

March 30, 2023

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Eisenhower Executive Office Building
1650 Pennsylvania Avenue
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Re: Recommendations for Improved Data Collection by State, Tribal, Local, and Territorial Law Enforcement Agencies.

The NAACP Legal Defense and Educational Fund, Inc. (LDF)¹ submits recommendations to the Office of Science and Technology Policy (OSTP) in furtherance of Section 1 of Executive Order 14074.² We appreciate OSTP's invitation to comment on how enhanced data collection about State, Local, Tribal and Territorial (STLT) law enforcement activities can advance the goal of racial justice in our policing, public safety, and criminal legal systems.³

Although it is widely known and understood that Black people and other people of color face severe racial disparities in our policing and criminal legal systems, too many jurisdictions around the country fail to adequately collect data on this issue. Below, we highlight several data points that should be collected to adequately document the harms experienced by these communities to inform decision makers about necessary policy changes. We also provide examples of model practices in certain jurisdictions that should be replicated more broadly. While data about law enforcement actions have historically been collected and stored by law enforcement agencies themselves, the public has had very little access and often faces obstruction when seeking access. Thus, as much as possible, agencies or independent third parties outside of law enforcement should participate in data collection or data storage and management to provide more readily available public access to information.

¹ Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. It has been a separate organization from the NAACP since 1957. LDF's work to address police violence and misconduct dates back to its inception. *See, e.g., Shepherd v. Florida*, 341 U.S. 50 (1951) (reversing the wrongful interracial rape convictions of Black men, who were brutally beaten by sheriff's deputies in an attempt to force confessions). Today, LDF's Justice in Public Safety Project uses litigation, policy advocacy, research, community organizing, and strategic communications to transform public safety systems, advance police accountability, and prevent and remedy the impact of racial bias in public safety.

² Exec. Order No. 14074, 87 Fed. Reg. 32945 (May 25, 2022) ("Building trust between law enforcement agencies and the communities they are sworn to protect and serve also requires accountability for misconduct and transparency through data collection and public reporting.").

³ Request for Information; Criminal Justice Studies, 88 Fed. Reg. 10150 (Feb. 16, 2023).

I. Law enforcement data points that should be collected to advance more equitable outcomes (Question 3).

Black people are disproportionately impacted by policing and criminal legal enforcement at every stage.⁴ Accordingly, more information is needed about the calls that police agencies receive, the number and nature of stops, searches, citations, summonses, arrests, and uses of force, the technology used by police, and any inequitable outcomes in court that result from prosecutorial and judicial discretion.

a. Data about emergency calls should be collected to inform the implementation of non-police responders to a variety of community needs.

The President’s Executive Order rightly highlights the need for “evidence-informed, innovative responses” to situations involving people with substance use disorders, disabilities, and mental health needs.⁵ Too often, states and localities rely on armed police officers to respond in these circumstances, which can unduly escalate situations and lead to harmful outcomes. Furthermore, the public is conditioned to call police in situations that are better suited for other responders, often because they do not know of other alternatives, or alternatives are not available. In most jurisdictions, there is a glaring lack of publicly available data collected about the number and nature of calls for emergency responses that state and local agencies receive.⁶ Preliminary data, however, strongly suggests that the vast majority of calls to law enforcement could be safely and more effectively handled by non-police responders.⁷ This data should be collected across jurisdictions with an eye toward identifying areas in which non-police responders can more effectively and safely address community needs.

Localities should track how many calls for emergency response involve people living with disabilities or experiencing a mental health crisis. The American Psychological Association has estimated that at least 20 percent of police calls for service involve a mental health or substance use crisis, and noted that “for many departments, that demand is growing.”⁸ This is supported by information from the few jurisdictions where such data has been studied. In New York City, for example, police received 179,569 emotional distress calls in 2018.⁹ When law enforcement responds, these calls can be fatal. Of the over 7,500 people shot and killed by law enforcement officers since 2015, one in five fatalities were of people experiencing a mental health crisis.¹⁰ More

⁴ Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System, The Sent’g Project (Apr. 19, 2018), <https://www.sentencingproject.org/reports/report-to-the-united-nations-on-racial-disparities-in-the-u-s-criminal-justice-system/> (“African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, and they are more likely to experience lengthy [sentences].”)

