oct. 1, 2020- Sept. 30, 2021."

36 below).<sup>1040</sup> In FY 2021, the program received approximately 2,000 new applications for compensation, which was consistent with the previous year. Of those applications, the program denied 51 percent.<sup>1041</sup> Unlike the previous year, the most common single reason for denial was for an “ineligible application.”<sup>1042</sup>

**Table 36: Number of State Compensation Denials by Reason, Wisconsin**

	2020	2021
Application not filed within time limit	3	8
Failure to report to police	17	15
Failure to cooperate with law enforcement, victim/witness coordinator, and/or other official required by program	18	28
Incomplete information	33	128
Contributory misconduct	84	79
Ineligible crime	93	98
Ineligible application	0	667
Other Total	55	685
Delinquent in child support	40	39
Ineligible because on child support lien docket	14	--
Unjust benefit to offender	1	--
Paid by restitution or SAFE fund	--	39
Statutory maximum met	--	16
Claim withdrawn	--	11
Other collateral sources	--	168
Everything paid that was documented	--	194
No reimbursable expenses	--	31
Claims were inactivated after fully being paid by CVC	--	223

2020 Source: Wisconsin Department of Justice, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2019-September 30, 2020,” Office for Victims of Crime, Nov. 4, 2020.

2021 Source: Wisconsin Department of Justice, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2020-September 30, 2021,” Office for Victims of Crime, Oct. 15, 2021.

Data collected by the Associated Press show that Black applicants in Wisconsin from 2018 through 2021 were disproportionately denied compensation.<sup>1043</sup> During that time, the state received a total of 9,104 applications, of which, 23.4 percent were from Black applicants. During these years, 28.3

<sup>1040</sup> The number of approvals and denials may not add up to the total number of new applications received due to prior fiscal year applications being approved and/or denied during this fiscal year. See Wisconsin Department of Justice, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2019-September 30, 2020.”

<sup>1041</sup> Wisconsin Department of Justice, “Victim Compensation Formula Grant Program: Annual Performance Measure Report, October 1, 2020-September 30, 2021.”

<sup>1042</sup> Ibid.

<sup>1043</sup> Associated Press, “LOCALIZE IT: Victims Comp Programs Reveal Broad Disparities.”

percent of denials were of Black applicants, meaning a higher share of denials than applications were of Black victims. By comparison, White victims accounted for 49.8 percent of total applications, yet 45.9 percent of denials. Latino victims represented 11.6 percent of all applications and 11.0 percent of denials (see Table 37 below).<sup>1044</sup>

Black victims in Wisconsin are also disproportionately denied due to subjective “behavioral” reasons. For fiscal years 2018 through 2021, 31.4 percent of denials due to “behavioral reasons” were from Black applicants, though they were only 23.4 percent of the total applicants. By comparison, White applicants were underrepresented in that denial category; approximately half of all applicants were White, yet 43 percent of those denied for behavioral reasons were White.<sup>1045</sup> Table 37 shows that Black applicants made up a larger percentage of the total denials pool than of the applications pool; this is also true for the combined POC group. Black applicants were not only disproportionately likely to be denied for behavioral reasons, but they also made up a larger percentage of the behavioral denials pool than of the overall denials pool.

**Table 37. Victim Compensation Denials by Race, Wisconsin, 2018-2021**

	<b>Applications</b>	<b>% of Applications</b>	<b>Denials</b>	<b>% of Denials</b>	<b>Behavioral Denials</b>	<b>% of Behavioral Denials</b>
Black	2,129	23.4%	498	28.3%	358	31.4%
Latino	1,059	11.6%	193	11.0%	128	11.0%
White	4,534	49.8%	809	45.9%	493	43.3%
Not Reported	620	6.8%	104	5.9%	67	5.9%
Other POC	762	8.4%	158	9.0%	93	8.2%
Total	9,104		1,762		1,139	

\*Other POC=Asian, Native American/American Indian/Alaska Native, Multiple Races, Native Hawaiian/Pacific Islander, and Other.

Source: Associated Press, “LOCALIZE IT: Victims Comp Programs Reveal Broad Disparities,” May 17, 2023.

A change in Wisconsin during this period impacted victim services. In OVC’s 2020 annual report, victim service agencies reported that the passage of Marsy’s Law increased barriers survivors experience in receiving services.<sup>1046</sup> According to the report, these barriers are due to law enforcement misinterpreting the law and not informing victims of the resources available to them. For instance, the report states that one agency reported receiving no law enforcement referrals since the law went into effect: “Providers are not reaching victims in a timely manner and can’t get information about victims unless LE [law enforcement] do what they need to do to inform the

<sup>1044</sup> Ibid.

<sup>1045</sup> Ibid.

<sup>1046</sup> WI Annual State Performance Report, “Victim Assistance Formula Grant Program, Oct. 1, 2019- Sept. 30, 2020.”

victim.”<sup>1047</sup> Additionally, Marsy’s Law has burdened victim offices that are already overworked. The report states:

It seems that larger [victim service] offices are feeling the burden more, as they have many more LE agencies to deal with. Not all LE agencies are doing [it] correctly and need more training. Smaller offices have less LE agencies to deal with and are even in the same building with LE, so training is much easier. WI already has a robust Chapter 950 victim rights laws in place and Marsy’s Law has caused conflicting issues.<sup>1048</sup>

COVID-19 also created barriers for victim service providers in the state. For instance, the report notes that there was an increased need for psychotherapy services for survivors. The agency states:

We believe [the increased need for psychotherapy services] is a result of extreme pressurization that is being experienced, especially for our survivors who are people of color and who reside in under-resourced communities. Due to the COVID pandemic and due to the increase in explicit forms of racism, and ways people have become more emboldened in their racism without accountability, our survivors are experiencing extreme stress in addition to financial issues and lack of social support. In therapy, it has been more difficult to access a survivor’s capacity to process trauma related to the crime as there is additional experiences and social trauma being endured simultaneously.<sup>1049</sup>

The report also notes, however, that something positive that came out of the pandemic was more court proceedings being conducted virtually. According to district attorney (DA) offices, victims felt more empowered to attend the hearings since they did not have to be in the same room as the defendant. The report states:

Victims love that they don’t have to see the defendant. Victims are becoming more involved in their cases and wanting to know more about the judicial system, as well as letting the court know what they want. So, victims are more involved and feel much safer and are participating in remote court hearings, trials, sentencing, or any court proceeding. Victims report feeling very empowered. DA Offices want this to be an option that stays open to victims when the world opens.<sup>1050</sup>

## Summary

This chapter provides an overview of the federal, state, and local responses to violent crime victimization by examining the programs, initiatives, and assistance offered to victims and their

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<sup>1047</sup> Ibid.

<sup>1048</sup> Ibid.

<sup>1049</sup> WI Annual State Performance Report, “Victim Assistance Formula Grant Program, Oct. 1, 2019- Sept. 30, 2020.”

<sup>1050</sup> Ibid.

families after a crime occurs. One of the most robust services provided to victims is through the Crime Victims Fund, which helps to fund state and local victim compensation and assistance programs across the country.

However, data show that these victim compensation and assistance programs may be widely underutilized, and that there are notable disparities in which victims access these programs. Victims do not apply for various reasons, including not knowing about programs or being ineligible based on certain criteria. One common criterion is that programs designed to provide financial relief to victims tend to mandate that the victims are “innocent.” This criterion reinforces the cultural narrative that there are deserving and undeserving victims of crime,<sup>1051</sup> which ignores the substantial overlap between victims and offenders.<sup>1052</sup> This criterion also has implications for fair access to victim services by race, as Black and Latino people are overrepresented in the criminal justice system.<sup>1053</sup> There are also racial equity implications of the common requirement that victims report to law enforcement. Black and Latino victims may elect not to apply for services because of lower trust in police compared to White victims.<sup>1054</sup>

One critical underserved population are young, Black men. This disparity has serious implications since data show that members of this group are the most likely to be homicide victims. This means that victims’ families may not be receiving the support and federal assistance to which they are entitled. Moreover, as this chapter discussed, even when Black victims and/or their families try to access these resources, there may also be racial disparities in denial rates for compensation applications.<sup>1055</sup> In light of these disparities, many states have passed reforms to their state compensation programs.<sup>1056</sup>

Like states themselves, state compensation programs are unique. The purpose of examining jurisdictions is not to compare them to each other or to make claims about the whole nation, but to highlight trends. For instance, in four of the states (not Tennessee) women made up a larger share of victim compensation claims than their percentage of the population. The gender disparity in awards was most pronounced in Texas, where women were approximately two thirds of applicants

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<sup>1051</sup> Stephanie Fohring, “Introduction to the Special Issue: Victim Identities and Hierarchies,” *International Review of Victimology*, 2018, vol. 24, no. 2, <https://doi.org/10.1177/0269758018755152>.

<sup>1052</sup> Caterina Roman, Courtney Harding, Hannah Klein, Leah Hamilton, and Josh Koehnlein, “The Victim-Offender Overlap: Examining Police and Service System Networks of Response among Violent Street Conflicts,” National Institute of Justice, U.S. Dep’t of Justice, Apr. 2020, <https://www.ojp.gov/pdffiles1/nij/grants/254626.pdf>.

<sup>1053</sup> Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006).

<sup>1054</sup> Daniel K. Pryce and Randy Gainey, “Race Differences in Public Satisfaction and Trust in the Local Police in the Context of George Floyd Protests: An Analysis of Residents’ Experiences and Attitudes,” *Criminal Justice Studies*, 2022, vol. 35, no. 1, <https://doi.org/10.1080/1478601X.2021.1981891>.

<sup>1055</sup> Claudia Lauer and Mike Catalini, “Takeaways from AP Report on Racial Disparities in States’ Victim Compensation Programs.”

<sup>1056</sup> See Table 27.

but only slightly more than half of recipients (see Table 29). This finding is consistent throughout the study period.<sup>1057</sup>

All states reported a disruption to providing victim assistance and services during the COVID-19 pandemic. For instance, several organizations mentioned facing major staffing issues that reduced their capability to provide victims with the resources that they needed. Organizations also report that the pandemic caused victims additional stress, both financially and emotionally, but there were not enough mental health professionals available.<sup>1058</sup>

Racial disparities in victim compensation were evident in both Tennessee and Wisconsin. In Tennessee, data show that from 2018-2021, Black applicants made up almost half (48.39) of applicants, yet approximately 56 percent of denials.<sup>1059</sup> By comparison, White victims accounted for about 33 percent of total applications, yet about 28 percent of denials; Latino victims represented about 8 percent of all applications, and 6 percent of denials.<sup>1060</sup> Black applicants from 2018-2021 were also disproportionately likely to be denied (compared to all denials) due to “behavioral reasons,” and as discussed, these reasons are subjective, often poorly defined, and vague.<sup>1061</sup>

In Wisconsin, Black applicants were also disproportionately denied compensation by the state’s program from 2018-2021. Black applicants made up approximately 23 percent of total applications, but about 28 percent of denials. By comparison, White victims accounted for about 50 percent of total applications, yet 46 percent of denials. Latino victims represented approximately 12 percent of all applications, and 11 percent of denials.<sup>1062</sup> Similar to Tennessee, Black victims not only made up a larger percentage of the total denials pool than their share of the applicant pool, they were also disproportionately denied due to subjective reasons compared to other applicants. Other People of Color – which includes Asian, Native American/American Indian/Alaska Native, Multiple Races, Native Hawaiian/Pacific Islander, and other races – also made up a higher percentage of the denials than their share of the overall applicants for 2018-2021.

Senior Policy Manager at Common Justice, Alice Hamblett, testified that to reduce disparities in victimization compensation, the federal government needs to

rigorously analyze victim compensation data. Each state provides demographic data to OVC via annual performance measure reports. This data must be analyzed in conjunction with state level demographic data on violent victimization. In addition, OVC needs to collect, analyze, and disseminate demographic data pertaining to victim compensation

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<sup>1057</sup> See *supra* 960-961 (discussing Texas compensation program).

<sup>1058</sup> WI Annual State Performance Report, Victim Assistance Formula Grant Program, Oct. 1, 2019- Sept. 30, 2020.

<sup>1059</sup> Associated Press, “LOCALIZE IT: Victims Comp Programs Reveal Broad Disparities.”

<sup>1060</sup> *Ibid.*

<sup>1061</sup> *Ibid.*

<sup>1062</sup> *Ibid.*

awards and denials. Such analysis can inform policy changes that expand survivors' access to these lifesaving funds.<sup>1063</sup>

Being a victim of a violent crime is a traumatic experience for individuals and their families, however there are services available to help with the financial and emotional burden following these incidents.

The federal government can also help prevent violence before it occurs by focusing on social programs that have been shown to positively affect public safety. James Mercy, Director of the Division of Violence Prevention at the CDC, testified that:

We can help strengthen economic and household stability through approaches like housing assistance, childcare subsidies, tax credits and livable wages. These approaches can lift families out of poverty, reduce stress, and contribute to reductions in violence.<sup>1064</sup>

Mercy contends that to better aid victims of violent crime, the focus needs to go beyond providing victim services to address adversities that are correlated with experiencing violent crime, such as poverty and racism.<sup>1065</sup> Mercy testified:

if we don't address those factors and really focus upstream, while we're giving the services needed to treat the trauma that they experience, that ultimately, we're not going to reduce the supply of victims and perpetrators of violence... both are important. Treating [and] providing [] evidence-based services that can help people in trauma, but at the same time moving upstream to address the things that are really driving and causing this.<sup>1066</sup>

It is the role of the federal government to ensure that federal and state victim compensation programs assist all victims of crime without engaging in discrimination.

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<sup>1063</sup> Hamblett Testimony, *Racial Disparities Briefing*, pp. 105-106.

<sup>1064</sup> Mercy Testimony, *Racial Disparities Briefing*, p. 39.

<sup>1065</sup> *Ibid.*, p. 60.

<sup>1066</sup> *Ibid.*, p. 60-61.

## Appendix A

### Uniform Crime Reporting (UCR) Program and Race

#### *Homicide Rates*

The FBI's Uniform Crime Reporting (UCR) Program is one of the federal government's primary sources on victimization. Table 3 (Chapter 2) shows homicide rates by victim's race from 2017-2020 using UCR data. Even before the full transition to the National Incident-Based Reporting System (NIBRS) in 2021, the FBI collected demographic data about homicide victims. Expanded homicide data are available for download from the FBI's Crime Data Explorer (CDE) website, excluding 2021.

In 1977, the Office of Management and Budget (OMB) issued Statistical Policy Directive No. 15 (SPD 15) to standardize how federal agencies collect data about race and ethnicity.<sup>1067</sup> Following SPD 15, the FBI's expanded homicide data are reported separately by race and ethnicity. The FBI does not show data disaggregated by all five OMB race categories,<sup>1068</sup> instead including raw number of homicides of White victims, Black victims, combined Other Race victims, and victims whose race is Unknown. The data include the number of homicides for three ethnic categories: Hispanic or Latino, Not Hispanic or Latino, or Unknown.

Because raw numbers do not reflect overall group size, Table 3 shows the UCR's expanded homicide data as rates per 100,000 residents to facilitate comparison between racial/ethnic groups. To calculate these rates, it is necessary to have the population size of each racial and ethnic group in each year ( $[\text{annual number of homicides for group}/\text{annual group size}] * 100,000$ ). We use Census data for the annual group size. The Census Bureau collects monthly data from a sample of U.S. households with the American Community Survey (ACS) to estimate population size and demographic composition between decennial census years.<sup>1069</sup> They make their ACS and decennial census data publicly available in many different table formats. While it is possible to see populations by combined race and ethnicity categories, such as non-Hispanic White, we rely on tables showing population sizes separately by race (Census Table B02001) and ethnicity (Census Table B03003) at a national level to align most closely with UCR data. We use ACS 1-year

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<sup>1067</sup> Revisions to OMB's Statistical Policy Directive No. 15, 89 Fed. Reg. 22182 (Mar. 29, 2024) <https://www.federalregister.gov/documents/2024/03/29/2024-06469/revisions-to-ombs-statistical-policy-directive-no-15-standards-for-maintaining-collecting-and#:~:text=The%20Goals%20of%20SPD%2015,collecting%20the%20data%20are%20consistent>.

<sup>1068</sup> The five race categories SPD 15 requires federal agencies to measure are: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. See Office of Management and Budget, "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity," Oct. 30, 1997, <https://www.govinfo.gov/content/pkg/FR-1997-10-30/pdf/97-28653.pdf>.

<sup>1069</sup> Census Bureau, "The Importance of the American Community Survey and the Decennial Census," <https://www.census.gov/programs-surveys/acs/about/acs-and-census.html>.



estimates, which are available for the nation and geographic locations with a population of at least 65,000.<sup>1070</sup>

Both Census and UCR data capture race and ethnicity separately, so the rates in Table 3 should be interpreted with caution as some error is inherent to this approach. The primary issue is that the categories of White and Black are not mutually exclusive with Hispanic. People are identified as both a race and an ethnicity for Census and UCR data. Therefore, it is possible that people who are White and Hispanic or Black and Hispanic are counted in the numerators and/or denominators for both the racial and ethnic group.

Another reason to interpret the rates in Table 3 as estimates is because there is not perfect alignment between Census data and UCR data. The Census data include a category for “Two or More Races.” There is no corresponding group for UCR data, so these victims are classified as being from one group (Black, White, Other) or classified as “Unknown.” UCR data counts some victims as having an unknown race and/or ethnicity, which is not an option in the Census data. It is not possible to calculate homicide rates for the Census racial groups of American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, some other race, or two or more races using UCR’s expanded homicide data because they only have a combined “Other Race” category for non-White or non-Black victims with a known race.

#### *Crime Rates by Race in Jurisdictions*

In this report, UCR data are also used for calculating jurisdiction-level crime rates by type pooled across races and by race/ethnicity. The jurisdictions in the report – Denver, Houston, Memphis, Milwaukee, and Seattle – were eligible for inclusion because their police departments transitioned to NIBRS, the reporting system that captures victim and offender demographics, prior to the study period (2017-2021).<sup>1071</sup> Like the homicide rate estimates in Table 3, we use UCR data for the numerator and Census data for the denominator to calculate rates for crime types for the jurisdictions in this report. The FBI’s Crime Data Explorer shows raw numbers of crimes by type and race at a police department level for jurisdictions after their transition to NIBRS. For the tables that show crime rates by type for cities (Tables 8, 10, 12, 14, and 16), the rates are calculated using the total number of violent crimes at a jurisdiction-level from the CDE website and the total population from Census estimates of each city’s annual population.

The crime rates by type and race for jurisdictions (Tables 9, 11, 13, 15, and 17) require the same cautions as other rate estimates using separate measures of race and ethnicity. The CDE has separate downloadable tables that contain number of crimes by type for jurisdictions by race and ethnicity. This separation is consistent with Census questions, so we again use Census population estimates separated by race and ethnicity. It is possible to calculate crime type rates for more racial

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<sup>1070</sup> Census Bureau, “Understanding and Using ACS Single-Year and Multiyear Estimates,”

[https://www.census.gov/content/dam/Census/library/publications/2018/acs/acs\\_general\\_handbook\\_2018\\_ch03.pdf](https://www.census.gov/content/dam/Census/library/publications/2018/acs/acs_general_handbook_2018_ch03.pdf).

<sup>1071</sup> Houston transitioned to NIBRS in 2018.

groups using NIBRS data than UCR's expanded homicide data because they contain number of crimes for each of the five racial categories mandated by SPD 15. Nevertheless, NIBRS race categories and Census race categories do not align perfectly. The Census only has the options of Hispanic and non-Hispanic for ethnic groups, whereas NIBRS data also have an "Unknown" category. There is also an "Unknown" race category in the NIBRS data without an analogous group in the Census data. The Census data also have racial categories for "Some Other Race" and "Two or More Races" that do not align with NIBRS race categories. As with the homicide rate estimates by race, capturing ethnicity separately from race means that the Hispanic category is not mutually exclusive from the race categories (White, Black, Native American, or Asian), so victims could be counted in both the racial and ethnic groups.

### **National Crime Victimization Survey**

The other primary source of federal data about crime victimization is the National Crime Victimization Survey (NCVS). For NCVS summary reports, the Bureau of Justice Statistics (BJS) presents crime rates per 1,000 residents.<sup>1072</sup> We use their data to calculate rates per 100,000 residents to facilitate comparison to UCR data. The race/ethnicity data for NCVS is distinct from UCR data because their crime counts use combined ethnoracial groups: non-Hispanic White, non-Hispanic Black, a combined non-Hispanic Other group, and Hispanic of any race. The NCVS sample sizes for non-Hispanic racial groups that are non-White and non-Black (e.g., Asian, Native American) are too small to provide reliable estimates.<sup>1073</sup> The number of crimes by race for Table 5 are housed on BJS' N-DASH website, which generates tables of number of crime victims by type and ethnoracial identity by selecting the number of personal crimes and filtering on "Victim race/Hispanic" origin. The denominator, which is group size, is from a data table called "Participation Rates and Population Counts" available on the NCVS website. While the Census data for UCR rates include the entire population, NCVS uses Census data that only include the population of people 12 and older. In order to align how race and ethnicity are measured in the numerator and denominator, we use population data from the combined race/ethnicity measure to generate rates for Table 6 (Chapter 2).

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<sup>1072</sup> See e.g., Alexandra Thompson and Susannah N. Tapp, "Criminal Victimization, 2021," Bureau of Justice Statistics, Revised Jul. 5, 2023, <https://bjs.ojp.gov/content/pub/pdf/cv21.pdf>.

<sup>1073</sup> Heather Warnken and Janet Lauritsen, "Who Experiences Violent Victimization and Who Accesses Services? Findings from the National Crime Victimization Survey for Expanding our Reach," Center for Victim Research, 2019,

[vnrnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article\\_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf](vnrnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf).

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## Appendix B



**U.S. Commission on Civil Rights Public Briefing:  
Racial Disparities in Violent Crime Victimization in the United States  
Friday, November 17, 2023  
Expert Panels: 9:00 a.m. – 3:15 p.m.**

### AGENDA

- I. Introductory Remarks: 9:00am-9:15am**
- II. Panel 1: Current & Former Government Officials: 9:15am-10:25am**
  - Alex R. Piquero, University of Miami, Former BJS Director
  - Thomas Hogan, Former Federal Prosecutor and District Attorney
  - Adam Gelb, President & CEO, Council on Criminal Justice
  - James Mercy, Director, Division of Violence Prevention, CDC
  - Paul Pazen, Retired Police Chief, Denver
  - Steven J. Mulroy, District Attorney for Shelby County, Former Federal Prosecutor
- III. Break: 10:25am-10:35am**
- IV. Panel 2: Community Stakeholders & Advocates: 10:35am-11:45am**
  - Ruth Abaya, Sr Dir, Health Alliance for Violence Intervention
  - Donald Northcross, Founder & CEO, National OK Program
  - Nel-Sylvia Guzman, Deputy Director, Safe Sisters Circle
  - Angela Ferrell-Zabala, Executive Director, Moms Demand Action
  - Alice Hamblett, Senior Policy Manager, Common Justice
  - Heather Warnken, Executive Director, Center for Criminal Justice Reform, University of Baltimore School of Law
- V. Lunch Break: 11:45am-12:45pm**

**VI. Panel 3: Impacted Persons: 12:45pm-1:55pm**

- Nicole Nabors, Founder of Grace & Peace Counseling
- Demetrius Molina, Survivor of Neighborhood Violence
- Lawanda Hawkins, Founder of Justice for Murdered Children
- Audacia Ray, Director of Community Organizing & Advocacy, Anti-Violence Project
- Tashica Hilliard, Widow of Deputy Glenn Hilliard
- Christina Love, Survivor & Executive Director, Rural Alaska Integrated Services

**VII. Break: 1:55pm-2:05pm****VIII. Panel 4: Researcher & Policy Experts: 2:05pm-3:15pm**

- Patrick Sharkey, William S Tod Professor of Sociology and Public Affairs, Princeton University
- John Lott, President, Crime Prevention Research Center
- John Paul Wright, Professor of Criminal Justice, University of Cincinnati
- Mallory O'Brien, Associate Scientist, Johns Hopkins University
- Rafael Mangual, Fellow, Manhattan Institute
- Mona Sahaf, Reshaping Prosecution Director, Vera Institute of Justice

**IX. Break: 3:15pm-4:25pm****X. Open Public Comment Session: 4:25pm-5:55pm****XI. Closing Remarks: 5:55pm-6:00pm****XII. Adjourn Meeting**

## Statement of Chair Rochelle M. Garza

The phrase "a product of your environment" is often applied to those in underserved communities, particularly people of color, and regrettably, it rings true for many victims of crime. The COVID-19 pandemic brought the world to a standstill, presenting new challenges and magnifying existing ones.

As Chair of the U.S. Commission on Civil Rights, I am proud of our bipartisan report on *Federal Efforts in Examining Racial and Ethnic Disparities among Victims of Violent Crime*. This investigation and report was embarked upon as a response to FBI data that indicated a rise in crime during the COVID-19 pandemic. The report showcases the hard work of our commissioners, special assistants and career USCCR staff, who have come together across political lines to serve the American people. In a time when cooperation across the aisle often seems impossible, we continue to prove that it can be done. This is the first report under my leadership as Chair, and I am honored to continue our mission of equipping Congress and the President with the necessary tools to take concrete actions to ensure justice and equality for all.

The need for this report is urgent. People from underserved communities, especially people of color, often face overwhelming challenges that deeply impact their lives and futures. Sadly, these harsh realities are all too common for many crime victims.

Our report highlights the necessity of a holistic approach to our criminal legal system that not only accounts for the enforcement of laws but also addresses the underlying factors contributing to crime. This includes early intervention and support for young people to prevent them from entering the criminal justice system later in life.

Additionally, when it comes to social services and victim's compensation programs, it is essential to recognize and challenge the narrative that requires victims to be deemed "innocent" to receive financial relief.

Through the Commission's investigation, including interrogatories, public comments, and our public briefing on *Racial Disparities in Violent Crime Victimization in the United States*, the following observations underscore the urgency of addressing systemic issues within the criminal legal system and the need for targeted interventions to support the most vulnerable populations:

- The substantial and enduring racial disparity in homicide victimization is driven by the high risk of homicide for young, Black men.
- Crime rates are associated with hot spots, or particular places, typically where the disadvantaged are disproportionately represented.

- Although the crime rate peaked during the COVID-19 pandemic, it has receded; gun violence, including gun homicides increased during the pandemic and disproportionately impacted persons of color residing in racially segregated neighborhoods.
- There are racial disparities in victims' access to and benefits from existing victim services, including the federal Victims of Crime Act Fund. Some victims, including Black victims, may receive less compensation because of racial or ethnic or gender stereotypes questioning whether they are deserving crime victims.

To effectively tackle the critical issues identified above, it is essential to adopt comprehensive and community-focused strategies. The following measures emphasize the importance of building community trust, providing culturally sensitive victim services, and improving data collection to create a more equitable and effective response to crime:

- Crime-reduction efforts are often hampered in the very spots in which crime spikes because of low trust in police by those in over-policed neighborhoods. Best practices support efforts by police to increase trust in the community that they are policing as an effective crime reduction strategy.
- Victim service providers should provide trauma-informed, culturally, and linguistically-specific services.
- Nonfatal shootings need a standardized method of measurement for the FBI's data and police departments should handle these shootings like homicides to prevent further violence.
- Data collection on crime victimization could be improved by requiring police officers to capture more granular data about race, ethnicity, sexuality, and gender for the Uniform Crime Reporting System.
- In devising state programs and services, state victim service providers (*e.g.* VOCA grantees) should encourage applicants from all walks of life, without regard to race, ethnicity, or gender.
- Victims' compensation programs should aim to reduce disparities in victim compensation and consider removing rules that bar compensation when the victim has not reported the event to the police, or consider whether reporting is sufficient if it is made to a reliable third party non-governmental agency or crisis center.

It is clear that healing our communities requires more than just policy changes; it demands a commitment to understanding, empathy, and action. We must remember that behind each statistic is a human life, a family affected, and a community in pain. Together, let us work to create a society where safety, equity, and dignity are not just aspirations, but realities for everyone. By addressing these challenges with compassion and determination, we can pave the way for a better post pandemic society for all our communities.



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## Statement of Vice Chair Victoria Nourse

Crime stirs political passions. Historically, conservatives and liberals have agreed upon almost nothing when it comes to crime control policies. Most Americans fall in the common sense middle between these extremes, seeking safety that is just and fair, reviling violence by citizens or police. History shows that it is easy to scapegoat entire groups with crime labels, which creates encourages cycles of misunderstanding, and a refusal to treat community safety as a shared project.

When this report was first proposed, I was new to the Commission, and feared that it would yield more passion than reason, as I have worked on this issue for thirty years. As this Commission has documented in its recent report on Asian-American hate crime, the Covid-19 pandemic unleashed enormous disruption in American society, including the increase of hate crimes, police violence, and disorder in major cities. It also unleashed a raft of exaggerated claims in the political sphere. Some, including former President Trump, have wrongly blamed and continues to blame entire groups, most pointedly Hispanic immigrants, casting them as murderers and rapists.<sup>1074</sup>

The facts speak for themselves: In 2024, crime is down, not up, as some have claimed (the FBI Quarterly Report below was not available when the report was written). Police funding has not dropped dramatically, as some hoped and others feared.<sup>1075</sup>

*This report provides good news:*

First, crime is down. According to the latest June 10, 2024 quarterly report of FBI data, for January to March 2024 (as compared to a year earlier) crime declined overall by “15.2 percent.” Specifically, “murder decreased by 26.4 percent, rape decreased by 25.7 percent, robbery decreased by 17.8 percent, and aggravated assault decreased by 12.5%. Reported property crime also decreased by 15.1 percent.”<sup>1076</sup>

Second, crime is an intra-racial phenomenon: we found no significant disparities in the overall violent crime victimization of White, Black, and Latino individuals.

Third, the FBI is currently tracking incidents of police violence, and the most recent data

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<sup>1074</sup> *Why Trump’s Alarmist Message on Immigration May Be Resonating Beyond His Base* at <https://apnews.com/article/border-immigration-trump-biden-rhetoric-2024-election-327c08045edcc200f850d893de6a79d6>

<sup>1075</sup> *Despite Defunding Claims, Police Funding Has Increased in Many Cities* at <https://abcnews.go.com/US/defunding-claims-police-funding-increased-us-cities/story?id=91511971#:~:text=%22Overwhelmingly%2C%20cities%2C%20counties%2C,and%20elected%20of%20officials%20say%20it.%22>

<sup>1076</sup> *FBI Quarterly Report* (June 10, 2024) at <https://www.fbi.gov/news/press-releases/fbi-releases-2024-quarterly-crime-report-and-use-of-force-data-update#:~:text=Murder%20decreased%20by%2026.4%20percent,also%20decreased%20by%2015.1%20percent.>

shows that training to increase communities' trust in police yields increases in public safety in even in hot spots.<sup>1077</sup>

*This report also provides some bad news, however:*

First, the data shows that, for the worst crime, homicide, young Black men are at a higher risk of homicide than their racial counterparts.

Second, the data shows a persistent association of deadly weapons with the most serious crimes.

Third, and very importantly, the data also shows that there are racial disparities in access to victim resources, and compensation under the Victims of Crime Act.

### **False Background Assumptions**

Historically, new immigrants to this nation have been labelled as criminals simply because they were associated with a particular group. At the beginning of the twentieth century, it was the Irish and Italians, a view no one holds today. But old habits die hard. Today, politicians falsely claim that Hispanic immigrants are flooding the nation with crime. Historically, Black people have borne the greatest burden, as the law-abiding are persistently and wrongly associated with violence.

It is wrong to imagine, as some do, that some groups are criminals and others are not. Crimes are committed by individuals, not groups. Individuals commit crimes within their own neighborhoods, families, social circles, and much too often in their own homes, which means that crime is an intra-racial affair. Most crime is committed by a small subset of the American population, typically male and young. This report documents these findings, which are well known in the field of criminology, yet persistently defied by popular myth and political slogans.

Finally, it is important to recognize that federal level programs may have a limited impact on criminal behavior at the state and local level. To be sure, the Justice Department and the FBI provide major funding for state and local efforts. But crime reduction strategies are formulated at the state, local and community levels. For example, Black persons are overrepresented in prison relative to their population. But it is also true that the prison population in states is ten times as great (roughly 1.1 million), relative to the federal prison population (159,000).<sup>1078</sup> It is a sad fact

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<sup>1077</sup> *In Depth Training of Police Officers Results in Less Crime, Fewer Arrests, and Improved Community Views Toward Police in Crime Hot Spots* (June 2022) at <https://www.policinginstitute.org/wp-content/uploads/2022/06/NPI-Research-in-Brief-Hot-Spots-Jun-2022.pdf>

<sup>1078</sup> *Prisons Report Series*, Bureau of Justice Statistics (Sept. 2023) (“prisoners by sex and jurisdiction” data).

that over-policed persons distrust the police. But it is also true that many in disadvantaged communities desperately seek safety. New and important data suggests that we can increase safety and accountability by increasing local trust of the police, an important first step toward healing the terrible wounds incurred by excess police violence during the pandemic.<sup>1079</sup>

### The Data

This report highlights a phenomenon that defies simple slogans and solutions: crime follows place. Some places are simply more dangerous than others. In some communities, young Black men are particularly at risk for homicide. This report revealed a disturbing trend across the five studied jurisdictions—Denver, Houston, Memphis, Milwaukee, and Seattle—where Black residents consistently faced a higher risk of homicide than their White counterparts. Young Black men emerged as the most vulnerable group, being 12 times more likely to die by firearm homicide than their White counterparts.<sup>1080</sup> Alarming, homicide stands at the leading cause of death for Black males ages 1-44 years old.

Second, gun violence emerges as a critical issue, representing the leading cause of injury or death for Black men.<sup>1081</sup> The years 2020 and 2021 saw an increase in gun violence and homicides, contrasting with the decrease in non-violent crimes during the COVID-19 pandemic.<sup>1082</sup> Alarming, firearms were involved in 79% of homicides and 53% of suicides in the United States in 2020.<sup>1083</sup> To effectively address the rise in violent crimes in disadvantaged neighborhoods, it is crucial to confront the prevalence of illegal gun ownership and its connection to gun violence.

Third, crime data is failing on one important score: nonfatal shootings. Nonfatal shootings increased during the pandemic,<sup>1084</sup> occurring four times as often than homicides.<sup>1085</sup> Nonfatal

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<sup>1079</sup> *Id.*

<sup>1080</sup> Heather Warnken and Janet Lauritsen, “Who Experiences Violent Victimization and Who Accesses Services? Findings from the National Crime Victimization Survey for Expanding our Reach,” Center for Victim Research, 2019, [vrnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article\\_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf](https://vrnclearinghousefiles.blob.core.windows.net/documents/CVR%20Article_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf).

<sup>1081</sup> Brandon del Pozo, Alex Knorre, Michael J. Mello, and Aaron Chalfin, “Comparing Risks of Firearm-Related Death and Injury Among Young Adult Males in Selected US Cities with Wartime Service in Iraq and Afghanistan,” *JAMA Network Open*, 2022, vol. 5, no. 12, <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2799859>, p. 1.

<sup>1082</sup> Sharkey Testimony, *Racial Disparities Briefing*, pp. 227-28.

<sup>1083</sup> Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report (MMWR), “Vital Signs: Changes in Firearm Homicide and Suicide Rates – United States, 2019 – 2020,” May 13, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/mm7119e1.htm>.

<sup>1084</sup> Richard Rosenfeld, Thomas Abt, and Ernesto Lopez, “Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update,” Council on Criminal Justice, Jan. 2021, [https://build.neoninspire.com/counciloncj/wp-content/uploads/sites/96/2021/07/Year-End-Crime-Update\\_Designed.pdf](https://build.neoninspire.com/counciloncj/wp-content/uploads/sites/96/2021/07/Year-End-Crime-Update_Designed.pdf).

<sup>1085</sup> O’Brien Testimony, *Racial Disparities Briefing*, p. 203.

shootings disproportionately affect communities of color.<sup>1086</sup> However, the FBI’s Uniform Crime Reports (UCR) data is an unreliable source for tracking nonfatal shootings. Panelists at this report’s briefing highlighted the data challenges for non-fatal shootings. Mallory O’Brien, Associate Scientist at Johns Hopkins University, emphasized the need for better national data to obtain a “complete picture” on violent crime in disadvantaged neighborhoods.<sup>1087</sup> It is essential that we collect data on nonfatal shootings. Nonfatal shootings occur twice as often as fatal shootings<sup>1088</sup> and have long-lasting consequences. They result in medical expenses, psychological and physical consequences, and can perpetuate a retributive cycle of gun violence.<sup>1089</sup>

### Crime Victim’s Compensation

Last, but definitely not least, the most important contribution of this report is on the question of crime victim’s compensation. For years, the Victims of Crime Act has redistributed monies from mafia dons and tax cheats and fraudulent businessmen to victims of crime. But as this report indicates, minorities do not benefit as much as they could. I want to commend the professional staff of the Commission for rooting out this problem, and providing hard data so that states and localities can review their policies. Some victims’ compensation policies require that the victim report to the police. Not all victims, particularly those who fear retaliation in their neighborhoods, or the retaliation of a rapist, report their crimes to the police. State and local crime victim’s agencies should review their policies to consider whether reporting to another entity, or filing an affidavit under oath, should be sufficient to qualify for crime victims’ benefits.

### Findings and Recommendations

I support the findings and recommendations of the Democratic Caucus:

#### **Findings**

- The substantial and enduring racial disparity in homicide victimization is driven by the high risk of homicide for young, Black men.

<sup>1086</sup> Marissa Edmund, “Gun Violence Disproportionately and Overwhelmingly Hurts Communities of Color,” Center for American Progress, Jun. 30, 2022, <https://www.americanprogress.org/article/gun-violence-disproportionately-and-overwhelmingly-hurts-communities-of-color/>.

<sup>1087</sup> O’Brien Testimony, *Racial Disparities Briefing*, p. 203.

<sup>1088</sup> Katherine A. Fowler, Linda L. Dahlberg, Tadesse Haileyesus, and Joseph L. Annet, “Firearm Injuries in the United States,” *Preventive Medicine*, 2015, vol. 79, <https://doi.org/10.1016/j.ypmed.2015.06.002>; see also Wright Testimony, *Racial Disparities Briefing*, p. 199.

<sup>1089</sup> Rose MC Kagawa, Veronica A. Pear, Kara E. Rudolph, Katherine M. Keyes, Magdalena Cerdá, and Garen J. Wintemute, “Distress Level and Daily Functioning Problems Attributed to Firearm Victimization: Sociodemographic-Specific Responses,” *Annals of Epidemiology*, 2020, vol. 41, <https://www.sciencedirect.com/science/article/abs/pii/S1047279719305666>.

- Crime rates are associated with hot spots, or particular places, typically where the disadvantaged are disproportionately represented.
- Although the crime rate peaked during the COVID-19 pandemic, it has receded; gun violence, including gun homicides increased during the pandemic and disproportionately impacted persons of color residing in racially segregated neighborhoods.
- There are racial disparities in victims' access to and benefits from existing victim services, including the federal Victims of Crime Act Fund. Some victims, including Black victims, may receive less compensation because of racial or ethnic or gender stereotypes questioning whether they are deserving crime victims.

