



# Envisioning Safety: Community-Driven Prosecution Reform in Wyandotte County

## From the Director

The reform prosecution movement faces a critical moment. With the recent uptick in violent crime, reform prosecutors face unprecedented attacks and calls for a return to “tough-on-crime” tactics. Those attacks rest on the false belief that criminal legal system reforms endanger public safety. To sustain the movement, reform prosecutors must build the case that their approach will make communities safer, and the Vera Institute of Justice’s (Vera’s) Reshaping Prosecution initiative is well-positioned to help them do so.

Reshaping Prosecution works with prosecutors to build evidence that alternatives to incarceration offer a better path to safer communities. In doing that work, Vera centers race equity and emphasizes collaborating with communities because the path to solutions begins with the voices of those most proximate to the issues.

Vera’s partnership with Wyandotte County District Attorney (DA) Mark Dupree’s office from 2019 to 2022 represented a unique pilot to center marginalized voices in prosecution reform efforts. Vera provided its traditional quantitative analysis of racial inequities to highlight

opportunities for reform and supplemented that work with an innovative qualitative framework—Participatory Action Research (PAR). Following a PAR model, Vera trained community members on qualitative methods and worked with them as co-researchers to gather information from marginalized people on what they need to feel safe and how the DA can help. The work resulted in powerful anecdotes about the harms of the criminal legal system and findings illustrating how the DA can support change.

I am incredibly thankful to the community researchers who dedicated time to study qualitative methods and worked tirelessly to gather information from people impacted by the system. I am also thankful to DA Dupree, who took a chance on a new research approach because he is steadfastly committed to racial justice.

Thanks to this work, prosecutors have a model for learning from marginalized constituents, and DA Dupree has community-driven evidence to illustrate why reforms are needed for a safer Wyandotte County.

A handwritten signature in black ink, appearing to read 'Akhi'.

Akhi Johnson

Director, Reshaping Prosecution, Vera Institute of Justice

## FOREWORD FROM DISTRICT ATTORNEY MARK DUPREE

As the first Black district attorney elected in the State of Kansas, I have made it my mandate to lead the way for the prosecutors who serve under my leadership to do what is just for the victims and survivors of crimes, the people accused of them, and the community. All stakeholders that work within the criminal justice system have a moral and ethical obligation to ensure that every person, whether you are Black, brown, or broke—what I affectionately refer to as the three Bs—are treated the same by the criminal justice system. This obligation is especially imperative for prosecutors who have enormous and wide-yielding discretionary powers. A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. As fallible individuals, we sometimes unintentionally miss the mark. This is why I am grateful for the research of the Vera Institute of Justice that provides transparency on areas that need improvement.

I understand that, whether institutional or structural, racism has permeated the criminal justice system. A district attorney's office is but one of the many organizations that drive the criminal justice system and the inequalities that may exist. Judges, defense attorneys, probation officers, law enforcement officers, and others all impact the legal justice system. Although I have influence, there are certain areas that are not within my purview. But in the areas in which I can exercise my authority, I have made great strides. Upon taking office in 2018, I created the Conviction Integrity Unit (CIU), which was the first of its kind in the State of Kansas. The unit reviews prior convictions and, although we may not move to have every case reversed, every application to the CIU is reviewed. Together with the dedicated prosecutors who work alongside me, I firmly believe prosecution is about transparency, doing justice, and serving the community. As prosecutors, we must administer justice as we are a prosecutor for the entire community, and it is our job to do what is right. To that end, I have also advocated vigorously and successfully for a public defender's office in Wyandotte County and assisted in establishing a Veteran Court to extend further alternatives to incarceration.

Working with Vera was an enlightening experience and I firmly believe that the recommendations will guide our future policies and procedures for the betterment of *all* of Wyandotte County.

## **FOREWORD FROM COMMUNITY RESEARCHER NICHELLE BARTON**

Working with the Vera Institute of Justice and seven other community researchers was a great experience. Each researcher had a story to tell and a reason to become invested in this project. Although everyone's story was different, we all wanted the same thing: to see positive change in the place we call home.

Living in Wyandotte County for more than 40 years, I've had my fair share of encounters with the criminal legal system. My first encounter happened when I was 16 years old. I was practicing for the flag team outside on the school property. A patrol car stopped, and the officer told me that I couldn't be on the property. I didn't understand what I was doing wrong. It was only when my band director came and told them I had a right to be there that they left.

Another memorable encounter is when my husband and I moved back to this area from California. The police pulled us over after we exited the highway. The police officer said that he had pulled us over because my husband had crossed the solid white line coming off the exit. He then proceeded to ask my husband where we were coming from, where we were going, and who was that in the car with him. As soon as he asked this last question, I realized what the actual reason was for us having been pulled over. You see, my husband is white, and I am Black. In that moment, I felt demoralized.

There have been other interactions, but these will always be the most memorable for me.

Hopefully, the work we were able to do with Vera in Wyandotte County will inspire the change we seek. I know the connections made between our group and the community will continue. We are now invested in how this community thrives. One way to thrive would be to lift the weight of oppression being perpetrated by the criminal legal system and make our community safer and stronger.

## APPRECIATIONS

This report and its findings would not have been possible without the people of Wyandotte County, Kansas. We are deeply grateful to the eight community researchers who worked with the Vera team from spring 2021 through summer 2022 for their commitment to this project and their determination: Amber Adams, Nichelle Barton, Hanna Hochstetler, and Claudia Vallejo-Torres as well as youth researchers Destiny Johnson, Gohan Mendez, Shiy'ronne Selvy, and KaySee Than.

We would also like to thank the 20 community-based organizations (CBOs) that partnered with us throughout the duration of this project: Advocates for Immigrant Rights and Reconciliation (AIRR), Alive & Thrive, Care Beyond the Boulevard, Catholic Charities KS, Central Avenue Betterment Association (CABA), Community Health Council (CHC) (including We Are Wyandotte and WyCo Mutual Aid), Connections to Success, Cornerstones of Care, Cross-Lines Community Outreach, Economic Opportunity Foundation (EOF), El Centro, Groundwork NRG, Heartland 180, Kansas City Indian Center, KC Community Bail Fund, Latinx Education Collaborative, Made Men, MORE2, Reaching Out From Within, and ThrYve.

Dustin Hare and Kim Weaver have been incredibly generous with their time, connecting us with community members and offering invaluable ideas and reflections. Monica Mendez lent crucial guidance by facilitating the team's work with youth participants. Dr. Jomella Watson-Thompson and Josh Harsin of the Center for Community Health and Development at the University of Kansas have been steadfast thought partners in our research endeavors. Thanks to MORE2, and especially Marcus Winn, for their unwavering willingness to lend support. Max Mendoza has made space for the Vera team to learn more about programs supporting system-involved youth. During Vera's visit to Wyandotte County in May 2022, Edgar Galicia kindly provided the space for us and the community researchers to hold a public forum with the DA in the offices of the Central Avenue Betterment Association.

We appreciate the many staff members who worked on this project since its inception. We particularly thank former Veran Shiqueen Brown for helping us lift this project off the ground. Thank you to Sheeba Pawar and Stephen Roberts for their research contributions. Thank you also to Maya Kearney and Caitlin Yee for carefully reviewing this report; to Chanel Nejad for help with formatting; and to Aiden Cotter for assistance on the bail recommendation section. We thank Léon Digard, Jim Parsons, and Cindy Reed for their review and feedback; Elle Teshima for editing; Elizabeth Allen, Ariel Goldberg, Abbi Leman, and Maris Mapolski for editorial support; and Jessie Knuth for design. We are grateful to Arnold Ventures for its support of this project.

Finally, we want to extend our sincerest appreciation to the research participants who shared personal stories and insights from their experiences and interactions with the criminal legal system through focus groups, surveys, and interviews. To honor the stories of community members as valid and legitimate forms of knowledge with the power to inform policy changes, we want to add a note for consideration: the stories documented here do not belong to the researchers, to Vera, or to the district attorney's office, but to the very people who have entrusted us with them. We invite the reader to be cognizant and respectful of their authorship while reading this report.

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# Introduction

Vera's Reshaping Prosecution initiative works with reform-minded prosecutors and local communities to improve public safety by reducing incarceration, centering racial equity, and increasing collaboration with people impacted by the criminal legal system. Prosecutors have a wide range of discretion in making their decisions at many stages in a case—from charging and requests for detention and bail to plea bargaining and sentencing. Too often, these decisions, even if well-intentioned, can be harmful to communities, especially to communities of color and communities experiencing poverty.

