Office of Community Police Oversight
City of Dallas

TONYA D. McCLARY, ESQ.
POLICE MONITOR

Dear Mayor Johnson, Members of Dallas City Council, City Manager Broadnax, DPD Chief Garcia, and Members of the Community Police Oversight Board:

When the Office of Community Police Oversight (OCPO) opened its doors on October 1, 2019, it was a thirty-year dream realized for Dallas residents, activists, and organizations demanding stronger oversight, accountability, and transparency from the Dallas Police Department (DPD). The City was also excited to welcome the newly constituted Community Police Oversight Board (CPOB). Together the OCPO and the CPOB provide valuable insights and solutions to problematic policing issues in the City of Dallas.

Community demands were amplified again in the summer of 2020, when the murders of George Floyd, Breonna Taylor, Tony McDade, and countless others sparked more than 100 days of historic protests in Dallas calling for an end to police violence. The protesters demanded fundamental changes to DPD's lack of transparency and discriminatory practices and the City's approach to addressing social and public health issues.

As the national conversation about reimagining policing and public safety has grown, communities have begun to scrutinize policing practices that engender police violence. Among these is the enforcement of misdemeanor offenses that negatively impact communities, particularly Black and Latino communities.

OCPO was a part of local and national conversations around police reform in 2020. Some of those discussions were in targeted settings like public forums and protests, but most evidence came from civilians in the form of complainants against DPD officers. OCPO heard loud and clear from residents of Dallas that misdemeanor enforcement was a problem.

Attached is a report that is the first of many to come from OCPO. This report is co-authored by the Leadership Conference Education Fund's New Era of Public Safety Initiative, who have been supporting the work of community groups in Dallas looking at a broad range of police reform issues. When OCPO heard about the work the Leadership Conference had been doing across the country helping other cities make assessments about the impact of misdemeanor arrests and their effects on the community, OCPO reached out and formed a partnership for this study.

The report details seven findings, that resulted from a three-year study (July 1, 2017-June 30, 2020) on the Dallas Police Department's misdemeanor enforcement practices. The report analyzes enforcement data made publicly available by the City of Dallas and the Dallas Police Department on the City's open portal.

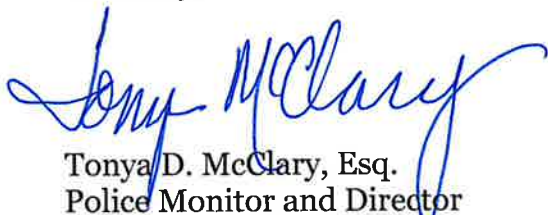The seven findings revealed a picture that is summarized below:

1) Misdemeanor enforcement:
- Creates unnecessary and damaging interactions between police and civilians.
- Contributes to racial disparities in the criminal justice system.
- Runs up exorbitant costs for police departments and communities.
- Requires many hours of police officer time to handle, which takes them away from helping to address violent crime in Dallas.

2) The enforcement and arrests disproportionately impact black people in Dallas.

The report also makes six actionable recommendations to the City Council, City Manager, and DPD. The goal of these recommendations is to (1) lessen the impact of enforcement of these laws on the Dallas community, (2) allow officers to focus on violent crime, and (3) save the City of Dallas tremendous financial resources that could be reallocated to initiatives that address the underlying causes of misdemeanor crime.

I want to thank The Leadership Conference Education Fund's New Era of Public Safety Initiative for their insight and willingness to share and develop strategy and vision for this report. Datapolitan, who did the data analysis for the report. The Law Firm of Gibson, Dunn & Crutcher LLP that did the legal analysis and contributed authors throughout this process. I am also grateful to the ACLU of Texas and Texas Appleseed for the use of their original research in this report. I am also thankful to the Child Poverty Action Lab for their help with the data visualizations. Walter "Changa" Higgins for the graphic design work on the report. Special thanks to Elias Hakim, Susan Kaup, and Max Tinter for their contributions to this project. Community members and organizations also provided important information and assistance. I am also thankful for the high level of collaboration that we experienced as we conducted this review. This is evident by the number of community groups that have signed on to the report.

Sincerely,
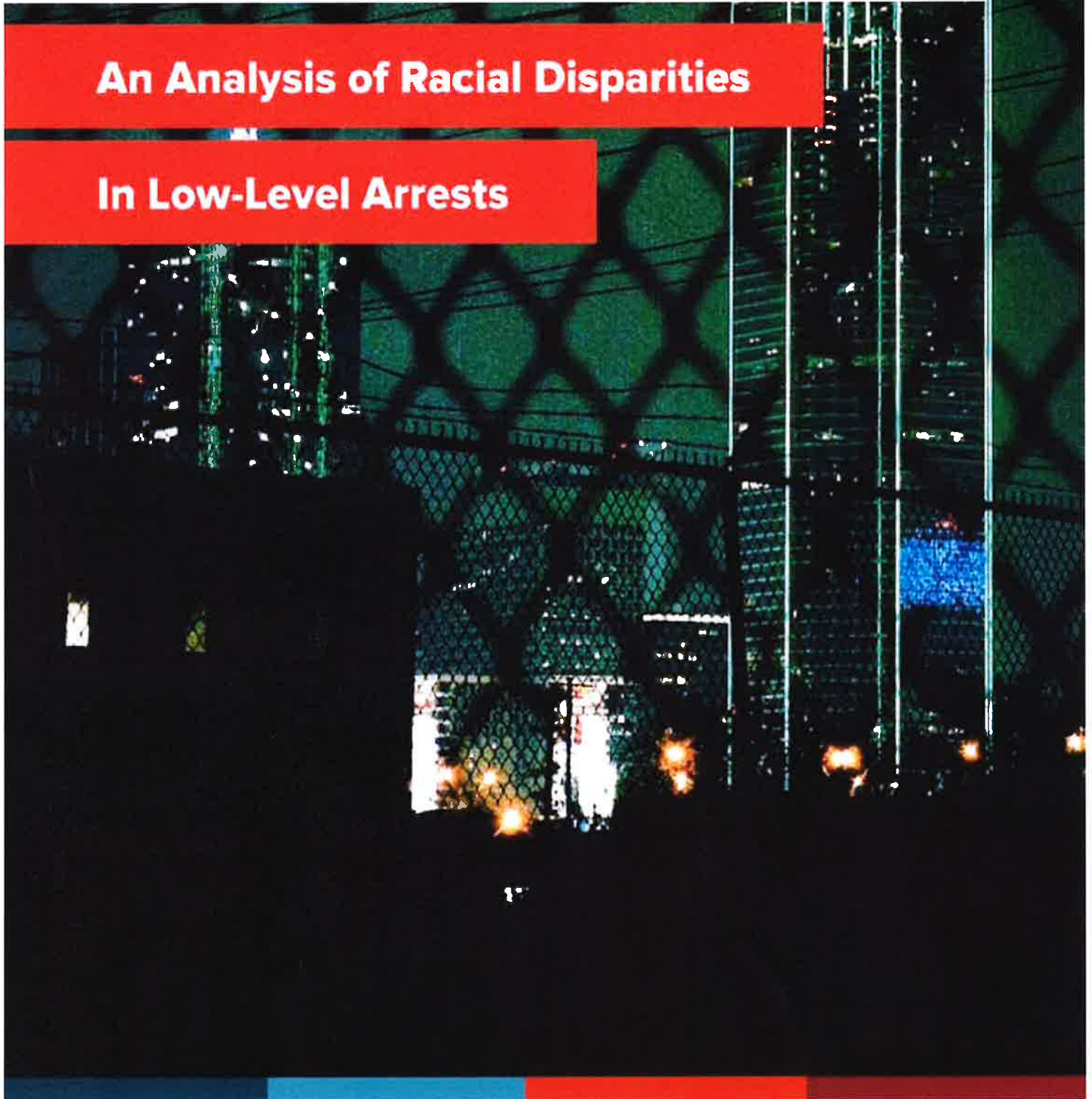
Tonya D. McClary, Esq.
Police Monitor and Director
Office of Community Police Oversight

