

CARE NOT CAGES

STOP RACIST POLICING AND JAILING
IN HARRIS COUNTY



October 2019

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TEXAS
ADVOCATES
FOR JUSTICE

This report was compiled by Chris Harris, edited by Holly Kirby and Dianna Williams for Grassroots Leadership and Texas Advocates for Justice.

Grassroots Leadership is an Austin, Texas-based national organization that works for a more just society where prison profiteering, mass incarceration, deportation and criminalization are things of the past.

Texas Advocates for Justice unites individuals and families who are directly impacted by mass incarceration in Texas. We are on a mission to end the criminalization of our communities, to break down barriers to reentry from jail and prison in Texas and to demolish the legacy of racism in the criminal justice system.

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INTRODUCTION

The historical ties between racism and the growth of mass incarceration in the United States are undeniable. Institutional racism throughout the various stages of the criminal justice system, including initial contact with law enforcement, have led to unequal and excessive incarceration of Black people for generations.

Our mass incarceration crisis, fueled by racist policing and discriminatory criminal justice policies, does not make us safer. Rather, it continues to cause immeasurable harm to the poor, people living with addiction, immigrants, people with mental illness and communities of color, particularly the black community.

We must DIVEST from the failed systems of punishment, incarceration and control and REINVEST in the community-based infrastructure to ensure the holistic health and safety of our residents. This includes access to healthcare, including substance abuse and mental health treatment, jobs and affordable housing.

This report includes an analysis of Harris County Court data for the Harris County Jail population from March 1, 2015 to March 1, 2018, which highlights racial disparities and jail population drivers by booking count and nights spent in jail. In addition to being the most common charge overall, possession of less than 1gram of a controlled substance (POCS PG1 <1g) was the most common lead charge and resulted in the most nights in jail. Additionally, this report examines Houston Police Department (HPD) racial profiling data, illuminating that Black people were starkly overrepresented amongst police searches resulting from a traffic stop.

We seek to bring these issues to the forefront in Houston/Harris County in order to unite communities most impacted by the criminal justice system, advocates and policy makers in urgent action to address these inequities.

IN ADDITION TO BEING THE MOST COMMON CHARGE OVERALL, POSSESSION OF LESS THAN 1GRAM OF A CONTROLLED SUBSTANCE (POCS PG1 <1G) WAS THE MOST COMMON LEAD CHARGE AND RESULTED IN THE MOST NIGHTS IN JAIL.

BACKGROUND

Incarcerating nearly 9,000 people per night, the Harris County jail is larger than the prison systems in 19 states and is the largest jail system in the most incarcerated state in the most incarcerated nation on earth.¹ Since 2008, it has been under voluntary monitoring due to a Department of Justice investigation for the use of excessive force and sub-par mental health treatment by jail personnel.²

Dubbed by some as “the largest mental health facility in Texas,” failure to provide adequate treatment impacts significant numbers of people. In 2017, roughly one-fourth of its nightly population had a diagnosed mental illness requiring treatment at a cost of \$22 million.³ Since that year, it has been repeatedly cited for non-compliance with Texas jail standards due to a rash of suicides by incarcerated persons, including two within a month’s time in late 2018.

Despite its size, overcrowding at the jail is also a serious concern. For over a decade, overcrowding had resulted in the County’s costly and burdensome outsourcing program to facilities up to a five hours’ drive away, exacerbating the challenges those incarcerated and their families already face.⁴ While the sheriff’s office has been able to scale back the use of outside facilities, the County Commissioners approved the renewal of a contract with Fort Bend County earlier this year as a precaution.⁵ Shipping prisoners out of Harris County and farther away from counsel and support networks is merely a band-aid solution, both wasteful and inhumane.

In short, the Harris County jail has serious issues with housing and caring for the people forced to stay there and the interests of the county, its residents and those most at-risk of incarceration would be best served by efforts aimed at finding alternatives to jailing. In the coming months and year, the Mayor, Sheriff and District Attorney face reelection – a pivotal moment for Houston and Harris County residents to demand bold, transformative changes to our current criminal (in)justice system.

METHODOLOGY

The analysis presented herein is based on data from the Harris County Sheriff’s Office (HSCO) and the Houston Police Department (HPD).