The aim of Vera's work in Wyandotte County, Kansas, was to inform policy changes in the district attorney's office (DAO) that can reduce harmful impacts of the criminal legal system. As part of this work, the team looked at data from District Attorney Mark Dupree's office and the local jail to measure and describe racial and economic disparities in the system. But numbers can only tell part of the story. Vera believes that reforms in prosecution need to be community-centered and community-led. To this end, they thought it crucial to understand how the discretion of prosecutors affects people as individuals, families, and neighborhoods by speaking directly with community members who are most heavily impacted by the U.S. criminal legal system and hearing about their experiences and their visions for change. Aware of the potentially harmful nature of research involving vulnerable populations, Vera adopted a participatory action research (PAR) framework to ensure this work was inclusive, racially equitable, and sustainable.

In this report, the authors share their findings, derived from both quantitative and qualitative research activities, about the experiences of Black, Indigenous, and people of color (BIPOC), as well as members of under-resourced communities, with the criminal legal system in Wyandotte County. The findings overwhelmingly speak to long-standing legacies of racial discrimination and economic neglect and the continued impacts of those legacies today. Vera hopes that this work can inform changes in policies and practices within the DAO as well as encourage other system

stakeholders, such as judges, the police chief, commissioners, or mayor, to tackle issues under their purview. This report includes a list of recommendations that are directly informed by the voices of community members in Wyandotte County with the overall goals to (1) reduce racial disparities in prosecution; (2) curtail mass incarceration; and (3) build transparent relationships among local communities, the prosecutor's office, and other system stakeholders.

Finally, this report is also meant as a tool for impacted communities nationwide to use in their social change work. Because it is the nature of place-based work to be incomplete and social change work to be ever unfolding, the results presented here cannot fully encompass the whole range of challenges a community might face on its journey toward change. Yet, Vera hopes that this report can assist readers not just in identifying similar problems that their jurisdiction might be facing but also in finding potential solutions.

## Overview of Engagement

Mass incarceration's impact in the United States is crushing. In 2021, the national incarceration rate for adults held in prisons and jails was 827 people per 100,000 U.S. residents.<sup>1</sup> Kansas is slightly higher than the national, with an incarceration rate of 846 people per 100,000 residents.<sup>2</sup> Although this is the lowest the U.S. imprisonment rate has been since 1993, the United States is still exceeding all other founding NATO countries. In 2021, when the incarceration rates for all other founding NATO countries ranged from 33 to 129 people per 100,000 residents, the U.S. rate was 664 per 100,000 residents.<sup>3</sup>

Vera's work focused on Wyandotte County, Kansas, a large metro-suburban county with Kansas City as its largest city and population center.<sup>4</sup> In 2020, Kansas City accounted for 93 percent of the population of Wyandotte County, which is racially and ethnically diverse, with 22 percent of residents being Black, 28 percent Latino, and 41 percent white.<sup>5</sup> Although the average combined jail and prison incarceration rate across the state of Kansas was 969 people per 100,000 residents in 2019, the most recent year of data available for Wyandotte County, the average for Wyandotte County

was 1,330 per 100,000 residents, giving it an incarceration rate about 37 percent higher than the state as a whole.<sup>6</sup>

Disparities observed in incarceration trends can be correlated with discriminatory practices and policies spanning decades. For example, researchers at Ohio State University compared Kansas City redlining maps from the 1930s with present-day social determinants of health, such as age, poverty, race/ethnicity, linguistic proficiency, education, employment, disability, health insurance, and prison admissions/releases.<sup>7</sup> Redlining is a discriminatory housing practice that originated in lending markets of the 1930s, in which the federal government's Home Owners' Loan Corporation (HOLC) used real estate evaluations to assign grades to residential neighborhoods reflecting their "mortgage security" and visualizing them on color-coded maps.<sup>8</sup> Neighborhoods that received the lowest grade of "D" were outlined in red. These neighborhoods were considered "hazardous" to investment, and services were withheld from them and their mainly BIPOC residents with low incomes.<sup>9</sup> The data published by Ohio State University suggests that neighborhoods that have historically received low HOLC grades, and were subsequently neglected by economic investments, are currently most impacted by the criminal legal system.<sup>10</sup> These neighborhoods also have some of the greatest proportions of residents living in poverty, higher rates of unemployment, higher rates of populations without health insurance, and some of the lowest average ages at death in Wyandotte County.<sup>11</sup>

In the summer of 2019, DA Dupree contacted Vera for assistance in addressing racial inequities in Wyandotte County's criminal legal system by focusing on potential areas for reform in prosecution. In September 2019, Vera visited Wyandotte to assess the viability of an engagement with the DAO and determined that the office was committed to transparency and race equity. As DA Dupree remarked during the visit, "We can't fix the problem until we examine it, and we need to share data to start those conversations—even if the data shows that my office has contributed to the issue." In October 2019, Vera and the Wyandotte DAO began an official site engagement that focused on analyzing racial disparities and identifying reforms through qualitative research designed to uplift voices from Wyandotte County's marginalized communities.

# Research Activities

Vera's Wyandotte County research employed a mixed methods design consisting of quantitative analysis and qualitative participatory action research. Quantitative data came from the DA's case management system (CMS), the Wyandotte County Sheriff's Office administrative data, and the U.S. Census American Community Survey. Qualitative data came from focus groups, surveys, and interviews conducted between July 2021 and March 2022.

## QUANTITATIVE ANALYSIS

In Wyandotte County, Vera researchers analyzed data from the DA's case management system to produce descriptive statistics regarding case referrals, case filings, pretrial detention, and racial disparities. The research team focused particularly on the cumulative effects of prosecutorial decisions at various stages of case processing and on how prosecutorial discretion may differently affect white people and Black people or other people of color.

Vera researchers extracted individual case-level data from the Wyandotte DAO's CMS for a total of 11,457 criminal cases received or disposed from 2015 to 2019.<sup>12</sup> The CMS houses information about people the office charges with crimes and their cases, including demographics, case type, home address, types of charges, and sentencing outcomes. Researchers linked CMS case records to publicly available jail incarceration data from the Wyandotte County Sheriff's Department, matching people's names and dates of birth. They then overlaid geographical information from the U.S. Census American Community Survey five-year estimates from 2015 to 2019 at the tract and county level with data on historically redlined areas in the Greater Kansas City Region from the University of Richmond's Digital Scholarship Lab using home address information from the CMS.<sup>13</sup> Researchers generated descriptive statistics measuring differences in cases referred to the office and cases filed for people of different races or living in different neighborhoods of Wyandotte County.

Researchers also constructed demographic data on the people charged with crimes in Wyandotte County. Comprehensive race and ethnicity data is vital to understanding how the criminal legal system disproportionately impacts communities based on these characteristics. However, the quality and consistency of race and ethnicity data collected by state and local agencies varies greatly. The mislabeling of Latino people as white or other races in criminal legal data is especially common.<sup>14</sup> Such miscoding poses two large problems: first, it may severely undercount the impact of the criminal legal system on Latino people; and second, it may overstate the impact on other populations. One method of addressing these shortcomings of ethnicity data is to estimate a person's ethnicity based on their name. To minimize the chance that Latino people might be miscoded as white in the current analysis, the research team supplemented the ethnicity data in the Wyandotte CMS with information from an algorithm that predicts the ethnicity of people based on their first and last names to estimate a more accurate count.<sup>15</sup> Vera researchers created an adjusted ethnicity code for cases in which a person was coded as white and the algorithm predicted a greater than 50 percent likelihood that a person was Latino. Once the data was analyzable, researchers conducted descriptive analyses of various decision points in the life cycle of legal cases.

## **PARTICIPATORY ACTION RESEARCH**

For its qualitative research, the research team used focus groups, surveys, and interviews to document the perspectives of community members on how the criminal legal system impacts public safety in Wyandotte County. Researchers spoke to people who had a history of system involvement, as well as those adjacent to them, because the criminal legal system “affects all of us,” as one focus group participant put it. “Justice-involved [means] it is the family, our community, our neighbors,” they explained.

Between November 2021 and April 2022, researchers heard from 33 people who participated in focus groups, 126 people who responded to surveys, and 18 people who participated in one-on-one interviews. These community members shared their perceptions of

the operation and fairness of the criminal legal system in Wyandotte County; described how the system has affected individuals, families, and communities; and discussed their ideas for reform. This allowed researchers to understand the range of experiences system-impacted people (including survivors of crime) have, identify thematic trends and patterns, and pinpoint key areas of change. It also helped surface the complex cultural meanings different communities assign to concepts like safety and justice, which can diverge from how local decision-makers or researchers define them.