Public Safety in Dallas:

An Analysis of Racial Disparities

In Low-Level Arrests

Acknowledgments

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I. Introduction

Over the past 30 years, there has been a consistent demand from Dallas residents, activists, and organizations for stronger oversight, accountability, and transparency of the Dallas Police Department (DPD). These community demands were amplified again in the summer of 2020, when the murders of George Floyd, Breonna Taylor, Tony McDade, and countless others sparked more than 100 days of historic protests calling for an end to police violence. The protesters demanded fundamental changes to DPD's lack of transparency and discriminatory practices, and the city's approach to addressing social and public health issues.

The renewed focus on police killings of Black people has drawn attention to the encounters that often precipitate the use of force, including lethal force. Time and again, we have seen the enforcement of minor offenses that pose no public safety threat — such as the use of an alleged counterfeit $20 bill or selling loose cigarettes — create interactions that escalate into the use of force.[1] The discretionary nature of these "quality of life" and other low-level offenses makes them ripe for disparate enforcement, imposing significant social and economic consequences on Black and low-income communities where enforcement is concentrated. The aggressive enforcement of these offenses criminalizes communities while ignoring systemic failures in housing, employment, education, and health care that lead to many of the social ills these laws purport to address.[2]

The term "quality of life" policing was first used in New York City in the early 1990s, during Mayor Rudolph Giuliani's administration. It refers to a practice of heavily policing a number of normally non-criminal activities such as standing, congregating, sleeping, eating, or drinking in public spaces, as well as minor offenses such as graffiti, public urination, panhandling, littering, and unlicensed street vending. [3] Many low-level offenses provide

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1 A 2017 study by the Prison Policy Initiative found that police used force against Black people during stops more than White people and that the disparities were not correlated to public safety. Police found weapons in a mere 1% of the stops of Black and Latino people but nearly twice as often in stops of White people. Rose Lenehan, Prison Policy Initiative, What "Stop-and-Frisk" Really Means: Discrimination and Use of Force, August 2017, https://www.prisonpolicy.org/reports/stopandfrisk.html.

2 Bidish Sarma & Jessica Brand, The Criminalization of Homelessness Explained, The Appeal, June 29, 2018, https://theappeal.org/the-criminalization-of-homelessness-an-explainer-aa074d25688d/ (noting that Dallas Police Department issued 11,000 sleeping in public citations between 2011-2015); Peter Edelman, How it became a crime to be poor in America, The Guardian, Nov. 6, 2017,

3 Bernard E Harcourt, Reflecting on the Subject: A Critique of the Social Influence Conception of Deterrence, the Broken Windows Theory, and Order-maintenance Policing New York Style, 97 Mich. L. Rev. 291, 308-342 (1998); T. Erzen, Turnstile Jumpers and Broken Windows: Policing Disorder in New York City, in A. McArdle and T. Erzen, eds. Zero Tolerance: Quality of Life and the New Police

a means to harass people and keep certain groups from public or affluent areas without serving a public safety purpose. Indeed, there is substantial research that shows no relationship between low-level enforcement and crime reduction.[4] For example, a recent study on low-level arrests analyzed data collected from agencies between early 2000 to 2010 in New York City, Louisville, Los Angeles, Seattle, Durham, St. Louis, and Prince George's County, Maryland, a suburb of Washington D.C. The study found that a decrease in low-level arrests did not influence overall crime rates, including violent crime, in those jurisdictions.[5]

This report analyzes publicly available arrest data to identify patterns in the enforcement practices of low-level offenses by DPD. Specifically, it looks at disparities in arrests by race and ethnicity and the geographical areas where arrests are concentrated. While DPD does not report complete data for arrests and citations of low-level offenses, the patterns identified indicate that Black people in Dallas are disproportionately criminalized and arrested for low-level offenses that are not a public safety threat. These insights are useful in order to adjust laws, practices, and procedures so that they align with a more fair and equitable public safety system in Dallas.

Key recommendations for the city and DPD to reduce unnecessary arrests are:
- **Repeal city ordinances that criminalize people of color for low-level offenses.**
- **Stop arrests for low-level state offenses:**
    (a) Expand cite-and-release policies for certain low-level offenses.
    (b) Amend the DPD's policies to align with the Dallas
    County District Attorney's priorities and national best practices.
    (c) De-prioritize arrests for low-level offenses by
    removing them from DPD's enforcement goals.
- **Invest money saved into community-based services.**
- **Publicly report detailed, disaggregated data for arrests and citations of all offenses.**

Brutality in New York City 19-49 (NYU Press 2001).
4   Becca Cadoff, Preeti Chauhan & Erica Bond, Misdemeanor Enforcement Trends Across Seven U.S. Jurisdictions, Data Collaborative for Justice, Oct. 2020, https://datacollaborativeforjustice.org/wp-content/uploads/2020/10/2020_20_10_Crosssite-Draft-Final.pdf.
5   Id.

II. Methodolodgy

This report analyzes DPD arrest data published on the City of Dallas' OpenData Portal for the period from July 1, 2017, to June 30, 2020.[6] Based on available DPD data, this report defines the following offenses as "low-level offenses:"

- **Low-level Class A:**
  Possession of controlled substance in penalty group
  2-A > 2 oz < or equal 4 oz (Cannabinoid)
  Possession of marijuana < 2 oz *drug free zone*
  Possession of marijuana > 2 oz < or equal 4 oz

- **Low-level Class B:**
  Criminal trespass
  Possession of controlled substance in penalty group 2-A 2 oz or less (Cannabinoid)
  Possession of marijuana < 2 oz (B)

- **Low-level Class C:**
  Disorderly conduct (C/B)
  Possession of drug paraphernalia
  Public intoxication

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6   Dallas OpenData, https://www.dallasopendata.com/.

Because these charges and other "quality of life" offenses (e.g., sleeping in public and loitering) are often charged as part of other crimes (e.g., theft or assault), this analysis focuses on those arrests where low-level offenses were the primary offense charged in the arrest. If the arrest also involved a felony charge or a Class A or B offense not included in this list, it was not considered to have been an arrest for a low-level offense and not included in the analysis.

We note that we were unable to gauge the full extent of the disparities because of a lack of clarity with DPD's collection and reporting practices. It is unclear how offenses such as loitering or jaywalking are charged by the DPD in either the publicly available arrest data or citation data, which is unavailable on the OpenData Portal.

