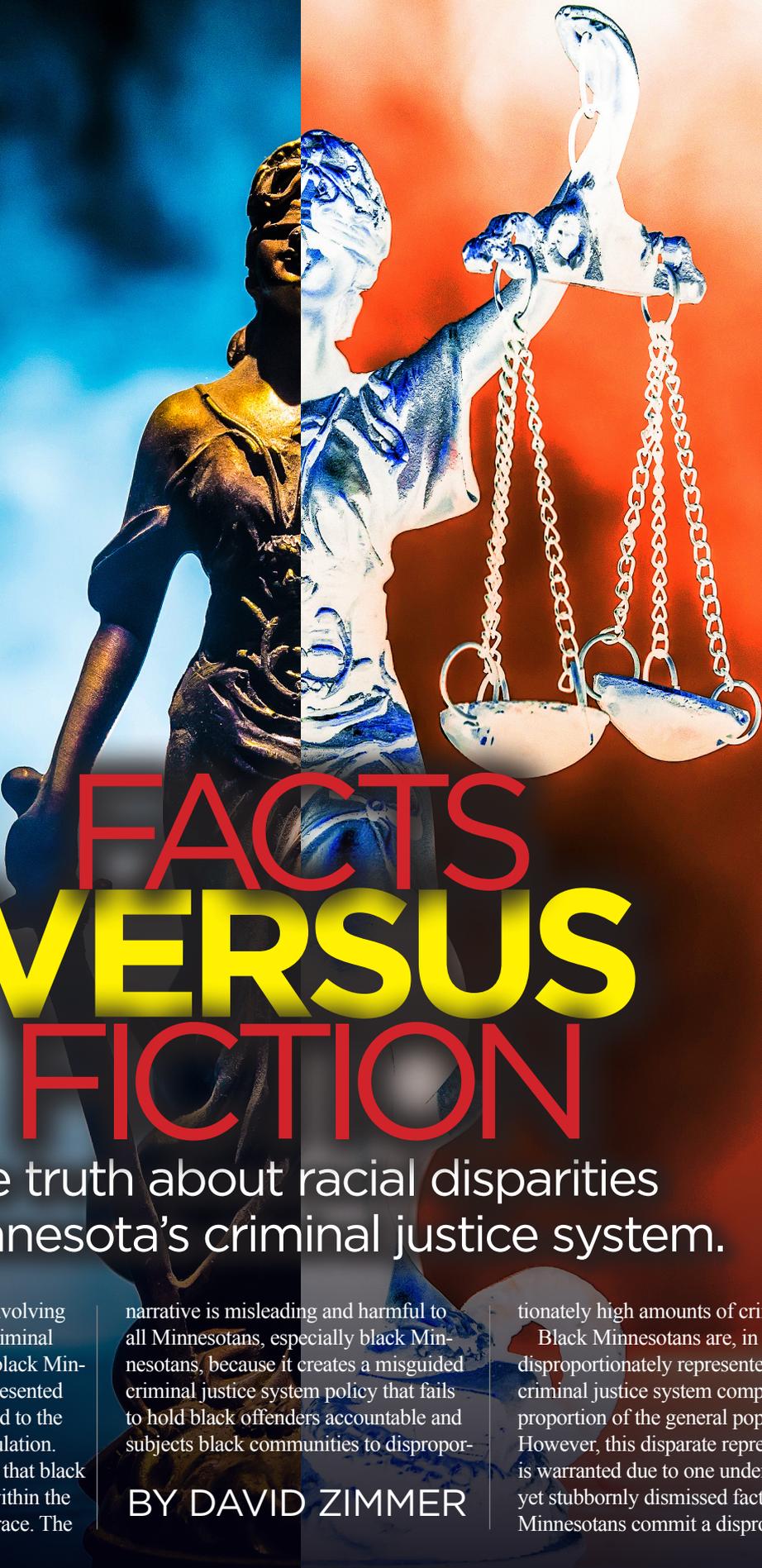


≡ CRIMINAL
JUSTICE



FACTS VERSUS FICTION

The truth about racial disparities
in Minnesota's criminal justice system.

The persistent refrain involving race in Minnesota's criminal justice system is that black Minnesotans are over-represented throughout the system compared to the same cohort in the general population. This common narrative implies that black people are treated disparately within the system for no other reason but race. The

narrative is misleading and harmful to all Minnesotans, especially black Minnesotans, because it creates a misguided criminal justice system policy that fails to hold black offenders accountable and subjects black communities to dispropor-

BY DAVID ZIMMER

tionately high amounts of crime.