⁵ Exec. Order No. 14074, 87 Fed. Reg. 32945 (May 25, 2022).

⁶ S. Rebecca Neusteter et al., *The 911 Call Processing System: A Review of the Literature as it Relates to Policing*, at 16 (July 2019), <https://www.vera.org/downloads/publications/911-call-processing-system-review-of-policing-literature.pdf>.

⁷ Jeff Asher & Ben Horwitz, *How Do the Police Actually Spend Their Time?*, N.Y. Times (June 19, 2020), <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html>.

⁸ Ashley Abramson, *Building Mental Health into Emergency Responses*, 52(5) Monitor on Psych. 30 (2021).

⁹ Greg Smith, *The NYPD’s Mental-Illness Response Breakdown*, The City (Mar. 21, 2019), <https://www.thecity.nyc/special-report/2019/3/21/21211184/the-nypd-s-mental-illness-response-breakdown>.

¹⁰ *The Washington Post Police Shootings Database*, Wash. Post, (Mar. 27, 2023), <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>.

comprehensive data about these calls is vital, as it can inform the implementation of evidence-based, effective, and safe non-police alternatives to these crises.

Furthermore, data should be collected that reflects how many calls involve non-violent situations. A recent analysis found that only 4 percent of policing, and approximately 1 percent of calls for service, are related to violent crime.¹¹ Current data suggests that violent crime has plummeted over the last three decades (down 49 percent from 1993 to 2019), and that property crimes are much more common than violent crimes.¹² As jurisdictions consider alternatives to policing, they must have access to information about the level and severity of harms that police are called upon to address, so they can craft responses for all instances when there is no threat to safety, or when law enforcement may exacerbate, rather than mitigate, the risk of harm. Given the enormous and disproportionate toll that policing and incarceration take on Black communities, this data is vital to creating policy solutions that ensure our public safety responses are proportional to community needs without inflicting additional harms.

Alternative responders are also needed for traffic enforcement, and enhanced data collection can help guide these reforms. Data suggests that, across the country, Black drivers are 20 percent more likely to be stopped than White drivers, and more likely to be searched as well.¹³ Between 2016 and 2021, police killed over 400 drivers or passengers—disproportionately Black—who were not wielding a weapon or under pursuit for a violent crime.¹⁴ While nationwide statistics collected by private and nonprofit entities are helpful tools that bring this issue to light, local and state data by governmental entities identifying the full scope of needs should be made available to shape the policy solutions that can address this urgent issue.

b. All jurisdictions should track and publish the number of stops, searches, citations, summonses, arrests, and uses of force, as well as the use of police technologies.

Information about stops, searches, citations, summonses, and arrests are crucial for reaching a full understanding of the racialized and intrusive nature of police interactions that Black and Brown people experience every day. Police officers conduct tens of millions of stops every year,¹⁵ and race is clearly a driving force behind many of these encounters. In New York City, 60 percent of people stopped by police in 2021 were Black while only 8 percent were White,¹⁶ and from 2014 through 2019, Black people comprised nearly half of all people arrested in the city,

¹¹ Asher & Horwitz, *supra* note 7.

¹² John Gramlich, *What the Data Says (and Doesn't Say) about Crime in the United States*, Pew Rsch. Ctr. (Nov. 20, 2020), <https://www.pewresearch.org/fact-tank/2020/11/20/facts-about-crime-in-the-u-s/>.

¹³ *Research Shows Black Drivers More Likely to Be Stopped by Police*, N.Y.U. (May 5, 2020), <https://www.nyu.edu/about/news-publications/news/2020/may/black-drivers-more-likely-to-be-stopped-by-police.html>.

¹⁴ David D. Kirkpatrick et al., *Why Many Police Traffic Stops Turn Deadly*, N.Y. Times (Oct. 31, 2021), <https://www.nytimes.com/2021/10/31/us/police-traffic-stops-killings.html>.

¹⁵ Marie Pryor et al., *Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities*, Ctr. for Policing Equity, at 7, https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf (last visited Mar. 28, 2023).