The data analysis provided in this report is a descriptive analysis. In other words, it describes the problems of racial disparities in low-level arrests in Dallas, illustrating the higher rates at which communities of color experience targeted enforcement.

Demographics

The U.S. Census Bureau estimates that in 2019, the population of the City of Dallas was 1,343,565 people, with residents identifying as Hispanic or Latino (the largest group by race and ethnicity) accounting for 41.2% of that total.[7] White, non-Hispanic individuals are estimated to be 29.1% of the population, and those identifying as Black or African-American/non-Hispanic account for 24.3%. Residents identifying as Asian are 3.7% of the population, and American Indians, Alaskan Natives, Native Hawaiians, other Pacific Islanders, and people who identify as being of two or more races represent the remaining 1.7% of the population.

The DPD includes four racial categories in addition to Black, Hispanic or Latino, and White in its reporting. These include Asian, Middle Eastern, American Indian or Alaska Native, and Native Hawaiian/Pacific Islander. Of the 17,240 low-level arrests reported, only 279 (1.6%) of the arrestees are from these racial or ethnic groups.

For the purposes of this analysis, these four categories have been combined into the category of "Other."

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7   2019: ACS 1-Year Estimates Data Profiles available at https://data.census.gov/cedsci/table?q=dallas%20city,%20tx&tid=ACSDP1Y2019.DP05&hidePreview=false.

III. Findings

Finding #1

The Dallas Police Department makes nearly 6,000 arrests for low-level offenses every year.

For the period of July 1, 2017, to June 30, 2020, police made 17,240 arrests where one of the low-level offenses we identified was the primary charge in the arrest. Of these, all but 334 appear to be custodial arrests where the person was taken into custody rather than issued a citation.[8] While the number of daily low-level arrests ranged from zero to 38, on average, there were 16 low-level arrests per day, or 5,746 per year, during the study period. While residents who identify as Black or African-American make up 24.3% of the population of Dallas, they represent 44% of the low-level custodial arrests during this period.

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8   The non-custodial arrest incidents are indicated with the following values in the "ARAction" field:
Arrested - Released To Appear (CITATION)
Arrested - Released To Appear (HB2391)
Arrested - Released To Hospital (APOWW)
Arrested - Released To Other Agency
Summoned/Cited

Low-Level Custodial Arrests (Primary Charge) by Category
July 1, 2017 - June 30, 2020

Category	Number of Arrests
Grand Total	17240
PUBLIC INTOXICATION	13078
POSS MARIJUANA <2OZ	1982
CRIMINAL TRESPASS	1717
POSS MARIJUANA <2OZ "DRUG FREE ZONE"	164
DISORDERLY CONDUCT	111
POSSESSION OF CANNABINOID 2 OZ OR LESS	80
POSS MARIJUANA >2OZ< OR EQUAL 4OZ	70
POSSESSION OF DRUG PARAPHERNALIA	36
POSSESSION OF CANNABINOID > 2 OZ < OR EQUAL 4 OZ	2

Number of Arrests
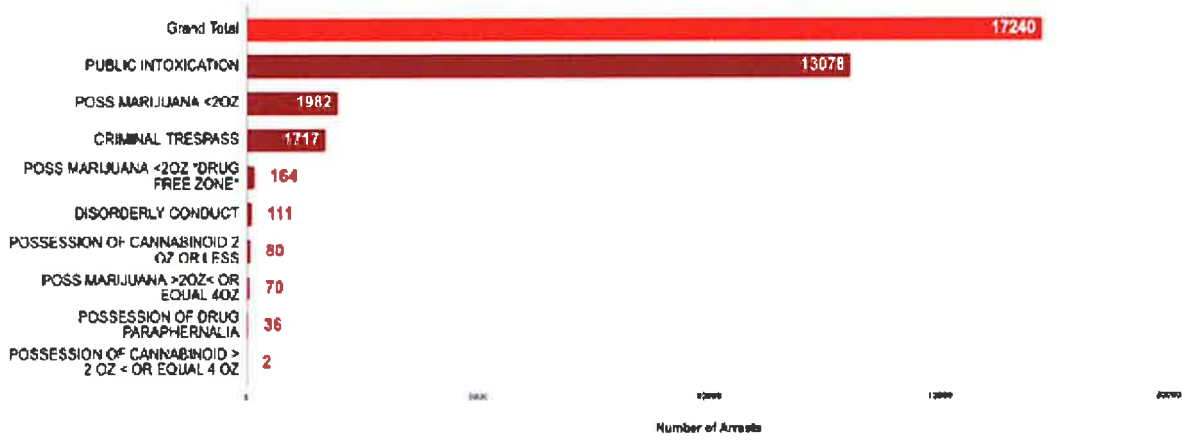
Race and Ethnicity as Percentage of Total Low-Level Custodial Arrests
July 1, 2017 - June 30, 2020

- ● Black — 43.8%
- ● Hispanic or Latino — 28.9%
- ● White — 25.6%
- ● Other
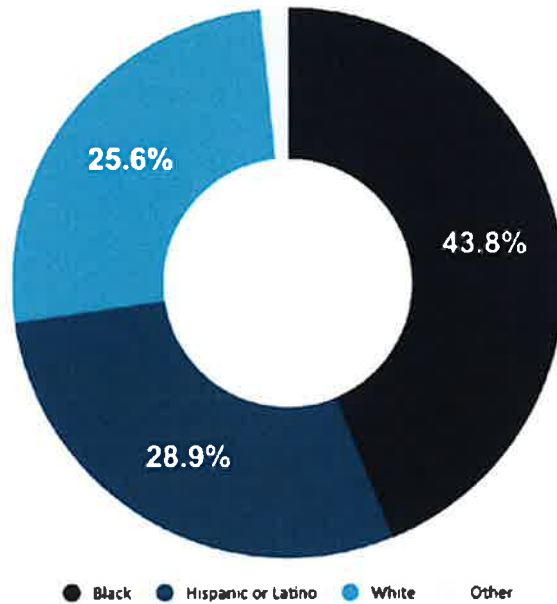
Finding #2

Arrests for low-level offenses are concentrated in downtown and Southern Dallas.

While zip codes vary in geographical size and demographic composition, many low-level arrests are concentrated in downtown and southern parts of Dallas, with far fewer in outlying areas in the northern part of the city. Ten of the 105 zip codes in Dallas account for 53% of low-level arrests. The table below shows arrests by racial/ethnic breakdown in these zip codes.

