

DURHAM HUMAN RELATIONS COMMISSION APRIL 2018 MEETING

**Neighborhood Improvement Services Department Conference Room
Golden Belt Center, Building 2, Floor 3
807 East Main Street, Durham, NC 27701
Date: Tuesday, April 3, 2018
Time: 7:00 PM**

MEETING MINUTES

*Members of Commission: Commissioners Diane Standaert, Chair, Ashley Taylor-Jacobs, Vice Chair, Phil Seib, Gerri Robinson, Girija Mahajan, Susan Austin, Ian Kipp, Risa Foster, Sejal Zota, Franklin Hanes, Ricardo Correa, Felicia Arriaga, Mikel Barton, Nicolas Coleman, John Rooks, Jr., Nathan Plummer
City Council Members: Javiera Caballero, City Council Liaison, Mark-Anthony Middleton, City Council Alternate Liaison*

Call To Order

Commissioner Diane Standaert, Commission Chair, called the meeting to order at 7:06 PM.

Roll Call

Juanita English, Administrative Assistant, called the roll for the meeting.

Commissioners Present: Commissioners Diane Standaert, Ashley Taylor-Jacobs, Phil Seib, Gerri Robinson, Girija Mahajan, Susan Austin, Ian Kipp, Risa Foster, Sejal Zota, Franklin Hanes, Felicia Arriaga, Mikel Barton, Nicolas Coleman, John Rooks, Jr., Nathan Plummer

Commissioners Absent: Commissioner Ricardo Correa

City Council Liaisons Present: City Council Members Javiera Caballero, Mark-Anthony Middleton

City Department Staff Present: James Davis, Human Relations Manager, Juanita English, Administrative Assistant

Orders of the Day

1. Ceremonial Items

None

2. Public Comments

Marcella Thompson, a Durham resident, spoke to the Commission about affordable housing in Durham.

Commissioner Diane Standaert, Commission Chair, thanked Marcella Thompson for speaking to the Commission and encouraged her to continue to tell her story to advocate for affordable housing in Durham.

City Council Member Mark-Anthony Middleton informed Marcella Thompson that as a citizen and resident of Durham she could get on the City Council agenda to speak about affordable housing in Durham at a City Council meeting or work session.

3. Approval of Minutes

The approval of the meeting minutes of the DHRC March 2018 monthly meeting held on Tuesday, March 6, 2018 was tabled until the May 2018 meeting.

4. Presentations

Five members of Durham Fostering Alternatives to Drug Enforcement Coalition (FADE) gave a presentation on the assessment since the 2014 Durham Police Department Reform Recommendations, discussing updates, concerns, and impacts. FADE provided a PowerPoint presentation, City of Atlanta Ordinance 17-O-1152, DPD Executive Summary-Misdemeanor Marijuana Data for 2015 and 2016, Self-Help Credit Union Marijuana Enforcement Report November 2015, FADE Presentation Notes and Requests to HRC; copy of documents attached, (see Attachment 1, 2, 3, 4, 5 & 6).

The Commission discussed the assessment with the FADE presenters, and there were requests that FADE asked of the Commission as follows:

- Continue looking at making low-level marijuana a low level enforcement priority. In addition to Seattle's LEAD program, look at Atlanta's pre-arrest diversion program at <http://prearrestdiversion.org/learn-about-pre-arrest-diversion/> (see also handout of Atlanta's ordinance provided by FADE).
- Request the following information from the Durham Police Department (DPD) (as additions to the questions submitted to the DPD by the HRC on February 26, 2018):
 - What policies/controls are in place to ensure officers are following the consent search policies?
 - How many referrals were made by the DPD to the Misdemeanor Diversion Program in 2017? For 2016 and 2017, what was the race of the individuals referred?
 - Regarding the data collection of stops and searches based on race, is the DPD reviewing these on a regular basis and using them to ensure accountability? And, can the DPD provide racial breakdown of all searches, not just traffic stops and searches?
 - Regarding check points, can the DPD provide information as to where data of the race and ethnicity of those stopped during check points, including those for like "Booze It & Loose It," or "Click It or Ticket," are reported?
- To further address racial disparities in traffic stops and searches, Durham should implement policies that minimize regulatory and equipment-based traffic stops, e.g. expired tag, broken tail light, etc., similar to what other jurisdictions in North Carolina have done and are considering.
- Regarding the Civilian Police Review Board (CPRB):
 - Request the city provide CPRB with investigative power. This should include an examination of what is permissible under state law. Charlotte may provide a good example.
 - Create a task force that includes all stakeholders, including justice involved people, to determine other ways in which a public accountability system may be improved.
 - Remove from the list of criteria for eligibility for serving on the CPRB the prohibition of having a criminal record (specifically: "not be convicted of a felony or have pled nolo contendere to a felony and not be convicted of a class A1, 1, or 2 misdemeanor within three years prior to appointment to the Board").

Commissioner Diane Standaert, Commission Chair, asked the Law Enforcement Committee to review the requests that FADE asked of the Commission, and to make recommendations as to how the Commission should proceed with the requests.

Note: Commissioner Diane Standaert, Commission Chair, sent an email to the Commission on Wednesday, April 11, 2018 with a news article on coverage of the FADE presentation made to the Commission; copy of email with news article attached, (see Attachment 7).

5. Executive Committee Report

Commissioner Diane Standaert, Commission Chair, reported that she conducted an Executive Committee meeting by phone on Thursday, March 29, 2018 to plan the DHRC April 2018 monthly meeting.

Commissioner Diane Standaert, Commission Chair, reviewed the process for the DHRC Officer Elections of Chair and Vice Chair scheduled to be held at the DHRC May 2018 meeting.

Commissioner Diane Standaert, Commission Chair, appointed Commissioner Franklin Hanes and Commissioner Phil Seib, both who volunteered to serve on the ad hoc Nominating Committee for the DHRC Officer Elections.

Commissioner Diane Standaert, Commission Chair, informed the Commission that if they wish to nominate a Commission member or themselves to run for Commission Chair or Vice Chair, to notify the Nominating Committee, and the committee must notify the Commission of the slate of nominees at least 48 hours before the DHRC May 2018 meeting. She informed the Commission that officer nominations may also be made from the floor by Commission members at the DHRC May 2018 meeting.

Commissioner Diane Standaert, Commission Chair, announced Yolanda Keith's resignation from the Commission. She commended Yolanda Keith on her incredible contributions to the Commission, serving as a committee member that prepared the DHRC Durham County Detention Facility Report and Recommendations, planning and moderating the jail forum, and serving as Community Outreach Committee Chair, which included creating the DHRC double-sided one-pager outreach flyer for Commission members to use in community outreach.

Commissioner Diane Standaert, Commission Chair, announced that the next DHRC Executive Committee meeting was scheduled by phone for 12:00 PM on Thursday, April 26, 2018.

6. Committee Reports and Discussion

Standing Committees:

Annual Awards Event Committee

Commissioner Ashley Taylor-Jacobs reported on the committee's plans for the DHRC Annual Advocacy Awards Ceremony scheduled for 6:00 PM on Wednesday, April 4, 2018 at the Hayti Heritage Center. She announced that Congressman G.K. Butterfield, Jr. was planning to be present to accept the Human Rights and Advocacy Award.

Commissioner informed the Commission that the committee needed a Commission member to volunteer to take photos at the annual awards event, and Commissioner Nathan Plumber volunteered to take photos at the annual awards event.

James Davis, Human Relations Manager, announced that there was a "MLK 50 Bell Toll" national movement to ring a bell thirty-nine times at 7:01 PM on Wednesday, April 4, 2018, to recognize the 50th Anniversary of the assassination of Dr. Martin Luther King, Jr. and in honor of the number of years he dwelled on this earth, so since the annual awards event was scheduled during that time of the evening of Wednesday, April 4th, there were plans to ring a bell thirty-nine times at the annual awards event.

Commissioner Diane Standaert, Commission Chair, thanked Commissioner Ashley Taylor Jacobs, James Davis, Human Relations Manager, Commissioner John Rooks, Jr. and the committee members for all their work in planning the annual awards event.

Community Outreach Committee

There was no report provided due to time restraints.

Policies & Procedures Committee

There was no report provided due to time restraints.

Social Media/Marketing Committee

There was not report provided due to time restraints.

Ad hoc Committees:

Affordable Housing/Gentrification Committee

Commissioner Phil Seib, Committee Co-Chair, reported that the committee would be a meeting with Mayor Steve Schewel on Monday, April 9, 2018 about the DHRC Durham County Evictions Crisis Report and Recommendations to address the evictions crisis in Durham.

Law Enforcement Committee

The committee provided a written committee report to the Commission; copy of committee report attached, (see Attachment 8).

Structural Racism Committee

The committee provided a handout of the draft Structural Racism General Disparities Report; copy of draft report attached, (see Attachment 9).

Commissioner Nathan Plummer, Committee Co-Chair, reported that the committee has received some good feedback on the draft Structural Racism General Disparities Report, but that the committee wants more feedback, so the deadline for feedback was extended to April 15, 2018.

7. Commissioner Communications and Announcements

Commissioner Gerri Robinson encouraged the Commission to recruit community neighbors and friends to serve on the Commission in order to have a more diverse Commission that represents the population of Durham.

Commissioner Diane Standaert, Commission Chair, announced that the Durham Committee was hosting a town hall meeting at Hayti Heritage Center on Thursday, April 5, 2018, of which Congressman G. K. Butterfield, Jr. and Congressman David Price would be participating in.

Commissioner John Rooks, Jr. announced that the Durham NC Coalition, a group of organizations and activists that focuses on providing alternatives to individuals causing the gun violence in Durham, has removed over 40 guns off the streets of Durham, working with five non-active gang members that are enrolled in the program.

8. Human Relations Manager's Report

James Davis, Human Relations Manager reported that April is "National Fair Housing Month" and the "50th Anniversary of the Fair Housing Act and Assassination of Dr. Martin Luther King, Jr.," and in honor of such, the Human Relations Division has a Fair Housing exhibit, along with the BullCity150 exhibit "Uneven Ground: The Foundations of Housing Inequality in Durham" on display in City Hall for the entire month of April, and a Fair Housing/Dr. Martin Luther King, Jr. Banner on display in City Hall for the entire year of 2018.

James Davis, Human Relations Manager, announced that the Human Relations Division would be hosting a community conversation on housing discrimination and disparities in City Hall at 6:00 PM on Wednesday, April 11, 2018, the exact anniversary date of the Fair Housing Act, and that the guest moderator would be Eddie Davis, historian and former City Council member.

9. Old Business

Next Steps on Community Conversations on Race in Schools and in Community

Commissioner Diane Standaert, Commission Chair, reported that she and Commissioner Ashley Taylor-Jacobs, Commission Vice Chair, have ideas on community conversations on race in schools and in the community. She reported that some Commission members have expressed an interest in having community conversations and that the next steps would be to have a meeting with the interested Commission members.

Bull City Connector Update

Commissioner Diane Standaert, Commission Chair, provided an update on the Bull City Connector issue, reporting that GoDurham plans to go back to the City Council with revisions to their proposal in order to address the City Council concerns.

Report Back on Participatory Budgeting Coalition

Commissioner Diane Standaert, Commission Chair, reported that Commissioner Franklin Hanes, Commissioner Phil Seib, and she met with the Participatory Budgeting Coalition to discuss the questions that the Commission has and to find out more about the coalition. She informed the Commission that the coalition plans to keep the Commission updated on what is happening with their work, and the coalition may come and speak to the Commission. She thanked Commissioner Franklin Hanes for hosting the meeting at his office.

Commissioner Phil Seib announced that a participatory budgeting meeting at the City Council work session was scheduled on Thursday, April 5, 2018.

10. New Business

None

11. Durham Human Relations Commission (DHRC) Long-Range Calendar

April 2018: National Fair Housing Month and 50th Anniversary of Fair Housing Act/Assassination of Dr. Martin Luther King, Jr.

- Entire Year 2018: Fair Housing/Dr. Martin Luther King, Jr. Banner on Display in City Hall Lobby
- April 1st-30th: "Fair Housing Exhibit and BullCity150 Exhibit "Uneven Ground: The Foundations of Housing Inequality in Durham" Both on Display in City Hall Lobby Entire Month of April
- Wed., April 4th: Annual Durham Human Relations Awards Ceremony at 6:00 PM at Hayti Heritage Center

DHRC April 2018 Meeting Minutes for Tuesday, April 3, 2018

May 2018:

- Tues., May 1st: DHRC May Monthly Meeting with Officer Elections at 7:00 PM at NIS Dept. in Golden Belt Center

June 2018:

- Tues., June 5th: DHRC June Monthly Meeting at 7:00 PM at NIS Dept. in Golden Belt Center
- Sat., June 30th: End of Term for Some Current DHRC Members
- Sat., June 30th: DHRC Annual Report Due to City Council

