TO: Burlington Police Commission
FROM: Chief Innovation Officer Brian Lowe & Crime Analyst Nancy Stetson
DATE: June 24, 2020
RE: 2019 Equity Report Follow Up: Burlington Race and Arrest Rate Analysis

In early 2020, as part of the data analysis work completed for the 2019 Equity Report, using data the Police Department has previously released publicly, the City identified a racial disparity in arrests that must be more thoroughly understood and addressed.[1]

In February 2020, the Mayor then requested the Chief Innovation Officer, BTVStat Analyst, and Burlington Police Department (BPD) Crime Data Analyst to conduct additional analysis to be presented to the Police Commission with information on Burlington's arrest outcomes over time.

This memo is divided into two sections. The first provides an overview of broad arrest trends by the BPD and information about arrest rates by race in Burlington, the State of Vermont, and the country. The second section evaluates variables related to race and arrests. We anticipate the Police Commission will have feedback and request additional analysis. This memo on race and arrests for the Burlington Police Commission was originally planned to be presented at the Commission's March 24, 2020 meeting. The work was largely complete prior to the suspension of commission meetings caused by the coronavirus.

Section I: Introduction

The Burlington Police Department (BPD) responds to over 28,000 calls for service each year and in each of the past two years has made approximately 1,600 arrests. Arrests in Burlington have declined significantly since 2016. In 2019, the overall arrest rate in Burlington was 37 arrests per 1,000 residents.

Of people arrested in 2019, 17.3%[2] were Black. When compared to the Black population of Burlington (5.3%), this indicates an arrest rate of 123 arrests per 1,000 Black residents as compared to 33 arrests per 1,000 White residents in Burlington. Without accounting for other variables, this translates to Black people being arrested at a rate of about 3.7 times that of White people in Burlington.

These summary statistics do not take into account the underlying patterns in demographic distribution, residency, outstanding warrants, or arrest expungement. Arrests where officers have more discretion,

[1] As noted on page 15 of the 2019 Equity Report, released in March 2020: "Additional Analysis on Race and Arrests Needed: Using data that BPD has already released publicly, the 2019 Equity Report identified police outcomes of potential racial disparity that should be more carefully analyzed and understood. This analysis should include trends over time and benchmarking of Burlington's performance against comparable communities. The Mayor has directed the Chief Innovation Officer and BTVStat Analyst to work with BPD and the Crime Data Analyst to complete a detailed report on race and arrests in the coming months."

[2] This memo focusses primarily on the disparity between the White and Black arrest rates. In 2019, out of 1594 total arrests, the BPD made 1,162 (73%) White arrests, 275 (17%) Black arrests, and 53 (3%) Asian arrests. The remainder of the arrests are grouped together in this analysis. There was one arrest of a Native American, three arrests where the race was marked Other, nine arrests where the race was marked Unknown, and 91 arrests where the race is missing, primarily owing to arrests that have since been expunged. There were 21 (1.3%) arrests where the arrestee's ethnicity was Hispanic or Latino.

such as non-violent misdemeanors or low-level offenses, have a smaller proportion of Black arrestees than overall arrests, as noted below.

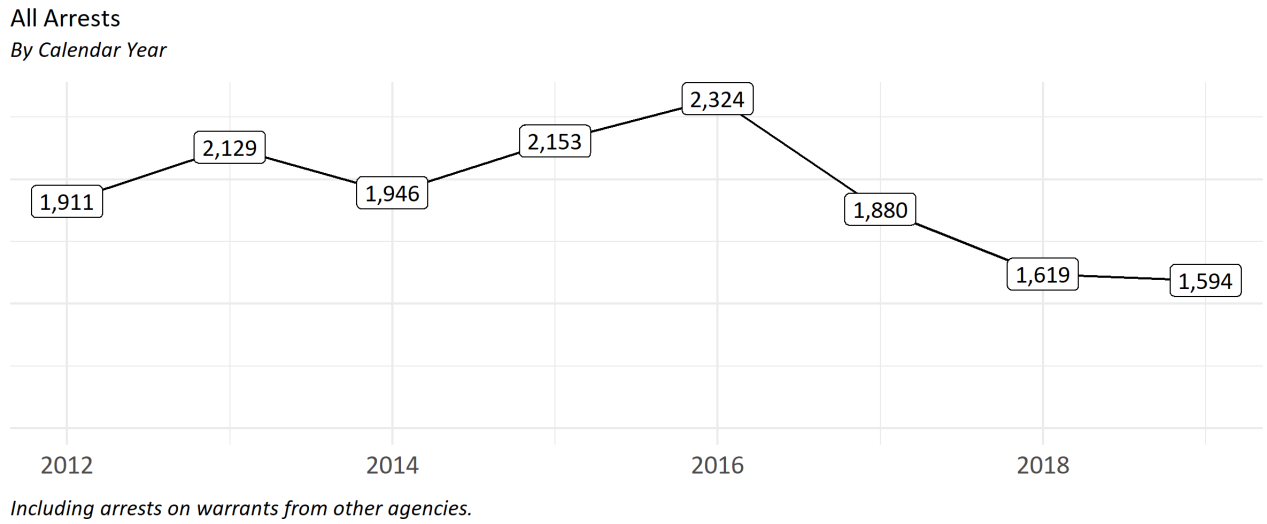

Figure 1

Nationally, the rate of arrests for the Black population is twice as high as the rate for the White population. In Vermont, the ratio between Black and White arrest rates is over 5 to 1.[3]