Race and Ethnicity for Low-Level Arrests by Top 10 Zip Codes
July 1, 2017 - June 30, 2021

Zip Code	Black		Hispanic/Latino		Other		White	
	# Arrests	Percentage	# Arrests	Percentage	# Arrests	Percentage	# Arrests	Percentage
75201	897	48.17%	243	13.05%	43	2.31%	679	36.47%
75202	680	54.97%	186	15.04%	15	1.21%	356	28.78%
75220	139	15.29%	571	62.82%	9	0.99%	190	20.90%
75215	684	76.25%	94	10.48%	3	0.33%	116	12.93%
75216	712	80.18%	124	13.96%	3	0.34%	49	5.52%
75204	234	26.77%	223	25.51%	38	4.35%	379	43.36%
75226	212	28.77%	222	30.12%	28	3.80%	275	37.31%
75217	300	42.80%	302	43.08%	0	0.00%	99	14.12%
75228	242	40.74%	227	38.22%	9	1.52%	116	19.53%
75243	353	66.10%	60	11.24%	12	2.25%	109	20.41%
Total	**4453**	**48.23%**	**2252**	**24.39%**	**160**	**1.73%**	**2368**	**25.65%**

Using the address for each arrest, we were able to produce coordinates for all but one of the 17,240 low-level arrests using several sources.[9] Of those, 213 coordinates (1.2%) fall outside of the City of Dallas. Of the 17,027 geocoded arrests within the City of Dallas, around 40% are concentrated in two city council districts: District 2 (19.02%) and District 14 (19.47%).[10] In 10 of the 14 districts, White residents are arrested at rates lower than Black and Hispanic/Latino residents, which further shows this citywide nature of the racial disparity in arrest rates. The table below provides the full breakdown of arrests in each city council district by race and ethnicity:

Race and Ethnicity for Low-Level Arrests by City Council District
July 1, 2017 - June 30, 2021

Council District	Black	Hispanic/Latino	White	Other	Total
1	180	513	127	5	825
2	1306	921	1229	63	3519
3	313	183	53	7	556
4	950	264	73	5	1292
5	203	317	77	0	597
6	423	874	369	23	1689
7	1142	369	176	12	1699
8	736	137	108	2	983
9	165	244	178	8	595
10	394	85	124	21	624
11	212	233	194	18	657
12	131	71	131	8	341
13	211	215	140	16	582
14	1260	637	1406	92	3395

9   Datapolitan used the OpenStreetMap Nominatim service, the US Census Bureau Geocoder, and the Google Maps Geocoding API to produce the coordinates.

10   The districts were determined by geocoding the provided address and matching that to the associated council district. As noted above, due to errors in the geocoding, 213 addresses don't fall in the boundaries of the City of Dallas and aren't included in this table.

Finding #3

Public intoxication is the most common low-level arrest and Black people are overrepresented.

Public intoxication accounted for 13,078 (75.9%) of the 17,240 low-level offense arrests for the study period. While the Black community makes up 24.3% of the population in Dallas, it accounts for 37.5% of the public intoxication arrests. The percentage of people identifying as White, non-Hispanic arrested for public intoxication (29.9%) is almost exactly their percentage in the overall population (29.1%), while residents who identify as Hispanic/Latino arrested for public intoxication (30.7%) is less than their percentage of the overall population (41.2%).

Public Intoxication Custodial Arrests by Race/Ethnicity
July 1, 2017 - June 30, 2020

● Black ● Hispanic or Latino ● White   Other
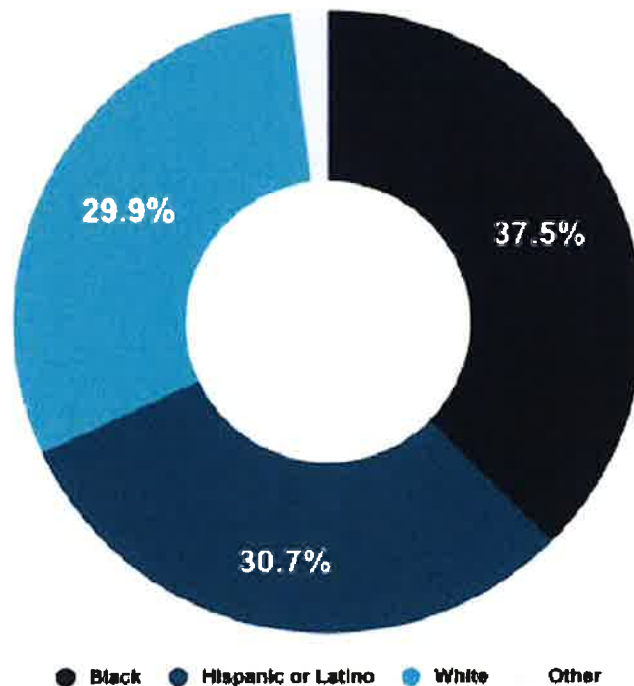
Finding #4

Black people are significantly overrepresented in low-level, drug-related arrests.

The Black community makes up 57.3% (2,608) of the arrests for the six drug related low-level offenses, double their representation in the population (24.3%). Meanwhile, White residents make up 29% of the population but only 8.8% (229) of drug-related arrests. The percentage of arrests of Hispanic/Latinos (33.4%) was also lower than their representation in the population (41%).

Race/Ethnicity as Percentage of Total Low-Level, Drug-Related Custodial Arrests
July 1, 2017 - June 30, 2021

● Black   ● Hispanic or Latino   ● White   Other
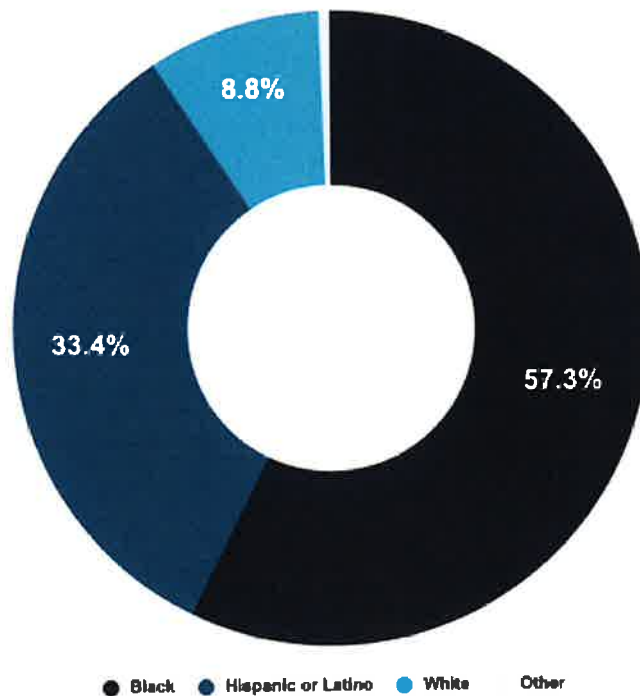
Finding #5

An overwhelming 85% of low-level drug arrests are for possession of less than two ounces of marijuana.

Of the 17,240 low-level arrests for the study period, 2,334 were for six categories of drug-related offenses. The most common of these drug-related charges is possession of marijuana of less than two ounces. This offense accounted for 1,982 (85%) of the drug-related offenses.[11]

Marijuana Related Arrests by Category
July 1, 2017 - June 30, 2020

Charge Description	Arrests
Possession of Marijuana <2oz	1,982 (84.9%)
Possession of Marijuana <2oz *Drug Free Zone*	164 (7.03%)
Possession of Cannabinoid 2 Oz or Less	80 (3.43%)
Possession of Marijuana >2oz< or Equal 4oz	70 (3.00)
Possession Of Drug Paraphernalia	36 (1.54%)
Possession Of Cannabinoid > 2 Oz < or Equal 4 Oz	2 (0.09%)
Total	**2,608**

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11   The number of low-level arrests increases to 92% if you include the possession of less than two ounces of marijuana in a Drug Free Zone (7.03%) (a low-level A offense).