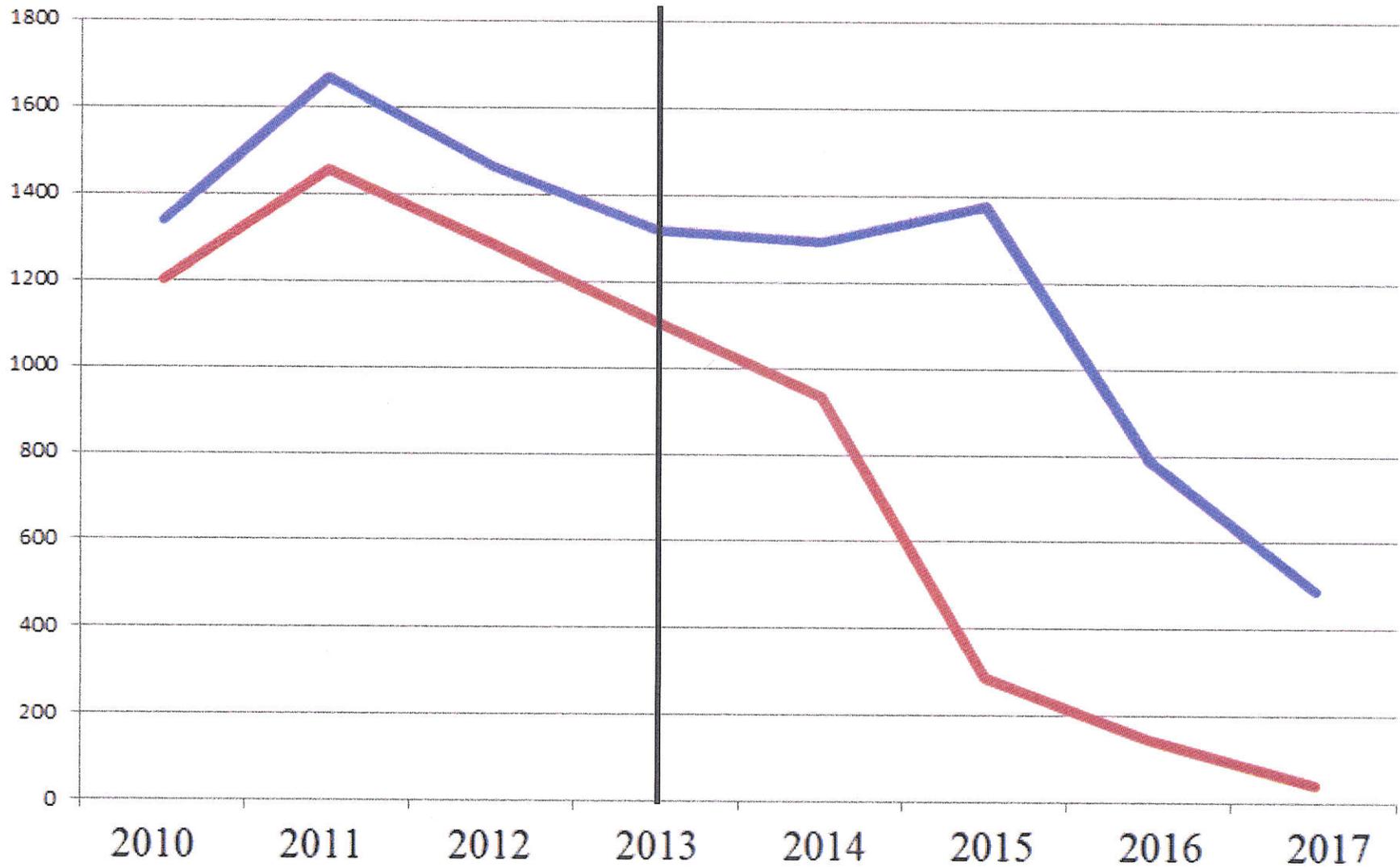
Adjournment

Commissioner Diane Standaert, Commission Chair, adjourned the meeting at 8:44 PM.

Mandatory Written Consent to Search Policy

- Durham PD's mandatory written consent to search policy, implemented in October 2014, applies to *all* searches city-wide—of pedestrians, property, vehicles, and homes. However, data is most-readily available for searches occurring in the course of traffic stops because of NCGS 143B-903.
- In the 41 months prior to the implementation of a mandatory written consent policy, DPD reported 4,088 consent searches during the course of traffic stops, or 100 a month. In the 41 months since the policy's implementation, DPD reported 631 such searches, or 15 a month.
- Written consent has resulted in an **85% reduction in reported consent searches** in the course of traffic stops.
- City Manager Tom Bonfield recently affirmed that the policy remained in effect, and wrote: "Police district supervisors are expected to monitor the activities of officers under their command for instances where filed written consent form tallies are not consistent with the records entered in traffic stop data systems." We attempted to obtain further information about this process directly from the police department. Deputy Chief of Police Anthony Marsh stated that DPD would not provide us with any information regarding these audits. However, he indicated he would give the information to the HRC, if asked.

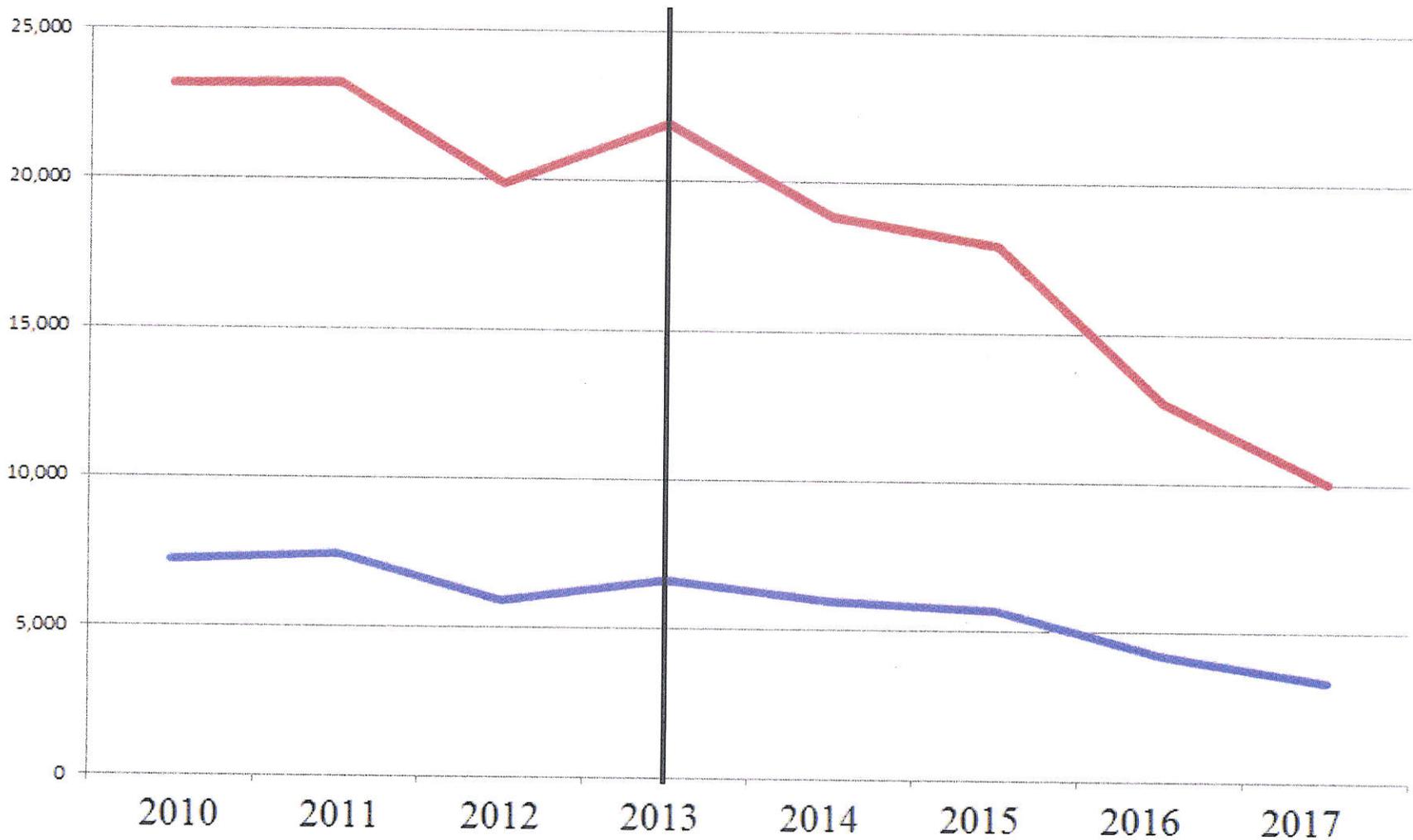
Traffic searches, Durham Police Department Overall (blue) and Consent-based (red), 2010-2017



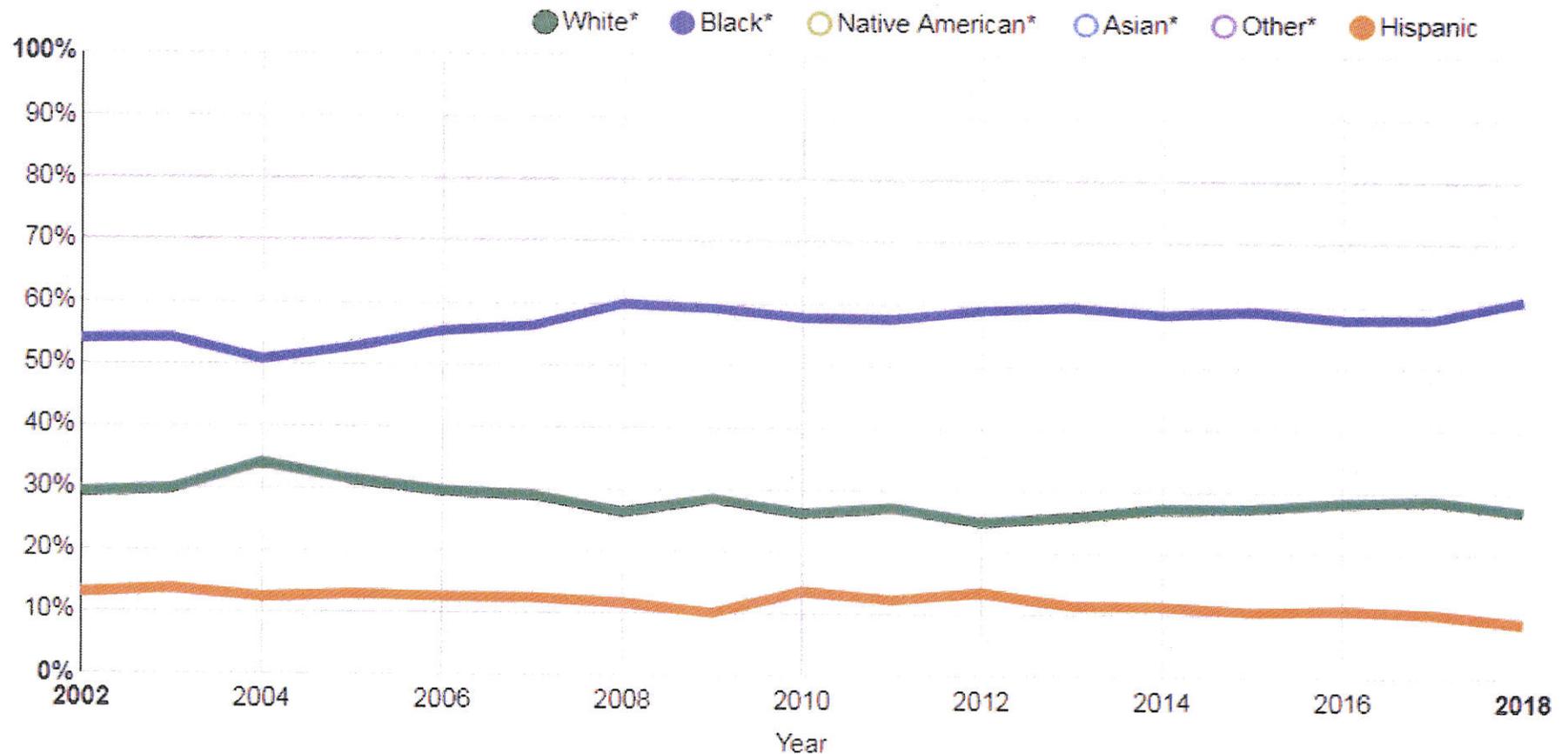
Traffic Stop Numbers, Pre- and Post- Written Consent to Search Policy

- In the 41 months prior to the written consent policy, DPD conducted 83,866 traffic stops, or an average of 2,046 stops a month.
- In the 41 months since, DPD conducted 52,833 traffic stops, or an average of 1,289 stops a month.
- Comparing the 41 month period prior to the policy's implementation to the 41 months since reflects a 37% reduction in both traffic stops and searches.
- **DPD stopped over 14,000 fewer drivers in 2017 than it did in 2013, when the HRC began its inquiry into DPD traffic stop practices.** A reduction in the number of black drivers stopped accounted for a significant majority (~60%) of the decline in stops.

Traffic stops, Durham Police Department Black (red) and White (blue) motorists, 2010-2017



Although traffic stops have dropped significantly in number, the racial disparities among those stopped remain largely unchanged.



Over the last 5 years, black drivers have accounted for 59% of all stops, white drivers 27%, and Hispanics 11%.

- **Regulatory and equipment-based traffic stops are a significant driver of these racial disparities.** These types of stops account for 38% of black drivers stopped, compared to 25% of white drivers stopped.
- Because black drivers are stopped in significantly higher numbers than white drivers, and because regulatory and equipment stops account for 13% more of black drivers' respective stops, **prohibiting these types of stops would significantly reduce the existing disparity in the rate at which blacks and whites are stopped.**
- Such a policy could potentially reduce the black-to-white stop disparity in Durham by double digits.
- Police chiefs and City Councils are increasingly re-evaluating the wisdom of such stops and concluding they create more problems than they solve. *E.g.*, Fayetteville PD, Chapel Hill PD.

The New York Times



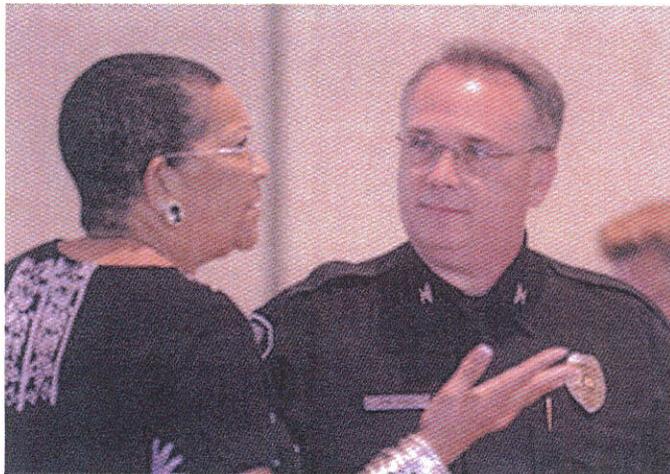
“Most black Greensboro drivers were stopped for regulatory or equipment violations, infractions that officers have the discretion to ignore.” – *New York Times*, October 24, 2015

Greensboro police halt minor traffic stops in response to racial disparity concerns

Story Comments

Print Font Size

Recommend 2K Share Tweet G+1 2 Pin it 0 Share 0



JOSEPH RODRIGUEZ/News & Record

Lenora Billings-Harris, a diversity strategist, talks with Greensboro Police Chief Wayne Scott before they spoke in June at the "Diversity in Law Enforcement" forum at Temple Emanuel.