### **Recommendations**

- Crime-reduction efforts are often hampered in the very spots in which crime spikes because of low trust in police by those in over-policed neighborhoods. Best practices support efforts by police to increase trust in the community that they are policing as an effective crime reduction strategy.
- Nonfatal shootings need a standardized method of measurement for the FBI's data and police departments should handle these shootings like homicides to prevent further violence.
- Data collection on crime victimization could be improved by requiring police officers to capture more granular data about race, ethnicity, sexuality, and gender for the Uniform Crime Reporting System.
- In devising state programs and services, state victim service providers (*e.g.* VOCA grantees) should encourage applicants from all walks of life, without regard to race, ethnicity, or gender.
- Victims' compensation programs should aim to reduce disparities in victim compensation and consider removing rules that bar compensation when the victim has not reported the event to the police or consider whether reporting is sufficient if it is made to a reliable third party non-governmental agency or crisis center.
- Victim service providers should provide trauma-informed, culturally, and linguistically specific services.

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## Statement of Commissioner Stephen Gilchrist

In 2010, the movie, “The Expendables” premiered starring Sylvester Stallone, Arnold Schwarzenegger, Jet Li, and Bruce Willis.<sup>1090</sup> The band of mercenaries would take on extremely dangerous assignments that no one else cared to take on. And if they were killed and disposed of their absence would not be missed. The movie is known for its over-the-top stunts and adrenaline induced maneuvers that cause you to jump out of your seat. The film was a commercial success, and subsequent sequels were made. While “*Expendable*” the movie is fantastic, citizens residing in low-wealth communities feeling “expendable” and often being treated as if they are expendable is problematic. I want to expound on the impact and the harm inflicted on residents that live in poverty and high crime communities as well as viable solutions. Rafael Mangual, an expert witness from the Manhattan institute was passionately convincing when he stated:

*Depriving these communities of necessary public safety resources, either intentionally through policy or by circumstance, should be thought of as a violation of [ ] civil rights and civil liberties. I can think of few things more cruel than to deny safety to those most in need, especially when we have the knowledge and skill sets to improve their lives.*<sup>1091</sup>

When discussing the impact crime has on vulnerable communities, I often think about that word *expendable*. What does it mean to be expendable? According to the Oxford dictionary it means; *to have little significance when compared to an overall purpose, and therefore able to be abandoned.*<sup>1092</sup>

Law abiding citizens that reside in poverty, high crime and highly dense segregated neighborhoods are often burdened with situations that not only inconvenience them, but in many instances causes them to not enjoy the fruits of citizenship that others do. The obstacles these residents endure daily can be caustic to their well-being.

In America today, there are too many systems failing our children; the family/home, the neighborhood, the education system, the local economy, and the larger community. The lack of functioning institutions is causing these residents, particularly children, to struggle intensely. How is it that we expect residents to feel safe and valued when so much failure of our institutions does not effectively show up for them?

In impoverished, high crime, segregated neighborhoods before a child leaves home for school they are challenged in ways that other children are not. Many impoverished children’s parents were impoverished. This intergenerational poverty can have a deleterious effect on a child’s education, physical-wellbeing, and economic mobility. An impoverished child is less likely to leave home

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<sup>1090</sup> *The Expendables*, Directed by Sylvester Stallone, Lions Gate, 2010.

<sup>1091</sup> Mangual Testimony, *Racial Disparities Briefing*, p. 202.

<sup>1092</sup> Merriam-Webster (n.d.). “Expendable”, Merriam-Webster.com dictionary, Retrieved (June 2, 2024) from <https://www.merriam-webster.com/dictionary/expendable>.



with a good nutritious breakfast. Many poor children attend Title I<sup>1093</sup> schools which provide free and reduced lunches to eligible students. In the summertime, meals for students can often go neglected, along with a lack of consistent educational support, which leads to what researchers call “learning loss.”<sup>1094</sup> And more likely than not, the child’s father is not married to his mother. The rate of children in single female headed household for black mothers’ is 63%, for non-Hispanic Whites mothers 24% and for Hispanic/Latino 42%.<sup>1095</sup> But if you are a single mother with a high-school diploma and more importantly, a college degree then you are less likely to experience the hardships of poverty.<sup>1096</sup> It’s important to state here that the majority of single mothers are doing a herculean effort in raising their children. It is essential to recognize that not all single-parent households experience these challenges, and many single parents successfully raise happy, healthy, and well-adjusted children.

The role of Fathers cannot be underestimated! While single mothers are doing a yeoman’s job in raising their children, there will always be a need for fathers to be actively present in the lives of their children. Within two years of passage of the 1964 Civil Rights Act, former senator Daniel Patrick Moynihan authored *The Negro Family: The Case for National Action*, better known as the Moynihan Report<sup>1097</sup>. In the report he summarized how increasing out of wedlock birth rate would have a deleterious effect upon the Black community. As opportunities slowly began increasing for Black people, including women, Moynihan wrote that out of wedlock birth rates amongst the Black lower class will continue to preserve the gap between Black people and other ethnic and racial groups and favor other ethnic groups. He described this as a “tangle of pathologies”—from disintegrating families to poor educational outcomes, weak job prospects, concentrated neighborhood poverty, dysfunctional communities, and crime—that would create a self-perpetuating cycle of deprivation, hardship, and inequality, he saw the breakdown of the nuclear family as the fundamental source of weakness in the black community.<sup>1098</sup> The report was highly controversial, but if it did one thing, it heightened the importance of the father, specifically the

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<sup>1093</sup> U.S. Department of Education. (n.d.). Elementary and Secondary Education Act Title I - Improving the Academic Achievement of the Disadvantaged. Retrieved [June 5, 2024] from <https://www2.ed.gov/policy/elsec/leg/esea02/index.html> (<https://www2.ed.gov/policy/elsec/leg/esea02/index.html>). The Elementary and Secondary Education Act (ESEA) is a federal law that provides funding for education and governs federal education programs in the United States. Title I of the ESEA specifically addresses the allocation of funds to schools with high numbers of students from low-income families to support their educational needs.

<sup>1094</sup> Learning loss refers to the loss of academic skills and knowledge that students experience during extended periods of time away from school or during disruptions to their regular education, such as summer breaks or the COVID-19 pandemic. This phenomenon can result in students falling behind in their academic progress, forgetting information previously learned, or struggling to retain important concepts.

<sup>1095</sup> CHILDREN IN SINGLE-PARENT FAMILIES BY RACE AND ETHNICITY IN UNITED STATES. January 2024. The Annie E. Casey Foundation. [Children in single-parent families by race and ethnicity | KIDS COUNT Data Center \(aecf.org\)](https://www.aecf.org/research/children-in-single-parent-families-by-race-and-ethnicity-in-united-states)

<sup>1096</sup> Barbara Gault, Ph.D., Jessica Milli, Ph.D., and Lindsey Reichlin Cruse, M.A. “Investing in Single Mothers’ Higher Education: Costs and Benefits to Individuals, Families, and Society. Institute for Women’s Policy Institute. [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://files.eric.ed.gov/fulltext/ED612662.pdf](https://files.eric.ed.gov/fulltext/ED612662.pdf).

<sup>1097</sup> Moynihan, D.P., *The Negro Family: The Case for National Action*, Office of Policy Planning and Research United States Department of Labor (March 1965), <https://www.dol.gov/general/aboutdol/history/webid-moynihan>

<sup>1098</sup> Ibid at Chapter IV. The Tangle of Pathology.

Black Father. The role and importance of the Father continues to be an important focus of politicians and social scientists.

Former President George W. Bush had this to say:

*“...We have a responsibility to help children who have been born into harsh circumstances and fractured families. As a society, we must work to promote mentors -- committed, caring adults in the lives of children...And we must gather up the great compassion of our society, to encourage loving citizens to put their arm around a child who may not have a dad, and say, somebody in this country loves you, and somebody cares for you.”<sup>1099</sup>*

Former President Barack Obama said:

*“Of all the rocks upon which we build our lives, we are reminded today that family is the most important. And we are called to recognize and honor how critical every father is to that foundation... But if we are honest with ourselves, we will admit that what too many fathers also are missing—missing from too many lives and too many homes... You and I know how true this is in the African American community. We know that more than half of all Black children live in single-parent households, a number that has doubled—doubled—since we were children... And the foundations of our community are weaker because of it.”<sup>1100</sup>*

Once a child opens the door and enters outside, another failed institution awaits, the neighborhood. An African proverb states it takes a village to raise a child, a new axiom must be asked; what does it take to raise a village? The culmination of poor families struggling and battling to fight for survival has rendered many indifferent to caring for and watching out for each other. This was not always the case for poorer communities. Poverty wasn't something that many were conscious of until you got older and started to see how others lived and when you asked for something, and the answer was usually “no.” It wasn't because your parent(s) wanted to always say “no” to your insatiable appetite for things, it's just that they couldn't afford it. Poverty was not synonymous with crime! Some of the most moral, God fearing, law-abiding people I know were poor. Poverty was not the reason for not being a good person, a supportive neighbor, and an involved citizen. Was there crime? Sure. But there was respect, care, and a love for one another. This is more absent today than it was forty years ago. Too many impoverished neighborhoods have properties, buildings, or public spaces left vacant, neglected, or abandoned, they can create opportunities for criminal activity to thrive. Abandoned spaces can contribute to a sense of insecurity and fear among residents, as they may become breeding grounds for crime, violence, and antisocial behavior, deterring community members from using or accessing these areas. The presence of abandoned spaces in a neighborhood can decrease property values, deter potential buyers or

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<sup>1099</sup> Bush, G.W. (June 7, 2001). [President Bush Speaks at the Fourth National Summit on Fatherhood]. Speech presented at the Hyatt Regency Capital Hill, Washington, DC.

<sup>1100</sup> Lee, J. (June 21, 2010). President Obama Promotes Responsible Fatherhood: “No Excuses” [Speech]. Washington, DC.

renters, and contribute to blight and disinvestment in the community, further perpetuating social and economic disparities. Unfortunately, many of these areas are near libraries, transportation centers, parks, restaurants, and even schools. And according to Ruth Abaya, Pediatric Emergency Medicine Physician and Senior Director for the Health Alliance for Violence Intervention, explains, “In many places throughout the country, community violence is concentrated, it’s cyclical, and it’s networked, creating cycles of harm and trauma that often impact multiple generations.”<sup>1101</sup> Also too many of these communities experience economic decay. The presence of crime can further exacerbate the cycle of poverty by deterring businesses from investing in the community and creating a sense of fear and instability among residents. For instance, it has been reported that over 1,000 drug stores have shuttered their doors around the country. While competition was the cause for several of the closures, it is also reported that “rampant theft” is the reason for some of the closures. Research by Yale and Cornell University found that of the 670 pharmacy desserts in New York, Los Angeles, Chicago, and Houston all but three were found in predominantly minority neighborhoods.<sup>1102</sup>

It is difficult to create, maintain and grow a business in an area where violence, gang activity, theft and lack of community resources are prevalent. Gang activity and violence makes it almost impossible for residents to feel safe and secure in public spaces, and within their own homes. Parents, specifically mothers, worry mightily when their children leave the house because they know that a simple walk to school or to the corner store can be a hazardous activity. Residents’ freedom of movement is impaired when rampant violence and gang activity levels are too high. The negative impact of gangs on our youth compounds the cycle of violence and crime rates in poor neighborhoods. Children are targeted as valuable recruits and those that resist being recruited are often bullied, harassed or in some instances violently attacked. These kinds of activities can disrupt the already fragile sense of cohesion within neighborhoods. This lack of cohesion further erodes trust and cooperation which are fundamental if “community” is going to work. Drug activity and gang activity are often linked, but not mutually exclusive. When crack-cocaine hit neighborhoods in the early nineteen nineties it devastated communities. The human toll to residents, the community and specifically Black men were calamitous. The call for help from residents and politicians was the impetus for the creation of the Violent Crime Control and Law Enforcement Act of 1994, better known as the 1994 crime bill. At the urging of many Black legislatures, President Bill Clinton signed the legislation into law.<sup>1103</sup> The critique of the bill was that it was too heavily focused on enforcement and sentencing. The law did not do a respectable job of distinguishing between a drug pusher and a drug user. Sometimes they were the same, but often the difference was clear that the user was an addict but treated no differently than the

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<sup>1101</sup> Abaya Testimony, *Racial Disparities Briefing*, p. 71

<sup>1102</sup> Mary Roeloffs. Here’s Why Drug Stores Are Closing in Minority Neighborhoods: Walgreens, CVS And Rite Aid Shutter More Than 1,000, *Forbes*, Jan 14, 2024, <https://www.forbes.com/sites/maryroeloffs/2024/01/14/heres-why-drug-stores-are-closing-in-minority-neighborhoods-walgreens-cvs-and-rite-aid-shutter-more-than-1000/>

<sup>1103</sup> Leon Neyfakh, Black Americans Support the 1994 Crime Bill, Too, *Slate.com*, February 12, 2016, <https://slate.com/news-and-politics/2016/02/why-many-black-politicians-backed-the-1994-crime-bill-championed-by-the-clintons.html>

“pusher.” However, critics rarely mention the prevention programs that were components of the bill as well.

The statistic that has been the most glaring and consistent is that Black Americans have long been the group most likely to be killed by homicide. **Black Americans are 12 times as likely as White Americans to die by firearm homicide.**<sup>1104</sup> The risk of homicide is highest for young, Black men. According to the Center for Disease Control and Prevention, homicide is the leading cause of death for Black males ages 1-44.<sup>1105</sup> A recent study indicated that both young Black and Latino man have a better chance of survival in a combat zone, than in his own neighborhood.<sup>1106</sup>

Another institution awaits the child as they enter its doors, the school. It is important to distinction between students, teachers, and the education bureaucracy. Students are often the “bargaining chip” for adults in education, more concerned with getting their needs met at the expense of students.<sup>1107</sup> Too many schools are failing poor Black and brown students.<sup>1108</sup> Many of these schools have improved graduation rates, but the instructional rigor is still lacking. Former president, George W. Bush had it correct when he stated that many of our students suffer from the “soft bigotry of low expectations.”<sup>1109</sup> Unfortunately, teachers that serve poor students must be more than just teachers, often they serve as hall monitors, the bus coordinator, a counselor, social worker, beautician, nurses aid, security guard and parent. Schools that serve poor and minority children are not designed to be all things to all children. Children coming from poverty and high crime areas are more likely to have experienced or witnessed violence, home instability, poor diets, and emotional and psychological issues. It is hard to teach children that induce more fear than love. Often the fear of children creates policies at the school that do more to exacerbate an issue than address it. The term “school-to-prison pipeline” became a popular term due to how many schools were direct feeders into the jails/prisons.<sup>1110</sup>

A child must contend with the challenging issues of home, neighborhood, and school daily, until something happens. I believe in activities and policies like small business formation,

<sup>1104</sup> Alex R. Piquero, “Racial Inequality in Firearm Homicide Victimization—but not Other Types of US Violence,” *Cambridge Journal of Evidence-Based Policing*, 2024, vol. 8, no. 1. <https://link.springer.com/article/10.1007/s41887-023-00093-2>.

<sup>1105</sup> Center for Disease Control and Prevention, “Leading Causes of Death – Males – Non-Hispanic Black – United States 2018,” <https://www.cdc.gov/minorityhealth/lcod/men/2018/nonhispanic-black/index.htm#all-ages>. See also Mercy Testimony, *Racial Disparities Briefing*, pp. 34-35.

<sup>1106</sup> Brandon del Pozo, Alex Knorre, Michael J. Mello, and Aaron Chalfin, “Comparing Risks of Firearm-Related Death and Injury Among Young Adult Males in Selected US Cities with Wartime Service in Iraq and Afghanistan,” *JAMA Network Open*, 2022, vol. 5, no. 12, <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2799859>, p. 1.

<sup>1107</sup> Chen, Grace. Are Teacher Unions a Help or Hindrance to Public Education?, *Public School Review*, May 18, 2020. <https://publicschoolreview.com>

<sup>1108</sup> Shianne Winston. Why are Black and Latino students falling further behind? *Innovate Public Schools*. April 2, 2021. <https://innovateschools.org>

<sup>1109</sup> Bush, G. W. (July 10, 2000). [Speech to the NAACP at the 91<sup>st</sup> annual convention]. Baltimore, Maryland. <https://www.washingtonpost.com/wp-srv/onpolitics/elections/bushtext071000.htm>

<sup>1110</sup> Lauren Camera, Study Confirms School-to-Prison Pipeline, U.S. News, July 27, 2021, <https://www.usnews.com/news/education-news/articles/2021-07-27/study-confirms-school-to-prison-pipeline>

apprenticeships, mentorships, and school-choice, because you must disrupt the cycle of going from one failing system to another. This cycle can be vicious, and the more it happens, it gets normalized.

The larger community knows which areas not to frequent due to crime. These areas have been neglected for years. They will induce anxiety and fear if your car were to break down. Poor inner city communities have been allowed to fester and rot, and when attempts are made to clean out the rot, pushback often ensues and so-called leaders' voices are often amplified, while law-abiding residents within the communities continue to suffer. Residents are often generalized along with the criminal elements in their neighborhoods. While law enforcement tactics like "stop and frisk"<sup>1111</sup> may work at reducing levels of crime it also casts too large of a net on members in the community. There were too many people being implicated that were simply going about their normal routines as an American. Statistically overall crime has been reduced, but it is still too high for too many of our citizens. Crime in these communities is usually under reported.<sup>1112</sup> If we are truly serious about reducing crime and increasing the life possibilities for these residents, it will require us to be committed, tenacious, accountable, patient, smart and hopeful.

### **Recommendations:**

#### **Family:**

- Increase family strengthening policies. It is more common for families to not look like they did fifty years ago. It is still a laudable goal to encourage couples to do all they can to create stable home environments. Encouraging responsible marriages is still good for our society and good for families. For example, in my home state of South Carolina, I once served as a statewide Director of the Fatherhood Initiative for the Department of Social Services. Our partnership was in conjunction with the Sisters of Charity Foundation. The SC Department of Social Services along with the Sisters of Charity, established regional Fatherhood centers throughout the state. The South Carolina Center for Fathers and Families is a faith-based, nonprofit organization that supports a statewide infrastructure that reduces barriers and strengthens relationships between fathers and families throughout South Carolina.<sup>1113</sup> It works to help dads overcome obstacles to being responsible and nurturing role models for their kids.
- Earn Income Tax Credit (EITC) This has been an effective tool to help low-income workers and families. The EITC has been known to increase workforce participation and motivate

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<sup>1111</sup> Lawrence Rosenthal, Crime dropped under stop-and-frisk, which is worth remembering in the rush to criticize it: New York went too far with the practice, but it helped reduce a staggering crime rate that damaged communities far more than the tactics used by police, *NBCNews.com*, March 6, 2020, <https://www.nbcnews.com/think/opinion/crime-dropped-under-stop-frisk-which-worth-remembering-rush-criticize-ncna1151121>

<sup>1112</sup> Many U.S. Crimes Go Unreported, Unprosecuted, *Crime and Justice News*, March 2, 2017, <https://thecrimereport.org/2017/03/02/many-u-s-crimes-go-unreported-unprosecuted/>

<sup>1113</sup> [South Carolina Center for Fathers and Families \(sefathersandfamilies.com\)](http://SouthCarolinaCenterforFathersandFamilies.com)

low-income workers to get additional education and training to increase their employability and earnings. It is also known to have long-term positive effects on children’s education and potential future earnings.<sup>1114</sup>

- Advertise and advocate the “success sequence”—the idea that a high school education, a full-time job, and marriage should precede parenthood—in schools and social media across America’s cities.<sup>1115</sup>
- Eliminate marriage penalties in federal means-tested programs, like Medicaid, which discourage marriage among lower-income families.<sup>1116</sup>
- Steer more young adults, especially young men, who are not on the college track toward high-quality, vocational and apprenticeship programs that boost their employment, income, and marriageability.<sup>1117</sup>
- Invest in high quality early childhood initiatives. Investing in children at the early stages of life has long-term benefits for families and for society. High quality early childhood programs are critical in assisting children in language development, communication skills and literacy abilities. They also provide working families with peace of mind. Knowing that your child has a safe, clean, and reliable place to go allows parents to work and provide for their families.<sup>1118</sup>
- Display more positive images of Black Dads: The image and reputation of Black fathers also needs to be more accurately portrayed. There is data that demonstrates that Black fathers that live with their children are more likely to be involved with their children than other dads.<sup>1119</sup>
- Connect low-income residents with existing resources. Often residents are not aware of what is near them. Local civic, non-profits are within many of these communities and are waiting and willing to help, but many residents do not know about them. Local social services organizations must do a better job of connecting their services with community residents in need.

### **Neighborhood/Community:**

- Invest in local businesses. Doing businesses in places that have a reputation for violence, high unemployment, blight, and other illegal activities is daunting. Building robust public-

<sup>1114</sup> [Policy Basics: The Earned Income Tax Credit | Center on Budget and Policy Priorities \(cbpp.org\)](https://www.cbpp.org/policy-basics/the-earned-income-tax-credit)

<sup>1115</sup> The Success Sequence: A Proven Path to the American Dream. *Institute for Family Studies*, [Success Sequence | Institute for Family Studies \(ifstudies.org\)](https://www.ifstudies.org/success-sequence)

<sup>1116</sup> Marriage Penalty Hardest on Women with Children, Low Incomes, *Federal Reserve Bank of Atlanta*, January 9, 2023, <https://thecrimereport.org/2017/03/02/many-u-s-crimes-go-unreported-unprosecuted/>

<sup>1117</sup> Rafael A. Mangual, Brad Wilcox, Seth Cannon, and Joseph E. Price, Stronger Families, Safer Streets: Exploring Links between Family Structure and Crime, December 2023. [ifs-strongerfamilies-final-1.pdf \(ifstudies.org\)](https://www.ifstudies.org/ifs-strongerfamilies-final-1.pdf)

<sup>1118</sup> Armstrong S. Universal access to quality childcare is good policy and a positive determinant of health. *Let's invest. Paediatr Child Health*. 2020 May 27;26(2):82-84. doi: 10.1093/pch/pxaa054. PMID: 33747303; PMCID: PMC7962710, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7962710/>.

<sup>1119</sup> Page, Sydney. A dad posted joyful photos of Black fathers to shatter stereotypes. Then it became a movement. *The Washington Post*. June 19, 2020. <https://www.washingtonpost.com/lifestyle/2020/06/19/dad-posted-joyful-photos-black-fathers-shatter-stereotypes-then-it-became-movement/>

private partnerships to help build and sustain needed financial infrastructures is critically important. Working in partnership with local leaders and residents in planning and improving their communities is critical. Residents must have agency in the process of improving their communities, it is the most empowering act that can happen. As Chair of the SC African American Chamber of Commerce, it is important to note that the pandemic eliminated many small businesses, but it did not kill entrepreneurs. We must continue to foster the spirit of ownership within these communities.

- Increase code enforcement activities. Local governments must work with property owners to clean up their properties in a timely manner. When lots are overgrown and buildings are left vacant, they serve as an opportunity for illegal activity to occur. It is important that local authorities utilize code enforcement to assist communities in addressing problem properties. Improved aesthetics in communities can aid citizens in witnessing improvements in a tangible way.<sup>1120</sup>
- Community wide job/apprenticeship programs are necessary in assisting communities in developing the requisite skills to assist with meaningful employment, pursue entrepreneurial activities and gain the knowledge and skills necessary to engage in meaningful community development activities.<sup>1121</sup>
- Engage community stakeholders in neighborhood development activities. This initiative involves community leaders, experts, and neighborhood leaders that are concerned about improving the lives of neighborhood residents. Every sector of the community participates in the improvement process. A neighborhood action plan organizes each sector within the community that will be involved in the neighborhood building process.<sup>1122</sup>
- Strategic and Constitutional Policing is critical in assisting communities in reducing crime within neighborhoods. Effective policing in high crime communities requires strong relationships and trust between law enforcement and residents. When there is a lack of community engagement and collaboration, it can hinder efforts to address crime and improve public safety. When good constitutional policing is not practiced with fidelity the results can be a violation of citizens' rights. Officers that patrol in high crime areas must remain vigilant, yet careful that they do not forget their training, continue to show respect for individuals and follow proper procedures. Research has indicated that violent crime occurs in small geographic situations known as "hot spots." These hot spots when policed

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<sup>1120</sup> Tarik Abdelazim, Libby Benton, Matt Kreis, Danielle Lewinski, Reevaluating Code Enforcement A New Approach to Addressing Problem Properties. *Center for Community Progress*. February 2024. [2024-02-reevaluating-code-enforcement.pdf \(communityprogress.org\)](#)

<sup>1121</sup> Shruti Nayak, Leslee Haisma. Could Apprenticeships Reduce Recidivism among Young People? *Urban Institute*. March 25, 2024. [Could Apprenticeships Reduce Recidivism among Young People? | Urban Institute](#)

<sup>1122</sup> Jensen, Anders. What Is Community Engagement? Insights and Strategies for Effective Participation. [What Is Community Engagement? Insights and Strategies for Effective Participation > WeSolve](#)

effectively can reduce crime instead of just displacing crime.<sup>1123</sup>

### **Schools:**

- Teachers and professionals that serve poor children must not settle for mediocrity. We must support policies that empower parents and schools that innovate and adapt to a continuously changing landscape. Poverty does not mean that poor children cannot learn. Schools must ensure that staff are trained and committed to students. Schools must adapt to the needs of students that are pertinent to contemporary demands. Students in high poverty schools are often taught by less qualified teachers and less likely to attend school on a regular basis. Higher poverty schools must embrace innovation and ensure that quality education is provided. An example of a comprehensive innovative learning environment is the Harlem Children's Zone (HCZ).<sup>1124</sup> The HCZ was started by innovative, and dedicated educator Jeffrey Canada.<sup>1125</sup> He is the president of a highly ambitious innovative initiative to increase high school and college graduation rates among students in Harlem.<sup>1126</sup> The initiative was born out of Rheedlen Centers in the 1970's which served as a truancy prevention program. In 1990 when Canada began, he envisioned an institution in Harlem where kids and family initiatives are implemented to break the stronghold of generational poverty. After seven years at the helm, Canada began the Harlem Children Zone project (HCZ), and it was a very bold and ambitious project. Canada led the organization on a 10-year strategic plan in 2002.<sup>1127</sup> The phase in of the plan begins with just one block to encompassing over 97 blocks. From one block, HCZ committed to steadily and systematically expanding its programs and services from 24 blocks to 60 blocks, and, to 97 blocks.<sup>1128</sup> The crown jewel of the initiative was when Promise Academy opened in 2005. Promise Academy is a free-tuition charter school that gives priority to students that lives within the "zones." Some of the notable achievements of the HCZ is that 20 classes have graduated, 900 plus students are now in college, and 1300 plus students have graduated from college.<sup>1129</sup> I am a strong advocate for parental rights in education, whether it's a public school, charter school, private school, home school, virtual school or some hybrid of a mix of schools. Almost twenty years ago I led an effort in my state to educate parents, particularly low-income parents, about the benefits of having power over how and where their child is educated. The compromise from the state legislature at that time was to introduce a more robust charter school bill. While the kind of choice we envisioned did not

<sup>1123</sup> Evidence Matters: Transforming Knowledge Into Housing and Community Development Policy, *HUD USER: Office of Policy Development and Research*, Summer 2016,

<https://www.huduser.gov/portal/periodicals/em/summer16/highlight2.html>

<sup>1124</sup> [Home | Harlem Children's Zone - Harlem Children's Zone \(hcz.org\)](https://www.huduser.gov/portal/periodicals/em/summer16/highlight2.html)

<sup>1125</sup> <https://hcz.org/about-us/leadership/geoffrey-canada/>

<sup>1126</sup> <https://hcz.org/our-purpose/our-mission-values/>

<sup>1127</sup> <https://hcz.org/our-purpose/our-history-zone-map/>

<sup>1128</sup> Ibid.

<sup>1129</sup> <https://hcz.org/our-programs/promise-academy-charter-schools/>



occur, we did change the debate. It was no longer about “if” but “how.” How do we expand opportunities in education for the least of these?

**Conclusion:**

I have attempted to explain the challenges of those that reside in high crime and impoverished communities, particularly the youth. However, hope and opportunity are possible in creating change. Poverty and crime are heavily correlated; however, it should not be a reason to look beyond poor communities as if they are “expendable.” I have tried to purposely keep a respectful, yet urgent tone, specifically as it is related to the family structure. I understand that family is personal! I truly respect that. I know that family formation and structure is not as simple as the model I presented, yet this model is good for not only low-income families but others as well. But whether your family is consistent with my family make-up or not, it is important that we support policies that make family and marriage stronger in this country. I focused several of my comments on the Black community, particularly Black men. I am a Black man; I have raised two Black sons into adulthood, and I am raising a Black son. While this report helped illuminate some statistics that disproportionately affect Black men and boys, I have seen, felt, or witnessed it first-hand. When president Trump signed the legislation creating the Commission on the Social Status of Black Men and Boys<sup>1130</sup> and the bill passed unanimously, there was a recognition that we have a problem. If we can improve the status of Black men and boys from birth to 25 years in critical areas of their lives, then we can increase their full participation in enjoying the fruits of our country.

What happens at the neighborhood level is so important! It is in the neighborhood that you get your first introduction to the outside world. It is often a reflection of how you see yourself, your home situation, and other institutions within your community. The vibrancy and effectiveness of institutions within neighborhoods help families facilitate and navigate the challenges of life. When residents rise and organize and take as much agency as possible, things begin to move. It may not eliminate all their financial woes, but it does elicit hope and possibilities. The relationship between communities and law enforcement is crucial. Any community building activities must involve police officers. We must involve them in big and small ways. For example, there are neighborhood associations that award residents for making improvements to their yards, or front door decorations. And the winners are awarded either gift cards or small cash prizes. The police officers’ deliveries those awards to each recipient. Small consistent and intentional activities like this help build trust, respect and appreciation for both law enforcement and residents.

America must think differently about how we are educating children in this country, specifically poor children. The following quotes from Geoffrey Canada, founder of Harlem Children's Zone is telling:

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<sup>1130</sup> <https://www.usccr.gov/CSSBMB>

“How is it we could have a system where schools could remain lousy for 50 years and yet you do exactly the same thing this year that they did 50 years ago when it didn't work then, and no one feels any pressure to change?”<sup>1131</sup>

“People don't believe or understand that a community can lose hope. You can have a whole community where hopelessness is the norm, where folks don't have faith that things will get better because history and circumstances have proven over 30, 40, or 50 years that things don't get better.”<sup>1132</sup>

**Acknowledgements:**

I want to thank the leadership of the Commission, my fellow Commissioners and our special assistants, the Staff Director, and the entire staff at the Commission. I know that none of this would be possible without your contributions. I want to personally thank my fellow colleague, Commissioner Adams for presenting this topic because I know that we all care about what is happening to our fellow Americans in communities across the country.

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<sup>1131</sup> Geoffrey Canada, “Our Failing Schools. Enough is Enough!, *TED*, May 2013, [https://www.ted.com/talks/geoffrey\\_canada\\_our\\_failing\\_schools\\_enough\\_is\\_enough/transcript?subtitle=en&trigger=0s](https://www.ted.com/talks/geoffrey_canada_our_failing_schools_enough_is_enough/transcript?subtitle=en&trigger=0s)

<sup>1132</sup> [Allison J. Althoff, \*The Superman of Harlem: An Interview with Geoffrey Canada, Christianity Today, August 29, 2012, https://www.christianitytoday.com/2012/08/superman-of-harlem-interview-with-geoffrey-canada/\*](https://www.christianitytoday.com/2012/08/superman-of-harlem-interview-with-geoffrey-canada/)

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## Statement and Rebuttal of Commissioner Gail Heriot

*(containing her initial statement, rebuttal, and surrebuttal)*

The most astonishing thing about this project was how difficult it was to get the Democratic appointees to the Commission to agree to undertake it. They really, *really*, *really* didn't want to have a report on crime victimization or, for that matter, on any aspect of crime. And the opposition came not just from the four current Democratic appointees to the Commission (all of whom have been with the Commission less than two years), but also from the four previous Democratic appointees (whose terms ended in late 2022).<sup>1133</sup>

I will leave it to Commissioner Adams to detail the years-long difficulties we had in ultimately getting this project underway. I don't see a need to repeat his discussion here.<sup>1134</sup>

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<sup>1133</sup> In reading Commissioner Nourse's initial Statement, I was surprised by her assertions that she initially opposed this project because she "feared that it would yield more passion than reason" and that "[h]istorically, conservatives and liberals have agreed upon almost nothing when it comes to crime control policies." At least until recently, I would have thought just the opposite—that it was an area where agreement is common. To be sure, there have been periods of disagreement; indeed, much to my dismay, we seem to be in one now. But from the 1990s to sometime in the not-too distant past, there was a lot of agreement that ... well ... crime is bad, and we'd be better off with a lot less of it.

Commissioner Nourse herself has very frequently remarked that she was on then-Senator Biden's staff at the time he spearheaded the Violent Crime Control and Law Enforcement Act of 1991 in the Senate—a statute that, at the time, was generally considered tough on crime, but consistent with the constitutional guarantee of due process. It was certainly a bipartisan effort. Only more recently have second (and now third) thoughts set in. The second thoughts led to the First Step Act of 2017, which was aimed in part at reducing incarceration rates. It was also bipartisan (although insofar as there was opposition, it was largely Republican). It was signed into law by then-President Trump.

Also surprising to me was the sentence in her initial Statement, "It is wrong to imagine, as some do, that some groups are criminals and others are not. Crimes are committed by individuals, not groups." My initial reaction was: Really? Who imagines that? I don't know of anyone who does. But in her Rebuttal, she got much more aggressive on this point—displaying her own surplus of passion over reason. She made it clear that she includes Commissioner Adams in that group. That was quite an astonishing accusation (about which I have more to say further into this Statement).

<sup>1134</sup> In her Rebuttal, Commissioner Nourse appears to be upset that Commissioner Adams has "denigrat[e]d" the staff in his Statement. "Denigrate" is the wrong word for what Commissioner Adams wrote. He simply outlines in a factual manner the difficulties we had in getting this project underway. I note that Commissioner Nourse had not actually disputed any of Commissioner Adams's factual allegations.

More generally, I should note that when Commissioner Nourse says that our professional staff members (or any professional staff members in the federal bureaucracy) are "nonpartisan" she doesn't mean that they do not have a party preference or that they do not lean heavily to the left or to the right in their political ideology. She only means that the federal official who made the hire was not supposed to consider any such party preference or political ideology in determining whom to hire. For what it's worth, my long experience with career federal lawyers in civil

Instead, I will concentrate on what those Commissioners who supported this project were hoping to accomplish with it. It does not come through as clearly as I had hoped in the staff-written part of the report.<sup>1135</sup>

### *A Simple Point*

In 2022, the country was starting to see the fruits of the disastrous “Defund the Police” Era.<sup>1136</sup> Yet, many policymakers were still claiming that minority neighborhoods were “over

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rights offices is that (with a few exceptions) they tend to be strong progressives. I don’t think many of them would regard that label as denigrating. They would view it with pride.

<sup>1135</sup> In part, that is because too many other issues were added. Commissioner Adams’ Statement also ably discusses the ways, even after the Democratic appointees agreed to the project, they and the Commission’s staff were able to direct the project away from its original plan and toward issues they found more palatable—like gun control. But there are also other reasons that the point we were trying to make didn’t come through as clearly as it should have. See *infra* at note 1173.

<sup>1136</sup> Recently, some have argued that dramatic reductions in police budgets were never advocated and never happened—that it is all a myth. Busting the Defund the Police Myth, American Progress Action (July 6, 2022)(arguing that “Democrats are the ones who have placed an emphasis on funding law enforcement”), <https://www.americanprogressaction.org/article/defund-police-myth/>. Indeed, in her Rebuttal, Commissioner Nourse makes that the claim that police budgets have not decreased (and cites an article on the ABC News as her proof).

This is gaslighting. The facts are clear: For example, in Seattle, about \$45 million was whacked out of the police department budget for 2021. In 2022, another \$7 million was taken away. See Seattle Open Budget, <https://openbudget.seattle.gov/#!/year/2023/operating/0/service/Public+Safety/0/departmen>. The number of sworn police officers was 1,420 in 2018 and decreased steadily after that and was down to 1,077 in 2022. See FBI Crime Data Explorer, Law Enforcement Employees Breakout, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/le/pe>.

Minneapolis is similar. Its 2021 police budget was slashed by almost \$28 million. Compare City of Minneapolis, 2020 Budget, <https://www.minneapolismn.gov/media/-www-content-assets/documents/2020-adopted-budget.pdf> with City of Minneapolis, 2021 Adopted Budget, <https://lms.minneapolismn.gov/Download/FileV2/23271/2021-Adopted-Budget.pdf>. In 2019, it had 861 sworn officers. By 2020, this had declined to 833, and by 2021 it fell off a cliff with only 648. Rather than improving in 2022, it got worse with only 592. See FBI Crime Data Explorer, Law Enforcement Employees Breakout, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/le/pe>.

Chicago had almost \$80 million cut from its police budget from 2020 to 2021. Compare City of Chicago Annual Appropriation Ordinance for the Year 2020, [https://chicityclerk.s3.us-west-2.amazonaws.com/s3fs-public/document\\_uploads/budget/2020/2020\\_Annual\\_Appropriation\\_Ordinance\\_1.pdf](https://chicityclerk.s3.us-west-2.amazonaws.com/s3fs-public/document_uploads/budget/2020/2020_Annual_Appropriation_Ordinance_1.pdf) with City of Chicago Annual Appropriation Ordinance for the Year 2021, [https://chicityclerk.s3.us-west-2.amazonaws.com/s3fs-public/document\\_uploads/budget/2021/2021\\_Annual%20Appropriation\\_1.pdf](https://chicityclerk.s3.us-west-2.amazonaws.com/s3fs-public/document_uploads/budget/2021/2021_Annual%20Appropriation_1.pdf).

See Chelsia Rose Marcus, *N.Y.P.D. Officers Leave in Doves for Better Pay in Smaller Towns*, N.Y. Times, December 9, 2022 (“Police departments across the country are grappling with increasing resignations and retirements. And while hiring levels rose last year after a sharp decrease in 2020, they have not made up for the losses, according to a March report from the Police Executive Research Forum, a law enforcement policy group.”).

In her main Statement, Commissioner Nourse attributes the spike in crime to Covid. Given that convicted felons were released from prison and jails in order to protect them from Covid, there is something to her point. See Patrice Gaines, *Thousands Were Released from Prison Because of Covid. Will They Have to Return?*, NBC News, September 12, 2021, <https://www.nbcnews.com/news/nbcblk/thousands-released-prison-covid-will-return->

policed” and that having fewer police officers there would somehow benefit the residents of those communities.<sup>1137</sup> Many were enthralled by the idea that putting violent criminals in prison was an anti-African-American policy.<sup>1138</sup>

We wanted to help focus the public’s attention on a simple point that had been neglected by many of the voices calling for what they viewed as reform: *African Americans are disproportionately victimized by crime. If black lives do indeed matter (and of course they do), crime needs to be kept at bay. That requires vigorous and effective law enforcement consistent with the letter and spirit of the Constitution.*<sup>1139</sup>

We are unlikely to get that by slashing police budgets or by cutting police presence in high-crime areas.

These points should be obvious. But evidently, they are not—even within the Commission. Commissioner Nourse’s Rebuttal Statement refers to Commissioner Adams’ Statement as “the Adams MAGA statement.” She states that “MAGA Republicans are following a very old playbook in American politics: use crime rates to race-bait.” I have no idea where she got such a notion. There is no race-baiting in Commissioner Adam’s statement; it’s hard not to wonder whether she bothered to read it.