Black people represent 56.6% of arrests for possession of marijuana of less than two ounces, during the study period. The overrepresentation of Black residents in marijuana possession arrests raises serious discriminatory policing concerns, given the similarity of marijuana usage rates of Whites compared to Blacks nationally.
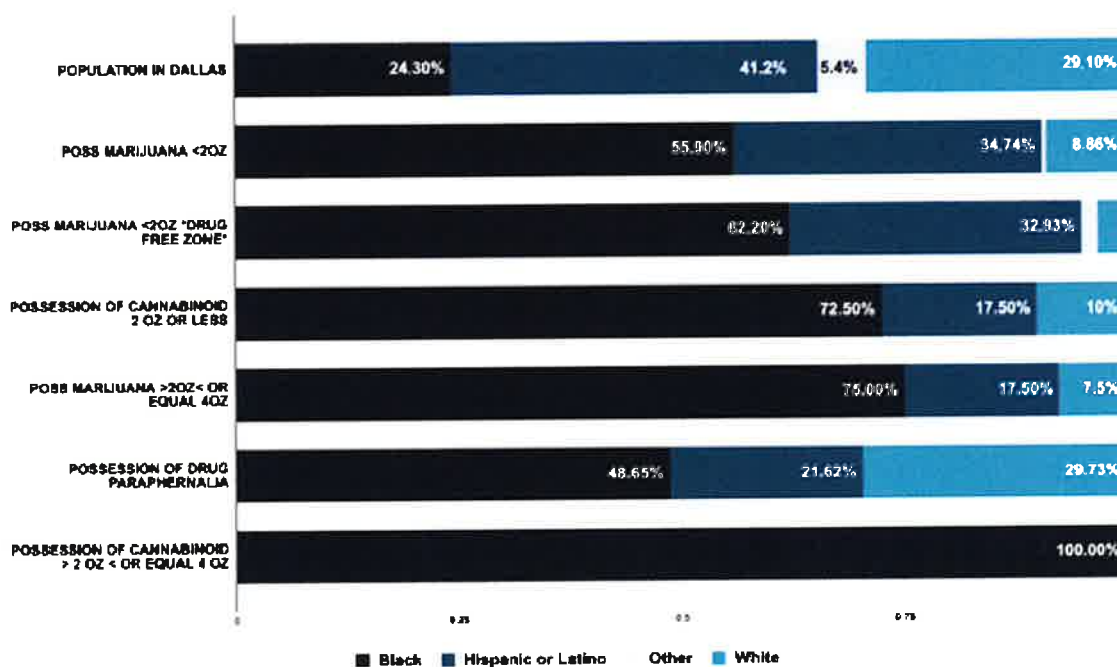
Race/Ethnicity as Percentage of Custodial Arrests for Possession of Marijuana < 2oz
July 1, 2017 - June 30, 2020

Chart

8.9%

34%

56.6%

● Black   ● Hispanic or Latino   ● White   Other
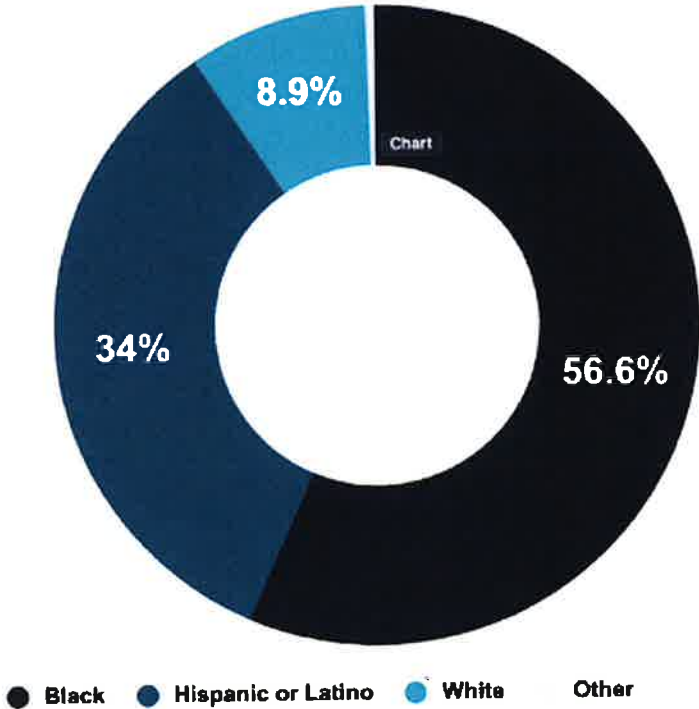
For the remaining five categories of drug-related offenses, which account for 352 of the low-level arrests during the study period, Black people are overrepresented in every category.

The following chart shows the percentage of arrests by race/ethnicity in each of the six drug-related categories, as compared to the racial and ethnic representation of the Dallas population (top bar).

Race/Ethnicity as Percentage of Total Low-Level Drug Related Arrests by Category July 1, 2017 - June 30, 2020

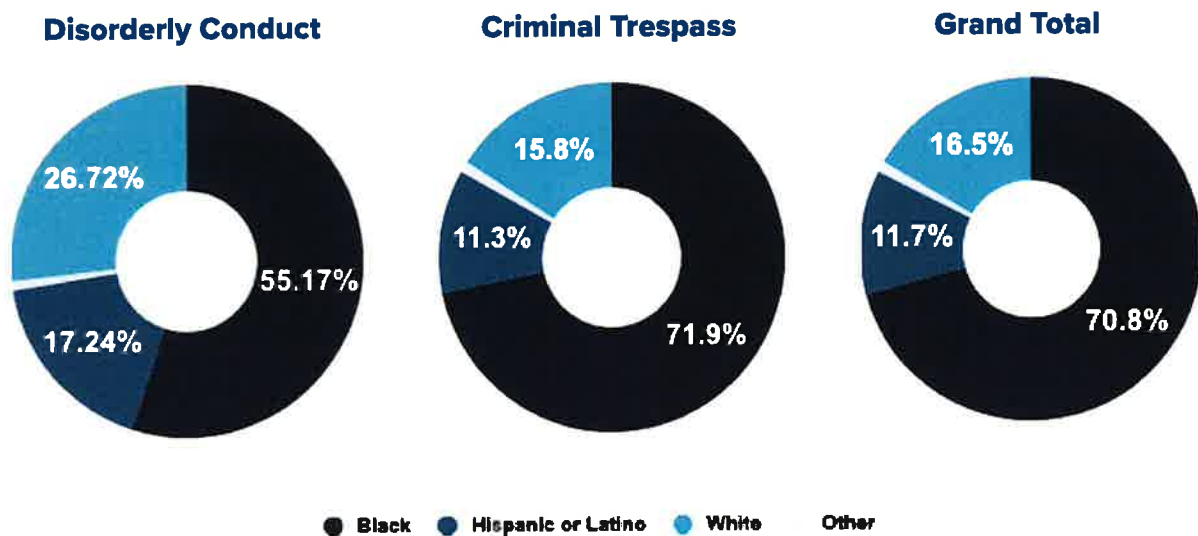| Category	Black	Hispanic or Latino	Other	White
POPULATION IN DALLAS	24.30%	41.2%	5.4%	29.10%
POSS MARIJUANA <2OZ	55.90%	34.74%		8.86%
POSS MARIJUANA <2OZ "DRUG FREE ZONE"	62.20%	32.93%		
POSSESSION OF CANNABINOID 2 OZ OR LESS	72.50%	17.50%		10%
POSS MARIJUANA >2OZ< OR EQUAL 4OZ	75.00%	17.50%		7.5%
POSSESSION OF DRUG PARAPHERNALIA	48.65%	21.62%		29.73%
POSSESSION OF CANNABINOID > 2 OZ < OR EQUAL 4 OZ	100.00%			

Black   Hispanic or Latino   Other   White

Black people are overrepresented in arrests for disorderly conduct and criminal trespass.