Calendar Year	Black Arrests **(Percent of Total Arrests)**	White Arrests **(Percent of Total Arrests)**	Black Arrest Rate (MOE)[4]	White Arrest Rate	Ratio of Black to White Arrest Rates
2015	333 (15.4%)	1,504 (70.0%)	172 (147 – 208)	42 (41.5 - 42.6)	**4.1** (3.4 - 5.0)
2016	409 (17.6%)	1,570 (67.6%)	196 (164 – 241)	44 (43.3-44.7)	**4.4** (3.7 - 5.6)
2017	336 (17.9%)	1,297 (69.0%)	140 (122 – 165)	36 (36.4 - 37.5)	**3.8** (3.3 - 4.5)
2018	284 (17.5%)	1,063 (65.7%)	127 (108 – 153)	30 (29.6 - 30.8)	**4.2** (3.5 - 5.2)
2019[5]	275 (17.3%)	1,162 (72.9%)	123 (104 – 148)	33 (32.3 - 33.6)	**3.7** (3.1 - 4.6)

Rates calculated per 1,000 residents of each race.

[3] Crime Data Explorer, NIBRS 2018. ACS 2019 estimated Vermont population.
VT State White Arrest rate: 22.9 per 1,000
VT State Black Arrest Rate: 120.4 per 1,000

[4] Margins of error (MOE) estimated using the ACS estimates for population totals.

[5] 2019 arrest rates calculated with 2018 population estimates from the American Community Survey, the most recent year available.

Arrest rates determined by comparing the total number of events to the underlying population demographic are "the crudest possible benchmarks," according to UC Berkeley Jack Glaser[6], who has supported the Center for Police Equity in their analysis of the Berkeley, California police department. However, the Burlington Police Department and the City Administration believe disparity in arrest rates should be explored, better understood, and publicly reported to allow residents to analyze the City's operations.

This report is the result of additional analysis of arrests in Burlington, controlling for various factors like type of arrest, outstanding warrant, unique vs. aggregate arrest totals, and age. Using the FBI's National Incident-Based Reporting System (NIBRS) database and US Census data, the report also compares arrest rate ratios by race for cities across the country that share some or many of the characteristics that define Burlington.

The data evaluated indicate the following trends in Burlington:

- In Burlington, the overall arrest rate and the disparity between Black and White arrests rates, has been falling since 2012. While he overall number of arrests has dropped substantially, the reduction in disparity between Black and White arrests has been modest.
- The arrest rate disparity for Black adults (5.0) is higher than for Black juveniles (3.0).
- In 2019, Black arrestees were particularly over-represented in fourcrime types: drug-related offenses, assault, domestic violence, and disorder-related crimes.
- In 2019, arrests for which officers have higher degrees of discretion, such as low-level or non-violent crimes, show less disparity. Black arrestees make up 28.9% of violent felony arrests (crimes for which officers must take action) versus 14.6% of non-violent misdemeanor arrests.

Section II: Data Presentation by Variable

This section provides data and analyses for the Police Commission to review. We expect the Commission may request some additional information as part of the discussion, and have tried to identify relevant variables and comparisons based off of literature in this field, reports in other communities, and the work of other organizations like the Center for Policing Equity.

The first part of this section looks at variables and trends within the Burlington Police Department data. The second part provides some benchmarks from other cities around the country for the purpose of comparison.

Analysis Using BPD Data

Disparity Over Time

The overall number of arrests is declining in Burlington, down 31.4% since their high in 2016. The disparity between the Black and White arrest rates has declined only slightly, fluctuating between 5.0 to

[6] *Berkeley police stops show racial disparities — but what does that mean?* Berkeleyside, 5/11/2018 https://www.berkeleyside.com/2018/05/11/berkeley-police-stops-show-racial-disparities-but-what-does-that-mean

1 and 3.7 to 1 since 2012. While the disparity in juvenile arrests by race has declined significantly (down 59% since 2012, though with low total overall numbers), the disparity in adult arrests has remained basically flat since 2012.