Despite the tremendous value of qualitative research for learning from impacted communities, such research has historically often been conducted in harmful ways; for example, by reinforcing existing stereotypes, normalizing experiences of racial oppression, or retraumatizing study participants through exploitative research practices.<sup>16</sup> As such, Vera chose to adopt a participatory action research (PAR) framework for the project in Wyandotte County.<sup>17</sup> This framework aims to undo the harms of conventional research in two main ways. First, it centers community knowledge, taking the premise that those closest to the problem are also those closest to the solution.<sup>18</sup> To this end, Vera partnered with 20 community-based organizations (CBOs) in Wyandotte County that helped the research team connect with community members to hear



DA Dupree welcomes guests to the public forum for CBOs in Wyandotte County in May 2021. Photo credit: Akhi Johnson, Vera Institute of Justice.

directly from them. Together with DA Dupree, Vera also hosted a public forum for partner CBOs to elevate what was learned from community members in policy discussions, which is an important step toward creating momentum for reform.

Second, PAR democratizes the research process.<sup>19</sup> By involving community members as co-researchers, research teams work *alongside* local communities instead of doing research *about* or *for* them. From February to April 2021, Vera staff trained eight community members, including four high school seniors, as co-researchers (also known as community researchers) to design and conduct research with the Vera team. The eight-week paid online training included segments on the history and ethics of research, qualitative and quantitative research methods, data visualization, and the power of prosecutors.<sup>20</sup>

Participants in all research activities were residents of Wyandotte County representing BIPOC communities and communities experiencing poverty more likely to be affected by the system.<sup>21</sup> The group of participants also included unhoused people, Spanish-speaking immigrants, and youth (ages 14–17). As is common in qualitative research, researchers worked with purposeful samples by collaborating with local partners to recruit research participants who had direct or adjacent experiences with the criminal legal system.<sup>22</sup> This allowed researchers to gather data from people closest to the issues at hand while demonstrating respect for existing community relations and establishing trust among research participants.<sup>23</sup>

## Findings

The results from the quantitative and qualitative research highlight stark racial and economic disparities in Wyandotte County for people entering and passing through the criminal legal system, which are compounded through referral, charging, and prosecution decisions. These disparities and their detrimental effects on the lives of many people in Wyandotte County are keenly felt in the community—and not just as affecting Black people but people of color generally as well as people experiencing poverty. Young people under the age of



18 who participated in the qualitative research shared perceptions of a system that is more punitive toward people of color like themselves than white people. As one youth focus group participant put it: “I don’t know how to say it, but to white people they’re not, they don’t treat them as they would minorities. They don’t give them the same sentences. I think they should try to . . . treat them the same.”

Research participants also noted how the criminal legal system, specifically policing, treated people experiencing poverty differently than others. One youth focus group participant pointed out that, in contrast to wealthier neighborhoods in Wyandotte County, there were “more police in [lower income] areas so that people [experiencing poverty] could go to jail more, knowing that some of those people can’t pay bond, don’t have the money or the lawyers to get out of jail for those crimes, and stuff like that.”

Vera’s mixed methods research highlights five areas in which racial and economic disparities manifest most visibly in the Wyandotte

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### “Black, brown, and broke”

In 2019, Black adults in Wyandotte County were almost twice as likely as white adults to have a criminal case referred to the DAO by law enforcement.<sup>24</sup> These disparities were more pronounced for criminal juvenile cases: in 2019, young Black people under the age of 18 were more than twice as likely to have a case referred to the DAO as white people under 18.<sup>25</sup>

Results from the quantitative analysis of data about Latino youth and adults were more varied. Office data suggests that, in 2019, Latino youth were about 30 percent less likely than white youth to be referred to the office; however, by using name matching, this ratio flipped and Latino youth became 30 percent more likely than white youth to be referred.<sup>26</sup> In contrast, Latino adults with or without name-based ethnicity adjustment were about half as likely as white people to be referred to the office.<sup>27</sup> Despite this, Latino adults still tended to face

higher median bond amounts and longer pretrial detention than white adults.<sup>28</sup>

Vera identified wealth gaps reflected in prosecution data as well. For example, neighborhoods with higher poverty rates in Wyandotte County tended to have higher rates of law enforcement case referrals to the DAO and higher prosecution rates.<sup>29</sup> The analysis classifies “people experiencing poverty” as people living in census tracts with reported median incomes in the bottom quartile of household incomes (\$11,000–\$34,818 annually) in Wyandotte County, a proxy for the charged person’s income.<sup>30</sup>

In Wyandotte County, Black and Latino people make up a disproportionately large share of people experiencing poverty.<sup>31</sup> At the same time, the criminal adult caseload disproportionately comes from neighborhoods in the lowest income quartile, regardless of race.

Despite holding only 12 percent of the white population, these neighborhoods contribute 29 percent of cases for white people.<sup>32</sup> Similarly, the lowest income quartile neighborhoods hold 39 percent of the total Black population of Wyandotte County but contribute 45 percent of cases for Black people.<sup>33</sup> Likewise, these

neighborhoods hold 34 percent of the Latino population but between 41 and 43 percent of all criminal adult cases received for Latino people, depending on whether calculations used CMS data alone or name-matched, algorithm-adjusted data, respectively.<sup>34</sup>

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County criminal legal system: (1) policing and non-public safety stops; (2) disparate use of bail/bond; (3) disparities in pretrial detention; (4) plea deals and lack of trust in protection of rights; and (5) race differences in charging. The recommendations in this report are based on these findings but focus on areas where the prosecutor has more influence.

## **POLICING AND NON-PUBLIC SAFETY STOPS**

System involvement typically starts with a police encounter, including for many survivors of crime, which is why most research participants spoke of policing in Wyandotte County. Eighty-nine percent of respondents to the survey, which purposefully sampled participants from under-resourced communities and communities of color that had been touched by the criminal legal system, indicated that, within the past five years, they or someone close to them have had direct interactions with the police. Only 11 percent had not.

The survey data further revealed concerns about pretextual or non-public safety stops. These stops occur when police stop someone for a minor or non-safety-related infraction in hopes of discovering evidence that can lead to more serious charges. For example, one common form of pretextual stop is when an officer stops a driver for having expired registration tags and then asks to search the vehicle. Most police encounters that survey respondents experienced from 2017 to 2022 were due to traffic-related infractions, with 35 percent of all interactions having been for traffic violations and

27 percent for vehicle violations. Many survey participants felt that traffic stops occurred for trivial reasons, such as window tint, seatbelt violations, or improper lane changes. Others suggested that there was no real reason for the stop and that the police officer “came up with something” to justify the stop, as one survey respondent suggested. Respondents to the survey also indicated that they believed police stops to be justified only 25 percent of the time.

This perception mirrors the results of the quantitative analysis of all the criminal adult cases received by the Wyandotte County DA in 2019. Eight percent of criminal charges were related to a traffic stop that was not the top charge, potentially indicative of a pretextual stop.<sup>35</sup> The proportions are slightly higher for cases involving drug charges. Eleven percent of drug possession cases and 11 percent of drug selling cases contained a vehicular charge related to a traffic stop.<sup>36</sup> Categorizing pretextual traffic stops in this way revealed racial disparities that may reflect bias in policing.<sup>37</sup>

## **DISPARATE USE OF BAIL/BOND**

Research participants suggested that bail amounts were excessive and unfair in Wyandotte County or, as one focus group participant put it, “completely disproportionate and completely unrealistic.” Community members linked these disproportionate bail practices to racist motivations. Another participant in the same focus group stated, “You can see

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## **Community experiences of racial profiling**

During research, the team heard many stories of people who were stopped by police for what they described as low-level quality-of-life crimes or “petty things.” Some received a warning, a ticket, or a summons, whereas others had their property seized by police or were arrested following the stop. A quarter of survey respondents felt that the police were justified in stopping them, but 36 percent believed the police encounter occurred because of their race and that the official reason given for the police stop merely hid racial bias and racial profiling.

One survey respondent described the experience of a stop that resulted in a search of their car and a ticket:

I was followed by undercover officers. [The car was] searched by drug dogs who found absolutely nothing. All because I remained in my vehicle and my husband went into his brother’s house to drop off food. His brother lives on a street that had “suspected” drug traffic. We were profiled due to my husband being Black and I am white. We do not [have] nor have we ever had a drug problem. I was given a ticket for failure to use a turn signal, and my turn signal was on when I pulled over for the officer.