Posted Tuesday, November 10, 2015 9:21 pm

By Kate Elizabeth Queram kate.queram@greensboro.com

GREENSBORO — The Greensboro Police Department will no longer initiate traffic stops for minor infractions such as broken headlights or tail lights, one of a host of changes being implemented to address racial disparities in the city's dealings with the public.

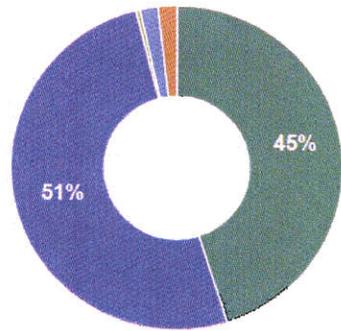
"We want to understand what causes the problems and how we can go about fixing those issues," Police Chief Wayne Scott told the City Council at its regular meeting

Greensboro PD saw an immediate 10% reduction in its black-to-white stop disparity after the *New York Times* article prompted a year-long ban on regulatory- and equipment-based stops. The ban was lifted in January 2017, prompting an immediate reversal in the gains the department had made.

Traffic Stops (percentage by race/ethnicity)

These graphs reflect the racial composition of drivers stopped by law enforcement officers in the jurisdiction since the department began reporting its data to the state.

● White ● Black ● Native American
● Asian ● Other

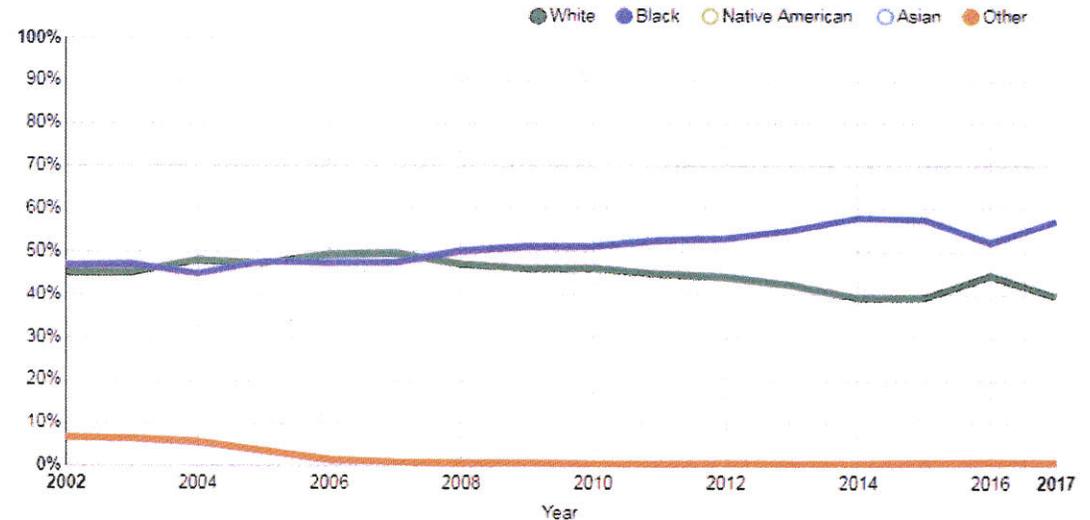


Total ▾

Adjusting the drop down menu will display the racial breakdown of stops on a year-by-year basis. Some percentages may be based on low levels of observation.

Longitudinal view of annual traffic stops

Chart Data



Drag the cursor over the graph to see the racial/ethnic breakdown for any given year. Some percentages may be based on low levels of observation. Click the "Data" tab to review the actual raw counts from the NC Department of Justice.

Making Marijuana a Lowest Law Enforcement Priority

- Between 2013 and 2016, the number of people charged with marijuana possession decreased from 1,406 to 854—a 39% drop.
- Misdemeanor marijuana possession was the **only** charge in 144 cases in 2015 and another 144 cases in 2016.
 - In 2015, 26% of this group were issued a citation, 35% were arrested, and 39% were taken to the magistrate.
 - In 2016, 42% of this group were issued a citation, 28% were arrested, and 30% were taken to the magistrate.
- Even with more citations, Black males remain disproportionately impacted by marijuana enforcement. For cases where a misdemeanor marijuana offense is the only charge:
 - In 2015, 84% were Black and 15% were white. 83% were male and 17% female.
 - In 2016, 80% were Black and 19% were white. 83% were male and 17% female.

AN ORDINANCE BY COUNCILMEMBER KWANZA HALL AS SUBSTITUTED AND AMENDED BY PUBLIC SAFETY AND LEGAL ADMINISTRATION AS AMENDED BY THE ATLANTA CITY COUNCIL COMMITTEE AMENDING CHAPTER 106, (OFFENSES AND MISCELLANEOUS PROVISIONS), SECTION 182, (MARIJUANA) OF THE CITY OF ATLANTA CODE OF ORDINANCES SO AS TO PRESCRIBE THE MAXIMUM PENALTY TO BE IMPOSED BY THE MUNICIPAL COURT OF ATLANTA FOR A VIOLATION THEREOF; TO DECLARE THAT A VIOLATION THEREOF SHALL NOT BE PUNISHABLE BY ANY TERM OF IMPRISONMENT; AND FOR OTHER PURPOSES.(REFERRED BACK TO PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE BY ATLANTA CITY COUNCIL ON 4/17/17)(HELD ON 4/25/17)

WHEREAS, the City of Atlanta has an interest in maintaining the public safety and general welfare of citizens of the City of Atlanta and its visitors; and

WHEREAS, Chapter 106 (Offenses and Miscellaneous Provisions) of the City of Atlanta Code of Ordinances contains quasi-criminal offenses adopted in accordance with the City's police powers;

WHEREAS, the Municipal Court of the City of Atlanta is granted jurisdiction to try and dispose of cases where a person is charged with the possession of one ounce or less of marijuana if the offense occurred within the corporate limits of such municipality. The jurisdiction of any such court shall be concurrent with the jurisdiction of any other courts within the county having jurisdiction to try and dispose of such cases (OCGA § 36-32-6(a)); and

WHEREAS, any fines and bond forfeitures arising from the prosecution of such cases shall be retained by the City (OCGA § 36-32-6(b)); and

WHEREAS, currently there is no specific punishment prescribed for violation of City of Atlanta Code 106-182 which prohibits the possession of one ounce or less of marijuana; and

WHEREAS, instead a violation of this section is punishable in accordance with Section 1-8 of the City of Atlanta Code of Ordinances which provides that a person convicted of a violation thereof shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months; and

WHEREAS, it is the desire of the Atlanta City Council to specifically provide that a person convicted of a violation of Section 106-182 shall be punished by a fine not exceeding \$75.00, and shall not be punishable by a term of any imprisonment.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, AS FOLLOWS:

SECTION 1: That Chapter 106, Article IV, Division 3, Section 182 of the City of Atlanta Code of Ordinances shall be amended such that it shall read as follows (with permanent additions underlined in bold font and permanent deletions in strikeout font):

Sec. 106-182. - Marijuana.

It shall be unlawful for any person to possess one ounce or less of marijuana within the corporate limits of the city. Any person found guilty of violating this section shall be punished by a fine not exceeding \$75.00, and shall not be punished by imprisonment for any term; ~~subject to the penalty provided in section 1-8;~~ provided that any defendant charged with possession of one ounce or less of marijuana shall be entitled on request to have the case against such defendant transferred to the court having general misdemeanor jurisdiction in the county wherein the alleged offense occurred.

SECTION 2: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict only.

SECTION 3: That the Municipal Clerk is instructed to retain all legislative history references in the codified version of Chapter 106, including Editor's notes, and shall not delete any such references, but shall amend them to include this ordinance.

SECTION 4: That the Atlanta Police Department may implement a mandatory training curriculum that will address the differences between the City of Atlanta ordinance and State law with respect to marijuana possession, arrest, detention and prosecution.

Executive Summary- Misdemeanor Marijuana 2015

The following is an executive review of misdemeanor marijuana data for calendar year 2015. Arrest data involving adults 16 years of age and older was used for the purposes of this report, and limited to only those arrests in which at least one offense charged was for a violation of General Statutes relating to the possession of marijuana or drug paraphernalia.

For the year, there were 12,044 total charges filed, of which 379 (3.1%) were for POSSESS CONTROL SUBSTANCE SCHEDULE VI or POSSESS MARIJUANA UP TO ½ OZ (Table 1). This is lower than the 3.9 percent ratio observed during the 18-month period from 1/1/2013 to 6/30/2014, which is used as a benchmark based on previously reported data.

Table 1 – Select Arrest Charges by Year

Charge	Description	2013	2014	2015	Grand Total
90-95(A3)6	POSSESS CONTROL SUBSTANCE SCHEDULE VI ¹	557	357	316	1,230
90-95(D4)	POSSESS MARIJUANA UP TO 1/2 OZ	82	94	63	239
90-113.22	POSSESSION OF DRUG PARAPHERNALIA	767	614	508	1,889
	Grand Total	1,406	1,065	887	3,358

Arrests in which possession of marijuana and/or drug paraphernalia are the only charges are infrequent. The 887 charges for 2015 related to these offenses came from 746 individual arrests. However, just 144 of these arrests involved only the aforementioned charges, which is 2.2 percent of the 6,486 total arrests for the year. It is these 144 arrests that will form the basis of demographic breakdowns later in this report.

The 602 arrests in which marijuana possession or drug paraphernalia occurred in connection with other charges included 654 other drug offenses and 629 non-drug offenses (Table 2). The top six most common non-drug offenses were RESIST DELAY OBSTRUCT PUBLIC OFFICER (56), FAIL TO APPEAR (54), POSSESSING STOLEN GOODS (39), POSSESSION OF FIREARM BY CONVICTED FELON (34), MISDEMEANOR LARCENY (32), and CARRYING CONCEALED WEAPONS (31).

There were 373 arrests in which POSSESSION OF DRUG PARAPHERNALIA occurred with 474 accompanying drug charges other than marijuana possession (Appendix A), including MAINTAINING DWELLING/VEHICLE FOR CONTROLLED SUBSTANCE (92), POSSESS WIT M/S/D² CONTROL SUBSTANCE SCHEDULE VI (88), POSSESS CONTROL SUBSTANCE SCHEDULE II³ (80), and POSSESS WIT M/S/D CONTROL SUBSTANCE SCHEDULE II (63). However, there were 21 arrests in which drug paraphernalia was the only charge.

Table 2 – Other Offenses

Offense Group	Count
Aggravated Assault	14
All Other Offenses	205
Burglary	27
Disorderly Conduct	5
Driving While Impaired	17
Drug Violations	654
Embezzlement	1
Forgery/Counterfeiting	3
Fraud	17
Larceny	63
Liquor Law Violations	4
Non-Reportable Offenses	69
Offenses Against Family	9
Prostitution	6
Robbery	7
Sex Offenses	1
Simple Assault	50
Stolen Property	44
Vandalism	17
Weapon Violations	70
Grand Total	1,283

¹ Schedule VI = marijuana

² WIT M/S/D = with the intent to manufacture, sell or deliver

³ Schedule II includes methamphetamines, cocaine, methadone, and opium

Executive Summary- Misdemeanor Marijuana 2015

Demographics

There were 144 arrests during the year in which possession of marijuana and/or drug paraphernalia were the only charges. By race, 121 (84%) were Black, 22 (15%) were White, and 1 was Asian. By sex, 120 (83%) were male and 24 (17%) were female. These ratios are very similar to those for violent crime suspects in 2015, mentioned in the 4th Quarter 2015 Report⁴. By age, the accompanying graph shows arrestees most commonly fell into the 18-29 range, with significant drop-offs observed starting at 30 years old.

In the OJP Diagnostic Center (DOJ) report released April 2015 on violent crime, gun violence and community-police relations in Durham, it stated on page 17 that “From 2009-2012, the average aggravated assault rate for young (15-34) black males was 6.4 times higher than the rate for all Durham residents.” When that data was replicated for all violent crimes in 2015, it was observed that the same demographic is only 5.6 percent of the total population in Durham⁵, but represents 36.9 percent (6.6x) of the violent crime victims and 56.7 percent (10.1x) of the identified suspects. Of the 144 aforementioned arrests, 79 (54.9%) were young (16-34)⁶ black males.

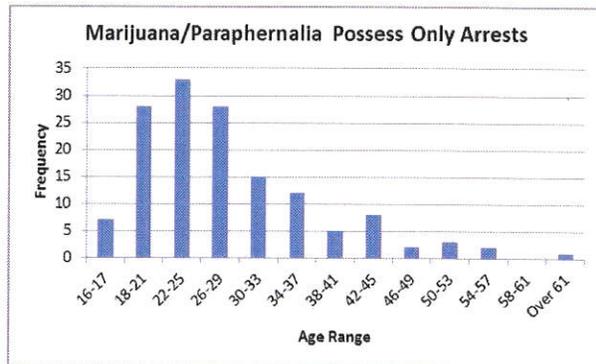


Table 3 – Arrest Types

Type	Count
Citation	37
On-View	56
Order For Arrest	31
Warrant For Arrest	20
Grand Total	144

Approximately 35 percent of the arrests where possession of marijuana and/or drug paraphernalia were the only charges stemmed from an existing order or warrant for arrest, with 26 percent being issued a citation, and the remaining 39% being taken before a magistrate (Table 3).

Misdemeanor Diversion Program

The Misdemeanor Diversion Program (MDP) was expanded from eligible 16-17 year olds through the age of 21 effective October 1, 2015. Including this mid-year change, there were 12 arrests during 2015 in which the person was age eligible for the program, and possession of marijuana and/or drug paraphernalia were the only charges. It is unknown whether these persons were eligible for the program based on other criteria, like being first-time offenders. There were 2 referrals to the MDP by Durham officers during the year for marijuana/paraphernalia offenses.