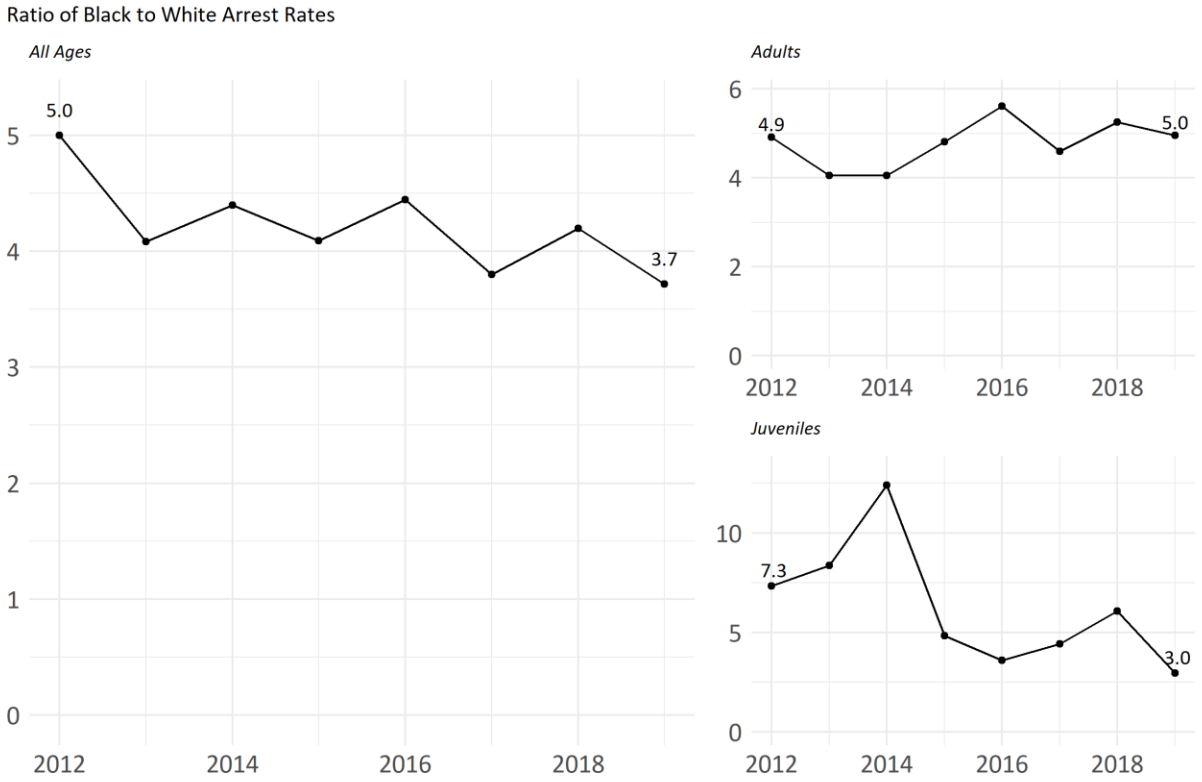

Figure 2

Type of Charge

One theme in the literature on disparities in arrest rates is the often pronounced racial disparity in drug and weapons-related arrests.[7]

This pattern does appear to hold in Burlington for drug-related charges, as Black arrests are disproportionately concentrated in four arrest types, including drug-related arrests. These four types occur at a higher rate than both the population total would predict and a higher rate than the overall rate of Black arrests by the BPD. Expungement does not appear to play a major role in influencing the total number of drug and assault arrests -- there were a total of ten assault-related arrests expunged and two drug-related arrests expunged in 2019, though expungements can accumulate over time and numbers could be higher in earlier years.[8] The BPD is not able to analyze the race of expunged arrests because that information is removed from the records management system.

[7] Weapons charges are uncommon in Burlington. There were 7 weapons arrests in 2019, and 48 total from 2012 to 2019. The majority of these arrests were for juveniles bringing weapons to school.

[8] There is uncertainty around counting expungements, see data limitations section for more detail.