Survey respondents suggested that training for police officers in a variety of areas was key to reduce and prevent harm to communities. When asked to identify three top priorities for addressing harm, training about how to identify racial profiling was the most common choice among respondents (27 percent), followed by training in community relations (19 percent) and training about mental illness (16 percent).<sup>38</sup>

a white guy that gets a lower bond than a Black guy just because of . . . race. And I've seen white guys with a bigger record get a lower bond than a Black guy with the same charge.”

This perception is supported by the quantitative analysis, which shows racial disparities among those impacted by bail. In 2019, Black and Latino people had a median bond that was between \$5,000 and \$10,000 higher than the median bond for white people.<sup>39</sup> These differences in bond amounts could be attributed to a few different factors. One factor is that the most common charges referred against people varied by race.<sup>40</sup> For example, in 2019, Black people were disproportionately more likely to be charged with assault or battery, which is typically assessed a higher bond, and white people were disproportionately more likely to be charged with drug possession, which is typically assessed a lower bond.<sup>41</sup> Another factor is that different bonds may be set for different people who are facing the same or similar charges. For example, for assault or battery cases overall, the median bond assessed to Black people was \$25,000, whereas the median bond assessed to white people was \$20,000. Median bonds for drug charges were the same for Black and white people.

Existing bail practice also disproportionately affected people from neighborhoods with lower median household incomes. (See Figure 1.) People from neighborhoods in the lowest income quartile faced median bond amounts that in some areas exceeded the median annual household income. These neighborhoods have median incomes ranging from \$11,000 to \$34,818 annually. In 2019, the median bond for cases with bond set from these neighborhoods was \$20,000. Fifty-nine percent of cases had a bond higher than \$11,000, and 21 percent had a bond higher than \$34,818. Researchers observed comparable differences based partly, but not completely, on differences in charges.

Furthermore, race and household income intersect in Wyandotte County to produce potentially disparate outcomes. Many parts of Wyandotte County where the majority of the population is Black

**People from neighborhoods in the lowest income quartile faced median bond amounts that in some areas exceeded the median annual household income.**

**Figure 1. Wyandotte County median bond amounts per case, by neighborhood income quantile**

Percentile	Median Bond
75–100th	\$15,000
50–74.99th	\$10,000
25–49.99th	\$10,000
0–24.99th	\$15,000
Homeless	\$10,000

**Figure 2. Wyandotte County median bond amounts for Black, white, and Latino people, by median household income**

	Median Household Income	Median Bond
Black	\$39,585	\$20,000
Latino	\$50,023	\$25,000
White	\$59,339	\$10,000

Source: U.S. Census Bureau, “ACS Summary File Sequence-Based Format (2005–2021),” database (Washington, DC: U.S. Census Bureau) (documents retrieved include 2015–2018 American Community Survey 5-year estimates), <https://www.census.gov/programs-surveys/acs/data/summary-file/sequence-based.2015.html#list-tab-LKN4L9A3VGA3S730XZ>.

also have lower median household incomes. Additionally, Black people overall throughout the county tend to have lower median household incomes, suggesting that even when Black and white people face equal bonds, there may be a greater likelihood of a disparate impact. (See Figure 2.)

A person’s inability to pay high bail amounts often comes with onerous consequences. Forty-six percent of survey respondents reported that they were unable to pay bail in the past. This resulted in either debt, for those who had to borrow money to pay the bail, or time spent in jail, for those who were unable to afford to pay bail. Those who were detained because of their inability to pay often faced job loss, inability to care for children, and/or debt.

## DISPARITIES IN PRETRIAL DETENTION

Inability to pay bail can also result in extended periods of time spent in jail before a case is resolved. This points to poverty as a risk factor for incarceration. One focus group participant described this situation as “a revolving door.” In 2019, at least 75 percent of all people in Wyandotte County with a criminal adult case were detained at some point pretrial.<sup>42</sup> Pretrial detention disproportionately impacted Black people, who were more than twice as likely to be arrested and detained as white people.<sup>43</sup>

Among those who served any time before their sentencing or case dismissal, the median length of time spent detained, which is also referred to as pretrial length of stay (PT LOS), was 60 days, and the average was 95 days. Black people had a higher median PT LOS than white people.<sup>44</sup> The median PT LOS was also longer for people in lower-income neighborhoods compared to people who live in higher income neighborhoods.<sup>45</sup> It is likely that differences in charges referred also influence differences in median PT LOS.<sup>46</sup>

This situation is intensified for people experiencing homelessness, who mentioned in focus groups and interviews that they were frequently arrested and spent time in jail for minor offenses, such as loitering or petty theft, just to be released later, often without going to court. An unhoused participant in a focus group reported having spent nine to 10 months in jail for not paying child support. Despite having relatively lower bond amounts, PT LOS are much longer for people experiencing homelessness than for people housed in any neighborhood regardless of income quartile in Wyandotte County.<sup>47</sup> The median PT LOS for unhoused people in Wyandotte County was 78 days and the average was 137 days. These relatively long PT LOS may be due to a combination of factors, including the inability to pay any bond and/or the lack of a permanent address necessary to satisfy conditions of release.

Spending any time in prison or jail can have serious consequences for a person’s life, ranging from worse case outcomes and an increased likelihood for rearrest to destabilizing effects on employment (such as job loss or suspension), housing, and family

relationships.<sup>48</sup> As one interview participant described, after having been arrested and placed in jail they felt “like I lost everything.”

## **PRESSURE TO TAKE PLEA DEALS AND LACK OF TRUST IN PROTECTION OF RIGHTS**

Plea bargaining is common in the United States, where more than 90 percent of federal criminal convictions result from cases that are settled by a plea deal rather than a jury trial.<sup>49</sup> A total of 52 percent of survey respondents had entered a plea deal since 2017. Study participants the research team spoke to often felt pressured into their plea deals because of the threat of jail or prison time. They suggested that once in jail they were treated as guilty even if they were innocent, so they “took the plea just to get this over with,” as one interviewee stated.

Survey respondents who took a plea deal also listed other reasons for taking the deal, including 41 percent who were in jail and accepted the plea deal to get out, 39 percent who followed the recommendation of their legal counsel, 30 percent who wanted to avoid a longer sentence, 29 percent who wanted to speed up their case, 21 percent who understood it to be their best option, 15 percent who felt pressured by the prosecutor, and 14 percent who followed the advice of family or friends.<sup>50</sup>

A contributing factor to people spending a prolonged amount of time in the system and to people entering plea deals at a higher rate is the inability to afford an attorney. Of respondents who had a criminal case filed against them within the past five years (since January 2017), 35 percent indicated they could not afford an attorney, and another 35 percent reported that they had been assigned a court-appointed attorney. As one interviewee told researchers, “Probably if I would have had a paying lawyer [I could have gotten out] but I ain’t go through all that.”

Several research participants suggested that court-appointed attorneys are often not helpful to clients.<sup>51</sup> The sense among some of the interview participants was that court-appointed attorneys work closely with the DA, suggesting that the criminal legal

system lacked transparency. Several participants' statements also indicated a lack of trust in the system and its protection of people's rights. As one interview participant put it, "The way that things are set up, you know, if you can't afford to hire an attorney, then you get a public defender that, you know, that's his job. He works with the district attorney." Another interviewee similarly suggested, "I'm not saying all of the court-appointed lawyers are bad, but a lot of them really work with the prosecutors anyway."

Given people's lack of trust in the system and its protection of their rights, research participants also highlighted the need for more education about how the criminal legal system works and how to navigate it successfully. They stressed that this was especially important for Black men in the United States, for whom system involvement was "eventually inevitable," as one interviewee noted.

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### **A system that dehumanizes**

Dehumanizing narratives—for example, narratives about "Black criminality"—are at the core of the criminal legal system in the United States.<sup>52</sup> Many research participants said that they felt unseen by system stakeholders because they were BIPOC, experiencing poverty, or lacked education. As they were processed through the system, no one ever took the time to see them as full human beings—to "get to know me," "to get to know who that person is."

As a result, being caught up in the system is not just overwhelming because of the onerous consequences it has on a person's life. For many people, it is also a deeply shameful experience. One focus group participant relayed the all-too-common experience of someone who is faced with criminal charges and might be unable to read and write. Rather than admitting to being illiterate, the person might sign a guilty plea or similarly momentous legal document:

And so, the first thing [the court does] is throw this documentation in front of [the person being charged] and say, "Sign right here." They haven't read nothing 'cause they can't read, or they use the excuse, "I don't have my reading glasses," which really is [their way of] saying, I can't read. And then they say, "Sign right here," and then all of a sudden, it's like, "Oh, I didn't realize what I was signing." Well, that's the way the system [takes advantage of] individuals because they know that their education level [is low] or their illiteracy is [a barrier].