⁴ By Interim Chief Larry C. Smith on March 7, 2016:

<http://durhamnc.gov/DocumentCenter/View/9454>

⁵ Source: John Killen, Neighborhood Improvement Services (ACS Place Geodatabase Downloads (2010-2014):

<https://www.census.gov/geo/maps-data/data/tiger-data.html>)

⁶ Only adults are included in this report, which starts at 16 years old

Executive Summary- Misdemeanor Marijuana 2015

Appendix A – Other Drug Charges

Charge Description	Count
CREATE COUNTERFEIT CONTROL SUBSTANCE	1
MAINTAIN DWELLING/VEH FOR CONTROLLED SUBSTANCE	92
MAINTAIN FORTIFIED DWELLING FOR CONTROLLED SUBSTANCE	3
MANUFACTURE CONTROL SUBSTANCE SCHEDULE II	2
MANUFACTURE CONTROL SUBSTANCE SCHEDULE VI	1
PHARMACY PRACTICE VIOLATIONS	3
POSSESS CONTROL SUBSTANCE SCHEDULE I	26
POSSESS CONTROL SUBSTANCE SCHEDULE II	80
POSSESS CONTROL SUBSTANCE SCHEDULE III	3
POSSESS CONTROL SUBSTANCE SCHEDULE IV	6
POSSESS CONTROL SUBSTANCE SCHEDULE V	3
POSSESS CS ON PREMISES OF PRISON/LOCAL CONFINEMENT	1
POSSESS CS ON SCHOOL OR WITHIN 1000 FEET OF	27
POSSESS CS PUBLIC PARK OR WITHIN 1000 FEET OF	15
POSSESS W/I/T M/S/D CONTROL SUBSTANCE SCHEDULE I	17
POSSESS WIT M/S/D CONTROL SUBSTANCE SCHEDULE II	63
POSSESS WIT M/S/D CONTROL SUBSTANCE SCHEDULE IV	2
POSSESS WIT SELL/DELIVER COUNTERFEIT C/S	1
POSSESS WITM/S/D CONTROLL SUBSTANCE SCHEDULE VI	88
POSSESSION OF IMMEDIATE PRECURSOR CHEMICAL W/INTENT TO M/S/D	1
SALE OF SUBSTANCE FOR TOXIC FUME INHALATION	3
SELL OR DELIVER CONTROL SUBSTANCE SCHEDULE I	6
SELL OR DELIVER CONTROL SUBSTANCE SCHEDULE III	1
SELL OR DELIVER CONTROL SUBSTANCE SCHEDULE VI	4
SELL/DELIVER CONTROL SUBSTANCE SCHEDULE II	6
SIMPLE POSSESSION OF SCHEDULE II CONTROL SUBSTANCE	7
TRAFFICKING HEROIN	4
TRAFFICKING IN COCAINE	8
Grand Total	474

Executive Summary- Misdemeanor Marijuana 2016

The following is an executive review of misdemeanor marijuana data for calendar year 2016. Arrest data involving adults 16 years of age and older was used for the purposes of this report, and limited to only those arrests in which at least one offense charged was for a violation of General Statutes relating to the misdemeanor possession of marijuana or drug paraphernalia.

For the year, there were 12,195 total charges filed, of which 368 (3.0%, Chart 1) were for POSSESS CONTROL SUBSTANCE SCHEDULE VI or POSSESS MARIJUANA UP TO ½ OZ (Table 1). This is lower than the 3.1 percent ratio for calendar year 2015, and the 3.9 percent ratio observed during the 18-month period from 1/1/2013 to 6/30/2014, which is used as a benchmark based on previously reported data.

Table 1 – Select Arrest Charges by Year

Charge	Description	2013	2014	2015	2016	Grand Total
90-95(A3)6	POSSESS CONTROL SUBSTANCE SCHEDULE VI ¹	557	357	316	289	1,519
90-95(D4)	POSSESS MARIJUANA UP TO 1/2 OZ	82	94	63	79	318
90-113.22	POSSESSION OF DRUG PARAPHERNALIA	767	614	508	486	2,375
	Grand Total	1,406	1,065	887	854	4,212

Arrests in which misdemeanor possession of marijuana and/or drug paraphernalia are the only charges are infrequent. The 854 charges for 2016 related to these offenses came from 698 individual arrests. However, just 144 of these arrests involved only the aforementioned charges, which is 2.2 percent of the 6,437 total arrests for the year (Chart 2). This is equal to the 2.2 percent rate observed for calendar year 2015. It should be noted that, of these 144 arrests, 106 (74%) occurred during the first seven months of the year. Only 38 such arrests occurred August to December. Geographically, they were distributed throughout the City, with slight concentrations occurring in East Durham and the McDougald Terrace public housing complex.

Chart 1

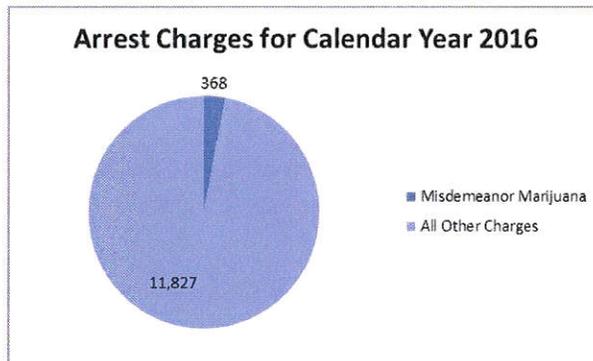
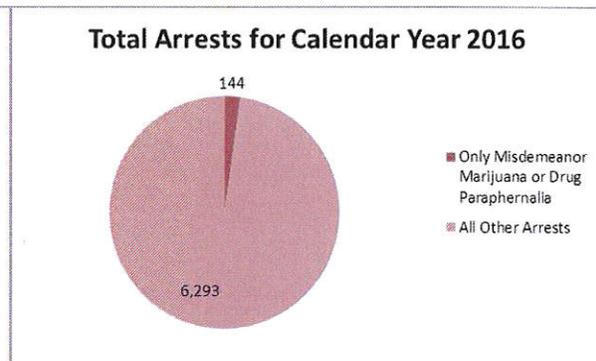


Chart 2



The 554 arrests in which marijuana possession or drug paraphernalia occurred in connection with other charges included 589 other drug offenses and 658 non-drug offenses. The top five most common non-drug offenses were RESIST DELAY OBSTRUCT PUBLIC OFFICER (68), FAIL TO APPEAR (63), CARRYING CONCEALED WEAPONS (38), POSSESSION OF FIREARM BY CONVICTED FELON (37), and POSSESSING STOLEN GOODS (35).

¹ Schedule VI = marijuana

Executive Summary- Misdemeanor Marijuana 2016

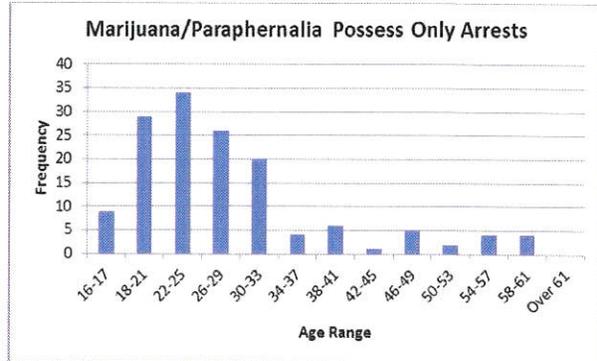
Table 2 – Arrest Types

Type	Count
Citation ²	61
On-View ³	43
Order For Arrest ⁴	21
Warrant For Arrest	19
Grand Total	144

Approximately 28 percent of the arrests where possession of marijuana and/or drug paraphernalia were the only charges stemmed from an existing order or warrant for arrest, with 42 percent being issued a citation (Table 2). Of the 43 persons taken before a magistrate (29%), 5 ended up being charged with a felony, and the arrestee had prior arrests in all but 8 of the remaining 38 cases. Only 2 of these 8 do not have clear documentation on file as to the reason an alternative to arrest was not sought.

Demographics

There were 144 arrests during the year in which possession of marijuana and/or drug paraphernalia were the only charges. By race, 115 (80%) were Black, 28 (19%) were White, and 1 was Other. By sex, 119 (83%) were male and 25 (17%) were female. These ratios are similar to those for violent crime suspects in 2016⁵. By age, the accompanying graph shows arrestees most commonly fell into the 18-33 range, with significant drop-offs observed starting at 34 years old.



In the [OJP Diagnostic Center \(DOJ\) report](#) released April 2015 on violent crime, gun violence and community-police relations in Durham, it stated on page 17 that “From 2009-2012, the average aggravated assault rate for young (15-34) black males was 6.4 times higher than the rate for all Durham residents.” When that data was replicated for all violent crimes in 2016, it was observed that the same demographic is only 5.6 percent of the total population in Durham⁶, but represents 36.6 percent (6.5x) of the violent crime victims and 63.6 percent (11.4x) of the identified suspects. Of the 144 aforementioned arrests, 95 (66.0%) were young (16-34)⁷ black males.

Misdemeanor Diversion Program

The Misdemeanor Diversion Program (MDP) was expanded from eligible 16-17 year olds through the age of 21 effective October 1, 2015. In November 2016, it became policy that “officers are required to initiate the referral process on all individuals who are eligible for the program.” There were 24 referrals to the MDP by Durham officers during the year for marijuana/paraphernalia offenses; 8 were 16-17 years old, with the remaining 16 being 18-21 years old.

² Includes 16 citations that were improperly coded as ‘on-view arrests

³ Includes 5 arrests in which felony charges were involved (CJLEADS)

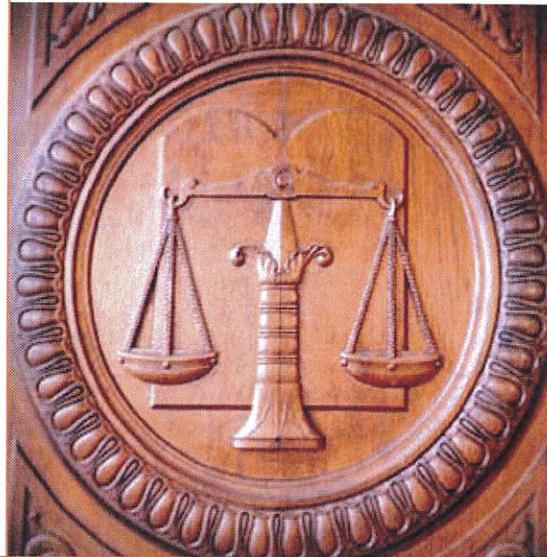
⁴ Includes 1 citation that was improperly coded as an ‘on-view arrest

⁵ Identified violent crime suspects: 85% Black, 14% White, 79% Male, 21% Female

⁶ Source: John Killeen, Neighborhood Improvement Services (ACS Place Geodatabase Downloads (2010-2014):

<https://www.census.gov/geo/maps-data/data/tiger-data.html>

⁷ Only adults are included in this report, which starts at 16 years old



Dealing with Marijuana Misdemeanors in Durham: Racial Disparities Undercut the City's Progress

An analysis of publicly-available data shows that racial disparities persist in low-level marijuana law enforcement in Durham, North Carolina. African Americans age 25 and under represent about 15% of Durham's population, yet this group represents 46% of the city's minor marijuana charges.

This report discusses how current marijuana enforcement practices disproportionately impact African Americans, undermine economic progress, and erode trust in the community. Self-Help recommends that the Durham City Council adopt an enforceable policy that makes misdemeanor marijuana violations the lowest priority for Durham law enforcement.

November 2015

self-help.org

Acknowledgements

Self-Help's mission is to expand economic opportunity for all, and our experience shows that opportunities begin in the neighborhoods we serve. We dedicate this report to the members of the Durham community who are most affected by policing practices and whose voices have brought much-needed attention to these concerns.

Contents

Executive Summary	2
Background	3
Analysis	4
A Closer Look at the DPD Report.	4
Update: More Recent Analysis of Low-Level Marijuana Charges	4
Putting Durham’s Marijuana Charges in Context.	8
The Damage to Communities and the Risks for Durham	9
Policy Recommendations	13
Appendix: Background on the DPD Report and Additional Analysis	17

Executive Summary

For years, Self-Help and its partners have been investing in Durham neighborhoods to revitalize struggling communities and build greater economic opportunities. We appreciate and depend upon the vital and complementary role that the Durham Police Department (DPD) plays in public safety. However, to the extent that law enforcement practices are unfair or inefficient, these practices directly undermine millions of dollars in investments and thwart progress that would benefit the entire city.

Our goal in this report is to introduce facts and analysis to inform decisions on Durham's future enforcement of marijuana violations. Here we present new information on racial disparities and enforcement of low-level marijuana charges based on data previously released by the DPD. In addition, based on publicly-available court records, we update the DPD's more recent enforcement activities.

Our analysis shows that large racial disparities persist in Durham's enforcement of low-level marijuana violations, and these actions come at a high cost to those charged and the entire community. Our major findings include these:

- In Durham, African Americans continue to comprise over 80% of the people charged for misdemeanor marijuana charges, while whites remain a small fraction of those charged.
- African Americans age 25 and under represent about 15% of Durham's population, yet this group represents 46% of misdemeanor marijuana charges.
- Even after recent reforms,¹ disparate enforcement persists, and Durham's record is out of line with other progressive cities. For example, Durham's charge rate today for low-level marijuana charges is three times higher than Seattle's back in 2002, when marijuana was still illegal there.
- A simple misdemeanor conviction costs families up to \$374 in court fees and fines. The costs in lost opportunities for education and employment can be much higher, and are grossly disproportionate to the infractions.
- Some of the neighborhoods with the highest level of enforcement are the same neighborhoods where Self-Help and others are investing as part of a City program to fight poverty and help increase opportunities for residents.

Self-Help encourages the Durham City Council to adopt an enforceable policy that makes misdemeanor marijuana violations the lowest priority for Durham law enforcement, as recommended by the FADE (Fostering Alternatives to Drug Enforcement) coalition. In this report, we present simple, practical policy recommendations for handling marijuana misdemeanors and supporting community investments in Durham.

¹ On October 1, 2014, the Durham Police Department implemented a policy change requiring written consent for certain police searches. See <https://www.southerncoalition.org/durham-adopts-written-consent-policy-for-searches/>. Additionally, a statewide law lowered the penalty for possessing marijuana paraphernalia, effective December 1, 2014. See <http://nccriminallaw.sog.unc.edu/prior-possession-of-drug-paraphernalia/>.

Background

Well before Ferguson, Missouri made the news, African-American communities in Durham, North Carolina raised serious concerns about racial disparities in local law enforcement. In 2013, following a string of officer-involved shootings and police records showing racial disparities in traffic stops and searches, Durham residents organized and took action. They petitioned the City Council for reprieve from the impact of policing practices on their communities. As a result, Mayor Bill Bell asked the Durham Human Relations Commission to investigate. The Commission held months of public hearings before concluding “racial bias and profiling [are] present in the Durham Police Department practices.”²

Young people charged for having a joint in their pocket may face diminished opportunities, with less access to student aid, affordable housing and a decent job.