The HSCO data includes bookings into the Harris County Jail that occurred between March 1, 2015 and March 1, 2018, demographic data regarding each individual booked, the offenses associated with each booking, the level of each offense, the person and case booking dates for each offense, the person and case release dates for each offense, and the person and case release reasons for each offense.

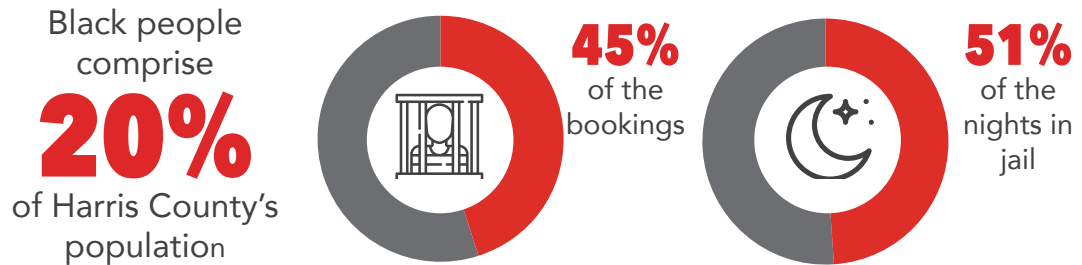
The HPD data is from the state-mandated annual racial profiling reports and includes counts of traffic stops and searches of various types broken down by race.

Important notes regarding the analysis:

- Nights in jail calculations are based on a subtraction of Body Booking Date from Body Release Date for each booking. Since hours and minutes were not included in the data set, they are averages of distinct days spent in Harris County jail. People that were booked and released on the same day are counted as having spent zero (0) days in jail.
- Jail time calculations only consider the bookings that included a Body Release Date (291,504 out of 297,621 total bookings). Therefore, approximately 6,000 bookings including longer periods of incarceration are not included in these calculations.

SUMMARY OF FINDINGS

Significant racial disparities exist in jails across the country and Harris County is no exception. **Black people comprised 19.7% of the Harris County population in 2017, yet from March 1, 2015 through March 1, 2018 made up 45.4% of bookings into the Harris County jail and served 51% of the nights in jail – over 3.9 million combined nights.**



The reasons for these disparities are varied and complex, but undoubtedly two of the most significant factors are **biased policing that feeds Black people into the criminal legal system, and well-chronicled wealth-based bail practices** that keep poor, and largely black, people in jail pretrial, coercing guilty pleas resulting in longer confinement and creating or adding to criminal records subsequently used to justify the next arrest, pretrial detention and conviction.

The lead charge driving the most nights spent in the Harris County jail over the studied timeframe was possession of less than one gram of a controlled substance in penalty group one (POCS PG1 <1g). The prevalence of this charge reflects how discriminatory police and bail practices combine to drive racially disparate jailing.

Small amounts of drugs often require an officer to conduct a search in order to find them. While previous racial profiling reports submitted by Houston Police Department (HPD) failed to provide searches by race, the 2017 and 2018 reports paint a startling picture of race-based searches, at least resulting from motor vehicle stops.

In 2017, 14% of HPD traffic stops involving Black drivers resulted in a search compared to only 5% of stops involving white drivers. In 2018, 12% of Black drivers stopped were searched, compared to 3% of white drivers.



HARRIS COUNTY & JAIL DEMOGRAPHICS

As seen below, Black people are overrepresented in both percentage of bookings into the Harris County jail and the percent of nights in jail.

2018 County Population

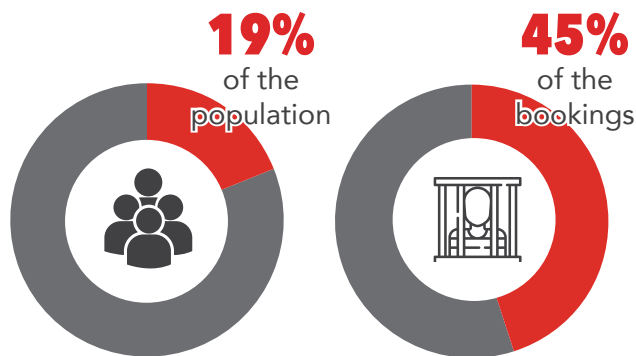
- White: 69.8% (29.1% non-Hispanic)
- Black or African American 19.1%
- American Indian and Alaska Native: 1.1%
- Asian: 7.4%
- Native Hawaiian and Other Pacific Islander: 0.1%
- Two or More Races: 1.9%