Black Minnesotans are, in fact, disproportionately represented in the criminal justice system compared to their proportion of the general population. However, this disparate representation is warranted due to one undeniable yet stubbornly dismissed fact: black Minnesotans commit a disproportionate

amount of crime, especially serious crimes likely to result in incarceration. This fact is critical to acknowledge if a serious, fact-based evaluation of current criminal justice system disparities is to take place.

The data shows that blacks represent nine times more criminal offenders overall and 10 times more serious offenders than whites. If the system was systemically racist and the system practitioners were individually biased, those ratios would worsen for blacks at each subsequent stage of the criminal justice system. But they don't — and it isn't close. In direct conflict with the prevailing narrative, the disparities that follow criminal offenders through the system are frequently more favorable to black offenders and less favorable to white offenders.

Policymakers seem content to parrot the established narrative that unfair racial disparities exist and therefore, must be unwarranted. As a result, they continue to develop policies aimed at correcting problems that often don't exist. Policies built around the narrative of “unwarranted racial disparities” deflect attention and resources away from real problems, such as what drives the disproportionate levels of criminal offending in the black community.

Solutions to address racial disparities that exist *inside* the criminal justice system must focus on the causes of crime that exist *outside* the system.

Misleading definition of racial disparities

According to the Department of Justice, “‘Racial disparity’ is defined as existing in the *criminal justice system* when the ‘proportion of a racial/ethnic group within the control of the system is greater than the proportion of such groups in the *general population*.’” [Emphasis added.]

The use of the *general population* rather than the *offender population* as the denominator in this calculation is misleading. It creates a narrative that unwarranted racial disparities are pervasive throughout the criminal justice system, and that the system must rectify this injustice through policies designed

to treat offenders differently based on their race. Such a narrative has become foundational to nearly all criminal justice system policy development. If the narrative is based on misleading representations of the data, as this analysis contends, then the narrative represents a significant problem.

It is mathematically impeccable to divide the number of adult black Minnesotans in prison by the number of adult black Minnesotans in the general population and come up with a sum. The result of that mathematical calculation indicates black adult Minnesotans are incarcerated 9.6 times more than white

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adult Minnesotans. That calculation is technically accurate and the disparity it reflects should be something of profound societal interest to eliminate. However, this calculation is not helpful in determining whether the *criminal justice system* is responsible for creating or exacerbating the disparity. Unfortunately, the disparity is regularly relied upon as the basis for creating criminal justice system policies that treat criminal offenders differently based on race.

A more relevant evaluation of disparities *within* the criminal justice system comes by comparing the proportion of a racial group within the control of the system to the *offender population*, not the *general population*. Eighty-five percent of black and 98 percent of white Minnesotans are law-abiding citizens. Using these general

population sets as the denominator in the computation of criminal justice system racial disparities lead to misleading conclusions and misguided responses. It suggests the criminal justice system is unjustly plucking law-abiding citizens off the street, placing them in the system, and treating them disparately, all based on race. The narrative this creates undermines the criminal justice system, making it less effective and ultimately making all Minnesotans less safe.

Methodology

This analysis follows black and white adult serious offender data sets (those most likely to go to prison) through the criminal justice system in 2021, as this is the most frequent comparison made in terms of racial disparities.

It also represents a unique examination of criminal justice system data — offender data by race. The Minnesota Bureau of Criminal Apprehension (BCA) began collecting and reporting this data for the first time in 2021. This new data allows for a more accurate determination of how the system is operating by using *offender* rather than *general population* data sets. Previous efforts have either used large *general population* data sets or relied on *arrestee population data sets* (which are a less complete reflection of criminal activity, and which are arguably more susceptible to law enforcement bias).

A significant source of *offender* identification comes from offender descriptions provided by victims, witnesses, and reporting parties of crime, leading to a more reliable and unbiased data set than traditional *arrestee* data sets.

This analysis followed offenders through each step of the system to provide ample opportunity at a variety of points to evaluate whether unwarranted disparities existed or were developed.

This analysis compared *offender data* against:

- 1) 2021 U.S. Census Bureau data for adult Minnesotans, as used by the Minnesota Department of Corrections (DOC);
- 2) 2021 adult arrest data held by the Minnesota BCA;

- 3) 2021 charging data held by the Minnesota District Courts;
- 4) 2021 sentencing and incarceration data held by the Minnesota Sentencing Guidelines Commission; and
- 5) Imprisonment data for the end of 2022, held and reported by the Minnesota DOC on January 1, 2023.

The data Offenders

Offender identification represents activity at the earliest stage of the criminal justice system. The offender's race is collected when victims, witnesses, or reporting parties contact the police to report a crime.

Using offender identification data allows for a more meaningful and relevant comparison with the subsequent criminal justice system action: arrests, charges, sentences, and incarceration.