Interview participants felt it was crucial to create a system of accountability that recognizes people's humanity. They wanted system actors to consider them as whole people instead of reducing them to the offense they were accused of.



## RACE DIFFERENCES IN CHARGING

Many research participants expressed that the system was overly punitive and that people were often charged excessively for relatively minor offenses. As one focus group participant noted, prosecutors “make more and more lower-level infractions into crimes. So, it’s easy to have a low-level felony as opposed to a misdemeanor, and if you have enough of those misdemeanors to add up, . . . it becomes a felonious act as well.”<sup>53</sup>

A felony conviction can shape the outcome of any future cases for people facing charges. One interview participant shared, “I have enough felonies where I’m in the top box, which receives the most time for anything I might do.”<sup>54</sup> Several people noted that convicting someone seemed more important to a prosecutor than the person getting the resources or support they need to avoid future involvement in crime.

A total of 51 percent of survey respondents who had received some charges in the past believed that they had been charged severely for an offense, with 39 percent indicating they believed it was because of their race. This aligns with insights from the focus group participants, who suggested that white people tend to receive a lesser punishment for committing the same crime as people of color. As a youth participant put it, “Because if you think about it, African Americans, Hispanics get blamed for everything while Caucasian people can just walk away free. . . . But we get all the blame.”

The quantitative data corroborates some community member perceptions of racial disparities in charging. As with cases referred, a similar pattern emerged for cases charged, with Black people being almost twice as likely as white people to be charged.<sup>55</sup> Prosecutors also declined a greater proportion of juvenile cases for white youth, raising disparities in juvenile cases charged against Black youth.<sup>56</sup>

# Recommendations

Based on the responses from community members about their hopes and ideas for more safety, Vera proposes five recommendations for changes in policy and practice in the Wyandotte County DAO. These recommendations have community buy-in and, therefore, offer credible and sustainable solutions to the issues of pretextual police stops, excessive bail/bond, lengthy pretrial detention, pressure to take plea deals and lack of trust in system protections, and harsh charging practices.

## **IMPLEMENTING A PRETEXTUAL/NON-PUBLIC SAFETY STOP POLICY**

Although prosecutors are a separate entity from the police force, district attorneys have indirect influence over policing because they can decline to prosecute certain cases, which may dissuade police from making arrests or taking other actions.<sup>57</sup> Prosecutors are also responsible for holding officers accountable when they are accused of misconduct, including the use of coercion or excessive force.

Considering community members' concerns about racist and aggressive policing in Wyandotte County, Vera recommends that the DAO take steps to deter pretextual/non-public safety stops; that is, police stops made for non-safety-related infractions in hopes of finding evidence that can lead to more serious charges. Research consistently shows that pretextual stops have a disparate racial impact.<sup>58</sup> One analysis of more than 8 million traffic stops in Washington State indicated a statistically significant increase in stops of drivers of color relative to white drivers after statewide rules against pretextual stops were eased.<sup>59</sup>

The DAO should work with the local sheriff to deter these stops and adopt a policy declining to prosecute cases based on pretextual/non-public safety stops. To best deter these stops, the DAO should implement a policy to decline cases even when searches are based on consent or the result of what an

officer observes in plain view. Policies that do not include those exceptions focus on the nature of the infraction instead of on what happens afterward, such as a possibly unwarranted search of a person or their vehicle. With such implementation, the office would follow the example set by other prosecutors who are developing non–public safety stop declination policies.<sup>60</sup>

## **LOWERING AND LIMITING USE OF BAIL**

Although bail is set at a magistrate judge’s discretion, prosecutors can exert direct influence in this area by requesting that bail be set higher or lower than the standard amount—or that no bail be set at all.<sup>61</sup> Based on feedback from community members in Wyandotte County, Vera identified several potential solutions to ease the financial burden people face due to disproportionate bail amounts. These include considering socioeconomic factors (such as by assessing someone’s ability to pay bail or determining whether a crime was committed due to economic need) when setting bail; using signature bonds as a form of non-monetary release for certain types of low-level charges; lowering or eliminating bail for people with low-income, as well as youth facing charges; and considering the impact of lowering or eliminating bail for nonviolent crimes.<sup>62</sup>

Most people can and should be released on their own recognizance. If the DAO believes a person poses some risk pretrial, it can generally address this through non-monetary release conditions. De facto detention via money bond should be reserved for the small minority of people for whom there is strong evidence that they pose a risk to public safety or are at risk of flight. Vera recommends having a policy that states that the office will not seek money bail unless there is clear and convincing evidence that a person poses such a public safety risk or is at risk of flight.

## **EXERCISING RESTRAINT IN CHARGING**

Prosecutors have absolute discretion over charging. They can file charges that are more or less serious than those brought by police, or they can choose not to file any charges at all. Research

participants in Wyandotte County suggested the system could serve communities better if prosecutors exhibited more restraint in charging. They felt that prosecutors should consider the type of crime, age of the person being charged, and the harm done when charging a case—particularly when considering cases against someone who belongs to a marginalized group.

Based on this feedback, Vera recommends having clear charging standards by adopting a Bill of Values—a universal set of principles to guide discretion for every case. A Bill of Values balances the discretion needed for unique situations while providing clarity on how the office’s goals should impact every case. At least one prosecutor’s office has adopted such a Bill of Values, and it could serve as a template for Wyandotte County.<sup>63</sup> For example, the DAO could include a value that states, “We only charge cases when we believe sufficient admissible evidence exists to prove the case beyond a reasonable doubt.”<sup>64</sup> Similarly, the Bill of Values could include a principle to “safeguard the rights of community members by charging the least severe crime that adequately captures the seriousness of the offense, even when probable cause exists for [a] more severe crime.”<sup>65</sup>

## **EXPANDING DIVERSION AND DECLINATION**

Restraint in charging can also be achieved by expanding diversion. Prosecutors have the power to enter people into diversion programs, such as drug treatment or other programs to address unmet needs, instead of sentencing them to time in prison.<sup>66</sup> Although the Wyandotte County DAO already offers several diversion programs, 35 percent of survey respondents were not aware of their existence. This substantial lack of awareness suggests a need to push more information about these programs out into the community so that defense attorneys—and their clients—are aware of this option and can request or recommend participation when appropriate, hopefully increasing their use.

In addition, 80 percent of survey respondents were in favor of offering more diversion to redirect someone away from a conviction or incarceration. A participant in the youth focus group relatedly

suggested that the criminal legal system should help “restore someone’s health and bring them [back] to their normal life.” Diversion may contribute to this goal.

Diversion in Wyandotte County can be expanded by using a presumptive standard for diversion for specific offenses; expanding case eligibility (for example, considering all drug cases for diversion); and expanding options and securing participation by offering referrals to responsive community-based services available outside the office. The DAO can also consider strategies to make diversion a more viable option for people from marginalized communities, such as avoiding fees, allowing people to enter programs without a guilty plea, and minimizing consideration of prior convictions for people in areas more likely to be overpoliced and affected by racial biases.<sup>67</sup>

Given community members’ concerns about the adverse effects of the criminal legal system on young people, the DAO should also consider starting a juvenile diversion program (for example, in collaboration with Heartland 180, a local nonprofit that seeks to empower youth and young adults from marginalized communities).<sup>68</sup> Vera recommends that the Wyandotte County DAO develop a pre-file juvenile diversion program that does not formally petition youth in court but addresses the allegations informally outside the court system; does not require guilty admittance by youth; and does not bar anyone from diversion due to prior contacts with the system.<sup>69</sup>

Although diverting young people—specifically through pre-arrest and pre-court diversion—can reduce system involvement and, hence, decrease the likelihood of future offending and arrests, declining more juvenile cases is the most effective way to prevent net-widening and build public safety.<sup>70</sup>

## **INCREASING TRANSPARENCY ABOUT DATA AND OFFICE PRACTICES**

Not knowing how the criminal legal system works, including not knowing one’s rights, was one of the main causes community members identified for system involvement in Wyandotte County. It

was also named as a major obstacle to successfully navigating and exiting the system.