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[rcna1977](#); Timothy Williams, Benjamin Weiser & William K. Rash, ‘Jail Are Petri Dishes’: Inmates Freed as the Virus Spreads Behind Bars, N.Y. Times, March 30, 2020, <https://www.nytimes.com/2020/03/30/us/coronavirus-prisons-jails.html#:~:text=93-,%20Jails%20Are%20Petri%20Dishes%3A%20Inmates%20Freed%20as%20the%20Virus,to%20save%20lives%20and%20resources>. On the other hand, the lockdown kept people in their homes, which logically would have cut down on many types of crimes. Especially given that serious crime had started to rise in 2015 (the first full year after death of Michael Brown in Ferguson, Missouri), it seems odd to attribute everything to Covid. See, e.g., Tanaya Devi & Roland Fryer, *Policing the Police: The Impact of “Pattern-or-Practice” Investigations on Crime*, NBER Working Paper Series 27324, June 2020 (study finding abrupt changes in the quantity of police activity was the best explanation for crime spikes occurring in various American cities).

<sup>1137</sup> See, e.g., Crime Victims Briefing Transcript, Testimony of Heather Warnken at 105 (High-crime neighborhoods suffer from “an over reliance on policing ...”). See also M. Keith Chen, Katherine L. Christensen, Elicia John, Emily Owens, Yilin Zhuo, Smart Phone Data Reveal Neighborhood-Level Disparities in Police Presence, <https://doi.org/10.48550/arXiv.2109.12491> (attributing higher arrest rates to higher police presence rather than the other way around).

<sup>1138</sup> See Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* 4 (2010) (“mass incarceration in the United States ha[s], 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”).

<sup>1139</sup> Many of those calling for reform, like Michelle Alexander, seem to be ignoring the fact that effective law enforcement requires police officers. I do not wish to suggest that police are never abusive. Wherever one finds power, there will be abuses. Like all governmental agencies, appropriate oversight is crucial. (Indeed, what James Madison said about government in general can easily be adapted to refer to police in particular: “If men were angels, no police officers would be necessary. If police officers were angels, neither external nor internal controls on them would be necessary.”) But acknowledging that police departments need effective oversight and vilifying police officers as racist martinets are very different things. In the last few years, too often criticism of law enforcement has been over the top. The truth is that the overwhelming majority of police officers deserve to be honored for all they do to keep us safe.

Commissioner Nourse states, “The vast, vast, majority of Black people are hard-working and law-abiding ...” Well, yes, that’s essentially our point in asking policymakers to spare a thought for the victims of crimes. She continues, “... but that is not what race baiters want people to think.” In context, it is quite clear that she is referring to Commissioner Adams.<sup>1140</sup> I can’t imagine why she would make such a bizarre and defamatory statement.<sup>1141</sup> Her references to “white supremacist groups,” “George Wallace,” and “Willie Horton ads” were completely out of line. I am dumbfounded.<sup>1142</sup>

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<sup>1140</sup> She does not attack any of the other supporters of this report topic. Commissioners Stephen Gilchrist and Peter N. Kirsanow are both African Americans, so insinuating that they are “race baiters” would flunk the laugh test. (She doesn’t attack me either, but the reason is less clear. Maybe it’s simply because I’m not a Trump appointee.) I note, however, that this is part of a pattern. In a recent article, she accused the U.S. Supreme Court of conducting a continuing “war on women.” She specifically cites *Counterman v. Colorado*, 600 U.S. 66 (2023) as an example of “the Court’s war on women.” Just as she failed to mention Commissioners Gilchrist and Kirsanow in connection with her accusations of race baiting, she failed in that article to mention that *Counterman* was a decision authored by Justice Elena Kagan and joined by Justice Ketanji Brown Jackson. Justice Sonia Sotomayor concurred in part and concurred in the judgment. See Victoria F. Nourse, *The Supreme Court’s Blindness to Gender Violence*, Ms. Magazine, September 25, 2023. If this is war on women, it’s being waged by an unusual cast of characters. From what I can tell, the *Counterman* case was decided according to the rule of law with each of the justices applying that law to the best of his or her ability. The only “war on women” is in Commissioner Nourse’s imagination. Similarly, the notion that Commissioner Adams (with the support of Commissioners Gilchrist and Kirsanow) is race baiting is all in her imagination. See James C. Ho, *Exemplary Legal Writing 2023: Judicial Opinions: Four Recommendations*, Green Bag Almanac & Reader 150 (2024) (in which a U.S. Court of Appeals judge criticizes Nourse for her over-the-top “war on women” rhetoric in describing the *Counterman* decision and for her failure to point out that the author of the opinion was, in fact, a woman).

<sup>1141</sup> Weirdly, in attempting to accuse Commissioner Adams of seeking to replace Commission staff members with “political hacks”, she rhetorically asks, “Remember the meteorologist who was appointed as White House science advisor during President Trump’s tenure?” Yes, I remember him: He was Dr. Kelvin Droegemeier, Vice President for Research at the University of Oklahoma and Regents’ Professor of Meteorology. He has had a distinguished career as a meteorologist who studies extreme weather, quantitative methods in predicting weather catastrophes, and data assimilation. He served two six-year terms on the National Science Board, which is the governing body of the National Science Foundation—once appointed by President George W. Bush and once by President Barack Obama. He is the author or co-author of more than 80 refereed articles and 200 conference publications. What’s Commissioner Nourse’s point?

I am told that after the announcement of Dr. Droegemeier’s appointment, a few ignorant souls on social media objected on the ground that they thought a meteorologist was unqualified. It turned out that they thought “meteorologist” was just another term for tv weatherman. But other than that, I don’t know what Commissioner Nourse’s problem with him could be. I note that his nomination was unanimously approved by the Senate Committee on Commerce, Science, and Transportation and that he was confirmed by the Senate on a voice vote (a procedure used for uncontroversial appointments). I am unaware of any controversy surrounding that nomination.

Dr. Droegemeier is currently Professor of Atmospheric Science and Special Advisor to the Chancellor for Science and Policy at the University of Illinois.

<sup>1142</sup> In between her insults hurled at Commissioner Adams, in her Rebuttal, Commissioner Nourse, concedes that African Americans are disproportionately victimized by crime. She states that “violence in these settings has been known for decades” as if therefore it isn’t important. Also see *infra* at note 41 (in which I discuss Commissioner Nourse’s rather odd assertion in her main Statement that “we found no significant disparities in the overall violent victimization of White, Black, and Latino individuals”).

One of the oddest points made by Commissioner Nourse in her Rebuttal is, “The great irony of the Adams MAGA Statement is that crime was up during the Trump Administration!” (Yes, the exclamation point is hers; she evidently thinks this is a triumphant observation.)<sup>1143</sup> Well, actually, it started during the Obama Administration.<sup>1144</sup> But who cares? As far as I can tell, she’s the one who thinks that crime victimization is something that matters only insofar as it affects presidential elections. It’s eye-opening to see such a textbook case of projection. It explains a lot about why we had such a hard time getting the progressives to agree to this report. But it is not now nor has it ever been our position that crime rates are solely the fault of Joe Biden (who Commissioner Nourse reminds us often is her former employer) or any other president. Most criminal justice policy is in the hands of the states and local governments. Our point remains: Criminal justice policies are literally of life-or-death significance for the victims of crimes and those victims are disproportionately African Americans. Policymakers—whether at the federal, state, or local level—need to act like they know that instead of assuming (as Commissioner Nourse does) that people who care about crime must be racists.

But let me get back to our main point: The fact that African Americans are disproportionately victimized by violent crime is easy to demonstrate. In 2019, out of a total of 6452 murder victims reported to the FBI for statistical purposes, a whopping 2906 (45%) were African Americans.<sup>1145</sup> That is massively out of proportion to the number of African Americans in the population at large (12.2%). Contrary to the public’s understanding, very few of these murders were by police officers.<sup>1146</sup> Almost all were intra-race. Of those murders where the

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<sup>1143</sup> She also uses an exclamation point to write, “Whites are the biggest offenders for all crimes!” I’m not sure why she thinks this should surprise anyone. Whites vastly outnumber any other racial group in this country. It would be a surprise if they weren’t the “biggest offenders” in total crimes.

<sup>1144</sup> See *supra* at note 1136.

<sup>1145</sup> Crime in the United States: 2019, Expanded Homicide Data Table 6, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/expanded-homicide-data-table-6.xls>.

<sup>1146</sup> According to Statista, in 2019, 251 African Americans were killed by law enforcement. For 2020, 2021, 2022, and 2023, the figures are 243, 233, 225, and 229 respectively. See Number of People Shot to Death By the Police in the United States from 2017 to 2024 By Race, Statista, <https://www.statista.com/statistics/585152/people-shot-to-death-by-us-police-by-race/>. But overwhelmingly these were neither murders nor voluntary manslaughters and hence were not criminal homicides. Rather they were justifiable self-defense or defense of others. See David J. Johnson, Trevor Tress, Nicole Burkel, Carley Taylor & Joseph Cesario, *Officer Characteristics and Racial Disparities in Fatal Officer-Involved Shootings*, 116 PNAS 15857 Appendix at 3 (August 6, 2019)(corrected version)(“[T]he vast majority of civilians fatally shot were actively attacking law enforcement (94%) or were armed with a weapon (90%) when they were fatally shot”). According to the Washington Post, the number of shootings of unarmed African Americans who are killed by law enforcement in any given year tends to be around 17. See Police Shootings Database 2015-2024, Wash. Post (Updated June 28, 2024), <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/> (accessed July 3, 2024). In many of those cases, the deceased, while unarmed, was nevertheless attacking the officer (and sometimes trying to take the officer’s gun away). The death of Michael Brown in Ferguson, Missouri, for example, appears to have been such a case. See Erik Eckhom & Matt Apuzzo, *Darren Wilson Is Cleared of Rights Violations in Ferguson Shooting*, N.Y. Times, March 4, 2015, <https://www.nytimes.com/2015/03/05/us/darren-wilson-is-cleared-of-rights-violations-in-ferguson-shooting.html>. In others, the officer may have misjudged the situation and incorrectly believed the deceased to be armed and dangerous. See Vanessa Romo, *Justice Department Declines to Prosecute Cleveland*



victim was African American and the offender's race was known, 90.5% of the offenders were African American (while 8.6% of the offenders were white).<sup>1147</sup> Anyone who thinks black lives matter needs to grapple with that reality. African Americans are enormously more likely to be killed by a fellow African American than by a police officer, regardless of the police officer's race.<sup>1148</sup> Police presence is much more likely to be beneficial than harmful.

The over-representation of African Americans among murder victims in 2019 was not an anomaly. According to the U.S. Department of Justice, between 1976 and 1999, 46% of murder victims whose race was known were African American. During that period, the percentage of African Americans in the population at large hovered around 11% or 12%. That's an eye-popping disproportionality. Again, overwhelmingly, these murders were intra-race. Of the murders for which the victim was African American and the offender's race was known, 94% of the offenders were African American (while 6% of the offenders were white). By contrast, for white victims, 86% of the offenders were white, 13% were African American, 1% were American Indian, and 1% were Asian American.<sup>1149</sup>

Homicides are the most accurate of crime statistics.<sup>1150</sup> Almost all of them are reported to the police, and they are almost always taken very seriously by police investigators. They are the gold standard. With most other crimes, cross-racial comparisons (or any kind of comparisons) can be difficult, because there can be significant cultural differences in the

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*Officers in Death of Tamir Rice*, NPR, December 29, 2020, <https://www.npr.org/2020/12/29/951277146/justice-department-declines-to-prosecute-cleveland-officers-who-killed-tamir-ric>.

<sup>1147</sup> For white homicide victims (including white Hispanics) where the offender's race was known, 80.6% of the offenders were also white, while 17.6% of the offenders were African American. Given that there are many more whites in the United States than African Americans, one might expect the figures to run the other way with even more white victims being killed by whites. But they do not. Crime in the United States: 2019, Expanded Homicide Data Table 6, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/expanded-homicide-data-table-6.xls>

<sup>1148</sup> Heather Mac Donald has written about the need to relinquish the idea that police efforts to enforce the criminal law against African American offenders is racist. It is rather an effort to protect African American victims. Heather Mac Donald, Tell the Truth About Law Enforcement and Crime, City Journal (November 13, 2023), <https://www.city-journal.org/article/tell-the-truth-about-law-enforcement-and-crime>.

<sup>1149</sup> Bureau of Justice Statistics, American Indians and Crime: A BJS Statistical Profile 1992-2002 at 14. For murders of American Indians, a very small group, 58% of offenders were American Indian, 32% were white, 10% were black, and 1% were Asian. For murders of Asians, 60% of the offenders were Asian, 22% were white, 18% were blacks, and 0% were American Indian. Again, one would expect the largest group (white) to have the highest rate of intra-race murders, but again it is blacks that had the highest rate.

<sup>1150</sup> See Crime Victims Briefing Transcript, Testimony of Thomas Hogan at 23-24 ("So I look at homicides because its' the one statistic ... that really is reliable all across the justice system. Every agency captures it, and we know it is reliable"); Crime Victims Briefing Transcript, Testimony of Dr. John Paul Wright at 224-25 (During the briefing Dr. John Paul Wright was asked which statistics on crime are the most reliable. He replied, "We're pretty good at counting bodies. After that auto theft. ... Auto theft numbers are fairly accurate, yes. Someone steals your car, you have to turn it in for insurance").

likelihood that a crime will be reported either to the police or to the interviewer working for the National Crime Victimization Survey.

An exception to the rule that lesser crimes often go unreported is motor vehicle theft—in part because motor vehicles tend to be insured and insurance proceeds cannot be accessed unless the crime has been reported. Statistics on motor vehicle theft are thus likely to be more accurate than those on other non-homicide crimes.<sup>1151</sup> African Americans were the victim of 25% of motor vehicle thefts in 2008, despite being only 13% of the population at the time of the 2010 census and despite the fact that they are less likely to own a car.<sup>1152</sup> According to recent

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<sup>1151</sup> See *id.* Rafael Mangual had the following to say at the briefing about crime statistics on auto theft and homicide (and more generally about interpreting recent data):

... I think Dr. Wright is exactly right, that homicide and auto theft are probably our two most reliable measures because those are the things that are hardest to fudge and where people have the greatest incentive to actually report the offenses.

But I do think it's important for us to consider, particularly with respect to the last few years, that we have to really do more work to understand other kinds of crime statistics. I will take ... robbery and assault for example. Now those numbers have gone up in a lot of places, although not everywhere, but they certainly haven't gone up nearly as much as homicides and shootings have gone up.

Now one of the things that we have to understand is that since the pandemic in 2020, there has been a real change in what criminologists call routine activities. People are spending significantly less time on the street. They are spending less time in commercial settings.

... [T]here was a study done by the University of Toronto looking at cell phone data that found that foot traffic in New York City was down 33% in the business districts.

JPMorgan put out a report in 2022 showing that the majority of the consumer spending recovery in 2021 was driven by online spending as opposed to in-person spending. The MTA puts out regular surveys of ridership, still showing that three years after the pandemic subway ridership is only 70 percent of what it was prior to the pandemic. All of this means ... that people are spending significantly less time in the places where they might be victimized.

So when we look at the raw numbers of these offenses, we have to use our ability to analyze and understand that the risk has actually gone up significantly more once you control for the amount of time that people are actually spending in public spaces.

See Crime Victims Briefing Transcript, Testimony of Rafael Mangual at 225-27. See also *supra* at note 1150.

<sup>1152</sup> Bureau of Justice Statistics, *Criminal Victimization in the United States, 2008*, Table 86 (May 2011), <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv0886.pdf>. Since African Americans are less likely than whites to own a car—19% of African Americans report living in a household with no access to a motor vehicle as opposed to 4.6% of whites—the figures are all the more striking. See *Car Ownership Statistics, The Zebra* (January 31, 2023), <https://www.thezebra.com/resources/research/car-ownership-statistics/>.

Data from the City of Pittsburgh and from the Commonwealth of Virginia corroborate this. Between 2009 and 2015, 41% of motor vehicle theft victims in Pittsburgh were African American, while, according to the 2010 census, only 25.79% of the Pittsburgh population is African American. Pittsburgh Police, *Motor Vehicle Theft in the City of Pittsburgh 15*, October 2015, <https://www.allegHENYcountyAnalytics.us/wp-content/uploads/2016/06/Motor->

insurance industry statistics, they are 93% more likely than the mean to be the victim of a carjacking—a particularly aggravated form of motor vehicle theft.<sup>1153</sup>

For other crimes, statistics tend to be less accurate.<sup>1154</sup> For example, rape, despite being among the most serious of crimes, is notorious for its low reporting rate.<sup>1155</sup> It would be naïve to assume that there are no cultural differences among racial groups in the likelihood that a rape will be reported. Reporting rates for minor violent crimes—like simple assault—are also very low. Some communities are more likely to report than others. Indeed, the reporting rates for simple assault are so low that when the Bureau of Justice Statistics computes comparisons of violent crime victimizations by race, it does so two ways (with and without simple assault). It does this at least in part because its statisticians know how unreliable simple assault numbers are.<sup>1156</sup>

But for non-homicide, serious crimes, the statistics nevertheless show that African Americans are more likely to be victimized. An analysis of the National Crime Victimization Survey 2008-2021 found that African Americans were victimized at statistically significantly rates higher than whites (8.0 per 1000 versus 6.4 per 1000).<sup>1157</sup>

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[Vehicle-Theft-in-the-City-of-Pittsburgh.pdf](#). In Virginia, African Americans were the victims in 47% of motor vehicle thefts in 2022, while only being 18.6% of the population according to the 2020 census. Department of State Police, Crime in Virginia 2022 45, <https://vsp.virginia.gov/wp-content/uploads/2023/06/Crime-In-Virginia-2022.pdf>.

<sup>1153</sup> Hispanics were 64% more likely, and whites were 48% less likely. Aliza Vigderman, Black People Are 93% More Likely to Be Carjacking Victims (Dec. 1, 2022), <https://www.autoinsurance.com/articles/staying-safe-carjackings-increasing/> <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv0886.pdf>.

<sup>1154</sup> See Crime Victims Briefing Transcript, Testimony of Dr. John Paul Wright at 225 (“[W]here we see typically the most serious types of crimes, you have higher reporting”). See also; Seokhee Yoon, *Why Do Victims Not Report?: The Influence of Police and Criminal Justice Cynicism on the Dark Figure of Crime*, CUNY Academic Works 8 (2015) (“Related to crime severity, not all crime types have the same probability of being reported. An assault can vary in the degree of severity and that will influence the likelihood of the incident being reported (i.e., an aggravated assault is more likely to be reported than a simple assault) but in the bigger picture, robberies are more likely to be reported than assaults.”), [https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=2209&context=gc\\_etds](https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=2209&context=gc_etds).

<sup>1155</sup> See Callie Marie Rennison, Bureau of Justice Statistics: Selected Findings: Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000 at 2 (August 2002)(finding that only about 36% of rapes, 34% of attempted rapes, and 26% of sexual assaults are reported to the police), <https://bjs.ojp.gov/content/pub/pdf/rsarp00.pdf>. A different report put the reporting rate to police for “rape/sexual assault” at 48%. Timothy C. Hart & Callie Rennison, Bureau of Justice Statistics: Special Report: Reporting Crime to the Police, 1992-2000 at 2 (March 2003). Especially given that the same author was involved in both publications, the reason for the difference is unclear.

<sup>1156</sup> The statistics that exclude simple assault are more revealing for an additional reason: The remaining crimes are much more serious. Diluting them with simple assault may detract from an understanding of who is most likely to be victimized.

<sup>1157</sup> Alexandra Thompson and Susannah N. Tapp, Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008-2021. The rates being compared are for a combination of rape/sexual assault, robbery, and aggravated assault. For some reason the staff-written part of the report cites this study for the proposition that “there are no racial

When you hear people argue that low-income, African-American communities are “over-policed,” it is important to keep all this in mind and to note that it is usually people who live in much safer neighborhoods who are making the argument.<sup>1158</sup> Police officers have a duty to go where the crime is. We expect them to be in neighborhoods where crime rates are higher than average. If they aren’t there to protect residents from crime, they aren’t doing their job. If they aren’t being given the resources they need to be effective there, then federal, state, and local government officials aren’t doing *their* jobs. And it is African Americans who disproportionately suffer for it.

### *Rhyming*

Mark Twain is credited with having said, “History doesn’t repeat itself, but it often rhymes.” If so, it’s rhyming now.

In the Jim Crow South, one of the most severe problems faced by African-American communities was that many law enforcement officers weren’t interested in protecting them.<sup>1159</sup>

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disparities in the overall rate of violent crime victimization” As far as I can see, the Thompson-Tapp piece that is cited for that proposition directly contradicts it.

It's true that when one adds in simple assault, the differences are no longer statistically significant. But, as I state in the text, simple assault figures are notoriously unreliable due to cultural differences in the likelihood that a simple assault will be reported either to the police or in the National Crime Victimization Study. And even if the figures on simple assault were reliable, they are less important. See also *infra* at note 1173.

The Bureau of Justice Statistics reports that in 2021, for violent crime in general (not including homicide), blacks are 15% more likely to be victimized than whites (and 87% more likely to be victimized than Asians/Native Hawaiians/Other Pacific Islanders). But when simple assault is excluded from the calculation and only more serious non-homicide crimes are included, blacks were 43% more likely to be victimized than whites (and 166% more likely to be victimized than Asians/Native Hawaiians/Other Pacific Islanders). Figures for 2020 were similar. Alas, unlike the numbers in the text above, these numbers are in doubt, since they were not statistically significant. The article they are taken from does not disclose whether they would be statistically significant if the 2021 and 2020 figures were combined. Alexandra Thompson & Susannah N. Tapp, Bureau of Justice Statistics, *Criminal Victimization, 2021* at 4 (September 2022). These figures were based on the National Crime Victimization Survey. Since the National Crime Victimization gets its information by directly interviewing a sample of Americans and asking them about their own experience as victims, homicides are never included. “Whites” refers to non-Hispanic whites rather than whites generally. Calculations of percentages are my own.

<sup>1158</sup> In a sense, one could say that, by definition, lower-income African-American communities tend to be “under-policed,” given that crime rates there remain, on average, higher than those elsewhere.

<sup>1159</sup> The second half of my statement is largely taken from what I wrote in 2018 in the Commission’s report entitled, *Police Use of Force: An Examination of Modern Policing Practices*. In that piece, I worried that policymakers were moving in the wrong direction on crime issues. I still worry. See Statement of Commissioner Gail Heriot in U.S. Commission on Civil Rights, *Police Use of Force: An Examination of Modern Policing Practices* (2018), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3285429](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3285429). It seems to me that the material fits here just as much as it did there.

They viewed their hands-off attitude as beneficial to African Americans. Swedish sociologist and Nobel Laureate Gunnar Myrdal exposed this neglect in his influential 1944 book, *An American Dilemma: The Negro Problem and Modern Democracy*:<sup>1160</sup>

It is part of the Southern tradition to assume that Negroes are disorderly and lack elementary morals, and to show great indulgence toward Negro violence and disorderliness “when they are among themselves.” ... As long as only Negroes are concerned, and no whites are disturbed, great leniency will be shown in most cases. This is particularly true in minor cases which are often treated in a humorous or disdainful manner. The sentences for even major crimes are ordinarily reduced when the victim is another Negro. Attorneys are heard to plead [to] juries: “Their code of ethics is a different one from ours.” ...

The leniency in punishment of Negro crime against Negroes has repeatedly been pointed out ... by white Southerners as evidence of the friendliness of Southern courts toward Negroes.<sup>1161</sup> ... Yet the Southern Negro community is not at all happy about this double standard of justice in favor of Negro offenders. ... Such persons are a danger to the Negro community. Leniency toward Negro defendants in cases involving crimes against other Negroes is thus actually a form of discrimination.

It’s difficult to see how Jim Crow Era whites could have thought this kind of neglect was “friendly” toward African Americans. For law enforcement authorities to leave one part of the population without the full protection of the law was not the least bit “friendly.” Yet that’s how it

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<sup>1160</sup> Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* 551 (1944).

<sup>1161</sup> Myrdal wrote that he could personally attest to a few cases of a white upper-class person obtaining a lenient sentence for an African American accused of a crime against another African American. Myrdal at ch. 26, note 15. He also quotes as an example of misguided Southern attitudes Progressive reformer Edgar G. Murphy, who wrote in 1904: “‘Petty crimes are often forgiven him, and in countless instances the small offences for which white men are quickly apprehended are, in the negro, habitually ignored. The world hears broadly and repeatedly of the cases of injustice, it hears little of those more frequent instances in which the weaknesses of a child-race are accorded only an amused indifference or a patient tolerance by their stronger neighbors.’” Edgar G. Murphy, *Problems of the Present South* 176 (1904), quoted at Myrdal, ch. 26, note 16.

Myrdal also quotes a letter he received from a white lawyer in the Upper South: “... I have noted that cases between Negro and Negro are handled somewhat differently than cases between white and white. I mean a spirit of levity, an expectation of something ‘comical’ appears to exist. The seriousness in the white vs. Negro case is decidedly lacking. As you know, it is a rare case indeed in which a Negro who has murdered a Negro receives the extreme penalty, either death or life imprisonment here, regardless of the facts. Only the other day in a local case a Negro who murdered another with robbery as motive, a charge that would have been as between white and white, or Negro and white victim, good for the electric chair, was disposed of by a jury with a 15-year sentence. The punishment as between Negro and Negro, as distinguished from white vs. white, or Negro vs. white victim, is decidedly different and clearly shows the racial approach to the question. In short, the court-room feeling is that the Negro is entirely inferior, with punishment for crimes by him against his own kind punished with less punishment than when the white man is involved.” Letter of June 19, 1940, in Myrdal at ch. 26, note 14.

was viewed, just as that's how those who argue that African-American neighborhoods are "over policed" view their argument.

The problem discussed by Myrdal didn't entirely disappear once the Voting Rights Act of 1965 ensured that more African Americans could vote. In part that is because the expansion of voting rights coincided with a period of time, like the present, in which elite opinion was turning against incarceration and indeed against the concept of punishment generally.

A good example is Karl Menninger's 1966 *The Crime of Punishment*, which argued that *all* punishment is cruel and useless and that criminal behavior should instead be treated as mental illness. As Menninger saw it, those who asked us to spare a thought for the victims were being "melodramatic" and "childish" and appealing only to the "unthinking."<sup>1162</sup>

Were African Americans of the late 1960s and 1970s as keen as elites like Menninger on reducing the level of incarceration for criminal wrongdoing? In *Black Silent Majority: The Rockefeller Drug Laws and the Politics of Punishment*, Professor Michael Javen Fortner demonstrated that most were not. In the Preface to the book, Fortner made it clear that his interest in the subject stems in part from his own experience growing up in the Brownsville neighborhood of Brooklyn. In response to suggestions that the dominant response to crime of African Americans of that era was "a sense of sympathy for and empathy with the

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<sup>1162</sup> Karl Menninger, *The Crime of Punishment* 9 (1966). To read Menninger today is itself punishment. Here's a sampling:

*I suspect that all the crimes committed by all the jailed criminals do not equal in total social damage that of the crimes committed against them. Id. at 28 (italics in original).*

And there is one crime we all keep committing, over and over. ... We commit the crime of damning some of our fellow citizens with the label "criminal." And having done this, we force them through an experience that is soul-searing and dehumanizing. *Id. at 9.*

The inescapable conclusion is that society secretly *wants* crime, *needs* crime, and gains definite satisfactions from the present mishandling of it! We condemn crime; we punish offenders for it; but we need it. The crime and punishment ritual is a part of our lives. We need crimes to wonder at, to enjoy vicariously, to discuss and speculate about, and to publicly deplore. We need criminals to identify ourselves with, to secretly envy, and to stoutly punish. Criminals represent our alter egos—our "bad" selves—rejected and projected. They do for us the forbidden, illegal things we wish to do and, like scapegoats of old, they bear the burdens of our displaced guilt and punishment—"the iniquities of us all." *Id. at 153 (italics in original).*

As Menninger's and similar views become common among policymakers, incarceration rates dipped, while crimes rates soared, especially in African-American neighborhoods in large cities.

Meanwhile, he was given many honors, including the Presidential Medal of Freedom by President Jimmy Carter. *Karl Menninger, 96, Dies; Leader in U.S. Psychiatry*, N.Y. Times, July 19, 1990.

perpetrators,” Fortner stated bluntly: “[T]hat’s not what I heard. . . . I remember black folks constantly worrying about keeping their children, homes, and property safe.”<sup>1163</sup>

Fortner’s book, however, is not a memoir. Rather, it meticulously documents that while African Americans were not at all monolithic on crime-related issues, large numbers of African Americans *opposed* progressive policies that emphasized lenience and therapy rather than prison time. As early as 1970, in a survey of 2000 urban black households, respondents were asked whether “[keeping] offenders off the Street and in jail” would help in curbing the crime problem. Over 80% indicated that it would be “very helpful” or “somewhat helpful.” A near majority also agreed that “tougher police policies” would be a good thing.<sup>1164</sup>

Polling data in this context has obvious limitations. More important, Fortner shows that during the 1970s, many African-American grassroots leaders in New York pushed for more intervention from the police, not less. Among the many statements and events that he discusses to support his point is a well-attended public hearing on crime held at Harlem’s Salem Methodist Church. The hearing was opened with these words by the chairman of the Harlem Youth Opportunities Unlimited and Associated Community Teams:

“I charge the Mayor and the Police Commissioner with gross neglect of our community in failing and refusing to provide adequate police protection to Harlem as they do to White areas. This neglect is criminal. Perhaps 200,000 angry black residents will have to march on City Hall and Police Headquarters to protest this criminal neglect, and to say to the Mayor and the Police Commissioner just how angry we are, to provide equal protection for our law-abiding citizens who are daily being mugged, raped, assaulted, molested and killed by a small but effective band of criminals who have made us prisoners in our own homes.”<sup>1165</sup>

Sometimes leaders went beyond pushing for more police protection. On a different occasion, Waldaba Stewart, an African-American state senator from Brooklyn, argued for vigilantism: “If [the crime problem] is bigger than police then we must organize vigilante operations and arm ourselves in defense of our home, our families, and our children. . . . I have reached the place where I am on the verge of being the leader of the proposed vigilante group. . . . I don’t want to—but something has to be done.”<sup>1166</sup>

Others argued against vigilantism, but nevertheless in favor of strong police measures. Fortner writes, for example: “Vincent Baker, author of the 1969 NAACP crime report that embraced the death penalty and stop-and-frisk, among other punitive strategies, regretted that there ‘is an embryonic vigilante movement in this community. It’s cropping up all over. Tenant

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<sup>1163</sup> Michael Javen Fortner, *Black Silent Majority: The Rockefeller Drug Laws and the Politics of Punishment* x-xi (2015).

<sup>1164</sup> *Id.* at 155.

<sup>1165</sup> *Id.* at 188-89.

<sup>1166</sup> *Id.* at 187 (ellipses and brackets in original).

groups are arming themselves.’ While he recognized a feeling of ‘anarchy and complete helplessness against marauding hoodlums,’ Baker considered such efforts anathema to his ‘law and order’ campaign ....<sup>1167</sup>

Fortner shows that African Americans provided crucial grassroots political support for Governor Nelson Rockefeller’s get-tough drug laws, which had been vehemently opposed by white “reformers”:

Empowered by their newly won civil rights, members of the black silent majority vigorously battled King Heroin and reconfigured the politics of drug policymaking in New York State. Working- and middle-class African Americans exploited old organizational forms and founded a multitude of new committees and groups. They met, protested, and lobbied to combat the problems of drug addiction, drug trafficking, and crime in their neighborhoods. ... With banners and bands, picket signs and bullhorns, leaders of block associations, church groups, women’s groups, fraternal organizations, and Democratic clubs took to the streets to demand more police, shame addicts, call out pushers, and upbraid white and black leaders for their perceived unresponsiveness ....<sup>1168</sup>

Vigorous law enforcement and tougher drug laws were also a significant part of the crime-fighting agenda of many African-American elected leaders at the federal level. In an opinion piece in the *New York Law Journal*, Charles Rangel, then a newly elected Member of the U.S. House of Representatives from Harlem, called for President Nixon to wage war on the drug trade here and abroad.<sup>1169</sup> By the 1980s, Rangel, with the support of the Congressional Black Caucus, had become a leading voice in Congress for tough drug legislation.

Nevertheless, elite opinion was not easy to change. Elite views on the importance of incarceration as a response to crime didn’t change decisively until the early 1990s. But the change, once it came, was hugely important. When incarceration rates began to climb, crime rates began their slow and very welcome decline.<sup>1170</sup> For decades afterwards, crime continued to drop. It was cause for celebration.

In some respects, however, the policies toward crime adopted in the early 1990s have been undermined by their success. About a quarter of a century later, many Americans had no memory of the earlier period of high crime. As of a few years ago, the pendulum of elite opinion

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<sup>1167</sup> *Id.* at 188.

<sup>1168</sup> *Id.* at 212-13.

<sup>1169</sup> Charles B. Rangel, *Addiction Epidemic in Harlem*, *New York Law Journal* (July 6, 1971).

<sup>1170</sup> See Steven D. Levitt, *Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not*, 18 *J. Econ. Perspectives* 163, 166 (2004).



had begun to swing back—shifting away from the concept of punishment and away from incarceration as a proper response to crime.

Michelle Alexander’s *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*—a *New York Times* Bestseller—is an early example of this shift in elite opinion. The book is so popular, a school curriculum has been designed around it.<sup>1171</sup> In the book’s introduction, Alexander wrote that she had recently come to suspect that the criminal justice system “was not just another institution infected with racial bias but rather a different beast entirely.” “I came to see,” she wrote with a dramatic flair best reserved for fiction, “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.”<sup>1172</sup>

Alexander would no doubt be unhappy to have her approach compared to that of the Jim Crow Era South. But her failure to fully consider the impact of her approach to high-crime African American neighborhoods lends itself to that comparison. Just as Myrdal’s Jim Crow Era whites believed they were doing African Americans a favor by downplaying black-on-black crime, Alexander believes her argument for de-incarceration will benefit African Americans. But in both cases, law-abiding African American citizens may end up bearing the cost.<sup>1173</sup>

<sup>1171</sup> See Teaching the New Jim Crow: A Teacher’s Guide, <https://www.learningforjustice.org/magazine/publications/teaching-the-new-jim-crow>.

<sup>1172</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* 4 (2010).

<sup>1173</sup> I am not sure how to interpret Commissioner Nourse’s Statement when she lists the following as an example of “good news”: “Second, crime is an intra-racial phenomenon: we found no significant disparities in the overall violent victimization of White, Black, and Latino individuals.” Nourse Statement at 1. Which part of that is the “good news”? Surely, the fact that crime is disproportionately intra-racial (i.e. offenders are more likely to commit crimes against individuals of their own race than one would expect if they selected their victims at random) doesn’t make the crime more acceptable. That’s exactly the mentality that Myrdal railed against, so that cannot be what she meant. But the second part of the sentence—that “we found no significant disparities in the overall violent victimization of White, Black, and Latino individuals”—is true only in the sense that *we* (or rather the Commission staff) didn’t find them. That doesn’t mean that nobody found them, and it certainly doesn’t mean they don’t exist.

Commissioner Nourse does not provide a specific citation for the assertion that “we found no significant disparities,” but presumably she was referring to the part of the report that states “there are no racial disparities in the overall rate of violent crime victimization” and cites Alexandra Thompson & Susannah N. Tapp, *Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008-2021*. That particular article uses figures from the National Crime Victimization Survey from 2008 to 2021, which is an annual survey that takes a sample of the population and asks about whether the respondents have been victimized by crime in the last year. It does not include homicide since it asks respondents only about crimes or which they were the victim (and murder victims obviously cannot be interviewed).

**But the Thompson-Tapp article does indeed find that African Americans were significantly (in the sense of statistical significance) more likely to be victimized by violent crime (excluding simple assault) between 2008 and 2021.** See Alexandra Thompson & Susannah N. Tapp, *Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008-2021* at 3-4, Table 1. The note for the chart states that the figure for African Americans is statistically significant from the comparison group (whites) at the 95% confidence level. See also *id.* at 7-8, Appendix Table 2

It is not clear that grassroots African American opinion today has shifted towards decreasing police budgets and police presence or de-incarceration. Indeed, the contrary seems more in keeping with the evidence. A recent article—entitled *On the Robustness of Black Americans' Support for the Police: Evidence from a National Experiment*—shows that African Americans are more concerned about crime than whites. Moreover, as a group, they are apparently no fans of the “Defund the Police” movement. Instead, they support maintaining or even increasing police funding and staffing.<sup>1174</sup>

That can hardly be a surprise given that, on average, African Americans are more likely to be victimized than whites. As one of our panelists, Dr. John Paul Wright, noted in his written testimony, “It is odd, after all, that those initially most likely to support defunding the police were white, educated, middle to upper-class liberal white women, a group largely safe from the travesties of crime.”<sup>1175</sup>

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(standard errors for Table 1). I am not sure how the staff-written part of the report (and Commissioner Nourse) came to the opposite conclusion. If I’m missing something, I don’t know what it is.

When simple assault is added in, the numbers lose their statistical significance. African Americans report proportionately fewer simple assaults than whites. But as I discussed on page 5 of this Statement [page 218 of this Report], there are likely large cultural differences in the rate that different racial and ethnic groups report simple assault either to the police or in the National Crime Victimization Survey. I strongly suspect that if African Americans are disproportionately the victims of murder, robbery, and aggravated assault (and the data show they are), they are also disproportionately the victims of simple assault. But even if that’s wrong, the fact that African Americans are more likely to be the victims of serious violent crime is more important than the possible fact that they are less likely to be the victims of much less serious crimes.

As I demonstrate in this Statement, there is an astonishingly large disparity in murder rates and very significant disparities in carjacking, motor vehicle theft, and serious violent crime in general. African Americans are disproportionately victimized. Commissioner Nourse acknowledges this later in her statement with regard to homicide and “young Black men” and with regard to “[n]onfatal shootings.” Nourse Statement at 2 [page 197 of this report].

Commissioner Magpantay concentrates on hate crimes in his Statement. And that’s fine. Hate crimes are indeed a scourge. But to me, it is important to recognize that all violent crime is destructive and not to emphasize hate crime to the point of ignoring crime in general.

<sup>1174</sup> Linda Balcarová, Justin T. Pickett, Amanda Graham, Sean Patrick Roche, & Francis T. Cullen, *On the Robustness of Black Americans' Support for the Police: Evidence from a National Experiment*, 92 J. Crim. Justice 102186 at 9 (May 2024). The authors state:

Our key finding was that Black Americans preferred to maintain (or increase) police patrol and spending, and that this preference was not conditional on the described crime rates or policing reforms. Most Black Americans reported that even if crime rates fell and even if there were no new policing reforms, they still wanted to maintain or increase police patrol and spending. Therefore, Black Americans’ policing preferences appear to be relatively robust to information about the features of the social context (i.e. crime and police policy) that we manipulated. In fact, if anything, Black Americans’ policing preferences appear to be less contingent on contextual information than those of non-Black Americans.

<sup>1175</sup> Crime Victims Briefing, Written Statement of John Paul Wright at 1.

### *Black Neighborhoods Matter*

One more broad point is worth making: Black lives do indeed matter. When a homicide occurs, a human life is extinguished, and the lives of all those who loved the victim are forever diminished. But there's more. Even those who never knew the victim are affected. If they live or work anywhere near where a serious crime has occurred, they now have reason to be fearful. They are likely to be careful to lock their doors and windows. They may avoid strangers. They may stay off the streets at night. Residents of other neighborhoods may be hesitant to enter the neighborhood. Local businesses—both large and small—suffer. Soon a local restaurant fails. A barbershop closes down. The neighborhood deteriorates.