¹⁶ *Stop-And-Frisk Data*, NYCLU, [https://www.nyclu.org/en/stop-and-frisk-data#:~:text=Since%202013%2C%20the%20arrest%20rate,overall%20stops%20has%20decreased%20significantly.&text=According%20to%20the%20NYPD's%20Annual,were%20innocent%20\(61%20percent\)](https://www.nyclu.org/en/stop-and-frisk-data#:~:text=Since%202013%2C%20the%20arrest%20rate,overall%20stops%20has%20decreased%20significantly.&text=According%20to%20the%20NYPD's%20Annual,were%20innocent%20(61%20percent)) (last visited Mar. 28, 2023).

despite being less than a quarter of the population.¹⁷ A Department of Justice (DOJ) report on the Baltimore Police Department in 2016 found that officers “disproportionately stop African Americans; search them more frequently during these stops; and arrest them at rates that significantly exceed relevant benchmarks for criminal activity.”¹⁸ Racial disparities in stops, searches and/or arrests have likewise been found in major cities like Los Angeles,¹⁹ Chicago,²⁰ and Dallas,²¹ and, as discussed above, nationwide studies of traffic stops have found that Black drivers are stopped on average more often than White drivers.²² Racial disparities in summonses and citations have similarly been found in various localities as well.²³ Stops, searches, citations, summonses, and arrests are highly impactful interactions that can leave lasting effects on a person regardless of whether charges are ultimately brought against them. Every jurisdiction must track the demographics of these interactions, as well as the rationale and outcome of these interactions, in order to identify racial disparities and craft equitable solutions.

Data collection on use of force is also necessary. Unarmed Black people are disparately impacted by both lethal and non-lethal use of force, and Black people are killed by police at a higher rate than their White counterparts.²⁴ In California, Black people are about three times more likely to be seriously injured, shot, or killed by the police.²⁵ In Chicago, police were found to use force, and use higher levels of force, disproportionately against Black people.²⁶ Other vulnerable communities are impacted by disparate use of force as well. People with serious mental illness are

¹⁷ Bill Hutchinson, *Blacks Account for Nearly Half of All NYC Arrests 6 Years After the End of Stop-And-Frisk: NYPD Data*, ABC News (June 30, 2020), <https://abcnews.go.com/US/blacks-account-half-nyc-arrests-years-end-stop/story?id=71412485>; *QuickFacts: New York City, New York*, U.S. Census Bureau, <https://www.census.gov/quickfacts/newyorkcitynewyork> (last visited Mar. 28, 2023).

¹⁸ U.S. Dep’t of Just. C.R. Div., *Investigation of the Baltimore City Police Department*, at 47 (2016), <https://www.justice.gov/opa/file/883366/download>.

¹⁹ Carlos Granda & Grace Manthey, *Data Analysis Shows Racial Disparity in Police Stops in Recent Years by Los Angeles Law Enforcement*, ABC7 Los Angeles (Sept. 8, 2020), <https://abc7.com/lapd-lasd-racial-disparities-police-stops/6414103/>.

²⁰ William Marback & Nathaniel Wackman, *Report on Race-and-Ethnicity-Based Disparities in the Chicago Police Department’s Use of Force*, City of Chi. Off. of Inspector Gen., at 31 (Mar. 1, 2022), <https://igchicago.org/wp-content/uploads/2022/02/Use-of-Force-Disparities-Report.pdf>.

²¹ *Public Safety in Dallas: An Analysis of Racial Disparities in Low-Level Arrests*, The Leadership Conf. on Civ. and Hum. Rts., <https://dallascityhall.com/departments/office-of-community-police-oversight/DCH%20Documents/FINAL%20Misdemeanor%20Report.pdf> (last visited Mar. 28, 2023).

²² Emma Pierson et al., *A Large-Scale Analysis of Racial Disparities in Police Stops Across the United States*, 4 Nat. Human Behavior 736, 737 (Mar. 13, 2019); U.S. Dep’t of Just. Bureau of Just. Stat., *Special Report: Contacts Between Police and the Public, 2015* (2018), <https://bjs.ojp.gov/content/pub/pdf/cpp15.pdf>.