Considering this expressed need for education about how the legal system and the law work, the Vera team recommends that the DAO provide the community with more information about the office and its programs, as well as how to access available resources. This includes making all office policies relating to charging, bail, sentencing, and other discretionary policies publicly available (in English, Spanish, and other languages, online and in print).<sup>71</sup> It would be particularly beneficial to share these resources directly with social service agencies to distribute among their clients.

Vera also recommends increasing data transparency by publishing CMS data through a dashboard.

Finally, Vera recommends hiring a paid community liaison officer who can organize regular meetings for community members hosted in collaboration with local CBOs and the DAO with the goal of sharing information (about diversion programs, expungement fairs, etc.) and answering questions.

## ENDNOTES

- 1 Vera Institute of Justice, “Incarceration Trends,” database (New York: Vera Institute of Justice, updated December 16, 2021), (search: Wyandotte County, KS, United States), <https://trends.vera.org/>.
- 2 Ibid.
- 3 Emily Widra and Tiana Herring, *States of Incarceration: The Global Context 2021* (Northampton, MA: Prison Policy Initiative, 2021), <https://perma.cc/MWN7-74KV>. The difference between Vera’s reported 2021 U.S. incarceration rate and PPI’s reported incarceration rate is due to a difference in calculation methods. PPI calculates rates using the full U.S. population as the denominator, whereas Vera uses the adult population (ages 15–64). The PPI comparison between NATO and U.S. uses the same calculation for each category.
- 4 Vera Institute of Justice, “Incarceration Trends,” updated 2021.
- 5 U.S. Census Bureau, “2020 Decennial Census: Kansas City, Wyandotte County, Kansas,” database (Washington, DC: U.S. Census Bureau, accessed April 5, 2023).
- 6 U.S. Census Bureau, “2020 Decennial Census: Wyandotte County, Kansas,” database (Washington, DC: U.S. Census Bureau, accessed March 1, 2023), <https://data.census.gov/table?q=Wyan-dotte+County,+Kansas&tid=DECENNIALPL2020.P1>; and Vera Institute of Justice, “Incarceration Trends,” updated 2021.
- 7 David Norris and Mikyung Baek, *The H.E.A.T. Report* (Columbus, OH: Ohio State University, 2016), 2–3, <https://perma.cc/47EV-Z4T5>.
- 8 Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing Corporation, 2017), 63–65.
- 9 Ibid.
- 10 For maps of historical redlining practices, see *ibid.*, 42.
- 11 *Ibid.*, 11, 14, 17, 24.
- 12 This included 7,961 criminal adult cases and 3,496 criminal juvenile cases.
- 13 Census tracts are the smallest unit of census geography for which the U.S. Census Bureau reports data related to some key variables used in this analysis. U.S. Census Bureau, “ACS Summary File Sequence-Based Format (2005-2021),” database (Washington, DC: U.S. Census Bureau) (documents retrieved include 2015–2018 American Community Survey 5-year estimates), <https://www.census.gov/programs-surveys/acs/data/summary-file/sequence-based.2015.html#list-tab-LKN4L9A3VGA3S730XZ>; Wyandotte County Sheriff’s Office, “Bookings & Releases,” database (Kansas City, KS: Wyandotte County Sheriff’s Office), <https://www.wycokck.org/Departments/Sheriffs-Office/Bookings-Releases>; and Robert K. Nelson, LaDale Winling, Richard Marciano, et al., “Mapping Inequality: Redlining in New Deal America,” in *American Panorama*, edited by Robert K. Nelson and Edward L. Ayers, <https://dsl.richmond.edu/panorama/redlining/#loc=5/39.1/-94.58&text=intro>.
- 14 See for example Ayobami Lanijonu and Samuel T. Donahue, “Effect of Racial Misclassification in Police Data on Estimates of Racial Disparities,” *Criminology*, 61, no. 2 (2023), 295–315.
- 15 Suriyan Laohaprapanon, Gaurav Sood, and Bashar Naji, “ethnicolr: Predict Race and Ethnicity From Name,” (Wilmington, DE: Python Software Foundation), <https://pypi.org/project/ethnicolr/>. The algorithm used for this analysis follows a model trained on voter registration data in which voters self-identify their ethnicity. See Gaurav Sood and Suriyan Laohaprapanon, “Predicting Race

and Ethnicity From the Sequence of Characters in a Name,” *arXiv* (2018), <https://perma.cc/3UNB-ZZ78>. This is no doubt an imperfect method, with the potential for misclassifying people who have, for example, changed their name after marriage or adoption, or anyone whose name simply does not easily fit the patterns determined by the algorithm. Still, given the extent of missing data and potential for vastly undercounting and, thus, misstating the reach of the criminal legal system in Latino communities (and then subsequently understating Black/white disparities), Vera believes that using this method is an improvement over the status quo because it at least gives an impression of how high disparities may be within the limits of the tools currently available to researchers. This report clearly states when this algorithmic relabeling is used in any of the findings.

- 16 See for example Eve Tuck, “Collaborative Indigenous Research Is a Way to Repair the Legacy of Harmful Research Practices,” *Academic Matters*, November 25, 2022, <https://perma.cc/GC66-QCFP>.
- 17 Fran Baum, Colin MacDougall, and Danielle Smith, “Participatory Action Research,” *Journal of Epidemiology and Community Health* 60, no. 10 (2006), 854–857, <https://perma.cc/KU2Y-LP6S>.
- 18 See for example Michelle Fine and María Elena Torre, “Intimate Details: Participatory Action Research in Prison,” *Action Research* 4 no. 3 (2006), 253–269, <https://perma.cc/DT4N-NBV2>.
- 19 Michelle Fine and María Elena Torre, *Essentials of Critical Participatory Action Research* (Washington, DC: American Psychological Association, 2021), 8.
- 20 The community researchers also obtained a certificate of completion of the PHRP (Protecting Human Research Participants) training that qualified them to carry out research involving human subjects.
- 21 All research participants were compensated.
- 22 Purposive (or purposeful) sampling is a sampling technique in qualitative research to recruit participants who match the characteristics of the desired respondents through intentional selection rather than probability. See for example National Center for State Courts, “Purposive and Convenience Sampling,” <https://perma.cc/N4FK-7NYW>.
- 23 The research team limited sample size once saturation was reached with the emergence of the same patterns, themes, or opinions. The team used non-probability sampling methods (specifically, convenience and volunteer sampling) to recruit research participants with the help of partner CBOs, deliberately looking for people with a history of system involvement or with system-involved loved ones.
- 24 The referral rate in 2019 for Black adults with a case referred was 1.9 per 1,000 residents, relative to 1.1 for white people with a case referred, making the rate at which Black people were referred 1.7 times that of white people.
- 25 In 2019, the referral rate for Black youth with a case referred was 0.9 per 1,000 residents, relative to 0.4 for white people with a case referred, making the rate at which Black youth were referred 2.3 times that of white youth.
- 26 In 2019, without the use of name matching, the referral rate for Latino youth with a case referred was 0.3 per 1,000 Latino residents, relative to 0.4 per 1,000 white youth with a case referred, a ratio of 0.7. Employing name matching raises the rate for Latino youth with a case referred to 0.4 per 1,000 Latino residents and lowers the rate for white youth with a case referred to 0.3 per 1,000 white residents, for a ratio of 1.3. Researchers suspect that, despite the limitations of the algorithm described in this report, name matching produces a more accurate estimate than CMS data alone, suggesting that Latino youth are referred for adjudication at rates higher than their white counterparts.