Nothing is more fundamental to the long-term success of a low-income community—or any community—than keeping crime under control. When law-abiding people don't need to be constantly worrying about crime, they can spend their time achieving their own goals instead. Rather than staying home after dark, they can take a course in accounting at the local community college. They can earn extra money for a down payment on a house by working a part-time job at a local convenience store. Instead of spending money to put bars on their windows, they can buy a used car that will get them to an out-of-the-way work site where the pay is better. They can have a picnic in the park. They can get to know their neighbors.

Whole neighborhoods blossom when crime goes down. People start to feel more comfortable coming out at night, and once they come out their presence reduces crime even further. One resident opens a hair salon. Another opens a sidewalk café. Yet another plants tulips in her front yard. A grocery store becomes eager to move in. It becomes a virtuous circle where things get better and better.

Much is made these days about the disparities in wealth between African Americans and other racial groups. Bringing crime down in African American neighborhoods with higher-than-average crimes rates is one way to help fix that. Property in low-crime areas is worth more than property in high-crime areas (all other things being equal). But most important, people are happy and can flourish when they feel safe. Alas, a recent poll shows that only 56% of African Americans feel safe walking alone in their neighborhood at night (as opposed to 77% of whites). Among African Americans with incomes below \$48,000, the number is lower still—42%.<sup>1176</sup>

I note that some commentators—including Commissioner Nourse in both her Statement and separate Rebuttal—seem to think that “crime is down.” The implication seems to be that we can stop worrying.<sup>1177</sup> What such commentators usually mean is that crime is down *from the year before*. For example, in 2023, the homicide rate per 100,000 persons has been estimated at

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<sup>1176</sup> Payne Center for Social Justice, Black Thriving in America: 2023 at 20, <https://paynecenter.org/wp-content/uploads/2023/10/Black-Thriving-in-America-2023.pdf>.

<sup>1177</sup> See, e.g., Press Release of Governor Gavin Newsom, Crime is Down in Oakland, June 11, 2024, <https://www.gov.ca.gov/2024/06/11/crime-is-down-in-oakland-state-partnership-recovers-880-stolen-vehicles/>.

5.5, down from 6.3 in 2022.<sup>1178</sup> But relative to 2018, when it was 4.93, it is still too high. And relative to 2014 when it was 4.40 it is much too high.<sup>1179</sup> Estimated figures for the first few months of 2024 suggest that it may be going down still more, and if that turns out to be true, it will certainly be welcome.<sup>1180</sup> But violent crime rates in low-income neighborhoods, especially low-income African-American neighborhoods, are too high no matter what the national rate is. They need to be brought down. I honestly don't understand why crime victimization disparities are the only race disparities that my progressive colleagues don't care about.

The good news is that I believe we can improve these numbers and we can do it in a way that is consistent with the Constitution and the law. But I very much doubt we can do it by slashing police budgets and taking police out of high-crime neighborhoods. And we surely can't do it if we don't take the problem seriously.

At the end of her Rebuttal, Commissioner Nourse insists that “[t]his is not crime commission.” She says other agencies deal with crime. Of course, that would be true of any report the Commission has ever written. In the last few years, we've done reports on the federal efforts to help victims of hurricanes, maternal health, police use of force, and many other topics (nearly all of them picked by Democratic appointees). For each such report, there is always another federal agency that deals with the issue. In part, our job is to critique those other agencies.

Commissioner Nourse, ends her Rebuttal with this statement: “I hope that the Civil Rights Commission can turn to more pressing matters in the future.” It speaks volumes that she apparently believes crime victimization is not a pressing matter.

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<sup>1178</sup> Richard Rosenfeld & Janet Lauritsen, Did Violent Crime Go Up or Down? Yes, It Did, (noting that the homicide rate was officially at 6.3 in 2022, but also noting that while the UCR data showed that violent crime decreased in 2022, the National Crime Victimization Survey showed it increased), <https://counciloncj.org/did-violent-crime-go-up-or-down-last-year-yes-it-did/#:~:text=By%20Richard%20Rosenfeld%2C%20Chair%2C%20and%20Janet%20Lauritsen%2C%20Member&text=There%20is%20little%20doubt%20that,crime%20victimization%20rose%20in%202022>; Jeff Asher, Growing Evidence that Murder Fell at a Record Pace in 2023, Jeff-Alytics, July 15, 2024 (noting that preliminary data from the FBI indicates a 5.5 rate, and supplying additional data), <https://jasher.substack.com/p/growing-evidence-that-murder-fell>.

<sup>1179</sup> Macrotrends, U.S. Murder/Homicide Rate 1960-2021, <https://www.macrotrends.net/global-metrics/countries/USA/united-states/murder-homicide-rate#:~:text=U.S.%20murder%20homicide%20rate%20for,a%201.14%25%20increase%20from%202018>.

<sup>1180</sup> Eric Leonard, *Murders Are Dropping Across the Country, But Not in LA*, NBC Los Angeles, April 12, 2024, <https://www.nbclosangeles.com/investigations/murders-are-dropping-across-the-country-but-not-in-la/3386783/>; Ian Thomsen, *US Homicides and Violent Crime Are Down Significantly According to FBI Data*, Northeastern Global News, June 20, 2024, <https://news.northeastern.edu/2024/06/20/magazine/us-murder-rates-2024/>.

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# Statement of Commissioner Peter Kirsanow

## Introduction

As Commissioner Adams has detailed in his statement, it was extremely difficult to reach an agreement to discuss the impact of rising crime on minority communities. I had initially proposed this topic for Commission study. At the Commission's January 2022 meeting to discuss topics for the Commission to study, the progressive commissioners who were then on the Commission refused to consider the topic.<sup>1181</sup> They refused to even send a letter to the Department of Justice asking DOJ to study the increase in crime.<sup>1182</sup> This state of affairs dragged on for months.

Once the increase in crime became undeniable, a new line was taken: crime increased because of Covid and decreased because the pandemic ended.<sup>1183</sup>

The common theme throughout the report negotiations and the final version of the report is the desperation to avoid any connection between the Black Lives Matter protests (and accompanying riots, both in 2014 and in 2020) and increasing crime. There is a similar desperation to remove responsibility from criminals (particularly black criminals) and place responsibility for crime on society at large.

### I. The Problem of Crime

#### a. The Disproportionate Impact of Crime on Black and Hispanic Americans

Black and Hispanic Americans, particularly men, disproportionately suffer from the most serious forms of violent crime. As Rafael Mangual testified at the Commission's briefing:

- The 2020 spike in homicides resulted in an additional *eight* deaths per 100,000 black residents in the U.S., while the white homicide rate increase resulted in an additional 0.5 deaths per 100,000 residents;
- The share of the nation's homicide victims constituted by whites declined by 2.4 percentage points in 2020, while the share constituted by blacks and Latinos in the U.S. increased by 2.2 percentage points;

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<sup>1181</sup> Transcript of January 21, 2022 business meeting, <https://www.usccr.gov/files/2022-07/commission-meeting-transcript-01.21.2022-unedited.pdf>.

<sup>1182</sup> *Id.*; see also Transcript of February 18, 2022 business meeting, <https://www.usccr.gov/files/2022-07/commission-meeting-transcript-02.18.2022-unedited.pdf>.

<sup>1183</sup> Transcript of April 21, 2023 business meeting at 40.

Commissioner Nourse: Well, for all those watching, crime has gone down. This motion [to adopt the crime victims discovery documents] was a year ago. We had a pandemic.

- This pushed the black homicide victimization rate in the United States up to 25.3 per 100,000 in 2020 from 19.5 per 100,000 in 2019, making the 2020 black homicide victimization rate nearly *ten times* higher than the white rate.<sup>1184</sup>

Black Americans, particularly black men, are also disproportionately affected by other forms of violent victimization.

- Between 2017-2021, according to the Bureau of Justice Statistics, the rate at which black victims were robbed was 75% higher than it was for whites (2.8 per 1,000 versus 1.6 per 1,000), and their violent crime victimization rate when excluding simple assault (8 per 1,000) was 25 percent higher than the white rate (6.4 per 1,000); and
- A 2022 study published in *Prevent Medicine Reports* found that black men, in particular, were persistently overrepresented among victims of violent offenses. Among the study's findings are the following:
  - “Black men have an average level of victimization more than two times higher than their White and Hispanic male counterparts, and more than five times higher than White women.”
  - “Although the majority of White men experience no victimization (52%), only about 28% of Black men fall into this category. Similarly, about 22% of Black men are exposed intermittently to serious violent victimization with a peak in their late twenties whereas roughly 14% of White men belong to this group.”<sup>1185</sup>

It would be surprising if these levels of victimization did not affect black Americans' quality of life, and indeed, they appear to do so. Only 56% of black Americans feel safe walking alone in their neighborhood at night, whereas 66% of Hispanic Americans and 77% of white Americans feel safe walking alone in their neighborhoods at night. Unsurprisingly, the more affluent the respondent, the safer they feel in their neighborhood. Only 42% of black Americans with a household income of less than \$48,000 per year feel safe, versus 58% of those with household incomes between \$48,000 and \$119,000, and 78% of those with household incomes of \$120,000 or more.<sup>1186</sup>

Other research supports Gallup's findings that many black Americans worry about crime and fear for their personal safety and that of their families and friends.<sup>1187</sup> “When asked in an

<sup>1184</sup> Rafael Mangual Statement at 5.

<sup>1185</sup> Rafael Mangual Statement at 7.

<sup>1186</sup> Payne Center-Gallup, *Black Thriving in America: 2023*, at 20 (2023), <https://www.gallup.com/510833/payne-center-gallup-black-thriving-america-report-2023.aspx>.

<sup>1187</sup> Linda Balcarová, Justin T. Pickett, Amanda Graham, Sean Patrick Roche, and Francis T. Cullen, ON THE ROBUSTNESS OF BLACK AMERICANS' SUPPORT FOR THE POLICE: EVIDENCE FROM A NATIONAL EXPERIMENT, *JOURNAL OF CRIMINAL JUSTICE* 92(3): 102186, at 3 (May 2024).

open-ended question to list the issue that was most important in their neighborhoods, nearly one-in-five Black adults listed issues related to violence or crime (17%).”<sup>1188</sup>

### **b. Why Are Americans Worried About Crime?**

After my colleagues finally agreed to take up this report, the staff-written portion of this report found (which was undeniable) that violent crime increased in 2020.<sup>1189</sup> The staff-written portion of the report takes the optimistic view, based on UCR data, that overall violent crime declined from 2020 to 2021, although homicides and rapes increased. However, violent crime was still higher in 2021 than in 2019.<sup>1190</sup> The black homicide rate remained particularly elevated, at 23.2 per 100,000 in 2021 versus 17.8 per 100,000 in 2019.<sup>1191</sup>

Recent data from the National Crime Victimization Survey (NCVS) suggest this optimism should be tempered. Unlike the UCR, the NCVS showed a drop in violent victimization in 2020. The NCVS does not include homicide but does include simple assaults and also tracks property crimes, so the two are not directly comparable. The NCVS showed an increase in crime from 2020-2021, and although it was not within the studied period, the most recent NCVS data show an increase in both violent and property crimes during 2022.<sup>1192</sup>

The Gallup Organization released a poll in November 2023 in which 28% of Americans said they or someone in their household had been the victim of a crime in the previous year.<sup>1193</sup>

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An extensive body of literature also suggests that Black Americans are more fearful of crime than other racial groups. For example, several studies found that Black Americans felt less safe than White Americans from crime (Chiricos, McEntire, & Gertz, 2001; Jordan & Gabbidon, 2010). According to a Gallup poll, a 20-point gap exists between Black and White Americans (43% versus 63%) in reports of being “very satisfied” about their physical safety (Saad, 2004). Similarly, Peffley and Hurwitz (2010) report that Black Americans are 2.5 times more likely than White Americans to be “very worried” about crime. More recently, Pickett et al. (2022) found that Black Americans were more afraid than White Americans of crime. The fear of crime among Black Americans also extends beyond personal concerns and encompasses concerns for the safety of family and friends (i.e., “altruistic fear”). Warr and Ellison (2000) found that both personal and altruistic fear of crime were higher among Black than White respondents.

<sup>1188</sup> Kiana Cox and Christine Tamir, “Race is Central to Identity for Black Americans and Affects How They Connect With Each Other,” Pew Research Center, Apr. 14, 2022, <https://www.pewresearch.org/race-and-ethnicity/2022/04/14/race-is-central-to-identity-for-black-americans-and-affects-how-they-connect-with-each-other/>.

<sup>1189</sup> Report at p. 51, 54-55.

<sup>1190</sup> Report at p. 57, Table 2.

<sup>1191</sup> Report at p. 58, Table 3.

<sup>1192</sup> Rachel E. Morgan and Erica L. Smith, “The National Crime Victimization Survey and National Incident-Based Reporting System: A complementary picture of crime in 2022,” Bureau of Justice Statistics, Dec. 2023, <https://bjs.ojp.gov/document/ncvsnibrscpc22.pdf>.

<sup>1193</sup> Jeffrey M. Jones, “More Americans See U.S. Crime Problem as Serious,” Gallup, Nov. 16, 2023, [https://news.gallup.com/poll/544442/americans-crime-problem-serious.aspx?utm\\_source=substack&utm\\_medium=email#:~:text=WASHINGTON%2C%20D.C.%20--%20Sixty-three%20percent%20of%20Americans%20describe,reading%2C%20as%20well%20as%20in%202010%20and%202016.](https://news.gallup.com/poll/544442/americans-crime-problem-serious.aspx?utm_source=substack&utm_medium=email#:~:text=WASHINGTON%2C%20D.C.%20--%20Sixty-three%20percent%20of%20Americans%20describe,reading%2C%20as%20well%20as%20in%202010%20and%202016.)



This was the second-highest percentage since Gallup began conducting this poll in 2000 (the highest percentage was 29% in 2016). Vandalism, which is not tracked by the UCR or NCVS, constituted a large and growing percentage of the crimes.<sup>1194</sup> Vandalism is not as serious as physical injury or a serious property crime, but having one's house or business vandalized contributes to a sense of helplessness and a feeling that law and order are breaking down. This is particularly true in areas where the police have indicated they do not have the manpower to address such crimes.

An additional reason why Americans may feel that crime is increasing is that there has been an increase in violent victimizations committed by strangers. In 2022, the rate of violent victimizations committed by a stranger was 10.6 per 100,000, which is the highest it has been since 2007.<sup>1195</sup> The number of homicides committed by strangers has also been increasing since 2019. In 2019, in cases where the relationship between the victim and offender was known (or was reported by the agency), 1,568 of 15,195 homicides were committed by a stranger.<sup>1196</sup> In 2020, that increased to 2,072 of 19,081 homicides. It dropped to 1,735 of 17,330 total homicides in 2021, and increased again to 2,103 homicides of 20,117 in 2022. The only relationship category with a larger number of victims than "stranger" is "acquaintance." The UCR data are limited, for all the reasons that have been discussed in the report, but the trends are informative.

Furthermore, as Rafael Mangual wrote in his testimony:

[T]he *risk* of other types of violent victimizations have risen significantly more than the raw numbers of those offenses would indicate. This is an important point, because in some cases, the raw numbers of some violent crime categories, such as robbery and assault, are down relative to a few years ago (or at least not up as much as homicides are), which creates the impression that what we've just experienced over the last few years has been mainly a *homicide* spike, as opposed to a *crime* spike, more broadly. In essence, what our current debate about whether crime has risen misses is the effect of post-pandemic changes in what criminologists call "Routine Activities" – the daily habits of society's potential victims (particularly

<sup>1194</sup> Jeffrey M. Jones, "More Americans See U.S. Crime Problem as Serious," Gallup, Nov. 16, 2023, [https://news.gallup.com/poll/544442/americans-crime-problem-serious.aspx?utm\\_source=substack&utm\\_medium=email#:~:text=WASHINGTON%2C%20D.C.%20--%20Sixty-three%20percent%20of%20Americans%20describe,reading%2C%20as%20well%20as%20in%202010%20and%202016](https://news.gallup.com/poll/544442/americans-crime-problem-serious.aspx?utm_source=substack&utm_medium=email#:~:text=WASHINGTON%2C%20D.C.%20--%20Sixty-three%20percent%20of%20Americans%20describe,reading%2C%20as%20well%20as%20in%202010%20and%202016).

Vandalism and property theft were the most common types of crimes committed against households (16% each) and individuals (9% each). Six percent of U.S. adults say their house or apartment was broken into in the last year, while the other crimes were perpetrated against less than 5% of households and 1% of Americans.

Compared with prior measurement in 2021, vandalism has increased the most, rising from 12% to 16% of U.S. households being victimized. Property theft, burglary, and sexual assault were statistically unchanged, but up by one to two percentage points.

<sup>1195</sup> See Appendix A.

<sup>1196</sup> FBI Crime Data Explorer, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/shr>.

the amount of time they spend in public and commercial settings in which they're more likely to be victimized). Consider, for example, that New York City saw 14,159 robberies and 37,416 misdemeanor assaults through November 5<sup>th</sup> of this year. For robberies, this represents a nearly 25% increase, relative to the number of robberies in the city through November 8<sup>th</sup> of 2019; and for misdemeanor assaults, a small 1.7% increase. However, these figures significantly understate the degree to which the risk of such victimizations has risen, because they do not account for the facts that:

- According to an analysis done by the University of Toronto, foot traffic in the city's business districts (based on mobile phone data) as of this summer was just two thirds of what it was relative to 2019;
- MTA data show that, more than three years after the pandemic, subway ridership is still less than 70% of what it was pre-pandemic;
- JP Morgan Chase data published in 2022 showed that the post-pandemic consumer spending recovery has been driven largely by online spending, rather than in-person shopping; and
- New York City lost more than 5% of its population between April 2020 and July 2022 – a trend seen in other major cities, such as San Francisco (down more than 7%), Chicago (down about 3%), Los Angeles (down more than 90,000 residents between 2021-2022), Philadelphia, St. Louis, Cleveland, and others.<sup>1197</sup>

### c. The George Floyd Riots and Public Perceptions of Crime

There is a reason that the Commission (both progressive commissioners and career staff) seem so reluctant to see what is in front of them. It is because the riots and lawlessness that scarred the country in the wake of George Floyd's death are in large part responsible for the public's unease about crime. This, however, means that Black Lives Matter protesters and their fellow travelers in politics and the media made things worse for all Americans, but especially for black Americans. This is a bitter pill to swallow, especially because it means people despised by the Left – Heather Mac Donald, John Lott, Bill Bratton, Donald Trump – *were correct*.

The report does its best to obscure this, as have the media and the massive progressive nonprofit sector. Many Americans, however, have not forgotten the devastation wreaked upon their cities and the fear they felt as “mostly peaceful” mobs looted, burned, destroyed, and scrawled “ACAB” across buildings.<sup>1198</sup> In an after-action report commissioned by the Major

<sup>1197</sup> Mangual Statement at 4-5.

<sup>1198</sup> Gerald Chaleff, “An Independent Examination of the 2020 Los Angeles Police Department Response,” March 10, 2021, at 4, [https://clkrep.lacity.org/onlinedocs/2020/20-0729\\_rpt\\_CLA\\_03-11-21.pdf](https://clkrep.lacity.org/onlinedocs/2020/20-0729_rpt_CLA_03-11-21.pdf).

[L]ooting occurred that appeared to be well coordinated with “scouts” and convoys of up to ten cars targeting a given location. It was also believed that some of the organized looting was gang

Cities Chiefs Association, 94 percent of responding agencies (64 out of 68 responding member agencies) “experienced at least one protest that involved unlawful but non-violent acts of civil disobedience (e.g. illegal takeover of a public roadway). Also, 79% of agencies (54 out of 68) experienced at least one protest that involved some level of violence.”<sup>1199</sup>

As the then-head of Property Claims Services at data analytics firm Verisk wrote in early 2021:

The 2020 US protests were unusual for the insurance industry for two reasons. First, the cost was unprecedented. According to proprietary data from PCS, the team we lead at data analytics company Verisk, there were only 12 riot and civil disorder catastrophe events from 1950 through 2019. The largest was the 1992 riot in Los Angeles at nearly \$800 million in insured losses (not adjusted for inflation). And even that was an outlier. The average loss to the insurance industry from riot and civil disorder catastrophes over those 70 years was only around \$90 million.

In 2020, the George Floyd protests became the first civil disorder catastrophe event to exceed \$1 billion in losses to the insurance industry. In fact, it has exceeded \$2 billion so far and could go still higher. This “catastrophe event” was also the first to affect more than one state. PCS ultimately found more than 20 states with sufficient insurance industry impact to be included in the event. So, what made such a big insurance industry loss possible? It wasn’t just the scale and intensity of the event. High concentrations of risk exposed to the riots also contributed.<sup>1200</sup>

The cities “Where the Riots and Insurance Impacts Intersect” is a who’s who of the nation’s largest cities:

- Atlanta
- Boston
- Chicago
- Columbus
- Dallas
- Detroit
- Houston

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related while other looting seemed to be opportunistic. When the police responded to interdict or make arrests the looters would quickly disperse only to regroup elsewhere to attack another target.

<sup>1199</sup> MCCA Intelligence Commanders Group, “Report on the 2020 Protests and Civil Unrest,” Major Cities Chiefs Association, October 2020, at 4, <https://majorcitieschiefs.com/wp-content/uploads/2021/01/MCCA-Report-on-the-2020-Protest-and-Civil-Unrest.pdf>.

<sup>1200</sup> Thomas Johansmeyer, “How 2020 protests changed insurance forever,” World Economic Forum, February 22, 2021, <https://www.weforum.org/agenda/2021/02/2020-protests-changed-insurance-forever/>.

- Los Angeles
- Minneapolis
- Nashville
- New York
- Philadelphia
- Phoenix
- Portland
- Sacramento
- San Francisco
- San Jose
- Washington, D.C.

When riots and disorder sweep through virtually every major city and are greeted with a form of official tolerance, it is essentially a literal nationwide “broken windows” effect. There are three principal consequences: 1) Criminals are emboldened as they see very few consequences for their actions, complete with “bail funds” supported by prominent politicians and celebrities<sup>1201</sup>; 2) The police feel under siege and fear personal injury or scapegoating;<sup>1202</sup> 3) Law-abiding citizens feel threatened by the destruction, disorder, and lack of consequences.<sup>1203</sup>

Because the George Floyd protests and riots occurred in response to the death of a black man, however, and because every other progressive cause and organization (and many non-progressive organizations that didn’t want to be left behind) joined the throng, progressives cannot admit that these events contributed to the increase in crime. At the very least, as Professor Paul Cassel hypothesizes, “as police have had to respond to the protests and their surrounding

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<sup>1201</sup> Hunter M. Boehme and Scott M. Mourtgos, *The effect of formal de-policing on police traffic stop behavior and crime: Early evidence from LAPD’s policy to restrict discretionary traffic stops*, J. CRIMINOLOGY & PUBLIC POLICY, SPECIAL ISSUE: POLICING PRACTICE AND POLICY, June 6, 2024, at 5, <https://onlinelibrary.wiley.com/doi/full/10.1111/1745-9133.12673>.

By increasing the perceived risk of apprehension (see arguments in wu & Lum, 2019), potential offenders may be deterred from committing crime due to perception of increased likelihood of detection. Beyond presence in the community and the potential deterrent effect of such stops, discretionary stops may result in seizing contraband such as drugs and firearms or determining whether stopped civilians have an active warrant for their arrest (Gaston, 2019). Thus, pretextual stops may provide a powerful tool officers utilize to remove dangerous persons and contraband from the community.

Tom Lyden, “Minnesota nonprofit with \$35M bails out those accused of violent crimes,” Fox9.com, August 10, 2020, <https://www.fox9.com/news/minnesota-nonprofit-with-35m-bails-out-those-accused-of-violent-crimes>.

<sup>1202</sup> MCCA Intelligence Commanders Group, “Report on the 2020 Protests and Civil Unrest,” Major Cities Chiefs Association, October 2020, at 9 (“Approximately, 72% of agencies had officers harmed during the protests.”), <https://majorcitieschiefs.com/wp-content/uploads/2021/01/MCCA-Report-on-the-2020-Protest-and-Civil-Unrest.pdf>.

<sup>1203</sup> MCCA Intelligence Commanders Group, “Report on the 2020 Protests and Civil Unrest,” Major Cities Chiefs Association, October 2020, at 5, <https://majorcitieschiefs.com/wp-content/uploads/2021/01/MCCA-Report-on-the-2020-Protest-and-Civil-Unrest.pdf>.

violence – and deal with subsequent policing and investigations associated with those protests – day-to-day policing (particularly proactive policing) has suffered.”<sup>1204</sup> When the police cannot patrol high-crime areas because they are deployed elsewhere, or cannot respond to 911 calls in a timely manner due to staffing shortages, criminals take advantage of the opportunity.

The report is anxious to assure readers that there is no connection between the Floyd riots and increasing crime. To do so, it cites a 2019 study by Rosenfeld and Wallman that found no significant decrease in arrests after the Ferguson riots even as homicides increased, thus, in the authors’ view, undermining the “Ferguson effect” as a primary reason for the increase in homicides.<sup>1205</sup> However, even the study’s authors admit that their model fails to explain a third of the variance in homicide rates.<sup>1206</sup> The authors also admit that there are aspects of proactive policing other than arrests, but data for these other activities is hard to come by.<sup>1207</sup>

Although Rosenfeld and Wallman’s study is useful, the events of 2020 throw its conclusion into doubt. It is a remarkable coincidence that massive nationwide anti-police activities in 2014 and 2020 were both followed by dramatic increases in the number of homicides. Furthermore, as Professor Paul G. Cassel details in his article *Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing*, homicides began increasing in major U.S. cities at the precise time the Floyd protests began.<sup>1208</sup> Drawing on data from Minneapolis, Chicago, Philadelphia, Milwaukee, and New York, Cassel shows that homicides, non-fatal shootings, aggravated assaults, and shots fired (the data available varies by city) spiked dramatically when the Floyd protests began and largely remained elevated compared to the pre-Floyd numbers.<sup>1209</sup> In Cassel’s view, competing theories for the homicide increase, such as increased firearm sales and unemployment due to the pandemic, do not satisfactorily account for the homicide increase, given that both phenomena were well underway before the homicide spike began.<sup>1210</sup> Cassel also notes that as of 2020, there were three

<sup>1204</sup> Paul G. Cassel, *Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing*, FEDERAL SENTENCING REPORTER, Vol. 33, No. 1-2, pp. 83-127, at 102 (Oct.-Dec. 2020), <https://online.ucpress.edu/fsr/article/33/1-2/83/115494/Explaining-the-Recent-Homicide-Spikes-in-U-S>.

<sup>1205</sup> Richard Rosenfeld and Joel Wallman, “Did De-Policing Cause the Increase in Homicide Rates?,” *Criminology & Public Policy*, 2019, vol. 18, no. 1, <https://doi.org/10.1111/1745-9133.12414>.

<sup>1206</sup> Richard Rosenfeld and Joel Wallman, “Did De-Policing Cause the Increase in Homicide Rates?,” *Criminology & Public Policy*, 2019, vol. 18, no. 1, at 65, <https://doi.org/10.1111/1745-9133.12414>.

<sup>1207</sup> Richard Rosenfeld and Joel Wallman, “Did De-Policing Cause the Increase in Homicide Rates?,” *Criminology & Public Policy*, 2019, vol. 18, no. 1, at 67, <https://doi.org/10.1111/1745-9133.12414>.

<sup>1208</sup> Paul G. Cassel, *Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing*, FEDERAL SENTENCING REPORTER, Vol. 33, No. 1-2, pp. 83-127 (Oct.-Dec. 2020), <https://online.ucpress.edu/fsr/article/33/1-2/83/115494/Explaining-the-Recent-Homicide-Spikes-in-U-S>.

<sup>1209</sup> Paul G. Cassel, *Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing*, FEDERAL SENTENCING REPORTER, Vol. 33, No. 1-2, pp. 83-127, at Fig. 3-13 (Oct.-Dec. 2020), <https://online.ucpress.edu/fsr/article/33/1-2/83/115494/Explaining-the-Recent-Homicide-Spikes-in-U-S>.

<sup>1210</sup> Paul G. Cassel, *Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing*, FEDERAL SENTENCING REPORTER, Vol. 33, No. 1-2, pp. 83-127, at Fig. 14-16 (Oct.-Dec. 2020), <https://online.ucpress.edu/fsr/article/33/1-2/83/115494/Explaining-the-Recent-Homicide-Spikes-in-U-S>.

studies supporting the existence of the “Ferguson Effect” – one by Cassel and his University of Utah colleague Richard Fowles, one by Professor Emeritus Wesley Skogan of Northwestern University, and one by Tanaya Devi and Harvard Professor Roland Fryer.<sup>1211</sup> Our report mentions none of these studies and relies solely on the Rosenfeld and Wallman study.<sup>1212</sup>

#### **d. Are White Americans Responsible for High Levels of Black Victimization?**

One of the general problems with the report is that many people who work in civil rights can only conceive of blame running one way. If black criminals are committing crimes, it must be the fault of white people. We thus arrive at the “racist buildings”<sup>1213</sup> theory of crime and the “whites don’t stick around to be killed by black criminals, which results in fewer white victims and more black victims” theory of crime.

In one 2019 study, researchers find that racial segregation benefits White Americans, as higher levels of Black segregation increase the risk of homicide for Black Americans but decrease the risk of homicide for White Americans. Violence in these racially segregated and socioeconomically disadvantaged neighborhoods drive racial disparities in homicide.<sup>1214</sup>

There is another disparity that the report does not discuss, namely, that although most crimes are intra-racial, interracial crimes are much more likely to have a white victim and a black perpetrator than vice versa. “There are some cross-race murders, with blacks murdering whites at about twice the rate that whites murder blacks (17 to 19 percent versus 8 to 9 percent).” According to the BJS, there were 2,382,400 violent victimizations with a black perpetrator and a white victim, versus 371,540 violent victimizations with a white perpetrator and a black victim.<sup>1215</sup>

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<sup>1211</sup> Paul G. Cassel, *Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing*, FEDERAL SENTENCING REPORTER, Vol. 33, No. 1-2, pp. 83-127, at p. 111-112 (Oct.-Dec. 2020), <https://online.ucpress.edu/fsr/article/33/1-2/83/115494/Explaining-the-Recent-Homicide-Spikes-in-U-S>.

<sup>1212</sup> It is also interesting that the career staff who drafted this report insist on absolute quantitative certainty for a Ferguson Effect or they dismiss it out of hand, whereas the Commission’s report on anti-Asian hate crimes blamed former President Trump’s use of the term “Wuhan Flu” for increases in anti-Asian hate crimes.

<sup>1213</sup> Report at 10.

In their foundational study about the relationship between crime and place, Shaw and McKay demonstrate that crime rates remain stable in neighborhoods over time even as the ethnographic demographics of residents change. They argue that structural conditions, such as physical deterioration and high population turnover, create the conditions for crime. This finding is critical for framing and understanding racial disparities in crime victimization because it shows that the structure of high-crime neighborhoods, not personal or community characteristics related to the race of their residents, allows crime to flourish.

<sup>1214</sup> Report at 12-13.

<sup>1215</sup> *Just the Stats: Violent Victimization by Race or Hispanic Origin, 2008-2021*, Bureau of Justice Statistics, July 2023, Table 2, <https://bjs.ojp.gov/violent-victimization-race-or-hispanic-origin-2008-2021>.

It's worth noting that progressives sometimes use the term “segregation” to inflame tensions. As I have written many times, *de jure* segregation has been illegal since 1968. Restrictive racial covenants have been illegal since 1948.<sup>1216</sup> You can live anywhere as long as you can pay market rates. The only way to achieve the sort of racially mixed housing patterns desired by progressive activists is for the federal government to require local governments to construct low-income housing and to engage in explicit racial balancing.

The problem is not where white, black, Hispanic, or Asian Americans live, or that some Americans (not just whites) prefer to live in neighborhoods where members of their own racial or ethnic group are heavily represented. The problem is criminals who prey on everyone around them.

Why did I spend so much time writing about white victims of crime in a report that is focused on the disparate impact of crime on minority communities? I did this because the Commission labors mightily to make crime the fault of white Americans.<sup>1217</sup> But we cannot address a problem until we look at it clearly. If we refuse to hold individuals responsible for their actions because of discriminatory actions a century ago, we will never make progress on crime.

## II. Responses to Crime

### a. Defunding the Police

Once progressives realized crime was indeed increasing and that the public was aware of this fact, they became extremely anxious to distance themselves from their “defund the police” rhetoric. In fact, they would very much prefer that no one remember they ever called for it, and that if anyone does remember it, that they dismiss it as “slogans.”<sup>1218</sup> Amusingly, panelist Patrick Sharkey said, “No, there’s been no defunding of the police. The only suggestion to defund is coming from the right, defund DOJ, and the FBI.”<sup>1219</sup> A brief reminder for readers:

- “Austin, Texas, is the latest city to announce a police defunding effort, with the City Council on Thursday voting unanimously to cut \$150 million (roughly one third) from the police budget, reinvesting much of that sum in social programs, including food access, violence prevention and abortion access.”<sup>1220</sup>

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<sup>1216</sup> *Shelley v. Kraemer*, 334 U.S. 1 (1948).

<sup>1217</sup> This is ironic, as this report was not supposed to be about the causes of crime or offenders, but given how the report has been written, it is important to discuss this to clear the decks for an actual discussion of the problem.

<sup>1218</sup> Briefing transcript at 228-229.

<sup>1219</sup> Briefing transcript at 229.

<sup>1220</sup> Jemima McEvoy, “At Least 13 Cities Are Defunding Their Police Departments,” *FORBES*, August 13, 2020, <https://www.forbes.com/sites/jemimamcevoy/2020/08/13/at-least-13-cities-are-defunding-their-police-departments/?sh=773a5a2529e3>.

- “The country’s two largest cities, New York and Los Angeles, approved budget cuts weeks after protests began – New York slashed \$1 billion from its 2021 budget totaling \$88.9 billion (reallocating \$354 million to mental health, homelessness and education services) while Los Angeles approved a \$150 million budget cut from its \$1.86 billion proposed budget.”<sup>1221</sup>
- “Black Visions Collective ... persuaded nine of the city’s 13 council members – a veto-proof majority – to commit to defunding the police. . . . Within days, several City Council members pulled their support, saying they had misunderstood the radical pledge they had endorsed.”<sup>1222</sup>
- “The D.C. Council’s Committee on the Judiciary and Public Safety voted unanimously Thursday in favor of a budget that defunds the Metropolitan Police Department by more than \$15 million – a vote that comes after weeks of protests calling for police reform. The funds will instead be diverted to social programs in the city.”<sup>1223</sup>
- The Seattle City Council cut \$4 million and 100 officers from the Seattle Police Department’s budget in 2020, leading to the resignation of the city’s first black female chief.<sup>1224</sup>

Did cities completely eliminate their police departments? No. Have many of them since reconsidered their foolish decisions regarding police funding? Perhaps. But it’s too late. The damage is done, and it was completely avoidable. Only an idiot would think the right response to riots (and “nonviolent” protests that include blocking traffic) is to cut police funding and manpower.

### **b. Do Black Americans Want to Defund or “Reimagine” the Police?**

According to a recent study published in the Journal of Criminal Justice, not only are black Americans more concerned about crime than white Americans, but they persistently support maintaining policing levels and funding. The authors write:

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<sup>1221</sup> Jemima McEvoy, “At Least 13 Cities Are Defunding Their Police Departments,” FORBES, August 13, 2020, <https://www.forbes.com/sites/jemimamcevoy/2020/08/13/at-least-13-cities-are-defunding-their-police-departments/?sh=773a5a2529e3>.

<sup>1222</sup> Ernesto Londoño, “How ‘Defund the Police’ Failed,” N.Y. Times, June 16, 2023, Jemima McEvoy, “At Least 13 Cities Are Defunding Their Police Departments,” FORBES, August 13, 2020, <https://www.forbes.com/sites/jemimamcevoy/2020/08/13/at-least-13-cities-are-defunding-their-police-departments/?sh=773a5a2529e3>.

<sup>1223</sup> Paul Wagner, “Lawmakers vote to cut \$15 million from DC police,” Fox 5 DC, June 25, 2020, <https://www.fox5dc.com/news/lawmakers-vote-to-cut-15-million-from-dc-police-departments-budget>.

<sup>1224</sup> Jorge L. Ortiz and N’dea Yancey-Bragg, USA TODAY, August 11, 2020, <https://www.usatoday.com/story/news/nation/2020/08/11/seattle-police-chief-resign-following-nearly-4-million-budget-cuts/3342382001/>.



Our key finding was that Black Americans preferred to maintain (or increase) police patrol and spending, and that this preference was not conditional on the described crime rates or policing reforms. Most Black Americans reported that even if crime rates fell and even if there were no new policing reforms, they still wanted to maintain or increase police patrol and spending. Therefore, Black Americans policing preferences appear to be relatively robust to information about the features of the social context (i.e., crime and police policy) that we manipulated. In fact, if anything, Black Americans' policing preferences appear to be less contingent on contextual information than those of non-Black Americans. For example, the negative effect of crime declines on non-Black Americans police spending preferences differed significantly from the null effects observed among Black Americans.<sup>1225</sup>

This finding is consistent with panelist John Paul Wright's statement in which he notes, "It is odd, after all, that those initially most likely to support defunding the police were white, educated, middle to upper-class liberal white women, a group largely safe from the travesties of crime."<sup>1226</sup> It also contradicts the statement of panelist Heather Warken, who claims that communities with high levels of violence suffer from "an over reliance on policing, prisons, and jails."<sup>1227</sup> It appears that the law-abiding residents of those neighborhoods do not believe they are experiencing an overreliance on policing.

Unfortunately, it is difficult to convince elites to seriously address this problem because many, including the authors of this report, have been captured by the belief that any disparity is evidence of racism. It is also difficult because both elites and large segments of the public have been misled by the media into believing there is an epidemic of police officers killing unarmed black men. As I and others have pointed out, this is simply not true. Although every life lost is a tragedy for that person and his family, only a handful of unarmed people of any race are killed by police in any given year.<sup>1228</sup> In at least some of those cases, such as the Michael Brown case, the decedent was attacking the police officer when he was shot. We should not be making public policy based on false narratives.

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<sup>1225</sup> Linda Balcarová, Justin T. Pickett, Amanda Graham, Sean Patrick Roche, and Francis T. Cullen, ON THE ROBUSTNESS OF BLACK AMERICANS' SUPPORT FOR THE POLICE: EVIDENCE FROM A NATIONAL EXPERIMENT, *JOURNAL OF CRIMINAL JUSTICE* 92(3): 102186, at 9 (May 2024).

<sup>1226</sup> Wright Statement at 1.

<sup>1227</sup> Briefing transcript at 105.

<sup>1228</sup> See Dissenting Statement of Commissioner Peter Kirsanow, in U.S. COMMISSION ON CIVIL RIGHTS, POLICE USE OF FORCE: AN EXAMINATION OF MODERN POLICING PRACTICES, at 207 (noting that according to the Washington Post police shootings database, a total of 223 African-Americans, both armed and unarmed, were fatally shot by police in 2017), <https://www.usccr.gov/files/pubs/2018/11-15-Police-Force.pdf>; see also Heather Mac Donald, "There Is No Epidemic of Fatal Police Shootings Against Unarmed Black Americans," *USA TODAY*, July 3, 2020 ("the Washington Post's database of fatal police shootings showed 14 unarmed Black victims and 25 unarmed white victims in 2019"), <https://manhattan.institute/article/there-is-no-epidemic-of-fatal-police-shootings-against-unarmed-black-americans>.