Despite representing just seven percent of Minnesota's adult population, blacks represent 27 percent of all criminal offenders.

For all offenses tracked by the BCA in 2021, blacks were nine times more likely to be criminal offenders than whites on a per capita basis.

Offender disparity became even greater as the seriousness of criminal offenses increased. For example, blacks were 10 times more likely to be serious crime offenders, 50 times more likely to be murder offenders, and 107 times more likely to be robbery offenders than whites, per capita.

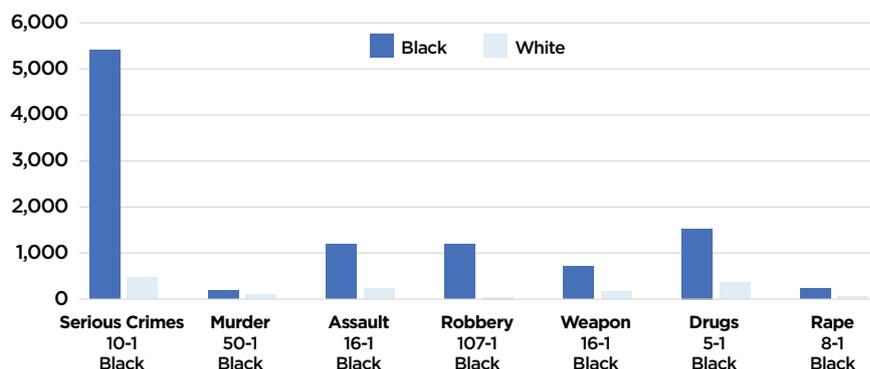
If the criminal justice system were operating in a biased and systemically racist manner, it would stand to reason that these ratios would worsen for black offenders as they moved through each stage of the system. That isn't what the data shows. In fact, the disparities in arrest, charging, and incarceration rates consistently *disfavored whites* throughout each stage of the criminal justice system.

Arrests

Dramatically, the racial disparities in the offender category flipped in the arrest category. In 2021, white offenders in Minnesota were 1.7 times more likely to be arrested for all crimes than black offenders. The disparity of arrests disfavoring white offenders was

Minnesota Adult Criminal Offenders – 2021

Ratio Derived from Rate of Offenders per 100,000 Population



Source: Minnesota Bureau of Criminal Apprehension, Crime Data Explorer

consistent across nearly all crimes, with one notable exception: weapon crimes. Here, black offenders were 1.3 times more likely to be arrested than white offenders. This disparity likely reflects the level of gun violence in Minnesota's black communities and the resulting increased law enforcement response in those areas.

When comparing serious crime arrests, white offenders were 1.6 times more likely to be arrested than black offenders. This disparity was most pronounced in the rate of robbery arrests, where white offenders were three times more likely to be arrested than black offenders.

Notably, drug arrests, which are often the result of proactive police activity and arguably more susceptible to police bias, were also more likely to *disfavor* white offenders by a factor of 1.2.

Charges

The ratio of criminal charges continued favoring black offenders and disfavoring white offenders in 2021. White offenders were 1.8 times more likely to be charged with a serious offense than black offenders and outpaced black offenders

in each category except for weapon offense charges. White offenders were nearly twice as likely to be charged with murder.

Sentencing

The pattern of disparities favoring black offenders and disfavoring white offenders continued at sentencing. In 2021, Minnesota District Courts pronounced *felony* sentences on 14,429 offenders. Of those sentenced, 8,217 were white offenders and 3,684 were black offenders. Not all felony sentences resulted in prison or local confinement. In terms of pronounced *prison* sentences, there were a total of 1,561 white and 871 black offenders who received prison sentences in 2021.

As a ratio of serious offenders (those crimes most likely to result in a prison sentence), white serious offenders were 1.5 times more likely to receive a pronounced prison sentence than black serious offenders.

Of the crime categories listed, white serious offenders had a higher ratio in all categories except weapon and assault-related sentences. Black assault and



David Zimmer is Center of the American Experiment's policy fellow for criminal justice and public safety. Zimmer served 33 years in local law enforcement with the Hennepin County Sheriff's Office, retiring as a Captain. During his law enforcement career, he served as a deputy and a supervisor in areas including the Jail, Courts, Patrol/Water Patrol, Investigations, and Tactical Command.

weapons offenders were each 1.1 times more likely to receive a pronounced prison sentence.

White robbery offenders were 3.7 times more likely to receive a pronounced prison sentence than black robbery offenders.

The sentencing stage also continued to negate the prevailing narrative of biased enforcement and prosecution of drug crimes in Minnesota. White drug offenders were two times more likely to receive a *pronounced prison sentence* (a prison sentence imposed by the court) than black drug offenders.