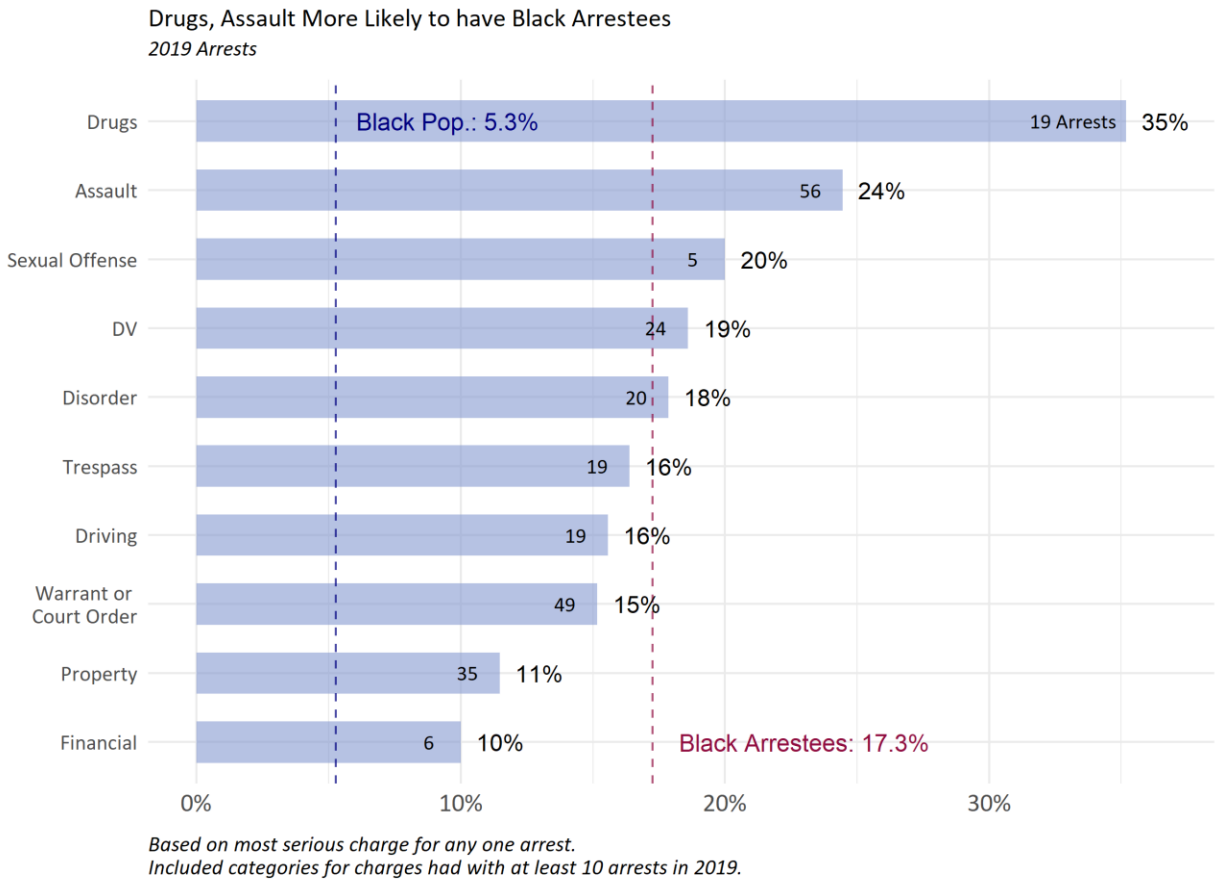

Figure 3

Warrants

In 2019 there were 232 arrests stemming directly from a warrant approved by a judge or issued by another agency, the court system, or the Department of Corrections, where there is little discretion on the part of an officer. Of these arrests, 16.8% were Black arrestees.

Drug Arrests

The Burlington police data shows less disparity in low-level drug offenses, such as arrests for possession or marijuana-related arrests, which has been a concern in other communities. Since 2012, there have been 958 drug arrests. In 2019, Black arrestees were 24% of all drug possession arrests (7 out of 29 total), but 48% of all drug sale arrests (12 of 25). Arrests for drug sales are rarely (if ever) made without an initial investigation. This means that for those drug-related arrest types where officers have the greatest degree of discretion, there are comparatively fewer Black arrestees. This is different from other cities in the U.S. where Black people are disproportionately arrested for low level drug charges, which is a pattern that has been highlighted as an indicator of police bias.[9]

[9] *Surest Way to Face Marijuana Charges in New York: Be Black or Hispanic*, New York Times 5/13/2018. https://www.nytimes.com/2018/05/13/nyregion/marijuana-arrests-nyc-race.html