### c. The “Poverty and Racism” Theory of Crime

As discussed above, the report blames concentrated poverty and racism for causing crime. (This despite the fact that the report was not supposed to be about the causes of crime.)<sup>1229</sup> This seems unlikely, unless you believe that racism was getting worse as civil rights legislation was being passed in the 1960s, improved in the 1990s and early 2000s, and suddenly began to increase in 2020. It also does not take into account the dramatic decrease in poverty that has occurred since the 1960s, particularly when in-kind transfers (Medicaid, food stamps, housing vouchers) and tax credits are taken into account.<sup>1230</sup>

The report states:

[I]mplementing federal policies and programs intended to help people move out of areas with concentrated poverty is one of the first steps to decrease crime rates and support victims of violent crimes.<sup>1231</sup>

The report cites a 2015 report from the Century Foundation that claims that black and Hispanic Americans are dramatically more likely to live in neighborhoods suffering from “extreme poverty,” which is defined as “neighborhoods where at least 40 percent of residents live below the poverty line.”<sup>1232</sup> The “neighborhoods” in the Century Foundation report are census tracts.<sup>1233</sup> It is difficult to know if this data is still accurate, as the Century Foundation report is nine years old and relied on data from 2000-2013. Furthermore, its definition of “concentrated poverty” differs from that used by the Census Bureau in analyzing census tracts and counties that experience “persistent poverty.” Nevertheless, the Census Bureau’s more recent data casts doubt on whether the Century Foundation’s data can be relied upon today.

The Century Foundation claims that areas of concentrated poverty are increasing. This may have been the case in 2015 or using a definition of “concentrated poverty” specific to the Century Foundation, but the most recent data from the Census Bureau indicates that the number of counties and census tracts that suffer from high poverty has decreased. Let’s take the poverty percentage closest to that used by the Century Foundation – 30%. According to the Census

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<sup>1229</sup> Report at 10-11.

<sup>1230</sup> Richard V. Burkhauser, Kevin Corinth, James Elwell, and Jeff Larrimore, *Evaluating the Success of President Johnson’s War on Poverty: Revisiting the Historical Record Using An Absolute Full-Income Poverty Measure*, National Bureau of Economic Research Working Paper 26532 (December 2019, Revised 2021)(copyright 2019 by Richard V. Burkhauser, Kevin Corinth, James Elwell, and Jeff Larrimore), at Figure 6, page 31, [https://www.nber.org/system/files/working\\_papers/w26532/w26532.pdf](https://www.nber.org/system/files/working_papers/w26532/w26532.pdf).

<sup>1231</sup> Report at p. 24.

<sup>1232</sup> Report at p. 12.

<sup>1233</sup> Paul A. Jargowsky, “The Architecture of Segregation: Civil Unrest, the Concentration of Poverty, and Public Policy,” Century Foundation, Aug. 9, 2015, <https://tcf.org/content/report/architecture-of-segregation/>.

Bureau, in 1990 199 counties (6.3 percent of all counties) had a poverty rate of 30 percent or more. By 2019, that number had declined to 67 counties (2.1 percent of the total).<sup>1234</sup> Over the same time period, the number of counties with a 25 percent poverty rate declined from 429 to 169, and the number of counties with a 20 percent poverty rate declined from 858 to 478.

This recommendation ignores the fact that although many black Americans live in poor neighborhoods in cities, the fact that they live in cities provides opportunities that are unavailable to people who live in rural areas. The Census Bureau's American Community Survey lists all census tracts that suffer from "persistent poverty." The Bureau's most recent report on this topic defines counties and census tracts with "persistent poverty" as follows:

In this report, counties and census tracts with poverty rates of 20.0 percent or greater are considered to have a high poverty rate. Margins of error (MOE) were not used to determine whether poverty rates were significantly different from 20.0 percent. This is consistent with the majority of examples of past persistent poverty calculations. If a county or census tract had a high poverty rate at all 4 datapoints from 1989 to 2015-2019 (i.e., a county or tract had a poverty rate of 20.0 percent or greater for the 1990 and 2000 Census data and the 2005-2009 and 2015-2019 ACS, 5-year estimates), then we include the geographic unit in the persistent poverty category. Unlike some previous studies, this report includes four datapoints to increase the accuracy of the county being in persistent poverty for the entire period and to use roughly equal periods between readings.<sup>1235</sup>

The report attempts to blame poverty and racism for young black men killing each other and their neighbors. This does not stand up to scrutiny. Consider the difference between a census tract and a county. The size of a census tract varies, but it can be as small as a few blocks.<sup>1236</sup> There are many "persistent poverty" census tracts that are located in counties that are not in persistent poverty. On the other hand, in rural areas there are "persistent poverty" census tracts that encompass an entire county, which is also in persistent poverty.<sup>1237</sup>

<sup>1234</sup> Craig Benson, Alemayehu Bishaw, and Brian Glassman, "Persistent Poverty in Counties and Census Tracts," American Community Survey Reports, May 2023, at 4, <https://www.census.gov/content/dam/Census/library/publications/2023/acs/acs-51%20persistent%20poverty.pdf>.

<sup>1235</sup> Craig Benson, Alemayehu Bishaw, and Brian Glassman, "Persistent Poverty in Counties and Census Tracts," American Community Survey Reports, May 2023, at 4, <https://www.census.gov/content/dam/Census/library/publications/2023/acs/acs-51%20persistent%20poverty.pdf>.

<sup>1236</sup> "Census Tract," in "Glossary," U.S. Census Bureau, [https://www.census.gov/programs-surveys/geography/about/glossary.html#par\\_textimage\\_13](https://www.census.gov/programs-surveys/geography/about/glossary.html#par_textimage_13).

Census tracts generally have a population size between 1,200 and 8,000 people, with an optimum size of 4,000 people. A census tract usually covers a contiguous area; however, the spatial size of settlement varies widely depending on the density of settlement.

<sup>1237</sup> List of census tracts and counties classified as being in persistent poverty available at <https://www.census.gov/library/publications/2023/acs/acs-51.html>.

For example, the District of Columbia has several dozen census tracts that are in persistent poverty, but the District itself is not in persistent poverty. (The District is considered a “county” by the Census.) Given the District’s small size, it is easy to live in a census tract experiencing persistent poverty and work and spend free time in a wealthier census tract.

Consider census tract 007503 in Washington, D.C., which is a “persistent poverty” census tract, but it is not in a “persistent poverty” county. The poverty rate is 39.8%. It has a population of 2,528 people.<sup>1238</sup> It is 87.4% black and 5.2% white. There are 24,089 employer establishments in the District of Columbia.<sup>1239</sup> Residents have free access to some of the greatest museums in the world. The District is bordered by wealthy counties such as Arlington County, Virginia, and Montgomery County, Maryland. Yet in 2022, census tract 007503 had 5 murders, 15 robberies, 7 assaults with a dangerous weapon, 2 cases of sex abuse, 22 motor vehicle thefts, 28 cases of theft from an auto, 41 thefts, and 12 burglaries, for a total of 132 crimes.<sup>1240</sup>

Contrast this with a “persistent poverty” census tract that is in a “persistent poverty” county. 54 of Georgia’s 159 counties are classified by the Commerce Department’s Economic Development Administration as experiencing “persistent poverty.”<sup>1241</sup> These counties are predominantly clustered in the southern half of the state.

Clay County is both a “persistent poverty” census tract (census tract 960300) and a “persistent poverty” county. The poverty rate is 25.7%. It has a population of 2,848 people.<sup>1242</sup> Over half the population is black (1,597), and less than half the population (1,143) is non-Hispanic white. The employment rate is 47.7%, and there is a grand total of 39 employer establishments in the county.<sup>1243</sup> The four surrounding counties – Quitman, Randolph, Calhoun, and Early – are also “persistent poverty” counties. The Census reports that the percentage rural status is 100%, and there is no metropolitan area nearby. In 2022 (the most recent year for which

<sup>1238</sup> Profile of General Population and Housing Characteristics, Census Tract 75.03; District of Columbia, U.S. Census Bureau,

[https://data.census.gov/table?g=040XX00US11\\_1400000US11001007503&d=DEC%20Demographic%20Profile](https://data.census.gov/table?g=040XX00US11_1400000US11001007503&d=DEC%20Demographic%20Profile).

<sup>1239</sup> District of Columbia, U.S. Census Bureau,

[https://data.census.gov/profile/District\\_of\\_Columbia?g=040XX00US11](https://data.census.gov/profile/District_of_Columbia?g=040XX00US11).

<sup>1240</sup> See Appendix 1. Data taken from Crime Cards DC, Metropolitan Police Department,

<https://crimecards.dc.gov/all:crimes/all:weapons/dated::01012022:12312022/citywide:Census%20Tract>.

<sup>1241</sup> “About Counties,” Advancing Georgia’s Counties,

[https://www.accg.org/about\\_counties2.php#:~:text=About%20Counties,-Nationwide%2C%20there%20are&text=The%20number%20and%20size%20of,Ocean%20%2D%20falls%20withi](https://www.accg.org/about_counties2.php#:~:text=About%20Counties,-Nationwide%2C%20there%20are&text=The%20number%20and%20size%20of,Ocean%20%2D%20falls%20withi)  
n%20a%20county; “Persistent Poverty Counties,” Research, Data, and Reports, Economic Development Administration, <https://www.eda.gov/performance/tools>.

<sup>1242</sup> Clay County, Georgia, U.S. Census Bureau,

[https://data.census.gov/profile/Clay\\_County\\_Georgia?g=050XX00US13061](https://data.census.gov/profile/Clay_County_Georgia?g=050XX00US13061).

<sup>1243</sup> Clay County, Georgia, U.S. Census Bureau,

[https://data.census.gov/profile/Clay\\_County\\_Georgia?g=050XX00US13061](https://data.census.gov/profile/Clay_County_Georgia?g=050XX00US13061).

data is available), Clay County had 0 murders, 5 rapes, 0 robberies, 11 aggravated assaults, 12 larcenies, and 1 motor vehicle theft, for a grand total of 32 index crimes.<sup>1244</sup>

Unless you believe that simply having more white people in your county magically improves conditions, it's hard to imagine that Clay County, Georgia is much less *materially* disadvantaged than DC census tract 007503.<sup>1245</sup> Yet despite having a slightly smaller population, census tract 007503 had more than four times as many reported crimes as Clay County.

As panelist Donald Northcross testified:

We have problems in our society as far as inequities. I'll be the first one to admit that. But they've always been there. And we were never killing each other at the rate that we are killing each other now. We've been poor in this country for a long time. We've been without resources for a long time. But we didn't turn to killing each other the way we're killing each other now.<sup>1246</sup>

The fundamental problem is not that inner-city disadvantaged areas are poor. As criminologist John Paul Wright wrote in his testimony to the Commission:

A large body of criminological and psychological evidence finds that recidivistic criminals are not accidental, adjacent, or incidental criminals. They are hyper-aggressive, low in self-control, make systemically bad decisions, reject conventional roles such as jobs and education, are socially and economically parasitic, are highly entitled and remarkably manipulative, and they see nothing wrong or immoral with their impolite and dangerous behavior. As several qualitative studies of active offenders demonstrate, many report experiencing enjoyment at terrorizing, maiming, and killing others. Criminals have friends and family who are criminal, and they reject and laugh at those who are not. Working at McDonalds is beneath them but selling drugs, committing armed robbery, and having numerous children with no intention of support is not.

These behaviors are habituated and manifest from early callous and unemotional traits in childhood that seamlessly unfold into antisocial personality throughout adulthood. Criminals represent a class of people who are very different from the rest of society. They do not share conventional means, aspirations, and moral

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<sup>1244</sup> "2022 Crime Statistics Summary Report," Georgia Bureau of Investigation, <https://gbi.georgia.gov/services/crime-statistics>.

<sup>1245</sup> EDA-Census Poverty Status Viewer, [https://mtgis-portal.geo.census.gov/arcgis/apps/experiencebuilder/experience/?data\\_id=dataSource\\_9-Persistent\\_Poverty\\_350-16%3A914&id=ad8ad0751e474f938fc98345462cdfbf&page=Persistent-Poverty-County](https://mtgis-portal.geo.census.gov/arcgis/apps/experiencebuilder/experience/?data_id=dataSource_9-Persistent_Poverty_350-16%3A914&id=ad8ad0751e474f938fc98345462cdfbf&page=Persistent-Poverty-County).

<sup>1246</sup> Briefing transcript at 117.

values; indeed, they see crime as an important element to their self-identity. It is how they get status and respect on the street, how they exercise influence over others, and how they live recklessly nihilistic lives. They are more likely to resist than to earnestly embrace changing their behavior.<sup>1247</sup>

Unsurprisingly, people who have little impulse control, refuse to work or study, and enjoy hurting others tend to be poor. Unfortunately, that means they are concentrated among decent, law-abiding people who also happen to be poor.

#### **d. The Importance of Prosecuting and Incarcerating Criminals**

Why are there more hardened criminals in poor black and Hispanic neighborhoods than in other neighborhoods? I don't know. I do know that teenagers who beat a disabled elderly man to death<sup>1248</sup>, or a man who shoots his ex-girlfriend in the head<sup>1249</sup> didn't do so because buildings are racist or because there weren't enough white people around. As former Denver Police Chief Paul Pazen testified:

I can tell you, as someone that has held the hand of a 20-year-old who lost his mother to gun violence, as somebody that continues to communicate with a brother who lost his sister to violence, that in too many cases individuals are not being held accountable for violent and repeat offenses.

Of the mother, three of the four perpetrators or offenders in this particular case were out on supervision. They had previous cases pending. So, the police had actually done their job, but the other aspects of the criminal justice system are not keeping pace with that.

Same with the brother who lost his sister. This individual was out on three violent offenses, all three involving a weapon, and was released on a PR bond only to shoot a 32-year-old mother with a AR, stolen AR-15.<sup>1250</sup>

Likewise, if former Baltimore City State's Attorney Marilyn Mosby had done her job, deputy sheriff Glenn Hilliard would likely still be alive. As his widow, Tashica Hilliard, testified at the briefing about the man who killed her husband:

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<sup>1247</sup> John Paul Wright Statement at 18.

<sup>1248</sup> Katherine Donlevy, "Three girls, between 12 and 13, arrested for beating disabled man to death on DC street," N.Y. POST, March 30, 2024, <https://nypost.com/2024/03/30/us-news/three-girls-arrested-for-beating-disabled-man-to-death-on-dc-street/>.

<sup>1249</sup> United States v. Israel D. Beairs, 2024 CF1005459 [hereinafter "Beairs Complaint"].

<sup>1250</sup> Briefing transcript at 43.

The suspect, a 20-year-old white male, had been arrested 20 times as a juvenile and now 10 times as an adult. Within his short time of being an adult, the suspect already had multiple incidences of robbery, second-degree assault, malicious destruction of property, and the list goes on. In 2019 he was facing up to a 25-year prison sentence due to the use of a handgun during an armed robbery.

The Baltimore City state's attorney authorized for the suspect to receive probation before judgment and not the minimum sentence. After pleading guilty to one count of armed robbery, the suspect continued to be arrested throughout different counties in Maryland, but his probation was never violated until sometime in May or early June.

The suspect was prohibited from having a firearm, possessing a firearm due to his prior felony convictions, but as Glenn always told me, gun laws are for law-abiding citizens, not criminals. The only thing that could have saved my husband's life that night would have been if the suspect were in prison where he belonged.<sup>1251</sup>

The Hilliard family's story is tragically similar to a recent case in Washington, D.C., except in this case, the point of failure was the judge, not the prosecutor. From the complaint:

[O]n April 28, 2024, a woman identifying herself as Renee Caples called 911 reporting that her former boyfriend Israel Beirs (spelling as provided on call) had just punched her, hit her with a gun, and then shot at her as she was walking away. She reported that Beirs was upset at her because she didn't have gas money for him. . . . Caples said that "Beirs" was following her.<sup>1252</sup>

Unrelated to Ms. Caples's 911 call, the next day, April 29, 2024, members of the Metropolitan Police Department's Robbery Suppression Unit conducted a traffic stop and found Beairs, a felon, was in possession of a firearm.<sup>1253</sup> He was arrested and the government requested Beairs be held without bond. The judge denied the request and released Beairs with electronic monitoring.<sup>1254</sup>

On June 4, 2024, Renee Caples parked in front of the Paradise Vape Shop in northeast D.C. A few minutes later, a man identified as Israel Beairs by CCTV footage, his vehicle, his court-ordered GPS ankle monitor, and his tattoos parked next to her vehicle. As captured on CCTV from the vape shop, Ms. Caples saw Beairs and tried to maintain her distance. When he began speaking to another man, she got into her car and tried to drive away.

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<sup>1251</sup> Briefing transcript at 163-164.

<sup>1252</sup> Beairs Complaint at 10.

<sup>1253</sup> Beairs Complaint at 2.

<sup>1254</sup> Beairs Complaint at 11.

As the victim begins to drive away, the Suspect produces a handgun from his waistband and fires multiple gunshots at the victim as she drives away. The defendant then pauses briefly and continues to walk towards the rear of his vehicle and then fires multiple additional gunshots in the direction of the victims as she departs in the SUV.<sup>1255</sup>

The last update for affiant has received on Ms. Caples' condition is that she had surgery to relieve pressure to her brain, but that she will likely be brain dead based upon the defendant's gunshot wound to her head and the lodging of the projectile through and in her brain.<sup>1256</sup>

Note that GPS monitoring could not prevent this crime. It helped the police catch Beairs after the fact, but it was too late for Ms. Caples. Note also that Beairs was already facing a Felon in Possession charge, but obtained yet another firearm. As Tashica Hillard said, "gun laws are for law-abiding citizens, not criminals." It is also worth noting that the police were not alerted to this crime by a 911 call, despite the presence of multiple other people at the scene during the shooting, but by ShotSpotter.<sup>1257</sup>

#### **e. Gun Control and Crime**

As mentioned earlier, this report was not supposed to be about the causes of crime. That was something former Chair Cantù insisted upon during negotiations over this topic. Once the topic was approved, however, the Commission's career staff decided to address everything they believed was a cause of crime, including a lack of gun control.

First, it is remarkable that rather than punishing people who commit gun crimes or who have forfeited their right to bear arms, the Left wishes to take away the rights of law-abiding citizens. In no other area does a person lose their rights because a completely unrelated person commits a crime.

Second, the gun control proposals discussed at the Commission's briefing would do very little to reduce firearm homicides. Vice-Chair Nourse referred to AR-15s and the "assault weapons ban," as did Commissioner Jones.<sup>1258</sup> The overwhelming majority of violent crimes involving a firearm are committed using handguns. This can be seen in the table below, which was downloaded from the FBI's UCR reports for all violent crimes committed from 2012-

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<sup>1255</sup> Beairs Complaint at 6.

<sup>1256</sup> Beairs Complaint at 11.

<sup>1257</sup> Beairs Complaint at 1.

<sup>1258</sup> Briefing transcript at 51, 53.



2022.<sup>1259</sup> At best, an “assault weapons ban” might help at the margins with mass shootings, but even that is unlikely unless hunting rifles and shotguns were also banned.<sup>1260</sup> Panelist John Lott also stated that the “assault weapons ban” can only be said to have reduced mass shootings if one uses an idiosyncratic definition of “mass shootings.”<sup>1261</sup> But more importantly, “assault weapons” are not the weapons usually used in the crimes under consideration in this report. In fact, there were more violent crimes committed using asphyxiation (17,324) during 2012-2022 than there were violent crimes committed using rifles.

Type of Weapon	Number
Handgun	155418
Firearm	76460
Rifle	9153
Other Firearm	6675
Handgun (Automatic)	5009
Shotgun	4149
Firearm (Automatic)	2399
Rifle (Automatic)	661
Other Firearm (Automatic)	186
Shotgun (Automatic)	63

I suspect my colleagues know that banning AR-15s would do little to reduce gun violence. It is simply a first step on the road to making it more difficult for law-abiding people to own handguns. Even if the government did succeed in banning handguns and tried to engage in mass confiscation, it is questionable whether this would do much to reduce homicide rates. John Lott testified:

Banning guns might reduce firearm suicides and cases of self-defense, but it won't reduce firearm murders. Indeed, a ban on guns, even a handgun ban such as the

<sup>1259</sup> Federal Bureau of Investigation, Crime Data Explorer, “All Violent Crime Offense Characteristics,” <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.

<sup>1260</sup> As panelist John Lott testified, there is nothing special about AR-15s. “AR-15s are small-caliber, semi-automatic hunting rifles. They just look different, but they function identically to any semi-automatic gun. About 85 percent of the guns in the United States are semi-automatic.” Briefing transcript at 191.

<sup>1261</sup> Briefing transcript at 191-192.

Assault weapons have not reduced the mass public shootings, the ban that we had from '94 to 2004. There is one academic, Louis Klarevas has his own unique definition of mass shootings that he collects there, and that's the one President Biden and others refer to constantly.

But the problem that you have with that is that if you look at the percent of mass shootings, mass public shootings that involve assault weapons, even using his unique measure, it actually went up during that period of time. The only way that it could drive a decline was if the share fell over the period.

ones we've seen in Washington and Chicago, inevitably makes things much worse. After every gun ban, murder rates have gone up.

One would think that just once, out of simple randomness, murder rates would have gone down or remained the same after a ban. But whenever crime data are available from both before and after a ban, we can see that murder rates have gone up (often by huge amounts).

Gun control advocates will say that Washington and Chicago weren't fair tests. They will point out that criminals could still get guns in Virginia or Maryland, or in Illinois or Indiana. While that might explain why murder rates didn't fall as promised, it doesn't explain why murder and violent crime rates went up.

Even island nations who had no neighbors to blame have fared no better. After the U.K. banned handguns in January 1997, its homicide rate rose by 50% over the following eight years. The rate returned to earlier levels only after a 14% increase in the number of police.

Even more dramatic post-ban surges occurred in Jamaica and Ireland, with six or sevenfold increases in homicide rates.<sup>1262</sup>

#### **f. What the Government Can Do**

What can the federal, state, and local government do to reduce crime? As panelist Tom Hogan testified, violent crime is largely driven by a small percentage of high-volume offenders.<sup>1263</sup> In the early 2000s, the Department of Justice initiated a coordinated effort to target those offenders with a "carrot and stick" approach:

The carrot was, we'll give you training, we'll educate you, we'll give you vocational opportunities, we'll give you counseling. That's the carrot. The stick is, if you don't decide to go that way, then that 50 percent of violent crime you are causing, you're going to be incapacitated with long federal sentences.

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<sup>1262</sup> John Lott Statement at 55. You can agree or disagree with Professor Lott's research. Unfortunately, we were unable to have a useful discussion on the topic, as my colleagues resorted to ad hominem attacks rather than engaging his arguments on the merits in a respectful fashion.

<sup>1263</sup> Briefing transcript at 26.

And it worked. Violent crime went down in every city where we applied these programs. And it worked best for our minority communities. They were the ones that saw the biggest drop in violent crime.<sup>1264</sup>

Hogan testified that DOJ has dramatically reduced criminal prosecutions over the past fifteen years. In 2010, DOJ filed about 68,000 new criminal cases.<sup>1265</sup> That has steadily declined to around 50,000 in 2022. There was an increase in 2018-2019, but Hogan testified that the increase was almost entirely attributable to immigration cases.<sup>1266</sup>

By 2022, last year, DOJ is at its lowest level of prosecutions since 1998. They have abandoned our inner cities. They need to come back into play to protect our most disadvantaged communities. And they already have the blueprint. They have Operation Ceasefire and Project Safe Neighborhoods.

And the good news is, since it only focuses on that five percent of violent offenders, it doesn't cause mass incarceration. Instead, what it causes is mass safety across the United States. Justice is what we're looking for here. We need to protect our most disadvantaged citizens.

Right now, DOJ, according to this graph, has not only the capability, because they've done it before, but they have the capacity. They could move up their level of prosecutions by just 10,000 cases. Take on the hundred most violent criminals in the hundred largest cities in the U.S. and everybody, particularly our most disadvantaged citizens, would be much safer.<sup>1267</sup>

John Paul Wright testified:

Numerous studies have documented substantial reductions in violent crime associated with the use of focused deterrence strategies. Focused deterrence directs police and social service resources at the most criminally involved individuals, their social networks, and gangs. Focused deterrence aims to arrest or deter the most prolific offenders in a neighborhood. Overall, focused deterrence has been tried in cities across the U.S. and research finds a net crime reduction of 64% when employed with integrity.<sup>1268</sup>

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<sup>1264</sup> Briefing transcript at 26-27.

<sup>1265</sup> Hogan, PowerPoint Presentation for Briefing, at slide 4.

<sup>1266</sup> Briefing transcript at 27.

<sup>1267</sup> Briefing transcript at 27-28.

<sup>1268</sup> John Paul Wright Statement at 18.

Former Denver Police Chief Paul Pazen argued that local prosecutors also need to prosecute violent crimes, and that in too many jurisdictions they are not doing so.

We have to look at what is working and what is not working. And that is all aspects of the criminal justice system. I did a report comparing Denver and Colorado Springs. Both departments have remarkably high clearance rates. 80 percent and 74 percent respectively for homicides.

But what happens at that next level? And in the Fourth Judicial District of Colorado Springs, that DA files cases 94.8 percent of the time and holds people accountable for the cases that are solved. In Denver, it's 35 percent of the time.

And you can look similarly, Fresno and Oakland. Kansas City, Kansas, [versus] Kansas City, Missouri, that when people are held at the cities that are doing well, there is accountability for violent and repeat offenders.<sup>1269</sup>

It is important that the police investigate and prosecutors prosecute every murder and non-fatal shooting in order to maintain the state's monopoly on the use of force.<sup>1270</sup> If otherwise law-abiding people (especially young men) see that the agents of the state do not punish the criminals who hurt their friends and family, they are tempted to punish the criminals themselves or to preemptively strike rivals who they fear may hurt their friends or family.<sup>1271</sup> Similarly,

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<sup>1269</sup> Briefing transcript at 43.

<sup>1270</sup> It is also important to enforce even quality-of-life crimes because otherwise, the government makes the law-abiding look like chumps. Only a fool pays the subway fare when fare evasion is tolerated. If society is to remain intact, the laws must be enforced.

See Gerard V. Bradley, *Retribution and the Secondary Aims of Punishment*, 44 AM. J. JURIS. 105, 107 (1999), [https://scholarship.law.nd.edu/law\\_faculty\\_scholarship/852/](https://scholarship.law.nd.edu/law_faculty_scholarship/852/).

Criminal acts often, but not always, involve an injustice to one or more specific persons: the defrauded old lady, the black-eyed assault victims, the hapless and involuntary pedestrian whose car was stolen. But there are some "victimless" crimes, and sometimes the whole community is victimized, as in pollution or "quality of life" street offenses like public intoxication. But what *always* occurs when a crime is committed is this: the criminal unfairly usurps liberty to pursue his own interests and plans, contrary to the common boundaries for doing so marked out by the law. Thus far viewed, the *whole* community – save *the* criminal – accepts the constraints specified. The criminal's act of usurpation is *unfair* to *all* of them. Punishment aims to restore the order of justice, to put as it were the entire community back on track, aright, with regard to that distribution of liberty, by depriving the criminal of his ill-gotten gain.

<sup>1271</sup> Gerard V. Bradley, *Retribution and the Secondary Aims of Punishment*, 44 AM. J. JURIS. 105, 108 (1999), [https://scholarship.law.nd.edu/law\\_faculty\\_scholarship/852/](https://scholarship.law.nd.edu/law_faculty_scholarship/852/).

Someone might wonder how, on this view, are law-abiding members of the community treated unfairly or disadvantaged where the criminal act is *malum in se*. It is indeed odd to say that, with regard to immoral acts like murder and rape, law-abiding people sacrifice some "liberty" to act on their own judgment. In such cases, is not the *only* injustice that harm visited by the criminal upon his particular victim?

The victims of rape and murder suffer egregious injustice. But all law-abiding people are harmed too. They refrain from acts they would otherwise perform, and which they would have good moral

people who are not law-abiding and enjoy engaging in crime for the power it gives them over others are more likely to do so when they are confident they will not be arrested for anything short of murder, or that they will be able to go free if they are arrested because their neighbors fear retribution if they assist the police. As panelist Tom Hogan testified:

[I]f you don't control every homicide and nonfatal shooting, you are buying more homicides and shootings because you are going to get into retaliatory violence.

If you don't solve that first homicide, the street keeps score. And if law enforcement can't take care of that homicide or take that nonfatal shooter off the street, the street will. And then that one homicide turns into two, and that two turns into five, and that five turns into ten.<sup>1272</sup>

Or as panelist Donald Northcross, a former sheriff's deputy and founder of the OK Program, testified:

Black boys are the only people I know in the country that won't pick up their phone and call the police if they have a legitimate threat made on their life. They'll deal with it themselves. They'll get some friends and they'll handle it themselves. Or they'll put a gun in their pocket to be able to address that issue when he's confronted by the person who made the threat on their life.<sup>1273</sup>

Panelist Demetrius Molina testified about his own life experience:

My fourth arrest was for retaliating against someone who came shooting at my house. This arrest was my first that involved the use of a weapon. The initiator was not arrested because I would not cooperate with the police by identifying the shooter.<sup>1274</sup>

And that is how you get cycles of retaliatory violence.

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reason to perform, because of the laws against rape and murder. But no one who rapes and murders is ever morally justified. If, however, there were no recognized or effective punishing authority, persons would justifiably take steps to protect themselves against threatened assaults, and thus act directly for the common good by punishing criminals. They cede this liberty to public authority. If – when – a crime goes unpunished, people rightly wonder whether the criminal justice system in place should be removed or reformed. The people have, as it were, consigned their liberties to public authority, on condition that public authority effectively punishes criminals.

<sup>1272</sup> Briefing transcript at 59.

<sup>1273</sup> Briefing transcript at 80-81.

<sup>1274</sup> Briefing transcript at 142.

A number of witnesses scoffed at the notion that enforcing the law and incarcerating criminals will reduce crime. Panelist Alice Hamblett said, “Communities have been over-surveilled, over-policed, and over-incarcerated, all in the name of public safety. . . . If incarceration worked to secure their safety, they would know it by now.”<sup>1275</sup> Professor Patrick Sharkey testified, “It is not possible to build a lasting sustained peace through mass incarceration, through aggressive policing, through intensive surveillance targeted toward low income communities of color.”<sup>1276</sup>

The problem with these claims is that, as the report correctly points out (and Professor Sharkey admits), violent crime *did* decrease from its early 1990s peak.<sup>1277</sup> It declined because government officials and law enforcement became serious about stopping crime. That meant engaging in proactive policing (such as “stop, question, and frisk”), arresting and prosecuting more criminals, and incarcerating criminals for longer periods of time.<sup>1278</sup> When we stopped doing those things, crime started climbing again. As Professor John Paul Wright said, “[W]hile there are costs to incarceration, it is now obvious that there are also costs to not incarcerating. The difference has been pointed out in the literature as in who pays the price? The individual who commits the crime or the community in which they offend in.”<sup>1279</sup>

As Rafael Mangual wrote in his testimony:

- Between 2010-2016, police departments across the country saw a sharp increase in oversight actions undertaken by the U.S. Department of Justice’s Civil Rights Division, which has initiated pattern and practice investigations and entered into agreements with police departments at a far higher clip than in years past.
- The current administration seems to be continuing this approach, despite evidence that the launching of prior investigations led to sharp increases in serious crime.
- Over the last 10-20 years, the country has seen federal and state sentencing reforms, state and local bail reforms, state-level discovery reforms, various decriminalization efforts aimed at drug and theft offenses, successful litigation efforts targeting police practices or incarceration levels, and a slew of (often hasty) state and local police reforms aimed at restricting police powers and discretion.

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<sup>1275</sup> Briefing transcript at 101.

<sup>1276</sup> Briefing transcript at 186.

<sup>1277</sup> Report at p. 52, Fig. 2.

<sup>1278</sup> Mangual Statement at 8.

My co-panelist, Professor Sharkey has noted, “[E]ven the staunchest critics of mass incarceration acknowledge that the expansion of the imprisoned population contributed to the decline in violence,” and “The best evidence we have makes clear that police are effective in reducing violence,” such that “One of the most robust, most uncomfortable findings in criminology is that putting more officers on the street leads to less violent crime.”

<sup>1279</sup> Briefing transcript at 201.

- Since 2016, the so-called “progressive” prosecutor movement has enjoyed an enormous amount of electoral success, winning seats across the country, such that somewhere in the range of 70 million Americans now live in jurisdictions with “progressive” prosecutors, who have:
  - Adopted broad policies of non-prosecution as to certain disfavored offenses, limited the discretion of line prosecutors with respect to pretrial detention, parole opposition, and the pursuit of sentencing enhancements, among other things.

These shifts, individually and collectively, seem to have reduced the likelihood of arrest, prosecution, and/or incarceration for many criminal offenders. Evidence that these shifts have had just such an impact includes (though is certainly not limited to):

- A 24% decline in the nation’s prison population between 2010-2021;
- A 15% decline in the national jail population between 2010-2021;
- A 25% decline in arrests, nationwide, between 2009-2019; and
- A long-standing police recruitment and retention crisis characterized by declines in hiring, increases in resignations and retirements, and reports of recent declines in morale.<sup>1280</sup>

When you have more criminals out on the street, you have more crime.

### **g. The Importance of Police**

As Vice-Chair Nourse stated at our briefing, “police officers are working-class people trying to do good.”<sup>1281</sup> The report acknowledges that the police have an extremely difficult job.<sup>1282</sup> Unfortunately, that job was made much more difficult by the anti-police protests and sense that local and state officials would scapegoat the police if possible. Furthermore, as John Paul Wright testified, the number of police officers who were shot or killed in the line of duty has been increasing since 2012, with a small decrease in 2022.<sup>1283</sup> This statistic should receive at least as much media attention as the number of unarmed black men shot by police every year, but it doesn’t even receive a peep.<sup>1284</sup>

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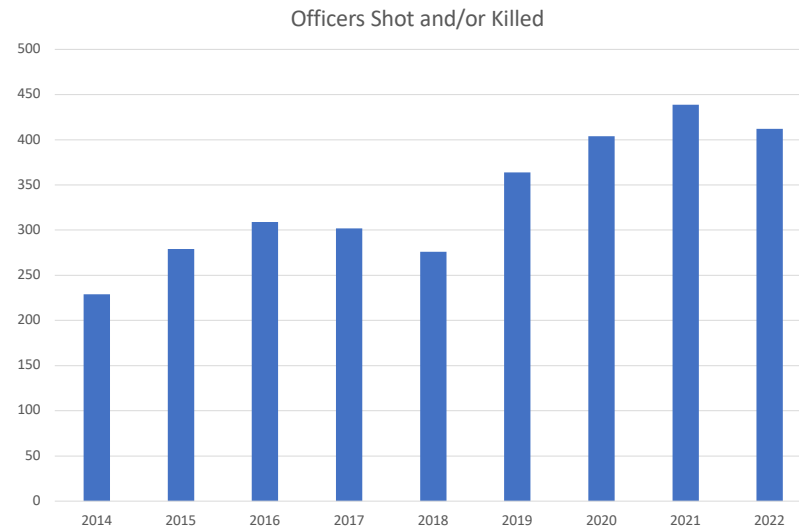
<sup>1280</sup> Mangual Statement at 9.

<sup>1281</sup> Briefing transcript at 12.

<sup>1282</sup> Report at 87-88.

<sup>1283</sup> Wright Statement at Figure 8.

<sup>1284</sup> Robert Maranto, Wilfred Reilly, and Patrick J. Wolf, “Which Police Departments Make Black Lives Matter?,” *ADMINISTRATION & SOCIETY* 56(3), 282 (2024), <https://journals.sagepub.com/doi/10.1177/00953997241226892> (“[i]f we are to focus on Black victims, 253 Black Americans were fatally shot by on-duty U.S. police officers in 2015 (the first year of the database), 236 in 2016, 222 in 2017, 228 in 2018, 251 in 2019, 243 in 2020, 233 in 2021, and 225 in 2022.”).



<https://www.gunviolencearchive.org/past-tolls>

The result is that many officers resigned, retired, or moved to departments in other cities.<sup>1285</sup> As Rafael Mangual said on a recent podcast, the NYPD officers who retire are often those who otherwise might have stayed and risen to leadership positions in the department.<sup>1286</sup>

The decline in the number of officers has serious consequences.

What has the workforce crisis meant in practice? In Pittsburgh, police will no longer be responding to 911 calls that don't involve emergencies in progress between 3:00 AM and 7:00 AM. In Houston, police have "suspended" more than 250,000 cases because of a lack of personnel. In Baltimore, a staffing shortage of more than 400 officers meant that on March 19 of this year, the city's Southern District (home to some 61,000 residents) had just three officers on patrol for an entire shift, according to the city's local Fox affiliate. Baltimore is not alone on this front. A police source in Chicago sent me snapshots of assignment schedules for some city districts several months ago. On July 20 of last year, the 1530-0200 shift in the fifth district should have had cars assigned to eight beats. Only one car was on the street for that shift. The 1730-0400 shift had cars assigned to only four of the eight beats. On June 2, the 2100-0730 shift should have had cars assigned to ten beats. It could staff only five. For the 1530-0200 shift, just two beats had a car assigned to them.

<sup>1285</sup> Report at 90.

<sup>1286</sup> Rafael A. Mangual and Brian C. Anderson, "Policing and the Social Order," City Journal 10 Blocks Podcast, June 12, 2024, <https://www.city-journal.org/multimedia/policing-and-the-social-order>.



In New York, the staffing issues that have taken the NYPD from a force of more than 40,000 at the turn of the century to about 33,500 today have also driven up response times for many kinds of service calls. As I reported in the *New York Post*, in October 2022, the response times for critical, serious, and noncritical calls had risen 38 percent, 43 percent, and 52 percent, respectively, since October 2019. It now takes nearly ten minutes before an officer responds to a critical call for service, and more than 27 minutes to respond to a noncritical call. It doesn't take much imagination to consider the effect on citizen willingness to call in reports on less urgent matters.<sup>1287</sup>

Former Denver Police Chief Paul Pazen testified, "We have to have enough police officers, which we don't in Denver, and many places across the country don't have enough."<sup>1288</sup> This will likely continue to result in more crime, including more homicides. As John Paul Wright wrote in his statement:

[S]everal studies show that increasing police levels reduces crime, largely through the effect of arrest. Hiring more police has also been linked to reductions in auto thefts, burglaries, aggravated assaults, larceny, and murder. . . . More recently, Chalfin et al. (2022) found that the addition of each additional officer prevents 0.1 homicides, and that the effect is twice as large for Black victims.

Importantly, research has also shown that reductions in police are linked to increase in crime. Contrary to the anti-police narrative, the number of police on the street reduces the volume of crime on the streets. Simply put, more cops equal less crime.<sup>1289</sup>

It will be very difficult to reverse the police staffing and morale crisis. Many panelists in this briefing referred to the community's lack of trust in the police and the need to reverse that. We are also facing the police's lack of trust in the government authorities and communities they serve. A single viral video like the death of George Floyd may poison the community against the police. The flip side is that the police see that the reflexive response to a viral video by the public and government authorities is "the police were wrong," even if the officers involved are later cleared of wrongdoing, as in the case of Jacob Blake.<sup>1290</sup> Many officers decide that being the

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<sup>1287</sup> Rafael A. Mangual, "Can We Get Back to Tougher Policing?," *City Journal*, Spring 2024, <https://www.city-journal.org/article/can-we-get-back-to-tougher-policing>.

<sup>1288</sup> Briefing transcript at 44.

<sup>1289</sup> Wright Statement at 18.