The Commission followed up with a list of 34 recommendations to address the problems that surfaced. These included a set of five policy recommendations urged by a coalition called Fostering Alternatives to Drug Enforcement (FADE).³ Some of the FADE recommendations have been adopted and implemented in part. Among those not adopted is the recommendation that the City of Durham make marijuana possession the lowest law enforcement priority.

It is widely recognized that roughly the same share of African Americans and whites engage in the recreational use of marijuana, but enforcement of marijuana laws and resulting penalties fall much harder on blacks. The legal charges alone typically trigger several hundred dollars in court fees and fines, but the collateral consequences can be much worse. Young people charged for having a joint in their pocket may face diminished opportunities for a better future, with less access to student aid for college, affordable housing and a decent job.

With the pending retirement of Durham’s Chief of Police, the Durham Police Department is entering a key period of transition. The City has an opportunity to re-evaluate broader policies and practices. The ideal outcome will be increased trust and confidence that law enforcement is even-handed and focused on the highest impact enforcement activities.

As described in this report, Self-Help and others are actively investing in neighborhoods where disproportionate marijuana charges are occurring. Since Mayor Bill Bell launched his Poverty Reduction Initiative, the City and other partners have invested significant resources in these communities.⁴ Disproportionate enforcement of minor marijuana infractions can undercut that work by stripping money out of these communities and stifling opportunities for jobs, housing and education. Reprioritization of enforcement activities would contribute to greater public safety by 1) building better relationships between police and citizens and 2) keeping opportunities open that help build stronger communities overall.

² “Recommendations Submitted to the City of Durham City Council by the City of Durham Human Relations Commission,” April 23, 2014, available at <http://www.southerncoalition.org/wp-content/uploads/2014/05/HRCDPDreport.pdf>.

³ The FADE coalition is comprised of and led by individuals from Durham communities most directly impacted by the city’s current policing practices. FADE’s recommendations were endorsed by a wide-ranging number of community stakeholders, including Durham Congregations in Action (CAN), Committee on the Affairs of Black People, Durham NAACP, Southerners on New Ground, Durham People’s Alliance and many others.

⁴ Mayor Bill Bell has characterized 2015 “the year of action” to implement his Poverty Reduction Initiative first formulated in his 2014 State of the City Address. See <http://www.newsobserver.com/news/local/community/durham-news/article10236821.html>.

Analysis

A Closer Look at the DPD Report: Additional Information on Misdemeanor Marijuana Arrests

In July 2014, Durham's City Manager requested the Durham Police Department to provide statistics on misdemeanor possession-of-marijuana charges. The DPD responded with a memo titled "Analysis of Misdemeanor Marijuana Data." For simplicity, we will refer to this memo as "the DPD report."

The DPD report identified and aggregated all cases in which at least one alleged offense occurred for minor misdemeanor possession of marijuana from the 18-month period covering January 2013 through June 2014, excluding cases involving juveniles 15 years of age or younger. The report also includes demographic data, a listing of any concurrent charges that accompanied the misdemeanor possession charge, and other data.

Only a small share (12%) of misdemeanor marijuana charges is directly attributable to citizen complaints.

After reviewing the DPD report, we find a number of key points that warrant additional consideration by the Durham City Council and other community stakeholders. For example, the records compiled in the DPD report show:

- The report confirms the disparate impact of marijuana enforcement, with 87% of minor marijuana charges involving African Americans.
- Only a small share (12%) of misdemeanor marijuana charges is directly attributable to citizen complaints. The majority of the charges stem from actions initiated by the DPD, with a vehicle stop being the most common triggering event.

An appendix to this paper provides a more detailed description of these findings and more discussion on their implications.

Update: More Recent Analysis of Low-Level Marijuana Charges

Since the DPD issued its report on misdemeanor marijuana enforcement, two new policies could affect policing practices. On October 1, 2014, the City Council adopted one of the FADE policy recommendations that requires a Durham resident's written permission to conduct a consent search. Additionally, a state-wide law lowered the penalty for possessing marijuana paraphernalia, effective December 1, 2014.

Given these policy changes and the local attention on enforcement actions related to marijuana, we reviewed more recent criminal charge data to assess whether any changes have occurred subsequent to the DPD report. Our analysis is based on data from the North Carolina Administrative Office of the Courts (NCAOC) detailing cases involving marijuana charges over a six-month period (February 25 to August 25, 2015).⁵

⁵ See <https://www.southerncoalition.org/durham-adopts-written-consent-policy-for-searches/> for a discussion of Durham's new policy of written consent. The University of North Carolina School Of Government provides a summary of the statewide changes involving possession of marijuana paraphernalia at <http://nccriminallaw.sog.unc.edu/prior-possession-of-drug-paraphernalia/>.

Disparities Persist

We analyzed charges that only involved misdemeanor marijuana charges, with no additional charges filed.⁶ The DPD report had shown that 87% of such arrests involved African Americans. As shown below in Figure 1, nearly a year after the DPD report, the more recent records show that racial disparities involving marijuana charges remain persistently high. In a city where 41% of the population is African American, our data show that African Americans make up twice that percentage (82%) of people charged with only misdemeanor marijuana offenses. The majority of arrests involved men under the age of 25.

Nearly a year after the DPD report, more recent records show that racial disparities involving marijuana charges remain persistently high.

Figure 1. Percentage of Cases with Only Misdemeanor Marijuana Charges by Race, Age Group, and Gender

	Cases with Only Marijuana Charges (July 2013 – Dec. 2014)	Only Marijuana and/or Paraphernalia Possession Cases (Feb. 2015 – Aug. 2015)*
Race/Ethnicity		
% African American	87.4%	81.8%
% Hispanic	5.2%	6.1%
% Other	0.0%	2.0%
% White	7.3%	10.1%
Age Group		
% Age 20 and Under	24.6%	20.3%
% Age 21 to 25	36.1%	39.2%
% Age 26 to 30	18.3%	22.3%
% Over Age 30	20.9%	18.2%
Gender		
% Male	85.3%	79.7%
% Female	14.7%	20.3%

* Note that the dataset from the DPD report contained 191 unique marijuana charges during an 18-month period (January 2013 to June 2014), compared to our six months of data, during which the DPD charged 148 people with misdemeanor marijuana offenses.

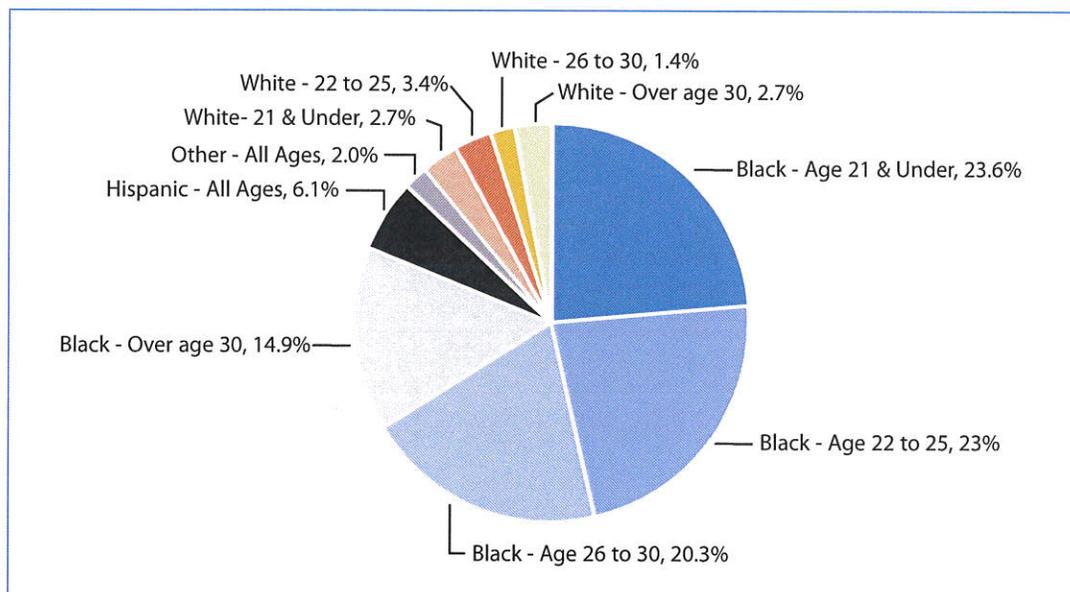
⁶ For the purposes of this comparison, we used our NC Administrative Office of the Courts dataset (Feb. 2015 - Aug. 2015) to define "marijuana only" charges as including: Possession of less than 0.5 oz. of marijuana, possession of a schedule VI controlled substance, possession of marijuana paraphernalia, or any combination thereof.

Young People Hit Hard

Marijuana charges and a subsequent conviction have a particular impact on younger African Americans (age 25 and under). This age group represents about 15% of Durham's population,⁷ yet their charge rate is much higher. The chart below shows that African Americans age 25 and under represent over 46% of those charged with only possession of marijuana and/or paraphernalia. Among those African Americans age 25 and under, 84% were male, including four that were charged at age 16 or 17.⁸ As discussed further below, this finding has significant implications for employment and educational opportunities that are available to these young people.

African Americans age 25 and under represent over 46% of those charged with only possession of marijuana and/or paraphernalia.

Figure 2. Percentage of Cases with Only Marijuana Charges by Race and Age Group (Feb. 2015 – Aug. 2015)



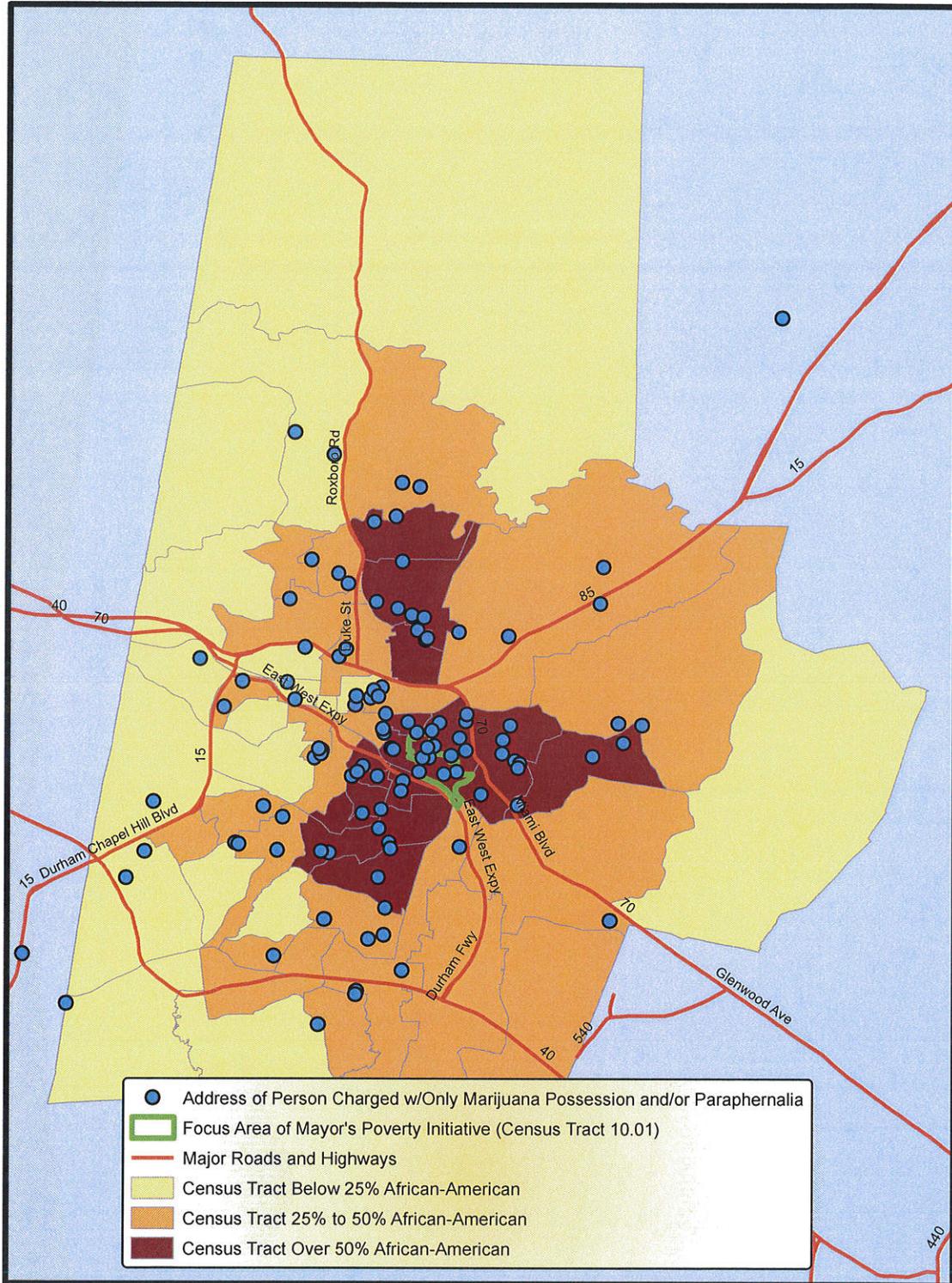
African-American Communities Disproportionately Affected

Viewing people with marijuana charges by where they reside also reveals racial disparities in Durham. Previous reports have shown that the great majority of people charged with a marijuana infraction were charged in Durham neighborhoods with a majority African-American residency. Here for the first time, we map the residential addresses of people charged (which may or may not be in the same area where the police charged the individual). As shown below, marijuana charges overwhelmingly involve people who live in areas where more than half of residents are African American. In light of the costs and collateral consequences that follow a misdemeanor marijuana charge and subsequent conviction, the geographic patterns shown on the map inevitably have a significant impact on entire communities that already face many economic and social challenges.

⁷ U.S. Census Bureau, 2014 American Community Survey.

⁸ The data also includes two others under the age of 18 (one white female, and one Hispanic male). In North Carolina individuals ages 16 and 17 are charged as adults for all crimes.