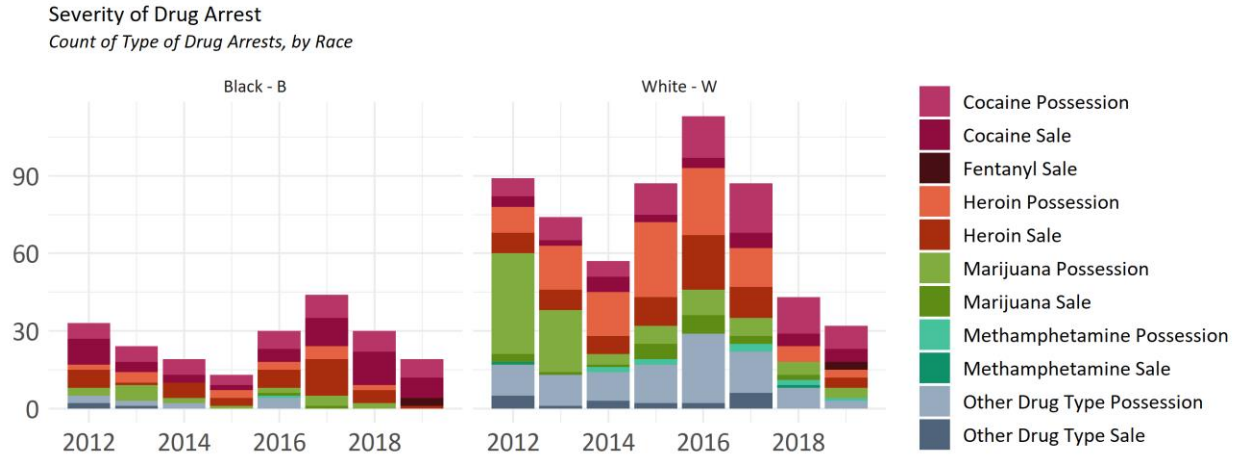

Figure 4

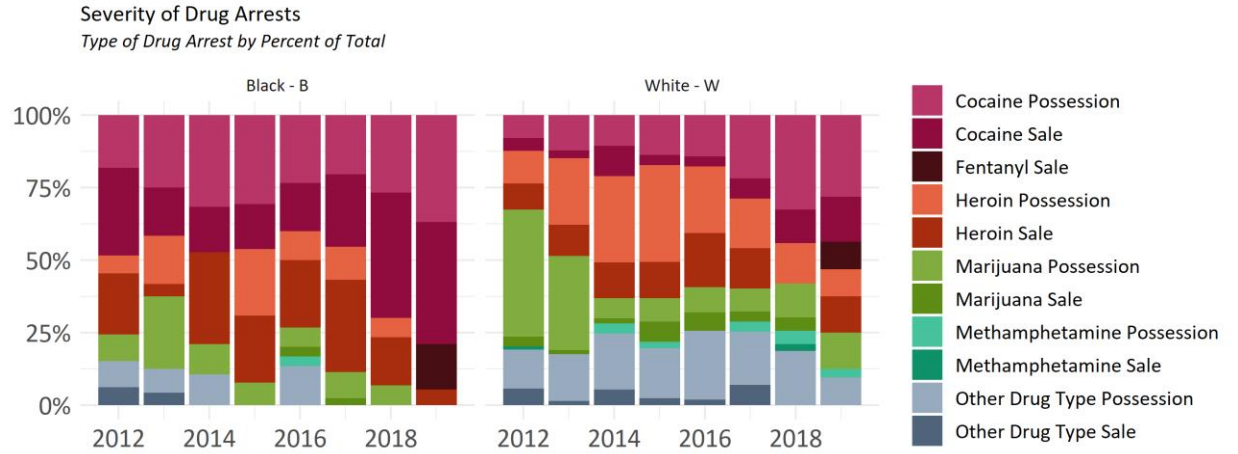

Figure 4

Severity of Charge

Another area of inquiry is the comparison of non-violent misdemeanor arrests to violent felony arrests. Like the split between drug sale and drug possession, violent felonies involve much less officer discretion in deciding whether or not to arrest. Black arrestees in Burlington are more likely to be arrested for violent felonies, and less likely to be arrested for lower-level offenses that allow a greater degree of officer discretion, such as non-violent misdemeanors.[10]

[10] The most common non-violent misdemeanor charges are retail theft, disorderly conduct and unlawful trespass.

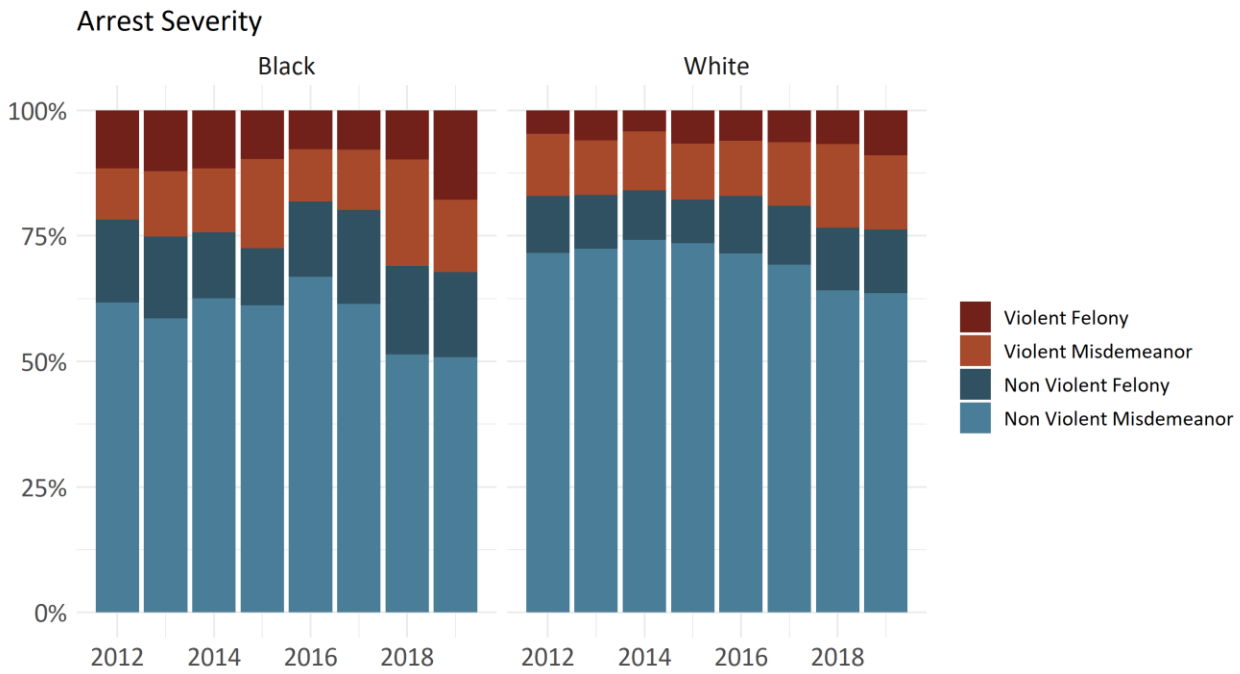

Figure 5

2019	White	Black		White	Black
Violent	223 (22.8%)	74 (31.1%)	Felony	203 (21.6%)	80 (34.8%)
Non-Violent	753 (77.2%)	164 (68.9%)	Misdemeanor	736 (78.4%)	150 (65.2%)