<sup>1290</sup> "Federal Officials Close Review of the Officer-Involved Shooting of Jacob Blake," Office of Public Affairs, Department of Justice, October 8, 2021, <https://www.justice.gov/opa/pr/federal-officials-close-review-officer-involved-shooting-jacob-blake>.

focus of a nationwide Two Minutes' Hate for doing their jobs is not something they want. As Minneapolis police officer Andrew Schroeder told the New York Times:

“Who wants to put their lives on the line and make some split-second decision that may be the right one, and be crucified for it?” he said while patrolling the city late on a recent Saturday night. “It’s a heavy thing to think about.”<sup>1291</sup>

Police departments should do the best they can with the staffing they have. A recent study by Robert Maranto, Wilfred Reilly, and Patrick Wolf may be helpful for police departments and citizens.<sup>1292</sup> Their “Police Performance Index” combines the homicide rate and police-involved death of civilians rate for the country’s fifty largest cities. They also attempt to incorporate a poverty measure into their analysis. Their goal is to see which police departments are able to minimize homicides while also minimizing civilian deaths. They found that “city poverty correlates relatively highly with homicide rate (.55), but only slightly (.10) with police related civilian deaths.”<sup>1293</sup> They also found that “even adjusting for poverty, U.S. police departments vary widely in their levels of effectiveness” and also “Departments that are better than average at preventing murders also tend to be better than average at avoiding killing civilians.”<sup>1294</sup> Departments seeking to improve their performance may be able to learn best practices from other departments, or recruit leadership from those departments. However, until the police staffing and morale crisis is resolved, it will be difficult for many police departments to do anything other than be reactive.

It is vital that the police treat everyone with courtesy and professionalism. There was a great deal of discussion at our briefing about the need to repair “police-community relations.” I do not disagree with that. However, the police are laboring under a perhaps insurmountable burden. If they engage in proactive policing and go to the “hot spots” that are most prone to crime, they will often be in predominantly minority neighborhoods. The very practices that help reduce crime – traffic stops, “stop, question, and frisk” – are resented by some residents. Even when the police are responding to a 911 call, things can go wrong because criminals fundamentally do not accept legitimate authority. (It’s almost the definition of being a criminal.) With ubiquitous cell phone video and social media eager to amplify any potentially racially incendiary incident, a lie can get halfway around the world before the truth can get its pants on – as happened in the case of Michael Brown. As the vast majority of people are not going to read DOJ’s report on the Michael Brown altercation, along with exhaustive eyewitness testimony

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<sup>1291</sup> Ernesto Londoño, “How ‘Defund the Police’ Failed,” N.Y. TIMES, June 16, 2023, <https://www.nytimes.com/2023/06/16/us/defund-police-minneapolis.html>.

<sup>1292</sup> Robert Maranto, Wilfred Reilly, and Patrick J. Wolf, “Which Police Departments Make Black Lives Matter?,” ADMINISTRATION & SOCIETY 56(3), 282 (2024), <https://journals.sagepub.com/doi/10.1177/00953997241226892>.

<sup>1293</sup> Robert Maranto, Wilfred Reilly, and Patrick J. Wolf, “Which Police Departments Make Black Lives Matter?,” ADMINISTRATION & SOCIETY 56(3), 282 (2024), <https://journals.sagepub.com/doi/10.1177/00953997241226892>.

<sup>1294</sup> Robert Maranto, Wilfred Reilly, and Patrick J. Wolf, “Which Police Departments Make Black Lives Matter?,” ADMINISTRATION & SOCIETY 56(3), 282 (2024), <https://journals.sagepub.com/doi/10.1177/00953997241226892>.

about what happened, a sense lingers that this was unjust and racist, poisoning relations between the police and minority citizens.

Regardless of the crime, when someone is arrested or is shot or manhandled by police (even if force is completely justified), some aunt or mother or child will feel their loved one was mistreated and resent the police. As panelist Demetrius Molina said, “Why would I call the police when they took my father away?”<sup>1295</sup> That is an understandable reaction in a child. But there is no way to enforce the law in a way that doesn’t cause sadness to someone. If the police and prosecutors don’t enforce the law, we get what we have now and what we had even more of in the 1970s-1990s – greater amounts of crime and disorder that weigh most heavily on the poor and disadvantaged.

#### **h. Victims Services Funding**

Another thing governments can do is ignore recommendations that funding for victims’ services no longer be conditioned on not being involved in crime and cooperating with the police. The report spends many paragraphs discussing victim/offender overlap<sup>1296</sup> and what it calls “the false narrative of the ‘good victim/bad offender’ dichotomy.”<sup>1297</sup>

No one deserves to be a victim of crime, particularly violent crime. No one should be subjected to cruel comments from healthcare providers such as “no more chilling with the homies” or “thugs get helped last,” as was panelist Nicole Nabors (who was a truly innocent victim).<sup>1298</sup> On the other hand, the reason there is victim/offender overlap is because many people are living in a way where criminal activity is rife, and whether they are a victim or a perpetrator depends on the day. Confronting those people with the fact that continuing to live the same way may result in their death or imprisonment is harsh, but sometimes people need to hear hard truths.

Although every violent crime must be investigated to the furthest extent, there is no reason why society should not be most concerned with the victims who are not involved in criminal activity at all and yet are victims of it, such as the seventeen-year-old girl who was grazed by a bullet (if “grazed” is the right word when the victim’s skull is visible) while talking to her teacher at school, or the three-year-old shot while riding in an SUV.<sup>1299</sup>

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<sup>1295</sup> Briefing transcript at 141.

<sup>1296</sup> Report at 4, 5, 21, 25, 28, 29, 180.

<sup>1297</sup> Report at 5.

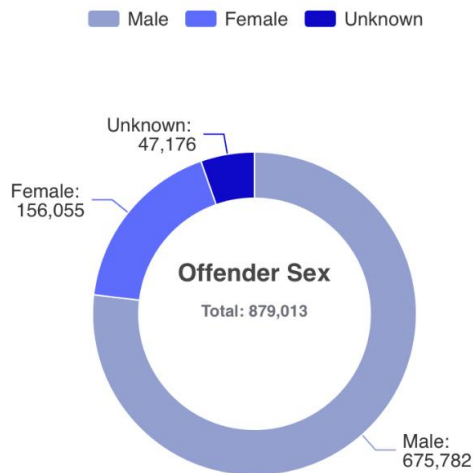
<sup>1298</sup> Briefing transcript at 135.

<sup>1299</sup> Mauricio Casillas, “‘Tragic’: DC mayor speaks on shootings that killed toddler, wounded teen,” NBC Washington, May 6, 2024, <https://www.nbcwashington.com/news/local/tragic-dc-mayor-speaks-on-shootings-that-killed-toddler-wounded-teen/3609998/>.

Receiving victims' services funding should continue to be conditioned on cooperating with the police. It is reasonable for taxpayers to expect that recipients engage in some basic efforts to help uphold law and order. Additionally, multiple witnesses discussed the inner-city taboo against cooperating with the police.<sup>1300</sup> That taboo must be broken if crimes are going to be solved. Providing an incentive for cooperating with the police (along with protection against retaliatory violence) can help people break the neighborhood code. People may object that it is too dangerous for anyone to assist the police. Perhaps that is true. But in that case, we are never going to solve many of these homicides and other violent crimes in these neighborhoods, and so we might as well write off the whole problem.

Because the report was not supposed to be about the causes of crime, we did not have many witnesses who were there to discuss criminal offenders. The staff did invite Demetrius Molina and Christina Love to testify. Both Mr. Molina and Ms. Love are victims of crime and also former offenders. They are now upstanding members of society and are sympathetic figures.

The problem is that by presenting these two witnesses as examples of the victim/offender overlap, the report provides an incomplete picture of what offenders are actually like. This is particularly the case with Ms. Love, who was not a violent offender. Furthermore, not only was Ms. Love not a violent offender, but women are a minority of violent offenders. Readers should not view Ms. Love as an example of a violent offender/victim.<sup>1301</sup>



### i. What Civil Society Can Do

<sup>1300</sup> Briefing transcript at 143, 179.

<sup>1301</sup> Chart taken from the FBI's Crime Data Explorer.

Panelist Demetrius Molina was born to teenage parents, and his father quickly wound up in prison. His uncle abused him as a young child by forcing him to fight other young boys. Molina said, “By the time I was 15 most of my friends either bought or sold drugs. With no father figure or any positive male role models to look up to for guidance, I became easily influenced by the wrong crowd.”<sup>1302</sup>

The most important thing any community can do to reduce violence is for people to get married before they have children and stay married at least until the children are adults. There is virtually unanimous agreement among researchers that children raised by single mothers have a greater likelihood of worse outcomes than children raised by intact families.<sup>1303</sup> Every community should impress upon its young members the importance of following what Ron Haskins and Isabel Sawhill term “the success sequence”: graduate from high school (at least), get a full-time job, and get married before having children.<sup>1304</sup>

At the briefing, I asked panelist Donald Northcross, himself a black former sheriff’s deputy, what would be the three most important things that would reduce violence in the black community. His response is worth reproducing in full:

The three most important things I think, is when we’re talking about violence in the black community, we also understand that we’re talking about black men and boys committing most of the violence, by far in the black community.

And, of course, the only way that’s going to stop, I think the main thing is organizing black men. Getting black men to step up and take on the responsibility of guiding young black boys in the right direction.

Seventy-two percent of our households are headed by single mothers. There is a void in black boys’ lives, the ones who cause a lot of the crime in our community.

So, the number one thing is to get black men to take that responsibility, to organize ourselves. Nobody else is stopping us from doing that. I don’t understand why we’re not organizing ourselves, and come together to address this particular issue.

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<sup>1302</sup> Briefing transcript at 142.

<sup>1303</sup> Isabel V. Sawhill, “Are Children Raised With Absent Fathers Worse Off?,” Brookings Institution, July 15, 2014, <https://www.brookings.edu/articles/are-children-raised-with-absent-fathers-worse-off/>; Brad Wilcox, Wendy Wang, and Ian Rowe, “Less Poverty, Less Prison, More College: What Two Parents Mean for Black and White Children,” Institute for Family Studies, June 17, 2021, <https://ifstudies.org/blog/less-poverty-less-prison-more-college-what-two-parents-mean-for-black-and-white-children> (the incarceration rate for young black men from intact families is 14% versus 24% for those with single parents and 26% for those with stepfamilies).

<sup>1304</sup> See generally, Brian Goesling, Hande Inanc, and Angela Rachidi, Success Sequence: A Synthesis of the Literature, OPRE Report Number 2020-41, December 2020, [https://www.acf.hhs.gov/sites/default/files/documents/opre/Success\\_sequence\\_review\\_2020\\_508\\_0.pdf](https://www.acf.hhs.gov/sites/default/files/documents/opre/Success_sequence_review_2020_508_0.pdf).

So that's the number one thing. The number two thing is to make sure that our boys get educated, that they're in school, that they're performing in school.

And I think the other thing is to prepare them to be able to work, to get, we need job opportunities, but we also need to prepare them to work.

We have a generation of young men now who are not even prepared to work. They don't understand the importance of going to work on time, doing a day's work for a day's pay. And just taking pride in being able to contribute to society.

So I think that organizing black men to take on that responsibility, making sure our boys understand the value of education, and supporting them through their educational process. And creating opportunities for them to be able to work.

And I think that will reduce crime in our communities.<sup>1305</sup>

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<sup>1305</sup> Briefing transcript at 111-113.

### Appendix A

Rate of violent victimizations, 1993 to 2022--Victim-offender relationship: strangers					
Year	All	Victim-offender relationship	Crime Type	Number	Rate per 1000 persons age 12 or older
1993	All	Strangers	Violent victimization	7,943,579	37.7
1994	All	Strangers	Violent victimization	7,728,309	36.3
1995	All	Strangers	Violent victimization	7,054,774	32.8
1996	All	Strangers	Violent victimization	6,254,852	28.8
1997	All	Strangers	Violent victimization	5,529,742	25.2
1998	All	Strangers	Violent victimization	5,002,767	22.5
1999	All	Strangers	Violent victimization	4,367,760	19.4
2000	All	Strangers	Violent victimization	3,808,256	16.8
2001	All	Strangers	Violent victimization	3,044,945	13.3
2002	All	Strangers	Violent victimization	3,096,746	13.4
2003	All	Strangers	Violent victimization	3,107,181	13
2004	All	Strangers	Violent victimization	2,672,238	11.1
2005	All	Strangers	Violent victimization	2,829,598	11.6
2006	All	Strangers	Violent victimization	3,184,058	12.9
2007	All	Strangers	Violent victimization	2,706,132	10.8
2008	All	Strangers	Violent victimization	2,154,770	8.5
2009	All	Strangers	Violent victimization	2,165,849	8.5
2010	All	Strangers	Violent victimization	1,812,303	7.1
2011	All	Strangers	Violent victimization	2,146,307	8.3
2012	All	Strangers	Violent victimization	2,710,114	10.3
2013	All	Strangers	Violent victimization	2,098,170	7.9
2014	All	Strangers	Violent victimization	2,166,129	8.1
2015	All	Strangers	Violent victimization	1,821,309	6.8
2016	All	Strangers	Violent victimization	2,082,412	7.7
2017	All	Strangers	Violent victimization	2,034,097	7.5
2018	All	Strangers	Violent victimization	2,493,747	9.1
2019	All	Strangers	Violent victimization	2,254,736	8.1
2020	All	Strangers	Violent victimization	1,973,202	7.1
2021	All	Strangers	Violent victimization	2,056,148	7.4
2022	All	Strangers	Violent victimization	2,994,274	10.6

## Statement of Commissioner Glenn D. Magpantay

The Commission's 2023 Statutory Enforcement Report, *The Federal Response to Anti-Asian Racism in the United States*, documented a surge in anti-Asian hate crimes after the onset of COVID-19. As my colleague Commissioner J. Christian Adams noted, that report and this one on *Violent Crime* should be viewed as complementary.<sup>1306</sup> I applaud the efforts of Vice Chair Victoria Nourse and Commissioner J. Christian Adams on their co-leadership in this report's development.

All too often, violent crimes and mass shootings are motivated by hate, as evidenced by the following:

- 2012 Wisconsin gurdwara (Sikh temple) mass shooting
- 2015 Charleston church anti-black mass shooting
- 2016 Orlando mass shooting at Pulse gay nightclub
- 2018 Pittsburgh synagogue mass shooting
- 2021 Atlanta Korean spa shootings
- 2021 FedEx mass shooting in Indianapolis that killed four Sikh individuals
- 2022 Colorado Springs mass shooting at Club Q, an LGBTQ bar on Transgender Day
- 2022 Buffalo mass shooting at Tops that targeted African Americans
- 2023 Monterey Park mass shooting during Lunar New Years

The pandemic disproportionately affected marginalized communities, revealing systemic inequalities in the criminal justice system. I highlight further aspects of this social issue and offer my own thoughts.

### Anti-Asian Racism

The Commission's 2023 *Anti-Asian Racism* report documented a surge in anti-Asian sentiment during the COVID-19 pandemic and Asian Americans, Native Hawaiians, and Pacific Islanders (AANHPIs) were scapegoated for the virus, resulting in increased bias and hate crimes.<sup>1307</sup> Stop AAPI Hate reported 11,000 anti-Asian incidents, including verbal harassment, offensive gestures, and vandalism.<sup>1308</sup> Marita Etcubañez, Vice President of Strategic Initiatives at Asian Americans Advancing Justice—AAJC, provided public comments at this report's briefing and stated that "hate crimes are still at alarmingly high levels" and remain "higher than what we had

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<sup>1306</sup> *The Federal Response to Anti-Asian Racism in the United States*, U.S. Comm'n on Civil Rights, (Sept. 2023), <https://www.usccr.gov/files/2023-10/fy-2023-se-report.pdf>, at 306 (Commissioner Adams voted in favor of the *Anti-Asian Racism* report, and notably said that it should be viewed as complementary to this *Crime Victimization* report.).

<sup>1307</sup> See U.S. Commission on Civil Rights, *The Federal Response to Anti-Asian Racism in the United States* (Sept. 26, 2023), <https://www.usccr.gov/files/2023-10/fy-2023-se-report.pdf>.

<sup>1308</sup> Reporting Center Data, Stop AAPI Hate, <https://stopaapihate.org/explore-our-data/> (last visited July 2, 2024).



been seeing prior to the COVID-19 pandemic.”<sup>1309</sup> Etcubañez further elaborated that in 2022, according to the Bureau of Justice Statistics, AANHPIs comprised four-percent of all violent crimes.<sup>1310</sup>

Both the 2023 *Anti-Asian Racism Report* and current 2024 Crime report emphasize the need for improved crime victim data collection. This report highlights that the FBI's Uniform Crime Reporting (UCR) Program, the primary federal source on victimization, uses overly broad racial categories.<sup>1311</sup> For instance, "Asian" is used without distinguishing between diverse Asian subgroups with potentially different crime victimization rates.<sup>1312</sup>

The 2023 report identified insufficient data as a key obstacle in assessing hate crimes against AANHPIs. Current national data fails to differentiate Asian subgroups, hindering analysis of pandemic-related hate crime trends.<sup>1313</sup> This aggregated approach perpetuates the "model minority" myth. Etcubañez urged for data disaggregation to prevent Asian subgroups that are at a higher risk of victimization from getting obscured and disadvantaged.<sup>1314</sup> Disaggregated data would enable researchers and policymakers to better understand and address specific community challenges.

### **Language Access for Victim Services**

Both this report on violent crime and the 2023 report on *Anti-Asian Racism* highlight language access barriers as a significant obstacle for crime victims.<sup>1315</sup> Victim service providers identified underserved communities, specifically immigrants and refugees; people with limited English proficiency; people with disabilities; LGBT people; and people of color. Underreporting often stems from interacting with the criminal justice system, especially for survivors from historically marginalized communities. Immigrant, deaf, or limited English proficient survivors may hesitate due to concerns about miscommunication and cultural misunderstandings.

The 2023 report identified language access barriers as a major obstacle for victims seeking critical services, reporting crimes or seeking help from law enforcement.<sup>1316</sup> Etcubañez highlighted in her public comment that 52-percent of AANHPI immigrants have limited English proficient (LEP), “and when we look at disaggregated data, we see that LEP rates are much higher for certain segments of our community. 79-percent of Burmese immigrants, 72-percent of

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<sup>1309</sup> Marita Etcubañez, Asian Americans Advancing Justice—AAJC, Public Comments, *Racial Disparities Briefing*.

<sup>1310</sup> *Id.*

<sup>1311</sup> *Id.*

<sup>1312</sup> *Id.*

<sup>1313</sup> Kauh, et al., *The Critical Role of Racial/Ethnic Data Disaggregation for Health Equity*, Population Research and Policy Review, vol. 40, no. 1-7 (2021), <https://link.springer.com/article/10.1007/s11113-020-09631-6>.

<sup>1314</sup> Etcubañez, *supra* note 4.

<sup>1315</sup> *Id.*

<sup>1316</sup> *Supra* note 2.

Vietnamese immigrants, 67-percent of Cambodian immigrants, and 66-percent of Chinese immigrants have limited proficiency in English.”<sup>1317</sup> This issue particularly affects hate crime reporting and access to resources for AANHPI victims. Following the report, bipartisan support emerged for improving Limited English Proficient programs in law enforcement and victim services at federal, state, and local levels.<sup>1318</sup>

### **Violence Against Transgender Women of Color**

The rise in violence and killings of transgender women of color is appalling as this report on crime confirms and details<sup>1319</sup>. Kierra Johnson, Executive Director of the National LGBTQ Task Force, commented that her organization found that transgender individuals in the U.S. face persistent and pervasive discrimination and violence, with transgender African Americans being disproportionately affected among LGBTQ+ people.<sup>1320</sup> Evidence suggests transgender individuals are victimized about four times more often than cisgender people,<sup>1321</sup> with young Black and Latina transgender women at highest risk.<sup>1322</sup> Sexual and/or gender minorities face increased risk for violent victimization,<sup>1323</sup> including hate crimes.<sup>1324</sup>

#### *Data Challenges*

This report emphasized that it is challenging to accurately capture rates of violent victimization against sexual and/or gender minorities because of small subgroup sizes and inadequate data collection measures of gender and sexuality.<sup>1325</sup> Johnson commented, and many others have confirmed, that a large percentage of Black transgender deaths are unaccounted for.

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<sup>1317</sup> Etcubañez, *supra* note 4.

<sup>1318</sup> *Supra* note 2.

<sup>1319</sup> *See* p. 31.

<sup>1320</sup> Kierra Johnson, LGBT Task Force, Public Comments, *Racial Disparities Briefing*.

<sup>1321</sup> Flores et al., *Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017–2018*, American Journal of Public Health (2021), vol. 111, no. 4, <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2020.306099>.

<sup>1322</sup> Alexis Dinno, *Homicide Rates of Transgender Individuals in the United States: 2010–2014*, American Journal of Public Health (2017), vol. 107, no. 9, <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2017.303878>. *See also* Lantz et al., *A Descriptive Account of the Nature and Extent of Transgender Homicide in America, 2010 to 2021*, Journal of Interpersonal Violence (2023), 08862605231197139, <https://journals.sagepub.com/doi/abs/10.1177/08862605231197139>.

<sup>1323</sup> Flores et al., *Violent Victimization at the Intersections of Sexual Orientation, Gender Identity, and Race: National Crime Victimization Survey, 2017–2019*, Plos One (2023), vol. 18, no. 2, <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0281641>.

<sup>1324</sup> Flores et al., *Hate Crimes Against LGBT People: National Crime Victimization Survey, 2017–2019*, Plos One, (2022), vol. 17, no. 12, <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0279363>.

<sup>1325</sup> Laurel Westbrook, *Violence Against Transgender People in the United States: Field Growth, Data Dilemmas, and Knowledge Gaps*, Sociology Compass (2022), vol. 16, <https://compass.onlinelibrary.wiley.com/doi/abs/10.1111/soc4.12983>.

Transgender homicides are likely undercounted because of misgendering and deadnaming<sup>1326</sup> in police and media reports.<sup>1327</sup> Audacia Ray, Director of Community Organizing and Public Advocacy for the NYC Gay & Lesbian Anti-Violence Project, explained that transgender individuals often do not share their legal names so when they are reported missing under their known name, their loved ones do not know what happens.<sup>1328</sup>

Johnson pointed out that the Civil Rights Act textually only looks at "sex" and does not consider "gender" or "sexual orientation."<sup>1329</sup> She recommended that the Commission look at "race" and "gender" and take these factors under its civil rights purview. Ray recommended the inclusion of disaggregated data on sexual and gender identity in the FBI's UCR reporting.<sup>1330</sup> This expansion would reveal important disparities in victimization risk. Data collection should reflect multiple dimensions of marginalization, including race, sex, sexual orientation, and gender identity/presentation. Such comprehensive data would provide a clearer picture of violent crime's disproportionate impact on Black individuals and other marginalized groups.<sup>1331</sup>

In 2018, 82-percent of recorded transgender homicides were women of color.<sup>1332</sup> The American Medical Association has declared fatal violence against transgender people an epidemic, especially for people of color.<sup>1333</sup> These findings underscore the need for improved data collection and reporting practices to address this critical issue.

### *Barriers to Assistance*

Transgender and gender-diverse people often find law enforcement and victim services unwelcoming and inaccessible. These barriers prevent LGBTQ+ persons from accessing crucial assistance and vital services.<sup>1334</sup> Johnson commented:

<sup>1326</sup> Deadnaming is the act of referring to a transgender or non-binary person by a name that was assigned to them at birth in cases where they have rejected those names. See e.g., Martin et al., "Intersecting Identities: Gender and Sexual Diversity," in *Sexual Minorities and Mental Health* (2023).

<sup>1327</sup> Natalee Seely, *Reporting on Transgender Victims of Homicide: Practices of Misgendering, Sourcing and Transparency*, *Newspaper Research Journal* (2021), vol. 42, no. 1, <https://journals.sagepub.com/doi/full/10.1177/0739532921989872>.

<sup>1328</sup> Ray Testimony, *Racial Disparities Briefing*, p. 157.

<sup>1329</sup> Johnson, *supra* note 15; See *EEOC v. Bostock* (where the U.S. Supreme Court held that "sex" in the Civil Rights Act includes "gender-identity" and "sexual orientation," but only for employment discrimination.).

<sup>1330</sup> Ray *supra* note 23, p. 158.

<sup>1331</sup> *Id.*

<sup>1332</sup> Human Rights Campaign, *A National Epidemic: Fatal Anti-Transgender Violence in America in 2018* (2018), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/AntiTransViolence-2018Report-Final.pdf>.

<sup>1333</sup> American Medical Association, *AMA Adopts New Policies on First Day of Voting at 2019 Annual Meeting* (Jun. 10, 2019), <https://www.ama-assn.org/press-center/press-releases/ama-adopts-new-policies-first-day-voting-2019-annual-meeting>.

<sup>1334</sup> Karmen, *Crime Victims: An Introduction to Victimology*; Christina Mancini and Justin T. Pickett, *Reaping What They Sow? Victim-Offender Overlap Perceptions and Victim Blaming Attitudes*, *Victims & Offenders* (2017), vol. 12, no. 3, <https://www.tandfonline.com/doi/abs/10.1080/15564886.2015.1093051>; Scott E. Sundby, *The Capital*

LGBT individuals and communities [continue to] face profiling, discrimination, and harassment at the hands of law enforcement officers”. Notably, police abuse and misconduct were reported at higher rates by respondents of color and transgender and gender non-conforming respondents. This experience is echoed in data from the U.S. Transgender Survey, in which 61% of Black respondents experienced some form of mistreatment by police, including being verbally harassed, or physically or sexually assaulted. I am here to say that Black Trans Lives Matter!<sup>1335</sup>

Victim service providers identified the LGBTQ+ community as an underserved population. LGBTQ+ survivors often hesitate to seek help due to:

1. Fear of being blamed for their victimization
2. Concerns of police involvement
3. Expectations of indifference or hostility from law enforcement
4. Negative past experiences with criminal justice systems.<sup>1336</sup>

## Recommendations

This report and briefing discerned additional findings and recommendations.

- Disaggregation of data collected by the FBI’s UCR program, specifically for broad race categories, along with inclusion and disaggregation of ethnicity, gender-identity and sexual orientation.
- Federal, state, and local law enforcement agencies should improve data collection, require the tracking and reporting of both hate incidents and hate crimes, and ensure that reporting forms make it easy to mark an incident or crime as a suspected hate incident or crime.
- Local law enforcement agencies and victim service providers should implement mandatory LGBTQ+ sensitivity and awareness training to improve interactions, build trust, and ensure equitable service for LGBTQ+ individuals in the criminal justice system and to support their loved ones appropriately and compassionately.
- Prosecutors and law enforcement should vigorously investigate and prosecute killings, violent crimes, and hate crimes against vulnerable communities.

## Acknowledgements

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*Jury and Empathy: The Problem of Worthy and Unworthy Victims*, Cornell L. Rev., 2002, vol. 88, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/clqv88&div=19&id=&page=>; Brandon et al., *Social Media, Newsworthiness, and Missing White Woman Syndrome: A Criminological Analysis*, Social Sciences (2024), vol. 13, no. 1, <https://www.mdpi.com/2076-0760/13/1/44>.

<sup>1335</sup> Johnson, *supra* note 15.

<sup>1336</sup> National Resource Center for Reaching Victims, *Helping Those Who Help Others Needs*, 20-22 (2020), <https://www.reachingvictims.org/resource/nareport/>.

I extend my gratitude to the Commission staff, Special Assistant Stephanie Wong, and for the organizations that testified and provided public comment for highlighting the violent crimes that Asia Americans and LGBTQ+ people experience, especially Asian American Advancing Justice (AAJC), the NYC Gay & Lesbian Anti-Violence Project, and the National LGBTQ Task Force.

I also thank President Joe Biden, U.S. Senate Majority Leader Chuck Schumer, Senator Mazie Hirono, and U.S. Representatives Grace Meng and Judy Chu for their tremendous leadership in this area and their support.

## Dissenting Statement of Commissioner Christian Adams

Date: July 8, 2024

The Honorable Jim Jordan  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, DC 20515-6216

The Honorable Chip Roy  
Chairman, Subcommittee on the Constitution  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, DC 20515

The Honorable Senator Ted Cruz  
Ranking Member, Senate Subcommittee  
on the Constitution  
United States Senate  
167 Russell Senate Office Building  
Washington, DC 20510

Indeed, this is an unconventional way to begin a Commissioner's dissent to a report of the United States Commission on Civil Rights. This is particularly odd when I am dissenting from a report which I, myself, initiated.

Yet things have gotten so off the rails in the process of the Civil Rights Commission's work here, that it is apparent to me and others that Congressional oversight of the Commission is squarely implicated. Hence, my dissent starts as it does.

Let me also apologize that this dissent runs over twenty pages. The details of this project running wildly off the rails are important for a complete understanding of how the work of the Commission has been usurped, how ideological orthodoxy brooks no dissent, and budgetary expenditures appear to be wholly devoted to generating content to advance a civil rights agenda in conflict with the overwhelming majority views of the American people – including those whom the civil rights laws were originally designed to protect.

In this report, we intended to document the impact exploding crime rates were having on minority communities. I wanted to hear from victims of crime such as Lucy Hosley in the Bronx who had her store looted by an unrestrained mob.<sup>1337</sup> Of course Lucy Hosley's story is repeating in cities across the nation in so many different forms. Whether it is a Walmart departing an urban area due to lack of enforcement of laws, or the homicide of 3-year-old Ty'ah Settles less than two miles

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<sup>1337</sup> "Black storeowner rips looters for destroying her Bronx shop," *New York Post*, June 4, 2020, <https://nypost.com/2020/06/04/black-storeowner-rips-looters-for-destroying-her-nyc-shop/>.

from your offices,<sup>1338</sup> we wanted to document the real human tragedies the crime spiral has caused in minority communities.

Why? Because there is no civil right greater than the right to live peaceably in one's neighborhood and to run a business that can rely on the rule of law and civil society. When I expressed these views when the project was approved by the Commission, Commissioner Michael Yaki snarked that my purpose sounded "progressive."<sup>1339</sup> Hardly. These are the aims that separate civilization from barbarism and animated the founding of this nation and indeed the whole history of the Renaissance and emergence of English and American rights. The rights to live peaceably are not "new."

For the Chairs of the House Judiciary Committee, Subcommittee on the Constitution and Limited Government, and Ranking Member of the Senate Judiciary Committee with oversight of the United States Commission of Civil Rights (USCCR), whether or not the Commission is comporting with statutory purposes and the direction provided by the duly appointed Commissioners is a matter of concern.

This Commission is governed by the USCCR's authorizing Statute<sup>1340</sup> and Code of Federal Regulations,<sup>1341</sup> and Commissioner-approved Administrative Instructions (AIs). Commissioner-approved AIs have been adopted by majority votes of Commissioners over many years setting procedures for the internal running of the USCCR that Commissioners themselves direct the staff to follow. Other AIs that are unilaterally promulgated by Staff Directors are not mandatory on the staff since a current Staff Director can unilaterally modify or rescind them. Contrary to these governance documents, the public policy direction of the USCCR as set by the Commissioners is being ceded over to, and at times superseded by, the Commission's Staff Director and career staff.

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<sup>1338</sup> "Toddler shot and killed in Southeast shooting identified," WUSA-9, May 4, 2024, <https://www.wusa9.com/article/news/crime/3-year-old-shot-and-killed-friday-identified-southeast-shooting-hartford-street/65-1e892d05-dca6-4e79-8166-0a4fc7f28dc7>.

<sup>1339</sup> Transcript. Yaki: "I'm sort of interested in the new and expansive definition of civil rights as enunciated by Commissioner Adams because it goes to a very progressive definition of the kind of rights that exist, the rights to live in safe and secure housing, the right to access meaningful work, all sorts of things that can be implicated by what Commissioner Adams said. Notwithstanding that, I actually don't believe that he believes in any of this stuff, so I'm voting no." Transcript of September 16, 2022 USCCR business meeting, page 43, <https://www.usccr.gov/files/2022-10/usccr-commission-meeting-transcript-09.16.2022-unedited.pdf>.

<sup>1340</sup> Civil Rights Commission Amendments Act of 1994, 42 U.S.C. 1975a(a):

<https://www.usccr.gov/files/about/pdfs/Commission-on-Civil-Rights-Legislation.pdf>

<sup>1341</sup> Rules and Regulations, Commission on Civil Rights (CCR), 45 CFR Chapter VII (42 U.S.C. 1975 through 1975d), <https://www.usccr.gov/files/about/pdfs/Commission-on-Civil-Rights-Regulations.pdf>

What happened regarding this report is not the process Congress imagined when it created the Commission.

My concerns became increasingly evident throughout the development and production of two of the Commission's most recent reports: "The Federal Response to Anti-Asian Racism in the United States,"<sup>1342</sup> released in 2023 and "Racial Disparities in Violent Crime Victimization in the United States," to be released in 2024. Outlined below are details of the actions taken by Commissioners to fulfill their statutory obligations, good-faith bipartisan efforts made by conservative Commissioners to advance *Democratic Commissioners' goals*, and subsequent actions taken by USCCR staff *to disregard proposed hearings, research plans, witness lists, and other directives* put forward by Commissioners *and approved by a majority of the Commission*.

When unelected or unappointed federal employees override or replace the wishes of duly appointed Commissioners who were appointed by the elected President of the United States or elected members of Congress, the Commission becomes untethered from democratic authority. Federal employees should not create policy. Elected policy makers and their appointed Commissioners have that authority.

## **Background**

Throughout most of 2021, the Commission was split 4-4 between Democratic appointed progressives and Republican-appointed conservative Commissioners and could not come to an agreement on topics for reports due in 2023. The stalemate on potential 2023 report topics continued into 2022. In January 2022, Commissioner Pete Kirsanow proposed, as in previous years, that the Commission study the causes and racial disparities regarding increases in crime<sup>1343</sup>, but the Democratic Commissioners were still vehemently opposed and in February 2022 they even refused to send a letter to Attorney General Garland asking the Department of Justice (DOJ) to study increases in crime and its causes.<sup>1344</sup>

After the riots and violence through the summer of 2020 ignited by the death of George Floyd, activists in the name of social justice preposterously demanded defunding of the police in many cities, eliminating requirements for cash bail, increasing parole for prisoners, the implementation of non-prosecution policies and downgrading of the severity of criminal charges. Many

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<sup>1342</sup> USCCR report, "The Federal Response to Anti-Asian Racism in the United States," U.S. Commission on Civil Rights, [https://www.usccr.gov/files/2023-09/fy-2023-se-report\\_0.pdf](https://www.usccr.gov/files/2023-09/fy-2023-se-report_0.pdf).

<sup>1343</sup> Transcript of January 21, 2022 USCCR business meeting, <https://www.usccr.gov/files/2022-07/commission-meeting-transcript-01.21.2022-unedited.pdf>.

<sup>1344</sup> *Id.*; see also Transcript of February 18, 2022 business meeting, <https://www.usccr.gov/files/2022-07/commission-meeting-transcript-02.18.2022-unedited.pdf>.



progressive local District Attorneys unashamedly implemented such policies claiming the criminal justice system is inherently racist. Afterwards, instances of violent crime soon began to dominate the headlines.

WUSA Channel 9 reported in November 2022 that based on DC police statistics, 90 juveniles had been gunshot victims with 14 of them dying thus far that year.<sup>1345</sup> That was an increase from 64 juveniles shot (with 8 fatalities) in 2019, 84 (8 fatalities) in 2020, and 47 (6 fatalities) in 2021.<sup>1346</sup> The violence against juveniles continues. The Washington Post reported January 11, 2023 that two young children, a 6-year-old and a 9-year-old, and a man were shot and injured as they exited a Metro bus in DC after an altercation and assault on the bus.<sup>1347</sup> Just this past May 2024, a 3-year-old was shot and killed as she rode in an SUV in Southeast DC.<sup>1348</sup> Hundreds of other examples of mayhem could lengthen this report from already too long to encyclopedic.

In light of the increases in crime, *National Review* in a June 28, 2021 article titled “Where’s the equity for black murder victims?” summarized the flip side to the progressive push to eliminate cash bail, defund police, expand parole, and reduce policing, prosecutions, and the level of criminal charges filed against offenders – based on claims the changes were needed to reduce systemic racism.<sup>1349</sup> The question was, with the overwhelming focus on “equity” for criminal offenders, where was the “equity” for the victims of these offenders’ crimes? As the USCCR report on “Racial Disparities in Violent Crime Victimization in the United States” (Crime Victims report) asserts, “. . . most crimes occur within racial groups (intra-racial).”<sup>1350</sup> If that is true, then when you provide criminal justice relief and reduced penalties for offenders from a particular racial demographic, are you not simultaneously sentencing other individuals in the same demographic group to more crime and less justice?

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<sup>1345</sup> “At least 128 children have been victimized by gun violence this year in the DMV,” WUSA9, Nov. 18, 2022: <https://www.wusa9.com/article/news/crime/at-least-128-children-have-been-shot-in-district-md-northern-va-this-year/65-f6d27929-d6f1-42bb-9ff0-6c3a302b8626> and <https://www.msn.com/en-us/news/crime/tragic-dc-mayor-speaks-on-shootings-that-killed-toddler-wounded-teen/ar-BB11V23k>

<sup>1346</sup> *Id.*

<sup>1347</sup> “Two young children, man shot exiting Metro bus in Northwest Washington,” Washington Post, Jan. 11, 2023, <https://www.washingtonpost.com/dc-md-va/2023/01/11/children-shot-metro-bus-northwest-dc/>

<sup>1348</sup> “‘Tragic’: DC mayor speaks on shootings that killed toddler, wounded teen”, NBC News 4, May 3, 2024, <https://www.nbcwashington.com/news/local/girl-3-critically-injured-in-southeast-dc-shooting/3608525/>

<sup>1349</sup> “Where’s the equity for black murder victims?”, Rich Lowry, *National Review*, June 28, 2021, <https://www.nationalreview.com/2021/06/wheres-the-equity-for-black-murder-victims/>

<sup>1350</sup> Report at pg. 3 and pg. 22. John Lott, President of the Crime Prevention Research Center, testified at the *Racial Disparities Briefing*, on pp. 189-190, that, “People commit crimes primarily against people who are like themselves, both in terms of race and social/economic status.” Briefing on Racial Disparities in Violent Crime Victimization in the United States, Friday, Nov. 17, 2023, <https://www.usccr.gov/meetings/2023/11-17-racial-disparities-violent-crime-victimization-united-states>

## **Proposing the Crime Victims Report**

America could see what was happening. While most Americans could read about the spike in crime or watch it on TV, to others, it was a part of their daily lives. As I mentioned, the progressive Commissioners adamantly refused to examine increases in crime and its causes as proposed by Commissioner Kirsanow. So, I proposed in April 2022 that the Commission instead consider examining the *impact of violent crime on minority communities standing alone*. Minority communities bore the brunt of crime increases from 2020 to 2021 based on the latest statistics available at the time. America should pay attention to what they were enduring.

This seems a reasonable part of the Commission's mission, and something that anyone with a measure of empathy should support. Yet we soon learned that some facts are not to be mentioned.

I noted as part of my concept paper draft that black Americans die by homicide at a much higher rate than white Americans. For instance, in 2019, blacks were murdered at a rate of 17.8 per 100,000 residents while the white homicide rate was just 2.4 per 100,000 – so, in 2019 blacks were nearly 7.5 times more likely to be a victim of homicide than a white person. In 2020, the black rate shot up over 6 points for blacks to 24 homicides per 100,000 while it only increased 0.7 points for whites to 3.1 per 100,000 – 7.75 times greater for blacks than the rate of homicides for whites.<sup>1351</sup>

The report as I proposed it would have studied federal, state, and local crime statistics using the FBI's major categories of crime for ten U.S. cities from 2017 to 2021 and the impact of increases in crime on minority communities. As Commissioner Kirsanow's statement on the Crime Victims report points out, only 56% of black Americans feel safe walking alone in their neighborhood at night, while 66% of Hispanic Americans and 77% of white Americans feel safe walking alone in their neighborhoods at night.<sup>1352</sup> Other research also finds many black Americans worry about crime and fear for their personal safety and that of their families and friends.<sup>1353</sup>

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<sup>1351</sup> Report at pg. 58, Table 3.