**Figure 3. Disparities by Neighborhood:
Durham Marijuana Charges Displayed by Residential Addresses
(Feb. 2015 – Aug. 2015)**



Putting Durham's Marijuana Charges in Context

Nationally, marijuana charges climbed dramatically starting in 2006, and have continued to do so. However, in recent years, some local jurisdictions have begun to use their discretion to focus fewer public resources on low-level marijuana possession. For example, in 2003, voters in Seattle, Washington enacted a local ordinance by ballot initiative to adopt a citywide policy to make marijuana possession the lowest law enforcement priority. Even prior to that policy change, Seattle was already charging very few people for marijuana possession. In 2002, there were fewer than 250 misdemeanor marijuana cases referred for prosecution in Seattle, which had a population of just over 570,000 people at that time.⁹ So, in 2002, the last full year prior to the enactment of the city's policy changes, Seattle's charge rate for misdemeanor marijuana was 39 people per 100,000 residents.

Durham's charge rate today for misdemeanor marijuana is over three times that of Seattle back in 2002.

By comparison, Durham's charge rate today for misdemeanor marijuana is over three times that of Seattle back in 2002. According to the above NCAOC data, between February and August 2015, 148 people were charged by the Durham Police Department with misdemeanor marijuana. If the current rate continues, the city is on track to charge 296 people this year. Given that Durham's population is just over 250,000, this represents a charge rate of 118 people per 100,000 residents—a charge rate that is three times that of Seattle before that city deprioritized low-level marijuana enforcement.¹⁰

It is also worth emphasizing that the risk of a marijuana conviction doesn't fall equally on all marijuana users in Durham. For example, Duke University's policies toward drug use – not just marijuana – is to help rehabilitate rather than simply penalize. According to Duke University Dean of Students Sue Wasiolek, "Throughout my time at Duke, our approach to drug use has been much more therapeutic than it has been punitive. That hasn't really changed over the last 40 years."¹¹ Duke's official policy states: "In addition to disciplinary action, the conduct officer, or designee, may require a student to take a leave of absence, and return to campus may be conditional upon proof of completion of a substance abuse treatment program."¹²

9 <http://wasavp.org/wp-content/uploads/2012/06/Seattle-I-75-policy-review-report-Dec-20071.pdf>.

10 U.S. Census, <http://quickfacts.census.gov/qfd/states/37/3719000.html>. Note that Seattle's misdemeanor marijuana charges decreased by almost 60% in the year following passage of the de-prioritization initiative. See note 27.

11 Nick Martin, "The Dank Diaries," Duke Chronicle, November 25, 2014.

12 Duke University, "Drugs and Drug Paraphernalia," last updated Sept. 2015, <http://policies.duke.edu/students/university-wide/drugs.php>.

The Damage to Communities and the Risks for Durham

Damage to Communities – Collateral Consequences

Because African Americans in Durham are significantly more likely to be charged than whites for holding less than half an ounce of marijuana, they also are significantly more likely to be burdened with the indirect costs of these charges—the collateral consequences.

Researchers have documented a host of negative consequences resulting from low-level drug convictions, including marijuana.¹³ In addition to the significant, direct impact of monetary fines, court costs and attorney fees, the person charged also may face serious consequences related to job, housing and military service opportunities.¹⁴

Potential Employment Consequences

- Missed or lost work (from court appearances and/or community service)
- Denial of employment opportunities by employers that will not hire people with a criminal record
- Preclusion from obtaining certain occupational licensures
- Disqualification from unemployment benefits and other social services

Potential Housing Consequences

- Grounds for eviction from a rental property
- Termination of federal housing assistance

In addition, while military service often provides a better future for young people, a young person saddled with even a misdemeanor marijuana charge may be denied the opportunity to serve in the armed forces.¹⁵

13 Generally, the paper discusses the charging of a misdemeanor marijuana offense – in this section we discussed the ramifications of conviction.

14 See the University of North Carolina’s Collateral Consequences Assessment Tool (C-CAT) for a broad summary of all the potential indirect impacts of a criminal conviction in North Carolina, including possession of misdemeanor marijuana. Additionally, the Minnesota 2020 Project assesses the full costs of marijuana convictions at http://www.mn2020.org/assets/uploads/article/collateral_costs_web.pdf.

15 See <http://army.com/info/usa/disqualifiers> for a discussion of the additional barriers even a minor possession conviction presents to young men and women.

Particularly for young people, perhaps the most devastating collateral consequence is the loss of educational opportunities. If an active recipient of Federal financial aid (e.g. Pell Grant, Stafford Loan) is convicted of any drug related offense, including a misdemeanor possession of marijuana, the student loses access to financial aid for at least a year.¹⁶ To be clear, under certain conditions, a student can restore their aid eligibility. Nonetheless, restoration depends upon enrollment in an "approved" drug rehabilitation program and passing two unannounced, random drug tests. Particularly troubling for 16- and 17-year-old Durham residents is that while most teenagers from other states do not have to disclose their juvenile convictions, North Carolinians do.¹⁷

Perhaps the most devastating collateral consequence is the loss of educational opportunities.

Risks to Durham: Unraveling Progress

Self-Help, which now does lending and community development work nationwide, started in Durham in 1980. We are one of many organizations that have invested in Durham's people and economic vitality. The records we provide here could be expanded to include investments and contributions from many other nonprofits, private companies and the City of Durham itself.

Since we began lending in 1984, Self-Help has lent over \$279 million in Durham, primarily to foster homeownership, business development and nonprofit activities that benefit the wider community. We have helped over 1,500 families purchase a home, created or saved over 5,600 jobs, facilitated the education of over 2,000 children and ensured more than 1,300 child care slots. We have been active in the Durham community in numerous ways, and currently we are participating in Mayor Bill Bell's Poverty Reduction Initiative.¹⁸

Self-Help Lending in Durham (1984–2015)	# of Loans	Amount Lent
Home purchase	1,514	\$ 128,780,000
Commercial and nonprofit	571	\$ 148,952,000
Consumer (auto, personal, HELOC, credit card)	250	\$ 1,561,000
Total	2,335	\$ 279,293,000

¹⁶ <http://www.usnews.com/education/blogs/student-loan-ranger/2015/04/15/drug-convictions-can-send-financial-aid-up-in-smoke>.

¹⁷ When applying for FAFSA, convictions before 18 don't count, unless you are tried as an adult (e.g. NC where 16 and 17s are tried as adults). See also, <https://www.ifap.ed.gov/drugworksheets/attachments/StudentAidEligibilityWorksheetEng1415.pdf>

¹⁸ See note 4 on p. 3.

Our loans are designed to increase economic opportunities, especially in low-wealth communities that have lacked investment. Many of the loans we make are in the communities where minor marijuana possession is most aggressively enforced. For example, Self-Help is a particularly active lender in East Durham. In Census Tract 18.02, which is centered along NC-98 and US-70, 65% of the population is African-American and 22% Hispanic. We have lent over \$8.3 million to 105 families to purchase a home in this community, thus giving these families more opportunity to acquire equity that can be used to finance a better future. Yet this aim is now being seriously undermined: Over the past six months,¹⁹ a resident in this community is three times more likely to be charged with a low-level marijuana misdemeanor than elsewhere in the city of Durham.²⁰

Many of the loans Self-Help makes are in the communities where minor marijuana possession is most aggressively enforced.

Another area where Self-Help has been active as a home lender is in Census Tract 10.01, targeted in the Mayor's Poverty Reduction Initiative. In this small community, with a very low homeownership rate of 31% and fewer than 400 owner-occupants, Self-Help has funded nearly \$1.8 million worth of home loans to 35 families for home purchases. In 2013, Self-Help invested over \$10 million in Census Tract 10.01 for the renovation of the city's oldest school building, the former Durham Graded School, on Driver Street. This building now provides a quality education to 600 children every year through the high-achieving Maureen Joy Charter School, where almost all students are children of color and well over 80% are low-income.

More recently, as part of the Mayor's Poverty Reduction Initiative, Self-Help Credit Union will serve as the custodian and depository for Durham Kids Save, a partnership with the East Durham Children's Initiative and 1:1 Fund. This program will ensure that every new kindergarten student at Y.E. Smith Elementary starts an educational savings account that they can contribute to and receive matching funds to build savings for higher education.

At the same time that Self-Help and others invest in strengthening Census Tract 10.01, a disproportionate number of arrests and citations disrupts families in this community by charging residents, primarily young African-American men, for simple minor marijuana possession. A resident of this community is over three times more likely than someone elsewhere in Durham to be charged with a low-level marijuana misdemeanor.²¹

19 Based on NC AOC data for the six months ending August 25, 2015.

20 Arrest levels in Census Tracts 10.01 and 18.02 and ratio of arrest to Durham as a whole.

	Marijuana Charges	People (U.S. Census)	Charge Rate	Ratio
CT 10.01	5	3,466	0.14%	3.2
CT 18.02	9	6,736	0.13%	3.0

21 Ibid.

Since Mayor Bell launched his Poverty Reduction Initiative, the City and other partners, such as Self-Help, have invested substantial dollars and thousands of people hours in Census Tract 10.01. At the same time, enforcement of simple minor marijuana possession is stripping money out of these communities. The average cost of simple misdemeanor conviction essentially imposes a direct tax on families of up to \$374 (\$174 in court fees, plus a \$200 maximum fine for the violation), almost all of which goes to the State of North Carolina.²²

Here we have identified measurable monetary costs. Beyond these, there are the less measurable but very real costs of deteriorating trust and alienation that come with apparently disproportionate enforcement of minor infractions. One of the goals included in the Mayor's Poverty Reduction Initiative focused on "relationship building" between DPD and high-minority areas.²³ Similarly, Durham's Human Relations Commission recommended that DPD improve "communications and community outreach" as part of an effort to address concerns of racial bias and profiling.²⁴

Continuing the current level of enforcement related to minor marijuana infractions is directly counter to these goals. Such enforcement is inefficient, and it puts Durham at real risk: the risk of eroding investments already made and the risks that come from an angry and alienated community, which in turn leads to much greater risks to public safety than low-level possession of marijuana. Durham will be safer when people have greater trust in authorities and more hope for a better future.

Continuing the current level of enforcement related to minor marijuana infractions is directly counter to current city initiatives and goals.

²² UNC School of Government blog post: the vast majority of fees and fines are sent back to the state, not directly to the city budget like Ferguson. <http://nccriminallaw.sog.unc.edu/we-are-not-ferguson/>.

²³ Memo to Durham City Council from Ellen Reckhow, "Poverty Reduction Initiative: Public Safety Task Force", August 17, 2015.

²⁴ Durham Human Relation Commission, "Recommendations Submitted to the City of Durham City Council," April 23, 2014.

Policy Recommendations

We know that deprioritizing marijuana enforcement is feasible and effective based on local actions taken in others cities such as Seattle; Santa Cruz, California; Columbia, Missouri; and Eureka Springs, Arkansas.²⁵ Here we present simple, practical policies for reducing enforcement of marijuana misdemeanors and supporting community investments in Durham.

1. Deprioritize marijuana enforcement.

A. The City Council should adopt a "lowest law enforcement priority" policy.

Cities and towns around the country have adopted Lowest Law Enforcement Priority (LLEP) policies to more effectively target municipal and law enforcement resources on violent crimes and other high priorities instead of low-level marijuana offenses.²⁶ Instituted by voter initiatives or city council measures, LLEPs instruct local law enforcement (police and District Attorneys) to make certain marijuana-related offenses the lowest law enforcement priority, and all other offenses higher priorities, for their departments.

While LLEPs do nothing to change federal and state drug policies, when implemented by local law enforcement, they can be effective in redirecting resources to more serious crimes. A review of Seattle's LLEP found that Seattle's already low misdemeanor marijuana charges decreased by almost 60% in the year following passage of the initiative.²⁷ Although LLEPs do not directly address racial disparities and may not reduce such disparities, the overall reduction in marijuana-related charges would nonetheless significantly reduce the negative impact of marijuana convictions on Durham's African-American residents, particularly young black men. As such, we recommend that the City Council adopt a policy designating marijuana as the lowest priority for Durham law enforcement personnel.

We recommend that the City Council adopt a policy designating marijuana as the lowest priority for Durham law enforcement personnel.

25 See, e.g., Seattle, Wash., Code § 12A.20.060 (2003); Columbia, Mo., Code § 16-255.2 (2004); Eureka Springs, Ark., Code § 7.04.04 (2006); Santa Cruz, Cal., Code ch. 9.84 (2006); Hailey, Idaho, Code ch. 11.08 (2010). The voters of the City of Portland, Maine passed a ballot initiative that legalized marijuana possession (2.5 ounces or less) in the city. See Portland, Me., Code § 17-113 (2013). It is worth noting that the first LLEP passed in 1979 in Berkeley, CA. See Berkeley, Cal., Code ch. 12.24 (1979).

26 See note 25.

27 "Final Report of the Marijuana Policy Review Panel on the Implementation of Initiative 75," December 4, 2007. Available at <http://wasavp.org/wp-content/uploads/2012/06/Seattle-I-75-policy-review-report-Dec-20071.pdf>.

B. The City Council and DPD should take additional steps to ensure marijuana enforcement is deprioritized.

LLEPs are effective only to the extent that a municipality's law enforcement staff complies with the policy. In addition to adopting what could be considered a largely symbolic measure, we recommend that the Durham City Council and the DPD adopt other policies that have the effect of making marijuana offenses the lowest law enforcement priority for the City of Durham, including the following:

- [The DPD should use its existing discretion to treat misdemeanor marijuana charges with a citation rather than a full custodial arrest.](#) The DPD has the discretion to treat someone with a misdemeanor marijuana charge as a full custodial arrest or as a citation, like a speeding ticket. The DPD already exercises this discretion in some cases, but there is no transparency in when or how this discretion is used.

The differences between an arrest and a citation are significant, meaning people will experience very different outcomes even when charged with the same offense. Specifically, a full custodial arrest requires fingerprinting and the creation of an FBI number, establishing a record that will follow an individual forever, even if the charges are later dismissed. An arrest may also subject the accused individual to a full body cavity search. In some cases, people who are arrested may end up sitting in jail because they are not able to post bond as they await their first appearance in court. Ironically, N.C. law does not allow the imposition of a jail sentence for misdemeanor marijuana charges.

Finally, in order to get out of jail for a charge that is not supposed to lead to jail time, arrestees are not eligible to receive free counsel and often plead guilty due to lack of counsel. Although a citation is still problematic for the person charged, it does not carry any of these significant consequences.