Of the 17,240 low-level offenses, 1,828 fall into two non-drug related categories: criminal trespass and disorderly conduct. Again, the pattern of disproportionate enforcement against Black residents holds steady — as a group, they represent 71.9% of criminal trespass arrests and 55.17% of disorderly conduct arrests for the time period studied.

Percentage Non-Drug Related Low-Level Arrests (Not Including Public Intoxication) by Race

Disorderly Conduct

26.72%

17.24%

55.17%

Criminal Trespass

15.8%

11.3%

71.9%

Grand Total

16.5%

11.7%

70.8%

● Black ● Hispanic or Latino ● White Other

Finding #7

Dallas is wasting money and personnel resources arresting and jailing people for low-level marijuana offenses.

The City of Dallas uses a significant amount of resources to make and process low-level arrests. According to a recent DPD report, an officer spends an average of two hours at the jail for a drug-related custodial arrest, with an additional 30 minutes to one hour to deposit evidence at the property room, coming to 2.5 to three hours to process a low-level arrest. Conversely, the report estimates that a cite and release citation takes approximately one to 1.5 hours to complete, meaning that it takes an officer twice as much time to make a custodial arrest than to issue a citation.[12]

Enforcement of marijauna possession arrests also contributes to slow emergency and call response times for serious crime by removing officers from patrol to process the arrest. Of the 29,722 arrests made by DPD in 2018, only 13% were for serious charges, with just 5% representing the most violent charges, including murder, rape, robbery, and aggravated assault.[13]

Low-level marijauana enforcement includes costly testing of materials seized from an individual. In June 2019, Texas House Bill 1325, legalizing the cultivation of industrial hemp (cannabis containing less than 0.3% tetrahydrocannabinol, or THC), was signed into law by Governor Greg Abbott. The law also legalized possession and sale of hemp-derived cannabidiol (CBD) products without need for a doctor's approval. Because HB 1325 changed the definition of marijuana from cannabis in general, to cannabis containing greater than 0.3% THC, it became necessary for law enforcement to test all contraband seized to determine whether it is marijuana under the new definition.

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12   Proposed Resolution Regarding Testing Cannabis, Reuben Ramirez, Deputy Chief, Dallas Police Department, October 12, 2020.

13   United States Department of Justice, Federal Bureau of Investigation. (2019) Crime Data Explorer [Dallas Police Department]: Arrests by Offense Retrieved from: https://crime-data-explorer.fr.cloud.gov/explorer/agency/TXDPD0000/arrest.

As a result, prosecutors in the counties of Harris, Tarrant, Bexar, Travis, and several others announced the dismissal of hundreds of marijuana cases and a moratorium on pursuing new charges.

In a presentation to the Community Police Oversight Board (CPOB) on August 11, 2020, Dallas County Criminal District Attorney John Creuzot outlined the cost savings to the City of Dallas resulting from his policy to decline the prosecution of first time possession of marijuana cases. Under the policy, the District Attorney's Office rejected a total of 2,346 marijuana cases between June 2019 to June 2020. Based on the testing cost of $217.00 per kit alone, the city saved $509,082.00. Not only do these arrests and prosecutions fail to address homelessness, substance use, or employment, which often underlie low-level offenses, they divest money from the social services and other programs that actually address these needs.

IV. Recommendations

The Dallas City Council should heed the call of the communities who have been working for decades to ensure that all residents are free from police violence.

The Dallas City Council should heed the call of the communities who have been working for decades to ensure that all residents are free from police violence. It can achieve this by reducing unnecessary enforcement interactions between police and residents, which would be a tremendous stride toward ending the criminalization of people of color and poverty. The sheer volume of arrests and significant racial disparities warrant immediate action by city council. Specifically, we urge the the Dallas City Council to follow the recommendations below:

1. Repeal city ordinances that criminalize people of color for low-level offenses.

Under the city's Charter, the City of Dallas has the power to "make and enforce all police, health, sanitary, and other regulations, and pass such ordinances as may be expedient for maintaining and promoting the peace, good government, and welfare of the city," including "for the order and security of its inhabitants and to protect the peace, lives, health, and property of such inhabitants."[14] To exercise these powers, the city may "provide suitable penalties for the violation of any ordinance enacted by the City."[15] Furthermore, under the city's Charter, "[e]xcept as otherwise provided by this Charter, all powers conferred on the City shall be exercised by a City Council."[16] Accordingly, the city council has the power to enact and repeal ordinances, and should exercise this power to address the costs and racial disparities of low-level offenses. (See Appendix A for a model ordinance).

The municipal-level offenses that are eligible for repeal through ordinances include certain loud speaker and noise violations, sleeping in public spaces, and jaywalking. This report does not provide analysis of DPD's enforcement of these low-level offenses because of serious flaws in DPD's collection and reporting of arrest data. Nonetheless, we suspect similar racial disparities in those categories to those identified in this report.

These offenses do not pose a public safety threat. Instead, they criminalize youth, people of color, and people experiencing homelessness, and erode trust in DPD. For example, the Office of Community Police Oversight received a complaint from an individual who was arrested for sleeping in his truck in front of the convention center. When the police

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14   Dallas City Charter, ch. II, Sec. 1, Art. 31.
15   Id.
16   Id.

were called, he reported that the officers did nothing to help him in the situation and instead arrested him.

The city should look to Atlanta, Georgia, as a model and pass an ordinance to repeal these offenses. In 2017, Atlanta repealed 40 outdated ordinances that criminalized nonviolent behaviors such as loitering, and experienced a drop in the use of force incidents by the Atlanta Police Department and community complaints.[17]

2. Stop arrests for low-level state offenses.

The vast majority of low-level offenses enforced by DPD are state-level offenses that cannot be repealed at the municipal level in Dallas. (See Appendix B for the procedure for repealing state ordinances.) The city, however, has multiple mechanisms that could have a similar effect of reducing unnecessary police-community contacts and the negative consequences that flow from these encounters. This includes expanding cite-and-release policies, de-prioritizing arrests, and amending DPD's general orders.

a. Expand cite-and-release policies for certain state low-level offenses.