White serious offenders received a presumptive prison commitment 1.4 times more often than black serious offenders. The ratio of actual prison commitments increased to 1.5 to 1, which is consistent with the ratio of pronounced prison sentences for serious offenders charged that disfavors white offenders.

Judicial departures from the sentencing guidelines were also analyzed. Downward dispositional departures (prison or not) were nearly identical between black and white offenders being sentenced, while downward durational departures (length of time reduced) favored black offenders 1.66 to 1.

Incarceration

The analysis looked at the rate of serious offenders who received some

form of incarceration as a result of their conviction. The categories included rates of local incarceration in a jail or workhouse, state prison incarceration, and total incarceration. White serious offenders were more likely to receive incarceration in all forms: 2.1-to-1 local incarceration, 1.5-to-1 state prison, and 1.9-to-1 total incarceration.

In the final analysis, a comparison was made between the ratio of black to white as “offenders” and as “prisoners” (as reported by the DOC at the end of 2022). The 10-to-1, black-to-white ratio for serious offenders (those most likely to receive a prison sentence) nearly mirrored the 9.6-to-1 ratio of actual prison inmates — demonstrating that the criminal justice system is *not* creating disparate outcomes adversely affecting black offenders, and in most cases is actually harsher of white offenders throughout each stage.

Victims

Given the disparate levels of crime committed by black offenders in the black community, black Minnesotans are tragically victimized at disproportionate levels as well.

Analysis of Minnesota’s 2021 crime victims shows that black Minnesotans were 9.5 times more likely than white Minnesotans to be victims of serious crimes (murder, aggravated assault, robbery, burglary, and rape).

It is precisely the findings in this victim analysis that emphasize the damage done to the black community when we gut accountability in a misguided effort to address “disparities.”

Conclusion

The narrative of unwarranted racial disparities in Minnesota’s criminal justice system is well entrenched. As a result, nearly all criminal justice system policy development starts with the false premise that the system unfairly treats black Minnesotans, starting with enforcement and continuing on through charging, sentencing, and incarceration.

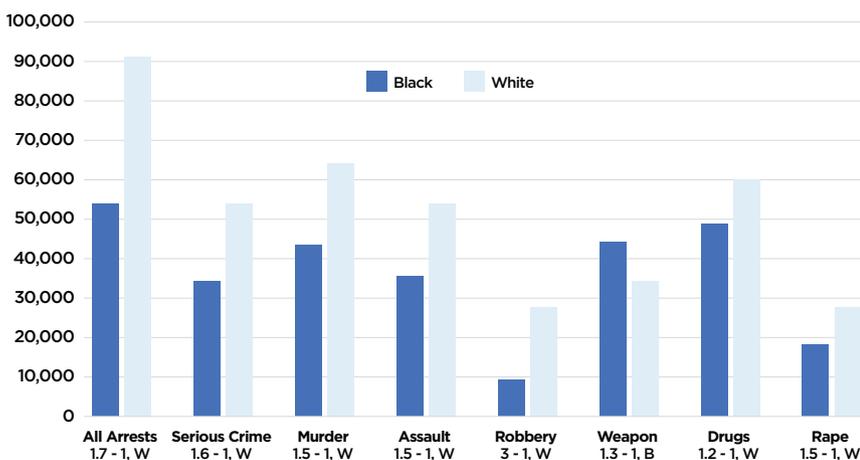
This misleading premise perpetuates policy developments that will likely *exacerbate* racial disparities by failing to hold black offenders accountable and subjecting black communities to disproportionately high amounts of crime.

If the criminal justice system were truly treating black Minnesotans unjustly, then the 10-to-1, black-to-white offender ratio for serious offenses would worsen as black offenders traversed through the system. However, the data shows that not only did the ratio *not* worsen, in most examples the ratios flipped to *favor* black offenders over white offenders.

Attention and resources applied toward criminal justice system policy “reform” would be far more helpful if they were applied toward the drivers of crime: broken families, poor quality education, low-employment levels, and low-homeownership rates, to name a few. This represents a long-term effort that should be implemented in concert with, not in place of, short-term efforts — ensuring swift and sure enforcement and prosecution of criminal offenders.

It is time for policymakers to recognize that Minnesota’s criminal justice system is not creating unwarranted disparities disfavoring black offenders. Altering the system to favor black offenders is a misguided effort — one that will continue to derail, delay, and underfund efforts to address the social disparities that arguably lead to a disproportionate amount of black criminal offenders. ★

Minnesota Adult Arrests – 2021
Ratios Derived from Rate of Applicable Offender Sets



Source: Minnesota Bureau of Criminal Apprehension, Crime Data Explorer