2019	White	Black
Violent Felony	84 (9.0%)	41 (17.8%)
Non Violent Felony	119 (12.7%)	39 (17.0%)
Violent Misdemeanor	139 (14.8%)	33 (14.3%)
Non-Violent Misdemeanor	597 (63.6%)	117 (50.9%)

Juvenile and Adult Arrests

Juvenile and adult arrest totals show a difference in arrest rates, though this pattern is relatively new. The adult arrest rates by race have fluctuated but not changed dramatically since 2012, while juvenile rates have moved dramatically closer to parity since 2014. Both the low total annual number of juvenile arrests, (67 total in 2019) and possible expungements affect this analysis, however.

DRAFT

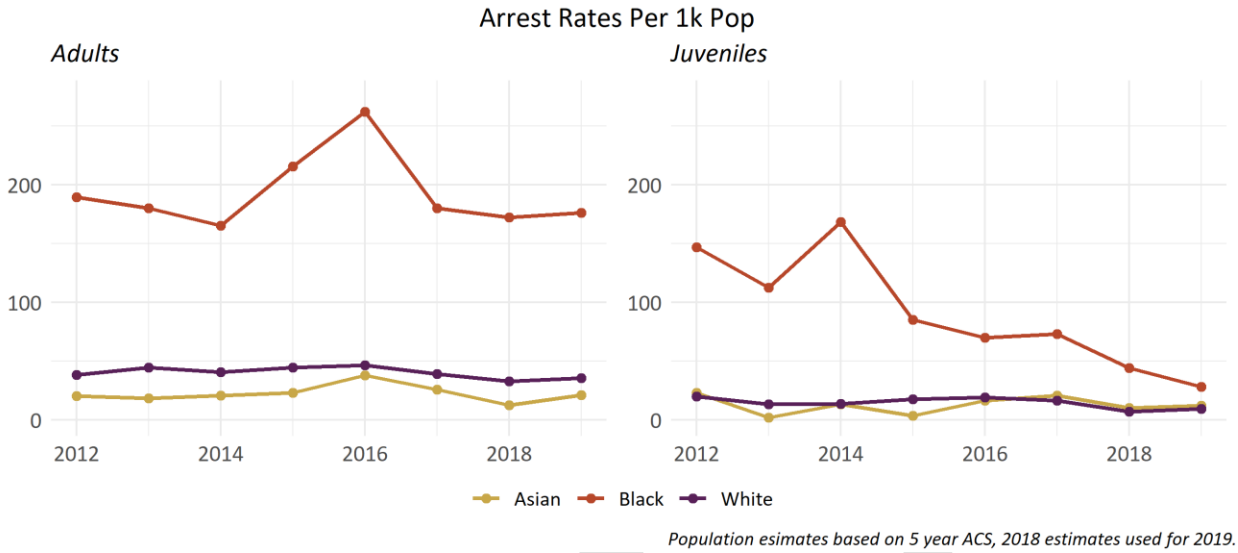

Figure 6

Gender

Black men are more likely to be arrested by the BPD than Black women. Of the 275 arrests of a Black person in 2019, 33 (12 percent) were women. Nearly a third of arrests of White people were women.

2019	**Black Arrests**	**Arrest Rate**	**White**	**Arrest Rate**
Male	242 (88%)	213.0	783 (67.4%)	45.4
Female	33 (12%)	29.8	363 (31.2%)	20.2
Other Genders	-	-	13 (1.1%)	-

Unique Arrestees

This analysis counts the number of arrests, regardless of whether a person is being arrested for their first or tenth time that year. In 2019, White arrestees were arrested 1.59 times on average, and Black arrestees were arrested 1.65 times. In other words, regardless of whether you count the number of arrests made, or the unique people who were arrested, 17% of the arrests/arrestees were Black.