- [The City should consider restricting more funds in the DPD budget.](#) The City Council should restrict more of the DPD budget to make clear that programs focusing on safety and violent crime, for example, have priority over the enforcement of marijuana offenses. It appears that the City Council has a great deal of discretion over how it uses its resources for policing and public safety. For example, the City's budgetary allocation to the DPD is almost entirely comprised of the City's discretionary funds (approximately \$54 million from the City's General Fund).²⁸
- [The DPD should adjust its own budget to reflect the deprioritization of misdemeanor marijuana enforcement.](#) The DPD also appears to have a great deal of discretion in the allocation of its funds. Currently, over 97% of the DPD's revenues are marked as discretionary.²⁹ To effectively implement the preceding recommendations, the DPD will likely need to adjust its budget to reflect the changing priorities, including directing dollars away from enforcement activities that have the effect of increasing misdemeanor marijuana charges and instead to community policing activities and more serious infractions. For example, only about 5% of the budget is allocated to the DPD's Community Services Bureau, the division that provides the bulk of relationship-building activities for the department.³⁰

²⁸ City of Durham, FY 2015-2016 Budget, "Public Safety Budget Summary," <http://durhamnc.gov/DocumentCenter/Home/View/4266> (funding to the Durham Police Department represents the largest allocation in the Public Safety category (61%) and represents the single largest allocation of money from the City's General Fund).

²⁹ Id at 22.

³⁰ Id at 21 and 23.

2. Expand the existing misdemeanor diversion program.

Specialized court programs are not new in North Carolina. Drug treatment and family courts have been in operation since at least the mid-1990s, following legislation establishing the programs. Drug treatment courts address the needs of drug-dependent people charged with crimes with the idea that proper treatment can reduce drug-related recidivism. However, access to the programs comes only after an individual's case has been adjudicated and participation is mandated as part of the sentence.

On the other hand, pre-trial diversion programs, where individuals are not charged if they successfully complete a program, are not as widespread. The programs often include treatment, educational programming, and assistance with employment, among other components. They are implemented for a variety of reasons, including prison overcrowding, limited government resources, and increasing awareness about the collateral consequences of justice involvement on individuals, families, and communities.

Since January 2014, Durham County Senior District Court Judge Marcia Morey has operated a diversion program for 16- and 17-year olds charged with most types of non-traffic misdemeanor offenses, including misdemeanor marijuana possession.³¹ Instead of being charged with the offense, individuals participate in a workshop-style program over a period of time focused on their offenses, and upon successful completion of the program, any charges are dropped. Anecdotal results suggest the program works to keep individuals' criminal records clear and reduce recidivism. In September 2015, the City of Durham took an important step when it announced plans to expand the diversion to individuals from ages 18 to 21 who are charged with a non-violent misdemeanor for the first time. This expanded program, the Durham Adult Misdemeanor Diversion Program, was scheduled to start on October 1, 2015.

We vigorously applaud the expansion of the juvenile diversion program. It is a significant first step toward reducing racial disparities in drug enforcement policies and the various collateral consequences that result from such policies. We recommend that Durham further expand the diversion program so that it is available regardless of age. Our data show that the expansion to age 21 will have limited impact on a significant proportion of marijuana charges in Durham, as almost 50% of those charges involve African Americans over the age of 22. Additionally, we recommend that the City provide sufficient support and training to DPD officers to ensure that the program is used for as many eligible individuals who are able to take advantage of it. Finally, we recommend that the Durham Adult Misdemeanor Program submit a report to the City Council at least annually that details how many individuals have participated in the program, which departments are directing participants to the program, and participants' outcomes.

We recommend that the City further expand the diversion program so that it is available regardless of age.

³¹ Traffic citations, sex crimes and firearm-related offenses are excluded. See <http://www.newsobserver.com/news/local/community/durham-news/article33188025.html>.

3. Provide a semi-annual report to the City Council.

Although there are data available on Durham Police Department marijuana charges and related activity, that data is difficult to obtain. In November 2014, the DPD adopted a policy to produce an annual report on misdemeanor marijuana arrests as well as require the Crime Analysis Unit to provide quarterly reports to District Commanders and their supervisors for review.³² The policy also states that the annual report is to be shared with the City Manager, though it is unclear what specific data is to be included in the report. While this policy is a good start, more is needed to ensure transparency and accountability since racial disparities remain essentially unchanged since the adoption of the policy.

We recommend that the DPD be required to submit a semi-annual report to the City Council solely on its activities related to marijuana offenses, at least until marijuana charges have substantially declined. At a minimum, these reports should include: the total number of all arrests or citations for marijuana offenses; the breakdown of these charges by arrest or citation; the breakdown of arrests and citations by race, gender, age, charge, and classification of the charge; the reason or cause for the interaction; the number of individuals recommended for the diversion program; the reasons for non-compliance with the LLEP; and all property seizures related to marijuana offenses.

³² Durham Police Department, General Order 1052, eff. 1/03/2014, available at <http://durhamnc.gov/DocumentCenter/View/6960>.

Appendix: Background on the DPD Report and Additional Analysis

On July 8, 2014, Durham City Manager Tom Bonfield requested that the Durham Police Department provide data regarding misdemeanor charges for possession of marijuana. Specifically, the Manager requested: 1) the total number of charges broken down by race, gender and age; 2) whether additional criminal or traffic charges were issued concurrently with the marijuana charge; and 3) whether defendants were being charged for the first time.

Culling from all charge data (arrests and citations) over the course of 18 months (January 1, 2013 - June 30, 2014), the DPD identified 759 misdemeanor marijuana charges. In some instances, defendants were cited more than once with an additional misdemeanor marijuana charge in the same interaction or cited again in the same time period, reducing the total number of unique defendants to 739.

Subsequently, the DPD issued a memo entitled "Analysis of Misdemeanor Marijuana Data" based on this dataset. The memo includes a narrative and important data on how the DPD addresses misdemeanor marijuana infractions. Here we seek to highlight several key facts based on data points from the DPD report.

The data show that Durham's marijuana enforcement has a racially disparate impact, with 86% of misdemeanor marijuana charges involving African Americans.

Per the City Manager's request, the DPD released demographic information for each marijuana charge. The DPD displayed in a table each requested demographic by City Council district. Below is an aggregation of the report's demographic info and each demographic segment expressed as percentage of the total charges.

The following is a summary of select demographics of marijuana possession defendants.

DPD Analysis of 739 Misdemeanor Marijuana Charges (January 1, 2013 - June 30, 2014)

	Select Demographic/Total	Percentage of All Charges
African Americans	637/739	86.2%
Males	641/739	86.7%
Youth (25 or younger)	389/739	52.6%

Citizen complaints triggered only 12.3% of all marijuana charges.

When the information was available, the DPD provided additional data on what triggered the interaction between the DPD and a Durham resident, e.g., a 911 call or traffic stop. In the narrative preceding the tables that summarizes the origins of the police-citizen interaction, the DPD writes that "... [of] the 739 arrests, 390 were identified as a 'DRUGS' call for service ... with 299 of those being self-initiated and 91 initiated by a citizen." To be clear, a "self-initiated" call for service means a DPD officer initiated the contact – not a Durham resident. Additionally, 349 of the marijuana charges did not list the trigger for the contact. Based on the available information, only 12% of all marijuana charges clearly stemmed, directly or indirectly, from a citizen complaint.

Calls for Service	Gross Number	Percentage of All Charges
Unknown/Undisclosed	349	47.2%
Police Initiated (e.g., vehicle stop)	299	40.5%
Citizen Initiated (e.g., 911 call)	91	12.3%

The DPD further explained that because calls for service often change in the process, an examination of the 299 "self-initiated" or officer-initiated contacts was warranted, and thus the DPD provided a table listing the rationale for the officer-initiated contact. While nearly 30 different reasons were listed as the cause of contact, the top five reasons accounted for 72% of the contacts: Vehicle Stop; Knock and Talk; Suspicious Person; Suspicious Activity; and Suspicious Vehicle. Vehicle stops alone accounted for 109 charges – 36% of all charges that included a reason for contact with a Durham resident.

Charges issued concurrently with a marijuana charge merit additional review.

The DPD memo also provided information about the additional charges that accompanied the misdemeanor marijuana charge. This data revealed that marijuana charges coincided with an additional 1,943 citations. According to the DPD's summary, 75% of the additional charges were other misdemeanors with the remainder felonies. Notably, the DPD may have mistakenly included 750 misdemeanor "Possess Control Substance Schedule VI" charges in the list of 1,943 additional charges. In the state of North Carolina, the most commonly charged Schedule VI drug is marijuana.³³ In other words, the DPD's summary of "other" charges appears to include the original marijuana possession charge, thus possibly overstating the total additional charges by nearly 40%.

³³ While Schedule VI controlled substances in North Carolina include marijuana, THC (the active ingredient of marijuana) and synthetic versions of marijuana (see http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_90/GS_90-94.html), in our review of court files including marijuana citations we did not observe any pattern of multiple misdemeanor Schedule VI possession charges stemming from a single incident. Per Scott Holmes, law professor at North Carolina Central University, this is consistent with DPD training, as they are instructed to issue a single charge (typically the most serious one) for a specific offense.

Reasonably summarizing multiple criminal charges is admittedly difficult, but the crude snapshot provided below may be informative to policymakers, community groups and other stakeholders. Notably, a total of 1,396 charges, or 72%, were for possession of a controlled substance or for a charge ancillary to possession (e.g., drug paraphernalia), while only 1% of all charges was related to alleged instances of trafficking, sale or delivery of a controlled substance.³⁴

"Additional" Offense Category	Gross Number	Percentage of All Charges
Misdemeanor Marijuana	750	38.6%
Ancillary Charge to Drug Possession (e.g. Paraphernalia)	399	20.5%
Illegal Possession of Drugs, Alcohol, Tobacco (not Misdemeanor Marijuana)	247	12.7%
Court Order Violation (e.g. Failure to Appear)	152	8.0%
Violence, Threat of Violence, Breaking & Entering, Firearm-related	145	7.4%
Property Crime/Financial/Trespass	109	5.6%
Traffic	91	4.7%
Trafficking, Sale or Delivery of a Controlled Substance	27	1.4%
Other	23	1.2%
Total	1943	100%

34 Considering that traffic stops were the most common reason for a police-citizen interaction that results in a misdemeanor marijuana charge it is worth noting a recent presentation from UNC Professor Frank Baumgartner. Professor Baumgartner, after years of reviewing North Carolina data, has noted that traffic stops are both "extremely inefficient" in identifying drug couriers, the ostensible rationale for stop and searches, and costly in terms of undermining community trust. According to his analysis of North Carolina traffic stop data from 2002 to 2014 - the largest and longest time series of any data set in the country - stops yield contraband less than one percent of the time. See <http://www.unc.edu/~fbaum/TrafficStops/Baumgartner-IAAR-2015.pdf>

About Self-Help Credit Union

Self-Help is a community development lender headquartered in Durham, NC. Founded in 1980, Self-Help has provided over \$6.8 billion in financing to 102,000 families, individuals and businesses underserved by traditional financial institutions. We help drive economic development and strengthen communities by financing hundreds of homebuyers each year, as well as nonprofits, child care centers, community health facilities, public charter schools, and residential and commercial real estate projects. Through its credit union network, Self-Help serves 130,000 families in North Carolina, California and Chicago and offers a full range of financial products and services.

Visit our website at www.self-help.org.

FADE Presentation to HRC
4/2/18

(Requests in **Bold**)

Nia - Requests HRC look at ATL's Pre-arrest diversion program.
<http://prearrestdiversion.org/learn-about-pre-arrest-diversion/>.

Written consent - applies to all searches, not just vehicle. We have better data on vehicles tops tho.

Ian - if we want to know how new officers are being trained on written consent searches, we can ask them. Also, how does the police track that officers are following this policy?

If you remove equip and regulatory-based traffic stops you will have a big impact on racial disparities (38% of black drivers are pulled for these, 25% of white drivers are) - Fayetteville, Chapel Hill are doing this. Greensboro did this for a year and you saw the disparity drop dramatically and then kick back up after the stops began again. Asheville considering it, like many others after Philando Castile shooting.

Delvin Davis - presented on marijuana data which shows less arrests but still similar racial disparity amongst arrests

Chief Davis has agreed to give citation for less than .5 ounce of marijuana
39% drop in marijuana charges between 2013-2016
Still seeing really high disparity - 1:4 in 2016 for Whites to Blacks

Would like to see more folks getting referred into MDP and see the age limit increase from 21

Civilian Police Review Board (CPRB)

Request that the Board has some substantial power over the complaint, not just the the IA investigation

Create a task force containing DPD, Citizens impacted, HRC, FADE and one other org (PAC?) to look at what a CPRB should look like

Folks that have a felony/misdemeanor should be able to serve

Howie - **wants data on all searches, not just traffic stops**

Middleton - doesn't think the council, who is amenable to these recs, can give the CPRB teeth (Ian does not agree - if they need subpoena powers then yes it would take more

powers from the state, but to advice on the merits of the case, not just the IA review,
that's doable under existing law

From: Diane Standaert <diane1009@gmail.com>
Sent: Wednesday, April 11, 2018 5:03 PM
To: English, Juanita
Cc: Caballero, Javiera; Ashley Taylor; Commissioner Felicia Arriaga; Commissioner Franklin Hanes; Gerri Robinson; Girija Mahajan; Ian Kipp; Commissioner John Rooks, Jr.; Commissioner Mikel Barton; Commissioner Nathan Plummer; Commissioner Nicolas Coleman; Phillip Seib; Commissioner Ricardo Correa; Commissioner Risa Foster; Commissioner Sejal Zota; Commissioner Susan Austin; Stancil, Constance; Davis, James E; Chadwell, Keith; Middleton, Mark-Anthony
Subject: Coverage of last week's HRC meeting and traffic stops

Hi all,

Here is coverage of last month's meeting on continuing racial disparities in traffic stops and marijuana arrests in Durham.

<https://www.indyweek.com/indyweek/in-durham-fewer-stops-and-searches-and-pot-arrests-but-still-racial-disparities/Content?oid=13262213>

In Durham, Fewer Stops and Searches and Pot Arrests, But Still Racial Disparities

By [Sarah Willets](#)

In 2013, the FADE Coalition, a collective of Durham organizations and individuals concerned about the way drug enforcement feeds mass incarceration, called out racial profiling in the Durham Police Department.