<sup>1352</sup> Payne Center-Gallup, Black Thriving in America: 2023, at 20 (2023), <https://www.gallup.com/510833/payne-center-gallup-black-thriving-america-report-2023.aspx>.

<sup>1353</sup> Linda Balcarová, Justin T. Pickett, Amanda Graham, Sean Patrick Roche, and Francis T. Cullen, ON THE ROBUSTNESS OF BLACK AMERICANS' SUPPORT FOR THE POLICE: EVIDENCE FROM A NATIONAL EXPERIMENT, JOURNAL OF CRIMINAL JUSTICE 92(3): 102186, at 3 (May 2024).

An extensive body of literature also suggests that Black Americans are more fearful of crime than other racial groups. For example, several studies found that Black Americans felt less safe than White Americans from crime (Chiricos, McEntire, & Gertz, 2001; Jordan & Gabbidon, 2010). According to a Gallup poll, a 20-point gap exists between Black and White Americans (43% versus 63%) in reports of being “very satisfied” about their physical safety (Saad, 2004). Similarly, Peffley and Hurwitz (2010) report that Black

From April to August 2022 the Commission wrangled over various report topics during which time Chair Norma Cantu indicated that she might be willing to consider my crime victim topic if we would expand it to include an examination of racial bias in the collection of crime statistics and the federal response to increases in crime. I agreed, but the concept paper her staff then submitted to us *essentially limited the inquiry to just examining racial bias in crime statistic compilation*, the response of victim support services to increases in crime,<sup>1354</sup> and examining the Biden Administration/DOJ's 2021 "Comprehensive Strategy for Reducing Violent Crime."<sup>1355</sup> It **excluded entirely the original proposal to examine racial disparities in the impact on minority communities from increases in crime.**

It seemed some commissioners were interested in the human impacts from the crime spike and others cared more about the politics of crime and data collection.

So, we worked out a second compromise to explore the impacts from increases in violent crime on minority neighborhoods, expanded it to examine whether there were any gaps in the crime data collection process or research, as well as an examination of what federal, state, and local governments victim service responses had been in light of any research showing racial disparities between groups of crime victims in the U.S., but any examination of the DOJ proposal was dropped. USCCR Chair Cantu then agreed to co-lead the report proposal with me.

### **False Promises on Report Proposals**

Because Chair Cantu agreed to support the Crime Victims proposal, the conservative Commissioners informally agreed to support Commissioner Michael Yaki's proposal to examine "The Civil Rights Implications of Climate Change," and to allow Yaki's proposal to be the required annual Statutory Enforcement Report to Congress while the Crime Victims proposal would be a 2023 briefing report from the Commission. Our informal agreement to support Commissioner Yaki's proposal on Climate Change was based on the original language of the concept paper Yaki submitted on July 18, 2022.<sup>1356</sup> However, two days before the August 19, 2022 Business Meeting,

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Americans are 2.5 times more likely than White Americans to be "very worried" about crime. More recently, Pickett et al. (2022) found that Black Americans were more afraid than White Americans of crime. The fear of crime among Black Americans also extends beyond personal concerns and encompasses concerns for the safety of family and friends (i.e., "altruistic fear"). Warr and Ellison (2000) found that both personal and altruistic fear of crime were higher among Black than White respondents.

<sup>1354</sup> Attachment to email from Chair Cantu's Special Assistant to Commissioners and Special Assistants, Thur. Aug. 4, 2022.

<sup>1355</sup> Memorandum for Department of Justice Employees, Comprehensive Strategy for Reducing Violent Crime, May 26, 2021, <https://www.justice.gov/dag/file/1142911-0/dl?inline=>

<sup>1356</sup> Attachment to email from Commissioner Yaki's Special Assistant to Commissioners and Special Assistants, Mon., July 18, 2022 prior to USCCR Business Meeting on Fri., July 22, 2022.

Commissioner Yaki circulated a revised Climate Change proposal that greatly expanded the scope of the report.<sup>1357</sup> Despite such short notice, our caucus chose to be accommodating and agreed to support it anyway

At the August 2022 Commission Business Meeting the issue of report topics was pushed off to the September meeting because Commissioner Yaki decided he wanted his preferred topic on Anti-Asian Racism instead of his Climate Change topic since that was his “first choice” of topic – despite months of work invested in the Climate Change and Crime Victims proposals that were teed up to be voted on at the meeting.<sup>1358</sup> This abrupt shift away from a previously negotiated topic to a new topic crafted solely by one Democratic Commissioner after the Democratic Commissioners had exacted numerous concessions from the conservative Commissioners on the Crime Victims topic demonstrated the unwillingness of the Democratic Commissioners at the time to fairly negotiate concept ideas. The reality is that they would never have approved the conservative Commissioners’ preferred topic which was to examine “Title IX and Gender Identity in Sports.” They felt entitled to choose their preferred topic and that conservatives needed to acquiesce to their every demand and compromise on any priority we might have. For the sake of moving the business of the USCCR forward, and the time already devoted to achieving compromise on the Crime Victims proposal, the conservative caucus did not demand its own “first choice.”

While this part of the saga may seem to be “inside baseball,” it is part of all the *levers of process* being used at the Commission to stymie the priorities of half of the Commissioners, in part because of the outsized role of staff in managing the process.

At the August 2022 meeting there was also a dispute over whether the Crime Victims concept paper draft, as *filed by the Staff Director* on Wednesday, again two days before the vote on it at the Friday, August 19 meeting, *properly reflected the paper as it had been agreed to by the concept paper subcommittee and circulated on Tuesday, August 16.*<sup>1359</sup>

Things sunk that low; were the drafts we negotiated the drafts put to vote after negotiations?

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<sup>1357</sup> Attachment to email from Commissioner Yaki’s Special Assistant to Commissioners and Special Assistants, Wed., Aug. 17, 2022 prior to USCCR Business Meeting on Fri., Aug. 19, 2022.

<sup>1358</sup> USCCR Business Meetings Transcript, August 19, 2022 business meeting, <https://www.usccr.gov/files/2022-08/081922-usccr-business-meeting-transcript-unedited.pdf>.

<sup>1359</sup> Attachment to email from Commissioner Kirsanow’s Special Assistant to Staff Director Morales for inclusion in the official file for the business meeting, Tues., Aug. 17, 2022 prior to USCCR Business Meeting on Fri., Aug. 19, 2022.

This chicanery is not small stuff, as it undermined the fundamental aims of the project, perhaps by design.

To illustrate, among other substantive changes, the agreed upon draft as circulated had stated that “*some of the witness testimony will be from DOJ ...*” The version officially filed by the Staff Director on Wednesday, August 17 to be voted on had been changed to say “*most of the witness testimony will be from DOJ ...*” In other words, we would hear *mostly* from administration officials, not victims of crime.

*Some* transformed into *most*, like the Elves and the Shoemaker fairy tale, as if by magic, unseen, overnight.

Worse, conservative Commissioners had not been informed of that change and other changes. Commissioner Yaki opposed a motion to change that one word – “most” - back to the agreed upon wording “some.” His excuse was he needed to consider the import of the change – and because he wanted his Anti-Asian Racism report approved instead of his Climate Change report. He moved to push the issue of approving report topics to the September 16, 2022 business meeting. I initially voted against Yaki’s motion to delay the issue but ended up changing my vote in order for it to pass and help move the USCCR’s business along.<sup>1360</sup>

After the August meeting, Chair Cantu and I as the co-leads of the Crime Victims concept paper personally negotiated a final draft. She insisted that the report not study the causes of crime. In that interim, Commissioner Yaki swapped his Anti-Asian Racism paper for his Climate Change paper and steadfastly refused a single conservative edit to any of it. True to form, after refusing any edits, he sent a greatly expanded and unnegotiated version of his proposal out the Monday before the Friday, September 16, 2022 Commission vote on it.<sup>1361</sup> For the sake of comity, the conservative caucus nevertheless agreed to support Yaki’s expanded paper with the unnegotiated language – since it *still included language that encompassed Anti-Asian bias in educational institution admissions*, which was our primary interest regarding Anti-Asian Racism in the U.S.<sup>1362</sup> Stay tuned to learn how that component was smothered in the process.

### **Differing Standards by Staff for Democrats’ Report Topic vs. Conservatives’ Report Topic**

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<sup>1360</sup> USCCR Business Meetings Transcript, Aug. 19, 2022, <https://www.usccr.gov/files/2022-08/081922-usccr-business-meeting-transcript-unedited.pdf>

<sup>1361</sup> Attachment to email from Commissioner Yaki’s Special Assistant to Commissioners and Special Assistants, Mon., Sept. 12, 2022.

<sup>1362</sup> As it turned out, we were onto something. See, *Students for Fair Admissions v. Harvard*, 600 U.S. 181 (2023).

At the September 2022 meeting, Commissioner Yaki before the vote said that “part of the very heavy focus of this [his Anti-Asian Racism proposal] will be on the rise of anti-Asian violence and hate that has occurred recently in this country. ... The statistics show that in terms of reported instances of crime against Asian Americans has gone up over 500 percent in the largest cities in America with large Asian American populations ...”<sup>1363</sup>

Commissioner Kirsanow then moved for the concept paper to explicitly include what was implicit in the draft paper’s language, an examination of the extent to which educational institutions discriminate against Asian Americans in admissions often due to claims that Asian students do not provide sufficient diversity. Among other things, the Anti-Asian Racism concept paper as submitted said that, “As staff resources may permit, the project shall attempt to determine instances in which government failure to act constituted or constitutes implicit policy which affected or affects Asian Americans. ... *Finally, and most importantly, we will look to the representative communities to define what they believe, see, or define as bias against their communities.*”<sup>1364</sup> [emphasis added]

While the Kirsanow amendment failed 4-4, the paper’s underlying language still implicitly encompassed the issue, so the conservative caucus still voted to support the Anti-Asian Racism proposal which was voted on first and it passed 8-0, with the conservative Commissioners under the presumption that the Democratic Commissioners would similarly support the Crime Victims proposal as negotiated.

Expectations of reciprocity, and even keeping promises, were wildly misplaced.

In the subsequent vote to approve the Crime Victims proposal, it only narrowly passed by one vote (4-3-1) with Chair Cantu (the co-lead on the concept paper) abstaining and all other Democrats voting “No.” While each caucus ultimately got a report proposal approved, the process was hardly balanced, transparent, or fair.<sup>1365</sup>

### **Stonewalling the Crime Victims Proposal**

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<sup>1363</sup> USSCR Business Meetings Transcript, Sept. 16, 2022, pg. 10, <https://www.usccr.gov/files/2022-08/081922-usccr-business-meeting-transcript-unedited.pdf>

<sup>1364</sup> Attachment to email from Commissioner Yaki’s Special Assistant to Commissioners and Special Assistants, Mon., Sept. 12, 2022. pg. 5.

<sup>1365</sup> USSCR Business Meetings Transcript, Sept. 16, 2022, <https://www.usccr.gov/files/2022-10/usccr-commission-meeting-transcript-09.16.2022-unedited.pdf>

Just because the concept was approved by the Commission didn't mean the concept would get past career staff. The Commission vote approving concept papers triggers an AI that empowers staff to draft "planning documents," including a research plan, report outline and timeline, based upon the four corners of an approved concept paper. Commissioners anticipated voting on planning documents for both the Crime Victims and Anti-Asian Discrimination reports at USCCR's October 21, 2022 Business Meeting.

Not so fast. Prior to the October meeting, USCCR staff said they had only had time to finish the planning documents for the Anti-Asian Racism report, but not the planning documents for the Crime Victims report based on the concept papers that had passed in September. That would have to wait awhile.

Surprise, surprise, surprise, as Gomer Pyle used to say.

Staff also said that while the planning documents for the Crime Victims proposal would have to wait until the November Business Meeting to be approved, since the Commission was so late in deciding on report topics, it was urgent that the Anti-Asian Racism planning documents be passed at the October meeting – to give the staff as much time as possible to schedule hearings and complete the report as USCCR's annual Statutory Enforcement Report prior to the September 30, 2023 fiscal year deadline for such a report.

In other words, staff urgently advanced the priority of Commissioner Yaki and said the report on crime victims would have to wait. By now, some of us had grown used to this sort of chicanery. I'll suspect some of you have been in Washington long enough to recognize these tactics yourself.

Then Commissioner Yaki at the October Business Meeting moved, without prior notice, to add a field hearing specifically in San Francisco to the Anti-Asian Racism planning documents. For parity, Commissioner Kirsanow moved for the Commission to specifically add a field hearing in New York City to the not-yet-drafted Crime Victims planning documents. Both hearing additions were adopted followed by approval of the planning documents for the Anti-Asian Racism report by a vote 7-1 with all four conservative Commissioners voting "Yes."<sup>1366</sup>

After the Anti-Asian Racism planning documents were approved at the October meeting, obstacles from the career staff arose in developing the planning documents for the Crime Victims report prior to the November 18, 2022 Commission meeting. The staff in the Office of Civil Rights

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<sup>1366</sup> USCCR Business Meetings Transcript, Oct. 21, 2022, <https://www.usccr.gov/files/2022-11/usccr-commission-business-meeting-transcript-10.21.2022-unedited.pdf>

Enforcement (OCRE) – who plan, develop and write USCCR’s reports – suddenly insisted on numerous restrictions in the circulated planning documents that severely limited the scope of the Crime Victims report, many of which were contrary to the terms of the Commissioner-approved concept paper for the report.

The OCRE staff had had numerous opportunities to raise these same concerns as the concept paper was being negotiated and developed from July to September 2022.<sup>1367</sup> OCRE’s proposed planning documents reduced the number of studied cities from 10 cities to 5 cities. But, most significantly, only cities that had transitioned from the FBI’s old Summary Reporting System (SRS) system to the FBI’s new NIBRS (National Incident-Based Reporting System) to report their crime data to the FBI prior to the Crime Victims report’s 2017-2021 study period would be eligible to be considered in the report. What might appear to be a minor data tweak effectively eliminated most major cities from being studied, including New York, Los Angeles and San Francisco.

Again, surprise, surprise, surprise. The Commission would not be able to examine what was happening in the very cities that almost every night were on the news with rampant destructive lawlessness.

This OCRE staff decision – coming after the Anti-Asian Racism planning documents had already been approved – meant that most major cities nationwide, where crime had increased the most, could not be considered in the Crime Victims study. All the major cities from the Northeast and California such as New York, LA, San Francisco, DC, Philadelphia, and Baltimore were thus eliminated from being part of the study – as well as Chicago, St. Louis, Minneapolis, New Orleans, and Atlanta. Eliminating major urban areas with large concentrations of ethnic minorities ran contrary to the original intent of the concept paper, as well as the Commission vote to add a field hearing in New York City since the concept paper as passed provided that field hearings would be held in studied cities.

The career staff claimed that limiting the Crime Victims study to NIBRS-only cities was necessary due to insufficient demographic data for non-NIBRS cities. Yet somehow the staff was able to find sufficient demographic data to study hate crimes in non-NIBRS cities in order to produce the Anti-Asian Racism report. In fact, the demographics of hate crime increases in Los Angeles, San Francisco, and New York (all non-NIBRS cities) featured very prominently in the Anti-Asian Racism report – with the staff citing voluminous state and local data as well as non-government

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<sup>1367</sup> Planning Document drafts attached to email from Director of OCRE to Commissioners and Special Assistants Mon., Oct. 31, 2022.



advocacy organizations’ data in the report.<sup>1368</sup> It begs logic and reason to conclude, as the staff did, that the same could not be done for the Crime Victims report.

All of this was because while the FBI had announced its intent in 2015 to immediately begin transitioning to the new NIBRS crime reporting system from SRS, it did not fully transition to NIBRS-only submission of crime data until January 2021; therefore, many cities (including most large cities) during the transition period continued to use the old SRS system to report their crime data – and many of the largest U.S. cities still do not report using NIBRS.<sup>1369</sup> As one of the voted upon findings in the final Anti-Asian Racism report noted, “The transition to the NIBRS data collection has been slow for some agencies: for 2021, the number of participating agencies within the FBI hate crime database was 11,834, compared to the 15,138 participating agencies for 2020 data, and many of the agencies that have not submitted 2021 data are the largest jurisdictions.”<sup>1370</sup> Ironically, the final Crime Victims report written by OCRE states, “Many of the nonreporting agencies in 2021 were from the largest jurisdictions [including LA and New York.]”<sup>1371</sup>

OCRE staff also wanted to limit any studied cities to medium-size cities (500,000 to 999,000 in population) – cities that experienced smaller increases in crime than the nation’s major cities.<sup>1372</sup> Instead of looking at New York City, Los Angeles or San Francisco, cities with populations similar to Fresno and Colorado Springs were to be the focus for the staff driving the show.

Yet who could miss the final Crime Victims report (to which I dissent here) as ultimately written by OCRE notes that, “Racial disparities in homicide are especially pronounced in large, metropolitan areas, where violent crime rates are the highest. The concentration of crime in large cities is a consistent pattern in crime trends over time.”<sup>1373</sup> In other words, the staff proposed not studying cities where, as staff later admit in the report itself, crime is the highest and racial disparity the greatest.

As Paul Newman’s character Henry Gondorff said in *The Sting*, the fix was in.

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<sup>1368</sup> USCCR Report, The Federal Response to Anti-Asian Racism in the United States, Sept. 26, 2023, <https://www.usccr.gov/files/2023-10/fy-2023-se-report.pdf>

<sup>1369</sup> Report at pg. 39 and Appendix A, pgs. 183-185.

<sup>1370</sup> USCCR report, The Federal Response to Anti-Asian Racism in the United States, Sept. 26, 2023, at pg. 195, <https://www.usccr.gov/files/2023-10/fy-2023-se-report.pdf>

<sup>1371</sup> Report at pg. 39.

<sup>1372</sup> Planning Document drafts attached to email from Director of OCRE to Commissioners and Special Assistants Mon., Oct. 31, 2022.

<sup>1373</sup> Report at pg. 2

The staff in the planning documents they circulated also insisted on only using FBI collected data (and not DOJ Bureau of Justice Statistics data, Census Bureau data, etc.) at the federal level to assess the demographics of victims, and that state and local data could only be used if the data was “not captured by federal level data”<sup>1374</sup> – which would be an unlikely for NIBRS-reporting cities (which OCRE wanted the report limited to) since by definition such cities do report their data to the federal government and thus their local data is obviously “captured” in federal level data. They also wanted witnesses limited to those who could talk about the “impact of crime on minorities” and not any testimony about “increases in violent crime” – despite the concept paper saying witnesses would include “... people or organizations who have been users of the DOJ statistical resources.”<sup>1375</sup> In addition, OCRE’s planning documents turned the hearing in DC into a virtual only hearing.

Some Commissioners were able to push back on many of these restrictions by getting Bureau of Justice (BJS/DOJ) and other non-FBI statistical sources inserted in the draft planning documents and by including Seattle, Houston, and Denver as large cities in addition to mid-sized cities. But the limit to just 5 cities and the NIBRS-cities-only restrictions remained – prohibiting New York City, LA, San Francisco, Chicago, and Washington D.C. from being studied even though hate crime data from such major cities would later dominate the OCRE staff produced report on Anti-Asian Racism.<sup>1376</sup>

Despite the OCRE staff planning documents still severely restricting the scope of the Crime Victims report even after our “negotiations” with them, at the November 18, 2022 Commission Business Meeting approval for the Crime Victims planning documents *still failed 4-4. Even the Democrat co-lead on the proposal (Chair Cantu) voted “No.”* So, even though conservative caucus Commissioners had unanimously supported the progressive caucus’ Anti-Asian Racism planning documents at the October Business Meeting they returned no similar collegiality. At the last step of the process and after 7 months of work – and after they had gotten the Anti-Asian Racism report they wanted passed in October – the progressive caucus pulled the rug out from

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<sup>1374</sup> Planning Document drafts attached to email from Director of OCRE to Commissioners and Special Assistants Mon., Oct. 31, 2022.

<sup>1375</sup> Crime Victims Concept Paper, as passed Sept. 16, 2022:

“The witness list will likely include individual victims of violent crimes, law enforcement representatives, legislators, state and local elected officials, representatives of public policy organizations, prosecutors and defense counsels, community representatives, advocates, and people or organizations *who have been users of the DOJ statistical resources.*” [emphasis added]

<sup>1376</sup> USCCR Report, The Federal Response to Anti-Asian Racism in the United States, USCCR, Sept. 26, 2023, <https://www.usccr.gov/reports/2023/federal-response-anti-asian-racism-united-states>

under the deal they had made with the conservative caucus which was to support the Crime Victims report if conservatives supported the Anti-Asian Racism report.<sup>1377</sup>

You can see how inconvenient any possible Commission report must have been that might document the outsized carnage from the spike in crime impacting minority communities.

### **Struggle Getting Crime Victims Report Planning Documents Approved**

In early December 2022, the terms of all four members of the Democrat caucus expired and it was not until mid-March 2023 that all 4 members of the Democrat caucus were replaced. What occurred during these four vacancies are part of the saga. The Staff Director on his own authority *cancelled the Commission's scheduled meetings* for December, January, and February, despite that fact there was a sufficient number of Commissioners appointed by January to constitute a quorum of five.<sup>1378</sup>

After all, you can't let four Republican-appointed commissioners gather in one place without opposition.

During that period, the commission staff unilaterally dismissed the Commissioner-approved timeline and asserted that due to budget constraints and time limitations there would only be one hearing on the Anti-Asian Racism issue which would be March 24, 2023, in Washington, DC – not San Francisco as per the Commission's vote in October 2022. Leading up to that hearing, the OCRE staff initially refused to invite several witnesses suggested by conservative Commissioners and thus none of the proposed witness panels were ideologically balanced.

The conservative Commissioners via our Special Assistants then invoked the Commissioner-approved Administrative Instruction (AI) 1-6 (as amended at the April 30, 2021 USCCR Business Meeting) which requires staff to invite two witnesses specifically requested by two

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<sup>1377</sup> USCCR Business Meetings Transcript, Nov. 18, 2022, <https://www.usccr.gov/files/2023-03/2022-11-18-usccr-business-meeting-transcript-unedited.pdf>

<sup>1378</sup> USCCR Press Releases, announcing Appointment of Commissioner Mondaire Jones by Former House Speaker Nancy Pelosi, Jan. 19, 2023, <https://www.usccr.gov/news/2023/appointment-commissioner-mondaire-jones-former-house-speaker-nancy-pelosi>; Appointment of Commissioner Glenn D. Magpantay by Majority Leader Chuck Schumer, Feb. 15, 2023, <https://www.usccr.gov/news/2023/appointment-commissioner-glenn-d-magpantay-majority-leader-chuck-schumer>; Appointment of Commissioner Victoria Frances Nourse by President Joe Biden, March 16, 2023, <https://www.usccr.gov/news/2023/appointment-commissioner-victoria-frances-nourse-president-joe-biden>; and Appointment of Commissioner Rochelle Mercedes Garza by President Joe Biden, March 17, 2023, <https://www.usccr.gov/news/2023/appointment-commissioner-rochelle-mercedes-garza-president-joe-biden>

Commissioners.<sup>1379</sup> An AI passed by a majority vote of commissioners is a directive of the Commissioners to the staff that the staff should be obligated to follow. Nevertheless, the Director of OCRE then replied to Commissioner Kirsanow's Special Assistant stating that, "I understand what the AIs state and what the Commissioners voted upon, but *it is up to the discretion of the Staff Director if he chooses to enforce them or not.*"<sup>1380</sup> [emphasis added] After great effort, our caucus was able to prevail and OCRE agreed to invite most of our proposed witnesses, which we hoped would encourage impartiality in the Commission's work.

Congress might well reassess the statutory lines of authority at the Commission based on this incident alone.

At the March 24, 2023, public hearing on the Anti-Asian Racism report topic in Washington DC the Commission was without an approved Chair or Vice-Chair, so Commissioner Kirsanow presided over the briefing on Anti-Asian Racism.<sup>1381</sup> That's when things really went haywire.

During that hearing the Staff Director took it upon himself to shut down a Commissioner from pursuing a line of inquiry with a witness, ruling the line of inquiry out of bounds, and de facto putting an end to the hearing.<sup>1382</sup> Puzzlingly, he cited 45 CFR 701.11 as his "authority" to intervene in the hearing, but that regulation section *only* addresses the duties of the Chair during meetings and merely says that the Chair will consult with the Staff Director in "establishing an agenda" for a meeting.<sup>1383</sup> So, the regulation does not permit a Staff Director to commandeer a briefing or give a Staff Director the discretion to control the actions of any Commissioner for any purpose. There is no statute or regulation justifying the Staff Director's interruption of the March 2023 briefing.

More to the point, federal statutes give Commissioners the power to be Commissioners and inquire about important civil rights topics. It does not give a staff director the power to silence a Commissioner.

Following the March briefing, because the conservative Commissioners had not approved the Presidential nominations of the Chair and Vice Chair, the Staff Director then effectively appointed himself the Chair for the April, May and June Commission Business Meetings by stating at each

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<sup>1379</sup> Administrative Instruction 1-6, passed April 30, 2021, see USCCR Business Meeting Transcript, April 30, 2021, pgs. 11-12, <https://www.usccr.gov/files/2021/Business-Meeting-Transcript-04-30-21.pdf>

<sup>1380</sup> Email to Commissioner Kirsanow Special Assistant from the Director of OCRE, Nov. 4, 2022.

<sup>1381</sup> Public Briefing, The Federal Response to Anti-Asian Racism in the United States, March 24, 2023, [https://www.usccr.gov/files/2023-05/aa-hc-usccr-transcript\\_3.24.23-edited.pdf](https://www.usccr.gov/files/2023-05/aa-hc-usccr-transcript_3.24.23-edited.pdf)

<sup>1382</sup> Id, pgs. 179-182.

<sup>1383</sup> Rules and Regulations, Commission on Civil Rights (CCR), 45 CFR Chapter VII (42 U.S.C. 1975 through 1975d), see section 701.11(c), <https://www.usccr.gov/files/about/pdfs/Commission-on-Civil-Rights-Regulations.pdf>

meeting that, “because of the current absence of a Chair and Vice-Chair, I am administering it [the meeting] pursuant to our administrative functions set out in 42 U.S.C. 1975(b).”<sup>1384</sup> However, that section of the statute deals with the manner in which the Staff Director is appointed, and says he shall serve as the administrative head of the agency, for the purpose of running the staff and the office. It provides no authority for the Staff Director to preside over meetings of Commissioners.<sup>1385</sup>

Congress might well peruse the transcript of that meeting and contemplate whether statutory changes are necessary so that future staff directors are not in a position to mistakenly assume a power not granted by Congress.

The USCCR was without a chair for those months because the conservative commissioners would not approve the President’s nominations for the Chair and Vice-Chair of the Commission – until the less-than-ideal staff planning documents as negotiated in November 2022 for the Crime Victims proposal were approved. Congress granted Commissioners the power to approve the President’s nominees for Chair and Vice-Chair by a majority vote.

From March until July 2023, negotiations took place between the four Democrat and four conservative Commissioners regarding passage of the Crime Victims planning documents in concert with gaining majority approval for the President’s Chair and Vice-Chair nominations for the Commission.

Instead of improving these planning documents, the initial negotiation efforts were a further attempt to restrict the report topic. The Democrat Commissioners sought to reduce the proposal to an examination of racial bias in federal, state, and local statistics collection and other restrictions that former Chair Cantu had initially proposed when negotiations with her first began back in 2022 about documenting the real-life impacts of the crime increase. At one point, I was told there was no increase in crime.

Over time, the substance of the planning documents improved, but they were still more restrictive in scope than what had been negotiated in November of 2022. Finally, in July 2023 the Commissioners agreed to approve and pass the less-than-perfect planning documents as proposed and voted down in November 2022. The Commissioners then exercised their statutory authority

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<sup>1384</sup> USCCR Business Meetings Transcript, April 21, 2023, pg. 4, <https://www.usccr.gov/files/2023-04/0421-usccr-business-meetingtranscript.pdf>.

<sup>1385</sup> Civil Rights Commission Amendments Act of 1994, 42 U.S.C. 1975a(a), see section 4: <https://www.usccr.gov/files/about/pdfs/Commission-on-Civil-Rights-Legislation.pdf>

and confirmed the nominations of the Chair and Vice-Chair, as well as the planning documents preparing for the briefing and compiling the report on the Crime Victims issue by a vote of 8-0.<sup>1386</sup>

But that was not the end of the problems, because we then had to deal with further staff roadblocks to document the real-life impact the crime spike had on minority communities.

### **Controlling the Process: Witnesses and Hearings**

The original schedule of witnesses sent August 21, 2023 from the Office of Civil Rights Enforcement (OCRE) for a Crime Victims hearing on November 17, 2023 included a witness panel of Law Enforcement officials and Chiefs of Police, as explicitly provided for in the original concept paper as well as the planning documents approved by the Commissioners.<sup>1387</sup> The conservative Special Assistants pointed out to OCRE, however, on August 23 that the panel included only current serving Police Chiefs and not Chiefs who had served during the 2017-2021 study period for the report, when crime was increasing the most.<sup>1388</sup> Instead of reaching out to the past Police Chiefs who served during the study period, the Commission staff instead chose to drop the law enforcement panel entirely. They replaced it with a panel of “community advocates who work on crime prevention” as well as other witnesses on other panels whose testimony focused on gun control, public health, and domestic violence. In sum: no Chiefs of Police or law enforcement would be invited as witnesses at all.<sup>1389</sup>

Now the process had crossed the line into farce. Instead of hearing from victims, instead of hearing from front-line first responders in police departments, we would be entertained with a parade of ideological advocates from c(3) organizations on the left.

The conservative Special Assistants then tried to work out a compromise, but the Director of OCRE wrote them back on August 30 saying, “Regarding law enforcement, I appreciate your suggestions, but I don’t think it’s necessary to have them at this briefing. As you rightfully pointed out previously, this briefing and this report is focused on crime victims, not on the causes or increase of crime. *Police chiefs don’t work with crime victims nor do they work on policies regarding victims of violent crimes*; therefore, I don’t know how much they would be able to speak to regarding the topic which is why we decided to change the perspective of the panel.”<sup>1390</sup>

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<sup>1386</sup> USSCR Business Meetings Transcript, July 21, 2023, <https://www.usccr.gov/files/2024-01/july-bis-meeting-transcript-2023.pdf>

<sup>1387</sup> Attachment to email from Director of OCRE to Commissioners and Special Assistants, Mon., Aug. 21, 2023.

<sup>1388</sup> Email from Commissioner Kirsanow’s Special Assistant to Director of OCRE, Wed. Aug. 23, 2023.

<sup>1389</sup> Attachment to email from Director of OCRE to Commissioners and Special Assistants, Mon., Aug. 28, 2023.

<sup>1390</sup> Email from Director of OCRE to conservative Special Assistants, Wed., Aug. 30, 2023

[emphasis added] He also asserted that the witnesses on the substitute panel are all from “non-partisan” organizations selected for the work they do in the field being studied.

Commissioner Kirsanow’s Special Assistant then sent an email August 31, 2023 – on behalf of the four conservative Commissioners – to the Director of OCRE stating that excluding all law enforcement witnesses and inviting gun control and domestic violence witnesses was inconsistent with the concept paper and the planning documents as passed by a majority of Commissioners, both of which explicitly say that witnesses would include “state or local law enforcement representatives” and do not mention gun control or domestic violence witnesses.<sup>1391</sup> We pointed out that the Commission cannot credibly examine violent crime’s impact without receiving testimony from law enforcement since police are often the first ones to interact with crime victims. We noted that the Anti-Asian Racism hearing the previous March had included law enforcement witnesses regarding hate crimes and therefore, we asked that OCRE invite three specific law enforcement witnesses.<sup>1392</sup>

We cautioned staff that several witness panels, including the panel substituting for the law enforcement panel, were not in fact ideologically balanced or “non-partisan.” For instance, of the five witnesses on the substitute panel, one was from Moms Demand Action. Just before Thanksgiving, Moms Demand Action offered on their website a helpful guide to “debunking gun myths at the dinner table.” One such “myth” the Moms Demand Action dinner table guide sought to debunk was “Guns don’t kill people, people kill people.”

We also pointed out that the topic of the report was not about “gun violence,” the “epidemiology of violence,” “or “violence against women,” but the *impact of violent crime on minority neighborhoods and individuals*. We, therefore, expected OCRE to conform to the intent of the Commission-passed discovery documents and concept paper for the Crime Victims report since “OCRE has no authority to reject instructions approved by the Commission majority.”<sup>1393</sup> After all, we were the Commission, at least according to the statutes Congress passed.

The OCRE Director wrote back September 6<sup>th</sup> and said OCRE felt they were “*within their authority to invite the witnesses they had invited and not others.*”<sup>1394</sup> [emphasis added]

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<sup>1391</sup> Email from Commissioner Kirsanow’s Special Assistant on behalf of the 4 conservative Commissioners to Director of OCRE, Thu., Aug. 31, 2023

<sup>1392</sup> *Id.*

<sup>1393</sup> *Id.*

<sup>1394</sup> Email from Director of OCRE to conservative Commissioners and Special Assistants, Wed., Sept. 6, 2023.

The four conservative Commissioners then wrote directly to the Commission Staff Director on October 25, 2023 pointing out that the witness list did not include any law enforcement witnesses as approved by Commissioners when passing the concept paper and the planning documents for the Crime Victims report and again requesting specific law enforcement witnesses.<sup>1395</sup> Incredibly, he wrote back on October 30 (prior to the November 17<sup>th</sup> hearing) that “Police Chiefs don’t work with crime victims nor do they work on policies regarding victims of crime; therefore, OCRE did not think they would be able to speak on the topic. Local law enforcement can only speak to what types of strategies they use in addressing crime, but not on the victims of crime. ... *It has not been USCCR’s practice to treat the proposed witness list [approved by a majority of Commissioners] as a mandatory list.*”<sup>1396</sup> [emphasis added]

It seemed the campaign to make police disappear also applied to our hearing planning.

Ironically, contradicting the Staff Director’s view that “Police Chiefs don’t work with victims of crime nor do they work on policies regarding victims of crime,” the final Crime Victims report itself states that, “... police officers are usually the first representative of the criminal justice system a victim encounters ...”<sup>1397</sup> Perhaps consistency is overrated.

The Staff Director then said that “he” would “let” the 4 conservative Commissioners have one Police Chief as a witness (18 days before the hearing) if we made all the arrangements for the witness in the short time left – but any other Chiefs or law enforcement witnesses would not be invited to the briefing and instead could submit written statements for the record.<sup>1398</sup>

Congress should assess whether the 1983 structure of this Commission is eroded beyond usefulness or whether the duly appointed authority of the Commissioners should be reinvigorated so they may reach the *truth* of what is impacting civil rights in the modern era.

### **Statutory Authority**

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<sup>1395</sup> Attachment to email from Commissioner Heriot’s Special Assistant to USCCR Staff Director, Wed. Oct. 25, 2023.

<sup>1396</sup> Email from USCCR Staff Director to conservative Commissioners and Special Assistants, Mon., Oct. 30, 2023.

<sup>1397</sup> Report at pg. 114. The report goes on to say that in regard to crime victims, “In 2018, the International Association of *Chiefs of Police developed* the “RISC” – Respect, Information, Safety, and Choice – [victim] response strategy, which they recommend using whenever possible. This strategy includes “treating people with respect, providing information and increased communication, avoiding triggering and aggressive styles of communication, promoting safety as the overall goal of intervention, and providing the victim with choices, even if small, whenever feasible.” [emphasis added]

<sup>1398</sup> Email from USCCR Staff Director to conservative Commissioners and Special Assistants, Mon., Oct. 30, 2023.



While some may believe they have the authority to ignore the direction set by a majority vote of the Commissioners, that has not been the belief of USCCR Commissioners themselves. Commissioners vote for concept papers and planning documents based on carefully crafted and agreed upon language that is the result of months (and in this case more than a year) of negotiating exact wording and terms among Commissioners themselves. Those documents set the parameters of what the Commissioners believe are good subjects for hearings and the types of witnesses needed for hearings on those subjects. The staff's assertion that they have the authority to ignore the direction set by majority votes of the Commissioners in this regard, and the discretion not to enforce the Commissioner-approved internal Administrative Instructions (AIs) passed by a majority vote of Commissioners, is simply contrary to USCCR's organizing statute and the codified rules and regulations for the Commission.

Section 2(b) of the statute establishing the USCCR says that the membership of the "Commission" are the eight members appointed under the terms of that section.<sup>1399</sup> Similarly, the implementing Rules and Regulations for the USCCR in section 701.10 (a) states that "The Commission is composed of eight members (or "Commissioners") ..."<sup>1400</sup> So, the "Commission" is the eight members appointed by the President and the House and Senate leadership.

Section 4(a)(2)(A) of the establishment statute addressing "Administrative provisions" says that "... within the limitation of its appropriations, the Commission [the eight appointed members of the Commission] may—(A) appoint such other personnel as it deems advisable, under the civil service and classification laws."<sup>1401</sup> Nowhere does the organizing statute say that the authority given Commissioners by Congress to set the public policy direction of the USCCR is ceded over to the presidentially nominated Staff Director or to the career staff that the Commission itself "appoints" (employs). To the contrary, the implementing Rules and Regulations for the USCCR in section 701.13(a), regarding the "Office of the Staff Director," state that "Under the direction of the Staff Director, this Office defines and disseminates to staff *the policies established by the Commissioners* ..."<sup>1402</sup> [emphasis added] Under section 701.13(e), the Office of Civil Rights Evaluation (OCRE) "is responsible for ... developing concepts for programs, projects, and policies

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<sup>1399</sup> Civil Rights Commission Amendments Act of 1994, 42 U.S.C. 1975a(a), see section 2(b), <https://www.usccr.gov/files/about/pdfs/Commission-on-Civil-Rights-Legislation.pdf>

<sup>1400</sup> Rules and Regulations, Commission on Civil Rights (CCR), 45 CFR Chapter VII (42 U.S.C. 1975 through 1975d), see section 701.10(a), <https://www.usccr.gov/files/about/pdfs/Commission-on-Civil-Rights-Regulations.pdf>

<sup>1401</sup> Civil Rights Commission Amendments Act of 1994, 42 U.S.C. 1975a(a), see section 4(a)(2)(A), <https://www.usccr.gov/files/about/pdfs/Commission-on-Civil-Rights-Legislation.pdf>

<sup>1402</sup> Rules and Regulations, Commission on Civil Rights (CCR), 45 CFR Chapter VII (42 U.S.C. 1975 through 1975d), see section 701.13(a), <https://www.usccr.gov/files/about/pdfs/Commission-on-Civil-Rights-Regulations.pdf>

*directed toward the achievement of Commission goals; preparing documents that articulate the Commission's views and concerns ...*<sup>1403</sup> [emphasis added]

A future staff director appointed by a future President might be inclined to reorganize OCRE or even leave vacated positions entirely unfilled to mitigate against the circumstances described in this dissent.

Staff should implement policies established by the Commissioners and OCRE must develop concepts for programs, projects (including briefings) and policies directed toward the achievement of the views and concerns set by a majority vote of Commissioners. In my view, that all means that the Staff Director and OCRE must conform their actions and planning regarding USCCR hearings with the policy direction and terms provided by Commissioners via the concept papers and planning documents for hearings that are passed by a majority vote of Commissioners – even if the staff does not agree with the policy direction and terms of those papers and documents. They are not free to pursue their own views and their own type of witnesses on issues. They are also not free to enforce or not enforce the Commissioner-approved Administrative Instructions (AIs) that Commissioners have passed by majority vote for governing the internal process of the Commission.