DRAFT

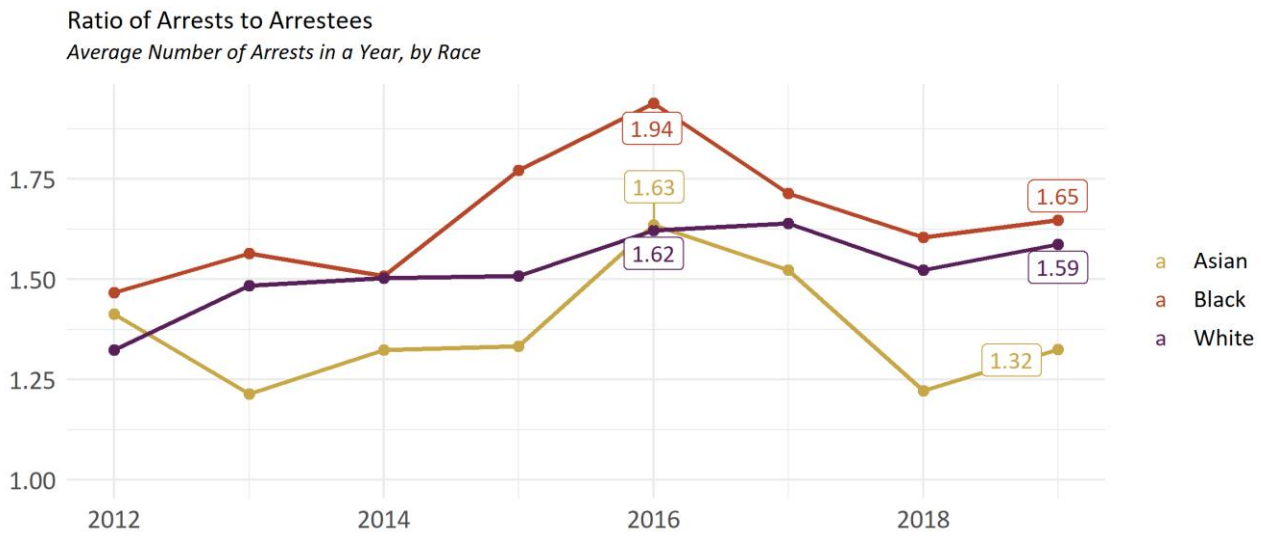

Figure 7

Other Police Contact

Black people make up an increasing proportion of police contact as the type of contact becomes increasingly more serious – a phenomenon the BPD has reported on extensively in the Use of Force Report released last year.[11]

In 2019, 9.5% of traffic stops had Black operators, and 10.7% of all police contacts for which race was recorded were Black. Black arrestees accounted for 14.6% of all non-violent misdemeanor arrests, and 17.3% of all types of arrests. In 2018, the most recent year there is data, Black people were subjects in 26% of all use of force incidents. Black people were 28.9% of all violent felony arrests in 2019.

[11] https://www.burlingtonvt.gov/sites/default/files/u585/Reports/BPD%20Use%20of%20Force%20Report.pdf

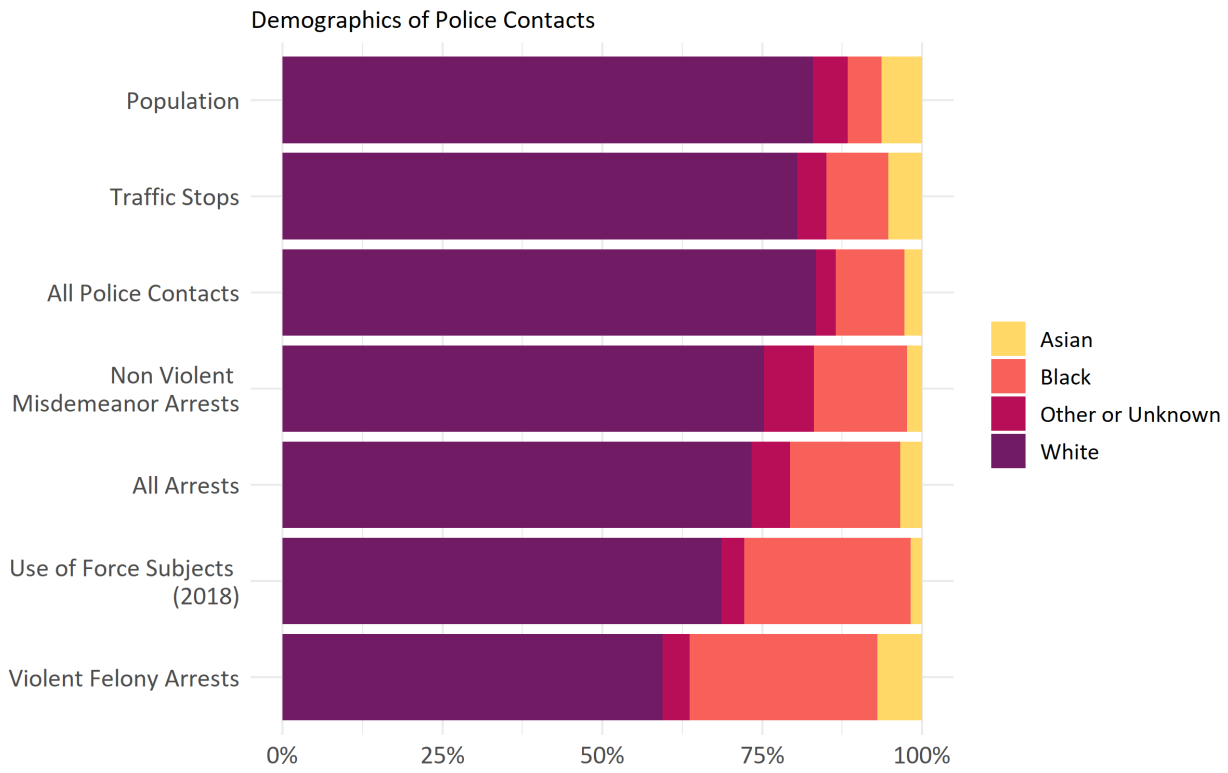

Figure 8

Comparisons to Other Cities

As noted in the introduction, social scientists consider arrest rates, based directly in comparison to the demographics of the overall population, to be a relatively limited tool for analysis. Nevertheless, in an effort to understand better how Burlington compares to other communities, we offer the following chart. It compares arrest rates by race across the country, compiled using population estimates from the American Community Survey in 2018 and the 2018 arrest counts from the National Incident-Based Reporting System (NIBRS) run by the FBI.