In 2007, the Texas legislature passed House Bill 2391, which amended Texas Criminal Code Section 14.06 to allow peace officers to issue citations for enumerated low-level offenses in lieu of making arrests. Eligible offenses under the law include Class C low-level offenses (excluding public intoxication) and several Class A and B low-level offenses, including:

- Possession of Marijuana less than 4 oz. Texas Health & Safety Code § 481.12(b)(1) & (2);
- Possession of Controlled Substance less than 4 oz, Penalty Group 2-A, Class A or B low-level. Texas Health and Safety Code § 481.1161(b)(1) & (2); and
- Criminal Mischief, Class B low-level. Texas Penal Code § 28.03(b)(2).

17   In March 2017, Atlanta, GA repealed 40 of its 96 "quality of life" ordinances, emphasizing those that were disproportionately related to nonviolent offenses. City Council Repeals Outdated 'Quality of Life' Offenses, March 21, 2017, https://atlantaintownpaper.com/2017/03/city-council-repeals-outdated-quality-life-ordinances. The reduction in police interactions was accompanied by lower rates of community complaints and unauthorized uses of force. In 2018, the first full year since the repeals took place, there were 140 citizen complaints, half of the total The reduction in police interactions was accompanied by lower rates of community complaints and unauthorized uses of force. In 2018, the first full year since the repeals took place, there were 140 citizen complaints, half of the total compared to 2013. Additionally, 2018 is the only year with readily available statistics of citizen complaints that were below 200 (2019 data are not available as of the writing of this report).

In 2017, the Dallas City Council approved a pilot program in 2017 by which the DPD could issue citations for Class A and B low-level marijuana offenses instead of making arrests for these offenses. The pilot program, however, excluded other low-level offenses also eligible for citation-only enforcement under state law. According to then-Assistant City Manager Eric D. Campbell in 2015, "the [pilot] program's success [would] determine implementation of other possible offenses."[18]

Dallas Police Department General Order 313.00 (Arrest Policies – Adults) provides policy guidance concerning how to implement the program and the circumstances in which officers should issue citations. Under the program, officers are required to "utilize the Cite & Release process for those who meet the eligibility requirements, unless the officer can document an articulable reason for custodial arrest and obtains approval from a supervisor." [19] The Dallas City Council could expand the use of this program to apply to other low-level statutes enumerated under HR 2391, including Class C low-levels and Class B low-level criminal mischief.

Notably, other Texas cities have passed ordinances and codified police procedures that account for a broader use of cite-and-release. In Austin, for example, the police department can use cite-and-release instead of arrest for Class C low-levels and the full gamut of Class A and B low-level offenses contemplated by HR 2391, including criminal mischief.[20] The San Marcos City Council similarly authorized its police department to use cite-and-release procedures for a broader array of criminal offenses than are currently covered by Dallas's cite-and-release program.[21]

b. Amend DPD's General Orders to de-prioritize arrests for low-level offenses to align the Dallas County District Attorney's priorities and national best practices.

The department could amend its current policies to align with the Dallas County District Attorney's Office's policy to dismiss cases for certain low-level offenses that the office has deprioritized. Specifically, in April 2019, the Dallas County District Attorney issued a memorandum concerning de-prioritizing several low-level criminal offenses, including criminal trespass. Noting that "the jail is not a suitable place for the mentally ill and

18   See Memorandum of Eric D. Campbell to the Honorable Mayor and Members of the City Council re Cite and Release (Dec. 15, 2015), https://dallascityhall.com/government/Council%20Meeting%20Documents/cite-and-release_combined_010616.pdf.
19   See DPD General Orders, Sec. 313.05 (Cite and Release for Marijuana Possession).
20   See Austin Police Department, Austin Police Department Policy Manual § 308.4 (2017).
21   See San Marcos, Tex., Ordinance No. 2020-18 (Apr. 21, 2020).

homeless–those most often charged with low-level criminal trespass," the district attorney instructed intake prosecutors "to dismiss all low-level criminal trespass cases that do not involve a residence or physical intrusion into property."[22] DPD's General Orders provide guidelines to police officers concerning criminal trespass offenses, noting that "low-level citations may be issued in appropriate cases in lieu of custodial arrest."[23]

The DPD policy, as written, is not explicitly aligned with the Dallas County District Attorney's Office prosecutorial policy. DPD could perform a broad policy review to align its arrest policies with prosecutorial policies concerning low-level offenses.

c. De-prioritize low-level arrests by removing them from DPD's enforcement goals.

The chief of police, working together with the city manager, could establish enforcement goals and policies focusing on de-prioritizing arrests for low-level offenses. The chief has discretion in defining strategic priorities for the department on a year-to-year basis. The chief has ultimate responsibility for the administration, command, and external relations of the department, including "develop[ing] and propos[ing] such programs to the City Manager as deemed necessary to maintain a modern, efficient, and effective police department."[24]

As noted in Dallas Police Department General Order No. 101.00, the chief's responsibilities include "submit[ting] annually, to the City Manager, a written report covering the operations of the Department. The report will contain the Department's goals and objectives for each major component."[25] The strategic priorities for 2018, for example, included (1) crime reduction, (2) increased recruitment and retention, (3) advancement and development of officers, (4) improved organizational effectiveness, and (5) enhanced community relationships/partnerships.[26]

By de-prioritizing the low-level offenses reviewed in this report and others beyond, especially state level offenses that cannot be repealed by the city council, DPD will cease to be the conduit to the criminal legal system for behaviors that do not pose a

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22   Memorandum from John Creuzot to the City of Dallas (Apr. 11, 2019), https://www.dallascounty.org/Assets/uploads/docs/ district-attorney/messages-from-da/Official-DACreuzotPoliciesLetter_April112019.pdf.pdf.
23   See DPD General Orders, Sec. 320.03 (emphasis added).
24   See DPD General Orders, Sec. 101.00.
25   Id.
26   See Dallas Police Department, DPD 2018 Strategic Priorities (Mar. 22, 2018), https://dallascityhall.com/government/Council%20 Meeting%20Documents/pscj_3_dpd-2018-strategic-priorities_combined_032618.pdf.

public safety threat. This would relieve officers from being the enforcers of laws that exacerbate the systemic racial inequities in Dallas and improve community relationships. De-prioritization would also save money spent on arrests and prosecutions, which would be better spent on housing, health care, education, and other social services and programs.

3. Publicly report detailed, disaggregated data for arrests and citations of all offenses.

This report analyzes enforcement data made publicly available by the City of Dallas and the Dallas Police Department on the city's open portal. However, there are serious flaws in the data. It does not reflect the offense charge for all categories of low-level offenses and it is not possible to match arrests to related use of force incidents. Furthermore, the city has been unwilling to provide data on certain offenses (e.g., jaywalking) to analyze in this report.

The department must improve its collection and reporting practices to promote transparency and accountability. Residents deserve to know what the department does, how it chooses to enforce laws, and who it enforces them against. And they have the right to know when these enforcement decisions are disproportionately affecting Dallas' communities of color.

All data must be made available in dissagrated form and at a minimum include the incident number; date, time, location of the arrest or citation; race, gender, age of the individual; mental health or other disability of the individual; reason for the initial contact; offense(s) charged; type of force used; search, if any; contraband seized; officer unique identifier and race, gender, age; injuries; and related complaints.