- 27 In 2019, the referral rate for Latino adult cases was 0.5 per 1,000 residents. When name matching is employed, the referral rate for Latino residents increases to 0.6 per 1,000 residents, and the white rate decreases from 1.1 to 1.0 per 1,000 residents, while the rate for Black residents remains unchanged. Researchers speculate that the presence of a significant disparity for youth cases in Wyandotte County in the absence of one for adult cases in the analysis could, in part, be related to different reporting procedures and staff data entry for case referrals in the juvenile system compared to the adult system. Additionally, the comparatively smaller rates for youth relative to adults suggest greater sensitivity to any miscoding of race and ethnicity data for youth, which may explain the more pronounced difference when estimating ethnicity as compared to the *in situ* data.
- 28 In 2019, Black residents with a criminal adult case referred and relevant bond set faced a median bond of \$20,000 and mean of \$41,851; Latino residents faced a median bond of \$25,000 and a mean of \$47,210; and white residents faced a median bond of \$10,000 and a mean of \$22,719.
- 29 For example, 36 percent of all criminal adult cases referred were against people living in neighborhoods in the bottom quartile of incomes, whereas only 17 percent of all criminal adult cases were for those living in top-quartile neighborhoods.
- 30 Researchers calculated population-weighted quartiles of median household income per each census tract in Wyandotte County based on data reported in the American Community Survey, corresponding to the following groups: \$11,000–\$34,818; \$34,819–\$40,087; \$40,088–\$56,688; and \$56,689–\$103,618.
- 31 According to the most recent data available, in Wyandotte County, 14.9 percent of white people are considered to be living below the poverty line compared to 22.7 percent of Black people and 15.1 percent of Latino people. See U.S. Census Bureau, “Poverty Status in the Past 12 Months,” database (Washington, DC: U.S. Census Bureau), search: Wyandotte County, Kansas (documents retrieved include 2021 American Community Survey 1-year estimates), <https://data.census.gov/table?q=poverty+and+race&g=050XX00US20209&tid=ACSS1Y2021.S1701>.
- 32 U.S. Census Bureau, “ACS Summary File.”
- 33 Ibid.
- 34 Ibid.
- 35 In 2019, 143 of 1,745 (8 percent) of all criminal adult cases received had at least one criminal charge and one vehicular charge that was not the top charge, potentially indicating that a traffic stop was involved in the case.
- 36 In 2019, 349 cases had a top charge for drug possession. Thirty-eight of these (11 percent) also had a vehicular charge related to a traffic stop. Seventy-six cases had a top charge for drug selling. Eight of these (11 percent) also had a vehicular charge related to a traffic stop.
- 37 In the quantitative analysis, researchers defined a pretextual stop as a case with both a criminal charge and a less serious vehicular or traffic charge connected to the case. There are limitations to this classification because all charges received, or suggested, by the police may not be entered for all cases, and researchers only have the charges that were filed by DAO. Thus, an unknown number of cases may have been received with minor traffic charges from traffic stops that were dropped before case filing, particularly if they were unsubstantiated. These limitations aside, racial disparities do exist in the presence of traffic charges filed alongside other criminal adult charges. In 2019, 12 out of 92 (13 percent) of drug possession cases filed for Black people contained a traffic charge, relative to 20 out of 211 (9 percent) of those filed for white people. The disparities are larger for drug sales charges: seven out of 32 (22 percent) cases filed for Black people also involved a traffic stop, relative to just one out of 29 cases filed for white people (3 percent).

- 38** The remaining responses called for training in how to reduce the use of deadly force (15 percent of answers), training in de-escalation strategies (13 percent), training about addiction issues (5 percent), and training in juvenile law (5 percent).
- 39** In 2019, the median bond was \$20,000 for Black people, \$25,000 for Latino people, and \$10,000 for white people.
- 40** Vera did not analyze bond amounts controlling for charge type.
- 41** In 2019, 19 percent of all cases referred against Black people had a top charge related to assault or battery, more than 75 percent of which were felony cases with a top charge statute of 21-5412 (assault and aggravated assault, including of a law enforcement officer) or 21-5413 (battery and aggravated battery, including against a law enforcement officer, and battery against a school employee or mental health employee), relative to 11 percent of cases referred against white people. In the same year, 29 percent of all cases referred against white people had a top charge of drug possession, of which 87 percent were felony cases with a top charge of 21-5706 (unlawful possession of controlled substances), relative to 14 percent of those referred against Black people. For cases in which the top charge was drug possession, both Black people and white people had a median bond of \$5,000. However, in cases in which the top charge was assault and battery, Black people had a median bond of \$25,000 and white people had a median bond of \$20,000.
- 42** To assess pretrial detention for people with a case filed by the Wyandotte DAO, researchers matched information on a person's name and date of birth to publicly available data from the Wyandotte County Sheriff's department. Time incarcerated in jail is considered "pretrial" if it occurs before a person's sentencing date. If there is no sentencing date for a given person, as occurs in instances in which someone has a case dismissed, disposition dates associated with a given charge were used in lieu of a sentencing date. Due to the nature of the public jail data retrieved, Vera researchers were unable to verify the extent to which records could not be linked, suggesting this is most likely a minimum estimate rather than a comprehensive proportion.
- 43** The 78 percent of Black criminal adult cases for people who served any time pretrial corresponds to a pretrial detention rate of 1.6 per 1,000 residents. White people were detained at a rate of only 0.7 per 1,000, corresponding to a disparity ratio of 2.3 Black people detained for every white person.
- 44** In 2019, median pretrial length of stay for Black people with a case referred to the office was 61 days relative to 47 days for white people. Although the differences in medians for these groups is large, differences between these groups may not be statistically significant if only people with certain charges are compared. In other words, the medians in these groups could grow or shrink within the range due to changes in the make-up of the compared charges and other factors not accounted for in this analysis.
- 45** People from neighborhoods in the bottom quartile of incomes had a median PT LOS of 70 days. In contrast, people from neighborhoods in the top quartile of incomes had a median PT LOS of 32 days.
- 46** For example, for cases where the top charge was assault or battery (more than 75 percent of which were felony cases with a top charge of 21-5412 or 21-5413)—the most common type of case filed against Black people—the median PT LOS in 2019 for Black people was 81 days, relative to 59 days for white people. In contrast, for cases where the top charge was drug possession (of which 87 percent were felony cases with a top charge of 21-5706)—the most common case filed against white people—the median PT LOS for both Black and white people was 60 days.
- 47** For the purpose of analysis, researchers grouped people whose addresses were listed as "homeless" or as the address of a local shelter for unhoused people into a separate category regardless of the person's actual income level or that of the neighborhood in which the shelter was located. This

“homeless” category was then treated as a “neighborhood” separate from the neighborhoods used as a proxy for household income quartiles. Researchers relied on using personal addresses as proxy for the income of the person facing charges as no income data was available and no better proxies (such as the presence of public defense rather than private) were tracked reliably in the CMS.

- 48 Stephen Koppel, Tiffany Bergin, Rene Ropac, et al., “Examining the Causal Effect of Pretrial Detention on Case Outcomes: A Judge Fixed Effect Instrumental Variable Approach,” *Journal of Experimental Criminology* (2022), 13, <https://perma.cc/XNF6-G8RN>. See also Damon M. Petrich et al., “Custodial Sanctions and Reoffending: A Meta-Analytic Review,” *Crime and Justice* (2001), 50, 353–424; and Tiffany Bergin, René Ropac, Imani Randolph, et al., *The Initial Collateral Consequences of Pretrial Detention* (New York: New York City Criminal Justice Agency, 2022), <https://perma.cc/MY97-KXXJ>.
- 49 Mark Motivans, *Federal Justice Statistics*, 2021 (Washington: DC: BJS, 2022), 11, Table 6, <https://perma.cc/73D9-T3T6>.
- 50 This survey question allowed for multiple responses, instructing respondents to “select all that apply.”
- 51 For the difference between a public defender and court-appointed attorney, see Thomas Siegel and Rebecca Piriou, “Working With Your Public Defender or Court-Appointed Attorney,” Lawyers.com, August 12, 2022, <https://perma.cc/EL22-LEDJ>. Wyandotte County does not currently have a public defender’s office but only provides court-appointed attorneys. DA Dupree has expressed his support for the establishment of a public defender’s office before the Kansas Board of Indigent Services (BIDS). On January 31, 2022, BIDS voted to establish a public defender’s office by 2024. See Bek Shackelford-Nwanganga, “Wyandotte County Residents Turn Out in Support of Proposal to Establish a Public Defender’s Office,” KCUR, January 23, 2022, <https://perma.cc/6D2K-U5RK>; and Jazzlyn Johnson, “Public Defender’s Office Coming to WyCo,” *The Voice*, February 2, 2022, <https://perma.cc/YV4M-RXMJ>.
- 52 See for example Elizabeth Kai Hinton, LeShae Henderson, and Cindy Reed, *An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System* (New York: Vera Institute of Justice, 2018), <https://perma.cc/542M-5SH8>.
- 53 Regarding the participant’s comment on prior misdemeanors becoming a felony, Vera did not receive information about the specific law referenced. However, Kansas allows prosecutors to charge someone who committed a misdemeanor theft with a felony if the person has two prior theft convictions within the preceding five years. See K.S.A. 21-5801(b)(6).
- 54 Sentencing guidelines are often presented in a chart or matrix with “boxes” based on the intersection of the severity of the charge with criminal history to determine the appropriate length and/or type of sentence—the more extensive their criminal history, the “higher” they go on the chart and the harsher the recommended sentence. By referencing “top box,” the participant is indicating that they will face the most severe suggested sentence anytime they are in court because they have a lengthier criminal history. For more information, see Kansas Sentencing Commission, “2022 Sentencing Ranges,” <https://perma.cc/T3DC-F7HS>.
- 55 Using CMS data from the DAO, Vera found that, in 2019, Black adults were charged at 1.7 times the rate of white adults (mirroring the disparity ratio of 1.7 for adult case referrals), and Black youth were charged at 2.6 times the rate of white youth (a disparity ratio similar to the ratio of 2.3 for juvenile case referrals).
- 56 In 2019, DAO declined 35 percent of criminal juvenile cases file against white youth, relative to 25 percent of criminal juvenile cases filed against Latino youth and 25 percent filed against Black

youth. Differences in charges referred may explain the majority of this difference—for example, the most common type of charge category filed against white youth was theft or stolen property (more than 90 percent of which were misdemeanor charges), accounting for the top charge in 24 percent of cases filed against white youth in 2019. In contrast, the most common charge category filed against Black and Latino youth was assault and battery, accounting for the top charge in 30 percent of cases filed against Black youth and 20 percent of cases filed against Latino youth.