2018 Houston Population

- White: 58.5% (24.9% non-Hispanic)
- Black or African American: 22.9%
- American Indian and Alaska Native: 0.3%
- Asian: 6.7%
- Native Hawaiian and Other Pacific Islander: 0.1%
- Two or More Races: 2.0%

Even when considering the demographics of the County’s biggest city of Houston, which is decidedly more black and responsible for a bulk of the bookings into the Harris County jail, Black people are overrepresented in the jail. “An important limitation to note about the booking data analysis is that it does not include a race category for the Hispanic or Latinx population, conflating them with other races. See Demands on pg. 9 for addressing this gap in HCSO data collection.”

*Demographics source: U.S. Census Bureau



| Race | Booking Count | % of Bookings | Total Nights in Jail | % of Nights in Jail |
|-------------------------------|----------------|---------------|----------------------|---------------------|
| Asian | 3,443 | 1.18% | 57,194 | .74% |
| Black | 132,349 | 45.4% | 3,945,169 | 51.03% |
| Indian/ Native American | 212 | .07% | 3,437 | .04% |
| Not Available | 388 | .13% | 9,145 | .12% |
| Unknown | 3,120 | 1.07% | 36,203 | .47% |
| White | 151,992 | 52.14% | 3,679,864 | 47.60% |
| Total | 291,504 | 99.99% | 7,731,012 | |

POLICE RACIAL PROFILING

* Source: Houston Police Department 2017 & 2018 Annual Racial Profiling Reports

A major facet of the criminal legal system showing clear racial disparities contributing to discrepancies in bookings is the frequency with which Black people are searched during motor vehicle stops. The most recent state-mandated racial profiling report released by HPD revealed truly astounding racial discrepancies in searches.

DUE TO THE DISPARITY WITH WHICH BLACK PEOPLE WERE SEARCHED OVERALL, THEY ULTIMATELY REPRESENTED 61% OF TOTAL SEARCHES IN 2018.

2017 and 2018 HPD Racial Profiling Reports

| | 2017 | 2018 |
|--|---------|---------|
| Total Traffic Stops | 312,285 | 355,132 |
| % of Total Stops = Black | 35% | 36% |
| % of Black Stops That Resulted in Search | 14% | 12% |
| % of Total Stops = White | 43% | 44% |
| % of White Stops That Resulted in Search | 5% | 3% |

In 2017, 35% of all HPD traffic stops were Black drivers. The following year, in 2018 Black drivers made up an even larger percentage of all traffic stops at 36% despite comprising only 23% of the Houston population.

2017 and 2018 HPD Racial Profiling Reports

| Race | Stops | | Searches | | % of Stops Resulting in Searches | |
|-----------------|----------------|----------------|---------------|---------------|----------------------------------|------------|
| | 2017 | 2018 | 2017 | 2018 | 2017 | 2018 |
| Black | 110,619 | 128,090 | 15,619 | 15,432 | 14.1% | 12% |
| Hispanic | 51,854 | 50,798 | 5,131 | 4,530 | 9.9% | 8.9% |
| Native American | 502 | 603 | 43 | 33 | 8.6% | 5.5% |
| White | 132,766 | 155,164 | 6,036 | 5,111 | 4.5% | 3.3% |
| Middle Eastern | 1,256 | n/a | 46 | n/a | 3.7% | n/a |
| Asian | 12,279 | 15,433 | 328 | 342 | 2.7% | 2.2% |
| Unknown/Other | 3,009 | 4,044 | 10 | 8 | .3% | .2% |

JAIL POPULATION DRIVERS

BY BOOKING COUNT

Of the top charges involved in arrests and bookings into the Harris County Jail, two are associated with driving without proper documentation. Combined, Failure to Maintain Financial Responsibility (No insurance) and No Driver's License charges were the most common charges among Harris County bookings over the studied period.