²³ See, e.g., *UNFAIR: Disparities in Fare Evasion Enforcement by Metro Police*, Wash. Lawyer’s Cmt., https://www.washlaw.org/pdf/2018_09_13_unfair_disparity_fair_evasion_enforcement_report.PDF (finding that 91 percent of Metro Police citations were issued to Black people); U.S. Dep’t of Just. COPS Div., *An Examination of Racial Disparities in Bicycle Stops and Citations Made by the Tampa Police Department*, at 2 (2016), <https://cops.usdoj.gov/RIC/Publications/cops-w0801-pub.pdf> (finding stark racial disparities in bicycle law enforcement); Nate Foster, *2019 ACPD Arrests and Traffic Citation Demographics*, Arlington Police Dep’t, at 10 (2020), <https://www.arlingtonva.us/files/sharedassets/public/police/documents/acpd-2019-arrests-and-traffic-citations-demographic-elements-and-letter-to-the-community.pdf> (showing Black people comprise 28.5 percent of citations, while they are approximately 10 percent of the population).

²⁴ Cody T. Ross et al., *Racial Disparities in Police Use of Deadly Force Against Unarmed Individuals Persist After Appropriately Benchmarking Shooting Data on Violent Crimes*, 12(3) Soc. Psych and Personality Scis. 323, 323 (2021).

²⁵ Deepak Premkumar et al., *Police Use of Force and Misconduct in California*, Pub. Pol’y Inst. of Cal. (Oct. 2021), <https://www.ppic.org/publication/police-use-of-force-and-misconduct-in-california/>.

²⁶ Marback & Wackman, *supra* note 20, at 40.

11.6 times more likely to experience use of force than others,²⁷ and Native Americans are killed in police encounters at a higher rate than any other racial or ethnic group.²⁸ The path toward racial equity and public safety begins with understanding the disproportionate toll that police violence takes on certain communities. Accordingly, these data sets—which must include information about demographics, justification, type of force, and extent of injury—should be collected and published in every jurisdiction.

Policing technologies risk violating the same rights as traditional enforcement activity, such as stops, searches, citations, summonses, arrests and use of force, and it is important for the public to know how these tools are deployed in their communities. As noted by a number of legal and civil rights organizations, these technologies have a unique ability to track a person’s location, their political views, their social lives, and much more, often without their knowledge or consent.²⁹ Furthermore, the use of algorithmic and predictive policing technology often categorizes entire swaths of communities as criminally inclined, including people who have not committed any crime.³⁰ The public is entitled to know what technologies are being used by their police forces, and data should be made publicly available in every jurisdiction about the type of technologies deployed, as well as the size, scope and location of those programs and demographic information about people who are impacted or surveilled.

To increase the likelihood of public access, data regarding law enforcement stops, searches, citations, summonses, arrests, uses of force, and uses of surveillance technologies should be stored and managed outside of law enforcement agencies, by public agencies whose mission includes transparency or by independent third-party organizations such as universities.

c. Statistics regarding the policing of protests should be routinely collected and disseminated.

Police responses to protests raise special and serious concerns, and data on this issue should be collected and published as well. The use of mass arrests and force at demonstrations can have a chilling effect on the free exercise of First Amendment rights, both for people engaging in protest and those who are considering participating in this constitutionally protected activity.³¹ Unfortunately, there is a long history of police engaging in these unduly aggressive tactics, which continues to this day. In 2020, racial justice demonstrations all over the country were met with police aggression. To name just two examples, in New York City, the NYPD used violent and aggressive tactics like arrests, kettling, and use of force,³² while in Portland, Oregon, there were

²⁷ Ayobami Laniyonu & Phillip Atiba Goff, *Measuring Disparities in Police Use of Force and Injury Among Persons with Serious Mental Illness*, 21 BMC Psychiatry 1, 6 (2021).

²⁸ Elise Hansen, *The Forgotten Minority in Police Shootings*, CNN (Nov. 13, 2017), <https://www.cnn.com/2017/11/10/us/native-lives-matter/index.html>.

²⁹ *Privacy Laws: Fourth Amendment Background*, Elec. Priv. Info. Ctr., <https://epic.org/issues/privacy-laws/fourth-amendment/#:~:text=The%20Fourth%20Amendment%20to%20the,effects%2C%20including%20their%20electronic%20data>; Laura Hecht-Felella, *The Fourth Amendment in the Digital Age*, The Brennan Ctr. (Mar. 18, 2021), <https://www.brennancenter.org/our-work/policy-solutions/fourth-amendment-digital-age>.