FADE, which stands for Fostering Alternatives to Drug Enforcement, issued five recommendations with the aim of reducing racial disparities in policing: require officers to get written permission to conduct so-called consent searches, make marijuana the department's lowest enforcement priority, require periodic reviews of traffic stop data, strengthen the Civilian Police Review Board, and mandate race equity training for the department.

Four and a half years later, with new policies and a new police chief in place, the DPD has significantly reduced traffic stops and searches and marijuana-related arrests, but racial disparities still persist in both areas.

There's been some progress on all five recommendations, says Nia Wilson, codirector of SpiritHouse and a FADE member. "But we don't ever just want to stop with some movement. We always want to do better," Wilson told the Durham Human Relations Commission last week.

When FADE made its recommendations, tensions were high in the Bull City. Durham police had shot and killed two men—Jose Ocampo and Derek Walker—earlier that year, and that November, according to authorities, seventeen-year-old Jesus Huerta managed to shoot himself in the head while handcuffed in the back of a DPD patrol car. Community outrage over racially disparate policing prompted then-Mayor Bill Bell to ask the Human Relations Commission to investigate.

The HRC, building off of FADE's requests, presented its own list of thirty-four recommendations to the city council. Most have been addressed. As for FADE's recommendations, three have been fully implemented: written consent, traffic records review, and race equity training.

When it comes to making marijuana the agency's lowest law enforcement priority, the DPD has not exactly followed FADE's advice, although the number of drug violations issued is down by half since 2015.

Even under former chief Jose Lopez, marijuana wasn't considered an enforcement priority. In 2016, Chief C.J. Davis reinforced this by directing officers to cite, not detain, people for misdemeanor charges. The department has also been referring a growing number of marijuana cases to the Misdemeanor Diversion Program to keep them off of offenders' records.

But there are quite a few exceptions to the citations directive: if the person has previous criminal charges other than non-impaired traffic offenses, has outstanding warrants, doesn't have a valid ID with him, or is facing accompanying charges.

In cases where the only charges are for misdemeanor possession of marijuana or paraphernalia, the people being charged are almost all black.

According to city reports, there were 854 charges for misdemeanor possession of marijuana or paraphernalia in 2016, compared with 1,406 in 2013. The reports only break down by race cases in which *only* those charges were filed. In 2015 and 2016, there were 144 such cases. In 2015, 80 percent of those charged were black. In 2016, it was 84 percent—although research shows no significant racial differences in who uses pot.

Delvin Davis, a research analyst with Self-Help, told the HRC that, in recent years, these charges have been concentrated in east Durham, a historically black part of the city. According to a 2015 Self-Help report, residents in census tract 10.01—the focus of the city's Poverty Reduction Initiative—were three times more likely to be charged with misdemeanor marijuana possession than elsewhere in the city.

Self-Help argued that such enforcement is counterproductive to the Poverty Reduction Initiative because a conviction could carry up to \$374 in court fines and fees and have collateral consequences for a person's employment and housing.

Officers are choosing citations over arrests more often for pot offenses. The report for 2017 (expected out this summer) could reveal even more citations in light of Davis's 2016 policy change.

The number of traffic stops and vehicle searches has fallen drastically since October 2014, when the DPD began requiring written permission for consent searches, in which probable cause or a warrant aren't required.

According to data presented to the HRC by Ian Mance, an attorney with the Southern Coalition for Social Justice, which operates OpenDataPolicing.com, the DPD stopped fourteen thousand fewer drivers in 2017 than it did in 2013, and black drivers accounted for about 60 percent of that reduction. Yet black drivers are still being disproportionately stopped and searched by Durham police.

According to Mance, Durham police were executing about one hundred consent searches per month. Since the policy change, that number has dropped to about fifteen.

Over the past five years, black drivers have accounted for about 59 percent of drivers stopped by Durham police, while white drivers have made up about 27 percent and Hispanic drivers about 11 percent. Since 2008, the share of drivers searched who were black has hovered between 75 and 85 percent. About 38 percent of Durham's population is black.

"One of the animating reasons for the written consent policy was to reduce racial disparities," Mance says. "It has not had that effect. The disparities remain. That said, I do think the policy has been effective and it's a good policy."

Jason Schiess, a DPD data analyst, told council members last week that while traffic stops were down 22 percent from 2016, the demographics of the drivers stopped remains "relatively unchanged," and black drivers were searched at a rate 2.8 times higher than that of white drivers, though officers find contraband in their cars at the same rate as white drivers.

Council member Charlie Reece asked Davis about that disparity.

"We'd have to look closer at the data to see whether or not we have any other problems or other disparities that would say an officer might have a tendency to search one car more so than another," Davis replied.

FADE is asking the city to consider prohibiting stops for equipment and regulatory violations.

According to Schiess, these accounted for 26 percent of stops in 2017. According to Mance, 38 percent of black drivers were stopped for these reasons, compared with 25 percent of white drivers. Mance said that, in other jurisdictions, prohibiting such stops was "one of the few things that has made a meaningful difference" in racial disparities.

*City of Durham Human Relations Commission
Monthly Committee Reporting
Activities / Events*

Committee
Chairperson
Date

Law Enforcement
Sejal Zota, Mikel Barton
March 26, 2018

I. ACTIVITIES / EVENTS

Describe progress to date.

- Mikel and Diane both attended SONG's #endmoneybail Team of the Willing dinner on March 13.
- Mikel plan to attend SONG's #endmoneybail campaign meeting on March 27.
- Mikel attended Durham For All's Decriminalize Durham event on Mar 11.

II. RESOURCE PARTICIPATION

List number individuals available to support scheduled activities and/or events.

▪

III. FUTURE PROGRAM / PROJECT PLANNING

Describe upcoming activities and/or events. Provide next scheduled meeting date.

- *Thursday, April 12 at 7pm - Next committee meeting*
- Tuesday, April 3 – FADE will present to the full HRC on updates/concerns/impacts of the 2014 HRC police recommendations

IV. ACTUAL SPENDING

Provide amount of expense for program / project activities and/or events.

▪

IV. REPORTING STATUS

INFORMATION ONLY _____	APPROVED	YES _____	NO _____
MOTION REQUIRED _____			
DATE _____			

To: Durham Human Relations Commission (HRC), James Davis
From: Structural Racism Ad Hoc Committee
Re: General Disparities Report for Review
Date: February 22, 2018

Overview

Structural racism is considered to be a “system in which public policies, institutional practices, cultural representations, and other norms work in various, often-reinforcing ways to perpetuate racial group inequity.”¹ Quantifying and identifying such a large problem with multiple components can be challenging. Our overall goal for this report is to give a general outlook of structural and institutional disparities impacting racialized groups within Durham. We focused on the following large areas of disparity: health, early childhood education, general education, policing, workplace/employment, socioeconomic status, and disabilities. We fully acknowledge that each of these areas could be subdivided into specific topics, policies, and procedures. Consider the disparities in this report to be outcomes from municipal, state, and federal laws and policies, but we have not yet explored which policies created these outcomes or how the policies and outcomes were created.

Purpose

A compounding set of past and present policy decisions at each level of government has contributed to racial inequity, so we were particularly interested in how policy decisions by the city of Durham contributes to these disparities. Two brief examples of Durham’s influence on racial disparities are the approval of the destruction of Hayti (housing disparity among others) and recent decisions regarding policing policies. Over the past few years, the HRC has examined issues of racial disparities that are directly related to city decision making regarding the Bull City Connector, hiring and firing practices among city workers, and policing. The city of Durham has the power to enact policies and make decisions that can address or end racial inequity, and has begun to do so. As such, the HRC sought to gather and examine publicly available data that indicates the racial inequity Durham’s residents face so that the city has a better understanding of where, when, and how to act to prevent or end such disparities, rather than continually deal with the resulting harm and cost.

Health Disparities

White residents in the US continue to have better physical health, health care, and health care access than non-white residents. National research shows that racial and ethnic groups have poorer health and experience poorer health outcomes over the course of their lives, particularly in early life. For example, the black/African American community disproportionately has a higher infant mortality rate and has more babies with a low birth weight.

Data on the city of Durham community reinforces the notion that non-white residents face challenges accessing healthcare services and having health insurance. In Durham in 2017, 6.5% of children lacked health insurance. Without having a breakdown by race for this data, we can point out that non-white residents make up more than two-thirds of Durham’s total uninsured residents. Durham’s rate of uninsured children is higher than the state’s and the country’s. Non-white residents notice these biases and challenges, too. More newly immigrated Latinos in Durham believed there was significant bias within the healthcare system compared to their national counterparts.

¹ “11 Terms You Should Know to Better Understand Structural Racism,” January 30, 2018, <https://www.aspeninstitute.org/blog-posts/structural-racism-definition/>

Early Childhood Disparities

The divide between white and non-white children is not limited to health and health care. Of the 2015 Durham community, 37% of black and 35% of Hispanic infants and children up to 8 years old lived in homes at or below poverty, compared to only 8% of similar-aged white infants and children. Living at or below poverty often means struggling to get many basic needs, not just health care. Early childhood is a time of rapid and crucial physical, mental, and emotional development, and poverty can negatively affect this development.

General Education Disparities

As education continues beyond early childhood, so does the gap between white and non-white residents. According to US Census estimates from years 2012 to 2016, education attainment among Durham residents varied significantly by race. About 96% of white residents were estimated to have at least a high school diploma. During the same period, about 86% to 88% of black and American Indians/Alaskan Natives (AIAN) residents were estimated to have reached the same level of education. The Hispanic population with at least a high school degree was estimated to be at the lowest percentage—about 45%. Having a high school diploma is often not enough to work in many of today's professional fields, but it opens the door to more job opportunities and postsecondary education.

The divide between white and non-white residents with postsecondary education expands after high school graduation. The previously cited US Census estimate projected approximately 62% of white Durham residents to have a Bachelor's degree or higher. In comparison, only one-third (roughly 33%) of black residents were estimated to have similar education attainment. Like the high school diploma estimates, Durham's Hispanic population was estimated to have the lowest percentage of holding a Bachelor's degree or higher. Completing a postsecondary education program often feels like a requirement to compete for many professional opportunities, but it ultimately can lead to better career opportunities, job security, and higher wages.

Policing Disparities

Examining data generated by public institutions shows further division between white and non-white residents. In Durham in 2015, black residents made up 84% of the marijuana and drug paraphernalia arrests (though drug use among whites outpaces that of communities of color). The HRC has previously commented on the F.A.D.E. recommendations and their implications for traffic stops, but it's worth noting here that in 2016, searches of black drivers in Durham occurred over 3 times more often than of white drivers. The 2016 HRC jail report contains further information about a variety of city and county disparities that disproportionately impact communities of color. This kind of data points to an alarming relationship between the police and Durham's non-white communities (particularly the black community). The stress of this relationship can have an unquantifiable impact on the mental and emotional states of Durham's black residents.

Workplace/employment Disparities

As suggested by educational disparity data, employment in the US is not evenly distributed between white and non-white residents. The chart below shows national percentages of

unemployment in the fourth quarter of 2017 as reported by the Bureau of Labor Statistics.² Black/African American and Hispanic/Latino communities had higher unemployment in each of the three categories than the corresponding total.

<i>Gender</i>	<i>Total</i>	<i>White</i>	<i>Black or African American</i>	<i>Asian</i>	<i>Hispanic or Latino</i>
<i>Total (Men and women), 16 years and over</i>	3.9	3.4	7.0	2.8	4.7
<i>Men, 16 years and over</i>	4.0	3.5	7.8	2.8	4.3
<i>Women, 16 years and over</i>	3.8	3.3	6.3	2.7	5.2

Beyond simply becoming employed, white Durham residents may have a better likelihood to remain employed. For example, according to a January 2, 2015 memo, the workforce for the city of Durham was 53% white and 41% black. Yet between 2008 and 2014, roughly 70% of the people terminated in the city workforce were black and 25% were white.

Socioeconomic Status Disparities

As expected, disparities in the previous areas signals overall socioeconomic disparities. These disparities reflect a wider range of issue including food access, personal finance, and home ownership. Assuming, non-whites have higher poverty rates, research about upward mobility (that shows poor kids living in Durham earn 11% less than affluent neighborhoods by age 26) links intergenerational poverty as unevenly affecting specific groups of race/ethnicities. In terms of food, North Carolina is one of eight states with higher food insecurity rates than the national average (food insecurity is “the state of being without reliable access to a sufficient quantity of affordable, nutritious food”). In terms of savings and assets, 49% of black/African American Durham County residents and 56% of Hispanic/Latino residents were asset poor compared to only 21% of their white counterparts—meaning they had little to no financial cushion to survive a financial crisis.

Homeownership rates involve factors other than socioeconomic status and income disparities, but they can signal wealth disparities. In the city of Durham, 48% of residents have an owner-occupied housing situation. However, the proportion of renters and homeowners differ vastly among specific racial and ethnic groups. A majority of white residents reside in owner-occupied housing, while 61% of Black or African American residents and 74% of Hispanic or Latino residents rent. Examining this kind of disparity can be complex and may require a number of considerations.

Disabilities Disparities

The topic of disability deserves its own inquiry and lengthy discussion, but data for North Carolina indicates there is some racial disparity in people identifying as disabled. Among non-

² “Labor Force Statistics from the Current Population Survey,” January 30, 2018, https://www.bls.gov/web/empsit/cpsee_e16.htm

institutionalized, working-age North Carolina residents in 2016, more than 9% had a disability. When we separate that data by race and ethnicity, 14% of working age, American Indian or Alaska Native (AIAN, a category used by the US Census Bureau) residents had a disability (the highest percentage for a race/ethnicity) and 12% of black/African-American working age residents had a disability (second highest). Although data about disability can be categorized by race, disparities exist between people who do and do not identify as disabled. Disability status can be another lens to which Durham studies its structures and institutions.

Conclusion

Compiling these kinds of data points illustrates large-scale inequities between white and non-white Durham residents interacting with public and private systems. Gathered together, the commonality of racial disparities occurring within these structures presents a problem without a face, a single thread with which to pull and unravel the issues knotted together. Abolishing racial disparities in Durham will require a multi-faceted approach not limited to but including policy, direct civic action, and legislation.