Top Charges by Charge Count

| Offense | Booking Count |
|--------------------------------|---------------|
| POSS CS PG 1 <1G | 24,999 |
| FAILURE MAINTAIN FINANCIAL RES | 20,837 |
| ASSAULT-FAMILY MEMBER | 17,265 |
| DRIVING WHILE INTOXICATED | 13,850 |
| NO DRIVER'S LICENSE | 13,801 |
| MOTION TO REVOKE PAROLE | 13,524 |

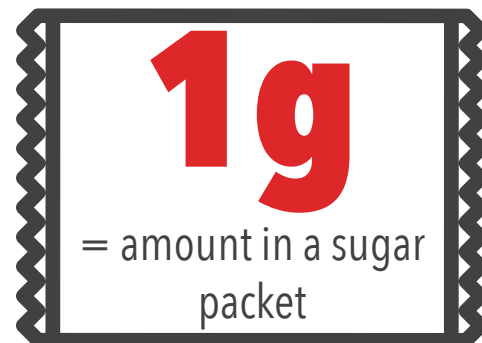
BY NIGHTS IN JAIL

In addition to being the most common charge overall, POCS PG1 <1g was the most common lead drug charge and resulted in the most nights in jail. It was the lead charge on 7.7% of bookings and those bookings resulted in just under 12% of total nights in spent in Harris County jail.

Among the most prevalent drugs included in this penalty group are cocaine, heroin, methamphetamine, GHB, ketamine, oxycodone, hydrocodone and LSD. One gram roughly equates to a sugar packet - an amount clearly indicative of personal use, not distribution.

Top Lead Charges by Total Nights in Jail

| Offense | % of Total Nights in Jail |
|------------------------------|---------------------------|
| POSS CS PG 1 <1G | 11.95% |
| AGG ROBBERY-DEADLY WPN | 6.56% |
| ASSAULT-FAMILY MEMBER | 5.81% |
| MOTION TO REVOKE PAROLE | 4.94% |
| AGG ASSAULT W/ DEADLY WEAPON | 4.30% |



BY RACIAL DISPARITIES

POCS PG1 <1g was also associated with a significant racial disparity. Where POCS PG1 <1g was the lead charge, Black people comprised 43.7% of the bookings and 49.6% of the nights in jail. However, other charges had even more disparate representation. Black people were over 55% of bookings where the lead charge was marijuana possession under 2 oz. and over 59% of bookings for two different forms of trespassing and motion to revoke parole.

BLACK PEOPLE WERE OVER 55% OF BOOKINGS WHERE THE LEAD CHARGE WAS MARIJUANA POSSESSION UNDER 2 OZ. AND OVER 59% OF BOOKINGS FOR TWO DIFFERENT FORMS OF TRESPASSING AND MOTION TO REVOKE PAROLE.

Among lead charges leading to the most nights in jail, Black people were most overrepresented in being charged with manufacture or delivery (distribution) of less than one gram of a controlled substance in penalty group 1 and aggravated robbery. Given how little less than one gram is, it is also suspect that so many could have been charged with dealing the drug.

Top Lead Charges by Total Nights in Jail

| Offense | % of Total Nights in Jail for this Charge Spent by Black People |
|---------------------------------|---|
| POSS CS PG 1 <1G | 49.6% |
| AGG ROBBERY-DEADLY WPN | 69.68% |
| ASSAULT-FAMILY MEMBER | 48.11% |
| MOTION TO REVOKE PAROLE | 57.88% |
| AGG ASSAULT W/ DEADLY WEAPON | 53.67% |
| BURGLARY OF HABITATION | 55.71% |
| ASSAULT-BODILY INJURY | 54.39% |
| AGG ASSAULT-FAMILY MEMBER | 53.98% |
| POSS CS PG 1 4G - 200G | 48.91% |
| THEFT <\$2,500 2/MORE PREV CON | 53.93% |
| ASSAULT-BOD INJ-FAMILY MEMBER | 54.27% |
| BURGLARY OF A BUILDING | 56.68% |
| EVADING ARREST/DETENTION W/ VEH | 50.21% |
| UNAUTH USE OF VEHICLE | 50.46% |
| DWI THIRD | 14.91% |
| FAILURE MAINTAIN FINANCIAL RES | 49.89% |
| POSS CS PG 1 1 - 4 GRAMS | 48.64% |
| ROBBERY-BODILY INJURY | 66.69% |
| FELON POSS WPN | 69.93% |
| MURDER | 58.19% |
| ASSAULT-BOD INJ-PUB SERV/RETAL | 57.73% |
| ROBBERY-THREATS | 62.48% |
| ASLT FAM/HOUSE MEM IMPED BRTH/ | 46.22% |
| POSS MARIJUANA UNDER 2 OZ (HSC) | 59.69% |
| MAN/DEL CS PG I <1GRAM | 74.20% |