³⁰ Johana Bhuiyan, *LAPD Ended Predictive Policing Programs Amid Public Outcry. A New Effort Shares Many of Their Flaws*, The Guardian (Nov. 8, 2021), <https://www.theguardian.com/us-news/2021/nov/07/lapd-predictive-policing-surveillance-reform>.

³¹ See Alicia D'Addario, *Policing Protest: Protecting Dissent and Preventing Violence Through First and Fourth Amendment Law*, 31 N.Y.U. Rev. L. & Soc. Change 97, 108-10 (2006).

³² Ali Watkins, *An Unprepared N.Y.P.D. Badly Mishandled Floyd Protests, Watchdog Says*, N.Y. Times (Dec. 18, 2020), <https://www.nytimes.com/2020/12/18/nyregion/nypd-george-floyd-protests.html>.

over 6,000 instances of police using force against protesters during demonstrations.³³ Given the constitutional implications of protest policing, departments should take special care to properly document and publish the arrests, force, and weapons used during these events. Furthermore, such data should be stored and made publicly available by non-law enforcement agencies to ensure transparency and accessibility to the public.

d. Data should be collected about prosecutorial and judicial decision-making.

As noted by the Prison Policy Initiative, “[s]ystemic racism is evident at every stage of the system, from policing to prosecutorial decisions, pretrial release processes, sentencing, correctional discipline, and even reentry.”³⁴ In order to remedy the racial disparities that exist across the criminal legal system, comprehensive data must be collected about prosecutorial and judicial decisions regarding diversion, bail, pretrial detention, plea bargaining, and sentencing, and this information should be stored and published by an independent agency or third-party entity.

There is a particular dearth of data related to prosecutorial discretion, charging decisions, and plea bargaining.³⁵ These are critical stages in the criminal legal process, and implicit and sometimes explicit racial bias may impact these decision points.³⁶ Jurisdictions should track and publicize de-identified data about every criminal case that it prosecutes, including demographic information, the initial charges cited by police, the ultimate charges levied by prosecutors, and whether the case was dismissed, pled out, or whether it went to trial.

Demographic data should also be collected on judicial decisions, such as pre-trial detention and sentencing. Existing data suggests that stark racial disparities pervade these areas as well. In large urban localities, Black people accused of felonies are 25 percent more likely to be held pretrial than White people,³⁷ which is particularly troubling in jurisdictions that impose bail, given the massive wealth gap between White and Black households.³⁸ Further, there is evidence that both Black and Latinx people are sentenced more harshly than their White counterparts, with particular disparities among young male populations and those charged with drug and property crimes.³⁹ Court systems should institutionalize data collection about these outcomes in order to identify the extent of racial disparities in judicial decision-making.

³³ Maxine Bernstein, *Portland Police Report 6,283 Uses of Force During Protests in 2020*, The Oregonian (Nov. 17, 2020), <https://www.oregonlive.com/crime/2020/11/portland-police-report-6283-uses-of-force-during-protests-in-2020-yet-consultant-found-significant-gaps-in-force-reports.html>.

³⁴ Wendy Sawyer, *Visualizing the Racial Disparities in Mass Incarceration*, Prison Pol’y Initiative (July 27, 2020), <https://www.prisonpolicy.org/blog/2020/07/27/disparities/>.

³⁵ See, e.g., Samuel R. Sommers & Satia A. Marotta, *Racial Disparities in Legal Outcomes: On Policing, Charging Decisions, and Criminal Trial Proceedings*, 1(1) Pol’y Insights from the Behavioral and Brain Sci. 103, 107 (2014); Robert J. Smith & Justin D. Levinson, *The Impact of Implicit Racial Bias on the Exercise of Prosecutorial Discretion*, 35(3) Seattle Univ. L. Rev. 795, 796, 822 (2012).

³⁶ Smith & Levinson, *supra* note 35, 822.