The lower dashed line represents arrest parity by race. Cities that fall on this line arrest Black and White people in equal proportions to their respective populations. The farther right along the line, the more arrests are made in that city, but the rates are equal across Black and White populations. The two dashed purple lines show the ratio between the Black and White arrest rates in Burlington, in 2018 and 2019. Cities above and to the left of these lines make arrests more disproportionately than Burlington, cities below and to the right have less disparate arrest rates.

Cities with at least 10k population, with Census and NIBRS data.

Figure 9

Burlington's arrest rates are lower for both Black and White people than many comparison cities, although the ratio is higher than many. Burlington closely matches Charlottesville, VA, a small city of comparable size that houses the University of Virginia.

The chart below shows the distribution of arrest rate ratios for cities. The higher the curved line, the more cities have an arrest rate ratio around that level. The chart shows that most cities have a disparity of around 2, though there is a long tail of cities with higher arrest rate ratios. Burlington has moved closer to parity over the past year, though it stills has a larger disparity than cities to the left of the blue lines.

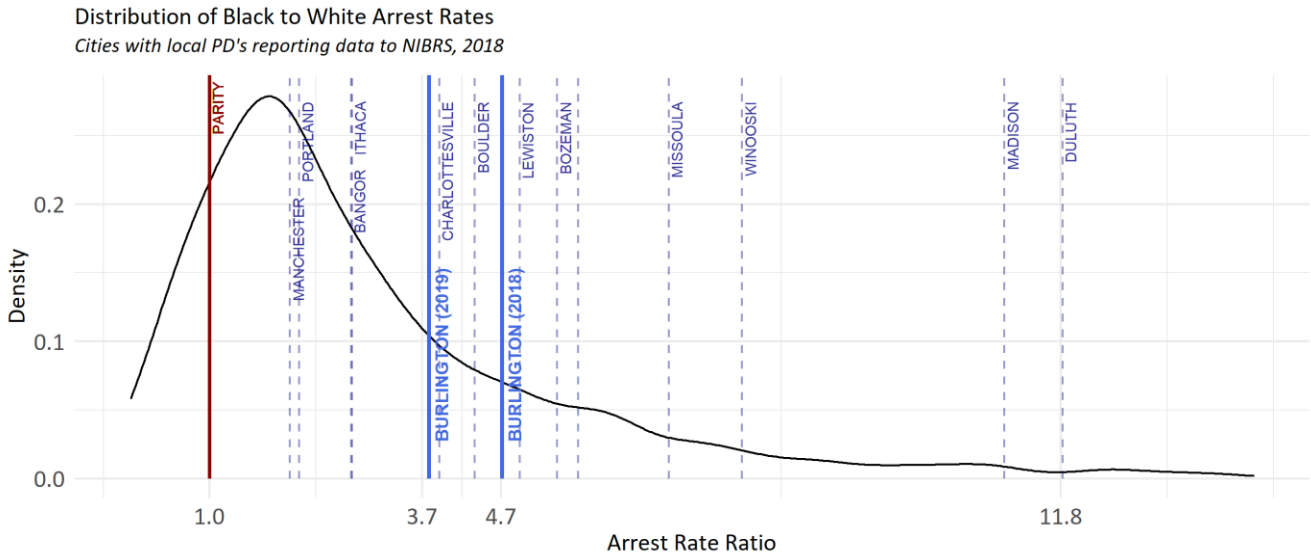

Figure 10

Section III: Recommendations

The report makes the following recommendations:

1. The Burlington Police Department should continue to provide yearly reports on traffic stops, use-of-force data, overall arrest rates and arrest rates by race to the Burlington Police Commission in a public setting. The BPD must also continue to make incident- and arrest-level data on these topics public.

2. The City should leverage community input through both the Joint Committee on Policing and a CommunityStat - like process that brings together community partners and is managed by a new Health Equity Manager position created by the Mayor's July declaration on racism as a public health emergency to create strategies to improve our understanding of how underlying inequities influence arrests more broadly.

3. A third-party evaluator should conduct an independent evaluation of BPD data to review race and arrest data and look for other variables of interest.

Data Limitations

As mentioned in footnotes throughout the report, expungements present a significant data issue. As arrests are expunged, demographic data, including age and race, are removed from the database. In the dataset, expunged arrests appear with a charge and "Expunged" in the name. However, it is not clear if the expungement process always works the same way. It is possible there are some arrests that are completely sealed, and do not appear in the data at all. This may result in changes in the counts of arrests over time, and discrepancies between NIBRS data and data directly from the BPD.

DRAFT

Of arrests made in 2019, 5.6% (89 arrests) have been expunged. For 2018 14.2% (230 arrests) have been expunged. If expungements are not uniformly accessed by people of all races, the data could be biased.

DRAFT