4. Reinvest money saved in community-based services.

The mayor and city council should work to reduce arrests for low-level offenses and to reallocate the astronomical resources consumed by these arrests to community-based

services and addressing violent crime. Arresting people for offenses that do not pose a public safety threat costs Dallas millions of scarce tax dollars while ensnaring people in the criminal legal system.

As noted in this report, District Attorney Creuzot's decision to dismiss certain marijuana cases saved the city half a million dollars in one year for the cost for testing kits alone. This does not even take into account the cost of officer or prosecutor hours spent on these cases.

Working in consultation with affected groups and individuals, the city should assess community needs and create and invest in programs to serve those needs. In 2020, several extensive budget proposals outlining how divestment from the Dallas Police Department into resources emerged from community groups.[27] Dallas cannot continue to bill its residents for a system of policing that criminalizes communities of color while failing to provide the resources they need to thrive.

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27   2020 Our City Our Future Budget Demands (2020) Our City Our Future. Retrieved from https://drive.google.com/ file/d/1Jqtpo VVcWNu1JqVXL9yZu3h6pR8L8aFv/view

V. Conclusion

The enforcement of low-level offenses creates unnecessary, negative interactions between police and communities and costs Dallas millions of dollars without a benefit to public safety. Furthermore, enforcement has significant racial disparities and criminalizes people of color and low-income people. The city council should take immediate steps to address these harms. Every person in Dallas should live in a city where public safety is defined by the well-being of all its residents.

The undersigned urge the Dallas City Council to implement the recommendations in this report immediately.

American Civil Liberties Union of Texas
Dallas Community Police Oversight Coaltion
Faith Forward Dallas at Thanksgiving Square
For Oak Cliff

Mi Familia Vota
Mothers Against Police Brutality
North Texas Immigration Coalition
Our City Our Future
Texas Organizing Project

VI. Appendix

Appendix A

Model Ordinance Repealing Low-Level Offenses

ORDINANCE NO. _____

An ordinance relating to the City's Code Ordinances, repealing Chapter 31,

Article I, § 31-13 (Sleeping in Public Spaces), Chapter 30, § 30-4 (Loudspeakers

and Amplifiers), and Chapter 28, Article VIII, § 28-63.1 (Prohibiting

Crossing in Central Business District Other Than at Crosswalk)

WHEREAS, it is in the best interest of our local community to minimize unnecessary and

costly arrests that separate families and funnel vulnerable communities into incarceration; and

WHEREAS, the City wishes to uphold constitutional protections

to eliminate any racial disparities associated with discretionary arrests, and

to ensure the efficient and equitable use of City resources; and

WHEREAS, reducing arrests for low-level offenses would have

a positive budgetary impact on the City, thereby increasing the resources

available to achieve other local needs, goals and priorities.

WHEREAS, the city council finds that it is in the public

interest to the aforementioned ordinances; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Dallas, Tex., Code of Ordinances ch. 31, Art.

I, § 31-13 (Sleeping in Public Spaces) is repealed.

SECTION 2. That Dallas, Tex., Code of Ordinances ch. 30, §

30-4 (Loudspeakers and Amplifiers) is repealed.

SECTION 3. That Dallas, Tex., Code of Ordinances ch. 28, Art. VIII, § 28-63.1

(Prohibiting Crossing in Central Business District Other Than at Crosswalk) is repealed.

Appendix B

Repeal of Low-Level Offenses Under State Law

All state-level offenses could be repealed by the state legislature. The Texas Legislature has the power to "pass such laws as may be necessary to carry into effect the provisions" of the Texas Constitution. See Tex. Const. art. 3, § 42. Similar to the process for passing or repealing other laws under the Texas Constitution, criminal offenses may be repealed through the introduction of a new bill. See Tex. Const. art. 3, § 30 ("No law shall be passed, except by bill").

The Texas Legislature meets every odd-numbered year. The regular session begins on the second Tuesday in January and lasts 140 days. The next regular session begins on January 12, 2021. The Texas governor can also convene a special session, which may last up to 30 days and can cover only issues chosen by the governor. See Tex. Const. art. 3, § 5.

In a regular session, a bill repealing a state criminal offense can be introduced in either the Texas House of Representatives or the Senate. See Tex. Const. art. 3, § 31. The first 30 days of the regular session is devoted to emergency appropriations and other emergencies that must be submitted to the governor. During the next 30 days, House members and Senators can introduce bills on any subject. Sixty days after the beginning of the session, the introduction of any bill (other than a local bill or bill related to an emergency declared by the governor) requires the consent of four-fifths of the House or Senate. See Tex. Const. art. 3, § 5.

House. If introduced in the House, it is referred to a House committee by the speaker. Tex. House Rule 8, § 6. It may be amended in committee. Tex. House Rule 4, § 39. The committee may also choose to take no further action on the bill. Alternatively, the committee may choose to issue a report on the bill, which expresses the committee's recommendations on the bill, includes a record of the committee's vote on the report, the text of the bill, a detailed bill analysis, and an impact statement, if necessary. Tex. House Rule 4, § 27. If issued, the report goes to the Committee on Calendars or the Committee on Local and Consent Calendars for scheduling consideration of the bill by the full House. Id.

Once before the full House, the bill is read and debated (second reading). Tex. House Rule 8, § 17. The bill may be amended by majority vote among members present. The

members then vote on whether to pass the bill, after which the bill is then read again (third reading). Tex. House Rule 8, § 17. It may be further amended, but any amendment at this stage requires a two-thirds vote. Tex. House Rule 11, § 5. If a bill is passed by majority vote on the third reading, it is considered passed.

Senate. If the bill is originally introduced in the Senate, it is referred to a Senate committee by the lieutenant governor. Tex. Senate Rule 7.06. Similar to bills coming out of committee in the House, a report on the bill is prepared in committee and follows the bill throughout the legislative process. Tex. Senate Rule 11.06. Local and noncontroversial bills are then scheduled for consideration by the Senate Administration Committee. Tex. Senate Rule 9.04. All other bills are placed on the regular order of business for consideration in the Senate. The bill is then brought to the Senate floor for debate where it may be further amended. Tex. Senate Rule 13.05. The bill must then pass the full Senate by majority vote to be sent to the House. Tex. Senate Rule 16.09.

The Texas Constitution requires a bill to be read on three separate days in each house. While this constitutional rule may be suspended by a four-fifths vote, the provision is not often suspended in the House and the third reading often occurs the day after the second reading. In the Senate, the provision is more often suspended. See Tex. Const. art. 3, § 32.

Reconciliation. After the bill is passed by the House or Senate, it is then sent to the other body for approval. If the other body makes amendments, it is then sent back to the original house to either approve the amendments or request a conference committee to reconcile the differences between the versions. See Tex. House Rule 13, § 3; Tex. Senate Rule 12.02.

Governor Approval. Once the House and Senate agree on the bill's language, it is then sent to the governor. The governor has 10 days to: (1) sign the bill into law; (2) allow the bill to become law without his or her signature; or (3) veto the bill, which can be overridden by two-thirds vote in the House and Senate. See Tex. Const. art. 4, § 14.