³⁷ *Race and Pretrial*, Nat’l Assoc. of Crim. Def. Laws. (Dec. 7, 2022), <https://www.nacdl.org/Content/RacialDisparityPretrial>.

³⁸ Colette Coleman, *Black and Latino Real Estate Developers Struggle to Get Funding*, N.Y. Times (Mar. 3, 2023), <https://www.nytimes.com/2023/03/03/realestate/real-estate-developers-black-latino.html>.

³⁹ Tushar Kansal, *Racial Disparity in Sentencing: A Review of the Literature*, The Sent’g Project, at 2 (2005), <https://www.opensocietyfoundations.org/uploads/764bf150-13d8-4330-b08b-b04ae313308f/disparity.pdf>.

II. Institutions outside of law enforcement, particularly public health agencies, should participate in data collection about the effects of police violence and incarceration (Question 11).

Scholars have increasingly called for police violence and mass incarceration to be recognized as public health crises.⁴⁰ Police violence implicates serious physical health concerns due to the injury and death it disproportionately inflicts on certain demographics, particularly young Black men.⁴¹ There is also “substantial and growing evidence that police violence exposure is associated with a broad range of mental health outcomes,”⁴² including psychological distress and depression,⁴³ anxiety and Post-Traumatic Stress Disorder (PTSD),⁴⁴ as well as greater risk of attempting suicide.⁴⁵ Incarceration also creates severe health consequences, as it heightens exposure to infectious diseases,⁴⁶ increases the risk of chronic illness such as hypertension, heart-related problems, diabetes, asthma, and stroke,⁴⁷ negatively impacts mental health,⁴⁸ and increases exposure to violence.⁴⁹ Because incarceration disproportionately impacts Black and Brown people, its “ill effects could be a significant contributor to racial health disparities.”⁵⁰

The administration recognized the public health consequences of police violence recently in Executive Order 14074 (EO).⁵¹ It requires the U.S. Department of Health and Human Services to conduct a “nationwide study of the community effects of use of force by law enforcement officers (whether lawful or unlawful) on physical, mental, and public health, including any disparate impacts on communities of color,” and to “publish a public report including these findings.”⁵² This evaluation and publication of the public health consequences of police violence should be institutionalized at the federal level, conducted periodically, and similar information

⁴⁰ Hannah Cooper, *Characterizing Perceived Police Violence Implications for Public Health*, 94(7) Am. J. Pub. Health 1109 (2004); *Addressing Law Enforcement Violence as a Public Health Issue*, Am. Pub. Health Assoc. (Nov. 13, 2018), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2019/01/29/law-enforcement-violence>; Sirry Alang et al., *Police Brutality and Black Health: Setting the Agenda for Public Health Scholars*, 107(5) Am. J. Pub. Health 662 (2017); Jordan DeVlyder et al., *Impact of Police Violence on Mental Health: A Theoretical Framework*, 110(11) Am. J. Pub. Health 1704, 1704 (2020).

⁴¹ Alang et al., *supra* note 40, at 662-63.

⁴² DeVlyder et al., *supra* note 40, at 1709.

⁴³ Jordan E. DeVlyder et al., *Prevalence, Demographic Variation and Psychological Correlates of Exposure to Police Victimization in Four US Cities*, 26(5) Epidemiology and Psychiatric Scis. 466 (2017).

⁴⁴ Jana L. Hirschstick et al., *Persistent and Aggressive Interactions with the Police: Potential Mental Health Implications*, 29 Epidemiology and Psychiatry Scis. 1, 2 (2020).

⁴⁵ Emily Widra, *No Escape: The Trauma of Witnessing Violence in Prison*, Prison Pol’y Initiative (Dec. 2, 2020), <https://www.prisonpolicy.org/blog/2020/12/02/witnessing-prison-violence/>.

⁴⁶ *Incarceration and Health: A Family Medicine Perspective*, Am. Acad. Family Physicians (2017), <https://www.aafp.org/about/policies/all/incarceration.html> (last accessed Mar. 28, 2023).

⁴⁷ *Advancing Public Health Interventions to Address the Harms of the Carceral System*, Am. Pub. Health Ass’n (Oct. 24, 2020), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2021/01/14/advancing-public-health-interventions-to-address-the-harms-of-the-carceral-system>.