“Being stopped, detained, arrested and put into a cage for days at a time; feeling hopeless from fear of losing your car, job, family—I know the agony. I have lived through generations of family members being put into the criminal justice system for low-level offenses. We didn’t have money, so cash bail was never an option. Those arrests would have been best handled as public health and safety issues. It would have stopped the recidivism in my family. Social services and sustainable diversion programs should always be the alternative to incarceration. In my family’s case, the low-level arrests ruined family relationships forever. If there is more care instead of cages, not only will it help end mass incarceration, but our communities will be safer and healthier.”

-Dianna Williams



CONCLUSION

More than 30 years ago, the failed “War on Drugs” and its racist roots skyrocketed mass incarceration in the United States. According to a 2016 report, every 25 seconds someone is arrested in the U.S. for possessing a small amount of drugs. This report reveals Houston and Harris County continue to suffer the consequences of this national crisis.

The revelation that low-level drug charges accounted for the highest number of bookings and contributed to the most nights spent in Harris County Jail should alarm us all. Vast amounts of resources spent arresting, incarcerating and funneling people through the criminal court system should be reinvested in community-based responses to substance use and recovery. When we invest our resources in the health and safety of our communities rather than punishment, we can scale back our mass incarceration crisis and its collateral consequences on countless Houston and Harris County families.

**EVERY 25 SECONDS
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DRUGS.⁶**

DEMANDS

Based on the findings of this report, we call on our elected officials to take the following immediate steps. **WE DEMAND:**

- **Houston Police Department eliminate racial profiling and unnecessary searches.** A closer analysis of where drug arrests are taking place, if they are officer initiated and what types of drugs are involved is immediately needed to help identify more effective ways to address substance abuse in the community, outside of the criminal justice system. These cases are not threats to public safety and law enforcement resources should not be squandered treating them as such.
- **Harris County Commissioners Court immediately prioritize funding pre-arrest alternatives to incarceration for drug possession.** We must invest in the public health infrastructure that will provide all Harris County residents access to substance use treatment and recovery support if they need it, rather than jailing people, wasting resources and fueling our mass incarceration crisis. The underlying conditions in people's lives that lead to substance use and justice system involvement suggest that treatment in the community, rather than incarceration, is a more effective response. Providing an opportunity to address these underlying causes through behavioral health, substance abuse, or other treatment and recovery support, is critically important.
- **Harris County Criminal Court Judges implement a policy to grant automatic personal recognizance bonds to all defendants charged with POCS <1g.** Pretrial incarceration for drug possession is both wasteful and harmful. Harris County took a historic step eliminating cash bail for those who are too poor to pay, but only for misdemeanor cases. While this was an important step forward, Harris County Judges should go farther to ensure no one has to sit in jail pretrial for drug possession, especially when considering the profound impact on the jail population.
- **Harris County District Attorney stop prosecuting POCS <1g cases.** Criminalizing drug use takes an enormous human and financial toll on all of us. The District Attorney should reject possession <1g cases in order to roll back the damage of the failed "War on Drugs", shrink the jail population and reinvest our resources in community-based alternatives.
- **Harris County Sheriff's Office increase data transparency, accuracy and community accessibility.** Currently, the jail booking data does not include a race category for the Hispanic or Latinx population, conflating them with other races. The HCSO should take immediate steps to add this category to their jail booking procedure so that policy makers and residents can see more clearly the impact of the criminal legal system on our Latinx community, particularly at a time when immigrants are under attack. In addition, reports and/or online dashboards of jail booking data should be published regularly and easily accessible to the community. This includes a clear protocol and streamlined process for requesting the data in a timely manner.

ENDNOTES

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For more information, please contact :

Grassroots Leadership

(512) 499-8111

info@grassrootsleadership.org

Texas Advocates for Justice

Dianna Williams, Lead Organizer

(281) 435-4143

dwilliams@grassrootsleadership.org

A .pdf of this document is also available on the Grassroots Leadership website.

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