If staff believe they are entitled to power beyond this, then Congress helpfully might act to make lines of authority more clear for them.

One thing is certain, during the Crime Victims report topic - from the drafting of the planning documents including the research plan, chapter outline, and timeline, to organizing the hearings, and setting the witness list, the wishes of Commissioners were subsumed by staff, hence my dissent to my own proposal. Take note, oversight committees.

### **Crime Victims Report Failure to Comport with Concept Paper and Planning Documents**

The original focus of the report as set out in the concept paper was to detail disproportionate impacts on minorities from increases in crime. At the Democrat Commissioners' insistence, the goal of the report was expanded to investigate gaps or shortcomings in the federal collection of crime statistics and how the federal government has used information about racial bias from such data to reduce discrimination against victims of crime. The report ended up focusing on the Democrat priorities and gave slight attention to the report's original intent. The victims did not get

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<sup>1403</sup> Id.

the voice I intended. In short, a report intended to examine how “increases in crime affect minority communities” was transformed into a document that hid the human cost of the crime spike.<sup>1404</sup>

The prevailing agenda in this report, the obstruction we faced from some Commissioners and staff leading up to it, as well as that of misguided commentators and scholars is to place the responsibility for crime on society at large and the criminal justice system, and not on the individuals who *choose* to commit crime. One reason some commissioners may have insisted we not examine the causes of crime as Commissioner Kirsanow originally proposed was because there was fear that crime statistics might show that efforts to defund the police, eliminate cash bail, reduce criminal penalties, early parole, reimagine the police, reduce prosecutions by DAs, increase investigations of police actions and practices, and other objectives of the criminal justice reform movement have led to higher rates of crime.

One reason some commissioners may have opposed my efforts to tell the story of the *real victims of the crime spike* is that it may have highlighted the need to reassess a variety of tough questions: Would the carnage from the crime spike be tolerated in suburban communities? If not, why is the carnage tolerable in the Bronx, Compton and South Chicago? How much looting, bloodshed, assault and property crime will policy makers tolerate in poor urban communities before they do something effective about it? The inquiry may have gotten too many people wondering about the prevailing views held by civil rights “activists” and “community leaders.” That may be the real threat of a truthful, comprehensive catalog of the carnage taking place in urban America. Documenting the human carnage of the status quo calls into question the status quo.

Some have already started challenging the conventional wisdom. A May 2024 study published in the *Journal of Criminal Justice* stated that,

Our key finding was that Black Americans preferred to maintain (or increase) police patrol and spending, and that this preference was not conditional on the described crime rates or

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<sup>1404</sup> Crime Victims concept paper as passed by USCCR at Sept. 16, 2022 business meeting, see first paragraph on purpose of the report.

Purpose of the Briefing Report

The purpose of this investigation is to gain understanding about how the U.S. Department of Justice (DOJ) uses tools such as gathering data on victims of violent crimes to perform the important federal roles of the Department of Justice which is to enforce the U.S. Constitution and the federal civil rights law and what data show regarding increases in crime affecting minority communities. The briefing report will include testimony on racial and national origin disparities regarding victims of violent crimes as described by agency personnel, law enforcement personnel, victims of crimes, experts, and other witnesses at a public hearing in Washington, D.C. The national information will be supplemented by data provided to USCCR from local law enforcement officials and citizens from a diverse group of cities. The Commission will hold field briefings in two studied cities in order to facilitate more participation from local law enforcement, local organizations, and concerned citizens.

policing reforms. Most Black Americans reported that even if crime rates fell and even if there were no new policing reforms, they still wanted to maintain or increase police patrol and spending.<sup>1405</sup>

A scathing open letter sent July 27, 2023 to the Oakland, California city leadership by the President of the Oakland Chapter of the NAACP Cynthia Adams and Bishop Bob Jackson, Senior Pastor at Acts Full Gospel Church forcefully puts a lie to the activist's claims that black communities support transformational criminal justice reform efforts, supposedly in the name of combatting so-called systemic racism. In their letter Ms. Adams and Bishop Jackson said:

Oakland residents are sick and tired of our intolerable public safety crisis that overwhelmingly impacts minority communities. Murders, shootings, violent armed robberies, home invasions, car break-ins, sideshows, and highway shootouts have become a pervasive fixture of life in Oakland. We call on all elected leaders to unite and declare a state of emergency and bring together massive resources to address our public safety crisis.

African Americans are disproportionately hit the hardest by crime in East Oakland and other parts of the city. But residents from all parts of the city report that they do not feel safe. Women are targeted by young mobs and viciously beaten and robbed in downtown and uptown neighborhoods. Asians are assaulted in Chinatown. Street vendors are robbed in Fruitvale. News crews have their cameras stolen while they report on crime. PG&E workers are robbed and now require private security when they are out working. Everyone is in danger.

Failed leadership, including the movement to defund the police, our District Attorney's unwillingness to charge and prosecute people who murder and commit life threatening serious crimes, and the proliferation of anti-police rhetoric have created a heyday for Oakland criminals. If there are no consequences for committing crime in Oakland, crime will continue to soar.

People are moving out of Oakland in droves. They are afraid to venture out of their homes to go to work, shop, or dine in Oakland and this is destroying economic activity. Businesses, small and large, struggle and close, tax revenues vanish, and we are creating the notorious doom-loop where life in our city continues to spiral downward. As economic

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<sup>1405</sup> Linda Balcarová, Justin T. Pickett, Amanda Graham, Sean Patrick Roche, and Francis T. Cullen, ON THE ROBUSTNESS OF BLACK AMERICANS' SUPPORT FOR THE POLICE: EVIDENCE FROM A NATIONAL EXPERIMENT, JOURNAL OF CRIMINAL JUSTICE 92(3): 102186, at 9 (May 2024).

pain increases, the conditions that help create crime and criminals are exacerbated by desperate people with no employment opportunities.

We are in crisis and elected leaders must declare a state of emergency and bring resources together from the city, the county, and the state to end the crisis. We are 500 police officers short of the number that experts say Oakland needs. Our 911 system does not work. Residents now know that help will not come when danger confronts them. Worse, criminals know that too.

Our youth must be given alternatives to the crippling desperation that leads to crime, drugs, and prison. They need quality education, mentorship, and, most importantly, real economic opportunities. ... With this focus we can produce hundreds, if not thousands, of the types of jobs desperately needed to stem economic despair. Unfortunately, progressive policies and failed leadership have chased away or delayed significant blue collar job development in the city, the Port of Oakland, and the former Army Base. That must change! ...

There is nothing compassionate or progressive about allowing criminal behavior to fester and rob Oakland residents of their basic rights to public safety. It is not racist or unkind to want to be safe from crime. No one should live in fear in our city. ...

Do it for the love of all Oakland residents. Each and every one of us has the right to live peacefully and safely.<sup>1406</sup>

Commissioner Kirsanow has detailed many substantive and policy shortcomings in the report so I will not go into detail on the many faults he finds in the report. I do want to point out some specific disconnects I see between what is in the report and what was called for by the concept paper and the planning documents as passed by a majority of commissioners.

The Commission-passed documents said the report was *not supposed to examine the causes of crime*. Yet the report is filled with progressive orthodoxy on that very topic. It examines issues the staff believe are causes of crime while selectively debunking any correlation between increases in crime and the myriad efforts to defund the police, eliminate cash bail, reduce criminal penalties,

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<sup>1406</sup> Letter to Oakland City Leadership from NAACP's Oakland Branch President Cynthia Adams, July 27, 2023, <https://www.naacpoakland.org/post/end-oakland-s-public-safety-crisis>

early parole, reimagining the police, reduce prosecutions by DAs, and increase investigations of police actions and practices.

For instance, the report covers the use of guns in crime with the implication that the legal possession of firearms by non-criminals leads to increases in crime – making the case of the gun control witnesses they invited.<sup>1407</sup> Again, these witnesses were not contemplated in the concept paper or planning documents, were invited over the conservative Commissioners’ objections, and were invited in lieu of the police and law enforcement witnesses expressly listed in the report planning documents.

**This highlights two fundamental questions Congress should confront:**

**If the Commission is merely a structure to amplify establishmentarian progressive narratives about civil rights, has the Commission outlived its useful lifespan?**

**Or, is the Commission able to reform with the careful action of Congress?**

The report ultimately provides numerous statistics showing that minority neighborhoods suffer greatly disproportionate rates of crime, particularly violent crime such as homicide. That is indisputable and the primary objective I originally intended for the report. Rafael Mangual in his statement noted that the 2020 spike in homicides resulted in an additional 8 deaths per 100,000 black residents while white homicides only increased by 0.5 per 100,000. This increased blacks’ share of 2020 homicides by 2.2 points. Latinos’ share also increased 2.2. points, but whites share of homicides *decreased* by 2.4 points. This pushed the overall black homicide rate in 2020 to 25.3 per 100,000 from 19.5 in 2019, which was almost ten times higher than the white rate for homicides.<sup>1408</sup> In addition, 52% of white men experience no victimization from crime while *only 28% of black men experience no victimization.*<sup>1409</sup>

So, when in the name of racial justice black offenders from “hotspots” of criminal activity in minority neighborhoods are released without bail, have their sentences reduced, are not prosecuted or arrested at all, or when violent crimes against blacks by other blacks are not solved, the majority of those “lucky” offenders’ future victims will be black victims. The same goes for white perpetrators who are “let off,” most of their future victims will be white. So, when “equity” is extended for black perpetrators of crime ostensibly based on concerns about systemic racism, as

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<sup>1407</sup> Report at pgs. 13-17.

<sup>1408</sup> Rafael Mangual Statement at 5.

<sup>1409</sup> Rafael Mangual Statement at 7.

the *National Review* article argued, where is the “equity” for the future black victims of violent crime who will pay the price?<sup>1410</sup>

I find it frustrating that the staff makes comments about large cities in several places in the Crime Victims report such as, “The concentration of crime in large cities is a consistent pattern in crime trends over time.”<sup>1411</sup> The report also notes that, “Within cities, a small number of neighborhoods bear most of the violence. In these neighborhoods, most crimes happen at even smaller units of geography, such as single blocks or street segments. ... Law enforcement agencies also recognize the importance of place and often focus their efforts on these crime ‘hot spots’ to attempt to reduce crime. ... Moreover, due to a high concentration of people who enter the criminal justice system from these small geographic areas, researchers have identified ‘million-dollar blocks’ because of the annual cost of incarcerating residents from single city blocks.”<sup>1412</sup>

And that is exactly why the largest American cities like New York, Los Angeles, Chicago, and San Francisco should have been included in this report. Why couldn’t we hear from the victims? Why were they prevented from being the story instead of statistics, buried in a corner of the report?

In a real laughter, the staff insisted they were not capable of studying the demographics of crime in the largest American cities, even though they were perfectly capable of doing so for the earlier Anti-Asian Racism report.

At the Commission, sauce for the goose is often unavailable to the gander. Perhaps in another dissent I’ll discuss how a motion made in a Commission meeting is divisible automatically one month and non-divisible in a different meeting, depending on whether the goose or gander is making the motion.

While recognizing there are “hotspots” of crime within cities and even within neighborhoods, commonly in minority areas, the report nevertheless blames a lack of community trust in the police as a result of both over-policing and under-policing leading to increases in crime. If the police put extra resources like “anti-gang units” into crime hotspots in minority neighborhoods, then it is argued that police are targeting minorities for undue enforcement. If the police ignore such areas, then they are accused of under-policing and not providing adequate protection to minorities.<sup>1413</sup> Yet, proactive policing such as “gang units” are often the first police efforts shut down in response

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<sup>1410</sup> See footnote 1295.

<sup>1411</sup> Report at 2.

<sup>1412</sup> Report at pgs. 9-10.

<sup>1413</sup> Report at pgs. 16-17 and pgs. 89-90.

to protests against the police and funding shortages and are often the target of civil rights investigations of police departments.<sup>1414</sup>

Finally, the report discusses poverty and economic distress in minority neighborhoods as being the result of an historic lack of investment (disinvestment) and racial discrimination which leads to crime.<sup>1415</sup> As the report says,

Enduring residential racial segregation matters for exploring racial disparities in violent crime victimization because of the strong connection between neighborhood resources and crime. Due to a history of structural inequities, Black Americans have long had less access to capital than White Americans; therefore, segregation concentrates poverty in Black neighborhoods. ...

Both unemployment and underemployment rates are high in disadvantaged neighborhoods, as service sector jobs replaced the manufacturing base in cities that previously provided a living wage for workers with low educational attainment. In the last decades of the twentieth century, working families followed jobs out of inner-city neighborhoods, leaving behind residents who have fewer opportunities to effectively participate in the economy and social institutions. Research shows that violence is a serious consequence of neighborhood-level isolation from social resources. Predominately Black neighborhoods have the highest violent crime rates across cities.<sup>1416</sup>

I dissent from this nonsense. That is the very problem, the productive law-abiding citizens seeking to make these neighborhoods livable through their entrepreneurship, family life, and doing the right thing are faced with a breakdown in law and order. They are the ones to save these neighborhoods, yet the rule of law that is the essence of our system is breaking down, and it has nothing to do with “isolation from social resources.”

Not surprisingly, the report later concludes that the solution is government, “The federal government can also help prevent violence before it occurs by *focusing on social programs* that have been shown to positively affect public safety.”<sup>1417</sup> [emphasis added]

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<sup>1414</sup> “The NYPD has resurrected its controversial anti-crime unit,” CNN, Jan 27, 2022, <https://www.cnn.com/2022/01/27/us/nypd-anti-crime-unit-eric-adams/index.html>

<sup>1415</sup> Report at pgs. 12-15 and at pg. 68.

<sup>1416</sup> Report at pgs. 11-12.

<sup>1417</sup> Report at pg. 182.



Reflexively, the report blames most of the problems on current and past racism, yet not once does the report mention that stores are closing in inner-city neighborhoods across the country and products are being locked up in the stores that remain because of the levels of violent crime and shoplifting that is taking place.<sup>1418</sup> When California made shoplifting below \$950 a misdemeanor and not a felony, retail stores were decimated particularly in San Francisco.<sup>1419</sup>

The report is mistaken in its assumptions that only programs run by government bureaucrats can solve the poverty that leads to crime in minority neighborhoods. Of all the myriad solutions for solving the level of crime in disadvantaged minority neighborhoods cited by the report, not once was the Opportunity Zone program mentioned. That was an initiative by Senators Cory Booker and Tim Scott that passed into law in 2018. The program uses tax incentives to entice entrepreneurs to invest in disadvantage neighborhoods to eliminate food deserts, housing shortages, and a lack of jobs. By definition, Opportunity Zones are highly distressed areas with high poverty, low incomes and all the maladies that go along with that.

As John Lettieri, the CEO of the Economic Innovation Group told *Forbes* magazine in May of 2023, “As soon as the OZ designation happens, you see an immediate and large jump in commercial and residential development within these communities.”<sup>1420</sup> He cites one example of the success of the approach.

In North Minneapolis, we are invested with an African American developer who is a pillar of his community. This is one of the neighborhoods in Minneapolis that saw a lot of the civil unrest and rioting following the killing of George Floyd, and it’s a community that has seen a lot of disruption from that along with the pandemic and suffers from a history of intergenerational poverty. This fantastic developer has done a lot of hard work to get city and county grants, and the state of Minnesota put some money in. He had a 40-year fixed rate HUD loan product on the deal but still could not find the equity capital to finish it.

We met him and fell in love with what he was doing, so we underwrote the deal and our equity dropped in on top of all of that subsidy he had very thoughtfully put together. Just

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<sup>1418</sup> Is there a shoplifting crisis? What you need to know about retail crime, Washington Post, Oct. 3, 2023, <https://www.washingtonpost.com/business/2023/10/03/shoplifting-organized-retail-crime-theft/>

<sup>1419</sup> California on Your Mind, Hoover Institution, August 3, 2021, <https://www.hoover.org/research/why-shoplifting-now-de-facto-legal-california>

<sup>1420</sup> Exploring Opportunity Zones: Exciting New Data On The Positive Impact Of OZs Across The Nation, Forbes Magazine, May 22, 2023, <https://www.forbes.com/sites/sorensonimpact/2023/05/22/exploring-opportunity-zones-exciting-new-data-on-the-positive-impact-of-ozs-across-the-nation/>

this week, we topped out on a building that will provide workforce affordable housing for that community.<sup>1421</sup>

The statutes and the Code of Federal Regulations require the Commission staff to abide by the instructions and guidance as approved and voted on by a majority of USCCR's commissioners. Even with a 4-4 Commission, the ideological biases in how the Crime Victims and Anti-Asian Racism reports were developed, planned, and produced demonstrate to me and others close to the process that the Commission is not functioning in a bipartisan and ideologically balanced manner, or presenting both sides of the public policy debate equally.

It's time that policy makers assess this breakdown in my view. Federal agencies and commissions cannot become tools to advance a partisan and ideological narrative. When they do, it is up to the Congress to reassess the status quo.

I dissent from the report for all these reasons.

A handwritten signature in dark ink, appearing to read "J. Christian Adams", with a long horizontal flourish extending to the right.

J. Christian Adams  
Commissioner  
United States Commission on Civil Rights

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<sup>1421</sup> Id.

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## Rebuttal of Vice Chair Victoria Nourse

Commissioner Adams, appointed by former President Trump, and a prominent election lawyer, has issued a lengthy statement denigrating former Commissioners and the professional staff of the Commission. In my opinion, the professional and nonpartisan staff of OCRE (the Office of Civil Rights Evaluation) are keeping this Commission honest and afloat; they do the bulk of the work on these reports, and all its statistical analyses.

It is not surprising that a Commissioner, nominated by former-President Trump, seeks to politicize the Commission. As is well known, the former President has plans to drain the swamp, by firing masses of civil servants and replacing them with political hacks. Remember the meteorologist who was appointed as White House science advisor during President Trump's tenure? The Commission should be less politicized, and more collaborative than it is, and I say that to both sides of the aisle, Republican and Democrat.

The great irony of the Adams MAGA statement is that crime was up during the Trump Administration! MAGA Republicans are following a very old playbook in American politics: use crime rates to race-bait. Disgraced former Richard Nixon and racist Governor George Wallace developed that play book in the 1960s and 1970s in the South. And George Herbert Walker Bush solidified it in his Willie Horton ads. The problem is that for this to work you have to appeal to people's prejudice. The vast, vast, vast majority of Black people are hard-working and law-abiding, but that is not what race baiters want people to think.

So let's be clear. The truth is that crime knows no race. If you looking at the raw numbers for all crimes, which can be found on the FBI's website, Whites are the biggest offenders for all crimes! Crime is a youth phenomenon and an intra-racial phenomenon. So, it is not surprising that if one singles out Black people (a minority of the population), you will find the same result: crime by young Black men against young Black men. I have no disagreement that young Black men are being killed at horrific rates, and I have no disagreement that, as this report documents, those crimes happen in disadvantaged neighborhoods. But violence in these settings has been known for decades. No one should confuse this data with what some race baiters want you to think: that because these young men commit crimes, that crime is some kind of "Black job" (to use a pejorative phrase used by former President Trump). As the Anti-Defamation league has documented,<sup>1422</sup> white supremacist groups regularly misuse crime data to portray just that image.

Could there be another political reason why a Trump appointee would want to talk about a long-gone crime surge?

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<sup>1422</sup> <https://www.adl.org/resources/hate-symbol/1352-1390>

I have worked on major crime legislation in the Senate. I taught criminal law and criminal procedure (for 15 years). I have met with countless groups of police officers, criminal defenders, public health advocates, and policy analysts on this subject over the course of my career. Commissioner Adams is an election attorney. The President who appointed him wants to deport all Hispanics because they are rapists and murderers. Who is to be believed?

As I wrote in my statement, here is the current data:

- According to the latest **June 10, 2024**, quarterly report of FBI data, for January to March 2024 (as compared to a year earlier) crime declined overall by “15.2 percent.”<sup>1423</sup>
- Specifically, “murder decreased by 26.4 percent, rape decreased by 25.7 percent, robbery decreased by 17.8 percent, and aggravated assault decreased by 12.5%. Reported property crime also decreased by 15.1 percent.”<sup>1424</sup>
- Similarly, police budgets have not in fact decreased.<sup>1425</sup>

This is not a crime commission. This is not a crime victims commission. There is an entire department of “crime victim” services within the Justice Department. There are statisticians throughout the government at the FBI and the Justice Department that have high-quality data respected by both Republicans and Democrats. The American people do not want us to waste taxpayer dollars repeating our efforts and playing politics with crime or crime victims, much less digging up long-gone history at the Commission. I hope that the Civil Rights Commission can turn to more pressing matters in the future.

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<sup>1423</sup> *FBI Quarterly Report*, FBI (June 10, 2024), <https://www.fbi.gov/news/press-releases/fbi-releases-2024-quarterly-crime-report-and-use-of-force-data-update#:~:text=Murder%20decreased%20by%2026.4%20percent,also%20decreased%20by%2015.1%20percent>.

<sup>1424</sup> *Id.*

<sup>1425</sup> *Despite ‘Defunding Claims,’ Police Funding Has Increased in Many Cities*, ABC News (Oct. 16, 2022), <https://abcnews.go.com/US/defunding-claims-police-funding-increased-us-cities/story?id=91511971#:~:text=%22Overwhelmingly%2C%20cities%2C%20counties%2C.and%20elected%20of%20officials%20say%20it.%22>.

## Rebuttal of Commissioner Glenn D. Magpantay

I write in response to my colleagues' statements to the U.S. Commission on Civil Rights report on the "Racial Disparities in Violent Crime Victimization in the United States."

Crime is not a partisan issue. It affects all individuals and communities, regardless of political affiliation, ideology, or background. The impacts of crime are universal concerns that cut across political lines. Our ability to highlight and examine this issue is impactful to all victims of violent crime.

### **33 Killings of Transgender People**

I note that my fellow Commissioners' statements did not highlight the horrific violence and killings of transgender and LGBTQ+ people of color. As a member of the LGBTQ+ community, I want to bring light to this troubling statistic. Just a few days after the Commission hosted its public briefing for this report's investigation, the Human Rights Campaign (HRC) released its 2023 report, "The Epidemic of Violence Against the Transgender and Gender Non-Conforming Community in the United States."<sup>1426</sup> HRC found that in 2022, forty-one (41) transgender and non-conforming people have been killed in the United States. Almost two-thirds of the victims were Black trans women. Transgender women and transgender people of color are "at elevated risk of fatal violence, and the risk is compounded for Black transgender women."<sup>1427</sup> More must be done to achieve justice and equality for this community.

### **Anti-Asian Violence Continues in 2024**

Once again, I want to highlight the rise in anti-Asian hate crimes and violence since the onset of the COVID-19 pandemic. Just this summer, Corazon Dandan, was killed after being pushed into an oncoming BART train in San Francisco.<sup>1428</sup> Dandan was a 74-year-old Filipino American woman. This horrific incident in July 2024 occurred just two years after a homeless man pushed and killed Michelle Alyssa Go, an Asian American woman, onto the New York City subway tracks in 2022.<sup>1429</sup> Anti-Asian violence has not stopped. It is ongoing.

Asian Americans should not be used as a wedge to pit minority communities against each other. We should rather examine the systemic inequalities and inequities causing high rates of violent crime victimization for Black and Brown individuals in low income neighborhoods. Stereotypes are harmful and can divert attention from the real issues causing suffering among minority communities. The model minority myth is a damaging stereotype that continues to plague the AANHPI community. Although many believe that Anti-Asian violence from COVID-19 has

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<sup>1426</sup> <https://reports.hrc.org/an-epidemic-of-violence-2023>

<sup>1427</sup> *Id.*

<sup>1428</sup> <https://abc7news.com/post/woman-killed-after-being-pushed-san-francisco-bart-family/15030306/>.

<sup>1429</sup> <https://apnews.com/article/homeless-push-passenger-death-subway-d2fdf51c5851409b57480d0776684024>.

ended, it persists and continues to impact the families and friends of victims. Below, I share a comment submitted for this report's investigation by Justin Go, the father of Michelle Alyssa Go.

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A Loss of Faith

By Justin Go

5 December 2023

I am a father having to cope with the death of a child who was murdered. But my grief and loss has been intensified by my belief that my daughter's death is yet another frightening example of the anti-Asian hate that has permeated American history. Since they arrived in the U.S., Asian Americans have all too often been the targets of xenophobic hysteria. Many have been attacked and murdered. Because my daughter was likely a recent victim of such anti-Asian hate, I urge the U.S. Civil Rights Commission to address and investigate the unceasing waves of hatred and violence against Asian Americans.

The murder of my exceptional daughter, Michelle Alyssa Go, happened one frigid winter morning in New York City. Her self-confessed murderer, Martial Simon, stated that he saw she was Asian American. Indeed, Michelle was born and raised to be a proud American, a successful Asian American rising rapidly in her chosen profession. Murder? Yes. Murder enhanced by hatred? Yes. Hatred of Michelle being Asian and a woman? More than likely. (New York Times, November 20, 2023) But Martial Simon was not even charged with a hate crime, with enhanced penalties, due to the concern of the Manhattan District Attorney's Office that racial animus would be too difficult to prove in his lingering prosecution for murder.

Martial Simon has been depicted as a homeless, schizophrenic man with trouble on his mind and in his heart. He had at least seven known interactions with the law and was incarcerated for assault and robbery. He had recently been in the custody of a mental institution. Many mental health professionals noticed the signs of sociopathy but concluded he was pretending or malingering. And time and again, professionals in the legal and mental health systems judged Simon suitable for release back into society with normal people. But was he? While in a mental facility, he reportedly said he would someday shove a woman into the front of a subway train. Saturday morning, January 15<sup>th</sup> of 2022, he did, shoving Michelle into the front of a subway train, instantly killing her. (New York Times, January 16, 2022, page 1; The New Yorker, May 22, 2023, page 23)

Michelle's shocking murder has thrust an unexpected notoriety upon our family. This was an event no family should ever endure. Even as we grieved in our anger and depression, we had to travel cross country several times to handle a horror story with a life of its own. Demands of media; enormous costs for travel, funeral expenses and dealing with the ongoing prosecution;

taxes; and legal services in New York and California added to the despair that afflicted my family. After many unfulfilling mental health sessions for grief and depression, my wife and I terminated our attempts at therapy. We found these counselors had scant appreciation of Asian American culture and sensitivities, despite our American-born ability to speak English. We wonder what meaningful assistance Asian Americans with limited English capabilities in our situation would receive.

The loss of Michelle has continued to wring the hearts of her family, her friends, her colleagues, and many strangers around the world. Upon learning of the horrendous way that she died, many saw themselves in her shoes and yellow parka that ominous Saturday morning. “There but for the grace of God go I”, many thought. Unfortunately, there have been too many I’s in the Asian American community. Especially women. And this will continue to be.

As my family ponders further trips to the City of New York, we stop and wonder if concerns for our personal safety on the sidewalks and in the subways are more palpable than the threat of frigid winter weather. We think twice as we see the constant assaults and harassment of Asians and others in the streets and in the tunnels. We note the lack of arrests that would lead hopefully to meaningful prosecutions and incarcerations of the perpetrators or perhaps their treatment. Sadly, that rarely happens. There appear to be few consequences for senseless, anti-social, and lawless behavior nowadays. In fact, hatred, harassment, and aggression seem almost to be celebrated and supported. There are few voices heard or heeded who demand accountability. Perhaps that is the amorality fostered by a media driven by sensationalism. Such inaction assuredly gives us pause to travel to New York to become victims of a feckless safety system.

Years ago, my daughter Michelle made an implicit bargain with society. She would study hard, work hard, build good relationships and networks, and engage in activities to help others. She contributed to society as a hard-working citizen. All she expected was safety and fair play in New York, the city in which she chose to live. New York responded to her commitment by taking her rent and taxing her income — and ultimately taking her life. That was not a fair bargain.

Other Asian Americans in New York City have similarly been subject to this unfair bargain: Gui Ying Ma -- head crushed by a rock as she swept the sidewalk; Christina Yuna Lee --raped and murdered; Yan Pao Ma --kicked and assaulted as he looked for cans and bottles for money to support his family. Like my family, the families of these other victims had to confront these horrific crimes in public. But so many more Asian Americans who are victims of harassment, assault, and murder have been given scant attention. Why? Because of language barriers and lack of coordination among police, public agencies, and authorities? Undoubtedly. Public assistance and victim social services and support are spotty for a group for whom English is, at best, a second language. The hard fact remains, despite their striving to be, Asian



Americans in America have not been fully assimilated into American culture and society. These factors unfortunately serve as barriers to meaningful assistance. What I see is yet another facet of the American approach of benign neglect to the civil rights of people perceived to be of a different race or from a country of non-European origin.

Since they first arrived at America's shores, Asians have been viewed, at best, with suspicion. Asian women have been slurred as prostitutes and Asian men bent on depriving American men of their livelihoods. In fact, the early Chinese immigrants stoically accepted the most menial, the riskiest, and the most unwanted work. This underscores their belief in and hope for a better future for their families. Instead of being offered a welcoming hand, they have been shunned, demonized, and vilified for many ills that have befallen the United States throughout our history.

Asian Americans were blamed for the plague. Unlike Americans from other nations at war with the United States, many Asians were charged with harboring spies during WWII. Interned in camps and deprived of their civil rights, they were forced to live in remote, desolate places far from their homes. Their properties were seized. Never to be fully restored. Even though many Asian men risked their lives building the Transcontinental Railroad, Congress passed the Chinese Exclusion Act to prevent these Chinese workers from bringing their families to the U.S. They have been blamed for the recent Covid scourge by a President and others in public media. They continue to be scapegoated for many of America's ills.

What has been the reaction of Asian Americans in this atmosphere? Like many groups not fully accepted by middle America, they have turned inward to support themselves and their neighbors. Many people have assisted the victims and tried to garner some legal and social support. But this has been a piecemeal effort, at best. They cannot replace what must be a widespread public policy and effort.

Asian Americans have contributed greatly to America. Although commended for their work and scholarship, they have been denied compensation or promotion to positions they deserve. Asian Americans are utilized, when necessary, but deemed exploitable and exploited, and are cast aside at the slightest pretext.

When Asian Americans insist on fair treatment, many other Americans expect them to take care of themselves. Asian Americans are known for their resilience and ability to pull themselves up by their own bootstraps. Many Asian Americans have somehow found their own way to live and succeed. But Asian Americans will never be fully successful so long as most people believe that they do not need help and that they will do well in spite of persistent hatred and barriers that continue in American society. Hailed as the model minority, but marginalized by mainstream

society, Asian Americans are often not accepted even by other non-white minorities. Can it be that some Asian Americans are too successful for their own good?

Martial Simon was found “fit” and released multiple times to mingle with others. This occurred even though there seems to be less and less law enforcement in the streets and subways. Simply, New York did not uphold its responsibility for the health, safety, and welfare of its citizens, including Michelle Alyssa Go. Martial Simon now hides behind the cloak of mental instability, after he freely confessed. His trial for murder is postponed until he is deemed legally sane. Yet, how is his current condition different from the past times he was released from institutions because he was thought simply to be malingering?

Many people across America cry out for safe places. Where was Michelle’s safe place in the subways of New York? Despite fulfilling her bargain to be a good citizen, she met a horrible and tragic end to her life in a city she loved. The failed bargain is what people around the world saw. No one, no matter how hard they try, is safe from the predators lurking, and allowed to lurk, in the streets and tunnels of the big city. How many other “Martial Simons” are released to the streets by professionals who should have known better? Why else was there an outcry for my daughter who did not seek this notoriety?

It has been too easy for my family to sink into personal anger, bitterness, and cynicism with what is now status quo in America. We try not to accept that this is the U.S. whose days of longstanding commitment to equality and fairness may be over. But we have become numb, as we see a desensitized society look away from the constant sight of hatred and homicide everywhere.

We are resigned to the likelihood that anti-Asian hatred and violence will continue unabated. The Michelle Alyssa Go-Martial Simon murder episode will be repeated unless meaningful efforts to protect against violence and to provide for proper treatment of those prone to violence are put into place. Access to multilingual services, particularly when going to law enforcement for victim services, must be made available to Asians and other minorities in need. My family and I remain steadfast in our belief that only when Asian Americans are treated as equal members of our diverse society and their civil rights fully honored and protected will the hatred begin to subside.

I was shocked by the unexpected murder of my daughter Michelle Alyssa Go. But what continues to shock me is the epidemic of anti-Asian hate and violence after a former President purposefully called Covid-19 the “Chinese Virus”. More troubling is the absence of any meaningful response from federal, state, and local authorities, as Asian Americans bear the brunt of the resulting blame and violence. In life and also in death, Asian Americans continue to be treated as perpetual foreigners – never quite American.

The January 15<sup>th</sup>, 2022, murder of my daughter, Michelle Alyssa Go, has forced me and other Asian Americans to acknowledge that none of us are safe. Despite trying to avoid confrontations, safety and fair play seem to be out of reach and living safely in America is but a dream. Bombarded by constant anti-Asian rhetoric by our leaders and in the media, we live in daily fear of becoming the next targets of anti-Asian hatred and violence. I ask the U.S. Civil Rights Commission to more forcefully investigate and address the unceasing waves of hatred and violence against Asian Americans. In addition, an essential and meaningful first step is providing protection and services to Asian Americans in the many Asian languages and cultures. Only when federal and state laws which prohibit anti-Asian violence are enacted and enforced will Asian Americans be able to stop living in fear. Only when our government, as well as social and economic institutions, work together to address the prevalent anti-Asian hatred in our society will Asian Americans be able to flourish in the American Dream.

## Surrebuttal of Commissioner Christian Adams

My dissent ran over twenty pages. Commissioner Nourse's rebuttal identified not a single instance of inaccurate accounting of the chronology of how the process got off the rails. Not one.

Instead, she characterizes my rebuttal as a "lengthy statement denigrating former Commissioners and the professional staff of the Commission."

That is not an accurate or true summary of my rebuttal. My rebuttal did not "denigrate" anyone. It told the truth how staff asserted an authority over the process that frustrated the purposes and powers of the Commissioners, the aim of the report, and a full accounting of the truth of how minority communities suffer the most from the real, undeniable, everyone sees it, crime increase.

Too bad.

To highlight these failures is not "politicization." It is accountability.

Politics appears, instead, in the rebuttal. Twice, in the first two paragraphs of the rebuttal, we are reminded that I was "appointed by former President Trump" and "nominated [sic] by former-President Trump."

That settles it, doesn't it? For good measure:

"MAGA Republicans are following a very old playbook in American politics: use crime rates to race-bait. Disgraced former Richard Nixon and racist Governor George Wallace developed that play book in the 1960s and 1970s in the South."

And if you needed more dog whistles:

"The vast, vast, vast majority of Black people are hard-working and lawabiding [sic],

but that is not what race baiters want people to think."

What does that have to do with my dissent? Of course, nothing, but that isn't what matters when you are blowing dog whistles.

Let's recount what the essence of the dissent was for those who haven't read it, which might well include whomever drafted the hasty and sloppily worded rebuttal of Commissioner Nourse:

***Minority communities are suffering the most from the increase in crime. It is their property and lives being destroyed in greater proportion to those in non-minority communities. We should care.***

If that is race baiting, it's a sort of race baiting that I suspect George Wallace wouldn't recognize. Rational, thoughtful Americans are concerned about what is happening to hard working and law-abiding people in minority communities because of the crime increase.

The rebuttal exclaims, “Whites are the biggest offenders for all crimes!”

Exciting find; but again, what does that have to do with my dissent or the purposes of the report? My dissent was not about offenders. My dissent was (and the report should have been) about victims. Who they are, and why has the system broken down to the degree that minorities suffer the most from the increase in crime?

Perhaps we shouldn’t care. After all, as *Commissioner Nourse’s rebuttal* notes, “violence in these settings has been known for decades.”

President Trump makes his fourth appearance in the rebuttal before even leaving page one: “Could there be another political reason why a Trump appointee would want to talk about a long-gone crime surge?”

Let’s unpack this profound and thoughtful question.

One might flip the question to, “Could there be a political reason why a Biden appointee would want to frame the crime surge as ‘long gone?’” Despite the tantalizing fun I might have with going down that path, I’ll answer the original question.

The reason this Trump appointee would want to hear from the victims of the crime increase in minority communities is because people are being harmed, killed, ruined and scared, and nobody seems to care. That’s the reason. Because our system of law is failing people in some places, we wanted to hear from them. We wanted to explore the data showing minorities are suffering in greater proportion to the broader population.

The real reason this Trump appointee wants to hear it will most certainly trigger some, but those who have taken the time to discuss this issue with me over the last few years about the wrecked lives, murdered children, and looted stores know precisely what the “reason is” to pursue this inquiry as originally constructed before it was withered away by the process I cataloged in my dissent. Some of you never took that time to ask and learn.

Plenty of others – including the Democrat former chair of the commission – took time to have those conversations. That’s why we reached a consensus on the topic.

One day, people who live in minority communities will start asking why those who say they care about them, seem not to. It may already be happening, and that is a dangerous position for those who oppose my interest in examining these issues. Systemic betrayal and dishonesty will eventually catch up to them.

Let me finish by addressing this statement in the rebuttal:

“The President who appointed him wants to deport all Hispanics because they are rapists and murderers. Who is to be believed?”

Is this a joke? Perhaps an early rebuttal draft inadvertently posted? Too much wine?

Let’s unpack. “Wants to deport all Hispanics?” Really? All?

Words mean things. I looked, and can find no statement anywhere, no policy position, no press release, not even a Tweet, that shows Donald Trump “wants to deport all Hispanics” or anything close to it.

Who is race baiting now?

Indeed, to the extent I *could* find anything, it was a *New York Times* article headlined Latino Republicans and Independents Back Trump’s Deportation Plan, to a Point.<sup>1430</sup> The piece is bad news for whomever dreamed up the draft – “deport all Hispanics” - above. The piece: “Surveys and focus groups show that Latino voters, like other Americans, have warmed to more punitive measures on illegal immigration, and that more Latinos are saying they trust Mr. Trump and Republicans over President Biden and Democrats to better handle migration at the Southern border.”

I’ll leave it at that. Rapist and murderers? All? A real quote from someone? All?

So, “Who is to be believed?” I’ll bite. Certainly not the author of the ridiculous false sophomoric hyperbole that President Trump “wants to deport all Hispanics” because all of them are “rapists and murderers.”

We should expect more at the Commission, that is, if it wants to be taken seriously anymore

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<sup>1430</sup> Found at <https://www.nytimes.com/2024/07/16/us/politics/trump-latino-voters-deportation.html>.

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## **Surrebuttal of Commissioner Glenn D. Magpantay**

I write in response to my colleague Commission Christian Adams's dissent. While commencing this report was admittedly delayed and at times difficult, the Commissioners, in a bipartisan fashion, were finally able to get it done. I agree that more can be done to address violent crime in America. The racial and ethnic disparities among victims of violent crime should be eliminated, and compensation and assistance programs for crime victims should be better publicized and utilized. Rehabilitation can prevent the continuance of crime. I thank my esteemed Republican Commissioners for advancing this topic and, notwithstanding substantive dissents, for voting in support of this final report.

This report was approved by a majority vote of the Commissioners: 6 yes, 1 no, and 1 abstention.<sup>1431</sup> This report was approved in a bipartisan fashion, and I look forward to our ability to work in a bipartisan fashion moving forward.

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<sup>1431</sup> U.S. Comm'n on Civil Rights, Business Meeting (June 7, 2024).