⁴⁸ *Reducing the Harms of Incarceration*, Aspen Inst., at 8 (2022), <https://www.aspeninstitute.org/wp-content/uploads/2022/04/Incarceration-and-Health-TXT-FINAL.pdf>.

⁴⁹ Widra, *supra* note 45.

⁵⁰ Christopher Wildeman & Emily A. Wang, *Mass Incarceration, Public Health, and Widening Inequality in the USA*, 389 The Lancet 1464, 1470 (2017).

⁵¹ Exec. Order No. 14074, 87 Fed. Reg. 32945, 32953 (May 25, 2022),

⁵² *Id.*

should be collected, evaluated, and published by local and state public health agencies to spur local and state public health policy solutions to police violence.

These efforts could be made in conjunction with other non-police public institutions that are well-situated to collect such data, such as social services providers that may have an overlapping clientele. These efforts could also be carried out in partnership with universities that have adequate infrastructure to collect and publish data at the local or statewide level. Such research could help inform jurisdictions as they consider more effective and humane models of public safety, including alternative responders, restorative justice, mediation, and other dispute resolution programs.

III. Current models of law enforcement data collection (Question 2).

a. Several jurisdictions currently publish data on calls for service.

There are several, but not many, police agencies that publish data about all calls for emergency services that they receive. A *New York Times* analysis⁵³ found ten jurisdictions in which this information is publicly available: Baltimore, MD;⁵⁴ Cincinnati, OH;⁵⁵ Montgomery County, MD;⁵⁶ New Orleans, LA;⁵⁷ Sacramento, CA;⁵⁸ San Diego, CA;⁵⁹ Seattle, WA;⁶⁰ Phoenix, AZ;⁶¹ Chandler, AZ;⁶² and Tucson, AZ.⁶³

Open Baltimore, the city's open data portal, publishes extensive information about every call it receives. It includes, among other things, the date and time, a description (i.e., the reason for the call), its priority (high, medium, or low), the zip code, and other key data points.⁶⁴ The data does not, however, include a specific indicator of whether the call involves a person with disabilities or mental health considerations, which is something that should be included in any such data set. Baltimore does, however, separately publish data about 9-1-1 calls that are diverted to mental health resources.⁶⁵

⁵³ Asher & Horwitz, *supra* note 7.

⁵⁴ *Open Baltimore*, The City of Balt., <https://data.baltimorecity.gov/> (last visited Mar. 28, 2023).

⁵⁵ *PDI (Police Data Initiative) Police Calls for Service (CAD)*, City of Cincinnati, <https://data.chandlerpd.com/catalog/calls-for-service/> (last visited Mar. 28, 2023).

⁵⁶ *Police Dispatched Incidents*, dataMontgomery (Mar. 30, 2023), <https://data.montgomerycountymd.gov/Public-Safety/Police-Dispatched-Incidents/98cc-bc7d>.

⁵⁷ *Calls for Service 2022*, City of New Orleans Open Data, <https://data.nola.gov/Public-Safety-and-Preparedness/Calls-for-Service-2022/nci8-thrr/data> (last visited Mar. 28, 2023).

⁵⁸ *Data*, City of Sacramento, <https://data.cityofsacramento.org/search?collection=Dataset> (last visited Mar. 28, 2023).

⁵⁹ *Calls for Service*, San Diego Cnty. Sheriff's Dep't (Mar. 30, 2023), <https://callsforservice.sdsheriff.gov/>.

⁶⁰ *Seattle Police Dep't: Computer-Aided Dispatch Dashboard*, City of Seattle, <https://www.seattle.gov/police/information-and-data/data/computer-aided-dispatch-dashboard>. (last visited Mar. 28, 2023).

⁶¹ *Calls for Service*, City of Phx. (Mar. 30, 2023), <https://www.phoenixopendata.com/dataset/calls-for-service>.

⁶² *Calls for Service*, Chandler Police Dep't (Mar. 30, 2023), <https://data.chandlerpd.com/catalog/calls-for-service/>.

⁶³ *Tucson Police Calls for Service - Last 45 Days - Open Data*, City of Tucson (Sept. 18, 2018), <https://gisdata.tucsonaz.gov/datasets/cotgms::tucson-police-calls-for-service-last-45-days-open-data/about>.