- 57 In Cook County, Illinois, for example, State’s Attorney Kim Foxx instituted a policy to only prosecute shoplifting as a felony if the goods were valued at a minimum of \$1,000. As a result, felony shoplifting charges dropped from about 300 cases per month to about 70. The office still charged lower-valued cases as misdemeanors. Matt Daniels, “The Kim Foxx Effect: How Prosecutions Have Changed in Cook County,” Marshall Project, October 24, 2019, <https://perma.cc/PYZ5-APHC>.
- 58 Emma Pierson, Camelia Simoiu, Jan Overgoor, et al., “A Large-Scale Analysis of Racial Disparities in Police Stops across the United States,” *Nature Human Behavior* 4 (2020), 736–745, <https://perma.cc/GSC8-TE4D>.
- 59 Stephen Rushin and Griffin Edwards, “An Empirical Assessment of Pretextual Stops and Racial Profiling,” *Stanford Law Review* 73 (2021), 637–726, <https://perma.cc/5GM2-F7KV>.
- 60 For policy examples, see Sarah George, “Non-Public Safety Stop Policy,” Office of The Chittenden County State’s Attorney, December 21, 2021, updated January 7, 2021, <https://www.documentcloud.org/documents/21177955-sarah-george-memo>; and Memorandum from John Choi, Ramsey County Attorney, to Adult Trial Division, Pretrial Justice Division, Youth Justice & Wellness Division, and Victim, Witness & Postconviction Justice Division Attorneys re: “Charging Policy Regarding Non-Public-Safety Traffic Stops,” September 8, 2021, <https://perma.cc/HM6D-4VEC>. For the effectiveness of the policy in John Choi’s jurisdiction, see MPR News Staff, “Choi: Ending Low-level Traffic Stops Hasn’t Led to More Crime in Ramsey Co.,” MPR News, June 7, 2023, <https://perma.cc/43AS-CZH4>; and Mohamed Ibrahim, “Limiting Non-public Safety Traffic Stops in Some Ramsey County Cities Yielded Drop in Racial Disparities,” MinnPost, June 15, 2023, <https://perma.cc/L6VV-R9YL>.
- 61 K.S.A. 22-2802.
- 62 Prosecutors in several other jurisdictions are no longer requesting cash bail for certain categories of crimes, such as misdemeanor crimes or nonviolent felony offenses, including Eli Savit at the Washtenaw County Prosecutor’s Office and Commonwealth’s Attorney Steve Descano in Fairfax County, Virginia. Washtenaw County Office of the Prosecuting Attorney, *Policy Directive 2021-02: Policy Eliminating the Use of Cash Bail and Setting Standards for Pretrial Detention*, February 2021, <https://perma.cc/79B9-6Z35>; and Memorandum from Steve Descano, Commonwealth’s Attorney, re: Bond Policy,” December 7, 2020, <https://perma.cc/43XZ-QAT9>.
- 63 Chittenden County State’s Attorney’s Office, *Chittenden County Bill of Values* (Burlington, VT: Chittenden County State’s Attorney’s Office, 2020), <https://drive.google.com/file/d/1EzJd-kl-EMGkgPyxblqS8AoQvR74tF2gT/view?usp=sharing>.
- 64 *Chittenden County Bill of Values*, Value II.
- 65 *Chittenden County Bill of Values*, Value VI.
- 66 Note, however, that in some instances laws prohibit diversion in certain cases. For example, the Office of the Kansas Attorney General notes that K.S.A. 22-2908(b) restricts people’s eligibility for diversion depending on the charges they face or on certain previous behaviors. To expand eligibility for diversion, prosecutors can carefully consider what charges they file to avoid some of these concerns. K.S.A. 22-2908(b); and Office of the Kansas Attorney General *Diversion Notice/Policy* (Topeka, KS: Office of the Kansas Attorney General, 2019), <https://perma.cc/XUM3-RGNF>.

- 67 For information on why prosecutors should offer diversion to people even if they have prior convictions, see Motion for Justice, “Correct – Don’t Consider Criminal History,” Vera Institute of Justice, 2021, <https://motionforjustice.vera.org/strategies/correct>. For an example of how fees restrict diversion access, see Leah Nelson, Carla Crowder, Marshall Lorraine White, et al., *In Trouble: How the Promise of Diversion Clashes with the Reality of Poverty, Addiction, and Structural Racism in Alabama’s Justice System* (Birmingham, AL: Alabama Appleseed Center for Law & Justice, 2020), <https://perma.cc/G4LD-F3UL>. For an example of how guilty pleas can restrict diversion access, see Anita Gupta, Valerie Zukin, and Kathy Brady, *Immigrant Consequences of Pretrial Diversion and Intervention Agreements* (San Francisco: Immigrant Legal Resource Center, 2021), <https://perma.cc/B5CS-MRQK>.
- 68 Heartland 180 Inc., <https://www.heartland180.org/>.
- 69 For the underlying policy reasons for these choices, see generally Richard Mendel, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (Washington, DC: The Sentencing Project, 2022), <https://perma.cc/5JBR-WBYX>.
- 70 Jordan Beardslee, Sarah Miltimore, Adam Fine, et al. “Under the Radar or Under Arrest: How is Adolescent Boys’ First Contact with the Juvenile Justice System Related to Future Offending and Arrests?,” *Law and Human Behavior* 43 no. 9 (2019), 342–357, <https://perma.cc/Z677-QA-QF>; Center on Juvenile & Criminal Justice (CJCJ), *Widening the Net in Juvenile Justice and the Dangers of Prevention and Early Intervention* (San Francisco: CJCJ, 2001), <https://perma.cc/6JS4-SDUL>; and Elizabeth Seigle, Nastassia Walsh, and Josh Weber, *Core Principles for Recidivism and Improving Other Outcomes for Youth in the Juvenile Justice System* (New York: Council of State Governments Justice Center, 2020), <https://perma.cc/7LGB-AYZA>.
- 71 Community researchers specifically identified the need for resources in Arabic, Kinyarwanda, Nepalese, and Swahili.

## CREDITS

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An electronic version of this report is posted on Vera’s website at [vera.org/publications/envisioning-safety-community-driven-prosecution-reform-in-wyandotte-county](https://vera.org/publications/envisioning-safety-community-driven-prosecution-reform-in-wyandotte-county).

The Vera Institute of Justice is powered by hundreds of advocates, researchers, and policy experts working to transform the criminal legal and immigration systems until they’re fair for all. Founded in 1961 to advocate for alternatives to money bail in New York City, Vera is now a national organization that partners with impacted communities and government leaders for change. We develop just, antiracist solutions so that money doesn’t determine freedom; fewer people are in jails, prisons, and immigration detention; and everyone is treated with dignity. Vera’s headquarters is in Brooklyn, New York, with offices in Washington, DC, New Orleans, and Los Angeles. For more information, visit [vera.org](https://vera.org).

Cover image: On October 13, 2017, Lamonte McIntyre, who was imprisoned for 23 years for a 1994 double murder in Kansas that he always said he didn’t commit, walks out of a courthouse in Kansas City, Kansas, with his mother, Rosie McIntyre, after Wyandotte County District Attorney Mark A. Dupree, Sr. dropped the charges McIntyre and his mother filed a lawsuit Thursday, October 11, 2018, in federal court alleging Lamonte McIntyre was targeted after his mother rebuffed a homicide detective’s sexual advances. Credit: Tammy Ljungblad, Kansas City Star via Associated Press. This report would not have been possible without support from Arnold Ventures.

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