⁶⁴ *Open Baltimore*, The City of Balt., <https://data.baltimorecity.gov/datasets/baltimore::911-calls-for-service-2023-through-present/explore> (last visited Mar. 28, 2023).

⁶⁵ *Open Baltimore*, The City of Balt., <https://data.baltimorecity.gov/datasets/baltimore::911-behavioral-health-diversion/explore> (last visited Mar. 28, 2023).

While Chandler, Arizona does not have the size or resources of a major city, it also manages to publicly post its call for service data.⁶⁶ In addition to the information provided by the Baltimore Police Department, Chandler also includes data about how the call for service was resolved. It also excludes, however, critical information about disability or mental health issues that might be implicated by the call.

b. Portland serves as a useful, but imperfect model for use of force data collection.

The Portland Police Bureau publishes data on use of force, and includes many, but not all, of the data points we have called for in Section I, above.⁶⁷ The city's interactive tool allows browsers to refine searches by demographic information, the type of force used, whether the subject of the force is unhoused or undergoing a mental health crisis, as well as a number of other important details. A glaring omission in this dataset, however, is that it does not include the extent of injury sustained, nor whether the subject of the force died.

c. California's Racial and Identity Profiling Act (RIPA) provides a model for collecting data about stops, searches, and arrests.

Enacted in 2018, RIPA requires law enforcement agencies to collect and publish data on police stops.⁶⁸ This model provides a promising example of stop reporting that should be emulated in other jurisdictions. RIPA requires officers to report the following:⁶⁹

- Date, time and duration of stop.
- Location of stop.
- Perceived race or ethnicity of person stopped.
- Perceived gender of person stopped.
- Perceived sexual identity of person stopped.
- Perceived age of person stopped.
- English fluency of person stopped.
- Perceived or known disability of person stopped.
- Reason for stop.
- Whether the stop was made in response to a call for service.
- Actions taken by the officer during stop (including, *inter alia*, detention, use of force, type of force, a search, and the basis for searching).
- Result of stop.
- Officer identification number.
- Officer's years of experience.
- Type of assignment of officer.

⁶⁶ Chandler Police Dep't Open Data, *supra* note 62.

⁶⁷ *Use of Force Report*, City of Portland, <https://www.portlandoregon.gov/police/76875> (last visited Mar. 28, 2023).

⁶⁸ *Racial and Identity Profiling Act (RIPA)*, Cal. Comm'n on Peace Officer Training and Standards, <https://post.ca.gov/Racial-and-Identity-Profiling-Act> (last visited Mar. 28, 2023).

⁶⁹ Cal. Code Regs. tit. 11, § 999.226, available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-final-text-110717.pdf>.

These data points reflect many of the items we call for in Section I, above. Indeed, data collected after the passage of RIPA has revealed racial disparities in searches and arrests for Black Californians, and it has allowed researchers to quantify the real-world effects of police reform measures.⁷⁰ We note, however, that RIPA excludes the important data point of whether the interaction resulted in death or injury, including the extent of injury. If such information were included, this statute could serve as an example for other jurisdictions to follow.

* * *

The racial inequities in our policing, public safety, and criminal legal systems require urgent solutions to be implemented at the state and local level. These efforts must be informed by comprehensive data reflecting the harms that Black and Brown communities experience every day. We appreciate this opportunity to provide feedback on the kind of data collection we hope to see in jurisdictions across the country. Please do not hesitate to contact David Moss, Legal Fellow at the Justice in Public Safety Project, at dross@naacpldf.org, or Puneet Cheema, Manager of the Justice in Public Safety Project, at pcheema@naacpldf.org, to discuss these issues further.

Sincerely,



Puneet Cheema
Manager, Justice in Public Safety Project
NAACP Legal Defense and
Educational Fund, Inc.

⁷⁰ Magnus Lofstrom et al., *Policy Brief: Racial Disparities in Law Enforcement Stops*, Pub. Pol’y Inst. Of Cal. (Oct. 2021), <https://www.ppic.org/publication/policy-brief-racial-disparities-in-law-enforcement-stops/>.